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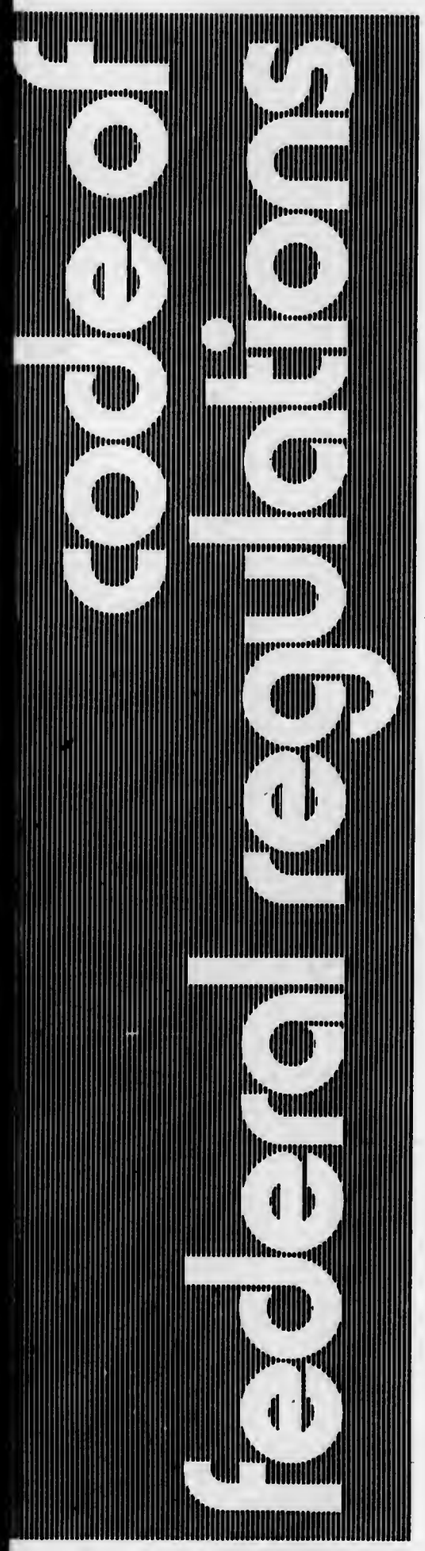
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INQUIRIES AND SUGGESTIONS

This publication was prepared under the editorial direction of Martha B. Girard assisted by Ruth C. Pontius, with Loren Myers as Chief Editor. INQUIRIES, telephone 202–523–5227.

SUGGESTIONS concerning this and other publications of the Office will be welcomed by Fred J. Emery, Director, Office of the Federal Register, National Archives and Records Service, Washington, D.C. 20408.

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213.3199 (i) removed 1963
(y) added 3943
213.3227 Added 5373
213.3303 (a)(2) revised; (a)(21) added 1360
213.3304 (a)(5), (16), (28), and (29) revised; (a)(34) added 1360
213.3312 (h)(7) revised; (h)(8), (9), (10) and (n)(3) added 1360
213.3313 (n)(5) added 1360
(i)(4) added 5371
213.3314 (a)(34) and (n)(1) revised; (w)(4) added 1360
(x)(3) added 5371
(a)(16) added 5372
213.3320 Added 5372
213.3315 (a) (48) and (63) revised 1360
13,3316 (c)(23) added 1360
(a)(4) added 5372
213.3317 (f) added 1360
(c) removed; (g) added 2565
213.3331 (a)(8) and (f)(2) revised 1361
(c) (2) and (7) revised 2565
(i)(3) added 5371
(m)(6) revised 5372
(m)(4) removed; (m)(5) revised 5373
213.3337 (b)(2) revised 1361
(a)(4) revised; (a)(12) added 5372
213.3339 (e) revised 1361
(b) revised 5372
213.3348 (w) added 1361
213.3351 (c) and (d) added 1361
213.3359 (dd) and (ee) added 1361
213.3370 Removed 1362
213.3372 (b) added 1361
213.3373 (m)(2) added 1361
213.3382 (e) and (o) removed; (z) added 1361
213.3384 (b)(20) revised; (b)(21) removed; (o) added 1361
213.3390 Heading added 1362
Text added 5373
213.3391 Heading added 1362
Text added 5373
213.3394 (a)(26) revised 1361
(a)(15) revised 5372
(f)(7) added 5373
307.101 (a) and (b) revised 3944
307.102 (a) and (b) revised 3944
307.103 (a) and (c) revised 3944
307.104 (a) and (b) revised 3944
307.105 Revised 3944
307.106 Revised 3944
307.107 Added 3944
308 Added; interim 3447
315.703d Added 4649
315.801—315.807 (Subpart H) Heading revised; interim 3441
315.901—315.907 (Subpart I) Added; interim 3441
316.302 (c)(2) revised 3944
316.402 (b)(4) revised 3944
Revised 4649
330.102 Added 3945
351.101 (Subpart A) Added 5863
351.201 Revised 5864

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351.501 Revised ---- 5864
351.701 Revised ---- 5865
351.705 Revised ---- 5865
410.301 Revised ---- 4650
430 Revised; interim ---- 3447
432 Added; interim ---- 3442
550.301 (e) and (m) revised ---- 3946
550.321 Removed ---- 3946
550.322 Removed ---- 3946
550.324 Removed ---- 3946
550.361 (b) correctly designated ---- 2565
550.603 Revised ---- 4650
550.604 Revised ---- 4650
752 Revised; interim ---- 3444
831.109 Revised ---- 4650

Chapter II—Merit Systems Protection Board

Chapter established ---- 3946
1200 Added ---- 3946
1201 Added ---- 3946
1202 Added ---- 3946
1251—1273 (Subchapter B) Added ---- 6060
1251 Added ---- 6060
1253 Added ---- 6061
1254 Added ---- 6062
1260 Added ---- 6062
1270 Added ---- 6063
1271 Added ---- 6064
1272 Added ---- 6064
1273 Added ---- 6065

Chapter XIV—Federal Labor Relations Authority and Federal Service Impasses Panel

Chapter XIV Revised ---- 6
2400 (Subchapter A and Part) Revised ---- 7
Chapter XIV Appendixes A and B added ---- 7

Chapter XV—National Study Commission on Records and Documents of Federal Officials

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2505 Removed ---- 5641
2510 Removed ---- 5641
2515 Removed ---- 5641

TITLE 6—ECONOMIC STABILIZATION

Chapter VII—Council on Wage and Price Stability

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701 Revised ---- 5328
702 Revised ---- 5329
703 Revised ---- 5331
704 Revised ---- 5333
705 Appendix corrected ---- 1077
Appendix amended ---- 5337, 5338, 5339
Implementation guide added ---- 5339
706 Added; interim ---- 1346
Technical correction ---- 1963
706.25 Added ---- 5337

TITLE 7—AGRICULTURE

Subtitle A—Office of the Secretary of Agriculture

2.19 (d)(3), (4), (5), (9), (11) and (19) revised; (d)(20) removed ---- 2566
2.60 (a)(3), (4), (5), (9), (11), and (18) and (b) introductory text and (9) revised; (a)(19) removed; (a)(20) redesignated as (a)(19) and republished ---- 2566
7 Revised ---- 5374
15.51 Authority citation correctly added ---- 1362

Chapter I—Agricultural Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture

26.353 (d)(4) correctly designated ---- 6083
180.5 (a)(4) authority citation correctly added ---- 4651

Chapter II—Food and Nutrition Service, Department of Agriculture

210.4 (b) amended ---- 1363
210.4a (b)(3) added ---- 5381
225 Revised ---- 11
225.1 Corrected ---- 3955
225.12 (c) corrected ---- 3955
227.5 Authority citation correctly added ---- 3955
227.30 Authority citation correctly added ---- 3955
227.31 Authority citation correctly added ---- 3955

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227.36 Authority citation correctly added ---- 3955
227.37 Authority citation correctly added ---- 3955
227.41 Authority citation correctly added ---- 3955
227.42 Authority citation correctly added ---- 3955
227.43 Authority citation correctly added ---- 3955
227.44 Authority citation correctly added ---- 3955
245.11 (a)(1) revised ---- 1364
246 Authority citations added ---- 5865
250.1 Authority citation correctly added ---- 3955
250.3 Authority citation correctly added ---- 3955
250.4 Authority citation correctly added ---- 3955
250.6 Authority citation correctly added ---- 3955
250.8 Authority citation correctly added ---- 3955

Chapter III—Animal and Plant Health Inspection Service, Department of Agriculture

354.2 Table amended ---- 1364

Chapter IV—Federal Crop Insurance Corporation, Department of Agriculture

401.101 Appendix added ---- 749
401.134 Revised ---- 5057
401.150 Amended ---- 29
402.1 Appendix added ---- 1964
403.40 Appendix added ---- 1964
404.20 Appendix revised ---- 1964
406.1 Appendix added ---- 1965
408.1 Appendix revised ---- 1966
409.30 Appendix added ---- 1966
410.1 Appendix revised ---- 1967
411.1 Appendix revised ---- 1968
412 Revised ---- 1365
413.20 Appendix added ---- 1968
414.1 Appendix added ---- 1969
417.1 Appendix added ---- 1969

Chapter VII—Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture

719 Revised ---- 5382
722.558—722.564 (Subpart) Heading revised ---- 2567

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722.564 Revised ---- 2567
795 Authority citation corrected ---- 2567

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

928.309 Added ---- 31
(b) redesignated as (c); new (b) added (temporary) ---- 3670
971.319 Amended ---- 2165

Chapter X—Agricultural Marketing Service (Marketing Agreements and Orders; Milk), Department of Agriculture

1002.41 Revised ---- 5866
1002.42 Revised ---- 5867
1002.45 (a) (1-a) and (7-a) added ---- 5867
1062.7 (d) revised ---- 4934
1062.13 Revised ---- 4934
1062.61 Revised ---- 4934
1062.71 (a)(2)(ii) amended ---- 4935
1062.75 (b) amended ---- 4935
1062.76 (a)(4) amended ---- 4935
1062.85 Introductory text amended ---- 4935
1062.120 (c) revised; (d) amended ---- 4935
1062.121 (b) introductory text, (2) and (3) revised; (e) and (f) added ---- 4935
1126.10 (c) revised ---- 5868
1126.13 (d) revised ---- 5868
1126.73 (g)(1) revised ---- 5868

Chapter XI—Agricultural Marketing Service (Marketing Agreements and Orders; Miscellaneous Commodities), Department of Agriculture

1270 Appendix I effective date 12-18-78 ---- 4651

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

1421.1—1421.28 (Subpart) Revised ---- 2354
Effective date corrected ---- 3451
1421.50—1421.58 (Subpart) Revised ---- 3454

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1421.72—1421.76 (Subpart) Revised 3670
1421.90—1421.98 (Subpart) Revised 3463
1421.111—1421.114 (Subpart) Revised 3686
1421.210—1421.218 (Subpart) Revised 3459
1421.235—1421.238 (Subpart) Revised 3693
1421.245—1421.253 (Subpart) Revised 3465
1421.270—1421.274 (Subpart) Revised 3681
1421.335—1421.343 (Subpart) Revised 3457
1421.350—1421.354 (Subpart) Revised 3691
1421.365—1421.373 (Subpart) Revised 3462
1421.390—1421.393 (Subpart) Revised 3697
1421.460—1421.469 (Subpart) Revised 3451
1421.485—1421.489 (Subpart) Revised 3673
1427.17 Revised 3467
1427.1901 Revised 5642
1427.1902 Introductory text and (b) revised 5642
1427.1903 (d) removed; (g)(1) revised 5642
1427.1904 (l) removed 5642
1427.1905 Revised 5642

Chapter XVII—Rural Electrification Administration, Department of Agriculture

1701 Appendix A amended 1367

Chapter XVIII—Farmers Home Administration, Department of Agriculture

1801 Removed 4431
1801.11 (Subpart B) Redesignated as 1910.51—1910.64 (Subpart B) and revised 4431
1804.3 (f)(1)(ii)(c) amended 1701
1804.4 (b) amended 1701
1809.1 (b) amended 1701
1822.1—1822.18 (Subpart A) Exhibit E amended 4437
1822.63 (a) amended 1701
1822.93 (a), (b)(2)(ii), (3)(i), and (iii) amended; (b)(2)(i) revised 4434

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1822.203 (a) amended 1702
1822.213 Amended 1702
1822.267 (h) amended 1702
1822.271 (f), (g) (2), (3), (4), and (5) amended 4435
1822.272 Revised 4435
1861.1 (b)(2) amended 4437
1861.2 (b) amended 1702
1861.8 (a) amended 4437
1861.46 (i)(2) amended 4435
1861.84 (d)(1) amended 4435
1864.2 (d) and (k) amended 4437
1864.17 (a)(1) amended 4437
1866.1 (b)(1) amended 4437
1872.4 (f) amended 1702
1872.11 (b) amended 4437
1872.14 Amended 4437
1872.15 (c) amended 4437
1872.17 (e) amended 4437
1872.18 (b)(14) amended 1702
1872.22 Amended 4437
1890w Removed 6083
1904.101—1904.180 (Subpart C) Removed 1701
1910.51—1910.64 (Subpart B) Redesignated from 1801.11 (Subpart B) and revised 4431
1930 Removed 4437
1933.414 (a) and (b)(1) amended 4436
1933.416 (d) revised 4436
1941.12 (b)(6)(i) and (ii) amended 5390
1941.42 Amended 4437
1943.12 (b)(6)(i) amended 5391
1943.19 (c)(5) amended 4437
1943.42 Amended 4437
1943.69 (c)(7) amended 4437
1943.92 Amended 4437
1943.119 (d)(6) amended 4437
1943.142 Amended 4437
1945.51—1945.92 (Subpart B) Added 1702
1955.15 (d)(15)(i) amended 4437
1962 Added 4437
1980.154 (e), (f), and (h) revised 1720
(e), (f), and (h) correctly designated 5059
1980.170 Amended 1720
2018—2024 (Subchapter R) Heading removed 1721
2018—2024 (Subchapter W) Heading added 1721
2018 Part transferred from Subchapter R to Subchapter W 1721
2024 Part transferred from Subchapter R to Subchapter W 1721

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2024.1—2024.21 (Subpart A) Text and Exhibit A revised 1721

Chapter XXVIII—Food Safety and Quality Service, Department of Agriculture

2880.25—2880.45 (Subpart) Added 3254

Title 7—*Proposed Rules:*

15b 4620
210 1379
220 5449
246 2114
416 4687
900—999 (Ch. IX) 1750, 4701
929 5139
989 47
1004 5140
1011 4696
1062 1741
1064 6103
1065 3989, 6103
1073 6107
1079 5887
1097 6107
1102 6107
1104 6107
1106 6107
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1120 6107
1126 6107
1132 6107
1138 6107
1280 5450
1421 1116, 1380
1430 5147
1434 5456
1446 1380
1701 1381
1933 6130
2900 5668

TITLE 8—ALIENS AND NATIONALITY

Chapter I—Immigration and Naturalization Service, Department of Justice

103.1 (m)(22) added 4653
204.2 (d)(1) amended; (d)(2) and (3) redesignated as (d)(3) and (4); (d)(2) added 5060
235.6 Heading and (a) revised 4653
236.2 (a) amended 4653
238.4 Amended 4936
242.1 (c) revised 4653
242.2 (a) and (b) amended; (b) heading revised 4654
242.16 (a) revised 4654

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287.3 Nomenclature change and amended 4654
292a Added 4654

Title 8—*Proposed rules:*

212 5668
214 5669
274 5671

TITLE 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Animal and Plant Health Inspection Service, Department of Agriculture

11.1 Revised 1561
11.3 Heading added 1562
11.4 Heading revised 1563
11.5 Heading revised 1563
11.6 Heading added 1563
11.7 Added 1563
11.20 Heading revised 1565
11.23 Removed 1565
11.24 Heading revised 1565
11.40 Heading revised 1565
11.41 Heading revised 1565
73.1a (e) added 1368
(c) (4) and (5), and (f) added 3956
(c) (6) through (9) and (h) added 5868
79.2 Amended 1368
94.9 (a) amended 2568
94.10 Amended 2568

Chapter III—Food Safety and Quality Service, Meat and Poultry Inspection, Department of Agriculture

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319.280 Revised; CFR correction 4655

Title 9—*Proposed Rules:*

91 2600, 5896
92 1552
445 3719
447 3719

TITLE 10—ENERGY

Chapter I—Nuclear Regulatory Commission

2.714 (c) revised 4459
20 Appendix D amended 2569
21.2 Footnote 1 amended 2569
35.21—35.25 Undesignated center heading added 1724

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	Page
35.21 Added	1724
35.22 Added	1724
35.23 Added	1724
35.24 Added	1724
35.25 Added	1725
73 Appendix A amended	2569

Chapter II—Department of Energy

Chapter II Interpretations	3021
210 Appendix added	3936
211.1—211.29 (Subpart A) Appendix amended	3469
211.61—211.71 (Subpart C) Appendix amended	3423
211 Appendix A amended	3936
212 Technical correction	3256
212.181—212.188 (Subpart L) Appendix added	3427
212 Appendix A removed	3427
Appendix added	3942
430 Heading; authority citation added	1970
430.2 Corrected	1970
430.22 Authority citation added	1970
430.21—430.24 (Subpart B) Appendix E authority citation added	1970
440 Nomenclature change	34
440.3 Amended	33
440.10 (b) amended	34
440.16 (a) revised; (b) amended	34
440.20 Heading revised; (e) added	34
440.30 (h) amended	34

Chapter X—Department of Energy (general provisions)

1004 Added	1909

Title 10—*Proposed Rules:*

0—170 (Ch. I)	2158
50	3719
140	1751
205	4346
210	4346
211	892, 5296, 5899
212	892, 1888, 5296
213	1896
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506	5808, 5809
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508	1694
790	1568
791	4418

TITLE 12—BANKS AND BANKING

Chapter I—Comptroller of the Currency, Department of the Treasury

1.105—1.480 Undesignated center heading revised	762
1.469 Added	763
1.470 Added	763
1.471 Added	764
1.472 Added	764
1.473 Added	764
1.474 Added	765
1.475 Added	765
1.476 Added	765
1.477 Added	765
1.478 Added	766
1.479 Added	766
1.480 Added	766

Chapter II—Federal Reserve System

206.54 Heading correctly added	5391
226 Staff interpretations	768
Staff interpretations republished and effective date suspended	3257
Staff interpretations corrected	5391
262.2 Policy statement	3957
265.2 (f) introductory text revised	1725

Chapter III—Federal Deposit Insurance Corporation

304.3 (a) and (f) amended; footnote 1 redesignated as footnote 2; new footnote 1 added	3258
335.4 (h)(5)(iv)(A)(1) (3) and (4) corrected	5869
336.735–32 Revised	6084

Chapter V—Federal Home Loan Bank Board

544.6 (h) and (i) revised	5870
545.9 (h) added	3470
545.6–20 (c) revised	3470
563.19 (b) revised	4937
571.14 Added	4937

Chapter VII—National Credit Union Administration

701.24 Revised	5871
701.37 Added	4938

Title 12—*Proposed Rules:*

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226	1116
347	6130
505	2178
545	5899
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701	60, 63, 895, 3722, 5900

TITLE 13—BUSINESS CREDIT AND ASSISTANCE

Chapter I—Small Business Administration

101.10 Added	4957
101.10–1 Added	4957
101.10–2 Added	4957
101.10–3 Added	4958
101.10–4 Added	4958
101.10–5 Added	4958
101.10–6 Added	4958
101.10–7 Added	4959
101.10–8 Added	4959
101.10–9 Added	4959
101.10–10 Added	4960
101.10–11 Added	4960
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101.10–22 Added	4962
101.10–23 Added	4963
101.10–24 Added	4963
101.10–25 Added	4963
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101.10–27 Added	4964
121.3–2 (v) corrected	34
121.3–9 (c) added	35
121.3–10 (b)(4) revised	1725
124.8–2 (e) revised	4956
130 Added	1370
Authority citation corrected	4955

Chapter III—Economic Development Administration, Department of Commerce

305.8 (b) and (c) revised	3959
305.89 (b) revised	3959

Title 13—*Proposed Rules:*

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TITLE 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

21 Special FAA Reg. 29–2 added	2363
27 Special FAA Reg. 29–2 added	2363
29 Special FAA Reg. 29–2 added	2363
36 Appendix A corrected	3031
39.13	36–38, 1078, 1079, 1081, 1084, 1726, 2369, 2376, 2377, 3032, 3701–3703, 4460, 4461, 5061, 5643–5645
47 Special FAA Reg. 39 added	39
Special FAA Reg. 39 corrected	1726
71 Republished	301
71.123	40, 1087, 1727
71.163	39, 5646
71.171	1085, 1086
71.181	39, 1085–1088, 3033, 3704, 4462, 5646–5648
71.203	1088
73 Republished	667
73.22 Corrected	4462
73.65	1088
73.66	1088
75 Republished	721
75.100	41
91 Special FAA Reg. 29–2 added	2363
95	5063
97.21–97.35	41, 2379, 5070

Chapter II—Civil Aeronautics Board

241 Sec. 21 amended	1970
Sec. 22 amended	3472
Sec. 24 amended	3472
250.2 Existing text designated as (a); (b) added	2167
250.12 Revised	2168
252 Revised	5075
291 Note added	3960
300.2 (a), (b) (1) and (3) revised; (c) (8) and (9) added	4656
302.3 (c) revised	5076

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302.901 Revised ---- 4657
302.908 (a) revised ---- 4657
302.1802—302.1812 (Subpart R) Removed ---- 4657
321 Added ---- 4660
385.16 (k)(3) introductory text revised ---- 3705

Chapter V—National Aeronautics and Space Administration

1216 Added ---- 1089

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39 ---- 1120, 1752, 2399, 5148, 5149, 5674
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75 ---- 5152
91 ---- 1322, 3250, 4572
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135 ---- 3250
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399 ---- 1381, 2179, 3724

TITLE 15—COMMERCE AND FOREIGN TRADE

Chapter I—Bureau of the Census, Department of Commerce

30.7 Authority citation added ---- 1971
30.22 Authority citation added ---- 1971
30.92 Authority citation added ---- 1971

Chapter III—Industry and Trade Administration, Department of Commerce

371.2 (c)(9) revised ---- 43
371.7 Added ---- 44
371.17 (a) and (f) revised ---- 1093
373.3 (a), (c)(1)(ii), (d)(3)(iii), and (iv), (h)(4), and (i)(1) revised ---- 1972
373.4 Note added ---- 1973
373.7 Revised ---- 1095
374.2 (a)(1) revised ---- 44
376.4 Added ---- 1099
377.6 (d)(1)(iii), (9) and (e)(8) revised; (d)(1)(iv) redesignated as (d)(1)(vi); new (d)(1)(iv) and (v) added ---- 44
Technical correction ---- 1973

Chapter V—United States Metric Board

Chapter established ---- 4463
500 Added ---- 4463

Chapter IX—National Oceanic and Atmospheric Administration, Department of Commerce

930.70 Amended ---- 3705
930.71 Nomenclature change ---- 3706
930.72 Nomenclature change ---- 3706
930.73 Nomenclature change ---- 3706
930.76 Nomenclature change; (b) revised ---- 3706
930.79 Revised ---- 3705
(a) amended ---- 3706
930.83 Nomenclature change ---- 3706
930.86 (c) and (d) amended ---- 3706

Title 15—*Proposed Rules:*

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370 ---- 4703
371 ---- 4703
385 ---- 4703
390 ---- 4703
399 ---- 4703
931 ---- 3230

TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

13 Amended ---- 3033, 3259, 4465, 4664, 4939, 5391, 5871
456 Interpretations ---- 2569
600.8 Revised ---- 3260

Chapter II—Consumer Product Safety Commission

1302 Heading revised ---- 792
1303 Heading revised ---- 792
1630.81 (Subpart D) Added ---- 2169
1700.14 (a)(10)(iii) added ---- 6342

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13 ---- 899, 2182, 2600, 3989, 4497, 5457, 5677
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1608 ---- 1981
1610 ---- 1981
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TITLE 17—COMMODITY AND SECURITIES EXCHANGES

Chapter I—Commodity Futures Trading Commission

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1 Forms 3–R, 7–R, and 8–R; instruction revised 19648
1.3 (ee) and (ff) added 39967
1.10 Revised 39967
1.10e Added 59341
1.12 Added 39969
1.16 Added 39970
1.17 Revised 39972
1.18 (b) revised; (c) removed 39981
1.33 Revised 31889
Revised △1924
1.33a Removed 31890
1.50 Revised 17814
1.52 Added; effective in part 1–31–79 and 6–30–79 39981
1.55 Added 31890
1.71 Added 32293
(a) revised 36897
Removed △1924
4 Added △1924
4.21 (a) introductory text, (4) (i) (C), and (ii) corrected △3706
4.22 (a) and (b) introductory texts corrected △3706
4.31 (c) corrected △3706
8 Added 41962
9 Added 59350
11.2 Existing text designated as (a); (b) added 55348
15.00 (b) (2) revised 45827
15.01 (d) revised 45827
15.02 Revised 45827
15.03 Revised 45828
17.01 (b) revised 60149
18.04 Revised 60149
18.06 Revised 37431
19 Revised 45828
30 Authority citation revised 47722
30.03 Removed 58554
31 Added 56887
31.03 Added 58554
32 Authority citation revised 54227
32.4 (a) revised 54226
(a) restored to prior status 59354
32.5 (a) (1) (ii) revised; (c) amended 54226
(a) (1) (ii) and (c) restored to prior status 59354
32.6 (a) revised 54226
(a) restored to prior status 59354
32.11 Added 16161
32.12 Added 23707
(a) (1) revised 47492
(a) (6) revised; (b) (1) amended; (f), (g), (h), and (i) added 52470
(a) introductory text and (1) and (c) revised; (a) (3) amended; (a) (9) through (11) added; (d) removed 54226
(a) (9), (10), and (11) removed; (a) introductory text, (1), and (3), and c) restored to prior status 59354
140.2 Revised 21659
140.12 Added 43452
140.13 Added 50167
140.81 Added 20971
145.6 Revised 21659
166 Added 31890
166.2 (a) revised △4466

Chapter II—Securities and Exchange Commission

200.30–3 (a) (27) correctly added 50422, 57596
200.30–4 (a) (5) added 36621
200.30–6 (c) revised 15417
200.30–13 Added △3473
200.80 (c) (1) (i) revised; (c) (1) (ii) amended; (c) (1) (iii) added 45991
200.735–8 (e) added 36900
201.4 (a) revised 38575
201.6 (b) amended 28999
(f) added 52217
210 Heading revised; eff. 12–25–79 40712
210.1–01 (c) added; eff. 12–25–79 40712
210.3–17 Introductory text amended; eff. 12–25–79 40712
210.3–18 Added; eff. 12–25–79 40712
(a) through (h), (j), and (k) revised 60405
(i) revised; eff. 12–25–79 60417
210.5–01 (a) (7) revised; (b) removed; (c) redesignated as (b) 41024
210.9–01 Revised 41024
210.9–02 Revised 41024
Footnote 4 correctly designated as footnote 1 43709
Corrected △3960
210.9–03 Revised 41026
Footnote 5 correctly designated as footnote 2 43709
210.9–04 Revised 41027

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210.9–05 Revised 41027
Footnote 6 correctly designated as footnote 3 43709
210.12–01 Amended 41028
210.12–02 Table footnote 2 (b) removed; footnote 2 (a) redesignated as footnote 2 41028
211 Interpretative releases 29109, 29937, 36900, 40730, 50868, 52218, 54228, 55239, 58554
229.20 Items 3 through 6 added 34407
Item 4 (a), (b), and (c) revised 58186
Item 2 (a) (3) and (b) revised; Item 2 (a) (4) added 60423
230.134 (a) (3) (iii) (F) and (G) amended; (a) (3) (iii) (H) added 47495
230.144 (e) (1) and (2) and (f) revised 43711
(e) introductory text, (1), (2), and (3) introductory text and (ii) through (vi), (g) (3) notes (ii) introductory text and (c), and (h) revised 54230
230.145 (d) revised 21661
230.146 (b) (2) and (e) (1) (ii) (c) revised 41194
230.148 Added 14449
(b) (1) and (3) revised 43711
230.254 (a) (1) (i) revised 41385
230.257 Heading and introductory text revised 41385
230.403 (d) added △4665
230.429 (a) revised 33905
231 Interpretative releases 18163, 20485, 47492, 53250, 57596
Interpretative releases technical correction 52022
239.11 Form S–1 amended 18500, 34412
239.14 Revised 39554
Determination △4466
239.15 Revised 39554
Determination △4466
239.16b Revised 21661
Form S–8 amended 33905, 54234
239.18 Form S–11 amended 18500, 34412
239.23 Revised 21662
239.26 Revised 21662
239.27 Heading revised; Form S–16 amended 16677
Revised 21662
239.144 Heading, (a), (b) and Form 144 revised 54231
240.0–3 Existing text designated as (a); (b) added △4666

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240.10b–10 (b) introductory text revised 30271
Revised 47503
240.11a1–1(T) (b) revised; (c) added 18562
(b) revised; (c) removed △6093
240.11a1–2 Introductory text and (b) corrected 14451
240.11a1–3(T) Added △6093
240.11a1–4(T) Added 18562
240.11a2–2(T) (f) added 18562
240.11Ac1–1 (e) revised 18557
240.13a–13 (c) (1) revised △1727
240.13d–1—240.13d–7 Revised 18495
240.13d–1 (b) (1) (ii) (G) revised 29768
(a) and (b) (1) revised; (c) through (e) redesignated as (d) through (f); new (c) added; new (d), (e) and (f) (1) introductory text revised 55755
240.13d–3 (d) (3) revised 29768
240.13d–7 Revised 55755
240.13d–101 Revised 18498
Amended 55755
Revised △2144
240.13d–102 Removed 18495
Added 18499
Amended 55756
Revised △2148
240.13f–1 Added 26705
(a) revised △3034
240.14a–8 (e) added 58530
240.14a–101 Schedule 14A amended 24288, 29111, 34413, 58531
240.14d–100 Revised △2150
240.15c3–1 (c) (2) (iv) (C) revised; (c) (2) (vi) (M) and (f) (3) (iii) amended 33906
(c) (2) (iv) (C) revised; (c) (2) (vi) (M) and (f) (3) (iii) amended △1974
240.15c3–3 (j) removed △1975
240.15d–13 (c) (1) revised △1727
240.17a–5 (e) (4) revised △1975
241 Interpretative releases 18163, 25421, 52697, 53250, 57596
249.14a–101 Schedule 14A amended 18500
249.208a Revised 21663
249.210 Form 10 amended 18500, 34413
249.216 Revised 21663
249.308 Form 8–K amended 14450, 24288, 58532
249.308a Form 10–Q amended 14451, 33905, 34413, 58532

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249.310 Form 10-K amended	14451, 18500, 33905, 34413
Revised	21663
249.311 Revised	21663
249.316 Revised	21663
249.325 Added	26705
Form 13F amended	△3035
249.330 Heading revised; Form N-1R amended	39554
Determination	△4466
249.504*l* Added	46299
250.22 (e) added	△4666
251 Interpretative releases	57596
360.0-4 Added	△4666
270.0-2 (h) added	△4666
270.8b-16 Added	39553
270.8f-1 Added	21664
270.17f-4 Added	50873
271 Interpretative releases	47492
271 Interpretative releases technical correction	52022
274.10 Form N-8A amended	39553
274.11 Revised	39553
274.11a-1 Added	39553
274.101 Form N-1R amended	39554
Determination	△4466
274.101a-1 Removed	39554
274.101a-2 Removed	39554
274.106 Form N-1Q amended	21665, 58532
274.218 Added	21665
275.0-4 (i) added	△4666
275.206(3)-2 Comment response	47176
275.206A-1(T) (a) amended	19227
Comment response	47176
300 Added	△5077

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230	15335, 15441, 22053, 35730, 41235, 43725, 43726, 53251, 55254
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240	15335, 16512, 18501, 30806, 31945, 33935, 34790, 43035, 47538, 50606, 50615, 53251, 54256, 56247, 58533
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241	34790, 43035
249	15335, 31945, 32309, 34790, 37460, 38026, 43035, 59092
250	22379, 34490, 53251
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270	16192, 19669, 23589, 36643, 39396, 47542
	△3376

TITLE 18—CONSERVATION OF POWER AND WATER RESOURCES

Chapter I—Federal Energy Regulatory Commission, Department of Energy

1 Authority citation amended	52223
1.3a (b)(1) amended; (b)(2) redesignated as (4); new (b)(2) and (3) added	20790
1b Added	27176
1.7 (d) revised	36434
1.8 (a)(2), (d), (e), and (f)(2) revised	36434
1.14 (a)(2) amended	36435
1.27 (b)(10) redesignated as (b)(11); new (b)(10) added	36435
1.31 (b)(1)(iv) revised	39983
1.36 (16) redesignated as (17); second (15) redesignated as (16) and revised	41965
(f)(1) and (2) existing texts designated as (f)(1)(i) and (2)(i); (f)(1)(ii) and (2)(ii) added	46528
1.38 Added	52223
Petition for rehearing denied	△2380
1.40 Added	35909
2.68 (c) added; interim	56536
(c) hearings	59056, 59836
2.75 (o) revised	23565
(o) technical modification	48992
3.5 (a), (b), and (d) revised; (c), (f), and (g) added	36435
3.8 (j)(4) amended; (j)(5) added	20790
3.114 (b) revised	40217

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3.170 Form No. 69 removed; Form EIA-50 added	27178
4.60 Revised	40217
16.12 Revised	40217
35.2 (c) amended	36437
101 Balance sheet accounts: Acct. 127 amended	15418
Acct. 215.1 redesignated from Acct. 264 redesignated as Acct. 215.1 and revised	15418
104 Balance sheet accounts: Acct. 125 amended	15419
Acct. 215.1 redesignated from Acct. 264 and revised	15418
Acct. 264 redesignated as Acct. 215.1 and revised	15419
131.6 Revised	40217
141.1 Form No. 1 amended	15420, 19382
141.2 Form No. 1-F amended	15422
141.13 (c) and Form No. 9 amended	15419
154.38 (h) added	45553
(d)(4)(iv)(*a*) through (c) revised; (d)(4)(viii) added	50170
(d)(4) introductory text revised; (d)(4)(ix) added	56034
(d)(4)(iv) revised; (d)(4)(viii) added	56221
(d)(4) introductory text amended; (d)(4)(x) added	57249
(h) revised; interim	60443
154.63 (b) (3), (4), and (f) Schedule H(1)-3 revised	56034
154.94 (b) amended; (h) and (i) added	55757
(h)(2)(iii), (6), and Appendix A amended	△1102
(h)(2)(ii)(C) amended	△5875
157.8 Amended	36437
157.22 (f) added; interim	56536
(f) hearings	59056, 59836
157.29 (e) added; interim	56537
(e) hearings	59056, 59836
157.40 (c)(6) added	55757
157.45—157.52 (Subpart C) Added; interim	56537
Hearings	59056, 59836
157.48 (b)(1)(i) filing requirements	△6094
157.49 (a) (2)(ii) (A) corrected	59482
157.53 (Subpart D) Added; interim	56544
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201 Balance sheet accounts: Acct. 108 amended	19356
Acct. 111 amended	19356
Acct. 164.2 amended	19356
Acct. 164.3 added	19356
Gas plant accounts:	
Subsection 3 heading revised	19357
Accts. 364.1—364.8 added	19357
Gas plant instruction 3 amended	19356
Operation and maintenance expense accounts: Acct. 804.1 added	19359
Acct. 808 redesignated as Acct. 808.1	19359
Acct. 809 redesignated as Acct. 808.2	19359
201 Operation and maintenance expense accounts—Continued Acct. 809.1 added	19359
Acct. 809.2 added	19359
Subsection 2 heading revised	19359
Accts. 843 through 848.3 redesignated as 843.1 through 843.9	19359
Accts. 844.1 through 847.8 added	19359
Table of contents corrected	35911
216 Storage plant heading revised	19362
Subsection 3 heading revised	19362
Accts. 361—364 (Subheading B) revised	19362
Acct. 362 heading revised	19362
Acct. 363 revised	19362
Accts. 363.1—363.5 added	19362
Accts. 364.2—364.8 added	19362
260.1 Form No. 2 amended	15420, 19363
Form No. 2 corrected	35912
260.2 Form No. 2-A amended	15422
260.13 (d) revised	34454
Form No. 40 filing dates postponed	56035
260.15 Form No. 69 removed; Form EIA-50 added	27178
270—276 (Subchapter H) Added; interim	56544
Hearings	59056, 59836
270 Added; interim	56544
Hearings	59056, 59836
270.202 (g) corrected	59482
(d) filing requirements	△6094
271 Added; interim	56551
Hearings	59056, 59836
271.101 (a) table I and (c) corrected	59482
(a) tables I and II revised	△5876
271.102 (d)(1)(i) corrected	59482
(c) revised	△5877
271.202 Revised	△5878
271.302 Revised	△5878
271.402 (a) corrected	59482
(a) revised; (b)(9), (c)(1), (2), and (3) amended; (c)(4) added	△5878
(c)(3) filing requirements	△6094

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271.602 Revised	△5879
271.702 Revised	△5879
271.802 Revised	△5879
271.902 Revised	△5879
271.1105 (d) (1) (v) corrected	59482
Filing requirements	△6094
271.1106 Filing requirements	△6094
273 Added; interim	56577
Hearings	59056, 59836
273.201 (a) (1) revised	△5879
273.204 (c) (2) corrected	59482
274 Added; interim	56686
Hearings	59056, 59836
274.204 (f) corrected	59482
274.206 (a) (8) corrected	59482
274.207 (c) and (e) filing requirements	△6094
274.501 (a) (2) table corrected	59482
275 Added; interim	56608
Hearings	59056, 59836
275.201 (d) filing requirements	△6094
275.202 (d) filing requirements	△6094
275.204 Filing requirements	△6094
275.205 (b) filing requirements	△6094
275.206 (b) filing requirements	△6094
276 Added; interim	56613
Hearings	59056, 59836
277 Added; interim	57598
284 (Subchapter I and Part) Added; interim	56622
Hearings	59056, 59636
284.127 Introductory text corrected	59482
284.164 (b) corrected	59482
284.165 (d) corrected	△4940
286 Added	57599
286.102 Added	△2383
(a) and (d) (1) filing requirements	△6094

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401.35 (a) introductory text and (15) revised	38816
410.1 Revised	27784
420.41 (a) and (b) revised; eff. Apr. 79	56655

Chapter VI—Water Resources Council

701.1—701.6 (Subpart A) Revised	25944
701.51—701.79 (Subpart B) Revised	25945

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803.62 Added	34127

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1	19669, 32814, 39122, 40037, 47542
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TITLE 19—CUSTOMS DUTIES

Chapter I—United States Customs Service, Department of the Treasury

4 Forms 1302 and 1302–A compliance date stayed	36622, 60274
4.1 (c) revised	22174
4.7a (c) (1) and (2) revised	△5649
4.22 Amended	22173, 24671, 54234
4.71 Revised	△5650
4.81a (b) amended	58814
4.98 (a) table interim rule	46962
4.101 Added	49787
6.2 (a) amended; (g) redesignated as (h); and new (g) added	14962
6.8 (a) amended	△5651
6.13 Amended	28456
10.1 (g), (h), and (i) corrected	20003
10.66 Heading and (c) introductory text revised; (c) footnote 62a added	23709
10.99 Revised	43453
10.151 Heading and text amended	49787

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10.152 Amended	49787
10.153 (b), (d) (2) and (3), (e), and (f) amended	49787
11.1 (b) amended	43454
11.2a Revised	43454
11.3 Amended	43454
11.7 Heading revised; text amended	43454
12.37 (c) amended	43454
12.80 Revised	56659
12.106 Revised	36055
19.15 (g) (2) revised	38382
19.16 (a) amended; (g) revised	43454
22.20a Amended	22176
22.23 (e) amended	43455
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101.3 (b) table amended	19833, 28456, 30289, 36056
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101.4 (c) table amended	18659, 19834, 36056
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111.21 Policy statement	41192
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111.27 Revised	21880
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111.39 (a) policy statement	41192
112.11 (a) (4) revised	31316
112.22 (a) (1) revised	36057
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132 Policy statement	29112
141.11 (a) (1) revised; (a) (2), (3), and (6) amended	49787
141.13 Revised	49787
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141.53 (d) amended	49788
141.54 (b) amended; (c) and footnote 1 revised	49788
141.61 (h) revised	43455
141.102 (b) revised	43455
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143.1 (b) removed	43455
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144.15 Heading revised; (a) (3) removed; (c) and (d) added	38382
144.38 (b) removed; (c) amended	43455
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148.2 (b) amended	49788
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148.31—148.39 (Subpart D) Nomenclature changes	49788
148.31 (a) amended	49788
148.33 (d) (1) amended	49788
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148.44 (a) amended	49789
148.51 (a) (2) and (b) (1) amended	49789
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148.84 Revised	49789
148.101—148.106 (Subpart J) Added	49789
148.102 (b) corrected	55758
148.110—148.116 (Subpart K) Added	49790
148.110 Corrected	55758
148.115 (e) corrected	55758
148.116 Corrected	55758
152.16 (e) determination	38818
153.7 Revised	35265
Effective date corrected	40804
153.27 (a) (3) (i) and (ii) revised; (a) (3) (iii) removed	35265
(a) (3) (i), (ii), and (iii) effective date corrected	40804
153.31 (d) corrected	14458
153.46 Table amended	22345, 22937, 28457, 31003, 32293, 52023, 55240, 57599
158.7 Added	53713
Technical correction	54925
159.4 (b) (1) amended	43455

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159.6 (a) through (d) amended	49791
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171.1 (a) introductory text and (2) revised; (a)(3) redesignated as (a)(4); new (a)(3) added	23712
174.32 Added	49791
176.31 Determination	38818
177.10 (d) determination	38818
Heading and (a) revised; (e) amended	49792
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177.11 (b)(7) revised	49792

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200.4 (e) revised	17468
250 Heading revised	56888
250.7—250.16 Removed	56888
258 Added	56888
259 Added	56889
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401 Technical correction	25672
404.103 Heading revised	34777
404.103a Added	34777
404.107 Heading revised	34778
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404.108 (b) amended	34778
404.203 (a), (d), and (f) amended; (m), (n), and (o) added	60879
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404.212 Added	60879
404.212a Added	60880
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404.219 (a) and (b)(2) revised; (d) added	60881
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404.282 (a) and (b) revised; (c) amended	29276
404.305a Revised	29276
404.330 (b)(1) and (4) revised	29277
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404.374 (a)(3) revised	25091
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404.379 Revised	25091
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404.402 (d) (2) through (6) redesignated as (d) (4) through (8); new (b)(3), (d) (2) and (3) added	34456
404.405 (q) added	29277
404.408 (c)(3) and (j)(2) revised	56037
404.408a Added	34456
404.413 Existing text designated as (a); (b) and (c) added	33706
404.428 (a) revised	53714
404.430 Heading, (a)(3), (b), and (c)(1) introductory text revised; (d) added	53715
404.435 Revised	53715
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404.701—404.780 (Subpart H) Revised	24794
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404.1016 Heading and (a) revised	45346
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404.1027 (l) heading, (1), (2), and heading of (3), (o), and (q) revised; (v) and (w) added	56038
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404.1508 Added	55365
404.1509 Added	55365
404.1510 Added	55365
404.1511 Added	55366
404.1512 Added	55366
404.1513 Added	55366
404.1514 Redesignated from 404.1503	55362
404.1515 Redesignated from 404.1504	55362
404.1516 Redesignated from 404.1505	55362
404.1517 Redesignated from 404.1506	55362
404.1518 Redesignated from 404.1507	55362
404.1534 (b), (c), and (d) revised	29938
(b) revised; (f) added	30047
410.505 Revised	34780
410.515 (a)(3) revised	34781
410.520 (a) revised	34781
410.591 Added	34781
410.699a Added	34781
410.700—410.707 (Subpart G) Added	34781
416.120 (c) (9) and (10) revised	25091
(c) (9) and (10) technical correction	25815
416.202 (b) revised	25091
(b) technical correction	25815
416.231 (a)(1) revised; (a)(3), (b)(6) (i) and (ii) added	55381
416.537 (b)(1) revised	17354
416.901—416.985 (Subpart I) Appendix 2 added	55375
416.902 Revised	55371
416.903 Redesignated as 416.914; new 416.903 added	55371
416.904 Redesignated as 416.915; new 416.904 added	55371
416.905 Redesignated as 416.916; new 416.905 added	55371, 55372
416.906 Redesignated as 416.917; new 416.906 added	55371, 55372
416.907 Redesignated as 416.918; new 416.907 added	55371, 55372
416.908 Added	55373
416.909 Added	55373
416.910 Added	55374
416.911 Added	55374
416.912 Added	55374

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416.913 Added 55375
416.914 Redesignated from 416.903 55371
416.915 Redesignated from 416.904 55371
416.916 Redesignated from 416.905 55371
416.917 Redesignated from 416.906 55371
416.918 Redesignated from 416.907 55371
416.934 (b), (c) and (d) revised 29938
416.951 Revised 17354
416.952 Revised 17354
416.953 Revised 17354
416.1125 (a), (c), (d), (e), (g) (h) and (i) revised; (j) redesignated as (k) and revised 29279
(b) revised; (j) added; interim 29283
Technical correction 30271
416.1145 (b)(2) revised 48995
416.1146 (n) added 45555
416.1151 Revised 48995
416.1185 Added 39567
(c)(4) and (d)(1) corrected 54235
416.1236 (a)(13) added 45555
416.1327 (a) amended 25092
(a) technical correction 25815
416.1336 Revised 18170
416.1337 Added 18170
416.1403 (b)(1)(ii) and (b)(2) revised 17354
416.1703 Revised 27180
416.1705 Revised 27180
416.2001 (a) introductory text revised 48995
416.2025 (b)(1) revised 39570
422.103 Revised 20974
422.104 Revised 20974
422.104a Redesignated as 422.105 and revised 20974
422.105 Redesignated as 422.106 and revised; new 422.105 redesignated from 422.104a and revised 20974
422.106 Redesignated from 422.105 and revised 20975
422.107 Revised 20975
422.110 Revised 20975

Chapter V—Employment and Training Administration, Department of Labor

614.19 Revised 59837
620 Added 36058
Cutoff date extended ..... △4666
640 Revised 33225
654 Revised ..... △1047
Republished ..... △1689

Chapter VI—Employment Standards Administration, Department of Labor

702 Authority citation revised 50171
702.101 Amended 50171
715 Removed 36772
717 Removed 36772
720 Removed 36772
725 Revised 36772
725.308 (b) revised 50172
725.701A (a) revised 50172
727 Revised 36819

Chapter VII—Benefits Review Board, Department of Labor

801 Revised 42145
802 Revised 42146

Chapter VIII—Joint Board for the Enrollment of Actuaries

901.13 (e) (ii), (iv), and (vi) amended 39757
901.20 (h) added 39757
901.30—901.54 (Subpart D) Added 39757
901.40 (Subpart E) Redesignated as 901.70—901.71 (Subpart E) and revised 39761
901.70—901.71 (Subpart E) Redesignated from 901.40 (Subpart E) and revised 39761

Title 20—*Proposed Rules:*

404 ..... 19238, 19863, 25695, 25837, 29955, 35344, 36110, 39266, 42017, 49545, 50700, 51410, 52936, 54666, 55414, 59848, 60292, 60956
410 ..... 15336, 24542
416 ..... 15336, 18205, 18206, 18698, 18699, 19238, 21012, 21465, 27853, 29311, 29955, 30574, 33258, 36478, 41054, 49545, 51410
422 25837
602 49694
604 49694
614 49545
620 39124
651 49694
653 ..... 39124, 49694, 50380
655 ..... 22996, 26033, 39124
658 49694
675 ..... △4364
676 ..... △4364

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718 ..... 17722, 18699, 19863, 26588, 27196
725 17732
727 17765

TITLE 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

2.125 (h) revised ..... △3961
5.1 Heading and (a) introductory text revised 20487
(a)(23) added 22672
Heading and (a) introductory text revised; (d) added 58556
5.20 Revised 20487
5.22 Revised 29285
(a)(11) corrected 46299
5.23 Revised 29286
(e) added 51759
5.25 Revised 32746
5.26 Revised 29285
5.30 (b) revised 36060
5.35 Revised 30797
5.37 (a)(5) revised 36061
5.45 (a), (b), and (c) revised 30797
5.59 Revised 22006
5.68 Revised 36061
5.71 (b) revised 36061
5.74 Added 20487
5.80 (b) revised 36061
5.82 (b) revised 36061
5.100 Amended 20488
7.1 Revised 26218
7.3 (f) through (n) added 26218
7.40—7.59 (Subpart C) Added 26218
14.100 (c)(2) revised; (c)(8) and (15) removed 18661
(c)(20)(i)(*l*) removed 20488
(d)(1)(viii) and (xv) revised; (d)(1)(v), (vi), (xvi) and (xviii) removed 21667
(d)(1)(i) and (iii) revised; (d)(1)(iv), (x) and (xiii) removed 21668
(d)(1)(xi) revised; (d)(1)(xii) and (xvii) removed 22672
(d)(1)(vii) and (xiv) revised; (d)(1)(ix) and (xix) removed 22673
(c)(1) and (d)(1)(ii) revised; (c)(19) removed 22674
(c)(6) revised; (c)(9) removed 28457
(b)(1)(i) removed 28458
(a)(3) removed 30271
(c)(5) and (10) introductory texts revised 31318
(c)(13), (16), and (18) introductory texts revised 31319
(c)(12) and (17) introductory texts revised 31320
(c)(20)(i)(*h*) removed 44831
(c)(20)(i)(*f*) removed 45555
(c)(20)(i)(*b*) removed 47723
(a)(2) removed ..... △1976
(c)(20)(i)(*g*) removed ..... △2571
(c)(20)(i)(*j*) removed ..... △5392
15.1 (b) revised 18664
16.1 (b)(31) added 32993
(b)(30) redesignated as (c); new (b)(30) added; eff. 6-20-79 60013
20.100 (c)(31) added 32993
25.1 (d)(7) correctly added 18665, 22675
58 Added; eff. 6-20-79 60013
70.50 (c) removed 22675
71.1 (g) added; eff. 6-20-79 60020
71.6 (b) amended; eff. 6-20-79 60021
73.1299 Added 54235
73.2110 Added 44831
73.2299 Added 54236
74.1254 (b) amended 14642
81.1 (g) table amended 36063, 54236, 54237
(g) table amended ..... △46
81.10 (l) removed 44832
81.27 Revised 14643
(c) revised 36063
(c) introductory text revised 54237
(c) introductory text and (2) revised 54236
(b) introductory text amended ..... △46
100—197 (Subchapter B) Labeling compliance date extended to 7-1-81 44830
101.4 (b)(16) through (18) added 24519
101.17 (d) added 60893
101.22 (a)(2) and (3) amended ..... △3963
105.66 Redesignated from 125.5 and revised; eff. 7-1-79 43259
(c)(1)(iii) revised 52700
Compliance date extended to 7-1-80 60894
105.67 Redesignated from 125.6 and revised; eff. 7-1-79 43260
Compliance date extended to 7-1-80 60894
105.79 Removed 43260
125.5 Redesignated as 105.66 and revised; eff. 7-1-79 43259

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125.6 Redesignated as 105.67 and revised; eff. 7-1-79 43260
131.120 Revised; eff. 7-1-79 21670
Effective date confirmed 44832
131.122 Added; eff. 7-1-79 21670
Effective date confirmed 44832
131.123 Added; eff. 7-1-79 19835
131.125 (b) and (c) revised; (e) added; eff. 7-1-79 19836
131.127 (c)(2) and (d) revised; (f) added; eff. 7-1-79 19836
(d)(1) corrected 29769, 36622
131.130 Revised; eff. 7-1-79 21670
Effective date confirmed 44832
131.132 Added; eff. 7-1-79 21671
Effective date confirmed 44832
131.147 Added; eff. 7-1-79 19836
131.149 Added; eff. 7-1-79 19836
(a) revised ..... △3965
131.189 Removed 44833
135.110 (a)(1) through (3) in part and (b)(2) and (3) stay reinstated as of 7-8-77 19384
135.120 (a)(2) in part, stay reinstated as of 7-8-77 19384
135.140 (a)(1) and (2) in part, stay reinstated as of 7-8-77 19384
136.110 (c)(5)(ii, (15), and (18) revised 47177
136.115 (a)(1) revised 38578
136.165 Removed 43456
137.165 (a) revised 38578
137.185 (a) revised 38578
146.120 Compliance date 7-1-79 45556
146.126 Compliance date 7-1-79 45556
155.190 (a)(2)(vii), (3)(iii) and (iv), (4), (5)(ii)(b) and (d), and (iii)(a) and (c), and (b)(1)(iii) and (iv) revised 30274
(a) and (b) compliance dtae extended 54926
161.173 Revised; eff. 7-1-79 19840
(a)(5)(iv) Table I revised 25423
170.17 (c) added; eff. 6-20-79 60021
170.35 (c)(1)(vi) added; eff. 6-20-79 60021
171.1 (k) added; eff. 6-20-79 60021
171.6 Revised; eff. 6-20-79 60021
172.372 Added 27784
172.510 (b) amended 14644
172.515 (b) amended 19843
172.822 (b)(4) added 18668
173.315 (a)(3) table amended 54926
173.345 (c)(1)(i) corrected 14644
173.395 Added 54237
175.105 (c)(5) table amended 16311, 16972, 22676
176.170 (a)(5) table amended 45557, 49534
177.1010 (a)(3)(ii) amended 54927
177.1350 (a)(5) added 29287
177.1550 Revised 44834
177.2480 (b)(1)(ii) and (e)(2) revised 44835
177.2600 (c)(4)(iii) amended 16972
178.2010 (b) table amended 47723
(b) table corrected 59056
178.3400 (c) amended 58557
178.3570 (a)(3) amended 54928
180.1 (c)(4) added; eff. 6-20-79 60021
182.10 Amended ..... △3963
182.20 Amended ..... △3963
182.60 Amended 47724
Amended ..... △3963
182.90 Amended 22938
182.1275 Removed 29288
182.1973 Removed 14644
182.1975 Removed 14644
182.3025 Removed 19843
182.4029 Removed 36064
182.4037 Removed 36064
182.4053 Removed 36064
182.4105 Removed 36064
182.4560 Removed 36064
182.5634 Technical correction 14008
182.6807 Removed 22938
184.1007 Added 47724
184.1025 Added 19843
184.1200 Technical correction 14008
184.1257 Added ..... △3964
184.1259 Added 54239
184.1634 Technical correction 14008
184.1635 Technical correction 14008
184.1807 Added 22938
184.1973 Added 14644
184.4560 Added 36064
186.1025 Added 19843
186.1275 Added 29288
186.1807 Added 22938
193.25 Amended 35915
193.105 Added 22345
193.145 Added 29558
193.212 (a) amended 22176
Revised 32130
193.235 (b) amended 20489
(e) added 57002
193.255 Added 56040
201.17 Revised 45076
Effective date corrected 46528
201.100 (b)(6) revised; (b)(7) added 37989
201.316 Added 22009
201.317 Added 22009
207.3 (b) revised; (k) added 45076
(b) and (k) effective date corrected 46528

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207.20 (a) amended 45076
(a) effective date corrected 46528
207.35 (b)(2)(ii), (3)(iv), and (4) revised 24010
207.65 (i) amended 37997
210 Revised 45076
Effective date corrected 46528
211 Revised 45077
Effective date corrected 46528
229 Removed 45087
Effective date corrected 46528
310.509 Added 58562
310.516 Added 47181
312.1 (a)(2) amended; (d)(11) redesignated as (d)(12); new (d)(11) added; eff. 6-20-79 60021
314.1 (c)(2) amended 37989
(c)(2) amended; (f)(7) redesignated as (f)(8); new (f)(7) added; eff. 6-20-79 60022
314.8 (a)(5)(xi) added 37989
(l) added; eff. 6-20-79 60022
314.9 (c) added; eff. 6-20-79 60022
314.12 (c) added; eff. 6-20-79 60022
314.110 (a)(9) added; eff. 6-20-79 60022
314.111 (a)(8) amended; (a)(9) added; eff. 6-20-79 60022
314.115 (c)(6) added; eff. 6-20-79 60022
330.10 (c) added; eff. 6-20-79 60022
361.1 (c)(3) amended 14646
430.4 (a)(45) added 55382
430.5 (a)(62 and (b)(62) added 20976
(b) introductory text amended 41195
(a)(63) and (b)(63) added 55382
430.6 (b)(64) added 20976
(b)(65) added 55382
430.20 (e) added; eff. 6-20-79 60022
431.1 (f) revised 41195
(c)(8)(ii) revised 41197
431.17 (j) added; eff. 6-20-79 60023
436.20 (d)(5) revised 43457
436.33 (b) table amended 20976
436.35 (c) table amended ..... △1374
436.105 (a) and (b) tables amended 20977, 55382
436.320 (a)(4) and (d) corrected 34456
436.322 Added 44836
442.6 Added 20977
(b)(5) corrected 27180
442.40a (a)(1)(i), (3)(iii), and (b)(1) revised 14646
442.106 Added 20978
442.240 Redesignated as 442.240a; new 442.240 added 14646
442.240a Redesignated from 442.240 14646
442.240b Added 14646
444.442c Removed ..... △5880
444.540b Removed; effective date confirmed 26428
446.10 (a)(iii) and (b)(6) corrected 34456
446.10a (a)(1)(vi) and (b)(9) corrected 34456
446.15 (a)(v) corrected 34456
446.16 (a)(v) corrected 34456
446.60 (b)(1) corrected 34456
446.65a (a)(1) introductory text and (5), (b) (3) through (5) corrected 34456
446.66 (a)(1) introductory text and (iv) corrected 34456
446.67 (a)(1) introductory text, (iv), and (v) corrected 34456
446.67a (a)(vii) corrected 34456
446.75a (b)(1) corrected 34456
446.80 (a)(1) (iv) and (vi) corrected 34456
446.81a (b) (3) and (8) corrected 34456
446.82 (a)(1) (iv), (vi) and (3)(i) corrected 34456
446.110 (b)(1) corrected 34456
446.110b Removed 34456
446.115a (a)(1) amended 50677
446.165a (a)(1) corrected 34456
446.166 (a)(1) amended 50677
446.180c (a)(1) corrected 34456
(a)(3)(i)(a) corrected 34457
446.180d (a)(3)(i) (a) and (b) corrected 34457
446.220 (b)(1) corrected 34457
446.276a (b)(1) corrected 34457
446.310b Removed 34457
446.367e (a)(3)(i)(a) corrected 34457
448.430 Revised ..... △5880
449.40 Added 55384
449.120d (a)(1) amended 22676
449.340 (Subpart D) Added 55384
449.450 (Subpart E) Removed ..... △5881
449.650 Redesignated as 449.650a; new 449.650 added 43458
449.650a Redesignated from 449.650 43458
449.650b Added 43458
450.24 (a)(1) (i) through (vi) and (3)(i) and (b)(7) revised; (b)(6) removed; (b)(1) through (5) redesignated as (b) (2) through (6); new (b)(1) added; new (b)(2)(i) revised 44836

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450.224 (a)(3)(i)(a), (b)(1) and (7) revised	44837
455.290 Added	△1374
455.310a (b)(1) revised	59057
455.410 Revised	△5881
455.510b Removed	△5881
460.100 (b)(2)(i) table correctly amended	16312
500.80—500.98 (Subpart E) Removed	22675
510.450 (e) redesignated as (f); new (e) added	19385
510.600 (c)(1) and (2) amended	29290, 32746, 35685, 39086, 58082
(c)(1) and (2) amended	△3966, 5882
511.1 (b)(4)(ii) revised; eff. 6-20-79	60023
514.1 (b)(12)(iii) added; eff. 6-20-79	60023
514.8 (l) added; eff. 6-20-79	60023
514.15 (c) added; eff. 6-20-79	60023
514.50 (c)(8)(ii) revised	41198
514.110 (b)(8) added; eff. 6-20-79	60023
514.111 (a)(10) removed	22675
(a)(11) added; eff. 6-20-79	60023
514.115 (b)(4) added; eff. 6-20-79	60023
520.310 Added	55385
520.420 Revised	39085
520.526 Added	28459
520.580 (c)(1) revised	35685
520.622b (b) revised	△3967
520.903 (d)(3)(ii) removed	60882
520.905 Redesignated as 520.905a; new 520.905 heading added	△1375
520.905a Redesignated from 520.905	△1375
520.905b Added	△1375
520.1010 Redesignated as 520.1010a; new 520.1010 added	14647
520.1010a Redesignated from 520.1010	14647
520.1010b Added	14647
520.1065 Added	30274
520.1100 (c) revised; (d)(4) added	28458
520.1235 Removed	60883
520.1242d Added	18171
520.1320 (d)(2)(i) amended	35686
520.1430 Added	15625
520.1805 Added	32747
520.1900 (b) revised	55386
520.1962 (a) through (e) redesignated as (a)(1) through (5); new (b) added	55386
520.2042 Added	52700
520.2200c Added	36622
520.2330 Added	60895
520.2520d Added	39084
520.2645 (c) amended	32747
522.144 (c) revised	27785
522.234 Redesignated from 522.264	60883
522.264 Added	15625
Redesignated as 522.234	60883
522.540 (c)(2) revised	16973
(a)(3)(i) and (ii), (b)(3)(i) and (ii), (c)(3)(i) and (ii), and (d)(3)(i) and (ii) amended; (d)(2) revised; footnote added	57600
522.1150 Added	59058
Effective date corrected	59837
522.1155 Added	40455
522.1235 Removed	60883
522.1244 Revised	20489
(b) and (c)(1) revised	29289
(c)(2)(i) amended	60895
522.1258 Added	46300
(c)(1) introductory text and (iii) corrected	59059
522.1410 Added	59058
522.1484 Revised	48996
Effective date corrected	59059
522.1662a (h) added	58083
522.1883 Revised	39769
524.1484b Heading and (a) revised	18172
524.1484c Heading and (a) revised	18172
524.1484i Added	40456
524.1600a (a) and (c) revised	29770
524.1695 Removed	27786
524.2101 Added	29290
(b) and (c)(2) revised	48997
(b)(2) revised	49535
(b), and (c)(2) effective date corrected	59059
(b)(2) revised	△3966
524.2350 Added	29289
526.363 Added	37174
529.2090 (b) added	29290
539.3 Added	38000
540.103a (c)(3) revised	24011
540.103c (c)(4) revised	16312
540.203 Added	38001
540.255c Technical correction	14008
540.274b (c)(3) added	32748
(c)(3)(iv)(a) revised	46529
540.874f (c)(3)(i) revised	52701
546.110d (b) corrected	14647
546.110f Removed	△1976
546.113a Technical correction	14647
546.113b (c)(6)(iii) amended	19385
546.180e (a)(1) and (3)(i)(a) corrected	14647
548.112d Heading, (a)(1) and (3)(i)(a) and (ii)(a) revised; (a)(1) and effective date corrected	48997, 59059
550.510 (b) revised	32749
556.750 Revised	41966
558.55 (e)(2) table amended	53717
558.58 (e)(1) table corrected	29290
(e)(1) table amended	30275
(e)(1) table effective date corrected	35686
558.76 (e)(3)(viii) added	17469
(c)(3)(ix) added	32750
558.95 (b) revised	46301
(d) added	54240
558.145 (f)(2) amended	19385
558.195 (g)(2) table amended	32750
558.258 Removed	55387
558.311 (e) table amended	17469, 19844
(b) and (c) revised	52701
558.315 (f) redesignated as (g) and (2)(ii) and (iii) revised; new (f) added	39351
558.355 (f)(3)(ii) and (iii) redesignated as (f)(3)(i)(a) and (b); (d)(5) and new (f)(3)(ii) added	27786
(b)(1) revised	28459
(f)(3)(iii) added	32749
(f)(1)(xii) added	32750
(c)(3) and (d)(5) added; (d)(3) and (f)(3)(i)(b) revised	56223
558.366 (d) added	57601
558.625 (f)(2) revised	27786
(b)(54) and (55) added	32747
(b)(56) added	39086
(b)(46) added	58082
(b)(35) revised; (b)(59) added	△5882
558.630 (b)(3) amended	14648
(f)(3) amended	19385
(b)(7) added	34457
558.635 (f)(4) revised; (f)(5) added	41966
561.41 Revised	35915, 41386
561.51 Added	44838
561.53 Added	33238
561.95 Added	35687
561.175 Added	29558
561.197 Added	40457
561.233 (a) amended	22176
Revised	32130
Correctly designated	34457
561.235 Revised	14009
561.253 (c) amended	20489
(f) added	57002
561.265 Added	56040
561.285 Added	41386
561.380 Revised	△4468
561.395 Added	54089
570.17 (c) added; eff. 6-20-79	60023
570.35 (c)(1)(vi) added; eff. 6-20-79	60024
571.1 (k) added; eff. 6-20-79	60024
571.6 Amended; eff. 6-20-79	60024
571.115 Removed	22675
573.180 Revised	33707
573.450 Added	33708
573.920 (b)(4) introductory text, (c)(1), and (3) revised; (b)(5), (6), and (c)(4) added	△5392
601.2 (a) revised; eff. 6-20-79	60024
601.25 (f)(4) revised	44838
(h) heading revised; (h)(4) and (5) added; eff. 7-5-79	△1549
601.30 Revised; eff. 6-20-79	60024
607.65 (e) amended	37997
610.12 (f) amended	47182
610.19 Added	△1549
610.53 Amended	34459
640.2 (b) amended	34460
640.4 (d)(4) and (g)(5) added	34460
640.7 (b)(1)(iv) added	34460
640.16 (a) revised	34460
640.22 (a) revised	34460
640.32 (a) amended	34460
640.34 (a), (c) and (g)(1) revised	34460
660.28 (a)(1) revised	19845
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807.3 (i) through (m) added	37997
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221.105 Revised	29939
231.51 Revised	60899
231.52 Revised	60900
231.53 Revised	60900
231.54 Revised	60900
231.55 Added	60900
233.51 Revised	32410
233.52 Revised	32410
233.53 Revised	32411
251.8 Removed	△46
252.12 Revised	27826
256.11—256.21 (Subpart B) Added	27187
258 Added; interim	30049
Temporary regs	35279, 37431, 39086, 46971
271 Authority citation revised	37440
271.2 (b), (e), and (n) revised	37440
271.12 Introductory text redesignated as (a); (a) through (d) redesignated as (a)(1) through (a)(4); (e) redesignated as (b) and amended; (a)(5) and (6) added	37440
271.14 (i)(3) removed; (i)(6), (m), and (o) revised; (q), (r), and (s) added	37440
271.15 (c)(5)(i) and (e) revised	37441
271.16 (a) amended	37441
271.18 (b) amended; (c)(2)(vii) introductory text and (A) revised; (c)(2)(vii)(G) and (viii) added	37441
271.20 Introductory text revised	37441
271.21 (a)(1) revised; (b) amended	37441

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271.22 (b), (c), and (e) revised; (f) and (g) added	37441
271.23 Revised	37442
271.24 (c) revised	37444
271.25 (b) and (c) revised	37444
271.32 (f) and (g) revised	37444
271.34 (e) added	37444
271.41 (d) amended	37444
271.46 (e) added	37444
271.54 (h) added	37444
271.55 (d) added	37445
271.66 (b) revised; (c) added	37445
271.76 (c) revised	37445
271.81 Introductory text amended	37445
272 Authority citation revised	37445
272.2 (e) revised	37445
273 Authority citation revised	37445
273.2 (c) revised	37445
274 Authority citation revised	37445
274.2 Introductory text amended	37445
274.3 (e) revised	37445
274.11 (b) revised	37445
274.17 Revised	37445
274.18 (b) revised	37446
274.19 (c) removed; (d) revised	37446
274.20 Introductory text revised	37446
274.21 Introductory text, (c), and (d) revised	37446
274.22 (a) amended; (b) revised	37446
274.32 (a)(1) added	37446
275 Authority citation revised	37446
275.2 (d) revised	37446
276 Authority citation revised	37446
276.11 (b)(2) amended; (g)(2) revised	37446
276.17 Added	37446
276 Appendix A amended	37447
277 Authority citation revised	37447
277.1 Amended	37447
277.2 Revised	37447
277.3 (e) revised	37447
277.12 (a) and (b) revised; (c) amended	37447
277.13 (a) amended; (b) revised; (c) removed	37447
277.14 Revised	37448
277.15 (a) and (b) revised	37448
277.15a Revised	37448
277.16 Revised	37748
277.17 (a) and (b) revised; (c) amended	37448
277.18 Added	37449
277.21 Revised	37449
277.22 (a) amended; (c), (d), and (e) revised	37449
277.25 Amended	37449
277.28 Removed	37449
277.29 (a), (b) and (c) amended	37449
277.36 Amended	37449

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32a	56249
41	19674, 35346
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43	43327
43h	14684
54	23743
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TITLE 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

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1.5 Removed	40466
1.12 Removed	40466
1.42 Removed	19653
1.42–1 Heading revised	19653
1.42A–1 Added	19653
1.43–1 Added	13877
1.46 Removed	40466
1.46–1 (c) revised	40466
1.46–7 Added	△4133
1.46–8 Added	△4135
1.51 Removed	40466
1.52–1 Added	31322
1.52–2 Added	31323
1.52–3 Added	31324
1.53–1 Added	37451
Correctly added	60445
1.56–1 Added	40466
1.56–2 Added	40467
1.56–3 Added	40468
1.56–4 Added	40468
1.56–5 Added	40468
1.57–0 Added	40470
1.57–1 Added	40470
1.57–4 Added	40476
1.57–5 Added	40479
1.58–1 Added	40479

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1.58–2 Added	40481
1.58–3 Added	40482
1.58–4 Added	40483
1.58–5 Added	40484
1.58–6 Added	40484
1.58–7 Added	40484
1.58–8 Added	40492
1.61–2 (d) (1), (2), (4), and (5) revised; (d)(6) added	31913
1.61–15 (a) revised	31913
1.63 Removed	△1105
1.63–1 Added	△1105
1.82–1 (b)(2) amended	59355
1.83–1 Added	31913
1.83–2 Added	31915
1.83–3 Added	31916
1.83–4 Added	31918
1.83–5 Added	31918
1.83–6 Added	31919
1.83–7 Added	31920
1.83–8 Added	31921
1.122 Removed	38819
1.122–1 (a), (b)(2)(iii) (*a*) and (*b*), (c) (1), (3), and (4), and (d) amended; (b)(1) and (d) introductory text revised; (e) added	38819
1.164–1 Undesignated text following (a)(5) revised	59357
1.167(a)–11 (a)(1), (b)(4)(i) and (iii)(c), (d)(1)(iii), (2)(iv), (f)(1)(i), and (5) amended; (f)(1)(iii), (2), and (4) revised; (f)(6) added	△5420
1.217 Removed	59355
1.217–2 (g) redesignated as (h); new (g) added	59355
1.263(f)–1 (a) amended	△5421
1.280C–1 Added	31324
1.301 Removed	△1376
1.301–1 (d), (h)(2)(ii), (iii), and (iv) and (n)(1) revised; (j)(2) amended	△1376
1.306 Removed	34128
1.306–1 (a), (b) (1) and (2), and (c) amended	34128
1.306–3 (a) and (b) revised; (g)(2), (h), and (i) amended	34128
1.381(c)(1)–1 (a)(3) added	40493
1.382(b)–1 (h) added	40493
1.391 Removed	34128
1.391–1 Removed	34128
1.392 Removed	34128
1.392–1 Removed	34128
1.393 Removed	34128
1.393–3 Removed	34128
1.394 Removed	34128
1.394–1 Removed	34128
1.395 Removed	34129
1.395–1 Removed	34129
1.401–8 Redesignated as 1.401–8A and amended; new 1.401–8 added	41204
1.401–8A Redesignated from 1.401–8; heading revised; (a) amended	41204
1.402(b) Removed	31922
1.402(b)–1 Revised	31922
1.403(c) Removed	31924
1.403(c)–1 Revised	31924
1.403(d) Removed	31925
1.403(d)–1 (a) and (c)(2) revised	31925
1.404(a) Removed	31926
1.404(a)–2(A) (a) amended	29292
1.404(a)–12 Revised	31926
1.414(f)–1 Added	29940
1.421–6 (a)(2) and (c)(3)(ii) revised	31926
1.421–7 (b)(3)(i) amended	31927
1.443 Removed	40493, 58816
1.443–1 (d) redesignated as (e); new (d) added	40494
(a)(3) removed	58816
1.451–1 (e) added	59357
1.453 Removed	40494
1.453–7 (b) (2) and (3) revised	40494
1.511 Removed	40494
1.511–4 Added	40494
1.593 Removed	21454
1.593–4 Revised	21454
1.593–5 (a) revised	21455
1.593–6 (a) introductory text revised	21455
1.593–6A Added	21455
1.593–7 (a)(2)(ii) revised	21457
1.593–8 (d) revised	21457
1.593–10 (a), (b)(3) (i) and (ii) (b) revised	21457
1.593–11 (b)(1) amended; (b)(3) and (4) revised	21458
1.614–3 (g)(3) (iii), (iv), and (v) revised	40494
1.642(h)–1 (b) revised	40495
1.642(h)–2 (a) revised	40495
1.682(b)–1 (a) revised	40495
1.692 Removed	19392
1.692–1 (a) revised	19392
1.702–1 (e) added	40496
1.819 Determination	32755
1.851 Removed	32753
1.851–2 (b) redesignated as (b)(1) and amended; (b)(2) added	32753
1.861–3 (a)(5)(i)(*a*), (iii), and (v)(*b*) revised; (a)(5)(ii)(c) added; (a)(5)(iv)(*a*) and (*b*), (vi), and (d) amended	△5116
1.901 Removed	40496
1.901–1 (f) revised	40496
1.952–1 (c)(2)(ii) amended	19652
1.954–3 (a)(1) amended	32754
1.959–3 (b)(3) amended	19652
1.960–1 (c)(1)(v) amended	19652
1.963–0 Added	19652
1.964–1 (c)(2), (c)(6)(iv), and undesignated texts following (b)(2)(ii) and (c)(6)(iv) amended	19652
1.964–2 Undesignated text following (c)(1)(ii) amended	19652
1.1012–1 (c)(7)(iii)(*b*) revised	47505
1.1239 Removed	51388
1.1239–1 Redesignated as 1.1239–2; new 1.1239–1 added	51388
1.1239–2 Redesignated from 1.1239–1; heading revised; text amended	51388
1.1245–2 (a)(7) amended	40496
1.1248–3 (c) (3) and (4) and (d)(6) amended	19652
1.1248–4 (e)(3) amended	19653
1.1341–1 (b)(1)(ii) revised	40496
1.1372–1 (a) and (b)(1) revised	40496
1.1373 Removed	40496
1.1373–1 (b) revised	40496
1.1375 Removed	40496
1.1375–1 (a) and (b)(1) revised	40497
1.1441–4 (b)(1)(v) added	△871
1.6001–1 (a) and (d) revised	59357
1.6001–2 Added	59357
1.6012–1 (a)(9) added	40497
(a)(2)(vi) added	59358
1.6012–2 (i) redesignated as (j); new (i) added	40497
(i) revised	59356
1.6012–3 (a)(1) amended	40497
(a)(8) added	59358
1.6015(c) Removed	40497
1.6015(c)–1 Revised	59358
1.6031–1 (a) revised	40497
1.6032–1 Revised	40497
1.6033 Removed	29292
1.6033–2 (a)(3)(ii) and (h)(3) revised	29292
1.6034–1 (a) introductory text and (1), (c), and (d) revised	40221
1.6035–1 (a)(2) amended	35279
(a)(2) corrected	36244
1.6041–1 (a)(2) amended	60159
1.6041–2 (a)(1) amended; (a)(2) removed; (a)(3), (4), and (5) redesignated as (a)(2), (3), and (4)	60159
1.6043–3 Added	40221
1.6047 Removed	29292
1.6047–1 (c) revised	29292
1.6049–1 (a)(1)(vi) added	△1103
1.6049–2 (a)(2) and (c)(2) revised	△1104
1.6049–3 (a) amended	△1104
1.6052–1 (a)(1) revised	60160
1.6052–2 (d) revised	60160
1.6081 Removed	45582
1.6081–3 Revised	45582
1.6081–4 Revised	45583
1.6091 Removed	58816
1.6091–2 (f) added	58816
1.6361–1 Added	59358
1.6411–1 (a) amended	40498
1.6654 Removed	40498
Removed	△1105
1.6654–1 (a)(1) and (4) revised	59358
1.6654–2 (b)(1) revised	59359
(a)(2)(i) revised; (a)(2)(ii) and (c) amended	△1105
1.6694–1 (d) amended	54089
1.6851 Removed	58816
1.6851–1 Revised	58816
1.6851–2 (b)(3)(iii) amended	58817
1.6851–3 Revised	58817
1.9101–1 Amended	60159
5 Added	△872
5.852–1 Added	△1107
5.857–1 Added	△1108
6 Added	52028
Technical correction	54090, 58083
7.57(d)–1 Added	17816
(b)(1) corrected	18993
7.105–1 Amended	19655
7.105–2 Added	19656
7.1023(b)(3)–1 Added	35921
7.6039A–1 Added	16735
Nomenclature change	36244
9.3 Added	△4145
20.2039 Removed	38820
20.2039–2 (b)(4) amended	38820
25.2517 Removed	38820
25.2517–1 (b)(1)(iv) amended	38820
31.3402(f)(2)–1 (e) added	59359
31.3402(n)–1 Undesignated text following (b) revised	59359
31.3402(p)–1 (b)(1)(ii)(c) amended	59359
31.6011(a)–4 (a) revised	59359
(b) removed; (c) redesignated as new (b)	60159
31.6011(a)–5 (b)(2) revised	60159

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31.6011(a)-7 (b)(2) revised 60159
31.6051-1 Undesignated text following (a)(1)(i)(f) revised (a)(1)(i)(e) and (f), and (b)(1)(iii) and (iv) amended; (a)(1)(i)(g) and (b)(1)(v) added 59360, 60160
31.6051-2 (a) and (b) revised 60160
31.6091-1 (d) revised 60160
31.6302(c)-1 (b)(1) revised 56224
(a)(1)(iii) revised 59360
31.6361-1 Added 59360
32.1 (b) and (f)(2) revised 59360
(f)(1) amended 60160
37 Added △1110
48.4061(a)-1 (f)(1)(iv) added 41389
48.4216(a)-2 (b)(2) corrected 16974
54.4975-11 (a)(3) and (7)(ii) added 53718
(a)(3), (7)(ii) revised; (8)(iii), (10), (e)(2) and (3), (f)(3) added; (d)(3) amended △1978
(a)(3)(iii) corrected △5883
139 Added 14306
141.4975-11 Removed 53718
Removed △1979
301.6015 Removed 40498
301.6034-1 Revised 40222
301.6043-1 Revised 40222
301.6057-1 Added 38004
301.6057-2 Added 38006
301.6058-1 Added 29292
301.6091 Removed 58817
301.6103(a)—301.6103(a)-2 Removed 55760
301.6103(a)-100—301.6103(a)-107 Removed 55760
301.6103(a)-109 Removed 55760
301.6103(b)—301.6103(b)-1 Removed 55760
301.6103(c)—301.6103(c)-1 Removed 55760
301.6103(d)—301.6103(d)-1 Removed 55760
301.6103(e) Removed 55760
301.6103(f)—301.6103(f)-1 Removed 55760
301.6103(h)(2)-1 Added 55760
301.6110-6 Added 20791
301.6211-1 (b) amended 58817
301.6212-1 (c) revised 59360
301.6305-1 Added 59376
301.6321-1 Revised 59361
301.6361-1 Added 59361
301.6361-2 Added 59364
301.6361-3 Added 59365

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301.6361-4 Added 59365
301.6361-5 Added 59365
301.6362-1 Added 59366
301.6362-2 Added 59366
301.6362-3 Added 59366
301.6362-4 Added 59367
301.6362-5 Added 59367
301.6362-6 Added 59369
301.6363-1 Added 59373
301.6363-2 Added 59374
301.6363-3 Added 59375
301.6363-4 Added 59375
301.6365-1 Added 59375
301.6365-2 Added 59375
301.6401-1 (a)(2) amended 13878
301.6405-1 Revised 59376
301.6652 Removed 38006
301.6652-3 Added 29293
Revised 38006
301.6654 Removed 40498
301.6679-1 (a)(3) revised 18552
301.6690-1 Added 38007
301.6861 Removed 58817
301.6861-1 (a) amended; (f)(3) revised 58817
301.6862 Removed 58817
301.6862-1 (a) amended; (c) added 58817
301.6863 Removed 58817
301.6863-1 (a)(1) revised 58817
301.6863-2 (a) revised 58817
301.7429-1 Added 58818
301.7429-2 Added 58818
301.7429-3 Added 58818
404.603(h)(2)-1 Removed 55761
404.6103(h)(2)-1 Heading and (a)(2) revised 29116
404.6103(j)(1)-1 (a) and (b)(4) amended 14962
420.6103(g)-1 Redesignated as 420.6103(l)(2)-1 and revised 19657
420.6103(g)-2 Redesignated as 420.6103(l)(2)-2 and revised 19658
420.6103(g)-3 Redesignated as 420.6103(l)(2)-3 and revised 19658
404.6103(j)(1)-1 (b)(1)(i) revised 60448
420.6103(l)(2)-1 Redesignated from 420.6103(g)-1 and revised 19657
420.6103(l)(2)-2 Redesignated from 420.6103(g)-2 and revised 19658
420.6103(l)(2)-3 Redesignated from 420.6103(g)-3 and revised 19658
(a)(20) and (21) amended; (a)(22) and (23) added △5422

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601.103 (b) and (c)(1) revised 44497
601.105 (b)(5)(v)(e) amended 17817
(b)(2)(i), (5)(i)(e), (ii)(b), (iii)(a), (c), and (h) revised; (b)(4), (5)(iii)(b), (iv)(a), (b), and (c), and (f) amended 44497
(d)(2)(i) redesignated as (d)(2) and revised; (d)(2)(ii) and (l) removed 44497
(a), (b)(1), (2)(ii), (3) heading, (4) heading and text, (5)(iii)(c) and (d), (iv)(b) and (c); (e)(2), (f) heading and text, (i), and (j)(2) amended 53029
(a) corrected 57874
601.106 (a)(3) revised; (d)(2)(ii), and (3)(iii)(e) and (i) amended 17817
(a)(1) and (f)(7) revised; (b), (d)(3)(iii), and (f)(5) amended; (f)(10) added; (g)(4) and (i) removed 44498
(a)(2)(ii), (d)(2)(ii), and (g)(1) amended 53029
601.107 Heading, (a), (b)(1) and (2) and (c) amended 53029
601.108 (a) amended 44503
(b) amended 53030
601.109 (b)(1) and (3) revised; (c)(1) redesignated as (c) and revised; (c)(2) removed 44503
601.201 (e)(2) and (n)(4) amended; (e)(15), (n)(1)(i) and (iv), (2), (3)(iii), (5) and (6) revised; (n)(7) redesignated as (n)(8); new (n)(7) added 17817
(n)(2)(ii), (4), (6)(vi), and (o)(1) amended; (n)(2)(iv), (9), and (o)(2)(iii) added; (n)(5), (6)(ii), (iv), (viii), (7)(v) and (o)(6) revised; (o)(7) removed 44503
(o) (8) through (11) redesignated as (o) (7) through (10); new (o) (7), (9), and (10)(i) revised; new (o)(8)(i), (ii), and (10) amended 44504
601.202 (c)(4) and (5) amended 53030
601.203 (d) revised 44510
601.403 (c)(2) amended 44510
601.505 (b) amended 53030
601.601 (d)(2)(iii) revised; (d)(2)(iv) removed 17821

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601.702 (b)(3)(ii), (c)(7)(i), (8), (9)(i)(C), and (g) amended 53030

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△1180, 1412, 4146, 5910
1.170—1.300 23610, 29317, 32823, 35949, 37204, 38731, 38869, 39142, 50920, 51428, 54103
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1.301—1.400 18570, 29317, 32824, 37204, 38727, 46859, 53045, 54103
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1.641—1.850 33936, 38601, 38731, 38869, 43329, 49822, 50920
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1.1201—end 20020, 23607, 23608, 30308, 31038, 31039, 33937, 38725, 38729, 38731, 43330
△1178, 2602
7 88731, 50920
△1985, 5474
20 21465, 30070, 31039, 43330, 59517, 60965
25 21465
26 59849
31 20020, 39142, 39149, 58199
△1181
32 20020
53 55798, 59518
55 29317, 32150, 37204, 54103
301 25143, 29132, 30308, 33937, 37717, 38605, 39142
601 13896, 13899, 15336

TITLE 27—ALCOHOL, TOBACCO PRODUCTS, AND FIREARMS

Chapter I—Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury

4.10 Amended 19848, 37675
4.23a Added 37675

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4.25a Added	37675
4.26 Added	37676
4.27 Added	37676
4.32 (a) introductory text and (c) revised	37676
4.34 Revised	37677
(b) and (c) revised	54625
4.35 (a) introductory text, (c) and (d) revised	37677
4.37 (a) through (f) headings added; (b)(1) and (2) revised; (b)(3) added	19848
4.38 Revised	37677
4.39 (a)(2), (5) and (9), and (b) revised; (a)(6) footnote and (d) removed; (e) through (i) redesignated as (d) through (h); new (i) through (l) added	37678
4.46 Revised	19848
4.64 (c) revised; (e) removed; (f) through (k) redesignated as (e) through (j)	37678
4.70 (b) and (c) revised	19848
4.73 (e) added; (a) introductory text and (b) through (d) revised	19848
4.74 Revised	19849
18.11 Amended	20493
Amendment cancelled	37180
18.141 Revised	20493
71.42 Technical correction	14650
170.43 (b) amended	24234
170.137 Introductory text revised; authority citation added	24234
170.173 Introductory text and authority citation revised	24234
194.11 Amended	20494
Corrected	37180
194.222 Revised	20494
194.242 Revised	20494
201.11 Amended	24235
201.25 Revised	24235
201.29 (b), (c), (t) and authority citation revised	24235
201.43 Heading, (a) introductory text, (b), (c), and authority citation revised; (a)(7) and (8) redesignated as (a)(8) and (9) and revised; new (a)(7) added	24235
201.44 Heading, introductory text, (d), (e), undesignated text following (e) and authority citation revised; (f) added	24236
201.116a Added	24236
201.132 (j)(2)(ii), undesignated text following (j)(5) and authority citation revised	24236
201.149 Revised	24236
201.241a Added	24236
201.249 Revised; authority citation added	24237
201.262 Text amended; authority citation revised	24237
201.267 Text amended; authority citation revised	24237
201.272 Corrected	29000
201.301 Revised	24237
201.310 (c) and authority citation revised	24237
201.311 Text amended; authority citation revised	24237
201.346 Amended	24237
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56 Authority citation revised	43458
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70 Authority citation revised; nomenclature change correction	43458
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70.503 Heading amended	40761
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70.509 Heading and (b) amended; nomenclature change	40762
70.510 Nomenclature change	40762
70.511 Added	40762
71 Authority citation revised	43458
71.302 Heading amended; nomenclature change	40764
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71.303 Heading amended; nomenclature change	40764
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75 Authority citation revised	43458
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77 Authority citation revised	43458
81 Removed	29510
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90 Authority citation revised	43458
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553	Techncal correction	35922
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553.22	(b) amended; (h) added	56661
581.2	(d)(2)(ii), (i)(1)(ii), (5), (6), and Appendixes B, C, and D amended	40498
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117.225	(f)(9) added	41032
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117.245	(h)(25–a) added	44511
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127.359	Added (temporary)	29558
127.360	Added (temporary)	37689
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21.3304 (b)(2), (c)(1) and (3), and (d) revised	35291
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21.3333 (a) and (b) revised	35292
21.4130 Introductory text revised	35292
21.4135 (e), (g), (s), and (v) revised; (m) removed; (w) added	35292
21.4136 (a), (c), (d), (f), (h), and (j)(2) revised; (k) added	35293
21.4137 (a) revised; (g)(4) and (5) and (h) added	35294
21.4138 Revised	35295
21.4145 (a) revised	35295
21.4146 Added	35296
21.4153 (c)(3) revised; (c)(4) added	35296
21.4200 (e) revised; (h) through (m) added	35296
21.4201 Revised	35297
21.4202 (c) revised	35300
21.4203 (b)(1) and (c) revised; (d)(3) added	35300
21.4205 (c)(5) added	35300
21.4206 (a) revised	35300
21.4208 (a) revised	35300
21.4209 (a), (b)(2), and (f) revised; (b)(4) through (7) added	35300
21.4233 (a)(1) amended	35301
21.4235 (a)(1) revised; (j) added	35301
21.4236 (c) and (d) revised	35301
21.4251 (a) and (f) revised	35301
21.4252 (e), (f)(1), and (h) revised; (i) and (j) added	35302
21.4253 (d) revised	35302
21.4256 Revised	35303
21.4266 Added	35303
21.4270 Revised	35304
21.4271 (c) revised	35307
21.4272 (a), (b), and (f)(1) revised	35307
(b)(3) revised	49982
21.4277 (a) revised	35307
21.4279 (a)(4) added; (b) revised	35308
21.4280 (a)(1) and (2), (b) and (c) revised	35308
21.4503 (b)(2), (3), and (4) revised	35308
21.4504 (b) revised	35309
21.4505 (b) revised	35309
36.4202 (m) revised	37197
36.4212 (a) introductory text, (2) and (3) revised	29001
36.4301 (ii) revised	60459
36.4302 (a), (c), and (i) revised	60459
36.4303 (f) and (g) revised; (j)(4) amended	60460
36.4306 (a) introductory text revised	60460
36.4308 (g) added	53728
36.4311 (a) revised	29001
36.4340 (a) revised	51016
36.4342 (b) revised	60460
36.4351 Revised	51016
36.4502 Revised	60460
36.4503 (a) revised	29001, 60460
36.4509 Revised	60460
36.4519 (a) revised	60461
36.4520 (b) and (c) revised	60461

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1	57923
2	54104
3	28824, 34505, 40239, 55420
4	28826
17	38046
21	37204, 38046, 39832, 45399, 54104, 54666
	△1181
36	39150, 39833, 45400

TITLE 39—POSTAL SERVICE

Chapter I—United States Postal Service

10.3 Amended; incorporation by reference	60906
111.3 PSM amendments described	29944
Technical correction	30055
PSM amendments described	32294, 39583, 39996, 40812, 45839, 45840, 48637, 51017, 56224
PSM amendments described	△3051, 5422
221.3 (c) amended	29117
221.4 (c) amended	29117
221.5 (a) and (c) amended; (d) revised	29117
(d)(1)(vii) through (x) redesignated as (viii) through (xi); new (d)(1)(vii) added	41984
221.6 (d) revised	29117

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	Page
222.5 (a) (1) and (7) and (c) amended	29117
222.7 (d) amended	29117
222.9 (a) (6) amended	29117
223.1 (a) and (b) amended; (c) revised; (d) and (e) added	29117
223.2 (a) (4) and (c) (3) amended; (b) (1) and (2) revised; (b) (3) and (4) redesignated as (b) (5) and (6); new (b) (3) and (4) added	29117
224.1 (c) introductory text, and (2) introductory text and (i) amended; (a), (c) (2) (vii), (3), and (4) revised; (c) (2) (ix) and (x), (6) and (7) added	29118
(c) introductory text amended; (c) (3) and (7) removed; (c) (4) through (6) redesignated as (c) (3) through (5); (a) revised	41984
(c) (1) amended	42250
(c) (5) (i) and (v) (B)	60275
224.1 Technical correction	△5119
224.3 (b) (1) amended; (b) (2), (3), and (4) revised	29118
224.4 (a), and (c) introductory text and (1) revised; (a) (3) added	△2386
224.5 Removed; new 224.5 redesignated from 224.6	29119
Redesignated as 224.6; new 224.5 added	41984
224.6 Redesignated as 224.5; new 224.6 redesignated from 224.7 and revised	29119
Redesignated as 224.7; new 224.6 redesignated from 224.5	41984
224.7 Redesignated as 224.6 and revised; new 224.7 redesignated from 224.8	29119
Redesignated as 224.8; new 224.7 redesignated from 224.6	41984
224.8 Redesignated as 224.7; new 224.8 redesignated from 224.9	29119
Redesignated as 224.9; new 224.8 redesignated from 224.7	41984
224.9 Redesignated as 224.8; new 224.9 redesignated from 224.10	29119
Redesignated as 224.10 new 224.9 redesignated from 224.8	41984
224.10 Redesignated as 224.9	29119
Redesignated from 224.9	41984
225.1 (c), (d), and (e) revised	29119
225.3 (b) (1) (xiv) added	29119
225.4 (b) (1) (xxiv) and (2) (ix) amended	29119
225.5 (a) amended	29119
225.7 (b) (2) (ix) amended	29119
225.10 (b) (8) revised	29119
225.11 Heading and (a) revised; (b) introductory text amended; (b) (7) removed; (b) (8) and (9) redesignated as (b) (7) and (8)	29119
232.6 (n) (3) amended; (o) and (p) redesignated as (p) and (q); (h) revised; new (o) added	38825
257 Revised	53431
257.9 Added	29120
265.6 (d) (4) amended; (d) (5) (iv) added	42250
266.9 (b) (4) revised; (b) (8) added	41391
601—602 (Subchapter H) Heading revised	52250
602 Added	42250
955.1 (b) (2) amended	60275
Title 39—*Proposed Rules:*	
10	56959
111	30579, 35951, 37205, 38049, 39593, 42768, 57924, 57925
	△3056
224	29134
310	60615
	△915, 1762
320	60615
	△915, 1762
602	29134
3001	△2606

TITLE 40—PROTECTION OF ENVIRONMENT

Chapter I—Environmental Protection Agency

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2 Authority citation revised	39999
Interim procedures	59060
2.113 (d) amended	39999
2.115 (b) revised	39999
2.116 Amended	40000
2.118 (a) (3) revised	40000
2.120 (d) amended; (e) added	40000
2.202 (a) revised; (c) amended	40000
2.204 (e) (4) (viii) revised	40000
2.209 (a) through (d) revised	40000
2.211 (d) amended	40001
2.213 (b) (6) and (7) and (c) revised; (b) (8) added	40001
2.214 Added	40001
2.215 Added	40001
2.301 (a) (1), (b) (1) (ii) and (iii), (b) (2), (3), and (5), and (g) (2), (3) and (4) amended; (a) (5), (b) (1) (i), (c), and (h) (2) revised; (d) removed	40002
(b) (1) (i), (c), (h) (2) (ii) (A) and (B) corrected	42251
2.302 Heading, (a) (1), and (c) revised; (d) removed	40003
2.303 (c) revised; (d) removed	40003
2.304 (c) revised; (d) removed	40003
2.305 Revised	40003
2.306 Revised	40003
2.307 (c) revised; (f) removed	40005
2.308 (c) revised; (g) removed	40005
2.309 (c) revised	40005
6.102 (a) amended; (j) removed	49792
6.106 (a) (3) revised	49792
6.400 Amended	49793
6.500—6.514 (Subpart E) Heading revised	49792
6.500 Amended	49793
6.504 (a) (1) removed; (b) (3) amended	49793
6.510 Introductory text amended	49793
6.512 (a) (4) (iv) removed; (a) introductory text, (b), (c), (e), and (g) amended; (f) revised	49793
6.514 Revised	49793
22 Added; interim	34730
33 Interim regulations; effective date extended to 2-1-79	47975
35.400—35.425 (Subpart B) Revised	47134
35.650—35.680 Added	47131
35.702 (e) amended	43425
35.704 Revised	43425
35.706-2 Added	43426
35.710 (c) redesignated as (c) (1); (c) (1); (c) (2) added	43426
35.714 Revised	43426
35.722 (a) (3) revised; (b) (11) through (13) added	43426
35.726 Revised	43426
35.730-2 Removed	43427
35.738-2 Revised	43427
35.738-4 Added	43427
35.738-5 Added	43427
35.738-6 Added	43427
35.900—35.970 (Subpart E) Revised	44049
35.910-9 Added	56200
35.910-10 Added	56201
35.1000—35.1050 (Subpart F) Revised	42253
50.12 Added	46258
50 Appendix G added	46258
51.1 (k) revised; (n) (11) added	46269
51.12 (e) (3) added	46269
51.17 Heading revised; (d) added	46269
51.17b Added	46269
51.18 Footnote 1 amended	△3282
51.24 Petitions for review	31232
(h) (1) and (2) and (n) (2) corrected	40010
51.80—51.88 (Subpart E) Added	46270
51 Appendix S added	△3282
52 State implementation plan documents availability	△4948
52.01 Petitions for review	31232
52.21 Petitions for review	31232
Interpretation	58188
52.60 Petitions for review	31232
52.96 Petitions for review	31232
52.120 (c) (6) through (12), (13), (14), and (15) redesignated as (c) (7) through (13), (15), (17), and (21); (c) (6), (14), (16), (19), and (20) added	33246
(c) (26) added	34132
(c) (20) revised; (c) (24) added	34470
(c) (18) added	53034
52.125 (f) added; (h) redesignated as (g)	33247
(e) (3) added	53034
52.126 (c) added	53035
52.130 (e) added	34132
52.132 Removed	34471
52.133 (b) and (c) added	33247
(a) revised; (d) added	53035
52.144 Petitions for review	31232
52.181 Petitions for review	31232
52.220 (c) (35) (xiv) (C) and (D) added	33915
(c) (21) (viii) (B), (x) (B), and (xvii), (24) (iv) (B), (25) (i) (B) and (ii) (B), and (26) (xiii) (C) added	33917
(c) (37) (iv) (B) and (C) added	34464
(c) (35) (xii) revised; (c) (37) (iii) added	34466
(c) (41) and (42) (iii) added	34468
(c) (42) (ii) added	34470
(c) (42) added	35695
(c) (39) (vii) added	36247
(c) (35) (xvi) (B) added	36249
(c) (42) (iv) added	36625
(c) (35) (xvii) (C) added	36627
(c) (41) (ii) added	38826

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	Page
(c) (41) (iii) added	38827
(c) (21) (xviii), (28) (xi), (39) (ii) (C) and (D), (iii) (C) and (D), and (39) (vi) added; introductory texts of (c) (39) (ii), (iii), and (iv) revised	40014
(c) (41) (iv) added	41033
(c) (35) (xiii) (B), (c) (41) (v), and (c) (42) (v) and (vi) added	41304
(c) (39) (viii) added	41036
(c) (42) (viii) added	41037
(c) (39) (ix) added	41038
(c) (39) (x) added	41040
(c) (41) (vii) added	47727
(c) (42) (x) added	51634
(c) (42) xv) added	51767
(c) (44) (i) added	51768
(c) (35) (xv) (C) and (D) added	51770
(c) (25) (ii) (C) and (42) (xii) added	51772
(c) (41) (ix) added	51773
(c) (42) (ix) added	51774
(c) (41) (viii) added	51775
(c) (35) (xii) (D), (41) (vi), and (42) (vii) added	51777
(c) (26) (xiii) (D) and (41) (xiii) added	51778
(c) (25) (i) (C) and (42) (xi) added; (c) (26) (vii) (A) revised	51780
(c) (26) (xi) (B) and (41) (xi) added	51781
(c) (31) (vi) (C), (32) (iv) (C), (36), (39) (ii) (B), (iii) (B), and (iv) (B) added	52238
(c) (41) (xii) added	52703
(c) (41) (x) added	53037
(c) (42) (xvii) added	59064
(c) (37) (i) (C), (39) (vi) (B), (41) (xiv), (42) (xvi), and (xviii) added	59065
(c) (42) (xix) added	59488
(c) (41) (xv) and (42) (xxi) added	59489
(c) (42) (xiii) and (xiv) added	59490
(c) (42) (xvi) (B) and (C) added	59491
(c) (42) (xx) added	59492
(c) (44) (iv) added	△5663
52.224 (a) (2) (iii) (B) added	33915
(c) added	34464
(a) (2) (v) added	34466
(a) (2) (i) (B) added	34468
(a) (2) (iv) added	35695
(a) (2) (vi) added	36249
(a) (2) (iii) (C) added	36627
(a) (2) (ii) (B) added	41036
(a) (2) (ii) (C) added	41038
(a) (2) (ii) (D) added	41040
(a) (2) (ii) (E) added	51634
(a) (2) (iii) (D) added	51770
(a) (2) (ii) (F) added	53037
52.226 (b) (1) (ii) added	34468
52.228 (b) added	35695
(b) (1) (ii) through iv) added	40014
52.229 (b) (2) added	40014
52.231 (b) added	34464
(a) revised	34466
52.233 (d) (2), (8) (i) through (iii), (g) (1) (ii), and (ix) (a) through (c) removed	52238
52.234 (a) (1) (iv) added	33915
(e) (2) (ii) added	34468
(a) (5) and (e) added	35695
(e) (2) added	36247
(e) (2) (iii) added	36625
(a) (1) (v) added	36627
(e) (1) (v) and (4) added	38826
(e) (5) added	38827
(e) (1) (ii) through (iv) added	40014
(e) (6) added	41033
(e) (2) (iv) added	41034
(e) (3) added	41036
(e) (3) (ii) added	41038
(e) (3) (iii) added	41040
(e) (8) added	47727
(e) (3) (iv) added	51634
(e) (9) added	51767
(e) (2) (viii) added	51772
(e) (2) (vi) added	51773
(e) (2) (v) added	51776
(e) (7) added	51777
(e) (2) (vii) added	51781
(a) (3) (v) and (e) (3) (v) added	53037
(e) (9) (ii) added	59064
(e) (6) (iii) and (7) (ii) added	59065
(e) (6) (ii) added	59066
(e) (9) (iii) added	59488
(e) (5) (ii) added	59489
(e) (9) (iv) added	59492
52.236 (d) added	34464
(b) introductory text and (1) added	34467
(b) (2) (iv) added	34470
(b) (3) added	36247
(b) (2) (v) added	41037
(f) added	51634
(e) added	51770
(b) (3) (v) added	51778
(b) (3) (iii) added	51780
(b) (3) (iv) added	51781
(e) (2) and (3) added	52703
(e) (4) added	59490

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52.254 (a) (3) (iii) added	52703
52.269 (b) (2) added	34470
(d) added	35695
(b) (1) (iii) added	36625
(b) (3) added	40014
(b) (1) (iv) added	41034
(b) (4) (i) (B) added	51768
(b) (1) (viii) added	51772
(b) (4) added	51774
(b) (1) (vii) added	51778
(b) (1) (v) added	51780
(b) (1) (vi) added	51781
(b) (3) (ii) (B) added	59490
52.270 Petitions for review	31232
52.271 (a) (1) (i) (B), (ii) (B), (iv) (B) and (v) (B), (2) (iii) (B), (iv) (B), (v), (vi), (vii), (viii) and (ix), (3) (i) (B), (4) (i) (B), (ii) (B), (v) (B), (vii) (B), (x), (xi), (xii), (6) (i) (B), (7) (ii) (B) and (iii), and (8) (i) (B) added	33917
(a) (4) (iv) (B) added	34468
(a) (4) (vi) (B) added	36247
(a) (2) (viii) (B) added	41036
(a) (2) (ii) (B) added	41039
(a) (4) (x) (B) added	51773
(a) (5) (i) (B) added	51774
(a) (4) (ii) (C) added	51780
(a) (2) (vii) (B) added	53037
52.272 (a) (4) added	40014
(a) (1) (ii) added	51634
(a) (5) added	51774
(a) (1) (iii) added	53037
52.273 (a) (4) (ii) and (b) (3) (ii) added	33915
(b) (3) (v) added	34465
(a) (6) (i) added	34467
(b) (2) (ii) added	34468
(a) (1) (i) (A) revised; (a) (1) (i) (B) added	34470
(b) (5) added	35695
(a) (3) (vi) added	36247
(a) (8) and (b) (7) added	36249
(a) (4) (iii) and (b) (3) (iii) added	36627
(b) (5) (iii) and (6) added	38826
(b) (5) (ii) added	40014
(a) (1) (v) added	41036
(a) (1) (iii) (B) added	41039
(a) (1) (ii) (B) added	41040
(a) (1) (vi) added	51634
(a) (4) (iv) and (b) (3) (iv) added	51771
(a) (3) (i) (B) and (C) added	51772
(a) (3) (vii) added	51773
(a) (3) (iv) (B) added	51776
(b) (1) (ii) added	51777
(a) (3) (ix) and (b) (2) (iv) added	51778
(a) (3) (viii) and (b) (2) (iii) added	51780
(a) (3) (ii) (B) and (C) added	51781
(a) (1) (viii), (9) (i), (b) (4) (ii), and (9) (i) added	52703
(a) (1) (vii) added	53037
(b) (5) (iv) added	59490
52.275 (b) (3) (ii) added	33915
(a) (2) added	34465
(a) introductory text and (1) added	34467
(b) (1) (ii) added	36247
(b) (5) added	36249
(b) (3) (iii) added	36627
(b) (2) (iii) added	41036
(b) (2) (iv) added	41039
(b) (3) (i) (B) added	51768
(b) (3) (iv) added	51771
(b) (1) (iii) added	51774
(b) (1) (i) (B) and (C) added	51776
(b) (2) (v) added	53037
(b) (3) (ii) (B) added	59064
(b) (3) (iv) (B) added	59488
(b) (5) (i) (B) added	59489
(b) (3) (iii) (B) added	59492
52.276 (b) added	35695
52.278 Added	34467
52.280 (b) added	35696
(a) (1) (ii) added	51774
(a) (3) added	59490
(a) (2) (i) (A) revised	△5664
52.320 (c) (10) added	44841
52.343 Petitions for review	31232
52.370 (c) (8) added	44841
(c) (9) added	△5429
52.382 Petitions for review	31232
52.432 Petitions for review	31232
52.470 (c) (11) added	29559
(c) (11) revised	56663
52.476 (b) (2) (vii), (3) (iv) and (v), and (5) (iii) revised	29559
52.499 Petitions for review	31232
52.530 Petitions for review	31232
52.581 Petitions for review	31232
52.632 Petitions for review	31232
52.683 Petitions for review	31232
52.738 Petitions for review	31232
52.793 Petitions for review	31232
52.833 Petitions for review	31232
52.884 Petitions for review	31232
52.931 Petitions for review	31232
52.970 (c) (9) added	36628
(c) (10) added	△5661
52.985 Removed	36628
52.986 Petitions for review	31232
52.1029 Petitions for review	31232

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	Page
52.1070 (c)(19), (20), and (21) revised	59495
52.1073 (f) added	59495
52.1116 Petitions for review	31232
52.1120 (c)(12) amended	40010
(c)(16) revised	44842
(c)(6) amended	56041
52.1165 Petitions for review	31232
52.1180 Petitions for review	31232
52.1234 Petitions for review	31232
52.1280 Petitions for review	31232
52.1339 Petitions for review	31232
52.1382 Petitions for review	31232
52.1436 Petitions for review	31232
52.1470 (c)(12) added	36933
52.1471 Table amended	36933
52.1479 (b) added	36933
52.1485 Petitions for review	31232
52.1529 Petitions for review	31232
52.1570 (c)(17) added	34131
(c)(18) added	58567
(c)(19) added	58569
(c)(20) added	△5427
52.1603 Petitions for review	31232
52.1604 Added	58569
(a) added	△5427
52.1634 Petitions for review	31232
52.1670 (c)(39) added	36931
52.1689 Petitions for review	31232
52.1778 Petitions for review	31232
52.1829 Petitions for review	31232
Introductory text removed	40010
52.1884 Petitions for review	31232
52.1920 (c)(12) added	52029
52.1926 Added	52030
52.1929 Petitions for review	31232
Correctly designated	40010
52.1976 Added	36931
52.1987 Petitions for review	31232
52.2058 Petitions for review	31232
52.2083 Petitions for review	31232
52.2120 (c)(9) added	59496
52.2131 Petitions for review	31232
52.2178 Petitions for review	31232
52.2233 Petitions for review	31232
52.2270 (c) revised	△5662
52.2275 (b) and (c) added	△5662
52.2283 Removed	△5662
52.2289 Removed	△5662
52.2303 Petitions for review	31232
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14–1.705–50 (b) amended 39787
14–1.706–1 (a) revised 39787
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14–1.706–5 Revised 39787
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14–1.708–2 Removed 39788
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14–1.1300—14–1.1351 (Subpart 14–1.13) Added (temporary) 41209
14–1.1310–2 (c) corrected 43713
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14–2.205–1 Added 39788
14–2.407–1 (a) introductory text revised 39378
14–3.305–51 (g) added; (i) revised 50430
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14–12.150 (Subpart 14–12.1) Added 39379
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14–18.705–10 Revised 39380
14–19 Added 51635
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14–19.108 Heading added 59842
14–30.406–50 (d) added 39380
14–55.103 (a) introductory text revised 39380

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15–1.003 Revised 59068

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60–1.8 (b) corrected 51400
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60–1.21 Corrected 51400
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60–1.40 (a) corrected 51400
60–2 Revised 49249
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60–2.10 Corrected 51400
60–2.11 Corrected 51400
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60–2.20 (a) corrected 51400
60–2.21 (a)(11), (b) introductory text and (b)(4) corrected 51400
60–2.22 (a), (b)(7) introductory text, and (b)(7)(ii) corrected 51401
60–2.24 (e)(1) and (e)(7)(ii) corrected 51401
60–2.26 (f) corrected 51401
60–2.30 Corrected 51401
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60–4.1 Corrected 51401
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60–60.7 (a) corrected 51401
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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR notice 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
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	HEW/FDA			HEW/FDA

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

***NOTE: As of January 1, 1979, the Merit Systems Protection Board (MSPB) and the Office of Personnel Management (OPM) will publish on the Tuesday/Friday schedule. (MSPB and OPM are successor agencies to the Civil Service Commission.)**

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A Cumulative List of CFR Sections Affected is published separately at the end of each month. The guide lists the parts and sections affected by documents published since the revision date of each title.

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This table is for use in computing dates certain in connection with documents which are published in the FEDERAL REGISTER subject to advance notice requirements or which impose time limits on public response.

Federal Agencies using this table in calculating time requirements for submissions must allow sufficient extra time for FEDERAL REGISTER scheduling procedures.

In computing dates certain, the day after publication counts as one. All succeeding days are counted except that when a date certain falls on a weekend or holiday, it is moved forward to the next Federal business day. (See 1 CFR 18.17)

A new table will be published monthly in the first issue of each month.

Dates of FR publication	15 days after publication	30 days after publication	45 days after publication	60 days after publication	90 days after publication
January 2	January 17	February 1	February 16	March 5	April 2
January 3	January 18	February 2	February 20	March 5	April 3
January 4	January 19	February 5	February 20	March 5	April 4
January 5	January 22	February 5	February 20	March 6	April 5
January 8	January 23	February 7	February 22	March 9	April 9
January 9	January 24	February 8	February 23	March 12	April 9
January 10	January 25	February 9	February 26	March 12	April 10
January 11	January 26	February 12	February 26	March 12	April 11
January 12	January 29	February 12	February 26	March 13	April 12
January 15	January 30	February 14	March 1	March 16	April 16
January 16	January 31	February 15	March 2	March 19	April 16
January 17	February 1	February 16	March 5	March 19	April 17
January 18	February 2	February 20	March 5	March 19	April 18
January 19	February 5	February 20	March 5	March 20	April 19
January 22	February 6	February 21	March 8	March 23	April 23
January 23	February 7	February 22	March 9	March 26	April 23
January 24	February 8	February 23	March 12	March 26	April 24
January 25	February 9	February 26	March 12	March 26	April 25
January 26	February 12	February 26	March 12	March 27	April 26
January 29	February 13	February 28	March 15	March 30	April 30
January 30	February 14	March 1	March 16	April 2	April 30
January 31	February 15	March 2	March 19	April 2	May 1

AGENCY ABBREVIATIONS USED IN HIGHLIGHTS AND REMINDERS
(This List Will Be Published Monthly In First Issue Of Month.)

USDA—AGRICULTURE DEPARTMENT

AMS—Agricultural Marketing Service
ARS—Agricultural Research Service
ASCS—Agricultural Stabilization and Conservation Service
APHIS—Animal and Plant Health Inspection Service
CCC—Commodity Credit Corporation
CEA—Commodity Exchange Authority
CSRS—Cooperative State Research Service
EMS—Export Marketing Service
ESCS—Economics, Statistics, and Cooperatives Service
FmHA—Farmers Home Administration
FCIC—Federal Crop Insurance Corporation
FAS—Foreign Agricultural Service
FNS—Food and Nutrition Service
FSQS—Food Safety and Quality Service
FS—Forest Service
RDS—Rural Development Service
REA—Rural Electrification Administration
RTB—Rural Telephone Bank
SEA—Science and Education Administration
SCS—Soil Conservation Service

COMMERCE—COMMERCE DEPARTMENT

Census—Census Bureau
EAB—Bureau of Economic Analysis
EDA—Economic Development Administration
FTZB—Foreign-Trade Zones Board
ITA—Industry and Trade Administration
MA—Maritime Administration
MBEO—Minority Business Enterprise Office
NBS—National Bureau of Standards
NFPCA—National Fire Prevention and Control Administration
NOAA—National Oceanic and Atmospheric Administration
NSA—National Shipping Authority
NTIA—National Telecommunications and Information Administration
NTIS—National Technical Information Service
PTO—Patent and Trademark Office
USTS—United States Travel Service

DOD—DEFENSE DEPARTMENT

AF—Air Force Department
Army—Army Department
DCPA—Defense Civil Preparedness Agency
DCAA—Defense Contract Audit Agency
DIA—Defense Intelligence Agency
DIS—Defense Investigative Service
DLA—Defense Logistics Agency
DMA—Defense Mapping Agency
DNA—Defense Nuclear Agency
EC—Engineers Corps
Navy—Navy Department

DOE—ENERGY DEPARTMENT

BPA—Bonneville Power Administration
ERA—Economic Regulatory Administration
EIA—Energy Information Administration
ERO—Energy Research Office
ETO—Energy Technology Office
FERC—Federal Energy Regulatory Commission

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OHADOE—Hearings and Appeals Office, Energy Department
SEPA—Southeastern Power Administration
SWPA—Southwestern Power Administration
WAPA—Western Area Power Administration

HEW—HEALTH, EDUCATION, AND WELFARE DEPARTMENT

AC—Aging Federal Council
ADAMHA—Alcohol, Drug Abuse, and Mental Health Administration
CDC—Center for Disease Control
ESNC—Educational Statistics National Center
FDA—Food and Drug Administration
HCFA—Health Care Financing Administration
HDSO—Human Development Services Office
HRA—Health Resources Administration
HSA—Health Services Administration
MSI—Museum Services Institute
NIH—National Institutes of Health
OE—Office of Education
PHS—Public Health Service
RSA—Rehabilitation Services Administration
SSA—Social Security Administration

HUD—HOUSING AND URBAN DEVELOPMENT DEPARTMENT

CARF—Consumer Affairs and Regulatory Functions, Office of Assistant Secretary
CPD—Community Planning and Development, Office of Assistant Secretary
FDAA—Federal Disaster Assistance Administration
FHEO—Fair Housing and Equal Opportunity, Office of Assistant Secretary
FHC—Federal Housing Commissioner, Office of Assistant Secretary for Housing
FIA—Federal Insurance Administration
GNMA—Government National Mortgage Association
ILSRO—Interstate Land Sales Registration Office
NCA—New Communities Administration
NCDC—New Community Development Corporation
NVACP—Neighborhoods Voluntary Associations and Consumer Protection, Office of Assistant Secretary

INTERIOR—INTERIOR DEPARTMENT

BIA—Bureau of Indian Affairs
BLM—Bureau of Land Management
FWS—Fish and Wildlife Service
GS—Geological Survey
HCRS—Heritage Conservation and Recreation Service
Mines—Mines Bureau
NPS—National Park Service
OHA—Office of Hearings and Appeals, Interior Department
RB—Reclamation Bureau
SMRE—Surface Mining Reclamation and Enforcement Office

JUSTICE—JUSTICE DEPARTMENT

DEA—Drug Enforcement Administration
INS—Immigration and Naturalization Service
LEAA—Law Enforcement Assistance Administration
NIC—National Institute of Corrections

LABOR—LABOR DEPARTMENT

BLS—Bureau of Labor Statistics
BRB—Benefits Review Board
ESA—Employment Standards Administration
ETA—Employment and Training Administration
FCCPO—Federal Contract Compliance Programs Office
LMSEO—Labor Management Standards Enforcement Office
MSHA—Mine Safety and Health Administration
OSHA—Occupational Safety and Health Administration
P&WBP—Pension and Welfare Benefit Programs
W&H—Wage and Hour Division

STATE—STATE DEPARTMENT

AID—Agency for International Development
FSGB—Foreign Service Grievance Board

DOT—TRANSPORTATION DEPARTMENT

CG—Coast Guard
FAA—Federal Aviation Administration
FHWA—Federal Highway Administration
FRA—Federal Railroad Administration
MTB—Materials Transportation Bureau
NHTSA—National Highway Traffic Safety Administration
OHMR—Office of Hazardous Materials Regulations
OPSR—Office of Pipeline Safety Regulations
SLS—Saint Lawrence Seaway Development Corporation
UMTA—Urban Mass Transportation Administration

TREASURY—TREASURY DEPARTMENT

ATF—Alcohol, Tobacco and Firearms Bureau
Customs—Customs Service
Comptroller—Comptroller of the Currency
ESO—Economic Stabilization Office (temporary)
FS—Fiscal Service
IRS—Internal Revenue Service
Mint—Mint Bureau
PDB—Public Debt Bureau
RSO—Revenue Sharing Office
SS—Secret Service

INDEPENDENT AGENCIES

ATBCB—Architectural and Transportation Barriers Compliance Board
CAB—Civil Aeronautics Board
CASB—Cost Accounting Standards Board
CEQ—Council on Environmental Quality
CFTC—Commodity Futures Trading Commission
CITA—Textile Agreements Implementation Committee
CPSC—Consumer Product Safety Commission
CRC—Civil Rights Commission
CSA—Community Services Administration
CSC—Civil Service Commission
CSC/FPRAC—Federal Prevailing Rate Advisory Committee
EEOC—Equal Employment Opportunity Commission
EXIMBANK—Export-Import Bank of the U.S.
EPA—Environmental Protection Agency
ESSA—Endangered Species Scientific Authority
FCA—Farm Credit Administration
FCC—Federal Communications Commission
FCSC—Foreign Claims Settlement Commission
FDIC—Federal Deposit Insurance Corporation
FEA—Federal Energy Administration
FEC—Federal Election Commission
FHLBB—Federal Home Loan Bank Board
FHLMC—Federal Home Loan Mortgage Corporation
FMC—Federal Maritime Commission
FPC—Federal Power Commission
FRS—Federal Reserve System
FTC—Federal Trade Commission
GSA—General Services Administration
GSA/ADTS—Automated Data and Telecommunications Service
GSA/FPA—Federal Preparedness Agency
GSA/FPRS—Federal Property Resources Service
GSA/FSS—Federal Supply Service
GSA/NARS—National Archives and Records Service
GSA/OFR—Office of the Federal Register
GSA/PBS—Public Buildings Service
ICA—International Communications Agency
ICC—Interstate Commerce Commission
ICP—Interim Compliance Panel (Coal Mine Health and Safety)
ITC—International Trade Commission
LSC—Legal Services Corporation
MB—Metric Board
MWSC—Minimum Wage Study Commission

NACEO—National Advisory Council on Economic Opportunity
NASA—National Aeronautics and Space Administration
NCUA—National Credit Union Administration
NFAH—National Foundation for the Arts and the Humanities
NLRB—National Labor Relations Board
NRC—Nuclear Regulatory Commission
NSF—National Science Foundation
NTSB—National Transportation Safety Board
OMB—Office of Management and Budget
OMB/FPPO—Federal Procurement Policy Office
OPIC—Overseas Private Investment Corporation
OSTP—Office of Science and Technology Policy
PADC—Pennsylvania Avenue Development Corporation
PRC—Postal Rate Commission
PS—Postal Service
RB—Renegotiation Board
RRB—Railroad Retirement Board
ROAP—Reorganization, Office of Assistant to President
SBA—Small Business Administration
SEC—Securities and Exchange Commission
TVA—Tennessee Valley Authority
USIA—United States Information Agency
VA—Veterans Administration
WRC—Water Resources Council

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presidential documents

[3195-01-M]

Title 3—The President

Proclamation 4631 • **December 28, 1978**

Import Fees on Sugars and Sirups

By the President of the United States of America

A Proclamation

By Proclamation No. 4547 of January 20, 1978, I imposed, on an emergency basis, import fees on certain sugars and sirups. These fees were to be effective pending my further action after receipt of the report of findings and recommendations of the United States International Trade Commission after its conduct of an investigation with respect to this matter pursuant to section 22 of the Agricultural Adjustment Act, as amended (7 U.S.C. 624). The Commission has made its investigation and reported its findings and recommendations to me.

On the basis of the information submitted to me, I find and declare that:

(a) Sugars, described below by use and physical description, are being imported, or are practically certain to be imported, into the United States under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, the price support operations being conducted by the Department of Agriculture for sugar cane and sugar beets, or reduce substantially the amount of any product processed in the United States from domestic sugar beets or sugar cane;

(b) The imposition of the import fees hereinafter proclaimed is necessary in order that the entry, or withdrawal from warehouse, for consumption of such sugars will not render or tend to render ineffective, or materially interfere with, the price support operations being conducted by the Department of Agriculture for sugar beets and sugar cane, or reduce substantially the amount of products processed in the United States from such domestic sugar beets or sugar cane.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, by the authority vested in me by section 22 of the Agricultural Adjustment Act, as amended, do hereby proclaim that Part 3 of the Appendix to the Tariff Schedules of the United States is amended as follows:

1. Headnote 4 is continued in effect and amended by changing the heading to read "4. Sugars and sirups.—" and by adding paragraph (c) which reads as follows:

(c)(i) The quarterly adjusted fee provided for in items 956.05 and 957.15 shall be the amount of the fee for item 956.15 plus .52 cents per pound.

(ii) The quarterly adjusted fee provided for in item 956.15 shall be the amount by which the average of the daily spot (world) price quotations for raw sugar for the first 20 consecutive market days preceding the 20th day of the month preceding the calendar quarter during which the fee shall be applicable (as reported by the New York Coffee and Sugar Exchange or, if such quotations are not being reported by the International Sugar Organization), expressed in United States cents per pound, Caribbean ports, in bulk, adjusted to a United States delivered basis by adding applicable duty and attributed costs of 0.90 cents per pound for freight, insurance, stevedoring,

financing, weighing and sampling, is less than 15.0 cents per pound: *Provided,* That whenever the average of such daily spot price quotations for 10 consecutive market days within any calendar quarter, adjusted to a United States delivered basis as provided herein, plus the fee then in effect (1) exceeds 16.0 cents, the fee then in effect shall be decreased by one cent, or (2) is less than 14.0 cents, the fee then in effect shall be increased by one cent: *Provided further,* That the fee may not be greater than 50 per centum of the average of such daily spot price quotations for raw sugar.

(iii) The Secretary of Agriculture shall determine the amount of the quarterly fees in accordance with (i) and (ii) hereof and announce such fees not later than the 25th day of the month preceding the calendar quarter during which the fees shall be applicable. The Secretary shall certify the amount of such fees to the Secretary of the Treasury and file notice thereof with the Federal Register prior to the beginning of the calendar quarter during which the fees shall be applicable. The Secretary of Agriculture shall determine and announce any adjustment in the fees made within a calendar quarter in accordance with the first proviso of (ii) hereof, shall certify such adjusted fees to the Secretary of the Treasury, and shall file notice thereof with the Federal Register within 3 market days of the fulfillment of that proviso.

(iv) No adjustment shall be made in any fee in accordance with the first proviso of (ii) during the last ten market days of a calendar quarter.

(v) Any adjustment made in a fee during a quarter in accordance with the first proviso of (ii) hereof shall be applicable only with respect to sugar entered or withdrawn from warehouse for consumption after 12:01 a.m. (local time at point of entry) on the day following the filing of notice thereof with the Federal Register: *Provided,* That such adjusted fee shall not apply to sugar exported (as defined in section 152.1 of the Customs Regulations) on a through bill of lading to the United States from the country of origin before such time.

2. Items 956.05, 956.15 and 957.15 are continued in effect and amended to read as follows:

Item	*Articles*	*Rates of Duty (Section 22 Fees)*
	Sugars and sirups derived from sugar cane or sugar beets, except those entered pursuant to a license issued by the Secretary of Agriculture in accordance with headnote 4(a):	
	Principally of crystalline structure or in dry amorphous form, provided for in item 155.20, part 10A, schedule 1:	
956.05	Not to be further refined or improved in quality	3.22¢ per lb., adjusted quarterly beginning January 1, 1979, in accordance with headnote 4(c), but not in excess of 50% ad val.
956.15	To be further refined or improved in quality	2.70¢ per lb., adjusted quarterly beginning January 1, 1979, in accordance with headnote 4(c), but not in excess of 50% ad val.
957.15	Not principally of crystalline structure and not in dry amorphous form, containing soluble nonsugar solids (excluding any foreign substance that may have been added or developed in the product) equal to 6% or less by weight of the total soluble solids, provided for in item 155.30, part 10A, schedule 1	3.22¢ per lb., of total sugars, adjusted quarterly beginning January 1, 1979, in accordance with headnote 4(c), but not in excess of 50% ad val.

3. The provision of paragraph (c)(iii) of Headnote 4 of Part 3 of the Appendix to the TSUS, as added herein, requiring the determination and announcement by the Secretary of Agriculture not later than the 25th day of the month preceding the calendar quarter during which the fees shall be applicable, shall not apply to the fees to become effective January 1, 1979.

This proclamation shall be effective as of 12:01 a.m. (Eastern Standard Time) on the day following its signing.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-eighth day of December, in the year of our Lord nineteen hundred and seventy-eight, and of the Independence of the United States of America the two hundred and third.

Jimmy Carter

[FR Doc. 78-36476 Filed 12-29-78; 11:52 am]

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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[1505-01-M]

Title 1—General Provisions

CHAPTER I—ADMINISTRATIVE COMMITTEE OF THE FEDERAL REGISTER

CFR CHECKLIST

1977/1978 Issuances

This checklist, prepared by the Office of the Federal Register, is published in the first issue of each month. It is arranged in the order of CFR titles, and shows the revision date and price of the volumes of the Code of Federal Regulations issued to date for 1977 and 1978. New units issued during the month are announced on the back cover of the daily FEDERAL REGISTER as they become available.

For a checklist of current CFR volumes comprising a complete CFR set, see the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The annual rate for subscription service to all revised volumes is $400 domestic, $100 additional for foreign mailing.

Order from Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

CFR Unit (Rev. as of Jan. 1, 1978):

Title	Price
1	$2.75
2 [Reserved]	
3	4.25
4	4.75
5	5.00
7 Parts:	
0-52	6.00
53-209	4.50
210-699	6.75
700-749	4.25
750-899	2.40
900-944	4.75
945-980	3.50
981-999	3.50
1000-1059	4.75
1060-1119	4.75
1120-1199	4.00
1200-1499	4.75
1500-2799	6.50
2800-2851	5.50
2852	6.00
2853-end	4.00
8	3.50
9	6.00
10 Parts:	
0-199	5.00
200-end	6.25
12 Parts:	
1-299	8.25
300-end	6.75
13	4.75
14 Parts:	
1-59	5.75
60-199	6.75
200-1199	5.75
1200-end	3.75
15	5.75
16 Parts:	
0-149	5.00
150-999	4.75
1000-end	5.25

CFR Unit (Rev. as of Apr. 1, 1978):

17	$8.25
18 Parts:	
0-149	5.00
150-end	5.00
19	6.00
20 Parts:	
1-399	3.50
400-499	5.00
500-end	4.50
21 Parts:	
1-99	4.00
100-199	6.00
200-299	2.75
300-499	5.75
500-599	5.00
600-1299	4.25
1300-end	4.50
22	5.50
23	5.00
24 Parts:	
0-499	8.25
500-end	9.00
25	5.50
26 Parts:	
1 (§§ 1.0-1.169)	5.75
1 (§§ 1.301-1.400)	4.00
1 (§§ 1.401-1.500)	4.75
1 (§§ 1.501-1.640)	4.75
1 (§§ 1.641-1.850)	4.75
1 (§§ 1.851-1.1200)	6.00
1 (§§ 1.1201-end)	6.50
2-29	4.75
30-39	5.50
40-299	5.50
300-499	4.75
600-end	3.00
27	8.75

CFR Unit (Rev. as of July 1, 1978):

28	$4.50
32 Parts:	
1000-1399	3.50
1400-1599	4.50
1600-end	3.00
41 Chapters:	
7	2.75

CFR Unit (Rev. as of Oct. 1, 1977):

42 Parts:	
1-399	$5.50
400-end	4.75
43 Parts:	
1-999	4.00
1000-end	6.00
44 [Reserved]	
45 Parts:	
1-99	4.25
100-149	5.50
150-199	4.75
200-499	3.50
500-end	6.00
46 Parts:	
1-29	3.00
30-40	3.25
41-69	4.50
70-89	3.25
90-109	3.00
110-139	3.00
140-165	4.75
166-199	3.75
200-end	6.00
47 Parts:	
0-19	5.75
20-69	5.25
70-79	5.00
80-end	6.00
48 [Reserved]	
49 Parts:	
1-99	3.00
100-199	8.25
200-999	8.75
1000-1199	4.50
1200-1299	8.00
1300-end	4.25
50	5.50

[6325-01-M]

Title 5—Administrative Personnel

CHAPTER XIV—FEDERAL LABOR RELATIONS AUTHORITY AND FEDERAL SERVICE IMPASSES PANEL

SUBCHAPTER A—TRANSITION RULES AND REGULATIONS

PART 2400—PROCESSING OF CASES PENDING AS OF DECEMBER 31, 1978; CASES FILED DURING THE PERIOD OF JANUARY 1 THROUGH JANUARY 10, 1979; AND UNFAIR LABOR PRACTICE CASES FILED ON OR AFTER JANUARY 11, 1979, BASED ON OCCURRENCES PRIOR TO JANUARY 11, 1979

AGENCY: Federal Labor Relations Authority and Federal Service Impasses Panel.

ACTION: Final rule.

SUMMARY: This rule establishes transition rules and regulations to govern the processing of cases pending on December 31, 1978, before the Federal Labor Relations Council, the Assistant Secretary of Labor for Labor-Management Relations (and the Vice Chairman of the Civil Service Commission when performing the duties of the Assistant Secretary) and the Federal Service Impasses Panel; to govern the processing of all cases filed with the Federal Labor Relations Authority and the Federal Service Impasses Panel during the period of January 1 through 10, 1979; and to govern the processing of all unfair labor practice cases filed with the Federal Labor Re-

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lations Authority on or after January 11, 1979, based on occurrences prior to January 11, 1979. These transition rules and regulations are required by Reorganization Plan No. 2 of 1978 and Title VII of the Civil Service Reform Act of 1978.

EFFECTIVE DATE: January 1, 1979.

FOR FURTHER INFORMATION CONTACT:

William F. Dailey, Chief, Office of Program, 632-4522, David L. Feder, Attorney-Advisor, 254-8323, 1900 E Street, NW., Washington, D.C. 20424.

SUPPLEMENTARY INFORMATION: On January 1, 1979, the provisions of the President's Reorganization Plan No. 2 of 1978 became effective. Part III of the Plan consolidates the central policymaking functions in Federal service labor-management relations previously divided between the Federal Labor Relations Council (Council) and the Assistant Secretary of Labor for Labor-Management Relations (Assistant Secretary) into a new Federal Labor Relations Authority (Authority). The Authority is composed of three full-time members appointed by the President with the advice and consent of the Senate. There is also a General Counsel of the Authority, appointed by the President and confirmed by the Senate. The Plan further provides for the continuation of the Federal Service Impasses Panel (Panel) as a distinct organizational entity within the Authority to resolve negotiation impasses between Federal employee unions and agencies.

Under Part III of the Plan, the following functions are transferred to the Authority: all functions of the Council pursuant to Executive Order 11491, as amended (Order); the functions of the Civil Service Commission under sections 4(a) and 6(e) of the Order, including the functions of the Vice Chairman of the Civil Service Commission (Vice Chairman) when performing the duties of the Assistant Secretary; and the functions of the Assistant Secretary under the Order, except those functions related to alleged violations of the standards of conduct for labor organizations pursuant to section 6(a)(4) of the Order. The functions and authorities of the Panel pursuant to the Order are similarly transferred to the Panel.

Section 307 of the Plan provides for the continuation of all matters which relate to the functions so transferred by the Plan, and which are pending on the effective date of the establishment of the Authority, under such rules and procedures as the Authority and the Panel, respectively, shall prescribe. Accordingly, it is necessary for the Authority and the Panel to issue transition rules and regulations to govern the processing of all cases pending on December 31, 1978, before the Council, the Assistant Secretary (and the Vice Chairman when performing the duties of the Assistant Secretary), and the Panel.

Additionally, on January 11, 1979, the Civil Service Reform Act of 1978 will become effective. Title VII of the Act, entitled "Federal Service Labor-Management Relations" establishes a new statutory labor-management relations program for employees in the executive branch, as well as employees of the Library of Congress and the Government Printing Office. Accordingly, it is necessary for the Authority and the Panel, respectively, also to issue transition rules and regulations to govern the processing of all cases filed with the Authority and the Panel under the Order during the period of January 1 through January 10, 1979; and to govern the processing of all unfair labor practice cases filed with the Authority on or after January 11, 1979, based on occurrences prior to January 11, 1979.

The Authority and the Panel find that the purposes of the transition rules and regulations here involved, along with the urgent need to avert a serious disruption of the Federal labor-management relations program and to avoid any prejudice to the rights of interested parties, render impractical a notice of proposed rulemaking and require that these transition rules and regulations become effective immediately upon publication in the FEDERAL REGISTER.

This is the first of two documents revising chapter XIV of Title 5 of the Code of Federal Regulations in its entirety. Chapter XIV is being renamed, as are subchapters A, B and C, and a new subchapter D is being added. Part 2400-2402, 2410-2413 and 2470-2471 as now contained in chapter XIV of the Code of Federal Regulations (Revised as of January 1, 1978) are all being revised and are in effect only to the extent that they are incorporated into the new Transition Rules and Regulations of the Federal Labor Relations Authority and the Federal Service Impasses Panel published today as new subchapter A.

Similarly, Parts 201-203 and 205-206 of chapter II of title 29 of the Code of Federal Regulations (Revised as of July 1, 1978) (Rules and Regulations of the Office of the Assistant Secretary for Labor-Management Relations) are also being revised and are in effect also only to the extent that they are incorporated into the new subchapter A. Publication in the FEDERAL REGISTER of new Parts 2411-2415, 2420-2428 and 2470-2471 of the Rules and Regulations of the Federal Labor Relations Authority and Federal Service Impasses Panel will be at a later date.

Accordingly, chapter XIV of Title 5 of the Code of Federal Regulations is renamed, subchapters A, B and C thereof are renamed, and chapter XIV is revised to read as follows:

CHAPTER XIV—FEDERAL LABOR RELATIONS AUTHORITY AND FEDERAL SERVICE IMPASSES PANEL

SUBCHAPTER A—TRANSITION RULES AND REGULATIONS

Part
2400 Processing of Cases Pending as of December 31, 1978; Cases Filed During the Period of January 1 Through January 10, 1979; and Unfair Labor Practice Cases Filed on or after January 11, 1979, Based on Occurrences Prior to January 11, 1979

SUBCHAPTER B—GENERAL PROVISIONS

Part
2410 [Reserved]
2411 Availability of Official Information [Reserved]
2412 Privacy [Reserved]
2413 Open Meetings [Reserved]
2414 Ex Parte Communications [Reserved]
2415 Employee Responsibility and Conduct [Reserved]

SUBCHAPTER C—FEDERAL LABOR RELATIONS AUTHORITY

Part
2420 Purpose and Scope [Reserved]
2421 Meaning of Terms As Used in this Subchapter [Reserved]
2422 Representation Proceedings [Reserved]
2423 Unfair Labor Practice Proceedings [Reserved]
2424 Review of Negotiability Issues [Reserved]
2425 Review of Arbitration Awards [Reserved]
2426 National Consultation Rights and Consultation Rights on Government-wide Rules or Regulations [Reserved]
2427 General Statements of Policy or Guidance [Reserved]
2428 Miscellaneous and General Requirements [Reserved]

SUBCHAPTER D—FEDERAL SERVICE IMPASSES PANEL

Part
2470 General [Reserved]
2471 Procedures of the Panel [Reserved]
Appendix A Temporary Addresses and Geographic Jurisdictions
Appendix B Continuation of Forms

SUBCHAPTER A—TRANSITION RULES AND REGULATIONS

PART 2400—PROCESSING OF CASES PENDING AS OF DECEMBER 31, 1978; CASES FILED DURING THE PERIOD OF JANUARY 1 THROUGH JANUARY 10, 1979; AND UNFAIR LABOR PRACTICE CASES FILED ON OR AFTER JANUARY 11, 1979, BASED ON OCCURRENCES PRIOR TO JANUARY 11, 1979

Sec.
2400.1 Scope and purpose.
2400.2 Processing of unfair labor practice, representation, grievability/arbitrability and national consultation rights cases.
2400.3 Processing of standards of conduct cases.
2400.4 Processing of negotiability cases.
2400.5 Processing of arbitration cases.
2400.6 Processing of Panel cases.

AUTHORITY: Reorganization Plan No. 2 of 1978, 43 FR 36037; 5 U.S.C. 3301, 7301; E.O. 11491, 34 FR 17605, 3 CFR, 1966-1970 Comp., p. 861; as amended by E.O. 11616, 36 FR 17319, 3 CFR, 1971-1975 Comp., p. 605; E.O. 11636, 36 FR 24901, 3 CFR, 1971-1975 Comp., p. 634; E.O. 11838, 40 FR 5743 and 7391, 3 CFR, 1971-1975 Comp., p. 957; E.O. 11901, 41 FR 4807, 3 CFR, 1976 Comp., p. 87; and E.O. 12027, 42 FR 61851, 3 CFR, 1977 Comp., p. 159.

§ 2400.1 Scope and purpose.

This subchapter contains transition rules and regulations issued pursuant to Section 307 of Reorganization Plan No. 2 of 1978, and sections 4(b) and 5(c) of Executive Order 11491, as amended, to govern the processing of all cases which are pending on December 31, 1978, before the Federal Labor Relations Council (Council), the Assistant Secretary of Labor for Labor-Management Relations (Assistant Secretary), the Vice Chairman of the Civil Service Commission (Vice Chairman) when performing the duties of the Assistant Secretary, and the Federal Service Impasses Panel (Panel); to govern the processing of all cases filed with the Authority and the Panel during the period January 1 through January 10, 1979; and to govern the processing of all unfair labor practice cases filed with the Authority on or after January 11, 1979, based on occurrences prior to January 11, 1979.

§ 2400.2 Processing of unfair labor practice, representation, grievability/arbitrability and national consultation rights cases.

All unfair labor practice, representation, grievability/arbitrability and national consultation rights cases pending before the Assistant Secretary and the Vice Chairman on December 31, 1978 (including cases the time limit for which an appeal to the Council has not expired under the Council's rules and regulations), all such cases pending before the Council on December 31, 1978, all such cases filed with the Authority during the period January 1 through January 10, 1979, and all unfair labor practice cases filed with the Authority on or after January 11, 1979, based on occurrences prior to January 11, 1979, shall be processed by the Authority in accordance with the Rules and Regulations of the Office of the Assistant Secretary for Labor-Management Relations, Title 29, Code of Federal Regulations, Part 201 *et seq.* (Revised as of July 1, 1978) and the Rules and Regulations of the Federal Labor Relations Council, Title 5, Code of Federal Regulations, Part 2411 *et seq.* (Revised as of January 1, 1978); *except* that, as appropriate:

(a) The word "Authority" shall be substituted wherever the word "Council" appears in such rules and regulations;

(b) The word "Authority" shall be substituted wherever the words "Assistant Secretary" or "Vice Chairman" appear in the rules and regulations of the Office of the Assistant Secretary, except in Part 204 of such rules;

(c) Wherever the rules and regulations of the Office of the Assistant Secretary require action to be taken by subordinate personnel of the Assistant Secretary, such action shall be taken by equivalent subordinate personnel of the Authority;

(d) Wherever the rules and regulations of the Council provide for the service of copies of documents on the Assistant Secretary, or provide a right of the Assistant Secretary to intervene in Council proceedings, such provisions shall be deemed inoperative; and

(e) The decision of the Authority when rendered in any case shall be final and not subject to further appeal within the Authority.

§ 2400.3 Processing of standards of conduct cases.

All standards of conduct cases pending before the Assistant Secretary on December 31, 1978 (including cases the time limit for which an appeal to the Council has not expired under the Council's rules and regulations), and all such cases filed with the Assistant Secretary during the period January 1 through January 10, 1979, may be appealed to the Authority under the Rules and Regulations of the Federal Labor Relations Council, Title 5, Code of Federal Regulations, Part 2411 *et seq.* (Revised as of January 1, 1978), except that the word "Authority" shall be substituted, as appropriate, wherever the word "Council" appears in such rules. All standards of conduct cases pending before the Council on December 31, 1978, shall be processed by the Authority in the same manner as Assistant Secretary cases pending before the Council on that date under § 2400.2.

§ 2400.4 Processing of negotiability cases.

All negotiability cases pending before the Council on December 31, 1978, and all negotiability cases filed with the Authority during the period January 1 through January 10, 1979, shall be processed by the Authority in accordance with the Rules and Regulations of the Federal Labor Relations Council, Title 5, Code of Federal Regulations, Part 2411 *et seq.* (Revised as of January 1, 1978), except that the word "Authority" shall be substituted, as appropriate, wherever the word "Council" appears in such rules.

§ 2400.5 Processing of arbitration cases.

All arbitration cases pending before the Council on December 31, 1978, and all arbitration cases filed with the Authority during the period January 1 through January 10, 1979, shall be processed by the Authority in accordance with the Rules and Regulations of the Federal Labor Relations Council, Title 5, Code of Federal Regulations, Part 2411 *et seq.* (Revised as of January 1, 1978), except that the word "Authority" shall be substituted, as appropriate, wherever the word "Council" appears in such rules.

§ 2400.6 Processing of Panel cases.

All cases pending before the Panel on December 31, 1978, and all cases filed with the Panel during the period January 1 through January 10, 1979, shall be processed by the Panel in accordance with the Rules and Regulations of the Federal Service Impasses Panel, Title, 5, Code of Federal Regulations, Part 2470 *et seq.* (Revised as of January 1, 1978), except that the word "Authority" shall be substituted, as appropriate, wherever the word "Council" appears in such rules.

APPENDIX A—TEMPORARY ADDRESSES AND GEOGRAPHIC JURISDICTIONS

AUTHORITY, GENERAL COUNSEL, CHIEF ADMINISTRATIVE LAW JUDGE, REGIONAL DIRECTORS AND PANEL

(a) The Office address of the Authority is as follows: 1900 E Street, NW., Room 7469, Washington, D.C. 20424 Telephone: Office of Executive Director, FTS—(202) 632-6878, Commerical—(202) 632-6878. Office of Operations, FTS—(202) 254-7362, Commerical (202) 254-7362.

(b) The Office address of the General Counsel is as follows: 1900 E Street, NW., Room 7469, Washington, D.C. 20424.

(c) The Office address of the Chief Administrative Law Judge is as follows: 1900 E Street, NW., Room 7469, Washington, D.C. 20424.

(d) The Office address of Regional Directors of the Authority, are as follows:

(1) *Boston Regional Office,* Room 211, New Studio Building, 110 Tremont Street, Boston, MA 02108, Telephone: FTS—(617) 223-0920, Commerical—(617) 223-0920.

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(2) *New York Regional Office,* Room 1751, 26 Federal Plaza, New York, NY 10007, Telephone: FTS—(212) 264-1980, Commercial—(212) 264-1980.

(3) *Washington Regional Office,* Room 509, Vanguard Building, P.O. Box 19257, 1111—20th Street, NW., Washington, DC 20036, Telephone: FTS—(202) 254-6510, (Commercial—(202) 254-6510.

(4) *Atlanta Regional Office,* Suite 540, 1365 Peachtree Street, NE, Atlanta, GA 30309, Telephone: FTS—(404) 257-4090, Commercial—(404) 881-4090.

(5) *Chicago Regional Office,* Suite 1201A, Insurance Exchange Building, 175 W. Jackson Boulevard, Chicago, IL 60604, Telephone: FTS—(312) 353-7264, Commercial—(312) 353-7264.

(6) *Dallas Regional Office,* Room 707, 555 Griffin Square Building, Griffin & Young Streets, Dallas, TX 75202, Telephone: FTS—(214) 729-6831, Commercial—(214) 767-6831.

(7) *Kansas City Regional Office,* Room 2200, Federal Building, 911 Walnut Street, Kansas City, MO 64106, Telephone: FTS—(816) 758-5131, Commercial—(816) 374-5131.

(8) *Los Angeles Regional Office,* Room 4045, Federal Building, 300 N. Los Angeles Street, Los Angeles, CA 90012, Telephone: FTS—(213) 798-3805, Commercial—(213) 688-3805.

(9) *San Francisco Regional Office,* Room 317, 211 Main Street, San Francisco, CA 94106, Telephone: FTS—(415) 556-2030, Commercial (415) 556-2030.

(e) The Office address of the Panel is as follows: 1900 E Street, NW., Room 7459, Washington, D.C. 20424, Telephone: FTS—(202) 632-6280, Commercial—(202) 632-6280.

(f) The geographic jurisdictions of the Regional Directors of the Authority, are as follows:

State or other locality	Regional Office
Alabama	Atlanta
Alaska	San Francisco
Arizona	Los Angeles
Arkansas	Dallas
California	Los Angeles/San Francisco [1]
Colorado	Kansas City
Connecticut	Boston
Delaware	Washington, D.C.
District of Columbia	Washington, D.C.
Florida	Atlanta
Georgia	Atlanta
Hawaii and all land and water areas west of the continents of North and South America (except coastal islands) to long. 90°E.	Los Angeles
Idaho	San Francisco
Illinois	Chicago
Indiana	Chicago
Iowa	Kansas City
Kansas	Kansas City
Kentucky	Atlanta
Louisiana	Dallas
Maine	Boston
Maryland	Washington, D.C.
Massachusetts	Boston
Michigan	Chicago
Minnesota	Chicago
Mississippi	Atlanta
Missouri	Kansas City
Montana	Kansas City
Nebraska	Kansas City
Nevada	San Francisco
New Hampshire	Boston
New Jersey	New York
New Mexico	Dallas
New York	Boston/New York [2]
North Carolina	Atlanta
North Dakota	Kansas City
Ohio	Chicago
Oklahoma	Dallas
Oregon	San Francisco
Pennsylvania	Washington, D.C.
Puerto Rico	New York
Rhode Island	Boston
South Carolina	Atlanta
South Dakota	Kansas City
Tennessee	Atlanta
Texas	Dallas
Utah	Kansas City
Vermont	Boston
Virginia	Washington, D.C.
Washington	San Francisco
West Virginia	Washington, D.C.
Wisconsin	Chicago
Wyoming	Kansas City
Virgin Islands	New York
Canal Zone	New York
All installations located outside the United States, including all land and water areas east of the continents of North and South America to long. 90°E, except the Virgin Islands, the Canal Zone, Puerto Rico and coastal islands.	Washington, D.C.

[1] San Francisco includes the following California counties: Monterey, Kings, Tulare, Inyo, and all counties north thereof. All counties in California south thereof are within the Los Angeles jurisdiction.

[2] New York includes the following counties: Ulster, Sullivan, Greene, Columbia and all counties south thereof. All counties in New York state north thereof are in the jurisdiction of Boston.

APPENDIX B—CONTINUATION OF FORMS

Preexisting forms of the Assistant Secretary in other than Standards of Conduct matters and of the Panel shall be used by the Authority and the Panel respectively, in the processing of all matters under Subchapter A of the Transition Rules and Regulations of the Authority and the Panel. The word "Authority" shall be substituted wherever the words "Assistant Secretary" appear in such forms; and wherever the forms refer to subordinate personnel of the Assistant Secretary, such reference shall be to equivalent subordinate personnel of the Authority.

NOTE.—The Federal Labor Relations Authority and the Federal Service Impasses Panel have determined that this document does not require preparation of a Regulatory Analysis Statement as required under section 3 of Executive Order 12044.

Dated: December 26, 1978.

HENRY B. FRAZIER III,
Executive Director,
Federal Labor Relations Council.

LOUIS S. WALLERSTEIN,
Director, Office of Federal
Labor-Management Relations.

HOWARD W. SOLOMON,
Executive Secretary,
Federal Service Impasses Panel.

[FR Doc. 78-36272 Filed 12-29-78; 8:45 am]

[3410-30-M]

Title 7—Agriculture

CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

PART 225—SUMMER FOOD SERVICE PROGRAM FOR CHILDREN

Final Rule

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: The Department is issuing final regulations for the Summer Food Service Program for Children in order to provide for the administration and implementation of the Program for the upcoming summer period. These regulations are based on the proposed regulations issued on October 31, 1978, and reflect the Department's consideration of public comments on those regulations.

DATE: Effective December 29, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Jordan Benderly, Director, Child Care and Summer Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-8211.

SUPPLEMENTARY INFORMATION: On October 31, the Department published in the FEDERAL REGISTER proposed regulations (43 FR 50820) for the Summer Food Service Program for children, authorized by Section 13 of the National School Lunch Act, as amended by Pub. L. 95-166, approved November 10, 1977, and Pub. L. 95-627, approved November 11, 1978. A total of 116 communications were received and evaluated in response to the public comment period which ended November 20. The following summarizes those comments, and, where applicable, changes have been made in final regulations.

GENERAL

Public Law 95-627. Pub. L. 95-627, also known as the "Child Nutrition Amendments of 1978" was enacted on November 10, 1978, which was after the proposed rule was published. Therefore, the following areas of the final rule have been revised to reflect statutory changes: (1) The definition of children has been amended. Previously, persons over 18 years of age who participated in a public school program established for the mentally or physically handicapped were eligible to participate in the Program. That condition has been relaxed so

that in addition, mentally or physically handicapped persons over 18 years of age who participate in nonprofit private school programs are eligible to participate in the Program. (2) FNSRO's which administer the Program in lieu of the State will receive administrative funds which the State would have earned. (3) The State administrative expense formula was amended so that States will earn more funds. (4) Up to 10 percent of any funds available to States for the administration of each Child Nutrition Program may be transferred among such programs. The final rule reflects the first 3 changes mentioned, and the Department will issue separate State administrative funds regulations to address the last area.

American Indians. A few comments were received which recommended categorically certifying American Indian children as needy for the purpose of the Program. Such a method of determining eligibility is not viewed as a viable concept in the Summer Food Service Program. However, it is the Department's intention to seek increased Program participation of Indians, and the final rule has been revised to require State agencies to identify Indian tribal territories which qualify for the Program, and actively seek eligible applicant sponsors to serve such areas.

DEFINITIONS

Areas in which poor economic conditions exist/migrants. A number of comments indicated that there are misunderstandings as to how sites which serve migrant children may utilize migrant organizations to document eligibility. A sponsor which serves the children of migrant workers may obtain information from a migrant organization which supports the eligibility of at least 33⅓ percent of those children for free or reduced price school meals. In these cases such documentation could be used in lieu of documentation on an area basis. Therefore, documentation from a migrant organization may be used by a sponsor to indicate the eligibility of the applicable children for the service of 3 meals, one of which is a supplement, each day. (If a sponsor which serves the children of migrant workers wishes to serve 4 meals each day, or to serve breakfasts, lunches, and suppers each day the site will be considered a (nonresidential) camp, and the sponsor may only receive reimbursement for those meals for which it has individual documentation for each child, as is true for any program which elects to serve 4 meals each day or to serve breakfasts, lunches, and suppers each day.)

It should be clear that categorical certification has not been extended to the children of migrant workers. In recognition of the problems which some sponsors have encountered in attempting to document the area from which migrant sites draw their attendance, the Department has simply afforded sponsors which serve such children the opportunity to obtain their eligibility documentation from a migrant organization rather than the more commonly used sources of documentation.

Food service management company. A significant number of commenters suggested that all nonprofit organizations and school food authorities be excluded from the definition of food service management company, and from the requirements which apply to them. The Department agrees that it has a positive responsibility to encourage the use of school facilities in the Program. However, the exclusion of school food authorities from the definition of food service management company could be interpreted to mean that sponsors may not contract with school food authorities for the preparation of meals. Therefore, the Department has not revised the definition of food service management company to exclude school food authorities, but it has excluded school food authorities from all food service management company registration requirements.

Other public and nonprofit private organizations have not been exempted from the registration and competitive bid requirements because the Department believes that there is value in retaining these requirements for such groups.

Rural. Many commenters objected to the proposed definition or rural, on the basis that it excluded "pockets" of rurality within Standard Metropolitan Statistical Areas. The Department considered alternative definitions which would address this problem but believed them to be either too administratively complex or too broad.

The proposed rule intended that the definition be used for outreach purposes. Because final regulations provide additional reimbursement to sponsors' rural sites and self-preparation sites, appropriate definitions are critical in the final rule. In consideration of fiscal implications, the Department has decided not to expand the definition of rural to encompass a larger group than that which the proposed rule defined. Based on experience gained during the 1979 Program, the Department will consider revisions of this definition at a later date, and any suggestions in this regard would be welcome.

RESPONSIBILITIES OF STATE AGENCIES

Facility inspections. Numerous respondents objected to the requirement to inspect all food preparation facilities in the first 4 weeks of Program operations. It was generally felt that while this should be a Program goal, other review requirements would prevent the State from meeting this requirement. Therefore, the final rule encourages rather than requires that these inspections be performed in the first 4 weeks of Program operations. However, States will be required to establish a priority order for conducting such inspections, and will be expected to respond promptly to complaints regarding any facility. States may use the additional 1 percent funds provided for health inspections and meal quality tests for this purpose.

Sponsor monitor form. The section of the proposed rule which dealt with sponsor requirements for participation included a reference to a sponsor monitor form, which would be developed by the State agency. The Department inadvertently neglected to state the parallel requirement for State agencies to develop such a form. Therefore, a paragraph has been added to the program assistance section of State agency responsibilities in the final rule which requires State agencies to develop such a form.

Sponsor/food service management company contract. Several comments as well as general inquiries received by the Department indicate that there is also some misunderstanding regarding payment to vendors. The proposed rule highlighted a contractual responsibility of sponsors which stated that sponsors shall agree to pay vendors for all meals delivered in accordance with the contract. However, neither USDA nor State agencies are parties to the sponsor/vendor contract. Wording in the final rule clarifies that neither the State agency nor the Department guarantees such payment or assumes liability for it. Sponsors will continue to be reimbursed only for those meals served in accordance with Program regulations.

Special accounts. A significant number of commenters requested that the Department reconsider the need for requiring special accounts on a nationwide basis. Based on these comments the Department's final rule allows State agencies the option to require any sponsor to establish a special account. However, States utilizing special accounts will be required to establish criteria for determining which sponsors will be required to establish special accounts. Criteria may include, but not be limited to, past performance of the sponsor and the size of the sponsor's program. Other comments regarding special accounts indicated that several States are prohibited by law from depositing operating costs payments to a special account, as was required by the proposed rule. There-

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fore, the final rule has been revised, and requires States to make such payments to sponsors, and applicable sponsors shall agree to deposit such payments to a special account. The Department recognizes that special accounts have not been widely used in the Program in the past, and the Department intends to provide guidance on this subject in Program materials.

Audit requirements. The Department received a number of comments regarding the Office of Management and Budget requirement to audit every sponsor at least once every 2 years. Several commenters indicated support of the requirement in the proposed rule for States rather than sponsors to pay for the cost of the audits of sponsors which expect to receive less than $50,000. However, States indicated serious reservations about this provision, since there are no specific funds earmarked for this purpose. In response to the concern raised during the comment period, the Department requested, and has been granted, a waiver to the bi-annual audit required by Federal Management Circular A-102, Attachment G, for certain sponsors under $50,000. Sponsors under $50,000 which are exempted from the bi-annual requirement include: (1) Sponsors earning less than $10,000 in Program payments, (2) Sponsors receiving other Federal Funds, and subject to an organization-wide audit in accordance with OMB Circular A-102, and (3) Sponsors for which the State Agency determines an audit is unnecessary based on program performance. States are required to document and justify all exemptions granted in the above three categories. States who believe the bi-annual audit requirement will impose a serious financial hardship may initiate an appeal through FNSRO to FNS. Audits should be conducted when an administrative review of a sponsor indic: serious program deficiencies requiring corrective action. The final rule maintains the provision that the cost of the audits for sponsors under $50,000 is an allowable Stat administrative expense and may not be passed through to sponsors. The Department recognize that this may pose a problem for some States and will explore supplementary sources of funding for such audits.

The administrative review is viewed by the Department as one of the most important management tools for effective State administration of the Program. States are encouraged to conduct comprehensive administrative reviews for exempted sponsors. Administrative reviews should include a thorough assessment of the sponsor's financial records relating to the program, as well as a review of program administration and implementation. Sponsors which export to receive more than $50,000 in Program funds will still be required to meet the annual CPA audit requirement. The cost of the audit is an allowable sponsor administrative cost.

Statistical Sampling. Proposed regulations required that State agencies conduct statistical sampling in a select number of the Nation's largest cities. The primary purpose of this requirement was to assist States in their management of the program, although it was also envisioned that the system would be utilized in determining reimbursement to sponsors. A substantial number of comments were received regarding the use of statistical sampling in the Summer Program. These comments were unanimous in their opposition to requiring that States use statistical sampling in determining reimbursement to sponsors. The Department believes that much of the opposition to statistical sampling may stem from the lack of clear guidance from FNS governing its application in the past, and from lack of training. The Department shares the concern that requiring States that have never had experience with statistical sampling, and that are unwilling to use it, to apply it this summer could have disruptive impacts on the program. However, the Department still believes that statistical sampling, when properly done, can have beneficial effects on strengthening program integrity. Therefore, the Department has decided to take the following actions. The Department will not require that States use statistical sampling this summer. However, the Department will actively encourage States to use statistical sampling in large cities. In addition, the Office of the Inspector General will, as in the past, continue to use statistical sampling. The Department will provide clear guidance for use in statistical sampling, and will require, as part of this guidance, that sponsors and vendors in areas subject to statistical sampling be fully informed of how the procedures will work before their application. The Department will also evaluate the use of statistical sampling this summer, and analyze its impacts on the program and whether modifications need to be made in guidance or other areas connected with statistical sampling. It is the Department's belief that this summer's experience will demonstrate that statistical sampling can both strengthen program integrity and be fair and equitable. If so, this summer's experience should pave the way for expanded use of statistical sampling in 1980, either through voluntary use by States in the largest cities, or if necessary to assure adequate coverage, through a regulatory requirement that would take effect for the 1980 program. This summer's experience may, therefore, constitute a "training year" for States in use of statistical sampling. The results of this summer's evaluation will be utilized in reaching decisions for the 1980 program.

Food Service Requirements

Supplemental meal. A few comments were received regarding the portion size of the fruit and/or vegetable component of the supplemental meal pattern. In addition a few comments received at a national meeting strongly favored a change in the supplemental meal pattern. These comments unanimously favored a decrease in the size of this component maintaining that such a decrease would result in less plate waste, and an increased use of fresh fruit. In response to these comments and other indications, the fruit and/or vegetable component has been decreased to 6 ounces of full strength fruit or vegetable juice or ¾ cup of fruit or vegetable. The Department will continue to study the need for further changes in the supplemental meal pattern and welcomes comments.

Program Payments

Sponsor Administrative Costs. The proposed regulations outlined four possible alternatives regarding administrative payments to sponsors. It was anticipated that a final approach would be selected based on the comments received and on results from the cost study mandated in Pub. L. 95-166. The cost study was not completed at the time the proposed regulations were prepared, but findings on sponsor administrative costs have become available since then.

In the comments, two positions were very frequently stated: (1) Some categories of sponsors require more money to administer the Program than others, and (2) the evaluation of sponsors' budgets and the assignment of varying rates is viewed as a very substantial administrative burden for the State agencies. The Department acknowledges the potential conflict between these two positions reflected in the comments.

The cost study examined the administrative and operating costs of sponsors participating in the Summer Food Service Program for Children. A 10 and 5 percent stratified random sample of vended and on-site sponsors, respectively, was selected from a complete listing of all sponsors approved as of June 30, 1978, as reported by State agencies and Food and Nutrition Service (FNS) regional offices. A 21-page questionnaire was developed which included detailed questions on personnel and nonpersonnel (overhead) costs during start-up and program operation at both the central office level and the site level. Questionnaires were administered by FNS Field and Regional Office staff using face-to-face interviews. Department staff analyzed the data using cross tabulation, t-tests, and multiple regression.

The study found that sponsors using on-site preparation had higher administrative costs than those using vendors. Also, sponsors in rural locations, as defined in the study, had higher administrative costs than those in urban areas. Levels of statistical significance were found to be 90 percent and 85 percent, respectively. The definitions used for vended vs. on-site and rural vs. urban were dictated by the nature of the data and do not conform entirely to the definitions which the Department determined would be more appropriate for practical use in program administration (and hence have been set forth above as the basis for this rulemaking). In the study, sponsors which prepared their own meals were defined as "onsite" sponsors. It has been brought to the attention of the Department that the reference to onsite meal preparation is misleading, and would appear to exclude those sponsors which prepare meals at a central facility and deliver meals to their sites. It was not the intention of the Department to exclude such sponsors from the definition of onsite meal preparation. Hence, sponsors which operate sites which prepare their own meals as well as sponsors which prepare meals in a central facility and deliver meals to their sites are referred to as "self-preparation" sponsors in these regulations. The Department is of the opinion, given the statistical tests and limitations in the study's purposes and design, that the findings cannot be interpreted as conclusive evidence on the exact magnitudes of sponsor administrative costs. However, the Department also believes that together with the public comments, the study's results provide a general indication of the direction and approximate degree of possible inconsistencies between past reimbursement rates and actual costs. The present rulemaking therefore does not adjust reimbursement rates fully into accord with the study's findings. Rather, rates are modified (as described below) by a relatively minor amount. Certain rates are, as a result, still much lower in the present rulemaking than the actual costs reported in the study. Among the reasons for not making a larger modification in rates are (1) the study did not attempt to assess the efficiency of sponsors' administration of the program (so that the study's results may overstate actual needs to the extent that some sponsors may operate inefficiently), (2) considerable variation was found in actual costs (suggesting that some sponsors are able to operate within the rates prescribed here), and (3) some sponsors may have other funding sources to defray a portion of the actual costs reported in the study.

Therefore, the final rule provides that all sponsors will earn the lesser of actual administrative costs or the basic administrative cost rates (adjusted by the Consumer Price Index) multiplied by the number of meals served. This was the method which was in effect last year. These rates are currently 7.25 cents for each lunch or supper served, 3.75 cents for each breakfast served and 2.00 cents for each supplement served. In addition to the basic rates, sponsors will receive additional reimbursement for their (1) rural, and (2) self-preparation sites.

Such sponsors will earn an additional 1.00 cent for each breakfast served, an additional 1.50 cents for each lunch and supper served, and an additional .50 cent for each supplement served, at such sites. Hence the levels of reimbursement will be the lesser of actual administrative costs or 4.75 cents for breakfast, 8.75 cents for lunch and supper and 2.50 cents for snacks, at such sites. Therefore, sponsors will earn administrative monies on a site-by-site basis, with one earning factor for all rural sites or self-preparation sites, and one earning factor for all other sites.* It is anticipated that these additional monies will support State efforts to meet the legislative priorities to reach children in rural areas and to use self-preparation in the Program. Several comments from the public indicated that the cost of transporting children to sites in rural areas should be an allowable program cost. While transportation of children has not been an allowable cost for any of the Child Nutrition Programs in the past, the Department believes the Summer Food Service Program is unique with respect to the meal service provided. In many cases sponsors bring children together during the summer months specifically for the purpose of providing an organized food service program. Schools and child care centers, on the other hand, provide additional services to children and the feeding program is a secondary service. Some summer sponsors may have no other funds available for transportation costs. Hence, final regulations permit sponsors with rural sites to claim such cost as an operating cost within the maximum reimbursement levels prescribed. The legislation provided the Department the flexibility to consider other methods of reimbursing sponsors rather than the traditional method which ties reimbursement to the number of meals served. While the Department believes that continued use of the traditional approach is necessary at this time, it also recognizes that further explanation and evaluation of other approaches are needed. Developmental projects designed for the purpose of evaluating the feasibility of alternatives to the present system are under consideration.

Final data from the study on operating costs was not available in time to be fully considered prior to this issuance of these regulations. If the data supports changes and/or revisions of reimbursement payments for operating costs, the Department will publish an amendment to this rule, however it is unlikely that such revisions would be in effect for the 1979 Program.

Accordingly, Part 225 is revised and reissued as follows:

Subpart A—General

Sec.
225.1 General purpose and scope.
225.2 Definitions.
225.3 Administration.

Subpart B—State Agency Provisions

225.4 Procedures for approval of sponsors and sites.
225.5 Responsibilities of State agencies.
225.6 Program management and administration plan.
225.7 Payment and use of State administrative funds.
225.8 Payments to State agencies and use of Program funds.

Subpart C—Sponsor Provisions

225.9 Requirements for participation.
225.10 Food service requirements.
225.11 Food service management companies.
225.12 Program payments.
225.13 Program payments procedures.
225.14 Claims against sponsors.

Subpart D—Miscellaneous Provisions

225.15 Procurement provisions.
225.16 Prohibitions.
225.17 Free meal policy.
225.18 Other provisions.
225.19 Program information.

AUTHORITY: Sec. 2, 6, 10, Pub. L. 95-627, 95 Stat. 3603; sec. 2, Pub. L. 95-166, 91 Stat. 1325 (42 U.S.C. 1761); sec. 7, Pub. L. 91-248, 84 Stat. 211 (42 U.S.C. 1759a).

Subpart A—General

§ 225.1 General purpose and scope.

This part announces the policies and prescribes the regulations under which the Secretary will carry out a Summer Food Service Program for Children to assist States through grants-in-aid to initiate, maintain, and expand nonprofit food service programs for children during the summer months and

*The earning factors for both rural and self-preparation sites will be adjusted for the summer of 1979 based on changes in the Food Away From Home series of the Consumer Price Index for the period November, 1977, through November, 1978. The earning factors for the summer of 1979 will be announced shortly.

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at other approved times. The food service to be provided under the Program is similar to that provided under the National School Lunch and School Breakfast Programs and is intended to serve as a substitute for those programs for children who are on school vacation, except that it is primarily directed toward children for needy areas.

§ 225.2 Definitions.

(a) "Act" means the National School Lunch Act, as amended.

(b) "Administrative costs" means costs incurred by a sponsor related to planning, organizing, and managing a food service under the Program, and excluding interest costs and operating costs.

(c) "Advance payments" means financial assistance made available to a sponsor for its operating costs or administrative costs prior to the end of the month in which such costs will be incurred.

(d) "Areas in which poor economic conditions exist" means (1) the local areas from which a site draws its attendence in which at least 33⅓ percent of the children are eligible for free or reduced price school meals under the National School Lunch Program and the School Breakfast Program, as determined by information provided from departments of welfare, zoning commissions, census tracts, and organizations determined by the State agency to be migrant organizations, by the number of free and reduced price lunches or breakfasts served to childern attending public and nonprofit private schools located in the areas of Program sites, or from other appropriate sources, or (2) an enrollment program in which at least 33⅓ percent of the children are eligible for free or reduced price school meals as determined by statements of eligibility based on the size and incomes of the families of the children enrolled.

(e) "Camps" means (1) residential summer camps which offer a regularly scheduled food service as part of an organized program for enrolled children and which serve up to four meals a day, and (2) nonresidential programs which offer a regularly scheduled organized cultural or recreational program for enrolled children and which serve such children four meals a day or three meals consisting of a breakfast, lunch and supper.

(f) "Children" means (1) persons 18 years of age and under, and (2) persons over 18 years of age who are determined by a State educational agency or a local public educational agency of a State to be mentally or physically handicapped and who participate in a public or nonprofit private school program established for the mentally or physically handicapped.

(g) "Costs of obtaining food" means costs related to obtaining agricultural commodities and other food for consumption by children. Such costs may include, in addition to the purchase price of agricultural commodities and other food, the cost of processing, distributing, transporting, storing, or handling any food purchased for, or donated to, the Program.

(h) "Continuous school calendar" means a situation in which all or part of the student body of a school are (1) on a vacation for periods of 15 continuous school days or more during the period October through April and (2) in attendance at regularly scheduled classes during most of the period May through September.

(i) "Department" means the U.S. Department of Agriculture.

(j) "Fiscal year" means the period beginning October 1 of any calendar year and ending September 30 of the following calendar year.

(k) "FNS" means the Food and Nutrition Service of the Department.

(l) "FNSRO" means the appropriate FNS Regional Office.

(m) "Food service management company" means a commerical enterprise or a nonprofit organization which contracts with a sponsor to manage any aspect of the food service. References to food service management companies in the Act and in this part shall include vendors which means commerical enterprises or nonprofit organizations which contract with a sponsor to prepare meals, with or without milk.

(n) "Income accruing to the Program" means all moneys (other than Program payments) received by a sponsor for use in the Program from Federal, State and local governments; from food sales to adults, and from any other source, including cash donations or grants.

(o) "Meals" means food which is served to children at a food service site and which meets the nutritional requirements set out in this part.

(p) "Milk" means fluid types of pasteurized flavored or unflavored whole milk, lowfat milk, skim milk, or cultured buttermilk which meet State and local standards for such milk. In Alaska, Hawaii, American Samoa, Guam, Puerto Rico, the Trust Territory of the Pacific Islands, the Northern Mariana Islands, and the Virgin Islands of the United States, if a sufficient supply of such types of fluid milk cannot be obtained, reconstitued or recombined milk may be used. All milk should contain vitamins A and D at the levels specified by the Food and Drug Administration and consistent with State and local standards for such milk.

(q) "Needy children" means children from families whose income is at or below the Secretary's Guideline for Determining Eligibility for Reduced Price Meals.

(r) "OIG" means the Office of the Inspector General of the Department.

(s) "Operating costs" means the cost of operating a food service under the Program, including (1) cost of obtaining food, (2) labor directly involved in the preparation and service of food, (3) cost of nonfood supplies, (4) rental and use allowances of equipment and space, and (5) transportation costs for rural sponsors, but excluding (i) the cost of the purchase of land, acquisition or construction of buildings, (ii) alteration of existing buildings, (iii) interest costs, (iv) the value of inkind donations, and (v) administrative costs; less income accruing to the Program.

(t) "Private nonprofit" means tax exempt under the Internal Revenue Code of 1954, as amended.

(u) "Program" means the Summer Food Service Program for Children authorized by Section 13 of the Act.

(v) "Program funds" means financial assistance made available to State agencies for the purpose of making Program payments.

(w) "Program payments" means financial assistance in the form of start-up payments, advance payments or reimbursement to sponsors for operating and administrative costs.

(x) "Rural" means any county which is not a part of a Standard Metropolitan Statistical Area as defined by the Office of Management and Budget.

(y) "Secretary" means the Secretary of Agriculture.

(z) "Self-preparation" means the sponsor prepares the meals which will be served at the site(s), and does not contract with a food service management company for the preparation of meals or a portion of the meals.

(aa) "School Food Authority" means the governing body which is responsible for the administration of one or more schools and which has the legal authority to operate a lunch program therein.

(bb) "Session" means a specified period of time during which an enrolled group of children attend camp.

(cc) "Site" means a physical location at which a sponsor provides or will provide a food service for children and at which children consume meals in a supervised setting.

(dd) "Special account" means an account between applicable sponsors and food service management companies with a State or Federally insured bank in which checks from the State agency for operating costs are deposited by the sponsor and released only in accordance with the terms of the special account agreement.

(ee) "Sponsors" means public or private nonprofit (1) camps and (2) nonresidential institutions which provide a year round service to the community, or provide a food service for the children of migrant workers, or provide a food service for a significant number of needy children which would not otherwise have reasonable access to the Program. Such camps and institutions shall develop special summer or school vacation programs providing food service similar to that available to children during the school year under the National School Lunch and School Breakfast Programs. (Sponsors are referred to in the Act as "service institutions.")

(ff) "Start-up payments" means financial assistance made available to a sponsor for administrative costs to enable it to effectively plan a summer food service, and to establish effective management procedures for such a service. Such payments shall be deducted from subsequent administrative costs payments.

(gg) "State" means any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands.

(hh) "State agency" means the State educational agency or an alternate State agency that has been designated by the Governor or other appropriate executive or legislative authority of the State and approved by the Department to administer the Program within the State.

§ 225.3 Administration.

(a) Within the Department, FNS shall act on behalf of the Department in the administration of the Program.

(b) Within the States, responsibility for the administration of the Program shall be in the State agency, except that FNSRO shall administer the Program in any State where the State agency is not permitted by law or is otherwise unable to disburse Federal funds paid to it under the Program to any sponsor in the State. Each State agency shall notify the Department by each November 1 as to whether or not it intends to administer the Program.

(c) Each State agency desiring to take part in the Program shall enter into a written agreement with the Department for the administration of the Program in the State in accordance with the provisions of this part. Such agreement shall cover the operation of the Program during the period specified therein and may be extended by consent of both parties.

(d) When the Secretary determines that the State is not operating the Program in accordance with the provisions of this part, he shall, through FNSRO, assume the administration of the Program in the State as provided for in § 225.18(b).

(e) FNSRO shall, in the States in which it administers the Program, assume all responsibilities and earn State agency funds as set forth in this part.

Subpart B—State Agency Provisions

§ 225.4 Procedures for approval of sponsors and sites.

(a) The State agency shall determine the eligibility of applicant sponsors applying for participation in the Program in accordance with the applicant sponsor eligibility criteria outlined in § 225.9(a).

(b) The State agency shall not approve the application of any applicant sponsor, identifiable through its organization or principals as a sponsor which participated previously and was seriously deficient in its Program operations. In the event that an applicant sponsor's application is denied, the State agency shall inform such applicant sponsor of the procedure to request a review of the denial. The official making the determination of denial must notify the applicant sponsor in writing stating all of the grounds on which the State agency based the denial. Serious deficiencies, which are grounds for nonapproval include, but are not limited to, any of the following:

(1) Noncompliance with the applicable bid procedures and contract requirements of Program regulations;

(2) The submission of false information to the State agency;

(3) Failure to return to the State agency any start-up or advance payments which exceeded the amount earned for serving eligible meals, or failure to submit all Claims for Reimbursement in any prior year: *Provided, however,* That failure to return any advance payments of Claims for Reimbursement which are under dispute from any prior year shall not be grounds for disapproval in accordance with this paragraph.

(4) Program violations at a significant proportion of the sites which include, but are not limited to, the following:

(i) Noncompliance with the between meal time requirements;

(ii) Failure to maintain adequate records;

(iii) Failure to adjust meal orders to conform to variations in the number of participating children;

(iv) The simultaneous service of more than one meal to each child;

(v) The claiming of Program payments for meals not served to participating children;

(vi) Service of a significant number of meals which did not include required quantities of all meal components;

(vii) Excessive instances of off-site meal consumption;

(viii) Continued use of food service management companies that are in violation of health codes.

(c) Pending the outcome of a review of a denial of an application for Program participation, the State agency shall proceed to approve other applicants in accordance with its responsibilities under paragraph (h) of this section, without regard to the application under review.

(d) The State agency shall not approve the application of any applicant sponsor which submits fraudulent information or documentation when applying for Program participation or knowingly withholds information which may lead to the disapproval of its application. Complete information regarding the disapproval of an applicant sponsor on the basis of fraudulent submission or knowingly withholding of information shall be submitted by the State agency through FNSRO to OIG.

(e) The State agency shall develop, in accordance with the requirements of this part and such other guidance as furnished by the Department, a site information sheet, on which applicant sponsors shall provide, for each site, information to demonstrate or describe:

(1) An organized and supervised system for serving meals to attending children;

(2) The estimated number and types of meals to be served and the times of service;

(3) Arrangements, within acceptable standards prescribed by the State or local health authorities, for delivery and holding of meals until time of service, and if there are excess meals, arrangements for storing and refrigerating them until the next day;

(4) Arrangements for food service during periods of inclement weather;

(5) Access to a means of communication for making adjustments as needed in the number of meals delivered in accordance with the number of children attending daily at each site;

(6) The geographic area to be served by the site;

(7) The percentage of children served by the site who meet the eligibility requirements for free or reduced price school meals; and

(8) Whether the site is rural, as defined by § 225.2(x), or non-rural, and self-preparation or vended.

(f) The State agency shall, when evaluating proposed sites, insure that:

(1) If not a camp, the proposed site serves an area in which poor economic conditions exist, as defined by § 225.2(d).

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(2) The number of meals, by type, proposed to be served to children at the site does not exceed the number of children residing in the area to be served, or, if applicable, the number enrolled; and

(3) The area which the site proposes to serve is not or will not be served in whole or in part by another site, unless it can be demonstrated to the satisfaction of the State agency that each site will serve children not served by any other site in the same area for the same meal and that the total number of meals, by type, served to children at all sites does not exceed the number of children residing in the area.

(g) The State agency shall not approve any applicant sponsor to operate more than 200 sites or to serve an average daily attendance of more than 50,000 children unless it can demonstrate to the satisfaction of the State agency that it has the capability of managing a program of that size.

(h) The State agency shall use the following order of priority in approving sponsors to operate sites which propose to serve the same area or the same enrolled children:

(1) Applicant sponsors which are public or nonprofit private schools and other applicant sponsors which have demonstrated successful Program performance in a prior year;

(2) Applicant sponsors which propose to prepare meals at their own facilities or which operate only one site;

(3) Applicant sponsors which propose to utilize local school food facilities for the preparation of meals;

(4) Other sponsors which have demonstrated ability for successful Program operations; and

(5) Applicant sponsors which plan to integrate the Program with Federal, State, or local employment or training programs.

(i) State agencies may approve the application of an otherwise eligible applicant sponsor which does not provide a year-round service to the community which it proposes to serve under the Program only if it is a residential camp, or an applicant sponsor which provides a food service for the children of migrant workers, or when a failure to do so would deny the Program to an area in which poor economic conditions exist, or if a significant number of needy children will not have reasonable access to the Program: *Provided, however,* That such an applicant sponsor shall not be approved to operate more than 50 sites. The State agency may approve applicant sponsors which provide a food service for the children of migrant workers to operate more than 50 sites if the State agency determines that such sponsors have adequate capabilities and facilities and have provided services to migrant communities in prior years. State agencies, when approving the applications of such applicant sponsors shall take particular care to ensure that such applicant sponsors are timely in their Program planning and thoroughly prepared to assume and carry out all Program responsibilities.

(j) Applicant sponsors which qualify as camps shall be approved for reimbursement only for meals served free to children enrolled who meet the eligibility requirements for free and reduced price school meals.

§ 225.5 **Responsibilities of State agencies.**

(a) *State agency personnel.* Each State agency shall provide sufficient qualified consultative, technical and managerial personnel to administer the Program and monitor performance and to measure progress toward achieving Program goals. The State agency shall assign specific Program responsibilities to such personnel so as to insure that all applicable requirements under this part are met. All administrative personnel shall be employed and available for Program duties at least 30 calendar days prior to the State agency's sponsor application deadline date and all field staff personnel shall be employed and available at least 15 calendar days prior to the beginning of Program operations: *Provided, however,* That State agencies may submit to FNSRO written requests for exceptions to these hiring dates. Such requests shall include information in sufficient detail for FNSRO to determine that the exception is necessary for and will not adversely affect optimal Program administration and operation.

(b) *Program assistance.* Each State agency shall provide Program assistance as follows:

(1) Each State agency shall visit, prior to the approval of the application, all applicant sponsors which have not participated in the Program in the previous year and all applicant sponsors which participated in the previous year and have been determined by the State agency to need a pre-operational visit. Grounds for such a visit include, but are not limited to, sponsors with sites which were terminated for cause in the previous year and sponsors which had sites in violation of the meal service requirements in the previous year. These visits shall be utilized to provide the State agency the opportunity to further assess the applicant sponsor's potential for successful Program operations, assess information submitted on the application, and assure the State agency that the applicant sponsor is aware of its responsibilities under the Program.

(2) Each State agency shall, prior to approval, visit each new proposed nonschool site located in cities whose total elementary and secondary public school enrollment exceeds 75,000 for the purpose of evaluating its suitability for the food service proposed.

(3) Each State agency shall, prior to approval of any site with a proposed average daily attendance of more than 300 children, visit each such site to evaluate its capability of serving the number of children expected: *Provided, however,* That the State agency may elect to not carry out such a preapproval evaluation if the site has been used under the Program in a prior year and the State agency has documentation on file which supports the capability of the site and gives evidence of successful prior Program operations at the site.

(4) Each State agency shall review during the first 4 weeks of operations, all sponsors which operate 10 or more sites, and, at a minimum, an average of 15 percent of the sites of such sponsors, to insure compliance with Program regulations and with the Department's nondiscrimination regulations (Part 15 of this title) and other applicable instructions as issued by the Department.

(5) In addition to the review requirements described in paragraph (b)(4) of this section, each State agency which expects to receive more than $250,000 in State administrative funds shall meet additional review requirements for all sponsors which operate 10 or more sites and which are located in cities whose total elementary and secondary public school enrollment exceeds 75,000. These additional requirements shall be to conduct reviews of 75 percent of the total number of nonschool sites in the State, and 25 percent of the total number of school sites, during the first four weeks of operation. In determining which sites shall be reviewed under this paragraph and under paragraph (b)(4) of this section, the State agency shall consider, at a minimum, whether or not the site has been used in prior years, the performance of the site in prior years, the performance of other sites operated by the same sponsor in both prior years and the current year and the performance of the applicable sponsor in prior years and in the current year.

(6) Each State agency shall, in addition, review 80 percent of the remaining sponsors, and an average of 10 percent of the remaining sites of such sponsors, at least once during the period of Program operations.

(7) In the conduct of reviews, each State agency shall develop a monitoring system to insure that sponsors, including site personnel, and the appropriate food service management company, if applicable, immediately receive a copy of any review reports which indicate Program violations and could result in a Program disallowance. Sponsors and site personnel shall be afforded every opportunity to make necessary corrections in a timely manner. In cases where corrective action of sites is not taken in accordance with this paragraph, and such sites are cancelled, each State agency shall insure that food service management companies are notified of all sites which are cancelled within a reasonable time.

(8) Documentation of Program assistance and results of such assistance shall be maintained on file by the State agency.

(9) Each State agency shall establish an order of priority for visiting facilities in its State in which food is prepared to be served in the Program. The State agency shall respond promptly to complaints concerning facilities with potential problems. Funds provided for in § 225.8(l) may be used for this purpose.

(10) Each State agency shall develop and provide monitor review forms to all approved sponsors. These forms shall be completed by sponsor monitors. The monitor review form shall include, but not be limited to, time of reviewer's arrival and departure, site supervisor's signature, certification statement to be signed by monitor, and corrective actions taken by sponsor and date of such actions.

(c) *Program availability.* Each State agency shall, by February 1 of each fiscal year, announce the purpose, eligibility criteria and availability of the Program throughout the State, through appropriate means of communication. As part of this effort, each State agency shall compile a listing of potential sponsors which have not previously participated in the Program, and shall contact such potential sponsors. State agencies shall identify rural areas and Indian tribal territories which qualify for the Program and actively seek eligible applicant sponsors to serve such areas. States shall identify priority outreach areas in accordance with FNS guidance, for targeting outreach efforts in such areas.

(d) *Financial management system for sponsors.* Each State agency shall establish a financial management system which is in compliance with Attachment G of the Office of Management and Budget Circular A-102, under which sponsors shall maintain and report the information required in this part. The system shall also be consistent with the cost principles found in Federal Management Circular 74-4 and any applicable Instruction issued by FNS.

(e) *Payment of claims.* A State agency may make full or partial reimbursement upon receipt of a Claim for Reimbursement from a sponsor, but shall first make any necessary adjustments in payments.

(f) *Sponsor and food service management company contract.* Each State agency shall develop a standard form of contract for use by sponsors in contracting with food service management companies. The contract shall expressly and without exception provide that:

(1) The sponsor shall provide to the food service management company a list of State agency approved food service sites and shall notify the food service management company of all sites which have been approved or cancelled subsequent to the submission of the initital approved site list. Such notification shall be provided within the time limits mutually agreed upon in the contract;

(2) The food service management company shall maintain such records (supported by invoices, receipts or other evidence) as the sponsor will need to meet its responsibilities under this part, and shall report to the sponsor promptly at the end of each month, at a minimum;

(3) The food service management company shall have State or local health certification for the facility in which it proposes to prepare meals for use in the Program and it shall insure that health and sanitation requirements are met at all times. In addition, the food service management company shall provide for meals which it prepares to be periodically inspected by the local health department or an independent agency to determine bacteria levels in the meals beings served. Such levels shall conform to the standards which are applied by the local health authority with respect to the level of bacteria which may be present in meals served by other establishments in the locality. Results of such inspections shall be submitted to the sponsor and to the State agency;

(4) The meals served under the contract shall conform to the cycle menus and meal quality standards and food specifications approved by the State agency upon which the bid was based;

(5) The books and records of the food service management company pertaining to the sponsor's food service operation shall be available for inspection and audit by representatives of the State agency, of the Department, and the U.S. General Accounting Office at any reasonable time and place, for a period of 3 years from the date of receipt of final payment under the contract;

(6) The sponsor and the food service management company shall operate in accordance with current Program regulations;

(7) The food service management company shall be paid by the sponsor for all meals delivered in accordance with the contract and this part. However, neither the Department nor the State agency assumes any liability for payment of differences between the number of meals delivered by the food service management company and the number of meals served by the sponsor that are eligible for reimbursement;

(8) Unitized meals shall be delivered in accordance with a delivery schedule prescribed in the contract;

(9) Increases and decreases in the number of meal orders shall be made by the sponsor, as needed, within a prior notice period mutually agreed upon;

(10) All meals served under the Program shall meet the requirements of § 225.10;

(11) In cases of nonperformance or noncompliance on the part of the food service management company, the company shall pay the sponsor for any excess costs the sponsor incurs by obtaining meals from another source; and

(12) A State agency may require any sponsor to establish a special account for the deposit of operating costs payments made by the State agency to the sponsor. A separate special account as provided for in § 225.9(i) shall be established for each food service management company under contract with a sponsor.

(g) *Advance and start-up payment procedures.* Each State agency shall inform sponsors of the procedure whereby they may apply for advance operating costs payments and advance administrative costs payments as provided for in § 225.13 and, where applicable, each State agency shall inform sponsors of the procedure whereby they may apply for start-up payments provided for in § 225.12(c).

(h) *Use of on-site facilities or school food service facilities.* State agencies shall make a positive effort to encourage sponsors to use the sponsors' own facilities or the facilities of public or nonprofit private schools to the maximum extent feasible, in the preparation, service, and delivery of meals under the Program.

(i) *Sponsor application deadline date.* Each State agency shall establish and inform all applicant sponsors of a deadline date for submission of a written application for participation in the Program: *Provided, however,* That State agencies shall approve the application of an otherwise eligible applicant sponsor submitted after the date established by the State agency, when the failure to do so would deny the Program to an area in which poor economic conditions exist or a significant number of needy children will not

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have reasonable access to the Program. The State agency shall inform potential sponsors inquiring after the sponsor application deadline date of the possibility of approval if the sponsor qualifies under these terms. The State agency must act on all applications within 30 calendar days after the sponsor application deadline date: *Provided, however,* That the 30 calendar days may be extended upon approval by FNS. In the case of applicant sponsors which apply after the deadline date and qualify in accordance with the terms of this paragraph, the State agency shall act on such applications as soon as possible after receipt. Sponsors applying after the deadline must provide an explanation to the State on why they are applying late, and the State must maintain a record documenting all late submissions.

(j) *Meal service restriction.* (1) A State agency shall restrict to one meal service per day (i) any site determined to be in violation of the meal service requirements as set forth in this paragraph when corrective action is not taken within a reasonable time as determined by the State agency, and (ii) all sites under a sponsor if more than 20 percent of the sponsor's sites are determined to be in violation of the meal service requirements as set forth in this paragraph. If such action results in children not receiving any meals under the Program, the State agency shall make every reasonable effort to locate another source of meal service for such children. In addition, the State agency shall not approve the service of more than one meal per day at any site unless each type of meal is delivered separately within 1 hour of the beginning of the meal service or facilities capable of holding hot or cold meals within the temperatures required by State or local health regulations are available at the site.

(2) Meals which may be served under the Program shall be breakfast, lunch, supper, and supplemental food. Only camps may be approved to serve supplemental food and also participate in the Special Milk Program (7 CFR Part 215): *Provided,* That those camps keep separate records for each Program. Except for camps, sponsors shall be approved to serve only up to three meals a day at each site: *Provided,* That at least one of the three meals is a supplement. Residential camps shall be approved to serve up to four meals a day, and nonresidential camps shall be approved to serve four meals a day or three meals consisting of a breakfast, lunch, and supper, provided that camps have the administrative capability and where applicable, the food preparation and holding facilities: *And provided,* That the service period of different meals does not coincide or overlap. No sponsor shall be reimbursed for meals served outside of the meal service limitations contained in this subparagraph. No sponsor shall be approved for more than two supplements a day.

(3) Three hours shall elapse between the beginning of one meal service, including supplements, and the beginning of another, except that 4 hours shall elapse between the service of a lunch and supper when no supplement is served between lunch and supper. The service of supper shall begin no later than 7 p.m.: *Provided, however,* That a State agency may consider a waiver of this requirement for extenuating circumstances. Such waivers shall be granted only when the State agency and the sponsor insure that special arrangements shall be made to monitor these sites. In no case may the completion of supper be later than 8 p.m. None of the preceding time restrictions of this subparagraph shall apply to residential camps. The duration of the meal service shall be limited to 2 hours for lunch or supper and 1 hour for all other meals. Meals served outside of the period of approved meal service shall not be eligible for Program payments. Any changes in meal service periods must be approved by the State agency. Each sponsor shall serve only the type or types of meals for which it is approved in its agreement with the State agency.

(k) *Records and reports.* (1) Each State agency shall maintain current accounting records of its Program operations which will adequately identify funds authorizations, obligations, unobligated balances, assets, liabilities, income, and expenditures for administrative costs and operating costs. The records may be kept in their original form or on microfilm, and shall be retained for a period of 3 years after the date of submission of the final Financial Status Report, except that, if audit findings have not been resolved, the records shall be retained beyond the 3-year period as long as required for the resolution of any issues raised by the audit. (2) No later than September 30 of each year, the State agency shall provide the Department with information on the scope of Program operations within the State, including information on Program levels in rural areas. (3) Each State agency shall report information on the use of Program funds and on Program operations to FNS on forms provided by FNS, as instructed by FNS.

(l) *Investigations.* Each State agency shall promptly investigate complaints received or irregularities noted in connection with the operation of the Program, and shall take appropriate action to correct any irregularities. State agencies shall maintain on file all evidence relating to such investigations and actions. The Department may make investigations at the request of the State agency, or where the Department determines investigations are appropriate.

(m) *Commodity distribution information.* A list of sponsors which are to receive food commodities, with accompanying information on the average daily number of eligible meals to be served by such sponsors, shall be prepared not later than June 1 of each year by the State agency. Such a list shall contain only the names of sponsors which will prepare the meals to be served at their sites and the names of sponsors which have entered into an agreement with a school or school district for the preparation of meals to be served under the Program. If the State agency is other than the agency of the State which handles the distribution of food commodities donated by the Department, this information shall be forwarded to the agency of the State which handles the distribution of donated commodities. The State agency shall be responsible for promptly revising the information to reflect additions or deletions of sponsors and for providing such adjustments in participation data as are determined necessary by the State agency. Availability of commodities and other foods which are not donated commodities but are in plentiful supply shall be summarized and made available to all sponsors upon the approval of their application for participation.

(n) *Training.* Each State agency shall plan for and carry out Program training for sponsors, food service management company representatives, and health inspectors which will participate in the Program in that State. Each State agency shall, prior to program operations, insure that the sponsor's supervisory personnel responsible for the food service receive training in all necessary areas of Program administration and operations. Such training shall be structured and scheduled to reflect the fact that individual sponsors or groups of sponsors require different levels and areas of Program training. State agencies are encouraged to utilize sponsors which have previously participated in the Program in such training, and to train site personnel regarding their responsibilities. Training should be made available at convenient locations. Each State agency shall make available, prior to the beginning of Program operations, training in all necessary areas of Program administration for representatives from all food service management companies and each health department which will participate in the Program in the current year.

(o) *Program materials.* Each State agency shall develop and make available in a timely manner all necessary Program materials so that applicant sponsors have sufficient time to adequately prepare for their participation in the Program.

(p) *Procurement provisions.* State agencies shall adhere to the procurement provisions set forth in this part and in Attachment O of the Office of Management and Budget Circular A-102. In addition, State agencies shall encourage sponsors to use small and minority owned businesses, as sources of supplies and services. The Department will provide guidance on technical and financial assistance available to such businesses.

(q) *Management evaluation and audits.* (1) Each State agency shall insure that the requirements of this part are met and upon approval of applicant sponsors' applications whose total Claims for Reimbursement are expected to exceed $50,000 shall provide those sponsors with an audit guide to be used in the conduct of the audit required by § 225.9(k) and any other guidance necessary to enable them to comply with the requirements set out in § 225.9(k). The audit guide developed by the State agency shall, at a minimum, contain the standards set forth in the audit guide issued by the Department for the Program.

(2) In accordance with the plan submitted under § 225.6(a)(14), the State agency shall ensure that all sponsors within the State whose total Claims for Reimbursement are expected to be more than $50,000, shall provide for an annual audit of their program. Any audit of an organization which is conducted in accordance with the Program audit guide and includes the Program covered by this part may be included to meet a portion of the audit requirement contained in this section. The State agency shall also provide for audits bi-annually for sponsors whose total Claims for Reimbursement are expected to be less than $50,000 with the following exceptions: (i) Sponsors under $10,000, (ii) sponsors receiving other Federal funds, and subject to an organization-wide audit in accordance with OMB Circular A-102, and (iii) sponsors for which the State agency determines an audit is unnecessary based on program performance. States must justify and document all exemptions made to the biannual audit requirement. The cost of such audits shall be considered an allowable State administrative expense and in no case may the cost of such audits be passed through to sponsors. States who can justify that compliance with the requirement will impose financial hardship may initiate an appeal through FNSRO to FNS. Audits shall be conducted by State agency internal auditors, State Auditors General, State Comptrollers, other comparable independent State audit groups, Certified Public Accountants or State licensed public accountants.

(3) Each State agency shall coordinate its monitoring review findings under paragraph (b) of this section and the audit reports provided for under § 225.9(k). Each State agency shall insure that monitoring is conducted to result in a representative review of the sponsor's operations under the Program.

(4) While OIG shall rely to the fullest extent feasible upon State-sponsored audits, it shall, whenever it considers necessary, (i) make audits on a State-wide basis, (ii) perform on-site test audits, and (iii) review audit reports and related working papers of audits performed by or for State agencies.

(5) State agencies shall provide FNS and OIG with full opportunity to conduct management evaluations (including visits to sponsors) and audits of all operations of the State agency. Each State agency shall make available its records, including records of the receipts and expenditures of funds upon a reasonable request by FNS or OIG. OIG shall also have the right to make audits of the records and operations of any sponsor.

(6) State agencies are encouraged to utilize statistical sampling procedures in monitoring program performance and correcting deficiencies. Such statistical sampling must be conducted in accordance with guidelines issued by the Department. The Department will provide training on these procedures to State agencies. Whenever statistical sampling procedures are used, State agencies shall establish a system for prompt communication of adverse findings to sponsors and for corrective action by sponsors. In addition, if the State agency determines that the quality of the data permits, it shall be used as one factor in the settlement of claims. Greater weight should generally be given sampling results, when assessing claims, in instances where a sponsor has failed to take corrective action, after being notified of the results and their potential consequences, than in instances where a sponsor has acted promptly to correct its deficiencies.

(7) Use of program audit guide available from OIG is encouraged. When this guide is utilized, OIG will coordinate its audits with State sponsored audits to form a network of intergovernmental audit systems.

(8) In conducting management evaluations or audits for any fiscal year, the State agency, FNS or OIG may disregard overpayment which does not exceed $35 or, in the case of State agency administered programs, does not exceed the amount established under State law, regulations or procedures as a minimum for which claims will be made for State losses generally. No overpayment shall be disregarded, however, where there are unpaid claims for the same fiscal year from which the overpayment can be deducted, or where there is substantial evidence of violation of criminal law or civil fraud statutes.

(r) *Food specifications and meal quality standards.* Each State agency shall, with the assistance of the Department, develop and make available to all sponsors, minimum food specifications and model meal quality standards which shall become part of the contracts between sponsors and food service management companies.

(s) *Food quality and preparation facility inspection procedures.* Each State agency shall, with the funds authorized in § 225.8(i), establish a procedure for inspections of food preparation facilities and food service sites. The procedures for carrying out work such as inspections and testing shall be consistent with procedures used by local health authorities. Copies of the results of the inspections of the facilities of food service management companies shall be provided to the State agency; the company and the sponsor shall also immediately receive a copy of the results of such inspections when corrective action is required.

(t) *Food service management company registration.* (1) Each State agency shall by February 1 provide to all food service management companies which participated in the Program in either of the prior 2 years in that State a notification of mandatory registration. Such notification shall contain at a minimum (i) a statement of the requirement for registration with the State agency as a prerequisite to participation in the Program during the applicable fiscal year, (ii) a summary of those items which are required to be submitted in the application for registration as set forth in paragraph (t)(2) of this section, (iii) an enumeration of the specific criteria developed by the State agency upon which registrant eligibility shall be based, and (iv) other relevant information necessary to make application for registration. In addition, each State agency shall, by the same date, issue through the appropriate media a notification of mandatory registration and information necessary to make application for registration.

(2) By March 15 each food service management company with the exception of school food authorities, which desires to participate in the Program within the State during such fiscal year shall submit an application for registration to the State agency. At a minimum, registration shall require (i) submission of name and mailing ad-

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dress and any other names under which such food service management company presently or in the past two years has marketed its services, (ii) a certification that the food service management company meets applicable State and local health, safety and sanitation standards, (iii) disclosure of present company owners, directors and officers, and their relationship, in the past 2 years to any sponsor or food service management company which participated in the Program, (iv) records of contract terminations, disallowances, and health, safety, and sanitation code violations related to prior Program participation during the past two years, (v) records of any other contract terminations and health, safety and sanitation code violations during the past 2 years, (vi) the address or addresses of the company's food preparation and distribution facilities which will be used in the Program and the local officials responsible for the operation of such facilities, (vii) the number of meals which may be prepared in each preparation facility in a twenty-four hour period for use in the Program, (viii) a certification that the food service management company will operate in accordance with current Program regulations, (ix) a statement that the food service management company understands that it will not be paid for meals which are delivered to non-approved sites or for meals which are delivered to approved sites outside of the agreed upon delivery time or meals that do not meet the meal requirements and food specifications contained in the contract between the sponsor and the food service management company, and (x) submission of a CPA audit report if one has been performed in the prior year.

(3) No food service management company shall be registered by the State agency if the State agency determines that the company lacks the administrative and financial capability to perform under the Program or if it is identifiable through its organization or principals as a food service management company which participated in the Program during any previous year and was seriously deficient in its Program operation. Serious deficiencies which are grounds for non-registration include, but are not limited to, any of the following:

(i) Noncompliance with the applicable bid procedures, contract requirements or Program regulations;

(ii) Submission of false information to the State agency;

(iii) Failure to conform meal deliveries to meal orders;

(iv) Delivery of a significant number of meals which do not meet contract requirements;

(v) Failure to maintain adequate records;

(vi) Significant health code violations which were not corrected upon reinspection;

(vii) Failure to deliver meals; or

(viii) The conviction of any officer, owner, partner, or manager of the company for a crime in connection with a prior Program operation.

(4) The State agency shall provide for inspections prior to registration of all food service management companies' food preparation facilities listed on the applications for registration, except those located outside the State. The State agency shall promptly notify FNSRO of the name and location of any out-of-State facility, and FNSRO shall ensure that such facility is inspected prior to registration. The purpose of the inspection is to evaluate each facility's suitability for preparation of meals for use in the Program. The State agency may waive this inspection requirement if a facility was registered last summer and operated in accordance with Program requirements.

(5) The State agency shall notify in writing each food service management company which applied for registration of its determination on the application within 30 calendar days after receipt of the complete application. The State agency shall inform any food service management company whose application for registration has been denied of the procedures to request a review of the denial as provided for in paragraph (w) of this section. The official making the determination of denial must notify the food service management company in writing, stating all the grounds on which the State agency based the denial.

(6) By October 15 of the current year, each State agency shall forward to the Department, on a form provided by FNS, information on all food service management companies which applied for registration to the State agency and their registration status. The Department shall allow any food service management company to review any information concerning that company which was submitted to FNS as required by this paragraph.

(7) A State agency shall consider a food service management company's application for registration submitted after March 15 of the current year, if the State agency determines that the lack of registration could result in an area in which poor economic conditions exist not being served or a significant number of needy children not having reasonable access to the Program.

(8) Each State agency shall require food service management companies submitting applications for registration to certify that the information submitted on the form is true and correct and that the food service management company is aware that misrepresentation may result in prosecution under applicable State and Federal statutes.

(u) *Bid opening monitoring.* Each State agency shall have a representative present at all procurement bid openings of sponsors which expect to receive more than $100,000 in Program payments.

(v) *Sponsor certifications.* Each State agency shall require applicant sponsors submitting Program applications, site information sheets, Program agreements or Claims for Reimbursement, and sponsors requesting advance payments, to certify that the information submitted on these forms is true and correct and that the sponsor is aware that deliberate misrepresentation or withholding of information may result in prosecution under applicable State and Federal statutes.

(w) *Sponsor and food service management company hearing procedures.* (1) Each State agency shall establish a procedure to be followed by an applicant requesting a review of a denial of an applicant sponsor's application for participation, a denial of a request by a sponsor for an advance payment, a denial of a claim by a sponsor for reimbursement, a denial of a sponsor's site or a denial of a food service management company's registration.

(2) At a minimum the procedure shall provide that:

(i) The denied applicant be advised in writing of the grounds upon which the State agency based the denial;

(ii) The denied applicant be advised in writing that the request for review must be made within a specified time. The State agency may establish this period of time at not less than one week nor more than two weeks from the date of receipt of the letter of denial;

(iii) The denied applicant be afforded the opportunity to review any information upon which the denial was based;

(iv) The hearing official be an official other than the one directly responsible for the original determination;

(v) The review be held within two weeks of the date of the receipt of the request for review;

(vi) The applicant may refute the charges contained in the letter of denial either in person or by mailing written documentation to the reviewing official. The applicant may retain legal counsel, or may be represented by another person;

(vii) Within 3 working days after the applicant's hearing, or within 3 working days after receipt of written documentation, the reviewing official must make a determination based on a full review of the administrative record; and

(viii) The State agency must inform the applicant of the determination of the review by certified mail, return receipt requested. The determination by the State reviewing official is the final administrative determination to be afforded an applicant.

(x) *Advance payment estimates.* Each State agency shall, when determining the amount of advance operating and administrative costs payments to be made to each sponsor under § 225.13 make the best possible estimate based on the amount requested by the sponsor and any other data available to the State agency.

(y) *Sponsor's budget approval process.* Each State agency shall, when approving an applicant sponsor's administrative budget, take into consideration the number of sites and children to be served, as well as any other factors determined by the State agency and set forth in guidance provided by the Department. The purpose of the sponsor's budget approval process is to assess the sponsor's ability to operate under the Program, within its projected reimbursement as described in § 225.8(c).

(z) *Special accounts.* A State agency may require a sponsor to establish a special account for the deposit of operating costs payments made by the State agency to the sponsor, as provided for in § 225.9(i), but shall first establish criteria for determining which sponsors will be required to establish such accounts. Criteria may include, but not be limited to, past performance of the sponsor, and the size of the sponsor's program.

§ 225.6 Program management and administration plan.

(a) Not later than February 15 of each fiscal year, each State agency shall submit to FNSRO a Program management and administration plan for that fiscal year. The plan shall have the original signature of the chief official (Commissioner or Superintendent) of the State agency. Approval of the plan by FNS shall be a prerequisite to the payment of Program funds, or to the donation by the Department of any commodities for use in the Program. The plan shall include the following information at a minimum:

(1) How the State plans to use Program funds and funds from within the State to the maximum extent practicable to reach needy children, including needy children in rural areas. The State should clearly define its methods for assessing need, the total number of children reached by the Program last year, its priority areas for program expansion, and its plans and schedule for informing potential sponsors of the availability of the Program;

(2) Estimated number and type of sponsors expected to participate and estimated number of sites and average daily attendance, and a description of the estimating methods used, including data on the number of sponsors which participated in the prior year;

(3) Estimated amount of Program funds, by month, needed for operating costs payments to sponsors;

(4) Estimated amount of Program funds, by month, needed for administrative costs payments to sponsors;

(5) The State's plans and schedule for providing technical assistance and training for sponsors, food service management company representatives and health department officials, including the number of such training sessions planned and number of reviews planned, including data on the number of reviews conducted in the prior fiscal year;

(6) The State agency budget, by month and function on the use of State administrative funds, including, but not limited to staffing (part-time and full-time), salaries, travel and per diem;

(7) The State's plan to comply with the Department's standards for disbursing administrative costs payments to sponsors;

(8) The actions to be taken by the State agency to maximize the use of on-site meal preparation and the use of school food service facilities;

(9) The actions to be taken by the State to ensure compliance with the requirements of the Department's regulations respecting nondiscrimination (7 CFR Part 15);

(10) The State's plan for monitoring and inspecting sponsors, sites, and food service management companies and for ensuring that such companies do not enter into contracts for more meals than they can provide effectively and efficiently;

(11) The State's plan for timely and effective action on Program violations;

(12) The State's plan and schedule for submission and approval of sponsor applications;

(13) The State's plan for determining the amounts and timing of Program payments to sponsors and for disbursing such payments;

(14) The State's plan for ensuring fiscal integrity by auditing sponsors as provided under § 225.5(q), including data on the number of audits performed in the prior fiscal year;

(15) The State's plan and procedure for registering food service management companies;

(16) The State's procedures for granting a hearing and prompt determination to any sponsor wishing to appeal a State's ruling denying its application for Program participation, its site participation, its approved level of administrative costs, Program advance payments, or Program reimbursement and the State's procedure for granting a hearing and prompt determination to any food service management company wishing to appeal a State's ruling denying the food service management company registration in the State;

(17) The State's plan for utilizing the funds provided for under § 225.8(i) to provide for health inspections and meal quality tests, including the estimated number and frequency of such inspections and tests and a description of the arrangements made by the State with the agencies which will perform these services;

(18) The amount of non-Federal funds made available to the State through direct State appropriations for the Program.

(19) An explanation of significant deviations in last year's actual Program operations and administration from that proposed in the plan for last year; and

(20) The State's procedures for soliciting and ensuring that timely comments or recommendations made by interested parties regarding this plan receive full consideration.

(b) The State agency shall give the Governor, or his delegated agency, the opportunity to comment on the relationship of the Program management and administration plan to comprehensive and other State plans and programs and to those of affected areawide or local jurisdictions. A period of 45 calendar days from the date of receipt of the Program management and administration plan shall be afforded to make such comments.

(c) All plans shall be approved or acted on by March 15, or if it is submitted late, within 30 calendar days following receipt of the plan. In cases where the plan initially submitted is not approved, the State agency and the approval authority shall work together to ensure that changes to the plan, in the form of amendments, shall be submitted so that the plan shall be approved within 60 calendar days following the initial submission of the plan.

(d) Upon plan approval, each State agency shall be notified of the level of State administrative funding which it is assured of receiving as provided for in § 225.7(f).

§ 225.7 Payment and use of State administrative funds.

(a) For each fiscal year, the Secretary shall pay to each State agency for administrative expenses incurred in the Program an amount equal to (1) 20 percent of the first $50,000 in Program funds properly payable to the State in the preceding fiscal year; (2) 10 percent of the next $100,000 in Program funds properly payable to the State in the preceding fiscal year; (3) 5

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percent of the next $250,000 in Program funds properly payable to the State in the preceding fiscal year; and (4) 2½ percent of any remaining funds properly payable to the State in the preceding fiscal year: *Provided, however,* That FNS may make appropriate adjustments in the level of State administrative funds to reflect changes in Program size from the preceding fiscal year as evidenced by information submitted in the State Program management and administration plan and any other information available to FNS.

(b) State administrative funds paid to any State shall be used by State agencies to employ personnel, including travel and related expenses, and to supervise and give technical assistance to sponsors in their initiation, expansion, and conduct of any food service for which Program funds are made available. State agencies may also use administrative funds for such other administrative expenses as set forth in their approved Program management and administration plan.

(c) Not later than October 1 of each fiscal year, the Secretary shall make available to each State agency by Letter of Credit an initial allocation of State administrative funds for use in the fiscal year beginning on that October 1 and in an amount not to exceed one-third of the State administrative funds which are determined in accordance with the formula set forth in paragraph (a) of this section. For States which did not receive any Program funds during the fiscal year immediately preceding the fiscal year-for which the initial allocation is being made, the amount to be made available by October 1 of each fiscal year shall be determined by the Department.

(d) An additional amount of State administrative funds shall be made available upon the receipt and approval by FNS of the State's Program management and administration plan. The amount of such funds, plus the initial allocation, shall not exceed three-fourths of the State administrative funds which are determined in accordance with the formula set forth in paragraph (a) of this section and based on the estimates set forth in the approved Program management and administration plan.

(e) The balance of State administrative funds shall be paid to each State agency as soon as practicable after the conduct of the second funding assessment provided for in paragraph (g) of this section, and shall be in an amount equal to that obtained by applying the formula set forth in paragraph (a) of this section to the State's actual program size as determined by information obtained during the second funding assessment, less the amounts paid under paragraphs (c) and (d) of this section. As provided for in paragraph (g) of this section, further adjustments in the levels of State administrative funding paid or payable to a State may be made.

(f) Notwithstanding the levels of payments provided for in this section, each State agency shall at the time FNS approves the State's management and administration plan, be assured of receiving State administrative funding in an amount equal to the lesser of 80 percent of that obtained by applying the formula set forth in paragraph (a) of this section to the total amount of Program payments made within the State during the prior fiscal year, or, 80 percent of that obtained by applying the formula to the estimated amount of Program funds as contained in the management and administration plan. The State agency shall be assured that it will receive no less than these levels unless FNS determines that the State agency has failed or is failing to meet its responsibilities as contained in this part.

(g) FNSRO shall at the times it deems most appropriate conduct assessments of the need for Program and State administrative funding within each State agency. At a minimum, such funding assessments shall be made at least twice during each fiscal year. The first of these assessments shall be conducted prior to the beginning of sponsor operations when FNSRO determines that there is adequate information available at the State agency upon which a reasonable projection of program size can be made. Based on information obtained during the initial assessment, FNS may make adjustments in the level of State administrative funding paid or payable to the State agency to reflect changes in the size of the State's program as compared to that contained in its management and administration plan. The second assessment shall be conducted at some time during the period of program operations, but no later than August 1, or when information is available on the actual size of program operations. Immediately following such assessment, any remaining payment of State administrative funds shall be made to the State agency. Such payment may reflect adjustments in the level of State administrative funding, based on the information collected in the second assessment. FNS shall not decrease the amount of a State's administrative funds unless the State did not make reasonable efforts to administer the Program as it proposed in its management and administration plan, or unless the State incurred expenses that were not necessary.

(h) In no event may the sum of the amounts properly payable under this section for a fiscal year exceed the total amount of expenditures incurred by the State agency for its administrative costs in the same fiscal year. Each State agency shall report to FNS information on the use, in the prior year, of Program funds and State administrative funds, on a form provided by FNS, not later than November 30 of each fiscal year. FNS shall make, prior to February 15 of each fiscal year, any adjustments necessary in the Letter of Credit to reflect actual expenditures in the prior fiscal year.

§ 225.8 Payments to State agencies and use of Program funds.

(a) Upon approval of the State's Program management and administration plan, the Secretary shall make available by Letter of Credit to the State agency Program funds to be used to make start-up payments, where applicable, to sponsors as provided for in § 225.12(c).

(b) Not later than April 15, May 15, and July 1 of each fiscal year the Secretary shall make available to each State agency by Letter of Credit Program funds to be used by the State agency to make advance operating costs payments to sponsors in the months for which such Letter of Credit is issued. The amount of each of these payments shall be equal to 65 percent of the amount derived by multiplying the number of operating days in the month times the average daily attendance by meal type as estimated in the State's approved Program management and administration plan, times the maximum allowable rates payable to sponsors for operating costs payments as set forth in § 225.12(e).

(c) Not later than April 15, May 15, and July 1 of each fiscal year the Secretary shall make available, by Letter of Credit, Program funds to be used by the State agency to make advance administrative costs payments to sponsors. The amount of each of these payments shall be equal to one-third of the sum of the products obtained by multiplying: The estimated number of breakfasts times 3.75 cents; the estimated number of lunches times 7.25 cents; the estimated number of suppers times 7.25 cents; and the estimated number of supplemental meals times 2.00 cents: *Provided, however,* That the factors used in this formula shall be 4.75 cents for each breakfast, 8.75 cents for each lunch and supper and 2.50 cents for each supplement for rural sites, and self-preparation sites. Notice of any adjustment of these rates to reflect changes in the Department of Labor's food away from home series of the Consumer Price Index will be published in the FEDERAL REGISTER. The estimated number of meals shall be those which are contained in the approved Program management and administration plan. FNS may make appropriate changes in the amounts of these payments based on information obtained during the conduct of the funding assessments provided for in § 225.7(g) and any other information available to FNS upon which determinations as to actual program size may be made.

(d) For sponsors which operate under a continuous school calendar, the Secretary shall make available Program funds by Letter of Credit to the State agencies to make advance payments to sponsors in an amount equal to the amount needed by the State agencies to make advance Program payments and advance administrative costs payments to such sponsors, as set forth in the State's approved Program management and administration plan, on the first day of the month prior to the month during which the food service will be conducted.

(e) The Secretary shall make available any remaining Program funds due, no later than 45 days following receipt of valid claims from sponsors by the State agency. Any funds advanced to a State agency for which valid claims have not been established within 180 days after the sponsor's operation shall be deducted from the next monthly payment to the State.

(f) Program funds shall be used by State agencies to make Program payments to sponsors in connection with meals served to children in accordance with the provisions of this part.

(g) Each State agency shall release to FNS any Program funds which it determines are unobligated as of September 30 of each fiscal year. Release of funds by the State agency shall be made as soon as practicable, but in no event later than 30 calendar days following demand by FNS, and shall be accomplished by an adjustment in the State agency's Letter of Credit.

(h) The State agency may use in carrying out special developmental projects an amount up to 1 percent of Program payments made in any fiscal year: *Provided, however,* That such projects have been included in the State's Program management and administration plan and have been approved in writing by FNS.

(i) By April 15 of each fiscal year, the Secretary shall make available by Letter of Credit to each State agency an additional amount equal to 1 percent of Program funds estimated to be needed by the State agency for Program payments in the State's approved Program management and administration plan and any amendments thereto for the current fiscal year. These funds shall be used solely to enable State or Local health departments of other governmental agencies charged with health inspection functions, to carry out health inspections and meal quality tests: *Provided, however,* That, if such agencies cannot perform such inspections or tests, the State agency may use such funds to contract with an independent agency to conduct either the inspection or the meal quality tests, or both. An adjustment may be made in the amount provided for in this paragraph based on the evaluation required in § 225.7(e) if such an adjustment is warranted. Program funds so provided but not expended or obligated shall be returned to the Department by September 30 of the same fiscal year.

Subpart C—Sponsor Provisions

§ 225.9 Requirements for participation.

(a) No applicant sponsor shall be eligible to participate in the Program unless it:

(1) Demonstrates financial and administrative capability for Program operations and accepts final financial and administrative responsibility for total Program operations at all sites at which it proposes to conduct a food service;

(2) Has not been seriously deficient in operating the Program in prior years;

(3) Will conduct a regularly scheduled food service for children from areas in which poor economic conditions exist or qualifies as a camp;

(4) Has adequate supervisory and operational personnel for overall monitoring and management of each site, including adequate personnel to visit all sites at least once in the first week of operation under the Program, to promptly take such actions as are necessary to correct deficiencies found at the time of the initial visit, to review food service operations at every site at least once during the first four weeks of Program operations, and thereafter to maintain a reasonable level of site monitoring. During these visits and reviews a monitoring form developed by the State agency shall be completed by the monitor;

(5) Provides an ongoing year-round service to the community which it proposes to serve under the Program except as provided for in § 225.4(i);

(6) Certifies that all sites have been visited and have the capability and the facilities for the meal service planned for the number of children anticipated to be served;

(7) Is a public or private nonprofit entity;

(8) If not a camp, provides documentation that its food service will serve children from an area in which poor economic conditions exist. If a camp, certifies that it will collect family-size and income information to support its Claim for Reimbursement; and

(9) If a summer school, is open to serve children in addition to those enrolled in the accredited school program or is a school serving children outside of the summer school hours.

(b) Applicant sponsors shall make written application to the State agency for participation in the Program as sponsors. Such application shall be made on a timely basis in accordance with the requirements of § 225.5(i).

(c) Each applicant sponsor shall submit, as part of the application, a site information sheet, as developed by the State agency, for each site where a food service operation is proposed.

(d) Applications shall include information in sufficient detail to enable the State agency to determine whether the applicant sponsor meets the criteria for participation in the Program as set forth in paragraph (a) of this section and the extent of Program payments needed, including requests for advance payments and start-up payments, if applicable, and administrative and operating budget, staffing and monitoring plan.

(e) Each applicant sponsor shall submit to the State agency, as part of the application for participation, a complete administrative budget for State agency review and approval. The budget shall contain the projected administrative expenses which a sponsor expects to incur during the operation of the Program, and shall include information in sufficient detail to enable the State agency to assess the sponsor's ability to operate under the Program, within its estimated reimbursement. A sponsor's approved administrative budget shall be subject to subsequent review by the State agency for adjustments in projected administrative costs.

(f) Each applicant sponsor shall submit to the State agency, along with its application, a plan for and a synopsis of its invitation to bid for food service, if a bid is required under § 225.11, and a copy of its letter of engagement with a certified public accountant or an independent State or local government accountant if required under paragraph (k) of this section. In addition, the selected accountant shall within the first two weeks of operation under the Program, submit a copy of the management letter to the sponsor and to the State agency.

(g) Each applicant sponsor, except a camp, shall submit, along with its site information sheet, documentation supporting the eligibility of each site as serving an area in which poor economic conditions exist. For those sites at which applicant sponsors will serve children of migrant workers, the documentation requirement may be met by providing the State agency with data from an organization determined by the State agency to be a migrant organization, which supports eligibility for

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those children as a group. When a sponsor proposes to serve a site which it served in the previous year, documentation from the previous year may be used to support the eligibility of the site. Therefore, for such sites applicant sponsors shall only be required to obtain new documentation every other year. Camps shall submit to the State agency, prior to filing their Claims for Reimbursement for each session or at such time as specified by the State agency, family-size and income information which documents the number of children enrolled in each session whose family incomes meet the eligibility requirements for free or reduced price school meals.

(h) Sponsors approved for participation in the Program shall enter into written agreements with the State agency, or in those States in which FNSRO administers the Program, sponsors shall enter into written agreements with the Department. Such agreements shall provide that the sponsor shall:

(1) Operate a nonprofit food service during any period from May through September for children on school vacation or at some other time or times during the year for children on school vacation under a continuous school calendar system;

(2) Serve meals which meet the requirements and provisions set forth in § 225.10 during a period designated as the meal service period by the sponsor, and serve the same meals to all children;

(3) Serve meals without cost to all children, except that camps may charge for meals served to children who are not eligible for free or reduced price school meals;

(4) Issue a policy statement in accordance with § 225.17;

(5) Hold training sessions for its administrative and site personnel with regard to Program duties and allow no site to operate until site personnel have attended such training sessions. Training of site personnel, at a minimum, shall include: Purpose of the Program, site eligibility, recordkeeping, site operations, meal pattern requirements, and duties of a monitor. Each sponsor shall ensure that its administrative personnel attend State agency training provided to sponsors under § 225.5(n) and sponsors shall provide training throughout the summer to ensure that administrative and site personnel are thoroughly knowledgeable in all requisite areas of Program administration and operation and are provided with sufficient information to enable them to carry out their Program responsibilities;

(6) Provide for an audit under any Program agreement for which it may receive over $50,000 in Program payments, as outlined in § 225.9(k);

(7) Claim reimbursement only for the type or types of meals specified in the agreement and served without charge to children at approved sites during the approved meal service period; except that camps shall claim reimbursement only for the type or types of meals specified in the agreement and served without charge to children who are eligible for free or reduced price school meals. No permanent changes may be made in the time of any meal service period until such changes are approved by the State agency;

(8) Submit Claims for Reimbursement in accordance with procedures established by the State agency, and those stated in § 225.13(a);

(9) Maintain, in the storage, preparation and service of food, proper sanitation and health standards in conformance with all applicable State and local laws and regulations;

(10) Purchase, in as large quantities as may be efficiently utilized in the Program, foods designated as plentiful by the State agency or the Department;

(11) Accept and use, in as large quantities as may be efficiently utilized in the Program, such foods as may be offered as a donation by the Department;

(12) Have access to facilities necessary for storing, preparing, and serving food;

(13) Maintain a financial management system as prescribed by the State agency;

(14) Maintain on file documentation of site visits in accordance with paragraph (a)(4) of this section;

(15) Upon request, make all accounts and records pertaining to the Program available to State, Federal, or other authorized officials for audit or administrative review, at a reasonable time and place. Such records shall be retained for a period of 3 years after the end of the fiscal year to which they pertain, except that, if audit findings have not been resolved, the records shall be retained beyond the 3-year period as long as required for the resolution of any issues raised by the audit; and

(16) Maintain children on site while meals are consumed.

(i) In addition to the provisions described in paragraph (h) of this section, State agencies may require an agreement between the State agency and the sponsor to provide that the sponsor shall establish a special account with a State or Federally insured bank for the deposit of Program payments for operating costs payable to the sponsor by the State. The special account agreement must specify that any disbursement of monies from the account must be authorized by both the sponsor and the food service management company. The special account agreement may contain other terms as are agreed to by both sponsor and food service management company: *Provided, however,* That such terms are not inconsistent with the terms of the contract between the sponsor and the food service management company. A copy of the special account agreement shall be submitted to the State agency and another copy maintained on file by the sponsor. Any charges made by the bank for the account described in this section shall be considered an allowable sponsor administrative cost.

(j) Upon notification of their approval, sponsors selected for participation in the Program shall submit evidence to the State agency that they have advised the appropriate health department of their intention to provide a food service during a specific period at specific sites. Such evidence shall be in the form of a letter to the health department.

(k) Each sponsor whose total Program payments under any program agreement are expected to exceed $50,000 shall have an audit conducted of its Program claims and the supporting documentation for those claims by an independent certified public accountant or an independent State or local government accountant and shall submit to the State agency a copy of the letter of engagement with the accounting firm or individual which is to conduct the audit. The sponsor's final Claim for Reimbursement under the agreement shall not be eligible for payment until the audit has been completed and the results have been reviewed by the State agency. The cost of the audit may be considered an administrative cost. All such audits shall be subject to review by the Department.

(l) Sponsors shall not claim reimbursement under Parts 210, 215, 220, or 226 of this chapter, or any other federally funded program for meals served under the Program.

(m) Each sponsor shall, to the maximum extent feasible, utilize either its own food service facilities, or obtain meals from a school food service facility. If the sponsor obtains meals from a school food service facility the applicable requirements of this part shall be embodied in a written agreement between the sponsor and the school.

(n) Sponsors shall operate the food service in accordance with the provisions of this part and any instructions and handbooks issued by FNS under this part or issued by the State agency which are not inconsistent with the provisions of this part.

§ 225.10 Food service requirements.

(a) Except as otherwise provided in this section and any appendices to this part, each meal served in the Program shall contain, as a minimum, the indicated food components:

(1) A breakfast shall contain:

(i) One-half pint (1 cup) of milk as a beverage or on cereal or used in part for each purpose,

(ii) One-half cup serving of fruit or vegetable, or both, or full-strength fruit or vegetable juice, and

(iii) One slice of whole-grain or enriched bread; or an equivalent quantity of cornbread, biscuits, rolls, muffins, etc., made of whole-grain or enriched meal or flour; or ¾ cup (volume) or 1 ounce (weight), whichever is less, of whole-grain or enriched or fortified cereal, or an equivalent quantity of any combination of these foods.

(2) A lunch or supper shall contain:

(i) One-half pint (1 cup) of milk as a beverage,

(ii) Two ounces (edible portion as served) of cooked lean meat, poultry, or fish; or 2 ounces of cheese; or one egg; or ½ cup of cooked dry beans or peas; or 4 tablespoons of peanut butter; or an equivalent quantity of any combination of the above-listed foods. To be counted in meeting this requirement, these foods must be served as a main dish or in a main dish and one other menu item.

(iii) A three-fourths cup serving consisting of two or more vegetables or fruit, or both. Full-strength vegetable or fruit juice may be counted to meet not more than one-fourth cup of this requirement,

(iv) One slice of whole-grain or enriched bread, or an equivalent quantity of cornbread, biscuits, rolls, muffins, etc., made of whole-grain or enriched meal or flour.

(3) Supplemental food shall contain two of the following four components:

(i) One-half pint (1 cup) of milk,

(ii) One ounce of meat or meat alternate,

(iii) Six fluid ounces of full-strength fruit or vegetable juice (juices shall not be served when milk is served) or three-quarters of a cup of fruit or vegetable,

(iv) One slice of whole-grain or enriched bread, or an equivalent quantity of cornbread, biscuits, rolls, muffins, etc., made of whole-grain or enriched meal or flour; or three-fourths cup (volume) or one ounce (weight), whichever is less, of whole-grain or enriched or fortified cereal, or an equivalent quantity of any combination of these foods.

(b) The quantities of food specified in subparagraphs (1) and (2) of paragraph (a) of this section are approximate amounts of food to serve 10 to 12 year-old boys and girls. Greater or lesser amounts of these foods may be served if participating children are older or younger and if the sponsor can demonstrate to the satisfaction of the State agency that it has the capability of controlling portion size so as to ensure that variations in portion size are in accordance with the age levels of the children served.

(c) if emergency conditions prevent a sponsor normally having a supply of milk from temporarily obtaining delivery, the State agency may approve the service of breakfast, lunches, suppers, or supplemental food without milk during the emergency period.

(d) The inability of a sponsor to obtain a supply of milk on a continuing basis shall not bar it from participation in the Program. In such cases the State agency may approve the service of meals without milk: *Provided,* That an equivalent amount of canned, whole dry, or nonfat dry milk is used in the preparation of the components of all meals. In addition, the State agency may approve the use of nonfat dry milk in meals served to children participating in activities which make the service of fluid milk impracticable, and in locations which are unable to obtain fluid milk. Such authorization shall stipulate that nonfat dry milk be reconstituted at normal dilution and under sanitary conditions consistent with State and local health regulations.

(e) In American Samoa, Guam, Puerto Rico, the Virgin Islands of the United States, the Trust Territory of the Pacific Islands and the Northern Mariana Islands, the following variations from the meal requirements are authorized: A serving of a starchy vegetable, such as ufi, tanniers, yams, plaintains, sweet potatoes, or a serving of enriched rice or enriched or whole-grain cereal products such as macaroni, dumplings or noodles may be substituted for the bread requirement.

(f) Substitutions may be made by sponsors in paragraph (a) of this section if individual participating children are unable, because of medical or other special dietary needs, to consume such food. Such substitutions shall be made only when supported by a statement from a recognized medical authority which includes recommended alternate foods. Such statements shall be kept on file by the sponsor.

(g) FNS may approve variations in the food components of the meals on an experimental or a continuing basis for any sponsor where there is evidence that such variations are nutritionally sound and are necessary to meet ethnic, religious, economic, or physical needs.

(h) Sponsors approved to serve children under 1 year of age shall be required to comply with the applicable meal patterns contained in the Child Care Food Program regulations (7 CFR Part 226).

§ 225.11 Food service management companies.

(a) Any sponsor may contract with a food service management company for the preparation of unitized meals, with or without milk. Sponsors may, prior to issuance of bids, submit in writing to the State agency, requests for exceptions to unitizing certain components of a meal. Such requests shall include sufficient reasons for the State agency to determine that the exception is necessary to effectively meet the meal requirements of this part. Each State agency shall notify the sponsor in writing of its determination in a timely manner. Any sponsor may contract with a food service management company to operate its entire food service: *Provided, however,* That a sponsor that so employs a food service management company shall remain responsible for assuring that the food service operation is in comformity with its agreement with the State agency and all applicable provisions of this part. Sponsors may contract only with food service management companies registered with the State in which the sponsor will operate, as provided for under § 225.5(t), except that food service management companies which have exclusive contracts with a school shall be exempted from all food service management company registration and competitive bid requirements under this part. This exception does not relieve schools of the responsibility to insure that normally accepted bidding procedures are adhered to before contracting with a food service management company. A food service management company entering into a contract with a sponsor under the Program shall not subcontract for the total meal, with or without milk, or for the assembly of the meal. Any sponsor entering into a contract with a food service management company shall use the standard form of contract established by its State agency. For sponsors which are public institutions, sponsors desiring to contract only for the management of the Program, and sponsors whose contract with a food service management company will not exceed $10,000 this may be their existing or usual form of contrct if such form of contract has been submitted to and approved by the State agency. In any event, sponsors shall adhere to the procurement standards set forth in § 225.15. Each proposed additional provision to the established form of contract shall be submitted to the State agency for approval.

(1) In the absence of any State or local law, sponsors whose proposed contracts are subject to competitive bidding procedure shall, at a minimum, ensure that:

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(i) All proposed contracts shall be publicly announced at least once, not less than 14 calendar days prior to the opening of bids, and the announcement shall include the time and place of the bid opening;

(ii) The bids shall be publicly opened; and

(iii) The State agency is notified at least 14 calendar days prior to the opening of the bids, of the time and place of the bid opening.

(2) In addition, sponsor shall, at a minimum, when advertising for bids adhere to the following requirements:

(i) The invitation to bid shall not specify a minimum price;

(ii) The invitation to bid shall contain a cycle menu approved by the State agency upon which the bid shall be based;

(iii) The invitation to bid shall contain food specifications and meal quality standards approved by the State agency upon which the bid shall be based;

(iv) The invitation to bid shall not specify special meal requirements to meet ethnic or religious needs unless such special requirements are necessary to meet the needs of the children to be served;

(v) Neither the invitation to bid nor the contract shall provide for loans or any other monetary benefit or term or condition to be made to sponsors by food service management companies;

(vi) Nonfood items shall be excluded from the invitation to bid, except where such items are essential to the conduct of the food service;

(vii) A copy of the food service management company registration determination issued by the State agency shall be submitted by the food service management company with each bid;

(viii) Sponsors shall submit to the State agency copies of all bids received and the reason for selecting the food service management company chosen;

(ix) All bids totaling $100,000 or more shall be submitted to the State agency for approval before acceptance. All bids in an amount which exceeds the lowest bid shall be submitted to the State agency for approval before acceptance. State agencies shall respond to a request for approval within 5 working days of receipt.

(b) Copies of all contracts between sponsors and food service management companies, along with a certification of independent price determination, shall be submitted to the State agency prior to the beginning of Program operations.

(c) Each food service management company which submits a bid over $100,000 shall obtain a bid bond in an amount not less than five (5) percent nor more than ten (10) percent, as determined by the sponsor, of the value of the contract for which the bid is made. A copy of the bid bond shall accompany each bid.

(d) Each food service management company which enters into a food service contract for over $100,000 with a sponsor shall obtain a performance bond in an amount not less than ten (10) percent nor more than twenty-five (25) percent of the value of the contract as determined by the State agency. Any food service management company which enters into more than one contract with any one sponsor shall obtain a performance bond covering all contracts if the aggregate amount of such contracts exceeds $100,000. Sponsors shall require the food service management company to furnish a copy of the bond within ten days of the awarding of the contract.

(e) Food service management companies shall obtain bid bonds and performance bonds only from surety companies listed in the current Department of the Treasury Circular 570.

(f) Failure by a sponsor to comply with the provisions of this section shall be sufficient grounds for the State agency to terminate participation by the sponsor in accordance with § 225.18(b).

§ 225.12 Program payments.

(a) Program payments shall be made to sponsors only after execution of and in accordance with the terms of the agreement with the State agency or the Department. No Program payments shall be made for meals served at a site before the sponsor has received written notification of approval for the site from the State agency.

(b) Reimbursement shall be made to camps only for meals served to children whose eligibility is documented on the basis of family size and income information. Any nonresidential camp reduced to less than four meals per day under § 225.5(j)(1) shall continue to receive reimbursement for only those meals served to children eligible for free or reduced priced school meals.

(c) Sponsors which have executed an agreement may, at the descretion of the State agency, receive start-up payments not earlier than 2 months before beginning food service operations. Start-up payments shall not exceed 20 percent of the amount estimated by the State agency to be needed by a sponsor to administer the Program in accordance with the sponsor's approved administrative budget, as provided for under § 225.9(e). Start-up payments shall be deducted from the first advance payment made to a sponsor for allowable administrative costs.

(d) Payments to all sponsors for administrative costs shall equal the full amount of administrative costs as approved in the sponsor's budget by the State agency except that a sponsor's administrative budget shall be subject to subsequent review by the State agency for adjustments in projected administrative costs if the sponsor's level of site participation or the number of meals served to eligible children changes significantly: *Provided, however,* That a sponsor shall not receive payment for administrative costs in excess of its actual expenditures for approved administrative costs or the per meal administrative rates by type as set forth in § 225.8(c) for meals actually served to eligible children, whichever is less.

(e) Payment to a sponsor for operating costs shall not exceed 92.75 cents for each lunch or supper, 51.50 cents for a breakfast and 24.25 cents for supplemental food: *Provided, however,* That the total Program payments paid to a sponsor for operating costs do not exceed the lesser of:

(1) The above rates times the meals by type actually served to eligible children during the Program operation, or

(2) The actual operating costs.

(f) Sponsors shall maintain accurate records to justify the operating costs and administrative costs claimed. Sponsors who wish to claim only for the costs of obtaining food shall maintain accurate records to justify their food costs. In no instance shall Program payments for the costs of obtaining food exceed the per meal operating costs payment rates.

(g) Sponsors shall plan for and prepare or order meals on the basis of participation trends, with the objective of providing only one meal per child at each meal service. Records of participation and of preparation or ordering of meals shall be maintained to demonstrate positive action toward this objective. In recognition of the fluctuation in participation levels which makes it difficult to precisely estimate the number of meals needed and to reduce the resultant waste, any excess meals that are prepared or ordered may be served to children and may be claimed for reimbursement unless the State agency determines that the sponsor has failed to plan and prepare or order meals with the objective of providing only one meal per child at each meal service. In monitoring the number of meals served at a site, the State agency shall withhold reimbursement for those meals served to children which exceed the number of children being served by the site when the State agency determines that the sponsor has not complied with the provisions of this paragraph.

§ 225.13 Program payment procedures.

(a) To be reimbursed under this part, each sponsor shall submit Claims for Reimbursement to the State agency monthly by the 10th calendar day following the period of operations covered by the Claim. Claims may be submitted more frequently at the discretion of the State agency. Sponsors whose final period of operation is less than 10 calendar days in duration shall submit a combined Claim covering the final period and the period immediately preceding the final period. The State agency shall not be responsible for acting upon any Claim for Reimbursement which is not received by the State agency within 30 calendar days after the close of the sponsor's food service operations, except where the State agency determines that the Claim has been filed late because of circumstances beyond the control of the sponsor. Appropriate payments may then be made if the Claim submitted by the sponsor is valid.

(b) Claims for Reimbursement shall include data in sufficient detail to justify the reimbursement claimed and to enable the State agency to provide the required information for Program reports. In submitting a Claim for Reimbursement, in addition to the certification requirements set for the in § 225.5(v), each sponsor shall certify that records are available to support the Claim.

(c) Not later than June 1, July 15, and August 15 of each fiscal year, or in the case of sponsors which operate under a continuous school calendar, the first day of each month of operation, the State agency shall forward advance operating costs payments to each sponsor if a request for such payment was received from the sponsor no later than 30 calendar days prior to the date for each such payment: *Provided, however,* That the State agency shall not release the second month's advance operating costs payment to any sponsor which has not certified that it has held training sessions for its own personnel, including site personnel, with regard to Program duties and responsibilities: *And provided, further,* That no advance operating costs payment shall be made for any month in which the sponsor will serve meals under the Program for less than 10 calendar days. Requests by sponsors for advance operating costs payments received less than 30 calendar days preceding the applicable payment date shall be paid by the State agency within 30 calendar days of receipt.

(d) Each month's advance operating costs payment to any sponsor shall be in an amount equal to: (1) The total operating costs payment for meals served by such sponsor in the same calendar month of the preceding calendar year, or (2) 50 percent of the amount determined by the State agency to be needed by the sponsor for meals, if the sponsor contracts with a food service management company or (3) 65 percent of the amount determined by the State agency to be needed by the sponsor for meals for that month, if the sponsor prepares its own meals, which ever amount is greater: *Provided, however,* That the advance operating costs payment may not exceed the total amount estimated by the State agency to be needed by the sponsor for meals to be served in the month for which the advance operating costs payment is made.

(e) Not later than June 1 and July 15 of each fiscal year, or in the case of sponsors which operate under a continuous school calendar, the first day of each month of operation, the State agency shall forward advance administrative costs payments to each sponsor if a request for such payment was received from the sponsor no later than 30 calendar days prior to the date for each such payment: *Provided, however,* That (1) the State agency shall not release the second month's advance administrative cost payment to any sponsor until the sponsor has certified that it is operating the number of sites for which the administrative budget was approved, and that there has been no significant change in its projected administrative costs since approval of the administrative budget, (2) no advance administrative costs payment shall be made for any month in which the sponsor will operate under the Program for less than 10 calendar days, and (3) in the case of a sponsor that operates less than 10 calendar days in June but at least 10 calendar days in August, the second month's advance administrative costs payment shall be made on August 15. Requests by sponsors for advance administrative costs payments received less than 30 calendar days preceding the applicable payment date shall be paid by the State agency within 30 calendar days of receipt.

(f) Each sponsor's first month's advance administrative costs payment shall be in an amount equal to one third of the amount established by the State agency to be needed by the sponsor to administer the Program. Each sponsor's second month's advance administrative costs payment shall be in an amount equal to one-third of the amount established by the State agency to be needed by the sponsor to administer the Program. In the case of sponsors which will operate 10 calendar days or more in only one month and thereby will qualify for only one advance administrative costs payment the State agency shall provide an advance administrative costs payment of no less than one-half and no more than two-thirds of the amount established by the State agency to be needed by the sponsor as indicated in its approved administrative budget. The State agency shall forward any remaining payment due to a sponsor no later than 45 calendar days following receipt of valid claims: *Provided, however,* That the State agency shall not pay any sponsor for is final claim until the sponsor has certified that it did operate all sites approved in the administrative budget and that there has been no significant change in the projected administrative costs since the preceding claim or, in the case of sponsors which will receive only one month's advance, that there has been no significant change in the projected administrative costs since payment of the inititial advance administrative costs payments. The total Program payment paid to a sponsor for administrative costs shall not exceed the lesser of: (1) Actual expenditures incurred for administrative costs or (2) the per meal administrative rates contained in § 225.8(c) times meals by type served to eligible children.

(g) The sum of any advance operating costs payment and any advance administrative costs payment to a sponsor for one month shall not exceed $40,000: *Provided, however,* That a State agency may make advance payments totalling more than $40,000 to a sponsor for a given month if the State determines that a larger payment is necessary for the effective operation of the Program and the sponsor demonstrates sufficient administrative and management capability to justify a larger payment.

(h) Any prior Program payment which is under dispute or which is part of a demand for recovery under § 225.14(a) or § 225.14(d) shall be deducted from any advance operating costs payment or advance administrative costs payment.

(i) If the State agency has reason to believe that a sponsor will not be able to submit a valid Claim for Reimbursement covering the period for which advance operating costs payments and advance administrative costs payments have been made the subsequent month's advance operating costs payment and advance administrative costs payment shall be withheld until such time as the State agency has received a valid claim. Sponsors shall repay advance Program payments which are not subsequently deducted from a valid Claim for Reimbursement upon demand by the State agency. Any interest earned by a sponsor on advance operating costs payments and advance administrative costs payments shall be returned to the State agency. In States where FNSRO administers the Program, such interest shall be returned to FNS.

§ 225.14 Claims against sponsors.

(a) State agencies shall disallow any portion of a Claim for Reimbursement

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and Promptly recover any Program payment made to a sponsor that was not properly payable under this part. State agencies shall use their own procedures to disallow claims and recover overpayments already made. This shall include court actions, where appropriate. However, the State agency shall notify the sponsor of the reasons for any disallowance or demand, and allow the sponsor full opportunity to submit evidence on appeal as provided for in § 225.5(w). If, in the determination of FNS, a State agency has acted in conformity with the provisions of this part and has made every reasonable effort to recover any overpayment, the State agency shall not be liable for failure to collect an overpayment.

(b) The State agency shall maintain all records pertaining to action taken under this section. Such records shall be retained for a period of three years after the date of the submission of the final Financial Status Report, except that, if audit findings have not been resolved, the records shall be retained beyond the three-year period as long as required for the resolution of any issues raised in the audit.

(c) The amounts recovered by the State agency from sponsors may be utilized, first, to make Program payments to sponsors for the period for which the funds were initially available, and second, to repay any State funds expended in the payment of Claims for Reimbursement under the Program not otherwise repaid. Any amounts recovered which are not so utilized shall be returned to FNS in accordance with the requirements of this part.

(d) When a State agency disallows a Claim for Reimbursement or a portion of a claim, or makes a demand for refund of an alleged overpayment, it shall notify the sponsor of the reasons for such disallowance or demand, and the sponsor shall have full opportunity to submit evidence as provided for in § 225.5(w) or to resubmit a claim for any amount disallowed or demanded.

(e) If a State agency has reason to believe that a sponsor or food service management company has engaged in unlawful acts with respect to Program operations, evidence found in audits, investigations or other reviews shall be a basis for non-payment of Claims for Reimbursement.

Subpart D—Miscellaneous Provisions

§ 225.15 Procurement provisions.

(a) This section provides standards for use by sponsors in establishing procedures for the procurement of food, supplies, goods, and other services with Program payments. These standards are furnished to insure that such goods and services are obtained in an effective manner and in compliance with the provisions of applicable Federal laws and Executive Orders.

(b) The Standards contained in this section do not relieve the sponsor of the contractual responsibilities arising under its contracts. The sponsor is the responsible authority, without recourse to the State agency and the Department regarding the settlement and satisfaction of all contractual and administrative issues arising out of procurements entered into under the Program. This includes but is not limited to: disputes, claims, protests of award, source evaluation or other matters of a contractual nature. Matters concerning violation of law are to be referred to such local, State, or Federal authorities as may have proper jurisdiction.

(c) Sponsors may use their own procurement regulations which reflect applicable State and local law, rules and regulations: *Provided*, That procurements made with Program payments adhere to the provisions outlined in the Office of Management and Budget Circulars A-102 and A-110 and to the standards set forth as follows:

(1) The sponsor shall maintain a code or standards of conduct which shall govern the performance of its officers, employees, or agents in contracting with and expending Program payments. The officers, employees, or agents, of a sponsor shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or potential contractors on their own behalf or for others. To the extent permissible by State or local laws, rules or regulations, such standards shall provide for penalties, sanctions, or other disciplinary actions to be applied for violations of such standards by either the sponsor's officers, employees, or agents, or by contractors or their agents.

(2) All procurement transactions, regardless of whether negotiated or advertised and without regard to dollar value, shall be conducted in a manner so as to provide maximum open and free competition. The sponsor shall be alert to organizational conflicts of interest or non-competitive practices among contractors which may restrict or eliminate competition or otherwise restrain trade.

(3) All sponsors shall establish procurement procedures which provide for, as a minimum, the following procedural requirements:

(i) Proposed procurement actions shall be reviewed by sponsor's officials to avoid purchasing unnecessary or duplicative items. Where appropriate, an analysis shall be made of lease and purchase alternatives to determine which would be the most economical, practical procurement.

(ii) Invitations for bids or requests for proposals shall be based upon a clear and accurate description of the technical requirements for the material, product, or service to be procured: Such description shall not, in competitive procurements, contain features which unduly restrict competition. "Brand name or equal" description may be used as a means to define the performance or other salient requirements of a procurement, and, when so used, the specific features of the name brand which must be met by offerors should be clearly specified.

(iii) Positive efforts shall be made by the sponsors to utilize small business and minority owned business as sources of supplies and services: Such efforts should allow these sources the maximum feasible opportunity to compete for contracts to be performed utilizing Program payments.

(iv) The type of procuring instruments used (i.e., fixed price contracts, cost reimbursable contracts, purchase orders, incentive contracts, etc.), shall be appropriate for the particular procurement and for promoting the best interest of the program. The "cost-plus-a-percentage-of-cost" method of contracting shall not be used.

(v) Formal advertising, with adequate purchase description, sealed bids, and public openings shall be the required method of procurement unless negotiation pursuant to paragraph (c)(3)(vi) of this section is necessary to accomplish sound procurement. However, procurements of $10,000 or less need not be so advertised unless otherwise required by State or local law or regulations. Where such advertised bids are obtained the awards shall be made to the responsible bidder whose bid is responsive to the invitation and is most advantageous to the sponsor, price and other factors considered. (Factors such as discounts, transportation costs and taxes may be considered in determining the lowest bid.) Invitations for bids shall clearly set forth all requirements which the bidder must fulfill in order for his bid to be evaluated by the sponsor. Any or all bids may be rejected when it is in the sponsor's interest to do so, and such rejections are in accordance with applicable State and local law, rules, and regulations.

(vi) Procurements may be negotiated if it is impracticable and unfeasible to use formal advertising. Generally, procurements may be negotiated by the sponsor if:

(*a*) The public exigency will not permit the delay incident to advertising; or

(*b*) The material or service to be procured is available from only one person or firm: (All contemplated sole source procurements where the aggregate expenditure is expected to exceed $5,000 shall be referred to the State agency for prior approval); or

(c) The aggregate amount involved does not exceed $10,000; or

(*d*) The contract is for personal or professional services, or for any service to be rendered by a university, college or other educational institutions; or

(*e*) No acceptable bids have been received after formal advertising; or

(*f*) The purchases are for highly perishable materials, for materials or services where the prices are established by law, if procured at the lowest applicable price for technical items or equipment requiring standardization and interchangeability of parts with existing equipment for experimental, developmental or research work, for supplies purchased for authorized resale, and for technical or specialized supplies requiring substantial initial investment for manufacture; or

(*g*) Otherwise authorized by law, rules, or regulations. Notwithstanding the existence of circumstances justifying negotiation, competition shall be obtained to the maximum extent practicable.

(vii) Contracts shall be made only with responsible contractors who possess the potential ability to perform successfully under the terms and conditions of a proposed procurement. Consideration shall be given to such matters as contractor integrity, record of past performance, financial and technical resources, or accessibility to other necessary resources.

(viii) Procurement records or files for purchases in amounts in excess of $10,000 shall provide at least the following pertinent information: Justification for the use of negotiation in lieu of advertising, contractor selection, and the basis for the cost or price negotiated.

(ix) A system for contract administration shall be maintained to assure contractual conformance with terms, conditions, and specifications of the contract or order, and to assure adequate and timely follow-up of all purchases.

(d) The sponsor shall include, in addition to provisions to define a sound and complete agreement, the following provisions in all contracts and subcontracts:

(1) Contracts shall contain contractual provisions or conditions which will allow for administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate.

(2) All contracts in amounts which are in excess of $10,000, shall contain suitable provisions for termination by the sponsor, including the manner by which it will be effected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.

(3) All contracts awarded by sponsors and their contractors or subcontractors having a value of more than $10,000 shall contain a provision requiring compliance with Executive Order 11246, entitled "Equal Employment Opportunity", as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Part 60).

(4) Where applicable, all contracts awarded by sponsors in excess of $2,500, which involve the employment of mechanics or laborers shall include a provision for compliance with sections 103 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR Part 5). Under section 103 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work day of 8 hours and a standard work week of 40 hours. Work in excess of the standard workday or work-week is permissible: *Provided*, That the worker is compensated at a rate of not less than 1½ times the basic rate of pay for all hours worked in excess of 8 hours in any calendar day or 40 hours in the work week.

(5) Contracts or agreements, the principal purpose of which is to create, develop, or improve products, processes or methods, or for exploration into fields which directly concern public health, safety, or welfare, or contracts in the field of science or technology in which there has been little significant experience outside of work funded by Federal assistance, shall contain a notice to the effect that matters regarding rights to inventions, and materials generated under the contract or agreement are subject to the regulations issued by the Department and the sponsor. The contractor shall be advised as to the source of additional information regarding these matters.

(6) All negotiated contracts (except those of $10,000 or less) awarded by sponsors shall include a provision to the effect that the State agency, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the contractor which are directly pertinent to a specific program for the purpose of making audits, examinations, excerpts, and transcriptions.

(7) Contracts and subcontracts of amounts in excess of $100,000 shall contain a provision which requires the recipient to agree to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act of 1970. Violations shall be reported to the State agency and the Regional Office of the Environmental Protection Agency.

§ 225.16 Prohibitions.

(a) The value of benefits and assistance available under the Program shall not be considered as income or resources of recipients and their families for any purpose under Federal, State or local laws, including, but not limited to, laws relating to taxation, welfare, and public assistance programs.

(b) Expenditure of funds from State and local sources for the maintenance of food programs for children shall not be diminished as a result of funds received under the Act and a certification to this effect shall become part of the agreement provided for in § 225.3(c).

§ 225.17 Free Meal Policy.

(a) The State agency shall require each applicant sponsor to develop, at the time the applicant sponsor applies for Program participation, a written policy statement concerning free meals to be used uniformly at all sites under its jurisdiction as required in this section. Applicant sponsors shall not be approved for participation unless the free meal policy statement has been approved.

(b) A sponsor which serves all meals free to attending children shall develop a policy statement which consists of an assurance to the State agency that all children are served the same meals at no separate charge, regardless of race, color, handicap, or national origin, and that there is no discrimination in the course of the food service.

(c) A camp which serves meals at no separate charge to attending children shall develop a policy statement which consists of an assurance to the State agency that all children are served the same meals at no separate charge, regardless of race, color, or national origin and that there is no discrimination in the course of the food service.

(d) A camp which charges separately for meals shall develop a policy statement for determining eligibility for free meals which shall include the following:

(1) The specific criteria to be used in determining eligibility for free meals. The camp's standards of eligibility shall be in conformity with the State's family-size and income standards for free and reduced price school meals.

(2) A description of the method or methods to be used in accepting applications from families for free meals.

(3) A description of the method or methods to be used to collect payments from those children paying the full price of the meal which will pro-

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tect the anonymity of the children receiving a free meal.

(4) An assurance that the camp will establish a hearing procedure which provides: (i) A simple, publicly announced method for a family to make an oral or written request for a hearing; (ii) an opportunity for the family to be assisted or represented by an attorney or other person in presenting its appeal; (iii) an opportunity to examine, prior to and during the hearing, the documents and records presented to support the decision under appeal; (iv) that the hearing shall be held with reasonable promptness and convenience to the family and that adequate notice shall be given to the family as to the time and place of the hearing; (v) an opportunity for the family to present oral or documentary evidence and agreements supporting its position without undue interference; (vi) an opportunity for the family to question or refute any testimony or other evidence and to confront and cross-examine any adverse witnesses; (vii) that the hearing shall be conducted and the decision made by a hearing official who did not participate in making the decision under appeal; (viii) that the decision of the hearing official shall be based on the oral and documentary evidence presented at the hearing and made a part of the hearing record; (ix) that the family and any designated representatives shall be notified in writing of the decision of the hearing official; (x) that a written record shall be prepared with respect to each hearing, which shall include the decision under appeal, any documentary evidence and a summary of any oral testimony presented at the hearing, the decision of the hearing official, including the reasons therefor, and a copy of the notification to the family of the decision of the hearing official; and (xi) that such written record of each hearing shall be preserved for a period of three years and shall be available for examination by the family or its representatives at any reasonable time and place during such period.

(5) An assurance that there will be no identification of free meal recipients and no discrimination against any child on the basis of race, color, handicap, or national origin.

(e) The hearing procedure prescribed under paragraph (d)(4) of this section shall be followed when a camp challenges the eligibility of any child for a free meal. During the pendency of the challenge, the child shall continue to receive the free meal to which he is entitled under the eligibility standards announced by the camp based upon the information supplied in the application made by the family.

(f) Each sponsor shall make available on an annual basis to the information media serving the area from which the sponsor draws its attendance a public release announcing the availability of free meals to children. Each camp shall make available on an annual basis to all participants an announcement of the availability of free meals to children meeting the approved eligibility criteria. The public announcement must also state that meals are available to all children in attendance without regard to race, color, or national origin.

§ 225.18 Other provisions.

(a) *Grant closeout procedures.* Grant closeout procedures for the Program shall be in accordance with Attachment K of the Office of Management and Budget Circular A-110 (41 FR 32016, July 30, 1976), or Attachment L of the Office of Management and Budget Circular A-102 (42 FR 45828, September 12, 1977), whichever is applicable.

(b) *Termination for cause.* The Department may terminate a State agency's participation in the Program in whole, or in part, whenever it is determined that the State agency has failed to comply with the conditions of the Program. The Department shall promptly notify the State agency in writing of the termination and reason for the termination, together with the effective date and shall allow the State 30 calendar days to respond. In instances where the State does respond the Department shall inform the State of its final determination no later than 30 calendar days after the State responds. A State agency shall terminate a sponsor's participation in the Program by written notice whenever it is determined by FNS or the State agency that the sponsor has failed to comply with the conditions of the Program. When participation in the Program has been terminated for cause, any funds paid to the State agency or a sponsor or any recoveries by FNS from the State agency or by the State agency from a sponsor shall be in accordance with the legal rights and liabilities of the parties.

(c) *Termination for convenience.* The Department and the State agency may terminate the State agency's participation in the Program in whole, or in part, when both parties agree that the continuation of the Program would not produce beneficial results commensurate with the further expenditure of funds. The two parties shall agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated. The State agency shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations, as possible. The Department shall allow full credit to the State agency for the Federal share of the noncancellable obligations properly incurred by the State agency prior to termination. A State agency may terminate a sponsor's participation in accordance with this paragraph.

(d) *State requirements.* Nothing contained in this part shall prevent a State agency from imposing additional operating requirements which are not inconsistent with the provisions of this part: *Provided, however,* That such additional requirements shall not deny the Program to an area in which poor economic conditions exist, and shall not result in a significant number of needy children not having access to the Program. The State agency shall, prior to imposing any additional requirements, receive approval from FNSRO.

§ 225.19 Program information.

Persons desiring information concerning the Program may write to the appropriate State agency or Regional Office of FNS as indicated below:

(a) In the States of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont: New England Regional Office, FNS, U.S. Department of Agriculture, 33 North Avenue, Burlington, Massachusetts 01803.

(b) In the States of Delaware, District of Columbia, Maryland, New Jersey, New York, Pennsylvania, Puerto Rico, Virginia, Virgin Islands, and West Virginia: Mid-Atlantic Regional Office, FNS, U.S. Department of Agriculture, One Vahlsing Center, Robbinsville, New Jersey 08691.

(c) In the States of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee: Southeast Regional Office, FNS, U.S. Department of Agriculture, 1100 Spring Street, NW., Atlanta, Georgia 30309.

(d) In the States of Illinois, Indiana, Michigan, Minnesota, Ohio and Wisconsin: Midwest Regional Office, FNS, U.S. Department of Agriculture, 536 South Clark Street, Chicago, Illinois 60605.

(e) In the States of Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming: Mountain Plains Regional Office, FNS, U.S. Department of Agriculture, 2420 West 26th Avenue, Room 430D, Denver, Colorado 80211.

(f) In the States of Arkansas, Louisiana, New Mexico, Oklahoma, and Texas: Southwest Regional Office, FNS, U.S. Department of Agriculture, 1100 Commerce Street, Room 5-C-30, Dallas, Texas 75242.

(g) In the States of Alaska, American Samoa, Arizona, California, Guam, Hawaii, Idaho, Nevada, Oregon, Trust Territory of the Pacific Islands, the Northern Mariana Islands, and Washington: Western Regional Office, FNS, U.S. Department of Agriculture, 550 Kearny Street, Room 400, San Francisco, California 94108.

(Catalog of Federal Domestic Assistance Programs No. 10.559)

NOTE.—A final impact analysis statement has been prepared and can be obtained by contacting Jordan Benderly, Director, Child Care and Summer Programs Division, FNS, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-9072.

The reporting and/or recordkeeping requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

Dated: December 26, 1978.

CAROL TUCKER FOREMAN,
Assistant Secretary for Food and Consumer Services.

[FR Doc. 78-36365 Filed 12-29-78; 8:45 am]

[3410-08-M]

CHAPTER IV—FEDERAL CROP INSURANCE CORPORATION, DEPARTMENT OF AGRICULTURE

[Amdt. No. 97]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

FLUE CURED TOBACCO POUNDAGE QUOTA ENDORSEMENT

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: This rule amends the Flue Cured Tobacco Poundage Quota Endorsement to provide that the flue cured tobacco support price for the previous crop year be used by the Federal Crop Insurance Corporation to establish the amount of insurance, rather than the current crop year support price, starting with the 1979 crop year.

EFFECTIVE DATE: January 2, 1979.

FOR FURTHER INFORMATION CONTACT:

Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, 202-447-3325.

SUPPLEMENTARY INFORMATION: On Monday, August 28, 1978, there was published in the FEDERAL REGISTER (43 FR 38411) a notice of proposed rule making by the Federal Crop Insurance Corporation which would amend the Flue Cured Tobacco Poundage Quota Endorsement to provide that the flue cured tobacco support price for the previous crop year be used to established the amount of insurance rather than the current crop year's support price.

The public was given 60 days in which to submit written comments, data, and views on this proposal. One comment was received from the American Farm Bureau Federation which took issue with the Corporation's determination to use the previous crop year's support price in computing the amount of insurance coverage. The Tobacco Advisory Committee of the American Farm Bureau Federation recommended to the Bureau that it oppose the proposed regulation on the grounds that, according to the comments, the U.S. Department of Agriculture announces the average level of price support for flue cured tobacco about March 1, with the final support price announced before harvest, or about the first week in July, thus affording the Corporation enough time to determine premium, coverage, and value.

In its direct reply to the Bureau, the Corporation pointed out that, although the preliminary support prices are normally announced earlier, the final support price has not been available usually until May. The insurance contract provides that current insureds must decide by January or February whether they wish to continue their insurance for the next crop year. The Corporation is presently unable to tell producers with any certainty what level of dollar protection they will have until the final support prices are announced. The same difficulty exists with those producers who do not have the insurance, but who are considering getting it. The final support price is generally announced well past the final date for accepting applications for insurance for a particular crop year. In either case, the Corporation is only able to provide preliminary support price quotation, requiring contractual revision when the final support price is announced, which results in an unsatisfactory method both for growers and the Corporation.

In its proposed rule published on August 28, 1978 (43 FR 38411), the Corporation indicated that the proposed change would allow it to disregard the bottom four leaves of flue cured tobacco (downstalk tobacco) in determining the production to count in loss adjustment when such four leaves are not harvested due to changes in the flue cured tobacco poundage quota marketing regulation revisions by the Agricultural Stabilization and Conservation Service (ASCS).

The Corporation, after reviewing this portion of the proposed rule, determined that further explanation was needed to clarify the relationship between the downstalk tobacco and the change from current to previous year's support price usage.

Under the provisions of the ASCS flue cured tobacco poundage quota marketing regulations, producers are allowed a 20 percent increase in acreage if they agree not to harvest the bottom four leaves, thus an incentive for keeping the downstalk tobacco off the market. Normally, the Corporation appraises and counts all unharvested tobacco in determining an insurance loss. In order to encourage the effort to keep this downstalk tobacco off the market, the Corporation has provided that these bottom four leaves will not be counted in determining a loss if they are not harvested. The use of the previous year's support price rather than the current year somewhat compensates the Corporation for disregarding these four bottom leaves in such cases.

The Corporation appreciates the comments submitted by the American Farm Bureau Federation in response to the notice of proposed rule making, and after giving such comments careful consideration, has determined that in view of the need to provide firm dollar figures, as explained above, that the proposed rule as published in the FEDERAL REGISTER on August 28, 1978 (43 FR 38411), will remain unchanged and that it is hereby issued as a final rule effective for the 1979 and succeeding crop years.

FINAL RULE

Accordingly, under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 et seq.), the Federal Crop Insurance Corporation hereby amends, effective with the 1979 and succeeding crop years, the Flue Cured Tobacco Poundage Quota Endorsement (7 CFR 401.150) as appearing in the FEDERAL REGISTER on December 10, 1976 (41 FR 53969), by amending such regulations as found in 7 CFR 401.150(4)(b) to read as follows:

§ 401.150 The Flue Cured Tobacco Poundage Quota Endorsement.

* * * * * * *

(b) * * *

4. *Applicable poundage, amount of insurance, and premium for a unit.* * * *

(b) The amount of insurance for a unit shall be the dollar amount determined by multiplying the applicable poundage for the unit as determined in subsection (a) or (c) of this section by the applicable percentage of guarantee for the tobacco farm shown on the actuarial table for this purpose and the result by the previous year's flue cured tobacco support price per pound (rounded to

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the nearest cent) less 3 cents for warehouse charges.

* * * * *

(Secs. 506 516, 52 Stat. 73, as amended, 77, as amended (7 U.S.C. 1506, 1516).)

Effective date: January 2, 1979.

Dated: December 21, 1978.

PETER F. COLE,
Secretary, Federal Crop Insurance Corporation.

Dated: December 21, 1978.

JAMES D. DEAL,
Manager.

[FR Doc. 78-36429 Filed 12-29-78; 8:45 am]

[3410-02-M]

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Lemon Reg. 179; Lemon Reg. 178, Amdt. 1]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of California-Arizona lemons that maybe shipped to the fresh market during the period Dec. 31, 1978-Jan. 6, 1979, and increases the quantity of such lemons that may be so shipped during the period December 24-30. Such action is needed to provide for orderly marketing of fresh lemons for the periods specified due to the marketing situation confronting the lemon industry.

DATES: The regulation becomes effective December 31, 1978, and the amendment is effective for the period December 24-30, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, (202) 447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under this marketing order, and upon other information, it is found that the limitation of handling of lemons, as hereafter provided, will tend to effectuate the declared policy of the act. This regulation has not been determined significant under the USDA criteria for implementing Executive Order 12044.

The committee met on December 22, 1978, to consider supply and market conditions and other factors affecting the need for regulation, and recommended quantities of lemons deemed advisable to be handled during the specified weeks. The committee reports the demand for lemons is declining.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of lemons. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 910.479 Lemon Regulation 179.

Order. (a) The quantity of lemons grown in California and Arizona which may be handled during the period December 31, 1978, through January 6, 1979, is established at 185,000 cartons.

(b) As used in this section, "handled" and "carton(s)" mean the same as defined in the marketing order.

§ 910.478 [Amended].

2. Paragraph (a) of § 910.478 Lemon Regulation 178 (43 FR 59827) is amended to read as follows: "The quantity of lemons grown in California and Arizona which may be handled during the period December 24, 1978, through December 30, 1978, is established at 200,000 cartons."

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.)

Dated: December 28, 1978.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-36466 Filed 12-27-78; 8:45 am]

[3410-02-M]

[Papaya Reg. 9]

PART 928—PAPAYAS GROWN IN HAWAII

Grade and Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation sets grade and size requirements for papayas grown in Hawaii for the 1979 season and is needed to provide orderly marketing in the interest of producers and consumers.

EFFECTIVE DATES: January 1, 1979, through December 31, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: On December 7, 1978, notice was published in the FEDERAL REGISTER (43 FR 57259) inviting written comments not later than December 22, 1978, on proposed grade and size requirements for shipments of 1979 season Hawaiian papayas, under Marketing Order No. 928 (7 CFR Part 928) regulating the handling of papayas grown in Hawaii. None were received. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

Practically all the U.S. commercial papaya production is grown in Hawaii. In recent years production has increased substantially, ranging from 15 to 30 percent per year. The fruit is not well known to consumers in many market areas, and the thrust of the committee's promotional activity carried out under the marketing agreement and order is to introduce the fruit to prospective consumers as well as to encourage increased purchases by those who already are acquainted with the fruit. To expand and to maintain markets it is essential that the fruit offered to consumers be of a quality that will result in consumer satisfaction.

The regulation is based upon an appraisal of the prospective supply and market situation for papayas during the period January 1-December 31, 1979. It is designed to assure consumers of an adequate supply of acceptable quality papayas consistent with the quality and size composition of the crop. The committee estimates that 1979 production of Hawaiian papayas will total 70.0 million pounds. Disposition objectives are for 57.0 million pounds to fresh sales and the remaining 13.0 million pounds to processing outlets. In-state fresh sales are projected at 14.5 million pounds for 1979, compared to 15.0 million pounds estimated for 1978. It is anticipated that out-of-state fresh sales will amount to 42.5 million pounds, .5 million pounds more than in 1978.

After consideration of all relevant matters presented, including the proposal in the notice and other available information, it is hereby found that the following regulation is in accordance with the marketing agreement and order and will tend to effectuate the declared policy of the act. This regulation has not been determined significant under the USDA criteria for implementing Executive Order 12044.

It is further found that good cause exists for not postponing the effective date of this regulation until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) shipments of papayas will be regulated only through December 31, 1978, by Papaya Regulation 8, as amended, and, in order to effectuate the declared policy of the act, this regulation should be effective not later than January 1, 1979, to provide continuity of regulation; (2) this regulation is the same as that which was specified in the notice to which no exceptions were submitted; and (3) compliance with this regulation will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective date thereof.

§ 928.309 Papaya Regulation 9.

Order. (a) No handler shall ship any container of papayas (except immature papayas handled pursuant to § 928.152):

(1) During the period January 1 through December 31, 1979, to any destination within the production area unless said papayas grade at least Hawaii No. 1, except that the allowable tolerances for defects shall be 5 percent: *Provided,* That not more than 3 percent shall be permitted for serious damage, not more than 1 percent for immature fruit, and not more than 1 percent for decay: *Provided further,* That such papayas individually weigh not less than 13 ounces.

(2) During the period January 1 through December 31, 1979, to any export destination unless said papayas grade at least Hawaii No. 1, except they shall be free from injury caused by bruises and free from deep scars; and scars, when scaly, cracked or not smooth, shall not aggregate a circle greater than 1 inch in diameter, or when smooth shall not aggregate more than 7.5 percent of the surface of the fruit, except that the total tolerance for all defects shall not exceed 3 percent: *Provided,* That of this amount not more than 1 percent shall be for decay: *Provided further,* That such papayas shall individually weigh not less than 11 ounces each.

(b) When used herein "Hawaii No. 1" shall have the same meaning as set forth in the Standards for Hawaii Grown Papayas, as amended, Subsection 5.32, Section 5, Regulation 1, Division of Marketing and Consumers Services, Department of Agriculture, State of Hawaii, issued pursuant to Section 147-4, Part I, and Section 147-22, Part II, Chapter 147, Title 11, Volume 3, Hawaii Revised Statutes. All other terms shall have the same meaning as when used in the marketing agreement and order.

(Secs. 1-19, 48 Stat. 31, as amended; (7 U.S.C. 601-674))

Dated: December 27, 1978, to become effective January 1, 1979.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-36452 Filed 12-29-78; 8:45 am]

[6450-01-M]

Title 10—Energy

CHAPTER II—DEPARTMENT OF ENERGY

PART 440—WEATHERIZATION ASSISTANCE FOR LOW-INCOME PERSONS

Amendment of Regulations

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy hereby amends the regulations for its program of weatherization assistance for low-income persons. The amendments are based upon experience gained in the first year of program implementation and introduce greater flexibility into the administration of the program at the State and local levels. Several of the changes permit payment with program funds of certain previously ineligible costs.

EFFECTIVE DATE: January 2, 1979.

FOR FURTHER INFORMATION CONTACT:

Mary M. Bell, Director, Office of Weatherization Assistance, Department of Energy, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20461, (202) 633-8666.

Laurence J. Hyman, Office of General Counsel, Department of Energy, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20461, (202) 633-8788.

SUPPLEMENTARY INFORMATION:

I. Introduction
II. Discussion of Comments:
(a) Issues Beyond the Scope of this Rulemaking.
(b) Expedited Effective Date.
(c) Definitions.
(d) Allowable expenditures:
1. Allowable Expenditures for Repair Materials.
2. Other Allowable Expenditures.
(e) Oversight, Training and Technical Assistance.
(f) Administrative Review.

I. INTRODUCTION

On August 4, 1978, the Department of Energy (DOE) published a proposal in the FEDERAL REGISTER, 43 FR 34493, to amend the regulations for its program of weatherization assistance for low-income persons. The regulations currently in effect were promulgated by the Federal Energy Administration (FEA) on May 25, 1977, 10 C.F.R. 440, pursuant to Part A of Title IV of the Energy Conservation and Production Act (the Act), Pub. L. 94-385, 42 U.S.C. 6861 *et. seq.* On October 1, 1977, pursuant to the DOE Organization Act, Pub. L. 95-91, 42 U.S.C. 7101 *et. seq.*, the DOE assumed the responsibility of FEA for the weatherization assistance program.

The DOE received 114 comments on the proposed amendments during the 60-day comment period, including those of the twelve individuals who testified at the public hearing held on September 6, 1978. Most commenters strongly supported the increase in flexibility in the administration of the program proposed in the August 4 notice, but suggestions were made that resulted in certain changes in the final rule. The commenters critical of the proposal asserted that the DOE needed to introduce even more flexibility in the administration of the program at the local level.

II. DISCUSSION OF COMMENTS

(A) ISSUES BEYOND THE SCOPE OF THIS RULEMAKING

A number of commenters recommended changes to the regulations which could not be implemented under the statutory authority in effect at the time of the proposal. As the result of enactment of the National Energy Conservation Policy Act (NECPA), Pub. L. 95-619, on November 9, 1978, the DOE plans soon to amend its regulations with regard to increasing the maximum expenditure per dwelling unit, raising the $50 limitation on expenditures for mechanical equipment, increasing the income eligibility criteria, and modifying the waiver procedures involving the State policy advisory councils.

A number of other comments were directed at issues beyond the scope of

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the August 4 notice. Possibly foremost among these issues was labor. As noted in the proposal, the DOE was unable to address labor comprehensively in this rulemaking because the Act requires that grantees, to the maximum extent practicable, use volunteers and training participants, and public service employment workers, pursuant to the Comprehensive Employment and Training Act of 1976 (CETA). The proposal further noted that currently the DOE is taking steps in areas largely other than modifying the regulations in order to minimize the labor problem. As an example of this effort the proposal cited the Memorandum of Understanding, among the Department of Labor, the Community Services Administration and the FEA.

Since increased funding for labor would decrease the funds available for weatherization materials, the DOE considers it inadvisable to fund labor, other than some onsite supervisory personnel, from program grants at this time. The DOE further notes that many commenters predicated part of their request for funding of labor on the belief that Congressional appropriations for CETA were to end in September 1978. CETA funding has, however, been continued through the next program year. The DOE intends to continue to monitor the labor situation to determine if changing circumstances and conditions warrant a change in the regulations.

Also beyond the scope of the current rulemaking were comments requesting that:

(1) The Regional Representative of the DOE be given the authority to waive some of the restrictions on allowable expenditures in response to local conditions.

(2) The DOE require consulation with the appropriate State Historic Preservation Officer before allowing weatherization work to proceed in buildings in a listed historic district. The DOE believes that improvements made to dwelling units under this program need not be performed in a manner inconsistent with the goals of historic preservation and encourages grantees and subgrantees to give continuing attention to these goals.

(3) The DOE waive the requirement of § 440.15(b)(1) that the written permission of the property owner be obtained before weatherizing rental dwelling units in those cases in which the owner has abandoned the building or the municipality has seized title for nonpayment of taxes.

(4) The DOE take steps to obtain relaxation of limits prescribed by the department of the Treasury on the time a State can hold grant funds before disbursing them to its subgrantees.

(5) The DOE reduce some of the paperwork required to determine the weatherization work to be performed on a dwelling unit. While the DOE wants to avoid program red tape, it also considers it important to have a record of the actual condition of dwelling units used as a basis for weatherization activities.

(6) The DOE allow weatherized homes to be revisited to allow repairs to furnaces and materials previously installed.

(7) The DOE increase the present 10 percent allowance for administrative costs.

(8) The DOE revise the standards for weatherization materials eligible under the program.

The DOE will consider these comments to determine if they need to be addressed in subsequent rulemakings.

(B) EXPEDITED EFFECTIVE DATE

The DOE specifically solicited comments on the advisability of an expedited effective date for the final rule. The eleven commenters addressing this issue unanimously urged that the DOE make the final amendments effective on the date of publication or only very shortly thereafter. After considering these comments and the need for an early effective date demonstrated by the subgrantees, the DOE is setting the effective date as the date of publication of the final rule in the FEDERAL REGISTER.

(C) DEFINITIONS, § 440.3

The DOE received fifteen comments on the proposed addition of a definition of "repair materials." The commenters supported the addition of the term "repair materials" and its inclusion within the allowable expenditures for "weatherization materials." However, some took exception to the characterization of some items designated in the definition as "repair materials." Chief among these items were "windows and doors to replace those which cannot be repaired • • •." Commenters stated that such items reduced infiltration, a prerequisite for any other weatherization work to be effective, and therefore were properly considered "weatherization materials." Commenters also suggested restricting the definition to certain specific items.

The DOE notes that it proposed a definition of repair materials to allow repairs "incidental to the weatherization work but • • • nevertheless necessary for the weatherization work to be properly performed • • •." Consideration of the comments has led the DOE to agree that "windows and doors to replace those which cannot otherwise be repaired" are not incidental to the weatherization work, but rather an integral part of the work to be performed. The DOE has, therefore, removed this language from the final definition of "repair materials." This change will allow replacement of windows or doors, which will be treated as weatherization materials when the replacement is "intended primarily to improve the heating or cooling efficiency of a dwelling unit • • •"

The DOE has decided, however, not to remove from the definition of repair materials the language restricting the use of protective materials, such as paint, to the sealing of other materials installed under this program. The DOE remains concerned about the potential for abuse were there not some limitation on the use of protective materials.

Regarding the definition of "weatherization materials", commenters recommended specific items, such as screens, solar film, attic fans and shades, for inclusion in the nonexclusive list of weatherization materials.

The DOE does not consider separate screens or screen doors weatherization materials, although screens are often permissible as integral parts of triple-track storm windows. Items that improve attic ventilation, such as attic fans, were included in the proposed list of "weatherization materials." However, all items, including the items listed in the definition, must in the particular case satisfy the criteria of being items "intended primarily to improve the heating or cooling efficiency of a dwelling unit" or "repair materials". In addition, as required by § 440.17 (a) and (b), all items must also meet or exceed any applicable program standards for these materials.

(D) ALLOWABLE EXPENDITURES, § 440.16

1. *Allowable expenditures for repair materials.* Forty-seven respondents addressed themselves to the proposed $100 limitation on expenditures for repair materials and repairs to the heating source. All forty-seven asserted that in many instances $100 is insufficient to meet the need for repairs to both the dwelling and the heating source. They asserted the program would incompletely remedy the problems existing in those dwellings.

The DOE recognizes that low-income persons often occupy badly deteriorated housing in need of extensive repairs or rehabilitation.

The DOE has attempted in this rulemaking to strike a reasonable balance in the proportion of grant funds used directly for weatherization and the proportion used for materials to make the weatherization work effective. It should be recognized in this regard that under the NECPA revisions to the program, incidental repairs to make the installation of weatherization materials effective are limited to $100.

Among their options for additional resources in situations where repairs to dwelling units may need to be extensive, grantees and subgrantees should consider turning to such rehabilitation funds as are available under other Federal, State or local programs.

2. *Other allowable expenditures.* Fourteen respondents addressed generally the proposed revision to § 440.16(a), Allowable Expenditures. These commenters supported the proposed greater flexibility in treating certain costs as allowable expenditures.

A total of seventeen commenters specifically addressed proposed § 440.16(a)(2), which would allow a variety of nonmaterials costs under an "umbrella" restriction of 30 percent of the grant amount exclusive of administrative expenses. Subject to the 30 percent overall limit, expenditures for any item under the "umbrella" could be at levels reflecting the needs of the particular program area. Seven commenters supported this "umbrella" approach as proposed. Ten of the seventeen, however, considered 30 percent to be insufficient, and proposed amounts up to 60 percent of the grant funds be used for program support, including labor.

The DOE believes that the 30 percent limit should not be raised at this time, preferring a trial period for the 30 percent ceiling and noting that any further increase would almost necessarily reduce amounts available for the purchase of weatherization materials. The Act is specific in its emphasis on the use of grant funds to the maximum extent practicable for the purchase of weatherization materials.

Several commenters also argued that certain specific categories of expenditures under proposed § 440.16(a)(2), because of their magnitude, should be taken out of the 30 percent "umbrella" restriction. Additionally, some commenters requested that the items included within the "umbrella" be modified in various ways.

The allocation for transportation costs, for example, was declared insufficient by some program operators with large project areas or widely dispersed program recipients. One commenter requested that the DOE allow expenditures for the maintenance and operation of tools and equipment as well as for vehicles. And one commenter suggested that the cost of employment of on-site supervisory personnel, included in the proposed 30 percent "umbrella", could be supplemented by paying any employer taxes pursuant to § 440.16(a)(5), which is not under the "umbrella" and which allows "taxes for other allowable expenditures."

The DOE intends that the term "the cost of employment of on-site supervisory personnel" comprehend all costs, including any taxes, incident to the employment of on-site supervisory personnel and has modified the final rule to clarify this matter. DOE agrees, however, that maintenance expenses for tools and equipment should be included as allowable expenses, and has therefore added an appropriate provision under the "umbrella".

Regarding transportation costs, since a program manager has substantial flexibility in allocating funds to individual items so long as their total does not exceed the 30 percent ceiling, the DOE has determined not to separate transportation costs from the other costs under the "umbrella".

Finally, one of the commenters requested that the DOE allow the expenditure of grant funds for the payment of private contractors to repair heating systems. The DOE recognizes that many local building codes require repairs to heating systems to be performed by licensed personnel. Therefore, the final rulemaking does not prohibit payment to contractors to repair heating systems, within the limits set by the $100 ceiling of § 440.16(a)(4).

(E) OVERSIGHT, TRAINING AND TECHNICAL ASSISTANCE, § 440.20

Thirty-four commenters supported a set-aside of funds for training and technical assistance to grantees and subgrantees. Two commenters stated that a 10 percent set-aside for training and technical assistance would be excessive and recommended that the amount be reduced to 3 percent of the funds appropriated.

As appropriate, the DOE will exercise its discretion to reserve up to a 10 percent set-aside for technical assistance, but will provide only as much training and technical assistance as is necessary. The DOE anticipates that successively less money will be required for technical assistance as grantees and subgrantees acquire experience in performing weatherization activities.

One commenter suggested modifying proposed § 440.20(e) to provide for a comprehensive national plan for implementation through "the entities with a demonstrated capacity in developing and implementing appropriate technology." The DOE does not believe it advisable in this rule to narrow its discretion in using technical assistance funds. Therefore, the DOE is retaining the change to § 440.20 as proposed.

(F) ADMINISTRATIVE REVIEW, § 440.30

With respect to appeals by State or local applicants of adverse determinations of Regional Representatives, a change within § 440.30(h) was proposed to provide: "If no action has been taken by the Secretary after the expiration of the 21-day working period, the Secretary shall be deemed to have approved the determination of the Regional Representative." Commenters asked that the Secretary be required to act upon all such determinations by Regional Representatives. The DOE believes that even if the Secretary does not take specific action to indicate his position on a particular appeal, the interests of the State or local applicant are well served. The change in § 440.30 is intended to clarify that final agency action has been taken on a particular appeal if the Secretary takes no action within 21 working days.

This rule was developed in accordance with Executive Order 12044, "Improving Government Regulations." In compliance with the Executive Order, the proposal received a 60-day public comment period, and a regulatory analysis was determined not to be necessary.

Pursuant to the National Environmental Policy Act of 1969, as amended, 42 U.S.C. § 4321 *et. seq.*, the environmental impacts associated with implementation of the weatherization program were reviewed in a programmatic environmental assessment which was made available to the public on March 31, 1977. DOE has determined that no further environmental review is necessary to support issuance of these regulations.

(Energy Conservation and Production Act, Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-295, as amended; Department of Energy Organization Act, Pub. L. 95-91; Executive Order 12009; Executive Order 12044)

In consideration of the foregoing, Part 440 of Chapter II of Title 10 of the Code of Federal Regulations is amended as set forth below, effective January 2, 1979.

Issued in Washington, D.C., December 27, 1978.

OMI WALDEN,
Assistant Secretary, Conservation and Solar Applications, Department of Energy.

§ 440.3 [Amended]

1. Section 440.3 is amended by deleting the definitions of "Administrator" "FEA" and "Regional Administrator" and by adding, in the appropriate alphabetical order, definitions of "DOE", "Regional Representative", "Repair materials", "Secretary" and "Skirting" as follows:

• • • • •

"DOE" means the Department of Energy.

• • • • •

"Regional Representative" means a Regional Representative of the Department of Energy.

• • • • • •

"Repair materials" means items necessary for the effective performance or preservation of other weatherization materials. Repair materials include, but are not limited to, lumber used to frame or repair windows and doors which could not otherwise be caulked or weatherstripped; roofing materials used as a patch to repair leaks which would damage insulation installed under this program; materials used as a patch to reduce infiltration through the building envelope; and protective materials, such as paint, to seal materials installed under this program.

• • • • • •

"Secretary" means the Secretary of the Department of Energy.

• • • • • •

"Skirting" means material used to border the bottom of a dwelling unit to prevent infiltration.

• • • • • •

2. Section 440.3 is further amended by revising the definition of "Weatherization materials" to read as follows:

• • • • • •

"Weatherization materials" means items intended primarily to improve the heating or cooling efficiency of a dwelling unit and repair materials. Weatherization materials include, but are not limited to, ceiling, wall, floor, and duct insulation; vapor barriers; storm windows and doors; items to improve attic ventilation; skirting; and caulking and weatherstripping. Weatherization materials do not include mechanical equipment valued in excess of $50 per dwelling unit.

3. Part 440, Weatherization Assistance for Low-Income Persons, is amended by changing all references to the terms "Administrator", "FEA" and "Regional Administrator" to "Secretary", "DOE" and "Regional Representative", respectively.

§ 440.10 [Amended]

4. Section 440.10, paragraph (b), is amended by inserting the words "from available funds" between the words "State" and "as follows" in the initial clause.

§ 440.16 [Amended]

5. Section 440.16, paragraph (a), is revised to read as follows:

(a) To the maximum extent practicable, the grant funds provided to a grantee under this part shall be used for the purchase of weatherization materials. Allowable expenditures under this part include only the following—

(1) The cost of purchase, delivery, and storage of weatherization materials;

(2) An amount, not to exceed 30 percent of the grant funds to be used for allowable expenditures exclusive of administrative expenses, for—

(i) Transportation of weatherization materials, tools, equipment, and work crews to a storage site and to the site of weatherization work;

(ii) Maintenance, operation, and insurance of vehicles used to transport weatherization materials;

(iii) Maintenance of tools and equipment;

(iv) Purchase or annual lease of tools, equipment, and vehicles, except that any purchase of vehicles shall be referred to the DOE for prior approval in every instance; and

(v) The cost of employment of onsite supervisory personnel;

(3) The cost of liability insurance for weatherization projects for personal injury and for property damage;

(4) The cost, not to exceed $100 per dwelling unit, of—

(i) Repair materials; and

(ii) Repairs to heating sources;

(5) Taxes related to other allowable expenditures, except this cost of employment of on-site supervisory personnel; and

(6) Allowable administrative expenses under paragraph (b) of this section.

6. Section 440.16, paragraph (b), is amended by deleting the third sentence.

§ 440.20 [Amended]

7. Section 440.20 is amended by revising the section heading to read "Oversight, Training and Technical Assistance" and by adding a new paragraph (e) to read as follows:

• • • • • •

(e) The Secretary may reserve from the funds appropriated for any fiscal year an amount, not to exceed 10 percent, to provide, directly or indirectly, training and technical assistance to any grantee or subgrantee.

§ 440.30 [Amended]

8. Section 440.30(h) is amended by revising the last sentence to read as follows:

• • • • • •

If no action has been taken by the Secretary after the expiration of the 21-working-day period, the Secretary shall be deemed to have approved the determination of the Regional Representative.

[FR Doc. 78-36469 Filed 12-28-78; 2:57 pm.]

[8025-01-M]

Title 13—Business Credit and Assistance

CHAPTER I—SMALL BUSINESS ADMINISTRATION

PART 121—SMALL BUSINESS SIZE STANDARDS

Procedures for Size Determinations; Correction

AGENCY: Small Business Administration.

ACTION: Final rule; Correction.

SUMMARY: This corrects a final rule published in the FEDERAL REGISTER on March 31, 1978 (43 FR 13498) relating to procedures for size determinations.

DATE: Effective January 2, 1979.

FOR FURTHER INFORMATION CONTACT:

Stephen Klein, Office of General Counsel, Small Business Administration, Washington, D.C. 20416, 202-653-6762.

In FR Doc. 78-8489 appearing at page 13498 in the issue for Friday, March 31, 1978, on page 13499 the amendment to Section 121.3-2 (u) should have read "Section 121.3-2 (v) is amended • • •" and para (u) should have read "(v) 'Protest' means • • •"

Dated: December 26, 1978.

OLETA F. WAUGH,
Federal Register Liaison Officer.

[FR Doc. 78-36432 Filed 12-29-78; 8:45 am]

[8025-01-M]

[Rev. 13, Amdt. 25]

PART 121—SMALL BUSINESS SIZE STANDARDS

Special Salvage Timber Sales (SSTS) Set-Aside for Preferential Treatment for Small Business Concerns

AGENCY: Small Business Administration.

ACTION: Final Rule.

SUMMARY: This document establishes the basic rule governing the administration of the Special Salvage Timber Sales (SSTS) program effective with publication. The purpose of the SSTS program and its implementation is to assist qualified small business logging and timber manufacturing firms to operate on additional salvage timber volume designated by the U.S. Forest Service (USFS). Set-aside sales preferentially offered under this SBA/USFS joint SSTS program are separate and distinct from the existing small business set-aside program involving USFS timber. The SBA/USFS will jointly test the SSTS program on a limited number of forests during Calendar Year 1979. Changes to the program are dependent on the test results and annual review. It is anticipated that the program will be expanded nationally upon completion of the test and reviewed annually for 2 succeeding years to ensure the program fulfills its intended purpose. The SSTS size standard and related supplementary information are outlined below. Applicable USFS policy and procedures are being published as a separate FEDERAL REGISTER notification.

EFFECTIVE DATE: January 2, 1979.

FOR FURTHER INFORMATION CONTACT:

Roland E. Berg, Chief, Property Sales Assistance Division, Telephone: (202) 753-6078/6079.

SUPPLEMENTARY INFORMATION:

GENERAL

On October 3 and 20, 1978, the SBA and USFS published proposed rules and policy which outlined operating procedures for administering the SSTS program. The adopted test program, as outlined below, is essentially as proposed and as discussed during public meetings held prior to publication of the proposed program. The test forests are outlined in the USFS Federal Register notification, which is being published under separate cover.

SUMMARY OF COMMENTS

The majority of comments received supported the proposed program. Comments received primarily addressed the following: The application of the 30/70 rule was questioned by several respondents, was generally supported by mill operators, and opposed as too restrictive by small loggers. This procedure requires that no more than 30 percent of the sale sawtimber volume can be sold to firms with more than 500 employees. The adopted policy provides for general application of the 30/70 requirement except where it is determined that a competitive market for the logs does not exist. This determination will be made jointly by USFS/SBA representatives. Crediting of the SSTS volume by size of the ultimate manufacturer to the 6-month analysis for the regular set-aside program (500-employee size standard) was challenged by many. Consideration was given to excluding this volume; however, with the adoption of the 30/70 rule and the charging of all SSTS volume to the size of the manufacturer, charging of volume was considered equitable. A major concern addressed was making available additional volume by the USFS, particularly that timber volume reported as going to waste in the forests. It was agreed that the National Forest Management Act of 1976 (NFMA-76) would, through the use of salvage funds, provide for the generation of the additional timber necessary to support the SSTS program; several comments were addressed at establishing an individual SSTS volume limit. Based on other program limitations, it was agreed that this is not appropriate for the test and would restrict sound USFS sales management. There were no comments received regarding the use of a size standard other than the proposed SSTS 25-employee ceiling. All of the comments received were carefully considered. All of the proposed procedures are subject to USFS/SBA review and appropriate revisions as a result of the test program.

PROGRAM GUIDELINES

The special guidelines to be followed in the establishment and implementation of a 1-year pilot test of the program are: (a) The applicable SBA size standard definition for eligible concerns is to limit this program to a small business concern that: (1) Is primarily engaged in the logging or forest products industry, (2) is independently owned and operated, (3) is not dominant in its field of operation, and (4) together with its affiliates, its number of employees has not exceeded 25 persons during any pay period for the past 12 months; (b) funding for the SSTS program would generally come from the revolving salvage sale account established by the National Forest Management Act of 1976, and that account would not be limited to the SSTS program; (c) "salvage" would be defined as "insect-infested, dead, damaged, or down timber" as provided in the National Forest Management Act; (d) in general, the 30/70 rule will apply to the SSTS program. This rule requires that no more than 30 percent of the advertised sawtimber volume of a given sale may be manufactured by concerns exceeding 500 employees. Exception to the rule will be agreed to by the appropriate SBA area industrial specialist and the USFS representative. The prime basis for exception to the 30/70 rule will be where competition for manufacturing is lacking; competition is considered to exist where there are two or more qualified mills in the market area. The advertised sawtimber volume for SSTS program purchases by nonmanufacturers will be accounted for and be credited to large or small business based on the estimated distribution for manufacturing purposes. The crediting to the appropriate industry size, based on anticipated distribution, insures full compatibility with the small business timber set-aside 6-month period analyses; (e) specific individual sale volume limits will not be prescribed but sales of sawtimber will be defined and conducted as follows: (1) Sale period no more than 1 year, (2) sale will involve only minor road construction or other improvements, (3) sale will not include catastrophic damage, (4) relatively small sales to be completed by SSTS defined logger/forest products concerns of average capability in the area, (5) sales will be jointly selected by the appropriate Forest Service and the respective SBA representatives and will be comprised of timber normally used by small business in the market area, (6) sales procedures will include self-certification. Appropriate reports will be required to permit monitoring of the program, (7) bidding procedures and other applicable requirements, unless otherwise stated above, will be in accordance with existing procedures/regulations; (f) the program will be tested in limited number of forests in order to allow flexibility and alterations which may be necessary in the development of specific limits and controls applicable to the new program. Results can be reviewed during and after the prescribed 1-year test period, and accommodations made; (g) appropriate rule/manual changes will be jointly developed by SBA/USFS to describe the program.

RULE CHANGE

The rule change is to be implemented on a test basis initially, is a rule adding to, and not substituting for, present rules and regulations defining small business concerns for the sale of Government-owned property (timber). The additional definition of small business concerns eligible to purchase small business preferentially treated sales applies only to those U.S. Forest Service Sales designated as special salvage timber sales (SSTS). Accordingly, § 121.3-9 is amended by adding new paragraphs as follows:

§ 121.3-9 Definition of small business for sales of Government property.

• • • • • •

(c) Special salvage timber sales, (1) in connection with sale of Government-owned special salvage timber, designated by the USFS as SSTS, a small business is a concern that:

(i) Is primarily engaged in the logging or forest products industry;

(ii) Is independently owned and operated;

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(iii) Is not dominant in its field of operation; and

(iv) Together with its affiliates, its number of employees does not exceed 25 persons during any pay period for the last 12 months.

(2) In the case of Government-owned special salvage timber reserved for or involving preferential treatment of small businesses, restricting the disposal of timber and, when the special salvage timber being purhased is to be resold, a concern is a small business when: (i) It is a small business within the meaning of paragraph (c)(1) of this section, and (ii) it agrees that it will not sell to a concern which is not a small business within the meaning of paragraph (b)(1) of this section more than 30 percent of such timber or, in the case of timber from certain geographical areas set forth in schedule E of this part, more than the percentage established therein for such area. The term "sell" includes but is not limited to the exchange of sawlogs for sawlogs on a product-for-product basis with or without monetary adjustment, and an indirect transfer such as the sale of the assets of (or a controlling interest in) a concern after it has been awarded one or more set-aside sales of timber. Under the latter circumstances, if, after being awarded a set-aside sale of timber a small business concern merges with or becomes subject to the control of a large business, so much of such timber (or sawlogs therefrom) shall be sold to one or more small businesses as is necessary for compliance with the 30 percent (50 percent in Alaska) restriction.

(3) In the case of Government-owned special salvage timber reserved for or involving preferential treatment of small businesses, restricting the disposal of timber, and when the special salvage timber purchased is not to be resold in the form of sawlogs to be manufactured into lumber and timbers, a concern is a small business when (i) it meets the criteria contained in paragraph (c)(1) of this section, and (ii) it agrees that in manufacturing lumber or timbers from such sawlogs cut from the Government timber, it will do so only with its own facilities or those of concerns that qualify under paragraph (b)(1) of this section as a small business. This provision assumes that the successful bidder will remain a small business until the products have been manufactured. Accordingly, if, after acquiring the set-aside sale the bidder is purchased by, becomes controlled by, or merged with a large business, so much of such timber (or sawlogs therefrom) as is necessary shall be sold to one or more small businesses for compliance with the 30 percent (50 percent in Alaska) restriction. Any concern which self-certifies as a small business concern for the purpose of award under a small business set-aside sale of Government timber is expected to maintain evidence that it did so in good faith. Accordingly, such a concern will have to maintain for a period of 3 years the name, address, and size status of each concern to whom the timber or sawlogs were sold or disposed, and the log species, grades, and volumes involved. Such concern, and any subsequent small business concern that acquires the sawlogs, also shall require its small business purchasers to maintain similar records for a period of 3 years. Further, if the timber purchased is not to be resold in the form of sawlogs but is to be manufactured into lumber or timbers by a concern other than the bidder, the bidder must maintain records to show the name, address, and size status of the concern manufacturing the sawlogs into lumber or timbers.

(4) In the case of Government-owned special salvage timber reserved for or involving preferential treatment of small businesses, the special salvage timber may be disposed of without restriction when there are less than two qualified mills in the market area.

Dated: December 26, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-36433 Filed 12-29-78; 8:45 am]

[4910-13-M]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 78-EA-69; Amdt. 39-3383]

PART 39—AIRWORTHINESS DIRECTIVES

Piper Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) applicable to Piper PA-36-285 type airplanes and requires an inspection and repair where necessary of the wing spar carry through assembly for damage. The purpose of the inspection is to preclude structural weakness in the wing.

DATE: January 2, 1979. Compliance is required as set forth in the AD.

ADDRESSES: Piper Service Bulletins may be acquired from the manufacturer at Piper Aircraft Corporation, 820 East Bald Eagle Street, Lock Haven, Pennsylvania 11745.

FOR FURTHER INFORMATION CONTACT:

J. Maher, Airframe Section, AEA-212, Engineering and Manufacturing Branch, Federal Building, J.F.K. International Airport, Jamaica, New York 11430; Tel. 212-995-2875.

SUPPLEMENTARY INFORMATION: There have been reports of cumulative damage to the wing spar carry through assembly developed by fatigue testing of the wing and other field evidence of a movement between the leg of the spar cap and the spar web. Since this deficiency can develop in similar type airplanes and thus affects air safety, notice and public procedure hereon are impractical and good cause exists for making the rule effective in less than 30 days.

ADOPTION OF THE AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by issuing a new airworthiness directive, as follows:

PIPER: Applies to Piper Model PA-36-285, Serial Nos. 36-7360001 thru 36-7560003 certificated in all categories except those aircraft incorporating wing spar carry through assembly Piper P/N 76824-02.

To prevent hazards in flight associated with damage cumulating in the wing spar carry through assembly, accomplish the following:

(a) Within the next 25 hours in service from the effective date of this AD or upon the attainment of 2000 hours in service, whichever is later, unless previously accomplished within the previous 100 hours in service, and thereafter, at intervals not to exceed 100 hours in service from the last inspection, inspect the wing spar carry through assembly P/N 97370-00 in accordance with the "Instructions Section—Paragraph A" of Piper Service Bulletin No. 552 or equivalent.

(b) If damage is observed, repair in accordance with the "Instructions Section—Paragraph B" of Piper Service Bulletin No. 552, or equivalent, prior to further flight, except the aircraft may be flown in accordance with FAR 21.197 to a base where a repair can be made.

(c) Equivalent inspections and repairs must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

(d) Upon the incorporation of wing spar carry through assembly Piper P/N 76824-02, compliance with the requirements of this AD may be dispensed with.

(e) Upon submission of substantiating data by an owner or operator through an FAA Maintenance Inspector, the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region may adjust the inspection intervals specified in this AD.

EFFECTIVE DATE: This amendment is effective January 2, 1979.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, 49 U.S.C. 1354(a), 1421, and 1423; Sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c); and 14 CFR 11.89.).

Issued in Jamaica, New York, on December 19, 1978.

WILLIAM E. MORGAN,
Director, Eastern Region.

[FR Doc. 78-36243 Filed 12-29-78; 8:45 am]

[4910-13-M]

[Docket No. 78-SO-77; Amdt. No. 39-3381]

PART 39—AIRWORTHINESS DIRECTIVES

Piper Aircraft Corp., Model PA-31-350

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: There have been several reported failures of the elevator bungee spring on certain Piper PA-31-350 Navajo Chieftain aircraft. Many of these failures were discovered while inspecting the elevator bungee spring in accordance with Airworthiness Directive 78-01-02, which required a check of spring tension to insure compliance with the aircraft original specifications. One failure occurred on takeoff, impairing pilot controllability during rotation and lift-off. Since this condition could exist in other aircraft of the same type design, an airworthiness directive is being issued to require inspection or replacement of the elevator bungee spring with a spring of new design.

DATES: Effective January 5, 1979. Compliance as prescribed in body of airworthiness directive.

ADDRESSES: Piper Service Bulletin No. 626 may be obtained from Piper Aircraft Corporation, Lock Haven Division, Lock Haven, Pennsylvania 17745, telephone (717) 748-6711. A copy of Piper Service Bulletin No. 626 is located in Room 275, Engineering and Manufacturing Branch, FAA, 3400 Whipple Street, East Point, Georgia.

FOR FURTHER INFORMATION CONTACT:

Steve Flanagan, Aerospace Engineer, Engineering and Manufacturing Branch, FAA, Southern Region, P.O. Box 20636, Atlanta, Georgia 30320, telephone (404) 763-7407.

SUPPLEMENTARY INFORMATION: There have been several reported failures of the elevator bungee spring on the Piper PA-31-350 Navajo Chieftain. While many of these failures were unnoticed until the area was inspected, one pilot experienced the spring failure on takeoff rotation, with a subsequent reduction in controllability during the remainder of the takeoff. Investigation has suggested that the spring failure is caused by fatigue in the hook end of the spring. This airworthiness directive is being issued to require repetitive inspection of the spring hook ends. Replacement of the existing spring with a new design will terminate the inspections required by this airworthiness directive.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

PIPER AIRCRAFT CORPORATION: Applies to Piper PA-31-350 Navajo Chieftain, Serial numbers 31-5001 through 31-7952045, certificated in all categories. Compliance required within the next 100 hours of operation after the effective date of this AD, and within each subsequent 100 hours of operation.

To prevent adverse controllability or handling qualities due to failure of the elevator bungee spring, accomplish the following:

1. Inspect the elevator bungee spring, Piper P/N 42377-02, at the hook ends in accordance with the instructions contained in Piper Service Bulletin No. 626, dated October 26, 1978, or later revision approved by the Chief, Engineering and Manufacturing Branch, FAA, Southern Region.

2. Compliance with the provisions of this AD may be accomplished in an equivalent manner approved by the Chief, Engineering and Manufacturing Branch, FAA, Southern Region.

3. The recurrent inspections required by this AD may be terminated by replacing the elevator bungee spring Piper P/N 42377-02 with a bungee spring of new design, Piper P/N 71056-02.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

Issued in East Point, Georgia, on December 18, 1978.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc. 78-36244 Filed 12-29-78; 8:45 am]

[4910-13-M]

[Docket Number 78-CE-20-AD; Amdt. 39-3382]

PART 39—AIRWORTHINESS DIRECTIVES

Cessna Models 210G, H, J, M, N; T210G, H, J, M, N; and P210N Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: This Amendment adds a new Airworthiness Directive (AD) applicable to Cessna Models 210G, H, J, M, N; T210G, H, J, M, N; and P210N airplanes. It requires inspection of the aircraft's fuel system to determine whether the fuel quantity transmitters operate properly and the replacement thereof if erroneous fuel quantity indications attributable to these components are detected. This AD, which is of an emergency nature, is necessary because pilots who rely on erroneous fuel quantity indications may experience engine power loss due to fuel starvation. Accidents may occur during the resulting forced landing.

EFFECTIVE DATE: January 4, 1979 to all persons except those to whom it has already been made effective by airmail letter from the FAA dated November 15, 1978.

COMPLIANCE: Before next flight.

ADDRESSES: Cessna Single Engine Service Letter SE78-69, dated November 15, 1978, or later revisions, applicable to this AD, may be obtained from Cessna Aircraft Company, Marketing Division, Attention: Customer Service Department, Wichita, Kansas 67201; Telephone (316) 685-9111. A copy of the service letter cited above is contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106 and at Room 916, 800 Independence Avenue, S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

John C. Pearson, Aerospace Engineer, Engineering and Manufacturing District Office, Federal Aviation Administration, Central Region, Room 238, Terminal Building, Mid-Continent Airport, Wichita, Kansas 67209, telephone (316) 942-7927.

SUPPLEMENTARY INFORMATION: The FAA has determined that the problem described in the Summary is an unsafe condition which is likely to exist or develop in other airplanes of the same type design. Since the agency also determined that an emer-

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gency situation existed and that immediate corrective action was required, notice and public procedure thereon were impracticable and contrary to the public interest. Accordingly, all known registered owners/operators of the affected airplanes were notified of the AD by airmail letter from the FAA dated November 15, 1978. The AD became effective as to those individuals upon receipt of the notification letter. Coincident with the issuance of the emergency AD, the manufacturer issued Cessna Service Letter SE 78-69 dated November 15, 1978 which pertains to the subject matter of this AD. Since the unsafe condition described herein still exists on other Cessna Models 210G, H, J, M, N; T210G, H, J, M, N; and P210N airplanes, the AD is being published in the FEDERAL REGISTER as an amendment to Part 39 of the Federal Aviation Regulations (14 CFR Part 39) to make it effective as to all persons who did not receive the letter notification. Reference to the Cessna Service letter has also been incorporated in the AD.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Section 39.13 of the Federal Aviation Regulations (14 CFR Section 39.13) is amended by adding the following new Airworthiness Directive.

CESSNA: Applies to Models 210G, H, J (Serial Number 21058819 through 21059199); 210M, N (Serial Numbers 21062274 through 21063025); T210G, H, J (Serial Number T210-0198 through T210-0454 and 21058140); T210M, N (Serial Numbers 21062274 through 21063025); and P210N (Serial Numbers P21000001 through P210000141) airplanes.

COMPLIANCE: Required as indicated unless already accomplished. To detect binding of fuel quantity transmitter float arms and assure proper operation of the fuel quantity indicating system accomplish the following:

(A) On Models 210M, N and T210M, N (Serial Numbers 21062761 through 21063025 and P210N (Serial Numbers P21000063 through P21000141) airplanes, before next flight (except that the airplane may be flown to a location where this inspection may be accomplished, provided the pilot visually verifies through the fuel filler neck that adequate fuel is available to complete the flight), completely fill, then drain the left and right fuel tanks with the engine inoperative and the airplane stationary in the level ground attitude. Observe the fuel quantity gauge during draining and upon completion of drainage, verify that the respective fuel quantity gauge empty. Remove any Cessna P/N C668002-0101 or -0102 fuel quantity transmitter from which an erroneous fuel quantity reading is observed and check for binding of the float arm. Replace any fuel quantity transmitter found binding with an airworthy component. After replacement, check for fuel leaks and proper functioning of the fuel gauging system.

(B) For Models 210G, H, J, M (Serial Numbers 21058819 through 21059199 and 21062274 through 21062760), T210G, H, J, M (Serial Numbers T210-0198 through T210-0454, 21058140 and 21062274 through 21062760) and P210N (Serial Numbers P21000001 through P21000062) airplanes, before next flight, review the aircraft maintenance records to determine if a fuel quantity transmitter has been replaced since June 7, 1978.

(1) If a fuel quantity transmitter has not been replaced since June 7, 1978, make an entry in the aircraft maintenance records indicating that this Airworthiness Directive has been accomplished and the airplane may be returned to service.

(2) If a fuel quantity transmitter has been replaced since June 7, 1978, comply with the requirements of Paragraph (A).

(C) The review of the aircraft maintenance records required by Paragraph (B) may be accomplished by the holder of a Pilot's Certificate issued under Part 61 of the Federal Aviation Regulations on any aircraft owned or operated by that person.

(D) Any equivalent method of compliance with this AD must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region. Cessna Service Letter SE 78-69, dated November 15, 1978, or later approved revisions pertains to the subject matter of this AD.

This amendment becomes effective on January 4, 1979 to all persons except those to whom it has already been made effective by an airmail letter from the FAA dated November 15, 1978.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421 and 1423); Sec. 6(c) Department of Transportation Act (U.S.C. 1655(c)); Sec. 1189 of the Federal Aviation Regulations (14 CFR Sec. 11.89).)

NOTE.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Kansas City, Missiouri on December 18, 1978.

JOHN E. SHAW,
Acting Director,
Central Region.

[FR Doc. 78-36245 Filed 12-29-78; 8:45 am]

[4910-13-M]

[Docket No. 18603; SFAR No. 39]

PART 47—AIRCRAFT REGISTRATION

Special Federal Aviation Reguation Registration of Aircraft Owned by a Foreign Corporation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: This special regulation sets forth an application of an aircraft registration requirement of the Federal Aviation Act of 1958 to aircraft owned by a corporation which is lawfully organized and doing business under the laws of the United States or any State thereof (but does not qualify as a corporate citizen of the United States), when the aircraft is to be exclusively used in the United States during the period that it is registered in the United States. It is being issued in response to recent Congressional legislation which expanded the eligibility for aircraft registration.

DATES: Effective Date: January 2, 1979. Comments by March 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Clark H. Onstad, Esq., Chief Counsel, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591; telephone (202) 426-3773.

SUPPLEMENTAL INFORMATION:

BACKGROUND

Recent amendments to the Federal Aviation Act of 1958 expanded the eligibility requirements for aircraft registration in the United States (Act of November 9, 1977, Pub. L. 95-163, *as amended by* Act of March 8, 1978, Pub. L. 95-241). Amended Section 501(b) provides, among other things, that an aircraft is eligible for registration if it is not registered under the laws of a foreign country and it is "owned by a corporation (other than a corporation which is a citizen of the United States) lawfully organized and doing business under the laws of the United States or any State thereof so long as such aircraft is based and primarily used in the United States." Such a corporation is herein called a "foreign corporation".

The Secretary of Transportation is given the authority to define the term "based and primarily used in the United States". In his behalf, the FAA will soon issue a notice of proposed rule making, setting forth proposed regulations for the implementation of Section 501(b), including a definition of the "based and primarily used" requirement. Pending the adoption of final rules, however, the FAA has determined that it is necessary to apply Section 501(b)(1)(A)(ii) of the Act to qualified foreign corporations that wish to register aircraft that are to be operated exclusively in the United states during the period of U.S. registration.

The legislative history of Section 501(b) indicates that the "based and primarily used in the United States" limitation was incorporated into the expansion of eligibility for aircraft registration to prevent United States registry from becoming an international registry and United States aircraft registration from becoming a so-called "flag of convenience". The limitation is designed to proscribe activities by foreign corporations that own and may wish to operate U.S. registered aircraft outside of the United States. Congress recognized that a restriction had to be placed upon such corporations to insure that those aircraft were to be used primarily in the United States. To accomplish these objectives, however, it is sufficient if the "based and primarily used in the United States" limitation applies only during the time an aircraft is registered in the United States. Therefore, an aircraft owned by a qualified foreign corporation which is to be used exclusively in the United States during the period of U.S. registration is eligible for registration under Section 501(b)(1)(A)(ii).

NEED FOR IMMEDIATE ADOPTION

Since this Special Federal Aviation regulation is an interpretive rule and a statement of general policy, I find that notice and public procedure are not required and that good cause exists for making it effective in less than 30 days. However, the FAA intends to review operating experience under the special regulation. Consequently, interested persons are invited to submit such written data, views or arguments as they may desire regarding this SFAR. Communications should identify the Docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue, S.W., Washington, DC 20591. All communications received before March 1, 1979, will be considered by the Administrator and this SFAR may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the rules docket for examination by interested persons.

ADOPTION OF THE AMENDMENT

Accordingly, the following Special Federal Aviation Regulation is adopted, effective

:

Contrary provisions of Part 47 of the Federal Aviation Regulations notwithstanding, an aircraft is eligible for registration pursuant to Section 501(b)(1)(A)(ii) and (B) of the Federal Aviation Act of 1958 if it is:

(a) Owned by a foreign corporation which is lawfully organized and doing business under the laws of the United States or any State thereof;

(b) To be exclusively operated in the United States during the period that it is registered in the United States; and

(c) Not registered under the laws of any foreign country during the period that it is registered in the United States.

(Sections 313(a), 501, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1401), and Section 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).

NOTE.—The FAA has determined that this document is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Washington, D.C., on December 22, 1978.

LANGHORNE BOND,
Administrator.

[FR Doc. 78-36374 Filed 12-29-78; 8:45 am]

[4910-13-M]

[Airspace Docket No. 78-SO-35]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Controlled Airspace

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the Florida Transition Area, the South Atlantic Additional Control Area and the South Florida Additional Control Area by redefining the Florida Transition Area and the South Atlantic Additional Control Area boundaries, and by changing the lower limits of the three areas to 1,200 feet. This action provides additional controlled airspace to serve IFR helicopter operations and simplifies the area description.

EFFECTIVE DATE: February 22, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. Everett McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-3715.

SUPPLEMENTARY INFORMATION:

HISTORY

On October 2, 1978, the FAA published for comment a proposal to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to redefine the Florida Transition Area and the South Atlantic Additional Control Area, and to reduce the lower limits of these areas and the South Florida Additional Control Area to 1,200 feet (43 FR 45381). Interested persons were invited to participate in the rulemaking proceeding by submitting written comments on the proposal to the FAA. The two comments received expressed no objection to the proposal. Sections 71.163, 71.181 of Part 71 was republished in the FEDERAL REGISTER on January 3, 1978 (43 FR 348, 440).

THE RULE

This amendment to Part 71 of the Federal Aviation Regulations redefines the Florida Transition Area and the South Atlantic Additional Control Area boundaries, and reduces the lower limits of these areas and the South Florida Additional Control Area to 1,200 feet. The cumbersome definition of the Florida Transition Area is reduced to a simple one sentence description. Use of geographic coordinates to redefine the South Atlantic Control Area precisely describes the area without references to adjacent areas for its boundaries. The reduction of the lower limits of the areas provides additional controlled airspace for IFR operations at Vero Beach, Fla., and helicopter flights offshore.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, §§ 71.163 and 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (43 FR 348, 440) are amended, effective 0901 GMT, February 22, 1979, as follows:

In § 71.163, under South Atlantic, the text is amended to read as follows:

"That airspace extending upward from 1,200 feet MSL bounded by a line beginning at Lat. 24°00'00"N., Long. 80°56'20"W.; to Lat. 24°45'40"N., Long. 80°48'00"W.; thence northward 3 NM from and parallel to the shoreline to Lat. 35°29'30"N., Long. 75°24'50"W.; to Lat. 34°21'18"N., Long. 73°58'53"W.; thence southward along the New York Oceanic CTA/FIR boundary to Lat. 32°15'00"N., Long. 77°00'00"W.; to Lat. 27°00'00"N., Long. 77°00'00"W.; to Lat. 27°00'00"N., Long. 78°53'00"W.; to Lat. 26°27'00"N., Long. 79°00'00"W.; to Lat. 24°40'00"N., Long. 79°00'00"W.; to Lat. 24°00'00"N., Long. 78°00'00"W.; thence to point of beginning."

Under South Florida, "from 2,000 feet" is deleted and "from 1,200 feet" is substituted therefor.

In § 71.181, under Florida, the text is amended to read as follows:

"That airspace extending upward from 1,200 feet above the surface within the boundary of the State of Florida including the offshore airspace within 3 NM of and parallel to the shoreline of Florida."

(Secs. 307(a), 313(a) and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a) and 1510; Executive Order 10854 (24 FR 9565); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

NOTE.—The FAA has determined that this document involves a regulation which is not significant under the procedures and criteria prescribed by Executive Order 12044 and implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Washington, D.C., on December 22, 1978.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 78-36240 Filed 12-29-78; 8:45 am]

[4910-13-M]

[Airspace Docket No. 78-RM-23]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of VOR Federal Airways

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment realigns V-160 airway from Denver, Colo., to Sidney, Nebr., via an intersection of airways approximately 22 miles northwest of Akron, Colo., and changes the segment of V-263 which currently extends between Hugo, Colo., to extend from Hugo to Denver via its present intersection with V-4 airway rather than continuing northwestward to Gill, Colo. These changes cause airway alignments to conform with arrival and departure routes in the vicinity of Denver.

EFFECTIVE DATE: February 22, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C., 20591; telephone: (202) 426-3715.

SUPPLEMENTARY INFORMATION:

HISTORY

On November 24, 1978, the FAA published for comment a proposal to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to realign V-160 between Denver and Sidney via the INT of Denver 046° and Sidney 201° magnetic radials and to change a segment of V-263 to extend from Hugo to Denver via the INT of Hugo 325° and Denver 082° magnetic radials (43 FR 54943). Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. The comment received expressed no objection to the proposal. Section 71.123 of Part 71 was republished in the FEDERAL REGISTER on January 3, 1978, (43 FR 307).

THE RULE

This amendment to Part 71 of the Federal Aviation Regulations realigns V-160 and V-263 as proposed in the notice except that the Sidney, Nebr., radial defining V-160 was inadvertently given in the magnetic value rather than the true value. The correct radials were given in the summary and are used correctly herein. These two airway changes improve the traffic flow in the Denver area by converting seldom used route segments to connect with normal arrival and departure routes thereby becoming more useful.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (43 FR 307) is amended, effective 0901 GMT, February 22, 1979, as follows:

In § 71.123:

Under V-160 "to Sidney, Nebr." is deleted and "INT Denver 058° and Sidney, Nebr., 214° radials; to Sidney," is substituted therefor.

Under V-263 "Gill, Colo." is deleted and "INT Hugo 337° and Denver, Colo., 094° radials to Denver." is substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

NOTE.—The FAA has determined that this document involves a regulation which is not significant under the procedures and criteria prescribed by Executive Order 12044 and implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Washington, D.C., on December 22, 1978.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 78-36241 Filed 12-29-78; 8:45 am]

[4910-13-M]

[Airspace Docket No. 78-WE-18]

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Alteration of Jet Route

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment realigns Jet Route 72 between Peach Springs, Ariz., and Albuquerque, N. Mex., to improve air traffic flow control procedures around the Las Vegas, Nev., terminal area.

EFFECTIVE DATE: February 22, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. Lewis W. Still, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8525.

SUPPLEMENTARY INFORMATION:

HISTORY

On November 2, 1978, (43 FR 51030) the FAA proposed an amendment to Part 75 of the Federal Aviation Regulations (14 CFR Part 75) that would realign Jet Route 72, in part, from Peach Springs, Ariz., to Albuquerque, N. Mex., via Gallup, N. Mex. Presently, Jet Route 72 is aligned, in part, from Peach Springs, via Winslow, Ariz., and Zuni, Ariz., to Albuquerque. Interested persons were invited to participate in the rulemaking proceeding by submitting comments on the proposal to the FAA. One objection to the proposal was received. Subpart B of Part 75 was republished in the FEDERAL REGISTER on January 3, 1978, (43 FR 714).

THE RULE

This amendment to Part 75 of the Federal Aviation Regulations (14 CFR Part 75) realigns Jet Route J-72, in part, from Peach Springs, Ariz., to Albuquerque, N. Mex., via Gallup, N. Mex. This realignment of J-72 provides a jet route segment in an area where Las Vegas arrivals/departures are normally vectored off course during the transition phase of flight. This action eliminates the crossing airway congestion in the vicinity of Zuni, Ariz.

DISCUSSION OF COMMENTS

The Department of the Air Force objected to the proposed alignment of Jet Route J-72 because it would penetrate the Air Traffic Control Assigned Airspace that lies above the SUNNY Military Operations Area (MOA), thereby restricting military flight training missions. However, all military missions in this area are coordinated with the FAA, and excellent radar coverage will enable the FAA to provide air traffic service without derogation of the military missions.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart B of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) as republished (43 FR 714) is amended, effective 0901 GMT, February 22, 1979, as follows:

Under Jet Route No. 72.

"Winslow, Ariz.; Zuni, Ariz.;" is deleted and "Gallup, N. Mex.;" is substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

NOTE.—The FAA has determined that this document involves a regulation which is not significant under the procedures and criteria prescribed by Executive Order 12044 and implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Washington, D.C. on December 22, 1978.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 78-36275 Filed 12-29-78; 8:45 am]

[4910-13-M]

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

[Docket No. 18597; Amdt. No. 1127]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT

ACTION: Final Rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Information Center (APA-430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, may be ordered from Superintendant of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The annual subscription price is $135.00.

FOR FURTHER INFORMATION CONTACT:

William L. Bersch, Flight Procedures and Airspace Branch (AFS-730), Aircraft Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. § 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4 and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the FEDERAL REGISTER expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.m.t. on the dates specified, as follows:

1. By amending § 97.23 VOR-VOR/DME SIAPs identified as follows:

* * * *Effective February 22, 1979*

Canton, IL—Ingersoll, VOR-A, Amdt. 3
Chicago (Wheeling), IL—Pal-Waukee, VOR Rwy 16, Amdt. 16
Chicago (Wheeling), IL—Pal-Waukee, VOR/DME Rwy 16, Amdt. 2
Bad Axe, MI—Huron County Memorial, VOR Rwy 3, Amdt. 5
Bad Axe, MI—Huron County Memorial, VOR Rwy 21, Amdt. 4
Hancock, MI—Houghton County Memorial, VOR Rwy 13, Amdt. 9
Hancock, MI—Houghton County Memorial, VOR Rwy 25, Amdt. 11
Hancock, MI—Houghton County Memorial, VOR Rwy 31, Amdt. 8
Howell, MI—Livingston County, VOR Rwy 31, Amdt. 4
Lapeer, MI—Dupont-Lapeer, VOR-A, Amdt. 8
Port Huron, MI—St. Clair County Intl, VOR/DME-A, Amdt. 1

Romeo, MI—Romeo, VOR/DME-A, Amdt. 3
Westland, MI—National, VOR-A, Amdt. 4
Olivia, MN—Olivia Municipal, VOR/DME-A, Amdt. 1
Sioux Falls, SD—Joe Foss Field, VOR Rwy 15, Amdt. 11
Sioux Falls, SD—Joe Foss Field, VOR/DME or TACAN Rwy 33, Amdt. 2

• • • *Effective February 8, 1979*

Chandler, AZ—Chandler Muni, VOR Rwy 4, Original
Chandler, AZ—Stellar City Airpark, VOR Rwy 17, Amdt. 2, cancelled
Chandler, AZ—Stellar City Air Park, VOR Rwy 35, Original
Goodland, KS—Renner Field (Goodland Muni), VOR Rwy 30, Amdt. 2
Goodland, KS—Renner Field (Goodland Muni), VOR/DME Rwy 30, Original
Worthington, MN—Worthington Municipal, VOR Rwy 11, Original
Worthington, MN—Worthington Municipal, VOR Rwy 17, Amdt. 7
Worthington, MN—Worthington Municipal, VOR Rwy 29, Original
Worthington, MN—Worthington Municipal, VOR Rwy 35, Amdt. 3
Dexter, MO—Dexter Muni, VOR/DME Rwy 36, Amdt. 2
Rolla/Vichy, MO—Rolla National, VOR Rwy 22, Amdt. 5
Rolla/Vichy, MO—Rolla National, VOR/DME Rwy 4, Amdt. 1
Missoula, MT—Johnson-Bell Field, VOR-C, Amdt. 1
Missoula, MT—Johnson-Bell Field, VOR/DME-A, Amdt. 10
Missoula, MT—Johnson-Bell Field, VOR/DME-B, Amdt. 3
Ogallala, NE—Searle Field, VOR Rwy 8, Original
Ogallala, NE—Searle Field, VOR Rwy 26, Original
Burlington, NC—Burlington Muni, VOR/DME-A, Original
State College, PA—State College Air Depot, VOR-A, Amdt. 7
Big Spring, TX—Howard County, VOR Rwy 16, Amdt. 10, cancelled
Lubbock, TX—Lubbock International, VOR/DME or TACAN Rwy 26, Amdt. 6
Waco, TX—James Connally, VOR-A, Amdt. 6

2. By amending § 97.25 SDF-LOC-LDA SIAPs identified as follows:

• • • *Effective February 22, 1979*

Hancock, MI—Houghton County Memorial, LOC/DME (BC) Rwy 13, Amdt. 4
Sioux Falls, SD—Joe Foss Field, LOC (BC) Rwy 21, Amdt. 16

• • • *Effective February 8, 1979*

Goodland, KS—Renner Field (Goodland Muni), LOC Rwy 30, Amdt. 1
Kansas City, MO—Kansas City International, LOC BC Rwy 19, Original
Montgomery, NY—Orange County, LOC Rwy 3, Amdt. 2
New Bern, NC—Simmons-Nott, LOC Rwy 4, Original
Lubbock, TX—Lubbock International, LOC BC Rwy 35L, Amdt. 8

• • • *Effective January 25, 1979*

Miami, FL—Opa Locka, LOC Rwy 9L, Original
Madison, WI—Dane County Regional/Truax Field, LOC BC Rwy 18, Amdt. 7, cancelled

• • • *Effective December 6, 1978*

Kirksville, MO—Clarence Cannon Memorial, LOC Rwy 36, Amdt. 1

3. By amending § 97.27 NDB/ADF SIAPs identified as follows:

• • • *Effective February 22, 1979*

Canton, IL—Ingersoll, NDB Rwy 36, Amdt. 3
Carbondale-Murphysboro, IL—Southern Illinois, NDB Rwy 18, Amdt. 6
Monticello, IN—White County, NDB Rwy 36, Amdt. 1
Hancock, MI—Houghton County Memorial, NDB Rwy 31, Amdt. 5
Port Huron, MI—St. Clair County Intl, NDB Rwy 4, Amdt. 6
Sioux Falls, SD—Joe Foss Field, NDB Rwy 3, Amdt. 16
Luray, VA—Luray Caverns, NDB-A, Amdt. 2

• • • *Effective February 8, 1979*

Goodland, KS—Renner Field (Goodland Muni), NDB Rwy 30, Amdt. 1
Missoula, MT—Johnson-Bell Field, NDB-D, Amdt. 1
Ogallala, NE—Searle Field, NDB Rwy 8, Amdt. 3
Ogallala, NE—Searle Field, NDB Rwy 26, Amdt. 2
Middletown, NY—Randall, NDB-A, Original, cancelled
Middletown, NY—Randall, NDB Rwy 26, Orignial,
Montgomery, NY—Orange County, NDB Rwy 3, Original
Montgomery, NY—Orange Co., NDB (ADF) Rwy 3, Original, cancelled
Greeneville, TN—Greeneville Muni, NDB Rwy 5, Amdt. 2
Waco, TX—James Connally, NDB Rwy 17L, Amdt. 5
Waco, TX—James Connally, NDB Rwy 35R, Amdt. 6

4. By amending § 97.29 ILS-MLS SIAPs identified as follows:

• • • *Effective February 22, 1979*

Carbondale-Murphysboro, IL—Southern Illinois, ILS Rwy 18, Amdt. 6
Chicago (Wheeling), IL—Pal-Waukee, ILS Rwy 16, Amdt. 2
Lexington, KY—Blue Grass, ILS Rwy 22, Original
Hancock, MI—Houghton County Memorial, ILS Rwy 31, Amdt. 5
Sioux Falls, SD—Joe Foss Field, ILS Rwy 3, Amdt. 19

• • • *Effective February 8, 1979*

Missoula, MT—Johnson-Bell Field, ILS 1 Rwy 11, Amdt. 7
Missoula, MT—Johnson-Bell Field, ILS 2 Rwy 11, Amdt. 3
Columbia, SC—Columbia Metropolitan, ILS Rwy 11, Amdt. 10
Waco, TX—James Connally, ILS Rwy 17L, Amdt. 6

• • • *Effective January 25, 1979*

Madison, WI—Dane County Regional/Truax Field, ILS Rwy 18, Original

5. By amending § 97.31 RADAR SIAPs identified as follows:

• • • *Effective February 22, 1979*

Sioux Falls, SD—Joe Foss Field, RADAR-1, Amdt. 2

• • • *Effective February 8, 1979*

Houston, TX—Clover Field, Radar-1, Original, cancelled

6. By amending § 97.33 RNAV SIAPs identified as follows:

• • • *Effective February 22, 1979*

Port Huron, MI—St. Clair County Intl, RNAV Rwy 4, Amdt. 2
Port Huron, MI—St. Clair County Intl, RNAV Rwy 22, Amdt. 3

• • • *Effective February 8, 1979*

Rolla/Vichy, MO—Rolla National, RNAV Rwy 22, Original
Goodland, KS—Renner Field (Goodland Muni), RNAV Rwy 12, Amdt. 2

• • • *Effective December 6, 1978*

Kirksville, MO—Clarence Cannon Memorial, RNAV Rwy 36, Amdt. 5
Kirksville, MO—Clarence Cannon Memorial, RNAV Rwy 18, Amdt. 4

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421, and 1510); Sec. 6(c), Department of Transportation Act (49 U.S.C. § 1655(c)); and 14 CFR 11.49(b)(3).)

NOTE.—The FAA has determined that this document involves a regulation which is not significant under the procedures and criteria prescribed by Executive Order 12044 and implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Washington, D.C. on December 22, 1978.

JAMES M. VINES,
Chief, Aircraft Programs Division.

NOTE.—The incorporation by reference in the preceding document was approved by the Director of the FEDERAL REGISTER on May 12, 1969.

[FR Doc. 78-36242 Filed 12-29-78; 8:45 am]

[3510-25-M]

Title 15—Commerce and Foreign Trade

CHAPTER III—INDUSTRY AND TRADE ADMINISTRATION, DEPARTMENT OF COMMERCE

Exports of Petroleum Products from Hawaii, Guam, and United States Foreign-Trade Zones; Exports of Crude and Partially Refined Petroleum

AGENCY: Department of Commerce, Industry and Trade Administration, Bureau of Trade Regulation, Office of Export Administration.

ACTION: Final rule.

SUMMARY: These regulations establish a new General License under which petroleum products refined in United States Foreign-Trade Zones or in Guam from foreign-origin crude oil may be freely exported from those areas, provided that the details of such exports are reported to the Department of Commerce on a quarterly basis. These regulations also modify the rules applicable to the issuance of licenses to export crude and partially-refined petroleum. These changes are made to bring petroleum export regulations into conformity with the Export Administration Amendments of 1977 and to prescribe the conditions under which exports of crude petroleum in exchange for the same commodity will be considered.

DATE: December 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Converse Hettinger, Director, Short Supply Division, Office of Export Administration, Department of Commerce, Washington, D.C., 20230 (telephone 202-377-3795)

SUPPLEMENTARY INFORMATION: *Exports of Petroleum Products from Hawaii, Guam, and United States Foreign-Trade Zones* Section 108 of the Export Administration Amendments of 1977 (P.L. 95-52) adds Section 4(j) to the Export Administration Act of 1969, as amended (the "Act"). Section 4(j) excludes petroleum products refined from foreign-origin crude oil in United States Foreign-Trade Zones or in the Territory of Guam from any quantitative export restrictions imposed pursuant to the short supply provision of the Act (Section 3(2)(a)), "except that, if the Secretary of Commerce finds that a product is in short supply, the Secretary of Commerce may issue such rules and regulations as may be necessary to limit exports."

Section 377.6(d)(9) of the Export Administration Regulations (15 CFR § 377.6(d)(9)) currently provides for the export, without quantitative restriction, of petroleum products refined from foreign-origin crude petroleum form the Territory of Guam and the State of Hawaii (including Foreign-Trade Subzone No. 9A) when such products are refined in these areas. However, under the current procedures the exporter must obtain a validated export license and furnish—as a precondition to the issuance of such license—evidence that the petroleum products to be exported are surplus to the needs of the local economy (including the ships' bunker and aviation fuel markets) and local Department of Defense procurement needs.

While the exemptions and procedures presently contained in Sections 377.6(d)(9) and (e)(8), of the Regulations are continued with respect to exports from the State of Hawaii, the new regulations permit exports of petroleum products refined from foreign-origin crude oil in the Territory of Guam and United States Foreign-Trade Zones. Exports of such petroleum products from these areas may hereafter be made under a new General License, designated G-FTZ. Exporters using this General License are required, however, to submit reports to the Office of Export Administration at the end of each calendar quarter in which such General License was used. These reports will give details of export transactions and other information. The information contained in these reports will assist the Department in determining whether the commodities exported are in "short supply" within the meaning of Section 4(j) of the Act.

The new regulations also authorize the reexport under certain conditions of petroleum products which were first exported from the United States under this new General License.

Exports of Crude or Partially Refined Petroleum. With limited exceptions Section 110 of the Export Administration Amendments of 1977 prohibits the export of domestically-produced crude oil transported by pipeline over rights-of-way granted pursuant to Section 28(u) of the Mineral Leasing Act of 1920 unless the President makes and publishes an express multi-part finding as described below and reports that finding to the Congress as an energy action pursuant to Section 551 of the Energy Policy and Conservation Act (42 U.S.C. 6421). Unless extended, Section 110 will expire on June 22, 1979.

When Section 110 was enacted, exports of certain domestically-produced crude oil were already subject to export restrictions contained in three statutes: (1) Section 28(u) of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185); (2) Section 103 of the Energy Policy and Conservation Act of 1975 (42 U.S.C. 6212); and (3) Section 201 of the Naval Petroleum Reserves Production Act of 1976 (10 U.S.C. 7430). These three statutory provisions are already reflected in the Export Administration Regulations.

Section 110 left these three prior statutory provisions unchanged but added a tighter restriction on exports of domestically-produced crude oil which is transported by pipeline as described above.

While the provisions of Section 110 are similar to those contained in these earlier statutes, the substance of the President's finding and the requirement for Congressional review are different. Section 110 provides that no export based on a Presidential finding may take place until either both Houses of Congress have passed a resolution approving the proposed export, or neither House has passed a resolution disapproving such export during a period of 60-calendar days during which both Houses of Congress are in continuous session. Excepted from the foregoing restriction are *exchanges of similar quantity* for convenience or increased efficiency of transportation with persons or the government of an adjacent foreign state and temporary exports across parts of an adjacent foreign state which reenter the United States.

The new regulations incorporate the Section 110 provision and, in addition, they provide for consideration of applications to export crude or partially-refined petroleum not subject to the statutory restrictions in exchange for crude petroleum other than as part of a transaction carried out with persons or the government of an adjacent foreign state.

Waiver of Proposed Rulemaking Procedures and Invitation for Comment. The requirements for notice of proposed rulemaking and opportunity for comment are waived by the Department pursuant to Section 8 of the Export Administration Act of 1969, as amended. In addition, the Department has found that: (1) under the Energy Policy and Conservation Act, compliance with such procedures would seriously impair the Department's ability to maintain effective and timely controls over exports of petroleum and petroleum products; (2) the restrictions contained in Section 110 are so specific as to leave the Department no discretion with respect to implementing that Section and that notice and public comment on the changes to the regulations announced herein with respect to crude oil exports is accordingly both impractical and unnecessary; and (3) the regulatory changes announced herein relating to exports of petroleum products from United States Foreign-Trade Zones and from Guam implement a statutory provision which relieves a current restriction.

Written comments on the regulations announced herein are solicited on a continuing basis. Interested parties are encouraged to submit written comments, views or data concerning these regulations to the U.S. Department of Commerce, Office of Export Administration, P.O. Box 7138, Ben Franklin Station, Washington, D.C. 20044.

Accordingly, the Export Administration Regulations (15 CFR 368 et seq.) are amended as follows:

PART 371—GENERAL LICENSES

1. Section 371.2(c)(9) is revised to read as follows:

§ 371.2 General provisions.

(c) • • •

(9) The commodity is listed in a Supplement to Part 377 as being under short supply control, unless the export is authorized under the provisions of General Licenses G-NNR, GLV, SHIP

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STORES, PLANE STORES, RCS, or G-FTZ.

• • • • •

2. A new Section 371.7 is established reading as follows:

§ 371.7 General License G-FTZ: Exports of Petroleum Commodities From U.S. Foreign Trade Zones and From Guam.

(a) *Scope.* A General License designated G-FTZ is established. This license authorizes the export from a United States Foreign-Trade Zone or the Territory of Guam, of any petroleum commodity listed in Supplement No. 2 to Part 377 other than a Group A commodity, to any destination other than a Country Group S or Z destination, provided that the petroleum commodity was refined from foreign-origin crude petroleum in such Zone or Territory and is being exported therefrom.

(b) *Quarterly Reports.* As a condition for the use of a General License G-FTZ, an exporter shall file a report with the Office of Export Administration within 21 days following the end of each calendar quarter during which an export is made under General License G-FTZ. This report shall be in affidavit format, be signed by an authorized representative of the exporter, and contain the following:

(1) The details of each such export shipment, including the commodity description, quantity, value, ultimate consignee, purchaser, country of ultimate destination and all other pertinent details of such shipment, together with a copy of the Shipper's Export Declaration (Commerce Form No. 7525-V) filed with the carrier covering each such export shipment.

(2) A certification that the petroleum commodities which were exported during the preceding calendar quarter: (i) did not become available for export as a result of an exchange for commodities which would not qualify for export under General License G-FTZ, and will not be replaced within the exporter's customary domestic marketing area by commodities which do not so qualify; (ii) were refined exclusively from foreign-origin crude petroleum in a Foreign-Trade Zone or Guam; and (iii) have been reported to the Department of Energy as surplus and have been released by that Department from redirected distribution if, at the time of export, the commodities exported were subject to Department of Energy allocation regulations.

(3) A certification that, to the best of the exporter's knowledge and belief, the particular commodities and quantities exported during the preceding calendar quarter were: (i) surplus to the procurement needs of the Department of Defense Fuel Supply Center of the Defense Logistics Agency (formerly Defense Supply Agency); (ii) surplus to the needs of the domestic economy of the State, territory, dependency or possession of the United States in which the United States Foreign-Trade Zone is located or of the Territory of Guam; and (iii) not the subject of any purchase orders or solicitations from firms within the exporter's customary domestic marketing area. If the exporter is not able to certify to "(iii)", the exporter may, in the alternative, list by commodity, quantity, price and date of requested delivery any unsatisfied purchase orders or solicitations received during the current and preceding calendar quarter from any domestic purchaser within the exporter's customary domestic marketing area and explain the reasons why the exporter was unable to satisfy such purchase orders.

(4) A sworn affidavit signed by an authorized representative of the exporter stating that the exported commodity(ies) has (have) been reported as exports to the refiner(s), if the exporter is not the refiner of the commodity(ies), and the commodity(ies) when exported by a refiner is (are) required to be reported to the U.S. Department of Energy for purposes of adjustment of the volume of the refiner's crude oil runs to stills pursuant to 10 CFR 211.67(d)(2).

(c) Submission of Reports. Quarterly reports required to be filed under (b) above should be submitted to: Office of Export Administration, ATTENTION: Short Supply Division, Room 1617A, U.S. Department of Commerce, Washington, D.C. 20230.

Reports must be received no later than the 21st day of the month following the calendar quarter in which the export took place.

Should it come to the Department's attention that an exporter has made an export shipment under the terms of this General License G-FTZ and has failed to report the details of such shipment by the 21st day of the month following the calendar quarter in which the shipment was made, the provisions of this General License may be withdrawn with respect to that exporter and the exporter may be instructed to apply for a validated license for all future export shipments which would otherwise be subject to the provisions of this General License G-FTZ.

• • • • •

PART 374—REEXPORTS

3. Section 374.2(a)(1) is revised to read as follows:

§ 374.2 Permissive reexports.

(a) • • •

(1) May be exported directly from the United States to the new country of destination under General License G-DEST, GTE, G-NNR, or G-FTZ.

PART 377—SHORT SUPPLY CONTROLS

§ 377.6 [Amended]

4. Section 377.6(d) is amended as follows:

Paragraph (d)(1)(iv) is renumbered (d)(1)(vi), paragraph (d)(1)(iii) is revised, and new paragraphs (d)(1)(iv) and (d)(1)(v) are added to read as follows:

• • • • •

(d)(1) *Issuance of export licenses*

• • •

• • • • •

(iii) If the crude or partially refined petroleum was produced from a Naval Petroleum Reserve but has not been and will not be transported by pipeline over a federal right-of-way granted pursuant to Section 28(u) of the Mineral Leasing Act of 1920, and the President makes and publishes an express finding that the export(s) will not diminish the total *quantity or quality* of petroleum available to the United States and that such export(s) are in the national interest and are in accord with the Export Administration Act of 1969, as amended; or

(iv) If the crude or partially refined petroleum has been or will be transported by pipeline over rights-of-way granted pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), and the President makes and publishes an express finding that the export of such crude or partially refined petroleum: (*a*) will not diminish *the total quantity or quality of* petroleum available to the United States, (*b*) will have a positive effect on consumer oil prices by decreasing the average crude oil acquisition costs of refiners, (*c*) will be made only pursuant to contracts which may be terminated if the petroleum supplies of the United States are interrupted or seriously threatened, (*d*) are in the national interest and in accordance with the provisions of the Export Administration Act; *and in addition thereto,* the President reports such finding to the Congress as an energy action as defined in Section 551 of the Energy Policy and Conservation Act (42 U.S.C. 6421) and either (*1*) a 60-calendar day period during which both Houses of Congress are in continuous session, as defined in Section 551 of that Act, has elapsed and neither House has passed a resolution disapproving such finding, or (*2*) each House of Congress has passed a resolution approving such finding or affirmatively stating, in substance, that such House does not object to such finding; or

(v) If the crude or partially-refined petroleum was not produced from the Naval Petroleum Reserves and was not and will not be transported by pipeline over rights-of-way granted pursuant to Section 28(u) of the Mineral Leasing Act of 1920, and such commodity will be exported as part of an overall transaction which: (*1*) will result directly in the importation into the United States of an equal or greater quantity and an equal or better quality of the same commodity, (*2*) will have a positive effect on consumer oil prices by decreasing the average crude oil acquisition costs of refiners, (*3*) will take place pursuant to contracts which may be terminated if the petroleum supplies of the United States are interrupted or seriously threatened, (*4*) will be in the national interest and in accordance with the provisions of the Export Administration Act and the purposes of the Energy Policy and Conservation Act *and, in addition,* for compelling economic or technological reasons, beyond the control of the applicant, the Group A commodity cannot reasonably be processed within the United States, *and* the Group A commodity to be imported into the United States would not be available for import had the export not taken place.

• • • • •

5. Section 377.6(d)(9) is revised to read as follows:

• • • • •

(d) • • •

(9) *Exemption from quantitative restriction of petroleum products refined from foreign-origin petroleum in Hawaii and exported therefrom.* An application for a validated license to export from Hawaii a commodity from Petroleum Commodity Group B, C, D, E, F, G, K, L, M and N-1 which was refined from foreign-origin crude petroleum in Hawaii will be considered without quantitative restriction if accompanied by supporting documentation as required by Section 377.6(e)(8).

• • • • •

6. Section 377.6(e)(8) is revised to read as follows:

• • • • •

(e) • • •

(8) *Petroleum products refined from foreign-origin crude petroleum in Hawaii, and exported therefrom.* An application for a validated license to export from Hawaii without regard to quota restriction a specified quantity of a commodity from Petroleum Commodity Group B, C, D, E, F, G, K, L, M or N-1 which was produced from foreign-origin crude petroleum in a refinery in Hawaii must be submitted with the same documentation required by Section 377.6(e)(2), together with the following:

(i) A sworn affidavit by the applicant stating that the petroleum commodities which he proposes to export (*a*) did not become available for export as a result of an exchange for products which would not qualify for exemption from quota restriction under this subsection and will not be replaced by products which do not so qualify; (*b*) was produced exclusively from foreign-origin crude petroleum in the State of Hawaii; and (c) have been reported to the Department of Energy as surplus and have been released by that Department from redirected distribution if, at the time of application for an export license, the commodity sought to be exported is subject to Department of Energy allocation regulations.

(ii) A signed statement from a duly authorized official of the Government of the State of Hawaii listing the particular petroleum commodities and the aggregate quantities thereof which the applicant proposes to export during the calendar quarter for which he is applying for an export license and stating that such products and quantities are surplus to the projected needs of Hawaii, including the ships' bunker and aviation fuel markets, during such calendar quarter. And

(iii) A signed statement from a duly authorized official of the Department of Defense Fuel Supply Center of the Defense Logistics Agency (formerly Defense Supply Agency), listing the particular petroleum commodities and aggregate quantities thereof which the applicant proposes to export during the calendar quarter for which he is applying for an export license and stating that such quantities and products are surplus to the projected procurement needs of the subject agency during the applicable calendar quarter.

The documentation listed under (ii) and (iii) above need be submitted only once during each calendar quarter. When applying for additional licenses for a particular calendar quarter, the applicant need only refer to the earlier submission of these documents and state, that, to the best of his knowledge and belief, the statements required by (ii) and (iii) above have not been withdrawn or modified.

• • • • •

(Sec. 4 Pub. L. 91-184, 83 Stat. 842 (50 U.S.C. App. 2403), as amended; E.O. 12002, 42 FR 35623 (1977); Sec. 103, Pub. L. 94-163, 89 Stat. 877 (42 U.S.C. 6212); E.O. 11912, 41 FR 15825, 3 CFR 1969 Comp.; 10 U.S.C. 7430; Sec. 101, Pub. L. 93-153, 87 Stat. 876 (30 U.S.C. 185); Department Organization Order 10-3, dated December 4, 1977, 42 FR 64721 (1977); and Industry and Trade Administration Organization and Function Order 45-1, dated December 4, 1977, 42 FR 64716 (1977).)

STANLEY J. MARCUSS,
Deputy Assistant Secretary for Trade Regulation.

[FR Doc. 78-36414 Filed 12-28-78; 8:45 am]

[4110-03-M]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER A—GENERAL

[Docket No. 76N-0366]

PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOODS, DRUGS, AND COSMETICS

Provisional Listing of Lead Acetate; Postponement of Closing Date

AGENCY: Food and Drug Administration.

ACTION: Final Rule.

SUMMARY: The Commissioner of Food and Drugs on his own initiative is postponing the closing date for the provisional listing of lead acetate for use as a component of hair colors. The new closing date will be March 1, 1979. This brief postponement will provide time for completion of the review of the scientific data and for preparation and publication in the FEDERAL REGISTER of a document concerning the use of lead acetate.

EFFECTIVE DATE: December 31, 1978

FOR FURTHER INFORMATION CONTACT:

Gerad L. McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-472-5740.

SUPPLEMENTARY INFORMATION: The current closing date of December 31, 1978 for the provisional listing of lead acetate was established by regulation published in the FEDERAL REGISTER of March 3, 1978 (43 FR 8790). The regulation set forth below will postpone the December 31, 1978 closing date for the provisional listing of that color additive until March 1, 1979.

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The evaluation of the data submitted in support of the listing of the color additive has required more time than initially anticipated. Furthermore, a postponement of the closing date for lead acetate until March 1, 1979 will provide a brief period within which a document concerning the use of the color additive can be prepared and published in the FEDERAL REGISTER. The Commissioner concludes that the brief extension of the closing date to March 1, 1979 is necessary and is consistent with the protection of the public health.

Because of the shortness of time until the December 31, 1978 closing date, the Commissioner concludes that notice and public procedure on this regulation are impracticable and that good cause exists for issuing this postponement as a final rule. This regulation, to be effective on December 31, 1978, will permit the uninterrupted use of the color additive until further action is taken. In accordance with 5 U.S.C. 553 (b) and (d) (1) and (3), this postponement is issued as a final regulation and is being made effective on December 31, 1978.

Therefore, under the transitional provisions of the Color Additive Amendments of 1960 to the Federal Food, Drug, and Cosmetic Act (Title II, Pub. L. 86-618; sec. 203, 74 Stat. 404-407 (21 U.S.C. 376 note)) and under authority delegated to the Commissioner (21 CFR 5.1), Part 81 is amended as follows:

§ 81.1 [Amended]

1. In § 81.1 *Provisional lists of color additives*, by revising the closing date for the entry "Lead acetate" in paragraph (g) to read "March 1, 1979."

§ 81.27 [Amended]

2. In § 81.27 *Conditions of provisional listing of additives*, by revising the closing date for "lead acetate" in paragraph (b) to read "March 1, 1979."

In accordance with Executive Order 12044, the economic effects of this final rule have been carefully analyzed and it has been determined that this final rule does not involve major economic consequences as defined by that Order. A copy of the regulatory analysis assessment supporting this determination is on file with the Hearing Clerk, Food and Drug Administration.

Effective date. This regulation is effective December 31, 1978.

(Sec. 203, 74 Stat. 404-407 (21 U.S.C. 376 note).)

Dated: December 28, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-36472 Filed 12-29-78; 10:51 am]

[4310-02-M]

Title 25—Indians

CHAPTER I—BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

PART 251—LICENSED INDIAN TRADERS

Regulating Sale of Arms and Ammunition

AGENCY: Bureau of Indian Affairs.

ACTION: Final Rule.

SUMMARY: The nature of the action being taken is to remove an obsolete rule Part 251, Title 25, Code of Federal Regulations. The intended effect of the action is to relieve Agency Superintendents, Indians and Indian Traders from unnecessary compliance with an obsolete rule. Section 251.8 requires permission from the Superintendent for an Indian Trader to sell arms or ammunition to an Indian. The sale may be made only on assurances to the Superintendent that the arms are to be used only for a clearly established lawful purpose.

Circumstances which gave rise to this rule no longer exists. Indians are now able to purchase arms and ammunition at any place they are lawfully for sale.

EFFECTIVE DATE: This revocation is effective on January 2, 1979.

FOR FURTHER INFORMATION CONTACT:

Eugene F. Suarez, Sr., Chief, Division of Law Enforcement Services, Bureau of Indian Affairs, Department of the Interior, Washington, D.C. 20245. Telephone 202/343-5786.

SUPPLEMENTARY INFORMATION: The authority to issue regulations is vested in the Secretary of the Interior by 5 U.S.C. 301 and Section 463 and 465 of the Revised Statutes (25 U.S.C. 2 and 9).

On September 21, 1978, a notice of proposed rulemaking was published in the FEDERAL REGISTER (43 FR 42767) regarding intent to revoke § 251.8, Part 251, Subchapter W, Chapter I of Title 25, Code of Federal Regulations.

Interested persons were invited to participate in the proposed rulemaking proceedings through written comment, objections or suggestions by October 23, 1978. No responses were received.

The primary author of this document is, Eugene F. Suarez, Sr., Division of Law Enforcement Services, Bureau of Indian Affairs, Washington, D.C. 20245. Telephone number 202/343-5786.

REVOCATION OF THE RULE

Accordingly, § 251.8, Part 251, Subchapter W, Chapter I of Title 25, Code of Federal Regulations is revoked.

FORREST J. GERARD,
Assistant Secretary—Indian Affairs.

[FR Doc. 78-36430 Filed 12-29-78; 8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[3410-02-M]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 989]

[Docket No. AO-198-A10]

RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

Decision on Proposed Further Amendment of the Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision would amend the Federal marketing agreement and order covering California raisins. The proposed changes pertain to: (1) Clarifying the intent and language of existing volume regulation provisions used to tailor supplies to needs; and (2) creating a new raisin varietal type for regulatory purposes under the program to recognize a relatively new method of making raisins in the United States. The proposed changes were initially recommended by the Raisin Administrative Committee which handles the local administration of the program under USDA supervision, and three raisin dehydrators. The proposed changes offer opportunity to improve the present program and would tend to further effectuate the declared policy of the act. Raisin growers will vote in a referendum to determine whether or not they favor issuance of the proposed changes.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of Hearing—Issued March 30, 1978; published April 4, 1978 (43 FR 14024).

Notice of Recommended Decision—Issued July 12, 1978; published July 17, 1978 (43 FR 30567).

PRELIMINARY STATEMENT

A public hearing was held upon proposed further amendment of the marketing agreement, as amended, and Order No. 989, as amended (7 CFR Part 989), regulating the handling of raisins produced from grapes grown in California. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice (7 CFR Part 900), in Fresno, CA, April 18, 1978, pursuant to notice thereof.

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, on July 12, 1978, filed with the Hearing Clerk, U.S. Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto. Six exceptions were filed. The Raisin Administrative Committee, Raisin Bargaining Association, and Congressman John Krebs filed exceptions against the separate classification of oleate seedless raisins. The proponents of the proposal to put oleate raisins into a separate varietal type (Tri-Boro Farms, Inc., Melikian Farms, Inc., and Salwasser Dehydrator) commented on the Committee's exception. Tenneco West, a marketer of water-dipped raisins, agreed with the recommendation to separately classify oleate raisins. Professor Vincent E. Petrucci, California State University, Fresno, California, the developer of the oleate method of drying raisins, commented on the equitability of placing oleate raisins into a separate varietal type and on the validity of the cleanliness, moisture, and stickiness comparisons used by the proponents to justify the separation.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision published July 17, 1978, in the FEDERAL REGISTER (43 FR 30567), are hereby incorporated by reference herein and made a part hereof, subject to the following additions:

In Material Issue (2), a new paragraph is added after the fifth paragraph as follows: "An exceptor stated that placing oleate raisins into a separate varietal type was fair and justified. However, he indicated that proponents' contention that water-dipped and soda-dipped raisins are washed before drying and thus meet cleanliness and moisture standards more readily than oleate raisins is meaningless because oleate raisins are normally cleaner than raisins otherwise drying in the field. He also questioned proponents' contention that water-dipped raisins are not as sticky as oleate and soda-dipped raisins. He noted that oleate raisins, if handled properly, are less sticky than either the water-dipped or soda-dipped raisins mainly because the skin of the grape is not broken in making oleate raisins, while fine hairline cracks occur in the grapes when making water-dipped and soda-dipped raisins. The exceptor added that, because oleate raisins may also be artificially dehydrated, the cleanliness and moisture comparisons should not be a part of the recommended decision. However, the exception is addressed to proponents' reasons why the three types of raisins (water-dipped, soda-dipped, and oleate) are different, not to the findings and conclusions of the recommended decision. Thus, the cleanliness and moisture comparison should not be deleted, and this exception is denied."

In Material Issue (2), five new paragraphs are added after paragraph 20 as follows: "Three exceptors noted the similarities in appearance between oleate, water-dipped, and soda-dipped raisins, and proposed that these raisins remain classified together. Two of the exceptors indicated that the consumer basically cannot tell the difference between these three types of raisins and Natural (sun-dried) Seedless raisins. One exceptor added that the differences between natural and water-dipped raisins are graphically greater than the differences between oleate, water-dipped, and soda-dipped raisins. He therefore indicated that, if the consumer cannot tell the difference between all four types, this is even more reason to continue the combination of the three dipped type raisins in the same varietal type. It would seem to follow from this and exceptors' other arguments that all four types could be included in the same varietal type.

Two of the exceptors stated that the percentages for any varietal type may differ from that of another varietal type but this is due only to the differences in the relationship of inventory, production, and prior year's shipments of the specific varietal type under consideration. This is true under the current method of computing volume percentages. However, under this system if a grower changes from sun-drying in one year to oleate spraying the following year, his raisin production in the second year would be added to the water-dipped and soda-dipped production for that year. Since the prior

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year's shipments of Dipped Seedless raisins into free tonnage outlets form the basis for establishing free tonnage of the varietal type, the added oleate production would tend to depress the free percentage and increase the reserve percentage for Dipped Seedless raisins. This would reduce the quantity that could be shipped into free tonnage outlets by handlers of water-dipped and soda-dipped raisins.

Both exceptors contended that a producer consistently producing Natural (sun-dried) Seedless raisins is similarly affected by a producer who switches from natural raisin production to wine production and vice versa from year to year. The same could also be said of the Dipped Seedless segment. However, if natural seedless raisin producers shift to the winery outlet, or vice versa, in any given year, the shift would have only a comparatively slight effect on the free and reserve percentages for these raisins because of the large quantity of natural raisins produced and shipped each year. On the other hand, the effect on the volume percentages for Dipped Seedless raisins would be magnified if a number of producers of natural seedless raisins switched to oleate raisins because production and shipments of water-dipped raisins are so small compared to those of natural raisins.

The three exceptors also contended that the order should be an industry-wide order and not be designed or operated to the advantage or disadvantage of one producer, packer, or dehydrator, or one type of raisin over another. The recommended varietal type structure is not intended to conflict with this premise. Its purpose is to provide for the orderly marketing of all raisins. The burden of volume regulation must be applied equitably among all segments of the industry, as stated previously. To achieve this, oleate raisins should be classified separately from water-dipped and soda-dipped raisins.

Two of the exceptors contended that the proposal will be impossible to administer, and that the possibility of subterfuge exists if the reserve percentages for water and soda-dipped raisins are different from oleate raisins in any given year. It was alleged that producers will maintain their raisins are of the varietal type with the largest free percentage. That the possibility of subterfuge exists cannot be denied. It is the duty of the Raisin Administrative Committee to exercise surveillance over the handling of raisins, and it is not expected that surveillance in this instance will be burdensome."

In Material Issue (2), in the third line of paragraph eight, "and" is substituted in lieu of "all".

In the event that the proposal to establish oleate raisins as a separate varietal type is submitted to producers in a referendum, three exceptors requested that this proposal be separated from other proposals on the ballot to allow producers to vote on this issue separately from other proposals. The Department's procedure for the conduct of referenda in connection with marketing orders does not permit separate approval of each amendatory proposal by producers. This procedure requires referenda to be conducted on orders or amendatory orders, and not on individual issues or proposals.

One exceptor requested that if a producer referendum is held and the amendatory proposals approved, the effective date of such proposals be August 1, 1979, the beginning of the 1979-80 crop year under the order. If the amendatory proposals are approved, this request will be taken into consideration when the final order is issued on this action.

Rulings on exceptions. In arriving at the findings and conclusions, and the regulatory provisions of this decision, the exceptions to the recommended decision were carefully and fully considered in conjunction with the record evidence. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

Marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled, respectively, "Marketing Agreement, as Amended, Regulating the Handling of Raisins Produced from Grapes Grown in California", and "Order Amending the Order, as Amended, Regulating the Handling of Raisins Produced from Grapes Grown in California" which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, that this entire decision except the annexed marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the annexed order which is published with this decision.

Referendum order. It is hereby directed that a referendum be conducted in accordance with the procedure for the conduct of referenda (7 CFR 900.400 *et seq.*), to determine whether the issuance of the annexed order as amended and as hereby proposed to be further amended, regulating the handling of raisins produced from grapes grown in California, is approved or favored by producers, as defined under the terms of the order, who during the representative period were engaged in the area of production in the production of the regulated commodity for market.

The representative period for the conduct of such referendum is hereby determined to be August 1, 1977, through July 31, 1978.

The agents of the Secretary to conduct such referendum are hereby designated to be Charles Fuqua, Richard Van Diest, and William J. Higgins.

Signed at Washington, D.C. on December 26, 1978.

P. R. "BOBBY" SMITH,
Assistant Secretary for Marketing Services.

Order[1] *amending the order, as amended, regulating the handling of raisins produced from grapes grown in California.*

Findings and determinations. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto. Except the findings as to the base period for parity computation, and except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein, all of said prior findings and determinations are hereby ratified and affirmed.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon proposed amendment of the marketing agreement, as amended, and Order No. 989, as amended (7 CFR Part 989), regulating the handling of raisins produced from grapes grown in California.

Upon the basis of the record it is found that:

(1) The order, as amended, and as hereby further amended, and all of the terms and conditions thereof, will tend to effective the declared policy of the act;

(2) The order, as amended, and as hereby further amended, regulates the handling of raisins produced from grapes grown in the production area in the same manner as, and is applicable only to persons in the respective classes of commercial and industrial activity specified in, the marketing agreement and order upon which hearings have been held;

(3) The order, as amended, and as hereby further amended, is limited in its application to the smallest regional production area which is practicable, consistent with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production ara would not effectively carry out the declared policy of the act;

(4) There are no differences in the production and marketing of raisins produced from grapes grown in the production area which make necessary different terms and provisions applicable to different parts of such area; and

(5) All handling of raisins produced from grapes grown in the production area is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

ORDER RELATIVE TO HANDLING

It is therefore ordered, that on and after the effective date hereof the handling of raisins produced from grapes grown in California, shall be in conformity to and in compliance with the terms and conditions of the order, as hereby amended, as follows:

The provisions of the recommended amendment of the marketing agreement and order, as amended, contained in the recommended decision issued by the Deputy Administrator on July 12, 1978, and published in the Monday, July 17, 1978, FEDERAL REGISTER (43 FR 30567), shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein.

1. A new § 989.24b is added to read as follows:

§ 989.24b Free tonnage outlets.

For marketing policy purposes, free tonnage outlets shall be regarded as any markets not eligible for the purchase of reserve tonnage raisins.

2. Section 989.54 (a) and (d) are revised to read as follows:

§ 989.54 Marketing policy.

(a) *Free tonnage.* On or before August 15 of each crop year, the Committee shall review shipment data, inventory data, and other matters relating to the quantity of raisins of all varietal types. For any varietal type for which a free tonnage percentage may be recommended, the quantity of free tonnage shall be 90 percent of the prior crop year's shipments into free tonnage outlets for that varietal type, adjusted by the physical carryin inventory. The desirable carryin inventory on August 1 for Natural (sun-dried) Seedless raisins shall be a minimum of 35,000 tons. This free tonnage quantity shall be publicized by the Committee in accordance with paragraph (f) of this section. In years following limited shipments into free tonnage outlets due to abnormal circumstances, the Committee may use shipments of any one of the 3 years preceding the limited year as a base to determine the free tonnage.

* * * * *

(d) *Reserve tonnage to sell as free tonnage.* On or before November 15 of the crop year, the Committee shall offer to handlers a quantity of the prior or current crop year's reserve tonnage raisins. One offer shall consist of a quantity equal to 10 percent of the prior year's shipments into free tonnage outlets to equate the current year's supply with the prior year's shipments into free tonnage outlets plus the desirable carryin inventory. This offer shall be allocated to handlers on the basis of their prior year's acquisitions. At the same time, a second offer shall consist of a quantity equal to 10 percent of the prior year's shipments into free tonnage outlets for market expansion. The offer shall be allocated to handlers on the basis of their prior year's shipments, to all outlets, of free tonnage plus any reserve tonnage released for use as free tonnage and shipped during that crop year. Each offer shall be open to handlers not more than 5 business days and, subsequently, two reoffers of any tonnage unsold in the original offers, open not more than 2 business days each, may be made. The reoffer tonnage shall be allocated to handlers who purchase 100 percent of their allocation in preceding offers and shall be on the basis of the quantity each handler purchased as a percentage of the total quantity purchased by all handlers eligible to participate. At the close of the second reoffer any remaining tonnage may be offered to handlers purchasing all of their previous allocations on a first come, first served basis and such offer shall be open to handlers for 2 business days. Any handler who had no shipments or acquisitions of raisins during the prior crop year will be allocated raisins under these offers on the basis of his acquisitions (up to the time the offer is made) of raisins in the current crop year. If field prices are not established on or before November 15, the offers shall be made not more than 15 days following such establishment. The price of reserve tonnage raisins offered to handlers to sell as free tonnage under this section shall be the established field price for free tonnage raisins of the applicable varietal type, plus estimated costs to equity holders incurred by the Committee, plus 3 percent of the established field price for free tonnage.

* * * * *

3. Section 989.10 is revised to read as follows:

§ 989.10 Varietal types.

"Varietal types" means raisins generally recognized as possessing characteristics differing from other raisins in a degree sufficient to make necessary or desirable separate identification and classification. Varietal types are the following: Natural (sun-dried) Seedless, Dipped Seedless, Golden Seedless, Muscats (including other raisins with seeds), Sultana, Zante Currant, Monukka, and Oleate Seedless: *Provided,* That the Committee may, subject to approval of the Secretary, change this list of varietal types or the definitions thereof.

[FR Doc. 78-36435 Filed 12-29-78; 8:45 am]

[1] This order shall not become effective unless and until the requirements of §900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

[6450-01-M]

DEPARTMENT OF ENERGY

Office of Energy Conservation and Solar Applications

[10 CFR Part 430]

ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

Advance Notice of Proposed Rulemaking and Notice of Public Meetings Regarding Energy Efficiency Standards for Nine Types of Consumer Products

AGENCY: Department of Energy.

ACTION: Advance Notice of Proposed Rulemaking and Notice of Public Meetings.

SUMMARY: The Energy Policy and Conservation Act, as amended by the National Energy Conservation Policy Act, requires that the Department of Energy prescribe energy efficiency standards for nine types of consumer products no later than December 1980. The purpose of this advance notice of proposed rulemaking and notice of public meetings is to facilitate the gathering or information prior to proposing the standards. Therefore, this notice is designed to familiarize the public with the standards program as presently envisioned, and to invite the public's review and comments.

DATES: Written comments in response to this notice to be filed by 4:30 p.m. March 5, 1979. Requests to speak at the public meetings to be received by 4:30 p.m., local time, January 19, 1979. Speakers to be notified by 4:30 p.m., local time, January 24, 1979.

Meetings to be held on the following dates and times:

January 26, 1979, 9:00 a.m., Washington, D.C.

January 26, 1979, 9:00 a.m., Boston, Massachusetts.

January 31, 1979, 9:00 a.m., Chicago, Illinois.

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February 2, 1979, 9:00 a.m., Atlanta, Georgia.

February 6, 1979, 9:00 a.m., Dallas, Texas.

February 8, 1979, 9:00 a.m., San Francisco, California.

ADDRESSES: Comments on the document to:

U.S. Department of Energy, Consumer Products Efficiency Branch, Room 2248, CSA-RM-78-110, 20 Massachusetts Avenue, N.W., Washington, D.C. 20461 (202) 376-4814.

Requests to speak at the Washington, D.C., meeting: U.S. Department of Energy, ATTN: Margaret Sibley, CSA-RM-78-110, Federal Building, Room 5324, Washington, D.C. 20461 (202) 633-8608.

Requests to speak at the Boston, Massachusetts meeting: U.S. Department of Energy, ATTN: Roberta Walsh, Analex Bldg. Room 700, 150 Causeway Street, Boston, Massachusetts 02114 (617) 223-0504 (FTS) 223-0504.

Requests to speak at the Chicago, Illinois meeting: U.S. Department of Energy, ATTN: Ken Johnson, 175 West Jackson Boulevard, Room A-333, Chicago, Illinois 60604 (312) 353-0650 (FTS) 353-0650.

Requests to speak at the Atlanta, Georgia meeting: U.S. Department of Energy, ATTN: Roy Pettit, 1655 Peachtree Street, N.E., Atlanta, Georgia 30309 (404) 881-2838 (FTS) 257-2838.

Requests to speak at the Dallas, Texas meeting: U.S. Department of Energy, ATTN: Grace Morrison, P.O. Box 35228, 2626 West Mockinbird Lane Dallas, Texas 75235 (214) 749-7621 (FTS) 749-7621.

Requests to speak at the San Francisco, California meeting: U.S. Department of Energy, ATTN: Dennis Wong, 111 Pine Street, Third Floor, San Francisco, California 94111 (415) 556-7216 (415) 556-7216.

Meeting locations: 2000 M Street, N.W., Washington, D.C.; JFK Federal Building, Government Center, Boston, Massachusetts; Kluczynski Federal Building, 230 South Dearborn Street, Chicago, Illinois; the Atlanta Civic Center, 395 Piedmont Avenue, N.E., Atlanta, Georgia; Earl Cabell Federal Building, 1100 Commerce Street, Dallas, Texas; Hyatt Regency Union Square, 345 Stockton Street, San Francisco, California.

FOR FURTHER INFORMATION CONTACT:

James A. Smith, U.S. Department of Energy, Office of Conservation and Solar Applications, Division of Buildings and Community Systems, Consumer Products Efficiency Branch, Room 2248, 20 Massachusetts Avenue, N.W., Washington, D.C. 20545 (202) 376-4614.

Mary-Lynn Wrabel (Media Contact Only), U.S. Department of Energy, Office of Conservation and Solar Applications, Division of Buildings and Community Systems, Technology & Information Transfer Branch, Mail Stop 2221-C, 20 Massachusetts Avenue, N.W., Washington, D.C. 20545 (202) 376-4669.

William J. Dennison, U.S. Department of Energy, Office of General Counsel, 12th and Pennsylvania Avenue, N.W., Room 7148, Washington, D.C. 20461 (202) 633-8788.

CONSUMER INFORMATION TELEPHONE NUMBERS: (202) 376-5924; (800) 424-5168.

SUPPLEMENTARY INFORMATION:

I. Introduction
A. Planned Regulatory Action
B. Purpose and Scope of This Notice
II. Legislative Framework
A. Background
B. Energy Efficiency Standards
C. Implementation Process
D. Planned Phase-in of Standards
III. Product Types, Likely Product Classes and Tentative Determinations Concerning the Maximum Technologically Feasible Energy Efficiency Levels
A. Definitions
b. Tentative Determinations of the Maximum Technologically Feasible Energy Efficiency Level
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I. Introduction

A. Planned Regulatory Action

Section 325 of the Energy Policy and Conservation Act (Act) (Pub. L. 94-163), as amended by section 422 of the National Energy Conservation Policy Act (NECPA) (Pub. L. 95-619), requires that the Department of Energy (DOE) prescribe energy efficiency standards for the types of consumer products listed in section 322(a) of the Act. These consumer products are sometimes referred to as "covered products." Standards for nine of these product types are required by section 325, as amended, to be published in the FEDERAL REGISTER no later than December 1980. The nine types of consumer products include refrigerators and refrigerator-freezers, freezers, clothes dryers, water heaters, room air conditioners, home heating equipment (not including furnaces), kitchen ranges and ovens, central air conditioners, and furnaces. Standards for dishwashers, televisions, clothes washers, humidifiers, and dehumidifiers are required to be published in the FEDERAL REGISTER no later than November 1981.

The Act defines energy efficiency standards as performance standards, which means that they will establish the minimum energy efficiency level required to be achieved by each unit of a covered product type or class, but will not prescribe the methods, designs, processes, or materials to be used to achieve any particular efficiency level. The standards will apply only to new products manufactured after the effective date of the standards.

B. Purpose and Scope of This Notice

Section 325(i), as amended, requires DOE, as the first step in establishing standards, to publish this advance notice of proposed rulemaking which is required to specify the type or class of covered products to which a standard is likely to apply, and to invite comments from interested persons relevant to establishing the energy efficiency standards. The primary purpose of this notice is to facilitate the gathering of information prior to proposing standards. The notice provides an opportunity for public comment and participation in the early planning stages of the standards development process. DOE expects that the comments received as a result of this notice will provide a major portion of the informational base from which the standards will be proposed.

Accordingly, this notice is designed to present an extensive discussion of DOE's current views concerning the standards program and the process for implementation. Ensuing sections deal with the legislative background, the standards implementation process, the phase-in period for standards, the development of proposed standards, a listing of the product types and classes to which standards are likely to apply, DOE's present views regarding the criteria for classes and the maximum technologically feasible efficiency for each class of products, and a request for comments on various standards-related issues.

Interested persons are invited to provide views, written presentations of data, and arguments relevant to establishing energy efficiency standards. In addition, interested persons are encouraged to provide alternative programmatic approaches within the framework of the legislation.

II. Legislative Framework

A. Background

The energy conservation program for improving the efficiency of consumer products, Title III, Part B of the Act, is designed to encourage manufacturers to produce, and consumers to purchase, significantly more efficient consumer products. The Act sets forth two interrelated strategies for accomplishing this objective: to require manufacturers to produce more efficient products and to enhance consumer acceptance of more efficient products.

The first strategy, as contained in section 325 of the Act prior to amendment by NECPA in November 1978, originally called for the promulgation of voluntary efficiency improvement targets representing aggregate industry levels of efficiency improvement to be achieved by 1980. As an incentive for the industry to reach these targets, a reporting and monitoring system was to be established by DOE in order to track industry progress. In the event that achievement of a target for a particular product appeared unlikely, DOE would have been required to initiate an administrative proceeding to prescribe a mandatory minimum efficiency standard for the product in question.

In the National Energy Plan proposed by the President in April 1977, the voluntary target program was to be replaced with a mandatory minimum efficiency standards program because of the voluntary nature of the targets and the long delays in establishing standards if the target levels were not achieved. Section 422 of NECPA amends section 325 of the Act to provide for a program similar to the mandatory standards program requested by the President in the National Energy Plan.

The second strategy, contained in section 324 of the Act, as amended, involves development of a labeling program to require that manufacturers label each covered product with energy consumption information to assist consumers in making purchasing decisions. The Federal Trade Commission (FTC) has the responsibility for developing labeling rules and administering the labeling program.

In conjunction with issuance of the labeling rules, section 337 of the Act requires requires DOE to develop a consumer education program to enhance consumer awareness of the labels and create a better understanding of the information provided on the labels. This is intended to encourage comparison shopping and to enhance consumer demand for the more efficient products. As a consequence, it is anticipated that manufacturers will be influenced to expedite efficiency improvements for their various product lines to meet market demand.

In order to support these dual strategies, section 323 of the Act mandates that DOE develop test procedures for the determination of estimated annual operating costs and at least one other measure of energy consumption for each covered product which will assist consumers in making purchasing decisions. Testing by manufacturers in accordance with these test procedures will serve as a basis for: (1) the energy cost and consumption information that will be required to be included on product labels under the FTC labeling program and (2) representations by manufacturers regarding the energy consumption of their products. Also, measurements of efficiency which are derived from the test procedures will be used as the basis for energy efficiency standards. Manufacturers will be required to establish that their products are in conformance with the standards by testing in accordance with test procedures. Further, the compliance of individual units with the standards will be determined by using these procedures. DOE has prescribed final test procedures for the covered products listed in Table I. DOE has made a tentative determination to include heat pumps as a class of central air conditioners and plans to propose test procedures for heat pumps on March 9, 1979. In accordance with section 325(i), as amended, within 30 days after these test procedures are final an advance notice of proposed rulemaking for heat pump standards will be issued.

TABLE I.—*Federal Register Citation for Test Procedures*

Covered product type	Proposed	Final
1. Refrigerators, refrigerator-freezers.	(42 FR 21576, Apr. 27, 1977)	(42 FR 46140, Sept. 14, 1977)
2. Freezers	(42 FR 21576, Apr. 27, 1977)	(42 FR 46140, Sept. 14, 1977)
3. Dishwashers	(42 FR 15423, Mar. 22, 1977)	(42 FR 39964, Aug. 8, 1977)
4. Clothes dryers	(42 FR 21576, Apr. 27, 1977)	(42 FR 46140, Sept. 14, 1977)
5. Water heaters	(42 FR 21576, Apr. 27, 1977)	(42 FR 54110, Oct. 4, 1977)
6. Room air conditioners	(41 FR 31237, July 27, 1976)	(42 FR 27896, June 1, 1977)
7. Home heating equipment	(42 FR 23860, May 11, 1977) (unvented) (42 FR 43930, Aug. 31, 1977) (vented).	(43 FR 20108, May 10, 1978)
8. Television sets	(42 FR 21576, Apr. 27, 1977)	(42 FR 46140, Sept. 14, 1977)
9. Kitchen ranges and ovens	(42 FR 30627, June 16, 1977) (42 FR 65576, Dec. 30, 1977)	(43 FR 20108, May 10, 1978)
10. Clothes washers	(42 FR 25329, May 17, 1977)	(42 FR 49802, Sept. 28, 1977)
11. Humidifiers and dehumidifiers	(42 FR 27941, June 1, 1977)	(42 FR 55599, Oct. 18, 1977)
12. Central air conditioners	(42 FR 30401, June 14, 1977)	(42 FR 60150, Nov. 25, 1977)
13. Furnaces	(42 FR 40826, Aug. 11, 1977)	(43 FR 20108, May 10, 1978)

Test procedure design must be flexible enough to allow for technological variation among different product lines within a product type, yet standardized enough to assure that different manufacturers' product lines will be subject to the same measurement criteria in order to provide comparable measures of energy efficiency. DOE is aware that new products or designs will be developed which (1) do not fall under the product test procedure definitions (10 CFR 430.2) or (2) do fall under the definitions but which when tested reflect inaccurate efficiencies. DOE intends to propose in the near future procedural guidelines relating to the modification of test procedures.

B. Energy Efficiency Standards

The Act, as amended,[1] requires that standards be prescribed for the types of consumer products listed in section 322(a). However, section 325(g) requires that priority be given to the nine product types listed earlier in this notice. The remaining product types (dishwashers, television sets, humidifiers, dehumidifiers, and clothes washers) will be the subject of a separate advance notice which is required by section 325 to be published no later

[1]Subsequent references to the "Act" and sections of the Act refer to the Energy Policy and Conservation Act as amended by NECPA.

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than November 1979. The Act also permits DOE to prescribe standards for other products which meet certain criteria stated in section 325(a)(2). A list of such products which DOE considers may be subject to standards is required to be published no later than November 1980, but may be revised thereafter.

The standards prescribed, including any intermediate standards, are required by section 325(c) to be designed so as to achieve the maximum improvement in energy efficiency which is technologically feasible and economically justified. Under that subsection, however, no standard can be prescribed for a particular type or class of covered product if (1) there is no DOE test procedure for the type or class; or (2) DOE determines, by rule, that establishment of a standard for the particular type or class would not result in significant conservation of energy or is not technologically feasible or economically justified.

Section 325(d) provides that before DOE determines whether a standard is economically justified, it must first solicit comments on a proposed standard. After receiving comments on the proposal, DOE must then determine that the benefits of the standard exceed its burdens based, to the greatest extent practicable, on a weighing of the following seven factors:

(1) The economic impact of the standard on the manufacturers and on the consumers of the products subject to such standard,

(2) The savings in operating costs throughout the estimated average life of the covered products in the type (or class), compared to any increase in the price of, or in the initial charges for, or maintenance expenses of, the covered products which are likely to result from the imposition of the standard,

(3) The total projected amount of energy savings likely to result directly from the imposition of the standard,

(4) Any lessening of the utility or the performance of the covered products likely to result from the imposition of the standard,

(5) The impact of any lessening of competition determined in writing by the Attorney General that is likely to result from the imposition of the standard,

(6) The need of the Nation to conserve energy, and

(7) Any other factors which DOE considers relevant.

Section 325(f) provides that minimum energy efficiency levels do not have to be identical for all products within a type or class. Products that consume different kinds of energy (oil, natural gas, electricity, etc.) or that have a capacity or other performance-related feature different from other products within the same type or class can be required to have higher or lower energy efficiency levels. For example, different minimum energy efficiency levels could be prescribed for gas and electric water heaters or for manual and automatic defrost refrigerator-freezers.

Section 325(e) provides that manufacturers having annual gross revenues of less than $8,000,000 (within the meaning of that subsection) may apply to DOE for exemption for up to 24 months from any standards requirement. This authority may not be exercised unless DOE, after obtaining the written views of the Attorney General, determines that failure to allow the exemption would likely result in a lessening of competition.

Other provisions provide for (1) a review of test procedures within three years of NECPA enactment, section 323(a)(7); (2) reevaluation of the standards within five years of prescription, section 325(h); (3) supersession of state energy efficiency regulations under conditions and procedures specified in section 327; and (4) authority to use power otherwise available to collect information relating to the economic impact of compliance with proposed standards requirements, section 326(d).

Section 325(j) of the Act provides for standards to include any requirements on manufacturers which DOE determines are necessary to assure that each covered product to which a standard applies meets the required minimum energy efficiency level. DOE expects such provisions to include testing and submission of information to DOE before a munufacturer introduces products into commerce.

Section 333 provides that any persons who knowingly violate any provision of section 332 (which lists prohibited acts) shall be subject to civil penalties.

Other enforcement-related provisions provide for: (1) DOE to prescribe rules requiring manufacturers to allow DOE to observe and inspect results of testing conducted by the manufacturer or his agent, section 326(b)(5); (2) the manufacturer to supply to DOE a reasonable number of products for testing purposes, section 326(b); (3) the manufacturer to submit information or reports necessary to insure compliance, section 326(d); and (4) injunctive relief against any prohibited act, including distribution of noncomplying products, section 334.

C. IMPLEMENTATION PROCESS

Section 325(i) outlines the process by which the standards are to be prescribed. This process is substantially different from that followed in the target program in one important respect. Section 325(i)(3) requires DOE to identify, in the proposed rule, the maximum technologically feasible level of efficiency for each type (or class) of product, and if any proposed standard is not designed to achieve this level, to state the reasons for proposing a different level as the standard.

In anticipation of this requirement and to facilitate the gathering of relevant information, DOE is providing a detailed discussion in this notice of product classes, levels of efficiency and analytical concepts, and further, is holding a series of public meetings following publication of this notice in order to familiarize the public with this standard setting program and to achieve the highest possible degree of public awareness, involvement and comment.

Based upon comments received from this notice and information otherwise available, DOE will issue a notice proposing standards for the nine types of products. The proposal is scheduled to be issued in October 1979. That notice will provide DOE's determination of the maximum technologically feasible level of efficiency for each type (or class) of products, and if the standards proposed are not the maximum technologically feasible level of efficiency, the notice will state, as required by section 325(f), the reasons why the proposed standards are different. In addition, that notice is expected to propose a program for assuring compliance with the standards. A 60-day public comment period and a series of public hearings will follow.

After the public hearings, review and analysis of the comments, survey data, and other information will begin. Final standards are required to be issued no later than December 1980. The final rule will contain the standards and is expected also to contain compliance requirements. Under section 325(i), the standards may not become effective earlier than 180 days after publication of the final rule in the FEDERAL REGISTER.

D. PLANNED PHASE-IN OF STANDARDS

Section 325(c) allows for the phasing-in of standards over a period of up to five years through the establishment of intermediate standards. Use of the full five-year period for establishing final standards will provide manufacturers with the greatest possible planning and development time, and thus it would appear that they would be better able to meet higher final standards than might otherwise be the case were a shorter period adopted.

DOE's tentative planning is to utilize the full phase-in period and to prescibe standards which are to be achieved by December 1985. To assure that manufacturers make steady progress toward the 1985 standards, intermediate standards are planned for June 1981 and December 1983. In June 1981, six months after standards are promulgated, the first intermediate standards would become effective. These standards would take into account the short lead time that manufacturers will have to make design changes. Intermediate standards for December 1983 would be higher because those standards would have been published for a period of three years. If this alternative is followed, DOE will identify in the proposed rulemaking, for each class, minimum energy efficiency levels for each of the three years (1981, 1983, 1985).

One alternative to this phase-in strategy would be to set a 1981 standard and only one additional standard, the final standard, which would become effective sometime before 1985. Since under this approach manufacturers would have less time to achieve compliance with a final standard, this approach lacks the flexibility of the first one and could result in lower standards.

Another option which DOE is exploring would be to have different phase-in periods for the various product types or classes. This alternative might permit maximum efficiency levels to be reached over shorter time periods, but DOE does not have sufficient information about the efficiency improvement possibilities for individual types and classes of products to consider this approach at this time.

III. PRODUCT TYPES, LIKELY PRODUCT CLASSES AND TENTATIVE DETERMINATIONS CONCERNING THE MAXIMUM TECHNOLOGICALLY FEASIBLE ENERGY EFFICIENCY LEVELS

A. DEFINITIONS

For purposes of this notice:

"Energy efficiency standard" means a performance standard (as opposed to a design standard) which prescribes for each unit of a covered product a minimum energy efficiency level. Energy efficiency standards include test procedures prescribed in 10 CFR Part 430, Subpart B, and any requirements on manufacturers which DOE determines are necessary to assure that each covered product to which a standard applies meets the required minimum energy efficiency level specified in the standard.

"Minimum energy efficiency level" means the minimum value of the measure of efficiency (i.e., energy factor, energy efficiency ratio, seasonal energy efficiency ratio, annual fuel utilization efficiency, defined and measured according to DOE test procedures in 10 CFR Part 430, Subpart B), which each unit of a covered product must meet or exceed in order to be in compliance with an energy efficiency standard.

"Type" of covered products means one of the categories of consumer products designated in section 322(a) of the Act. For example, freezers are a type of covered product.

"Class" of covered products means a group of covered products, the functions or intended uses of which are similar. A class of covered products is subject to a single energy efficiency standard. Such standard may prescribe either the same minimum energy efficiency level for all of the basic models of the class, or different minimum energy efficiency levels for basic models which are distinguished by capacity or other performance-related features that affect efficiency and utility. For example, automatic defrost freezers are a class of covered products.

B. TENTATIVE DETERMINATIONS OF THE MAXIMUM TECHNOLOGICALLY FEASIBLE ENERGY EFFICIENCY LEVEL

In the proposed rule, DOE is required to identify the maximum technologically feasible energy efficiency level for each class of covered products. In order to facilitate the gathering of data, views and arguments, DOE is offering for consideration a definition of the term "maximum technologically feasible energy efficiency level" and presenting in Table II DOE's tentative determination of such levels based on 1978 data. The levels in Table II may be modified in the proposed rule as a result of either modifying the definition, obtaining better information regarding the highest levels of energy efficiency of basic models commercially available, or identifying efficiency improvements that occur in commercially available products prior to the time of the proposal.

For purposes of this advance notice, the term "maximum technologically feasible energy efficiency level" means, for each class of covered product, the highest level of the measure of energy efficiency (i.e., energy factor, energy efficiency ratio, seasonal energy efficiency ratio, annual fuel utilization efficiency, defined and measured according to DOE test procedures) of any basic model that is commercially available at the time of proposal (which is planned for October, 1979). Based on this definition, DOE's tentative determinations of maximum technologically feasible energy efficiency level for each product class are listed in Table II. As mentioned earlier, those levels are based on products commercially available in 1978. For the product classes for which DOE has incomplete information on the levels of the measure of efficiency of the basic models commercially available in 1978, DOE has estimated the maximum technologically feasible energy efficiency level based on the best available information. Classes for which levels have been estimated are noted in Table II by three asterisks.

C. CRITERIA FOR SELECTION OF CLASSES

DOE has segregated the basic models of product types into classes to which different energy efficiency standards are likely to apply. These classes are tentative, and different classes may be specified in the proposed rule if DOE receives data, views and arguments which justify changes. DOE used the following two criteria to segregate the basic models of product types into classes:

1. DOE is specifying classes whenever different basic models of the product type consume different types of energy (i.e., oil, gas, or electricity).

2. DOE is specifying classes in order to insure that consumer products having different capacities or other useful performance-related features which affect efficiency and utility remain available to consumers.

These criteria are applied to each product type in Section III E of this notice. For each class within a product type, Section III E includes a discussion of the justification for establishing minimum energy efficiency levels different from those which apply to other classes within the same product type.

D. METHOD OF SPECIFYING MINIMUM ENERGY EFFICIENCY LEVELS

For covered products other than refrigerators, refrigerator-freezers, freezers, and window room air conditioners, the same minimum energy efficiency level is likely to apply to each basic model within a particular class.

For refrigerators, refrigerator-freezers, freezers, and window room air conditioners, minimum energy efficiency levels within any class are likely to vary with capacity (i.e., net refrigerated volume or cooling capacity). Therefore, within a single class, basic models differing according to capacity are likely to be subject to different minimum energy efficiency levels. This method of establishing minimum energy efficiency levels is likely to be used for refrigerators, refrigerator-freezers, and freezers because their efficiency, as measured by the energy factor, tends to increase with volume. The same method is likely to be used for window room air conditioners because the minimum energy efficiency level is expected to vary greatly with capacity.

The likely product classes, and the tentative determinations of the maximum technologically feasible energy efficiency level for each class, are presented in Table II. Section III E con-

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tains a discussion of the considerations leading to the selection of the individual classes.

E. PRODUCT CLASS RATIONALE

1. *Refrigerators and Refrigerator-freezers*

Three classes of electric refrigerators and electric refrigerator-freezers are specified in this notice. These classes are distinguished by two performance-related features which affect utility: freezer compartment design temperature and the type of defrost system.

Refrigeration products which require manual defrosting are separated into two classes. Basic models of the first class have freezer compartments designed to operate at 15°F. This group is referred to as "manual defrost refrigerators" in DOE test procedures. Basic models of the second class have freezer compartments designed to operate at 5°F. This group is referred to as "partial automatic defrost refrigerator-freezers" in DOE test procedures and as "cycle defrost refrigerator-freezers" by certain members of the refrigeration industry.

According to the U.S. Department of Agriculture, food can be stored for much longer periods of time at 5°F than at 15°F. Therefore, the lower freezer compartment temperature provides additional utility to the consumer.

Despite the references to manual defrosting and partial-automatic defrosting in DOE test procedures, DOE believes that there are no significant differences between these products with regard to the type of consumer actions needed to accomplish defrosting. DOE believes, therefore, that "partial automatic" defrosting, as compared to manual defrosting, is not, in itself, a performance-related feature which affects utility.

Because of the different freezer compartment design temperatures, the energy factors of units having freezer compartments designed to operate at 5°F should tend to be lower than the energy factors of units having freezer compartments designed to operate at 15°F. Minimum energy efficiency levels appropriate for units having freezer compartments designed to operate at 15°F may not be achievable by units having freezer compartments designed to operate at 5°F. DOE is contemplating segregating these units into separate classes in order to insure that units having freezer compartments designed to operate at 5°F remain available to consumers.

Automatic defrost units do not require any consumer action to accomplish defrosting, and thus provide a utility to the consumer not provided by manually defrosted units. Moreover, automatic defrost units should tend to have lower energy factors because of the extra energy consumed by the automatic defrosting cycle. Minimum energy efficiency levels appropriate for other classes of refrigerators and refrigerator-freezers may not be achievable by automatic defrost refrigerator-freezers. Since automatic defrost refrigerator-freezers offer a distinct performance-related feature which affects utility and efficiency, DOE is specifying a class of automatic defrost refrigerator-freezers in order to insure that such units remain available to consumers. DOE is not further classifying automatic defrost refrigerator-freezers on the basis of freezer compartment design temperature because DOE believes that the freezer compartments of all automatic defrost refrigerator-freezers are designed to operate at the same temperature.

2. *Freezers*

Three classes of freezer are specified in this notice. These classes are distinguished by performance-related features which affect utility and efficiency. One such feature is the configuration of the unit, i.e., chest or upright. Examples of the extra utility which distinguishes upright freezers from chest freezers, include greater accessibility to the freezer contents and more efficient use of floor space. Information available to DOE indicates that the energy factors of upright freezers should tend to be lower than the energy factors of chest freezers. Therefore, minimum energy efficiency levels appropriate for chest freezers may not be achievable by upright freezers. Since upright freezers offer distinct performance-related features which affect utility and efficiency, DOE is specifying in this notice separate classes in order to insure that upright freezers remain available to consumers.

Another performance-related feature which affects utility and efficiency is the type of defrost system, which determines the extent of consumer action needed to accomplish defrosting. Automatic defrost units do not require any consumer action to accomplish defrosting, and thus provide the consumer with utility not provided by manual defrost units. Moreover, automatic defrost units, as compared to manual defrost units, should tend to have lower energy factors because of the extra energy consumed by the automatic defrosting cycle. Minimum energy efficiency levels appropriate for manual defrost freezers may not be achievable by automatic defrost freezers. Since automatic defrost freezers offer a distinct performance-related feature, DOE is specifying in this notice a class of automatic defrost freezers in order to insure that such units remain available to consumers. Because DOE is not aware of any automatic defrost chest freezers distributed in commerce, DOE is not planning to segregate automatic defrost freezers according to configuration.

3. *Clothes Dryers*

Three classes of clothes dryers are specified in this notice. These classes are distinguished either by the type of energy consumed by the basic models of a class or by performance-related features which affect utility and efficiency.

Basic models of clothes dryers are segregated into those which consume gas energy and those which consume electric energy. Failure to establish separate classes according to the type of energy consumed might result in the elimination of all basic models consuming certain types of energy. Such possibility is contrary to indications of the intent of Congress, as stated in the legislative history of the NECPA amendments.

Basic models of clothes dryers are also distinguished by the amount of room occupied by the unit, a performance-related feature which affects utility and efficiency. Compact clothes dryers take up less room than standard clothes dryers. Another related feature which affects utility is the drum size, which determines the size of an economical load: compact clothes dryers will dry the small loads typically needed by small families at a lower cost than standard clothes dryers. Information available to DOE indicates that the energy factors of compact clothes dryers should tend to be lower than the energy factors of standard clothes dryers. Since compact clothes dryers offer a distinct performance-related feature which affects utility and efficiency, DOE is specifying in this notice a separate class for compact electric clothes dryers in order to insure that such units remain available to consumers. DOE is not specifying a class for compact gas clothes dryers because DOE is not aware of any such units distributed in commerce.

4. *Water Heaters*

Three classes of water heaters are specified in this notice, based on the type of energy consumed: oil, gas, or electricity. Failure to establish separate classes according to the type of energy consumed might result in the elimination of basic models consuming certain types of energy, which is undesirable for the reasons already stated in the discussion concerning clothes dryers.

5. *Room Air Conditioners*

Four classes of room air conditioners are specified in this notice. Room air conditioners are distinguished by the configuration of the unit: packaged terminal, through-the-wall (no outdoor louvers), reverse cycle, and window room air conditioners. (Because through-the-wall room air conditioners with outdoor side louvers and window room air conditioners can often be used interchangeably, through-the-wall units with outdoor side louvers will be considered as part of the class of window room air conditioners.)

These four classes are each distinguished by performance-related features which affect utility and efficiency. Packaged terminal air conditioners have special mounting provisions essential to use in apartment complexes or condominiums. Through-the-wall units (no outdoor louvers) are typically designed to be flush mounted with the outside wall of the building. Reverse cycle air conditioners have the capability of providing heat to the conditioned space. Window units are designed to be mounted in various window openings.

The energy efficiency levels which are the maximum technologically feasible and economically justified are likey to be distinct for each of the classes. Minimum energy efficiency levels appropriate for one class may not be achievable by basic models of other classes. Since the basic models of each class offer distinct performance-related features, DOE is specifying in this notice four separate classes in order to insure that basic models of each class remain available to consumers.

6. *Home Heating Equipment (not including furnaces)*

Thirteen classes of home heating equipment (not including furnaces) are specified in this notice. These classes are distinguished by the type of energy consumed by the basic models of each class and by performance-related features which affect utility and efficiency.

Basic models of home heating equipment are segregated according to whether they consume electricity, gas or oil. Failure to establish separate classes according to the type of energy consumed might result in the elimination of basic models consuming certain types of energy, which is undesirable for the reasons already stated in the discussion concerning clothes dryers.

Basic models of gas-fired home heating equipment are further distinguished by methods of hot air distribution (i.e., forced-air or gravity), and the configuration (i.e., wall furnace, floor furnace, or room heater). Basic models of oil-fired home heating equipment are distinguished by methods of air distribution (i.e., gravity or forced-air) and configuration (i.e., wall furnace, floor furnace or room heater). Information available to DOE indicates that the minimum energy efficiency levels which are the maximum technologically feasible and economically justified are likely to be distinct for each of the proposed classes of oil-fired and gas-fired equipment. Therefore, minimum energy efficiency levels appropriate for one class may not be achievable by basic models of other classes. Since the basic models of each class offer distinct performance-related features which affect utility and efficiency, DOE is specifying twelve classes of oil-fired and gas-fired home heating equipment.

It is not necessary to differentiate between basic models of electric home heating equipment because all units are 100 percent efficient at point of use, according to the applicable DOE test procedures.

7. *Kitchen Ranges and Ovens*

Seven classes of kitchen ranges and ovens are specified in this notice. These classes are distinguished by the type of energy consumed by the basic models of each class, by the function of the basic models of the class, or by other performance-related features which affect utility and efficiency of the basic models of the class.

Basic models of kitchen ranges and ovens are segregated into classes according to whether basic models of the class consume electric energy only, or gas energy. Failure to establish separate classes according to the type of energy consumed might result in the elimination of all basic models consuming certain types of energy, which is undesirable for the reasons already stated in the discussion concerning clothes dryers.

This product type has been further segregated to account for the differing functions of the three major cooking components, i.e., microwave ovens, conventional ovens (electric and gas) and cooking tops (electric and gas). DOE anticipates that, instead of setting single standards for basic models which consist of two or more major cooking components, a separate standard will be set for each component.

Electric ovens and gas ovens have been further segregated into classes of self-cleaning ovens and non-self-cleaning ovens because of their differing utility to consumers. Self-cleaning ovens, as compared to non-self-cleaning ovens, should tend to have lower energy factors because of the extra energy consumed by the self-cleaning cycle. Minimum energy efficiency levels appropriate for non-self-cleaning ovens may not be achievable by self-cleaning ovens. Since self-cleaning ovens offer a distinct performance-related feature which affects utility and efficiency, DOE is specifying in this notice a class of self-cleaning ovens in order to insure that such units remain available to consumers.

Information available to DOE indicates that the minimum energy efficiency levels which are the maximum technologically feasible and economically justified are likely to be distinct for each of the specified classes of kitchen ranges and ovens. Therefore, minimum energy efficiency levels appropriate for one class may not be achievable by basic models of other classes. Since the basic models of each class offer distinct performance-related features, DOE is specifying seven classes of kitchen ranges and ovens in order to insure that such models remain available to consumers.

8. *Central Air Conditioners*

Two classes of central air conditioners are apecified in this notice. These classes are distinguished by their configuration, a performance-related feature which affects utility and efficiency.

Central air conditioners are segregated according to whether the units make up a single package or a split system (separated indoor and outdoor components connected by refrigeration and electrical lines). Certain households cannot accommodate split systems because suitable space is not available for the outdoor unit. Technical information available to DOE indicates that the measures of efficiency of single package systems should tend to be lower than the measures of efficiency of split systems. Minimum energy efficiency levels appropriate for split systems may not be achievable by single package systems. Since single package systems offer distinct performance-related features which affect utility and efficiency, DOE is specifying a separate class for single package systems.

9. *Furnaces*

Six classes of furnaces are specified in this notice. These classes are distinguished either by the type of energy consumed by the basic models of each class, or by performance-related features which affect utility.

Basic models of furnaces are segregated according to whether they consume electricity, gas, or oil. Failure to establish separate classes according to the type of energy consumed might result in the elimination of basic models consuming certain types of energy, which is desirable for the reasons already stated in the discussion concerning clothes dryers.

One performance-related feature which affects utility is the method of heat distribution to the household. Gas furnaces use air circulation systems based either on the effect of gravity on low density heated air, or on the action of a blower (i.e., forced air). Gravity-type systems offer the

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utility of operating without an electrical connection. In addition, a further class of furnaces, gas boilers, use hot water or steam to distribute heat. These various distribution systems result in different characteristics of heat transfer from the furnace flame to the conditioned space, and different losses through the flue. Information available to DOE indicates that the measure of efficiency of gravity gas furnaces should tend to be lower than the measures of efficiency of forced-air gas furnaces. Further, the measure of efficiency of forced-air furnaces should tend to be lower than the measure of efficiency for gas boilers. Minimum energy efficiency levels for one class of gas furnaces may not be achievable by other classes of gas furnaces. Since each class of gas furnaces provides distinct performance-related features, DOE is specifying separate classes in order to insure that all groups remain available to consumers.

Identical arguments lead to the specification of separate classes for forced-air oil furnaces and oil boilers. A class of oil furnaces using gravity to circulate hot air is not specified because DOE is not aware of any such units distributed in commerce.

TABLE II.—*Likely Classes and Tentative Determinations of Maximum Technologically Feasible Energy Efficiency Levels*

Covered product type	Class	Preliminary maximum technologically feasible energy efficiency level**
Refrigerators and refrigerator-freezers.	Electric, manually defrosted, 15° freezer	10.4 ft³/kWh-day (EF)
	Electric, manually defrosted, 5° freezer	10.1 ft³/kWh-day (EF)
	Electric, automatic defrost	6.6 ft³/kWh-day (EF)
Freezers	Manual defrost, chest	16.9 ft³/kWh-day (EF)
	Manual defrost, upright	13.9 ft³/kWh-day (EF)
	Automatic defrost	9.1 ft³/kWh-day (EF)
Clothes dryers	Electric, standard	2.77 lb/dWh (EF)
	Electric, compact	2.61 lb/dWh (EF)
	Gas	2.46 lb/dWh (EF)
Water heaters	Electric	0.89 (EF)***
	Gas	0.59 (EF)***
	Oil	0.50 (EF)***
Room air conditioners	Window and through the wall (with outdoor side louvers)	11.6 Btu/watt-hour (EER)
	Through the wall (no outdoor side louvers)	7.5 Btu/watt-hour (EER)
	Packaged terminal	8.7 Btu/watt-hour (EER)
	Reverse cycle	8.8 Btu/watt-hour (EER)
Home heating equipment, not including furnaces.	Electric, primary and supplementary	100% efficiency
	Gas, gravity, vented room heater	58% (AFUE)***
	Gas, forced air, vented room heater	74% (AFUE)***
	Gas, gravity, vented wall furnace	60% (AFUE)***
	Gas, forced air, vented wall furnace	70% (AFUE)***
	Gas, gravity, vented floor furnace	70% (AFUE)***
	Gas, forced air, vented floor furnace	(AFUE)*
	Oil, gravity, vented room heater	(AFUE)*
	Oil, forced air, vented room heater	(AFUE)*
	Oil, gravity, vented wall furnace	(AFUE)*
	Oil, forced air, vented wall furnace	(AFUE)*
	Oil, gravity, vented floor furnace	(AFUE)*
	Oil, forced air, vented floor furnace	(AFUE)*
Kitchen ranges and ovens	Microwave oven	44%(EF)***
	Electric cooking top	79% (EF)
	Electric oven	16% (EF)***
	Electric oven, self-cleaning	14% (EF)***
	Gas cooking top	46% (EF)
	Gas oven	8.5% (EF)
	Gas oven, self-cleaning	7.8% (EF)
Central air conditioners	Split system	10.3 (SEER)***
	Single package	8.9 (SEER)***
Furnaces	Gas, gravity	70% (AFUE)***
	Gas, forced air	75% (AFUE)
	Gas, boilers	79% (AFUE)
	Oil, boilers	85% (AFUE)
	Oil, forced air	82% (AFUE)***
	Electric	100% (AFUE)

*Information is not available to determine the maximum technologically feasible energy efficiency level.
**Based on data obtained by using DOE test procedures.
***Based on best available information.

EF=energy factor.
EER=energy efficiency ratio.
AFUE=annual fuel utilization efficiency.
SEER=seasonal energy efficiency ratio.

IV. Development of Proposed Energy Efficiency Standards

A. APPROACH

Section 325(l) of the Act requires DOE to determine the maximum improvement in energy efficiency that is technologically feasible for each type (or class) of covered product in proposing a standard. If the proposed standard is not designed to achieve this level of efficiency, DOE is required to state in the proposed rule the reasons therefor. If standards are proposed at a level below that which is the maximum technologically feasible, the reasons for such a proposal are expected to be primarily economic, i.e. related to the seven factors identified by Congress which must be considered to the extent practicable in determining whether a standard is economically justified. In order to supplement available data for identifying any reasons for not proposing a standard at the

maximum technologically feasible level, DOE has developed a series of questions framed around components of these seven factors. Any comments regarding the components and any responses to the questions will also be used as a framework for identifying areas which require additional data in determining final standards.[2] The components are listed in Part B and the questions are listed in Part C of this section.

B. COMPONENTS

The following is a listing of the seven factors and the major components of each factor. DOE has identified these major components in order to facilitate public comment. In addition to the components identified below, there may be other areas of concern regarding the seven factors. The public is invited to identify any additional areas of concern and to comment upon them.

The seven factors and their components are as follows:

1. The economic impact of the standard on the manufacturers and on the consumers of the products subject to such standard.
1.1. Impact on Manufacturers
a. Production
b. Employment
c. Capital Investment
d. Industry Structure
e. Change in Retail Price
1.2. Impact on Consumers
a. Choice of Products Available in the Market
b. Change in Retail Price
c. Utility/Performance
d. Maintenance
e. Energy Savings
f. Differential Impact of the Standard on Consumers
2. The savings in operating costs throughout the estimated average life of the covered products in the type (or class), compared to any increase in the price of, or in the initial charges for, or maintenance expenses of, the covered products which are likely to result from the imposition of the standard.
a. Estimated Average Product Life
b. Estimated Energy Savings
c. Changes in Maintenance Expenses
d. Change in Retail Price
3. The total projected amount of energy savings likely to result directly from the imposition of the standard.
a. Number of Units Produced Annually
b. Aggregate Energy Savings
4. Any lessening of the utility or the performance of the covered products likely to result from the imposition of the standard.
a. Product Classes
5. The impact of any lessening of competition determined in writing by the Attorney General that is likely to result from the imposition of the standard.
a. Changes in Competitive Situation for Each Manufacturer
6. The need of the Nation to conserve energy.
a. Estimated National Energy Savings
7. Any other factors which DOE considers relevant.
a. Impact of Standards on the Suppliers of Component Parts
b. Impact of Standards on the Distributors, Retailers and Institutional Sales Outlets
c. The Maximum Energy Efficiency Level Achievable by Manufacturers

C. QUESTIONS

The questions dealing with the components of the seven factors are listed below. Each question may invite responses based upon as many as three different sets of assumptions:

Current data—Answers to the questions using calendar year 1978 actual data. If actual data are not available for the complete year 1978, estimated data, based upon part-year data, may be used.

Scenario 1—Answers using 1986 estimated data, based on plans and forecasts assuming no energy efficiency standards program.[3] In the questions listed below, the term "Scenario 1" indicates the need for this type of answer.

Scenario 2—Answers using 1986 estimated data, assuming that the maximum technologically feasible levels of energy efficiency for each product class as given in Table II of this notice are to be met by 1986.[3] In the questions listed below, the term "Scenario 2" indicates the need for this type of answer.

In responding to questions involving Scenario 1, the assumptions underlying the plans and forecasts for 1986 should be identified, such as assumptions regarding the price of energy, the rate of inflation, etc. To permit useful comparison and analysis, answers involving Scenario 2 should be based on the same assumptions as those involving Scenario 1, plus the assumption of having to meet the maximum technologically feasible levels of energy efficiency as defined in this notice. Some of the questions have been repeated, because certain types of information are relevant in quantifying the impacts of more than one of the seven factors.

The questions, listed according to factors and components, are as follows:

1. The economic impact of the standard on the manufacturers and on the consumers of the products subject to such standard.
1.1. Impact on Manufacturers
a. Production
(1) What is the number of models manufactured by each company, for for each product class during calendar year 1978?[4] What is this number projected to be under Scenario 1 and Scenario 2?
(2) What is the number of units produced, and the average per unit price of the product at shipment from the factory, of each model during calendar year 1978?[4] What are these numbers and prices projected to be under Scenario 1 and under Scenario 2?
(3) In accordance with DOE test procedures, identify the capacity or other measure of useful output of services, the average annual energy consumption, and the level of the measure of energy efficiency for each model manufactured during calendar year 1978.[4] What is this same information projected to be under Scenario 1 and under Scenario 2?
(4) For those models to be producerd in 1986, what would be the percentage change in the cost of production (i.e., the sum of materials, labor, and overhead) since 1978 under Scenario 1 and under Scenario 2?
b. Employment
(1) What is the total employment for each firm and what percentage of this total are production workers for each of the 9 product types covered by this notice?[4] What would these figures be under Scenario 1 and under Scenario 2?
c. Capital Investment
(1) By product class, what is the dollar amount of capital investment by each firm for 1978 (actual data) and 1979 through 1986 (estimated data), on a year by year basis, assuming no standards? What is the dollar amount of capital investment for 1979 through 1986 (estimated data) assuming that the maximum technologically feasible level of efficiency of each product class as given in this notice is required to be met by 1986?[4]
d. Industry Structure
(1) What is share of market for each firm within each product class in calendar year 1978?[4] What is this share projected to be under Scenario 1 and under Scenario 2?
e. Change in Retail Price
1. What is the average retail price for each model manufactured by each company for calendar year 1978?[4] If the actual retail price is not available, give the suggested or estimated retail

[2] A description of the analysis proposed to be used in determining whether a standard is economically justified will be available to the public upon written request. These requests should be sent to James A. Smith at the address listed at the beginning of the notice.

[3] If 1986 estimates are not currently available, use latest actual or estimated data to develop them.

[4] See Table II of this notice for a listing of product classes by product type.

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price and identify it as such. What would this price be under Scenario 1 and under Scenario 2?

1.2. Impact on Consumers

a. Choice of Products Available in the Market

(1) What is the number of models manufactured by each company, and for each product class, during calendar year 1978? What is this number projected to be under Scenario 1 and under Scenario 2?

b. Change in Retail Price

(1) What is the average retail price for each model manufactured by each company for calendar year 1978? If the actual retail price is not available, give the suggested or estimated retail price and identify it as such. What would this price be under Scenario 1 and under Scenario 2?

c. Utility/Performance

(1) What would be the difference, if any, in the utility/performance of each product class, between Scenario 1 and Scenario 2?

(2) Describe product design features that affect energy consumption of each model manufactured during calendar year 1978. Describe what these features are projected to be under Scenario 1 and Scenario 2.

d. Maintenance Expenses

(1) What are the estimated annual average maintenance expenses for each product class manufactured during calendar year 1978, over the life of the product? What are these expenses projected to be under Scenario 1 and under Scenario 2?

e. Energy Savings

(1) In accordance with DOE test procedures, identify the capacity or other measure of useful output of services, the average annual energy consumption and the level of the energy efficiency measure for each model manufactured during calendar year 1978. What is the information projected to be under Scenario 1 and under Scenario 2?

f. Differential Impact of the Standard on Consumers

(1) What factors are important when considering differential impacts on consumers?

2. The savings in operating costs throughout the estimated average life of the covered products in the type (or class) compared to any increase in the price of, or in the initial charges for, or maintenance expenses of the covered products, which are likely to result from the imposition of the standard.

a. Estimated Average Product Life

(1) What is the estimated average life for each product class manufactured during calendar year 1978? What is the average life projected to be under Scenario 1 and Scenario 2?

b. Estimated Energy Savings

(1) In accordance with DOE test procedures, identify the capacity or other measure of useful output of services, the average annual energy consumption and the level of the energy efficiency measure for each model manufactured during calendar year 1978. What is this information projected to be under Scenario 1 and under Scenario 2?

c. Changes in Maintenance Expenses

(1) What are the estimated annual average maintenance expenses for each product class manufactured during calendar year 1978, over the life of the product? What are these expenses projected to be under Scenario 1 and under Scenario 2?

d. Change in Retail Price

(1) What is the average retail price for each model manufactured by each company for calendar year 1978? If the actual retail price is not available, give the suggested or estimated retail price and identify it as such. What would this price be under Scenario 1 and under Scenario 2?

3. The total projected amount of energy savings likely to result directly from the imposition of the standard.

a. Number of Units Produced Annually

(1) What is the number of units of each model produced during calendar year 1978? What is this number projected to be under Scenario 1 and under Scenario 2?

b. Aggregate Energy Savings

(1) In accordance with DOE test procedures, identify the capacity or other measure of useful output of services, the average annual energy consumption and the level of the energy efficiency measure for each model manufactured during calendar year 1978. What is this same information projected to be under Scenario 1 and under Scenario 2?

(2) What is the estimated average life for each product class manufactured during calendar year 1978? What is the average life projected to be under Scenario 1 and Scenario 2?

4. Any lessening of the utility or the performance of the covered products likely to result from the imposition of the standard.

a. Product Classes

(1) What would be the difference, if any, in the utility/performance of each product class manufactured, between Scenario 1 and Scenario 2?

5. The impact of any lessening of competition determined in writing by the Attorney General that is likely to result for the imposition of the standard.

a. Change in Competitive Situation by Manufacturer

(1) What is each company's share of the market for each product class, in calendar year 1978? What is the share projected to be under Scenario 1 and under Scenario 2?

(2) To what extent will the implementation of standards under Scenario 2 change the degree of competition within each product class and within each of the 9 product types covered by this notice, and with regard to the overall competitiveness of each firm?

6. The need of the Nation to conserve energy.

a. Estimated National Energy Savings

(1) In accordance with DOT test procedures, identify the capacity or other measure of useful output of services, the average annual energy consumption and the level of the energy efficiency measure for each model manufactured during calendar year 1978. What is this same information projected to be under Scenario 1 and Scenario 2 as defined above?

(2) What additional information is pertinent to conserving energy with respect to the 9 products types covered in this notice?

7. Any other factors which DOE considers relevant.

a. Impact of Standards on the Suppliers of Component Parts

(1) What is the projected impact in 1986 on the suppliers of component parts to the manufacturers, assuming Scenario 2?

b. Impact of Standards on the Distributors, Retailers and Institutional Sales Outlets

(1) What is the projected impact in 1986 on the distributors, retailers and institutional sales outlets for the 9 products types covered in this notice, assuming Scenario 2?

c. The Maximum Energy Efficiency Level Achievable by Manufacturers

(1) Assuming a standards program as outlined in this notice, what should the 1985 level of the measure of efficiency be for each product class expected to be covered by the program? (It is expected that this level would exceed the level projected under Scenario 1, since Scenario 1 assumes no standards program.) If this level for a product class is different from the maximum technologically feasible level of energy efficiency listed in Table II, what are the reasons for this difference based on any answers to the questions listed above or with reference to the components of the factors identified in Part B of this section?

D. STATEMENT OF CONFIDENTIALITY

Persons responding to this notice may consider parts of their comments to be of a confidential nature, because the release of certain types of information might be deemed to cause substantial competitive injury. If any person believes that any information submitted is covered by the exemption of the Freedom of Information Act concerning trade secrets and commercial or financial information obtained from a person and considered privileged or confidential (5 U.S.C. 552(b)(4)), the person should so state at the time of submission and request that DOE treat this information as confidential. Factors of interest to DOE when evaluating requests to treat information that has been submitted as confidential includes: (1) a description of the item; (2) an indication whether and why such items of information have been treated by the submitting person as confidential and whether and why such items are customary treated as confidential within the industry; (3) whether the information is generally known or publicly available from other sources; (4) whether the information has previously been made available to others without obligation concerning its confidentiality; (5) an explanation of the competitive injury to the submitting person which would result from public disclosure; and (6) an indication when such information might become nonconfidential due to the passage of time. DOE retains the right to make its own determination with regard to any claim of confidentiality.

DOE is also interested in obtaining views on what specific types of information warrant consideration under the exemption set forth in (5 U.S.C. 552(b)(4). Examples of specific types of information might include:

1. Number of units produced by model annually
2. Factory shipment price of each model
3. Total employment by product type
4. Estimated cost increase by model to meet a proposed standard
5. Capital investment annually by product type.

V. ENFORCEMENT

An enforcement program is expected to be included in the notice of proposed rulemaking specifying requirements on manufacturers for demonstrating compliance with a standard, as well as stating the actions which DOE will take to assure such compliance.

DOE is undertaking an analysis of enforcement program alternatives which will include the evaluation of ongoing Federal, State, and industry programs. An important part of the evaluation will include contact with manufacturers, trade associations, and consumer groups to identify various approaches to the enforcement program. The different approaches will be analyzed according to the overall program costs and benefits, including cost to manufacture, consumers, and the Government.

The programs that will be evaluated include the following:

1. U.S. Environmental Protection Agency;

a. Noise Enforcement Program

b. Automobile Exhaust Emission Certification Program.

2. National Highway Traffic Safety Administration; Enforcement of Motor Vehicle Safety Standards.

3. U.S. Department of Defense; Fleet Ballistic Missiles Procurement Standards

4. State of California; Enforcement of Appliance Energy Efficiency Standards.

5. Association of Home Appliance Manufacturers; Certification Program for Room Air Conditioners.

6. Air Conditioning and Refrigeration Institute; Certification of Unitary Air Conditioners.

7. Underwriters Laboratory; Product Safety Certification.

In providing any comments or alternative approaches, commenters should focus on the enforcement authority granted in the Act (discussed in section II B. of this notice) and the potential impacts of implementing various approaches available pursuant to this authority.

VI. CONSUMER PARTICIPATION

Because of the direct impact of the standards on individual consumers, DOE wishes to achieve in the standards development process the maximum level of consumer participation possible. The first major action taken to reach this goal will be a series of public meetings in six cities across the country.

Representatives of consumer groups and individual consumers are urged to attend these meetings and to make oral statements regarding the standards program. DOE is mailing copies of this notice to all individuals and consumer organizations identified by DOE as having an interest in standards development. Further, DOE will accept collect telephone calls, at the consumer information numbers listed at the beginning of this notice, from individuals making requests to speak at the public meetings or requesting information about this program until the close of the comment period March 5, 1979.

Additional consumer input is expected to be received from a consumer survey to be conducted under DOE's direction. The survey will be used to determine, with respect to energy efficiency, what products have been purchased and what products consumers expect to purchase. Data from this survey will be used in DOE's demand analysis studies in determining the economic impacts of standards.

DOE requests interested persons to submit suggestions and comments on any methods DOE should consider in order to maximize consumer participation in the development of standards

VII. ENVIRONMENTAL IMPACT ANALYSIS

The issuance of regulations under this program is subject to review pursuant to the provisions of the National Environmental Policy Act (NEPA) (42 U.S.C. 4321, et seq.). DOE believes that the setting of minimum energy efficiency standards for the nine type of consumer products, discussed herein, may be a major Federal action significantly affecting the quality of the human environment. Consequently, the Department will prepare an Environmental Assessment to serve as the basis to determine whether an Environmental Impact Statement (EIS) is required. If an EIS is required, a Notice of Intent to prepare an EIS will be published in the FEDERAL REGISTER.

VIII. COMMENTS ON ISSUES

Issues and questions relating to the development of standards are found throughout this notice. The following list of issues, while highlighting some of the major areas of interest to DOE, is not intended to be comprehensive and should not be construed as limiting the scope of comments relating to this notice.

1. DOE intends to *phase in standards* over a five year period as described in this notice, with the final standards becoming effective in December 1985. It is expected that intermediate standards may be prescribed for 1981 and 1983 so that progress toward meeting the 1985 efficiency levels will be assured. DOE is interested in comments relating to this schedule and other alternative phase-in schedules.

2. DOE has identified the product types and classes to which standards are likely to apply. Product classes were selected based on two criteria. First, classes were divided by the type of energy (electricity, gas, oil) the product consumes; second, classes were established within energy types by taking into account utility and performance-related features. DOE would like to receive comments pertaining to the *proposed classes.* If additional classes are recommended, the recommendations should include the rationale for the establishment of such classes based on the two class selection criteria discussed above.

3. For purposes of this notice, DOE has defined *"maximum technologically feasible energy efficiency level"* in section III B. DOE invites comments on this definition and on the preliminary efficiency levels listed in Table II.

4. DOE's approach to the development of an energy efficiency standard *enforcement* program has been dis-

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cussed in section V. Suggestions relating to a DOE enforcement program would be most valuable in the early stages of program development. In providing any comments or approaches, manufacturers, trade associations and the general public should focus on the enforcement authority granted in the Act (discussed in section II B) and the effectiveness and potential impacts of implementing various approaches pursuant to this authority.

5. DOE believes, on the basis of information currently available, that retail prices vary widely for products of similar efficiencies manufactured by different manufacturers. Further, retail prices of identical products manufactured by a single manufacturer vary widely. In quantifying the impacts of standards, what relationships are important in accounting for the numerous *retail pricing* stragtegies found in the marketplace?

6. Costs to operate consumer products vary widely across the nation, due to different costs of energy, climatic variations, and the different ways in which consumers use these products. DOE is interested in receiving comments that address methods that could be used for assessing the impacts for these *variable costs* when developing minimum energy efficiency levels for a standard.

7. Congress identified seven factors which must be considered to the extent practicable in determining the economic justification of a standard. In section IV, DOE has identified the major components within each factor and listed a series of questions framed around these components to focus any comments regarding the economic impacts of standards. DOE is interested in comments on the following issues relating to the seven factors:

(a) Whether or not the components and questions presented are sufficient.

(b) The need to obtain answers to the questions on a firm-by-firm basis.

(c) The best method for DOE to use to collect data of this nature.

IX. Comment Procedures

Interested persons are invited to participate in the development of standards by submitting, to the address indicated at the beginning of this notice, data, views or arguments with respect to the subjects set forth in this notice.

Comments should be identified on the outside of the envelope, and on documents submitted to DOE, with the designation, "Energy Efficiency Standards for Consumer Products." If possible, fifteen copies should be submitted, but this is not a requirement for submitting comments.

Any person submitting information which he believes to be confidential should so identify the information and submit one copy only of the information. DOE reserves the right to determine the confidential status of the information or data, as discussed above in section IV D, and to treat it according to that determination.

All comments received on or before March 5, 1979 will be considered by DOE in developing the proposed standards. The comment period will extend over a period of 60 days, rather than the 45 day comment period specified in section 325(i)(1)(B) of the Act because DOE's policy pursuant to Executive Order 12044 requires at least a 60 day comment period. Further, DOE believes that the additional 15 days will result in more meaningful response to this notice, and this extension will not result in delay of the legislated timetable for the prescription of standards.

X. Oral Presentation: Conduct of Meetings

Any person who has an interest in this proceeding, or who is a representative of a group of persons having an interest, may request in writing an opportunity to make an oral presentation at any of the public meetings. Such requests should be labeled both on the document and on the envelope, "Energy Efficiency Standards for Consumer Products—Request to Speak at Public Meeing," and should be sent to the address for the appropriate meeting indicated at the beginning of this notice, by the time there specified.

The person making the request should briefly describe the interest concerned and, if appropriate, state why he or she is a proper representative of a group that has an interest, and give a phone number where he or she may be contacted.

DOE reserves the right to select the persons to be heard at these meetings, to schedule the respective presentations, and to establish the procedures governing the conduct of the meetings. The length of each presentation may be limited, due to the number of persons requesting to be heard. If time permits, the official conducting the meeting may, at his or her discretion, accept additional comments or questions from those attending the meeting.

A DOE official will be designated to preside at the meeting. These will not be judicial or evidentiary-type hearings. Questions may be asked only by those conducting the meetings, except during those periods when comments are requested from the floor. Any further procedural rules needed for the proper conduct of the meetings will be announced by the presiding officer.

Transcripts of the meetings will be made, and the entire record of the meetings, including the transcript, will be retained by DOE and made available for inspection at the DOE Freedom of Information Office in the Forrestal Building, Independence Avenue and L'Enfant Plaza, S.W., Washington, D.C. 20585, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

Issued in Washington, D.C., December 26, 1978.

Omi Walden,
Assistant Secretary, Conservation and Solar Applications.

[FR Doc. 78-35936 Filed 12-27-78; 10:49 am]

[7535-01-M]

NATIONAL CREDIT UNION ADMINISTRATION

[12 CFR Part 701]

ORGANIZATION AND OPERATIONS OF FEDERAL CREDIT UNIONS

Purchase, Sale, and Pledge of Eligible Obligations

AGENCY: National Credit Union Administration.

ACTION: Proposed Rule.

SUMMARY: The proposed rule would permit a Federal credit union (1) to purchase from, sell to, or pledge to any source any eligible obligations of its members; (2) to purchase from a liquidating credit union any eligible obligations of the liquidating credit union's individual members; and (3) when engaged in real estate lending pursuant to Section 701.21-6, to purchase from other credit unions real estate loans granted in accordance with that section if the purchase will facilitate the purchaser's packaging of a pool of such loans to be sold or pledged on the secondary market, and to sell or pledge to any source any real estate loans purchased in packaging of a pool of such loans. The rule is necessary to implement provisions of the April 19, 1977 amendments to the Federal Credit Union Act (Public Law 95-22, 91 Stat. 49). It is intended to provide Federal credit unions greater flexibility both in meeting member demands and in spreading the risk of those demands. This should enhance a credit union's ability to react quickly and efficiently to meet liquidity needs. It is also intended to provide a Federal credit union making long term real estate loans greater access to the secondary mortgage market.

DATE: Comments must be received on or before January 31, 1979.

ADDRESS: Send comments to Robert S. Monheit, Senior Attorney, Office of General Counsel, National Credit Union Administration, Room 4202, 2025 M Street, N.W., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT:

Stephen W. Raver, Director, Division of Examination, Office of Examination and Insurance, or John L. Culhane Jr., Attorney-Advisor, Office of General Counsel, National Credit Union Administration, 2025 M Street, N.W., Washington, D.C. 20456. Telephone numbers: (202) 254-8760 (Mr. Raver), (202) 632-4870 (Mr. Culhane).

SUPPLEMENTARY INFORMATION:

1. Background

Before Public Law 95-22 was passed, Federal credit unions could not purchase, sell, or pledge obligations of their members. Public Law 95-22 granted these powers.

As an interim measure, the Administration issued a rule allowing Federal credit unions to sell long term real estate loans to the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, and to Federal, state, and local housing authorities. 43 Fed. Reg. 33899 (1978). This interim rule, Section 701.21-8, was later amended to allow Federal credit unions to sell their members' guaranteed student loans to the Student Loan Marketing Association. 43 Fed. Reg. 36239 (1978). Although the interim rule was effective immediately, comments on it were requested and were considered in drafting the proposed rule.

Once adopted in final form, this proposed rule will replace the interim rule. The proposed rule follows the general format of Section 701.21-7, the final rule governing participation loans. With the exception of differing restrictions specifically imposed by the Federal Credit Union Act (the Act), restrictions similar to those placed on participation loans are proposed. The Administration does not intend to favor one arrangement over another. It believes that, insofar as possible, the decision either to enter into a participation arrangement prior to or at the time of origination of a loan, to subsequently purchase or sell a loan, or to pledge a loan should be made by the credit union's board of directors.

2. Authority

The proposed rule is based primarily on three sections of the Act: 107(5)(A)(i), 107(13) and 107(15).

Subsection 107(13) authorizes a Federal credit union to purchase, sell, pledge, discount, or otherwise receive or dispose of, in whole or in part, any eligible obligations of its members. It also authorizes a Federal credit union to purchase from a liquidating credit union notes made by individual members of the liquidating credit union. Prices are to be agreed upon by the boards of directors of the liquidating credit union and of the purchasing credit union.

On its face, 107(13) does not authorize one Federal credit union to purchase a real estate loan from another Federal credit union, unless the person liable on the loan happens to be a member of both credit unions. Considering the Congressional intent to allow credit unions to take advantage of secondary mortgage market facilities, the Administration does not believe that Congress intended 107(13) to be an express prohibition on such purchases, provided they are authorized by other sections of the Act.

It is the Administration's belief that the power to make such pruchases is incidental to the power to make long term real estate loans. In order to operate an effective real estate lending program, a Federal credit union must be able to access the secondary market efficiently. This can best be done by pooling loans. Thus the Administration feels that the incidental powers clause, 107(15), and the long term real estate lending power, 107(5)(A)(i), taken together, allow a Federal credit union actively engaged in real estate lending to purchase the real estate loans of other credit unions when necessary to package a pool for the secondary market.

Mindful of the restrictions placed on real estate lending by Congress, it is the Administration's belief that credit unions cannot purchase real estate loans from institutions other than credit unions. Congress did not intend for credit union funds to be diverted to institutions where they might be used for luxury homes or for other than one to four family dwellings. Therefore balancing the need of Federal credit unions for efficient access to the secondary market against Congressional intent in restricting the real estate loans to be made by Federal credit unions, the Administration proposes to allow Federal credit unions actively engaged in real estate lending to purchase loans made by other credit unions in compliance with Section 701.21-6 when necessary to package a pool for the secondary market. This will benefit smaller Federal credit unions engaged in real estate lending by making entry into the secondary market more feasible and will benefit larger Federal credit unions by allowing them to sell or pledge their loans in such a way as to take greater advantage of marketplace conditions.

3. Eligible Obligations

The term "eligible obligations" is defined in 701.21-8(a)(1) to parallel the definition of participation loans in 701.21-7(a)(1). Regular line of credit loans are excluded from the definition of "eligible obligations" because the Administration believes that operational problems would result if they could be sold and purchased. The only line of credit loans that may be sold and purchased are those of liquidating credit unions. Because the relationship between the member and the credit union is essentially frozen when the credit union enters liquidation, these loans are then substantially similar to closed-end loans. Consequently, the operational problem that would result if regular line of credit loans could be sold and purchased should not exist with these loans.

4. Purchase

The purchase of eligible obligations is governed by 701.21-8(b). Basically, a Federal credit union may purchase different eligible obligations in different situations. First, a Federal credit union may purchase from any source the eligible obligations of its own members. This restriction is imposed by 107(13) of the Act, and is consistent with the creation of Federal credit unions as organizations providing services only to their members. Second, a Federal credit union may purchase the eligible obligations of the individual members of a liquidating credit union which are held by the liquidating credit union. The eligible obligations need not be obligations of members of the purchasing Federal credit union. Third, a Federal credit union engaged in real estate lending may purchase form other credit unions real estate loans granted in accordance with Section 701.21-6 if the purchase will facilitate the purchaser's packaging of a pool of such loans to be sold or pledged on the secondary market.

Federal credit unions are allowed to purchase only those loans which they have the authority to make. It is the Administration's belief that Congress did not intend that Federal credit unions should be handling unfamiliar obligations or that the purchase and sale authority should be used to evade statutory restrictions on lending.

In all cases, the board of directors must approve the purchase. In addition, all purchase agreements must be reduced to written contracts stating the basic responsibilities of seller and purchaser.

Subsection 107(13) prohibits the aggregate balance of unpaid notes purchased from exceeding 5 per centum of the unimpaired capital and surplus of the purchaser. The Administration does not intend to impose a similar restriction on real estate loans purchased from other credit unions to package a pool because that would unduly hamper the ability of Federal credit unions to access the secondary mortgage market. However, a Federal credit union's acquired interest in real

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estate loans with maturities in excess of 12 years will be included in the aggregate dollar amount of real estate loans allowed under Part 701.21-6(b)(4) of the National Credit Union Administration Rules and Regulations. This restriction is proposed so that the purchase of eligible obligations rule will be similar to the final participation loan rule, so that the consumer credit needs of members will not be overshadowed by speculation in real estate lending, and so that credit unions will not be encouraged to purchase loans to complete pools rather than to make loans to their member to complete pools.

5. SALES

The sale of eligible obligations is governed by 701.21-8(c). A Federal credit union may sell to any source the eligible obligations of its members. This includes the sale of real estate loans to a credit union packaging a pool of such loans to be sold or pledged on the secondary market. A Federal credit union may also sell on the secondary market any loans it has purchased to package a pool.

However, not all loans which may be purchased may be resold. Subsection 107(13) does not authorize the sale of eligible obligations purchased from a liquidating credit union. Consequently a Federal credit union may not sell such obligations unless they are also obligations of a member or real estate loans being sold to a credit union putting together a pool of such loans to be sold or pledged on the secondary market.

Once approved by the board of directors, loans may be sold, but agreements must be reduced to written contracts containing the same minimum provisions that would be required if the credit union purchased the loans.

6. PLEDGES

The pledge of eligible obligations is governed by 701.21-8(d). A Federal credit union may pledge the eligible obligations of its members and real estate loans purchased to package a pool. Once approved by the board of directors, they may be pledged to any source, but agreements must be reduced to written contracts stating the basic responsibilities of pledgor and pledgee.

7. DISCOUNTS

The Administration does not intend to regulate the discounting of eligible obligations at this time. Abuses of the power which amount to unsafe and unsound practices will be remedied by appropriate administrative actions, including cease and desist actions. Should the circumstances arise, the Administration will also consider the appropriateness of civil and criminal actions against the directors of a credit union who abuse the power. It is the Administration's belief that directors who willfully abuse this type of power would be personally liable to the credit union for any losses caused as a result of their actions.

8. TEN PERCENT LIMITATION

For purposes of uniformity and to avoid a Federal credit union's committing its funds to benefit only a limited number of members, a Federal credit union's retained or acquired interest in loans to a member must be added with other loans to the member and with partial interests in participation loans to determine the member's total indebtedness to the credit union. The sum of these amounts may not exceed 10 percent of the credit union's unimpaired capital and surplus. Real estate loans purchased for the purpose of packaging a pool of loans to be sold or pledged on the secondary market need not be considered in determining whether the statutory limit has been exceeded since these loans will not normally be obligations of members, will only be held by the credit union for a limited time (until the pool is sold or pledged), and because a contrary result would unduly hamper the purchasing credit union's ability to access the secondary market.

LAWRENCE CONNELL,
Administrator.

DECEMBER 27, 1978.

Authority: Sec. 107(5)(A)(i), 91 Stat. 49 (12 U.S.C. 1757(5)(A)(i)), Sec. 107(13), 91 Stat. 51 (12 U.S.C. 1757(13)), Sec. 107(15), 82 Stat. 284 (12 U.S.C. 1757(15)), Sec. 120, 73 Stat. 635 (12 U.S.C. 1766) and Sec. 109, 84 Stat. 1104 (12 U.S.C. 1789).

§ 701.21-8 Purchase, Sale, and Pledge of Eligible Obligations.

(a) For purposes of this section:

(1) "Eligible Obligation" means a loan or group of loans, other than a line of credit loan, except, however, the term shall include a line of credit loan of a liquidating credit union.

(2) "Obligation account" means a special payable account established for the accumulation of payments on a loan awaiting distribution to the purchaser of an eligible obligation.

(b) *Purchase.* (1) A Federal credit union may purchase, in whole or in part, from any source eligible obligations of its members and from a liquidating credit union eligible obligations of the liquidating credit union's individual members, within the limitations of the board of directors' written policies, *Provided:*

(i) It only purchases those types of loans it is empowered to grant;

(ii) The board of directors or investment committee approves the purchase; and

(iii) A written agreement and a schedule of the eligible obligations covered by the agreement is retained in the purchaser's office.

(2) The agreement to purchase a partial interest in eligible obligations shall, at a minimum:

(i) Identify the eligible obligation covered by the agreement;

(ii) Provide for the collection, processing and/or remittance of payments of principal and interest, late charges, service charges, escrow accounts (if required), and obligation accounts;

(iii) Disclose the responsibilities of each party in the event an eligible obligation becomes subject to collection, loss or foreclosure;

(iv) Provide that in the event of loss each owner shall share in the loss in proportion to its interest in the eligible obligation;

(v) Provide for the distribution of payments of principal to each owner proportionate to its interest in the eligible obligation;

(vi) Provide for loan status reports; and

(vii) State the terms and conditions under which the agreement may be terminated or modified.

(3) The aggregate of the unpaid balances of eligible obligations purchased under this subsection shall not exceed 5 per centum of the unimpaired capital and surplus of the purchaser.

(4) Notwithstanding the limitation set forth in paragraph (1) of this subsection, a Federal credit union engaged in real estate lending pursuant to § 701.21-6 may also purchase, in whole or in part, from other credit unions real estate loans granted in accordance with that section if the purchase will facilitate the purchasing credit union's packaging of a pool of such loans to be sold or pledged on the secondary mortgage market. A purchase made in accordance with this paragraph shall:

(i) Comply with paragraphs (1) and (2) of this subsection; and

(ii) Be included in the aggregate dollar amount of real estate loans allowed under § 701.21-6(b)(4).

(c) *Sale.* (1) A Federal credit union may sell, in whole or in part, to any source eligible obligations of its members and real estate loans purchased in accordance with subsection (b)(4), within the limitations of the board of directors' written policies, *Provided:*

(i) The board of directors or investment committee approves the sale; and

(ii) A written contractual agreement and a schedule of the eligible obligations covered by the agreement are retained in the seller's office.

(2) An agreement to sell a partial interest in eligible obligations shall at a minimum comply with the requirements set forth in subsection (b)(2).

(3) A sale of an eligible obligation shall not be subject to recourse or repurchase provisions. However, the following are permitted:

(i) An agreement which requires the seller to repurchase the eligible obligation because of any breach of warranty or misrepresentation;

(ii) An agreement which allows the seller to repurchase at its discretion; and

(iii) An agreement which allows substitution of one loan for another loan.

(d) *Pledge.* (1) A Federal credit union may pledge, in whole or in part, to any source eligible obligations of its members and real estate loans purchased in accordance with subsection (b)(4), within the limitations of the board of director's written policies, *Provided:*

(i) The board of directors or investment committee approves the pledge;

(ii) The original loan documents are retained; and

(iii) A written agreement covering the pledging arrangement is retained in the office of the credit union that pledges the eligible obligation.

(2) The pledge agreement shall, at a minimum:

(i) Identify the eligible obligation covered by the agreement;

(ii) Disclose the responsibilities of each party in the event an eligible obligation becomes subject to collection, loss or foreclosure;

(iii) Set forth the terms and conditions regarding substitution; and

(iv) Set forth the terms and conditions under which the agreement may be modified or terminated.

(e) *Servicing.* A Federal credit union may agree to service any eligible obligation it purchases or sells, in whole or in part.

(f) 10 Percent Limitation

The total indebtedness owing to any Federal credit union by any person, inclusive of retained and acquired interests, shall not exceed 10 per centum of its unimpaired capital and surplus. Real estate loans purchased pursuant to the authority and for the purpose set forth in subsection (b)(4) shall not be included in considering this 10 percent limitation.

[FR Doc. 78-36439 Filed 12-29-78; 8:45 am]

[7535-01-M]

[12 CFR Part 701]

ORGANIZATION AND OPERATIONS OF FEDERAL CREDIT UNIONS

Borrowed Funds From Natural Persons

AGENCY: National Credit Union Administration.

ACTION: Proposed rule, correction of preamble.

SUMMARY: The third sentence of the "Supplementary Information" section of the proposed rule, § 701.38 Borrowed Funds From Natural Persons, published on December 12, 1978 (43 FR 58096) is hereby corrected by eliminating the word "removing" and inserting in its place the word "raising". The corrected sentence should read: "Effective July 7, 1978, Section 701.35 was amended to provide Federal credit unions with further flexibility to attract, maintain, and manage member savings by raising the dividend ceiling on share certificate programs for retirement accounts."

EFFECTIVE DATE: Comments on the proposed regulation must be received on or before February 23, 1979.

ADDRESS: Send comments to Robert S. Monheit, Senior Attorney, Office of General Counsel, National Credit Union Administration, Room 4202, 2025 M Street, NW, Washington, DC 20456.

FOR FURTHER INFORMATON CONTACT:

Mike Fischer, Special Assistant for Examination and Insurance, at the above address. Telephone: (202) 254-8760.

LAWRENCE CONNELL,
Administrator.

DECEMBER 22, 1978.

[FR Doc. 78-36438 Filed 12-29-78; 8:45 am]

[4910-13-M]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 47]

[Docket No. 18604 Notice No. 78-18]

AIRCRAFT REGISTRATION

Eligibiliy for Aircraft Registration

AGENCY: Federal Aviation Administration (FAA).

ACTION: Notice of Proposed Rule Making (NPRM).

SUMMARY: This notice proposes rules and procedures for the registraion of aircraft owned by foreign citizens lawfully admitted for permanent residence in the United States and by certain foreign-owned United States corporations whose aircraft were not previously eligible for registration. This notice sets forth proposed regulations responsive to recent Congressional legislation which expanded the eligibility for aircraft registration to aircraft owned by such persons.

DATE: Comments on the proposed regulation must be received before March 1, 1979.

ADDRESSES: Send comments on the proposals, in duplicate, to: Federal Aviation Administration Office of the Chief Counsel Attn: Rules Docket (AGC-24), Docket No. 18604 800 Independence Avenue, S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Ms. Florine Crockett, Chief, Technical Section (AAC-251) FAA Aircraft Registry Aircraft, Registration Branch Box 25082 Oklahoma City, Oklahoma 73125, Telephone (405) 686-2284.

SUPPLEMENTARY INFORMATION:

I. COMMENTS INVITED

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue, S.W., Washington, D.C. 20591. All communications received on or before March 1, 1979 will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerned with this rule making will be filed in the docket.

II. AVAILABILITY OF NPRMS

Any person may obtain a copy of this notice of proposed rule making (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

III. BACKGROUND

Since the enactment of the Air Commerce Act of 1926, Pub. L. 69-254 (44 Stat. 568), except during the years from 1934 to 1938, foreign-owned aircraft could not qualify for registration in the United States. The limitation on eligibility for registration most recently has been in Section 501(b) of

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the Federal Aviation Act of 1958 (Act; 49 U.S.C. 1401(b)) which provided as follows:

(b) An aircraft shall be eligible for registration if, but only if—

(1) It is owned by a citizen of the United States and it is not registered under the laws of any foreign country; or

(2) It is an aircraft of the Federal Government or of a State, Territory or possession of the United States, or the District of Columbia, or a political subdivision thereof.

The limitation of registration eligibility to United States citizens posed difficulties for foreign nationals that wanted to base their aircraft in the United States. Foreign nationals had two alternatives: (1) to rent aircraft from persons eligible for U.S. registration or (2) to own and operate an aircraft in the United States while maintaining its registry in a foreign country. The latter course of action was and is subject to the condition that such operation is authorized by applicable orders and regulations issued by the Civil Aeronautics Board pursuant to Section 1108(b) of the Act (49 U.S.C. 1508(b)).

In 1977 and 1978, the Congress revised Section 501(b) of the Act to read as follows:

(b) An aircraft shall be eligibile for registration if, but only if—

(1)(A) It is—

(i) Owned by a citizen of the United States or by an individual citizen of a foreign country who has lawfully been admitted for permanent residence in the United States; of

(ii) Owned by a corporation (other than a corporation which is a citizen of the United States) lawfully organized and doing business under the laws of the United States or any State thereof so long as such aircraft is based and primarily used in the United States; and

(B) It is not registered under the laws of any foreign country; or

(2) It is an aircraft of the Federal Government, or of a State, territory or possession of the United States or the District of Columbia or a political subdivision thereof.

For purposes of this subsection, the Secretary of Transportation shall, by regulation, define the term "based and primarily used in the United States". (Act of Nov. 9, 1978, Pub. L. 95-163, *as amended by* Act of March 8, 1978, Pub. L. 95-241.)

This notice proposes to amend Part 47 of the Federal Aviation Regulations to provide for: (1) the registration of aircraft by an individual citizen of a foreign country who has been lawfully admitted for permanent residence in the United States; (2) the registration of aircraft by a corporation (other than a citizen of the United States) lawfully organized and doing business under the laws of the United States or any State thereof, if the aircraft is based and primarily used in the United States; and (3) a definition of "based and primarily used in the United States". Additionally, certain technical amendments are now to be made. These involve aspects of registration by partnerships, trustees, and corporations that use voting trusts, the substitution of the term "person" where appropriate, and the provision for immediate termination of a certificate when eligibility has ceased.

IV. Discussion of the Proposal

A. Individual Foreign Citizens Who Have Lawfully Been Admitted for Permanent Residence in the United States

Neither revised Section 501(b) nor the Federal Aviation Regulations define the term "individual citizen of a foreign country who has lawfully been admitted for permanent residence in the United States". The statutory authority for the immigration of aliens to the United States is the Immigration and Nationality Act of 1952 (INA; 8 U.S.C. 1101 *et seq.*). The INA defines "lawfully admitted for permanent residence" as the "status of having been lawfully accorded the privilege of residing permanently in the United States as an immigrant in accordance with the immigration laws, such status not having changed," 8 U.S.C. 1101(a)(15). An "immigrant" is defined by the INA in negative terms, that is, as what an immigrant is not. Section 1101(a)(15) provides that an immigrant is every alien except an alien who is within one of twelve classifications of nonimmigrant aliens who do not have permanent status.

An alien who is lawfully admitted as a permanent resident of the United States, in accordance with the INA and the regulations of the Immigration and Naturalization Service of the Department of Justice (8 CFR Chapter 1), is issued an alien registration number. This registration number varies with the classification of the alien. An alien who has been given permanent residency status will possess a registration number which reflects that status. Accordingly, proposed § 47.7(b) provides that it will be sufficient, for the purposes of proof of eligibility for aircraft registration, for a foreign citizen with permanent residency status to identify the applicant's assigned alien registration number on the application for aircraft registration, in addition to a representation of having been lawfully admitted as a permanent resident of the United States.

B. Corporations Not United States Citizens

Under revised Section 501(b), in order for a corporation which does not qualify as a citizen under Section 101(16) of the Federal Aviation Act (49 U.S.C. 1301(16)) to be eligible for registration, it must be lawfully organized and doing business under the laws of the United States or any State thereof. This proposal would require a noncitizen corporation to provide evidence with an application for aircraft registration, that it is lawfully organized and doing business under the laws of the United States, or any State thereof.

Section 501(b)(1)(A)(ii) placed an additional limitation upon noncitizen corporations that wish to register aircraft in the United States: each aircraft must be based and primarily used in the United States. The proposed definition of this limitation, new § 47.9(b), has been established by examining the purpose of the limitation.

The legislative history of Section 501(b) indicates that the "based and primarily used" limitation was incorporated into the expansion of eligibility for aircraft registration to prevent United States registry from becoming an international registry, and United States registration from becoming a so-called "flag of convenience." In order to achieve Congressional intent, Congress recognized that it is necessary to define more precisely "based and primarily used in the United States", by regulation, to make certain that those corporations desiring to register aircraft in the United States actually intend to use those aircraft primarily in the United States.

The FAA has determined that the percentage of flight hours in the United States is the most effective method of determining where an aircraft is based and primarily used. The FAA believes that the phrase "based and primarily used in the United States" implies that only those aircraft which are operated at least 60 percent of the time in the United States are eligible for registration. The 60 percent figure represents a judgment as to the figure which permits the greatest amount of flexibility to the registrant while being consistent with the Act. Accordingly, proposed § 47.9(b) provides that in any 180 consecutive day period, 60 percent of the total flight hours of the aircraft must be spent in the United States.

"United States", as defined by Section 101(41) of the Act (49 U.S.C. 1301 (41)), means "the several States, the District of Columbia, and the several Territories and possessions of the United States, including the territorial waters and the overlying airspace thereof." The FAA interprets "used in the United States" to include all non-stop (except in emergencies and for purposes of refueling) flights between two points in the United States. Therefore, although an aircraft may be in flight over the high seas or over a neighboring country during a nonstop flight between two points in the United States, all of the flight hours accumulated during such a flight are considered flight hours accumulated in the United States. Proposed § 47.9(d) sets forth this interpretation.

The FAA has concluded that the determination of whether an aircraft is based and primarily used in the United States is prospective from the time that it is enrolled in the U.S. registry. In other words, the "based and primarily used" restriction is applicable only during the period that the aircraft is registered in the United States. Proposed § 47.9(d) sets forth this position.

To ascertain compliance with the "based and primarily used in the United States" restriction, record keeping and reporting requirements are proposed in § 47.9(e). The registered owner or operator of a U.S. aircraft is required by § 91.173(a)(2)(i) (14 CFR 91.173(a)(2)(i)) to keep records of the total time in service of the airframe. Proposed § 47.9(e)(1) would require that a record also be maintained of the total flight hours in the United States of the aircraft. Proposed § 47.9(e)(2) additionally would require that a report be submitted to the FAA Aircraft Registry at the end of each 180-day period indicating total time in service of the airframe and total number of flight hours in the United States during that period.

C. Clarification of the Citizenship Requirement

1. General

Under the terms of Section 501(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1401(b)), any U.S. citizen is eligible to register aircraft in the United States. As now defined by the Act, a citizen of the United States may be an individual citizen, a partnership of which each member is such an individual, or a U.S. corporation or association which is owned or controlled, as defined in Section 101(16)(c) of the Act (49 U.S.C. 1301(16)(c)), by persons who are U.S. citizens.

Regulations and comprehensive policy criteria for applicants that fall into the categories of partnerships and corporations that wish to achieve citizenship through the use of voting trusts are needed. It is proposed to include in a new § 47.7 a clarification of FAA practice regarding these applicants.

2. Partnerships

The FAA's longstanding interpretation of Section 101(16)(b) of the Act is that all partners, both limited and general, of a partnership seeking to register an aircraft, must be eligible as citizens of the United States in order to register the aircraft. Proposed § 47.7(d) sets forth this FAA policy.

3. Voting Trusts

In order to provide guidance to corporations that wish to come within the scope of Section 101(16) of the Act through the use of a voting trust, proposed § 47.7(e) sets forth the position of the FAA with regard to this matter. The issue of validity of a voting trust arises, in the context of aircraft registration, when a corporate applicant meets all of the requirements of Section 101(16), except that 75 percent of the voting interest in the domestic corporation is not owned or controlled by U.S. citizens. To satisfy this requirement, control of foreign-owned stock may be placed in a voting trust, utilizing U.S. citizens as trustees.

The FAA, in determining the validity of a voting trust for the purposes of registration eligibility, must ascertain that a corporation that wishes to register an aircraft pursuant to Section 501(b)(1)(A)(i) of the Act (49 U.S.C. 1401(b)(1)(A)(i)) is a citizen within the meaning of the Act. In terms of a voting trust, the problem is whether the voting interest of the stock of the corporate applicant has been so placed in the hands of U.S. citizens as voting trustees that the trustees have a valid, independent, and bona fide control of the voting interest.

For the purposes of verification of the bona fide nature of the voting trust arrangement, proposed § 47.7(e)(2) sets forth the requisite representations of the corporate applicant.

D. Trustees

Section 47.11(h) presently recognizes that registration may be issued in the name of a trustee. Increased activities of foreign investors in aircraft financing necessitate clarification of trustee registration eligibility, where legal title to an aircraft is held by a trustee that is a U.S. citizen or an individual foreign citizen lawfully admitted for permanent residence in the United States, but some or all of the beneficial interest is held by foreign investors. FAA experience has shown that trust beneficiaries may wish to exercise various degrees of control over a trustee under trust agreements submitted with registration applications.

The fundamental issue for registration eligibility is who is the "owner" of the aircraft within the meaning of Section 501(b) and (c) of the Act. FAA practice, as reflected in proposed § 47.7(c), has been to ignore the scope of economic participation of foreign beneficiaries if the trust is an active trust and if the trustee exercises totally independent judgment with respect to all decisions involving the aircraft. Conversely, the FAA has previously concluded, in cases involving passive trusts, where the trustee is strongly controlled by the foreign investor, that the beneficiaries are the true owners of the aircraft for administrative purposes, and that the aircraft is not eligible for registration under Section 501(b)(1)(A)(i).

E. Duration of Certificate of Registration

Proposed § 47.41(7) and (8) provide for the invalidation of a certificate of aircraft registration upon certain changes in status of the applicant or utilization of the aircraft. If the owner of an aircraft loses his status as a lawful permanent resident of the United States, the certificate of aircraft registration becomes invalid by operation of law. Similarly, if a noncitizen corporate owner ceases to be organized and lawfully doing business in the United States or if the aircraft is no longer based and used primarily in the United States, the certificate of registration becomes invalid by operation of law. Subsequent flight would be deemed to be flight of an unregistered aircraft and the owner and operator would be subject to the applicable sanctions.

On occasion, a noncitizen corporation may acquire citizenship status. In those cases, that corporation may elect to submit a new application for registration as a citizen since the statutory restrictions that the aircraft be based and primarily used in the United States would no longer apply.

Conversely, corporations which register aircraft as United States citizens may subsequently lose that status. This may occur by changes in corporate management or by transfer of the voting interest in the corporation. Such changes could constitute a loss of citizenship under the Act, and would result in invalidation of the certificate of registration. The corporate owner would be eligible to file a new registration application, if the eligibility requirements for a noncitizen corporation are met.

F. Technical Changes

The proposed amendments to §§ 47.5, 47.11, 47.33(a) and 47.37(a) provide for the substitution of the term "a person" for "citizen of the United States" and "governmental unit". Section 101(32) of the Federal Aviation Act of 1958 (49 U.S.C. 1301(32)), defines "person" as "any individual,

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firm, copartnership, corporation, company, association, joint stock association, or body politic; and includes any trustee, receiver, assignee, or other similar representative thereof". This substitution is necessary because of the elimination of citizenship as a criterion for aircraft registration and the administrative practice of the FAA of accepting the applications of legally recognized owners of property such as co-owners, receivers, trustees, associations, executors, and bodies politic.

The proposed amendment to 47.5 includes a revision of the definition of "owner". This revision is not intended as a substantive change, but rather as a clarification of current § 47.5 to reflect actual administrative practice.

V. ECONOMIC IMPACT OF PROPOSED REGULATION

The FAA has determined that this document involves a proposed regulation which is not significant under the procedures and criteria prescribed by Executive Order 12044, and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978). In addition, the FAA has determined that the expected impact of these proposals is so minimal that they do not require an evaluation. However, interested persons are invited to comment on the economic impact of the proposed rule by submitting such written data, views or arguments as they may desire.

Proposed Amendments to Part 47

Accordingly, the Federal Aviation Administraton proposes to amend Part 47 of the Federal Aviation Regulations (14 CFR Part 47) as follows:

1. By revising the contents of Subpart A of Part 47 to read as follows:

Subpart A—General

Sec.
47.1 Applicability.
47.3 Registration required.
47.5 Applicants.
47.7 United States citizens and foreign citizens admitted for permanent residence in the United States.
47.9 Corporations not United States citizens.
47.11 Evidence of ownership.
47.13 Signatures and instruments made by representatives.
47.15 Identification number.
47.16 Temporary registration numbers.
47.17 Fees.
47.19 FAA Aircraft Registry.

2. By revising § 47.3(a) to read as follows:

§ 47.3 Registration required.

(a) Section 501(b) of the Federal Aviation Act of 1958 (49 USC 1401(b)) defines eligibility for registration as follows:

(b) An aircraft shall be eligible for registration if, but only if—

(1) It is—

(i) Owned by a citizen of the United States or by an individual citizen of a foreign country who has lawfully been admitted for permanent residence in the United States; or

(ii) Owned by a corporation (other than a corporation which is a citizen of the United States) lawfully organized and doing business under the laws of the United States; and

(2) It is not registered under the laws of any foreign country; or

(3) It is an aircraft of the Federal Government, or of a state, territory, or possession of the United States or the District of Columbia or a political subdivision thereof.

* * * * *

3. By revising § 47.5 to read as follows:

§ 47.5 Applicants.

(a) A person that wishes to register an aircraft in the United States must submit an Application for Aircraft Registration under this part.

(b) An aircraft may be registered only by and in the legal name of its owner. In this part, "owner" includes—

(1) A buyer in possession of an aircraft under a contract of conditional sale;

(2) A bailee or lessee under a contract for the bailment or leasing of an aircraft by which it is agreed that—

(i) The bailee or lessee will pay as compensation a sum substantially equivalent to the value of the aircraft and,

(ii) The bailee or lessee is bound to become, or has the option of becoming, the owner of the aircraft upon full compliance with the terms of the contract; and

(3) The assignee of a person described in paragraphs (b)(1) or (b)(2) of this section.

(c) Section 501(f) of the Federal Aviation Act of 1958 (49 U.S.C. 1401(f)), provides that registration is not evidence of ownership of aircraft in any proceeding in which ownership by a particular person is in issue. The FAA does not issue any certificate of ownership or endorse any information with respect to ownership on a Certificate of Aircraft Registration. The FAA issues a Certificate of Aircraft Registration to the person who appears to be the owner on the basis of the evidence of ownership submitted pursuant to § 47.11 with the Application for Aircraft Registration, or recorded at the FAA Aircraft Registry.

4. By adding a new § 47.7 to 14 CFR Part 47, to read as follows:

§ 47.7 United States citizens and foreign citizens admitted for permanent residence in the United States.

(a) *United States citizens; general.* Section 101(16) of the Federal Aviation Act of 1958 (49 U.S.C. 1301(16)) defines citizen of the United States as follows:

(1) An individual who is a citizen of the United States or of one of its possessions, or

(2) A partnership of which each member is such an individual, or

(3) A corporation or association created or organized under the laws of the United States or of any State, Territory, or possession of the United States, of which the president and two-thirds or more of the board of directors and other managing officers thereof are such individuals and in which at least 75 percent of the voting interest is owned or controlled by persons who are citizens of the United States or of one of its possessions.

(b) *Foreign citizen admitted for permanent residence in the United States.* An applicant for aircraft registration under Section 501(b)(1)(A)(i) of the Federal Aviation Act of 1958 (49 U.S.C. 1401(b)(1)(A)(i)), who is an individual foreign citizen lawfully admitted for permanent residence in the United States, must furnish a representation of permanent residence and the applicant's alien registration number issued by the Immigration and Naturalization Service. For the purposes of this Part, a foreign citizen lawfully admitted for permanent residence in the United States is an individual who, at the time of application, has been accorded the privilege of residing permanently in the United States as an immigrant in conformity with the regulations of the Immigration and Naturalization Service of the Department of Justice (8 CFR Chapter 1).

(c) *Trustees.* An applicant (whether an individual or a corporation) for aircraft registration under Section 501(b)(1)(A)(i) of the Federal Aviation Act of 1958 (49 U.S.C. 1401(b)(1)(A)(i)) that holds legal title to an aircraft in trust must be either a United States citizen or an individual foreign citizen lawfully admitted for permanent residence in the United States. If there are several co-trustees, each must be such a person. If:

(1) Any beneficiary under the trust is not a United States citizen or an individual foreign citizen lawfully admitted for permanent residence in the United States, or

(2) Regardless of any trustee's status, any beneficiary is directly or indirectly controlled by a foreign interest, each applicant must submit:

(i) One or more affidavits establishing that each trustee is not aware of any reason, situation, or relationship with either a beneficiary or any foreign interest which could influence or limit the exercise of totally independent judgment by a trustee;

(ii) A true copy of the trust document with all amendments establishing that—

(A) Any trustee has full authority over all matters of administration of the trust, including matters relating to dispositions of the aircraft, independent of any direction from a beneficiary or any foreign interest, and

(B) No trustee is subject to direction or removal (except for cause) by beneficiaries who are U.S. citizens or individual foreign citizens lawfully admitted for permanent residence in the United States and have among themselves control of at least 75 percent of the beneficiaries' aggregate power to give direction to, or effect removal of, a trustee.

For the purpose of this section, a foreign interest is any person that is not a U.S. citizen or an individual foreign citizen lawfully admitted for permanent residence in the United States.

(d) *Partnerships.* A partnership may apply for a Certificate of Aircraft Registration under Section 501(b)(1)(A)(i) of the Federal Aviation Act of 1958 (49 U.S.C. 1401(b)(1)(A)(i)) only if each partner, whether a general or limited partner, is a citizen of the United States. Nothing in this section makes ineligible for registration an aircraft which is not owned as a partnership asset but is co-owned by:

(1) Foreign citizens who have lawfully been admitted for permanent residence in the United States, or

(2) One or more such foreign citizens and one or more United States citizens.

(e) *Voting trusts.* If a voting trust is used to qualify a domestic corporation as a U.S. citizen conforming to Section 101(16)(c) of the Federal Aviation Act of 1958 (49 U.S.C. 1301 (16)(c)), the corporate applicant must submit to the FAA Aircraft Registry—

(1) A true copy of the fully executed voting trust agreement, which must identify each voting interest of the applicant, and which must be binding upon each voting trustee, the applicant corporation, all foreign stockholders, and each other party to the transaction; and

(2) An affidavit executed by, or on behalf of, each person designated as voting trustee in the voting trust agreement, in which each affiant represents—

(i) That each voting trustee is a citizen of the United States within the meaning of Section 101(16) of the Act;

(ii) That each voting trustee is not a past, present, or prospective director, office, employee, attorney, or agent of any other party to the trust agreement;

(iii) That each voting trustee is not a present or prospective beneficiary, creditor, debtor, supplier or contractor of any other party to the trust agreement; and

(iv) That each voting trustee is not aware of any reason, situation, or relationship under which any other party to the agreement might influence the exercise of the voting trustee's totally independent judgment under the voting trust agreement.

(f) Each voting trust agreement submitted under paragraph (e)(1) of this section must provide for the succession of a voting trustee in the event of death, disability, resignation, termination of citizenship, or any other event leading to the replacement of any voting trustee. Upon such succession, the replacement voting trustee shall immediately submit to the FAA Aircraft Registry the affidavit required by paragraph (e)(2) of this section.

(g) If the voting trust terminates or is modified, and the result is less than 75 per cent control of the voting interest in the corporation by citizens of the United States, a loss of citizenship of the holder of the registration certificate occurs, and § 47.41(a)(5) of this Part applies.

(h) A voting trust agreement may not empower a trustee to act through a proxy.

5. By adding a new § 47.9 to 14 CFR Part 47, to read as follows:

§ 47.9 Corporations not United States citizens.

(a) A corporation applying for registration of an aircraft under Section 501(b)(1)(A)(ii) of the Federal Aviation Act of 1958 (49 U.S.C. 1401(b)(1)(A)(ii)), must submit to the FAA Aircraft Registry a certified copy of its certificate of incorporation. The applicant must demonstrate, in writing, to the Registry that the applicant is qualified lawfully to do business in one or more States.

(b) For the purposes of registration, an aircraft is based and primarily used in the United States if the flight hours accumulated within the United States amount to at least 60 percent of the total flight hours of the aircraft during any 180 consecutive days.

(c) For the purposes of this section, all flight hours accumulated during a non-stop (except in emergencies and for purposes for refueling) flight between two points in the United States, even if the aircraft is outside of the United States during part of the flight, are considered flight hours accumulated within the United States.

(d) In determining compliance with this section, any periods during which the aircraft is not validly registered in the United States are disregarded.

(e) The corporation that registers an aircraft pursuant to Section 501(b)(1)(A)(ii) (49 U.S.C. 1401(b)(1)(A)(ii)) shall:

(1) Maintain records, for the duration of the period that the aircraft is registered in the United States, containing the total flight hours in the United States of the aircraft; and

(2) Send to the FAA Aircraft Registry, 180 days after registration and at the end of each 180-day period thereafter, a signed report containing:

(i) The total time in service of the airframe, as provided in § 91.173(a)(2)(i), accumulated during that period; and

(ii) The total flight hours in the United States of the aircraft accumulated during that period.

6. By amending § 47.11(a) and (h) to read as follows:

§ 47.11 Evidence of Ownership.

Except as provided in §§ 47.33, 47.35, and 47.37, each person that submits an Application for Aircraft Registration under this Part must also submit the required evidence of ownership, recordable under §§ 49.13 and 49.17 of this Chapter, as follows:

(a) The buyer in possession of an aircraft under a contract of conditional sale and the bailee of lessee of an aircraft under a contract for the bailment or leasing of an aircraft, as described in § 47.5(b)(2), must submit the contract. The assignee of one of these persons must submit both the contract (unless it is already recorded at the FAA Aircraft Registry), and the assignment from the original buyer, bailee, lessee, or prior assignee, that bears the written assent of the seller, bailor, lessor, or assignee thereof, under the original contract.

* * * * *

(h) The trustee of property that includes an aircraft, as described in § 47.7(c), must submit either a certified copy of the order of the court appointing the trustee, or a complete and true copy of the instrument creating the trust. If there is more than one trustee, each trustee must sign the application. The Certificate of Aircraft Registration is issued to a single applicant as trustee, or to several trustees jointly as co-trustees.

7. By deleting the words "a citizen of the United States" from §§ 47.33(a), 47.35(a) and 47.37(a) and substituting the words "a person".

8. by inserting "47.3, 47.7, 47.9," after the words "complies with §§" and the words, ", as applicable" after "47.17" in §§ 47.33(a)(1), 47.35(a) and 47.37(a)(1).

9. by deleting the word "or" at the end of § 47.41(a)(5); by deleting the period at the end of § 47.41(a)(6) and substituting a semicolon; and by

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adding new subparagraphs (a)(7) and (a)(8) to § 47.41 to read as follows:

§ 47.41 Duration and Return of Certificate.

(a) • • •

(7) The owner, if an individual who is not a citizen of the United States, loses status as a lawful permanent resident of the United States; or

(8) The owner, if a corporation other than a corporation which is a citizen of the United States, ceases—

(i) To be lawfully organized and doing business under the laws of the United States or any State thereof; or

(ii) To have the aircraft based and primarily used in the United States.

• • • • •

10. by revising subparagraphs (a)(3) and (a)(4) of § 47.43 to read as follows:

§ 47.43 Invalid Registration.

(a) • • •

(3) The applicant is not qualified to submit an application under this part; or

(4) The interest of the applicant in the aircraft was created by a transaction that was not entered into in good faith, but rather was made to avoid (with or without the owner's knowledge) compliance with § 501 of the Federal Aviation Act of 1958 (49 U.S.C. 1401).

• • • • •

(Sections 307, 313(a), 501, 503, 1102, Federal Aviation Act of 1958, as amended (49 U.S.C. 1348, 1354(a), 1401 and 1502), and Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Washington, D.C. on December 22, 1978.

LANGHORNE BOND,
Administrator.

[FR Doc. 78-36375 Filed 12-29-78; 8:45 am]

[4910-13-M]

[14 CFR Parts 71 and 73]

[Airspace Docket No. 78-NW-20]

PROPOSED ALTERATION OF RESTRICTED AREA AND EXTENSION OF VOR FEDERAL AIRWAY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposed to extend Victor Airway No. 298 northwest of Yakima, Wash., and further subdivide the nearby Restricted Area R-6714. These actions are needed to relieve traffic congestion on Victor Airway No. 4 between Yakima and Seattle, Wash. Adoption of these actions would enhance the management of air traffic in the area.

DATE: Comments must be received on or before January 22, 1979.

ADDRESSES: Send comments on the proposal in triplicate to:

Director, FAA Northwest Region, Attention: Chief, Air Traffic Division, Docket No. 78-NW-3, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, Wash. 98108.

The official docket may be examined at the following location:

FAA Office of the Chief Counsel, Rules Docket (AGC-24), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Mr. Lewis W. Still, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8525.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Northwest Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, Wash., 98108. All communications received on or before January 22, 1979, will be considered before actions is taken on the proposed amendments. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering amendments to Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) that would extend V-298 and further subdivide R-6714. V-298, which now terminates at Yakima, Wash., would be extended via the Yakima 331°T(310°M) radial to its intersection with V-2, 20 miles northwest of Yakima. R-7614 is presently divided into R-6714A, R-6714B and R-6714C. In order to provide sufficient lateral spacing between the restricted area and the centerline of the proposed extension of V-298, it would be necessary to add another subdivision, R-6714D. The overall vertical and lateral limits of the restricted area would not be changed. These actions would improve air traffic service by relieving traffic congestion on Victor Airway V-4 over which all low altitude traffic between Yakima and Seattle, Wash., is currently routed. Subpart B of Part 73 and Subpart C of Part 71 was republished in the FEDERAL REGISTER on January 3, 1978, (43 FR 659 and 307, respectively).

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposed to amend Part 73 and Part 71 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) as republished (43 FR 659 and 307) as follows:

In § 73.67:

R-6714A Yakima, Wash., would be redescribed as follows:

R-6714A Yakima, Wash.

Boundaries. Beginning at Lat. 46°51'00"N., Long. 119°58'00"W.; along the west shore of the Columbia River to Lat. 46°42'30"N., Long. 119°58'15"W., to Lat. 46°33'00"N., Long. 120°04'00"W.; to Lat. 46°37'00"N., Long. 120°20'00"W., to Lat. 46°43'00"N., Long. 120°26'38"W., to Lat. 46°40'35"N., Long. 120°26'35"W.; to Lat. 46°43'00"N., Long. 120°26'38"W.; to Lat. 46°51'00"N., Long. 120°21'30"W.; to Lat. 46°51'00"N., Long. 120°16'30"W., to Lat. 46°54'30"N., Long. 120°15'00"W.; clockwise along the arc of a 12-mile radius circle centered at Lat. 46°44'45"N., Long. 120°20'00"W., to Lat. 46°51'00"N., Long. 120°08'30"W.; to point of beginning.

Designated altitudes. Surface to 29,000 feet MSL.

Time of designation. Intermittent.

Controlling agency. Federal Aviation Administration, Seattle ARTC Center.

Using agency. Commanding General, Fort Lewis, Wash.

R-6714 Yakima, Wash., would be altered by adding a new restricted area described as follows:

"R-6714D Yakima, Wash.

Boundaries. Beginning at Lat. 46°43'00"N., Long. 120°26'38"W.; to Lat. 46°37'00"N., Long. 120°20'00"W.; to Lat. 46°40'35"N., Long. 120°26'35"W.; to point of beginning.

Designated altitudes. Surface to 29,000 feet MSL.

Time of designation. Intermittent.

Controlling agency. Federal Aviation Administration, Seattle ARTC Center.

Using agency. Commanding General, Fort Lewis, Wash."

In § 71.123, under V-298, the words "From Yakima, Wash., via" would be deleted and "From INT Seattle, Wash., 106°T(085°M) and Yakima, Wash., 331°T(310°M) radials, via Yakima, Wash., 331°T(310°M) radial to Yakima;" would be substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

NOTE.—The FAA has determined that this document involves a proposed regulation which is not significant under the procedures and criteria prescribed by Executive Order 12044 and implemented by Interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Washington, D.C., on December 13, 1978.

B. KEITH POTTS,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 78-36246 Filed 12-29-78; 8:45 am]

[6750-01-M]

FEDERAL TRADE COMMISSION

[16 CFR Part 419]

GAMES OF CHANCE IN THE FOOD RETAILING AND GASOLINE INDUSTRIES

Proposed Amendment of Trade Regulation Rule to Modify Hiatus Provision

AGENCY: Federal Trade Commission.

ACTION: Order granting motion to dispense with public hearings and beginning period for rebuttal comments.

SUMMARY: Because of the limited nature of this proceeding, limited participation in public hearings and the small number of requests for presentation of oral testimony, the public hearing scheduled for January 3, 1979, as published in the FEDERAL REGISTER on October 19, 1978 (43 FR 48654), will not be held and the period for submitting rebuttal comments will begin January 3, 1979.

DATES: Effective December 26, 1978.

FOR FURTHER INFORMATION CONTACT:

Denis E. Hynes, Presiding Officer, Office of the General Counsel, Federal Trade Commission, (202) 523-3421.

SUPPLEMENTARY INFORMATION: In the matter of games of chance on the food retailing and gasoline industries proposed amendment of trade regulation rule to modify hiatus provision; order granting motion to dispense with public hearings and beginning period for rebuttal comments.

On December 14, 1978, the rule staff moved to dispense with public hearings on the proposed modification of this rule. As previously scheduled by a notice published in the FEDERAL REGISTER on October 19, 1978 (43 F.R. 48654), public hearings on the proposed modification are due to commence on January 3, 1979.

The limited nature of this proceeding, the limited participation in public hearings sought,[1] and the fact that the modification or elimination primarily a question of legislative fact, all suggest that public hearings should be limited.

The period established in the FEDERAL REGISTER for submitting rebuttal comments was to begin following the completion of public hearings. Because no public hearing will be held, the period for submitting rebuttal comments will begin on January 3, 1979. *Therefore it is hereby ordered,* The public hearing set for January 3, 1979, will not be held, and the period for submitting rebuttal comments will begin on January 3, 1979.

DENIS E. HYNES,
Presiding Officer.

Dated: DECEMBER 26, 1978.

[FR Doc. 78-36423 Filed 12-29-78; 8:45 am]

[4110-03-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 175]

[Docket No. 78F-0332]

CALGON CORP.

Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Calgon Corp. has filed a petition proposing to amend § 175.105 of the food additive regulations to provide for the safe use of 1, 2-dibromo-2,4-dicyanobutane as a preservative for adhesives used as components of articles for packaging, transporting, or holding food.

FOR FURTHER INFORMATION CONTACT:

John J. McAuliffe, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 8B3374) has been filed by Calgon Corp., Post Office Box 1346, Pittsburgh, PA 15230, proposing that the food additive regulations be amended to provide for the safe use of 1,2-dibromo-2,4-dicyanobutane as a preservative for adhesives used as components of articles for packaging, transporting, or holding food.

The agency has determined that the proposed action falls under § 25.1(f)(1)(v) (21 CFR 25.1(f)(1)(v)) and is exempt from the need of an envrionmental impact analysis report, and that no environmental impact statement is necessary.

Dated: December 19, 1978.

SANFORD A. MILLER,
Director, Bureau of Foods.

[FR Doc. 78-36386 Filed 12-29-78; 8:45 am]

[4910-22-M]

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[23 CFR Part 635]

[FHWA Docket No. 78-43]

INTERSTATE MAINTENANCE GUIDELINES

AGENCY: Federal Highway Administration, DOT.

ACTION: Advance notice of proposed ruemaking.

SUMMARY: The Federal Highway Administration (FHWA) is issuing this advance notice to solicit suggestions for guidelines describing criteria applicable to the Interstate system to insure that the condition of these routes is maintained at the level required by the purposes for which they were designed. The establishment of these guidelines is required by Section 116(d) of the Surface Transportation Assistance Act of 1978.

This Act requires that States must certify each year to the FHWA that it has a maintenance program for the Interstate system to meet the guidelines established. Failure to certify that such a program has been implemented by a State will result in a reduction of Interstate funds normally apportioned to such State.

DATE: Comments must be received on or before March 1, 1979.

ADDRESS: Submit comments, preferably in triplicate, to FHWA Docket No. 78-43, Federal Highway Adminis-

[1] Only two requests to present oral testimony were received. Counsel for both parties seeking to present oral testimony has indicated he is aware of the pending motion and has no objection to it being granted.

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tration, Room 4205, HCC-10, 400 Seventh Street, SW., Washington, D.C. 20590. All comments and suggestions received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m. ET, Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Mr. P. E. Cunningham, Office of Highway Operations, 202-426-0436 or Mr. Wilbert Baccus, Attorney, Office of the Chief Counsel, 202-426-0786, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. The FHWA office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: Public comments are requested to assist in the development of guidelines for State highway maintenance levels of service for the Interstate system. The FHWA intends to develop a national set of guidelines pertaining to those maintenance roadway features that include prevention of normal deterioration of the entire highway, safety, and efficient utilization.

Comments are specifically requested, but not limited, to the following:

1. Should the guidelines be written to establish a level of consistency of maintenance service across the nation?
2. Should the guidelines be generally written descriptions of the completed activities or measured values?
3. Should available funds, equipment, personnel, or local conditions dictate adjustments in the guidelines?
4. What are the implications of the guidelines as they may affect Federal, State, and local legal responsibilities?
5. Should FHWA define "critical" maintenance elements in terms of physical maintenance and traffic services or in other terms?
6. Should maintenance elements be rated by safety, rideability, protection of the investment, and aesthetics to assure quality assurance?
7. Should the guidelines differ for rural and urban conditions?
8. Should the States be allowed to develop independent guidelines subject to approval of the FHWA?
9. Should a method be developed to determine when routine maintenance is no longer sufficient to keep a pavement at the original designed level?
10. What criteria should be used to judge relative conformance of a States' maintenance program to the guidelines?

This proposed regulation would codify the policies and procedures contained in the Federal-Aid Highway Program Manual,[1] Volume 6, Chapter 4, Section 3, Subsection 1.

[1]The Federal-Aid Highway Program Manual is available for inspection and copying as prescribed in 49 CFR 7, Appendix D.

This notice of proposed rulemaking is issued under the authority of 23 U.S.C. § 109(m), 315; 49 CFR 1.48(b).

Issued on: December 27, 1978.

JOHN S. HASSELL, Jr.,
Deputy Administrator.

[FR Doc. 78-36436 Filed 12-29-78; 8:45 am]

[6820-96-M]

GENERAL SERVICES ADMINISTRATION

[41 CFR Part 101-47]

DISPOSAL OF PROPERTY FOR EDUCATIONAL AND PUBLIC HEALTH PURPOSES

Proposed Rule

AGENCY: General Services Administration.

ACTION: Proposed rule.

SUMMARY: The General Services Administration proposes to amend its regulations governing the disposal of surplus real property for educational and public health use to require that all such conveyances and notices of no objections be subject to perpetual use restrictions. The proposed changes are intended to prevent windfall profits, marginal applications, and nonuse.

DATE: Comments must be received on or before: February 1, 1979.

ADDRESS: Written comments should be sent to the General Services Administration (DR), Washington, D.C. 20405.

FOR FURTHER INFORMATION CONTACT:

James H. Pitts, Office of Real Property, Special Programs Division (202-566-0003).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this proposed regulation will not impose unnecessary burdens on the economy or on individuals and, therefore, is not significant for the purposes of Executive Order 12044.

Accordingly, it is proposed to revise § 101-47.308-4(i), (j), and (k) to read as follows:

§ 101-47.308-4 Property for educational and public health purposes.

* * * * *

(i) If the recommendation is approved, the disposal agency shall assign the property by letter or other document to the Secretary of Health, Education, and Welfare for disposal and shall inform the Secretary that there will be no objection to the proposed transfer. Assignment and notice of no objection shall be conditioned upon a perpetual use restriction. If the recommendation is disapproved, the disposal agency will so notify the Secretary. Such assignment or notice will be given within 30 calendar days after the Department of Health, Education, and Welfare has submitted the recommendation. GSA will furnish to the holding agency a copy of the assignment or notice, unless the holding agency is also the disposal agency.

(j) The Department of Health, Education, and Welfare shall prepare the transfer document and take all other actions necessary to accomplish the transfer of the property within 60 calendar days after the date of the assignment of the property to the Secretary of Heath, Education, and Welfare. The transfer document shall provide that all such property shall be used and maintained for the purpose for which it was conveyed in perpetuity and that in the event that such property ceases to be used or maintained for such purpose, all or any portion of such property shall in its then existing condition, at the option of the United States, revert to the United States.

(k) The Secretary of Health, Education, and Welfare has the responsibility for enforcing compliance with the terms and conditions of transfer; for the reformation, correction, or amendment of any transfer instrument; for the granting of releases; and for the taking of any necessary actions for recapturing such property in accordance with the provisions of section 203(k)(4) of the act. Any such action shall be subject to the disapproval of the head of the disposal agency. Notice of no objection shall be conditioned upon a perpetual use restriction, if appropriate. Notice to the head of the disposal agency by the Secretary of any action proposed to be taken shall identify the property affected, set forth in detail the proposed action, and state the reasons therefor.

* * * * *

(Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c)))

Dated: December 20, 1978.

ROY MARKON,
Commissioner, Federal Property Resources Service.

[FR Doc. 79-36416 Filed 12-29-78; 8:45 am]

[3110-01]

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

[48 CFR Parts 2, 8, 17]

FEDERAL ACQUISITION REGULATION PROJECT

AGENCY: Office of Federal Procurement Policy, Office of Management and Budget.

ACTION: Notice of Availability and Request for Comment on draft Federal Acquisition Regulation.

SUMMARY: The Office of Federal Procurement Policy is making available for public and Government agency review and comment a segment of the draft Federal Acquisition Regulation (FAR) regarding acquisition of livestock products, jewel bearings and leader company contracting. Additional segments will be announced for availability and comment on later dates. The regulation is being developed to replace the current system of procurement regulations. It will be a single uniform acquisition regulation for use by all Federal executive agencies in the acquisition of supplies and services with appropriated funds.

DATE: Comments must be received on or before March 2, 1979.

ADDRESS: Obtain copies of the draft regulation from and submit comments to William W. Thybony, Assistant Administrator for Regulations, Office of Federal Procurement Policy, 726 Jackson Place, N.W., Room 9025, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT:

William Maraist, or Strat Valakis, (202) 395-3300.

SUPPLEMENTARY INFORMATION: The fundamental purpose of the FAR is to reduce the proliferation of regulations; to eliminate conflicts and redundancies; and to provide an acquisition regulation that is simple, clear and understandable. The intent is not to create new policy. However, because new policies may arise concurrently with the FAR project, the notice of availability of draft regulations will summarize the section or part available for review and describe any new policies therein.

The following subparts of the draft Federal Acquisition Regulation are available upon request for public and Government agency review and comment.[1]

PART 2—DEFINITIONS AND SPECIAL POLICIES

§ 2.215 Acquisition of livestock products.

This section implements that part of the Humane Slaughter Act of 1958 (7 U.S.C. 1901-1906) which restricts the acquisition of livestock products to suppliers or processors that are in compliance with Secretary of Agriculture regulatons (9 CFR Part 390) governing the humane handling and slaughter of livestock. A Statement of Eligibility (Humane Slaughter Act) is required by the Act and contractors are permitted to file the Statement annually with the contracting officers where multiple purchases are anticipated. Contract clauses for acquiring livestock products are provided with the text for review. They will be published in Part 52 of the completed FAR.

[1]Filed as part of the original document.

PART 8—REQUIRED SOURCES OF SUPPLIES AND SERVICES

§ 8.2 Jewel bearings and related items.

This section prescribes the William Langer Plant, Rolla, North Dakota, as the required source for jewel bearings and related items. It defines jewel bearings and related items and includes the required contract clause in appropriate acquisitions which will appear in Part 52 of the FAR.

NOTE.—Section 8.2 has been retitled. It was formerly ,Industrial Preparedness Production Planning. The FAR will not include coverage on this subject at this time. The Federal Preparedness Agency is conducting a study to determine guidance applicable to Government-wide industrial preparedness for national emergencies. When the FPA completes this study, consideration will be given to the incorporation of appropriate material in the FAR. The requirement for domestic manufacture of miniature and instrumental ball bearings has also been excluded from the FAR. The DOD purchases and uses more than 99% of all Government requirements for these items. Informal contacts with civilian agencies likely to have need of these items indicate there is no need for this coverage. The Staff Director, Industrial Preparedness Program, OUSD (R&E)(AP), indicates that additional benefits to the industrial preparedness program would not require extension of this program to non-defense agencies.

PART 17—SPECIAL CONTRACTING METHODS

§ 17.4 Leader company contracting.

This Subpart provides for an extraordinary acquisition technique which requires the developer or sole producer of a product or system (leader company) to furnish assistance and know-how to a follower company so it can become a source of supply. This type of contracting would be used to reduce delivery time, achieve geographic dispersion of suppliers and achieve economies in production. Use of this technique is limited to situations where no other source can meet the Government's requirements without assistance of a leader company and the leader company has the necessary production know-how and is able to furnish such assistance to a follower contractor.

Dated: December 27, 1978.

LESTER A. FETTIG,
Administrator.

[FR Doc. 78-36468 Filed 12-29-78; 8:45 am]

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[4310-10-M]

ADVISORY COUNCIL ON HISTORIC PRESERVATION

MEETING

Notice is hereby given in accordance with the Council's Procedures for the Protection of Historic and Cultural Properties (36 CFR Part 800) that the Advisory Council on Historic Preservation will meet on January 17-18, 1979, in Washington, D.C. The meeting is open to the public with the exception of the portion of the Executive Director's report concerning the FY 80 Council budget.

The Council was established by the National Historic Preservation Act of 1966 (Pub. L. 89-665, as amended, Pub. L. 94-422) to advise the President and Congress on matters relating to historic preservation and to comment upon Federal, federally assisted, and federally licensed undertakings having an effect upon properties listed in or eligible for inclusion in the National Register of Historic Places. The Council's members are the Secretaries of the Interior; Housing and Urban Development; Commerce; Treasury; Agriculture; Transportation; State; Defense; Health, Education and Welfare; and the Smithsonian Institution; the Attorney General; the Administrator, General Services Administration; Chairman of the Council on Environmental Quality; Chairman of the Federal Council on the Arts and Humanities; Architect of the Capitol; Chairman of the National Trust for Historic Preservation; President of the National Conference of State Historic Preservation Officers; and twelve non-Federal members appointed by the President.

The meeting will begin at 9:30 a.m. on Wednesday and Thursday, January 17-18, 1979, in the Cash Room, the Department of the Treasury, 15th and Pennsylvania Avenue, NW., Washington, D.C.

The agenda for the meeting includes the following:

I. Chairman's Report.

II. Council Policy Group Reports.

III. Report of the Executive Director.

IV. Consideration of Proposed Amendments to Section 106 Regulations.

V. Report of the Office of General Counsel.

VI. Report of the Office of Intergovernmental Programs and Planning.

VII. Report of the Office of Special Studies.

VIII. Report of the Office of Review and Compliance

IX. International Centre Committee Report.

X. Other Business.

Additional information concerning either the meeting agenda or the submission of oral and written statements to the Council is available from the Executive Director, Advisory Council on Historic Preservation, Suite 530, 1522 K Street, NW., Washington, D.C. 20005, 202-254-3495.

Dated: December 18, 1978.

ROBERT M. UTLEY,
Deputy Executive Director.

[FR Doc. 78-36054 Filed 12-29-78; 8:45 am]

[3410-30-M]

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS AND CHILDREN (WIC)

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: The U.S. Department of Agriculture is publishing the final decision on a formula to be used in determining the program (food) funding level for each State agency participating in the Special Supplemental Food Program for Women, Infants and Children (WIC).

DATED: December 26, 1978.

FOR FURTHER INFORMATION CONTACT:

Jennifer R. Nelson, Director, Supplemental Food Programs Division, Food and Nutrition Service, USDA, Washington, D.C. 20250, 202-447-8206.

On October 11, 1978, the Department published a notice describing the formula proposed for use in determining program (food) funding allocations, beginning the first quarter of FY 1979, for the Special Supplemental Food Program for Women, Infants and Children (WIC). This notice was published to allow the opportunity for public comment. The comment period was, however, for only 30 days in order to allow time for a decision to be made on the final formula before the second quarter allocations.

The department received 24 comment letters. Fifteen letters were from State and local agency representatives, one letter was received from a nutrition group, and six letters came from public and special interest groups. Only one comment letter was received from a Congressman and the general public. A review of the comments revealed that there was no general agreement on any alternative proposal to the formula. The majority of the 24 comment letters expressed different ideas, with three being the greatest number to agree on any one alternative.

The comments that exhibited the greatest amount of conformity agreed with factors selected by the Panel. The Panel on WIC's Program and Administrative Funding Structure convened on September 6-8, 1978, to provide the Department with its recommendations concerning the best allocation method (see the October 11, 1978 notice for more detail).

Two commentors were encouraged by the formula because it indexed the factors chosen by the Program and Administrative Funding Panel. Another commentor endorsed the factors selected by the Department. The Panel's selection of factors was based on the value of each factor's assessment of the economic and health need of the WIC target population in each State agency. Additionally, these commentors requested more administrative funding and suggested adjusting the poverty level for each State to reflect cost of living differences. As another notice will be published for comment which deals specifically with administrative funding; this issue will not be addressed at this time.

The Department gave serious consideration to including the suggestion to adjust the poverty level to reflect each State agency's cost of living difference. The Department reviewed data from Autumn of 1977 from a Bureau of Labor Statistics (BLS) publication.[1] The data considered dealt with statistics for the cost of food consumed at home by families with low household budgets. This particular data was selected as this most closely reflects variations between State agencies for food costs. Upon review of this data, it was apparent that there were some disadvantages in using a cost of living index such as food consumed at home by families with low household budgets. It was found that there is not sufficient data to consider all areas equitably. Although BLS statistics do consider metropolitan versus nonmetropolitan areas, nonmetropolitan areas are considered communities with populations from 2,500 to 50,000, with the emphasis being on communities of 10,000 or more. Therefore, rural communities are probably under-represented to a significant degree.

Aside from the problem of underrepresentation of rural areas, there are also problems with disparities between regions, within regions and even within States. For instance, there is an overall difference of 11.2 percent between the region with the lower cost for food (South), to the region with the highest (Northeast). However, within the Northeast region, there is an 8.9 pervent difference in food costs, and within the Southern region, a 17 percent difference. The same variances occur when selected communities within a State are compared. In the final analysis, if one compares purely the difference between metropolitan areas and nonmetropolitan areas on a national basis, there is only a 6.3 percent difference in food costs. Therefore, due to the complexities and inequities in using an adjustment to account for variations in food costs, the Department believes such a factor should not be used in the formula.

The Program and Administative Funding Panel members who submitted comments stated that the formula accurately reflected the intentions of the Panel. Two other comments which were made suggested allocating and reallocating funds at the local level based on budget submissions with amounts adjusted to reflect performance. These commentors also objected to the use of infant mortality rate as an indicator of need. In response to the first comment, the Department views the process of allocating funds to the local level as a State responsibility. Regarding the second comment, the Department believes that the purpose of the Program is to reach those persons who have domonstrated the greatest need. Thus, the Department feels that infant mortality rate is the best indicator of relative need. Further, to ensure that Program benefits reach the persons with the greatest need, the Department will use the 1976 infant mortality rates in the computation of the program funding formula (previously 1975 data was used). As this is the most recent data available, it will reflect a more accurate picture of each State agency's need.

Two commentors expressed confusion about the content and intent of the notice. The remainder of the comments were made by single individuals. Groups of similar comments are as follows:

(1) It was suggested that the Department consider States separate from territories and Indian agencies. Both the Panel members and the Department felt that all State agencies should be considered in the same manner. Public Law 95-627 reinforces this concept of equal treatment in its discussion of the allocation of funds between States serving Indians and Indian State agencies and vice versa. Therefore, the treatment of all State agencies will continue to be equal.

(2) One commentor believed the Department should reallocate funds before April 1, 1979. The Department believes that six months is needed from October 1, 1978 to allow State agencies sufficient time to expand their operations before their level of unspent funds in examined for reallocation. As a result of the late passage of legislation, a number of State agencies have not expanded as rapidly as usual in October. Consequently, these State agencies will probably spend part of their second month and possibly their third month attempting to strengthen their operations.

(3) It was recommended that the Department develop a formula based on the relative need being met by each State. The program funding formula was designed to meet the need of each State agency based on children under five years under 200 percent of the poverty level, and reflects an adjustment based on the level of each State agency's infant mortality rate. The purpose of the hold harmless level (fourth quarter annualized plus 10 percent) was to allow for inflation and some limited growth, as well as, guarantee that no one would be terminated from the Program. The Department believes that the formula as proposed responds to each State's relative need.

(4) Another comment proposed adapting the formula to compare and to consider variations within States. However, an average of each State agency's infant mortality rate as well as the total number of children under five years below 200 percent of the poverty level is used in the formula. Variations within each State were combined to determine each State agency's rate and this average was compared to the national total. The Department feels that variations were given sufficient consideration in the base of the funding formula and that it is the State agency's responsibility to allocate funds to neediest areas.

(5) Comments which dealt with the use of alternative factors include:

(a) Give more weight to infants from birth to one year than to children one to five years in the children under five years figure;

(b) Use a composite infant mortality rate computed on data from several recent years;

(c) Give special consideration to children under five years under 100 percent of poverty and migrant populations, and place more emphasis on infant mortality; and

(d) Identify variables and/or considerations independent of the data being used.

These commentors suggested the use and/or special consideration of various health and economic factors. The Department agrees that some other health factors may also be appropriate for use in the WIC Program. However, the use of such data is restricted as it is not available for Indian State agencies. The Department did consider some of the other suggested factors mentioned in the comment letters, and the Panel discussed these factors mentioned at length, specifically the factors listed in number 5(c) above. However, as a participant's income eligibility cut-off is 195 percent of the Secretary's income poverty guidelines, it was believed inconsistent to distribute funds according to the number of children under five years under 100 percent of poverty. Migrant populations were also addressed but data available on migrants is unreliable and not suitable for use in a formula. Finally, if more emphasis were given to infant mortality rate, the result of the funds distibution would be disproportionately skewed as it bears no relationship to total population.

Commentors suggested alternatives to using as a base the amount of funds available for expenditure in the fourth quarter of fiscal year 1978. One suggestion was to use the September operational level. However, the major drawback to using the September operational level is that September reports from State agencies are not received until October 30th. According to P.L. 95-627, the distribution of funds must be made by the Department before October 1. Consequently, estimates of the September operational level would have to be used and adjustments would have to be made as reports are received. Thus, the allocation process would become dependent on changes, e.g., preliminary closeout reports, and final closeout reports, and would be drawn out for an unreasonable period of time. The final result would place far more States at the hold harmless level and fewer States receiving funds according to the formula. For these reasons, the Department believes that use of the FY '78

[1] News-BLS-U.S. Department of Labor, USDL-78-3-393, Wednesday-April 26, 1978.

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fourth quarter level should remain the base on which to run the formula.

In addition, three other comments were received which related more to administrative funding than the program funding. As another notice, as well as proposed regulations, will address this issue, these comments will not be discussed at this time.

In conclusion, the Department believes that as only 24 comments were received, and there was little conformity in those comments, the majority of State and local agencies and interested groups approve of the formula as proposed. Therefore, it is the Department's decision that the funding formula will remain unchanged. The program funding formula that will be used is as follows:

Number of each State's children under five, under 200 percent poverty
divided by
Sum of all State agencies' children under five, under 200 percent poverty
times
State's infant mortality rate
divided by
National infant mortality rate

2. The results of the formula are then compared to each State agency's fourth quarter annualized level. If the fourth quarter annualized level is more than the amount allocated under the formula, that State agency is held harmless (or guaranteed at least that level of funding).

3. The maximum grant is computed for each State agency and is also compared to the State agency's fourth quarter annualized level. If the fourth quarter annualized level is higher than the maximum grant, the State agency receives the maximum grant.

4. All State agencies then receive a 10 percent increase over their fourth quarter annualized level (except those State agencies which are at maximum grant) and a total is computed.

5. The total from number 4 is subtracted from the funds available and the formula is run again on the difference for only those State agencies which were not held harmless or at maximum grant.

6. The amount allocated by the 10 percent increase and the amount received through the second run of the formula is added together to arrive at the grant for the State agencies that participated in the second formula run.

7. At this point an analysis is made to determine if any State agency which has a fourth quarter annualized level of over $5 million has an increase of over 50 percent. For these State agencies, the amount in excess is recaptured, totaled and distributed through a third run of the formula to the other State agencies that participated in the second formula run.

Signed at Washington, D.C., on December 26, 1978.

CAROL TUCKER FOREMAN,
Assistant Secretary for Food and Consumer Services.

[FR Doc. 78-36226 Filed 12-29-78; 8:45 am]

[6320-01-M]

CIVIL AERONAUTICS BOARD

INVESTIGATION OF UNFAIR METHODS OF COMPETITION IN ESTABLISHING AND MAINTAINING FARES AND SERVICES

[Docket No. 34318; Order 78-12-172]

Order Instituting Informal Nonpublic Investigation

Issued under Delegated Authority December 26, 1978.

The Bureau of Consumer Protection has received information that various air carriers may have engaged in unfair or anti-competitive business practices by agreeing among themselves to fix and maintain the level of their fares, rates and charges. Air carriers who compete in certain markets may have combined to lessen or eliminate competition in those markets by agreeing to establish common tariff provisions without Board approval; by cooperating to set, maintain, or alter their fares; and by agreeing to reduce or limit the services provided in those markets.

Price-fixing and similar anti-competitive practices cut to the heart of the regulatory scheme envisioned by Congress when it amended the Federal Aviation Act of 1958 ("the Act") by passing the Airline Deregulation Act of 1978. Under the revised statute, it is essential that competition in air transportation markets be real and vigorous. This investigation, therefore, is intended to determine whether certain air carriers may have acted to reduce or eliminate competition by agreeing to set, maintain or limit the fares and services which they provide in certain markets. If air carriers, or persons acting on their behalf or in concert with them, have attempted in any way to limit price and service competition, they may have committed unfair practices or unfair methods of competition within the meaning of Section 411 of the Act. Such conduct might also involve attempts to monopolize or conspiracies in restraint of trade which violate the antitrust laws.

We will conduct an informal nonpublic investigation in accordance with Part 305 of the Board's Procedural Regulations to determine whether formal investigation should be instituted with respect to such conduct. This action is taken under the authority of sections 202, 204, 411, 415, 1001, 1002, 1004, and 1007 of the Act and the authority delegated to the Director of the Bureau of Consumer Protection by section 385.22 of the Board's Organizational Regulations.

Petitions for review of this order may be filed by any person who discloses a substantial interest which would be adversely affected within the meaning of section 385.50 of the Regulations by this staff action. Such petitions must meet the requirements of section 385.51 of the Regulations and be filed within ten (10) days of service of this order or within ten (10) days of receipt of any subpena issued under section 305.7(a) of the Regulations, whichever shall be earlier.

Because these issues are so important to the Board's regulatory requirements and the public's confidence in the integrity of its air transportation system, immediate action is required. The institution of this investigation is consistent with Board precedent and policy. Accordingly, petitions for review shall not of themselves stay the effectiveness of this order, the conduct of the investigations it creates, or the validity or effectiveness of any subpena issued under it.

Accordingly,

1. We initiate an informal nonpublic investigation, pursuant to Part 305 of the Board's Procedural Regulations for the purpose of providing the Director, Bureau of Consumer Protection, with information to determine:

a. Whether air carriers or persons acting on their behalf or in concert with them may have engaged in unfair business practices or unfair methods of competition within the meaning of section 411 of the Act, or may have violated other provisions of Title IV of the Act, or regulations or Board Orders issued thereunder, with respect to attempts to limit or eliminate competition, to monopolize, or to restrain trade in certain air transportation markets;

b. Whether, on the basis of the information secured, the Board should take any remedial action.

2. Mary E. Downs, Robert C. Seldon, and Robert D. Young, staff attorneys for the Bureau of Consumer Protection are hereby designated as Investigation Attorneys for the purposes of conducting this investigation.

3. This Order shall be stayed only by the express direction of the Board.

4. This Order shall be published in the FEDERAL REGISTER as provided in Section 305.10 of the Board's Procedural Regulations.

REUBEN B. ROBERTSON,
Director, Bureau of Consumer Protection.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-36457 Filed 12-29-78; 8:45 am]

[6320-01-M]

[Order No. 78-12-176; Docket Nos. 33294, 33360]

LLOYD AEREO BOLIVIANO, S.A.

Statement of Tentative Findings and Conclusions and Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 27th day of December, 1978.

BACKGROUND

Lloyd Aereo Boliviano, S.A. (LAB) is the holder of a foreign air carrier permit authorizing foreign air transportation of persons, property and mail.[1] In addition, LAB is authorized to perform charter trips in foreign air transportation pursuant to Part 212 of the Board's Economic Regulations.

On September 7, 1978 LAB filed an application for amendment of its permit to include Cali, Colombia, and Manaus, Brazil, as intermediate points on its route.

On August 25, 1978 LAB filed an application for a second foreign air carrier permit authorizing (a) foreign air transportation of property only between a point or points in Bolivia; the intermediate points Guayaquil, Ecuador; Cali and Bogota, Colombia; Manaus, Brazil; Caracas, Venezuela; Panama City, Panama, and the terminal point Houston, Texas; and (b) the performance of charter trips in foreign air transportation pursuant to Part 212 of the Board's Economic Regulations. On September 11, 1978 the carrier amended its application to request authority to engage in nonscheduled foreign air transportation of property on the route described above.

In both applications LAB also seeks a waiver from the requirements of Part 312 of the Board's Economic Regulations concerning environmental statements (14 CFR 312) because the requested route authority will not result in any significant increase in its total civil aviation operations.[2]

OWNERSHIP AND CONTROL

LAB is a Bolivian company incorporated September 15, 1925 under the laws of the Republic of Bolivia. Of the two million shares of capital stock authorized and issued, 99.97 percent are held by the Republic of Bolivia and the remaining .03 percent are held by citizens of Bolivia. We tentatively conclude that ownership and control of the applicant are vested in the Republic of Bolivia.

FINANCIAL AND OPERATIONAL FITNESS

In granting a permit to LAB in 1971 the Board found that the carrier met the operational and financial fitness standards of the Federal Aviation Act and that its services were in the public interest. The present applications continue to support these findings. The carrier plans to serve both Manaus and Cali twice a week on its flights to Miami, and to operate nonscheduled property only service between Houston and Bolivia via intermediate points with B-707/323 CF aircraft on an average of one flight per week.

PUBLIC INTEREST

In support of its applications LAB states that service to Manaus and Cali is provided for in the United States-Bolivia Air Transport Services Agreement, as amended; that LAB has been appropriately designated by the Government of Bolivia;[3] that the proposed all-cargo service between Houston, Texas, and Bolivia would satisfy the needs of shippers more efficiently and effectively; and that an opportunity for reciprocity exists for U.S. air carriers seeking to perform similar operations to Bolivia.

No answers to either of LAB's applications have been received.

In view of the foregoing and all the facts of record, we tentatively find and conclude that:

1. It is in the public interest to amend the foreign air carrier permit held by the Lloyd Aereo Boliviano, S.A. so as to authorize it to engage in foreign air transportation of persons, property, and mail between a point or points in Bolivia; the intermediate points Lima, Peru; Guayaquil and Quito, Ecuador; Bogota and Cali, Colombia; Manaus, Brazil; Caracas, Venezuela; and Panama City, Panama; and the terminal point Miami, Florida and to issue Lloyd Aereo Boliviano, S.A. a new foreign air carrier permit authorizing it (a) to engage in foreign air transportation of property between a point or points in Bolivia and Houston, Texas, via specified intermediate points, and (b) to perform charter trips pursuant to Part 212 of the Board's Economic Regulations, for a period of five years, in the specimen forms attached;

2. The public interest requires that the exercise of the privileges granted by these permits shall be subject to the terms, conditions, and limitations contained in the specimen permits and attached to this order and to such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Board;

3. Lloyd Aereo Boliviano, S.A. is fit, willing, and able properly to perform the transportation described in the specimen permits attached to this order, and to conform to the provisions of the Federal Aviation Act of 1958, as amended, and the rules, regulations, and requirements of the Board;

4. An oral evidentiary hearing is not required in the public interest; [4]

5. The issuance of the proposed foreign air carrier permits to Lloyd Aereo Boliviano, S.A. will not constitute a "major Federal action significantly affecting the quality of the human environment" within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 and will not constitute a "major regulatory action" under the Energy Policy and Conservation Act of 1975, as defined in section 313.4(a) of the Board's Regulations; and

6. Except to the extent granted the applications of Lloyd Aereo Boliviano, S.A. in Dockets 33294 and 33360 should be denied.

Accordingly,

1. We direct interested persons to show cause why the Board should not (1) make final its tentative findings and conclusions, and (2) subject to the disapproval of the President, issue foreign air carrier permits to Lloyd Aereo Boliviano, S.A. in the specimen forms attached;

2. Any interested person having objection to the issuance of an order making final the Board's tentative findings and conclusions and issuing the proposed foreign air carrier permits shall file with the Board and serve on the persons named in paragraph 5, no later than January 15, 1979, a statement of objections specifying the part or parts objected to, and include a summary of testimony, statistical data, and concrete evidence to be relied upon in support of the objections. If an oral hearing is requested, the objector should state in detail why such a hearing is considered necessary and what relevant and material

[1] See Order 71-12-41 approved by the President December 7, 1971. The permit authorizes LAB to operate over the following route: Between a point or points in Bolivia; the intermediate points Lima, Peru; Guayaquil, and Quito, Ecuador; Bogota, Colombia; Caracas, Venezuela; Panama City, Panama, and the terminal point Miami, Florida.

[2] Considering the limited impact of the operations to be conducted, we will grant the requested waivers. The applicant states that operations at Miami would increase from four to six weekly flights; operations at Houston would not exceed an average of one flight weekly; and that less than 10 million gallons of fuel would be consumed.

[3] The Agreement includes the following route for Bolivia: "From Bolivia to Miami via intermediate points in South America and Panama."

[4] Any interested persons having objections to the issuance of an order making final the Board's tentative findings and conclusions and issuing the attached permits, shall be allowed 15 days from the date of service of this order to respond.

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facts would be expected to be established through such hearing which cannot be established in written pleadings;

3. If timely and properly supported objections are filed, we shall give consideration to the matters and issues raised by the objections before we take further action; *Provided*, that we may proceed to enter an order in accordance with our tentative findings and conclusions set forth in the order if we determine that there are no factual issues present that warrant the holding of an oral hearing; [5]

4. In the event no objections are filed, all further procedural steps will be deemed to have been waived and the Secretary shall enter an order which (1) shall make final our tentative findings and conclusions set forth in this order, and (2) subject to the disapproval of the President pursuant to section 801(a) of the Act, shall issue two foreign air carrier permits to the applicant in the specimen forms attached; and

5. We shall serve a copy of this order upon Lloyd Aereo Boliviano, S.A., the Ambassador of Bolivia in Washington, D.C., Braniff International, and the Departments of State and Transportation.

We shall publish this order in the FEDERAL REGISTER and transmit a copy to the President of the United States.

By the Civil Aeronautics Board.[6]

PHYLLIS T. KAYLOR,
Secretary.

SPECIMEN PERMIT—I

UNITED STATES OF AMERICA, CIVIL AERONAUTICS BOARD, WASHINGTON, D.C.

Permit to Foreign Air Carrier (as Amended)

LLOYD AEREO BOLIVIANO, S.A. is authorized, subject to the provisions set forth, the provisions of the Federal Aviation Act of 1958, as amended, and the orders, rules, and regulations of the Board, to engage in foreign air transportation of persons, property, and mail, as follows:

Between a point or points in Bolivia; the intermediate points Lima, Peru; Guayaquil and Quito, Ecuador; Bogota and Cali, Colombia; Manaus, Brazil; Caracas, Venezuela; and Panama City, Panama; and the terminal point Miami, Florida.

The holder shall be authorized to engage in charter trips in foreign air transportation, subject to the terms, conditions, and limitations prescribed by Part 212 of the Board's Economic Regulations.

The holder shall conform to the airworthiness and airman competency requirements prescribed by the Government of Bolivia for Bolivian international air service.

The holder shall not operate any aircraft under the authority granted by this permit, unless the holder complies with the operational safety requirements at least equivalent to Annex 6 of the Chicago Convention.

This permit shall be subject to all applicable provisions of any treaty, convention, or agreement affecting international air transportation now in effect, or that may become effective during the period this permit remains in effect, to which the United States and Bolivia shall be parties.

The holder shall keep on deposit with the Board a signed counterpart of CAB Agreement 18900, an agreement relating to liability limitations of the Warsaw Convention and the Hague Protocol approved by Board Order E-23680, May 13, 1066, and a signed counterpart of any amendment or amendment or amendments to such agreement which may be approved by the Board and to which the holder becomes a party.

The holder (1) shall not provide foreign air transportation under this permit unless there is in effect third-party liability insurance in the amount of $1,000,000 or more to meet potential liability claims which may arise in connection with its operations under this permit, and unless there is on file with the Docket Section of the Board a statement showing the name and address of the insurance carrier and the amounts and liability limits of the third-party liability insurance provided, and (2) shall not provide foreign air transportation of persons unless there is in effect liability insurance sufficient to cover the obligations assumed in CAB Agreement 18900, and unless there is on file with the Docket Section of the Board a statement showing the name and address of the insurance carrier and the amounts and liability limits of the passenger liability insurance provided. Upon request, the Board may authorize the holder to supply the name and address of an insurance syndicate in lieu of the name and address of the member insurers.

The initial tariff filed by the holder shall not set forth rates, fares, and charges lower than those that may be in effect for any U.S. air carrier in the same foreign air transportation; *However*, this limitation shall not apply to a tariff filed after the initial tariff regardless of whether this subsequent tariff is effective before or after the introduction of the authorized service.

By accepting this permit, the holder waives any right it may possess to assert any defense of sovereign immunity from suit in any action or proceeding instituted against the holder in any court or other tribunal in the United States (or its territories or possessions) based upon any claim arising out of operations by the holder under this permit.

The exercise of the privileges granted by this permit shall be subject to such other reasonable terms, conditions, and limitations required by the public interest as may from time to time be prescribed by the Board.

This permit shall be effective on ———— . Unless otherwise terminated at an earlier date pursuant to the terms of any applicable treaty, convention, or agreement, this permit shall terminate (1) upon the effective date of any treaty, convention, or agreement or amendment, which shall have the effect of eliminating the route or routes authorized by this permit from the routes which may be operated by airlines designated by the Government of Bolivia (or in the event of the elimination of any part of the authorized route, the authority granted shall terminate to the extent of such elimination); or (2) upon the effective date of any permit granted by the Board to any other carrier designated by the Government of Bolivia in lieu of the holder, or (3) upon the termination or expiration of the Air Services Agreement between the Government of the United States of America and the Government of Bolivia, signed September 29, 1948, effective November 4, 1948, as amended:

However, clause (3) of this paragraph shall not apply if, prior to the occurrence of the event specified in clause (3), the operation of the foreign air transportation authorized become the subject of any treaty, convention or agreement to which the United States of America and Bolivia are or shall become parties.

The Civil Aeronautic Board, through its Secretary, has executed this permit and affixed its seal on ————.

Secretary.

SPECIMEN PERMIT—II

UNITED STATES OF AMERICA, CIVIL AERONAUTICS BOARD, WASHINGTON, D.C.

Permit to Foreign Air Carrier

LLOYD AEREO BOLIVIANO, S.A. is authorized, subject to the provisions set forth, the provisions of the Federal Aviation Act of 1958, as amended, and the orders, rules, and regulations of the Board, to engage in foreign air transportation of property as follows:

Between a point or points in Bolivia; the intermediate points Guayaquil, Ecuador; Cali and Bogota, Colombia; Manaus, Brazil; Caracas, Venezuela; Panama City, Panama, and the terminal point Houston, Texas.

The authority granted above shall be subject to the condition that the holder shall not engage in scheduled foreign air transportation under the terms of this permit.

The holder shall be authorized to engage in charter trips in foreign air transportation, subject to the terms, conditions, and limitations prescribed in Part 212 of the Board's Economic Regulations.

The holder shall conform to the airworthiness and airman competency requirements prescribed by the Government of Bolivia for Bolivian national air service.

The holder shall not operate any aircraft under the authority granted by this permit, unless the holder complies with the operational safety requirements at least equivalent to Annex 6 of the Chicago Convention.

This permit shall be subject to all applicable provisions of any treaty, convention, or agreement affecting international air transportation now in effect, or that may become effective during the period this permit remains in effect, to which the United States and Bolivia shall be parties.

This permit shall be subject to the condition that in the event any practice develops which the Board regards as inimical to fair competition, the holder and the Board will consult, and will use their best efforts to agree upon modifications satisfactory to the Board and the holder.

The holder shall keep on deposit with the Board a signed counterpart of CAB Agreement 18900, an agreement relating to liability limitations of the Warsaw Convention and the Hague Protocol approved by Board Order E-23680, May 13, 1966, and a signed counterpart of any amendment or amendments to such agreement which may be approved by the Board and to which the holder becomes a party.

The holder shall not provide foreign air transportation under this permit unless (1) there is in effect third-party liability insurance in the amount of $1,000,000 or more to meet potential liability claims which may arise in connection with its operations under this permit, and (2) there is in effect minimum liability insurance coverage for bodily injury to or death of cargo handlers in the amount of $75,000 per cargo handler, and (3) there is on file with the Docket Section of the Board a statement showing the name and address of the insurance carrier and the amount and liability limits of the insurance provided under (1) and (2) above. Upon request, the Board may authorize the holder to supply the name and address of an insurance syndicate in lieu of the names and addresses of the member insurers.

The initial tariff filed by the holder shall not set forth rates, fares, and charges lower than those that may be in effect for any U.S. air carrier in the same foreign air transportation; *However*, this limitation shall not apply to a tariff filed after the initial tariff regardless of whether this subsequent tariff is effective before or after the introduction of the authorized service.

By accepting this permit, the holder waives any right it may possess to assert any defense of sovereign immunity from suit in any action or proceeding instituted against the holder in any court or other tribunal in the United States (or its territories or possessions) based upon any claim arising out of operations by the holder under this permit.

The exercise of the privileges granted by this permit shall be subject to such other reasonable terms, conditions, and limitations required by the public interest as may from time to time be prescribed by the Board.

This permit shall be effective on ———— , and shall terminate five years thereafter; *Provided*, that if during the period this permit shall be effective, the operation of the foreign air transportation authorized here becomes the subject of any treaty, convention, or agreement to which the United States and Bolivia are or shall become parties, then this permit is continued in effect during the period provided in such treaty, convention or agreement.

The Civil Aeronautics Board, through its Secretary, has executed this permit and affixed its seal on ————.

Secretary.

[FR Doc. 78-36462 Filed 12-29-78; 8:45 am]

[5] Since provision is made for filing of objections to this order, petitions for reconsideration will not be entertained.

[6] All members concurred.

[6320-01-M]

[Order No. 78-12-174; Docket Nos. 33209, 31217, 33838]

NATIONAL AIRLINES, INC., ETC.

Order to Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 26th day of December, 1978.

Application of National Airlines, Inc. to amend its certificate of public convenience and necessity for Route 168. Application of Trans International Airlines, Inc. for a certificate of public convenience and necessity. Application of Trans International Airlines, Inc. for an exemption pursuant to 416(b)(1) of the Federal Aviation Act, as amended (U.S.-Europe-Israel).

On August 16, 1978, National Airlines, Inc. filed an application to have its current transatlantic authority (Route 168) expanded to include Zurich, Switzerland and Tel Aviv, Israel.[1]

National's application was accompanied by a petition that the proposed amendment be handled by show cause procedures. In support of its request, National states that the factual situation meets the criteria established in Order 78-4-68 (*Piedmont Aviation, Inc., Order to Show Cause*) for processing of 401 applications by non-oral hearing procedures; that at present there are no U.S.-flag services to Zurich; that the proposed service would represent the first direct services between the southern part of the United States via the Miami gateway to Tel Aviv and the Holy Land; that the extension of National's transatlantic services to Zurich and Tel Aviv will be substantially beneficial to the traveling public; and that it is carrying through the transatlantic plans it originally outlined in the *transatlantic Route Proceeding*, Docket 25908.

National notes that the United States and Israel have recently signed a new liberal bilateral air transport Protocol which, among other things, affirms the United States' freedom to make multiple designations of U.S. flag carriers to serve Israel.[2] It urges that the United States make immediate use of the bargained-for rights.

National also claims that there is a serious need to remedy the great imbalance in the exercise of traffic rights between the United States and Switzerland/Israel and the concomitant imbalance in traffic carried by the air carriers of those countries. At present, National states that Israel's state-owned airlirie carries almost 90 percent of the total U.S.-Israel traffic, 76 percent of which is U.S. citizens. Most of this traffic moves through the New York gateway.

National's initial schedule pattern calls for three flights weekly between Miami and Tel Aviv. Intermediate stops will be made in Amsterdam, Paris, and Zurich. The extension beyond Paris and Amsterdam will be provided by B-727 type aircraft which will directly connect on a change-of-gauge basis with national's existing pattern of wide-bodied DC-10 transatlantic services. No new transatlantic operations will be required.

National states that it is anxious to commence these operations as soon as possible. It forecasts that the new service will benefit some 15,794 U.S.-Israel passengers during the first full year of operations and some 7,971 U.S.-Zurich passengers during the same period. Total Amsterdam/Paris/Zurich-Tel Aviv Fifth Freedom traffic is expected to equal about 6,760 passengers, for an estimated total of 30,525.[3] Load factors on the B-727 within Europe are expected to average 60.9 percent.

Dade County, Florida, and the Greater Miami Traffic Association have filed a joint answer supporting National's application and petition for show cause. In addition, a statement of views has been filed by the Department of State in which it supports National's petition for an early isssuance of a show cause order and applications by any other U.S. airlines for authority to provide air transportation between the United States and Israel. The Department urges the United States to fully utilize the multiple designation provision of the recent Protocol with Israel.

Trans World Airlines, Inc. (TWA) objects to granting National unrestricted authority by show cause procedures. it states, however, that if the Board amended National's certificate, the certificate should be drafted so as to: (1) preclude National from operating via Paris to either Tel Aviv or Zurich; and (2) prevent National from combining its New York-Amsterdam exemption authority granted by Order 78-9-2 with any Amsterdam-Tel Aviv/Zurich authority which would allow National to operate through-plane service between New York, on the one hand, and Tel Aviv and Zurich, on the other hand.

On October 26 Trans International Airlines, Inc. (TIA) filed an amend-

[1] National requests that Route 168 be amended to read as follows: "Between the coterminal points New Orleans, La., Tampa and Miami, Fla., the intermediate points London, England, Amsterdam, the Netherlands, Frankfurt, Germany, Paris, France, and Zurich, Switzerland; and the terminal point Tel Aviv, Israel." The only new points are Zurich and Tel Aviv.

[2] The protocol contains: (1) for Israel four new U.S. points of its choice (two immediately and two more on August 1, 1979), three new intermediate points, and blind sector beyond rights to Asia and South American and from one U.S. to Israel with free choice of intermediate and beyond points; and for both parties (3) multiple designation for scheduled and charter services; (4) a mutual suspension tariff article effective on August 1, 1979, which requires both countries to agree before a rate or fare may be suspended, and which permits third country carriers to match rates; (5) provisions for the operation of charters in accordance with charter worthiness rules of the country of traffic origin; (6) fair competition provisions which denies either party the right to limit volume, frequency or aircraft type; and (7) new provisions for enforcement, aviation security, and commercial operations of the carriers. The protocol was formally signed on August 16, 1978.

[3] National application, Appendix G. National estimates that it will carry about 1,560 Paris-Tel Aviv Fifth Freedom passengers.

ment to its application for a certificate of public convenience and necessity in Docket 31217 to add points in Switzerland and Israel to the transatlantic authority it has requested. TIA now seeks authority to provide scheduled foreign air transportation of persons, property and mail between the coterminal points Seattle, Washingtron; San Francisco-Oakland, and Los Angeles, California; Chicago, Illinois; Detroit, Michigan; Miami-Ft. Lauderdale, Florida; Dallas-Ft. Worth, Texas; Atlanta, Georgia; Washington, D.C.-Baltimore, Maryland; Philadelphia, Pennsylvania; New York, New York-Newark, New Jersey; and Boston, Massachusetts, on the one hand and intermediate and terminal points in Belgium, the Netherlands, Luxembourg, France, Germany, Austria, Switzerland and Israel, on the other hand.

TIA's amended application was accompanied by a motion to have its revised application consolidated with National's application for expansion of Route 168. TIA maintains that it would be inequitable and a deprivation of TIA's due process rights to permit National to implement U.S.-Israel services in these markets ahead of competing applicants such as TIA without a comparative hearing. TIA cites as precedent *Kodiak Airways, Inc.* v. *CAB*, 144 U.S. App. D.C. 371, 447 F.2d 341 (1971), and *Ashbacker Radio Corp.* v. *FCC*, 326 U.S. 327 (1945). TWA responded to TIA's motion by stating that it has no objections to consolidation provided both applications are set for an oral evidentiary hearing.

In addition, on October 26 TIA filed with the Board in Docket 33838 an application for an exemption pursuant to section 416(b)(1) of the Federal Aviation Act of 1958 (Act) as amended by section 31 of the Airline Deregulation Act of 1978, so as to operate scheduled low-fare service between Los Angeles, Chicago, New York, and Tel Aviv, Israel, via intermediate points in Western Europe, namely Amsterdam and Zurich, pending final decision on TIA's application in Docket 31217. Currently TIA does not have certificate authority to serve either Amsterdam or Zurich, but it was recently granted exemption authority to serve Amsterdam in Order 78-11-156. TIA proposes three flights per week between Los Angeles and Tel Aviv, two of which would operate via intermediate traffic stops in Europe. The Chicago service would consist of three wide-body flights per week with two traffic stops in Europe. TIA's proposed service from New York calls for three weekly wide-body flights, two operating via Western Europe and one direct to Tel Aviv. In support of its request, TIA submits that the proposed services will represent the first real competition in these markets; that it will institute new single-plane and wide-body service and new low, unrestricted fares to Israel; that traffic growth will be stimulated; that the services will be profitable in the first year of operations; that the services will not divert traffic now moving on the incumbent U.S.-flag carriers; that the bilateral agreement with Israel is analogous to the agreements with the Netherlands and Belgium which prompted the Board to award liberal exemptions in Order 78-9-2; and that the legislative history behind the amendments to section 416 in the Airline Deregulation Act of 1978 demonstrates Congressional desire for more liberal grants of exemption authority.

Pan American World Airways, Inc. (Pan American) and TWA recommend that TIA's exemption application as outlined in Docket 33838 be denied. Pan American states that the application is, in effect, a call for the Board to totally ignore the certification requirements imposed by section 401 of the Act. TWA declares that the Declaration of Policy in section 102 of the Act has been changed so as to place primary reliance upon competition, but that it was not changed with respect to foreign air transportation; that the Act as amended still requires the Board to consider "competition to the extent necessary" as one of the public interest factors to be taken into account in authorizing foreign air transportation by exemption; that Congress intended for the Board to place primary reliance upon certification in authorizing foreign air transportation; and that the *Benelux* order is not analogous to this application. TIA filed a consolidated Reply to the TWA and Pan American Answers, stating that the carriers have made no showing that the exemptions would not be in the public interest, and that Congress did intend for the Board to pursue a more liberal exemption program in the international area.

Upon consideration of the pleadings and all other relevant facts, we have decided to issue an order directing all interested persons to show cause why: (1) National's certificate should not be amended to add Zurich and Tel Aviv to Route 168,[4] and (2) TIA should not be granted a certificate of public convenience and necessity to provide scheduled foreign air transportation of persons, property and mail between the U.S. coterminal points specified in its application and the terminal points Zurich and Tel Aviv.[5] These applications fall within the class of cases that can be handled to show cause procedures due to the absence of any material, determinative issue of fact requiring resolution in a formal evidentiary proceeding.[6] In addition, we propose to grant TIA exemption authority to operate between Amsterdam, Zurich and Tel Aviv.

We tentatively find that there is a need for competitive U.S. flag authority from the United States to both Zurich and Tel Aviv.[7] Zurich is not currently served directly from the United States by any U.S. carrier.

No person has objected to the proposals to serve Zurich, and we believe that the best way to assure new service and a variety of price/quality of service options for the traveling and shipping public is to award competitive authority to both applicants. The United States-Israel market is similarly in need of additional U.S.-flag service. Although TWA currently provides New York-Tel Aviv service, El Al now carries over 90 percent of U.S.-Israel traffic. The grant of both applications will create incentives to increase efficiency in the market by providing for new potential or actual competition. Consequently, we tentatively find that both applicants should be certificated. The authority we grant here will, even if not exercised, present a competitive challenge that will evoke lower fares and/or innovative services from active carriers.[8] We need not find that either or both applicants will be successful in order to certificate both.

Although TWA objects to entry by TIA or National into the New York-Tel Aviv market, its arguments are primarily based on law and policy, and it does not establish a factual case for diversion significant enough to impair its ability to perform its certificate obligations. TWA's only attempt to allege a factual basis for denial of National's application is the unsupported, conclusory assertion that authorization of a second U.S. carrier between Paris and Tel Aviv would exacerbate existing difficulties with the French Government over TWA's Fifth Freedom capacity on that sector. National, on the other hand, has provided a specific projection of its Fifth Freedom traffic on this sector,[9] and for the reasons set forth below we see no basis for finding that National's proposed operations will have a detrimental impact on our aviation relations with France that is serious enough to outweigh the public benefits from National's proposal. TWA's only factual claim in operation to TIA's certificate application is that an additional U.S.-flag New York-Tel Aviv competitor would duplicate services already provided by TWA. This is not disputed by any party, and thus TWA has raised no factual issue at all on TIA's application, much less the sort of factual dispute that can be best resolved in a hearing.

We feel an obligation to emphasize that in international route award cases we are bound by the substantive standards of the Federal Aviation Act, not the more procompetitive standards of the Airline Deregulation Act of 1978. Nevertheless, the Deregulation Act, the President's policies and our own policies all require that we decide route cases more quickly and economically than we have in the past, to the extent that we are able to do so consistently with the rights of interested parties and the public. We believe these considerations require us to avoid subjecting new entrants to the expense, delay and competitive disadvantage of unnecessary oral hearing procedures. Nevertheless, should the responses to this show cause order raise factual issues that require oral hearing procedures, it is a well-established principle under our standard show cause practice that we will postpone a final order until such hearing is held.

A prime factor in our decision to award this authority to both applicants by show cause procedures is the need to quickly take advantage of our bilateral rights to make multiple designations of U.S.-flag carriers to these points. As in the case of the Benelux countries,[10] we have recently negotiated a bilateral agreement with Israel which allows liberal entry and low fares, and it is essential to our policy of increasing the forces of competition in foreign air transportation to exercise these rights as quickly as possible. Our position in future negotiations is substantially strengthened if U.S. carriers have in fact been awarded the multiple entry rights bargained for in past cases. Likewise, the bilateral agreement with Switzerland allows multiple designations, and the recent withdrawal of Pan American from Zurich has created an immediate need for new U.S. flag services.

We find no merit to TWA's suggestion that National be prohibited from operating via Paris to Tel Aviv or Zurich. We are aware that the French are concerned over what they see as excessive operations by TWA beyond Paris. In the past summer TWA operated 21 weekly flights beyond Paris, 15 of which went to Tel Aviv either directly or through Rome (TWA's frequencies have been reduced for the winter). National's proposed service will include only one Paris-Tel Aviv nonstop frequency a week and one Paris-Zurich-Tel Aviv routing per week. These flights are commensurate with the scope of its U.S.-Paris and U.S.-Zurich/Tel Aviv traffic and operations. They are primarily related to Third and Fourth Freedom traffic, and should evoke no objection by the French that National will be operating an excessive proportion of Fifth Freedom capacity. National's traffic projections indicate that beyond-Paris Fifth Freedom traffic will be a little over 15 percent of total traffic.[11]

We also tentatively find that National and TIA have made a plausible showing that services by one or more carriers could be economically feasible in the near future, and that no further proceedings are necessary on this issue.[12] As we have explained on many occasions, we no longer deem it necessary for an applicant for 401 authority to prove that its services will necessarily be profitable.[13] All that we require is that an applicant demonstrate some plausible set of assumptions which would render the proposed services economically feasible. TIA and National estimate profits of $12.2 million and $1.3 million respectively. Whether or not these profits are actually realized is a concern only for the carriers' stockholders, and we require this information only as an initial screening test to determine whether the Board should expend its resources in processing the applications. In the final analysis, the marketplace will decide whether these services will be profitable far better than we can, and further evidentiary procedures to air differences of judgment on this issue would serve no regulatory purpose.

For these reasons, we tentatively find that the public convenience and necessity require the proposed authority; that National and TIA are citizens of the United States and are fit, willing and able properly to perform the air transportation we propose to authorize and to conform to the provisions of the Act and the Board's rules, regulations and requirements; and that an oral evidentiary hearing is not required.

At the same time, we have tentatively decided to authorize TIA to operate Amsterdam-Zurich and Amsterdam-Tel Aviv services by exemption. This would allow TIA to link its U.S.-Amsterdam exemption authority (Order 78-11-156, Nov. 30, 1978) with its service to Zurich and Tel Aviv, in accordance with the schedules it has proposed.[14] We are not considering Amsterdam-Zurich-Tel Aviv certificate authority here because TIA does not have certificate authority for the United States to Amsterdam segment. This authority is in issue in the *Benelux* proceeding, and if TIA is granted authority to the Benelux countries in that proceeding, it can request link-up certificate authority to Zurich or Tel Aviv at that time. We tentatively find that grant of a link-up exemption is consistent with the public interest, because it will allow TIA maximum operating flexibility, render the services to Zurich and Tel Aviv more economically feasible, and improve service to Europe and within Europe. The main beneficiaries of this interim authority will be consumers, who will enjoy a wider variety of services and a greater choice among carriers. This authority will terminate at the same time as the exemptions granted in Order 78-11-156: in two years, or 60 days after final decision in the *Benelux* proceeding, whichever comes first.

TIA has by footnote requested that any exemptions granted in response to its application in Docket 33838 include link-up exemptions with its U.S.-Vienna exemption. However, TIA has offered no service proposal for Vienna-Zurich or Vienna-Tel Aviv, and as we explained in Order 78-11-156 we will require such service proposals as a precondition to grant of exemptions. Of course, we are aware of the public benefits to be derived from additional service out of Vienna, especially in light of Pan American's recent withdrawal from Eastern Europe, and we invite TIA to submit a service proposal in response to this order. All persons are on notice that we tentatively find it to be consistent with the public interest to grant TIA an exemption for Vienna-Zurich-Tel Aviv service, and

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[4] We propose to amend Condition number 2 of this certificate in light of the amendment to section 401(j) of the Act contained in the Airline Deregulation Act of 1978, which allows a carrier to suspend service to any point upon proper notice. Condition 2 previously required National to provide service to all points. The revised language would allow National to suspend service to any point as permitted by 401(j), but suspension from points other than Zurich and Tel Aviv (which are permissive) could be grounds for deletion of the points from the certificate if the public interest requires, e.g., where a restrictive bilateral precludes entry by a willing carrier because of the unused authority.

[5] We will deny TIA's motion to consolidate, as its application requests certificate authority to many European points not at issue in National's application. Authority to Belgium, the Netherlands, and Luxembourg is at issue in the *U.S.-Benelux Low Fare Proceeding*, Docket 30790. Authority to France, Germany and Austria will be considered in other proceedings.

[6] *See, e.g.*, Orders 78-10-146, October 3, 1978; 78-9-91, September 20, 1978; 78-8-97, August 17, 1978; 78-7-168, July 31, 1978; 78-4-69, April 14, 1978.

[7] We also tentatively find that this authority should be made permissive to allow the carriers maximum operating flexibility.

[8] *See, e.g., Philadelphia-Bermuda Nonstop Proceeding*, Docket 32786, decision submitted to the President September 25, 1978; *Oakland Service Case*, Orders 78-4-121, May 30, 1978 and 78-9-96, September 21, 1978.

[9] *See* note 3 above.

[10] *See* Order 78-9-2.

[11] National projects 3,120 Paris-Zurich passengers per year and 1,560 Paris-Tel Aviv passengers. Total traffic over the entire route is estimated at 30,525 passengers. *See* National Application, Appendix G.

[12] For the purpose of evaluating TIA's proposal, we have used the data contained in its exemption application, Docket 33838, which is coextensive with the authority we intend to grant here.

[13] *See, e.g.*, Order 78-4-69 at 6-8.

[14] *See* Docket 33838, Application of TIA for an exemption, Appendix B.

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would grant such an exemption providing that TIA submits the required supporting information.

Upon review of the environmental evaluations of TIA and National, we tentatively find that the proposed services would not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, as the number of additional flights from U.S. points will be comparatively insignificant. Moreover, as the proposed operations would not result in the near-term consumption of 10 million gallons of fuel, our action would not constitute a major regulatory action under the Energy Policy and Conservation Act of 1975.

Accordingly,

1. We direct interested persons to show cause why the Board should not issue an order making final the tentative findings and conclusions stated in this order and amend the certificate of public convenience and necessity of National Airlines, Inc. for Route 168 to read as follows: [15]

Between the coterminal points New Orleans, La., Tampa and Miami, Fla., the intermediate points London, England, Amsterdam, the Netherlands, Frankfurt, Germany, Paris, France and Zurich, Switzerland; and the terminal point Tel Aviv, Israel.

2. We direct interested persons to show cause why the Board should not issue an order making final the tentative findings and conclusions stated in this order and issue a certificate of public convenience and necessity to Trans International Airlines, Inc. to authorize scheduled foreign air transportation of persons, property and mail between the coterminal points in the United States named in its application, on the one hand, and the terminal points Zurich, Switzerland, and Tel Aviv, Israel, on the other.

3. We direct interested persons to show cause why the Board should not issue an order making final the tentative findings and conclusions stated in this order and grant an exemption from Section 401 of the Act to authorize Trans International Airlines, Inc. to operate scheduled services between Amsterdam, the Netherlands, on the one hand, and Zurich, Switzerland, and Tel Aviv, Israel, on the other, for two years or until 60 days after final decision in Docket 30790, whichever comes first.

4. We direct interested persons having objections to the issuance of the orders making final the proposed findings and conclusions, or to the proposed certificate amendment, certificate, and exemption set forth in this order, on or before January 10, 1979, to file with the Board and serve upon all persons listed in paragraph 9 below, a statement of objections together with a summary of testimony, statistical data, and other evidence expected to be relied upon to support the stated objections. If an oral hearing is requested, the objector should state in detail why such hearing is considered necessary and what relevant or material facts would be expected to be established through such hearing which cannot be established in written pleadings.

5. If timely and properly supported objections are filed, we will give further consideration to the matters and issues raised by the objections before we take further action; *Provided* that the Board may proceed to enter orders in accordance with its findings and conclusions set forth in this order if it is determined that there are no factual issues present that warrant the holding of an oral evidentiary hearing. [16]

6. In the event no objections are filed, we deem that all further procedural steps have been waived, and we direct the Secretary to enter an order which, subject to the disapproval of the President pursuant to section 801(a) of the Act, (1) makes final the Board's tentative findings and conclusions set forth in this order, (2) issues an amended certificate of public convenience and necessity for Route 168 to National Airlines, Inc. in the form attached, (3) issues a certificate of public convenience and necessity to Trans International Airlines, Inc. for United States-Zurich/Tel Aviv service, and (4) grants an exemption to Trans International Airlines, Inc. for Amsterdam-Zurich-Tel Aviv authority.

7. We grant the petition of National Airlines, Inc. for issuance of an order to show cause; and

8. We deny the Trans International Airlines, Inc., motion to consolidate Dockets 31217 and 33209; and

9. We will serve a copy of this order upon National Airlines, Inc., Trans World Airlines, Inc. and all other certificated air carriers; Dade County, Florida, and the Greater Miami Traffic Association; the Governors of Florida and Louisiana; and the U.S. Departments of State and Transportation.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board. [17]

PHYLLIS T. KAYLOR,
Secretary.

Specimen Certificate

UNITED STATES OF AMERICA, CIVIL AERONAUTICS BOARD, WASHINGTON, D.C.

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

Trans International Airlines, Inc. is authorized, subject to the provisions set forth, the provisions of Title IV of the Federal Aviation Act of 1958 as amended, and the orders, rules, and regulations issued under it, to engage in foreign air transportation on a permissive basis of persons, property, and mail as follows:

"Between the coterminal points Seattle, Washington; San Francisco-Oakland, and Los Angeles, California; Chicago, Illinois; Detroit, Michigan; Miami-Ft. Lauderdale, Florida; Dallas-Ft. Worth, Texas; Atlanta, Georgia; Washington, D.C.-Baltimore, Maryland; Philadelphia, Pennsylvania; New York, New York-Newark, New Jersey; and Boston, Massachusetts, on the one hand, and the coterminal points Zurich, Switzerland, and Tel Aviv, Israel, on the other."

The service authorized is subject to the following terms, conditions, and limitations:

(1) The holder shall at all times conduct its operations in accordance with all treaties and agreements between the United States and other countries, and the exercise of the privileges granted by this certificate shall be subject to compliance with such treaties and agreements, and to any orders of the Board issued pursuant to, or for the purpose of requiring compliance with, such treaties and agreements.

(2) The holder may continue to serve regularly any named point through the airport last regularly used by the holder to serve it before the effective date of this certificate. Upon compliance with procedures prescribed by the Board, the holder may, in addition, regularly serve a named point through any convenient airport as provided by Agreements between the United States and other countries.

(3) The holder shall obtain from the appropriate foreign governments such operating rights as may be necessary.

The exercise of the privileges granted by this certificate shall be subject to such other reasonable terms, conditions, and limitations required by the public interest as may from time to time be prescribed by the Board.

In accepting this certificate the holder acknowledges and agrees that it is entitled to receive only service mail pay for the mail service rendered or to be rendered solely in connection with the operations serving Seattle, Washington; San Francisco-Oakland, and Los Angeles, California; Chicago, Illinois; Detroit, Michigan; Miami-Ft. Lauderdale, Florida; Dallas-Ft. Worth, Texas; Atlanta, Georga; Washington, D.C.-Baltimore, Maryland; Philadelphia, Pennsylvania; New York, New York-Newark, New Jersey; and Boston, Massachusetts, Zurich, Switzerland; or Tel Aviv, Israel, and that it is not authorized to request or receive any compensation for mail service rendered or to be rendered for such operations in excess of the amount payable by the Postmaster General.

This certificate shall be effective on ————: *Provided however,* That the continuing effectiveness of the temporary authority granted here shall be conditioned upon the timely payment by the holder of such license fees as may be appropriate under rules to be prescribed by the Board.

The Civil Aeronautics Board has directed its secretary to execute this certificate and affix the Board's seal on ————.

Secretary

Specimen Certificate

UNITED STATES OF AMERICA, CIVIL AERONAUTICS BOARD, WASHINGTON, D.C.

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY (AS AMENDED) FOR ROUTE 168

National Airlines, Inc. is authorized, subject to the provisions set forth, the provisions of Title IV of the Federal Aviation Act of 1958 as amended, and the orders, rules, and regulations issued under it, to engage in foreign air transportation of persons, property, and mail as follows:

"Between the coterminal points New Orleans, La., Tampa and Miami, Fla., the intermediate points London, England, Amsterdam, the Netherlands, Frankfurt, Germany, Paris, France and Zurich, Switzerland; and the terminal point Tel Aviv, Israel." Authority to serve Zurich and Tel Aviv is permissive.

The service authorized is subject to the following terms, conditions, and limitations:

(1) The holder shall at all times conduct its operations in accordance with all treaties and agreements between the United States and other countries, and the exercise of the privileges granted by this certificate shall be subject to compliance with such treaties and agreements, and to any orders of the Board issued pursuant to, or for the purpose of requiring compliance with, such treaties and agreements.

(2) Termination of services to any of the named points except Zurich and Tel Aviv may be grounds for deletion of such point from the certificate, except for temporary suspensions of service as may be authorized by the Board. Service may begin or terminate, or begin and terminate at intermediate points, provided that all flights must serve a point in the United States.

(3) The holder may continue to serve regularly any named point through the airport last regularly used by the holder to serve it before the effective date of this certificate. Upon compliance with procedures prescribed by the Board, the holder may, in addition, regularly serve a named point through any convenient airport as provided by Agreements between the United States and other countries.

(4) The holder shall obtain from the appropriate foreign governments such operating rights as may be necessary.

The exercise of the privileges granted by this certificate shall be subject to such other reasonable terms, conditions, and limitations required by the public interest as may from time to time be prescribed by the Board.

In accepting this certificate the holder acknowledges and agrees that it is entitled to receive only service mail pay for the mail service rendered or to be rendered solely in connection with the operations serving New Orleans, La., Tampa, Fla., Paris, France, Amsterdam, the Netherlands, Frankfurt, Germany, Zurich, Switzerland, or Tel Aviv, Israel and that it is not authorized to request or receive any compensation for mail service rendered or to be rendered for such operations in excess of the amount payable by the Postmaster General.

The holder's authority to serve New Orleans, Tampa, Paris, Amsterdam, and Frankfurt shall expire on January 26, 1983.

This certificate shall be effective on ————: *Provided, however,* that the continuing effectiveness of the temporary authority granted here shall be conditioned upon the timely payment by the holder of such license fees as may be appropriate under rules to be prescribed by the Board.

The Civil Aeronautics Board has directed its secretary to execute this certificate and affix the Board's seal on ————.

Secretary

[FR Doc. 78-36461 Filed 12-29-78; 8:45 am]

[15] In order to give National maximum flexibility in scheduling its service, we will make the new authority permissive.

[16] Since provision is made for the filing of objections to this order, petitions for reconsideration will not be entertained.

[17] All Members concurred.

[6320-01-M]

[Docket No. 33511; Order No. 78-12-141]

OLYMPIC AIRWAYS, S.A.

Statement of Tentative Findings and Conclusions and Order to Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 21st day of December, 1978. Application of OLYMPIC AIRWAYS, S.A. for amendment of foreign air carrier permit pursuant to section 402 of the Federal Aviation Act of 1958, as amended.

Olympic Airways, S.A. is the holder of a foreign air carrier permit [1] which authorizes a) foreign air transportation of persons, property, and mail on Route 1 between a point or points in Greece; the intermediate points Rome, Italy, and Paris, France; and the terminal point New York, New York and on Route 2 between a point or points in Greece; the intermediate point Montreal, Canada; and the terminal point Chicago, Illinois and b) the performance of charter trips in foreign air transportation under Part 212 of the Board's Economic Regulations.

On September 22, 1978 Olympic Airways filed an application for amendment of its Route 1 between Greece and New York to add Frankfurt, Germany as a third European intermediate point and a petition for an order to show cause. In its application, Olympic Airways also requested a waiver of the requirements of Part 312 of the Board's Procedural Regulations.[2] On the same date, Olympic Airways also filed a motion to expedite because it originally intended to initiate the Frankfurt service on November 1, 1978.[3]

On October 12, 1978, Olympic Airways filed a motion to withdraw its application to amend the permit and to discontinue the proceeding. Olympic Airways stated that it was able to accomplish its goal of consolidating flights and maximizing use of its flight crews without amending its permit to add Frankfurt as an intermediate point. However, on October 26, 1978, Olympic Airways filed a motion to withdraw its motion of October 12, 1978 and to reinstate its original application, filed on September 22, 1978. Olympic Airways now wishes to pursue its application as its long-range plans contemplate intermediate service at Frankfurt.

No objections to the application or answers to the motions have been received.

The Air Transport Agreement between the United States and Greece dated March 27, 1946, as amended on February 7, 1966 and December 20, 1968 authorizes the airlines of Greece to operate between Greece and New York via three European intermediate points. Until recently, the Government of Greece had selected only two such intermediate points, Paris and Rome. In its Diplomatic Note presented to the Department of State on August 25, 1978, the Government of Greece selected Frankfurt, Germany as its third European intermediate point and designated Olympic Airways for the service through Frankfurt.

The Board has previously found (Order 69-5-136, served May 29, 1969) after a full oral evidentiary hearing that Olympic Airways was substantially owned and effectively controlled by Greek nationals, met the fitness standards of the Federal Aviation Act of 1958 as amended, and performed services in the public interest. We are not aware of any reason to doubt the continuing validity of these findings. In 1969, when the Board last examined the ownership and control of Olympic Airways, the carrier was privately owned by Greek citizens. Olympic Airways was nationalized on January 1, 1975 and is still owned and controlled by Greek nationals.

The specimen permit also reflects the Board's updating of permit language since Olympic Airways' last permit was issued in 1969. Standard provisions concerning initial tariff filings, liability insurance, and safety which were not in Olympic Airways' last permit have been included in the specimen permit in accordance with recent Board practice.

[1] Issued pursuant to Order E-23719, May 21, 1966, as amended by Order E-24571, December 23, 1966 and Order 69-5-136, May 28, 1969.

[2] We will grant this request, since amendment of Olympic Airways' permit involves only one new European point on an existing route, and the net environmental impact is *de minimis.*

[3] On September 1, 1978, pursuant to Part 216 of the Board's Economic Regulations, Olympic Airways filed an application for special authorization to operate between New York and Athens via Frankfurt without traffic rights between Frankfurt and New York. The Bureau of International Aviation, using delegated authority, granted the authority on September 28, 1978 but then cancelled it on October 25, 1978 at the request of the Olympic Airways.

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In view of the foregoing and all the facts of record, the Board tentatively finds and concludes that:

1. It is in the public interest to amend the foreign air carrier permit held by Olympic Airways, S.A. so as to authorize it on its Route 1 to engage in foreign air transportation of persons, property, and mail between a point or points in Greece; the intermediate points Rome, Italy, Frankfurt, Germany, and Paris, France; and the terminal point New York, New York;

2. The public interest requires that the exercise of the privileges granted by the amended permit shall be subject to the terms, conditions, and limitations contained in the specimen permit attached to this order, and to such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Board;

3. Olympic Airways, S.A. is substantially owned and effectively controlled by nationals of Greece;

4. Olympic Airways, S.A. is fit, willing, and able properly to perform the foreign air transportation described in the specimen permit, and to conform to the provisions of the Federal Aviation Act of 1958, as amended, and the rules, regulations, and requirements of the Board;

5. The public interest does not require an oral evidentiary hearing on the application; [4]

6. The amendment of Olympic Airways, S.A.'s foreign air carrier permit would not constitute "a major Federal action significantly affecting the quality of the human environment" within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 and will not constitute a "major regulatory action" under the Energy Policy and Conservation Act of 1975, as defined in section 313.4(a)(1) of the Board's Regulations; [5]

7. The request of Olympic Airways, S.A. for a waiver of Part 312 of the Board's Regulations, regarding the requirements for the filing of an environmental evaluation should be granted;

8. The motion of Olympic Airways, S.A. filed October 26, 1978 to withdraw its motion of October 12, 1978, should be granted; and

9. Except to the extent granted, the application of Olympic Airways, S.A. in Docket 33511 should be denied.

[4] Any interested persons having objections to the issuance of an order making final the Board's tentative findings and conclusions, and issuing the attached permit, shall be allowed 15 days in which to respond from the date of service of this order.

[5] Our tentative findings are based upon the fact that amendment of Olympic Airways, S.A.'s permit will not result in a significant increase in civil aviation operations at U.S. points, nor will it result in the annual consumption of 10 million gallons of fuel.

Accordingly,

1. We direct all interested persons to show cause why the Board should not (1) make final its tentative findings and conclusions, and (2) subject to the disapproval of the President issue an amended foreign air carrier permit to Olympic Airways, S.A. in the specimen form attached;

2. Any interested person having objections to the issuance of an order making final the Board's tentative findings and conclusions and issuing the attached specimen permit shall, no later than January 10, 1979, file with the Board and serve on the persons named in paragraph 5 below, a statement of objections specifying the part or parts of the tentative findings or conclusions objected to, together with a summary of testimony, statistical data, and concrete evidence expected to be relied upon in support of the objections. If an oral evidentiary hearing is requested, the objector should state in detail why such hearing is considered necessary and what relevant and material facts would be expected be be established through such hearing which cannot be established in written pleadings;

3. If timely and properly supported objections are filed, we will give further consideration to the matters and issues raised by the objections before we take further action, *Provided*, that we may proceed to enter an order in accordance with our tentative findings and conclusions set forth in this order, if we determine that there are no factual issues presented that warrant the holding of an oral evidentiary hearing; [6]

4. In the event no objections are filed, all further procedural steps will be deemed to have been waived and the Secretary shall enter an order which (1) shall make final our tentative findings and conclusions set forth in this order, and (2) subject to the disapproval of the President pursuant to section 801(a) of the Act, shall issue an amended foreign air carrier permit to the applicant in the specimen form attached; and

5. We are serving this order upon Olympic Airways, S.A., Trans World Airlines, Inc., the Ambassador of Greece in Washington, D.C. and the U.S. Departments of State and Transportation.

This order will be published in the FEDERAL REGISTER.

[6] Since provision is made for the filing of objections to this order, petitions for reconsideration will not be entertained.

By the Civil Aeronautics Board: [7]

PHYLLIS T. KAYLOR,
Secretary.

Specimen Permit

UNITED STATES OF AMERICA, CIVIL AERONAUTICS BOARD, WASHINGTON, D.C.

PERMIT TO FOREIGN AIR CARRIER (AS AMENDED)

Olympic Airways, S.A. is authorized, subject to the provisions set forth, the provisions of the Federal Aviation Act of 1958, and the orders, rules and regulations of the Board, to engage in foreign air transportation of persons, property, and mail, as follows:

1. Between a point or points in Greece; the intermediate points, Rome, Italy, Frankfurt, Germany, and Paris, France; and the terminal point, New York, New York.

2. Between a point or points in Greece; the intermediate point, Montreal, Canada; and the terminal point, Chicago, Illinois.

The holder shall be authorized to engage in charter trips in foreign air transportation, subject to the terms, conditions, and limitations prescribed by Part 212 of the Board's Economic Regulations.

The holder shall conform to the airworthiness and airman competency requirements prescribed by the Government of Greece for Greek international air service.

The holder shall not operate any aircraft under the authority granted by this permit, unless the holder complies with the operational safety requirements at least equivalent to Annex 6 of the Chicago Convention.

This permit shall be subject to all applicable provisions of any treaty, convention, or agreement affecting international air transportation now in effect, or that may become effective during the period this permit remains in effect, to which the United States and Greece shall be parties.

The holder shall keep on deposit with the Board a signed counterpart of C.A.B. Agreement 18900, an agreement relating to liability limitations of the Warsaw Convention and the Hague Protocol approved by Board Order E-23680, May 13, 1966, and a signed counterpart of any amendment or amendments to such Agreement which may be approved by the Board and to which the holder becomes a party.

The holder (1) shall not provide foreign air transportation under this permit unless there is in effect third-party liability insurance in the amount of $1,000,000 or more to meet potential liability claims which may arise in connection with its operations under this permit, and unless there is on file with the Docket Section of the Board a statement showing the name and address of the insurance carrier and the amounts and liability limits of the third-party liability insurance provided, and (2) shall not provide foreign air transportation with respect to persons unless there is in effect liability insurance sufficient to cover the obligations assumed in Agreement C.A.B. 18900, and unless there is on file with the Docket Section of the Board a statement showing the name and address of the insurance carrier and the amounts and liability limits of the passenger liability insurance provided. Upon request, the Board may authorize the holder to supply the name and address of an insurance syndicate in lieu of the names and addressed of the member insurers.

[7] All Members concurred.

The initial tariff filed by the holder shall not set forth rates, fares and charges lower than those that may be in effect for any U.S. air carrier in the same foreign air transportation; *However*, this limitation shall not apply to a tariff filed after the initial tariff regardless of whether this subsequent tariff is effective before or after the introduction of the authorized service.

By accepting this permit, the holder waives any right it may possess to assert any defense of sovereign immunity from suit in any action or proceeding instituted against the holder in any court or other tribunal in the United States (or its territories or possessions) based upon any claims arising out of operations by the holder under this permit.

The exercise of the privileges granted here shall be subject to such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Board.

This permit shall be effective on———. Unless otherwise terminated at an earlier date pursuant to the terms of any applicable treaty, convention, or agreement, this permit shall terminate (1) upon the effective date of any treaty, convention, or agreement or amendment, which shall have the effect of eliminating the route or routes authorized by this permit from the routes which may be operated by airlines designated by the Government of Greece (or in the event of the elimination of any part of the authorized route, the authority granted shall terminate to the extent of such elimination); or (2) upon the effective date of any permit granted by the Board to any other carrier designated by the Government of Greece in lieu of the holder, or (3) upon the termination or expiration of the Air Transport Agreement between the Government of the United States of America and the Government of Greece, dated March 27, 1946, as amended by Exchange of Notes, dated February 7, 1966 and December 20, 1968; *However*, clause (3) of this paragraph shall not apply if, prior to the occurrence of the event specified in clause (3), the operation of the foreign air transportation authorized becomes the subject to any treaty, convention, or agreement to which the United States of America and Greece are or shall become parties.

The Civil Aeronautics Board, through its Secretary, has executed this permit and affixed its seal on

Secretary

[FR Doc. 78-36458 Filed 12-29-78; 8:45 am]

[6320-01-M]

ORDER ESTABLISHING FINAL SERVICE MAIL RATES

The Board adopted Order 78-12-159 on December 21, 1978, establishing the *Final Service Mail Rates in the Transatlantic, Transpacific, and Latin American Service Mail Rates Investigation*, Docket 26487.

After full public hearing and consideration of the record the Board ordered that:

1. The motions of Flying Tiger, filed June 2, 1977, of the Department of Transportation, filed June 6, 1977, and the Seattle Parties, filed July 22, 1977, for leave to file otherwise unauthorized documents are granted.

2. The fair and reasonable rates of compensation per nonstop great-circle mail ton-mile to be paid to Airlift International, Inc., Alaska Airlines, Inc., American Airlines, Inc., Braniff Airways, Inc., Continental Air Lines, Inc., The Flying Tiger Line, Inc., Hughes Air Corp. d/b/a Hughes Airwest, Mackey International, Inc., National Airlines, Inc., Northwest Airlines, Inc., Pan American World Airways, Inc., Seaboard World Airlines, Inc., Trans World Airlines, Inc., United Air Lines, Inc., and Western Air Lines, Inc., by the Postmaster General, pursuant to section 406(c) of the Federal Aviation Act of 1958, as amended, for the transportation of mail by aircraft over their respective routes,[1] the facilities used and useful therefor, and the services connected therewith are as follows:

a. For the carriage of space available mail as provided for by sections 3401(b) and 3401(c) of the United States Code,

(1) For the period March 8, 1974 to the date of publication of this order in the FEDERAL REGISTER, the rates established by Order 75-2-3;

(2) For the period from the date of publication of this order in the FEDERAL REGISTER to June 30, 1979,

(a) For the Atlantic Rate Area, the sum of a linehaul charge of 15.14 cents per nonstop great-circle ton-mile and a terminal charge of 17.70 cents per pound originated;

(b) For the Pacific Rate Area, the sum of a linehaul charge of 14.43 cents per nonstop great-circle ton-mile and a terminal charge of 15.19 per pound originated; and

(c) For the Latin American Rate Area, the sum of a linehaul charge of 18.30 cents per nonstop great-circle ton-mile and a terminal charge of 7.12 cents per pound originated.

b. For the carriage of military ordinary mail,

(1) For the period March 8, 1974 to the date of publication of this order in the FEDERAL REGISTER, the rates established by Order 75-2-3;

(2) For the period from the date of publication of this order in the FEDERAL REGISTER to June 30, 1979,

(a) For the Atlantic Rate Area, the sum of a linehaul charge of 23.53 cents per nonstop great-circle ton-mile and a terminal charge of 21.50 cents per pound originated;

(b) For the Pacific Rate Area, the sum of a linehaul charge of 24.77 cents per nonstop great-circle ton-mile and a terminal charge of 15.95 cents per pound originated; and

(c) For the Latin American Rate Area, the sum of a linehaul charge of 27.18 cents per nonstop great-circle ton-mile and a terminal charge of 7.09 cents per pound originated.

[1] The Atlantic, Latin American and Pacific Rate Areas are delineated in Attachments 1, 2, and 3, respectively.

c. For the carriage of all other mail,[2][3]

(1) For the period March 8, 1974 to the date of publication of this order in the FEDERAL REGISTER, the rates establishes by Order 75-2-3;

(2) For the period from the date of publication of this order in the FEDERAL REGISTER to June 30, 1979,

(a) For the Atlantic Rate Area, the sum of a linehaul charge of 22.60 cents per nonstop great-circle ton-mile and a terminal charge of 19.16 cents per pound originated;

(b) For the Pacific Rate Area, the sum of a linehaul charge of 20.83 cents per nonstop great-circle ton-mile and a terminal charge of 18.17 cents per pound originated; and

(c) For the Latin American Rate Area, the sum of a linehaul charge of 23.39 cents per nonstop great-circle ton-mile and a terminal charge of 7.71 cents per pound originated.

3. The foregoing rates are to be paid in accordance with the terms and conditions set forth below.

CONDITIONS

In computing the mail compensation, the mail ton-miles for each shipment of mail shall be based upon the nonstop great-circle mileage between the points of origin and destination of each shipment, *provided, however*, that for mail shipments moving between the Atlantic and Pacific rate areas which transit the carrier's certificate junction point, the applicable per mail ton-mile rate as set forth above, and the nonstop great-circle miles to be recognized for each of the rate areas, shall be determined by considering the carrier's certificate junction point to be a "point of destination" for mail shipments on the flights destined beyond the junction point, and to be a "point of origin" for the subsequent movement of such mail shipments beyond such junction point, whether or not the flight actually stops at the aforesaid junction point. The total mail compensation payable in such instances shall be the sum of the compensation computed for each geographic rate area. The nonstop great-circle mileages shall be the mileages computed in accordance with the formula set forth in the Notice to Users of C.A.B. official mileages issued May 21, 1970 (35 FR 8249).

No air carrier shall transport space available mail at the rates fixed herein on any aircraft if such transportation will displace any other available revenue traffic.

No military ordinary mail may be transported on any aircraft unless the

[2] Other than space available mail, military ordinary mail, and mail for which rates are established elsewhere.

[3] The rates prescribed in this section (c) do not apply to Eastern Air Lines, Inc. Except as to space available mail and military ordinary mail, Eastern Air Lines, Inc., over its entire system, is covered under the domestic service mail rates. See Order 78-11-80 (Docket 23080-2).

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air carrier has first provided fully for the needs of the postal service for the transportation of all mail other than military ordinary mail and space available mail on that aircraft and (in the case of a service offering passenger transportation) has also first provided fully for the passenger requirements on that flight.

ORIGIN AND DESTINATION OF MAIL SHIPMENTS

As used herein, "point of origin" means the point at which the carrier first enplanes the mail shipment after receipt thereof from a postal administration or its representatives, from another ratemaking division of the same carrier the operations of which are not encompassed herein, or from another carrier; and "point of destination" means the point at which the carrier deplanes the mail shipment for delivery to a postal administration or its representatives, to a separate ratemaking division of the same carrier the operations of which division are not encompassed herein, or to another carrier.

EQUALIZATION OF RATES

a. *Election to equalize*—Any air carrier or, pursuant to agreement, any two or more air carriers providing service on an interline or interchange basis may, by notice, elect to establish a reduced charge for the carriage of mail between (a) any point where a U.S. Postal Service international exchange office is located[4] and any other point to which such international exchange office is authorized to dispatch mail, or (b) foreign points, equal to the charge then in effect for service between such points by any other carrier or carriers.[5]

b. *Notice of Election to Equalize Rates*—An original and three copies of election and agreement pursuant to equalization paragraph a above shall be filed with the Board, and a copy thereof shall be served upon the Postmaster General and each carrier providing on-line or connecting service between the stated points. Such notices shall contain a complete description of the reduced charge being established, the routing over which it applies, how it is constructed, and the charge with which equalization is sought.

Any equalized rate established pursuant to this order shall be effective for the electing carrier or carriers as of the date of filing of the notice required by such paragraphs or such later date as may be specified in the notice and shall continue in effect until such election is terminated. Elections may be terminated by any electing carrier upon 10 days' notice filed with the Board and served upon the Postmaster General and each carrier providing on-line or connecting service between the stated points.

c. *Division of Equalized Rates*—In case of equalization of rates by agreement pursuant to equalization paragraph 1 or 2 above, the agreement shall provide for the proration of the mail compensation between participating carriers on the basis of the relative compensation which would otherwise be payable to each carrier in the absence of the provisions of equalization paragraph 1 or 2 above. In the absence of an agreement among carriers pursuant to equalization paragraph 1 or 2 above for equalization of rates for interline or interchange shipments between a stated pair of points, any carrier (or two or more carriers jointly) may, by notice, elect to receive as its portion of the total compensation for each shipment the amount remaining after subtracting from such total compensation the compensation due the other carrier or carriers involved (nonelecting carriers). Such total compensation shall be computed on the basis of the lowest rate then in effect for service between the stated pair of points for any carrier or carriers. The compensation due the nonelecting carrier or carriers shall be that otherwise applicable to the point-to-point service it actually provides. In those instances where there is a nonelecting carrier or carriers involved in providing the through service and two or more carriers elect to receive payment under this provision, the total payment due such electing carriers shall be prorated by them on the basis of the relative compensation which would otherwise be payable to each of them in the absence of the provisions of this paragraph.

d. *Division of Equalized Rates Prescribed by the Board*—In the event that any carrier is unable to enter into an agreement with any other carrier to transport mail between any stated point at a reduced rate pursuant to equalization paragraph 1 or 2 above, it may file an application with the Board requesting it to determine and fix a different method of apportioning the total compensation for each such shipment of mail between the participating carriers. Such applications shall not be deemed to reopen the mail rates fixed by this order. Applications filed pursuant to this paragraph shall conform generally to the provisions of the Rules of Practice governing the filing of petitions in mail rate cases. Within 7 days after the application is served, any party may file an answer in support of or in opposition to the application, together with any documentary material upon which it relies. Any order upon an application filed pursuant to this paragraph shall be effective no earlier than the filing date of the application with the Board.

In reviewing such application, the Board will consider, among other pertinent factors, the need for the proposed service, the historical participation of the electing carrier or carriers in the transportation of mail between such stated points, the amount of absorption required, and the grounds for refusal by the carrier or carriers to enter into an equalization agreement. After hearing the carriers concerned, either orally or in writing, in those cases where it deems such action appropriate, the Board will, by order, prescribe the method for apportioning the total compensation between such carriers, but in no event shall the carrier or carriers which refuse to enter into an agreement to equalize compensation be required to accept less than the compensation which would have been payable if the services were performed under voluntary agreement pursuant to equalization paragraph 1 or 2 above.

4. The rates here fixed, determined, and published are service mail rates payable in their entirety by the Postmaster General pursuant to section 406 (c) of the Federal Aviation Act of 1958 as amended.

5. The investigation in Docket 26487 is terminated.

6. The order be served upon all parties to the proceeding in Docket 26487.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-36437 Filed 12-29-78; 8:45 am]

[4] International exchange offices currently authorized to dispatch mail for the Atlantic Rate Area are located in Boston, Chicago, Dallas, Detroit, Houston, Los Angeles, Miami, New Orleans, New York, San Juan, Washington, and Charlotte Amalie, Frederickstead, and Christiansted, V.I. For the Pacific Rate Area, they are located in Anchorage, Chicago, Guam, Honolulu, Los Angeles, New York, Pago Pago, San Francisco, Seattle, Wake, and Washington. The terms of this paragraph shall apply to points at which international exchange offices are hereafter established and shall cease to apply to any points at which international exchange offices are discontinued. The Postmaster General will file notice of such new and discontinued offices in this docket and serve a copy on each carrier subject to this order.

[5] Outstanding equalizations shall continue in effect hereunder until canceled by the equalizing carrier or carriers.

[6320-01-M]

[Order No. 78-12-94; Docket No. 32954]

TEXAS INTERNATIONAL AIRLINES, INC.

Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 14th day of December, 1978.

Application of TEXAS INTERNATIONAL AIRLINES, INC. for amendment of its certificate of public convenience and necessity for Route 82.

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By Order 78-10-25, October 5, 1978, we invited interested persons to show cause why we should not amend the certificate of Braniff Airways for Route 9 so as to add the point Midland/Odessa, Texas. We denied Midland's request that we authorize Braniff to provide service in the Midland/Odessa-Dallas/Ft. Worth market by exemption. Finally, we left to be handled by a later order an application of Texas International Airlines (TXI) for amendment of its certificate for Route 82 so as to provide nonstop service between Dallas/Ft. Worth and Oklahoma City.[1] The facts of that application were discussed in the order.

Braniff has responded to TXI's economic exhibits filed on August 14. It opposes the requested authority, contending that TXI is not proposing significant service improvements; that issuance of an order to show cause in response to the petition would run contrary to established Board policy because the certification sought would substantially alter existing competitive relationships in the Dallas/Ft. Worth-Oklahoma City market; and that the petition raises questions which preclude resolution by show-cause procedures.

We have tentatively concluded, on the basis of the tentative findings below, that it is consistent with the public convenience and necessity to amend TXI's certificate so as to add the nonstop segment Dallas/Ft. Worth-Oklahoma City; such service should be made permissive; TXI is fit, willing and able to perform properly the air transportation it proposes and to conform to the provisions of the Act and the Board's rules; our proposed action would not constitute a major Federal action significantly affecting the quality of the environment within the meaning of the National Environmental Policy Act of 1969; and it is not a major regulatory action under the Energy Policy and Conservation Act of 1975 (EPACA).[2]

Grant of TXI's request comports with the Airline Deregulation Act of 1978, particularly with the declaration of policy set forth in section 102 which instructs us to rely, to the maximum extent possible, on competitive forces, including potential competition. TXI has proposed competitive service in the primary market and service beyond Dallas/Ft. Worth to Midland/Odessa, where direct service from Oklahoma City has been eliminated by Continental. In addition, TXI has proposed fare reductions which will provide a greater choice of price. Even should TXI not enter the market, however, or ultimately leave it, the realistic threat of entry will help to force incumbents to operate efficiently and responsively.

We will give interested persons 30 days following the service date of this order to show cause why the tentative findings and conclusions set forth here should not be made final; replies will be due within 10 days thereafter. We expect those persons to direct their objections, if any, to specific matters dealt with here, and to support their objections with detailed economic analysis. If an oral evidentiary hearing complete with the opportunity for cross-examination is requested, the objector should state, in detail, why such a hearing is necessary and what relevant and material facts the objector would expect to establish through such a hearing that cannot be established in written pleadings. We will not entertain general, vague, or unsupported objections. We remind objectors that, under the 1978 Act, the burden of proof is on them to show why the award of authority here is not consistent with the public convenience and necessity.

ACCORDINGLY,

1. We direct all interested persons to show cause why we should not issue an order making final the tentative findings and conclusions stated here and amending TXI's certificate for Route 82 by adding the segment Dallas/Ft. Worth, Tex.-Oklahoma City, Okla.;

2. We direct any interested persons having objections to the issuance of an order making final the proposed findings, conclusions and certificate amendment set forth here to file with us, no later than January 18, 1979, 1978, and serve upon all persons listed in paragraph 6 below, a statement of objections together with a summary of testimony, statistical data, and evidence expected to be relied upon to support the stated objections; interested persons shall file answers to objections no later than January 29, 1979;

3. If timely and properly supported objections are filed, we will give full consideration to the matters or issues raised before we take further action;[3]

4. In the event no objections are filed to any part of this order, we will eliminate all further procedural steps relating to such part or parts and we will proceed to enter an order in accordance with the tentative findings and conclusions set forth in this order;

5. We will grant the petition of Texas International Airlines for an order to show cause in Docket 32954; and

6. We will serve this order on Texas International Airlines, Inc.; Braniff Airways, Inc.; the Midland/Odessa Parties; the Texas Aeronautics Commission; Continental Air Lines, Inc.; the Dallas/Ft. Worth Parties; the City of Oklahoma City; American Airlines, Inc.; Delta Air Lines, Inc.; Trans World Airlines, Inc.; North Central Airlines, Inc.; Northwest Airlines, Inc.; and Western Air Lines, Inc.

We will publish this order in the FEDERAL REGISTER.

By the Civil Aeronautics Board:[4]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-36459 Filed 12-29-78; 8:45 am]

[1] Such authority, if granted, would permit TXI to offer Midland/Odessa-Oklahoma City one-stop service via Dallas/Ft. Worth.

[2] TXI filed an environmental evaluation, to which we received no objections, indicating that there would be no significant impact on the environment as a result of its proposed service. We have analyzed TXI's evaluation and find it to be reasonable. Its service will require the use of only 1,029,888 gallons of additional fuel.

[3] Since provision is made for the filing of objections to this order, we will not entertain petitions for reconsideration.

[4] All Members concurred.

[6320-01-M]

[Order No. 78-12-173; Docket No. 33712]

TIGER INTERNATIONAL-SEABOARD ACQUISITION CASE

Order Instituting Proceeding

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 26th day of December, 1978.

On October 17, 1978, Tiger International Inc., the holding company parent of Flying Tiger Line, placed its holdings of 9.9 percent of Seaboard World Airlines stock into a voting trust similar to that allowed by the Board in Orders 78-8-150 and 78-8-151 for Texas International and Pan American's holdings of National stock. Two days later on October 19, Tiger International increased its holdings of Seaboard stock to 12.8 percent and applied to the Board for permission to own up to 25 percent of Seaboard stock without a voting trust. On October 20, 1978, Seaboard filed an emergency petition for an order temporarily restraining Tiger International from acquiring additional Seaboard stock which the Board granted the same day in Order 78-10-101. Tiger continued to purchase Seaboard stock until the close of the stock exchanges on October 20 and now owns 15.6 percent of Seaboard's outstanding shares in the voting trust. In Order 78-10-101, we provided interested persons the opportunity to submit comments as to whether or not Tiger International should be permitted to resume its purchases of Seaboard stock.

In responding to Order 78-10-101, Tiger International argues that the acquisition of control and possible combination with Seaboard would not result in any appreciable diminution of competition, would be legal under the Federal Aviation Act of 1958, as amended, and section 7 of the Clayton Act, and should therefore be ap-

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proved. Tiger defines the geographic market as worldwide but also identifies three submarkets: transatlantic, domestic and transpacific. The proposed relevant international product market consists of all scheduled and chartered air freight operations using combination, belly or freighter equipment, as well as modern containerships. Tiger argues that the domestic market encompasses all freight carriers, including air taxis and combination aircraft, expedited truck services and certain high speed rail services.

Using these market definitions, Tiger contends that both internationally and domestically it faces fierce competition; that a combination with Seaboard which would enable Tiger to move quickly into the transatlantic marketplace is necessary to maintain its competitive posture; that the replacement of Seaboard by Tiger in the Atlantic will bring significant transportation benefits to the shipping public due to Tiger's aggressive competitive spirit; that the elimination of Seaboard as a potential competitor in the North Atlantic and Pacific would not violate the antitrust laws according to the Justice Department's merger guidelines using Tiger's calculations of firm concentration; and that the elimination of Seaboard as an actual competitor in the domestic expedited freight business is similarly legal under the merger guidelines permitting the acquisition of a firm with less than two percent of the market by a firm with less than a 15 percent market share where the four largest firms have less than 75 percent of the market as calculated by Tiger.

Tiger maintains that its acquisition of Seaboard stock in excess of ten percent in a voting trust does not violate the Act since Tiger cannot exert control until the Board approves its application permitting the voting trust to be revoked. Further, Tiger states that the Board's adoption of prescreening procedures was in excess of its authority since it does not serve the public interest; that the retroactive application of this procedure to Tiger violates the due process clause of the Fifth Amendment; that the Board failed to comply with procedural requirements for a rulemaking; that the Board, like the Federal Trade Commission, has no injunctive authority pursuant to section 7a of the Clayton Act; and that the Board has no power to issue an injunction prior to a finding that control has been acquired in violation of section 408 or section 11 of the Clayton Act.

Seaboard contends that Tiger has willfully violated sections 408 and 411 of the Federal Aviation Act and section 7 of the Clayton Act by acquiring presumptive control of Seaboard prior to Board approval, and that the acquisition of control by Tiger may substantially lessen competition, tend to create a monopoly and constitute an unfair method of competition in the aircraft leasing market and the all-cargo carrier market. Seaboard therefore asks that the Board restore the *status quo ante* by ordering Tiger to divest itself of its Seaboard stock in excess of 9.9 percent, by restraining Tiger from acquiring Seaboard stock, and by prohibiting Tiger from voting any of its Seaboard stock pending a full hearing on Tiger's application.

Seaboard defines the relevant international geographic markets as the transatlantic and transpacific, with individual countries constituting relevant submarkets due to the barriers to entry raised by foreign governments and the Board's certification requirements. Seaboard views the domestic submarkets as the city-pairs in which Seaboard and Tiger actually or potentially compete. Seaboard's product market definition is limited to U.S. flag all-cargo freighter aircraft that can meet the special shipping requirements involve in the expeditious transportation of outsized shipments, large intermodal cargo containers, hazardous materials, live animals, and internationally, military airlift command transport. Under this definition, Seaboard argues that the relevant domestic, transatlantic, and transpacific markets in which Tiger and Seaboard actually or potentially compete are highly concentrated and characterized by high entry barriers, notably the scarcity of widebodied freighters capable of meeting stringent noise standards; that Seaboard's removal from the marketplace through acquisition by Tiger would violate the antitrust laws if the Justice Department merger guidelines are applied to Seaboard's calculations of market share and firm concentration; and that the anticompetitive effects of eliminating a non-IATA competitor in price and innovative services are not outweighed by significant transportation conveniences and needs of the public that cannot be satisfied by reasonably available alternatives having materially less anticompetitive effects.

The Department of Justice argues that the acquisition of Seaboard by Tiger raises substantial competitive questions under section 7 of the Clayton Act and section 408 that require the *status quo* be maintained pending a full hearing on the merits; that the Board, acting in the manner of an antitrust court, should prevent Tiger from purchasing additional Seaboard stock in the interim; that the Airline Deregulation Act of 1978 requires the Board to apply a traditional section 7 Clayton Act analysis at the prescreening stage and at the hearing on the merits; and that the standard to be used in presecreening Tiger's application is whether serious questions going to the merits are raised. While the Department views the relevant product market as the movement of cargo by air, it contends that economically relevant submarkets are U.S. flag all-cargo service in the transatlantic market and the entire United States, and U.S. government cargo service worldwide. DOJ asserts that Seaboard and Tiger are substantial actual competitors in these already concentrated markets and a combination of the two carriers would increase that concentration. Given the existence of these serious competitive questions going to the merits of Tiger's application, Justice urges the Board to continue in effect Order 78-10-101 prohibiting further acquisition of Seaboard common stock by Tiger International.

A private citizen, claiming to represent a group of Seaboard stockholders, submitted a letter arguing that the Board's action in Order 78-10-101 was arbitrary and unmindful of the damaging results to Seaboard stockholders; that the Board's interference with the market has caused some Seaboard stockholders to suffer financial loss; and that the Board should not restrict Tiger from continuing to purchase Seaboard stock.

On November 9, 1978, Tiger International filed a motion for leave to file an answer to Seaboard's comments, which we will grant. Tiger argues that Seaboard's market analysis contained some fundamental errors and inconsistencies because the distinctive services that Seaboard alleges can only be provided effectively by all-cargo aircraft can and are provided by belly and combination carriers, and that Seaboard failed to include Federal Express, the second largest domestic airfreight carrier, in Seaboard's market definition. Further, Tiger comments that Seaboard's measurement of market concentration in terms of available capacity rather than as revenue or RTM's is erroneous; that Seaboard's analysis of North Atlantic market concentration using the period ending June 30, 1976, is outdated due to several major changes in the market since that time; that in analyzing the transatlantic market, military airlift is not a relevant submarket; that Tiger is not a significant competitor in the European airfreight market; that economic barriers to entering the domestic freight market are low and will remain low; and finally, that any competition between Seaboard and Tiger in the aircraft leasing market is irrelevant to the present case.

On November 17, 1978, Seaboard filed a motion for leave to file in reply to Tiger, which we will also grant. Seaboard argues in its response that Tiger's application to the Board for a

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certificate for New York-London scheduled cargo and mail authority in direct transatlantic competition with Seaboard demonstrates that there may be a substantial lessening of competition in violation of the Act by Tiger's acquisition of control of Seaboard; that there is a less anticompetitive alternative for Tiger fulfilling its alleged transportation needs and conveniences than by acquiring Seaboard; and that Tiger has ignored the judicial recognition of relevant submarkets in which the lessening of competition may be measured.

After careful consideration of these comments, the Board has determined to vacate Order 78-10-101 restraining Tiger International from further purchases of Seaboard stock. However, Tiger International, its affiliates, and any trustee acting in its behalf are prohibited from purchasing more than 25 percent of Seaboard stock requested in Tiger's application and are ordered to retain Tiger's current stock holding of 15.6 percent and any additional purchases not to exceed 25 percent of Seaboard's outstanding shares in an approved voting trust. We are also instituting a proceeding to investigate the public interest, especially the competitive significance of the proposed acquisition.[1]

As a rule, the Board is hesistant to interfere in the normal workings of the capital markets. We said that:

> the transaction system should not be spared the disciplines, or denied the benefits of, the capital markets, unencumbered by the Board unless some clearly demonstrated special circumstances is [sic] present.[2]

The Board has accordingly indicated its willingness to approve the use of a voting trust in some instances as a means of ameliorating the undesirable effect that the rigid presumption of control under section 408(f) may have on the capital markets and on procompetitive acquisitions.[4]

In Order 78-10-100, adopted the same day as the order under review here, the Board approved the continued use of voting trusts by Texas International and Pan American to acquire up to 25 percent of National Airline's stock. While cautioning that the use of a voting trust does not necessarily guarantee that control has not been acquired, the Board found that the voting trusts as amended and the circumstances surrounding the applications, especially the hostile nature of Texas International's takeover bid, were sufficient to rebut the presumption of control.[5] In support of this determination, we noted that a proportional voting trust denied either carrier the clearest avenue of control by prohibiting the owner from voting the stock according to its wishes. Further, the Board dismissed the argument that the target company's management would necessarily bow to the pressure of a large but only potentially powerful stockholder. We concluded that:

> To adopt [this] position on the existence of control . . . would turn section 408(f) into a virtual bar to unfriendly acquisitions. There is no need to take this approach, since the competitive and public interest goals of section 408 are protected by the need for explicit approval before any consolidation can take place, and by our other statutory powers.[6]

At the same time, we nevertheless expressed general approval of the Department of Justice's suggestion that the Board undertake a preliminary analysis of the competitive effects of a merger in order to determine if the acquiring carrier should be permitted to purchase another carrier's stock in excess of the 10 percent presumption of control pending a hearing on the merits. The Board was persuaded that the disturbance which the target company's management would experience in its daily operations, the potential for concerted anticompetitive behavior, and the hardship to shareholders in the event of divestiture should be averted. Therefore, the Board stated that ". . . where we can see probable anticompetitive problems with the consummated transaction, there will be obvious reasons to enjoin any significant steps toward acquisition. . . ." [7] This preliminary screening policy was made applicable to Tiger's application by Order 78-10-101, in which the Board suspended Tiger's purchases of Seaboard stock.

In its comments on Order 78-10-101, the Department of Justice suggests that the Board rely upon the body of law developed under section 7 of the Clayton Act and the judicial standards applied by the courts when the government seeks a preliminary injunction. Justice believes that the Board should maintain the *status quo* because this case involves serious competitive questions and, when the government shows that serious questions exist, the balancing of hardships immediately tips toward preventing possibly illegal mergers. Tiger and Seaboard agree that the amended section 408 requires the Board, at least initially, to evaluate the competitive consequences under antitrust standards applicable to unregulated industries. Although they differ in their characterizations of the facts, Seaboard and Tiger focus their discussion upon the judicial interpretations of section 7 of the Clayton Act without dealing extensively with the standard to be applied in a situation analogous to a preliminary injunction. Indeed, Tiger, relying on the burden of proof contained in amended section 408(b), denies the Board's authority to restrain it from purchasing Seaboard stock. On the other hand, Seaboard contends that it meets the inferentially applicable standard because Seaboard nas demonstrated probable success on the merits, irreparable harm to Seaboard with no countervailing hardship to Tiger, and the public interest in preventing violations of the antitrust law.

On reflection, we have decided not to make a preliminary assessment of the probable ultimate competitive effects of the possible merger, which must be carefully distinguished from the acquistion of stock that is at issue here. We are concerned that a choice among any of the asserted standards for a preliminary ruling at this point may produce unintended results, especially when we have not yet had an opportunity to consider any of the merger cases now before us under the requirements of the recently amended Act. We fear that the adoption of a particular test for such a preliminary ruling at this time might imply that the particular factors relied on under that test, such as market shares and firm concentration predicated upon particular market definitions which might ultimately prove to be incorrect, are of decisional pre-eminence in all our merger deliberations. Regardless of which test we applied, we would have to make a number of factual assumptions about which we have no evidence or experience. Consequently, our necessary reliance upon tentative analysis would create confusion about the antitrust implications of other contemplated transactions and inadvertently discourage some attempted stock acquisitions of one air carrier by another, and could have an especially

[1] The Board vacated Order 78-10-101 in Order 78-12-91, adopted December 14, 1978. The Board is acting here pursuant to section 408 of the Federal Aviation Act of 1958, 49 U.S.C. § 1378, *as amended by* section 26(a) of P.L. 95-504, the Airline Deregulation Act of 1978; sections 411 and 414 of the Act, 49 U.S.C. §§ 1381 and 1384; and sections 7 and 11 of the Clayton Act, 15 U.S.C. §§ 18, 21.

[2] Order 78-6-208 at 6. *See also Missouri Portland Cement Co. v. Cargill, Inc.*, 498 F.2d 851, 854 (2d Cir.), *cert. denied*, 419 U.S. 883 (1974).

[3] Section 408(f), 49 U.S.C. § 1378(f) provides: For the purpose of this section, any person owning beneficially 10 percentum or more of the voting securities or capital of an air carrier shall be presumed to be in control of such air carrier unless the Board finds otherwise. As used herein, beneficial ownership of 10 percentum of the voting securities of a carrier means ownership of such amount of its outstanding securities as entitles the holder thereof to cast 10 percentum of the aggregate votes which the holders of all the outstanding voting securities of such carriers are entitled to cast. *See* Order 78-10-100 at 4-7.

[4] Order 78-10-100 at 7.

[5] Order 78-10-100 at 4, 11-12.

[6] *Id.* at 8.

[7] *Id.* at 12.

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chilling effect upon hostile takeovers. The Board is therefore hesitant to place hostile takeovers at a distinct procedural disadvantage in relation to consensual mergers which involve no competitive prescreening.

We are also reluctant seemingly to prejudge the outcome of this particular acquisition or the evolutionary path of the Board's merger policy under the new Act. In this case, there is no compelling need for the Board to act immediately in order to protect the public interest. In contrast, a preliminary decision by the antitrust court is often required because the merger of assets can usually be completed or the tender offer withdrawn before a trial on the merits of the antitrust claim.[9] But, as we have already noted, the public interest in preventing unlawful mergers will be adequately protected in the interim since, unlike a control relationship or merger in an unregulated industry, any agreement affecting competition between Tiger and Seaboard must receive explicit Board approval before going into effect.[9]

Consistent with the Pan American and TXI approach, the Board has decided to scrutinize the voting trust device carefully in light of the broader public interest implications associated with its use instead of undertaking the originally proposed analysis focusing on probable anticompetitive effects of the ultimate transaction. There is an obvious public interest in enforcing the Act's requirement that a merger not be consummated or control exercised before the Board has a chance to examine and approve the transaction. We can envision situations involving voting trusts where control may be created in fact despite the legal form of the transaction. First, the voting trust instrument itself must be sufficient to prevent the acquiring carrier from exercising control over the stock. Second, the amount of stock to be acquired is significant since ownership of a large enough portion of the stock could influence the target company's performance even if it is voted proportionally. Finally, we cannot foreclose the possibility that the Board may be convinced that the anticompetitive effects from the stock interlock during the period the Board is considering the merits of the possible merger outweigh the public interest in avoiding unnecessary interference with stock acquisitions. In such cases, the Board might order immediate divestiture if the applicant has acquired more than 10 percent of the target's stock. The Board can also be expected to order divestiture if the acquiring company does not promptly apply for approval of the acquisition. We appreciate that the use of the voting trust device in order to purchase stock in the target company may be a necessary short-term strategy to achieve eventual control if the Board ultimately approves the acquisition. But ownership of the entrusted stock without Board scrutiny raises the issue of whether control has in fact been acquired in violation of section 408.

We cannot find that any of these possible reasons for disapproval of a stock acquisition is applicable in this case. Tiger has placed its Seaboard stock in a voting trust whose terms in all relevant aspects are equivalent to that employed by Pan American and approved by the Board.[10] Moreover, Tiger has only applied to the Board for approval of the outright ownership of 25 percent of Seaboard's outstanding shares and this amount of stock will be subject in the interim to the voting trust. No party has convincingly demonstrated that mere ownership of this particular amount of stock would irreparably harm Seaboard or endanger the public interest in the orderly adjudication of the underlying competitive issues in this case. Of course, there may conceivably be instances in which collusion with other large voting shareholders could be a factor,[11] or occasions when the percentage of stock to be acquired is so high that the amount requested alone could be inferentially adverse to the public interest despite the interpositioning of an otherwise acceptable voting trust. But such effects have not been demonstrated here.

Arguably, there are other short term effects on competition which could influence the Board's determination of whether to permit entrusted ownership of stock in excess of the statutory presumption of control. Generally, however, the Board can monitor the activity of the acquiring and target companies and encourage specific complaints.[12] If there are unfair or anticompetitive practices, the Board can enter an appropriate order. However, blocking the purchase of stock subject to a voting trust merely on the basis of predictions about the ultimate Board decision does not appear to serve any public interest purpose in this case. We are therefore confirming in this case our earlier observations that a properly structured voting trust can, barring unusual circumstances, effectively rebut the presumption of control under section 408(f).[13] At the same time, the Board is not dismissing the possibility that Tiger has otherwise acquired control of Seaboard in violation of section 408 or that the Clayton Act has been violated.[14] We have merely analyzed the factual circumstances surrounding the use of the voting trust and reached a determination that the presumption of control predicated solely on the ownership of stock has been overcome.

When a voting trust can insulate control and when we see no injury to the public interest, the Board is hesitant to interfere with the capital markets to the extent contemplated in announcing a prescreening program. While originally citing our concern with the possibility of unfair harm to carrier management and shareholders of the target company, we have concluded that these difficulties are inherent business and investment risks which the Board should not seek to regulate. Of course, our experience with voting trusts and other merger applicants may prompt us to reject the use of the voting trust in a particular case or persuade us to conduct a prescreening on the basis of the anticompetitive impacts of an acquisition. For the moment, the Board perceives no harm to the public interest from treating this voting trust consistently with the other recent cases. In this case, Board-ordered divestiture of this amount of Seaboard stock would not be difficult to implement and the Board can surely design a plan to avoid any undue hardship. In any event, we do not perceive that the Board's actions with respect to divestiture procedures would be influenced by whether the amount of stock involved is 9.9 percent, 15.6 percent, or 25 percent.

However, to avoid any misunderstanding on the part of the parties, investors, and shareholders, we must again emphasize that we have made no prejudgment on the merits of a Tiger-Seaboard merger. Our decision here is simply that it would be premature to make any sort of judgments on the basis of the record as it now stands and before we have had an opportunity to decide any of the pending merger cases under the standards of the Airline Deregulation Act. Divestiture is likely if the Board's decision is adverse. Recognizing this possibility, any investor who seeks to find some clue to the final decision in this order does so at his own risk. Further, we trust that Tiger and Seaboard will accurately inform the present shareholders of the need for prior Board approval if there is a tender offer.

A good deal of assessment of the public interest and the relative hardship of the parties is based on our belief that an evidentiary hearing on the issues in this case can be handled expeditiously. The Board will thus have the benefit of a fully developed record in a relatively short time. Although Tiger has applied for the acquisition and control of 25 percent of the Seaboard stock in this proceeding, Tiger has stated that its reason for seeking this block of stock is to facilitate a business combination with Seaboard and that it is willing to litigate the merger issue in this case.[15] In order to remove any ambiguity, we wish to include the issue of the effect on competition resulting from the merger of Flying Tiger and Seaboard within the scope of this investigation. Based on Tiger's representation,[16] we also tentatively find that this proceeding will not constitute a major Federal action significantly affecting the human environment.[17]

Consistent with our treatment of this issue in the Pan American and Texas International acquisition case, we are granting waivers to the Director, Bureau of Pricing and Domestic Aviation and the Director, Bureau of Consumer Protection, from Part 300 of the Board's Rules so that they may participate in the Board's consideration of this case. *See* Order 78-12-109.

Accordingly, under the authority granted in sections 204, 407, 408, 411, 414 and 1002 of FAA, as amended by P.L. 95-504; the Board's regulations; and sections 11 and 18 of the Clayton Act:

1. A proceeding to consider the application of Tiger International, Inc., for approval of the acquisition of control of Seaboard World Airlines, Inc., is instituted in Docket 33712, and is set for hearing before an Administrative Law Judge of the Board;

2. Authority to order testimony and the production of documents is delegated to the Administrative Law Judge conducting the proceeding instituted in paragraph 1 above as provided for in section 1004(e) of the Act. This authority is not limited by the provisions of Rule 20 of the Rules of Practice;

3. The petition for intervention of Northwest Airlines, Inc., is granted, in accordance with section 302.15 of the Board's Procedural Regulations;

4. Motions to consolidate and petitions for reconsideration of this order shall be filed within 10 days of the date of service of this order and responsive answers shall be filed 5 days thereafter;

5. This order shall be served on Tiger International, Seaboard World Airways, United States Department of Justice, Department of Transportation, and Department of Defense, the Federal Trade Commission, the Securities and Exchange Commission; and the Bank of California National Association;

6. The Bank of California National Association is directed to vote all Seaboard World Airline shares held by it pursuant to a trust agreement with Tiger International, Inc., dated October 16, 1978, only in accordance with paragraph 7 of that agreement until further order of the Board; and

7. Tiger International, Inc., is permitted to purchase no more than 25 percent of the shares of Seaboard World Airlines, Inc. to be held in the trust described in paragraph 6.

8. The motions of Tiger International, dated November 9, 1978, and the motion of Seaboard World Airways, dated November 17, 1978, to file on otherwise unauthorized documents are granted.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board: [18]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-36460 Filed 12-29-78; 8:45 am]

[3510-25-M]

DEPARTMENT OF COMMERCE

Industry and Trade Administration

COMPUTER SYSTEMS TECHNICAL ADVISORY COMMITTEE

Partially Closed Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Computer Systems Technical Advisory Committee will be held on Thursday, January 18, 1979, at 9:30 a.m. in Room 6029, Main Commerce Building, 14th Street and Constitution Avenue, N.W., Washington, D.C.

The Computor Systems Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, January 13, 1977, and August 28, 1978, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration, Bureau of Trade Regulation, with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which may affect the level of export controls applicable to computer systems, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls.

The Committee meeting agenda has five parts:

GENERAL SESSION

(1) Opening remarks by the Chairman.

(2) Presentation of papers or comments by the public.

(3) Report on the current work program of the Subcommittees:

(a) Technology Transfer;

(b) Foreign Availability;

(c) Hardware; and

(d) Licensing Procedures.

(4) Review of proposed subcommittee study programs for 1979.

EXECUTIVE SESSION

(5) Discussion of matters properly classified under Executive Order 11652 or 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (5), the Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 6, 1978, pursuant to Section 10(d) of the Federal Advisory Committee Act, P.L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy. All materials to be reviewed and discussed by the Committee during the Executive Session of the meeting have been properly classi-

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[9] *See, e.g., Missouri Portland Cement Co.* v. *Cargill, Inc.*, 498 F. 2d 851, 854 (2d Cir.), *cert. denied*, 419 U.S. 883 (1974); *Copperwald Corp.* v. *Imetal*, 403 F. Supp. 529, 607-08 (1975); *U.S.* v. *Pennzoil*, 252 F. 2d 962, 987-88 (W.D. Pa. 1975).

[9] Order 78-10-100. *See FTC* v. *Pepsico*, 477 F. 2d 24, 28-29 (2d Cir. 1973); *FTC* v. *Lancaster Colony Corp., Inc.*, 434 F. Supp. 1088, 1096-97 (S.D. N.Y. 1977). *See FTC* v. *Dean Foods, Inc.*, 384 U.S. 597, 606 n.5 (1966).

[10] Orders 78-8-150 and 78-10-100.

[11] The Board must be notified under section 407 of persons holding five percent of the carrier's stock so it is highly unlikely that the Board would be unaware of such potentials for abuse.

[12] In fact, shortly after Tiger's application, Seaboard entered in direct competition with Tiger in nine major domestic city-pairs and Tiger subsequently applied for dormant authority in the New York-London market. SW-111, Seaboard Comments at 31-33; Seaboard Reply comments at 1-2.

[13] Order 78-10-100 at 4-8.

[14] *Id.* at 9.

[15] *Application of Tiger International, Inc. For Approval of the Ownership Without a Voting Trust of Seaboard World Airlines, Inc.'s Common Stock* at 4.

[16] *Id.* at 6.

[17] Section 312.9(a)(2)(i)-(v).

[18] All Members concurred.

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fied under Executive Order 11652 or 12065. All Committee members have appropriate security clearances.

Copies of the minutes of the open portion of the meeting will be available upon written request addressed to the Freedom of Information Officer, Room 3012, Industry and Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Industry and Trade Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202-377-4196.

The complete Notice of Determination to close meetings or portions thereof of the series of meetings of the Computer Systems Technical Advisory Committee and of any subcommittees thereof, was published in the FEDERAL REGISTER on September 14, 1978 (43 FR 41073).

Dated: December 27, 1978.

RAUER H. MEYER,
Director, Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

[FR Doc. 78-36454 Filed 12-29-78; 8:45 am]

[3510-25-M]

HARDWARE SUBCOMMITTEE OF THE COMPUTER SYSTEMS TECHNICAL ADVISORY COMMITTEE

Partially Closed Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Hardware Subcommittee of the Computer Systems Technical Advisory Committee will be held on Wednesday, January 17, 1979, at 9:00 a.m. in Conference Room D, Main Commerce Building, 14th Street and Constitution Avenue NW., Washington, D.C.

The Computer Systems Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, January 13, 1977, and August 28, 1978, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act. The Hardware Subcommittee of the Computer Systems Technical Advisory Committee was established on July 8, 1975, with the approval of the Director, Office of Export Administration, pursuant to the Charter of the Committee. And, on October 16, 1978, the Assistant Secretary for Industry and Trade approved the continuation of the Subcommittee pursuant to the charter of the Committee.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to computer systems, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls. The Hardware Subcommittee was formed to continue the work of the Performance Characteristics and Performance Measurements Subcommittee, pertaining to (1) Maintenance of the processor performance tables and further investigation of total systems performance; and (2) Investigation of array processors in terms of establishing the significance of these devices and determining the differences in characteristics of various types of these devices.

The Subcommittee meeting agenda has four parts:

GENERAL SESSION

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the public.
3. Discussion of possible future activities for the Subcommittee. Some of the topics to be discussed will be performance measures with respect to computer equipment versus computer systems, new computer architectures, user microprogrammability features, and multi-processor systems.

EXECUTIVE SESSION

4. Discussion of matters properly classified under Executive Order 11652 or 12065, dealing with the U.S. and COCOM control program and stategic criteria related thereto.

The General Session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (4), the Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 6, 1978, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government in the Sunshine Act, P.L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy. All materials to be reviewed and discussed by the Subcommittee during the Executive Session of the meeting have been properly classified under Executive Order 11652 or 12065. All Subcommittee members have appropriate security clearances.

Copies of the minutes of the open portion of the meeting will be available upon written request addressed to the Freedom of Information Officer, Room 3012, Industry and Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Industry and Trade Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202-377-4196.

The complete Notice of Determination to close meetings or portions thereof of the series of meetings of the Computer Systems Technical Advisory Committee and of any subcommitees thereof, was published in the FEDERAL REGISTER on September 14, 1978 (43 FR 41073).

Date: December 27, 1978.

RAUER H. MEYER,
Director, Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

[FR Doc. 78-36453 Filed 12-29-78; 8:45 am]

[3510-15-M]

Maritime Administration

[Docket No. S-632]

ZAPATA PRODUCTS TANKERS, INC.

Application

Zapata Products Tankers, Inc. (Zapata) is the holder of a long-term operating-differential subsidy contract in the worldwide bulk trade. Zapata Bulk Transport (Bulk Transport), an affiliate of Zapata, is considering responding to a Military Sealift Command (MSC) Request for Proposals in connection with the operation of four 37,000 DWT tankers, namely, the USNS's COLUMBIA, NECHES, SUSQUEHANNA and HUDSON. Bulk Transport, under the terms of the RFP, would operate the tankers under the direction of the MSC and from time to time might operate them in the domestic trade carrying petroleum or its products between points in the United States.

Zapata will require written permission of the Maritime Administration under section 805(a) of the Merchant Marine Act, 1936, as amended, if Bulk Transport is to operate the four tankers as outlined above.

Any person, firm, or corporation having any interest (within the meaning of section 805(a)) in such application and desiring to be heard on issues pertinent to section 805(a) and desiring to submit comments or views concerning the application must, by close of business on January 8, 1979, file same with the Secretary, Maritime Administration, in writing, in triplicate, together with petition for leave to intervene which shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief.

If no petitions for leave to intervene are received within the specified time or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Administration will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing will be held, the purpose of which will be to receive evidence under section 805(a) relative to whether the proposed operations (a) could result in unfair competition to any person, firm, or corporation operating exclusively in the coastwise or intercoastal service, or (b) would be prejudicial to the objects and policy of the Act relative to domestic trade operations.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidies (ODS))

By Order of the Assistant Secretay for Maritime Affairs.

Dated: December 27, 1978.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc. 78-36388 Filed 12-29-78; 8:45 am]

[3510-18-M]

Office of the Secretary

DOMESTIC POLICY REVIEW ON INDUSTRIAL INNOVATION

Public Symposia

Notice is hereby given that the Department of Commerce has scheduled a series of public symposia to be held as a part of the Domestic Policy Review on Industrial Innovation. This review, being undertaken pursuant to President Carter's concern for the status of industrial innovation in the United States, is focusing on the effects upon industrial innovation of:

Economic and trade policy
Federal procurement policy
Federal patent policy
Federal information policy
Federal direct support of research and development
Federal environment, health and safety regulations
Regulation of industry structure and competition

These subjects will be the focus of seven symposia in which senior executives from the business, industrial, labor, academic and public interest communities will participate. The symposia will be chaired by Dr. Jordan J. Baruch, Assistant Secretary of Commerce for Science and Technology. Other federal agencies will be represented at the highest policy level.

Each session will consist of both formal presentations and informal discussion, with ample opportunity for audience participation. The sessions will begin at 9:30 a.m. and conclude at 5:00 p.m., with a break for lunch between 12 noon and 1:30 p.m. Following is the schedule for these symposia, and their locations.

DOMESTIC POLICY REVIEW OF INDUSTRIAL INNOVATION

PUBLIC SYMPOSIA SCHEDULE

Subject of symposium	Date (1979)
Procurement	January 15
Direct Support of Research and Development.	January 16
Environment, Health, and Safety Regulations.	January 17
Regulation of Industry Structure and Competition.	January 19
Economic and Trade Policy	January 22
Patents	January 24
Information	January 25

Location: All symposia will be held in the U.S. Department of Commerce Auditorium on the first floor of the Main Commerce Department building (entrance on 14th Street between Constitution and Pennsylvania Avenues, NW.)

Dated: December 18, 1978.

JORDAN J. BARUCH,
Assistant Secretary for Science and Technology.

[FR Doc. 78-36363 Filed 12-29-78; 8:45 am]

[3510-25-M]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

CERTAIN COTTON, WOOL AND MAN-MADE FIBER TEXTILE PRODUCTS FROM MACAU

Import Restraint Levels

DECEMBER 27, 1978.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Establishing import restraint levels for certain cotton, wool and man-made fiber textile products from Macau during the twelve-month period beginning on January 1, 1979 and extending through December 31, 1979.

SUMMARY: The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of March 3, 1975, as amended, between the Governments of the United States and Portugal, establishes levels of restraint for certain specified categories of cotton, wool and man-made fiber textile products, produced or manufactured in Macau and exported to the United States during the twelve-month period beginning on January 1, 1979 and extending through December 31, 1979. In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to limit imports for consumption and withdrawal from warehouse for consumption, of cotton, wool and man-made fiber textile products in Categories 333/334/335, 338, 340, 341, 347/348, 445/446, 633/634/635 and 641, to the designated levels during the twelve-month period beginning on January 1, 1979.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), and September 5, 1978 (43 FR 39408)).

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, as amended, but are designed to assist only in the implementation of certain of its provisions.

EFFECTIVE DATE: January 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Robert C. Woods, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20203 (202/377-5423).

ARTHUR GAREL,
Acting Chairman, Committee for the Implementation of Textile Agreements.

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DECEMBER 27, 1978.
COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C.

DEAR MR. COMMISSIONER: Under the terms of the Arrangements Regarding International Trade in Textile done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of March 3, 1975, as amended, between the Governments of the United States and Portugal, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on January 1, 1979 and for the twelve-month period extending through December 31, 1979, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in the following categories from Macau in excess of the indicated levels of restraint:

Category	12-month level of restraint
333/334/335	77,616 dozen
338	97,322 dozen
340	93,625 dozen
341	48,276 dozen
347/348	244,807 dozen
445/446	67,242 dozen
633/634/635	172,666 dozen
641	48,276 dozen

In carrying out this directive, entries of textile products in Category 347/348, produced or manufactured in Macau and exported to the United States prior to January 1, 1979, shall to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during the twelve-month period beginning on January 1, 1978 and extending through December 31, 1978. In the event the levels of restraint established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter. Merchandise exported prior to January 1, 1979 in categories other than Category 347/348 will not be subject to this directive.

The levels of restraint set forth above are subject to adjustment according to the provisions of the bilateral agreement of March 3, 1975, as amended, between the Governments of the United States and Portugal which provide, in part, that: (1) within the aggregate and applicable group limits of the agreement, specific levels of restraint may be exceeded by designated percentages; (2) these same levels may be increased for carryover and carryforward up to 11 percent of the applicable category limits; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement. Any appropriate future adjustments under the foregoing provisions of the bilateral agreement will be made to you by letter.

A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), and September 5, 1978 (43 FR 39408).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The action taken with respect to the Government of Portugal and with respect to imports of cotton, wool, and man-made fiber textile products from Macau have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ARTHUR GAREL,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 78-36421 Filed 12-29-78; 8:45 am]

[3510-25-M]

CERTAIN COTTON TEXTILE PRODUCTS FROM PAKISTAN, EFFECTIVE ON JANUARY 1, 1979

Import Restraint Levels

DECEMBER 27, 1978.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Establishing import restraint levels for certain cotton textile products imported from Pakistan, effective on January 1, 1979.

SUMMARY: The Bilateral Cotton Textile Agreement of January 4 and 9, 1978 between the Government of the United States and Pakistan establishes specific levels of restraints for cotton textile products in Categories 313, 315, 338 and 363, produced or manufactured in Pakistan and export to the United States during the twelve-month period beginning on January 1, 1979. Accordingly, there is published below a letter from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs directing that entry into the United States for consumption, or withdrawal from warehouse for consumption, of cotton textile products in Categories 313, 315, 338, and 363 be limited to the designated twelve-month levels of restraint.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), and September 5, 1978 (43 FR 39408).)

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

EFFECTIVE DATE: January 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Donald R. Foote, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20203 (202/377-5423).

ARTHUR GAREL,
Acting Chairman, Committee for the Implementation of Textile Agreements.

DECEMBER 27, 1978.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C.

DEAR MR. COMMISSIONER: Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977, pursuant to the Bilateral Cotton Textile Agreement of January 4 and 9, 1978, between the Governments of the United States and Pakistan, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on January 1, 1979, and for the twelve-month period extending through December 31, 1979, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in the following categories in excess of the indicated levels of restraint:

Category	12-month level of restraint
313	60,388,330 square yards.
315	26,049,000 square yards.
338	1,709,028 dozen of which not more than 885,554 dozen shall be in T.S.U.S.A. 380.0651 and 380.0652.
363	5,029,000 numbers.

In carrying out this directive, entries of cotton textile products in the foregoing categories, except Category 315, produced or manufactured in Pakistan, which have been exported to the United States prior to January 1, 1979, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during the twelve-month period beginning on January 1, 1978 and extending through December 31, 1978. In the event the levels of restraint established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter. Entries of cotton textile products in Category 315, which have been exported to the United States prior to January 1, 1979, shall not be subject to this directive.

The levels of restraint set forth above are subject to adjustment according to the provisions of the bilateral agreement of January 4 and 9, 1978 between the Governments of the United States and Pakistan which provide, in part, that: (1) within the aggregate and group limits of the agreement, specific levels of restraint may be exceeded by designated percentages; (2) these same levels may be increased for carryover and carryforward; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement. Any appropriate adjustments under the provisions of the bilateral agreement referred to above will be made to you by letter.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), and September 5, 1978 (43 FR 39408).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Pakistan and with respect to imports of cotton textiles and cotton textile products from Pakistan have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ARTHUR GAREL,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 78-36420 Filed 12-29-78; 8:45 am]

[3510-25-M]

CERTAIN COTTON, WOOL AND MAN-MADE FIBER TEXTILE PRODUCTS FROM THE REPUBLIC OF THE PHILIPPINES, EFFECTIVE ON JANUARY 1, 1979

Import Restraint Levels

DECEMBER 27, 1978.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Establishing import restraint levels for certain cotton, wool and man-made fiber textile products imported from the Philippines, effective on January 1, 1979.

SUMMARY: The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 22 and 24, 1978, between the Governments of the United States and the Republic of the Philippines establishes levels of restraint for cotton, wool, and man-made fiber textile products in Categories 338/339, 340, 445/446, 604, 631, 636(pt.), 641(pt.), 643, 645/646(pt.), and 649, produced or manufactured in the Philippines and exported to the United States during the 12-month period beginning on January 1, 1979. Accordingly, there is published below a letter from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs directing that entry into the United States for consumption, or withdrawal from warehouse for consumption, of cotton, wool, and man-made fiber textile products in the foregoing categories be limited to the designated 12-month levels of restraint.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), and September 5, 1978 (43 FR 39408)).

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

EFFECTIVE DATE: January 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Donald R. Foote, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-5423).

ARTHUR GAREL,
Acting Chairman, Committee for the Implementation of Textile Agreements.

DECEMBER 27, 1978.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20229.

DEAR MR. COMMISSIONER: Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 22 and 24, 1978, between the Governments of the United States and the Republic of the Philippines; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on January 1, 1979 and for the twelve-month period extending through December 31, 1979 entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products, exported from the Republic of the Philippines in the following categories, in excess of the indicated twelve-month levels of restraint:

Category	12-Month Level of Restraint
338/339	696,358 dozen
340	214,070 dozen
445/446	17,249 dozen
604	1,973,899 pounds
631	1,467,911 dozen pairs
636 [1]	39,077 dozen
641 [2]	158,586 dozen
643	41,174 dozen of which not more than 25,750 dozen shall be in T.S.U.S.A. numbers 380.0464, 380.5176, 380.8451 and 380.8452.
645/646 [3]	86,664 dozen
649	3,502,416 dozen

[1] In Category 636, all T.S.U.S.A. numbers except T.S.U.S.A. 382.0414, 382.0467, 382.7818 and 382.8175.

[2] In Category 641, all T.S.U.S.A. numbers except T.S.U.S.A. 382.0460, and 382.8137.

[3] In Category 645/646, all T.S.U.S.A. numbers except 382.0427 and 382.7870.

In carrying out this directive entries of textile products in the foregoing categories, except Category 445/446, which have been exported to the United States prior to January 1, 1979, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during the twelve-month period beginning on January 1, 1978 and extending through December 31, 1978.

In the event that the levels of restraint established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in the letter. Wool textile products in Category 445/446, exported prior to January 1, 1979, shall not be subject to this directive.

The levels of restraint set forth above are subject to adjustment according to the provisions of the bilateral agreement of August 22 and 24, 1978, between the Governments of the United States and the Republic of the Philippines which provide, in part, that: (1) three percent growth shall be applied to certain specified ceilings during the second and each successive agreement year; and (2) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement. Any appropriate adjustments under the provisions of the bilateral agreement referred to above will be made to you by letter.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), and September 5, 1978 (43 FR 39408).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Republic of the Philippines and with respect to imports of cotton, wool and man-made fiber textile products from the Philippines have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making

provisions of 5 U.S.C 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ARTHUR GAREL,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 78-36422 Filed 12-29-78; 8:45 am]

[3510-25-M]

TEXTILE CATEGORY SYSTEM

DECEMBER 27, 1978.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Changes in the *Correlation: Textile and Apparel Categories with Tariff Schedules of the United States Annotated.*

SUMMARY: A notice published in the FEDERAL REGISTER on January 4, 1978, Part VI, announced details of the new textile category system which became effective January 1, 1978. On January 25, 1978, FEDERAL REGISTER, Vol. 43, No. 17, page 3421; on March 3, 1978, FEDERAL REGISTER, Vol. 43, No. 43, page 8828; and on September 5, 1978, FEDERAL REGISTER, Vol. 43, No. 172, page 39408 listed certain corrections and changes in the textile category system. There is published below a list further amending the system to reflect changes in the Tariff Schedules of the United States Annotated which were effective January 1, 1979. Copies of the amended Correlation are available by request to the Director, Trade Analysis Division, Office of Textiles, Room 2815, U.S. Department of Commerce, Washington, D.C. 20230.

EFFECTIVE DATE: January 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Leonard A. Mobley, Director, Trade Analysis Division, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230. (202-377-4212).

EDWARD GOTTFRIED,
Acting Chairman, Committee for the Implementation of Textile Agreements.

CORRELATION CHANGES

[Effective January 1, 1979]

Page	TSUSA	Action
46	376.5408	Add to Cat. 334
46	376.5410	Delete from Cat. 334
47	376.5412	Add to Cat. 335
47	380.0910	Delete from Cat. 334
47	380.0915	Add to Cat. 334
47	380.0920	Delete from Cat. 334
49	382.3321	Add to Cat. 336
49	382.3322	Delete from Cat. 336
49	382.3323	Add to Cat. 336
49	382.3324	Delete from Cat. 336
49	382.3325	Add to Cat. 336
50	380.3911	Add to Cat. 337
50	380.3912	Delete from Cat. 337
50	380.3914	Add to Cat. 337

CORRELATION CHANGES—Continued

[Effective January 1, 1979]

Page	TSUSA	Action
50	382.3328	Delete from Cat. 337
50	382.3329	Add to Cat. 337
50	382.3330	Add to Cat. 337
50	382.3332	Add to Cat. 337
52	380.2743	Add to Cat. 340
52	380.2745	Add to Cat. 340
52	380.2750	Delete from Cat. 340
52	380.2753	Add to Cat. 340
52	380.2755	Add to Cat. 340
52	380.2760	Delete from Cat. 340
52	380.3785	Add to Cat. 340
52	380.2787	Add to Cat. 340
52	380.2788	Delete from Cat. 340
52	380.2794	Add to Cat. 340
52	380.2798	Add to Cat. 340
52	380.2798	Delete from Cat. 340
53	382.3305	Add to Cat. 341
53	382.3306	Delete from Cat. 341
53	382.3307	Add to Cat. 341
53	382.3308	Delete from Cat. 341
53	382.3309	Add to Cat. 341
53	382.3310	Delete from Cat. 341
53	382.3311	Add to Cat. 341
53	382.3312	Delete from Cat. 341
58	380.2400	Delete from Cat. 351
58	380.2405	Add to Cat. 351
58	380.2410	Add to Cat. 351
58	380.3909	Delete from Cat. 351
58	380.3915	Add to Cat. 351
58	382.2400	Delete from Cat. 351
58	382.2410	Add to Cat. 351
58	382.2415	Add to Cat. 351
58	382.3327	Add to Cat. 351
61	380.3908	Add to Cat. 359
61	380.3986	Delete from Cat. 359
61	380.3987	Add to Cat. 359
62	382.3328	Add to Cat. 359
62	382.3391	Delete from Cat. 369
62	382.3396	Add to Cat. 359
78	376.5609	Add to Cat. 634
78	376.5610	Delete from Cat. 634
78	376.5612	Add to Cat. 635
79	382.8107	Delete from Cat. 635
79	382.8109	Delete from Cat. 635
79	382.8111	Delete from Cat. 635
79	382.8113	Delete from Cat. 635
79	382.8115	Delete from Cat. 635
79	382.8117	Delete from Cat. 635
79	382.8145	Add to Cat. 635
79	382.8154	Add to Cat. 635
79	382.8159	Add to Cat. 635
79	382.8160	Add to Cat. 635
79	382.8163	Add to Cat. 635
79	382.8165	Add to Cat. 635
80	380.8422	Add to Cat. 637
80	380.8424	Add to Cat. 637
80	382.8119	Delete from Cat. 636
80	382.8121	Delete from Cat. 636
80	382.8127	Delete from Cat. 637
80	382.8168	Add to Cat. 637
80	382.8171	Add to Cat. 637
80	382.8172	Add to Cat. 637
80	382.8173	Add to Cat. 636
80	382.8174	Add to Cat. 636
80	382.8175	Add to Cat. 636
82	380.8431	Add to Cat. 640
82	380.8433	Add to Cat. 640
82	380.8435	Delete from Cat. 640
82	380.8441	Add to Cat. 640
82	380.8443	Add to Cat. 640
82	380.8445	Delete from Cat. 640
83	382.8102	Delete from Cat. 641
83	382.8103	Delete from Cat. 641
83	382.8105	Delete from Cat. 641
83	382.8130	Delete from Cat. 642
83	382.8132	Delete from Cat. 642
83	382.8133	Add to Cat. 641
83	382.8137	Add to Cat. 641
83	382.8139	Add to Cat. 641
83	382.8143	Add to Cat. 641
83	382.8144	Add to Cat. 641
83	382.8183	Add to Cat. 642
83	382.8184	Add to Cat. 642
84	382.8134	Delete from Cat. 644
84	382.8187	Add to Cat. 644
87	382.8129	Delete from Cat. 648
87	382.8136	Delete from Cat. 648
87	382.8138	Delete from Cat. 648

CORRELATION CHANGES—Continued

[Effective January 1, 1979]

Page	TSUSA	Action
87	382.8182	Add to Cat. 648
87	382.8189	Add to Cat. 648
87	382.8190	Add to Cat. 648
88	380.8428	Add to Cat. 651
88	380.8429	Add to Cat. 651
88	380.8430	Delete from Cat. 651
88	382.8123	Delete from Cat. 650
88	382.8125	Delete from Cat. 651
88	382.8178	Add to Cat. 650
88	382.8180	Add to Cat. 651
91	380.8421	Add to Cat. 659
91	380.8487	Delete from Cat. 659
91	380.8488	Add to Cat. 659
92	382.8140	Delete from Cat. 659
92	382.8148	Delete from Cat. 659
92	382.8153	Delete from Cat. 659
92	382.8157	Delete from Cat. 659
92	382.8167	Add to Cat. 659
92	382.8191	Add to Cat. 659
92	382.8192	Add to Cat. 659
92	382.8193	Add to Cat. 659
92	382.8199	Add to Cat. 659
111	386.0839	Add to Cat. 669

[FR Doc. 78-36419 Filed 12-29-78; 8:45 am]

[3810-71-M]

DEPARTMENT OF DEFENSE

Department of the Navy

TECHNOLOGY SUB-PANEL OF THE CHIEF OF NAVAL OPERATIONS EXECUTIVE PANEL ADVISORY COMMITTEE

Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Technology Sub-Panel of the Chief of Naval Operations (CNO) Executive Panel Advisory Committee will meet on January 25-26, 1979. The January 25 a.m. session will be held at the National Photographic Interpretation Center, Washington, D.C.; and the January 25 p.m. and the January 26 sessions will be held at the National Security Agency, Fort George G. Meade, Md. Sessions of the meeting will commence at 9:00 a.m. and terminate at 5:30 p.m. on both days. All sessions of the meeting will be closed to the public.

The entire agenda will be devoted to discussions of intelligence related to developments in Soviet naval research and development. The agenda will consist of classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact Commander Robert B. Vosilus, U.S. Navy, Executive Secretary of the CNO Executive Panel Advisory Committee, 1401 Wilson Boulevard, Room 405, Arlington, VA 22209, telephone number (202) 694-3191.

Dated: December 22, 1978.

P. B. WALKER,
Captain, JAGC, U.S. Navy, Deputy Assistant, Judge Advocate General (Administrative Law).

[FR Doc. 78-36409 Filed 12-29-78; 8:45 am]

[6450-01-M]

DEPARTMENT OF ENERGY

Economic Regulatory Administration

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Issuance of Prohibition Orders to Certain Powerplants

The Department of Energy (DOE) hereby gives notice that on December 22, 1978, it issued Prohibition Orders, pursuant to the authorities granted it by Section 2 (a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (ESECA), as amended, 15 U.S.C. 791 *et seq.*, and Chapter II, Title 10, Code of Federal Regulations (10 CFR), Parts 303 and 305, to the following powerplants:

Docket Number	Owner	Generating Station	Powerplant	Location
DCU-169 & 170	Public Service Company of Colorado.	Cameo	1 & 2	Palisade, Colorado
DCU-175, 176, 177, & 178.	Public Service Company of Colorado.	Arapahoe	1, 2, 3, & 4	Denver, Colorado
DCU-179	Public Service Company of Colorado.	Valmont	5	Boulder, Colorado

By publication in the FEDERAL REGISTER on July 31, 1978, (43 FR 33288, 33300 and 33305 as amended by 43 FR 38742, August 30, 1978), DOE gave notice of its intention to issue Prohibition Orders to the above-named powerplants. Pursuant to this notice, written comments were requested on the proposed Orders and a public hearing was held in Denver, Colorado, on September 26, 1978, to receive oral presentation of data, views, and arguments. Comments received by DOE during the period provided for written comment, as well as oral testimony received during the public hearing and any supplemental comments, were considered and evaluated before the Prohibition Orders were issued. Comments received which were considered pertinent to DOE's findings are addressed in the Prohibition Orders.

The Prohibition Orders prohibit the above-named powerplants from burning natural gas or petroleum products as their primary energy source. The Orders will not become effective, however, until (1) the Administrator of the Environmental Protection Agency (EPA) certifies, pursuant to Section 2(b) of ESECA and Section 113(d) of the Clean Air Act (CAA), as amended (42 U.S.C. 7401, *et seq.*), the earliest date that the affected powerplants will be able to burn coal and comply with applicable air pollution requirements and (2) DOE has considered the environmental impact of making the Orders effective, pursuant to 10 CFR 208.3(a)(4) and 305.9, and has served the affected powerplants with Notices of Effectiveness, as provided in 10 CFR 303.10(b), 303.37(b) and 305.7. The date the Prohibition Orders will be effective will be stated in the Notices of Effectiveness.

The above-named powerplants have been served the Prohibition Orders by registered mail. In addition, copies of these Prohibition Orders will be available to the public at DOE's Freedom of Information Reading Room, Room GA 152, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, and at the DOE Regional Office VIII, Room 206, 1075 South Yukon, Post Office Box 26247, Belmar Branch, Lakewood, Colorado 80226, between the hours of 7:30 a.m. and 4:30 p.m. Monday through Friday.

Any questions regarding these Prohibition Orders should be directed to Mr. Robert L. Davies, Deputy Assistant Administrator for Fuels Conversion, Department of Energy, 2000 M Street, NW., Washington, D.C. 20461, telephone (202) 254-3910.

(Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 791 *et seq.*), as amended by Pub. L. 95-70; Federal Energy Administration Act of 1974 (15 U.S.C. 761 *et seq.*), as amended by Pub. L. 95-70; Department of Energy Organization Act (42 U.S.C. 7101, *et seq.*); E.O. 11790 (39 FR 23185); E.O. 12009 (42 FR 46267))

Issued in Washington, D.C., December 26, 1978.

DORIS J. DEWTON,
Acting Assistant Administrator, Fuels Regulation, Economic Regulatory Administration.

[FR Doc. 78-36370 Filed 12-29-78; 8:45 am]

[6450-01-M]

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Prohibition Order

Docket Number	Owner	Generating Station	Powerplant Number	Location
DCU-179	Public Service Company of Colorado.	Valmont	5	Boulder, Colorado

Pursuant to Section 2 (a) and (b) of the Energy Supply and Environmental Coordination Act of 1974, as amended, 15 U.S.C. 791 *et seq.* (ESECA), and Chapter II, Title 10 of the Code of Federal Regulations (CFR), Parts 303 and 305, (10 CFR Parts 303 and 305, *as amended*, 42 FR 23132 (1977)), the Department of Energy (DOE) hereby orders that the above listed powerplant shall be prohibited from burning natural gas or petroleum products as its primary energy source. Such prohibition shall become effective on the date stated in the Notice of Effectiveness to be served on the powerplant, pursuant to 10 CFR 303.10(b), 303.37(b) and 305.7, subsequent to issuance of this Prohibition Order.

Section 2 of ESECA requires that DOE make certain findings prior to issuing a Prohibition Order. On July 31, 1978, DOE published a notice of "Intention to Issue Prohibition Orders to Certain Powerplants" (43 FR 33305, as amended by 43 FR 38742, August 30, 1978) that contained DOE's proposed conclusions with respect to those find-

ings and the rationale therefor that DOE proposed to make with respect to the powerplant listed above. That notice invited interested persons to make written or oral presentation of data, views and arguments regarding the proposed findings and other matters. A public hearing was held in Denver, Colorado on September 26, 1978, for the purpose of receiving the oral presentation of data, views and arguments. In addition, DOE provided an opportunity subsequent to the public hearing for supplemental written comments.

Based on a consideration of the data, views and arguments received by DOE at the public hearing as well as supplemental data, views and arguments received during the public comment period and an analysis of other information submitted to or otherwise available to DOE, DOE hereby finds with respect to the above listed powerplant that:

1. On June 22, 1974, the powerplant had the capability and necessary plant equipment to burn coal;

2. The burning of coal by the powerplant, in lieu of petroleum products or natural gas, is practicable and consistent with the purposes of ESECA;

3. Coal and coal transportation facilities are expected to be available during the remaining actual sevice life of this powerplant, which is the period the orders are in effect; and

4. The prohibition of the powerplant from burning natural gas or petroleum products as its primary energy source will not impair the reliability of service by such powerplant.

Stated below is the rationale for each finding ESECA requires DOE to make prior to issuing a Prohibition Order, and an evaluation of the significant, material issues raised by interested persons in their oral or written presentations of data, views and arguments. Such presentations were made in response to the notice of "Intention to Issue A Prohibition Order to Certain Powerplants" published in the FEDERAL REGISTER on July 31, 1978 (43 FR 33305, as amended by 43 FR 38742, August 30, 1978). Where such presentations were adopted by DOE and resulted in changes in DOE's calculations these are reflected in the specific findings. After an evaluation of the data, views and arguments presented by interested persons, DOE concludes that no issues or facts were presented that render DOE unable to make the findings and therefore it must proceed with the issuance of the instant order.

Public Service Company of Colorado shall be referred to as the "utility" and as "PSCC".

I. *Capability and necessary plant equipment to burn coal.* DOE finds that, on June 22, 1974, Powerplant Number 5 at Valmont Generating Station (Valmont 5) had, or thereafter acquired or was designed with the capability and necessary plant equipment to burn coal. This finding is based on the facts and interpretations stated below:

A. Based on information supplied to the Federal Energy Regulatory Commission by PSCC and a site visit performed by PEDCo Environmental, Inc. (PEDCo) and DOE representatives, it has been determined that Valmont 5 had in place, on June 22, 1974, a boiler that was capable of burning coal. The boiler had been designed and constructed or modified to burn coal as its primary energy source.

An historical profile of coal burned at the Valmont 5 Generating Station is set forth below:

1974 Coal/Gas	1975 Coal/Gas	1976 Coal/Gas	1977 Coal/Gas
47-53	43-57	49-51	76-24

B. Based on information provided by PSCC to DOE during the above-mentioned site visit and other information available to DOE, Valmont 5 will not require additional air pollution control equipment when this generating station burns 100% coal. Valmont 5 presently burns coal operating existing air pollution control equipment and there are no pending air quality violations against the station.

C. DOE finds that, on June 22, 1974, Valmont 5 had all other significant plant equipment and facilities associated with the burning of coal.

DOE has not received any written or oral presentation of data, views or arguments that would negate DOE's finding that Valmont 5 has the capability and necessary plant equipment to burn coal as stated above.

II. *The burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA.* DOE finds that the burning of coal at Valmont 5 in lieu of petroleum products or natural gas is practicable and consistent with the purposes of ESECA. This finding is based upon the presumption that Valmont 5 will be operated at a 65 percent capacity factor, have a remaining useful life of 31 years (as of the date of this Prohibition Order), is expected to have 31 years of remaining useful life after the total conversion of the powerplant, and on the facts and interpretations stated below:

A. *The burning of coal is practicable.*—1. *Costs associated with burning coal.*—a. *Capital investment costs.* Based upon information provided by PSCC at the public hearing and in its written comments it has been determined that the capital investment costs of $4,691,000 for the acquisition of air pollution control equipment as stated in Section II.A.1.a. of the Notice of Intention should be excluded because Valmont 5 presently burns coal with existing equipment without violating any air quality standards. Therefore, they will not require any additional air pollution equipment.

b. *Annual operating and maintenance costs.* The expected increase in operating and maintenance costs of $356,000, exclusive of fuel costs, as stated in Section II.A.1.b. of the Notice of Intention was based on costs related to the operation of additional equipment and facilities believed to be necessary to burn coal at Valmont 5. Since such equipment is not required, the operating and maintenance costs will not increase as stated. PSCC has informed DOE that burning the additional quantity of coal to achieve total conversion of Valmont 5 will not result in a significant change in current operating and maintenance costs.

(c). *Fuel costs.* (i) Based on information provided by the utility, the price of natural gas available to Valmont 5 is approximately $1.24 per million BTU's. This represents $1.24 per Mcf of natural gas, assuming 1,000,000 BTU's per Mcf.

(ii) Based on information supplied by PSCC and the Federal Energy Regulatory Commission (FERC), the price of coal available to Valmont 5 is approximately $.91 per million BTU's. This represents $18.88 per ton of coal, assuming 20.8 million BTU's per ton or 10,400 BTU's per pound.

(iii) DOE estimates that the burning of 100% coal in lieu of natural gas by this powerplant will result in an overall reduction of approximately $.33 per million BTU's, or $816,000 per year in fuel costs.

(iv) Based on information supplied by PSCC, DOE finds that Valmont 5 should continue to burn coal as its primary energy source. It is expected that a decrease in fuel costs will result from the issuance of a Prohibition Order.

d. *Total annual costs associated with conversion.* As a result of this Prohibition Order to Valmont 5, there will be no increase in the total annual costs incurred.

2. *Reasonableness of costs of conversion.* The foregoing analysis of the costs of conversion provides the basis for deciding whether the conversion of Valmont 5 is reasonable.

As a result of total conversion, the utility will not incur additional annual capital investment costs, or significant operating and maintenance costs and will experience an annual fuel cost savings of approximately $816,000. Therefore, the estimated net annual decrease in cost of producing electricity at Valmont 5 after total conversion is estimated to be $816,000.

The burning of coal instead of natural gas at Valmont 5 will result in an estimated annual equivalent savings of 2,455,600 Mcf of natural gas (or approximately 409,000 barrels of oil equivalent) that would otherwise be used in providing steam for electric power generation. The cost savings of conversion per Mcf of natural gas is estimated to be $.33.

DOE finds that since the burning of coal will not increase the cost of producing electricity at Valmont 5, and there are significant potential savings as a result of the fuel costs differential between natural gas and coal burning at the powerplant and because of potential future increases in the fuel cost differential in favor of coal, the reduced costs associated with burning coal confirm the reasonableness of conversion from the standpoint of costs.

3. *Financial capabilities of PSCC.* The utility will not incur additional capital investment costs or significant operating and maintenance costs as a result of total conversion of Valmont 5. In addition, DOE's analysis took into consideration PSCC's estimate of its 1977 construction budget of $158,000,000, the total capitalization of the utility of $1,200,000,000 and the average remaining useful life of 31 years after conversion of Valmont 5. Accordingly, such conversion does not create an unreasonable burden on the financial capabilities of PSCC.

Total annual costs associated with conversion. The total estimated annual increase in costs (amortized increased capital investment costs and other costs, exclusive of fuel costs) that would be associated with the burning of coal, as opposed to natural gas, attributable to compliance with this and other outstanding Prohibition Orders would be $1,076,000. DOE has taken into consideration costs to PSCC that may result from compliance with all other Prohibition Orders issued to date under authority of Section 2(a) and (c) of ESECA to PSCC powerplants. This estimate of $1,076,000 is based on an investment oriented analysis described in an Ultrasystems Inc. report entitled *Computer Methodology For Coal Conversion Cost Determination*, August 1976, (hereafter "Ultrasystems Computer Model").

The total estimated annual increase in costs of $1,076,000 associated with conversion ultimately will be recovered in rates. However, due to the potential offsetting aggregate value of fuel cost savings of approximately $1,522,000 attributable to compliance with this and other outstanding Prohibition Orders, the net annual revenue requirements of PSCC should decrease by approximately $466,000.

4. *Consumer impact.* The impact of a Prohibition Order to Valmont 5 would result in a net decrease of .000069 per kilowatt hour sold. The impact of this Prohibition Order and all other outstanding Prohibition Orders would be a net decrease in revenue required from PSCC consumers of approximately $.000038 per kilowatt hour of electricity sold by the PSCC system.

The estimates are based on DOE's analysis of the "Ultrasystem Computer Model" result.

The eventual amount of decrease would depend on the actual amount of the investment necessary to comply with this and other outstanding Prohibition Orders, the methods which PSCC selects to finance the increased costs associated with burning coal as a primary energy source at Valmont 5 and PSCC's other facilities; the extent to which the cost increase is spread among PSCC customers, the regulations or policies of the regulatory agencies with jurisdiction over PSCC regarding inclusion of such cost decrease in consumer rates, the actual amount of the fuel cost differential, and other factors.

B. *Consistency with the purposes of ESECA.* Because the issuance of a Prohibition Order to Valmont 5 will discourage the use of natural gas or petroleum products and encourage the increased use of coal, DOE concludes that this action will be consistent with the purposes of ESECA to provide for a means to assist in meeting the essential needs of the United States for fuels. On the basis of the environmental analysis which DOE is required to conduct prior to issuance of a Notice of Effectiveness of a Prohibition Order, as well as the necessity for this powerplant to comply with the Clean Air Act, as amended (42 U.S.C. 7401 *et seq.*), and other applicable environmental protection requirements, DOE finds that issuance of a Prohibition Order to Valmont 5 will be consistent with the purposes of ESECA to provide for a means to assist in meeting the essential needs of the United States for fuels in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

DOE has not received any written or oral presentation of data, views or arguments that would negate DOE's finding that the burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA as stated above.

III. *Coal and coal transportation facilities are expected to be available during the remaining actual service life of this powerplant*—A. *Coal availability*—1. *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the foreseeable future. United States Department of the Interior, Bureau of Mines data show a demonstrated coal reserve base of over 438 billion tons (*Demonstrated Coal Reserve Base of the United States on January 1, 1976*, Bureau of Mines (August 1977) (hereafter "BOM" Survey)). Mining experience in the United States has indicated that, on a national basis at least one-half of the coal, 219 billion tons, in the reserve base may be technically and economically recoverable. The nation's uncommitted coal reserves are sufficient to reasonably conclude that coal is expected to be available during the remaining actual service life of this powerplant. To determine when certain quantities of these reserves are expected to be available, DOE has examined several studies, referenced herein, which together provide the best current evidence as to coal availability.

2. *National coal production and demand.* The comparison stated below of estimated national coal production, and national coal demand shows that there should be sufficient production of coal to meet the total national demand through the remaining actual service life of this powerplant.

a. *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	Production potential (million tons)
1979	781
1980	818
1981	858
1982	899
1983	942
1984	987
1985	1,034

The figures shown above are derived from *Projections of Energy Supply and Demand and Their Impacts, Energy Information Administration* (DOE/EIA 0036/2) dated April 1978 (hereafter "Energy Supply and Demand Report"). The coal production forecast was derived from analytic procedures utilizing historic coal consumption patterns, in addition to derived demand under a forecast economic and energy case. These projections of national coal production generally reflect the coal industries plans for additional increments of coal production over the next several years. Throughout the period of these projections it is expected that total national production will equal or exceed total national demand. DOE intends to fully update, for purposes of being current, its coal availability finding pertinent to Valmont 5 prior to the issuance of a Notice of Effectiveness.

b. *National demand including ESECA Prohibition Order demand.* The estimated national demand, including any increased demand resulting from DOE actions under the authority of Section 2(a) of ESECA is

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projected as follows (Energy Supply and Demand Report):

Year:	Demand (millions of tons)
1979	758
1980	798
1981	841
1982	885
1983	932
1984	982
1985	1,034

These demand projections include the actions taken under ESECA.

c. *National ESECA Prohibition Order demand.* DOE has estimated potential demand for coal resulting from this Prohibition Order and from all other outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA to be as follows:

Year:	Demand (million tons)
1979	15.0
1980	21.4
1981	23.6
1982	30.0
1983	30.3
1984	30.3

(The above estimated demand figures include projections for Prohibition Orders issued on June 30, 1975).

3. *Characteristic coal production and demand—a. Characteristic coal requirements for this powerplant.* Based on information provided by PSCC in its written comments, DOE concludes that the dry-bottom boiler, of the type used at Valmont 5, is able to burn coal with the following characteristics and comply with all applicable air pollution control requirements:

	Approximate values
BTU's/lb	10,400.
Moisture	13.26 pct.
Ash	8.59 pct.
Volatile	38.81 pct.
Ash softening temp	2,130-2,500 (°F).
Sulfur	.83 pct.
Grindability	44 to 50.

b. *Charactristic coal demand from this powerplant.* The potential increased annual demand for coal, of the type described above, which would result from this Prohibition Order, is estimated to be as follows:

	Potential annual demand (thousand tons)
Year: 1979	118

c. *Characteristic coal available to this powerplant.* Based on post hearing information provided by PSCC, the utility has two long-term contracts with Energy Fuels Corporation, the first of which is for 2 million tons of coal per fiscal year, ending on June 30, 1987, and a second contract for 3,650,000 tons of coal to be furnished between 1978 and 1981. This contract coal can be burned at Valmont, Cameo and Arapahoe Generating Stations.

The Rosebud Coal Sales Company also provides additional supplies of characteristic coal to Valmont. PSCC has a contract with Rosebud for 300,000 tons per clendar year through 1983. This contract is currently being renegotiated for the same annual tonnage through 1988. This characteristic coal is used at the Valmont Generating Station.

In addition, Colowyo Coal Company provides characteristic coal to Valmont and Arapahoe under a short-term 1978 contract for 350,000. DOE has examined the quantities of coal for Valmont, Arapahoe, and Cameo Generating Stations and finds that there is sufficient characteristic coal available to satisfy the increase in demand represented by these Prohibition Orders.

4. *State and local laws.* DOE has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to DOE's attention.

5. *Conclusion.* On the basis of PSCC's present coal contract commitments, DOE finds that coal of the characteristics required will be available to Valmont 5. Furthermore, on the basis of the Bureau of Mines Survey and the Energy Supply and Demand Report, DOE expects that national coal production potential will exceed the total national demand for coal in amounts sufficient in any year to meet the estimated potential demand represented by this Prohibition Order and from all other outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA.

B. *Coal transportation.*—1. *Location of powerplant and coal supply.* Based on information provided by PSCC, coal for Valmont 5 will be supplied and transported from the Rosebud Coal Sales Company, which is located in Carbon County, Wyoming to Valmont 5 at Denver, Colorado and from Energy Fuels Company in Routt County, Colorado.

2. *Route of coal shipments.* Based on information provided to DOE by PSCC and the railroads, the primary route for coal delivery from the Rosebud Mine originates and is brought into the Valmont Generating Station by the Union Pacific (UP) Railroad.

The route for coal delivery from the Energy Mine originates on the Denver & Rio Grande Western (D&RGW) Railroad and later switches in Denver, Colorado to the UP, which then delivers coal into the Valmont Generating Station.

3. *Originating trunk carrier.* UP and D&RGW Railroads have indicated that they are able and willing to provide any additional capacity required for coal shipments to Valmont 5. Both railroads have stated that the rail facilities at Energy Fuels Company in Routt County, Colorado and at Rosebud Coal Sales Company in Carbon County, Wyoming are readily available to PSCC and that the UP has adequate coal handling and unloading facilities to service any required increases in coal volumes.

DOE has not found nor has it been informed of any apparent constraints to transporting coal.

4. *Powerplant facilities.* Valmont 5 presently has coal handling and unloading facilities which the railroads have advised DOE are adequate to handle the projected increased coal demand. There are no apparent obstacles to the handling and delivery of coal to Valmont 5.

5. *Conclusion.* On the basis of the information discussed above, DOE finds that coal transportation facilities will be available since no significant constraints to coal delivery over the primary routes to Valmont 5 presently exist.

DOE has not received any written or oral presentation of data, views or arguments that would negate DOE's finding that coal and coal transportation facilities will be available to this powerplant.

IV. *The prohibition of the burning of natural gas or petroleum products as its primary energy source will not impair the reliability of service in the area served by the affected powerplant.* At the public hearing and in post hearing PSCC submissions, the utility requested that DOE include in any order an expanded definition of "primary energy source" with at least as much flexibility as the definition in the "Powerplant and Industrial Fuel Use Act of 1978" Senate Conference Report No. 95-988 (Pub. L. 95-620, November 9, 1978). PSCC stated that to limit burning of gas and petroleum products to minimum amounts for start-up and flame stabilization will have a serious effect upon PSCC's ability to maintain a reliable generation system. PSCC's contention is that the ESECA "primary energy source" definition does not offer flexibility to meet the temporary conditions, such as occurrences involving labor problems, accidents or other disruptions at the coal mines supplying the coal or the railroad transporting it.

DOE interprets this voicing of concern as consituting a request for anticipatory relief, on the face of the Order, from the potential effects of the Order prior to its being made effective by issuance of a Notice of Effectiveness (NOE). Should a problem arise after receipt of an NOE, DOE is prepared to respond and work with the utility in a timely manner.

Based on an analysis of the information submitted to DOE by PSCC, DOE finds that the issuance of a Prohibition Order to Valmont will not impair the reliability of service in the area served by this powerplant since there will be no outage as a result of a Prohibition Order.

PSCC has indicated that Valmont 5 was designed to burn natural gas and coal and is currently burning coal. Therefore, there will be no impairment of reliability of service within the meaning of ESECA in the area served by Valmont 5 as a result of this Prohibition Order.

DOE has not received any written or oral presentation of data, views or arguments that would negate DOE's finding that the prohibition of the burning of natural gas or petroleum products as the powerplant's primary energy source will not impair the reliability of service in the area served by the affected powerplant.

The prohibition of the burning of natural gas or petroleum products as the primary energy source by Valmont 5 shall not become effective (1) until either (a) the Administrator of the Environmental Protection Agency (EPA) has notified DOE, as required by Section 2(b) of ESECA, that the particular powerplant will be able on and after July 1, 1975, to burn coal and to comply with all applicable air pollution requirements without a delayed compliance order pursuant to the provisions of the Clean Air Act, as amended, (CAA), 42 U.S.C. 7413(d)(5) and the Act of August 7, 1977, Pub. L. 95-95, 112, or (b) if no such notification is given DOE by EPA, the date that the Administrator of EPA certifies is the earliest date that a particular powerplant will be able to burn coal and to comply with all applicable air pollution requirements, CAA, *supra;* Pub. L. 95-95, *supra;* and (2) until DOE has performed an analysis of the environmental impact of the issuance of a Notice of Effectiveness, pursuant to 10 CFR 208.3(a)(4) and 305.9, and has served the affected powerplant a Notice of Effectiveness, as provided in 10 CFR 303.10(b), 303.37(b) and 305.7.

The date stated in the Notice of Effectiveness shall be either (a) the date EPA determines in accordance with Section 113(d) of the CAA, *supra;* Pub. L. 95-95, *supra,* or (b) the date marking termination of the period of time that DOE determines is required by the affected powerplant to acquire or refurbish equipment or facilities necessary to comply with the CAA, *supra;* Pub. L. 95-95, *supra,* whichever date is later.

This Prohibition Order does not constitute a final agency action and is not effective prior to service of the Notice of Effectiveness. In accordance with 10 CFR 303.38, any person aggrieved by this Order may file an appeal with DOE's Office of Hearings and Appeals, in accordance with 10 CFR Part 303, Subpart H, but such appeal cannot be filed prior to service by DOE of the Notice of Effectiveness and, if filed, shall be filed within 30 days after service of such notice.

There has not been an exhaustion of administrative remedies until an appeal has been filed pursuant to Subpart H of Part 303 and the appellate proceeding is completed by the issuance of an order granting or denying the appeal.

Application may be made for modification or rescission of this Prohibition Order in accordance with the provisions of 10 CFR Part 303, Subpart J. An application for modification or rescission of a Prohibition Order based on significantly changed circumstances, which may occur during the interval between issuance of this Order and service of the Notice of Effectiveness, shall be filed within 30 days of such service of such notice. Application for modification or rescission based on significantly changed circumstances occurring after the service of such notice may be filed at any time.

If an application for modification or rescission of this Prohibition Order is made in accordance with Subpart J of Part 303, any appeal of this Order under 10 CFR Part 303 Subpart H, shall be suspended until 30 days after an order has been issued in accordance with Subpart J or until 30 days from the date on which such application for modification or rescission may be treated as having been denied in all respects.

If made effective this Prohibition Order will be effective against any persons that, as of the date stated in the Notice of Effectiveness of this Order own, lease, operate or control the above listed powerplant and against any successors-in-interest or assignees of such persons. Any terms utilized in this Prohibition Order have the same meaning as such terms have in 10 CFR Part 303 and 305.

Any questions regarding this Prohibition Order should be directed to Mr. Robert L. Davies, Deputy Assistant Administrator for Fuels Conversion, Department of Energy, 2000 M Street NW., Washington, D.C., 20461, (202) 254-3910.

(Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 791 *et seq.*) as amended by Pub. L. 95-70; Federal Energy Administration Act of 1974 (15 U.S.C. 761 *et seq.*) as amended by Pub. L. 95-70; Department of Energy Organization Act (42 U.S.C. 7101 *et seq.*); E. O. 11790 (39 FR 23185); E. O. 12009 (42 FR 46267))

Issued in Washington, D. C., December 26, 1978.

BARTON R. HOUSE,
Assistance Administrator, Fuels Regulation, Economic Regulatory Administration.

[FR Doc. 78-36371 Filed 12-29-78; 8:45 am]

[6450-01-M]

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Prohibition Order

Docket Number	Owner	Generating Station	Powerplant Number	Location
DCU-169	Public Service Company of Colorado.	Cameo	1	Palisade, Colorado
DCU-170	Public Service Company of Colorado.	Cameo	2	Palisade, Colorado

Pursuant to Section 2 (a) and (b) of the Energy Supply and Environmental Coordination Act of 1974, as amended, 15 U.S.C. 791 *et seq.* (ESECA), and Chapter II, Title 10 of the Code of Federal Regulations (CFR), Parts 303 and 305, (10 CFR Parts 303 and 305, *as amended,* 42 FR 23132 (1977)), the Department of Energy (DOE) hereby orders that the above listed powerplants shall be prohibited from burning natural gas or petroleum products as their primary energy source. Such prohibition shall become effective on the date stated in the Notice of Effectiveness to be served on the powerplants, pursuant to 10 CFR 303.10(b), 303.37(b) and 305.7, subsequent to issuance of this Prohibition Order.

Section 2 of ESECA requires that DOE make certain findings prior to issuing a Prohibition Order. On July 31, 1978, DOE published a notice of "Intention to Issue Prohibition Orders to Certain Powerplants" (43 FR 33288, as amended by 43 FR 38742, August 30, 1978) that contained DOE's proposed conclusions with respect to those findings and the rationale therefor that DOE proposed to make with respect to the powerplants listed above. That notice invited interested persons to make written or oral presentation of data, views and arguments regarding the proposed findings and other matters. A public hearing was held in

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Denver, Colorado on September 26, 1978, for the purpose of receiving the oral presentation of data, views and arguments. In addition, DOE provided an opportunity subsequent to the public hearing for supplemental written comments.

Based on a consideration of the data, views and arguments received by DOE at the public hearing as well as supplemental data, views and arguments received during the public comment period, and an analysis of other information submitted to or otherwise available to DOE, DOE hereby finds with respect to the above listed powerplants that:

1. On June 22, 1974, each powerplant had the capability and necessary plant equipment to burn coal;

2. The burning of coal by each powerplant, in lieu of petroleum products or natural gas, is practicable and consistent with the purposes of ESECA;

3. Coal and coal transportation facilities are expected to be available during the remaining useful actual service life of these powerplants, which is the period the orders are in effect; and

4. The prohibition of each powerplant from burning natural gas or petroleum products as its primary energy source will not impair the reliability of service by such powerplant.

Stated below is the rationale for each finding ESECA requires DOE to make prior to issuing a Prohibition Order, and an evaluation of the significant, material issues raised by interested persons in their oral or written presentations of data, views and arguments. Such presentations were made in response to the notice of "Intention to Issue Prohibition Orders to Certain Powerplants" published in the FEDERAL REGISTER on July 31, 1978 (43 FR 33288, as amended by 43 FR 38742, August 30, 1978). Where such presentations were adopted by DOE and resulted in changes in DOE's calculations these are reflected in the specific findings. After an evaluation of the data, views and arguments presented by interested persons, DOE concludes that no issues or facts were presented that render DOE unable to make the findings and therefore it must proceed with the issuance of the instant order.

Public Service Company of Colorado shall be referred to as the "utility" and as "PSCC".

I. *Capability and necessary plant equipment to burn coal.* DOE finds that, on June 22, 1974, Powerplants Number 1 and 2 at Cameo Generating Station (Cameo 1 and 2) had, or thereafter acquired or were designed with the capability and necessary plant equipment to burn coal. This finding is based on the facts and interpretations stated below:

A. Based on information supplied to the Federal Energy Regulatory Commission by PSCC and a site visit performed by PEDCo Environmental, Inc. (PEDCo) and DOE representatives, it has been determined that Cameo 1 and 2 had in place, on June 22, 1974, boilers that were capable of burning coal. The boilers had been designed and constructed or modified to burn coal as their primary energy source.

An historical profile of coal burned as a percentage of total heat input at the Cameo Generating Station is set forth below:

Percentages

Powerplant No.	1974 Coal/Oil/Gas	1975 Coal/Oil/Gas	1976 Coal/Oil/Gas	1977 Coal/Oil/Gas
1	2/0/98	6/0/94	0.4/0.2/99.4	0/1/99
2	84/0/16	91/0/9	89/0/11	88/0/12

B. Based on post hearing information submitted by PSCC, Cameo 1 lacks necessary air pollution control equipment and has burned gas or mixed-fuels on a regular basis. PSCC plans to add a new fabric filter dust collector on Cameo 1 and may modify the air pollution control equipment on Cameo 2 (such as, by installation of a new fabric filter dust collector).

C. DOE finds that on June 22, 1974, Cameo 1 and 2 had all other significant plant equipment and facilities associated with the burning of coal.

D. Within the meaning of ESECA and the regulations promulgated pursuant thereto, absence of the facilities listed in paragraph B, above, does not constitute a lack of capability and necessary plant equipment to burn coal as of June 22, 1974.

DOE has not received any written or oral presentation of data, views or arguments that would negate DOE's finding that Cameo 1 and 2 have the capability and necessary plant equipment to burn coal as stated above.

II. *The burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA.* DOE finds that the burning of coal at Cameo 1 and 2 in lieu of petroleum products or natural gas is practicable and consistent with the purposes of ESECA. This finding is based upon the presumption that Cameo 1 and 2 will be operated at a 51.8 percent capacity factor (this represents a weighted average of each powerplant's projected capacity factor), have an average remaining useful life of 26 years (as of the date of this Prohibition Order), are expected to have at least 24 years of remaining useful life after conversion of the powerplants, and on the facts and interpretations stated below:

A. *The burning of coal is practicable*—1. *Costs associated with burning coal*—a. *Capital investment costs.* The total initial capital investment costs, exclusive of financing costs, that would result from the acquisition of equipment and facilities associated with the burning of coal in compliance at Cameo 1 and 2 are estimated to be approximately $4,066,000 for air pollution control equipment and coal handling equipment.

Upon completion of DOE's environmental analysis following the issuance of this Prohibition Order, should it be determined that different or additional air pollution control equipment is required other than that presently planned by PSCC and accepted by DOE for purposes of the findings of this Prohibition Order, DOE will update its statutory findings prior to the issuance of a Notice of Effectiveness to PSCC. It should be noted, however, that Cameo 1 and 2 are currently in compliance with the Clean Air Act.

b. *Annual operating and maintenance costs.* Based upon information provided by PEDCo and discussed with PSCC after the public hearing, the expected increase in operating and maintenance costs, exclusive of fuel costs, that would result from the burning of coal at Cameo 1 and 2 is estimated to be approximately $289,000 per year.

c. *Fuel costs.* (i) Based on information provided by the utility, the price of natural gas available to Cameo 1 and 2 is approximately $.95 per million BTU's. This represents $.95 per Mcf of natural gas, assuming 1,000,000 BTU's per Mcf.

(ii) Based on post hearing information supplied by the utility, the price of coal available to Cameo 1 and 2 is approximately $.90 per million BTU's. This represents $21.97 per ton of coal, assuming 24.5 million BTU's per ton or 12,250 BTU's per pound.

(iii) DOE estimates that the burning of 100% coal in lieu of natural gas by these powerplants will result in an overall reduction of approximately

$0.5 per million BTU's or $132,000 per year in fuel costs.

(iv) Based on information supplied by PSCC, DOE finds that Cameo 2 should continue to burn coal as its primary energy source, and Cameo 1 should convert from natural gas to coal as its primary energy source. It is expected that a decrease in fuel costs will result from the issuance of a Prohibition Order.

d. *Total annual costs associated with conversion.* As a result of this Prohibition Order to Cameo 1 and 2, it is estimated that the total annual increase in costs incurred, exclusive of fuel costs, is approximately $1,076,000.

2. *Reasonableness of costs of conversion.* The foregoing analysis of the costs of conversion provides the basis for deciding whether the conversion of Cameo 1 and 2 is reasonable. Financial impacts of the conversion will be felt by the utility and by the consumer.

As a result of total conversion, the utility will incur additional capital investment costs, including financial costs, of approximately $787,000 (this is based on a fixed charge rate of 19.4% of the total initial capital investment of $4,066,000), and additional annual operating and maintenance costs, exclusive of fuel costs, of approximately $289,000 (these figures are derived from the figures in paragraphs A.1.a. and b.), but will experience an annual fuel cost savings of approximately $132,000 (see paragraph A.1.c.). The estimated net annual increase in cost of producing electricity at Cameo 1 and 2 after conversion is estimated to be $944,000.

The burning of coal instead of natural gas at Cameo 1 and 2 will result in an estimated annual equivalent savings of 1,508,000 Mcf of natural gas (or approximately 246,333 barrels of oil equivalent) that would otherwise be used in providing steam for electric power generation. The cost of conversion per Mcf of natural gas is estimated to be $0.63.

Although conversion to the burning of coal would be expected to increase the cost of producing electricity at Cameo 1 and 2, DOE concludes that the cost, even using current prices per Mcf of natural gas saved, is not unreasonable. This determination is based on consideration of the substantial savings of natural gas that will result from this conversion.

DOE's determination that the costs of conversion are not unreasonable is further supported by consideration of such costs in relation to the expected 24 years remaining useful life of the powerplants after conversion, the size and resources of the utility as examined in the following analysis of financial capability, the nature of the expected operations of these powerplants, and potential future increase in the fuel cost difference in favor of coal.

3. *Financial capabilities of PSCC*—a. *Recovery of capital investment.* DOE finds that compliance with a Prohibition Order to Cameo 1 and 2 will be economically feasible. DOE's analysis took into consideration the total estimated $4,066,000 additional capital investment costs required for PSCC to comply with this Prohibition Order, as well as additional capital investment costs that would result from all other Prohibition Orders issued to date under authority of Section 2 (a) and (c) of ESECA to PSCC powerplants.

DOE related these additional capital investment costs to PSCC's estimate of its 1977 construction budget of $158,000,000, the total capitalization of the utility of $1,200,000,000 and the average remaining useful life of 24 years after conversion of Cameo 1 and 2.

DOE does not consider the effect of this added capital investment cost to represent an unreasonable burden, given the financial capabilities of PSCC to assume such costs.

b. *Total annual costs associated with conversion.* The total estimated annual increase in costs (amortized increased capital investment costs and other costs, exclusive of fuel costs) that would be associated with the burning of coal, as opposed to natural gas, attributable to compliance with this Prohibition Order would be $1,076,000. (DOE also took into consideration costs to PSCC that may result from compliance with all other Prohibition Orders issued to date under authority of Section 2 (a) and (c) of ESECA to PSCC powerplants.) This estimate of $1,076,000 is based on an investment oriented analysis described in an Ultrasystems Inc. report entitled *Computer Methodology For Coal Conversion Cost Determination*, August 1976, (hereafter "Ultrasystems Computer Model").

The total estimated annual increase in costs of $1,076,000 associated with conversion ultimately will be recovered in rates. However, due to the potential offsetting aggregate value of fuel cost savings of approximately $1,522,000 attributable to compliance with this and other outstanding Prohibition Orders, the net annual revenue requirements of PSCC should decrease by approximately $446,000.

4. *Consumer impact.* The impact as a result of the Prohibition Order to Cameo 1 and 2 alone would result in a net increase of $.000079 per kilowatt hour sold. The impact of this Prohibition Order and all other Prohibition Orders would be a net decrease in revenues required from PSCC consumers of approximately $.000038 per kilowatt hour of electricity sold by the PSCC system.

These estimates are based on DOE's analysis of the "Ultrasystem Computer Model" result.

The eventual amount of the decrease would depend on the actual amount of the investment necessary to comply with these Prohibition Orders, the methods which PSCC selects to finance the increased costs associated with burning coal as a primary energy source at both Cameo 1 and 2, the extent to which the cost increase is spread among PSCC customers, the regulations or policies of the regulatory agencies with jurisdiction over PSCC regarding inclusion of such cost decrease in consumer rates, the actual amount of the fuel cost differential, and other factors.

B. *Consistency with the purposes of ESECA.* Because the issuance of a Prohibition Order to Cameo 1 and 2 will discourage the use of natural gas or petroleum products and encourage the increased use of coal, DOE concludes that this action will be consistent with the purposes of ESECA to provide for a means to assist in meeting the essential needs of the United States for fuels. On the basis of the environmental analysis which DOE is required to conduct prior to issuance of a Notice of Effectiveness of a Prohibition Order, as well as the necessity for these powerplants to comply with the Clean Air Act, as amended (42 U.S.C. 7401 *et seq.*) and other applicable environmental protection requirements, DOE finds that issuance of a Prohibition Order to Cameo 1 and 2 will be consistent with the purposes of ESECA to provide for a means to assist in meeting the essential needs of the United States for fuels in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

DOE has not received any written or oral presentation of data, views or arguments that would negate DOE's finding that the burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA as stated above.

III. *Coal and coal transportation facilities are expected to be available during the remaining actual service life of these powerplants.*—A. *Coal availability.*—1. *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the foreseeable future. United States Department of the Interior, Bureau of Mines data show a demonstrated coal reserve base of over 438 billion tons (*Demonstrated Coal Reserve Base of the United States on January 1, 1976*, Bureau of Mines (August 1977) [hereafter "BOM Survey"]). Mining experience in the United States has indicated that, on a national basis at least one-half of the

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coal, 219 billion tons, in the reserves base may be technically and economically recoverable. The nation's uncommitted coal reserves are sufficient to reasonably conclude that coal is expected to be available during the remaining actual service life of these powerplants. To determine when certain quantities of these reserves are expected to be available, DOE has examined several studies, referenced herein, which together provide the best current evidence as to coal availability.

2. *National coal production and demand.* The comparison stated below of estimated national coal production, and national coal demand shows that there should be sufficient production of coal to meet the total national demand through the remaining actual service life of these powerplants.

a. *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year.	Production Potential (million tons)
1979	781
1980	818
1981	858
1982	899
1983	942
1984	987
1985	1,034

The figures shown above are derived from *Projections of Energy Supply and Demand and Their Impacts, Energy Information Administration,* (DOE/EIA 0036/2) dated April 1978 (hereafter "Energy Supply and Demand Report"). The coal production forecast was derived from analytic procedures utilizing historic coal consumption patterns, in addition to derived demand under a forecast economic and energy case. These projections of national coal production generally reflect the coal industries plans for additional increments of coal production over the next several years. Throughout the period of these projections it is expected that total national production will equal or exceed total national demand. DOE intends to fully update, for purposes of being current, its coal availability finding pertinent to Cameo 1 and 2 prior to the issuance of a Notice of Effectiveness.

b. *National demand including ESECA Prohibition Order demand.* The estimated national demand, including any increased demand resulting from DOE actions under the authority of Section 2(a) of ESECA, is projected as follows (Energy Supply and Demand Report):

Year:	Demand (million tons)
1979	758
1980	798
1981	841
1982	885
1983	932
1984	982
1985	1,034

These demand projections include the actions taken under ESECA.

C. *National ESECA Prohibition Order demand.* DOE has estimated potential demand for coal resulting from this Prohibition Order and from all other outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA to be as follows:

Year:	Demand (million tons)
1979	15.0
1980	21.4
1981	23.6
1982	30.0
1983	30.3
1984	30.3

(The above estimated demand figures include projections for Prohibition Orders issued on June 30, 1975.)

3. *Characteristic coal production and demand*—a. *Characteristic coal requirements for these powerplants.* Based on information provided by PSCC in its written comments, DOE concludes that dry-bottom boilers, of the type used at Cameo 1 and 2, will be able to burn coal with the following characteristics and comply with all applicable air pollution control requirements:

	Approximate Values
BTU's/lb	12,250
moisture	8.77%
ash	8.68%
volatile	38.59%
ash softening temp	2130 2500 (°F)
sulfur	.48%
grindability	44-50

b. *Characteristic coal demand from these powerplants.* The potential increased annual demand for coal of the type described above, which would result from this Prohibition Order, is estimated to be as follows:

Year:	Potential Annual Demand (thousand tons)
1981	65

c. *Characteristic coal available to these powerplants.* Based on post hearing information provided by PSCC, the utility has two long-term contracts with Energy Fuels Corporation, the first of which is for 2 million tons of coal per fiscal year, ending on June 30, 1987, and a second contract for 3,650,000 tons of coal to be furnished between 1978 and 1981. This contract coal can be burned at Cameo, Arapahoe, and Valmont Generating Stations.

PSCC has a yearly contract with the Bear Coal Company for 100,000 tons through the end of 1979.

DOE has examined the quantities of coal for Cameo, Arapahoe, and Valmont Generating Stations and finds that there is sufficient characteristic coal available to satisfy the increase in demand represented by these Prohibition Orders.

4. *State and local laws.* DOE has found no state or local laws or policies limiting the extraction or untilization of coal that would adversely affect these production figures, and none have been brought to DOE's attention.

5. *Conclusion.* On the basis of PSCC's present coal contract commitments, DOE finds that coal of the characteristics required will be available to Cameo 1 and 2. Furthermore, on the basis of the Bureau on Mines Survey and the Energy Supply and Demand Report, DOE expects that national coal production potential will exceed the total national demand for coal in amounts sufficient in any year to meet the estimated potential additional demand represented by this Prohibition Order and from all other outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA.

B. *Coal transportaton*—1. *Location of powerplants and coal supply.* Based on information provided by PSCC, coal for Cameo 1 and 2 will be supplied and transported from Energy Fuels Company, which is located in Routt County, Colorado and from the Bear Coal Company in Somerset, Colorado to Cameo 1 and 2 at Palisade, Colorado.

2. *Route of coal shipment.* Based on information provided to DOE by PSCC and the railroads, the primary route for coal deliveries from the Energy Mine and Bear Mine originates on and is brought into the Cameo Generating Stations by the Denver & Rio Grande Western Railroad (D&RGW).

3. *Originating trunk carrier.* D&RGW has indicated that it is able and willing to provide any additional capacity required for coal shipments to Cameo 1 and 2. D&RGW indicated that the rail facilities at Energy Fuels Company in Routt County, Colorado and at Bear Coal Company in Somerset, Colorado are readily available to PSCC and that the D&RGW has adequate handling and loading facilities to service any required increases in coal volumes. DOE has not found nor has it been informed of any apparent constraints to transporting coal.

4. *Powerplant facilities.* Cameo 1 and 2 presently have coal handling and unloading facilities which the railroads advised DOE are adequate to handle the projected coal demand. There are no apparent obstacles to the handling and delivery of coal to Cameo 1 and 2.

5. *Conclusion.* On the basis of the information discussed above, DOE finds that coal transportation facilities will be available since no significant constraints to coal delivery over the primary route to Cameo 1 and 2 presently exist.

DOE has not received any written or oral presentation of data, views or arguments that would negate DOE's finding that coal transportation facilities will be available to these powerplants.

IV. *The prohibition of the burning of natural gas or petroleum products as their primary energy source will not impair the reliability of service in the area served by the affected powerplants.* At the public hearing and in post hearing PSCC submissions, the utility requested that DOE include in any order an expanded definition of "primary energy source" with at least as much flexibility as the definition in the "Powerplant and Industrial Fuel Use Act of 1978" Senate Conference Report No. 95-988 (Pub L. 95-620, November 9, 1978). PSCC stated that to limit burning of gas and petroleum products to minimum amounts for start-up and flame stabilization will have a serious effect upon PSCC's ability to maintain a reliable generation system. PSCC's contention is that the ESECA "primary energy source" definition does not offer flexibility to meet the temporary conditions, such as occurrences involving labor problems, accidents or other disruptions at the coal mines supplying the coal or the railroad transporting it.

DOE interprets this voicing of concern as constituting a request for anticipatory relief, on the face of the Order, from the potential effects of the Order prior to its being made effective by issuance of a Notice of Effectiveness (NOE).

Should a problem arise after receipt of an NOE, DOE is prepared to respond and work with the utility in a timely manner.

Based on an analysis of the information submitted to DOE by PSSC, DOE finds that the issuance of a Prohibition Order to Cameo will not impair the reliability of service in the area served by these powerplants since there will be no outage as a result of a Prohibition Order.

DOE has not received any written or oral presentation of data, views or arguments that would negate DOE's finding that the prohibition of the burning of natural gas or petroleum products as the powerplant's primary energy source will not impair the reliability of service in the area served by the affected powerplants.

The prohibition of the burning of natural gas or petroleum products as the primary energy source by Cameo 1 and 2 shall not become effective (1) until either (a) the Administrator of the Environmental Protection Agency (EPA) has notified DOE, as required by Section 2(b) of ESECA, that the particular powerplant will be able on and after July 1, 1975, to burn coal and to comply with all applicable air pollution requirements without a delayed compliance order pursuant to the provisions of the Clean Air Act, as amended, (CAA), 42 U.S.C. 7413(d)(5) and the Act of August 7, 1977, Pub. L. 95-95, section 112, or (b) if no such notification is given DOE by EPA, the date that the Administrator of EPA certifies is the earliest date that a particular powerplant will be able to burn coal and to comply with all applicable air pollution requirements, CAA, *supra;* Pub. L. 95-95, *supra;* and (2) until DOE has performed an analysis of a Notice of Effectiveness, pursuant to 10 CFR 208.3(a)(4) and 305.9, and has served the affected powerplant a Notice of Effectiveness, as provided in 10 CFR 303.10(b), 303.37(b) and 305.7.

The date stated in the Notice of Effectiveness shall be either (a) the date EPA determines in accordance with 113(d) of the CAA, *supra;* Pub. L. 95-95, *supra,* or (b) the date marking termination of the period of time that DOE determines is required by the affected powerplant to acquire or refurbish equipment or facilities necessary to comply with the CAA, *supra;* Pub. L. 95-95, *supra,* whichever date is later.

This Prohibition Order does not constitute a final agency action and is not effective prior to service of the Notice of Effectiveness. In accordance with 10 CFR 303.38, any person aggrieved by this Order may file an appeal with DOE's Office of Hearings and Appeals, in accordance with 10 CFR Part 303, Subpart H, but such appeal cannot be filed prior to service by DOE of the Notice of Effectiveness and, if filed, shall be filed within 30 days after service of such notice.

There has not been an exhaustion of administrative remedies until an appeal has been filed pursuant to Subpart H of Part 303 and the appellate proceeding is completed by the issuance of an order granting or denying the appeal.

Application may be made for modification or rescission of this Prohibition Order in accordance with the provisions of 10 CFR Part 303, Subpart J. An application for modification or rescission of a Prohibition Order based on significantly changed circumstances, which may occur during the interval between issuance of this Order and service of the Notice of Effectiveness, shall be filed within 30 days of such service of such notice. Application for modification or rescission based on significantly changed circumstances occurring after the service of such notice may be filed at any time.

If an application for modification or rescission of this Prohibition Order is made in accordance with Subpart J of Part 303, any appeal of this Order under 10 CFR Part 303 Subpart H, shall be suspended until 30 days after an order has been issued in accordance with Subpart J or until 30 days from the date on which such application for modification or rescission may be treated as having been denied in all respects.

If made effective, this Prohibition Order will be effective against any person that, as of the date stated in the Notice of Effectiveness of this Order owns, leases, operates or controls the above listed powerplant and against any successors-in-interest or assignees of such person.

Any terms utilized in this Prohibition Order have the same meaning as such terms have in 10 CFR Part 303 and 305.

Any questions regarding this Prohibition Order should be directed to Mr. Robert L. Davies, Deputy Assistant Adminstrator for Fuels Conversion, Department of Energy, 2000 M Street, NW., Washington, D.C. 20461, (202) 254-3910.

(Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 791 *et. seq.*) as amended by Pub. L. 95-70; Federal Energy Administration Act of 1974 (15 U.S.C. 761 *et seq.*) as amended by Pub. L. 95-70; Department of Energy Organization Act (42 U.S.C. 7101 *et seq.*); E. O. 11790 (39 FR 23185); E. O. 12009 (42 FR 46267))

Issued in Washington, D.C., December 26, 1978.

BARTON R. HOUSE,
Assistant Administrator, Fuels Regulation, Economic Regulatory Administration.

[FR Doc. 78-36372 Filed 12-29-78; 8:45 am]

[6450-01-M]

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Prohibition Order

Docket Number	Owner	Generating Station	Powerplant Number	Location
DCU-175	Public Service Company of Colorado.	Arapahoe	1	Denver, Colorado
DCU-176	Public Service Company of Colorado.	Arapahoe	2	Denver, Colorado
DCU-177	Public Service Company of Colorado.	Arapahoe	3	Denver, Colorado
DCU-178	Public Service Company of Colorado.	Arapahoe	4	Denver, Colorado

Pursuant to Section 2 (a) and (b) of the Energy Supply and Environmental Coordination Act of 1974, as amended, 15 U.S.C. 791 *et seq.*, (ESECA), and Chapter II, Title 10 of the Code of Federal Regulations (CFR), Parts 303 and 305, [10 CFR Parts 303 and 305, *as amended*, 42 FR 23132 (1977)], the Department of Energy (DOE) hereby orders that the above listed powerplants shall be prohibited from burning natural gas or petroleum products as their primary energy source. Such prohibition shall become effective on the date stated in a Notice of Effectiveness to be served on the powerplants, pursuant to 10 CFR 303.10(b), 303.37(b) and 305.7, subsequent to issuance of this Prohibition Order.

Section 2 of ESECA requires that DOE make certain findings prior to issuing a Prohibition Order. On July 31, 1978, DOE published a notice of "Intention to Issue Prohibition Orders to Certain Powerplants" (43 FR 33300 as amended by 43 FR 38742, August 30, 1978) that contained DOE's proposed conclusions with respect to those findings and the rationale therefor that DOE proposed to make with respect to the powerplants listed above. That notice invited interested persons to make written or oral presentation of data, views and arguments regarding the proposed findings and other matters. A public hearing was held in Denver, Colorado on September 26, 1978, for the purpose of receiving the oral presentation of data, views and arguments. In addition, DOE provided an opportunity subsequent to the public hearing for supplemental written comments.

Based on a consideration of the data, views and arguments received by DOE at the public hearing as well as supplemental data, views and arguments received during the public comment period, and an analysis of other information submitted to or otherwise available to DOE, DOE hereby finds with respect to the above listed powerplants that:

1. On June 22, 1974, each powerplant had the capability and necessary plant equipment to burn coal;

2. The burning of coal by each powerplant, in lieu of petroleum products or natural gas, is practicable and consistent with the purposes of ESECA;

3. Coal and coal transportation facilities are expected to be available during the remaining actual service life of these powerplants, which is the period the orders are in effect; and

4. The prohibition of each powerplant from burning natural gas or petroleum as its primary energy source will not impair the reliability of service by such powerplant.

Stated below is the rationale for each finding ESECA requires DOE to make prior to issuing a Prohibition Order, and an evaluation of the significant, material issues raised by interested persons in their oral or written presentations of data, views and arguments. Such presentations were made in response to the notice of "Intention to Issue Prohibition Orders to Certain Powerplants" published in the FEDERAL REGISTER on July 31, 1978 (43 FR 33300 as amended by 43 FR 38742, August 30, 1978). Where such presentations were adopted by DOE and resulted in changes in DOE's calculations these are reflected in the specific findings. After an evaluation of the data, views and arguments presented by interested persons, DOE concludes that no issues or facts were presented that render DOE unable to make the findings and therefore it must proceed with the issuance of the instant order.

Public Service Company of Colorado shall be referred to as the "utility" and as "PSCC".

I. *Capability and necessary plant equipment to burn coal.* DOE finds that, on June 22, 1974, Powerplants Number 1, 2, 3 and 4 at Arapahoe Generating Station (Arapahoe 1, 2, 3 and 4) had, or thereafter acquired or were designed with the capability and necessary plant equipment to burn coal. This finding is based on the facts and interpretations stated below:.

A. Based on information supplied to the Federal Energy Regulatory Commission by PSCC and a site visit performed by PEDCo Environmental, Inc. (PEDCo) and DOE representatives, it has been determined that each powerplant had in place, on June 22, 1974, boilers that were capable of burning coal. The boilers had been designed and constructed or modified to burn coal as their primary energy source.

A historical profile of coal burned, as a percentage of total heat input at the Arapahoe Generating Station is set forth below:

Percentages

Powerplant No.	1974 Coal/Gas	1975 Coal/Gas	1976 Coal/Gas	1977 Coal/Gas
1	2-98	23-77	21-79	89-1
2	48-52	82-38	72-28	99-1
3	55-45	66-34	87-13	99-1
4	59-41	80-20	79-21	87-13

Even though Arapahoe Generating Station tended to decrease gas consumption during 1977, PSCC's post hearing submission stated that the Arapahoe 3 and 4 were issued Notices of Violation and Cease and Desist Orders by the Colorado Department of Health for opacity violations. According to the utility, a hearing on PSCC's variance request was held on July 20, 1978, at which time the variance was granted to enable the affected powerplants to burn coal out of compliance until June 15, 1979, when major modifications will be completed to the air pollution control equipment.

Potentially, the relative share of the total natural gas consumed at the Arapahoe Generating Station may fluctuate signficantly since each powerplant has the capability to burn substantial amounts of natural gas. The issuance of a Prohibition Order to all the powerplants located at Arapahoe appears necessary to preclude potential increased use of natural gas by any of the powerplants which is not issued a Prohibition Order or that may have a Cease and Desist Order issued. In issuing a Prohibition Order to each powerplant at the Arapahoe Generating Station, DOE has considered and evaluated the effect of issuing an order to some of the individual powerplants and not to others and concluded that the purposes of ESECA are best accomplished by issuing a Prohibition Order to all the powerplants at Arapahoe Generating Station.

B. Based on information provided by PSCC to DOE during the above-mentioned site visit and other information available to DOE, Arapahoe 3 and 4 will require air pollution control equipment when this generating station is converted to total coal firing. Arapahoe 1 and 2 presently have adequate air pollution control equipment.

C. DOE finds that, on June 22, 1974, Arapahoe 1, 2, 3 and 4 had all other significant plant equipment and facilities associated with the burning of coal.

D. Within the meaning of ESECA and the regulations promulgated pursuant thereto, absence of the facilities listed in paragraph B, above, does not constitute a lack of capability and necessary plant equipment to burn coal as of June 22, 1974.

DOE has not received any written or oral presentation of data, views or arguments that would negate DOE's finding that Arapahoe 1, 2, 3 and 4 had the capability and necessary plant equipment to burn coal as stated above.

II. *The burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA.* DOE finds that the burning of coal at Arapahoe 1, 2, 3 and 4 in lieu of petroleum products or natural gas is practicable and consistent with the purposes of ESECA. This finding is based upon the presumption that Arapahoe 1, 2, 3 and 4 will be operated at a 49.3 percent capacity factor (this represents a weighted average of each powerplant's projected capacity factor), have an average remaining useful life of 20 years (as of the date of this Prohibition Order), are expected to have at least 19.25 years of remaining useful life after conversion of the powerplants, and on the facts and interpretations stated below:

A. *The burning of coal is practicable*—1. *Costs associated with burning coal*—a. *Capital investment costs.* Based upon information provided by PSCC after the public hearing, DOE finds that capital investment costs of $5,007,000 for air pollution control equipment as stated in Section II.A.1.a. of the Notice of Intention (NOI) should not be included, since PSCC had made commitments for this equipment prior to the issuance of DOE's NOI. Therefore, the ordering of such equipment was not a result of DOE's order.

b. *Annual operating and maintenance costs.* The expected increase in operating and maintenance costs of $382,000 exclusive of fuel costs, as stated in Section II.A.1.b. of the Notice of Intention was based on costs related to the air pollution control equipment. Since PSCC had made commitments for this equipment prior to the issuance of DOE's NOI these costs are not incurred as a result of DOE's order. Therefore, DOE finds that any operating and maintenance costs due to the issuance of a Prohibition Order will be negligible and should be excluded.

c. *Fuel costs.* (i) Based on information provided by the utility, the price of natural gas available to Arapahoe 1, 2, 3 and 4 is approximately $1.43 per million BTU's. This represents $1.43 per Mcf of natural gas, assuming 1,000,000 BTU's per Mcf.

(ii) Based on information supplied by PSCC and the Federal Energy Regulatory Commission (FERC), the price of coal available to Arapahoe 1, 2, 3 and 4 is approximately $0.78 per million BTU's. This represents $17.25 per ton of coal, assuming 22 million BTU's per ton, or 11,000 BTU's per pound. This charactericic falls within the range stated in III.A.3.a. below.

(iii) DOE estimates that the burning of 100% coal in lieu of natural gas by these powerplants will result in an overall reduction of approximately $0.65 per million BTU's, or $574,000 per year in fuel costs.

(iv) Based on information supplied by PSCC, DOE finds that Arapahoe 1, 2, 3 and 4 should continue to burn coal as their primary energy source. It is expected that a decrease in fuel costs will result from the issuance of a Prohibition Order.

d. *Total annual costs associated with conversion.* As a result of this Prohibition Order to Arapahoe 1, 2, 3 and 4, there will be no increase in the total annual costs incurred.

2. *Reasonableness of costs of conversion.* The foregoing analysis of the cost of conversion provides the basis for deciding whether the conversion of Arapahoe 1, 2, 3 and 4 is reasonable. As a result of total conversion, the utility will not incur additional annual capital investment costs, or significant operating and maintenance costs and will experience an annual fuel cost savings of approximately $574,000. Therefore, the estimated net annual decrease in cost of producing electricity at Arapahoe 1, 2, 3 and 4 after total conversion is estimated to be $574,000.

The burning of coal instead of natural gas at Arapahoe 1, 2, 3 and 4 will result in an estimated annual equivalent savings of 887, 067 Mcf of natural gas (or approximately 147,833 barrels of oil equivalent) that would otherwise be used in providing steam for electric power generation. The cost savings of conversion per Mcf of natural gas is estimated to be $0.65.

DOE finds that since the burning of coal will not increase the cost of producing electricity at Arapahoe 1, 2, 3 and 4 and there are significant potential savings as a result of the fuel costs differential between natural gas and coal burning at the powerplant and because of potential future increases in the fuel cost differential in favor of coal, the reduced costs associated with burning coal confirm the reasonableness of conversion from the standpoint of costs.

3. *Financial capabilities of PSCC.* The utility will not incur additional capital investment costs or significant operating and maintenance costs as a result of total conversion of Arapahoe 1, 2, 3 and 4. In addition, DOE's analysis took into consideration PSCC's estimate of its 1977 construction budget of $158,000,000, the total capitalization of the utility of $1,200,000,000 and the average remaining useful life of 19.25 years after conversion of Arapahoe 1, 2, 3 and 4. Accordingly, such conversion does not create an unreasonable burden on the financial capabilities of PSCC.

Total annual costs associated with conversion. The total estimated annual increase in costs (amortized increased capital investment costs and other costs, exclusive of fuel costs) that would be associated with the burning of coal, as opposed to natural gas, attributable to compliance with this and other outstanding Prohibition Orders would be $1,076,000. DOE has taken into consideration costs to PSCC that may result from compliance with all other Prohibition Orders issued to date under authority of Section 2(a) and (c) of ESECA to PSCC powerplants. This estimate of $1,076,000 is based on an investment oriented analysis described in an Ultrasystems Inc. report entitled *Computer methodology For Coal Conversion Cost Determination* August 1976, (hereafter "Ultrasystems Computer Model").

The total estimated annual increase in costs of $1,076,000 associated with conversion ultimately will be recovered in rates. However, due to the potential offsetting aggregate value of fuel cost savings of approximately $1,522,000 attributable to compliance with this and other outstanding Prohibition Orders, the net annual revenue requirements of PSCC should decrease by approximately $466,000.

4. *Consumer impact.* The impact as a result of the Prohibition Order to Arapahoe 1, 2, 3 and 4 alone would result in a net decrease of $.000048 per kilowatt hour sold. The impact of this Prohibition Order and all other outstanding Prohibition Orders would be a net decrease in revenue required from PSCC consumers of approximately $.000038 per kilowatt hour of electricity sold by the PSCC system.

These estimates are based on DOE's analysis of the "Ultrasystem Computer Model" result.

The eventual amount of the decrease would depend on the actual amount of the investment necessary to comply with this and other outstanding Prohibition Orders, the methods which PSCC selects to finance the increased costs associated with burning coal as a primary energy source at Arapahoe 1, 2, 3 and 4, and PSCC's other facilities, the extent to which the cost increase is spread among PSCC customers, the regulations or policies of the regulatory agencies with jurisdiction over PSCC regarding inclusion of such cost decrease in consumer rates, the actual amount of the fuel cost differential, and other factors.

B. *Consistency with the purposes of ESECA.* Because the issuance of a Prohibition Order to Arapahoe 1, 2, 3 and 4 will discourage the use of natural gas

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or petroleum products and encourage the increased use of coal. DOE concludes that this action will be consistent with the purposes of ESECA to provide for a means to assist in meeting the essential needs of the United States for fuels. On the basis of the environmental analysis which DOE is required to conduct prior to issuance of a Notice of Effectiveness of a Prohibition Order, as well as the necessity for this powerplant to comply with the Clean Air Act, as amended (42 U.S.C. 7401 *et seq.*), and other applicable environmental protection requirements, DOE concludes that issuance of a Prohibition Order to Arapahoe 1, 2, 3 and 4 will be consistent with the purposes of ESECA to provide for a means to assist in meeting the essential needs of the United States for fuels in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

DOE has not received any written or oral presentation of data, views or arguments that would negate DOE's finding that the burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA as stated above.

III. *Coal and coal transportation facilities are expected to be available during the remaining actual service life of these powerplants.*—A. *Coal availability.*—1. *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the foreseeable future. United States Department of the Interior, Bureau of Mines data show a demonstrated coal reserve base of over approximately 438 billion tons. (*Demonstrated Coal Reserve Base of the United States on January 1, 1976*, Bureau of Mines (August 1977) (hereafter "BOM Survey")). Mining experience in the United States has indicated that on a national basis, at least one-half of the coal, 219 billion tons, in the reserve base may be technically and economically recoverable. The nation's uncommitted coal reserves are sufficient to reasonably conclude that coal is expected to be available during the remaining actual service life of these powerplants. To determine when certain quantities of these reserves are expected to be available, DOE has examined several studies, referenced herein, which together provide the best current evidence as to coal availability.

2. *National coal production and demand.* The comparison stated below of estimated national coal production, and national coal demand shows that there should be sufficient production of coal to meet the total national demand through the remaining actual service life of these powerplants.

a. *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	Production Potential (million tons)
1979	781
1980	818
1981	858
1982	899
1983	942
1984	987
1985	1,034

The figures shown above are derived from *Projections of Energy Supply and Demand and Their Impacts, Energy Information Administration.* (DOE/EIA 0036/2) dated April 1978 (hereafter "Energy Supply and Demand Report"). The coal production forecast was derived from analytical procedures utilizing historic coal consumption patterns, in addition to derived demand under a forecast economic and energy case. These projections of national coal production generally reflect the coal industries plans for additional increments of coal production over the next several years. Throughout the period of these projections it is expected that total national production will equal or exceed total national demand. DOE intends to fully update, for purposes of being current, its coal availability finding pertinent to Arapahoe 1, 2, 3 and 4 prior to the issuance of a Notice of Effectiveness.

b. *National demand including ESECA Prohibition Order demand.* The estimated national demand, including any increased demand resulting from DOE actions under the authority of Section 2(a) of ESECA, is as follows (Energy Supply and Demand Report):

Year:	Demand (millions of tons)
1979	758
1980	798
1981	841
1982	885
1983	932
1984	982
1985	1,034

These demand projections include the actions taken under ESECA.

c. *National ESECA Prohibition Order demand.* DOE has estimated potential demand for coal resulting from this Prohibition Order and from all other outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA to be as follows:

Year:	Demand (million tons)
1979	15.0
1980	21.4
1981	23.6
1982	30.0
1983	30.3
1984	30.3

(The above estimated demand figures include projections for Prohibition Orders issued on June 30, 1975.)

3. *Characteristic coal production and demand*—a. *Characteristic coal requirements for these powerplants.* Based on information provided by PSCC, DOE concludes that dry-bottom boilers, of the type used at Arapahoe 1, 2, 3 and 4, will be able to burn coal with the following characteristics and comply with all applicable air pollution control requirements:

	Approximate Values
BTU's/lb	11,000.
Moisture	11.38 pct.
Ash	8.74 pct.
Volatile	33.5 pct.
Ash softening temp	2,130-2,500 (°F).
Sulfur	.47 pct.
Grindability	45-50.

b. *Characteristic coal demand from these powerplants.* The potential increased annual demand for coal, of the type described above, which would result from this Prohibition Order, is estimated to be as follows:

	Potential annual demand (thousand tons)
Year: 1980	40

c. *Characteristic coal available to these powerplants.* Based on post hearing information provided by PSCC, the utility has two long-term contracts with Energy Fuels Corporation, the first of which is for 2 million tons of coal per fiscal year, ending on June 30, 1987, and a second contract for 3,650,000 tons of coal to be furnished between 1978 and 1981. This contract coal can be burned at Arapahoe, Valmont and Cameo Generating Stations.

In addition, Colowyo Coal Company provides characteristic coal to Arapahoe and Valmont under a short term 1978 contract for 350,000 tons.

DOE has examined the quantities of coal for Arapahoe, Cameo and Valmont Generating Stations and finds that there is sufficient characteristic coal available to satisfy the increase in demand represented by these Prohibition Orders.

4. *State and local laws.* DOE has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to DOE's attention.

5. *Conclusion.* On the basis of PSCC's present coal contract commitments, DOE finds that coal of the characteristics required will be available at Arapahoe 1, 2, 3 and 4. Furthermore, on the basis of the Bureau of Mines Survey and the Energy Supply and Demand Report, DOE expects that national coal production potential will exceed the total national demand for coal in amounts sufficient in any year to meet the estimated potential demand represented by this Prohibition Order and from all other outstanding Prohibition Orders issued

to date under authority of Section 2(a) of ESECA.

B. *Coal transportation*—1. *Location of powerplants and coal supply.* Based on information provided by PSCC, coal for Arapahoe 1, 2, 3 and 4 will be supplied and transported from Energy Fuels Company, which is located in Routt County, Colorado to Arapahoe 1, 2, 3 and 4 in Denver, Colorado.

2. *Route of coal shipment.* Based on information provided to DOE by PSCC and the railroads, the primary route for coal delivery from the Energy Mine originates on the Denver & Rio Grande Western Railroad (D&RGW) and is transferred to the Colorado & Southern Railway (C&S) in Denver, Colorado. The C&S delivers the coal into the Arapahoe Plant.

3. *Originating trunk carrier.* D&RGW and C&S Railroads have indicated that they are able and willing to provide any additional capacity required for coal shipments to Arapahoe 1, 2, 3 and 4. The D&RGW has stated that the rail facilities at Energy Fuels Company in Routt County, Colorado are readily available to PSCC. C&S has stated that it has adequate coal handling and unloading facilities to service any required increases in coal volumes.

DOE has not found nor has it been informed of any apparent constraints to transporting coal.

4. *Powerplant facilities.* Arapahoe 1, 2, 3 and 4 presently have coal unloading facilities, which C&S indicates are adequate to handle the projected increased coal demand: *Provided*, That the utility adds the required manpower to unload the delivered coal. There are no other apparent obstacles to the handling and delivery of coal to Arapahoe 1, 2, 3 and 4.

5. *Conclusion.* On the basis of the information discussed above, DOE finds that coal transportation facilities will be available since no significant constraints to coal delivery over the primary route to Arapahoe 1, 2, 3 and 4 presently exist.

DOE has not received any written or oral presentation of data, views or arguments that would negate DOE's finding that coal transportation facilities will be available to these powerplants.

IV. *The prohibition of the burning of natural gas or petroleum products as their primary energy source will not impair the reliability of service in the area served by the affected powerplants.* At the public hearing and post hearing PSCC submissions, the utility requested that DOE include in any order an expanded definition of "primary energy source" with at least as much flexibility as the definition in the "Powerplant and Industrial Fuel Use Act of 1978" Senate Conference Report No. 95-988 (Pub. L. 95-620, November 9, 1978). PSCC stated that to limit burning of gas and petroleum products to minimum amounts for start-up and flame stabilization will have a serious effect upon PSCC's ability to maintain a reliable generation system. PSCC's contention is that the ESECA "primary energy source" definition does not offer flexibility to meet the temporary conditions, such as occurrences involving labor problems, accidents or other disruptions at the coal mines supplying the coal or the railroad transporting it.

DOE interprets this voicing of concern as constituting a request for anticipatory relief, on the face of the Orders, from the potential effects of the Orders prior to their being made effective by issuance of a Notice of Effectiveness (NOE). Should a problem arise after receipt of an NOE, DOE is prepared to respond and work with the utility in a timely manner.

Based on an analysis of the information submitted to DOE by PSCC, DOE finds that the issuance of a Prohibition Order to Arapahoe will not impair the reliability of service in the area served by this powerplant since there will be no outage as a result of a Prohibition Order.

PSCC has indicated that Arapahoe 1, 2, 3 and 4 were designed to burn natural gas and coal and are currently burning coal. Therefore, there will be no impairment of reliability of service within the meaning of ESECA in the area served by Arapahoe 1, 2, 3 and 4 as a result of this Prohibition Order.

DOE has not received any written or oral presentation of data, views or arguments that would negate DOE's finding that the prohibition of the burning of natural gas or petroleum products as the powerplant's primary energy source will not impair the reliability of service in the area served by the affected powerplant.

The prohibition of the burning of natural gas or petroleum products as the primary energy source by Arapahoe 1, 2, 3 and 4 shall not become effective (1) until either (a) the Administrator of the Environmental Protection Agency (EPA) has notified DOE, as required by Section 2(b) of ESECA, that the particular powerplant will be able on and after July 1, 1975, to burn coal and to comply with all applicable air pollution requirements without a delayed compliance order pursuant to the provisions of the Clean Air Act, as amended, (CAA), 42 U.S.C. 7413(d)(5) and the Act of August 7, 1977, Pub. L. 95-95, Section 112, or (b) if no such notification is given DOE by EPA, the date that the Administrator of EPA certifies is the earliest date that a particular powerplant will be able to burn coal and to comply with all applicable air pollution requirements, CAA, *supra*; Pub. L. 95-95, *supra*; and (2) until DOE has performed an analysis of the environmental impact of the issuance of a Notice of Effectiveness, pursuant to 10 CFR 208.3(a)(4) and 305.9, and has served the affected powerplant a Notice of Effectiveness, as provided in 10 CFR 303.10(b), 303.37(b) and 305.7.

The date stated in the Notice of Effectiveness shall be either (a) the date EPA determines in accordance with Section 113(d) of the CAA, *supra*; Pub. L. 95-95, *supra*, or (b) the date marking termination of the period of time that DOE determines is required by the affected powerplant to acquire or refurbish equipment or facilities necessary to comply with the CAA, *supra*; Pub. L. 95-95, *supra*, whichever date is later.

This Prohibition Order does not constitute a final agency action and is not effective prior to service of the Notice of Effectiveness. In accordance with 10 CFR 303.38, any person aggrieved by this order may file an appeal with DOE's Office of Hearings and Appeals, in accordance with 10 CFR Part 303, Subpart H, but such appeal cannot be filed prior to service by DOE of the Notice of Effectiveness and, if filed, shall be filed within 30 days after service of such notice.

There has not been an exhaustion of administrative remedies until an appeal has been filed pursuant to Subpart H of Part 303 and the appellate proceeding is completed by the issuance of an order granting or denying the appeal.

Application may be made for modification or rescission of this Prohibition Order in accordance with the provisions of 10 CFR Part 303, Subpart J. An application for modification or rescission of a Prohibition Order based on significantly changed circumstances, which may occur during the interval between issuance of this Order and service of the Notice of Effectiveness, shall be filed within 30 days of such service of such notice. Application for modification or rescission based on significantly changed circumstances occurring after the service of such notice may be filed at any time.

If an application for modification or rescission of this Prohibition Order is made in accordance with Subpart J of Part 303, any appeal of this Order under 10 CFR Part 303 Subpart H, shall be suspended until 30 days after an order has been issued in accordance with Subpart J or until 30 days from the date on which such application for modification or rescission may be treated as having been denied in all respects.

If made effective this Prohibition Order will be effective against any persons that, as of the date stated in the Notice of Effectiveness of this Order

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own, lease, operate or control the above listed powerplant and against any successors-in-interest or assignees of such persons.

Any terms utilized in this Prohibition Order have the same meaning as such terms have in 10 CFR Part 303 and 305.

Any questions regarding this Prohibition Order should be directed to Mr. Robert L. Davies, Deputy Assistant Administrator for Fuels Conversion, Department of Energy, 2000 M Street NW., Washington, D.C. 20461, (202) 254-3910

Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 791 *et seq.*) as amended by Pub. L. 95-70; Federal Energy Administration Act of 1974 (15 U.S.C. 761 *et seq.*) as amended by Pub. L. 95-70; Department of Energy Organization Act (42 U.S.C. 7101 *et seq.*); E.O. 11790 (39 FR 23185); E.O. 12009 (42 FR 46267).)

Issued in Washington, D.C., December 26, 1978.

BARTON R. HOUSE,
Assistant Administrator, Fuels Regulation, Economic Regulatory Administration.

[FR Doc. 78-36373 Filed 12-29-78; 8:45 am]

[6450-01-M]

Southeastern Power Administration

INTENT TO REVISE RATES AND CHARGES

AGENCY: Southeastern Power Administration (SEPA), Department of Energy.

ACTION: Proposed rate revision.

SUMMARY: SEPA proposes to revise existing schedules of rates and charges applicable to the sale of power from the Georgia-Alabama System of Projects effective October 1, 1979. An increase in rates and charges of approximately 13 percent is proposed for the four year period ending September 30, 1983. It is the purpose of this notice to (1) invite interested persons to submit written comments, and to (2) advise that a public comment forum will be held to permit interested persons the opportunity to present views, data or arguments in oral and/or written form regarding the proposed rates.

DATES: Written comments are due on or before April 6, 1979. The public comment forum will be held in Atlanta, Ga., on March 20, 1979.

ADDRESSES: Five copies of written comments should be submitted to: Administrator, Southeastern Power Administration, Department of Energy, Samuel Elbert Building, Elberton, Ga. 30635.

The public comment forum will be held beginning at 10:00 a.m., March 20, 1979, in a conference room at the Holiday Inn, 1380 Virginia Avenue, Atlanta, Ga. 30320.

FOR FURTHER INFORMATION CONTACT:

Mr. Curtis H. Bell, Southeastern Power Administration, Department of Energy, Samuel Elbert Building, Elberton, Ga. 30635, 404-283-3261.

SUPPLEMENTARY INFORMATION: Revision in rates and changes is required to provide for increased operation and maintenance expenses at the nine projects, increased marketing costs and increased costs for additions and replacements.

It is proposed that revised rate schedules applicable to customers purchasing power from the Georgia-Alabama System of Projects contain the following monthly unit rates:

Proposed unit rates

Dependable Capacity/kw	$1.02
Delivered Energy/kwh (mills)	3.65
Energy at Projects/kwh (mills)	3.00
Dump & Excess Energy/kwh (mills)	2.25
Standby Capacity/kw	$0.28
Use Charge/day	$0.035

Copies of proposed rate schedules are available upon request and studies and other information used in developing the proposed rates are available for inspection and/or copying at the headquarters' offices of Southeastern Power Administration.

Additionally, a finding has been made that the proposed revised rates will not have a significant effect upon the quality of the human environment. The finding is likewise available for inspection and/or copying at SEPA headquarters.

The public comment forum will not be adjudicative in nature. A SEPA designated official will preside, SEPA representatives will give background information and explanations supporting the proposed revised rates and charges and answer questions relevant thereto, and those making oral presentations may be questioned by the presiding official and other participating SEPA representatives. Any further procedural rules needed for the proper conduct of the forum will be announced prior to the forum by the presiding official. Forum proceedings will be transcribed. Copies of the transcript may be purchased from the reporter. Written comments, written answers to questions, and any other documents submitted to SEPA and not included in the forum transcript will be available for inspection and/or copying at the SEPA headquarters' offices in Elberton, Ga., between the hours of 8 a.m. and 5 p.m., Monday through Friday. The forum transcript will likewise be available for inspection at the SEPA headquarters' offices.

Issued in Elberton, Ga., December 20, 1978.

HARRY F. WRIGHT,
Administrator.

[FR Doc. 78-36456 Filed 12-29-78; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1031-5]

POLYCHLORINATED BIPHENYLS (PCBs)

Toxic Substances Control Act; Policy for Implementation and Enforcement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Policy for implementation and enforcement of Sections 6(e)(2) and 6(e)(3) of the Toxic Substances Control Act (TSCA).

SUMMARY: EPA will not implement or enforce the prohibitions on PCB manufacturing (including importation), processing, distribution in commerce or use established by Sections 6(e)(2) and 6(e)(3) of TSCA, 15 U.S.C. 2605(e)(2) and 2605(e)(3), until thirty days after the proposed regulation implementing Sections 6(e)(2) and 6(e)(3) of TSCA (43 FR 24802-17, June 7, 1978) is promulgated in final form. With respect to PCB manufacturing activities (including importation) for which petitions for exemptions have been filed pursuant to Section 6(e)(3)(B) of TSCA, enforcement will not occur until EPA has acted on the pertinent petition.

FOR FURTHER INFORMATION CONTACT:

Peter P. Principe, Office of Toxic Substances (TS-794), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, telephone: (202) 755-0920.

SUPPLEMENTARY INFORMATION: Section 6(e)(2) of TSCA (Pub. L. 94-469, 90 Stat. 2003, 15 U.S.C. 2601 *et seq.*) prohibits PCB manufacture (including importation), processing, distribution in commerce and use on any manner other than in a totally enclosed manner on or after January 1, 1978. However, Section 6(e)(2)(B) of TSCA allows the Agency to authorize continuation of PCB activities in other than a totally enclosed manner. The final regulation for Sections 6(e)(2) and 6(e)(3) will define key terms, such as "PCB" and "totally enclosed manner", which will affect the scope of the 6(e)(2) prohibitions. The regulation is also expected to authorize some PCB activities which are not totally enclosed pursuant to Section 6(e)(2)(B). Therefore, enforcement of Section 6(e)(2) is not considered appropriate by EPA until it has promulgated the forthcoming regulation. EPA announced on December 30, 1977 that it is not implementing and enforcing Section 6(e)(2) until 30 days after the regulation for that section is promulgated by the Agency. See 42 FR 65264, December 30, 1977.

Pursuant to Section 6(e)(3) of TSCA, all PCB manufacture (including importation) is prohibited effective January 1, 1979. However, under Section 6(e)(3)(B), persons affected by the Section 6(e)(3) PCB prohibitions have the right to petition EPA for exemptions from the prohibitions. On November 1, 1978, EPA published interim procedures for the filing of petitions for exemptions to the prohibition on manufacturing. (43 FR 50905). Numerous exemption petitions have been received by the Agency. The Agency does not consider enforcement of the manufacturing prohibition of Section 6(e)(3) against a particular activity appropriate (1) until EPA has issued the regulation for Section 6(e)(3), and (2) if a petition for an exemption for the particular activity has been filed, until EPA has ruled on that petition.

The Agency expects to promulgate the regulation implementing Sections 6(e)(2) and 6(e)(3) of TSCA in the near future. To accomplish that objective, EPA published its proposed regulation on June 7, 1978 (43 FR 24802). A comment period followed, and the Agency held ten days of informal hearings and one day of cross-examination of an Agency contractor by hearing participants. The Agency also provided a reply comment period which closed on October 10, 1978.

Although EPA expects to issue the TSCA §§ 6(e)(2) and 6(e)(3) regulation shortly, the regulation will not be ready for promulgation by January 1, 1979. Therefore, EPA will not implement and enforce Sections 6(e)(2) and 6(e)(3) until thirty days after promulgation of the regulation. Persons who have filed petitions for exemptions from the forthcoming Section 6(e)(3) prohibition on PCB manufacturing (including importation) may continue the activity for which exemption is sought until EPA has acted on the particular pending petition. The question of whether petitions may be filed on a class basis is expected to be addressed in the forthcoming Notice of Proposed Rulemaking concerning the exemption petitions.

Dated: December 26, 1978.

JOHN P. DEKANY,
Acting Assistant Administrator for Toxic Substances.

[FR Doc. 78-36361 Filed 12-29-78; 8:45 am]

[6560-01-M]

[FRL 1032-4]

RECEIPT OF ENVIRONMENTAL IMPACT STATEMENTS

President Carter's Reorganization Plan No. 1 (see President's Message of July 15, 1977) transferred certain functions from the Council on Environmental Quality (CEQ) to the Environmental Protection Agency (EPA). Some of these functions relate to operational duties associated with the administrative aspects of the environmental impact statement (EIS) process. In Memorandum of Agreement No. 1 entered into between CEQ and EPA, dated March 29, 1978, it was agreed that EPA would be the official recipient of EIS's and would publish the availability of each EIS received on a weekly basis. This is the duty formerly carried out by CEQ pursuant to Section 1500.11(c) of the CEQ Guidelines.

Review periods for draft and final EIS will be computed as follows: the 45 day review period for draft EIS's will be computed from the Friday following the week which is being reported; the 30 day wait period for final EIS's will be computed from the date of receipt of the EIS by EPA and commenting parties.

The following is a list of environmental impact statements received by the Environmental Protection Agency from December 18, 1978 through December 22, 1978; the date of submission of comments on draft EIS's as computed from December 29, 1978 is February 12, 1979.

Copies of individual statements are available for review from the originating agency. Back copies are also available at 10 cents per page from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

Dated: December 27, 1978.

THOMAS R. SHECKELLS,
Acting Director, Office of Federal Activities.

DEPARTMENT OF AGRICULTURE

Contact: Mr. Barry Flamm, Coordinator, Environmental Quality Activities, U.S. Department of Agriculture, Room 359A, Washington, D.C. 20250, 202-447-3965.

FOREST SERVICE

Draft

115KV Transmission Line, Troy to Mt. Vernon Mine Lincoln County, Montana, December 19: Proposed is the construction of a 115KV transmission line from Troy to Mt. Vernon Mine, Lincoln County, Montana. The proposed line would be approximately 17 miles long and, for the most part, would run north-south along the Lake Creek Valley. The applicant proposes to upgrade an existing 12.47KV line along part of the preferred route to 29.4KV and underbuild it on the proposed 115KV line. The total right-of-way width will vary from 30 ft. or 50 ft. depending on the pole structures used. (EIS ORDER No. 81346.)

U.S. ARMY CORPS OF ENGINEERS

Contact: Dr. C. Grant Ash, Office of Environmental Policy, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue, SW., Washington, D.C. 20314, 202 693-6795.

Draft

Dickey-Lincoln School Lakes Project, several counties, Maine, New Hampshire, Vermont, December 18: Proposed is a multi-purpose project on the upper reaches of the St. John River, Aroostook County, Maine. The plan consists of 2 dams with associated reservoirs and hydroelectric generating facilities, 5 dikes and transmission facilities. The transmission facilities involve 365 miles of line extending from Maine, through New Hampshire, and into Vermont. The action also includes: (1) Construction of 3 substations and 12 microwave communication stations, and (2) expansion of 3 existing substations. This revised draft EIS replaces both a COE draft, No. 71083, dated 8/31/77 and a DOE draft, No. 80337, dated 4/6/78, on the Dickey-Lincoln Project. (NEW ENGLAND DIVISION.) (EIS ORDER No. 81339)

DEPARTMENT OF COMMERCE

Contact: Dr. Sidney R. Galler, Assistant Secretary for Environmental Affairs, Department of Commerce, Washington, D.C 20230, (202) 377-4335.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Final Supplement

Northwest Atlantic Mackerel, FMP 1979, December 22: This statement supplements a final EIS filed in May, 1978 and concerns the management unit for the plan, which is defined as all Atlantic mackerel under U.S. jurisdiction. The objectives of the plan are to: (1) increase domestic recreational and commercial catch; (2) maximize economy contribution; (3) maintain spawning stock size at or above 1978 size, (4) provide efficient allocation of capital and labor; and (5) minimize cost of development, research, management and enforcement. Comments made by: EPA, DOS, DOI, CGD, State agency and Japan organization, university and individuals (EPA Order No. 81364).

DEPARTMENT OF DEFENSE, AIR FORCE

Contact: Col. Luis F. Dominguez, Department of the Air Force, Room 5D431, Pentagon, Washington, D.C. 20330, (202) 697 7799.

Draft

Pave Paws Radar System Operation, Otis AFB, Barnstable County, Mass., December 22: Proposed is the operation of the Pave Paws Radar System located at Otis Air Force Base, Barnstable County, Massachusetts. Pave Paws is a new surveillance and tracking radar and its primary purpose is to detect, track and provide early warning of sea-launched ballistic missiles. Also, Pave Paws will be used to assist the USAF space track system to track objects orbiting the

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earth. With Pave Paws in operation, older radar systems located in Maine and North Carolina will be retired. (EIS Order No. 81363).

ENVIRONMENTAL PROTECTION AGENCY

Contact: Mr. Peter Cook, Acting Director, Environmental Protection Agency, Office of Federal Activities, A-104, 401 M Street NW., WT, Washington, D.C. 20460, (202) 755-0780.

Draft

Terrebonne Parish WWT Facilities, Terrebonne County, La., December 20: Proposed is the issuance of a grant to design and construct a regional sewerage system in Terrebonne Parish, Louisiana. The plan includes: (1) expansion of the north treatment plant, (2) expansion of the south treatment plant, (3) construction of a holding basin system, (4) construction of a gravity system, and (5) construction of a package wastewater treatment plant. (EIS Order No. 81348).

Contact: Mr. George Pence, Environmental Protection Agency, Region III, Curtis Building, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106, (212) 597-4533.

Final

North-Central Ocean Basin Wastewater Facility, Worcester County, Md., December 18: Proposed is a regional wastewater treatment facility for the north-central ocean basin area, Maryland. The project consists of four major components: Expansion of the Ocean City sewage treatment plant (STP) from a capacity of 12 to 20.5 mgd., construction of an 8.9 mgd.-capacity mainland STP near west Ocean City, installation of a regional interceptor system, and local wastewater treatment and disposal. The Ocean City facility would receive wastewater only from Ocean City. The service area of the west Ocean City facility would include west Ocean City, Berlin, the community of Ocean Pines and extensive areas along the major highways in the proposed service area. Comments made by: COE, DOI, HEW, State and local agencies, groups, individuals and businesses (EIS Order No. 81340).

FEDERAL MARITIME COMMISSION

Contact: Mr. Paul Gonzalez, Director, Office of Environmental Analysis, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573, (202) 523-5835.

Draft

Combi Line Joint Service Agreements, Modification, Atlantic Ocean, Gulf of Mexico, Foreign, Dec. 18: Proposed is the approval, disapproval or modification of several agreements under Combi Line Joint Service Agreement. This agreement pertains to a joint service which operates lighter-aboardship (lash) vessels and non-lash vessels between U.S. South Atlantic and Gulf Ports, including places on tributary inland waterways, and ports in the United Kingdom/Erie and Continental Europe, also including places on tributary inland waterways. Under the proposed agreement the four existing vessels will be modified to increase their TEU capacity and a fifth vessel will be added. (EIS Order No. 81344.)

FMC NO. 81336

The following Draft EIS was not officially filed with the EPA, however, distribution was made and comments have been received by the FMC. Therefore, the EPA has waived the 45-day review period. The FMC has agreed to accept comments on the DEIS until the 15th of January 1979.

Modification of Euro-Pacific Joint Service Agreement, Pacific Ocean, Foreign: Dec. 18: Proposed is the approval of the continued applicability of agreement No. 9902-3 and either approval, disapproval or modification of Agreement Nos. 9902-4, 9902-5, 9902-6, and 9902-8 of the Euro-Pacific Joint Service Agreement. This agreement pertains to the transport of cargo between the U.S. Pacific Coast and ports in Europe, Mexico, the West Indies, and Central and South America through the use of six vessels. It has been proposed that six new vessels be used which would annually transport more cargo and use less fuel. (EIS Order No. 81336.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410, (202) 755-6308.

Draft

Laurel West Planned Unit Development, Monterey County, Calif.: Dec. 20: Proposed is the issuance of HUD Home Mortgage Insurance for the Laurel West Planned Unit Development located in Salinas, Monterey County, California. Proposed development of the 135 acre subdivision will consist of 468 single family units, 302 multi-family units and a 22 acre commercial center. (EIS Order No. 81350.)

Huntington Park Phase II Development, Caddo Parish, La.: Dec. 22: The proposed action is the acceptance of the Huntington Park Phase II Subdivision for HUD-FHA Home Mortgage Insurance. The Huntington Park Subdivision, located in Shreveport, Caddo Parish, Louisiana is being constructed in three phases, phase I expected to be completed in 1981. Phase II, the subject of this EIS is currently in the planning and predevelopment stages and will provide 1,000 single family dwelling units, an elementary school, a junior high school, and 30 acres will be devoted to open space and Duck Lake. Phase III is planned for sometime in the future, possibly the early 1980's. (HUD-R06-EIS-78-48D.) (EIS Order No. 81369.)

Blackhawk Park Planned Unit Development, Eagan, Dakota County, Minn.: Dec. 20: Proposed is the issuance of HUD Home Mortgage Insurance for the Blackhawk Park Planned Unit Development located in Eagan, Dakota County, Minnesota. The insurance will apply to 542 acres of the 603 acre site which will be developed to provide a mixture of land uses and housing types. (HUD-R05-EIS-78-14-(D).) (EIS Order No. 81351.)

Final

Carrollwood Meadows Subdivision, Hillsborough County, Fla.: Dec. 18: The proposed action is the issuance of mortgage insurance to the U.S. Home of Florida, Incorporated for development of Carrollwood Meadows Subdivision in Hillsborough County, Florida. The proposed site is located in the northwest. The total acreage consists of 354.4 acres and is expected to consist of approximately 955 dwelling units, including a 17.7 acre school site and a 19.5 acre park site. (HUD-R04-EIS-77-19-D). Comments made by: DOI, EPA, GSA, FERC, DOC, COE, AHP, USDA, HUD, State and local agencies. (EIS Order No. 81342.)

Countryside Subdivision, League City, Galveston County, Tex.: Dec. 18: Proposed is the issuance of HUD Home Mortgage Insurance for the countryside subdivision located in the League City area of Galveston County, Texas. The project will involve the development of approximately 1,614 single family homes on a 570 acre tract. (HUD-R06-EIS-78-41F.) Comments made by: AHP, USDA, COE, DOI, DOT, EPA, State agencies groups (EIS Order No. 81337.)

Parkway West and Westgreen Subdivision, Harris County, Tex.: Dec. 20: The proposed action is the approval by HUD of Home Mortgage Insurance for Parkway West and Westgreen Subdivisions located in Harris County, Texas. The corporations of Mischer and Homecraft propose to build two subdivisions on a 595 tract of land composed primarily of single family homes with some multifamily and commercial reserves. The subdivisions, combined, will provide housing for approximately 6,000 people. (HUD-R06-EIS-78-39F.) Comments made by: EPA, COE, AHP, DOT, DOI, USDA, State and local agencies groups. (EIS Order No. 81349.)

Keegans Glen development, Harris County, Tex., December 21: The proposed action is for HUD to accept for home mortgage insurance purposes some 345 acres of land located in the southwest section of Harris County, Tex. It is proposed that this tract of land be developed into a subdivision composed primarily of single family residences, patio homes, multifamily, and commercial reserves. The expected population of the subdivision, known as Keegans Glen, will be around 9,500. (HUD-R06-EIS-78-42F). Comments made by: AHP, DOT, COE, USDA, EPA, DOI, State agencies. (EIS Order No. 81352.)

Westbranch subdivision, Harris County, Tex., December 22: The proposed action concerns the development of the Westbranch subdivision in Northwest Harris County, Tex. by the Affiliated Capital Corporation and Center Savings Association. These businesses propose the development of 412 acres of land and the construction of approximately 1,090 single family units. Application has been made for home mortgage insurance and requires approval of HUD. (HUD-R06-EIS-78-43F). Comments made by: AHP, DOT, EPA, USDA, DOI, State and local agencies, and group. (EIS Order No. 81367.)

SECTION 104(H)

The following are community development block grant statements prepared and circulated directly by applicants pursuant to section 104(H) of the 1974 Housing and Community Development Act. Copies may be obtained from the office of the appropriate local executive. Copies are not available from HUD.

Draft

Burlington conventional urban renewal project, Alamance County, N.C., December 19: Proposed is a conventional urban renewal program for the city of Burlington, Alamance County, N.C. The project provides for the rehabilitation, clearing, and redevelopment of 50.3 acres of blighted, predominantly nonresidential land located in the central business district area of Burlington. Approximately 77 buildings will be acquired and cleared, 58 buildings will be rehabilitated, and 13 will receive no treatment. (EIS Order No. 81343.)

Final

Johnston Street Extension, Rock Hill, York County, S.C., December 21: Proposed is the construction of the Johnston Street Extension, a 1 mile, five-lane road passing to the west of the downtown center of Rock Hall, S.C. and connecting to a 1.3 mile, three-lane road which connects with S.C. 274 at the Village Plaza Shopping Center. The project would also involve the clearance of about 25 acres in census tract 5, near the city post office, which would be redeveloped for commercial, wholesale, and light manufacturing uses. Adverse effects include short-term relocation of displaced residents and increased levels of air and noise pollution. Comments made by: EPA, USDA, COE, HEW, State and local agencies, and groups. (EIS Order No. 81358.)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256, Interior Bldg., Department of the Interior, Washington, D.C. 20240, (202) 343-3891.

BUREAU OF SPORTS FISHERIES AND WILDLIFE

Final

Federal aid, fish/wildlife restoration program, programmatic, December 22: This proposal describes the present and proposed Federal aid in fish and wildlife restoration programs, which are implemented by recipient States and Territories, and examines the environmental impacts of the program over the next 10 years. The program is administered by the U.S. Fish and Wildlife Service (FWS) as a national effort to strengthen the ability of the States to preserve, protect, and enhance fish and wildlife, and to increase the public enjoyment of these resources. (FES-78-38). Comments made by: AHP, USDA, COE, DOC, DOI, DOT, State and local agencies, corporations, groups, and individuals. (EIS Order No. 81365.)

STATE DEPARTMENT

Contact: Mr. Cameron Sanders, Office of Environmental Affairs, Department of State, Washington, D.C. 20520, 202-632-9169.

Final

Rio Grande Boundary Preservation Hudspeth and Presidio Counties, Texas, December 19: Proposed is a joint U.S.-Mexico project which would restore and provide for the preservation of the Rio Grande River as an international boundary in accordance with the 1970 boundary treaty. The proposed action includes restoration of about 86 miles of river channel and a narrow strip of grasslands along each side of 170 miles of river channel between Fort Quitman and Presido, Hudspeth and Presidio Counties, Texas. Four alternatives are considered which include: (1) No action, (2) monument the boundary, (3) restoration and preservation of the channel of the Rio Grande as the boundary, and (4) alternative 3 with wildlife enhancement. Comments made by: EPA, STAT, HUD, USDA, DOI, State and local agencies, groups, individuals and business. (EIS ORDER No. 81345.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street SW., Washington, D.C. 20590, 202-426-4357.

FEDERAL AVIATION ADMINISTRATION

Final

Walker County Airport, Jasper, Walker County, Alabama, December 21: Proposed is the construction of a new Walker County Airport with a basic transport runway which will allow jets to use the airport facility. Plan implementation calls for runways and taxiways, lighting systems, parking, a service hangar, and roads. Adverse impacts include construction-related pollution; increased levels of air and noise pollution; and possible water impacts. Comments made by: HEW, HUD, DOT, EPA, DOI, USDA, State and local agencies. (EIS ORDER No. 81355.)

FEDERAL HIGHWAY ADMINISTRATION

Draft

Chattanooga Valley Road, GA-193, Walker County, Georgia, December 22: Proposed is the upgrading of GA-193 Chattanooga Valley Road, from near its intersection with Nickajack Road northerly to a point south of the Georgia-Tennessee State line located in Walker County, Georgia. The design of the improved facility will be a four lane urban type highway constructed on a variable width of 68-150 feet of right-of-way. Several alternative designs including a no-build option have been addressed. (FHWA-GA-78-05-D.) (EIS ORDER No. 81360.)

Clairmont Road extension De Kalb County, Georgia, December 22: The proposed project located in De Kalb County, Georgia, involves two alternate plans for the junction of Clairmont Road and Buford Highway to the intersection of Peachtree Industrial Boulevard and Clairmont Road. The facility would be a four lane urban section with grade separation. Alternate A is a no-build alternate for both alternates B and alternate B includes: (1) A portion of Clairmont Road to be widened to four lanes; and, or (2) a .25 mile four lane bridge constructed over New Peachtree Road, Peachtree Road, and southern Railroad terminating at Peachtree Industrial Boulevard. (FHWA-GA-78-04-D.) (EIS ORDER No. 81361.)

I-575, Canton to Nelson, Cherokee and Pickens Counties, Ga., December 22: Propose action is the construction of I-575 located in Cherokee and Pickens Counties, Georgia. The proposed project is a limited access interstate facility approximately 10 miles in lengths of four lane highway with 400 feet minimum right-of-way. The project will begin on GA-5 just northeast of Canton, within a previously approved portion of I-575 known as the Canton Bypass, and will extend northeasterly to its intersection with the Appalachian highway located west of Nelson. Several alternatives were considered, (FHWA-GA-EIS-78-06-D) (EIS Order No. 81368).

I-510, Gulf Outlet Bridge Interstate, Orleans County, La., December 21: Proposed is the construction of the Gulf Outlet Bridge Interstate to be known as I-510, located in Orleans Parish, Louisiana. The proposed action for moving people and freight is a 2.5 mile, four-lane controlled-access highway beginning at the north end of the existing Mississippi River Gulf Outlet Bridge and ending at I-10. A six-lane roadway is provided from I-10 to Lake Forest Boulevard to accommodate weaving movements. The alternatives consider no-build, mass transit, and location alternatives. (FHWA-LA-EIS-78-2-D) (EIS Order No. 81356).

WA-20, From Bear Creek to east boundary, Whatcom and Skagit Counties, Wash., December 18: Proposed is the reconstruction of a portion of WA-20 (also known as the North Cascade Highway and WA Forest Highway 32) from Bear Creek to East Boundary within the North Cascades National Park, Ross Lake National Recreation Area, Whatcom and Skagit Counties, Washington. The project length is approximately 28.65 miles with construction following the existing alignment with only minor exceptions. The highway will be a two-lane, paved road and used for predominately recreational travel. The DOT filed a draft EIS, No. 71005, Dated August 17, 1977, which is replaced by this draft statement. (FHWA-WAFP-EIS-77-02-D) (EIS Order No. 81341).

WA-151, Chelan Station to Hugo, Chelan and Douglas Counties, Wash., December 21: Proposed are improvements to and the reconstruction of WA-151 with Chelan and Douglas Counties, Washington. The reconstruction project would begin at the South pavement seat of Beebe Bridge and follow the river for 5.3 miles to a connection with existing WA-97. Improvement would include: (1) The connection at Chelan Station; (2) Installation of signals; (3) Auxiliary stop lanes at railroad crossings; and (4) Widening of the existing roadway above Chelan Station. Alternatives considered are: (1) Location; (2) Improvement of existing facility; (3) Mass Transit; (4) No action; (5) Postponing action. (FHWA-WA-EIS-78-05-D) (EIS Order No. 81357).

West Seattle Bridge, Spokane Street corridor, King County, Wash., December 22: The proposed project located in Seattle, King County, Washington is to construct a replacement bridge system for the West Seattle Corridor. The project area would extend from the vicinity of the Alaskan Way Viaduct across Harbor Island and the east and west waterways of the Duwamish River and connect with the existing West Seattle Freeway near Puget Ridge. Depending upon the alignment of the alternative, construction will involve work along a 3,500 to 5,700-foot section of elevated and at-grade roadway. Five alternatives screened from an original 19 will be considered for a final selection. (FHWA-WA-EIS-78-06-D) (EIS Order No. 81366).

Final

DE-4, DE-2 to DE-7, New Castle County, Del., December 21: Proposed is the reconstruction and/or relocation of approximately 8.5 miles or Delaware Route 4 located in northern New Castle County, Delaware. The proposed improvements consist of a 4-lane divided road with paved shoulders and a protected bikeway/sidewalk system. Design speed will be 50 MPH. Project implementation has been divided into four sections, and four alternatives are offered. (FHWA-DE-EIS-77-01-F) Comments made by: AHP, DOI, HUD, EPA, USDA, DRBC, State and local agencies (EIS Order No. 81353).

U.S. Highway 2, Minot East to Surrey, Ward County, N. Dak., December 19: The

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proposed project is located on U.S. Highway 2 from approximately 1 mile east of its junction with U.S. Highway 83 to approximately 1 mile east of Surrey, North Dakota. The project is approximately 9 miles in length, and consists of acquiring right-of-way and constructing a 4-lane facility utilizing the existing roadway as part of the 4-lane facility. Interchanges will be constructed at the junction of U.S. Highways 2 and 52 and at the intersection of the U.S. Highway 2 bypass and business loop in East Minot. Three Bridges will also be required. (FHWA-ND-EIS-76-02-F) Comments made by: DOI, USDA, HUD, EPA, HEW, COE, State and local agencies (EIS Order No. 81347).

Loop 1604, I-10 to Babcock Road, Bexar County, Tex., December 21: Proposed is the improvement of F.M. 1604 in the vicinity of the University of Texas at San Antonio by stage construction to a freeway between I.H. 10 in northwest San Antonio and Babcock Road about 2 miles to the West. Interstate Highway 10 would have its frontage roads changed to one way facilities with ramp adjustments and relocations to meet the demands of the new traffic generator, the university. A three level cloverleaf interchange would be built in stages between F.M. 1604 and I.H. 10. Adverse effects include the potential threat to pollution of the Edwards Aquifer Recharge Zone. (Region 6) (FHWA-TEX-EIS-77-02-F) Comments made by: USDA, DOI, COE, EPA, State and local agencies, groups and individuals (EIS Order No. 81359).

U.S. 60 Bridge over Big Sandy River, West Virginia and Kentucky, December 21: The proposed project is the replacement of the U.S. 60 bridge over the Big Sandy River between Catlettsburg, Kentucky, and Kenova, West Virginia. The preferred alternate will relocate 8 families and 1 business in Kentucky and 2 businesses in West Virginia. This alignment will have section 4(F) involvement with Dreamland Park. Eight alternatives including the no-build option were considered. Adoption of the no-build option was set aside due to operational and structural inadequacies of the existing structure. (FHWA-KY-EIS-75-01-F) (FHWA—WV—EIS-75-01-F). Comments made by: COE, USDA, DOT, USCG, DOI, EPA, HEW, State and local agencies, individuals and businesses. (EIS Order No. 81354).

U.S. COAST GUARD

Draft

Clearwater River Bridge, Nez Perce County, Idaho, December 18: proposed is the replacement or modification of the existing Clearwater Memorial Bridge across the Clearwater River in the city of Lewiston, Nez Perce County, Idaho. The purpose of the project is to provide a highway crossing of the river which will allow the river to be used for navigation. The USCG requires a navigable opening with 230 feet minimum clearance horizontally and 60 feet minimum clearance vertically for any structure crossing the river at this location. The alternatives include: (1) 5 bridge alternatives, (2) no build, and (3) interchange alternatives. (EIS Order No. 81338)

VETERANS ADMINISTRATION

Contact: (For housing programs). Mr. Lyman T. Miller, Assistant Director for Construction and Valuation, Veterans' Administration, 810 Vermont Avenue, Washington, D.C. 20420, (202) 389-2691. (Medicine and surgery) Mr. Jon E. Baer, Chief, Environmental Planning Division, Veterans' Administration, Washington, D.C., (202)389-3316.

Draft

National Cemetery, Indiantown Gap, Lebanon County, Pa., December 22: This action proposes the construction of a 675-acre National Cemetery to be located on land on the south perimeter of the Fort Indiantown Gap Military Reservation in Lebanon County, 22 miles northeast of Harrisburg, Pennsylvania. The proposed development will include space for approximately 313,000 gravesites, an administration building, maintenance complex, memorial center, commital service buildings and other associated cemetery facilities. The proposed National Cemetery will be an integral part of the National Cemetery System and will provide burial benefits for approximately 1,500,000 veterans living within the service range of the facility. (EIS Order No. 81362)

[FR Doc. 78-36428 Filed 12-29-78; 8:45 am]

[6712-01-M]

FEDERAL COMMUNICATIONS COMMISSION

FM BROADCAST APPLICATION READY AND AVAILABLE FOR PROCESSING

Adopted: December 15, 1978.

Released: December 27, 1978.

CUT-OFF DATE: January 30, 1979.

Notice is hereby given that the FM broadcast application listed below will be considered as ready and available for processing on January 31, 1979. Since the listed application is timely filed and mutually exclusive with the earlier-filed and cut-off application of Liberty Broadcasting Co., Inc. (File No. BPH-10,493), no other applications which involve conflict with these applications may be filed. Rather, the purpose of this Notice is to establish a date by which the parties to the forthcoming comparative hearing may compute the deadlines for filing amendments as a matter of right under § 1.522(a)(2) of the Rules and pleadings to specify issues pursuant to § 1.584.

BPH-10,665, NEW, Hinesville, Georgia Hinesville Broadcasting Corporation REQ: 92.1 MHz, 221; 3 kW; 300 feet

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-36369 Filed 12-29-78; 8:45 am]

[6730-01-M]

FEDERAL MARITIME COMMISSION

AGREEMENTS FILED

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 100 L Street, N.W., Room 10218; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before January 12, 1979. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done:

AGREEMENT NO.: T-3547-1.

FILING PARTY: C.P. Lambos, Esquire, Lorenz, Finn, Giardino & Lambos, The Cunard Building, 25 Broadway, New York, New York 10004.

SUMMARY: Agreement No. T-3547-1 modifies the basic Job Security Program (JSP) Agreement between (a) the International Longshoremen's Association, AFL-CIO, its Atlantic Coast district, its South Atlantic and Gulf district, and its affiliated Deepsea local unions in each port from Maine to Texas (ILA); and (b) those carriers who operate ships at Atlantic and Gulf ports and who utilize or contract for ILA labor to perform longshore and related work in connection with the deepsea longshore operations of such ships (Carriers). The purpose of Agreement No. T-3547-1 is to revise the assessment ratio to provide that break-bulk tonnage shall pay 35 percent of the assessment rate paid by automated tonnage and bulk tonnage shall pay five percent of the assessment rate paid by automated tonnage.

Dated: December 26, 1978.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-36362 Filed 12-29-78; 8:45 am]

[6730-01-M]

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street NW., Room 10218; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before January 22, 1979, in which this notice appears. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

AGREEMENT NO. 93-19.

FILING PARTY: David C. Nolan, Graham and James, One Maritime Plaza, San Francisco, California 94111.

SUMMARY: Agreement No. 93-19 modifies the basic agreement of the North Europe-U.S. Pacific Coast Freight Conference to conform to the requirements of General Order 7, served September 14, 1978, and to require the filing of a faithful performance guarantee of $30,000.

AGREEMENT NO. 6400-19.

FILING PARTY: F. Conger Fawcett, Esquire, Graham and James, One Maritime Plaza, San Francisco, California 94111.

SUMMARY: Agreement No. 6400-19, a completely restated version of the Pacific Coast River Plate Brazil Conference, contains the following modifications: (1) Self-policing amendments in accordance with General Order 7, served September 14, 1978, (2) an amendment to provide for the establishment of financial security for Conference obligations (self-policing and otherwise); and (3) limits joint service to a single membership.

AGREEMENT NO. 8660-10.

FILING PARTY: F. Conger Fawcett, Esquire, Graham and James, One Maritime Plaza, San Francisco, California 94111.

SUMMARY: Agreement No. 8660-10 restates the entire agreement of the Latin America/Pacific Coast Steamship Conference incorporating all past amendments to the basic agreement. It also modifies the basic agreement (1) to comply with the Commission's revised General Order 7, served September 14, 1978, (2) to require the filing of a financial security guarantee in the amount of $50,000, (3) to prohibit divulgence of conference deliberations, (4) to reduce advance notice of conference meetings from 10 days to 5 days, and (5) to restrict members of a joint service to a single membership.

AGREEMENT NO. 8770-8.

FILING PARTY: Howard A. Levy, Esquire, Suite 727, 17 Battery Place, New York, New York 10004.

SUMMARY: Agreement No. 8770-8 modifies the basic agreement of the U.K./U.S.A. Gulf Westbound Rate Agreement to conform to the requirements of General Order 7, revised.

AGREEMENT NO. 9988-9.

FILING PARTY: Howard A. Levy, Esquire, Suite 727, 17 Battery Place, New York, New York 10004.

SUMMARY: Agreement No. 9988-9 modifies the basic agreement of the Continental/U.S. Gulf Freight Association to conform to the requirements of General Order 7, revised.

AGREEMENT NO. T-3748.

FILING PARTY: James N. Crumbley, General Manager, Maritime Terminals, Inc., 7737 Hampton Boulevard, Norfolk, Virginia 23505.

SUMMARY: Agreement No. T-3748, between Maritime Terminals, Inc., (MTI) and Barber Lines (Barber), is a two-year preferential berthing agreement whereby MTI grants to Barber first priority use of MTI's North Berth for Barber's ro/ro and other vessels. Barber agrees to place a minimum of thirty-six vessels per year at Norfolk International Terminals and for each vessel call less than the guaranteed number, Barber shall pay MTI the sum of $2,000.00. Barber shall be responsible for payment of all tariff charges applicable to vessels under the Norfolk Marine Terminal Association Tariff No. I-E. MTI agrees to dredge the North Berth and construct a platform to accommodate a roll on/roll off ramp for adequate berthing of Barber's vessels.

AGREEMENT NO. T-3754.

FILING PARTY: H. H. Wittren, Manager, Waterfront Real Estate, Port of Seattle, P. O. Box 1209, Seattle, Washington 98111.

SUMMARY: Agreement No. T-3754, between the Port of Seattle (Port) and Seacon Terminals, Inc. (Seacon), provides for Seacon's month-to-month lease of office space at Terminal 46, Seattle, Washington. As compensation, Seacon shall pay Port rental totalling $1,844.80 per month. This agreement supersedes FMC Agreement No. T-3052, between the Port and Kerr Steamship Company, Inc., approved by the Commission February 28, 1975.

AGREEMENT NO. T-3756.

FILING PARTY: Einar C. Petersen, Deputy City Attorney, The City Attorney of Long Beach, City Hall, 333 West Ocean Boulevard, Long Beach, California 90802.

SUMMARY: Agreement No. T-3756, between the City of Long Beach and Seamount, Inc. (Seamount), provides for Seamount's one-year lease (with renewal option's) of a portion of the Queen Mary Plaza Administration Building on Pier J, Long Beach, California, to be used for offices. As compensation, Seamount shall pay Port $850.00 per month.

Dated: December 27, 1978.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-36418 Filed 12-29-78; 8:45 am]

[6730-01-M]

[Independent Ocean Freight Forwarder License No. 1586R]

DENYO TRANSPORTATION SERVICES, INC.

Order of Revocation

The bond issued in favor of Denyo Transportation Services, P.O. Box 389-D, Park Ridge, Illinois 60068, FMC No. 1586R was cancelled effective October 19, 1978.

By letter dated September 28, 1978, Denyo Transportation Services, Inc., was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 1586R would be automatically revoked or suspended unless a valid surety bond was filed with the Commission.

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4, further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

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Denyo Transportation Services, Inc., has failed to furnish a valid surety bond.

By virture of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised) section 5.01(d) dated August 8, 1977;

It is ordered, That Independent Ocean Freight Forwarder License No. 1586R be and is hereby revoked effective October 19, 1978.

It is further ordered, That Independent Ocean Freight Forwarder License No. 1586R issued to Denyo Transportation Services, Inc., be returned to the Commission for cancellation.

It is further ordered, That a copy of this Order be published in the FEDERAL REGISTER and served upon Denyo Transportation Services, Inc.

ROBERT G. DREW,
Director, Bureau of Certification and Licensing.

[FR Doc. 78-36417 Filed 12-29-78; 8:45 am]

[6210-01-M]

FEDERAL RESERVE SYSTEM

FENNIMORE BANCORPORATION, INC.

Formation of Bank Holding Company

Fennimore Bancorporation, Inc., Fennimore, Wisconsin, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of The First State Bank of Fennimore, Fennimore, Wisconsin. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than January 21, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 21, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-36378 Filed 12-29-78; 8:45 am]

[6210-01-M]

FIRST BANCORP OF TONKAWA, INC.

Formation of Bank Holding Company

First Bancorp of Tonkawa, Inc., Tonkawa, Oklahoma, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 87 per cent or more of the voting shares of The First National Bank in Tonkawa, Tonkawa, Oklahoma. The factors that are considered in acting on the application are set forth in 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than January 16, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 26, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 78-36379 Filed 12-29-78; 8:45 am]

[6210-01-M]

MANUFACTURERS HANOVER CORP.

Proposed Acquisition of Manufacturers Hanover Commercial Corporation (Del.)

Manufacturers Hanover Corporation, New York, New York, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Manufacturers Hanover Commercial Corporation (Del.), Los Angeles, California. Subsequently, the proposed subsidiary would acquire a portion of the assets of Manufacturers Hanover Commercial Corporation (New York), New York, New York. Notice of the application was published on October 30, 1978, in newspapers of general circulation in each of the communities to be served by the offices of Manufacturers Hanover Commercial Corporation (Del.).

Applicant states that the proposed subsidiary would engage in the activities of making or acquiring, for its own account or the account of others, loans and other extensions of credit such as would be made by a factoring and commercial finance company; and arranging or servicing such loans and extensions of credit for any person. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of New York.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than January 25, 1979.

Board of Governors of the Federal Reserve System, December 26, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 78-36380 Filed 12-29-78; 8:45 am]

[6210-01-M]

T.N.B. FINANCIAL CORP.

Acquisition of Bank

T.N.B. Financial Corp., Springfield, Massachusetts, has applied for the Board's approval under section 3(a)(5) of the Bank Holding Company Act (12 U.S.C. 1842(a)(5)) to merge with Pioneer Bancorp, Greenfield, Massachusetts. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Boston. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than January 22, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 22, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 78-36381 Filed 12-29-78; 8:45 am]

[4110-03-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 78N-0507]

FD&C RED NO. 40 WORKING GROUP

Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration announces that the Working Group on FD&C Red No. 40 will meet primarily to discuss appropriate methods of statistical analysis for evaluating the time to onset of tumors that occurred during the mouse feeding studies of FD&C Red No. 40. The morning session on January 17, 1979 will be open to the public for the presentation by interested persons of data, information, and views related to statistical methodology.

DATES: January 17 and 18, 1979, beginning at 9:30 a.m.

ADDRESS: The meeting will be held in Rm. 1409 of the Food and Drug Administration Building, 200 C St. SW., Washington, DC 20204.

FOR FURTHER INFORMATION CONTACT:

Gerad L. Mc Cowin, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-472-5740.

SUPPLEMENTARY INFORMATION: Notice of the availability of the Second Interim Report of the Working Group on FD&C Red No. 40 appeared in the FEDERAL REGISTER of April 28, 1978 (43 FR 18258). In this report the Working Group concluded that the available data do not demonstrate FD&C Red No. 40 to be carcinogenic, but that a final determination should await completion of an additional and ongoing mouse feeding study. This determination was made on the basis of statistical analyses which were discussed in detail in the report.

A comment was received concerning the appropriateness of the statistical methods used by the Working Group. In response to this comment, the Commissioner of Food and Drugs in July 1978, asked three prominent statisticians, Dr. Bernard G. Greenberg, Dean of the School of Public Health, University of North Carolina, Jerome Cornfield, Professor of Statistics, George Washington University, and Dr. Frederick Mosteller, Chairman of the Department of Statistics, Harvard University, to individually review the statistical analyses used by the Working Group and the commenting party.

These statisticians have raised questions concerning the suitability of the statistical methods used by the Working Group to detect and evaluate the significance of early tumor formation. However, each suggested a different method.

The Working Group on FD&C Red No. 40 will meet at 9:30 a.m. on January 17 and 18, 1979, in Room 1409, Food and Drug Administration Building, 200 C St. SW., Washington, DC 20204, to determine the statistical method(s) most appropriate to detect and evaluate early tumor formation.

Although the Working Group is an internal government body, and not an advisory committee within the meaning of the Federal Advisory Committee Act (5 U.S.C. Appendix 1), the Commissioner believes that it would be beneficial to provide for public contributions to the Working Group's review. Accordingly, the morning session on January 17, 1979 will be open to the public beginning at 9:30 a.m. At the commencement of the session, representatives from the Bureau of Foods will describe the issues involved. The three consulting statisticians will then present their findings. The balance of the morning session will be reserved for the presentation by interested persons of data, information, and views related to the statistical methodology to be used in analyzing time-to-tumor data from the two mouse feeding studies on FD&C Red No. 40. The Working Group, invited Federal participants, and consultants will then meet in closed session to discuss and resolve the issues related to the statistical methodology and to develop their report to the Commissioner recommending the statistical method(s) deemed most appropriate for regulatory decisions.

Persons who desire to make presentations should notify Dr. Albert C. Kolbye, Jr., Bureau of Foods, 202-245-1301, by the close of business January 12, 1979, and indicate the amount of time needed for their presentations. Persons who are unable to appear in person on January 17 and 18, 1979, may submit data, information, and views in writing to Dr. Albert C. Kolbye, Jr., Bureau of Foods (HFF-100), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, by the close of business January 12, 1979.

Dated: December 26, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-36407 Filed 12-29-78; 8:45 am]

[4110-02-M]

Office of Education

GRADUATE AND UNDERGRADUATE INTERNATIONAL STUDIES PROGRAMS

Closing Date for Transmittal of Applications for Fiscal Year 1979

Applications are invited for new projects under the Graduate and Undergraduate International Studies Programs.

Authority for these programs is contained in section 601(a) of the National Defense Education Act of 1958, as amended.

(20 U.S.C. 511(a))

These programs issue awards to institutions of higher education; consortia applications are eligible but must be submitted by a member institution.

The purpose of the awards is to assist institutions to initiate or strengthen international and global components in their instructional program.

CLOSING DATE FOR TRANSMITTAL OF APPLICATIONS: Applications for awards must be mailed (postmarked) or hand delivered by February 20, 1979.

APPLICATIONS DELIVERED BY MAIL: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.435B (Undergraduate) or 13.435C (Graduate), Washington, D.C. 20202.

Proof of mailing must consist of a legible U.S. Postal Service dated postmark or a legible mail receipt with the date of mailing stamped by the U.S. Postal Service. Private metered postmarks or mail receipts will not be accepted unless they have been date stamped by the U.S. Postal Service. (NOTE: The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method.) Applicants are encouraged to use registered or at least first class mail.

Each late applicant will be notified that its application will not be considered in the current competition.

APPLICATIONS DELIVERED BY HAND: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional

Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8:00 a.m. and 4:00 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, or Federal holidays.

Applications that are hand delivered will not be accepted after 4:00 p.m. on the closing date.

PROGRAM INFORMATION: Specific information about these programs is contained in the regulations and guidelines (published in the FEDERAL REGISTER on May 23, 1977, 45 CFR Part 146) and in the program information and application package.

AVAILABLE FUNDS: Approximately $1,325,000 is expected to be available for initial grants under the Graduate and Undergraduate International Studies Programs for Fiscal Year 1979. Initial grant refers to the first year of a 2-year commitment, continuation of which for the second year depends upon the availability of funds and satisfactory performance.

Under the Graduate International Studies Program it is estimated that seven initial grants will be awarded at an amount up to $45,000. Under the Undergraduate International Studies Program it is estimated that approximately twenty initial grants will be awarded at an average of $40,000. Under either the Graduate or the Undergraduate International Studies Programs, it is estimated that three initial consortium grants will be awarded at an amount up to $70,000.

Grants for either Graduate or Undergraduate Programs will not exceed $45,000 annually for a single institution or $70,000 for a consortium.

These estimates do not bind the U.S. Office of Education except as may be required by the applicable statute and regulations.

APPLICATION FORMS: Application forms and program packages are expected to be ready for mailing by December 22, 1978. They may be obtained by writing to the International Studies Branch of the U.S. Office of Education (Room 3671, Regional Office Building 3), 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

APPLICABLE REGULATIONS: The regulations applicable to this program are: (a) Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a), and

(b) Regulations governing the Graduate and Undergraduate International Studies Programs (45 CFR Part 146).

FURTHER INFORMATION: For further information, contact Dr. Ann I. Schneider (for Graduate International Studies Programs) or Mrs. Susanna Easton (for Undergraduate International Studies Programs), International Studies Branch, DIE, U.S. Office of Education (Room 3671, Regional Office Building 3), 400 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone: (202) 245-9588.

(20 U.S.C. 511(a))

(Catalog of Federal Domestic Assistance Number 13.435B; Graduate and Undergraduate International Studies Programs)

Dated: December 22, 1978.

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc. 78-36387 Filed 12-29-78; 8:45 am]

[4310-02-M]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

RECEIPT OF PETITION FOR FEDERAL ACKNOWLEDGMENT OF EXISTENCE AS INDIAN TRIBES

DECEMBER 26, 1978.

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 230 DM 2.

Pursuant to 25 CFR 54.8(b), notice is hereby given that prior to October 2, 1978, the effective date of 25 CFR Part 54, the following groups filed petitions for acknowledgment by the Secretary of the Interior that they exist as Indian tribes.

Section 54.8(b) of the regulations gives each petitioning group the opportunity to review, revise or supplement its petition. Therefore, the original petition, with a copy of the guidelines, will be returned to each petitioning group. The return of the petition will not affect the priority established by the initial filing. This is a notice of receipt of petition and does not constitute notice that the petitions listed are under active consideration. Notice of active consideration will be by mail to petitioners and other interested parties at the appropriate time.

Antelope Valley Indian Community, c/o Mr. Wesley Dick, Post Office Box 35, Coleville, California 96107, 07/09/76.

Cherokee Indians of Georgia, Inc., c/o Mr. J. C. White Cloud Reynolds, 1516 14th Avenue, Columbus, Georgia 31901, 08/08/77.

Choctaw-Apache Indians, c/o Mr. Raymond L. Ebarb, Route 1, Box 168, Noble, Louisiana 71462, 07/02/78.

Clifton-Choctaw Indians, c/o Mr. Amos Tyler, Route 1, Box 51A, Mora, Louisiana 71455, 03/22/78.

Coos Tribe of Indians, c/o Mr. Russell Anderson, Box 3506, Coos Bay, Oregon 97420, 10/01/75.

Cowlitz Tribe of Indians (Lewis County), c/o Mr. Joseph E. Cloquet, 2815 Dale Lane East, Tacoma, Washington 98424, 09/17/75.

Creek Nation East of the Mississippi (Poarch, Alabama), c/o Mr. Thomas N. Tureen, Native American Rights Fund, Post Office Box 388, Calais, Maine 04106, 05/15/75.

Creeks East of the Mississippi, c/o Mr. John Wesley Thomley, Post Office Box 123, Molino, Floida 32577, 03/21/73.

Delaware-Muncie, c/o Mr. Clio Caleb Church, Box 274, Pomona, Kansas 66076, 06/19/78.

Duwamish Indian Tribe, 15614 first Avenue S., Seattle, Washington 98148, 06/07/77.

Eastern Pequot Indians of Connecticut, c/o Mr. Roy Sebastian, Lantern Hill Reservation, RFD 7, Box 941, Ledyard, Connecticut 06339, 06/28/78.

Faircloth Indians, c/o Mr. Jerry Lee Faircloth, Sr., Post Office Box 161, Atlantic, North Carolina 28511, 08/05/78.

Florida Tribe of Eastern Creek Indians, c/o Mr. James E. Waite, Post Office Box 462, Pensacola, Florida 32592, 06/02/78.

Four Hole Indian Organization—Edisto Tribal Council, c/o Mr. Robert Davidson, Route 3, Box 42F, Ridgeville, South Carolina 29472, 12/30/76.

Grand Traverse Band of Ottawa-Chippewas, c/o Eleesha M. Pastor, Michigan Indian Legal Services, 3041 N. Garfield Road, Traverse City, Michigan 49684, 05/05/35.

Hatteras Tuscarora Indians, c/o Mr. Vermon Locklear, Route 3, Box 47A, Maxton, North Carolina 28364, 06/24/78.

Huron Potawatomi Band, Mr. David Mackety, Route 1, Fulton, Michigan 48505, 03/11/72.

Ione Band, c/o Mrs. Bernice Villa, Route 1, Box 191, Ione, California 95640, 1916.

Jamestown Clallam Tribe of Indians, Route 5, Box 687, Port Angeles, Washington 98392, 01/22/76.

Lac Vieux Desert, c/o Mr. John McGeshick, Post Office Box 118, Watersmeet, Michigan 49969, 06/01/71.

Little Shell Band of North Dakota, c/o Ms. Mary Z. Wilson, Dunseith, North Dakota 58329, 11/11/75.

Little Shell Tribe of Chippewa Indians of Montana, c/o Mr. George Plummer, Star Route, Post Office Box 21, Dodson, Montana 59524, 04/28/78.

Lower Muskogee Creek Tribe East of the Mississippi, Inc., c/o Mr. Neal McCormick, Route 1, Tama Reservation, Cairo, Georgia 31728, 02/02/72.

Mashpee Wampanoag, Route 130 Mashpee, Massachusetts 02649, 07/07/75.

Mohegan Indian Group, Mr. John E. Hamilton, c/o Mr. Jerome M. Griner, Attorney and Counsellor at Law, 47 North Main Street, West Hartford, Connecticut 06107, 07/12/78.

Mono Lake Indian Community, c/o Mr. William J. Anderson, Post Office Box 237, Lee Vining, California 93541, 07/09/76.

Munsee Thames River Delaware, c/o Mr. William Lee Little Soldier, Post Office Box 587, Manitou Springs, Colorado 80911, 07/22/77.

Nanticoke Indian Association, c/o Mr. Kenneth S. Clark, Route 1, Box 107A, Millisboro, Delaware 19966, 08/08/78.

Piscataway Indians, c/o Mr. J. Hugh Proctor, General Delivery, Box 946, Waldorf, Maryland 20601, 02/22/78.

Plumas County Indians, Inc., c/o Mr. John R. Lewis, Post Office Box 833, 206 Main Street, Greenville, California 95947, 01/06/77.

Principal Creek Indian Nation, East of the Mississippi, c/o Mr. Arthur R. Turner, Post Office Box 201, Florala, Alabama 36442, 11/08/71.

Samish Tribe of Indians, c/o Mr. Robert Wooten, Samish Tribal Office, Post Office Box 217, Anacortes, Washington 98221, 06/13/75.

San Juan de Guadalupe Tiwa (Tortugas, New Mexico), c/o Diamond, Rash, Leslie & Schwartz, 1208 Southwest National Bank, El Paso, Texas 79901, 11/03/76.

Shinnecock Tribe, Post Office Box 59, Southampton, New York 11968, 02/08/78.

Snohomish Tribe of Indians, c/o Mr. Alfred Cooper, Snohomish Corresponding Secretary, 5101 27th Avenue West, Everett, Washington 98203, 03/03/75.

Snoqualmie Indian Tribe, c/o Ms. Helen C. Harvey, 20204 117th S.E., Kent, Washington 98031, 02/05/76.

Southeastern Cherokee Confederacy, Inc., c/o Mr. W. R. Jackson, Route 1, Box 111, Leesburg, Georgia 31763, 03/09/87.

Stellacoom Tribe, c/o Ms. Joan K. Marshall, 2212 A. Street, Tacoma, Washington 98402, 08/28/74.

Tsimshian Tribal Council, 1067 Woodland Avenue, Ketchikan, Alaska 99901, 07/02/78.

Tunica-Biloxi indian Tribe (Marksville, Louisiana), c/o Native American Rights Fund, 1712 N Street, N.W., Second Floor, Washington, D.C. 20036, 09/07/1826.

Petitions may be examined in the Division of Tribal Government Services, Bureau of Indian Affairs, Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20242.

RICK LAVIS,
Acting Assistant Secretary, Indian Affairs.

[FR Doc. 78-36364 Filed 12-29-78; 8:45 am]

[4310-84-M]

Bureau of Land Management

ARIZONA STRIP DISTRICT ADVISORY BOARD

Meeting

Notice is hereby given that the Arizona Strip District Grazing Advisory Board will hold its second annual meeting at 10:00 a.m. on February 15, 1979, at the Four Seasons Motor Inn and Convention Center, Suite No. 8, 747 East St. George Boulevard, St. George, Utah.

The purpose of the meeting is to discuss District Allotment Management Plans, the Rangeland Improvement Act; and recommend the distribution of Range Betterment Funds in Mohave and Coconino Counties.

The meeting will be open to the public. Any interested persons wishing to make a presentation to the board, or submit a written statement should contact the official listed below at least five (5) days prior to the meeting.

Further information concerning this meeting may be obtained from the District Manager, Bureau of Land Management, 196 East Tabernacle, St. George, Utah 84770 801-673-3545.

MARVIN H. WOODBURY,
Acting District Manager.

DECEMBER 20, 1978.

[FR Doc. 78-36413 Filed 12-29-78; 8:45 am]

[4310-84-M]

CALIFORNIA DESERT CONSERVATION AREA ADVISORY COMMITTEE

Meeting

Notice is hereby given in accordance with Pub. L. 92-463 and 94-579 that the California Desert Conservation Area Advisory Committee to the Bureau of Land Management, U.S. Department of the Interior, will meet February 1 and 2, 1979, in San Bernardino, California. The meeting Thursday evening, February 1 will be a business session devoted to election of officers for 1979, approval of minutes of the previous meeting, reports of subcommittees, and the report of the Bureau of Land Management State Director. The meeting Friday, February 2, will include public forums on potential major land exchanges in the California Desert Conservation Area, including consideration of major land holdings of the State of California and the Southern Pacific Land Company; wilderness values on public lands of the desert and the significance of desert wilderness; and the study phase of the Bureau of Land Management's wilderness review of the California Desert Conservation Area.

The meetings will be held at the San Bernardino Convention Center, 303 North E Street, San Bernardino, California 92418 from 7:30 p.m. to 10 p.m. on Thursday, February 1, 1979, and beginning at 8 a.m., Friday, February 2, 1979. All meetings of the advisory committee are open to the public and time will be made available for brief oral statements from the public on topics under discussion at the conclusion of the public forums and a discussion between the panelists and members of the advisory committee.

Further information, including the meeting agenda, may be obtained from the Chairman, California Desert Conservation Area Advisory Committee, c/o Desert Planning Staff, Bureau of Land Management, 3610 Central Avenue, Suite 402, Riverside, California 92506.

Dated: December 20, 1978.

ED HASTEY,
State Director.

[FR Doc. 78-36410 Filed 12-29-78; 8:45 am]

[4310-84-M]

[NM 35479, NM 35480, NM 35512, NM 35513]

NEW MEXICO

Applications

DECEMBER 22, 1978.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for five 4½-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 30 N., R. 7 W.,
Sec. 34, SE¼NW¼, NE¼SW¼ and NW¼SE¼.
T. 30 N., R. 10 W.,
Sec. 3, lot 15.
T. 31 N., R. 10 W.,
Sec. 11, lots 5 and 7;
Sec. 14, lots 2 and 6.

These pipelines will convey natural gas across 0.595 of a mile of public lands in Rio Arriba and San Juan Counties, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

RAUL E. MARTINEZ,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-36411 Filed 12-29-78; 8:45 am]

[4310-84-M]

[NM 35504]

NEW MEXICO

Application

DECEMBER 22, 1978.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Transwestern Pipeline Company has applied for one 4-inch natural gas pipeline and appurtenant facilities right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 18 S., R. 25 E.,
Sec. 7, lot 3.

This pipeline will convey natural gas across 0.04 of a mile of public land in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

RAUL E. MARTINEZ,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-36412 Filed 12-29-78; 8:45 am]

[1505-01-M]

NORTH ATLANTIC OUTER CONTINENTAL SHELF (TENTATIVE SALE NO. 52)

Call for Nominations of and Comments on Areas for Oil and Gas Leasing

Correction

In FR Doc. 78-35746, appearing at page 60237 in the issue of Tuesday, December 26, 1978, between the words "and" and "Land" in the 16th line of the second full paragraph, column three, page 60237, insert the following: "* * * to the manager, New York Outer Continental Shelf Office, Bureau of * * *"

[4310-84-M]

PUBLIC LANDS IN LYON COUNTY, NEV.

[N-20398]

Realty Action—Non-Competitive Sale

JANUARY 2, 1979.

The following described lands have been examined and identified as suitable for disposal by sale under Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750; 43 U.S.C. 1713):

T. 13 N., R. 25 E., Mt. Diablo Mer.
Sec. 17: Lots 5, 6, 8, 9, 10, 11, 12, SW¼SW¼NE¼, E½SW¼SE¼NW¼, SE¼SE¼NW¼, N½NE¼SW¼, E½SW¼NE¼SW¼, SE¼NE¼SW¼, NW¼NE¼SE¼SW¼, E½E½SE¼SW¼, W½W½W½SE¼, E½NW¼NW¼SE¼
Sec. 20: W½NE¼NW¼NE¼, NW¼NW¼NE¼, E½NE¼NE¼NW¼
Containing 144.12 acres.

The above described lands are being offered as a direct sale to The Anaconda Company at the appraised fair market value. The sale of the lands to The Anaconda Company will not be held until 60 days after the date of this notice.

The sale is consistent with anticipated Bureau of Land Management planning for the lands involved and has been discussed with Lyon County and Nevada state government officials. The townsite of Weed Heights is situated on the subject lands. Since all improvements in Weed Heights were made by The Anaconda Company, it is appropriate to make a direct sale to the company.

The alternative of public auction would not only increase the real property costs, but could result in a successful high bidder, other than The Anaconda Company, moving the housing improvements to another location. The Anaconda Company, in coordination with local government plans, will not remove the housing improvements. The Lyon County officials stated that the already established housing and associated buildings constitute a strong industrial relocation incentive for the area.

Detailed information concerning the sale, including the Land Report and Environmental Assessment Record, is available for review at the Carson City District Office, 1050 E. William Street, Suite 335, Carson City, Nevada 89701.

On or before February 1, 1979, interested parties may submit comments to the Secretary of the Interior, LLM, 320, Washington, D.C. 20240. Any adverse comments will be evaluated by the Secretary of the Interior who may vacate or modify this realty action and issue a final determination. In the absence of any action by the Secretary of the Interior, this realty action will become the final determination of the Department of the Interior.

THOMAS J. OWEN,
Carson City District Manager.

[FR Doc. 78-35462 Filed 12-29-78; 8:45 am]

[4310-03-M]

Heritage Conservation and Recreation Service

NATIONAL REGISTER OF HISTORIC PLACES

Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before December 22, 1978. Pursuant to § 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, Office of Archeology and Historic Preservation, U.S. Department of the Interior, Washington, DC 20240. Written comments or a request for additional time to prepare comments should be submitted by January 12, 1979.

WILLIAM J. MURTAGH,
Keeper of the National Register.

CALIFORNIA

Alameda County

Livermore vicinity, *Ravenswood*, S of Livermore on Arroyo Rd.

San Bernardino County

Chino, *Moyse Building*, 13150 7th St.

FLORIDA

Leon County

Tallahassee, *Old City Waterworks*, E. Gaines and S. Gadsden Sts.
Tallahassee vicinity, *Lewis House*, N of Tallahassee at 3117 Okeeheepkee Rd.

LOUISIANA

Orleans Parish

New Orleans, *Central City Historic District*, roughly bounded by Ponchatrain Expwy., S. Claiborne, St. Charles, and Delachaise Aves.

MARYLAND

Somerset County

Smith Island, *Island Belle*, Ewell

NEBRASKA

Douglas County

Omaha, *Anheuser-Busch Beer Depot*, 1207-1215 Jones St.

Washington County

Blair, *Congregational Church of Blair*, 16th and Colfax Sts.

OKLAHOMA

Tulsa County

Tulsa, *Cosden Building*, 409 S. Boston Ave.

TEXAS

Matagorda County

Blessing, *Hotel Blessing*, Ave. B

VIRGINIA

Albemarle County

Millington vicinity, *Midway*, SE of Millington off VA 678

Bland County

Ceres vicinity, *Sharon Lutheran Church and Cemetery*, W of Ceres on VA 42

Fauquier County

Middleburg vicinity, *Waverly*, S of Middleburg on VA 626

Goochland County

Goochland vicinity, *Elk Hill*, W of Goochland off VA 6

Halifax County

South Boston vicinity, *Glenmary*, SW of South Boston on U.S. 58

Hanover County

Mechanicsville vicinity, *Clover Lea*, E of Mechanicsville off VA 629

Middlesex County

Wilton vicinity, *Wilton*, S of Wilton on VA 3

Orange County

Old Somerset, *Somerset Christian Church*, VA 20

Powhatan County

Powhatan vicinity, *Belnemus*, W of Powhatan off U.S. 60

Richmond (independent city)

Richmond, *Reveille*, 4200 Cary Street Rd.

Rockingham County

Broadway vicinity, *Sites House*, NW of Broadway off VA 617
Elkton, *Miller-Kite House*, 302 Rockingham St.

Southampton County

Courtland vicinity, *Beechwood*, NE of Courtland on VA 643

Wythe County

Speedwell vicinity, *Zion Evangelical Lutheran Church Cemetery*, NW of Speedwell

[FR Doc. 78-36266 Filed 12-29-78; 8:45 am]

[4310-09-M]

Office of the Secretary

PUBLIC PARTICIPATION IN WATER SERVICE AND REPAYMENT CONTRACT NEGOTIATIONS

Final General Notice of Procedures

It is the policy of the Department of the Interior to afford the general public an opportunity to provide input into the decisionmaking process regarding Bureau of Reclamation repayment and water service contracts.

Under the authority of the Secretary of the Interior, as provided in the Reclamation Act of 1902, as amended and supplemented (32 Stat. 388, 42 U.S.C. 371), the Water Supply Act of 1958, as amended (72 Stat. 319, 43 U.S.C. 390b), the Small Reclamation Projects Act of 1956, as amended (70 Stat. 1044, 43 U.S.C. 422a) and the Federal Water Project Recreation Act, as amended (79 Stat. 213, 16 U.S.C. 4601-12), notice is given of the final procedures and guidelines for assuring public input into water service and repayment contract negotiations conducted by the Bureau of Reclamation, Department of the Interior.

Background. The repayment of reimbursable costs associated with reclamation activities requires consummation of contracts between the United States and beneficiaries of those reclamation activities. The terms and conditions of such contracts (including, but not limited to, such matters as quantities of water to be furnished, delivery schedules, construction of facilities, terms and conditions of repayment) affect a wider range of the general public than the immediate parties to the contract. In establishing the terms and conditions of the contract, the views of the general public shall be considered and ample opportunity shall be provided for review and comment on any new, amendatory, or supplemental water service or repayment contract, or amendment or supplement thereto.

Negotiations on new contracts between the United States and the Westlands Water District of the San Luis Unit, Central Valley Project, California, are now in process. These negotiations, as well as negotiations in process on any other new, amendatory, or supplemental contract, or amendment or supplement thereto, shall be conducted in accordance with these procedures to the fullest extent practicable.

It has been determined that publication and implementation of procedures to allow broader public comment on proposed contracts will not significantly affect the quality of the human environment and that no environmental impact statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, as amended (83 Stat. 853, 42 U.S.C. 4332(C)) is required. For contracts that are considered to be major Federal actions, and if compliance with the National Environmental Policy Act of 1969 has not been accomplished previously, or if such environmental studies need to be updated, the public participation in the environmental statement process will be coordinated with the public comment on the proposed contract action, when possible.

Public Participation Procedures. The scope of these procedures shall apply to all new, amendatory, or supplemental water service or repayment contracts proposed to be executed through the Bureau of Reclamation. These procedures will also apply to all contracts, such as subcontracts written pursuant to a master water service contract, in which the United States is a party or for which the United States must specifically approve for execution.

Notice shall be published by the Department of the Interior in the FEDERAL REGISTER whenever any of the following is to occur:

(1) The Bureau of Reclamation intends to enter into negotiations with potential contractors for new, amendatory, or supplemental contracts, or amendments or supplements thereto, as described above. Such notice shall include a brief, general description of the proposed action; identification of the specific legislative authority for the proposed contract; a point of public contact for inquiries and comments; and the period of time in which comments on the proposed contract will be received.

(2) The Bureau of Reclamation intends to hold public hearing(s) on a given draft contract and such notice shall include the date, time, and place of any scheduled public hearing(s). Such notice shall include a concise summary of the general terms and conditions of the proposed contract.

Publication of a notice in the FEDERAL REGISTER shall not preclude the Department of the Interior from providing notice by any other appropriate means.

Public input into the contracting process shall be assured by the following:

(1) All meetings scheduled by the Bureau of Reclamation with a potential contractor for the purpose of discussing terms and conditions of a proposed contract shall be open to the general public as observers. Advance notice of such meetings shall only be furnished to those parties having previously furnished a written request for such notice to the appropriate regional office of the Bureau of Reclamation. Such notice shall be furnished at least 1 week prior to said meeting.

(2) All written correspondence concerning the proposed contract shall be made available to the general public pursuant to the terms and procedures of the Freedom of Information Act (80 Stat. 383, 5 U.S.C. 552), as amended.

(3) The Commissioner of Reclamation shall determine if, when, and where public hearings will be held by the Bureau of Reclamation to receive comments on any proposed contract. All written comments received and testimony presented at any public hearing will be considered by the appropriate Regional Director and the Commissioner prior to submittal of a contract to the Secretary of the Interior for approval. A summary of all written comments received and testimony presented at any public hearing will be prepared and submitted to the Secretary for consideration prior to approval or disapproval of a given contract.

(4) The Commissioner of Reclamation shall establish a point(s) of public access to each proposed contract. Upon request, copies of each contract, and a summary thereof, shall be made available to the general public.

Dated: December 22, 1978.

CECIL D. ANDRUS,
Secretary of the Interior.

[FR Doc. 78-36366 Filed 12-29-78; 8:45 am]

[4510-28-M]

DEPARTMENT OF LABOR

Office of the Secretary

[TA-W-3323]

DAVIS-LYNCH GLASS CO., STAR CITY, W. VA.

Negative Determination on Reconsideration

On October 24, 1978, the Department made an Affirmative Determination Regarding Application for Reconsideration for workers and former workers of Davis-Lynch Glass Company of Star City, West Virginia. This determination was published in the FEDERAL REGISTER on October 31, 1978, (43 FR 50753).

The petitioners claimed that they had new evidence that imports, especially from Mexico, have led to reduced sales especially on the West Coast market. The petitioners further indicated that they have substantial information that Mexican imports have hurt the glass lamp and shade industry.

In its reconsideration, the Department received information from a company official that two-thirds of the decline in 1977 sales occurred in the first quarter of 1977 when production was hampered by the weather and a curtailment of gas usage was in effect.

Information obtained during the course of the reconsideration investigation revealed that very little of Davis-Lynch's production was made for the West Coast market, although company officials felt that imports from Mexico were stifling the growth of Davis-Lynch's sales on the West Coast market.

A review of the investigative file indicated that the Department's survey of customers representing about 65 percent of the subject firm's sales in 1977 revealed that imports of glass lamps and shades had virtually no effect on the subject firm's sales. Customer comments generally indicated that imports were not a factor in their purchases from the Davis-Lynch Glass Company.

CONCLUSION

After reconsideration, I reaffirm the original denial of eligibility to apply for adjustment assistance to workers and former workers of Davis-Lynch Glass Company of Star City, West Virginia.

Signed at Washington, D.C., this 21st of December 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-36440 Filed 12-29-78; 8:45 am]

[4510-28-M]

[TA-W-4132]

ERIE SCIENTIFIC CO., BUFFALO, N.Y.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4132: investigation regarding certification of eligibility to apply for worker adjustment assistance a prescribed in Section 222 of the Act.

The investigation was initiated on September 5, 1978 in response to a worker petition received on September 5, 1978 which was filed on behalf of workers and former workers producing microslides and cover glass at the Buffalo, New York plant of Erie Scientific Company. The investigation revealed that the plant produces microscope glass slides and micro cover glass.

The Notice of Investigation was published in the FEDERAL REGISTER on September 26, 1978 (43 FR 43589). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Erie Scientific Company, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed in the course of the investigation revealed that Erie Scientific Company is closing its Buffalo, New York plant and transferring production to other domestic plants.

Total sales and production by Erie Scientific and total company employment increased in 1977 from 1976 and in the first three quarters of 1978 compared to the same period in 1977. The declines in production and employment at the Buffalo plant paralleled increased output and employment at Erie Scientific's remaining two facilities in Raton, New Mexico and Portsmouth, New Hampshire. The imminent closure of the Buffalo plant is a result of a transfer of production from that plant to the remaining two plants.

CONCLUSION

After careful review, I determine that all workers of the Buffalo, New York plant of Erie Scientific Company are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 21st day of December 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-36441 Filed 12-29-78; 8:45 am]

[4510-28-M]

[TA-W-4291]

FAIRFIELD MILLS OF CONNECTICUT, INC., STAMFORD, CONN.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4291: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 25, 1978 in response to a worker petition received on October 19, 1978 which was filed on behalf of workers and former workers producing men's and boys' sweaters at Fairfield Mills of Connecticut, Inc., Stamford, Conn.

The Notice of Investigation was published in the FEDERAL REGISTER on November 3, 1978 (43 FR 51475). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Fairfield Mills of Connecticut, Inc., its customers, the U.S. Department of Commerce, the U.S International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that sales or production, or both, of the firm or subdivision have decreased absolutely.

Evidence developed during the course of the investigation revealed that Fairfield Mills' sales and production increased in the period October 1977 to September 1978 (extending back to 1 year prior to the date of petition) compared to the period October 1976 to September 1977.

CONCLUSION

After careful review, I determine that all workers of Fairfield Mills of Connecticut, Inc., Stamford, Conn. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 21st day of December 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research

[FR Doc. 78-36442 Filed 12-29-78; 8:45 am]

[4510-28-M]

[TA-W-3881]

MADISON WIRE COMPANY, INC., WEST SENECA, N.Y.

Revised Certification of Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, the Department of Labor issued a certification of eligibility to apply for adjustment assistance on September 22, 1978, applicable to workers and former workers of the West Seneca, New York, plant of Madison Wire Company, Inc. The Notice of Certification was published in the FEDERAL REGISTER on September 29, 1977, (43 FR 44939).

At the request of the petitioners, a further investigation was instituted by the Director of the Office of Trade Adjustment Assistance. A review of the case revealed that several layoffs of workers occurred a few days prior to the original impact date of January 29, 1978.

The intent of the certification is to cover all workers at the West Seneca, New York, plant of the Madison Wire Company, Inc., who were affected by the decline in production of carbon and stainless steel wire related to import competition. The certification, therefore, is revised providing a new impact date of January 20, 1978.

The revised certification applicable to TA-W-3881 is hereby issued as follows:

"All workers at the West Seneca, New York, plant of the Madison Wire Company, Inc., who became totally or partially separated from employment on or after January 20, 1978, are eligible to apply for adjustment assistance under Title II, chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C., this 21st day of December 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-36443 Filed 12-29-78; 8:45 am]

[4510-28-M]

[TA-W-4385]

MARIO'S SPORTSWEAR, BOSTON, MASS.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4385: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 14, 1978 in response to a worker petition received on November 9, 1978 which was filed on behalf of workers and former workers producing sportswear at Mario's Sportswear, Boston, Massachusetts. The investigation revealed that the plant primarily produces ladies' slacks and skirts.

The Notice of Investigation was published in the FEDERAL REGISTER on November 24, 1978 (43 FR 55013). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Mario's Sportswear, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that sales or production, or both, of the firm or subdivision have decreased absolutely.

Sales equal production at Mario's Sportswear. Quantity and dollar value of sales increased in the last quarter of 1977 compared to the same period of 1976 and increased in the January to October period of 1978 compared to the same period of 1977.

CONCLUSION

After careful review, I determine that all workers of Mario's Sportswear, Boston, Massachusetts are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 21st day of December 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-36444 Filed 12-29-78; 8:45 am]

[4510-28-M]

[TA-W-4311]

NAZARETH STEEL FABRICATORS, DIVISION OF UNITED INDUSTRIAL SYNDICATE, NAZARETH, PA.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4311: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 30, 1978 in response to a worker petition received on October 26, 1978 which was filed by Local 666 of the International Association of Bridge, Structural, and Ornamental Workers on behalf of workers and former workers producing fabricated steel at the Nazareth Steel Fabricators, Division of United Industrial Syndicate, Nazareth, Pennsylvania. The investigation revealed that the plant produces fabricated steel platework.

The Notice of Investigation was published in the FEDERAL REGISTER on November 7, 1978 (43 FR 51866). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Nazareth Steel Fabricators, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales of production.

Evidence developed during the course of the investigation indicated that United States imports of fabricated platework are insignificant.

Imports of fabricated platework have consistantly been under 1.0 percent of domestic shipments during the past five years. Import penetration in this industry has traditionally been insignificant due to the heavy, bulky nature of the products, their relatively low value, requirements for fast completion, and because they often must be custom engineered.

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CONCLUSION

After careful review, I determine that all workers of Nazareth Steel Fabricators, Division of United Industrial Syndicate, Nazareth, Pennsylvania, producing fabricated steel platework are denied eligibility to apply for adjustment assistance under title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 21st day of December 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-36445 Filed 12-29-78; 8:45 am]

[4510-28-M]

[TA-W-4114 and 4114A]

NIPACK, INC., KERENS, TEX., LITTLEFIELD, TEX.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4114: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on August 24, 1978 in response to a worker petition received on August 22, 1978 which was filed by the Oil, Chemical and Atomic Workers International Union on behalf of workers and former workers producing fertilizer, nitrate, ammonia phosphate, nitric acid, urea and anhydrous ammonia gas at the Kerens, Texas Trinity River Complex of Nipak, Incorporated. The investigation was expanded to include the Littlefield, Texas plant of Nipak, Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on September 5, 1978 (43 FR 39457). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Nipak, Incorporated, Enserch Corporation, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Department conducted a survey of the major customers of Nipak. The survey indicated that respondents which purchased imported fertilizer increased purchases from Nipak from 1976 to 1977. The survey also indicated customers did not purchase imported fertilizer in 1978.

CONCLUSION

After careful review, I determine that all workers of the Kerens, Texas and Littlefield, Texas plants of Nipak, Incorporated are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 21st day of December 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-36446 Filed 12-29-78; 8:45 am]

[4510-28-M]

[TA-W-4147]

NIPAK, INC., PRYOR, OKLAHOMA

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4147: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on September 13, 1978 in response to a worker petition received on September 7, 1978 which was filed by the Oil, Chemical and Atomic Workers International Union on behalf of workers and former workers producing nitrogen based fertilizer products at the Pryor, Oklahoma plant of Nipak, Incorporated.

The Notice of Investigation was published in the FEDERAL REGISTER on September 26, 1978 (43 FR 43588). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Nipak, Incorporated, Enserch Corporation, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Department conducted a survey of the major customers of Nipak. The survey indicated that respondents which purchased imported fertilizer increased purchases from Nipak from 1976 to 1977. The survey also indicated customers did not purchase imported fertilizer in 1978.

CONCLUSION

After careful review, I determine that all workers of the Pryor, Oklahoma plant of Nipak, Incorporated are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 21st day of December 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-36447 Filed 12-29-78; 8:45 am]

[4510-28-M]

[TA-W-3387]

QUALITY GLASS CO., MORGANTOWN, WEST VIRGINIA

Negative Determination on Reconsideration

On October 30, 1978, the Department made an Affirmative Determination Regarding Application for Reconsideration for workers and former workers of the Quality Glass Company of Morgantown, West Virginia. This determination was published in the FEDERAL REGISTER on November 3, 1978 (43 FR 51481).

With her application for reconsideration, the petitioner provided an additional list of customers since in her view few customers responded to the Department's original survey.

In its reconsideration, the Department conducted an additional customer survey which revealed that of those customers purchasing illuminating glassware from Quality Glass in the 1976-1978 survey period, none of the survey respondents imported. The Department could find no evidence that imports from Poland and Mexico affected purchases of illuminating glassware from Quality Glass Company by its customers.

CONCLUSION

After reconsideration, I reaffirm the original denial of eligibility to apply for adjustment assistance to workers and former workers of the Quality Glass Company of Morgantown, West Virginia.

Signed at Washington, D.C., this 21st day of December 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-36448 Filed 12-29-78; 8:45 am]

[4510-28-M]

[TA-W-4302]

ROTARY MACHINE COMPANY, INC., NASHVILLE, TENN.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4302: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 26, 1978 in response to a worker petition received on October 25, 1978, which was filed on behalf of workers and former workers producing french cord binding and vinyl binding for shoes at the Nashville, Tennessee plant of the Rotary Machine Company, Incorporated.

The Notice of Investigation was published in the FEDERAL REGISTER on November 3, 1978 (43 FR 51475-76). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of the Rotary Machine Company, Incorporated, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Industry sources indicated that U.S. imports of shoe trimmings, a category which includes shoe bindings, were negligible in 1976, 1977 and the first six months of 1978. Imports of footwear which incorporate shoe bindings are not considered to be like or directly competitive with shoe bindings within the meaning of Section 222(3) of the Trade Act of 1974.

CONCLUSION

After careful review, I determine that all workers of the Nashville, Tennessee plant of the Rotary Machine Company, Incorporated are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 21st day of December 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-36449 Filed 12-29-78; 8:45 am]

[4510-28-M]

[TA-W-4225]

S & H COMPANY, INC., BOSTON, MASS.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4225: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on September 29, 1978 in response to a worker petition received on September 27, 1978 which was filed on behalf of workers and former workers producing handbags at S & H Company, Incorporated, Boston, Massachusetts.

The Notice of Investigation was published in the FEDERAL REGISTER on October 17, 1978 (43 FR 44795). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of S & H Company, Incorporated, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

Imports of handbags increased from 90.2 million units in 1976 to 92.8 million units in 1977, and increased from 67.2 million units in the first three quarters of 1977 to 104.9 million units in the first three quarters of 1978.

The Department conducted a survey of customers of S & H Company who had reduced their purchases of handbags from that firm in the first three quarters of 1978 compared with the same period in 1977. Most of the respondents reported having increased their purchases of imported handbags during that period.

Customers purchasing imports commented that they would continue to rely on foreign sources for handbags in the future.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with handbags produced at S & H Company, Incorporated, Boston, Massachusetts contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of S & H Company, Incorporated, Boston, Massachusetts who became totally or partitially separated from employment on or after September 25, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 21st day of December 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-36450 Filed 12-29-78; 8:45 am]

[4510-28-M]

[TA-W-4355]

TENNESSEE LEATHER PRODUCTS, INC., LA FOLLETTE, TENN.

Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4355: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 7, 1978 in response to a worker petition received on November 6, 1978 which was filed on belalf of workers formerly producing women's and girls' leather and suede coats at Tennessee Leather Products, Incorporated, La Follette, Tennessee. The investigation revealed that the company primarily produced women's and girls' leather and suede coats and jackets, but also produced a small number of leather slacks.

The Notice of Investigation was published in the FEDERAL REGISTER on November 17, 1978 (43 FR 53852). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Tennessee Leather Products, Incorporated, its major customer, the U.S. Department of Commerce, the U.S. International Trade Commis-

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sion, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of leather coats and jackets increased from 115.5 million dollars in 1975 to 177.8 million dollars in 1976, and to 186.4 million dollars in 1977. U.S. imports increased from 115.6 million dollars in the first three quarters of 1977 to 205.1 million dollars during the same period of 1978.

Tennessee Leather Products' major customer, which represented nearly 100% of the subject firm's sales, indicated that its sales of women's and girls' leather apparel had declined from 1976 to 1977 and in the first quarter of 1978 compared to the same quarter of 1977, necessitating major reductions in its contract work with Tennessee Leather Products during this period. The decline in sales, and thus the decline in contract work with the subject firm, was directly attributable to the loss of the firm's largest customers to foreign sources. By late 1977 the company could no longer expect to compete if it continued to rely solely on domestic contractors; consequently, the company further reduced its business with Tennessee Leather Products after September 1977 and then turned completely to foreign sources when the subject firm closed in February 1978.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's and girls' leather and suede coats and jackets produced at Tennessee Leather Products, Incorporated, La Follette, Tennessee contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Tennessee Leather Products, Incorporated, La Follette, Tennessee, who becaome totally or partially separated from employment on or after November 3, 1977 and before February 19, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974. Workers separated on or after February 19, 1978 are denied eligibility.

Signed at Washington, D.C., this 19th day of December 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-36451 Filed 12-29-78; 8:45 am]

[7510-01-M]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (79-1)]

NASA ADVISORY COUNCIL (NAC) AERONAUTICS ADVISORY COMMITTEE

Meeting

A meeting of the Informal Executive Subcommittee of the NAC Aeronautics Advisory Committee will be held January 23, 1979, from 9 a.m. to 4 p.m. in room 625, NASA Headquarters, 600 Independence Avenue, SW. Washington, D.C. 20546. The meeting will be open to the public up to the seating capacity of the room (about 45 persons including committee members and participants).

The Aeronautics Advisory Committee was established to advise NASA senior management through the NASA Advisory Council in the area of aeronautical research and technology. The purpose of the Executive Subcommittee meeting is to review and discuss recent and planned activities of the informal ad hoc subcommittees, identify future ad hoc activities and to formulate plans for the June/July 1979 meeting of the Aeronautics Advisory Committee. The Chairperson is Dr. Robert C. Loewy. There are six members on the Informal Executive Subcommittee.

AGENDA

JANUARY 23, 1979

9:00 a.m. Reports from the Informal Ad Hoc Subcommittees' Chairpersons
1:00 p.m. Future Activities of the Informal Ad Hoc Subcommittees
3:00 p.m. Planning for the June/July 1979 Meeting of the Aeronautics Advisory Committee

For further information, contact Mr. C. Robert Nysmith, Executive Secretary, (202) 755-3252, NASA Headquarters, Code RP, Washington, D.C. 20546.

FRANK J. SIMOKAITIS,
Acting Associate Administrator for External Relations.

DECEMBER 26, 1978.

[FR Doc. 78-36408 Filed 12-29-78; 8:45 am]

[7590-01-M]

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on the William H. Zimmer Nuclear Power Station

Meeting

The ACRS Subcommittee on the William H. Zimmer Nuclear Power Station will hold a meeting on January 17, 1979, in Room 1046, 1717 H Street, NW., Washington, DC 20555 to review the application of the Cincinnati Gas and Electric Company for a permit to operate Unit 1 of this station. Notice of this meeting was published on October 20, November 20, and December 20, 1978 (43 FR 49080, 54147, and 59447, respectively).

In accordance with the procedures outlined in the FEDERAL REGISTER on October 4, 1978, (43 FR 45926), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows:

Wednesday, January 17, 1979—10:00 a.m. until the conclusion of business.

The Subcommittee may meet in Executive Session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting and to formulate a report and recommendations to the full Committee.

At the conclusion of the Executive Session, the Subcommittee will hear presentations by and hold discussions with representatives of the NRC Staff, the Cincinnati Gas and Electric Company, and their consultants, pertinent to this review. The Subcommittee may then caucus to determine whether the matters identified in the initial session have been adequately covered and whether the project is ready for review by the full Committee.

In addition, it may be necessary for the Subcommittee to hold one or more closed sessions for the purpose of exploring matters involving proprietary information. I have determined, in accordance with Subsection 10(d) of Pub. L. 92-463, that, should such sessions be required, it is necessary to close these sessions to protect proprietary information (5 U.S.C. 552b(c)(4)).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the Designated Federal Employee for this meeting, Dr. Richard P. Savio, (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m., EST.

Background information concerning items to be considered at this meeting can be found in documents on file and available for public inspection at the NRC Public Document Room, 1717 H Street, NW., Washington, DC 20555 and at the Clermont County Library, Third and Broadway Streets, Batavia, Ohio 45103.

Dated: December 26, 1978.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc. 78-36424 Filed 12-29-78; 8:45 am]

[7590-01-M]

[Docket No. 50-382]

LOUISIANA POWER & LIGHT CO. (WATERFORD STEAM ELECTRIC STATION, UNIT 3)

Receipt of Application for Facility Operating License; Availability of Applicant's Environmental Report; Consideration of Issuance of Facility Operating License; and Opportunity for Hearing

Notice is hereby given that the Nuclear Regulatory Commission (the Commission) has received an application for a facility operating license from Louisiana Power & Light Company (the applicant) to possess, use, and operate the Waterford Steam Electric Station, Unit 3, a pressurized water nuclear reactor (the facility), located on the applicant's site in St. Charles Parish, Louisiana. The reactor is designed to operate at a core power level of 3390 megawatts thermal, with an equivalent net electrical output of approximately 1104 megawatts.

The applicant has also filed an environmental report, pursuant to the National Environmental Policy Act of 1969 and the regulations of the Commission in 10 CFR Part 51. The report, which discusses environmental considerations related to the proposed operation of the facility, is being made available at the office of State Clearinghouse, Department of Urban and Community Affairs, P.O. Box 44455, Capitol Stations, Baton Rouge, Lousiana 70804, and at the Teche Regional Clearinghouse, c/o South Central Planning and Development Commission, P.O. Box 846, Thibodaux, Louisiana 70301.

After the environmental report has been analyzed by the Commission's staff, a draft environmental statement will be prepared. Upon preparation of the draft environmental statement, the Commission will cause to be published, in the FEDERAL REGISTER, a notice of availability of the draft statement, requesting comments on the draft statement from interested people. The notice will also contain a statement to the effect that any comments of Federal agencies and of State or local officials will be made available when received. The draft environmental statement will focus only on those matters that differ from those previously discussed in the final environmental statement that was prepared in connection with the issuance of the construction permit. Upon consideration of comments submitted with respect to the draft environmental statement, the Commission's staff will prepare a final environmental statement, the availability of which will be published in the FEDERAL REGISTER.

The Commission will consider the issuance of a facility operating license to Louisiana Power and Light Company which would authorize the applicant to possess, use and operate the Waterford Steam Electric Station, Unit 3, in accordance with the provisions of the license and the technical specifications appended thereto, upon: (1) The completion of a favorable safety evaluation of the application by the Commission's staff: (2) the completion of the environmental review required by the Commission's regulations in 10 CFR Part 51; (3) the receipt of a report on the applicant's application for a facility operating license by the Advisory Committee on Reactor Safeguards; and (4) a finding by the Commission that the application for the facility license, as amended, complies with the requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations in 10 CFR Chapter 1. Construction of the facility was authorized by Construction Permit No. CPPR-103, issued by the Commission on November 14, 1974. Construction of Unit 3 is anticipated to be completed by May 1981.

Prior to issuance of any operating license, the Commission will inspect the facility to determine whether it has been constructed in accordance with the application, as amended, and the provisions of the construction permit. In addition, the license will not be issued until the Commission has made the findings reflecting its review of the application under the Act, which will be set forth in the proposed license, and has concluded that the issuance of the license will not be inimical to the common defense and security or to the health and safety of the public. Upon issuance of the license, the applicant will be required to execute an indemnity agreement as required by Section 170 of the Act and 10 CFR Part 140 of the Commission's regulations.

By Feburary 1, 1979, the applicant may file a request for a hearing with respect to issuance of the facility operating license and any person whose interest may be affected by this proceeding may file a petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission, or an Atomic Safety and Licensing Board designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition, and the Secretary of the Commission, or the designated Atomic Safety and Licensing Board, will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceedings; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order that may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Anyone who has filed a petition for leave to intervene or who has been admitted as a party may amend his petition, but such an amended petition must satify the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, the petitioner shall file a supplement to the petition to intervene. The petition must include a list of contentions that are sought to be litigated in the matter, and the bases for each contention, all set forth with reasonable specificity. A petitioner who fails to file such a supplement that satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, or may be delivered to the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. by February 1, 1979. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C., 20555, and to Mr. E. Blake,

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Shaw, Pittman, Potts and Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036, attorney for the applicant. Any questions or requests for additional information regarding the content of this notice should be addressed to the Chief Hearing Counsel, Office of the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Non-timely filings of petitions for leave to intervene, amended petitions, supplemental petitions and requests for hearing will not be entertained without a determination by the Commission, the presiding officer, or the Atomic Safety and Licensing Board designated to rule on the petition or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714 (a)(1)(i)–(v) and 2.714(d).

For further details, see the application for the facility operating license and the applicant's environmental report, both transmitted by letter dated December 15, 1978, all of which are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, Louisiana 70122. As they become available, the following documents may be inspected at the above locations: (1) The safety evaluation report prepared by the Commission's staff; (2) the draft environmental statement; (3) the final environmental statement; (4) the report of the Advisory Committee on Reactor Safeguards on the application for facility operating license; (5) the proposed facility operating license; and (6) the technical specifications, which will be attached to the proposed facility operating license.

Copies of the proposed operating license and the Advisory Committee on Reactor Safeguards report, when available, may be obtained by request to the Director, Division of Project Management, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Copies of the Commission's staff safety evaluation report and final environmental statement, when available, may be purchased at current rates, from the National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161.

For the Nuclear Regulatory Commission.

Dated at Bethesda, Maryland this 19th day of December, 1978.

ROBERT L. BAER,
Chief, Light Water Reactors Branch No. 2, Division of Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 78-36289 Filed 12-29-78; 8:45 am]

[7590-01-M]

[Docket No. 50-293]

BOSTON EDISON CO.

Issuance of Amendment To Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 35 to Facility Operating License No. DPR-35 issued to Boston Edison Company, which revised the Technical Specifications for operation of the Pilgrim Nuclear Power Station, Unit No. 1, located near Plymouth, Massachusetts. The amendment is effective as of the date of its issuance.

This amendment adds license conditions relating to the completion of facility modifications for fire protection and the implementation of administrative controls, and modifies the Technical Specifications to include additional limiting conditions for operation and surveillance requirments for existing fire protection systems.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendment will not result in any significant environmental impact and that pursuant to 10 CFR Section 51.5(d)(4), an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the licensee's submittals dated March 6, May 4, July 10, and September 22, 1978, (2) Amendment No. 29 to License No. DPR-35, dated March 3, 1978, (3) Amendment No. 35 to license No. DPR-35 and (4) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room 1717 H Street, NW., Washington, D.C. and at the Plymouth Public Library, on North Street in Plymouth, Massachusetts 02360. A single copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reators.

Dated at Bethesda, Maryland, this 21 day of December 1978.

For the Nuclear Regulatory Commission.

THOMAS A. IPPOLITO,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 78-36425 Filed 12-29-78; 8:45 am]

[7590-01-M]

[Docket No. 50-333]

POWER AUTHORITY OF THE STATE OF NEW YORK

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 44 to Facility Operating License No. DPR-59, issued to Power Authority of the State of New York, which revised Technical Specifications for operation of the James A. FitzPatrick Nuclear Power Plant (the facility) located in Oswego County, New York. The amendment is effective as of its date of issuance.

The amendment revises the Technical Specifications on an interim basis to allow plant operation with higher than allowable leakage of the outboard Main Steam Isolation Valve for a main steam line.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR section 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated December 12, 1978, (2) Amendment No. 44 to License No. DPR-59, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Oswego County Office Building, 46 E. Bridge Street, Oswego, New York 13126. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 20th day of December 1978.

For the Nuclear Regulatory Commission.

THOMAS A. IPPOLITO,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 78-36426 Filed 12-29-78; 8:45 am]

[7590-01-M]

[Docket No. 50-312]

SACRAMENTO MUNICIPAL UTILITY DISTRICT

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 25 to Facility Operating License No. DPR-54, issued to Sacramento Municipal Utility District, which revised the license for operation of the Rancho Seco Nuclear Generating Station (the facility) located in Sacramento County, California. The amendment is effective as of its date of issuance.

The amendment revises the completion date for certain modifications intended to imporve the level of fire protection at the facility.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated December 1, 1978, (2) Amendment No. 25 to License No. DPR-54, and (3) the Commission's related Supplement No. 1 to the Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Business and Municipal Department, Sacramento City-County Library, 828 I Street, Sacramento, California. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 14th day of December 1978.

For the Nuclear Regulatory Commission.

GERALD B. ZWETZIG,
Acting Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc. 78-36427 Filed 12-29-78; 8:45 am]

[6820-97-M]

PRESIDENTIAL COMMISSION ON WORLD HUNGER

Subcommittee Meetings

Subcommittees of the Presidential Commission on World Hunger have scheduled meetings as follows:

The Domestic, Argiculture Policy, Consumer and Nutrition subcommittee will meet on January 19, 1979 in Washington, D.C. The Public Participation and Communication subcommittee will meet on January 23, 1979 in Washington, D.C. The International Policy subcommittee will meet on January 26, 1979 in New York.

The full Presidential Commission on Work Hunger will meet on January 31, 1979 in Washington, D.C.

The meetings will be open to observation by the public. Details as to locations and times of meetings are being developed and may be obtained by calling Area Code 202-395-3505 after January 2, 1979. Persons interested in attending such meetings should address a letter to the Commission or visit in person the Presidental Commission on World Hunger, 734 Jackson Place, N.W., Washington, D.C. 20006. Admission of observers will be on the basis of earliest postmark date or date of visit and to the extent space is available.

DANIEL E. SHAUGHNESSY,
Acting Executive Director, Presidential Commission on World Hunger.

[FR Doc. 78-36431 Filed 12-29-78; 8:45 am]

[8010-01-M]

SECURITIES AND EXCHANGE COMMISSION

[Administrative Proceeding File No. 3-5574, File No. 81-423]

ADOBE BUILDING CENTERS, INC.

Application and Opportunity for Hearing

DECEMBER 20, 1978.

Notice is hereby given that Adobe Building Centers, Inc. ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act"), for an order exempting Applicant from the provisions of Section 15(d) of the 1934 Act.

The Applicant states in part:

1. Applicant is incorporated under the laws of the State of Delaware.

2. Prior to the merger with Imperial Industries, Inc. ("Imperial"), the Applicant had one class of equity securities registered under the Securities Act of 1933.

3. Prior to the merger with Imperial, Applicant's common stock was registered pursuant to Section 12(g) of the 1934 Act.

4. As a result of the merger, Applicant became a wholly owned subsidiary of Imperial on September 29, 1978.

In the absence of an exemption, Applicant is required to file a report on Form 8-K as well as an annual report on Form 10-K for the current fiscal year ending December 31, 1978. The applicant believes that its request for an order exempting it from the provisions of Section 15(d) of the 1934 Act is appropriate in view of the fact that Applicant believes that the time, effort and expense involved in compliance with such provisions would be disproportionate to any benefit to the public.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 500 North Capitol Street, Washington, D.C.

Notice is further given that any interested person not later than January 15, 1979 may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Com-

mission, 500 North Capitol Street NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after said date, an order granting the application may be issued upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc. 78-36393 Filed 12-29-78; 8:45 am]

[8010-01-M]

[Administrative Proceeding File No. 3-5587; File No. 81-412]

ASPEN SYSTEMS CORP.

Application and Opportunity for Hearing

DECEMBER 20, 1978.

Notice is hereby given that Aspen Systems Corporation ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934 (the "1934 Act") for an order granting Applicant an exemption from filing a Form 10-K required by the provisions of Section 15(d) of the 1934 Act.

The Applicant states, in part:

1. On September 12, 1978, Applicant was merged into USICU, Inc., a wholly-owned subsidiary of American ICU, Inc. As a result of the merger, Applicant no longer has any publicly traded common stock.

2. Preparation and filing of a Form 10-Q for the fiscal quarter ended November 15, 1978 and Form 10-K for the fiscal year ended December 31, 1978 would serve no useful purpose.

Applicant argues that the granting of the exemption would not be inconsistent with the public interest or the protection of investors.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 500 North Capitol Street, Washington, D.C. 20549

Notice is further given that any interested persons not later than Jan. 15, 1979 may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for the request, and the issues of fact and law raised by the application which such person desires to controvert. At any time after said date, an order granting th application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc. 78-36394 Filed 12-29-78; 8:45 am]

[8010-01-M]

[Rel. No. 20831; 70-6233]

BROCKTON EDISON CO.

Proposed Extension of Existing Borrowing by Subsidiary From Bank, and Proposal for New Borrowing

DECEMBER 15, 1978.

Notice is hereby given that Brockton Edison Company ("Brockton"), 36 Main Street, Brockton, Mass. 02403, an electric utility subsidiary of Eastern Utilities Associates, a registered holding company, has filed an application-declaration pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(b) and 12(c) of the Act and Rules 42(b)(2) and 50(a)(2) promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

By order dated October 13, 1976 (HCAR No. 19713), this Commission authorized Brockton to purchase from its associate company Blackstone Valley Electric Company ("Blackstone") all of the securities of its associate company Montaup Electric Company ("Montaup") owned by Blackstone. As a part of the consideration for that purchase, Brockton assumed Blackstone's obligations with respect to a $15,000,000 borrowing which Blackstone had made from Citibank. The Montaup securities so purchased are pledged to Citibank to secure those obligations. The note evidencing those borrowings matures October 21, 1979.

Brockton now proposes to enter into an amendment to the loan agreement with Citibank, effecting modifications whereby the borrowing will be payable in three installments of $5,000,000 each on December 1, 1984, June 1, 1985, and December 1, 1985. The interest rate for such loans shall be at a fluctuating interest rate equal to 109% of the higher of the base rate (the "Alternate base rate") of Citibank on 90-day loans to substantial commercial borrowers in effect from time to time or to ½ of one percent above the latest three-week moving average interest rate payable on 90 to 119 day dealer placed commercial paper. From January 1, 1981, to but not including January 1, 1983, the interest rate shall be 111% of the Alternate base rate and thereafter unitl payment in full the interest rate shall be 112% of the Alternate base rate. This new note will be repayable in whole or in part at any time without penalty.

Brockton also proposes to enter into a Term Loan Agreement with Citibank providing, on an unsecured basis, an additional $5,000,000, such borrowing to mature June 1, 1984. The interest on such note shall be the same as the previously described secured note. The note will be pre-payable, in whole or in any part not less than $500,000 at any time without penalty, and prepayments will be required under certain circumstances. The proposed Term Loan Agreement contains a representation by Citibank that it is acquiring the note in the ordinary commercial banking business and not with a view to the public distribution thereof.

The proceeds of the $5,000,000 unsecured borrowing will be used by Brockton to prepay a short-term $4,000,000 indebtedness to Citibank, bearing interest at Citibank's Base Rate and due March 1, 1979, and to prepay other short-term bank indebtedness.

No commitment fee, closing fee or similar charge, and no compensating balance will be required in connection with either of the transactions herein proposed. Assuming that the applicable basic rate used in each interest calculation is at all relevant times 10.75% per annum, the effective annual interest rate to be paid by Brockton will be (a) for the secured borrowing, 11.7175% for the period from the date of the new note to but not including January 1, 1981, 11.9325% from January 1, 1981, to but not including January 1, 1983, and 12.04% thereafter, and (b) for the unsecured borrowing, 11.266% for the period from the date of the note to but not including January 1, 1980, 11.395% from January 1, 1980, to but not including January 1, 1981, 11.5025% from January 1, 1981, to but not including January 1, 1983, and 11.7175% thereafter.

It is stated that the Department of Public Utilities of the Commonwealth of Massachusetts has jurisdiction over the proposed transactions and that no other state commission, and no federal commission, other than this Commission, has jurisdiction over the proposed transactions. Any fees or expenses to be incurred in connection with the transactions will be supplied by amendment.

Notice is further given that any interested person may, not later than January 8, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant-declarant at the above-stated address and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-36395 Filed 12-29-78; 8:45 am]

[8010-01-M]

[Rel. No. 15413; SR-CSE-78-2]

CINCINNATI STOCK EXCHANGE

Order Approving Rule Change

DECEMBER 15, 1978.

I. BACKGROUND

On April 18, 1978, the Commission, pursuant to Sections 11A and 19(b)(2) of the Securities Exchange Act (the "Act"), issued an order [1] approving a proposed rule change of the Cincinnati Stock Exchange ("CSE") Dixie Terminal Building, Cincinnati, Ohio 45202,[2] to establish the CSE Multiple Dealer Trading System ("CSE System") as a 9-month pilot program. The initial authorization for the CSE System will expire on January 31, 1979 unless an extension is approved by the Commission.

The CSE System, through an electronic communications network maintained by the CSE, enables CSE members, without the necessity of maintaining a presence on the floor of the CSE or any other exchange, to participate in a market conducted in accordance with certain auction-type trading principles by entering bids and offers for securities for their own account and as agents for their customers' accounts. In addition, the CSE System rules permit a specialist on any national securities exchange, without becoming a member of the CSE, to enter bids and offers in the System as principal or as agent in any security in which that specialist is registered on another exchange. Orders entered into the CSE System are stored and queued in the CSE's computer facilities and executions occur in the CSE System, pursuant to CSE Rule 9D3 (Temporary), according to certain priorities. Priority is governed first by price (*i.e.*, the highest bid and lowest offer) and, as to orders at the same price, by time of entry. However, "public agency orders," regardless of time entry, are granted priority over other orders at the same price.[3]

In approving the CSE System pilot program, the Commission noted its responsibilities under the Act to insure the development and maintenance of a "fair field of competition" among brokers and dealers and among securities markets and concluded that the CSE System pilot was the type of "competition enhancing" development that should be permitted in light of the national market system mandate of the Act.[4] At the same time, the Commission noted that the CSE System was the private initiative of the CSE, that it was purely voluntary for those who chose to use it, and that, by its approval, the Commission was not thereby altering its previously articulated position that it did not intend "to force all auction trading into an electronic system with automatic execution capabilities."[5]

While the CSE System proposal was initially approved by the Commission in April 1978, trading in the System did not commence until June 6, 1978. On that date, the CSE designated for use in the CSE System the computer facilities formerly employed in the Regional Market System ("RMS"), a predecessor market linkage system in which the Boston, Midwest and Pacific Stock Exchanges, in addition to the CSE, participated.[6] Since the start-up of the CSE System, the number of broker-dealers participating in the System has been limited. On June 13, 1978, Merrill Lynch, Pierce, Fenner & Smith, Inc. ("Merrill Lynch") became a CSE member and an approved dealer in the CSE System and commenced market making in two securities designated for trading in the CSE System.[7] Weeden & Co. and American Securities Corp. (both CSE members) and certain specialists on the floors of the Boston, Pacific and Midwest Stock Exchanges have also participated as approved dealers in the CSE System. On September 25, 1978, Prescott, Ball & Turben, Inc. joined the CSE and became an approved dealer in the CSE System.

II. THE CURRENT CSE PROPOSED RULE CHANGE

On September 25, 1978, the CSE filed with the Commission a proposed rule change, pursuant to Section 19(b) of the Act and Rule 19b-4 thereunder,[8] to extend the CSE System for 1 year. Accordingly, if the proposed rule change is approved, the CSE System pilot program would be continued until January 31, 1980.

The CSE states that its proposed rule change is consistent with the purposes of the Act, in that, among other

[1] Securities Exchange Act Release No. 14674 (April 18, 1978); 14 SEC Docket 817 (May 2, 1978); 43 FR 17894 (April 26, 1978) ("April Order").

[2] CSE Rule 9D3 (Temporary).

[3] A "public agency order" is defined under CSE Rule 9D3(c) (Temporary) as "any order for the account of a person other than an approved dealer [in the CSE System], a member, or a person who could become an approved dealer by complying with * * * Rule [9D3 (Temporary)] with respect to his use of the System, which order is represented, as agent, by a user."

"Approved dealers" in the CSE System, in turn, include CSE members who undertake certain market making responsibilities and meet certain minimum capital requirements and specialists on national securities exchanges who enter bids and offers in the CSE System in securities in which they are registered as specialists.

For a more detailed discussion of the trading priorities in the CSE System and other characteristics of the System, *see* April Order at 9-10, 14 SEC Docket 821-22 (May 2, 1978).

[4] April Order at 12, 14 SEC Docket at 823.

[5] *Id.* at 4, 14 SEC Docket 819.

[6] One reason for the delayed start-up of the CSE System is attributable to the time required to make certain programing changes in the computer system formerly used in the RMS experiment.

[7] Those securities were the common stock of American Home Products Corp. and Westinghouse Electric Corp. Since June, Merrill Lynch has become a market maker in the CSE System in six additional securities. Under CSE Rule 9D3 (Temporary), up to 200 securities which are listed on or admitted to unlisted trading privileges on the CSE may be designated for trading in the CSE System. To date, 38 securities have been so designated.

[8] The proposed rule change (SR-CSE-78-2) was noticed in Securities Exchange Act Release No. 15190 (Sept. 25, 1978) and published in the FEDERAL REGISTER, 43 FR 44951 (Sept. 29, 1978). Interested persons were invited to submit data, views, and arguments concerning the proposed rule change on or before October 29, 1978.

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things, extension of the CSE System would facilitate removal of impediments to and perfection of the mechanism of a free and open market, in accordance with Section 6(b)(5) of the Act, and would foster fair competition among brokers and dealers and among exchange markets, in furtherance of Section 11A(a)(1)(c)(ii) of the Act. The CSE further states that the value of the CSE System, as a national market system experiment, would be enhanced, if extended, by providing a more extensive data base with which to analyze trading in a computerized trading environment.

The Commission has received a number of comments from self-regulatory organizations and from interested brokers and dealers concerning the CSE System, both in response to the Commission's solicitation of views following its approval of CSE's initial rule filing [9] and in response to the publication of CSE's proposal to extend its pilot program.[10] With the exception of the NYSE, the Amex and the BSE, all commentators generally favored Commission approval of the extension of the CSE System experiment. These commentators shared the belief that the CSE System had not yet been given an adequate trial period and that additional experience with the CSE System would assist in understanding the national market system implications of trading in the System.

The NYSE and the Amex, in their comments, raised questions concerning the opportunity afforded CSE approved dealers to trade against their own retail order flow without exposing those orders to other buying or selling interest. The two exchanges contended that this "internalization" of order flow creates opportunities for overreaching by CSE System participants, may lead to market fragmentation, and is otherwise inconsistent with national market system objectives. The BSE also expressed concern with respect to the potential for "internalization" posed by the CSE System. In addition, the NYSE and the Amex, in their comments, questioned the adequacy of surveillance of trading in the CSE System and the ability of that System to permit a reconstruction of the market (i.e., an "audit trail") at any given point in time.

III. Discussion

In its order initially approving the CSE System experiment, the Commission emphasized its responsibility to ensure the maintenance of a fair field of competition among brokers and dealers and among markets and to encourage initiatives of the securities industry to conduct experiments designed to further the national market system objectives of the Act. For those reasons, the Commission gave its initial authorization to the CSE System experiment and, for the same reasons, the Commission now approves the CSE's proposal for a one-year extension of its experiment.[11]

The CSE System, in order to prove a useful and instructive experiment, needs additional time to permit additional brokers and dealers who wish to participate in the pilot program an opportunity to do so. An extension of the CSE System for one year, should provide a more meaningful opportunity for participation in the experiment and for an appropriate assessment of trading securities in a computerized system and its relation to other markets.

In approving the initial phase of the CSE System experiments, the Commission noted, concern over the potential for internalization and market fragmentation posed by the CSE System, concerns which have been reiterated by the NYSE and the Amex in their comments on the proposed extension of the experiment. On the basis of the data available at this stage of the experiment, however, the Commission has not been able to discern any adverse impact upon the securities markets or upon investors with respect to securities traded in the CSE System. The Commission believes that an extension of the CSE experiment may permit greater participation in the CSE System [12] and provide additional data which may assist the Commission in analyzing trading in the System and the market structure implications, if any, of "internalization" which may occur in the System. Further, as the Commission has previously noted, the CSE System experiment appears to provide at least one means by which a linking of geographically desparate securities markets can be achieved.[13]

In addition, given the current dissemination of transaction and quotation information, the accessibility of the CSE System, and the communications linkage of exchange markets and upstairs market makers offered by the System, the Commission believes that the requested extension of the CSE System experiment poses no significant risk of harm to investors or to the maintenance of fair and orderly markets. In this connection, the Commission notes that brokers and dealers may obtain current and reliable market information concerning CSE System trading and may take this into account in their trading on the CSE or in another market. CSE System transactions are included in the consolidated transaction reporting system and CSE System quotations, in addition to their display on CSE terminals in the offices of CSE approved dealers and on the floors of the BSE, MSE and PSE, are made available to vendors in accordance with the requirements of Securities Exchange Act Rule 11Ac1-1 (17 CFR 240.11Ac1-1). Moreover, access to the CSE System under CSE Rule 9D3 (Temporary), permitting direct and efficient interaction with bids and offers entered in the CSE System, is available to or through any CSE member, or may be obtained by or through any exchange specialist who makes a market in any security designated for trading in the System.

With respect to the integrity of the trading process in the CSE System and adherence by participants to the rules governing trading in the CSE, the Commission believes that extension of the CSE experiment is consistent with the protection of investors and the public interest. The CSE, in July, 1978, retained an independent auditing firm to test the operation of the CSE System, particularly with respect to the price, time, and public agency order priorities of the System. The report of that firm concludes that the CSE System operates in a manner which "[a]dheres to the Rules of the Cincinnati Stock Exchange [and] [c]onforms to all substantial representations as to its capabilities." [14]

Moreover, in its own monitoring of trading in the CSE System, and its review of reports and data submitted by the CSE, the Commission has found no reason to reach a different conclusion.[15] In addition, the Commission through its monitoring efforts believes that daily computer prints-outs by the CSE System provide sufficient information to enable the construction of an "audit trail" necessary for regulation and surveillance of trading in the CSE System. Finally, the CSE entered into an agreement with the NASD pursuant to which the NASD conducted an examination of CSE members acting as "upstairs" approved dealers in the System to determine compliance with applicable CSE rules. The NASD report, which the Commission has reviewed, presents no reason to find any significant risks to investor protection posed by an extension of the CSE System. The Commission does note, however, that the CSE and the NASD have not yet formalized any arrangement by which the NASD would continue regularly to conduct on-site examinations of CSE approved dealers. In the event the CSE decides to rely uon the NASD for the performance of these self-regulatory responsibilities during the extension period, the Commission would expect both parties to move expeditiously to formalize this arrangement.

IV. Conclusion

The Commission finds that the CSE proposal to extend authorization of the CSE System for an additional one-year period, until January 31, 1980, is consistent with the requirements of the Act, particularly the requirements of Sections 6(b) and 11A. In so approving, the Commission is mindful that a fundamental objective of the Act, as amended by the Securities Acts Amendments of 1975, is "to enhance competition and to allow economic forces, interacting within a fair regulatory field, to arrive at appropriate variations in practices and services." [16] The Commission believes that the CSE System experiment represents one positive response to the Act's mandate for the development of a national market system and to the Commission's January 1978 statement [17] calling upon the securities industry to pursue particular facilities initiatives in furtherance of the national market system objectives of the Act.

It is therefore ordered, pursuant to the Commission's authority under the Act, and particularly Sections 11A and 19(b)(2) thereof, that the above-referenced rule change be, and it hereby is, approved.

By the Commission.

George A. Fitzsimmons,
Secretary.

[FR Doc. 78-36396 Filed 12-29-78; 8:45 am]

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[9] The Commission has received the following written comments from self-regulatory organizations: Letter from Robert J. Birnbaum, President, American Stock Exchange, Inc. ("Amex") to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, August 9, 1978; Letter from James E. Buck, Secretary, New York Stock Exchange, Inc. ("NYSE") to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, June 26, 1978; Letter from James E. Dowd, President, Boston Stock Exchange ("BSE") to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, September 27, 1978; Letter from Charles J. Henry, President, Pacific Stock Exchange, Inc. ("PSE") to Andrew M. Klein, Director, Division of Market Regulation, October 23, 1978; Letter from Gordon S. Macklin, President, National Association of Securities Dealers ("NASD"), to Andrew M. Klein, Director, Division of Market Regulation, November 3, 1978.

The Commission has received the following written comments from interested broker-dealers and others: Letter from William M. Bannard, President, American Securities Corp., to Andrew M. Klein, Director, Division of Market Regulation, September 22, 1978; Letter from Bache Halsey Stuart Shields *et al.* to George A. Fitzsimmons, Secretary, Securities and Exchange Company, August 1, 1978; Letter from Robert H.B. Baldwin, Chairman, Edward I. O'Brien, President, and Ralph D. DeNunzio, Chairman, National Market System Committee, Securities Industry Association, to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, August 4, 1978; Letter from John F. Curley, Jr., President, Paine Webber Jackson & Curtis, Inc. to Andrew M. Klein, Director, Division of Market Regulation, October 3, 1978; Letter from William A. Schreyer, President, Merrill Lynch, Pierce Fenner & Smith, Inc. ("Merrill Lynch"), to Andrew M. Klein, Director, Division of Market Regulation, November 8, 1978; and Letter from Donald E. Weeden, President, Weeden & Co., to Andrew M. Klein, Director, Division of Market Regulation, October 20, 1978.

All written comments received are available for public inspection in the Commission's public reference room, 1100 "L" Street, N.W., Washington, D.C. 20549. Reference should be made to File No. SR-CSE-78-2.

[10] Letter from William M. Batten, Chairman, NYSE, to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, October 30, 1978; Letter from Robert J. Birnbaum, President, Amex, to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, October 27, 1978; Letter from William A. Schreyer, president, Merrill Lynch, to Andrew M. Klein, Director, Division of Market Regulation, October 27, 1978. *See* File No. SR-CSE-78-2.

[11] As the Commission noted in its April order

> . . . the opportunity to experiment and to add to the body of knowledge and understanding of novel trading mechanisms and market linkages and of the interest of the industry in utilizing such a facility, and to assess the possible contribution of the CSE linkage . . . to the national market system, is worthy of further exploration.

April Order at 3, 14 SEC Docket at 818.

[12] In this regard, the Commission notes that the CSE has offered to provide CSE System terminals on the floors of the New York and Philadelphia Stock Exchanges, at CSE expense, in order to permit members on those floors to participate in the CSE experiment.

[13] *See, e.g.*, the April Order at 1-2 and 7, 14 SEC Docket at 818, 820.

[14] Deloitte, Haskins & Sells, "Evaluation of the Multiple Dealer Trading Facility (Cincinnati/NMS)" (November 14, 1978) at p. 4.

[15] The Commission is, of course, mindful that the very nature of the CSE System as a pilot program subject to Commission study and further Commission approval encourages compliance during the "pilot" period.

[16] *Report of the Senate Comm. on Banking, Housing and Urban Affairs to Accompany S. 249*, Sen. Rep. No. 94-75, 94th Cong., 1st Sess. 8 (1975).

[17] Securities Exchange Act Release No. 14416 (Jan. 26, 1978), 43 FR 4354 (Feb. 1, 1978).

[8010-01-M]

[Rel. No. 20840; 31-765]

ERIE MINING CO.

Application for Exemption

December 20, 1978.

Notice is hereby given that Erie Mining Company ("Erie") c/o Pickands, Mather & Co., 1100 Superior Avenue, Cleveland, Ohio 44114, an electric utility company, has filed an application for exemption on behalf of itself and any successor to substantially all of its assets and business, pursuant to Section 2(a)(3)(A) of the Public Utility Holding Company Act of 1935 ("Act"). All interested persons are referred to the application, which is summarized below, for a complete description of Erie and of its request for exemption.

Erie, a Minnesota corporation is engaged in the mining and beneficiating of iron ore derived from mining operations in Minnesota. The capital stock of Erie is owned by four United States corporations which take all of the iron ore produced by Erie. The stockholders of Erie and their applicable ownership percentages are as follows:

Name of Stockholder and Percentage of Stock Ownership
Bethlehem Steel Corporation, 45%.
Youngstown Sheet and Tube Company, 35%.
Interlake, Inc., 10%.
Stelco Coal Company (a wholly-owned subsidiary of the Steel Company of Canada, Limited, a Canadian Corporation), 10%.

In 1977, Erie produced and delivered to its parent companies iron ore pellets with a gross market value of $138,115,750.

In connection with its mining and beneficiation operations, Erie owns and operates various electric utility facilities, including three generator units with a capacity of 75,000 kilowatts each and approximately 75 miles of 138 k.v transmissions lines. It is stated that these facilities were constructed by Erie to supply its own power needs. Any surplus power generated by Erie is sold to Minnesota Power & Light Company ("MP&L"), a Minnesota electric utility company, pursuant to an interchange agreement with MP&L. The agreement permits Erie to deliver surplus power to MP&L at MP&L's Aurora substation or, alternatively, to receive needed power in addition to that generated by its own facilities. The power is delivered for the emergency use of the party receiving the power or to permit such party to overhaul or repair any of its generation or transmission facilities. It is stated that Erie and MP&L have sought to balance power exchanges out to zero on an annual basis, and since 1973 have treated the deliveries as exchanges rather than as purchases and sales.

During the period 1973-1977, the amount of power delivered by Erie to MP&L averaged 4.4% of the its total output. The gross deliveries of power to MP&L in that period would have averaged less than .6% of the Erie's gross revenues per year, had such deliveries of power been treated as sales at the agreed power exchange rate. Net deliveries of power to MP&L occurred in 1974 and 1976 only and, if treated as sales at the agreement rate, would be valued at $13,482 and $584,982, respectively.

The application states that Erie and its parent corporations are planning to transfer all of Erie's assets, property and business to a successor company, which will assume all of Erie's obligations and liabilities. It is presently contemplated that the successor will be organized as a limited partnership under Minnesota law, and that the general partners will be wholly-owned subsidiaries of the present parent stockholders. The present stockholders will continue to purchase all of the iron ore produced by the successor company.

Under Section 2(a)(3)(A) of the Act, the Commission may declare a company owning electric utility facilities not to be an "electric utility company" if it finds that "such company is primarily engaged in one or more businesses other than the business of an electric utility company, and by reason of the small amount of electric energy sold by such company it is not necessary in the public interest or for the protection of investors or consumers that such company be considered an electric utility company." Rule 10(a)(1) of the rules under the Act exempts from the duties and obligations imposed upon a "holding company," as defined Section 2(a)(7) of the Act, any company which has as a subsidiary a company declared not to be an electric utility company pursuant to Section 2(a)(3).

Notice is further given that any interested person may, not later than January 10, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted in the manner provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including notice of the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-36397 Filed 12-29-78; 8:45 am]

[8010-01-M]

[Rel. No. 10533; 812-4389]

MUNICIPAL EXEMPT TRUST, N.Y.

Filing of Application

DECEMBER 18, 1978.

In the matter of Municipal Exempt Trust, New York, Exempt Series 1 and other State, National, Similar and Subsequent Series, c/o Glickenhaus & Co., 522 Fifth Avenue, New York, New York 10036 (812-4389).

Notice is hereby given that Municipal Exempt Trust, New York Exempt Series 1 and Other State, National, Similar and Subsequent Series ("Fund"), a unit investment trust registered under the Investment Company Act of 1940 (the "Act"), filed an application on November 7, 1978, and amendments thereto on December 6, 1978, and December 15, 1978, pursuant to Section 6(c) of the Act for an order of the Commission exempting the Fund from the provisions of Section 22(d) of the Act to the extent necessary to permit the investment pursuant to an automatic accumulation account of income and capital gains distributions made to unitholders of a predecessor series of the Fund into units of a subsequent series of the Fund, or into units of a previously formed series which have been purchased in the secondary market, at a reduced sales charge. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The Fund is composed of a series of similar but separate trusts (each such Trust herein called a "Trust" and collectively called the "Trusts"). The Fund is sponsored by Glickenhaus & Co. It registered with the Commission under the Act as a unit investment trust on May 23, 1978, and has commenced distribution of Fund units pursuant to a series of registration statements under the Securities Act of 1933 which have been declared effective.

The Fund states that the objectives of each Trust are tax-exempt income and conservation of capital through an investment in a diversified portfolio of municipal bonds. The Securities deposited in the initial three Series were long-term bonds, issued primarily on behalf of the State of New York and counties, municipalities, authorities or political subdivisions thereof or issued by certain United States territories or possessions or the public authorities thereof. It is anticipated that subsequent Series may contain bonds of other states, counties, territories, possessions and municipalities of the United States and authorities or political subdivisions thereof. Any Series which is comprised of more than one Trust may contain Trusts with portfolios selected on different bases.

Interest and principal received by each Trust will be distributed on each monthy or semi-annual distribution date on a pro rata basis to unitholders of record as of the preceding record date as specified in the Trust Agreement. The unitholder selects the distribution plan for his units. The distribution dates for the Trusts are the first day of each month for the monthly plan and June 1 and December 1 for the semi-annual plan. All distributions will be net of applicable expenses and funds required for the redemption of units.

The Sponsor proposes to offer an automatic reinvestment program entitled the Automatic Accumulation Account (the "Account") to unitholders of the various present and future Series of the Fund. The Account will be described in printed matter to be distributed to current unitholders and inserted in the current prospectus for each Trust being hereinafter offered. the Account will operate in the following manner.

Unitholders of the Fund (except Texas residents) who select the semi-annual distribution plan will have the option to automatically reinvest both interest income earned on his units, and principal, if any, distributed in connection with such units. Under the Account, a semi-annual unitholder may elect to have all regular semi-annual interest and principal distributions with respect to his units reinvested either in units of various series of the Fund which will have been created shortly before each semi-annual Payment Date (a "Primary Series") or, if units of a Primary Series are not available, in units of a previously formed series of the Fund which have been repurchased by the Sponsor in the secondary market (a "Secondary Series"). (Primary Series and Secondary Series are hereafter collectively referred to as "Reinvestment Series".) The first interest distribution to semi-annual unitholders cannot be reinvested unless the Account is operating on the date of such semi-annual interest distributions (the "Account Reinvestment Dates").

Under the Account (subject to compliance with applicable blue sky laws), fractional units ("Account Units") will be purchased from the Sponsor at a price equal to the aggregate offering price per Unit of the debt obligations in the Reinvestment Series portfolio, plus a sales charge equal to 3.627% of the net amount invested in the debt obligations in the Reinvestment Series portfolio (the "Reinvestment Price per Account Unit") or 3¼% of the Reinvestment Price per Account Unit, plus accrued interest. All Account Units will be sold at this reduced sales charge of 3½% in comparison to the 4½% sales charge for primary and secondary purchases of units in any series of the Fund. Participants in the Account will have the opportunity to designate, in the Authorization Form for the Account, the name of a broker to whom the Sponsor will allocate a sales commission of 1½% per Account Unit, payable out of the 3½% sales charge. Under the Account, the entire amount of a participant's income and principal distributions will be reinvested in whole or fractional Account Units, such fractional Account Units to be calculated to four or five decimal places.

A semi-annual unitholder may join the Account at the time he invests in units of the Fund or any time thereafter by delivering to the Fund's Trustee (Bradford Trust Company) an Authorization Form which is available from brokers, any Underwriter of the units or the Sponsor. In order that distributions may be reinvested on a particular Account Reinvestment Date, the Authorization Form must be received by the Trustee not later than the 15th day of the month preceding such date. Authorization Forms not received in time for a particular Account Reinvestment Date will be valid only for the second succeeding Account Reinvestment Date. Similarly, a participant may withdraw from the Account at any time by notifying the Trustee in the manner set forth below. However, if written confirmation of withdrawal is not given to the Trustee prior to a particular semi-annual distribution the participant will be deemed to have elected to participate in the Account with respect to that particular distribution and his withdrawal will become effective for the next succeeding distribution.

Once delivered to the Trustee, an Authorization Form will constitute a valid election to participate in the Account with respect to units purchased in the Fund (and with respect to Account Units purchased with the distributions from units purchased in the Fund) for each subsequent distribution as long as the unitholder continues to participate in the Account. However, if a Reinvestment Series should materially differ from the Trust in the opinion of the Sponsor, the authorization will be voided and participants will be provided both a notice of the material change and a new Authorization Form which would have to be returned to the Trustee before the unitholder would again be able to participate in the Account. The Sponsor anticipates that a material difference which would result in a voided authorization would include such facts as (i) the inclusion of bonds in the Reinvestment Series portfolio the interest income on which was not in the opinion of counsel to the issuer exempt from all Federal income tax or (ii) the inclusion of debt obligations in the Reinvestment Series portfolio which were not rated "A" or better by Standard & Poor's Corporation or Moody's Investors Service, Inc. or had, in the opinion of the Sponsor, similar credit characteritics, on the date such debt obligations were initially deposited in the Reinvestment Series portfolio and on the date of purchase for reinvestment.

The Sponsor has the option at any time to use units of a Secondary Series to fulfill the requirements of the Account in the event units of a Primary Series are not available either because a Primary Series is not then in existence or because the registration statement relating thereto is not declared effective in sufficient time to distribute final prospectuses to Account participants (see below). There is not assurance that the quality and diversification of the bonds in any Reinvestment Series or the estimated current return thereon will be similar to that of the Trust in which the Account participant originally invested. However, if a unitholder purchases units of a Trust which is comprised of bonds of only one state and such unitholder joins the Account, his reinvestment purchases will only be in units of Trusts of such state, unless he requests otherwise.

It is the Sponsor's intention that units in each Reinvestment Series will be offered on or about each semi-annual Record Date for determining who is eligible to receive distributions on the related Payment Date. Such Record Dates are May 15 and November 15 of each year. The Sponsor will send a current prospectus relating to the Reinvestment Series being offered for a particular Account Reinvestment Date along with a letter which reminds each participant that Account Units are being purchased for him as part of the Account unless he notifies the Trustee in writing by that Account Reinvestment Date that he no longer wishes to participate in the Account. The Sponsor intends to provide participants with such current prospectus at least two weeks prior to the related Account Reinvestment Date in order that participants have enough time to review such prospectus. In the event a Primary Series has not been declared effective in sufficent time to distribute a final prosepectus relating thereto and there is no Secondary Series as to which a registration statement is currently effective, it is the Sponsor's intention to suspend the Account and distribute to each participant his regular semi-annual distribution in cash. If the Account is so suspended, it will resume in effect with the next Account Reinvestment Date assuming units of a Reinvestment Series are then being offered.

To aid a participant who might desire to withdraw either from the Account or from a particular distribution, the Trustee has established a toll free telephone number for participants to use for notification of withdrawal, which must be confirmed in writing prior to the Account Reinvestment Date (see below). Should the Trustee be so notified, it will make the appropriate cash disbursement. Unless the withdrawing participant specifically indicates in his written confirmation that (a) he wishes to withdraw from the Account for that particular distribution only, or (b) he wishes to withdraw from the Account for less than all units of each series of Fund which he might then own (and specifically identifies which series are to continue in the Account), he will be deemed to have withdrawn completely from the Account in all respects. Once a participant withdraws completely, he will only be allowed to again participate in the Account by submitting a new Authorization Form. A sale or redemption of a portion of a participant's Account Units will not constitute a withdrawal from the Account with respect to the remaining Account Units owned by such participant.

Unless a unitholder notifies the Trustee in writing to the contrary, any unitholder who has acquired Account Units will be deemed to have elected the semi-annual plan of distribution and to participate in the Account with respect to distributions made in connection with such Account Units. A participant who subsequently desires to have distributions made with respect to Account Units delivered to him in cash may withdraw from the Account with respect to such Units and remain in the Account with respect to units acquired other than through the Account. Assuming a participant has his distributions made with respect to Account Units reinvested, all such distributions will be accumulated with distributions generated from the units of the Fund used to purchase such additional Account Units. In addition, if a person owns units in more than one Series of the Fund and has elected to participate in the Account with respect to one or more such Series, all distributions with respect to the Series for which such election has been made will be

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aggregated for purposes of making reinvestment purchases under the Account. Even if interest income and principal distributions should be reinvested, they will still be treated as distributions for income tax purposes.

Participants in the Account will not receive individual certificates for their Account Units unless the amount of Account Units accumulated for a particular Reinvestment Series represents $1,000 principal amount of bonds underlying such units and, in such case a written request for certificates is made to the Trustee. All Account Units will be accounted for by the Trustee on a book entry system. Each time Account Units are purchased under the Account, a participant will receive a confirmation stating his cost, number of units purchased and current return. Questions regarding a participant's statement should be directed to the Trustee at a toll free telephone number to be established.

All expenses relating to the operation of the Account will be borne by the Sponsor. Both the Sponsor and the Trustee reserve the right to suspend, modify or terminate the Account at any time for any reason, including the right to suspend the Account if the Sponsor is unable or unwilling to establish a Primary Series or is unable to provide Secondary Series units. All participants will receive notice of any such suspension, modification or termination.

Section 22(d) of the Act provides, in pertinent part, that no registered investment company shall sell any redeemable security issued by it except to or through a principal underwriter for distribution or at a current public offering price described in the prospectus, and, if such class of security is being currently offered to the public by or through an underwriter, no principal underwriter of such security and no dealer shall sell any such security to any person, except a dealer, a principal underwriter or the issuer except at a current public offering price described in the prospectus. Rule 22d-1 under the Act permits certain variations in sales load, none of which it is alleged are applicable to the proposed Account.

In support of its request, the Fund asserts that it believes that there is little or no additional sales cost that could be allocated to the purchase of Reinvestment Units by such persons through reinvestment of distributions from the Trusts. Accordingly, the Fund believes that such investors, rather than the Sponsor, should receive the benefit of lower sales costs to the Sponsor through reinvestments at the public offering price rather than payment of a sales charge.

The fund also asserts that reducing the sales charge on the sale of Reinvestment Units is warrented because of related cost savings. The Fund states that the customary 4½ percent sales charge is attributable basically to brokerage efforts to make the initial customer solicitation, to ascertain the customer's financial requirements and to counsel him on the Fund's specific product. The Fund represents that each Reinvestment Series will be substantially similar to the Trusts into which an Account participant initially purchased with the exception of the composition of the bond portfolio and certain portfolio related information. Consequently, the support for that portion of the sales charge attributable to counselling the participant on the Fund's product is reduced, as is the selling component relating to initial solicitations. It is the Fund's belief that cost savings related thereto should be passed on to the Account participants.

However, the fund states that an Account participant may seek professional advice with respect to participation in any particular Reinvestment Series, and thus a reduced sales charge for such financial services is warranted. It is the Fund's belief that a charge of 1½ percent of the net asset value of the underlying bonds in each Reinvestment Series is a reasonable and justifiable expense to be allocated to the soliciting broker for his professional assistance in connection with each Reinvestment Series. The Fund argues that this 1½ percent sales charge compares favorably to the 4½ percent charge which is currently allocated to underwriters in the sale of units of each Series of the Fund in the primary distribution.

The Fund also states that in addition to the foregoing, implementation of the Account will create certain special costs which reasonably should be borne by the Account participants. It is the Sponsor's belief that the special out-of-pocket expenses related to the Account (including such items as (a) maintaining separate Trustee records on participants, (b) mailing, shipping and miscellaneous delivery charges, (c) maintaining a toll free telephone number with knowledgeable operators, and (d) separate printing charges) will amount to at least 1 percent per $1,000 unit. Finally, prior experience indicates that the normal out-of-pocket costs for establishing each Series of the Fund approximates 1 percent of the underlying net asset value of the Fund's portfolio. The fund argues that because Account participants will have units purchased on their behalf in each Reinvestment Series prior to any offer to the general public, it is reasonable and justifiable that any purchases made under the Account should bear the allocable costs of establishing the Reinvestment Series. Thus, the Sponsor submits that a sales charge of 3½ percent of underlying net asset value is warranted in that such charges should cover expenses related to the creation and sale of units under the Account and yet give participants an opportunity to share in cost savings.

Section 6(c) of the Act provides, in pertinent part, that the Commission may, upon application, conditionally or unconditionally, exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions from any provisions of the Act or of any rule or regulation under the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than January 8, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Fund at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-36398 Filed 12-29-78; 8:45 am]

[8010-01-M]

[Rel. No. 15414; File No. SR-NASD-78-12]

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

Order Approving Proposed Rule Change

DECEMBER 15, 1978.

On September 25, 1978, the National Association of Securities Dealers, Inc., 1735 K Street NW., Washington, D.C. 20006 ("NSDF"or "Association") filed with the Commission, pursuant to Section 19(b) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, copies of a proposal (the "Proposal") to impose a late fee on all NASDAQ subscribers whose payments of NASDAQ service charges are past due for 60 days or more. The late fee would be 10 percent of such past due service charges. According to the NASD, the purpose of the Proposal is to cover the Association's costs for the collection efforts required when NASDAQ subscribers fail to make timely payment of fees.

Notice of the Proposal, together with the terms of substance thereof, was given by publication of a Commission Release (Securities Exchange Act Release No. 15258, October 20, 1978) and by publication in the FEDERAL REGISTER (43 FR 50528, October 30, 1978).

The Commission finds that the Proposal is consistent with the requirements of the Act and the applicable rules and regulations thereunder, and, in particular, the requirements of Section 15A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the Proposal be, and it hereby is, approved.

For the Commission, by the Division of Market Regulations pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-36399 Filed 12-29-78; 8:45 am]

[8010-01-M]

[Administrative Proceeding File No. 3-5585; File No. 81-410]

NATIONAL STARCH AND CHEMICAL CORP. AND NATIONAL STARCH AND CHEMICAL HOLDING CORP.

Application and Opportunity for Hearing

DECEMBER 20, 1978.

Notice is hereby given that National Starch and Chemical Corporation ("National") and National Starch and Chemical Holding Corporation ("Holding") (both collectively referred to as "Applicants") have filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934 (the "1934 Act") for an order granting Applicants an exemption from filing Forms 10-K and Forms 10-Q required by the provisions of Sections and 15(d) of the 1934 Act.

The Applicants state, in part:

1. On August 15, 1978, National was merged into Holding, a wholly-owned subsidiary of Unilever, N.V. As a result of the merger, National no longer has any publicly traded stock.

2. Holding has only approximately 180 public shareholders of its preferred stock, and there are strong transfer restrictions and tax incentives against any future public trading of this stock. Moreover, those present preferred shareholders are already guaranteed by the terms of the preferred shares to receive certain financial information, including audited financial statements on an annual basis.

Applicants argue that the granting of the exemption would not be inconsistent with the public interest or the protection of investors.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 500 North Capitol Street, Washington, D.C. 20549

Notice is further given that any interested person not later than Jan. 15, 1979 may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for the request, and the issues of fact and law raised by the application which such person desires to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc. 78-36400 Filed 12-29-78; 8:45 am]

[8010-01-M]

[Administrative Proceeding File No. 3-5570; File No. 81-422]

PC LIQUIDATING CORP.

Application and Opportunity for Hearing

DECEMBER 20, 1978.

Notice is hereby given that PC Liquidating Corporation (the "Applicant"), formerly Progressive Corporation, has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended, (the "1934 Act") for an order exempting it from the periodic reporting requirements under Section 15(d) of the 1934 Act.

The Applicant states:

1. On May 17, 1978, the Applicant sold all of its assets and the business of its subsidiaries to Franke Holding AG, a Swiss corporation pursuant to a Plan of Complete Liquidation and Distribution;

2. The shareholders of the Applicant approved the Plan at a special meeting on that date, proxies for which were solicited in accordance with Regulation 14A under the 1934 Act;

3. The Plan was described in the Applicant's Form 10-K for the fiscal year ending May 31, 1978.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 500 North Capitol Street, NW., Washington, D.C. 20549.

Notice is further given that any interested person no later than Jan. 15, 1979, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desireability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc. 78-36401 Filed 12-29-78; 8:45 am]

[8010-01-M]

[Administrative Proceeding File No. 3-5572; File No. 81-425]

ROYAL ZENITH CORP.

Application and Opportunity for Hearing

DECEMBER 20, 1978.

Notice is hereby given that Royal Zenith Corporation (the "Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act"), for an order granting Ap-

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plicant an exemption from the provisions of Section 15(d) of the 1934 Act.

Applicant states that on November 3, 1978, a Plan of Dissolution and Complete Liquidation and an Agreement to Sell its assets to an unaffiliated private entity was consummated. Accordingly, Applicant no longer has any operations, and there is no trading market for Applicant's securities.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 500 North Capitol Street, Washington, D.C.

NOTICE IS FURTHER GIVEN that any interested person not later than Jan. 15, 1979 may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, Corporation Finance, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc. 78-36402 Filed 12-29-78; 8:45 am]

[8010-01-M]

[Rel. No. 10529; 812-4376]

SECURITY BENEFIT LIFE INSURANCE CO. AND SBL VARIABLE ANNUITY ACCOUNT II

Application to Permit Offers of Exchange and for Exemptions

DECEMBER 15, 1978.

Notice is hereby given that Security Benefit Life Insurance Company ("SBL"), a mutual life insurance company organized under the laws of the State of Kansas, and SBL Variable Annuity Account II ("VAA-II") 700 Harrison Street, Topeka, Kans. 66636, a unit investment trust registered under the Investment Company Act of 1940 ("Act") (hereinafter called "Applicants"), have filed an application on October 16, 1978, and an amendment thereto on December 11, 1978, pursuant to Section 11 of the Act for an order permitting offers of exchange and pursuant to Section 6(c) of the Act exempting Applicants from Sections 26(a) and 27(c)(2) of the Act, to the extent noted below. All interested persons are referred to the application and amendment on file with the Commission for a statement of the representations contained therein, which are summarized below.

VAA-II was established by SBL on August 2, 1977. VAA-II contracts ("Variable Contracts") are designed for personal use and for use with plans and trusts not qualifying under the Internal Revenue Code for tax-benefited treatment. The Variable Contract owner makes payments to SBL, and after deduction of sales and administrative expenses, the balance of such payments are allocated to VAA-II. Payments allocated to VAA-II are invested in shares of SBL Fund, Inc., an open-end diversified management investment company which issues its shares in three separate series ("SBL Fund"). The owner may elect Series A (a diversified portfolio of common stocks), Series B (a portfolio seeking income with secondary emphasis on capital appreciation), or Series C (a portfolio seeking to preserve capital while generating interest income).

SECTION 11

Section 11(a) of the Act provides, in effect, that it shall be unlawful for any registered open-end investment company or any principal underwriter for such company to make or cause to be made an offer to the holder of a security of such company or of any other open-end investment company, to exchange his security for a security in the same or another company on any basis other than the relative net asset values of the respective securities to be exchanged, unless the terms of the offer have first been submitted to and approved by the Commission. Section 11(c) provides that irrespective of the basis of exchange, the provisions of subsection (a) of Section 11 shall be applicable to any type of offer of exchange of the securities of registered unit investment trusts for the securities of any other investment company.

Net purchase payments received pursuant to the Variable Contracts will be allocated to VAA-II and invested as designated in shares of Series A, Series B, or Series C of SBL Fund, Inc. It is proposed that owners of any one of the three series of Variable Contracts will have the right to exchange all or any part of their units for units of any of the other two series of Variable Contracts at any time during the accumulation period, but not more often than once every 30 days with one additional election permitted within not less than 30 days prior to the maturity date of the Variable Contract. VAA-II will not make an additional sales charge with respect to the proposed exchange of units of one series of Variable Contract to another during the accumulation period since the price described in the Prospectus of VAA-II with respect to the Variable Contract has already been paid. It is intended, however, that an administrative fee of $10.00 per exchange will be assessed against the new units for all exchanges other than the first such exchange elected in each contract year and the additional exchange permitted not less than 30 days prior to the maturity date. All such exchanges will be on the basis of the relative net asset value of the units which are equal to the net asset values of their underlying SBL Fund shares, with an adjustment for the administrative fee if applicable.

It is also proposed that the owners of one of the three series of Variable Contracts will have the right to elect to exchange all or any part of their units for units of either of the other two series at any time after Variable Contract annuity payments have commenced, but not more often than once each calendar year.

Any such exchange would not be permitted during the five-day interval prior to and including any annuity payment date. VAA-II does not intend to make an additional sales charge with respect to the proposed exchanges after commencement of annuity payments, and all such exchanges will be on the basis of the relative net asset values of the units which are equal to the net asset values of the underlying SBL Fund shares. No administrative fee will be charged on exchanges after the commencement of annuity payments.

It is submitted that the proposed exchanges during the accumulation period and after commencement of annuity payments will privide Variable Contract owners with the opportunity to choose between the shares of the underlying series of SBL Fund, which have different investment objectives. This will provide Variable Contract owners with increased flexibility to change their retirement programs as their needs and circumstances change from time to time, without additional sales charge and in some instances without any administrative charge.

An order is therefore requested under Section 11 of the Act permitting offers of exchange as above described.

SECTIONS 26(a) AND 27(c)(2)

Section 27(c)(2) of the Act prohibits a registered investment company, or a depositor or underwriter for such company, from selling periodic payment plan certificates unless the proceeds of all payments, other than the sales load, are deposited with a trustee or a custodian having the qualifications prescribed in Section 26(a)(1) and held under an indenture or agreement containing, in substance, the provisions

required by Sections 26(a)(2) and 26(a)(3) of the Act for a unit investment trust. Section 26(a)(2) requires the trustee or custodian to segregate and hold in trust all securities and cash of the trust, places certain restrictions on charges which may be made against the trust income and corpus, and excludes from expenses which the trustee or custodian may charge against the trust any payments to the depositor or principal underwriter other than a fee, not exceeding such reasonable amount as the commission may prescribe, for providing bookkeeping and other administrative services delegated to them by the trustee or custodian. Section 26(a)(3) governs the circumstances under which the trustee or custodian may resign.

Applicants request an exemption from the provisions of Sections 26(a) and 27(c)(2) so that the proceeds of all payments under the Variable Contracts may be held by SBL rather than by a custodian or trustee as required under the Act and so that VAA-II may be administered directly by SBL in the manner described in VAA-II prospectus. SBL, as a life insurance company, must retain ownership of and control of the disposition of its property under Kansas law. Applicants represent that the custodianship is unnecessary in this instance because of the manner in which the Variable Contracts will be administered and extensive state regulation of SBL. Net purchase payments under the Variable Contracts will be invested only in shares of SBL Fund, whose assets are held by a custodian meeting the requirements of Section 26(a) of the Act. The ownership of Fund shares by VAA-II will be held in an open account so that such ownership will only be indicated on the books of the Fund and VAA-II and will not be evidenced by transferable stock certificates. SBL is subject to extensive supervision and control by the Kansas Commissioner of Insurance and the Insurance Commissioners of each state in which the Variable Contracts are sold. Under Kansas law and the terms of the Variable Contracts, the assets of VAA-II are not chargeable with liabilities arising out of any other business conducted by SBL. Obligations arising under the Variable Contracts are legally binding obligations of SBL. SBL has combined capital and surplus in excess of $450 million, and its officers and employees are covered by a fidelity bond in the amount of $2,000,000. For these various reasons, Applicants assert that such existing regulation of SBL affords substantially the same protection contemplated by the provisions of Section 26(a) and Section 27(c)(2) of the Act and such existing regulation assures that all obligations under the Contracts issued by VAA-II will be performed.

Applicants have consented that the requested exemption from Sections 26(a) and 27(c)(2) be subject to the conditions (1) that the charges to investors for administrative services shall not exceed such reasonable amounts as the Commission may prescribe, jurisdiction being reserved to the Commission for such purpose, and (2) that the payment of sums and charges out of the assets of VAA-II shall not be deemed to be exempted from regulation by the Commission by reason of the requested order, provided that Applicants consent to this condition shall not be deemed to be a concession to the Commission of authority to regulate the payment of sums and charges out of such assets other than charges for administrative services, and Applicants reserve the right, in any proceeding before the Commission or in any suit or action in any court, to assert that the Commission has no authority to regulate the payment of such other sums and charges.

SECTION 6(c)

Section 6(c) of the Act provides, in part, that the Commission may conditionally or unconditionally exempt any person, security or transaction of any class or classes of persons, securities or transactions, from any provisions of the Act or of any rule or regulation under the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than January 9, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Applicants at the address stated above. Proof of such service (by affidavit or in the case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, purusant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-36403 Filed 12-29-78; 8:45 am]

[8010-01-M]

(Administrative Proceeding file No. 3-5555; file No. 81-400)

SEMITROPIC DISTRIBUTING CO.

Application and Opportunity for Hearing

DECEMBER 20, 1978.

Notice is hereby given that Semitropic Distributing Company, formerly Santa Ana Valley Irrigation Company, ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934 (the "1934 Act") for an order granting Applicant an exemption from filing various reports required by the provisions of Section 13 of the 1934 Act.

The Applicant states, in part:

1. On November 15, 1977, Applicant's shareholders approved the sale of substantially all of Applicant's assets to unrelated third party and adopted a plan of complete liquidation pursuant to which the Company's net assets will be distributed to its shareholders. There has not been, nor is there presently, an active market for the Company's Capital Stock.

2. Expenses to be incurred in preparing and filing 1934 Act reports would reduce the amount of cash available for distribution to Applicant's shareholders.

Applicant argues that the granting of the exemption would not be inconsistent with the public interest or the protection of investors.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the Offices of the Commission at 500 North Capitol Street, Washington, D.C. 20549.

Notice is further given that any interested person not later than Jan. 15, 1979 may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549, and should state briefly

the nature of the interest of the person submitting such information or requesting the hearing, the reason for the request, and the issues of fact and law raised by the application which such person desires to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc. 78-36404 Filed 12-29-78; 8:45 am]

[8010-01-M]

[Release No. 34-15422; File No. SR-DTC-78-15]

DEPOSITORY TRUST CO.

Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s (b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on December 11, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

TEXT OF PROPOSED RULE CHANGE

(a) Surcharges for services in securities issues which carry transfer agent fees:

Deposits—$.67 per deposit
Withdrawals—
$3.36 per withdrawal by Transfer-Transfer Control Form (W/T-TCF);
$3.38 per Urgent Withdrawal Request. (COD)

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change are as follows:

The purpose of the proposed rule change is to pass along to Participants with activity in securities issues which carry transfer agent fees the costs incurred by The Depository Trust Company (DTC) because of such fees.

The proposed rule change relates to DTC's carrying out the purposes of Section 17A of the Securities Exchange Act of 1934 (the Act) by equitably allocating charges other than dues or fees among DTC Participants.

DTC's present billing system charges by activity performed rather than by certificates processed. There were three alternatives for handling the pass through of transfer agent fees to Participants.

1. Revise the present automated billing system.—This would require a substantial number of development staff man-months to program this change and would have an adverse effect on other planned development work. Also, data entry requirements would be increased thereafter, adding to personnel costs. Out of 13,000 DTC-eligible issues, about 325 initially would be eligible.

2. Capture the data manually—Substantial clerical effort would be required in the absence of automation since:

Transfer agent fees vary depending upon the issue involved.

The bases for transfer fees vary. Certain transfer agent fees are based on the number of certificates issued while others are based on the number of certificates received for transfer.

Each Participant contributing certificates to a daily DTC shipment sent for transfer would have to be tracked since its share of the fee would depend upon the number of Participants involved in that particular shipment.

The number of certificates requested by each Participant for withdrawal by transfer (W/T) and urgent certificate withdrawal requests (COD) would also have to be tracked resulting in numerous mathematical calculations for DTC certificate shipments to transfer agents.

3. Utilize the current billing system—The present billing system could pass along these transfer agent fees in the form of a surcharge to those Participants having activity in these issues. The surcharge would be based on an average transfer agent fee for those activities which generate transfer activity. Thus, the amount of the surcharge developed would be based initially on estimated recent deposit, W/T and COD activity in other OTC issues so as to equal DTC's costs associated with these transfers. The case for utilizing the current billing system is (a) the insignificant incremental costs (b) the larger incremental costs of the other alternatives that would ultimately be borne by all Participants whether or not they had activity in these issues, and (c) the ease of implementation. The planned procedure allocates fee recovery only among those Participants who deal in fee-bearing issues. Of necessity, the planned surcharges have been derived from estimates, because there is no history of DTC activity in those issues to draw upon. The actual activity, when it begins, will represent a small portion of DTC's overall processing which can and will be monitored closely. DTC intends to review these pass through surcharges based on experience to determine their adequacy and to insure a balance between total fees collected from Participants and paid to transfer agents.

Comments were not and are not to be solicited from Participants. All participants have been notified of proposed surcharges by a DTC Important Notice (Exhibit 2 to DTC's filing on Form 19B-4A, SR-DTC-78-15).

DTC perceives no burden on competition by reason of the proposed rule change.

The foregoing rule change has become effective, pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted by January 23, 1979.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: December 20, 1978.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-36405 Filed 12-29-78; 8:45 am]

[8010-01-M]

[Release No. 34-15419; File No. SR-MSRB-78-16]

MUNICIPAL SECURITIES RULEMAKING BOARD

Proposed Rule Changes

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on December 8, 1978, the abovementioned self-regulatory organization filed with the Securities and Exchange Commission the proposed rule changes as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGES

The Municipal Securities Rulemaking Board (the "Board") is filing proposed amendments (hereafter sometimes referred to as the "proposed rule changes") to Board rule G-3 relating to the qualification requirements for municipal securities professionals. The proposed rule changes change the date on which the examination requirement for financial and operations principals becomes effective from January 1, 1979 to April 1, 1979, and modify paragraph (g) of rule G-3 to permit an associated person of a municipal securities broker or municipal securities dealer to retake the examination during this period even if the person has failed to pass the examination three times in succession. The text of the proposed rule changes is as follows:

Rule G-3. Classification of Principals and Representatives; Numerical Requirements; Testing*

(a) through (c) No change.

(d) Qualification Requirements for Financial and Operations Principals.

(i) through (iv) No change.

(v) The requirements of paragraph (d)(i) shall become effective on *April 1, 1979* [January 1, 1979].

(e) and (f) No change.

(g) Retaking of Qualification Examinations.

Any associated person of a municipal securities broker or municipal securities dealer who fails to pass a qualification examination prescribed by the Board shall be permitted to take the examination again after a period of 30 days has elapsed from the date of the prior examination, provided that any person who fails to pass an examination three time in succession shall be prohibited from again taking the examination until a period of six months has elapsed from the date of the third examination. *Notwithstanding the foregoing, the requirement in this paragraph for a person to wait six months before again taking an examination which the person has failed to pass three times in succession, shall not apply to persons subject to the requirements of subparagraph (d)(i) during the period from January 1, 1979 to April 1, 1979.*

(h) No change.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule changes are as follows:

PURPOSE OF PROPOSED RULE CHANGES

The purpose of extending the date from January 1, 1979 to April 1, 1979 is to provide persons required to take and pass the Municipal Securities Rulemaking Board Financial and Operations Principal Qualification Examination (the "Examination") additional time to do so. Although the board believes that the Examinaton is a fair and valid test of the knowledge which persons should have to be qualified as financial and operations principals, the results of the Examinations indicate that candidates are experiencing some difficulty with it. In view of the potential serious consequences for a securities firm if no associated person passes the Examination within the prescribed time, the Board is of the view that an extension of three months is necessary and appropriate. Such an extension will provide persons who have failed the Examination additional time to study and prepare for retaking it, and permit firms with no qualified financial and operations principals to continue to function in the interim. The Board does not intend to consider a further extension of the time period.

For the reasons noted above, the Board also proposes to modify rule G-3 to permit a person to retake the Examination during the extended period, even if the person has failed to pass the Examination three times in succession.

BASIS UNDER THE ACT FOR PROPOSED RULE CHANGES

The Board has adopted the proposed rule changes pursuant to the provisions of section 15B(b)(2)(A) of the Securities Exchange Act of 1934, as amended (the "Act"), which directs the Board to propose and adopt rules to provide that no municipal securities broker or municipal securities dealer shall effect any transaction in, or induce or attempt to induce the purchase or sale of, any municipal security unless . . . such municipal securities broker or municipal securities dealer and every natural person associated with such municipal securities broker or municipal securities dealer meets such standard, of training, experience, competence, and such other qualifications as the Board finds necessary or appropriate in the public interest or for the protection of investors.

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS OR OTHERS ON PROPOSED RULE CHANGES

The Board has neither solicited nor received written comment concerning the proposed rule changes. However, the Board has received comments from several persons who have taken the Examination concerning the difficulty of the Examinations, and has continuously monitored the statistical results of the Examination.

BURDEN ON COMPETITION

The Board does not believe that the proposed rule changes will impose any burden on competition.

By February 6, 1979, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule changes, or

(B) institute proceedings to determine whether the proposed rule changes should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted by January 23, 1979.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: December 19, 1978.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-36406 Filed 12-29-78; 8:45 am]

[8025-01-M]

SMALL BUSINESS ADMINISTRATION

[License No. 04/04-0110]

INVESAT CORP.

Filing of Application for Transfer of Control of a Licensed Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to Section 107.701 of the Regulations governing small business investment companies (13 C.F.R. 107.701 (1978)), for the transfer of control of Invesat Corportion, 1441 Deposit Guaranty Plaza, Jackson, Mississippi 39201, a Federal Licensee under the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 et seq.).

Invesat Corporation was licensed on September 14, 1974, with authorized capital stock of 300,000 shares at $1.00 par value of which 90,706 (December 31, 1977) shares are issued and outstanding. At the present time, Mississippi Economic Development Corporation is the only person or entity owning more than 10 percent of the outstanding stock.

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* Italics indicate new language; [brackets] indicate deletions.

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The Applicants, Lamar Life Corporation and VGS Corporation, each propose to purchase up to 52,979 shares of stock or 27 percent of the stock after issue. Messrs. Charles W. Else and Robert M. Hearin own, control or have the power to control VGS Corporation which is the controlling stockholder of Lamar Life Corporation.

The amount of stock to be issued will be 54 percent of the total outstanding shares of stock after issue and would increase Invesat Corporation's private capital to $3,000,000.

Matters involved in SBA's consideration of the application include the general business reputation and character of the new owners and management, and the probability of successful operations of Invesat Corporation under their control and management, including adequate profitability and financial soundness, in accordance with the Act, and Regulations.

Notice is hereby given that any person may, not later than (15 days from the date of publication of this Notice), submit to SBA, in writing, comments on the transfer of control.

Any such communication should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this Notice shall be published in the newspaper of general circulation in Jackson, Mississippi.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: December 20, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-36389 Filed 12-29-78; 8:45 am]

[8025-01-M]

[License No. 04/04-5131]

R.P.B. INVESTMENT ENTERPRISES, INC.

Issuance of License to Operate as a Small Business Investment Company

On October 21, 1977, a notice was published in the FEDERAL REGISTER (42 FR 56175), stating that R.P.B. Investment Enterprises, Inc., located in the Falls Building, 22 North Front Street, Memphis, Tennessee 38103, had filed an application with the Small Business Administration (SBA), pursuant to 13 CFR 107.102 (1977), for a license to operate as a small business investment company under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended.

Interested parties were given until the close of business November 7, 1977, to submit their comments to SBA. No comments were received.

Notice is hereby given that having considered the application and all other pertinent information, SBA issued License No. 04/04-5131 to R.P.B. Investment Enterprises, Inc. on November 27, 1978, to operate as a small business investment company, pursuant to Section 301(d) of the Act.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

DECEMBER 20, 1978.

[FR Doc. 78-36390 Filed 12-29-78; 8:45 am]

[8025-01-M]

[Declaration of Disaster Loan Area #1521; Amendment #4]

TEXAS

Declaration of Disaster Loan Area

The above number Declaration (See 43 FR 40583), Amendment #1 (See 43 FR 43593, Amendment #2 (See 43 FR 48750), Amendment #3 (See 43 FR 59453) are amended by adding the following counties and adjacent counties within the State of Texas as a result of natural disaster as indicated:

County	Natural Disaster(s)	Date(s)
Dickens	Drought	5/20/78-9/30/78
Kaufmann	Drought	5/01/78-9/30/78
Motley	Drought	5/20/78-9/30/78
Nueces	Drought	2/01/78-9/30/78
San Patricio	Drought	2/01/78-9/30/78
Yoakum	Drought	5/01/78-9/30/78
Do	Hail	8/28/78
Hansford	Drought	6/01/78-9/24/78
Hidalgo	Drought	5/18/78-9/30/78
Hutchinson	Drought	6/01/78-9/24/78
Lamb	Drought	1/01/78-9/20/78
Lipscomb	Drought	6/01/78-9/24/78
Ochiltree	Drought	6/01/78-9/24/78
Parmer	Drought	1/01/78-9/30/78
Trinity	Drought	5/01/78-9/30/78
Cochran	Drought	1/01/78-9/30/78

All other information remains the same; i.e., the termination dates for filing applications for physical damage are close of business on March 6, 1979, and for economic injury until the close of business on June 6, 1979.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: December 13, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-36391 Filed 12-29-78; 8:45 am]

[8025-01-M]

[Declaration of Disaster Loan Area #1553]

WEST VIRGINIA

Declaration of Disaster Loan Area

As a result of the President's major disaster declaration, I find that Cabell, Jackson, Lincoln, Mingo and Wayne counties, and adjacent counties within the State of West Virginia constitute a disaster area, because of damage resulting from severe storms and flooding beginning about December 7, 1978. Eligible persons, firms and organizations may file applications for physical damage until the close of business on February 14, 1979, and for economic injury until the close of business on July 14, 1979, at:

Small Business Administration, District Office, 109 North Third Street, Clarksburg, West Virginia 26301.
Small Business Administration, Branch Office, Charleston National Plaza, Suite 628, Charleston, West Virginia 25301.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: December 20, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-36392 Filed 12-29-78; 8:45 am]

[4910-13-M]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RELEASE OF HOME ADDRESSES OF CERTIFIED AIRMEN AND OF HOLDERS OF CERTIFICATES OF AIRCRAFT REGISTRATION

Notice of Intent

Pursuant to 5 U.S.C. Code, § 552(a)(1), notice is given that the Federal Aviation Administration (FAA) Airmen and Aircraft Registry at Oklahoma City intends to revise long-standing procedures affecting the release of such data as may contain home addresses of certificated airmen and of holders of aircraft registration certificates ("registrants").

Over past years Registry practice has been to release at prescribed fees to any member of the public various copies of listings of registrants and certificated airmen, even though some home addresses appeared in this official data. It has also been the normal procedure to release home addresses of specific airmen and aircraft owners requested on an individual basis. Copies of multiple airmen and aircraft owners have been in various formats, including magnetic tapes, microfiche, and computer printouts. Concurrently there has been available for public purchase a complete listing of registered civil aircraft, entitled "United States Civil Aircraft Register." It is published twice each year by the Government Printing Office (GPO), utilizing computerized Registry data, and contains the names of each registrant, together with the address of each registrant, tabulated under columns of "street," "city," and "State."

The FAA has recently determined that disclosure of home addresses of registrants and certificated airmen could in some instances constitute a "clearly unwarranted invasion of personal privacy," as that phrase appears in the sixth exemption of the Freedom of Information Act, 5 U.S.C. 552(b)(6). In those cases the addresses are exempt from mandatory disclosure under the FOIA, and their disclosure is, therefore, controlled by the Privacy Act, 5 U.S.C. 552a. The FAA has further determined that the Privacy Act prohibits disclosure of the FOIA-exempt addresses without the prior written consent of the individuals concerned. In this connection, the FAA will soon publish in the FEDERAL REGISTER revisions to its Privacy Act Systems of Records DOT/FAA 801 and 802, Aircraft Registration System and Airman Certification System, respectively, to amend the published "routine uses" applicable to those systems by deleting reference to public disclosure. Thereafter home addresses from those systems of records will be released to the public only after the agency has determined that they are not exempt under FOIA; i.e., when there is reasonable assurance that the privacy invasion involved is justified by the public interest to be served by disclosure, unless the disclosure is with written consent or pursuant to another "routine use."

Accordingly, notice is given of the intention of the FAA Airmen and Aircraft Registry, which is a component of the Mike Monroney Aeronautical Center, to make the following procedural changes:

The Registry will review each request for disclosure of registrant's home address (including requests for copies of the United States Civil Aircraft Register) and weigh the public interest purposes to be served against the seriousness of the intrusion into personal privacy that may result from disclosure. The weighing process will be:

a. A request from the member of the public will be considered for disclosure only if it is submitted in writing and states the purposes for which the information is requested and how those purposes reflect a public interest.

b. Each request will be evaluated on the basis of the stated public use versus invasion of privacy that would result from disclosure.

c. If the seriousness of the intrusion outweighs the public interest purpose, the material will be withheld. If the public interest purpose outweighs the seriousness of the intrusion, the material will be released for use only as stated by the requester.

Dated: December 19, 1978.

CALVIN H. DAVENPORT,
Acting Director, Aeronautical Center.

[FR Doc. 78-36376 Filed 12-29-78; 8:45 am]

[4810-22-M]

DEPARTMENT OF THE TREASURY

Customs Service

SUSPENSION OF LIQUIDATION UPON EXPIRATION OF THE COUNTERVAILING DUTY WAIVER AUTHORITY

AGENCY: U. S. Customs Service, Treasury Department.

ACTION: Suspension of liquidation.

SUMMARY: This notice is to advise the public that when the authority conferred upon the Secretary of the Treasury by the Trade Act of 1974 to waive the imposition of countervailing duties expires January 3, 1979, the liquidations of merchandise subject to those countervailing duty waivers, entered on or after that date, will be suspended until further notice. Unless actual deposits of estimated additional duties are made, to guarantee the payment of potential countervailing duties, security must be posted in the form of bonds or letters of credit at the time of entry of such merchandise.

EFFECTIVE DATE: January 3, 1979.

FOR FURTHER INFORMATION CONTACT:

Theodore Hume, Office of the Chief Counsel, U. S. Customs Service, Washington, D. C. 20229 (202-566-5476).

SUPPLEMENTARY INFORMATION: Section 303(d) of the Tariff Act of 1930, as amended by the Trade Act of 1974 (Pub. L. 93-618, January 3, 1975), authorizes the Secretary of the Treasury to waive the imposition of countervailing duties on any article or merchandise during the four-year period beginning on the date of enactment of the Trade Act of 1974 if he determines that:

"(A) Adequate steps have been taken to resuce substantially or eliminate during such period the adverse effect of a bounty or grant which he has determined is being paid or bestowed with respect to any article or merchandise;

"(B) There is a reasonable prospect that, under section 102 of the Trade Act of 1974, successful trade agreements will be entered into with foreign countries or instrumentalities providing for the reduction or elimination of barriers to or other distortions of international trade; and

"(C) The imposition of the additional duty under this section with respect to such article or merchandise would be likely to seriously jeopardize the satisfactory completion of such negotiations * * *" (19 U.S.C. 1303(d)(2), as amended).

Under the authority of this provision, waivers which are currently in effect have been granted with respect to the merchandise described in the Appendix to this notice. When the four-year period for waiving countervailing duties expires January 3, 1979, such merchandise which is entered, or withdrawn from warehouse, for consumption on or after that date will be subject to the assessment of countervailing duties.

In accordance with section 303(a)(5) of the Tarrif Act of 1930, as amended (19 U.S.C. 1303(a)(5)), the net amount of the bounty or grant paid or bestowed, directly or indirectly, upon the manufacture, production or exportation of the merchandise set forth in

the Appendix to this notice has been ascertained and determined, or estimated, and the net amount for each of the products (or goods) is as shown in the Appendix. Accordingly, effective on January 3, 1979, and until further notice, such dutiable merchandise, imported directly or indirectly from the country where manufactured or produced, which benefits from bounties or grants and which is entered, or withdrawn from warehouse, for consumption on or after January 3, 1979, shall be subject, in addition to any other duties determined or estimated to be due, to payment of countervailing duties. Any merchandise subject to the terms of this order shall be deemed to have benefitted from a bounty or grant if such bounty or grant has been or will be credited or bestowed, directly or indirectly, upon the manufacture, production or exportation of such merchandise.

Several bills were introduced and considered during the 95th Session of Congress which contained provisions for extending waivers in effect on January 3, 1979. Although both Houses of Congress passed separate bills containing such extension provisions, the bills did not become law for reasons unrelated to the merits of the waiver provision. Comparable legislation may be enacted during the next Session of Congress, retroactive to January 3, 1979, making it uncertain that liability for countervailing duties regarding merchandise for which waivers currently are in effect will finally be assessed. It is, therefore, deemed appropriate at this time to suspend final liquidations of such entries. Accordingly, effective January 3, 1979, and until further notice, the liquidation shall be suspended on all entries, or withdrawals from warehouse, for consumption of the merchandise set forth in the Appendix, imported directly or indirectly from the country where manufactured or produced, which benefit from bounties or grants and which are subject to this notice.

In lieu of requiring the deposit of estimated countervailing duties, the posting of bonds or irrevocable letters of credit in an amount sufficient to cover potential liability for countervailing duties will be considered sufficient to meet the obligations of the Secretary for protecting the revenue pursuant to section 623 of the Tariff Act of 1930, as amended (19 U.S.C. 1623). Accordingly, the appropriate Customs officers are hereby directed to require such bonds or irrevocable letters of credit as they may deem necessary for the protection of the revenue.

LEONARD LEHMAN,
Commissioner of Customs.

Approved: December 27, 1978.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

APPENDIX

Country	Product	Estimated duty
Korea	Rubber footwear	0.7% *ad valorem.*
Austria	Cheese	Zero.
Switzerland	Certain cheese	Emmenthaler: Wheels—69.5¢/lb. Cuts—60.9¢/lb. Slices—58.3¢/lb. Gruyere: Wheels—96.4¢/lb. Cuts—95.0¢/lb. Slices—90.9¢/lb.
Brazil	Leather handbags	Zero.
Norway	Cheese	Jarlsberg: Zero. Other types: 20¢/lb.
Finland	Certain cheese	Emmenthaler: Cuts—18.6¢/lb. Blocks—22.3¢/lb. Wheels—42.6¢/lb. Lappi: $1.14/lb. Turunamaa: $1.36/lb. Krelvi: $1.66/lb. Other processed cheeses: $1.53/lb.
Sweden	Certain cheese	Fontina: 50.8¢/lb. Blue: 53.4¢/lb. Edam: 45.4¢/lb. Farmer: 40.1¢/lb. Gradd (½ lb.): 51.1¢/lb. Gradd (9 lb.): 40.9¢/lb. Parte (½ lb.): 84.5¢/lb. Tilel: 47.6¢/lb. Drabant: 49.9¢/lb. Ambrosia: 40.1¢/lb. Riddar: 50.5¢/lb. Vasterbotten: 55.5¢/lb. Kribille special: 53.8¢/lb.
Canada	Certain fish	Groundfish: From Atlantic region (i.e., Newfoundland, Prince Edward Island, Nova Scotia, New Brunswick, and Quebec), 1.23% *ad valorem.* From the rest of Canada, zero.
Denmark	Butter cookies	30% *ad valorem.*
Colombia	Leather handbags	Zero.
Brazil	Textiles and certain textile mill products.	18.6% *ad valorem.*
EEC	Canned hams	From Denmark: Hams—21.9¢/lb. Shoulders—18.2¢/lb. From the Netherlands: Hams—27.5¢/lb. Shoulders—22.9¢/lb.
EEC	Dairy products	Cheese*: From Germany—60¢/lb. From Belgium—50¢/lb. From the Netherlands—50¢/lb. From Denmark—60¢/lb. From U.K.—20¢/lb. From Ireland—40¢/lb. From Italy—40¢/lb. From France—50¢/lb. From Luxembourg—zero. Nonfat, dry milk: Zero. Butter: Zero.

*These amounts will subsequently be adjusted to reflect the precise amount of all cheese categories upon which export restitution payments are made for each member country.

[FR Doc. 78-36434 Filed 12-29-78; 8:45 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 274 (Sub-No. 2C]

ABANDONMENT OF RAILROAD LINES AND DISCONTINUANCE OF SERVICE

Petition To Eliminate Category II of System Diagram Classifications

AGENCY: Interstate Commerce Commission.

ACTION: Denial of petition of the New York State Department of Transportation.

SUMMARY: The New York State Department of Transportation had filed a petition with the Commission seeking to amend the regulations promulgated at 49 CFR 1121, *Abandonment of Railroad Lines And Discontinuance of Service.* Specifically, it sought to eliminate or revise Category II of the system diagram classification describing lines potentially subject to abandonment. The petition was denied because the arguments had been considered and discussed before or were unsubstantiated.

DATE: The decision will be effective on the date it is served.[1]

FOR FURTHER INFORMATION CONTACT:

[1]Service Date: December 26, 1978.

Gerald M. Bober, 202-275-7564.

SUPPLEMENTARY INFORMATION: On August 9, 1978, the New York State Department of Transportation, by William C. Hennessy, its Commissioner, filed a petition to eliminate Category II of the System Diagram Classifications contained in the regulations promulgated at 49 CFR Part 1121, enacted November 10, 1976. See 41 FR 48520. This classification is used for grouping lines which are potentially subject to abandonment. Petitioner argues that the regulation is vague, confusing, and inconsistently applied.

Petitioner maintains that a line placed in this category becomes stigmatized both to shippers presently located on the line and those considering locating on the line in the future. The uncertain status of continued service is not conducive to profitable operation. In this manner the line is effectively doomed when it is placed in this category.

Petitioner protests that railroads may presently place lines in Category II at their own discretion. It argues that objective standards are necessary to determine which lines are "potentially subject to abandonment." Petitioner alleges that the recently enacted *Local Rail Service Assistance Act of 1978,* Pub. L. 95-611, creates an incentive for abuse of the Category II designation by computing state subsidy allocations using Category II mileage.

DISCUSSION AND CONCLUSION

Sub Part B of 49 CFR 1121 implements section 1a(5) (a) and (b) of the Interstate Commerce Act, as enacted in the *Railroad Revitalization and Regulatory Reform Act of 1976,* Pub. L. 94-210, (recodified at 49 U.S.C. 10904). This provision requires each rail carrier to publish annually a diagram of its transportation system. Each diagram must identify any line for which a carrier plans to submit an application for abandonment or discontinuance, as well as each line which is "potentially subject to abandonment."

In Ex Parte No. 274 (Sub-No. 2), we adopted rules defining these terms. We considered whether or not objective standards should be established for identifying lines "potentially subject to abandonment" (Category II). These standards would necessarily involve formulas designed to demonstrate that the line is an economic loser. By setting such standards, we would definitely be placing a stigma on those lines and discouraging future business on lines which may never be subject to an abandonment effort. See *Abandonment of R. Lines & Discontinuance of Serv.,* 354 I.C.C. 129, 136-139 (1976).

The Category II designation has a two-fold purpose. It notifies users that they are likely to face an attempt by the carrier to abandon the line. Secondly, the designation gives the Commission, other federal agencies, the States, local communities, and carriers themselves an opportunity to plan effectively to develop and maintain an integrated transportation system. Since the ultimate decision whether or not to file an abandonment application rests with the carrier, its intentions should be the focus of the system diagram classifications. An objective test for Category II might place in jeopardy certain lines which have a good potential for profitable operation and which the carrier is seeking to preserve.

We recognized that any labeling of a line as "potentially subject to abandonment" could be detrimental. However, the amended Interstate Commerce Act mandated regulations which include a category of lines "potentially subject to abandonment" (in addition to those for which the carrier plans to submit an abandonment application).

Certain regulations safeguard against abuse of this category. The carrier is required to maintain precise revenue and cost data for any line in Category II. Also, a system diagram map containing Category II lines must be revised annually to reflect whether there is any change in the categorization of those lines.

Petitioner has argued that many more lines will be placed in Category II as a result of the recently enacted subsidy legislation. It alleges that this will magnify the problem of lines becoming stigmatized. However, petitioner has presented no evidence that Category II is presently destructive or that the new legislation will cause the alleged harmful results. If abuses do occur, petitioner may refile its request.

Petitioner's argument that the use of "lines potentially subject to abandonment" in the subsidy allocations will defeat the intent of the legislation which led to the establishment of Category II is unfounded. There is no evidence that Congress failed to consider the interrelationship of the two statutes.

This is not a major regulatory action under the Energy Policy and Conservation Act of 1975.

It is ordered:

(1) The petition of the New York State Department of Transportation is denied.

(2) The decision shall be effective on the date it is served.

Dated December 18, 1978.

By the Commission, Chairman O'Neal, Vice Chairman Christian, Commissioners Brown, Stafford, Gresham, and Clapp.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 78-36415 Filed 12-29-78; 8:45 am]

[7035-01-M]

[Volume No. 130]

PETITIONS, APPLICATIONS, FINANCE MATTERS (INCLUDING TEMPORARY AUTHORITIES), ALTERNATE ROUTE DEVIATIONS, AND INTRASTATE APPLICATIONS

DECEMBER 20, 1978.

PETITIONS FOR MODIFICATION, INTERPRETATION OR REINSTATEMENT OF OPERATING RIGHTS AUTHORITY

The following petitions seek modification or interpretation of existing operating rights authority, or reinstatement of terminated operating rights authority.

All pleadings and documents must clearly specify the suffix (e.g. M1 F, M2 F) numbers where the docket is so identified in this notice.

An original and one copy of protests to the granting of the requested authority must be filed with the Commission on or before February 1, 1979. Such protests shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247)[1] and shall include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon petitioner's representative, or petitioner if no representative is named.

MC 8310 (Subs 6 and 7) (M1F) (notice of filing of petition to modify certificates), filed October 16, 1978. Petitioner: JEFF'S TRUCKING, INC., 22¼ North Madison Street, P.O. Box 282, Waupun, WI 53963. Representative: Richard A. Westley, 4506 Regent Street, Suite 100, Madison, WI 53703. Petitioner holds a motor *common carrier* Certificate in MC-8310 (lead certificate) issued September 27, 1972, authorizing transportation, as pertinent, over irregular routes, of: *canned and preserved foodstuffs* and *materials, equipment and supplies* used in the canning industry (except commodities in bulk, in tank or hopper-type vehicles), from points in the Township of Lomira, Dodge County, Wisconsin to points in Wisconsin, *RESTRICTION:* The service authorized under the commodity description next above is restricted to the transportation of traf-

[1]Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

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fic destined to points in Wisconsin. Petitioner also holds a motor *common carrier* Certificate in MC-8310 (Sub No. 6), issued June 20, 1973, authorizing transportation, over irregular routes, of: *canned and preserved foodstuffs*, and *materials, equipment and supplies* used in the canning industry (except commodities in bulk, in tank or hopper-type vehicles), from points in Columbia and Fond du Lac Counties, Wisconsin to points in Wisconsin, *RESTRICTION:* The authority granted herein is restricted to the transportation of traffic destined to points in Wisconsin. Petitioner also holds a motor *common carrier* Certificate in MC-8310 (Sub No. 7), issued February 21, 1974, authorizing transportation, over irregular routes, of : *canned and preserved foodstuffs*, and *materials, equipment and supplies* used in the canning industry (except commodities in bulk, in tank or hopper-type vehicles), from points in Washington, Dodge (except Lomira), Dane, Green Lake, and Trempealeau Counties, Wisconsin, to points in Wisconsin, *RESTRICTION:* The operations authorized herein are restricted to the transportation of traffic (1) destined to points in Wisconsin, and (2) having an immediately prior movement by rail. By the instant Petition, petitioner seeks to remove the above-stated restrictions.

MC 64600 (Sub-47) (MIF) (notice of filing of petition to modify commodity description), filed October 10, 1978. Petitioner: WILSON TRUCKING CORPORATION, P.O. Drawer 2, Fishersville, Virginia 22939. Representative: Francis W. McInerny, 1000 sixteenth Street, NW, Washington, DC 20036. Petitioner holds a motor *common carrier* Certificate, MC-64600 (Sub-47) issued September 7, 1978, authorizing transportation, over regular routes of: *General commodities*, (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, gasoline, scrap iron, commodities in bulk, and those requiring refrigeration or special equipment), between Washington, DC and Baltimore, MD, serving the intermediate point of Laurel, MD. By the instant petition, petitioner seeks authority to modify the commodity description to read: *General commodities*, (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment).

MC 95540 (Sub-733) (MIF) (notice of filing of petition to modify certificate), October 18, 1978. Petitioner: WATKINS MOTOR LINES, INC., P.O. Box 1636, Lakeland, FL 33801. Representative: Paul M. Daniell, Suite 1200, Atlanta Gas Light Tower, 235 Peachtree St., N.E., Atlanta, GA 30303. Petitioner holds a motor *common carrier* certificate in MC 95540 sub 733 issued April 4, 1977, authorizing transportation, over regular routes of: *General commodities* (except household goods as defined by the Commission, classes A and B explosives, commodities in bulk, articles of unusual value, and commodities the transportation of which by reason of size or weight require the use of special equipment, motor vehicles and boats) (1) Between Savannah, GA, and San Diego, CA.: From Savannah over US Hwy 80 to San Diego, and return over the same route, (2) between Jacksonville, FL, and Los Angeles, CA: From Jacksonville over U.S. Hwy 90 to Van Horn, TX, then over US Hwy 80 to Las Cruces, NM, then over US Hwy 70 to Globe, AZ, then over US Hwy 60 to Los Angeles, and return over the same route, and (b) from Jacksonville over Interstate Hwy 10 to Los Angeles, and return over the same route, (3) Between Savannah, GA, and Key West, FL.: From Savannah over US Hwy 17 to Jacksonville, FL, then over US Hwy 1 to Key West, and return over the same route, (4) Between Columbus, GA, and Miami, FL.: From Columbus over US Hwy 27 to Miami, and return over the same route, (5) Between Savannah, GA, and Miami, FL.: From Savannah over Interstate Hwy 95 to Miami, and return over the same route, (6) Between Macon, GA, and Miami, FL.: From Macon over US Hwy 41 to Miami, and return over the same route, (b) From Macon over Interstate Hwy 75 to Wildwood, FL, then over the Sunshine State Parkway to Miami, and return over the same route, (7) Between Wildwood, FL, and Tampa, FL.: From Wildwood over Interstate Hwy 75 to Tampa, and return over the same route, (8) Between Daytona Beach, FL, and St. Petersburg, FL.: From Daytona Beach over Interstate Hwy 4 to St. Petersburg, and return over the same route, (9) Between Statesboro, GA, and Ocala, FL.: From Statesboro over US Hwy 301 to Ocala, and return over the same route, (10) Between Bainbridge, GA, and Brunswick, GA.; From Bainbridge over US Hwy 84 to Brunswick, and return over the same route, (11) Between Cusseta, GA, and Blitchton, GA.: From Cusseta over US Hwy 280 to Blitchton, and return over the same route, (12) Between Cuthbert, GA, and Midway, GA.: From Cuthbert over US Hwy 82 through Enigma, GA, to Midway and return over the same route, (13) Between Macon, GA, and Folkston, GA.: From Macon over US Hwy 23 to Folkston, and return over the same route, (14) Between junction US Hwys 80 and 19 north of Butler, GA, and St. Petersburg, FL.: From junction US Hwys 80 and 19 over US Hwy 19 to St. Petersburg, and return over the same route, (15) Between Lebanon Station, FL, and Dunnellon, FL.: From Lebanon Station over FL Hwy 335 to Dunnellon, and return over the same route, (16) Between Perry, FL, and Pensacola, FL.: From Perry, over US Hwy 98 to Pensacola, and return over the same route, (17) Between Panama City, FL, and Cottondale, FL.: From Panama City over US Hwy 231 to Cottondale, and return over the same route, (18) Between Lakeland, FL, and Punta Gorda, FL.: From Lakeland over US Hwy 98 to Bartow, then over US Hwy 17 to Punta Gorda, and return over the same route, (19) Between Fort Myers, FL, and West Palm Beach, FL.: From Fort Myers over FL Hwy 80 to junctions US Hwy 27, then over US Hwy 27 by South Bay and Belle glade to junction US Hwy 441, then over US Hwy 441 to West Palm Beach, and return over the same route, (20) Between Tampa, FL, and Vero Beach, FL.: From Tampa over FL Hwy 60 to Vero Beach, and return over the same route, (21) Between Bradenton, FL, and West Palm Beach, FL.: From Bradenton, FL, and West Palm Beach, FL.: From Bradenton over FL Hwy 64 to junction FL Hwy 675, then over FL Hwy 675 to junction FL Hwy 70, then over FL Hwy 70 to junction FL Hwy 710, then over FL Hwy 710 to West Palm Beach, and return over the same route, (22) Between Ocala, FL, and Ormond Beach, FL.: From Ocala over FL Hwy 40 to Ormond Beach, and return over the same route, (23) Between San Diego, CA, and Crescent City, CA.: From San Diego over US Hwy 101 to Crescent City, and return over the same route, (24) Between Los Angeles, CA, and Weed, CA.: From Los Angeles over CA Hwy 99 and Interstate Hwy 5 to Weed, and return over the same route, (25) Between San Diego over US Hwy 395 to Alturas, and return over the same route, (26) Between San Francisco, CA, and San Bernardino, CA.: From Blythe over US Hwy 95 to Needles, CA, then over US Hwy 66 to San Bernardino, and return over the same route, (28) Between Santa Maria, CA, and Bakersfield, CA.: From Santa Maria over CA Hwy 166 to junction CA Hwy 33, then over CA Hwy 33 to junction CA Hwy 119, then over CA Hwy 119 to junction CA Hwy 99, then over CA Hwy 99 to Bakersfield, and return over the same route, (29) Between Bakersfield, CA, and Barstow, CA.: From Bakersfield over CA Hwy 58 to Barstow, and return over the same route, (30) Between Gilroy, CA, and Fairmead, CA.: From Gilroy over CA Hwy 152 to Fairmead, and return over the same route, (31) Between Ventura, CA, and junction CA Hwys 33 and 152: From Ventura over CA Hwy 33 to junction CA Hwy 152, and return over the same route, (32) Between San Jose, CA, and Stockton, CA.: from San Jose over Interstate Hwy 680 to junction US Hwy 50, then over US Hwy 50 to Stockton, and return over the same route, (33) Between Mobile, AL, and Jackson, MS, serving Mobile, AL, and Jackson, MS, for purpose of joinder only: From Mobile over US Hwy 98 to junction US Hwy 49 near Hattiesburg, MS, then over US Hwy 49 to Jackson, and return over the same route. Serving all intermediate points on the above specified routes in GA, FL, and CA, and serving all other points in FL, CA, and that part of GA on and south of US Hwy 80, as off-route points. RESTRICTION: The authority granted herein is restricted to the transportation of traffic moving between points in the United States on and west of US Hwy 89, on the one hand, and, on the other, points in the United States on and east of US Hwy 61. By the instant petition, petitioner seeks to modify the above restriction to read: Service at Reno, NV and points in CA is restricted to the transportation of traffic originating at or destined to points in the United States on and east of US Hwy 61.

MC 135691 (Subs 11 and 17), (MIF) (notice of filing of petition to modify permits), filed October 18, 1978. Petitioner: DALLAS CARRIERS CORP., P.O. Box 34080, Dallas, TX 75234. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501. Petitioner holds motor *contract carrier* permits in MC 135691 Sub 11, and 17, issued January 5, 1977 and May 18, 1978 respectively. MC 135691 Sub 11 authorized transportation, over irregular routes, of (1) *Automotive parts and accessories, automotive hand, electric, and pneumatic tools*, from the facilities of the Walker Manufacturing Company at Greenville, TX, to points in the United States (except AK, HI, and TX), and (2) *Materials, supplies, and equipment* used in the manufacture, sale, and distribution of the commodities described in (1) above, from points in the United States (except AK, HI, and TX) to the facilities of Walker Manufacturing Company at Greenville, TX, restricted in (1) and (2) above against the transportation of commodities in bulk, in tank vehicles, and against the transportation of commodities which because of size or weight require the use of special equipment, and limited in (1) and (2) above to a transportation service to be performed under a continuing contract, or contracts, with Walker Manufacturing Company of Racine, WI. MC 135691 Sub 17 authorizes transportation, over irregular routes, of (1) *Automotive parts and accessories* (except commodities in bulk and those requiring special equipment), from the facilities of Walker Manufacturing Company at or near Arden, NC, to points in the United States (except AK, NC, and HI); and (2) *Materials, supplies, and equipment* used in the manufacture, sale and distribution of the commodities in (1) (except commodities in bulk and those requiring special equipment), from points in the United States (except AK, NC, and HI), to the facilities of Walker Manufacturing Company at or near Arden, NC, under a continuing contract(s) in (1) and (2) above with Walker Manufacturing Company, of Racine, WI, and restricted in (1) and (2) above to the transportation of traffic originating at or destined to the facilities of Walker Manufacturing Company, at or near Arden, NC. By the instant petition, petitioner seeks to modify the above permits by adding the language "and shock absorbers" in Sub 17, Part (2) of the commodity description, and in Sub 11, Part (2) after the word "above".

MC 139579 (Sub-2) (MIF) (notice of filing of petition to modify permit), filed October 19, 1978. Petitioner: GEORGE H. GOLDING, INC., 5879 Marion Drive, Lockport, NY 14094. Representative: William J. Hirsch, 43 Court Street, Suite 1125, Buffalo, NY 14202. Petitioner holds a motor *contract carrier* permit in MC 139579 Sub 2 issued June 20, 1978 authorizing transportation, over irregular routes, of (1) *Salad dressing and tartar sauce* (except in bulk), from Wilson, NY, to points in NH, MA, CT, NY, PA, NJ, MD, OH, MI, IL, FL, GA, SC, ME, VT, RI, WV, KY, WI, NC, and DC, and (2) *Materials, supplies, and equipment* used in the manufacture or distribution of salad dressing and tartar sauce (except in bulk), from DC and points in the above-named States, to Wilson, NY. RESTRICTION: (a) The operations authorized herein are subject to the following conditions: Said operations are restricted against transportation of glass products from Brockway, PA, to Wilson, NY, and (b) Said operations are limited to a transportation service to be performed under a continuing contract, or contracts with Pfeiffer Foods, Inc., of Wilson, NY. By the instant petition, petitioner seeks to modify the above authority by deleting the word "tartar" in the above commodity descriptions and pluralizing the word "sauce."

Republications of Grants of Operating Rights, Authority Prior to Certification

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the Federal Register.

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission within 30 days after the date of this Federal Register notice. Such pleading shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

MC 94201 (Sub-159F) (republication), filed March 13, 1978, published in the Federal Register issue of May 4, 1978, and republished this issue. Applicant: BOWMAN TRANSPORTATION INC., P.O. Box 17744, Atlanta, GA 30316. Representative: Maurice F. Bishop, 601-09 Frank Nelson Building, Birmingham, AL 35203. A Decision of the Commission, Review Board Number 1, decided November 30, 1978, and served December 11, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of *Battery boxes, battery covers, and battery vents*, from the facilities of The Richardson Company, at or near Philadelphia, MS, to points in AL, AR, FL, GA, LA, NC, SC, TN, and TX, restricted to the transportation of traffic originating at the named origin, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to modify the commodity and territorial description.

MC 113678 (Sub-669) (republication), filed May 17, 1977, published in the Federal Register issue of June 23, 1977, and republished this issue. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Representative: Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501. A Decision of the Commission, Review Board Number 2, decided October 13, 1978, and served October 25, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of (1) *Foodstuffs;* (2) *pharmaceutical materials, supplies, and prod-*

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ucts; (3) *chemicals;* (4) *alcoholic beverages;* (5) *tobacco products;* and (6) *pet foods,* in vehicles equipped with mechanical refrigeration, (A) from Denver, CO, to points in the United States in and west of MN, IA, MO, AR, and LA (except AK and HI), restricted to the transportation of traffic originating at (or moving from storage-in-transit at) Denver, CO, and destined to points in the United States in and west of MN, IA, MO, AR, and LA (except AK and HI); and (B) from points in the United States in and west of MN, IA, MO, AR, and LA (except AK and HI), to Denver, CO, restricted to the transportation of traffic originating at points in the United States in and west of MN, IA, MO, AR, and LA (except AK and HI), and destined to (or moving to storage-in-transit at) Denver, CO, and restricted in Parts (A) and (B) against the transportation of commodities in bulk, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate the applicant's actual grant of authority, and to impose a condition that the certificate authorized to be issued in No. MC 113678 (Sub-No. 669) will expire at the end of a 3-year term unless prior to its expiration date, but not less than 2 years from its date of issuance, Curtis files a petition for the extension of such certificate and demonstrates that it has been in full compliance with the terms and conditions of its certificates and with the requirements of the Interstate Commerce Act and our governing regulations.

MC 118838 (Sub-18F) (corrected republication), filed February 9, 1978, published in the FEDERAL REGISTER issues of March 16, 1978 and December 7, 1978, and republished this issue. Applicant: GABOR TRUCKING, INC., Rural Route 4, Detroit Lakes, MN 56501. Representative: Robert D. Gisvold, 1000 First National Bank Bldg., Minneapolis, MN 55402. A Decision of the Commission, Review Board Number 2, decided September 26, 1978, and served November 2, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier,* by motor vehicle, over irregular routes, in the transportation of *Lumber, lumber mill products, and wood products,* from the facilities of Potlatch Corporation, at or near Couer d'Alene, Jaype, Kamiah, Lewiston, Post Falls, Potlatch, Santa, St. Maries, and Spalding, ID, to points in IL, IN, IA, MI, MN, OH, and WI, restricted to the transportation of traffic originating at the named origins, that applicant is fit, willing and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate applicant's actual grant of authority.

MC 126118 (Sub-65F) (republication), filed February 27, 1978, published in the FEDERAL REGISTER issue of April 6, 1978, and republished this issue. Applicant: CRETE CARRIER CORP., P.O. Box 81228, Lincoln, NE 68501. Representative: Duane W. Acklie (same address as applicant). A Decision of the Commission, by the Initial Decision of Administrative Law Judge Harold J. Sarbacher, served October 10, 1978, becomes effective December 8, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier,* by motor vehicle, over irregular routes, in the transportation of (1) *Wine and alcoholic beverages* (except commodities in bulk, in tank vehicles); and (2) *non-alcoholic beverages* when moving in mixed loads with (1) above (except commodities in bulk, in tank vehicles), from points in CA, to points in CT, DE, IL, IN, IA, KS, KY, MA, MD, MI, MN, MO, NE, NH, NJ, NY, OH, OK, PA, RI, TN, VA, WV, WI, and the District of Columbia, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate applicant's actual grant of authority.

MC 135684 (Sub-80F) (republication), filed March 30, 1978, published in the FEDERAL REGISTER issue of May 25, 1978, and republished this issue. Applicant: BASS TRANSPORTATION CO., INC., P.O. Box 391, Old Croton Road, Flemington, NJ 08822. Representative: Herbert Alan Dubin, 1320 Fensick Lane, Silver Spring, MD 20910. A Decision of the Commission, by the Initial Decision of Administrative Law Judge Isabelle R. Cappelo, served October 10, 1978, becomes effective December 8, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier,* by motor vehicle, over irregular routes, in the transportation of *Foam* (except in bulk, in tank vehicles), from the facilities of Tenneco Chemicals, at East Rutherford, NJ, to Stoughton, MA, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate the deletion of MO, PA, and WV as destination points; and the deletion of "and destined to the indicated destination States" from the restriction.

MC 143264 (Sub-4F) (republication), filed February 22, 1978, published in the FEDERAL REGISTER issue of April 6, 1978, and republished this issue. Applicant: DAIRY LEASING SERVICE, INC., 803 Herring Avenue, Wilson, NC 27893. Representative: Thomas N. Willess, 1000 Sixteenth St. NW., Washington, D.C. 20036. A Decision of the Commission, Review Board Number 4, decided November 1, 1978, and served November 20, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *contract carrier,* by motor vehicle, over irregular routes, in the transportation of (1) *Dairy products* (except in bulk), (a) from Charlotte, Wilson, and Winston-Salem, NC, to points in FL, GA, LA, MD, PA, SC, TN, and VA; (b) from Chambersburg, PA, to points in FL, GA, MD, NC, SC, and VA; (c) from Atlanta, GA, to points in FL, MD, NC, PA, SC, and VA, and (d) from Edmeston and Walton, NY, to points in FL, GA, NC, and VA; (2) (a) *frozen juice concentrate,* from Dade City, Dunedin, Ocala, and Plymouth, FL, to points in NC and VA; (b) *fruit juice,* from Bradenton, FL, to points in NC and VA; and (c) *citrus juice,* from Lakeland, FL, to points in GA, MD, NY, PA, SC, VA, NC, and WV; and (3) *foodstuffs* (except in bulk), from Allentown, PA, to points in GA, MD, NC, SC, and VA; under a continuing contract or contracts with Kraft, Inc., of Glenview, IL, will be consistent with the public interest and the national transportation policy, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to modify the commodity description.

FINANCE APPLICATIONS

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, of rail carriers or motor carriers pursuant to Sections 11343 (formerly Section 5(2)) or 11349 (formerly Section 210a(b)) of the Interstate Commerce Act.

An original and one copy of protests against the granting of the requested authority must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protest shall comply with Special Rules 240(c) or 240(d) of the Commission's *General Rules of Practice* (49

CFR 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant, if no representative is named.

Each applicant states that approval of its application will not significantly affect the quality of the human environment nor involve a major regulatory action under the Energy Policy and Conservation Act of 1975.

MC-F-13776F (republication). The October 26, 1978 FEDERAL REGISTER Notice (pp. 50101-50102) of the application filed by CRST, INC., 3930 16th Avenue, SW, P.O. Box 68, Cedar Rapids, IA 52403 to purchase a portion of the operating rights of BURGMEYER BROS., INC., 1342 North Howard Street, Philadelphia, PA 19122, contained various errors and omissions. (1) The correct spelling of Vendor's name is BURGMEYER BROS., INC. (2) The prior Notice omitted reference to that portion of the authority sought to be purchased authorizing intermediate and off-route point service in and around Pittsburgh, PA, Chicago, IL, New York, NY and Baltimore, MD. (3) The prior Notice omitted reference to CRST, INC.'S request to tack the authority sought to be purchased with its existing authority at Chicago, IL. Representatives: Robert E. Konchar, Esq., 2720 First Avenue, NE, P.O. Box 1943, Cedar Rapids, IA 52406, and A. David Millner, Esq., 167 Fairfield Road, P.O. Box 1409, Fairfield, NJ 07006.

MC-F-13820. Authority sought for purchase by FRUIT-BELT TRUCKING INC., 12 Smith Street, St. Catherines, Province of Ontario, CD L2T 3H9, of a portion of the operating rights of MOTEK TRANSPORT, INC., P.O. Box 239, 2250 Maple Avenue, Hatfield, PA 19440, and for acquisition by CATHERINE FABELLO and VICTOR BARANUIK, both of St. Catherines, Province of Ontario, CD L2T 3H9, of control of such rights through the transaction. Applicant's attorney: Robert Gunderman, Suite 710 Statler Hilton, Buffalo, NY 14202. Operating rights sought to be purchased: *Packinghouse products* as described in paragraphs A, B and C of the appendix Ex Parte No. MC-38, *Modification of Motor Contract Carriers of Packing-House Products,* 46 M.C.C. 23, as a *common carrier,* over irregular routes from ports of entry on the United States-Canada Boundary line at Buffalo and Niagara Falls, NY to New York, NY, and points within 50 miles thereof, with no transportation for compensation on return except as otherwise authorized. RESTRICTION: The operations authorized under the commodity description next above are restricted to foreign commerce only. *Fresh fruits, fresh vegetables,* and the *commodities* described in paragraphs A, B and C, in the appendix to the report in *Modification of Permits Packing-House Products,* 48 M.C.C. 628, between the ports of entry on the United States-Canada Boundary line at Alexandria Bay, Buffalo, and Niagara Falls, NY, on the one hand, and, on the other, points in CT, DE, MD, MA, NJ, NY, OH, PA, RI, and DC. Transferee presently holds authority from the Commission in Docket No. MC-117993 and Subs thereunder to operate as a *common carrier* in the States of CT, DE, DC, FL, GA, IL, IA, MD, MA, MI, MO, ND, NY, NC, OH, PA, RI, SC, VA, and W.VA. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-13838F. Authority sought for purchase by COHEY TRUCKING COMPANY, INC., 3015 Vermont Avenue, Baltimore, MD 21227, of a portion of the operating rights of ELLIOTT BROTHERS TRUCKING COMPANY, INC., P.O. Box 719, Easton, MD 21610, and for acquisition by WILLIAM R. COHEY, of Baltimore, MD 21227, of control of such rights through the transaction. Applicants' attorneys: John R. Sims, Jr. and John L. Boyd, Jr., 425 13th Street, N.W., Suite 915, Washington, D.C. 20004. Operating rights sought to be purchased: *General commodities,* except Class A and B explosives other than small arms ammunition, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment, as a *common carrier* over regular routes, between Alexandria, VA and Baltimore, MD, via Priests Bridge and Glen Burnie, MD, serving various intermediate and off-route points. Vendee is authorized to operate as a *common carrier* in MD, PA, DE, VA, NJ, NY, and DC. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-13843F. Authority sought for purchase by SUNDERMAN TRANSFER, INC., P.O. Box 63, Windom, MN 56101, of a portion of the operating rights of RED-FEATHER FAST FREIGHT, INC., (Merle J. Nicola, Trustee in Bankruptcy), 2606 North 11th St., Omaha, NE 68110, and for acquisition by L. E. SUNDERMAN and EUGENE SUNDERMAN, both of Windom, MN 56101, of control of such rights sought to be acquired through the purchase. Applicants' attorneys: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58108 and Donald L. Stern, 7171 Mercy Road, Omaha, NE 68106. Operating rights sought to be purchased: *Cheese,* as a *common carrier* over regular routes, from Marshfield, Monroe, and Portage, WI, to Kansas City and St. Joseph, MO, Omaha, NE, and Sioux City, IA, as described in No. MC-13999. Vendee is authorized to operate as a *contract carrier* pursuant to No. MC-125103 within that part of the United States in and east of ND, SD, NE, CO, OK, and TX, but holds no authority to operate as a common carrier. Dual operations are involved. Application has not been filed for temporary authority under section 210a(b).

MC-F-13845F. Authority sought for purchase by GEORGE W. KUGLER, INC., 2800 East Waterloo Road, Akron, OH 44312, of a portion of the operating rights of Rubber City Express, Inc., 1805 East Market Street, Akron, OH 44305, and for control of such rights by George W. Kugler, Inc. through the acquisition. Applicants' attorney: David A. Turano, George, Greek, King, McMahon & McConnaughey, 100 East Broad Street, Columbus, OH 43215. Operating rights sought to be purchased: Permit MC-136470 (1) petroleum and petroleum products (except in bulk) and (2) materials and supplies normally dealt in by retail gasoline service stations in mixed loads with commodities in (1) above from Paulsboro, NJ, to points in OH and PA, under a continuing contract or contracts with Mobil Oil Corporation of New York, NY; Permit MC-136470 Sub-3 silica gel and silica gel catalysts (except commodities in bulk) from Paulsboro, NJ, to points in OH and a designated portion of western PA under a continuing contract or contracts with Mobil Oil Corporation of New York, NY. Vendee is authorized to operate as a common carrier of specified commodities in all states in and east of ND, SD, NE, KS, OK, and TX. Application has been filed for temporary authority under Section 210a(b).

NOTE.—MC 125533 (Sub-29F) is a directly related matter.

MC-F-13846F. Authority sought for THE MASON AND DIXON LINES, INCORPORATED, Eastman Road, P.O. Box 969, Kingsport, TN, 37662, to purchase the operating rights of MOAN BROS. EXPRESS, INC., 30 Brown Avenue, North Providence, RI, 02904, and for acquisition by E. William King, P.O. Box 969, Kingsport, TN, 37662, John R. King, P.O. Box 969, Kingsport, TN, 37662, and M. K. Norris, 1400 Belmeade Place, Kingsport, TN, 37660, of control of such rights through the transaction. Applicants' representatives: Kim D. Mann, Esquire, 7101 Wisconsin Avenue, Washington, DC, 20014; and Frank J. Weiner, Esquire, 15 Court Square, Boston, MA, 02108. Operating rights sought to be acquired: (i) *General commodities,* with exceptions, (A) regular routes between Hope, RI and Boston, MA and between Providence and

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Wakefield, RI, serving named intermediate and off-route points in RI and MA, and (B) irregular routes from Westerly, RI to points in a portion of New London County, CN, and between West Warwick, RI, on the one hand, and, on the other, points in RI; (ii) *Household goods* over irregular routes between West Warwick, RI and Stonington, CN, on the one hand, and, on the other, points in CN and RI and between Westerly, RI, on the one hand, and, on the other, points in CN, MA, and NY; (iii) *Coffee and tea* from Boston, MA to points in Bristol, Kent, Providence, and Washington Counties, RI; (iv) *Laundry supplies* from Cambridge, MA to Johnston, South Kingston, Newport, and Westerly, RI; (v) *Meat* from Boston, MA to South Kingston, RI; and (vi) *School supplies* from Boston, MA to North Kingston, RI. Vendee is authorized to operate as a common carrier in AL, AR, CN, DE, DC, GA, IL, IN, IA, KA, LA, ME, MD, MA, MI, MS, MO, NE, NJ, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, VA, and WV. Application has been filed for temporary authority under section 210a(b) of the Act. (Hearing Site: Providence, RI or Boston, MA.)

MC-F-13849F. Transferee: GRAND ISLAND MOVING & STORAGE CO., INC., P.O. Box 2122, Grand Island, NE 68801. Transferor: JBH & ASSOCIATES, INC., P.O. Box 250, Route 2, Elwood, NE 68937. Representative: Richard A. Peterson, Peterson, Bowman, Larsen & Swanson, 521 South 14th St., Suite 500, P.O. Box 81849, Lincoln, NE 68501. Authority sought to purchase by Grand Island Moving & Storage Co., Inc., P.O. Box 2122, Grand Island, NE 68801, of the operating rights of JBH & Associates, Inc., P.O. Box 250, Route 2, Elwood, NE 68937, of control of such rights through the transaction. Applicant's attorney: Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501. Operating rights, as a *common carrier*, of *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities requiring special equipment, and commodities in bulk), sought to be transferred: REGULAR ROUTES: (1) Between Grand Island, NE, and Omaha, NE, serving no intermediate points: From Grand Island over U.S. Hwy 30 to junction U.S. Hwy 275, then over U.S. Hwy 275 to Omaha, and return over the same route. From Grand Island over U.S. Hwy 30 to junction U.S. Hwy 275, then over U.S. Hwy 275 to junction NE Hwy 8, then over NE Hwy 8 to Omaha, and return over the same route. (2) Between Kearney, NE, and Grand Island, NE, serving all intermediate points: From Kearney over U.S. Hwy 30 to Grand Island, and return over the same route. (3) Between Grand Island, NE, and Beatrice, NE, serving all intermediate points, and serving the off-route points of McCool Junction, Harvard, Henderson, and Hastings, NE: From Grand Island over U.S. Hwy 281 to junction U.S. Hwy 34, then over U.S. Hwy 34 to Lincoln, NE, then over U.S. Hwy 77 to Beatrice; and return from Beatrice over U.S. Hwy 77 to junction NE Hwy 33, then over NE Hwy 33 to Dorchester, NE, then over U.S. Hwy 6 to Fairmont, NE, then over U.S. Hwy 81 to junction U.S. Hwy 34, then over U.S. Hwy 34 to junction U.S. Hwy 281, and then over U.S. Hwy 281 to Grand Island. (4) Between Kearney, NE, and Omaha, NE, serving all intermediate points and serving the Cornhusker Ordnance Plant as an off-route point: From Kearney over U.S. Hwy 30 to junction U.S. Hwy 275, then over U.S. Hwy 275 to Omaha, and return over the same route. (5) Between Grand Island, NE, and Beatrice, NE, serving all intermediate points, those off-route points within 10 miles of the described route and the off-route points of Harvard and Henderson, NE: From Grand Island over NE Hwy 2 to Lincoln, NE, then over U.S. Hwy 77 to Beatrice, and return over the same route. (6) Between junction U.S. Hwy 77 and NE Hwy 33, and junction NE Hwy 2 and U.S. Hwy 81 north of York, NE, serving all intermediate points, those off-route points within 10 miles of the described route, and the off-route points of Harvard and Henderson, NE: From junction U.S. Hwy 77 and NE Hwy 33 over NE Hwy 33 to junction U.S. Hwy 6, then over U.S. Hwy 6 to junction U.S. Hwy 81, then over U.S. Hwy 81 to junction NE Hwy 2, and return over the same route. (7) Serving the facilities of Western Electric Company, Incorporated, at or near Underwood, IA, in connection with carrier's otherwise authorized regular-route operations from and to Omaha, NE. IRREGULAR ROUTE: (1) Between points in Hall County, NE, those in that part of Hamilton County, NE, west of NE Hwy 14 and those in that part of Howard and Merrick Counties, NE, south of NE Hwy 92. (2) Between points in Hall County, NE, those in that part of Hamilton County, NE, west of NE Hwy 14 and those in that part of Howard and Merrick Counties, NE, south of NE Hwy 92, on the one hand, and, on the other, points in that part of NE east of NE Hwy 61 (except Omaha), points on U.S. Hwy 30 between Omaha and Grand Island, and points in Sherman, Valley, Howard and Custer Counties, NE. RESTRICTION: the operations authorized herein are restricted to the performance of service solely within Nebraska. Grand Island Moving & Storage Co., Inc., holds authority as a common carrier conducting operations under docket No. MC-135283 and Subs thereto, within the states of NE, IA, IL, MO, MN, WI, VT, PA, IN, MI, OH, CO, KS, MS, AL, TX, DE, CT, NY, KY, MD, WV, ME, NH, MA, RI, NJ, and VA. Application has been filed for temporary authority under section 210a(b).

MC-F-13853F. Transferee: TIGGES TRUCKING INC., 5071 JFK Road, Dubuque, IA 52001. Transferor: KATUIN BROS. INC., Highway 61 South, P.O. Box 311, Fort Madison, IA 52627. Representative: Carl E. Munson, Registered Practitioner, 469 Fischer Building, Dubuque, IA 52001. Authority sought to purchase by Tigges Trucking Inc., 5071 JFK Road, Dubuque, IA 52001, of a portion of the operating rights of Katuin Bros. Inc., Highway 61 South, P.O. Box 311, Fort Madison, IA 52627, and for the acquisition by Kenneth H. Tigges and Janice M. Tigges, 5071 JFK Road, Dubuque, IA 52001, of control of such rights through the transaction. Applicants' representative: Carl E. Munson, 469 Fischer Building, Dubuque, IA 52001. Operating rights as a *common carrier*, over irregular routes, sought to be transferred: (1) Fertilizer, from Dubuque, IA, to points in IL on and north of Illinois Highway 9; and (2) Liquid fertilizer and liquid fertilizer ingredients, from Dubuque, IA, to points in MN, WI, and IL (except Depue and East St. Louis and points in their respective commercial zones as defined by the Commission). Tigges Trucking Inc. holds authority as a common carrier conducting operations to transport said gravel, stone and asphalt mix in dump vehicles, from Prairie du Chien, WI, to counties in northern portion of IA. Application has been filed for temporary authority under Section 210a(b). Hearing site: Madison, WI.

MC-F-13855F. Authority sought for purchase by THOMAS O. CARTMEL, 9135 North Meridian Street, Indianapolis, IN, of the operating rights of O.D. Thompson d.b.a. T & S Company, 5726 West 79th Street, Indianapolis, IN, and control of such rights through the transaction. Representative: Orville G. Lynch, P.O. Box 364, Westfield, IN 46074. Operating rights sought to be transferred: *Paper Bags, on pallets*, as a contract carrier, from the facilities of Samson-Midamerica, Inc., at Indianapolis, IN, to Minneapolis, MN, and points in IL, the Lower Peninsula of MI, OH, and PA. Restriction: The authority granted herein is limited to a transportation service to be performed under a continuing contract(s) with Samson-Midamerica, Inc., of Indianapolis, IN. Vendee presently holds no authority from this Commission but is affiliated with Jasper Furniture Forwarding, Inc., which is authorized to operate, pursuant to Certificate MC 129701, as a motor common carrier of New Furniture, crated, from certain points in IN and KY, to points in IL, IN, IA, KN, KY, MD, MI, MN, MO, NB, NY, OH, PA, TN, VA, WV, WI, and the D.C. Application has been filed for temporary authority under Section 210a(b).

MC-F-13856F. Authority sought to purchase by TFS, INC., Box 126, Rural Route 2, Grand Island, NE 68801, of a portion of the operating rights of Katuin Bros., Inc., Highway 61 South, P.O. Box 311, Fort Madison, IA 52627, and for acquisition by Robert Wenzl, Box 126, Rural Route 2, Grand Island, NE 68801, of control of such rights through the transaction. Applicants' representatives: Gailyn L. Larsen, P.O. Box 81849, Lincoln, NE 68501, and Carl E. Munson, 469 Fischer Building, Dubuque, IA 52001. Operating rights, as a *common carrier*, over irregular routes, sought to be transferred: (1) Soy products, from Gladbrook and Marshalltown, IA, to points in IL, KS, MN, MO, OH, and WI, with no transportation for compensation on return except as otherwise authorized; (2) Pelletized limestone and gypsum from points in Marion County, IA, to points in IL, KS, MN, MO, NE, ND, SD, and WI; and (3) Animal feed, feed ingredients, additives, and materials, and supplies used in the manufacture and distribution of animal feeds (except commodities in bulk), between the facilities of Kal Kan Foods, Inc., at or near Mattoon, IL, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of Kal Kan Foods, Inc., at or near Mattoon, IL. TFS, Inc. holds authority as a contract carrier conducting operations between various points in the United States for the account of Oxford Cheese Corporation, Ag Service, Inc., Morgen Manufacturing Co., Bonsall Pool Co., and Endicott Clay Products Co. Application has been filed for temporary authority under Section 210a(b).

Operating Rights Application(s) Directly Related to Finance Proceedings

NOTICE

The following operating rights application(s) are filed in connection with pending finance applications under Section 5(2) of the Interstate Commerce Act, or seek tacking and/or gateway elimination in connection with transfer applications under Section 212(b) of the Interstate Commerce Act.

An original and one copy of protests to the granting of the authorities must be filed with the Commission within 30 days after the date of this Federal Register notice. Such protests shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) and include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon applicant's representative or applicant if no representative is named.

Each applicant states that approval of its application will not significantly affect the quality of the human environment nor involve a major regulatory action under the Energy Policy and Conservation Act of 1975.

MC 125533 (Sub-29F), filed December 6, 1978. Applicant: GEORGE W. KUGLER, INC., 2800 East Waterloo Road, Akron, Ohio 44312. Representative: David A. Turano, 100 East Broad Street, Columbus, Ohio 43215. Authority sought as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Silica gel* and *silica gel catalysts* (except commodities in bulk), from Paulsboro, NJ, to points in OH and points in that part of PA on and west of a line beginning at junction U.S. Hwy 219 and the New York-Pennsylvania State line, then south along U.S. Hwy 219 to junction U.S. Hwy 119, and then south along U.S. Hwy 119 to junction with the Pennsylvania-West Virginia State line; and (2) *Petroleum* and *petroleum products* (except in bulk) and *materials* and *supplies* normally dealt in by retail gasoline service stations in mixed loads with petroleum and petroleum products (except in bulk), from Paulsboro, NJ, to points in OH and PA. (Hearing site: Columbus, OH.)

NOTE.—The purpose of this application is to convert a permit to a certificate of public convenience and necessity and is a directly related application to MC-F-13845F published in a previous section of this Federal Register issue.

Motor Carrier Intrastate Application(s)

NOTICE

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to Section 10931 (formerly Section 206(a)(6)) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's *General Rules of Practice* (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall *not* be addressed to or filed with the Interstate Commerce Commission.

Montana Docket T-4188, filed December 5, 1978. Applicant: TOM O. HIGLE, d/b/a HIGLE TRUCKING, 1112 O'Neil, Deer Lodge, MT 59722. Representative: William E. O'Leary, Suite 4G, Arcade Building, Helena, MT 59601. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment for loading and unloading), within the City of Deer Lodge, MT, and a twenty-five (25) mile radius thereof. Intrastate, interstate and foreign commerce authority sought. HEARING: Deer Lodge, MT; date and time not yet fixed. Requests for procedural information should be addressed to Montana Public Service Commission, 1227 11th Avenue, Helena, MT 59601, and should not be directed to the Interstate Commerce Commission.

New York Docket T-2237, filed November 28, 1978. Applicant: TEAL'S EXPRESS, INC., Laura Street, Lyons Falls, NY 13368. Representative: Roy D. Pinsky, 345 So. Warren Street, Syracuse, NY 13202. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: *General commodities*, between the Cities of Syracuse and Watertown, NY. Intrastate, interstate and foreign commerce authority sought. HEARING: Date, time and place not yet fixed. Requests for procedural information should be addressed to New York State Department of Transportation, 1220 Washington Avenue, State Campus, Building #4, Room G-21, Albany, NY 12232, and should not be directed to the Interstate Commerce Commission.

Tennessee Docket MC 3079 (sub-8), filed November 20, 1978. Applicant: McMINNVILLE FREIGHT LINE, INC., P.O. Box 790, Morrison Road, McMinnville, TN 37110. Representative: James Clarence Evans, 1800 Third National Bank Bldg., Nashville, TN 37219. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: *General commodities* (except used household goods, and articles which because of size or weight require specialized equipment), (1) Between Manchester, TN and Chattanooga, TN, and that part of the Commercial Zone of Chattanooga lying

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within the State of TN, via U.S. Hwy 41, using various segments of that part of Interstate 24 lying within TN and between Chattanooga and Manchester as alternate route segments. (2) Between McMinnville and Chattanooga, TN and that portion of its Commercial Zone lying within the State of TN over the following route: From McMinnville via TN Hwy 56 to junction TN Hwy 108, thence via TN Hwy 108 to its junction with TN Hwy 27, and thence via Hwy 27 to Chattanooga, and return over the same route. Each of the above routes is to be used in conjunction with all other authority presently held or hereafter acquired by applicant, the authority sought is restricted against the handling of traffic moving between Chattanooga and Nashville and their respective Commercial Zones. Co-extensive interstate authority is also sought. Intrastate, interstate and foreign commerce authority sought. HEARING: February 15, 1979, at 9:30 A.M., at C1-110 Cordell Hull Bldg, Nashville, TN 37219. Requests for procedural information should be addressed to Tennessee Public Service Commission, C1-102 Cordell Hull Bldg., Nashville, TN 37219, and should not be directed to the Interstate Commerce Commission.

By the Commission.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 78-36455 Filed 12-29-78; 8:45 am]

[6820-23-M]

GENERAL SERVICES ADMINISTRATION

TASK FORCE ON HISTORIC PRESERVATION

Meeting

Pursuant to Public Law 92-463, notice is hereby given of a three day meeting of the Task Force on Historic Preservation. The meeting will be convened Tuesday, January 16 through Thursday, January 18, 1979, at 9:00 a.m., Room 5141, General Services Administration, 18th and F Streets, N.W., Washington, D.C. 20405. The Task Force on Historic Preservation will review methods by which GSA fulfills its mandate regarding historic preservation, and make recommendations for changes as appropriate. The meeting will be open to the public.

Dated: December 28, 1978.

ROBERT L. JONES,
Acting Commissioner,
Public Buildings Service.

[FR Doc. 78-36471 Filed 12-29-78; 10:15 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3)

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Federal Home Loan Bank Board	2
Nuclear Regulatory Commission	3
Securities and Exchange Commission	4

[6351-01-M]

1

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., January 5, 1979.

PLACE: 2033 K Street NW., Washington, D.C., Eighth floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Market surveillance.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-2619-78 Filed 12-28-78; 2:17 pm]

[6720-01-M]

2

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 9:30 a.m., January 4, 1979.

PLACE: 1700 G Street NW., sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION:

Franklin O. Bolling, 202-377-6677.

MATTERS TO BE CONSIDERED:

Consideration of proposed revision of charges for printed copies and magnetic tapes of Insured Institution Financial Data.

Consideration of Association request to participate in check verification/guarantee systems—Winter Hill Federal Savings & Loan Association, Sommerville, Mass. and Freedom Federal Savings & Loan Association, Worcester, Mass.

Consideration of application for bank membership—Marble Savings Bank, Rutland, Vt.

Application for permission to organize a new Federal—B. B. Saunders et al., Slidell, La.

Branch Office Application—Westchester Federal Savings and Loan Association, New Rochelle, New York.

Branch office application—Mid-State Federal Savings & Loan Association, Ocala, Fla.

Branch office application—Local Federal Savings & Loan Association, Oklahoma City, Okla.

Concurrent consideration of branch office applications—(1) First Federal Savings & Loan Association of Lake Worth, Lake Worth, Fla.; and, (2) Washington Federal Savings & Loan Association, Miami, Fla.

Bank membership and insurance of accounts applications—Great Western Savings & Loan Association, Herminston, Oreg.

Concurrent consideration of—(1) Limited facility application—Heritage Federal Savings & Loan Association, Daytona Beach, Fla.; and, (2) Branch office application—First Federal Savings & Loan Association of Lake Worth, Lake Worth, Fla.

Dated: December 28, 1978.

RONALD A. SNIDER,
Assistant Secretary.

[S-2620-78 Filed 12-28-78; 3:30 pm]

[7590-01-M]

3

NUCLEAR REGULATORY COMMISSION.

DATE: December 28, 1978.

PLACE: Chairman's Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

THURSDAY, DECEMBER 28

1:30 p.m.—Discussion of senior executive service positions and executive budget request (approximately 1 hour, closed—exemption 6).

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

Dated: December 27, 1978.

WALTER MAGEE,
Office of the Secretary.

[S-2618-78 Filed 12-28-78; 2:12 pm]

[8010-01-M]

4

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of January 2, 1979, in Room 825, 500 North Capitol Street, Washington, D.C.

Closed meetings will be held on Wednesday, January 3, 1979 at 10:00 a.m. and on Thursday, January 4, 1979, at 2:30 p.m. An open meeting will be held on Thursday, January 4, 1979 at 9:30 a.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402(a)(8)(9)(i) and (10).

Commissioners Loomis, Pollack and Karmel determined to hold the aforesaid meeting in closed session.

The subject matter of the closed meeting scheduled for Wednesday, January 3, 1979, will be:

1. Formal orders of investigation.
2. Settlement of injunctive action.
3. Request for testimony of staff members.
4. Access to investigative files by Federal, state or self-regulatory authorities.
5. Litigation matters.
6. Institution of injunctive actions.
7. Settlement of administrative proceedings of an enforcement nature.
8. Institution of administrative proceedings of an enforcement nature.
9. Subpoena enforcement actions.
10. Regulatory matter bearing enforcement implications.

The subject matter of the closed meeting scheduled for Thursday, January 4, 1979, at 2:30 p.m., will be: Reports of investigation.

The subject matter of the open meeting scheduled for Thursday, January 4, 1979 at 9:30 a.m. will be:

(1) Consideration of whether to amend Rule 13f-1 under the Securities Exchange

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Act of 1934, the reporting requirements under the institutional investment disclosure program, to require that reports on Form 13F be filed on a quarterly basis rather than annually.

(2) Consideration of whether to propose for public comment rules providing for "start up" exemptions necessary to organize unit investment trusts which operate under the Investment Company Act of 1940. These proposals relate to provisions and rules pertaining to minimum net worth requirements (Section 14(a)), frequency of capital gains distributions (Rule 19b-1), and forward pricing (Rule 22c-1).

(3) Consideration of the adoption of a proposed rule delegating to the Comptroller the function of compromise and collection of Federal claims as required by the Federal Claims Collection Act of 1966, 31 U.S.C. 951 *et seq.*

(4) Consideration of the establishment of an Advisory Committee on Oil and Gas Accounting.

FOR FURTHER INFORMATION PLEASE CONTACT:

John Ketels at (202) 755-1129.

DECEMBER 27, 1978.

[S-2617-78 Filed 12-28-78; 11:06 am]

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CODE OF FEDERAL REGULATIONS

(Revised as of April 1, 1978)

Quantity	Volume	Price	Amount
_____	Title 19—Customs Duties	$6.00	$_____
_____	Title 24—Housing and Urban Development (Part 500 to End)	9.00	_____
_____	Title 26—Internal Revenue (Part 1, §§ 1.851 to 1.1200)	6.00	_____
_____	Title 26—Internal Revenue (Parts 30 to 39)	5.50	_____
		Total Order	$_____

[A Cumulative checklist of CFR issuances for 1978 appears in the first issue of the Federal Register each month under Title 1. In addition, a checklist of current CFR volumes, comprising a complete CFR set, appears each month in the LSA (List of CFR Sections Affected)]

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federal register

BOOK 2 OF 3 BOOKS
TUESDAY, JANUARY 2, 1979
PART II

THE NATIONAL ARCHIVES OF THE UNITED STATES 1934

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

AIRSPACE DESIGNATION

Compilation of Regulations

[4910-13-M]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airspace Docket No. 78-WA-15]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

PART 73—SPECIAL USE AIRSPACE

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Compilation of Regulations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Republication of final rules.

SUMMARY: This is a compilation of the current airspace designations and pending amendments to those designations issued by the FAA and published in the FEDERAL REGISTER. This compilation is published annually for the benefit of the public since airspace designations are not carried in the Code of Federal Regulations or the Federal Aviation Regulations.

DATES: Republication of rules in effect on December 1, 1978, and pending amendments published before December 1, 1978.

EFFECTIVE DATE: January 2, 1979.

FOR FURTHER INFORMATION CONTACT:

Mrs. Dorothy Camarda, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8626.

SUPPLEMENTARY INFORMATION: Airspace rulemaking actions are issued throughout the year establishing, amending, or revoking designations of airspace in the United States and over that portion of the high seas for which the United States has accepted responsibility for separating air traffic. All airspace rulemaking actions are published in the FEDERAL REGISTER and, generally, are effective on dates coinciding with the periodic issuance of navigational charts by the National Ocean Survey. However, because of the large number of designations and the frequency of changes, the descriptions are not carried in the Code of Federal Regulations. Therefore, this compilation of all airspace designations, in effect and pending (issued but not yet effective) as of a specific date, is published annually in the FEDERAL REGISTER. No substantive change to any airspace designation is made by this action. All substantive amendments to the affected parts of the Code of Federal Regulations have been adopted and published previously in accordance with administrative procedures in 5 U.S.C. Sections 552 and 553.

Since this is a compilation of previous rulemaking actions and no substantive change is made by this action, notice and public procedure regarding this amendment is unnecessary, and good cause exists for making it effective in less than 30 days.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, effective January 2, 1979, Parts 71, 73 and 75 of the Federal Aviation Regulations, are republished as follows:

(Secs. 307(a), 313(a) and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a) 1510; Executive Order 10854 (24 FR 9565; sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

NOTE.—The FAA has determined that this document involves a regulation which is not significant under the procedures and criteria prescribed by Executive Order 12044 and implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Washington, D.C., on December 14, 1978.

B. KEITH POTTS,
Acting Chief, Airspace and Air Traffic Rules Division.

[4910-13-C]

TITLE 14 - AERONAUTICS AND SPACE
CHAPTER I - FEDERAL AVIATION ADMINISTRATION
SUBCHAPTER E - AIRSPACE
PARTS 71, 73, 75
DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS, SPECIAL USE AIRSPACE, JET ROUTES, AREA HIGH ROUTES

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SUBPART A - GENERAL

§ 71.1 Applicability.

(a) The airspace assignments described in Subparts B and C are designated as Federal airways.

(b) The airspace assignments described in Subparts B through I are designated as control areas, the continental control area, control zones, transition areas, positive control areas, and reporting points, as described in the appropriate subpart.

(c) The airspace assignments described in Subpart K of this part are designated as terminal control areas.

(d) The airspace assignments described in Subpart J are designated as area low routes.

§ 71.3 Classification of Federal Airways.

Federal airways are classified as follows:

(a) Colored Federal airways:

(1) Green Federal airways.

(2) Amber Federal airways.

(3) Red Federal airways.

(4) Blue Federal airways.

(b) VOR Federal airways.

§ 71.5 Extent of Federal airways.

(a) Each Federal airway is based on a centerline that extends from one navigational aid or intersection to another navigational aid (or through several navigational aids or intersections) specified for that airway.

(b) Unless otherwise specified in Subpart B or C -

(1) Each Federal airway includes the airspace within parallel boundary lines 4 miles each side of the centerline. Where an airway changes direction, it includes that airspace enclosed by extending the boundary lines of the airway segments until they meet.

(2) Where the changeover point for an airway segment is more than 51 miles from either of the navigational aids defining that segment, and -

(i) The changeover point is midway between the navigational aids, the airway includes the airspace between lines diverging at angles of 4.5° from the centerline at each navigational aid and extending until they intersect opposite the changeover point; or

(ii) The changeover point is not midway between the navigational aids, the airway includes the airspace between lines diverging at angles of 4.5° from the centerline at the navigational aid more distant from the changeover point, and extending until they intersect with the bisector of the angle of the centerlines at the changeover point; and between lines connecting these points of intersection and the navigational aid nearer to the changeover point.

(3) Where an airway terminates at a point or intersection more than 51 miles from the closest associated navigational aid it includes the additional airspace within lines diverging at angles of 4.5° from the centerline extending from the associated navigational aid to a line perpendicular to the centerline at the termination point.

(4) Where an airway terminates, it includes the airspace within a circle centered at the specified navigational aid or intersection having a diameter equal to the airway width at that point. However, an airway does not extend beyond the domestic/oceanic control area boundary.

(c) Unless otherwise specified in Subpart B or C -

(1) Each Federal airway includes that airspace extending upward from 1,200 feet above the surface of the earth to, but not including, 18,000 feet MSL, except that Federal airways for Hawaii have no upper limits. Variations of the lower limits of an airway are expressed in digits representing hundreds of feet above the surface (AGL) or mean sea level (MSL) and, unless otherwise specified, apply to the segment of an airway between adjoining navigational aids or intersections; and

(2) The airspace of a Federal airway within the lateral limits of a transition area has a floor coincident with the floor of the transition area.

(d) One or more alternate airways may be designated between specified navigational aids or intersections along each VOR Federal airway described in Subpart C. Unless otherwise specified, the centerline of an alternate VOR Federal airway and the centerline of the corresponding segment of the main VOR Federal airway are separated by 15°.

(e) A Federal airway does not include the airspace of a prohibited area.

§ 71.6 Extent of area low routes.

(a) Each area low route is based on a centerline that extends from one waypoint to another waypoint (or through several waypoints) specified for that area low route. An area low route does not include the airspace of a prohibited area. All mileages specified in connection with area low routes are nautical miles.

(b) Unless otherwise specified in Subpart J, the following apply:

(1) Except as provided in subparagraph (2) of this paragraph, each area low route includes, and is limited to, that airspace within parallel boundary lines 4 or more miles on each side of the route centerline as described in the middle column of the following table, plus that additional airspace outside of those parallel lines and within lines drawn outward from those parallel lines at angles of 3.25°, beginning at the distance from the tangent point specified in the right-hand column of the following table:

Miles from reference facility to tangent point	Miles from centerline to parallel lines	Miles from tangent point along parallel lines to vortices of 3.25° angles
Less than 17	4	51.
17 to, but not including 27	4	50.
27 to, but not including 33	4	49.
33 to, but not including 38	4	48.
38 to, but not including 43	4	47.
43 to, but not including 47	4	46.
47 to, but not including 51	4	45.
51 to, but not including 55	4	44.
55 to, but not including 58	4	43.
58 to, but not including 61	4	42.
61 to, but not including 63	4	41.
63 to, but not including 66	4	40.
66 to, but not including 68	4	39.
68 to, but not including 70	4	38.
70 to, but not including 72	4	37.
72 to, but not including 74	4	36.
74 to, but not including 76	4	35.
76 to, but not including 78	4	34.
78 to, but not including 79	4	33.
79 to, but not including 81	4	32.
81 to, but not including 83	4	31.
83 to, but not including 84	4	30.
84 to, but not including 86	4	29.
86 to, but not including 87	4	28.
87 to, but not including 88	4	27.
88 to, but not including 89	4	26.
89 to, but not including 91	4	25.
91 to, but not including 92	4	24.
92 to, but not including 93	4	23.
93 to, but not including 94	4	22.
94 to, but not including 95	4	21.
95 to, but not including 96	4	19.
96 to, but not including 97	4	18.
97 to, but not including 98	4	17.
98 to, but not including 99	4	15.
99 to, but not including 100	4	13.
100 to, but not including 101	4	11.
101 to, but not including 102	4	8.
102 to, but not including 105	4	0 (i.e., at tangent point).
105 to, but not including 115	4.25	0 (i.e., at tangent point).
115 to, but not including 125	4.50	0 (i.e., at tangent point).
125 to, but not including 135	4.75	0 (i.e., at tangent point).
135 to, but not including 145	5.00	0 (i.e., at tangent point).
145 to, but not including 150	5.25	0 (i.e., at tangent point).

(2) Each area low route, whose centerline is at least 2 miles, and not more than 3 miles from the reference facility, includes, in addition to the airspace specified in subparagraph (1) of this paragraph, that airspace on the reference facility side of the centerline that is within lines connecting the point that is 4.9 miles from the tangent point on a perpendicular line from the centerline through the reference facility, thence to the edges of the boundary lines described in subparagraph (1) of this paragraph, intersecting those boundary lines at angles of 5.15°.

(3) Where an area low route changes direction, it includes that airspace enclosed by extending the boundary lines of the route segments until they meet.

(4) Where the widths of adjoining route segments are unequal, the following apply:

(i) If the tangent point of the narrower segment is on the route centerline, the width of the narrower segment includes that additional airspace within lines from the lateral extremity of the wider segment where the route segments join, thence toward the tangent point of the narrower route segment, until intersecting the boundary of the narrower segment.

(ii) If the tangent point of the narrower segment is on the route centerline extended, the width of the narrower segment includes that additional airspace within lines from the lateral extremity of the wider segment where the route segments join, thence toward the tangent point until reaching the point where the narrower segment terminates or changes direction, or until intersecting the boundary of the narrower segment.

(5) Where an area low route terminates, it includes that airspace within a circle whose center is the terminating waypoint, and whose diameter is equal to the route segment width at that waypoint, except that an area low route does not extend beyond the domestic/oceanic control area boundary.

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(6) Each area low route includes that airspace extending upward from 1,200 feet above the surface of the earth to, but not including, 18,000 feet MSL, except that area low routes for Hawaii have no upper limits. Variations of the lower limits of an area low route are expressed in digits representing hundreds of feet above the surface (AGL) or mean sea level (MSL) and, unless otherwise specified, apply to the route segment between adjoining waypoints used in the description of the route.

(7) The airspace of an area low route within the lateral limits of a transition area has a floor coincident with the floor of the transition area.

§ 71.7 Control areas.
Control areas consist of the airspace designated in Subparts B, C, E, and J, but do not include the continental control area. Unless otherwise designated, control areas include the airspace between a segment of a main VOR Federal Airway and its associated alternate segments with the vertical extent of the area corresponding to the vertical extent of the related segment of the main airway.

§ 71.9 Continental Control Area
The Continental Control Area consists of the airspace of the 48 contiguous States, the District of Columbia and Alaska, excluding the Alaska peninsula west of longitude 160°00'00" W., at and above 14,500 feet M.S.L., but does not include -
(a) The airspace less than 1,500 feet above the surface of the earth; or
(b) Prohibited and restricted areas, other than restricted areas listed in Subpart D of this part.

§71.11 Control Zones
The control zones listed in Subpart F of this part consist of controlled airspace which extends upward from the surface of the earth and terminates at the base of the continental control area. Control zones that do not underlie the continental control area have no upper limit. A control zone may include one or more airports and is normally a circular area with a radius of 5 miles and any extensions necessary to include instrument approach and departure paths.

§71.12 Terminal Control Areas
The terminal control areas listed in Subpart K of this part consist of controlled airspace extending upward from the surface or higher to specified altitudes, within which all aircraft are subject to operating rules and pilot and equipment requirements specified in Part 91 of this chapter. Each such location is designated as a Group I, Group II, or Group III terminal control area, and includes at least one primary airport around which the terminal control area is located.

§ 71.13 Transition Areas.
The transition areas listed in Subpart G consist of controlled airspace extending upward from 700 feet or more above the surface of the earth when designated in conjunction with an airport for which an approved instrument approach procedure has been prescribed; or from 1,200 feet or more above the surface of the earth when designated in conjunction with airway route structures or segments. Unless otherwise specified, transition areas terminate at the base of the overlying controlled airspace.

§ 71.15 Positive Control Areas.
The positive control areas listed in Subpart H consist of controlled airspace within which there is positive control of aircraft.

§ 71.17 Reporting Points.
(a) The reporting points listed in Subpart I consist of geographic locations, in relation to which the position of an aircraft must be reported in accordance with §91.125.
(b) Unless otherwise designated, each reporting point applies to all directions of flight. In any case where a geographic location is designated as a reporting point for less than all airways passing through that point, or for a particular direction of flight along an airway only, it is so indicated by including the airways or direction of flight in the designation of geographical location.
(c) Unless otherwise specified, place names appearing in the reporting point descriptions indicate VOR or VORTAC facilities identified by those names.

§ 71.19 Bearings: Radials: Miles.
(a) All bearings and radials in this Part are true, and are applied from point of origin.
(b) Except as otherwise specified and except that mileages for Federal airways are stated as nautical miles, all mileages in this Part are stated as statute miles.

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SUBPART B - COLORED FEDERAL AIRWAYS

§ 71.101 Designation.

The airspace assignments described in this subpart are designated as Colored Federal Airways.

GREEN FEDERAL AIRWAYS

§71.103 Green Federal Airways.

G-7 From Fort Davis, Alaska, RBN, Norton Bay, Alaska, RBN; 46 miles, 57 miles, 55 MSL, Bishop, Alaska, NDB; INT Bishop NDB 089° and Chena, Alaska, RBN 269° bearings; Chena RBN.

G-8 From Shemya, Alaska, NDB, 20 AGL Adak, Alaska, NDB; 20 AGL Dutch Harbor, Alaska, NDB; 20 AGL INT Dutch Harbor NDB 041° and Cold Bay, Alaska, NDB 253° bearings; 20 AGL Cold Bay NDB; King Salmon, Alaska, NDB; INT King Salmon NDB 055° and Kachemak, Alaska, 263° bearings; Kachemak NDB; Wildwood, Alaska, NDB; INT Wildwood NDB 034° and Campbell Lake, Alaska, NDB 254° bearings; Campbell Lake NDB; INT Campbell Lake NDB 032° and Skwentna, Alaska, NDB 111° bearings; Glenallen, Alaska, NDB; INT Glenallen NDB 052° and Nabesna, Alaska, NDB 252° bearings; Nabesna NDB.

PENDING AMENDMENT
Under G-8 "King Salmon, Alaska, NDB; INT King Salmon NDB 055° and Kachemak, Alaska, NDB 263° bearings; Kachemak NDB;" is deleted and "King Salmon, Alaska, NDB; INT King Salmon NDB 054°T (033°M) and Kachemak, Alaska, NDB 269°T (245°M) bearings; Kachemak NDB;" is substituted therefor.

AMENDMENTS 12/28/78 43 F. R. 51612 (Changed)

G-9 From Oscarville, Alaska, RBN 35 miles, 125 miles, 55 MSL, Sparrevohn, Alaska, RBN; 24 miles, 29 miles, 53 MSL, 14 miles, 10,500 MSL, 42 miles, 12,500 MSL, to Campbell Lake, Alaska, RBN.

G-11 From Cold Bay, Alaska, NDB via INT Cold Bay NDB 041° and Port Heiden, Alaska, NDB 246° bearings, 20 AGL Port Heiden NDB; 73 miles 85 MSL, 101 miles 65 MSL, 37 miles 20 AGL, to Woody Island, Alaska, NDB.

AMBER FEDERAL AIRWAYS

§71.105 Amber Federal Airways.

A-1 From Sandspit, British Columbia, Canada, RBN via Sitka, Alaska, RBN; 31 miles 12 AGL, 50 miles 48 MSL, 112 miles 20 MSL, Ocean Cape, Alaska, RBN; INT Ocean Cape RBN 283° and Hinchinbrook, Alaska, RBN 106° bearings; Hinchinbrook RBN; INT Hinchinbrook RBN 286° and Campbell Lake, Alaska, RBN 123° bearings; Campbell Lake RBN; Skwentna, Alaska, RBN; Puntilla Lake, Alaska, RBN; Farewell, Alaska, RBN; Takotna River, Alaska, RBN; 24 miles 12 AGL, 53 miles, 55 MSL, 46 miles 40 MSL, North River, Alaska, RBN; 52 miles 12 AGL, 51 miles 25 MSL, to Fort Davis, Alaska, RBN. The airspace within Canada is excluded.

A-2 From Burwash, Yukon Territory, Canada, RBN, 83 miles; 40 miles, Nabesna, Alaska, RBN; Delta, Junction, Alaska, RBN; Chena, Alaska, RBN; Evansville, Alaska, NDB; 69 miles 12 AGL, 102 miles 95 MSL, 117 miles 12 AGL, to Browerville, Alaska, RBN. The airspace within Canada is excluded.

A-3 From Evansville, Alaska, NDB, to Put River, Alaska, NDB.

A-4 From Evansville, Alaska, NDB via Umiat, Alaska, NDB to Put River, Alaska, NDB.

A-6 From Chandalar Lake, Alaska, NDB via Umiat, Alaska, NDB to Browerville, Alaska, NDB.

A-10 From the Pennfield Ridge, New Brunswick, Canada, RBN to the Forest City, New Brunswick, Canada, RBN, excluding the portion within Canada.

A-15 From Bthelda, British Columbia, Canada, NDB via Nichols, Alaska, NDB; 41 miles 12 AGL, 42 miles 52 MSL, 32 miles 12 AGL Petersburg, Alaska, NDB; Coghlan Island, Alaska, RBN; Haines, Alaska, RBN; Burwash, Yukon Territory, Canada, RBN; Nabesna, Alaska, RBN; Delta Junction, Alaska, RBN; Chena, Alaska, RBN; Chandalar Lake, Alaska, NDB; Put River, Alaska, NDB; Oliktok, Alaska, RBN. The airspace within Canada is excluded (Joins Canadian high level airway No. 502).

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RED FEDERAL AIRWAYS

§71.107 Red Federal Airways.

R-27 From Summit, Alaska, RBN; Julius, Alaska, RBN; Chena, Alaska, RBN.

R-39 From Oscarville, Alaska, RBN; Aniak, Alaska, RBN; 25 miles, 89 miles, 55 MSL, Takotna River, Alaska, RBN; 28 miles, 64 miles, 45 MSL, Minchumina, Alaska, RBN; Julius, Alaska, RBN; Chena, Alaska, RBN.

R-40 From Woody Island, Alaska, RBN; 27 miles, 24 miles, 35 MSL, 29 miles, 55 MSL, Kachemak, Alaska, RBN; to Campbell Lake, Alaska, RBN.

R-50 From Bishop, Alaska, NDB via Bear Creek, Alaska, NDB; to Chena, Alaska, NDB.

R-75 From Vancouver, British Columbia, Canada, RBN via White Rock, British Columbia, Canada, RBN; Abbotsford, British Columbia, Canada, RBN; Cultus Lake, British Columbia, Canada, RBN; to Princeton, British Columbia, Canada, RBN, excluding the portion within Canada,

R-99 From King Salmon, Alaska, NDB via Iliamna, Alaska, NDB; to Kachemak, Alaska, NDB.
PENDING AMENDMENT
R-99 From King Salmon, Alaska, NDB via Iliamna, Alaska, NDB; INT Iliamna NDB 124°T (102°M) and Kachemak, Alaska, NDB 269°T (245°M) bearings; to Kachemak.

AMENDMENTS 12/28/78 43 F. R. 51612 (Rewritten)

R-103 From Wildwood, Alaska, NDB, via INT Wildwood NDB 112° and Campbell Lake, Alaska, 206° bearings; 49 miles 12 AGL, 58 miles 85 MSL, 39 miles 12 AGL, Wessels, Alaska, NDB.

BLUE FEDERAL AIRWAYS

§71.109 Blue Federal Airways.

B-12 From Takotna River, Alaska, NDB, 24 miles 12 AGL, 54 miles 55 MSL, 35 miles 12 AGL, via Bishop, Alaska, NDB; 68 miles 12 AGL, 88 miles 55 MSL, 37 miles 12 AGL, to Hotham, Alaska, NDB.

B-25 From INT Hinchinbrook, Alaska, NDB 206° and Wessels, Alaska, NDB 296° bearing via Hinchinbrook NDB; 38 miles 12 AGL, 12 miles 95 MSL, 60 miles 12 AGL Glenallen NDB; Delta Junction, Alaska, NDB.

B-26 From Campbell Lake, Alaska, NDB, via Peters Creek, Alaska, NDB; Summit, Alaska, NDB; INT Summit NDB 007° and Chena, Alaska, NDB 218° bearings; Chena NDB; Yukon River, Alaska, NDB; 86 miles 12 AGL, 75 miles 115 MSL, 56 miles 12 AGL, to Barter Island, Alaska, NDB.

B-27 From Woody Island, Alaska, RBN, 45 miles 12 AGL, 68 miles 95 MSL, King Salmon, Alaska, LOM; 53 miles, 84 miles, 70 MSL, Oscarville, Alaska, NDB; St. Marys, Alaska; Fort Davis, Alaska, NDB; 35 miles, 89 miles, 55 MSL, Hotham, Alaska, NDB.

B-28 From Prince Rupert, B. C., Canada, NDB, via Nichols, Alaska, NDB; 42 miles 12 AGL, 99 miles 55 MSL, 29 miles 12 AGL to Sitka, Alaska, NDB. The airspace within Canada is excluded.

B-37 From Petersburg, Alaska, NDB, via Elephant, Alaska, NDB; Cape Spencer, Alaska, NDB, to INT Cape Spencer, NDB 273° and Ocean Cape, Alaska, NDB 139° bearings.

B-38 From Sitka, Alaska, NDB, via Elephant, Alaska, NDB; Haines, Alaska, NDB, to Whitehorse, Y. T., Canada RBN. The airspace within Canada is excluded.

B-40 From the Haines, Alaska RBN, Robinson, Yukon Territory, Canada, RBN, excluding the portion within Canada.

B-79 From Sandspit, B. C., Canada, NDB, to Nichols, Alaska, NDB. The airspace within Canada is excluded.

SUBPART C - VOR FEDERAL AIRWAYS

§ 71.121 Designation
The airspace assignments described in this subpart are designated as VOR Federal airways. Unless otherwise specified, place names appearing in the descriptions indicate VOR or VORTAC navigational facilities identified by those names.

§71.123 Domestic VOR Federal Airways.

V-1 From Jacksonville, Fla., via Charleston, S. C.; Grand Strand, S. C.; INT Grand Strand 031° and Kinston, N. C., 214° radials; Kinston, including an east alternate from Grand Strand to Kinston via Wilmington, N. C.; Cofield, N. C.; including an east alternate segment from Kinston to Cofield via the intersection of Kinston 050° and Cofield 186° radials; Norfolk, Va.; Cape Charles, Va.; INT Cape Charles 006° and Salisbury, Md., 206° radials; Salisbury; Waterloo, Del.; INT Waterloo 024° and Coyle, N. J., 216° radials; to coyle, excluding the airspace below 2,000 feet MSL outside the United States between Starfish INT and Charleston, S. C. The portion within R-5002 is excluded.

V-2 From Seattle, Wash., Ellensburg, Wash., including a south alternate via INT Seattle 123° and Ellensburg 274° radials; Moses Lake, Wash., including a south alternate via INT Ellensburg 107° and Moses Lake 231° radials; Spokane, Wash., including a north alternate from Seattle to Spokane via Wenatchee, Wash., and Ephrata, Wash.; Mullan Pass, Idaho, including a north alternate via INT Spokane 073° and Mullan Pass 291° radials, and also a south alternate, via INT Spokane 109° and Mullan Pass 260° radials; 5 miles, 53 miles, 91 MSL, Missoula, Mont.; 6 miles, 84 MSL, Drummond, Mont.; 11 miles, 84 MSL, Helena, Mont.; INT Helena 119° and Bozeman, Mont., 338° radials; Bozeman; INT Bozeman 128° and Livingston, Mont., 261° radials; Livingston; 11 miles, 25 miles, 85 MSL, Billings, Mont., including an N alternate from Helena, 21 miles, 10 miles 105 MSL, 115 MSL INT Helena 089° and Billings 301° radials, 35 miles 100 MSL, to Billings, excluding the airspace between the main and this N alternate; 19 miles, 79 miles, 49 MSL, Miles City, Mont., including an N alternate from Billings, 19 miles, 49 MSL INT Billings 057° and Miles City 269° radials, 42 miles, 49 MSL, to Miles City; 24 miles, 90 miles, 55 MSL, Dickinson, N. Dak.; 10 miles, 60 miles, 38 MSL, Bismarck, N. Dak., including an N alternate from Dickinson, 10 miles 38 MSL INT Dickinson 078° and Bismarck 290° radials, 28 miles, 38 MSL, to Bismarck; 14 miles, 62 miles, 34 MSL Jamestown, N. Dak., including an N alternate from Bismarck 14 miles, 65 miles, 34 MSL, Jamestown; 7 miles, 43 miles, 28 MSL, Fargo, N. Dak., including an N alternate from Jamestown 7 miles, 46 miles, 28 MSL, Fargo; Alexandria, Minn., including a N alternate, Minneapolis, Minn.; Nodine, Minn., including a N alternate; Lone Rock, Wis., including a south alternate via INT Nodine 150° and Lone Rock 286° radials; Madison, Wis.; Badger, Wis.; Muskegon, Mich., including a S alternate via INT Badger 102° and Muskegon 252° radials; Lansing, Mich., including a S alternate from Muskegon to Lansing via INT Muskegon 154° and Grand Rapids, Mich., 284° radials and Grand Rapids (7 miles wide, 3 miles north and 4 miles south of centerline Grand Rapids to Lansing; Salem, Mich., including a N alternate via INT Lansing 091° and Salem 308° radials; INT Salem 083° and Aylmer, Ont., Canada 260° radials; Aylmer; INT Aylmer 087° and Buffalo, N. Y., 259° radials; Buffalo; Rochester, N. Y., including a north alternate via INT of Buffalo 045° and Rochester 273° radials; Syracuse, N. Y., including a N alternate via INT Rochester 064° and Syracuse 283° radials; Utica, N. Y.; Albany, N. Y.; INT Albany 094° and Gardner, Mass., 284° radials; Gardner. The airspace within Canada is excluded.

AMENDMENTS 1/26/78 42 F. R. 58930 (Changed)
AMENDMENTS 3/23/78 43 F. R. 3548 (Changed)
AMENDMENTS 7/13/78 43 F. R. 19212 (Changed)

V-3 From Key West, Fla., INT Key West 083° and Miami, Fla., 205° radials; INT Miami 205° and Biscayne Bay, Fla., 262° radials; Biscayne Bay; Ft. Lauderdale, Fla.; Palm Beach, Fla., including an E alternate via INT Biscayne Bay 021° and Palm Beach 166° radials; Vero Beach, Fla., including an E alternate via INT Palm Beach 358° and Vero Beach 143° Ormond Beach, Fla.; INT Ormond Beach 345° and Brunswick 175° radials; Brunswick, Ga.; Savannah, Ga.; Vance, S. C.; Florence, S. C.; Sandhills, N. C.; Raleigh-Durham, N. C.; INT Raleigh 016° and Flat Rock, Va., 214° radials; Flat Rock; Gordonsville, Va.; Linden, Va.; Front Royal, Va.; Martinsburg, W. Va.; Westminster, Md.; Modena, Pa.; Solberg, N. J.; Carmel, N. Y.; Hartford, Conn.; INT Hartford 044° and Boston, Mass., 251° radials; Boston; INT Boston 015° and Pease, N. H., 185° radials; Pease; INT Pease 004° and Augusta, Maine, 233° radials; Augusta; Bangor, Maine; INT Bangor 039° and Houlton, Maine, 203° radials; Houlton; Presque Isle, Maine. The portion outside the United States has no upper limit except that the portion of the E alternate between Jacksonville and Savannah extends up to but does not include 18,000 feet MSL. The airspace within R-2916, R-2921 and R-2922 is excluded.

AMENDMENTS 1/26/78 42 F. R. 60123 (Changed)

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V-4 From Tatoosh, Wash., via Port Angeles, Wash.; INT Port Angeles 090° and Seattle, Wash., 329° radials; Seattle; Yakima, Wash., including a south alternate from Seattle to Yakima via INT Seattle 163° and McChord, Wash., 096° radials and INT McChord 096° and Yakima 305° radials, excluding the airspace between the main and this alternate airway; Pendleton, Oreg.; including a north alternate from Seattle via Ellensburg, Wash.; INT Ellensburg 107° and Pasco, Wash., 321° radials; Pasco, to Pendleton; Baker, Oreg.; Boise, Idaho, including a south alternate; INT Boise 130° and Burley, Idaho, 292° radials; Burley, including a north alternate from Boise 25 miles, 25 miles 90 MSL, 95 MSL INT Pocatello, Idaho, 286° and Burley 323° radials, Burley, excluding the airspace between the main and this alternate airway; Malad City, Idaho; 35 miles, 58 miles, 115 MSL, Rock Springs, Wyo., including an S alternate from Malad City, 20 miles, 68 miles 115 MSL, via Fort Bridger, Wyo., to Rock Springs, excluding the airspace between the main and this S alternate; 20 miles, 39 miles, 95 MSL, Cherokee, Wyo.; Laramie, Wyo.; INT Laramie 133° and Denver, Colo., 347° radials; Denver; including a north alternate from Laramie to Denver via Gill, Colo.; Thurman, Colo.; Goodland, Kans.; Hill City, Kans.; INT Hill City 097° and Salina, Kans., 284° radials; Salina, including a S alternate via Hays, Kansas.; Topeka, Kans., including a N alternate from the INT of Salina 080° and Manhattan, Kans., 213° radials to Topeka via Manhattan and the INT of Manhattan 078° and Topeka 293° radials; Kansas City, Mo., including a S alternate via INT Topeka 099° and Kansas City 231° radials; Hallsville, Mo.; St. Louis, Mo.; Troy, Ill.; Centralia, Ill.; Evansville, Ind., including a S alternate; Louisville, Ky., including a N alternate via INT Evansville 068° and Louisville 280° radials; Lexington, Ky., including a N alternate via INT Louisville 081° and Lexington 303° radials and also a S alternate via INT Louisville 114° and Lexington 251° radials; Newcombe, Ky.; Charleston, W. Va.; Elkins, W. Va., including a S alternate via INT Charleston 083° and Elkins 228° radials; Kessel, W. Va.; Front Royal, Va.; to Armel, Va. The airspace within R-6705 is excluded.

AMENDMENTS 1/26/78 42 F. R. 58930 (Changed)
AMENDMENTS 7/13/78 43 F. R. 16152 (Changed)
AMENDMENTS 11/2/78 43 F. R. 39753 (Changed)

V-5 From Jacksonville, Fla.; INT Jacksonville 318° and Alma, Ga., 150° radials; Alma; INT Alma 342° and Dublin, Ga., 167° radials; Dublin; Athens, Ga., INT Athens 340° and Electric City,S. C., 274° radials; INT Electric City 274° and Chattanooga, Tenn., 127° radials, including a west alternate from Alma; INT Alma 311° and Vienna, Ga., 123° radials, Vienna; Macon, Ga.; INT Macon 349° and Norcross, Ga., 150° radials; Norcross; Chattanooga; Nashville, Tenn., including an east alternate via INT Chattanooga 332° and Nashville 116° radials; Bowling Green, Ky.; New Hope, Ky., including an east alternate from Nashville to New Hope via INT Nashville 034° and New Hope 202° radials; Louisville, Ky.; Cincinnati, Ohio; Appleton; Ohio; Mansfield, Ohio; Cleveland, Ohio; London, Ont., Canada. The airspace within Canada is excluded.

AMENDMENTS 3/23/78 43 F. R. 3553 (Changed)
PENDING AMENDMENT
Under V-5 "Chattanooga, Tenn., 127° radials, including a west alternate from Alma; INT Alma 311° and Vienna, Ga., 123° radials, Vienna; Macon, Ga.; INT Macon 349° and Norcross, Ga., 150° radials; Norcross; Chattanooga;" is deleted and "Chattanooga, Tenn., 127° radials; Chattanooga;" is substituted therefor.

AMENDMENTS 12/28/78 43 F. R. 51005 (Changed)

V-6 From Oakland, Calif.; INT Oakland 039° and Sacramento, Calif., 212° radials; Sacramento, including a south alternate via INT Oakland 077° and Sacramento 194° radials; Lake Tahoe, Calif.; Reno, Nev., including a N alternate from Sacramento to Reno via INT Sacramento 038° and Reno 257° radials; Lovelock, Nev., including a south alternate from Reno to Lovelock via Hazen, Nev.; Battle Mountain, Nev., including a north alternate; INT Battle Mountain 062° and Wells, Nev., 256° radials; Wells; 5 miles, 40 miles, 98 MSL, 85 MSL Lucin, Utah; 43 miles, 85 MSL, Ogden, Utah; 11 miles, 50 miles, 105 MSL, Fort Bridger, Wyo.; Rock Springs, Wyo.; 20 miles, 39 miles 95 MSL, Cherokee, Wyo.; 39 miles, 27 miles 95 MSL, Medicine Bow, Wyo.; INT Medicine Bow 106° and Sidney, Nebr., 291° radials: Sidney, North Platte, Nebr.; Grand Island, Nebr.; Omaha, Nebr.; Des Moines, Iowa, including a S alternate; Iowa City, Iowa, including a S alternate via INT Des Moines 112° and Iowa City 252° radials; Davenport, Iowa; INT Davenport 087° and DuPage, Ill., 255° radials; to DuPage. From INT Chicago Heights, Ill., 358° and South Bend, Ind., 271° radials; South Bend, Ind.; INT South Bend 092° and Waterville, Ohio, 288° radials: Waterville; Cleveland, Ohio, including a S alternate via INT Waterville 108° and Cleveland 252° radials; Youngstown, Ohio, including a north alternate via INT Cleveland 081° and Youngstown 285° radials; Clarion, Pa.: Philipsburg, Pa.; Selinsgrove, Pa.; Allentown, Pa.; to Broadway, N. J., excluding the portion within R-4803 and R-4813.

V-7 From Biscayne Bay, Fla., via Ft. Myers, Fla., including an east alternate from Biscayne Bay via Miami, Fla., INT of Miami 337° and Ft. Myers 101° radials, Ft. Myers; Lakeland, Fla., including an east alternate via INT Ft. Myers 022° and Lakeland 154° radials; Cross City, Fla.; Greenville, Fla.; Wiregrass, Ala., including a W alternate from Cross City to Wiregrass via INT Cross City 287° and Marianna, Fla., 141° radials and Marianna: INT Wiregrass 333° and Montgomery, Ala., 129° radials; Montgomery; INT Montgomery 323° and Vulcan Ala., 177° radials; Vulcan; including an east alternate via INT of Montgomery 357° and Vulcan 139° radials; Muscle Shoals, Ala., including an E alternate via INT of Vulcan 358° and Muscle Shoals 122° radials and also a W alternate via Vulcan 300° and Muscle Shoals 178° radials; Graham, Tenn.; Central City, Ky.; Evansville, Ind.; INT Evansville 015° and Lewis, Ind., 198° radials; Lewis; Terre Haute, Ind., including a W alternate from Evansville to Terre Haute via INT Evansville 360° and Terre Haute 217° radials; Lafayette, Ind.; Chicago Heights, Ill.; INT Chicago Heights 358° and Green Bay, WI., 166° radials, including an east alternate via INT Chicago Heights 013° and Milwaukee, WI., 137° radials to the INT Milwaukee 137° and Chicago-O'Hare 019° radials; Green Bay, WI.; Menominee, MI.; Marquette, Mich.; including an east alternate via Escanaba, Mich. The airspace below 2,000 feet MSL outside the United States is excluded. The portion outside the United States has no upper limit.

AMENDMENTS 1/26/78 42 F. R. 60123 (Changed)
AMENDMENTS 3/23/78 43 F. R. 3545 (Changed)
AMENDMENTS 5/18/78 43 F. R. 11970 (Changed)

V-8 From INT Seal Beach, Calif., 266° and Los Angeles, Calif., 236° radials; Seal Beach; Ontario, Calif.; 35 miles, 7 miles wide (3 miles SE and 4 miles NW of centerline) Hector, Calif.; Goffs, Calif.; INT Goffs 033° and Morman Mesa, Nev., 196° radials; Morman Mesa, including a N alternate from Seal Beach to Morman Mesa via Pomona, Calif., Daggett, Calif., and Las Vegas, Nev.; Bryce Canyon, Utah, Hanksville, Utah, including a south alternate; Grand Junction, Colo., including a south alternate via INT of Hanksville 087° and Grand Junction 232° radials and also a north alternate from Bryce Canyon to Grand Junction via INT Bryce Canyon 048° and Grand Junction 259° radials; 33 miles, 130 MSL Kremmling, Colo., including a south alternate from Grand Junction 33 miles, 21 miles, 127 MSL, 120 MSL INT Grand Junction 075° and Kremmling 228° radials, 28 miles, 120 MSL, 130 MSL to Kremmling; 9 miles 130 MSL, 29 miles 144 MSL, 11 miles 127 MSL, Denver, Colo.; Akron, Colo.; Hayes Center, Nebr., including a north alternate via INT Akron 063° and Hayes Center 276° radials and also a south alternate via INT Akron 094° and Hayes Center 246° radials; Grand Island, Nebr., including a N alternate via INT Hayes Center 059 and Grand Island 273° radials, and also a S alternate; Omaha, Nebr.; Des Moines, Iowa; Iowa City, Iowa; Moline, Ill.; Joliet, Ill.; Chicago Heights, Ill.; Goshen, Ind.; Findlay, Ohio; Mansfield, Ohio; Briggs, Ohio; Bellaire, Ohio; INT Bellaire 107° and Grantsville, Md., 285° radials; Grantsville; Martinsburg, W. Va.; to Washington, D. C., including a north alternate from Grantsville to the INT of Hagerstown, Md., 157° and the Martinsburg 130° radials via Hagerstown. The portion outside the United States has no upper limit.

AMENDMENTS 11/2/78 43 F. R. 39753 (Changed)
AMENDMENTS 11/2/78 43 F. R. 44480 (Changed)

V-9 From Leeville, La., via INT Leeville, 333° and New Orleans, La., 181° radials; New Orleans; McComb, Miss., including an E alternate from New Orleans to McComb via Picayune, Miss.; Jackson, Miss., including an E alternate and also a W alternate via INT McComb 348° and Jackson 199° radials; Greenwood, Miss., including an E alternate and also a W alternate; Gilmore, Ark.; Malden, Mo.; Farmington, Mo.; St. Louis, Mo.; Capital, Ill.; Pontiac, Ill.; INT Pontiac 008° and Joliet, Ill., 316° radials; INT Rockford, Ill., 136° and Badger, Wis., 209° radials; Badger; Oshkosh, Wis.; Green Bay, Wis.; Iron Mountain, Mich., including an east alternate from Green Bay to Iron Mountain via Menominee, Mich.; Houghton, Mich.; including an E alternate via Marquette, Mich.

AMENDMENTS 7/13/78 43 F. R. 19212 (Changed)

V-10 From Pueblo, Colo., 18 miles, 48 miles, 60 MSL, Lamar, Colo.; Garden City, Kans.; Dodge City, Kans.; Hutchinson, Kans., including a N alternate via INT Dodge City 060° and Hutchinson 296° radials excluding the airspace between the main and alternate airway; Emporia, Kans.; Napoleon, Mo., including a N alternate via INT Emporia 050° and Topeka, Kans., 099° radials; Kirksville, Mo., including a N alternate via INT Napoleon 005° and Kansas City 060° radials; Burlington, Iowa; Bradford, Ill.; to Chicago, O'Hare, Ill. From INT Chicago Heights, Ill., 358° and South Bend, Ind., 271° radials; South Bend; Litchfield, Mich.; Carleton, Mich.; INT Jefferson, Ohio, 279° and Youngstown, Ohio, 320° radials; Youngstown; INT Youngstown 116° and Clarion, Pa., 222° radials; Revlo , Pa. The airspace within Canada is excluded.

V-11 From Brookley, Ala.; Greene County, Miss., including a west alternate from Brookley via Semmes, Al.; to Greene County; Laurel, Miss.; including an east alternate from the INT of Semmes 356° and Greene County 142° radials via the INT of Semmes 356° and Laurel 109° radials to Laurel; Jackson, Miss.; Greenwood, Miss.; Holly Springs, Miss., including a W alternate via the INT Greenwood 010° and Holly Springs 225° radials; Dyersburg, Tenn.; Cunningham, Ky.; including an E alternate and a W alternate via INT Dyersburg 006° and Cunningham 224° radials; Evansville, Ind., including an east alternate; Indianapolis, Ind., including an E alternate from Evansville to Indianapolis via INT Evansville 046° and Bloomington, Ind., 205° radials, Bloomington, INT of Bloomington 025° and Indianapolis 185° radials; Marion, Ind.; Fort Wayne, Ind.; Salem, Mich.; 6-miles wide to INT Salem 052° and Windsor, Ont., Canada 335° radials.
AMENDMENTS 3/23/78 43 F. R. 3545 (Changed)

V-12 From Gaviota, Calif., via Santa Barbara, Calif.; Palmdale, Calif., including a south alternate via Fillmore, Calif.; 38 miles, 6 miles wide, Hector, Calif.; 12 miles, 38 miles, 85 MSL, 14 miles, 75 MSL, Needles, Calif.; 45 miles, 34 miles, 95 MSL, Prescott, Ariz.; Winslow, Ariz.; 30 mi. 85 MSL Zuni, N. Mex.; Albuquerque, N. Mex., including a south alternate via INT Zuni 104° and Albuquerque 253° radials; Otto, N. Mex.; Anton Chico, N. Mex., including a S alternate from Albuquerque to Anton Chico via INT Albuquerque 103° and Anton Chico 249° radials; Tucumcari, N. Mex.; Amarillo, Tex., including a south alternate and also a north alternate via INT Tucumcari 071° and Amarillo 286° radials; Gage, Okla., including a north alternate from Amarillo to Gage via Borger, Tex., and INT Borger 061° and Gage 249° radials, and also a south alternate via INT Amarillo 072° and Gage 215° radials; Anthony, Kans.; Wichita, Kans.; Emporia, Kans.; Napoleon, Mo.; Columbia, Mo.; Foristell, Mo., including a S alternate from INT Jefferson City, Mo., 308° and Columbia 276° radials via Jefferson City to the INT of Jefferson City 042° and Columbia 104° radials; Troy, Ill.; Bible Grove, Ill.; Lewis, Ind.; Shelbyville, Ind.; Richmond, Ind.; Dayton, Ohio; Appleton, Ohio, including a N alternate from Dayton to Appleton via INT Dayton 068° and Rosewood, Ohio, 083° radials; Newcomerstown, Ohio; Allegheny, Pa.; Johnstown, Pa.; Harrisburg, Pa., including a S alternate from Johnstown to Harrisburg via St. Thomas, Pa.

V-13 From McAllen, Tex., via Harlingen, Tex.; INT Harlingen 033° and Corpus Christi, Tex., 178° radials; 27 miles standard width, 37 miles 7 miles wide (3 miles E and 4 miles W of centerline), Corpus Christi; including a W. alternate from Harlingen, 23 miles 7 miles wide (3 miles E. and 4 miles W. of centerline), 4 miles 8 miles wide, via INT Harlingen 006° and Corpus Christi 193° radial; 34 miles standard width, 37 miles 7 miles wide (4 miles E and 3 miles W of centerline), to Corpus Christi; INT Corpus Christi 039° and Palacios, Texas., 241° radials; Palacios; Humble, Tex., Lufkin, Tex.; including an east alternate from Humble via Daisetta, Tex., to Lufkin; Shreveport, La., including an E alternate; Texarkana, Ark., including a W alternate via INT Shreveport 275° and Texarkana 184° radials; Rich Mountain, Okla.; Fort Smith, Ark.; INT Fort Smith 006° and Razorback, Ark., 190° radials; Razorback, including a W alternate from Rich Mountain to Razorback via INT Rich Mountain 006° and Razorback 205° radials; Neosho, Mo.; Butler, Mo.; Napoleon, Mo.; INT Napoleon 336° and St. Joseph, Mo., 132° radials; Lamoni, Iowa, Des Moines, Iowa, including a W alternate; Mason City, Iowa, including a W alternate from Des Moines to Mason City via Fort Dodge, Iowa, excluding the airspace between the main and this W alternate; and excluding the airspace above 9,000 feet MSL between Des Moines and Fort Dodge; Farmington, Minn.; Grantsburg, Wis., including a W alternate from Mason City to Grantsburg via INT Mason City 349° and Minneapolis, Minn., 188° radials and Minneapolis, excluding the airspace between the main and W alternate; Duluth, Minn., including an E alternate; 36 miles, 35 MSL Thunder Bay, Ontario, Canada. The airspace outside the United States is excluded.

AMENDMENTS 9/7/78 43 F. R. 31127 (Changed)

V-14 From Roswell, N. Mex., via Lubbock, Tex.; Childress, Tex., including a S alternate via INT Lubbock 086° and Childress 229° radials; Hobart, Okla.; Oklahoma City, Okla., including a S alternate via INT Hobart 076° and Oklahoma City 202° radials; Tulsa, Okla., including a N alternate via INT Oklahoma City 037° and Tulsa 261° radials, and also a S alternate via INT Oklahoma City 079° and Tulsa 228° radials; Neosho, Mo., including a N alternate and also a S alternate via INT Tulsa 087° and Neosho 223° radials; Springfield, Mo., including a S alternate via INT Neosho 074° and Springfield 210° radials; Vichy, Mo., including a N alternate; Foristell, Mo.; St. Louis, Mo.; Vandalia, Ill.; Terre Haute, Ind.; Indianapolis, Ind., including a S alternate via INT of Terre Haute 079° and Indianapolis 230° radials; Muncie, Ind.; Findlay, Ohio; Cleveland, Ohio; Jefferson, Ohio, Erie, Pa., including a N alternate from Cleveland to Erie via INT Cleveland 049° and Jefferson 279° radials; Dunkirk, N. Y.; Buffalo; Geneseo, N. Y., Georgetown, N. Y.; INT Georgetown 093° and Albany, N. Y. 270° radials; Albany; INT Albany 094° and Gardner, Mass., 284° radials; Gardner; INT Gardner 195° and Norwich, Conn., 351° radials; Norwich. The airspace within R-5207 and Canada is excluded.

AMENDMENTS 3/23/78 43 F. R. 3548 (Changed)

V-15 From Scholes, Tex., via Hobby, Tex.; Humble, Tex.; Navasota, Tex.; College Station, Tex., including a west alternate from Hobby to College Station via INT Hobby 290° and College Station 151° radials; Waco, Tex., including a W alternate via INT College Station 307° and Waco 173° radials; Scurry, Tex.; Blue Ridge, Tex., including an east alternate via INT Scurry 023° and Blue Ridge 153° radials; Ardmore, Okla.; Okmulgee, Okla., including an E alternate; INT Okmulgee 048° and Neosho, Mo., 223° radials; Neosho. From St. Joseph, Mo., via INT St. Joseph 343° and Neola, Iowa, 157° radials; Neola; INT Neola 322° and Sioux City, Iowa, 159° radials; Sioux City; INT Sioux City 340° and Sioux Falls, S. Dak., 169° radials; Sioux Falls, including an E alternate; Huron, S. Dak., including a west alternate from Sioux Falls to Huron via Mitchell, S. Dak.; Aberdeen, S. Dak., including a W alternate; 18 miles, 89 miles, 42 MSL, Bismarck, N. Dak.; Minot, N. Dak.

V-16 From Los Angeles, Calif., Ontario, Calif.; Palm Springs, Calif.; Blythe, Calif.; 21 miles, 60 miles, 55 MSL, Buckeye, Ariz.; Phoenix, Ariz.; INT Phoenix 161° and Casa Grande, Ariz., 105° radials; Tucson, Ariz.; Cochise, Ariz., including a S alternate via INT Tucson 122° and Cochise 257° radials; Columbus, N. Mex.; El Paso, Tex., including a N alternate via INT Columbus 075° and El Paso 286° radial; Salt Flat, Tex.; Wink, Tex.; Wink 066° and Big Spring, Tex., 260° radials; Big Spring, including a S alternate from Wink to Big Spring via Midland, Tex.; Abilene, Tex.; Millsap, Tex.; Acton, Tex.; Scurry, Tex., including a south alternate; Quitman, Tex.; Texarkana, Ark., Pine Bluff, Ark.; Holly Springs, Miss.; Jacks Creek, Tenn.; Graham, Tenn.; Nashville, Tenn., including a north alternate from Jacks Creek to Nashville via INT Jacks Creek 049° and Nashville 286° radials; INT Nashville 102° and Hinch Mountain, Tenn., 285° radials; Hinch Mountain; including a north alternate via INT Nashville 085° and Hinch Mountain 306° radials; Knoxville, Tenn., including a S alternate via INT Hinch Mountain 100° and Knoxville 243° radials; Holston Mountain, Tenn., including a S alternate from Knoxville to Holston Mountain via Snowbird, Tenn.; Pulaski, Va., including a N alternate from Knoxville to Pulaski via INT Knoxville 050° and Blackford, Va., 246° radials and Blackford; Roanoke, Va.; Lynchburg, Va.; including a S alternate via INT Pulaski 094° and Lynchburg 253° radials; Flat Rock, Va.; Richmond, Va.; INT Richmond 039° and Patuxent, Md., 228° radials; Patuxent; Kenton, Del.; Millville, N. J.; Coyle, N. J.; Kennedy, N. Y.; Deer Park, N. Y.; Riverhead, N. Y.; Norwich, Conn.; Boston, Mass. The airspace within Mexico and the airspace below 2,000 feet MSL outside the United States is excluded.

AMENDMENTS 3/23/78 43 F. R. 3553 (Changed) Corr: 43 F. R. 7204

V-17 From Brownsville, Tex., via Harlingen, Tex.; McAllen, Tex.; 29 miles 12 AGL, 34 miles 25 MSL, 37 miles 12 AGL; Laredo, Tex.; Cotulla, Tex.; INT Cotulla 046° and San Antonio, Tex., 198° radials; San Antonio, including an east alternate via the INT Cotulla 046° and San Antonio 183° radials; INT San Antonio 042° and Austin, Tex., 229° radials; Austin, including an east alternate via the INT of San Antonio 058° and Austin 211° radials, and also including a west alternate via the INT of San Antonio 027° and Austin 244° radials; Waco, Tex., including an east alternate via INT Austin 041° and Waco 173° radials; Acton, Tex.; Bridgeport, Tex.; Duncan, Okla. INT Duncan 011° and Oklahoma City, Okla., 180° radials; Oklahoma City; Gage, Okla., including a W alternate via INT Oklahoma City 282° and Gage 153° radials; Garden City, Kans., including a W alternate from Gage to Garden City via Liberal, Kans.; Goodland, Kans.

AMENDMENTS 1/26/78 42 F. R. 63167 (Changed)
AMENDMENTS 7/13/78 43 F. R. 21446 (Changed)

V-18 From Millsap, Tex., via Dallas-Fort Worth, Tex.; Quitman, Tex.; Shreveport, La., including a S alternate via INT Quitman 109° and Shreveport 246° radials; Monroe, La., including a N alternate and also a S alternate; Jackson, Miss., including a N alternate and also a S alternate; Meridian, Miss., including a S alternate; Tuscaloosa, Ala.; Vulcan, Ala.; Talladega, Ala.; Atlanta, Ga.; INT Atlanta 089° and Augusta, Ga., 278° radials; Augusta, including a north alternate from Vulcan to Augusta via Rome, Ga., INT Rome 060° and Anderson, S. C., 274° radials; INT Anderson 274° and Athens, Ga., 340° radials; Athens, and INT Athens 109° and Augusta 294° radials; INT Augusta 103° and Charleston, S. C., 296° radials; Charleston, including a S alternate from Augusta to Charleston via INT Augusta 148° and Allendale, S. C., 273° radials, and Allendale, excluding the airspace within R-6004.

AMENDMENTS 3/23/78 43 F. R. 3545 (Changed)

V-19 From Newman, Tex., via INT Newman 286° and Truth or Consequences, N. Mex., 159° radials; Truth or Consequences; INT Truth or Consequences 028° and Socorro, N. Mex., 189° radials; Socorro; Albuquerque, N. Mex., including a W alternate via INT Socorro 343° and Albuquerque 199° radials, and also an E alternate via INT Socorro 015° and Albuquerque 160° radials; INT Albuquerque 036° and Santa Fe, NM., 245° radials; Santa Fe, including a west alternate via INT Albuquerque 019° and Santa Fe 268° radials; Las Vegas, N. Mex.; Cimarron, N. Mex., Pueblo, Colo., including an E alternate via INT Cimarron 053° and Pueblo 176° radials; Kiowa, Colo.; Denver; Cheyenne, Wyo.; Casper, Wyo., including an E alternate from Cheyenne to Casper via INT Cheyenne 002° and Douglas, Wyo., 152° radials and Douglas; 5 miles, 45 miles 71 MSL, Crazy Woman, Wyo.; Sheridan, Wyo., including an E alternate; 21 miles, 35 miles 75 MSL, Billings, Mont., including an E alternate from Sheridan 21 miles, 38 miles, 75 MSL, to Billings; 38 miles, 72 MSL INT Billings 347° and Lewistown, Mont., 104° radials; Lewistown; Great Falls, Mont., including a W alternate via INT Lewistown 274° and Great Falls 122° radials.

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V-20 From Reynosa, Mex., via McAllen, Tex.; INT McAllen 038° and Corpus Christi, Tex., 178° radials; 10 miles 8 miles wide, 37 miles 7 miles wide (3 miles E and 4 miles W of Centerline), Corpus Christi; INT Corpus Christi 054° and Palacios, Tex., 226° radials; Palacios; Hobby, Tex.; Beaumont, Tex.; Lake Charles, La.; including a north alternate via INT Beaumont 056° and Lake Charles 272° radials; Lafayette, La., including a N alternate via INT Lake Charles 064° and Lafayette 285° radials; New Orleans, La., including a S alternate from Lafayette to New Orleans via Tibby, La.; INT New Orleans 070° and Gulfport, Miss., 247° radials; Gulfport; Semmes, Ala., including a N alternate from New Orleans to Semmes via Picayune, Miss., excluding the airspace between the main and this N alternate; INT Semmes 048° and Monroeville, Ala., 231° radials; Monroeville, including a S alternate via INT Semmes 063° and Monroeville 216° radials; Montgomery, Ala.; Tuskegee, Ala.; Columbus, Ga.; INT Columbus 068° and Athens, Ga., 195° radials; Athens; Electric City, S. C.; Spartanburg, S. C., including a north alternate from Montgomery to Spartanburg via INT Montgomery 029° and Chattanooga, Tenn., 189° radials; INT Chattanooga 189° and Rome, Ga., 252° radials; Rome; INT Rome 060° and Toccoa, Ga., 258° radials; Toccoa to Spartanburg; Greensboro, N. C.; South Boston, Va.; Richmond, Va.; INT Richmond 039° and Brooke, Va., 132° radials; INT Patuxent, Md., 228° and Nottingham, Md., 174° radials; to Nottingham. The airspace on the main airway above 14,000 feet MSL from McAllen to 49 miles northeast and the airspace within Mexico is excluded.

AMENDMENTS 3/23/78 43 F. R. 3545 (Changed)

V-21 From INT Seal Beach, Calif., 250° and Los Angeles, Calif., 207° radials; Seal Beach; Ontario, Calif.; 35 miles, 7 miles wide (3 miles SE and 4 miles NW of centerline), Hector, Calif.; Boulder City, Nev., including a W alternate from INT Hector 226° and Daggett, Calif., 187° radials to INT Daggett 062° and Hector 047° radials via Daggett; Morman Mesa, Nev.; 30 miles, 52 miles, 95 MSL Milford, Utah, including an E alternate via INT of Morman Mesa 059° and Cedar City, Utah, 197° radials to Cedar City, to Milford, excluding the airspace between the man and this E alternate airway; Delta, Utah; Fairfield, Utah; Salt Lake City, Utah; Ogden, Utah; Malad City, Idaho; Pocatello, Idaho; Idaho Falls, Idaho; INT of Idaho Falls, 030° and DuBois, Idaho, 157° radials; DuBois; Dillon, Mont.; Whitehall, Mont.; Helena, Mont.; Great Falls, Mont.; Cut Bank, Mont., including a W alternate Helena direct Cut Bank; INT Cut Bank 348° radial and the United States/Canadian border.

V-23 From Mission Bay, Calif., Oceanside, Calif.; 24 miles, 6 miles wide, Seal Beach, Calif.; 6 miles wide, INT Seal Beach 287° and Los Angeles, Calif., 138° radials; Los Angeles; Gorman, Calif., Bakersfield, Calif.; Fresno, Calif.; 53 miles, 6 miles wide, Linden, Calif.; Sacramento, Calif., including a W alternate from Fresno to Sacramento via Panoche, Calif., and Stockton, Calif.; INT Sacramento 346° and Red Bluff, Calif., 158° radials; Red Bluff; 58 miles, 95 MSL Fort Jones, Calif.; Medford, Oreg., including an east alternate via INT Fort Jones 041° and Medford 157° radials; Eugene, Oreg.; Portland, Oreg., including an east alternate and including a west alternate from Fort Jones to Portland via INT Fort Jones 340° and Roseburg, Oreg., 174° radials, Roseburg, INT Roseburg 355° and Corvallis, Oreg., 195° radials, Corvallis, and Newberg, Oreg.; 20 miles, 45 MSL INT Portland 350° and Seattle, Wash., 197° radials; 21 miles, 45 MSL, Seattle, including an east alternate from Portland to Seattle via direct radials; Paine, Wash.; Bellingham, Wash.; via INT Bellingham 290° radial to the United States/Canadian border.

V-24 From Aberdeen, S. Dak., Watertown, S. Dak., including a N alternate; Redwood Falls, Minn.; Rochester, Minn.; Lone Rock, Wis., including a S alternate from Rochester to Lone Rock via Waukon, Iowa.

V-25 From Mission Bay, Calif.; Los Angeles, Calif., including an E alternate from INT Los Angeles 138° and Seal Beach, Calif., 186° radials, via Seal Beach, 6 miles wide, to INT Seal Beach 287° and Los Angeles 138° radials; INT Los Angeles 261° and Ventura, Calif., 144° radials; 6 miles wide, Ventura; Santa Barbara, Calif.; Paso Robles, Calif., Salinas, Calif., including an E alternate via INT Paso Robles 342° and Salinas 131° radials; INT Salinas 310° and Woodside, Calif., 158° radials; Woodside; San Francisco, Calif.; INT San Francisco 304° and Point Reyes, Calif., 161° radials; Point Reyes; INT Point Reyes 352° and Ukiah, Calif., 147° radials; 28 miles, 24 miles, 85 MSL, 18 miles, 75 MSL, Red Bluff, Calif.; 53 miles, 95 MSL INT Red Bluff 015° and Klamath Falls, Oreg., 181 radials; 19 miles, 95 MSL, Klamath Falls; 21 miles, 77 miles, 90 MSL, Redmond, Oreg.; The Dalles, Oreg.; Yakima, Wash., including an east alternate via INT The Dalles 051° and Yakima 183° radials; Ellensburg, Wash., including a west alternate via INT Yakima 305° and Ellensburg 191° radials; Wenatchee, Wash. The airspace below 2,000 feet MSL outside the United States and the airspace more than 3 miles NE of the airway centerline between Seal Beach and INT of Seal Beach 287° and Los Angeles 138° radials is excluded. The airspace within R-2511, R-2520, and W-289 is excluded. The airspace within R-2519 more than 3 statute miles west of the airway centerline, and the airspace within R-2519 below 5,000 feet MSL is excluded. The portion outside the United States has no upper limit.

V-26 From Grand Junction, Colo.; via Meeker, Colo.; Cherokee, Wyo.; Casper, Wyo.; 14 miles 12 AGL, 37 miles 75 MSL, 84 miles 90 MSL, 17 miles 12 AGL, Rapid City, S. Dak.; 43 miles, 35 MSL Philip, S. Dak.; 56 miles, 35 MSL, Pierre, S. Dak., including a north alternate; 26 miles, 41 miles, 35 MSL, Huron, S. Dak.; Redwood Falls, Minn., including a S alternate; Flying Cloud, Minn.; INT Flying Cloud 081° and Eau Claire, Wis., 271° radials; Eau Claire, including a south alternate from Redwood Falls to Eau Claire via Farmington, Minn.; Wausau, Wis.; Green Bay, Wis.; INT Green Bay 116° and White Cloud, Mich., 302° radials; White Cloud; Lansing, Mich.; Salem, Mich., including a north alternate via INT Lansing 103° and Salem 308° radials; INT Salem 139° and Cleveland, Ohio, 309° radials; Cleveland. The airspace within Canada is excluded.

V-27 From Mission Bay, Calif., INT Mission Bay 319° and Santa Catalina, Calif., 099° radials; Santa Catalina; 6 miles wide, Ventura, Calif.; INT Ventura 326° and Fillmore, Calif., 265° radials; INT Fillmore 265° and Gaviota, Calif., 143° radials; Gaviota; San Luis Obispo, Calif.; INT San Luis Obispo 308° and Big Sur, Calif., 157° radials; Big Sur; INT Big Sur 325° and Point Reyes, Calif., 161° radials; Point Reyes; INT Point Reyes 352° and Ukiah, CA., 147° radials; Ukiah; Fortuna, CA., including a west alternate from Ukiah 17 miles, 77 miles, 53 MSL, Fortuna, excluding the airspace between the main and the west alternate; Crescent City, CA., including a west alternate from Fortuna to Crescent City, excluding the airspace between the main and the west alternate; 31 miles, 32 miles, 59 MSL, North Bend, Oreg.; Newport, Oreg.; 39 miles, 30 miles, 45 MSL, Astoria, Oreg.; including an east alternate via INT of Newport 016° and Astoria 157° radials; Hoquiam, Wash., including a west alternate via INT Astoria 309° and Hoquiam 182° radials; Seattle, Wash., including an east alternate from Astoria to Seattle via Olympia, Wash., and INT Olympia 010° and Seattle 249° radials. The airspace below 2,000 feet MSL outside the United States between San Diego and Santa Catalina, the airspace within R-2516, R-2520, and W-289, the airspace within R-2519 more than 3 statute miles west of the airway centerline, and the airspace within R-2519 below 5,000 feet MSL, is excluded. The portion outside the United States has no upper limit.

V-28 From Oakland, Calif., INT Oakland 077° and Linden, Calif., 246° radials; Linden; INT Linden 046° and Reno, Nev., 208° radials; Reno.

V-29 From Snow Hill, Md., Salisbury, Md.; Kenton, Del.; New Castle, Del.; Modena, Pa.; Pottstown, Pa.; East Texas, Pa.; Wilkes-Barre, Pa.; Binghamton, N. Y.; Syracuse, N. Y.; Watertown, N. Y.; INT Watertown 033° and Massena, N. Y., 241° radials; Massena.

V-30 From Badger, Wis., INT Badger 102° and Pullman, Mich., 303° radials; Pullman, including a S alternate via INT Badger 121° and Pullman 282° radials; Litchfield, Mich.; Waterville, Ohio; Cleveland, Ohio; Akron, Ohio; Clarion, Pa.; Philipsburg, Pa.; Selinsgrove, Pa.; East Texas, Pa.; INT East Texas 103° and Solberg, N. J., 255° radials; Solberg.

AMENDMENTS 7/13/78 43 F. R. 19212 (Changed)

V-31 From Patuxent River, Md.; INT Patuxent River 338° and Nottingham, Md., 128° radials; Nottingham. From Baltimore, Md.; Harrisburg, Pa.; Selinsgrove, Pa.; Williamsport, Pa.; Elmira, N. Y.; INT Elmira 357° and Rochester, N. Y., 125° radials; Rochester; INT Rochester 289° and Kleinburg, Ontario, 133° radials; Kleinburg. The airspace within Canada is excluded.

V-32 From Battle Mountain, Nev.; Elko, Nev.; Bonneville, Utah, including a north alternate from Elko to Bonneville via Wells, Nev.; 37 miles, 85 MSL, Salt Lake City, Utah; 17 miles, 45 miles, 105 MSL, Fort Bridger, Wyo.

V-33 From Harcum, Va., INT Harcum 003° and Nottingham, Md., 174° radials; Nottingham. From Baltimore, Md., Harrisburg, Pa.; Philipsburg, Pa.; Keating, Pa.; Bradford, Pa.; Buffalo, N. Y.

V-34 From Kleinburg, Ont., INT Kleinburg 113° and Rochester, N. Y., 309° radials; Rochester; Ithaca, N. Y.; Hancock, N. Y.; Carmel, N. Y.; INT Carmel 093° and Riverhead, N. Y., 046° radials. The airspace within Canada and R-5207 is excluded.

V-35 From Key West, Fla., via INT Key West 083° and Biscayne Bay, Fla., 204° radials; Biscayne Bay; INT Biscayne Bay 288° and Fort Myers, Fla., 137° radials; Fort Myers, including a west alternate from Biscayne Bay via INT Biscayne Bay 262° and Fort Myers 137° radials to the INT of Biscayne Bay 288° and Fort Myers 137° radials; St. Petersburg, Fla., including a W alternate; via INT Ft. Myers 311° and Sarasota, Fla., 156° radials, Sarasota, St. Petersburg; INT St. Petersburg 350° and Cross City, Fla., 168° radials; Cross City, including an E alternate via Gainesville, Fla.; Greenville, Fla.; Albany, Ga.; Macon, Ga.; including a west alternate via INT Albany 013° and Macon 240° radials; INT Macon 005° and Athens, Ga., 195° radials; Athens; Electric City, S. C.; Sugarloaf Mountain, N. C.; Holston Mountain, Tenn., including a west alternate via INT Sugarloaf Mountain 329° and Holston Mountain 203° radials; Blackford, Va.; Charleston, W. Va., including an E alternate via Bluefield, W. Va.; INT Charleston 051° and Elkins, W. Va., 264° radials; Clarksburg, W. Va.; Morgantown, W. Va.; Indian Head, Pa.; Johnstown, Pa., including a west alternate from Morgantown to Johnstown via INT Morgantown 010° and Johnstown 260° radials; Tyrone, Pa.; Philipsburg, Pa.; Stonyfork, Pa.; Elmira, N. Y.; Syracuse, N. Y. The airspace below 2,000 feet MSL outside the United States is excluded. The portion outside the United States has no upper limit.

AMENDMENTS 1/26/78 42 F. R. 60123 (Changed)

PENDING AMENDMENT

V-35 is amended by adding the following: "The airspace within R-2916 is excluded."

AMENDMENTS 12/28/78 43 F. R. 51005 (Changed)

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V-36 From Sault Ste Marie, Mich., to the INT of the Sault Ste Marie 110° radial and the United States/Canadian border. From Toronto, Ont., via INT Toronto 141° and Buffalo, N. Y., 312° radials; Buffalo; Elmira, N. Y.; Lake Henry, Pa.; INT Lake Henry 136° and Sparta, N. J., 290° radials; Sparta; Kennedy, N. Y. The airspace within Canada is excluded.

V-37 From Jacksonville, Fla.; Brunswick, Ga.; Savannah, Ga.; Allendale, S.C.; Columbia, S.C.; Fort Mill, S. C.; Pulaski, Va., Elkins, W. Va.; Morgantown, W. Va.; INT Morgantown 331° and Ellwood City, Pa., 185° radials; Ellwood City; Erie, Pa.; to Ash, Ont., Canada. The airspace within Canada is excluded.

V-38 From Moline, Ill., via INT Moline 082° and Peotone, Ill., 281° radials; Peotone; Fort Wayne, Ind.; Findlay, Ohio; INT
Findlay 131° and Appleton, Ohio, 312° radials; Appleton; Zanesville, Ohio; Parkersburg, W. Va.; Elins, W. Va.; Gordonsville, Va.; Richmond, Va.; Harcum, Va.; Cape Charles, Va.

V-39 From Sandhills, N. C., South Boston, Va.; Gordonsville, Va.; Linden, Va.; including an E alternate via Casanova, Va.; Front Royal, Va.; Martinsburg, W. Va.; Lancaster, Pa.; to East Texas, Pa. From Chester, Mass.; Gardner, Mass.; Concord, N. H.; INT Concord 046° and Augusta, Maine, 233° radials; Augusta; Millinocket, Maine; Presque Isle, Maine; Mont Joli, Quebec, Canada, excluding the portion within Canada.

V-40 From Cleveland, Ohio, Briggs, Ohio; INT Briggs 077° and Youngstown, Ohio, 177° radials.

V-41 From INT Briggs, Ohio, 077° and Youngstown, Ohio, 177° radials; Youngstown.

V-42 From Flint, Mich.; via INT Flint 133° and Windsor, Ont., 320° radials; Windsor; Cleveland, Ohio; to Akron, Ohio. The airspace within Canada is excluded.

V-43 From Appleton, Ohio, via Tiverton, Ohio; Briggs, Ohio; Youngstown, Ohio; including a west alternate from Tiverton via INT Tiverton 040° and Akron, Ohio, 233° radials; Akron to Youngstown; including an E alternate from Briggs via INT Briggs 057° and Youngstown 177° radials to Youngstown; Erie, Pa.; INT Erie 043° and Buffalo, N. Y., 259° radials; to Buffalo.

V-44 From Jefferson City, Mo., via Foristell, Mo.; Centralia, Ill.; Samsville, Ill.; Nabb, Ind.; Falmouth, Ky.; York, Ky.;
Parkersburg, W. Va.; Morgantown, W. Va.; Martinsburg, W. Va.; Baltimore, Md.; INT Baltimore 094° and Kenton, Del., 262° radials; Kenton; INT Kenton 086° and Atlantic City, N. J., 236° radials; Atlantic City; INT Atlantic City 048° and Deer Park, N. Y., 209° radials; Deer Park. The airspace within R-4001 and the airspace below 2,000 feet MSL outside the United States is excluded. The airspace within R-5002 more than 3 nmi W of the airway centerline above 9,000 feet MSL is excluded.

V-45 From New Bern, N. C., Kinston, N. C.; Raleigh-Durham, N. C.; INT Raleigh-Durham 275° and Greensboro, N. C., 105° radials; Greensboro; INT Greensboro 334° and
Hickory, N. C., 049° radials; Pulaski, Va.; Bluefield, W. Va.; Charleston, W. Va. From INT Waterville, Ohio. 035° and Cleveland, Ohio, 335° radials; Waterville;
Jackson, Mich.; Lansing, Mich.; Saginaw, Mich.; Alpena, Mich., including a west alternate via INT Saginaw 353° and Alpena 232° radials; Saulte Ste. Marie, Mich. The airspace within R-5502 is excluded.
The airspace from Alpena to 30 miles north of Alpena at and above 10,000 feet MSL is excluded during the time that the Collins Military Operations Area is activated by NOTAM.

V-46 From Deer Park, N. Y., Riverhead, N. Y.; Hampton, N. Y.; INT Hampton 083° and Nantucket, Mass., 255° radials; Nantucket. The airspace below 2,000 feet MSL outside the United States is excluded.

V-47 From Pine Bluff, Ark.; Gilmore, Ark.; Dyersburg, Tenn.; Cunningham, Ky.; Evansville, Ind.; Nabb, Ind.; Cincinnati, Ohio; Rosewood, Ohio; Findlay, Ohio, including a W alternate
via INT Rosewood 309° and Findlay, Ohio, 218° radials; Waterville, Ohio; INT Waterville 353° and Salem, Mich., 197° radials; Salem; to the INT Salem 021° and Flint, Mich., 088° radials.

V-48 From Ottumwa, Iowa, Burlington, Iowa; Peoria, Ill.; Pontiac, Ill.

V-49 From Vulcan, Ala.; Decatur, Ala.; including an east alternate via INT Vulcan 013° and Decatur 130° radials and a west alternate via INT Vulcan 335° and Decatur 205° radials; Nashville, Tenn.; Bowling Green, Ky., including a W alternate from
Decatur to Bowling Green via Graham, Tenn., and INT Graham 006° and Bowling Green 230° radials; Mystic, Ky.; Nabb, Ind.

AMENDMENTS 3/23/78 43 F. R. 3545 (Changed)

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V-50 From Hastings, Nebr., via Pawnee City, Nebr.; St. Joseph, Mo.; including a S alternate from Pawnee City to St. Joseph via INT Pawnee City 122° and Kansas City, Mo., 310° radials, and INT Kansas City 310° and St. Joseph 178° radials; Kirksville, Mo.; Quincy, Ill.; Capital, Ill.; Decatur, Ill.; Terre Haute, Ind.; Indianapolis, Ind.; Dayton, Ohio, including a N alternate from Indianapolis to Dayton via Muncie, Ind.
The airspace at and above 10,000 feet MSL from Quincy to Capital is excluded during the time that the Howard MOA is activated by NOTAM.
The airspace within the Lincoln MOA is excluded during the time that the MOA is activated by NOTAM.

V-51 From Biscayne Bay, Fla.; Miami, Fla.; INT Miami
337° and Pahokee, Fla., 174° radials; Pahokee, including an east alternate from Biscayne Bay, Ft. Lauderdale, Fla., INT Ft. Lauderdale 339° and Pahokee 124° radials; INT Pahokee 009° and Vero Beach, Fla., 193° radials, Vero Beach; Ormond Beach, Fla.;
INT Ormond Beach 345° and Jacksonville, Fla., 155° radials; Jacksonville; INT Jacksonville 318° and Alma, Ga., 150° radials, Alma; INT Alma 342° and Dublin, Ga., 167° radials, Dublin, Ga.; Athens, Ga.; INT Athens, Ga., 340° and Harris,
Ga., 148° radials; Harris; Hinch Mountain, Tenn., including a west alternate from the INT Anderson, S. C., 274° and Athens 340° radials to Hinch Mountain via INT Anderson 274° and Hinch Mountain 160° radials; Livingston, Tenn.; Louisville, Ky., including an E alternate and also a W alternate from Livingston to Louisville via INT Livingston 333° and New Hope, Ky., 165° radials and New Hope; Nabb, Ind.; Shelbyville, Ind.; INT Shelbyville 313° and Lafayette, Ind., 136° radials; Lafayette; Chicago Heights, Ill. The airspace within R-2921 and R-2922 is excluded.

AMENDMENTS 1/26/78 42 F. R. 60123 (Changed) Corr: 43 F. R. 3554

V-52 From Des Moines, Iowa; Ottumwa, Iowa; Quincy, Ill.; St. Louis, Mo.; Troy, Ill.; INT Troy 099° and Evansville, Ind., 311° radials; Evansville, Ind.; Central City, Ky.; Nashville, Tenn., including a N alternate.

V-53 From Charleston, S. C., INT Charleston 296° and Columbia, S. C., 153° radials; Columbia; Spartanburg, S. C.; Sugarloaf Mountain, N. C.; Holston Mountain, Tenn.; Whitesburg, Ky.; Lexington, Ky.; Louisville, Ky.; INT Louisville 333° and Indianapolis, Ind., 170° radials; Indianapolis; INT Indianapolis 312° and Lafayette, Ind., 159° radials; Lafayette; INT Lafayette 313° and Peotone, Ill., 152° radials; to Peotone.
The airspace within R-3401B is excluded.

V-54 From Waco, Tex., Scurry, Tex.; Quitman, Tex.; Texarkana, Ark.; INT
Texarkana 052° and Little Rock, Ark., 235° True radials; Little Rock, including a N alternate via INT Texarkana 037° and Hot Springs, Ark., 225° radials and Hot Springs; Holly Springs, Miss.; Muscle Shoals, Ala.; Rocket, Ala., including a N alternate via INT Muscle Shoals 067° and Rocket 282° radials; Chattanooga, Tenn., including a N alternate; Harris, Ga.; Spartanburg, S. C., Fort Mill, S. C.

AMENDMENTS 3/23/78 43 F. R. 3545 (Changed)

V-55 From Dayton, Ohio; Fort Wayne, Ind.; Goshen, Ind.; South Bend, Ind.; Keeler, Mich.; Pullman, Mich.; Muskegon, Mich.; INT Muskegon 327°
and Green Bay, Wis., 116° radials; Green Bay; Stevens Point, Wis.; INT Stevens Point 281° and Eau Claire, Wis., 107° radials; Eau Claire; Grantsburg, Wis.; Brainerd,
Minn.; Park Rapids, Minn.; Grand Forks, N. Dak.

V-56 From Meridian, Miss., Kewanee, Miss.; Montgomery, Ala.; Tuskegee, Ala.; Columbus, Ga.; INT Columbus 087° and Macon, Ga., 266° radials; Macon; Augusta, Ga.; Columbia, S. C., including a south alternate via INT of Augusta 103° and Columbia 236° radials; Florence S. C.; Fayetteville, N. C., 41 miles 15 MSL, INT Fayetteville 098° and New Bern, N. C., 256° radials; New Bern.

V-57 From Lexington, Ky., to Falmouth, Ky.

V-58 From Philipsburg, Pa.; Williamsport, Pa.; INT Williamsport 079° and Lake Henry,
Pa., 265° radials; Lake Henry; INT Lake Henry 078° and Kingston, N. Y., 274° radials; Kingston; INT Kingston 100° and Hartford, Conn., 268° radials; Hartford; INT Hartford 130° and Providence, R. I., 212° radials.

V-59 From Pulaski, Va., Beckley, W. Va.; Parkersburg, W. Va.; Newcomerstown, Ohio; Briggs, Ohio.

V-60 From Albuquerque, N. Mex., via Otto, N. Mex., including a S alternate via INT Albuquerque 103° and Otto 253° radials; Las Vegas, N. Mex.

V-61 From Grand Island, Nebr., to Pawnee City, Nebr., excluding the airspace within the Lincoln MOA during the time that the MOA is activated by NOTAM.

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V-62 From Gallup, N. Mex.; INT Gallup 089° and Santa Fe, N. Mex., 268° radials; Santa Fe; Anton Chico, N. Mex.; Texico, N. Mex.; Lubbock, Tex.; Abilene, Tex.; INT Abilene 096° and Acton, Tex., 264° radials; Acton.

V-63 From Blue Ridge, Tex., via McAlester, Okla.; Razorback, Ark.; Springfield, Mo.; Hallsville, Mo.; Quincy, Ill.; Burlington, Iowa; Moline, Ill.; Davenport, Iowa; Rockford, Ill.; Janesville, Wis.; Badger, Wis.; Oshkosh, Wis.; Stevens Point, Wis.; Wausau, Wis.; Rhinelander, Wis., to Houghton, Mich.
The airspace at and above 10,000 feet MSL from Quincy to 32 miles north, is excluded during the time that the Allen MOA is activated by NOTAM.

AMENDMENTS 7/13/78 43 F. R. 19212 (Changed)
AMENDMENTS 9/7/78 43 F. R. 31127 (Changed)

V-64 From Los Angeles, Calif., 7 miles wide (3 miles E and 4 miles W of centerline) INT Los Angeles 185° and Seal Beach, Calif., 266° radials; Seal Beach; Thermal, Calif.; Blythe, Calif. The portion outside the United States has no upper limit.

V-65 From the INT Kansas City, Mo., 310° and St. Joseph, Mo., 178° radials; St. Joseph; Lamoni, Iowa.

V-66 From Mission Bay, Calif., Imperial, Calif.; 13 miles, 24 miles, 25 MSL, Yuma, Ariz.; 12 miles, 35 MSL INT Yuma 089° and Gila Bend, Ariz. 261° radials; 46 miles, 35 MSL, Gila Bend; Tucson, Ariz.; Douglas, Ariz.; INT Douglas 064° and Columbus, N. Mex., 277° radials; Columbus; El Paso, Tex., including a N alternate via INT Columbus 075° and El Paso 286° radials; 6 mi. wide, INT El Paso 109° and Hudspeth 287° radials; 6 mi. wide, Hudspeth; Pecos, Tex.; Midland, Tex.; Hyman, Tex.; INT Hyman 074° and Abilene, Tex., 251° radials; Abiline; INT Abilene 066° and Bridgeport, Tex., 248° radials; Bridgeport; Blue Ridge, Tex., including a north alternate via INT Bridgeport 069° and Blue Ridge 285° radials; Sulphur Springs, Tex.; Texarkana, Ark., including a north alternate via INT Sulphur Springs 060° and Texarkana 272° radials, and also a south alternate via INT Sulphur Springs 090° and Texarkana 240° radials. From Tuscaloosa, Ala., Brookwood, Ala.; LaGrange, Ga.; INT LaGrange 120° and Columbus, Ga., 068° radials; INT Columbus 068° and Athens, Ga., 195° radials; Athens; Fort Mill, S. C.; Raleigh-Durham, N. C., including a south alternate from Athens, Ga., to Raleigh-Durham via INT Athens 092° and Greenwood, S.C., 240° radials, Greenwood and Sandhills, N. C.; Franklin, Va., excluding the airspace above 13,000 feet MSL from the INT of Tucson, Ariz., 122° and Cochise, Ariz., 257° radials to the INT of Douglas, Ariz., 064° and Columbus, NM., 277° radials.

V-67 From Chattanooga, Tenn.; Shelbyville, Tenn.; Graham, Tenn.; Cunningham, Ky.; Marion, Ill.; Centralia, Ill.; INT Centralia 010° and Vandalia, Ill., 162° radials; Vandalia; Capital, Ill.; Burlington, Iowa; Iowa City, Iowa; Cedar Rapids, Iowa; Waterloo, Iowa; Rochester, Minn., including an east alternate.
The airspace at and above 10,000 feet MSL from Capital to 28 miles south of Burlington is excluded during the time that the Allen MOA is activated by NOTAM.

V-68 From Albuquerque, N. Mex., via INT Albuquerque 120° and Corona, N. Mex., 311° radials; Corona, including a N alternate via INT Albuquerque 103° and Corona 328° radials and also a S alternate via INT Albuquerque 160° and Corona 278° radials; 41 mi. 85 MSL, Roswell, N. Mex., including an N alternate 85 MSL INT Corona 124° and Roswell 335° radials, Roswell; Hobbs, N. Mex., including a S alternate; INT Hobbs 120° and Midland, Tex., 312° radials; Midland, including a S alternate via INT Hobbs 136° and Midland 283° radials; San Angelo, Tex., including a S alterante via INT Midland 128° and San Angelo 278° radials; Junction, Tex., including a S alternate via INT San Angelo 181° and Junction 310° radials; San Antonio, Tex., including a south alternate via Center Point, Tex.; INT San Antonio 064° and Industry, Tex., 267° radials; Industry; INT Industry 101° and Hobby, Tex., 290° radials to Hobby.

AMENDMENTS 1/26/78 42 F. R. 63167 (Changed)
AMENDMENTS 7/13/78 43 F. R. 21446 (Changed)

V-69 From Shreveport, La., via INT Shreveport 084° and El Dorado, Ark., 218° radials; El Dorado, including a W alternate via INT Shreveport 084° and El Dorado 233° radials; Pine Bluff, Ark.; INT Pine Bluff 038° and Walnut Ridge, Ark., 187° radials; Walnut Ridge; Farmington, Mo., Troy, Ill.; Capital, Ill.; Pontiac, Ill.; Joliet, Ill.; Kedzie, Ill., RBN.

V-70 From Corpus Christi, Tex., via INT Corpus Christi 054° and Palacios, Tex., 226° radials, Palacios; Scholes, Tex.; Sabine Pass, Tex.; Lake Charles, La.; Lafayette, La.; Baton Rouge, La., including a N alternate via INT Lafayette 012° and Baton Rouge 264° radials; Picayune, Miss.; Greene County, Miss.; Monroeville, Ala.; INT Monroeville 073° and Eufaula, Ala., 258° radials; Eufaula; Vienna, Ga.; to Allendale, S. C.
The portion of this airway above 9,000 feet MSL between the INT of Vienna 066° and Dublin, Ga., 122° radials and the INT of Allendale 247° and Augusta, Ga., 148° radials is excluded.

V-71 From Baton Rouge, La., via Natchez, Miss., including an E alternate via INT Baton Rouge 026° and Natchez 156° radials; Monroe, La., including a W alternate and also an E alternate via INT Natchez 341° and Monroe 105° radials; El Dorado, Ark.; Hot Springs, Ark.; INT Hot Springs 358° and Harrison, Ark., 176° radials; Harrison; Springfield, Mo., including a W alternate from Hot Springs to Springfield via Razorback, Ark., excluding the airspace between the main and this W alternate; Butler, Mo.; Topeka, Kans.; Pawnee City, Nebr.; INT Pawnee City 334° and Lincoln, Nebr., 146° radials; Lincoln; Columbus, Nebr.; O'Neill, Nebr.; Winner, S. Dak.; Pierre, S. Dak.; Bismarck, N. Dak.; Williston, N. Dak.
The airspace within the O'Neill MOA is excluded during the time that the MOA is activated by NOTAM.
AMENDMENTS 9/7/78 43 F. R. 31127 (Changed)

V-72 From Razorback, Ark., Dogwood, Mo.; Maples, Mo.; Farmington, Mo.; Centralia, Ill.; Bible Grove, Ill.; Mattoon, Ill.; to Bloomington, Ill. From Rosewood, Ohio, Mansfield, Ohio; INT Mansfield 098° and Akron, Ohio, 233° radials; Akron; Youngstown, Ohio; Tidioute, Pa.; Bradford, Pa.; INT Bradford 078° and Elmira, N. Y., 252° radials; Elmira; Binghamton, N. Y., Rockdale, N. Y.; Albany, N. Y.; Cambridge, N. Y.; INT Cambridge 063° and Keene, N. H., 336° radials.
The airspace at and above 8,000 feet MSL between Maples and Farmington is excluded during the time that the Meramec Military Operations Area is activated by NOTAM.
The airspace within a 15 NM radius of Tidioute, Pa., at and above 10,000 feet MSL to and including 17,000 feet MSL is excluded during the times that the Tidioute Military Operations Area (MOA) is activated by NOTAM.

AMENDMENTS 7/13/78 43 F. R. 21447 (Changed)
AMENDMENTS 9/7/78 43 F. R. 31127 (Changed)

V-73 From Tulsa, Okla., via Wichita, Kans.; Hutchinson, Kans.; INT Hutchinson 025° and Salina, Kans., 184° radials; Salina, including an east alternate from Wichita to Salina via INT Wichita 356° and Salina 169° radials.

V-74 From Garden City, Kans.; Dodge City, Kans.; Anthony, Kans.; Pioneer, Okla.; Tulsa, Okla., including a N alternate via INT Pioneer 094° and Tulsa 319° radials; Fort Smith, Ark., including a N alternate via INT Tulsa 087° and Fort Smith 318° radials and a S alternate from Pioneer to Fort Smith via Okmulgee, Okla.; 6 miles, 7 miles wide (4 miles north and 3 miles south of centerline) Little Rock, Ark., including a N alternate and also a S alternate via INT Fort Smith 133° and Little Rock 278° radials; Pine Bluff, Ark., including a N alternate via INT Little Rock 137° and Pine Bluff 006° radials; Greenville, Miss., including a N alternate; INT Greenville 147° and Jackson, Miss., 325° radials; Jackson, including a N alternate.

V-75 From Morgantown, W. Va.; Bellaire, Ohio; Briggs, Ohio; Cleveland, Ohio.

V-76 From Lubbock, Tex., via INT Lubbock 188° and Big Spring, Tex., 286° radials; Big Spring, including a N alternate from Lubbock direct to Big Spring, excluding the airspace between the main and this N alternate; Hyman, Tex.; San Angelo, Tex.; Llano, Tex.; Austin, Tex., including a south alternate via INT Llano 135° and Austin 279° radials; and also a north alternate via INT Llano 096° and Austin 314° radials; Industry, Tex., including a north alternate via INT Austin 090° and Industry 310° radials; INT Industry 101° and Hobby, Tex., 290° radials; Hobby, including a S alternate from Industry to Hobby via Eagle Lake, Tex.

AMENDMENTS 3/23/78 43 F. R. 3544 (Changed)
AMENDMENTS 11/2/78 43 F. R. 40213 (Changed)

V-77 From San Angelo, Tex., via Abilene, Tex.; Wichita Falls, Tex., including an E alternate; INT Wichita Falls 028° and Oklahoma City, Okla., 202° radials; Oklahoma City, including an E alternate from Wichita Falls to Oklahoma City via INT Wichita Falls 047° and Duncan, Okla., 248° radials, Duncan, INT Duncan 011° and Oklahoma City 180° radials; Pioneer, OK., including an E alternate via INT Oklahoma City 037° and Pioneer 186° radials; Wichita, Kans.; INT Wichita 037° and Topeka, Kans., 236° radials; Topeka; St. Joseph, Mo.; Lamoni, Iowa; Des Moines, Iowa; Newton, Iowa; Waterloo, Iowa; to Waukon, Iowa.

V-78 From Huron, S. Dak., Watertown, S. Dak., including a S alternate; Darwin, Minn.; Minneapolis, Minn.; Eau Claire, Wis.; Rhinelander, Wis.; Iron Mountain, Mich.; Escanaba, Mich.; Schoolcraft County, Mich.; Pellston, Mich.; to Alpena, Mich.
The airspace northeast of the Alpena 316° radial from Alpena to 25 miles north of Alpena at and above 10,000 feet MSL is excluded during the time that the Collins Military Operations Area is activated by NOTAM.

V-79 From Hastings, Nebr., to Lincoln, Nebr.

V-80 From Akron, Colo., to North Platte, Nebr.

AMENDMENTS 1/26/78 42 F. R. 62359 (Rewritten)
AMENDMENTS 11/2/78 43 F. R. 39753 (Changed)

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V-81 From Midland, Tex., via Lubbock, Tex.; Plainview, Tex.; Amarillo, Tex., including an east alternate via INT Plainview 025° and Amarillo 163° radials; Dalhart, Tex., including a west alternate via INT Amarillo 301° and Dalhart 157° radials; Tobe, Colo.; Pueblo, Colo.; Colorado Springs, Colo.; Denver, Colo.

V-82 From Baudette, Minn., Bemidji, Minn.; Brainerd, Minn.; Minneapolis, Minn.; Farmington, Minn.; Rochester, Minn.; Nodine, Minn.; Dells, Wis.; INT Dells 097° and Timmerman, Wis., 322° radials; 6 mi. wide Timmerman.

V-83 From Carlsbad, N. Mex., via Roswell, N. Mex.; 40 miles, 85 MSL Corona, N. Mex., including an E alternate INT Roswell 335° and Corona 124° radials, 85 MSL Corona; Otto, NM., Santa Fe, NM., including an east alternate via INT Otto 019° and Santa Fe 117° radials; Taos, NM.; Alamosa, Colo.; INT Alamosa 074° and Pueblo, Colo., 191° radials; Pueblo; INT Pueblo 004° and Colorado Springs, Colo., 153° radials; Colorado Springs, Colo.; Kiowa, Colo.

V-84 From Northbrook, Ill.; Pullman, Mich.; Lansing, Mich.; Flint, Mich.; Peck, Mich.; London, Ont., Canada; Buffalo, N. Y.; Geneseo, N. Y.; INT Geneseo 091° and Syracuse, N. Y., 242° radials; Syracuse. The airspace within Canada is excluded.

V-85 From Denver, Colo., via INT Denver 325° and Medicine Bow, Wyo., 165° radials; Medicine Bow; Casper, Wyo., including a west alternate via INT Medicine Bow 336° and Casper 216° radials; 29 miles, 48 miles 77 MSL, to Riverton, Wyo.

AMENDMENTS 1/26/78 42 F. R. 62359 (Changed)
AMENDMENTS 11/2/78 43 F. R. 39753 (Changed)

V-86 From Butte, Mont., Whitehall, Mont.; Bozeman, Mont.; INT Bozeman 128° and Livingston, Mont., 261° radials; Livingston; 11 miles, 25 miles, 85 MSL, Billings, Mont.; 32 miles, 35 miles, 75 MSL, Sheridan, Wyo.; 20 miles, 45 miles, 70 MSL, 63 miles, 80 MSL, Rapid City, S. Dak.

V-87 From San Francisco, CA., INT San Francisco 359° and Napa, CA., 182° radials; Napa; INT Napa 004° and Maxwell, Calif., 188° radials; Maxwell; Red Bluff, Calif.

V-88 From Tulsa, Okla., INT Tulsa 044° and Springfield, Mo., 261° radials; Springfield; Vichy, Mo., including a south alternate from INT Springfield 058° and Forney (AAF), Mo., 266° radials; Forney (AAF), INT Forney (AAF) 046° and Vichy 216° radials; INT Vichy 091° and St. Louis, Mo., 171° radials, excluding that portion within R-4501A. The airspace at and above 8,000 feet MSL between Vichy and the INT Vichy 091° and St. Louis, Mo., 171° radials is excluded during the time that the Meramec Military Operations Area is activated by NOTAM.
PENDING AMENDMENT
Under V-88 "R-4501A." is deleted and "R-4501A, R-4501B, R-4501C and R-4501D during their time of activation." is substituted therefor.

AMENDMENTS 12/28/78 43 F. R. 51010 (Changed)

V-89 From the INT of Denver, Colo., 197° and Kiowa, Colo., 246° radials; Denver; Cheyenne, Wyo., including an east alternate from Denver to Cheyenne via Gill, Colo., and INT Gill 003° and Cheyenne 131° radials; Chadron, including an E alternate from Cheyenne to Chadron via Scottsbluff, Nebr.

AMENDMENTS 11/2/78 43 F. R. 39753 (Changed)

V-90 From Litchfield, Mich., via INT Litchfield 081° and Windsor, Ont., Canada, 265° radials; Windsor; INT Windsor 083° and Dunkirk, N. Y., 266° radials; Dunkirk. The airspace within Canada is excluded.

V-91 From Riverhead, N. Y., INT Riverhead 344° and Pawling, N. Y., 139° radials; Pawling; INT Pawling 342° and Albany, N. Y., 181° radials; Albany; Glens Falls, N. Y.; INT Glens Falls 032° and Burlington, Vt., 187° radials; Burlington; Plattsburgh, N. Y.; St. Eustache, Quebec, Canada. The airspace within Canada is excluded.

V-92 From Joliet, IL., Chicago Heights, IL.; Goshen, IN.; Waterville, OH.; Mansfield, OH.; Tiverton, OH.; Newcomerstown, OH.; Bellaire, OH.; INT Bellaire 107° and Grantsville 285° radials; Grantsville; Front Royal, VA.

V-93 From Patuxent River, Md., INT Patuxent 013° and Baltimore, Md., 122° radials; Baltimore; Lancaster, Pa.; including an E alternate via the INT of Baltimore 034° and Lancaster 181° radials; Wilkes-Barre, Pa.; Lake Henry, Pa.; Pawling, N. Y.; Chester, Mass.; Keene, N. H.; Concord, N. H.; Kennebunk, Maine; Navy Brunswick, Maine; Bangor, Maine; Princeton, Maine; INT Princeton 057° radial and the United States/Canadian border.

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V-94 From Blythe, CA.; INT Blythe 094° and Gila Bend, AZ., 299° radials; Gila Bend; Casa Grande, AZ.; 55 miles, 74 miles, 95 MSL, San Simon, AZ.; Deming, NM.; Newman, Tex., including a S alternate via INT Deming 119° and Newman 271° radials; Salt Flat, Tex., including a north alternate via INT Newman 091° and Salt Flat 312° radials; Wink, Tex.; Midland, Tex.; Hyman, Tex.; Tuscola, Tex.; Acton, Tex.; Scurry, Tex.; Gregg County, Tex.; Elm Grove, La.; Monroe, La.; Greenville, Miss., including a S alternate; Holly Springs, Miss., including a N alternate via INT Greenville 021° and Holly Springs 268° radials; Jacks Creek, Tenn.; Bowling Green, Ky. The airspace within R-5103A is excluded.

V-95 From Gila Bend, Ariz., INT Gila Bend 096° and Phoenix, Ariz., 204° radials; Phoenix; 49 miles, 40 miles, 95 MSL, Winslow, Ariz., including a west alternate from Phoenis, INT Phoenix 006° and Winslow 224° radials; 52 miles, 95 MSL, Winslow; 66 miles, 39 miles, 125 MSL, Farmington, N. Mex.; Durango, Colo.; Gunnison, Colo., 15 miles, 125 MSL, 12 miles, 145 MSL, 22 miles, 157 MSL, 23 miles, 135 MSL, 9 miles, 128 MSL, Kiowa, Colo. The airspace 14,000 feet MSL and above is excluded from 23 NM northeast of Phoenix to 22 NM southwest of Winslow on V-95 and from 23 NM north of Phoenix to 26 NM southwest of Winslow on V-95W, from 1300 GMT, to 0200 GMT Monday through Friday, and other times as advised by a Notice to Airmen.

V-96 From Indianapolis, Ind., Kokomo, Ind.; Fort Wayne, Ind.; INT Fort Wayne 071° and Waterville, Ohio, 246° radials; Waterville; Windsor, Ontario, Canada, excluding the portion within Canada.

V-97 From Miami, Fla.; LaBelle, Fla., including an E alternate via INT Miami 337° and LaBelle 124° radials; St. Petersburg, Fla.; Tallahassee, Fla., Albany, Ga.; Atlanta, Ga.; INT Atlanta 001° and Knoxville, Tenn., 197° radials; Knoxville; London, Ky., including an E alternate via INT Knoxville 013° and London 141° radials; Lexington, Ky.; Cincinnati, Ohio, including a W alternate via INT Lexington 327° and Cincinnati 192° radials, and also an E alternate from London to Cincinnati via INT London 004° and Lexington 107° radials and Falmouth, Ky.; Shelbyville, Ind., INT Shelbyville 313° and Lafayette, Ind., 136° radials; Lafayette, including a W alternate from Shelbyville to Lafayette via Indianapolis, Ind., and INT Indianapolis 344° and Shelbyville 313° radials and INT Shelbyville 313° and Lafayette 136° radials; to Chicago Heights, Ill. From Chicago-O'Hare, Ill.; INT Chicago-O'Hare 316° and Janesville, Wis., 112° radials; Janesville; Lone Rock, Wis., including a W alternate via INT Janesville 281° and Lone Rock 147° radials; Nodine, Minn.; Minneapolis, Minn. The airspace below 2,000 feet MSL outside the United States is excluded.

AMENDMENTS 1/26/78 42 F. R. 60123 (Changed)

V-98 From Carleton, Mich., Windsor, Ont., Canada; London, Ontario, Canada; Toronto, Ontario, Canada; Stirling, Ontario, Canada; Massena, N. Y.; St. Jean, Quebec, Canada. The airspace within Canada is excluded.

V-99 From Bridgeport, Conn.; to Hartford, Conn.

V-100 From Medicine Bow, Wyo., Scottsbluff, Nebr.; Alliance, Nebr.; Ainsworth, Nebr.; O'Neill, Nebr.; Sioux City, Iowa; Fort Dodge, Iowa; Waterloo, Iowa; Dubuque, Iowa; Rockford, Ill.; INT Rockford 082° and Northbrook, Ill., 290° radials; Northbrook; INT Northbrook 095° and Keeler, Mich., 271° radials; Keeler; Litchfield, Mich.; INT Litchfield 104° and Carleton, Mich., 258° radials; Carletoh.

V-101 From Gill, Colo., via Hayden, Colo.; Vernal, Utah; 25 miles, 25 miles 120 MSL, 22 miles 145 MSL, 20 miles 125 MSL, Salt Lake City, Utah; Ogden, Utah; 61 miles, 26 miles, 109 MSL, Burley, Idaho; INT Burley 344° and Pocatello, Idaho, 286° radials.

V-102 From Salt Flat, TX., via Carlsbad, NM., including a south alternate via INT Salt Flat 085° and Carlsbad 220° radials; Hobbs, NM.; Lubbock, TX.; Guthrie, TX.; Wichita Falls, Tex., including a S alternate via INT Guthrie 103° and Wichita Falls 247° radials.

V-103 From Greensboro, N. C., Roanoke, Va.; Elkins, W. Va.; Clarksburg, W. Va.; Bellaire, Ohio; INT Bellaire 327° and Akron, Ohio, 181° radials; Akron, Ohio; INT Akron 312° and Windsor, Ontario, Canada 134° radials; INT Windsor 134° and Salem, Mich., 117° radials; Salem. The airspace within Canada is excluded.

V-104 From Ottawa, Ontario, Canada, INT Ottawa 095° and Massena, N. Y., 330° radials; Massena; Plattsburgh, N. Y. The airspace within Canada is excluded.

V-105 From Tucson, AZ., INT Tucson 298° and Casa Grande, AZ., 145° radials; Casa Grande; Phoenix, AZ.; Prescott, Ariz.; 25 miles, 22 miles, 85 MSL, Boulder City, Nev.; Las Vegas, Nev., including an E alternate from Prescott, 25 miles, 85 MSL INT Prescott 319° and Peach Springs, Ariz., 134° radials, 8 miles, 85 MSL, Peach Springs, INT Peach Springs 305° and Las Vegas 081° radials, to Las Vegas; INT Las Vegas 266° and Beatty, Nev., 142° radials; 17 miles, 105 MSL Beatty; 105 MSL Coaldale, Nev.; 82 miles 110 MSL, to Reno, Nev., including an east alternate from Coaldale, 110 MSL via Mina, Nev., 110 MSL INT Mina 300° and Reno 135° radials, Reno.

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V-106 From Johnstown, Pa.; INT Johnstown 068° and Selinsgrove, Pa., 259° radials; Selinsgrove; INT Selinsgrove 067° and Wilkes-Barre, Pa., 237° radials; Wilkes-Barre; Lake Henry, Pa., Pawling, N. Y.; Barnes, Mass.; Gardner, Mass.; Manchester, N. H.; Kennebunk, Maine.

V-107 From Los Angeles, Calif., INT Los Angeles 061° and Santa Monica, Calif., 093° radials; Santa Monica; INT Santa Monica 276° and Fillmore, Calif., 163° radials; Fillmore; Avenal, Calif.; Panoche, Calif.; Oakland, Calif., including an E alternate via INT Panoche 317° and Oakland 110° radials; Point Reyes, Calif.; INT Point Reyes 306° and Ukiah, Calif., 172° radials. The portion outside the United States has no upper limit.

V-108 From Santa Rosa, Calif., via Napa, Calif.; INT Napa 131° and Concord, Calif., 276° radials; 7 miles wide (4 miles N and 3 miles S of centerline), Concord; Linden, Calif. From Colorado Springs, Colo.; Hugo, Colo.; 74 miles, 65 MSL, Goodland, Kans.; Hill City, Kans.

V-109 From Panoche, Calif., via Stockton, Calif.; INT Stockton 267° and Oakland, Calif., 077° radials; Oakland.

V-110 From Deming, N. Mex., Truth or Consequences, N. Mex.

V-111 From Big Sur, Calif., via Salinas, Calif.; INT Salinas 028° and Stockton, Calif., 164° radials; to Modesto, Calif.

AMENDMENTS 1/26/78 42 F. R. 58931 (Changed)

V-112 From Astoria, Oreg., 44 miles; 15 miles, 6-mile wide, Portland, Oreg.; The Dalles, Oreg.; including a S alternate from Portland via the Portland 110° and The Dalles 255° radials to The Dalles; INT of The Dalles 101° and Pendleton, Oreg.; 254° radials; Pendleton; 53 miles, 28 miles, 45 MSL, Spokane, Wash., including a W alternate from Pendleton via Pasco, Wash., 35 miles, 35 MSL INT Pasco 035° and Spokane 221° radials; 6 miles 35 MSL, to Spokane, and an east alternate from Pendleton via INT Pendleton 090° and Walla Walla, Wash., 215° radials, Walla Walla, 22 miles, 48 miles, 45 MSL, to Spokane; 47 miles, 105 MSL Cranbrook, British Columbia, Canada, excluding the portion within Canada.

AMENDMENTS 11/2/78 43 F. R. 40212 (Changed)

V-113 From San Luis Obispo, Calif., Paso Robles, Calif.; Priest, Calif.; Panoche, Calif.; Stockton, Calif.; Linden, Calif.; INT Linden 046° and Reno, Nev. 208° radials; Reno; 42 miles, 24 miles, 115 MSL, 95 MSL Sod House, Nev.; 67 miles, 95 MSL, 85 MSL Rome, Oreg.; 61 miles, 85 MSL, Boise, Idaho; Salmon, Idaho; Butte, Mont.; Helena, Mont.; to Lewistown, Mont.

V-114 From Amarillo, Tex., via Childress, Tex., including a S alternate; Wichita Falls, Tex., including a S alternate via INT Childress 120° and Wichita Falls 262° radials; INT Wichita Falls 117° and Blue Ridge, Tex., 285° radials; Blue Ridge; Quitman, Tex.; Gregg County, Tex.; Alexandria, La., including a north alternate from Gregg County to Alexandria via Shreveport, La., and INT Shreveport 176° and Alexandria 302° radials; INT Baton Rouge, LA., 307° and Lafayette, LA., 042° radials; 7 miles wide (3 miles north and 4 miles south of centerline) Baton Rouge; New Orleans, LA., including a north alternate from Alexandria to New Orleans via INT Alexandria 109° and New Orleans 312° radials, excluding the portion within R-3801B, R-3801C and R-3801D.

V-115 From Crestview, Fla., INT Crestview 001° and Montgomery, Ala., 204° radials; Montgomery; INT Montgomery 323° and Vulcan, Ala., 177° radials; Vulcan; Chattanooga, Tenn., including an E alternate via INT Vulcan 097° and Gadsden, Ala., 233° radials, Gadsden and INT Gadsden 042° and Chattanooga 214° radials; Knoxville, Tenn., including a West alternate via INT Chattanooga 028° and Knoxville 243° radials; Whitesburg, Ky.; Charleston, W. Va.; Parkersburg, W. Va.; Newcomerstown, Ohio; INT Newcomerstown 038° and Franklin, Pa., 239° radials; Franklin; Tidioute, Pa.; Jamestown, N. Y.; Buffalo, N. Y.
The airspace within a 15 NM radius of Tidioute, Pa., at and above 10,000 feet MSL to and including 17,000 feet MSL is excluded during the times that the Tidioute Military Operations Area (MOA) is activated by NOTAM.

AMENDMENTS 3/23/78 43 F. R. 3545 (Changed)
AMENDMENTS 5/18/78 43 F. R. 11970 (Changed)
AMENDMENTS 7/13/78 43 F. R. 21447 (Changed)

V-116 From INT Kansas City, Mo., 076° and Nepoleon, Mo. 005° radials via Macon, Mo.; Quincy, Ill.; Peoria, Ill.; to Joliet, Ill. From INT Keller, Mich., 256° and Knox, Ind., 335° radials; Keeler; Jackson, Mich.; INT Jackson 084° and Salem, Mich., 254° radials; Salem; Windsor, Ontario, Canada; INT Windsor 100° and Erie, Pa., 275° radials; Erie; Bradford, Pa.; Stonyfork, Pa.; Lake Henry, Pa.; INT Lake Henry 110° and Deer Park, N. Y., 296° radials; Deer Park. The airspace within Canada is excluded.
The airspace within a 15 NM radius of Tidioute, Pa., at and above 10,000 feet MSL to and including 17,000 feet MSL is excluded during the times that the Tidioute Military Operations Area (MOA) is activated by NOTAM.
The airspace at and above 10,000 feet MSL from Quincy to 26 miles southwest of Peoria is excluded during the time that the Allen MOA is activated by NOTAM.

AMENDMENTS 7/13/78 43 F. R. 21447 (Changed)

V-117 From Parkersburg, W. Va.; Bellaire, Ohio; INT Bellaire 044° and Newcomerstown, Ohio, 099° radials.

V-118 From Medicine Bow, Wyo., 23 miles 85 MSL, Laramie, Wyo.; Cheyenne, Wyo.

V-119 From Newcombe, Ky., Henderson, W. Va.; Parkersburg, W. Va.; INT Parkersburg 067° and Indian Head, Pa., 254° radials; Indian Head; Clarion, Pa.; Bradford, Pa.; Wellsville, N. Y.; Geneseo, N. Y.; Rochester, N. Y.

V-120 From Mullan Pass, Idaho, 5 miles, 55 miles, 95 MSL, 43 miles, 125 MSL, Great Falls, Mont., Lewistown, Mont., including a N alternate INT Great Falls 074° and Lewistown 308° radials; 41 miles, 72 miles, 85 MSL, Miles City, Mont., 48 miles, 109 miles, 90 MSL, 38 MSL Dupree, S. Dak.; 60 miles, 38 MSL, Pierre, S. Dak.; Mitchell, S. Dak.; Sioux Falls, S. Dak.; Mason City, Iowa; to Waterloo, Iowa, including a north alternate via INT Mason City 106° and Waterloo 323° radials.

V-121 From Medford, Oreg., INT Medford 352° and Roseburg, Oreg., 127° radials; Roseburg; North Bend, Oreg.; Eugene, Oreg.; Redmond, Oreg.; including a N alternate via Eugene 069° and Redmond 281° radials; Kimberly, Oreg.; Baker, Oreg.; McCall, Idaho; Salmon, Idaho; to Dillon, Mont.

V-122 From Crescent City, Calif., Medford, Oreg.; 22 miles, 75 MSL INT Medford 117° and Klamath Falls, Oreg., 282° true radials; 6 miles, 75 MSL Klamath Falls; 21 miles, 90 MSL Lakeview, Oreg.; to Rome, Oreg.

V-123 From INT Washington, D. C., 065° and Baltimore, Md., 197° radials; via INT Washington, D. C., 065° and Woodstown, N. J., 230° radials; Woodstown; INT Woodstown 043° and Robbinsville, N. J., 239° radials; Robbinsville; INT Robbinsville 044° and LaGuardia, N. Y., 209° radials; LaGuardia; INT LaGuardia 034° and Carmel, N. Y., 188° radials; Carmel.

V-124 From Blue Ridge, Tex., via Paris, Tex.; Hot Springs, Ark.; Little Rock, Ark.; Gilmore, Ark.; Jacks Creek, Tenn.; Shelbyville, Tenn.; to Hinch Mountain, Tenn.

AMENDMENTS 12/1/77 42 F. R. 54411 (Changed)

V-125 From Cape Girardeau, Mo., INT Cape Girardeau 347° and St. Louis, Mo., 148° radials; St. Louis.

AMENDMENTS 1/26/78 42 F. R. 59752 (Added)

V-126 From Chicago Heights, Ill., Goshen, Ind.; Waterville, Ohio; Cleveland, Ohio; Jefferson, Ohio; Erie, Pa.; Bradford, Pa.; Stonyfork, Pa.; Lake Henry, Pa.; Huguenot, N. Y.
The airspace within a 15 NM radius of Tidioute, Pa., at and above 10,000 feet MSL to and including 17,000 feet MSL is excluded during the times that the Tidioute Military Operations Area (MOA) is activated by NOTAM.

AMENDMENTS 7/13/78 43 F. R. 21447 (Changed)

V-127 From Bradford, Ill., Polo, Ill.; Rockford, Ill.; including an E alternate from Bradford to Rockford via INT Bradford 033° and Rockford 136° radials.

V-128 From Peotone, Ill., via INT Peotone 152° and Indianapolis, Ind., 312° radials; Indianapolis; INT Indianapolis 137° and Cincinnati, Ohio, 290° radials; Cincinnati; York, Ky.; Charleston, W. Va.; Casanova, Va.

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V-129 From Capital, Ill., Peoria, Ill.; Davenport, Iowa; Dubuque, Iowa; INT Dubuque 348° and Nodine, Minn., 150° radials, Nodine, including a W alternate from Dubuque to Nodine via Waukon, Iowa; Eau Claire, Wis.; Duluth, Minn.; Hibbing, Minn., including an E alternate; International Falls, Minn., including a W alternate from Hibbing, INT Hibbing 319° and International Falls 182° radials to International Falls; INT International Falls 335° radial and the United States/Canadian border.
The airspace at and above 10,000 feet MSL from Capital to 25 miles north, is excluded during the time that the Allen MOA is activated by NOTAM.

V-130 From Albany, N. Y., via Hartford, Conn.; Norwich, Conn.; INT Norwich 120° and Martha's Vineyard, Mass., 272° radials; Martha's Vineyard; to Hyannis, Mass.

AMENDMENTS 3/23/78 43 F. R. 3553 (Changed) Corr: 43 F. R. 5510

V-131 From McAlester, Okla., via Okmulgee, Okla.; Tulsa, Okla.; Chanute, Kans.; Topeka, Kans.

V-132 From Cheyenne, Wyo.; Akron, Colo.; 17 miles, 49 miles, 59 MSL, Goodland, Kans.; 50 miles, 97 miles, 65 MSL, Hutchinson, Kans.; INT Hutchinson 078° and Chanute, Kans., 294° radials; Chanute; INT Chanute 100° and Springfield, Mo., 276° radials; Springfield; INT Springfield 058° and Forney, Mo., 266°; Forney; INT Forney 086° and Maples, Mo., 052° radials, excluding that portion within R-4501A.
The airspace 6,000 feet MSL and above is excluded within the Eureka 1 MOA during the time that it is activated by NOTAM and the Eureka II MOA during the time that it is activated by NOTAM.
PENDING AMENDMENT
Under V-132 "R-4501A." is deleted and "R-4501A, R-4501B, R-4501C and R-4501D during their time of activation." is substituted therefor.

AMENDMENTS 12/28/78 43 F. R. 51010 (Changed)

V-133 From Fort Mill, S. C., Barretts Mountain, N. C.; Charleston, W. Va.; Zanesville, Ohio; Tiverton, Ohio; Mansfield,
Ohio; INT Mansfield 346° and Salem, Mich., 139° radials; Salem; Flint, Mich.; Saginaw, Mich.;
Traverse City, Mich., Escanaba, Mich.; Marquette, Mich.; Houghton, Mich.; 10 miles, 26 MSL Thunder Bay, Ontario, Canada. The airspace within Canada is excluded.

V-134 From Fairfield, Utah, via Carbon, Utah; Grand Junction, Colo.; 33 miles 12 AGL, 21 miles 127 MSL, 16 miles 120 MSL, 123 miles 12 AGL to Denver, Colo.

AMENDMENTS 1/26/78 42 F. R. 62359 (Changed)
AMENDMENTS 11/2/78 43 F. R. 39753 (Changed)

V-135 From Yuma, Ariz., Blythe, Calif.; Parker, Calif.; 5 miles, 24 miles, 55 MSL, Needles, Calif.; Goffs, Calif.; 84 miles, 105 MSL Beatty, Nev.; 105 MSL INT Beatty 326° and Tonopah, Nev., 198° radials; to Tonopah, excluding the airspace above 9,000 feet MSL between Yuma and Parker, and the airspace above 10,000 feet MSL between Parker and Needles. The airspace within R-4807 is excluded.

V-136 From Pulaski, Va., INT Pulaski 094° and South Boston, Va., 295° radials; South Boston; Raleigh-Durham, N. C.; Fayetteville, N. C.; to Grand Strand, S. C. The airspace at and above 7,000 feet MSL from 17 miles south to 38 miles south of Fayetteville is excluded during the time that the Gamecock A Military Operations Area is activated by NOTAM.

V-137 From Imperial, Calif., INT Imperial 350° and Thermal, Calif., 122° radials; Thermal; Palm Springs, CA.; Palmdale, CA.; Gorman, CA.; Avenal, CA.; Priest, CA.; Salinas, CA., excluding the airspace above 7,000 feet MSL, between Imperial and the intersection of the Thermal 122° and the Julian, CA., 055° radials.
The airspace within R-2521 is excluded.

V-138 From Riverton, Wyo., 35 mi. 80 mi. 107 MSL, 16 mi. 85 MSL, via Medicine Bow; Cheyenne, Wyo., including a N alternate via INT Medicine Bow 106° and Cheyenne 330° radials; Sidney, Nebr. From Grand Island, Nebr., 1200 feet AGL INT of Grand Island 099° and Lincoln, Nebr., 267° true radials; 1,200 feet AGL Lincoln; 1,200 feet AGL INT of Lincoln 040° and Neola, Iowa, 253° true radials; Neola; Fort Dodge, Iowa; Mason City, Iowa; to Waukon, Iowa.

V-139 From Florence, S. C., via Wilmington, N. C.; New Bern, N. C.; INT of New Bern 006° and Norfolk, Va., 209° radials;
Norfolk; Cape Charles, Va.; Snow Hill, Md.; Sea Isle, N. J.; INT Sea Isle 050° and Hampton, N. Y., 228° radials; Hampton; INT Hampton 059° and Providence, R. I., 212° radials; Providence; 6 miles wide, Whitman, Mass.; INT Whitman 041° and Manchester, N. H., 130° radials; Kennebunk, Maine. The airspace below 2,000 feet MSL outside
the United States, the airspace below 3,000 feet MSL between the Kennedy, N. Y., 087° and 141° radials, and the airspace within R-6604 are excluded.

V-140 From Amarillo, Tex., via Sayre, Okla., including a N alternate via INT Amarillo 072° and Sayre 288° radials; Kingfisher, Okla.; INT Kingfisher 072° and Tulsa, Okla., 261° radials; Tulsa; Razorback, Ark., including a N alternate via INT Tulsa 059° and Razorback 284° radials; Harrison, Ark., Walnut Ridge, Ark.; Dyersburg, Tenn.; Nashville, Tenn., Livingston, Tenn., including a south alternate
via INT Nashville 085° and Livingston 226° radials; London, Ky., including a north alternate from Nashville to London via INT Nashville 049° and London 258° radials; Whitesburg, Ky., Bluefield
W. Va.; INT of Bluefield 071° and Montebello, Va., 250° radials; Montebello; to Casanova, Va.

AMENDMENTS 9/7/78 43 F. R. 31127 (Changed)

V-141 From Nantucket, Mass., Hyannis, Mass.; to Boston, Mass. From Manchester, N. H., Concord, N. H.; Lebanon, N. H.; Burlington, Vt.; to Massena, N. Y.

AMENDMENTS 3/23/78 43 F. R. 3548 (Changed)

V-143 From Fort Mill, S. C., Greensboro, N. C.; Lynchburg, Va.; Montebello, Va.; Front Royal, Va.; Martinsburg, W. Va.; Lancaster, Pa.; including an S alternate via Westminster, Md.; Pottstown, Pa.; Yardley, Pa.

V-144 From Peotone, Ill., via Fort Wayne,
Ind.; Findlay, Ohio; INT Findlay 131° and Appleton, Ohio, 312° radials; Appleton; Zanesville, Ohio; Morgantown, W. Va.; Kessel, W. Va.; Linden, Va.; to INT Linden 104° and Casanova, Va., 348° radials.

V-145 From Utica, N. Y., INT Utica 303° and Watertown, N. Y., 171° radials; Watertown; INT Watertown 358° radial and the United States/Canadian border.

V-146 From Putnam, Conn.; Providence, R. I.; Martha's Vineyard, Mass.; Nantucket, Mass.

V-147 From Pottstown, Pa., via East Texas, Pa.; Wilkes-
Barre, Pa.; Elmira, N. Y.; Geneseo, N. Y.; Rochester, N. Y.

V-148 From Kiowa, Colo.; Thurman, Colo.; 65 MSL INT
Thurman 067° and Hayes Center, Nebr., 246° radials; Hayes Center, Nebr.; North Platte, Nebr.; O'Neill, Nebr., Sioux Falls, S. Dak.; Redwood Falls, Minn., including a S alternate, Minneapolis, Minn.
PENDING AMENDMENT
Under V-148. "Minn." is deleted and "Minn.; Hayward, Wis.; to Ironwood, Mich." is substituted therefor.

AMENDMENTS 2/22/79 43 F. R. 56021 (Changed)

V-149 From INT Allentown, Pa. 147° and Solberg, N. J., 227° radials; Allentown, Pa.; Lake Henry, Pa.

V-150 From San Francisco, Calif., INT San Francisco 304° and Sausalito, Calif., 232° radials; Sausalito; Sacramento, Calif.

V-151 From Providence, R. I., Gardner, Mass.; Keene, N. H.; Lebanon, N. H., including a W alternate via INT Keene 336° and Lebanon 214° radials; Montpelier, Vt., including an E alternate via Lebanon 005° and Montpelier 112° radials; Burlington, Vt.

V-152 From St. Petersburg, Fla., Orlando, Fla., including a S alternate via Lakeland, Fla.; Ormond Beach, Fla., including a S alternate via INT Orlando 049° and Ormond Beach 161° radials.

V-153 From INT Sparta, N. J., 194° and Stillwater, N. J., 110° radials; Stillwater; Lake Henry, Pa.; Hancock, N. Y.; Georgetown, N. Y.; Syracuse, N. Y.

V-154 From Rome, Ga., via INT Rome 166° and Macon, Ga., 301° radials; Macon; via Dublin, Ga.; INT of Dublin 122° and Savannah, Ga., 279° radials; to Savannah.

V-155 From Columbus, Ga., via Augusta, Ga.; Chesterfield, S. C.; Sandhills, N. C.; Raleigh-Durham, N. C.; Lawrenceville, Va.;
INT Lawrenceville 034° and Flat Rock, Va.; 171° radials; Flat Rock; to Brooke, Va. The airspace within R-6602 is excluded.

V-156 From Cedar Rapids, Iowa, via Moline, Ill.; Bradford, Ill.; Peotone, Ill.; INT Peotone 098° and Knox, Ind.; 238° radials; Knox; South Bend, Ind.; to Kalamazoo, Mich.

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V-157 From Key West, Fla., Miami, Fla.; La Belle, Fla., including a W alternate from INT Miami 222° and Fort Myers, Fla., 137° radials to La Belle via INT Fort Myers 137° and La Belle 162° radials; Lakeland, Fla., including an E alternate via INT La Belle 004° and Lakeland 132° radials; Ocala, Fla.; Gainesville, Fla.; Taylor, Fla.; Waycross, Ga.; Alma, Ga.; Allendale, S. C.; Vance, S. C.; Florence, S. C. From Kinston, N. C., Tar River, N. C.; Lawrenceville, Va.; Richmond, Va.; INT Richmond 039° and Patuxent, Md., 228° radials; Patuxent; Kenton, Del.; New Castle, Del.; Robbinsville, N. J.; Colts Neck, N. J.; to Kingston, N. Y.
The airspace within R-2901A and R-6602 is excluded. The airspace at and above 7,000 feet MSL which lies within the Lake Placid Military Operations Area is excluded during the time the Lake Placid Military Operations Area is activated.

AMENDMENTS 1/26/78 42 F. R. 59377 (Changed)

V-158 From Mason City, Iowa, INT Mason City 106° and Dubuque, Iowa, 293° radials; Dubuque; Polo, Ill.
The airspace within R-3302 is excluded.

V-159 From Miami, Fla., INT Miami 337° and Palm Beach, Fla., 222° radials; Palm Beach; INT Palm Beach 326° and Vero Beach, Fla., 178° radials; Vero Beach; Orlando, Fla., Ocala, Fla., Cross City, Fla.; Greenville, Fla.; including an east alternate from Ocala to Greenville via Gainesville, Fla., excluding that airspace above 7,000 feet MSL between Gainesville and Greenville; Albany, Ga.; Eufaula, Ala.; Tuskegee, Ala.; Vulcan, Ala.; Hamilton, Ala.; Holly Springs, Miss.; Gilmore, Ark.; Walnut Ridge, Ark.; Dogwood, Mo.; Springfield, Mo.; Napoleon, Mo.; INT Napoleon 336° and St. Joseph, Mo., 132° radials; St. Joseph; INT St. Joseph 328° and Omaha, Nebr., 155° radials; Omaha; Sioux City, Iowa, including a west alternate via INT Omaha 320° and Sioux City 174° radials; Yankton, S. Dak.; Mitchell, S. Dak.

AMENDMENTS 3/23/78 43 F. R. 3544 (Changed)
AMENDMENTS 3/23/78 43 F. R. 3545 (Changed)
AMENDMENTS 3/23/78 43 F. R. 3548 (Changed)

V-160 From Denver, Colo., to Sidney, Nebr.

AMENDMENTS 11/2/78 43 F. R. 39753 (Changed)

V-161 From Three Rivers, Tex., via Center Point, Tex.; Llano, Tex.; INT Llano 026° and Millsap, Tex., 193° radials; Millsap; Bridgeport, Tex.; Ardmore, Okla.; Okmulgee, Okla.; Tulsa, Okla.; Oswego, Kans.; Butler, Mo.; Napoleon, Mo.; Lamoni, Iowa; Des Moines, Iowa; Mason City, Iowa; Rochester, Minn., including a W alternate via INT Mason City 023° and Rochester 243° radials; INT Rochester 356° and Minneapolis, Minn., 116° radials; Minneapolis; Brainerd, Minn.; Grand Rapids, Minn.; International Falls, Minn.; to Winnipeg, Manitoba, Canada, excluding the portion within Canada.

AMENDMENTS 1/26/78 42 F. R. 63167 (Changed) Corr: 43 F. R. 3549
AMENDMENTS 7/13/78 43 F. R. 21446 (Changed)

V-162 From INT Clarksburg, W. Va., 135° and Elkins, W. Va., 098° radials; Clarksburg. From INT Martinsburg, W. Va., 130° and Harrisburg, Pa., 204° radials; via Harrisburg; East Texas, PA., including a S alternate via INT Harrisburg 087° and East Texas 225° radials; Allentown, PA.; Huguenot, NY.; INT Huguenot 032° and Pawling, NY., 259° radials to Pawling. The airspace within R-5802 is excluded.

V-163 From Matamoros, Mex., via Brownsville, Tex.; INT of Brownsville 358° and Corpus Christi, Tex., 178° radials; 27 miles standard width, 37 miles 7 miles wide (3 miles E and 4 miles W of centerline), Corpus Christi; Three Rivers, Tex., including a west alternate via INT Corpus Christi 296° and Three Rivers 165° radials; INT Three Rivers 345° and San Antonio 168° radials; San Antonio, including a west alternate via INT Three Rivers 327° and San Antonio 183° radials; Lampasas, Tex.; Acton, Tex., including a west alternate from San Antonio to Acton via Stonewall, Tex., Llano, Tex., and INT Llano 026° and Acton 215° radials; Bridgeport, Tex.; Ardmore, Okla.; INT Ardmore 342° and Oklahoma City, Okla., 154° radials; to Oklahoma City, including a W alternate via INT Ardmore 327° and Oklahoma City 180° radials.
The airspace within Mexico is excluded.

AMENDMENTS 1/26/78 42 F. R. 63167 (Changed) Corr: 43 F. R. 3549
AMENDMENTS 7/13/78 43 F. R. 21446 (Changed)

V-164 From Toronto, Ont., via Toronto 172° and Buffalo, N. Y., 294° radials; Buffalo; Wellsville, N. Y.; Stonyfork, Pa.; Williamsport, Pa.; INT Williamsport 129° and East Texas, Pa., 315° radials; East Texas.
The airspace within Canada is excluded.

V-165 From Mission Bay, Calif., INT Mission Bay 270° and Oceanside, Calif., 177° radials: Oceanside: 24 miles, 6 miles wide, Seal Beach, Calif.; 6 miles wide, INT Seal Beach 287° and Los Angeles, Calif., 138° radials; Los Angeles; INT Los Angeles 357° and Lake Hughes, Calif., 154° radials; Lake Hughes; INT Lake Hughes 344° and Bakersfield, Calif., 137° radials; Bakersfield; Porterville, Calif.; INT Porterville 339° and Fresno, Calif., 140° radials; Fresno; 68 miles, 50 miles, 131 MSL, Reno, Nev.; 40 miles 12 AGL, 7 miles, 115 MSL, 54 miles, 135 MSL, 81 miles, 12 AGL, Lakeview, Oreg.; 5 miles, 72 miles, 90 MSL, Redmond, Oreg.; 16 miles, 19 miles, 95 MSL, 24 miles, 75 MSL, 12 miles, 65 MSL, Newberg, Oreg.; 32 miles, 45 MSL INT Newberg 355° and Olympia, Wash., 195° radials; Olympia; INT Olympia 010° and Seattle, Wash., 249° radials; Seattle.

AMENDMENTS 7/13/78 43 F. R. 21445 (Changed)

V-166 From Parkersburg, W. Va., Clarksburg, W. Va.; Kessel, W. Va.; Martinsburg, W. Va.; Westminster, Md.; New Castle, Del.; Woodstown, N. J.; Sea Isle, N. J.

V-167 From Hancock, N. Y.; INT Hancock 120° and Kingston, N. Y., 274° radials; Kingston; INT Kingston 100° and Hartford, Conn., 268° radials; Hartford; INT Hartford 081° and Providence, R. I., 270° radials; Providence; INT Providence 101° and Hyannis, Mass., 224° radials; Hyannis. The airspace below 2,000 feet MSL outside the United States is excluded.

V-168 From Vulcan, Ala., to INT Vulcan 113° and Talladega, Ala., 179° radials; LaGrange, Ga.

AMENDMENTS 3/23/78 43 F. R. 3545 (Changed)

V-169 From Tobe, Colo., 69 MSL Hugo, Colo.; 38 miles, 67 MSL, Thurman, Colo.; Akron, Colo.; Sidney, Nebr.; Scottsbluff, Nebr.; Chadron, Nebr.; Rapid City, S. Dak.; Dupree, S. Dak.; Bismarck, N. Dak. The airspace within R-4701 is excluded.

V-170 From Devils Lake, N. Dak., via Jamestown, N. Dak.; Aberdeen, S. Dak.; Sioux Falls, S. Dak.; Worthington, Minn.; Fairmont, Minn.; including a N alternate via INT Worthington 064° and Fairmont 285° radials; Rochester, Minn.; Nodine, Minn., Dells, Wis.; INT Dells 097° and Badger, Wis., 307° radials; Badger; INT Badger 102° and Pullman, Mich., 303° radials; Pullman; Salem, Mich. From Erie, Pa., Bradford, Pa.; Slate Run, Pa.; Selinsgrove, Pa.; Ravine, Pa.; INT Ravine 125° and Modena, Pa., 318° radials; Modena; New Castle, Del.; INT New Castle 222° and Andrews, Md., 060° radials; to INT Andrews 060° and Baltimore, Md., 165° radials. The airspace within R-5802 is excluded.
The airspace within a 15 NM radius of Tidioute, Pa., at and above 10,000 feet MSL to and including 17,000 feet MSL is excluded during the times that the Tidioute Military Operations Area (MOA) is activated by NOTAM. That airspace 11,000 feet MSL and below is excluded between Jamestown VORTAC and the Devils Lake VORTAC during the time that the Devils Lake East Military Operations Area is activated by NOTAM.

AMENDMENTS 3/23/78 43 F. R. 4421 (Changed)
AMENDMENTS 7/13/78 43 F. R. 19212 (Changed)
AMENDMENTS 7/13/78 43 F. R. 21447 (Changed)

V-171 From Louisville, Ky., Lewis, Ind., including an E alternate from Louisville to Lewis via INT Louisville 312° and Bloomington 153° radials, and Bloomington; Danville, Ill.; Peotone, Ill.; INT Peotone 281° and Joliet, Ill., 173° radials; Joliet.; Rockford, Ill.; Lone Rock, Wis.; Nodine, Minn.; INT Nodine 298° and Farmington, Minn., 124° radials; Farmington; Darwin, Minn.; Alexandria, Minn.; INT Alexandria 321° and Grand Forks, N. Dak., 152° radials; Grand Forks; Roseau, Minn.

V-172 From North Platte, Nebr., via INT North Platte 073° and Wolbach, Nebr., 266° radials; Wolbach; Columbus, Nebr.; Neola, Iowa; Newton, Iowa; Cedar Rapids, Iowa; Polo, Ill.; INT Polo 088° and DuPage, Ill., 283° radials; DuPage; Chicago-O'Hare, Ill.; INT Chicago-O'Hare 091° and South Bend, Ind., 290° radials; South Bend.

AMENDMENTS 1/26/78 42 F. R. 62359 (Changed) Corr: 43 F. R. 3083
AMENDMENTS 11/2/78 43 F. R. 39753 (Changed)

V-173 From Capital, IL., via INT Capital 058° and Peotone, IL., 218° radials; INT Peotone 218° and Roberts, IL., 008° radials; INT Roberts 008° and Joliet, IL., 067° radials; Kedzie, IL., RBN.

V-174 From York, Ky., Henderson, W. Va.; Elkins, W. Va.; to Front Royal, Va.

V-175 From Malden, Mo.; Vichy, Mo.; Hallsville, Mo., including a west alternate via INT Vichy 321° and Hallsville 183° radials; Macon, Mo.; Kirksville, Mo.; Des Moines, Iowa; Sioux City, Iowa; Worthington, Minn.; Redwood Falls, Minn.; Alexandria, Minn.; Park Rapids, Minn.; Bemidji, Minn.; Roseau, Minn.
The airspace at and above 8,000 feet MSL from 43 miles northwest of Malden to Vichy is excluded during the time that the Meramec Military Operations Area is activated by NOTAM.

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V-176 From Pontiac, Mich., to INT Pontiac 100° and Windsor, Ontario, Canada, 057° radials, excluding the portion within Canada.

V-177 From DuPage, Ill., via Janesville, Wis.; Madison, Wis.; Stevens Point, Wis., including a west alternate via Dells, Wis.; Wausau, Wis.; Duluth, Minn., including a west alternate via Hayward, Wis.; to Ely, Minn., excluding the airspace 10,000 feet MSL and above Duluth to Ely.
PENDING AMENDMENT
Under V-177, "Duluth, Minn., including a west alternate via Hayward, Wis.;" is deleted and "Hayward, Wis.; Duluth, Minn.;" is substituted therefor.

AMENDMENTS 2/22/79 43 F. R. 56021 (Changed)

V-178 From Vichy, Mo.; Farmington, Mo.; Cape Girardeau, Mo.; Cunningham, Ky.; including a north alternate from Farmington to Cunningham via INT Farmington 115° and Cunningham 306° radials; and also a south alternate from Farmington to Cunningham via INT Farmington 145° and Cunningham 276° radials; Central City, Ky.; New Hope, Ky.; Lexington, Ky.; Bluefield, W. Va.
The airspace at and above 8,000 feet MSL between Vichy and Farmington is excluded during the time that the Meramec Military Operations Area is activated by NOTAM.

V-179 From Dublin, Ga., to INT Dublin 309° and Augusta, Ga., 263° radials.

V-180 From International Falls, Minn., to Dryden, Ontario, Canada, NDB, excluding that airspace within Canada.

V-181 From Kirksville, Mo., Lamoni, Iowa; Omaha, Nebr.; Norfolk, Nebr.; Yankton, S. Dak.; Sioux Falls, S. Dak., including a W alternate via INT Yankton 016° and Sioux Falls 230° radials; Watertown, S. Dak., including an east alternate; 34 miles, 24 miles, 34 MSL, Fargo, N. Dak., including an east alternate; Grand Forks, N. Dak., including an east alternate via INT Fargo 004° and Grand Forks 152° radials; Pembina, N. Dak.; INT Pembina 356° radial and the United States/Canadian border.

V-182 From Portland, Oreg., The Dalles, Oreg.; Baker, Oreg.

V-183 From Santa Barbara, Calif., Bakersfield, Calif.

V-184 From Erie, Pa., Tidioute, Pa.; INT Tidioute 154° and Philipsburg, Pa., 296° radials; Philipsburg; Harrisburg, Pa.; INT Harrisburg 132° and Modena, Pa., 274° radials; Modena; INT Modena 120° radial and Philadelphia, Pa., International Airport ILS localizer 256° course; Woodstown, N. J.; Millville, N. J.; Atlantic City, N. J.
The airspace within a 15 NM radius of Tidioute, Pa., at and above 10,000 feet MSL to and including 17,000 feet MSL is excluded during the times that the Tidioute Military Operations Area (MOA) is activated by NOTAM.

AMENDMENTS 7/13/78 43 F. R. 21447 (Changed)

V-185 From Savannah, Ga.; Augusta, Ga.; Greenwood, S. C.; Sugarloaf Mountain, N. C.; Snowbird, Tenn.; INT Snowbird 301° and Knoxville, Tenn., 069° radials; Knoxville, including an E alternate from Sugarloaf Mountain to Knoxville via INT Sugarloaf Mountain 329° and Knoxville 069° radials. The airspace within R-6004 is excluded.

V-186 From Santa Barbara, Calif., via INT Santa Barbara 123° and Fillmore, Calif., 265° radials; Fillmore; Van Nuys, Calif.; Ontario, Calif.

V-187 From Albuquerque, N. Mex., via Farmington, N. Mex.; including an E alternate via INT Albuquerque 345° and Farmington 138° radials; 50 miles, 62 miles 115 MSL, Grand Junction, Colo., including a west alternate from Farmington, Cortez, Colo., Dove Creek, Colo., 17 miles, 28 miles 115 MSL, to Grand Junction, excluding the airspace between the main and west alternate; 75 miles, 50 miles, 112 MSL, Rock Springs, Wyo., including a west alternate from Grand Junction 45 miles 103 MSL, 14 miles 85 MSL, Vernal, Utah, 20 miles, 110 MSL, Rock Springs, excluding the airspace between the main and this west alternate; 20 miles, 37 miles 95 MSL, INT Rock Springs 026° and Riverton, Wyo., 180° radials; Riverton; Boysen Reservoir, Wyo.; 9 miles, 78 miles, 105 MSL, Billings, Mont., including a west alternate from Boysen Reservoir, 9 miles, 56 miles, 91 MSL, via Cody, Wyo., Billings, excluding the airspace between the main and this west alternate; 40 miles, 75 MSL INT Billings 317° and Great Falls, MT., 122° radials; Great Falls; Missoula, MT.; Lewiston, ID.; Pasco, WA.

V-188 From Carleton, Mich., Jefferson, Ohio; Tidioute, Pa.; Slate Run, Pa.; Williamsport, Pa.; Wilkes-Barre, Pa.; INT Wilkes-Barre 094° and Sparta, N. J., 290° radials; Sparta. The airspace within Canada is excluded.
The airspace within a 15 NM radius of Tidioute, Pa., at and above 10,000 feet MSL to and including 17,000 feet MSL is excluded during the times that the Tidioute Military Operations Area (MOA) is activated by NOTAM.

AMENDMENTS 7/13/78 43 F. R. 21447 (Changed)

V-189 From Tar River, N. C., Franklin, Va.; Hopewell, Va.

AMENDMENTS 1/26/78 42 F. R. 59377 (Changed)

V-190 From Phoenix, Ariz., 54 miles, 19 miles, 95 MSL, 59 miles, 115 MSL St. Johns, Ariz., including a north alternate via INT Phoenix 051° and St. Johns 263° radials; Albuquerque, N. Mex., including a south alternate via INT St. Johns 085° and Albuquerque 229° radials; Las Vegas, N. Mex.; 19 mi., 72 mi. 90 MSL, Dalhart, TX.; 14 mi., 36 mi. 60 MSL, Gage, OK.; INT Gate 059° and Pioneer, OK., 280° radials; Pioneer; INT Pioneer 094° and Bartlesville, OK., 256° radials; Bartlesville; INT Bartlesville 075° and Oswego, Kans., 233° radials; Oswego; INT Oswego 085° and Springfield, Mo., 261° radials; Springfield; Maples, Mo.; Farmington, Mo., Marion, Ill.; Evansville, Ind.
The airspace at and above 8,000 feet MSL between Maples and Farmington is excluded during the time that the Meramec Military Operations Area is activated by NOTAM.

V-191 From Troy, Ill.; Decatur, Ill.; Roberts, Ill.; INT Roberts 008° and Joliet, Ill., 067° radials; Northbrook, Ill.; INT Northbrook 332° and Badger, Wis., 182° radials; Badger; Oshkosh, Wis.; Rhinelander, Wis.; Ironwood, Mich.; including an east alternate; to Duluth, Minn.

AMENDMENTS 7/13/78 43 F. R. 19212 (Changed)

V-192 From Champaign, Ill.; Terre Haute, Ind.

V-193 From INT Pullman, Mich., 243° and South Bend, Ind., 310° radials; Pullman; INT Pullman 029° and White Cloud, Mich., 168° radials; White Cloud; Traverse City, Mich., including a W alternate via Manistee, Mich.; Pellston, Mich.; Sault Ste. Marie, Mich.

V-194 From Lafayette, La., via Baton Rouge, La.; McComb, Miss.; INT McComb 055° and Meridian, Miss., 221° radials; Meridian. From Liberty, N. C., via Raleigh-Durham, N. C.; Tar River, N. C.; Cofield, N. C.; INT Cofield 077° and Norfolk, Va., 209° radials.
Tex., including a north alternate from Junction to Eagle Lake via Stonewall, Tex., and INT Stonewall 112°

AMENDMENTS 1/26/78 42 F. R. 59377 (Changed)

V-195 From Oakland, Calif., INT Oakland 004° and Williams, Calif., 191° radials; Williams; INT Williams 002° and Red Bluff, Calif., 158° radials; Red Bluff; Fortuna, Calif.

V-196 From Utica, N. Y., Saranac Lake, N. Y.; Plattsburgh, N. Y.

V-197 From Ontario, Calif.; Pomona, Calif.; Palmdale, Calif.; INT Palmdale 314° and Bakersfield, Calif., 137° radials; Bakersfield, excluding the airspace more than 3 miles northeast of the centerline from Palmdale to 30 miles northwest.

V-198 From San Simon, Ariz., Columbus, N. Mex.; El Paso, Tex., 6 mi. wide, INT El Paso 109° and Hudspeth, Tex. 287° radials; 6 mi. wide, Hudspeth; 29 mi., 38 mi. 82 MSL, INT Hudspeth 109° and Fort Stockton, Tex., 284° radials; 18 mi. 82 MSL, Fort Stockton; 20 mi., 116 mi. 55 MSL, Junction, Tex.; San Antonio, Tex.; Eagle Lake, Tex., including a north alternate from Junction to Eagle Lake via Stonewall, Tex., and INT Stonewall 113° and Eagle Lake 270° radials; Hobby, Tex.; INT Hobby 091° and Sabine Pass, Tex., 265° radials; Sabine Pass; White Lake, La.; Tibby, La.; Harvey, La., 69 miles, 33 miles, 25 MSL, Brookley; INT Brookley 056° and Crestview 266° radials; Crestview; Marianna, Fla.; Tallahassee, Fla.; Greenville, Fla.; Taylor, Fla.; to Jacksonville, Fla.

AMENDMENTS 1/26/78 42 F. R. 63167 (Changed) Corr: 43 F. R. 7980

V-199 From San Francisco, Calif. INT San Francisco 304° and Ukiah, Calif., 172° radials; Ukiah; 17 miles, 23 miles 85 MSL, 18 miles 75 MSL, Red Bluff, Calif. The portion outside the United States has no upper limit.

V-200 From Ukiah, Calif., Williams, Calif.; Reno, Nev. From Fairfield, Utah, 10 miles, 35 miles 125 MSL, Myto, Utah; 30 miles 79 MSL, 31 miles, 98 MSL Meeker, Colo.; 37 miles, 26 miles, 140 MSL, 130 MSL, to Kremmling, Colo., including a N alternate via Hayden, Colo.

AMENDMENTS 11/2/78 43 F. R. 39753 (Changed)

V-201 From INT Los Angeles, Calif., 207° and Long Beach, Calif., 250° radials; Los Angeles; Palmdale, Calif. The portion outside the United States has no upper limit.

V-202 From Cochise, Ariz., via San Simon, Ariz.; Silver City, N. Mex.; Truth or Consequences, N. Mex.

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V-203 From Norwich, Conn., Chester, Mass.; INT Chester 293° and Albany, N. Y., 139° radials; Albany; Saranac Lake, N. Y.; Massena, N. Y.; St. Eustache, Quebec, Canada. The airspace within Canada is excluded.

V-204 From Hoquiam, Wash., Olympia, Wash.; INT Olympia 114° and Yakima, Wash., 271° radials; Yakima.

V-205 From Sparta, N. J.; INT Sparta 023° and Pawling, N. Y., 238° radials; Pawling; INT Pawling 076° and Boston, Mass., 251° radials; to Boston.

V-206 From Napoleon, Mo., via Kirksville, Mo., to Ottumwa, Iowa.

V-207 From Denver, Colo., Gill, Colo.; including a W alternate via INT Denver 004° and Gill 234° radials; to Scottsbluff, Nebr.

AMENDMENTS 11/2/78 43 F. R. 39753 (Changed)

V-208 From Los Angeles, Calif., 7 miles wide (3 miles E and 4 miles W of centerline) INT Los Angeles 185° and Santa Catalina, Calif., 355° radials; 7 miles wide (3 miles E and 4 miles W of centerline) Santa Catalina; Oceanside, Calif.; Julian, Calif.; Thermal, Calif. Twentynine Palms, Calif.; 20 miles, 24 miles 73 MSL, Needles, Calif.; Peach Springs, Ariz. From Page, Ariz., via Hanksville, Utah; Carbon, Utah; Myton, Utah; 79 MSL, Vernal, Utah, 25 miles, 105 MSL, Cherokee, Wyo.,
excluding the airspace above 10,000 feet MSL between Twentynine Palms and Needles.
The airspace within R-2503 and the airspace below 2,000 feet MSL outside the United States is excluded. The portion outside the United States has no upper limit.

AMENDMENTS 3/23/78 43 F. R. 3545 (Changed)

V-209 From Semmes, Ala., via INT Semmes 356° and Eaton, Miss., 080° radials; Kewanee, Miss.; Brookwood, Ala.; to Vulcan, Ala.

AMENDMENTS 3/23/78 43 F. R. 3545 (Changed)
AMENDMENTS 9/7/78 43 F. R. 29554 (Rewritten)

V-210 From Los Angeles, Calif., INT Los Angeles 083° and Pomona, Calif., 240° radials; Pomona; INT Daggett, Calif., 229° and Hector, Calif., 263° radials; Hector; Goffs, Calif.; 13 miles, 23 miles 71 MSL, 85 MSL, Peach Springs, Ariz.; Grand Canyon, Ariz.; Tuba City, Ariz.; 10 mi. 90 MSL, 91 mi. 105 MSL, Farmington, N. Mex.; Alamosa, Colo., including a south alternate via INT Farmington 086° and Alamosa 232° radials; INT Alamosa 074° and Lamar, Colo., 250° radials; 40 miles, 51 miles, 65 MSL, Lamar; 13 miles, 79 miles, 55 MSL, Liberal, Kans.; INT Liberal 137° and Oklahoma City, Okla., 282° radials; Oklahoma City; INT Oklahoma City 109° and Okmulgee, Okla., 241° radials; Okmulgee. From Indianapolis, Ind., Muncie, Ind.;
Rosewood, Ohio; Tiverton, Ohio; Briggs, Ohio; INT Briggs 044° and Akron, Ohio, 088° radials; INT Akron 088° and Youngstown, Ohio, 116° radials; INT Youngstown 116° and Clarion, Pa., 222° radials; Revloc, Pa.; INT Revloc 096° and Lancaster, Pa., 286° radials; Lancaster, Pa.; INT Lancaster 095° and Yardley, Pa., 255° radials; to Yardley.

AMENDMENTS 9/7/78 43 F. R. 29555 (Changed)

V-211 From INT Alamosa, Colo., 232° and Durango, Colo., 110° radials via Durango; INT of Durango 286° and Cortez, Colo., 115° radials; Cortez, Colo., excluding the airspace below 1,200 feet above the surface.

V-212 From San Antonio, Tex., via INT San Antonio 089° and Industry, Tex., 233° radials; Industry; Navasota, Tex.; Lufkin, Tex.; Alexandria, La.; McComb, Miss.

V-213 From Grand Strand, S. C., via Wilmington, N. C.; INT Wilmington 352° and Tar River, N. C., 191° radials; Tar River;
Hopewell, Va.; INT Hopewell 019° and Brooke, Va., 132° radials; Patuxent River, Md.; Kenton, Del.; Woodstown, N. J.; INT Woodstown 043° and Robbinsville, N. J. 239° radials; Robbinsville.

AMENDMENTS 1/26/78 42 F. R. 59377 (Changed)

V-214 From Kokomo, Ind., via Marion, Ind.; Muncie, Ind.; Richmond, Ind.; INT Richmond 097° and Appleton, Ohio, 236° radials; INT Appleton 236°
and Zanesville, Ohio, 274° radials; Zanesville; Bellaire, Ohio; INT Bellaire, 108° and Indian Head, Pa., 254° radials; Indian Head; Martinsburg, W. Va.

V-215 From INT Muskegon, Mich., 208° and Pullman, Mich., 261° radials; Muskegon; White Cloud, Mich.; to Gaylord, Mich.

V-216 From Lamar, Colo., Hill City, Kans.; Mankato, Kans.; Pawnee City, Nebr.; Lamoni, Iowa; Ottumwa, Iowa; Iowa City, Iowa; INT Iowa City 062° and Janesville, Wis., 240° radials; Janesville; INT Janesville 076° and Muskegon, Mich., 252° radials; Muskegon; Saginaw, Mich.; Peck, Mich., including a southern alternate via INT Saginaw 131° and Peck 270° radials; Kleinburg, Ont., Canada. The airspace within Canada is excluded.

V-217 From Chicago-O'Hare, Ill.; INT Chicago-O'Hare 019° and Badger, Wis., 137° radials; INT Chicago Heights, Ill., 358° and Milwaukee 121° radials; Badger; Green Bay, Wis.; Rhinelander, Wis.; Duluth, Minn.; Hibbing, Minn.; Baudette, Minn.; INT Baudette 313° and Winnipeg, Manitoba, 117° radials; to Winnipeg. The airspace within Canada is excluded. In addition, the portion of this airway which lies within the Beaver MOA is excluded during the times the Beaver MOA is activated.

AMENDMENTS 7/13/78 43 F. R. 19212 (Changed)

V-218 From Grand Rapids, Minn., via Minneapolis, Minn.; Waukon, Iowa; to Rockford, Ill. From Keeler, Mich., via Lansing, Mich.; Pontiac, Mich.; INT Pontiac 112° and Windsor, Ont., 320° radials; Windsor; INT Windsor 134° and Akron, Ohio, 312° radials; to Akron. The airspace within Canada is excluded.

V-219 From Hayes Center, Nebr., INT Hayes Center 059° and Wolbach, Nebr., 251° radials; Wolbach; Norfolk, Nebr.; Sioux City, Iowa; Fairmont, Minn.; Mankato, Minn.; Farmington, Minn.

V-220 From Kremmling, Colo., 12 miles, 130 MSL, 32 miles, 147 MSL, 8 miles, 115 MSL INT Kremmling 081° and Denver, Colo., 325° radials; Denver; INT Denver 058° and Akron, Colo., 273° radials; Akron; INT Akron 094° and McCook, Nebr., 264° radials; McCook; INT McCook 072° and Grand Island, Nebr., 241° radials; Kearney, Nebr.; Hastings, Nebr.; Columbus, Nebr.

AMENDMENTS 11/2/78 43 F. R. 39753 (Changed)

V-221 From Bible Grove, Ill., via INT Bible Grove 087° and Bloomington, Ind., 253° radials; Bloomington; Shelbyville, Ind.; Muncie, Ind.; Fort Wayne, Ind.; Litchfield, Mich.; Jackson, Mich.; INT Jackson 084° and Salem, Mich., 254°
radials; Salem; INT Salem 083° and Erie, Pa., 290° radials; Erie. The airspace within Canada is excluded.

V-222 From El Paso, Tex., via Salt Flat, Tex.; Fort Stockton, Tex.; 20 miles, 116 miles, 55 MSL, Junction, Tex.; Stonewall, Tex.; INT Stonewall 113° and Industry, Tex., 267° radials; Industry; INT Industry 101° and Humble 259° radials; Humble; Beaumont, Tex.;
Lake Charles, La.; McComb, Miss.; Eaton, Miss.; Monroeville, Ala.; Montgomery, Ala.; LaGrange, Ga.; to INT LaGrange 048° and Columbus, Ga., 010° radials. From INT Toccoa, Ga., 222° and Harris, Ga., 187° radials via Toccoa;
Sugarloaf Mountain, N. C.; Barretts Mountain, N. C.; Lynchburg, Va.; INT Lynchburg 058° and Brooke, Va., 230° radials; Brooke; to INT Brooke 045° and Richmond, Va., 009° radials; including an N alternate from Lynchburg via Gordonsville, Va.

AMENDMENTS 1/26/78 42 F. R. 63167 (Changed)
AMENDMENTS 3/23/78 43 F. R. 3545 (Changed)
Corr: 43 F. R. 7980

V-223 From Flat Rock, Va.; to INT Flat Rock 005° and Brooke, Va., 300° radials.

V-224 From Marquette, Mich.; to Schoolcraft County, Mich.

V-225 From Key West, Fla., 30 miles, 72 miles, 17 AGL, Fort Myers, Fla., including an E alternate from Key West, 30 miles, 77 miles 17 AGL to Fort Myers; La Belle, Fla.; Vero Beach, Fla. The portion of V-225 E alternate outside the United States has no upper limit.

V-226 From INT Franklin, Pa., 175° and Clarion, Pa., 222° radials; Clarion, Pa.; Keating, Pa.; Williamsport, Pa., Wilkes-Barre, Pa.; Stillwater, N. J.; INT Stillwater 110° and Sparta, N. J., 194° radials.

V-227 From Lafayette, Ind., via Roberts, Ill.; Pontiac, Ill.; INT Pontiac 332° and Rockford, Ill., 179° radials; to Rockford.

V-228 From Northbrook, Ill., INT Northbrook 111° and South Bend, Ind., 290° radials; South Bend, including a N alternate via INT Northbrook 095° and South Bend 310° radials.

V-229 From Atlantic City, N. J., via INT Atlantic City 048° and Kennedy, N. Y., 195° radials; Kennedy; Madison, Conn.; Hartford, Conn.; INT Hartford 044° and Gardner, Mass., 195° radials; Gardner; Keene, N. H.; INT Keene 336° and Burlington, Vt., 160° radials; Burlington, excluding that airspace
above 7,000 feet MSL between INT Atlantic City 048° and Kennedy 195° radials to Kennedy. The airspace below 2,000 feet MSL outside the United States is excluded.
AMENDMENTS 3/23/78 43 F. R. 3548 (Changed)

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V-230 From INT Big Sur, Calif., 325° and Salinas, Calif., 281° radials; Salinas; Panoche, Calif., including a S alternate via INT Salinas 100° and Panoche 245° radials; Fresno, Calif.; Friant, Calif.; to Mina, Nev. The portion outside the United States has no upper limit.

V-231 From Burley, Idaho, via Salmon, Idaho; Missoula, Mont.; to Kalispell, Mont.

V-232 From INT of the Cleveland, Ohio, 024° and the Chardon, Ohio, 281° radials, via Chardon; Franklin, Pa.; Keating, Pa.; Milton, Pa.; Broadway, N. J.; INT of Broadway 112° and LaGuardia, N. Y., 209° radials; to LaGuardia.

V-233 From Capital, IL., via Roberts, IL.; Knox, IN.; Goshen, IN.; Litchfield, MI.; Lansing, MI.; Mount Pleasant, Mich.; INT Mount Pleasant 351° and Gaylord, Mich., 207° radials; Gaylord; to Pellston, Mich.; including a west alternate from Mount Pleasant to Pellston via Traverse City, Mich.

V-234 From Anton Chico, N. Mex.; INT Anton Chico 067° and Dalhart, Tex., 243° radials; Dalhart; Liberal, Kans.; 32 miles, 74 miles, 65 MSL, Hutchinson, Kans.; Emporia, Kans.; Butler, Mo.; Vichy, Mo.; INT Vichy 091° and Centralia, Ill., 253° radials; Centralia.
The airspace at and above 8,000 feet MSL between Vichy and the INT of Vichy 091° and St. Louis, Mo., 171° radials is excluded during the time that the Meramec Military Operations Area is activated by NOTAM.

V-235 From Fairfield, Utah, 10 miles, 15 miles, 135 MSL, 46 miles, 125 MSL, Fort Bridger. From Rock Springs, Wyo., 20 miles, 41 miles, 95 MSL, 37 miles, 107 MSL, to Casper, Wyo.

V-236 From INT Donneville, Utah, 084° and Ogden, Utah, 235° radials; Ogden.

V-237 From Needles, Calif., 25 miles, 24 miles 71 MSL, Boulder City, Nev.; INT Boulder City 347° and Las Vegas, Nev., 081° radials; Las Vegas.

V-238 From Maples, Mo.; Troy, Ill.
The airspace at and above 8,000 feet MSL between Maples and the INT of Maples 052° and Farmington, Mo., 327° radials is excluded during the time that the Meramec Military Operations Area is activated by NOTAM.

V-239 From Forney, Mo., INT Forney 358° and Hallsville, Mo., 183° radials; Hallsville.
PENDING AMENDMENT
Under V-239, the following is added:
The airspace within R-4501A, R-4501B, R-4501C and R-4501D is excluded during their time of activation.

AMENDMENTS 12/28/78 43 F. R. 51010 (Changed)

V-240 From New Orleans, La., via INT New Orleans 085° and Harvey, La., 065° radials; INT Brookley, Ala., 246° and Semmes, Ala., 224° radials; to Semmes.

AMENDMENTS 3/23/78 43 F. R. 3545 (Changed)

V-241 From Semmes, Ala., via Crestview, Fla.; INT Crestview 076° and Wiregrass, Ala., 232° radials; Wiregrass; Eufaula, Ala.; Columbus, Ga.; to the INT Columbus 010° and LaGrange, Ga., 048° radials; including a west alternate from Wiregrass via INT Wiregrass 002° and LaGrange 191° radials, and LaGrange.

AMENDMENTS 3/23/78 43 F. R. 3545 (Changed)

V-242 From International Falls, Minn., to Atikokan, Ontario, Canada, NDB, excluding that airspace within Canada.

V-243 From Jacksonville, Fla., INT Jacksonville 318° and Waycross, Ga., 126° radials, Waycross; Vienna, Ga.; LaGrange; INT LaGrange 342° and Chattanooga, Tenn., 189° radials; Chattanooga; Bowling Green, Ky.; Lewis, Ind.

V-244 From Oakland, CA., INT Oakland 077° and Stockton, CA., 267° radials; Stockton, including a S alternate INT Oakland 110° and Stockton 246° radials; 76 miles 12 AGL, 27 miles 145 MSL, 59 miles 12 AGL, Coaldale, Nev.; Tonopah, Nev.; 40 miles 115 MSL Wilson Creek, Nev.; 28 miles 115 MSL, Milford, Utah, Hanksville, Utah; 63 miles, 13 miles 140 MSL, 36 miles 115 MSL, Montrose, Colo.; Gunnison, Colo.; 33 miles, 122 MSL, 27 miles, 155 MSL, Pueblo, Colo.; 18 miles, 48 miles, 60 MSL, Lamar, Colo.; 20 miles, 116 miles 65 MSL, Hays, Kans.; Salina, Kans. The airspace within R-2531 is excluded.

V-245 From Alexandria, La., via Natchez, Miss.; Jackson, Miss.; Bigbee, Miss., excluding the airspace at and above 8.000 feet MSL from Jackson to Bigbee.

AMENDMENTS 3/23/78 43 F. R. 3545 (Changed)

V-246 From Nodine, Minn., INT Nodine 055° and Stevens Point, Wis., 255° radials; to Stevens Point.

V-247 From Scottsbluff, Nebr., 75 MSL, INT Scottsbluff 307° and Douglas, Wyo., 109° radials, 75 MSL, Douglas; 90 miles 75 MSL, to Crazy Woman, Wyo.

V-248 From Paso Robles, Calif., Avenal, Calif.; Bakersfield, Calif.

V-249 From Sparta, N. J., INT Sparta, N. J., 023° and DeLancey, N. Y., 131° radials; DeLancey; Utica, N. Y.

V-250 From O'Neill, Nebr.; Yankton, S. Dak.; Worthington, Minn.; Mankato, Minn.

V-251 From Decatur, Ill., via Champaign, Ill.; Danville, Ill.; Lafayette, Ind.

V-252 From Buffalo, N. Y., Geneseo, N. Y.; Binghamton, N. Y.; Huguenot, N. Y.

V-253 From Fairfield, Utah, INT Fairfield 326° and Salt Lake City, 265° radials; 24 miles, 85 MSL Bonneville; 5 miles, 85 MSL, 90 MSL Lucin, Utah; 14 miles, 90 MSL 19 miles, 105 MSL, Twin Falls, Idaho; Boise, Idaho; 42 miles; 99 MSL McCall, Idaho; 11 miles 99 MSL, 33 miles 115 MSL, Lewiston, Idaho; Pullman, Wash.; Spokane, Wash.

V-255 From Garden City, Kans., to Hays, Kansas.

V-256 From Pioneer, Okla., to Hutchinson, Kans.

V-257 From Pheonix, Ariz., Prescott, Ariz.; INT Prescott 003° and Grand Canyon, Ariz., 211° radials; Grand Canyon; 38 miles 12 AGL, 24 miles 125 MSL, 16 miles 95 MSL, 26 miles 12 AGL, Bryce Canyon, Utah; INT Bryce Canyon 338° and Delta, Utah, 186° radials, Delta; 39 miles, 105 MSL INT Delta 004° and Malad City, Idaho, 179° radials; 20 miles, 118 MSL, Malad City; Pocatello, Idaho; DuBois, Idaho; Dillon, Mont.; Butte, Mont.; 22 miles, 85 MSL INT Butte 002° and Helena, Mont., 272° radials; INT Helena 272° and Great Falls, Mont., 222° radials; Great Falls; 73 miles, 56 MSL, Havre, Mont.
The airspace within R-6401 and R-6403 is excluded.

V-258 From Charleston, W. Va., Beckley, W. Va.; INT Beckley 125° and Roanoke, Va., 288° radials; Roanoke; INT Roanoke 145° and Danville, Va., 320° radials; Danville.

V-259 From Fort Mill, S. C., Holston Mountain, Tenn.

V-260 From Charleston, W. Va., Rainelle, W. Va.; Roanoke, Va., Lynchburg, Va.; Flat Rock, Va.; Richmond, Va.; Horsewell, Va.; Franklin, Va.; to Cofield, N.C.

V-261 From Wichita, Kans., via INT Wichita 022° and Manhattan, Kans., 213° radials; to Manhattan.

V-262 From Peoria, Ill., Bradford, Ill.; Joliet, Ill.; Kedzie, Ill., RBN.

V-263 From Cimarron, N. Mex., Tobe, Colo., 54 miles, 69 MSL, Lamar, Colo.; 17 miles, 63 MSL Hugo, Colo.; Gill, Colo. From Pierre, S. Dak., Aberdeen, S. Dak.

V-264 From Los Angeles, Calif., INT Los Angeles 061° and Pomona, Calif., 269° radials; 6 miles wide, Pomona; Twentynine Palms, Calif., including a S alternate from Los Angeles to Twentynine Palms via Ontario, Calif., and Palm Springs, Calif.; 17 miles, 28 miles 53 MSL, Parker, Calif. From Prescott, Ariz.; Winslow, Ariz.; St. Johns, Ariz.; 55 miles, 25 miles, 115 MSL, Socorro, N. Mex.; Corona, N. Mex.; 15 miles, 35 miles 105 MSL, Tucumcari, N. Mex.

V-265 From INT Washington, D. C., 043° and Westminster, Md., 179° radials; via Westminster; Harrisburg, Pa.; Phillipsburg, Pa.; Keating, N. Y.; Bradford, Pa.; Jamestown, N. Y.; Dunkirk, N. Y.

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V-266 From Barretts Mountain, N. C., South Boston, Va.; Lawrenceville, Va.; Franklin, Va.

V-267 From Biscayne Bay, Fla., INT Biscayne Bay 340° and Pahokee, Fla., 150° radials; Pahokee; Orlando, Fla., including an east alternate from Biscayne Bay, INT Biscayne Bay 340° and Palm Beach, Fla., 201° radials; Palm Beach; INT Palm Beach 326° and Orlando 162° radials; Jacksonville, Fla., including an E alternate from Orlando to INT Ormond Beach, Fla., 308° and Jacksonville 174° radials via Ormond Beach; INT Jacksonville 333° and Dublin, Ga., 152° radials; Dublin; Athens, Ga.; INT Athens 340° and Harris, Ga., 148° radials; Harris; Knoxville, Tenn.

AMENDMENTS 1/26/78 42 F. R. 60123 (Changed) Corr: 43 F. R. 3554

V-268 From INT Grantsville, Md., 086° and Martinsburg, W. Va., 297° radials; Hagerstown, Md.; Westminster, Md.; Baltimore, Md.; INT Baltimore 094° and Kenton, Del., 262° radials; Kenton; Kenton 086° and Sea Isle, N. J., 050° radials. The airspace within R-4001 and the airpace below 2,000 feet MSL outside the United States is excluded.

V-269 From Ely, Nev., 125 MSL INT Ely 007° and Bonneville, Utah, 272° radials; Wells, Nev.; Twin Falls, Idaho; Burley, Idaho; Pocatello, Idaho; to Salmon, Idaho.

V-270 From Erie, Pa., Jamestown, N. Y.; Wellsville, N. Y.; Elmira, N. Y.; Binghamton, N. Y.; DeLancey, N. Y.; Chester, Mass.

V-271 From Muskegon, Mich., Manistee, Mich.; to Escanaba, Mich.

V-272 From Dalhart, Tex., via Borger, Tex.; Sayre, Okla.; Oklahoma City, Okla., including a N alternate via INT Sayre 070° and Oklahoma City 282° radials and also a S alternate via INT Sayre 101° and Oklahoma City 242° radials; to McAlester, Okla.

V-273 From INT Sparta, N. J., 133° and Solberg, N. J., 051° radials; Sparta; INT Sparta 331° and Hancock, N. Y., 148° radials; Hancock; Georgetown, N. Y.; 6 mi. wide, Syracuse, N. Y.

V-274 From Pullman, Mich., Grand Rapids, Mich.; Saginaw, Mich.

V-275 From Cincinnati, Ohio, INT Cincinnati 006° and Dayton, Ohio, 207° radials; Dayton, including a W alternate from Cincinnati to Dayton via INT Cincinnati 336° and Richmond, Ind., 190° radials, and Richmond; INT Dayton 007° and Salem, Mich., 202° radials; Salem.

V-276 From Erie, Pa., via Franklin, Pa.; Clarion, Pa.; Tyrone, Pa.; INT Tyrone 096° and Ravine, Pa., 279° radials Ravine; Yardley, Pa.; Robbinsville, N. J.; INT Robbinsville 112° and Sea Isle, N. J., 050° radials. The airspace below 2,000 feet MSL outisde the United States is excluded.

V-277 From Rosewood, Ohio, Fort Wayne, Ind.; Keeler, Mich.

V-278 From Texico, N. Mex., via Plainview, Tex.; Guthrie, Tex.; Bridgeport, Tex.; Blue Ridge, Tex.; Paris, Tex.; Texarkana, Ark.; Monticello, Ark.; Greenville, Miss.; Greenwood, Miss.; Bigbee, Miss.; Vulcan, Ala., including a S alternate from Bigbee to Vulcan via INT Bigbee 082° and Tuscaloosa, Ala., 304° radials, and Tuscaloosa. excluding the airspace between the main and this alternate airway.

AMENDMENTS 3/23/78 43 F. R. 3545 (Changed)

V-279 From the Columbus, Ohio, RBN, INT Findlay, Ohio, 146° and Rosewood, Ohio, 045° radials; 7 miles wide (4 miles northeast and 3 miles southwest of the centerline) to Findlay.

V-280 From Ciudad Juarez, Mex., via El Paso, Tex.; INT El Paso 070° and Pinon, N. Mex., 219° radials; Pinon; Roswell, N. Mex.; INT Roswell 063° and Texico, N. Mex., 216° radials; Texico, including a south alternate via INT Roswell 080° and Texico 216° radials; INT Texico 021° and Amarillo, Tex., 252° radials; Amarillo, including a south alternate from Texico to Amarillo via INT Texico 044° and Amarillo 252° radials; Gage, Okla.; INT Gage 025° and Hutchinson, Kans., 234° radials; Hutchinson; INT Hutchinson 062° and Topeka, Kans., 236° radials; to Topeka. The airspace within Mexico is excluded.

V-281 From Moses Lake, Wash., to Pasco, Wash.

V-282 From Saranac Lake, N. Y., St. Eustache, Quebec, Canada. The airspace within Canada is excluded.

V-283 From Seal Beach, Calif.; March, Calif.; INT March 007° and Hector, Calif., 226° radials; Hector.

V-284 From Sea Isle, N. J.; INT Sea Isle 008° and Millville, N. J., 150° radials; Millville.

V-285 From Indianapolis, Ind., via Kokomo, Ind.; including an E alternate via INT Indianapolis 038° and Kokomo 182° radials; Goshen, Ind.; INT of the Goshen 038° and the Kalamazoo, Mich., 191° radials; Kalamazoo; INT Kalamazoo 014° and Grand Rapids, Mich., 167° radials; Grand Rapids; to White Cloud, Mich.

V-286 From Elkins, W. Va., via Casanova, Va.; INT Casanova 142° and Brooke, Va., 300° radials; Brooke; to Cape Charles, Va.

V-287 From Medford, Oreg., North Bend, Oreg.; Newberg, Oreg., including a west alternate from North Bend to Newberg via Newport, Oreg., and including an east alternate from Medford to the INT Corvallis, Oreg., 352° and Newberg 204° radials via Roseburg, Oreg., INT Roseburg 003° and Eugene, Oreg., 187° radials, Eugene, and Corvallis; Portland, Oreg., including an east alternate via INT Newberg 069° and Portland 196° radials; 20 miles, 51 miles, 45 MSL, Olympia, Wash.; INT Olympia 010° and Seattle, Wash., 329° radials; INT Seattle 329° and Port Angeles, Wash., 090° radials; Port Angeles; Tatoosh, Wash. The airspace within Canada is excluded.

AMENDMENTS 7/13/78 43 F. R. 16152 (Changed)

V-288 From Lucin, Utah, 50 miles, 85 MSL, INT Lucin 080° and Fort Bridger, Wyo., 278° radials; 17 miles, 50 miles, 105 MSL, Fort Bridger.

V-289 From Beaumont, Tex., via INT Beaumont 323° and Lufkin, Tex., 161° radials; Lufkin, including an E alternate; Gregg County, Tex.; Texarkana, Ark.; Fort Smith, Ark.; Harrison, Ark.; Dogwood, Mo.; Forney, Mo.; INT 046° and Vichy, Mo., 216° radials; to Vichy.

PENDING AMENDMENT

Under V-289, the following is added:
The airspace within R-4501A, R-4501B, R-4501C and R-4501D is excluded during their time of activation.

AMENDMENTS 12/28/78 43 F. R. 51010 (Changed)

V-290 From Rainelle, W. Va., Montebello, Va.; Flat Rock, Va. From Franklin, Va., Elizabeth City, N. C.

V-291 From Albuquerque, N. Mex.; Gallup, N. Mex., including a north alternate via INT Albuquerque 303° and Gallup 089° radials; Winslow, Ariz.; Flagstaff, Ariz.; including a N alternate from Winslow to Flagstaff via INT Winslow 292° and Flagstaff 063° radials.

V-292 From Sparta, N. J.; INT Sparta 082° and Carmel, N. Y., 232° radials; Carmel; Hartford, Conn.; Putnam, Conn.; INT Putnam 043° and Boston, Mass., 251° radials; Boston.

V-293 From Grand Canyon, Ariz., via Page, Ariz.; INT Page 340° and Bryce Canyon, Utah; 120° radials; Bryce Canyon; Cedar City, Utah; 37 miles, 108 MSL Wilson Creek, Nev.; 5 miles, 108 MSL, 37 miles, 115 MSL, Ely, Nev.; 125 MSL Elko, Nev.; 28 miles, 57 miles, 99 MSL, Twin Falls, Idaho; 37 miles, 33 miles, 87 MSL, 76 miles, 113 MSL, 99 MSL McCall, Idaho.

V-294 From Des Moines, Iowa; INT Des Moines 086° and Cedar Rapids, Iowa, 238° radials; Cedar Rapids; to Davenport, Iowa.

V-295 From Biscayne Bay, Fla., INT Biscayne Bay 015° and Vero Beach, Fla., 143° radials; Vero Beach, INT Vero Beach, 296° and Orlando, Fla., 162° radials; Orlando; INT Orlando 283° and Ocala, Fla., 156° radials; Ocala; Cross City, Fla.; to Tallahassee, Fla. The portion outside the United States has no upper limit.

V-296 From Fort Mill, S. C.; 27 MSL INT Fort Mill 093° and Fayetteville, N. C., 267° radials; 27 MSL Fayetteville; Wilmington, N. C.

V-297 From Johnstown, Pa.; INT Johnstown 315° and Clarion, Pa., 222° radials; INT Clarion 269° and Youngstown, Ohio, 116° radials; Akron, Ohio; INT Akron 298° and Carleton, Mich., 120° radials; Carleton; INT Carleton 334° and Saginaw, Mich., 182° radials; Saginaw; INT Saginaw 353° and Pellston, Mich., 164° radials; Pellston. The airspace within Canada is excluded.

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V-298 From Yakima, Wash., via INT Yakima 129° and Pasco, Wash., 276° radials; Pasco; including a north alternate from Yakima to Pasco; Pendleton, Oreg., 74 miles, 43 miles 115 MSL, 99 MSL via McCall, Idaho; 41 mi. 99 MSL, 89 mi. 145 MSL, Dubois, Idaho; 68 mi., 130 MSL Dunoir, Wyo.; 62 miles 135 MSL, Boysen Reservoir, Wyo.; 9 miles, 34 miles 105 MSL, Casper, Wyo., including a south alternate from Dunoir 43 miles 130 MSL, 15 miles 110 MSL, via Riverton, Wyo., 19 miles, 48 miles 77 MSL, to Casper; excluding the airspace between the main and the south alternate.

V-299 From Los Angeles, Calif., INT Los Angeles 291° and Fillmore, Calif., 163° radials; Ventura, Calif.; Fillmore; to Gorman, Calif. The airspace within R-2519 more than 3 statute miles W of Ventura 155° and 331° radials, the airspace within R-2519 below 5,000 feet MSL, and the airspace within R-2520 is excluded. The portion outside the United States has no upper limit.

V-300 From Victoria, British Columbia, Canada, RR to Vancouver, British Columbia, Canada. From Thunder Bay, Ontario, Canada, Sault Ste. Marie, Mich.; to Wiarton, Ont., Canada. From Sherbrooke, Quebec, Canada, 86 miles 52 MSL, Millincoket, Maine; Fredericton, New Brunswick, Canada. The airspace within Canada is excluded.

V-301 From Point Reyes, Calif., Santa Rosa, Calif.; Williams, Calif.

V-302 From Augusta, Maine, INT Augusta 123° and Bangor, Maine, 192° radials.

V-303 From Hot Springs, Ark., Fort Smith, Ark.

V-304 From Amarillo, Tex., via Borger, Tex.; Liberal, Kans., including a W alternate via INT Borger 354° and Liberal 234° radials; 15 miles, 79 miles 55 MSL, Lamar, Colo.

V-305 From El Dorado, Ark., Little Rock, Ark.; Walnut Ridge, Ark.; Malden, Mo.; Cunningham, Ky.

V-306 From Junction, Tex., via INT Junction 099° and Austin, Tex., 279° radials; Austin; Navasota, Tex.; including a south alternate from Austin via INT Austin 109° and College Station, Tex., 240° radials; INT College, Tex., 240° and Industry, Tex., 310° radials; INT Navasota 084° and Daisetta, Tex., 283° radials; Daisetta; including a south alternate from Navasota via Humble, Tex.; to Daisetta; Lake Charles, La., including a south alternate from Daisetta to Lake Charles via Beaumont.

AMENDMENTS 3/23/78 43 F. R. 3544 (Changed)

V-307 From Harrison, Ark., via Neosho, Mo.; Oswego, Kans.; Chanute, Kans.; Emporia, Kans.; INT of Emporia 336° and Pawnee City, Nebr., 193° radials; Pawnee City; Omaha, Nebr.

AMENDMENTS 5/18/78 43 F. R. 11971 (Changed)

V-308 From INT Kenton, Del., 217° and Sea Isle, N. J., 256° radials, via Sea Isle; INT Sea Isle 050° and Hampton, N. Y. 223° radials; Hampton; INT Hampton 059° and Norwich, Conn., 177° radials; Norwich; Putnam, Conn.; INT Putnam 043° and Boston, Mass., 251° radials; Boston. The airspace below 2,000 feet MSL that lies outside the United States and the airspace below 3,000 feet MSL between Kennedy, N. Y., 087° and 141° radials is excluded.

V-309 From Charleston, W. Va.; INT Charleston 034° and Morgantown, W. Va., 284° radials; Bellaire, Ohio.

V-310 From Louisville, Ky., London, Ky.; Holston Mountain, Tenn.; INT Holston Mountain 104° and Greensboro, N. C., 280° radials; Greensboro; INT Greensboro 105° and Raleigh-Durham, N. C., 275° radials; Raleigh-Durham; Tar River, N. C.; Elizabeth City, N. C.

AMENDMENTS 1/26/78 42 F. R. 59377 (Changed)

V-311 From the INT of Harris, Ga., 187° and Toccoa, Ga., 222° radials via INT Toccoa 222° and Electric City, S. C., 274° radials; Electric City; Greenwood; S. C.; Columbia, S. C.

V-312 From INT Andrews, Md., 060° and Baltimore, Md., 165° radials, via INT Andrews 060° and Woodstown, N. J., 230° radials; Woodstown; INT Woodstown 065° and Coyle, N. J., 264° radials; Coyle; INT Coyle 090° and Sea Isle, NJ., 050° radials. The airspace within R-5002, the airspace below 2,000 feet MSL outside the United States, and the airspace above 8,000 feet MSL between Woodstown and Coyle is excluded.

V-313 From Malden, Mo., Cape Girardeau, Mo.; Centralia, Ill.; Decatur, Ill.; Pontiac, Ill.

V-314 From Quebec, Province of Quebec, Canada, 99 miles 55 MSL, Millinocket, Maine; Princeton, Maine; St. John, New Brunswick, Canada. The airspace within Canada is excluded.

V-315 From Paris, Tex., Rich Mountain, Okla.

V-316 From Ironwood, Mich.; Marquette, Mich.; 15 miles, 100 miles 40 MSL, Sault Ste. Marie, Mich.; Sudbury, Ontario, Canada. The airspace within Canada is excluded.

V-318 From Quebec, Province of Quebec, Canada, 81 miles 65 MSL, 26 miles 85 MSL, Houlton, Maine. The airspace within Canada is excluded.

V-319 From Boysen Reservoir, Wyo., Worland, Wyo.; Cody, Wyo.

V-320 From Peck, Mich., Toronto, Ont., Canada. The airspace within Canada is excluded.

V-321 From Albany, Ga., via Columbus, Ga.; LaGrange, Ga.; INT LaGrange 342° and Gadsden, Ala., 124° radials; Gadsden; INT Gadsden 333° and Rocket, Ala., 149° radials; Rocket, Shelbyville, Tenn.; Livingston, Tenn.

AMENDMENTS 3/23/78 43 F. R. 3545 (Changed)

V-322 From Concord, N. H., INT Concord, 022° and Berlin, N. H., 161° radials; Berlin, N. H.; Sherbrooke, Quebec, Canada. The airspace within Canada is excluded.

V-323 From Montgomery, Ala., via Eufaula, Ala.; Macon, Ga.; INT Macon 341° and Dublin, Ga., 309° radials; to INT Dublin 309° and Augusta, Ga., 263° radials.

V-325 From Columbia, S. C.; Athens, Ga.; INT Athens 288° and Toccoa, Ga., 222° radials to INT Toccoa 222°and Harris, Ga., 187° radials. From INT Gadsden, Ala., 091° and Rome, Ga., 133° radials via Gadsden; Muscle Shoals, Ala., including an E alternate via INT Gadsden 318° and Decatur, Ala., 130° radials, and Decatur.

V-326 From Fillmore, Calif., INT Fillmore 163° and Van Nuys, Calif., 270° radials; Van Nuys.

V-327 From Phoenix, Ariz.; Flagstaff, Ariz.
The airspace 14,000 feet MSL and above is excluded from 23 NM north of Phoenix to 29 NM south of Flagstaff, from 1300 GMT to 0200 GMT, Monday through Friday, and other times as advised by a Notice to Airmen.

V-328 From Jackson, Wyo., via Big Piney, Wyo.; 53 miles 95 MSL, Rock Springs, Wyo.; Hayden, Colo.; Kremmling, Colo.; INT Kremmling 145° and Denver, Colo., 225° radials; to Denver.

AMENDMENTS 11/2/78 43 F. R. 39753 (Changed)

V-329 From INT Crestview, Fla., 091° and Eglin, Fla., 003° radials, INT Eglin 003° and Montgomery, Ala., 188° radials; Montgomery.

V-330 From INT Boise, Idaho, 130° and Mountain Home, Idaho, 084° radials; INT Mountain Home 084° and Burley, Idaho, 323° radials. From Idaho Falls, Idaho, Jackson, Wyo.

V-331 From Whitesburg, Ky., Newcombe, Ky.

V-333 From INT Rome, Ga., 133° and Gadsden, Ala., 091° radials via Rome; Chattanooga, Tenn.; Hinch Mountain, Tenn.; Lexington, Ky.

V-334 From San Jose, CA., INT San Jose 022° and Sacramento, CA., 194° radials; Sacramento.

V-335 From St. Louis, Mo.; INT St. Louis 171° and Marion, Ill., 290° radials; Marion.

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V-336 From Ellensburg, Wash., to Ephrata, Wash.

V-337 From INT Briggs, Ohio, 077° and Youngstown, Ohio, 177° radials; Akron, Ohio; INT Akron 328° and Windsor, Ontario, Canada, 116° radials; Windsor; 29 miles 7 miles wide (3 miles east and 4 miles west of centerline), INT Windsor 335°
and Saginaw, Mich., 131° radials; Saginaw; Mount Pleasant Mich.; White Cloud, Mich., excluding the portion within Canada.

V-339 From Whitesburg, Ky., Falmouth, Ky.

V-340 From Fort Wayne, Ind., to Richmond, Ind.

V-341 From Cedar Rapids, Iowa, Dubuque, Iowa; Madison, Wis.; INT Madison 042° and Oshkosh, Wis., 208° radials; to Oshkosh.

V-342 From Vancouver, British Columbia, Canada, INT Vancouver 090° and Princeton, British Columbia, Canada, 244° radials; Princeton, excluding the airspace within Canada.

V-343 From Dubois, Idaho, Bozeman, Mont., 51 miles, 34 miles, 103 MSL, 84 MSL Drummond, Mont.

V-344 From Dupree, S. Dak., Aberdeen, S. Dak.; Fargo, N. Dak.

AMENDMENTS 3/23/78 43 F. R. 4421 (Added)

V-345 From Dells, Wis., INT Dells 321° and Eau Claire, Wis., 134° radials; to Eau Claire.
PENDING AMENDMENT
Under V-345 "to Eau Claire" is deleted and "Eau Claire; Hayward; to Ashland, Wis." is substituted therefor.

AMENDMENTS 2/22/79 43 F. R. 56021 (Changed)

V-346 From St. Georges, Quebec, Canada, to Millinocket, ME., excluding the portion within Canada.

V-347 From Ironwood, Mich., to Houghton, Mich.

V-348 From Thunder Bay, Ont., Canada, via INT Thunder Bay 102° and Sault Ste. Marie, Mich., 316° radials; Sault Ste. Marie; INT Sault Ste. Marie 066° and Sudbury, Ont., Canada, 282° radials to Sudbury. The airspace within Canada is excluded.

V-349 From Bellingham, WA., to Williams Lake, British Columbia, Canada. The airspace within Canada is excluded.

V-350 From Wichita, Kans., to Chanute, Kans. The airspace 6,000 feet MSL and above is excluded within the Eureka 1 MOA during the time that it is activated by NOTAM and the Eureka II MOA during the time that it is activated by NOTAM.

V-351 From Vancouver, British Columbia, Canada, INT Vancouver 090° and Princeton, British Columbia, Canada, 231° radials; Carmi, British Columbia, Canada, excluding the airspace within Canada.

V-352 From St. Georges, Quebec, Canada, to Houlton, ME., excluding the portion within Canada.

V-353 From Jackson, Mich., via INT Jackson 029° and Flint, Mich., 228° radials; to Flint.

V-354 From Pioneer, Okla., to Emporia, Kans. The airspace 6,000 feet MSL and above is excluded within the Eureka 1 MOA during the time that it is activated by NOTAM.

V-355 From Bridgeport, Tex.; Wichita Falls, Tex.

V-356 From Cheyenne, Wyo., via Gill, Colo.; to INT Gill 131° and Denver, Colo., 058° radials.

AMENDMENTS 1/26/78 42 F. R. 62359 (Added)
AMENDMENTS 11/2/78 43 F. R. 39753 (Changed)

V-357 From Baker, Oreg., via Walla Walla, Wash.; Moses Lake, Wash.; INT of Moses Lake 271° and Wenatchee, Wash., 132° radials; to Wenatchee; including a N alternate from Moses Lake via Ephrata, Wash., to Wenatchee.

V-358 From San Antonio, Tex., via Stonewall, Tex.; Lampasas, Tex.; INT Lampasas 041° and Waco 249° radials; Waco. Tex.: Dallas-Fort Worth. Tex.: to Ardmore, Okla.

AMENDMENTS 1/26/78 42 F. R. 63167 (Changed) Corr: 43 F. R. 7980

V-359 From Nuevo Laredo, Mex., to Laredo, Tex., excluding the airspace within Mexico.

V-360 From Sault Ste. Marie, Mich., via Sault Ste. Marie 110° Radial to INT of Sault Ste. Marie 110° and Midland 313° radials; Midland. The airspace within Canada is excluded.

V-361 From Kremmling, Colo., via INT Kremmling 059° and Cheyenne, Wyo., 215° radials to Cheyenne.

AMENDMENTS 1/26/78 42 F. R. 62359 (Added)
AMENDMENTS 11/2/78 43 F. R. 39753 (Changed)

PENDING AMENDMENT
V-362 From Alma, Ga., via INT Alma 311° and Vienna, Ga., 123° radials; Vienna; Macon, Ga.; INT Macon 349° and Norcross, Ga., 150° radials; Norcross; INT Norcross 336° and Chattanooga, Tenn., 127° radials; Chattanooga; Shelbyville, Tenn.; Nashville, Tenn.; INT Nashville 355° and Bowling Green, Ky., 219° radials; to Bowling Green.

AMENDMENTS 12/28/78 43 F. R. 51005 (Added)

V-365 From Burley, Idaho, via INT Burley 042° and Idaho Falls, Idaho, 248° radials; Idaho Falls; to INT Idaho Falls 030° and Dubois, Idaho, 100° radials.

V-366 From Hugo. Colo.. to Kiowa. Colo.

AMENDMENTS 11/2/78 43 F. R. 39753 (Added)

V-371 From Lafayette, Ind., to Knox, Ind.

V-375 From Roanoke, Va., via Gordonsville, Va.; including a N alternate via the INT Roanoke 035° and Montebello, Va., 250° and Montebello, Va.; to INT Gordonsville 034° and Casanova, Va., 142° radials.

V-376 From Richmond, Va.; to INT Richmond 009° and Nottingham, Md., 238° radials. The airspace within R-6612 is excluded.

V-377 From Kessel, W. Va., via INT Kessel 055° and Hagerstown, Md., 267° radials; Hagerstown; to Harrisburg, Pa.

V-378 From Baltimore, Md., via INT Baltimore 034° and Modena, Pa., 236° radials; to Modena.

V-379 From Nottingham, Md.; to Kenton, Del.

V-380 From O'Neill, Nebr.; via Wolbach, Nebr.; Grand Island, Nebr.; Hastings, Nebr.; to Mankato, Kans. The airspace within the O'Neill MOA is excluded during the time that the MOA is activated by NOTAM.

V-381 From Bishop, Calif., to INT Bishop 337° and Friant, Calif., 040° radials.

V-420 From Green Bay, Wis.; Traverse City, Mich.; Gaylord, Mich.; to Alpena; Mich.

V-421 From Zuni, N. Mex., via Gallup, N. Mex.; Farmington, N. Mex.; Durango, Colo.; Gunnison, Colo.; INT Gunnison 010° and Kremling, Colo., 203° radials; to Kremling.

AMENDMENTS 7/13/78 43 F. R. 21447 (Changed)

V-422 From Chicago Heights, Ill., INT Chicago Heights 117° and Knox, Ind., 276° radials; Knox; Wolflake, Ind.; INT Wolflake 097° and Findlay, Ohio, 289° radials; Findlay.

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V-423 From Williamsport, Pa., Binghamton, N. Y.; Ithaca, N. Y.; INT Ithaca 357° and Syracuse, N. Y., 210° radials; Syracuse.

V-424 From Napoleon, Mo., to Macon, Mo.

V-425 From Brookley, Ala., INT Brookley 357° and Mobile, Ala., 048° radials.

V-426 From St. Louis, Mo., to INT of St. Louis 062° radial and Troy, Ill., direct radial to Decatur, Ill.

V-428 From Elmira, N. Y., Ithaca, N. Y.; Georgetown, N. Y.; Utica, N. Y.

V-429 From Cape Girardeau, Mo., Marion, Ill.; INT Marion 011° and Bible Grove, Ill., 207° radials; Bible Grove; Mattoon, Ill.; Champaign, Ill.; Roberts, Ill.; Joliet, Ill.; INT Joliet 351° and Chicago-O'Hare, Ill., 237° radials; Chicago-O'Hare.

V-430 From Cut Bank, Mont., 10 miles, 74 miles 55 MSL, Havre, Mont.; 14 miles, 100 miles 50 MSL, Glasgow, Mont.; INT Glasgow 100° and Williston, N. Dak., 263° radials, 22 miles, 33 miles 55 MSL, Williston; Minot, N. Dak.; Devils Lake, N. Dak.; Grand Forks, N. Dak.; Bemidji, Minn., including a north alternate via Thief River Falls, Minn.; Grand Rapids, Minn.; Duluth, Minn., including a N alternate from Grand Rapids, to Duluth via Hibbing, Minn., excluding the airspace between the main and this N alternate airway; Ironwood, Mich.; Iron Mountain, Mich.; to Escanaba, Mich.

V-431 From Boston, Mass., INT Boston 015° and Gardner, Mass., 097° radials; Gardner, Keene, N. H., Glens Falls, N. Y.; INT Glens Falls 286° and Albany, N. Y., 350° radials.

V-432 From Thermal, Calif., Parker, Calif.

V-433 From INT Washington, D. C., 065° and Baltimore, Md., 197° radials; via INT Washington, D. C., 065° and New Castle, Del., 222° radials; New Castle; Yardley, Pa.; INT Yardley 059° and La Guardia, N. Y., 231° radials; La Guardia; INT La Guardia 049° and Bridgeport, Conn., 015° radials; INT Bridgeport 015° and Hartford, Conn., 268° radials.

V-434 From Ottumwa, Iowa, Moline, Ill.; Peoria, Ill.; Champaign, Ill.; Indianapolis, Ind.

V-435 From Rosewood, Ohio, via INT Rosewood 041° and Cleveland, Ohio, 252° radials; to Cleveland.

V-437 From Ormond Beach, Fla., Savannah, Ga.; Charleston, S.C.; Florence, S.C.

V-439 From Dickinson, N. Dak., 13 miles, 62 miles, 40 MSL, Williston, N. Dak.

V-441 From Melbourne, Fla., via INT Melbourne 269° and Lakeland, Fla., 080° radials; Lakeland; St. Petersburg, Fla.; INT St. Petersburg 010° and Ocala, Fla., 213° radials; Ocala, including an E alternate via INT St. Petersburg 040° and Ocala 171° radials.

V-442 From Hector, Calif., 12 miles, 38 miles 85 MSL, 14 miles 75 MSL, INT Needles, Calif., 272° and Goffs, Calif., 163° radials; INT Goffs 163° and Parker, Calif., 333° radials; Parker.
The airspace above 10,000 feet MSL between Parker and a point 45 miles northwest is excluded.

V-443 From INT Newcomerstown, Ohio, 099° and Bellaire, Ohio, 044° radials; Newcomerstown, Ohio, Tiverton, Ohio; Cleveland, Ohio, including an E alternate via INT Tiverton 028° and Cleveland 138° radials; INT Cleveland 049° and Aylmer, Ont., Canada, 205° radials; Aylmer. The airspace within Canada is excluded.

V-445 From La Guardia, N. Y., INT La Guardia 034° and Hartford, Conn., 245° radials.

V-446 From Troy, Ill., INT Troy 099° and Centralia, Ill., 056° radials; Samsville, Ill.

V-447 From Cambridge, N. Y., Montpelier, Vt.; INT Montpelier 020° and Sherbrooke, Quebec, Canada, 217° radials: Sherbrooke. The airspace within Canada is excluded.

AMENDMENTS 3/23/78 43 F. R. 3548 (Changed)

V-448 From Portland, Oreg., via Yakima, Wash., including a south alternate; Moses Lake, Wash., including a south alternate from Yakima to Moses Lake via the INT of Yakima 129° and Ephrata, Wash., 203° radials, and the INT of Ephrata 203° and Moses Lake 231° radials; Spokane, Wash., 45 miles 12 AGL, 21 miles 75 MSL, 20 miles 80 MSL, 59 miles 12 AGL, to Kalispell, Mont.

AMENDMENTS 9/7/78 43 F. R. 30042 (Rewritten)

V-449 From Lake Henry, Pa.; DeLancey, N. Y.; Albany, N. Y.

V-450 From Green Bay, Wis.; Muskegon, Mich.; INT Muskegon 094° and Flint, Mich., 280° radials; Flint; INT Flint 088° and Peck, Mich., 237° radials.
The airspace at and above 10,000 feet MSL from 35 NM southeast of Green Bay to 33 NM northwest of Muskegon is excluded during the time that the Minnow Military Operations Area is activated by NOTAM.

V-451 From INT Whitman, Mass., 177° and Providence, R. I., 118° radials, Whitman; INT Whitman 041° and Kennebunk, Maine, 180° radials; INT Kennebunk 180° and Brunswick, Maine, 211° radials; Brunswick.

AMENDMENTS 3/23/78 43 F. R. 3553 (Changed) Corr: 43 F. R. 5510

V-452 From Newport, Oreg.; Eugene, Oreg., via Klamath Falls, Oreg.; to Reno, Nev.

V-454 From Brookley, Ala.; Monroeville, Ala.; INT Monroeville 073° and Eufaula, Ala., 258° radials; INT Eufaula 258° and Columbus, Ga., 219° radials; Columbus; INT Columbus 068° and Athens, Ga., 195° radials; INT Athens 195° and Greenwood, S. C., 240° radials; Greenwood. Fort Mill, S. C.; Liberty, N. C.; Lawrenceville, Va.; Hopewell, Va.

V-455 From New Orleans, La., via Picayune, Miss.; Eaton, Miss., including an E alternate from New Orleans to Eaton via INT New Orleans 070° and Gulfport, Miss., 247° radials, Gulfport, INT Gulfport 344° and Eaton 171° radials, and also a W alternate from New Orleans to Eaton via INT New Orleans 357° and Eaton 221° radials; 6 mi. wide, Meridian, including a W alternate via INT Eaton 010° and Meridian 221° radials.

AMENDMENTS 3/23/78 43 F. R. 3545 (Changed)

V-456 From Fort Dodge, Iowa, to Mankato, Minn.

V-458 From Santa Catalina, Calif., via Oceanside, Calif., Julian, Calif.; INT Julian 130° and Imperial, Calif., 272° radials; Imperial; 13 miles, 24 miles, 25 MSL, Yuma, Ariz., excluding the airspace within R-2503 and below 2,000 feet MSL outside the United States. The portion outside the United States has no upper limit.

V-459 From Seal Beach, Calif., Lake Hughes, Calif.; Porterville, Calif., Friant, Calif.; INT Friant 319° and Linden, Calif., 124° radials; Linden.

V-460 From Julian, Calif., INT Julian 055° and Blythe, Calif., 272° radials; Blythe.

V-461 From Gila Bend, Ariz., Buckeye, Ariz.

V-463 From INT Harris, Ga., 187° and Toccoa, Ga., 222° radials; to Harris, Ga.

V-464 From the INT of Windsor, Ont., Canada, 083° and Aylmer, Ont., Canada 235° radials, via Aylmer; Dunkirk, N. Y.; to Geneseo, N. Y. The airspace within Canada is excluded.

V-465 From Elko, Nev., Wells, Nev.; 12 miles; 30 miles, 115 MSL, 20 miles, 90 MSL, 36 miles, 115 MSL, 24 miles, 95 MSL, Malad City, Idaho; 39 miles, 53 miles 124 MSL, Jackson, Wyo.; Dunoir, Wyo.; 14 miles, 45 miles, 137 MSL, Billings, Mont. From Miles City, Mont., Williston, N. Dak., including an E alternate.

V-467 From INT Kenton, Del., 217° and Sea Isle, N. J., 256° radials; INT Sea Isle 256° and Millville, N. J., 216° radials; Millville; INT Millville 037° and LaGuardia, N. Y., 209° radials; LaGuardia; Hartford, Conn.

V-469 From Danville, Va., via Lynchburg, Va.; INT Lynchburg 347° and Elkins, W. Va., 142° radials; to Elkins.

V-471 From INT Princeton, Maine, 208° and Bangor, Maine, 132° radials; Bangor; Millinocket, Maine; Houlton, Maine; INT Houlton 085° and the United States/Canadian border.

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V-472 From Elizabeth City, N. C., via INT Elizabeth City 243° and Kinston, N. C., 029° radials; Kinston.

V-474 From INT Morgantown, W. Va., 010° and Johnstown, Pa., 260° radials; Indian Head, Pa.; St. Thomas, Pa.; INT St. Thomas 088° and Modena, Pa., 274° radials; Modena; INT Modena 095° and Woodstown, N. J., 043 radials.

V-475 From La Guardia, N. Y.; INT La Guardia 049° and Madison, Conn., 269° radials; Madison; Norwich, Conn.; Providence, R. I.; including an east alternate from Madison to Providence via INT Madison 082° and Providence 212° radials; INT Providence 013° and Boston, Mass., 223° radials; Boston.

AMENDMENTS 3/23/78 43 F. R. 3548 (Changed)

V-477 From Humble, Tex., via Leona, Tex.; including a west alternate via Navasota, Tex.; Scurry, Tex., including a W alternate via INT Leona 330° and Scurry 182° radials.

V-478 From Falmouth, Ky., Newcombe, Ky.; Beckley, W. Va.

V-483 From Carmel, N. Y.; DeLancey, N. Y.; Rockdale, N. Y.; INT Rockdale 325° and Syracuse, N. Y. 100° radials; Syracuse.

V-484 From INT Twin Falls, Idaho, 007° and Burley, Idaho, 323° radials, Twin Falls, 49 miles, 34 miles 114 MSL, Salt Lake City, Utah; 25 miles, 31 miles, 125 MSL, Myton, Utah; 14 miles, 79 MSL, 33 miles, 100 MSL, Grand Junction, Colo.; Gunnison, Colo., including a south alternate from Grand Junction to Gunnison via Montrose, Colo.; 13 miles, 112 MSL, 131 MSL INT Gunnison 110° and Alamosa, Colo., 339° radials; Alamosa.

V-485 From Ventura, Calif., via Fellows, Calif.; Priest, Calif.; INT of Priest 322° and San Jose, Calif., 139° radials; San Jose. The airspace within W-289 and R-2520, the airspace within R-2519 more than 3 statute miles W of the airway centerline and the airspace within R-2519 below 5,000 feet MSL is excluded.

V-487 From INT LaGuardia, N. Y., 034° and Carmel, N. Y., 188° radials; Carmel; Pawling, N. Y.; Cambridge, N. Y.; INT Cambridge 002° and Glens Falls, N. Y., 032° radials; Burlington, Vt.; INT Burlington 359° and St. Jean, Quebec, Canada, 158° radials; St. Jean. The airspace within Canada is excluded.

V-489 From Sparta, N. J.; INT Sparta 023° and Kingston 238° radials; Kingston, N. Y.; Albany, N. Y.; Glens Falls, N. Y.; Plattsburgh, N. Y.

V-490 From Utica, N. Y., Cambridge, N. Y.; Manchester, N. H.

AMENDMENTS 3/23/78 43 F. R. 3548 (Changed)

V-492 From St. Petersburg, Fla., La Belle, Fla.; INT La Belle 101° and Palm Beach, Fla., 272° radials; Palm Beach, including a north alternate from La Belle to Palm Beach via INT La Belle 043° and Palm Beach 298° radials.

V-493 From Livingston, Tenn., Lexington, Ky.; York, Ky.; Appleton, Ohio; Waterville, Ohio; Carleton, Mich.; INT Carleton 334° and Mt. Pleasant, Mich., 142° radials; to Mt. Pleasant. From Menominee, Mich., to Rhinelander, Wis.

V-494 From Ukiah, Calif., INT Ukiah 147° and Santa Rosa, Calif., 325° radials; Santa Rosa; Sacramento, Calif.; INT Sacramento 038° and Lake Tahoe, Calif., 249° radials; Lake Tahoe; INT Lake Tahoe 078° and Hazen, Nev., 244° radials; Hazen.

V-496 From Utica, N. Y., via Glens Falls, N. Y.; Lebanon, N. H.; to Kennebunk, Maine.

V-497 From Kimberly, Oreg., 49 miles, 65 MSL, The Dallas, Oreg.

V-499 From Lancaster, Pa., to Binghamton, N. Y.

V-500 From Portland, Oreg., Newberg, Oreg.; 41 miles, 70 MSL Kimberly, Oreg.; 30 miles, 71 miles, 105 MSL, Boise, Idaho; 25 miles, 25 miles, 90 MSL, 26 miles, 95 MSL 22 miles, 25 miles, 70 MSL, Pocatello, Idaho.

V-501 From Martinsburg, W. Va., via Hagerstown, Md.; St. Thomas, Pa.; Philipsburg, Pa. From Wellsville, N. Y.; INT Elmira, N. Y., 357° and Geneseo, N. Y., 091° radials.

V-516 From Liberal, KS., Anthony, KS.; Pioneer, OK.; Oswego, KS.

V-518 From Fillmore, Calif., INT Fillmore 102° and Ventura, Calif., 061° radials; INT Ventura 061° and Palmdale, Calif., 233° radials; Palmdale.

V-520 From Portland, Oreg., via The Dallas, Oreg.; Pasco, Wash.; Walla Walla, Wash.; to Lewiston, Idaho; Salmon, Idaho; Dubois, Idaho; to Jackson, Wyo.

V-524 From Laramie, Wyo., INT Laramie 069° and Scottsbluff, Nebr., 254° radials; Scottsbluff; North Platte, Nebr.

V-530 From Texico, N. Mex., Childress, Tex.

V-536 From North Bend, Oreg., INT North Bend 023° and Corvallis, Oreg., 235° radials; Corvallis; Redmond, Oreg., 32 miles, 58 miles, 71 MSL, Pendleton, Oreg.; Walla Walla, Wash.; Pullman, Wash.; 27 miles, 85 MSL Mullan Pass, Idaho; 5 miles, 34 miles, 95 MSL Kalispell, Mont.; 20 miles, 41 miles, 115 MSL, Great Falls, Mont.

V-538 From Twentynine Palms, Calif., INT Twentynine Palms 043° and Goffs, Calif., 200° radials; 23 miles 95 MSL, 21 miles 75 MSL, Goffs; Las Vegas, Nev. The airspace within R-2501E is excluded.

§71.125 Alaskan VOR Federal Airways.

V-307 From Sandspit, B. C., Canada, to Annette Island, Alaska. The airspace within Canada is excluded.

V-309 From Prince Rupert, British Columbia, Canada RBN, Annette Island, Alaska. The airspace within Canada is excluded.

V-311 From Annette Island, Alaska, 42 miles 12 AGL, 99 miles 55 MSL, 31 miles 12 AGL, to Biorka Island, Alaska.

V-317 From Ethelda, British Columbia, Canada, NDB via Annette Island, Alaska; 42 miles 12 AGL, 42 miles 52 MSL, 15 miles 12 AGL Level Island, Alaska, including a W alternate via INT Annette Island 311° and Level Island 164° radials; Sisters Island, Alaska; to INT Sisters Island 272° and Yakutat, Alaska, 139° radials. The airspace within Canada is excluded.

V-319 From INT Sisters Island, Alaska, 272° and Yakutat, Alaska, 139° radials; 86 miles 20 MSL, 20 miles 12 AGL via Yakutat; Johnstone Point, Alaska; INT Johnstone Point 286° and Anchorage, Alaska, 117° radials; Anchorage; including a south alternate from Johnstone Point to Anchorage via INT Johnstone Point 271° and Anchorage 130° radials.

V-321 From Cape Newenham, Alaska, NDB via King Salmon, Alaska; to Homer, Alaska.

V-334 From the INT King Salmon, Alaska, 068° and Kenai, Alaska, 217° radials; via Kenai; to Anchorage, Alaska.

V-362 From Ethelda, British Columbia, Canada NDB via INT Sandspit, British Columbia, Canada 039° and Annette Island, Alaska, 167° radials to Annette Island. That airspace within Canada is excluded.

V-427 From King Salmon, Alaska, 103 miles 12 AGL, 29 miles 135 MSL, to INT King Salmon 042° and Anchorage, Alaska, 246° radials.

V-428 From Biorka Island, Alaska, via Sisters Island, Alaska; Haines, Alaska; NDB; to Whitehorse, Yukon Territory, Canada. The airspace within Canada is excluded.

V-435 From Homer, Alaska, to Kenai, Alaska.

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V-436 From Anchorage, Alaska, via Talkeetna, Alaska; Nenana, Alaska; Chandalar Lake, Alaska, NDB; to Deadhorse, Alaska.

V-438 From Kodiak, Alaska, 27 miles, 24 miles, 35 MSL, 29 miles, 55 MSL, Homer, Alaska, including a west alternate from Kodiak 27 miles, 24 miles, 35 MSL, 33 miles, 55 MSL, to Homer; INT Homer 027° and Anchorage, Alaska, 198° radials; Anchorage; Big Lake, Alaska; Fairbanks, Alaska; 54 miles, 31 miles, 65 MSL, Fort Yukon, Alaska, including an east alternate from Fairbanks 54 miles, 34 miles, 65 MSL, to Fort Yukon and a west alternate; 89 miles, 52 miles 95 MSL, 27 miles 75 MSL Deadhorse, Alaska; to Barrow, Alaska.

V-506 From INT Kodiak, Alaska, 107° radial and northwest boundary Anchorage Oceanic Control Area at latitude 57°28" N., longitude 150°32" W.; 37 miles, 20 MSL, Kodiak; 45 miles, 68 miles, 95 MSL; King Salmon, Alaska; 51 miles, 84 miles, 70 MSL, Bethel, Alaska; 47 miles, 173 miles, 30 MSL, Nome, Alaska; 35 miles 12 AGL, 89 miles 55 MSL, 35 miles 12 AGL, Kotzebue, Alaska, including a west alternate; Hotham, Alaska, NDB; 69 miles 12 AGL, 129 miles 95 MSL, 98 miles 12 AGL, Barrow, Alaska.

V-440 From Seattle, Wash., Victoria, British Columbia, Canada. From Sandspit, British Columbia; 83 miles; 115 miles, 35 MSL, Biorka Island, Alaska; 31 miles, 50 miles 48 MSL, 108 miles, 20 MSL, Yakutat, Alaska; 50 miles, 105 miles, 75 MSL, Middleton Island, Alaska; 56 miles, 48 miles, 80 MSL, Anchorage, Alaska, including a south alternate from Middleton Island, 56 miles, 85 MSL INT Middleton Island 298° and Anchorage 163° radials; to Anchorage, excluding the airspace between the main and this south alternate; McGrath, Alaska; 23 miles, 54 miles, 55 MSL, 46 miles, 40 MSL, Unalakleet, Alaska; 52 miles, 51 miles, 25 MSL, Nome, Alaska. The airspace within Canada is excluded.

V-444 From Barrow, Alaska, 117 miles 12 AGL, 102 miles 95 MSL, 69 miles 12 AGL, Evansville, Alaska, NDB; Bettles, Alaska; Fairbanks, Alaska, including a south alternate via INT Bettles 155° and Fairbanks 307° radials; Big Delta, Alaska; Northway, Alaska; Burwash, Yukon Territory, Canada. The airspace within Canada is excluded.

V-447 From Fairbanks, Alaska, to Chandalar Lake, Alaska, NDB.

V-452 From Nome, Alaska, via Moses Point, Alaska; 47 miles, 57 miles, 55 MSL, Galena, Alaska; Nenana, Alaska.

V-453 From King Salmon, Alaska, Dillingham, Alaska, including a south alternate via INT King Salmon 271° and Dillingham 120° radials; 38 miles, 60 MSL INT Dillingham 308° and Bethel, Alaska, 143° radials; 50 miles, 60 MSL, Bethel.

V-456 From Cold Bay, Alaska, 20 AGL King Salmon, Alaska, 053° 93 miles, 9 miles 125 MSL; INT King Salmon 053° and Kenai, Alaska, 239° radials, 46 miles 125 MSL, 10 miles 115 MSL, Kenai; Anchorage, Alaska; Big Lake, Alaska; Gulkana, Alaska; Northway, Alaska.

V-462 From Cape Newenham, Alaska, NDB via Dillingham, Alaska; 35 miles, 45 MSL, 42 miles 100 MSL, 85 miles 135 MSL, 15 miles 120 MSL, 15 miles 105 MSL, to Anchorage, Alaska.

V-473 From Level Island, Alaska, to Biorka Island, Alaska, via INT Level Island 277° and Biorka Island 127° radials.

V-480 From Bethel, Alaska, 105 miles, 89 miles, 55 MSL, McGrath, Alaska, 28 miles, 64 miles, 45 MSL, Nenana, Alaska; Fairbanks, Alaska.

V-481 From Johnstone Point, Alaska, via Gulkana, Alaska, including an E alternate; Big Delta, Alaska; to Fort Yukon, Alaska.

V-488 From Galena, Alaska, INT Galena 074° and Tanana, Alaska, 260° radials; Tanana, including a south alternate; Fairbanks, Alaska.

V-498 From McGrath, Alaska, 24 miles, 54 miles, 55 MSL, Galena, Alaska; 68 miles, 88 miles, 55 MSL, Kotzebue, Alaska.

V-504 From Nenana, Alaska; via Bettles, Alaska; Evansville, Alaska, NDB; to Deadhorse, Alaska.

V-508 From Middleton Island, Alaska, 56 miles, 58 miles, 85 MSL, Kenai, Alaska.

V-510 From McGrath, Alaska, INT McGrath 123° and Big Lake, Alaska, 294° radials; Big Lake.

V-515 From Gulkana, Alaska, via INT Gulkana 011° and Big Delta 139° radials: to Big Delta.

§71.127 **Hawaiian VOR Federal Airways.**

V-1 HAWAII From INT Upolu Point, Hawaii, 093° and Hilo, Hawaii 336° radials, INT Upolu Point 093° and Hilo 013° radials; Hilo.

V-2 HAWAII From South Kauai, Hawaii, Lihue, Hawaii, INT Lihue 130° and Honolulu, Hawaii, 269° radials; Honolulu; Lanai, Hawaii, including a south alternate; INT Lanai 106° and Upolu Point, Hawaii, 305° radials; Upolu Point; INT Upolu Point 093° and Hilo, Hawaii, 336° radials; Hilo. The airspace within R-3104 is excluded.

V-3 Hawaii From INT Kamuela, Hawaii, 245° and Upolu Point, Hawaii, 211° radials, Kamuela; INT Kamuela 068° and Hilo, Hawaii, 336° radials.

V-4 HAWAII From INT Lihue, Hawaii, 186° and Koko Head, Hawaii, 254° radials, 54 miles, 35 MSL, Koko Head; 15 miles, 25 MSL INT Koko Head 065° and Upolu Point, Hawaii, 002° radials.

V-5 Hawaii From Kona, Hawaii, INT Kona 338° and Maui, Hawaii, 179° radials, including a west alternate via INT Kona 323° and Maui 179° radials.

V-6 HAWAII From INT Molokai, Hawaii, 067° and Maui, Hawaii 331° radials, Maui; INT Maui 080° and Hilo, Hawaii, 336° radials; Hilo.

V-7 HAWAII From Kona, Hawaii, INT Kona 323° and Lanai, Hawaii, 140° radials; Lanai; Molokai, Hawaii.

V-8 HAWAII From INT Honolulu, Hawaii, 179° and Molokai, Hawaii, 262° radials, Molokai; 30 miles, 25 MSL INT Molokai 067° and Upolu Point, Hawaii, 010° radials.

V-9 HAWAII From INT Lanai, Hawaii, 223° and Honolulu, Hawaii, 179° radials, 78 mi. 35 MSL, Honolulu. The airspace above FL-300 within W-321B is excluded.

V-11 HAWAII From INT Kona, Hawaii, 323° and Upolu Point, Hawaii 211° radials; Upolu Point; INT Upolu Point 349° and Maui, Hawaii, 080° radials; Maui; INT Maui 331° and Molokai, Hawaii, 091° radials; Molokai; INT Molokai 262° and Honolulu, Hawaii, 179° radials.

V-12 HAWAII From INT Lihue, Hawaii, 195° and Honolulu, Hawaii, 269° radials, 38 miles, 35 MSL, Honolulu; Koko Head, Hawaii, 14 miles, 25 MSL INT Koko Head 050° and Maui, Hawaii, 012° radials.

V-13 HAWAII From Lihue, Hawaii, INT Lihue 145° and Honolulu, Hawaii, 269° radials; INT South Kauai, Hawaii, 133° and Koko Head, Hawaii 254° radials; Koko Head, 14 miles, 25 MSL, INT Koko Head 050° and Molokai 015° radial and the Honolulu FIR/Oceanic CTA.

V-14 HAWAII From INT South Kauai, Hawaii, 271° radial and longitude 161°20'00" W.; 50 MSL longitude 159°42'00" W.; South Kauai; INT South Kauai 133° and Koko Head, Hawaii, 254° radials; Koko Head.

V-15 HAWAII From INT South Kauai, Hawaii, 288° radial and longitude 161°15'00" W.; 50 MSL longitude 159°42'00" W.; South Kauai; Honolulu, Hawaii; Koko Head, Hawaii; Molokai, Hawaii, Maui, Hawaii; INT Maui 095° and Hilo, Hawaii, 336° radials; Hilo; to INT Hilo 099° radial and the Honolulu FIR/Oceanic CTA.

V-16 HAWAII From Honolulu, Hawaii, INT Honolulu 179° and Lanai, Hawaii, 285° radial; Lanai; Upolu Point, Hawaii; INT Upolu Point 108° and Hilo, Hawaii, 013° radials; Hilo.

V-17 HAWAII From INT Lanai, Hawaii, 106° and Maui, Hawaii, 197° radials; Maui.

AMENDMENTS 7/13/78 43 F. R. 21444 (Changed)

V-19 HAWAII From Hilo, Hawaii, to INT Hilo 013° and Maui, Hawaii, 086° radials.

V-20 HAWAII From Honolulu, Hawaii, INT Honolulu 134° and Kona, Hawaii, 308° radials; Kona.

V-21 HAWAII From INT Honolulu, Hawaii, 179° and Lanai, Hawaii, 285° radials; Lanai; INT Lanai 106° and Hilo, Hawaii, 033° radials; to INT Upolu Point 093° radial and the Honolulu FIR/Oceanic CTA. The airspace within R-3104 is excluded.

V-22 Hawaii From Maui, Hawaii, INT Maui 095° and Hilo, Hawaii, 321° radials; Hilo; to INT Hilo 078° radial and the Honolulu FIR/Oceanic CTA.

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V-23 HAWAII From Upolu Point, Hawaii; INT Upolu Point 277° and Honolulu, Hawaii, 134° radials.

V-24 HAWAII From Lanai, Hawaii; Maui, Hawaii; to INT Maui 086° radial and the Honolulu FIR/Oceanic CTA.

V-25 HAWAII From Hilo, Hawaii, to INT Hilo 356° radial and the Honolulu FIR/Oceanic CTA.

SUBPART D - CONTINENTAL CONTROL AREA

§ 71.151 Restricted areas included.

The airspace of the following restricted areas at or above 14,500 feet MSL and 1500 feet or more above the surface of the earth is continental control area:

R-2102 Fort McClellan, Ala.
R-2103 Fort Rucker, Ala.
R-2104A Huntsville, Ala.
R-2104B Huntsville, Ala.
R-2104C Huntsville, Ala.
R-2202A Big Delta, Alaska
R-2205 Yukon, Alaska
R-2211 Blair Lakes, Alaska
R-2301 Ajo, Arizona.
R-2303A Fort Huachuca, Arizona.
R-2303B Fort Huachuca, Arizona.
R-2304 Gila Bend, Arizona.
R-2305 Gila Bend, Arizona.
R-2306A Yuma West, Ariz.
R-2306B Yuma West, Ariz.
R-2306C Yuma West, Ariz.
R-2307 Yuma, Arizona
R-2308A Yuma East, Ariz.
R-2308B Yuma East, Ariz.
R-2401 Fort Chaffee, Ark.
R-2402 Fort Chaffee, Ark.
R-2403A Little Rock, Ark.
R-2403B Little Rock, Ark.
R-2501N Bullion Mountains, Calif.
R-2501S Bullion Mountains, Calif.
R-2501E Bullion Mountains, Calif.
R-2501W Bullion Mountains, Calif.
R-2502E Fort Irwin, Calif.
R-2502N Fort Irwin, Calif.
R-2503 Camp Pendleton, Calif.
R-2504 Camp Roberts, Calif.
R-2505 China Lake, Calif.
R-2507 Chocolate Mountains, Calif.
R-2508 California Complex.
R-2509 Cuddeback Dry Lake, Calif.
R-2510 El Centro, Calif.
R-2512 Holtville, Calif.
R-2513 Hunter-Liggett, Calif.
R-2515 Muroc Lake, Calif.
R-2519 Point Mugu, California
R-2521 Salton Sea, Calif.
R-2524 Trona, Calif.
R-2534A Point Arguello, Calif.
R-2534B Point Arguello, Calif.
R-2601 Fort Carson, Colo.
R-2602 Fort Carson, Colo.
R-2901B Avon Park, Fla.
R-2902A Cape Kennedy, Fla.
R-2903B Stevens Lake, Fla.
R-2907 Lake George, Fla.
R-2910 Pinecastle, Fla.
R-2914A Valparaiso, Fla.
R-2914B Valparaiso, Fla.
R-2915A Eglin AFB, Fla.
R-2915B Eglin AFB, Fla.
R-2915C Eglin AFB, Fla.
R-2918 Valparaiso, Fla.
R-2919A Valparaiso, Fla.
R-2919B Valparaiso, Fla.
R-2921 Cape Kennedy, Fla.
R-2922 Cape Kennedy, Fla.
R-2925 Cape Kennedy, Fla.
R-2926 Cape Kennedy, Fla.

R-2927 Cape Kennedy, Fla.
R-2928 Cape Kennedy, Fla.
R-3002F Fort Benning, Ga.
R-3004 Fort Gordon, Ga.
R-3005A Fort Stewart, Ga.
R-3005B Fort Stewart, Ga.
R-3202 Saylor Creek, Idaho
R-3401A Atterbury Reserve Forces Training Area, Ind.
R-3403 Jefferson Proving Ground, Ind.
R-3601A Brookville, Kans.
R-3602 Manhattan, Kans.
R-3701C Fort Campbell, Ky.
R-3702A Fort Campbell, Ky.
R-3702B Fort Campbell, Ky.
R-3703C Fort Campbell, Ky.
R-3704 Fort Knox, Ky.
R-3803A Fort Polk, La.
R-3803B Fort Polk, La.
R-3804A Fort Polk, La.
R-3804C Fort Polk, La.
R-4001A Aberdeen, Md.
R-4001B Aberdeen, Md.
R-4002 Bloodsworth Island, Md.
R-4005 Patuxent River, Md.
R-4006 Patuxent River, Md.
R-4105 No Man's Land Island, Mass.
R-4201 Camp Grayling, Mich.
R-4207 Upper Lake Huron, Mich.
R-4301 Camp Ripley, Minn.
R-4305 Lake Superior, Minn.
R-4401 Camp Shelby, Miss.
R-4501A Fort Leonard Wood West, Mo.
R-4803 Fallon, Nev.
R-4804 Twin Peaks, Nev.
R-4806 Las Vegas, Nev.
R-4808S Las Vegas, Nev.
R-4810 Desert Mountains, Nevada
R-4812 Sand Springs, Nev.
R-4813 Carson Sink, Nev.
R-4816N Dixie Valley, Nev.
R-4816S Dixie Valley, Nev.
R-5103 McGregor, N. Mex.
R-5104A Melrose, N. Mex.
R-5104B Melrose, N. Mex.
R-5107A White Sands Proving Grounds, N. Mex.
R-5107C White Sands Proving Grounds, N. Mex.
R-5107D White Sands Proving Grounds, N. Mex.
R-5107E White Sands Proving Grounds, N. Mex.
R-5107F White Sands Proving Grounds, N. Mex.
R-5107G White Sands Proving Grounds, N. Mex.
R-5109A White Sands, N. Mex.
R-5109B White Sands, N. Mex.
R-5111A Elephant Butte, N. Mex. (East)
R-5111B Elephant Butte, N. Mex. (West)
R-5113 Socorro, N. Mex.
R-5201 Fort Drum, N. Y.
R-5203 Oswego, N. Y.
R-5306A Cherry Point, N. C.
R-5306B Cherry Point, N. C.
R-5306C Cherry Point, N. C.
R-5306D Cherry Point, N. C.
R-5306E Cherry Point, N. C.
R-5311B Fort Bragg, N. C.
R-5313 Long Shoal Point, N. C.
R-5314 Dare County, N. C.
R-5502 La Carne, Ohio
R-5503 Wilmington, Ohio
R-5504 Wilmington, Ohio
R-5601B Fort Sill, Okla.
R-5601C Fort Sill, Okla.
R-5601D Fort Sill, Okla.
R-5701 Boardman, Oreg.
R-6001 Fort Jackson, S. C.
R-6302A Fort Hood, Texas
R-6302B Fort Hood, Texas
R-6302C Fort Hood, Texas
R-6302D Fort Hood, Tex.
R-6302E Fort Hood, Tex.
R-6402 Dugway Proving Ground, Dugway, Utah
R-6404A Hill AFB Rangs South, Utah
R-6404B Hill AFB Range North, Utah
R-6404C Hill AFB Range East, Utah

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R-6405 Wendover, Utah
R-6406 Wendover, Utah
R-6407 Dugway Proving Ground, Dugway, Utah
R-6413 Green River, Utah
R-6602 Camp Pickett, Va.
R-6604 Chincoteague Inlet, Va.
R-6606 Pendleton, Va.
R-6609 Tangier Island, Va.
R-6611 Dahlgren Complex, Va.
R-6613 Dahlgren Complex, Va.
R-6713C Whidbey Island, Wash.
R-6714A Yakima, Wash.
R-6714B Yakima, Wash.
R-6901 Camp McCoy, Wis.
R-6903 Sheboygan, Wis.
R-6904A Volk Field, Wis. AMENDMENTS 5/18/78 43 F. R. 11573 (Added)
R-6904B Volk Field, Wis. AMENDMENTS 5/18/78 43 F. R. 11573 (Added)
R-7001 Guernsey, Wyo.

SUBPART E - CONTROL AREAS AND CONTROL AREA EXTENSIONS

§ 71.161 **Designation of control areas associated with jet routes outside the continental control area.**

Unless otherwise specified, the airspace centered on each of the following jet route segments has a vertical extent identical to that of a Jet Route and a lateral extent identical to that of a Federal airway and is designated as a control area. Unless otherwise specified, the place names appearing in the descriptions indicate VOR or VORTAC facilities identified by those names.

Jet Route No. 37 From Hobby, Tex., to INT of Hobby 090° and New Orleans, La., 257° radials.

J-41 From Key West, Fla., to Tallahassee, Fla.

Jet Route No. 42 Robbinsville, N. J., to Hampton, N. Y.

J-43 From St. Petersburg, Fla., to Tallahassee, Fla.

Jet Route No. 53 from Key West, Fla., to Miami, Fla.

Jet Route No. 55 from Sea Isle, N. J., to Putnam, Conn.

Jet Route No. 58 from New Orleans, La., to Sarasota, Fla.

Jet Route No. 62 From Nantucket, Mass., to lat. 41°08'00"N., long. 67°00'00"W.

AMENDMENTS 5/18/78 43 F. R. 15415 (Changed)

Jet Route No. 79 From Ormond Beach, Fla., to Charleston, S. C.

Jet Route No. 86 From Humble, Tex., to Sarasota, Fla.

Jet Route No. 97 From Nantucket, Mass., to lat. 39°07'00"N., long. 67°00'00"W.

AMENDMENTS 5/18/78 43 F. R. 15415 (Changed)

Jet Route No. 103 From Ormond Beach, Fla., to Savannah, Ga.

Jet Route No. 111 From Nome, Alaska, to SNOUT INT.

Jet Route No. 115, King Salmon, Alaska, to 160° W.

Jet Route No. 121: Norfolk, Va., to Hampton, N. Y.; Providence, R. I., to INT of Providence 045° and Boston, Mass., 066° radials.

Jet Route No. 122, from Galena, Alaska, to Nome, Alaska.

Jet Route No. 123, From INT of Kodiak, Alaska, 107° radial and the NW boundary Anchorage Oceanic Control Area at latitude 57°28' N., longitude 150°32' W., to Kotzebue, Alaska.

Jet Route No. 125, From Kodiak, Alaska, to Anchorage, Alaska.

Jet Route No. 129, Nome, Alaska, to Kotzebue, Alaska.

Jet Route No. 133, From Biorka Island, Alaska, to Johnston Point, Alaska.

Jet Route No. 150 From Robbinsville, N. J., via Hampton, N. Y.; Hyannis, Mass.; to the INT of Hyannis 068° and Boston, Mass., 097° radials.

Jet Route No. 174 From Hampton, N. Y., via Hyannis, Mass., to HERIN INT.

Jet Route No. 501, from Oakland, Calif., to Anchorage, Alaska.

Jet Route No. 502, from the United States/Canadian border to Annette Island, AK.

Jet Route No. 573 from Providence, R. I., to Kennebunk, Maine

§ 71.163 **Designation of additional control areas.**

Unless otherwise specified, each control area designated below has a lateral extent identical to that of a Federal airway and extends upward from 700 feet (until designated from 1,200 feet or more) above the surface of the earth, except that the airspace of a control area within the lateral limits of a transition area has a floor coincident with the floor of the transition area.

Control 1141

That airspace extending upward from 2,000 feet MSL within tangent lines from the circumference of a 5-mile radius circle centered at lat. 42°23'23"N., long. 70°59'10"W., to a 15-mile radius circle centered on the midway point of a direct line between lat. 42°23'23"N., long. 70°59'10"W., and the Yarmouth, Nova Scotia, Canada, NDB (lat. 43°54'40"N., long. 66°06'12"W.), to a 5-mile radius circle centered on the Yarmouth NDB, excluding the airspace east of 67 degrees west longitude.

AMENDMENTS 11/2/78 43 F. R. 39750 (Rewritten)

Control 1142

That airspace within tangent lines drawn from the circumference of a 5-mile radius circle centered at latitude 42°21'30" N., longitude 70°41'25" W., to a 15-mile radius circle centered at latitude 42°02'00" N., longitude 68°00'00" W., and that airspace within lines drawn from latitude 42°16'00" N., longitude 68°00'00" W., thence to latitude 42°14'00" N., longitude 67°00'00" W., thence to latitude 41°52'00" N., longitude 67°00'00" W., thence to latitude 41°46'00" N., longitude 68°00'00" W., thence to latitude 42°16'00" N., longitude 68°00'00" W., excluding the portion within the Boston Transition area, the airspace below 5,500 feet MSL E of longitude 68°00'00" W.. and the airspace below 2,000 feet MSL W of longitude 68°00'00" W., except that airspace within the confines of Federal airways.

Control 1143

That airspace within tangent lines drawn from the circumference of a 5-mile radius circle centered on the Nantucket, Mass., RBN to a 15-mile radius circle centered at the midway point on a direct line between the Nantucket RBN and the Yarmouth, Nova Scotia, Canada, RBN to a 5-mile radius circle centered on the Yarmouth RBN excluding that portion below 2,000 feet except that airspace within the confines of Federal airways.

Control 1144

That airspace in the vicinity of Nantucket, Mass., within an area bounded by a line beginning at latitude 41°06'00" N., longitude 70°09'10" W., to latitude 41°25'35" N., longitude 70°09'35" W., to latitude 41°26'00" N., longitude 69°15'00" W., to latitude 41°46'00" N., longitude 68°00'00" W., to latitude 41°06'00" N., longitude 68°00'00" W., to the point of beginning, excluding the portion below 2,000 feet MSL except that airspace which lies within the confines of Federal airways.

Control 1145

That airspace within tangent lines drawn from the circumference of a 5-mile radius circle centered on the Nantucket, Mass., RBN to a 15-mile radius circle centered on the INT of a rhumb line between the Nantucket RBN and the Kindley AFB, Bermuda RBN and the W boundary of the New York Oceanic Control Area, excluding the portion below 2,000 feet except that airspace within the confines of Federal airway.

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Control 1146
That airspace within a 5 NM radius circle centered on the Nantucket, Mass., RBN and that airspace bounded by a line drawn from the tangent of the 5 NM radius circle centered on Nantucket RBN to latitude 42°05'20" N., longitude 68°00'00" W., thence to latitude 42°19'00" N., longitude 68°00'00" W., thence to latitude 43°00'00" N., longitude 67°00'00" W., thence to latitude 41°52'00" N., longitude 67°00'00" W., thence to latitude 41°46'00" N., longitude 68°00'00" W., thence to the tangent of the 5 NM radius circle centered on the Nantucket RBN excluding that airspace outside the United States below 2,000 feet MSL W of longitude 68°00'00" W., and below 5,500 feet MSL E of longitude 68°00'00" W.

Control 1147
That airspace within tangent lines drawn from the circumference of a 5-mile radius circle centered at Lat. 40°18'30" N, Long. 73°45'00" W, to the circumference of a 15-mile radius circle centered at the INT of the 137° bearing from the Newark, N. J., RBN and the W boundary of the New York Oceanic Control Area, and that airspace bounded by a line beginning at latitude 40°02'15" N., longitude 73°13'45" W.; to latitude 40°05'45" N., longitude 73°09'15" W.; to latitude 39°26'35" N., longitude 72°24'25" W.; to the point of beginning. That airspace below 2,000 feet outside the confines of Federal airways is excluded.

PENDING AMENDMENT
Under Control 1147 "INT of the 137° bearing from the Newark, N. J., RBN" is deleted and "INT of the 137° bearing from the PROGRESS, N. J., RBN" is substituted therefor.

AMENDMENTS 12/28/78 43 F. R. 51006 (Changed)

Control 1148
That airspace within tangent lines drawn from the circumference of 5-mile radius circles centered on the Rainbow, N. J., RBN and at the INT of Rainbow RBN 135° bearing and the Atlantic Ocean-U. S. Coastline to a 15-mile radius circle centered on the INT of Rainbow RBN 135° bearing and the west boundary of the New York Oceanic Control area at latitude 37°43'00" N., longitude 73°00'00" W., and that airspace which is within 5 miles southwest of and parallel to the Sea Isle, N. J., VORTAC 134° radial, extending from Sea Isle to a point 40 miles southeast of Sea Isle. That airspace below 2,000 feet outside the United States is excluded.

Control 1149
That airspace within tangent lines drawn from the circumference of a 5-mile radius circle centered on the Norfolk, Va., VORTAC 088° radial at Long. 75° 32' 00" W. to the circumference of a 15-mile radius circle centered on the Norfolk, Va., VORTAC 088° radial on the west boundary of the New York Oceanic Control Area at Lat. 36° 57' 30" N., Long. 73° 00' 00" W., excluding the portion below 2,000 feet MSL outside the United States.

Control 1154
That airspace extending upward from 5,000' MSL bounded on the east by VOR Federal airway No. 199; on the south by a line extending from latitude 38°03'25" N., longitude 123°11'45" W.; to latitude 38°00'00" N., longitude 123°23'00" W.; to latitude 37°50'00" N., longitude 124°24'30" W.; to latitude 37°40'00" N., longitude 125°23'30" W.; on the west by the Oakland Oceanic Control Area; and on the north by a line extending from latitude 38°50'00" N., longitude 126°11'05" W.; to latitude 38°52'00" N., longitude 125°52'30" W.; to latitude 39°00'00" N., longitude 123°56'30" W.; to latitude 39°02'55" N., longitude 123°22'00" W.

Control 1155
That airspace extending upward from 5,000 feet MSL within 5 miles each side of the San Luis Obispo, Calif., VORTAC 242° radial, including the additional airspace within lines diverging at angles of 5° from the centerline at the VORTAC, extending from the U. S. coastline to the Oakland Oceanic CTA/FIR boundary.

Control 1156
That airspace extending upward from 5,000 feet MSL within 5 miles each side of the Mission Bay, Calif., VORTAC 262° radial, including the additional airspace within lines diverging at angles of 5° from the centerline at the VORTAC, extending from the VORTAC to its intersection with Control 1177.

Control 1169
That airspace within 5 miles either side of a line extending from the Kennedy, N. Y., VORTAC via the INT of the Kennedy VORTAC 080° and the Nantucket, Mass., VORTAC 255° radials, to the Nantucket VORTAC and within lines diverging from the Kennedy VORTAC to points of tangency to a 9.5-mile radius circle centered at the INT of the Kennedy VORTAC 080° and the Nantucket VORTAC 255° radials; within the circumference of the circle and within lines tangent to that circle converging to the Nantucket VORTAC, excluding the airspace below 2,000 feet MSL outside the United States.

Control 1173
That airspace W of San Francisco, Calif., bounded by a line extending from latitude 37°40'00" N., longitude 125°23'30" W., to latitude 37°50'00" N., longitude 124°24'30" W., to latitude 38°00'00" N., longitude 123°23'00" W., to latitude 38°03'25" N., longitude 123°11'45" W., thence via the W edge of V-199 and V-27 to latitude 37°09'20" N., longitude 122°34'50" W., to latitude 36°16'00" N., longitude 121°26'00" W., to the point of beginning, excluding the portion below 2,500 feet MSL. The portion within W-513 is excluded between the hours of 0800 and 2000 p.s.t., Monday through Friday, and below 3,000 feet MSL within W-513 between the hours of 2000 and 0800 p.s.t., Monday through Friday.

Control 1176
That airspace extending upward from 2,000 feet MSL, within lines 5 miles each side of the Santa Barbara, Calif., VORTAC 247° radial, including the additional airspace between lines beginning adjacent to the VORTAC and diverging at angles of 5° from the parallel lines, extending from the VORTAC to the east boundary of the Oakland Oceanic Control Area, excluding the portion east of longitude 120°30'00" W.

Control 1177
That airspace SW of Los Angeles, Calif., bounded by a line beginning at Lat. 33°25'50" N. Long. 118°28'50" W. thence to Lat. 33°19'00" N. Long. 118°21'45" W. thence to Lat. 32°44'30" N. Long. 119°07'00" W. thence to Lat. 31°41'00" N. Long. 120°15'00" W. thence to Lat. 31°18'40" N. Long. 121°11'30" W. thence to Lat. 31°54'00" N. Long. 121°34'30" W. thence to Lat. 32°10'45" N. Long. 120°16'15" W. thence to Lat. 32°52'15" N. Long. 119°12'30" W. thence to point of beginning excluding the airspace below 5,000 feet MSL.

Control 1181
That airspace within tangent lines drawn from the circumference of a 5-mile radius circle centered on the Weeksville, N.C., RBN to a 10-mile radius circle centered on the INT of the 133° bearing from the Weeksville RBN and the W boundary of the New York Oceanic Control Area, excluding the portion below 2,000 feet which extends outside the United States.

Control 1217
That airspace within tangent lines drawn from the circumference of a 5 mile-radius circle centered on the Woody Island, Alaska, RBN to the circumference of a 10-mile radius circle centered at the INT of the 107° bearing from the Woody Island RBN with the NW boundary of the Anchorage Oceanic Control Area. The airspace below 2,000 feet MSL outside the United States is excluded.

Control 1218
That airspace within tangent lines drawn from the circumference of a 5-mile radius circle centered on the Kachemak, Alaska, RBN to the circumference of a 10-mile radius circle centered at the INT of the 118° bearing from the Kachemak RBN with the NW boundary of the Anchorage Oceanic Control Area.

Control 1234
That airspace extending upward from 2,000 feet above the surface within an area bounded by a line beginning at: latitude 58°07'00" N., longitude 160°00'00" W.; to latitude 53°30'00" N., longitude 160°00'00" W.; to latitude 51°24'00" N., longitude 167°49'00" W.; to latitude 50°08'00" N., longitude 176°34'00" W.; to latitude 51°05'00" N., longitude 173°44'00" E.; to latitude 51°30'00" N., longitude 170°00'00" E.; to latitude 54°40'40" N., longitude 170°00'00" E.; to latitude 54°49'00" N., longitude 170°12'30" E.; to latitude 54°23'00" N., longitude 174°30'00" E.; to latitude 53°36'00" N., longitude 176°47'00" W.; to latitude 54°33'00" N., longitude 169°58'00" W.; to latitude 56°39'00" N., longitude 164°25'00" W.; to latitude 57°46'00" N., longitude 161°46'00" W.; thence to point of beginning. The portion within R-2204 is excluded.

Control 1235
That airspace extending upward from 14,500 feet MSL to FL 450 within the area bounded by a line beginning at latitude 53°30'00" N., longitude 160°00'00" W.; to latitude 56°00'00" N., longitude 153°00'00" W.; to latitude 59°09'00" N., longitude 147°18'00" W.; thence clockwise via the arc of a 172-mile radius circle centered on the Anchorage, Alaska, VORTAC to latitude 58°50'00" N., longitude 151°58'00" W.; thence clockwise via the arc of a 172-mile radius circle centered on the King Salmon, Alaska, VORTAC to longitude 160°00'00" W.; thence to point of beginning, excluding the portion that lies within the Continental Control Area, Control 1217, Control 1218, Federal airways and the Kodiak, Alaska, transition area.

Control 1236
That airspace extending upward from 14,500 feet MSL to FL 450 within the area bounded by a line beginning at: latitude 60°00'00" N., longitude 170°00'00" W.; to latitude 61°00'00" N., longitude 165°00'00" W.; to latitude 60°00'00" N., longitude 164°00'00" W.; to latitude 60°00'00" N., longitude 160°00'00" W.; to latitude 57°00'00" N., longitude 160°00'00" W.; to latitude 60°00'00" N., longitude 168°00'00" W.; thence to the point of beginning, excluding the portion that lies within the Continental Control Area, Control 1234, Control 1483 and Control 1400.

Control 1238
That airspace extending upward from 14,500 feet MSL to FL 450 within an area bounded by a line beginning at latitude 60°57'00" N., longitude 165°17'00" W.; along the northern boundary of Control 1236 to latitude 60°17'00" N., longitude 168°42'00" W.; thence to latitude 62°35'00" N., longitude 175°00'00" W.; thence to latitude 65°00'00" N., longitude 168°58'23" W.; thence to latitude 68°00'00" N., longitude 168°58'23" W.; along the southern boundary of Control 1485 to latitude 68°00'00" N., longitude 165°30'00" W.; thence by a line 3 nautical miles from and parallel to the shoreline to the point of beginning, excluding that portion that lies within Continental Control Area, control areas, and transition areas at Nome and Kotzebue, Alaska.

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Control 1310
That airspace within 4 nautical miles each side of a direct line extending from the Anchorage, Alaska, VORTAC to the Middleton Island, Alaska, VORTAC, including the additional airspace between lines diverging at 4.5° angles from the centerline, extending SE from the Anchorage VORTAC and NW from the Middleton Island VORTAC and which terminate at the intersecting points midway between Anchorage and Middleton Island; thence within 16 miles each each side of a line extending from the Wessels, Alaska, RBN to the Sandspit, British Columbia, Canada, RBN; including that airspace between lines diverging at 5° angles from the centerline, extending southeast from the Wessels, Alaska, RBN and northwest from the Sandspit RBN, and which terminate at the intersecting points midway between Wessels and Sandspit, excluding the portion within Canada, and the airspace below 2,000 feet MSL outside the United States.

Control 1316
That airspace within 5 miles each side of the Los Angeles, Calif., VOR 264° radial extending from the VOR to the Oakland Oceanic Control Area boundary and between lines diverging at an angle of 5° from the 264° radial extending from the Los Angeles VOR to the Oakland Oceanic Control Area boundary, excluding the airspace below 5,000 feet MSL within W-289.

Control 1318
That airspace within 5 miles each side of the Los Angeles, Calif., VORTAC 249° radial extending from the VORTAC to the Wilba Fix (lat. 32°41'00"N., long. 122°03'00"W.) and between lines diverging at an angle of 5° from the 249° radial extending from the Los Angeles VORTAC to the Wilba Fix, excluding the airspace below 6,000 feet MSL within W-289.

Control 1400
That airspace within 5 miles each side of the 262° bearing from King Salmon, Alaska, LOM extending from the LOM to the Anchorage CTA/FIR boundary, and between lines diverging at an angle of 5° from the King Salmon LOM 262° bearing extending from the LOM to the Anchorage CTA/FIR boundary, excluding the airspace below 2,000 feet MSL outside the United States.

Control 1401
That airspace within 5 miles each side of the 246° bearing from the King Salmon, Alaska, LOM extending from the LOM to long. 160°00'00" W., and between lines diverging at an angle of 5° from the King Salmon, LOM 246° bearing extending from the LOM to long. 160°00'00" W., excluding the airspace below 2,000 feet MSL outside the United States.

Control 1415
That airspace within parallel boundary lines 4 nmi each side of the Fortuna, Calif., VOR 270° radial including the additional airspace within lines diverging at angles of 4.5° from the centerline extending to the E boundary of the Oakland Oceanic Control Area, excluding the portion below 5,000 feet MSL W of longitude 124°30'00" W.

Control 1416
That airspace within 5 miles each side of the Fortuna, Calif., VORTAC 326° radial and the additional area between lines diverging at angles of 5° each side of the 326° radial, extending from the VORTAC to the Gateway Hemlock INT, excluding the airspace below 5,000 feet MSL which lies outside the continental limits of the United States.

Control 1418
That airspace extending upward from 2,000 feet MSL centered on the Hoquiam, Wash., VORTAC 232° radial, 10 nmi in width at the VORTAC with each edge diverging at an angle of 5° with the centerline, extending from the VORTAC to the E boundary of the Oakland Oceanic Control Area.

Control 1419
That airspace extending upward from 2,000 feet MSL within lines 5 miles each side of the Newport, Oreg., VORTAC 237° radial, including the additional airspace between lines beginning adjacent to the VORTAC and diverging at angles of 5° from the parallel lines, extending from the VORTAC to the E boundary of the Oakland Oceanic control area, excluding the portion within the Newport, Oreg., transition area.

Control 1483
That airspace within 5 miles each side of the 237° bearing from the Oscarville, Alaska, RBN; extending from the
RBN to the E boundary of the Anchorage Oceanic Control Area, and between lines diverging at a 5° angle from the 237° bearing extending from the Oscarville RBN to the E boundary of the Anchorage Oceanic Control area and excluding the airspace below 2,000 feet MSL outside the United States.

Control 1485
That airspace extending upward from FL-230 bounded by a line beginning at latitude 68°00'00" N., longitude 168°58'23" W.; to latitude 72°00'00" N., longitude 158°00'00" W.; to latitude 72°00'00" N., longitude 141°00'00" W.; to latitude 68°00'00" N., longitude 141°00'00" W.; to the point of beginning.

Control 1486
That airspace within 5 miles each side of the Ukiah, Calif., VOR 300° radial and the additional area between lines diverging at angles of 5° either side of the 300° radial extending from the VOR to the eastern boundary of the Seattle Oceanic Control Area; excluding the airspace below 5,000 feet MSL which lies outside the continental limits of the United States.

Control 1487
That airspace extending upward from 14,500 feet MSL; to FL 450, within the area bounded by a line beginning at latitude 59°08'30" N., longitude 147°16'00" W., counterclockwise via the arc of a 172-mile radius centered on the Anchorage VORTAC to latitude 60°14'10" N., longitude 145°29'30" W., thence southeastward 3 nmi from and parallel to the U. S. coastline to latitude 54°40'00" N., longitude 132°56'00" W., thence to latitude 54°14'00" N., longitude 134°57'00" W., thence along the eastern boundary of the Anchorage Oceanic control area to the point of beginning. The portion within Control 1310 and the portion within Canada is excluded.

Barnegat, N. J.
That airspace extending upward from 700 feet MSL beginning at lat. 39°40'00"N., long. 73°29'00"W.; to lat. 39°40'00"N., long. 72°50'00"W.; to lat. 39°34'00"N., long. 72°50'00"W.; thence along lat. 39°34'00"N., to the northeast edge of Control 1147; southeast along the northeast edge of Control 1147 to lat. 39°19'00"N.; thence to lat. 38°33'00"N., long. 73°08'00"W.; west along lat. 38°33'00"N., to the northeast edge of Control 1148; thence northwest along the northeast edge of Control 1148 to long. 73°50'00"W.; to lat. 38°58'00"N., long. 73°50'00"W.; to lat. 38°58'00"N., long. 73°13'00"W.; to lat. 39°09'00"N., long. 73°13'00"W.; to lat. 39°09'00"N., long. 73°29'00"W.; to point of beginning; and that airspace extending upward from 1,200 feet MSL bounded on the northeast by the southwest boundary of
Control 1147, on the southeast by the New York Oceanic CTA/FIR, on the southwest by the northeast boundary of Control 1148, on the northwest by the east boundary of Victor Airway 139, on the north by latitude 39°44'00"N. The portion within North Atlantic Control Area is excluded.

AMENDMENTS 5/18/78 43 F. R. 15415 (Changed)

Boardman, Oreg.
That airspace extending upward from 1200 AGL bounded on the northeast by the southwest edge of V-4, on the southeast and the southwest by the north edge of V-112, and on the northwest by the southeast edge of V-520; excluding the portion within Restricted Area R-5704 during its published hours of designation.

Bozeman, Mont.
From Bozeman, Mont., VOR, 10,700 MSL Livingston, Mont., VORTAC.

Browerville/Barter Island, Alaska
From the Browerville, Alaska, RBN, 12 AGL Lonely, Alaska, RBN; 12 AGL Oliktok, Alaska, RBN; 12 AGL Put River, Alaska, RBN; 12 AGL Barter Island, Alaska, RBN.

Brunswick, Maine
That airspace extending upward from 2,000 feet MSL W of longitude 69°30'00" W. and from 5,500 feet MSL E of longitude 69°30'00" W., bounded on the W and N by the Portland, Maine, and the Bangor, Maine, transition areas; on the E by the W boundary of the Moncton Flight Information Region; on the S by the N boundary of Control 1141; and on the SW between latitude 42°40'10" N., longitude 70°30'00" W., and latitude 42°45'00" N., longitude 70°37'00" W., by a line 3 nautical miles from and parallel to the U. S. shoreline.

Colville, Wash.
That airspace extending upward from 7,000 feet MSL bounded on the north by the United States/Canadian border, on the east by the west edge of V-112, on the south by lat. 48°00' N., and on the west by long. 119°00' W., excluding the Spokane, Wash., transition area. That airspace below 1,200 feet AGL is excluded.

Gulf of Alaska
From lat. 60°09'00"N., long. 144°30'00"W., thence eastward 3 NM offshore and parallel to the shoreline to lat. 59°43'30"N., long. 140°00'00"W., to lat. 59°27'00"N., long. 140°00'00"W., thence westward along the south boundary of V-440 to long. 144°30'00"W., to point of beginning, excluding that portion that lies within transition areas at Yakataga and Yakutat, Alaska. The portion within Control 1487 is excluded.

Gulf of Mexico
That airspace extending upward from 1,200 feet MSL bounded by a line beginning at a point 3 nautical miles offshore at latitude 25°58'30" N., longitude 97°05'20" W., thence northward 3 nautical miles from and parallel to the shoreline to latitude 27°32'00" N., longitude 82°48'00" W., to latitude 27°43'00" N., longitude 83°45'30" W., to latitude 27°35'00" N., longitude 83°45'00" W., thence west along the north boundary of the Miami and Houston Oceanic Control Area to latitude 26°00'00" N., longitude 96°00'00" W., to point of beginning; excluding that airspace east of Corpus Christi, Tex., beginning at a point 3 nautical miles offshore at latitude 27°49'00" N., thence to latitude 27°45'30" N., longitude 96°51'00" W., to latitude 27°28'20" N., longitude 96°45'30" W., to latitude 27°14'30" N., longitude 96°55'30" W., to latitude 27°23'00" N., longitude 97°06'00" W., to a point 3 nautical miles offshore at latitude 27°11'20" N.

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Kirksville, Mo.
From Kirksville, Mo., VORTAC 12 AGL to Moline, Ill., VORTAC, and from Kirksville VORTAC 45 MSL to St. Louis, Mo., VORTAC.

Lakeview, Oreg.
That airspace extending upward from 10,500 feet MSL bounded on the north by latitude 44°00" N., on the east by a line extending from latitude 44°00" N., longitude 120°00" W., to the north edge of V-122 at longitude 119°00" W., on the south by the north edge of V-122, and on the west by the east edge of V-165.

Newport, Oreg.
That airspace extending upward from 5,000 feet MSL bounded on the north by the Vancouver Oceanic Control boundary, on the east by a line beginning at Lat. 48°30'00"N., Long. 124°44'00"W., thence extending southward 3 nautical miles west of and parallel to the shoreline, thence via the west edge of V-27W and V-27 to the Oakland ARTCC Flight Advisory Area, on the south by the Oakland ARTCC Flight Advisory Area, and on the west by the Oakland Oceanic Control boundary.

North Atlantic
That airspace extending upward from 2,000 feet MSL bounded on the south by the South Atlantic control area; on the west along a line 3NM east of and parallel to the U. S. shoreline; on the north by lat. 41°40'00"N.; on the east by a line from lat. 41°40'00"N., long. 67°00'00"W.; to lat. 39°00'00"N., long. 67°00'00"W.; to lat. 38°35'00"N., long. 68°53'00"W.; to lat. 38°20'00"N., long. 69°57'00"W.; to lat. 37°31'00"N., long. 71°41'00"W.; to lat. 37°15'00"N., long. 73°00'00"W.; and the New York Oceanic CTA/FIR.

AMENDMENTS 5/18/78 43 F. R. 15415 (Added)

Omak, Wash.
That airspace extending upward from 5500 feet MSL within 5 miles each side of a line extending from the Omak RBN to the Ephrata VOR; that airspace extending upward from 8500 feet MSL bounded on the north by the U.S./Canadian border, on the east by longitude 119°00' W., on the south by latitude 48°00' N., and on the west by a line from latitude 48°00' N., longitude 120°30' W.; to latitude 49°00' N., longitude 120°00' W., excluding that airspace below 1200 feet AGL.

Olympic Peninsula, Wash.
That airspace extending upward from 5,500 feet MSL beginning at lat. 48°14' N., long. 124°45' W., to lat. 48°00' N., long. 124°07' W., to lat. 47°38' N., long. 123°40' W., to lat. 47°15' N., long. 123°40' W., to lat. 47°07' N., long. 124°11' W., to lat. 47°30' N., long. 124°21' W., to lat. 48°00' N., long. 124°45' W., to point of beginning. That airspace below 1,200 feet AGL is excluded.

Ottumwa, Iowa
From the Ottumwa, Iowa, VORTAC 12 AGL 26 miles, 50 MSL to Kansas City, Mo., VORTAC.

Rattlesnake, Wyo.
That airspace extending upward from 8,500 feet MSL bounded on the north by V-298S, on the east by Casper, Wyo., 1,200-foot transition area, on the south and southwest by a line 4 NM south and southwest and parallel to the Casper ILS west course and Riverton, Wyo., VOR 099° radial and on the west by the Riverton, Wyo., 1,200-foot transition area.

San Francisco, Calif.
That airspace extending upward from 5,000 feet MSL bounded on the north by the Seattle ARTCC flight advisory area, on the east by the west edge of V-27W and V-199 to a point 3 nautical miles offshore, then via a line 3 nautical miles west of and parallel to the shoreline, on the south by the Santa Barbara Control Area and on the west by the Oakland Oceanic CTA/FIR boundary.

Santa Barbara, Calif.
That airspace extending upward from 5,000 feet MSL bounded on the northwest by a line extending from lat. 34°30'00" N., long. 123°15'00" W., to lat. 35°26'30" N., long. 121°03'40" W., on the northeast by a line 3 nautical miles southwest of and parallel to the shoreline, on the southeast by a line 5 nautical miles southeast of and parallel to the Santa Catalina 048° and 228° true radials and the northwest boundary of Warning Area W-291, and on the southwest by the Oakland Oceanic CTA/FIR boundary.

Sault Ste. Marie, Mich.
That airspace extending upward from 1,200 feet AGL within 4 nautical miles each side of a direct line extending from the Thunder Bay, Ontario, Canada, RBN to the Sault Ste. Marie, Mich., RBN, including the additional airspace between lines diverging at 4.5° from the centerline at the Thunder Bay and Sault Ste. Marie RBNS and extending until they meet. Also that airpsace
extending upward from 1,200 feet AGL in an area bounded by a line beginning at lat. 46°48'45" N., long. 84°33'00" W., to lat. 46°33'00" N., long. 85°01'40" W., to lat. 47°00'00" N., long. 86°25'30" W., to lat. 47°19'40" N., long. 86°10'10" W., thence to the point of beginning. The airspace within Canada is excluded.

Sidney, Mont.
That airspace extending upward from 1,200 feet AGL within 4 nautical miles each side of a direct line extending from latitude 47°41'00" N., longitude 104°06'15" W., to latitude 48°06'45" N., longitude 105°36'00" W.

South Atlantic
That airspace extending upward from 2,000 feet MSL, bounded on the south by latitude 24°00'00" N., and 27°00'00" N.; on the west and northwest by Control 1233, by a line from latitude 24°34'30" N., longitude 80°50'15" W., to latitude 24°45'45" N., longitude 80°48'15" W., and by a line 3 NM from and parallel to the shoreline; and on the northeast and east by Control 1181 and the New York and Miami Oceanic CTA/FIR.

South Florida
That airspace extending upward from 2,000 feet MSL bounded by a line beginning at lat. 27°32'00" N.. long. 82°48'00" W., thence southward 3 nautical miles from and parallel to the shoreline to lat. 24°45'40" N., long. 80°48'20" W.; to lat. 24°00'00" N., long. 80°56'30" W.; to lat. 24°00'00" N., long. 83°10'00" W.; to lat. 27°35'00" N., long. 83°45'00" W.; to lat. 27°43'00" N., long. 83°45'00" W.; thence to point of beginning.

Zuni, N. Mex.
From the Zuni, N. Mex., VORTAC 12,500 feet MSL to INT of Zuni VORTAC 226° and St. Johns, Ariz., VORTAC 247° radials.

71.165 Designation of control area extensions.
Unless otherwise specified, each control area extension designated below extends upward from 700 feet above the surface of the earth, except that the airspace of a control area extension within the lateral limits of a transition area has a floor coincident with that of the transition area.

Eniwetok Island
That airspace extending upward from 700 feet above the surface within a 50-nmi radius of the Eniwetok RBN (Lat. 11°21'00" N., Long. 162°20'00" E).

SUBPART F - CONTROL ZONES

§ 71.171 Designation.
The parts of airspace described below are designated as control zones.

Abbotsford, British Columbia, Canada
That airspace within the area
bounded by a line beginning 48°57'30"N; 122°21'43"W, thence counter-clockwise along the arc of a circle of 4 nautical miles radius centered on the Abbotsford airport at 49°01'32"N: 122°21'43"W. to 49°02'00"N: 122°27'40"W, to 49°02'00"N; 122°33'45"W, to 48°57'30"N; 122°33'45"W, thence to the point of beginning excluding the airspace overlying the territory of Canada.

Aberdeen, Md.
Within a 5-mile radius of the center, lat. 39°28'00"N., long. 76°10'00"W., of Phillips AAF; within 4.5 miles each side of a 029° bearing from the Aberdeen, Md., RBN, extending from the RBN to 8.5 miles northeast of the RBN; within 3.5 miles each side of the Phillips VOR 033° radial, extending from the VOR to 11.5 miles northeast of the VOR. This control zone is effective from 0800 to 1630 hours, local time, Monday through Friday, excluding Federal legal holidays.

Aberdeen, S. Dak.
Within a 5-mile radius of Aberdeen Municipal Airport (latitude 45°27'00" N., longitude 98°25'00" W.) and within 3 miles each side of the Aberdeen VORTAC 131° radial, extending from the 5-mile radius zone to 8 miles southeast of the VORTAC; within 2 miles each side of the Aberdeen VORTAC 312° radial, extending from the 5-mile radius zone to 9 miles northwest of the VORTAC. This control zone is effective during specific dates and times as established in advance by a Notice to Airmen. The effective date and time, thereafter, will be continuously published in the Airport/Facility Directory.

AMENDMENTS 7/13/78 43 F. R. 21443 (Changed)

Abilene, Tex. (Municipal Airport)
Within a 5-mile radius of Abilene Municipal Airport (latitude 32°24'42" N., longitude 99°40'53" W.); within 2.5 miles west and 3 miles east of the Abilene ILS localizer north course, extending from the 5-mile radius zone to 6.5 miles north of the airport; within 2.5 miles west and 3 miles east of the Abilene ILS localizer south course extending from the 5-mile radius zone to 7.5 miles south of the airport; and within 2 miles each side of the Abilene VORTAC 112° radial, extending from the 5-mile radius zone to the VORTAC, excluding the portion within the Abilene, Tex. (Dyess AFB), control zone.

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Abilene, Tex. (Dyess AFB)
That airspace within a 5-mile radius of Dyess AFB (latitude 32°25'10" N., longitude 99°51'15" W.); within 2 miles each side of the Dyess ILS localizer S course; extending from the 5-mile radius zone to 8.5 miles S of the 5-mile radius zone; within 2 miles each side of the Tuscola VOR 350° radial, extending from the 5-mile radius zone to 2 miles N of the VOR; and within 2 miles each side of the Abiline VORTAC 353° radial, extending from the 5-mile radius zone to 8 miles northeast of the VORTAC.

Adak, Alaska
Within a 5-mile radius of the NS Adak Airport (latitude 51°52'59" N., longitude 176°38'54" W.); within 2 miles each side of the 054° bearing from the Adak RBN, extending from the 5-mile radius zone to 8 miles northeast of the RBN, and within 2 miles each side of the Navy Adak TACAN 067° radial, extending from the 5-mile radius zone to 8 miles northeast of the TACAN.

Akron, Colo.
Within a 5-mile radius of Akron-Washington County Airport (latitude 40°10'30" N., longitude 103°12'45" W.) and within 4 miles each side of the Akron VORTAC 123° radial, extending from the 5-mile radius zone to 11 miles southeast of the VORTAC.

AMENDMENTS 9/7/78 43 F. R. 37681 (Changed)
AMENDMENTS 11/2/78 43 F. R. 49978 (Changed)

Akron, Ohio (Akron-Canton Airport)
Within a 5.5-mile radius of the center, lat. 40°54'58" N., long. 81°26'32" W. of Akron-Canton Airport, Akron, Ohio, excluding the portion subtended by a chord drawn between the points of INT of the 5.5-mile radius zone with the Akron, Ohio (Akron Municipal Airport), control zone.

Akron, Ohio (Akron Municipal Airport)
Within a 5.5-mile radius of the center, lat. 41°02'18" N., long. 81°28'01" W. of Akron Municipal Airport, Akron, Ohio, excluding the portion subtended by a chord drawn between the points of INT of the 5.5-mile radius zone with the Akron, Ohio (Akron-Canton Airport), control zone.
This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directorv.

Alameda, Calif.
Within a 5-mile radius of NAS Alameda (Lat. 37°47'10" N, Long. 122°19'00" W), excluding the portion subtended by a chord drawn between the points of INT of this radius with the radius of the Oakland, Calif., control zone.

Alamogordo, N. Mex.
Within a 5-mile radius of the Holloman Air Force Base Airport (latitude 32°51'04" N., longitude 106°06'05" W.); within 2 miles each side of the Holloman VOR 015° radial extending from the 5-mile radius zone to 8 miles north of the VOR; within 2 miles each side of the extended centerline of Runway 3 extending from the 5-mile radius zone to 4.5 miles northeast of the northeast end of Runway 3; within 2 miles each side of the extended centerline of Runway 15 extending from the 5-mile radius zone to 4.5 miles south of the south end of Runway 15; within 2 miles each side of the extended centerline of Runway 21 extending from the 5-mile radius zone to 4.5 miles southwest of the southwest end of Runway 21; within 2 miles each side of the Holloman TACAN 349° radial extending from the 5-mile radius zone to 17.5 miles north of the TACAN; and within 2 miles each side of the VOR 350° radial extending from the 5-mile radius zone to 8 miles north of the VOR; excluding that portion within a 2-mile radius of the Alamogordo Municipal Airport (latitude 32°50'27" N., longitude 105°59'17" W.) and within a 2-mile radius of the Midway Airport (latitude 32°52'04" N., longitude 105°59'26" W.). The portion of this control zone within R-5107D extends upward to 22,000 feet MSL.
This control zone will be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 14443 (Changed)

Alamosa, Colo.
Within a 5-mile radius of Alamosa Municipal Airport (lat. 37°26'15"N., long. 105°51'40"W.) within 3.5 miles each side of the Alamosa VORTAC 127° and 335° radials extending from the 5-mile radius zone to 11.5 miles southeast of the VORTAC. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 3/23/78 43 F. R. 3082 (Rewritten)
AMENDMENTS 5/18/78 43 F. R. 18550 (Changed)

Albany, Ga. (Albany-Dougherty County Airport)
Within a 5-mile radius of Albany-Dougherty County Airport (lat. 31°32'07" N., long. 84°11'41" W.); within 2.5 miles each side of Albany VORTAC 143° radial, extending from the 5-mile radius zone to 1 mile southeast of the VORTAC.

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Albany, N. Y.
Within a 5-mile radius of the center 42°44'43"N., 73°48'05"W., of Albany County Airport, Albany, N. Y.; within 3 miles each side of the Albany VORTAC 354° radial, extending from the 5-mile radius zone to 8.5 miles north of the VORTAC; within 4 miles each side of the Albany VORTAC 082° radial, extending from the 5-mile radius zone to 15 miles east of the VORTAC; within 2 miles each side of the extended centerline of Albany County Airport Runway 10; extending from the 5-mile radius zone to 5 miles west of the approach end of Runway 10; within 3 miles each side of the Albany VORTAC 181° radial, extending from the 5-mile radius zone to 8.5 miles south of the VORTAC.

Albuqueruqe, N. Mex.
Within a 5-mile radius of Albuquerque International Airport (latitude 35°02'42" N., longitude 106°36'02" W.); within 2 miles each side of the extended centerline of Runway 35, extending from the 5-mile radius zone to 5.5 miles north of the airport coordinates; within 2 miles east and 3.5 miles west of the extended centerline of runway 17, extending from the 5-mile radius zone to 6 miles south of the airport coordinates; and within 2 miles each side of the Albuquerque VORTAC 090° radial, extending from the 5-mile radius zone to the VORTAC

Alexandria, La. (England AFB)
That airspace within a 5-mile radius of England AFB (latitude 31°19'40" N., longitude 92°33'05" W.); within 2 miles each side of the 318° bearing from the England RBN, extending from the 5-mile radius zone to the RBN; within 2 miles each side of the Alexandria VORTAC 151° and 331° radials, extending from the 5-mile radius zone to 1.5 miles southeast of the VORTAC; within 2 miles each side of the Alexandria VORTAC 327° radial, extending from the 5-mile radius zone to 11.5 miles northwest of the VORTAC; within 2 miles each side of the extended centerline of Runway 14, extending from the 5-mile radius zone to 6 miles northwest of the airport; within 2 miles each side of the extended centerline of Runway 18, extending from the 5-mile radius zone to 5.5 miles north of the airport; and within 2 miles each side of the extended centerline of Runway 36, extending from the 5-mile radius zone to 6.5 miles south of the airport.
This control zone will be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 14443 (Changed)

Alexandria, La. (Esler Regional Airport)
Within a 5-mile radius of Esler Regional Airport (latitude 31°23'45" N., longitude 92°17'40" W.); and within 3 miles each side of the Esler VOR 338° radial extending from the 5-mile radius zone to 8.5 miles north of the VOR.
This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 14443 (Changed)

Alexandria, Minn.
Within a 5-mile radius of Alexandria Municipal Airport (latitude 45°52'00" N., longitude 95°23'40" W.); and within 2 miles each side of the Alexandria VORTAC 231° radial, extending from the 5-mile radius zone to 2 miles southwest of the VORTAC.

Alice, Tex.
That airspace within a 5-mile radius of the Alice International Airport (latitude 27°44'30" N., longitude 98°01'40" W.); within 2 miles each side of the Alice VOR 153° radial, extending from the 5-mile radius zone to 8 miles southeast of the VOR; within 2 miles each side of the Alice VOR 270° radial, extending from the 5-mile radius zone to 8 miles west of the VOR; and within 2 miles each side of the 134° bearing from latitude 27°44'20" N., longitude 98°01'46" W., extending from the 5-mile radius zone to 8 miles southeast of latitude 27°44'20" N., longitude 98°01'46" W.

Allentown, Pa.
Within a 5.5-mile radius of the center, 40°39'16" N., 75°26'11" W. of Allentown-Bethlehem-Easton Airport, Allentown, Pa., extending clockwise from a 042° bearing to a 103° bearing from the airport; within a 6.5-mile radius of the center of the airport, extending clockwise from a 103° bearing to a 209° bearing from the airport; within a 5.5-mile radius of the center of the airport, extending clockwise from a 209° bearing to a 291° bearing from the airport; within a 6.5-mile radius of the center of the airport, extending clockwise from a 291° bearing to a 042° bearing from the airport; within a 1.5-mile radius of the center, 40°34'13" N., 75° 29'19" W. of Allentown-Queen City Municipal Airport, Allentown, Pa.; within 2 miles each side of the Allentown-Bethlehem-Easton Airport localizer southwest course extending from the localizer to 1 mile northeast of the OM; within 3.5 miles each side of the Allentown VORTAC 178° and 358° radials, extending from 1 mile south to 5 miles north of the VORTAC; within 3 miles each side of the Allentown-Bethlehem-Easton Airport localizer northwest course, extending from the localizer to 8.5 miles northwest of the OM.

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Alliance, Nebr.
Within a 5-mile radius of Alliance Municipal Airport (lat. 42°03'11.3"N., long. 102°48'25.3"W.); within 3 miles each side of the Alliance VOR 302° radial, extending from the 5-mile radius zone to 6½ miles northeast of the VOR; and within 3 miles each side of the Alliance VOR 145° radial, extending from the 5-mile radius zone to 10 miles southeast of the VOR. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 10/16/78 43 F. R. 42734 (Rewritten)

Alma, Ga.
Within a 5-mile radius of Bacon County Airport (lat. 31°32'17" N., long. 82°30'33" W.); within 3 miles each side of Alma VORTAC 146° radial, extending from the 5-mile radius zone to 8.5 miles southeast and northwest of the VORTAC. This control zone is effective from 0600 to 2200 hours, local time, daily.

Alpena, Mich.
That airspace within a 5-mile radius of Phelps-Collins Airport, Alpena, Mich. (latitude 45°04'50" N., longitude 83°33'35" W.); within 3 miles each side of the 360° bearing from the Alpena RBN, extending from the 5-mile radius to 8 miles north of the Alpena RBN; within 3 miles each side of the Alpena VORTAC 346° radial, extending from the 5-mile radius to 7½ miles north of the VORTAC; within 3 miles each side of the Alpena VORTAC 305° radial, extending from the 5-mile radius to 7 miles northwest of the VORTAC; and within 3 miles each side of the Alpena VORTAC 186° radial, extending from the 5-mile radius to 7 miles south of the VORTAC. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Alton, Ill.
Within a 5-mile radius of Civic Memorial Airport (latitude 38°53'30" N., longitude 90°03'00" W.); within 2½ miles each side of the 104° bearing from Civic Memorial Airport, extending from the 5-mile radius zone to 5½ miles east of the airport; and within 3 miles each side of the 009° bearing from Civic Memorial Airport; extending from the 5-mile radius zone to 7 miles north of the airport. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Altoona, Pa.
Within a 5-mile radius of the center, lat. 40°17'51"N., long. 78°19'10"W. of Altoona-Blair County Airport, extending clockwise from a 090° bearing to a 137° bearing from the airport; within a 7.5-mile radius of the center of the airport, extending clockwise from a 137° bearing to a 163° bearing from the airport; within a 10-mile radius of the center of the airport, extending clockwise from a 163° bearing to a 258° bearing from the airport; within a 7.5-mile radius of the center of the airport, extending clockwise from a 258° bearing to a 323° bearing from the airport; within an 8-mile radius of the center of the airport, extending clockwise from a 323° bearing to a 065° bearing from the airport; within a 7.5-mile radius of the center of the airport, extending clockwise from a 065° bearing to a 090° bearing from the airport and within 3 miles each side of the Altoona, Pa., VOR 026° radial, extending from the VOR to 8.5 miles northeast of the VOR.

AMENDMENTS 8/21/78 43 F. R. 36895 (Changed)

Altus, Okla.
Within a 5-mile radius of the Altus AFB (latitude 34°39'40" N., longitude 99°16'30" W.); within 2 miles each side of the Altus AFB ILS localizer S course, extending from the 5-mile radius zone to 3.8 miles S of the 5-mile radius; and within 2 miles each side of the Altus AFB TACAN 185° radial, extending from the 5-mile radius zone to 9 miles S of the TACAN, excluding that airspace within a 1½-mile radius of the Altus, Okla., Municipal Airport (latitude 34°41'57" N., longitude 99°20'21" W.).

Amarillo, Tex.
That airspace within a 5-mile radius of the Amarillo Air Terminal (latitude 35°13'10" N., longitude 101°42'40" W.); within 2 miles each side of the Amarillo VORTAC 221° radial, extending from the 5-mile radius zone to the VORTAC; and within 2 miles each side of the extended centerline of the Amarillo AFB/Air Terminal Runway 21, extending from the 5-mile radius zone to 4.5 miles SW of the lift-off end of the runway.

Anchorage, Alaska (Anchorage International Airport)
Within a 5-mile radius of the Anchorage International Airport (latitude 61°10'16" N., longitude 149°58'48" W.); within 2 miles each side of the Anchorage VORTAC 079° radial extending from the 5-mile radius zone to the VORTAC; and within 2 miles each side of the Anchorage ILS localizer west course extending from the 5-mile radius zone to the OM; excluding the portion within the Anchorage (Merrill Field/Elmendorf AFB) control zone.

Anchorage, Alaska (Bryant AAF)
Within a 3-mile radius of Bryant AAF (lat. 61°16'N., long. 149°40'W.), excluding the portion west of long. 149°43'W.
This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the United States Government Flight Information Publication Supplement Alaska.

Anchorage, Alaska (Merrill Field/Elmendorf AFB)
Within a 3-mile radius of Merrill Field (latitude 61°13' N., longitude 149°51' W.); within a 5-mile radius of Elmendorf AFB (latitude 61°15' N., longitude 149°49' W.); within 2 miles each side of the Elmendorf ILS localizer W course extending from the 5-mile radius zone to the OM, excluding the portion within the Anchorage (Bryant AAF) Control Zone.

Anderson, Ind.
Within a 5-mile radius of Anderson Municipal Airport (lat. 40°06'30" N., long. 85°36'55" W.) and within 3.5 miles either side of the 298° bearing from Anderson Municipal Airport, extending from the 5-mile radius to 7.5 miles northwest of the airport. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Anderson, S. C.
Within a 5-mile radius of Anderson County Airport (latitude 34°29'40" N., longitude 82°42'30" W.); within 1.5 miles each side of Electric City VORTAC 039° radial, extending from the 5-mile radius zone to 1.5 miles northeast of the VORTAC.
This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 13373 (Changed)

Aniak, Alaska
Within a 5-mile radius of the Aniak airport (lat. 61°35'N., long. 159°32'W.); within 3 miles each side of the 114°T (094°M) bearing from Aniak NDB, extending from the 5-mile radius zone to 8 miles SE of the NDB, and within 2 miles each side of the Aniak localizer (lat. 61°35'02"N., long. 159°33'01"W.) west course extending from the 5-mile radius zone to 6.5 miles west of the localizer. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Flight Information Publication Supplement Alaska.

Ann Arbor, Mich.
Within a 5-mile radius of the Ann Arbor, Mich. Airport (latitude 42°13'22" N., longitude 83°44'40" W.); excluding that portion which overlies the Detroit, Mich., Willow Run Airport control zone. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Annette Island, Alaska
Within a 5-mile radius of the Annette Island Airport (latitude 55°02'34" N., longitude 131°34'14" W.); within 3 miles each side of the Annette Island VORTAC 170° radial, extending from the 5-mile radius zone to 12 miles south of the VORTAC, and within 2 miles each side of the Annette Island VORTAC 311° radial, extending from the 5-mile radius zone to 8 miles northwest of the VORTAC.

Anniston, Ala.
Within a 5-mile radius of Anniston-Calhoun County Airport (latitude 33°35'23" N., longitude 85°51'20" W.); within 1 mile each side of the ILS localizer SW course, extending from the 5-mile radius zone to the OM.

Appleton, Wis.
Within a 5-mile radius of Outagamie County Airport (latitude 44°15'35" N., longitude 88°31'15" W.); and within 2½ miles each side of the 135°, 285° and 016° bearings from Outagamie County Airport, extending from the 5-mile radius zone to 5½ miles southeast, west, and north of the airport. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Arcata, Calif.
Within a 5-mile radius of Arcata Airport (latitude 40°58'45" N., longitude 124°06'25" W.); and within 2 miles each side of the 219° bearing from the Arcata RBN, extending from the 5-mile radius zone to 8 miles SW of the RBN.

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Ardmore, Okla.
Within a 5-mile radius of Ardmore Municipal Airport (latitude 34°18'00" N., longitude 97°00'50" W), within 2 miles either side of the Ardmore VOR 053° radial extending from the 5-mile radius zone to the VOR, and within 2 miles either side of the 085° bearing from the Springton RBN extending from the 5-mile radius zone to the RBN. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 14443 (Changed)

Artesia, Miss.
Within a 5-mile radius of Golden Triangle Regional Airport (lat. 33°26'48"N., long. 88°35'30"W.). This control zone is effective from 0530 to 2330 hours, local time, daily.

Asheville, N. C.
Within a 5-mile radius of Asheville Municipal Airport (lat. 35°26'04" N., long. 82°32'25" W.); within 2.5 miles each side of the 340° bearing from Broad River RBN, extending from the 5-mile radius zone to 2 miles north of the RBN; within 2 miles each side of Runway 16/34 extended centerlines, extending from the 5-mile radius zone to the Broad River and Biltmore RBNs.

Aspen, Colo.
Within a 5-mile radius of the Aspen-Pitkin County (Sardy Field) Airport (lat. 39°13'30" N., long. 106° 52'09" W.); within 3 miles each side of the 316° bearing from the Aspen Airport, extending from the 5-mile radius to 8.5 miles northwest of the Aspen Airport. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 18550 (Changed)

Astoria, Oreg.
Within a 5-mile radius of Clatsop County Airport, Astoria, Oreg. (latitude 46°09'25" N., longitude 123°52'38" W.), within 2 miles each side of the Astoria VOR 268° radial, extending from the 5-mile radius zone to 8 miles W of the VOR, and within 4.5 miles each side of the Astoria VOR 309° radial, extending from the 5-mile radius zone to 16 miles NW of the VOR.

Athens, Ga.
Within a 5-mile radius of Athens Municipal Airport (lat. 33°56'54" N., long. 83°19'37" W.); within 3 miles each side of Athens VORTAC 076° and 195° radials, extending from the 5-mile radius zone to 8.5 miles east and south of the VORTAC.

Atlanta, Ga.
Within a 5-mile radius of The William B. Hartsfield Atlanta International Airport (lat. 33°38'31" N., long. 84°25'34" W.); within 2 miles each side of the Rex VORTAC 264° and 271° radials, extending from the 5-mile radius zone to 1 mile west of the VORTAC; within 2 miles each side of Atlanta ILS Runway 9R localizer west course, extending from the 5-mile radius zone to the LOM; within 2 miles each side of Atlanta ILS Runway 8 localizer west course, extending from the 5-mile radius zone to the LOM.

Atlanta, Ga. (Charlie Brown County Airport)
Within a 5-mile radius of Charlie Brown County Airport (latitude 33°46'35" N., longitude 84°31'15" W.); within 2.5 miles each side of the 276° bearing from Bankhead RBN, extending from the 5-mile radius zone to 7.5 miles west of the RBN.

Atlanta, Ga. (Dobbins AFB/NAS Atlanta)
Within a 6-mile radius of Dobbins AFB/NAS Atlanta (Lat. 33°54'54"N., Long. 84°30'59"W.); within 1.5 miles each side of Dobbins TACAN 301° radial, extending from the 6-mile radius zone to 6.5 miles northwest of the TACAN; excluding the portion within the Atlanta, Ga., (Charlie Brown County Airport) control zone. This control zone is effective from 0700 to 2300 hours, local time, daily.

Atlantic City, N. J.
Within a 5-mile radius of the center latitude 39°27'22" N., longitude 74°34'41" W. of NAFEC Atlantic City Airport, Atlantic City, N. J.; within 3 miles each side of the Atlantic City VORTAC 303° radial, extending from the 5-mile radius zone to 8.5 miles northwest of the VORTAC; within a 3-mile radius of the center latitude 39°21'35" N., longitude 74°27'28" W. of Atlantic City Municipal-Bader Field, Atlantic City, N J.; within 2 miles each side of the Atlantic City VORTAC 136° radial, extending from the VORTAC to the 3-mile radius zone and within 1.5 miles each side of a 283° bearing from a point latitude 39°21'43" N., longitude 74°27'46" W., extending from said point to 5.5 miles west.

Augusta, Ga.
Within a 5-mile radius of Bush Field (latitude 33°22'10" N., longitude 81°57'55" W.); within 2 miles each side of Augusta ILS localizer south course, extending from the 5-mile radius zone to 0.5 miles north of the LOM; within a 5-mile radius of Daniel Field (latitude 33°27'55" N., longitude 82°02'25" W.); within 2 miles each side of Augusta VORTAC 135° radial, extending from the 5-mile radius zone to 2 miles southeast of the VORTAC.

Augusta, Maine
Within a 5-mile radius of the center, (lat. 44°19'N., long. 69°48'W.) of Augusta State Airport, Augusta, Maine; within 4.5 miles each side of the Augusta, Maine, VORTAC 328° radial extending from the 5-mile radius zone to 12 miles northwest of the Augusta VORTAC, and within 3 miles each side of the Augusta, Maine, VORTAC 156° radial extending from the 5-mile radius zone to 8.5 miles southeast of the VORTAC.

Aurora, Ill.
That airspace within a 5-mile radius of the Aurora Municipal Airport (latitude 41°46'20" N., longitude 88° 28'20" W.) and within 1½ miles either side of the DuPage VOR 217° radial extending from the 5-mile radius to 7½ miles NE of the Aurora Airport. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Austin, Tex. (Bergstrom AFB)
Within a 5-mile radius of Bergstrom AFB (latitude 30°11'45" N., longitude 97°40'35" W.); within 2 miles each side of the Bergstrom ILS localizer S course, extending from the 5-mile radius zone to the LOM, excluding that portion within the Austin, Tex. (Robert Mueller Municipal Airport) control zone.

Austin, Tex. (Robert Mueller Municipal Airport)
Within a 5-mile radius of Robert Mueller Municipal Airport (latitude 30°17'55" N., longitude 97°42'00" W.); within 1.5 miles each side of the Austin VORTAC 304° radial extending from the 5-mile radius zone to 6 miles northwest of the Austin VORTAC; and within 1.5 miles each side of the Austin VORTAC 329° radial extending from the 5-mile radius zone to 6 miles northwest of the Austin VORTAC.

Baker, Oreg.
Within a 5-mile radius of Baker Municipal Airport (latitude 44°50'25" N., longitude 117°48'35" W.), and within 3 miles each side of the Baker VORTAC 318° radial, extending from the 5-mile radius zone to 8 miles northwest of the VORTAC. This control zone is effective during specific dates and times established in advance by Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Bakersfield, Calif.
Within a 5-mile radius of Meadows Field, Bakersfield, Calif., (lat. 35°25'40"N., long. 119°03'05"W.), within 1 mile each side of the Bakersfield ILS localizer northwest course, extending from the 5-mile radius zone to 11.5 miles northwest of the Bakersfield LOM and within 2 miles each side of the Bakersfield ILS localizer southeast course, extending from the 5-mile radius zone to the Bakersfield LOM.

Baltimore, Md. Baltimore-Washington International Airport
Within a 5-mile radius of the center 39°10'26" N., 76°40'12" W. of Baltimore Washington International Airport, Baltimore, Md.; within a 5.5-mile radius of the center of the airport, extending clockwise from a 200° bearing to a 304° bearing from the airport; within a 6-mile radius of the center of the airport, extending clockwise from a 304° bearing to a 125° bearing from the airport; within 3.5 miles each side of the Baltimore Washington International Airport ILS localizer west course, extending from the 5-mile radius to 9 miles west of the localizer; within 3.5 miles each side of the centerline of Baltimore Washington International Airport runway 10, extended to 8.5 miles east of the end of the runway; within 2 miles each side of the Baltimore Washington International Airport ILS localizer southeast course, extending from the localizer to 4.5 miles southeast of the localizer; within 2 miles each side of the Baltimore VORTAC 314° radial, extending from the VORTAC to 10.5 miles northwest of the VORTAC.

Baltimore. Md. Glenn L. Martin State Airport
Baltimore, Md. (Glenn L. Martin State Airport) Within a 5-mile radius of the center, 39°19'40"N., 76°24'57"W. of Glenn L. Martin State Airport, Baltimore, Md.; within 3 miles each side of a 132° bearing from the Martin, Md. RBN, extending from the 5-mile radius zone to 8.5 miles southeast of the RBN; within 3 miles each side of a 129° bearing from the Martin, Md. RBN, extending from the 5-mile radius zone to 8.5 miles southeast of the RBN; within 5 miles each side of a 17-mile radius arc of the Baltimore, Md. VORTAC, extending clockwise from the Baltimore, Md. VORTAC 030° radial to the Baltimore, Md. VORTAC 046° radial. This control zone is effective from 0700 to 2300 hours, local time, daily.

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Bangor, Maine
Within a 5-mile radius of the center, lat. 44°48'28" N., long. 68°49'41" W. of Bangor International Airport, Bangor, Maine; within 2.5 miles each side of the Bangor, Maine, VORTAC 318° radial, extending from the 5-mile radius zone to 8 miles northwest of the VORTAC; within a 1-mile radius of the center, lat. 44°53'56" N., long. 69°01'12" W. of Levant Private Landing Area, West Levant, Maine; within 3.5 miles each side of the Bangor ILS localizer southeast course, extending from the 5-mile radius zone to 11.5 miles southeast of the OM.

Bartlesville, Okla.
Within a 5-mile radius of the Phillips Airport (latitude 36°45'46" N., longitude 96°00'38" W.), excluding the area north of latitude 36°46'00" N., and east of longitude 95°58'30" W. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 14443 (Changed)

Baton Rouge, La.
Within a 5-mile radius of Ryan Airport (latitude 30°31'55" N., longitude 91°09'00" W.), within 1 mile each side of the Baton Rouge ILS localizer southeast course extending from the 5-mile radius zone to 6.5 miles southeast of Ryan Airport, and within 2 miles each side of the Baton Rouge VORTAC 071° radial extending from the 5-mile radius zone to 1 mile east of the VORTAC.

Battle Creek, Mich.
Within a 5-mile radius of Kellogg Field (latitude 42°18'31" N., longitude 85°14'57" W.) within 2 miles each side of the Battle Creek VORTAC 050°, 117° and 215° radials extending from the 5-mile radius zone to 8 miles NE, SE and SW of the VORTAC; and within 2 miles each side of the Kellogg Field ILS localizer SW course extending from the 5-mile radius zone to 5 miles SW of the approach end of runway 4. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Beaufort, S. C.
Within a 5-mile radius of Beaufort MCAS (lat. 32°28'40" N., long. 80°43'20" W.); within 3.5 miles each side of Beaufort MCAS TACAN 037° radial, extending from the 5-mile radius zone to 6.5 miles northeast of the TACAN within 2.5 miles each side of the 042° bearing from Beaufort MCAS RBN, extending from the 5-mile radius zone to 8.5 miles northeast of the RBN. This control zone is effective from 0700 to 2300 hours, local time, daily.

Beaumont, Tex.
Within a 7-mile radius of Jefferson County Airport (latitude 29°57'05" N., longitude 94°01'10" W.).

Beaver Falls, Pa.
Within a 5-mile radius of the center, 40°46'21"N., 80°23'37"W., of Beaver County Airport, Beaver Falls, Pa., within 1.5 miles each side of the Ellwood City, Pa., VORTAC 248° radial, extending from the 5-mile radius zone to 1.5 miles west of the VORTAC. This control zone is effective from 0900 to 2100 hours, local time daily June 1, through August 31, and from 0900 to 1700 hours, local time daily September 1, through May 31.

AMENDMENTS 1/26/78 42 F. R. 63168 (Added)

Beckley, W. Va.
Within a 6.5-mile radius of the center, lat. 37°46'54" N., long. 81°07'27" W. of Raleigh County Memorial Airport, Beckley, W. Va., and within 3 miles each side of the Beckley VOR 284° radial extending from the 6.5-mile radius zone to 8.5 miles west of the VOR; within 3 miles each side of the Beckley VORTAC 001° radial, extending from the 6.5-mile radius zone to 8.5 miles north of the VORTAC.

AMENDMENTS 11/2/78 43 F. R. 36893 (Changed)

Bedford, Mass.
Within a 5-mile radius of Hanscom Airport (latitude 42°28'04" N., longitude 71°17'23" W.); within 2 miles each side of the Bedford ILS localizer W course extending from the 5-mile radius zone to 8 miles W of the LOM; within 2 miles each side of the extended centerline of Runway 23 extending from the 5-mile radius zone to 6 miles SW of the lift-off end of the runway; within 2 miles each side of the extended centerline of Runway 5 extending from the 5-mile radius zone to 6 miles NE of the lift-off end of the runway; and within a 1-mile radius of Erickson Airport (latitude 42°27'50" N., longitude 71°31'00" W.).
This control zone is effective from 0700 to 2300 hours, local time, daily or during the specific dates and times established by a Notice to Airmen which thereafter will be continuously published in the Airport/Facility Directory.

AMENDMENTS 6/18/78 43 F. R. 24275 (Changed)

Beeville, Tex.
That airspace within a 5-mile radius of NAAS Chase Field, Beeville, Tex. (latitude 28°21'50" N., longitude 97°39'40" W.); within 2 miles each side of the NAAS Chase TACAN 129° and 321° radials extending from the 5-mile radius zone to 7 miles SE and NW of the TACAN.

Belleville, Ill.
Within a 5-mile radius of Scott AFB, Belleville, Ill. (latitude 38°32'30" N., longitude 89°51'05" W.), and within 2 miles each side of the 317° bearing from the Belleville RBN, extending from the 5-mile radius zone to 5.5 miles SE of the SE end of Scott AFB Runway 31.

Bellingham, Wash.
Within a 5-mile radius of Bellingham International Airport (latitude 48°47'40" N., longitude 122°32'13" W.); within 2 miles each side of the Bellingham VORTAC 169° radial extending north from the 5-mile radius zone to 3 miles south of the VORTAC.

Bemidji, Minn.
Within a 5-mile radius of Bemidji Municipal Airport (latitude 47°30'30" N., longitude 94°55'55" W.); within 1½ miles each side of the Bemidji VORTAC 138° radial, extending from the 5-mile radius zone to the VORTAC; and within 3½ miles each side of the 262° bearing from Bemidji Municipal Airport, extending from the 5-mile radius zone to 8 miles west of the airport. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Benton Harbor, Mich.
Within a 5-mile radius of Ross Field (latitude 42°07'40" N., longitude 86°25'40" W.). This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Bethel, Alaska
Within a 5-mile radius of the Bethel Airport (latitude 60°46'54" N., longitude 161°50'05" W.); within 3 miles each side of the Bethel compass locator (ET) 023° bearing, extending from the 5-mile radius zone to 8.5 miles northeast of the compass locator; within 3 miles each side of the Bethel VORTAC 007° radial, extending from the 5-mile radius zone
to 8.5 miles north of the VORTAC; and within 3 miles each side of the Bethel VORTAC 214° radial, extending from the 5-mile radius zone to 9 miles southwest of the VORTAC.

Bettles, Alaska
Within a 5-mile radius of the Bettles Airport (latitude 66°54'57" N., longitude 151°31'31" W.); within 4 miles each side of the Evansville NDB 214° bearing extending from the 5-mile radius zone to 8.5 miles southwest of the NDB; and within 3 miles each side of the Bettles VORTAC 227° radial extending from the 5-mile radius zone to 9.5 miles southwest of the VORTAC.
This control zone is effective during dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the United States Government Flight Information Publication Supplement Alaska.

Beverly, Mass. (Beverly Municipal Airport)
Within a 5-mile radius of Beverly Municipal Airport (latitude 42°35'06" N., longitude 70°55'06" W.), and within 3.5 miles each side of the 333° bearing from the Topsfield RBN, extending 8 miles northwest of the NDB. This control zone is effective from 0700 to 2300 hours, local time, daily or during the specific dates and times established by a Notice to Airmen which, thereafter, will be continuously published in the Airport/Facility Directory.

AMENDMENTS 6/18/78 43 F. R. 24275 (Changed)

Big Delta, Alaska
That airspace within a 5-mile radius of the Allen AAF, Fort Greeley, Alaska, (lat. 63°59'37"N., long. 145°43'08" W.) and within 4.5 miles each side of the Big Delta VORTAC 040° radial extending from the 5-mile radius zone to 11 miles northeast. This control zone is effective from 0600 to 2200 hours local time daily, or during the specific dates and times established in advance by Notice to Airmen. The effective date and time will thereafter be continuously published in the Flight Information Publication Supplement Alaska.

Billings, Mont.
Within a 5-mile radius of Logan Field Airport (latitude 45°48'25" N., longitude 108°31'55" W.); within 4 miles each side of the Billings ILS west localizer course extending from the 5-mile radius zone to 8 miles west of the OM; within 3.5 miles each side of the Billings VORTAC 267° radial extending from the 5-mile radius zone to 8 miles west of the VORTAC; within 2 miles each side of the Billings VORTAC 095° radial extending from the 5-mile radius zone to 12 miles east of the VORTAC; and within 2 miles each side of the Billings ILS east localizer course extending from the 5-mile radius zone to Lockwood NDB.

Biloxi, Miss.
Within a 5-mile radius of Keesler AFB (latitude 30°24'39"N., longitude 88°55'26"W.); within 1.5 miles each side of Keesler TACAN 041° and 203° radials, extending from the 5-mile radius zone to 7 miles northeast and southwest of the TACAN; excluding the portion west of long. 89°00'00" W. This control zone is effective from 0600 to 2300 hours, local time, daily.

Binghamton, N.Y.
Within a 5-mile radius of the center of Broome County Airport, Binghamton, N.Y., 42°12'35" N., 75°58'46" W.; within 2 miles each side of the Binghamton VOR 066° radial extending from the 5-mile radius zone to the VOR and within 2 miles each side of the airport ILS localizer SE course extending from the 5-mile radius zone to 2 miles SE of the OM.

Birmingham, Ala.
Within a 5-mile radius of Birmingham Municipal Airport (latitude 33°33'50" N., longitude 86°45'30" W.); within 2 miles each side of Birmingham ILS localizer southwest course, extending from the 5-mile radius zone to 1 mile northeast of the OM; within 3 miles each side of the 056° and 236° bearings from Roebuck RBN, extending from the 5-mile radius zone to 8.5 miles northeast of the RBN.

Bismarck, N. Dak.
Within a 5½-mile radius of Bismarck Municipal Airport (latitude 46°46'40" N., longitude 100°45'05" W.); and within 2 miles each side of the Bismarck ILS localizer southeast course, extending from the 5½-mile radius zone to 1 mile northwest of the OM.

Bloomington, Ill.
Within a 5-mile radius of Bloomington Normal Airport (latitude 40°28'55" N., longitude 88°55'40" W.); and within 2½ miles each side of the Bloomington VOR 043°, 103°, and 319° radials, extending from the 5-mile radius zone to 6½ miles northeast, east and northwest of the VOR. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Bloomington, Ind.
Within a 5-mile radius of Monroe County Airport (latitude 38°08'35" N., longitude 86°37'00" W.); within 3 miles each side of the Bloomington VORTAC 181° radial, extending from the 5-mile radius zone to 10½ miles south of the VORTAC; within 3 miles each side of the Bloomington VORTAC 062° radial, extending from the 5-mile radius zone to 11 miles northeast of the VORTAC; within 3 miles each side of the Bloomington VORTAC 341° radial; extending from the 5-mile radius zone to 10½ miles north of the VORTAC; and within 3 miles each side of the Bloomington VORTAC 236° radial, extending from the 5-mile radius zone to 9½ miles southwest of the VORTAC. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Bluefield, W. Va.
Within a 5.5-mile radius of the center, lat. 37°17'45" N., long. 81°12'29" W., of Mercer County Airport, Bluefield, W. Va.; within a 7.5-mile radius of the center of the airport, extending clockwise from a 079° bearing from the airport to a 125° bearing from the airport; within a 10-mile radius of the center of the airport, extending clockwise from a 170° bearing from the airport to a 239° bearing from the airport; within 3 miles each side of the Bluefield VORTAC 047° radial, extending from the 5.5-mile radius zone to 9.5 miles northeast of the VORTAC and within 4.5 miles each side of the Bluefield VORTAC 224° radial, extending from the 5.5-mile radius zone to 17 miles southwest of the VORTAC.

Blythe, Calif.
Within a 5-mile radius of Blythe Airport (Lat. 33°37'15" N, Long. 114°43'00" W).

Blytheville, Ark.
Within a 5-mile radius of Blytheville AFB (lat. 35°57'50"N., long. 89°56'40"W.), within 3 miles each side of the Gosnell VOR 357° radial (lat. 35°57'03"N., long. 89°56'28"W.), extending from the 5-mile radius zone to 8.5 miles north of the VOR, and within 1.5 miles each side of the Blytheville TACAN 188° radial (lat. 35°57'23"N., long. 89°56'26"W.), extending from the 5-mile radius zone to 5.5 miles south of the TACAN.

Bogue, N.C.
Within a 5-mile radius of MCALF Bogue Field, N.C., (latitude 34°41'25"N., longitude 77°01'46"W.). This control zone is effective during the specific dates and times established in advance by Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 13373 (Changed)

Boise, Idaho
Within a 5-mile radius of the Boise Air Terminal (latitude 43°33'55" N., longitude 116°13'30" W.); within 2 miles each side of the Boise VORTAC 304° radial, extending from the 5-mile radius zone to 12 miles northwest of the VORTAC; within 2 miles each side of the Boise VORTAC 319° radial extending from the 5-mile radius zone to 12 miles northwest of the VORTAC, within 5 miles each side of the Boise VORTAC 114° radial, extending from the 5-mile radius area to 12 miles southeast of the VORTAC; and within 2 miles west and 5 miles east of the Boise VORTAC 179° radial extending from the 5-mile radius area to 7 miles south of the VORTAC.

Boston, Mass.
Within an 8-mile radius of the Logan International Airport (latitude 42°21'55" N., longitude 71°00'05" W.).

Bowling Green, Ky.
Within a 5-mile radius of Bowling Green-Warren County Airport (lat. 36°57'47" N., long. 86°25'07" W.); within 4.5 miles each side of Bowling Green VORTAC 206° radial, extending from the 5-mile radius zone to 10 miles southwest of the VORTAC.

Bozeman, Mont.
Within a 7-mile radius of Gallatin Field (latitude 45°46'50" N., longitude 111°09'20" W.).

Bradford, Pa.
Within a 5-mile radius of the center 41°48'09" N., 78°38'27" W. of Bradford Regional Airport, Bradford, Pa.; within 3.5 miles each side of the Bradford, Pa., VORTAC 139° radial, extending from the VORTAC to 10 miles southeast of the VORTAC.

Brainerd, Minn.
Within a 5-mile radius of Brainerd-Crow Wing County Airport (lat. 46°23'52"N., long. 94°08'12"W.); within 2½ miles each side of the 040° bearing from the Brainerd-Crow Wing County Airport extending from the 5-mile radius zone to 7 miles northeast of the airport; within 1½ miles each side of the 120° bearing from the airport extending from the 5-mile radius zone to 6 miles southeast of the airport; within 2½ miles each side of the 198° bearing from the airport extending from the 5-mile radius zone to 6 miles south of the airport; within 2½ miles each side of the 247° bearing from the airport extending from the 5-mile radius zone to 7 miles southwest of the airport; and within 1½ miles each side of the 302° bearing from the airport extending from the 5-mile radius zone to 6½ miles northwest of the airport. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. This effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Bremerton, Wash.
Within a 5-mile radius of Kitsap County Airport (latitude 47°29'35" N., longitude 122°45'35"W.), within 3 miles each side of the 209° bearing from the Kitsap RBN (latitude 47°29'48" N., longitude 122°45'36" W.) extending from the 5-mile radius to 8 miles SW of the RBN, and within 2 miles each side of the 028° bearing from the Kitsap RBN extending from the 5-mile radius zone to 7 miles northeast of the RBN. This control zone will be effective during the times established in advance by a Notice to Airmen and continuously published in the Airport/Facility Directory.

Bridgeport, Conn.
That airspace within a 5.5-mile radius of the center, latitude 41°09'48" N., longitude 73°07'34" W. of the Igor I. Sikorsky Memorial Airport, Bridgeport, Conn., extending clockwise from a 008° bearing to a 058° bearing from the airport; within a 5-mile radius of the center of the airport, extending clockwise from a 058° bearing to a 276° bearing from the airport; within a 5.5-mile radius of the airport extending clockwise from a 276° bearing to a 311° bearing from the airport and within a 6-mile radius of the center of the airport extending clockwise from a 311° bearing to a 008° bearing from the airport. This control zone is effective from 0700 to 2300 hours, local time, daily or during the specific dates and times established in advance by a Notice to Airmen which thereafter will be continuously published in the Airport/Facility Directory.

AMENDMENTS 6/18/78 43 F. R. 24275 (Changed)

Brookings, S. Dak.
That airspace within a 5-mile radius of Brookings, S. Dak., Municipal Airport (latitude 44°18'12" N., longitude 96°48'40" W.); within 2.5 miles each side of the Brookings VOR 316° radial extending from the 5-mile radius zone to 7 miles northwest of the VOR and within 2.5 miles each side of the Brookings VOR 118° radial extending from the 5-mile radius zone to 8.5 miles southeast of the VOR. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 18550 (Changed)

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Broomfield, Colo.
That airspace within a 5-mile radius of Jeffco Airport (latitude 39°54'30" N., longitude 105°06'50" W.). This control zone shall be effective during the specific dates and/or times established in advance by a Notice to Airmen and continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 18550 (Changed)

Brownsville, Tex.
That airspace overlying the United States within a 5-mile radius of Brownsville International Airport (latitude 25°54'25" N., longitude 97°25'25" W.), within 2 miles each side of the Brownsville VORTAC 071° radial extending from the 5-mile radius zone to 8 miles east of the VORTAC, and within 2 miles each side of the Brownsville ILS localizer northwest course extending from the 5-mile radius zone to the OM.

Brunswick, Ga. (Malcolm-McKinnon Airport)
Within a 5-mile radius of Malcolm-McKinnon Airport (latitude 31°09'05" N., longitude 81°23'20" W.); within 1.5 miles each side of the Brunswick VOR 022° radial, extending from the 5-mile radius zone to the VOR, excluding the portion within a 1.5-mile radius of Brunswick Municipal Airport (latitude 31°11'10" N., longitude 81°28'50" W.).

Brunswick, Maine
Within a 5-mile radius of NAS Brunswick (lat. 43°53'35"N., long. 69°56'20"W.) within 2 miles each side of the NAS Brunswick VORTAC 167° radial, extending from the 5-mile radius zone to 8 miles south of the VORTAC within 2 miles each side of the NAS Brunswick VORTAC 025° radial, extending from the 5-mile radius zone to 8 miles northeast of the VORTAC.

AMENDMENTS 5/18/78 43 F. R. 9594 (Rewritten)

Buffalo, N. Y.
Within a 5-mile radius of the center, 42°56'20" N., 78°43'50" W., of Greater Buffalo International Airport, Buffalo, N. Y.; within 2 miles each side of the Greater Buffalo International Airport northeast localizer course extending from the 5-mile radius zone to the OM; within 2 miles each side of the Greater Buffalo International Airport southwest localizer course extending from the 5-mile radius zone to the OM; and within 2 miles each side of the Buffalo VORTAC 096° radial extending from the 5-mile radius zone to 6 miles east of the VORTAC excluding the portion within a 1-mile radius of Buffalo Airpark, 42°51'45" N., 78°43'00" W.

Burbank, Calif.
Within a 5-mile radius of Hollywood-Burbank Airport, Calif. (latitude 34°12'15" N., longitude 118°21'30" W.), excluding the portion west of a line from latitude 34°16'00" N., longitude 118°25'55" W., to latitude 34°09'25" N., longitude 118°25'40" W., and the portion within a 1-mile radius of Whiteman Airpark, Pocoima, Calif. (latitude 34°15'35" N., longitude 118°24'45" W.).

Burley, Idaho
Within a 5-mile radius of Burley Municipal Airport (latitude 42°32'30" N., longitude 113°46'20" W.); within 3.5 miles each side of the Burley VORTAC 121° radial, extending from the 5-mile radius zone to 17.5 miles southeast of the VORTAC; within 3 miles each side of the Burley VORTAC 323° radial, extending from the 5-mile radius zone to 6 miles northwest of the VORTAC; within 3 miles each side of the Burley VORTAC 301° radial, extending from the 5-mile radius zone to 8.5 miles northwest of the VORTAC; and within 1.5 miles each side of the 036° bearing from the Burley Municipal Airport extending from the 5-mile radius zone to 8 miles northeast of the airport.

Burlington, Iowa
Within a 5-mile radius of Burlington Municipal Airport (latitude 40°46'55" N., longitude 91°07'40" W.); within 3 miles each side of the 293° radial of the Burlington VORTAC extending from the 5-mile radius zone to 2 miles northwest of the VORTAC.

Burlington, Vt.
Within a 7-mile radius of the center, (lat. 44°28'17"N., long. 73°09'13"W.), of Burlington International Airport, Burlington, Vt., within 2.5 miles each side of Runway 33, extending from the 7-mile radius zone to 8 miles southeast of the runway end; within 3 miles each side of the Burlington, Vt., VORTAC 201° radial, extending from the 7-mile radius zone to 8.5 miles southwest of the VORTAC.

Butte, Mont.
Within a 5-mile radius of the Silver Bow County Airport, Butte, Mont., (lat. 45°57'15"N., long. 112° 29'50" W.) and within 2 miles each side of the Butte VORTAC 115° radial extending from the 5-mile radius zone to the VORTAC.

Caldwell, N. J.
Within a 5-mile radius of the center lat. 40°52'24"N., long. 74°17'00"W., of Essex County Airport; within 3 miles each side of a 276° bearing from a point lat. 40°52'48"N., long. 74°20'08"W., extending from the 5-mile radius zone to 8.5 miles west of said point; within 3 miles each side of a 237° bearing and a 057° bearing from the Paterson, N. J., RBN, extending from the 5-mile radius zone to 0.5 mile northeast of the RBN; within 3 miles each side of a 054° bearing from the Paterson, N. J., RBN, extending from the RBN to 8.5 miles northeast of the RBN; excluding the portion that coincides with the Morristown, N. J., control zone. This control zone is effective from 0800 to 2200 hours, local time, daily.

AMENDMENTS 4/16/78 43 F. R. 13374 (Changed)

Calverton, N. Y.
Within a 5-mile radius of Peconic River Plant (Grumman) Airport, Calverton, N. Y. This control zone shall be effective from 0800 to 1630 hours, local time, Monday through Friday.

AMENDMENTS 3/23/78 43 F. R. 1787 (Changed)

Camp Douglas, Wis.
Within a 5-mile radius of Volk Field, Camp Douglas, Wis. (latitude43°56'25" N., longitude 90°15'20" W.). and within 2 miles each side of the Volk Field VORTAC 092° radial extending from the 5-mile radius zone to 12 miles E of the VORTAC. This control zone shall be effective during the specific dates and/or time established by a Notice to Airmen and continuously published in the Airport/Facility Directory.

Camp Pendleton, Calif.
Within a 3-mile radius of Camp Pendleton, MCAF (lat. 33°18'04"N., long. 117°21'06"W.). This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 19645 (Changed)

Camp Springs, Md.
Within a 5-mile radius of the center, 38°48'39" N., 76°52'02" W. of Andrews AFB, Camp Springs, Md.; within 2.5 miles each side of the Andrews VORTAC 360° radial, extending from the VORTAC to 7.5 miles north of the VORTAC; within 2.5 miles each side of the Andrews VORTAC 180° radial, extending from the VORTAC to 7 miles south of the VORTAC, excluding the portion within a 1-mile radius of the center 38°44'58" N., 76°55'58" W. of Hyde Field, Clinton, Md., excluding the west portion subtended by a chord drawn between the points of intersection of the 5-mile radius zone with the Washington. D. C., control zone.

Cape Girardeau, Mo.
Within a 5-mile radius of Cape Girardeau Municipal Airport (latitude 37°13'30" N., longitude 89°34'10" W.), within 2½ miles each side of the Cape Girardeau VOR 194°, 036° and 279° radials, extending from the 5-mile radius to 6½ miles south-northeast and west of the VOR.

Carbondale, Ill.
Within a 5-mile radius of the Southern Illinois Airport (latitude 37°46'45" N., longitude 89°15'00" W.). This control zone is effective during specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

Carlsbad, N. Mex.
Within a 5-mile radius of Cavern City Air Terminal (lat. 32°20'14"N., long. 104°15'46"W.) and within 3.5 miles each side of the Carlsbad VOR 336° and 156° radials extending from the 5-mile-radius zone to 10 miles southeast of the VOR and 2.5 miles each side of the Carlsbad VOR 334° radial extending from the 5-mile-radius zone to 12.5 miles northwest of the VOR.

Casper, Wyo.
That airspace within 5 miles each side of the Casper VORTAC 216° radial extending from the VORTAC to 33 miles southwest of the VORTAC and within 3 miles each side of the ILS localizer west course, extending from 1 mile east to 10 miles west of the Johnson LOM.

Cedar City, Utah
Within a 5-mile radius of Cedar City Municipal Airport (latitude 37°42'05" N., longitude 113°05'52" W.) and within 2 miles on each side of the Cedar City VOR 195° radial extending from the 5-mile radius zone to the VOR.

Cedar Rapids, Iowa
Within a 5-mile radius of Cedar Rapids Municipal Airport (latitude 41°53'05" N., longitude 91°42'35" W.); within 3 miles each side of the Cedar Rapids VORTAC 094° radial, extending from the 5-mile radius zone to 10 miles east of the VORTAC; and within 3 miles each side of the Cedar Rapids VORTAC 264° radial, extending from the 5-mile radius zone to 9 miles west of the VORTAC.

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Chadron, Nebr.
Within a 5-mile radius of Chadron Municipal Airport (lat. 42°50'00" N., long. 103°05'50" W.); and within 2 miles each side of the 010° bearing from the Chadron Municipal Airport, extending from the 5-mile radius zone to 8 miles north of the airport. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Chamblee, Ga.
Within a 5-mile radius of De Kalb-Peachtree Airport (latitude 33°52'30" N., longitude 84°18'10" W.); within 1.5 miles each side of Norcross VORTAC 242° radial, extending from the 5-mile radius zone to 1 mile southwest of the VORTAC. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 9137 (Changed)

Champaign, Ill.
Within a 5-mile radius of the University of Illinois-Willard Airport (latitude 40°02'25" N., longitude 88°16'35" W.); within 2 miles each side of the Champaign VORTAC 123°, 237° and 328° radials, extending from the 5-mile radius zone to 12 miles southeast, southwest, and northwest of the VORTAC; and within 2 miles each side of the University of Illinois-Willard Airport ILS localizer southeast course, extending from the 5-mile radius zone to the OM.

Chandler, Ariz.
Within a 5-mile radius of Williams AFB (latitude 33°18'30" N., longitude 111°39'27" W.), within 3 miles each side of the Chandler VORTAC 130° radial, extending from the 5-mile radius zone to 9 miles SE of the VORTAC, within 2 miles each side of the Chandler VORTAC 319° radial, extending from the 5-mile radius zone to 9 miles NW of the VORTAC. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 19645 (Changed)

Chantilly, Va.
Within a 5.5-mile radius of the center, 38°56'40" N., 77°27'24" W., of Dulles International Airport; within a 6-mile radius of the center of the airport extending clockwise from a 063° bearing to a 160° bearing from the airport; within 2.5 miles each side of the Dulles International Airport runway 1R ILS localizer course, extending from the 5.5-mile radius zone to 0.5 miles north of the OM; within 2 miles each side of the extended centerline of Dulles International Airport runway 30, extending from the west end of runway 30 to 5.5 miles west and within 3.5 miles each side of the Dulles International Airport runway 19R ILS localizer course, extending from the 5.5-mile radius zone to 10 miles north of the OM.

Chanute, Kans.
Within a 5-mile radius of Chanute Martin Johnson Airport (latitude 37°40'05" N., longitude 95°29'10" W.).

Charleston, S. C.
Within a 5-mile radius of Charleston AFB/Municipal Airport (lat. 32°53'55" N., long. 80°02'20" W.); within 3.5 miles each side of Charleston VORTAC 018° and 332° radials, extending from the 5-mile radius zone to 10 miles north and northwest of the VORTAC; within 2.5 miles each side of Charleston VORTAC 135° radial, extending from the 5-mile radius zone to 5.5 miles southeast of the VORTAC; within 3.5 miles each side of Charleston VORTAC 211° radial, extending from the 5-mile radius zone to 10.5 miles southwest of the VORTAC.

Charleston, W. Va.
Within a 5.5-mile radius of the center, 38°22'22" N., 81°35'35" W., of Kanawha Airport, Charleston, W. Va.; within a 6-mile radius of the center of the Kanawha Airport, extending clockwise from a 319° bearing to a 229° bearing from the airport; within 2 miles each side of the extended centerline of Runway 5, extending from the 5.5-mile radius to 6.5 miles northeast of the lift-off end of Runway 5; within 1.5 miles each side of the extended centerline of Runway 14, extending from the 5.5-mile radius to 6.5 miles southeast of the lift-off end of Runway 14; within 2 miles each side of the Charleston VORTAC 081° radial, extending from the 5.5-mile radius to 2 miles east of the VORTAC; within 2 miles each side of the extended centerline of Runway 23 extending from the 5.5-mile radius to 6.5 miles southwest of the lift-off end of Runway 23 and within 2 miles each side of the extended centerline of Runway 32, extending from the 5.5-mile radius to 6.5 miles northwest of the lift-off end of Runway 32.

Charlotte, N. C.
Within a 5-mile radius of Douglas Municipal Airport (latitude 35°12'53" N., longitude 80°56'18" W.); within 3 miles each side of Charlotte VORTAC 003° radial, extending from the 5-mile radius zone to 8.5 miles north of the VORTAC; within 2 miles each side of Charlotte VORTAC 058° radial, extending from the 5-mile radius zone to 6 miles northeast of the VORTAC; within 2 miles each side of Charlotte VORTAC 223° radial, extending from the 5-mile radius zone to 6.5 miles southwest of the VORTAC; within 2 miles each side of Charlotte ILS localizer southwest course, extending from the 5-mile radius zone to 1 mile northeast of the OM.

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Charlotte Amalie, St. Thomas, V. I. (Harry S. Truman Airport)
Within a 6-mile radius of Harry S. Truman Airport (lat. 18°20'26" N., long. 64°58'11" W.). This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 13373 (Changed)

Charlottesville, Va.
Within a 5-mile radius of the center, lat. 38°08'25" N., long. 78°27'09" W., of Charlottesville-Albemarle Airport, Charlottesville, Va., and within 2.5 miles each side of the Charlottesville-Albermarle Airport ILS localizer southwest course, extending from the 5-mile radius zone to 2.5 miles northeast of the Azalea Park RBN.

Chattanooga, Tenn.
Within a 5-mile radius of Lovell Field (latitude 35°02'05" N., longitude 85°12'10" W.); within 2 miles each side of Chattanooga ILS localizer north course, extending from the 5-mile radius zone to 2.5 miles southwest of Daisy RBN; within 1 mile each side of Chattanooga ILS localizer south course, extending from the 5-mile radius zone to 0.5 mile north of Chattanooga VORTAC 263° radial.

Cherry Point MCAS, N. C.
The airspace within a 5-mile radius of Cherry Point MCAS (latitude 34°54'30" N., longitude 76°53'00" W.); within 1.5 miles each side of the 316° bearing from Cherry Point RBN, extending from the 5-mile radius zone to 1.5 miles northwest of the RBN.

Chesterfield (Spirit of St. Louis), Mo.
Within a 5-mile radius of Spirit of St. Louis Airport (lat. 38°39'35"N., long. 90°38'45"W.). This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Cheyenne, Wyo.
Within a 5-mile radius of Cheyenne Municipal Airport (latitude 41°09'20" N., longitude 104°48'30" W.) and within 2 miles each side of the Cheyenne ILS localizer E course, extending from the 5-mile radius zone to the OM.

Chicago, Ill. (Midway Airport)
Within a 5-mile radius of Chicago Midway Airport (latitude 41°47'04" N., longitude 87°45'12" W.); and within 2 miles each side of the Chicago Midway ILS localizer SE course extending from the 5-mile radius zone to 8 miles SE of the Kedzie RBN; and within 2 miles each side of the Chicago Midway ILS localizer NW course extending from the 5-mile radius zone to the OM.

Chicago, Ill. (Meigs Airport)
Within a 3-mile radius of Meigs Airport (latitude 41°51'30" N., longitude 87°36'30" W.) from 0600 to 2400 hours, local time, daily.

Chicago, Ill. (O'Hare International Airport)
Within a 5-mile radius of O'Hare International Airport (latitude 41°58'57" N., longitude 87°54'25" W.); within 2 miles each side of the O'Hare International Airport runway 14R and 14L ILS localizer courses, extending from the 5-mile radius zone to 7 miles northwest of the airport; and within 2 miles each side of the O'Hare International Airport runway 32R and 32L ILS localizer courses, extending from the 5-mile radius zone to 7 miles southeast of the airport.

Chico, Calif.
Within a 5-mile radius of Chico Municipal Airport (lat. 39°47'45"N., long. 121°51'25"W.); within 3 miles each side of the Chico VOR 316° radial, extending from the 5-mile radius zone to 8 miles northwest of the VOR and within 2 miles each side of the Chico Municipal Airport Runway 13 localizer northwest course extending from the 5-mile radius zone to 6.5 miles northwest of the airport, excluding the portion within a 1-mile radius of Ranchaero Airport, Chico, Calif., (lat. 39°43'10"N., long. 121°52'10"W.). This control zone shall be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 19645 (Changed)

Childress, Tex.
Within a 5-mile radius of the Childress Municipal Airport (latitude 34°25'55" N., longitude 100°17'45" W.) and within 2 miles each side of the Childress VOR 182° radial, extending from the 5-mile radius zone to 8 miles S of the VOR.

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China Lake, Calif.
Within a 5-mile radius of NAF China Lake (latitude 35°41'15" N., longitude 117°41'35" W.) and within 2 miles each side of the NAF China Lake TACAN 350° and 148° radials extending from the 5-mile radius zone to 8 miles N and SE of the TACAN.

Chincoteague, Va.
Within a 5-mile radius of NASA Wallops Station Airport, Chincoteague, Va. (latitude 37°56'15" N., longitude 75°28'15" W.) and within 2 miles each side of the Snow Hill, Md., VOR 181° radial, extending from the 5-mile radius zone to 2.5 miles south of the VOR. This control zone is effective from 0730 to 1730 hours, local time, Monday through Friday, excluding Federal legal holidays.

Chino, Calif.
Within a 3-mile radius of Chino, Calif., Airport (lat. 33°58'30" N., long. 117°38'10" W.) and within 1.5 miles each side of the Ontario, Calif., VORTAC 303° radial, extending from the 3-mile radius area to 1 mile northwest of the VORTAC. This control zone shall be effective during the specific dates and times published in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 19645 (Changed)

Christiansted, St. Croix, V. I.
Within a 5-mile radius of Alexander Hamilton Airport (lat. 17°42'13" N., long. 64°47'54" W.); within 3 miles each side of St. Croix VOR 068° and 248° radials, extending from the 5-mile radius zone to 8.5 miles east of the VOR. This control zone is effective during specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 13373 (Changed)

Cincinnati, Ohio
Within a 5-mile radius of Cincinnati Municipal-Lunken Field Airport (latitude 39°06'14" N., longitude 84°25'18" W.) within 2 miles each side of Runway 20L ILS localizer northeast course, extending from the 5-mile radius zone to 6.5 miles northeast of the airport; and within 1.5 miles each side of the 227° bearing from Lunken RBN, extending from the 5-mile radius zone to the RBN.

Clarksburg, W. Va.
Within a 5.5-mile radius of the center, lat. 39°17'44" N., long. 80°13'46" W. of Benedum Airport; within 3 miles each side of the Clarksburg VOR 219° radial, extending from the 5.5-mile radius zone to 8.5 miles southwest of the VOR; and within 2.5 miles each side of the Benedum Airport ILS localizer northeast course, extending from the 5.5-mile radius zone to 1 mile southwest of the OM. This control zone is effective during the specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be published continuously in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 14442 (Changed)

Clarksville, Tenn.
Within a 5-mile radius of Outlaw Field (lat. 36°37'15"N., long. 87°24'52"W.); within 3 miles each side of Clarksville VOR 171° radial, extending from the 5-mile radius zone to 8.5 miles south of the VOR; excluding that portion which coincides with the Hopkinsville, Ky., control zone. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 13373 (Changed)

Cleveland, Ohio (Burke-Lakefront Airport)
Within a 5-mile radius of the Burke-Lakefront Airport (latitude 41°31'02" N., longitude 81°41'04" W.); within 2 miles each side of the Burke-Lakefront ILS localizer northeast course, extending from the 5-mile radius zone to the OM, excluding the portion overlying the Cleveland, Ohio (Cleveland-Hopkins International Airport) control zone. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Cleveland, Ohio (Cleveland-Hopkins International Airport)
Within a 5-mile radius of the Cleveland-Hopkins International Airport (latitude 41°24'37" N., longitude longitude 81°50'56" W.).

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Cleveland, Ohio (Cuyahoga County Airport)
Within a 5-mile radius of the Cuyahoga County Airport (latitude 41°34'00" N., longitude 81°29'30" W.); within 2½ miles each side of the 050° bearing from the Cuyahoga County RBN extending from the 5-mile radius zone to 5 miles northeast of the RBN, excluding the portion within the Cleveland, Ohio (Burke-Lakefront Airport) control zone. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

PENDING AMENDMENT
Clinton, Iowa
That airspace extending upward from the surface within a 5-mile radius of the Clinton Airport (lat. 41° 49'55"N., long. 90°19'45"W.) and within 3 miles each side of Davenport VORTAC; 044° radial, extending from the 5-mile radius area to the VORTAC; and within 3 miles each side of the Clinton NDB 327° bearing from the airport, extending from the 5-mile radius area to 8½ miles northwest; and within 2½ miles each side of the 030° bearing from the Clinton Airport, extending from the 5-mile radius area to 6 miles northeast. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 2/22/79 43 F. R. 53418 (Added)

Clinton, Okla. (Clinton-Sherman Airport)
Within a 5-mile radius of Clinton-Sherman Airport (latitude 35°20'25" N., longtiude 99°12'00" W.), and within 2 miles each side of the extended centerline of Clinton-Sherman Runways 17 and 35 extending from 7 miles north to 6 miles south of the ends of the runways. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 14443 (Changed)

Clovis, N. Mex.
Within a 6-mile radius of Cannon AFB, N. Mex. (latitude 34°23'01" N., longitude 103°18'58" W.); within 2 miles each side of the Cannon AFB TACAN 040° radial extending from the 6-mile radius zone to 9.5 miles northeast of the TACAN; within 2 miles each side of a 045° bearing from latitude 34°18'45" N., longitude 103°24'32" W., extending from the 6-mile radius zone to latitude 34°18'45" N., longitude 103°24'32" W.; within 2 miles each side of the Cannon AFB TACAN 230° radial extending from the 6-mile radius zone to 9.5 miles southwest of the TACAN, and within 2 miles each side of the Cannon AFB TACAN 232° radial extending from the 6-mile radius zone to 7 miles southwest of the TACAN. This control zone will be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 14443 (Changed)

Cocoa (Patrick AFB), FL.
Within a 5-mile radius of Patrick AFB (lat. 28°14'21" N., long. 80°36'28" W.). This control zone is effective from 0700 to 2300 hours, local time, daily.

PENDING AMENDMENT
Cocoa (Patrick AFB), Fla.
Within a 5-mile radius of Patrick AFB (lat. 28°14'21"N., long. 80°36'28"W.); excluding the portion south of a line connecting the 2 points of intersection within a 5-mile radius circle centered on Melbourne Regional Airport (lat. 28°06'06"N., long. 80°38'36"W.). This control zone is effective from 0700 to 2300 hours. local time. daily.

AMENDMENTS 12/28/78 43 F. R. 43293 (Rewritten)

Cody, Wyo.
Within a 5-mile radius of the Cody Municipal Airport, Cody, Wyo. (latitude 44°31'09" N., longitude 109°01'25" W.), and within 1.5 miles each side of the Cody, Wyo., VOR 202° radial, extending from the 5-mile radius zone to the VOR. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 18550 (Changed)

Cold Bay, Alaska
Within a 5-mile radius of the Cold Bay Airport (lat. 55°12'06" N., long. 162°43'28" W.); within 3 miles each side of the 339° bearing from the Cold Bay LOM, extending from the 5-mile radius zone to 10.5 miles north of the LOM, and within 5 miles west and 2.5 miles east of the Cold Bay VORTAC 150° radial, extending from the 5-mile radius zone to 18 miles south of the VORTAC.

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College Station, Tex.
Within a 5-mile radius of Easterwood Field, College Station, Tex. (latitude 30°35'00" N., longitude 96°22'00" W.), within 2 miles each side of the College Station VOR 287° radial extending from the 5-mile radius zone to 8 miles west of the VOR, within 2 miles each side of the College Station VOR 307° radial extending from the 5-mile radius zone to 9 miles northwest of the VOR, and within 2 miles each side of the College Station VOR 107° radial extending from the 5-mile radius zone to 10 miles east of the VOR.

Colorado Springs, Colo.
Within a 6-mile radius of City of Colorado Springs Municipal Airport, Colorado Springs, Colo., (latitude 38°48'35" N., longitude 104°42'
20" W.); within 2 miles each side of the Colorado Springs ILS localizer north course, extending from the 6-mile radius zone to 7 miles north of the localizer, within 2 miles each side of the Colorado Springs VORTAC 205° radial extending from the 6-mile radius zone to the VORTAC.

Colorado Springs, Colo.
Within a 3-mile radius of USAF Academy Airstrip (latitude 38°58'15" N., longitude 104°49'00" W.). This control zone is effective from sunrise to 30 minutes after sunset.

Columbia, Mo. (Regional Airport)
Within a 5-mile radius of Columbia Regional Airport (latitude 38°48'49" N., longitude 92°13'12" W.).

Columbia, S. C.
Within a 5-mile radius of Columbia Metropolitan Airport (lat. 33°56'25.9" N., long. 81°07'11.2" W.); within 2 miles each side of Columbia ILS localizer west course, extending from the 5-mile radius zone to 1.5 miles east of the LOM.

Columbus, Ga. (Columbus Metropolitan Airport)
Within a 5-mile radius of Columbus Metropolitan Airport (lat. 32°30'55"N., long. 84°56'25" W.); within 1.5 miles each side of Columbus ILS localizer northeast course, extending from the 5-mile radius zone to the intersection of the Columbus VOR 102° radial; within 1.5 miles each side of Columbus VOR 149° radial, extending from the 5-mile radius zone to 1 mile southeast of the VOR; within 2 miles each side of Runway 5 extended centerline, extending from the 5-mile radius zone to 6 miles southwest of the runway end; within 2 miles each side of Runway 12 extended centerline, extending from the 5-mile radius zone to 6 miles northwest of the runway end.

Columbus, Ga. (Lawson AAF)
Within a 5-mile radius of Lawson AAF (lat. 32°20'20" N., long. 84°59'35" W.); within 2 miles each side of the 213° bearing from Lawson RBN, extending from the 5-mile radius zone to 6.5 miles southwest of the RBN; within 2 miles each side of Lawson VOR 339° radial, extending from the 5-mile radius zone to 1 mile south of the Columbus LOM; excluding the portion within Columbus Metropolitan Airport control zone.

Columbus, Miss.
Within a 5-mile radius of Columbus AFB, Miss. (latitude 33°38'38" N., longitude 88°26'39" W.); within 1.5 miles each side of the ILS localizer northwest course, extending from the 5-mile radius zone to 5 miles northwest of the runway end; within 1.5 miles each side of the Caledonia TACAN 141° and 312° radials, extending from the 5-mile radius zone to 6.5 miles southeast and northwest of the TACAN.

AMENDMENTS 3/23/78 43 F. R. 5 (Changed)

Columbus, Nebr.
Within a five-mile radius of the Columbus Municipal Airport (lat. 41°26'49"N., long. 97°20'31"W.), and within 4.5 miles each side of the 323° bearing from the Columbus Airport extending from the five-mile radius zone to 11 miles northwest of the airport, and within three miles each side of the 157° radial of the Columbus VOR extending from the five-mile radius zone to 8.5 miles southeast of the VOR. This control zone shall be effective during the times established by a Notice to Airmen or as published in the Airport/Facility Directory.

Columbus, Ohio (Bolton Field)
Within a 3-mile radius of Bolton Field (latitude 39°54'07" N., longitude 83°08'12" W.) and 2 miles either side of the 213° bearing from the airport extending from the 3-mile radius to 4 miles southwest of the airport excluding a 1-mile radius of Columbus Southwest Airport (latitude 39°54'45" N., longitude 83°11'00" W.). This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will therefore be continuously published in the Airport/Facility Directory.

Columbus, Ohio (Lockbourne AFB)
Within a 5.5-mile radius of the center, lat. 39°49'00" N., long. 82°56'00" W. of Lockbourne AFB, Columbus, Ohio; within 1.5 miles each side of the Lockbourne TACAN 042° radial, extending from the 5.5-mile radius zone to 7 miles northeast of the TACAN; within 1.5 miles each side of the Lockbourne TACAN 229° radial, extending from the 5.5-mile radius zone to 6 miles southwest of the TACAN; within a 1.5-mile radius of center, lat. 39°53' 11" N., long. 82°57'53" W. of South Columbus Airport, Columbus, Ohio.

Columbus, Ohio (Ohio State University Airport)
Within a 5-mile radius of the Ohio State University Airport (latitude 40°04'40" N., longitude 83°04'30" W.); within 3 miles each side of the 273° and 090° bearings from the airport extending from the 5-mile radius zone to 8½ miles west and east of the airport, excluding that portion within the Columbus, Ohio (Port Columbus International Airport) control zone. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Columbus, Ohio (Port Columbus International Airport)
Within a 6-mile radius of the center lat. 39°59'41" N., long. 82°53'08" W. of Port Columbus International Airport, Columbus, Ohio; within 2 miles each side of the 094° bearing from the Grandview LOM, extending from the 6-mile radius zone to 2 miles east of the Grandview LOM and within a 1-mile radius of the center, lat. 39° 55'00" N., long. 82°54'00" W. of Price Field, Columbus, Ohio, excluding the portion that coincides with the Columbus, Ohio (Lockbourne AFB), control zone.

Concord, Calif.
Within a 3-mile radius of Buchanan Field, Concord, Calif. (latitude 37°59'20" N., longitude 122°03'20" W.). within 2 miles each side of the Concord VOR 188° radial extending from the 3-mile radius zone to the VOR, effective from 0700 to 2300 hours, local time daily.

Concord, N. H.
Within a 5-mile radius of the center, 43°12'16"N., 71°30'07"W., of Concord Municipal Airport, Concord, N. H.; within 1.5 miles each side of the 337° bearing from the Epson, N. H., NDB, 43°07'05"N., 71°27'13"W., extending from the 5-mile radius zone to the Epson NDB; and within 2 miles each side of the Concord, N. H., VORTAC, 284° radial extending from the 5-mile radius zone to 3 miles northwest of the VORTAC.

AMENDMENTS 11/2/78 43 F. R. 36431 (Changed) Corr: 43 F. R. 39752

Cordova, Alaska
Within a 5-mile radius of the Cordova (mile 13) airport, latitude 60°29'33" N., longitude 145°28'36" W.; within 2 miles each side of the 233° bearing from the Cordova (CDV) NDB extending from the 5-mile radius zone to the intersection of the 233° bearing from the Cordova (CDV) NDB and the Hinchinbrook, Alaska, RBN 106° bearing and within
2 miles each side of the Cordova localizer east course extending from the 5-mile radius zone to 10 miles east of the localizer.

Corpus Christi, Tex.
Within a 5-mile radius of the Corpus Christi International Airport (latitude 27°46'20" N., longitude 97°30'20" W.); within 2 miles each side of the Corpus Christi VORTAC 202° radial, extending from the 5-mile radius zone to the VORTAC; and within 2 miles each side of the Corpus Christi ILS localizer NW course, extending from the 5-mile radius zone to the OM.

Corpus Christi, Tex. (NALF Cabaniss Field)
Within a 5-mile radius of NALF Cabaniss Field (latitude 27°42'06" N., longitude 97°26'17" W.) excluding that airspace designated as the Corpus Christi (CRP) and Navy Corpus Christi (NGP) control zones. This control zone will be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.
Effective hours, local time, will be: 0600-2200 Monday through Friday.

AMENDMENTS 5/18/78 43 F. R. 14443 (Changed)

Corpus Christi NAS, Tex.
That airspace within a 5-mile radius of NAS Corpus Christi (lat. 27°41'30"N., long. 97°17'15"W.) including the following extensions based on the Navy Corpus VORTAC (lat. 27°41'09"N., long. 97°17'40"W.); 3 miles each side of the 331° radial, extending from the 5-mile radius zone to 7 miles northwest of the VORTAC; 1.5 miles each side of the 016° radial, extending from the 5-mile radius zone to 5.5 miles north of the VORTAC; 3 miles each side of the 118° radial, extending from the 5-mile radius zone to 7 miles southeast of the VORTAC; and 1.5 miles each side of the 160° radial, extending from the 5-mile radius zone to 6.5 miles south of the VORTAC.

AMENDMENTS 3/23/78 43 F. R. 3546 (Rewritten) Corr: 43 F. R. 8508

Cortez, Colo.
Within a 5-mile radius of Cortez-Montezuma County Airport, Cortez, Colo., (latitude 37°18'15" N., longitude 108°37'35" W.) and within 3 miles each side of the Cortez VOR 210° and 004° radials, extending from the 5-mile radius zone to 8 miles north of the VOR. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 18550 (Changed)

Cotulla, Tex.
That airspace within a 3-mile radius of Cotulla Municipal Airport (latitude 28°27'15" N., longitude 99° 13'05" W.) and within 2 miles each side of the Cotulla VOR 266° radial extending from the 3-mile radius zone to 11 miles west of the VOR.
This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 14443 (Changed)

Covington, Ky.
Within a 5-mile radius of Greater Cincinnati Airport (lat. 39°02'56" N., long. 84°39'41" W.); within 1.5 miles each side of Runway 36 ILS localizer south course, extending from the 5-mile radius zone to the LOM.

Crescent City, Calif.
Within a 5-mile radius of Jack McNamara Field, Crescent City (lat. 41°46'50" N., long. 124°14'00" W.), within 3 miles each side of the Crescent City VORTAC 325° radial, extending from the 5-mile radius zone to 8 miles northwest of the VORTAC and within 1.5 miles each side of the Crescent City VORTAC 180° radial, extending from the 5-mile radius zone to 5.5 miles south of the VORTAC.
This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 19645 (Changed)

Crestview, Fla.
Within a 5-mile radius of Bob Sikes Airport (lat. 30°46'47" N., long. 86°31'21" W.); within 1.5 miles each side of Crestview VORTAC 109° radial, extending from the 5-mile radius zone to 0.5-mile east of the VORTAC.

Crossville, Tenn.
Within a 5-mile radius of the Crossville Memorial Airport (latitude 35°57'05" N., longitude 85°05'05" W.) and within 2 miles each side of the Hinch Mountain VORTAC 334° radial extending from the 5-mile radius zone to 1.5 miles northwest of the VORTAC.

Crows Landing, Calif.
Within a 5-mile radius of NALF Crows Landing (latitude 37°24'35"N., longitude 121°06'40"W.) excluding the portion within a 1-mile radius of Patterson Field, Patterson, California (latitude 37°28'05"N., longitude 121°10'06"W.) This control zone will be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously established as published in the Airport/Facility Directory.

Cut Bank, Mont.
Within a 5-mile radius of Cut Bank Airport (latitude 48°36'41" N., longitude 112°22'45" W.); within 3½ miles each side of the Cut Bank VORTAC 150° radial extending from the 5-mile radius zone to 10 miles southeast of the VORTAC.

AMENDMENTS 9/7/78 43 F. R. 37681 (Changed)
AMENDMENTS 11/2/78 43 F. R. 49978 (Changed)

Dalhart, Tex.
That airspace within a 5-mile radius of Dalhart Municipal Airport latitude 36°01'10" N., longitude 102°33'10" W.).

Dallas, Tex. (Addison Airport)
That airspace within a 5-mile radius of Addison Airport (latitude 32°58'05" N., longitude 96°50'05" W.); and within 2 miles each side of the Addison VOR 334° radial, extending from the 5-mile radius zone to 6 miles NW of the VOR; excluding the portion S of a line from latitude 32°59'30" N., longitude 96°55'30" W., through latitude 32°56'30" N., longitude 96°51'30" W., to latitude 32°54'00" N., longitude 96°46'30" W.
This control zone is effective from 0600 to 2200 hours, local time, daily.

Dallas, Tex. (Love Field)
That airspace bounded by a line beginning at latitude 32°53'15" N., longitude 96°59'35" W.; thence northeast to latitude 32°56'30" N.; thence clockwise along the arc of a 5-mile radius circle centered at Addison Airport (latitude 32°58'05" N., longitude 96°50'05" W.) to latitude 32°59'30" N., longitude 96°55'30" W., through latitude 32°56'30" N., longitude 96°51'30" W., and continuing southeast along a line to latitude 32°54'00" N., longitude 96°46'30" W. until interception of the arc of a 5-mile radius circle centered at Addison Airport, southeast of Addison Airport; then clockwise along the arc of the 5-mile radius centered at Addison Airport to interception with and then clockwise along the arc of a 5-mile radius circle centered at Love Field (latitude 32°51'00" N., longitude 96°50'50" W.) to longitude 96°49'30" W., southeast of Love Field; thence south along longitude 96°49'30" W. to and counterclockwise along the arc of a 5-mile radius circle centered at Redbird Airport (latitude 32°40'50" N., longitude 96°52'00" W.) until interception with and then northeast along a line drawn between latitude 32°39'35" N. longitude 96°54'15" W., and longitude 96°53'30" W. and the arc of a 5-mile radius circle centered at Love Field, southwest of Love Field; thence clockwise along the arc of a 5-mile radius circle centered at Love Field to latitude 32°49'40" N., west of Love Field, to point of beginning; within 2 miles each side of the Love Field runway 31L ILS localizer southeast course, extending from the Love Field 5-mile radius zone to the OM; and excluding that airspace within the Dallas-Fort Worth, Tex. (Regional Airport), control zone.

Dallas, Tex. (NAS Dallas)
Within a 6-mile radius of NAS Dallas (lat. 32°44'00" N., long. 96°58'05" W.); within a 5-mile radius of Redbird Airport (lat. 32°40'50" N., long. 96°52'00" W.); excluding the portion within the Dallas-Fort Worth, Tex. (Regional Airport), and Dallas, Tex. (Love Field), control zones; and excluding the portion east of a line from latitude 32°37'00" N., longitude 96°56'00" W., to latitude 32°39'35" N., longitude 96°54'15" W., to latitude 32°48'00" N., longitude 96°53'45" W.

Dallas, Tex. (Redbird Airport)
That airspace within a 5-mile radius of Redbird Airport (latitude 32°40'50" N., longitude 96°52'00" W.); and within 3.5 miles each side of the 165° bearing from the Redbird RBN extending from the 5-mile radius zone to 10 miles south of the RBN; excluding the portion west of a line from latitude 32°37'00" N., longitude 96° 56'00" W., to latitude 32°39'35" N., longitude 96°54'15" W., to latitude 32°48'00" N., longitude 96°53'49" W.
This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 14443 (Changed)

Dallas-Fort Worth, Tex., Regional Airport
Within a 5-mile radius of Dallas/Fort Worth Regional Airport (lat. 32°53'53" N., long. 97°02'24" W.); within 2.5 miles west and 3.5 miles east of the runway 17R/35L ILS localizer courses extending from the 5-mile radius zone to the OMs, and within 2.5 miles each side of the runway 31 ILS localizer course extending from the 5-mile radius zone to the OM.

Danbury, Conn.
Within a 5-mile radius of the center latitude 41°22'15" N., longitude 73°29'00" W., of the Danbury Airport, Danbury, Conn., and within 2 miles each side of the Carmel VORTAC 038° radial extending from the 5-mile radius area to the Carmel VORTAC.
Within 2.5 statute miles each side of a 262° magnetic bearing from a point 41°25'05"N., 73°18'45"W., extending from the 5 statute mile radius zone to 3 statute miles west of said point; within 2.5 statute miles each side of a 082° magnetic bearing from a point 41°19'22"N., 73°39'19"W., extending from the 5 statute mile radius zone to 3 statute miles east of said point.
This control zone is effective from 0700 to 2300 local time
daily or during the specific dates and times established in advance by a Notice to Airmen which thereafter will be continuously published in the Airport/Facility Directory.

AMENDMENTS 6/18/78 43 F. R. 24275 (Changed)

Danville, Ill.
That airspace within a 5-mile radius of Vermillion County Airport (lat. 40°11'54" N., long. 87°35'49" W.). This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Danville, Va.
Within a 5-mile radius of the center, lat. 36°34'30" N., long. 79°20'11" W., of Danville Municipal Airport, Danville, Va.; within 3 miles each side of the Danville, Va., VOR 044° radial, extending from the 5-mile radius zone to 8.5 miles northeast of the VOR; within 3 miles each side of the Danville, Va., VOR 208° radial, extending from the 5-mile radius zone to 8.5 miles southwest of the VOR; within 1.5 miles each side of a 017° bearing from a point 36°34'48" N., 79°20'08" W., extending from said point to 5 miles north.
This control zone is effective from 0600 to 2200 hours. local time. daily.

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Davenport, Iowa
Within a 5-mile radius of Davenport Municipal Airport (latitude 41°36'40" N., longitude 90°35'20" W.); within 3 miles each side of the 224° bearing from the Cody RBN, extending from the 5-mile radius zone to 6½ miles southwest of the RBN; and within 2 miles each side of the Davenport VOR 220° radial, extending from the 5-mile radius zone to 1 mile southwest of the VOR. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Dayton, Ohio (James M. Cox-Dayton Municipal)
Within a 5-mile radius of the center, 39°53'57" N., 84°12'45" W. of James M. Cox-Dayton Municipal Airport. Dayton, Ohio, excluding that airspace within a 1-mile radius of the center, 39°54'52" N., 84°18'45" W. of Studebaker Farms Airport, Union, Ohio.

Dayton, Ohio (Wright-Patterson AFB)
Within a 5-mile radius of Wright-Patterson AFB (latitude 39°49'25" N., longitude 84°02'55" W.); within a 6-mile radius of the Springfield Municipal Airport (latitude 39°50'22" N., longitude 83°50'21" W.); within 3 miles each side of the 055° bearing from the airport extending from the 6-mile radius zone to 9 miles northeast and within 3 miles each side of the 243° bearing from the airport extending from the 6-mile radius zone to 8.5 miles southwest.

Daytona Beach, Fla.
Within a 5-mile radius of Daytona Beach Regional Airport (lat. 29°10'49" N., long. 81°03'23" W.); within a 5-mile radius of Municipal Airport, Ormond Beach, Fla. (lat. 29°18'00" N., long. 81°06'49" W.); within 5 miles each side Ormond Beach VORTAC 256° radial, extending from the 5-mile radius zone to 8.5 miles west of the VORTAC.

Deadhorse, Alaska
Within a 5-mile radius of the Deadhorse Airport (latitude 70°11'40" N., longitude 148°28'05" W.); within a 5-mile radius of the Prudhoe Bay Airport (latitude 70°15'05" N., longitude 148°20'13" W.); within 3.5 miles each side of the Deadhorse VOR 255° radial extending from the 5-mile radius zone to 9.5 miles W of the VOR; within 3.5 miles each side of the Deadhorse VOR 081° radial extending from the 5-mile radius zone to 8.5 miles E of the VOR; within 3 miles each side of the Prudhoe Bay NDB 075° bearing extending from the 5-mile radius zone to 8.5 miles E of the NDB; and within 3 miles each side of the Prudhoe Bay NDB 259° bearing extending from the 5-mile radius zone to 8.5 miles W of the NDB.

Decatur, Ill.
Within a 5-mile radius of Decatur Airport (latitude 39°50'05" N., longitude 88°51'50" W.). This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Del Rio, Tex.
Within a 5-mile radius of Laughlin AFB (latitude 29°21'35" N., longitude 100°46'35" W.) within 3 miles each side of the Laughlin VORTAC 305° radial extending from the 5-mile radius zone to 7 miles northwest of the VORTAC; within 3 miles each side of the Laughlin VORTAC 315° radial extending from the 5-mile radius zone to 14 miles northwest of the VORTAC; within 3 miles each side of the Laughlin VORTAC 148° radial extending from the 5-mile radius zone to 12 miles southeast of the VORTAC. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 14443 (Changed)

Deming, N. Mex.
Within a 5-mile radius of Deming Municipal Airport (lat. 32°15'40" N., long. 107°43'10" W.).

Denver, Colo.
Within a 9-mile radius of Stapleton International Airport (latitude 39°46'30" N., longitude 104°52'40" W.), within a 9-mile radius of Buckley ANGB Airport (latitude 39°42'05" N., longitude 104°45'10" W.), and within 4 miles each side of the Buckley ANGB VOR 152° radial extending from the 9-mile radius zone to 14 miles southeast of the VOR, excluding the portion within a 1-mile radius of Skyline Airport (latitude 39°46'37" N., longitude 104°36'57" W.).

Des Moines, Iowa
Within a 5-mile radius of Des Moines Municipal Airport (latitude 41°32'10" N., longitude 93°39'27" W.); and within 1 mile each side of the Des Moines ILS localizer northwest course, extending from the 5-mile radius zone to 11½ miles northwest of the OM.

Detroit, Mich.
Within a 5-mile radius of the Detroit City Airport (latitude 42°24'35" N., longitude 83°00'35" W.), within 2 miles each side of the Detroit City Airport ILS localizer NW course extending from the 5-mile radius zone to 6 miles NW of the approach end of the Detroit City Airport Runway 15; and within 2 miles each side of the Windsor, Ontario, Canada VOR 320° radial extending from the 5-mile radius zone to the United States/Canadian border.

Detroit, Mich. (Metropolitan Wayne County Airport)
Within a 5-mile radius of Detroit Metropolitan Wayne County Airport (latitude 42°13'07" N., longitude 83°20'55" W.); within 2 miles each side of the Detroit Metropolitan Wayne County Airport ILS localizer southwest course, extending from the 5-mile radius zone to the OM; within 2 miles each side of the Detroit Metropolitan Wayne County Airport ILS localizer northeast course, extending from the 5-mile radius zone to the OM; and within 2 miles each side of the Detroit Metropolitan Wayne County Airport ILS east course, extending from the 5-mile radius zone to the OM, excluding the portion west of a line between the points of intersection of the 5-mile radius zone and the Detroit, Mich. (Willow Run) control zone.

Detroit, Mich. (Willow Run Airport)
Within a 5-mile radius of Willow Run Airport (latitude 42°14'05" N., longitude 83°31'45" W.), within 2 miles each side of the Willow Run VOR 237° radial, extending from the 5-mile radius zone to 8 miles SW of the VOR, within 2 miles each side of the Willow Run Airport ILS localizer SW course, extending from the 5-mile radius zone to the OM, excluding the portion subtended by a chord drawn between the points of INT of the 5-mile radius zone with the Detroit, Mich. (Metropolitan Wayne County Airport) control zone.

Devils Lake, N. Dak.
Within a 5-mile radius of the Devils Lake Municipal Airport (latitude 48°06'55" N., longitude 98°54' 30" W.); within 3½ miles each side of the Devils Lake VORTAC 134° radial extending from the 5-mile radius zone to 10 miles southeast of the VORTAC; within 3½ miles each side of the Devils Lake VORTAC 324° radial extending from the 5-mile radius zone to 10 miles northwest of the VORTAC; and within 3 nautical miles each side of the 026° bearing from the Devils Lake Municipal Airport extending from the 5-mile radius zone to 7 miles northeast of the airport. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 18550 (Changed)

Dickinson, N. Dak.
Within a 5-mile radius of Dickinson Municipal Airport (latitude 46°47'51" N., longitude 102°47'49" W.) and within 3 miles each side of the Dickinson VORTAC 013° radial extending from the 5-mile radius area to 8 miles north of the VORTAC.

Dillingham, Alaska
Within a 5-mile radius of the Dillingham Airport (latitude 59°02'30" N., longitude 158°30'28" W.); within 2 miles each side of the Dillingham VORTAC 025° radial extending from the 5-mile radius zone to 13.5 miles northeast of the Dillingham VORTAC and within 2 miles each side of the Dillingham VORTAC 205° radial extending from the 5-mile radius zone to 9 miles southwest of the VORTAC. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the U. S. Government Flight Information Publication, Supplement Alaska.

Dodge City, Kans.
Within a 5-mile radius of Dodge City Municipal Airport (latitude 37°45'42" N., longitude 99°57'51" W.).

Dothan, Ala.
Within a 5-mile radius of Dothan Airport (lat. 31°19'10"N., long. 85°27'30"W.); within 4.5 miles each side of Wiregrass VORTAC 157° radial, extending from the 5-mile radius zone to 10.5 miles SE of the VORTAC, within 3.5 miles each side of Wiregrass VORTAC 331° radial, extending from the 5-mile radius zone to 7.5 miles NW of the VORTAC.

AMENDMENTS 3/23/78 42 F. R. 60120 (Changed)

Douglas, Ariz.
Within a 5-mile radius of Bisbee-Douglas International Airport (latitude 31°28'00" N., longitude 109°36' 10" W.) and within 2 miles each side of the Douglas VORTAC 333° radial, extending from the 5-mile radius zone to 11.5 miles northwest of the VORTAC.

Dover, Del.
Within a 5-mile radius of the center, lat. 39°07'30" N., long. 75°28'00" W. of Dover AFB, Dover, Del.; within 3 miles each side of the Dover TACAN 178° radial, extending from the 5-mile radius zone to 6.5 miles south of the TACAN; within 3 miles each side of the Dover TACAN 012° radial, extending from the 5-mile radius zone to 6.5 miles north of the TACAN; within 3 miles each side of the Dover TACAN 132° radial, extending from the 5-mile radius zone to 6.5 miles southeast of the TACAN.

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Du Bois, Pa.
Within a 5-mile radius of the center, 41°10'42" N., 78°53'50" W., of Du Bois-Jefferson County Airport, Du Bois, Pa.; within 3 miles each side of the Du Bois-Jefferson County Airport ILS localizer northeast course, extending from the 5-mile radius zone to 8.5 miles northeast of the OM; and within 2.5 miles each side of the Clarion, Pa., VORTAC 086° radial, extending from the 5-mile radius zone to 23 miles east of the Clarion, Pa., VORTAC.

PENDING AMENDMENT
The Du Bois, Pa., control zone is amended by adding: "and within 2.5 miles each side of a 242° bearing from a point 41°10'30"N., 78°54'30"W., extending from said point to 5.5 miles southwest of said point."

AMENDMENTS 12/28/78 43 F. R. 51006 (Changed)

Dubuque, Iowa
Within a 5-mile radius of Dubuque Municipal Airport (latitude 42°24'10" N., longitude 90°42'25" W.); within 3 miles each side of the Dubuque VORTAC 321° radial, extending from the 5-mile radius zone to 8 miles northwest of the VORTAC; and within 3 miles each side of the Dubuque VORTAC 126° radial, extending from the 5-mile radius zone to 8 miles southeast of the VORTAC; within 3 miles each side of the Dubuque VORTAC 182° radial, extending from the 5-mile radius zone to 8 miles south of the VORTAC. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Duluth, Minn.
Within a 6.5-mile radius of Duluth International Airport (latitude 46°50'30" N., longitude 92°11'25" W.); and within 3 miles each side of the Duluth VORTAC 197° radial extending from the 6.5-mile radius zone to 11 miles south of the VORTAC.

Durango, Colo.
Within a 5-mile radius of La Plata Field (latitude 37°09'12" N., longitude 107°45'04" W.) and within 3 miles each side of the Durango VOR 224° radial, extending from the 5-mile radius zone to 8 miles southwest of the VOR. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 18550 (Changed)

Dyersburg, Tenn.
Within a 5-mile radius of the Dyersburg Municipal Airport (latitude 36°00'00" N., longitude 89°24'20" W.); within 1.5 miles each side of the Dyersburg VORTAC 258° radial, extending from the 5-mile radius zone to the VORTAC, effective from 0600 to 2200 hours local time daily.

Eagle, Colo.
That airspace within a 3.5-mile radius of the Eagle County Airport (latitude 39°38'18" N., longitude 106° 54'51" W.) and within 3 miles north and 2.5 miles south of the 093° bearing from the Eagle, Colo., RBN (latitude 39°38'37" N., longitude 106°54'36" W.), extending from the 3.5-mile radius zone to 6 miles east of the RBN.

AMENDMENTS 9/7/78 43 F. R. 37681 (Changed)
AMENDMENTS 11/2/78 43 F. R. 49978 (Changed)

Eastover, S. C.
Within a 5-mile radius of McEntire ANGB (lat. 33°55'26" N., long. 80°48'14" W.); within 2 miles each side of McEntire ANG TACAN 138° radial, extending from the 5-mile radius zone to 7 miles southeast of the TACAN.

East St. Louis, Ill.
Within a 5-mile radius of the Bi State Parks Airport (latitude 38°34'30" N., longitude 90°10'00" W.) and within 3 miles each side of the 129° bearing from the airport extending from the 5-mile radius area to 8 miles southeast. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Eau Claire, Wis.
Within a 5-mile radius of Eau Claire Municipal Airport (latitude 44°51'50" N., longitude 91°29'10" W.); within 2½ miles each side of the 304° bearing from Eau Claire Municipal Airport extending from the 5-mile radius zone to 5½ miles northwest of the airport; within 2½ miles each side of the 041° bearing from the Eau Claire Municipal Airport, extending from the 5-mile radius zone to 5½ miles northeast of the airport; and within 2½ miles each side of the 274° bearing from the Eau Claire Municipal Airport, extending from the 5-mile radius zone to 5½ miles west of the airport.

Edwards AFB, Calif.
Within an 8-mile radius of Edwards AFB (latitude 34°54'20"N., longitude 117°52'58"W.).

Eglin AFB, Fla.
Within a 5-mile radius of Eglin AFB (lat. 30°29'07" N., long. 86°31'35" W.); within 1 mile each side of the ILS localizer southeast course, extending from the 5-mile radius zone to 4.5 miles southeast of the runway end; within a 3-mile radius of Destin-Fort Walton Beach Airport (lat. 30°23'57" N., long. 86°28'47" W.); within 2 miles each side of the extended centerline of runway 14/32, extending from the 3-mile radius zone to 4 miles southeast of the airport.

Eglin AF Aux No. 3 (Duke Field), Fla.
Within a 5-mile radius of Eglin AF Aux No. 3 (Duke Field); (latitude 30°39'01" N., longitude 86°31'25" W.). The portion within a 5-mile radius of Bob Sikes Airport (latitude 30°46'47" N., longitude 86°31'21" W.) is excluded. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 13373 (Changed)

Eglin AF Aux No. 9 (Hurlburt Field), Fla.
Within a 5-mile radius of Eglin AF Aux No. 9 (Hurlburt Field) (lat. 30°25'42" N., long. 86°41'05" W.); within 2 miles each side of the Eglin VOR 285° radial, extending from the 5-mile radius zone to 1 mile west of the VOR; excluding the portion within Eglin AFB control zone.

El Centro, Calif.
Within a 5-mile radius of NAF El Centro (latitude 32°49'20" N., longitude 115°40'15" W.); within a 5-mile radius of Imperial County Airport, El Centro, Calif. (latitude 32°50'10" N., longitude 115°34'30" W.); within 2 miles each side of the Imperial VORTAC 297° radial, extending from the NAF El Centro 5-mile radius zone to the VORTAC, and within 2 miles each side of the Imperial VORTAC 327° radial, extending from the Imperial County 5-mile radius zone to the VORTAC.

El Dorado, Ark.
That airspace within a 5-mile radius of Goodwin Airport, El Dorado, Ark. (latitude 33°13'05" N., longitude 92°48'45" W.).

Elizabeth City, N. C.
Within a 5-mile radius of CGAS Elizabeth City (latitude 36°15'35" N., longitude 76°10'20" W.); within 3 miles each side of Elizabeth City VOR 188° radial, extending from the 5-mile radius zone to 10 miles south of the VOR; within 2.5 miles each side of Elizabeth City VOR 357° radial, extending from the 5-mile radius zone to 8.5 miles north of the VOR. This control zone is effective from 0700 to 2200 hours, local time, daily.

Elkhart, Ind.
Within a 5-mile radius of the Elkhart Municipal Airport (latitude 41°43'11" N., longitude 85°59'41" W.), within 2 miles each side of the 264° bearing from the airport extending from the 5-mile radius zone to 8 miles west, excluding that airspace within a 1-mile radius of the Mishawaka Pilots Club Airport (latitude 41°39' 25" N., longitude 86°02'05" W.). This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Elkins, W. Va.
Within a 5-mile radius of the center, lat. 38°53'20" N., long. 79°51'24" W. of Elkins-Randolph County-Jennings Randolph Field, Elkins, W. Va., and within 3 miles each side of the 011° bearing from the Randolph County RBN, extending from the 5-mile radius zone to 8.5 miles north of the RBN. This control zone is effective from sunrise to sunset, daily.

Elko, Nev.
Within a 5-mile radius of Elko Municipal Airport (Lat. 40°49'35" N, Long. 115°47'20" W).

Elmira, N.Y.
Within a 5-mile radius of the center of Chemung County Airport, Elmira, N.Y., 42°09'37" N., 76°53'35" W.; within 2 miles each side of the Elmira VOR 057° radial extending from the 5-mile radius zone to the VOR; within 2 miles each side of the airport ILS localizer NE course extending from the 5-mile radius zone to 2 miles NE of the OM; within 2 miles each side of the centerline of Runway 1 extended northerly from the 5-mile radius zone for 3 miles; within 2 miles each side of the centerline of Runway 10 extended easterly from the 5-mile radius zone for 1 mile; within 2 miles each side of the centerline of Runway 19 extended southerly from the 5-mile radius zone for 2 miles and within 2 miles each side of the centerline of Runway 28 extended westerly from the 5-mile radius zone for 4 miles.

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El Monte, Calif.
Within a 3-mile radius of El Monte Airport (latitude 34°05'05" N., longitude 118°02'00" W.) and within 2 miles each side of the Pomona VORTAC 271° radial, extending from the 3-mile radius zone to 8 miles west of the VORTAC. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 19645 (Changed)

El Paso, Tex.
That airspace bounded by a line beginning at latitude 31°45'45" N., longitude 106°27'43" W.; thence clockwise along the arc of a 6-mile radius circle centered at the El Paso International Airport (latitude 31°48'35" N., longitude 106°22'55" W.) to latitude 31°49'46" N., longitude 106°28'34" W.; thence clockwise along the arc of a 6-mile radius circle centered at latitude 31°50'55" N., longitude 106°22'45" W.; to latitude 31°55'12" N., longitude 106°26'00" W.; to latitude 31°56'20" N., longitude 106°26'00" W.; thence clockwise along the arc of a 7-mile radius circle centered at latitude 31°50'55" N., longitude 106°22'45" W.; to latitude 31°47'30" N., longitude 106°16'45" W.; thence clockwise along the arc of a 6-mile radius circle centered at the El Paso International Airport; to latitude 31°43'15" N., longitude 106°22'20" W.; thence via the United States/Mexican border to point of beginning.

El Toro, Calif.
Within a 5-mile radius of MCAS El Toro (latitude 33°40'34" N., longitude 117°43'50" W.); within 3.5 miles west and 3 miles east of the El Toro VOR 175° radial extending from the 5-mile radius zone to 12 miles south of the VOR, excluding the portions within the Santa Ana, Calif. (Orange County), and Santa Ana (MCAS), Calif., control zones.
This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 19645 (Changed)

Emporia, Kans.
Within a 5-mile radius of the Emporia, Kans., Municipal Airport (lat. 38°20'00"N., long. 96°11'15"W.) and 1.5 miles either side of the 010° bearing from the airport extending from the 5-mile radius to 6 miles north. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Enid, Okla. (Vance AFB)
That airspace within a 5-mile radius of Vance AFB (lat. 36°20'20"N., long. 97°55'00"W.) and within 3 miles west and 3 miles east of the Vance VORTAC (lat. 36°20'43"N., long. 97°55'04"W.) 178.5° radial extending from the 5-mile radius zone to the 7 DME fix; and within 4 miles west and 5 miles east of the Vance VORTAC 358.5° radial extending from the 5-mile radius zone to the 6 DME fix; and within a 5-mile radius of Enid Woodring Municipal Airport (lat. 36°22'46"N., long. 97°47'28"W.) and within 2 miles each side of the Woodring VOR (lat. 36°22'26"N., long. 97°47'17"W.) 354.5° radial, extending from the 5-mile radius zone to 8 miles north of the VOR; and within 2 miles east and 4 miles west of the Woodring VOR 184.5° radial, extending from the 5-mile zone to 8 miles south of the VOR; excluding that portion of airspace east of long. 97°51'00"W., when the Woodring Municipal Airport control zone is in effect. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 14443 (Changed)
AMENDMENTS 7/13/78 43 F. R. 21444 (Rewritten)

Enid, Okla. (Woodring Municipal Airport)
That airspace within a 5-mile radius of Enid Woodring Municipal Airport (lat. 36°22'46"N., long. 97°47'28"W.) and within 2 miles each side of the Woodring VOR (lat. 36°22'26"N., long. 97°47'17"W.) 354.5° radial, extending from the 5-mile radius zone to 8 miles north of the VOR; and within 2 miles east and 4 miles west of the Woodring VOR 184.5° radial, extending from the 5-mile zone to 8 miles south of the VOR; excluding that portion of airspace west of long. 97°51'00"W. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 7/13/78 43 F. R. 21444 (Added)

Ephrata, Wash.
Within a 5-mile radius of Ephrata Municipal Airport (latitude 47°18'27" N., longitude 119°30'38" W.) and within 3 miles each side of the Ephrata VORTAC 043° and 223° radials, extending from the 5-mile radius zone to 8 miles northeast of the VORTAC. This control zone is effective during specific dates and times established in advance by Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Erie, Pa.
Within a 5-mile radius of the center, lat. 42°04'53" N., long. 80°10'43" W. of Erie International Airport, Erie, Pa.; within a 6-mile radius area of the center of the airport, extending clockwise from a 060° bearing to a 235° bearing from the airport; within a 9.5 mile radius of the center of the airport, extending clockwise from a 090° bearing to a 175° bearing from the airport; within 3.5 miles each side of the Erie ILS localizer NE course extending from the 5-mile radius area to 8 miles NE of the OM.

Escanaba, Mich.
Within a 5-statute mile radius of Escanaba VORTAC (lat. 45°43'19"N., long. 87°05'31"W.); within 3 statute miles each side of the Escanaba VORTAC 007° and 101° radials, extending from the 5-mile radius zone to 8.5 statute miles north and east of the VORTAC; within 3 statute miles each side of the Escanaba VORTAC 266° radial extending from the 5-mile radius zone to 8 statute miles west of the VORTAC.

Eugene, Oreg.
Within a 5-mile radius of Mahlon-Sweet Field (latitude 44°07'25" N., longitude 123°13'05" W.), within 3 miles each side of the Eugene VORTAC 008° radial, extending from the 5-mile radius zone to 8 miles north of the VORTAC, and within 2.5 miles each side of the Eugene VORTAC 172° radial, extending from the 5-mile radius zone to 9 miles south of the VORTAC. This control zone is effective during the specific dates and times established in advance by Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Evansville, Ind.
Within a 5-mile radius of Dress Memorial Airport (latitude 38°02'15" N., longitude 87°32'00" W.); and within 2 miles each side of the Evansville ILS localizer northeast course, extending from the 5-mile radius zone to 1 mile southwest of the OM.

Everett, Wash.
Within a 5-mile radius of the Snohomish County Airport (Paine Field), Wash. (latitude 47°54'40" N., longitude 122°16'50" W.), and within 3 miles each side of the Paine VOR 356° radial, extending from the 5-mile radius zone to 8 miles north of the VOR. This control zone shall be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Fairbanks, Alaska (Eielson AFB)
Within a 5-mile radius of Eielson AFB (latitude 64°39'55" N., longitude 147°05'55" W.); within 2 miles each side of the Eielson localizer S course extending from the 5-mile radius zone to the Eielson outer marker; and within 2 miles SW and 3 miles NE of the Eielson TACAN 324° radial extending from the Eielson 5-mile radius zone to 6 miles NW of the TACAN.

Fairbanks, Alaska (Fairbanks International/Fort Wainwright AAF)
Within a 5-mile radius of Fairbanks International Airport (latitude 64°49'09" N., longitude 147°51'14" W.); within a 5-mile radius of Fort Wainwright AAF (latitude 64°50'13" N., longitude 147°36'52" W.); within 2 miles each side of the Fairbanks localizer NE course, extending from the Fairbanks 5-mile radius zone to the outer marker; within 2 miles each side of the Fairbanks localizer SW course, extending from the Fairbanks 5-mile radius zone to 5 miles SW of the localizer antenna (latitude 64°48'11" N., longitude 147°53'01" W.); and within 2 miles each side of the Chena, Alaska, RBN 089° bearing, extending from the Fort Wainwright 5-mile radius zone to 5 miles E of the RBN.

Fairfield, Calif.
Within a 5-mile radius of Travis AFB, Fairfield, Calif. (latitude 38°15'45" N., longitude 121°55'35" W.), and within 2 miles each side of the Travis VOR 229° radial, extending from the 5-mile radius zone NE to the VOR and 18 miles SW of the VOR.

Fairmont, Minn.
Within a 5-mile radius of Fairmont Municipal Airport (latitude 43°38'41" N., longitude 94°25'04" W.); within 2½ miles each side of the 132° bearing from the Fairmont Municipal Airport, extending from the 5-mile radius zone to 6½ miles southeast of the airport, and within 2½ miles each side of the 319° bearing from the Fairmont Municipal Airport, extending from the 5-mile radius zone to 6½ miles northwest of the airport. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Fallon, Nev.
Within a 5-mile radius of NAAS Fallon (latitude 39°25'10" N., longitude 118°42'00" W.); within 2 miles each side of the NAAS Fallon TACAN 139° radial, extending from the 5-mile radius zone to 8 miles SE of the TACAN, and within 2 miles NE and 2.5 miles SW of the Fallon TACAN 296° radial, extending from the 5-mile radius zone to 5.5 miles NW of the TACAN.

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Falmouth, Mass.
Within a 5-mile radius of Otis AFB, Falmouth, Mass. (latitude 41°39'30" N., longitude 70°31'35" W.); within 2 miles each side of the extended centerline of Runway 5, extending from the 5-mile radius zone to 6 miles NE of the end of Runway 5; within 2 miles each side of the Otis TACAN 030° radial, extending from the 5-mile radius zone to 8 miles NE of the TACAN; within 2 miles each side of the extended centerline of Runway 14, extending from the 5-mile radius zone to 5 miles SE of the end of Runway 14; within 2 miles each side of the Otis TACAN 139° radial, extending from the 5-mile radius zone to 7 miles SE of the TACAN; within 2 miles each side of the extended centerline of Runway 23, extending from the 5-mile radius zone to 5 miles SW of the end of Runway 23; within 2 miles each side of the Otis TACAN 224° radial, extending from the 5-mile radius zone to 8 miles SW of the TACAN; within 2 miles each side of the extended centerline of Runway 32, extending from the 5-mile radius zone to 5 miles NW of the end of Runway 32; within 2 miles each side of the Otis TACAN 299° radial, extending from the 5-mile radius zone to 7 miles NW of the TACAN.

Farewell, Alaska
Within a 5-mile radius of the Farewell Airport (latitude 62°30'30" N., longitude 153°52'30" W.); and within 3.5 miles each side of the 306° bearing from the Farewell RBN extending from the 5-mile radius zone to 8.5 miles northwest of the RBN. This control zone is effective from 0745 to 1545 local time daily, or during the specific dates and times established in advance by Notice to Airmen. The effective date and time will thereafter be continuously published in the Flight Information Publication, Supplement Alaska.

Fargo, N. Dak.
Within a 7-mile radius of Hector Field (lat. 46°54'57" N., long. 96°48'53" W.); and within 2 miles each side of the Fargo VORTAC 009° radial, extending from the 7-mile radius zone to the VORTAC.

Farmingdale, N. Y.
Within a 5-mile radius of Republic Airport, Farmingdale, N. Y., (latitude 40°43'45" N., longitude 73°24'50" W.), extending clockwise from 065° bearing to the 270° bearing and within a 6-mile radius extending clockwise from the 270° to the 065° bearing from the airport. This control zone shall be in effect from 0700 to 2300 hours, local time, daily.

Farmington, N. Mex.
Within a 5-mile radius of Farmington Municipal Airport (lat. 36°44'28" N., long. 108°13'39" W.); and within 3 miles each side of the Farmington VORTAC 086° and 267° radials extending from the 5-mile radius zone to 8 miles east of the Farmington, N. Mex., VORTAC.

Fayetteville, Ark.
Within a 5.5-mile radius of Drake Field (latitude 36°00'13" N., longitude 94°10'12" W.), within 3 miles each side of the Drake VOR 325° radial extending from the 5.5-mile radius zone to 8 miles northwest of the VOR; and within 2 miles each side of the Fayetteville ILS localizer north course 349° bearing extending from the 5.5-mile radius zone to 11.5 miles north of the localizer site (latitude 35°59'37.5" N., longitude 94°10'02" W.).

Fayetteville, N. C.
Within a 5-mile radius of Fayetteville Municipal Airport (Grannis Field) (lat. 34°59'22" N., long. 78°52'52" W.); within 3 miles each side of Fayetteville VOR 015°, 080° and 233° radials, extending from the 5-mile radius zone to 8.5 miles north, east, and southwest of the VOR; excluding the portion within Simmons AAF control zone.

Findlay, Ohio
Within a 5-mile radius of the Findlay Airport (latitude 41°00'40" N., longitude 83°40'30" W.) excluding that portion within a 1-mile radius of the Lutz Airport (latitude 40°57'42" N., longitude 83°35'43" W.) within 3 miles each side of the 179° bearing from the Findlay Airport extending from the 5-mile radius zone to 8.5 miles south of the airport; within 3 miles each side of the 063° bearing from the Findlay Airport extending from the 5-mile radius zone to 8.5 miles northeast of the airport; within a 5-mile radius of Bluffton Flying Service Airport (latitude 40°53'09" N., longitude 83°52'04" W.) and within 2 miles each side of the Findlay VORTAC 231° radial extending from the 5-mile radius zone to the Findlay, Ohio, Airport 5-mile radius zone.

Flagstaff, Ariz. (Pulliam Airport)
Within a 7-mile radius of Pulliam Airport (latitude 35°08'16" N., longitude 111°40'17" W.) and within 2 miles each side of the Flagstaff VOR 127° radial, extending from the 7-mile radius zone to 10 miles southeast of the VOR.

Flint, Mich.
Within a 5-mile radius of Flint, Mich., Bishop Airport (latitude 42°57'55" N., longitude 83°44'30" W.), and within 2 miles each side of the Flint VORTAC 052° 075°, 187°, 219°, 280° and 351° radials extending from the 5-mile radius zone to 8 miles NE, E, S, SW, W, and N of the VORTAC.

Florence, S. C.
Within a 5-mile radius of Florence City-County Airport (lat. 34°11'17" N., long. 79°43'28" W.); within 3.5 miles each side of Florence VORTAC 049° and 229° radials, extending from the 5-mile radius zone to 8 miles northeast of the VORTAC.

Ft. Belvoir, Va.
Within a 5-mile radius of the center, 38°42'55" N., 77°10'55" W., of Davison AAF, Fort Belvoir, Va.; within 1-mile each side of the Davison AAF localizer southeast course, extending from the 5-mile radius zone to the OM; within 2 miles each side of the extended centerline of Runway 32, extending from the northwest end of Runway 32 to 5 miles northwest, excluding the portion within P-73.

Fort Bragg, N. C.
Within a 5-mile radius of Pope AFB (lat. 35°10'15"N., long. 79°00'55"W.), excluding the portion southeast of a line extending from lat. 35°11'15"N., long. 78°56'05"W., to lat. 35°05'55"N., long. 79°00'50"W.

AMENDMENTS 5/18/78 43 F. R. 15415 (Changed)

Fort Carson, Colo.
Within a 5-mile radius of Butts Army Airfield (latitude 38°40'46" N., longitude 104°45'41" W.), excluding the portion within the Colorado Springs, Colo., control zone. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 18550 (Changed)

Fort Devens, Mass.
Within a 4-mile radius of the center of Devens AAF, Fort Devens, Mass., (lat. 42°34'15"N., long. 71°36'20"W.) excluding that portion within 1-mile radius of the center of Shirley Airport, Shirley, Mass., (lat. 42°31'30"N., long. 71°39'55"W.). This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Fort Dodge, Iowa
Within a 5-mile radius of Fort Dodge Municipal Airport (latitude 42°33'05" N., longitude 94°11'10" W.). This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Fort Eustis, Va.
Within a 5-mile radius of the center, lat. 37°07'45" N., long. 76°36'45" W., of Felker AAF, Fort Eustis, Va., and within 3 miles each side of the 323° bearing from the Felker AAF RBN, extending from the 5-mile radius zone to 8.5 miles northwest of the RBN, excluding the portion that coincides with the Newport News, Va., control zone. This control zone is effective from 0600 to 2300 hours, local time, daily.

Fort Huachuca, Ariz.
Within a 5-mile radius of Libby AAF, Fort Huachuca, AZ. (latitude 31°35'00" N., longitude 110°20'30" W.), within 5 miles each side of the Libby AAF VOR 093° radial, extending from the VOR to 12 miles east of the VOR. This control zone will be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 19645 (Changed)

Fort Knox, Ky.
Within a 5-mile radius of Godman AAF (lat. 37°54'27" N., long. 85°58'21" W.); within 3 miles each side of the 354° bearing from Fort Knox RBN, extending from the 5-mile radius zone to 8.5 miles north of the RBN; within 3 miles each side of Fort Knox VOR 001°, 172° and 324° radials, extending from the 5-mile radius zone to 8.5 miles north, south and northwest of the VOR.

Fort Lauderdale, Fla.
Within a 5-mile radius of Fort Lauderdale-Hollywood International Airport (lat. 26°04'26" N., long. 80°09'10" W.); within 3 miles each side of Fort Lauderdale VOR 084°, 276° and 306° radials, extending from the 5-mile radius zone to 8.5 miles east, west, and northwest of the VOR.

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Fort Lauderdale, Fla. (Executive Airport)
Within a 5-mile radius of Fort Lauderdale Executive Airport (lat. 26°11'41" N., long. 80°10'15" W.); within 2 miles each side of the 084° bearing from Tropic RBN (lat. 26°11'08"N., long. 80°17'49"W.), extending from the 5-mile radius zone to 1.5 miles east of the RBN; excluding
the portion within Fort Lauderdale-Hollywood International Airport (lat. 26°04'26" N., long. 80°09'10" W.) control zone and
the portion northeast of a line 3 miles southwest of and parallel to Pompano Beach VOR 319° radial, and the portion east of Fort Lauderdale Executive Airport, north of a line 1 mile north of and parallel to the extended centerline of Runway 8/26.
This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 13373 (Changed)

Fort Leonard Wood, Mo.
Within a 4-mile radius of Forney AAF (latitude 37°44'30" N., longitude 92°08'25" W.); within 3 miles each side of the Forney AAF VOR 323° radial extending from the 4-mile radius zone to 7½ miles northwest of the VOR; and within 3 miles each side of the 146° bearing from the Forney AAF RBN extending from the 4-mile radius zone to 7½ miles southeast of the Forney AAF RBN. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Fort Lewis, Wash.
Within a 5-mile radius of Gray AAF, Fort Lewis, Wash. (latitude 47°04'55" N., longitude 122°34'55" W.), excluding the portions within the Tacoma, Washington (McChord AFB) control zone and the portion east of a line 2 miles west of and parallel to the McChord AFB VOR 182° radial. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Fort Meade, Md.
Within a 5-mile radius of the center 39°05'04"N., 76°45'37"W., of Tipton AAF, Fort Meade, Md., and within 3 miles each side of a line bearing 091° from the Fort Meade RBN (lat. 39°05'04" N., 76°45'37" W.) extending from the 5-mile radius zone to 8 miles east of the RBN excluding that airspace that coincides with the Baltimore, Md., control zone and a 1-mile radius centered on Beltsville, Md., (USDA), Airport (39°01'27"N., 76°49'21" W.). This control zone shall be in effect from 0700 to 2200 hours, local time Monday through Friday and 0800 to 1600 hours, local time Saturdays, Sundays, and Federal holidays.

Fort Myers, Fla.
Within a 5-mile radius of Page Field (lat. 26°35'09" N., long. 81°51'51" W.); within 3 miles each side of Fort Myers VORTAC 062°, 213°, and 318° radials, extending from the 5-mile radius zone to 8.5 miles northeast, southwest, and northwest of the VORTAC.

Fort Ord, Calif.
Within a 5-mile radius of the Fritzsche AAF (latitude 36°40'55" N., longitude 121°45'40" W.), excluding the portion SW of a chord drawn between the points of INT of 5-mile radius circles centered on the Monterey Peninsula Airport and Fritzsche AAF, and the portion E of a chord drawn between the points of INT of 5-mile radius circles centered on the Salinas Municipal Airport and Fritzsche AAF.
This control zone shall be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 19645 (Changed)

Fort Polk, La.
That airspace within a 5-mile radius of Polk AAF (latitude 31°02'40" N., longitude 93°11'25" W.); within 2 miles each side of the 160° bearing from the Polk AAF RBN, extending from the 5-mile radius zone to 9 miles SE of the south fan marker; and within 2 miles each side of the 340° bearing from the Polk AAF RBN, extending from the 5-mile radius zone to 7 miles NW of the north fan marker. This control zone is effective during the dates and times established in advance by publication of Special Notices in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 14443 (Changed)

Fort Riley, Kans.
Within a 5-mile radius of Marshall AAF, Fort Riley, Kans. (lat. 39°03'15"N., long. 96°45'50"W.); within 2 miles each side of the Fort Riley VOR 042° radial extending from the 5-mile radius zone to the VOR; and within 2 miles each side of the 216° bearing from the Fort Riley RBN extending from the 5-mile radius zone to 8 miles SW of the RBN, excluding the portion within R-3602 and the portion bounded on the NE by the 318° bearing from the Fort Riley RBN and on the SE by a line 2 miles NW of and parallel to the Fort Riley VOR 042° radial. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Fort Rucker, Ala.
Within a 5-mile radius of lat. 31°18'30"N., long. 85°42'20"W.; 3 miles each side of Cairns VOR 233° radial, extending from the 5-mile radius to 8.5 miles southwest of the VOR; within 2 miles each side of Cairns Army Air Field Runway 36 extended centerline, extending from the 5-mile radius to 5 miles south of the runway end; within 3 miles each side of the 242° bearing from Lowe, Ala., NDB, extending from the 7-mile radius zone to 8.5 milee southwest of the NDB; within 3 miles each side of Hanchey, Ala., VOR 358° radial, extending from the 7-mile radius zone to 8.5 miles north of the VOR; within a 2-mile radius of Blackwell Field, Ozark, Ala. (latitude 31°25'50" N., longitude 85°37'10" W.); within a 2-mile radius of Hooper, Ala. Army Stage Field (latitude 31°24'25" N., longitude 85°41'20" W.); excluding the portion within a 1.5-mile radius of Allen, Ala., Army Stage Field (latitude 31°13'50" N., longitude 85°38'40" W.), and the portion within R-2103.

AMENDMENTS 9/7/78 43 F. R. 25805 (Changed) Corr: 43 F. R. 29555

Fort Smith, Ark.
Within a 5-mile radius of Fort Smith Municipal Airport (latitude 35°20'10" N., longitude 94°22'05" W.), within 2 miles each side of the Fort Smith VORTAC 238° radial extending from the 5-mile radius zone to the VORTAC, within 2 miles each side of the Fort Smilth ILS localizer east course extending from the 5-mile radius zone to the OM, and within 2 miles each side of the Fort Smith ILS localizer west course extending from the 5-mile radius zone to the Peno Bottoms RBN (latitude 35°19'21" N., longitude 94°28'28" W.).

Fort Stewart, Ga.
Within a 5-mile radius of Lyle H. Wright AAF (lat. 31°53'20"N., long. 81°33'45"W.). This control zone is effective from 0700 to 2300 hours, local time, daily.

AMENDMENTS 9/28/78 43 F. R. 46526 (Changed)

Fort Wayne, Ind.
Within a 5-mile radius of Baer Field (latitude 40°58'45" N., longitude 85°11'25" W.); within 3 miles each side of the Fort Wayne VORTAC 229° radial, extending from the 5-mile radius zone to 8½ miles southwest of the VORTAC; within 3 miles each side of the Fort Wayne VORTAC 320° radial, extending from the 5-mile radius zone to 8½ miles northwest of the VORTAC; within 3 miles each side of the Fort Wayne VORTAC 038° radial, extending from the 5-mile radius zone to 8½ miles northeast of the VORTAC; and within 3½ miles each side of the Fort Wayne VORTAC 265° radial, extending from the 5-mile radius zone to 10 miles west of the VORTAC.

Fort Worth, Tex. (Carswell AFB)
That airspace within a 5-mile radius of Carswell AFB (latitude 32°46'20" N., longitude 97°26'30" W.); within 2 miles each side of the Carswell AFB TACAN 358° radial extending from the TACAN to 14 miles north;
within 2 miles each side of the Carswell ILS localizer S course extending from the 5-mile radius zone to 9 miles south of the airport;
within 2 miles each side of the Carswell AFB TACAN 194° radial extending from the TACAN to 11.5 miles south;
excluding the portion east of longitude 97°24'00" W.

Fort Worth, Tex. (Meacham Field)
That airspace within a 5-mile radius of Meacham Field (latitude 32°49'00" N., longitude 97°21'35" W.); within a 5-mile radius of Carswell AFB (latitude 32°46'20" N., longitude 97°26'30" W.); and within 2 miles each side of the Meacham Field ILS localizer S course, extending from Meacham Field to 6 miles S; excluding the portion W of longitude 97°24'00" W.

Fort Yukon, Alaska
Within a 5-mile radius of Fort Yukon Municipal Airport (latitude 66°34'16" N., longitude 145°14'59" W.) and within 3 miles south and 4.5 miles north of the Fort Yukon 076° radial extending from the 5-mile radius zone to 10.5 miles east of the Fort Yukon VORTAC and within 3 miles each side of the Fort Yukon VORTAC 214° radial extending from the 5-mile radius zone to 8.5 miles southwest of the VORTAC. This control zone is effective from 0800 to 1700 hours local time daily or during the specific days and times established in advance by Notice to Airmen. The effective times will thereafter be continuously published in the Flight Information Publication Supplement Alaska.

Franklin, Pa.
Within a 5-mile radius of the center, lat. 41°22'45" N., long. 79°51'40" W. of Chess-Lamberton Airport, Franklin, Pa.; within 3 miles each side of the Franklin, Pa. VOR 360° and 180° radials extending from the 5-mile radius zone to 8.5 miles north of the VOR.
This control zone is effective during the specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 14442 (Changed)

Fresno, Calif. (Chandler Municipal Airport)
Within a 5-mile radius of Chandler Municipal Airport (latitude 36°43'55" N., longitude 119°49'05" W.); within 2 miles each side of the 232° bearing from the Chandler RBN extending from the 5-mile radius zone to 8 miles SW of the RBN and within 2 miles each side of the Fresno VORTAC 185° radial, extending from the 5-mile radius zone to 1.5 miles S of the VORTAC, excluding the portion within the Fresno (Fresno Air Terminal) control zone. This control zone shall be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 19645 (Changed)

Fresno, Calif. (Fresno Air Terminal).
Within a 5-mile radius of Fresno Air Terminal (latitude 36° 46' 25" N., longitude 119° 42' 35" W.), within 2 miles each side of the Fresno VORTAC 143° radial, extending from the 5-mile radius zone to 15 miles SE of the VORTAC, and within 2 miles each side of the Fresno VORTAC 150° radial, extending from the 5-mile radius zone to the VORTAC.

Fullerton, Calif.
Within a 3-mile radius of Fullerton Municipal Airport (latitude 33°52'20"N., longitude 117°58'45"W.) and within 2.5 miles each side of the Fullerton Municipal Airport Runway 24 centerline extended, extending from the 3-mile radius zone to 5.5 miles east of Runway 24 threshold, excluding the portion within the Long Beach, California control zone. This control zone shall be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 19645 (Changed)

Gage, Okla.
Within a 5-mile radius of the Gage Municipal Airport (latitude 36°17'45" N., longitude 99°46'30" W.), and within 2 miles each side of the Gage VORTAC 118° radial, extending from the 5-mile radius zone to the VORTAC.

Gainesville, Fla.
Within a 5-mile radius of Gainesville Regional Airport (lat. 29°41'22"N., long. 82°16'28"W.); within 1.5 miles each side of Gainesville VORTAC 034° radial, extending from the 5-mile radius zone to the VORTAC.

AMENDMENTS 7/13/78 43 F. R. 20225 (Changed)

Galena, Alaska
Within a 5-mile radius of the Galena Airport (latitude 64°44'10" N., longitude 156°56'00" W.); within 2 miles each side of the Galena VORTAC 089° radial extending from the 5-mile radius zone to 8 miles E of the VORTAC; and within 2 miles each side of the Galena VORTAC 269° radial extending from the 5-mile radius zone to 14 miles W of the VORTAC.

Galesburg, Ill.
Within a 5-mile radius of Galesburg, Ill., Municipal Airport (latitude 40°56'24" N., longitude 90°25'46" W.); within 2 miles each side of the Galesburg VOR 019° radial extending from the 5-mile radius zone to 8 miles N of the VOR; and within 2 miles each side of the Galesburg VOR 214° radial extending from the 5-mile radius zone to 8 miles SW of the VOR. This control zone shall be effective during the times established by a Notice to Airmen and published continuously in the Airport/Facility Directory.

Gallup, N. Mex.
That airspace within a 5-mile radius of the Senator Clarke Field (latitude 35°30'35" N., longitude 108°47' 00" W.), within 3.5 miles each side of the Gallup, N. Mex., VORTAC 242° and 062° radials extending from the 5-mile radius zone to a point 10.5 miles southwest of the VORTAC.

Galveston, Tex.
Within a 5-mile radius of Scholes Field, Galveston, Tex., (Lat. 29°15'55" N., long. 94°51'35" W.); and within 2 miles either side of the Scholes VORTAC 119° radial extending from the 5-mile radius zone to the VORTAC. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 14443 (Changed)

Garden City, Kans.
Within a 5-mile radius of the Garden City Municipal Airport (latitude 37°55'49" N., longitude 100°43'40" W.), and within 2 miles each side of the 144° bearing from the Holcomb RBN, extending from the 5-mile radius zone to 2 miles southeast of the RBN; and within 2½ miles each side of the 004° radial of the Garden City VORTAC extending from the 5-mile radius zone to 8 miles north of the VORTAC; and within 2½ miles each side of the 171° radial of the Garden City VORTAC extending from the 5-mile radius zone to 5 miles south of the VORTAC.

Gary, Ind.
Within a 5-mile radius of Gary Municipal Airport (latitude 41°36'54" N., longitude 87°24'37" W.). This control zone shall be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Gillette, Wyo.
Within a 5-mile radius of the Gillette-Campbell County Airport (lat. 44°20'52"N., long. 105°32'34"W.). This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 3/23/78 43 F. R. 4848 (Added)
AMENDMENTS 5/18/78 43 F. R. 18550 (Changed)

Glasgow, Mont.
Within a 5-mile radius of Glasgow International Airport (latitude 48°12'50" N., longitude 106°37'10" W.); within 2½ miles each side of the 342° bearing from Glasgow International Airport, extending from the 5-mile radius zone to 5½ miles north of the airport; within 2½ miles each side of the Glasgow VOR 327° radial, extending from the 5-mile radius zone to 5½ miles northwest of the VOR; and within 2½ miles each side of the Glasgow VOR 127° radial, extending from the 5-mile radius zone to 5½ miles southeast of the VOR.

Glens Falls, N. Y.
Within a 5-mile radius of the center, latitude 43°20'32" N., longitude 73°36'35" W., of Warren County Airport, Glens Falls, N. Y., extending clockwise from a 357° bearing to a 275° bearing from the airport; within an 11-mile radius of the center of the airport extending clockwise from a 275° bearing to a 307° bearing from the airport; within a 7.5-mile radius of the center of the airport extending clockwise from a 307° bearing to a 357° bearing from the airport; within 2 miles each side of the Glens Falls VORTAC 005° radial extending from the VORTAC to 5.5 miles north of the VORTAC; and within 4 miles each side of the Glens Falls VORTAC 172° radial extending from the VORTAC to 12.5 miles south of the VORTAC.

Glenview, Ill.
Within a 5-mile radius of NAS Glenview (latitude 42°05'30" N., longitude 87°49'20" W.); within 2 miles each side of the Northbrook, Ill., VOR 162° and 140° radials extending from the Chicago, Ill., (O'Hare International Airport), and the Glenview, Ill., 5-mile radius zones to 3½ miles south and 3½ miles southeast of the VOR; two miles north and four miles south of the Northbrook VOR 071° radial, extending from 1 mile east to 6 miles east of the VOR; within 2 miles each side of the Northbrook VOR 070° radial, extending from 6 to 11 miles east of the VOR; within 2 miles each side of the 062° bearing from the Haley AAF, Fort Sheridan, Ill., RBN, extending from the RBN to 7 miles northeast of the RBN; within 2 miles each side of the 002° bearing from NAS Glenview RBN, extending from the 5-mile radius zone to 12 miles north of the RBN; and within 2 miles each side of the NAS Glenview TACAN 005° radial, extending from the 5-mile radius zone to 8 miles north of the TACAN, excluding the area that overlies the Chicago, Ill. (O'Hare International Airport) control zone.

Goldsboro, N. C.
Within a 5-mile radius of Seymour Johnson AFB (latitude 35°20'20" N., longitude 77°57'50" W.); within 2 miles each side of Seymour Johnson TACAN 073° radial, extending from the 5-mile radius zone to 4.5 miles east of the TACAN; within 2 miles each side of Seymour Johnson TACAN 253° radial, extending from the 5-mile radius zone to 8.5 miles west of the TACAN.

Goodland, Kans.
Within a 5-mile radius of Renner Field-Goodland Municipal Airport (latitude 39°22'10" N., longitude 101° 41'55" W.).

Grand Canyon, Ariz. (Grand Canyon National Park Airport)
Within a 5-mile radius of Grand Canyon National Airport (lat. 35°57'16" N., long. 112°08'37" W.) and within 3 miles each side of the Grand Canyon VOR 211° radial, extending from the 5-mile radius zone to 6 miles southwest of the VOR. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 19645 (Changed)

Grand Forks, N. Dak. (Grand Forks Air Force Base)
Within a 5-mile radius of Grand Forks AFB (latitude 47°57'40" N., longitude 97°24'00" W.), within 2 miles each side of the Red River VOR 360° radial extending from the 5-mile radius zone to 1 mile NE of the VOR, and within 2 miles each side of the Red River TACAN 004° radial, extending from the 5-mile radius zone to 7 miles N of the TACAN.

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Grand Forks, N. Dak.(International Airport)
Within a 5-mile radius of Grand Forks International Airport (latitude 47°57'05" N., longitude 97°10'35" W.), within 2.5 miles each side of the Grand Forks VORTAC 012° radial, extending from the 5-mile radius zone to 6.5 miles north of the VORTAC and within 3 miles each side of the Grand Forks VORTAC 173° radial, extending from the 5-mile radius zone to 8 miles south of the VORTAC.

Grand Island, Nebr.
Within a 5-mile radius of Grand Island County Airport (latitude 40°58'03" N., longitude 98°18'30" W.); within 3 miles each side of the Grand Island VORTAC 303° radial, extending from the 5-mile radius zone to 8½ miles northwest of the VORTAC; and within 3 miles each side of the Grand Island VORTAC 360° radial, extending from the 5-mile radius zone to 8½ miles north of the VORTAC.

Grand Junction, Colo.
Within a 5-mile radius of Walker Field, Grand Junction, Colo. (lat. 39°07'05" N. Long. 108°31'10" W). and within 2 miles either side of the Grand Junction ILS localizer NW course extending from the 5-mile radius zone to 8 miles NW of the localizer.

Grand Rapids, Mich.
Within a 5-mile radius of Kent County Airport (latitude 42°52'50" N., longitude 85°31'25" W.).

Grandview, Mo.
Within a 5-mile radius of Richards-Gebaur AFB (latitude 38°50'50" N., longitude 94°33'20" W.); within 2½ miles each side of the Richards-Gebaur AFB ILS localizer south course, extending from the 5-mile radius zone to 1 mile south of the OM; and within 2½ miles each side of the Richards-Gebaur AFB TACAN 195° radial, extending from the 5-mile radius zone to 5½ miles south of the TACAN, excluding the area north of latitude 38°52' 30" N., and west of longitude 94°35'50" W. This control zone shall be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Grant County, Wash.
Within a 5-mile radius of the Grant County Airport, Moses Lake, Washington (latitude 47°12'29" N., longitude 119°19'05" W.), within 2 miles each side of the Ephrata VORTAC 156° radial extending from the 5-mile radius to 3 miles southeast of the VORTAC, excluding the Ephrata, Washington, control zone, within 2 miles each side of the Grant County ILS localizer south course, extending from the 5-mile radius zone to the Pelican Radio Beacon, within 2.5 miles each side of the Moses Lake VOR 050° radial extending from the 5-mile radius zone to 15.5 miles northeast and within 4 miles each side of the Moses Lake VOR 063° radial extending from the 5-mile radius 14.8 miles northeast. This control zone shall be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Great Falls, Mont. (International Airport)
Within a 5-mile radius of the Great Falls International Airport (latitude 47°29'00" N., longitude 111°22' 03" W.) within 3½ miles each side of the Great Falls VORTAC 225° radial, extending from the 5-mile radius zone to 10 miles southwest of the VORTAC; within 3½ miles each side of the Great Falls VORTAC 045° radial, extending from the 5-mile radius zone to 19 miles northeast of the VORTAC.

Great Falls, Mont. (Malmstrom Air Force Base)
Within a 5-mile radius of the Malmstrom AFB (latitude 47°30'05" N., longitude 111°11'20" W.); within 3½ miles each side of the Sand Coulee VOR 037° radial, extending from the 5-mile radius zone to 15½ miles northeast of the VOR; within 3½ miles each side of the Malmstrom AFB TACAN 227° radial, extending from the 5-mile radius zone to 7 miles southwest of the TACAN; excluding those portions within the Great Falls International Airport control zone.

Green Bay, Wis.
That airspace within a 5-mile radius of Austin-Straubel Airport, Green Bay, Wis., (latitude 44°29' 16" N., longitude 88°07'49" W.).

Greensboro, N. C.
Within a 5-mile radius of Greensboro/High Point/Winston-Salem Regional Airport (latitude 36°05'36" N, longitude 79°56'34" W.); within 2 miles each side of Greensboro VORTAC 035° radial, extending from the 5-mile radius zone to 12 miles northeast of the VORTAC; within 2 miles each side of Greensboro ILS localizer northwest course, extending from the 5-mile radius zone to 1 mile southeast of the LOM.

Greenville, Miss.
Within a 5-mile radius of the Greenville International Airport (lat. 33°29'05"N., long. 90°59'06"W.); within 3 miles each side of the Greenville VOR 358° radial extending from the 5-mile radius zone to 8.5 miles N of the VOR, effective from 0600 to 2200 hours, local time, daily.

Greenville, S. C.
Within a 5-mile radius of Greenville Municipal Downtown Airport (lat. 34°50'54" N., long. 82°21'01" W.); excluding the portion within a 5-mile radius of Greenville-Spartanburg Airport (lat. 34°53'45"N., long. 82° 13'04"W.); effective from 0700 to 2300 hours local time daily.

AMENDMENTS 11/2/78 43 F. R. 34114 (Changed)

Greenville, Tex.
Within a 5-mile radius of the Majors Field Airport (lat. 33°04'00"N., long. 96°03'45"W.). This control zone will be effective during specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 14443 (Changed)

Greenwood, Miss.
Within a 5-mile radius of the Greenwood Leflore Airport (latitude 33°29'30" N., longitude 90°04'50" W.); within 2.5 miles each side of the Greenwood VORTAC 081° radial, extending from the 5-mile radius zone to 1.5 miles east of the VORTAC.

Greenwood Village, Colo.
That airspace within a 5-mile radius of the Arapahoe County Airport (lat. 39°34'28"N., long. 104°51'02"W.) and within 2.07 miles each side of the Arapahoe ILS localizer south course extending from the 5-mile radius zone to 6.5 miles south of the airport, excluding that airspace within the Denver, Colo., control zone. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 18550 (Changed)

Greer. S. C.
Within a 5-mile radius of Greenville-Spartanburg Airport (lat. 34°53'45"N., long. 82°13'04"W.).

AMENDMENTS 1/26/78 42 F. R. 60120 (Rewritten)

Grissom AFB, Ind.
Within a 5-mile radius of Grissom AFB (lat. 40°38'55"N., long. 86°09'10"W.).

Groton, Conn.
Within a 4-mile radius of the center 41°19'50"N., 72°02'50"W., of Trumbull Airport, Groton, Conn., within 2 miles each side of the Trumbull VOR 047° radial extending from the 4-mile radius zone to 7 miles NE of the VOR; within 2 miles each side of the Trumbull VOR 190° radial extended from the 4-mile radius zone to 6.5 miles south of the VOR. Excluding that portion within a 1-mile radius of the center 41°15'15" N., 72° 02'00" W. of the Elizabeth New York Airport. This control zone is effective from 0600 to 2300 hours daily, local time, and during specific dates and times established in advance by a Notice to Airmen.

Guam Island (Andersen AFB)
Within a 5-mile radius of Andersen AFB (lat. 13°35'00"N., long. 144°55'00"W.); within 2 miles each side of the Andersen TACAN 066° radial, extending from the 5-mile radius zone to 9 miles NE of the TACAN, and within 2 miles NW and 4 miles SE of the Andersen VOR 064° radial, extending from the 5-mile radius zone to the Guam Island (NAS Agana) 5-mile radius zone.

Guam Island (NAS Agana)
Within a 5-mile radius of NAS Agana (latitude 13°29'00" N., longitude 144°47'00" E); within 4 miles each side of Agana VORTAC 244°R. (245° T.), extending from the 5-mile radius zone to 8 miles southwest of the VORTAC, and within 1 mile northwest and 2 miles southeast of the Guam RBN 026° bearing, extending from the 5-mile radius zone
to 2 miles northeast of the RBN.

Gulfport, Miss.
Within a 5-mile radius of Gulfport-Biloxi Regional Airport (lat. 30°24'28"N., long. 89°04'05"W.); within 3.5 miles
each side of Gulfport VORTAC 050°, 129°, 213° and 319° radials, extending from the 5-mile radius zone to 9.5 miles northeast, southeast, southwest and northwest of the VORTAC; excluding that portion within the Biloxi. Miss., control zone. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 13373 (Changed)
AMENDMENTS 11/2/78 43 F. R. 39752 (Changed)

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Gulkana, Alaska

Within a 5-mile radius of the Gulkana Airport (latitude 62°09'19" N., longitude 145°27'08" W.); within 3.5 miles each side of the Gulkana VORTAC 346° radial extending from the 5-mile radius zone to 11.5 miles N of the VORTAC; and within 3 miles each side of the Gulkana VORTAC 181° radial extending from the 5-mile radius zone to 8.5 miles S of the VORTAC.

Hagerstown, Md.

Within a 5-mile radius of the center, 39°42'27" N., 77°43'50" W., of Hagerstown Regional Airport, Hagerstown, Md.; within 3 miles each side of the Hagerstown, Md., VOR 239° radial and 059° radial, extending from 8.5 miles southwest of the VOR to 2 miles northeast of the VOR; within 3 miles each side of the Hagerstown, Md., VOR 084° radial, extending from the 5-mile radius zone to the VOR; within 4.5 miles each side of the Hagerstown Regional Airport ILS Runway 27 localizer course, extending from the localizer to 13.5 miles east of the localizer. This control zone is effective from 0600 to 2230 hours, local time, daily.

Hampton Roads, Va.

Within a 5-mile radius of Langley AFB, Hampton Roads, Va., (latitude 37°05'05" N., longitude 76°21'25" W.), within 2.5 miles NW and 2 miles SE of the Langley AFB Runway 7 ILS localizer course, extending from the 5-mile radius zone to the OM, within 2 miles each side of the Langley AFB TACAN 078° radial, extending from the 5-mile radius zone to 6 miles E of the TACAN.

Harlingen, Tex.

Within a 5-mile radius of Harlingen Industrial Airport (latitude 26°13'37" N., longitude 97°39'12" W.); and within 2 miles each side of the Harlingen VOR 117° radial, extending from the 5-mile radius zone to 1 mile southeast of the VOR. This part-time control zone will be effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory. Tentative dates and times will be: From 0600 to 2200 local time of a daily basis.

AMENDMENTS 5/18/78 43 F. R. 14443 (Changed)

Harrisburg, Pa.

Within a 6.5-mile radius of the center, 40°12'59" N., 76°51'03" W., of Capital City Airport, Harrisburg, Pa.; within 2 miles each side of the extended centerline of Capital City Airport Runway 26, extending from the west end of Runway 26 to 6.5 miles west of the west end of Runway 26; within 2 miles each side of the Harrisburg, Pa., VORTAC 100° radial, extending from the 6.5-mile radius zone to 2.5 miles east of the VORTAC; excluding the portion that coincides with the Middletown, Pa., control zone east of the direct lines described as follows: a line bearing 028° from a point 40°12'23" N., 76°48"38" W., extending from said point to the point of intersection with the Harrisburg, Pa., 6.5-mile radius zone and a line bearing 191° from a point 40°12'23" N., 76°48'38" W., extending from said point to the point of intersection with the Harrisburg, Pa., 6.5-mile radius zone.

Harrison, Ark.

Within a 5-mile radius of Boone County Airport (latitude 36°15'55" N., longitude 93°09'14" W.), within a 7.5-mile radius of the airport extending from the Harrison VOR 165° radial clockwise to the 230° radial, and within 1.5 miles each side of the Harrison VOR 140° radial extending from the 5-mile radius zone to the VOR.

Hartford, Conn.

Within a 5-mile radius of Hartford-Brainard Airport (lat. 41°44'10" N., long. 72°39'02" W.); within a 5-mile radius of Rentschler Field, East Hartford, Connecticut (lat. 41°45'10" N., long. 72°37'25" W.); within 3.5 miles each side of the Brainard (ADQ) NDB (lat. 41°42'51" N., long. 72°36'48" W.) 130° bearing from the NDB extending from the 5-mile radius zone to 7 miles southeast of the NDB; within 4.5 miles each side of the Hartford, Connecticut, VORTAC 327° radial extending from the 5-mile radius zone to the VORTAC; within 2 miles each side of the Hartford VOR 334° radial extending from the 5-mile radius zone to the VOR; within 2 miles each side of the 182° bearing from the Brainard NDB extending from the 5-mile radius zone to 7 miles south of the NDB and within 2 miles each side of the Hartford VOR 327° radial extending from the 5-mile

AMENDMENTS 2/2/78 43 F. R. 4847 (Changed)

Hastings, Nebr.

Within a 5-mile radius of Hastings, Nebr., Municipal Airport (latitude 40°36'20" N., longitude 98°25'30" W.), within 2 miles each side of the 338° bearing from Hastings Municipal Airport extending from the 5-mile radius zone to 9.5 miles N of the airport, and within 2 miles each side of the 143° bearing from Hastings Municipal Airport extending from the 5-mile radius zone to 8 miles SE of the airport. The control zone shall be effective during the time established by a Notice to Airmen and continuously published in the Airport/Facility Directory.

Havre, Mont.

Within a 5-mile radius of City-County Airport (latitude 48°32'45" N., longitude 109°45'40" W.); within 3 miles each side of the Havre VOR 080° radial, extending from the 5-mile radius zone to 7 miles east of the VOR; and within 3 miles each side of the Havre VOR 287° radial, extending from the 5-mile radius zone to 7 miles west of the VOR.

This control zone is effective during specific dates and times established in advance by a Notice to Airmen. The effective date and time thereafter will be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 18550 (Changed)

Hayden, Colo.

Within a 5-mile radius of Yampa Valley Airport (latitude 40°28'53" N., longitude 107°13'08" W.), within 3.5 miles each side of the Hayden VOR 301° radial extending from the 5-mile radius zone to 11.5 miles northwest of the VOR. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Hays, Kans.

Within a 5-mile radius of Hays Municipal Airport (latitude 38°50'45" N., longitude 99°16'30" W.); and within 2 miles each side of the Hays, Kans., VOR 162° radial, extending from the 5-mile radius zone to 8 miles south of the VOR. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Hayward, Calif.

Within a 5-mile radius of Hayward Air Terminal (latitude 37°39'30" N., longitude 122°06'45" W.), excluding the portion within the Oakland, Calif., control zone. This control zone is effective from 0600 to 0000 hours, local time, daily.

Helena, Mont.

Within a 5-mile radius of the Helena County-City Airport (lat. 46°36'27"N., long. 111°58'45"W.), within 2½ miles each side of the Helena VORTAC 102° radial extending from the 5-mile radius zone to 4½ miles east of the VORTAC, and within 1 mile each side of the 282° bearing from the airport reference point, from the 5-mile radius zone 8 miles west of the VORTAC.

Hibbing, Minn.

That airspace within a 5-mile radius of Chisholm-Hibbing Airport (latitude 47°23'10" N., longitude 92°50' 15" W.); within 2 miles each side of the Hibbing VORTAC 313° radial extending from the 5-mile radius zone to 15 miles northwest of the VORTAC; within 1½ miles each side of the Hibbing VORTAC 313° radial extending from the 5-mile radius zone to the VORTAC.

Hickory, N. C.

Within a 5-mile radius of Hickory Municipal Airport (latitude 35°44'30"N., longitude 81°23'20"W.); within 1 mile each side of the ILS localizer northeast course, extending from the 5-mile radius zone to the outer marker.

Hillsboro, Oreg.

Within a 5-mile radius of Portland-Hillsboro Airport (latitude 45°32'15" N.. longitude 122°56'46" W.); within 2 miles each side of the Newburg VORTAC 007° radial, extending from the 5-mile radius area to 8 miles south of the airport; within 2 miles each side of the 039° bearing from the airport reference point, extending from the 5-mile radius area to 9.5 miles northeast of the airport; and within 3.5 miles each side of the 323° bearing from the airport reference point, extending from the 5-mile radius area to 16 miles northwest.

Hilo, Hawaii

Within a 5-mile radius of General Lyman Field, Hilo, Hawaii (lat. 19°43'15" N., long. 155°02'55" W.), and within 3.5 miles each side of the Hilo VORTAC 090° radial, extending from the 5-mile radius zone to 10 miles east of the VORTAC.

Hobart, Okla.

Within a 5-mile radius of the Hobart Municipal Airport (latitude 34° 59' 20" N., longitude 99° 02' 55" W.) and within 2 miles each side of the Hobart VOR 003° radial, extending from the 5-mile radius zone to the VOR.

Hobbs, N. Mex.

That airspace within a 5-mile radius of the Lea County Airport (latitude 32°41'19" N., longitude 103°13' 01" W.), and within 3.5 miles each side of the Hobbs VORTAC 222° radial, extending from the 5-mile radius zone to 10.5 miles SW of the VORTAC.

This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 14443 (Changed)

Hollywood, Fla.

Within a 3-mile radius of the North Perry Airport (latitude 26°00'06" N., longitude 80°14'24" W.); excluding the portion which coincides with the Fort Lauderdale and Miami, Fla., control zones. This control zone is effective during the specific dates and time established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 13373 (Changed)

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Homer, Alaska
Within a 5-mile radius of the Homer Airport (latitude 59°38'43" N., longitude 151°28'31" W.); within 2 miles each side of the 266° bearing from the Kachemak NDB extending from the 5-mile radius zone to 4.5 miles W of the NDB; and within 1.5 miles each side of the Homer localizer SW course extending from the 5-mile radius zone to 11 miles SW of the localizer antenna site (latitude 59°39'08" N., longitude 151°27'22" W.). This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the U. S. Flight Information Publication Supplement Alaska.

Homestead, Fla.
Within a 5-mile radius of Homestead AFB (lat. 25°29'15" N., long. 80°23'00" W.); within 2 miles each side of the ILS localizer southwest course, extending from the 5-mile radius zone to 5 miles southwest of the runway end.

Honolulu, Hawaii
Within a 5-mile radius of Honolulu International Airport (latitude 21°19'35" N., longitude 157°55'45" W.); within a 5-mile radius of NAS Barbers Point (latitude 21°18'35" N., longitude 158°04'30" W.); within 2 miles each side of the Honolulu VORTAC 089° radial, extending from the VORTAC to the Honolulu 5-mile radius zone; within 3 miles northwest and 4.5 miles southeast of the Honolulu VORTAC 242° radial, extending from the NAS Barbers Point 5-mile radius zone to 13 miles southwest of the Honolulu VORTAC.

Honolulu, Hawaii (Wheeler AFB)
Within a 3-mile radius of Wheeler AFB (latitude 21°29'00" N., longitude 158°02'30" W.), excluding the portion within R-3109. This control zone is effective from 0600 to 2200 hours, local time, daily.

Hopkinsville, Ky.
Within a 5-mile radius of the Campbell AAF (lat. 36°40'23"N., long. 87°29'27"W.); within 1.5 miles each side of the 224° bearing from Campbell RBN, extending from the 5-mile radius zone to 0.5 mile southwest of the RBN; excluding that airspace 3 miles southeast of, and parallel to, Campbell AAF Runway 4/22 centerline and centerline extended; within a 3-mile radius of Sabre Army Heliport (lat. 36°34'14"N., long. 87°28'50"W.).

Hoquiam, Wash.
Within a 5-mile radius of Bowerman Field, Hoquiam, Wash. (lat. 46°58'15" N., long. 123°56'05" W.), within 1.5 miles each side of the Hoquiam VORTAC 081° radial, extending from the 5-mile radius zone to the VORTAC and within 4 miles each side of the 081° radial, extending from the 5-mile radius zone to 20 miles east of the VORTAC.

Hot Springs, Ark.
Within a 9-mile radius of Memorial Field (latitude 34°28'40" N., longitude 93°05'45" W.), and within 3 miles each side of the 248° bearing from the Hot Springs RBN extending from the 9-mile radius zone to 8.5 miles west of the RBN. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.
AMENDMENTS 5/18/78 43 F. R. 14443 (Changed)

Hot Springs, Va.
Within a 6-mile radius of the center, lat. 37°57'04" N., long. 79°50'02" W. of Ingalls Field, Hot Springs, Va. This control zone is effective during the specific days and times established in advance by a Notice to Airmen. The effective times will thereafter be published in the Airport/Facility Directory.
AMENDMENTS 5/18/78 43 F. R. 14442 (Changed)

Houghton, Mich.
Within a 6-mile radius of Houghton County Memorial Airport (latitude 47°10'06" N., longitude 88°29'20" W.); within 3 miles each side of the 020° bearing from the Calumet RBN, extending from the 6-mile-radius zone to 6½ miles north of the RBN.

Houlton, Maine
Within a 4-mile radius of the center, 46°07'25" N., 67°47'40" W., of Houlton International Airport, Houlton, Maine, and within 2 miles each side of the Houlton VOR 016° radial extending from the 4-mile radius zone to 2 miles north of the VOR, excluding the airspace within Canada.

Houston, Tex. (Ellington AFB)
Within a 5-mile radius of Ellington AFB (latitude 29°36'25" N., longitude 95°09'20" W.), within a 3-mile radius of Clear Lake City Stolport (latitude 29°33'27" N., longitude 95°08'21" W.), within 2 miles each side of the Ellington VOR 209° radial extending from the 5-mile radius zone to 7 miles southwest of the VOR, within 2 miles each side of the Ellington TACAN 213° radial extending from the 5-mile radius zone to 7 miles southwest of the TACAN, within 2 miles each side of the Hobby VORTAC 142° radial extending from the William P. Hobby Airport (latitude 29°38'40" N., longitude 95°16'30" W.) 5-mile radius zone to 11.5 miles southeast of the VORTAC, and within 2 miles each side of the Hobby VORTAC 126° radial extending from the William P. Hobby Airport 5-mile radius zone to 13.5 miles southeast of the VORTAC, excluding the portions within the Houston, Tex. (William P. Hobby), control zone.

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Houston, Tex. (Intercontinental Airport)
That airspace within a 5-mile radius of Houston Intercontinental Airport (latitude 29°58'51" N., longitude 95°20'30" W.), within 2 miles each side of the Humble VORTAC 337° radial extending from the 5-mile radius zone to 8 miles N of the VORTAC, within 2 miles each side of the Houston Intercontinental ILS localizer W course extending from the 5-mile radius zone to the OM, and within 2 miles each side of the Houston Intercontinental ILS localizer E course extending from the 5-mile radius zone to 7.5 miles E of the airport.

Houston, Tex. (William P. Hobby)
Tnat airspace within a 5-mile radius of William P. Hobby Airport (latitude 29°38'40" N., longitude 95°16'30" W.); within 2 miles each side of the the Houston William P. Hobby ILS localizer SW course extending from the 5-mile radius zone to the OM, within 2 miles each side of the Houston William P. Hobby ILS localizer NE course extending from the 5-mile radius zone to
the Pasadena RBN, within 2 miles each side of the Hobby VORTAC 306° radial extending from the 5-mile radius zone to 6 miles NW of the VORTAC, within 2 miles each side of the Hobby VORTAC 025° radial extending from the 5-mile radius zone to 6 miles NE of the VORTAC, within 2 miles each side of the Hobby VORTAC 239° radial extending from the 5-mile radius zone to 6 miles SW of the VORTAC, within 2 miles each side of the Hobby VORTAC 142° radial extending from the 5-mile radius zone to 11.5 miles SE of the VORTAC, and within 2 miles each side of a 223° bearing from the Hobby DF station (latitude 29°38'48" N., longitude 95°16'42" W.) extending from the 5-mile radius zone to 8 miles SW of the DF station, excluding the portion E of a line from the intersecting point of 5-mile radius circles centered on William P. Hobby Airport and Ellington AFB (latitude 29°36'25" N., longitude 95°09'20" W.) NE of William P. Hobby Airport, through the intersecting point of such 5-mile radius circles SE of William P. Hobby Airport, to latitude 29°32'00" N., longitude 95°15'00" W.

Huntington, W. Va.
Within a 6-mile radius of the center, latitude 38°22'00" N., longitude 82°33'20" W. of Tri-State Airport (Walker-Long Field), Huntington, West Virginia, and within 3.5 miles each side of the Tri-State Airport (Walker-Long Field) ILS localizer east course, extending from the 6-mile radius zone to 4.5 miles east of the Shoals, West Virginia, FM.

Huntsville, Ala.
Within a 5-mile radius of Huntsville-Madison County Jetport-Carl T. Jones (latitude 34°38'19" N., longitude 86°46'25" W.);
within 2 miles each side of the Huntsville ILS localizer north course, extending from the 5-mile radius zone to 2.5 miles south of Capshaw RBN; within a 5-mile radius of Redstone AAF (latitude 34°40'29" N., longitude 86°40'54" W.); within 2 miles each side of the 352° bearing from Whitesburg RBN extending from the 5-mile radius zone to the RBN; within 2 miles each side of the 356° bearing from Redstone RBN, extending from the 5-mile radius zone to 2 miles north of the RBN; within 2.5 miles each side of Runway 35 extended centerline, extending from the threshold to 5.5 miles south; within 2.5 miles each side of Runway 17 extended centerline, extending from the threshold to 6 miles north.

Huron, S. Dak.
Within a 5-mile radius of Huron Regional Airport (latitude 44°23'05" N., longitude 98°13'35" W.); and within 1½ miles each side of the Huron VOR 134° radial, extending from the 5-mile radius zone to the VOR.

Hutchinson, Kans.
Within a 5-mile radius of Hutchinson Municipal Airport (latitude 38°06'56" N., longitude 97°51'37" W.). This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Hyannis, Mass.
Within a 5-mile radius of the center, 41°40'10" N., 70°16'45" W., of Barnstable Municipal Airport, Hyannis, Mass., and within 2 miles each side of the Hyannis VORTAC 227° radial, extending from the 5-mile radius zone to 10.5 miles southwest of the VORTAC. This control zone is effective from 0600 to 2300 hours, local time, daily or during the specific dates and times established in advance by a Notice to Airmen which thereafter will be continuously published in the Airport/Facility Directory.

AMENDMENTS 6/18/78 43 F. R. 24275 (Changed)

Idaho Falls, Idaho
Within a 5-mile radius of Fanning Field, Idaho Falls, Idaho (latitude 43°31'05" N., longitude 112°04'05" W.); within a 1½-mile radius of Rigby, Idaho, Airport (latitude 43°38'45" N., longitude 111°55'45" W.); within 3.5 miles each side of the Idaho Falls VOR 223° radial extending from the 5-mile radius zone to 10.5 miles southwest of the VOR; within 4 miles each side of the Idaho Falls VOR 030° radial, extending from the 5-mile radius zone to 11 miles northeast of the VOR.

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Iliamna, Alaska
Within a 5-mile radius of the Iliamna Airport (lat. 59°45'12"N., long. 154°54'54"W.); and within 2.5 miles each side of the 189° bearing from the Iliamna NDB, extending from the 5-mile radius zone to 9.5 miles south of the NDB. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the U. S. Government Flight Information Publication, Supplement Alaska.

AMENDMENTS 3/23/78 43 F. R. 3551 (Rewritten)

Imperial Beach, Calif.
Within a 3-mile radius of NAS Imperial Beach (latitude 32°34'00" N., longitude 117°06'50" W.); that airspace W of NAS Imperial Beach within the arc of a 6-mile radius circle centered in the Imperial Beach TACAN, extending counterclockwise from a line 2 miles north of and parallel to the Imperial Beach TACAN 288° radial to the United States/Mexican Flight Information Region Boundary, excluding the portion under the jurisdiction of Mexico; and that airspace east of a NAS Imperial Beach within the arc of a 6-mile radius circle centered on the Imperial Beach TACAN, extending clockwise from a line 2 miles north of and parallel to the Imperial Beach TACAN 065° radial to the United States/Mexican Border, excluding the portion east of longitude 117°01'00" W., when the San Diego, Calif. (Brown Field) control zone is effective.

Indianapolis, Ind.
Within a 5-mile radius of Indianapolis Municipal (Weir-Cook) Airport (latitude 39°43'35" N., longitude 86°17'05" W.); within 2 miles each side of the Indianapolis runway 4L ILS localizer southwest course, extending from the 5-mile radius zone to 1 mile northeast of the OM; within 2 miles each side of the Indianapolis runway 31L ILS localizer southeast course, extending from the 5-mile radius zone to 1 mile northwest of the OM; and within 2½ miles each side of the Indianapolis runway 22R ILS localizer northeast course, extending from the 5-mile radius zone to 14½ miles northeast of the OM.

International Falls, Minn.
Within a 5-mile radius of International Falls Airport (latitude 48°33'55" N., longitude 93°24'05" W.); within 2½ miles each side of the International Falls VOR 129° radial extending from the 5-mile radius zone to 7 miles southeast of the VOR; and within 2½ miles each side of the International Falls VOR 320° radial, extending from the 5-mile radius zone to 7 miles northwest of the VOR, excluding the portion outside the United States.

Iron Mountain, Mich.
Within a 7-mile radius of Ford Airport (latitude 45°48'57" N., longitude 88°06'56" W.); within 3 miles each side of the Iron Mountain VORTAC 192° radial, extending from the 7-mile radius zone to 8 miles south of the VORTAC. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Ironwood, Mich.
Within a 6½-mile radius of Gogebic County Airport (latitude 46°31'32" N., longitude 90°07'54" W.); within 3 miles each side of the Ironwood VORTAC 258° radial, extending from the 6½-mile radius zone to 8 miles west of the VORTAC. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Islip, N. Y.
Within a 5-mile radius of the center, 40°47'50"N., 73°06'01"W., of Long Island MacArthur Airport, Islip, N. Y.; within a 6-mile radius of the center of the airport extending clockwise from a 260° to 076° bearing from the airport.

AMENDMENTS 6/8/78 43 F. R. 26282 (Changed)

Ithaca, N. Y.
Within a 5-mile radius of the center, 42°29'29" N., 76°27'30" W., of Tompkins County Airport, Ithaca, N. Y., extending clockwise from a 196° bearing to a 329° bearing from the airport; within a 6.5-mile radius of the center of the airport, extending clockwise from a 329° bearing to a 081° bearing from the airport; within a 10-mile radius of the center of the airport, extending clockwise from a 081° bearing to a 137° bearing from the airport; within a 7.5-mile radius of the center of the airport, extending clockwise from a 137° bearing to a 170° bearing from the airport; within a 6.5-mile radius of the center of the airport, extending clockwise from a 170° bearing to a 196° bearing from the airport; within 3 miles each side of the Ithaca, N. Y., VORTAC 305° radial, extending from the VORTAC to 8.5 miles northwest of the VORTAC. This control zone is effective during specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be published continuously in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 14442 (Changed)

Jackson, Mich.
Within a 5-mile radius of Reynolds Airport, Jackson, Mich. (latitude 42°15'30" N., longitude 84°27'40" W.), within 2 miles each side of the Jackson VOR 044° radial, extending from the 5-mile radius zone to 8 miles northeast of the VOR, within 2 miles each side of the Jackson VOR 238° radial, extending from the 5-mile radius zone to 8 miles southwest of the VOR, within 2 miles each side of the Jackson VOR 306° radial, extending from the 5-mile radius zone to 8 miles northwest of the VOR, and within 2 miles each side of the Jackson VOR 141° radial, extending from the 5-mile radius zone to 8 miles southeast of the VOR.

Jackson, Miss.
Within a 5-mile radius of Allen C. Thompson Field (latitude 32°18'40" N., longitude 90°04'35" W.); within 2.5 miles each side of Jackson VORTAC 157° and 160° radials, extending from the 5-mile radius zone to 20 miles SE and S of the VORTAC; within a 5-mile radius of Hawkins Field (latitude 32°20'10" N., longitude 90°13'15" W.); within 3 miles each side of the 008° bearing from Hawkins RBN, extending from the 5-mile radius zone to 8.5 miles N of the RBN; within 1.5 miles each side of the Jackson VORTAC 195° radial, extending from the 5-mile radius zone to 0.5 mile S of the VORTAC; within a 5-mile radius of Bruce Campbell Field (latitude 32°26'15" N., longitude 90°06'05" W.).

Jackson, Tenn.
Within a 5-mile radius of McKellar Field (latitude 35°35'55" N., longitude 88°54'55" W.); within 2.5 miles each side of the McKellar VOR 206° radial, extending from the 5-mile radius zone to 6.5 miles southwest of the VOR.

Jacksonville, Fla. (Craig Municipal Airport)
Within a 5-mile radius of Craig Municipal Airport (lat. 30°20'15" N., long. 81°31'00" W.); excluding the portion northeast of a line connecting the two points of intersection with a 5-mile radius circle centered on NS Mayport (lat. 30°23'25" N., long. 81°25'15" W.) control zone.

Jacksonville, Fla. (International Airport)
Within a 5-mile radius of Jacksonville International Airport (lat. 30°29'26" N., long. 81°41'19" W.); within 2 miles each side of the ILS localizer west course, extending from the 5-mile radius zone to 1.5 miles east of the LOM.

Jacksonville, Fla. (NAS Jacksonville)
Within a 5-mile radius of NAS Jacksonville (lat. 30°14'00" N., long. 81°40'30" W.); within 3 miles each side of Navy Cecil VOR 084° radial, extending from the 5-mile radius zone to the NAS Cecil Field (lat. 30°13'00" N., long. 81°52'45" W.) control zone.

Jacksonville, Fla. (NAS Cecil Field)
Within a 5-mile radius of NAS Cecil Field (lat. 30°13'00" N., long. 81°52'45" W.); within 3.5 miles each side of Navy Cecil VOR 285° radial and the 285° bearing from Navy Cecil RBN, extending from the 5-mile radius zone to 11.5 miles west of the VOR and RBN; within 2 miles each side of Navy Cecil TACAN 184° radial, extending from the 5-mile radius zone to 14 miles south of the TACAN; within 1.5 miles each side of Navy Cecil TACAN 355° radial, extending from the 5-mile radius zone to 5.5 miles north of the TACAN.

Jacksonville, N. C.
Within a 5-mile radius of New River MCAS (latitude 34°42'25"N., longitude 77°26'35"W.); within 3 miles each side of the 226° bearing from New River RBN, extending from the RBN to 8.5 miles southwest of the RBN; within 2 miles each side of New River TACAN 236° radial, extending from the 5-mile radius zone to 9.5 miles southwest of the TACAN. This control zone is effective from 0700 hours, local time, to sunset, Monday through Friday; 0700 to 1200 hours, local time, Saturday; 1600 to 2000 hours, local time, Sunday; and closed on holidays.

Jacksonville, N.C. (Albert J. Ellis Airport)
Within a 5-mile radius of Albert J. Ellis Airport (Lat. 34°49'49"N., Long. 77°36'42"W.). This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Jamestown, N. Y.
Within a 5-mile radius of the center, 42°09'07" N., 79°15'26" W., of Chautauqua County Airport, Jamestown, N. Y.; within 2 miles each side of the Jamestown, N. Y., VOR 071° and 251° radials extending from the 5-mile radius zone to the VOR and within 2 miles each side of a 053° bearing from the Jamestown, N. Y., RBN (42°11'02" N., 79°11'15" W.) extending from the 5-mile radius zone to 7 miles northeast of the RBN. This control zone is effective during specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be published continuously in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 14442 (Changed)

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Jamestown, N. Dak.
Within a 5-mile radius of Jamestown Municipal Airport (latitude 46°55'55" N., longitude 98°40'40" W.); within 3 miles each side of the Jamestown VORTAC 140° radial, extending from the 5-mile radius zone to 7.5 miles southeast of the VORTAC; and within 3 miles each side of the Jamestown VORTAC 308° radial, extending from the 5-mile radius zone to 8 miles northwest of the VORTAC.

Janesville, Wis.
Within a 5-mile radius of the Rock County Airport (latitude 42°37'12" N., longitude 89°02'28" W.); within 3 miles each side of a 125° bearing from the Rock County Airport extending from the 5-mile radius zone to 6½ miles southeast of the airport; and within 3 miles each side of a 321° bearing from the Rock County Airport extending from the 5-mile radius zone to 6½ miles northwest of the airport. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Jefferson City, Mo.
Within a 5-mile radius of the Jefferson City Memorial Airport (latitude 38°35'33" N., longitude 92°09'39" W.), and within 2 miles each side of the Jefferson City VOR 308° radial, extending from the 5-mile radius zone to 8 miles northwest of the VOR, and within 2.5 miles each side of the 118° bearing from the Jefferson City RBN facility (latitude 38°33'20" N., longitude 92°04'40" W.) and 2.5 miles each side of the 124° bearing from the Jefferson City RBN, extending from the 5-mile radius zone to 16 miles southeast of the VOR. This control zone shall be effective during the times established by Notice to Airmen and continuously published in the Airport/Facility Directory.

Johnstown, Pa.
Within a 5.5-mile radius of the center, lat. 40°19'00" N., long. 78°50'00" W. of Johnstown-Cambria County Airport, Johnstown, Pa.; within 3.5 miles each side of the Johnstown VORTAC 044° radial, extending from the 5.5-mile radius zone to 10 miles northeast of the VORTAC; within 3 miles each side of the Johnstown VORTAC 216° radial, extending from the 5.5-mile radius zone to 8.5 miles southwest of the VORTAC, and within 3.5 miles each side of the Johnstown VORTAC 320° radial, extending from the 5.5-mile radius zone to 10.5 miles northwest of the VORTAC. This control zone is effective from 0630 to 2330 hours, local time, daily.

Jonesboro, Ark.
Within a 5-mile radius of Jonesboro Municipal Airport (latitude 35°49'50" N., longitude 90°38'55" W.) and within 3 miles each side of the Jonesboro VOR 048° radial extending from the 5-mile radius zone to 8 miles northeast of the VOR. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.
AMENDMENTS 5/18/78 43 F. R. 14443 (Changed)

Joplin, Mo.
Within a 5-mile radius of the Joplin Municipal Airport (latitude 37°09'05" N., longitude 94° 29' 55" W.).

Juneau, Alaska
Within a 5-mile radius of Juneau Municipal Airport (latitude 58°21'30" N., longitude 134°35'00" W.), and within 2 miles each side of the Juneau localizer W course, extending from the 5-mile radius zone to 2 miles W of the Coghlan Island, Alaska, RBN.

Kahului, Hawaii
Within a 5-mile radius of Kahului Airport (latitude 20°54'05" N., longitude 156°26'05" W.); within 4 miles each side of the Maui VORTAC 038° radial, extending from the 5-mile radius zone to 14 miles northeast of the VORTAC; within 2 miles each side of the Maui VORTAC 201° radial, extending from the 5-mile radius zone to 11 miles south of the VORTAC and within 2 miles each side of the extended centerline of Runway 2/20, extending from the 5-mile radius zone to 11 miles south of the VORTAC.
This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Pacific Chart Supplement.

Kalamazoo, Mich.
Within a 5-mile radius of the Kalamazoo Municipal Airport (latitude 42°14'07" N., longitude 85°33'10" W.; within 2 miles each side of the Kalamazoo VOR 001°, 167° and 229° radials, extending from the 5-mile radius zone to 7 miles north, south, and southwest of the VOR, and within 2 miles each side of the Kalamazoo ILS localizer south course, extending from the 5-mile radius zone to the OM. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Kalispell, Mont.
Within a 5-mile radius of the Glacier Park International Airport (latitude 48°18'49" N., longitude 114° 15'16" W.); within 2 miles each side of the 035° bearing from the Smith Lake NDB (latitude 48°06'26" N., longitude 114°27'37" W.); extending from the 5-mile radius zone to 4 miles northeast of the NDB (12.5 miles southwest of the airport).

Kaneohe, Hawaii
Within a 5-mile radius of MCAS Kaneohe (latitude 21°27'30" N., longitude 157°46'30" W.).

Kansas City, Mo.
Within a 5-mile radius of the Kansas City Municipal Airport (latitude 39°07'20" N., longitude 94°43' 30" W.) and within 1.5 miles either side of the 031° radial of the Riverside, Missouri, VOR extending from the 5-mile radius zone to 6 miles NE of the VOR; and within 1.5 miles either side of the 215° radial of the Riverside, Missouri, VOR extending from the 5-mile radius zone to 6 miles SW of the VOR; and within 2 miles either side of the 353° radial of the Riverside, Missouri, VOR extending from the 5-mile radius zone to 10.5 miles N of the VOR, excluding that area which overlies the Kansas City International Airport control zone.
PENDING AMENDMENT
Kansas City, Mo.
Within a 5-mile radius of the Kansas City Downtown Airport (lat. 39°07'20.7"N., long. 94°35'30"W.) within 1.5 miles each side of the Riverside, Mo., VOR 043° radial extending from the 5-mile radius zone to 6 miles northeast of the VOR, within 1.5 miles each side of the Riverside, Mo., VOR 219° radial extending from the 5-mile radius zone to 6 miles southwest of the VOR, and within 2 miles each side of the Riverside, Mo., VOR 013° radial extending from the 5-mile radius zone to 10.5 miles north of the VOR, excluding that area which overlies the Kansas City, Mo., International Airport control zone.

AMENDMENTS 2/22/79 43 F. R. 56020 (Rewritten)

Kansas City, Mo. (International Airport)
Within a 5-mile radius of the Kansas City International Airport (latitude 39°18'18" N., longitude 94°42'40" W.), and within 2 miles either side of the Rwy 9 ILS localizer west course extending from the 5-mile radius zone to the Rondell OM; and within 2 miles either side of the Rwy 19 ILS localizer north course extending from the 5-mile radius zone to 12 miles north of the Wyandotte OM; and within 1.5 miles either side of the 268° rediel of the Kansas City VORTAC extending from the 5-mile radius zone to the VORTAC; and within 2 miles either side of the Rwy 1 ILS localizer south course extending from the 5-mile radius zone to 1.5 miles south of the Wyandotte OM.

Ke-ahole, Kona, Hawaii
Within a 5-mile radius of the Ke-ahole Airport (latitude 19°44'35" N., longitude 156°03'00" W.) and within 1.5 miles each side of the Kona VORTAC 340° radial, extending from the 5-mile radius zone to the VORTAC. This control zone is effective from 0600 to 2200 hours, local time, daily.

Kearney, Nebr.
Within a 5-mile radius of Kearney Municipal Airport (latitude 40°43'45" N., longitude 98°59'55" W.); within 3½ miles each side of the Kearney VOR 194° radial, extending from the 5-mile radius zone to 10½ miles south of the VOR; and within 3½ miles each side of the Kearney VOR 360° radial, extending from the 5-mile radius zone to 11½ miles north of the airport. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Kenai, Alaska
Within a 5-mile radius of the Kenai Municipal Airport (latitude 60°34'21" N., longitude 151°14'44" W.), and within 2 miles northwest and 2.5 miles southeast of the Kenai VORTAC 031° radial, extending from the 5-mile radius zone to 8.5 miles northeast of the VORTAC.

Ketchikan, Alaska
Within a 3-mile radius of the Ketchikan Airport (lat. 55°21'09" N., long. 131°42'22" W.) extending clockwise from the 316° bearing to the 136° bearing from the airport; with a 4-mile radius of the Ketchikan Airport extending clockwise from the 136° bearing to the 316° bearing from the airport; and within 1 mile each side of the Ketchikan localizer northwest/southeast courses extending from the radius zone to 8 miles northwest and 5.5 miles southeast of the Ketchikan localizer. This control zone is effective from 0600 to 2200 hours local time daily, or during the specific dates and times established in advance by Notice to Airmen. The effective date and time will thereafter be continuously published in the Flight Information Publication Supplement Alaska.

Key West, Fla.
Within a 5-mile radius of Key West International Airport (lat. 24°33'22" N., long. 81°45'35" W.); within 3 miles each side of the 268° bearing from Fish Hook RBN, extending from the 5-mile radius zone to 8.5 miles west of the RBN; within 4 miles each side of Key West VORTAC 309° radial, extending from the 5-mile radius zone to 8.5 miles northwest of the VORTAC; within a 5-mile radius of Key West NAS (Boca Chica) (lat. 24°34' 30" N., long. 81°41'15" W.); within 3.5 miles each side of the 251° bearing from Key West NAS UHF RBN, extending from the 5-mile radius zone to 10.5 miles west of the RBN.

Killeen, Tex.
Within a 5-mile radius of Fort Hood AAF (lat. 31°08'15"N., long. 97°42'50"W.); within a 4-mile radius of Killeen Municipal Airport (lat. 31°05'10"N., long. 97°41'05"W.); within 3 miles each side of the Hood VOR 219° radial extending from the 4-mile radius zone to 8 miles southwest of the VOR; within a 5-mile-radius of Robert Gray AAF (lat. 31°04'20"N., long. 97°49'45"W.); within 3.5 miles each side of the 341° bearing from the NDB (lat. 31°10'03"N., long. 97°52'41"W.), extending from the 5-mile-radius zone to 8 miles north of the NDB.

King Salmon, Alaska
Within a 5-mile radius of the King Salmon, Alaska, airport (latitude 58°40'43" N., longitude 156°38'50" W.), within 2.5 miles each side of the King Salmon VORTAC 312° and 132° radials, extending from the 5-mile radius zone to 12.5 miles northwest of the VORTAC; and within 2 miles each side of the King Salmon VORTAC 132° radial, extending from the 5-mile radius zone to 11.5 miles southeast of the VORTAC.

Kingsville, Tex.
Within a 5-mile radius of NAAS Kingsville (North) (latitude 27°30'10" N., longitude 97°48'25" W.); within 2 miles each side of the Kingsville TACAN 321° radial, extending from the 5-mile radius zone to 8 miles NW of the TACAN; within 2 miles each side of the Kingsville UHF RBN 321° bearing, extending from the 5-mile radius zone to 8 miles NW of the UHF RBN; within 2 miles each side of the Kingsville TACAN 187° radial, extending from the 5-mile radius zone to 7 miles S of the TACAN; within 2 miles each side of the Kingsville UHF RBN 187° bearing, extending from the 5-mile radius zone to 7 miles S of the UHF RBN.
This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in Part 3 of the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 14443 (Changed)

Kinston, N. C.
Within a 5-mile radius of Stallings Field (lat. 35°19'36" N., long. 77°37'02" W.). This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 13373 (Changed)

Kirksville, Mo.
Within a 5-mile radius of Clarence Cannon Memorial Airport (lat. 40°05'45" N., long. 92°32'50"W.). This control zone will be effective initially during specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

K. I. Sawyer AFB, Mich.
Within a 5-statute mile radius of the K. I. Sawyer Airport (lat. 46°21'N., long. 87°24'W.); within 2 statute miles each side of the extended centerline of Runway 01/19, extending from the 5-mile radius zone to 7.5 statute miles north and south of the airport.

Klamath Falls, Oreg.
Within a 5-mile radius of Kingsley Field (latitude 42°09'29" N., longitude 121°43'57" W.), within 4 miles east and 2 miles west of the Klamath Falls VORTAC 171° radial extending from the 5-mile radius zone to 8.5 miles south of the VORTAC, and within 2 miles each side of the Klamath Falls VORTAC 332° radial, extending from the 5-mile radius zone to 11 miles northwest of the VORTAC.

Knob Noster, Mo. (Whiteman AFB)
Within a 5-mile radius of Whiteman AFB, Knob Noster, Mo. (lat. 38°43'50"N., long. 93°33'00"W.); within 2 miles each side of Whiteman VOR 010° radial, extending from the 5-mile radius to 2 miles north of the Whiteman VOR, and within 2 miles each side of the Whiteman TACAN 185° radial, extending from the 5-mile radius to 7 miles south of the TACAN. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 7/13/78 43 F. R. 21873 (Rewritten)

Knoxville, Tenn. (Downtown Island Airport)
Within a 5-mile radius of Downtown Island Airport (lat. 35°57'45" N., long. 83°52'30" W.); excluding the portion within the Knoxville control zone. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Knoxville, Tenn.
Within a 5-mile radius of McGhee-Tyson Airport (latitude 35°48'40" N., longitude 83°59'35" W.); within 2 miles each side of Knoxville ILS localizer southwest course, extending from the 5-mile radius zone to 1 mile northeast of the LOM; within 1.5 miles each side of Knoxville VORTAC 220° radial, extending from the 5-mile radius zone to 1.5 miles southwest of the VORTAC.

Kodiak, Alaska
Within a 5-mile radius of the Kodiak Airport (latitude 57°45'02" N., longitude 152°29'19" W.), and within 3 miles north and 3.5 miles south of the Kodiak VORTAC 072° and 252° radials extending from the 5-mile radius zone to 9.5 miles east of the VORTAC.

Kotzebue, Alaska
Within a 5-mile radius of Wien Memorial Airport, Kotzebue, Alaska. (latitude 66°53'02" N., longitude 162°36' 05" W.), within 3 miles each side of the 048° bearing from the Hotham NDB extending from the 5-mile radius zone to 7 miles northeast of the NDB; within 3 miles each side of the Kotzebue VORTAC 278° radial extending from the 5-mile radius zone to 10 miles west of the VORTAC; and within 3 miles each side of the Kotzebue VORTAC 090° radial extending from the 5-mile radius zone to 8 miles east of the VORTAC.
This control zone is effective from 0800 to 2400 hours local time daily, or during the specific dates and times established in advance by Notice to Airmen. The effective date and time will thereafter be continuously published in the Flight Information Publication Supplement Alaska.

Kwajalein Island, Marshall Islands
Within a 5-mile radius of the Bucholz AAF (lat. 08°43'32" N., long. 167°44'03" E.); within 2.5 miles each side of the Kwajalein TACAN 248° radial, extending from the 5-mile radius zone to 6 miles west of the TACAN; and within 3.5 miles each side of the 078° bearing from the Kwajalein RBN, extending from the 5-mile radius zone to 11 miles east of the RBN.
This control zone is effective during specific dates and times established in advance by a Notice to Airmen. The date and time will thereafter be continuously published in the Pacific Chart Supplement.

La Crosse, Wis.
That airspace within a 5-mile radius of La Crosse Municipal Airport (latitude 43°52'38" N., longitude 91°15' 21" W.); within 3 miles each side of the La Crosse VOR 322° radial extending from the 5-mile radius zone to 11½ miles northwest of the VOR; and within 2½ miles each side of the La Crosse VOR 185° radial extending from the 5-mile radius zone to 5½ miles south of the VOR; and within 2 miles each side of the La Crosse ILS localizer north course, extending from the 5-mile radius zone to 9 miles north of the airport.

Lafayette, Ind.
Within a 5-mile radius of Purdue University Airport (latitude 40°24'45" N., longitude 86°56'06" W.). This control zone will be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Lafayette, La.
That airspace within a 5-mile radius of Lafayette, La., Airport (lat. 30°12'00"N., long. 91°59'40"W.).

AMENDMENTS 11/2/78 43 F. R. 39751 (Rewritten)

Lake Charles, La.
That airspace within a 5-mile radius of Lake Charles Municipal Airport (latitude 30°07'30" N., longitude 93°13'20" W.), within 2 miles each side of the Lake Charles VORTAC 259° radial extending from the VORTAC to 13 miles W of the VORTAC, within 2 miles each side of the Lake Charles ILS localizer NW course extending from the 5-mile radius zone to the OM, and within 2 miles each side of the Lake Charles ILS localizer SE course extending from the 5-mile radius zone to 7.5 miles SE of the airport.

Lakehurst, N. J.
Within a 5-mile radius of the center 40°02'00"N., 74°21'00"W., of NAEC Lakehurst, Lakehurst, N. J.; within 3 miles each side of the 050° bearing from the Navy Lakehurst UHF RBN, extending from the 5-mile radius zone to 8.5 miles northeast of the RBN. This control zone is effective from 0700 to 2300 hours, local time, daily, or during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 2/23/78 43 F. R. 5509 (Changed)
AMENDMENTS 11/2/78 43 F. R. 46961 (Changed)

Lake Tahoe, Calif.
Within a 5-mile radius of Lake Tahoe Airport (latitude 38°53'30" N., longitude 119°59'50" W.). This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 19645 (Changed)

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Lanai, Hawaii
Within a 5-mile radius of Lanai Airport (lat. 20°47'30" N., long. 156°57'00" W.). This control zone is effective during specific dates and times established in advance by a notice to airmen. The effective date and time will thereafter be continuously published in the Pacific Chart Supplement.

Lancaster, Calif. (Fox Field)
Within a 5-mile radius of General William J. Fox Airfield (lat. 34°44'26" N., long. 118°13'04" W.), and within 2 miles each side of the Palmdale VORTAC 311° radial extending from the 5-mile radius zone to the Palmdale, Calif., 5-mile radius zone. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 19645 (Changed)

Lancaster, Pa.
Within a 5-mile radius of the center, 40°07'16" N., 76°17'47" W., of Lancaster Airport, Lancaster, Pa.; within 3 miles each side of the Lancaster VORTAC 260° radial, extending from the VORTAC to 8.5 miles west; within 3 miles each side of the Lancaster VORTAC 128° radial, extending from the VORTAC to 8.5 miles southeast; within 2 miles each side of the Lancaster VORTAC 055° radial, extending from the VORTAC to 5 miles northeast. This control zone is effective from 0630 to 2330 hours, local time, daily.

Lansing, Mich.
Within a 5-mile radius of Capital City Airport, Lansing, Mich. (latitude 42°46'40" N., longitude 84°35'20" W.).

Laramie, Wyo.
Within a 5-mile radius of General Brees Field, Laramie, Wyoming (lat. 41°18'50" N., long. 105°40'25" W.); within 4 miles each side of the Laramie VORTAC 301° radial, extending from the 5-mile radius zone to 8 miles northwest of the VORTAC and within 4.5 miles each side of the Laramie VORTAC 126° radial, extending from the 5-mile radius zone to 20 miles southeast of the VORTAC.

Laredo, Tex.
Within a 5-mile radius of the Laredo International Airport (lat. 27°32'40"N., long. 99°27'40"W.); within 1.5 miles each side of the Laredo VORTAC 141° radial extending from the 5-mile radius area to 1 mile southeast; within a 5-mile radius of the Laredo Municipal Airport (lat. 27°36'56"N., long. 99°31' 12" W.); within 1.5 miles each side of the Laredo ILS localizer northwest course extending from the ILS localizer site (latitude 27°36'12.6" N., longitude 99°30'50.2" W.) to 7 miles northwest, excluding that portion outside the United States. This control will be effective during specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 14443 (Changed)

Las Vegas, Nev. (McCarran Field)
Within a 5-mile radius of McCarran Field (latitude 36°05'05" N., longitude 115°09'00" W.); within 2 miles southeast and 3 miles northwest of the Las Vegas VORTAC 032° radial extending from the 5-mile radius zone to 6.5 miles northeast of the VORTAC; within 2 miles northwest and 3 miles southeast of the Las Vegas VORTAC 214° radial extending from the 5-mile radius zone to 6 miles southwest of the VORTAC; and within 2 miles each side of the Las Vegas VORTAC 268° radial extending from the 5-mile radius zone to 6.5 miles west of the VORTAC.

Las Vegas, Nev. (Nellis AFB)
Within a 5-mile radius of Nellis AFB (Lat. 36°14'10" N, Long. 115°02'00" W), and within 2 miles SE and 3 miles NW of the Las Vegas VORTAC 032° radial, extending from the 5-mile radius zone to 6.4 miles SW of the airport.

Las Vegas, N. Mex.
Within a 5-mile radius of the Las Vegas Municipal Airport (lat. 35°39'20" N., long. 105°08'30" W.), within 3.5 miles each side of the Las Vegas, N. Mex., VORTAC 025° radial extending beyond the 5-mile radius zone to a point 11 miles northeast of the VORTAC; and within 3.5 miles each side of the Las Vegas, N. Mex., VORTAC 220° radial extending beyond the 5-mile radius zone to a point 10 miles southwest of the VORTAC.

Latrobe, Pa.
Within a 5-mile radius of the center, lat. 40°16'39"N., long. 79°24'14"W., of Westmoreland County Airport, Latrobe, Pa.; within 2 miles each side of the Westmoreland County Airport localizer northeast course extending from the 5-mile radius
zone to 1.5 miles southwest of the Latrobe RBN lat. 40°22'32" N., long. 79°16'19" W.; and within 1.5 miles each side of the Westmoreland County Airport localizer southwest course extending from the 5-mile radius zone to 17.5 miles southwest of the Latrobe RBN. This control zone shall be effective from 0630 to 2200 hours, local time, daily.
AMENDMENTS 2/23/78 43 F. R. 5509 (Changed)

LaVerne, Calif.
Within a 3-mile radius of Brackett Field (latitude 34°05'30" N., longitude 117°47'00" W.), within 2 miles each side of the Pomona VOR 179° radial, extending from the 3-mile radius zone to 3 miles south of the VOR. This control zone shall be effective during specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 19645 (Changed)

Lawton, Okla.
Within a 5-mile radius of Lawton Municipal Airport (latitude 34° 34'15" N., longitude 98°24'55" W.) and within a 3-mile radius of latitude 34°38'18" N., longitude 98°24'06" W.; excluding the portion within R-5601A.

Lebanon, N. H.
Within a 5-mile radius of the center, lat. 43°37'41"N., long. 72°18'21"W., of Lebanon Regional Airport, Lebanon, N. H.; within 3 miles each side of the Hanover NDB 231° and 051° bearings, extending from the 5-mile radius zone to 8.5 miles northeast of the NDB; within 2 miles either side of the centerline of Runway 18 extended 5.5 miles from the end of the runway; within 2 miles either side of the White River NDB 060° bearing extending from the 5-mile radius zone to 7.5 miles from the end of Runway 07.

Lemoore, Calif.
Within a 6-mile radius of NAS Lemoore (latitude 36° 20' 00" N., longitude 119° 57' 04" W.); within 2 miles each side of the Lemoore TACAN 336° and 356° radials, extending from the 6-mile radius zone to 8 miles NW and N of the TACAN, and within 2 miles each side of the Lemoore TACAN 156° radial, extending from the 6-mile radius zone to 8 miles SE of the TACAN.

Lewisburg, W. Va.
Within a 6-mile radius of the center, lat. 37°51'35" N., long. 80°23'55" W. of Greenbrier Valley Airport, Lewisburg, W. Va., extending clockwise from a 110° bearing from the airport to a 275° bearing from the airport; within a 6.5-mile radius of the center of the airport, extending clockwise from a 275° bearing from the airport to a 040° bearing from the airport; within a 7-mile radius of the center of the airport, extending clockwise from a 040° bearing from the airport to a 110° bearing from the airport and within 3 miles each side of the Greenbrier Valley Airport ILS localizer southwest course, extending from the 6-mile radius arc to 8.5 miles southwest of the OM.
This control zone is effective during the specific days and times established in advance by a Notice to Airmen. The effective times will thereafter be published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 14442 (Changed)

Lewiston, Idaho
Within a 5-mile radius of Lewiston-Nez Perce County Airport (lat. 46°22'29" N., long. 117°00'52" W.); and within 3 miles each side of the Lewiston-Nez Perce ILS localizer course, extending from the 5-mile radius zone to 16.5 miles east of the airport. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Lewistown, Mont.
Within a 5-mile radius of the Lewistown Municipal Airport (latitude 47°02'39" N., longitude 109°28'15" W.) and within 1.5 miles each side of the Lewistown VORTAC 090° radial, extending from the 5-mile radius zone to the VORTAC.

Lexington, Ky.
Within a 5-mile radius of Blue Grass Airport (lat. 38°02'16" N., long. 84°36'16" W.); within 1.5 miles each side of the ILS localizer northeast course, extending from the 5-mile radius zone to 5 miles northeast of the runway end.

Liberal, Kansas
Within a 5-mile radius of Liberal Municipal Airport (latitude 37°02'35" N., longitude 100°57'45" W.); within 2 miles each side of the Liberal VORTAC 025° radial, extending from the 5-mile radius zone to 8 miles NE of the VORTAC; and within 2 miles each side of the Liberal VORTAC 153° radial, extending from the 5-mile radius zone to 8 miles SE of the VORTAC. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Lihue, Hawaii
Within a 5-mile radius of Lihue Airport (latitude 21°58'55" N., longitude 159°20'40" W.) and within 2 miles each side of the Lihue VORTAC 130° radial, extending from the 5-mile radius zone to 9 miles southeast of the VORTAC.

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Limestone, Maine
Within a 5-mile radius of the center, 46°57'05" N., 67°53'10" W., of Loring AFB, Limestone, Maine, excluding the portion outside of the United States; within 2 miles each side of the Loring TACAN 168° radial extending from the 5-mile radius zone to 6.5 miles south of the TACAN; and within 2 miles each side of the Loring TACAN 348° radial extending from the 5-mile radius zone to 7 miles north of the TACAN.

Lincoln, Nebr.
Within a 6-mile radius of Lincoln Airport (latitude 40°50'58" N., longitude 96°45'31" W.); and within 1.5 miles each side of the 325° track angle from the Runway 14 threshold extending from the 6-mile radius to 7 miles northwest of the Lincoln Airport; and within 2 miles each side of the Lincoln ILS localizer north course extending from the 6-mile radius to 14 miles north of the Lincoln Airport; and within 2 miles either side of the Lincoln VORTAC 015° radial extending from the 6-mile radius to 8 miles north of the Lincoln VORTAC; and within 2 miles each side of the Lincoln VORTAC 187° radial extending from the 6-mile radius to 13 miles south of the Lincoln VORTAC excluding the airspace within a 1-mile radius of Arrow Airport (latitude 40°52' 00" N., longitude 96°39'15" W.).

Little Rock, Ark. (Adams Field)
Within a 5-mile radius of Adams Field (latitude 34°43'45" N., longitude 92°13'45" W.), within 1.5 miles each side of the ILS localizer southwest course extending from the 5-mile radius zone to the LOM, and within 3.5 miles each side of the ILS localizer northeast course extending from the 5-mile radius zone to 12 miles northeast of the airport excluding the portion within the Little Rock, Ark. (Little Rock AFB), control zone.

Little Rock, Ark. (Little Rock AFB)
Within a 5-mile radius of Little Rock AFB (latitude 34°55'05" N., longitude 92°08'45" W.), within 1.5 miles each side of the ILS localizer northeast course extending from the 5-mile radius zone to 1 mile east of the 5-mile radius, within 1.5 miles each side of the Jacksonville TACAN 076° radial extending from the 5-mile radius zone to 6.5 miles east of the TACAN, within 2 miles each side of the extended centerline of Runway 24 extending from the 5-mile radius zone to 6 miles southwest of the airport, and within 1.5 miles each side of the Jacksonville TACAN 241° radial extending from the 5-mile radius zone to 7 miles southwest of the TACAN.

Livermore, Calif.
Within a 3-mile radius of Livermore Municipal Airport (latitude 37°41'38" N., longitude 121°49'02" W.). This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continually published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 19645 (Changed)

Livingston, Mont.
That airspace within a 5-mile radius of Mission Field Airport (latitude 45°41'45" N., longitude 110°26'40" W.) and within 3 miles each side of the Livingston, Mont., VORTAC 340° radial, extending from the 5-mile radius zone to 8 miles north of the VORTAC.
This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 18550 (Changed)

London, Ky.
Within a 5-mile radius of London-Corbin Airport, Magee Field (lat. 37°05'15" N., long. 84°04'38" W.); within 2 miles each side of London VOR 030° radial, extending from the 5-mile radius zone to 10 miles northeast of the VOR within
3 miles each side of London VOR 202° radial, extending from the 5-mile radius zone to 8.5 miles south of the VOR.

Lone Rock, Wis.
Within a 5-mile radius of the Tri-County Airport (latitude 43°12'36" N., longitude 90°11'06" W.); excluding the portion overlying and south of the Wisconsin River. This control zone shall be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Long Beach, Calif.
Within a 5-mile radius of Long Beach Municipal Airport (latitude 33°49'07" N., longitude 118°09'04" W.) within a 5-mile radius of NAS Los Alamitos, Calif. (latitude 33°47'30" N., longitude 118°02'50" W.); within 2 miles each side of the Long Beach ILS localizer NW course, extending from the Long Beach 5-mile radius zone to 5 miles NW of the localizer, excluding the portion within a 1-mile radius of Sunset Beach, Calif. Airport (latitude 33°43'08" N., longitude 118°02'13" W.).

Longview, Tex.
That airspace within a 5-mile radius of Gregg County Airport, Longview, Tex. (latitude 32°23'05" N., longitude 94°42'45" W.); within 2 miles each side of the Gregg County VORTAC 313° radial extending from the 5-mile radius zone to 7 miles NW of the VORTAC, within 2 miles each side of the Gregg County VORTAC 149° radial extending from the 5-mile radius zone to 9 miles southeast of the VORTAC, within 2 miles each side of the Gregg County ILS localizer NW course extending
from the 5-mile radius zone to 0.5 mile SE of the OM, and within 2 miles each side of the Gregg County ILS localizer SE course extending from the 5-mile radius zone to 6 miles SE of the airport.

Los Angeles, Calif. (Hawthorne Municipal Airport)
Within a 3-mile radius of the Hawthorne Municipal Airport (latitude 33°55'20" N., longitude 118°20'05" W.), and within 2 miles on each side of the Los Angeles VOR 096° radial extending from the 3-mile radius zone to 4 miles E. of the lift-off end of Runway 7, excluding the portion N. of latitude 33°55'30" N. and W. of longitude 118°21'40" W. This control zone shall be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 19645 (Changed)

Los Angeles, Calif. (Los Angeles International Airport)
Within a 5-mile radius of the Los Angeles International Airport (latitude 33°56'25" N., longitude 118°24'10" W.); within a 3-mile radius of the Hawthorne Municipal Airport, Los Angeles, Calif. (latitude 33°55'20" N., longitude 118°20'05" W.); within 2 miles each side of the Los Angeles Runway 25L ILS localizer east course, extending from the 5-mile radius zone to the Lima OM; within 2 miles each side of the Los Angeles VOR 096° radial, extending from the Hawthorne 3-mile radius zone to 4 miles E of the lift-off end of Hawthorne Municipal Airport Runway 7, excluding the portion N of a line extending from latitude 34°00'43" N., longitude 118°23'30" W., to latitude 33°58'03" N., longitude 118°28'58" W., and excluding the portion within the Hawthorne Municipal Airport control zone, when it is effective.

Louisville, Ky. (Bowman Field)
Within a 5-mile radius of Bowman Field (lat. 38°13'40" N., long. 85°39'47" W.); within 1.5 miles each side of Louisville VOR 331° radial, extending from the 5-mile radius zone to the VOR; within 3 miles each side of Bowman VOR 018°, 068°, 151° and 182° radials, extending from the 5-mile radius zone to 8.5 miles north, east, southeast and south of the VOR; excluding the portion within
Standiford Field control zone and the portion west of a line 1.5 miles east of and parallel to the Standiford Field ILS localizer north course.

Louisville, Ky. (Standiford Field)
Within a 5-mile radius of Standiford Field (lat. 38°10'33" N., long. 85°44'12" W.); within 1.5 miles each side of the ILS localizer north course, extending from the 5-mile radius zone to the arc of a 5-mile radius circle centered on Bowman Field; within 1.5 miles north and 2 miles south of the ILS localizer east course, extending from the 5-mile radius zone to 1 mile east of the VOR; within 1.5 miles each side of the ILS localizer south course, extending from the 5-mile radius zone to the LOM; within 1.5 miles each side of the ILS localizer west course, extending from the 5-mile radius zone to 1 mile east of the Nabb VOR 206° radial; within 2 miles each side of Louisville VOR 301° radial, extending from the 5-mile radius zone to the VOR; excluding the portion within Bowman Field control zone east of a line 1.5 miles east of and parallel to Standiford Field ILS localizer north course and the portion north of a line 1.5 miles north of and parallel to Standiford Field ILS localizer east course.

Lubbock, Tex. (Lubbock Regional Airport)
That airspace within a 5-mile radius of Lubbock Regional Airport (latitude 33°39'33" N., longitude 101°49'41" W.); within 2 miles each side of the Lubbock VORTAC 123° radial, extending from the Lubbock 5-mile
radius zone to the VORTAC; within 2 miles each side of the Lubbock VORTAC 124° and 116° radials, extending from the Lubbock 5-mile radius zone to 11.5 miles southeast of the VORTAC; and within 2 miles each side of the Lubbock ILS localizer north course, extending from the 5-mile radius zone to the OM.

Lubbock, Tex. (Reese AFB)
That airspace within a 5-mile radius of Reese AFB, Tex. (latitude 33°35'56" N., longitude 102°02'36" W.); within 2 miles each side of the Lubbock VORTAC 227° radial extending from the Reese AFB 5-mile radius zone to the VORTAC, within 2 miles each side of the Reese AFB TACAN 016° radial extending from the Reese AFB 5-mile radius zone to 8 miles north of the TACAN, within 2 miles each side of the Reese AFB ILS localizer north course extending from the Reese AFB 5-mile radius zone to 8 miles north of the TACAN, and within 2 miles each side of the Reese AFB TACAN 167° radial extending from the 5-mile radius zone to 9.5 miles south of the TACAN, excluding that portion which lies within the Lubbock Regional Airport control zone. This control zone is effective during the dates and times published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 14443 (Changed)

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Lufkin, Tex.
That airspace within a 5-mile radius of Angelina County Airport (latitude 31°14'05" N., longitude 94°45'00" W.), within 2 miles each side of the Lufkin VOR 337° radial extending from the 5-mile radius zone to the VOR, and within 2 miles each side of the 153° bearing from the Lufkin DF station (latitude 31°13'57" N., longitude 94°45'15" W.) extending from the 5-mile radius zone to 8 miles SE of the DF station.

Lynchburg, Va.
Within a 5.5-mile radius of the center lat. 37°19'37"N., long. 79°12'04"W., of Lynchburg Municipal-Preston Glenn Field, Lynchburg, Va.; within 3 miles each side of the Lynchburg, Va., VORTAC 021° and 201° radials extending from the 5.5-mile radius zone to 1 mile south of the VORTAC; within 2 miles each side of the Lynchburg, Va., VORTAC 023° radial extending from the 5.5-mile radius zone to 13 miles northeast of the VORTAC and within a 1.5-mile radius of the center lat. 37°22'40"N., long. 79°07'21"W., of Falwell Airport, Lynchburg, Va. This control zone is effective from 0700 to 2300 hours, local time, daily.

MacDill AFB, Fla.
Within a 5-mile radius of MacDill AFB (lat. 27°50'57" N., long. 82°31'18" W.); within 1.5 miles each side of MacDill AFB TACAN 216° radial, extending from the 5-mile radius zone to 6 miles southwest of the TACAN; within a 5-mile radius of Peter O. Knight Airport (lat. 27°54'55" N., long. 82°27'05" W.); excluding the portion within Tampa, Fla. (International Airport), control zone.

Macon, Ga.
Within a 5-mile radius of Lewis B. Wilson Airport (latitude 32°41'35" N., longitude 83°38'50" W.); within 2 miles each side of Runway 5 extended centerline, extending from the 5-mile radius zone to 5.5 miles southwest of the runway end; within 3 miles each side of Macon VORTAC 316° and 325° radials, extending from the 5-mile radius zone to 8.5 miles northwest of the VORTAC; within a 5-mile radius of Robins AFB (latitude 32°38'30" N., longitude 83°35'30" W.); within 3 miles each side of Macon VORTAC 140° radial, extending from the 5-mile radius zone to 11.5 miles southeast of the VORTAC.

Madison, Wis.
That airspace within a 5½-mile radius of the Truax Field Airport (latitude 43°08'15" N., longitude 89°20'10" W.); within 2½ miles each side of the Madison VOR 359° radial extending from the 5½ mile radius to 6 miles north of the VOR; and within 2½ miles each side of the Madison VOR 134° radial extending from the 5½-mile radius to 6 miles southeast of the VOR.

Manchester, N. H.
Within a 5-mile radius of the center, lat. 42°56'00" N., long. 71°26'21" W. of Grenier Field-Manchester Municipal Airport, Manchester, N. H.; within 2.5 miles each side of the 157° bearing from the Derry RBN, lat. 42°52'12" N., long. 71°23'52" W., extending from the 5-mile radius zone to 8.5 miles south of the RBN and within 2.5 miles each side of the Manchester VORTAC 325° radial, extending from the 5-mile radius zone to 13 miles northwest of the VORTAC. This control zone is effective from 0600 to 2300 hours, local time, daily or during the specific dates and times established in advance by a Notice to Airmen, which thereafter will be continuously published in the Airport/Facility Directory.

AMENDMENTS 6/18/78 43 F. R. 24275 (Changed)

Manhattan, Kans.
Within a 5-mile radius of the Manhattan, Kans., Municipal Airport (latitude 39°08'35" N., longitude 96°40'05" W.), and within 2 miles each side of the Manhattan VOR 046° radial, extending from the 5-mile radius zone to 8 miles NE of the VOR, and within 2 miles each side of the Manhattan VOR 147° radial, extending from the 5-mile radius zone to 11 miles SE of the VOR, and within 2 miles NE and 3 miles SW of the 127° bearing from the McDowell Creek RBN, extending from the 5-mile radius zone to 10 miles SE of the RBN, excluding the Fort Riley, Kans. control zone and the portion within R-3602. The control zone shall be effective during the times established by a Notice to Airmen and published continuously in the Airport/Facility Directory.

Manistee, Mich.
Within a 5-mile radius of Manistee Blacker Airport (latitude 44°16'25" N., longitude 86°15'00" W.); within 2 miles each side of the Manistee VOR 274° radial, extending from the 5-mile radius zone to 13 miles west of the VOR; and within 2 miles each side of the Manistee VOR 099° radial, extending from the 5-mile radius zone to 8 miles east of the VOR. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Manitowoc, Wis.
Within a 5-mile radius of Manitowoc, Wis., Municipal Airport (latitude 44°07'30" N., longitude 87°40'45" W.), within 2 miles each side of the Manitowoc VOR 343° radial extending from the 5-mile radius zone to 8 miles north of the VOR, and within 2 miles each side of the Manitowoc VOR 178° radial extending from the 5-mile radius zone to 8 miles south of the VOR. This control zone shall be effective during the times established by Notice to Airmen and continuously published in the Airport/Facility Directory.

Mankato, Minn.
Within a 5-mile radius of Mankato Municipal Airport (lat. 44°13'25" N., long. 93°55'06" W.); within 2 miles each side of the Mankato VOR 166° radial, extending from the 5-mile radius zone to 8 miles south of the VOR; within 3 miles each side of the Mankato VOR 329° radial, extending from the 5-mile radius zone to 8 miles northwest of the VOR. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Mansfield, Ohio
Within a 5-mile radius of the Mansfield-Lahm Municipal Airport (latitude 40°49'17" N., longitude 82°31'00" W.); and within 2 miles each side of the Mansfield VORTAC 307° radial extending from the 5-mile radius zone to 5.5 miles NW of the airport.

Marion, Ill.
Within a 5-mile radius of the Williamson County Airport (latitude 37°45'15" N., longitude 89°00'40" W.), within 2 miles each side of the Marion VOR 014° radial extending from the 5-mile radius zone to 8 miles N of the VOR, and within 2 miles each side of the Marion VOR 209° radial extending from the 5-mile radius zone to 8 miles SW of the VOR. This control zone shall be effective during the times established by a Notice to Airmen and continuously published in the Airport/Facility Directory.

Marion, Ind.
Within a 5-mile radius of the Marion Municipal Airport (latitude 40°29'27" N., longitude 85°40'43" W.); and within 2.5 miles each side of the Marion VOR 042°, 211° and 320° radials; extending from the 5-mile radius to 6 miles northeast and northwest and 5.5 miles southwest of the VOR. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Marquette, Mich. (Marquette County Airport)
Within a 5-mile radius of Marquette County Airport (latitude 46°32'03" N., longitude 87°33'35" W.); within 2 miles each side of the Marquette VOR 084° and 250° radials, extending from the 5-mile radius zone to 8 miles E and W of the VOR.

Martha's Vineyard, Mass.
Within a 4-mile radius of Martha's Vineyard Airport (latitude 41°23'35" N., longitude 70°36'50" W.); within 2 miles each side of the Martha's Vineyard VOR 055° radial, extending from the 4-mile radius zone to 8 miles NE of the VOR; within 2 miles each side of the 040° bearing from the Edgartown RBN, extending from the 4-mile radius zone to 8 miles NE of the RBN. This control zone is effective during specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 6/18/78 43 F. R. 24275 (Changed)

Martinsburg, W. Va.
Within a 5.5-mile radius of the center lat. 39°24'03" N., long. 77°59'09" W., of Eastern West Virginia Regional Airport, Martinsburg, W. Va.; within a 9.5-mile radius of the center of the airport, extending clockwise from a 230° bearing from the airport to a 269° bearing from the airport; within an 8-mile radius of the center of the airport, extending clockwise from a 269° bearing to a 285° bearing from the airport; within a 7-mile radius of the center of the airport, extending clockwise from a 285° bearing to a 315° bearing from the airport; within an 8-mile radius of the center of the airport, extending clockwise from a 315° bearing to a 003° bearing from the airport.

Marysville, Calif. (Beale AFB)
Within a 5-mile radius of Beale AFB (lat. 39°08'10"N., long. 121°26'05"W.), within 1.5 miles each side of the Beale TACAN 347° radial extending from the 5-mile radius zone to six miles north of the TACAN; and within 1.5 miles each side of the Beale TACAN 157° radial extending from the 5-mile radius zone to 6.5 miles south of the TACAN.

Marysville, Calif. (Yuba County Airport)
Within a 5-mile radius of Yuba County Airport (latitude 39°05'50" N., longitude 121°34'00" W.); within 2 miles each side of the Marysville VOR 153° radial, extending from the 5-mile radius zone to 8 miles SE of the VOR and within 2 miles each side of the Marysville VOR 343° radial, extending from the 5-mile radius zone to 8 miles NW of the VOR, excluding the portion within the Beale AFB control zone.

Mason City, Iowa
Within a 5-mile radius of Mason City Municipal Airport (latitude 43°09'25" N., longitude 93°19'54" W.).

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Massena, N. Y.
Within a 5-mile radius of the center, 44°56'10" N., 74°50'50" W., of Richards Field, Massena, N. Y.; within 2 miles each side of the Massena VOR 284° radial extending from the 5-mile radius zone to the VOR excluding the airspace within Canada.

Mattoon, Ill.
Within a 5-mile radius of Coles County Memorial Airport (lat. 39°28'45" N., long. 88°16'51" W.); within 4.5 miles each side of the Mattoon VOR 228° radial extending from the 5-mile radius zone to 11.5 miles southwest of the VOR; and within 3 miles each side of the Mattoon VOR 063° radial, extending from the 5-mile radius area to 8.5 miles northeast of the VOR. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Mayaguez, P. R.
Within a 5-mile radius of Mayaguez Airport (lat. 18'15'26" N., long. 67'08'58" W.); within 3 miles each side of Mayaguez VOR 252° radial, extending from the 5-mile radius zone to 8.5 miles west of the VOR. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 13373 (Changed)

Mayport, Fla. (NS Mayport)
Within a 5-mile radius of NS Mayport (lat. 30°23'25" N., long. 81°25'15" W.); within 3 miles each side of the 057° bearing from the Navy Mayport RBN, extending from the 5-mile radius zone to 8.5 miles northeast of the RBN, excluding the portion southwest of a line connecting the two points of intersection with a 5-mile radius circle centered on Craig Municipal Airport (lat. 30°20'15" N., long. 81°31'00" W.).

McAlester, Okla.
Within a 5-mile radius of McAlester Municipal Airport (Lat. 34°53'05" N, Long. 95°46'55" W).

McAllen, Tex.
Within a 5-mile radius of Miller International Airport (latitude 26°10'40" N., longitude 98°14'25" W.); within 3 miles each side of the McAllen VOR 095° radial extending from the 5-mile radius zone to 10 miles east of the VOR and within 2 miles south and 1.5 miles north of the McAllen VOR 321° radial extending from the 5-mile radius zone to 6 miles northwest of the VOR, excluding the portion outside the United States.

McComb, Miss.
Within a 5-mile radius of McComb-Pike County Airport (lat. 31°10'35" N., long. 90°28'08" W.); within 2 miles each side of McComb VORTAC 234° radial, extending from the 5-mile radius zone to the VORTAC.

McCook, Nebr.
That airspace within a 5-mile radius of McCook Municipal Airport (latitude 40°12'25" N., longitude 100°35'25" W.); within 2 miles each side of the 120° bearing from McCook Municipal Airport, extending from the 5-mile radius zone to 8 miles southeast of the airport; and within 2 miles each side of the 324° bearing from McCook Municipal Airport, extending from the 5-mile radius zone to 8 miles northwest of the airport. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

McGrath, Alaska
That airspace within a 5-mile radius of the McGrath Airport (latitude 62°57'15" N., longitude 155°36'06" W.) and within 5 miles northeast and 3 miles southwest of the McGrath VORTAC 123° radial extending from the 5-mile radius zone to 10 miles southeast of the VORTAC; and within 4 miles each side of the McGrath VORTAC 008° radial extending from the 5-mile radius zone to 13 miles north of the VORTAC.

Medford, Oreg.
That airspace within a 5-mile radius of the Medford-Jackson County Airport (latitude 42°22'15" N., longitude 122°52'20" W.), and within 2 miles W and 3 miles E of the Medford ILS localizer N course, extending from the 5-mile radius zone to 3 miles N of the OM.

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Melbourne, Fla.
Within a 5-mile radius of the Melbourne Regional Airport (lat. 28°06'01" N., long. 80°38'00" W.); within 3 miles each side of the Melbourne VOR 100° and 262° radials, extending from the 5-mile radius zone to 8.5 miles east and west of the VOR; within 3 miles each side of the 267° bearing from the Satellite RBN, extending from the 5-mile radius zone to 8.5 miles west of the RBN; excluding the portion within the Cocoa (Patrick AFB), Fla. control zone.

PENDING AMENDMENT
Melbourne, Fla.
Within a 5-mile radius of the Melbourne Regional Airport (lat. 28°06'06"N., long. 80°38'36"W.); within 3 miles each side of the Melbourne VOR 100° radial, extending from the 5-mile radius zone to 8.5 miles east of the VOR; within 3 miles north and 3.5 miles south of the 267° bearing from the Satellite RBN, extending from the 5-mile radius zone to 8.5 miles west of the RBN; excluding the portion north of a line connecting the 2 points of intersection within a 5-mile radius circle centered on Patrick AFB (lat. 28°14'21"N., long. 80° 36'28"W.).

AMENDMENTS 12/28/78 43 F. R. 43293 (Rewritten)

Memphis, Tenn.
Within a 5-mile radius of the Memphis International Airport (latitude 35°03'00" N., longitude 89°58'15" W.); excluding the portion within a 1-mile radius of Desoto Air Park, Horn Lake, Miss. (latitude 34°59'15" N., longitude 90°01'55" W.).

Memphis, Tenn. (NAS)
Within a 5-mile radius of Memphis NAS (lat. 35°21'15" N., long. 89°52'10" W.). This control zone is effective during the specific dates and times established in advance by Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 13373 (Changed)

Menominee, Mich.
Within a 5-mile radius of Menominee County Airport (latitude 45°07'20" N., longitude 87°38'15" W.); within 3 miles each side of the Menominee VOR 349° radial, extending from the 5-mile radius zone to 7 miles north of the VOR; and within 3 miles each side of the 320° bearing from Menominee County Airport, extending from the 5-mile radius zone to 7 miles northwest of the airport. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Merced, Calif.
Within a 5-mile radius of Castle Air Force Base, Merced, Calif. (latitude 37°22'45" N., longitude 120°34'00" W.); within a 5-mile radius of Merced Municipal Airport (latitude 37°17'10" N., longitude 120°30'55" W.); and within 2 miles each side of the Castle TACAN 310° radial, extending from the Castle 5-mile radius circle to 6 miles NW of the TACAN.

Meridian, Miss. (Key Field)
Within a 5-mile radius of Key Field (latitude 32°19'58" N., longitude 88°45'05" W.); within 2 miles each side of the 011° and 012° bearings from Lauderdale RBN, extending from the 5-mile radius zone to 0.5 miles north of the RBN; within 2 miles each side of Meridian VORTAC 145° radial, extending from the 5-mile radius zone to 11.5 miles southeast of the VORTAC.

Meridian, Miss. (NAS Meridian)
Within a 5-mile radius of NAS Meridian (lat. 32°33'27" N., long. 88°33'33" W.); within 3.5 miles each side of the 021° bearing from NAS Meridian UHF RBN, extending from the 5-mile radius zone to 10.5 miles north of the RBN; within 1.5 miles each side of NAS Meridian TACAN 069° and 359° radials, extending from the 5-mile radius zone to 6 miles east and north of the TACAN; within 2 miles each side of NAS Meridian TACAN 194° radial, extending from the 5-mile radius zone to 9.5 miles south of the TACAN; within 2 miles each side of Runways 18L and 27 extended centerline, extending from the 5-mile radius zone to 4 miles north and east of the runway ends; within 2 miles each side of Runway 36L extended centerline, extending from the 5-mile radius zone to 5 miles south of the runway end.
This control zone is effective from 0600 to 0200 hours, local time, Monday thru Friday; 0700 to 1900 hours, local time, Saturday; and 1100 to 2400 hours, local time, Sunday and Federal Holidays.

Miami, Fla. (Dade-Collier Training and Transition Airport)
Within a 5-mile radius of Dade-Collier Training and Transition Airport (latitude 25°51'46" N., longitude 80°53'50" W.).
This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 13373 (Changed)

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Miami, Fla. (International Airport)
Within a 5-mile radius of Miami International Airport (lat. 25°47'34" N., long. 80°17'10" W.); within 2 miles each side of Miami VORTAC 139° radial, extending from the 5-mile radius zone to 10 miles southeast of the VORTAC; within 1.5 miles each side of Runway 9L ILS localizer west course, extending from the 5-mile radius zone to 1 mile east of Portland RBN; within 1.5 miles each side of Runway 27L ILS localizer
west course, extending from the 5-mile radius zone to 1 mile east of Miami VORTAC 161° radial.

Miami, Fla. (Opa Locka Airport)
Within a 5-mile radius of Opa Locka Airport (latitude 25°54'26" N., longitude 80°16'48" W.); within 2 miles each side of the Miami VORTAC 110° radial, extending from the 5-mile radius zone to 5.5 miles east of the VORTAC; excluding the portion which coincides with the Miami (International Airport) control zone. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 13373 (Changed)

Miami, Fla. (Tamiami Airport)
Within a 5-mile radius of the Tamiami Airport, Fla. (latitude 25°38'51" N., longitude 80°25'59" W.).

Middletown, Pa.
Within a 6-mile radius of the center, 40°11'34" N., 76°45'48" W., of the Harrisburg International Airport-Olmsted Field, Middletown, Pa.; within a 7-mile radius of the center of the airport, extending clockwise from a 228° bearing to a 293° bearing from the airport; within a 6.5-mile radius of the center of the airport, extending clockwise from a 005° bearing to a 033° bearing from the airport; within a 7-mile radius of the center of the airport, extending clockwise from a 033° bearing to a 098° bearing from the airport; within 2 miles each side of the extended centerline of Harrisburg International Airport-Olmsted Field Runway 13, extending from the southeast end of Runway 13 to 6 miles southeast of the southeast end of Runway 13; excluding the portion that coincides with the Harrisburg, Pa., control zone west of direct lines described as follows: a line bearing 028° from a point 40°12'23" N., 76°48'38" W., extending from said point to the point of intersection with the Harrisburg, Pa., 6.5-mile radius zone and a line bearing 191° from a point 40°12'23" N., 76°48'38" W., extending from said point to the point of intersection with the Harrisburg, Pa., 6.5-mile radius zone.

Midland, Tex.
Within a 5-mile radius of Midland Regional Air Terminal (latitude 31°56'25" N., longitude 102°12'10" W.), and
within 2 miles each side of the Midland ILS localizer NW course, extending from the 5-mile radius zone to 7 miles NW of the airport.

Midway Island
Within a 5-mile radius of Midway NS (Henderson Field) (lat. 28°11'55" N., long. 177°22'50" W.) and within 2.5 miles northwest and 4.5 miles southeast of the 240° bearing from the Midway RBN, extending from the 5-mile radius zone to 10.5 miles southwest of the RBN.

Miles City, Mont.
Within a 5-mile radius of Miles City Airport (latitude 46°25'40" N., longitude 105°53'10" W.); within 3 miles each side of the 252° bearing from the Horton RBN, extending from the 5-mile radius zone to 8 miles west of the RBN; within 3 miles each side of the Miles City VORTAC 225° radial, extending from the 5-mile radius zone to 8 miles southwest of the VORTAC.

Millville, N. J.
Within a 5-mile radius of the center, 39°22'00" N., 75°04'45" W. of Millville Municipal Airport, Millville, N. J.

Milton, Fla. (NAS Whiting Field (North))
Within a 5-mile radius of NAS Whiting Field (North) (latitude 30°43'15" N., longitude 87°01'45" W.); within 2 miles each side of the Navy Whiting TACAN 309° radial, extending from the 5-mile radius zone to 6.5 miles northwest of the TACAN. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.
AMENDMENTS 5/18/78 43 F. R. 13373 (Changed)

Milwaukee, Wis. (General Mitchell Field)
Within a 5-mile radius of General Mitchell Field (latitude 42°56'51"N., longitude 87°53'58" W.).

Milwaukee, Wis. (Timmerman Airport)
Within a 5-mile radius of Timmerman Airport (latitude 43°06'40" N., longitude 88°02'00" W.); and within 3 miles each side of Timmerman VOR 336° radial, extending from the 5-mile radius zone to 6½ miles northwest of the VOR. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Mineral Wells, Tex.
Within a 5-mile radius of Mineral Wells Airport (latitude 32°46'59" N., longitude 98°03'34" W.) and within 3 miles each side of the 140° bearing from the Mineral Wells RBN, extending from the 5-mile radius zone to 8 miles SE of the RBN. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 14443 (Changed)

Minneapolis, Minn.
Within a 5-mile radius of Minneapolis-St. Paul International Airport (latitude 44°53'05" N., longitude 93°13' 15" W.); within 2 miles each side of the Minneapolis MSP-ILS localizer front course extending from the 5-mile radius zone to 1½ miles northwest of the MS-OM; within 2 miles each side of the Minneapolis APL-ILS localizer front course, extending from the 5-mile radius zone to one-half mile southwest of AP-OM.

Minneapolis, Minn. (Crystal Airport)
Within a 5-mile radius of Crystal Airport (latitude 45°03'45" N., longitude 93°21'10" W.). This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Minneapolis, Minn. (Flying Cloud)
Within a 5-mile radius of Flying Cloud Airport (latitude 44°49'30" N., longitude 93°27'45" W.); within 2½ miles each side of the Flying Cloud VOR 292° radial, extending from the 5-mile radius zone to 7½ miles west of the VOR; and within 2½ miles each side of the Flying Cloud VOR 179° radial extending from the 5-mile radius zone to 6½ miles south of the VOR. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and times will thereafter be continuously published in the Airport/Facility Directory.

Minot, N. Dak. (International Airport)
Within a 5-mile radius of Minot International Airport (latitude 48°15'40" N., longitude 101°16'45" W.); within 4 miles each side of the Minot VORTAC 129° radial, extending from the 5-mile radius zone to 9 miles southeast of the VORTAC; within 4 miles each side of the Minot VORTAC 260° radial, extending from the 5-mile radius zone to 9½ miles west of the VORTAC; within 4 miles each side of the Minot VORTAC 327° radial, extending from the 5-mile radius zone to 9½ miles northwest of the VORTAC; and within 4 miles each side of the Minot VORTAC 097° radial, extending from the 5-mile radius zone to 8½ miles east of the VORTAC, excluding the portion which overlies the Minot AFB control zone.

Minot, N. Dak. (Minot AFB)
Within a 5-mile radius of Minot AFB (latitude 48°24'55" N., longitude 101°21'25" W.); within 2½ miles each side of the Deering TACAN 113° radial, extending from the 5-mile radius zone to 7 miles southeast of the TACAN; and within 2½ miles each side of the Deering TACAN 303° radial, extending from the 5-mile radius zone to 7 miles northwest of the TACAN.

Miramar, Calif.
Within a 5-mile radius of NAS Miramar (Lat. 32°52'30" N, Long. 117°08'15" W) and within 2 miles either side of the NAS Miramar TACAN 078° radial extending from the 5-mile radius zone to 12 miles E of the TACAN, excluding the area S of Lat. 32°49'30" N.

Missoula, Mont.
Within a 5-mile radius of the Johnson-Bell Airport (latitude 45°54'54" N., longitude 114°05'14" W.); within 3 miles each side of the Missoula VORTAC 312° radial extending from the 5-mile radius zone to 16.5 miles northwest of the VORTAC; within 5 miles each side of the Missoula VORTAC 302° radial extending from the VORTAC to 11 miles northwest of the VORTAC; within 2 miles each side of the Missoula VORTAC 172° radial extending from the 5-mile radius zone to 10.5 miles southeast of the VORTAC.

Mitchell, S. Dak.
Within a 5-mile radius of Mitchell Municipal Airport (latitude 43°46'25" N., longitude 98°02'30" W.); within 3 miles each side of the Mitchell VOR 149° radial, extending from the 5-mile radius zone to 7½ miles southeast of the VOR; and within 3 miles each side of the Mitchell VOR 300° radial, extending from the 5-mile radius zone to 7½ miles northwest of the VOR. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 18550 (Changed)

Mobile, Ala. (Bates Field)
Within a 5-mile radius of Bates Field (lat. 30°41'17.7"N., long. 88°14'26.6"W.); within 1.5 miles each side of Semmes VORTAC 113° radial, extending from the 5-mile radius zone to 2 miles southeast of the VORTAC.

AMENDMENTS 3/23/78 42 F. R. 60122 (Changed)

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Mobile, Ala. (Brookley Airport)
Within a 5-mile radius of Brookley Airport (lat. 30°37'08.5"N., long. 88°03'57.2"W.); within 3.5 miles each side of Brookley VORTAC 157° radial, extending from the 5-mile radius zone to 10 miles southeast of the VORTAC. This control zone is effective from 0800 to 1900 hours, local time, daily.

AMENDMENTS 7/13/78 43 F. R. 19213 (Changed)

Modesto, Calif.
Within a 5-mile radius of the Modesto City-County Airport, Modesto, Calif. (latitude 37°37'35" N., longitude 120°57'15" W.); within 2 miles each side of the Modesto VOR 302° radial, extending from the 5-mile radius zone to 8 miles northwest of the VOR; within 2 miles each side of the Modesto VOR 122° radial, extending from the 5-mile radius zone to 8 miles southeast of the VOR. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 19645 (Changed)

Moline, Ill.
Within a 5-mile radius of Quad City Airport (latitude 41°26'50" N., longitude 90°30'40" W.); and within 2 miles each side of the Quad City ILS localizer west course, extending from the 5-mile radius zone to the OM.

Molokai, Hawaii
Within a 5-mile radius of the Molokai Airport (latitude 21°09'25" N., longitude 157°05'55" W.), and within 2 miles each side of the Molokai VORTAC 268° radial, extending from the 5-mile radius zone to 3.5 miles west of the
VORTAC. This control zone is effective during the specific dates and times established in advance by a notice to airmen. The effective date and time will thereafter be continuously published in the Pacific chart supplement.

Monroe, La.
That airspace within a 5-mile radius of Selman Field, Monroe, La. (latitude 32°30'30" N., longitude 92°02'20" W.).

Monterey, Calif.
Within a 5-mile radius of the Monterey Peninsula Airport (latitude 36°35'20" N., longitude 121°51'00" W.), and within 2 miles each side of the 317° bearing from the Monterey ILS LMM, extending from the 5-mile radius zone to 7 miles NW of the LMM, excluding the portion within the Fort Ord, Calif., control zone.

Montgomery, Ala.
Within a 6-mile radius of Dannelly Field (lat. 32°18'00"N., long. 86°23'36"W.); within 2 miles each side of Montgomery VORTAC 310° radial, extending from the 6-mile radius zone to 14.5 miles northwest of the VORTAC; within a 6-mile radius of Maxwell Air Force Base (lat. 32°22'48"N., long. 86°21'55"W.).

Montpelier, Vt.
Within a 6-mile radius of the center, lat. 44°12'15"N., long. 72°33'45"W., of Edward F. Knapp (Barre-Montpelier) State Airport, Barre-Montpelier, Vt.; within 3 miles each side of the Montpelier VOR, lat. 44° 12'41"N., long. 72°33'45"W., 163° radial extending from the 6-mile radius zone to 8.5 miles south of the VOR; within 2 miles each side of the centerline of Runway 23 extending from the 6-mile radius zone to 8 miles southwest of the end of Runway 23.

Montrose, Colo.
That airspace within a 5-mile radius of the Montrose County Airport (latitude 38°29'55" N., longitude 107°53'35" W.), and within 4 miles each side of the Montrose, Colo., VOR 313° radial extending from the 5-mile radius zone to 14 miles northwest of the VOR. This control zone is effective during the specific dates and times established in advance by Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.
AMENDMENTS 5/18/78 43 F. R. 18550 (Changed)

Morgantown, W. Va.
Within a 5.5-mile radius of the center, lat. 39°38'34" N., long. 79°55'01" W., of Morgantown Municipal Airport-Walter L. Hart Field,
Morgantown, W. Va., extending clockwise from a 220° bearing to a 030° bearing from the airport; within a 7.5-mile radius of the center of the airport, extending clockwise from a 030° bearing to a 040° bearing from the airport; within a 14.5-mile radius of the center of the airport, extending clockwise from a 040° bearing to a 075° bearing from the airport; within a 10-mile radius of the center of the airport, extending clockwise from a 075° bearing to a 105° bearing from the airport; within a 9-mile radius of the center of the airport, extending clockwise from a 105° bearing to a 140° bearing from the airport; within a 10-mile radius of the center of the airport, extending clockwise from a 140° bearing to a 202° bearing from the airport; within a 7.5-mile radius of the center of the airport, extending clockwise from a 202° bearing to a 220° bearing from the airport and within 2 miles each side of the 168° bearing from the Bobtown RBN, extending from the 5.5-mile radius arc to the RBN.

Morristown, N. J.
Within a 5-mile radius of the center, 40°47'58" N., 74°24'56" W., of Morristown Municipal Airport, Morristown, N. J., extending clockwise from a 339° bearing to a 229° bearing from the airport; within a 6-mile radius of the center of Morristown Municipal Airport, extending clockwise from a 229° bearing to a 339° bearing from the airport and within 3 miles each side of a 204° bearing from the Chatham, N. J., RBN, extending from the 5-mile radius zone to 8.5 miles southwest of the RBN, excluding a 1-mile radius of the center, 40°41'28" N., 74°32'08" W., of Somerset Hills Airport, Basking Ridge, N. J. This control zone is effective from 0630 to 2230 hours, local time, daily.

Mosinee, Wis.
Within a 5-mile radius of Central Wisconsin Airport (latitude 44°46'35" N., longitude 89°40'00" W.); within 1½ miles each side of the Wausau, Wis., VOR 219° radial, extending from the 5-mile radius zone to the VOR; within 3½ miles each side of the 242° bearing from Central Wisconsin Airport extending from the 5-mile radius zone to 10½ miles west of the airport; and within 3½ miles each side of the 087° bearing from Central Wisconsin Airport, extending from the 5-mile radius zone to 10½ miles east of the airport, excluding the portion which overlies the Wausau, Wis., control zone. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Moultrie, Ga.
Within a 5-mile radius of Moultrie-Thomasville Airport (lat. 31°04'58"N., long. 83°48'15"W.); within 3 miles each side of Moultrie VOR 031° and 230° radials, extending from the 5-mile radius zone to 8.5 miles northeast and southwest of the VOR. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 13373 (Changed)

Mountain Home, Idaho
Within a 5-mile radius of Mountain Home AFB (latitude 43°02'35" N., longitude 115°52'05" W.); within 2 miles each side of the extended centerline of Runway 12, extending from the 5-mile radius zone to 7.5 miles SE of the SE end of Runway 12; within 2 miles each side of the extended centerline of Runway 30, extending from the 5-mile radius zone to 7.5 miles NW of the NW end of Runway 30; within 2 miles each side of the Mountain Home TACAN 129° radial, extending from the 5-mile radius zone to 7 miles SE of the TACAN, and within 2 miles each side of the Mountain Home TACAN 321° radial, extending from the 5-mile radius zone to 7 miles NW of the TACAN.

Mountain View, Calif. (Moffett Field NAS)
Within a 5-mile radius of Moffett Field NAS (latitude 37°24'55" N., longitude 122°02'50" W.), within a 3-mile radius of Palo Alto, Calif. Airport (latitude 37°27'40" N., longitude 122°06'50" W.) within 2.5 miles southwest and 2 miles northeast of the Moffett TACAN 157° radial, extending from the 5-mile radius zone to 8 miles southeast of the TACAN and within 2 miles each side of the San Jose VOR 319° radial, extending from the VOR to 8 miles northwest of the VOR, excluding the portion southeast of a line from latitude 37°25'45" N., longitude 121°56'35" W. to latitude 37°19'30" N., longitude 122°00'10" W., and the portion within the Palo Alto control zone when it is effective.

Mount Clemens, Mich.
Within a 5-mile radius of Selfridge AFB (latitude 42°36'30" N., longitude 82°50'15" W.); within 2 miles each side of the Selfridge AFB ILS localizer north and south courses, extending from the 5-mile radius zone to 8 miles north and south of Selfridge AFB, and within 2 miles each side of the Selfridge AFB TACAN 353° radial, extending from the 5-mile radius zone to 8 miles north of the TACAN. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and time will, hereafter, be continuously published in the Airport/Facility Directory.

Mount Vernon, Ill.
Within a 5-mile radius of Mount Vernon-Outland Airport (latitude 38°19'23" N., longitude 88°51'33" W.); within 4.5 miles each side of the Mount Vernon VOR 044° radial, extending from the 5-mile radius zone to 10.5 miles northeast of the VOR. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Muncie, Ind.
Within a 5-mile radius of Delaware County-Johnson Field (latitude 40°14'26" N., longitude 85°23'43" W.); within 2½ miles each side of the Muncie VOR 125° radial, extending from the 5-mile radius zone to 6½ miles southeast of the VOR; within 2½ miles each side of the Muncie VOR 017° radial, extending from the 5-mile-radius zone to 6½ miles north of the VOR; and within 3½ miles each side of the Muncie VOR 320° radial, extending from the 5-mile-radius zone to 10 miles northwest of the VOR. This control zone is effective during the specific dates and times established in advance by a notice to airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Muscle Shoals, Ala.
Within a 5-mile radius of Muscle Shoals Airport (latitude 34°44'41" N., longitude 87°36'39" W.).

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Muskegon, Mich.
Within a 5-mile radius of Muskegon County Airport (lat. 43°10'16" N., long. 86°14'09" W.); within 1.5 miles each side of the Muskegon VORTAC 272° radial, extending from the 5-mile radius zone to 1 mile west of the VORTAC; and within 1.5 miles each side of the ILS back course extending from the 5-mile radius zone to 10.5 miles northwest of the Muskegon County Airport ILS OM.

Myrtle Beach, S. C.
Within a 5-mile radius of Grand Strand Airport (latitude 33°48'40" N., longitude 78°43'30" W.); within 3 miles each side of Myrtle Beach VORTAC 054° radial, extending from the 5-mile radius zone to 8.5 miles northeast of the VORTAC; within 3 miles each side of the Myrtle Beach VORTAC 220° radial, extending from the 5-mile radius zone to 8.5 miles southwest of the VORTAC. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 13373 (Changed)

Myrtle Beach AFB, S. C.
Within a 5-mile radius of Myrtle Beach AFB (latitude 33°40'45" N., longitude 78°55'45" W.); within 1.5 miles each side of Conway TACAN 355° radial, extending from the 5-mile radius zone to 6.5 miles north of the TACAN; within 1 mile each side of Conway TACAN 348° radial, extending from the 5-mile radius zone to 6.5 miles north of the TACAN. This control zone is effective from 0700 to 2300 hours, local time, daily.

Nantucket, Mass.
Within a 4-mile radius of Nantucket Memorial Airport, Nantucket, Mass. (latitude 41°15'15" N., longitude 70°03'40" W.), and within 2 miles each side of the Nantucket VORTAC 045° radial, extending from the 4-mile radius zone to 8 miles NE of the VOR.
This Control Zone is effective from 0600 to 2300 hours local time, daily or during specific dates and times established by a Notice to Airmen which thereafter will be continuously published in the Airport/Facility Directory.

AMENDMENTS 6/18/78 43 F. R. 24275 (Changed)

Napa, Calif.
Within a 3-mile radius of Napa County Airport (latitude 38°12'55" N., longitude 122°16'15" W.), from 0700 to 2300 hours, local time, daily.

Nashville, Tenn.
Within a 5-mile radius of Nashville Metropolitan Airport (lat. 36°07'36" N., long. 86°40'50" W.); within 3.5 miles each side of Nashville VORTAC 109° radial, extending from the 5-mile radius zone to 10 miles east of the VORTAC; within 1.5 miles each side of the ILS localizer south course, extending from the 5-mile radius zone to the LOM; excluding the portion within a 1-mile radius of Cornelia Fort Airpark (lat. 36°11'45" N., long. 86°42'00" W.).

Needles, Calif.
Within a 5-mile radius of Needles Airport (latitude 34°46'05" N., longitude 114°37'30" W.).
This control zone is effective during specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Nenana, Alaska
Within a 5-mile radius of the Nenana Airport (latitude 64°32°56" N., longitude 149°04'24" W.); and within 4 miles each side of the 132° bearing from the Julius REN extending from the 5-mile radius zone to 8.5 miles southeast of the RBN. This control zone is effective during the specific days and times established in advance by Notice to Airmen. The effective times will thereafter be continuously published in the Flight Information Publication Supplement Alaska.

Newark, N. J.
Within a 5-mile radius of the center, 40°41'40" N., 74°10'02" W., of Newark International Airport, Newark, N. J., extending clockwise from a 030° bearing to a 263° bearing from the airport; within a 6-mile radius of the center of the airport, extending clockwise from a 263° bearing to a 342° bearing from the airport; within a 5.5-mile radius of the center of the airport, extending clockwise from a 342° bearing to a 030° bearing from the airport; within 2 miles each side of the Newark International Airport Runway 4L ILS localizer course, extending from the 5-mile radius to 2.5 miles northeast of the CHESA OM and within 2.5 miles each side of a 275° bearing from a point 40°42'12"N., 74°10'54"W., extending from said point to 5 miles west of said point.

AMENDMENTS 9/7/78 43 F. R. 31127 (Changed)

New Bedford, Mass.
Within a 5-mile radius of the New Bedford Municipal Airport (latitude 41°40'37" N., longitude 70°57'34" W.). This control zone is effective from 0700 to 2300 hours, local time, daily or during the specific dates and times established in advance by a NOtice to Airmen which thereafter will be continuously published in the Airport/Facility Directory.

AMENDMENTS 6/18/78 43 F. R. 24275 (Changed)

New Bern, N. C.
Within a 5-mile radius of Simmons-Nott Airport (latitude 35°04'20" N., longitude 77°02'35" W.); within 2.5 miles each side of New Bern VOR 210° radial, extending from the 5-mile radius zone to 8.5 miles southwest of the VOR.

Newburgh, N. Y.
Within a 5-mile radius of the center, 41°30'10" N., 74°06'11" W., of Stewart Airport, Newburgh, N. Y., extending clockwise from a 066° bearing to a 209° bearing from the airport; within a 5.5-mile radius of the center of the airport, extending clockwise from a 209° bearing to a 249° bearing from the airport; within a 5-mile radius of the center of the airport, extending clockwise from a 249° bearing to a 315° bearing from the airport; within a 6.5-mile radius of the center of the airport, extending clockwise from a 315° bearing to a 066° bearing from the airport; within 3 miles each side of the Stewart VOR (41°30'30" N., 74°05'51" W.) 325° radial, extending from the VOR to 15 miles northwest of the VOR and within 4.5 miles each side of the Stewart VOR 085° radial, extending from the VOR to 11.5 miles east of the VOR, excluding the portion that coincides with the Poughkeepsie, N. Y., control zone. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 14442 (Changed)
PENDING AMENDMENT
The Newburgh, N. Y., control zone is amended by deleting all after "Poughkeepsie, N. Y., control zone." and substituting "This control zone is effective from 0000-2359 hours, local time, Tuesday through Friday; 0000-2300 hours, local time, Saturday; 0700-2300 hours, local time, Sunday; 0700-2400 hours, local time, Monday." therefor.

AMENDMENTS 12/28/78 43 F. R. 53418 (Changed)

New Haven, Conn.
That airspace within a 5-mile radius of the center, latitude 41°15'51" N., longitude 72°53'15" W. of the Tweed-New Haven Airport, New Haven, Conn., extending clockwise from a 079° bearing to a 237° bearing from the airport; within a 5.5-mile radius of the center of the airport extending clockwise from a 237° bearing to a 357° bearing from the airport; and within a 6-mile radius of the center of the airport, extending clockwise from a 357° bearing to a 079° bearing from the airport. This control zone is effective from 0600 to 2400 hours, local time, daily or during the specific dates and times established in advance by a Notice to Airmen which thereafter will be continuously published in the Airport/Facility Directory.

AMENDMENTS 6/18/78 43 F. R. 24275 (Changed)

New Orleans, La. (New Orleans Airport)
Within a 5-mile radius of New Orleans Airport (latitude 30°02'20" N., longitude 90°01'25" W.), excluding the portion W of longitude 90°04'03" W.

New Orleans, La. (New Orleans International Airport-Moisant Field).
Within a 5-mile radius of New Orleans International Airport (latitude 29°59'25" N., longitude 90°15'15" W.); within 2 miles each side of the New Orleans ILS localizer W course extending from the 5-mile radius zone to 2 miles E of the LOM; within 2 miles each side of the New Orleans VORTAC 085° radial extending from the VORTAC to 7 miles E; within 2 miles each side of the New Orleans VORTAC 243° and 063° radials extending from the 5-mile radius zone to 1 mile NE of the VORTAC, excluding that portion E of longitude 90°04'03" W.

New Orleans, La. (NAS New Orleans-Alvin Callender Field)
That airspace within a 5-mile radius of NAS New Orleans-Alvin Callender Field (latitude 29°49'40" N., longitude 90°01'25" W.); within 2 miles each side of the 241° bearing from the Navy New Orleans RBN, extending from the 5-mile radius zone to 12 miles SW of the RBN, within 2 miles each side of the 131° bearing from the Navy New Orleans RBN, extending from the 5-mile radius zone to 12 miles SE of the RBN, and within 2 miles each side of the Harvey VOR 053° radial extending from the 5-mile radius zone to 6 miles NE of the VOR.

Newport News, Va.
Within a 5-mile radius of the center, lat. 37°07'51" N., long. 76°29'35" W., of Patrick Henry International Airport, Newport News, Va., excluding the portion that coincides with the Hampton Roads, Va., control zone.

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New York, N. Y. (John F. Kennedy International Airport)
Within a 5-mile radius of the center, 40°38'25" N., 73°46'41" W., of John F. Kennedy International Airport; within the area bounded by a line beginning at 40°36'16" N., 73°52'32" W., to 40°37'10° N., 73°54'55" W.; to 40°42'19" N., 73°51'07" W., to 40°41'23" N., 73°48'48" W., to the point of beginning; within 1.5 miles each side of the Kennedy VORTAC 106° radial, extending from the 5-mile radius zone to 6.5 miles east of the VORTAC; within 1.5 miles each side of the Kennedy VORTAC 207° radial, extending from the 5-mile radius zone to 5 miles southwest of the VORTAC; within 1.5 miles each side of the Kennedy VORTAC 134° radial, extending from the 5-mile radius zone to 5 miles southeast of the VORTAC.

New York, N. Y. (La Guardia Airport)
Within a 5-mile radius of the center, 40°46'36" N., 73°52'24" W. of La Guardia Airport; within 1.5 miles each side of a line bearing 124° from a point 40°46'20" N., 73°51'34" W., extending from said point to 5 miles southeast of said point.

Niagara Falls, N. Y.
Within a 5-mile radius of Niagara Falls International Airport (latitude 43°06'20" N., longitude 78°56'55" W.), and within 2 miles each side of Niagara Falls ILS localizer E course, extending from the 5-mile radius zone to the OM, excluding the portion outside the United States.

Nome, Alaska
Within a 5-mile radius of the Nome Airport (lat. 64°30'46"N., long. 165°26'31"W.); and within 3 miles north and 4 miles south of the Nome VORTAC 107° and 287° radials, extending from the 5-mile radius zone to 8.5 miles east of the VORTAC.

Norfolk, Nebr.
Within a 5-mile radius of Karl Stefan Memorial Airport (latitude 41°59'05" N., longitude 97°26'10" W.); and within 2 miles each side of the Norfolk VOR 022°, 144°, 195° and 318° radials, extending from the 5-mile radius zone to 8 miles southeast, south, northwest and northeast of the VOR. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Norfolk, Va. (Norfolk International)
Within a 5-mile radius of the center, 36°53'45"N., 76°12'15"W., of Norfolk International Airport, Norfolk, Va., excluding the northwest portion subtended by a chord drawn between the points of intersection of the 5-mile radius zone with the Norfolk, Va. (NAS Norfolk), control zone.

Norfolk, Va. (NAS Norfolk)
Within a 5-mile radius of the center, 36°56'15" N., 76°17'15" W. of NAS Norfolk, Norfolk, Va., excluding the southeastern portion subtended by a chord drawn between the points of intersection of the 5-mile radius zone with the Norfolk, Va. (Norfolk International), control zone.

North, S. C.
Within a 5-mile radius of North AFAF (latitude 33°36'30" N., longitude 81°05'00" W.) and within 2 miles each side of the North AFAF TACAN 234° radial extending from the 5-mile radius zone to 8 miles SW of the TACAN. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 13373 (Changed)

North Bend, Oreg.
Within a 5-mile radius of North Bend Municipal Airport (latitude 43°25'00" N., longitude 124°14'45" W.); within 2 miles each side of the North Bend VORTAC 044° radial, extending from the 5-mile radius zone to 6.5 miles northeast of the VORTAC; within 2 miles each side of the North Bend VORTAC 111° radial, extending from the 5-mile radius zone to 4.5 miles east of the VORTAC; and within 3 miles each side of the 241° bearing from the Empire LOM (latitude 43°23'42" N., longitude 124°18'33" W.), extending from the 5-mile radius zone to 7 miles southwest of the LOM.

North Las Vegas, Nev.
Within a 3-mile radius of the North Las Vegas Air Terminal (latitude 36°12'45" N., longitude 115°11'46" W.). This control zone will be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

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North Philadelphia, Pa.
Within a 5-mile radius of the center, 40°04'49" N., 75°00'45" W., of North Philadelphia Airport, Philadelphia, Pa., extending clockwise from a 030° bearing to a 252° bearing from the airport; within a 6-mile radius of the center of the airport, extending clockwise from a 252° bearing to a 030° bearing from the airport, excluding the north portion subtended by a chord drawn between the points of intersection of the 6-mile radius zone with that portion of the Willow Grove, Pa., control zone 5-mile radius zone centered on Warminster NAF.

North Platte, Nebr.
Within a 5-mile radius of Lee Bird Field (latitude 41°07'35" N., longitude 100°41'50" W.); within 2 miles each side of the North Platte VOR 029° radial, extending from the 5-mile radius zone to the VOR; within 2 miles each side of the 186° bearing from the Bignell RBN, extending from the 5-mile radius zone to 8 miles south of the RBN; and within 2 miles each side of the 131° bearing from Lee Bird Field, extending from the 5-mile radius zone to 10 miles southeast of the airport.

Northway, Alaska
Within a 5-mile radius of Northway Airport (latitude 62° 57' N., longitude 141° 55' W.), and within 2 miles each side of Nabesna, Alaska, RBN 307° bearing extending from the 5-mile radius zone to 8 miles NW of the RBN.

Norwood, Mass.
Within a 5-mile radius of the center (42°11'20" N., 71°10'15" W.) of Norwood Memorial Airport, Norwood, Mass.; within 3 miles each side of the 154° bearing and 334° bearing from the Stoughton, Mass., RBN (42°07'10"N., 71°07'41" W.) extending from the 5-mile radius zone to 8 miles southeast of the RBN and within 2 miles each side of the Whitman VORTAC 311° radial extending from the 5-mile radius zone to 2 miles northwest of the VORTAC, excluding the portion within the South Weymouth, Mass., control zone. This control zone is effective daily from 0700 to 2300 hours, local time, or during the specific times established in advance by a Notice to Airmen which thereafter will be continuously published in the Airport/Facility Directory.

AMENDMENTS 6/18/78 43 F. R. 24275 (Changed)

Oak Grove, N. C.
Within a 5-mile radius of Oak Grove HOLF (Navy), N. C. (lat. 35°01'15" N., long. 77°15'12" W.). This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 13373 (Changed)

Oakland, Calif.
Within a 5-mile radius of Metropolitan Oakland International Airport (latitude 37°43'15" N., longitude 122°13'20" W.) excluding the portion subtended by a chord drawn between the points of INT of this radius with the radius of the NAS Alameda, Calif., control zone; within a 5-mile radius of Hayward Air Terminal, Hayward, Calif. (latitude 37°39'30" N., longitude 122°06'45" W.), excluding the portion within the Hayward control zone when it is effective.

Oceana, Va.
Within a 5-mile radius of the center, lat. 36°49'10"N., long. 76°02'05"W., of NAS Oceana (Soucek Field); within 2 miles each side of the Navy Oceana TACAN 213° radial, extending from the 5-mile radius zone to 10 miles southwest of the TACAN; within a 3-mile radius of the center; lat. 36°42'15"N., long. 76°08'00"W., of ALF Fentress.

Ogden, Utah (Hill AFB)
Within a 5-mile radius of Hill AFB (latitude 41°07'25" N., longitude 111°58'20" W.); within a 5-mile radius of Ogden Municipal Airport (latitude 41°11'45" N., longitude 112°00'35" W.), excluding the portion within the Ogden (Ogden Municipal Airport) control zone when it is effective.

Ogden, Utah (Ogden Municipal Airport)
Within a 5-mile radius of Ogden Municipal Airport (latitude 41°11'45" N., longitude 112°00'35" W.), excluding the portion S of a line extending from latitude 41°08'10" N., longitude 112°04'00" W., to latitude 41°11'00" N., longitude 111°55'00" W., from 0600 to 2200 hours, local time, daily.

Oklahoma City, Okla. (Tinker AFB)
That airspace within a 5-mile radius of Tinker AFB (latitude 35°24'50" N., longitude 97°23'35" W.); within 2 miles each side of the Tinker AFB VOR 357° radial extending from the 5-mile radius zone to 8 miles north of the VOR; within 2 miles each side of the Tinker AFB TACAN 003° radial extending from the 5-mile radius zone to 9.5 miles north of the TACAN; and within 2 miles each side of the Tinker AFB VOR 187° radial extending from the 5-mile radius to 6 miles south of the VOR.

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Oklahoma City, Okla. (Wiley Post Airport)
Within a 5-mile radius of Wiley Post Airport (latitude 35°32'05" N., longitude 97°38'40" W.) within 2 miles each side of the Wiley Post ILS localizer north course extending from the 5-mile radius zone to the OM (latitude 35°37'33" N., longitude 97°38'50" W.); within 2 miles each side of the Oklahoma City VORTAC 050° radial extending from the 5-mile radius zone to the VORTAC; and excluding the portion S of a line extending through latitud 35°26'33" N., longitude 97°46'21" W., and latitude 35°28'00" N., longitude 97°36'05" W.

Oklahoma City, Okla. (Will Rogers World Airport)
Within a 5-mile radius of Will Rogers World Airport (latitude 35°23'45" N., longitude 97°36'30" W.); within 3 miles each side of the Oklahoma City runway 17R ILS localizer north course, extending from the 5-mile radius zone to the Tulakes, Okla., RBN; within 2 miles southwest and 3.5 miles northeast of the Oklahoma City VORTAC 105° radial extending from the 5-mile radius zone to the VORTAC; and within 3 miles each side of the Oklahoma City runway 35R ILS localizer south course extending from the 5-mile radius zone to the LOM (latitude 35°18' 36" N., longitude 97°35'17" W.), excluding that portion which coincides with the Oklahoma City (Wiley Post) control zone.

Olathe, Kans. (Johnson County Executive Airport)
Within a 5-mile radius of the Johnson County Executive Airport (lat. 38°51'00"N., long. 94°44'15"W.) and within 2.5 miles each side of the 183° bearing from Johnson County Executive Airport, extending from the 5-mile radius zone to 6.5 miles south of the airport. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 11/2/78 43 F. R. 33235 (Rewritten)

PENDING AMENDMENT
Olathe, Kans. (Johnson County Industrial Airport)
Within a 5-mile radius of the Johnson County Industrial Airport (lat. 38°49'47"N., long. 94°53'29"W.), excluding that portion which overlies the Olathe, Kans. (Johnson County Executive Airport) control zone, and excluding that portion bounded on the north by lat. 38°49'30"N., and on the east by long. 94°56'30"W. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 12/28/78 43 F. R. 51007 (Added)

Olympia, Wash.
Within a 5-mile radius of Olympia Municipal Airport (latitude 46°58'15" N., longitude 122°54'00" W.); within 4 miles each side of the Olympia VORTAC 195° radial, extending from the 5-mile radius zone to 10.5 miles south of the VORTAC, and within 2 miles each side of the Olympia VORTAC 010° radial, extending from the 5-mile radius zone to 5.5 miles north of the VORTAC. This control zone shall be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Omaha, Nebr. (Eppley Field)
Within a 5-mile radius of Eppley Field (latitude 41°18'00" N., longitude 95°53'35" W.); and within 2 miles each side of the Eppley Field ILS localizer NW course extending from the 5-mile radius zone to 8 miles NW of the OM; and within 2 miles each side of the Eppley Field ILS localizer SE course extending from the 5-mile radius zone to 7 miles SE of the airport; and within 2 miles each side of the Omaha VORTAC 318° radial extending from the 5-mile radius zone to a point 7 miles SE of the airport.

Omaha, Nebr. (Offutt AFB)
Within a 5-mile radius of Offutt Air Force Base (latitude 41°07'20" N., longitude 95°54'35" W.); within 2 miles each side of the Offutt AFB TACAN 310° radial, extending from the 5-mile radius zone to 7 miles NW of the TACAN; within 2 miles each side of the Offutt AFB VOR 310° radial, extending from the 5-mile radius zone to 1 mile NW of the VOR; and within 2 miles each side of the Offutt AFB ILS localizer SE course, extending from the 5-mile radius zone 2.4 miles.

Ontario, Calif.
Within a 5-mile radius of Ontario International Airport (latitude 34°03'25" N., longitude 117°36'30" W.); within 2 miles each side of the Ontario ILS localizer east course extending from the 5-mile radius zone to 3 miles east of the OM, and within a 3-mile radius of Chino, Calif., and within 1.5 miles each side of the Ontario, Calif., VORTAC 303° radial, extending from the 3-mile radius zone to 1 mile NW of the VORTAC, excluding the portion within the Chino control zone when it is effective.

Orlando, Fla.(Herndon Airport)
Within a 5-mile radius of Orlando (Harndon Airport) (lat. 28°32'40" N., long. 81°19'55" W.); within 3 miles each side of Orlando VORTAC 125° and 315° radials, extending from the 5-mile radius zone to 8.5 miles southeast and northwest of the VORTAC; excluding the portion south of a line connecting the two points of intersection with a 5-mile radius circle centered on Orlando International Airport (lat. 28°25'55"N., long. 81°19'15"W.).

Orlando, Fla. (Orlando International Airport)
Within a 5-mile radius of Orlando International Airport (lat. 28°25'55"N., long. 81°19'15"W.); within 2 miles each
side of Orlando VORTAC 175° radial, extending from the 5-mile radius zone to 13.5 miles south of the VORTAC; excluding the portion within the Orlando (Herndon Airport) (lat. 28°32'40" N., long. 81°19'55" W.) control zone.

Oscoda, Mich.
Within a 5-mile radius of Wurtsmith AFB (latitude 44°27'00" N., longitude 83°24'00" W.); within 2 miles each side of the Wurtsmith AFB VOR 240° radial extending from the 5-mile radius zone to 8 miles SW of the VOR; within 2 miles each side of the Wurtsmith AFB VOR 056° radial extending from the 5-mile radius zone to 12 miles NE of the VOR; within 2 miles each side of the Wurtsmith AFB TACAN 232° radial extending from the 5-mile radius zone to 8 miles SW of the TACAN and within 2 miles each side of the Wurtsmith AFB TACAN 064° radial extending from the 5-mile radius zone to 8 miles NE of the TACAN.

Oshkosh, Wis.
Within a 5-mile radius of Wittman Field (latitude 43°59'25" N., longitude 88°33'20" W.); within 3 miles each side of the Oshkosh VOR 275° radial extending from the 5-mile radius zone to 9½ miles west of the VOR; and within 3 miles each side of the Oshkosh VOR 182° radial extending from the 5-mile radius zone to 9½ miles south of the VOR. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Ottumwa, Iowa
Within a 5-mile radius of Ottumwa Municipal Airport (Lat. 41°06'25" N, Long. 92°26'50" W) and within 2 miles either side of the Ottumwa VORTAC 309° radial extending from the 5-mile radius zone to the VORTAC.

Owansboro, Ky.
Within a 5-mile radius of Owensboro-Daviess County Airport (lat. 37°44'31" N., long. 87°09'57" W.); within 3 miles each side of Owensboro VOR 222° radial, extending from the 5-mile radius zone to 8.5 miles southwest of the VOR; within 3 miles each side of Owensboro VOR 352° radial, extending from the 5-mile radius zone to 8.5 miles north of the VOR. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 13373 (Changed)

Oxnard, Calif. (Ventura County Airport)
Within a 5-mile radius of Ventura County Airport (latitude 34°12'02" N., longitude 119°12'10" W.) and within 2 miles each side of the Ventura County Runway 25 localizer east course extending from the 5-mile radius zone to 2 miles east of the outer marker. This control zone shall be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 19645 (Changed)

Paducah, Ky.
Within a 5-mile radius of Barkley Field (lat. 37°03'45" N., long. 88°46'23" W.); within 3 miles each side of the 234° bearing from Paducah RBN, extending from the 5-mile radius zone to 8.5 miles southwest of the RBN.

Palacios, Tex.
That airspace within a 5-mile radius of Palacios Municipal Airport (latitude 28°43'35" N., longitude 96°15'15" W.) and within 2 miles each side of the 323° bearing from the Palacios DF station (latitude 28°43'22" N, longitude 96°15'07" W.) extending from the 5-mile radius zone to 8 miles northwest of the DF station.

Palm Beach, Fla.
Within a 5-mile radius of Palm Beach International Airport (lat. 26°41'05" N., long. 80°05'35" W.); within 3 miles each side of the Palm Beach VORTAC 275° radial, extending from the 5-mile radius zone to 8.5 miles west of the VORTAC; excluding that airspace within a 1.5-mile radius of Palm Beach County Park (Lantana) Airport (lat. 26°35'35" N., long. 80°05'10" W.).

Palmdale, Calif.
Within a 5-mile radius of Air Force Plant No. 42, Palmdale, Calif. (latitude 34°37'45" N., longitude 118° 04'54" W.), within 3 miles each side of the ILS localizer east course, extending from the 5-mile radius zone to 7.5 miles east of the LOM, and within 2 miles south of and parallel to the Palmdale VORTAC 099° radial, extending from the 5-mile radius zone to 8 miles east of the VORTAC. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 19645 (Changed)

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Palm Springs, Calif.
Within a 5-mile radius of Palm Springs Airport (latitude 33°49'36" N., longitude 116°30'18" W.), and within 2 miles each side of the Palm Springs VOR 120° and 300° radials, extending from 3.5 miles SE to 3 miles NW of the VOR. This control zone shall be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 19645 (Changed)

Palo Alto, Calif.
Within a 3-mile radius of Palo Alto Airport (latitude 37°27'39" N., longitude 122°06'50" W.) excluding the portion southeast of a line extending from latitude 37°25'14" N., longitude 122°08'30" W. to latitude 37°26'30" N., longitude 122°05'43" W. to latitude 37°29'10" N., longitude 122°04'08" W. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 19645 (Changed)

Palomar, Calif.
Within a 3-mile radius of Palomar Airport (latitude 33°07'40" N., longitude 117°16'45" W.); within 1.5 miles each side of the Oceanside VORTAC 134° radial extending from the 3-mile radius zone to 4.5 miles southeast of the VORTAC, and within 1.5 miles each side of the Palomar Runway 24 localizer east course extending from the 3-mile radius zone to 7.5 miles east of the airport. This control zone shall be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 19645 (Changed)

Panama City, Fla.
Within a 5-mile radius of Panama City-Bay County Airport (latitude 30°12'41" N., longitude 85°40'57" W.); within 3 miles each side of the Panama City VOR 059°, 152° and 310° radials, extending from the 5-mile radius zone to 8.5 miles northeast, southeast and northwest of the VOR; excluding that portion within the Tyndall AFB control zone. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.
AMENDMENTS 5/18/78 43 F. R. 13373 (Changed)

Paris, Tex.
That airspace within a 5-mile radius of Cox Field, Paris, Tex. (latitude 33°38'17" N., longitude 95°26'54" W.) and within 2 miles each side of the Paris, Tex., VOR 357° radial extending from the 5-mile radius to the VOR. The control zone shall be effective during the times established by a Notice to Airmen and published continuously thereafter in the Airport/Facility Directory.
AMENDMENTS 5/18/78 43 F. R. 14443 (Changed)

Parkersburg, W. Va.
Within a 5-mile radius of the center, lat. 39°20'44" N., long. 81°26'16" W. of Wood County (Gill Rob Wilson Field) Airport, Parkersburg, W. Va.

Pasco, Wash.
That airspace within a 5-mile radius of the Tri-Cities Airport (latitude 46°15'50" N., longitude 119°06'53" W.), within 4 miles each side of the Pasco ILS localizer northeast course extending from the 5-mile radius zone to 10 miles northeast of the OM (46°18'41" North Latitude, 119°03'00" West Longitude) and within 3 miles each side of the Pasco VOR 131° radial, extending from the 5-mile radius zone to 8 miles southeast of the VOR, excluding that portion within a 1-mile radius of Vista Airport, Kennewick, Wash. (latitude 46°13'10" N., longitude 119°12'55" W.). This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Paso Robles, Calif.
Within a 5-mile radius of Paso Robles County Airport (latitude 35°40'15" N., longitude 120°37'35" W.).

Patuxent River, Md.
Within a 5-mile radius of the center, 38°17'15"N., 76°24'30"W., of Patuxent River NAS (Trapnell Field), Patuxent River, Md.; within 2 miles each side of the Patuxent VORTAC 043° radial, extending from the 5-mile radius zone to 7 miles northeast of the VORTAC; within 2 miles each side of the Patuxent VORTAC 234° radial extending from the 5-mile radius zone to 7.5 miles southwest of the VORTAC; within 2 miles each side of the Patuxent River LF RBN 233° bearing extending from the 5-mile radius zone to 7 miles southwest of the RBN; within 2 miles each side of the Patuxent VORTAC 139° radial, extending from the 5-mile radius zone to 12 miles southeast of the VORTAC; within a ½-mile radius of the center, 38°13'30"N., 76°26'30"W., of Park Hall, Md., Airport; and within a ½-mile radius of the center, 38°21'40"N., 76°24'15"W., of Chesapeake Ranch Airpark.

Pellston, Mich.
Within a 5-mile radius of Emmet County Airport (latitude 45°34'09" N., longitude 84°47'45" W.); within 2½ miles each side of the 132° bearing from Emmet County Airport, extending from the 5-mile radius zone to 5½ miles southeast of the airport; and within 5 miles each side of the Pellston VORTAC 238° radial extending from the airport to 21 miles southwest of the VORTAC.

Pendleton, Oreg.
Within a 5-mile radius of Pendleton Airport (latitude 45°41'42" N., longitude 118°50'25" W.), and within 2 miles each side of the Pendleton VORTAC 273° radial, extending from the 5-mile radius zone to 2 miles W of the VORTAC.

Pensacola, Fla.
Within a 5-mile radius of Pensacola Regional Airport (lat. 30°28'25" N., long. 87°11'20" W.); within 3 miles each side of the ILS localizer south course, extending from the 5-mile radius zone to 8.5 miles south of Pickens RBN.

Pensacola, NAS, Fla.
Within a 6-mile radius of Forrest Sherman Field (lat. 30°20'53"N., long. 87°19'04"W.); within 3 miles each side of the 174° bearing from NAS Pensacola UHF RBN, extending from the 6-mile radius zone to 8.5 miles south of the RBN.

Peoria, Ill.
Within a 5-mile radius of the Greater Peoria Airport (lat. 40°39'47" N., long. 89°41'22" W.) and within 4.5 miles each side of the Greater Peoria Airport ILS localizer northwest course, extending from the 5-mile radius zone to 17.5 miles northwest of the airport.

Philadelphia, Pa.
Within a 5-mile radius of the center, 39°52'23" N., 75°14'58" W., of Philadelphia International Airport, Philadelphia, Pa.; within a 6-mile radius of the center of the airport extending clockwise from a 266° bearing to a 016° bearing from the airport; within 2.5 miles each side of the Philadelphia International Airport Runway 27R ILS localizer course, extending from the localizer to 6.5 miles east; within 2 miles each side of the Philadelphia International Airport Runway 9R ILS localizer course, extending from the 5-mile radius zone to 2 miles east of the OM; within 2.5 miles each side of the New Castle, Del., VORTAC 055° radial, extending from the 5-mile radius zone to 18.5 miles northeast of the VORTAC.

Philipsburg, Pa.
Within a 5-mile radius of the center, 40°53'00" N., 78°05'15" W., of Mid-State Airport, Philipsburg, Pa., extending clockwise from a 248° bearing to a 031° bearing from the airport; within a 6-mile radius of the center of the airport, extending clockwise from a 031° bearing to a 098° bearing from the airport; within a 5-mile radius of the center of the airport, extending clockwise from a 098° bearing to a 187° bearing from the airport; within a 6-mile radius of the center of the airport, extending clockwise from a 187° bearing to a 248° bearing from the airport; and within 4 miles each side of a 327° bearing from a point 40°53'09" N., 78°05'06"W., extending from said point to a point 8.5 miles northwest.

Phoenix, Ariz. (Deer Valley)
Within a 3-mile radius of Deer Valley Airport (latitude 33°41'13" N., longitude 112°04'57" W.). This control zone will be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously established as published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 19645 (Changed)

Phoenix-Litchfield, Ariz.
Within a 4-mile radius of Phoenix-Litchfield Airport (latitude 33°25'25" N., longitude 112°22'30" W.), excluding the portion within the Phoenix, Ariz. (Luke Air Force Base) control zone. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 19645 (Changed)

Phoenix, Ariz. (Luke AFB)
Within a 5-mile radius of Luke AFB (latitude 33°32'05" N., longitude 112°22'55" W.) within 2 miles each side of the Luke TACAN 058° radial, extending from the 5-mile radius zone to 6 miles northeast of the TACAN, and within 2 miles each side of the Luke TACAN 209° radial, extending from the 5-mile radius zone to 6.5 miles southwest of the Luke TACAN. This control zone is effective from 0600 to 0000 hours local time daily.

Phoenix, Ariz. (Sky Harbor Airport)
Within a 5-mile radius of Sky Harbor Airport (latitude 33°26'10" N., longitude 112°00'45" W.); and within 2 miles each side of the Phoenix VORTAC 090° and 270° radials, extending from the 5-mile radius zone to 2 miles E and 13 miles W of the VORTAC.

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Pierre, S. Dak.
Within a 5-mile radius of the Pierre Municipal Airport (latitude 44°22'50" N., longitude 100°17'15" W.); and within 1 mile each side of the Pierre ILS localizer northwest course extending from the 5-mile radius zone to 6 miles northwest of the airport.

Pine Belt, Miss.
Within a 5-mile radius of Pine Belt Regional Airport (lat. 31°28'03"N., long. 89°20'11.6"W.). This control zone is effective from 0530 to 1430 hours and from 1600 to 0100 hours, local time, daily.

Pine Bluff, Ark.
That airspace within a 5-mile radius of Grider Field (latitude 34°10'35" N., longitude 91°55'55" W.) and within 2 miles each side of the Pine Bluff VORTAC 186° radial, extending from the 5-mile radius zone to 10.5 miles south of the VORTAC. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 14443 (Changed)

Pittsburgh, Pa. (Allegheny County)
Within a 5-mile radius of the center lat. 40°21'17" N., long. 79°55'48" W. of Allegheny County Airport, Pittsburgh, Pa., and within 3.5 miles each side of the 257° bearing from the Cecil RBN extending from the 5-mile radius zone to 8.5 miles west of the RBN.

Pittsburgh, Pa. (Greater Pittsburgh International Airport)
Within an 8-mile radius of the center, lat. 40°29'37" N., long. 80°13'54" W. of Greater Pittsburgh International Airport, Pittsburgh, Pa.

Plainview, Tex.
Within a 3-mile radius of the Hale County Airport, Plainview, Tex. (latitude 34° 10' 10" N., longitude 101° 43' 00" W.) and within 2 miles each side of the Plainview VOR 034° radial, extending from the 3-mile radius zone to the VOR, from 0600 to 2200 hours local time, daily.

Plattsburgh, N. Y.
Within a 5-mile radius of the center, 44°39'05"N., 73°28'08"W., of Plattsburgh AFB; within a 5-mile radius of the center 44°41'10"N., 73°31'10"W., of Clinton County Airport; within 3 miles each side of the Clinton County Airport ILS localizer south course, extending from the localizer to 3 miles south of the OM; within 1.5 miles each side of the Valcour, N. Y., TACAN 157° radial, extending from the TACAN to 2 miles southeast of the TACAN.

AMENDMENTS 5/18/78 43 F. R. 11971 (Rewritten)

Pocatello, Idaho
Within a 5-mile radius of Pocatello Municipal Airport (latitude 42°54'35" N., longitude 112°35'25" W.), and within 3 miles each side of the Pocatello VORTAC 252° radial, extending from the 5-mile radius zone to 8.5 miles west of the VORTAC;
that airspace within 5 miles each side of the Pocatello VORTAC 225° radial extending from the 5-mile radius to 10½ miles southwest of the VORTAC excluding that airspace within a 1-mile radius of the American Falls Airport (latitude 42°48'00" N., longitude 112°49'30" W.), American Falls, Idaho.

Point Barrow, Alaska
Within a 5-mile radius of the Point Barrow AFS Airport (latitude 71°20'21" N., longitude 156°37'45" W.); within a 5-mile radius of the Wiley Post-Will Rogers Memorial Airport (latitude 71°17'11" N., longitude 156°46'15" W.); within 3 miles each side of the Point Barrow RBN (PTR) 051° bearing extending from the 5-mile radius zone to 10 miles northeast of the RBN (PTR); within 2.5 miles each side of the Wiley RBN (IEY) 090° bearing, extending from the 5-mile radius zone to 10 miles east of the RBN; within 2.5 miles each side of the Wiley RBN (IEY) 226° bearing, extending from the 5-mile radius zone to 10 miles southwest of the RBN; and within 2.5 miles each side of the Wiley RBN (IEY) 270° bearing, extending from the 5-mile radius zone to 10.5 miles west of the RBN.

Point Mugu, Calif.
Within a 5-mile radius of NAS Point Mugu (lat. 34°07'05" N., long. 119°07'20" W.) and within the arc of a 12-mile radius circle centered on the Point Mugu TACAN, extending clockwise from the 200° radial to the 252° radial, excluding the portion within the Oxnard, Calif. (Ventura County Airport), control zone when it is effective.

Pompano Beach, Fla.
Within a 5-mile radius of Pompano Beach Airpark (latitude 26°15'00" N., longitude 80°06'30" W.); within 3 miles each side of Pompano Beach VOR (latitude 26°14'52" N., longitude 80°06'32" W.) 319° radial, extending from the 5-mile radius zone to 5.5 miles northwest of the VOR; excluding the portion southwest of a line 3 miles southwest of and parallel to Pompano Beach VOR 319° radial, and the portion east of Fort Lauderdale Executive Airport, south of a line 1 mile north of and parallel to the extended centerline of Runway 8/26.
This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 13373 (Changed)

Ponca City, Okla.
Within a 5-mile radius of the Ponca City Municipal Airport (latitude 36° 43' 40" N., longitude 97° 05' 50" W.); within 2 miles each side of the 225° bearing from the Ponca City RBN, extending from the 5-mile radius zone to 8 miles SW of the RBN, and within 2 miles each side of the 359° bearing from the Ponca City RBN, extending from the 5-mile radius zone to 12 miles N of the RBN.

Ponce, P. R.
Within a 5-mile radius of the Mercedita Airport, Ponce, P. R. (latitude 18°00'40" N., longitude 66°33'50" W.); within 3.5 miles each side of the Ponce VOR 111° radial, extending from the 5-mile radius zone to 8½ miles east of the VOR. This control zone is effective during specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 13373 (Changed)

Pontiac, Mich.
Within a 5-mile radius of the Oakland-Pontiac Airport (latitude 42°39'53" N., longitude 83°25'01" W.); within 3 miles each side of the Pontiac VORTAC 116° and 272° radials, extending from the 5-mile radius zone to 8.5 miles west of the VORTAC. This control zone is effective from 0600 to 2400 hours local time, daily.

Port Angeles, Wash.
Within a 5-mile radius of Williams R. Fairchild International Airport (latitude 48°07'10"N, longitude 123°29'44"W), including the airspace within 2 miles either side of the Port Angeles VOR 083° radial extending from the 5-mile radius zone to 4 miles east of the VOR. This control zone is effective during specific dates and times established in advance by a Notice to Airmen. Effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Portland, Maine
Within a 5-mile radius of the center (43°38'50" N., 70°18'30" W.) of Portland International Jetport, excluding the portion within a 1-mile radius of Oak Knoll Airport, Scarboro, Maine (43°35'21" N., 70°22'03" W.).
This control zone is effective from 0700 to 2300 hours, local time, daily or during the specific dates and times established by a Notice to Airmen which thereafter will be continuously published in the Airport/Facility Directory.
AMENDMENTS 6/18/78 43 F. R. 24275 (Changed)

Portland, Oreg.
Within a 5-mile radius of Portland International Airport (lat. 45°35'21" N., long. 122°35'36" W.); within a 5-mile radius of the Portland-Troutdale Airport (lat. 45°33'00" N., long. 122°23'49" W.); within 2 miles each side of the Portland VORTAC 180° radial, extending from the 5-mile radius zone to 3.5 miles south of the VORTAC; within 2.5 miles each side of the Portland runway 10R ILS localizer west course, extending from the 5-mile radius zone to 1 mile west of the OM (lat. 45°37'28" N., long. 122°41'43" W.) and within 3 miles each side of the 119° and 299° bearings from the Lake LOM (lat. 45°32'38" N., long. 122°27'49" W.) extending from the 5-mile radius to 8 miles southeast of the LOM, excluding the portion within the Troutdale control zone when it is effective.

Portsmouth, N. H.
Within a 5-mile radius of Pease AFB, Portsmouth, N. H. (latitude 43°04'40" N., longitude 70°49'25" W.), within 2 miles each side of the centerline of Runway 16 extended from the 5-mile radius zone to 6 miles SE of the end of the runway; within 2 miles each side of the Pease AFB TACAN 142° radial, extending from the 5-mile radius zone to 8 miles SE of the TACAN; within 2 miles each side of the Pease AFB TACAN 332° radial, extending from the 5-mile radius zone to 8 miles NW of the TACAN.

Poughkeepsie, N. Y.
Within a 5-mile radius of the center, 41°37'36" N., 73°52'59" W., of Dutchess County Airport, Poughkeepsie, N. Y., within 3.5 miles each side of the Kingston, N. Y., VORTAC 025° radial, extending from the VORTAC to 9.5 miles northeast of the VORTAC; within 2 miles each side of the Kingston, N. Y., VORTAC 230° radial, extending from the 5-mile radius zone to 10.5 miles southwest of the VORTAC;
and within 3.5 miles each side of the Kingston, N. Y., VORTAC 050° radial, extending from the VORTAC to 10.5 miles northeast of the VORTAC.

Prescott, Ariz.
Within a 6-mile radius of Prescott Municipal Airport (latitude 34°39'10" N., longitude 112°25'15" W.).

Presque Isle, Maine
Within a 5-mile radius of Northern Maine Regional Airport (latitude 46°41'30" N., long. 68°02'30" W.); within 3.5 miles each side of the Presque Isle localizer course extending from the 5-mile radius zone to 10 miles south of the LOM; within 2 miles each side of the Presque Isle VORTAC 158° radial extending from the 5-mile radius zone to the Presque Isle VORTAC. This control zone is effective from 0800 to 2000 hours, local time, Sunday through Friday; 0800 to 1730 hours, local time, Saturday or during the specific dates and times established in advance by a Notice to Airmen which thereafter will be continuously published in the Airport/Facility Directory.

AMENDMENTS 6/18/78 43 F. R. 24275 (Changed)

Providence, R. I.
Within a 5-mile radius of Theodore Francis Green State Airport, Providence, R. I., (Lat. 41°43'30" N. Long. 71°25'48" W). and within 2 miles either side of the Providence ILS localizer SW course extending from the 5-mile radius zone to the OM.

Pueblo, Colo.
Within a 6-mile radius of Pueblo Memorial Airport (lat. 38°17'30"N., long. 104°30'00"W.); within 2 miles each side of the Pueblo ILS localizer west course extending from the 6-mile radius zone to the LOM; within 4 miles each side of the Pueblo VORTAC 077° radial, extending from the 6-mile radius zone to 9.5 miles east of the VORTAC.
This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 3/23/78 43 F. R. 6761 (Changed)
AMENDMENTS 5/18/78 43 F. R. 18550 (Changed)

Pullman, Wash.
Within a 5-mile radius of Pullman-Moscow Regional Airport (latitude 46°44'40" N., longitude 117°06'30" W.) and within 2 miles each side of the Pullman VOR 047° radial, extending from the 5-mile zone to the VOR.
This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Quantico, Va.
Within a 5-mile radius of the center, lat. 38°30'15" N., long. 77°18'15" W., of Quantico MCAS (Turner Field) Quantico, Va.; within 2 miles each side of the Brooke, Va., VORTAC 013° radial, extending from the 5-mile radius zone to 1.5 miles north of the VORTAC and within 3 miles each side of the 183° bearing from the Quantico UHF RBN, extending from the 5-mile radius zone to 8.5 miles south of the RBN. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 14442 (Changed)

Quincy, Ill.
That airspace within a 5-mile radius of Quincy Municipal Airport (latitude 39°56'35" N., longitude 91°11'40" W.), within 2 miles each side of the Quincy VORTAC 034° radial, extending from the 5-mile radius zone to the VORTAC, and within 2 miles each side of the Quincy VORTAC 035° radial extending from the 5-mile radius zone to 12 miles northeast of the airport.

Raleigh, N. C.
Within a 5-mile radius of Raleigh-Durham Airport (latitude 35°52'21" N., longitude 78°47'02" W.); within 3.5 miles each side of Raleigh VORTAC 033°, 127° and 230° radials, extending from the 5-mile radius zone to 10.5 miles northeast. southeast and southwest of the VORTAC.

Rapid City, S. Dak. (Ellsworth AFB)
Within a 5-mile radius of Ellsworth AFB (latitude 44°08'45" N., longitude 103°06'15" W.); and within 2½ miles each side of the Ellsworth AFB TACAN 322° radial, extending from the 5-mile radius zone to 7 miles northwest of the TACAN, excluding the portion which overlies the Rapid City, S. Dak. (Regional Airport) control zone.

Rapid City, S. Dak. (Regional Airport)
Within a 5-mile radius of Rapid City Regional Airport (latitude 44°02'30" N., longitude 103°03'20" W.); within 3 miles each side of the Rapid City VOR 155° and 335° radials, extending from the 5-mile radius zone to 8 miles southeast of the VOR; and within 3 miles each side of the Ellsworth AFB TACAN 129° radial, extending from the Rapid City, S. Dak. (Ellsworth AFB), 5-mile radius zone to 8 miles southeast of the TACAN, excluding the portion north of a line between the INTs of the 5-mile radius zone and the Rapid City, S. Dak. (Ellsworth AFB), 5-mile radius zone.

Rawlins, Wyo.
Within a 5-mile radius of Rawlins Municipal Airport (latitude 41°48'15" N., longitude 107°12'05" W.) and within 2 miles each side of the 260° bearing from the Sinclair RBN extending from the 5-mile radius zone to the radiobeacon.

AMENDMENTS 9/7/78 43 F. R. 37681 (Changed)
AMENDMENTS 11/2/78 43 F. R. 49978 (Changed)

Reading, Pa.
Within a 5-mile radius of the center, 40°22'39" N., 75°57'57" W., of Reading Municipal-General Carl A. Spaatz Field, Reading, Pa., extending clockwise from a 160° bearing to a 030° bearing from the airport; within a 5.5-mile radius of the center of the airport, extending clockwise from a 030° bearing to a 160° bearing from the airport; within 4.5 miles each side of the Reading Municipal-General Carl A. Spaatz Field ILS localizer south course, extending from the 5-mile radius zone and 5.5-mile radius zone to 8.5 miles south of the OM; within 4 miles each side of a 161° bearing from a point 40°22'32" N., 75°57'57" W., extending from said point to 8.5 miles south; within 2.5 miles each side of a 301° bearing from a point of 40°23'00"N., 75°58'42"W., extending from said point to 5 miles northwest of said point; within 2 miles each side of a 352° bearing from a point 40°23'06"N., 75°57'48"W., extending from said point to 4.5 miles north of said point.
PENDING AMENDMENT
The Reading, Pa., control zone is amended by deleting "5 miles northwest" and substituting "6 miles northwest" therefor.

AMENDMENTS 12/28/78 43 F. R. 49300 (Changed)

Red Bluff, Calif.
Within a 5-mile radius of Bidwell Airport, Red Bluff, Calif. (latitude 40°09'15" N., longitude 122°14'50" W.), and within 2 miles each side of the Red Bluff VORTAC 167° radial, extending from the 5-mile radius zone to 8 miles S of the VORTAC.

Redding, Calif.
Within a 5-mile radius of Redding Municipal Airport (latitude 40°30'35" N., longitude 122°17'30" W.), and within 2 miles west and 4 miles east of the Redding VOR 192° radial extending from the 5-mile radius zone to 8 miles south of the VOR, excluding the portions within a 1-mile radius of Redding Sky Ranch Airport (latitude 40°30'00" N., longitude 122°22'35" W.) and Enterprise Sky Park (latitude 40°34'26" N., longitude 122°19'30" W.).
This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 19645 (Changed)

Redmond, Oreg.
Within a 5-mile radius of Roberts Field, Redmond, Oreg. (latitude 44°15'10" N., longitude 121°08'55" W.), and within 1.5 miles each side of the Redmond VORTAC 269° and 089° radials extending from the 5-mile radius zone to 1 mile west of the VORTAC.

Redwood Falls, Minn.
Within a 5-mile radius of Redwood Falls Municipal Airport (latitude 44°32'45" N., longitude 95°04'45" W.).

Reno, Nev. (Reno Municipal Airport)
Within a 5-mile radius of the Reno Municipal Airport (latitude 39°30'02" N., longitude 119°46'07" W.), and within 2 miles each side of the Reno ILS localizer N course, extending from the 5-mile radius zone to the Sparks, Nev., RBN, and within 2 miles each side of the Reno localizer S course, extending from the 5-mile radius zone to 11 miles S of the airport.

Renton, Wash.
That airspace bounded by a line beginning at latitude 47°32'10" N., longitude 122°12'40" W.; thence clockwise along an arc of a 3-mile radius circle centered on the Renton Municipal Airport (latitude 47°29'35" N., longitude 122°12'50" W.) to latitude 47°27'59" N., longitude 122°09'46" W., to latitude 47°27'38" N., longitude 122°09'24" W., to latitude 47°26'24" N., longitude 122°12'06" W., thence counterclockwise via an arc of a 5-mile radius circle centered on Seattle-Tacoma International Airport (latitude 47°26'50" N., longitude 122°18'30" W.) to latitude 47°27'00" N., longitude 122°11'50" W., to latitude 47°28'09" N., longitude 122°13'33" W., to latitude 47°31'27" N., longitude 122°13'33" W., thence to point of beginning. This control zone is effective from 0700 to 2300 hours local time daily.

Rhinelander, Wis.
Within a 5-mile radius of Rhinelander-Oneida County Airport (latitude 45°37'54" N., longitude 89°27'35" W.); within 2½ miles each side of the Rhinelander VORTAC 229° radial extending from the 5-mile radius zone to 7 miles southwest of the VORTAC; and within 2½ miles each side of the Rhinelander VORTAC 322° radial extending from the 5-mile radius zone to 6 miles northwest of the VORTAC; and within 2 miles each side of the Rhinelander VORTAC 058° radial extending from the 5-mile radius zone to 7 miles northeast of the VORTAC.
This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

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Richland, Wash.
That airspace bounded by a line beginning at lat. 46°15'46"N., long. 119°13'06"W., thence clockwise along an arc of a 5-mile radius circle centered on the Richland Airport (lat. 46°18'30"N., long. 119°18'00"W.) to lat. 46°18'27"N., long. 119°11'43"W., thence counterclockwise via an arc of a 5-mile radius circle centered on the Tri-Cities Airport (lat. 46°15'50"N., long. 119°06'53"W.) to the point of beginning. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen which thereafter will be continuously published in the Airport/Facility Directory.

AMENDMENTS 10/19/78 43 F. R. 41381 (Added) Corr: 43 F. R. 51613

Richmond, Va.
Within a 5.5-mile radius of the center, lat. 37°30'16" N., long. 77°19'11" W. of Richard Evelyn Byrd International Airport, Richmond, Va.; within 3.5 miles each side of the Richmond VORTAC 342° radial extending from the 5.5-mile radius zone to 10 miles north of the VORTAC; within 3.5 miles each side of the Richmond VORTAC 359° radial extending from the 5.5-mile radius zone to 10 miles north of the VORTAC; within 3 miles each side of the Richmond VORTAC 065° radial extending from the 5.5-mile radius zone to 8.5 miles northeast of the VORTAC; within 3.5 miles each side of the Richmond VORTAC 134° radial extending from the 5.5-mile radius zone to 10 miles southeast of the VORTAC; and within 2 miles each side of the Richmond VORTAC 137° radial extending from the 5.5-mile radius zone to 10 miles southeast of the VORTAC within 3 miles each side of the Richmond VORTAC 212° radial, extending from the 5.5-mile radius zone to 8.5 miles southwest of the VORTAC.

Riverside, Calif. (March AFB)
Within a five-mile radius of March AFB (lat. 33°52'50"N., long. 117°15'30"W.); within two miles either side of the March AFB TACAN 150° radial extending from the five-mile radius zone to 8.3 miles SE of the TACAN and within two miles either side of the March AFB TACAN 309° radial, extending from the five-mile zone to six miles NW of the TACAN.

Riverside, Calif. (Municipal Airport)
Within a 3-mile radius of the Riverside Municipal Airport (latitude 33°57'05" N., longitude 117°26'30" W.), within 2 miles each side of the Riverside VOR 292° radial, extending from the 3-mile radius zone to 4.5 miles W of the VOR; within 2 miles each side of the Riverside VOR 103° radial, extending from the 3-mile radius zone to 7 miles E of the VOR; and within 2 miles each side of the Riverside VOR 108° radial, extending from the 3-mile radius zone to 5 miles E of the VOR, excluding the portion within a 1-mile radius of the Riverside Fla-Bob Airport (latitude 33°59'20" N., longitude 117°24'35" W.), and the portion that coincides with the Riverside, Calif (March AFB), control zone. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 19645 (Changed)

Riverton, Wyo.
Within a 5-mile radius of Riverton Municipal Airport (latitude 43°03'45" N., longitude 108°27'15" W.) within 2 miles each side of the Riverton VOR 291° radial, extending from the 5-mile radius zone to 8 miles west of the VOR, within 3 miles each side of the Riverton VOR 123° radial, extending from the 5-mile radius zone to 8 miles southeast of the VOR. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 18550 (Changed)

Roanoke, Va.
Within a 7-mile radius of the center, 37°19'30"N., 79°58'35"W., of the Roanoke Municipal-Woodrum Airport, Roanoke,
Va.; within an 8-mile radius of the center of the airport, extending clockwise from a 237° bearing to a 258° bearing from the airport; within a 13.5-mile radius of the center of the airport, extending clockwise from a 258° bearing to a 302° bearing from the airport; within a 10.5-mile radius of the center of the airport, extending clockwise from a 302° bearing to a 336° bearing from the airport; within a 9-mile radius of the center of the airport, extending clockwise from a 336° bearing to a 007° bearing from the airport and within 2.5 miles each side of the Roanoke Municipal-Woodrum Airport ILS localizer southeast course, extending from the localizer to 2 miles southeast of the OM; within 4 miles each side of the Roanoke Municipal Airport LDA Runway 5 course, extending from the OM to 4 miles southwest of the OM.

AMENDMENTS 12/22/77 42 F. R. 61998 (Changed)

Rochester, Minn.
Within a 5-mile radius of Rochester Municipal Airport (latitude 43°54'25" N., longitude 92°29'45" W.); within 2 miles each side of the Rochester ILS localizer southeast course, extending from the 5-mile radius zone to the OM; and within 2 miles each side of the Rochester VORTAC 029° radial, extending from 1 mile northeast of the VORTAC to 15 miles northeast of the VORTAC.

Rochester, N. Y.
Within a 5-mile radius of the center, 43°07'10" N., 77°40'15" W., of the Rochester Monroe County Airport, Rochester, N. Y.; within 2 miles each side of the Rochester VOR 168° radial, extending from the 5-mile radius zone to 7 miles southeast of the VOR; within 2 miles each side of the Rochester VOR 280° radial, extending from the 5-mile radius zone to 8 miles west of the VOR; within 2 miles each side of the Rochester VOR 026° radial extending from the 5-mile radius zone to 7 miles northeast of the VOR; within 2 miles each side of the Rochester VOR 214° radial extending from the 5-mile radius zone to 7 miles southwest of the VOR and within 2 miles each side of the Rochester ILS localizer east course extending from the 5-mile radius zone to the OM.

Rockford, Ill.
Within a 5-mile radius of the Greater Rockford Airport (latitude 42°11'50" N., longitude 89°05'45" W.), within 2 miles each side of the Rockford ILS localizer S course, extending from the 5-mile radius zone to the OM, and within 2 miles each side of the Rockford VORTAC 117° radial, extending from the 5-mile radius zone to the VORTAC.

Rock Springs, Wyo.
Within a 5.5-mile radius of the Rock Springs-Sweetwater County Airport (lat. 41°35'45"N., long. 109°04'00"W.); within 3 miles each side of the Rock Springs ILS localizer east course, extending from the 5.5-mile radius zone to 9 miles east of the Thaer LOM (lat. 41°35'49"N., long. 108°58'09"W.); within 3.5 miles each side of the Rock Springs VORTAC 102° radial, extending from the 5.5-mile radius zone to 11.5 miles east of the VORTAC, and within 5 miles each side of the Rock Springs VORTAC 277° radial, extending from the 5.5-mile radius zone to 18 miles west of the VORTAC.

AMENDMENTS 7/13/78 43 F. R. 17939 (Rewritten)

Rocky Mount, N. C.
Within a 5-mile radius of Rocky Mount-Wilson Airport (lat. 35°51'17" N., long. 77°53'34" W.).
This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 13373 (Changed)

Rome, N. Y.
Within a 5-mile radius of the center, 43°13'45" N., 75°25'00" W., of Griffiss AFB, Rome, N. Y., and within 2 miles each side of bearing 135°/315° from a point 43°10'08" N., 75°19'08" W. extending from the 5-mile radius zone to 6 miles southeast of said point; within 2 miles each side of the Griffiss TACAN 306° radial extending from the 5-mile radius zone to 8
miles NW of the TACAN; within 2 miles each side of a bearing 142° from the Rome, N. Y., ILS OM, extending from the OM to 4 miles SE of the OM.

Roosevelt Roads, P. R.
Within a 5-mile radius of NS Roosevelt Roads (lat. 18°15'05" N., long. 65°38'35" W.); within 3 miles each side of the 052° bearing from Roosevelt Roads RBN, extending from the 5-mile radius zone to 8.5 miles northeast of the RBN.

Roswell, N. M.
That airspace within a 6-mile radius of the Roswell Industrial Air Center Airport (latitude 33°17'59" N., longitude 104°31'48" W.); within 2 miles each side of the extended centerline of runway 3 extending from the 6-mile radius zone to the LOM; and within 2 miles each side of the extended centerline of runway 21 extending from the 6-mile radius zone to 6 miles southwest of the lift-off end of runway 21.

Russell, Kans.
Within a 5-mile radius of Russell Municipal Airport (latitude 38°52'20" N., longitude 98°48'45" W.).

Sacramento, Calif. (Mather AFB)
Within a 5-mile radius of Mather AFB (latitude 38°33'10" N., longitude 121°18'05" W.) within 2 miles each side of the Mather TACAN 048° radial, extending from the 5-mile radius zone to 7 miles northeast of the TACAN, excluding the portion subtended by a chord drawn between the points of intersection of the Mather AFB 5-mile radius zone with the Sacramento, Calif. (McClellan AFB) 5-mile radius zone.

Sacramento, Calif. (McClellan AFB)
Within a 5-mile radius of McClellan AFB (latitude 38°39'45" N., longitude 121°24'10" W.), excluding the portion subtended by a chord drawn between the points of intersection of the McClellan AFB 5-mile radius zone with the Sacramento, Calif. (Mather AFB) 5-mile radius zone.

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Sacramento, Calif. (Sacramento Metropolitan Airport)
That airspace within a 5-mile radius of the Sacramento Metropolitan Airport (latitude 38°41'43" N., longitude 121°36'01" W.), and within 2 miles each side of the Sacramento Metropolitan Airport localizer (latitude 38°40'32" N., longitude 121°36'02" W.) N and S courses, extending from the 5-mile radius zone to 6 miles north and south of the airport; and including that airspace adjoining the McClellan AFB and Sacramento Municipal Airport control zones between latitude 38°41'43" N. and the Sacramento VORTAC 351° T radial.

Sacramento, Calif. (Sacramento Municipal)
Within a 5-mile radius of Sacramento Municipal Airport (latitude 38°30'45" N., longitude 121°29'35" W.), within 2 miles each side of the Sacramento VORTAC 033° radial, extending from the 5-mile radius zone SW to the VORTAC and that airspace NE of the Sacramento Municipal Airport, extending from the Sacramento Municipal 5-mile radius zone to the McClellan AFB and Mather AFB 5-mile radius zones, bounded on the SE by the Sacramento 064° radial and on the NW by a line 2 miles NW of and parallel to the Sacramento 033° radial.

Saginaw, Mich.
That airspace within a 5-mile radius of Tri-City Airport (latitude 43°31'55" N., longitude 84°04'50" W.) and within 2½ miles each side of the Saginaw, Mich. VORTAC 030°, 146°, 233°, and 310° radius extending from the 5-mile radius zone to 6½ miles northeast, southeast, southwest, and northwest of the VORTAC.

St. Charles, Ill.
Within a 3-mile radius of Du Page County Airport, St. Charles, Ill. (latitude 41°54'45" N., longitude 88°14'35" W.); and within 2 miles either side of the Du Page VOR 069° radial, extending from the 3-mile radius zone to the VOR.

St. Joseph, Mo.
Within a 5-mile radius of the Rosecrans Memorial Airport (latitude 39°46'23" N., longitude 94°54'31" W.); within 2 miles each side of the St. Joseph ILS localizer S course, extending from the 5-mile radius zone to the OM; and within 2 miles each side of the St. Joseph VORTAC 175° radial, extending from the 5-mile radius zone to the VORTAC. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

St. Louis, Mo.
Within a 5-mile radius of St. Louis International Airport (latitude 38°44'50" N., longitude 90°21'55" W.); within 2 miles each side of the St. Louis International Airport Runway 24 ILS localizer southwest course, extending from the 5-mile radius zone to 10½ miles southwest of the OM; within 2 miles each side of the St. Louis VORTAC 142° radial; extending from the 5-mile radius zone to 7 miles northwest of the northwest end of the St. Louis International Airport Runway 12R; within 2 miles each side of the St. Louis International Airport Runway 12R ILS localizer northwest course, extending from the 5-mile radius zone to the Runway 12R OM; and within 2 miles each side of the St. Louis International Airport Runway 12R ILS localizer southeast course, extending from the 5-mile radius zone to 6 miles southeast of the Runway 12R localizer.

St. Paul, Minn.
Within a 5-mile radius of St. Paul Downtown Airport (Holman Field) latitude 44°56'10" N., longitude 93° 03'40" W.), excluding the portion which overlies the Minneapolis, Minn., control zone and excluding the area within a 1-mile radius of South St. Paul Municipal Airport (Fleming Field) (latitude 44°51'25" N., longitude 93° 01'55" W.). This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

St. Petersburg, Fla.
Within a 5-mile radius of St. Petersburg Clearwater International Airport (lat. 27°54'33" N., long. 82°41' 19" W.); within 2.5 miles each side of St. Petersburg VORTAC 343° radial, extending from the 5-mile radius zone to 6 miles northwest of the VORTAC.

St. Petersburg, Fla. (Albert-Whitted Airport)
Within a 5-mile radius of the Albert-Whitted Airport (lat. 27°45'53" N., long. 82°37'39" W.); within 1.5 miles each side of the St. Petersburg VORTAC 159° radial, extending from the 5-mile radius zone to 1 mile south of the VORTAC, excluding the portion within the St. Petersburg and MacDill AFB control zones. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.
AMENDMENTS 5/18/78 43 F. R. 13373 (Changed)

Saipan Island
Within a 5-mile radius of Saipan International Airport (lat. 15°07'13"N., long. 145°43'49"E.) and within 3 miles each side of the Saipan RBN (lat. 15°06'46" N., long. 145°42'42" E.) 265° bearing, extending from the 5-mile radius zone to 8.5 miles west of the RBN, and within 2 miles each side of the extended centerline of the east/west runway, extending from the 5-mile radius zone to 7.5 miles east of Saipan International Airport. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Pacific Chart Supplement.

Salem, Oreg.
Within a 5 mile radius of McNary Field, Salem, Oregon. Latitude 44°54'35"N., Longitude 123°00'05"W., and within 2 miles each side of the Salem ILS localizer E course, extending from the 5 mile radius zone to the LOM; within 4 miles each side of the Salem ILS localizer W course, extending from the 5 mile radius zone to 15 miles west of the airport.

Salina, Kans.
Within a 5-mile radius of Salina Municipal Airport (latitude 38°47'40" N., longitude 98°39'30" W.); within 1½ miles each side of the Salina VORTAC 192° radial, extending from the 5-mile radius zone to the VORTAC and within 2 miles each side of the Salina ILS localizer S course, extending from the 5-mile radius zone to 2½ miles N of the OM.

Salinas, Calif.
Within a 5-mile radius of the Salinas Municipal Airport (latitude 36°39'40" N., longitude 121°36'20" W.), and within 2 miles NE and 3 miles SW of the Salinas VORTAC 319° radial, extending from the 5-mile radius zone to 6 miles NW of the VORTAC, excluding the portion within the Fort Ord, Calif., control zone.

Salisbury, Md.
Within a 5-mile radius of the center, lat. 38°20'21" N., long. 75°30'41" W. of Salisbury-Wicomico County Airport, Salisbury, Md.; within 3.5 miles each side of the Salisbury VORTAC 209° radial, extending from the 5-mile radius zone to 10.5 miles southwest of the VORTAC; within 3.5 miles each side of the Salisbury VORTAC 052° radial, extending from the 5-mile radius zone to 9.5 miles northeast of the VORTAC; within 1 mile each side of the Salisbury-Wicomico County Airport localizer northwest course, extending from the 5-mile radius zone to 5.5 miles northwest of the localizer; and within 3.5 miles each side of the Salisbury VORTAC 132° radial, extending from the 5-mile radius zone to 10.5 miles southeast of the VORTAC.

Salt Lake City, Utah
Within a 5-mile radius of the Salt Lake International Airport (latitude 40°47'10" N., longitude 111°58'00" W.) and within 2.5 miles each side of the Salt Lake City VORTAC 003° radial extending from the 5-mile radius zone to 2 miles north of the VORTAC.

San Angelo, Tex.
Within a 5-mile radius of Mathis Field, San Angelo, Tex., (latitude 31°21'35" N., longitude 100°29'40" W.); within 2 miles each side of the San Angelo VOR 065° radial, extending from the 5-mile radius zone to 8 miles NE of the VOR; within 2 miles each side of the San Angelo ILS localizer NE course, extending from the 5-mile radius zone to 8 miles NE of the INT of the ILS localizer NE course and the San Angelo VOR 311° radial; and within 2 miles each side of the San Angelo ILS localizer SW course, extending from the 5-mile radius zone to 6.5 miles SW of the airport.

San Antonio, Tex. (International Airport)
That airspace within a 5-mile radius of San Antonio International Airport (latitude 29°31'50" N., longitude 98°28'12" W.); within 2 miles each side of the San Antonio VORTAC 184° radial extending from the 5-mile radius zone to 1 mile south of the VORTAC; within 2 miles each side of the San Antonio ILS localizer northwest course extending from the 5-mile radius zone to 1 mile southeast of the OM, within 2 miles each side of the San Antonio ILS localizer northeast course extending from the 5-mile radius zone to 6 miles northeast of the airport, and within 2 miles each side of the San Antonio ILS localizer southeast course extending from the 5-mile radius zone to 7 miles southeast of the localizer, and within 2 miles each side of a 132° bearing from the LOM extending from the 5-mile radius zone to 15.5 miles southeast of the LOM.

San Antonio, Tex. (Kelly AFB)
That airspace within a 5-mile radius of Kelly AFB (latitude 29°22'57" N., longitude 98°34'25" W.); within 2 miles each side of the Kelly AFB ILS localizer N course extending from the 5-mile radius zone to 2 miles north of the 5-mile radius zone; and within 2 miles each side of the Kelly AFB TACAN 341° radial extending from the 5-mile radius zone to the TACAN.

San Antonio, Tex. (Randolph AFB)
That airspace within a 5-mile radius of Randolph AFB (latitude 29°32'09" N., longitude 98°16'57" W.); within 2 miles each side of the LaVernia, Tex., VOR 329° and 338° radials, extending from the 5-mile radius zone to 1 mile northwest of the VOR, within 2 miles each side of the Randolph AFB TACAN 323° radial extending from the TACAN to 8 miles northwest, and within 2 miles each side of the Randolph AFB TACAN 156° radial extending from the TACAN to 8 miles southeast.

San Antonio, Tex. (Stinson Field)
Within a 3-mile radius of Stinson Field (latitude 29° 20' 15" N., longitude 98° 28' 20" W.), and within 2 miles each side of the Stinson VOR 346° radial, extending from the 3-mile radius zone to the VOR, excluding the portion within the Kelly AFB control zone. This control zone is effective from 0700 to 2300 hours, local time daily.

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San Bernardino, Calif. (Norton AFB)
Within a 5-mile radius of the Norton AFB (latitude 34°05'45" N., longitude 117°14'05" W.), and within 2 miles N and 2.5 miles S of the ILS localizer SW course extending from the 5-mile radius zone to 2 miles NE of Pettis NDB, excluding the portion within a 1-mile radius of the Redlands, Calif., Municipal Airport latitude 34°05'05"N., longitude 117°08'35"W.).

San Carlos, Calif.
Within a 3-mile radius of the San Carlos Airport (latitude 37°30'40" N., longitude 122°14'50" W.). This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 19645 (Changed)

San Clemente Island, Calif.
Within a 5-mile radius of NALF San Clemente (latitude 33°01'20" N., longitude 118°35'15" W.) extending upward from the surface to and including 5,000 feet MSL, excluding that airspace beyond 3 NM from and parallel to the shoreline. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 19645 (Changed)

San Diego, Calif. (Brown Field)
Within a 3-mile radius of Brown Field Municipal Airport (latitude 32°34'22" N., longitude 116°58'47" W.), excluding that airspace west of longitude 117°01'00" W., and south of the United States/Mexican Border. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 19645 (Changed)

San Diego, Calif. (Lindbergh Field)
Within a 5-mile radius of Lindbergh Field, San Diego, Calif. (latitude 32° 43' 58" N., longitude 117° 11' 14" W.); and within 2 miles each side of the Lindbergh ILS localizer E course, extending from the 5-mile radius zone to 7 miles east of the airport, excluding the portion S of a line extending from latitude 32°43'22" N., longitude 117°16'20"
W., to latitude 32° 43' 22" N., longitude 117° 12' 23" W., to latitude 32° 41' 02" N., longitude 117° 07' 25" W.; and the portion N of latitude 32° 47' 00" N.

San Diego, Calif. (Montgomery Field)
Within a 3-mile radius of Montgomery Field (latitude 32°49'00" N., longitude 117°08'20" W.), excluding those portions within the NAS Miramar and San Diego (Lindbergh Field) control zones. This control zone shall be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 19645 (Changed)

San Diego, Calif. (NAS North Island)
Within a 5-mile radius of NAS North Island (latitude 32° 42' 00" N., longitude 117° 12' 35" W.); within the arc of a 10-mile radius circle centered on the North Island TACAN, extending clockwise from a line 2 miles N of and parallel to the TACAN 120° radial to the 162° radial, excluding the portion N of a line from latitude 32° 43' 22" N., longitude 117° 17' 20" W., to latitude 32° 43' 22" N., longitude 117° 12' 23" W., to latitude 32°41'02" N., longitude 117°07'25" W., and the portion within the NAS Imperial Beach, Calif., control zone.

San Diego, Calif. (San Diego County-Gillespie Field)
Within a 3-mile radius of San Diego-Gillespie Field (latitude 32°49'26" N., longitude 116°58'18" W.) and within 1 mile each side of a 102° bearing from the end of Runway 27R, extending from the 3-mile radius zone to 5 miles east of the airport. This control zone shall be effective during the specific dates and times established in advance by a Notice to Airmen: The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 19645 (Changed)

Sanford, Fla.
Within a 5-mile radius of Sanford Airport (lat. 28°46'30"N., long. 81°14'25"W.); within 3 miles each side of the 259° bearing from the Sanford RBN (lat. 28°47'05"N., long. 81°14'36"W.), extending from the 5-mile radius zone to 8.5 miles west of the RBN. This control zone is effective from 0800 to 2100 hours, local time, daily.

San Francisco, Calif.
Within a 7-mile radius of the San Francisco International Airport (Lat. 37°37'07" N, Long. 122°22' 35" W, including the airspace bounded on the SW by the San Francisco 7-mile radius zone and on the N and NE by the Oakland and NAS Alameda control zones, excluding the portion within the Oakland control zone.

San Jose, Calif.
Within a 5-mile radius of San Jose Municipal Airport (latitude 37°21'35" N., longitude 121°55'30" W.), excluding the portion NW of a line from latitude 37°25'45" N., longitude 121°56'35" W. to latitude 37°19'30" N., longitude 122°00'10" W.

San Jose, Calif. (Reid-Hillview Airport)
That airspace within a 3-mile radius of the Reid-Hillview Airport (latitude 37°19'55" N., longitude 121° 49'10" W.), excluding that portion within the San Jose control zone. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 19645 (Changed)

San Juan, P. R. (International Airport)
Within a 5-mile radius of Puerto Rico International Airport (lat. 18°26'48" N., long. 66°00'07" W.); within a 3-mile radius of Isla Grande Airport (lat. 18°27'33" N., long. 66°05'55" W.); within 5 miles each side of the San Juan VORTAC 058° radial, extending from the VORTAC to 13 miles northeast of the VORTAC; within 3.5 miles each side of the San Juan VORTAC 086° radial, extending from the 5-mile radius zone to 11 miles east of the VORTAC; within 2 miles each side of the ILS localizer west course, extending from the 5-mile radius zone to 1 mile east of the San Pat RBN.

San Luis Obispo, Calif. Temporary control zone June 18 - June 30, 1978
Within a 5-mile radius of the San Luis Obispo County Airport (lat. 35°14'11"N., long. 120°38'26"W.).

AMENDMENTS 6/18/78 43 F. R. 22935 (Added)

San Nicolas Island, Calif. (San Nicolas Island OLF)
Within a 5-mile radius of the San Nicolas Island Outlying Field (lat. 33°13'30"N., long. 119°27'50"W.) and within one mile each side of the 135° and 315° bearings from the Navy San Nicolas Island NDB (lat. 33° 14'10"N., long. 119°26'56"W.) extending from 7 miles southeast to 7 miles northwest of the NDB. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 7/13/78 43 F. R. 21445 (Added)

Santa Ana, Calif. (MCAS)
Within a 5-mile radius of MCAS Santa Ana (latitude 33°42'22" N., longitude 117°49'35" W.) excluding that portion east and south of a line from latitude 33°43'55" N., longitude 117°47'00" W., to latitude 33°41'15" N., longitude 117°48'10" W., to latitude 33°42'30" N., longitude 117°56'40" W. This control zone is effective during specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.
AMENDMENTS 5/18/78 43 F. R. 19645 (Changed)

Santa Ana, Calif. (Orange County Airport)
Within a 5-mile radius of Orange County Airport (latitude 33°40'32" N., longitude 117°52'15" W.) and within a 5-mile radius of MCAS Santa Ana (latitude 33°42'22" N., longitude 117°49'35" W.) excluding the portion within a 1-mile radius of Mile Square MCOLF, that portion east of a line extending from latitude 33°43'55" N., longitude 117°47'00" W. to latitude 33°36'10" N., longitude 117°50'20" W. and that portion within the Santa Ana, Calif. (MCAS) control zone when it is effective. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.
AMENDMENTS 5/18/78 43 F. R. 19645 (Changed)

Santa Barbara, Calif.
Within a 5-mile radius of Santa Barbara Municipal Airport (latitude 34°25'35" N., longitude 119°50'20" W.); within 2 miles each side of the Santa Barbara ILS localizer west course, extending from the 5-mile radius zone to the OM.

Santa Fe, N. Mex.
Within a 6.5-mile radius of the Santa Fe County Municipal Airport (latitude 35°37'00" N., longitude 106°05' 25" W.).
This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.
AMENDMENTS 5/18/78 43 F. R. 14443 (Changed)

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Santa Maria, Calif.
Within a 5-mile radius of Santa Maria Public Airport (latitude 34°53'55" N., longitude 120°27'20" W.); within 1.5 miles each side of the Santa Maria VOR 133° radial, extending from the 5-mile radius zone to 11.5 miles southeast of the VOR. This control zone is effective from 0700 to 2200 hours local time daily.

Santa Monica, Calif.
Within a 3-mile radius of Santa Monica Municipal Airport (latitude 34°00'57" N., longitude 118°27'00" W.); within 2 miles each side of the Santa Monica VOR 231° radial, extending from the 3-mile radius zone to 3 miles SW of the VOR; within 2 miles each side of the Santa Monica VOR 056° radial, extending from the 3-mile radius zone to 5 miles NE of the VOR, excluding the portion S of a line extending from latitude 34°00'43" N., longitude 118°23'30" W., to latitude 33°58'03" N., longitude 118°28'58" W. This control zone shall be effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and time will thereafter be continuously published in the Airport/Facility Directory.
AMENDMENTS 5/18/78 43 F. R. 19645 (Changed)

Santa Rosa, Calif.
Within a 5-mile radius of Sonoma County Airport (latitude 38°30'30" N., longitude 122°48'45" W.) and within a 1-mile radius of Santa Rosa Coddington Airport (latitude 38°28'30" N., longitude 122°44'25" W.). This control zone shall be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 19645 (Changed)

Sarasota, Fla.
Within a 5-mile radius of Sarasota-Bradenton Airport (lat. 27°23'47" N., long. 82°33'15" W.); within 3 miles each side of Sarasota VORTAC 050° and 302° radials, extending from the 5-mile radius zone to 8.5 miles northeast and northwest of the VORTAC; within 5 miles each side of Sarasota VORTAC 142° radial, extending from the 5-mile radius zone to 8.5 miles southeast of the VORTAC. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 13373 (Changed)

Sault Ste. Marie, Mich.
Within a 5.5-mile radius of Chippewa County International Airport, lat. 46°14'52"N., long. 84°28'15"W.; within 1 3/4 miles each side of the 329° bearing from the Chippewa County International Airport extending from the 5.5-mile radius zone to 6.5 miles northwest of the airport; within 1 3/4 miles each side of the 032° bearing from the airport extending from the 5.5-mile radius zone to 6 miles northeast of the airport. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. This effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 1/5/78 43 F. R. 952 (Rewritten)
AMENDMENTS 3/23/78 43 F. R. 3081 (Rewritten)

Sault Ste. Marie, Mich. (Municipal Airport)
Within the United States within a 5-mile radius of Sault Ste. Marie Municipal Airport (latitude 46°28'40" N., longitude 84°21'55" W.), and within 2 miles each side of the 129° bearing from the Sault Ste. Marie RBN extending from the 5-mile radius zone to 8 miles SE of the RBN excluding the portion W of a line between the INTs of the 5-mile radius and the Sault Ste. Marie, Ontario, Canada, control zone.

Sault Ste. Marie, Ontario, Canada
Over the United States within a 5-mile radius of the Sault Ste. Marie Airport (latitude 46°29'00" N., longitude 84°31'00" W.), and within 2 miles each side of the Sault Ste. Marie ILS localizer NW course extending from the 5-mile radius zone to the OM, excluding the portion east of a line between the INTs of the 5-mile radius and the 5-mile radius of the Sault Ste. Marie, Mich., control zone.

Savannah, Ga.
Within a 5-mile radius of Savannah Municipal Airport (lat. 32°07'35" N., long. 81°12'05" W.); within a 5-mile radius of Hunter AAF (lat. 31°00'35" N., long. 81°08'45" W.).

Schenectady, N. Y.
Within a 5-mile radius of the center 42°51'15" N., 73°55'55" W. of Schenectady County Airport, Schenectady, N. Y.; within 2.5 miles each side of a 037° bearing from the Hunter RBN (42°51'13" N., 73°56'07" W.) extending from the 5-mile radius zone to 8.5 miles northeast of the RBN; within 2.5 miles each side of the Schenectady VOR (42°51'05" N., 73°56'05" W.) 030° radial extending from the 5-mile radius zone to 8.5 miles northeast of the VOR; within 2 miles each side of the extended centerline of Runway 28, extending from the 5-mile radius zone to 9 miles west of the end of the runway and within 2 miles each side of the extended centerline of Runway 33, extending from the 5-mile radius zone to 5 miles northwest of the end of the runway, excluding the portion that coincides with the Albany, N. Y., control zone. This control zone is effective from 0700 to 2300 hours, local time, daily.

Scottsbluff, Nebr.
Within a five-mile radius of the Scottsbluff County Airport (latitude 41°52'34" N., longitude 103°35'53" W.); and within two miles each side of the Scottsbluff VORTAC 259° radial extending from the five-mile radius zone to the VORTAC; and within two miles each side of the ILS localizer northwest course extending from the five-mile radius zone to seven miles northwest of the airport.
PENDING AMENDMENT
Scottsbluff, Nebr.
Within a 5-mile radius of the Scottsbluff County Airport (lat. 41°52'40"N., long. 103°35'47"W.); and within 2 miles each side of the Scottsbluff VORTAC 259° radial extending from the 5-mile radius zone to the VORTAC; and within 2 miles each side of the ILS localizer northwest course extending from the 5-mile radius zone to 7 miles northwest of the airport; and within 4.5 miles each side of the Scottsbluff VORTAC 256° radial extending from the 5-mile radius zone to 15.5 miles west of the VORTAC.

AMENDMENTS 12/28/78 43 F. R. 51007 (Rewritten)

Scottsdale, Ariz.
Within a 5-mile radius of the Scottsdale Airport (latitude 33°37'05" N., longitude 111°54'55" W.) This control zone will be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously established and published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 19645 (Changed)

Seattle, Wash. (King County International Airport (Boeing Field))
That airspace bounded by a line beginning at latitude 47°34'10" N., longitude 122°12'40" W., to latitude 47°32'10" N., longitude 122°12'40" W., thence clockwise via an arc of a 3-mile radius circle centered on Renton Municipal Airport (latitude 47°29'35" N., longitude 122°12'50" W.) to latitude 47°27'59" N., longitude 122° 09'46" W., to latitude 47°27'38" N., longitude 122°09'24" W., to latitude 47°26'24" N., longitude 122° 12'06" W., thence counterclockwise via an arc of a 5-mile radius circle centered on Seattle-Tacoma International Airport (latitude 47°26'50" N., longitude 122°18'30" W.) to latitude 47°27'00" N., longitude 122°11'50" W., to latitude 47°28'09" N., longitude 122°13'33" W., to latitude 47°29'20" N., longitude 122°13'33" W., to latitude 47°29' 20" N., longitude 122°23'10" W., thence clockwise along an arc of a 5-mile radius circle centered on King County International Airport (Boeing Field) latitude 47°31'45" N., longitude 122°18'00" W.) to point of beginning; within 2 miles each side of the 150° bearing from the Magnolia LOM, extending from the 5-mile radius arc to 2 miles southeast of the Magnolia LOM, excluding the portion within the Seattle, Wash. (Seattle-Tacoma International Airport), control zone, and the portion within the Renton, Wash., control zone when the Renton control zone is effective.

Seattle, Wash. (Seattle-Tacoma International Airport)
That airspace bounded by a line beginning at latitude 47°29'20" N., longitude 122°13'33" W., thence to latitude 47°28'09" N., longitude 122°13'33" W., thence to latitude 47°27'00" N., longitude 122°11'50" W., thence clockwise along the arc of a 5-mile radius circle centered on Seattle-Tacoma International Airport (latitude 47°26'50" N., longitude 122°18'30" W.) to latitude 47°29'20" N., longitude 122°23'10" W., thence to point of beginning, and within 2 miles each side of the 360° bearing from the Seattle-Tacoma ILS LOM, extending from the 5-mile radius arc to the LOM.

Shemya, Alaska
Within a 5-mile radius of the Shemya Airport (latitude 52°42'50" N., longitude 174°06'57" E.); within 2 miles each side of the 104° bearing from the Shemya RBN, extending from the RBN to 12 miles east of the RBN, and within 2 miles each side of the 284° bearing from the Shemya RBN, extending from the RBN to 8 miles west of the RBN. The portion within R-2204 is excluded.

Sheridan, Wyo.
Within a 5-mile radius of the Sheridan County Airport (latitude 44°46'25" N., longitude 106°58'15" W.); within 4 miles each side of the Sheridan VORTAC 312° and 327° radials, extending from the 5-mile radius zone to 11.5 miles northwest of the VORTAC; and within 4 miles each side of the Sheridan VORTAC 140° radial extending from the 5-mile radius zone to 24½ miles southeast of the VORTAC.

Shreveport, La. (Barksdale AFB)
That airspace within a 5-mile radius of Barksdale AFB (latitude 32°30'05" N., longitude 93°39'45" W.); within 2 miles each side of the Elm Grove VOR 330° radial extending from the 5-mile radius zone to 0.5 of a mile NW of the VOR; within 2 miles each side of the Barksdale TACAN 148° radial extending from the 5-mile radius zone to 7.5 miles SE of the TACAN; excluding the portion within the Shreveport, La. (Shreveport Regional Airport) control zone and excluding the portion within the Shreveport, La. (Downtown Airport), control zone.

Shreveport, La. (Downtown Airport)
That airspace within a 5-mile radius of Shreveport Downtown Airport (latitude 32°32'25" N., longitude 93°44' 40" W.), and within 2 miles each side of the Shreveport Downtown VOR 313° radial extending from the 5-mile radius zone to 5.5 miles NW of the VOR, excluding the portion SE of a direct line between the two intersecting points of a 5-mile radius circle centered on Downtown Airport and Barksdale AFB (latitude 32°30'05" N., longitude 93°39'45" W.) and the portion within the Shreveport, La. (Shreveport Regional Airport) control zone.

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Shreveport, La. (Shreveport Regional Airport)
That airspace within a 5-mile radius of the Shreveport Regional Airport (latitude 32°26'45" N., longitude 93°49'25" W.); and within 2 miles each side of the Greater Shreveport ILS localizer SE course, extending from the 5-mile radius zone to 6 miles SE of the airport.

Sidney, Nebr.
Within a 5-mile radius of Sidney Municipal Airport (lat. 41°05'55" N., long. 102°58'55" W.); within 2 miles each side of the Sidney VORTAC 128° radial, extending from the 5-mile radius zone to 8 miles southeast of the VORTAC; and within 2 miles each side of the Sidney VORTAC 321° radial, extending from the 5-mile radius zone to 8 miles northwest of the VORTAC. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Silver City, N. Mex.
Within a 5-mile radius of Silver City-Grant County Airport (latitude 32°38'25" N., longitude 108°09'15" W.), and within 3 miles each side of the Silver City VOR 141° radial extending from the 5-mile radius zone to 9 miles southeast of the VOR. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 14443 (Changed)

Simmons Army Air Field, N. C.
Within a 5-mile radius of Simmons AAF (latitude 35°07'55" N., longitude 78°56'06" W.); within 3 miles each side of Simmons VOR 085° radial, extending from the 5-mile radius zone to 8.5 miles east of the VOR; excluding the portion northwest of a line extending from latitude 35°11'15" N., longitude 78°56'05" W. to latitude 35°05'55" N., longitude 79°00'50" W.

Sioux City, Iowa
Within a 5-mile radius of Sioux City Municipal Airport (latitude 42°24'03" N., longitude 96°22'55" W.); and within 2½ miles each side of the Sioux City VORTAC 140° and 320° radials, extending from the 5-mile radius zone to 6 miles southeast of the VORTAC.

Sioux Falls, S. Dak.
Within a 5-mile radius of Joe Foss Field (latitude 43°34'55" N., longitude 96°44'35" W.); within 2 miles each side of the Sioux Falls VORTAC 156° radial extending from the 5-mile radius zone to 10 miles southeast of the VORTAC.

Sitka, Alaska
Within a 5-mile radius of the Sitka Airport (lat. 57°02'55" N., long. 135°21'45" W.); within 2 miles each side of the Biorka Island VORTAC 029° and 209° radials, extending from the 5-mile radius zone to 2 miles southwest of the VORTAC; within 2 miles each side of the Sitka RBN 027° and 207° bearings, extending from the 5-mile radius zone to 2 miles southwest of the RBN; and within 2.5 miles each side of the localizer northwest course, extending from the 5-mile radius zone to 14 miles northwest of the localizer.

South Bend, Ind.
Within a 5-mile radius of Michiana Regional Airport, South Bend, Ind. (Lat. 41°42'15" N., Long. 86°18' 50" W).

South Weymouth, Mass.
Within a 5-mile radius of South Weymouth NAS (latitude 42°08'55" N., longitude 70°56'25" W.); within 2 miles each side of the 337° bearing from the South Weymouth RBN extending from the 5-mile radius zone to the RBN; within 2 miles each side of the South Weymouth TACAN 165° radial extending from the 5-mile radius zone to 6 miles S of the TACAN; and within 2 miles each side of the South Weymouth TACAN 073° radial extending from the 5-mile radius zone to 6 miles E of the TACAN.
This control zone is effective from 0700-2300 hours, local time, Monday through Thursday; 0700-2400 hours, local time, Friday; 0001-2400 hours, local time, Saturday; 0001-2300 hours, local time, Sunday; or during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 6/18/78 43 F. R. 24275 (Changed)

Spartanburg, S. C.
Within a 5-mile radius of Spartanburg Downtown Memorial Airport (latitude 34°54'55" N., longitude 81°57'32" W.); within 2 miles each side of Spartanburg VORTAC 196° radial, extending from the 5-mile radius zone to the VORTAC; within 3 miles each side of the 237° bearing from Fairmont RBN, extending from the 5-mile radius zone to 8.5 miles southwest of the RBN; excluding the portion within the Greer (Greenville-Spartanburg Airport), S. C. control zone. This control zone is effective from 0600 to 2200 hours, local time, daily.

Spokane, Wash. (Fairchild AFB)
Within a 5-mile radius of Fairchild AFB (latitude 47°36'55" N., longitude 117°39'20" W.); within 2 miles each side of the Runway 23 extended centerline, extending from the 5-mile radius zone to 4 miles southwest of the liftoff end of Runway 23; and within 4 miles northwest and 4.5 miles southeast of the Spokane VORTAC 048° and 228° radials extending from 3 miles northeast to 8 miles southwest of the VORTAC, excluding the portion east of a line extending from latitude 47°30'19" N., longitude 117°34'45" W., to latitude 47°40'57" N., longitude 117°36'00" W.

Spokane, Wash. (Felts Field)
That airspace within a 5-mile radius of Felts Field (latitude 47°41'00" N., longitude 117°19'20" W.); within 2 miles northwest and 4.5 miles southeast of the Spokane VORTAC 060° radial, extending from the 5-mile radius zone to 11 miles northeast of the VORTAC, and within 2 miles each side of the 086° bearing from the Fort LOM, extending from the 5-mile radfus zone to the LOM, excluding the portion within the Spokane, Wash. (International) control zone.

Spokane, Wash. (International)
Within a 5-mile radius of the Spokane International Airport (latitude 47°37'35" N., longitude 117°32'05" W.), within 2 miles each side of the Runway 21 centerline extended, extending from the 5-mile radius zone to 6 miles southwest of the lift-off end of Runway 21, and within 2 miles northwest and 4.5 miles southeast of the Spokane VORTAC 060° radial, extending from the VORTAC to 11 miles northeast of the VORTAC, excluding the portion west of a line extending from latitude 47°30'19" N., longitude 117°34'45" W., to latitude 47°40'57" N., longitude 117° 36'00" W.

Springfield, Ill.
That airspace within a 5-mile radius of Capital Airport (latitude 39°50'35" N., longitude 89°40'35" W.); within 2 miles each side of the Capital ILS localizer southwest course, extending from the 5-mile radius zone to the OM; within 2 miles each side of the Capital VORTAC 040° radial, extending from the 5-mile radius zone to 12 miles northeast of the VORTAC; within 2 miles each side of the Capital VORTAC 036° radial, extending from the 5-mile radius zone to 7 miles northeast of the VORTAC; and within 2 miles each side of the Capital VORTAC 058° radial, extending from the 5-mile radius zone to 8 miles northeast of the VORTAC.

Springfield, Mo.
Within a 5-mile radius of the Springfield Municipal Airport (latitude 37° 14' 35" N., longitude 93° 23' 20" W.) and within 2 miles W and 2.5 miles E of the Springfield VORTAC 200° radial, extending from the 5-mile radius zone to the VORTAC.

Stockton, Calif.
Within a 5-mile radius of Stockton Municipal Airport (latitude 37°53'39" N., longitude 121°14'14" W.); within 2 miles each side of the Stockton VORTAC 321° radial, extending from the 5-mile radius zone to the VORTAC, and within 2 miles each side of the Stockton ILS localizer SE course, extending from the 5-mile radius zone to 1 mile NW of the OM. This control zone is effective from 0430 to 2230 hours, local time, daily or during the specific dates and times established in advance by a Notice to Airmen which thereafter will be continuously published in the Airport/Facility Directory.

AMENDMENTS 6/26/78 43 F. R. 27516 (Changed)

Sumter, S. C.
Within a 5-mile radius of Shaw AFB (lat. 33°58'15" N., long. 80°28'19" W.); within 1.5 miles each side of Shaw AFB TACAN 033° radial, extending from the 5-mile radius zone to 6.5 miles northeast of the TACAN: within 2 miles east side of Shaw AFB TACAN 215° radial, extending from the 5-mile radius zone to 8.5 miles southwest of the TACAN.

Syracuse, N. Y.
Within a 5-mile radius of the center, latitude 43°06'50" N., longitude 76°06'35" W., of Syracuse Hancock International Airport extending clockwise from a 200° bearing to a 160° bearing from the airport; within a 6.5-mile radius of the center of the airport extending clockwise from a 160° to a 200° bearing from the airport; within 2.5 miles each side of the Syracuse Hancock International Airport Runway 10 ILS localizer back course extending from the localizer to a point 5 miles west of the localizer and within 1.5 miles each side of the Syracuse VORTAC 300° radial extending from the 5-mile radius area to the VORTAC excluding that airspace within a 0.5-mile radius of the center, lat. 43°10'45" N., long. 76°07'30" W. of Michael Field, Cicero, N. Y.

Tacoma, Wash. (McChord AFB)
Within a 5-mile radius of McChord AFB (latitude 47°08'20" N., longitude 122°28'30" W.), excluding the portion SW of a line extending from latitude 47°09'12" N., longitude 122°35'15" W., to latitude 47°04'15" N., longitude 122°31'15" W.; within 2 miles each side of the McChord AFB VOR 182° radial, extending from the 5-mile radius zone to 7.5 miles S of the VOR.

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Tacoma, Wash. (Tacoma Industrial Airport)
Within a 5-mile radius of Tacoma Industrial Airport (latitude 47°15'55" N., longitude 122°34'40" W.), excluding the portion E of a line 2 miles E of and parallel to the 009° bearing from the Gray AAF RBN; within 2 miles each side of the 009° bearing from the Gray AAF RBN, extending from the 5-mile radius zone to 1 mile N of the RBN, excluding the portion within the McChord AFB control zone, and within 2 miles each side of the 187° bearing from the Crescent RBN (latitude 47°21'29" N., longitude 122°33'41" W.), extending from the 5-mile radius zone to 1 mile S of the RBN. The control zone will be effective during the times established in advance by a Notice to Airmen continuously published in the Airport/Facility Directory.

Talkeetna, Alaska
Within a 5-mile radius of Talkeetna Airport (latitude 62°19'20" N., longitude 150°05'20" W.). This control zone is effective from 0800 to 2400 hours local time daily, or during the specific dates and times established in advance by a notice to airmen. The effective date and time will thereafter be continuously published in the Flight Information Publication Supplement Alaska.

Tallahassee, Fla.
Within a 5-mile radius of Tallahassee Municipal Airport (lat. 30°23'59" N., long. 84°21'22" W.); within 1.5 miles each side of the Tallahassee VORTAC 175° radial, extending from the 5-mile radius zone to 1.5 miles south of the VORTAC; within 1 mile each side of the ILS localizer north course extending from the 5-mile radius zone to 1.5 miles south of the Joseph Intersection.

Tampa, Fla. (International Airport)
Within a 5-mile radius of Tampa International Airport (lat. 27°58'59" N., long. 82°31'38" W.); within 1.5 miles each side of St. Petersburg VORTAC 064° radial, extending from the 5-mile radius zone to 1 mile northeast of the VORTAC; excluding the portion within St. Petersburg control zone and the portion southeast of a line 2 miles north of and parallel to MacDill AFB ILS localizer northeast course.

Tanana, Alaska
That airspace within a 5-mile radius of the Ralph M. Calhoun Memorial Airport (latitude 65°10'30" N., longitude 152°06'32" W.)
and within 3.5 miles each side of the 251° bearing from the Bear Creek radio beacon, extending from the 5-mile radius zone to 11.5 miles west of the RBN, effective 0545 to 2145 hours, local time, daily or during the specific dates and times established in advance by Notice to Airmen. The effective date and time would thereafter be continuously published in the Flight Information Publication Supplement Alaska.

Temple, Tex.
That airspace within a 5-mile radius of the Draughon-Miller Airport, Temple, Tex. (latitude 31°09'10" N., longitude 97°24'25" W.); and within 2 miles each side of the Temple, Tex., VOR 348° radial extending from the 5-mile radius zone to 11.5 miles N of the VOR. This control zone is effective during the dates and times published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 14443 (Changed)

Terre Haute, Ind.
Within a 5-mile radius of Hulman Field (latitude 39°27'00" N., longitude 87°18'40" W.); within 2 miles each side of the Terre Haute ILS localizer southwest course, extending from the 5-mile radius zone to the OM; within 2 miles each side of the Terre Haute VORTAC 051° radial, extending from the 5-mile radius zone to 12 miles northeast of the VORTAC; and within 2 miles each side of the Terre Haute VORTAC 230° radial, extending from the 5-mile radius zone to 19 miles southwest of the VORTAC.

Teterboro, N. J.
Within a 5-mile radius of the center, 40°50'57" N., 74°03'47" W. of Teterboro Airport, Teterboro, N. J.; within 3.5 miles each side of the Teterboro Airport ILS localizer southwest course, extending from the 5-mile radius zone to 11 miles southwest of the OM; excluding the portion that coincides with the Newark, N. J., control zone.

Texarkana, Ark.
That airspace within a 5-mile radius of the Texarkana, Ark., Municipal Airport (latitude 33°27'20" N., longitude 93°59'15" W.); and within 2 miles each side of the 129° radial of the Texarkana VORTAC extending from the 5-mile radius zone to 0.5 mile SE of the VORTAC.
This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 1/26/78 42 F. R. 61036 (Changed)
AMENDMENTS 5/18/78 43 F. R. 14443 (Changed)

Thermal, Calif.
Within a 5-mile radius of Thermal Airport (latitude 33°37'40" N., longitude 116°09'45" W.).

Thief River Falls, Minn.
Within a 5-mile radius of Thief River Falls, Minn., Municipal Airport (latitude 48°03'58" N., longitude 96°11'06" W.), within 2 miles each side of the 138° bearing from Thief River Falls Municipal Airport extending from the 5-mile radius zone to 8 miles SE of the airport, and within 2 miles each side of the 305° bearing from Thief River Falls Municipal Airport extending from the 5-mile radius zone to 8 miles NW of the airport. This control zone will be effective during the times designated by a Notice to Airmen and continuously published in the Airport/Facility Directory.

Titusville, Fla.
Within a 5-mile radius of TI-CO Airport (latitude 28°30'42" N., longitude 80°48'00" W.); excluding the portion within R-2922. This control zone is effective during the specific dates and times established in advance by a notice to airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Toledo, Ohio
Within a 5-mile radius of the center of Toledo Express Airport, Toledo, Ohio 41°35'15" N., 83°48'23" W.; within 2 miles each side of the airport ILS localizer SW course extending from the 5-mile radius zone to OM; within 2 miles each side of the airport ILS localizer NE course extending NE from the 5-mile radius zone for 7.5 miles from the localizer and within 2 miles each side of the Waterville VOR 318° radial extending from the 5-mile radius zone to 7 miles northwest of the VOR.

Tonopah, Nev.
Within a 5-mile radius of Tonopah Airport (latitude 38°03'30" N., longitude 117°05'00" W.) and within 3.5 miles each side of the Tonopah VORTAC 115° radial, extending from the 5-mile radius zone to 10 miles southeast of the VORTAC.

Topeka, Kans. (Forbes AFB)
Within a 5-mile radius of Forbes AFB (latitude 38°57'10" N., longitude 95°39'50" W.), within 2 miles each side of the Forbes AFB TACAN 321° radial extending from the 5-mile radius zone to 6 miles NW of the TACAN, and within 2 miles each side of the Forbes AFB ILS localizer SE course, extending from the 5-mile radius zone to 1 mile SE of the OM, excluding the portion subtended by a chord drawn between the points of intersection of the 5-mile radius zone with the Topeka, Kans.(Philip Billard Airport) control zone. This control zone will be effective as established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

PENDING AMENDMENT
Topeka, Kans. (Forbes Field)
Within a 5-mile radius of Forbes Field Airport (lat. 38°57'06"N., long. 95°39'45"W.) within 2.5 miles each side of the Forbes Field LOM 317° bearing extending from the 5-mile radius zone to 6 miles northwest of the airport, and within 2 miles each side of the Forbes Field ILS localizer SE course extending from the 5-mile radius zone to 1 mile SE of the LOM, excluding the portion subtended by a chord drawn between the points of intersection of the 5-mile radius zone with the Philip Billard Airport, Topeka, Kans., control zone. This control zone will be effective as established by a Notice to Airmen or published in the Airport/Facility Directory.

AMENDMENTS 12/28/78 43 F. R. 48626 (Rewritten)

Topeka, Kans. (Philip Billard Airport)
Within a 5-mile radius of Philip Billard Airport (latitude 39°04'09" N., longitude 95°37'18" W.), within 2 miles each side of the Topeka VORTAC 219° radial extending from the 5-mile radius zone to the VORTAC, and within 2 miles each side of the Philip Billard Airport ILS localizer SE course, extending from the 5-mile radius zone to 11 miles SE of the SE end of the Philip Billard Airport Runway 31, excluding the portion subtended by a chord drawn between the points of intersection of the 5-mile radius zone with the Topeka, Kans. (Forbes AFB) control zone.

Torrance, Calif.
Within a 3-mile radius of Torrance Municipal Airport (latitude 33°48'10" N., longitude 118°20'20" W.), within 2 miles each side of the Los Angeles VORTAC 150° radial, extending from the 3-mile radius zone to 7 miles southeast of the VORTAC, and within 1 mile each side of the Torrance localizer course extending from the 3-mile radius zone to 5 miles southeast of the lift-off end of Runway 11L. This control zone shall be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 19645 (Changed)

Traverse, City, Mich.
Within a 5-mile radius of Cherry Capital Airport (latitude 44°44'35" N., longitude 85°34'55" W.);
and within 3 miles each side of the Traverse City VORTAC 158° and 338° radials, extending from the 5-mile radius zone to 8 miles south of the VORTAC.

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Trenton, N. J.
Within a 5-mile radius of Mercer County Airport, Trenton, N. J. (latitude 40° 16' 33" N., longitude 74° 48' 55" W.); within 2.5 miles N and 2 miles S of the Yardley, Pa., VOR 071° and 065° radials, extending from the 5-mile radius zone to the VOR, excluding the portion within a 1-mile radius of the Morrisville, Pa., Airport (latitude 40°12'00" N., longitude 74°48'55" W.).

Tri-City, Tenn.
Within a 5-mile radius of Tri-City Municipal Airport (latitude 36°28'30" N., longitude 82°24'20" W.); within 2 miles each side of Tri-City ILS localizer Northeast course, extending from the 5-mile radius zone to the OM; within 3 miles each side of the 042° and 222° bearings from Boone RBN, extending from the 5-mile radius zone to 11 miles southwest of the RBN.

Trinidad, Colo.
Within a 5-mile radius of Los Animas County Airport (latitude 37°15'35" N., longitude 104°20'21" W.), and within 2 miles each side of the 352° bearing from the Trinidad, Colo., RBN extending from the 5-mile radius zone to 8 miles north of the RBN.

Troutdale, Oreg.
That airspace bounded on the north by a 5-mile radius area centered on the Portland-Troutdale Airport (lat. 45°33'30" N., long. 122°23'49" W.), on the south and east by a line parallel to and 3 miles southwest and northeast of the 119° bearing from the Lake LOM (lat. 45°32'38" N., long. 122°27'49" W.), extending from the LOM to 8 miles southeast, and on the west by the 154° radial of the Portland VORTAC. This control zone shall be effective from 0700 to 2300 hours, local time daily.

Troy, Ala.
Within a 5-mile radius of Troy Municipal Airport (latitude 31°51'40" N., longitude 86°00'45" W.); within 2 miles each side of the ILS localizer west course, extending from the 5-mile radius zone to the OM; within 3 miles each side of the 197° radial of the Troy VOR, extending from the 5-mile radius zone to 8.5 miles south of the VOR. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 13373 (Changed)

Truth or Consequences, N. Mex.
That airspace within a 5-mile radius of Truth or Consequences Municipal Airport (latitude 33°14'10" N., longitude 107°16'15" W.), and within 3.5 miles either side of the Truth or Consequences, N. Mex., VORTAC 013° and 193° radials extending from the 5-mile radius zone to a point 9.5 miles north of the VORTAC.
This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 13373 (Changed)

Tucson, Ariz. (Davis-Monthan AFB)
Within a 5-mile radius of Davis-Monthan AFB (latitude 32°10'00" N., longitude 110°53'00" W.) excluding the portion subtended by a chord drawn between the points of INT of the Davis-Monthan 5-mile radius zone and the Tucson International 5-mile radius zone, and within 2 miles SW and 2.5 miles NE of the Davis-Monthan ILS localizer SE course, extending from the 5-mile radius zone to the Davis-Monthan TACAN 139° radial 6.5 miles southeast of the TACAN.

Tucson, Ariz. (Tucson International Airport)
Within a 5-mile radius of Tucson International Airport (latitude 32°07'05" N., longitude 110°56'32" W.); within 3 miles each side of the Tucson VORTAC 273° radial extending from the 5-mile radius zone to 15 miles west of the VORTAC; within 2 miles each side of the extended centerline of Runway 21L extending from the 5-mile radius zone to 5 miles southeast of the lift-off end of Runway 12L; within 2 miles northeast and 2.5 miles southwest of the extended centerline of Runway 30R extending from the 5-mile radius zone to 15.5 miles northwest of the lift-off end of Runway 30R, and within 2 miles southeast and 3 miles northwest of the extended centerline of Runway 21 extending from the 5-mile radius zone to 6.5 miles southwest of the lift-off end of Runway 21, excuding the portion subtended by a chord drawn between the points of INT of the Tucson International Airport 5-mile radius zone with the Davis Monthan-AFB 5-mile radius zone.

Tucumcari, N. Mex.
That airspace within a 6-mile radius of the Tucumcari Municipal Airport (latitude 35°10'50" N., longitude 103° 35'15" W.); within 2.5 miles each side of the Tucumcari, N. Mex., VORTAC 033° radial extending beyond the 6-mile radius zone to a point 6.5 miles northeast of the VORTAC; and within 2.5 miles each side of the Tucumcari, N. Mex., VORTAC 078° radial extending beyond the 6-mile radius zone to a point 6.5 miles east of the VORTAC.

Tulsa, Okla.
That airspace within a 5-mile radius of the Tulsa International Airport (latitude 36°12'00" N., longitude 95°53'15" W.); within 2 miles each side of the Tulsa ILS localizer N course, extending from the 5-mile radius zone to 1 mile S of the OM; within 2 miles each side of the Tulsa ILS localizer S course, extending from the 5-mile radius zone to 0.5 mile N of the OM; and within 2 miles each side of the Tulsa VORTAC 268° Radial, extending from the 5-mile radius zone to the VORTAC.

Tulsa, Okla. (Riverside Airport)
Within a 5-mile radius of Riverside Airport (latitude 36°02'19" N., longitude 95°59'00" W.), within 2 miles each side of the Glenpool TVOR 349° radial extending from the 5-mile radius zone to the TVOR and within 2.5 miles each side of the Tulsa VORTAC 223° radial extending from the 5-mile radius zone to 21 miles southwest of the VORTAC. This control zone is effective during specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 14443 (Changed)

Tupelo, Miss.
Within a 5-mile radius of C. D. Lemons Municipal Airport (lat. 34°15'32" N., long. 88°45'32" W.); within 3 miles each side of Tupelo VOR 214° radial, extending from the 5-mile radius zone to 8.5 miles southwest of the VOR. This control zone is effective from 0700 to 2130 hours, local time, Monday through Friday; 0700 to 2000 hours, local time, Saturday, and 1100 to 2130 hours, local time, Sunday.

Tuscaloosa, Ala.
Within a 5-mile radius of Van De Graaff Airport (lat. 33°13'16" N., long. 87°36'39" W.); within 1.5 miles each side of the ILS localizer southwest course, extending from the 5-mile radius zone to 0.5 mile northeast of the OM. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 13373 (Changed)

Twentynine Palms, Calif.
Within a 5-mile radius of the Expeditionary Air Field (EAF), Marine Corps Base (lat. 34°17'20"N., long. 116° 10'20"W.) and within 2 miles each side of the Twentynine Palms VORTAC 298° radial extending from the 5-mile radius zone to 16 miles west of the VORTAC. This control zone is effective from 0730 to 1630 hours, local time, daily or during the specific dates and times established in advance by a Notice to Airmen which thereafter will be continuously published in the Airport/Facility Directory.

AMENDMENTS 7/13/78 43 F. R. 21872 (Added)

Twin Falls, Idaho
Within a 5-mile radius of the Twin Falls City-County (Joslin Field), Idaho Airport (latitude 42°28'54" N., longitude 114°29'11" W.) within 5 miles each side of Twin Falls VORTAC 086° and 281° radials, extending from the 5-mile radius zone to 10.5 miles east and 10.5 miles west of the VORTAC. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Tyler, Tex.
That airspace within a 5-mile radius of Pounds Field, Tyler, Tex. (latitude 32°21'15" N., longitude 95°23' 55" W.); within 2 miles each side of the Pounds Field ILS localizer NW course extending from the 5-mile radius zone to 0.5 mile SE of the OM, and within 2 miles each of the Pounds Field ILS localizer SE course extending from the 5-mile radius zone to 6 miles SE of the airport.
This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 3/23/78 43 F. R. 3901 (Changed)

Tyndall AFB, Fla.
Within a 5-mile radius of Tyndall AFB (latitude 30°04'15" N., longitude 85°34'30" W.); within 1.5 miles each side of the Tyndall AFB TACAN 308° radial, extending from the 5-mile radius zone to 6.5 miles northwest of the TACAN.

Unalakleet, Alaska
Within a 5-mile radius of Unalakleet Airport (lat. 63°53'12" N., long. 160°47'42" W.); within 3.5 miles each side of the Unalakleet 225° radial, extending from the VORTAC to 12.5 miles southwest of the VORTAC, and within 3.5 miles each side of the North River, Alaska, RBN 290° bearing, extending from the 5-mile radius zone to 8.5 miles west of the RBN. This control zone is effective during the specific dates and times established in advance
by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Flight Information Publication Supplement Alaska.

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Utica, N. Y.
Within a 5-mile radius of the center, lat. 43°08'45" N., long. 75°22'55" W. of Oneida County Airport, Utica, N. Y.; within 2 miles each side of the 317° bearing from the Clay RBN, extending from the 5-mile radius zone to 3 miles northwest of the RBN; within 2 miles each side of the Utica VORTAC 306° radial, extending from the 5-mile radius zone to 1 mile northwest of the VORTAC, excluding the portion within the Rome, N. Y., control zone.

Valdez, Alaska
Within a 3-mile radius of the Valdez Municipal Airport, latitude 61°07'58" N., longitude 146°14'24" W. This control zone is effective from 0800 to 1600 local time daily from mid-October to mid-May, and from 0600 to 2200 local time daily from mid-May to mid-October or during specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the U. S. Government Flight Information Publication Supplement Alaska.

Valdosta, Ga. (Moody AFB)
Within a 5-mile radius of Moody AFB (lat. 30°58'01"N., long. 83°11'27"W.); within 1.5 miles each side of Moody TACAN 007° radial, extending from the 5-mile radius zone to 6 miles north of the TACAN. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 13373 (Changed)

Valdosta, Ga. (Valdosta Municipal Airport)
Within a 5-mile radius of Valdosta Municipal Airport (lat. 30°46'58" N., long. 83°16'44" W.). This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 13373 (Changed)

Vandenberg AFB, Calif.
Within a 5-mile radius of Vandenberg AFB, Lompoc, Calif., (lat. 34°43'50"N., long. 120°34'30"W.); within 2 miles each side of the Vandenberg AFB ILS localizer southeast course, extending from the 5-mile radius zone to 8.2 miles southeast of the Vandenberg AFB TACAN and within a 1-mile radius of Lompoc Airport (lat. 34°39'55"N., long. 120°27'55"W.) excluding that portion within R-2516. This control zone will be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously established as published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 19645 (Changed)

Van Nuys, Calif.
Within a 5-mile radius of Van Nuys Airport (latitude 34°12'30" N., longitude 118°29'15" W.), within 2.5 miles each side of the 350° radial of the Van Nuys VOR/DME facility extending from the 5-mile radius zone to 9.5 miles north of the facility, excluding the portion east of a line from latitude 34°16'00" N., longitude 118°25'55" W. to latitude 34°09'25" N., longitude 118°25'40" W.

Vernal, Utah
Within a 5-mile radius of Vernal Airport (latitude 40°26'30" N., longitude 109°30'50" W.), and within 3 miles each side of the Vernal VOR 157° radial, extending from the 5-mile radius zone to 8.5 miles S of the VOR. This control zone will be effective during the times established in advance by a Notice to Airmen and continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 18550 (Changed)

Vero Beach, Fla.
Within a 5-mile radius of Vero Beach Municipal Airport (lat. 27°39'05" N., long. 80°24'51" W.).

Vichy, Mo.
Within a 5-mile radius of the Rolla National Airport (latitude 38°07'40" N., longitude 91°46'10" W.); and within 3 miles each side of the 067° radial of the Vichy VORTAC extending from the 5-mile radius zone to 6½ miles northeast of the Vichy VORTAC.

Victoria, Tex.
Within a 5-mile radius of the Victoria County-Foster Airport (lat. 28°51'10" N., long. 96°55'20" W.) and within 3 miles each side of the Victoria, Tex., VOR 313° radial extending from the 5-mile radius zone to 10.5 miles northwest of the VOR.

Victorville, Calif.
Within a 5-mile radius of George AFB, Victorville, Calif. (latitude 34°35'45" N., longitude 117°22'55" W.) and within 2 miles each side of the 005° radial of the George TACAN (latitude 34°35'40" N., longitude 117°23'20" W.) extending from the 5-mile radius zone to 9 miles north of the TACAN. This control zone shall be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 19645 (Changed)

Visalia, Calif.
Within a 4-mile radius of the Visalia Municipal Airport (latitude 36°19'10" N., longitude 119°23'35" W.), and within 2 miles each side of the Visalia VOR 123° radial, extending from the 4-mile radius zone to the VOR, excluding the portion within a 1-mile radius of Green Acres Airport, Visalia, Calif. (latitude 36°20'20" N., longitude 119°19'30" W.). This control zone shall be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 19645 (Changed)

Waco, Tex.
That airspace within a 5-mile radius of Waco-Madison Cooper Airport (latitude 31°36'40" N., longitude 97°13'40" W.); within 2 miles each side of the Waco VORTAC 330° radial extending from the 5-mile radius zone to 8 miles northwest of the VORTAC; within 2 miles each side of the Waco ILS localizer north course extending from the 5-mile radius zone to the OM and within a 5-mile radius of James Connally Airport (latitude 31°38'00" N., longitude 97°04'00" W.).

Waimea-Kohala, Hawaii
Within a 5-mile radius of the Waimea-Kohala Airport (latitude 20°00'17" N., longitude 155°40'16" W), and within an area 2 miles on the northwest side and 3 miles on the southeast side of the Kamuela VOR 063° radial, extending from the 5-mile radius zone to 9 miles northeast of the Kamuela VOR. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective times will thereafter be continuously published in the Pacific Chart Supplement.

Walla Walla, Wash.
Within a 5-mile radius of Walla Walla City-County Airport (latitude 46°05'35" N., longitude 118°17'20" W.), within 3 miles each side of the Walla Walla VOR 215° radial, extending from the 5-mile radius zone to 8 miles southwest of the VOR and that airspace within an arc of a 14-mile radius circle centered on the Walla Walla VOR extending clockwise from a line 4 miles west to a line 4 miles southeast of and parallel to the Walla Walla VOR 354° and 036° radials.

Washington, D. C.
Within a 5-mile radius of the center, 38°51'07" N., 77°02'23" W., of Washington National Airport; within 1.5 miles each side of the Washington National Airport ILS localizer south course, extending from the 5-mile radius zone to 1 mile south of the OM; within 2 miles each side of the Washington National Airport ILS localizer south course, extending from the 5-mile radius zone to the OM; within 2.5 miles each side of the extended centerline of Washington National Airport Runway 15, extending from the 5-mile radius zone to 5 miles southeast of the southeast end of the runway; within 2.5 miles each side of the extended centerline of Washington National Airport Runway 33, extending from the 5-mile radius zone to 5 miles northwest of the northwest end of the runway; within 1.5 miles each side of the Washington VOR 320° radial, extending from the 5-mile radius zone to 6.5 miles northwest of the VOR; within 2.5 miles each side of the Washington VOR 326° radial, extending from the 5-mile radius zone to 5.5 miles northwest of the VOR; within 2.5 miles each side of a 190° bearing from 38°55'13" N., 76°57'50" W., extending from said point to 5 miles south; excluding the portion within P-56, the east portion subtended by a chord drawn between the points of intersection of the 5-mile radius zone with the Camp Springs, Md., control zone, the portion of the southeast extension described by reference to the extended centerline of Washington National Airport Runway 15 that coincides with the Camp Springs, Md., control zone and the portion of the north extension described by reference to a 190° bearing from 38°55'13" N., 76°57'50" W., that coincides with the Camp Springs, Md., control zone.

Waterloo, Iowa
Within a 5-mile radius of Waterloo Municipal Airport (lat. 42°33'20" N., long. 92°24'00" W.); within 2½ miles each side of the Waterloo, Iowa, VORTAC 078° radial extending from the 5-mile radius zone to 6 miles east of the VORTAC; and within 2½ miles each side of the Waterloo, Iowa, VORTAC 194° radial extending from the 5-mile radius zone to 6½ miles south of the VORTAC; and within 3½ miles each side of the Waterloo, Iowa, VORTAC 001° radial extending from the 5-mile radius zone to 10½ miles north of the VORTAC; and within 3½ miles each side of the Waterloo, Iowa, VORTAC 316° radial extending from the 5-mile radius zone to 10½ miles northwest of the airport.

Watertown, N. Y.
That airspace within a 5-mile radius of the center 43°59'20" N., 76°01'20" W. of Watertown International Airport, Watertown, N. Y., and within 3 miles each side of the Watertown, N. Y., VOR 211° radial, extending from the 5-mile radius zone to 8 miles southwest of the VOR.

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Watertown, S. Dak.
Within a 5-mile radius of Watertown Municipal Airport (latitude 44°54'51" N., longitude 97°09'16" W.); within 1.5 miles each side of the Watertown VORTAC 001° radial, extending from the 5-mile radius zone to 2.5 miles north of the VORTAC; and within 1 mile each side of the Watertown VORTAC 181° radial, extending from the 5-mile radius zone to 10.5 miles south of the VORTAC.

Waukesha, Wis.
Within a 5-mile radius of the Waukesha County Airport (latitude 43°02'25" N., longitude 88°14'00" W.); excluding a one-mile radius of Capitol Drive Airport (latitude 43°05'15" N., longitude 88°10'40" W.); within 2½ miles each side of the 272° bearing from the airport extending from the 5-mile radius area to 5.5 miles west. This control zone shall be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Wausau, Wis.
Within a 5-mile radius of the Wausau Municipal Airport (latitude 44°55'35" N., longitude 89°37'35" W.); and within 2½ miles each side of the 142° bearing from the Wausau Municipal Airport extending from the 5-mile radius zone to 6 miles southeast.

Wenatchee, Wash.
Within a 5-mile radius of Pangborn Field, Wenatchee, Wash. (lat. 47°24'00" N., longitude 120°12'30" W.) and within 3 miles each side of the Wenatchee VOR 124° radial extending from the 5-mile radius zone to 8 miles southeast of the VOR, excluding the airspace within a 1-mile radius of Fancher Field, Wash. (latitude 47°26'55" N., longitude 120°16'40" W.).

Westfield, Mass.
Within a 5-mile radius of the center 42°09'25" N., 72°42'50" W. of Barnes Municipal Airport, Westfield, Mass.; within 3 miles each side of the Barnes VOR 012° radial, extending from the 5-mile radius zone to 10 miles north of the VOR; and within 2 miles each side of the Runway 33 centerline extended from the 5-mile radius zone to 7.5 miles northwest of the end of the runway, excluding the portion which coincides with the Westover, Mass., control zone. This control zone is effective from 0700 to 2300 hours, local time, daily.

Westhampton Beach, N. Y.
Within a 5.5-mile radius of Suffolk County Airport (lat. 40°50'39" N., long. 72°37'49" W.), excluding that portion within the Calverton, N. Y., control zone. This control zone shall be in effect from 0700 to 2300 hours, local time, daily.

West Memphis, Ark.
Within a 5-mile radius of the Municipal Airport, West Memphis, Ark. (latitude 35°08'24" N., longitude 90°14'00" W.); within 3 miles each side of the 351° bearing from the West Memphis RBN (latitude 35°08'20" N., longitude 90°14'02" W.), extending from the 5-mile radius zone 8 miles north of the RBN; and within 3 miles each side of the 186° bearing from the West Memphis RBN, extending from the 5-mile radius zone to 8 miles south of the RBN. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 14443 (Changed)

Westover, Mass.
Within a 5-mile radius of the center, 42°11'40" N., 72°32'15" W., Westover AFB, Chicopee Falls, Mass.; within 2 miles each side of the Westover ILS localizer NE course extending from the 5-mile radius zone to 10 miles NE of the OM; within 2 miles each side of Chicopee TACAN 028° radial extending from the 5-mile radius zone to 8 miles NE of the TACAN and within 2 miles each side of the Westover AFB TACAN 221° radial extending from the 5-mile radius zone to 6 miles SW of the TACAN.

Weyers Cave, Va.
Within a 5-mile radius of the center (lat. 38°15'49" N., long. 78°53'46" W.), of Shenandoah Valley Airport, Weyers Cave, Va., and within 3.5 miles each side of the Shenandoah Valley Airport ILS localizer southwest course, extending from the 5-mile radius zone to 11.5 miles southwest of the OM. This control zone is effective during the specific days and times established in advance by a Notice to Airmen. The effective times will thereafter be published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 14442 (Changed)

Wheeling, W. Va.
Within a 5-mile radius of Wheeling-Ohio County Airport (latitude 40° 10' 25" N., longitude 80° 38' 55" W.); within 2 miles each side of the Wheeling VOR 216° radial, extending from the 5-mile radius zone to the VOR, and within 2 miles each side of the Wheeling ILS localizer SW course, extending from the 5-mile radius zone to the OM.

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Whidbey Island, Wash.
Within a 5-mile radius of Ault Field, Whidbey Island, Wash. (latitude 48°21'10" N., longitude 122°39'20" W.), within 2 miles each side of the Whidbey Island TACAN 351° radial, extending from the 5-mile radius zone to 6 miles north of the TACAN, and within 2 miles each side of the 283° bearing from the Whidbey Island RBN, extending from the 5-mile radius zone to 8 miles west of the RBN.

White Plains, N. Y.
Within a 5-mile radius of the center, 41°04'00" N., 73°42'33" W., of Westchester County Airport, White Plains, N. Y., extending clockwise from a 055° bearing to a 305° bearing from the airport; within a 6-mile radius of the center of the airport extending clockwise from a 305° bearing to a 055° bearing from the airport; and within 2 miles each side of the extended centerline of Runway 16, extending from the southeast end of Runway 16 to 4 miles southeast of the southeast end of Runway 16.

Wichita, Kans. (McConnell AFB)
Within a 5-mile radius of McConnell AFB (latitude 37°37'25" N., longitude 97°16'00" W.); within 2 miles west and 4 miles east of the McConnell AFB TACAN 008° radial, extending from the 5-mile radius zone to 7 miles north of the TACAN; and within 2 miles each side of the McConnell AFB TACAN 199° radial, extending from the 5-mile radius zone to 6 miles south of the TACAN, excluding the portion subtended by a chord drawn between the points of INT of the 5-mile radius zone with the Wichita, Kans. (Wichita Municipal), control zone.

Wichita, Kans. (Wichita Municipal)
Within a 5-mile radius of the Wichita, KS., Municipal Airport (latitude 37°39'09" N., longitude 97°25'47" W.); and within 2 miles each side of the Wichita Municipal Airport ILS localizer north course, extending to 7.5 miles north, excluding that portion subtended by a chord drawn between the points of INT of the 5-mile-radius zone of the Wichita, KS., (McConnell AFB), 5-mile-radius control zone.

Wichita Falls, Tex.
That airspace within a 5-mile radius of Sheppard AFB/Municipal Airport, Wichita Falls, Tex., (latitude 33°58'55" N., longitude 98°29'35" W.); within 2 miles each side of the Wichita Falls VORTAC 092° radial extending from the 5-mile radius zone to the VORTAC; within 2 miles each side of the ILS localizer SE course extending from the 5-mile radius zone to the OM; within 2 miles each side of the Sheppard TACAN 333° radial extending from the 5-mile radius zone to 7.5 miles N of the TACAN, and within 2 miles each side of the Sheppard TACAN 163° radial extending from the 5-mile radius zone to 7 miles S of the TACAN.

Wilkes-Barre, Pa.
Within an 8-mile radius of the center, lat. 41°20'18" N., long. 75°43'29" W. of Wilkes-Barre-Scranton Airport, extending clockwise from a 235° bearing to a 355° bearing from the airport; within an 11-mile radius of the center of the airport, extending clockwise from a 355° bearing to a 025° bearing from the airport; within an 8-mile radius of the center of the airport, extending clockwise from a 025° bearing to a 050° bearing from the airport; within a 12-mile radius of the center of the airport, extending clockwise from a 050° bearing to a 210° bearing from the airport; within a 6-mile radius of the center of the airport, extending clockwise from a 210° bearing to a 235° bearing from the airport; within 3.5 miles each side of the Wilkes-Barre-Scranton Airport ILS localizer southwest course extending from the OM to 6 miles southwest of the OM and within 4 miles each side of the Wilkes-Barre-Scranton Airport ILS localizer northeast course extending from the localizer to a point 11.5 miles northeast of the localizer.

Williamsport, Pa.
Within a 6-mile radius of the center, 41°14'32" N., 76°55'12" W. of Williamsport-Lycoming County Airport, extending clockwise from a 099° bearing to a 145° bearing from the airport; within a 7-mile radius of the center of the airport, extending clockwise from a 145° bearing to a 172° bearing from the airport; within a 6.5-mile radius of the center of the airport, extending clockwise from a 172° bearing to a 203° bearing from the airport; within a 14.5-mile radius of the center of the airport, extending clockwise from a 203° bearing to a 241° bearing from the airport; within a 12.5-mile radius of the center of the airport, extending clockwise from a 241° bearing to a 270° bearing from the airport; within an 8-mile radius of the center of the airport, extending clockwise from a 270° bearing to a 312° bearing from the airport; within a 13-mile radius of the center of the airport, extending clockwise from a 312° bearing to a 350° bearing from the airport; within an 11-mile radius of the center of the airport, extending clockwise from a 350° bearing to a 358° bearing from the airport; within an 11.5-mile radius of the center of the airport, extending clockwise from a 358° bearing to a 004° bearing from the airport; within a 13-mile radius of the center of the airport, extending clockwise from a 004° bearing to a 099° bearing from the airport; and within 4 miles each side of the Williamsport-Lycoming County Airport ILS localizer east course, extending from the MM to 8.5 miles east of the MM.

Williston, N. Dak. (Sloulin Airport)
Within a 5-mile radius of the Sloulin International Airport (latitude 48°10'35" N., longitude 103°38'10" W.); within 1½ miles each side of the Williston VOR 136° radial, extending from the 5-mile radius zone to 1½ miles southeast of the VOR; and within 2 miles each side of the 126° bearing from the Sloulin International Airport, extending from the 5-mile radius zone to 10 miles southeast of the airport.

Willoughby, Ohio
Within a 5-mile radius of the Lost Nation Airport (latitude 41°40'45" N., longitude 81°23'45" W.); within 4 miles each side of the 088° bearing from the Lost Nation RBN extending from the 5-mile radius zone to 12 miles east of the RBN; within 3 miles each side of the 268° bearing from the RBN extending from the 5-mile radius zone to 8.5 miles west of the RBN; within 3 miles each side of the 050° radial of the Lost Nation TVOR extending from the 5-mile radius zone to 8.5 miles northeast of the TVOR; excluding the portion within the Cleveland, OH. (Cuyahoga County Airport), control zone. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will, thereafter, be continuously published in the Airport/Facility Directory.

Willow Grove, Pa.
Within a 5-mile radius of the center, 40°12'00" N., 75°08'55" W. of Willow Grove NAS, Willow Grove, Pa., extending clockwise from a 347° bearing to a 253° bearing from the airport; within a 5.5-mile radius of the center of the airport, extending clockwise from a 253° bearing to a 347° bearing from the airport; within 3 miles each side of the Willow Grove TACAN 136° radial, extending from the TACAN to 7 miles southeast of the TACAN; within 3.5 miles each side of the Willow Grove TACAN 325° radial, extending from the 5-mile radius and 5.5-mile radius zones centered on Willow Grove NAS to 8.5 miles northwest of the TACAN; within 3.5 miles each side of a 330° bearing from the Willow Grove RBN, extending from the 5-mile radius and 5.5-mile radius zone centered on Willow Grove NAS to 10 miles northwest of the RBN; within a 5-mile radius of the center, 40°12'15" N., 75°04'30"W., of Warminster NADC, Warminster, Pa.; within 1.5 miles each side of the Yardley VORTAC 244° radial, extending from the 5-mile radius zone centered on Warminster NADC to 2 miles southwest of the VORTAC; within 3 miles each side of the Warminster TACAN 083° radial, extending from the 5-mile radius zone centered on Warminster NADC to 6 miles east of the TACAN, excluding the south portion subtended by a chord drawn between the points of intersection of the 5-mile radius zone centered on Warminster NADC with the North Philadelphia, Pa., control zone 6-mile radius zone and excluding that portion of the control zone southeast extension described by reference to the Willow Grove TACAN 136° radial that coincides with the North Philadelphia, Pa., control zone. This control zone is effective from 0700 to 2400 hours, local time, Monday through Friday; and 0001 to 2400 hours, local time, Saturday and Sunday or during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.
AMENDMENTS 5/18/78 43 F. R. 14442 (Changed)

Wilmington, Del.
Within a 6-mile radius of the center 39°40'42"N., 75°36'27"W. of Greater Wilmington Airport, Wilmington, Del.
AMENDMENTS 8/21/78 43 F. R. 36894 (Rewritten)

Wilmington, N. C.
Within a 5-mile radius of New Hanover County Airport (latitude 39°16'15" N., longitude 77°54'05" W.).

Windsor Locks, Conn.
Within a 5-mile radius of the center lat. 41°56'19" N., long. 72°41'00" W., of Bradley International Airport, Windsor Locks, Conn.; within 3.5 miles each side of the Bradley International Airport ILS localizer southwest course, extending from the 5-mile radius zone to 11.5 miles southwest of the OM; within 2 miles each side of the centerline of Runway 19 extended from the 5-mile radius zone to 6 miles
S of the end of the runway; within 2 miles each side of the centerline of Runway 15 extended from the 5-mile radius zone to 6 miles SE of the end of the runway within 2 miles each side of the centerline of Runway 6 extended from the 5-mile radius zone to 5 miles from the end of the runway; within 2 miles each side of the centerline of Runway 1 extended from the 5-mile radius zone to 6 miles from the end of the runway.

Wink, Tex.
Within a 3-mile radius of the Winkler County Airport (latitude 31°46'45" N., longitude 103°12'05" W.); within 2 miles each side of the Wink VOR 161° radial, extending from the VOR to 5 miles south of the airport.

Winona, Minn.
Within a 5-mile radius of the Winona Municipal-Max Conrad Field (latitude 44°04'37" N., longitude 91°42'22" W.); within 2½ miles each side of the 319° bearing from Winona Municipal-Max Conrad Field, extending from the 5-mile radius area to 6 miles northwest of the airport and within 3 miles each side of the 107° bearing from the Winona Municipal-Max Conrad Field extending from the 5-mile radius area to 6½ miles east of the airport. This control zone shall be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Winslow, Ariz.
Within a 6-mile radius of Winslow Municipal Airport (latitude 35°01'15" N., longitude 110°43'15" W.), and that airspace within an arc of an 8.5-mile radius circle centered on Winslow VORTAC, extending clockwise from a line 3.5 miles south of and parallel to the Winslow 277° radial to a line 3.5 miles north of and parallel to the Winslow 292° radial.
This control zone shall be effective during the specific dates and times established in advance by a Notice to Airmen which thereafter will be continuously published in the Airport/Facility Directory.
AMENDMENTS 10/16/78 43 F. R. 47489 (Changed)

Winston-Salem, N. C.
Within a 5-mile radius of Smith Reynolds Airport (lat. 36°08'01" N., long. 80°13'22" W.); within 2 miles each side of Winston-Salem ILS localizer southeast course, extending from the 5-mile radius zone to the LOM.

Worcester, Mass.
Within a 5-mile radius of the Worcester Municipal Airport (lat. 42°16'05"N., long. 71°52'20"W.). This control zone is effective from 0700 to 2300 hours local time daily or during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.
AMENDMENTS 1/26/78 42 F. R. 61999 (Rewritten)
AMENDMENTS 6/18/78 43 F. R. 24275 (Changed)

Worland, Wyo.
Within a 5-mile radius of Worland Municipal Airport (latitude 43°58'10" N., longitude 107°56'50" W.), and and within 3.5 miles each side of the Worland VOR 352° radial, extending from the 5-mile radius zone to 12 miles north of the VOR.

Worthington, Minn.
That airspace within a 5-mile radius of Worthington Municipal Airport (latitude 43°39'17" N., longitude 95° 35'01" W.). This control zone shall be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Wrightstown, N. J. (McGuire AFB)
Within a 5-mile radius of McGuire AFB (latitude 40°00'55" N., longitude 74°35'25" W.), within 2 miles each side of the McGuire VOR 350° radial extending from the 5-mile radius zone to 7 miles N of the VOR; within 2 miles each side of the McGuire VOR 051° radial extending from the 5-mile radius zone to 7 miles NE of the VOR; within 2 miles each side of the McGuire VOR 180° radial extending from the 5-mile radius zone to 6 miles S of the VOR; and within 2 miles each side of the McGuire AFB ILS localizer SW course extending from the 5-mile radius zone to 8 miles southwest of the localizer.

Yakima, Wash.
Within a 5-mile radius of the Yakima Municipal Airport (latitude 46°33'55" N., longitude 120°32'25" W.), within 4 miles north and 2 miles south of the Yakima ILS localizer east course, extending from the 5-mile radius zone to 4 miles east of the Donald OM, and within 2.5 miles each side of the Yakima ILS localizer west course, extending from the 5-mile radius zone to 18.5 miles west of the Donald OM.

Yakutat, Alaska
Within a 5-mile radius of Yakutat Airport (latitude 59°30'10" N., longitude 139°39'40" W.); within 2 miles each side of the Yakutat VORTAC 147° radial, extending from the 5-mile radius zone to 8 miles southeast of the VORTAC; and that airspace bounded on the northeast by a line 2 miles northeast of and parallel to the 315° bearing from the Ocean Cape, Alaska, RBN, on the east and southeast by the 5-mile radius zone, on the south by a line 3 miles south of and parallel to the 283° bearing from the Ocean Cape, Alaska, RBN, and on the west and northwest by the arc of an 8-mile radius circle centered on the Ocean Cape, Alaska, RBN.

Yankton, S. Dak.
That airspace within a 5-mile radius of Chan Gurney Municipal Airport (latitude 42°54'45" N., longitude 97° 23'15" W.); within 2½ miles each side of the Yankton VOR 321° radial extending from the 5-mile radius to 7 miles northwest of the VOR. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.
AMENDMENTS 5/18/78 43 F. R. 18550 (Changed)

Youngstown, Ohio
Within a 5-mile radius of the center, lat. 41°15'28" N., long. 80°40'34" W. of Youngstown Municipal Airport, Youngstown, Ohio; within 2 miles each side of the extended centerline of Runway 5, extended from the 5-mile radius zone to 6 miles northeast of the center of the airport; within 2 miles each side of the extended centerline of Runway 14, extended from the 5-mile radius zone to 5.5 miles southeast of the center of the airport; within 2 miles each side of the extended centerline of Runway 23, extended from the 5-mile radius zone to 5.5 miles southwest of the center of the airport and within 1 mile each side of the Youngstown Municipal Airport localizer northwest course, extended from the 5-mile radius zone to 5.5 miles northwest of the center of the airport.

Yuma, Ariz.
Within a 5-mile radius of Yuma MCAS/Yuma International Airport (latitude 32°39'10" N., longitude 114°36' 20" W.); within 2 miles each side of the Yuma VORTAC 181° radial, extending from the 5-mile radius zone to 2 miles south of the VORTAC, and within 2.5 miles each side of the Yuma TACAN (latitude 32°38'48" N., longitude 114°36'46" W.) 037° radial, extending from the 5-mile radius zone to 8 miles northeast of TACAN.

Zanesville, Ohio
Within a 5-mile radius of the Zanesville Municipal Airport (latitude 39° 56' 40" N., longitude 81° 53' 20" W.); within 2 miles each side of the Zanesville RBN 210° bearing, extending from the 5-mile radius zone to 7 miles SW of the RBN; and within 2 miles each side of the Zanesville VOR 222° radial, extending from the 5-mile radius zone to 7 miles SW of the VOR; excluding that airspace within a 1-mile radius of the Riverside Airport, Zanesville, (latitude 39° 59' 10" N., longitude 81° 59' 00" W.).

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SUBPART G - TRANSITION AREAS

§ 71.181 Designation.
The parts of airspace described below are designated as transition areas.

Aberdeen, Md.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of the center, lat. 39°28'00"N., long. 76°10'00"W., of Phillips AAF; within a 9.5-radius of the center of the airport, extending clockwise from a 260° bearing to a 010° bearing from the airport; within 3.5 miles each side of a 029° bearing from the Aberdeen, Md., RBN, extending from the RBN to 11.5 miles northeast of the RBN; within 5 miles each side of a 029° bearing from the Aberdeen, Md., RBN, extending from the RBN to 9.5 miles northeast of the RBN; within 5 miles each side of the Philips VOR 033° radial, extending from the VOR to 13 miles northeast of the VOR.

Aberdeen, S. D.
That airspace extending upward from 700 feet above the surface within a 15½-mile radius of the Aberdeen VORTAC; and within 5½ miles southwest and 9½ miles northeast of the Aberdeen VORTAC 131° radial, extending from the 15½-mile radius area to 21½ miles southeast of the VORTAC, and within 3½ miles southwest and 5 miles northeast of the Aberdeen VORTAC 312° radial, extending from the 15½-mile radius area to 22 miles northwest of the VORTAC; and that airspace extending upward from 1,200 feet above the surface within a 22½-mile radius of the Aberdeen VORTAC; and within 6 miles northeast and 9½ miles southwest of the Aberdeen VORTAC 312° radial, extending from the 22½-mile radius area to 29 miles northwest of the VORTAC.

Abilene, Tex.
That airspace extending upward from 700 feet above the surface within a 23-mile radius of latitude 32°25'10" N., longitude 99°51'15" W., and within 8 miles east and 5 miles west of the Abilene ILS localizer south course extending from the OM to 12 miles south.

Ada, Okla.
That airspace extending upward from 700 feet AGL within a 5-mile radius of the Ada Municipal Airport (latitude 34°48'20" N., longitude 96°40'15" W.) and within 3.5 miles each side of the 139° bearing from the Ada RBN (latitude 34°48'30" N., longitude 96°40'23" W.) extending from the 5-mile radius area to 8.5 miles southeast of the RBN.

Adak, Alaska
That airspace extending upward from 700 feet above the surface within the arc of a 15-mile radius circle centered on the NS Adak Airport (latitude 51°52'59" N., longitude 176°38'54" W.), extending clockwise from the 033° bearing to the 090° bearing from the airport; and that airspace extending upward from 1,200 feet above the surface within 5 miles each side of the Navy Adak TACAN 250° radial extending from the TACAN to 12 miles West of the TACAN.

Adrian, Mich.
That airspace extending upward from 700 feet above the surface within a 6½-mile radius of the Lenawee County Airport (latitude 41°52'10" N., longitude 84°04'30" W.); and within 3 miles each side of the 221° bearing from the Lenawee County Airport, extending from the 6½-mile radius area to 8 miles southwest of the airport.

Afton, Okla.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the Shangri-La Airport, Afton, Okla. (lat. 36°34'45"N., long. 94°51'40"W.); within 3.5 miles each side of a 176° bearing from the Shangri-La NDB (lat. 36°34'38"N., long. 94°51'38"W.) extending from the 8.5-mile radius area to 11.5 miles south of the NDB.

AMENDMENTS 7/13/78 43 F. R. 25806 (Added)

Aguadilla, P. R.
That airspace extending upward from 700 feet above the surface within a 12-mile radius of Borinquen Airport (lat. 18°29'45" N., long. 67°08'00" W.); within a 10-mile radius of Mayaguez Airfield (lat. 18°15'26" N., long. 67° 08'58" W.).

Ahoskie, N.C.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Tri-County Airport (lat. 36°17'56"N., long. 77°10'26"W.); within 3 miles each side of the 171° bearing from the Ahoskie RBN (lat. 36°17'57"N., long. 77°10'33"W.), extending from the 6.5-mile radius area to 8.5 miles south of the RBN.

Aiken, S. C.
That airspace extending upward from 700 feet above the surface within an 8-mile radius of Aiken Municipal Airport (latitude 33°30'10" N., longitude 81°41'25" W.); within 3 miles each side of the 048° bearing from Aiken RBN (latitude 33°29'06" N., longitude 81°40'38" W.), extending from the 8-mile radius area to 8.5 miles northeast of the RBN.

Ainsworth, Nebr.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of Ainsworth Municipal Airport (latitude 42°34'40" N., longitude 99°59'15" W.); and within 3 miles each side of the 344° bearing from Ainsworth Municipal Airport, extending from the 7-mile radius area to 8 miles north of the airport.

Aitkin, Minn.
That airspace extending upward from 700 feet above the surface within a five-statute-mile radius of the Aitkin Municipal Airport (lat. 46°32'45"N., long. 93°40'45"W.) and within 3 statute miles each side of the 355° bearing of the Aitkin NDB, extending from the 5-mile radius to 8.5 statute miles north of the airport.

Akron, Colo.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of Akron-Washington County Airport (latitude 40°10'30" N., longitude 103°12'45" W.), and that airspace extending upward from 1,200 feet above the surface within 10 miles northeast and 7 miles southwest of the Akron VORTAC 123° and 303° radials, extending from 20 miles southeast to 10 miles northwest of the VORTAC.

Akron, Ohio
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the center, lat. 40°54'58" N., long. 81°26'32" W. of Akron-Canton Airport, Akron, Ohio, and within 5 miles each side of the Akron-Canton Airport south localizer course extending from the Akron-Canton Airport 8.5-mile radius area to 11.5 miles south of the Akron-Canton Runway 1 OM; within a 10-mile radius area of the center, lat. 41°02'18" N., long. 81°28'01" W. of Akron Municipal Airport, Akron, Ohio; within 5 miles each side of the Akron VORTAC 255° radial extending from the Akron Municipal Airport 10-mile radius area to the VORTAC; within a 6-mile radius of the center, lat. 41°12'35" N., long. 81°14'55" W. of Portage County Airport, Ravena, Ohio; within 1.5 miles each side of the Akron VORTAC 340° radial extending from the Portage County Airport 6-mile radius area to the VORTAC; within a 5-mile radius area of the center of lat. 41°08'45" N., long. 81°25'00" W. of Andrew W. Paton of Kent State University Airport, Kent, Ohio; within a 7-mile radius of the center, lat. 41°08'06" N., long. 81°45'36" W. of Freedom Field, Medina, Ohio, and within 4.5 miles south and 6.5 miles north of the Medina, Ohio, RBN (lat. 41°08'29" N., long. 81°38'46" W.) 084° and 264° bearings extending from 5.5 miles west to 11.5 miles east of the RBN.

Alabama
That airspace extending upward from 1,200 feet above the surface within the boundary of the State of Alabama, including that airspace within 3 nautical miles from and parallel to the shoreline of Alabama, excluding the portion within R-2101.

Alabaster, Ala.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of Shelby County Airport (lat. 33°10'40"N., long. 86°47'00"W.); within a 6.5-mile radius of Bessemer Airport (lat. 33°18'49"N., long. 86°55'29"W.) within 3 miles each side of the 241° bearing from Bessemer RBN (lat. 33°18'42"N., long. 86°55'25"W.) extending from the 6.5-mile radius to 8.5 miles southwest of the RBN; excluding that portion which coincides with the Birmingham transition area.

Alamogordo, N. Mex.
That airspace extending upward from 700 feet above the surface within a 11-mile radius of the Holloman AFB Airport (latitude 32°5104" N., longitude 106°06'05" W.); within 4 miles east and 6 miles west of the Holloman AFB TACAN 349° radial extending from the 11-mile radius area to 17.5 miles north of the TACAN; within 2 miles east and 6 miles west of the extended centerline of Runway 15 extending from the 11-mile radius area to 12.5 miles south of the south end of Runway 15.
This transition area will be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

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Alamosa, Colo.
That airspace extending upward from 700 feet above the surface within 10 miles northeast and 12 miles southwest of the Alamosa VORTAC 335° and 155° radials extending from 23 miles northwest to 12 miles southeast of the VORTAC; and within 2 miles northwest and 6 miles southeast of the Alamosa VORTAC 200° radial extending from the VORTAC to 16 miles southwest of the VORTAC, and that airspace extending upward from 1,200 feet above the surface within 13 miles northeast of the Alamosa VORTAC 335° radial extending from the VORTAC to 31 miles northwest of the VORTAC; within 12 miles southwest of the Alamosa VORTAC 335° radial extending from the VORTAC to 38 miles northwest of the VORTAC; within 5 miles each side of the Alamosa VORTAC 018° radial extending from the VORTAC to 45 miles northeast of the VORTAC; within 5 miles each side of the Alamosa VORTAC 065° radial extending from the VORTAC to 37 miles northeast of the VORTAC; within 5 miles each side of the Alamosa VORTAC 080° radial extending from the VORTAC to 56 miles east of the VORTAC; within 13 miles northeast and 9.5 miles southwest of the Alamosa VORTAC 127° radial extending from the VORTAC to 19 miles southeast of the VORTAC; and within 5 miles each side of the Alamosa VORTAC 200° radial extending from the VORTAC to 37 miles southwest of the VORTAC. That airspace extending upward from 12,000 feet MSL within 5 miles each side of the Alamosa VORTAC 200° radial extending from 37 to 54 miles southwest of the VORTAC.

AMENDMENTS 5/18/78 43 F. R. 11572 (Rewritten)

Albany, Ga.
That airspace extending upward from 700 feet above the surface within a 9.5-mile radius of Albany-Dougherty County Airport (lat. 31°32'07" N., long. 84°11'41" W.); within 2 miles each side of Albany VORTAC 143° radial, extending from the 9.5-mile radius area to the VORTAC; within a 5.5-mile radius of Sylvester Airport (lat. 31° 33'25" N., long. 83°53'33" W.); within 3 miles each side of the 194° bearing from Sylvester RBN (lat. 31°33' 27" N., long. 83°53'34" W.), extending from the 5.5-mile radius area to 8.5 miles south of the RBN.

Albany, N. Y.
That airspace extending upward from 700 feet above the surface within the area bounded by a point on the Albany VORTAC 007° radial 23 miles north of the VORTAC, thence clockwise along the arc of a 23-mile radius circle centered on the Albany VORTAC to its point of intersection with the Albany VORTAC 037° radial, thence southwest along the Albany VORTAC 037° radial to a point 12 miles northeast of the VORTAC, thence clockwise along the arc of a 12-mile radius circle centered on the Albany VORTAC to its point of intersection with the arc of a 9-mile radius circle centered on the Schenectady VOR (42°51'05" N., 73°56'05" W.), thence clockwise along the arc of the 9-mile radius circle centered on the Schenectady VOR to its point of intersection with a line 2 miles south and parallel to the extended centerline of the Schenectady County Airport Runway 28, thence west along this parallel line to its point of intersection with the arc of a 13-mile radius circle centered on the Schenectady VOR, thence clockwise along the arc of this 13-mile radius circle to its point of intersection with the Schenectady VOR 342° radial, thence north along a line bearing 356° from this point to the point of intersection of this line and the arc of a 19-mile radius circle centered on the Schenectady VOR, thence clockwise along the arc of the 19-mile radius circle centered on the Schenectady VOR to its point of intersection with the arc of a 23-mile radius circle centered on the Albany VORTAC;
within 5 miles each side of the Albany VORTAC 082° radial, extending from the Albany VORTAC to 18.5 miles east of the VORTAC;
within a 6.5-mile radius of the center lat. 43°03'03" N., long. 73°51'30" W., of Saratoga County Airport, Saratoga Springs, N. Y., and within 4 miles each side of the Cambridge VORTAC 279° radial, extending from 43 miles west of the Cambridge VORTAC to the 6.5-mile radius area.
That airspace extending upward from 1,200 feet above the surface bounded by a line beginning at lat. 44°00' 00" N., long. 73°47'00" W.; to lat. 44°00'00" N., long. 73°16'00" W.; to lat. 43°47'00" N., long. 72°39'00" W.; to lat. 43°11'00" N., long. 72°39'00" W.; to lat. 42°02'00" N., long. 73°16'00" W.; to lat. 42°01'00" N., long. 74°30'00" W.; to lat. 43°19'00" N., long. 74°30'00" W.; to point of beginning.

Albany, Ohio
That airspace extending upward from 700 feet above the surface within an 8-mile radius of the University of Ohio Airport (latitude 39°12'38" N., longitude 82°13'53" W.).

Albert Lea, Minn.
That airspace extending upward from 700 feet above the surface within a 5½-mile radius of the Albert Lea Airport (latitude 43°40'52" N., longitude 93°22'04" W.); within 3 miles each side of the 356° bearing from the Albert Lea Municipal Airport extending from the 5½-mile radius to 8 miles north of the airport.

Albertville, Ala.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Albertville Municipal Airport (latitude 34°13'54" N., longitude 86°15'08" W.); within 3 miles each side of the 048° bearing from Saratoga RBN (latitude 34°15'00" N., longitude 86°13'25" W.), extending from the 6.5-mile radius area to 8.5 miles northeast of the RBN.

Albion, N. J.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center 39°46'40" N., 74°56'55" W., of Albion Airport, Albion, N. J., and within 2 miles each side of the Millville VORTAC 003° radial extending from the 5-mile radius area to the VORTAC, excluding the portion that coincides with the Millville, N. J., transition area. This transition area is effective from sunrise to sunset, daily.

Albuquerque, N. Mex.
That airspace extending upward from 700 feet above the surface within a 14-mile radius of Albuquerque International Airport (latitude 35°02'42" N., longitude 106°36'02" W.) and within a 10.5-mile radius of Alameda Airport (latitude 35°11'30" N., longitude 106°40'00" W.).

Alexander City, Ala.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Thomas C. Russell Field Airport (latitude 32°55'15" N., longitude 85°57'45" W.); within 3 miles each side of the 171° bearing from the Alexander City RBN (latitude 32°53'10" N., longitude 85°57'30" W.), extending from the 5-mile radius area to 8.5 miles south of the RBN.

Alexandria, La.
That airspace extending upward from 700 feet above the surface within a 16-mile radius of England AFB (latitude 31°19'40" N., longitude 92°33'05" W.), within a 7-mile radius of Esler Regional Airport (latitude 31°23'45" N., longitude 92°17'40" W.), and within 4 miles each side of the Esler VOR 155° radial extending from the Esler Regional Airport 7-mile radius area to 17 miles southeast of the VOR.

Alexandria, Ind.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of Alexandria Airport (latitude 40°13'25" N., longitude 85°38'15" W.) excluding the portion which overlies the Anderson, Ind., transition area.

Alexandria, Minn.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of Alexandria Municipal Airport (latitude 45°52'00" N., longitude 95°23'40" W.); and within 2 miles each side of the Alexandria VORTAC 231° radial, extending from the 7-mile radius area to the VORTAC.

Algona, Iowa
That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Algona Municipal Airport (latitude 43°04'30" N., longitude 94°16'15" W.); and within 3.5 miles each side of the 297° bearing from the Algona Municipal Airport, extending from the 7-mile radius area to 11.5 miles northwest of the airport.

Allegan, Mich.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of Padgham Field Airport (latitude 42°31'55" N., longitude 85°49'45" W.); and within 2½ miles each side of the 072° radial of the Pullman VORTAC, extending from the 7-mile radius area to 22 miles east of the VORTAC, excluding the portion which overlies the Battle Creek, Michigan 700-foot floor transition area.

Allendale, S. C.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of Allendale County Airport (latitude 33°59'30" N., longitude 81°16'05" W.); within 2.5 miles each side of Allendale VOR 329° radial, extending from the 6-mile radius area to 8.5 miles northwest of the VOR.

Allentown, Pa.
That airspace extending upward from 700 feet above the surface within a 15-mile radius of the center, 40° 39'16" N., 75°26'11" W. of Allentown-Bethlehem-Easton Airport, Allentown, Pa., extending clockwise from a 311° bearing to a 001° bearing from the airport; within a 16.5-mile radius of the center of the airport, extending clockwise from a 001° bearing to a 028° bearing from the airport; within a 12.5-mile radius of the center of the airport, extending clockwise from a 028° bearing to a 311° bearing from the airport; within a 9-mile radius of the center, 40°34'13" N., 75°29'19" W. of Allentown-Queen City Municipal Airport, Allentown, Pa.; within 3.5 miles each side of the Allentown-Bethlehem-Easton Airport localizer southwest course, extending from the OM to 11.5 miles southwest of the OM; within 4.5 miles west and 6.5 miles east of the Allentown VORTAC 358° radial extending from the VORTAC to 17.5 miles north of the VORTAC; within 5 miles each side of the East Texas VORTAC 103° and 283° radials, extending from 1 mile east of the VORTAC to 8.5 miles west of the VORTAC; within 5 miles each side of the East Texas VORTAC 095° radial, extending from the 9-mile radius area to the East Texas VORTAC; within a 15-mile radius of the Allentown VORTAC extending clockwise from the Allentown VORTAC 358° radial to the Allentown VORTAC 104° radial; within 4.5 miles northeast and 6.5 miles southwest of the Allentown-Bethlehem-Easton Airport localizer northwest course, extending from the OM to 11.5 miles northwest of the OM.

Alliance, Nebr.
That airspace extending upward from 700 feet above the surface within a 10-mile radius of Alliance Municipal Airport (lat. 42°03'11.3"N., long. 102°48'25.3"W.); within 3 miles each side of the Alliance VOR 145° radial, extending from the 10-mile radius area to 12 miles southeast of the VOR.

AMENDMENTS 10/16/78 43 F. R. 42734 (Rewritten)

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Alliance, Ohio
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center, lat. 40°59'00" N., long. 81°02'30" W. of Miller Airport, Alliance, Ohio, and within a 5.5-mile radius of the center, lat. 40°54'22" N., long. 81°00'02" W. of Tri-City Airport, Sebring, Ohio.

Alma, Ga.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of Bacon County Airport (lat. 31°32'17" N., long. 82°30'33" W.). This transition area is effective from 0600 to 2200 hours, local time, daily.

Alma, Mich.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Gratiot Community Airport (latitude 43°19'15" N., longitude 84°41'12" W.); within 4 miles either side of a 267° bearing from Gratiot Community Airport extending from the 6.5-mile radius area to 15 miles west of the airport.

Almyra, Ark.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Almyra Municipal Airport (latitude 34°24'30" N., longitude 91°27'30" W.).

Alpena, Mich.
That airspace extending upward from 700 feet above the surface within a 17-mile radius of Alpena VORTAC; within 9½ miles west and 4½ miles east of the 360° bearing from the Alpena RBN, extending from the 17-mile radius area to 18½ miles north of the RBN; within 9½ miles west and 4½ miles east of the 346° radial of the Alpena VORTAC extending from the 17-mile radius area to 18½ miles north of the VORTAC; within 9½ miles southwest and 4½ miles northeast of the 305° radial of the Alpena VORTAC extending from the 17-mile radius area to 18½ miles northwest of the VORTAC; and within 9½ miles east and 4½ miles west of the Alpena VORTAC 186° radial extending from the 17-mile radius area to 18½ miles south of the VORTAC.

Alpine, Tex.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the center of the Alpine Municipal Airport (latitude 30°23'00" N., longitude 103°41'00" W.) and extending 6.0 miles west and 9.5 miles east of the 023° bearing from the airport coordinates to a point 24.5 miles north of the airport coordinates.

Altoona, Pa.
That airspace extending upward from 700 feet above the surface within a 9-mile radius of the center, lat. 40°17'51"N., long. 78°19'10"W., of Altoona-Blair County Airport, extending clockwise from 061° bearing to a 076° bearing from the airport; within an 11-mile radius of the center of the airport, extending clockwise from a 076° bearing to a 096° bearing from the airport; within a 15-mile radius of the center of the airport, extending clockwise from a 096° bearing to a 128° bearing from the airport; within a 15.5-mile radius of the center of the airport, extending clockwise from a 128° bearing to a 158° bearing from the airport; within an 11-mile radius of the center of the airport, extending clockwise from a 158° bearing to a 180° bearing from the airport; within a 15-mile radius of the center of the airport, extending clockwise from a 180° bearing to a 245° bearing from the airport, within an 11-mile radius of the center of the airport, extending clockwise from a 245° bearing to a 260° bearing from the airport; within a 10-mile radius of the center of the airport, extending clockwise from a 260° bearing to a 314° bearing from the airport, within a 9-mile radius of the center of the airport, extending clockwise from a 314° bearing to a 357° bearing from the airport; within an 11.5-mile radius of the center of the airport, extending clockwise from a 357° bearing to a 031° bearing from the airport; within a 13-mile radius of the center of the airport, extending clockwise from a 031° bearing to a 061° bearing from the airport; and within 9.5 miles northwest and 4.5 miles southeast of the Altoona, Pa., VOR 026° radial, extending from the VOR to 18.5 miles northeast of the VOR.

AMENDMENTS 8/21/78 43 F. R. 36895 (Changed)

Alturas, Calif.
That airspace extending upward from 700 feet above the surface within a five-mile radius of Alturas Municipal Airport (lat. 41°29'02"N., long. 120°33'49"W.) and within three miles each side of the Alturas NDB (lat. 41° 28'16"N., long. 120°33'25"W.) 167° bearing, extending from the five-mile radius area to nine miles south of the NDB; that airspace extending upward from 1,200 feet above the surface, within six miles east and nine miles west of the 167° and 347° bearings extending from the NDB to 21 miles south and nine miles north of the NDB and within five miles each side of the 079° and 239° bearings extending from the NDB to west edge of V-165 and the east edge of V-452.

Alva, Okla.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Alva Municipal Airport (latitude 36°46'00" N., longitude 98°40'00" W.); within 2 miles each side of the 170° bearing from the Alva RBN (latitude 36°46'47" N., longitude 98°40'34" W.), extending from the 5-mile radius area to 8 miles south of the RBN.

Amarillo, Tex.
That airspace extending upward from 700 feet above the surface within a 20-mile radius of Amarillo Air Terminal (latitude 35°13'10" N., longitude 101°42'40" W.).

Americus, Ga.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Souther Field (lat. 32°07'00" N., long. 84°11'30" W.); within 3 miles each side of the 041° bearing from Souther RBN (lat. 32°06' 39" N., long. 84°11'07" W.), extending from the 6.5-mile radius area to 8.5 miles northeast of the RBN.

Ames, Iowa
That airspace extending upward from 700 feet above the surface within a 5½-mile radius of Ames Municipal Airport (latitude 41°59'25" N., longitude 93°37'05" W.), and within 3 miles each side of the 127° bearing from Ames Municipal Airport, extending from the 5½-mile radius area to 7 miles southeast of the airport.

Anahuac, Tex.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Chambers County Airport (latitude 29°46'12"N., longitude 94°39'51"W.) and within 3 miles each side of the 137° bearing from the Chambers County RBN (latitude 29°46'23"N., longitude 94°39'47"W.) extending from the 5-mile-radius area to 8.5 miles southeast of the RBN.

Anchorage, Alaska
That airspace extending upward from 700 feet above the surface within an 18-mile radius of the Anchorage International Airport (latitude 61°10'16" N., longitude 149°58'48" W.); that airspace extending upward from 1,200 feet above the surface within an 85-mile radius of the Anchorage VORTAC; and that airspace extending upward from 14,500 feet MSL within a 172-mile radius of the Anchorage VORTAC, excluding the portions within the United States, Federal Airways, Control 1218, Control 1310, the Cordova, Alaska, and Middleton Island, Alaska, control area extensions, the King Salmon, Alaska, transition area, and the Anchorage Oceanic Control Area.

Anderson, Ind.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Anderson Municipal Airport (lat. 40°06'30" N., long. 85°36'55" W.) and within 4 miles each side of the 298° bearing from the airport, extending from the 8.5-mile radius to 12 miles northwest of the airport; excluding the airspace that overlies the Muncie transition area.

Anderson, S. C.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Anderson County Airport (latitude 34°29'40" N., longitude 82°42'30" W.).

Andover, N. J.
That airspace extending upward from 700 feet above the surface within a 10.5-mile radius of the center, 41° 00'00" N., 74°44'00" W. of Aeroflex-Andover Airport, Andover, N. J., extending clockwise from a 053° bearing to a 103° bearing from the airport, within a 9.5-mile radius of the center of the airport, extending clockwise from a 103° bearing to a 174° bearing from the airport; within an 8.5-mile radius of the center of the airport extending clockwise from a 174° bearing to a 225° bearing from the airport; within a 7-mile radius of the center of the airport, extending clockwise from a 225° bearing to a 295° bearing from the airport; within a 6-mile radius of the center of the airport, extending clockwise from a 295° bearing to a 053° bearing from the airport; within 1.5 miles each side of the Stillwater, N. J., VORTAC 083° radial, extending from the 7-mile radius area to the Stillwater, N. J., VORTAC.

That airspace extending upward from 1200 feet above the surface bounded by a line beginning at: 41°19'00" N., 74°33'00" W.; 40°49'00" N., 74°37'00" W.; 40°48'00" N., 75°00'00" W.; 40°56'16" N., 75°11'04" W.; 41°31'00" N., 75°07'00" W. to point of beginning.

Andrews, S. C.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Andrews Municipal Airport (lat. 33°27'30"N., long. 79°31'57"W.); within 3 miles each side of the 171° bearing from the Punch RBN (lat. 33°27'29"N., long. 79°32'00"W.), extending from the 6.5-mile radius area to 8.5 miles south of the RBN.

Andrews, Tex.
That airspace extending upward from 700 feet above the surface within a 9-mile radius of the Andrews County Airport (lat. 32°20'00"N., long. 102°31'31"W.) and within 3.5 miles each side of the 355° bearing from the Andrews RBN (lat. 32°20'45"N., long. 102°32'07"W.) extending from the 9-mile radius area to 11.5 miles north of the RBN.

AMENDMENTS 1/26/78 42 F. R. 61038 (Added)

Angola, Ind.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Tri-State Airport (latitude 41°38'22" N., longitude 85°05'12" W.), and within 3 miles either side of the 239° bearing from the airport extending from the 7-mile radius to 8 miles southwest of the airport.

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Aniak, Alaska
That airspace extending upward from 700 feet above the surface within a 22.5 mile radius of the Aniak localizer (lat. 61°35'02"N., long. 159°33'01"W.) extending from a bearing of 238°T (218°M) clockwise to 049°T (029°M) from the Aniak NDB; within 4.5 miles southwest and 9.5 miles northeast of the Aniak localizer west course extending from the localizer to 25.5 miles west of the localizer; within 9.5 miles southwest and 4.5 miles northeast of the Aniak NDB 114°T (094°M) bearing extending from the NDB to 22 miles southeast of the NDB; and within 9.5 miles southeast and 4.5 miles northwest of the Aniak NDB 230°T (210°M) bearing extending from the NDB to 24 miles southwest of the NDB.

Annette Island, Alaska
That airspace extending upward from 700 feet above the surface within a 14-mile radius of the Annette Island VORTAC; and that airspace extending upward from 1,200 feet above the surface within 6 miles northeast and 9 miles southwest of the Nichols, Alaska, RBN 331° bearing, extending from the RBN to 28 miles NW of the RBN; and within 14 miles northeast and 22 miles southwest of the Annette Island VORTAC 150° radial, extending from the VORTAC to 30 miles southeast of the VORTAC; excluding the portion outside the United States.

Anniston, Ala.
That airspace extending upward from 700 feet above the surface within a 15-mile radius of Anniston-Calhoun County Airport (latitude 33°35'23" N., longitude 85°51'20" W.); within a 12-mile radius of Talladega Municipal Airport (latitude 33°34'07" N., longitude 86°03'36" W.); within 9.5 miles southeast and 4.5 miles northwest of Talladega VORTAC 223° radial, extending from the 12-mile radius area to 18.5 miles southwest of the VORTAC; within 9.5 miles south and 4.5 miles north of the Talladega VORTAC 252° radial, extending from the 12-mile radius area to 18.5 miles west of the VORTAC; within an 8-mile radius of St. Clair County Airport, Pell City, Ala. (lat. 33°33'22" N., long. 86°14'58" W.); excluding the portion within R-2101.

Annville, Pa.
That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the center lat. 40°19'00"N., long. 76°32'15"W. of Millard Airport, Annville, Pa.; within an 8.5-mile radius of the center of the airport, extending clockwise from a 105° bearing to a 148° bearing from the airport; within an 8-mile radius of the center of the airport, extending clockwise from a 148° bearing to a 180° bearing from the airport; within a 6.5-mile radius of the center of the airport, extending clockwise from a 180° bearing to a 230° bearing from the airport; and within 4.5 miles each side of the Harrisburg VORTAC 078° radial extending from the 5.5-mile radius area to 13 miles east of the VORTAC.

Anoka, Minn.
That airspace extending upward from 700 feet above the surface within a 5½-mile radius of the Gateway North Industrial Airport (latitude 45°13'50" N., longitude 93°26'40" W.); excluding that portion overlying the Minneapolis transition area.

Antigo, Wis.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Langlade County Airport (latitude 45°09'20" N., longitude 89°06'33" W.); within 3 miles each side of the 358° bearing from the airport extending from the 5-mile radius area to 8 miles north of the airport.

Apalachicola, Fla.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Apalachicola Municipal Airport (lat. 29°43'45" N., long. 85°01'45" W.); within 3 miles each side of the 322° bearing from Apalachicola RBN, extending from the 6.5-mile radius area to 8.5 miles northwest of the RBN.
PENDING AMENDMENT
The Apalachicola, Fla., transition area is revoked.

AMENDMENTS 12/28/78 43 F. R. 46525 (Revoked)

Arcata, Calif.
That airspace extending upward from 700 feet above the surface within 2 miles each side of the 323° bearing from the Arcata, Calif., RBN, extending from the RBN to 7.5 miles northwest of the RBN; that airspace bounded on the north by latitude 40°57'00" N., on the northeast by a line 2 miles northeast of and parallel to the ILS localizer southeast course, on the south by latitude 40°45'00" N., on the southwest by a line 2 miles southwest of and parallel to the 129° and 309° bearings from the Murray Airport latitude 40°48'18" N., longitude 124°06'52" W., on the west by a line 1 mile west of and parallel to the 219° bearing from the Arcata, Calif., RBN; that airspace extending upward from 1,200 feet above the surface, bounded on the north by latitude 41°16'00" N., on the east and south by a line 9 miles northeast of and parallel to the 333° and 153° bearings from the Arcata, Calif., RBN to latitude 40°34'00" N., latitude 40°22'00" N., longitude 124°12'00" W., thence to latitude 40°22'00" N., longitude 124°30'00" W., on the west by longitude 124°30'00" W., within 9 miles each side of the Fortuna, Calif., VORTAC 110° radial, extending from the VORTAC to 61 miles east of the VORTAC, and that airspace within an arc of a 28-mile radius circle centered on the Fortuna, Calif., VORTAC extending counterclockwise from the northeast edge of V-27 to the south edge of V-195.

Ardmore, Okla.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Ardmore Municipal Airport (latitude 34°18'00" N., longitude 97°00'50" W.); within a 5-mile radius of the Downtown Ardmore Airport (latitude 34°09'30" N., longitude 97°08'00" W.); within 2 miles each side of the Ardmore VOR 233° and 053° radials, extending from the 7-mile radius area to 8 miles SW of the VOR; within 2 miles N and 8 miles S of the 265° and 085° bearings from the Ardmore RBN, extending from 3 miles E to 8 miles W of the RBN.; and within 3.5 miles each side of the 168° bearing from the Downtown Ardmore NDB (latitude 34°09'20"N., longitude 97°07'35"W.) extending from the 5-mile-radius area to 11.5 miles south of the NDB.

Arkadelphia, Ark.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Arkadelphia Municipal Airport (latitude 34°06'15" N., longitude 93°03'45" W.), and within 3.5 miles each side of the 216° bearing from the Arkadelphia RBN (latitude 34°03'19" N., longitude 93°06'17" W.) extending from the 6.5-mile radius area to 11.5 miles southwest of the RBN.

Arkansas
That airspace extending upward from 1,200 feet above the surface within the boundary of the State of Arkansas.

Arkansas City/Winfield, Kans.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of Strother Field (latitude 37°10'10" N., longitude 97°02'25" W.); and within 5 miles each side of the 175° bearing from Strother Field, extending from the 7-mile radius area to 15 miles south to the airport.

Artesia, N. Mex.
That airspace extending upward from 700 feet above the surface within a 9.5-mile radius of the Artesia Municipal Airport (lat. 32°50'58" N., long. 104°28'02" W.); and within 3.5 miles each side of the Artesia NDB (lat. 32°51'11" N., long. 104°27'34" W.) 152° bearing, extending from the 9.5-mile radius area to 12 miles south of the NDB; within 3.5 miles each side of the Artesia, N. Mex., NDB 296° bearing extending from the 9.5-mile radius area to 12 miles northwest of the NDB.

Asheboro, N. C.
That airspace extending upward from 700 feet above the surface within an 8-mile radius of the Asheboro Municipal Airport (latitude 35°39'18" N., longitude 79°53'41" W.), within 3 miles each side of the 051° bearing from the City Lake RBN, (latitude 35°42'58" N., longitude 79°51'56" W.), extending from the 8-mile radius area to 8.5 miles northeast of the RBN.

Asheville, N. C.
That airspace extending upward from 700 feet above the surface within 7 miles east and west of the 160° and 340° bearings from Biltmore RBN, extending from 7 miles north of Biltmore RBN to 12 miles south of Broad River RBN; within 9.5 miles east and 4.5 miles west of the ILS localizer south course, extending from Broad River RBN to 18.5 miles south of the RBN; within 5 miles each side of Sugarloaf Mountain VORTAC 230° radial, extending from the VORTAC to Broad River RBN; within 3 miles each side of the 339° bearing from Biltmore RBN, extending from the RBN to 8.5 miles north of the RBN.

Ashland, Ky.
That airspace extending upward from 700 feet above the surface within an 8-mile radius of Ashland-Boyd County Airport (lat. 38°33'00" N., long. 82°44'15" W.); within 2.5 miles each side of York VORTAC 117° radial, extending from the 8-mile radius area to 0.5 mile east of the VORTAC; excluding the portion within Huntington, W. Va., transition area.

Ashland, Ohio
That airspace extending upward from 700 feet above the surface within a 5½-mile radius of the Ashland County Airport (latitude 40°54'11" N., longitude 82°15'21" W.); within 3 miles each side of the 002° bearing from the airport extending from the 5½-mile radius area to 12 miles north of the airport, excluding that portion which overlies the Mansfield, Ohio, transition area.

Ashland, Va.
That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the center (lat. 37°42'27"N., long. 77°26'11"W.) of Hanover County Municipal Airport, Ashland, Va., and within 2.5 miles each side of the Richmond, Va., VORTAC 336° radial, extending from the 5.5-mile radius area to 22 miles northwest of the VORTAC.

Ashland, Wis.
That airspace extending upward from 700 feet above the surface within an 8-mile radius of the John F. Kennedy Memorial Airport (lat. 46°32'59" N., long. 90°55'05" W.).

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Ashtabula, Ohio
That airspace extending upward from 700 feet above the surface within an 8-mile radius of the Ashtabula County Airport, Ashtabula, Ohio (lat. 41°46'40" N., long. 80°41'45" W.) and within 3.5 miles each side of the Jefferson VORTAC 243° radial extending from the 8-mile radius area to 11.5 miles southwest of the VORTAC.

Aspen, Colo.
That airspace extending upward from 1,200 feet above the surface within the area bounded by a line beginning at latitude 39°41'00" N., longitude 107°12'30" W., to latitude 39°31'30" N., longitude 107°25'00" W., to latitude 39°17'30" N., longitude 107°09'00" W., to latitude 39°10'24" N., longitude 106°56'04" W.; thence clockwise via a 5-mile arc from the Aspen-Pitkin County Airport (latitude 39°13'30" N., longitude 106°52'09" W.) to latitude 39°16'33" N., longitude 106°48'12" W., to latitude 39°27'30" N., longitude 107°01'00" W. to point of beginning.

Astoria, Oreg.
That airspace extending upward from 700 feet above the surface within 2 miles each side of the Astoria VOR 309° radial, extending from the arc of a 5-mile radius circle centered at the Clatsop County Airport, Astoria, Oreg. (latitude 46°09'25" N., longitude 123°52'10" W.) to 8 miles NW of the Fort Stevens FM (latitude 46°12'31" N., longitude 123°57'51" W.), and within 2 miles each side of the Astoria VOR 347° radial, extending from the arc of a 5-mile radius circle centered at the Clatsop County Airport to 8 miles N of the VOR; within 4.5 miles north and 9.5 miles south of the Astoria VOR 268° radial, extending from the western edge of V-27 to a point 18.5 miles west of the VOR; and that airspace extending upward from 1,200 feet above the surface within 6 miles NE and 5
miles southwest of the Astoria, Oreg., VOR 147° and 327° radials, extending
from 7 miles southeast to 13 miles northwest of the VOR; within 9 miles south and 2 miles north of the Astoria VOR 268° radial; extending from the VOR to 13 miles west of the VOR; within 5 miles northeast and 8 miles southwest of the Astoria VOR 309° radial, extending from the Fort Stevens fan marker to 12 miles northwest of the fan marker and within 8 miles northeast and 6 miles southwest of the Astoria VOR 309° radial extending from the Fort Stevens fan marker to 20 miles northwest of the fan marker.
That airspace extending upward from 4,500 feet MSL bounded on the northwest by the southeast edge of V-27E, on the east by the west edge of V-165, and on the south by the north edge of V-112.

Athens, Ga.
That airspace extending upward from 700 feet above the surface within a 9-mile radius of Athens Municipal Airport (latitude 33°56'54" N., longitude 83°19'37" W.).

Athens, Tenn.
That airspace extending upward from 700 feet above the surface within a 10.5-mile radius of McMinn County Airport (lat. 35°23'45" N., long. 84°33'45" W.).

Athens, Tex.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Jones Municipal Airport (latitude 32°10'00" N., longitude 95°50'00" W.); within an 8.5-mile radius of Lochridge Ranch Airport (latitude 31°59'21" N., longitude 95°57'03" W.); within 3.5 miles each side of the 176° bearing from the Athens RBN (latitude 32°09'35" N., longitude 95°49'50" W.) extending from the 5-mile radius area to 11.5 miles south of the RBN; within 3 miles each side of a 211° bearing from the Athens RBN extending from the 5-mile radius area to the 8.5-mile radius area; and within 4.5 miles each side of the 356° bearing from the Lochridge Ranch RBN (latitude 32°03'48" N., longitude 95°57'27" W.) extending from the 8.5-mile radius area to 10.5 miles N of the RBN.

Atlanta, Ga.
That airspace extending upward from 700 feet above the surface within a 15-mile radius of The William B. Hartsfield Atlanta International Airport
(latitude 33°38'31" N., longitude 84°25'34" W.); within 4.5 miles north and 9.5 miles south of the 091° bearing from Bruce RBN, extending from the 15-mile radius area to 18.5 miles east of the RBN; within 9.5 miles south and 4.5 miles north of Atlanta
ILS Runway 9R localizer west course, extending from the 15-mile radius area to 18.5 miles west of the LOM; within a 10-mile radius of Charlie Brown County Airport (latitude 33°46'35" N., longitude 84°31'15" W.); within an 11.5-mile radius of Dobbins AFB/NAS Atlanta (latitude 33°54'54" N., longitude 84°30'59" W.); within 4 miles each side of the Dobbins TACAN 301° radial, extending from the 11.5-mile radius area to 11.5 miles northwest of the TACAN; within an 8.5-mile radius of De Kalb-Peachtree Airport (latitude 33°52'30" N., longitude 84°18'10" W.); within a 6.5-mile radius of Falcon Field Airport, Peachtree City, GA. (latitude 33°21'23"N., longitude 84°34'07"W.).

AMENDMENTS 1/26/78 42 F. R. 59752 (Changed)

Atlanta, Tex.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Atlanta Municipal Airport (latitude 33°06'10" N., longitude 94°11'40" W.) and within 3 miles each side of the 237° bearing from the NDB (latitude 33°06'13" N., longitude 94°11'25" W.) extending from the 5-mile radius area to a point 8 miles southwest of the NDB.

Atlantic, Iowa
That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Atlantic Municipal Airport (latitude 41°24'20" N., longitude 95°02'45" W.); and within 5 miles NE and 8 miles SW of the 313° bearing from the Atlantic, Iowa, RBN, extending from the RBN to 12 miles NW.

Atlantic City, N. J.
That airspace extending upward from 700 feet above the surface within a 12-mile radius of the center, 39°27'25" N., 74°34'45" W. of Atlantic City Municipal (Pomona) Airport, Atlantic City, N. J., and the airspace bounded on the SW by the Atlantic City VORTAC 176° radial to 3 NM offshore; on the SE by a line 3 NM offshore; and on the NE by the Atlantic City VORTAC 112° radial, within 8 miles SW and 5 miles NE of the Atlantic City ILS localizer NW course extending from the 12-mile radius area to 12 miles NW of the OM

Atterbury, Ind.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of Bakalar AFB (latitude 39°15'50" N., longitude 85°53'55" W.) and within 2 miles each side of the 044° bearing from the AFB, extending from the 6-mile radius zone to 12 miles NE of the AFB.

Auburn, Ala.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Auburn-Opelika Airport (latitude 32°36'52" N., longitude 85°25'52" W.).

Auburn, Ind.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Auburn-De Kalb Airport (latitude 41°18'25" N., longitude 85°04'00" W.); and within 2½ miles each side of the Fort Wayne, Ind., VORTAC 016° radial, extending from the 5-mile radius area to the arc of a 17-mile radius circle centered on Bear Field (latitude 40°58'50" N., longitude 85°11'25" W.).

Auburn, Maine
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, 44°03'00" N., 70°17'00" W., of Auburn-Lewiston Municipal Airport; within 3 miles each side of the 204° and 024° bearing from the Poland Springs, Maine, NDB, 43°57'47" N., 70°20'14" W., extending from the 5-mile radius area to 9 miles southwest of the NDB; within 2 miles each side of the 048° bearing from the Poland Springs, Maine, NDB extending from the NDB to 13 miles northeast of the NDB.

Audubon, Iowa
That airspace extending upward from 700 feet above the surface within an 8-mile radius of Audubon Municipal Airport (latitude 41°42'30" N., longitude 94°55'00" W.).

Augusta, Ga.
That airspace extending uppward from 700 feet above the surface within an 11-mile radius of Bush Field (lat. 32°22'10" N., long. 81°57'55" W.); within 9.5 miles west and 4.5 miles east of Augusta ILS localizer south course, extending from the 11-mile radius area to 18.5 miles south of the LOM; within a 9-mile radius of Daniel Field (lat. 33°27'55" N., long. 82°02'25" W.); within a 7-mile radius of Thomson-McDuffie Airport, Thomson, Ga. (lat. 33°31'45" N., long. 82°31'00" W.); within 9.5 miles north and 4.5 miles south of the 090° bearing from McDuffie RBN (lat. 33°31'45" N., long. 82°26'30" W.), extending from the 7-mile radius area to 18.5 miles east of the RBN.

Augusta, Maine
That airspace extending upward from 700 feet above the surface within an 8-mile radius of the center of the Augusta State Airport, (lat. 44°19'N., long. 69°48'W.) and within 6.5 miles northeast and 9.5 miles southwest of the 328° radial of the Augusta VORTAC extending 24 miles northwest of the Augusta VORTAC, and within an 11.5-mile radius of the center of Waterville Robert LaFleur Airport (lat. 44°32'10"N., long. 69°40'30"W.), Waterville, Maine, and within 4.5 miles southwest and 9.5 miles northeast of the Augusta VORTAC 156° radial extending 19.0 miles southeast of the Augusta VORTAC; excluding that portion which coincides with the Wiscasset, Maine, 700-foot Transition Area.

Aurora, Nebr.
That airspace extending upward from 700 feet above the surface within a 5 mile radius of Aurora Municipal Airport (lat. 40°53'34"N., long. 97°59'37"W.) and within 2 miles each side of the 110° radial of the Grand Island VOR, extending from the 5 mile radius to 7 miles west of the airport, excluding that portion which overlies the Grand Island, Nebraska, transition area and within 3 miles each side of the 358° bearing from the Aurora, Nebraska, NDB extending from the 5 mile radius to 8.5 miles north of the airport.

Aurora, Oreg.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Aurora State Airport (latitude 45°15'00" N., longitude 122°46'10" W.) and within 2.5 miles each side of the 126° radial of the Newberg VORTAC, extending from the 5-mile radius area to the VORTAC; that airspace extending upward from 1,200 feet above the surface within 9.5 miles southwest and 4.5 miles northeast of the 306° radial of the Newberg VORTAC, extending from the VORTAC to 18.5 miles northwest of the VORTAC.

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Austin, Minn.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Austin Municipal Airport (latitude 43°40'00" N., longitude 92°56'00" W.); within 3 miles each side of the Austin VOR 350° radial extending from the 5-mile radius to 8 miles north of the VOR; and within 3 miles each side of the Austin VOR 175° radial extending from the 5-mile radius to 8 miles south of the VOR; and that airspace extending upward from 1,200 feet above the surface within a 21½-mile radius of the Austin Municipal Airport; excluding the portions which overlie the Rochester, Minn., Albert Lea, Minn., and Mason City, Iowa, transition areas.

Austin, Tex.
That airspace extending upward from 700 feet above the surface within a 16-mile radius of Robert Mueller Municipal Airport (latitude 30°17'55" N., longitude 97°42'00" W.); within 2 miles each side of the Bergstrom ILS localizer south course, extending from the 16-mile radius area to 12 miles south of the LOM.

Babylon, N. Y.
That airspace extending upward from 700 feet above the surface within a 10-mile radius of Republic Airport, Farmingdale, N. Y. (latitude 40°43'45" N., longitude 73°24'50" W.); within 4.5 miles northeast and 6.5 miles southwest of the Republic Airport ILS localizer northwest course, extending from the outer marker (latitude 40°46'35" N., longitude 73°28'59" W.) to 11.5 miles northwest of the outer marker; within 3.5 miles each side of a 155° bearing from the Babylon, N. Y., radio beacon extending from the 10-mile radius area to 11.5 miles southeast of the radio beacon; within 3.5 miles each side of a 165° bearing from the Babylon, N. Y., radio beacon extending from the 10-mile radius area to 11.5 miles southeast of the radio beacon; within a 9.5-mile radius of Grumman-Bethpage Airport (latitude 40°44'45" N., longitude 73°29'30" W.).

Bad Axe, Mich.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Huron County Airport (latitude 43°47'00" N., longitude 82°59'00" W.); within 3 miles each side of the 023° and 215° bearings from the Huron County Airport extending from the 5-mile radius area to 8 miles northeast and southwest of the airport.

Bainbridge, Ga.
That airspace extending from 700 feet above the surface within a 6.5-mile radius of Commodore Decatur Airport (lat. 30°54'55"N., long. 84°36'16"W.).

Baker, Oreg.
That airspace extending upward from 1,200 feet above the surface within 8 miles northeast and 6 miles southwest of the Baker VORTAC 138° and 317° radials extending from 14 miles southeast to 16 miles northwest of the VORTAC and within 10 miles west and 5 miles east of the Baker VORTAC 345° radial, extending from the VORTAC to the south edge of V-298.

Bakersfield, Calif.
That airspace extending upward from 700 feet above the surface within 4.5 miles each side of the Bakersfield ILS localizer southeast course, extending from an arc of a 5-mile radius circle centered on Meadows Field, Bakersfield, Calif., (lat. 35°25'40"N., long. 119°03'05"W.) to 7 miles southeast of the LOM, within 4.5 miles each side of the Bakersfield VORTAC 144° radial, extending from an arc of a 5-mile radius circle centered on Meadows Field to 17.5 miles southeast of the VORTAC, within 4.5 miles each side of the Bakersfield ILS localizer northwest course, extending from an arc of a 5-mile radius circle centered on Meadows Field to 21.5 miles northwest of the LOM and within 4.5 miles each side of the Bakersfield VORTAC 338° radial, extending from the VORTAC to 13 miles north of the VORTAC; that airspace extending upward from 1,200 feet above the surface bounded on the north by latitude 36°00'00" N., on the east by longitude 118°45'00" W., on the south by latitude 35°05'00" N., and on the west by a line extending from latitude 35°05'00" N., longitude 120°05'00" W. to latitude 35°43'50" N., longitude 120°05'00" W. to latitude 35°43'50" N., longitude 119°30'00" W. to latitude 36°00'00" N., longitude 119°30'00" W.

Baltimore, Md.
That airspace extending upward from 700 feet above the surface within a 9-mile radius of the center, 39°10' 26" N., 76°40'12" W., of Baltimore Washington International Airport, Baltimore, Md.; within a 15-mile radius arc of the
Baltimore VORTAC extending clockwise from the Baltimore VORTAC 230° radial to the 342° radial; within 3.5 miles each side of the centerline of Baltimore Washington International Airport runway 10, extended to 8.5 miles east of the end of the runway; within 4.5 miles north and 6.5 miles south of the Baltimore Washington International Airport ILS
localizer west course, extending from the OM to 11.5 miles west of the OM; within an 8.5-mile radius of the center 39°19'40"N., 76°24'57"W. of Glenn L. Martin State Airport, Baltimore,
Md.; within a 9-mile radius of the center of the airport, extending clockwise from a 239° bearing to a 256° bearing from the airport; within a 10-mile radius of the center of the airport, extending clockwise from a 256° bearing to a 270° bearing from the airport; within an 11.5-mile radius of the center of the airport, extending clockwise from a 270° bearing to a 320° bearing from the airport; within a 13-mile radius of the center of the airport, extending clockwise from a 320° bearing to a 348° bearing from the airport; within an 11.5-mile radius of the center of the airport, extending clockwise from a 348° bearing to a 007° bearing from the airport; within a 10.5-mile radius of the center of the airport, extending clockwise from a 007° bearing to a 027° bearing from the airport; within a 9-mile radius of the center of the airport, extending clockwise from a 027° bearing to a 054° bearing from the airport; within 3.5 miles each side of a 132° bearing from the Martin, Md. RBN, extending from the Glenn L. Martin State Airport 8.5-mile radius area to 11.5 miles southeast of the RBN; within 3.5 miles each side of a 129° bearing from the Martin, Md. RBN, extending from the Glenn L. Martin State Airport 8.5-mile radius area to 11.5 miles southeast of the RBN; within 5 miles each side of the Martin, Md. TACAN 317° radial, extending from the Glenn L. Martin State Airport 8.5-mile radius area to 17.5 miles northwest of the TACAN.
Within 4.5 miles each side of a 357° bearing and a 177° bearing, from a point 39°09'15"N., 77°03'24"W., extending from 3.5 miles north of said point to 6 miles south of said point; within 4.5 miles each side of a 197° bearing and a 017° bearing from a point 39°30'21"N., 76°31'46"W., extending from 3.5 miles north of said point to 6 miles south of said point.

AMENDMENTS 4/20/78 43 F. R. 13373 (Changed)

Bangor, Maine
That airspace extending upward from 700 feet above the surface, bounded by a line beginning at: lat. 45° 09'50"N., long. 68°35'30"W., to lat. 45°04'40"N., long. 68°20'40"W., to lat. 44°59'00"N., long. 68°30'00"W., to lat. 44°52'45"N., long. 68°36'45"W., to lat. 44°43'30"N., long. 68°18'10"W., to lat. 44°37'40"N., long. 68° 21'40"W., to lat. 44°27'30"N., long. 68°36'50"W., to lat. 44°36'25"N., long. 68°49'45"W., to lat. 44°40' 50"N., long. 69°03'25"W., to lat. 44°54'45"N., long. 69°02'45"W., to lat. 44°57'50"N., long. 68°57'20"W., to lat. 44°59'45"N., long. 68°47'50"W., to the point of beginning; excluding that portion which coincides with the Bar Harbor, Maine, 700 foot transition area; and that airspace
extending upward from 1,200 feet above the surface bounded by a line beginning at latitude 44°20'10" N., longitude 67°56'00" W., to latitude 44°18'30" N., longitude 67°56'00" W., to latitude 43°52'00" N., longitude 69°00'00" W., to latitude 43°48'00" N., longitude 69°03'00" W., to lat. 43°44'00" N., long. 69° 19'42" W.; to latitude 43°50'00" N.,
longitude 69° 18' 00" W..to latitude 43° 59' 00" N.. longitude 69° 16' 00" W., to latitude 44° 09' 00" N., longitude 69° 39' 00" W.. thence clockwise via the arc of a 14-mile radius circle centered on the Augusta, Maine, VOR to latitude 44° 09' 00" N., longitude 69° 57' 00" W., to latitude 44° 03' 00" N., longitude 70° 06' 00" W., to latitude 43° 50' 00" N., longitude 70° 12' 00" W., to latitude 43° 55' 00" N., longitude 70° 28' 00" W.. to latitude 44° 05' 00" N., longitude 70° 23' 00" W., to latitude 44° 12' 00" N., longitude 70° 10' 00" W., to latitude 44° 16' 00" N., longitude 70° 14' 00" W., to latitude 44° 39' 00" N., longitude 69° 47' 00" W.. to latitude 44° 50' 00" N., longitude 69° 47' 00" W., to latitude 45° 12' 00" N., longitude 69° 23' 00" W., to latitude 45° 24' 00" N., longitude 68° 55' 00" W., to latitude 45° 30' 00" N., longitude 68° 31' 00" W.. to latitude 45° 27' 00" N.. longitude 68° 20' 00" W., to latitude 45° 33' 00" N., longitude 68° 16' 00" W., to latitude 45° 38' 00" N., longitude 67° 40' 30" W., thence via the United States/Canadian border latitude 44°47'45" N., longitude 66°53'00" W., thence by a line 3-nautical miles from and parallel to the U. S. shoreline to the point of beginning.

AMENDMENTS 3/23/78 43 F. R. 4847 (Changed)

Baraboo, Wis.
That airspace extending upward from 700 feet above the surface within an 11-mile radius of Baraboo-Wisconsin Dells Airport (latitude 43°31'30" N., longitude 89°46'15" W.); witin an 11-mile radius of the Reedsburg Airport (latitude 43°31'44" N., longitude 89°59'06" W.) and within a 10-mile radius of the Portage Airport (latitude 43°33'35" N., longitude 89°23'58" W.).

Bardstown, Ky.
That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of Samuels Field (lat. 37°48'55" N., long. 85°29'58" W.); within 3 miles each side of the 022° bearing from Bardstown RBN (lat. 37°50' 52" N., long. 85°29'00" W.), extending from the 5.5-mile radius area to 8.5 miles north of the RBN.

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Bar Harbor, Maine
That airspace extending upward from 700 feet above the surface within a 12.5-mile radius of the center (lat. 44°26'56" N., long. 68°21'42" W.) of the Bar Harbor Airport excluding that airspace previously designated as the Bangor, Maine, 700-foot transition area. Within 4.5 miles west and 9.5 miles east of the Bar Harbor ILS localizer course extending from the 12.5-mile radius to 11.5 miles north of the Surry (BH) NDB.

Barnesville, Ohio
That airspace extending upward from 700 feet above the surface within a 7-mile radius of the center, lat. 40° 00'10" N., long. 81°11'30" W., of the Bradfield Airport, Barnesville, Ohio.

Barnwell, S. C.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Barnwell County Airport (lat. 33°15'26" N., long. 81°23'06" W.); within 3 miles each side of the 009° bearing from Barnwell RBN (lat. 33°15'31" N., long. 81°22'43" W.), extending from the 6.5-mile radius area to 8.5 miles north of the RBN.

Bartlesville, Okla.
That airspace extending upward from 700 feet above the surface within a 9-mile radius of Phillips Airport (lat. 36°45'46"N., long. 96°00'38"W.); and within 5 miles each side of the Bartlesville VORTAC 175° radial extending from the 9-mile radius to 21.5 miles south of the VORTAC; and within 5.5 miles west and 3.5 miles east of the Bartlesville localizer north course extending from the 9-mile radius to 12 miles north of the VORTAC.

Bastrop, La.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Morehouse Memorial Airport (latitude 32°45'25" N., longitude 91°52'50" W.) and within 2 miles each side of the Monroe VORTAC 030° radial extending from the 5-mile radius area to 19 miles northeast of the VORTAC,and within 3 miles each side of the 159° bearing from the NDB (latitude 32°45'28" N., longitude 91°52'53" W.) extending from the 5-mile radius area to 8 miles southeast of the NDB.

Batavia, N. Y.
That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the center lat. 43°01'45"N., long. 78°10'15"W., of Genesee County Airport, Batavia, N. Y., and within 2.5 miles each side of the Rochester, N. Y., VORTAC 257° radial, extending from the 5.5-mile radius area to 19.5 miles west of the VORTAC.

Batesville, Ark.
That airspace extending upward from 700 feet above the surface within a 15-statute mile radius of Batesville Regional Airport, Batesville, Ark. (latitude 35°43'44"N., longitude 91°38'32"W.); and within 3.5 miles each side of the 255° bearing from the Batesville NDB (latitude 35°42'13" N., longitude 91°45'03" W.), extending from the 15-mile radius area to 11.5-statute miles west of the NDB; excluding that portion which overlies the Heber Springs, Ark., transition area.

Baton Rouge, La.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of Ryan Airport (latitude 30°31'55" N., longitude 91°09'00" W.); within 2 miles each side of the Baton Rouge ILS localizer southeast course extending from the 7-mile radius area to 7.5 miles southeast of Ryan Airport; within 5 miles northeast and 8 miles southwest of the Baton Rouge ILS localizer northwest course extending from the OM to 12 miles northwest; within 2 miles each side of the Baton Rouge VORTAC 071° radial extending from the 7-mile radius area to the VORTAC; within 2 miles each side of the Baton Rouge 068° radial extending from the 7-mile radius area to 7.5 miles east of the airport and within a 5-mile radius of the False River Airpark (latitude 30°42'55" N., longitude 91°28'43"W.); within 2 miles each side of the 325° radial of the Baton Rouge VORTAC extending from the 5-mile radius area of the False River Airpark to the northwest ILS localizer extension.

Battle Creek, Mich.
That airspace extending upward from 700 feet above the surface within a 12-mile radius of Kellogg Field, Battle Creek, Mich. (latitude 42° 18' 35" N., longitude 85° 14' 55" W.), within 8 miles NW and 5 miles SE of the Battle Creek ILS localizer NE course extending from the 12-mile radius area to 12 miles NE of the OM, within a 13-mile radius of Kalamazoo Airport (latitude 42° 14' 07" N., longitude 85° 33' 10" W.); within 8 miles W and 5 miles E of the Kalamazoo ILS localizer N course extending from the 13-mile radius area to 17 miles N of the airport; within a 4-mile radius of Haines Field, Three Rivers, Mich. (latitude 41° 57' 30" N., longitude 85° 35' 30" W.), and within 8 miles NW and 5 miles SE of the 034° bearing from Haines Field, extending from the 4-mile radius area to 12 miles NE of the airport.

Battle Mountain, Nev.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Lander County Airport (latitude 40°36'03" N., longitude 116°52'25" W.) and within 5 miles each side of the Battle Mountain VORTAC 218° radial, extending from the VORTAC to 16 miles southwest of the VORTAC; that airspace extending upward from 1,200 feet above the surface within 5 miles southeast and 9.5 miles northwest of the Battle Mountain 218° radial extending from the VORTAC to 23 miles southwest of the VORTAC, and within 6.5 miles south and 9 miles north of the Battle Mountain VORTAC 077° and 257° radials, extending from 8 miles west to 18.5 miles east of the VORTAC.

Baudette, Minn.
That airspace extending upward from 700 feet above the surface within a 5½-mile radius of Baudette International Airport, Baudette, Minn. (latitude 48°43'15" N., longitude 94°36'00" W.); within 3 miles each side of the 106° bearing from the Baudette International Airport extending from the 5½-mile radius area to 8 miles east of the airport; and that airspace extending upward from 1,200 feet above the surface within 4½ miles south and 9½ miles north of the 106° and 286° bearing from the Baudette International Airport, extending from 6 miles west to 18½ miles east of the airport; and within 5 miles each side of the 286° bearing from Baudette International Airport, extending from the airport to 12 miles west of the airport, excluding the portion outside the United States.

Baxley, Ga.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Baxley Municipal Airport (lat. 31°42'50" N., long. 82°23'25" W.); within 2 miles each side of Alma VORTAC 029° radial, extending from the 5-mile radius area to 8 miles north of the VORTAC.

Bay City, Tex.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Bay City Municipal Airport (lat. 28°58'23"N., long. 95°51'48"W.), and within 3.5 miles either side of the 313° bearing from the NDB extending from the 5-mile radius to 11.5 miles northwest of the airport.

AMENDMENTS 1/26/78 42 F. R. 4038 (Rewritten)

Bay Minette, Ala.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Bay Minette Municipal Airport (lat. 30°52'20" N., long. 87°49'30" W.).

Bay St. Louis, Miss.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Stennis International Airport (lat. 30°22'15" N., long. 89°27'16" W.).

Beatrice, Nebr.
That airspace extending upward from 700 feet above the surface within a six-mile radius of the Beatrice Municipal Airport (latitude 40°18'01" N., longitude 96°45'16" W.); and within five-miles each side of the Beatrice VOR 325° radial extending from the six-mile radius to 14 miles northwest of the VOR; that airspace extending upward from 1200 feet above the surface within twelve miles southwest and five miles northeast of the Beatrice VOR 325° radial extending from the VOR to 23 miles northwest of the airport excluding that portion which overlies the Lincoln, Nebraska, transition area.

Beaufort, N. C.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Beaufort-Morehead City Airport (latitude 34°44'00" N., longitude 76°39'45" W.); within 3 miles each side of the 306° bearing from the Morehead RBN (latitude 34°43'49" N., longitude 76°39'15" W.), extending from the 6.5-mile radius to 8.5 miles north of the RBN.

Beaufort, S. C.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Beaufort MCAS (lat. 32°28'40" N., long. 80°43'20" W.); within 5 miles each side of Beaufort MCAS TACAN 037° radial, extending from the 8.5-mile radius area to 8.5 miles northeast of the TACAN.

Beaumont, Tex.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of Jefferson County Airport (latitude 29°57'05" N., longitude 94°01'10" W.), within a 5-mile radius of Beaumont Municipal Airport (latitude 30°04'15" N., longitude 94°13'00" W.), within 3 miles each side of the Beaumont ILS localizer southeast course extending from the 7-mile radius area to 13.5 miles southeast of the approach end of Jefferson County Airport Runway 29, and within 2.5 miles each side of the Beaumont ILS localizer northwest course extending from the 7-mile radius area to the 5-mile radius area.

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Beaver Falls, Pa.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of the center 40°46'21" N., 80°23'37" W. of Beaver County Airport, Beaver Falls, Pa., and within 2 miles each side of the Elwood City, Pa. VOR 248° radial extending easterly from the 6-mile radius area to the VOR.

Beckley, W. Va.
That airspace extending upward from 700 feet above the surface within a 10-mile radius of the center, lat. 37°46'54" N., long. 81°07'27" W. of Raleigh County Memorial Airport, Beckley, W. Va.; within a 14-mile radius of the center of Raleigh County Memorial Airport, extending clockwise from the 025° bearing to the 215° bearing from the airport and within 4.5 miles north and 9.5 miles south of the Beckley VOR 284° radial, extending from the VOR to 18.5 miles west of the VOR.

Bedford, Ind.
That airspace extending upward from 700 feet above the surface within a 6½-mile radius of Virgil I. Grissom Municipal Airport (lat. 38°50'25" N., long. 86°26'45" W.); within 5 miles each side of the Bloomington, Ind., VORTAC 156° radial, extending from the 6½-mile radius area to 35 miles southeast of the VORTAC; and within 3 miles each side of the 302° bearing from Virgil I. Grissom Municipal Airport, extending from the 6½-mile radius area to 8 miles northwest of the airport.

Beeville, Tex.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of NAS Chase Field (lat. 28°21'50" N., long. 97°39'40" W.); within 2 miles each side of the NAS Chase TACAN 129° and 321° radials extending from the 7-mile radius area to 10 miles northwest and southeast of the TACAN; within 2 miles each side of the 339° bearing from the NAS Chase RBN extending from the 7-mile radius area to 12 miles north of the RBN; within a 6.5-mile radius of Beeville Municipal Airport (lat. 28°22'00" N., long. 97°48'00" W.).

PENDING AMENDMENT
Beeville, Tex.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of NAS Chase Field (lat. 28°21'50"N., long. 97°39'40"W.); within 2 miles each side of the NAS Chase TACAN 129° and 321° radials extending from the 7-mile radius area to 10 miles northwest and southeast of the TACAN; within 2 miles each side of the 339° bearing from the NAS Chase RBN extending from the 7-mile radius area to 12 miles north of the RBN; within a 6.5-mile radius of Beeville Municipal Airport (lat. 28°22'00"N., long. 97°48'00"W.) within 3.5 miles each side of the 138° bearing from the Beeville NDB (lat. 28°22'03"N., long. 97°47'39"W.) extending from the 6.5-mile radius to 11.5 miles southeast of the NDB.

AMENDMENTS 12/28/78 43 F. R. 45985 (Rewritten)

Belfast, Maine
That airspace extending upward from 700 feet above the surface within a 6-mile radius of the center, 44°24'34"N., 60°00'45"W., of Belfast Municipal Airport; within 3.5 miles each side of the 126° bearing and the 306° bearing from the Belfast, Maine, NDB, 44°24'40"N., 69°00'41"W., extending from the 6-mile radius area to 18 miles northwest of the NDB; excluding that portion which coincides with the Pittsfield, Maine, 700-foot transition area.

Bellaire, Mich.
That airspace extending upward from 700 feet above the surface within an 11-mile radius of Antrim County Airport (latitude 44°59'15" N., longitude 85°12'00" W.); and within 3 miles each side of the 198° bearing from Antrim County Airport, extending from the 11-mile radius area to 14 miles south of the airport.

Bellefontaine, Ohio
That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Bellefontaine Airport (latitude 40°24'45" N., longitude 83°44'10" W.) and within 3 miles each side of the 049° bearing from the airport extending from the 6-mile radius area to 13 miles northeast of the airport.

Belleville, Ill.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of Scott AFB, Belleville, Ill. (latitude 38°32'30" N., longitude 89°51'05" W.), and within 2 miles each side of the 317° bearing from the Belleville RBN, extending from the 7-mile radius area to the RBN.

Belleville, Kans.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Belleville Municipal Airport (lat. 39°49'04"N., long. 97°39'30"W.); within 3 miles each side of the 356° bearing from the Belleville Municipal Airport, extending from the 5-mile radius to 8.5 miles north of the airport, within 3 miles each side of the 196° bearing from the Belleville Municipal Airport, extending from the 5-mile radius to 8.5 miles south of the airport.

Bellingham, Wash.
That airspace extending upward from 700 feet above the surface bounded on the east by longitude 122°15'00" W., on the south by latitude 48°52'00" N., on the west and north by the United States/Canada border, and within 4.5 miles each side of the Bellingham VORTAC 169° radial, extending from 21.5 to 24 miles south of the VORTAC; and within 3.5 miles north and 8 miles south of the 288° bearing from Lummi NDB (latitude 48°47'38" N., longitude 122°32'08" W.) extending from the NDB 11.5 miles west of the NDB.

Belvidere, Ill.
That airspace extending upward from 700 feet above the surface with a 5-statute-mile radius of the Belvidere Airport (lat. 42°19'25"N., long. 88°50'25"W.), Belvidere, Ill., and within 2 statute miles either side of a 255° bearing from the airport, extending from the 5-mile radius area to 6½ statute miles southwest of the airport.

AMENDMENTS 12/30/77 42 F. R. 42192 (Added)

Belzoni, Miss.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Belzoni Municipal Airport (latitude 33°08'40" N., longitude 90°30'55" W.).

Bemidji, Minn.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of Bemidji Municipal Airport (latitude 47°30'30" N., longitude 94°55'55" W.); within 5 miles each side of the Bemidji VORTAC 135° radial, extending from the 7-mile radius area to 19½ miles southeast of the VORTAC; within 5 miles each side of the Bemidji VORTAC 318° radial, extending from the 7-mile radius area to 8 miles northwest of the VORTAC; and within 4½ miles north and 9½ miles south of the 262° bearing from Bemidji Municipal Airport, extending from the airport to 18½ miles west of the airport; and that airspace extending upward from 1,200 feet above the surface within a 13-mile radius of Bemidji VORTAC, extending from the 318° radial, clockwise to the 014° radial; within a 23½-mile radius of Bemidji VORTAC extending from the 014° radial clockwise to the 285° radial; within 4½ miles northeast and 9½ miles southwest of the Bemidji VORTAC 318° radial, extending from the VORTAC to 18½ miles northwest of the VORTAC; and within 4½ miles southwest and 9½ miles northeast of the Bemidji VORTAC 135° radial, extending from the 23½-mile radius area to 30 miles southeast of the VORTAC.

Bend, Oreg.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Bend Municipal Airport (latitude 44°05'35" N., longitude 121°12'00" W.) and within 2 miles each side of the Redmond VORTAC 334° and 154° radials, extending from the 5-mile radius area to 1 mile northwest of the VORTAC; that airspace extending upward from 1,200 feet above the surface within 5 miles southwest and 8 miles northeast of the Redmond VORTAC 334° radial, extending from the VORTAC to 12 miles northwest of the VORTAC.

Bennettsville, S. C.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Bennettsville Airport (latitude 34°37'45" N., longitude 79°43'57" W.); within 3 miles each side of the 245° bearing from Bennettsville RBN (latitude 34°37'39" N., longitude 79°43'53" W.), extending from the 6.5-mile radius area to 8.5 miles southwest of the RBN, excluding the portion within the Darlington, S. C., transition area.

Bennington, Vt.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center 42°53'30" N., 73°14'50" W. of Bennington State Airport, Bennington, Vt., and within 2 miles each side of the Cambridge, N. Y., VOR 145° radial, extending from the 5-mile radius area to the VOR. This transition area is effective from sunrise to sunset, daily.

Benson, Minn.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Benson Municipal Airport (latitude 45°20'00" N., longitude 95°39'00" W.); and within 3 miles each side of the 323° bearing from Benson Municipal Airport extending from the airport to 8 miles northwest of the airport.

Benton Harbor, Mich.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of Ross Field (latitude 42°07'40" N., longitude 86°25'40" W.), and within 2 miles each side of the ILS back course and Keller, Mich., VORTAC 266° radial extending from the 7-mile radius area to 12 miles west of the airport.

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Berkeley Springs, W. Va.
That airspace extending upward from 700 feet above the surface within a 14.5-mile radius of the center (lat. 39°41'30"N., long. 78°09'45"W.) of Potomac Airpark, Berkeley Springs, W. Va., extending clockwise from the 062° bearing to the 167° bearing from the airport; within a 22.5-mile radius of Potomac Airpark, extending clockwise from the 167° bearing to the 215° bearing from the airport; within a 21.5-mile radius of Potomac Airpark, extending clockwise from the 215° bearing to the 266° bearing from the airport; within a 15.5-mile radius of Potomac Airpark, extending clockwise from the 266° bearing to the 304° bearing from the airport; within a 19.5-mile radius of Potomac Airpark, extending clockwise from the 304° bearing to the 342° bearing from the airport; within a 21.5-mile radius of Potomac Airpark, extending clockwise from the 342° bearing to the 023° bearing from the airport; within a 23.5-mile radius of Potomac Airpark, extending clockwise from the 023° bearing to the 062° bearing from the airport; within 2.5 miles each side of the Hagerstown VOR 268° radial, extending from the 14.5-mile radius to 1 mile west of the VOR, excluding the portion within the Hagerstown, Md., and Martinsburg, W. Va., transition areas.

Berlin, N. H.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the center, 44°34'35" N., 71°10'40" W. of Berlin Municipal Airport, Berlin, N. H.; within 2 miles each side of the Berlin Municipal Airport Runway 18 centerline, extended from the 8.5-mile radius area to 12 miles south of the end of the runway; within 2 miles each side of the Berlin Municipal Airport Runway 36 centerline, extended from the 8.5-mile radius area to 20.5 miles north of the end of the runway and within 4.5 miles west and 9.5 miles east of the Berlin, N. H. VOR (44°38'05" N., 71°11'12" W.) 355° radial, extending from the 8.5-mile radius area to 18.5 miles north of the VOR.
That airspace extending upward from 1,200 feet above the surface beginning at 44°54'00" N., 71°10'00" W. to 44°50'00" N., 71°07'30" W.; to 44°50'30" N., 71°02'00" W.; to 44°40'00" N., 71°00'30" W. to 44°31'00" N.. 70°55'00" W. to 44°29'00" N.. 71°03'00" W. to 44°22'00" N.. 71°02'00" W. to 44°13'00" N.. 71°15'00" W to 44°25'00" N.. 71°52'00" W. to 44°36'00" N.. 71°20'00" W. to 44°47'00" N.. 71°28'00" W. to point of beginning.

Berlin, N. J.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of the center, 39°49'20" N., 74°53'35" W., of Kettlerun Airpark, Berlin, N. J., and within 2 miles each side of the Millville, N. J., VORTAC 011° radial, extending from the 7-mile radius area to 13 miles north of the VORTAC.

Bethel, Alaska
That airspace extending upward from 700 feet above the surface within 3 miles each side of the Bethel VORTAC 007° radial, extending from the north control zone extension to 11.5 miles north of the VORTAC; from the southwest control zone extension to 11.5 miles southwest of the VORTAC; and that airspace extending upward from 1,200 feet above the surface within a 20-mile radius of the Bethel VORTAC; and within 9.5 miles northwest and 4.5 miles southeast of the 023° bearing from BET localizer (latitude 60°46'08" N., longitude 161°50'39" W.) extending from the 20-mile radius area to 26 miles northeast of the BET localizer.

Biddeford, Maine
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Biddeford, Maine, Airport (lat. 43°27'55" N., long. 70°28'25" W.) extending clockwise from the 270° bearing to the 180° bearing; within a 10-mile radius extending from the 180° bearing clockwise to the 270° bearing excluding that airspace previously designated as the Sanford, Maine, 700-foot transition area.

Big Delta, Alaska
That airspace extending upward from 700 feet above the surface within 9.5 miles each side of the Big Delta VORTAC 220° and 040° radials extending from 2 miles southwest to 18.5 miles northeast of the Big Delta VORTAC; and within a 16.5-mile radius of the Big Delta VORTAC extending clockwise from the 309° radial to the 006° radial.

Big Mountain, Alaska
That airspace extending upward from 1,200 feet above the surface within 5 miles northwest and 7.5 miles southeast of the 049° and 229° bearings from the Big Mountain RBN, extending from 7 miles northeast to 13 miles southwest of the RBN.

Big Piney, Wyo.
That airspace extending upward from 700 feet above the surface within 5.5 miles southwest and 9.5 miles northeast of the Big Piney VOR 134° and 314° radials, extending from 4.5 miles northwest to 19 miles southeast of the VOR, and that airspace extending upwards from 1,200 feet above the surface within 9 miles southwest and 13.5 miles northeast of the Big Piney 134° and 314° radials, extending from 11.5 miles northwest to 24.5 miles southeast of the VOR.

Big Rapids, Mich.
That airspace extending upward from 700 feet above the surface within an 8-mile radius of Roben-Hood Airport latitude 43°43'13" N., longitude 85°29'52" W.) and within 5 miles each side of the White Cloud VOR 047° radial extending from an 8-mile radius area to the VOR, excluding the portion overlying the Reed City transition area.

Big Sandy, Tex.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Ambassador Field (latitude 32°35'00"N., longitude 95°03'45"W.), and within 2.5 miles each side of the Big Sandy, Tex., Ambassador Field NDB 271° bearing extending from the 8.5-mile-radius area to a point 11.5 miles west of the NDB; within an 8.5-mile radius of Upshur County Airport, Gilmer, Tex. (latitude 32°41'57"N., longitude 94°56'55"W.) and an 8.5-mile radius of Holly Lake Ranch Airport, Hawkins, Tex. (latitude 32°41'46"N., longitude 95°12'36"W.).

Big Spring, Tex.
That airspace extending upward from 700 feet above the surface within a 23-mile radius of latitude 32°12'55" N., longitude 101°31'06" W.

Billings, Mont.
That airspace extending upward from 700 feet above the surface within a 29-mile radius of Logan Field Airport (latitude 45°48'25" N., longitude 108°31'55" W.); that airspace extending upward from 1,200 feet above the surface within a 36-mile radius of Logan Field Airport; that airspace extending upward from 6,700 feet MSL within a 46-mile radius of the Billings VORTAC extending from the Billings VORTAC 008° radial clockwise to the 057° radial, excluding the portion that overlies V-2N; that airspace extending upward from 6,700 feet MSL within a 58-mile radius of the Billings VORTAC extending from the Billings VORTAC 057° radial clockwise to the southwest edge of V-19/86 excluding the portion that overlies V-2 and V-2N; that airspace extending upward from 10,700 feet MSL within a 58-mile radius of the Billings VORTAC extending from the southwest edge of V-19/86 clockwise to the Billings VORTAC 192° radial excluding the portions that overlie VOR Federal airways; that airspace extending upward from 8,200 feet MSL within a 46-mile radius of the Billings VORTAC extending from the Billings VORTAC 192° radial clockwise to the northwest edge of V-465 excluding the portions that overlie VOR Federal airways; that airspace extending upward from 8,700 feet MSL within a 46-mile radius of the Billings VORTAC extending from the west edge of V-465 clockwise to the south edge of V-2/86; that airspace extending upward from 7,700 feet MSL within a 58-mile radius of the Billings VORTAC extending from the south edge of V-2/86 clockwise to the southwest edge of V-2N excluding that portion of V-2/86 that has a 1,200-foot AGL floor; that airspace extending upward from 6,700 feet MSL within a 58-mile radius of the Billings VORTAC extending from the north edge of V-2N clockwise to the Billings VORTAC 008° radial excluding those portions of V-187 and V-19 that have 1,200-foot AGL floors.

Binghamton, N.Y.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of the center of Broome County Airport, 42°12'35" N.. 75°58'46" W.; within 2 miles each side of the Binghamton VOR 066°-246° radial extending SW from the 7-mile radius area for 8 miles from the VOR; within 2 miles each side of the airport ILS localizer SE course extending from the 7-mile radius area to the Nimmons RBN.
Within 5 miles each side of the Broome County Airport ILS localizer northwest course, extending from the localizer to 19 miles northwest of the localizer.

Birch Hollow, Va.
That airspace extending upward from 700 feet above the surface within an area 7 miles east of and parallel to and 14 miles west of and parallel to the Martinsburg, W. Va., 140° radial extending between the Martinsburg, W. Va., VORTAC and latitude 39°01'10" N., longitude 77°27'42" W.

Birmingham, Ala.
That airspace extending upward from 700 feet above the surface beginning at the intersection of a line 2 miles west of and parallel to the extended centerline of Runways 18/36 north of the Birmingham Municipal Airport and the arc of a 17-mile radius circle centered at Birmingham Airport surveillance radar antenna site (latitude 33°34'24" N., longitude 86°45'23" W.); thence clockwise along this arc to the intersection of the 270° bearing from the radar antenna site; thence east along the 270° bearing from the radar antenna site to the intersection of the arc of a 13-mile radius circle centered at the radar antenna site; thence clockwise along this arc to a line 2 miles northeast of and parallel to the Vulcan VORTAC 313° radial; thence southeast along this line to the intersection of the arc of a 10-mile radius circle centered at the radar antenna site; thence clockwise along this arc to the intersection of a line 2 miles west of and parallel to the extended centerline of Runways 18/36; thence north along this line to the point of beginning; within 5 miles each side of Birmingham ILS localizer southwest course, extending from the 17-mile radius area to 11.5 miles southwest of the OM.

AMENDMENTS 3/23/78 42 F. R. 60119 (Changed)

Bishop, Calif.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Bishop VOR (latitude 37°22'37" N., longitude 118°21'56" W.); that airspace extending upward from 1,200 feet above the surface within 8 miles southwest and 12 miles northeast of the Bishop VOR 156° and 336° radials, extending from 10 miles northwest to 22 miles southeast of the VOR; that airspace extending upward from 12,500 feet MSL within 5 miles each side of the Bishop VOR 341° radial extending from the VOR to V-244, within 5 miles each side of a direct course between the Bishop VOR and Lida Intersection, 42 miles 12,500 feet MSL, 10,500 feet MSL Lida Intersection, and within 5 miles each side of a direct course between Bishop VOR and Beatty, Nev.. VOR 80 miles 12,500 feet MSL, 10,500 feet MSL Beatty.

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Bismarck, N. Dak.
That airspace extending upward from 700 feet above the surface within a 17-mile radius of Bismarck VORTAC; within a 20-mile radius of Bismarck VORTAC, extending from the Bismarck VORTAC 152° radial clockwise to the Bismarck VORTAC 182° radial; within 4½ miles north and 9½ miles south of the Bismarck VORTAC 105° radial extending from the 17-mile radius area to 18½ miles east of the VORTAC; and within 4½ miles southwest and 9½ miles northeast of the Bismarck ILS localizer southeast course, extending from the 17-mile radius area to 18½ miles southeast of the OM;
and within 4½ miles northeast and 9½ miles southwest of the Bismarck ILS localizer northwest course extending from the 17-mile radius area to 32 miles northwest of the OM.
that airspace extending upward from 1200 feet above the surface within a 22½-mile radius of the Bismarck VORTAC, extending from the Bismarck VORTAC 290° radial clockwise to the Bismarck VORTAC 082° radial and within a 33-mile radius of the Bismarck VORTAC extending from the Bismarck VORTAC 082° radial clockwise to the Bismarck VORTAC 290° radial.

Black River Falls, Wis.
That airspace extending upward from 700 feet above the surface within a 6½-mile radius of the Black River Falls Airport (Lat. 44°15'05" N., Long. 90°51'05" W.); and within 3 miles each side of the 098° bearing from the Black River Falls Airport, extending from the 6½-mile radius area to 8 miles east of the airport.

Blacksburg, Va.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of the center, 37°12'25" N., 80°24'30" W., of VPI Airport, Blacksburg, Va.; within 4 miles northwest and 3 miles southeast of the Pulaski VORTAC 064° radial, extending from the 6-mile radius area to 3 miles northeast of the Pulaski VORTAC; within 2 miles each side of the Runway 8
centerline extended from the 6-mile radius area to 7 miles east of the end of the runway; and within 2 miles each side of the Runway 30 centerline extended from the 6-mile radius area to 11 miles northwest of the end of the runway, excluding the portion within the Dublin, Va., transition area.

Blackstone, Va.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of Blackstone AAF-Allen C. Perkinson Municipal Airport
(latitude 37°04'30" N., long. 77°57'45" W.). This transition area is effective from sunrise to sunset, daily.

Blanding, Utah
That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Blanding, Utah, airport (latitude 37°34'50" N., longitude 109°28'55" W.) and within 3.5 miles each side of the 188° bearing from the Blanding, Utah RBN (latitude 37°31'03" N., longitude 109°29'31" W.) extending from the 6-mile radius area to 11.5 miles south of the RBN; that airspace extending upward from 1,200 feet above the surface within 9.5 miles east and 5 miles west of the 188° and 008° bearings from the Blanding RBN extending from 18.5 miles south to 7 miles north of the RBN, and within 5 miles each side of a direct line between the Blanding RBN and the Dove Creek, Colo., VORTAC excluding that portion within R-6410 during the times that R-6410 is in use.

Block Island, R. I.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Block Island State Airport (lat. 41°10'05" N., long. 71°34'40" W.).

Bloomfield, Iowa
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Bloomfield Municipal Airport (lat. 40°44'41"N., long. 92°25'46"W.); and within 3 miles each side of the 177° bearing from the Bloomfield Municipal Airport, extending from the 6.5-mile radius area to 8.5 miles south of the airport.

Bloomington, Ill.
That airspace extending upward from 700 feet above the surface within a 6½-mile radius of Bloomington Normal Airport; and within 3 miles each side of the Bloomington VOR 043°, 103°, and 319° radials, extending from the 6½-mile radius area to 8 miles northeast, east and northwest of the VOR.

Bloomington, Ind.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of Monroe County Airport (latitude 39°08'25" N., longitude 86°37'00" W.); within 5 miles each side of the Bloomington VORTAC 062° radial, extending from the 7-mile radius area to 14 miles northeast of the VORTAC; within 5 miles each side of the Bloomington VORTAC 181° radial, extending from the 7-mile radius area to 12 miles south of the VORTAC; within 5 miles each side of the Bloomington VORTAC 341° radial, extending from the 7-mile radius area to 12 miles north of the VORTAC; and within 3 miles each side of the Bloomington VORTAC 236° radial, extending from the 7-mile radius area to 10½ miles southwest of the VORTAC.

Bloomsburg, Pa.
That airspace extending upward from 700 feet above the surface within a 7.5-mile radius of the center of Bloomsburg Municipal Airport, Bloomsburg, Pa., lat. 40°59'45"N., longitude 76°26'30"W., and within 3.5 miles each side of the Milton, Pa., VORTAC 099° radial, extending from the 7.5-mile radius area to 2.5 miles east of the VORTAC.

Bluefield, W. Va.
That airspace extending upward from 700 feet above the surface within an 11-mile radius of the center, lat. 37°17'45"N., long. 81°12'29"W., of Mercer County Airport, Bluefield, W. Va.; within a 14.5-mile radius of the center of the airport, extending clockwise from a 078° bearing to a 113° bearing from the airport; within a 17-mile radius of the center of the airport, extending clockwise from a 113° bearing to a 195° bearing from the airport; within a 23.5-mile radius of the center of the airport, extending clockwise from a 195° bearing to a 248° bearing from the airport and within 3.5 miles each side of the Bluefield VORTAC 047° radial, extending from the 11-mile radius area to 11 miles northeast of the VORTAC.

Blythe, Calif.
That airspace extending upward from 700 feet above the surface within 3 miles each side of the Blythe VORTAC 264° radial, extending from the VORTAC to 9 miles W of the VORTAC; that airspace extending upward from 1,200 feet above the surface within 9.5 miles S and 4.5 miles N of the Blythe VORTAC 264° radial, extending from the VORTAC to 18.5 miles W of the VORTAC; within 4.5 miles NW and 9.5 miles SE of the Blythe VORTAC 066° radial, extending from the VORTAC to 28 miles NE of the VORTAC; within 9 miles N and 10 miles S of the Blythe VORTAC 094° radial, extending from the VORTAC to 36 miles E of the VORTAC excluding the airspace within R-2306B and R-2308A, and that airspace within an arc of an 18-mile radius circle centered on the Blythe Airport (latitude 33°37'15" N., longitude 114°43'00" W.), extending clockwise from longitude 114°30'00" W. to the S edge of V-16.

Blytheville, Ark.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Blytheville AFB (lat. 35°57'50"N., long. 89°56'40"W.), excluding the portion within the Manila, Ark., transition area, within a 5-mile radius of Blytheville Municipal Airport (lat. 35°56'15"N., long. 89°49'45"W.), within 4 miles east and 7 miles west of a 005° bearing from the Hicks RBN (lat. 35°57'52"N., long. 89°49'35"W.), extending from the RBN to 12 miles north, and within 2 miles each side of the extended center line of Blytheville AFB Runways 18 and 36 extending from the 8.5-mile radius area to 12 miles north and south of the airport.

Bogalusa, La.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the George R. Carr Memorial Air Field (lat. 30°48'41.6"N., long. 89°51'53.9"W.), and within 2.5 miles either side of the Picayune VOR 335° radial extending 1 mile from the 5-mile radius.

Boise, Idaho
That airspace extending upward from 700 feet above the surface bounded by a line beginning at latitude 43°56' 00" N., longitude 116°33'00" W., direct to latitude 43°51'15" N., longitude 116°25'00" W., thence via a 21.5-radius arc, centered on the Boise VORTAC, clockwise to longitude 116°14'00" W., direct latitude 43°45'00" N., longitude 116°14'00" W., direct latitude 43°31'00" N., longitude 115°52'00" W., direct latitude 43°20'00" N., longitude 115°58'00" W., direct latitude 43°25'00" N., longitude 116°25'00" W., direct latitude 43°42'00" N., longitude 116°57'00" W., thence to point of beginning; that airspace extending upward from 1,200 feet above the surface within a 35-mile radius arc from Boise VORTAC extending clockwise from V-253 to V-4N, within a 40-mile radius arc of Boise VORTAC extending clockwise from the southeast edge of V-113 to V-500, that airspace 8 miles each side of Boise VORTAC 269° radial extending from the 40-mile radius arc to 57 miles west of the VORTAC, within 8 miles northeast and 11 miles southwest of the Boise VORTAC 295° radial, extending from the 40-mile radius arc to 75 miles northwest of the VORTAC, that airspace northwest of Boise bounded on the northwest by the McCall VORTAC 223° radial, on the east by the west edge of V-253 on the southwest by V-4; that airspace southeast of Boise extending upward from 9,000 feet MSL extending from the 35-mile arc bounded on the north by V-500, on the east by the southwest edge of V-293, on the south by the north edge of V-330 and on the southwest by the northeast edge of V-4; that airspace northeast of Boise extending upward from 11,500 feet MSL, bounded on the northeast by the southwest edge of V-293, on the south by the north edge of V-500, on the southwest by the 35-mile radius arc and on the west by the east edge of V-253.

Boise City, Okla.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Boise City Airport, Boise City, Okla.; within 3.5 miles each side of a 225° bearing from the Thorp NDB (lat. 36°45' 19"N., long. 102°32'04"W.) extending from the 6-mile radius to 11.5 miles southwest of the NDB.

AMENDMENTS 11/2/78 43 F. R. 39349 (Added)

Bolivar, Tenn.
That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the Bolivar-Hardeman County Airport (lat. 35°13'00"N., long. 89°03'00"W.); within 3 miles each side of the 192° bearing from the Hardeman RBN (lat. 35°12'47"N., long. 89°02'33"W.), extending from the 5.5-mile radius area to 8.5 miles south of the RBN.

Bonneville, Utah
That airspace SE of Bonneville extending upward from 1,200 feet above the surface bounded by a line extending from latitude 40°30'00" N., longitude 112°30'00" W., to latitude 40°35'00" N., longitude 113°00'00" W., thence via longitude 113°00'00" W., to the S edge of V-32, thence via the S edge of V-32 to longitude 112°56'30" W., thence via longitude 112°56'30" W., to latitude 40°40'00" N., thence to point of beginning; and that airspace extending upward from 8,500 feet AMSL bounded on the S by latitude 40°35'00" N., on the W by longitude 113°51' 00" W., on the N by the S edge of V-32 and on the E by longitude 113°00'00" W.

Boone, Iowa
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Boone Municipal Airport (lat. 42°03'00"N., long. 93°50'45"W.) and within 3 miles each side of the 338° bearing from the Boone Municipal Airport, extending from the 5-mile radius area to 8 miles north of the airport, and within 3 miles each side of the 164° bearing from the Boone Municipal Airport extending from the 5-mile area to 8 miles south of the airport, excluding that portion which overlies the Ames, Iowa, transition area.

AMENDMENTS 3/23/78 43 F. R. 951 (Rewritten)

Booneville, Mo.
That airspace extending upward from 700 feet above the surface within a [illegible]-mile radius of the Jesse Viertel Airport (latitude 38°56'50" N., longitude 92°41'19" W.); and within 3 miles each side of the 011° bearing from the Jesse Viertel Airport, extending from the 5-mile radius area to 8 miles north of the airport; and that airspace extending upward from 1,200 feet above the surface within an area north of the Jesse Viertel Airport bounded on the south by the north edge of V-4; on the northwest by the southeast edge of V-424; and on the northeast by the southwest edge of V-175, excluding the portion which overlies the Moberly, Missouri, transition area; and that airspace extending upward from 1,200 feet above the surface within an area south of the Jesse Viertel Airport bounded on the north by the southwest edge of V-12S; on the east by the west edge of V-63, excluding the portion which overlies the Columbia, Missouri, transition area; on the south by the north edge of V-234; and on the west by the east boundary of the Sedalia, Missouri, transition area.

Borger, Tex.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of Hutchinson County Airport, Borger, Tex., (latitude 35°41'55" N., longitude 101°23'40" W.), within 2 miles each side of the Borger, Tex., VOR 185° and 005° radials extending from the 7-mile radius area to 8 miles N of the VOR.

Boscobel, Wis.
That airspace extending upward from 700' above the surface within an 8½ mile radius of the Boscobel Airport (latitude 43°09'30" N., longitude 90°40'45" W).

Boston, Mass.
That airspace extending upward from 700 feet above the surface bounded by a line beginning at: latitude 42° 53'00" N., longitude 71°05'00" W., to latitude 42°52'00" N., longitude 71°02'45" W., to latitude 42°54'00" N., longitude 71°00'15" W., to latitude 42°49'45" N., longitude 70°54'00" W., to latitude 42°48'15" N., longitude 70°55'30" W., to latitude 42°43'00" N., longitude 70°46'00" W., to latitude 42°30'00" N., longitude 70°48'00"W., to latitude 42°14'00" N., longitude 70°38'00" W., to latitude 41°59'00" N., longitude 70°48'00" W., to latitude 41°59'00" N., longitude 70°53'00" W., to latitude 42°03'00" N., longitude 71°10'00" W., to latitude 42°13' 00" N., longitude 71°21'00" W., to latitude 42°21'00" N., longitude 71°25'00" W., to latitude 42°22'00" N., longitude 71°47'00" W., to latitude 42°27'00" N., longitude 71°55'00" W., to latitude 42°53'00" N., longitude 71°55'00" W., to latitude 42°45'00" N., longitude 71°38'25" W., to latitude 42°43'00" N., longitude 71°36'00" W. to latitude 42°40'00" N., longitude 71°35'00" W., to latitude 42°38'00" N., longitude 71°20'00" W., to latitude 42°43'00" N., longitude 71°15'00" W., to the point of beginning; and within 3.5 miles each side of the 154° bearing from the Stoughton, Mass., NDB, 42°07'10" N., 71°07'41" W., extending from the NDB to 10.5 miles southeast of the NDB.

AMENDMENTS 11/2/78 43 F. R. 39750 (Changed)

Boulder Junction, Wis.
That airspace extending upward from 700 feet above the surface within a 5½-mile radius of Boulder Junction Airport (latitude 46°08'15" N., longitude 89°38'45" W.); and within 3 miles each side of the 049° bearing from the Boulder Junction Airport, extending from the 5½-mile radius area to 8 miles northeast of the airport.

Bowie, Tex.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Bowie Municipal Airport (latitude 33°36'15" N., longitude 97°46'27" W.), and within 2 miles each side of the Bridgeport VORTAC 359° radial extending from the 5-mile radius area to 31 miles north of the VORTAC.

Bowling Green, Ky.
That airspace extending upward from 700 feet above the surface within an 11-mile radius of Bowling Green-Warren County Airport (lat. 36°57'47" N., long. 86°25'07" W.); within 4.5 miles each side of Bowling Green VORTAC 206° radial, extending from the 11-mile radius area to 11 miles southwest of the VORTAC.

Bowling Green, Mo.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Bowling Green Municipal Airport (lat. 39°22'15"N., long. 91°13'30"W.) and within 2½ miles each side of the Quincy, Ill., VORTAC 174° radial extending from the 5-mile radius area to 7 miles north of the airport.

AMENDMENTS 11/2/78 43 F. R. 38377 (Added)

Bowman, N. D.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Bowman Municipal Airport (lat. 46°11'15"N., long. 103°25'15"W.); and that airspace extending upward from 1200 feet above the surface within 9.5 miles south and 4.5 miles north of the 311°T bearing from the Bowman NDB (lat. 46°10'26"N., long. 103°25'03"W.) extending from 6.5-mile radius area to 18.5 miles northwest; and within 9.5 miles north and 4.5 miles south of the 123°T bearing from the Bowman NDB extending from the 6.5-mile radius area to 18.5 miles southeast; and within 5 miles each side of the 212°T bearing from the Bowman NDB extending from the 6.5-mile radius area to 35 miles southwest; and within 5 miles each side of 034°T bearing from the Bowman NDB extending from the 6.5-mile radius area to the Dickinson, N. D., VORTAC.

Boyne Falls, Mich.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Boyne Mountain Airport (latitude 45°10'03" N., longitude 84°55'30" W.); and within 4½ miles west and 9½ miles east of the 176° bearing from the Boyne Mountain Airport extending from the airport to 17½ miles south of the airport excluding that position which overlies the Gaylord, Mich., Bellaire, Mich., and Grayling, Mich., transition areas.

Bozeman, Mont.
That airspace extending upward from 700 feet above the surface within an 11-mile radius of Gallantin Field (lat. 45°46'50"N., long. 111°09'20"W.) and within 5.5 miles northeast and 9.5 miles southwest of the Bozeman ILS northwest localizer course extending from the 11-mile radius area to 28 miles northwest of Gallatin Field, and that airspace extending upward from 1,200 feet above the surface bounded on the south by the northern edge of V-86, on the west by the east edge of V-21, on the north by the Helena, Mont., 1,200-foot transition area, on the east by a point 6 miles east of V-2, excluding that area designated as the Butte, Mont., 1,200-foot transition area.

AMENDMENTS 11/2/78 43 F. R. 41382 (Rewritten)

Bradford, Pa.
That airspace extending upward from 700 feet above the surface within a 12-mile radius of the center, 41° 48°09' N., 78°38'27" W., of Bradford Regional Airport, Bradford, Pa.; within 3.5 miles each side of the Bradford Regional Airport ILS localizer southeast course, extending from the OM to 11.5 miles southeast of the OM; within 5 miles each side of the Bradford, Pa., VORTAC 139° radial, extending from the VORTAC to 11.5 miles southeast of the VORTAC; within 5 miles each side of the Bradford, Pa., VORTAC 316° radial, extending from the VORTAC to 18.5 miles northwest of the VORTAC.

Brainerd, Minn.
That airspace extending upward from 700 feet above the surface within a 9-mile radius of the Brainerd-Crow Wing County Airport (lat. 46°23'52"N., long. 94°08'12"W.); within 2 3/4 miles each side of the 120° radial of the Brainerd, VORTAC extending from the 9-mile radius area to 7½ miles southeast of the VORTAC; and within 2 3/4 miles each side of the Brainerd VORTAC 302° radial extending from the 9-mile radius area to 21 miles northwest of the VORTAC.

Breckenridge, Tex.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Stephens County Airport (latitude 32°43'01" N., longitude 98°53'34" W.) and within 3.5 miles each side of the 004° bearing from the Breckenridge RBN (latitude 32°44'50" N., longitude 98°53'27" W.) extending from the 5-mile radius area to 11.5 miles north of the RBN.

Brenham, Tex.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Brenham Municipal Airport (latitude 30°12'57" N., longitude 96°22'34" W.) and within 3 miles each side of the 341° bearing from the NDB (latitude 30°13'16" N., longitude 96°22'40" W.) extending from the NDB to 8 miles northwest.

Brewton, Ala.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Brewton Municipal Airport (lat. 31°03'00" N., long. 87°04'00" W.); within 5 miles each side of Crestview, Fla., VORTAC 303° radial, extending from the 6.5-mile radius area to 16 miles northwest of the VORTAC.

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Bridgeport, Conn.
That airspace extending upward from 700 feet above the surface within an 11-mile radius of the center, latitude 41°09'48" N., longitude 73°07'34" W., of the Igor I. Sikorsky Memorial Airport, Bridgeport, Conn., extending clockwise from a 013° bearing to a 055° bearing from the airport within a 8.5-mile radius of the center of the airport extending clockwise from a 055° bearing to a 248° bearing from the airport; within an 11-mile radius of the center of the airport extending clockwise from a 248° bearing to a 291° bearing from the airport; within a 12.5-mile radius of the center of the airport extending clockwise from a 291° bearing to a 326° bearing from the airport; within a 13.5-mile radius of the center of the airport, extending clockwise from a 326° bearing to a 013° bearing from the airport; within 6.5 miles northwest and 4.5 miles southeast of the Bridgeport, Conn., VOR 042° radial extending from the Bridgeport, Conn., VOR to 17.5 miles northeast of the Bridgeport, Conn., VOR; within an 8.5-mile radius of the center, latitude 41°15'51" N., longitude 72°53' 15" W., of the Tweed-New Haven Airport, New Haven, Conn.; within 5 miles southeast and 5 miles northwest of the Hartford, Conn., VORTAC 222° radial extending from 32 miles southwest of the Hartford, Conn., VORTAC to 14 miles southwest of the Hartford, Conn., VORTAC; within 5 miles northeast and 5 miles southwest of the Pawling, N. Y., VORTAC 138° radial extending from 31 miles southeast to 44 miles southeast of the Pawling, N.Y., VORTAC; within 5 miles northwest and 5 miles southeast of the Carmel, N. Y., VORTAC 065° radial extending from the Carmel, N. Y., VORTAC to 28 miles northeast of the Carmel, N. Y., VORTAC; within 5 miles north and 5 miles south of the Carmel, N. Y., VORTAC 093° radial extending from the Carmel, N. Y., VORTAC to 28 miles east of the Carmel, N. Y., VORTAC. That airspace extending upward from 1,200 feet above the surface bounded by a line beginning at: latitude 41°31'00" N., longitude 73°30'00" W., to latitude 41°31'00" N., longitude 73°20' 00" W., to latitude 41°49'00" N., longitude 73°16'00" W., to latitude 41°31'00" N., longitude 72°46'00" W., to latitude 41°18'00" N., longitude 72°30'30" W., to latitude 41°00'00" N., longitude 72°45'00" W., to latitude 41°00'00" N., longitude 73°33'00" W., to latitude 41°10'00" N., longitude 73°33'00" W., to latitude 41° 20'00"N., longitude 73°23'00"W., to latitude 41°25'00"N., longitude 72°30'00"W., to point of beginning, and within 5 miles north and 5 miles south of a 274° bearing and a 094° bearing from a point lat. 41°02' 00"N., long. 73°18'45"W., extending 6 miles west and 3 miles east of said point.

AMENDMENTS 5/18/78 43 F. R. 14960 (Changed)

Brigham City, Utah
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Brigham City Airport (latitude 41°32'30" N., longitude 112°03'30" W.), and within 4.5 miles each side of the 205° T (188°M) bearing from the Brigham City RBN (latitude 41°30'58" N., longitude 112°04'38" W.) extending from the 5-mile radius area to 8 miles southwest of the RBN.

Brinkley, Ark.
That airspace extending upward from 700 feet above the surface within a 7-statute-mile radius of Frank Federer Memorial Airport, Brinkley, Ark. (lat. 34°52'45"N., long. 91°10'40"W.); and within 3.5 statute miles each side of the 030° bearing from Brinkley NDB (lat. 34°52'49"N., long. 91°10'43"W.), extending from the 7-mile radius area to 11.5 statute miles northeast of the NDB.

Brockport, N. Y.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, 43°10'53"N., 77°54'55"W., of Ledgedale Airpark, Brockport, N. Y.

Broken Bow, Nebr.
That airspace extending upward from 700 feet above the surface within a 5½-mile radius of Broken Bow Municipal Airport (latitude 41°26'05" N., longitude 99°38'25" W.); and within 3 miles each side of the 321° bearing from Broken Bow Municipal Airport, extending from the 5½-mile radius area to 8 miles northwest of the airport.

Brookhaven, Miss.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Brookhaven-Lincoln County Airport (lat. 31°36'20"N., long. 90°24'00"W.).

AMENDMENTS 7/13/78 43 F. R. 1442 (Changed)

Brookings, S. Dak.
That airspace extending upward from 700 feet above the surface within a 9.5-mile radius of the Brookings, S. Dak., Municipal Airport (latitude 44°18'12" N., longitude 96°48'40" W.); within 4.5 miles northeast and 9.5 miles southwest of the Brookings VOR 316° radial extending from the 9.5-mile radius area to 18.5 miles northwest of the VOR; within 9.5 miles southwest of the Brookings VOR 300° radial extending from the 9.5-mile radius area to 18.5 miles northwest of the VOR; and that airspace extending upward from 1,200 feet above the surface within 4.5 miles southwest and 9.5 miles northeast of the Brookings VOR 118° radial extending from the 9.5-mile radius area to 18.5 miles southeast of the VOR.

Brooksville, Fla.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Hernando County Airport (lat. 28°28'12" N., long. 82°27'30" W.); within 3 miles each side of the 276° bearing from Brooksville RBN (lat. 28°28'25" N., long. 82°27'00" W.), extending from the 6.5-mile radius area to 8.5 miles west of the RBN.

Brownfield, Tex.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Brownfield, Tex., Terry County Airport (latitude 33°10'29" N., longitude 102°11'29" W.) and within 3.5 miles each side of a 200° bearing from the Brownfield nondirectional beacon (latitude 33°10'45" N., longitude 102°11'30" W.) extending from the 5-mile radius area to 8 miles south of the radio beacon.

Brownsville, Tex.
That airspace overlying the United States extending upward from 700 feet above the surface within a 7-mile radius of the Brownsville International Airport (latitude 25°54'25" N., longitude 97°25'25" W.).

Brownwood, Tex.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of Brownwood Municipal Airport (latitude 31°47'40" N., longitude 98°57'25" W.); and within 2 miles each side of the Brownwood VOR 360° and 180° radials, extending from the 6-mile radius area to 8 miles N of the VOR.

Brunswick, Ga.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Malcolm-McKinnon Airport (lat. 31°09'05" N., long. 81°23'20" W.); within a 5-mile radius of Jekyll Island Airport (lat. 31°04'00" N., long. 81°25'40" W.); within 5 miles each side of Brunswick VOR 215° radial, extending from the Malcolm-McKinnon Airport 8.5-mile and Jekyll Island Airport 5-mile radius areas to 8.5 miles south of the VOR; within an 8.5-mile radius of Glynco Jetport (lat. 31° 15'32"N., long. 81°27'59"W.); within 3 miles each side of the Golden Isle localizer west course, extending from 8.5-mile radius area to 8.5 miles west of the LOM; excluding the portion outside the continental limits of the United States.

Brunswick, Maine
That airspace extending upward from 700 feet above the surface within a 9-mile radius of NAS Brunswick (lat. 43°53'35" N., long. 69°56'20" W.); within 2 miles each side of the Navy Brunswick VOR 166° radial, extending from the 9-mile radius area to 12 miles south of the VOR.

Bryan, Ohio
That airspace extending upward from 700 feet above the surface within a 7-mile radius of the center (41°28'05" N., 84°30'25" W.) of Williams County Airport, Bryan, Ohio; within 2 miles each side of the Runway 25 centerline extended from the 7-mile radius area to 7 miles west of the end of the runway and within 2 miles each side of a 068° bearing from the Bryan, Ohio, RBN (41°28'47" N., 84°27'58" W.) extending from the RBN to 8 miles east of the RBN, excluding the portion which coincides with the Defiance, Ohio, transition area.

Bryce Canyon, Utah
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Bryce Canyon Airport (latitude 37°42'00" N., longitude 112°09'30" W.) and within 2 miles each side of the Bryce Canyon, Utah, VORTAC 085° radial, extending from the 5-mile radius area to the VORTAC; and that airspace extending upward from 1,200 feet above the surface within 8 miles southeast and 9½ miles northwest of the Bryce Canyon VORTAC 240° and 060° radials, extending from 18½ miles southwest to 13 miles northeast of the VORTAC.

Bucyrus, Ohio
That airspace extending upward from 700 feet above the surface within a 5.5 mile radius of the Port Bucyrus Airport (lat. 40°46'30"N., long. 82°58'15"W.).

Buffalo, N. Y.
That airspace extending upward from 700 feet above the surface within an 8-mile radius of the center, 42°56'20" N., 78°43'50" W., of Greater Buffalo International Airport; within 2 miles each side of the Buffalo VORTAC 096° radial extending from the 8-mile radius area to 8 miles east of the VORTAC; within 8 miles northwest and 5 miles southeast of the Greater Buffalo International Airport northeast localizer course extending from the OM to 12 miles northeast of the OM; within 2 miles each side of the Greater Buffalo International Airport southwest localizer course extending from the 8-mile radius area to 8 miles southwest of the OM; within the arc of a 12-mile radius circle from 052° to 112° clockwise, centered on a point, 42°56'26" N., 78°44'11" W.; within an 8-mile radius of the center, 43°06'20" N., 78°56'55" W., of Niagara Falls International Airport; within 8 miles north and 5 miles south of the Niagara Falls International Airport localizer east course extending from the OM to 12 miles east of the OM; within 2 miles each side of the Niagara Falls International Airport localizer east course extending from the OM to the intersection of the localizer course and the Buffalo, N.Y. VORTAC 034° radial; within a 5.5-mile radius of the center latitude 43°01'15" N., longitude 78°29'08" W. of Akron Airport, Akron, N. Y.; within 2.5 miles each side of the Buffalo, N. Y., VORTAC 052° radial, extending from the 5.5-mile radius area to 17.5 miles northeast of the VORTAC; and within a 5-mile radius of Buffalo Airpark Airport, 42°51'45" N., 78°43'00" W.;
and that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at latitude 43°21'00" N., longitude 78°00'00" W., to latitude 43°06'00" N., longitude 78°21'00" W., to latitude 42°32'00" N., longitude 78°21'00" W., to latitude 42°32'00" N., longitude 78°52'00" W., to latitude 42°37'00" N., longitude 79°15'00" W., to latitude 42°41'00" N., longitude 79°19'30" W., thence via the United States/Canadian border to longitude 78°00'00" W., thence south along longitude 78°00'00" W., to the point of beginning, excluding the portion outside the United States.

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Buffalo, Okla.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Buffalo Municipal Airport, Buffalo, Okla., (lat. 36°51'45"N., long. 99°37'00"W.) within 3.5 miles each side of the 290° bearing from the Buffalo NDB (lat. 36°51'48"N., long. 99°37'05"W.) extending from the 6-mile radius to 11.5 miles east of the NDB.
AMENDMENTS 1/26/78 42 F. R. 61037 (Rewritten)

Buffalo, Wyo.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Buffalo, Wyo., Airport (latitude 44°22'48" N., longitude 106°43'02" W.) and within 4.5 miles each side of the Crazy Woman, Wyo., VORTAC 332° radial, extending from the 6-mile radius area to 12 miles northwest of the VORTAC; that airspace extending upward from 1,200 feet above the surface within 9.5 miles northeast and 5.5 miles southwest of the Crazy Woman VORTAC 332° radial, extending from 4 miles to 30 miles northwest of the VORTAC.

Bunkie, La.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Bunkie Municipal Airport (latitude 30°57'25" N., longitude 92°14'02" W.).

Bunnell, Fla.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Flagler County Airport (lat. 29°27'35"N., long. 81°12'30"W.) excluding that portion that coincides with the Daytona Beach, Fla., transition area.
AMENDMENTS 5/18/78 43 F. R. 13869 (Added)

Burbank, Calif.
That airspace extending upward from 700 feet above the surface bounded by a line beginning at latitude 34° 14' 00" N., longitude 118° 27' 00" W.; to latitude 34° 14' 00" N., longitude 118° 15' 00" W.; to latitude 34° 12' 00" N., longitude 118° 15' 00" W.; to latitude 34° 12' 00" N., longitude 117° 59' 00" W.; to latitude 33° 56' 00" N., longitude 117° 59' 00" W.; to latitude 33° 56' 00" N., longitude 118° 07' 00" W.; to latitude 34° 00' 00" N., longitude 118° 07' 00" W.; to latitude 34° 00' 00" N., longitude 118° 15' 00" W.; to latitude 34° 05' 00" N., longitude 118° 15' 00" W.; to latitude 34° 05' 00" N., longitude 118° 33' 00" W.; to latitude 34° 02' 30" N., longitude 118° 33' 00" W.; to latitude 34° 02' 30" N., longitude 118° 53' 30" W.; to latitude 34° 21' 30" N., longitude 118° 53' 00" W.; to latitude 34° 30' 30" N., longitude 118° 27' 00" W.; thence to point of beginning; and that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at latitude 34° 30' 00" N., longitude 118° 50' 00" W.; to latitude 34° 30' 00" N., longitude 118° 45' 00"W.; thence N along longitude 118° 45' 00" W. to the S boundary of V-137, thence along the S boundary of V-137 to longitude 118° 20' 00" W.; to latitude 34° 30' 00" N., longitude 118° 20' 00" W.; to latitude 34° 30' 00" N., longitude 117° 43' 00" W.; to latitude 34° 10' 00" N., longitude 117° 43' 00" W.; to latitude 34° 10' 00" N., longitude 117° 59' 00" W.; to latitude 34° 05' 00" N., longitude 117° 59' 00" W.; to latitude 34° 05' 00" N., longitude 118° 33' 00" W.; to latitude 34° 00' 00" N., longitude 118° 33' 00" W.; to latitude 34° 00' 00" N., longitude 118° 50' 00" W.; thence to point of beginning.

Burley, Idaho
That airspace extending upward from 700 feet above the surface within 5.5 miles each side of the Burley VORTAC 121° radial extending from the VORTAC to 27 miles southeast of the VORTAC; within 5.5 miles each side of the Burley VORTAC 292° radial, extending from the VORTAC to 19 miles west of the VORTAC; within that airspace bounded on the southwest by a line parallel to and 9.5 miles southwest of the Burley VORTAC 323° radial, on the northwest by an arc of a 53-mile radius circle centered on Burley VORTAC, on the north by a line parallel to and 10 miles north of V-500, on the east by a line parallel to and 11 miles east of Burley 344° radial; and within 2.5 miles southeast and 6 miles northwest of the 036° bearing from Burley Municipal Airport, extending 9.5 miles northeast of the Burley Airport;
that airspace extending upward from 1,200 feet above the surface north of Burley bounded by a line 8 miles northwest of, and parallel to V-365 extending from the Burley VORTAC to the south edge of V-500; that airspace northeast of Burley bounded on the northeast by V-500, on the southeast by V-269, on the northwest by V-365; that airspace east of Burley bounded on the north by V-269 on the east by an arc of a 28-mile radius circle, centered on the Burley VORTAC, on the southwest by V-4; that airspace southeast of Burley bounded on the north by V-4, on the southeast by arc of a 33.5-mile circle centered on the Burley Municipal Airport (latitude 42°32'29" N., longitude 113°46'27" W.) on the southwest by the northeast edge of V-101; that airspace southwest of Burley within 14 miles southeast of the Burley VORTAC 223° radial, extending from the VORTAC to the north edge of V-484.

Burlington, Iowa
That airspace extending upward from 700 feet above the surface within an 8½-mile radius of Burlington Municipal Airport (latitude 40°46'55" N., longitude 91°07'40" W.); and within 2 miles each side of the 293° radial of the Burlington VORTAC extending from the 8½-mile radius area to the Burlington VORTAC.

Burlington, N. C.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Burlington Municipal Airport (latitude 36°02'45" N., longitude 79°28'40" W.); within 3 miles each side of the Greensboro VORTAC 090° radial, extending from the 6.5-mile radius area to 17 miles east of the VORTAC;
within 3 miles each side of the 218° bearing from Burlington RBN (latitude 36°02'59" N., longitude 79°28'49" W.), extending from the 6.5-mile radius area to 8.5 miles southwest of the RBN; excluding that portion within the Liberty, N. C., transition area.

Burlington, Vt.
That airspace extending upward from 700 feet above the surface within a 14-mile radius of the center, (lat. 44°28'17"N., long. 73°09'13"W.), of Burlington International Airport, Burlington, Vt.; within 9.5 miles northeast and 4.5 miles southwest of the Burlington ILS northwest localizer course, extending from the 14-mile radius area to 18.5 miles northwest of the Burlington LOM; within 3.5 miles each side of the Burlington, Vt., VORTAC 201° radial, extending from the 14-mile radius area to 12 miles southwest of the VORTAC; excluding that airspace that coincides with Plattsburgh, N. Y., and Highgate, Vt., transition areas. That airspace extending upward from 1,200 feet above the surface within an area bounded by a line beginning at lat. 45° 00'30"N., long. 72°00'00"W., to lat. 44°55'00"N., long. 72°05'00"W., to lat. 44°25'00"N., long. 72°20'00"W., to lat. 43°55'00"N., long. 72°16'00"W., to lat. 43°47'00"N., long. 72°39'00"W., to lat. 44°00'00"N., long. 73°16'00"W., to lat. 44°00'00"N., long. 74°35'00"W., to lat. 44°42'00"N., long. 74°54'00"W., to lat. 44°42'00"N., long. 75°05'00"W., to lat. 44°56'00"N., long. 75°05'00"W., thence easterly along the United States-Canadian Border to the point of beginning.

Burlington, Wis.
That airspace extending upward from 700 feet above the surface within a 6½-mile radius of Burlington Municipal Airport (latitude 42°41'20" N., longitude 88°18'05" W.); and within 3 miles each side of the 101° bearing from the Burlington Municipal Airport extending from the 6½-mile radius area to 8 miles east of the airport.

Burnet, Tex.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Burnet Municipal-Kate Craddock Field (latitude 30°44'34" N., longitude 98°14'24" W.), and within 3.5 miles each side of the 191° bearing from the Burnet RBN (latitude 30°44'35" N., longitude 98°14'38" W.) extending from the 5-mile radius area to 10 miles south of the RBN.

Burwell, Nebr.
That airspace extending upward from 700 feet above the surface within a 7½-mile radius of Burwell Municipal Airport (latitude 41°46'35" N., longitude 99°08'55" W.); and within 3 miles each side of the 330° bearing from the Burwell Municipal Airport, extending from the 7½-mile radius area to 8 miles northwest of the airport.

Butler, Mo.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Butler Memorial Airport (latitude 38°17'20" N., longitude 94°20'25" W.); and within 2 miles each side of the Butler, Mo., VORTAC 079° radial, extending from the 5-mile radius area to the VORTAC.

Butler, Pa.
That airspace extending upward from 700 feet above the surface within a 7.5-mile radius of the center, lat. 40°46'45" N., long. 79°57'15" W. of Butler-Graham Airport, Butler, Pa., and within 3.5 miles each side of the 181° bearing from the Butler RBN, lat. 40°41'54" N., long. 79°57'14" W., extending from the 7.5-mile radius area to 11.5 miles south of the RBN.

Butte, Mont.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Butte VORTAC and within 6 miles southwest and 10 miles northeast of the VORTAC 325° radial, extending from the VORTAC to 11 miles northwest of the VORTAC; and that airspace extending upward from 1,200 feet above the surface within 4½ miles southwest and 9½ miles northeast of the VORTAC 325° radial extending from the VORTAC to 18.5 miles northwest of the VORTAC, and within 4½ miles west and 9½ miles east of the VORTAC 002° radial extending from the VORTAC to 18.5 miles north of the VORTAC, and within 10 miles north and 7 miles south of the Whitehall, Mont., VOR 096° and 276° radials, extending from 20 miles east of 19 miles west of the VOR.

Cadillac, Mich.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Wexford County Airport (lat. 44°16'30"N., long. 85°25'30"W.); and within 5 miles SE and 8 miles NW of the 238° bearing from Cadillac Airport, extending from the airport to 12 miles SW of the airport, excluding that portion which overlies the Reed City, Mich., transition area; and within 2.5 miles either side of 081° bearing of the Cadillac NDB extending from the 5-mile radius to 7 miles east of the airport.

AMENDMENTS 5/18/78 43 F. R. 11571 (Rewritten)

Cadiz, Ohio
That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Harrison County Airport (latitude 40°14'18" N., longitude 81°00'45" W.); within 3 miles each side of the 311° bearing from the airport, extending from the 7-mile radius area to 8 miles northwest of the airport.

Cairo, Ill.
That airspace extending upward from 700 feet above the surface within a 5½-mile radius of Cairo Airport (lat. 37°03'50"N., long. 89°13'15"W.); and within 3 miles each side of the 032° bearing from the airport extending from the 5½-mile radius to 8 miles northeast of the airport.

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Caledonia, Minn.
That airspace extending upward from 700 feet above the surface within a 5-statute-mile radius of the Houston County Airport (lat. 43°35'48"N., long. 91°30'15"W.) and within 2 miles each side of the 185° true radial of the Nodine VORTAC extending from the 5-mile radius to 6 miles north of the airport and within 3 miles either side of 133° true bearing of the Caledonia NDB extending from the 5-mile radius to 8.5 miles southeast of the airport, excluding that portion which has been previously designated for the LaCrosse, Wisc., airport.

AMENDMENTS 1/26/78 42 F. R. 55447 (Rewritten)

Calverton, N. Y.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Peconic River Plant (Grumman) Airport.,
(latitude 40°54'55" N., longitude 72°47'35" W.).

Cambridge, Md.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center, lat. 38°32'16" N., 76°01'47" W. of Cambridge Municipal Airport, Cambridge, Md.; and within 3 miles each side of the 145° bearing from the Cambridge, Md., RBN, 38°32'17" N., 76°01'56" W., extending from the 6.5-mile radius area to 8.5 miles southeast of the RBN.

Cambridge, Minn.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Cambridge Municipal Airport (latitude 45°33'35" N., longitude 93°15'49" W.); and within 3 miles each side of the 173° bearing from the airport, extending from the 5-mile radius area to 8 miles south of the airport.

Cambridge, Ohio
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Cambridge Municipal Airport, Ohio (latitude 39°58'33" N., longitude 81°34'37" W.); and within 3 miles each side of the 214° bearing from the Cambridge Municipal Airport extending from the 5-mile radius to 8 miles southwest.

Camden, Ark.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Harrell Airport (latitude 33°37'00" N., longitude 92°45'45" W.) and within 2 miles each side of the 012° bearing from the Camden RBN (latitude 33°37'15" N., longitude 92°45'45" W.), extending from the 5-mile radius area to 8 miles north of the RBN and 2.5 miles each side of the El Dorado, Ark., VORTAC (33°15'21.7" N., 92°44'37.6" W.) 356° radial extending from the 5-mile radius area to 20 miles north of the El Dorado VORTAC.

Camden, S. C.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of Woodward Field (latitude 34°17'03" N., longitude 80°33'53" W.); within 3 miles each side of the 040° bearing from Camden RBN (latitude 34°17'02" N., longitude 80°33'42.5" W.), extending from the 7-mile radius area to 8.5 miles northeast of the RBN.

Camden, Tenn.
That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the Benton County Airport (lat. 36°00'40"N., long. 88°07'24"W.).

Cameron, Ariz.
That airspace extending upward from 1,200 feet above the surface within a three-mile radius of Humphreys Peak (lat. 35°21'00" N., long. 111°40'25" W.), and that airspace extending upward from 11,700 feet mean sea level (MSL) bounded by a line beginning at lat. 34°52'20"N., long. 112°00'00"W., to lat. 35°26'00"N., long. 112°00'00"W., to lat. 35°58'00"N., long. 111°43'30"W., to lat. 36°06'30"N., long. 111°00'00"W., to lat. 35°56'00"N., long. 110°21'00"W., thence south via long. 110°21'00"W., to the northwest edge of V-95, thence southwest via the northwest edges of V-95 and V-12 to point of beginning excluding that portion within the 1,200 foot area of Humphreys Peak.

Camilla, Ga.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Camilla-Mitchell County Airport (lat. 31°12'45"N., long. 84°14'20"W.); within 3 miles each side of the 253° bearing from the Camilla RBN (lat. 31°12'52"N., long. 84°14'13"W.), extending from the 6.5-mile radius area to 8.5 miles west of the RBN.

Campbellsville, Ky.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Taylor County Airport (latitude 37°21'05"N., longitude 85°18'45"W.); within 3 miles each side of the 203° bearing from the Arista RBN (latitude 37°21'19" N., longitude 85°18'54" W.), extending from the 6.5-mile radius area to 8.5 miles southwest of the NDB.

Camp Douglas, Wis.
That airspace extending upward from 700 feet above the surface, within a 10-mile radius of Volk Field, Camp Douglas, Wis. (latitude 43°56'25" N., longitude 90°15'20" W.), and within 2 miles each side of the Volk Field VORTAC 092° radial extending from the 10-mile radius to 12 miles E of the VORTAC.

Camp McCoy, Wis.
That airspace extending upward from 700 feet above the surface within an 11-mile radius of the McCoy Army Air Field (latitude 43°57'15" N., longitude 90°44'15" W.), excluding that portion that overlies the La Crosse, Wisconsin, transition area.

Camp Pendleton, Calif.
That airspace extending upward from 700 feet above the surface within 4.5 miles southeast and 3 miles northwest of the Camp Pendleton TACAN (latitude 33°18'04" N., longitude 117°21'06" W.) 041° radial, extending from the TACAN to 18 miles northeast of the TACAN.

Camp Ripley, Minn.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of Ray S. Miller Army Air Field (latitude 46°05'00" N., longitude 94°21'10" W.).

Canadian, Tex.
That airspace extending upward from 700 feet above the surface within a 5.5-statute mile radius of Hemphill County Airport, Canadian, Tex. (lat. 35°53'45" N., long. 100°24'06" W.), including an extension from the 5.5-statute mile radius area to 8.5 statute miles southwest of the NDB and 3 statute miles either side of the 054° bearing to the NDB.

Cape Girardeau, Mo.
That airspace extending upward from 700 feet above the surface within a 10-mile radius of Cape Girardeau Municipal Airport (latitude 37°13'31" N., longitude 89°34'15" W.); within 4.5 miles east and 9.5 miles west of the Cape Girardeau VOR 194° radial, extending from the 10-mile radius area to 18.5 miles south of the VOR, excluding the portion which overlies the Sikeston transition area.

Cape Hatteras, N. C.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Billy Mitchell Airport (latitude 35°14'00" N., longitude 75°37'05" W.); excluding the portion outside the continental limits of the United States.

Carlsbad, N. Mex.
That airspace extending upward from 700 feet above the surface within an 8.5 mile radius of Cavern City Air Terminal (lat. 32°20'14"N., long. 104°15'46"W.) and within 3.5 miles each side of the Carlsbad VOR 156° radial extending from the 8.5-mile-radius area to 11 miles southeast of the VOR.

Carmi, Ill.
That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the Carmi Municipal Airport (latitude 38°06'00" N., longitude 88°09'00" W.); and within 3 miles either side of the 177° bearing from the airport extending from the 5.5-mile radius area to 8 miles from the airport.

Caro, Mich.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Caro Airport (lat. 43°27'45"N.. long. 83°26'30"W.).

Carrizo Springs, Tex.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Dimmit County Airport (latitude 28°31'25" N., longitude 99°49'30" W.) and within 3 miles each side of the 124° bearing from the NDB (latitude 28°31'19" N., longitude 99°49'38" W.) extending from the NDB to 8.5 miles southeast.

Carroll, Iowa
That airspace extending upward from 700 feet above the surface within a 6½-mile radius of Arthur N. Neu Airport (latitude 42°02'50" N., longitude 94°47'20" W.); and within 3 miles each side of the 143° bearing from Arthur N. Neu Airport, extending from the 6½-mile radius area to 8 miles southeast of the airport.

Carrollton, Ga.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of West Georgia Regional Airport (latitude 33°37'47" N., longitude 85°09'13" W.); within 3 miles each side of the 169° bearing from Carrollton RBN (latitude 33°38'02" N., longitude 85°09'13" W.), extending from the 6.5-mile radius area to 8.5 miles south of the RBN.

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Carrollton, Ohio
That airspace extending upward from 700 feet above the surface within an 8½-mile radius of the Carroll County-Tolson Airport (latitude 40°33'45" N., longitude 81°04'30" W.).

Cartersville, Ga.
That airspace extending upward from 700 feet above the surface within a 9-mile radius of Cartersville Airport (latitude 34°07'30" N., longitude 84°51'00" W.).

Carthage, Tex.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Panola County Airport (latitude 32°10'21" N., longitude 94°17'51" W.) and within 3 miles each side of the Gregg County VORTAC (latitude 32°25'03.3" N., longitude 94°45'10.5" W.) 122° radial, extending from the 5-mile radius area to 25 miles southeast of the Gregg County VORTAC.

Casey, Ill.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Casey Municipal Airport (latitude 39°18'00" N., longitude 88°00'15" W.); and within 3 miles each side of the 211° bearing from the airport extending from the 5-mile radius area to 8 miles southwest of the airport.

Casper, Wyo.
That airspace extending upward from 700 feet above the surface within a 27 mile radius of the Casper ASR (latitude 42°55'17"N., longitude 106°27'14"W.); and that airspace extending upward from 1200 feet above the surface within a 43 mile radius of the Casper ASR; within an area extending from the 43 mile radius circle to an arc of a 42 mile radius circle centered on the Casper VORTAC bounded on the north by the Casper VORTAC 060° radial and on the south by the Casper VORTAC 111° radial; and that airspace extending upward from 11,500 feet MSL, extending from the 43 mile radius circle to an arc of a 60 mile radius circle centered on the Casper VORTAC, bounded on the east by the west edge of V19 and on the south by the north edge of V298.

Cassville, Mo.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Cassville Municipal Airport (lat. 36°41'46"N., long. 93°53'56"W.); and within 2.5 miles each side of the Neosho VORTAC 108° radial, extending from the 5-mile radius area to 25 miles east of the VORTAC.

AMENDMENTS 11/2/78 43 F. R. 38375 (Added)

PENDING AMENDMENT
Castroville, Tex.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Castroville Municipal Airport (lat. 29°20'32"N., long. 98°51'03"W.), within 3.5 miles each side of the 170° bearing from the NDB (lat. 29°20'45"N., long. 98°50'56"W.), extending from the 5-mile radius to 11.5 miles south of the NDB.

AMENDMENTS 12/28/78 43 F. R. 45984 (Added) Corr: 43 F. R. 51009

Cedar City, Utah
Thar airspace extending upward from 1,200 feet above the surface within 6 miles E and 10 miles W of the Cedar City VOR 184° and 004° radials extending from 8 miles S to 20 miles N of the VOR.

Cedar Rapids, Iowa
That airspace extending upward from 700 feet above the surface within a 9-mile radius of Cedar Rapids Municipal Airport (latitude 41°53'05" N., longitude 91°42'35" W.); within 4½ miles north and 9½ miles south of the Cedar Rapids ILS localizer west course, extending from the OM to 18½ miles west of the OM; and within 4½ miles north and 9½ miles south of the Cedar Rapids VORTAC 264° radial, extending from the VORTAC to 18½ miles west of the VORTAC.

Cedar Springs, Ga.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Great Southern Airport (latitude 31°08'25" N., longitude 85°02'48" W.); within 2.5 miles each side of the Dothan VORTAC 115° radial, extending from the 6.5-mile radius area to 17 miles east of the VORTAC.

Cedartown, Ga.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Cornelius Moore Field (lat. 34°01'20" N., long. 85°08'50" W.); within 3 miles each side of Rome, Ga., VOR 009° and 189° radials, extending from the 8.5-mile radius area to 8.5 miles north of the VOR; excluding the portion within Rome, Ga., transition area.

Celina, Ohio
That airspace extending upward from 700 feet above the surface within an 8-mile radius of the Lakefield Airport (latitude 40°29'03" N., longitude 84°33'37" W.); excluding that portion overlying the Wapakoneta, Ohio, transition area.

Centerville, Tenn.
That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of Centerville Municipal Airport (latitude 35°50'15" N., longitude 87°26'45" W.); within 3 miles each side of Graham, Tenn., VOR 177° radial, extending from the 5.5-mile radius area to 8.5 miles south of the VOR.

Centralia, Ill.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Centralia Municipal Airport (latitude 38°30'40" N., longitude 89°05'35" W.); and within 2 miles each side of the Centralia VOR 031° radial, extending from the 5-mile radius area to the VOR.

Centre, Ala.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Centre Municipal Airport (latitude 34°09'40" N., longitude 85°38'05" W.).

Chadron, Nebr.
That airspace extending upward from 700 feet above the surface within a 14-mile radius of Chadron Municipal Airport (latitude 42°50'00" N., longitude 103°05'50" W.), and within 5 miles each side of the Chadron VOR 030° radial, extending from the 14-mile radius area to the VOR.

Chambersburg, Pa.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center, 39°58'23"N., 77°38'37"W. of Chambersburg Municipal Airport, Chambersburg, Pa.; within an 8-mile radius of the center of the airport, extending clockwise from a 039° bearing from the airport to a 061° bearing from the airport; within a 15-mile radius of the center of the airport, extending clockwise from a 061° bearing from the airport to a 135° bearing from the airport; within an 8-mile radius of the center of the airport, extending clockwise from a 135° bearing from the airport to a 174° bearing from the airport; within a 7-mile radius of the center of the airport, extending clockwise from a 174° bearing from the airport to a 241° bearing from the airport; within 4 miles each side of the St. Thomas VORTAC 080° radial, extending from the 6.5-mile radius area to 29 miles east of the VORTAC.

AMENDMENTS 7/13/78 43 F. R. 24274 (Added)

Champaign, Ill.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of the University of Illinois-Willard Airport (latitude 40°02'25" N., longitude 88°16'35" W.); within a 5½-mile radius of the Illinois Airport, Urbana, Ill. (latitude 40°08'31" N., longitude 88°12'00" W.) and within 8 miles southeast and 5 miles northwest of the Champaign VORTAC 030° radial extending from the VORTAC to 12 miles northeast of the VORTAC.

Chantilly, Va.
That airspace extending upward from 700 feet above the surface within a 10-mile radius of the center, 38°56'40" N., 77°27'24" W., of Dulles International Airport, within 3 miles each side of the Armel, Va., VORTAC 292° radial, extending from the VORTAC to 20 miles west; within 5 miles west and 6.5 miles east of the Dulles International Airport Runway 19R ILS localizer course, extending from the OM to 13 miles north; within 6.5 miles east and 4.5 miles west of the Dulles International Airport Runway 19L ILS localizer course extending from 5.5 miles south of the OM to 11.5 miles north of the OM; within 5 miles each side of the Martinsburg, W. Va. VORTAC 176° radial, extending from 15 miles south of the VORTAC to 28.5 miles south of the VORTAC; within 6.5 miles west and 4.5 miles east of the Dulles International Airport Runway 1R localizer course, extending from the OM to 11.5 miles south; within an 8-mile radius of the center of Leesburg Municipal Airport (Godfrey Field), Leesburg, Va., 39°04'37" N., 77°33'25" W.; within a 6.5-mile radius of the center, 38°43'30" N., 77°31'00" W., of Manassas Municipal Airport (Harry P. Davis Field), Manassas, Va., within 2.5 miles each side of a 330° bearing from a point 38°43'36" N., 77°31'17" W., extending from said point to 9.5 miles northwest.

Chanute, Kans.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of Chanute Martin Johnson Airport (latitude 37°40'05" N., longitude 95°29'10" W.).

Chariton, Iowa
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Chariton Municipal Airport (latitude 41°01'00" N., longitude 93°21'30" W.); and within 3 miles each side of the 352° bearing from the Chariton Municipal Airport extending from the 5-mile-radius area to 8 miles north of the airport.

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Charles City, Iowa
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Charles City Municipal Airport (latitude 43°04'15" N., longitude 92°36'15" W.); and within 3 miles each side of the 311° bearing from Charles City Municipal Airport, extending from the 5-mile radius area to 8 miles northwest of the airport.

Charleston, Mo.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Mississippi County Airport (latitude 36°50'22" N., longitude 89°21'42" W.); and within 3 miles each side of the 188° bearing from Charleston RBN (latitude 36°50'42" N., longitude 89°21'24" W.), extending from the 6.5-mile radius area to 8.5 miles south of the RBN, excluding that portion overlying the Sikeston transition area.

Charleston, S. C.
That airspace extending upward from 700 feet above the surface within a 9-mile radius of Charleston AFB/Municipal Airport (latitude 32°53'55" N., longitude 80°02'20" W.); within 3.5 miles each side of Charleston VORTAC 018°, 211°, and 332° radials, extending from the 9-mile radius area to 11.5 miles north; southwest and northwest of the VORTAC; within 3.5 miles each side of Charleston VORTAC 135° radial, extending from the 9-mile radius area to 10.5 miles southeast of the VORTAC; within a 6.5-mile radius of Johns Island Airport (lat. 32°42'00" N., long. 80°00'00" W.); within 3 miles each side of the 278° bearing from Johns Island RBN (lat. 32°42'09" N., long. 80°00'10" W.), extending from the 6.5-mile radius area to 8.5 miles west of the RBN.

Charleston, W. Va.
That airspace extending upward from 700 feet above the surface within a 14-mile radius of the center, lat. 38°22'22"N., long. 81°35'35"W., of Kanawha Airport, Charleston, W. Va.; within 6.5 miles southwest and 5 miles northeast of a line bearing 321° from a point lat. 38°26'25" N., long. 81°39'50" W., extending from said point to 11.5 miles northwest; within 6.5 miles northeast and 5 miles southwest of a line bearing 141° from a point lat. 38°17'12" N., long. 81°30'30" W., extending from said point to 11.5 miles southeast; and within 8 miles northwest and 5 miles southeast of the Kanawha Airport ILS localizer northeast course, extending from the 14-mile radius area to 13 miles northeast of the OM.

Charlevoix, Mich.
That airspace extending upward from 700 feet above the surface within a 5½-mile radius of Charlevoix Municipal Airport (latitude 45°18'17" N., longitude 85°16'08" W.) and within 3 miles each side of the 270° bearing from Charlevoix Municipal Airport, extending from the 5½-mile radius area to 8 miles west of the airport, and within 3 miles each side of the 69° bearing from Charlevoix Municipal Airport, extending from the 5½-mile radius area to 8 miles east of the airport.

Charlotte, Mich.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of Fitch H. Beach Airport (latitude 42°34'30" N., longitude 84°48'45" W.); and within 2 miles each side of the Lansing, Mich., VOR 209° radial, extending from the 6-mile radius area to the VOR, excluding the portion which overlies the Lansing, Mich., 700-foot floor transition area.

Charlotte, N. C.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Douglas Municipal Airport (latitude 35°12'53" N., longitude 80°56'18" W.); within 3 miles each side of Charlotte VORTAC 058° radial, extending from the 8.5-mile radius area to 14 miles northeast of the VORTAC; within 9.5 miles west and 4.5 miles east of Charlotte VORTAC 171° radial, extending from the 5.5 NM DME Fix to 24 miles south of the VORTAC; within 9.5 miles northwest and 4.5 miles southeast of Charlotte VORTAC 223° radial, extending from the 5.5 NM DME Fix to 24 miles southwest of the VORTAC; within 9.5 miles northwest and 4.5 miles southeast of Charlotte ILS localizer southwest course, extending from the LOM to 18.5 miles southwest; within a 6.5-mile radius of Gastonia Municipal Airport, N. C. (latitude 35°12'00" N., longitude 81°09'05" W.); within a 6.5-mile radius of Rock Hill Municipal Airport, S. C. (latitude 34°59'05" N., longitude 81°03'30" W.); within a 7-mile radius of Jaars-Townsend Airport, Waxhaw, N. C. (latitude 34°51'50"N., longitude 80°44'50" W.); excluding the portion within Lancaster, S. C., transition area.

Charlotte Amalie, St. Thomas, V. I. (Harry S. Truman Airport)
That airspace extending upward from 700 feet above the surface within an 11-mile radius of Harry S. Truman Airport (lat. 18°20'26" N., long. 64°58'11" W.); that airspace extending upward from 1,200 feet above the surface within a 15-mile radius of Harry S. Truman Airport; within 9.5 miles west and 4.5 miles east of St. Thomas VOR 358° radial, extending from the 15-mile radius area to 18.5 miles north of the VOR.

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Charlottesville, Va.
That airspace extending upward from 700 feet above the surface within a 9-mile radius of the center, lat. 38°08'25"N., long. 78°27'09"W., of Charlottesville-Albermarle Airport, Charlottesville, Va., extending clockwise from a 340° bearing to a 072° bearing from the airport; within an 11.5-mile radius of the center of the airport, extending clockwise from a 072° bearing to a 166° bearing from the airport; within a 13-mile radius of the center of the airport, extending clockwise from a 166° bearing to a 233° bearing from the airport; within a 12.5-mile radius of the center of the airport, extending clockwise from a 233° bearing to a 280° bearing from the airport; within a 19.5-mile radius of the center of the airport, extending clockwise from a 280° bearing to a 340° bearing from the airport and within 4.5 miles each side of the Charlottesville-Albermarle Airport ILS localizer southwest course, extending from the 13-mile radius arc to 11 miles southwest of the Azalea Park RBN.

Chase City, Va.
That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the center of Chase City Municipal Airport, Chase City, Va. (lat. 36°47'18" N., long. 78°30'05" W.); and within 3 miles each side of a 179° bearing from the Chase City, Va., radio beacon (lat. 36°47'21" N., long. 78°30'05" W.), extending from the 5.5-mile radius area to 8 miles south of the radio beacon.

Chattanooga, Tenn.
That airspace extending upward from 700 feet above the surface within a 15-mile radius of Lovell Field (latitude 35°02'05" N., longitude 85°12'10" W.), extending clockwise from the 030° to the 210° bearing from Lovell Field; within a 19-mile radius of Lovell Field, extending clockwise from the 210° to the 030° bearing from Lovell Field; within 4.5 miles west and 9.5 miles east of the south ILS localizer course extending from the 19- and 15-mile radius areas to 18.5 miles south of the OM; within a 6.5-mile radius of Hardwick Field, Cleveland, Tenn. (lat. 35°13'20"N., long. 84°49'58"W.); within 3 miles each side of the 224° bearing from Hardwick RBN (lat. 35°09'13"N., long. 84°54'21"W.), extending from the 6.5-mile radius area to 8.5 miles southwest of the RBN.

AMENDMENTS 9/21/78 43 F. R. 38814 (Changed)

Cheraw, S. C.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Cheraw Municipal Airport (latitude 34°42'45" N., longitude 79°57'35" W.); within 2 miles each side of the Chesterfield VOR 077° radial extending from the 5-mile radius area to the VOR; within 2 miles each side of the 251° bearing from the Cheraw RBN (lat. 34°44'47" N., long. 79°50'40" W.), extending from the 5-mile radius area to the RBN.

Cherokee, Wyo.
That airspace extending upward from 1,200 feet above the surface within 9 miles south and 6 miles north of the Cherokee, Wyo., VORTAC 261° radial extending from 8 miles east to 19 miles west of the VORTAC; and that airspace east of the Cherokee VORTAC within an arc of a 37-mile radius circle centered on the Cherokee VORTAC bounded on the north by the north edge of V-26 and on the south by the south edge of V-4, excluding that airspace within the Rawlins, Wyo., transition area.

Cherokee Village, Ark.
That airspace extending upward from 700 feet above the surface within an 8-mile radius of Cherokee Village Airport (latitude 36°15'49" N., longitude 91°33'55" W.), within 3.5 miles each side of the 223° bearing from the Cherokee Village RBN (latitude 36°15'55" N., longitude 91°33'45" W.) extending from the 8-mile radius area to 11 miles southwest of the RBN.

Cherry Point MCAS, N. C.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Cherry Point MCAS (latitude 34°54'30" N., longitude 76°53'00" W.); excluding the portion within the New Bern, N. C., transition areas.

Chesapeake, Va.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center, 36°39'48"N., 76°19'23"W., of Chesapeake Municipal Airport, Chesapeake, Va.

AMENDMENTS 10/19/78 43 F. R. 36894 (Added)

Chester, Conn.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, 41°23'01" N., 72°30'20" W. of Chester Airport, Chester, Conn., and within 2 miles each side of the Madison VOR 062° radial extending from the 5-mile radius to the VOR.

Chester, S. C.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of Chester Municipal Airport (lat. 34°47'18" N., long. 81°11'45" W.).

Chesterfield, Mo.
That airspace extending upward from 700 feet above the surface within a 9-mile radius of Spirit of St. Louis Airport (lat. 38°39'35"N., long. 90°38'45"W.); within 3 miles each side of the Foristell, Mo., VORTAC 093° radial; extending from the 9-mile radius area to 9½ miles west of the Spirit of St. Louis Airport, excluding the portion which overlies the St. Louis, Mo., 700 foot floor transition area.

Chesterfield, Va.
That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the center, 37°24'25"N., 77°31'18"W., of Chesterfield County Airport, Chesterfield, Va.; within 3 miles each side of the Flat Rock, Va., VORTAC 116° radial, extending from the 5.5-mile radius area to 10 miles southeast of the VORTAC; within 1.5 miles each side of a 321° bearing from the Happy Hill, Va., RBN (37°20'00"N., 77°27'15"W.) extending from the 5.5-mile radius area to 0.5 mile northwest of the RBN.

Cheyenne, Wyo.
That airspace extending upward from 700 feet above the surface within a 14-mile radius of the Cheyenne Municipal Airport (latitude 41°09'20" N., longitude 104°48'30" W.), and within 6 miles southeast and 8 miles northwest of the Cheyenne VORTAC 029° radial, extending from the 14-mile radius area to 14 miles northeast of the VORTAC; that airspace extending upward from 1,200 feet above the surface bounded on the NE by V-6, on the SE by V-207, on the SW by V-4N and on the NW by V-524, and that airspace NW of Cheyenne within 7 miles NE and 10 miles SW of the Cheyenne VORTAC 305° radial, extending from the VORTAC to 47 miles NW of the VORTAC, excluding the portions within the Laramie, Wyo. transition area.

Chicago, Ill.
That airspace extending upward from 700 feet above the surface within an area bounded by a line beginning at latitude 42°29'00" N., longitude 88°30'00" W., to latitude 42°29'00" N., longitude 88°03'00" W., to latitude 42°40'00" N., longitude 88°03'00" W., to latitude 42°43'00" N., longitude 87°57'00" W., to latitude 42°30'00" N., longitude 87°35'00" W., to latitude 41°55'00" N., longitude 87°19'00" W., to latitude 41°38'00" N., longitude 87°19'00" W., to latitude 41°33'00" N., longitude 87°10'00" W., to latitude 41°28'00" N., longitude 87°14'00" W., to latitude 41°22'00" N., longitude 87°40'00" W., to latitude 41°22'00" N., longitude 88°30'00" W., to latitude 41°41'00" N., longitude 88°30'00" W., to latitude 41°53'00" N., longitude 88°50'00" W., to latitude 42°01'00" N., longitude 88°50'00" W., to latitude 42°01'00" N., longitude 88°40'00" W., to latitude 42°15'00" N., longitude 88°40'00" W., to latitude 42°15'00" N., longitude 88°25'00" W., to latitude 42°21'00" N., longitude 88°30'00" W., to point of beginning.

Chico, Calif.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Chico Municipal Airport (latitude 39°47'45" N., longitude 121°51'25" W.) and within 2 miles each side of the Chico VOR 316° radial, extending from the 5-mile radius area to 8 miles northwest of the VOR, and that airspace within 2 miles each side of the Chico VOR 165° radial extending from the 5-mile radius area to 12 miles south of the VOR, excluding the portion within a 1-mile radius of the Ranchero Airport (latitude 39°43'10" N., longitude 121°52'10" W.

Chicopee Falls, Mass.
That airspace extending upward from 700 feet above the surface within a 12-mile radius of the center, 42°11'40" N., 72°32'15" W., of Westover AFB, Chicopee Falls, Mass.; within 7 miles each side of the Chicopee Falls, Mass., ILS localizer NE course extending from the 12-mile radius area to 13 miles NE of the outer marker and within a 10-mile radius of the center, 42°09'25" N., 72°42'50" W. of Barnes Municipal Airport, Westfield, Mass., and within that airspace bounded by a line beginning at 42°11'50" N., 72°54'10" W. to 42°32'20" N., 72°49'20" W. to 42°30'00" N., 72°32'00" W. to 42°24'45" N.; 72°34'00" W. to 42°24'50" N.; 72°33'25" W. to 42°22'00" N.; 72°34'00" W., thence to the point of beginning; within a 6.5-mile radius of the center lat. 42°19'45" N., long. 72°37'00" W., of La Fleur Airport, Northampton, Mass.; within 3.5 miles each side of the Chester, Mass. VOR 082° radial, extending from the 6.5-mile radius area to the Chester, Mass. VOR, excluding the portion which coincides with the Hartford, Conn., transition area.
That airspace extending upward from 1,200 feet above the surface bounded by a line beginning at: 42°55'00" N., 72°00'00" W. to 42°05'00" N., 72°00'00" W. to 41°55'00" N., 71°59'00" W. to 42°02'00" N., 72°07'00" W. to 42°02'00" N., 73°16'00" W. to 43°11'00" N., 72°39'00" W. to 43°05'00" N., 72°13'00" W. to point of beginning.

Childress, Tex.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Childress Municipal Airport (latitude 34°25'55" N., longitude 100°17'45" W.);

Chillicothe, Mo.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Chillicothe Municipal Airport (latitude 39°46'45" N., longitude 93°30'00" W.); and within 3 miles either side of the 337° bearing from the MHW facility extending from the 5-mile radius to 8.5 miles northwest, and that airspace extending upward from 1,200 feet above the surface 5 miles southwest and 9.5 miles northeast of the 337° bearing from the Chillicothe MHW faciltiy extending from 6.5 miles southeast to 18.5 miles northwest of the Chillicothe MHW facility, excluding that portion which overlies the Trenton, Missouri, transition area.

China Lake NAF, Calif.
That airspace extending upward from 700 feet above the surface within 2 miles each side of the NAF China Lake TACAN 350° radial extending from 8 miles to 12 miles N of the TACAN and within 2 miles each side of the NAF China Lake TACAN 148° radial extending from 8 miles to 11 miles SE of the TACAN.

Chincoteague, Va.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of NASA Wallops Station Airport, Chincoteague, Va. (latitude 37°56'15" N., longitude 75°28'15" W.).

Christiansted, St. Croix, V. I.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Alexander Hamilton Airport (lat. 17°42'13" N., long. 64°47'54" W.); within 3 miles each side of St. Croix VOR 068° radial, extending from the 8.5-mile radius area to 8.5 miles east of the VOR; and that airspace extending upward from 1,200 feet above the surface within a 15-mile radius of Alexander Hamilton Airport; within 9.5 miles north and 4.5 miles south of the St. Croix VOR 068° radial, extending from the 15-mile radius area to 18.5 miles east of the VOR; within 9.5 miles south and 4.5 miles north of the ILS localizer west course, extending from the 15-mile radius area to 18.5 miles west of the LOM.

Cincinnati, Ohio
That airspace extending upward from 700 feet above the surface within an 11.5-mile radius of Greater Cincinnati Airport (lat. 39°02'56" N., long. 84°39'41" W.); within 9.5 miles east and 4.5 miles west of Runway 36 ILS localizer south course, extending from the 11.5-mile radius area to 18.5 miles south of the LOM; within 3 miles each side of Runway 9R ILS localizer west course, extending from the 11.5-mile radius area to 8.5 miles west of Burlington RBN; within a 12-mile radius of Cincinnati Municipal-Lunken Field Airport (lat. 39°06'14" N., long. 84°25'18" W.); within 3 miles each side of the 044° bearing from Lunken RBN, extending from the 12-mile radius area to 8.5 miles northeast of the RBN; within a 5½-mile radius of Clermont County Airport, Batavia, OH. (latitude 39°04'43" N., longitude 84°12'38" W.); within a 5-mile radius of the Blue Ash Airport, Cincinnati, OH. (latitude 39°14'59" N., longitude 84°23'14" W.) and within 3 miles each side of the 046° bearing from the Blue Ash Airport from the 5-mile radius area to 7 miles northeast.

Circleville, Ohio
That airspace extending upward from 700 feet above the surface within a 12-mile radius of the Pickaway County Memorial Airport (latitude 39°31'00" N., longitude 82°58'55" W.) excluding the portion which lies within the Lockbourne AFB transition area.

Claremont, N. H.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Claremont Municipal Airport (latitude 43°22'15" N., longitude 72°22'00" W.); within 6.5 miles south and 4.5 miles north of the Claremont NDB (latitude 43°21'50" N., longitude 72°17'57" W.), 097° and 277° bearings from the NDB, extending from 12 miles east to 6 miles west of the NDB, excluding that portion within the Lebanon, N. H., and Springfield, Vt., transition areas.

PENDING AMENDMENT
Clarendon, Tex.
That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of Clarendon Municipal Airport (lat. 34°54'34"N., long. 100°52'20"W.), and within 3.5 miles each side of the 209° bearing from the NDB (lat. 34°54'37"N., long. 100°52'03"W.), extending from the 5.5-mile radius area to 11.5 miles southwest of the NDB.

AMENDMENTS 12/28/78 43 F. R. 50419 (Added)

Clarion, Iowa
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Clarion Municipal Airport (lat. 42°44'30"N., long. 93°45'30"W.) and within 3 miles each side of the 311° bearing from the Clarion Municipal Airport, extending from the 5-mile radius to 8.5 miles northwest of the airport.

Clarinda, Iowa
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Clarinda Municipal Airport (latitude 40°43'30" N., longitude 95°01'30" W.); within 3 miles each side of the 169° bearing from the Clarinda Municipal Airport extending from the 5-mile radius to 8 miles south of the airport; and that airspace extending upward from 1,200 feet above the surface within 4½ miles west and 9½ miles east of the 169° bearing of the Clarinda Municipal Airport to 18½ miles south of the airport.

Clarksburg, W. Va.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the center, lat. 39°17'44" N., long. 80°13'46" W., of Benedum Airport; within 5 miles each side of the Clarksburg VOR 219° radial, extending from the 8.5-mile radius area to 11.5 miles southwest of the VOR and within 5 miles each side of the Benedum Airport ILS localizer northeast course, extending from the 8.5-mile radius area to 10 miles northeast of the OM.

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Clarksdale, Miss.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Fletcher Field (latitude 34°17'45" N., longitude 90°30'50" W.); within 3 miles each side of the 010° and 163° bearings from the Clarksdale RBN (latitude 34°17'33" N., longitude 90°30'57" W.), extending from the 6.5-mile radius area to 8.5 miles north and south of the RBN.

Clarksville, Ark.
That airspace extending upward from 700 feet above the surface within a 7-statute-mile radius of Clarksville Municipal Airport, Clarksville, Ark., (latitude 35°28'15" N., longitude 93°26'00" W.); and within 3.5 statute miles each side of the 136° bearing from Clarksville NDB (latitude 35°28'05" N., longitude 93°25'47" W.), extending from the 7-mile-radius area to 12 statute miles southeast of the NDB.

Clearfield, Pa.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the center, 41° 02'57" N., 78°24'53" W., of Clearfiedl-Lawrence Airport, Clearfield, Pa., within a 10-mile radius of the center of the airport, extending clockwise from a 134° bearing to a 238° bearing from the airport; within an 11.5-mile radius of the center of the airport, extending clockwise from a 238° bearing to a 057° bearing from the airport.

Cleveland, Miss.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Cleveland Municipal Airport (lat. 33°45'30" N., long. 90°45'15" W.); within 3 miles each side of the 355° bearing from Renova RBN (lat. 33°48'25" N., long. 90°45'45" W.), extending from the 6.5-mile radius area to 8.5 miles north of the RBN.

Clemson, S. C.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Clemson-Oconee County Airport (latitude 34°40'22" N., longitude 82°53'07" W.); within 3 miles each side of the 099° bearing from the Oconee RBN (latitude 34°40'25" N., longitude 82°53'13" W.), extending from the 5-mile radius area to 8.5 miles east of the RBN;
within a 6.5-mile radius of Pickens County Airport (lat. 34°48'55" N., long. 82°41'55" W.); within 3 miles each side of the 229° bearing from Pickens RBN (lat. 34°48'32" N., long. 82°42'06" W.), extending from the 6.5-mile radius area to 8.5 miles southwest of the RBN; excluding that portion within Anderson transition area.

Cleveland, Ohio
That airspace extending upward from 700 feet above the surface within a 12.5-mile radius of the center (41°24'30" N., 81°51'00" W.), of Cleveland-Hopkins International Airport, Cleveland, Ohio; within 3 miles each side of the Cleveland-Hopkins International Airport Runway 18-R centerline, extended from the 12.5-mile radius area to 14.5 miles south of the end of the runway; within 3 miles each side of the 230° bearing from the Gilbert, Ohio, RBN extending from the 12.5-miles radius area to 5 miles southwest of the RBN; within 3 miles each side of the Cleveland-Hopkins International Airport Runway 28-R centerline, extended from the 12.5-mile radius area to 13 miles west of the end of the runway; within the area bounded by a line beginning at a point on the Cleveland, Ohio, VORTAC 041° radial 20 miles northeast of the VORTAC, thence along a line bearing 052° from this point to its intersection with the arc of a 15-mile radius circle centered on Lost Nation Airport, Willoughby, Ohio (41°41'00" N., 81°23'20" W.), thence clockwise along the arc of the 15-mile radius circle to its intersection with the arc of a 9-mile radius circle centered on Casement Airport, Painesville, Ohio (41°44'05" N., 81°13'25" W.), thence clockwise along the arc of the 9-mile radius circle to its intersection with the arc of a 7.5-mile radius circle centered on Concord Airpark, Painesville, Ohio (41°40'00" N., 81° 12'00" W.), thence clockwise along the arc of the 7.5-mile radius circle to its point of intersection with a line 2 miles east and parallel to the Chardon VORTAC 350° radial, thence south along this parallel line to its point of intersection with the Chardon VORTAC 080° radial, thence west along the Chardon VORTAC 080° radial to the Chardon VORTAC, thence southeast along the Chardon VORTAC 145° radial to a point 2 miles southeast of the VORTAC, thence southwest along a line 2 miles southeast and parallel to the Chardon VORTAC 235° radial commencing at the point of intersection of this parallel line and the Chardon VORTAC 145° radial to the point of intersection with the arc of a 5.5-mile radius circle centered on Chagrin Falls Airport, Chagrin Falls, Ohio (41°25'45" N., 81°19'50" W.), thence clockwise along the arc of the 5.5-mile radius circle to the point of intersection of the 5.5-mile arc with a line bearing 180° from a point 41°25'45" N., 81°19'50" W., thence direct to the intersection of a line bearing 126° from latitude 41°24'35" N., longitude 81°41'25" W., and the arc of a 12.5-mile radius circle centered on the Cleveland-Hopkins International Airport, thence to the point of beginning.

Cleveland, Tex.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Cleveland Municipal Airport (latitude 30°21'30" N., longitude 95°00'29" W.), and within 2.5 miles each side of the Daisetta, Tex., VORTAC 298° radial extending from the 5-mile radius to 19.5 miles northwest of the VORTAC.

Clifton, Tenn.
That airspace extending upward from 700 feet above the surface within an 8-mile radius of Hassell Field (lat. 35°23'00" N., long. 87°58'00" W.).

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Clinton, Iowa
That airspace extending upward from 700 feet above the surface within a 7-mile radius of Clinton Municipal Airport (latitude 41°49'55" N., longitude 90°19'45" W.); within 2 miles each side of the Davenport VORTAC 043° radial, extending from the 7-mile radius area to the VORTAC; and within 8 miles southwest and 5 miles northeast of the 324° bearing from Clinton Municipal Airport, extending from the airport to 12 miles northwest of the airport.

Clinton, Mo.
That airspace extending upward from 700 feet above the surface within 5 miles of the Clinton, Missouri, Airport (latitude 38°21'27" N., longitude 93°40'54" W.); within 3 miles each side of the 054° bearing from the Clinton Memorial Airport extending from the 5-mile radius to 8 miles northeast of the airport; and within 3 miles each side of the 217° bearing from the Clintom Memorial Airport extending from the 5-mile radius to 8 miles southwest of the airport.

Clinton, N. C.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Sampson County Airport (lat. 34°58'48" N., long. 78°21'48" W.); within 3 miles each side of the 247° bearing from Clinton RBN (lat. 34°58'31" N., long. 78°21'48" W.), extending from the 6.5-mile radius area to 8.5 miles southwest of the RBN.

Clinton, Okla. (Clinton-Sherman Airport)
That airspace extending upward from 700 feet above the surface within an 8-mile radius of Clinton-Sherman Airport (latitude 35°20'25" N., longitude 99°12'00" W.), and within 8 miles west and 5 miles east of the extended centerline of Clinton-Sherman Runways 17 and 35 extending from the 8-mile radius area to 20 miles north and 18 miles south of the ends of the runways excluding the portion within the Hobart, Okla., and Elk City, Okla., transition areas.

Clinton, Okla. (Clinton Municipal Airport)
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Clinton Municipal Airport (lat. 35°32'15" N., long. 98°56'00" W.), and within 3.5 miles each side of the 171° bearing from the Clinton RBN (lat. 35°32'00" N., long. 98°56'02" W.) extending from the 5-mile radius area to 11.5 miles south of the RBN.

Clintonville, Wis.
That airspace extending upward from 700 feet above the surface within a 9-mile radius of the Clintonville Municipal Airport (latitude 44°36'50" N., longitude 88°43'52" W.).

Cloquet, Minn.
That airspace extending upward from 700 feet above the surface within a 6½-mile radius of the Cloquet-Carlton County Airport (latitude 46°42'10" N., longitude 92°30'20" W.); within 3 miles each side of the 355° bearing from the Cloquet-Carlton County Airport extending from the 6½-mile radius to 8 miles north of the airport; within 3 miles each side of the 175° bearing from the Cloquet-Carlton County Airport extending from the 6½-mile radius area to 8 miles south of the airport.

Clovis, N. Mex.
That airspace extending upward from 700 feet above the surface within a 23-mile radius of Cannon AFB, Clovis, N. Mex. (lat. 34°23'01" N., long.103°18'58" W.); within 7.5 miles north and 2 miles south of the Texico VORTAC 254° and 074° radials, extending from the 23-mile radius area to 1.5 miles east of the Texico VORTAC; and within 3.5 miles each side of the Portales NDB (lat. 34°10'45" N., long. 103°22'33" W.) 202° bearings extending from the 23-mile radius area to 12 miles south of the NDB.

Coaldale, Nev.
That airspace extending upward from 10,500 feet MSL within 9 miles northeast and 6 miles southwest of the Coaldale VORTAC 116° and 326° radials, extending from 17 miles southeast to [illegible] miles northwest of the VORTAC.

Coatesville, Pa.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center 39°58' 40" N., 75°51'44" W., of Chester County, G. O. Carlson Airport, Coatesville, Pa., extending clockwise from a 024° bearing to a 231° bearing from the airport; within a 6-mile radius of the center of the airport, extending clockwise from a 231° bearing to a 024° bearing from the airport; within 3.5 miles each side of a 282° bearing from the COATY LOM (39°59'32"N., 75°57'06"W.), extending from the 6-mile radius arc to 11.5 miles west of the LOM; within 4.5 miles south and 6.5 miles north of the Modena VORTAC 095° and 275° radials, extending from 11.5 miles east to 5.5 miles west of the VORTAC; within 5 miles each side of the Modena VORTAC 293° radial extending from the VORTAC to 11 miles northwest of the VORTAC, excluding the portion that coincides with the Toughkenamon, Pa., transition area.

AMENDMENTS 6/29/78 43 F. R. 28173 (Changed)

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Cochise, Ariz.
That airspace extending upward from 1,200 feet above the surface within 10 miles N and 7 miles S of the Cochise VOR 096° and 276° radials, extending from 9 miles W to 20 miles E of the VOR.

Cochran, Ga.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Cochran Airport (lat. 32°23'45" N., long. 83°16'45" W.); within 2.5 miles each side of Vienna VORTAC 046° radial, extending from the 5-mile radius area to 12.5 miles northeast of the VORTAC.

Cody, Wyo.
That airspace extending upward from 700 feet above the surface within an 8-mile radius of the Cody Municipal Airport, Cody, Wyo. (latitude 44°31'09" N., longitude 109°01'25" W.), within 3 miles each side of the Cody VOR 022° and 202° radials, extending from the 8-mile radius area to 8.5 miles north of the VOR; that airspace extending upward from 1,200 feet above the surface within 6 miles west and 9.5 miles east of the Cody VOR 022° and 202° radials, extending from 2.5 miles south to 18.5 miles north of the VOR.

Coffeyville, Kans.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Coffeyville, Kans., Municipal Airport (lat. 37°05'45"N., long. 95°34'25"W.); and within 3 miles either side of the 163° bearing from the airport extending from 7 miles to 8 miles south of the airport.

Colby, Kans.
That airspace extending upward from 700 feet above the surface within a 5½-mile radius of Colby Municipal Airport (latitude 39°25'30" N., longitude 101°02'40" W.); and within 3 miles each side of the 017° bearing from Colby Municipal Airport, extending from the 5½-mile radius area to 8 miles north of the airport.

Cold Bay, Alaska
That airspace extending upward from 1,200 feet above the surface within a 16.5-mile radius of the Cold Bay VORTAC, extending clockwise from the 253° radial to the 041° radial; within 7 miles southeast of the Cold Bay VORTAC 041° radial, extending from the VORTAC to 16.5 miles northeast of the VORTAC; within 7 miles south of the Cold Bay VORTAC 253° radial, extending from the VORTAC to 16.5 miles west of the VORTAC; within 5 miles west and 11.5 miles east of the Cold Bay VORTAC 335° radial, extending from the VORTAC to 20 miles north of the VORTAC, and within 8.5 miles west and 5 miles east of the Cold Bay VORTAC 150° radial, extending from 18 to 29 miles south of the VORTAC.

Coldwater, Mich.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Branch County Memorial Airport (latitude 41°56'05" N., longitude 85°02'55" W.), within 2 miles each side of the Litchfield, Mich. VORTAC 239° radial extending from the 5-mile radius area to 8 miles northeast of the airport, and within 2 miles each side of the 209° bearing from the Branch County Memorial Airport extending from the 5-mile radius area to 8 miles southwest of the airport.

College Station, Tex.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Easterwood Field (latitude 30°35'19" N., longitude 96°21'54" W.); within 2 miles each side of the College Station VORTAC 107° radial extending from the 5-mile radius area to 18 miles east of the VORTAC; within 3.5 miles each side of the College Station northwest localizer course extending from the 5-mile radius area to 13 miles northwest of the localizer site (latitude 30°35'59" N., longitude 96°21'48.3" W.); within 1.5 miles each side of the southeast localizer course extending from the 5-mile radius area to 7 miles southeast of the localizer site; within a 5-mile radius of Coulter Field (latitude 30°43'00" N., longitude 96°19'45" W.); within 2 miles each side of the College Station VORTAC 025° radial extending from the 5-mile radius area of Coulter Field to 15 miles northeast of the College Station VORTAC.

Colorado Springs, Colo.
That airspace extending upward from 700 feet above the surface within a 20-mile radius of City of Colorado Springs Municipal Airport (lat. 38°48'35"N., long. 104°42'20"W.) and within 5 miles west and 8 miles east of the Colorado Springs ILS localizer north course, extending from the 20-mile radius area to 21 miles north of the localizer, excluding the portion west of long. 104°52'00"W.; that airspace extending upward from 1200 feet above the surface bounded on the north by lat. 39°05'00"N., on the east by V-263 and V-169, on the south by lat. 38°30'00"N., on the west by a line from 38°30'00"N., 105°09'00"W., to 38°36'00"N., 105°08'00"W., to 38°40'00"N., 104°52'00"W., to 39°05'00"N., 104°52'00"W.; and that airspace extending upward from 11,700 feet MSL bounded on the north by lat. 39°05'00"N., on the northeast by a line 5 miles southwest of and parallel to the Colorado Springs VORTAC 307° radial, on the east by long. 104°52'00"W., on the south by lat. 38°55'00"N., and on the west by long. 105°20'00"W.

Columbia, Miss.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Columbia-Marion County Airport (lat. 31°17'45"N., long. 89°48'50"W.)

Columbia, Mo.
That airspace extending upward from 700 feet above the surface and within a 5-mile radius of the E. W. Cotton Woods Memorial Airport (lat. 39°00'15"N., long. 92°17'45"W.); within 1½ miles each side of the Hallsville, Mo., VORTAC 224° radial extending from the 5-mile radius area to the Hallsville, Mo., VORTAC; and within an 8½ mile radius of Columbia Regional Airport (lat. 38°48'49"N., long. 092°13'12"W.); within 2½ miles each side of the Hallsville, Mo., VORTAC 193° radial extending from the 8½-mile radius area to 10 miles south of the VORTAC; excluding the portion which overlies the Jefferson City, Mo., 700 foot floor transition area.

AMENDMENTS 5/18/78 43 F. R. 9594 (Rewritten) Corr: 43 F. R. 13869

Columbia, S. C.
That airspace extending upward from 700 feet above the surface within an 11-mile radius of Columbia Metropolitan Airport (lat. 33°56'25.9" N., long. 81°07'11.2" W); within 9.5 miles southwest and 4.5 miles northeast of Columbia VORTAC 147° radial, extending from the 11-mile radius area to 18.5 miles southeast of the VORTAC; within 9.5 miles south and 4.5 miles north of Columbia ILS localizer west course, extending from the 11-mile radius area to 18.5 miles west of the LOM.

Columbus, Ga.
That airspace extending upward from 700 feet above the surface within a 10.5-mile radius of Columbus Metropolitan Airport (lat. 32°30'55" N., long. 84°56'25" W.); within a 10-mile radius of Lawson AAF (lat. 32°20'20" N., long. 84°59'35" W.); within 1.5 miles each side, expanding in width to 5 miles each side of Columbus ILS localizer northeast course, extending from the intersection of the Columbus VOR 102° radial to 11.5 miles northeast; within 9.5 miles southwest and 4.5 miles northeast of Lawson AAF ILS localizer southeast course, extending from the 10-mile radius area to 12 miles southeast of Louvale RBN; within 9.5 miles southwest and 4.5 miles northeast of Columbus VOR 149° and 329° radials, extending from the 10.5-mile radius area to 18.5 miles northwest of the VOR; within 4 miles each side of Lawson VOR 339° radial, extending from the 10-mile radius area to 20.5 miles north of the VOR.

Columbus, Miss
That airspace extending upward from 700 feet above the surface within a 17.5-mile radius of Columbus AFB (latitude 33°38'38" N., longitude 88°26'39" W.); within an 8-mile radius of Monroe County Airport (latitude 33°52'20" N., longitude 88°28'25" W.); within an 8-mile radius of Columbus-Lowndes County Airport (latitude 33°27'52"N., long. 88°22'50"W.); within 4.5 miles north and 9.5 miles south of the Bigbee VORTAC 281° radial, extending from the VORTAC to 18.5 miles west; within an 8.5-mile radius of Golden Triangle Regional Airport (lat. 33°26'48" N., long. 88°35'30" W.).

AMENDMENTS 3/23/78 42 F. R. 60119 (Changed)

Columbus, Nebr.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Columbus Municipal Airport (lat. 41°26'49"N., long. 97°20'31"W.); and within 4.5 miles each side of the 323° bearing from the Columbus Airport extending from the 6.5-mile radius area to 11.5 miles northwest of the airport.

Columbus, Ohio
That airspace extending upward from 700 feet above the surface within an 11.5-mile radius of the center, lat. 39°59'41" N., long. 82°53'08" W. of Port Columbus International Airport, Columbus, Ohio; within a 14-mile radius of the center, lat. 39°49'00" N., long. 82°56'00" W. of Lockbourne AFB, Columbus, Ohio; within an 8-mile radius of the center, lat. 40°19'43" N., long. 82°31'32" W. of Mount Vernon Airport, Mount Vernon, Ohio; within an 8-mile radius of the center, lat. 40°01'29" N., long. 82°27'44" W. of Licking County Airport, Newark, Ohio; within a 7-mile radius of the center, lat. 40°04'40" N., long. 83°04'30" W. of Ohio State University Airport, Columbus, Ohio; within the arc of a 25-mile radius circle centered on a point located at lat. 39°59'59" N., long. 82°53'44" W., extending clockwise from the 048° bearing from this point to the 170° bearing from this point and within 3.5 miles each side of the 273° bearing from the Ohio State University RBN, lat. 40°04'47" N., long. 83°04'54" W., extending from the RBN to 11.5 miles west of the RBN; within a 6½-mile radius of Bolton Field (latitude 39° 54'07" N., longitude 83°08'12" W.); within a 9-mile radius of Fairfield County Airport (latitude 39°45'21" N., longitude 82°39'27" W.).

Columbus, Tex.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Columbus Airport (latitude 29°43'10" N., longitude 96°33'50" W.).

Colusa, Calif.
That airspace extending upward from 700 feet above the surface within 2 miles E and 3.5 miles W of the Williams, Calif. VORTAC 015 radial, extending from the VORTAC to 11 miles N of the VORTAC; that airspace extending upward from 1,200 feet above the surface bounded on the E by the W edge of V-23, on the S by the N edge of V-200 and on the W by the W edge of V-19[illegible].

Commerce, Tex.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Commerce Municipal Airport (latitude 33°17'36" N., longitude 95°53'46" W.) and within 2.5 miles each side of the Sulphur Springs, Tex., VORTAC 286° radial extending from the 5-mile radius area to 14.5 miles west of the VORTAC.

Concord, N. H.
That airspace extending upward from 700 feet above the surface bounded by a line beginning at 43°23'00" N., 71°11'50" W., to 43°09'00" N., 71°11'50" W., to 42°58'50" N., 71°01'00" W., to 42°53'00" N., 71°11'30" W., to 42°47'00" N., 71°09'00" W., to 42°38'00" N., 71°20'00" W., to 42°40'00" N., 71°35'00" W., to 42°43'00" N., 71° 36'00" W., to 42°45'00" N., 71°38'25" W., to 42°54'00" N., 71°57'00" W., to 43°06'00" N., 71°47'00" W., to 43°23'00" N., 71°47'00" W., to point of beginning.

That airspace extending upward from 1,200 feet above the surface bounded by a line beginning at 42°53'00" N., 71°05'00" W. to 42°43'00" N., 71°15'00" W. to 42°43'00" N., 71°40'00" W. to 42°55'00" N., 72°00'00" W. to 43°35' 00" N., 71°55'00" W. to 43°45'00" N., 71°09'00" W. to point of beginning.

Concord, N. C.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Propst Airport (latitude 35°23'30" N., longitude 80°34'30" W.); within 2.5 miles each side of Charlotte VORTAC 060° radial, extending from the 5-mile radius area to 18 miles northeast of the VORTAC.

Concordia, Kans.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Blosser Municipal Airport (lat. 39°32'55"N., long. 97°39'05"W.); and within 3 miles each side of the 346° bearing from Concordia NDB (lat. 39°33'12"N., long. 97°39'03"W.) extending from the 5-mile radius area to the 8-mile radius area to 8 miles northwest of the NDB.
AMENDMENTS 11/2/78 43 F. R. 38376 (Added)

Connecticut
That airspace extending upward from 1,200 feet above the surface within the territorial boundaries of the State of Connecticut.

Connellsville, Pa.
That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the center lat. 39° 57'35" N., long. 79°39'25" W. of Connellsville Airport and within 9.5 miles northwest and 4.5 miles southeast of the 229° bearing from the Connellsville, Pa., RBN lat. 39°57'37"N., long. 79°39'16"W., extending from the RBN to 19.5 miles southwest of the RBN, excluding the portion that coincides with the Morgantown, W. Va., transition area.

Connersville, Ind.
That airspace extending upward from 700 feet above the surface within a 6½-mile radius of the Mettel Airport (latitude 39°42'00" N.; longitude 85°08'00" W.), and within 3 miles each side of the 015° bearing from the Mettel Airport extending from the 6½-mile radius to 8 miles north of the airport; excluding that airspace designated at Richmond, Ind.

Conrad, Mont.
That airspace extending upward from 700 feet above the surface within a 9-mile radius of the Conrad Airport (latitude 48°10'10" N., longitude 111°58'30" W.); within 3.5 miles each side of the 060° bearing from the Conrad RBN (latitude 48°11'12" N., longitude 111°55'31" W.) extending from the 9-mile radius area to 12 miles northeast of the RBN; and that airspace extending upward from 1,200 feet above the surface within 9.5 miles northwest and 4.5 miles southeast of the 060° bearing from the Conrad RBN extending from the RBN to 18.5 miles northeast of the RBN.

Conway, Ark.
That airspace extending upward from 700 feet above the surface within a 9.5-statute-mile radius of Conway Municipal Airport, Conway, Ark. (lat. 35°04'42"N., long. 92°25'29"W.); and within 3.5 statute miles each side of the 095° bearing from Conway NDB (lat. 35°05'02"N., long. 92°25'36"W.) extending from the 9.5-mile radius area to 11.5 statute miles east of the NDB; excluding that portion which overlies the Little Rock, Ark., transition area.

Conway, S. C.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Conway-Horry County Airport (lat. 33°49'13" N., long. 79°07'16" W.); within 3 miles each side of the 296° bearing from Horry RBN (lat. 33°49'54" N., long. 79°07'13" W.), extending from the 6.5-mile radius area to 8.5 miles northwest of the RBN; excluding the portion that coincides with the Myrtle Beach transition area.

Cookeville, Tenn.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Putnam County Airport (latitude 36°11'45" N., longitude 85°29'15" W.); within 3 miles each side of the 331° bearing from Cookeville RBN (latitude 36°11'34" N., longitude 85°29'04" W.), extending from the 6.5-mile radius area to 8.5 miles northwest of the RBN.

Cordele, Ga.
That airspace extending upward from 700 feet above the surface within an 8-mile radius of Cordele Airport (latitude 31°59'15" N., longitude 83°46'24" W.).

Cordova, Alaska
That airspace extending upward from 700 feet above the surface within 6 miles northwest and 9.5 miles southeast of the 233° bearing from the Cordova (CDV) NDB extending from the intersection of the 233° bearing from the Cordova (CDV) NDB and Hinchinbrook, Alaska, RBN 106° bearing to 19 miles southwest; that airspace extending upward from 1,200 feet above the surface within 6 miles each side of the Cordova localizer east course extending from the localizer to 40 miles east; and within 5 miles each side of a line extending from the Johnstone Point VORTAC to the Cordova (CDV) NDB.

Corinth, Miss.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of Roscoe Turner Airport (lat. 34°54'30" N., long. 88°36'00" W.); within 3 miles each side of the 185° and 346° bearings from Corinth RBN (lat. 34°54'39" N., long. 88°36'04" W.), extending from the 7-mile radius area to 8.5 miles south and north of the RBN.

Corning, Iowa
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Corning Municipal Airport (latitude 40°59'30" N., longitude 94°45'40" W.); and within 3 miles each side of the 359° bearing from the Corning Municipal Airport, extending from the 5-mile radius to 8 miles north of the airport.

Corpus Christi, Tex.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Corpus Christi International Airport (latitude 27°46'20" N., longitude 97°30'20" W.); within a 9-mile radius of NAS Corpus Christi (latitude 27°41'30" N., longitude 97°17'15" W.); within a 4-mile radius of the Sinton Airport (latitude 28°02'25" N., longitude 97°32'34" W.); within 2 miles each side of the Corpus Christi VORTAC 328° radial, extending from the 4-mile radius area to the VORTAC; within 2 miles each side of the Corpus Christi ILS localizer SE course, extending from the 6-mile radius area to 13 miles SE of the airport; within 2 miles each side of the Corpus Christi ILS localizer NW course, extending from the International Airport 6-mile radius area to 8 miles NW of the OM; within 2 miles each side of the Navy Corpus RBN 135° bearing, extending from the NAS Corpus Christi 9-mile radius area to 8 miles SE of the RBN; and within 2 miles each side of the Navy Corpus TACAN 137° and 139° radials, extending from the NAS Corpus Christi 9-mile radius area to 12 miles SE of the TACAN.

Corry, Pa.
That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the center, 41°54'30"N., 79°38'30"W. of Lawrence Airport, Corry, Pa.; within 3 miles each side of the 305° bearing from the Corry RBN (41°54'44"N., 79°38'54"W.), extending from the 5.5-mile radius area to 8.5 miles northwest of the RBN; and within 5 miles each side of the Tidioute, Pa., VORTAC 321° radial, extending from 5.5-mile radius area to the VORTAC.

Corsicana, Tex.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Corsicana Municipal Airport (latitude 32°02'00" N., longitude 96°24'00" W.); within 3 miles each side of the Scurry, Tex., VORTAC 186° radial extending from the 5-mile radius area to 24 miles south of the VORTAC and within 3 miles each side of the 155° bearing from the Corsicana, Tex., RBN (latitude 32°02'00" N., longitude 96°24'00" W.) extending from the 5-mile radius area to 8 miles southeast of the RBN.

Cortez, Colo.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of Cortez-Montezuma County Airport, Cortez, Colo., (latitude 37°18'15" N., longitude 108°37'35" W.), within 3.5 miles each side of the Cortez VOR 184° and 004° radials extending from the 7-mile radius area to 11.5 miles north of the VOR; that airspace extending upward from 1,200 feet above the surface within 6 miles east and 9.5 miles west of the Cortez VOR 184° and 004° radials, extending from 8 miles south to 19 miles north of the VOR, and within 5 miles northeast of and parallel to the Dove Creek VORTAC 129° radial, extending from the VORTAC to 21 miles southeast of the VORTAC.

Cortland, N. Y.
That airspace extending upward from 700 feet above the surface within a 9-mile radius of the center, lat. 42° 35'30" N., long. 76°13'00" W. of Cortland County Chase Field Airport, Cortland, N. Y., and within 6.5 miles north and 5 miles south of the Georgetown, N. Y., VORTAC 236° radial extending from the 9-mile radius area to the VORTAC.

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Corvallis, Oreg.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of Corvallis Municipal Airport (lat. 44°29'50"N., long. 123°17'10"W.) within 4.5 miles each side of the Corvallis VOR 029° radial, extending from the 7-mile radius area to 14 miles northeast of the VOR, within 5 miles west of the Corvallis VOR 014° radial, extending from the 7-mile radius area to 15 miles north of the VOR, within 5 miles each side of the Eugene, Oreg., VORTAC 345° radial, extending from 10 to 17 miles north of the VORTAC, and within 5 miles each side of the Corvallis VOR 180° radial, extending from the 7-mile radius area to 11 miles south of the VOR excluding that portion overlying the Eugene, Oreg., Transition Area; that airspace extending upward from 1,200 feet above the surface within 6 miles northwest and 8 miles southeast of the Corvallis VOR 029° and 209° radials, extending from 6 miles southwest to 17 miles northeast of the VOR.

Coshocton, Ohio
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the Richard Downing Airport (latitude 40°18'37" N., longitude 81°51'17" W.); and within a 7-mile radius of the Tri-City Airport (latitude 40°15'45" N., longitude 81°44'35" W.).

Cotulla, Tex.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Cotulla Municipal Airport (latitude 28°27'15" N., longitude 99°13'05" W.); within 2 miles each side of the Cotulla VOR 266° radial extending from the 5-mile radius area to 14 miles west of the VOR; and within 8 miles north and 5 miles south of the Cotulla VOR 086° and 266° radials extending to 5 miles west and 12 miles east of the VOR.

Covington, Ga.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Covington Municipal Airport (latitude 33°37'54" N., longitude 83°51'07" W.); within 5 miles each side of Rex VORTAC 093° radial, extending from the 6.5-mile radius area to 34 miles east of the VORTAC.

Covington, Tenn.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Covington Municipal Airport (lat. 35°35'15"N., long. 89°35'15"W.); within 3 miles each side of the 186° bearing from Covington RBN (lat. 35°35'22" N., long. 89°35'14" W.), extending from the 6.5-mile radius area to 8.5 miles south of the RBN.

Cozad, Nebr.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Cozad Municipal Airport (latitude 40°52'23" N., longitude 100°00'19" W.); within 3 miles each side of the Cozad NDB 301° bearing, extending from the 5-mile radius to 8 miles NW of the NDB.

Cranberry Lake, N. Y.
That airspace extending upward from 1,200 feet above the surface beginning at the Saranac Lake, N. Y., VOR, thence southeast via the Saranac Lake VOR 134° radial to its point of intersection with the Burlington, Vt., VORTAC 215° radial; thence southwest along the Burlington, Vt., VORTAC 215° radial to its point of intersection with the Watertown, N. Y., VORTAC 123° radial; thence northwest along the Watertown VORTAC 123° radial to the Watertown VORTAC; thence northeast along the Watertown VORTAC 033° radial to its point of intersection with the Saranac Lake VOR 311° radial; thence southeast along the Saranac Lake VOR 311° radial to Saranac Lake VOR excluding the airspace in Canada.

Crawfordsville, Ind.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Crawfordsville Municipal Airport (latitude 39°58'45" N., longitude 86°55'00" W.) and within 3 miles each side of the 217° bearing from the Crawfordsville Municipal Airport extending from the 5-mile radius to 8 miles southwest.

Crescent City, Calif.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Jack McNamara Field, Crescent City (lat. 41°46'50" N., long. 124°14'00" W.), within 3 miles each side of the Crescent City VORTAC 325° radial, extending from the 5-mile radius area to 9 miles northwest of the VORTAC and within 4 miles each side of the Crescent City VORTAC 180° radial, extending from the 5-mile radius area to 10 miles south of the VORTAC; and that airspace extending upward from 1,200 feet above the surface within 10 miles east and 7 miles west of the Crescent City VORTAC 180° and 360° radials, extending from 8 miles north to 20 miles south of the VORTAC, within 5 miles each side of the Crescent City VORTAC 234° radial, extending from the VORTAC to 12 miles southwest of the VORTAC and within 8 miles northeast and 9.5 miles southwest of the Crescent City VORTAC 325° radial, extending from the VORTAC to 18.5 miles northwest of the VORTAC and within 9.5 miles southwest and 4.5 miles northeast of the ILS localizer northwest course, extending from the threshold of Runway 11 to 25 miles northwest.

Creston, Iowa
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Creston Municipal Airport (latitude 41°01'05" N., longitude 94°21'35" W.); and within 3 miles each side of the 171° bearing from Creston Municipal Airport, extending from the 5-mile radius area to 8 miles south of the airport.

Crestview, Fla.
That airspace extending upward from 700 feet above the surface within a 9-mile radius of Bob Sikes Airport (lat. 30°46'47" N., long. 86°31'21" W.).

Creve Coeur, Mo.
That airspace extending upward from 700 feet above the surface within 5 miles each side of the St. Louis, Mo., VORTAC 190° radial, extending from 12 miles south to 25½ miles south of the VORTAC, excluding the portions which overlie the Chesterfield, Mo., and St. Louis, Mo., 700-foot floor transition areas.

Crookston, Minn.
That airspace extending upward from 700 feet above the surface within a 5½-mile radius of the Crookston Municipal Kirkwood Field Airport (latitude 47°50'30" N., longitude 96°37'15" W.); within 3 miles each side of the 303° bearing from the airport extending from the 5½-mile radius area to 8 miles northwest of the airport; within 3 miles each side of the Grand Forks VORTAC 108° radial extending from the 5½-mile radius area to 7½ miles southeast of the airport; and that airspace extending upward from 1,200 feet above the surface within a 55 mile arc southeast of the Grand Forks VORTAC between V-430 and V-171 excluding the portion which overlies the Grand Forks, N. Dak., transition area.

PENDING AMENDMENT
Crosbyton, Tex.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Crosbyton Municipal Airport (lat. 33°37'30"N., long. 101°14'30"W.), and 3.5 miles each side of the 189° bearing from the Crosbyton NDB (lat. 33°37'25"N., long. 101°14'17"W.), extending from the 7-mile radius to 11.5 miles south of the NDB.

AMENDMENTS 12/28/78 43 F. R. 50419 (Added)

Cross City, Fla.
That airspace extending upward from 700 feet above the surface within an 8-mile radius of Cross City Airport (lat. 29°37'45" N., long. 83°06'15" W.); within 3.5 miles each side of Cross City VORTAC 121° radial, extending from the 8-mile radius area to 7.5 miles southeast of the VORTAC.

Crossett, Ark.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Crossett Municipal Airport (latitude 33°10'30" N., longitude 91°52'45" W.); and within 3 miles each side of the 056° bearing from the Crossett RBN (latitude 33°10'30" N., longitude 91°52'45" W.), extending from the 6.5-mile radius area to 8.5 miles northeast of the RBN.

Cross Keys, N. J.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, 39°42'09"N., 75°01'48"W., of Cross Keys Airport, Cross Keys, N. J., and within 2 miles each side of the Woodstown, N. J., VORTAC 071° radial, extending from the 5-mile radius to 9 miles east of the Woodstown, N. J., VORTAC.

Crossville, Tenn.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Crossville Memorial Airport (latitude 35°57'05" N., longitude 85°05'05" W.); within 2 miles each side of the Hinch Mountain VORTAC 334° radial, extending from the 6.5-mile radius area to the VORTAC.

Crownpoint, N. Mex.
That airspace extending upward from 11,500 feet MSL within an area bounded on the north by a line beginning at lat. 35°56'20"N., long. 108°30'00"W., thence to lat. 36°11'00"N., long. 107°45'30"W.; bounded on the east by the west boundary of V-187; bounded on the south by the north boundary of V-62; and bounded on the west by the east boundary of V-421; excluding the portion which coincides with the Gallup, N. Mex., transition area.

Crows Landing, Calif.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Crows Landing ALF (latitude 37°24'35" N., longitude 121°06'40" W.), excluding the portion within a 1-mile radius of Patterson Field, Patterson, Calif., (latitude 37°28'05"N., longitude 121°10'06"W.), and that airspace extending upward from 1,200 feet above the surface bounded on the north by latitude 37°38'00" N., on the east by the west edge of V-109. on the southwest by the northeast edge of V-107 and on the west by longitude 121°31'00" W.

Cuba, Mo.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Cuba Municipal Airport (lat. 38°04'08"N., long. 91°25'42"W.); and within 3 miles each side of the 358° bearing from the Cuba Municipal Airport, extending from the 5-mile radius area to 8½ miles north of the airport; and 3 miles each side of 196° bearing from the Cuba Municipal Airport extending from the 5-mile radius area to 8½ miles south of the airport.
AMENDMENTS 3/23/78 43 F. R. 6 (Added)

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Cullman, Ala.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Folsom Field (lat. 34°15'57"N., long. 86°51'35"W.); within 3.5 miles northwest and 6.5 miles southeast of the 023° bearing of the Cole Spring RBN (lat. 34°20'24"N., long. 86°49'28"W.), extending from the 6.5-mile radius to 11.5 miles northeast of the RBN; excluding the portion that coincides with the Huntsville, Ala., transition area.

Culpeper, Va.
That airspace extending upward from 700 feet above the surface within the arc of a 6.5-mile radius circle centered on Culpeper Municipal T. I. Martin Field (lat. 38°31'20"N., long. 77°51'40"W.) Culpeper, Va., extending clockwise from a 245° bearing to a 090° bearing from the center of the airport; within the arc of a 5.5-mile radius circle centered on Culpeper Municipal T. I. Martin Field, extending clockwise from a 090° bearing to a 245° bearing from the center of the airport and within 2.5 miles each side of the Casanova VORTAC 178° radial, extending from the 6.5-mile radius arc to the VORTAC, excluding the portion that coincides with the Midland, Va., transition area.

Cumberland, Md.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the center (lat. 39°37'02" N., long. 78°45'45" W.) of Cumberland Municipal Airport, Cumberland, Md.; and within 3.5 miles each side of the 022° bearing from the Cumberland RBN (lat. 39°39'00" N., long. 78°44'48" W.) extending from the 8.5-mile radius area to 11.5 miles north of the RBN.

Cushing, Okla.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Cushing Municipal Airport (latitude 35°57'00" N., longitude 96°46'30" W.), and within 3.5 miles each side of the 180° bearing from the Cushing RBN (latitude 35°53'24" N., longitude 96°46'30" W.) extending from the 5-mile radius area to 11.5 miles south of the RBN.

Cut Bank, Mont.
That airspace extending upward from 700 feet above the surface within a 9-mile radius of Cut Bank Airport (latitude 48°36'41" N., longitude 112°22'45" W.); within 9½ miles northeast and 4½ miles southwest of the Cut Bank VORTAC 150° radial extending from the VORTAC to 18½ miles southeast of the VORTAC; and within a 12-mile radius of the Cut Bank VORTAC extending from a line 5 miles west of and parallel to the Cut Bank VORTAC 172° radial counterclockwise to a line 5 miles northeast of and parallel to the Cut Bank VORTAC 150° radial.

Duggett, Calif.
That airspace extending upward from 700 feet above the surface within a 3-mile radius of Barstow-Daggett Airport (latitude 34°51'20" N., longitude 116°47'10" W.); within 2 miles each side of the 050° bearing from Barstow-Daggett Airport extending from the 3-mile radius area to 6 miles NE of the airport, and within 2 miles each side of the 090° bearing from the Barstow-Daggett Airport extending from the 3-mile radius area to 6.5 miles E of the airport.

Dalhart, Tex.
That airspace extending upward from 700 feet above the surface within a 9-mile radius of Dalhart Municipal Airport (latitude 36°01'10" N., longitude 102°33'10" W.), and within 2 miles each side of the Dalhart VORTAC 002° radial extending from the 9-mile radius area to 12 miles N of the VORTAC.

Dallas-Fort Worth, Tex.
That airspace extending upward from 700 feet above the surface bounded by a line beginning at lat. 33°11'00" N., long. 97°27'00" W., thence to lat. 33°11'00" N., long. 97°19'00" W., to lat. 33°26'00" N., long. 97°15'00" W., to lat. 33°26'00" N., long. 97°07'00" W., to lat. 33°19'00" N., long. 97°06'00" W., to lat. 33°19'00"N., long. 96°57'00"W., to lat. 33°08'30"N., long. 96°36'00"W.; to lat. 33°08'30"N., long. 96°25'00"W.; to lat. 33°00'15"N., long. 96°25'15"W.; thence clockwise along the arc of a 5-mile radius circle centered at lat. 32°56'00"N., long. 96°26'00"W.; to lat. 32°51'30"N., long. 96°25'30"W.; to lat. 32°44'00"N., long. 96°26'00"W.; to lat. 32°41'00"N., long. 96°29'30"W.; to lat. 32°37'30"N., long. 96°30'15"W.; to lat. 32°37'45"N., long. 96°32'45"W.; to lat. 32°34'00"N., long. 96°37'00"W.; to lat. 32°29'00"N., long. 96°32'00"W.; to lat. 32°25'00"N., long. 96°38'00"W.; to lat. 32°31'00"N., long. 96°44'00"W.; to lat. 32°29'00"N., long. 97°01'00"W.; to lat. 32°23'00" N., longitude 97°05'00" W.; to latitude 32°16'30" N., longitude 97°25'30" W.; to latitude 32°19'30" N., longitude 97°33'00" W.; thence north along longitude 97°33'00" W. to and clockwise along the arc of a 23-mile radius circle centered at latitude 32°46'20" N., longitude 97°26'30" W.; to latitude 32°55'00" N., to latitude 33°13'00" N., longitude 97°56'00" W.; to latitude 33°15'30" N., longitude 97°49'00" W.; to latitude 33°13'30" N., longitude 97°39'30" W.; thence clockwise along the arc of a 5-mile radius circle centered at latitude 33°15'30" N., longitude 97°34'40" W., to latitude 33°12'00" N., longitude 97°31'30" W.; to point of beginning.

Dalton, Ga.
That airspace extending upward from 700 feet above the surface within a 14.5-mile radius of Dalton Municipal Airport (lat. 34°43'00"N., long. 84°52'00"W.); within 5.5 miles southwest and 6.5 miles northeast of the 318° bearing from the Whitfield RBN (lat. 34°47'37"N., long. 84°56'53"W.), extending from the 14.5-mile radius area to 8.5 miles northwest of the RBN, excluding that portion that coincides with the Chattanooga, Tenn., transition area.

Danbury, Conn.
That airspace extending upward from 700 feet above the surface within a 9-mile radius of the center latitude 41°22'15" N., longitude 73°29'00" W. of Danbury Airport, Danbury, Conn., extending clockwise from the 018° bearing from the center of the airport to the 288° bearing and within a 13-mile radius from the 288° bearing clockwise to the 018° bearing and within 3.5 miles each side of the Carmel VORTAC 218° radial extending from the 9-mile radius area to 11.5 miles southwest of the Carmel VORTAC.
Within 2.5 statute miles each side of a 262° magnetic bearing from a point 41°25'05" N., 73°18'45" W., extending from 1 statute mile west of said point to 9 statute miles west of said point; within 2.5 statute miles each side of a 082° magnetic bearing from a point 41°19'22" N., 73°39'19" W., extending from 1 statute mile east of said point to 9 statute miles east of said point, excluding that airspace which coincides with the Bridgeport, Conn., and White Plains, N. Y., 700-foot floor transition areas.

Danielson, Conn.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, 41°49'10" N., 71°54'05" W., of Danielson Airport, Danielson, Conn.; within 2 miles each side of the runway 13 centerline, extended from the 5-mile radius area to 7.5 miles southeast of the end of the runway; within 2 miles each side of the runway 31 centerline, extended from the 5-mile radius area to 7.5 miles northwest of the end of the runway; and within 3 miles each side of the Putnam VORTAC 197° radial, extending from the 5-mile radius area to 2 miles south of the VORTAC.

Dansville, N. Y.
That airspace extending upward from 700 feet above the surface within a 10.5-mile radius of the center, 42°34'11"N., 77°42'43"W., of Dansville Municipal Airport, Dansville, N. Y.; within a 16-mile radius of the center of the airport, extending clockwise from a 025° bearing from the airport to a 090° bearing from the airport; within 5 miles each side of the Geneseo, N. Y., VORTAC 177° radial, extending from the 10.5-mile radius area to the VORTAC, excluding the portion that coincides with the Hornell, N. Y., 700 foot floor transition area. This transition area is effective from sunrise to sunset daily.

Danville, Ill.
That airspace extending upward from 700 feet above the surface within a 6½-mile radius of the Vermillion County Airport (lat. 40°11'54" N., long. 87°35'49" W.); and within 2 miles each side of the Danville VORTAC 196° radial extending from the 6½-mile radius to the VORTAC.

Danville, Va.
That airspace extending upward from 700 feet above the surface within an 8-mile radius of the center, lat. 36°34'30" N., long. 79°20'11" W., of Danville Municipal Airport, Danville, Va.; within 3 miles each side of the Danville, Va., VOR 044° radial, extending from the 8-mile radius area to 8.5 miles northeast of the VOR and within 3 miles each side of the Danville, Va., VOR 208° radial, extending from the 8-mile radius area to 8.5 miles southwest of the VOR; within 2.5 miles each side of a 017° bearing from a point 36°34'48" N., 79°20'08" W., extending from the 8-mile radius area to 11.5 miles north of said point.

Darby, Alaska
That airspace extending upward from 1,200 feet above the surface within 5 miles S and 8 miles N of the 290° bearing from the North River, Alaska, RBN, extending from 32 miles to 52 miles W of the RBN.

Darlington, S. C.
That airspace extending upward from 700 feet above the surface within an 8-mile radius of the Darlington County Airport (latitude 34°26'50" N., longitude 79°53'23" W.).

Davis, Calif.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of University Airport (latitude 38°31'55" N., longitude 121°47'10" W.).

Dayton, Ohio
That airspace extending upward from 700 feet above the surface bounded by a line beginning at: 39°59'00" N., 83°10'00" W. to 39°55'00" N., 83°37'00" W. to 39°15'00" N., 83°13'00" W. to 39°39'00" N., 84°07'00" W. to 39°15'00" N., 84°24'00" W. to 39°19'00" N., 84°27'00" W. to 40°01'00" N., 84°17'00" W. to the point of beginning.

Dayton, Ohio (Montgomery County)
That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Montgomery County Airport (lat. 39°35'21" N., long. 84°13'21" W.), and within 3 miles each side of the Montgomery County VOR 145° radial extending from the 6-mile radius area to 8 miles southeast of the VOR; within 3 miles each side of the 027° radial extending from the 6-mile radius area to 8.5 miles northeast excluding the portions which overlie the Middletown and Dayton, Ohio, transition areas.

Dayton, Tenn.
That airspace extending upward from 700 feet above the surface within a 14.5-mile radius of the Mark Anton Airport (lat. 35°29'09"N., long. 84°55'56"W.) excluding the portions that coincide with the Athens, Tenn., and Chattanooga, Tenn., transiton areas.

AMENDMENTS 3/23/78 43 F. R. 5508 (Added)

Daytona Beach, Fla.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the Daytona Beach Regional Airport (lat. 29°10'49" N., long. 81°03'23" W.); within a 6.5-mile radius of Municipal Airport, Ormond Beach, Fla. (lat. 29°18'00" N., long. 81°06'49" W.); within 3 milee each side of Ormond Beach VORTAC 256° radial
extending from the 6.5-mile radius area to 8.5 miles west of the VORTAC.

Deadhorse, Alaska
That airspace extending upward from 700 feet above the surface within 6.5 miles S and 9.5 miles N of the Deadhorse VOR 075° radial extending from the VOR to 20 miles E of the VOR; within 6.5 miles S and 10 miles N of the Deadhorse VOR 255° radial extending from the VOR to 25.5 miles W; and within a 16.5-mile radius of the Deadhorse VOR extending from the 099° radial clockwise to the 231° radial; that airspace extending upward from 1,200 feet above the surface within the area bounded by a line beginning at latitude 69°40'00" N., longitude 153°00'00" W.; to 70°33'00" N., 150°45'00" W.; thence east via 3 nautical miles offshore to latitude 70°14'00" N., longitude 146°00'00" W.; to 69°00'00" N., 148°00'00" W.; to 68°00'00" N., 148°00'00" W.; to 68° 00'00" N., 153°00'00" W.; thence to point of beginning.

Decatur, Ill.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Decatur Airport (latitude 39°50'05" N., longitude 88°51'50" W.).

Deckerville, Mich.
That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the Lamont Airport (latitude 43°34'35" N., longitude 82°39'10" W.); within 3 miles each side of the 076° bearing from the airport extending from the 5.5-mile radius area to 8.5 miles east of the airport; within 3 miles each side of the 285° bearing from the airport, extending from the 5.5-mile radius area to 8.5 miles west of the airport.

Decorah, Iowa
That airspace extending upward from 700 feet above the surface within a 5½-mile radius of Decorah Municipal Airport (latitude 43°16'35" N., longitude 91°44'50" W.); and within 3 miles each side of the 122° bearing from Decorah Municipal Airport, extending from the 5½-mile radius area to 8 miles southeast of the airport.

Defiance, Ohio
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Defiance Memorial Airport (latitude 41°20'15" N., longitude 84°25'45" W.); within 3.5 miles each side of the 303° bearing from the airport extending from the 6.5-mile radius area to 11.5 miles northwest of the airport.

DeLancey, N. Y.
That airspace extending upward from 1,200 feet above the surface within the area bounded by a line beginning at: 42°40'00" N., 75°30'00" W. to 42°10'00" N., 75°25'00" W. to 42°00'00" N., 75°26'30" W. to 42°00'00" N., 75°00'00" W. to 42°01'00" N., 74°30'00" W. to 43°00'00" N., 74°30'00" W. to point of beginning.

De Land, Fla.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of De Land Municipal/ Sidney H. Taylor Field (lat. 29°04'03" N., long. 81°17'00" W.); excluding the portion within Daytona Beach transition area.

Delano, Calif.
That airspace extending upward from 700 feet above the surface within a 3-mile radius of Delano Municipal Airport (latitude 35°44'48" N., longitude 119°14'08" W.) and within 3 miles each side of the Bakersfield VORTAC 336° T radial, extending from the 3-mile radius area to 12 miles NW of the VORTAC.

Delaware
That airspace extending upward from 1,200 feet above the surface within the boundary of the State of Delaware including the offshore airspace within 3 nautical miles and parallel to the shoreline.

Del Rio, Tex.
That airspace extending upward from 700 feet above the surface within a 12-mile radius of lat. 29°23'00"N., long. 100°50'15"W., and within 4.5 miles west and 9.5 miles east of the Laughlin VORTAC 148° radial extending from the 12-mile radius area to 22 miles southeast of the VORTAC and within 8.5 miles west and 6.5 miles east of the Laughlin VORTAC 315° radial extending from the 12-mile radius area to 18 miles northwest of the VORTAC, excluding the portion outside of the United States.

Delta, Utah
That airspace extending upward from 700 feet above the surface within a 9-mile radius of Delta Municipal Airport (lat. 39°23'00"N., long. 112°30'35"W.); and within 10.5 miles northwest and 5 miles southeast of the Delta VORTAC 203° radial, extending from the 9-mile radius area to 18.5 miles southwest of the VORTAC; within 5 miles east of the Delta VORTAC 186° radial, extending from the 9-mile radius area to 13 miles south of the VORTAC; within 8 miles west and 6.5 miles east of the Delta VORTAC 360° radial, extending from the 9-mile radius area to 30 miles north of the VORTAC; and that airspace extending upward from 1,200 feet above the surface within 9 miles southeast and 13.5 miles northwest of the Delta VORTAC 203° and 023° radials, extending from 12 miles northeast to 25.5 miles southwest of the VORTAC; and that airspace within 5 miles northeast and 5 miles southwest of the Delta VORTAC 326° radial extending from the VORTAC to the southeast boundary of Restricted Area R-6402.

AMENDMENTS 3/23/78 43 F. R. 4847 (Changed)

Deming, N. Mex.
That airspace extending upward from 700 feet above the surface within an 8-mile radius of Deming Municipal Airport (lat. 32°15'40" N., long. 107°43'10" W.).

Demopolis, Ala.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Demopolis Municipal Airport (lat. 32°27'45" N., long. 87°57'05" W.).

Denison, Iowa
That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Denison, Iowa, Municipal Airport (latitude 41°59'15" N., longitude 95°23'00" W.) and within 2 miles each side of the 115° bearing from Denison Municipal Airport, extending from the 6-mile radius area to 8 miles southeast of the airport.

Denver, Colo.
That airspace extending upward from 700 feet above the surface, within an arc of a 22-mile radius circle centered on Stapleton Airport (latitude 39°46'30" N., longitude 104°52'40" W.) extending clockwise between the 253° and 078° bearings from Stapleton Airport, within an arc of a 37-mile radius circle centered on Stapleton Airport extending clockwise between the 078° and 160° bearings from Stapleton Airport, within an arc of a 31-mile radius circle centered on Stapleton Airport extending clockwise between the 160° and 194° bearings from Stapleton Airport, and within an arc of a 24-mile radius circle centered on Stapleton Airport extending clockwise between the 194° and 253° bearings from the Stapleton Airport;
that airspace extending upward from 1200 feet above the surface bounded on the north by lat. 40°30'00"N., thence northeast bound by V-207, thence eastbound by lat. 41°00'00"N., on the east by V-169, on the south by 39°00'00"N., on the west by long. 106°00'00"W., excluding the airspace within Federal airways;
that airspace extending upward from 12,700 feet MSL bounded on the north by latitude 40°30'00" N., on the east by longitude 105°23'00" W. to latitude 39°20'00" N., thence direct latitude 39°30'00" N., longitude 105°30'00" W., and on the west by longitude 105°30'00" W.; and that airspace extending upward from 13,700 feet MSL bounded on the north by latitude 40°30'00" N., on the east by longitude 105°30'00" W. to latitude 39°30'00" N., thence direct to latitude 39°20'00" N., longitude 105°23'00" W., thence direct latitude 39°05'00" N., longitude 105°23'00" W., thence direct latitude 39°05'00" N., longitude 105°26'00" W., thence direct latitude 39°44'00" N., longitude 105°38'00" W., thence direct latitude 40°30'00" N., longitude 105°33'00" W.

AMENDMENTS 7/13/78 43 F. R. 21872 (Changed)

DeQueen, Ark.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Sevier County Airport (latitude 34°02'44" N., longitude 94°23'58" W.) and within 3.5 miles each side of the 269° bearing from the DeQueen NDB (latitude 34°02'39" N., longitude 94°23'59" W.) extending from the 5-mile radius area to a point 10 miles west of the NDB.

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De Quincy, La.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of De Quincy Industrial Airpark (lat. 30°26'17"N., long. 93°28'21"W.); within 2 miles each side of the Lake Charles VORTAC 313°T radial extending from the 5-mile radius area to 24.5 miles northwest of the VORTAC and within 3 miles either side of the 325°T bearing from the De Quincy NDB (lat. 30°26'06"N., long. 93°28'00"W.) extending from the 5-mile radius area to 8 miles northwest of the NDB.

DeRidder, La.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Beauregard Parish Airport (lat. 30°50'00"N., long. 93°20'00"W.) within 3.5 miles each side of the 347° bearing from the DeRidder NDB (lat. 30°50'00"N., long. 93°20'00"W.) extending from the 5-mile radius area to 11.5 miles north of the NDB, and within 3 miles each side of the 191° bearing from the DeRidder NDB extending from the 5-mile radius area to 8 miles south of the NDB.

Des Moines, Iowa
That airspace extending upward from 700 feet above the surface within an 18-mile radius of Des Moines Municipal Airport (latitude 41°32'05" N., longitude 93°39'35" W.).; and that airspace extending upward from 3,500 feet MSL bounded by a line starting at the intersection of longitude 93°30'00" W., and the north edge of V-216; thence southwest along the north edge of V-216 to and north along longitude 95°00'00" W., to and east along the south edge of V-6S to the intersection of the south edge of V-6S and longitude 94°10'15" W.; thence southeast to latitude 40°56'30" N., longitude 93°54'00" W.; thence northeast to latitude 41°01'45" N., longitude 93°30'00" W.; thence south to the point of beginning.

Detroit, Mich.
That airspace extending upward from 700 feet above the surface bounded by a line beginning at latitude 43°00'00" N., longitude 82°25'00" W., on the Canadian boundary to latitude 43°04'00" N., longitude 82°30'00" W., to latitude 42°53'00" N., longitude 83°00'00" W., to latitude 42°45'00" N., longitude 83°50'00" W., to latitude 42°30'00" N., longitude 83°50'00" W., to latitude 42°10'00" N., longitude 84°00'00" W., to latitude 42°00'00" N., longitude 83°30'00" W., thence east along the 42nd parallel to the Canadian boundary, thence along the Canadian boundary to point of beginning.

Detroit Lakes, Minn.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Detroit Lakes Municipal Airport (latitude 46°49'34" N., longitude 95°53'06" W.); within 3 miles each side of the Detroit Lakes VOR 315° radial extending from the 5-mile radius area to 7½ miles northwest of the VOR; within 3 miles each side of the 145° radial extending from the 5-mile radius area to 8 miles southeast of the VOR; and that airspace extending upward from 1,200 feet above the surface within 4½ miles northeast and 9½ miles southwest of the Detroit Lakes VOR 315° radial extending from the VOR to 18½ miles northwest; within 4½ miles southwest and 9½ miles northeast of the VOR 145° radial extending from the VOR to 18½ miles southeast, excluding that portion which overlies the Fargo, North Dakota, transition area.

Devils Lake, N. Dak.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Devils Lake Municipal Airport (latitude 48°06'55" N., longitude 98°54'30" W.); within 4½ miles southwest and 9½ miles northeast of the Devils Lake VORTAC 134° radial extending from the VORTAC to 18½ miles southeast of the VORTAC; within 4½ miles northeast and 9½ miles southwest of the Devils Lake VORTAC 324° radial extending from the VORTAC to 18½ miles northwest of the VORTAC; within 4½ miles southeast and 9½ miles northwest of the 026° bearing from the Devils Lake Airport extending from the airport to 18½ miles northeast of the airport; and that airspace extending upward from 1200 feet above the surface within a 17½ mile radius of the Devils Lake VORTAC.

Dexter, Mo.
That airspace extending upward from 700 feet above the surface within an 8½-mile radius of the Dexter Municipal Airport (latitude 36°46'30" N., longitude 89°56'30" W.).

Dickinson, N. Dak.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of Dickinson Municipal Airport (latitude 46°47'51" N., longitude 102°47'49" W.); and that airspace extending upward from 1,200 feet above the surface within a 13-mile radius circle centered on the Dickinson VORTAC, extending clockwise from the Dickinson VORTAC 259° radial to the Dickinson VORTAC 093° radial; and within 9.5 miles west and 4.5 miles east of the Dickinson VORTAC 013° radial extending from the VORTAC to 18.5 miles north of the VORTAC.

Dickson, Tenn.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Dickson Municipal Airport (lat. 36°07'47" N., long. 87°25'48" W.).

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Dillingham, Alaska
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the Dillingham Airport (latitude 59°02'30" N., longitude 158°30'28" W.); and that airspace within 2.5 miles each side of the Dillingham VORTAC 025° radial extending from the 8.5-mile radius zone to 15.5 miles northeast of the VORTAC and within 2 miles each side of the Dillingham VORTAC 205° radial extending from the 8.5 mile radius zone to 9 miles southwest of the VORTAC; and that airspace extending upward from 1,200 feet above the surface within 4.5 miles northwest and 9.5 miles southeast of the Dillingham VORTAC 025° and 205° radials extending from 23 miles northeast to 18.5 miles southwest of the VORTAC and within an 18-mile radius of the Dillingham VORTAC extending clockwise from the 056° radial to the 173° radial of the VORTAC.

Dillon, Mont.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Dillon Airport (lat. 45°15'20" N., long. 112°33'10" W.) and within 3 miles each side of the Dillon VORTAC 025° radial, extending from the 6-mile radius zone to 8.5 miles northeast of the VORTAC; and that airspace extending upward from 1,200 feet above the surface within 9.5 miles northwest and 6 miles southeast of the Dillon VORTAC 025° radial, extending from the VORTAC to 24 miles northeast; and that airspace extending upward from 11,700 feet MSL within 7.5 miles west and 10.5 miles east of the Dillon VORTAC 168° and 348° radials extending from 4.5 miles north to 19.5 miles south of the VORTAC.

Dillon, S. C.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Dillon County Airport (lat. 34°27'00" N., long. 79°22'00" W.); within 3 miles each side of the 233° bearing from the Dillon RBN (lat. 34°26'59" N., long. 79°22'10" W.), extending from the 5-mile radius area to 8.5 miles southwest of the RBN.

District of Columbia
That airspace extending upward from 1,200 feet above the surface within the territorial boundaries of the District of Columbia. The portion within P-56 is excluded.

Dixon, Ill.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Charles R. Walgreen Field, Dixon, Ill. (latitude 41°50'03" N., longitude 89°26'37" W.), and within 2 miles each side of the Polo, Ill., VORTAC 155° radial extending from the 5-mile radius area to the VORTAC.

Dodge City, Kans.
That airspace extending upward from 700 feet above the surface within a 9.5 mile radius of the Dodge City Municipal Airport (latitude 37°45'42" N., longitude 99°57'51" W.).

Donalsonville, Ga.
That airspace extending from 700 feet above the surface within a 6.5-mile radius of Donalsonville Airport (lat. 31°01'00"N., long. 84°52'30"W.).

Dothan, Ala.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Dothan Airport (lat. 31°19'10"N., long. 85°27'30"W.); within 5 miles each side of Wiregrass VORTAC 157° radial, extending from the 3.5-mile radius area to 11.5 miles SE of the VORTAC; within 4.5 miles each side of Wiregrass VORTAC 331° radial, extending from the 8.5-mile radius area to 10.5 miles NW of the VORTAC; excluding the airspace within a 1.5-mile radius of Headland Municipal Airport (lat. 31°21'45"N., long. 85°18'30"W.), the portion that coincides with the Fort Rucker, Ala., transition area, and the airspace within 1.5 miles each side of Wiregrass VORTAC 350° radial; within a 6.5-mile radius of Wheelless Airport (lat. 31°13'35"N., long. 85°29'30"W.); excluding the portion northwest of Wiregrass VORTAC 237° radial.

AMENDMENTS 3/23/78 42 F. R. 60120 (Changed)

Douglas, Ariz.
That airspace extending upward from 700 feet above the surface within 4.5 miles southwest and 9.5 miles northeast of the Douglas VORTAC 333° radial extending from the VOR to 18.5 miles northwest of the VORTAC; that airspace extending upward from 1,200 feet above the surface within a 9-mile radius of the Douglas VORTAC, within a 23-mile radius of the Douglas VORTAC extending clockwise from the southwest edge of V-66 to the southeast edge of V-66, and within 5 miles east and 8.5 miles west of the Douglas VORTAC 347° radial extending from the 23-mile radius area to the Cochise VORTAC, excluding the portion within the Cochise, Ariz., transition area.

Douglas, Ga.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Douglas Municipal Airport (latitude 31°29'10" N., longitude 82°51'15" W.).

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Douglas, Wyo.
That airspace extending upward from 8,500 feet MSL, bounded on the north by latitude 42°44'00" N., and the east by the Wyoming-Nebraska state boundary and V-169, on the southeast by V-89, on the south by V-100, on the west by V-19E and on the southwest by V-19E and V-247.

Dover, Del.
That airspace extending upward from 700 feet above the surface within a 9-mile radius of the center, lat. 39° 07'30" N., long. 75°28'00" W. of Dover AFB, Dover, Del.; within 3.5 miles each side of the Dover TACAN 178° radial, extending from the 9-mile radius area to 10.5 miles south of the TACAN; within 3.5 miles each side of the Dover TACAN 012° radial, extending from the 9-mile radius area to 10.5 miles north of the TACAN; within 3.5 miles each side of the Dover TACAN 132° radial, extending from the 9-mile radius area to 10.5 miles southeast of the TACAN; and within a 5-mile radius of the center, lat. 39°13'04" N., long. 75°35'56" W., of Delaware Airpark, Dover-Cheswold, Del.; and within 6.5 miles
north and 4.5 miles south of the Kenton, Delaware VORTAC 078° and 258° radials extending from 5.5 miles west to 11.5 miles east of the VORTAC.

Dowagiac, Mich.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of Cass County Memorial Airport, (latitude 41°59'30" N., longitude 86°07'37" W.); within 2 miles each side of the Keeler, Michigan, 181° radial extending from the 7-mile radius area to the VOR, excluding the portion which overlies the South Bend, Indiana, transition area.

Downingtown, Pa.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, lat. 39° 59'00" N., long. 75°44'30" W., of Bob Shannon Memorial Field, Downingtown, Pa., and within 6.5 miles northeast and 4.5 miles southwest of the Modena, Pa., VORTAC 320° radial and 140° radial, extending from 5.5 miles northwest to 11.5 miles southeast of the VORTAC. This transition area is effective from sunrise to sunset, daily.

Doylestown, Pa.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of the center (latitude 40°20'20" N., longitude 75°07'20" W.) of Doylestown Airport, Doylestown, Pa.; within 8 miles northwest and 4.5 miles southeast of the 224° bearing and the 044° bearing from the Doylestown, Pa. RBN (latitude 40°19'59" N., longitude 75°07'21" W.), extending from 5.5 miles southwest of the RBN to 11.5 miles northeast of the RBN; within 8 miles northwest and 4.5 miles southeast of the Solberg, N. J. VORTAC 229° radial, extending from 7.5 miles southwest of the VORTAC to 24.5 miles southwest of the VORTAC, excluding the portions which coincide with the North Philadelphis, Pa., Pittstown, N. J. and Readington, N. J. transition areas.

Drew, Miss.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Ruleville-Drew Airport (lat. 33°46'39" N., long. 90°21'27" W.).

Dublin, Ga.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of Dublin Municipal Airport (lat. 32°33'55" N., long. 82°59'10" W.); within 2.5 miles each side of Dublin VORTAC 274° radial, extending from the 6-mile radius area to the VORTAC.

Dublin, Va.
That airspace extending upward from 700 feet above the surface within an 8-mile radius of the center, lat. 37°08'12"N., long. 80°40'50"W., of New River Valley Airport, Dublin, Va.; within a 23-mile radius of the center of the airport, extending clockwise from a 252° bearing to a 272° bearing from the airport; within a 15.5-mile radius of the center of the airport, extending clockwise from a 272° bearing to a 291° bearing from the airport; within an 18-mile radius of the center of the airport, extending clockwise from a 291° bearing to a 314° bearing from the airport; within a 15.5-mile radius of the center of the airport, extending clockwise from a 314° bearing to a 355° bearing from the airport; within an 11-mile radius of the center of the airport, extending clockwise from a 355° bearing to a 015° bearing from the airport; within a 14.5-mile radius of the center of the airport, extending clockwise from a 015° bearing to a 060° bearing from the airport; within 5 miles each side of the Pulaski VORTAC 192° radial extending from the VORTAC to 11.5 miles south of the VORTAC, and within 5 miles each side of the 233° bearing from a point lat. 37°08'39" N., long. 80°40' 03" W., extending from said point to a point 16 miles southwest.

Dubois, Idaho
That airspace extending upward from 1,200 feet above the surface within 11 miles east and 7 miles west of the Dubois VOR 170° and 350° radials, extending from 10 miles north to 20 miles south of the VOR.

Du Bois, Pa.
That airspace extending upward from 700 feet above the surface within an 11.5 mile radius of the center, 41° 10'45" N., 78°53'45" W. of Du Bois-Jefferson County Airport and within 3.5 miles each side of the Du Bois ILS localizer northeast course extending from the 11.5-mile radius area to 11.5 miles northeast of the OM.

Dubuque, Iowa
That airspace extending upward from 700 feet above the surface within an 8½-mile radius of the Dubuque Municipal Airport (latitude 42°24'10" N., longitude 90°42'32" W.); and within 3 miles on either side of the Dubuque VORTAC 321° radial, extending from the VORTAC to 8 miles northwest of the airport reference point; and within 3½ miles on either side of the Dubuque VORTAC 131° radial, extending from the VORTAC to 15½ miles southeast of the airport reference point, and that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at latitude 42°05'00" N., longitude 91°00'00" W., thence W. along latitude 42°05' 00" N., to and N. along longitude 92°15'00" W., to and counterclockwise along the arc of a 29-mile radius circle centered on the Waterloo, Iowa, VORTAC to and E. along the S. edge of V-100, to and clockwise along the arc of a 29-mile radius circle centered on the Dubuque VORTAC, to and SE. along the SW. edge of V-218, to and S. along longitude 89°55'00" W. to and SW along the NW edge of V-216, to 90°08'00" W., and S. to the N. edge of V-172, to and N. along longitude 91°00'00" W., to the point of beginning, excluding the portion which overlies the State of Illinois.

Duchesne, Utah
That airspace extending upward from 1200 feet above the surface within 8 miles north and 6 miles south of the 104°T and 283°T radials extending from 14 miles east to 14 miles west of the Myton VORTAC.

Duluth, Minn.
That airspace extending upward from 700 feet above the surface within a 9-mile radius of Duluth International Airport (latitude 46°50'30" N., longitude 92°11'25" W.); within a 17.5-mile radius of the Duluth International Airport, extending from the Duluth VOR 262° radial clockwise to the Duluth VOR 058° radial; within 4½ miles north and 9½ miles south of Duluth localizer west course, extending from 4 miles east to 18½ miles west of the OM; and within 4½ miles east and 9½ miles west of the Duluth VORTAC 023° radial, extending from the 17.5-mile radius area to 28 miles northeast of the VORTAC; and that airspace extending upward from 1,200 feet above the surface within a 35-mile radius of Duluth International Airport; within 8 miles northwest and 5 miles southeast of the Duluth VORTAC 051° radial, extending from the 35-mile radius area to 41 miles northeast of the VORTAC; and within 4½ miles northwest and 9½ miles southeast of the Duluth VORTAC 244° radial, extending from the 35-mile radius area to 41 miles southwest of the VORTAC; excluding the portions which overlie the Hibbing, Minn., and Cloquet, Minn., transition areas; and the State of Wisconsin.

Dumas, Tex.
That airspace extending upward from 700 feet above the surface within a 6-statute-mile radius of the Dumas Municipal Airport (lat. 35°51'30"N., long. 102°00'30"W.).

AMENDMENTS 3/23/78 43 F. R. 3552 (Added)

Duncan, Okla.
That airspace extending upward from 700 feet above the surface within a 8.5-mile radius of Halliburton Field (latitude 34°28'30" N., longitude 97°57'30" W.), and within 2 miles each side of the Duncan VOR 157° radial, extending from the 8.5-mile radius area to 7 miles southeast of the VOR.

Dunkirk, N. Y.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of the center, 42°29' 30" N., 79°16'30" W., of Dunkirk Municipal Airport, Dunkirk, N. Y., and within a 13.5-mile radius of the center of the airport extending clockwise from a 022° to 232° bearing from the airport.

Durango, Colo.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of the La Plata County Airport (lat. 37°09'12"N., long. 107°45'04"W.) and within 5 miles each side of the Durango VOR 224°T radial extending from the 7-mile radius area to 17.5 miles southwest of the VOR; that airspace extending upward from 1,200 feet above the surface within 9.5 miles southeast and 6 miles northwest of the Durango VOR 224° and 044° radials, extending from 8 miles northeast to 25 miles southwest of the VOR.

Durant, Okla.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Eaker Field (lat. 33°56'30"N., long. 96°24'00"W.) and within 3 miles each side of a 167° bearing from the Durant NDB (lat. 33°56'32"N., long. 96°23'54"W.) extending from the 8.5-mile radius area to 9 miles SE of the NDB.

AMENDMENTS 9/7/78 43 F. R. 28173 (Rewritten)

Dutch Harbor, Alaska
That airspace extending upward from 700 feet above the surface within 5 miles each side of the Dutch Harbor NDB 360° bearing extending from the NDB to 17.5 miles north of the NDB and within 4.5 miles east and 9.5 miles west of the NDB 360° bearing extending from 11.5 miles to 36 miles north of the NDB.

AMENDMENTS 3/23/78 43 F. R. 3547 (Added)

Dwight, Ill.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Dwight Airport (latitude 41°08'05" N., longitude 88°26'30" W.); and within 3 miles either side of the 097° bearing from the airport extending from the 5-mile radius area to 3 miles from the airport.

Dyersburg, Tenn.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Dyersburg Municipal Airport (latitude 36°00'00" N., longitude 89°24'20" W.); within 3 miles each side of the Dyersburg VORTAC 078° radial, extending from the 6.5-mile radius area to 8.5 miles east of the VORTAC.

Eagle, Colo.
That airspace extending upward from 1,200 feet above the surface within the area bounded by a line beginning at lat. 39°34'30" N., long. 106°25'00" W.; to lat. 39°45'30" N., long. 106°25'00" W.; to lat. 39°47'00" N., long. 107°05'00" W.; to lat. 39°41'00" N., long. 107°12'30" W.; to lat. 39°27'30" N., long. 107°01'00" W.; to lat. 39°33'30" N., long. 106°53'00" W.; to the point of beginning.

Eagle Lake, Tex.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Eagle Lake Airport (latitude 29°36'00" N., longitude 96°19'26" W.); and within 2 miles each side of the Eagle Lake VOR 007° radial extending from the 5-mile radius area to 8 miles N of the VOR.

Eagle Pass, Tex.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Eagle Pass Municipal Airport (latitude 28°42'00" N., longitude 100°28'45" W.) and within 3 miles each side of the 089° bearing from the Eagle Pass RBN (latitude 28°42'20" N., longitude 100°29'10" W.) extending from the 5-mile radius area to 8 miles east of the Eagle Pass RBN excluding the portion outside the United States.

Eagle River, Wis.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Eagle River Municipal Airport (latitude 45°55'45" N., longitude 89°16'00" W.); and within 3 miles each side of the 037° bearing from Eagle River Municipal Airport extending from the 5-mile radius area to 7½ miles northeast of the airport.

East Hampton, N. Y.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of the center, 40°57' 36" N., 72°15'05" W., of East Hampton Airport, East Hampton, N. Y., extending clockwise from a 307° bearing to a 044° bearing from the airport; within a 7-mile radius of the center of the airport, extending clockwise from a 044° bearing to a 092° bearing from the airport; within a 6-mile radius of the center of the airport, extending clockwise from a 092° bearing to a 232° bearing from the airport; and within a 7-mile radius of the center of the airport extending clockwise from a 232° bearing to a 307° bearing from the airport.

East Liverpool, Ohio
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Columbiana County Airport (latitude 40°40'24" N., longitude 80°38'30" W.); within 3 miles each side of the 070° bearing from the airport, extending from the 5-mile radius area to 8.5 miles east of the airport, excluding that portion which overlies the Beaver Falls, Pa., transition area.

Eastman, Ga.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Eastman-Dodge County Airport (latitude 32°12'51" N., longitude 83°07'42" W.).

Easton, Md.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center, lat. 38°48'30" N., long. 76°04'30" W. of Easton Municipal Airport, and within 3 miles each side of the 038° bearing from the Easton, Md., RBN, lat. 38°48'25"N., long. 76°04'05"W., extending from the 6.5-mile radius area to 8.5 miles northeast of the RBN.

Easton, Pa.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center, latitude 40°44'32" N., 75°14'35" W. of Easton Airport, Easton, Pa.; within an 8-mile radius of the center of the airport, extending clockwise from a 248° bearing from the airport to a 060° bearing from the airport; within a 10.5 mile radius of the center of the airport, extending clockwise from a 060° bearing from the airport to a 095° bearing from the airport; within a 9.5-mile radius of the center of the airport, extending clockwise from a 095° bearing from the airport to a 129° bearing from the airport; within 5 miles each side of the Allentown, Pa., VORTAC 085° radial, extending from 12 miles east of the VORTAC to 20.5 miles east of the VORTAC. This transition area is effective from sunrise to sunset, daily.

East St. Louis, Ill.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Bi State Parks Airport (latitude 38°34'30" N., longitude 90°10'00" W.) and within 3 miles each side of the 129° bearing from the airport extending from the 7-mile radius area to 8 miles southeast.

East Stroudsburg, Pa.
That airspace extending upward from 700 feet above the surface within a 12-mile radius of the center, lat. 41°02'08" N., 75°09'45" W., of Stroudsburg-Pocono Airpark, East Stroudsburg, Pa., extending clockwise from a 337° bearing to a 106° bearing from the airport; within an 8.5-mile radius of the center of the airport, extending clockwise from a 106° bearing to a 110° bearing from the airport; within an 8-mile radius of the center of the airport, extending clockwise from a 110° bearing to a 177° bearing from the airport; within a 13.5-mile radius of the center of the airport, extending clockwise from a 177° bearing to a 221° bearing from the airport; within an 11-mile radius of the center of the airport, extending clockwise from a 221° bearing to a 258° bearing from the airport; within a 17.5-mile radius of the center of the airport, extending clockwise from a 258° bearing to a 337° bearing from the airport; excluding the portion within the Mount Pocono, Pa., transition area.

East Tawas, Mich.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Iosco County Airport (latitude 44°18'48" N., longitude 83°25'30" W.), excluding the portion which overlies the Oscoda, MI., transition area.

Eau Claire, Wis.
That airspace extending upward from 700 feet above the surface within a 14-mile radius of Eau Claire Municipal Airport (latitude 44°51'54" N., longitude 91°29'02" W.) and within 3½ miles each side of the Eau Claire ILS localizer northeast course extending from the 14-mile radius to 18 miles northeast of the airport; within 5 miles each side of the Eau Claire ILS localizer southwest course extending from the 14-mile radius to 15 miles southwest of the airport.

Ebensburg, Pa.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of the center 40°27'40" N., 78°46'25" W., of Ebensburg Airport, Ebensburg, Pa.; within 2 miles each side of the Runway 24 centerline extended from the 6-mile radius area to 6 miles southwest of the end of the runway; within 2 miles each side of the Runway 28 centerline extended from the 6-mile radius area to 7 miles west of the end of the runway and within 2 miles each side of the Revloc, Pa., VORTAC 194° radial extending from the 6-mile radius area to the VORTAC, excluding the portion that coincides with the Johnstown, Pa., transition area.

Edenton, N. C.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Edenton Municipal Airport (latitude 36°01'30" N., longitude 76°33'30" W.); within 3 miles each side of the 218° and 352° bearings from Edenton RBN (latitude 36°01'33" N., longitude 76°33'57" W.), extending from the 6.5-mile radius area to 8.5 miles southwest and north of the RBN.

Edna, Tex.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Jackson County Airport (lat. 29°00'03"N., long. 96°34'55"W.) and within 3.5 miles either side of the 322° bearing from the NDB extending 6.5 miles from the 5-mile radius.

AMENDMENTS 1/26/78 42 F. R. 60560 (Added)

Edwards AFB, Calif.
That airspace extending upward from 700 feet above the surface within a 15-mile radius of Edwards AFB (latitude 34°54'20"N., longitude 117°52'58"W.), within 2 miles SE and 8 miles NW of the Edwards AFB VORTAC 057° radial extending from the 15-mile radius area to 12.5 miles NE of the VORTAC.

Effingham, Ill.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Effingham County Memorial Airport (lat. 39°04'15"N., long. 88°32'15"W.); within 1½ miles either side of the 344° radial of the Bible Grove VORTAC extending from the 5-mile radius to the Bible Grove VORTAC.

Eglin AFB, Fla.
That airspace extending upward from 700 feet above the surface within 9-mile radii of Eglin AFB (lat. 30°29' 07" N., long. 86°31'35" W.), Eglin AF Aux No. 3 (Duke Field) (lat. 30°39'01" N., long. 86°31'25" W.) and Eglin AF Aux No. 9 (Hurlburt Field) (lat. 30°25'42" N., long. 86°41'05" W.); within a 5-mile radius of Destin-Fort Walton Beach Airport (lat. 30°23'57" N., long. 86°28'47" W.); excluding the portions within W-151, Crestview, Fla., transition area, and a 1.5-mile radius of Fort Walton Beach Airport (lat. 30°24'25" N., long. 86°49'40" W.).

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El Campo, Tex.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the El Campo Airpark (lat. 29°16'00"N., long. 96°19'30"W.); within a 5-mile radius of the El Campo Metro Airport (lat. 29° 11'00"N., long. 96°18'45"W.) and within 3 miles each side of the 184° bearing from the proposed NDB (lat. 29° 10'35"N., long. 96°19'11"W.) extending from the NDB to 8.5 miles south.

El Centro, Calif.
That airspace extending upward from 1,200 feet above the surface within 8 miles each side of the Imperial VORTAC 088° and 268° radials, extending from 15 miles E to 15 miles W of the VORTAC, and within 15 miles W and 5 miles E of the Imperial VORTAC 360° radial, extending from the VORTAC to 25 miles N of the VORTAC, excluding the portion under the jurisdiction of Mexico.

El Dorado, Ark.
That airspace extending upward from 700 feet above the surface within 5 miles southeast and 8 miles northwest of the El Dorado VORTAC 059° radial, extending from the VORTAC to 12 miles northeast; within 5 miles each side of the 239° radial, extending from the VORTAC to 5 miles southwest; and within 2 miles each side of the 236° radial, extending from the VORTAC to 18 miles southwest.

Elizabeth City, N. C.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of CGAS Elizabeth City (latitude 36°15'35" N., longitude 76°10'20" W.); within 3 miles each side of the 128° bearing from Weeksville RBN, extending from the 8.5-mile radius area to 8.5 miles southeast of the RBN; within 5 miles east and 3 miles west of Elizabeth City VOR 188° radial, extending from the 8.5-mile radius area to 12.5 miles south of the VOR; within 3 miles each side of Elizabeth City VOR 357° radial, extending from the 8.5-mile radius area to 8.5 miles north of the VOR.

Elizabethtown, Ky.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Elizabethtown-Hardin County Airport (lat. 37°45'13" N., long. 85°53'09" W.); within 2 miles each side of New Hope VOR 306° radial, extending from the 5-mile radius area to 9 miles northwest of the VOR; excluding the portion within Louisville transition area.

Elk City, Okla.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Elk City Airport (latitude 35°25'40" N., longitude 99°23'45" W.); and within 3.5 miles each side of the 015° bearing from the Elk City NDB (latitude 35°25'33" N., longitude 99°23'52" W.) extending from the 5-mile radius area to 8 miles north of the NDB.

Elkhart, Ind.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Elkhart Municipal Airport (lat. 41°43'11"N., long. 85°59'41"W.); and within 2 miles each side of the South Bend, Ind., VORTAC 101° radial, extending eastward from the 5-mile radius area to 23 miles east of the VORTAC, and within 2 miles each side of the Goshen, Ind., VORTAC 008° radial, extending south from the 5-mile radius area to 5 miles north of the Goshen VORTAC excluding the portion which overlies the South Bend, Ind., 700-foot floor transition area.

Elkin, N. C.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Elkin Municipal Airport (lat. 36°16'40" N., long. 80°47'12" W.); within 3 miles each side of the 056° bearing from Zephyr RBN (lat. 36°18'47" N., long. 80°43'25" W.), extending from the 6.5-mile radius area to 8.5 miles northeast of the RBN.

Elkins, W. Va.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center, lat. 38° 53'20" N., long. 79°51'24" W. of Elkins-Randolph County-Jennings Randolph Field, Elkins, W. Va.; within 4 miles each side of the
Elkins VORTAC 098° radial extending from the 6.5-mile radius area to 1.5 miles east of the VORTAC and within 4.5 miles east and 9.5 miles west of the 011° bearing from the Randolph County RBN, extending from the RBN to 18.5 miles north of the RBN. This transition area is effective from sunrise to sunset, daily.

Elko, Nev.
That airspace extending upward from 700 feet above the surface within 4.5 miles east and 9 miles west of the Elko VORTAC 161° radial, extending from the VORTAC to 19 miles south of the VORTAC; and that airspace extending upward from 1,200 feet above the surface bounded by an arc of a 17-mile radius circle centered on the Elko VORTAC extending clockwise from the 091° to the 258° radial of the Elko VORTAC, and that airspace bounded on the northwest and north by V-6, on the southeast by V-465 and on the south by V-32.

Ellensburg, Wash.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Bowers Field (latitude 47°02'02" N., longitude 120°31'49" W.); within the arc of a 13-mile radius circle centered on the Ellensburg VORTAC, beginning at the 016° radial and extending clockwise to the 063° radial; within the arc of a 20.5-mile radius circle centered on the Ellensburg VORTAC beginning at the 063° radial and extending clockwise to the 221° radial; that airspace extending upward from 1,200 feet above the surface southwest of Ellensburg bounded on the north by V-2S, on the southeast by the Ellensburg VORTAC 221° radial, on the southwest by V-4.

Elmira, N.Y.
That airspace extending upward from 700 feet above the surface within a 12-mile radius of the center of Chemung County Airport, Elmira, N. Y., 42°09'37"N., 76°53'35"W., within 4.5 miles each side of the Elmira VORTAC 237° radial, extending from the 12-mile radius area to 11.5 miles SW of the VORTAC, within 5 miles SE and 8 miles
NW of the airport ILS NE localizer course extending from the 12-mile radius area to 12 miles NE of the Alpine RBN.
AMENDMENTS 12/29/77 42 F. R. 64113 (Changed)

El Paso, Tex.
That airspace extending upward from 700 feet above the surface within a 9.5-mile radius of the El Paso International Airport (latitude 31°48'35" N., longitude 106°22'55" W.) extending clockwise from the 261° to the 278° bearings from the El Paso International Airport; within a 9-mile radius of the Biggs AAF (latitude 31°50' 55" N., longitude 106°22'45" W.) extending clockwise from the 262° to the 029° bearings from the Biggs AAF; within 2 miles each side of the Newman, Tex., VORTAC 040° radial extending from the 9.5-mile radius area to 12 miles NE of the VORTAC; within a 15-mile radius of the El Paso International Airport extending clockwise from the 041° to the 161° bearings of the El Paso International Airport; thence via the United States/Mexican border to point of beginning.

El Rico, Calif.
That airspace extending upward from 700 feet above the surface within a 3-mile radius of El Rico Airport (latitude 36°02'43" N., longitude 119°38'44" W.) and within 3 miles each side of the Avenal VORTAC 034° radial, extending from the 3-mile radius area to 24 miles NE of the VORTAC.

Ely, Minn.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Ely Municipal Airport (latitude 47°49'26" N., longitude 91°49'45" W.); and within 3 miles each side of the 112° bearing from the Ely Municipal Airport, extending from the 6-mile radius area to 8 miles southeast of the airport, and within 3 miles each side of the 305° bearing from Ely Municipal Airport, extending from the 6-mile radius area to 8 miles northwest of the airport; that airspace extending upward from 1,200 feet above the surface within 9½ miles south and 4½ miles north of the 112° bearing from the Ely Municipal Airport extending from the airport to 18½ miles southeast of the airport, and within 9½ miles southwest and 4½ miles north of the 305° bearing of the Ely Municipal Airport extending from the airport to 18½ miles northwest of the airport excluding the portion which overlies the prohibited areas P-205 and P-204.

Ely, Nev.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Ely, Nev., VOR, within 5 miles northeast and 9.5 miles southwest of the Ely VOR 303° radial, extending from the VOR to 18.5 miles northwest of the VOR; that airspace extending upward from 1,200 feet above the surface within 6 miles east and 9.5 miles west of the Ely VOR 007° and 187° radials extending from 17 miles north to 2 miles south of the VOR and within 5 miles each side of the Ely VOR 167° radial, extending from the VOR to 21 miles south of the VOR.

Elyria, Ohio
That airspace extending upward from 700 feet above the surface within a 9-mile radius of the center, 41°20'40" N., 82°10'40" W., of Lorain County Regional Airport and within 3.5 miles each side of the Cleveland VORTAC 300° radial, extending from the 9-mile radius area to 9.5 miles northwest of the VORTAC, excluding the portion that coincides with the Cleveland, Ohio 700-foot transition area.

Emporia, Kans.
That airspace extending upward from 700 feet above the surface within 2 miles either side of the Emporia VORTAC 134° radial, extending from the 5-mile radius of the airport (latitude 38°20'00" N., longitude 96°11' 15" W.); to 8 miles southeast of the VORTAC and 5 miles either side of the 010° bearing from the airport extending from the 5-mile radius to 12.5 miles north.

Emporia, Va.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center, (36° 41'30" N., 77°29'30" W.) of Emporia Municipal Airport, Emporia, Va., extending clockwise from a 057° bearing to a 183° bearing from the airport; within a 7-mile radius of the center of the airport, extending clockwise from a 183° bearing to a 057° bearing from the airport and within 3 miles each side of a 135° bearing from the Emporia RBN (36°40'58" N., 77°28'57" W.) extending from the RBN to 8.5 miles southeast of the RBN.

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Endicott, N. Y.
That airspace extending upward from 700 feet above the surface within a 10-mile radius of the center lat. 42° 04'42"N., long. 76°05'49"W., of Tri-Cities Airport, Endicott, N. Y.; within a 10.5-mile radius of the center of the airport, extending clockwise from a 020° bearing to a 090° bearing from the airport; within a 12-mile radius of the center of the airport, extending clockwise from a 090° bearing to a 125° bearing from the airport; within a 13-mile radius of the center of the airport, extending clockwise from a 125° bearing to a 235° bearing from the airport; within a 10.5-mile radius of the center of the airport, extending clockwise from a 235° bearing to a 263° bearing from the airport and within 3.5 miles each side of the Binghamton, N. Y., VORTAC 340° radial, extending from the 10-mile radius area to 11.5 miles north of the VORTAC.

Enid, Okla.
That airspace extending upward from 700 feet above the surface within 10 miles E and W of Vance AFB runway 17R-35L, extending to 15 miles N and S of Vance AFB (latitude 36°20'20" N., longitude 97°55'00" W.); and within 5 miles W and 8 miles E of the Woodring VOR 355° radial, extending from 2 miles SE of the VOR to 12 miles N of the VOR, and within 5 miles W and 8 miles E of the Woodring VOR 185° radial, extending from the VOR to 12 miles S.

Erie, Pa.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the center, lat. 42°04'53" N., long. 80°10'43" W. of Erie International Airport, Erie, Pa.; within a 15.5-mile radius of the center of the airport extending clockwise from a 074° bearing to a 221° bearing from the airport; within 4 miles each side of the Erie ILS localizer SW course, extending from the 8.5-mile radius area to 11 miles SW of the OM; within 5 miles each side of the Erie VORTAC 054° radial extending from the 8.5-mile radius area to 23.5 miles NE of the VORTAC.

Escanaba, Mich.
That airspace extending upward from 700 feet above the surface within a 6.5-statute mile radius of the Escanaba VORTAC; within 3 statute miles each side of the Escanaba VORTAC 007° radial from the 6.5-mile radius zone to 8.5 statute miles north of the VORTAC; within 3 statute miles each side of the Escanaba VORTAC 101° radial from the 6.5-mile radius zone to 9 statute miles east of the VORTAC; within 3 statute miles north and 4 statute miles south of the Escanaba VORTAC 270° radial from the 6.5-mile radius zone to 13.5 statute miles west of the VORTAC.

Estherville, Iowa
That airspace extending upward from 700 feet above the surface within a 6½-mile radius of Estherville Municipal Airport (latitude 43°25'00" N., longitude 94°44'45" W.); and within 3 miles each side of the 175° bearing from Estherville Municipal Airport, extending from the 6½-mile radius area to 8 miles south of the airport.

Eufaula, Ala.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Weedon Field (latitude 31°57'05" N., longitude 85°07'45" W.); within 4 miles each side of Eufaula VOR 014° radial, extending from the 6.5-mile radius area to 10 miles north of the VOR.

Eugene, Oreg.
That airspace extending upward from 700 feet above the surface within a 21-mile radius of the Eugene VORTAC; that airspace extending upward from 1200 feet above the surface northeast of Eugene, bounded on the north by V-536, on the southeast by V-121N (proposed), on the southwest by the arc of the 21-mile radius circle, on the northwest by V-23E; that airspace east of Eugene bounded on the north by V-121 (proposed), on the east by latitude 122°30'00" W. on the southwest by V-452 and on the west by the arc of the 21-mile radius circle.

Eunice, La.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Eunice Airport (latitude 30°28'00" N., longitude 92°25'30" W.) and within 2 miles each side of the Lafayette VORTAC 310° radial extending from the 5-mile radius area to 6 miles southeast of the approach end of Runway 34.

Evadale, Tex.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Evadale Airport (latitude 30°19'30" N., longitude 94°04'24" W.), and within 2 miles each side of the 150° bearing from the Evadale RBN (latitude 30°24'16" N., longitude 94°07'37" W.), extending from the 5-mile radius area to the RBN.

Evansville, Ind.
That airspace extending upward from 700 feet above the surface within a 10-mile radius of Dress Memorial Airport (latitude 38°02'15" N., longitude 87°31'45" W.); and within 2 miles each side of the Evansville VORTAC 060° radial, extending from the 10-mile radius area to the VORTAC.

Evergreen, Ala.
That airspace extending upwards from 700 feet above the surface within a 6.5-mile radius of Middleton Field Airport (lat. 31°24'52"N., long. 87°02'29"W.)

Fairbanks, Alaska
That airspace extending upward from 700 feet above the surface within 9.5 miles W and 4.5 miles E of the Eielson localizer S course extending from the Eielson VOR to 18.5 miles S of the VOR; within 2 miles NW and 4.5 miles SE of the Fairbanks localizer NE course, extending from the Fairbanks outer marker to Fox RBN; within 4.5 miles SE and 9.5 miles NW of the Fairbanks localizer NE course extending from Fox RBN to 18.5 miles NE of the RBN; within 4.5 miles NW and 9.5 miles SE of the Fairbanks localizer SW course, extending from 5 miles SW of the localizer antenna (latitude 64°48'11" N., longitude 147°53'01" W) to 18.5 miles SW of the localizer antenna; within 4.5 miles N and 9.5 miles S of the Chena 089° bearing, extending from Chena RBN to 18.5 miles E of the RBN; and that airspace extending upward from 1,200 feet above the surface beginning at latitude 68°00'00" N., longitude 153°00'00" W.; to 68°00'00" N., 144°00'00" W.; to 63°10'00" N., 144°00'00" W.; to 62°38'00" N., 145° 41'00" W.; to 62°45'00" N., 148°48'00" W.; to 62°59'00" N., 150°15'00" W.; to 63°00'00" N., 151°10'00" W.; to 64°00'00" N., 153°00'00" W.; to point of beginning, excluding the portion within Restricted Areas R-2202B and R-2206.

Fairfield, IL.
That airspace extending upward from 700 feet above the surface within a 5½-mile radius of the Fairfield Airport (latitude 38°23'00" N., longitude 88°25'00" W.) and within 3 miles either side of the 179° bearing from the Fairfield Airport extending from the 5½-mile radius to 8 miles south of the airport.

Fairfield, Iowa
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Fairfield-Municipal Airport (latitude 41°03'15" N., longitude 91°58'40" W.); and within 3 miles each side of the 188° bearing from Fairfield Municipal Airport, extending from the 5-mile radius area to 11 miles south of the airport.

Fairmont, Minn.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of Fairmont Municipal Airport (latitude 43°38'41" N., longitude 94°25'04" W.); within 3 miles each side of the 132° bearing from Fairmont Municipal Airport, extending from the 7-mile radius area to 8 miles southeast of the airport; and within 3 miles each side of the 319° bearing from Fairmont Municipal Airport, extending from the 7-mile radius area to 8 miles northwest of the airport; and that airspace extending upward from 1,200 feet above the surface within 4½ miles southwest and 9½ miles northeast of the 132° bearing from the Fairmont Municipal Airport, extending from the airport to 18½ miles southeast of the airport; excluding the portion in Minnesota.

Fairmont, W. Va.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the center, 39°26' 50" N., 80°10'00" W., of Fairmont Airport, Fairmont, W. Va., and within 5 miles each side of the Morgantown, W. Va., VORTAC 245° radial extending from the 8.5-mile radius area to 7.5 miles southwest of the VORTAC.

Fairview, Okla.
Within a 5-mile radius of the Fairview, Okla., Municipal Airport (latitude 36°17'12" N., longitude 98°28' 00" W.) and within 3.5 miles either side of the 360° bearing of the Fairview RBN (latitude 36°17'10" N., longitude 98°28'06" W.) extending from the 5-mile radius to 2.5 miles north.

Falfurrias, Tex.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Brooks County Airport (latitude 27°12'15" N., longitude 98°07'15" W.) and within 3 miles each side of the 163° T bearing from the Brooks County RBN (latitude 27°12'23" N., longitude 98°07'24" W.) extending from the 5-mile radius area to 8 miles southeast of the RBN.

Fallon, Nev.
That airspace extending upward from 700 feet above the surface within an 11-mile radius of NAS Fallon TACAN and within 2 miles NE and 2.5 miles SW of the Fallon TACAN 296° radial, extending from the 11-mile radius area to 15 miles NW of the TACAN; that airspace extending upward from 1,200 feet above the surface beginning at latitude 40°01'00" N., longitude 118°01'00" W.; to latitude 39°51'00" N., longitude 117°58'00" W.; to latitude 39°51'00" N., longitude 117°31'00" W.; to latitude 39°34'00" N., longitude 117°39°30" W.; to latitude 39°18'00" N., longitude 117°47'30" W.; to latitude 39°00'00" N., longitude 117°40'00" W., to point of intersection of a line 8 miles NE of and parallel to the Reno VORTAC 135° radial and the NE edge of V-105E, thence via a line 8 miles NE of and parallel to Reno 135° radial to longitude 119°00'00" W., to latitude 39°42'00" N., longitude 119°00'00" W. to latitude 40°01'00" N., longitude 118°19'00" W., to point of beginning, excluding that airspace below 1,500 feet AGL within R-4816N and that airspace within R-4816S extending upward from 500 feet AGL to and including 2,000 feet AGL which lies N of and within 1 nautical mile from U. S. Highway 50 between the intersections of Highway 50 with longtiude 118°25'30" W. and 118°09'50" W.; that airspace extending upward from 9,500 feet MSL extending from 23 to 44 miles SE of Fallon TACAN bounded on the NE by a line 10 miles NE of and parallel to the Fallon TACAN 139° radial and on the SW by the NE edge of V-105E. The 1,200 foot portion underlying the 9,500 foot MSL portion of the transition area is excluded.

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Falmouth, Mass.
That airspace extending upward from 700 feet above the surface within a 14-mile radius of Otis AFB, Falmouth, Mass. (latitude 41°39'30" N., longitude 70°31'35" W.); within a 6-mile radius of Barnstable Airport, Hyannis, Mass., (latitude 41°40'10" N., longitude 70°16'45" W.); within 5 miles NW and 8 miles SE of the Barnstable Airport ILS localizer NE course, extending from the OM to 12 miles NE of the OM; within a 4-mile radius of the Chatham Airport, Chatham, Mass. (latitude 41°41'20" N., longitude 69°59'25" W.); within a 6-mile radius of Martha's Vineyard Airport, Martha's Vineyard, Mass., (latitude 41°23'35" N., longitude 70°36'50" W.), and within 5 miles NW and 8 miles SE of the Martha's Vineyard VOR 055° radial, extending from the VOR to 12 miles NE of the VOR; within 2 miles each side of the 183° bearing from Edgartown RBN, extending from the 6-mile radius area to 8 miles S of the RBN; and within a 5-mile radius of the Oak Bluffs Airport, Oak Bluffs, Mass. (latitude 41°26'25" N., longitude 70°34'10" W.); and that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at latitude 42°13'20" N., longitude 70°18'30" W., thence to latitude 42°10'50" N., longitude 70°03'00" W., to latitude 41°40'29" N., longitude 69°46'32" W., to latitude 41°38'00" N., longitude 69°45'10" W., to latitude 41°21'00" N., longitude 69°45'10" W., to latitude 41°09'00" N., longitude 70°00'00" W., to latitude 41°10'25" N., longitude 70°12'50" W., to latitude 41°04'00" N., longitude 70°42'30" W., to latitude 41°12'45" N., longitude 70°42'30" W., to latitude 41°21'00" N., longitude 70°48'00" W., to latitude 41°42'00" N., longitude 70°48'00" W., to latitude 41°53'30" N., longitude 70°56'30" W., thence to the point of beginning; and that airspace extending upward from 2,000 feet MSL bounded on the N by Control 1112, on the SE by Control 1143, and on the W by a line extending through latitude 41°40'29" N., longitude 69°16'32" W. and latitude 42°10'50" N., longitude 70°03'00" W., excluding the portion within the Nantucket, Mass., transition area.

Farewell, Alaska
That airspace extending upward from 1,200 feet above the surface within 9.5 miles northeast and 5 miles southwest of the Farewell RBN 126° and 306° bearings, extending from 6 miles southeast to 18.5 miles northwest of the RBN.

Fargo, N. Dak.
That airspace extending upward from 700 feet above the surface within an 18.5-mile radius of Hector Field (latitude 46°54'57" N., longitude 96°48'53" W.) and that airspace extending upward from 1,200 feet above the surface within a 29-mile radius of Hector Field; and that airspace extending upward from 1,200 feet above the surface within a 46-mile radius of Hector Field extending clockwise from the Fargo VORTAC 056° radial to the north edge of V2N, west of Fargo; and within 10 miles east and 7 miles west of the Fargo VORTAC 187° radial extending from the 46-mile radius area to 56 miles south of the VORTAC; and that airspace extending upward from 2,700 feet MSL extending from the 29-mile radius area to the 46-mile radius area between the north edge of V2N, west of Fargo, clockwise to the Fargo VORTAC 056° radial, excluding V-181, V-181E, and the Grand Forks, N. Dak., transition area.

Faribault, Minn.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Faribault Municipal Airport (lat. 44°19'30"N., long. 93°18'30"W.), within 1.25 miles each side of 199° bearing from Faribault Municipal Airport, extending from the Faribault 5-mile radius area to 9 miles southwest of the airport, excluding the portion within the Owatonna, Minn., transiton area.

AMENDMENTS 9/7/78 43 F. R. 28173 (Rewritten)

Farmington, Mo.
That airspace extending upward from 700 feet above the surface within a 9-mile radius of Farmington Municipal Airport (latitude 37°45'45" N., longitude 90°26'30" W.); and within 1½ miles each side of the Farmington VORTAC 300° radial, extending from the 9-mile radius area to the VORTAC.

Farmington, N. Mex.
That airspace extending upward from 700 feet above the surface within an 11-mile radius of Farmington Municipal Airport (lat. 36°44'28" N., long. 108°13'39" W.) within 3.5 miles each side of the Farmington VORTAC 086° radial extending from the 11-mile radius area to 12 miles east of the VORTAC, and within 4.5 miles each side of the Farmington VORTAC 265° radial extending from the 11-mile radius area to 23 miles west of the VORTAC; and that airspace extending upward from 1,200 feet above the surface within a 30-mile radius of the Farmington VORTAC excluding the portion within the Durango, Colo., transition area.

Farmville, Va.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of the center, lat. 37° 21'22" N., long. 78°26'16" W. of Farmville Municipal Airport, Farmville, Va.

Fayetteville, Ark.
That airspace extending upward from 700 feet above the surface within a 27.5-mile radius of latitude 36°12'00" N., longitude 94°14'00" W., within 5 miles each side of the Drake VOR 186° radial extending from the 27.5-mile radius area to 19 miles south of the VOR.

AMENDMENTS 9/7/78 43 F. R. 30041 (Changed)
AMENDMENTS 9/7/78 43 F. R. 32407 (Changed)

Fayetteville, N. C.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Fayetteville Municipal Airport (Grannis Field) (latitude 34°59'22" N., longitude 78°52'52" W.); within a 10-mile radius of Pope AFB (latitude 35°10'15" N., longitude 79°00'55" W.); within 10 miles north and 2 miles south of Simmons AAF (lat. 35°07'55" N., long. 78°57'05" W.) Runway 27 extended and centerline, extending from the 10-mile radius area to 17.5 miles east of the runway end; within 9.5 miles northeast and 4.5 miles southeast of Pope AFB ILS localizer northeast course, extending from the 10-mile radius area to 24 miles northeast of the Pope TACAN.

AMENDMENTS 5/18/78 43 F. R. 15415 (Changed)

Fayetteville, Tenn.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Fayetteville Municipal Airport (lat. 35°03'28" N., long. 86°33'53" W.); within 3 miles each side of the 188° bearing from Highland RBN (lat. 35°03'32" N., long. 86°33'58" W.), extending from the 6.5-mile radius area to 8.5 miles south of the RBN.

Fergus Falls, Minn.
That airspace extending upward from 700' above the surface within a 6½-mile radius of Fergus Falls Municipal Airport (lat. 46°17'15"N., long. 96°09'45"W.); within 3 miles each side of the 187° bearing from the airport, extending from the 6½-mile radius area to 8 miles south of the airport; and within 3 miles each side of the 343° bearing from the airport, extending from the 6½-mile radius area to 8 miles northwest of the airport.

Fernandina Beach, Fla.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Fernandina Beach Airport (lat. 30°36'34"N., long. 81°27'39"W.); excluding the portion outside of the continental limits of the United States.

AMENDMENTS 3/23/78 42 F. R. 61998 (Added)

Festus, Mo.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of Festus Memorial Airport (latitude 38°11'45" N., longitude 90°23'00" W.); and within 3 miles each side of the 180° bearing from Festus Memorial Airport, extending from the 7-mile radius area to 8 miles south of the airport.

Findlay, Ohio
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Findlay, Ohio, Airport (latitude 41°00'40" N., longitude 83°40'30" W.) within 3 miles each side of the 063° bearing from the Findlay Airport extending from the 6.5-mile radius area to 8.5 miles northeast of the airport, within 3 miles each side of the 179° bearing from the Findlay Airport extending from the 6.5-mile radius area to 8.5 miles south of the airport within 2 miles each side of the Findlay VORTAC 231° radial extending from the Bluffton Flying Service Airport (latitude 40°53'09" N., longitude 83°52'04" W.) 5-mile radius area to the 6.5-mile radius area of the Findlay Airport.

Firebaugh, Calif.
That airspace extending upward from 700 feet above the surface within a 3-mile radius of Firebaugh Airport (latitude 36°51'36" N., longitude 120°27'49" W.); and within 3 miles each side of the Los Banos VORTAC 060° radial, extending from the 3-mile radius area to 15 miles NE of the VORTAC.

Fitzgerald, Ga.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Fitzgerald Municipal Airport (lat. 31°41'00" N., long. 83°16'00" W.); within 3 miles each side of the 200° bearing from Fitzgerald RBN (lat. 31°41'06" N., long. 83°16'00" W.), extending from the 5-mile radius area to 8.5 miles southwest of the RBN.

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Five Finger, Alaska
That airspace extending upward from 700 feet above the surface within a 4-mile radius of the Five Finger RBN, and within 2 miles each side of the 349° and 189° bearings from the Five Finger RBN, extending from the RBN to 8 miles N and 8 miles S of the RBN; and that airspace extending upward from 1,200 feet above the surface within 8 miles E and 5 miles W of the 189° and 009° bearings, extending from 7 miles N to 13 miles S of the RBN, and within 8 miles W and 5 miles E of the 349° and 169° bearings, extending from 13 miles N to 7 miles S of the RBN.

Flagstaff, Ariz. (Pulliam Airport)
That airspace extending upward from 700 feet above the surface within an 11.5-mile radius of Pulliam Airport (latitude 35°08'16" N., longitude 111°40'17" W.), and that airspace extending upward from 1,200 feet above the surface within 9.5 miles each side of the Flagstaff VOR 127° and 307° radials, extending from 8 miles northwest to 19 miles southeast of the VOR, excluding that portion within R-2302.

Flemingsburg, Ky.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Fleming-Mason Airport (latitude 38°32'33" N., longitude 83°44'25" W.); within 3 miles each side of the 061° bearing from Flemingsburg RBN (latitude 38°32'17" N., longitude 83°44'49" W.), extending from the 6.5-mile radius area to 8.5 miles northeast of the RBN.

Flint, Mich.
That airspace extending upward from 700 feet above the surface within a 12-mile radius of the Flint VOR, within 5 miles north and 8 miles south of the Flint ILS localizer west course, extending from the 12-mile radius area to 12 miles west of the outer marker; within a 4-mile radius of Owosso City Airport, (latitude 42°59'30" N., longitude 84°08'00" W.); within a 5½ mile radius of the Price Airport, (latitude 42°48'25" N., longitude 83°46'20" W.); and within a 5-mile radius of the Davison-Genova Airport, (latitude 43°01'45" N., longitude 83°31'34" W.); excluding the portion which overlies the Detroit, Michigan transition area.

Flippin, Ark.
That airspace extending upward from 700 feet above the surface within a 9.5-mile radius of the Flippin Municipal Airport (latitude 36°17'30" N., longitude 92°35'30" W.); within 3.5 miles each side of the Flippin VOR 086° radial extending from the Flippin Municipal Airport 9.5-mile radius area to 8.5 miles east of the VOR; within an 8-mile radius of Mountain Home Municipal Airport (latitude 36°22'00" N., longitude 92°28'00" W.); and within 3.5 miles each side of the Flippin VOR 172° radial extending from the Mountain Home Municipal Airport 8-mile radius area to 8.5 miles south of the VOR.

Florence, S. C.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Florence City-County Airport (lat. 34°11'17" N., long. 79°43'28" W.); within 4 miles each side of Florence VORTAC 049° radial, extending from the 8.5-mile radius area to 9 miles northeast of the VORTAC.

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Florida
That airspace extending upward from 1,200 feet above the surface within the boundary of the State of Florida including the airspace within 3 nautical miles of and parallel to the shoreline of Florida; that airspace east of Jacksonville, Fla., bounded by a line 3 nautical miles from and parallel to the shoreline and a line extending from latitude 30°43'05" N., longitude 81°21'00" W., thence to latitude 30°44'00" N., longitude 81°18'10" W., thence clockwise along the arc of a 25-mile radius circle centered on the Jacksonville VORTAC, to and east along latitude 30°17'30" N., to longitude 81°01'30" W., thence to latitude 30°09'00" N., longitude 81°02'15" W., to latitude 29°54'00" N., longitude 81°02'15" W., to latitude 29°56'00" N., longitude 81°14'50" W.; that airspace extending upward from 1,200 feet above the surface to and including 12,000 feet above the surface bounded by a line beginning at the intersection of a line 3 nautical miles east of and parallel to the shoreline and lat. 29°29'00" N., thence east along lat. 29°29'00" N., to and clockwise along the arc of a 23-nautical mile radius circle centered on the Daytona Beach Regional Airport (lat. 29°10'49" N., long. 81°03'23" W.), to and north along a line 3-nautical miles east of and parallel to the shoreline to point of beginning;
that airspace east of Melbourne, Fla., bounded by a line 3 nautical miles from and parallel to the shoreline, and the arc of a 25-mile radius circle centered on Patrick AFB, Cocoa, Fla. (latitude 28°14'21" N., longitude 80°36'28" W.); that airspace east of Palm Beach, Fla., bounded by a line 3 nautical miles from and parallel to the shoreline and the arc of a 30-mile radius circle centered on the Palm Beach VORTAC; that airspace east and south of Miami, Fla., bounded by a line 3 nautical miles from and parallel to the shoreline and the arc of a 50-mile radius circle centered on the Miami International Airport (latitude 25°47'34" N, longitude 80°17'10" W.); that airspace surrounding Key West, Fla., beginning at latitude 25°04'05" N., longitude 81°58'15" W., thence clockwise along the arc of a 35-mile radius circle centered on the Key West VORTAC to latitude 24°08'50" N., longitude 82°04'35" W., to lat. 24°02'30" N., long. 82°23'00" W.; to lat. 24°27'30" N., long. 82°37'00" W., to latitude 24°45'00" N., longitude 82°32'00" W., to latitude 24°45'00" N., longitude 81°56'50" W., to latitude 24°49'00" N., longitude 81°55'00" W., to point of beginning; that airspace northeast of Key West bounded on the west by B-19, on the south and east by V-35 and on the north by the arc of a 50-mile radius circle centered on the Miami International Airport; that airspace southwest of Fort Myers, Fla., bounded by a line 3 nautical miles from the shoreline and the arc of a 20-mile radius circle centered on the Fort Myers VORTAC; that airspace north, west, and south of Tampa, Fla., bounded by a line 3 nautical miles from and parallel to the shoreline and a line extending from latitude 26°30'00" N., and a point 3 nautical miles from the shoreline, thence west along latitude 26°30'00" N., to the east boundary of W-168, thence north and west along the boundary of W-168, to longitude 83°42'00" W., thence to the north boundary of Control 1226 at longitude 83°47'50" W., thence east along the north boundary of Control 1226, to and clockwise along the arc of a 42-mile radius circle centered on MacDill AFB (latitude 27°50'57" N., longitude 82°31'38" W.) to a point 3 nautical miles from the shoreline; that airspace south of Panama City, Fla., bounded by a line 3 nautical miles from the shoreline and a line extending from latitude 29°43'10" N., longitude 85°27'00" W., to latitude 30°04'00" N., longitude 85°56'00" W., to latitude 30°11'10" N., longitude 85°56'00" W.; that airspace south of Eglin AFB bounded by a line 3 nautical miles from the shoreline and a line extending from latitude 30°15'00" N., longitude 86°06'15" W., to latitude 30°10'30" N., longitude 86°07'30" W., to latitude 30°07'30" N., longitude 86°13'00" W., to latitude 30°07'30" N., longitude 86°24'00" W., to latitude 30°14'46" N., longitude 86°28'40" W., to latitude 30°06'00" N., longitude 86°29'50" W., to latitude 30°00'00" N., longitude 86°34'00" W., to latitude 30°00'00" N., longitude 86°44'00" W., to latitude 30°05'00" N., longitude 86°47'58" W., to latitude 30°09'20" N., longitude 86°47'58" W., to latitude 30°20'30" N., longitude 86°41'00" W.; that airspace
south of Pensacola, Fla., bounded by a line 3 nautical miles from and parallel to the shoreline and a line extending from latitude 30°18'20" N., longitude 87°00'00" W., to latitude 29°54'00" N., longitude 87°15'17" W., thence clockwise along the arc of a 30-mile radius circle centered at latitude 30°20'19" N., longitude 87°20'00" W., to latitude
30°02'50" N., longitude 87°42'20" W., to latitude 30°04'00" N., longitude 87°41'20" W., thence clockwise along the arc of a 30-mile radius circle centered on NAS Pensacola TACAN, to latitude 30°09'45" N., longitude 87°45'45" W., to latitude 30°11'20" N., longitude 87°44'15" W., thence along a line 3 nautical miles from and parallel to the shoreline to latitude 30°13'15" N., longitude 87°32'55" W.;
That airspace 4.5 miles southeast of and 9.5 miles northwest of the 228° bearing from the Naples RBN (latitude 26°09'00" N., longitude 81°46'31" W.), extending from the RBN to 18.5 miles southwest of the RBN.
that airspace southwest of Miami
extending upward from 1,700 feet MSL bounded on the northeast by a line 3 nautical miles from and parallel to the shoreline, on the southeast by V-51, on the south by the arc of a 35-mile radius circle centered on the Key West VORTAC and on the west by V-225E; that airspace extending upward from 2,000 feet MSL; east of Jacksonville beginning at latitude 30°44'00" N., longitude 81°18'10" W., to latitude 30°45'15" N., longitude 80°58'50" W., to latitude 30°17'30" N., longitude 81°01'30" W., thence west along latitude 30°17'30" N., to and counterclockwise along the arc of a 25-mile radius circle centered on the Jacksonville VORTAC to point of beginning; that airspace south of Marathon, Fla., bounded on the north by V-35, on the east by longitude 80°25'00" W., on the south by latitude 24°20'00" N., and on the west by Control 1233; that airspace southwest of Fort Myers, Fla., bounded on the south by Control 1230, on the east by V-225, on the northeast by the arc of a 20-mile radius circle centered on the Fort Myers VORTAC, on the north by latitude 26°30'00" N., and on the west by W-168 and a line extending from latitude 26°10'00" N., longitude 82°17'00" W., to the north boundary of Control 1230 at longitude 82°15'00" W.; that airspace northwest of Tampa bounded on the east by V-35W, on the west by V-97 and on the north by V-7W; that airspace west of Tampa extending upward from 4,700 feet MSL bounded
on the northeast by V-97 and V-97W, on the southeast by the arc of a 42-mile radius circle centered on MacDill AFB, on the south by Control 1226, on the northwest by the Cross City VOR 212° radial from the southwest boundary of V-97 to the St. Petersburg VORTAC 280° radial, then west along this radial to Control 1226, excluding: That portion within W-151 east of the INT of the north boundary of Control 1226, and the St. Petersburg VORTAC 280° radial; that portion southeast of a line extending from latitude 29°43'35" N., longitude 84°39'00" W., to latitude 29°47'00" N., longitude 84°40'00" W., to latitude 29°52'30" N., longitude 84°34'40" W., thence to the west boundary of V-7W at latitude 29°52'30" N.

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Follett, Tex.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Follett/Lipscomb County Airport, Follett, Tex. (lat. 36°26'25"N., long. 100°07'20"W.).

AMENDMENTS 7/13/78 43 F. R. 21448 (Added)

Foraker, Okla.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Codding Cattle Airport (latitude 36°46'00" N., longitude 96°33'00" W.).

Forest City, Iowa
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Forest City Municipal Airport (lat. 43°14'00" N., long. 93°38'00" W.).

Forrest City, Ark.
That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of Forest City Municipal Airport (latitude 34°56'42" N., longitude 90°46'16" W.), and within 3.5 miles each side of the 180° bearing from the Forrest City RBN (latitude 34°56'28" N., longitude 90°46'24" W.) extending from the 5.5-mile radius area to 11.5 miles south of the RBN.

Forsyth, Mont.
That airspace extending upward from 700 feet above the surface within an 8-mile radius of the Forsyth Airport (latitude 46°16'14" N., longitude 106°37'00" W.); within 4 miles north and 5 miles south of the 075° bearing from the Forsyth NDB (latitude 46°16'10" N., longitude 106°31'01" W.), extending from the NDB to 10 miles east of the NDB; and that airspace extending upward from 1,200 feet above the surface within 9.5 miles north and 5 miles south of 089° bearing from the Forsyth NDB, extending from the NDB to 18.5 miles east of the NDB, excluding that portion which overlies the Miles City, Mont., transition area.

Fort Bridger, Wyo.
That airspace extending upward from 700 feet above the surface within a 9-mile radius of Fort Bridger Municipal Airport (latitude 41°24'00" N., longitude 110°25'00" W.), and within 3.5 miles each side of the Fort Bridger VORTAC 047° radial extending from the 9-mile radius area to 11.5 miles northeast of the VORTAC; and that airspace extending upward from 1,200 feet above the surface within 8.5 miles southeast and 12.5 miles northwest of the Fort Bridger VORTAC 047° and 227° radials extending from 23 miles northeast to 10.5 miles southwest of the VORTAC.

Fort Collins, Colo.
That airspace extending upward from 700 feet above the surface within 9.5 miles east and 5 miles west of the 173° and 353° bearings from the Fort Collins-Loveland RBN (latitude 40°26'49" N., longitude 105°00'22" W.) extending from 6.5 miles north to 18.5 miles south of the RBN.

Fort Dodge, Iowa
That airspace extending upward from 700 feet above the surface within a 7-mile radius of Fort Dodge Municipal Airport (lat. 42°33'05"N., long. 94°11'10"W.); and that airspace extending upward from 3,500 feet MSL south and east of Fort Dodge bounded on the north by V-100, on the east by V-13, on the south by V-172 and on the northwest by V-138.

Fort Huachuca, Ariz.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of Libby AAF, Fort Huachuca, Ariz. (lat. 31°35'00"N., long. 110°20'30"W.), that airspace within an arc of a 22-mile radius circle centered on the Libby AAF VOR, extending clockwise from a line 5 miles northwest of and parallel to the 033° radial of the Libby AAF VOR to a line 5 miles south of and parallel to the Libby AAF VOR 093° radial; that airspace extending upward from 1,200 feet above the surface bounded on the north by the Tucson, Ariz., transition area, on the northeast by the southwest edge of V-66, on the east by long. 109°44'00"W., on the south by lat. 31°25'00"N., on the west by long. 110°30'00"W., and that airspace northeast of Libby AAF bounded on the north by the south edge of V-16S, on the east by a line 5 miles west of and parallel to the Douglas, Ariz., VORTAC 347° radial, on the southwest by the northeast edge of V-66 and on the west by long. 110°00'00"W.

Fort Indiantown Gap, Pa.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center, 40°26'00"N., 76°34'00"W. of Muir AAF, Fort Indiantown Gap, Pa.; within a 12-mile radius of the center of the airport, extending clockwise from a 230° bearing to a 252° bearing from the airport; within a 14.5-mile radius of the center of the airport, extending clockwise from a 252° bearing to a 037° bearing from the airport; within a 12.5-mile radius of the center of the airport, extending clockwise from a 037° bearing to a 086° bearing from the airport; within an 8-mile radius of the center of the airport, extending clockwise from a 086° bearing to a 136° bearing from the airport; within 4.5 miles each side of the 097° bearing from the Bellgrove, Pa., RBN, extending from the RBN to 10 miles east of the RBN.

Fort Jones, Calif.
That airspace extending upward from 9,500 feet MSL bounded on the NE by V-23 and V-23W, on the S by latitude 41°19'00" N., and on the W by longitude 123°01'00" W.

Fort Leonard Wood, Mo.
That airspace extending upward from 700 feet above the surface within a 6½-mile radius of the Forney AAF (latitude 37°44'30" N., longitude 92°08'25" W.); within 4½ miles southwest and 9½ miles northeast of the Forney AAF VOR 323° radial, extending from the VOR to 18½ miles northwest of the VOR; within 4½ miles southwest and 9½ miles northeast of the 146° and 326° bearings from Forney AAF RBN, extending from Forney AAF to 18½ miles southeast of the Forney AAF RBN; and within 4½ miles southwest and 9½ miles northeast of the Forney AAF VOR 152° radial extending from the VOR to 18½ miles southeast of the VOR.

Fort Madison, Iowa
That airspace extending upward from 700 feet above the surface within a 6-mile radius of Fort Madison Municipal Airport (lat. 40°39'30"N., long. 91°19'30"W.); and within 2 miles each side of the Burlington, Iowa, VORTAC 258° radial, extending from the 6-mile radius area to 12 miles west of the VORTAC excluding the portion which overlies the Burlington, Iowa, transition area.

Fort McCoy, Wis.
That airspace extending upward from 700 feet above the surface within an 11-mile radius of the Camp McCoy Army Airfield (lat. 43°57'15"N., long. 90°44'15"W.), and within 3.5 miles each side of the 109° bearing from the Camp McCoy RBN, extending from the 11-mile radius to 7.8 miles east of the Camp McCoy RBN, excluding that portion that overlies the LaCrosse, Wis., transition area.

Fort Myers, Fla.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Page Field (lat. 26°35'09"N., long. 81°51'51"W.); within 3.5 miles each side of Fort Myers VORTAC 062° radial, extending from the 8.5-mile radius area to 10 miles northeast of the VORTAC.

Fort Polk, La.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Polk AAF (latitude 31°02'40" N., longitude 93°11'25" W.); within 2 miles each side of the 160° bearing from the Polk AAF RBN, extending from the 5-mile radius area to 10 miles SE of the south fan marker; and within 2 miles each side of the 340° bearing from the Polk AAF RBN, extending from the 5-mile radius area to 8 miles NW of the north fan marker.

Fort Rucker, Ala.
That airspace extending upward from 700 feet above the surface within the area bounded by a line beginning at latitude 31°38'00" N., longitude 86°23'30" W.; thence northeast via V-70 to V-7; thence south via V-7 to V-241; thence southwest via V-241 to and clockwise along the arc of a 5-mile radius circle centered at latitude 31°03'00" N., longitude 86°19'33" W.; to latitude 31°03'00" N., longitude 86°24'30" W.; to the point of beginning; within a 6.5-mile radius of Blackwell Field, Ozark, Ala. (latitude 31°25'50" N., longitude 85°37'10" W.).

Fort Scott, Kans.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Fort Scott Municipal Airport (latitude 37°47'45" N., longitude 94°46'10" W.); and within 2 miles each side of the 348° bearing from Fort Scott Municipal Airport, extending from the 5-mile radius area to 8 miles north of the airport.

Fort Smith, Ark.
That airspace extending upward from 700 feet above the surface within a 12.5-mile radius of the Fort Smith Municipal Airport (latitude 35°20'10" N., longitude 94°22'05" W.), within an 11.5-mile radius of the Fort Smith VORTAC extending clockwise from the 078° to the 155° radials of the VORTAC, within 6 miles northwest and 5 miles southeast of the Fort Smith VORTAC 053° radial extending from the 12.5 and 11.5-mile radius areas to 12 miles northeast of the VORTAC, within 2 miles each side of the Fort Smith VORTAC 239° radial extending from the 12.5-mile radius area to 20 miles southwest of the VORTAC, within 3.5 miles each side of the VORTAC 119° radial extending from the VORTAC to 11.5 miles southeast of the VORTAC, and within 2 miles each side of the Fort Smith ILS localizer west course extending from the 12.5-mile radius area to 8 miles west of the Peno Bottoms RBN (latitude 35°19'21" N., longitude 94°28'28" W.).

Fort Stewart, Ga.
That airspace extending upwards from 700 feet above the surface within an 8.5-mile radius of Lyle H. Wright AAF (lat. 31°53'20"N., long. 81°33'45"W.).

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Fort Stockton, Tex.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of Pecos County Airport (latitude 30°55'00" N., longitude 102°54'30" W.), within 6 miles each side of the Fort Stockton VORTAC 308° and 128° radials extending from the airport to 8 miles northwest of the VORTAC, and within 7 miles each side of the Fort Stockton VORTAC 128° radial extending from 9 miles southeast to 21 miles southeast of the VORTAC.

Fortuna, Calif.
That airspace extending upward from 700 feet above the surface within 2 miles each side of the Fortuna VORTAC 327° radial, extending from the VORTAC to 8 miles northwest of the VORTAC; within 2 miles northeast and 4.5 miles southwest of the Fortuna VORTAC 147° radial, extending from the VORTAC to 3.5 miles southeast of the VORTAC; within 2.5 miles southwest and 3.5 miles northeast of the 129° and 309° bearings from the Rohnerville Airport (latitude 40°33'15" N., longitude 124°07'53" W.), extending from 7.5 miles northwest to 3 miles southeast of the airport, and within 2 miles each side of the Fortuna VORTAC 034° radial, extending from the VORTAC to 11 miles northeast of the VORTAC; and that airspace extending upward from 1,200 feet above the surface within 4.5 miles southeast and 10 miles northwest of the Fortuna VORTAC 229° radial, extending from the VORTAC 18.5 miles southwest of the VORTAC.

Fort Wayne, Ind.
That airspace extending upward from 700 feet above the surface within a 17-mile radius of Fort Wayne VORTAC; and within an 18½-mile radius of Fort Wayne VORTAC, extending from the Fort Wayne VORTAC 194° radial clockwise to the Fort Wayne VORTAC 335° radial.

Fort Yukon, Alaska
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Fort Yukon Municipal Airport (latitude 66°34'16" N., longitude 145°14'59" W.) and within 3 miles south and 4.5 miles north of Fort Yukon 076° radial extending from the 5-mile radius area to 10.5 miles east of the Fort Yukon VORTAC and within 3 miles each side of the Fort Yukon VORTAC 214° radial extending from the 5-mile radius area to 8.5 miles southwest of the VORTAC.

Fostoria, Ohio
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Fostoria Metropolitan Airport (latitude 41°11'30" N., longitude 83°23'50" W.); within 3 miles each side of the 084° bearing from the airport extending from the 6.5-mile radius area to 8.5 miles east of the airport; excluding that portion that overlies the Tiffin, Ohio, transition area.

Frankfort, Ind.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Frankfort Municipal Airport (latitude 40°16'25" N., longitude 86°33'45" W.) and within 3 miles each side of the 221° bearing from the airport extending from the 5-mile radius area to 8.5 miles southwest.

Frankfort, Ky.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Capital City Airport (lat. 38°10'55" N., long. 84°54'16" W.); within 3 miles each side of the 062° bearing from Jett RBN (lat. 38°12'56" N., long. 84°49'32" W.), extending from the 8.5-mile radius area to 8.5 miles northeast of the RBN; within 3 miles each side of Frankfort VOR 063° radial, extending from the 8.5-mile radius area to 8.5 miles northeast of Jett RBN; within 3 miles each side of Frankfort VOR 240° radial, extending from the 8.5-mile radius area to 8.5 miles southwest of the VOR.

Franklin, Pa.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of the center (41° 22'45" N., 79°51'40" W.) of Chess-Lamberton Airport, Franklin, Pa.: within 3.5 miles each side of the Franklin, Pa., VOR 360° radial, extending from the 7-mile radius area to 11.5 miles north of the VOR.

Franklin, Tex.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Rocking 7 Ranch Airport (latitude 31°09'37" N., longitude 96°26'14" W.); within 2.5 miles each side of the 276° radial from the Leona, Tex., VORTAC extending from the 5-mile radius area to 22 miles southwest of the Leona VORTAC.

Franklin, Va.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center, 36°41'50"N., 76°54'15"W., of John Beverly Rose Field-Franklin Municipal Airport; within 2 miles each side of the Franklin VORTAC 096° radial extending from the 6.5-mile radius area to 13 miles east of the VORTAC.

AMENDMENTS 1/26/78 42 F. R. 6412 (Changed)

Frederick, Md.
That airspace extending upward from 700 feet above the surface within an 8-mile radius of the center, lat. 39°25'00" N., long. 77°22'30" W. of Frederick Municipal Airport, Frederick, Md.; within a 16-mile radius of the center of the airport, extending clockwise from a 245° bearing to a 350° bearing from the airport and within 3 miles each side of the Frederick VOR 032° radial, extending from the 8-mile radius area to 8.5 miles northeast of the VOR, excluding the portion within P-40.

Frederick, Okla.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Frederick, Okla., Municipal Airport (latitude 34°21'09" N., longitude 98°59'21" W.) and within 3.5 miles each side of the 001° bearing from the Frederick, Okla., RBN (latitude 34°23'35" N., longitude 98°59'19" W.) extending from the 8.5-mile radius area to 11.5 miles north of the RBN.

Fredericksburg, Va.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of the center, 38°15'40" N., 77°26'20" W. of Shannon Airport, Fredericksburg, Va., and within 2 miles each side of the Brooke, Va., VORTAC 227° radial, extending from the 6-mile radius area to 1 mile southwest of the VORTAC.

Fredericksburg, Tex.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Gillespie County Airport (lat. 30°14'56"N., long. 98°54'37"W.), and within 1.5 miles either side of the 282° radial from the Stonewall VORTAC (lat. 30°12'26"N., long. 98°42'17"W.), extending from the 5-mile radius to 6 miles east of the Gillespie County Airport.
AMENDMENTS 5/18/78 43 F. R. 9138 (Added)

Freeport, Ill.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of Albertus Airport (latitude 42°14'50" N., longitude 89°34'45" W.); and within 2 miles each side of the 065° bearing from Albertus Airport, extending from the 6-mile radius area to 8 miles northeast of the airport.

Fremont, Mich.
That airspace extending upward from 700 feet above the surface within an 8-mile radius of Fremont Municipal Airport, Fremont, Mich. (latitude 43°26'31" N.; longitude 85°59'29" W.).

Fremont, Nebr.
That airspace extending upward from 700 feet above the surface within an 8-mile radius of Fremont Municipal Airport (latitude 41°26'55" N., longitude 96°30'50" W.).

Fremont, Ohio
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, lat. 41° 20'00" N., long. 83°09'40" W. of Progress Field, Fremont, Ohio, and within 2.5 miles each side of the Waterville, Ohio, VORTAC 108° radial, extending from the 5-mile radius area to 19.5 miles east of the VORTAC.

French Lick, Ind.
That airspace extending upward from 700 feet above the surface within a 6½-mile radius of the French Lick Municipal Airport (latitude 38°30'26" N., longitude 86°37'59" W.) and within 3 miles each side of the 076° bearing from the French Lick Municipal Airport extending from the 6½-mile radius to 8 miles northeast.

Frenchville, Maine
That airspace extending upward from 700 feet above the surface within a 6-mile radius of the center of the Northern Aroostock Regional Airport (latitude 47°17'15" N., longitude 68°19'00" W.) and within 5 miles each side of the 115° bearing of the Frenchville (FVE) NDB (latitude 47°16'05" N., longitude 68°15'26" W.) extending from the 6-mile radius to 11.5 miles southeast of the NDB, excluding the airspace within Canada.

Fresno, Calif.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Chandler Municipal Airport (latitude 36°43'55" N., longitude 119°49'05" W.); within 2 miles each side of the 232° bearing from the Fresno RBN, extending from the 5-mile radius area to 8 miles SW of the RBN; within 2 miles each side of the Fresno VORTAC 185° radial, extending from the 5-mile radius area to the VORTAC, excluding the portion within the arc of a 5-mile radius circle centered on the Fresno Air Terminal, and the portion NE of a line 2 miles SW of and parallel to the Fresno VORTAC 143° radial, extending from the arc of a 5-mile radius circle centered on Fresno Air Terminal to the VORTAC; within 2 miles W and 4 miles E of the Fresno VORTAC 158° radial, extending from the arc of a 5-mile radius circle centered on the Fresno Air Terminal to 16 miles SE of the VORTAC, and within 2 miles each side of the Fresno ILS localizer SE course, extending from the arc of a 5-mile radius circle centered on the Fresno Air Terminal to 13 miles SE of the OM; that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at latitude 37°29'00" N., longitude 119°15'00" W., to latitude 36°49'00" N., longitude 118°46'00" W., to latitude 36°39'00" N., longitude 118°46'00" W., to latitude 36°39'00" N., longitude 119°09'00" W., to latitude 36°00'00" N., longitude 118°45'00" W., thence west via latitude 36°00'00" N., to longitude 119°30'00" W., thence north via longitude 119°30'00" W., to the west edge of V-23, thence north via the west edge of V-23 to latitude 36°37'00" N., longitude 119°56'00" W., to latitude 37°02'03" N., longitude 120°18'00" W., to point of beginning.

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Fryeburg, Maine
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, lat. 43° 59'28" N., long. 70°56'53" W., of Eastern Slopes Airport, Fryeburg, Maine, and within 4.5 miles north and 6.5 miles south of the 118° bearing and the 298° bearing from the Fryeburg NDB, lat. 43°59'21" N., long. 70°56' 58" W., extending from 5.5 miles west of the NDB to 11.5 miles east of the NDB, excluding the portions within the North Conway, N. H., area.

Fulton, N. Y.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of the center 43° 21' 05" N., 76°23'20" W. of Oswego County Airport, Fulton, N. Y.
That airspace extending upward from 1,200 feet above the surface within 5.5 miles each side of the Syracuse, NY., 344° radial, extending from the VORTAC to the United States/Canadian border; and within 5 miles each side of the Watertown, NY., 309° radial extending from the VORTAC to the United States/Canadian border.

Fulton, Mo.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Fulton Municipal Airport (lat. 38°50'22"N., long. 92°00'17"W.), and within 2 miles each side of the Hallsville, Mo., VORTAC 154° radial; extending from the 5-mile radius area to 6 miles northwest of the Fulton Municipal Airport, excluding the portion which overlies the Columbia, Mo., 700 foot floor transition area.

Gadsden, Ala.
That airspace extending upward from 700 feet above the surface within an 11.5-mile radius of Gadsden Municipal Airport (latitude 33°58'25" N., longitude 86°05'14" W.).

Gage, Okla.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Gage Municipal Airport (latitude 36°17'45" N. longitude 99°46'30" W.).

Gainesville, Fla.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Gainesville Regional Airport (lat. 29°41'22"N., long. 82°16'28"W.).

AMENDMENTS 7/13/78 43 F. R. 20225 (Changed)

Gainesville, Ga.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Lee Gilmer Memorial Airport (lat. 34°16'37" N., long. 83°49'42" W.); within 9.5 miles northwest and 4.5 miles southeast of the 216° bearing from Gainesville RBN (lat. 34°16'30" N., long. 83°49'56" W.), extending from the RBN to 18.5 miles southwest; excluding the portion within the Lawrenceville, Ga., transition area.

Gainesville, Tex.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Gainesville Airport (lat. 33°39'00" N., long. 99°11'40" W.); and within 3.5 miles each side of the 001° bearing from the Gainesville RBN (lat. 33°42'12" N., long. 97°11'50" W.) extending from the 5-mile radius area to 11.5 miles north of the RBN.

Gaithersburg, Md.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the center (39° 09'54" N., 77°10'00" W.), of Montgomery County Airpark, Gaithersburg, Md.; within 5 miles each side of the Frederick, Md., VOR 176° radial, extending from the VOR to 13 miles south of the VOR; and within 4.5 miles south and 9.5 miles north of a 292° bearing from the Gaithersburg, Md., RBN (39°10'06" N., 77°09'42" W.), extending from the RBN to 18.5 miles west of the RBN.

Galax, Va.
That airspace extending upward from 700 feet above the surface within a 10.5-mile radius of the center, lat. 36°45'52" N., long. 80°49'20" W. of Twin County Airport; and within 4.5 miles each side of the Pulaski VORTAC 196° radial, extending from the 10.5-mile radius area to 8 miles south of the VORTAC.

Galena, Alaska
That airspace extending upward from 700 feet above the surface within a 19-mile radius of the Galena VORTAC; and that airspace extending upward from 1,200 feet above the surface within a 28-mile radius of the Galena VORTAC; within a 40-mile radius of the Galena VORTAC extending from the 240° radial clockwise to the 298° radial and extending from the 28-mile radius area to 40 miles W of the VORTAC; and within a 35-mile radius of the Galena VORTAC extending from the 089° radial clockwise to the 119° radial and extending from the 28-mile radius area to 35 miles E of the VORTAC.

AMENDMENTS 9/7/78 43 F. R. 27516 (Rewritten)

Galesburg, Ill.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Galesburg Municipal Airport (latitude 40°56'24" N., longitude 90°25'46" W.); within 5 miles east and 8 miles west of the Galesburg VOR 019° radial extending from the VOR to 12 miles north of the VOR; within 5 miles northwest and 8 miles southeast of the VOR 214° radial extending from the VOR to 12 miles southwest of the VOR; within a 5-mile radius of the Monmouth Municipal Airport (latitude 40°55'42" N., longitude 90°38'06" W.).

Galeton, Pa.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of the center, lat. 41° 40'00"N., long. 77°49'15"W., of Cherry Springs Airport, Galeton, Pa., within 3.5 miles each side of the Slate Run, Pa., VORTAC 037° radial, extending from the 7-mile radius area to the Slate Run, Pa., VORTAC.

Gallipolis, Ohio
That airspace extending upward from 700 feet above the surface within an 8½-mile radius of the Gallia-Meigs Regional Airport, Gallipolis, Ohio (latitude 38°50'03" N., longitude 82°09'49" W.).

Gallup, N. Mex.
That airspace extending upward from 700 feet above the surface within a 9-mile radius of Senator Clarke Field (latitude 35°30'35" N., longitude 108°47'00" W.); within 3.5 miles each side of the Gallup VORTAC 242° radial, extending from the 9-mile radius area to 11.5 miles southwest of the VORTAC; and that airspace extending upward from 1,200 feet above the surface witnin an area bounded by a line beginning at latitude 35°47'30" N., longitude 108°34'00" W.; to latitude 35°26'50" N., longitude 108°34'00" W.; to latitude 35°13'15" N., longitude 108°06' 00" W.; to latitude 35°20'25" N., longitude 109°10'40" W.; to latitude 35°52'00" N., longitude 108°47'00" W., to point of beginning, excluding the portion which coincides with the State of New Mexico transition area.

Galveston, Tex. (Offshore)
That airspace extending upward from 700 feet above the surface within a 5-mile radius of coordinates lat. 28°53'00"N., long. 94°43'00"W.

Garden City, Kans.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Garden City Municipal Airport (latitude 37°55'49" N., longitude 100°43'40" W.), within 3 miles each side of the 144° and 324° bearings from Holcomb RBN, extending from the 7-mile radius to 8 miles northwest of the RBN; and 4½ miles east and 9½ miles west of the 004° radial of the Garden City VORTAC extending from the 7-mile radius to 18½ miles north of the VORTAC.

Gaylord, Mich.
That airspace extending upward from 700 feet above the surface within an 8-mile radius of Otsego County Airport (latitude 45°00'50" N., longitude 84°41'45" W.).

Georgetown, Del.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center, lat. 38°41'23" N., long. 75°21'38" W. of Sussex County Airport, Georgetown, DE., and within 2 miles each side of the Waterloo, Del., VORTAC 225° radial extending from the 6.5-mile radius area to the VORTAC and within 2.5 miles each side of a 033° bearing from a point 38°41'42"N., 75°21'18"W., extending from said point to 7 miles northeast of said point.

AMENDMENTS 6/1/78 43 F. R. 19213 (Changed)

Georgetown, Ohio
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Brown County Airport (latitude 38°52'55" N., longitude 83°52'58" W.); and within 3 miles either side of the 162° bearing from the airport extending from the 5-mile radius to 8 miles southeast of the airport.

Georgetown, S. C.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Georgetown County Airport (latitude 33°19'00" N., longitude 79°19'00" W.); within 3 miles each side of the 213° bearing from Georgetown RBN (latitude 33°18'55" N., longitude 79°19'29" W.), extending from the 6.5-mile radius area to 8.5 miles southwest of the RBN.

Georgetown, Tex.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Gerogetown Municipal Airport (latitude 30°40'47" N., longitude 97°40'52" W.).
PENDING AMENDMENT
Georgetown, Tex.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Georgetown Municipal Airport (lat. 30°40'45"N., long. 97°40'45"W.), within 3.5 miles each side of the 358° bearing from the NDB (lat. 30°41'03"N., long. 97°40'45"W.), extending from the 5-mile radius to 11.5 miles northwest of the NDB.
AMENDMENTS 12/28/78 43 F. R. 45343 (Rewritten)

Georgia
That airspace extending upward from 1,200 feet above the surface within the boundary of the State of Georgia including the offshore airspace within 3 nautical miles from the parallel to the shoreline of Georgia and including the additional airspace outside the United States southeast of Savannah bounded by a line beginning at latitude 32°03'25" N., longitude 80°46'30" W.; to latitude 32°00'00" N., longitude 80°33'00" W.; to latitude 31°30'00" N., longitude 80°51'05" W.; to latitude 31°30'00" N., longitude 80°47'30" W.; to latitude 31°11'30" N., longitude 81°01'10" W.; to latitude 30°44'00" N., longitude 81°18'10" W.; to latitude 30°43'05" N., longitude 81°21'00" W.; thence north via a line 3 nautical miles from and parallel to the shoreline to the point of beginning, and including the airspace extending upward from 2,000 feet MSL southeast of Brunswick bounded by a line beginning at latitude 31°11'30" N., longitude 81°01'10" W.; to latitude 30°45'15" N., longitude 80°58'50" W.; to latitude 30°44'00" N., longitude 81°18'10" W.; thence northeast to point of beginning.

Gibson City, Ill.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Gibson City Municipal Airport, latitude 40°29'00" N., longitude 88°16'00" W., and within 2 miles either side of the Roberts VORTAC 220° radial extending from the 5-mile radius northeast to Roberts VORTAC.

Gideon, Mo.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Gideon Memorial Airport (lat. 36°26'45"N., long. 89°54'15"W.), excluding the portion which overlies the Malden, Mo., 700 foot transition area.

AMENDMENTS 5/18/78 43 F. R. 9137 (Added)

Gila Bend, Ariz.
That airspace extending upward from 5,500 feet MSL bounded on the north and northeast by the south and southwest edges of V-66, on the east by longitude 111°45'00" W., on the south by latitude 32°27'00" N., and on the west by longitude 113°35'00" W.

Gillette, Wyo.
That airspace extending upward from 700 feet above the surface within 6 miles east and 9.5 miles west of the Gillette VOR (latitude 44°20'52" N., longitude 105°32'34" W.) 176° and 356° radials, extending from 8 miles south to 18.5 miles north of the VOR. That airspace extending upward from 1,200 feet above the surface within 5 miles each side of a direct line between the Crazy Woman VORTAC and the Gillette VOR.

Glasgow, Ky.
That airspace extending upward from 700 feet above the surface within a 9-mile radius of Glasgow Municipal Airport (lat. 37°01'54"N., long. 85°57'10"W.); within 3 miles north and 4.5 miles south of the 252° bearing from Glasgow RBN (lat. 37°01'03" N., long. 86°00'33" W.), extending from the 9-mile radius area to 8.5 miles west of the RBN.

Glasgow, Mont.
That airspace extending upward from 700 feet above the surface within a 9 mile radius of Glasgow International Airport (latitude 48°12'50" N., longitude 106°37'10" W.), and that airspace extending upward from 1,200 feet above the surface wihin 11 miles southwest and 12 miles northeast of the Glasgow VOR 126° radial, extending from the VOR to 22½ miles southeast of the VOR; within 11 miles southwest and 12 miles northeast of the Glasgow VOR 306° radial, extending from the VOR to 11 miles northwest of the VOR; within 12 miles southwest and 7½ miles northeast of the Glasgow VOR 326° radial extending from the VOR to 22½ miles northwest of the VOR.

Glendive, Mont.
That airspace extending upward from 700 feet above the surface within a 12-mile radius of Dawson Community Airport (latitude 47°08'20" N., longitude 104°48'25" W.); and within 4½ miles northeast and 9½ miles southwest of the 325° bearing from Dawson Community Airport, extending from the 12-mile radius area to 18½ miles northwest of the airport.

Glens Falls, N. Y.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of the center, latitude 43°20'32" N., longitude 73°36'35" W., of Warren County Airport extending clockwise from 050° bearing to a 220° bearing from the airport; within an 18.5-mile radius of the center of the airport extending clockwise from a 220° bearing to a 050° bearing from the airport; within 7 miles west and 9.5 miles east of the Glens Falls VORTAC 172° radial extending from the VORTAC to 18.5 miles south of the VORTAC.

Gloucester, Mass.
That airspace east of Gloucester extending upward from 2,000 feet above the surface bounded by a line beginning at lat. 42°42'30"N., long. 69°30'00"W.; to lat. 42°58'45"N., long. 68°27'06"W.; to lat. 43°31'06"N., long. 66°59'15"W.; to lat. 42°46'27"N., long. 68°18'10"W.; to lat. 42°19'02"N., long. 68°53'01"W.; to lat. 42°23'40"N., long. 70°03'45"W.; to lat. 42°28'00"N., long. 70°03'45"W.; to lat. 42°39'00"N., long. 69°30'00"W.; to the point of beginning.
AMENDMENTS 11/2/78 43 F. R. 39750 (Rewritten) Corr: 43 F. R. 43294

Gloucester, Va.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, 37°23'45" N., 76°31'50" W. of the Gloucester Airport, Gloucester, Va.; and within 2 miles each side of the 110° radial of the Harcum, Va., VOR, extending from the 5-mile radius area to the VOR, excluding the portion within the West Point, Va., transition area. This transition area shall be in effect from sunrise to sunset. dailv.

Goldsboro, N. C.
That airspace extending upward from 700 feet above the surface within a 9-mile radius of Seymour-Johnson AFB (lat. 35°20'20" N., long. 77°57'50" W.); within a 6.5-mile radius of Goldsboro-Wayne Municipal Airport (lat. 35°27'30"N., long. 77°58'00"W.); within three miles each side of the 044° bearing from the Wayne RBN (lat. 35°27'15"N., long. 77°58'26"W.), extending from the 6.5-mile radius area to 8.5 miles northeast of the RBN; within a 6.5-mile radius of Mount Olive Municipal Airport (lat. 35°13'24"N., long. 78°02'21"W.).

Goodland, Kans.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of Renner Field, Goodland Municipal Airport (lat. 39°22'10"N., long. 101°41'55"W.); within 5 miles each side of the Goodland VORTAC 163° radial, extending from the 7-mile radius area to 12 miles south of the VORTAC; within 3.5 miles each side of the Goodland localizer course extending from the 7-mile radius area to 8 miles southeast of the airport.

AMENDMENTS 11/2/78 43 F. R. 40211 (Rewritten)

Gordon, Nebr.
That airspace extending upward from 700 feet along the surface within a 7-mile radius of the Gordon, Nebr., Municipal Airport (lat. 42°48'20"N., long. 102°10'34"W.); within 3 miles each side of the 032° bearing from Gordon NDB (lat. 42°48'04"N., long. 102°10'44"W.) extending from the 7-mile radius to 8.5 miles northeast of the airport.

Gordonsville, Va.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of the center, lat. 38°09'21"N., long. 78°09'59"W., of Gordonsville Municipal Airport, Gordonsville, Va., and within 2 miles each side of the Gordonsville VORTAC 356° radial, extending from the 7-mile radius area to the VORTAC.

Gorman, Calif.
That airspace extending upward from 1,200 feet above the surface bounded on the E by Long. 118°45' 00" W, on the S by Lat. 34°30'00" N, on the W by Long. 119°30'00" W, and on the N by Lat. 35°05'00" N.

Goshen, Ind.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Goshen, Ind., Airport (latitude 41°31'43" N., longitude 85°47'48" W.), and within 2 miles each side of the Goshen, Ind., VORTAC 090° radial extending from the 5-mile radius area to the VORTAC.

Gothenburg, Nebr.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Gothenburg Airport (lat. 40°55'45"N., long. 100°09'00"W.) within 3 miles each side of the Gothenburg NDB 136° true bearing, extending from the 5-mile radius to 8 miles southeast of the NDB.

Graham, Tex.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Graham Municipal Airport (latitude 33°06'20" N., longitude 98°33'10" W.), and within 2 miles each side of the 014° bearing from the Graham RBN (latitude 33°07'48" N., longitude 98°32'59" W.) extending from the 5-mile radius area to 8 miles north of the RBN.

Grain Valley, Mo.
That airspace extending upward from 700 feet above the surface within a 5½ mile radius of the East Kansas City Airport (lat 39°00'56"N., long. 94°12'47"W.) and within three miles each side of the 217° radial of the Napoleon, Mo., VORTAC (lat. 39°05'43.5"N., long. 94°07'43.0W.) extending from the 5½ mile radius area to the VORTAC.

Granbury, Tex.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Granbury Municipal Airport (latitude 32°26'38" N., longitude 97°49'00" W.); and within 1.5 miles each side of the Acton VORTAC 274° radial extending from the 5-mile radius of the Acton VORTAC.

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Grand Canyon, Ariz. (Grand Canyon National Park Airport)
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Grand Canyon National Park Airport (lat. 35°57'16" N., long. 112°08'37" W.); and within 3.5 miles each side of the Grand Canyon VOR 211° radial, extending from the 5-mile radius area to 8 miles southwest of the VOR; and that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at latitude 36°00'00" N., longitude 112°27'00" W., to latitude 36°05'00" N., longitude 112°00'00" W., to latitude 35°42'00" N., longitude 112°00'00" W., to latitude 35°42'00" N., longitude 112°07'00" W., to latitude 35°38'00" N., longitude 112°07'00" W., to latitude 35°38'00" N., longitude 112°27'00" W., thence to point of beginning; and that airspace within 5 miles each side of a direct line between the Grand Canyon, Ariz., VOR and Boulder City, Nev., VORTAC extending from the Grand Canyon VOR to 21 miles west of the VOR.

Grand Forks, N. D.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the Grand Forks International Airport (latitude 47°57'05" N., longitude 97°10'35" W.) within 4.5 miles west and 9.5 miles east of the Grand Forks VORTAC 173° radial, extending from the VORTAC to 18.5 miles south of the VORTAC, and within a 10-mile radius of Grand Forks AFB (latitude 47°57'40" N., longitude 97°24'00" W.) and within 4.5 miles west and 9.5 miles east of the Grand Forks VORTAC 180° radial, extending from the 8.5-mile radius to 26½ miles south of the VORTAC; and that airspace extending upward from 1,200 feet above the surface within a 35-mile radius of Grand Forks AFB, and within a 29-mile radius of Red River VOR, extending clockwise from a line 5 miles east of and parallel to the Red River VOR 180° radial to a line 5 miles northwest of and parallel to the Red River VOR 209° radial.

Grand Island, Nebr.
That airspace extending upward from 700 feet above the surface within a 10-mile radius of Grand Island County Airport (latitude 40°58'03" N., longitude 98°18'30" W.); within 4½ miles northeast and 9½ miles southwest of the Grand Island VORTAC 303° radial, extending from the 10-mile radius area to 18½ miles northwest of the VORTAC; and within 4½ miles east and 9½ miles west of the Grand Island VORTAC 360° radial, extending from the 10-mile radius area to 18½ miles north of the VORTAC.

Grand Isle, La.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Grand Isle seaplane base (latitude 29° 15' 45" N., longitude 89° 57' 40" W.), and within 2 miles each side of the Grand Isle RBN 052° bearing, extending from the 5-mile radius area to the RBN; within 2 miles each side of the Leeville, Louisiana, VORTAC 052° radial extending from the 5-mile radius area to the VORTAC, and within 2 miles each side of the
Leeville, Louisiana, VORTAC 050° radial extending from the 5-mile radius area to 20 miles northeast of the VORTAC.

Grand Junction, Colo.
That airspace extending upward from 700 feet above the surface within 8 miles northwest and 5 miles southeast of the Grand Junction VORTAC 247° and 067° radials extending from 13 miles southwest to 14 miles northeast of the VORTAC and within 2 miles south and 10 miles north of the Grand Junction VORTAC 110° radial extending from the VORTAC to 22 miles southeast; that airspace extending upward from 1,200 feet above the surface within a 35-mile radius of the Grand
Junction VORTAC, within 5 miles each side of the Grand Junction VORTAC 166° radial extending from the 35-mile radius area to 38 miles S of the VORTAC, within 5 miles each side of the Grand Junction ILS localizer NW course extending from the 35-mile radius area to the INT of the localizer NW course and the Grand Junction VORTAC 318° radial.

Grand Marais, Minn.
That airspace extending upward from 700 feet above the surface within a 9½-mile radius of Devils Track Municipal Airport (latitude 47°49'35" N., longitude 90°22'45" W.); and within 4½ miles north and 9½ miles south of the 103° bearing from the Devils Track Municipal Airport, extending from the airport to 18½ miles east of the airport except for that portion which overlies P-204; and that airspace extending upward from 1,200 feet above the surface within 5 miles each side of the 273° bearing from the Devils Track Municipal Airport extending from the airport to 12 miles west of the airport.

Grand Rapids, Mich.
That airspace extending upward from 700 feet above the surface within a 9-mile radius of the Kent County Airport (latitude 42°52'50" N., longitude 85°31'25" W.); within 2 miles each side of the 261° bearing from the Kent County Airport extending from the 9-mile radius area to 15½ miles west of the airport.

Grand Rapids, Minn.
That airspace extending upward from 700 feet above the surface within a 9½-mile radius of Grand Rapids Municipal Airport (latitude 47°12'45" N., longitude 93°30'34" W.); and 5 miles each side of the Grand Rapids VOR 162° radial, extending from the 9½-mile radius area to 8 miles south of the VOR; and that airspace extending upward from 1,200 feet above the surface within 4½ miles west and 9½ miles east of the Grand Rapids VOR 162° radial extending from the VOR to 18½ miles south of the VOR.

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Grandview, Mo.
That airspace extending upward from 700 feet above the surface within an 8-mile radius of Richards-Gebaur AFB (lat. 38°50'50"N., long. 94°33'20"W.); within a 6-mile radius of Johnson County Executive Airport (lat. 38°51'00"N., long. 94°44'15"W.); within 3 miles each side of the 182° bearing from Johnson County Executive Airport extending from the 6-mile radius area to 8 miles south of the airport; and within an 8.5-mile radius of the Johnson County Industrial Airport (lat. 38°49'47"N., long. 94°53'29"W.).

AMENDMENTS 3/23/78 43 F. R. 3551 (Rewritten) Corr: 43 F. R. 9595

Grayling, Mich.
That airspace extending upward from 700 feet above the surface within a 10.5-mile radius of Grayling Army Airfield (latitude 44°40'45" N., longitude 84°43'45" W.); excluding that portion which overlies restricted areas R-4201 and R-4202.

Great Barrington, Mass.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, 42°11'05" N., 73°24'15" W., of Great Barrington Airport, Great Barrington, Mass.; within 2 miles each side of the Runway 5 centerline extended from the 5-mile radius area to 9 miles northeast of the end of the runway; within 2 miles each side of the Runway 11 centerline extended from the 5-mile radius area to 13 miles east of the end of the runway; within 2 miles each side of the Runway 23 centerline extended from the 5-mile radius area to 12 miles southwest of the end of the runway; within 2 miles each side of the Runway 29 centerline extended from the 5-mile radius area to 6 miles west of the end of the runway and within 5 miles east and 8 miles west of the 152° bearing from Great Barrington, Mass., RBN 42°10'58" N., 73°24'17" W., extending from the RBN to 12 miles southeast of the RBN.

Great Bend, Kans.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Great Bend Municipal Airport (lat. 38°20'40"N., long. 98°51'43"W.); and within 4.5 miles each side of the 303° bearing from the Great Bend Municipal Airport, extending from the 7-mile radius to 18 miles northwest of the airport.

AMENDMENTS 11/2/78 43 F. R. 38376 (Rewritten)

Great Bend, N. Y.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center 44° 03'15" N., 75°43'15" W. of Wheeler-Sack AAF, N. Y.; within an 8-mile radius of the center of the airport, extending clockwise from a 065° bearing to a 135° bearing from the airport; within an 11-mile radius of the center of the airport, extending clockwise from a 135° bearing to a 165° bearing from the airport; within a 13.5-mile radius of the center of the airport, extending clockwise from a 165° bearing to a 195° bearing from the airport; within a 10.5-mile radius of the center of the airport, extending clockwise from a 195° bearing to a 242° bearing from the airport within 4.5 miles each side of the Watertown, N. Y., VORTAC 066° radial, extending from the 6.5-mile radius area and the 10.5-mile radius area to the VORTAC, and within 5 miles each side of the Watertown, N. Y., VORTAC 069° radial, extending from the 6.5-mile radius area and the 10.5-mile radius area to the VORTAC. That airspace extending upward from 1,200 feet above
the surface bounded by a line beginning at 43°52'00" N., 75°54'00" W., to 43°50'30" N., 75°53'30" W., to 43° 44'00" N., 75°49'15" W., thence clockwise along an arc with a radius of 40 miles from the center of Griffiss AFB, Rome, N. Y., to longitude 75°30'00" W., thence north along longitude 75°30'00" W., to 44°08'00" N., 75° 30'00" W., to 44°10'30" N., 75°31'00" W., to 44°13'00" N., 75°42'20" W., to point of beginning, excluding the portion which coincides with the Watertown, N. Y., 700-foot and 1,200-foot transition areas.

Great Falls, Mont.
That airspace extending upward from 700 feet above the surface within a 17-mile radius of Malmstrom AFB (latitude 47°30'05" N., longitude 111°11'20" W.), within 3.5 miles each side of the Truly RBN 180° bearing, extending from the 17-mile radius area to 9 miles south of the RBN and within 3 miles each side of the Great VOR 157° radial, extending from the 17-mile radius area to 21.5 miles southeast of the VOR.
and that airspace extending upward
from 1,200 feet above the surface within a 40-mile radius of Malmstrom AFB; within 12 miles north and 8 miles south of the Great Falls VOR 074° radial, extending from the 40-mile radius area to 61 miles east of the VOR; and within 12 miles south and 8 miles north of the Great Falls VOR 272° radial extending from the 40-mile radius area to 56 miles west of the VOR.

Greeley, Colo.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of Weld County Airport (latitude 40°25'35" N., longitude 104°37'45" W.) and within 3.5 miles each side of the Gill VOR 038° and 218° radials extending from the 6-mile radius area to 11 miles northeast of the VOR; that airspace extending upward from 1,200 feet above the surface within 10 miles northwest and 7 miles southeast of the Gill VOR 038° and 218° radials, extending from 20 miles northeast to 13 miles southwest of the VOR.

Green Bay, Wis.
That airspace extending upward from 700 feet above the surface within a 9-mile radius of Austin-Straubel Airport, Green Bay, Wis. (latitude 44°29'16" N., longitude 88°07'49" W.); within 2½ miles each side of the Green Bay ILS southwest localizer course extending from the 9-mile radius to 8 miles southwest of the OM; within 5 miles each side of the Green Bay VORTAC 326° radial, extending from the 9-mile radius area to 8 miles northwest of the VORTAC; and within 5 miles each side of the Green Bay ILS localizer northeast course extending from the 9-mile radius to 14 miles northeast of the airport.

Greencastle, Ind.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Putnam County Airport (lat. 39°38'00"N., long. 86°48'45"W.).

Greeneville, Tenn.
That airspace extending upward from 700 feet above the surface within a 9-mile radius of Greeneville Municipal Airport (lat. 36°11'30"N., long. 82°49'01"W.); excluding the portion within the Tri-City, Tenn., transition area.

AMENDMENTS 11/15/78 43 F. R. 50418 (Rewritten)

Greensboro, N. C.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Greensboro/High Point/Winston-Salem Regional Airport (latitude 36°05'36" N., longitude 79°56'34" W.); within 5 miles each side of Greensboro VORTAC 035° radial, extending from the 8.5-mile radius area to 17.5 miles northeast of the VORTAC; within 4 miles each side of Greensboro VORTAC 207° radial, extending from the 8.5-mile radius area to 8.5 miles southwest of the VORTAC; within 9.5 miles southwest and 4.5 miles northeast of Greensboro ILS localizer northwest course, extending from the LOM to 18.5 miles northwest.

Greenville, Ala.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Greenville Municipal Airport (latitude 31°50'44" N., longitude 86°36'38" W.); within 3 miles each side of the 148° bearing from Persimmon RBN (latitude 31°51'03" N., longitude 86°36'52" W.), extending from the 6.5-mile radius area to 8.5 miles southeast of the RBN.

Greenville, Ill.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Greenville, Illinois, Airport (latitude 38°50'12" N., longitude 89°22'38" W.), and within 2 miles each side of the 348° bearing from Greenville Airport extending from the 6.5-mile radius to 8 miles north of the airport.

Greenville, Ky.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Muhlenberg County Airport (lat. 37°13'30"N., long. 87°09'31"W).

Greenville, Maine
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the center (lat. 45°27'47" N., long. 69°33'21" W.), Greenville Municipal Airport, Greenville, Maine, within 3.5 miles each side of a 212° bearing from the Greenville, Maine, NDB, extending from the 8.5-mile radius area to a point 10 miles southwest of the Greenville NDB, within a 6.5-mile radius of the center (lat. 45°28'10" N., long. 69°36'00" W.) Greenville Seaplane Base, Greenville, Maine, within 3.5 miles each side of a 181° bearing from the Greenville NDB extending from the 6.5-mile radius area to a point 9.5 miles south of the Greenville NDB.

Greenville, Miss.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Greenville International Airport (lat. 33°29'05"N., long. 90°59'20"W.); within 3 miles each side of the Greenville VOR 358° radial, extending from the 8.5-mile radius area to 8.5 miles north of the VOR; within 3 miles each side of the 181° bearing from Metcalf RBN, extending from the 8.5-mile radius area south of the RBN.

Greenville, N. C.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Pitt-Greenville Airport (latitude 35°37'55" N., longitude 77°23'05" W.); within 3 miles each side of the 007° bearing from Alwood RBN (latitude 35°42'32" N., longitude 77°22'03" W.), extending from the 6.5-mile radius area to 8.5 miles north of the RBN.

Greenville, S. C.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Greenville Municipal Downtown Airport (lat. 34°50'54"N., long. 82°21'01"W.); within a 9.5-mile radius of Greenville-Spartanburg Airport (lat. 34°53'45"N., long. 82°13'04"W.); within 4 miles each side of Greenville-Spartanburg ILS localizer northeast course, extending from the 9.5-mile radius area to 15 miles northeast of the airport.
AMENDMENTS 11/2/78 43 F. R. 34114 (Changed)

Greenville, Tex.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of Majors Airport (latitude 33°04'00" N., longitude 96°03'45" W.); and within 2 miles each side of the Majors VOR 188° radial, extending from the 7-mile radius area to 8 miles S of the VOR.

Greenwood, Miss.
That airspace extending upward from 700 feet above the surface within a 10-mile radius of Greenwood-Leflore Airport (latitude 33°29'30" N., longitude 90°04'50" W.); within 1.5 miles each side of the Greenwood VORTAC 081° radial, extending from the 10-mile radius area to the VORTAC.

Greenwood, S. C.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Greenwood County Airport (latitude 34°15'00" N., longitude 82°09'35" W.).

Greenwood Village, Colo.
That airspace extending upward from 700 feet above the surface within 9.5 miles east and 4.5 miles west of the Arapahoe ILS south localizer course Runway 34R, extending from the Castle LOM (lat. 39°27'08"N., long. 104°50'43"W.) to 18.5 miles south of the LOM, excluding that portion which overlies the Denver, Colo., transition area.

Grenada, Miss.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Grenada Municipal Airport (lat. 33°49'40"N., long. 89°47'55"W.).

AMENDMENTS 9/7/78 43 F. R. 26698 (Added) Corr: 43 F. R. 29555

Griffin, Ga.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Griffin-Spalding County Airport, Griffin, Ga. (lat. 33°13'30" N., long. 84°16'30" W.).

AMENDMENTS 1/26/78 42 F. R. 59752 (Added)

Groton, Conn.
That airspace extending upwards from 700 feet above the surface within the area bounded by a line beginning at 41°10'30" N., 72°00'00" W. to 41°12'00" N., 72°10'00" W. to 41°18'00" N., 72°14'00" W. to 41°27'00" N., 72°09'00" W. to 41°25'00" N., 71°42'00" W. to 41°18'00" N., 71°42'00" W. to 41°16'00" N., 71°49'00" W. to 41°13'00" N., 71°48'00" W. to point of beginning.

Grove City, Pa.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, 41°08'42"N., 80°09'54"W. of Grove City Airport, Grove City, Pa., and within 2 miles each side of the Ellwood City, Pa., VORTAC 005° radial, extending from the 5-mile radius area to 16.5 miles north of the VORTAC.

Grundy, Va.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of the center, 37°13'57"N., 82°07'30"W., of Grundy Municipal Airport, Grundy, Va., and within 2.5 miles each side of the Lonesome Pine, Va., VOR (36°59'03"N., 82°32'17"W.) 055° radial, extending from the 6-mile radius area to 21.5 miles northeast of the Lonesome Pine, Va., VOR.

AMENDMENTS 5/18/78 43 F. R. 14442 (Added)
AMENDMENTS 8/21/78 43 F. R. 36895 (Changed)

Gruver, Tex.
That airspace extending upward from 700 feet above the surface within a 6-statute mile radius of the Cluck Ranch Airport (latitude 36°10'45" N., longitude 101°41'40" W.).

Guam Island
That airspace extending upward from 700 feet above the surface bounded by a line beginning at latitude 13°46'35" N, longitude 144°51'15" E., thence clockwise along the arc of a 12-nmi radius circle centered on Anderson AFB (latitude 13°35'00" N., longitude 144°55'00" E.), to latitude 13°23'50" N., longitude 145°01'00" E., thence to latitude 13°08'45" N., longitude 144°29'20" E., thence to latitude 13°29'45" N., longitude 144°18'30" E., thence to point of beginning.
and that airspace extending upward from 1,200 feet above the surface within a 100-nautical mile radius of the Agana VOR and within a 35-nautical mile radius of the Saipan RBN, excluding the portion within W-517.

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Gulfport, Miss.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Gulfport-Biloxi Regional Airport (lat. 30°24'28"N., long. 89°04'05"W.); within 3.5 miles each side of Gulfport VORTAC 050°, 129°, 213°, and 319° radials, extending from the 8.5-mile radius area to 11 miles northeast, southeast, southwest and northwest of the VORTAC; within an 8.5-mile radius of Keesler AFB (lat. 30°24'39" N., long. 88°55'26"W.); within 4.5 miles each side of Keesler TACAN 041° and 203° radials, extending from the 8.5-mile radius area to 12.5 miles northeast and southwest of the TACAN.

AMENDMENTS 11/2/78 43 F. R. 39752 (Changed)

Gulkana, Alaska
That airspace extending upward from 700 feet above the surface within 6 miles E and 10.5 miles W of the 346° radial extending from Gulkana VORTAC to 22 miles N of the VORTAC; within 4.5 miles E and 9.5 miles W of the 181° radial extending from the Gulkana VORTAC to 18.5 miles S of the VORTAC; and within a 16.5-mile radius of the Gulkana VORTAC; and that airspace extending upward from 1,200 feet above the surface within 8.5 miles E and 5.5 miles W of the Gulkana VORTAC 184° radial extending from 9 miles S to 30 miles S of the VORTAC; and within 8.5 miles W and 5.5 miles E of the Gulkana VORTAC 356° radial extending from 9 miles N to 30 miles N of the VORTAC.

Gunnison, Colo.
That airspace extending upward from 700 feet above the surface within 9.5 miles northwest and 6 miles southeast of the Gunnison VORTAC 045° and 225° radials extending from 12 miles northeast to 19 miles southwest of the VORTAC.

Gustavus, Alaska
That airspace extending upward from 700 feet above the surface within an 8-mile radius of Sisters Island, Alaska, VORTAC; and that airspace extending upward from 1,200 feet above the surface within 22 miles SW and 19 miles NE of the 145° and 325° bearings from the Gustavus RBN, extending from 16 miles NW to 48 miles SE of the RBN.

Guthrie, Okla.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Guthrie Municipal Airport (latitude 35°50'30" N., longitude 97°25'00" W.) and within 3 miles each side of the 349° true bearing from the Guthrie RBN (latitude 35°51'04" N., longitude 97°25'10" W.) extending from the 5-mile radius area to 10 miles north of the RBN.

Guthrie, Tex.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of latitude 33°38'25" N., longitude 100°20'50" W., and within 2 miles each side of the Guthrie VOR 182° radial extending from the 6-mile radius area to the VOR.

Guymon, Okla.
That airspace extending upward from 700 feet above the surface within an 8-mile radius of Guymon Municipal Airport (latitude 36°40'45" N., longitude 101°30'30" W.), and within 3.5 miles each side of the 006° bearing from the Guymon RBN (latitude 36°42'19" N., longitude 101°30'17" W.) extending from the 8-mile radius area to 11 miles north of the RBN.

Gwinner, N. Dak.
That airspace extending upward from 700 feet above the surface within a 8.5-mile radius of the Gwinner Municipal Airport (latitude 46°13'10" N., longitude 97°38'27" W.); and that airspace extending upward from 1,200 feet above the surface within a 12-mile radius of the Gwinner Municipal Airport, and within 9.5 miles west and 4.5 miles east of the 167° T bearing from the Gwinner NDB (latitude 46°13'24" N., longitude 97°38'35" W.), extending from the 12-mile radius area to 18.5 miles south of the NDB; and from 5 miles west of the 017° bearing from the Gwinner NDB clockwise to 5 miles south of the 088° bearing from the NDB, extending from the 12-mile radius area to the boundary of the Fargo, North Dakota, transition area.

Hagerstown, Md.
That airspace extending upward from 700 feet above the surface within an 8-mile radius of the center, 39°42'27" N., 77°43'50" W., of Hagerstown Regional Airport, Hagerstown, Md.; within 3.5 miles each side of the Hagerstown, Md., VOR 239° radial and 059° radial, extending from 11 miles southwest of the VOR to 3 miles northeast of the VOR; within 5 miles each side of the Hagerstown Regional Airport ILS Runway 27 localizer course, extending from the localizer to 14.5 miles east of the localizer.
extending from the localizer to 14.5 miles east of the localizer, within 5 miles each side of the St. Thomas, Pa., VORTAC 143° radial, extending from the 8-mile radius area to the St. Thomas, Pa., VORTAC.

Haleyville, Ala.
That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of Haleyville Municipal Airport (lat. 34°16'40" N., long. 87°36'05" W.); within 5 miles each side of Hamilton VORTAC 077° radial, extending from the 5.5-mile radius area to 11.5 miles E of the VORTAC.

Hallock, Minn.
That airspace extending upward from 700 feet above the surface within 5 miles northeast and 5 miles southwest of the Pembina VORTAC 135° radial extending from 6 miles southeast of the VORTAC to 22.5 miles southeast of the VORTAC, and that airspace extending upward from 1,200 feet above the surface 4.5 miles northeast and 7 miles southwest of the 315° radial and the 135° radial of Pembina VORTAC extending from 6 miles southeast of the VORTAC to 12.5 miles northwest of the VORTAC excluding that airspace north of latitude 49°00'00" N.; within 9.5 miles northeast and 4.5 miles southwest of the Pembina VORTAC 135° radial extending from 17.5 miles southeast of the VORTAC to 36 miles southeast of the VORTAC; and that airspace within a 29.5 mile radius of the Pembina VORTAC extending counterclockwise from the 183° radial to 4.5 miles southwest of and parallel to the 135° radial.

Hamilton, Ala.
That airspace extending upward from 700 feet above the surface within a 9-mile radius of Marion County Airport (lat. 34°07'10" N., long. 87°59'53" W.); within 3 miles each side of Hamilton VORTAC 349° radial extending from the 9-mile radius area to 8.5 miles northwest of the VORTAC.

Hamilton, N. Y.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center lat. 42°50'35" N., long. 75°33'40" W. of AMA Executive Airport, Hamilton, N. Y., and within 5 miles each side of the Georgetown, N. Y., VORTAC 074° and 254° radials extending from the 6.5-mile radius area to 4.5 miles west of the Georgetown, N. Y., VORTAC.

Hamilton, Ohio
That airspace extending upward from 700 feet above the surface within a 7-mile radius of the center 39°21'58" N., 84°31'30" W. of Hamilton Airport, Hamilton, Ohio; and within 2 miles north and 5 miles south of a 279° bearing from the Hamilton RBN extending from the 7-mile radius area to 8 miles west of the RBN excluding the portions within the Cincinnati, Ohio and Middletown, Ohio, transition areas.

Hammond, La.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Hammond Municipal Airport (latitude 30°31'15" N., longitude 90°25'00" W.) within 2.5 miles either side of the Hammond VOR 354° radial extending 2 miles from the 5-mile radius, and within 2.5 miles either side of the Hammond VOR 128° radial extending 2 miles from the 5-mile radius.

Hammonton, N. J.
That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the center of lat. 39°40'30" N., long. 74°44'30" W. of Hammonton Municipal Airport, Hammonton, N. J.; within 2 miles each side of the Millville, N. J., VORTAC 051° radial extending from the 5.5-mile radius area to 7.5 miles northeast of the VORTAC.

Hampton, Iowa
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Hampton Municipal Airport (latitude 42°43'35" N., longitude 93°13'35" W.); excluding that airspace which overlies the Mason City, Iowa, transition area.

Hanford, Calif.
That airspace extending upward from 700 feet above the surface within a 3-mile radius of the Hanford Municipal Airport (latitude 36°19'04" N., longitude 119°37'39" W.), and within 2 miles each side of the Visalia TVOR 246° radial extending from the 3-mile radius area toward the Visalia TVOR to abut the currently designated Visalia 700-foot transition area, excluding that airspace within a 1-mile radius of the Blair (private) Airport (latitude 36°16'31" N., longitude 119°38'23" W.).

Hanksville, Utah
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Hanksville (FAA Site 54) Airport (latitude 38°25'01" N., longitude 110°41'57" W.), and within 3.5 miles each side of the Hanksville VORTAC 106° radial, extending from the 5-mile radius area to 11.5 miles east of the VORTAC; that airspace extending upward from 1,200 feet above the surface within 6 miles north and 9.5 miles south of the Hanksville VORTAC 286° and 106° radials, extending from 7.5 miles west to 18.5 miles east of the VORTAC.

Hannibal, Mo.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Hannibal, Missouri, Municipal Airport (latitude 39°43'30" N., longitude 91°26'35" W.); and within 3 miles each side of the 162° bearing from the Hannibal Municipal Airport extending from the 5-mile radius area to 8 miles southeast of the airport, excluding that portion which overlies the Quincy, Illinois, transition area.

Harlan, Iowa
That airspace extending upward from 700 feet above the surface within a 7-mile radius of Harlan Municipal Airport (lat. 41°35'15"N., long. 95°20'15"W.) and within 5 miles each side of the Neola, Iowa, VORTAC 064° radial extending from the 7-mile radius to 8 miles northeast of the VORTAC and 3 miles each side of the 136° bearing from the Harlan NDB to 8½ miles southeast excluding that portion which overlies the Atlantic, Iowa, 700 foot transition area.
AMENDMENTS 7/13/78 43 F. R. 20788 (Rewritten)

Harlingen, Tex.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Harlingen Municipal Airport (latitude 26°13'36" N., longitude 97°39'12" W.); within 3.5 miles either side of the Harlingen ILS localizer north course extending from the 5-mile radius zone to 11.5 miles north of the outer marker (latitude 26°18'17.7" N., longitude 97°39'28.2" W.); within 1.5 miles each side of the localizer (latitude 26°12'48" N., longitude 97°39'31" W.) back course 181° T radial extending from the 5-mile radius zone to 5.5 miles south of the localizer and within 2 miles either side of the Harlingen VOR 118° radial extending from the 5-mile radius zone to the VOR.

Harrisburg, Ill.
That airspace extending upward from 700 feet above the surface within a 5½-mile radius of Harrisburg-Raleigh Airport (latitude 37°48'45" N., longitude 88°33'00" W.); and within 3 miles each side of the 049° bearing from Harrisburg-Raleigh Airport, extending from the airport to 8 miles northeast of the airport.

Harrisburg, Pa.
That airspace extending upward from 700 feet above the surface within a 19.5-mile radius of the center, 40° 12'59" N., 76°51'03" W., of Capital City Airport, Harrisburg, Pa., extending clockwise from a 009° bearing to a 035° bearing from the airport; within a 13-mile radius of the center of the airport, extending clockwise from a 035° bearing to a 099° bearing from the airport; within a 11.5-mile radius of the center of the airport, extending clockwise from a 099° bearing to a 161° bearing from the airport; within a 13-mile radius of the center of the airport, extending clockwise from a 161° bearing to a 233° bearing from the airport; within a 11.5-mile radius of the center of the airport, extending clockwise from a 233° bearing to a 290° bearing from the airport; within a 16.5-mile radius of the center of the airport, extending clockwise from a 290° bearing to a 009° bearing from the airport; within 5.5 miles each side of the Harrisburg, Pa., VORTAC 274° radial, extending from the VORTAC to 11.5 miles west of the VORTAC; within 9.5 miles north and 4.5 miles south of the Capital City Airport ILS localizer west course, extending from the OM to 18.5 miles west of the OM; within a 12.5-mile radius of the center, 40°11'34" N., 76°45'48" W., of Harrisburg International Airport-Olmsted Field, Middletown, Pa., extending clockwise from a 025° bearing to a 078° bearing from the airport; within a 13.5-mile radius of the center of the airport, extending clockwise from a 078° bearing to a 147° bearing from the airport; within a 12.5-mile radius of the center of the airport, extending clockwise from a 147° bearing to a 228° bearing from the airport; within a 14.5-mile radius of the center of the airport, extending clockwise from a 228° bearing to a 270° bearing from the airport; within a 10.5-mile radius of the center of the airport, extending clockwise from a 270° bearing to a 025° bearing from the airport.

Harrison, Ark.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Boone County Airport (lat. 36°15'55"N., long. 93°09'14"W.), within a 12.5-mile radius of the airport extending from the Harrison VOR 140° radial clockwise to the 320° radial and within 3.5 miles each side of the Harrison VOR 320° radial extending from the 6.5-mile radius area to 11.5 miles northwest of the VOR.

Harrison, Ohio
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center of Harrison Airport (lat. 39°15'50"N., long. 84°47'04"W.), Harrison, Ohio, and within 3.6 miles on each side of the 347° bearing from the airport reference point extending from the 5-mile radius to 9.5 miles north of the airport excluding that portion which overlies the Oxford, Ohio, transition area.

AMENDMENTS 3/23/78 43 F. R. 4422 (Added)

Hartford, Conn.
That airspace extending upward from 700 feet above the surface within an 11.5-mile radius of the center, lat. 41°56'19" N., long. 72°41'00" W. of Bradley International Airport, Windsor Locks, Conn.; within 6.5 miles southeast and 4 miles northwest of the Bradley International Airport back-course localizer northeast course, extending from the 11.5-mile radius area to 19.5 miles northeast of the Bradley International Airport; within 4.5 miles northwest and 15.5 miles southeast of the Bradley International Airport ILS localizer southwest course, extending from the 11.5-mile radius area to 18.5 miles southwest of the OM; within a 9-mile radius of the center 41°45'10" N., 72°37'25" W. of the Rentschler Field, East Hartford, Conn.; within 3.5 miles each side of a 130° bearing from the Brainard NDB extending from the NDB to 11.5 miles southeast of the NDB; within 2 miles each side of the centerline of Runway 4 extended 10 miles from the end of the runway; within 2 miles each side of the centerline of Runway 22 extended 10 miles from the end of the runway; within 2 miles each side of the Hartford VOR 154° radial extending from the 9-mile radius area to 8 miles southeast of the VORTAC; within 2 miles each side of the Hartford VORTAC 130° and 310° radials extending from the 9-mile radius area to 6 miles southeast of the VORTAC; within 5 miles northwest and 5 miles southeast of the Hartford VOR 223° radial extending from the VOR to a point 15 miles southwest; excluding those portions that coincide with the Chicopee Falls, Mass., 700-foot transition area.

Hartford, Wisc.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Hartford Airport (latitude 43°20'55" N., longitude 88°23'30" W.).

Hartsville, S. C.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Hartsville Municipal Airport (latitude 34°24'15" N., longitude 80°07'04" W.); within 3 miles each side of the 014° bearing from Hartsville RBN (latitude 34°24'25" N., longitude 80°06'56" W.), extending from the 6.5-mile radius area to 8.5 miles north of the RBN; excluding the portion within the Darlington, S. C., transition area.

Haskell, Tex.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the Haskell, Tex., Municipal Airport (latitude 33°12'18" N., longitude 99°42'43" W.).

Hastings, Mich.
That airspace extending upward from 700 feet above the surface within a 6½ mile radius of Hastings Municipal Airport (latitude 42°39'50" N., longitude 85°20'50" W.); and within 2 miles each side of the Grand Rapids, Mich., VOR 141° radial extending from the 6½ mile radius area to the Grand Rapids VOR, excluding the portion which overlies Grand Rapids, Mich. 700-foot floor transition area.

Hastings, Nebr.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Hastings Municipal Airport (latitude 40°36'20" N., longitude 98°25'30" W.), within 2 miles each side of the 323° bearing from Hastings Municipal Airport extending from the 7-mile radius zone to 8 miles NW of the airport; within 2 miles each side of the 338° bearing from Hastings Municipal Airport extending from the 7-mile radius zone to 9.5 miles N of the airport, and within 2 miles each side of the 143° bearing from Hastings Municipal Airport extending from the 7-mile radius zone to 8 miles SE of the airport.

Hattiesburg, Miss.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of Hattiesburg Municipal Airport (lat. 31°16'01"N., long. 89°15'16"W.); within 1.5 miles each side of the Eaton VORTAC 156° radial, extending from the 7-mile radius area to the VORTAC; within 3 miles each side of the 330° bearing from Hub City RBN (lat. 31°17'57"N., long. 89°18'01"W.), extending from the 7-mile radius area to 8.5 miles northwest of the RBN; within an 8.5-mile radius of the Pine Belt Regional Airport (lat. 31°28'03"N., long. 89°20'11.6"W.); within 3 miles each side of the Eaton VORTAC 182° radial, extending from the 8.5-mile radius area to 8.5 miles south of the VORTAC.

AMENDMENTS 3/23/78 42 F. R. 60121 (Changed)

Haverhill, Mass.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, 42°48'05" N., 71°03'45" W., of Haverhill Airport, Haverhill, Mass.; and within 2 miles each side of the Runway 33 centerline extended from the 5-mile radius area to 6 miles northwest of the end of the runway, excluding the portion which coincides with the Boston, Mass. transition area. This transition area shall be effective from sunrise to sunset, daily.

Havre, Mont.
That airspace extending upward from 700 feet above the surface within a 14-mile radius of Havre VOR; within 4½ miles south and 9½ miles north of the Havre VOR 080° radial, extending from the 14-mile radius area to 18½ miles east of the VOR; and within 4½ miles north and 9½ miles south of the Havre VOR 287° radial, extending from the 14-mile radius area to 18½ miles west of the VOR.

Hawaiian Islands
The airspace extending upward from 5,500 feet above the surface within the area bounded by a line beginning at lat. 24°03'N., long. 156°19'W., to lat. 23°32'N., long. 155°29'W., to lat. 23°00'N., long. 154°39'W., to lat. 22°22'N., long. 153°53'W., to lat. 21°43'N., long. 153°09'W., to lat. 20°16'N., long. 152°14'W., to lat. 19°13'N., long. 151°52'W., to lat. 17°40'N., long. 155°49'W., to lat. 18°28'N., long. 158°55'W., to lat. 18°57'N., long. 159°55'W., to lat. 19°35'N., long. 160°36'W., to lat. 22°19'N., long. 162°29'W., to lat. 23°07'N., long. 162°13'W., to lat. 23°49'N., long. 161°39'W., to lat. 24°17'N., long. 160°52'W., to the point of beginning; and the airspace upward from 1,200 feet above the surface within the area described above bounded by a line beginning at lat. 22°28'N., long. 155°48'W., to lat. 21°00'N., long. 153°51'W., thence clockwise along the arc of a 115-mile radius circle of the Hilo VORTAC (lat. 19°43'28"N., long. 155°00'49"W.), to lat. 19°00'N., long. 153°23'W., to lat. 19°00'N., long. 157°40'W., to lat. 20°28'N., long. 160°29'W., thence clockwise along the arc of a 115-mile radius circle of the South Kauai VORTAC (lat. 21°54'13"N., long. 159°31'54"W.), to lat. 23°30'N., long. 159°02'W., to the point of beginning.

Hawesville, Ky.
That airspace extending upward from 700 feet above the surface within an 8-mile radius of Hancock Airfield (lat. 37°56'40"N., long. 86°47'35"W.); excluding the portion which coincides with the Tell City, Ind., transition area.

AMENDMENTS 9/7/78 43 F. R. 36432 (Added)

Hayden, Colo.
That airspace extending upward from 700 feet above the surface within 5 miles each side of the Hayden, Colo., VOR 248° radial extending from the VOR to 18 miles southwest of the VOR; and that airspace extending upward from 1,200 feet above the surface within an area bounded by a line beginning at 40°06'00"N., long. 107°00'00"W.; to lat. 40°43'00"N., long. 107°00'00"W.; to lat. 40°43'00"N., long. 107°45'00"W.; to lat. 40°35'00"N., long. 107°45'00"W., to lat. 40°35'00"N., long. 108°08'00"W., to lat. 40°22'00"N., long. 108°08'00"W., to lat. 40°22'00"N., long. 107°45'00"W.; to lat. 40°07'30"N., long. 107°45'00"W.; thence along the north edge of V-200 to the point of beginning.

Hays, Kans.
That airspace extending upward from 700 feet above the surface within a 9-mile radius of Hays Municipal Airport (latitude 38°50'45" N., longitude 99°16'30" W.).

Hayward and Cable, Wis.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of Hayward Municipal Airport (latitude 46°01'00" N., longitude 91°27'00" W.) and within an 8-mile radius of Cable Union Airport (latitude 46°11'30" N., longitude 91°15'00" W.) and within 4½ miles each side of the 206° bearing from the Hayward Airport extending from the 7-mile radius to 11 miles southwest of the airport and within 4½ miles east and 9½ miles west of the 023° bearing from the Hayward Airport extending from the 7-mile radius to 18½ miles northeast of the airport.

Hazlehurst, Ga.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of Hazlehurst Airport (lat. 31°53'00" N., long. 82°38'45" W.); within 2.5 miles each side of Alma VORTAC 342° radial, extending from the 6-mile radius area to 18 miles north of the VORTAC.

PENDING AMENDMENT
Hebbronville, Tex.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Jim Hogg County Airport (lat. 27°20'57"N., long. 98°44'12"W.), within 3.5 miles each side of the 326° bearing from the proposed NDB (lat. 27°21'13"N., long. 98°44'38"W.) extending from the 5-mile radius to 11.5 miles northwest of the proposed NDB.

AMENDMENTS 12/28/78 43 F. R. 44479 (Added)

Heber, Ariz.
That airspace extending upward from 12,000 feet MSL bounded by a line beginning at latitude 34°39'00" N., longitude 111°39'00" W., to latitude 34°43'00" N., longitude 111°24'00" W., to latitude 34°43'00" N., longitude 110°20'00" W., thence south via longitude 110°20'00" W., to the north edge of V-190N, thence west and southwest via the north and northwest edges of V-190N to latitude 34°03'30" N., longitude 111°05'00" W., to latitude 34°10'00" N., longitude 111°30'00" W., to latitude 34°10'00" N., longitude 111°43'00" W., to point of beginning.

Heber Springs, Ark.
That airspace extending upward from 700 feet above the surface within a 10.5-mile radius of the Heber Springs, Ark., Airport (latitude 35°30'41" N., longitude 92°00'25" W.).

Helena, Mont.
That airspace extending upward from 700 feet above the surface within a 16½-mile radius of the Helena VORTAC (latitude 46°36'25" N., longitude 111°57'09" W.), extending from the Helena VORTAC 352° radial clockwise to the 191° radial;
and that airspace extending upward from 1,200 feet above the surface within a 24-mile radius of the Helena VORTAC; within 6 miles south and 9 miles north of the Helena VORTAC 272° radial, extending from the 24-mile radius area to 45 miles west of the VORTAC; within 15.5 miles west and parallel to the Helena VORTAC 352° radial, extending from the 24-mile radius area to 31 miles north of the VORTAC; within 5 miles east and 9 miles west of the Helena VORTAC 023° radial, extending from the 24-mile radius area to 36 miles northeast of the VORTAC; and within 6 miles south and 9.5 miles north of the Helena VORTAC 102° radial, extending from the 24-mile radius area to 28.5 miles east of the VORTAC.

Hemingway, S. C.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Hemingway-Stuckey Airport (lat. 33°43'42"N., long. 79°30'46"W.); within 3 miles each side of the 287° bearing from the Stuckey RBN (lat. 33°43'44"N., long. 79°31'41"W.), extending from the 6.5-mile radius to 8.5 miles west of the RBN.

Henderson, Ky.
That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of Henderson Airport (lat. 37°48'27" N., long. 87°41'00" W.); within 1.5 miles each side of Evansville, Ind., VORTAC 152° radial, extending from the 5.5-mile radius area to the VORTAC; excluding the portion within Evansville, Ind., transition area.

Henderson, Tex.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the Rusk County Airport, Henderson, Tex., (lat. 32°08'30"N., long. 94°51'15"W.); within 5 miles each side of the Gregg County, Tex., VORTAC 197° radial extending from the 8.5-mile radius area to 11.5 miles south of the VORTAC; and within 3.5 miles each side of a 350° bearing from the Henderson NDB (lat. 32°11'16"N., long. 94°51'39"W.) extending from the 8.5-mile radius area to 11.5 miles northwest of the NDB.

AMENDMENTS 3/23/78 43 F. R. 951 (Rewritten)

Henryetta, Okla.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Henryetta Municipal Airport (latitude 35°24'40" N., longitude 96°00'50" W.), and within 3.5 miles each side of the 186° bearing from the Henryetta RBN extending from the 5-mile radius area to 8.5 miles south of the RBN.

Hereford, Tex.
That airspace extending upward from 700 feet above the surface within a 5-statute-mile radius of Hereford Municipal Airport, Hereford, Tex. (lat. 34°51'30"N., long. 102°19'25"W.), including an extension from the 5-statute-mile radius area to 11.5 statute miles north of the NDB and 3.5 statute miles either side of the 019° bearing from the NDB.

AMENDMENTS 3/23/78 43 F. R. 5 (Added)

Hershey, Pa.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of the center, lat. 40°17'35" N., long. 76°39'40" W. of Hershey Airpark, Hershey, Pa.; within a 7-mile radius of the center of the airport extending clockwise from a 092° bearing to a 041° bearing from the airport.

Hibbing, Minn.
That airspace extending upward from 700 feet above the surface within an 11½-mile radius of Chisholm-Hibbing Airport (latitude 47°23'10" N., longitude 92°50'19" W.); within 5 miles each side of the Hibbing VORTAC 313° radial, extending from the 11½-mile radius area to 26 miles northwest of the VORTAC; within an 11-mile radius of Eveleth-Virginia Airport (latitude 47°25'55" N., longitude 92°30'03" W.); and within 9½ miles north and 4½ miles south of the Eveleth VOR 092° radial, extending from the 11-mile radius area to 18½ miles east of the VOR; and that airspace extending upward from 1,200 feet above the surface within a 27-mile radius of the Hibbing VORTAC, extending from the Hibbing VORTAC 196° radial clockwise to the Hibbing VORTAC 340° radial; within a 13-mile radius of Hibbing VORTAC, extending from the Hibbing VORTAC 095° radial clockwise to the Hibbing VORTAC 196° radial; within 4½ miles northeast and 10 miles southwest of the Hibbing VORTAC 313° radial, extending from the 27-mile radius area to 33½ miles northwest of the VORTAC, excluding the portien which overlies the Duluth, Minn., transition area.

Hickory, N. C.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Hickory Municipal Airport (latitude 35°44'30"N., longitude 81°23'20"W.); within 5 miles each side of the ILS localizer northeast course, extending from the 8.5-mile radius area to 11.5 miles northeast of the airport.

Higgins, Tex.
That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the Higgins Municipal Airport, Higgins, Tex., (lat. 36°06'20"N., long. 100°01'30"W.), and within 2 miles each side of the 207° radial of the Gage, Okla., VORTAC, extending from the 5.5-mile radius to 6.5 miles northeast of the airport.

AMENDMENTS 3/23/78 43 F. R. 1303 (Added)

Higginsville, Missouri
That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the Higginsville Municipal Airport (latitude 39°04'20" N., longitude 93°40'39" W.); and within 3 miles either side of the 351° bearing from the airport, extending from the 5.5-mile radius to 8 miles north of the airport.

Highgate, Vermont
That airspace extending upward from 700 feet above the surface within an arc of a 5-mile radius circle centered on Franklin County State Airport, Highgate, Vermont (lat. 44°56'26" N., long. 73°05'54" W.) extending clockwise between the 305° and 050° bearings from the Franklin County State Airport; within an arc of a 7-mile radius circle centered on Franklin County State Airport, extending clockwise between the 050° and 305° bearings of Franklin County State Airport; within 6.5 miles northwest and 4 miles southeast of Plattsburgh, New York VORTAC 060° radial extending from the radius area to the VORTAC, excluding that portion of the Plattsburgh, New York, 700-foot transition area.

Hillsboro, Ohio
That airspace extending upward from 700 feet above the surface within an 8-mile radius of the Highland County Airport (latitude 39°11'21" N., longitude 83°32'18" W.).

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Hillsboro, Oreg.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Hillsboro Airport (latitude 45°32'15" N., longitude 122°56'30" W.), and within 2 miles of each side of the Newberg, Oreg., VORTAC 007° and 187° radials, extending from the 5-mile radius area to 1 miles S of the VORTAC; that airspace extending upward from 1,200 feet above the surface within 15 miles SE and 10 miles NW of the Newberg VORTAC 024° and 204° radials, extending from 12 miles NE to 27 miles SW of the VORTAC.

Hillsboro, Wis.
That airspace extending upward from 700 feet above the surface within a 8-mile radius of the Kickapoo Airport (latitude 43°39'24" N., longitude 90°19'41" W.).

Hillsdale, Mich.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Hillsdale, Mich., Airport (latitude 41°55'15" N., longitude 84°35'05" W.), and within 2 miles each side of the Litchfield, Mich., VORTAC 140° radial extending from the 5-mile radius area to 8 miles northwest of the airport.

Hilltop Lakes, Tex.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Hilltop Lakes Airport (latitude 31°04'50" N., longitude 96°12'50" W.), and within 2 miles each side of the Leona VORTAC 258° radial extending from the 5-mile radius area to 9 miles west of the VORTAC.

Hilo, Hawaii
That airspace extending upward from 700 feet above the surface within the arc of an 8.5-mile radius circle centered on General Lyman Field, Hilo, Hawaii (lat. 19°43'15" N., long. 155°02'55" W.), extending clockwise from a line 2 miles southwest of and parallel to the Hilo VORTAC 321° radial to a line 2 miles south of and parallel to the Hilo VORTAC 099° radial.

Hilton Head Island, S. C.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Hilton Head Airport (latitude 32°13'20" N., longitude 80°41'55" W.), excluding the portion outside the continental limits of the United States.

Hobart, Okla.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Hobart Municipal Airport: within 5 miles W and 8 miles E of the Hobart VOR 003° and 183° radials, extending from 5 miles N to 12 miles S of the VOR; within an 8-
mile radius of the Altus AFB; within 5 miles W and 8 miles E of the 360° and 180° bearings from latitude 34°33'53" N., longitude 99°16'24" W.; extending from 24 miles N to 12 miles S of lat. 34°33'53"N., long. 99°16'24"W. and within a 6-mile radius of the Tipton Municipal Airport excluding the portion which overlies the Frederick, Okla., transition area.

AMENDMENTS 3/23/78 43 F. R. 1304 (Changed)

Hobbs, N. Mex.
That airspace extending upward from 700 feet above the surface within a 9-mile radius of the Lea County Airport (latitude 32°41'19" N., longitude 103°13'01" W.), within 3.5 miles each side of the Hobbs VORTAC 222° radial extending from the VORTAC to 11.5 miles SW, and within 5 miles each side of the Hobbs VORTAC 042° radial extending from the VORTAC to 21 miles NE.

Holdrege, Nebr.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Brewster Field (latitude 40°27'15" N., longitude 99°20'15" W.); and within 3 miles each side of the 011° bearing from Brewster Field, extending from the 5-mile radius area to 8 miles north of the airport.

Holland, Mich.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of Park Township Airport (latitude 42°47'45" N., longitude 86°09'45" W.); within a 6-mile radius of Tulip City Airport (latitude 42°44'45" N., longitude 86°06'30" W.); within 3 miles each side of the 175° bearing from Park Township Airport, extending from the 6-mile radii area to 8 miles south of the airport; and within 2 miles each side of the Pullman, Mich., VORTAC 359° radial, extending from the 6-mile radii area to 12 miles north of the VORTAC.

Holly Springs, Miss.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Holly Springs-Marshall County Airport (lat. 34°48'12" N., long. 89°31'16" W.); within 2 miles each side of Holly Springs VORTAC 336° radial, extending from the 6.5-mile radius area to 11 miles northwest of the VORTAC.

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Homer, Alaska
That airspace extending upward from 700 feet above the surface within a 11-mile radius of the Homer localizer antenna site (latitude 59°39'08" N., longitude 151°27'22" W.); and that airspace extending upward from 1,200 feet above the surface within a 30-mile radius of the Homer VORTAC extending from the 209° radial clockwise to the 252° radial.

Homer, Ill.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Homer Airport (lat. 40°01'35"N., long. 87°57'10"W.); and within 3 miles each side of the 151° bearing from the Homer Airport, extending from the 5-mile radius area to 8.5 miles southeast of the airport.

AMENDMENTS 3/23/78 43 F. R. 4422 (Added)

Homer, La.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Homer Municipal Airport (lat. 32°47'19"N., long. 93°00'13"W.) and within 3.5 miles each side of the Homer, La., Municipal Airport NDB (lat. 32°47'24"N., long. 93°00'02"W.) 296° bearing extending from the 6.5-mile radius area to a point 12.0 miles west of the NDB.

Homerville, Ga.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Homerville Airport (latitude 31°03'00" N., longitude 82°46'30" W.); within 3 miles each side of the 310° bearing from the Homerville RBN (latitude 31°03'17" N., longitude 82°46'16" W.), extending from the 6.5-mile radius area to 8.5 miles northwest of the RBN.

Honesdale, PA.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center, lat. 41°30'52" N., long. 75°15'10" W. of Cherry Ridge Airport, Honesdale, PA., and within 5 miles each side of the Wilkes-Barre VORTAC 054° radial extending from the 6.5-mile radius area to 10 miles northeast of the Wilkes-Barre VORTAC.

Honolulu, Hawaii (Honolulu International Airport)
That airspace extending upward from 700 feet above the surface south and southeast of Honolulu beginning at lat. 21°20'30"N., long. 157°51'15"W., thence south to lat. 21°15'30"N., long. 157°49'15"W., thence east along the shoreline to and clockwise along the arc of a 15 NM radius circle centered on Honolulu International Airport (lat. 21°19'35"N., long. 157°55'45"W.) to lat. 21°08'40"N., long. 158°07'35"W., thence northwest to lat. 21°10'10"N., long. 158°11'55"W., thence northeast along a line 4.5 miles southeast of and parallel to the Honolulu VORTAC 242° radial to and counterclockwise along the arc of a 5-mile radius circle centered on NAS Barbers Point (lat. 21°18'35"N., long. 158°04'30"W.) to and counterclockwise along the arc of a 5-mile radius circle centered on Honolulu International Airport to the point of beginning, and within 3 miles northwest and 4.5 miles southeast of the Honolulu VORTAC 242° radial, extending from 13 miles to 14 miles southwest of the VORTAC.

Honolulu, Hawaii (Wheeler AFB)
That airspace extending upward from 700 feet above the surface within 2 miles each side of the Honolulu VORTAC 358° radial extending from the arc of a 3-mile radius circle centered on Wheeler AFB (lat. 21°29'00"N., long. 158°02'30"W.) to the INT of the Honolulu, Hawaii, VORTAC 358° and the Koko Head, Hawaii, VORTAC 298° radials, and that airspace extending upward from 700 feet above the surface within 2 miles northwest of and parallel to the centerline of Runway 06 (068°38'40" true bearing) beginning at the 3-mile radius arc and extending northeast to intercept an arc of a 5-mile radius circle centered on Wheeler AFB (lat. 21°29'00"N., long. 158°02'30"W.) thence clockwise along the 5-mile arc to the Koko Head, Hawaii, VORTAC 305° radial; thence northwest along the Koko Head, Hawaii, VORTAC 305° radial to the arc of the 3-mile radius circle.

Hope, Ark.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of Hope Municipal Airport (latitude 33°43'06" N., longitude 93°39'30" W.); and within 2 miles each side of the Texarkana VORTAC 058° radial extending from the 6-mile radius area to 17 miles northeast of the Texarkana VORTAC.

Hopedale, Mass.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of the center, 42°06'25" N., 71°30'40" W., of the Hopedale Draper Airport, Hopedale, Massachusetts, within 5 miles southeast and 6.5 miles northwest of the 060° radial from the Putnam VORTAC, 41°57'19" N., 71°50'41" W., extending from the 6-mile radius area to the Putnam VORTAC, excluding that portion that coincides with the Danielson, Connecticut, and the Southbridge, Massachusetts, transition area.

Hopewell, VA.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center, lat. 37°18'00" N., long. 77°13'00" W. of Hopewell Airport, Hopewell, VA.

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Hopkinsville, Ky.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Campbell AAF (lat. 36°40'23" N., long. 87°29'27" W.); within 3 miles each side of the 044° bearing from Campbell RBN, extending from the 8.5-mile radius area to 8.5 miles northeast of the RBN; within an 8.5-mile radius of Outlaw Field, Clarksville, Tenn. (lat. 36°37'15"N., long. 87°24'52"W.); within a 5-mile radius of Sabre Army Heliport. F. Campbell, Ky. (lat. 36°34'14"N., long. 87°28'50"W.).

Hoquiam, Wash.
That airspace extending upward from 700 feet above the surface east of Bowerman Field, bounded on the north by a line 2 miles north of and parallel to the Hoquiam VORTAC 068° radial, on the south by a line 2 miles south of and parallel to the Hoquiam VORTAC 088° radial, extending eastward between the arcs of 5- and 13-mile radius circles centered on Bowerman Field, (lat. 46°58'15" N., long. 123°56'05" W.); and that airspace extending upward from 1,200 feet above the surface within 6 miles north and 9 miles south of the Hoquiam VORTAC 081° and 261° radials, extending from 8 miles east to 19 miles west of the VORTAC, excluding that portion coinciding with W-237.

Hornell, NY.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the center, lat. 42°22'30" N., long. 77°40'45" W. of Hornell Municipal Airport, extending clockwise from a 319° bearing to a 352° bearing from the airport; within a 10.5-mile radius of the center of the airport, extending clockwise from a 352° bearing to a 028° bearing from the airport; within an 11.5-mile radius of the center of the airport, extending clockwise from a 028° bearing to a 074° bearing from the airport; within a 9.5-mile radius of the center of the airport, extending clockwise from a 074° bearing to a 096° bearing from the airport; within a 10.5-mile radius of the center of the airport, extending clockwise from a 096° bearing to a 131° bearing from the airport; within an 11.5-mile radius of the center of the airport, extending clockwise from a 131° bearing to a 157° bearing from the airport; within a 13-mile radius of the center of the airport, extending clockwise from a 157° bearing to a 252° bearing from the airport; within a 12-mile radius of the center of the airport, extending clockwise from a 252° bearing to a 290° bearing from the airport and within a 10.5-mile radius of the center of the airport, extending clockwise from a 290° bearing to a 319° bearing from the airport.

Hot Springs, Ark.
That airspace extending upward from 700 feet above the surface within a 15-mile radius of Memorial Field (latitude 34°28'40" N., longitude 93°05'45" W.), and within 3.5 miles each side of the 248° bearing from the Hot Springs RBN extending from the 15-mile radius area to 11.5 miles west of the RBN.

Hot Springs, Va.
That airspace extending upward from 700 feet above the surface within a 9.5 mile radius of the center, lat. 37°57'04" N., long. 79°50'02" W. of Ingalls Field, Hot Springs, Va.

Houghton, Mich.
That airspace extending upward from 700 feet above the surface within an 18-mile radius of the Houghton VOR; and that airspace extending upward from 1,200 feet above the surface within 4½ miles east and 9½ miles west of the 020° bearing from the Calumet RBN, extending from the RBN to 18½ miles north of the RBN; within 4½ miles northeast and 10½ miles southwest of the Houghton ILS localizer northwest course, extending from the airport to 24½ miles northwest; within 4½ miles southeast and 9½ miles northwest of the Houghton VOR 060° radial extending from the VOR to 18½ miles northeast of the VOR; and within 4½ miles southwest and 9½ miles northeast of the Houghton ILS localizer southeast course extending from the airport to 23½ miles southeast.

Houlton, Maine
That airspace extending upward from 700 feet above the surface within a 13-mile radius of the center, 46°07'25" N., 67°47'40" W., of Houlton International Airport, Houlton, Maine.
That airspace extending upward from 1,200 feet above the surface within an area beginning at the intersection southeast of Presque Isle, Maine, of the United States-Canadian border and a 40-mile radius arc centered at 46°57'05" N., 67°53'10" W. (Loring AFB), thence clockwise along this arc to 46°33'00" N., to 45°56'00" N., 68°36'00" W. to 45°38'00" N., 67°10'30" W. thence along the United States-Canadian border to the point of beginning, excluding the airspace within Canada.

Houma, La.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Houma Municipal Airport (latitude 29°34'10" N., longitude 90°39'40" W.), within 2 miles each side of the Tibby VORTAC 123° radial extending from the 5-mile radius area to the VORTAC, within 2 miles each side of the Tibby VORTAC 124° radial extending from the 5-mile radius area to 27 miles SE of the VORTAC, and within 2 miles each side of a 330° bearing from the Houma RBN (latitude 29°37'01" N., longitude 90°39'39" W.) extending from the 5-mile radius area to 10 miles north of the RBN.

Houston, Tex.
That airspace extending upward from 700 feet above the surface within an area bounded by a line beginning at latitude 30°35'00" N., longitude 95°28'00" W.; thence to latitude 29°45'00" N., longitude 94°44'00" W.; thence to the intersection of the arc of a 5-mile radius circle centered on Scholes Field, Galveston, Tex. (latitude 29°15'55" N., longitude 94°41'35"W.), and latitude 29°16'00" N., at a point east of Scholes Field; thence clockwise along the arc of the 5-mile radius circle to latitude 29°16'00" N., at a point west of Scholes Field; thence to latitude 29°30'00" N., longitude 95°54'00" W.; to latitude 30°26'00" N., longitude 95°42'00" W., to point of beginning and including within 3.5 miles each side of the 335° T (227°M) bearing from the Lakeside Airport NDB (latitude 29°50'52" N., longitude 95°41'19" W.) extending from the NDB to 11.5 miles northwest.

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BOOK 3 OF 3 BOOKS
TUESDAY, JANUARY 2, 1979
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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

federal

AIRSPACE DESIGNATION

Compilation of Regulations

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Howell, Mich.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of Howell, Mich., Livingston County Airport (latitude 42°37'30" N., longitude 83°58'45" W.), and within 2 miles each side of the Salem, Mich., 308° radial extending from the 6-mile radius area to 7 miles southeast of the airport.

Hudson, New York
That airspace extending upward from 700 feet above the surface within an 8-mile radius of the center, lat. 42°17'35" N., long. 73°42'38" W. of Columbia County Airport, Hudson, N. Y.; within a 17-mile radius of the center of the airport extending clockwise from a 025° bearing to a 180° bearing from the airport; within 3.5 miles each side of a 194° bearing from the Philmont, N. Y., radio beacon (lat. 42°15'08" N., long. 73°43'24" W.), extending from the 8-mile radius area to 11.5 miles south of the RBN.

Hugo, Colo.
That airspace south and east of Hugo, Colo., VOR extending upward from 8500 feet MSL, bounded on the west by V-19, on the northwest by V-108 and V-169, on the north by V-4, on the northeast by V-17, on the southeast by V-216, and on the south by V-210, excluding the airspace within Federal airways, the Pueblo and Colorado Springs, Colo., transition areas and the State of Kansas.

Humboldt, Nebr.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Humboldt Municipal Airport (lat. 40°09'50"N., long. 95°55'54"W.) and within 1.75 miles each side of the 099° radial of the Pawnee City VORTAC extending from the 5-mile radius to 7 miles west of the airport and within 4.75 miles each side of the 137° bearing from Humboldt Municipal Airport extending from the 5-mile radius to 9.5 miles southeast of the airport.

AMENDMENTS 7/13/78 43 F. R. 20787 (Rewritten)

Humboldt, Tenn.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Humboldt Municipal Airport (lat. 35°48'00" N., long. 88°52'00" W.); within 2.5 miles each side of the Dyersburg VORTAC 121° radial, extending from the 5-mile radius area to 23 miles southeast of the VORTAC.

Huntingburg, Ind.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of Huntingburg Airport (latitude 38°15'00" N., longitude 86°57'00" W.); and within 3 miles either side of an 072° bearing from the Huntingburg Airport extending from the 6-mile radius to 8 miles ENE of the airport.

Huntington, Ind.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Huntington Municipal Airport (latitude 40°51'15" N., longitude 85°27'50" W.), excluding the portion which overlies the Fort Wayne, Ind., 700-foot floor transition area.

Huntington, W. Va.
That airspace extending upward from 700 feet above the surface within an 11-mile radius of the center, latitude 38°22'00" N., longitude 82°33'20" W. of Tri-State Airport (Walker-Long Field), Huntington, West Virginia; within 4.5 miles each side of the Tri-State Airport (Walker-Long Field) ILS localizer east course, extending from the 11-mile radius area to 6 miles east of the Shoals, West Virginia FM; and within 5 miles each side of the Tri-State (Walker-Long Field) ILS localizer west course, extending from the 11-mile radius area to 11.5 miles west of the OM.

Huntsville, Ala.
That airspace extending upward from 700 feet above the surface within a 15.5-mile radius of Redstone AAF (latitude 34°40'29" N., longitude 86°40'54" W.); within 3 miles each side of Huntsville ILS localizer north course, extending from the Capshaw RBN to 8.5 miles north of the RBN; within 3 miles each side of Huntsville ILS localizer south course, extending from the localizer to 14.5 miles south; within an 8.5-mile radius of Pryor Field (latitude 34°39'09" N., longitude 86°56'45" W.); within 3 miles each side of the Decatur VOR 197° radial, extending from the 8.5-mile radius area to 8.5 miles south of the VOR; within 9.5 miles west and 4.5 miles east of the Decatur VOR 351° radial, extending from the VOR to 18.5 miles north; within a 5-mile radius of Huntsville Airport North (lat. 34°51'25"N., long. 86°33'22"W.).

AMENDMENTS 5/18/78 43 F. R. 13374 (Changed)

Huntsville, Tex.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Huntsville Municipal Airport (lat. 30°44'30" N., long. 95°35'30" W.), within 3 miles each side of the Leona VORTAC 139° radial extending from the 5-mile radius area to 27.5 miles southeast of the VORTAC, and within 3.5 miles each side of the 008° bearing from the Huntsville RBN (lat. 30°44'20" N., long. 95°35'17" W.) extending from the 5-mile radius area to 11.5 miles north of the RBN.

Huron, S. Dak.
That airspace extending upward from 700 feet above the surface within a 6½-mile radius of the Huron Regional Airport (latitude 44°23'03" N., longitude 98°13'39" W.); within 4½ miles northeast and 11 miles southwest of the Huron VORTAC 314° and 134° radials, extending from 5 miles southeast to 18½ miles northwest of the VORTAC; and within 5 miles each side of the Huron ILS localizer southeast course, extending from the 6½-mile radius area to 19½ miles southeast of the OM; and that airspace extending upward from 1,200 feet above the surface within a 25-mile radius of the Huron VORTAC extending from a line 5 miles west of and parallel to the 343° radial clockwise to a line 5 miles north of and parallel to the 269° radial; and within 4½ miles southwest and 9½ miles northeast of the Huron localizer southeast course extending from 6 miles southeast of the OM to 29 miles southeast of the OM.

Hurtsboro, Ala.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Sehoy Airport (lat. 32°13'12"N., long. 85°28'05"W.).

AMENDMENTS 11/2/78 43 F. R. 33236 (Added)

Hutchinson, Kans.
That airspace extending upward from 700 feet above the surface within an 8½-mile radius of Hutchinson Municipal Airport (latitude 38°03'56" N., longitude 97°51'37" W.); within 3½ miles each side of the Hutchinson VORTAC 222° radial, extending from the 8½ mile radius area to 8 miles southwest of the VORTAC; and within 4½ miles southwest and 9½ miles northeast of the Hutchinson ILS localizer northwest course, extending from the airport to 18½ miles northwest of the ILS outer marker.

Idabel, Okla.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Idabel Municipal Airport (lat. 33°54'23" N., long. 94°50'41" W.) and within 3.5 miles each side of the 349° bearing from the NDB (lat. 33°54'23" N., long. 94°50'45" W.) extending from the 5-mile radius area to a point 8 miles north of the NDB.

Ida Grove, Iowa
That airspace extending upward from 700 feet above the surface within a 7-mile radius of Ida Grove Municipal Airport (latitude 42°19'55" N., longitude 95°26'40" W.); and within 2 miles each side of the 117° bearing from Ida Grove Municipal Airport, extending from the 7-mile radius area to 8 miles east of the airport.

Idaho Falls, Idaho
That airspace extending upward from 700 feet above the surface within 10.5 miles northwest and 5 miles southeast of the Idaho Falls VOR 036° and 216° radials, extending from 25.5 miles northeast to 18.5 miles southwest of the VOR and within 6 miles northwest and 9 miles southeast of the 029° radial of the Pocatello VORTAC extending from 23 to 47 miles northeast of the VORTAC; that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at the intersection of longitude 112°30'00" W., and the south edge of V-298, thence via the south edge of V-298 and V-328 to longitude 111°38'00" W., thence south via this longitude to the INT of an arc of a 23-mile radius circle centered on the Idaho Falls VOR, thence clockwise via the 23-mile radius arc to longitude 112°10'00" W., thence direct to latitude 43°20'30" N., longitude 112°45'30" W., thence direct latitude 43°32'00" N., longitude 112°35'00" W., thence to latitude 43°50'20" N., longitude 112°30'00" W., thence direct to point of beginning.

Iliamna, Alaska
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Iliamna Airport (lat. 59°45'12"N., long. 154°54'54"W.); and within 2.5 miles each side of the 189° bearing from the Iliamna NDB, extending from the 5-mile radius area to 9.5 miles south of the NDB; and that airspace extending upward from 1,200 feet above the surface within 4.5 miles west and 9.5 miles east of the Iliamna NDB 189° bearing from the Iliamna NDB, extending from the NDB to 18.5 miles south of the NDB.

AMENDMENTS 3/23/78 43 F. R. 3551 (Rewritten)

Illinois
That airspace extending upward from 1,200 feet above the surface within the boundary of the State of Illinois.

Independence, Kans.
That airspace extending upward from 700 feet above the surface within an 8-mile radius of Independence Municipal Airport (latitude 37°09'25" N., longitude 95°46'50" W.).

Indiana
That airspace extending upward from 1,200 feet above the surface within the boundary of the State of Indiana.

Indiana, Pa.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of the center, (lat. 40°38'00" N., long. 79°06'15" W.) of Indiana County-Jimmy Stewart Field, Indiana, Pa., within 3.5 miles each side of the Indiana County-Jimmy Stewart Field ILS localizer east course, extending from the 7-mile radius area to 12 miles east of the OM (40°37'19"N., 78°58'43"W.), and within 4.5 miles each side of the 090° bearing from the Indiana RBN (lat. 40°37'54"N., long. 79°03'51"W.) extending from the 7-mile radius area to 11 miles east of the RBN.

Indianapolis, Ind.
That airspace extending upward from 700 feet above the surface within a 9-mile radius of Indianapolis Municipal (Weir-Cook) Airport (latitude 39°43'35" N., longitude 86°17'05" W.); within a 5½-mile radius of Bob Shank Airport (latitude 39°49'15" N., longitude 86°14'30" W.); within a 5½-mile radius of Eagle Creek Airpark (latitude 39°49'45" N., longitude 86°17'45" W.); and within 3 miles each side of the Indianapolis VORTAC 257° radial, extending from the 5½ and 9-mile radii to 8 miles west of the VORTAC.

Indianola, Miss.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Indianola Municipal Airport (lat. 33°29'05"N., long. 90°40'34"W.); within 3 miles each side of the 191° and 354° bearings from Indianola RBN (lat. 33°28'48"N., long. 90°40'34"W.), extending from the 6.5-mile radius area to 8.5 miles south and north of the RBN.
AMENDMENTS 5/18/78 43 F. R. 13374 (Changed)

International Falls, Minn.
That airspace extending upward from 700 feet above the surface within 4½ miles northeast and 9½ miles southwest of the International Falls VORTAC 140° and 320° radials, extending from 6 miles southeast to 18½ miles northwest of the VORTAC; and within 4½ miles southwest and 9½ miles northeast of the International Falls VORTAC 129° and 309° radials extending from 6 miles northwest to 18½ miles southeast of the VORTAC; and that airspace extending upward from 1,200 feet above the surface within a 20-mile radius of the International Falls VORTAC; and within 4½ miles southwest and 9½ miles northeast of the International Falls ILS southeast localizer course extending from the 20-mile radius area to 18½ miles southeast of the outer marker, excluding the portions outside the United States.

Intracoastal City, La.
That airspace extending upward from 700 feet above the surface within 3.5 miles either side of the White Lake, La., VORTAC 065° radial extending from 11 miles NE of the VORTAC to 23 miles NE of the VORTAC and within 5 miles either side of the 17.5-mile radius arc centered on the White Lake VORTAC extending clockwise between the 065° and 084° radials.

Ionia, Mich.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Ionia County Airport (latitude 42°56'20" N., longitude 85°04'15" W.); and within 3 miles each side of the 064° radial of the Grand Rapids, Michigan VOR, extending from the 5-mile radius area to 30 miles northeast of the VOR.

Iowa
That airspace extending upward from 1,200 feet above the surface within the boundary of the State of Iowa.

Iowa Citv. Iowa
That airspace extending upward from 700 feet above the surface within a 6-mile radius of Iowa City Municipal Airport (latitude 41°38'25" N., longitude 91°32'50" W.), and within 2 miles each side of the Iowa Citv VOR 024° radial, extending from the 6-mile radius area to the VOR.

Iowa Falls, Iowa
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Iowa Falls Municipal Airport (lat. 42°28'10" N., long. 93°16'00" W.); and within 3 miles on each side of the 154° bearing from the airport reference point extending from the 6.5-mile radius 8.5 miles southeast of the airport.

Iron Mountain, Mich.
That airspace extending upward from 700 feet above the surface within a 10-mile radius of Iron Mountain VORTAC; within 6 miles west and 9½ miles east of the Iron Mountain ILS localizer south course extending from the 10-mile radius area to 24 miles south of the Ford Airport (latitude 45°48'57" N., longitude 88°06'56" W.); within 5 miles each side of the Iron Mountain ILS localizer north course extending from the 10-mile radius to 18 miles north of the airport.

Ironwood, Mich.
That airspace extending upward from 700 feet above the surface within a 13-mile radius of the Gogebic County Airport (latitude 46°31'32" N., longitude 90°07'54" W.); within 3 miles each side of the 272° radial, extending from the 13-mile radius to 15 miles west of the Ironwood VORTAC; and that airspace extending upward from 1,200 feet above the surface within a 24-mile radius of the Ironwood VORTAC excluding the portion in the State of Wisconsin.

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Islip, N. Y.
That airspace extending upward from 700 feet above the surface within a 9-mile radius of the center, 40°47' 50"N., 73°06'01"W., of Long Island MacArthur Airport, Islip, N. Y., and within 4.5 miles each side of the Long Island MacArthur Airport Runway 24 ILS localizer northeast course, extending from the OM to 5.5 miles northeast of the OM.

AMENDMENTS 6/8/78 43 F. R. 26282 (Changed)

Ithaca, N. Y.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the center, 42° 29'29" N., 76°27'30" W., of Tompkins County Airport, Ithaca, N. Y.; within a 10-mile radius of the center of the airport, extending clockwise from a 350° bearing to a 012° bearing from the airport; within a 12.5-mile radius of the center of the airport, extending clockwise from the 012° bearing to a 036° bearing from the airport; within a 12-mile radius of the center of the airport, extending clockwise from a 036° bearing to a 065° bearing from the airport; within a 13.5-mile radius of the center of the airport, extending clockwise from a 065° bearing to a 096° bearing from the airport; within a 14-mile radius of the center of the airport, extending clockwise from a 096° bearing to a 111° bearing from the airport; within a 14.5-mile radius of the center of the airport extending clockwise from a 111° bearing to a 131° bearing from the airport; within a 14-mile radius of the center of the airport, extending clockwise from a 131° bearing to a 152° bearing from the airport; within a 12.5-mile radius of the center of the airport, extending clockwise from a 152° bearing to a 216° bearing from the airport; within a 9.5-mile radius of the center of the airport, extending clockwise from a 216° bearing to a 243° bearing from the airport; within a 10.5-mile radius of the center of the airport, extending clockwise from a 243° bearing to a 288° bearing from the airport; within 4.5 miles southwest and 9.5 miles northeast of the Ithaca, N. Y., VORTAC 305° radial, extending from the VORTAC to 18.5 miles northwest of the VORTAC; within 5.0 miles each side of the Tompkins County Airport ILS localizer southeast course extending from the OM to 11.5 miles southeast of the OM.

Jacksboro, Tenn.
That airspace extending upward from 700 feet above the surface within a 17-mile radius of Campbell County Airport (latitude 36°20'03" N., longitude 84°09'46" W.).

Jackson, Mich.
That airspace extending upward from 700 feet above the surface within a 13-mile radius of the Jackson VOR.

Jackson, Minn.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Jackson Municipal Airport (latitude 43°39'00" N., longitude 94°59'05" W.); and within 3 miles each side of the 327° bearing from Jackson Municipal Airport, extending from the 5-mile radius area to 8 miles northwest of the airport.

Jackson, Miss.
That airspace extending upward from 700 feet above the surface within a 10-mile radius of Allen C. Thompson Field (latitude 32°18'40" N., longitude 90°04'35" W.); within an 8-mile radius of Hawkins Field (latitude 32°20'10" N., longitude 90°13'15" W.); within 1.5 miles each side of the Jackson VORTAC 195° radial, extending from the 8-mile radius area to the VORTAC; within a 5.5-mile radius of Bruce Campbell Field (latitude 32°26'15" N., longitude 90°06'05" W.); within 1.5 miles each side of the Jackson VORTAC 142° radial, extending from the 5.5-mile radius area to the VORTAC; within 1.5 miles each side of Runway 17 extended centerline, extending from the 5.5-mile radius area to 5.5 miles north of the runway end; within 3 miles each side of the 007° bearing from the Bruce RBN (lat. 32°26'24" N., long. 90°06'24" W.), extending from the 5.5-mile radius area to 8.5 miles north of the RBN.

Jackson, Tenn.
That airspace extending upward from 700 feet above the surface within a 9-mile radius of McKellar Field (latitude 35°35'55" N., longitude 88°54'55" W.).

Jackson, Wyo.
That airspace extending upward from 700 feet above the surface within a 5-mile radius circle centered on the Jackson's Hole Airport (latitude 43°36'24" N., longitude 110°44'13" W.), within 5.5 miles west and 9.5 miles east of the Jackson VOR 200° radial, extending from the VOR to 24.5 miles south; and within 2.5 miles each side of the Jackson VOR 020° radial extending from the VOR to 12 miles north of the VOR; and that airspace extending upward from 1200 feet above the surface within 8 miles west and 12 miles east of the Jackson VOR 020° radial extending from the VOR to 38.5 miles north of the VOR; within 5 miles each side of the Jackson VOR 107° radial extending from the VOR to 15 miles east of the VOR; and within 6 miles north and 9 miles south of the Dunoir, Wyo., VOR 102° and 282° radials extending from 8 miles east to 21 miles west of the Dunoir VOR.

Jacksonville, Fla.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Jacksonville International Airport (lat. 30°29'26" N., long. 81°41'19" W.); NAS Jacksonville (lat. 30°14'00" N., long. 81° 40'30" W.); NAS Cecil Field (lat. 30°13'00" N., long. 81°52'45" W.); Craig Municipal Airport (lat. 30°20'15" N., long. 81°31'00" W.), and NS Mayport (lat. 30°23'25" N., Long. 81°25'15" W.); within an 8.5-mile radius of OLF Whitehouse Field, Fla. (lat. 30°21'00" N., long. 81°52'00" W.

Jacksonville, Ill.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Jacksonville Municipal Airport (latitude 39°46'30" N., longitude 90°14'15" W.); within 3 miles each side of the 311° bearing from the airport, extending from the 5-mile radius area to 8 miles northwest of the airport; and within 3 miles each side of the 136° bearing from the airport, extending from the 5-mile radius area to 6 miles southeast of the airport.

Jacksonville, N. C.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of New River MCAS (lat. 34°42'25"N., Long. 77°26'35"W.); within 2 miles each side of New River TACAN 236° radial, extending from the 8.5-mile radius area to 9.5 miles southwest of the TACAN; within an 8.5-mile radius of Albert J. Ellis Airport (lat. 34°49'49" N., long. 77°36'42" W.).

Jacksonville, Tex.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Cherokee County Airport (lat. 31°52'09"N., long. 95°13'22"W.) and within 3.5 miles each side of a 299° bearing from the Cherokee County NDB (lat. 31°52'12"N., long. 95°13'15"W.) extending from the 6.5-mile radius area to 11.5 miles northwest of the NDB.

AMENDMENTS 3/23/78 43 F. R. 952 (Added)

Jamestown, N. Y.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of the center of Chautauqua County Airport, Jamestown, N. Y. (42°09'07" N., 79°15'26" W.); within 2 miles each side of the Jamestown VOR 071° and 251° radials, extending from the 7-mile radius area to 8 miles northeast of the VOR; and within 2 miles each side of a 053° bearing from the Jamestown, N. Y., RBN (42°11'02" N., 79°11'15" W.) extending from the 7-mile radius area to 8 miles northeast of the RBN; within 2 miles each side of the Jamestown, N. Y., ILS localizer northeast course extending from the 7-mile radius area to 8 miles northeast of the ILS OM.

Jamestown, N. Dak.
That airspace extending upward from 700 feet above the surface within a 10-mile radius of the Jamestown Municipal Airport (latitude 46°55'55" N., longitude 98°40'40" W.); and within 3.5 miles each side of the Jamestown VORTAC 315° radial extending from the 10-mile radius area to 17.5 miles northwest of the Jamestown VORTAC; and that airspace extending upward from 1,200 feet above the surface within a 19-mile radius of the Jamestown VORTAC extending from the 328° radial clockwise to the 083° radial; within a 20-mile radius of the Jamestown VORTAC extending from the 083° radial clockwise to the 279° radial; within a 21-mile radius of the Jamestown VORTAC extending from the 279° radial clockwise to the 287° radial; within 9.5 miles southwest and 4.5 miles northeast of the Jamestown VORTAC 315° radial extending from the 19- and 21-mile radius areas to 25.5 miles northwest of the Jamestown VORTAC; and within 4.5 miles southwest and 9.5 miles northeast of the Jamestown VORTAC 136° radial extending from the 20-mile radius area to 25.5 miles southeast of the Jamestown VORTAC.

Jamestown, Tenn.
That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of Jamestown Municipal Airport (lat. 36°20'56"N., long. 84°56'47"W.).

AMENDMENTS 11/2/78 43 F. R. 46524 (Added)

Janesville, Wis.
That airspace extending upward from 700 feet above the surface within a 10-mile radius of the Rock County Airport, Janesville, Wisconsin (latitude 42°37'12" N., longitude 89°02'28" W.), within a 6-mile radius of the Beloit, Wisconsin Airport (latitude 42°29'51" N., longitude 88°58'05" W.), and within a 5-mile radius of the Wagon Wheel Airport, Rockton, Illinois (latitude 42°26'15" N., longitude 89°04'21" W.).

Jasper, Ala.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Walker County Airport (lat. 33°51'55"N., long. 87°15'40"W.); within 4.5 miles each side of Vulcan VORTAC 303° radial, extending from the 6.5-mile radius area to 14 miles northwest of the VORTAC.

AMENDMENTS 3/23/78 42 F. R. 61998 (Changed)

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Jasper, Tenn.
That airspace extending upward from 700 feet above the surface within a 14.5-mile radius of Marion County-Brown Field (latitude 35°03'35" N., longitude 85°35'05" W.); excluding the portion that coincides with the Chattanooga, Tenn., transition area.

Jasper, Tex.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Jasper County Airport (latitude 30°53'32" N., longitude 94°02'03" W.), within 3.5 miles each side of the 360° bearing from the Jasper RBN (latitude 30°57'16" N., longitude 94°02'00" W.) extending from the 5-mile radius area to 11.5 miles north of the RBN, and within 3.5 miles each side of the 182° bearing from the Pine RBN (latitude 30°52'00" N., longitude 94°02'06" W.) extending from the 5-mile radius area to 11.5 miles south of the RBN.

Jefferson, Iowa
That airspace extending upward from 700 feet above the surface within a 5½-mile radius of Jefferson Municipal Airport (latitude 42°00'36" N., longitude 94°20'31" W.); and within 3 miles each side of the 152° bearing from Jefferson Municipal Airport extending from the 5½-mile radius area to 8 miles southeast of the airport.

Jefferson City, Mo.
That airspace extending upward from 700 feet above the surface within an 8-mile radius of the Jefferson City Memorial Airport (latitude 38°35'33" N., longitude 92°09'39" W.) and within 3.5 miles either side of the 118° bearing from the Jefferson City RBN facility (latitude 38°33'20" N., longitude 92°04'40" W.) and 3.5 miles each side of the 124° bearing from the Jefferson City RBN extending from the 8-mile radius zone to 17.5 miles southeast of the VOR.

Jennings, La.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Jennings Airport (latitude 30°14'30" N., longitude 92°40'00" W.); within 2.5 miles each side of the Lake Charles VORTAC 075° radial extending from the 5-mile radius area to 20.5 miles east of the VORTAC and within 3 miles either side of the 321° bearing from the Jennings NDB (latitude 30°14'19" N., longitude 92°40'13" W.) extending from the 5-mile radius area to 8 miles northwest of the NDB.

Jesup, Ga.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Jesup-Wayne County Airport (latitude 31°33'18" N., longitude 81°52'54" W.); within 3 miles each side of the 286° bearing from Slover RBN (latitude 31°33'08" N., longitude 81°52'48" W.), extending from the 6.5-mile radius area to 8.5 miles west of the RBN.

Johnson City, Tex.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of Johnson City Airport (latitude 30°15'05" N., longitude 98°37'21" W.); within a 5-mile radius of Shepherd Farm Airport (latitude 30°12'30" N., longitude 98°43'20" W.) and within 2.5 miles each side of the 175° bearing from the Johnson City RBN (latitude 30°12'32" N., longitude 98°37'05" W.) extending from the 7-mile radius area to 8 miles south of the RBN.

Johnstone Point, Alaska
That airspace extending upward from 700 feet above the surface within 4 miles north and 5 miles south of the Johnstone Point VORTAC 286° and the 106° radials, extending from 5 miles east to 23 miles west of the VORTAC; within a 35-mile radius of the Johnstone Point VORTAC, extending clockwise from the north edge of V-319 to the 332° radial of the VORTAC; and within 5 miles northeast of the Johnstone Point VORTAC 332° radial extending from the VORTAC to 23 miles northwest of the VORTAC.

Johnston Island, Johnston Atoll
That airspace extending upward from 700 feet above the surface within a 10 NM radius of the Johnston Island (Apollo) NDB (lat. 16°44'00"N., long. 169°32'00"W.); and that airspace extending upward from 1200 feet above the surface within a 25 NM radius of the NDB.

AMENDMENTS 7/13/78 43 F. R. 19646 (Added)

Johnstown, Pa.
That airspace extending upward from 700 feet above the surface within a 14-mile radius of the center, lat. 40° 19'00" N., long. 78°50'00" W. of Johnstown-Cambria County Airport, Johnstown, Pa.

Jonesboro, Ark.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Jonesboro Municipal Airport (latitude 35°49'50" N., longitude 90°38'55" W.) and within 3.5 miles each side of the Jonesboro VOR 048° radial extending from the 8.5-mile radius area to 11.5 miles northeast of the VOR excluding the portion within the Paragould, Ark., transition area.

Jonesboro, La.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Jonesboro Municipal Airport, Jonesboro, La. (latitude 32°12'10" N., longitude 92°44'10" W.) and within 3.5 miles each side of the 174° bearing from the Jonesboro NDB (latitude 32°12'25" N., longitude 92°44'19" W.) extending from the 6.5-mile radius area to 12 miles south of the NDB.

PENDING AMENDMENT
Jonesboro, La.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Jonesboro Municipal Airport, Jonesboro, La., (lat. 32°12'10"N., long. 92°44'10"W.) and within 3.5 miles each side of the 202° bearing from the Jonesboro NDB (lat. 32°12'10"N., long. 92°43'45"W.) extending from the 6.5-mile radius area to 12 miles south of the NDB.

AMENDMENTS 12/28/78 43 F. R. 50420 (Rewritten)

Jonestown, Tex.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Bar K Airpark (latitude 30°29'52" N., longitude 97°58'07" W.), and within 3 miles each side of the Austin, Tex., VORTAC 311° radial extending from the 5-mile radius to 28 miles northwest of the VORTAC.

Joplin, Mo.
That airspace extending upward from 700 feet above the surface within an 8-mile radius of Joplin Municipal Airport (latitude 37°09'05" N., longitude 94°29'55" W.).

Junction, Tex.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Kimble County Airport (latitude 30°30'35" N., longitude 99°45'45" W.), within 5 miles northeast and 8 miles southwest of the Junction VORTAC 150° and 330° radials extending from the VORTAC to 12 miles northwest and 5 miles southeast of the VORTAC.

Juneau, Alaska
That airspace extending upward from 1,200 feet above the surface within a 20-mile radius of the Coghlan Island, Alaska, RBN, that airspace northwest of Juneau bounded on the east by A-15; on the northwest by a line from the Gustavus, Alaska, RBN to the Haines, Alaska, RBN, and on the southwest by a line 19 miles northeast of and parallel to the 145° and 325° bearings from the Gustavus, Alaska, RBN, and that airspace south of Juneau, extending from the 20-mile radius area, bounded on the northeast by A-15 and on the southwest by B-37, excluding the portion within the Gustavus, Alaska, transition area.

Juneau, Wis.
That airspace extending upward from 700 feet above the surface within 6½-mile radius of Dodge County Airport (latitude 43°25'30" N., longitude 88°42'00" W.); and within 3 miles each side of a 195° bearing from Dodge County Airport extending from the 6½-mile radius to 8 miles south of the airport; and within 3 miles each side of the 032° bearing from Dodge County Airport extending from the 6½-mile radius to 8 miles northeast of the airport.

Kaanapali, Hawaii
That area extending upward from 700 feet above the surface within a 5-mile radius of Kaanapali Airport (lat. 20°56'45"N., long. 156°41'35"W.), within 3 miles each side of the Molokai VORTAC 114°T radial extending from the 5-mile radius to 7.5 miles northwest of the airport.

Kahului, Hawaii
That airspace extending upward from 700 feet above the surface bounded on the southwest by a line 2 miles southwest of and parallel to the Maui VORTAC 331° radial, on the north by the arc of an 8.5-mile radius circle centered on the Kahului Airport (latitude 20°54'05" N., longitude 156°26'05" W.), on the southeast by a line 4 miles northwest of and parallel to the Maui VORTAC 038° radial and on the south by the arc of a 5-mile radius circle centered on the Kahului Airport, and within 4 miles each side of the Maui VORTAC 038° radial, extending from 14 to 17 miles northeast of the VORTAC.

Kaiser, Mo.
That airspace extending upward from 700 feet above the surface within a 9-mile radius of Lee C. Fine Memorial Airport (latitude 38°05'45" N., longitude 92°32'55" W.).

PENDING AMENDMENT
Kaiser, Mo.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of Linn Creek-Grand Glaize Memorial Airport (lat. 38°06'38"N., long. 92°40'50"W.), within a 9-mile radius of the Lee C. Fine Memorial Airport (lat. 38°05'44"N., long. 92°32'56"W.), within 3 miles each side of the 213° radial of the Sunshine VOR extending from the 9-mile radius area to 8 miles southwest of the VOR, and within 4.5 miles each side of the 133° radial of the Sunshine VOR extending from the 7-mile radius area to 9 miles southeast of the VOR.

AMENDMENTS 2/22/79 43 F. R. 54925 (Rewritten)

Kalispell, Mont.
That airspace extending upward from 700 feet above the surface within an 8-mile radius of the Glacier Park International Airport (latitude 48°18'49" N., longitude 114°15'16" W.); within 5.5 miles each side of the 035° and 215° bearings from the Smith Lake NDB (latitude 48°08'26" N., longitude 114°27'37" W.); extending from the 8-mile radius area to 12 miles southwest of the NDB.
That airspace extending upward from 1,200 feet above the surface within 5.5 miles east and 15.5 miles west of the Kalispell VOR 166° radial extending from the 700-foot transition area to 18.5 miles south of the VOR; within 5.5 miles southeast and 9.5 miles southwest of the 035° and 215° bearings from the Smith Lake NDB extending from 7.5 miles northeast of the NDB to 18.5 miles southwest of the NDB, excluding the 700-foot transition area.
Within 5 miles each side of the Smith Lake NDB 099° T bearing extending from the NDB to the intersection of the Great Falls, Mont., VORTAC 293° T radial; and within 5 miles each side of the Smith lake NDB 163° T bearing extending from the NDB to the intersection of the Missoula, Mont., VORTAC 357° radial.
PENDING AMENDMENT
The Kalispell, Mont., transition area is amended by deleting the present 1,200 foot description and substituting the following:
That airspace extending upward from 1,200 feet above the surface bounded by a line beginning at lat. 47°30'00"N., long. 113°30'00"W.; to lat. 48°30'00"N., long. 113°30'00"W.; to lat. 48°30'00"N., long. 115°00'00"W.; to lat. 48°12'00"N., long. 115°00'00"W.; to lat. 48°12'00"N., long. 115°30'00"W.; to lat. 47°30'00"N., long. 115°30'00"W., to the point of beginning.

AMENDMENTS 12/28/78 43 F. R. 53419 (Changed)

Kaneohe, Hawaii.
That airspace extending upward from 700 feet above the surface bounded by a line beginning at latitude 21°23'15" N., longitude 157°46'30" W., thence counterclockwise along the arc of a 5-mile radius circle centered on MCAS Kaneohe (latitude 21°27'30" N., longitude 157°46'30" W.) to latitude 21°29'25" N., longitude 157°50'45" W., thence to latitude 21°32'45" N., longitude 157°51'20" W., thence clockwise along the arc of an 8-mile radius circle centered on MCAS Kaneohe to latitude 21°23'00" N., longitude 157°41'00" W., thence to point of beginning, and within 2 miles on each side of the MCAS Kaneohe TACAN 351° radial, extending from the 8-mile radius area to 12 miles N of the TACAN.

Kankakee, Ill.
That airspace extending upward from 700 feet above the surface within a 6½-mile radius of Greater Kankakee Airport (latitude 41°04'15" N., longitude 87°50'55" W.); within 2 miles each side of the Peotone, Ill., VORTAC 192° radial extending from the 6½-mile radius area to the VORTAC; within 3 miles each side of the 212° bearing from Greater Kankakee Airport, extending from the 6½-mile radius area to 8 miles southwest of the airport; within 3 miles each side of the 232° bearing from Greater Kankakee Airport extending from the 6½-mile radius area to 8 miles southwest of the airport; and within 3 miles each side of the 052° bearing from Greater Kankakee Airport, extending from the 6½-mile radius area to 8 miles northeast of the airport.

Kansas
That airspace extending upward from 1,200 feet above the surface within the State of Kansas.

Kansas City, Mo.
That airspace extending upward from 700 feet above the surface within a 10 mile radius of the Kansas City Municipal Airport (latitude 39°07'20"N., longitude 94°35'30"W.), and within a 9.5 mile radius of Sherman AAF (latitude 39°22'05"N., longitude 94°54'45"W.); and that airspace extending from 700 feet above the surface within an 8.5 mile radius of the Kansas City International Airport (latitude 39°18'18" N., longitude 94°42'40" W.) and within 5 miles either side of the Rwy 19 ILS localizer north course extending from the 8.5 mile radius zone to 25 miles N of the Wyandotte OM; and within 5 miles either side of the 088° radial of the Kansas City VORTAC; extending from the 8.5 mile radius zone to 11.5 miles E of the VORTAC; and within 5 miles either side of the Rwy 1 ILS localizer south course extending from the 8.5 mile radius zone to 11 miles S of the Wyandotte OM.
PENDING AMENDMENT

Kansas City, Mo.
That airspace extending upward from 700 feet above the surface within a 10-mile radius of the Kansas City Downtown Airport (lat. 39°07'20.7"N., long. 94°35'30"W.) within 4.5 miles each side of the Riverside VOR 212° radial extending from the 10-mile radius area to 12.5 miles southwest of the Downtown Airport, within a 9.5-mile radius of the Sherman AAF (lat. 39°22'15"N., long. 94°54'45"W.) within an 8.5-mile radius of the Kansas City International Airport (lat. 39°17'50.8"N., long. 94°42'54.6"W.) within 5 miles each side of the Runway 19 ILS localizer north course extending from the 8.5-mile radius area to 25 miles north of the Wyandotte LOM, within 5 miles each side of the Kansas City VORTAC 096° radial extending from the 8.5-mile radius area to 11.5 miles east of the VORTAC, and within 5 miles each side of the Runway 1 ILS localizer south course extending from the 8.5-mile radius area to 11 miles south of the Wyandotte LOM.

AMENDMENTS 2/22/79 43 F. R. 56020 (Rewritten)

Ke-ahole, Kona, Hawaii
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the Ke-ahole Airport (latitude 19°44'35" N., longitude 156°03'00" W.), within 4.5 miles each side of the Kona VORTAC 179° radial, extending from the 8.5-mile radius area to 11 miles south of the VORTAC and within 4.5 miles each side of the Kona VORTAC 348° radial, extending from the 8.5-mile radius area to 17.5 miles north of the VORTAC.

Kearney, Nebr.
That airspace extending upward from 700 feet above the surface within an 8-mile radius of Kearney Municipal Airport (latitude 40°43'37" N., longitude 99°00'04" W.); within 4½ miles east and 9½ miles west of the Kearney VOR 360° radial, extending from the airport to 18½ miles north of the airport; within 4 miles each side of the Kearney VOR 194° radial, extending from the airport to 13 miles south of the airport.

Keene, N. H.
That airspace extending upward from 700 feet above the surface bounded by a line beginning at 43°01'00" N., 72°13'00" W., to 42°55'00" N., 72°00'00" W., to 42°51'30" N., 71°54'00" W., to 42°28'00" N., 71°54'00" W., to 42°28'00" N., 72°27'00" W., to 42°22'00" N., 72°27'00" W., to 42°22'00" N., 72°35'00" W., to 42°28'00" N., 72°35'00" W., to 42°28'00" N., 73°00'00" W., to 43°01'00" N., 73°00'00" W., to the point of beginning, excluding that portion within the Boston, Mass., Pittsfield, Mass., and Chicopee Falls, Mass., transition areas.

Kelso, Wash.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Kelso-Longview Airport (latitude 46°07'12" N., longitude 122°53'58" W.), within 9.5 miles west of and 4.5 miles east of the 012° bearing from the Kelso, Wash., NDB (latitude 46°09'14" N., longitude 122°54'40" W.), extending from the NDB to 18.5 miles north of the NDB; within 5 miles each side of the 336° bearing from the Kelso NDB extending from the NDB 22.8 miles northwest.

Kenai, Alaska
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the Kenai Municipal Airport (latitude 60°34'21" N., longitude 115°14'44" W.), extending clockwise from the 048° to the 290° bearing from the airport.

Kenansville, N. C.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Duplin County Airport (lat. 35°00'00" N., long. 77°59'00" W.); within 3 miles each side of the 034° bearing from Kenan RBN (lat. 35°02'51" N., long. 77°56'45" W.), extending from the 6.5-mile radius area to 8.5 miles northeast of the RBN.

Kendallville, Ind.
That airspace extending upward from 700 feet above the surface within a 5½-mile radius of Kendallville Municipal Airport (latitude 41°28'30" N., longitude 85°15'30" W.); within 2 miles each side of the 037° radial of the Wolflake VOR, extending from the 5½-mile radius area to 6 miles southwest of the airport.

Kenedy, TX.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Karnes County Airport (latitude 28°49'30" N., longitude 97°51'55" W.) and within 5 miles each side of the Three Rivers VORTAC 038°T (029° M) radial extending from the 5-mile radius to 17 miles northeast of the Three Rivers VORTAC.

Kennett, Mo.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Kennett Memorial Airport (lat. 36°13'50"N., long. 90°02'05"W.); and within 2 miles each side of the 346° radial of the Gosnell VOR extending from the 5-mile radius area to 13½ miles north of the VOR.

Kentland, Ind.
That airspace extending upward from 700' above the surface within a 5-mile radius of the Kentland Municipal Airport (lat. 40°45'27"N., long. 37°25'48"W.); and within 2 statute miles either side of the 306° radial of the Lafayette VORTAC, extending from the 5-mile radius area to 6 miles southeast of the airport.

Kenton, Ohio
That airspace extending upward from 700 feet above the surface within a 7.5-mile radius of the center, lat. 40°36'48"N., long. 83°38'39"W. of Hardin County Airport, Kenton, Ohio.

AMENDMENTS 11/2/78 43 F. R. 41018 (Added)

Kentucky
That airspace extending upward from 1,200 feet above the surface within the boundary of the State of Kentucky.

Keokuk, Iowa
That airspace extending upward from 700 feet above the surface within a 4-mile radius of Keokuk Municipal Airport (latitude 40° 27' 35" N., longitude 91° 25' 50" W.), within 2 miles each side of the 311° bearing from the Keokuk RBN (latitude 40° 27' 45" N., longitude 91° 26' 00" W.), extending from the 4-mile radius area to 8 miles NW of the RBN.

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Kerrville, Tex.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Kerrville Municipal (Louis Schreiner Field) Airport (latitude 29°58'41" N., longitude 99°05'11" W.); within 3 miles each side of the 134° bearing from the Kerrville RBN (latitude 29°59'11" N., longitude 99°04'31" W.) extending from the 5-mile radius area to 8 miles southeast of the RBN; within 3.5 miles each side of the 306° radial from the proposed non-Federal TVOR site (latitude 30°00'29" N., longitude 99°08'15" W.) to 11.5 miles northwest.

Ketchikan, Alaska
That airspace extending upward from 700 feet above the surface within 4.5 miles northeast and 9.5 miles southwest of the Ketchikan ILS localizer southeast and northwest course, extending from 8.5 miles southeast to 26 miles northwest of the Ketchikan localizer (lat. 55°20'52" N., long. 131°41'53" W.); and that airspace extending upward from 1,200 feet above the surface within 13 miles northwest and 8.5 miles southeast of the 247° and the 067° bearings from the Guard Island RBN, extending from 11 miles northeast to 24 miles southwest of the RBN; within 7 miles northeast and 17 miles southwest of the 150° and 330° bearing from the Guard Island RBN, extending from 12 miles southeast to 26.5 miles northwest of the RBN, excluding the portion within the Annette Island 700- and 1,200-foot floor transition area.

Kewanee, Illinois
That airspace extending upward from 700 feet above the surface within a five-mile radius of the Kewanee Airport (latitude 41°13'06"N., longitude 89°57'42"W.); and within three miles each side of the 218° bearing from the airport, extending from the five-mile radius area to eight miles southwest.

Key West, Fla.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Key West International Airport (lat. 24°33'22" N., long. 81°45'35" W.); within 4 miles each side of Key West VORTAC 309° radial, extending from the 8.5-mile radius area to 9.5 miles northwest of the VORTAC; within an 8.5-mile radius of Key West NAS (Boca Chica) (lat. 24°34'30" N., long. 81°41'15" W.).

Killeen, Tex.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of Hood AAF (lat. 31° 08'15" N., long. 97°42'50" W.); within a 7-mile radius of Robert Gray AAF (lat. 31°04'20" N., long. 97°49' 45" W.); within 9.5 miles west and 5 miles east of the Hood VOR 352° and 172° radials extending from 2 miles north of the VOR to 12 miles south of the VOR; within 5 miles southeast and 9.5 miles northwest of the Hood VOR 219°T (210°M) radial extending from the VOR to 19 miles southwest of the VOR; within 3.5 miles each side of the 337° bearing from STARN RBN (lat. 31°10'03"N., long. 97°52'41"W.) extending from the 7-mile radius area to 11.5 miles north of the RBN.

Kingman, Ariz.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Kingman Municipal Airport (latitude 35°15'31" N., longitude 113°56'20" W.); within 2 miles each side of the Kingman VOR 025° radial, extending from the 5-mile radius area to 7 miles NE of the VOR; that airspace extending upward from 1,200 feet above the surface within 5 miles SE and 9 miles NW of the Kingman VOR 025° and 205° radials, extending from 38 miles NE to 13 miles SW of the VOR.

King Salmon, Alaska
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the King Salmon, Alaska, Airport (latitude 58°40'43" N., longitude 156°38'50" W.); that airspace extending upward from 1,200 feet above the surface within a 45-mile radius of the King Salmon, Alaska, airport; and that airspace extending upward from 14,500 feet MSL within a 172-mile radius of the King Salmon VORTAC, excluding the portions within the United States, Federal Airways, Control 1217, Control 1234, Control 1400, and Control 1401.

Kingstree, S. C.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Williamsburg County Airport (lat. 33°43'01" N., long. 79°51'26" W.); within 3 miles each side of the 307° bearing from Kingstree RBN (lat. 33°43'04" N., long. 79°51'23" W.), extending from the 6.5-mile radius area to 8.5 miles northwest of the RBN.

Kingsville, Tex.
That airspace extending upward from 700 feet above the surface within a 15-mile radius of NAAS Kingsville (north) (latitude 27°30'10" N., longitude 97°48'25" W.), within a 7-mile radius of the Kleberg County Airport (latitude 27°33'01" N., longitude 98°01'39" W.), and within 2 miles each side of a 316° bearing from the Kleberg County RBN (latitude 27°36'20" N., longitude 98°05'22" W.) extending from the 7-mile radius area to 8 miles northwest of the RBN, excluding that portion which lies within the Alice, Tex., control zone.

Kinston, N. C.
That airspace extending upward from 700 feet above the surface within an 8.5 mile radius of Stallings Field (latitude 35°19'40" N., longitude 77°36'55" W.); within 4.5 miles each side of the Kinston VORTAC 048° radial, extending from the 8.5-mile radius area to 10.5 miles northeast of the VORTAC.

Kirksville, MO.
That airspace extending upward from 700 feet above the surface within a 6½-mile radius of Clarence Cannon Memorial Airport (latitude 40°05'45" N., longitude 92°32'50" W.); within 3 miles each side of the Kirksville VORTAC 316° radial, extending from the 6½-mile radius area to 8 miles northwest of the VORTAC; and within 5 miles each side of the 360° bearing from Clarence Cannon Memorial Airport, extending from the 6½-mile radius area to 11½ miles north of the airport.

PENDING AMENDMENT

Kirksville, Mo.
That airspace extending upward from 700 feet above the surface within a 6½-mile radius of the Clarence Cannon Memorial Airport (lat. 40°05'33"N., long. 92°32'41"W.), within 3 miles each side of the Kirksville, Mo., VORTAC 320° radial extending from the 6½-mile radius area to 8 miles northwest of the VORTAC, and within 5 miles each side of the 180° bearing from the Clarence Cannon Memorial Airport extending from the 6½-mile radius area to 13½ miles south of the airport.
AMENDMENTS 2/22/79 43 F. R. 56020 (Rewritten)

K. I. Sawyer AFB, Mich.
That airspace extending upward from 700 feet above the surface within an 8.5-statute (7.1-nautical) mile radius of the K. I. Sawyer Airport.

Klamath, Calif.
That airspace extending upward from 2,000 feet above the surface bounded on the north by V-122, on the east by V-23W and V-23, the south by V-195 and on the west by V-27, excluding the airspace within federal airways and Red Bluff, Arcata, Crescent City and Fort Jones, California Transition Areas.

Klamath Falls, Oreg.
That airspace extending upward from 700 feet above the surface within a 15-mile radius of the Klamath Falls VORTAC and within 5 miles east and 9.5 miles west of the Klamath Falls ILS localizer south course extending from the 15-mile radius area to 18.5 miles south of the Merrill RBN; that airspace extending upward from 1,200 feet above the surface between 15- and 25-mile radius circles centered on Klamath Falls VORTAC; that airspace extending upward from 7,500 feet MSL within the area bounded by the arcs of 25- and 40-mile radius circles centered on the Klamath Falls VORTAC, extending clockwise from the VORTAC 095° radial to a line 5 miles east of and parallel to the VORTAC 165° radial, and within the area bounded by the arcs of 25- and 40-mile radius circles centered on the Klamath Falls VORTAC, extending clockwise from the VORTAC 245° to the 295° radials; that airspace extending upward from 8,600 feet MSL within the area bounded by the arcs of 25- and 40-mile radius circles centered on the Klamath Falls VORTAC, extending clockwise from a line 5 miles east of and parallel to the VORTAC 165° radial to a line 11.5 miles west of and parallel to the VORTAC 181° radial; that airspace extending upward from 9,000 feet MSL within the area bounded by the arcs of 25- and 40-mile radius circles centered on the Klamath Falls VORTAC extending clockwise from the VORTAC 320° to the 095° radials; that airspace extending upward from 9,500 feet MSL within the area bounded by the arcs of 25- and 40-mile radius circles centered on the Klamath Falls VORTAC, extending clockwise from a line 11.5 miles west of and parallel to the VORTAC 181° radial to the 245° radial, and within the area bounded by the arcs of 25- and 28-mile radius circles centered on the Klamath Falls VORTAC, extending clockwise from the VORTAC 295° to the 320° radials; and that airspace extending from 11,000 feet MSL within the area bounded by the arcs of 28- and 40-mile radius circles centered on the Klamath Falls VORTAC, extending clockwise from the VORTAC 295° to the 320° radials.

Knob Noster, Mo. (Whiteman AFB)
That airspace extending upward from 700 feet above the surface within an 8-mile radius of Whiteman AFB (lat. 38°43'50"N., long. 93°33'00"W.); within 2 miles each side of Whiteman AFB ILS localizer south course, extending from the 8-mile radius area to 8 miles south of the OM.
AMENDMENTS 7/13/78 43 F. R. 22342 (Added)

Knoxville, IA.
That airspace extending upward from 700 feet above the surface within a five (5)-mile radius of Knoxville Municipal Airport (latitude 41°18'00" N., longitude 93°06'40" W.) and within three (3) miles each side of the 342° bearing from Knoxville Municipal Airport extending from the five (5)-mile radius area to eight (8) miles northwest of the airport, and within three (3) miles each side of the 146° bearing from the Knoxville Municipal Airport extending from the five (5)-mile radius area to eight (8) miles southeast of the airport.

Knoxville, Tenn.
That airspace extending upward from 700 feet above the surface beginning at the intersection of the arc of an 11.5-mile radius circle centered on McGhee-Tyson Airport (latitude 35°48'40" N., longitude 83°59'35" W.) and a line 3 miles northwest of and parallel to Knoxville VORTAC 040° radial, to and northeast along this line, to and southeast along a line 8.5 miles northeast of and perpendicular to Knoxville VORTAC 040° radial, to and southwest along a line 3 miles southeast of and parallel to Knoxville VORTAC 040° radial, to and clockwise along the arc of an 11.5-mile radius circle centered on McGhee-Tyson Airport, to and east along the Knoxville VORTAC 100° radial, to and clockwise along the arc of a 25.5-mile radius circle centered on McGhee-Tyson Airport, to and north along the west boundary of V-97, to and southwest along a line 4.5 miles southeast of and parallel to Knoxville ILS localizer southwest course, to and northwest along a line 18.5 miles southwest of and perpendicular to Knoxville ILS localizer southwest course, to and northeast along a line 9.5 miles northeast of and parallel to Knoxville ILS localizer southwest course, to and clockwise along the arc of an 11.5-mile radius circle centered on McGhee-Tyson Airport, to point of beginning; within a 15-mile radius of Sevier-Gatlinburg Airport (lat. 35°51'25" N., long. 83°31'44" W.); within an 8-mile radius of Knoxville Downtown Island Airport (latitude 35°57'45" N., longitude 83°52'30" W.); within a 6.5-mile radius of Monroe County Airport, Madisonville, Tenn., (latitude 35°32'45" N., longitude 84°22'47" W.); excluding the portion within the Athens and Morristown, Tenn., transition areas.

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Kodiak, Alaska
That airspace extending upward from 1,200 feet above the surface within a 29-mile radius of the Kodiak Airport (latitude 57°45'02" N., longitude 152°29'19" W.), and within a 35-mile radius of the Kodiak Airport, extending clockwise from the 029° to the 085° bearing from the airport.

Kokomo, Ind.
That airspace extending upward from 700 feet above the surface within an 8½-mile radius of Grissom AFB (latitude 40°38'55" N., longitude 86°09'10" W.); within a 6½-mile radius of Kokomo Municipal Airport (latitude 40°31'45" N., longitude 86°03'30" W.); within a 5-mile radius of Logansport, Ind. Municipal Airport (latitude 40°42'35" N., longitude 86°22'45" W.); within 4½ miles each side of the Grissom AFB ILS localizer southwest course, extending from the 8½-mile and 6½-mile radii areas to 4½ miles southwest of the OM; within 3 miles each side of the Kokomo VORTAC 039° radial, extending from the 6½-mile and 8½-mile radii areas to 8 miles northeast of the VORTAC; and within 3 miles each side of the Kokomo VORTAC 129° radial, extending from the 6½-mile radius area to 8 miles southeast of the VORTAC.

Kosciusko, Miss.
That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the Kosciusko-Attala County Airport (latitude 33°05'20" N., longitude 89°32'25" W.); within 3 miles each side of the 142° and 310° bearings from the Kosciusko RBN (latitude 33°05'29" N., longitude 89°32'25" W.), extending from the 5.5-mile radius area to 8.5 miles southeast and northwest of the RBN.

Kotzebue, Alaska
That airspace extending upward from 700 feet above the surface within a 19-mile radius of the Kotzebue VORTAC; that airspace extending upward from 1,200 feet above the surface within 5 miles each side of the Kotzebue VORTAC 103° radial extending from the VORTAC to 43 miles east of the VORTAC; that airspace extending upward from 5,500 feet MSL within 5 miles each side of the Kotzebue VORTAC 103° radial extending from a point 43 miles east of the VORTAC to 59 miles east, and that airspace extending upward from 7,500 feet MSL within 5 miles each side of the Kotzebue 103° radial at 59 miles east of the VORTAC widening to 8.5 miles each side of the 103° radial at 111 miles east of the Kotzebue VORTAC.

Kwajalein Island, Marshall Islands
That airspace extending upward from 700 feet above the surface within a 12-nmi radius of the Kwajalein TACAN; and that airspace extending upward from 1,200 feet above the surface within a 100-nmi radius of the Kwajalein TACAN.
This transition area is effective during the specific dates and times established in advance by a Notice to Airmen. The date and time will thereafter be continuously published in the Pacific Chart Supplement.

Lacon, Illinois
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Marshall County Airport (latitude 41°01'12" N., longitude 89°23'08" W.); and within 2 miles each side of the Bradford VORTAC 133° radial extending from the 5-mile radius area to 6.5 miles northwest of the airport.

Laconia, N. H.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center, 43° 34'25"N., 71°25'22" W., of Laconia Municipal Airport, Laconia, New Hampshire; and within 6.5 miles northwest and 4.5 miles southeast of the 247° bearing and the 067° bearing from the Belmont NDB, 43°32'09" N., 71°32' 09" W. extending from 11.5 miles southwest of the NDB to 5.5 miles northeast of the NDB.

La Crosse, Wis.
That airspace extending upward from 700 feet above the surface within a 19-mile radius of the La Crosse Municipal Airport (latitude 43°52'38" N., longitude 91°15'21" W.).

Lafayette, Ind.
That airspace extending upward from 700 feet above the surface within a 7½-mile radius of Purdue University Airport (latitude 40°24'45" N., longitude 86°56'15" W.); within 2 miles each side of the 144° radial of the Lafayette VORTAC extending from the 7½-mile radius area to the Lafayette VORTAC; within a 5½-mile radius of Halsmer Airport (latitude 40°23'40" N., longitude 86°48'25" W.).

Lafayette, La.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Lafayette Airport (lat. 30°12'00"N., long. 91°59'40"W.); within 1.5 miles each side of the Lafayette ILS localizer north course extending from the OM to the 5-mile radius area; within 2 miles each side of the 276° bearing from the Lake Martin RBN (lat. 30°11'35"N., long. 91°52'58"W.), extending from the RBN to the 5-mile radius area; within 2 miles each side of the Lafayette VORTAC 139° radial extending from the 5-mile radius area of the Lafayette Airport to the 5-mile radius area of the Acadiana Regional Airport (lat. 30°02'15"N., long. 91° 53'00"W.), within a 5-mile radius of the Acadiana Regional Airport; within 3 miles each side of the 348° and 168° bearings from the Acadiana NDB (lat. 29°57'21"N., long. 91°51'45"W.), extending from the 5-mile radius area of the Acadiana Airport to 8 miles south of the Acadiana NDB; within 3 miles each side of the Lafayette VORTAC 145° radial extending from the 5-mile radius area of Acadiana to 17.5 miles from the Lafayette VORTAC; within 2 miles each side of the Lafayette VORTAC 171° radial extending from the 5-mile radius area of the Lafayette Airport to 8 miles south of the VORTAC; within 2 miles each side of the Lafayette VORTAC 206° radial extending from the VORTAC to the 5-mile radius area of the Abbeville Municipal Airport (lat. 29°58' 19"N., long. 92°05'06"W.); within a 5-mile radius of the Abbeville Municipal Airport; within 2.5 miles each side of the Lafayette LOM 208° bearing extending from the 5-mile radius area of the Lafayette Airport to a point 1.5 miles southwest of the 5-mile radius area.

AMENDMENTS 9/7/78 43 F. R. 29104 (Rewritten)

La Grande, Oreg.
That airspace extending upward from 700 feet above the surface bounded on the north by a line beginning at lat. 45°39'N., long. 118°02'W., extending eastwardly to lat. 45°37'N., long. 117°44'30"W., on the east by a line extending to lat. 45°15'30"N., long. 117°49'W., on the south by a line extending to lat. 45°17'30"N., long. 118°07'W., on the west by line extending to point of beginning; within a 5-mile radius of the La Grande Municipal Airport (lat. 45°17'22"N., long. 118°00'18"W.).

AMENDMENTS 10/22/78 43 F. R. 44479 (Changed)

La Grange, Ga.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of Callaway Airport (lat. 33°00'30" N., long. 85°04'20" W.); within 1.5 miles each side of La Grange VORTAC 110° radial, extending from the 6-mile radius area to the VORTAC.

La Grange, Tex.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Rocky Creek Ranch Airport (latitude 29°55'30" N., longitude 96°48'12" W.) and within 2 miles each side of the Industry VOR 262° radial extending from the 5-mile radius area to the VOR.

La Junta, Colo.
That airspace extending upward from 700 feet above the surface bounded on the north by the south edge of V-244, on the south by a line 9.5 miles south of and parallel to the 091° and 271° bearings from the La Junta, Colo., RBN (latitude 38°02'54" N., longitude 103°37'14" W.), extending from 12 miles east to 18.5 miles west of the RBN; and that airspace extending upward from 1,200 feet above the surface bounded on the north by the south edge of V-244, on the east by the west boundary of the 700-foot portion of the transition area, on the south by the north edge of V-210, on the southwest by the northeast edge of V-81, excluding the airspace within the Pueblo, Colo., transition area.

Lake Charles, La.
That airspace extending upward from 700 feet above the surface within a 4-mile radius of East Lake Charles Airport (latitude 30°13'25" N., longitude 93°08'55" W.), within 2 miles each side of the Lake Charles VORTAC 339° radial extending from the 4-mile radius area to the VORTAC, and within 2 miles each side of the Lake Charles ILS localizer NW course extending from the OM to 8 miles NW of the OM, and within a 4-mile radius of McFillen Airpark (lat. 30°08'10"N., long. 93°10'53"W.).

AMENDMENTS 11/2/78 43 F. R. 33236 (Changed)

Lake City, Fla.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the Lake City Municipal Airport (lat. 30°10'45" N., long. 82°34'45" W.).

Lake Geneva, Wis.
That airspace extending upward from 700 feet above the surface within an 8-statute mile radius of the Playboy Airport (latitude 42°36'53" N., longitude 88°23'27" W.).

Lake Havasu, Ariz.
That airspace extending upward from 700 feet above the surface within 7 miles east and 5.5 miles west of the Needles, Calif., VORTAC 163° radial, extending from 17 to 27 miles south of the VORTAC, and that airspace extending upward from 1,200 feet above the surface within 7 miles east and 5.5 miles west of the Needles VORTAC 163° radial extending from the VORTAC to 17 miles south of the VORTAC.

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Lake Jackson, Tex.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Brazoria County Airport (latitude 29°02'15" N., longitude 95°27'20" W.); within 2 miles each side of the Lake Jackson VOR 343° radial extending from the 5-mile radius area to 8 miles NW of the VOR, and within 2 miles each side of the Lake Jackson VOR 158° radial extending from the 5-mile radius area to 8 miles SE of the VOR.

Lakeland, Fla.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Lakeland Municipal Airport (lat. 27°59'15" N., long. 82°00'55" W.); within a 7-mile radius of Bartow Municipal Airport (lat. 27°57'00" N., long. 81°47'00" W.); within a 5-mile radius of Plant City Municipal Airport (lat. 28°00'00"N., long. 82°09'40"W.); within a 6.5-mile radius of Winter Haven's Gilbert Airport (lat. 28°03'40"N., long. 81°45'15"W.); within 2.5 miles each side of Lakeland VORTAC 071° radial, extending from the 6.5-mile radius area to the Lakeland Municipal Airport 8.5-mile radius area.

Lake Providence, La.
That airspace extending upward from 700 feet above the surface within a 5-statute mile radius of Byerley Airport, Lake Providence, La. (latitude 32°49'45" N., longitude 91°11'00" W.); and within 3.5 miles each side of the 008° bearing from the Lake Providence NDB (latitude 32°49'50" N., longitude 91°11'24" W.), extending from the 5-mile radius area to 11.5-statute miles north of the NDB.

Lakeview, Oreg.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Lake County-Lakeview Airport (latitude 42°09'35" N., longitude 120°24'15" W.), and within 2 miles each side of the 180° bearing from the Lakeview RBN (latitude 42°09'15" N., longitude 120°24'18" W.), extending from the RBN to 8 miles south of the RBN; that airspace extending upward from 1,200 feet above the surface within 6 miles east and 9 miles west of the 180° and 360° bearings from the Lakeview RBN extending from 5 miles north to 18 miles south of the RBN.

Lake Village, Ark.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Lake Village Airport (lat. 33°20'42" N., long. 91°18'57" W.).

Lamar, Colo.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of Lamar Airport (latitude 38°04'10" N., longitude 102°41'25" W.) and within 3.5 miles each side of the Lamar VOR 001° radial, extending from the 6-mile radius area to 10 miles north of the VOR; that airspace extending upward from 1,200' above the surface within 6 miles east and 9.5 miles west of the Lamar 001° and 181° radials extending from 13.5 miles north to 8 miles south of the VOR.

Lamesa, Tex.
That airspace extending upward from 700 feet above the surface within a 9.5-mile radius of the Lamesa, Tex., Municipal Airport (lat. 32°45'00"N., long. 101°55'00"W.).

Lampasas, Tex.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Lampasas Airport (lat. 31°06'27"N., long. 98°11'45"W.), and within 1.5 miles either side of the 211° radial from the Lampasas VORTAC (lat. 31°11'04"N., Long. 98°08'28"W.), extending from the 5-mile radius to 6 miles north of the Lampasas Airport.

AMENDMENTS 3/23/78 43 F. R. 3552 (Changed) Corr: 43 F. R. 7981

Lanai, Hawaii
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Lanai Airport (latitude 20°47'30" N., longitude 156°57'00" W.).

Lancaster, Pa.
That airspace extending upward from 700 feet above the surface within a 7.5-mile radius of the center, 40°07'16" N., 76°17'47" W. of Lancaster Airport, Lancaster, Pa.; within 3 miles each side of the Lancaster VORTAC 260° radial, extending from the 7.5-mile radius area to 8.5 miles west of the VORTAC; within 9.5 miles northeast and 4.5 miles southwest of the Lancaster VORTAC 128° radial, extending from the VORTAC to 18.5 miles southeast of the VORTAC; within 3.5 miles each side of the Lancaster Airport ILS southwest localizer course, extending from the 7.5-mile radius area to 10.5 miles southwest of the OM; within 5 miles each side of the Lancaster VORTAC 055° radial, extending from the 7.5-mile radius area to 16.5 miles northeast of the VORTAC.

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Lancaster, S.C.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Lancaster County Airport (Lat. 34°43'22"N., Long. 80°51'18"W.); within 3 miles each side of the 063° bearing from the Lancaster RBN (Lat. 34°43'10"N., Long 80°51'24"W.), extending from the 6.5-mile radius areas to 8.5 miles northeast of the RBN.

Land O'Lakes, Wis.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of King's Land O'Lakes Municipal Airport (latitude 46°09'15" N., longitude 89°12'31" W.); and within 9½ miles southwest and 4½ miles northeast of the 312° and 132° bearings from the King's Land O'Lakes Municipal Airport extending from the 5-mile radius area to 18½ miles northwest of the airport to 6 miles southeast of the airport.

Lansing, Ill.
That airspace extending upward from 700 feet above the surface within a 5½-mile radius of the Chicago-Hammond Airport (latitude 41°32'20" N., longitude 87°32'05" W.); and within 3½ miles each side of the 228° radial of the Chicago Heights, Ill. VORTAC extending from the 5½-mile radius area to 11½ miles southwest of the VORTAC excluding the airspace within the Chicago, Ill., and Griffith, Ind., transition areas.

Lansing, Mich.
That airspace extending upward from 700 feet above the surface within an 8½-mile radius of Capital City Airport (latitude 42°46'40" N., longitude 84°35'20" W.); within 3 miles each side of the Lansing ILS localizer east course, extending from the 8½-mile radius area to 14 miles east of the OM; and within 3 miles each side of the Lansing ILS localizer west course, extending from the 8½-mile radius area to 14 miles west of the OM.

Lapeer, Mich.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Dupont-Lapeer Airport (latitude 43°04'10" N., longitude 83°16'15" W.); and within 2 miles each side of the Flint, Mich., VORTAC 074° radial extending from the 5-mile radius area to 18 miles east of the VORTAC.

LaPorte, Ind.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the LaPorte Municipal Airport (latitude 41°34'21" N., longitude 86°44'02" W.); within 2 miles either side of the 165° bearing from the LaPorte Airport extending from the 5-mile radius area to 9 miles south of the airport, excluding that portion which overlies the Michigan City, Indiana, transition area.

La Pryor, Tex. (Chaparrosa Ranch Airport)
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Chaparrosa Ranch Airport (latitude 28°52'45" N., longitude 99°59'25" W.) and within 3.5 miles each side of a 330° bearing from the (Chaparrosa Ranch) RBN (latitude 28°54'35" N., longitude 100°00'19" W.) extending from the radio beacon to a point 11.5 miles northwest of the radio beacon.

La Pryor, Tex. (La Paloma Ranch Airport)
That airspace extending upward from 700 feet above the surface within a 5-mile radius of La Paloma Ranch Airport (latitude 28°53'30" N., longitude 99°51'09" W.) and within 3.5 miles each side of the 002° bearing from the La Pryor, Tex., NDB (latitude 28°55'47" N., longitude 99°51'16" W.) extending from the 5-mile radius area to 11.5 miles north of the La Pryor, Tex., NDB.

Laramie, Wyo.
That airspace extending upward from 700 feet above the surface within a 9-mile radius of General Brees Field, Laramie, Wyoming (lat. 41°18'50" N., long. 105°40'25" W.); within 5.5 miles south and 9.5 miles north of the Laramie, Wyoming VORTAC 301° radial extending from the 9-mile radius area to 18.5 miles northwest of the VORTAC and within 5 miles each side of the Laramie VORTAC 126° radial extending from the 9-mile radius area to 21 miles southeast of the VORTAC.

Laredo, Tex.
That airspace extending upward from 700 feet above the surface within 5 miles each side of the Laredo VORTAC 328° radial extending from the Laredo VORTAC to 22.5 miles northwest; within 3.5 miles each side of the Laredo ILS localizer northwest course extending from the localizer site (latitude 27°36'12" N., longitude 99°30'50.2" W.) to 19 miles northwest; within 5 miles each side of the Laredo VORTAC 141° radial extending from the Laredo VORTAC to 12 miles southeast; within a 5-mile radius of the Link Ranch Airport (latitude 27°25'32" N., longitude 99°28'21" W.), excluding those portions outside the United States.

Laredo, Tex. (Laredo Auxiliary No. 2 Airport)
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Laredo Auxiliary No. 2 Airport (latitude 27°28'00" N., longitude 99°13'45" W.) and within 2.5 miles each side of the Laredo, Tex., VORTAC 091° radial extending from the 5-mile radius area to 18.5 miles east of the VORTAC.

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Larned, Kans.
That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the Larned, Kans., NDB, located at latitude 38°12'16" N., longitude 99°05'17" W., and within 3 miles either side of the 277° bearing from the NDB extending from the 5.5-mile radius to 8 miles west.
PENDING AMENDMENT
Larned, Kans.
That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the Larned, Kans., NDB located at lat. 38°12'16"N., long. 99°05'17"W., and within 3 miles either side of the 276° bearing from the NDB, extending from the 5.5-mile radius to 8 miles west of the NDB, and within 3 miles either side of the 001° bearing from the NDB extending from the 5.5-mile radius to 8 miles north of the NDB.

AMENDMENTS 12/28/78 43 F. R. 45344 (Rewritten)

Las Cruces, N. Mex.
That airspace extending upward from 700 feet above the surface within a 10.5-mile radius of the Las Cruces Municipal Airport (lat. 32°17'27" N., long. 106°55'18" W.); and within 3.5 miles either side of the Las Cruces NDB (lat. 32°16'56" N., long. 106°55'23" W.) 180° bearing extending from the 10.5-mile radius areas to 12 miles south of the NDB.

Las Vegas, Nev.
That airspace extending upward from 700 feet above the surface bounded by a line beginning at latitude 36°11' 00" N., longitude 115°28'00" W., to latitude 36°11'00" N., longitude 115°11'00" W., to latitude 36°24'00" N., longitude 115°00'00" W., to latitude 36°18'00" N., longitude 114°51'00" W., to latitude 36°00'00" N., longitude 114°50'00" W., to latitude 35°52'00" N., longitude 115°11'00" W., to latitude 35°52'00" N., longitude 115°28'00" W., thence to point of beginning; that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at latitude 36°16'00" N., longitude 116°08'00" W., to latitude 36°16'00" N., longitude 115°55'00" W., to latitude 36°58'00" N., longitude 115°55'00"
W., to latitude 36°58'00" N., longitude 114°41'00" W., to latitude 36°58'00" N., longitude 114°07'00" W., to latitude 36°47'00" N., longitude 113°59'00" W., to latitude 36°44'00" N., longitude 114°03'00" W., to latitude 36°25'00" N., longitude 114°05'00" W., to latitude 36°19'00" N., longitude 114°14'00" W., to latitude 35°39'00" N., longitude 114°14'00" W., to latitude 35°39'00" N., longitude 114°57'00" W., to latitude 35°30'00" N., longitude 115°02'00" W., to latitude 35°00'00" N., longitude 115°02'00" W., to latitude 35°00'00" N., longitude 115°24'00" W., to latitude 35°14'00" N., longitude 115°24'00" W., to latitude 35°14'00" N., longitude 115°50'00" W., to latitude 35°36'00" N., longitude 115°50'00" W., to latitude 36°06'00" N., longitude 116°18'00" W., to latitude 36°13'00" N., longitude 116°18'00" W., thence to point of beginning; that airspace extending upward from 9,000 feet MSL beginning at latitude 36°47'00" N., longitude 113°59'00" W., thence clockwise via an arc of an 82-mile radius circle centered on Las Vegas, Nev., VORTAC to a line 5 miles north of and parallel to a direct line between the Grand Canyon, Arizona VOR and Boulder City, Nev., VORTAC, thence west along a line 5 miles north of and parallel to a direct line between the Grand Canyon VOR and the Boulder City VORTAC to longitude 114°14'00" W., to latitude 36°19'00" N., longitude 114°14'00" W., to latitude 36°25'00" N., longitude 114°05'00" W., to latitude 36°44'00" N., longitude 114°05'00" W., to point of beginning.

Las Vegas, N. Mex.
That airspace extending upward from 700 feet above the surface within a 9-mile radius of the Las Vegas Municipal Airport (lat. 35°39'20" N., long. 105°08'30" W.), and within 3.5 miles each side of the Las Vegas, N. Mex., VORTAC 025° radial, extending beyond the 9-mile radius area to 11.5 miles northeast of the VORTAC; and within 3.5 miles each side of the Las Vegas, N. Mex., VORTAC 220° radial, extending beyond the 9-mile radius area to 11.5 miles southwest of the VORTAC.

Latrobe, Pa.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, lat. 40° 16'39"N., long. 79°24'14"W., of Westmoreland County Airport, Latrobe, Pa.; within the arc of an 8.5-mile radius circle centered on Westmoreland County Airport, extending clockwise from a 270° bearing from the center of the airport to a 360° bearing from the center of the airport; within 2 miles each side of the 226° bearing from the Latrobe RBN lat. 40°22'32" N., long. 79°16'19" W., extending from the 5-mile radius area to the RBN; within 4 miles each side of the 046° bearing from the Latrobe RBN, extending from the RBN to 11.5 miles northeast of the RBN; within 5 miles each side of the 213° bearing from the Latrobe RBN, extending from the RBN to 3 miles southwest of the RBN; within 2 miles each side of the Westmoreland County Airport localizer southwest course extending from the 5-mile radius area to 17 miles southwest of the Latrobe RBN and within 3.5 miles each side of the Westmoreland County Airport localizer southwest course, extending from 17 miles southwest of the Latrobe RBN to 27 miles southwest of the RBN.

AMENDMENTS 2/23/78 43 F. R. 5509 (Changed)

Laurel, Miss.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of Hesler-Noble Field (lat. 31°40'10"N., long. 89°10'20"W.); within 3 miles each side of the 315° bearing from Tallahala RBN (lat. 31°41'16" N., long. 89°11'26" W.), extending from the 7-mile radius area to 8.5 miles northwest of the RBN; within 3 miles each side of Laurel VOR 325° radial, extending from the 7-mile radius area to 8.5 miles northwest of the VOR.

Laurens, S. C
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Laurens Municipal Airport (Lat. 34°30'15" N., Long. 81°57'00" W.); within 3 miles each side of the 244° bearing from Laurens RBN (lat. 34°30'29" N., Long. 81°57'00" W.), extending from the 6.5-mile radius area to 8.5 miles southwest of the RBN.

Laurinburg, N. C.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Laurinburg-Maxton Airport (latitude 34°47'25" N., longitude 79°21'55" W.); within 3 miles each side of Sandhills VORTAC 157° radial, extending from the 8.5-mile radius area to 20 miles southeast of the VORTAC; within 3 miles each side of the 226° bearing from Rocky Ford RBN (latitude 34°45'28" N., longitude 79°24'40" W.), extending from the 8.5-mile radius area to 8.5 miles southwest of the RBN.

Lawrence, Kans.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Lawrence Municipal Airport (latitude 39°00'30" N., longitude 95°13'00" W.); within 2 miles each side of the Topeka, Kans., VORTAC 116° radial, extending from the 5-mile radius area to 13 miles southeast of the VORTAC; and within 3 miles each side of the 318° bearing from Lawrence Municipal Airport, extending from the 5-mile radius to 8 miles northwest of the airport.

Lawrenceburg, Tenn.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of Lawrenceburg Municipal Airport (lat. 35°14'00" N., long. 87°15'30" W.); within 9.5 miles west and 4.5 miles east of the 349° bearing from the Lawrenceburg RBN (lat. 35°15'51" N., long. 87°15'56" W.), extending from the RBN to 18.5 miles north; excluding the portion within the Mount Pleasant transition area.

Lawrenceville, Ga.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Gwinnett County Airport (latitude 33°58'53" N., longitude 83°57'50" W.); within 1.5 miles each side of Norcross VORTAC 077° radial, extending from the 6-mile radius area to 3 miles east of the VORTAC.

Lawrenceville, VA.
That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the center, lat. 36°46'20" N., long. 77°47'45" W. of Lawrenceville Municipal Airport, Lawrenceville, VA., and within 1.5 miles each side of the Lawrenceville VORTAC 117° radial, extending from the 5.5-mile radius area to the VORTAC.

Lawton, Okla.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of Lawton Municipal Airport (latitude 34°34'15" N., longitude 98°24'55" W.); within 8 miles W and 5 miles E of the Lawton VOR 357° and 177° radials, extending from 5 miles N to 7 miles S of the VOR; within 10 miles W and 5 miles E of the Lawton VOR 177° radial extending from 7 miles S to 17 miles S of the VOR and within 2 miles each side of the 180° bearing from the Fort Sill RBN extending from the 7-mile radius area to the RBN and excluding that portion within the confines of the Wichita Falls, Tex., transition area.

Lebanon, Mo.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Lebanon, Mo., airport located at latitude 37°38'56" N., longitude 92°39'06" W., and within 3 miles either side of the 177° bearing of the Lebanon Airport extending from 5 miles to 8.5 miles.

Lebanon, N. H.
That airspace extending upward from 700 feet above the surface, within an arc of a 23.5-mile radius circle centered on the Lebanon, NH., Regional Airport (lat. 43°37'41" N., long. 72°18'21" W.) extending clockwise between the 034° and 134° bearings from the Lebanon Airport; within an arc of an 18-mile radius circle centered on the Lebanon Airport extending clockwise between the 134° and 231° bearings from the Lebanon Airport; within an arc of a 23.5-mile radius circle centered on the Lebanon Airport extending clockwise between the 231° and 300° bearings from the Lebanon Airport; within an arc of a 19.5-mile radius circle centered on the Lebanon Airport extending clockwise between the 300° and 034° bearings from the Lebanon Airport.
That airspace extending upward from 1,200 feet above the surface bound by a line beginning at 43°11'00" N., 72°39'00" W., to 43°47'00" N., 72°39'00" W., to 43°55'00" N., 72°16'00" W., to 44°08'00" N., 72°18'00" W., to 44°06'00" N., 70°37'00" W., to 43°45'00" N., 71°09'00" W., to 43°35'00" N., 71°55'00" W., to 42°55'00" N., 72° 00'00" W., to 43°05'00" N., 72°13'00" W., to the point of beginning, excluding those portions that coincide with the Whitefield, N. H., North Conway, N. H., and Burlington, Vt., 1200-foot transition areas.

Lebanon, Ohio
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Lebanon-Warren County Airport (lat. 39°27'30"N., long. 84°15'15"W.) excluding the portions which overlie the Dayton, Ohio. and Middletown, Ohio, transition areas.

AMENDMENTS 11/2/78 43 F. R. 41017 (Added)

Lee's Summit, Mo.
That airspace extending upward from 700 feet above the surface within a 5 statute mile radius of the McComas Airport (lat. 38°57'50"N., long. 94°22'25"W.), excluding those portions which overlie the Grandview, Mo., and Grain Valley, Mo., 700-foot transition areas.

Leeville, La.
That airspace extending upward from 700 feet above the surface within 3.5 miles either side of the Leeville, La., VORTAC 275° radial extending from the VORTAC to 14 miles west of the VORTAC.

LeMars, Iowa
That airspace extending upward from 700 feet above the surface within a 7-mile radius of LeMars Municipal Airport (latitude 42°46'36" N., longitude 96°11'37" W.); and within 3 miles each side of the 358° bearing from LeMars Municipal Airport, extending from the 7-mile radius area to 8 miles north of the airport.

Lemoore, Calif.
That airspace extending upward from 700 feet above the surface within a 10-mile radius of the NAS Lemoore TACAN, and within 5 miles each side of a 156° bearing from the NAS Lemoore RBN extending from the 10-mile radius area to 13.0 miles southeast of the RBN; and that airspace extending upward from 1,200 feet above the surface bounded on the E by a line extending
from latitude 36° 46' 00" N., longitude 120° 03' 50" W., to latitude 36° 37' 00" N., longitude 119° 56' 00" W., to latitude 36° 37' 00" N., longitude 119° 44' 10" W., thence S along the W boundary of V-23 to longitude 119° 30' 00" W., thence to latitude 35° 43' 50" N., longitude 119° 30' 00" W., on the S by latitude 35° 43' 50" N., on the W by V-485 S of the Priest, Calif., VOR and V-113 N of the Priest VOR, and on the N by V-230.

Leonardtown, Md.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center, 38°18'56"N., 76°33'06"W., of St. Marys County Airport, Leonardtown, Md., excluding that portion which coincides with the Patuxent River, Md., transition area.

PENDING AMENDMENT
Levelland, Tex.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of Levelland Municipal Airport (lat. 33°33'32"N., long. 102°22'20"W.), and within 3.5 miles each side of the 170° bearing from the Levelland NDB (lat. 33°33'20"N., long. 102°22'29"W.), extending from the 7-mile radius to 11.5 miles southwest of the RBN.

AMENDMENTS 12/28/78 43 F. R. 50420 (Added)

Lewisburg, W. Va.
That airspace extending upward from 700 feet above the surface within a 10.5-mile radius of the center (lat. 37°51'35" N., long. 80°23'55" W.) of Greenbrier Valley Airport, Lewisburg, W. Va., extending clockwise from the 252° bearing to the 278° bearing from the airport; within a 15-mile radius of Greenbrier Valley Airport, extending clockwise from the 278° bearing to the 291° bearing from the airport; within a 16-mile radius of Greenbrier Valley Airport, extending clockwise from the 291° bearing to the 301° bearing from the airport; within a 21.5-mile radius of Greenbrier Valley Airport, extending clockwise from the 301° bearing to the 332° bearing from the airport; within a 22.5-mile radius of Greenbrier Valley Airport, extending clockwise from the 332° bearing to the 347° bearing from the airport; within a 23.5-mile radius of Greenbrier Valley Airport, extending clockwise from the 347° bearing to the 357° bearing from the airport; within a 17-mile radius of Greenbrier Valley Airport, extending clockwise from the 357° bearing to the 030° bearing from the airport; within an 18.5-mile radius of Greenbrier Valley Airport, extending clockwise from the 030° bearing to the 086° bearing from the airport; within a 15-mile radius of Greenbrier Valley Airport, extending clockwise from the 086° bearing to the 143° bearing from the airport; within a 17-mile radius of Greenbrier Valley Airport, extending clockwise from the 143° bearing to the 192° bearing from the airport; within a 14-mile radius of Greenbrier Valley Airport, extending clockwise from the 192° bearing to the 252° bearing from the airport; within 6.5 miles west and 4.5 miles east of a 216° bearing from the BUSHI LOM extending from the LOM to a point 11.5 miles southwest and within 3 miles each side of the White Sulphur Springs, W. Va., VOR 115° radial, extending from the VOR to 8.5 miles southeast.

Lewiston, Idaho
That airspace extending upward from 700 feet above the surface within an area bound by a line beginning at lat. 46°27'25"N., long. 116°59'20"W., east to lat. 46°25'15"N., long. 116°35'10"W., south to lat. 46°15'00"N., long. 116°38'00"W., west to lat. 46°18'05"N., long. 117°00'00"W., thence via the arc of a 5-mile radius circle centered on Lewiston-Nez Perce County Airport (lat. 46°22'29"N., long. 117°00'51"W.) to lat. 46°26'58"N., long. 117°00'00"W., to point of beginning; that airspace extending upward from 1,200 feet above the surface bounded on the east by W. long. 116°, bounded on the south by N. lat. 46°, bounded on the west by the arc of a 19-mile radius circle centered on the Walla Walla VOR (lat. 46°06'13"N., long. 118°17'29"W.) and bounded on the north by V-536.

Lewistown, Mont.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Lewistown, Mont., Municipal Airport (latitude 47°02'39" N., longitude 109°28'15" W.) and within 4 miles each side of the Lewistown VORTAC 289° radial, extending from the 7-mile radius area to 10.5 miles west of the VORTAC; that airspace extending upward from 1,200 feet above the surface within 4.5 miles north and 9.5 miles south of the Lewistown VORTAC 289° radial, extending from the VORTAC to 18.5 miles west of the VORTAC, and within 5 miles north and 8 miles south of the Lewistown VORTAC 109° radial, extending from the VORTAC to 7 miles east of the VORTAC.

Lexington, Ky.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Blue Grass Airport (lat. 38°02'16" N., long. 84°36'16" W.); within 3 miles each side of the ILS localizer northeast course, extending from the 8.5-mile radius area to 14 miles northeast of the runway end; within 9.5 miles northwest and 4.5 miles southeast of the ILS localizer southwest course, extending from the 8.5-mile radius area to 18.5 miles southwest of the OM.

Lexington, Nebr.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Lexington Municipal Airport (latitude 40°47'38" N., longitude 99°46'10" W.); and within 3 miles each side of the Lexington RBN 314° bearing, extending from the 5-mile radius area to 8 miles northwest of the RBN.

Lexington, N.C.
That airspace extending upwards from 700 feet above the surface within a 5.5-mile radius of Lexington Municipal Airport (lat. 35°46'47"N., long. 80°18'20"W.); within 3 miles each side of the 266° bearing from the Swearing RBN, (lat. 35°46'44"N., long. 80°18'03"W.), extending from the 5.5-mile radius area to 8.5 miles west of the RBN, excluding that portion that coincides with the Salisbury transition area.

Lexington, Tenn.
That airspace extending upward from 700 feet above the surface within an 8-mile radius of the Franklin-Wilkins Airport (latitude 35°39'07" N., longitude 88°22'47" W.); within 3 miles each side of the Jacks Creek VORTAC 165° radial, extending from the 8-mile radius area to 8.5 miles southeast of the VORTAC.

Liberal, Kans.
That airspace extending upward from 700 feet above the surface within a 10-mile radius of Liberal Municipal Airport (latitude 37°02'35" N., longitude 100°57'45" W.).

Liberty, N. C.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Causey Airport (lat. 35°54'50" N., long. 79°37'03" W.); within 2 miles each side of Liberty VOR 358° radial, extending from the 5-mile radius area to the VOR.

Liberty, Tex.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Liberty Air Service Airport (latitude 30°04'30" N., longitude 94°41'50" W.); and within 2 miles each side of Daisetta VOR 203° radial extending from the 5-mile radius area to the VOR.

Lihue, Hawaii
That airspace extending upward from 700 feet above the surface within the arc of an 8.5-mile radius circle centered on the Lihue Airport (latitude 21°58'55" N., longitude 159°20'40" W.), extending clockwise from a line 2 miles west of and parallel to the Lihue VORTAC 021° radial to a line 2 miles northeast of and parallel to the Lihue VORTAC 130° radial and within 2 miles each side of the Lihue VORTAC 130° radial, extending from 9 miles southeast to 10.5 miles southeast of the Lihue VORTAC.

Lima, Ohio
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Allen County Airport (latitude 40°42'26" N., longitude 84°01'36" W.); within 3 miles each side of the Allen County VOR 090° radial extending from the 6.5-mile radius to 8.5 miles east of the VOR.

Lincoln, Ill.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Logan County Airport (latitude 40°09'38" N., longitude 89°20'07" W.); within 2½ miles each side of the Capitol, Illinois, VORTAC 040° radial extending from the 5-mile radius area to 17 miles northeast of the VORTAC; within 3 miles each side of the 047° bearing from the airport extending from the 5-mile radius area to 8 miles northeast of the airport.

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Lincoln, Nebr.
That airspace extending upward from 700 feet above the surface within a 9-mile radius of Lincoln Municipal Airport (latitude 40°50'45" N., longitude 96°45'20" W.); within the area bounded by a line 5 miles west of and parallel to the Lincoln ILS localizer south course clockwise along a 17-mile arc centered on the Lincoln Municipal Airport to a line 2 miles east of and parallel to the Lincoln VORTAC 015° radial; and within 5 miles west and 9 miles east of the Lincoln ILS localizer south course, extending from the 9-mile radius area to 13 miles south of the OM.

Linden, N. J.
That airspace extending upward from 700 feet above the surface within an 8-mile radius of the center Lat. 40°37'04"N., Long. 74°14'42"W. of Linden, N. J., Airport.

Litchfield, Ill.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Litchfield Municipal Airport (latitude 39°09'54"N., longitude 89°40'22"W.); and within 3 miles each side of the 079° bearing from the airport, extending from the 5-mile radius area to 8 miles east of the airport.

Litchfield, Minn.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Litchfield Municipal Airport (latitude 45°08'18" N., longitude 94°30'56" W.); and within 3½ miles each side of the Darwin VORTAC 139° radial, extending from the 6-mile radius to 11½ miles southeast of the VORTAC.

Little Falls, Minn.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Little Falls Municipal Airport (latitude 45°56'56" N., longitude 94°20'44" W.); within 3 miles each side of the 141° bearing from the airport, extending from the 5-mile radius to 8 miles southeast of the airport, excluding that portion which overlies the Camp Ripley, Minnesota, transition area.

Little Rock, Ark.
That airspace extending upward from 700 feet above the surface bounded by a 23-mile radius of Little Rock AFB, Ark. (latitude 34°55'00" N., longitude 92°09'00" W.), and clockwise along a 23 mile arc of Adams Field Airport, Little Rock, Ark. (latitude 34°43'48" N., longitude 92°13'59" W.), to latitude 34°26'50" N., longitude 92°26'00" W., to latitude 34°26'00" N., longitude 92°30'00" W., to latitude 34°28'00" N., longitude 92°36'00" W., thence clockwise along the arc of a 6.5-mile-radius circle centered at latitude 34°33'30" N., longitude 92°36'30" W., to latitude 34°39'30" N., longitude 92°37'50" W., thence clockwise along a 23-mile radius of Adams Field Airport.

Livermore, Calif.
That airspace extending upward from 700 feet above the surface bounded by a line beginning at latitude 37°44'00" N., longitude 121°52'00" W., to latitude 37°48'15" N., longitude 121°40'00" W., to latitude 37°41'30" W., longitude 121°34'00" W., to latitude 37°38'00" N., longitude 121°52'00" W., thence to point of beginning.

Livingston, Mont.
That airspace extending upward from 700 feet above the surface within 9.5 miles west and 4.5 miles east of the Livingston VORTAC 340° radial extending from the VORTAC to 18.5 miles north of the VORTAC and within 2.5 miles each side of the Livingston 085° radial, extending from a 5-mile radius circle centered on Mission Field Airport, Livingston, Mont. (latitude 45°41'45" N., longitude 110°26'40" W.) to 9 miles east of the VORTAC; that airspace extending upward from 1,200 feet above the surface within 6 miles south and 9.5 miles north of the Livingston VORTAC 085° and 265° radials, extending from 7 miles west to 21 miles east of the VORTAC.

Llano, TX.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Llano Municipal Airport (latitude 30°46'30" N., longitude 98°39'30" W.) and within 2 miles each side of the Llano VORTAC 100° radial (091° magnetic radial) extending from the 5-mile radius area to the Llano VORTAC.

Lodi, Calif.
That airspace extending upward from 700 feet above the surface within a 3-mile radius of Linds Airport, Calif. (latitude 38°12'11" N., longitude 121°16'03" W.) and within 2.5 miles each side of the Linden, Calif., VORTAC 303° radial extending from the 3-mile-radius area to 10.5 miles northwest of the VORTAC.

Logan, Utah
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Logan-Cache Airport (lat. 41°47'09" N., long. 111°50'53" W.) and within 4.5 miles east and 9.5 miles west of the Logan VOR 352° radial, extending from the Logan VOR to 11 miles north of the Logan VOR; that airspace extending upward from 1,200 feet above the surface bounded on the north by the south edge of V-4, on the east by longitude 111°40'30" W., on the south by the north edge of V-288, on the west by the east edge of V-21; and that airspace extending upward from 10,500 feet MSL bounded on the northeast by the southwest edge of V-48, on the west by longitude 111°40'30" W., and on the south by the north edge of V-288.

Lompoc, Calif.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Lompoc Airport (latitude 34°39'58"N., longituds 120°27'56"W.) and within 5 miles each side of the Gaviota VORTAC 293° radial, extending from the 5-mile radius area to 16 miles west of the Gaviota VORTAC. That airspace within R-2516 is excluded.

London, Ky.
That airspace extending upward from 700 feet above the surface within a 12.5-mile radius of London-Corbin Airport, Magee Field (lat. 37°05'15" N., long. 84°04'38" W.); within 4.5 miles each side of London VORTAC 202° radial, extending from the 12.5-mile radius area to 10 miles south of the VORTAC.

Lone Rock, Wis.
That airspace extending upward from 700 above the surface within an 8.5-mile radius of the Tri-County Airport (latitude 43°12'36" N.; longitude 90°11'06" W.); within a 10-mile radius of the Richland Airport (latitude 43°16'55" N.; longitude 90°16'52" W.).

Lone Star, Tex.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Lone Star Airport (latitude 32°55'40" N., longitude 94°44'50" W.); and within 2 miles each side of the 316° bearing from the Lone Star RBN, extending from the 5-mile radius area to 8 miles NW of the RBN.

Longview, Tex.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Gregg County Airport, Longview, Tex. (latitude 32°23'05" N., longitude 94°42'45" W.); within 2 miles each side of the Gregg County ILS localizer NW course, extending from the 6-mile radius area to 8 miles NW of the OM, within 2 miles each side of the Gregg County ILS localizer SE course, extending from the 6-mile radius area to 14 miles SE of the airport, within 2 miles each side of the Gregg County VORTAC 149° radial extending from the 6-mile radius area to 17.5 miles southeast of the VORTAC, and within 2 miles each side of the Gregg County VORTAC 313° radial extending from the 6-mile radius area to 8 miles NW of the VORTAC.

Loris, S. C.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Twin City Airport (lat. 34°05'19"N., long. 78°52'02"W.); within 3 miles each side of the 079° bearing from the Benton NDB (lat. 34°05'25"N., long. 78°52'06"W.); extending from the 6-mile radius area to 8.5 miles east of the RBN.

AMENDMENTS 3/23/78 43 F. R. 7205 (Added)

Los Angeles, Calif.
That airspace extending upward from 700 feet above the surface bounded by a line beginning at latitude 34°05'00"N., longitude 118°33'00" W.; to latitude 34°05'00" N., longitude 118°15'00" W.; to latitude 34°00'00" N., longitude 118°15'00" W.; to latitude 34°00'00" N., longitude 118°07'00" W.; to latitude 33°56'00" N., longitude 118°07'00" W.; to latitude 33°56'00" N., longitude 117°53'00" W.; to latitude 33°46'00" N., longitude 117°45'00" W.; to latitude 33°39'00" N., longitude 117°30'00" W.; to latitude 33°30'00" N., longitude 117°30'00" W.; to latitude 33°30'00" N., longitude 117°45'00" W.; to latitude 33°42'00" N., longitude 118°09'00" W., to latitude 33°42'00" N., longitude 118°26'00" W., to latitude 33°48'00" N., longitude 118°26'00" W., to latitude 33°53'00" N., longitude 118°33'00" W., thence to point of beginning; and that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at latitude 34°00'00" N., longitude 119°05'00" W.; to latitude 34°00'00" N., longitude 118°33'00" W.; to latitude 33°53'00" N., longitude 118°33'00" W.; to latitude 33°45'00" N., longitude 118°22'00" W.; to latitude 33°45'00" N., longitude 118°15'00" W.; to latitude 33°30'00" N., longitude 117°45'00" W.; to latitude 33°30'00" N., longitude 118°34'00" W.; to latitude 33°28'30" N., longitude 118°34'00" W.; to latitude 33°28'30" N., longitude 119°07'00" W.; to latitude 33°52'03" N., longitude 119°06'59" W.; thence to point of beginning.

Los Banos, Calif.
That airspace extending upward from 700 feet above the surface within a three-mile radius of Los Banos Municipal Airport (lat. 37°03'43"N., long. 120°52'05"W.) and within three miles each side of the Panoche VORTAC 348° radial, extending from the three-mile radius area to six miles south and six miles north of the airport.

Louisiana
That airspace extending upward from 1,200 feet above the surface bounded on the west, north, and east by the Louisiana/Texas, Arkansas/Louisiana, and Louisiana/Mississippi State lines and bounded on the south by the Gulf of Mexico control area (3 nautical miles offshore and parallel to the shoreline) beginning at the point of intersection of the Louisiana/Mississippi State line and the Gulf of Mexico control area; thence west to the intersection of the Louisiana/Texas State line and the Gulf of Mexico control area.

AMENDMENTS 9/7/78 43 F. R. 24274 (Rewritten)

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Louisville, Ky.
That airspace extending upward from 700 feet above the surface within an 11-mile radius of Standiford Field (lat. 38°10'33" N., long. 85°44'12" W.); within 3 miles each side of the ILS localizer north course, extending from the 11-mile radius area to 8.5 miles north of Louisville VOR 328° radial; within 3 miles each side of the ILS localizer east course, extending from the 11-mile radius area to 8.5 miles east of the LOM; within 9.5 miles west and 4.5 miles east of the ILS localizer south course, extending from the 11-mile radius area to 18.5 miles south of the OM; within 3 miles each side of the ILS localizer west course, extending from the 11-mile radius area to 8.5 miles west of Nabb VOR 206° radial; within a 10-mile radius of Bowman Field (lat. 38°13'40" N., long. 85°39'47" W.); within an 8.5-mile radius of Godman AAF, Fort Knox (lat. 37°54'27" N., long. 85°58'21" W.).

Louisville, Miss.
That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of Louisville-Winston County Airport (lat. 33°08'35" N., long. 89°03'45" W.); within 3 miles each side of the 346° bearing from Louisville RBN (lat. 33°08'37" N., long. 89°03'39" W.), extending from the 5.5-mile radius area to 8.5 miles north of the RBN.

Lovelock, Nev.
That airspace extending upward from 1,200 feet above the surface within 10 miles N and 7 miles S of the Lovelock VORTAC 068° and 248° radials, extending from 20 miles E to 7 miles W of the VORTAC, and within 7 miles NW and 10 miles SE of the Lovelock VORTAC 058° and 238° radials, extending from 20 miles SW to 7 miles NE of the VORTAC.

Lubbock, Tex.
That airspace extending upward from 700 feet above the surface within a 20-mile radius of latitude 33°42'15" N., longitude 101°54'45" W.

Lucin, Utah
That airspace extending upward from 1,200 feet above the surface within 10 miles N and 7 miles S of the Lucin VOR 096° and 276° radials, extending from 9 miles W to 20 miles E of the VOR, excluding the airspace within Federal airways.

Ludington, Mich.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Mason County Airport (latitude 43°57'40" N., longitude 86°24'30" W.) and within 2 miles each side of the 055° bearing from the airport extending from the 5-mile radius area to 8 miles northeast of the airport.

Lufkin, Tex.
That airspace extending upward from 700 feet above the surface within 8 miles east and 5 miles west of the Lufkin VOR 157° radial, extending from the VOR to 12 miles southeast; within 5 miles each side of the Lufkin VOR 337° radial extending from the VOR to 11 miles northwest and within 2 miles each side of the 254° bearing from the Angelina County Airport (lat. 31°14'05" N., long. 94°45'00" W., extending to 6 miles west of the airport.

Lumberton, N. C.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Lumberton Municipal Airport (latitude 34°36'36" N., longitude 79°03'30" W.); within 3 miles each side of the 302° bearing from Lumberton RBN (latitude 34°36'48" N., longitude 79°03'36" W.), extending from the 8.5-mile radius area to 8.5 miles northwest of the RBN.

Luray, Va.
That airspace extending upward from 700 feet above the surface within a 7.5-mile radius of the center, 38°40' 01" N., 78°30'01" W., of Luray Caverns Airport, Luray, Va., extending clockwise from a 266° bearing to a 314° bearing from the airport; within a 10-mile radius of the center of the airport, extending clockwise from a 314° bearing to a 348° bearing from the airport; within a 13.5-mile radius of the center of the airport, extending clockwise from a 348° bearing to a 040° bearing from the airport; within a 15-mile radius of the center of the airport, extending clockwise from a 040° bearing to a 057° bearing from the airport; within a 19-mile radius of the center of the airport, extending clockwise from a 057° bearing to a 074° bearing from the airport; within a 13.5-mile radius of the center of the airport, extending clockwise from a 074° bearing to a 141° bearing from the airport; within a 16.5-mile radius of the center of the airport, extending clockwise from a 141° bearing to a 166° bearing from the airport; within a 20-mile radius of the center of the airport, extending clockwise from a 166° bearing to a 188° bearing from the airport; within a 14.5-mile radius of the center of the airport, extending clockwise from a 188° bearing to a 213° bearing from the airport; within a 20.5-mile radius of the center of the airport, extending clockwise from a 213° bearing to a 234° bearing from the airport; within a 12-mile radius of the center of the airport, extending clockwise from a 234° bearing to a 246° bearing from the airport; within a 10.5-mile radius of the center of the airport, extending clockwise from a 246° bearing to a 266° bearing from the airport.

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Lynchburg, VA.
That airspace extending upward from 700 feet above the surface within a 9-mile radius of the center lat. 37° 19'37" N., long. 79°12'04" W. of Lynchburg Municipal-Preston Glenn Field, Lynchburg, VA.; within 3 miles each side of the Lynchburg, VA., VORTAC 201° radial, extending from the 9-mile radius area to 8.5 miles south of the VORTAC and within 3.5 miles each side of the Lynchburg, VA., VORTAC 023° radial extending from the 9-mile radius area to 24.5 miles northeast of the VORTAC.

Lyndonville, Vt.
That airspace extending upward from 700 feet above the surface within a 16.5-mile radius of the center (lat. 44°34'09"N., long. 72°01'09"W.) of the Caledonia County Airport, Lyndonville, Vt.

Lyons, KS.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Lyons Airport (latitude 38°20'30" N., longitude 98°13'45" W.) and 3 miles either side of the 350° bearing from the airport, extending from 5 miles to 8.5 miles north, and that airspace extending upward from 1,200 feet above the surface, 9.5 miles west of and 4.5 miles east of the 350° bearing from 1.5 miles south to 18.5 miles north of the airport, excluding that airspace that overlies the Hutchinson, KS., transition area.

Mackall AAF, N. C.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Mackall AAF (lat. 35°02'13"N., long. 79°29'54"W.); excluding that portion that coincides with the Southern Pines, N. C., transition area.

Mackinac Island, Mich.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Mackinac Island Airport (latitude 45°51'55" N., longitude 84°38'20" W.).

Macomb, Ill.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of Macomb Municipal Airport (latitude 40°31'11" N., longitude 90°39'17" W.);and within 3 miles each side of the 084° bearing from Macomb Municipal Airport extending from the 6-mile radius area to 8 miles east of the airport.

Macon, Ga.
That airspace extending upward from 700 feet above the surface within an 8-mile radius of Herbert Smart Airport (latitude 32°49'20" N., longitude 83°33'45" W.); within an 11-mile radius of Lewis B.Wilson Airport (latitude 32°41'35" N., longitude 83°38'50" W.); within a 14-mile radius of Robins AFB (latitude 32°38'30" N., longitude 83°35'30" W.); within 5 miles each side of Macon VORTAC 227° radial, extending from the 14-mile radius area to 10.5 miles southwest of the VORTAC; within 4 miles each side of Macon ILS localizer southwest course, extending from the 14-mile radius area to 14 miles southwest of the LOM; within a 5.5-mile radius of Perry-Fort Valley Airport (lat. 32°30'33" N., long. 83°45'50" W.); within 5 miles each side of Vienna VORTAC 323° radial, extending from the 5.5-mile radius area to 16 miles northwest of the VORTAC.

Madera, Calif.
That airspace extending upward from 700 feet above the surface within a 4.5-mile radius of Madera Municipal Airport (lat. 36°59'15"N., long. 120°06'40"W.); and within 4.5 miles each side of the Fresno VORTAC 291° radial, extending from the 4.5-mile radius area to 7 miles west of the VORTAC.

Madill, Okla.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Madill Municipal Airport, Madill, Okla., (lat. 34°08'25"N., long. 96°48'42"W.).

AMENDMENTS 11/2/78 43 F. R. 34771 (Added)

Madison, Conn.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center (lat. 41°16'17"N., long. 72°32'58"W.) of the Griswold Airport; within a 7-mile radius of the center of the airport extending clockwise from the 248° bearing to the 102° bearing.

Madison, Ga.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Madison Municipal Airport (lat. 33°36'46" N., long. 83°27'41" W.).

Madison, Ind.
That airspace extending upward from 700 feet above the surface within a 5½-mile radius of Madison Municipal Airport (latitude 38°45'38" N., longitude 85°27'41" W.); within 3 miles each side of the 217° bearing from Madison Municipal Airport, extending from 5½-mile radius area to 8 miles southwest of the airport, excluding the portion which overlies Restricted Area R-3403.

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Madison, S. Dak.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Madison Municipal Airport (latitude 44°00'54" N., longitude 97°04'45" W.); within 3 miles each side of the 346° bearing from the Madison Municipal Airport, extending from the 5-mile radius to 8½ miles north of the airport; and that airspace extending upward from 1,200 feet above the surface within 5½ miles east and 9½ miles west of the 346° and 166° bearings from the Madison Municipal Airport; extending from 7 miles south of the airport to 18½ miles north of the airport.

Madison, Wis.
That airspace extending upward from 700 feet above the surface within an 11-mile radius of the Traux Airport (latitude 42°08'15" N., longitude 89°20'10" W.); within 3 miles each side of the 181° bearing from the airport extending from the 11-mile radius area to 16 miles south of the airport; within 3 miles each side of the 315° bearing from the airport extending from the 11-mile radius area to 15.5 miles NW of the airport; within 3 miles each side of the 001° bearing from the airport extending from the 11-mile radius area to 17 miles N of the airport; within 3.5 miles each side of the 135° bearing from the airport extending from the 11-mile radius area to 17.5 miles SE of the airport; and within a 7-mile radius of the Morey Airport (latitude 42°07'00" N., longitude 89°32'00" W.); within 3 miles each side of the 305° bearing from the airport extending from the 7-mile radius area to 8 miles NW of the airport.

Madisonville, Ky.
That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of Madisonville Municipal Airport (lat. 37°21'00" N., long. 87°24'00" W.); within 1.5 miles each side of Central City VOR 257° radial, extending from the 5.5-mile radius area to the VOR.

Magnolia, Ark.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Magnolia Municipal Airport (latitude 33°13'45" N., longitude 93°13'00" W.); within 3.5 miles each side of the 171° bearing from the NDB (latitude 33°13'40" N., longitude 93°13'07" W.) extending from the 8.5-mile radius area to 12 miles south of the NDB.

Malad City, Idaho
That airspace extending upward from 1,200 feet above the surface within 9 miles E and 6 miles W of the Malad City VORTAC 165° and 345° radials, extending from 18 miles S to 8 miles N of the VORTAC, and within 5 miles N and 8 miles S of the Malad City VORTAC 290° radial, extending from the VORTAC to 12 miles W of the VORTAC.

Malden, Mo.
That airspace extending upward from 700 feet above the surface within a 6½-mile radius of Malden Municipal Airport (latitude 36°36'20" N., longitude 89°59'20" W.), and within 3 miles each side of the Malden VOR 120° radial, extending from the 6½-mile radius area to 8 miles southeast of the VOR.

Malvern, Ark.
That airspace extending upward from 700 feet above the surface within a 5-statute mile radius of Malvern Municipal Airport, Malvern, Ark. (latitude 34°19'57" N., longitude 92°45'45" W.); and within 3.5 statute miles each side of an 046° bearing from the Malvern NDB (latitude 34°19'56" N., longitude 92°45'50" W.), extending from the 5-mile radius area to 11.5 statute miles northeast of the NDB; excluding that portion which overlies the Little Rock, Ark., transition area.

Manahawkin, N. J.
That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the center 39°42'00" N., 74°16'36" W. of Manahawkin Airport, Manahawkin, N. J.

Manhattan, Kans.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Manhattan Airport (latitude 39°08'35" N., longitude 96°40'05" W.), within 2 miles each side of the Manhattan VOR 046° radial extending from the 7-mile radius area to 8 miles NE of the VOR; within 2 miles NE and 3 miles SW of the 127° bearing from the McDowell Creek RBN, extending from the RBN to 10 miles SE; within 6 miles S and 9 miles N of the Fort Riley
VOR 059° radial extending from the VOR to 21 miles NE; within 2 miles each side of the Fort Riley VOR 222° radial extending from the VOR to 8 miles SW.

Manila, Ark.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Manila Municipal Airport (latitude 35°53'25" N., longitude 90°09'20" W.); and within 2 miles each side of the 175° bearing from the Manila RBN (latitude 35°53'25" N., longitude 90°09'20" W.), extending from the 5-mile radius area to 8 miles south of the RBN.

Manistee, Mich.
That airspace extending upward from 700 feet above the surface within a 9-mile radius of Manistee-Blacker Airport (latitude 44°16'25" N., longitude 86°15'00" W.); within 5 miles north and 8 miles south of the Manistee VOR 274° radial, extending from 9-mile radius area to 16 miles west of the VOR; and within 5 miles south and 8 miles north of the Manistee VOR 099° radial, extending from the 9-mile radius area to 12 miles east of the VOR.

Manistique, Mich.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Schoolcraft County Airport (latitude 45°58'25" N., longitude 86°10'35" W.); and within 2 miles each side of the 099° bearing from Schoolcraft County Airport, extending from the 5-mile radius area to 8 miles east of the airport; and that airspace extending upward from 1,200 feet above the surface within 5 miles south and 8 miles north of the 099° bearing from Schoolcraft County Airport, extending from the airport to 12 miles east of the airport.

Manitowoc, Wis.
That airspace extending upward from 700 feet above the surface within 8 miles west and 5 miles east of the Manitowoc VOR 343° and 163° radials extending from 2 miles south to 13 miles north of the VOR, and within 8 miles west and 5 miles east of the Manitowoc VOR 176° radial extending from the VOR to 12 miles south of the VOR.

Mankato, Minn.
That airspace extending upward from 700 feet above the surface within an 8-mile radius of Mankato Municipal Airport (lat. 44°13'25" N., long. 93°55'06" W.).

Manning, S. C.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Clarendon County Airport (latitude 33°35'13" N., longitude 80°12'32" W.); within 3 miles each side of the 197° bearing from Manning, S. C., RBN (latitude 33°35'23" N., longitude 80°12'23" W.), extending from the 6.5-mile radius area to 8.5 miles south of the RBN; within a 1.5-mile radius of the Grayson (private)
Airport (latitude 33°36'48" N., longitude 80°20'17" W.); and within 2 miles each side of the Vance VOR 061° radial, extending from the 6.5-mile radius area to the VOR.

Mansfield, La.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of DeSoto Parish Airport (latitude 32°04'20" N., longitude 93°45'47" W.).

Mansfield, Mass.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, 42°00'05" N., 71°11'55" W., of the Mansfield Municipal Airport, Mansfield, Mass., and within 2 miles each side of the Whitman, Mass., VOR 249° radial extending from the 5-mile radius area to the VOR, excluding that portion that coincides with the Boston, Mass., transition area.

Mansfield, Ohio
That airspace extending upward from 700 feet above the surface within a 9-mile radius of Mansfield-Lahm Municipal Airport (lat. 40°49'17" N., long. 82°31'00" W.); within a 5-mile radius of Galion Municipal Airport (lat. 40°45'15" N., long. 82°43'30" W.); within a 5-mile radius of Shelby Community Airport (lat. 40°52'23" N., long. 82°41'48" W.); within a 7.5-mile radius of Willard Airport (lat. 41°02'23" N., long. 82°43'38" W.); within 7 miles each side of the Mansfield, Ohio, VORTAC 307° radial extending from the 9-mile radius area to 17 miles NW of the VORTAC; and within 5 miles each side of the Mansfield VORTAC 130° radial extending from the 9-mile radius area to 22 miles SE of the VORTAC.

Manteo, N. C.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Manteo Airport (lat. 35°55'07"N., long. 75°41'43"W.); within 3 miles each side of the 229° and 343° bearings from the Manteo RBN (lat. 35°54'56"N., long. 75°41'42"W.), extending from the 5-mile radius area to 8.5 miles southwest and north of the RBN.

AMENDMENTS 3/23/78 43 F. R. 5507 (Changed)

Many, La.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the Hart Airport (latitude 31°32'43" N., longitude 93°29'15" W.) and within 3.5 miles each side of the 300° bearing from the NDB (latitude 31°34'16" N., longitude 93°32'29" W.) extending from the 8.5-mile radius area to a point 12 miles west of the NDB.

Maples, Mo.
That airspace extending upward from 1,200 feet above the surface within 8 miles SE and 5 miles NW of the Maples VOR 057° and 237° radials, extending from 7 miles NE to 13 miles SW of the VOR, excluding that portion within the Fort Leonard Wood, Mo., transition area.

Mapleton, Iowa
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Mapleton, Iowa, Municipal Airport (lat. 42°10'36" N., long. 95°47'42" W.); and within 3½ miles each side of the 035° bearing from Mapleton Municipal Airport, extending from the 5-mile radius area to 11½ miles northeast of the airport.

Maquoketa, Iowa
That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Maquoketa Airport (latitude 42°03'00" N., longitude 90°45'00" W.); and that airspace three miles each side of the 343° bearing from the Maquoketa NDB (latitude 42°03'05" N., longitude 90°44'27" W.); extending from the 7-mile radius area to 8.5 miles northwest of the NDB.

Marathon, Fla.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Marathon Flight Strip (lat. 24°43'33"N., long. 81°03'05"W.); within 3 miles each side of the 251° bearing from the Marathon RBN, extending from the 6.5-mile radius area to 8.5 miles west of the RBN; excluding the portion outside the continental limits of the United States.

Marble Falls, Tex.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Horsehoe Bay Airport (latitude 30°31'27" N., longitude 98°21'45" W.), and within 3.5 miles each side of the 012° bearing extending from the 5-mile radius area to 11.5 miles north of the NDB site at latitude 30°31'27" N., longitude 98°21'45" W.

Marco Island, Fla.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Marco Island Airport (lat. 25°59'46"N., long. 81°40'22"W.); within 3 miles each side of the 164° bearing from the Marco Island RBN (lat. 26°00'01"N., long. 81°40'30"W.); extending from the 6.5-mile radius area to 8.5 miles south of the RBN.

Marfa, Tex.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of Marfa Municipal Airport (latitude 30°22'15" N., longitude 104°01'15" W.) and within 5 miles NE and 8 miles SW of the Marfa VOR 324° and 144° radials extending from 5 miles NW to 14 miles SE of the VOR.

Marianna, Fla.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Marianna Municipal Airport (lat. 30°50'08"N., long. 85°11'02"W.); within 4.5 miles northeast and 6.5 miles southwest of the Marianna VORTAC 133° radial, extending from the 8.5-mile radius area to 11.5 miles southeast of the VORTAC.

Marion, Ill.
That airspace extending upward from 700 feet above the surface, bounded by a line beginning at latitude 37°53'40" N., longitude 88°48'35" W., thence west to latitude 37°56'25" N., longitude 89°02'40" W., thence west to latitude 37°58'45" N., longitude 89°20'25" W., thence south to latitude 37°47'25" N., longitude 89°26'00" W., thence south to latitude 37°42'10" N., longitude 89°24'00" W., thence southeast to latitude 37°32'50" N., longitude 88°59'00" W., thence northeast to latitude 37°42'35" N., longitude 88°52'15" W., thence north to the point of beginning.

Marion, Ind.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Marion Municipal Airport, Marion, Indiana (latitude 40°29'27" N., longitude 85°40'43" W.); and within 3 miles each side of the Marion VOR 042°, 211° and 320° radials, extending from the 5-mile radius to 8 miles northeast, southwest and northwest of the VOR.

Marion, Ohio
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Marion Municipal Airport (latitude 40°36'58" N., longitude 83°03'51" W.); within 3 miles each side of the 067° bearing from the airport extending from the 6.5-mile radius area to 8.5 miles northeast of the airport; and within 3 miles each side of the 327° bearing from the airport extending from the 6.5-mile radius area to 8.5 miles northwest of the airport.

Marion, S. C.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of Marion County Airport (latitude 34°11'00" N., longitude 79°20'00" W.); within 2 miles each side of the Florence VORTAC 101° radial, extending from the 6-mile radius area to the Florence VORTAC; within 3 miles each side of the 211° bearing from Marion RBN (lat. 34°11'06" N., long. 79°20'00" W.), extending from the 6-mile radius area to 8.5 miles southwest of the RBN; excluding the portion within Florence transition area.

Marion, Va.
That airspace extending upward from 700 feet above the surface within a 9-mile radius of the center, 36°53'45"N., 81°20'45"W., of Mountain Empire Airport, Marion, Va.; within a 16-mile radius of the center of the airport, extending clockwise from a 123° bearing to a 145° bearing from the airport; within a 14.5-mile radius of the center of the airport, extending clockwise from a 145° bearing to a 175° bearing from the airport; within a 15.5-mile radius of the center of the airport, extending clockwise from a 175° bearing to a 192° bearing from the airport; within a 22-mile radius of the center of the airport, extending clockwise from a 192° bearing to a 207° bearing from the airport; within a 24.5-mile radius of the center of the airport, extending clockwise from a 207° bearing to a 225° bearing from the airport; within a 13.5-mile radius of the center of the airport, extending clockwise from a 225° bearing to a 320° bearing from the airport; within a 15.5-mile radius of the center of the airport, extending clockwise from a 320° bearing to a 336° bearing from the airport; within a 17.5-mile radius of the center of the airport, extending clockwise from a 336° bearing to a 024° bearing from the airport; within a 13.5-mile radius of the center of the airport, extending clockwise from a 024° bearing to a 034° bearing from the airport; within a 19-mile radius of the center of the airport, extending clockwise from a 034° bearing to a 056° bearing from the airport, within an 18-mile radius of the center of the airport, extending clockwise from a 056° bearing to a 067° bearing from the airport; within 3.5 miles each side of a 069° bearing from the Retreat RBN (36°55'01"N., 81°16'27"W.), extending from the RBN to 10 miles east of the RBN, excluding the portion that coincides with Bluefield, W. Va., and Dublin, Va.. 700-foot floor transition areas.

Marks, Miss.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Sells Airport (latitude 34°13'50" N., longitude 90°17'25" W.); within 3 miles each side of the 197° bearing from Marks, Miss., RBN (latitude 34°13'50" N., longitude 90°17'28" W.), extending from the 6.5-mile radius area to 8.5 miles south of the RBN.

Marksville, La.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Marksville NDB (latitude 31°05'39" N., longitude 92°04'17" W.); within 3.5 miles each side of a 206° bearing from the Marksville NDB extending from the 5-mile radius area to 11.5 miles southwest of the NDB.

Marlette, Mich.
That airspace extending upward from 700 feet above the surface within a 5½-mile radius of the Marlette Airport (latitude 43°18'37" N., longitude 83°05'31" W.).

Marshall, Mich.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Marshall, Mich., Brooks Field (latitude 42°15'05" N., longitude 84°57'25" W.) and within 2 miles each side of the Battle Creek, Mich., VORTAC 105° radial extending from the 5-mile radius area to 7 miles east of the airport, excluding the portion which coincides with the Battle Creek, Mich., transition area.

Marshall, Minn.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Marshall Municipal Airport (latitude 44°26'50" N., longitude 95°49'10" W.).

Marshall, Texas
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Harrison County Airport (latitude 32°31'18" N., longitude 94°18'29" W.) and within 2.5 miles each side of Gregg County VORTAC 075° radial extending from the 5-mile radius area to 21 miles east of the VORTAC.

Marshalltown, Iowa
That airspace extending upward from 700 feet above the surface within a 6-mile radius of Marshalltown Municipal Airport (latitude 42°06'45" N., longitude 92°54'50" W.); and within 2 miles each side of the 321° bearing from Marshalltown Municipal Airport, extending from the 6-mile radius area to 8 miles northwest of the airport and within 3.5 miles each side of the 135° radial of the Marshalltown VOR, extending from the 6-mile radius to 11.5 miles southeast of the airport.

Marshfield, Mass.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Marshfield Airport (42°05'45" N., 70°40'25" W.), Marshfield, Mass.; and within 2 miles each side of the centerline of Runway 24 extended from the end of the runway to 5 miles southwest, excluding the portion that coincides with the Boston, Mass. 700-foot floor transition area and excluding the portion outside the United States.

Marshfield, Wis.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Marshfield Municipal Airport (latitude 40°38'10" N., longitude 90°11'15" W.); within 2 miles each side of the 216° bearing from Marshfield Municipal Airport, extending from the 5-mile radius area to 8 miles southwest of the airport; and within 2 miles each side of the 325° bearing from Marshfield Municipal Airport, extending from the 5-mile radius area to 8 miles northwest of the airport.

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Martinsburg, W. Va.
That airspace extending upward from 700 feet above the surface within a 12-mile radius of the center, lat. 39°24'03" N., long. 77°59'09" W. of Eastern West Virginia Regional Airport, Martinsburg, W. Va.; and within a 15-
mile radius of the center of the airport, extending clockwise from a 263° bearing to a 335° bearing from the airport.

Martinsville, Va.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center (36°37'50" N., 80°01'00" W.), of Blue Ridge Airport, Martinsville, Va.; within 2 miles each side of the Runway 30 centerline, extended from the 6.5-mile radius area to 14 miles northwest of the end of the runway; within 2 miles each side of the Runway 12 centerline, extended from the 6.5-mile radius area to 7.5 miles southeast of the end of the runway and within 3.5 miles each side of the 176° bearing from the Blue Ridge RBN (36°37'45" N., 80°01'00" W.), extending from the 6.5-mile radius area to 11.5 miles south of the RBN.

Maryland
That airspace extending upward from 1,200 feet above the surface within the boundary of the State of Maryland including the offshore airspace within 3 nautical miles and parallel to the shoreline, excluding that airspace within P-40.

Marysville, Calif.
That airspace extending upward from 700 feet above the surface within a 10-mile radius of Beale AFB (latitude 39°08'10" N., longitude 121°26'05" W.); within an 8-mile radius of Yuba County Airport, Marysville, Calif. (latitude 39°05'50" N., longitude 121°34'00" W.), within 9 miles west and 5 miles east of the Beale VOR 162° and 342° radials, extending from the Beale 10-mile radius area to 17 miles north of the VOR; within 8 miles west and 5 miles east of the Marysville VOR 343° radial, extending from the Yuba County 8-mile radius area to 12 miles north of the VOR, and within 8 miles southwest and 5 miles northeast of the Marysville VOR 153° radial, extending from the Yuba County 8-mile radius area to 12 miles southeast of the VOR; that airspace extending upward from 1,200 feet above the surface bounded on the east by a line extending from latitude 40°00'00" N., longitude 120°30'00" W., to latitude 39°30'00" N., longitude 120°30'00" W., to latitude 39°00'00" N., longitude 120°55'00" W., to latitude 39°00'00" N., longitude 120°55'00" W., on the south by latitude 39°00'00" N., on the west by the west boundary of V-23, on the northwest by the Red Bluff, Calif., transition area, and on the north by latitude 40°00'00" N.; that airspace extending upward from 8,500 feet MSL bounded on the south by latitude 40°00'00" N., on the west by the Red Bluff, Calif., transition area, on the north by latitude 40°45'00" N., and on the east by a line extending from latitude 40°45'00" N., longitude 121°39'00" W., to latitude 40°23'00" N., longitude 121°39'00" W., to latitude 40°23'00" N., longitude 121°25'00" W., to latitude 40°00'00" N., longitude 121°25'00" W.; that airspace extending upward from 10,500 feet MSL bounded on the east by longitude 120°19'00" W., on the south by a line extending from latitude 39°30'00" N., longitude 120°19'00" W., to latitude 39°30'00" N., longitude 120°30'00" W., to latitude 40°00'00" N., longitude 120°30'00" W., to latitude 40°00'00" N., longitude 121°25'00" W., on the west by longitude 121°25'00" W., and on the north by latitude 40°45'00" N.; that airspace extending upward from 12,500 feet MSL bounded on the east by longitude 121°25'00" W., on the south by latitude 40°23'00" N., on the west by longitude 121°39'00" W., and on the north by latitude 40°45'00" N.

PENDING AMENDMENT
Marysville, Kans.
That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of Marysville Municipal Airport, Marysville, Kans., lat. 39°51'12"N., long. 96°37'49"W., within 3 miles each side of the Marysville NDB 357° bearing extending from the 5.5-mile radius area to 8 miles north of the airport; and within 3 miles each side of the Marysville NDB 147° bearing extending from the 5.5-mile radius area to 8 miles southeast of the airport.

AMENDMENTS 12/28/78 43 F. R. 45344 (Added)

Marysville, Ohio
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Union County Airport (latitude 40°13'29" N., longitude 83°21'00" W.); and within 2 miles on each side of the 088° bearing from the airport extending from the 5-mile radius area to 8 miles west of the airport.

PENDING AMENDMENT
Mason, Mich.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of the center, lat. 42°33'50"N., long. 84°25'40"W., of the Mason-Jewett Airport, Mason, Mich.

AMENDMENTS 12/28/78 43 F. R. 51008 (Added)

Mason, Tex.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Mason County Airport (latitude 30°43'54" N., longitude 99°11'06" W.).

Mason City, Iowa
That airspace extending upward from 700 feet above the surface within a 9-mile radius of Mason City Municipal Airport (latitude 43°09'25" N., longitude 93°19'54" W.); within 5 miles each side of the Mason City VORTAC 002° radial, extending from the 9-mile radius area to 24½ miles north of the VORTAC; and within 4½ miles west and 9½ miles east of the Mason City VORTAC 182° and 002° radials, extending from 5 miles north to 24½ miles south of the VORTAC.

Massachusetts
That airspace extending upward from 1,200 feet above the surface within the boundary of the State of Massachusetts including the offshore airspace within 3 nautical miles of and parallel to the shoreline of Massachusetts and that airspace bound by a line beginning at lat. 42°41'20"N., long. 70°30'00"W.; to lat. 42°15'20"N., long. 70°30'00"W.; to lat. 42°10'50"N., long. 70°03'00"W.; to lat. 41°38'00"N., long. 69°45'10"W.; to lat. 41°20'00"N., long. 69°45'10"W.; to lat. 41°09'00"N., long. 70°00'00"W.; to lat. 41°10'25"N., long. 70°12'50"W.; to lat. 41°04'00"N., long. 70°42'30"W.; to lat. 41°12'45"N., long. 70°42'30"W.; to lat. 41°08'30"N., long. 71°04'45"W.; to lat. 41°25'15"N., long. 71°04'45"W.; to lat. 41°25'15"N., long. 71°04'45"W.; thence along a line 3 nautical miles from and parallel to the shoreline to the point of beginning.

AMENDMENTS 11/2/78 43 F. R. 39750 (Added)

Massena, N. Y.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the center, lat. 44°56'10" N., long. 74°50'50" W. of Richards Field, Massena, N. Y.; within 3 miles each side of the Massena, VORTAC 104° radial extending from the 8.5-mile radius area to 8 miles east of the VORTAC, excluding the airspace within Canada.

Matagorda, Tex.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Matagorda Peninsula Airport (latitude 28°32'35" N., longitude 96°07'10" W.), excluding that portion more than 3 nautical miles from and parallel to the shoreline.

Matawan, N. J.
That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the center, lat. 40°22'25"N., long. 74°15'15"W., of Marlboro Airport, Matawan, N. J., and within 1.5 miles each side of the Colts Neck, N. J., VORTAC 307° radial extending from the 5.5-mile radius area to the Colts Neck VORTAC.

Mattoon, Ill.
That airspace extending upward from 700 feet above the surface within a 9-mile radius of Coles County Memorial Airport (lat. 39°28'45" N., long. 88°16'51" W.); and within 4.5 miles each side of the Mattoon VOR 228° radial, extending from the 9-mile radius area to 13 miles southwest of the VOR.

Maxwell, Calif.
That airspace extending upward from 1,200 feet above the surface bounded on the E by V-195, on the S by V-200, on the W by V-25 and on the N by the Red Bluff, Calif., transition area.

Mayfield, Ky.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Mayfield-Graves County Airport (latitude 36°46'03" N., longitude 88°35'05" W.).

McAlester, Okla.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the McAlester, Okla. Airport (latitude 34°53'05" N., longitude 95°46'55" W.); within 2 miles each side of the McAlester VOR 176° radial extending from the 5-mile radius area to 8 miles S of the VOR.

McAllen, Tex.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Miller International Airport (latitude 26°10'40" N., longitude 98°14'25" W.); within 3.5 miles each side of the McAllen VOR 095° radial extending from the 5-mile radius area to 11.5 miles east of the VOR; within 4 miles south and 5 miles north of the McAllen VOR 321° radial extending from the 5-mile radius area to 18.5 miles northwest of the McAllen VOR; and within 2 miles each side of the localizer (latitude 26°09'59" N., longitude 98°13'53" W.) back course 141° radial extending from the 5-mile radius area to 5.5 miles southeast of the localizer, excluding the portion outside the United States.

McCall, Idaho
That airspace extending upward from 9,500 feet MSL within 6 miles west and 9 miles east of the McCall VORTAC 344° and 164° radials extending from 8 miles south to 19 miles north of the VORTAC

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McComb, Miss.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of McComb-Pike County Airport (lat. 31°10'35" N., long. 90°28'08" W.).

McCook, Nebr.
That airspace extending upward from 700 feet above the surface within an 8-mile radius of McCook Municipal Airport (latitude 40°12'25" N., longitude 100°35'25" W.); within 5 miles southwest and 8 miles northeast of the 120° bearing from McCook Municipal Airport extending from the 8-mile radius area to 12 miles southeast of the airport and within 5 miles southwest and 8 miles northeast of the 324° bearing from McCook Municipal Airport, extending from the 8-mile radius area to 12 miles northwest of the airport.

McCordsville, Ind.
That airspace extending upward from 700 feet above the surface within a 5½-mile radius of the Indianapolis Brookside Airport (latitude 39°54'19" N., longitude 85°55'29" W.); and within a 5½-mile radius of the Indianapolis Metropolitan Airport (latitude 39°56'10" N., longitude 86°02'45" W.).

McGehee, Ark.
That airspace extending upward from 700 feet above the surface within a 6.5-statute-mile radius of McGehee Municipal Airport. McGehee, Ark., (lat. 33°37'15"N., long. 91°22'00"W.).

McGrath, Alaska
That airspace extending upward from 700 feet above the surface within 5 miles northeast and 3 miles southwest of the McGrath VORTAC 123° radial extending from the control zone extension to 12.5 miles southeast of the VORTAC; within 4 miles each side of the McGrath VORTAC 008° radial extending from the control zone extension to 14.5 miles north of the VORTAC; and that airspace extending upward from 1,200 feet above the surface within a 21.5-mile radius of the McGrath VORTAC extending clockwise from the 344° radial to the 236° radial of the VORTAC; within a 12-mile radius of the McGrath VORTAC extending clockwise from the 236° radial to the 344° radial of the VORTAC; and within 9.5 miles east and 4.5 miles west of the McGrath VORTAC 008° radial extending from the 21.5-mile radius area to 23 miles north of the VORTAC.

McMinnville, Oreg.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of McMinnville Municipal Airport (latitude 45°11'35" N., longitude 123°08'15" W.) and within 2 miles each side of the Newberg VORTAC 215° radial extending from the 5-mile radius area to the VORTAC.

McMinnville, Tenn.
That airspace extending upward from 700 feet above the surface within a 13-mile radius of Warren County Memorial Airport (lat. 35°42'00" N., long. 85°50'30" W.); within 9.5 miles northwest and 4.5 miles southeast of the 061° bearing from Warren County RBN (lat. 35°42'11" N., long. 85°50'40" W.), extending from the 13-mile radius area to 18.5 miles northeast of the RBN;
within a 6.5-mile radius of Smithville Municipal Airport (lat. 35°59'08" N., long. 85°48'31" W.);
within 3 miles each side of the 045° bearing from Hurricane RBN (lat. 35°59'02" N., long. 85°48'28" W.), extending from the 6.5-mile radius area to 8.5 miles northeast of the RBN.

McPherson, Kans.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of McPherson Municipal Airport (latitude 38°21'19" N., longitude 97°41'29" W.); and that airspace extending upward from 1,200 feet above the surface within 9½ miles southwest and 4½ miles northeast of the 309° bearing from the McPherson Municipal Airport, extending from the airport to 18½ miles northwest of the airport, excluding the portions that overlie the Salina and Hutchinson, Kans., 1,200-foot floor transition areas.

McRae, GA.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of Telfair-Wheeler Airport (lat. 32°05'46" N., long. 82°52'55" W.); within 3 miles each side of the 030° bearing from McRae RBN (lat. 32°05'40" N., long. 82°53'02" W.), extending from the 7-mile radius area to 8.5 miles northeast of the RBN.

Meade, Kans.
That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the Meade, Kansas, Municipal Airport (latitude 37°16'45" N., longitude 100°21'15" W.); within 3 miles each side of the Meade NDB (latitude 37°16'40" N., longitude 100°21'31" W.); 008° bearing, extending from the 5.5-mile radius to 8.5 miles north of the NDB.

Meadville, PA.
That airspace extending upward from 700 feet above the surface within an 8-mile radius of the center, lat. 41°37'37" N., long. 80°12'51" W., of Port Meadville Airport, Meadville, PA.

Medford, Oreg.
That airspace extending upward from 700 feet above the surface within 7 miles northeast and 5 miles southwest of the Medford ILS localizer northwest course extending from 3 miles northwest of the Pumic LOM (latitude 42°27'03.8" N., longitude 122°54'44.1" W.), to 24 miles northwest of the LOM; within 3.5 miles each side of the Medford ILS localizer southeast course extending from the LOM to 24 miles southeast of the LOM; that airspace extending upward from 1,200 feet above the surface bounded on the east by V-452, on the southeast by the 40-mile arc centered on Klamath Falls VORTAC, on the south by V-122, on the west by V-23; that airspace southeast of Medford bounded on the north by the south edge of V-122, on the east by the 40-mile arc centered on Klamath Falls VORTAC, on the south by the 7-mile radius area centered on the Siskiyou County Airport, on the west by the east edge of V-23E; and that airspace extending upward from 6,200 feet MSL within 5 miles each side of the Medford VORTAC 271° radial extending from the west edge of V-23E to the east edge of V-27.

Medford, Wis.
That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the Taylor County Airport (latitude 45°06'02" N., longitude 90°18'18" W.); within 3 miles each side of the 162° bearing from the airport extending from the 5.5-mile radius area to 8 miles southeast of the airport.

Melbourne, Fla.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the Melbourne Regional Airport (lat. 28°06'01" N., long. 80°38'00" W.); within an 8.5-mile radius of Patrick AFB (lat. 28° 14'21" N., long. 80°36'28" W.); within 3 miles each side of Patrick AFB TACAN 030° radial, extending from the 8.5-mile radius area to 9.5 miles northeast of the TACAN.

Melfa, Va.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of the center 37° 38' 50" N., 75° 45' 40" W., of Accomack County Airport, Melfa, Va., and within 2 miles each side of a 200° bearing from the Melfa, Va., RBN 37°39'27" N., 75°45'27" W., extending from the 6-mile radius area to 8 miles south of the RBN.

Memphis, Tenn.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Memphis International Airport (latitude 35°03'00" N., longitude 89°58'15" W.); within 4.5 miles each side of Memphis ILS localizer east course, extending from the 8.5-mile radius area to Holly Springs, Miss., VOR 328° radial; within 3 miles each side of Memphis ILS localizer south course, extending from the 8.5-mile radius area to 8.5 miles south of the LOM; within 3 miles each side of Memphis ILS localizer west course, extending from the 8.5-mile radius area to 8.5 miles west of the LOM; within a 6.5-mile radius of Twinkle Town Airport (lat. 34°55'45"N., long. 90°10'05"W.); within 3 miles each side of the Memphis VORTAC 311° radial, extending from the 6.5-mile radius area to 32.5 miles northwest of the VORTAC; within a 6.5-mile radius of West Memphis Municipal
Airport (latitude 35°08'24" N., longitude 90°14'00" W.); within 3 miles each side of Memphis VORTAC 311° radial, extending from the 6.5-mile radius area to 32.5 miles northwest of the VORTAC; within 3 miles each side of the 187° and 352° bearings from West Memphis RBN (latitude 35°08'20" N., longitude 90°14'02" W.), extending from the 6.5-mile radius area to 8.5 miles north and south of the RBN; within an 8.5-mile radius of Olive Branch Municipal Airport (lat. 34°58'44" N., long. 89°47'33" W.).

Memphis, Tenn. (NAS)
That airspace extending upward from 700 feet above the surface within a 12-mile radius of NAS Memphis (lat. 35°21'15"N., long. 89°52'10"W.); within a 7-mile radius of Arlington Municipal Airport (lat. 35°16'58"N., longitude 89°40'22" W.); within 3 miles each side of the 161° bearing from Loosahatchie RBN (latitude 35°17'04" N., longitude 89°40'19" W.), extending from the 7-mile radius area to 8.5 miles south of the RBN.

Mena, Ark.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Mena Municipal Airport (latitude 34°33'00" N., longitude 94°12'31" W.) and within 5 miles each side of the Rich Mountain, Okla., VORTAC 112° radial extending from the 5-mile radius area to the VORTAC and within 3.5 miles each side of the 087° bearing from the Mena, Ark., NDB (latitude 34°32'55" N., longitude 94°12'34" W.) extending from the 5-mile radius area to a point 12 miles east of the NDB.

Menominee, Mich.
That airspace extending upward from 700 feet above the surface within a 6½-mile radius of Menominee County Airport (latitude 45°07'20" N., longitude 87°38'15" W.); within 4½ miles east and 9½ miles west of the Menominee VOR 349° radial, extending from the VOR to 18½ miles north of the VOR; and within 4½ miles northeast and 9½ miles southwest of the 140° and 320° bearings from Menominee County Airport, extending from 6 miles southeast to 18½ miles northwest of the airport.

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Merced, Calif.
That airspace extending upward from 700 feet above the surface within a 10-mile radius of the Castle Air Force Base (latitude 37°22'45" N., longitude 120°34'00" W.); within a 7-mile radius of Merced Municipal Airport (latitude 37°17'10" N., longitude 120°30'55" W.) and within 2 miles each side of the Castle VOR 141° and 321° radials extending from the Merced 7-mile radius area to 3 miles SE of the Castle VOR; that airspace extending upward from 1,200 feet above the surface bounded on the NE and E by V-459, on the S by V-230, on the W by V-109 and on the N by V-244, excluding the portions within the Fresno, Stockton, and Modesto, Calif., transition areas; that airspace extending upward from 7,500 feet MSL NE of Merced bounded on the E by V-165, on the SW by V-459, and on the N by V-244, and that airspace extending upward from 12,000 feet MSL E of Merced bounded on the E by longitude 119°30'00" W., on the S by the Fresno, CA., transition area, on the W by V-165 and on the N by V-244.

Mercury, Nev.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Mercury Airport (latitude 36°39'16" N., longitude 116°00'54" W.); that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at latitude 36°41'00" N., longitude 116°26'30" W., to latitude 36°41'00" N., longitude 115°55'00" W., to latitude 36°16'00" N., longitude 115°55'00" W., to latitude 36°16'00" N., longitude 116°08'00" W., to latitude 36°36'00" N., longitude 116°26'30" W., thence to point of beginning, excluding the portion within R-4808.

Meriden, Conn.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, 41°30'35" N., 72°49'50" W. of Meriden Markham Municipal Airport, Meriden, Conn.; and within 2 miles each side of the Runway 36 centerline extended from the 5-mile radius area to 7 miles north of the end of the runway, excluding the portion which coincides with the Bridgeport, Conn., and Hartford, Conn., transition areas.

Meridian, Miss.
That airspace extending upward from 700 feet above the surface within an 11-mile radius of Key Field (lat. 32°19'58"N., long. 88°45'05"W.); within 3 miles each side of the 191° bearing from the Lauderdale RBN, extending from the 11-mile radius area to 8.5 miles south of the RBN; within 5 miles each side of Meridian VORTAC 315° radial, extending from the 11-mile radius area to 11.5 miles northwest of the VORTAC; within an 8.5-mile radius of OLF Bravo Field (lat. 32°47'33"N., long. 88°49'40"W.); within a 10-mile radius of NAS Meridian (lat. 32°33'27"N., long. 88°33'33"W.); within a 29-mile radius of the Meridian VORTAC, extending clockwise from the 340° radial to the 050° radial, and within 5 miles north and 7 miles south of the Kewanee VORTAC 273° radial, extending from the VORTAC to long. 88°36'00"W.

Merrill, Wis.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of Merrill Municipal Airport (latitude 45°12'00" N., longitude 89°42'25" W.); and within 3 miles each side of the 332° bearing from Merrill Municipal Airport, extending from the 7-mile radius area to 8 miles northwest of the airport.

Mexia, Tex.
That airspace extending from 700 feet above the surface within a 6.5-mile radius of Mexia-Limestone County Airport (lat. 31°38'20"N., long. 96°30'52"W.) and within 3.5 miles each side of the 163° bearing from the Limestone County NDB (lat. 31°38'16"N., long. 96°30'43"W.) extending from the 6.5-mile radius area to a point 12 miles southeast of the NDB.

AMENDMENTS 1/26/78 42 F. R. 60561 (Added)
AMENDMENTS 11/2/78 43 F. R. 34770 (Rewritten)

Mexico, Mo.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Mexico Memorial Airport (latitude 39°09'35" N., longitude 91°49'25" W.).

Miami, Fla.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Miami International Airport (Lat. 25°47'34"N., Long. 80°17'00"W.), Homestead AFB (Lat. 25°29'15"N., Long. 80°23'00"W.), Opa Locka Airport (Lat. 25°54'26"N., Long. 80°16'48"W.), Fort Lauderdale-Hollywood International Airport (Lat. 26°04'26"N., Long. 80°09'10"W.), and Tamiami Airport (Lat. 25°38'51"N., Long. 80°25'59"W.); within 3 miles each side of the 274° bearing from the Perrine RBN, extending from the 8.5-mile radius area to 8.5 miles west of the RBN; within a 6.5-mile radius of Fort Lauderdale Executive Airport (Lat. 26°11'41"N., Long. 80°10'15"W.), and Pompano Beach Airpark (Lat. 26°15'00"N., Long. 80°06'30"W.).

Miami, Fla. (Dade-Collier Training and Transition Airport)
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Dade-Collier Training and Transition Airport (latitude 25°51'46" N., longitude 80°53'50" W.).

Miami, OK.
That airspace extending upward from 700 feet above the surface within an 8-mile radius of the Miami Municipal Airport (latitude 36°54'02" N., longitude 94°53'03" W.) and that airspace within the State of Kansas extending upward from 1,200 feet above the surface which is bounded on the south by the Kansas-Oklahoma State line and on the west along a line which is 7 miles east of and parallel to the Oswego, KS., VOR 207° radial, on the north by the south edge of VOR airway V-190 and on the east by the west edge of VOR airway V-88.

Michigan
That airspace extending upward from 1,200 feet above the surface within the boundary of the State of Michigan south of parallel 45°45'.

Michigan City, Ind.
That airspace extending upward from 700 feet above the surface within an 8-mile radius of Michigan City Airport (latitude 41°42'10" N., longitude 86°49'15" W.); and within a 6½-mile radius of Michigan City Municipal Airport (latitude 41°40'10" N., longitude 86°53'20" W.).

Middlefield, Ohio
That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Geauga County Airport (latitude 41°27'00" N., longitude 81°03'48" W.); within 1½ miles each side of the Chardon VORTAC 132° radial extending from the 6-mile radius area to the VORTAC excluding the portion which overlies the Cleveland transition area.

Middleton Island, Alaska
That airspace extending upward from 700 feet above the surface within 12 miles northwest and 7.5 miles southeast of the Middleton Island VORTAC 037° and 217° radials, extending from 22.5 miles northeast to 11.5 miles southwest of the VORTAC; and within 9.5 miles west of the Wessels, Alaska, RBN 011° bearing, extending from the RBN to 18.5 miles north of the RBN.

Middletown, Ohio
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center of 39°32'00" N., 84°23'30" W. of Hook Field Municipal Airport and within 2 miles each side of a 232° bearing from Hook Field, Ohio, RBN extending from the 5-mile radius area to 8 miles southwest of the RBN.

Midland, Tex.
That airspace extending upward from 700 feet above the surface within a 20-mile radius of Midland Regional Air Terminal (latitude 31°56'25" N., longitude 102°12'10" W.) and within a 5-mile radius of Mabee Ranch Airport (latitude 32°12'57" N., longitude 102°09'46" W.).

Midland, Va.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center 38°35'15" N., 77°42'45" W. of Warrenton-Fauquier Airport, Midland, Va., and within 2 miles each side of the Casanova, Va. VORTAC 113° radial extending from the 5-mile radius area to the VORTAC.

Midway Island
That airspace extending upward from the 700 feet above the surface within a 10-nmi radius of NAS Midway (latitude 28° 12' 00" N., longitude 177° 23' 00" W.); and that airspace extending upward from 1,200 feet above the surface within a 100-nmi radius of NAS Midway.

Miles City, Mont.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of Miles City Airport (latitude 46°25'40" N., longitude 105°53'10" W.); within 5 miles each side of the 252° bearing from the Horton RBN, extending from the 7-mile radius area to 11 miles southwest of the RBN; within 3.5 miles each side of the Miles City VORTAC 225° radial, extending from the 7-mile radius area to 11 miles southwest of the Miles City VORTAC; within 3.5 miles each side of the Miles City VORTAC 047° radial, extending from the 7-mile radius area to 22 miles northeast of the VORTAC; and that airspace extending upward from 1,200 feet above the surface within a 17-mile radius of Miles City VORTAC south of V-120 and within a 25-mile radius of Miles City VORTAC north of the south edge of V-120, and within 9.5 miles southeast and 4.5 miles northwest of the Miles City VORTAC 225° radial extending from the VORTAC to 18½ miles southwest of the VORTAC.

Milford, Iowa
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Fuller Municipal Airport (lat. 43°19'57"N., long. 95°09'29"W.) and within 3 miles each side of the 019° bearing from the Fuller Municipal Airport extending from the 5-mile radius to 11.5 miles north of the airport excluding that portion which lies in the Spirit Lake, Iowa, transition area.

AMENDMENTS 7/13/78 43 F. R. 20788 (Added)

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Milford, Utah
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Milford Municipal Airport (Lat. 38°25'35" N, Long. 113°00'40" W) and within 2 miles either side of the Milford VORTAC 196° radial, extending from the 5-mile radius area to 8 miles S of the VORTAC; including the airspace extending upward from 1,200 feet above the surface within 10 miles NW and 7 miles SE of the Milford VORTAC 023° and 203° radials, extending from 9 miles SW to 20 miles NE of the VORTAC.

Millard, Nebr.
That airspace extending upward from 700 feet above the surface within a 6½-mile radius of the Millard Municipal Airport (latitude 41°11'45" N., longitude 96°06'45" W.); and within 3 miles each side of the 314° bearing from the Millard Municipal Airport extending from the 6½-mile radius area to 8 miles northwest of the airport.

Milledgeville, Ga.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Baldwin County Airport (latitude 33°09'15" N., longitude 83°14'10" W.); within 3 miles each side of the 089° bearing from Milledgeville RBN (latitude 33°09'13" N., longitude 83°14'35" W.), extending from the 8.5-mile radius area to 8.5 miles east of the RBN.

Millersburg, Ohio
That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Holmes County Airport (latitude 40°32'20" N., longitude 81°57'05" W.) and within 3 miles each side of the 085° bearing from the airport extending from the 6-mile radius area to 12 miles east, and within 2 miles each side of the Tiverton, Ohio VOR 059° radial extending from the 6-mile radius area to the VOR.

Millinocket, Maine
That airspace extending upward from 700 feet above the surface within a 7-mile radius of the center, 45°38'50" N., 68°41'10" W. of Millinocket Municipal Airport, Millinocket, Maine, and within 3.5 miles each side of a 094° bearing from the Sterns RBN extending from the 7-mile radius area to 11.5 miles east of the RBN.
That airspace extending upward from 1,200 feet above the surface bounded by a line beginning at: 45°56'00" N., 68°36'00" W. to 45°39'00" N., 69°48'00" W. to 45°23'00" N., 69°48'00" W. to 45°15'00" N., 69°50'00" W., to 45°07'30" N., 69°50'00" W., to 45°07'30" N., 69°28'00" W., to 45°12'00" N., 69°23'00" W. to 45°24'00" N., 68°55'00" W. to 45°30'00" N., 68°31'00" W. to 45°27'00" N., 68°20'00" W. to 45°33'00" N., 68°16'00" W. to 45°38'00" N., 67°40'30" W. to the point of beginning.

Millville, N. J.
That airspace extending upward from 700 feet above the surface within the area bounded by a line beginning at 39°37'00" N., 75°05'00" W to 39°35'00" N., 74°52'00" W. to 39°16'30" N., 74°59'00" W. to 39°16'30" N., 75°12'00"W. to 39°30'00"N., 75°15'00"W. to point of beginning and within 4.5 miles south and 6.5 miles north of the Millville, N.J., VORTAC 257° radial and 077° radial, extending from 5.5 miles west of the VORTAC to 11.5 miles east of the VORTAC, excluding the portion that coincides with the Atlantic City, N.J., 700-foot transition area.

Milton, Fla.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of NAS Whiting Field (North) (latitude 30°43'15" N., longitude 87°01'45" W.); within 2 miles each side of the 315° bearing from Navy Whiting RBN, extending from the 6-mile radius area to 8 miles northwest of the RBN; within 2 miles each side of Navy Whiting TACAN 309° radial, extending from the 6-mile radius area to 8 miles northwest of the TACAN, and within a 5-mile radius of OLF Santa Rosa (Navy), Milton, Fla. (latitude 30°36'00" N., longitude 86°56'00" W.).

Milwaukee, Wis.
That airspace extending upward from 700 feet above the surface within a 9-mile radius of General Mitchell Field (lat. 42°56'51"N., long. 87°53'58"W.); within an 8-mile radius of the Horlick-Racine Airport (lat. 42°45'45"N., long. 87°49'00"W.); within an 8-mile radius of the Timmerman Airport (lat. 43°06'40"N., long. 88°02'00"W.); within a 6½-mile radius of the Waukesha County Airport (lat. 43°02'25"N., long. 88°14'00"W.); and within 3 miles each side of the 274° bearing from the Waukesha County Airport extending from the 6½-mile radius area to 7½ miles west of the airport.

Minden, La.
That airspace extending upward from 700 feet above the surface within a 9-mile radius of Minden-Webster Airport (latitude 32°39'00" N., longitude 93°18'00" W.).

Mineola, TX.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Wisener Airport (latitude 32°40'47" N., longitude 95°30'45" W.) and within 2 miles each side of the Quitman, TX., VORTAC 211° radial extending from the airport to 6 miles northeast of the airport.

Mineral Point, Wis.
That airspace extending upward from 700 feet above the surface within a 5-statute-mile radius of the Iowa County Airport, Mineral Point, Wis., (lat. 42°53'12"N., long. 90°13'52"W.) and within 3 statute miles either side of the 030° bearing from the Mineral Point RBN, extending from the 5-mile radius area to 8.5 statute miles northeast of the airport.

Mineral Wells, Tex.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Mineral Wells Airport (latitude 32°46'59" N., longitude 98°03'34" W.) and within 3 miles each side of the 140° bearing from the Mineral Wells RBN, extending from the 5-mile radius area to 8 miles SE of the RBN.

Minneapolis, Minn.
That airspace extending upward from 700 feet above the surface within a 26-mile radius of Minneapolis-St. Paul International Airport (latitude 44°53'05" N., longitude 93°13'15" W.); within a 28-mile radius of Minneapolis-St. Paul International Airport, extending from the 206° bearing from the airport clockwise to the 353° bearing from the airport; and within 4½ miles north and 9½ miles south of the Flying Cloud VOR 292° radial, extending from the 28-mile radius area to 18½ miles west of the VOR.

Minnesota
That airspace extending upward from 1,200 feet above the surface within the boundary of the State of Minnesota.

Minot, N. Dak.
That airspace extending upward from 700 feet above the surface within a 10-mile radius of Minot AFB (latitude 48°24'55" N., longitude 101°21'25" W.); within a 10-mile radius of Minot International Airport (latitude 48°15'40" N., longitude 101°16'45" W.); within 5 miles each side of the Minot VORTAC 260° radial, extending from the 10-mile radii areas to 12 miles west of the VORTAC; and within 4 miles each side of the Minot VORTAC 138° radial extending from the 10-mile radius area to 15.5 miles southeast of the VORTAC; and within 5
miles each side of the Minot VORTAC 097° radial, extending from the 10-mile radius area to 12 miles east of the VORTAC; that airspace extending upward from 1,200 feet above the surface within a 35-mile radius of Deering TACAN; and that airspace extending upward from 5,700 feet MSL within a 50-mile radius of Deering TACAN, excluding the area north of latitude 49°00'00" N., and the area which overlies V-430 and V-15.

Mississippi
That airspace extending upward from 1,200 feet above the surface within the boundary of the State of Mississippi, including that airspace 3 nautical miles from and parallel to the shoreline, beginning at the intersection of the Mississippi/Alabama State line, extending west along a line 3 nautical miles from and parallel to the shoreline, to and south along longitude
88°51'00" W. to latitude 30°07'20" N. (point of intersection of the Mississippi State line and longitude 88°51'00" W.).

Missoula, Mont.
That airspace extending upward from 700 feet above the surface within a 23.5-mile radius of the Missoula VORTAC extending from the Missoula VORTAC 190° radial clockwise to the 290° R; within 9.5 miles southwest and 5.5 miles northeast of the Missoula VORTAC 312° radial extending from the VORTAC to 38 miles northwest of the VORTAC; within 3 miles each side of the Missoula VORTAC 172° radial extending from the VORTAC to 19.5 miles southeast; and that airspace extending upward from 1,200 feet above the surface within a 13-mile radius of the Missoula VORTAC extending from the 357° radial clockwise to the 072° radial; within a 23.5-mile radius of the Missoula VORTAC extending from the 072° radial clockwise to the 190° radial; within a 34-mile radius of the Missoula VORTAC extending from the Missoula VORTAC 256° radial clockwise to the 357° radial; within 9.5 miles southwest of the Missoula VORTAC 298° radial extending from the 34-mile radius area to 38 miles northwest; within 5 miles west and 9.5 miles east of the Missoula VORTAC 172° radial extending from the VORTAC to 30 miles southeast of the VORTAC.

Missouri
That airspace extending upward from 1,200 feet above the surface within the boundary of the State of Missouri.

Mitchell, S. Dak.
That airspace extending upward from 700 feet above the surface within a 9-mile radius of Mitchell Municipal Airport (latitude 43°46'25" N., longitude 98°02'30" W.); and that airspace extending upward from 1,200 feet above the surface within 4½ miles southwest and 9½ miles northeast of the Mitchell VOR 149° radial, extending from the VOR to 18½ miles southeast of the VOR; and within 4½ miles northeast and 9½ miles southwest of the Mitchell VOR 300° radial, extending from the VOR to 18½ miles northwest of the VOR;
and that airspace southwest of Mitchell extending upward from 9,500' MSL within the area bounded on the east by V-159, on the south by V-148 and the Nebraska/South Dakota state line, on the west by a line from latitude 43°00' N., longitude 99°00' W. direct to latitude 44°00' N., longitude 99°43' W., and on the north by the Pierre, S. Dak., 1200-foot transition area and V-120.

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Moab, Utah
That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Canyonlands Airport, Moab, Utah, (latitude 38°45'40" N., longitude 109°44'50" W.) and within 7 miles northeast and 10 miles southwest of the Moab VOR (latitude 38°45'22" N., longitude 109°44'55" W.) 301° radial extending from the VOR to 18.5 miles northwest of the VOR.

Moberly, Mo.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Omar N. Bradley Airport (lat. 39°27'50"N., long. 92°25'35"W.); and 3 miles either side of the 315° bearing from the airport extending from the 6.5-mile radius to 8 miles northwest of the airport; and 3 miles either side of the 126° bearing from the airport extending from the 6.5-mile radius to 8 miles southeast of the airport.

Mobile, Ala.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Bates Field (lat. 30°41'17.7"N., long. 88°14'26.6"W.); within an 8.5-mile radius of Brookley Airport (lat. 30°37'08.5"N., long. 88°03'57.2"W.); within 3.5 miles each side of Brookley VORTAC 157° radial, extending from the 8.5-mile radius area to 11 miles southeast of the VORTAC; within a 6.5-mile radius of Fairhope Municipal Airport (latitude 30°27'50" N., longitude 87°52'35" W.); within 2 miles each side of Brookley VORTAC 134° radial, extending from the 6.5-mile radius area to Brookley Airport 8.5-mile radius area.
AMENDMENTS 7/13/78 43 F. R. 19213 (Changed)

Mocksville, N. C.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of Twin Lakes Airport (lat. 35°54'50"N., long. 80°27'20"W.); within 3 miles each side of the 278° bearing from the Davie RBN (lat. 35°54'48"N., long. 80°27'23"W.); extending from the 6-mile radius area to 8.5 miles west of the RBN.

AMENDMENTS 3/23/78 43 F. R. 5508 (Added)

Modesto, Calif.
That airspace extending upward from 700 feet above the surface within 4.5 miles northeast and 9.5 miles southwest of the Modesto VOR 122° and 302° radials, extending from 18.5 miles northwest to 18.5 miles southeast of the VOR; and that airspace extending upward from 1,200 feet above the surface bounded on the E by longitude 120°30'00" W., on the SE by a line extending from latitude 37°38'45" N., longitude 120°30'00" W., to latitude 37°25'00" N., longitude 120°48'00" W., on the S by latitude 37°25'00" N., on the W by V-109, and on the N by a line extending from the E boundary of V-109 through latitude 37°38'00" N., longitude 121°00'35" W., to latitude 37°45'45" N., longitude 120°30'00" W.

Mohall, N. Dak.
That airspace extending upward from 700 feet above the surface within a 7½-mile radius of Mohall Municipal Airport (latitude 48°46'01" N., longitude 101°32'04" W.).

Moline, Ill.
That airspace extending upward from 700 feet above the surface within a 9-mile radius of Quad City Airport (latitude 41°26'56" N., longitude 90°30'34" W.); within 4½ miles north and 9½ miles south of the Quad City ILS localizer west course, extending from 1 mile east to 18½ miles west of the OM; within 5 miles either side of the Quad City ILS localizer east course extending from the 9-mile radius area to 16½ miles east of the airport; within a 6½-mile radius of Davenport Municipal Airport (latitude 41°36'40" N., longitude 90°35'20" W.); within 3 miles each side of the 224° bearing from the Cody RBN, extending from the 6½-mile radius area to 8 miles southwest of the RBN; and within 2 miles each side of the Davenport VOR 220° radial, extending from the 6½-mile radius area to the VOR.

Molokai, Hawaii
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Molokai Airport (latitude 21°09'25" N., longitude 157°05'55" W.), within 2 miles each side of the Molokai VORTAC 268° radial, extending from the 5-mile radius area to 5 miles west of the VORTAC and within 4 miles north and 2 miles south of the VORTAC 126° radial extending from the intersection of the Molokai VORTAC 126° and the Lanai, Hawaii, VORTAC 011° radials to a point 7 miles east of this intersection.

Moncks Corner, S. C.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Moncks Corner Airport (latitude 33°11'30" N., longitude 80°02'00" W.); within 3 miles each side of the 226° bearing from Moncks Corner RBN (latitude 33°11'16" N., longitude 80°01'34" W.) extending from the 6.5-mile radius area to 8.5 miles southwest of the RBN.

Monee, Ill.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Sanger Airport (latitude 41°22'39" N., longitude 87°41'03" W.); within 1½ miles either side of the 039° radial of the Peotone VORTAC extending from the 5-mile radius area to the VORTAC, excluding that portion that overlies the Chicago, Illinois, transition area.

Monongahela, Pa.
That airspace extending upward from 700-feet above the surface within a 6.5-mile radius of the center, 40°12'40" N., 79°49'50" W., of Rostraver Airport, Monongahela, Pa., and within 2 miles each side of the Allegheny, Pa., VORTAC 113° radial extending from the 6.5-mile radius area to the VORTAC, excluding the portion which coincides with the Pittsburgh, Pa., transition area.

Monroe, La.
That airspace extending upward from 700 feet above the surface within a 20-mile radius of the Monroe Municipal Airport (lat. 32°30'30"N., long. 92°02'20"W.); and within an 8.5-mile radius of Morehouse Memorial Airport, Bastrop, La., (lat. 32°45'25"N., long. 91°52'50"W.); and within an 8.5-mile radius of Rayville Municipal Airport, Rayville, La., (lat. 32°29'00"N., long. 91°46'15"W.).

Monroe, Mich.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Custer Airport (latitude 41°56'10" N., 83°26'15" W.); and within 2 miles each side of the Carleton, Mich., VORTAC 171° radial, extending from the 5-mile radius area to the VORTAC excluding the portion which overlies the Detroit, Mich. 700-foot floor transition area.

Monroe, N.C.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Monroe Airport (Lat. 35°01'13"N., Long. 80°37'08"W.) within 3 miles each side of the 057° bearing from the Wesley RBN (Lat. 35°01'25"N., Long. 80°37'01"W.), extending from the 6.5-mile radius to 8.5 miles northeast of the RBN.

Monroe, Wis.
That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the Monroe Municipal Airport (latitude 42°36'57" N., longitude 89°35'26" W.).

Monroe City, Missouri
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Monroe City, Missouri Airport (latitude 39°38'05" N., longitude 91°43'40" W.) and within 4 miles each side of the 239° radial of the Quincy, Illinois, VORTAC, extending from the 5-mile radius area to 8 miles northeast of the airport; and that airspace extending upward from 1,200 feet above the surface within the area southwest of the Quincy, Illinois, VORTAC bounded on the north by the south edge of V-116, on the west by the east edge of V-175, and on the southeast by the northwest edge of V-63.

Monroeville, Ala.
That airspace extending upward from 700 feet above the surface within a 5 mile radius of Monroeville County Airport (latitude 31°27'25" N., longitude 87°20'50" W.); within 3 miles each side of Monroeville VORTAC 039° and 201° radials, extending from the VORTAC to 9 miles northeast and south of the VORTAC.

Montague, Calif.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of Siskiyou County Airport (latitude 41°46'55" N., longitude 122°28'00" W.); that airspace extending upward from 1,200 feet above the surface within 9.5 miles east and 6 miles west of the 180° and 356° bearings from the Montague RBN, extending from 8 miles north to 19 miles south of the RBN. Within 10 miles E and 7 miles W of the Siskiyou VOR (latitude 41°47'10" N., longitude 122°27'50" W.) 192° radial extending from 18 to 29 miles S of the VOR.

Monterey, Calif.
That airspace extending upward from 700 feet above the surface within a 13-mile radius of Fritzsche AAF, Fort Ord, Calif. (latitude 36°40'55" N., longitude 121°45'40" W.), excluding the portion south of latitude 36°32'00" N.; within a 3-mile radius of Watsonville Municipal Airport (latiude 36°56'15" N., longitude 121°47'15" W.); within 3 miles each side of the Salinas VORTAC 330° radial, extending from the 3-mile radius area to the 13-mile radius of Fritzsche AAF and within 3 miles each side of the Watsonville localizer course extending from the 3-mile radius to 5 miles south of Runway 1 threshold of the Watsonville Airport; that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at lat. 37°05'00" N., long. 122°43'15" W., thence to lat. 37°08'45" N., long. 122°34'45" W., thence southeast via V-27 to lat. 37°00'00" N., thence to lat. 37°00'00" N., long. 121°29'30" W., thence to lat. 36°23'00" N., long. 121°03'20" W., thence to lat. 36°03'30" N., long. 121°29'00" W., thence southeast via V-27 to long. 121°03'00" W., thence to lat. 35°30'00" N., long. 121°03'00" W., thence to lat. 35°30'00" N., long. 121°37'00" W., to point of beginning; that airspace extending upward from 5,000 feet MSL bounded on the northwest by a line 12 miles southeast of and parallel to the Big Sur VOR 047° radial, on the northeast by V-25, on the south by a line extending from the southwest boundary of V-25 and latitude 35°33'00" N., to latitude 35°33'00" N., longitude 121°03'00" W., thence south to the northeast boundary of V-27 and longitude 121°03'00" W., and on the southwest by V-27.

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Montevideo, Minn.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Montevideo Municipal Airport (latitude 44°58'15" N., longitude 95°42'40" W.); and within 3 miles each side of the 313° bearing from the Montevideo Municipal Airport extending from the 5-mile radius to 8 miles northwest of the airport.

Montgomery, Ala.
That airspace extending upward from 700 feet above the surface within a 9-mile radius of Dannelly Field (lat. 32°18'00"N., long. 86°23'36"W.); within a 9-mile radius of Maxwell Air Force Base (lat. 32°22'48"N., long. 86°21'55"W.).

Monticello, Ark.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Monticello Municipal Airport (latitude 33°38'10" N., longitude 91°45'10" W.).

Monticello, Indiana
That airspace extending upward from 700 feet above the surface within a 5-mile radius of White County Airport (latitude 40°42'30" N., longitude 86°46'00" W.) and within 3 miles each side of the 185° bearing from the airport extending from the 5-mile radius area to 8.5 miles south.

Monticello, Iowa
That airspace extending upward from 700 feet above the surface within a 7-mile radius of Monticello Municipal Airport (latitude 42°13'40" N., longitude 91°10'00" W.); and within 3 miles each side of the 135° bearing from Monticello Municipal Airport, extending from the 7-mile radius area to 10½ miles southeast of the airport.

Monticello, N. Y.
That airspace extending upward from 700 feet above the surface within an 8-mile radius of the center, 41°42' 01" N., 74°47'59" W. of Sullivan County International Airport, Monticello, N. Y., extending clockwise from a 033° bearing to a 111° bearing from the airport; within a 7.5-mile radius of the center of the airport, extending clockwise from a 111° bearing to a 169° bearing from the airport; within a 6.5-mile radius of the center of the airport, extending clockwise from a 169° bearing to a 318° bearing from the airport; within an 8.5-mile radius of the center of the airport, extending clockwise from a 318° bearing to a 340° bearing from the airport; within an 11.5-mile radius of the center of the airport extending clockwise from a 340° bearing to a 033° bearing from the airport; and within
4.5 miles each side of the Sullivan County International Airport ILS localizer, 41°41'39" N., 74°47'16" W., northwest course, extending from the 6.5-mile, 8.5-mile and 11.5-mile radius areas to 11.5 miles northwest of the OM (41°45'59" N., 74°51'39" W.); within a 5-mile radius of the center, 41°37'10" N., 74°42'10" W., of Monticello Airport, Monticello, N. Y., and within 2 miles each side of the Huguenot, N. Y., VORTAC 338° radial extending from the 5-mile radius area to 9 miles north of the VORTAC.

Montpelier, Vt.
That airspace extending upward from 700 feet above the surface within a 10-mile radius of the center, lat. 44°12'15"N., long. 72°33'45"W., of Edward F. Knapp (Barre-Montpelier) State Airport, Barre-Montpelier, Vt.; within 6.5 miles west and 5 miles east of the Montpelier VOR, lat. 44°12'41"N., long. 72°33'45"W., 163° radial extending from the 10-mile radius zone to 17.5 miles south of the VOR; within 4.5 miles each side of the Mount Mansfield NDB, lat. 44°23'11.8" N., long. 72°41'38.3"W., 332° and 152° bearing from the NDB, extending from the 10-mile radius zone to 10.5 miles northwest of the NDB, excluding that portion within the Morrisville, Vt., transition area.

Montrose, Colo.
That airspace extending upward from 700 feet above the surface within 5 miles northeast and 9.5 miles southwest of the Montrose VOR 313° and 133° radials extending from 7 miles southeast to 24.5 miles northwest of the VOR.

Mooreland, Okla.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Mooreland Municipal Airport, Mooreland, Okla., (lat. 36°29'08"N., long. 99°11'39"W.) within 3.5 miles each side of the 359° bearing from the Mooreland NDB (lat. 36°29'04"N., long. 99°11'36"W.) extending from the 5-mile radius to 11.5 miles north of the airport.
AMENDMENTS 3/23/78 43 F. R. 953 (Added)

Morgan City, La.
That airspace extending upward from 700 feet above the surface within 3.5 miles each side of the Tibby, La., VORTAC 281° radial extending from 11.5 miles west of the VORTAC to 23 miles west of the VORTAC.

Morganton, N.C.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Morganton-Lenoir Airport (lat. 35°49'20"N., long. 81°36'50"W.); within 3 miles each side of the 205° bearing from Fiddlers RBN (lat. 35°42'36"N., long. 81°40'17"W.), extending from the 8.5-mile radius area to 8.5 miles southwest of the RBN; excluding the portion that coincides with the Hickory transition area.

Morgantown, W. Va.
That airspace extending upward from 700 feet above the surface within an 11.5-mile radius of the center, lat. 39°38'34" N., long. 79°55'01" W. of Morgantown Municipal Airport-Walter L. Hart Field, Morgantown, W. Va , extending clockwise from
a 205° bearing to a 030° bearing from the airport; within a 19-mile radius of the center of the airport, extending clockwise from a 030° bearing to a 055° bearing from the airport; within an 18-mile radius of the center of the airport, extending clockwise from a 055° bearing to a 065° bearing from the airport; within a 15-mile radius of the center of the airport, extending clockwise from a 065° bearing to a 095° bearing from the airport; within a 16.5-mile radius of the center of the airport, extending clockwise from a 095° bearing to a 157° bearing from the airport; within a 14-mile radius of the center of the airport, extending clockwise from a 157° bearing to a 205° bearing from the airport; within 5 miles each side of the Morgantown VORTAC 152° radial extending from the VORTAC to 9.5 miles southeast of the VORTAC and within 5 miles southwest and 7.5 miles northeast of the Morgantown VORTAC 334° radial, extending from the 11.5-mile radius arc to 22 miles northwest of the VORTAC.

Morrilton, Ark.
That airspace extending upward from 700 feet above the surface within an 8.5 mile radius of Petit Jean Airport (lat. 35°08'15" N., long. 92°54'30" W.), and within 3.5 miles each side of the 216° bearing from the Morrilton RBN (lat. 35°07'07" N., long. 92°55'30" W.) extending from the 8.5-mile radius to 11.5 miles southwest of the RBN.

Morris, Minn.
That airspace extending upward from 700 feet above the surface within a 5½-mile radius of Morris Municipal Airport (latitude 45°34'05" N., longitude 95°58'10" W.); and within 3 miles each side of the 138° bearing from the Morris Municipal Airport extending from the airport to 7 miles southeast of the airport.

Morristown, Tenn.
That airspace extending upward from 700 feet above the surface within a 9.5-mile radius of Moore-Murrell Airport (latitude 36°10'50" N., longitude 83°22'20" W.); within 4.5 miles northwest and 9.5 miles southeast of the 239° bearing from Morristown RBN (latitude 36°11'10" N., longitude 83°22'00" W.), extending from the 9.5-mile radius area to 18.5 miles southwest of the RBN.

Morrisville, Vt.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, lat. 44° 32'10" N., long. 72°36'55" W. of Morrisville-Stowe State Airport, Morrisville, Vt., and within 3.5 miles each side of the 034° bearing and the 214° bearing from the Morrisville RBN lat. 44°35'13" N., long. 72°35'10" W., extending from the 5-mile radius area to 11.5 miles northeast of the RBN.

Moses Lake, Wash.
That airspace extending upward from 700 feet above the surface within a 19-mile radius of Grant County Airport (lat. 47°12'29"N., long. 119°19'05"W.), within a 19-mile radius of the Ephrata VORTAC (lat. 47°22' 41"N., long. 119°25'22"W.); that airspace extending upward from 1,200 feet above the surface bounded on the north by lat. 47°45'00"N., on the east by the arc of a 52-mile radius circle centered on Fairchild Air Force Base, Wash., (lat. 47°36'55"N., long. 117°39'20"W.), on the southeast by V-112W, on the south by V-298 and on the west by long. 120°00'00"W.

AMENDMENTS 5/18/78 43 F. R. 11972 (Rewritten)

Moses Point, Alaska
That airspace extending upward from 1,200 feet above the surface within 5 miles N and 10 miles S of the Moses Point VOR 088° and 268° radials, extending from 11 miles W to 15 miles E of the VOR.

Mosinee, Wis.
The airspace extending upward from 700 feet above the surface within a 10-mile radius of Central Wisconsin Airport (latitude 44°46'35" N., longitude 89°40'00" W.); within 5 miles each side of the 087° bearing from Central Wisconsin Airport, extending from the 10-mile radius area to 13 miles east of the airport; and within 5 miles each side of the 242° bearing from Central Wisconsin Airport, extending from the 10-mile radius area to 12 miles southwest of the airport, excluding the portion which overlies the Wausau, Wis., transition area.

Moultrie, Ga.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Moultrie-Thomasville Airport (lat. 31°04'58" N., long. 83°48'15" W.); within an 8.5-mile radius of Thomasville Municipal Airport (lat. 30°54'05" N., long. 83°53'00" W.); within an 8.5-mile radius of Spence AF Auxiliary Field (lat. 31°08'15" N., long. 83°42'15" W.).

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Mountain Home, Idaho
That airspace extending upward from 700 feet above the surface within 10 miles northeast and 9 miles southwest of the Mountain Home AFB TACAN (latitude 43°02'26" N., longitude 115°52'22" W.) 135° and 315° radials, extending from 18 miles southeast to 18 miles northwest of the TACAN; that airspace extending upward from 1,200 feet above the surface bounded on the north and northeast by the southwest edge of V-253, on the southeast, south, and west by the arc of a 46-mile radius circle centered on Mountain Home AFB (latitude 43°02'35" N., longitude 115°52'05" W.), on the northwest by the southeast edge of V-113; that airspace southeast of Mountain Home AFB extending upward from 6,500 feet MSL, bounded on the northwest by the 46-mile arc, on the northeast by the southwest edge of V-253, on the south by latitude 42°24'00" N. to the 46-mile arc.

Mountain View, Mo.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Mills Memorial Airport (lat. 36°59'33"N., long. 91°42'42"W.); and within 3 miles each side of the 106° bearing from the Mills Memorial Airport, extending from the 5-mile radius area to 8 miles east of the airport.

Mount Airy, N. C.
That airspace extending upward from 700 feet above the surface within a 10.5-mile radius of Mount Airy-Surry County Airport (latitude 36°27'30" N., longiutde 80°33'08" W.); excluding that portion that coincides with the Elkin transition area.

Mount Comfort, Ind.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Mount Comfort Airport (lat. 39°50'26"N., long. 85°54'04"W.), excluding the portion within the Indianapolis, Ind., transition area.

AMENDMENTS 11/2/78 43 F. R. 38374 (Added)

Mount Pleasant, Iowa
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Mount Pleasant Municipal Airport (latitude 40°56'45" N., longitude 91°30'30" W.); and within 3 miles each side of the 140° bearing from Mount Pleasant Municipal Airport extending from the 5-mile radius area to 8 miles southeast of the airport.

Mt. Pleasant, Mich.
That airspace extending upward from 700 feet above the surface within a 4-mile radius of Mt. Pleasant, Mich., Airport (latitude 43°37'00" N., longitude 84°44'00" W.); and within 2 miles each side of the 093° bearing from Mt. Pleasant, MI., Airport extending from the 4-mile radius area to 8 miles E of the airport.

Mount Pleasant, Tenn.
That airspace extending upward from 700 feet above the surface within a 9.5-mile radius of Maury County Airport (latitude 35°33'15" N., longitude 87°10'50" W.); within 9.5 miles southeast and 4.5 miles northwest of the 060° and 227° bearings from Maury County RBN (latitude 35°33'20" N., longitude 87°10'57" W.), extending from the 9.5-mile radius area to 18.5 miles northeast and southwest of the RBN.

Mt. Pleasant, Tex.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Mt. Pleasant Municipal Airport (latitude 33°07'45.4" N., longitude 94°58'31.3" W.) and within 3.5 miles each side of the Quitman, Tex., VORTAC 052° radial extending from the 8.5-mile radius area to a point 10.5 miles southwest of the airport.

Mount Pocono, Pa.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of the center 41°07'40" N., 75°22'20" W. of Mount Pocono Airport, Mount Pocono, Pa., within 2 miles each side of the 333° bearing from the Tobyhanna RBN (41°12'15" N., 75°25'20" W.) extending from the RBN to 7.5 miles northwest of the RBN.

Mt. Sterling, Ky.
That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of Mt. Sterling-Montgomery County Airport (lat. 38°03'35" N., long. 83°58'50" W.).

Mount Vernon, Ill.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of Mount Vernon-Outland Airport (latitude 38°19'23" N., longitude 88°51'33" W.); within 5 miles each side of the the Mount Vernon VOR 044° radial extending from the 7-mile radius area to 11.5 miles northeast of the VOR.

Muleshoe, Tex.
That airspace extending upward from 700 feet above the surface within a 9-statute mile radius of Edward Warren Field (latitude 34°14'00" N., longitude 102°42'30" W.).

Mullan Pass, Idaho
That airspace extending upward from 8,500 feet MSL within 6 miles N and 9 miles S of the Mullan Pass VORTAC 095° and 275° radials, extending from 8 miles E to 15 miles W of the VORTAC.

Muncie, Ind.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of Delaware County-Johnson Field (latitude 40°14'26" N., longitude 85°23'43" W.) within 3 miles each side of the Muncie VOR 136° radial, extending from the 7-mile radius area to 13.5 miles southeast of the VOR; within 3 miles each side of the Muncie VOR 125° radial, extending from the 7-mile radius area to 8 miles southeast of the VOR; within 3 miles each side of the Muncie VOR 017° radial, extending from the 7-mile radius area to 8 miles north of the VOR; and within 3½ miles each side of the Muncie VOR 320° radial, extending from the 7-mile radius area to 10 miles northwest of the VOR.

Murray, Ky.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Murray-Calloway County Airport (latitude 36°40'04" N., longitude 88°22'06" W.); within 3 miles each side of the 033° bearing from Calloway RBN (latitude 36°39'49" N., longitude 88°22'03" W.), extending from the 6.5-mile radius area to 8.5 miles north of the RBN.

Muscatine, Iowa
That airspace extending upward from 700 feet above the surface within an 8-mile radius of Muscatine Municipal Airport (latitude 41°22'00" N., longitude 91°08'40" W.).

Muscle Shoals, Ala.
That airspace extending upward from 700 feet above the surface within an 11-mile radius of the Muscle Shoals Airport (latitude 34°44'41" N., longitude 87°36'39" W.); within 3 miles each side of Muscle Shoals VOR 114° radial, extending from the 11-mile radius area to 8.5 miles east of the VOR.

Muskegon, Mich.
That airspace extending upward from 700 feet above the surface within a 10-mile radius of the Muskegon County Airport (lat. 43°10'16" N., long. 86°14'09" W.); within a 7-mile radius of the Grand Haven Memorial Airpark (lat. 43°02'00" N., long. 86°12'00" W.), Grand Haven, Mich.; within 4.5 miles southwest and 9.5 miles northeast of the Muskegon County Airport ILS localizer southeast course, extending from the 10-mile radius area to 18.5 miles southeast of the OM; within 4 miles each side of the Muskegon VORTAC 092° radial, extending from the VORTAC to 11.5 miles east of the VORTAC; and within 4½ miles each side of the Muskegon County Airport runway 14 centerline extended to the northwest, extending from the 10-mile radius area to 17 miles northwest of the Muskegon County Airport ILS OM.

Muskogee, Okla.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of Davis Field, Muskogee, Okla. latitude 35°39'25" N., longitude 95°21'40" W.); and within 10 miles southwest and 5 miles northeast of the Muskogee VOR 137° T (130° M) radial extending from the VOR to 20 miles southeast.

Myrtle Beach, S. C.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Grand Strand Airport (latitude 33°48'40" N., longitude 78°43'30" W.); within an 8.5-mile radius of Myrtle Beach AFB (latitude 33°40 45" N., longitude 78°55'45" W.).

Nacogdoches, Tex.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of East Texas Regional Airport
latitude 31°34'35" N., longitude 94°42'25" W.), within 2.5 miles each side of the Lufkin VORTAC 001° radial extending from the 5-mile radius area to 17 miles north of the VORTAC, and within 3.5 miles each side of the 339° and 159° bearings from the Nacogdoches RBN (latitude 31°38'01" N., longitude 94°44'01" W.) extending from the 5-mile radius area to 11.5 miles north of the RBN.

Nantucket, Mass.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of Nantucket Memorial Airport, Mass. (latitude 41°15'15" N., longitude 70°03'40" W.); within 2 miles each side of the Nantucket VORTAC 045° radial, extending from the 6-mile radius area to 10 miles NE of the VOR; and that airspace extending upward from 2,000 feet MSL NE of Nantucket bounded on the NE by the arc of a 29-mile radius circle centered at the Nantucket VORTAC, on the SE by Control 1144, and on the NW by Control 1143; SE of Nantucket bounded on the SE by the arc of a 13-mile radius circle centered on the Nantucket RBN on the N by Control 1144, on the SW by Control 1145; and that airspace from FL 240
t FI 300, inclusive, SW of Nantucket, bounded on the N by Control 1169, on the E by Control 1145, and on the S and W by the arc of a 10.2-mile radius circle centered on the Nantucket RBN; that airspace
northeast of Nantucket bounded on the northwest by Control 1143, on the southeast by Control 1146, and on the east by longitude 67°00'00" W. The portion east of longitude 68°00'00" W., is excluded below 5,500 feet MSL.

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Naples, Fla.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Naples Municipal Airport (lat. 26°09'10"N., long. 81°46'30"W.); within 3 miles each side of the 051° and 221° bearings from the Naples RBN (lat. 26°09'20"N., long. 81°46'26"W.), extending from the 6.5-mile radius area to 8.5 miles northeast and southwest of the RBN.

Napoleon, Ohio
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Henry County Airport (lat. 41°22'27"N., long. 84°04'05"W.) excluding that portion within the Toledo, Ohio, transition area.

AMENDMENTS 5/18/78 43 F. R. 11572 (Added)

Nappanee, Ind.
That airspace extending upward from 700 feet above the surface within a 5½-mile radius of the Nappanee Municipal Airport (latitude 41°26'45" N., longitude 85°56'00" W.); and within 2 miles each side of the 138° radial of the Goshen, Ind., VORTAC extending from the 5½-mile radius area to 14 miles southeast of the VORTAC excluding the airspace which overlies the Goshen, Ind., transition area.

Nashville, Tenn.
That airspace extending upward from 700 feet above the surface within a 14-mile radius of Nashville Metropolitan Airport (lat. 36°07'36" N., long. 86°40'50" W.); the airspace south bounded on the north by the arc of a 14-mile radius circle centered on Nashville Metropolitan Airport; on the northeast by the arc of an 8.5-mile radius circle centered on Smyrna Airport; on the south by the arc of a 17.5-mile radius circle centered on Nashville Metropolitan Airport, and on the west by Nashville VOR 205° radial; within an 8.5-mile radius of Smyrna Airport (lat. 36°00'33" N., long. 86°31'13" W.); within 3 miles each side of Nashville VORTAC 131° radial, extending from the 8.5-mile radius area to 21.5 miles southeast of the VORTAC; within 3 miles each side of the 138° bearing from Sewart RBN (lat. 35°57'19" N., long. 86°27'45" W.), extending from the 8.5-mile radius area to 8.5 miles southeast of the RBN; within an 8-mile radius of Gallatin Municipal Airport (lat. 36°22'45" N., long. 86°24'30" W.); within an 8-mile radius of Lebanon Municipal Airport (lat. 36°11'22" N., long. 86°18'55" W.); within an 8-mile radius of Murfreesboro Municipal Airport (lat. 35°52'32" N., long. 86°22'45"W.); within 3 miles each side of the 007° bearing from Lascassas RBN (lat. 35°52'18" N., long. 86°22'37" W.), extending from the 8-mile radius area to 8.5 miles north of the RBN.

Natchez, Miss.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of Hardy-Anders Field (latitude 31°36'50" N., longitude 91°17'55" W.); within 3 miles each side of Natchez VOR 020° radial, extending from the 7-mile radius area to 8.5 miles north of the VOR.

Natchitoches, La.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Natchitoches Municipal Airport (latitude 31°44'30" N., longitude 93°06'20" W.) and within 3.5 miles each side of the 177° bearing from the Natchitoches RBN (latitude 31°44'03" N., longitude 93°05'43" W.), extending from the 5-mile radius zone to 11.5 miles south of the RBN.

Nebraska
That airspace extending upward from 1,200 feet above the surface within the State of Nebraska.

Needles, Calif.
That airspace extending upward from 1,200 feet above the surface within 9 miles south and 13 miles north of the Needles VORTAC 092° and 272° radials, extending from 11 miles west to 24 miles east of the VORTAC.

Nenana, Alaska
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Nenana Airport (latitude 64°32'56" N., longitude 149°04'24" W.); and within 4 miles each side of the 132° bearing from the Julius RBN extending from the 5-mile radius area to 10.5 miles southeast of the RBN.

Neodesha, Kansas
That airspace extending upward from 700 feet above the surface within a 6½-mile radius of the Neodesha, Kansas, Municipal Airport, excluding that portion which coincides with the Parsons, Kansas, transition area.

Neosho, Mo.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Neosho Memorial Airport (lat. 36°48'35"N., long. 94°23'15"W.) and within 2 miles each side of Neosho, Mo., VOR 310° radial, extending from the 5-mile radius area to 8 miles northwest of the VOR; and within 2½ miles each side of the 012° bearing from the Neosho Memorial Airport extending from the 5-mile radius area to 6 miles north of the airport.
AMENDMENTS 5/18/78 43 F. R. 6761 (Rewritten)

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Nevada, Mo.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Nevada Municipal Airport (latitude 37°51'10" N., longitude 94°18'05" W.); and within 3 miles each side of the 037° bearing from the Nevada Municipal Airport extending from the 7-mile radius area to 8 miles northeast of the airport.

New Bern, N. C.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Simmons-Nott Airport (latitude 35°04'20" N., longitude 77°02'35" W.).

Newberry, Mich.
That airspace extending upward from 700 feet above the surface within a 6½-mile radius of the Luce County Airport (latitude 46°18'30" N., longitude 85°27'00" W.); within 3 miles each side of the 301° bearing from Luce County Airport, extending from the 6½-mile radius to 8 miles northwest of the airport; and within 3 miles each side of the 103° bearing from Luce County Airport, extending from the 6½-mile radius area to 8 miles east of the airport; and that airspace extending upward from 1,200 feet above the surface within 9½ miles northeast and 4½ miles southwest of the 301° bearing from Luce County Airport, extending from the airport to 18½ miles northwest of the airport; and within 4½ miles north and 9½ miles south of the 103° bearing from Luce County Airport, extending from the airport 18½ miles east of the airport, excluding the portion which overlies the Sault Ste. Marie, Mich., transition area.

Newberry, S. C.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Newberry Municipal Airport (lat. 34°18'40" N., long. 81°38'20" W.); within 3 miles each side of the 031° bearing from the Enoree RBN (lat. 34°18'41" N., long. 81°38'10" W.), extending from the 6.5-mile radius to 8.5 miles northeast of the RBN.

New Braunfels, Tex.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of New Braunfels Municipal Airport (lat. 29°42'10" N., long. 98°02'30" W.) and south of a line extending from the 5-mile radius area east along the San Antonio, Tex., VORTAC 070° radial to the 39-nautical mile DME fix and north of a line extending from the 5-mile radius area east along the San Antonio VORTAC 089° radial to the 39-nautical mile DME fix.

Newburgh, N. Y.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the center, 41° 30'10" N., 74°06'11" W., of Stewart Airport, Newburgh, N. Y., extending clockwise from a 222° bearing to a 332° bearing from the airport; within an 11.5-mile radius of the center of Stewart Airport, extending clockwise from the 332° bearing to a 045° bearing from the airport; within an 8.5-mile radius of the center of Stewart Airport, extending clockwise from a 045° bearing to a 076° bearing from the airport, within a 10-mile radius of the center of Stewart Airport, extending clockwise from a 076° bearing to a 130° bearing from the airport; within a 12.5-mile radius of the center of Stewart Airport, extending clockwise from a 130° bearing to a 159° bearing from the airport; within a 14.5-mile radius of the center of Stewart Airport, extending clockwise from a 159° bearing to a 191° bearing from the airport, within a 12.5-mile radius of the center of Stewart Airport, extending clockwise from a 191° bearing to a 222° bearing from the airport; within 3.5 miles each side of the Stewart VOR (41°30'30" N., 74°05'51" W.) 325° radial, extending from the Stewart VOR to 18.5 miles northwest of the Stewart VOR; within 5 miles each side of the Stewart VOR 085° radial, extending from the Stewart VOR to 13 miles east of the Stewart VOR; within 5 miles each side of the Huguenot VORTAC 074° radial extending from the Huguenot VORTAC to 20 miles east of the Huguenot VORTAC; within a 7-mile radius of the center, 41°30' 41" N., 74°15'51" W of Orange County Airport, Montgomery, N. Y., extending clockwise from a 332° bearing to a 074° bearing from the airport; within a 7.5-mile radius of the center of Orange County Airport, extending clockwise from a 074° bearing to a 161° bearing from the airport; within an 8-mile radius of the center of Orange County Airport, extending clockwise from a 161° bearing to a 228° bearing from the airport within a 9-mile radius of the center of Orange County Airport, extending clockwise from a 228° bearing to a 332° bearing from the airport; within 3.5 miles each side of the Orange County Airport ILS localizer south course, extending from the OM to a point 14 miles south of the OM; within a 6-mile radius of the center, 41°25'54" N., 74°23'45" W., of Randall Airport, Middletown, N. Y., extending clockwise from a 015° bearing to a 128° bearing from the airport; within a 6.5-mile radius of the center of Randall Airport, extending clockwise from a 128° bearing to a 167° bearing from the airport; within a 6-mile radius of the center of Randall Airport, extending clockwise from a 167° bearing to a 227° bearing from the airport; within a 7-mile radius of the center of Randall Airport, extending clockwise from a 227° bearing to a 309° bearing from the airport; within a 6.5-mile radius of the center of Randall Airport, extending clockwise from a 309° bearing to a 015° bearing from the airport; and within 2 miles each side of the Huguenot VORTAC 082° radial, extending from the Huguenot VORTAC to 10 miles east of the Huguenot VORTAC.

Newburyport, Mass.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center (42°47'45" N., 70°50'26" W.) of Plum Island Airport, Newburyport, Mass.; and within 2 miles each side of the Runway 33 centerline extended from the 5-mile radius area to 6 miles northwest of the end of the runway, excluding the portion which coincides with the Boston, Mass., transition area. This transition area shall be effective from sunrise to sunset, daily.

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New Castle, Ind.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of Sky Castle Airport (lat. 39°52'34"N., long. 85°19'37"W.); and within 3 miles either side of a 260° bearing from the airport, extending from the 6-mile radius to 8 miles west of the airport.

Newcastle, Wyo.
That airspace extending upward from 700 feet above the surface within 4.5 miles northeast and 9.5 miles southwest of the Newcastle VOR (latitude 43°52'54" N., longitude 104°18'26" W.), 154° and 334° radials extending from 6 miles northwest to 18.5 miles southeast of the VOR; that airspace extending upward from 1,200 feet above the surface bounded on the north by the north edge of V-86, on the east by an arc of a 53-mile radius circle centered on Ellsworth AFB (latitude 44°08'45" N., longitude 103°06'15" W.), on the south by the north edge of V-26, on the west by a line 5 miles west of and parallel to the Newcastle VOR 360° radial, excluding the airspace within a 3-mile radius of Schloredt, Wyoming Airport (latitude 44°23'30" N., longitude 104°24'30" W.).

Newgulf, Tex.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Newgulf Airport (lat. 29°16'00" N., long. 95°53'00" W.) and within 3 miles each side of the Eagle Lake, Tex., VORTAC 136° radial extending from the 5-mile radius area to 30.5 miles southeast of the Eagle Lake VORTAC.

PENDING AMENDMENT
New Hampshire
That airspace extending upward from 1,200 feet above the surface within the territorial boundaries of the State of New Hampshire, including offshore airspace beginning at lat. 42°56'00"N., long. 70°34'00"W.; to lat. 42°56'00"N., long. 70°25'00"W.; to lat. 42°43'15"N., long. 70°25'00"W.; to lat. 42°41'20"N., long. 70° 30'00"W.; to lat. 42°52'00"N., long. 70°45'00"W., thence via State territorial boundaries to point of beginning.
AMENDMENTS 12/28/78 43 F. R. 49977 (Added)

New Jersey
That airspace extending upward from 1,200 feet above the surface within the boundary of the State of New Jersey including the offshore airspace within 3 nautical miles east of and parallel to the shoreline; that airspace east of Long Branch, NJ., bounded by latitude 40°17'30" N., longitude 73°54'45" W., to latitude 40° 12'55" N., longitude 73°19'00" W.; to latitude 39°58'40" N., longitude 73°38'35" W., to latitude 39°37' 30" N., longitude 74°07'00" W., thence north along that line 3-NM east and parallel to the State of New Jersey shoreline to latitude 40°17'30" N., longitude 73°54'45" W.; that airspace extending upward from 2,000 feet above the surface bounded on the northwest by the southeast boundary of V-139, on the northeast by the southwest boundary of Control 1147, on the south by a line along latitude 39°44'00" N. The airspace within W-107 below 2,000 feet and within Control 1147 is excluded.

New Madrid, Mo.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of County Memorial Airport (latitude 36°32'10" N., longitude 89°35'50" W.); and within 2 miles each side of the Malden, Mo., VOR 95° radial, extending from the 5-mile radius area to 8 miles east of the VOR, excluding the portion which overlies the Malden, Mo., 700-foot floor transition area.

New Mexico
That airspace extending upward from 1,200 feet above the surface within the boundary of the State of New Mexico, excluding that airspace north of a line beginning on the Arizona/New Mexico State line at lat. 35° 31'00" N., thence to lat. 35°52'00" N., long. 108°47'00" W., to lat. 35°47'30" N., long. 108° 34'00" W., thence along long. 108°34'00" W. to and along the north boundary of V-291N to and clockwise along the arc of a 1[illegible]-mile radius circle centered at the Albuquerque VORTAC to lat. 35°37'35" N., long. 106°24'48" W., to lat. 35° 47'00" N., long. 106°15'00" W., to lat.
35°47'00" N., long. 106°12'30" W., to lat. 36°05'35" N., long. 106°09'50" W., to lat. 36°03'40" N., long. 105° 52'20" W., to lat. 35°47'00" N., long. 105°54'40" W., to lat. 35°47'00" N., long. 105°50'00" W., thence along long. 105°50'
00" W. to and along the north boundary of V-19 to long. 105°16'30" W., to lat. 36°00'00" N., long. 105°07' 00" W., thence along lat. 36°00'00" N., to and along the north boundary of V-190 to the New Mexico/Texas State line, excluding R-5101, R-5107B, and the portion of R-5107A north of lat. 32°18'00" N., excluding that airspace bounded by a line beginning on the Arizona/New Mexico State line at lat. 34°18'00" N., thence to the south boundary of V-264 at long. 108°54'00" W., thence along the south boundary of V-264 to and south along long. 107°00'00" W. to and along the northwest boundary of V-19 to lat. 33°35'00" N., to lat. 33°35'00" N., long. 107°20'00" W., to the northwest boundary of V-202 at long. 107°25'00"W., thence along the northwest boundary of V-202 to lat. 32°59'00" N., to lat. 32°35'00" N., long. 108°37'00" W., to the Arizona/New Mexico State line at lat. 32°25'00"N., thence along the State line to point of beginning, excluding that airspace south of V-66.

AMENDMENTS 1/26/78 42 F. R. 59751 (Changed)

Newnan, GA.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Newnan-Coweta County Airport (lat. 33°19'06" N., long. 84°46'18" W.); within 2.5 miles each side of LaGrange VORTAC 053° radial, extending from the 5-mile radius area to 19.5 miles northeast of the VORTAC; within 3 miles each side of the 130° bearing from Coweta RBN (latitude 33°18'31" N., longitude 84°46'22" W.), extending from the 5-mile radius area to 8.5 miles SE of the RBN.

New Orleans, La.
That airspace extending upward from 700 feet above the surface bounded by a line beginning at latitude 30°06'25" N., longitude 90°16'35" W.; to latitude 30°08'20" N., longitude 90°02'30" W.; thence clockwise along the arc of a 7-mile radius circle centered at the New Orleans Airport (latitude 30°02'20" N., longitude 90°01'25" W.); to latitude 30°02'20" N., longitude 89°54'20" W.; to latitude 29°49'40" N., longitude 89°54'20" W.; thence clockwise along the arc of a 7-mile radius circle centered at NAS New Orleans-Alvin Callender Field (latitude 29°49'40" N., longitude 90°01'25" W.); to latitude 29°44'45" N., longitude 90°05'25" W.; to latitude 29°53'45" N., longitude 90°20'00" W.; thence clockwise along the arc of an 8-mile radius circle centered at New Orleans International-Moisant Field (latitude 29°59'25" N., longitude 90°15'15" W.); to point of beginning; and within 2 miles each side of the Harvey VOR 053° radial extending from the VOR to 8 miles NE;

New Philadelphia, Ohio
That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Harry Clever Field (latitude 40°28'15" N., longitude 81°25'10" W.).

Newport, Ark.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Newport Municipal Airport (lat. 35°38'25" N., long. 91°10'55" W.), and within 3.5 miles each side of the 163° bearing from the Newport RBN (lat. 35°38'30" N., long. 91°10'00" W.) extending from the 6.5-mile radius area to 11.5 miles south of the RBN.

Newport, Oreg.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Newport Municipal Airport (lat. 44°34'45" N., long. 124°03'24" W.); within 2 miles each side of the Newport VORTAC 005° radial, extending from the 5-mile radius area to 10 miles N of the VORTAC; within 2 miles each side of the Newport VORTAC 044° radial, extending from the 5-mile radius area to 13 miles NE of the VORTAC; and within 3 miles each side of the Newport VORTAC 341° radial, extending from the 5-mile radius area to 8 miles N of the VORTAC; and that airspace extending upward from 1,200 feet above the surface within lines 5 miles each side of the Newport VORTAC 237° radial including the additional airspace between lines beginning adjacent to the VORTAC and diverging at angles of 5° from the parallel lines extending from the VORTAC to a line extending through lat. 44°35'00" N., long. 124°17'30" W., and lat. 44°22'00" N., long. 124°13'25" W., and that airspace within 5 miles E and 10 miles W. of the Newport VORTAC 341° radial, extending from the VORTAC to 19 miles N.

Newport, Vt.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, 44°53'22" N., 72°13'48" W., of Newport State Airport, Newport, Vt.,; within 2 miles each side of a bearing 032° from the Newport
radio beacon extending from the 5-mile radius area to 8 miles northeast of the radio beacon, excluding the portion overlying Canada.

New Port Richey, Fla.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the West Pasco Airport (lat. 28°11'15" N., long. 83°37'50" W.); excluding the portion within a 1-mile radius of Torri Field (lat. 28°08'17" N., long. 82°40'30" W.).

New Smyrna Beach, Fla.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of New Smyrna Beach Airport (lat. 29°03'15" N., long. 80°56'54" W.); excluding that portion that coincides with the Daytona Beach transition area.

Newton, Iowa
That airspace extending upward from 700 feet above the surface within a 4-mile radius of the Newton Municipal Airport (latitude 41°40'40" N., longitude 93°01'25" W.); and within 2 miles each side of the Newton VOR 149° radial extending from the 4-mile radius area to the VOR.

Newton, Kans.
That airspace extending upward from 700 feet above the surface within an 8½-mile radius of Newton Municipal Airport (latitude 38°03'20" N., longitude 97°16'35" W.).

New Ulm, Minn.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of New Ulm Municipal Airport (latitude 44°19'15" N., longitude 94°30'05" W.); and within 2 miles each side of the 307° bearing from New Ulm Municipal Airport, extending from the 5-mile radius area to 8 miles northwest of the airport.

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New York, N. Y.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of the center, 40° 38'25" N., 73°46'41" W., of John F. Kennedy International Airport, New York, N. Y., extending clockwise from a 035° bearing to a 065° bearing from the airport; within an 8.5-mile radius of the center of the airport, extending clockwise from a 065° bearing to a 228° bearing from the airport; within a 9-mile radius of the center of the airport, extending clockwise from a 228° bearing to a 244° bearing from the airport; within a 14-mile radius of the center of the airport, extending clockwise from a 244° bearing to a 290° bearing from the airport; within a 9-mile radius of the center of the airport, extending clockwise from a 290° bearing to a 338° bearing from the airport; within a 10-mile radius of the center of the airport, extending clockwise from a 338° bearing to a 035° bearing from the airport; within 3 miles each side of the Canarsie, N. Y., VOR 210° radial, extending from the Canarsie, N. Y., VOR to 4 miles southwest of the VOR; within a 9-mile radius of the center, 40°46' 36" N., 73°52'24" W., of LaGuardia Airport, New York, N. Y., extending clockwise from a 029° bearing to a 080° bearing from the airport; within a 10-mile radius of the center of the airport, extending clockwise from a 080° bearing to a 117° bearing from the airport; within a 9-mile radius of the center of the airport, extending clockwise from a 117° bearing to a 243° bearing from the airport; within a 10-mile radius of the center of the airport, extending clockwise from a 243° bearing to a 320° bearing from the airport; within an 11.5-mile radius of the center of the airport, extending clockwise from a 320° bearing to a 029° bearing from the airport; within 3.5 miles each side of the LaGuardia, N. Y., VOR 038° radial, extending from the LaGuardia, N. Y., VOR to 9 miles northeast of the VOR; within 4.5 miles northwest and 6.5 miles southeast of a 027° bearing and a 207° bearing from a point 40°36'21" N., 74°04'34" W., extending from 5.5 miles northeast to 11.5 miles southwest of said point; within a 10-mile radius of the center, 40°50'57" N., 74°03'47" W., of Teterboro Airport, Teterboro, N. J., extending clockwise from a 047° bearing to a 077° bearing from the airport; within a 7.5-mile radius of the center of the airport, extending clockwise from a 077° bearing to a 241° bearing from the airport; within an 11-mile radius of the center of the airport, extending clockwise from a 241° bearing to a 253° bearing from the airport; within a 15-mile radius of the center of the airport, extending clockwise from a 253° bearing to a 047° bearing from the airport; within 9.5 miles northwest and 4.5 miles southeast of the Teterboro Airport ILS localizer southwest course, extending from the OM to 18.5 miles southwest of the OM; within a 9-mile radius of the center, 40°41'40" N., 74°10'02" W., of Newark International Airport, Newark, N. J.

Extending clockwise from a 011° bearing to a 071° bearing from the airport; within an 8.5-mile radius of the center of the airport, extending clockwise from a 071° bearing to a 123° bearing from the airport; within a 9-mile radius of the center of the airport, extending clockwise from a 123° bearing to a 150° bearing from the airport; within an 8.5-mile radius of the center of the airport, extending clockwise from a 150° bearing to a 232° bearing from the airport; within a 9.5-mile radius of the center of the airport, extending clockwise from a 232° bearing to a 255° bearing from the airport; within a 12-mile radius of the center of the airport, extending clockwise from a 255° bearing to a 011° bearing from the airport; within 2.5 miles each side of a 105° bearing from a point 40°45'24" N., 74°30'48" W., extending from the 12-mile radius area to 4 miles east of said point; within 5 miles each side of a 098° bearing from the Chatham, N. J., RBN, extending from the 12-mile radius area to 2 miles east of the Chatham, N. J., RBN; within a 10-mile radius of the center, 40°47'58" N., 74°24'56" W., of Morristown Municipal Airport, Morristown, N. J., extending clockwise from a 022° bearing to a 116° bearing from the airport; within an 8.5-mile radius of the center of the airport, extending clockwise from a 116° bearing to a 225° bearing from the airport; within a 12-mile radius of the center of the airport, extending clockwise from a 225° bearing to a 264° bearing from the airport; within a 12.5-mile radius of the center of the airport, extending clockwise from a 264° bearing to a 335° bearing from the airport; within a 13.5-mile radius of the center of the airport, extending clockwise from a 335° bearing to a 022° bearing from the airport; within 6.5 miles northwest and 4.5 miles southeast of the Morristown Municipal Airport ILS localizer northeast course, extending from 5.5 miles southwest of the OM to 11.5 miles northeast of the OM; within 9.5 miles southeast and 4.5 miles northwest of the Morristown Municipal Airport ILS localizer northeast course, extending from the OM to 18.5 miles northeast of the OM; within 9.5 miles northwest and 4.5 miles southeast of a 204° bearing from the Chatham, N. J., RBN, extending from the Chatham, N. J., RBN to 18.5 miles southwest of the RBN; within 5 miles each side of the Solberg, N. J., VORTAC 067° radial, extending from the Solberg, N. J., VORTAC to 10.5 miles northeast of the VORTAC; within 5 miles each side of the Morristown Municipal Airport ILS localizer southwest course, extending from the localizer to 14.5 miles southwest of the localizer; within a 5.5-mile radius of the center, 40°31'30" N., 74°35'52" W., of Kupper Airport, Manville, N. J.

Extending clockwise from a 064° bearing to a 331° bearing from the airport; within an 8.5-mile radius of the center of the airport, extending clockwise from a 331° bearing to a 064° bearing from the airport; within 6.5 miles northeast and 4.5 miles southwest of the Solberg, N. J., VORTAC 298° radial and 118° radial, extending from 5.5 miles southeast to 11.5 miles northwest of the VORTAC; within a 7-mile radius of the center, 40°52' 24"N., 74°17'00"W., of Essex County Airport, Caldwell, N. J., extending clockwise from a 062° bearing to a 149° bearing from the airport; within a 9.5-mile radius of the center of the airport, extending clockwise from a 149° bearing to a 267° bearing from the airport; within a 14-mile radius of the center of the airport, extending clockwise from a 267° bearing to a 346° bearing from the airport; within a 10-mile radius of the center of the airport, extending clockwise from a 346° bearing to a 062° bearing from the airport; within 3.5 miles each side of a 276° bearing from a point 40°52'48" N., 74°20'08" W., extending from said point to 11.5 miles west of said point; within 5 miles each side of a 281° bearing from a point 40°52'48" N., 74°20'08" W., extending from said point to 13.5 miles west of said point; within 9.5 miles northwest and 4.5 miles southeast of a 054° bearing from the Paterson, N. J., RBN, extending from the RBN to 18.5 miles northeast of the RBN; within a 6-mile radius of the center, 40°41'28" N., 74°32'08" W., of Somerset Hills Airport, Basking Ridge, N. J., extending clockwise from a 035° bearing to a 162° bearing from the airport; within a 7-mile radius of the center of the airport, extending clockwise from a 162° bearing to a 217° bearing from the airport; within a 6-mile radius of the center of the airport, extending clockwise from a 217° bearing to a 287° bearing from the airport; within a 7.5-mile radius of the center of the airport, extending clockwise from a 287° bearing to a 035° bearing from the airport; within 8 miles northwest and 4.5 miles southeast of a 058° bearing and a 238° bearing from the Chatham, N. J., RBN, extending from 5.5 miles southwest of the RBN to 11.5 miles northeast of the RBN; within 5 miles each side of the Sparta, N. J., VORTAC 082° radial, extending from 23 miles east of the VORTAC to 38 miles east of the VORTAC; within an 8.5-mile radius of the center, 40°37'30" N., 74°40'30" W., of Somerset Airport, Somerville, N. J.

New York Transition Area continued on next page.

Extending clockwise from a 044° bearing to a 138° bearing from the airport; within a 6-mile radius of the center of the airport, extending clockwise from a 138° bearing to a 274° bearing from the airport; within an 11.5-mile radius of the center of the airport, extending clockwise from a 274° bearing to a 312° bearing from the airport; within a 10.5-mile radius of the center of the airport, extending clockwise from a 312° bearing to a 044° bearing from the airport, within 8 miles southeast and 4.5 miles northwest of the Solberg, N. J., VORTAC 050° and 230° radials, extending from 5.5 miles northeast of the VORTAC to 11.5 miles southwest of the VORTAC; within 4 miles each side of a 015° bearing from a point 40°28'13"N., 74°01'11"W., extending from said point to 6 miles north of said point; that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at 41°19' 00" N., 74°00'00" W., to 41°12'00" N., 74°00'00" W., to 41°11'00" N., 74°09'00" W., to 41°08'10" N., 74°13'00" W., thence northwesterly along the boundary of the State of New Jersey to 41°17'45" N., 74°33'15" W., to 41°19'00" N., 74°33'00" W., to the point of beginning; and that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at 40°30'00" N., 73°36'00" W.; thence east along 40°30'00" N., to the northwest edge of V-139, thence southwest along the northwest edge of V-139 to 40°12'55" N., 73°19'00" W.; to 40°14'15" N., 73°30'30" W., to 40°21'45" N., 73°40'45" W., to 40°16'35" N., 73°47'30" W., to 40°17'30" N., 73°54'45" W., to 40°17'00" N., 73°58'00" W., to 40°24'00" N., 73°58'00" W., to 40°29'00" N., 74°16'00" W., to 40°32'00" N., 74°16'00" W., to 40°41'00" N., 74°11'45" W., to 40°32'00" N., 73°49'00" W., to 40°32'00" N., 73°45'00" W., to 40°33'00" N., 73°41'00" W., to 40°41'00" N., 73°39'00" W., to 40°55'00" N., 73°50'00" W., to 40°55'00" N., 73° 58'00" W., to 41°00'00" N., 73°54'00" W., to 41°00'00" N., 73°33'00" W., to 40°50'00" N., 73°42'00" W., to 40°41'00" N., 73°33'30" W., to the point of beginning. The airspace within W-106 below 3,000 feet MSL is is excluded.

Nogales, Ariz.

That airspace extending upward from 700 feet above the surface within a five-mile radius of Nogales International Airport (latitude 31°25'00" N., longitude 110°50'55" W.), within 4.5 miles S and 9.5 miles N of the Nogales VOR 289° radial, extending from the VOR to 18.5 miles W of the VOR and within four miles each side of the Nogales VOR 329° radial, extending from the VOR to 21 miles NW of the VOR, that airspace extending upward from 1,200 feet above the surface bounded on the N by the Tucson, Arizona transition area, on the E by longitude 110°45'00" W., on the S by the United States/Mexican border and on the W by longitude 111°18'00"W.

Nome, Alaska

That airspace extending upward from 700 feet above the surface within a 26-mile radius of the Nome VORTAC, extending clockwise from the 277° radial to the 313° radial; and within a 12-mile radius of the Nome VORTAC, extending clockwise from the 313° radial to the 134° radial; and that airspace extending upward from 1,200 feet above the surface within a 25-mile radius of the Nome VORTAC.

Norfolk, Nebr.

That airspace extending upward from 700 feet above the surface within a 15-mile radius of the Norfolk VOR.

Norfolk, Va.

That airspace extending upward from 700 feet above the surface bounded by a line beginning at lat. 37°10'35" N., long. 76°17'35" W., to lat. 36°49'45" N., long. 75°52'05" W., to lat. 36°29'25" N., long. 76°09'40" W., to lat. 36°35'40" N., long. 76°18'40" W., to lat. 36°54'00" N., long. 76°27'30" W., to lat. 36°54'00" N., long. 76° 36'15" W., to lat. 37°11'30" N., long. 76°46'40" W., to lat. 37°16'10" N., long. 76°39'25" W., to lat. 37°11' 50" N., long. 76°16'20" W., thence to the point of beginning; within 2 miles southeast and 5 miles northwest of the Langley AFB, Hampton, Va. (lat. 37°05'05" N., long. 76°21'25" W.) Runway 7 centerline extended 15 miles northeast of the end of Runway 7; within the arc of an 8.5-mile radius circle centered on Patrick Henry International Airport, Newport News, Va. (lat. 37°07'51" N., long. 76°29'35" W.) extending clockwise from a 323° bearing to a 066° bearing from the center of the airport; within 3.5 miles each side of the Patrick Henry International Airport ILS localizer southwest course, extending from the LOM to 11.5 miles southwest, and within a 9-mile radius of Oceana NAS (Soucek Field) (lat. 36°49'10"N., long. 76°02'05"W.).

North, S. C.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of the North AFAF (latitude 33°36'30" N., longitude 81°05'00" W.); excluding the portion within Columbia transition area. This transition area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 13373 (Changed)

North Bend, Oreg.

That airspace extending upward from 700 feet above the surface within 2 miles each side of the North Bend VORTAC 004° radial, extending from the VORTAC to 6 miles north of the VORTAC; within a 13-mile radius arc of the North Bend VORTAC extending clockwise from the 004° radial to 130° radial; within 2 miles each side of the North Bend VORTAC 182° radial, extending from the VORTAC to 5 miles south of the VORTAC; within 2 miles south and 6.5 miles north of the VORTAC 241° radial, extending from the VORTAC to 17 miles southwest; that airspace extending upward from 1,200 feet above the surface within a 22-mile radius arc of the North Bend VORTAC extending clockwise from the west edge of V-27, south of the VORTAC, to the west edge of V-287, north of the VORTAC; within 2.5 miles southeast and 11.5 miles northwest of the North Bend VORTAC 241° radial extending from the VORTAC to 25.5 miles southwest.

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North Carolina

That airspace extending upward from 1,200 feet above the surface within the boundary of the State of North Carolina including that airspace within 3 nautical miles of and parallel to the shoreline of North Carolina; and including the additional airspace bounded by a line beginning at latitude 34°09'45" N., longitude 77°45'45" W., to latitude 34°03'05" N., longitude 77°42'30" W., to latitude 34°01'05" N., longitude 77°50'05" W.; thence via a line 3 nautical miles from and parallel to the shoreline to the point of beginning; and that airspace bounded by a line beginning at latitude 33°50'30" N., longitude 78°23'45" W., to latitude 33°45'50" N., longitude 78°31'00" W., to latitude 33°48'10" N., longitude 78°31'45" W.; thence via a line 3 nautical miles from and parallel to the shoreline to the point of beginning; and that airspace extending upward from 2,000 feet MSL to FL-600 bounded on the east by longitude 75°30'00" W., on the south and west by a line 3 nautical miles from and parallel to the shoreline and on the north by lat. 36°33'30"N.

AMENDMENTS 5/18/78 43 F. R. 15415 (Changed)

North Conway, N. H.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, latitude 44°01'30" N., longitude 71°06'45" W., of White Mountain Airport, North Conway, N. H.; within 4.5 miles northeast and 6.5 miles southwest of the 128° bearing and the 308° bearing from the North Conway NDB, latitude 44°01'26" N., longitude 71°06'59" W., extending from 6 miles northwest of the NDB to 12 miles southeast of the NDB; and within 4.5 miles northeast and 9.5 miles southwest of the 128° bearing from the North Conway NDB extending 18.5 miles southeast of the NDB.

That airspace extending upward from 1,200 feet above the surface within 5 miles northeast and 8 miles southwest of a 128° bearing from the North Conway, N. H., NDB extending from the NDB to 12 miles southeast of the NDB; within 5 miles each side of a direct line extending from the Dalton, N. H., NDB, latitude 44°21'44" N., longitude 71°41'08" W., to the North Conway, N. H., NDB; within 5 miles each side of a direct line extending from the Montpelier, Vt., VOR to the North Conway, N. H., NDB; within 5 miles each side of a direct line extending from the Lebanon, N. H., VOR to the North Conway, N. H., NDB and within 5 miles each side of a line bearing 115° from the North Conway, N. H., NDB extending from the NDB to the northwest boundary of the Portland, Maine, 1,200-foot transition area, excluding those portions that coincide with the Berlin, N. H., Lebanon, N. H., and Burlington, Vt., 1,200-foot transition areas.

North Philadelphia, Pa.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the center, 40° 04'49" N., 75°00'45" W., of North Philadelphia Airport, Philadelphia, Pa., extending clockwise from a 058° bearing to a 227° bearing from the airport; within an 11-mile radius of the center of the airport, extending clockwise from a 227° bearing to a 277° bearing from the airport; within a 10.5-mile radius of the center of the airport, extending clockwise from a 277° bearing to a 058° bearing from the airport; within 3.5 miles each side of the North Philadelphia VOR 045° radial, extending from the VOR to 10 miles northeast of the VOR; within an 8.5-mile radius of the center, 40°16'39" N., 74°48'49" W., of Mercer County Airport, Trenton, N. J., extending clockwise from a 055° bearing to a 245° bearing from the airport; within a 10-mile radius of the center of the airport extending clockwise from a 245° bearing to a 055° bearing from the airport; within 5 miles each side of the Yardley VORTAC 251° radial, extending from the VORTAC to 5 miles west of the VORTAC; within 3.5 miles each side of the Yardley VORTAC 070° radial, extending from Yardley VORTAC to 16 miles east of the VORTAC; within a 5-mile radius of the center 40°08'15" N., 75°16'00" W., of Wings Field, Philadelphia, Pa., extending clockwise from a 118° bearing to a 181° bearing from the airport; within a 6-mile radius of the center of the airport, extending clockwise from a 181° bearing to a 305° bearing from the airport; within a 5.5-mile radius of the center of the airport, extending clockwise from a 305° bearing to a 118° bearing from the airport; within 4.5 miles northwest 6.5 miles southeast of a 052° bearing and a 232° bearing from a point 40°05'06" N., 75°21'24" W., extending from 5.5 miles northeast to 11.5 miles southwest of said point; within 5 miles each side of a 254° bearing from a point 40°05'06" N., 75°21'24" W., extending from said point to 6.5 miles west of said point; within 5 miles each side of a 231° bearing from the Ambler, Pa., RBN 40°07'33" N., 75°17'08" W., extending from the RBN to 6.5 miles southwest of the RBN; within a 9-mile radius of the center, 40°12'00" N., 75°08'55" W., of Willow Grove NAS, Willow Grove, Pa.; within 5 miles each side of the Willow Grove TACAN 136° radial, extending from the 9-mile radius area to 11.5 miles southeast of the TACAN; within 5 miles each side of the Willow Grove TACAN 325° radial, extending from the 9-mile radius area to 13.5 miles northwest of the TACAN; within an 8.5-mile radius of the center, 40°12'15"N., 75°04'30"W., of Warminster NADC, Warminster, Pa., extending clockwise from a 025° bearing to a 254° bearing from the airport; within a 9-mile radius of the center of the airport, extending clockwise from a 254° bearing to a 025° bearing from the airport; within 4 miles each side of a 262° bearing from the Willow Grove RBN, extending from the RBN to 8.5 miles west of the RBN; within 1.5 miles each side of the Yardley VORTAC 244° radial, extending from the 8.5-mile radius area centered on Warminster NADC to the VORTAC; within 5 miles each side of the Warminster TACAN 259° radial, extending from the TACAN to 9.5 miles west of the TACAN; within 4.5 miles each side of the Warminster TACAN 083° radial, extending from the TACAN to 9 miles east of the TACAN; within a 5-mile radius of the center, 40°13'15" N., 75°12'45" W. of Turner Field, Prospectville, Pa.; within 8 miles southwest and 3.5 miles northeast of the North Philadelphia VOR 312° radial, extending from 20 miles northwest of the VOR to 31.5 miles northwest of the VOR; within 5 miles each side of the North Philadelphia VOR 312° radial, extending from 20 miles northwest of the VOR to 26 miles northwest of the VOR; within 2.5 miles each side of the North Philadelphia VOR 312° radial extending from 18 miles northwest of the VOR to 20 miles northwest of the VOR; within a 5-mile radius of the center, 40°11'18" N., 74°53'54" W. of Buehl Field, Langhorne, Pa., extending clockwise from a 032° bearing to a 254° bearing from the airport; within a 6.5-mile radius of the center of the airport, extending clockwise from a 254° bearing to a 320° bearing from the airport; within a 6-mile radius of the center of the airport, extending clockwise from a 320° bearing to a 032° bearing from the airport; within 2 miles each side of the North Philadelphia VOR 038° radial, extending from the 5-mile radius to the North Philadelphia VOR; within 5 miles each side of a 219° bearing and a 039° bearing from a point, 40°05'51"N., 74°49'49"W., extending from 6 miles southwest of said point to 12 miles northeast of said point.

AMENDMENTS 5/18/78 43 F. R. 14442 (Changed)

North Platte, Nebr.

That airspace extending upward from 700 feet above the surface within a 10-mile radius of Lee Bird Field (latitude 41°07'42" N., longitude 100°41'47" W.); and within 2 miles each side of the North Platte VOR 209° radial, extending from the 10-mile radius area to 8 miles southwest of the VOR; and within 5 miles each side of the 301° bearing from Lee Bird Field, extending from the 10-mile radius area to 11.5 miles northwest of the airport.

North Vernon, Ind.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the North Vernon Municipal Airport (latitude 39°02'30" N., longitude 85°36'45" W.) and within 3.5 miles either side of a 220° bearing from the airport extending from the 5-mile radius area to 7.5 miles SW of the airport.

Northway, Alaska

That airspace extending upward from 700 feet above the surface within 5 miles NE and 8 miles SW of the 307° and 127° bearings from the Nabesna, Alaska, RBN, extending from 8 miles SE to 12 miles NW of the RBN; and that airspace extending upward from 1,200 feet above the surface within 16 miles NE and 25 miles SW of the 307° and 127° bearings from the Nabesna RBN, extending from 22 miles SE to 42 miles NW of the RBN.

Norwich, N. Y.

That airspace extending upward from 700 feet above the surface within a 12-mile radius of the center, 42°34' 00"N., 75°31'30"W., of Lt. Warren Eaton Airport, Norwich, N. Y.; within a 12.5-mile radius of the center of the airport, extending clockwise from a 071° bearing to a 103° bearing from the airport; within a 13.5-mile radius of the center of the airport, extending clockwise from a 235° bearing to a 351° bearing from the airport.

Oakdale, Calif.

That airspace extending upward from 700 feet above the surface within a 3-mile radius of Oakdale Airport (latitude 37°45'23" N., longitude 120°48'01" W.) and within 2.5 miles each side of the Stockeon VORTAC 104° radial, extending from the 3-mile radius area to 16 miles E of the VORTAC.

Oak Grove, N. C.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Oak Grove HOLF (Navy), N. C. (lat. 35°01'15" N., long. 77°15'12" W.), excluding the portion within New Bern, N. C., transition area. This transition area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AMENDMENTS 5/18/78 43 F. R. 13373 (Changed)

Oakland, Md.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the center lat. 39° 34'49" N., long. 79°20'25" W. of Garrett County Airport, Oakland, Md., and within 2 miles each side of the Grantsville VORTAC 256° radial, extending from the 6-mile radius area to 9 miles west of the VORTAC.

Ocala, Fla.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Ocala Municipal (Jim Taylor Field) Airport (lat. 29°10'18" N., long. 82°13'26" W.).

Ocean City, Md.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, lat. 38°18'35" N., long. 75°07'09" W. of Ocean City Airport, Ocean City, Md.; within 2.5 miles each side of the Snow Hill, Md., VORTAC 047° radial, extending from the 5-mile radius area to 18.5 miles northeast of the VORTAC, excluding the portion outside the United States.

AMENDMENTS 10/23/78 43 F. R. 49300 (Changed)

Oceanside, Calif.

That airspace extending upward from 700 feet above the surface between the Oceanside VORTAC 316° and 136° radials and a line 5 miles northeast of and parallel to the Oceanside VORTAC 316° and 136° radials, extending from latitude 33°15'00" N., to 5 miles northwest of the VORTAC.

Oconto, Wis.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Oconto Municipal Airport (lat. 44°52'00"N., long. 87°54'30"W.); and within 3 miles each side of the 280° bearing from the Oconto Airport, extending from the 5-mile radius area to 8 miles west of the airport.

Ocracoke, N.C.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Ocracoke Island Airport (lat. 35°06'04"N., long. 75°57'57"W.); within 3 miles each side of the 059° bearing from the Ocracoke RBN (lat. 35°06'16"N., long. 75°57'50"W.), extending from the 5-mile radius area to 8.5 miles northeast of the RBN, excluding the portion outside of the continental limits of the United States.

Oelwein, Iowa
That airspace extending upward from 700 feet above the surface within a 6-statute mile radius of the Oelwein Municipal Airport (latitude 42°41'04" N., longitude 91°58'42" W.); and within 3.5 statute miles each side of the 303° bearing from the airport reference point extending from the 6-mile radius to 11.5 miles northwest of the airport.

Ogallala, Nebr.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the Searle Airport (lat. 41°07'00"N., long. 101°46'00"W.); and that airspace within the State of Colorado extending upward from 1,200 feet above the surface within 9.5 miles south of the Ogallala VOR 258° radial extending to 18.5 miles west.
AMENDMENTS 11/2/78 43 F. R. 37682 (Changed)

Ogden, Utah
That airspace extending upward from 700 feet above the surface bounded on the north by latitude 41°27'00" N., on the east by longitude 111°55'00" W., on the south by latitude 41°00'00" N., and on the west by longitude 112°22'00" W., within 4.5 miles southwest and 9.5 miles northeast of the Ogden VORTAC 316° radial extending from the VORTAC to 18.5 miles northwest of the VORTAC;
that airspace extending upward from 1,200 feet above the surface bounded on the E by longitude 111°50'00" W., on the S by latitude 41°00'00" N., on the W by longitude 112°45'00" W., and on the N by the N boundary of V-288, that airspace W of Ogden bounded on the S and W by the Wendover, Utah, transition area, on the N by V-6 and on the E by longitude 112°45'00" W., that airspace W of Ogden bounded on E by longitude 112°45'00" W., on the S by V-6 and on the N by V-288, that airspace NW of Ogden within 10 miles SW and 6 miles NE of the Ogden VORTAC 316° radial, extending from the N boundary of V-288 to 63 miles NW of the VORTAC, that airspace N of Ogden within 10 miles W and 7 miles E of the Ogden VORTAC 345° radial, extending from the N boundary of V-288 to 42 miles N of the VORTAC; that airspace E of Ogden extending upward from 10,500 feet m.s.l. bounded on the N by V-288 on the S by V-6 and on the W by longitude 111°50'00" W., and that airspace bounded on the N by V-6, on the SE by V-32, on the S by latitude 41°00'00" N., and on the W by longitude 111°50'00" W.

Ogdensburg, N.Y.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, 44°40'52" N., 75°28'05" W. of Ogdensburg International Airport, Ogdensburg, N. Y., excluding the portion over Canada; within 3.5 miles each side of a 075° bearing from the Ogdensburg RBN, (44°41'30"N., 75°24'25"W.), extending from the 5-mile radius area to 11.5 miles east of the RBN.
That airspace extending upward from 1,200 feet above the surface beginning at 44°16'00" N., 75°30'00" W. to 44°16'00" N., 76°10'00" W., thence NE along the U.S./Canadian border to 44°56'00" N., 75°05'00" W. to 44°42'00" N., 75°05'00" W., 44°42'00" N., 74°54'00" W.; to 44°36'00" N., 75°00'00" W.; to point of beginning.
AMENDMENTS 12/29/77 42 F. R. 64113 (Changed)

Ohio
That airspace extending upward from 1,200 feet above the surface within the boundary of the State of Ohio.

Oklahoma
That airspace extending upward from 1,200 feet above the surface within the boundary of the State of Oklahoma, excluding the portion within R-5601A.

Oklahoma City, Okla.
That airspace west of longitude 97°10'00" W. extending upward from 700 feet above the surface within a 23-mile radius of latitude 35°24'25" N., longitude 97°23'50" W.; within 10 miles west and 5 miles east of the Will Rogers World Airport, runway 35R ILS south course, extending from the LOM to 18.5 miles south of the LOM; and within 2 miles each side of the Wiley Post VOR (latitude 35°31'58.4"N., longitude 97°38'48.7"W.) 269° radial extending from the 23-mile radius area to 7 miles west of the Wiley Post VOR; and within a 5-mile radius of the Cimarron, Okla., Municipal Airport (latitude 35°29'15"N., longitude 97°49'00"W.).

Okmulgee, Okla.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Okmulgee, Okla., Airport (latitude 35°39'45" N., longitude 95°56'45" W.); and within 8 miles S and 5 miles N of the Okmulgee VOR 068° Radial extending from the VOR to 12 miles E.

Old Bridge, N. J.
That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the center, 40°19'47"N., 74°20'47"W., of Old Bridge Airport, Old Bridge, N. J.; within 4.5 miles northwest and 6.5 miles southeast of the Robbinsville, N. J., VORTAC 042° radial, extending from 12.5 miles northeast of the VORTAC to 30 miles northeast of the VORTAC.

Olean, N. Y.
That airspace extending upward from 700 feet above the surface within an 8-mile radius of the center, lat. 42°14'20" N., long. 78°22'30" W. of Olean Municipal Airport and within 3.5 miles each side of the Olean, N. Y., RBN (lat. 42°17'20" N., long. 78°20'08" W.) 028° bearing extending from the 8-mile radius area to 11.5 miles northeast of the RBN.

Olivia, Minn.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Olivia Municipal Airport (latitude 44°46'44" N., longitude 95°01'58" W.); and within 2 miles each side of the 193° bearing from the airport extending from the 5-mile radius area to 6.5 miles south of the airport.

Olney, Ill.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Olney-Noble Airport (latitude 38°43'20" N., longitude 88°10'25" W.); within 2 miles each side of the 223° bearing from the airport, extending from the 5-mile radius area to 8 miles southwest of the airport, and within 2 miles each side of the 344° radial of Samsville VORTAC, extending from the 5-mile radius area to 5.5 miles southeast of the airport.

Olney, Tex.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Olney Municipal Airport (lat. 33°21'00"N., long. 98°49'00"W.) and within 4 miles each side of the 329° bearing from the Olney NDB (lat. 33°21'15"N., long. 98°48'57"W.) extending from the 6.5-mile radius area to 8.5 miles northwest of the NDB.

AMENDMENTS 3/23/78 43 F. R. 953 (Added)

Omaha, Nebr.
That airspace extending upward from 700 feet above the surface within a 10-mile radius of Eppley Field (latitude 41°18'00" N., longitude 95°53'35" W.); within 2 miles each side of the Eppley Field ILS localizer southeast course, extending from the 10-mile radius area to 15 miles southeast of the airport; and within 5 miles northeast and 8 miles southwest of the Eppley Field ILS localizer northwest course, extending from the 10-mile radius area to 12 miles northwest of the OM; within a 10-mile radius of Offutt AFB (latitude 41°07'20" N., longitude 95°54'35" W.); within 6 miles northeast and 8 miles southwest of the Offutt AFB VOR 310° and 130° radials, extending from the 10-mile radius area to 12 miles southeast of the VOR; and within 2 miles each side of the Offutt AFB TACAN 307° radial, extending from the 10-mile radius area to 8 miles northwest of the TACAN; within a 5-mile radius of Council Bluffs, Iowa, Municipal Airport (latitude 41°15'35" N., longitude 95°45'40" W.); and within 2 miles each side of the Omaha VORTAC 341° radial, extending from the 5-mile radius area to the VORTAC.

Omak, Wash.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Omak Airport (latitude 48°27'50" N., longitude 119°31'00" W.), within 2 miles each side of the 177° bearing from the Omak radio beacon (latitude 48°27'13" N., longitude 119°30'56" W.), extending from the 5-mile radius area to 8 miles S of the radio beacon; and that airspace extending upward from 1,200 feet above the surface, within 7 miles E and 10 miles W of the 177° and 357° bearings from the Omak radio beacon, extending from 8 miles N to 20 miles S of the radio beacon.

Oneida, Tenn.
That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of Scott Municipal Airport (lat. 36°27'23" N., long. 84°35'10" W.);
within 3 miles each side of the 055° bearing from Scott RBN (lat. 36°27'26" N., long. 84°35'11" W.), extending from the 5.5-mile radius area to 8.5 miles northeast of the RBN.

O'Neill, Nebr.
That airspace extending upward from 700 feet above the surface within a 5½-mile radius of O'Neill Municipal Airport (latitude 42°28'10" N., longitude 98°41'15" W.); and within 3½ miles each side of the O'Neill VORTAC 315° radial, extending from the 5½-mile radius area to 12 miles northwest of the VORTAC.

Oneonta, N. Y.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of the center (42° 31'25" N., 75°04'00" W.) of Oneonta Municipal Airport, Oneonta, N. Y., and within 2 miles each side of the Rockdale, N. Y., VORTAC 067° radial extending from the 7-mile radius area to the VORTAC.

Ontario, Oreg.
That airspace extending upward from 700 feet above the surface within 4.5 miles west and 9.5 miles east of the 168° and 348° bearings from the Ontario, Oreg., RBN, extending from 18.5 miles south to 6 miles north of the RBN.

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Ontonagon, Mich.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Ontonagon County Airport (latitude 46°50'47" N., longitude 89°21'29" W.); and within 3 miles each side of a 042° bearing from Ontonagon County Airport, extending from the 6-mile radius area to 7.5 miles northeast of the airport; and that airspace extending upward from 1,200 feet above the surface within 4½ miles northwest and 9½ miles southeast of the 042° bearing from Ontonagon County Airport, extending from the airport to 18½ miles northeast of the airport.

Opelousas, La.
That airsapce extending upward from 700 feet above the surface within a 5-mile radius of St. Landry Parish Airport (latitude 30°33'30" N., longitude 92°06'00" W.), and within 2.5 miles each side of the Lafayette VORTAC 347° radial extending from the 5-mile radius area to 22.5 miles north of the VORTAC.

Orange, Tex.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Orange NDB (lat. 30°04'14"N., long. 93°47'42"W.) within 2.5 miles each side of the 159°M bearing (165°T bearing) from the Orange NDB extending from the 5-mile radius to 8 miles southeast of the Orange NDB and within 2.5 miles each side of the 028°M bearing (034°T bearing) from the Orange NDB extending from the 5-mile radius to 8 miles northeast of the Orange NDB.

Orangeburg, S. C.
That airspace extending upward from 700 feet above the surface within a 7.5-mile radius of Orangeburg Airport (latitude 33°27'40" N., longitude 80°51'30" W.); within 3 miles each side of the 226° bearing from Orangeburg RBN (latitude 33°26'23" N., longitude 80°52'41" W.), extending from the 7.5-mile radius area to 8.5 miles southwest of the RBN; within 3 miles each side of Edisto VOR/DME (latitude 33°27'25" N., longitude 80°51'34" W.) 230° radial, extending from the 7.5-mile radius area to 8.5 miles southwest of the VOR/DME.

Orange City, Iowa
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Orange City Municipal Airport (lat. 42°59'25"N., long. 96°03'45"W.); and within 3 miles each side of the 172° bearing from the Orange City Municipal Airport, extending from the 5-mile radius area to 8½ miles south of the airport.

Orange Grove, Tex.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Orange Grove NALF (latitude 27°54'03" N., longitude 98°03'05" W.), within 2.5 miles each side of the NAS Kingsville TACAN 332° radial extending from the 5-mile area to 21 miles northwest of the NAS Kingsville TACAN and within 5 miles each side of the NAS Kingsville TACAN 31-mile arc extending from the 5-mile radius area to the NAS Kingsville TACAN 320° radial excluding that portion that lies within the Alice, Tex., control zone.

Orland, Calif.
That airspace extending upward from 700 feet above the surface within a three-mile radius of Haigh Field (lat. 39°43'16"N., long. 122°08'50"W.); and within three miles each side of the Chico VOR 253° radial, extending from the three-mile radius area to twelve miles west of the VOR.

Orlando, Fla.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Herndon Airport (lat. 28°32'40"N., long. 81°19'55"W.); within an 8.5-mile radius of Orlando International Airport (lat. 28° 25'55" N., long. 81° 19'15" W.); within 3 miles each side of Orlando VORTAC 175° radial, extending from the 8.5-mile radius area to 23 miles south of the VORTAC; within 3 miles each side of McCoy ILS localizer south course, extending from the 8.5-mile radius area to 9.5 miles south of the OM; within a 6.5-mile radius of Kissimmee Municipal Airport (lat. 28°17'30" N., long. 81°26'15" W.); within 3 miles each side of the 322° bearing from Kissimmee RBN (lat. 28°17'21" N., long. 81°26'05" W.), extending from the 6.5-mile radius area to 8.5 miles northwest of the RBN.

Orr, Minn.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Orr Municipal Airport (latitude 48°01'00" N., longitude 92°51'21" W.); within 3 miles each side of the 324° bearing from the Orr Municipal Airport, extending from the 5-mile radius to 8 miles northwest of the airport; and that airspace extending upward from 1,200 feet above the surface within 5 miles east and 9½ miles west of the 324° bearing of the Orr Municipal Airport extending from the airport to 18½ miles northwest; within 5 miles each side of the 144° bearing of the Municipal Airport extending from the airport to 12 miles southeast of the airport.

Osceola, Wis.
That airspace extending upward from 700 feet above the surface within a 6½-mile radius of Osceola Municipal Airport (latitude 45°18'40" N., longitude 92°41'30" W.); and within 3 miles each side of the 114° bearing from Osceola Municipal Airport, extending from the 6½-mile radius to 8 miles southeast of the airport.

Oscoda, Mich.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of Wurtsmith AFB (latitude 44°27'00" N., longitude 83°24'00" W.); within 2 miles each side of the Wurtsmith AFB TACAN 232° radial extending from the 7-mile radius area to 14 miles SW of the TACAN; and within 2 miles each side of the Wurtsmith AFB TACAN 064° radial extending from the 7-mile radius area to 14 miles NE of the TACAN.

Oshkosh, Nebr.
That airspace extending upward from 700 feet above the surface within a 9½-mile radius of Oshkosh Municipal Airport (latitude 41°22'55" N., longitude 102°21'12" W.).

Oshkosh, Wis.
That airspace extending upward from 700 feet above the surface within an area bounded by a line beginning at latitude 44°24'00" N., longitude 88°45'00" W., to latitude 44°24'00" N., longitude 88°27'00" W., to latitude 44°19'00" N., longitude 88°19'00" W., to latitude 43°33'00" N., longitude 88°19'00" W., to latitude 43°33'00" N., longitude 88°53'00" W., to latitude 43°52'00" N., longitude 88°53'00" W., to point of beginning.

PENDING AMENDMENT
Oskaloosa, Iowa
That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Oskaloosa Municipal Airport (lat. 41°13'36"N., long. 92°29'30"W.) excluding the portion that overlies the Ottumwa, Iowa, transition area.
AMENDMENTS 2/22/79 43 F. R. 53418 (Added)

Oswego, N. Y.
That airspace extending upward from 1,200 feet above the surface beginning at latitude 43°24'00" N., longitude 76°45'00" W., to latitude 43°24'00" N., longitude 77°50'00" W.; to latitude 43°20'00" N., longitude 77°50'00" W.; to latitude 43°20'00" N., longitude 78°00'00" W.; thence north along longitude 78°00'00" W., to the U. S./Canadian border, thence east along the U. S./Canadian border to longitude 75°00'00" W.; thence to latitude 43° 32'00" N., longitude 76°23'00" W.; to latitude 43°24'00" N., longitude 76°40'00" W.; to point of beginning.

Ottawa, Ohio
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Putnam County Airport (latitude 41°02'08" N., longitude 83°59'01" W.); within 3 miles each side of the 090° bearing from the airport extending from the 5-mile radius area to 8.5 miles east of the airport.

Ottumwa, Iowa
That airspace extending upward from 700 feet above the surface within a 6-mile radius of Ottumwa Industrial Airport (latitude 41°06'20" N., longitude 92°26'50" W.) and within 2 miles each side of the Ottumwa VORTAC 309° radial extending from the 6-mile radius area to 13 miles northwest of the airport.

Owatonna, Minn.
That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of Owatonna Municipal Airport (lat. 44°07'15"N., long. 93°15'16"W.), within 1.25 miles each side of the 315° bearing from Owatonna Municipal Airport, extending from the Owatonna 5.5-mile radius area to 9 miles northwest of the airport; and within 2 miles each side of the 134° bearing from Owatonna Municipal Airport, extending from the Owatonna 5.5-mile radius area to 6 miles southeast of the airport, excluding the portion within the Faribault, Minn., transition area.

AMENDMENTS 9/7/78 43 F. R. 30535 (Added)

Owensboro, Ky.
That airspace extending upward from 700 feet above the surface within a 9-mile radius of Owensboro-Daviess County Airport (lat. 37°44'31" N., long. 87°09'57" W.).

Oxford, Conn.
That airspace extending upward from 700 feet above the surface within a 7-mile radius area of the center of lat. 41°28'45"N., long. 73°08'10"W., of Waterbury-Oxford Airport, Oxford, Conn., and within 4.5 miles each side of the Oxford, Conn., Waterbury NDB (lat. 41°31'45"N., long. 73°08'36"W.) 354° bearing extending from the 7-mile radius area to 11 miles north of the NDB.

Oxford, Miss.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the University-Oxford Airport (latitude 34°23'05" N., longitude 89°32'10" W.); within 3 miles each side of the 280 bearing from Oxford RBN (latitude 34°23'00" N., longitude 89°32'30" W.), extending from the 5-mile radius area to 8.5 miles west of the RBN; within 3 miles each side of the 094° bearing from Runway 27, extending from the 5-mile radius area to 8.5 miles east of the airport.

AMENDMENTS 6/30/78 43 F. R. 17939 (Changed)

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Oxford, N. C.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Oxford-Henderson Airport (lat. 36°21'50"N., long. 78°31'42"W.).

AMENDMENTS 5/18/78 43 F. R. 15414 (Changed)

Oxford, Ohio
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center (39°30 10" N., 84°47'15" W.) of Miami University Airport, Oxford, Ohio, and within 2 miles each side of the Oxford, Ohio, RBN (39°30'27" N., 84°46'50" W.) 225° bearing extending from the 5-mile radius area to 11 miles southwest of the RBN

Oxnard, Calif.
That airspace extending upward from 700 feet above the surface beginning at lat. 34°01'50" N., long. 119°03' 00" W., to lat. 34°02'30" N., long. 118°53'30" W., to lat. 34°19'30" N., long. 118°53'00" W., to lat. 34°19' 30" N., long. 119°29'50" W., thence 3 nautical miles from and parallel to the shoreline to lat. 34°14'50" N., long. 119°22'00" W., to lat. 34°14'45" N., long. 119°23'30" W., to lat. 34°06'55" N., long. 119°22'30" W., to lat. 34°07'45" N., long. 119°15'00" W., thence via a 7-mile radius of the Point Mugu RBN to point of beginning; that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at lat. 34° 30'00"N., long. 118°50'00"W.; to lat. 34°00'00"N., long. 118°50'00"W.; to lat. 34°00'00"N., long. 119°05' 00"W.; to lat. 33°52'30"N., long. 119°06'59"W.; to lat. 33°28'30"N., long. 119°07'00"W.; to lat. 32°56'31"N., long. 119°07'00"W.; to lat. 32°54'10"N., long. 119°10'01"W.; to lat. 33°35'36"N., long. 120°00'00"W.; to lat. 34°20'00"N., long. 120°00'00"W.; to lat. 34°20'00"N., long. 119°30'00"W.; to lat. 34°30'00"N., long. 119°30'00"W.; thence to the point of beginning; and that airspace extending upward from 5,000 feet MSL bounded by a line beginning at lat. 34°08'00"N., long. 120°00'00"W.; to lat. 34°00'00"N., long. 120°00'00"W.; to lat. 34°00'00"N., long. 120°30'00"W.; to lat. 34°06'15"N., long. 120°30'00"W.; to lat. 34°08'00"N., long. 120°26'00"W.: to the point of beginning.

AMENDMENTS 11/2/78 43 F. R. 37682 (Changed)

Ozark, Ark.
That airspace extending upward from 700 feet above the surface within a 9-statute-mile radius of Ozark-Franklin County Airport, Ozark, Ark. (lat. 35°30'36"N., long. 93°50'23"W.); and within 3.5 statute miles each side of the 167° bearing from the Ozark RBN (lat. 35°30'27"N., long. 93°50'26"W.), extending from the 9-mile-radius area to 11.5 statute miles south of the RBN.

Ozark, Missouri
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Air Park South Airport (latitude 37°03'35" N., longitude 93°14'08" W.); within 2.75 miles either side of the Springfield, Missouri, VORTAC 166° T radial, extending from the 5-mile radius to 4.5 miles north, excluding that portion which overlies the Springfield, Missouri, control zone and 700-foot transition area.

Paducah, Ky.
That airspace extending upward from 700 feet above the surface within a 10-mile radius of Barkley Field (lat. 37°03'45" N., long. 88°46'23" W.); within 5 miles each side of Cunningham VORTAC 225° radial, extending from the 10-mile radius area to 11.5 miles southwest of the VORTAC.

Paducah, Tex.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Paducah. Tex.. Dan E. Richards Airport (latitude 34°01'30" N., longitude 100°17'00" W.).

Page, Ariz.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of Page Airport (latitude 36°55'29" N., longitude 111°26'54" W.); within 2 miles each side of the Page VOR 340° radial, extending from the 6-mile radius area to 11 miles NW of the VOR; that airspace extending upward from 1,200 feet above the surface within 6 miles NE and 9 miles SW of the Page VOR 340° radial extending from the VOR to 18 miles NW of the VOR; and within 6 miles E and 9 miles west of the Page VOR 175° radial extending from the VOR to 11.5 miles S of the VOR.

Pahokee, Fla.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Palm Beach County Glades Airport (lat 26°47'15" N., long. 80°41'45" W.); within 3 miles each side of Pahokee VORTAC 312° radial, extending from the 5-mile radius area to 9.5 miles north of the VORTAC.

Palacios, Tex.
That airspace extending upward from 700 feet above the surface within 2 miles each side of the Palacios VORTAC 308° radial extending from the VORTAC to 8 miles northwest of the VORTAC.

Palestine, Tex.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Palestine Municipal Airport (latitude 31°47'00" N., longitude 95°42'10" W.) and within 3 miles each side of the 193° bearing from the Palestine RBN (latitude 31°46'48" N., longitude 95°42'03" W.) extending from the 8.5-mile radius to 8.5 miles south of the RBN.

Palm Beach, Fla.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Palm Beach International Airport (lat. 26°41'05" N., long. 80°05'35" W.); within a 6.5-mile radius of Palm Beach County Park Airport (lat. 26°35'15" N., long. 80°05'15" W.); excluding the portion outside the continental limits of the United States.

Palmdale, Calif.
That airspace extending upward from 700 feet above the surface within 2 miles S and 7 miles N of the Palmdale VORTAC 298° radial extending from the VORTAC to 18 miles NW; within 6 miles S and 12 miles N of the Palmdale VORTAC 298° and 118° radials extending from 11 miles NW to 13 miles SE of the VORTAC; that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at latitude 35°36'30" N., longitude 118°45'00" W., to latitude 35°44'00" N., longitude 117°53'00" W., to latitude 36°07'00" N., longitude 117°53'00" W., to lat. 36°07'00"N., long. 117°35'00"W., to lat. 35°47'46"N., long. 116°55'20"W., to lat. 35°21'35.8"N., long. 116°55'20"W., to lat. 35°34'30"N., long. 116°29'40"W., to lat. 35°34'30"N., long. 116°23'30"W., to lat. 35°28'35"N., longitude 116°18'45" W., to latitude 35°21'30" N., longitude 116°13'00" W., to latitude 34°43'00" N., longitude 116°13'00" W., thence W along latitude 34°43'00" N., to the SE boundary of V-21, thence along the SE boundary of V-21 to latitude 34°30'00" N., thence W along latitude 34°30'00" N., to longitude 118°20'00" W., thence N along longitude 118°20'00" W., to the S boundary of V-137, thence W along the S boundary of V-137 to longitude 118°45'00" W., thence to point of beginning.

Palmer, Mass.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, 42° 13'25" N., 72°18'45" W., of Metropolitan Airport, Palmer, Mass.; within 2 miles each side of the runway 4 centerline extended from the 5-mile radius area to 9 miles northeast of the end of the runway; within 2 miles each side of the runway 22 centerline extended from the 5-mile radius area to 9 miles southwest of the end of the runway, and within 4.5 miles each side of the 202° bearing from the Palmer, Mass., RBN 42°13'26"N.; 72°18'47"W., extending from the 5-mile radius area to 10.5 miles south of the RBN, excluding the portion which coincides with the Chicopee Falls, Mass., transition area.

Palm Springs, Calif.
That airspace extending upward from 700 feet above the surface beginning at lat. 34°05'00"N., long. 116° 34'00"W., to lat. 33°42'45"N., long. 115°53'30"W., to lat. 33°26'00"N., long. 116°09'30"W., to lat. 33°55'00"N., long. 116°46'00"W., to point of beginning.

Pampa, TX.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of Perry Le Fors Airport (latitude 35°36'25" N., longitude 100°59'55" W.), and within 3½ miles each side of the 001° bearing from the Pampa RBN (latitude 35°36'40" N., longitude 100°59'45" W.), extending from the 7-mile radius area to 11.5 miles north of the RBN.

Panama City, Fla.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Panama City-Bay County Airport (latitude 30°12'41" N., longitude 85°40'57" W.); within an 8.5-mile radius of Tyndall AFB (latitude 30°04'15" N., longitude 85°34'30" W.); within 3 miles each side of the Panama City VOR 059° and 310° radials, extending from the 8.5-mile radius area to 8.5 miles northeast and northwest of the VOR; excluding the airspace outside of the continental limits of the United States.

Paragould, Ark.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of Paragould Municipal Airport (latitude 36°03'52" N., longitude 90°30'45" W.), and within 2 miles each side of the 235° bearing from the Paragould RBN (latitude 36°03'52" N., longitude 90°30'45" W.), extending from the 7-mile radius area to 8 miles southwest of the RBN excluding the portion within the Jonesboro, Ark., control zone.

Paris, Ill.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Edgar County Airport (latitude 39°42'02" N., longitude 87°39'57" W.); and within 3 miles either side of the 072° bearing from the airport extending from the 5-mile radius area to 8 miles from the airport.

Paris, Tenn.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Henry County Airport (lat. 36°20'15" N., long. 88°23'00" W.); within 3 miles each side of the 213° and 353° bearings from Paris RBN (lat. 36°20'28" N., long. 88°22'46" W.), extending from the 5-mile radius area to 8.5 miles southwest and north of the RBN.

Paris, Tex.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of Cox Field, Paris, Tex. (latitude 33°38'17" N., longitude 95°26'54" W.), and within 2 miles each side of the Paris, Tex., VOR 357° radial extending from the 6-mile radius area to the VOR.

Parker, Calif.
That airspace extending upward from 1,200 feet above the surface within 10 miles NW and 7 miles SE of the Parker VORTAC 071° and 251° radials, extending from 9 miles SW to 20 miles NE of the VORTAC.

Parkersburg, W. Va.
That airspace extending upward from 700 feet above the surface within a 9-mile radius of the center, lat. 39°20'44" N., long. 81°26'16" W. of Wood County (Gill Robb Wilson Field) Airport, Parkersburg, W. Va.; within 5 miles each side of the Wood County (Gill Robb Wilson Field) Airport ILS localizer south course, extending from the 9-mile radius area to 10 miles south of the OM; within 4.5 miles west and 6.5 miles east of a 200° and a 020° bearing from the Wood County (Gill Robb Wilson Field) Airport ILS localizer south course OM, extending from 5.5 miles north to 11.5 miles south of the OM; and within 5 miles each side of a 086° bearing from a point, lat. 39°09'38" N., long. 81°38'35" W., extending from said point to 5 miles east of the Wood County (Gill Robb Wilson Field) Airport ILS localizer south course.

Park Rapids, Minn.
That airspace extending upward from 700 feet above the surface within a 6½-mile radius of Park Rapids Municipal Airport (latitude 46°53'53" N., longitude 95°04'08" W.); within 3 miles each side of the 132° bearing from the airport extending from the 6½-mile radius area to 8 miles southeast of the airport; within 3 miles each side of the 320° bearing from the airport extending from the 6½-mile radius area to 8 miles northwest of the airport; and that airspace extending upward from 1,200 feet above the surface within 4½ miles southwest and 9½ miles northeast of the 132° bearing from the airport extending from the airport to 18½ miles southeast; within 4½ miles northeast and 9½ miles southwest of the 320° bearing from the airport extending from the airport to 18½ miles northwest.

Parsons, Kans.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Tri-City Airport (latitude 37°19'52" N., longitude 95°30'32" W.); and within 3 miles each side of the 173° bearing from the Parsons RBN extending from the 6.5-mile radius to 8.5 miles south of the RBN, and within 3 miles each side of the 008° bearing from the Parsons RBN extending from the 6.5-mile radius to 8.5 miles north of the RBN.

Pascagoula, Miss.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Jackson County Airport (latitude 30°22'43" N., longitude 88°29'37" W.); within 3 miles each side of the 060° bearing from Pascagoula RBN (latitude 30°22'53" N., longitude 88°29'33" W.), extending from the 6.5-mile radius area to 8.5 miles northeast of the RBN.

Pasco, Wash.
That airspace extending upward from 700 feet above the surface within 10.5 miles northwest and 6 miles southeast of the Pasco VOR 046° and 226° radials extending from 23 miles northeast to 12 miles southwest of the VOR; within 9.5 miles northeast and 7 miles southwest of the Pasco VOR 131° radial extending from the VOR to 30.5 miles southeast of the VOR; within 5 miles north and 7.5 miles south of the Pasco VOR 288° radial extending from 8 miles west of the VOR to 26.5 miles west of the VOR.
That airspace extending upward from 1200 feet above the surface, southwest of Pasco, Wash., bounded on the north by the south edge of V-298, on the east by the west edge of V-112W and on the southwest by the northeast edge of V-4.

AMENDMENTS 9/7/78 43 F. R. 25806 (Rewritten) Corr: 43 F. R. 33235

Paso Robles, Calif.
That airspace extending upward from 700 feet above the surface within 2 miles each side of the Paso Robles VORTAC 332° and 342° radials, extending from the arc of a 5-mile radius circle centered on the Paso Robles County Airport (latitude 35°40'15" N., longitude 120°37'35" W.) to 10 miles NW of the VOR, and within 2 miles each side of the Paso Robles VORTAC 149° radial, extending from the arc of a 5-mile radius circle centered on the Paso Robles County Airport to 8 miles SE of the VORTAC; that airspace extending upward from 1,200 feet above the surface within 12 miles NE and 7 miles SW of the Paso Robles VORTAC 149° and 329° radials, extending from 20 miles SE to 9 miles NW of the VORTAC, and within 12 miles NE and 7 miles SW of the 142° and 322° radials, extending from 9 miles SE to 24 miles NW of the VORTAC.

Patterson, La.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Harry P. Williams Memorial Airport (latitude 29°42'40" N., longitude 91°20'18" W.), within 2.5 miles each side of the Tibby VORTAC 276° radial extending from the 5-mile radius area to 24 miles west of the VORTAC, and within 3.5 miles each side of the 228° bearing from the Patterson RBN (latitude 29°42'32" N., longitude 91°20'14" W.) extending from the 5-mile radius area to 11.5 miles southwest of the RBN.

Patuxent River, Md.
That airspace extending upward from 700 feet above the surface within a 14-mile radius of the Patuxent VORTAC, excluding the portion NW of a line extending from latitude 38°15'00"N., longitude 76°39'20"W., to latitude 38°26'20"N., longitude 76°14'00"W.

Pawtucket, R. I.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center 41°55'21" N., 71°29'30" W. of North Central State Airport, Smithfield, R I., and within 2 miles east and 5 miles west of the Providence, R. I., VOR 347° radial extending from the 5-mile radius to the VOR, and within 5 miles each side of the 097° radial from the PUTNAM VORTAC extending from the 5-mile radius to VORTAC, and within 4 miles each side of Runway 5 centerline extended from the 5-mile radius area to 9 miles southwest of the runway threshold and within 2.5 miles each side of Runway 23 centerline extended from the 5-mile radius area to 6 miles northeast of the runway threshold; excluding that portion that coincides with the Providence, R. I., Danielson, Conn., Hopedale, Mass., and Southbridge, Mass., 700-foot transition areas.
AMENDMENTS 11/2/78 43 F. R. 41383 (Changed)

Peach Springs, Ariz.
That airspace extending upward from 1,200 feet above the surface within 10 miles N and 7 miles S of the Peach Springs VORTAC 074° and 254° radials, extending from 9 miles W to 20 miles E of the VORTAC. That airspace extending upward from 9,000 feet MSL bounded on the north by a line 5 miles north of and parallel to a direct line between the Grand Canyon, Ariz., VOR and the Boulder City, Nev., VORTAC, on the south by the north edge of V-210 and on the southwest by the northeast edge of V-105E.

Pearsall, Tex.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of McKinley Field Airport (latitude 28°49'00" N , longitude 99°07'00" W.) and within 2.5 miles either side of the Cotulla, Tex., VORTAC 001° radial extending from the 5-mile radius area to 18.5 miles north of the VORTAC.

Pecos, Tex.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of Pecos, Tex., Municipal Airport (latitude 31°23'45" N., longitude 103°30'50" W.); and within 2 miles each side of the Pecos VOR 146° radial, extending from the 6-mile radius area to the VOR.

Peebles, Ohio
That airspace extending upward from 700 feet above the surface within a 7-nautical-mile radius of the center (lat. 38°55'16"N., long. 83°10'37"W.) of General Electric Airport, Peebles, Ohio; excluding that portion which overlies the Salamon, Ohio, transition area.

Pella, Iowa
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Pella Municipal Airport (lat. 41°24'10" N., long. 92°56'40" W.); and within 3 miles each side of the 176° bearing from the Pella Municipal Airport extending from the 5-mile radius to 8 miles south of the airport.

Pellston, Mich.
That airspace extending upward from 700 feet above the surface within an 11-mile radius of Emmet County Airport (lat. 45°34'09" N., long. 84°47'45" W.) and within a 6-mile radius of the Cheboygen Municipal Airport (lat. 45°39'15" N., long. 84°31'06" W.); within 5 miles each side of the Pellston VORTAC 238° radial, extending from the 11-mile radius area to 22 miles southwest of the VORTAC; and that airspace extending upward from 1,200 feet above the surface within a 19-mile radius of the Pellston VORTAC north of parallel 45°45' excluding the portion overlying the Sault Ste. Marie, Mich., transition area.

Pendleton, Oreg.
That airspace extending upward from 700 feet above the surface within a 12-mile radius of latitude 45°41'30" N., longitude 118°47'24" W.; within 4.5 miles each side of the Pendleton VORTAC 254° radial extending from the 12-mile radius area to 12.5 miles west of the VORTAC; within 4.5 miles north and 1 mile south of the Pendleton 273° radial extending from the 12-mile radius area to 8 miles west of the VORTAC; and within 9.5 miles north and 5 miles south of the Pendleton 090° bearing from the Pendleton ILS OM (latitude 45°41'45" N., longitude 118°43'46" W.), extending from the 12-mile radius area to 18.5 miles east of the OM within a 5-mile radius of the Hermiston Municipal Airport (lat. 45° 49'39"N., long. 119°15'41"W.) and within 2.5 miles each side of the Pendleton VORTAC 300° radial, extending from the 5-mile radius area to the Pendleton VORTAC; that airspace extending upward from 1,200 feet above the surface within 11 miles NE and 7 miles SW of the Pendleton VORTAC 137° radial extending from the 12-mile radius area to 50 miles SE of the VORTAC, within 10 miles S and 7 miles N of the Pendleton 254° radial extending from the 12-mile radius area to 33 miles W of the VORTAC, within 9.5 miles north and 5 miles south of the Pendleton 273° radial, extending from the 12-mile radius area to 18.5 miles west of the VORTAC; within 6 miles southwest and 9 miles northeast of the Pendleton 310° radial, extending from the 12-mile radius area to 30 miles NW of the VORTAC, within 5 miles NW of the 025° radial and 5 miles SE of the 049° radial, extending from the 12-mile radius area to an arc of a 35-mile radius circle centered on the Pendleton VORTAC, that airspace within the arc of a 32-mile-radius circle centered on the Pendleton VORTAC extending clockwise from the southeast edge of V-112E to the northeast edge of V-298.
AMENDMENTS 10/22/78 43 F. R. 41382 (Changed)

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Pennington Gap, Va.
That airspace extending upward from 700 feet above the surface within a 9-mile radius of the center, lat. 36° 44'33" N., long. 83°01'50" W. of Lee County Airport, Pennington Gap, Va.

Pennsylvania
That airspace extending upward from 1,200 feet above the surface bounded by a line beginning at latitude 42°40'00" N., longitude 75°30'00" W., to latitude 42°10'00" N., longitude 75°25'00" W., to latitude 42°00'00" N., longitude 75°26'00" W., to latitude 42°00'00" N., longitude 75°00'00" W., to latitude 41°31'00" N., longitude 75°07'00" W., to latitude 40°56'16" N., longitude 75°11'04" W., to latitude 40°48'00" N., longitude 75°00'00" W., to latitude 40°49'00" N., longitude 74°37'00" W., to latitude 40°38'00" N., longitude 74°49'30" W., to latitude 40°31'15" N., longitude 74°42'30" W., to latitude 40°24'20" N., longitude 74°45'40" W., to latitude 40°16'10" N., longitude 74°30'20" W., to latitude 40°00'35" N., longitude 74°54'35" W., to latitude 39°53'00" N., longitude 74°48'00" W., to latitude 39°43'00" N., longitude 74°48'00" W., to latitude 39°18'20" N., longitude 75°36'40" W., to latitude 39°25'25" N., longitude 75°46'05" W., thence northerly along the Delaware State line to the Pennsylvania State line; thence westerly and northerly along the Pennsylvania State line to the United States/Canadian Border; thence northeasterly along the United States/Canadian Border to longitude 79°19'30" W.; to latitude 42°37'00" N., longitude 79°15'00" W.; to latitude 42°32'00" N., longitude 78°52'00" W., to latitude 42°32'00" N., longitude 77°36'00" W.; to latitude 42°40'00" N., longitude 77°23'45" W.; to latitude 42°41'30" N., longitude 76°23'00" W.; to point of beginning.

Penn Yan, N. Y.
That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the center, 42° 38'30" N., 77°03'20" W., of Penn Yan Airport, Penn Yan, N. Y.; within 3 miles each side of a 095° bearing from the Penn Yan, N. Y., RBN 42°38'38" N., 77°03'22" W., extending from the 5.5-mile radius area to 8.5 miles east of the RBN.

Pensacola, Fla.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Pensacola Regional Airport (lat. 30°28'25"N., long. 87°11'20"W.); within 3 miles each side of the ILS localizer north course, extending from the 8.5-mile radius area to 8.5 miles north of Brent LOM; within an 8.5-mile radius of Forrest Sherman Field (lat. 30°20'53"N., long. 87°19'04"W.); and within a 17.5-mile radius of the NAS Pensacola TACAN, extending clockwise from the 070° radial to the 270° radial.

Peoria, Ill.
That airspace extending upward from 700 feet above the surface bounded by a line beginning at lat. 40°54'N., long. 89°59'W., to lat. 40°53'N., long. 89°33'W., to lat. 40°49'N., long. 89°29'W., to lat. 40°23'N., long. 89°34'W., to lat. 40°26'N., long. 90°07'W., to lat. 40°34'N., long. 90°11'W., to lat. 40°47'N., long. 90°08'W., to point of beginning.

Perry, Fla.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Perry-Foley Airport (lat. 30°04'09" N., long. 83°34'43" W.).

Perry, Iowa
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Perry Municipal Airport (latitude 41°49'35" N., longitude 94°09'30" W.); and within 2 miles each side of the 147° bearing from Perry Municipal Airport, extending from the 5-mile radius area to 8 miles southeast of the airport

Perryton, Tex.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Perryton Airport (latitude 36° 24' 45" N., longitude 100° 45' 00" W.), and within 2 miles each side of the 101° bearing from the Perryton RBN (latitude 36° 24' 46" N., longitude 100° 44' 17" W.) extending from the 5-mile radius area to 8 miles E of the RBN.

Perryville, Mo.
That airspace extending upward from 700 feet above the surface within an 8-mile radius of Perryville, Mo., Municipal Airport (latitude 37°51'55" N., longitude 89°51'45" W.) and within 2 miles each side of the Farmington, Mo., VORTAC 057° radial extending from the 8-mile radius area to 15 miles northeast of the VORTAC.

Peru, Ind.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Peru Airport (latitude 40°47'10" N., longitude 86°08'47" W.), excluding the area which overlies the Kokomo transition area.

Petersburg, Mich.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Lada Airport (lat. .1°53'15"N., long. 83°40'45"W.) and within 2 miles each side of the Carleton, Mich., VORTAC 226° radial extending from the 5-mile radius area to 9.5 miles southwest of the VORTAC.

Petersburg, VA.
That airspace extending upward from 700 feet above the surface within an 8-mile radius of the center, lat. 37°11'00" N., long. 77°31'00" W. of Petersburg Municipal Airport, Petersburg, VA., and within 5 miles each side of the 226° bearing from the Petersburg RBN, lat. 37°07'48" N., long. 77°34'30" W., extending from the 8-mile radius area to 11.5 miles southwest of the RBN.

Philadelphia, Pa.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the center, 39° 52'23" N., 75°14'58" W., of Philadelphia International Airport, Philadelphia, Pa.; within a 9-mile radius of the center of the airport, extending clockwise from a 136° bearing to a 256° bearing from the airport; within an 11-mile radius of the center of the airport, extending clockwise from a 256° bearing from the airport to a 058° bearing from the airport; within 6.5 miles south and 4.5 miles north of the Philadelphia International Airport Runway 9R ILS localizer course, extending from 5.5 miles east to 11.5 miles west of the OM; within 4.5 miles each side of the Modena, Pa., VORTAC 097° radial, extending from 24 miles east to 33 miles east of the VORTAC; within a 5.5-mile radius of the center, 39°47'50" N., 75°20'35" W., of Bridgeport Airport, Bridgeport, New Jersey; within 4.5 miles each side of the Woodstown, N. J. VORTAC 349° radial, extending from the 5.5-mile radius area to the Woodstown, N. J., VORTAC.

Philip, S. Dak.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Philip Airport (latitude 44°02'45" N., longitude 101°35'45" W.); that airspace bounded by a line 8 miles south of and parallel to the Philip, S. Dak., VORTAC 102° radial, extending from the VORTAC to 3 miles east of the VORTAC, and within 4.5 miles north and 9.5 miles south of the Philip VORTAC 282° radial, extending from the VORTAC to 18.5 miles west of the VORTAC,

Philipsburg, Pa.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of the center, 40° 53'00" N., 78°05'15" W., of Mid-State Airport, Philipsburg, Pa., extending clockwise from a 261° bearing to a 012° bearing from the airport; within an 8.5-mile radius of the center of the airport, extending clockwise from a 012° bearing to a 098° bearing from the airport; within a 6-mile radius of the center of the airport, extending clockwise from a 098° bearing to a 183° bearing from the airport; within a 9.5-mile radius of the center of the airport, extending clockwise from a 183° bearing to a 261° bearing from the airport; within 3.5 miles each side of the Philipsburg VORTAC 067° radial, extending from the VORTAC to 11.5 miles northeast of the VORTAC; within 4 miles each side of the 327° bearing from a point 40°53'09" N., 78°05'06" W., extending from said point to a point 8.5 miles northwest; within 2.5 miles each side of the Philipsburg VORTAC 330° radial, extending from the VORTAC to 6 miles northwest of the VORTAC; and within 3.5 miles each side of the Philipsburg VORTAC 301° radial, extending from the VORTAC to 11.5 miles northwest of the VORTAC.

Phillipsburg, Kans.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Phillipsburg Municipal Airport (latitude 39°44'15" N., longitude 99°19'00" W.); and within 3 miles each side of the 142° bearing from Phillipsburg Municipal Airport, extending from the 7-mile radius area to 11½ miles southeast of the airport.

Phillipsburg, Ohio
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Myers Airport (latitude 39°54'40" N., longitude 84°24'00" W.); excluding that portion which overlies the Dayton, Ohio, and Troy, Ohio, transition areas.

Phoenix, Ariz.
That airspace extending upward from 700 feet above the surface bounded by a line beginning at latitude 33°48'30" N., longitude 112°15'00" W., direct to latitude 33°34'45" N., longitude 111°32'15" W., thence clockwise via the arc of a 20-mile radius circle centered on Williams AFB (latitude 33°18'25" N., longitude 111°39'35" W.) to latitude 33°02'30" N., longitude 111°47'30" W., thence direct to latitude 33°16'00" N., longitude 112°31'00" W., thence via an arc of a 20-mile radius circle centered on Luke AFB (latitude 33°32'05" N., longitude 112°22'55" W.) to point of beginning; that airspace NW of Phoenix bounded by a line beginning at latitude 33°59'00" N., longitude 112°38'00" W., to latitude 33°49'00" N., longitude 112°25'00" W., thence counterclockwise via an arc of a 20-mile radius circle centered on Luke AFB to latitude 33°42'00" N., to latitude 33°44'00" N., longitude 112°45'00" W., to latitude 33°55'00" N., longitude 112°45'00" W., to point of beginning.
and that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at latitude 34°10'00" N., longitude 112°39'00" W.; thence to latitude 34°10'00" N., longitude 111°30'00" W.; thence to latitude 34°00'00" N., longitude 110°52'00" W.; thence to latitude 32°33'00" N., longitude 110°52'00" W.; thence to latitude 32°33'00" N., longitude 112°00'00" W.; thence to latitude 32°51'00" N., longitude 112°30'00" W.; thence to latitude 32°51'00" N., longitude 113°00'00" W.; thence to latitude 33°19'00" N., longitude 113°00'00" W.; thence to latitude 33°19'00" N., longitude 113°10'00" W.; thence to latitude 34°00'00" N., longitude 113°10'00" W.; thence to latitude 34°00'00" N., longitude 112°52'00" W.; thence to the point of beginning. That airspace west of Phoenix extending upward from 5,500 feet MSL bounded on the north by the south edge of V-16, on the east by longitude 113°00'00" W., on the south by the north edge of V-66 and on the west by longitude 114°00'00" W., and that airspace extending upward from 7,000 feet MSL bounded on the north by latitude 34°00'00" N., on the east by longitude 113°00'00" W., on the south by the north edge of V-16 and on the west by longitude 114°00'00" W., excluding that airspace within restricted areas R-2308A, R-2308B, and R-2307.
That airspace extending upward from 9,500 feet MSL bounded on the north by the south edge of V-12, on the east by the west edge of V-327, on the south and southeast by the north and northwest boundary of the 1,200 foot portion of the transition area, and on the southwest by a line extending from latitude 34°05'00" N., longitude 112°37'00" W., to point of intersection of longitude 113°10'00" W., and the south edge of V-12.

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Picayune, Miss.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Picayune Municipal Airport (latitude 30°31'20" N., longitude 89°42'25" W.); within 3.5 miles each side of Picayune VORTAC 334° radial, extending from the 5-mile radius area to 8 miles northwest of the VORTAC.

PENDING AMENDMENT

The Picayune, Miss., transition area is amended by deleting "Picayune Municipal Airport" and substituting "Picayune-Pearl River Airport" therefor.

AMENDMENTS 12/28/78 43 F. R. 46524 (Changed)

Pierre, S. Dak.
That airspace extending upward from 700 feet above the surface within an 8½-mile radius of the Pierre Municipal Airport (latitude 44°22'50" N., longitude 100°17'15" W.); within 5 miles each side of the Pierre VORTAC 087° radial extending from the 8½-mile radius area to 7 miles east of the VORTAC; within 5 miles each side of the Pierre VORTAC 265° radial extending from the 8½-mile radius area to 18½ miles west of the VORTAC; within 5 miles each side of the Pierre ILS localizer northwest course extending from the 8½-mile radius area to 17½ miles northwest of the airport; within 3½ miles each side of the Pierre ILS localizer southeast course extending from the 8½-mile radius area to 18 miles southeast of the airport; and that airspace extending upward from 1,200 feet above the surface within a 35-mile radius of the Pierre VORTAC.

Pine Bluff, Ark.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Grider Field (latitude 34°10'35" N., longitude 91°55'55" W.), and within 5 miles each side of the Little Rock VORTAC 137° radial and the Pine Bluff VORTAC 007° and 186° radials extending from the Little Rock, Ark., transition area to 22.5 miles south of the Pine Bluff VORTAC.

Pine Mountain, Ga.
That airspace extending upward from 700 feet above the surface within an 8-mile radius of Callaway Gardens-Harris County Airport (latitude 32°50'30" N., longitude 84°52'55" W.); within 3 miles each side of the 264° bearing from Pine Mountain RBN (latitude 32°50'30" N., longitude 84°52'36" W.), extending from the 8-mile radius area to 8.5 miles west of the RBN.

Pineville, W. Va.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center of Kee Field, Pineville, W. Va. (lat. 37°36'01" N., long. 81°33'59" W.); within an 8.5-mile radius of the center of the airport, extending clockwise from a 265° bearing to a 305° bearing from the airport; within an 8-mile radius of the center of the airport, extending clockwise from a 305° bearing to a 343° bearing from the airport; within a 14-mile radius of the center of the airport, extending clockwise from a 343° bearing to a 005° bearing from the airport; within a 14.5-mile radius of the center of the airport, extending clockwise from a 005° bearing to a 025° bearing from the airport; within a 10-mile radius of the center of the airport, extending clockwise from a 025° bearing to a 085° bearing from the airport; within an 8-mile radius of the center of the airport, extending clockwise from a 085° bearing to a 125° bearing from the airport; within a 9-mile radius of the center of the airport, extending clockwise from a 125° bearing to a 172° bearing from the airport; within a 7-mile radius of the center of the airport, extending clockwise from a 172° bearing to a 210° bearing from the airport; within 5 miles each side of the Beckley VORTAC 243° radial, extending from 9 miles southwest of the VORTAC to 26 miles southwest of the VORTAC.

AMENDMENTS 12/15/77 42 F. R. 57445 (Changed)

Pipestone, Minn.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Pipestone Municipal Airport (lat. 43°59'15" N., long. 96°18'30" W.); and within 3 miles each side of the 198° bearing from Pipestone Municipal Airport, extending from the 5-mile radius area to 8 miles south of the airport.

Piqua, Ohio
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Piqua Airport (lat. 40°09'55" N., long. 84°18'37" W.); and within 2 miles each side of the Dayton VORTAC 023° radial extending from the 5-mile radius area to the VORTAC, and within 1.5 miles each side of the 078° bearing from the airport extending from the 5-mile radius area to 6 miles northeast, excluding that portion overlying the Sidney, Ohio, transition area.

Pitman, N.J.
That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the center 39°45'15"N., 75°08'30"W., of Pitman Airport, Pitman, N.J., and within 5 miles each side of the Woodstown, N.J. VORTAC 046° radial, extending from the 5.5-mile radius area to the Woodstown, N.J. VORTAC, excluding the portion that coincides with the Philadelphia, Pa. transition area. This transition area is effective from sunrise to sunset, daily.

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Pittsburg, Kansas
That airspace extending upward from 700 feet above the surface within a 6.5 mile radius of Atkinson Municipal Airport (latitude 37°26'48" N, longitude 94°43'50" W); and within 3 miles each side of the 346° true bearing from the Pittsburg, Kansas, RBN (latitude 37°26'32" N., longitude 94°43'35" W.); extending from the 6.5 mile radius to 8 miles NNW of the Pittsburg, Kansas, RBN.

Pittsburgh, Pa.
That airspace extending upward from 700 feet above the surface within a 12-mile radius of the center, lat. 40°29'37" N., long. 80°13'54" W. of Greater Pittsburgh International Airport, Pittsburgh, Pa.; within an 8.5 mile radius of the center, lat. 40°21'17" N., long. 79°55'48" W. of Allegheny County Airport, Pittsburgh, Pa., and within 3.5 miles each side of the 257° bearing from the Cecil RBN extending from the 8.5-mile radius area to 11 miles west of the RBN; and within a 7-mile radius of the center, lat. 40°21'15" N., long. 80°11'16" W. of Campbell Airport, Bridgeville, Pa.

Pittsfield, Ill.
That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the Pittsfield Penstone Airport (latitude 39°38'22" N., longitude 90°46'51" W.); and within 3 miles each side of the 124° bearing from the Pittsfield Penstone Airport extending from the 5.5-mile radius area to 8 miles southeast of the airport.

Pittsfield, Maine
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, 44° 46'05" N., 69°22'40" W. of Pittsfield Municipal Airport, Pittsfield, Maine and within 3.5 miles each side of the 350° bearing and the 170° bearing from the Burnham, Maine RBN 44°41'50" N., 69°21'30" W., extending from the 5-mile radius area to 10 miles south of the RBN.

Pittsfield, Mass.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of the center, 42°25'36" N., 73°17'30" W., of Pittsfield Municipal Airport, Pittsfield, Mass., and within 4.5 miles northwest and 6.5 miles southeast of the 061° bearing and the 241° bearing from the Berkshire, Mass., RBN lat. 42°28'05" N., long. 73°11'38" W., extending from 5.5 miles southwest of the RBN to 11.5 miles northeast of the RBN.

Pittstown, N. J.
That airspace extending upward from 700 feet above the surface within a 7-mile radius area of the center of lat. 40°33'59" N., long. 74°58'43" W. of Sky Manor Airport, Pittstown, N. J., and within 3 miles each side of the Solberg, N. J., VORTAC 265° radial extending from the 7-mile radius area to 22 miles west of the VORTAC.

Placerville, Calif.
That airspace extending upward from 700 feet above the surface within a four-mile radius of Placerville Airport (lat. 38°43'30"N., long. 120°45'18"W.) and within four miles each side of the Placerville Nondirectional Radio Beacon (NDB) (lat. 38°43'23"N., long. 120°45'54"W.) 210° magnetic bearing extending from the four mile radius area to eleven miles southwest of the NDB.

AMENDMENTS 1/26/78 42 F. R. 59750 (Added)

Plains, Ga.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Peterson Field (lat. 32°05'25"N., long. 84°22'20"W.); within 5 miles each side of the Albany VORTAC 350° radial, extending from the 6.5-mile radius area to 39.5 miles north of the VORTAC; excluding the portion within the Americus transition area.

Plainview, Tex.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Hale County Airport, Plainview, Tex., (latitude 34°10'10" N., longitude 101°43'00" W.).

Platteville, Wis.
That airspace extending upward from 700 feet above the surface within an 8½ mile radius of the Platteville Municipal Airport (latitude 42°41'15" N., longitude 90°26'41" W.).

Plattsburgh, N. Y.
That airspace extending upward from 700 feet above the surface within a 13-mile radius of the center, 44°39'05"N., 73°28'08"W., of Plattsburgh AFB; within 5 miles each side of the Valcour, N. Y., TACAN 337° radial, extending from the 13-mile radius area to 20 miles northwest of the TACAN; within 4.5 miles each side of the Valcour, N. Y., TACAN 157° radial, extending from the 13-mile radius area to 16.5 miles southeast of the TACAN.

AMENDMENTS 5/18/78 43 F. R. 11971 (Rewritten)

Pleasanton, Tex.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Pleasanton Municipal Airport (lat. 28°57'00"N., long. 98°31'20"W.) and within 3 miles each side of the 168° bearing from the Pleasanton NDB to 8 miles south of the NDB.

Plymouth, Ind.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Plymouth Municipal Airport (latitude 41°22'00" N., longitude 86°18'10" W.); within 2½ miles each side of the Knox, Ind. VOR 080° radial, extending from the 5-mile radius area to 12 miles east of the VOR; and within 2½ miles each side of the Knox VOR 081° radial, extending from the 5-mile radius area to 25½ miles east of the VOR.

Plymouth, Mass.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, 41°54' 35" N., 70°43'45" W., of Plymouth Municipal Airport, Plymouth, Mass., and within 2 miles each side of the Whitman, Mass., VOR 129° radial extending from the 5-mile radius area to the VOR, and within 2 miles each side of the 204° bearing from the Plymouth, Mass., RBN , 41°54'32" N., 70°44'11" W. extending from the 5-mile radius area to 8 miles southwest of the Plymouth RBN, excluding that airspace which coincides with the Boston, Mass., and Taunton, Mass., 700-foot transition areas.

Plymouth, N. C.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Plymouth Municipal Airport (lat. 35°48'30" N., long. 76°45'36" W.); within 3 miles each side of the 188° bearing from Plymouth RBN (lat. 35°48'35" N., long. 76°45'47" W.), extending from the 6.5-mile radius area to 8.5 miles southwest of the RBN.

Pocahontas, Iowa
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Pocahontas Municipal Airport (latitude 42°44'45" N., longitude 94°38'45" W.); within 3 miles each side of the 280° bearing from the Pocahontas Municipal Airport, extending from the 5-mile radius to 8 miles west of the airport; within 2 miles each side of the 116° bearing from the Pocahontas Municipal Airport; extending from the 5-mile radius to 6 miles southeast of the airport; and that airspace extending upward from 1,200 feet above the surface within a 41-mile src of the Fort Dodge VORTAC (latitude 42°36'40" N., longitude 94°17'41" W.); starting at the 268° radial of the Fort Dodge VORTAC and extending clockwise to the 315° radial of the Fort Dodge VORTAC, excluding that portion which overlies the Fort Dodge, Iowa, Spencer, Iowa and Storm Lake, Iowa, transition areas.

Pocatello, Idaho
That airspace extending upward from 700 feet above the surface within 4.5 miles southeast and 11 miles northwest of the Pocatello VORTAC 048° radial, extending from the VORTAC to 28 miles northeast of the VORTAC; within 9.5 miles north and 4.5 miles south of the 252° radial extending from 18.5 miles west to 1.5 miles east of the VORTAC; that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at latitude 43°11'30" N., longitude 112°10'00" W., thence to latitude 42°52'00" N., longitude 112°11'45" W., thence clockwise via a 23-mile radius arc centered on the Pocatello VORTAC to latitude 43°05'20" N., longitude 113°00'00" W., thence to latitude 43°20'30" N., longitude 112°45'30" W., thence to point of beginning.

Point Barrow, Alaska
That airspace extending upward from 700 feet above the surface within 3 miles each side of the Browerville RBN (NMT) 155° bearing, extending from the control zone to 10 miles south of the RBN; and that airspace extending upward from 1,200 feet above the surface within a 22-mile radius of latitude 71°18'00" N., longitude 156°43'00" W.

Point Lookout, Mo.
That airspace extending upward from 700 feet above the surface within an 8-mile radius of School of the Ozarks Airport (latitude 36°37'25" N., longitude 93°13'45" W.).

Point Pleasant, W. Va.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center 38°54'53"N., 82°05'53"W. of Mason County Airport, Point Pleasant, W. Va., excluding the portion that coincides with the Gallipolis, Ohio, transition area.

Point Reyes, Calif.
That airspace extending upward from 1,200 feet above the surface N of Point Reyes bounded on the NE and E by V-27, on the SW by V-107, and on the W by V-199; and W of Point Reyes bounded on the E by V-199; on the S by Control 1173, on the W by a line extending from latitude 38°02'35" N., longitude 123°14'25" W. to latitude 38°17'30" N., longitude 123°16'45" W., to latitude 38°25'30" N., longitude 123°23'00" W., to 38° 43'30" N., longitude 123°23'15" W., and on the N by latitude 38°43'30" N.

Ponca City, Okla.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Ponca City Municipal Airport (latitude 36°43'40" N., longitude 97°05'50" W.) within 2 miles each side of the Pioneer, Oklahoma, VORTAC 289° radial, extending from the 6-mile radius area to 8 miles NW of the VORTAC.

Ponce, P. R.
That airspace extending upward from 700 feet above the surface within a 17-mile radius of Mercedita Airport Ponce, P. R. (latitude 18°00'40" N., longitude 66°33'50" W.) north of latitude 18°00'00" N., and within an 8-mile radius of Mercedita Airport south of latitude 18°00'00" N.; within 9.5 miles south and 4.5 miles north of the Ponce VOR 111° radial, extending from the VOR to 18.5 miles east of the VOR.

Poplar Bluff, Mo.
That airspace extending upward from 700 feet above the surface within a 5½-mile radius of Earl Fields Memorial Airport (latitude 36°46'20" N., longitude 90°19'20" W.); and within 3 miles each side of the 189° bearing from Earl Fields Memorial Airport, extending from the 5½-mile radius area to 8 miles south of the airport.

Portal, Ariz.
That airspace extending upward from 1,200 feet above the surface within 13 miles north and 8 miles south of the Cochise, Ariz., VORTAC 096° radial extending from 20 miles east to 56 miles east of the VORTAC, and that airspace extending upward from 1,200 feet above the surface bounded on the northeast by V-198, on the south by V-16, and on the west by longitude 108°49'00" W.

Port Angeles, Wash.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Clallam County Airport, Port Angeles, Wash. (latitude 48°07'20" N., longitude 123°29'40" W.); within a 5-mile radius of CGAS Port Angeles (latitude 48°08'30" N., longitude 123°24'45" W.), within 2 miles N and 5 miles S of the Port Angeles VOR 093° radial, extending from the VOR to 12 miles E of the VOR; that airspace extending upward from 1,200 feet above the surface bounded on the E by the W edge of V-440, on the S by latitude 48°03'00" N., on the W by longitude 123°35'00" W. and on the N by the United States/Canadian border.

Port Clinton, Ohio
That airspace extending upward from 700 feet above the surface wtihin a 7-mile radius of Carl R. Keller Field, Port Clinton, Ohio (latitude 41°30'57" N., longitude 82°51'58" W.) within 3 miles each side of the 082° Bearing from the airport extending from the 7-mile radius to 8 miles east of the airport.

Porterville, Calif.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Porterville Municipal Airport (latitude 36°02'00" N., longitude 119°04'00" W.) and within 2 miles each side of the Porterville VOR 343 radial extending from the 5-mile radius area to 1 mile north of the VOR.

Port Isabel, Tex.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Port Isabel, Cameron County Airport (latitude 26°10'00" N., longitude 97°20'45" W.) and within 2 miles each side of the Brownsville, Tex., VORTAC 006° radial extending from the 5-mile radius area to 10 miles north of the Brownsville VORTAC.

Portland, Ind.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of Steed Field (latitude 40°27'00" N., longitude 84°59'15" W.); and within 2 miles each side of the 100° bearing from Steed Field, extending from the 6-mile radius area to 8 miles East of the airport.

Portland, Maine
That airspace extending upward from 700 feet above the surface within a 7-mile radius of the center, (latitude 43°38'50" N., longitude 70°18'30" W.) of Portland International Jetport; within 4.5 miles south and 9.5 miles north of the Portland ILS localizer west course, extending from the OM to 18.5 miles west of the OM; and that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at latitude 43°59'00" N., longitude 69°16'00" W., thence to latitude 43°50'00" N., longitude 69°18'00" W.; to latitude 43°44'00" N., longitude 69°19'42" W.; to latitude 43°41'00" N., longitude 69°30'00" W.; to latitude 43°30'00" N., longitude 70°06'00" W.; to latitude 43°18'15" N., longitude 70°25'00" W.; to latitude 42°43'15" N., longitude 70°25' 00" W.; to latitude 42°41'20" N., longitude 70°30'15" W.; thence along a line 3 nautical miles from and parallel to the shoreline to latitude 42°44'25" N., longitude 70°37'15" W.; to latitude 42°53'00" N., longitude 71°05' 00" W.; to latitude 43°45'00" N., longitude 71°09'00" W.; to latitude 44°06'00" N., longitude 70°43'00" W.; to latitude 44°02'05" N., longitude 70°37'30" W.; to latitude 44°13'30" N., longitude 70°11'30" W.; to latitude 44° 12'00" N., longitude 70°10'00" W.; to latitude 44°05'00" N., longitude 70°23'00" W.; to latitude 43°55'00" N., longitude 70°28'00" W.; to latitude 43°50'00" N., longitude 70°12'00" W.; to latitude 44°03'00" N., longitude 70°06'00" W.; to latitude 44°09'00" N., longitude 69°57'00" W.; thence counterclockwise via the arc of a 14-mile radius circle centered on the Augusta, Maine, VOR to latitude 44°09'00" N., longitude 69°39'00" W.; thence to the point of beginning.

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Portland, Oreg.
That airspace extending upward from 700 feet above the surface bounded on the north by latitude 46°00'00" N., on the east by longitude 122°05'00" W., on the south by latitude 45°10'00" N., and on the west by longitude 123° 30'00" W.; that airspace extending upward from 1,200 feet above the surface bounded on the north by a line beginning at a point 3 miles offshore at latitude 46°30'30" N., extending easterly via latitude 46°30'30" N.. to longitude 121°40'00" W., thence easterly along the south edge of V-204 to latitude 46°30'40" N., longitude 120° 36'00" W., on the east by V-25, on the south by V-536 to Corvalis, VOR,thence via latitude 44°30'00" N., to a point 3 miles offshore and on the west by a line 3 miles offshore to the point of beginning.

Portland, Tenn.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of Portland Municipal Airport (lat. 36°35'37" N., long. 86°28'39" W.); within 5 miles each side of Bowling Green VOR 184° radial, extending from the 7-mile-radius area to 11.5 miles south of the VOR.

Port Lavaca, Tex.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Calhoun County Airport (latitude 28°39'12" N., longitude 96°40'56" W.) and within 2.5 miles each side of the Palacios VORTAC 250° radial extending from the 5-mile radius area to 16 miles southwest of the VORTAC.

Portsmouth, N. H. (Pease AFB)
That airspace extending upward from 700 feet above the surface within an 11-mile radius of Pease AFB (latitude 43°04'40" N., longitude 70°49'25" W.); within 2
miles each side of the extended centerline of Runway 16, extending from the 11-mile radius area to 13 miles SE of the lift-off end of the runway.

Portsmouth, Ohio
That airspace extending upward from 700 feet above the surface within an 8-mile radius of the Greater Portsmouth Regional Airport (lat. 38°50'26" N., long. 82°50'52" W.), within 3 miles each side of a 177° bearing from the airport extending from the 8-mile radius area to 12 miles south of the airport.

Portsmouth, Va.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, lat. 36° 46'45" N., long. 76°26'45" W. of Chesapeake Portsmouth Airport, Portsmouth, Va.; within 3 miles each side of the 203° bearing from the Portsmouth RBN, lat. 36°46'54" N., long. 76°26'39" W., extending from the 5-mile radius area to 8.5 miles southwest of the RBN; and within 3 miles each side of the 189° bearing from the Portsmouth RBN, extending from the 5-mile radius area to 6.5 miles south of the RBN excluding the portion that coincides with the Norfolk, Va., transition area.

Port Sulphur, La.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Port Sulphur, La., seaplane base (latitude 29°27'45" N., longitude 89°42'10" W.), and within 2 miles each side of the Harvey, La., VORTAC 145° radial extending from the 25-mile DME fix to the Port Sulphur 5-mile radius area, and within 2 miles each side of the Grand Isle VORTAC 050° radial extending from the 25-mile DME fix to the Port Sulphur 5-mile radius area.

Poteau, Okla.
That airspace extending upward from 700 feet above the surface within an 8.5-statute-mile radius of Robert S. Kerr Airport, Poteau, Okla. (lat. 35°01'11"N., long. 94°37'17"W.); and within 3.5 statute miles each side of the Rich Mountain, Okla., VORTAC (lat. 34°40'49"N., long. 94°36'32"W.) 351° radial extending from the 8.5-mile radius area to 13.5 statute miles north of the VORTAC.

Potsdam, N. Y.
That airspace extending upward from 700 feet above the surface within a 6.5 mile radius of the center of Potsdam Municipal (Damon Field) Airport lat. 44°40'33" N., long. 74°57'00" W, and within 3.5 miles each side of a 044° bearing from the Potsdam, N. Y., radio beacon (lat. 44°43'24" N., long. 74°52'59" W.) extending from the 6.5-mile radius area to 11.5 miles northeast of the radio beacon.

Pottstown, Pa.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of the center, 40°15' 45" N., 75°40'00" W. of Pottstown Municipal Airport, Pottstown, Pa., extending clockwise from a 036° bearing to a 147° bearing from the airport; within a 6.5-mile radius of the center of the airport, extending clockwise from a 147° bearing to a 200° bearing from the airport; within an 8-mile radius of the center of the airport, extending clockwise from a 200° bearing to a 274° bearing from the airport; within a 6-mile radius of the center of the airport, extending clockwise from a 274° bearing to a 305° bearing from the airport; within an 8.5-mile radius of the center of the airport, extending clockwise from a 305° bearing to a 036° bearing from the airport; within 6.5 miles northeast and 4.5 miles southwest of the Pottstown, Pa., VORTAC 294° and 114° radials, extending from 5.5 miles northwest of the VORTAC to 11.5 miles southeast of the VORTAC; within a 5-mile radius of the center, 40°14'15" N., 75°33'45" W. of Pottstown-Limerick Airport, Pottstown, Pa., extending clockwise from a 346° bearing to a 223° bearing from the airport; within a 5.5-mile radius of the center of the airport, extending clockwise from a 223° bearing to a 346° bearing from the airport; and within 9.5 miles west and 4.5 miles east of Pottstown, Pa., VORTAC 190° radial, extending from the VORTAC to 18.5 miles south of the VORTAC; within 5 miles each side of the Pottstown, Pa., VORTAC 086° radial, extending from the Pottstown, Pa., VORTAC to 18 miles east of the VORTAC; excluding the portion that coincides with the North Philadelphia, Pa., and Touhkenamon, Pa., transition areas.

Pottsville, Pa.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of the center, 40°42' 15" N., 76°23'00" W. of Schuylkill County (Joe Zerbey) Airport, Pottsville, Pa.; within 3 miles each side of the 103° bearing from the Zerbey RBN 40°42'25" N., 76°22'19" W., extending from the 6-mile radius area to 8.5 miles east of the RBN; and within 2 miles each side of the Ravine, Pa., VORTAC 049° radial, extending from the 6-mile radius area to 9 miles northeast of the VORTAC.

Poughkeepsie, N. Y.
That airspace extending upward from 700 feet above the surface within a 10-mile radius of the center, 41°37' 36" N., 73°52'59" W., of Dutchess County Airport, Poughkeepsie, N. Y.; within a 15.5-mile radius of the center of Dutchess County Airport, extending clockwise from a 040° bearing to a 215° bearing from the airport; within 3.5 miles each side of the Kingston, N. Y., VORTAC 025° radial, extending from the 10-mile radius area to 10.5 miles northeast of the VORTAC; within 5 miles each side of the Kingston, N. Y., VORTAC 050° radial, extending from the VORTAC to 11.5 miles northeast of the VORTAC; within 6.5 miles northwest and 4.5 miles southeast of a 231° bearing from
a point 41°34'06" N., 73°58'42" W., extending from said point to 11.5 miles southwest; within 5 miles each side of a direct line between a point 41°31'42" N., 74°06'48" W., and a point 41°34'06" N., 73°58'42" W.; within a 5-mile radius of the center, 41°42'30" N., 73°44'00" W. of Sky Acres Airport, Millbrook, N. Y.; within an 8.5-mile radius of the center of Sky Acres Airport extending clockwise from a 011° bearing to a 201° bearing from the airport; within a 6-mile radius of the center 41°34'30" N., 73°44'00" W., of Stormville Airport, Stormville, N. Y.; within a 10.5-mile radius of the center of Stormville Airport, extending clockwise from a 327° bearing to a 077° bearing from the airport; within a 7.5-mile radius of the center of Stormville Airport, extending clockwise from a 077° bearing to a 121° bearing from the airport; within a 10.5-mile radius of the center of Stormville Airport, extending clockwise from a 121° bearing to a 239° bearing from the airport; excluding the portion that coincides with the Newburgh, N. Y., transition area.
That airspace extending upward from 1,200 feet above the surface bounded by a line beginning at: 42°02'00" N., 73°16'00" W. to 41°49'00" N., 73°16'00" W. to 41°31'00" N., 73°20'00" W. to 41°31'00" N., 73°54'00" W. to 41°27'00" N., 73°54'00" W. to 41°19'00" N., 73°57'00" W. to 41°19'00" N., 74°33'00" W. to 41°31'00" N., 75°07'00" W. to 42°00'00" N., 75°00'00" W. to point of beginning.

Prairie Du Chien, Wis.
That airspace extending upward from 700 feet above the surface within a 9.5-mile radius of the Prairie Du Chien Municipal Airport (latitude 43°01'17" N., longitude 91°07'24" W.); and within 4.5 miles each side of the 130° radial of the Waukon VORTAC, extending from the 9.5-mile radius to 18.5 miles southeast of the airport;
and that airspace extending upward from 1,200 feet above the surface within a 55-mile radius of the Waukon VORTAC between the 089° and the 145° radials excluding that portion which overlies in the State of Iowa.

Pratt, Kans.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Pratt Municipal Airport (latitude 37°42'13" N., longitude 98°44'47" W.); and within 3 miles each side of the 360° bearing from the Pratt nondirectional beacon (NDB), extending from the 6.5-mile radius area to 8 miles north of the NDB.

Prescott, AZ.
That airspace extending upward from 700 feet above the surface within a 10.5-mile radius of Prescott Municipal Airport (latitude 34°39'10" N., longitude 112°25'15" W.) and within 3 miles each side of the Prescott VORTAC 319° radial extending from the 10.5-mile radius area to 8.5 miles northwest of the VORTAC; that airspace extending upward from 1,200 feet above the surface within a 21-mile radius of the Prescott VORTAC extending clockwise from a line 5 miles south of and parallel to the Prescott VORTAC 252° radial to a line 5 miles west of and parallel to the Prescott VORTAC 159° radial and within a 14-mile radius of Prescott VORTAC, extending clockwise from a line 5 miles west of and parallel to the Prescott VORTAC 159° radial to a line 5 miles south of and parallel to the Prescott 252° radial.

Presidio, Tex.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Presidio Lely International Airport (lat. 29°37'48"N., long. 104°22'24"W.) and within 3.5 miles either side of the 114° bearing from the Presidio NDB (lat. 29°38'02"N., long. 104°21'32"W.) extending from the 7-mile radius to 11.5 miles east of the Presidio NDB, excluding that portion outside the United States; extending upward from 1,200 feet above the surface within 9.5 miles north and 7 miles south of the 114° and 294° bearings from the Presidio NDB extending from 8 miles west to 17.5 miles east of the Presidio NDB, and within 5 nautical miles either side of the 207° radial of the Marfa VOR extending from the 9.5-mile line to the boundary of the State of Texas transition area, excluding that portion outside of the United States.
AMENDMENTS 9/7/78 43 F. R. 28810 (Added)

Presque Isle, Maine
That airspace extending upward from 700 feet above the surface within a 13-mile radius of Northern Maine Regional Airport (lat. 46°41'30" N., long. 68°02'30" W.); within 3.5 miles east and 8 miles west of the Presque Isle localizer course extending from the 13-mile radius area to 11.5 miles south of the LOM; within 3.5 miles east and 8 miles west of the Presque Isle VORTAC 338° radial extending from the 13-mile radius area to 11.5 miles north of the VORTAC; within an 8.5 mile radius of Caribou, Maine, Municipal Airport (lat. 46°52'20" N., long. 68°01'10" W.); within a 10-mile radius of Loring AFB (lat. 46°57'05" N., long. 67°53'10" W.); Limestone, Maine; excluding that portion outside of the United States.
That airspace extending upward from 1200 feet above the surface within a 40-mile radius of Loring AFB (lat. 46°57'05" N., long. 67°53'10" W.) Limestone, Maine, excluding that portion outside of the United States.

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Price, Utah
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Carbon VOR (latitude 39°36'50" N., longitude 110°44'56" W.), and within 2 miles each side of the 201° radial of the Carbon VOR, extending from the 5-mile radius area to 8 miles south of the VOR; that airspace extending upward from 1,200 feet above the surface within 6 miles west and 11 miles east of the 021° and 201° radials of the Carbon VOR extending from 9 miles north to 18.5 miles south of the VOR.

Priest, Calif.
That airspace extending upward from 1,200 feet above the surface bounded on the E by V-107, on the S by latitude 35° 55' 00" N., and the arc of a 20-mile radius circle centered on the Paso Robles, Calif., VOR, on the W by V-25 E, and on the N by V-111, excluding the portion within the Lemoore, Calif., transition area.

Princeton, Maine
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Princeton Airport (latitude 45°12'05" N., longitude 67°34'00" W.); and within 2 miles each side of the Princeton VOR 143° radial, extending from the 5-mile radius area to the VOR.

Princeton, N. J.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center 40°23' 54" N., 74°39'31" W., of Princeton Airport, Princeton, N. J.; within a 6-mile radius of the center of the airport, extending clockwise from a 074° bearing to a 120° bearing from the airport; within a 5.5-mile radius of the center of the airport, extending clockwise from a 191° bearing to a 225° bearing from the airport; within a 7-mile radius of the center of the airport, extending clockwise from a 225° bearing to a 268° bearing from the airport; within a 7.5-mile radius of the center of the airport, extending clockwise from a 268° bearing to a 310° bearing from the airport; within a 7-mile radius of the center of the airport, extending clockwise from 310° bearing to a 357° bearing from the airport; and within 3.5 miles each side of the Solberg, N. J., VOR 161° radial, extending from the 5-mile radius area to the VOR, excluding the portions which coincide with the Readington, N. J., New York, N. Y., and North Philadelphia, Pa., transition areas.

Providence, R. I.
That airspace extending upward from 700 feet above the surface within an 8-mile radius of Theodore Francis Green State Airport, Providence, R. I. (latitude 41°43'30" N., longitude 71°25'48" W.), within 2 miles each side of
the Providence ILS localizer NE course, extending from the 8-mile radius area to the intersection of the Putnam, Conn., VORTAC 106° radial, within 5 miles SE and 8 miles NW of the Providence ILS localizer SW course, extending from the 8-mile radius area to 12 miles SW of the OM, within a 12-mile radius of NAS Quonset Point, R. I., (latitude 41°35'55" N., longitude 71°24'50" W.), within a 7-mile radius of the New Bedford, Mass., Municipal Airport (latitude 41°40'37" N., longitude 70°57'34" W.), within 8 miles SE and 11 miles NW of the New Bedford ILS localizer SW course, extending from the localizer to 12 miles SW of the OM, and within 3 miles each side of the 038° bearing from the New Bedford, Massachusetts, OM, extending from the 7-mile radius to 14.5 miles NE of the New Bedford, Massachusetts, OM, within a 5-mile
radius of the Fall River, Mass., Municipal Airport (latitude 41°45'15" N., longitude 71°06'40" W.), and within 2 miles each side of the 050° bearing from the Fall River, Mass., RBN, extending from the 5-mile radius area to 8 miles northeast of the RBN; and that airspace extending upward
from 1,200 feet above the surface bounded by a line beginning at latitude 41°12'45" N., longitude 70°42'30" W.; to latitude 41°07'10" N., longitude 71°09'00" W.; to latitude 41°05'15" N., longitude 71°22'05" W.; to latitude 41°03'35" N., longitude 71°31'40" W.; to latitude 41°00'35" N., longitude 72°05'00" W., thence to latitude 41°18'00" N., longitude 72°30'30" W.; to latitude 41°40'00" N., longitude 72°08'00" W.; to latitude 41°55'00" N., longitude 71°59'00" W.; to latitude 41°47'45" N., longitude 71°46'40" W.; thence clockwise along the arc of a 27-mile radius circle centered on the NAS Quonset Point VOR to latitude 41°56'35" N., longitude 71°26'00" W.; to latitude 42°04'00" N., longitude 71°19'00" W.; to latitude 41°53'30" N., longitude 70°56'30" W.; to latitude 41°42'00" N., longitude 70°48'00" W.; to latitude 41°21'00" N., longitude 70°48'00" W.; to the point of beginning.

Provincetown, Mass.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of Provincetown Municipal Airport (lat. 42°04'15" N., long. 70°13'15" W.), and within 3.5 miles each side of the Race Point NDB 238° bearing extending from the 7-mile radius area to 11.5 miles southwest of the NDB.

Pueblo, Colo.
That airspace extending upward from 700 feet above the surface within a 25-mile radius of Pueblo Memorial Airport (lat. 38°17'30"N., long. 104°30'00"W.), within an arc of a 33-mile radius circle of Pueblo Memorial Airport clockwise between the 088° and 133° bearings from the airport; that airspace extending upward from 1,200 feet above the surface bounded on the north by lat. 38°30'00"N., on the east by V-169, on the south by V-210, on the west by a line from 37°38'00"N., 105°00'00"W., to 38°16'00"N., 105°10'00"W., to 38°30'00"N., 105°09'00"W.; that airspace extending upward from 13,700 feet MSL bounded by a line beginning at 38°16'00"N., 105°10'00"W., to 37°38'00"N., 105°00'00"W., to 37°34'00"N., 105°12'00"W., to 38°10'00"N., 105°33'00"W., to point of beginning; that airspace extending upward from 11,700 feet MSL bounded by a line beginning at 38°16'00"N., 105°10'00"W., to 38°10'00"N., 105°33'00"W., to 38°41'00"N., 105°33'00"W., to 38°36'00"N., 105°08'00"W., to 38°30'00"N., 105°09'00"W., to point of beginning.

Pulaski, Tenn.
That airspace extending upward from 700 feet above the surface within a 9-mile radius of Abernathy Airport (lat. 35°08'45" N., long. 87°03'30" W.); excluding the portion within Lawrenceburg, Tenn., transition area.

Pulaski, Wis.
That airspace extending upward from 700 feet above the surface within a 9-mile radius of Austin-Straubel Airport, Green Bay, Wis., (lat. 44°29'16"N., long. 88°07'49"W.); within 2½ miles each side of the Green Bay ILS southwest localizer course extending from the 9-mile radius to 8 miles southwest of the OM; within 5 miles to the southwest side and 8 miles to the northeast side of the Green Bay 326° radial, extending from the 9-mile radius area to 10 miles northwest of the VORTAC; and within 5 miles each side of the Green Bay ILS localizer northeast course extending from the 9-mile radius to 14 miles northeast of the airport.

Pullman, Wash.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Pullman-Moscow Regional Airport (latitude 46°44'40" N., longitude 117°06'30" W.) and within 2 miles each side of the Pullman VOR (latitude 46°40'25" N., longitude 117°13'30" W.) 232° and 047° radials extending from the 5-mile radius area to 8 miles southwest of the VOR; that airspace extending upward from 1,200 feet above the surface within 9 miles northwest and 6 miles southeast of the Pullman VOR 052° and 232° radials extending from 17.5 miles southwest to 7.5 miles northeast of the VOR.

Punta Gorda, Fla.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Charlotte County Airport (latitude 26°55'15" N., longitude 81°59'30" W.).

Quakertown, Pa.
That airspace extending upward from 700 feet above the surface within an 8-mile radius area of the center of Quakertown Airport, Quakertown, PA., lat. 40°26'15" N., long. 75°22'45" W., and within 3.5 miles each side of a line bearing 099° from the Quakertown, Pa. RBN (lat. 40°25'29" N., long. 75°17'52" W.) extending from the 8-mile radius area to 11 miles east of the RBN.

Quantico, Va.
That airspace extending upward from 700 feet above the surface within an 8-mile radius of the center, lat. 38° 30'15" N., long. 77°18'15" W., of Quantico MCAS (Turner Field) Quantico, Va.; within a 9-mile radius of the center of the airport, extending clockwise from a 225° bearing to a 355° bearing from the airport; within 6.5 miles east and 4.5 miles west of the Brooke, Va., VORTAC 013° radial and 193° radial, extending from 4.5 miles south of the VORTAC to 8.5 miles north of the VORTAC.

Quincy, Ill.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Quincy Municipal Baldwin Field Airport (latitude 39°56'30" N., longitude 91°11'45" W.), and within 5 miles northwest and 8 miles southeast of the Quincy ILS localizer southwest course, extending from the 8.5-mile radius to 12 miles southwest of the OM.

Raeford, N. C.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Raeford Municipal Airport (lat. 35°01'12"N., long. 79°11'28"W.); excluding that portion that coincides with the Fayetteville, N. C., transition area.

AMENDMENTS 6/15/78 43 F. R. 23703 (Added)

Raleigh, N. C.
That airspace extending upward from 700 feet above the surface within a 9-mile radius of Raleigh-Durham Airport (lat. 35°52'21" N., long. 78°47'02" W.); within 9.5 miles northwest and 4.5 miles southeast of the 045° bearing from Leesville RBN, extending from the RBN to 18.5 miles northeast of the RBN; within 9.5 miles northwest and 4.5 miles southeast of Raleigh-Durham ILS localizer southwest course, extending from the LOM to 18.5 miles southwest; within 9.5 miles northwest and 4.5 miles southeast of Raleigh-Durham VORTAC 231° radial, extending from the VORTAC to 18.5 miles southwest of the VORTAC; within a 6.5-mile radius of Horace Williams Airport (lat. 35°55'50" N., long. 79°04'00" W.).

Rapid City, S. Dak.
That airspace extending upward from 700 feet above the surface within a 14-mile radius of Ellsworth AFB TACAN; and within 4½ miles southwest and 10½ miles northeast of the Rapid City VOR 155° radial, extending from the 14-mile radius area to 19 miles southeast of the VOR; and that airspace extending upward from 1,200 feet above the surface within a 53-mile radius of Ellsworth AFB (latitude 44°08'45" N., longitude 103°06'15" W.

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Raton, N. Mex.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Crews Field (latitude 36°44'30" N., longitude 104°30'00" W.) excluding that portion northwest of a line 5 miles northwest of and parallel to the Cimarron VORTAC 050° radial, within 3.5 miles northwest and 6 miles southeast of the Cimarron VORTAC 050° radial extending from the 8.5-mile radius area to 17.5 miles northeast of the VORTAC, and within 5 miles each side of the Cimarron VORTAC 050° radial extending from 17.5 miles northeast to 8 miles northeast of the VORTAC; and that airspace extending upward from 1,200 feet above the surface within 6.5 miles northwest of the Cimarron VORTAC 050° radial extending from the VORTAC to 45 miles northeast, within 16.5 miles southeast of the Cimarron VORTAC 050° and 230° radials extending from 1.5 miles southwest to 29 miles northeast of the VORTAC, and within 8.5 miles southeast of the Cimarron VORTAC 050° radial extending from 29 miles northeast to 45 miles northeast of the VORTAC

Rawlins, Wyo.
That airspace extending upward from 700 feet above the surface within 5 miles each side of the 089° bearing from the Sinclair RBN extending from the RBN to 11.5 miles east; that airspace extending upward from 1,200 feet above the surface within 9.5 miles north and 6 miles south of the 089° and 269° bearings from the Sinclair RBN extending from 8 miles west to 18.5 miles east of the RBN.

Rayville, La.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Rayville Municipal Airport (lat. 32°29'00"N., long. 91°46'15"W.).

Reading, Pa.
That airspace extending upward from 700 feet above the surface within an 11-mile radius of the center; 40°22'39" N., 75°57'57" W., of Reading Municipal-General Carl A. Spaatz Field, Reading, Pa., extending clockwise from a 050° bearing to a 100° bearing from the airport; within an 8-mile radius of the center of the airport, extending clockwise from a 100° bearing to a 140° bearing from the airport; within an 11-mile radius of the center of the airport, extending clockwise from a 140° bearing to a 280° bearing from the airport; within an 8-mile radius of the center of the airport, extending clockwise from a 280° bearing to a 050° bearing from the airport; within 5 miles each side of the Reading Municipal-General Carl A. Spaatz Field ILS localizer south course extending from the OM to 9.5 miles south of the OM; within 9.5 miles east and 4.5 miles west of the Reading Municipal-General Carl A. Spaatz Field ILS localizer south course, extending from the OM to 18.5 miles south of the OM; within 6.5 miles north and 4.5 miles south of the East Texas, Pa. VORTAC 252° radial, extending from 12 miles west of the VORTAC to 29 miles west of the VORTAC.
PENDING AMENDMENT
The Reading, Pa., transition area is amended by adding the following: "within 4.5 miles each side of 301° bearing from a point 40°27'10"N., 76°07'40"W., extending from said point to 8.5 miles northwest of said point."
AMENDMENTS 12/28/78 43 F. R. 49300 (Changed)

Readington, N. J.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of the center, 40°34'55" N., 74°44'20" W., of Solberg-Hunterdon Airport, Readington, N. J., and within 5 miles east and 5 miles west of Solberg, N. J., VORTAC 227° radial extending from the 6-mile radius area to 14 miles southwest of the VORTAC excluding the portion that coincides with the New York, N. Y., transition area.

Red Bluff, Calif.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Redding Municipal Airport (latitude 40°30'35" N., longitude 122°17'30" W.) within 2 miles W and 4 miles E of the Redding VOR 192° radial, extending from the 5-mile radius area to 10 miles S of the VOR, within 2 miles each side of the Redding ILS localizer N course, extending from the 5-mile radius area to 8 miles N of the threshold of Runway 16, excluding the portions within a 1-mile radius of Redding Sky Ranch Airport (latitude 40°30'00" N., longitude 122° 22'35" W.) and Enterprise Sky Park (latitude 40°34'26" N., longitude 122°19'30" W.), and within 2 miles each side of the Red Bluff VORTAC 347° radial extending from the VORTAC to 11.5 miles N of the VORTAC, that airspace extending upward from 1,200 feet above the surface within a 20-mile radius of the Red Bluff VORTAC, within 9 miles each side of the Red Bluff VORTAC 291° radial, extending from the 20-mile radius area to 52 miles W of the VORTAC; within 9 miles W and 10 miles E of the Red Bluff VORTAC 342° radial, extending from the 20-mile radius area to 67 miles N of the VORTAC, within 10 miles W and 6 miles E of the Red Bluff VORTAC 015° radial, extending from the 20-mile radius area to 56 miles N of the VORTAC and that airspace NE and E of Red Bluff within an arc of a 24-mile radius circle centered on the Red Bluff VORTAC, extending from the Red Bluff VORTAC 015° radial clockwise via the 24-mile arc to long. 40°00'00"W. That airspace NW of Red Bluff within an arc of a 30 mile radius circle centered on Red Bluff VORTAC, extending from the N edge of V-195 to the W edge of the V-23. and that airspace north of Redding within an arc of a 23-mile radius circle centered on Redding VOR, extending from the E edge of V-23 to the W edge of V-25.

Red Hook, N. Y.
That airspace extending upward from 700 feet above the surface within a 9-mile radius of the center, 41° 59'12" N., 73°50'12" W., of Skypark Airport, extending clockwise from a 012° bearing to a 130° bearing from the airport; within an 8-mile radius of the center of the airport, extending clockwise from a 130° bearing to a 168° bearing from the airport; within a 6.5-mile radius of the center of the airport, extending clockwise from a 168° bearing to a 232° bearing from the airport; within a 5-mile radius of the center of the airport, extending clockwise from a 232° bearing to a 309° bearing from the airport; within a 5.5-mile radius of the center of the airport, extending clockwise from a 309° bearing to a 012° bearing from the airport and within 3 miles each side of the Kingston, N. Y., VORTAC 358° radial, extending from the 8-mile radius area and 6.5-radius area to 10.5 miles north of the Kingston, N. Y., VORTAC.

Redmond, Oreg.
That airspace extending upward from 700 feet above the surface within 4 miles each side of the Redmond VORTAC 087° radial extending from the arc of a 5-mile radius circle centered on Roberts Field Airport. (Lat. 44°15'10"N., long. 121°08'55"W.), to 21 miles east of the VORTAC; within 2 miles each side of a 230° bearing from the center of the 5-mile radius circle centered on Roberts Field Airport extending from the radius of the 5-mile circle to 10 miles southwest of the airport; within 2 miles each side of Redmond VORTAC 162° radial extending from the VORTAC to 5 miles south of the VORTAC; within 2 miles each side of the Redmond VORTAC 281° radial extending from the VORTAC to 5 miles west of the VORTAC; within 2 miles each side of a 302° bearing from the Roberts RBN extending from the RBN to 6 miles northwest of the RBN; and within 4 miles each side of the Redmond VORTAC 014° radial, extending from 15 miles north of the VORTAC to 35 miles north; that airspace extending upward from 1,200 feet above the surface within a 37-mile radius of the VORTAC between the 006° and 048° radials; within a 31-mile radius of the VORTAC between the 048° radial and a line 6 miles west of and parallel to the 189° radial.

Red Oak, Iowa
That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Red Oak Municipal Airport (latitude 41°00'40" N., longitude 95°15'25" W.); and within 3 miles each side of a 335° bearing from the Red Oak Municipal Airport, extending from the 6-mile radius to 9½ miles northwest of the airport.

Redwood Falls, Minn.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of Redwood Falls Municipal Airport (latitude 44°32'45" N., longitude 95°04'45" W.).

Reed City, Mich.
That airspace extending upward from 700 feet above the surface within an 8-mile radius of Miller Airport (latitude 43°54'05" N., longitude 85°31'05" W.); within 5 miles east and 8 miles west of the 352° bearing from Miller Airport, extending from the airport to 16 miles north of the airport; and within 5 miles east and 8 miles west of the 003° bearing from Miller Airport, extending from the airport to 12 miles north of the airport.

Reedsville, PA.
That airspace extending upward from 700 feet above the surface within a 14.5-mile radius of the center lat. 40°40'44" N., long. 77°37'22" W. of Mifflin County Airport, Reedsville, PA., and within 3.5 miles each side of the 228° bearing from a point lat. 40°36'55" N., long. 77°43'09" W. extending from said point to a point 11.5 miles southwest.

Refugio, Tex.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Tom O'Connor Oilfield Airport (lat. 28°20'04"N., long. 97°08'58"W.); within 2 miles each side of the 335° bearing from the Vidauri RBN (lat. 28°23'51"N., long. 97°10'40"W.), extending from the 5-mile radius area to 8 miles northwest of the Vidauri NDB; within a 5-mile radius of Mellon Ranch Airport (lat. 28°16'50"N., long. 97°12'30"W.), and within 3.5 miles each side of the 319° bearing from the Mellon Ranch NDB (lat. 28°16'47"N., long. 97°12' 20"W.), extending from the 5-mile radius to 12 miles northwest of the Mellon Ranch NDB and within 3.5 miles each side of the 152° bearing from the Mellon Ranch NDB, extending from the 5-mile radius to 11.5 miles southeast of Mellon Ranch NDB.

Rehoboth Beach, Del.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center 38°43'10" N., 75°07'35" W., of Rehoboth Aircrafters Airport, Rehoboth Beach, Del., and within 2 miles each side of the Waterloo, Del., VORTAC 144° radial extending from the 5-mile radius area to the VORTAC. This transition area is effective from sunrise to sunset, daily.

Reidsville, N. C.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Shiloh Airport (lat. 36°26'10"N., long. 79°50'30"W.).

Reno, Nev.
That airspace extending upward from 700 feet above the surface within an arc of a 25-mile radius circle centered on Reno Municipal Airport (latitude 39°30'02" N., longitude 119°46'07" W.) beginning at longitude 120°00'00" W., clockwise to latitude 39°25'00" N.; thence direct latitude 39°13'00" N., longitude 119°47'00" W.; thence south via longitude 119°47'00" W. to its intersection with an arc of a 25-mile radius circle centered on Reno Municipal Airport; thence clockwise via the 25-mile radius arc to longitude 120°00'00" W.; thence direct to point of beginning; that airspace extending upward from 1,200 feet above the surface within a 45-mile radius of the Reno VORTAC, excluding the portion west of longitude 120°19'00" W., east of longitude 119°00'00" W.; and that airspace southwest of Reno within 22 miles north and 13 miles south of the Lake Tahoe, Calif., VOR 090° and 270° radials, extending from 7 miles east to 35 miles west of the VOR; and that airspace northwest of Reno extending from the 45-mile radius area bounded on the northeast by the southwest edge of V-452 and on the west by longitude 120°19'00" W.

Rensselaer, Ind.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Jasper County Airport (latitude 40°56'30" N., longitude 87°11'00" W.) and within 3 miles each side of the 007° bearing from the airport extending from the 5-mile radius area to 8 miles north of the airport.

Rexburg, Idaho
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Rexburg-Madison County Airport (latitude 43°49'30" N., longitude 111°49'00" W.).

Rhinelander, Wis.
That airspace extending upward from 700 feet above the surface within an 8-mile radius of the Rhinelander-Oneida County Airport (latitude 45°37'54" N., longitude 89°27'35" W.).

Rhode Island
That airspace extending upward from 1,200 feet above the surface within the boundary of the State of Rhode Island including the offshore airspace within 3 nautical miles of and parallel to the shoreline of Rhode Island and that airspace bounded by a line beginning at lat. 41°25'15"N., long. 71°04'45"W.; to lat. 41°08'30"N., long. 71°04'45"W.; to lat. 41°07'43"N., long. 71°07'36"W.; to lat. 41°01'50"N., long. 71°47'00"W.; to lat. 41°11'15"N., long. 71°47'00"W.; thence along a line 3 nautical miles from and parallel to the shoreline to the point of beginning.

AMENDMENTS 11/2/78 43 F. R. 39750 (Added)

Rice Lake, Wis.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Arrowhead Airport (lat. 45°28'45" N., long. 91°43'20" W.); within 3½ miles each side of the 178° bearing from the Arrowhead Airport, extending from the 5-mile radius to 8 miles south of the airport.

Richmond, IN.
That airspace extending upward from 700 feet above the surface within a 6½-mile radius of the Richmond Municipal Airport (latitude 39°45'23" N., longitude 84°50'36" W.); within 3 miles each side of the Richmond VOR 045° radial, extending from the 6½-mile radius area to 8 miles northeast of the VOR; within 3 miles each side of the Richmond VOR 243° radial, extending from the 6½-mile radius area to 8 miles southwest of the VOR.

Richmond, Va.
That airspace extending upward from 700 feet above the surface within a 9-mile radius of the center, lat. 37° 30'16" N., long. 77°19'11" W. of Richard Evelyn Byrd International Airport, Richmond, Va., extending clockwise from a 245° bearing from the airport to a 045° bearing from the airport; within an 8.5-mile radius of the center of the airport, extending clockwise from a 045° bearing to a 245° bearing from the airport; within 3.5 miles each side of the Richmond VORTAC 134° radial, extending from the VORTAC to 11.5 miles southeast of the VORTAC; within 2 miles each side of the Richmond VORTAC 137° radial, extending from the VORTAC to 11.5 miles southeast of the VORTAC; within 3.5 miles each side of the Richard Evelyn Byrd International Airport ILS localizer southwest course, extending from the OM to 11.5 miles southwest of the OM; within 3.5 miles each side of the Richmond VORTAC 342° radial, extending from the VORTAC to 11.5 miles north of the VORTAC; within 3.5 miles each side of the Richmond VORTAC 359° radial, extending from the VORTAC to 11.5 miles north of the VORTAC; within 4.5 miles each side of the Richard Evelyn Byrd International Airport ILS localizer northwest course, extending from the localizer to 13.5 miles northwest of the localizer within 3 miles each side of the Richmond VORTAC 212° radial, extending from the VORTAC to 8.5 miles southwest of the VORTAC.

Rio Vista, Calif.
That airspace extending upward from 700 feet above the surface within a 3-mile radius of Rio Vista Airport (latitude 38°10'20" N., longitude 121°41'20" W.) and within 2 miles each side of the Sacramento VORTAC 202° radial extending from the 3-mile radius area to 8 miles north of the airport.

Ripley, Miss.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Ripley Airport (lat. 34°43'25" N., long. 89°00'49" W.).

Riverhead, N. Y.
That airspace extending upward from 1,200 feet above the surface bounded by a line beginning at latitude 41°00'35" N., longitude 72°05'00" W.; thence S via longitude 72°05'00" W. to the S boundary of V-139; thence SW via the SE boundary of V-139 to latitude 40°30'00" N., thence to latitude 40°30'00" N., longitude 73°36'00" W.; to latitude 40°41'00" N., longitude 73°33'30" W.; to latitude 40°50'00" N., longitude 73°42'00" W.; to latitude 41°00'00" N., longitude 73°33'00" W.; to latitude 41°00'00" N., longitude 72°45'00" W.; to latitude 41°18'00" N., longitude 72°30'30" W.; to the point of beginning, excluding the portion below 3,000 feet MSL within W-106.

Riverside, Calif.
That airspace extending upward from 700 feet above the surface bounded by a line beginning at latitude 34°10'00" N., longitude 117°59'00" W., to latitude 34°10'00" N., longitude 117°01'00" W., to latitude 33°50'00" N., longitude 117°01'00" W., to latitude 33°42'30" N., longitude 116°56'30" W., to latitude 33°38'00" N., longitude 117°09'00"W., to lat. 33°43'00"N., long. 117°15'00"W., to lat. 33°43'00"N., long. 117°25'00"W., to lat. 33°39'00"N., long. 117°25'00"W.; to lat. 33°39'00"N., long. 117°30'00"W., to lat. 33°46'00"N., long. 117°45'00" W., to latitude 33°56'00" N., longitude 117°53'00" W., to latitude 33°56'00" N., longitude 117°59'00" W., thence to point of beginning; and that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at latitude 34°30'00" N., longitude 117°43'00" W., thence E along latitude 34°30'00" N., to the SE boundary of V-21, thence along the SE boundary of V-21 to longitude 116°30'00" W., thence direct to latitude 34°40'30" N., longitude 116°29'40" W., to latitude 34°30'00" N., longitude 116°26'30" W., to latitude 34°16'00" N., longitude 116°18'00" W., to latitude 33°30'00" N., longitude 116°18'00" W., to latitude 33°30'00" N., longitude 117°30'00" W., to latitude 33°39'00" N., longitude 117°30'00" W., to latitude 33°46'00" N., longitude 117°45'00" W., to latitude 33°56'00" N., longitude 117°53'00" W., to latitude 33°56'00" N., longitude 117°59'00" W., to latitude 34°10'00" N., longitude 117°59'00" W., to latitude 34°10'00" N., longitude 117°43'00" W., thence to point of beginning.

AMENDMENTS 9/7/78 43 F. R. 34771 (Changed)

Riverton, Wyo.
That airspace extending upward from 700 feet above the surface within a 10-mile radius of Riverton Municipal Airport (latitude 43°03'45" N., longitude 108°27'15" W.), within 4.5 miles each side of the Riverton VOR 291° radial, extending from the 10-mile radius area to 19 miles west of the VOR, and within 3.5 miles each side of the Riverton VOR 123° radial extending from the 10-mile radius area to 12 miles southeast of the VOR; that airspace extending upward from 1,200 feet above the surface within a 25-mile radius of the Riverton VOR, within 10 miles east and 7 miles west of the Riverton VOR 016° radial, extending from the 25-mile radius area to 38 miles north of the VOR; within 7 miles northeast and 14.5 miles southwest of the Riverton VOR 301° radial, extending from the 25-mile radius area to 37 miles northwest of the VOR.

Roanoke, Va.
That airspace extending upward from 700 feet above the surface within an 18-mile radius of the center 37° 19'30"N., 79°58'35"W., of Roanoke Municipal-Woodrum Airport, Roanoke, Va.; within a 23.5-mile radius of the center of the airport, extending clockwise from a 203° bearing to a 296° bearing from the airport; within a 19.5-mile radius of the center of the airport, extending clockwise from a 296° bearing to a 307° bearing from the airport; within 9.5 miles northwest and 4.5 miles southeast of the Roanoke Municipal Airport LDA Runway 5 course, extending from 5 miles southwest of the OM to 23.5 miles southwest of the OM, excluding the portion within the Blacksburg, Va., transition area.

AMENDMENTS 12/22/77 42 F. R. 61998 (Changed)

Roanoke Rapids, N. C.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of Halifax County Airport (lat. 36°26'29" N., long. 77°42'19" W.); within 3 miles each side of the 233° bearing from Rapids RBN (latitude 36°26'19" N., longitude 77°42'14" W.), extending from the 7-mile radius area to 8.5 miles southwest of the RBN.

Robinson, Ill.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Robinson, Ill., Municipal Airport (latitude 39°01'00" N., longitude 87°39'00" W.) and within 5 miles each side of the 348° and 091° bearings from the Robinson Municipal Airport extending from the 7-mile radius area to 12 miles north and east of the airport, excluding the area which overlies the Sullivan, Indiana, transition area.

Rochelle, Ill.
That airspace extending upward from 700 feet above the surface within a 5½-mile radius of the Rochelle Municipal Airport (latitude 41°53'35" N., longitude 89°04'45" W.) and within 3 miles either side of the Polo VORTAC 102° radial extending 1 mile west from the 5½-mile radius area excluding the portion that overlies the Rockford, Ill., transition area.

Rochester, Ind.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Fulton County Airport (latitude 41°03'55" N., longitude 86°11'55" W.); and within 2 miles each side of the 096° bearing from Fulton County Airport, extending from the airport to 8 miles east of the airport.

Rochester, Minn.
That airspace extending upward from 700 feet above the surface within a 19½-mile radius of Rochester Municipal Airport (lat. 43°54'32" N., long. 92°29'47" W.); and within 4½ miles southwest and 9½ miles northeast of the Rochester ILS localizer southeast course, extending from the 19½-mile radius to 24 miles southeast of the airport; and that airspace extending upward from 1,200 feet above the surface within 5 miles west and 7 miles east of the Rochester VORTAC 173° radial, extending from the Minnesota-Iowa border to 38 miles south of the VORTAC.

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Rochester, N. H.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of the center (lat. 43°17'00" N., long. 70°57'00" W.) of the Sky Haven Airport, Rochester, New Hampshire, excluding those portions that coincide with the Sanford, Maine, and Portsmouth, New Hampshire, 700-foot transition areas.

Rochester, N. Y.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Rochester-Monroe County Airport (latitude 43°07'10" N., longitude 77°40'15" W.); within 8 miles N and 5 miles S of the Rochester ILS localizer E course, extending from the Rochester-Monroe County Airport to 12 miles E of the OM; within 5 miles each side of the Rochester VOR 125° radial, extending from the 7-mile radius area to the INT of the Rochester VOR 125° and the Geneseo, N. Y., VORTAC 061° radials; within 2 miles each side of the Rochester VOR 168° radial, extending from the 7-mile radius area to 8 miles S of the VOR; and within 8 miles S and 5 miles N of the Rochester VOR 280° and 100° radials, extending from the Rochester-Monroe County Airport to 12 miles W; and that airspace extending upward from 1,200 feet above the surface within the area bounded by a line extending from: latitude 43°24'00" N., longitude 76°53'00" W., to latitude 42°57'00" N., longitude 76°57'00" W., to latitude 42°32'00" N., longitude 77°36'00" W., to latitude 42°32'00" N., longitude 78°21'00" W., to latitude 43°06'00" N., longitude 78°21'00" W., to latitude 43°24'00" N., longitude 77°55'00" W., to point of beginning.

Rockford, Ill.
That airspace extending upward from 700 feet above the surface within an 8-mile radius of the Greater Rockford Airport (latitude 42°11'50" N., longitude 89°05'45" W.), within 8 miles E and 5 miles W of the Rockford ILS localizer S course, extending from the Greater Rockford Airport to 12 miles S of the OM, and that airspace extending upward from 1,200 feet above the surface bounded on the N by latitude 42°45'00" N., on the E by longitude 88°30'00" W., on the S by the Illinois-Wisconsin boundary, and on the W by longitude 89°55'00" W.

Rockingham, N. C.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Rockingham-Hamlet Airport (lat. 34°53'30"N., long. 79°45'35"W.); within 3 miles each side of the 126° bearing from the Roscoe RBN (lat. 34°51'09"N., long. 79°41'38"W.), extending from the 6.5-mile radius to 8.5 miles southeast of the RBN.

Rockland, Maine
That airspace extending upward from 700 feet above the surface within a 7.5-mile radius of Knox County Regional Airport, Rockland, Maine (latitude 44°03'40" N., longitude 69°06'05" W.) and within 3.5 miles each side of the 194° bearing from the Sprucehead NDB (latitude 43°59'54" N., longitude 69°07'17" W.), extending from the 7.5-mile radius area to 11.5 miles south of the NDB.

Rockport, Tex.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Aransas County Airport (latitude 28°05'14" N., longitude 97°02'30" W.), and within 2 miles each side of the 314° bearing from the Rockport RBN (latitude 28°05'30" N., longitude 97°02'40" W.), extending from the 5-mile radius area to 8 miles northwest of the RBN, and within 2 miles each side of the Corpus Christi VORTAC 062° radial, extending from the 5-mile radius area to 20.5 miles northeast of the VORTAC.

Rocksprings, Tex.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Edwards County Airport (latitude 29°56'30" N., longitude 100°10'30" W.) and within 1.5 miles each side of the Rocksprings VORTAC 125° radial extending from the 5-mile radius area to the Rocksprings VORTAC.

Rock Springs, Wyo.
That airspace extending upward from 700 feet above the surface within 11.5-mile radius of the Rock Springs-Sweetwater County Airport (lat. 41°35'45"N., long. 109°04'00"W.), within 12.5 miles north and 4.5 south of the 090° bearing and 12.5 miles north and 7.5 south of the 270° bearing from the Thaer LOM (lat. 41°35'49"N., long. 108°58'09"W.) extending from the 11.5-mile radius area to 18.5 miles east of the Thaer LOM and from the 11.5-mile radius area to 32 miles west of the Thaer LOM; and within 1 mile north and 6 miles south of the Rock Springs VORTAC 102° radial extending from the 11.5-mile radius area to 18.5 miles east of the VORTAC; and that airspace extending upward from 1,200 feet above the surface within a 23-mile radius of the Rock Springs VORTAC and within 4.5 miles each side of the Rock Springs VORTAC 117° radial extending from the 23-mile radius circle to 35 miles southeast of the VORTAC.

AMENDMENTS 7/13/78 43 F. R. 17939 (Changed)

Rockwood, Tenn.
That airspace extending upward from 700 feet above the surface within a 9.5-mile radius of Rockwood Municipal Airport (lat. 35°55'20" N., long. 84°41'23" W.); excluding the portion within Crossville, Tenn., transition area.

Rocky Mount, N. C.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of Rocky Mount Downtown Airport (lat. 35°58'01"N., long. 77°47'33"W.); within 5 miles each side of Tar River VORTAC 084° radial, extending from the 7-mile radius area to 11 miles east of the VORTAC; within an 8.5-mile radius of Rocky Mount-Wilson Airport (lat. 35°51'17" N., long. 77°53'34" W.).

AMENDMENTS 1/26/78 42 F. R. 59752 (Changed)

Rogers City, Mich.
That airspace extending upward from 700 feet above the surface within a 5 (statute) mile radius of the Presque Isle County Airport (lat. 45°24'27"N., long. 83°48'46"W.) and within 2.75 miles each side of the proposed NDB 261° (true) bearing, extending from the 5-mile radius area to 7.5 miles (statute) east of the NDB, excluding the portion that coincides with the Alpena, Mich., transition area.

AMENDMENTS 9/7/78 43 F. R. 28811 (Added)

Rolla, Mo.
That airspace extending upward from 700 feet above the surface within a 5.5-statute mile radius of the Rolla Downtown Airport (latitude 37°56'10" N., longitude 91°48'55" W.).

Rome, Ga.
That airspace extending upward from 700 feet above the surface within a 12-mile radius of Richard B. Russell Airport (lat. 34°20'57" N., long. 85°09'31" W.); within 5 miles each side of Rome VOR 350° radial, extending from the 12-mile radius area of the VOR; within a 9.5-mile radius of Tom B. David Field, Calhoun, Ga., (latitude 34°27'18" N., longitude 84°56'24" W.); excluding the portion within the Dalton, Ga., transition area.

Romulus, N. Y.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of a point lat. 42°44' 30" N., long. 76°52'20" W., and within 3.5 miles each side of the 330° bearing from the Seneca RBN lat. 42° 44' 40" N., long. 76°54'18" W., extending from the 6-mile radius area to 11 miles northwest of the RBN.

Roosevelt Roads, P.R.
That airspace extending upward from 700 feet above the surface within a 10-mile radius of NS Roosevelt Roads (latitude 18°15'05" N., longitude 65°38'35" W.), excluding the portion within the San Juan 700-foot transition area.

Roosevelt, Utah
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Roosevelt Municipal Airport, Roosevelt, Utah (lat. 40°16'33"N., long. 110°03'02"W.) and within 2 miles either side of the Myton, Utah, VORTAC 023° radial extending from the 5-mile radius of the airport to the Myton VORTAC; and that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at lat. 39° 52'04.7"N., long. 110°15'10.2"W., to lat. 40°27'47.3"N., long. 110°15'58.9"W., to lat. 40°19'20.4"N., long. 109°33'14.8"W., to lat. 40°03'27.8"N., long. 109°24'47.7"W., to lat. 40°04'04.3"N., long. 109°44' 49.1"W., to lat. 39°52'27.4"N., long. 109°44'33.3"W., to point of beginning.
AMENDMENTS 3/23/78 43 F. R. 4848 (Added) Corr: 43 F. R. 9595

Rosanky, Tex.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Double D Ranch Airport (lat. 29°52'36"N., long. 97°17'20"W.) within 3 miles each side of the 293° bearing from the proposed NDB (lat. 29°53'44"N., long. 97°20'15"W.) extending from the 5-mile radius to 10 miles northwest of the proposed NDB.
AMENDMENTS 9/7/78 43 F. R. 26698 (Added)

Roscommon, Mich.
That airspace extending upward from 700 feet above the surface within a 5½-mile radius of Roscommon County Airport (latitude 44°21'30" N., longitude 84°40'15" W.); and within 3 miles each side of the 082° bearing from Roscommon County Airport, extending from the 5½-mile radius area to 8 miles east of the airport.

Roseau, Minn.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Roseau Municipal Airport (lat. 48°51'25" N., long. 95°41'40" W.); within 2½ miles each side of the 163° bearing from Roseau Municipal Airport, extending from the 5-mile radius area to 7 miles south of the airport; and within 2½ miles each side of the 341° bearing from Roseau Municipal Airport, extending from the 5-mile radius area to 7 miles north of the airport; and that airspace extending upward from 1,200 feet above the surface within 4½ miles west and 9½ miles east of the 163° bearing from Roseau Municipal Airport, extending from the airport to 18½ miles south of the airport; and within 4½ miles west and 9½ miles east of the 341° bearing from Roseau Municipal Airport, extending from the airport to 18½ miles north of the airport, including that airspace east of and within a 9½-mile radius of the airport between the 71° and 73° bearings from the airport, and excluding the portions outside the United States.

Roseburg, Oreg.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Roseburg Municipal Airport (latitude 43°14'20" N., longitude 123°21'15" W.), within 2 miles each side of the Roseburg VOR 177° radial, extending from the 5-mile radius area to 3.5 miles S of the VOR; that airspace extending upward from 1,200 feet above the surface within 8 miles W and 5 miles E of the 177° radial, extending from the VOR to 12 miles S of the VOR, and within 8 miles W and 5 miles E of the 003° and 183° radials, extending from 18 miles N to 7 miles S of the VOR.

Roswell, N. Mex.
That airspace extending upward from 700 feet above the surface within a 23-mile radius of the Roswell VORTAC extending clockwise between the 092° and 036° radials of the VORTAC, and within a 29-mile radius of the Roswell VORTAC extending clockwise between the 036° and 092° radials of the VORTAC.

Rugby, N. Dak.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the Rugby Municipal Airport (latitude 48°23'15" N., longitude 100°01'15" W.); that airspace extending upward from 1,200 feet above the surface within a 12-mile radius of the Rugby Municipal Airport and within 9.5 miles north and 4.5 miles south of the 114° bearing from the Rugby, N. Dak., NDB (latitude 48°23'25" N., longitude 100°01' 30" W.); extending from the NDB to 18.5 miles east of the NDB;
and within 9.5 miles south and 4.5 miles north of the 314° T bearing from the Rugby, N. Dak., NDB, extending from the NDB to 18.5 miles northwest of the NDB.

Russell, Kans.
That airspace extending upward from 700 feet above the surface within 2½ miles each side of the Hays, Kans., VORTAC 086° radial, extending from a 5-mile radius circle centered on the Russell Municipal Airport (latitude 38°52'20" N., longitude 98°48'45" W.) to 19 miles east of the VORTAC.

Russellville, Ark.
That airspace extending upward from 700 feet above the surface within a 7.5-statute mile radius of Russellville Municipal Airport, Russellville, Ark. (latitude 35°15'34" N., longitude 93°05'38" W.); and within 3.5 statute miles each side of the 186° bearing from Russellville NDB (latitude 35°15'34" N., longitude 93°05'40" W.), extending from the 7.5-mile radius area to 11.5 statute miles south of the NDB; excluding that portion which overlies the Morrilton, Ark., transition area.

Ruston, La.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Ruston Municipal Airport (latitude 32°30'45" N., longitude 92°37'45" W.), within 2 miles each side of the Monroe, La., VORTAC 278° radial extending from the 5-mile radius area to 24 miles west of the VORTAC, and within 3.5 miles each side of the Ruston, La., VOR (latitude 32°27'54" N., longitude 92°36'30" W.), 167° radial extending from the 5-mile radius area to 11.5 miles south of the VOR.

Rutherford, N. C.
That airspace extending upward from 700 feet above the surface within a 9-mile radius of Rutherford County Airport (latitude 35°25'38" N., longitude 81°56'06" W.); within 3 miles each side of the 192° bearing from Rutherford RBN (latitude 35°20'56" N., longitude 81°57'11" W.), extending from the 9-mile radius area to 8.5 miles southwest of the RBN.

Rutland, Vt.
That airspace extending upward from 700 feet above the surface within an 11-mile radius of the center, lat 43° 81'46" N., long. 72°56'54" W., of the Rutland State Airport, Rutland, Vermont, and an area bounded by a line beginning at lat. 43°30'00"N., long. 73°10'00" W., to lat. 43°53'00" N., long. 73°10'00" W., to lat. 43°53' 00" N., long. 73°50'00" W., to lat. 43°30'00" N., long. 72°50'00" W., to point of beginning.

Sabine Pass, Tex.
That airspace extending upward from 700 feet above the surface within 3.5 miles each side of the Sabine Pass, Tex., VORTAC 093° radial extending from the VORTAC to 17.5 miles east of the VORTAC.

Sabine Pass, Tex. (Offshore)
That airspace extending upward from 700 feet above the surface within a 5-mile radius of coordinates lat. 29°15'53.2"N., long. 94°08'46.9"W.

Sac City, Iowa
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Sac City Municipal Airport (latitude 42°22'30" N., longitude 94°58'45" W.); and within 3 miles each side of the 138° bearing from the Sac City Municipal NDB, extending from the 5-mile radius to 8 miles southeast of the NDB.

Sacramento, Calif.
That airspace extending upward from 700 feet above the surface within a 13-mile radius circle centered on the Sacramento, Calif., VORTAC (latitude 38°26'37" N., longitude 121°33'02" W.); that airspace within an arc of a 38-mile radius circle centered on the Sacramento VORTAC, bounded on the west by the west edge of V-23, and on the southwest by the northeast edge of V-23, and that airspace SW of Sacramento bounded by a line beginning at latitude 38°16'00" N.,
longitude 122°05'00" W., thence to latitude 38°27'00" N., longitude 121°47'00" W., thence to latitude 38°16'-00" N., longitude 121°39'00" W., thence to latitude 38°02'00" N., longitude 121°52'00" W., thence via latitude 38°02'00" N. to the W edge of V-195, thence via the W edge of V-195 to latitude 38°16'00" N., thence to point of beginning; that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at the point of intersection of the E edge of V-195 and the S edge of V-200, thence via the S edge of V-200, the W edge of V-23 and latitude 39°00'00" N. to the W edge of V-165, thence via the W edge of V-165 to the N edge of V-244, thence via the N edge of V-244 to longitude 120°04'00" W., thence via longitude 120°04'-00" W., to latitude 38°07'00" N., thence via latitude 38°07'00" N., to longitude 121°37'00" W., thence via longitude 121°37'00" W., to latitude 38°02'00" N., thence via latitude 38°02'00" N., to the E edge of V-195, thence via the E edge of V-195 to point of beginning.

Saginaw, Mich.
That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the Harry W. Browne Airport (lat. 43°25'58"N., long. 83°51'43"W.), excluding that portion presently designated the Clements Airport and the Tri-City Airport.

AMENDMENTS 11/2/78 43 F. R. 38374 (Rewritten)

St. Augustine, Fla.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of St. Augustine Airport (lat. 29°57'30" N., long. 81°20'27" W.); within 3 miles each side of the St. Augustine VOR (lat. 29° 57'30" N., long. 81°20'19" W.) 311° radial, extending from the 6.5-mile radius area to 8.5 miles west of the VOR.

St. Cloud, Minn.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of the St. Cloud Municipal Airport (lat. 45°32'43"N., long. 94°03'42"W.); and within 3 miles each side of the 123° radial from the airport, extending from the 7-mile radius area to 8.5 miles southeast of the airport.

AMENDMENTS 5/18/78 43 F. R. 11571 (Rewritten)

St. George, Utah
That airspace extending upward from 700 feet above the surface within 9.5 miles northeast and 6 miles southwest of the St. George, Ut., VOR (lat. 37°05'17"N., long. 113°35'30"W.) 131 radial extending from 7 miles northwest to 18.5 miles southeast; and within 5 miles each side of the St. George VOR 183 radial extending from the VOR to 15.5 miles south; that airspace extending upward from 1200 feet above the surface within an arc of a 23 mile radius of the St. George VOR extending clockwise from the 058 radial to the 239 radial; and within 10 miles east and 6.5 miles west of the St. George VOR 183 radial extending from the 23 mile arc to 37.5 miles south of the VOR.

St. Johns, Ariz.
That airspace extending upward from 1,200 feet above the surface within 10 miles SE and 7 miles NW of the St. Johns VORTAC 067° and 247° radials, extending from 9 miles NE to 20 miles SW of the VORTAC, excluding the portion within the State of New Mexico.

St. Joseph, Mo.
That airspace extending upward from 700 feet above the surface within an 8-mile radius of Rosecrans Memorial Airport (latitude 39°46'25" N., longitude 94°54'45" W.); and within 5 miles east and 8 miles west of the St. Joseph ILS localizer south course, extending from the 8-mile radius area to 12 miles south of the OM; and that airspace extending upward from 4,500 feet
MSL in the vicinity of St. Joseph bounded by V-13 on the west, V-161 on the east and V-50 on the south; within the area bounded on the west by V-13, on the north by V-50, on the east by V-161 and on the south by a direct line from latitude 39°39'30" N., longitude 94°07'40" W. to latitude 39°40'45" N., longitude 94°18'35" W.; within the area bounded on the north by V-216, on the east by V-15 and on the southwest by a line starting at the intersection of the south edge of V-216 and on the north edge of V-50, to the intersection of the north edge of V-50 and a line from latitude 40°00'35" N., longitude 95°32'30" W. to latitude 40°09'00" N.; longitude 95°30'00" W.; thence direct to latitude 40°09'00" N., longitude 95°30'00" W., to latitude 40°05'40" N., longitude 95°07'35" W., thence clockwise along the arc of a 14-mile radius circle centered on the St. Joseph VOR to its intersection with the west edge of V-15; and the area bounded on the southwest by V-15, on the north by V-216, on the southeast by V-77 and on the south by the arc of a 14-mile radius circle centered on the St. Joseph VOR.

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St. Louis, Mo.
That airspace extending upward from 700 feet above the surface within a 10-mile radius of Lambert-St. Louis International Airport (latitude 38°44'50" N., longitude 90°21'55" W.); within 5 miles southeast and 8 miles northwest of the Lambert-St. Louis International Airport Runway 24 ILS localizer northeast course, extending from the 10-mile radius area to 12 miles northeast of the Runway 24 OM; within 5 miles southwest and 9 miles northeast of the Lambert-St. Louis International Airport Runway 12R ILS localizer northwest course extending from the Runway 12R OM to 12 miles northwest of the OM; within a 7-mile radius of St Charles Smartt Airport, St. Charles, Missouri (latitude 38°55'43" N., longitude 90°25'41" W.); within an 8-mile radius of Civic Memorial Airport, Alton, Illinois (latitude 38°53'30" N., longitude 90°03'00" W.); within a 6.5-mile radius of Weiss Municipal Airport, Fenton, Missouri (latitude 38°32'15" N., longitude 90°26'50" W.); that airspace extending upward from 2,500 feet MSL within the area bounded on the northwest by the southeast edge of V-335, on the east by the Missouri-Illinois boundary, on the south by the north edge of V-190 and on the west by the east edge of V-9; and that airspace extending upward from 4,500 feet MSL within the area bounded on the north by the south edge of V-88, on the northeast by the southwest edge of V-9W, on the south by the north edge of V-72, on the west by a line 5 miles west of and parallel to the St. Louis VORTAC 200° radial, on the northwest by the southeast edge of V-238; within the area bounded on the north by the south edge of V-12, on the southeast by the northwest edge of V-14N, on the southwest by the northeast edge of V-175, and on the northwest by a line 5 miles southeast of and parallel to the Jefferson City, Missouri VOR 041° radial, and within the area bounded on the northeast by the southwest edge of V-52 and the Missouri-Illinois boundary, on the south by the north edge of V-4N, and on the northwest by the southeast edge of V-63.

St. Marys, Pa.
That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the center, lat. 41°24'45"N., long. 78°30'20"W. of St. Marys Municipal Airport, St. Marys, Pa.; within 2.5 miles each side of the Slate Run, Pa. VORTAC 256° radial, extending from the 5.5-mile radius area to 21.5 miles west of the VORTAC; within 3.5 miles each side of a 091° bearing from the center of the airport, extending from the 5.5-mile radius area to 10 miles east of the center of the airport; within 3.5 miles each side of a 271° bearing from the center of the airport, extending from the 5.5-mile radius area to 9 miles west of the center of the airport.

Salem, Ill.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Salem-Leckrone Airport (latitude 38°38'45" N., longitude 88°57'45" W.); and within 2 miles each side of the 003° bearing from Salem-Leckrone Airport, extending from the 5-mile radius area to 6½ miles north of the airport.

Salem, Oreg.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of McNary Field, Salem, Oreg. (latitude 44°54'35" N., longitude 123°00'05" W.); within 2 miles each side of a 196° bearing from the Salem ILS LOM, extending from the 7-mile radius area to 8 miles S of the LOM and within 2 miles each side of the Salem ILS localizer SE course, extending from the 7-mile radius area to 6 miles SE of the LOM; that airspace extending upward from 1,200 feet above the surface within 6 miles SW and 7 miles NE of the 150° and 330° bearings from the Salem ILS LOM, extending from V-23E to V-23W.

Salina, Kansas
That airspace extending upward from 700 feet above the surface within a 9-mile radius of Salina Municipal Airport (latitude 38°47'40" N., longitude 97°39'30" W.); within 4½ miles W and 9½ miles E of the Salina ILS localizer course, extending from 3 miles N to 18½ miles S of the ILS OM; and within 5 miles each side of the Salina VORTAC 012° radial extending from the 9-mile radius area to 17½ miles N of the VORTAC, excluding the portion which overlies restricted area R-3601 and the McPherson, Kansas 700-foot floor transition area.

Salisbury, Md.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center, lat. 38°20'21" N., long. 75°30'41" W. of Salisbury-Wicomico County Airport, Salisbury, Md.; within 3.5 miles each side of the Salisbury VORTAC 209° radial, extending from the 6.5-mile radius area to 11.5 miles southwest of the VORTAC; within 3.5 miles each side of the Salisbury VORTAC 052° radial, extending from the 6.5-mile radius area to 11 miles northeast of the VORTAC; within 4 miles each side of the Salisbury-Wicomico County Airport localizer northwest course, extending from the 6.5-mile radius area to 10.5 miles northwest of the localizer; and within 3.5 miles each side of the Salisbury VORTAC 132° radial extending from the 6.5-mile radius area to 11.5 miles southeast of the VORTAC.

Salisbury, N. C.
That airspace extending upward from 700 feet above the surface within an 8-mile radius of Rowan County Airport (latitude 35°38'30" N., longitude 80°31'10" W.); within 3 miles each side of the 017° bearing from Salisbury NDB (latitude 35°40'29" N., longitude 80°30'32" W.), extending from the 8-mile radius area to 8.5 miles north of the NDB; within 3 miles each side of Rowan VOR (lat. 35°38'56"N., long. 80°31'21"W.) 191° radial extending from the 8-mile radius area to 8.5 miles south of the VOR.

Salt Lake City, Utah
That airspace extending upward from 700 feet above the surface bounded by a line beginning at lat. 41° 00'00"N., long. 111°45'00"W., thence south along long. 111°45'00"W., to lat. 40°22'30"N., thence southeast to lat. 40°10'20"N., long. 111°35'00"W., thence southwest to lat. 40°03'30"N., long. 111°48'30"W., thence northwest to lat. 40°43'00"N., long. 112°22'00"W., thence north along long. 112°22'00"W., to lat. 41°00' 00"N., thence east along lat. 41°00'00"N., to the point of beginning; that airspace extending upward from 1,200 feet above the surface bounded on the north by lat. 41°00'00"N., on the east by long. 111°25'30"W., on the south by lat. 39°56'30"N., and on the west by the east edge of R-6402 and long. 113°00'00"W.; that airspace east of Salt Lake City extending upward from 11,000 feet MSL bounded on the northwest by the southeast edge of V-32, on the southeast by the northwest edge of V-235, on the southwest by the northeast edge of V-101 and on the west by long. 111°25'30"W.; and that airspace southeast of Salt Lake City extending upward from 13,500 feet MSL bounded on the northeast by the southwest edge of V-484, on the south by the north edge of V-200 and on the west by long. 111°25'30"W.; excluding the portion within Restricted Area R-6403 and the Bonneville, Utah, transition area.
AMENDMENTS 3/23/78 43 F. R. 3080 (Rewritten)

Salyer Farms, Calif.
That airspace extending upward from 700 feet above the surface within a 3-mile radius of Salyer Farms Airport (latitude 36°05'01" N., longitude 119°32'39" W.), and within 2 miles each side of the 151° bearing from the Salyer Farms radio beacon (latitude 36°05'14" N., longitude 119°32'44" W.) extending from the 3-mile radius area to 8 miles southeast of the radio beacon excluding that airspace within a 1-mile radius of Corcoran Airport (latitude 36°06'10" N., longitude 119°35'40" W.), that airspace extending upward from 1,200 feet above the surface within 5 miles northeast and 8 miles southwest of the 151° bearing from the Salyer Falms radio beacon extending from the radio beacon to 12 miles southeast.

San Angelo, Tex.
That airspace extending upward from 700 feet above the surface within an 8-mile radius of Mathis Field, San Angelo, Tex. (latitude 31°21'35" N., longitude 100°29'40" W.); within 5 miles northwest and 8 miles southeast of the San Angelos ILS localizer southwest course extending from the OM to 12 miles southwest.

San Antonio, Tex.
That airspace extending upward from 700 feet above the surface bounded by a line beginning at latitude 29°22' 30" N., longitude 97°47'00" W.; thence west via latitude 29°22'30" N. to and clockwise along the arc of a 23-mile radius circle centered at latitude 29°31'50" N., longitude 98°28'12" W., to latitude 29°13'15" N., longitude 98°20'00" W.; thence southeast to latitude 29°05'30" N., longitude 98°14'30" W.; thence southwest to latitude 29°01'40" N., longitude 98°21'40" W.; thence northwest to latitude 29°06'30" N., longitude 98°34'10" W.; thence north to the 23-mile radius circle at latitude 29°12'00" N., longitude 98°32'40" W.; thence clockwise along the arc of the 23-mile radius circle to latitude 29°38'00" N., longitude 98°50'15" W.; thence northwest to latitude 29°43'30" N., longitude 98°57'00" W.; thence northeast to latitude 29°53'00" N., longitude 98°50' 30" W.; thence southeast to the 23-mile radius circle at latitude 29°47'30" N., longitude 98°42'40" W.; thence clockwise along the arc of the 23-mile radius circle to latitude 29°46'30" N., longitude 98°12'30" W.; thence to latitude 29°43'00" N., longitude 98°01'30" W.; thence to point of beginning and within 5 miles northeast and 8 miles southwest of the La Vernia VOR 149° radial extending from the VOR to 12 miles southeast.

San Carlos, Ariz.
That airspace extending upward from 1,200 feet above the surface bounded on the northwest by the southeast edge of V-190,
on the east by an arc of a 115 mile radius circle centered on Williams AFB, Ariz. (latitude 33°18'25" N., longitude 111°39'35" W.); on the south by the north edge of V-94 and on the west by longitude 110°52'00" W.

San Diego, Calif.
That airspace extending upward from 700 feet above the surface bounded by a line beginning at latitude 33°15' 00" N., longitude 117°30'30" W., to latitude 33°15'00" N., longitude 117°02'00" W., to latitude 33°00'00" N., longitude 116°45'00" W., thence S along longitude 116°45'00" W., to the United States/Mexican Border, thence W along the United States/Mexican Border
and Flight Information Region Boundary to latitude 32° 29' 40" N., longitude 117° 21' 00" W., thence via the arc of a 21-mile radius circle centered on the Mission Bay, Calif., VORTAC to latitude 32°33'00" N., longitude 117° 27'30" W.,
thence N to the point of beginning; and that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at latitude 33° 30' 00" N., longitude 117° 30' 00" W., thence to latitude 33° 30' 00" N., longitude 116°18'00" W., thence to latitude 33°18'00" N., longitude 116°10'30" W., thence to latitude 33° 00' 00" N., longitude 116° 05' 00" W., thence S via longitude 116° 05' 00" W., to the United States/Mexican Border, thence W via the United States/Mexican Border and Flight Information Region boundary to latitude 32° 29' 40" N., longitude 117°21'00" W., thence via the arc of a 21-mile radius circle centered on the Mission Bay, Calif., VORTAC to
latitude 32° 37' 15" N., longitude 117° 31' 50" W., thence to latitude 32° 34' 45" N., longitude 117° 39' 00" W., thence to latitude 32° 49' 30" N., longitude 117° 45' 15" W., thence to latitude 32° 57' 40" N., longitude 117° 35' 00" W., thence to latitude 33° 11' 00" N., longitude 117° 48' 55" W., thence to latitude 33° 15' 00" N., longitude 117° 30' 00" W., thence N via longitude 117° 30' 00" W., to the point of beginning.

PENDING AMENDMENT
The San Diego, Calif., transition area is amended by deleting all text after: "thence W along the United States/Mexican border and Flight Information Region Boundary to lat. 32°29'40"N., long. 117°21'00"W.," and substituting the following: "to lat. 32°31'30"N., long. 117°30'00"W.; to lat. 32°36'50"N., long. 117°32' 54"W.; to lat. 32°34'45"N., long. 117°39'00"W.; to lat. 32°49'30"N., long. 117°45'15"W.; to lat. 32°53'00"N., long. 117°41'40"W.; to lat. 33°12'30"N., long. 117°58'45"W.; to lat. 33°15'00"N., long. 117°30'00"W.; thence north via long. 117°30'00"W., to the point of beginning.
AMENDMENTS 12/28/78 43 F. R. 51009 (Changed)

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Sand Springs, Okla.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the William R. Pogue Municipal Airport (lat. 36°10'25"N., long. 96°08'55"W.) excluding that airspace that overlies the Tulsa, Okla., transition area.

AMENDMENTS 11/2/78 43 F. R. 41018 (Added)

Sandusky, Ohio
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Griffing-Sandusky Airport (latitude 41°26'01" N., longitude 82°39'08" W.); within 3 miles either side of the Sandusky VOR 090° radial extending from the 5-mile radius to 7½ miles east of the airport excluding that portion that overlies the Port Clinton transition area.

Sanford, Fla.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Sanford Airport (lat. 28°46'30" N., long. 81°14'25" W.); within 3 miles each side of the 260° bearing from Sanford RBN (lat. 28°37'05" N., long. 81°14'36" W.); extending from the 6.5-mile radius area to 8.5 miles west of the RBN.

Sanford, Maine
That airspace extending upward from 700 feet above the surface within a 7-mile radius of Sanford Municipal Airport (latitude 43°23'30" N., longitude 70°42'35" W.); within 2 miles each side of the Kennebunk, Maine VOR 066° radial, extending from the 7-mile radius area to 8 miles NE of the VOR.

Sanford, N. C.
That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of Sanford Municipal Airport (latitude 35°25'55" N., longitude 79°11'10" W.); within 2.5 miles each side of Sandhills VORTAC 057° radial, extending from the 5.5-mile radius area to 21 miles northeast of the VORTAC.

San Francisco, Calif.
That airspace extending upward from 700 feet above the surface bounded on the N by latitude 38°02'00" N., on the E by longitude 121°52'00" W., on the S by latitude 37°30'00" N., and on the W by a line extending from latitude 37°30'00" N., longitude 122°27'00" W., to latitude 37°34'00" N., longitude 122°31'00" W., to latitude 37°55'00" N., longitude 122°31'00" W., to latitude 38°02'00" N., longitude 122°40'00" W.; and that airspace extending upward from 1,200 feet above the surface bounded on the N by latitude 38°02'00" N., on the E by a line extending from latitude 38°02'00" N., longitude 121°37'00" W., to latitude 37°38'00" N., longitude 121°37'00" W., to latitude 37°38'00" N., longitude 121°50'00" W., to latitude 37°30'00" N., longitude 121°50'00" W., on the S by latitude 37°30'00" N., and on the W by V-27 and V-199.

San Jose, Calif.
That airspace extending upward from 700 feet above the surface within 5 miles each side of the Moffett TACAN 157° radial extending from the TACAN to 23 miles southeast of the TACAN, within 2 miles each side of the San Jose ILS localizer course extending from the San Jose 5-mile radius control zone to 1 mile SE of the San Jose LOM, within 5 miles SW and 8 miles NE of the San Jose VOR 139° radial, extending from 16 miles SE to 28 miles SE of the VOR, and that airspace bounded by a line beginning at latitude 37°30'00" N., longitude 121°52'00" W., thence to latitude 37°22'00" N., longitude 122°08'00" W., thence to latitude 37°22'00" N., longitude 122°24'00" W., thence to latitude 37°30'00" N., longitude 122°27'00" W., thence to point of beginning; that airspace extending upward from 1,200 feet above the surface bounded on the N by latitude 37°30'00" N., on the E and NE by longitude 121°50'00" W., and the SW edge of V-107, on the SE and S by the NW edge of V-111 and latitude 37°00'00" N., and on the W by the E edge of V-27 to latitude 37°30'00" N.

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San Juan, P. R.
That airspace extending upward from 700 feet above the surface south of lat. 18°23'00" N., within a 20-mile radius of Puerto Rico International Airport (latitude 18°26'48" N., longitude 66°00'07" W.); that airspace north of latitude 18°23'00" N., within a 12-mile radius of Puerto Rico International Airport; within 5 miles each side of the San Juan VORTAC 058° radial, extending from the 12-mile radius area to 15 miles northeast of the VORTAC; within 4 miles each side of the San Juan VORTAC 086° radial, extending from the 12-mile radius area to 12 miles east of VORTAC; within 5 miles each side of the 101° bearing from the Dorado RBN, extending from the 12-mile and 20-mile radius areas to the Dorado RBN; within 9.5 miles north and 4.5 miles south of the 277° bearing from the San Pat RBN, extending from the 12-mile and 20-mile radius areas to 18.5 miles west of the RBN; and that airspace
extending upward from 1,200 feet above the surface beginning at the intersection of a line 4 nautical miles north of and parallel to the centerline of Route 2 and the arc of a 41-mile radius circle centered at Puerto Rico International Airport west of San Juan VORTAC; thence clockwise along this arc to the centerline of Route 3; thence southeast along the centerline of Route 3 to the arc of a 23-mile radius circle centered at Puerto Rico International Airport; thence clockwise along this arc to longitude 65°55'00" W.; thence south to latitude 18°40'00" N., longitude 65°55'00" W.; thence east to latitude 18°40'00" N., longitude 65°26'00" W.; thence south along longitude 65°26'00" W. to a line 4 nautical miles north of and parallel to the centerline of Route 2; thence east and southeast along this line to the arc of a 15-mile radius circle centered at Harry S. Truman Airport (latitude 18°20'26" N., longitude 64°58'11" W.); thence counterclockwise along this arc to a line 3 nautical miles southwest of and parallel to the centerline of Route 2; thence northwest and west along this line to longitude 65°26'00" W.; thence south along longitude 65°26'00" W. to the arc of a 15-mile radius circle centered at NS Roosevelt Roads Airport (latitude 18°15'05" N., longitude 65°38'35" W.); thence clockwise along this arc to the intersection of a line 5 miles southeast of and parallel to the 052° bearing from the Point Tuna RBN; thence southwest along this line to latitude 18°00'00" N.; thence west along latitude 18°00'00" N., to and south along longitude 66°15'00" W., to and east along a line 4.5 miles north of and parallel to Ponce VOR 111° radial, to and south along a line 18.5 miles east of Ponce VOR and perpendicular to the Ponce VOR 111° radial, to latitude 17°46'15" N., longitude 66°18'30" W.; thence west along a line 9.5 miles south of and parallel to Ponce VOR 111° radial to the intersection of a 15-mile radius circle centered at Mercedita Airport (latitude 18°00'40" N., longitude 66°33'50" W.); thence clockwise along this arc to latitude 18°00'00" N.; thence west to latitude 18°07'00" N., longitude 67°22'00" W.; thence north to the intersection of longitude 67°23'00" W. and the arc of a 25-mile radius circle centered at Borinquen Airport (latitude 18° 29'45" N., longitude 67°08'00" W.); thence clockwise along this arc to a line 4 nautical miles north of and parallel to the centerline of Route 2 east of Borinquen Airport; thence east along this line to the point of beginning; and that
airspace extending upward from 2,000 feet MSL within a 100 nautical mile radius of the Isla Grande Airport (Latitude 18°27'33" N., longitude 66°05'55" W.) San Juan, P. R.; excluding the portion that coincides with the 1,200-foot floor portions of the San Juan, St. Croix, and St. Thomas transition areas.

San Luis Obispo, Calif.
That airspace extending upward from 700 feet above the surface within a 3-mile radius of San Luis Obispo County Airport (latitude 35°14'16" N., longitude 120°38'20" W.); within 2 miles each side of the San Luis Obispo VORTAC 280° and 100° radials, extending from the 3-mile radius area to 8 miles west of the VORTAC; and within 2 miles west and 3 miles east of the 191° bearing from the San Luis Obispo County Airport, extending from the 3-mile radius area to 6 miles south of the airport.

San Marcos, Tex.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of the San Marcos Municipal Airport (lat. 29°53'38"N., long. 97°51'45"W.) and 2 miles either side of the 138° bearing from the San Marcos, Tex., Gary NDB (lat. 29°54'00"N., long. 97°52'14"W.), extending from the 6-mile radius to a point 8 miles from the NDB.

San Rafael, Calif.
That airspace extending upward from 700 feet above the surface bounded on the E by the W edge of V-195, on the S by latitude 38°02'00" N., and on the W and N by an arc of a 23-mile radius circle centered on Hamilton AFB (latitude 38°03'35" N., longitude 122°30'35" W.); that airspace extending upward from 1,200 feet above the surface bounded on the N by the S edge of V-200, on the E by the W edge of V-195, on the S by latitude 38°02'00" N., on the W by the E edge of V-199 to latitude 38°43'30" N., thence via latitude 38°43'30" N. to the E edge of V-25, thence via the E edge of V-25 to the S edge of V-200.

San Simon, Ariz.
That airspace extending upward from 1,200 feet above the surface within 10 miles N and 7 miles S of the San Simon VOR 089° and 269° radials, extending from 9 miles W to 20 miles E of the VOR, excluding the portion within the Cochise, Ariz., Portal, Ariz., and New Mexico transition areas.

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Santa Barbara, Calif.
That airspace extending upward from 700 feet above the surface within 2 miles each side of the Santa Barbara ILS localizer west course, extending from the OM to 2 miles west of the OM; between the arcs of a 5-mile radius circle and 8.5-mile radius circle centered on the Santa Barbara Municipal Airport (latitude 34°25'35" N., longitude 119°50'20" W.), extending clockwise from a line 2 miles north of the 089° bearing from the Santa Barbara LMM to a line 2.5 miles south of the 115° bearing from the LMM; and within 2 miles east and 7 miles west of the Santa Barbara VORTAC 196° radial, extending from a 5-mile radius circle centered on the Santa Barbara Municipal Airport to 15.5 miles south of the VORTAC;
and that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at latitude 35°35'00" N., longitude 120°05'00" W., thence to latitude 35°05'00" N., longitude 120°05'00" W., to latitude 35°05'00" N., longitude 119°30'00" W., to latitude 34°20'00" N., longitude 119°30'00" W., to latitude 34°20'00" N., long. 120°00'00"W., to lat. 34°08'00"N., long. 120°00'00"W., to lat. 34°08'00"N., long. 120°26'00"W., to lat. 34°06'15"N., long. 120°30'00"W., to lat. 34°24'00"N., longitude 120°30'00" W., to latitude 34°24'45" N., longitude 120°27'20" W., to latitude 34°35'00" N., longitude 120°31'40" W., to latitude 34°39'50" N., longitude 120°31'15" W., to latitude 34°46'15" N., longitude 120°26'40" W., to latitude 34°49'00" N., longitude 120°27'15" W., to latitude 34°59'32" N., longitude 120°41'50" W., to latitude 35°10'00" N., longitude 120°55'00" W., to latitude 35°21'00" N., longitude 121°03'00" W., to latitude 35°33'00" N., longitude 121°03'00" W., to latitude 35°33'00" N., longitude 120°40'30" W., to latitude 35°22'25" N., longitude 120°31'50" W., to latitude 35°31'40" N., longitude 120°15'00" W., to latitude 35°35'35" N., longitude 120°18'10" W., thence to point of beginning.

Santa Catalina, Calif.
That airspace extending upward from 700 feet above the surface within 5 miles each side of the Santa Catalina 229°T (214°M) and 012°T (357°M) radials extending from 6 miles north to 12 miles southwest of the Santa Catalina VORTAC; and that airspace extending upward from 1,200 feet above the surface bounded on the E by long. 117°30'00"W., on the S by a line extending from lat. 33°15'00"N., long. 117°30'00"W., to lat. 33°11' 00" N., longitude 117° 48' 55" W., to latitude 33° 18' 00" N., longitude 118° 34' 00" W., on the W by longitude 118° 34' 00" W.. and on the N by latitude 33° 30' 00" N., excluding the portion within Control Area 1177.

Santa Elena, Tex.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Diamond "O" Ranch Airport (latitude 26°43'10" N., longitude 98°33'25" W.), and within 3.5 miles each side of the 359° bearing from the Santa Elena RBN (latitude 26°43'07" N., longitude 98°33'37" W.) extending from the 5-mile radius area to 11.5 miles north of the RBN.

Santa Fe, N. Mex.
That airspace extending upward from 700 feet above the surface within an 11.5-mile radius of the Santa Fe County Municipal Airport (latitude 35°37'00" N., longitude 106°05'25" W.), and within 3 miles each side of the Santa Fe VORTAC 165° radial, extending from the 11.5-mile radius area to 9 miles south of the VORTAC.

Santa Maria, Calif.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Santa Maria Public Airport (latitude 34°53'55" N., longitude 120°27'20" W.) and within 3 miles each side of the Santa Maria VOR 133° and 327° radials extending from 17 miles southeast to 7 miles northwest of the VOR.

Santa Rosa, Calif.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Sonoma County Airport (latitude 38°30'30" N., longitude 122°48'45" W.) and within a 1-mile radius of Santa Rosa Coddingtown Airport (latitude 38°28'30" N., longitude 122°41'25" W.).

Santa Ynez, Calif.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Santa Ynez Airport (latitude 34°36'25" N., longitude 120°04'30" W.), within 5 miles each side of the Santa Barbara VORTAC 291° radial extending from the 5-mile radius area to 35 miles west of the VORTAC and within 1.5 miles each side of the Gaviota VORTAC 009° and 178° radials from the 5-mile radius area to 1 mile south of the VORTAC.

Saranac Lake, N. Y.
That airspace extending upward from 700 feet above the surface beginning at lat. 44°38'00" N., long. 74°12' 00" W.; to lat. 44°40'00" N., long. 73°55'00" W.; to lat. 44°21'00" N., long. 73°50'00" W.; to lat. 44°08' 00" N., long. 74°27'00" W.; to lat. 44°21'00" N., long. 74°38'00" W.; to point of beginning.

Sarasota, Fla.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Sarasota-Bradenton Airport (lat. 27°23'47" N., long. 82°33'15" W.); within 3 miles each side of Sarasota VORTAC 050° and 302° radials, extending from the 8.5-mile radius area to 8.5 miles northeast and northwest of the VORTAC; within 5 miles each side of Sarasota VORTAC 142° radial, extending from the 8.5-mile radius area to 8.5 miles southeast of the VORTAC; excluding that airspace outside the continental limits of the United States.

Sault Ste. Marie, Mich.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the Chippewa County International Airport (lat. 46°14'52"N., long. 84°28'15"W.); within 2 miles each side of the 032° bearing of the Chippewa County International Airport from the 6-mile radius area extending to the Sault Ste. Marie VORTAC, excluding that portion which overlies the Sault Ste. Marie, Mich., transition areas.

AMENDMENTS 3/23/78 43 F. R. 3081 (Rewritten)

Savannah, Ga.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Savannah Municipal Airport (lat. 32°07'35" N., long. 81°12'05" W.); within 3 miles each side of Savannah VORTAC 061° radial, extending from the 8.5-mile radius area to 8.5 miles northeast of the VORTAC; within 3 miles each side of the ILS localizer east course, extending from the 8.5-mile radius area to 13 miles east of Runway 27 threshold; within an 8.5-mile radius of Hunter AAF (Lat. 32°00'35" N., Long. 81°08'45" W.); excluding the portion east bounded on the south by a line 2 miles north of and parallel to the extended centerline of Hunter AAF Runway 27; on the west by a line 6 miles east of and parallel to Hunter VOR 001° radial, and on the north by a line 3 miles south of and parallel to Savannah ILS localizer east course.

Savannah, Tenn.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of Savannah Municipal Airport (latitude 35°10'15" N., longitude 88°13'00" W.); within 3 miles each side of the 197° bearing from Savannah RBN (latitude 35°10'13" N., longitude 88°12'50" W.), extending from the 7-mile radius area to 8.5 miles south of the RBN.

Scottsbluff, Nebr.
That airspace extending upward from 700 feet above the surface within a 9½ mile radius of the Scottsbluff County Airport (latitude 41°52'34" N., longitude 103°35'53" W.); within 4.5 miles south and 9½ miles north of the Scottsbluff VORTAC 079° radial extending from the 9½ mile radius to 13 miles east of the VORTAC, within 4.5 miles southwest and 9½ miles northeast of the ILS localizer southeast course extending from the 9½ mile radius to 13 miles southeast of the outer marker; within five miles northeast and 9½ miles southwest of the ILS localizer northwest course extending from the 9½ mile radius to 17.5 miles northwest of the airport.

PENDING AMENDMENT

Scottsbluff, Nebr.
That area extending upward from 700 feet above the surface within a 9.5-mile radius of the Scottsbluff County Airport (lat. 41°52'40"N., long. 103°35'47"W.); within 4.5 miles south and 9.5 miles north of the Scottsbluff VORTAC 079° radial extending from the 9.5-mile radius to 13 miles east of the VORTAC; within 4.5 miles southwest and 9.5 miles northeast of the ILS localizer southeast course extending from the 9.5-mile radius to 13 miles southeast of the outer marker; within 5 miles northeast and 9.5 miles southwest of the ILS localizer northwest course extending from the 9.5-mile radius to 17.5 miles northwest of the airport; within 4.5 miles south and 4.5 miles north of the Scottsbluff VORTAC 256° radial extending from the 9.5-mile radius to 19.5 miles west of the VORTAC.

AMENDMENTS 12/28/78 43 F. R. 51007 (Rewritten)

Searcy, Ark.
That airspace extending upward from 700 feet above the surface within an 8-mile radius of Searcy Municipal Airport (latitude 35°13'17" N., longitude 91°44'15" W.).

Seattle, Wash.
That airspace extending upward from 700 feet above the surface bounded on the east by a line beginning at lat. 49°00' N., long. 122°21' W.; to lat. 48°40' N., long. 122°21' W.; to lat. 48°40' N., long. 122°05' W.; to lat. 47°30' N., long. 121°48' W.; to lat. 47°10' N., long. 121°48' W.; to lat. 46°48' N., long. 122° 15' W., on the south by a line extending to lat. 46°42' N., long. 123°17' W., on the west by a line extending to lat. 47°10' N., long. 123°17' W.; to lat. 47°40'00"N., long. 123°03'30"W.; to lat. 48°17' N., long. 123° 15' W.; thence via the Canada/United States boundary to the point of beginning; that airspace extending upward from 1,200 feet above the surface bounded on the north by a line beginning at lat. 48°05' N., long. 123° 40' W.; to lat. 48°05' N., long. 121°35' W., on the east by a line extending to the south via long. 121°35' W., to the south edge of V-204, on the south by the south edge of V-204 and lat. 46°30' N., to the east edge of V-27, on the west by east edge of V-27 to long. 123°40' W., to the point of beginning; that airspace east of Seattle extending upward from 9,500 feet MSL bounded on the north by a line beginning at lat. 48°00' N., long. 121°35' W.; to lat. 48°00' N., long. 121°00' W., thence south to lat. 47°42' N., long. 121°00' W., thence east to lat. 47°42' N., long. 119°43' W., on the east by a line extending south via long. 119°43' W., to the north edge of V-2N, on the south by the north edge of V-2N to long. 121°35' W., and on the west by long. 121°35' W., to the point of beginning.

Sebring, Fla.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Sebring Airport and Industrial Park (latitude 27°27'20" N., longitude 81°20'30" W.); within 3 miles each side of the 164° bearing from Sebring RBN (latitude 27°27'37" N., longitude 81°21'00" W.), extending from the 6.5-mile radius area to 8.5 miles south of the RBN.

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Sedalia, Mo.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Sedalia Memorial Airport (lat. 38°42'15"N., long. 93°11'00"W.); within 3 miles each side of the 010° bearing from Sedalia Memorial Airport, extending from the 6.5-mile radius area to 8 miles north of the airport; and within 3 miles each side of the 176° bearing from Sedalia Memorial Airport, extending from the 6.5-mile radius area to 8 miles south of the airport.

AMENDMENTS 7/13/78 43 F. R. 22342 (Rewritten)

Sedona, Ariz.
That airspace extending upward from 700 feet above the surface within a 3-mile radius of Sedona Airport (latitude 34°51'00" N., longitude 111°47'10" W.), within 2.5 miles each side of the 219° bearing from the Sedona radio beacon (latitude 34°49'41" N., longitude 111°48'48" W.), extending from the 3-mile radius area to 7 miles SW of the radio beacon; that airspace extending upward from 1,200 feet above the surface within 9 miles NW and 12 miles SE of the 219° bearing from the Sedona radio beacon extending from the radio beacon to 18.5 miles SW of the radio beacon.

Selinsgrove, Pa.
That airspace extending upward from 700 feet above the surface within a 10.5-mile radius of the center, lat. 40°49'04" N., long. 76°51'51" W. of Penn Valley Airport, Selinsgrove, Pa.; within 3.5 miles each side of the Selinsgrove, Pa., VORTAC 209° radial extending from the 10.5-mile radius area to 10.5 miles southwest of the VORTAC; within the arc of a 14-mile radius circle centered on Penn Valley Airport extending clockwise from 095° to 125°.

Selma, Ala.
That airspace extending upward from 700 feet above the surface within a 12-mile radius of Craig AFB (latitude 32°20'30" N., longitude 86°59'15" W.); within an 18.5-mile radius of the Cahaba VORTAC, extending clockwise from the 301° radial to the 212° radial.

Selmer, Tenn.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Robert Sibley Airport (latitude 35°12'38" N., longitude 88°30'30" W.); within 3 miles each side of the 334° bearing from Sibley RBN (latitude 35°14'15" N., longitude 88°31'03" W.), extending from the 6.5-mile radius area to 8.5 miles northwest of the RBN.

Seven Springs, Pa.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of the center 40°00'35"N., 79°19'20"W., of Seven Springs Borough Airport, Seven Springs, Pa.; within 3.5 miles each side of the Indian
Head, Pa. VORTAC 218° radial, extending from the 6-mile radius area to 11.5 miles southwest of the Indian Head VORTAC. This transition area is effective from sunrise to sunset, daily.

Seymour, Ind.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of Freeman Field (latitude 38°55'36" N., longitude 85°54'20" W.); within 3 miles each side of the 061° bearing from Freeman Field, extending from the 7-mile radius area to 7½ miles northeast of the airport; and within 3 miles each side of the 161° bearing from Freeman Field extending from the 7-mile radius area to 7½ miles south of the airport.

Seymour, Tex.
That airspace extending upward from 700 feet above the surface bounded by a line beginning at latitude 33°39'00" N., longitude 99°20'00" W., thence to latitude 33°46'00" N., longitude 99°23'00" W., to latitude 33°52'00" N., longitude 99°07'00" W., to latitude 33°42'00" N., longitude 99°03'00" W., to point of beginning.

Shamokin, Pa.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center, 40°50'15"N., 76°33'00"W. of Northumberland County Airport, Shamokin, Pa.; within a 7-mile radius of the center of the airport, extending clockwise from a 035° bearing to a 069° bearing from the airport; within an 11.5-mile radius of the center of the airport, extending clockwise from 069° bearing to a 110° bearing from the airport; within a 10.5-mile radius of the center of the airport, extending clockwise from a 110° bearing to a 157° bearing from the airport; within an 8.5-mile radius of the center of the airport, extending clockwise from a 157° bearing to a 260° bearing from the airport; within 4.5 miles each side of the Selinsgrove, Pa., VORTAC 080° radial, extending from the 6.5-mile radius area to the Selinsgrove, Pa., VORTAC.

Shawnee, Okla.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Shawnee Municipal Airport (lat. 35°21'16"N., long. 96°56'33"W.); within 3.5 miles each side of the 007° bearing from the Shawnee NDB (lat. 35°20'51"N., long. 96°56'48"W.) extending from the 8.5-mile radius area to 11.5 miles north of the NDB; within an 8.5-mile radius of Seminole Municipal Airport (lat. 35°16'15"N., long. 96°40'30"W.); and within 3.5 miles each side of the 353° bearing from the Seminole NDB (lat. 35°16'08"N., long. 96°40'30"W.) extending from the 8.5-mile radius area to 11.5 miles north of the NDB.

AMENDMENTS 1/26/78 42 F. R. 61037 (Rewritten)

Sheboygan, Wis.
That airspace extending upward from 700 feet above the surface within an 8-mile radius of Sheboygan County Memorial Airport (latitude 43°46'18" N., longitude 87°51'08" W.).

Shelby, Mont.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of Shelby Airport (latitude 48°32'26" N., longitude 111°52'30" W.) and within 3 miles each side of the 043° bearing from Shelby Airport extending from the 6-mile radius area to 8.5 miles northeast of the airport; that airspace extending upward from 1,200 feet above the surface within 5 miles each side of a direct course between the Cut Bank, Mont., VORTAC and the Shelby Airport, extending from the airport to 7 miles east of the VORTAC and within 4.5 miles southeast and 9.5 miles northwest of the 043° bearing from the Shelby Airport, extending from the airport to 18.5 miles northeast of the airport.

Shelby, N. C.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of Shelby Municipal Airport (latitude 35°15'25" N., longitude 81°36'00" W.); within 3 miles each side of the Spartanburg VORTAC 052° radial, extending from the 7-mile radius area to 13 miles northeast of the VORTAC.

Shelbyville, Ill.
That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the Shelby County Airport (latitude 39°24'30" N., longitude 88°50'45" W.); and within 3 miles either side of the 186° bearing from the Shelby County Airport extending from the 5.5-mile radius area to 8 miles south of the airport.

Shelbyville, Ind.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Shelbyville Memorial Airport (latitude 39°34'50" N., longitude 85°48'20" W.), and within 2 miles each side of the Shelbyville, Ind., VOR 340° radial extending from the 5-mile radius area to 8 miles north of the VOR.

Shelbyville, Tenn.
That airspace extending upward from 700 feet above the surface within an 11-mile radius of Bomar Field (latitude 35°33'44" N., longitude 86°26'33" W.); within 4.5 miles north and 9.5 miles south of the Shelbyville VOR 272° radial, extending from the VOR to 18.5 miles west; within 4.5 miles east and 9.5 miles west of the Shelbyville VOR 195° radial, extending from the VOR to 18.5 miles south; within a 9.5 mile radius of Ellington Airport, Lewisburg, Tenn. (latitude 35°30'35" N., longitude 86°48'15" W.); excluding the portion within the Mount Pleasant, Tenn., transition area.

Sheldon, Iowa
That airspace extending upward from 700 feet above the surface within a 5½-mile radius of Sheldon Municipal Airport (latitude 43°12'35" N., longitude 95°50'05" W.); and within 3 miles each side of the 163° bearing from Sheldon Municipal Airport, extending from the 5½-mile radius area to 8 miles south of the airport.

Shemya, Alaska
That airspace extending upward from 700 feet above the surface within a 12-mile radius of the Shemya Airport (latitude 52°42'50" N., longitude 174°06'57" E.); and that airspace extending upward from 1,200 feet above the surface within a 29-mile radius of the Shemya Airport. The portion within R-2204 is excluded.

Shenandoah, Iowa
That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Shenandoah, Iowa, Municipal Airport (latitude 40°45'15" N., longitude 95°25'15" W.), and within 5 miles NE and 8 miles SW of the 133° bearing from the Shenandoah RBN, extending from the RBN to a point 12 miles SE of the RBN.

Sheridan, Ind.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Sheridan Airport (latitude 40°10'33" N., longitude 86°13'58" W.); within 2.5 miles either side of the 019° bearing from the airport, extending from the 5-mile radius to 6 miles north excluding the portion which overlies the Zionsville, Indiana, transition area.

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Sheridan, Wyo.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Sheridan County Airport (latitude 44°46'25" N., longitude 106°58'15" W.); that airspace extending upward from 1,200 feet above the surface within 7 miles southwest and 10 miles northeast of the Sheridan VORTAC 138° and 318° radials, extending from 18.5 miles northwest to 34 miles southeast of the VORTAC; and that airspace southeast of Sheridan bounded on the north by a line located 5 miles south of and parallel to the Sheridan VORTAC 104° radial, on the east by a 35-mile radius arc of the Sheridan VORTAC, and on the south by a line located 10 miles north of and parallel to the Sheridan VORTAC 138° radial.

Sherman, Tex.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of Sherman Municipal Airport (lat. 33°37'30" N., long. 96°35'00" W.); within a 7-mile radius of Grayson County Airport (lat. 33° 42'55" N., long. 96°40'25" W.); and within 2 miles each side of the 181° bearing from the Grayson County NDB (lat. 33°49'26" N., long. 96°40'10" W.) extending from the 7-mile radius area to the NDB.
PENDING AMENDMENT
Sherman, Tex.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of Sherman Municipal Airport (lat. 33°37'30"N., long. 96°35'00"W.) and within an 8.5-mile radius of Grayson County Airport (lat. 33° 42'55"N., long. 96°40'25"W.).

AMENDMENTS 12/28/78 43 F. R. 48627 (Rewritten)

Shirley, N. Y.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center, 40° 49'00" N., 72°51'45" W., of Brookhaven Airport, Shirley, N. Y., and within 4.5 miles northwest and 6.5 miles southeast of the 065° bearing and the 245° bearing from the Peconic, N. Y., RBN, extending from 5.5 miles northeast to 11.5 miles southwest of the RBN, excluding the portions that coincide with the Islip, N. Y., Calverton, N. Y., and Westhampton Beach, N. Y., transition areas.

Shreveport, La.
That airspace extending upward from 700 feet above the surface within an area bounded by a line beginning at latitude 32°18'10" N., longitude 93°48'30" W.; to latitude 32°42'00" N., longitude 93°37'00" W.; to latitude 32°25'00" N., longitude 93°27'00" W.; to latitude 32°14'00" N., longitude 93°27'00" W.; to latitude 32°16'30" N. longitude 93°53'30" W.; to latitude 32°35'30" N., longitude 94°00'30" W.; to point of beginning.

Sidney, Mont.
That airspace extending upward from 700 feet above the surface within a 9-mile radius of the Sidney-Richland Municipal Airport (latitude 47°42'35" N., longitude 104°11'10" W.); within 9.5 miles east and 4.5 miles west of the 356° bearing from the Sidney NDB (latitude 47°42'41" N., longitude 104°10'52" W.) extending from the 9-mile radius area to 18.5 miles north of the NDB; and within 9.5 miles southeast and 4.5 miles northwest of the 215° bearing from the Sidney NDB extending from the 9-mile radius area to 18.5 miles southwest of the NDB.

Sidney, Nebr.
That airspace extending upward from 700 feet above the surface within a 10-mile radius of Sidney Municipal Airport (latitude 41°05'55" N., longitude 102°58'55" W.); within 5 miles NE and 8 miles SW of the Sidney VORTAC 321° radial, extending from the 10-mile radius area to 12 miles NW of the VORTAC; and that airspace in the state of Colorado extending upward from 1,200 feet above ths surface within 5 miles SW and 8 miles NE of the Sidney VORTAC 128° radial, extending from the VORTAC to 12 miles southeast of the VORTAC.

Sidney, N. Y.
That airspace extending upward from 700 feet above the surface within a 12.5-mile radius of the center, lat. 42°18'22" N., long. 75°24'57" W. of Sidney Municipal Airport, Sidney, N. Y.; within a 16-mile radius arc from the center of the airport extending clockwise from a 080° bearing to a 215° bearing from the airport excluding the airspace within a 2-mile radius area of the Harmony Crest Airpark (lat. 42°13'56" N., long. 75°38'00" W.).

Sidney, Ohio
That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Sidney Airport (lat. 40°14'23"N., long. 84°09'17"W.).

Sikeston, Mo.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of Sikeston Memorial Airport (latitude 36°53'50" N., longitude 89°33'46" W.); and within 2 miles each side of the 016° bearing from Sikeston Memorial Airport, extending from the 6-mile radius area to 8 miles north of the airport.

Siler City, N. C.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Siler City Municipal Airport (lat. 35°42'10"N., long. 79°30'22"W.).

Silver City, N. Mex.
That airspace extending upward from 700 feet above the surface within an 8-mile radius of Silver City-Grant County Airport (latitude 32°38'25" N., longitude 108°09'15" W.), and within 3.5 miles each side of the Silver City VOR 141° radial extending from the 8-mile radius area to 10 miles southeast of the VOR.

Sioux Center, Iowa
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Sioux Center Municipal Airport (lat. 43°08'05"N., long. 96°11'15"W.) and within 3 miles each side of the 006° (true) bearing from the Sioux Center Municipal Airport extending from the 5-mile radius to 8.5 miles north of the airport.

AMENDMENTS 3/23/78 43 F. R. 3082 (Added)

Sioux City, Iowa
That airspace extending upward from 700 feet above the surface within a 19-mile radius of Sioux City Municipal Airport (latitude 42°24'03" N., longitude 96°22'55" W.); within 5 miles southwest and 9½ miles northeast of the Sioux City VORTAC 140° radial, extending from the 19-mile radius area to 24½ miles southeast of the VORTAC; within 4½ miles southwest and 9½ miles northeast of the Sioux City ILS localizer northwest and southeast courses, extending from the 19-mile radius area to 24½ miles southeast of the OM; within 4½ miles northeast and 11½ miles southwest of the Sioux City VORTAC 320° radial, extending from the VORTAC to 35 miles northwest of the VORTAC.

Sioux Falls, S. Dak.
That airspace extending upward from 700 feet above the surface within a 20-mile radius of Joe Foss Field (latitude 43°34'55" N., longitude 96°44'35" W.); within 9.5 miles southwest and 4.5 miles northeast of the Sioux Falls VORTAC 330° radial extending from the 20-mile radius area to 18.5 miles northwest of the VORTAC; and within 9.5 miles northwest and 4.5 miles southeast of the Sioux Falls ILS localizer northeast course, extending from the 20-mile radius area to 23 miles northeast of the airport; and that airspace extending upward from 1,200 feet above the surface within a 27-mile radius of the Sioux Falls VORTAC extending from the VORTAC 054° radial clockwise to the Sioux Falls ILS localizer southwest course; excluding that portion in the state of Iowa; within a 25-mile radius of the Sioux Falls VORTAC extending from the Sioux Falls ILS localizer southwest course clockwise to the VORTAC 004° radial; and within a 13-mile radius extending from the Sioux Falls VORTAC 004° radial clockwise to the Sioux Falls VORTAC 054° radial; and that airspace extending upward from 4,000 feet MSL north of Sioux Falls bounded on the north by V-26S, on the southeast by V-148 and on the southwest by V-15; within a 50-mile radius of Sioux Falls VORTAC, extending from the south edge of V-148S east of Sioux Falls clockwise to the northwest edge of V-148 west of Sioux Falls; and within a 55-mile radius of the Sioux Falls VORTAC, extending from the northwest edge of V-148 west of Sioux Falls clockwise to the south edge of V-120 west of Sioux Falls, excluding that portion in Minnesota.

Sitka, Alaska
That airspace extending upward from 700 feet above the surface within 3 miles northwest and 2 miles southeast of the Sitka RBN 207° bearing, extending from the RBN to 8 miles southwest of the RBN; within 2 miles each side of the Biorka Island VORTAC 148° radial, extending from the VORTAC to 8 miles southeast of the VORTAC; within 2 miles each side of the Sitka RBN 147° bearing, extending from the RBN to 8 miles southeast of the RBN; and within 2.5 miles each side of the localizer northwest course, extending from 14 miles northwest to 22 miles northwest of the localizer; and that airspace extending upward from 1,200 feet above the surface within 9 miles southwest and 22 miles northeast of the Biorka Island VORTAC 308° radial, extending from the VORTAC to 33 miles northwest of the VORTAC, and within 9 miles northwest and 6 miles southeast of the Biorka Island VORTAC 027° and 207° radials, extending from 8 miles northeast to 19 miles southwest of the VORTAC.

Skwentna, Alaska
That airspace extending upward from 700 feet above the surface within 4.5 miles N and 9.5 miles S of the 291° and 111° bearings from the Skwentna RBN, extending from 7.5 miles W to 18.5 miles E of the RBN.

Slidell, La.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Slidell Airport (latitude 30°20'37" N., longitude 89°49'18" W.), and within 2.5 miles each side of the New Orleans VORTAC 043° radial extending from the 5-mile radius area to 23 miles northeast of the VORTAC.

Smithfield, N. C.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of Johnston County Airport (lat. 35°32'26"N., long. 78°23'27"W.).

AMENDMENTS 9/7/78 43 F. R. 30041 (Added)

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Snyder, TX.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Winston Field Airport (latitude 32°41'50" N., longitude 100°57'10" W.) and within 3 miles each side of the 184° True bearing from the Snyder, TX., radio beacon extending from the 5-mile radius area to 8 miles south of the radio beacon.

Soldotna, Alaska
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Soldotna Airport (latitude 60°28'25" N., longitude 151°02'20" W.), excluding the portion within the Kenai 700-foot floor transition area.

Somerset, Ky.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Somerset-Pulaski County Airport (lat. 37°03'24" N., long. 84°36'45" W.); within 3 miles each side of the 230° bearing from Somerset RBN (lat. 37°03'19" N., long. 84°36'58" W.), extending from the 8.5-mile radius area to 8.5 miles southwest of the RBN.

Somerset, PA.
That airspace extending upward from 700 feet above the surface within a 9.5-mile radius of the center (lat. 40°02'15" N., long. 79°01'00" W.) of Somerset County Airport, Somerset, PA. and within 3.5 miles each side of the 056° bearing from the Stoystown RBN (lat. 40°05'17" N., long. 78°55'20" W.) extending from the 9.5-mile radius area to 11 miles northeast of the RBN, excluding the portion that coincides with the Johnstown, PA., transition area.

Sonora, Tex.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Sonora Municipal Airport (latitude 30°35'00" N., longitude 100°39'00" W.) and within 3 miles each side of the 358° bearing from the Sonora, Tex., NDB (latitude 30°34'54" N., longitude 100°38'48" W.) extending 8.5 miles northwest of the Sonora, Tex., NDB.

South Bend, Ind.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of Michiana Regional Airport, South Bend, Ind. (latitude 41°42'15" N., longitude 86°18'50" W.) and within 5 miles south and 8 miles north of the South Bend ILS localizer east course, extending from Michiana Regional Airport to 12 miles east of the ILS outer marker and within 5 miles west and 8 miles east of the South Bend, Ind. VOR 360° radial, extending from the Michiana Regional Airport to 12 miles north of the VOR and within a 5-mile radius of Tyler Memorial Airport, Niles, Mich. (latitude 41°50'30" N., longitude 86°13'30" W.).

South Boston, VA.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center, lat. 36°42'45" N., long. 78°51'00" W. of William M. Tuck Airport, South Boston, VA., and within 2 miles each side of the South Boston VORTAC 076° radial, extending from the 6.5-mile radius area to the VORTAC.

Southbridge, Mass.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center, 42°06'05" N., 72°02'20" W. of Southbridge Municipal Airport, Southbridge, Mass.; within 3.5 miles each side of the Putnam, Conn., VORTAC 315° radial, extending from the 6.5-mile radius area to the VORTAC; within 2 miles each side of the Runway 2 centerline extended from the 6.5-mile radius area to 6.5 miles north of the end of the runway and within 2 miles each side of the Runway 20 centerline extended from the 6.5-mile radius area to 6.5 miles south of the end of the runway.

South Carolina
That airspace extending upward from 1,200 feet above the surface within the boundary of the State of South Carolina including the offshore airspace within 3 nautical miles of and parallel to the shoreline of South Carolina, and including the airspace outside the United States southeast of Myrtle Beach, S. C., bounded by a line beginning at latitude 33°48'10" N., longitude 78°31'45" W.; to latitude 33°46'15" N., longitude 78°30'25" W.; thence clockwise along a 25-mile radius circle centered on Conway TACAN to latitude 33°19'40" N., longitude 79°02'10" W.; to latitude 33°14'15" N., longitude 79°06'15" W.; thence north along a line 3 nautical miles from and parallel to the shoreline to point of beginning; and east of Charleston, S. C., bounded by a line beginning at latitude 33°04'55" N., longitude 79°13'10" W.; to latitude 32°58'30" N., longitude 79°18'00" W.; to latitude 32°50'40" N., longitude 79°23'15" W.; thence clockwise along the arc of a 38-mile radius circle centered on the Charleston VORTAC to latitude 32°38'40" N., longitude 79°27'25" W.; to latitude 32°44'00" N., longitude 79°45'10" W.; thence north along a line 3 nautical miles from and parallel to the shoreline to point of beginning; and southeast of Beaufort, S. C., bounded by a line beginning at latitude 32°15'00" N., longitude 80°30'00" W.; to latitude 32°00'00" N., longitude 80°33'00" W.; to latitude 32°03'25" N., longitude 80°46'30" W.; thence north along a line 3 nautical miles from and parallel to the shoreline to point of beginning.

Southern Pines, N. C.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Pinehurst-Southern Pines Airport (latitude 35°14'02" N., longitude 79°23'36" W.); within 1.5 miles each side of Sandhills VORTAC 082° radial, extending from the 8.5-mile radius area to the VORTAC.

AMENDMENTS 5/18/78 43 F. R. 15415 (Changed)

South Haven, Mich.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of South Haven Municipal Airport (lat. 42°21'15" N., long. 86°15'45" W.); and within 1.5 miles each side of the Pullman VORTAC 224° radial, extending from the 7-mile radius area to the VORTAC.

South Kauai, Hawaii
That airspace extending upward from 700 feet above the surface within 2 miles north and 4 miles south of the South Kauai, Hawaii, VORTAC 271° radial extending from the VORTAC to 8 miles west of the VORTAC; within 2 miles each side of the South Kauai, VORTAC 089° radial extending from the VORTAC to 6 miles east of the VORTAC and within 2 miles each side of the South Kauai, VORTAC 133° radial extending from the VORTAC to 6 miles southeast of the VORTAC.

Southport, N. C.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Brunswick County Airport (latitude 33°55'44" N.., longitude 78°04'33" W.); within 3 miles each side of the 315° bearing from the Yaupon RBN (latitude 33°55'39" N., longitude 78°04'31" W.), extending from the 5-mile radius area to 8.5 miles northwest of the RBN.

Sparta, Ill.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Sparta Community Airport (latitude 38°08'55" N., longitude 89°41'55" W.); and within 3 miles each side of the 009° bearing from Sparta Community Airport, extending from the 5-mile radius area to 8 miles north of the airport.

Sparta, Mich.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Sparta Airport (latitude 43°07'45" N., longitude 85°40'30" W.); excluding that airspace which overlies the Muskegon, Michigan, transition area.

Sparta, Tenn.
That airspace extending upward from 700 feet above the surface within a 10.5-mile radius of the Sparta-White County Airport (lat. 36°03'30"N., long. 85°31'43"W.); excluding the portions that coincide with the McMinnville, Tenn., and Cookeville, Tenn., transition area.

Spartanburg, S. C.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Spartanburg Downtown Memorial Airport (latitude 34°54'55" N., longitude 81°57'32" W.); 3.5 miles each side of Spartanburg VORTAC 016° radial, extending from the 6.5-mile radius area to 9 miles north of the VORTAC; within 3.5 miles each side of Spartanburg VORTAC 191° radial, extending from the 6.5-mile radius area to 16.5 miles south of the VORTAC; within 3 miles each side of the 237° bearing from Fairmont RBN, extending from the 6.5-mile radius area to 8.5 miles southwest of the RBN; excluding the portion within the Greenville, S. C., transition area.

Spencer, Iowa
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Spencer, Iowa, Municipal Airport (latitude 43°09'45" N., longitude 95°11'30" W.); and within 3 miles each side of the Spencer VOR 298° radial, extending from the 5-mile radius zone to 8 miles northwest of the VOR; within 5 miles east and 3 miles west of the Spencer VOR 134° radial, extending from the 5-mile radius zone to 15 miles southeast of the VOR.

Spirit Lake, Iowa
That airspace extending upward from 700 feet above the surface within a 5½-mile radius of Spirit Lake Municipal Airport (latitude 43°23'05" N., longitude 95°08'10" W.); and within 3 miles each side of the 352° bearing from Spirit Lake Municipal Airport, extending from the 5½-mile radius to 8 miles north of the airport.

Spokane, Wash.
That airspace extending upward from 700 feet above the surface bounded on the north by a line beginning at latitude 47°50' N., longitude 118°00' W., extending to latitude 47°50' N., longitude 117°30' W., to latitude 47° 58' N., longitude 117°16' W., to latitude 47°51' N., longitude 117°08' W., to latitude 47°56' N., longitude 116° 47' W., to latitude 47°44' N., longitude 116°41' W., to latitude 47°37' N., longitude 117°13' W., to latitude 47°28' N., longitude 117°16' W., to latitude 47°17' N., longitude 117°47' W., to latitude 47°26' N., longitude 118°00' W.; thence to point of beginning; that airspace extending upward from 1,200 feet above the surface within a 52-mile radius of Fairchild AFB (latitude 47°36'55" N., longitude 117°39'20" W.), excluding that portion southeast of Spokane bounded on the north by the arc of a 38-mile radius circle centered on the Fairchild AFB, on the northeast by V-2S, on the southeast by the arc of the 52-mile radius area, on the southwest by a line parallel to and 10 miles northeast of V-253; that airspace south of Spokane extending from the 52-mile radius area bounded on the east by V-253, on the south by V-536, on the west by the east edge of V-112E; that airspace southeast of Spokane extending upward from 6,000 feet MSL, bounded on the north by the arc of a 38-mile radius circle centered on the Fairchild AFB on the northeast by V-2S, on the southeast by the arc of the 52-mile radius area, on the southwest by a line parallel to and 10 miles northeast of V-253; that airspace southeast of Spokane extending upward from 7,000 feet MSL bounded on the northwest by the 52-mile radius area, on the north by V-2S, on the southeast by the north edge of V-536, and on the southwest by V-253.

Springfield, Ill
That airspace extending upward from 700 feet above the surface within an 8-mile radius of Capital Airport (latitude 39°50'35" N., longitude 89°40'35" W.); and within the arc of a 23-mile radius circle centered on the Capital VORTAC, extending from a line 2 miles southeast of and parallel to the Capital VORTAC 213° radial clockwise to a line 2 miles northwest of and parallel to the Capital VORTAC 228° radial.

Springfield, Mo.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Springfield, Mo., Municipal Airport (latitude 37°14'35" N., longitude 93°23'20" W.); within 2 miles each side of the 324° bearing from the Willard RBN, extending from the 7-mile radius area to 8 miles northwest of the RBN; within 5 miles west and 8 miles east of the Springfield ILS localizer south course, extending from 1 mile north to 12 miles south of the OM.

Springfield, Vt.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of the center (latitude 43°20'29" N., longitude 72°31'18" W.) of Springfield State-Hartness Airport, Springfield, Vt., within 5 miles each side of the 033° and 213° bearings from the Springfield NDB (latitude 43°16'12" N., longitude 72°35'12" W.) extending from the 6-mile radius area to 11.5 miles southwest of the NDB.

Springhill, La.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Springhill Municipal Airport, Springhill, La. (latitude 32°58'50" N., longitude 93°24'35" W.).

Standish, Mich.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Standish City Airport (latitude 43°58'48" N., longitude 83°58'25" W.).

Staples, Minn.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Staples Municipal Airport (latitude 46°22'48" N., longitude 94°48'08" W.), and within 3 miles each side of the 311° bearing from Staples Municipal Airport, extending from the 5-mile radius to 8 miles northwest of the airport; and that airspace extending upward from 1,200 feet above the surface within 4½ miles east and 9½ miles west of the 311° bearing from the airport, extending to 18½ miles northwest of the airport, excluding that portion south of latitude 46°30'00" N.

Starkville, Miss.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of George M. Bryan Field (lat. 33°26'00"N., long. 88°50'45"W.); within 5 miles each side of Bigbee VORTAC 260° radial extending from the 6.5-mile radius area to 32.5 miles west of the VORTAC; within 3 miles each side of the 350° bearing from BRYAN RBN (lat. 33°35'
53" N., long. 88°51'01" W.), extending from the 6.5-mile radius area to 8.5 miles north of the RBN; excluding the portion within Columbus, Miss., transition area.

AMENDMENTS 3/23/78 42 F. R. 60122 (Changed)

State College, Pa.
That airspace extending upward from 700 feet above the surface within a 12-mile radius of the center, latitude 40°51'05" N., longitude 77°51'00" W., of University Park Airport, State College, Pa., extending clockwise from a 020° bearing to a 130° bearing from the airport; within a 13.5-mile radius of the center of University Park Airport, extending clockwise from a 130° bearing to a 165° bearing from the airport; within a 5-mile radius of the center of University Park Airport, extending clockwise from a 165° bearing to a 210° bearing from the airport; within a 7-mile radius of the center of University Park Airport, extending clockwise from a 210° bearing to a 280° bearing from the airport; within a 13.5-mile radius of the center of University Park Airport, extending clockwise from a 280° bearing to a 020° bearing from the airport; within 3.5 miles each side of the University Park Airport ILS Runway 24 localizer course, extending from the OM to 10.5 miles northeast of the OM; within
a 5-mile radius of the center, latitude 40°46'15" N., longitude 77°52'45" W., of State College Air Depot Airport, State College, Pa., extending clockwise from a 010° bearing to a 045° bearing from the airport; within a 12-mile radius of the center of State College Air Depot Airport, extending clockwise from a 045° bearing to a 080° bearing from the airport; within a 13.5-mile radius of the center of State College Air Depot Airport, extending clockwise from a 080° bearing to a 230° bearing from the airport; within a 6.5-mile radius of the center of State College Air Depot Airport, extending clockwise from a 230° bearing to a 260° bearing from the airport; and within a 14.5-mile radius of the center of State College Air Depot Airport, extending clockwise from a 260° bearing to 010° bearing from the airport, excluding the portion that coincides with the Phillipsburg, Pa., and Reedsville, Pa., transition areas.

AMENDMENTS 8/10/78 43 F. R. 19212 (Changed)

Statesboro, GA.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Statesboro Municipal Airport (lat. 32°29'25" N., long. 81°44'08" W.); within 3 miles each side of the 120° and 326° bearings from Statesboro RBN (lat. 32°28'27" N., long. 81°44'40" W.), extending from the 6.5-mile radius area to 8.5 miles southeast and northwest of the RBN.

Statesville, N. C.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of Statesville Municipal Airport (latitude 35°45'36" N., longitude 80°57'15" W.).

Steamboat Springs, Colo.
That airspace extending upward from 700 feet above the surface within 5 miles east and 7.5 miles west of the 153° and 333° bearings from the Rocky Mountain Airways NDB (latitude 40°28'13" N., longitude 106°49'46" W.), extending from 6.5 miles northwest of the NDB to 12.5 miles southeast of the NDB; that airspace extending upward from 1,200 feet above the surface within an area bounded by a line beginning at latitude 40°04'30" N., longitude 106°30'00" W.; to latitude 40°05'40" N., longitude 107°00'00" W.; to latitude 40°35'00" N., longitude 107°00' 00" W.; to latitude 40°35'00" N., longitude 106°30'00" W.; to point of beginning; that airspace extending upward from 13,300 feet MSL within an area bounded by a line beginning at latitude 40°04'15" N., longitude 106°30' 00" W.; to latitude 40°25'00" N., longitude 106°30'00" W.; to latitude 40°08'00" N., longitude 105°52'00" W.; thence along the north edge of V-220 to the point of beginning.

Stephenville, Tex.
That airspace extending upward from 700 feet AGL within a 5-mile radius of Clark Field, Tex. (latitude 32°13'00" N., longitude 98°10'42" W.); within 3 miles each side of the Acton, Tex., VORTAC 244° radial extending from the 5-mile radius area to 27 miles from the VORTAC; and within 3 miles each side of the 139° bearing from the Stephenville, Tex., RBN (latitude 32°13'00" N., longitude 98°10'42" W.) extending from the 5-mile radius area to 8 miles southeast of the RBN.

Sterling, Colo.
That airspace extending upward from 700 feet above the surface within a 10.5 mile radius of the Crosson Field Airport (Lat. 40°36'58"N., Long. 103°15'48"W.) and that airspace within 9.5 miles west and 4.5 miles east of the 163° bearing from the Batten NDB (lat. 40°31'56"N., long. 103°13'45"W.) extending from the 10.5 mile radius area to 18.5 miles south of the Batten NDB and within 5 miles each side of the 023° bearing from Crosson Field extending from the 10.5 mile radius area to 23.5 miles northeast of Crosson Field Airport.

Sterling, Ill.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of Whiteside County Airport (latitude 41°44'35" N., longitude 89°40'30" W.); within 2 miles each side of the 074° bearing from Whiteside County Airport, extending from the 7 mile radius area to 14 miles east of the airport; and within 2 miles each side of the 232° bearing from Whiteside County Airport, extending from the 7-mile radius area to 8 miles southwest of the airport, excluding the portion which overlies the Dixon, Ill., transition area.

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Stevens Point, Wis.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Stevens Point, Wis., Municipal Airport (latitude 44°32'38" N., longitude 89°31'50" W.); within 2 miles each side of the Stevens Point, Wis., VOR 024° radial extending from the 5-mile radius area to 11 miles NE of the VOR; within 2 miles each side of the Stevens Point VOR 111° radial extending from the 5-mile radius area to 8 miles E of the VOR; within 2 miles each side of the Stevens Point VOR 217° radial extending from the 5-mile radius area to 8 miles SW of the VOR; and within 2 miles each side of the Stevens Point VOR 306° radial extending from the 5-mile radius area to 8 miles NW of the VOR.

Stillwater, OK.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of Searcy Field, Stillwater, OK., latitude 36°09'31" N., longitude 97°05'08" W.; and within 2 miles each side of the Stillwater VOR 005° radial extending from the 6-mile radius area to 8 miles north of the VOR.

Stockton, Calif.
That airspace extending upward from 700 feet above the surface within 2 miles each side of the Stockton ILS localizer SE course, extending from the OM to 1 mile NW of the OM; within 2 miles each side of the Stockton VORTAC 140° radial, extending from the VORTAC to 8 miles SE of the VORTAC, and within a 12-mile radius of the Stockton VORTAC, extending from the arc of a 5-mile radius circle centered on the Stockton Municipal Airport (latitude 37° 53' 45" N., longitude 121° 14' 10" W.) clockwise from a line 2 miles SW of and parallel to the Stockton VORTAC 303° radial to a line 2 miles NE of and parallel to the Stockton VORTAC 334° radial; and that airspace extending upward from 1,200 feet above the surface bounded on the E by longitude 120° 04' 00" W., on the SE by a line extending from latitude 37° 52' 00" N., longitude 120° 04' 00" W., to latitude 37° 38' 00" N., longitude 121° 00' 00" W., on the S by latitude 37° 38' 00" N., on the W by longitude 121° 37' 00" W., and on the N by latitude 38° 07' 00" N. The airspace within R-2531 is excluded.

Storm Lake, Iowa
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Storm Lake Municipal Airport (latitude 42°36'00" N., longitude 95°14'31" W.); and within 3 miles each side of the 142° bearing from Storm Lake Municipal Airport, extending from the 5-mile radius area to 8 miles southeast of the airport.

Stratford, Tex.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Stratford Field (latitude 36°20'45" N., longitude 102°02'50" W.).

Sturgeon Bay, Wis.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Door County Cherryland Airport (latitude 44°50'30" N., longitude 87°25'10" W.); and within 3 miles each side of a 195° bearing from the Door County Cherryland Airport extending from the 5-mile radius area to 7½ miles south of the airport.

Sturgis, Ky.
That airspace extending upward from 700 feet above the surface within a 9-mile radius of the Sturgis Municipal Airport (latitude 37°32'30" N., longitude 87°56'51" W.).

Sturgis, Mich.
That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of Kirsch Airport, Sturgis, Michigan (latitude 41°48'35" N., longitude 85°26'10" W.); within 3½ miles either side of the 059° bearing from the airport, extending from the 5.5 mile radius area to 1.3 miles northeast of the airport and within 3 miles either side of the 341° bearing from the airport, extending from the 5.5-mile radius area to 8 miles north of the airport.

Stuttgart, Ark.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Stuttgart Municipal Airport (latitude 34°36'15" N., longitude 91°34'30" W.), and within 3.5 miles each side of the 350° bearing from the Stuttgart RBN (latitude 34°39'52" N., longitude 91°35'30" W.) extending from the 6.5-mile radius area to 11.5 miles north of the RBN.

Sugarloaf, Maine
That airspace extending upward from 1,200 feet above the surface within an area bounded by a line beginning at latitude 45°04'20" N., longitude 71°27'00" W., to latitude 45°17'00" N., longitude 71°20'10" W., to latitude 45°20'40" N., longitude 70°39'30" W., to latitude 45°21'40" N., longitude 70°39'00" W., to latitude 45°22'30" N., longitude 70°08'10" W., to latitude 45°25'00" N., longitude 69°48'00" W., to latitude 45°23'00" N., longitude 69°48'00" W., to latitude 45°14'50" N., longitude 69°50'20" W., to latitude 45°07'50" N., longitude 69°50'20" W., to latitude 45°07'50" N., longitude 69°28'00" W., to latitude 44°50'00" N., longitude 69°47'10" W., to latitude 44°39'00" N., longitude 69°47'10" W., to latitude 44°16'10" N., longitude 70°14'00" W., to latitude 44°13'50" N., longitude 70°12'00" W., to latitude 44°02'10" N., longitude 70°37'50" W., to latitude 44°04'00" N., longitude 70°40'10" W., to latitude 44°06'00" N., longitude 70°37'00" W., to latitude 44°06'10" N., longitude 70°59'10" W., to latitude 44°14'30" N., longitude 70°52'30" W., to latitude 44°21'00" N., longitude 70°57'10" W., to latitude 44°29'30" N., longitude 71°01'10" W., to latitude 44°31'00" N., longitude 70°55'00" W., to latitude 44°39'00" N., longitude 71°00'00" W., to latitude 44°54'50" N., longitude 71°01'50" W., to latitude 44°53'00" N., longitude 71°18'00" W., to point of beginning, excluding Canadian airspace.

Sullivan, Ind.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Sullivan County Airport (latitude 39°07'00" N., longitude 87°26'55" W.); and within 3 miles each side of the 187° bearing from Sullivan County Airport, extending from the 5-mile radius area to 8 miles south of the airport.

Sulphur Springs, Tex.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Sulphur Springs Airport (latitude 33°09'30" N., longitude 95°37'15" W.), and within 2 miles each side of the Sulphur Springs VORTAC 240° radial extending from the 5-mile radius area to 18 miles southwest of the VORTAC.

Sumter, S. C.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Shaw AFB (lat. 33°58'15" N., long. 80°28'19" W.); within 4 miles each side of Shaw AFB TACAN 033° radial, extending from the 8.5-mile radius area to 8.5 miles northeast of the TACAN; within 5 miles each side of the TACAN 215° radial, extending from the 8.5-mile radius to 21.5 miles southwest of the TACAN; within a 10.5-mile radius of McEntire ANGB (lat. 33°55'26" N., long. 80°48'14" W.); within 5 miles each side of McEntire ANGB TACAN 138° radial, extending from the 10.5-mile radius area to 12.5 miles southeast of the TACAN; within a 5-mile radius of Sumter Municipal Airport (lat. 33°59'39" N., long. 80°21'45" W.); within 3 miles each side of the 028° bearing from Sumter RBN (lat. 33°59'24" N., long. 80°21'38" W.), extending from the 5-mile radius area to 8.5 miles northeast of the RBN; excluding the portion within the Columbia transition area.

Sunol, Calif.
That airspace extending upward from 1,200 feet above the surface bounded on the E by longitude 121°31'00" W., on the SW by V-107 and on the NW by V-244S.

Superior, Wis.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Richard I. Bong Airport (lat. 46°40'55" N., long. 92°05'35" W.), excluding the portion which overlies the Duluth, Minn., transition area.

Superior, Nebr.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Superior Municipal Airport (lat. 40°03'00"N., long. 98°03'45"W.) and within 2.5 miles each side of the 021° radial of the Mankato (TKO) VORTAC, extending from the 5-mile radius 5 miles north of the airport and within 2.5 miles each side of the 024° radial of the Mankato (TKO) VORTAC, extending from the 5-mile radius to 5 miles south of the airport.

AMENDMENTS 11/2/78 43 F. R. 31884 (Added) Corr: 43 F. R. 35474

Sussex, N. J.
That airspace extending upward from 700 feet above the surface within a 9-mile radius of the center, 41°12' 00" N., 74°37'00" W. of Sussex Airport, Sussex, N. J., extending clockwise from a 005° bearing to a 074° bearing from the airport; within an 11.5-mile radius of the center of the airport, extending clockwise from a 074° bearing to a 197° bearing from the airport; within a 7.5-mile radius of the center of the airport, extending clockwise from a 197° bearing to a 234° bearing from the airport; within an 11.5-mile radius of the center of the airport, extending clockwise from a 234° bearing to a 269° bearing from the airport; within a 9.5-mile radius of the center of the airport, extending clockwise from a 269° bearing to a 329° bearing from the airport; and within a 12-mile radius of the center of the airport, extending clockwise from a 329° bearing to a 005° bearing from the airport.

Swainsboro, Ga.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Emanuel County Airport (lat. 32°36'30" N., long. 82°22'15" W.); within 3 miles each side of Swainsboro TVOR (lat. 32°36'24" N., long. 82°22'10" W.) 294° radial extending from the 6.5-mile radius area to 8.5 miles northwest of the TVOR.

Sweetwater, Tex.
That airspace extending upward from 700 feet above the surface within a 9-mile radius of the Sweetwater Municipal Airport (lat. 32°28'00"N., long. 100°28'00"W.) and within 3.5 miles each side of the 350° bearing from the Sweetwater RBN (lat. 32°27'41"N., long. 100°27'59"W.) extending from the 9-mile radius area to 11.5 miles north of the RBN.

AMENDMENTS 3/23/78 43 F. R. 1303 (Added)

Sylacauga, Ala.
That airspace extending upward from 700 feet above the surface within a 10.5-mile radius of Lee Merkle Airport (latitude 33°10'14" N., longitude 86°18'12" W.).

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Syracuse, N. Y.
That airspace extending upward from 700 feet above the surface within a 9-mile radius of the center, latitude 43°06'50" N., longitude 76°06'35" W., of Syracuse Hancock International Airport extending clockwise from a 270° bearing to a 090° bearing from the airport; within a 16-mile radius of the center of the airport extending clockwise from a 090° bearing to a 270° bearing from the airport; within 9.5 miles north and 4.5 miles south of the Syracuse Hancock International Airport Runway 28 ILS localizer course extending from the OM to 18.5 miles east of the OM; within 9.5 miles north and 4.5 miles south of the Syracuse Hancock International Airport Runway 10 ILS localizer back course extending from the localizer to 26 miles west of the localizer; within 5 miles each side of the Syracuse VORTAC 283° radial extending from the VORTAC to a point 16 miles west of the VORTAC; and within 5 miles each side of the Syracuse VORTAC 242° radial extending from the VORTAC to a point 16 miles southwest of the VORTAC.

Tahlequah, Okla.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the Tahlequah Municipal Airport, Tahlequah, Okla., (lat. 35°55'40"N., long. 95°00'15"W.); within 3.5 miles each side of the 007° bearing from the Tahlequah NDB (lat. 35°55'35"N., long. 95°00'20"W.) extending from the 8.5-mile radius area to 11.5 miles north of the NDB.

AMENDMENTS 3/23/78 42 F. R. 64113 (Added)

Talkeetna, Alaska
That airspace extending upward from 1,200 feet above the surface within 23 miles W and 15 miles E of the 022° and 202° bearings from the Peters Creek NDB, extending from 40 miles N to 15 miles S of the NDB, excluding the airspace within Federal airways.

Tallahassee, Fla.
That airspace extending upward from 700 feet above the surface within a 10-mile radius of the Tallahassee Municipal Airport (lat. 30°23'59" N., long. 84°21'22" W.); within a 6.5-mile radius of the Tallahassee Commercial Airport (lat. 30°33'02" N., long. 84°22'31" W.); within 3 miles each side of the ILS localizer south course, extending from the 10-mile radius area to 9 miles south of the OM.

Tallassee, Ala.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Tallassee Municipal Airport (lat. 32°28'52" N., long. 85°53'06" W.).

Tallulah, La.
That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the Scott Airport (lat. 32°25'00"N., long. 91°09'00"W.), and within 3 miles either side of the Tallulah NDB 005° bearing from the Tallulah NDB (lat. 32°24'44"N., long. 91°09'00"W.) extending from the 5.5-mile radius area to 8.5 miles northeast of the NDB.

AMENDMENTS 1/26/78 42 F. R. 60118 (Added)

Tampa, Fla.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Tampa International Airport (lat. 27°58'29" N., long. 82°31'38" W.); within an 8.5-mile radius of St. Petersburg Clearwater International Airport (lat. 27°54'33" N., long. 82°41'19" W.); within 3 miles each side of St. Petersburg VORTAC 343° radial, extending from the 8.5-mile radius area to 8 miles north of the VORTAC; within an 8.5-mile radius of MacDill AFB (lat. 27°50'57" N., long. 82°31'18" W.); within 3 miles each side of MacDill AFB ILS localizer northeast course, extending from the 8.5-mile radius area to 8.5 miles northeast of the OM; within a 7-mile radius of Peter O. Knight Airport (lat. 27°54'55" N., long. 82°27'05" W.); within a 5-mile radius of Albert-Whitted Airport (lat. 27°45'53" N., long. 82°37'39" W.).

Tanana, Alaska
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Ralph N. Calhoun Memorial Airport, latitude 65°10'30" N., longitude 152°06'32" W. and within 9.5 miles south and 4.5 miles north of the Bear Creek radio beacon 251° bearing extending from the radio beacon to 18.5 miles west.

Tangier, Va.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center of Tangier Island Airport, lat. 37°49'30" N., long. 75°59'55" W.; within 3 miles each side of the Cape Charles, Va., VORTAC 360° radial extending from the 5-mile radius area to 26 miles north of the VORTAC.

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Taos, N. Mex.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Taos Municipal Airport (lat. 36°27'33" N., long. 105°40'31" W.); within 3 miles each side of a 215° bearing from the Taos NDB (lat. 36°27'40" N., long. 105°40'10" W.) extending from the 6.5-mile radius area to 8.5 miles southwest of the NDB; and that airspace extending upward from 1,200 feet above the surface beginning at lat. 36°07'00" N., long. 105°50'00" W.,thence via a 25-mile arc centered on the Taos Municipal Airport coordinates (lat. 36°27'33" N., long. 105°40'31" W.) clockwise to lat. 36°48'00" N., long. 105°49'15" W., thence direct to lat. 36°30'00" N., long. 105°30'00" W., thence direct to point of beginning.

PENDING AMENDMENT

Taos, N. Mex.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Taos Municipal Airport (lat. 36°27'33"N., long. 105°40'31"W.); within 9.5 miles on the northwest side and within 4.5 miles on the southeast side of the 203° bearing from the Ski NDB (lat. 36°27'40"N., long. 105°40'10"W.), extending from the NDB to 18.5 miles southwest of the NDB excluding that airspace within the 6.5-mile airport radius area; and that airspace extending upward from 1,200 feet above the surface beginning at lat. 36°07'00"N., long. 105°50'00"W., thence via a 25-mile arc centered on the Taos Municipal Airport coordinates (lat. 36°27'33"N., long. 105°40'31"W.) clockwise to lat. 36°48'00"N., long. 105°49'15"W., thence direct to lat. 36°30'00"N., long. 105°30'00"W., thence direct to the point of beginning.

AMENDMENTS 12/28/78 43 F. R. 45983 (Rewritten)

Taunton, Mass.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of the center 41°52'35" N., 71°01'00" W., of Taunton Municipal Airport, Taunton, Mass.; within 2 miles each side of the Whitman, Mass., VORTAC 187° radial, extending from the 6-mile radius area to the Whitman VORTAC and within 2 miles each side of the 118° bearing from the Taunton, Mass., RBN, 41°52'35" N., 71°01'03" W., extending from the 6-mile radius area to 8 miles southeast of the Taunton RBN.

Taylorville, Ill.
That airspace extending upward from 700 feet above the surface within a 5-statute-mile radius of the Taylorville Municipal Airport (lat. 39°32'05"N., long. 89°19'45"W.) and within 3 statute miles each side of the 348° true bearing of the Taylorville NDB extending from the 5-statute-mile radius area to 8 statute miles north of the Taylorville NDB.

AMENDMENTS 11/2/78 43 F. R. 32407 (Added)

Tecumseh, Mich.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of Tecumseh, Mich. Airport (latitude 42°01'30" N., longitude 83°56'20" W.).

Tell City, IN.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Perry County Municipal Airport, IN., (latitude 38°01'05" N., longitude 86°41'30" W.); and within 3 miles each side of the 105° bearing from the Perry County Municipal Airport extending from the 5-mile radius to 8 miles southeast.

Tennessee
That airspace extending upward from 1,200 feet above the surface within the boundary of the State of Tennessee.

Terre Haute, Ind.
That airspace extending upward from 700 feet above the surface within an 8-mile radius of Hulman Field (latitude 39°27'07" N., longitude 87°18'25" W.); within 5 miles southeast and 9 miles northwest of the Terre Haute VORTAC 051° radial, extending from the VORTAC to 13 miles northeast and within 7 miles southeast and 8 miles northwest of the Terre Haute VORTAC 230° radial, extending from the VORTAC to 23 miles southwest; within a 5-mile radius of the Sky King Airport (latitude 39°32'56" N., longitude 87°22'38" W.); within a 5-mile radius of the Arthur Airport (latitude 39°28'36" N., longitude 87°06'00" W.).

Terrell, Tex.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Terrell, Tex., Municipal Airport (lat. 32°43'00"N., long. 96°16'00"W.).

Texarkana, Ark.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Municipal-Webb Field (lat. 33°27'20" N., long. 93°59'15" W.), within 2 miles each side of the Texarkana ILS localizer northeast course extending from the 5-mile radius area to the OM, and within 2 miles each side of the Texarkana VORTAC 129° radial extending from the 5-mile radius area to the VORTAC.

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Texas
That airspace extending upward from 1,200 feet above the surface within the boundary of the State of Texas including the airspace within 3 nautical miles of and parallel to the shoreline of Texas, that airspace south of Beaumont, Tex., bounded on the north by a line 3 nautical miles from and parallel to the shoreline, on the east by the Louisiana/Texas State line and on the south by the arc of a 25-mile radius circle centered at latitude 29°54'40" N., longitude 94°02'40" W., that airspace east of Corpus Christi, Tex., bounded by a line 3 nautical miles from and parallel to the shoreline and a line beginning at a point 3 nautical miles from the shoreline at latitude 27°49'00" N., thence to latitude 27°45'30" N., longitude 96°51'00" W., to latitude 27°28'20" N., longitude 96°45'30" W., to latitude 27°14'30" N., longitude 96°55'30" W., to latitude 27°23'00" N., longitude 97°06'00" W., to a point 3 nautical miles from the shoreline at latitude 27°11'20" N., excluding that airspace south of a line beginning at the intersection of the United States/Mexican Border and 30°00' 00" north latitude, thence east along 30°north latitude to and counterclockwise along the arc of a 105-mile radius circle centered at latitude 29°21'35" N., longitude 100°46'35" W., to and along the United States/ Mexican Border to point of beginning.

The Dalles, Oreg.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of The Dalles Municipal Airport (latitude 45°37'05" N., longitude 121°10'05" W.), that airspace south of The Dalles, extending from a line 2 miles east of and parallel to The Dalles VORTAC 186° radial clockwise to the 222° radial, extending from the 5-mile radius area to an ARC of an 11.5-mile radius circle centered on The Dallas Municipal Airport; that airspace extending upward from 1,200 feet above the surface within 8 miles N and 6 miles S of The Dalles VORTAC 281° and 101° radials, extending from 7 miles W to 14 miles E of the VORTAC; within 5 miles N of The Dalles VORTAC 101° radial, extending from 14 miles E to 23 miles E of the VORTAC, and that airspace within a 23-mile radius of The Dalles VORTAC, extending clockwise from the 101° radial to the 272° radial, excluding the airspace within the Portland, Oreg., transition area.

Thedford, Nebr.
That airspace extending upward from 700 feet above the surface within a 5.5 mile radius of the Thedford Municipal Airport (latitude 41°58'47" N., longitude 100°32'01" W.); within 2.5 miles each side of the Thedford VOR 090° radial extending from the 5.5-mile radius to 7.5 miles west of the airport.

Thermal, CA.
That airspace extending upward from 700 feet above the surface within 3.5 miles each side of the Thermal VORTAC 140° radial, extending from the VORTAC to 8 miles southeast of the VORTAC, within 3.5 miles southwest of and parallel to the Thermal VORTAC 155° radial, extending from the VORTAC to 6.5 miles southeast of the VORTAC and within 3 miles each side of the Thermal VORTAC 324° radial, extending from the VORTAC to 16 miles northwest of the VORTAC; that airspace extending upward from 1,200 feet above the surface within 9.5 miles northeast and 5 miles southwest of the Thermal VORTAC 140° radial extending from the VORTAC to 20 miles southeast of the VORTAC, excluding the portion within R-2521.

Thibodaux, La.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Thibodaux Municipal Airport (latitude 29°44'50" N., longitude 90°49'55" W.) and within 2 miles each side of the Tibby, La., VORTAC 359°T radial extending from the 5-mile radius to the Tibby VORTAC excluding the portion that overlaps the Houma, La., transition area.

Thief River Falls, Minn.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Thief River Falls, Minn., Municipal Airport (latitude 48°03'58" N., longitude 96°11'06" W.), within 2 miles each side of the 138° bearing from Thief River Falls Municipal Airport extending from the 5-mile radius area to 8 miles SE of the airport, and within 2 miles each side of the 305° bearing from Thief River Falls Municipal Airport extending from the 5-mile radius area to 8 miles NW of the airport; and that airspace extending upward from 1,200 feet above the surface within 8 miles NE and 5 miles SW of the 138° bearing from Thief River Falls Municipal Airport extending from the airport to 12 miles SE of the airport, and within 5 miles NE and 8 miles SW of the 305° bearing from Thief River Falls Municipal Airport extending from the airport to 12 miles NW of the airport.

Thunder Bay, Ontario, Canada
That airspace extending upward from 1,200 feet above the surface within a 35-nautical mile radius of Thunder Bay Airport (lat. 48°22'19" N., long. 89°19'26" W.), excluding the portion outside the United States.

Tiffin, Ohio
That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Seneca County Airport (latitude 41°05'38" N., longitude 83°12'45" W.); within 3 miles each side of the 053° bearing from the Seneca County Airport extending from the 7-mile radius area to 8.5 miles northeast of the airport.

Tifton, Ga.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Henry Tift Myers Airport (lat. 31°25'36" N., long. 83°29'06" W.), within a 5-mile radius of Eaglehead Airport (lat. 31°23' 00" N., long. 83°36'00" W.).

Titusville, Fla.
That airspace extending upward from 700' above the surface within an 8.5-mile radius of the Titusville-Cocoa Airport (lat. 28°30'42" N., long. 80°48'00" W.); within an 8.5 mile radius of Kennedy Spaceport (lat. 28°36'53" N., long. 80°41'41" W.).

Titusville, Pa.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of the center lat. 41° 36'45" N., long. 79°44'45" W. of Titusville Airport, excluding the portion that coincides with the Franklin, Pa., transition area.

Tobe, Colo.
That airspace north of Tobe, Colo., VORTAC, extending upward from 8,500 feet MSL, bounded on the north by V-210, on the southeast by V-263, and on the west by V-19E, excluding the airspace within Federal airways.

Toccoa, Ga.
That airspace extending upward from 700 feet above the surface within an 11.5-mile radius of Toccoa Airport (latitude 34°35'40" N., longitude 83°17'40" W.); within a 9-mile radius of Habersham County Airport, Cornelia, Ga. (lat. 34°30'20" N., long. 83°33'15" W.).

Toledo, OH.
That airspace extending upward from 700 feet above the surface within the area bounded by a line beginning at latitude 41°40'00" N., longitude 84°20'00" W.; to latitude 41°49'00" N., longitude 83°37'00" W.; to latitude 41°34'00" N., longitude 83°19'00" W.; to latitude 41°17'00" N., longitude 83°36'00" W.; to latitude 41°22'00" N., longitude 84°05'00" W.; to point of beginning.

Tonopah, Nev.
That airspace extending upward from 1,200 feet above the surface within 14 miles north and 5 miles south of the 083° and 263° radials of the Tonopah VORTAC extending from 12 miles west to 25.5 miles east of the VORTAC, and within 10 miles south of and parallel to the Tonopah VORTAC 089° radial, extending from the VORTAC to 21.5 miles east of the VORTAC.

Topeka, Kans.
That airspace extending upward from 700 feet above the surface within a 7 mile radius of Philip Billard Airport, Topeka, Kansas (latitude 39°04'09"N., longitude 95°37'18"W.) within 2 miles each side of the Topeka VORTAC 039° radial extending from the 7 mile radius area to 8 miles NE. of the VORTAC, within 5 miles SW. and 8 miles NE. of the Philip Billard Airport ILS Localizer NW. course, extending from 3 miles SE. to 12 miles NW. of the OM, within an 8.5 mile radius of Forbes Field, Topeka, Kansas (latitude 38°57'10"N., longitude 95°39'50"W.), within 2 miles each side of the Forbes Field TACAN 321° radial extending from the 8.5 mile radius area to 9 miles NW. of the TACAN, and within 3.5 miles each side of the Forbes Field ILS localizer SE. course extending from the 8.5 mile radius area to 8 miles SE. of the Richland LOM.

PENDING AMENDMENT
Topeka, Kans.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of Philip Billard Airport, Topeka, Kans., (lat. 39°04'09"N., long. 95°37'18"W.) within 2 miles each side of the Topeka VORTAC 039° radial extending from the 7-mile radius area to 8 miles northeast of the VORTAC, within 5 miles southwest and 8 miles northeast of the Philip Billard Airport ILS localizer northwest course extending from 3 miles southeast to 12 miles northwest of the Billard LOM, within an 8.5-mile radius of Forbes Field Airport, Topeka, Kans., (lat. 38°57'06"N., long. 95°39'45"W.) within 4 miles each side of the Forbes Field LOM 317° bearing extending from the 8.5-mile radius area to 15 miles northwest of the airport, and within 3.5 miles each side of the Forbes Field ILS localizer southeast course extending from the 8.5-mile radius area to 8 miles southeast of the Forbes Field LOM.

AMENDMENTS 12/28/78 43 F. R. 48626 (Rewritten)

Toughkenamon, PA.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of the center, lat. 39° 49'55" N., long. 75°46'08" W. of the New Garden Flying Field, Toughkenamon, including that airspace 5 miles west and 3 miles east of the Modena, PA., VORTAC 047° and 227° radials extending from 5 miles southwest to 10 miles northeast of the VORTAC.

Tracy, Calif.
That airspace extending upward from 700 feet above the surface within a 3-mile radius of Tracy Municipal Airport (latitude 37°41'15" N., longitude 121°26'25" W.), and within 2.5 miles each side of the Stockton VORTAC 237° radial, extending from the 3-mile radius area to 10.5 miles southwest of the VORTAC.

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Traverse City, Mich.
That airspace extending upward from 700 feet above the surface within a 10½-mile radius of Cherry Capital Airport (latitude 44°44'35" N., longitude 85°34'55" W.); within 4½ miles west and 9½ miles east of the Traverse City VORTAC 158° radial, extending from the 10½-mile radius area to 18½ miles south of the VORTAC; and within 5 miles each side of the Traverse City VORTAC 344° radial, extending from the 10½-mile radius area to 20 miles north of the VORTAC.

Trenton, Mo.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Trenton Municipal Airport (latitude 40°05'03" N., longitude 93°35'26" W.); and within 3 miles either side of the 172° bearing from the MHW facility extending from the 5-mile radius to 8 miles south, and 3 miles either side of the 007° bearing from the MHW facility extending from the 5-mile radius to 8.5 miles north.

Trenton, Tenn.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Gibson County Airport (latitude 35°56'02" N., longitude 88°50'54" W.); within 3 miles each side of the 020° bearing from Gibson RBN (latitude 35°56'03" N., longitude 88°51'02" W.), extending from the 5-mile radius area to 8.5 miles north of the RBN; excluding the portion within the Humboldt, Tenn., transition area.

Trinidad, Colo.
That airspace extending upward from 1,200 feet above the surface within 5 miles west and 8 miles east of the 172° and 352° bearings from the Trinidad, Colo. RBN, extending from 7 miles south to 13 miles north of the RBN.

Tri-City, Tenn.
That airspace extending upward from 700 feet above the surface beginning at the intersection of the arc of a 21.5-mile radius circle centered on Tri-City Airport (latitude 36°28'30" N., longitude 82°24'20" W.) and a line 5 miles northwest of and parallel to Blackford VOR 216° radial (northeast of Tri-City Airport); thence northeast along this line to and clockwise along the arc of a 30-mile radius circle centered on Tri-City Airport to the northwest boundary of V-16S; thence northeast along the northwest boundary of V-16S to and clockwise along the arc of a 21.5-mile radius circle to point of beginning; including the airspace within 2 miles each side of Virginia Highlands Airport Runway 6 extended centerline, extending from the arc of a 30-mile radius circle centered on Tri-City Airport to 7.5 miles northeast of Virginia Highlands Airport; within an 8.5-mile radius of Hawkins County Airport, Rogersville, Tenn. (latitude 36°27'27" N., longitude 82°53'05" W.).

Troy, Ala.
That airspace extending upward from 700 feet above the surface within a 9-mile radius of Troy Municipal Airport (latitude 31°51'40" N., longitude 86°00'45" W.); within 3 miles each side of the ILS localizer west course, extending from the 9-mile radius area to 8.5 miles west of the OM.

Troy, Ohio
That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Troy Skypark Airport (latitude 39°59'27" N., longitude 84°16'14" W.), excluding that portion which lies within the Piqua, Ohio, and Dayton, Ohio, transition areas.

Truth or Consequences, N. Mex.
That airspace extending upward from 700 feet above the surface within an 8-mile radius of the Truth or Consequences Municipal Airport (latitude 33°14'10" N., longitude 107°16'15" W.), and within 3.5 miles either side of the Truth or Consequences, N. Mex., VORTAC 013° radial, extending from the 8-mile radius area to 11 miles north of the VORTAC.

Tucson, Ariz.
That airspace extending upward from 700 feet above the surface within a 10-mile radius of Tucson International Airport (lat. 32°07'05"N., long. 110°56'32"W.); within 16 miles NE and 13 miles SW of the Tucson VORTAC 138° radial extending from the 10-mile radius area to 16 miles SE of the VORTAC, within 1 mile NE and 9 miles SW of the Tucson VORTAC 318° radial, extending from the 10-mile radius area to 22 miles NW of the VORTAC and within 16 miles NE of the Tucson VORTAC 318° radial extending from the Tucson VORTAC to 30 miles NW of the VORTAC; and that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at latitude 32°33'00" N., longitude 111°45'00" W.; to latitude 32°33'00" N., longitude 110°52'00" W.; thence N via longitude 110°52'00" W. to the S boundary of V-94; thence SE via the S boundary of V-94 to longitude 110°00'00" W.; thence S to latitude 31°39'00" N., longitude 110°00'00" W.; to latitude 31°39'00" N., longitude 111°00'00" W.; to latitude 32°00'00" N., longitude 111°45'00" W.; to point of beginning.

Tucumcari, N. Mex.
That airspace extending upward from 700 feet above the surface within a 10.5-mile radius of the Tucumcari Municipal Airport (latitude 35°10'50" N., longitude 103°36'15" W.).

Tullahoma, Tenn.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Arnold Air Force Station (latitude 35°23'33" N., longitude 86°05'10" W.); within 3 miles each side of the Arnold VOR 216° radial, extending from the 8.5-mile radius area to 8.5 miles southwest of the VOR; within a 7-mile radius of William Northern Field (lat. 35°23'00" N., long. 86°14'30" W.); within 3 miles each side of Shelbyville VOR 136° radial, extending from the 7-mile radius area to 8.5 miles southeast of Arnold VOR 226° radial; within a 13.5-mile radius of Winchester Municipal Airport, Winchester, Tenn. (latitude 35°10'40" N., longitude 86°03'49" W.); excluding the portions within Shelbyville and Chattanooga transition areas.

Tulsa, Okla.
That airspace extending upward from 700 feet above the surface within a 9-mile radius of Tulsa International Airport (latitude 36°12'00" N., longitude 95°53'15" W.); within 8 miles west and 5 miles east of the Tulsa ILS localizer north course extending from the OM to 12 miles north; and within 8 miles north and 5 miles south of the Tulsa VORTAC 088° radial extending from the 9-mile radius area to 33 miles east of the VORTAC.

Tupelo, Miss.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the C. D. Lemons Municipal Airport (latitude 34°15'32" N., longitude 88°45'32" W); within 3 miles each side of the Tupelo VOR 214° radial, extending from the 5-mile radius area to 8.5 miles southwest of the VOR.

Tuscaloosa, Ala.
That airspace extending upward from 700 feet above the surface within an 11-mile radius of Van De Graaff Airport (lat. 33°13'16" N., long. 87°36'39" W.); within 2.5 miles each side of Tuscaloosa VORTAC 052° radial, extending from the 11-mile radius area to 6.5 miles northeast of the VORTAC.

Tuskegee, Ala.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Moton Field (lat. 32°27'36" N., long. 85°40'44" W.); within 3 miles each side of the Tuskegee VORTAC 018° radial, extending from the 6.5-mile radius area to 8.5 miles north of the VORTAC; excluding the portion within the Tallassee transition area.

Twentynine Palms, CA.
That airspace extending upward from 1,200 feet above the surface bounded by a line beginning at latitude 34° 17'00" N., longitude 115°25'03" W., to latitude 33°28'00" N., longitude 115°25'00" W., to latitude 33°28'00" N., longitude 116°18'00" W., to latitude 34°17'00" N., longitude 116°18'00" W., thence to point of beginning, excluding the portions within R-2501E, R-2501S, and R-2507.

Twin Falls, Idaho
That airspace extending upward from 700 feet above the surface within 9.5 miles north and 5 miles south of the Twin Falls VORTAC 086° and 281° radials extending from the VORTAC to 30 miles east and 18.5 miles west; within 5 miles each side of the Twin Falls 156° radial extending from the VORTAC to 9.5 miles southeast of the VORTAC; that airspace extending upward from 1,200 feet above the surface within a 16.5-mile radius of the Twin Falls VORTAC, extending clockwise from the VORTAC 121° radial to the VORTAC 311° radial; within that airspace southeast of Twin Falls bounded on the north by V-269, on the east by a 21-mile arc centered on the VORTAC and on the southeast by V-484; within that airspace north of Twin Falls bounded on the north by V-500, on the east by longitude 114°01'00" W., on the south by V-269 and on the southwest by V-293; that airspace northwest of Twin Falls bounded on the north by V-330, on the east by V-293, and on the south by V-4; that airspace within 9 miles southwest and 6 miles northeast of the Twin Falls VORTAC 311° radial extending from the VORTAC to 30 miles northwest of the VORTAC.
AMENDMENTS 7/13/78 43 F. R. 19211 (Changed)

Tyler, Tex.
That airspace extending upward from 700 feet above the surface bounded by a line extending from latitude 32°05'30" N., longitude 95°17'00" W., to latitude 32°27'00" N., longitude 95°42'30" W., to latitude 32°35'30" N., longitude 95°32'30" W., to latitude 32°13'30" N., longitude 95°07'00" W., to point of beginning.

Ukiah, Calif.
That airspace extending upward from 700 feet above the surface within a five-mile radius of the Ukiah Municipal Airport (lat. 39°07'36"N., long. 123°12'00"W.); that airspace extending upward from 1,200 feet above the surface within a 20-mile radius of the Ukiah, Calif., VORTAC bounded on the E by the W edge of V-25, that airspace S of Ukiah bounded on the E by the W edge of V-25, on the S by latitude 38°13'30" N., on the W by longitude 123°23'15" W., and that airspace between the 20- and 24-mile arcs of the Red Bluff, Calif., VORTAC bounded on the NW by the NW edge of V-199 and on the SE by the SE edge of V-25; that airspace extending upward from 7,500 feet MSL between the 24- and 45-mile arcs of the Red Bluff, Calif., VORTAC bounded on the NW by the NW edge of V-199 and on the SE by the SE edge of V-25; that airspace extending upward from 8,500 MSL bounded on the NE by a 45-mile arc of the Red Bluff, VORTAC, on the SE by the SE edge of V-25, on the S and SW by the N edge of V-200 and a 20-mile arc of the Ukiah VORTAC, and on the NW by the NW edge of V-199; that airspace extending upward from 9,500 feet MSL bounded on the SE by the NW edge of V-199, on the W by the E edge of V-27, and on the N by a line 9 miles S of and parallel to the Red Bluff VORTAC 291° and Fortuna VORTAC 110° radials and that airspace extending upward from 5,300 feet MSL bounded on the east by the southwest edge of V-27 and on the west by the east/southeast edge of V-27W.

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Ulysses, Kansas
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Ulysses, Kansas, Municipal Airport (latitude 37°36'10" N., longitude 101°22'15" W.); within 3 miles each side of the 307° bearing from the Ulysses radio beacon (latitude 37°35'51" N., longitude 101°22'00" W.); extending from the 5-mile radius area 2.5 miles northwest.

Umiat, Alaska
That airspace extending upward from 700 feet above the surface within a 7.5-mile radius of the Umiat Airport (latitude 69°22'17" N., longitude 152°08'00" W.).

Unalakleet, Alaska
That airspace extending upward from 700 feet above the surface within 4.5 miles north and 9.5 miles south of the North River, Alaska, RBN 290° bearing, extending from the RBN to 24.5 miles west of the RBN; within 4.5 miles southeast
and 9.5 miles northwest of the Unalakleet VORTAC 225° radial, extending from the VORTAC to 24.5 miles southwest of the VORTAC; and that airspace extending upward from 1,200 feet above the surface within 7.5 miles north and 9.5 miles south of the Unalakleet VORTAC 110° and 290° radials, extending from 13 miles east to 13 miles west of the VORTAC.

Union City, Tenn.
That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of Everett-Stewart Airport (latitude 36°22'50" N., longitude 88°59'15" W.); within 3 miles each side of Dyersburg VORTAC 037° radial, extending from the 5.5-mile radius area to 25.5 miles northeast of the VORTAC; within 3 miles each side of the 186° and 347° bearings from Union City RBN (latitude 36°23'06" N., longitude 88°58'50" W.), extending from the 5.5-mile radius area to 8.5 miles north and south of the RBN.

Upper Sandusky, Ohio
That airspace extending upward from 700 feet above the surface with a 5.5-mile radius of the Wyandot County Airport (lat. 40°53'00"N., long. 83°18'52"W.).

Utica, N. Y.
That airspace extending upward from 700 feet above the surface within a 10-mile radius of the center, 43°13'45" N., 75°25'00" W., of Griffiss AFB, Rome, N. Y., and within 2 miles each side of the Griffiss-TACAN 306° radial extending from the 10-mile radius to 14 miles NW of the TACAN.

Within a 12-mile radius of the center, 43°08'45" N., 75°22'55" W. of Oneida County Airport, Utica, N. Y., and within 3.5 miles each side of the 137° bearing from the Clay RBN, extending from the 12-mile radius area to 11.5 miles southeast of the RBN.

That airspace extending upward from 1,200 feet above the surface within the area bounded by a line beginning at 43°24'00" N., 76°53'00" W., to 42°57'00" N., 76°57'00" W., to 42°40'00" N., 77°23'45" W., to 42°41'30" N., 76°23'00" W., to 42°40'00" N., 75°30'00" W., to 43°00'00" N., 74°30'00" W., to 43°18'40" N., 74°30'30" W., thence counterclockwise along an arc with a radius of 46 miles from the center of Griffiss AFB to 43°36'00" N., 74°39'30" W., to 43°31'00" N., 74°43'00" W., thence counterclockwise along an arc with a radius of 40 miles from the center of Griffiss AFB to 43°44'00" N., 75°49'15" W., to 43°32'00" N., 76°23'00" W., to 43°24'00" N., 76°40'00" W., to point of beginning.

Uvalde, Tex.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Garner Field (latitude 29°12'54" N., longitude 99°44'30" W.), and within 2.5 miles each side of the 154° bearing from the Uvalde RBN (latitude 29°13'06" N., longitude 99°44'29" W.), extending from the 5-mile radius area to 8.5 miles southeast of the RBN.

Vacaville, California
That airspace extending upward from 700 feet above the surface within a 3-mile radius of Nut Tree Airport, California (latitude 38°22'18" N., longitude 121°57'33" W.), and within 2.5 miles each side of the Sacramento VORTAC 259° radial, extending from the 3-mile radius area to 13 miles W of the VORTAC.

Valdosta, Ga.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Valdosta Municipal Airport (lat. 30°46'58"N., long. 83°16'44"W.); within an 8.5-mile radius of Moody AFB (lat. 30°58'01"N., long. 83°11'27"W.); within 3.5 miles west and 2 miles east of Moody TACAN 007° radial, extending from the 8.5-mile radius area to 11.5 miles north of the TACAN.

Valentine, Nebr.
That airspace extending upward from 700 feet above the surface within a 9-mile radius of the Miller Field Airport (latitude 42°51'25" N., longitude 100°32'50" W.); and that airspace in the State of South Dakota extending upward from 1,200 feet above the surface within 5 miles each side of the 325° bearing from the Miller Field Airport within 12 miles northwest of the airport.

Valparaiso, Ind.
That airspace extending upward from 700 feet above the surface within a 6½-mile radius of Porter County Airport (latitude 41°27'10" N., longitude 87°00'20" W.).

Vandalia, Ill.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Vandalia Municipal Airport (lat. 38°59'26" N., long. 89°09'55" W.) and within 2 miles each side of the Vandalia VOR 183° radial extending from the 5-mile radius area to the VOR.

Vandenberg AFB, Calif.
That airspace extending upward from 700 feet above the surface within 2 miles each side of the Vandenberg AFB ILS localizer southeast course, extending from 2.5 miles northwest to 1 mile southeast of the OM.

Van Horn, Tex.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the Culberson County Airport (latitude 31°03'42" N., longitude 104°47'09" W.) and extending 6.0 miles north and 9.5 miles south of the 054° bearing from the airport coordinates to a point 19 miles northeast of the airport coordinates.

Van Wert, Ohio
That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the Van Wert Municipal Airport (latitude 40°51'45" N., longitude 84°36'15" W.).

Venice, FL.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Venice Municipal Airport (lat. 27°04'30" N., long. 82°26'00" W.).

Venice, La.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Garden Island Bay Seaplane Base (lat. 29°05'46"N., long. 89°11'55"W.) and within 3.5 miles each side of the 344° bearing from the Venice NDB (lat. 29°07'06"N., long. 89°12'20"W.) extending from the 5-mile radius to 13.5 miles from the seaplane base.

AMENDMENTS 3/23/78 42 F. R. 63168 (Added)

Vermont
That airspace extending upward from 1200 feet above the surface within the territorial boundaries of the State of Vermont.

Vernal, Utah
That airspace extending upward from 700 feet above the surface within 9.5 miles northeast and 5 miles southwest of the Vernal VOR 157° and 337° radials, extending from 10 miles northwest to 18.5 miles southeast of the VOR.

Vernon, Ala.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Lamar County Airport (lat. 33°50'30" N., long. 88°07'10" W.); within 2.5 miles each side of Hamilton VORTAC 195° radial, extending from the 6.5-mile radius area to 17 miles south of the VORTAC, excluding the portion within Columbus, Miss., transition area.

Vernon, Tex.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of Wilbarger County Airport (lat. 34°14'00"N., long. 99°17'30"W.) within 2 miles west of the Altus VOR 182° radial extending from the 6-mile radius to 7 miles north of the airport; within 3 miles each side of the 016° bearing from the Vernon NDB (lat. 34°13'48"N., long. 99°16'44"W.) extending from the 6-mile radius area to 11.5 miles north of the NDB, excluding the portion within the Hobart, Okla., transition area.

AMENDMENTS 3/23/78 43 F. R. 3547 (Rewritten)

Vero Beach, Fla.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Vero Beach Municipal Airport (lat. 27°39'05" N., long. 80°24'51" W.); within 5 miles each side of Vero Beach VORTAC 291° radial, extending from the 8.5-mile radius area to 8.5 miles west of the VORTAC; within a 6.5-mile radius of St. Lucie County Airport, Fort Pierce, Fla. (lat. 27°29'38" N., long. 80°22'02" W.); excluding the portion outside the continental limits of the United States.

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Versailles, OH.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Darke County Airport (latitude 40°12'17" N., longitude 84°31'38" W.); and within 3 miles either side of the 265° bearing from the airport, extending from the 5-mile radius area to 8 miles from the airport.

Vichy, Mo.
That airspace extending upward from 700 feet above the surface within a 6½-mile radius of the Rolla National Airport (latitude 38°07'40" N., longitude 91°46'10" W.); and within 3 miles of each side of the 067° radial of the Vichy VORTAC, extending from 6½-mile radius area to 8½ miles northeast of the Vichy VORTAC.

Vicksburg, Miss.
That airspace extending upward from 700 feet above the surface within a 10-mile radius of the Vicksburg Municipal Airport (latitude 32°14'20" N., longitude 90°55'40" W.).

Victoria, Tex.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Victoria County-Foster Airport (latitude 28°51'10" N., longitude 96°55'20" W.) and within 3.5 miles each side of the ILS localizer 131° course extending from the 5-mile radius area to 14.5 miles southeast of the outer marker.

Victorville, Calif.
That airspace extending upward from 700 feet above the surface within a 12-mile radius of George AFB, Victorville, Calif. (lat. 34°35'45"N., long. 117°22'55"W.), and within 14.5 miles west of the 016° and 166° true radials, George AFB TACAN (lat. 34°35'40.5"N., long. 117°23'20.5"W.) extending from the 12-mile radius area to 20.5 miles north and south of the TACAN, excluding the airspace within a 3.5-mile radius of El Mirage Airport (lat. 34°37'30"N., long. 117°36'15"W.).
AMENDMENTS 9/7/78 43 F. R. 34114 (Changed)

Vidalia, Ga.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Vidalia Municipal Airport (lat. 32°11'45" N., long.
82°22'15" W.); within a 6.5-mile radius of Reidsville Airport, Reidsville, Ga. (latitude 32°03'19" N., longitude 82°09'19" W.); within 3 miles each side of the 295° bearing from Prison RBN (latitude 32°03'27" N., longitude 82°09'09" W.), extending from the 6.5-mile radius area to 8.5 miles northwest of the RBN.

Vincennes, Ind.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of Lawrenceville-Vincennes Municipal Airport (latitude 38°45'35" N., longitude 87°36'27" W.); within 3 miles each side of the 186° bearing from the airport, extending from the 7-mile radius to 8 miles south; and 3 miles each side of the 352° bearing from the airport, extending from the 7-mile radius to 8 miles north; within 3 miles each side of the 102° bearing from the airport, extending from the 7-mile radius to 8 miles east; and within a 5.5-mile radius of O'Neal Airport (latitude 38°41'29" N., longitude 87°33'08" W.); and within 3 miles each side of the 258° bearing from the airport, extending from the 7-mile and 5½-mile radius area to 8 miles west of the airport, within a 5-mile radius of the Mt. Carmel Municipal Airport (latitude 38°36'24" N., longitude 87°43'34" W.); and within 3 miles either side of the 038° bearing from the airport, extending from the 5-mile radius area northeast to join the Lawrenceville and O'Neal radius areas.

Vincentown, NJ.
That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the center lat. 39° 54'15" N., long. 74°45'00" W. of Red Lion Airport, Vincentown, NJ.

Virginia
That airspace extending upward from 1,200 feet above the surface within the boundary of the State of Virginia including the offshore airspace within 3 nautical miles of and parallel to the shoreline of Virginia and that airspace extending upward from 2,000 feet MSL to FL-600 bounded on the east by longitude 75°30'00" W., on the south by latitude 36°33'30" N, and on the west and north by a line 3 nautical miles from and parallel to the shoreline, excluding that airspace within Control 1149.

Visalia, Calif.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Visalia Municipal Airport (latitude 36°19'10" N., longitude 119°23'35" W.), within 2 miles each side of the Visalia VOR 123° and and 303° radials, extending from the 5-mile radius area to 8 miles northwest of the VOR and within 4 miles each side of the Visalia VOR 150° radial, extending from 7 to 20 miles southeast of the VOR.

Vivian, La.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Vivian Municipal Airport (latitude 32°51'55" N., longitude 94°00'30" W.); within 2 miles each side of the Shreveport VORTAC 299° radial extending from the 6.5-mile radius area to 5.5 miles northwest of the VORTAC; and 3 miles each side of the 277° bearing from the NDB (latitude 32°51'37" N., longitude 94°00'42" W.) extending from the 6.5-mile radius area to 8.5 miles west of the NDB.

Wabash, Ind.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Wabash Municipal Airport (latitude 40°45'50" N., longitude 85°48'05" W.); within 5 miles each side of the 105° bearing from Wabash Municipal Airport extending from the 5-mile radius area to 12 miles east of the airport; and within 2 miles each side of the 040° radial of the Kokomo, Ind., VORTAC, extending from the 5-mile radius area to 15 miles northeast of the Kokomo, Ind., VORTAC; excluding the portion which overlies the Kokomo, Ind., 700-foot floor transition area.

Waco, Tex.
That airspace extending upward from 700 feet above the surface within the area bounded by a line beginning at latitude 32°08'00" N., longitude 96°54'00" W.; to latitude 32°02'00" N., longitude 96°50'40" W.; to latitude 31°46'00" N., longitude 96°55'00" W.; to latitude 31°39'30" N., longitude 96°43'50" W., to latitude 31°17'00" N., longitude 96°47'00" W., to latitude 31°17'00" N., longitude 97°13'00" W.; to latitude 30°56'30" N., longitude 97°25'30" W.; to latitude 30°58'30" N., longitude 97°35'40" W.; to latitude 31°11'00" N., longitude 97°31'00" W.; to latitude 31°27'00" N., longitude 97°34'00" W.; to latitude 31°27'00" N., longitude 97°41'00" W.; to latitude 31°35'00" N., longitude 97°44'00" W.; to latitude 31°46'30" N., longitude 97°41'50" W.; to latitude 31°59'00" N., longitude 97°24'00" W.; to point of beginning.

Wahoo, Nebr.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Wahoo Municipal Airport (lat. 41°14'27"N., long. 96°35'15"W.) and within 3 miles each side of the 032° bearing from the Wahoo Municipal Airport extending from the 5-mile radius 8.5 miles northeast of the airport excluding that portion which lies in the Freemont, Nebr., transition area.

AMENDMENTS 7/13/78 43 F. R. 20787 (Added)

Waimea-Kohala, Hawaii
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Waimea--Kohala Airport
(latitude 20°00'17" N., longitude 155°40'16" W.); within an area 2 miles on the northwest side and 3 miles on the southeast side of the Kamuela VOR 063° radial, extending from the 5-mile radius area to 11.5 miles northeast of the Kamuela VOR.

Wakefield, Va.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, lat. 36°59'14" N., long. 77°00'06" W., of Wakefield Municipal Airport, Wakefield, Va., and within 3 miles each side of the 013° bearing from the Wakefield RBN, lat. 36°58'59" N., long. 77°00'05" W., extending from the 5-mile radius area to 8.5 miles northeast of the RBN.

Wake Island
That airspace extending upward from 700 feet above the surface within a 10 NM radius of the Wake Island VORTAC; and that airspace extending upward from 1200 feet above the surface within a 25 NM radius of the Wake Island VORTAC.

AMENDMENTS 7/13/78 43 F. R. 19646 (Added)

Wallace, N. C.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Henderson Field (latitude 34°43'05" N., longitude 78°01'20" W.); within 3 miles each side of Wilmington VORTAC 344° radial, extending from the 5-mile radius area to 22 miles northwest of the VORTAC; within 3 miles each side of the 078° bearing from Pendy NDB (latitude 34°42'58" N., longitude 78°00'14" W.), extending from the 5-mile radius area to 8.5 miles east of the RBN.

Walla Walla, Wash.
That airspace extending upward from 700 feet above the surface within 4 miles each side of the Walla Walla VOR 036° radial, extending from the VOR to 16 miles northeast; within 5 miles southeast and 9.5 miles northwest of the Walla Walla VOR 215° radial, extending from the VOR to 18.5 miles southwest of the VOR; that airspace extending upward from
1,200 feet above the surface within 5 miles SE and 13 miles NW of the Walla Walla VOR 023° and 203° radials, extending from 14 miles SW to 28 miles NE of the VOR, within 5 miles each side of the Walla Walla TACAN 041° radial extending from the TACAN to 23 miles NE of the TACAN, within 5 miles SE and 9 miles NW of the Pendleton, Oreg., VORTAC 025° radial, extending from 33 miles NE to 61 miles NE of the VORTAC, and that airspace bounded by an arc of a 19-mile radius circle centered on the Walla Walla VOR (latitude 46°06'13" N., longitude 118°17'29" W.), from 5 miles SE of the Walla Walla 040° radial, to 4 miles SE of the Pendleton VORTAC 025° radial, within 5 miles east and 10 miles west of the Walla Walla 165° radial, extending from the 19-mile radius area to the northeast edge of V-298 and within 5 miles each side of the Walla Walla 329° radial extending from the northwest edge of V-112 to the southeast edge of V-112W, excluding the portion within the Pendleton, Oreg., transition area.

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Walnut Ridge, Ark.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Walnut Ridge Regional Airport (latitude 36°07'30"N., longitude 90°55'25"W.); within three miles each side of the Walnut Ridge VORTAC 240° radial, extending from the 6.5-mile-radius area to 8.5 miles southwest of the VORTAC; within 3.5 miles each side of the 005° bearing from the proposed RBN (latitude 36°07'36"N., longitude 90°55'36"W.), extending from the 6.5-mile-radius area to 12 miles north of the RBN; and within a 5-mile radius of the Pocahontas Municipal Airport (latitude 36°14'40"N., longitude 90°56'45"W.).

Walterboro, SC.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Walterboro Municipal Airport (lat. 32°55'08" N., long. 80°38'25" W.); within 3 miles each side of the 060° bearing from Walterboro RBN (lat. 32°55'32" N., long. 80°38'27" W.), extending from the 6.5-mile radius area to 8.5 miles northeast of the RBN.

Wapakoneta, Ohio
That airspace extending upward from 700 feet above the surface within a 6½-mile radius of Neil Armstrong Field (lat. 40°29'36" N., long. 84°18'04" W.).

Waring, Tex.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Rust Airport (lat. 29°57'25"N., long. 98°45'25"W.) and within 2.5 miles either side of the 180° bearing from the Runway 35 reference point, lat. 29°57'14"N., long. 98°47'25"W.) extending 3 miles from the 5-mile radius, excluding that portion which overlies the San Antonio, Tex., transition area.

AMENDMENTS 5/18/78 43 F. R. 5509 (Added)

Warren, Ark.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Warren Municipal Airport (latitude 33°33'50" N., longitude 92°05'00" W.), and within 2 miles each side of the Monticello VORTAC 270° radial extending from the 5-mile radius area to 16 miles west of the VORTAC.

PENDING AMENDMENT
Warrensburg, Mo.
That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the Skyhaven Airport, Warrensburg, Mo. (lat. 38°47'N., long. 93°48'W.); and within 2.5 miles either side of the Napoleon, Mo., VORTAC 140° radial, extending from the 5.5-mile radius to 7 miles northwest of the airport.

AMENDMENTS 12/28/78 43 F. R. 45984 (Added)

Warsaw, Ind.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Warsaw Municipal Airport (latitude 41°16'39" N., longitude 85°50'48" W.); and within 3½ miles each side of the 359° bearing from the airport extending from the 7-mile radius area to 12½ miles north of the airport, excluding the airspace that overlies the Nappanee, Indiana, and Goshen, Indiana, transition areas.

Waseca, Minn.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Waseca Municipal Airport (latitude 44°04'24" N., longitude 93°33'10" W.); within 3½ miles each side of the 339° bearing from the Waseca Municipal Airport, extending from the 5-mile radius to 8 miles north of the airport; within 1½ miles each side of the 046° bearing from the Waseca Municipal Airport, extending from the 5-mile radius to 6 miles northeast of the airport.

Washington, D. C.
That airspace extending upward from 700 feet above the surface within a 10-mile radius of the center, 38°51'07" N., 77°02'23" W., of Washington National Airport, Washington, D. C.; within an 11-mile radius of the center of Washington National Airport, extending clockwise from a 022° bearing to a 165° bearing from the airport; within an 11.5-mile radius of the center of Washington National Airport, extending clockwise from a 210° bearing to a 270° bearing from the airport; within a 12.5-mile radius of the center of Washington National Airport, extending clockwise from a 270° bearing to a 310° bearing from the airport; within an 11.5-mile radius of the center of Washington National Airport, extending clockwise from a 310° bearing to a 022° bearing from the airport; within 4.5 miles each side of a 317° bearing from the Georgetown, D. C., RBN, extending from the RBN to 5.5 miles northwest; within an 8.5-mile radius of the center, 38°48'39" N., 76°52'02" W., of Andrews AFB, Camp Springs, Md.; within 2.5 miles each side of the Andrews VORTAC 360° radial, extending from the VORTAC to 9.5 miles north of the VORTAC; within a 5-mile radius of the center, 38°42'55" N., 77°10'55" W., of Davison AAF, Fort Belvoir, Va.; within 5 miles each side of a 180° bearing from a point 38°39'41" N., 77°06'37" W., extending from said point to 9.5 miles south; within 5 miles each side of a 081° bearing from a point 38°39'41" N., 77°06'37" W., extending from said point to 20 miles east; within 3.5 miles each side of the extended centerline of Davison AAF Runway 32, extending from the northwest end of Runway 32 to 9 miles northwest; within 6.5 miles southwest and 4.5 miles northeast of a 134° bearing and a 314° bearing from a point 38°39'41" N., 77°06'37" W., extending from 5.5 miles northwest to 11.5 miles southeast of said point; excluding the portion within P-56 and P-73.

Washington, GA.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Washington-Wilkes County Airport (lat. 33°47'20" N., long. 82°48'30" W.); within 2.5 miles each side of Athens VOR 112° radial, extending from the 6.5-mile radius area to 25 miles east of the VOR.

Washington, Ind.
That airspace extending upward from 700 feet above the surface within an 8-mile radius of Daviess County Airport (latitude 38°41'58" N., longitude 87°07'55" W.); within 3 miles each side of the 010° bearing from Daviess County Airport, extending from the 8-mile radius area to 8½ miles north of the airport.

Washington, Iowa
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Washington Airport (latitude 41°16'00" N., longitude 91°41'00" W.); and that airspace 3 miles each side of the 141° bearing from Washington NDB (latitude 41°16'13" N., longitude 91°41'04" W.); extending from the 5-mile radius to a point 8.5 miles southeast of the NDB.

Washington, Mo.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Washington Memorial Airport (lat. 38°35'55"N., long. 90°59'55"W.) and within 1½ miles each side of the Foristell, Mo., VORTAC 193° radial extending from the 5-mile radius area to 7½ miles north of the airport.

AMENDMENTS 11/2/78 43 F. R. 38377 (Added)

Washington, N. C.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Warren Field (lat. 35°34'15" N., long. 77°03'00" W.); within 3 miles each side of the 156° bearing from Wanoca RBN (lat. 35°32'40" N., long. 77°02'00" W.), extending from the 8.5-mile radius area to 8.5 miles south of the RBN.

Washington, Pa.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the center of lat. 40°03'15" N., long. 80°17'15" W. of Washington County Airport, Washington, Pa.

Washington Court House, Ohio
That airspace extending upward from 700 feet above the surface within a 5½-mile radius of the Fayette County Airport (latitude 39°34'15" N., longitude 83°25'13" W.) and within 3 miles each side of the 037° bearing from the airport extending from the 5½-mile radius area to 10 miles northeast of the airport.

Waterloo, Iowa
That airspace extending upward from 700 feet above the surface within a 10-mile radius of the Waterloo Municipal Airport (lat. 42°33'20" N., long. 92°24'00" W.); and within 3½ miles each side of the Waterloo ILS localizer northwest course extending from the 10-mile radius area to 8 miles northwest of the OM; and 3 miles each side of the Waterloo, Iowa, VORTAC 120° radial extending from the 10-mile radius to 15 miles southeast of the VORTAC; and within 3½ miles each side of the Waterloo, Iowa, VORTAC 194° radial extending from the 10-mile radius to 11½ miles south of the VORTAC; and within 3½ miles each side of the Waterloo, Iowa, VORTAC 001° radial extending from the 10-mile radius to 11½ miles north of the VORTAC; and within 3½ miles each side of the Waterloo, Iowa, VORTAC 316° radial extending from the 10-mile radius to 11½ miles northwest of the VORTAC; and within 3½ miles each side of the LOC back course extending from the 10-mile radius to 16 miles southeast of the airport.

Watertown, N. Y.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of the center, 43°59'20" N., 76°01'20" W. of Watertown International Airport, Watertown, N. Y., and within 3.5 miles each side of the Watertown, N. Y., VOR 211° radial, extending from the 7-mile radius area to 12 miles southwest of the VOR.

That airspace extending upward from 1,200 feet above the surface within the area bounded by a line beginning at: 44°16'00" N., 75°40'00" W. to 44°16'00" N., 76°10'00" W. to 43°52'00" N., 76°21'00" W. to 43°32'00" N., 76°23'00" W. to 43°44'00" N., 75°49'00" W. to 43°52'00" N., 75°54'00" W. to point of beginning

Watertown, S. Dak.
That airspace extending upward from 700 feet above the surface within a 14.5-mile radius of the Watertown VORTAC; within a 26-mile radius of the Watertown VORTAC extending clockwise from the 086° radial to a line located parallel to and 4.5 miles west of the 181° radial; and within 6 miles east and 9.5 miles west of the Watertown VORTAC 001° radial extending from the VORTAC to 21 miles north; and that airspace extending upward from 1,200 feet above the surface within 9.5 miles east and 7 miles west of the 181° radial extending from the VORTAC to 31.5 miles south; and within a 26-mile radius of the Watertown VORTAC extending clockwise from a line 7 miles west of and parallel to the 181° radial to the 238° radial.

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Watertown, Wisconsin
That airspace extending upward from 700 feet above the surface within an 8-mile radius of Watertown Municipal Airport (latitude 43°10'15" N., longitude 88°43'20" W.).

Waupaca, Wis.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Waupaca Municipal Airport (lat. 44°20'02"N., long. 89°00'51"W.); and within 3 miles each side of the 118° bearing from the airport, extending from the 5-mile radius area to 8 miles southeast of the airport.

Wausau, Wis.
That airspace extending upward from 700 feet above the surface within a 9-mile radius of the Wausau Municipal Airport (latitude 44°55'33" N., longitude 89°37'32" W.).

Waverly, Tenn.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Humphreys County Airport (lat. 36°07'02"N., long. 87°44'17"W.); within 3 miles each side of the 034° bearing from the Waverly RBN (lat. 36°07'00"N., long. 87°44'25"W.), extending from the 6.5-mile radius area to 8.5 miles northeast of the RBN.

Waycross, Ga.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Waycross-Ware County Airport (lat. 31°14'55" N., long. 82°23'48" W.); within 1.5 miles each side of Waycross VORTAC 099° radial, extending from the 8.5-mile radius area to the VORTAC; excluding the portion within a 1.5-mile radius of Bivins Airport (lat. 31°11'06" N., long. 82°16'25" W.).

Wayne, Nebr.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Wayne Municipal Airport (lat. 42°14'23"N., long. 096°59'01"W.), and within 3 miles each side of the 047° bearing from the Wayne Municipal Airport extending from the 5-mile radius to 8.5 miles northeast of the airport.

AMENDMENTS 5/18/78 43 F. R. 9138 (Added)

Webster City, Iowa
That airspace extending upward from 700 feet above the surface within a 5½-mile radius of Webster City Municipal Airport (latitude 42°26'15" N., longitude 93°52'15" W.).

Welch, Okla.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Patch Airport (lat. 36°52'39"N., long. 95°08'58"W.).

Wells, Nev.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Harriet Field (latitude 41°06'54" N., longitude 114° 55'24" W.) and within 4.5 miles south and 9.5 miles north of the Wells VOR 287° radial, extending from the VOR to 18.5 miles west of the VOR. That airspace extending upward from 1,200 feet above the surface within 12 miles north and 8 miles south of the Wells VOR 287° and 107° radials extending from 23 miles west to 10 miles east of the VOR.

Wellsboro, Pa.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of the center, 41°43'45" N., 77°23'30" W., of Grand Canyon State Airport, Wellsboro, Pa., and within 2 miles each side of Stonyfork, Pa., VOR 212° radial extending from the 6-mile radius area to 8 miles southwest of the VOR. This transition area is effective from sunrise to sunset daily.

Welsh, La.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Welsh Municipal Airport (latitude 30°14'30" N., longitude 92°49'45" W.), but excluding that portion within the Jennings, La., 700-foot transition area.

Wellsville, N. Y.
That airspace extending upward from 700 feet above the surface within a 9-mile radius of the center (lat. 42° 06'34" N., long. 77°59'59" W.) of Wellsville Municipal (Tarantine) Airport, Wellsville, NY., within 4 miles each side of the 090° bearing from the Hallsport RBN, lat. 42°06'34" N., long. 77°54'33" W., extending from the 9-mile radius area to 11.5 miles east of the RBN, and within 3.5 miles each side of the Wellsville, N. Y., VOR 196° radial extending from the 9-mile radius area to 11.5 miles south of the VOR.

Wenatchee, Wash.
That airspace extending upward from 700 feet above the surface within 4 miles each side of the Wenatchee VOR 124° radial, extending from the VOR to 12.5 miles southeast of the VOR; that airspace extending upward from 1,200 feet above the surface within 5 miles south and 8 miles north of the Wenatchee VOR 092° and 272° radials, extending from 7 miles west to 14 miles east of the VOR and within 5 miles southwest and 9.5 miles northeast of the 124° radial, extending from the VOR to 23 miles southeast of the VOR.

Wendover, Utah
That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the Wendover AF Auxiliary Field (latitude 40°43'41" N., longitude 114°02'12" W.); that airspace extending upward from 1,200 feet above the surface within 12.5 miles north and 8.5 miles south of the Bonneville VORTAC 084° and 272° radials, extending from the VORTAC to 23 miles east and west of the VORTAC; and that airspace extending upward from 8,500 feet MSL bounded on the north by V-6, on the west by V-253, on the south by V-32, and on the east by a line extending from latitude 40°51'30" N., longitude 112°56'30" W.; north to latitude 41°00'00" N., longitude 112° 56'30" W.; thence east to latitude 41°00'00" N., longitude 112°45'00" W., thence north to latitude 41°10'40" N., longitude 112°45'00" W., thence northwest to latitude 41°12'00" N., longitude 112°52'00" W.; thence north via longitude 112°52'00" W., to V-6, excluding that portion which falls within the 1200-foot transition area.

West Bend, Wis.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of the West Bend Municipal Airport (latitude 43°25'17" N., longitude 88°07'41" W.); within 3 miles each side of the 051° bearing from the airport, extending from the 7-mile radius area to 8 miles northeast of the airport, and within 3 miles each side of the 133° bearing from the airport, extending from the 7-mile radius area to 7½ miles southeast of the airport.

West Branch, Mich.
That airspace extending upward from 700 feet above the surface within a 5½-mile radius of West Branch Community Airport (latitude 44°14'36" N., longitude 84°10'58" W.); and within 3 miles each side of the 87° bearing from West Branch Community Airport, extending from the 5½-mile radius area to 13 miles east of the airport.

Westhampton Beach, N. Y.
That airspace extending upward from 700 feet above the surface within a 9-mile radius of Suffolk County Airport, Westhampton Beach, N. Y. (latitude 40°50'39" N., longitude 72°37'49" W.); and within 5 miles each side of the Squire, N. Y. OM (lat. 40°54'16" N., long. 72°33'25" W.) extending from the 9-mile radius area to 11.5 miles northeast of the OM.

West Helena, Ark.
That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of Thompson-Robbins Airport (latitude 34°34'29" N., longitude 90°40'48" W.), and within 3.5 miles each side of the 350° bearing from the Thompson-Robbins RBN (latitude 34°34'16" N., longitude 90°40'33" W.) extending from the 5.5-mile radius area to 11.5 miles north of the RBN.

West Milford, N. J.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, Lat. 41°07'45"N., Long. 74°20'50"W., of Greenwood Lake Airport, West Milford, N. J.; within a 7-mile radius of the center of the airport, extending clockwise from a 154° bearing from the airport to a 217° bearing from the airport; within an 8.5-mile radius of the center of the airport, extending clockwise from a 217° bearing from the airport to a 318° bearing from the airport; within a 7.5-mile radius of the center of the airport, extending clockwise from a 318° bearing from the airport to a 079° bearing from the airport; within 2 miles each side of the Sparta, N. J., VORTAC 067° radial, extending from the 5-mile radius area to the VORTAC.

Westminster, Md. (Clearview Airpark)
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, 39°28' 01" N., 77°01'06" W. of Clearview Airpark, Westminster, Md.; within a 5.5-mile radius of the center of the airport, extending clockwise from a 350° bearing to a 045° bearing from the airport and within 2.5 miles each side of the Westminster VORTAC 047° radial, extending from the 5-mile radius area to 6 miles northeast of the VORTAC. This transition area is effective from sunrise to sunset, daily.

Westminster, Md. (Westminster Airport)
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center, lat. 39°36'15" N., long. 77°00'15" W. of Westminster Airport, Westminster, MD.; within an 8-mile radius of the center of the airport, extending clockwise from a 035° bearing from the airport to a 085° bearing from the airport and within 1.5 miles each side of the Westminster VORTAC 351° radial, extending from the 6.5-mile radius area to the VORTAC.

AMENDMENTS 11/16/78 43 F. R. 49301 (Changed)

West Point, Va.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of the center of West Point Municipal Airport 37°31'00" N., 76°45'40" W. , and within 4 miles each side of the Harcum, Va., VORTAC 148° radial and 328° radial extending from the 6-mile radius area to 11 miles southeast of the VORTAC.

West Union, Iowa
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the George L. Scott Municipal Airport (lat. 42°59'00"N., long. 91°48'00"W.); and within 2½ miles each side of the 010° bearing from the George L. Scott Municipal Airport, extending from the 5-mile radius to 6 miles northeast of the airport.

AMENDMENTS 3/23/78 43 F. R. 3550 (Added)

West Union, Ohio
That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Alexander Salamon Airport (latitude 38°51'05" N., longitude 83°34'00" W.); and within 3 miles either side of the 049° bearing from the airport extending from the 6-mile radius to 8 miles northeast of the airport.

West Virginia
That airspace extending upward from 1,200 feet above the surface within the boundary of the State of West Virginia.

West Woodward, Okla.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of the West Woodward, Okla., Airport (latitude 36°26'12" N., longitude 99°31'30" W.), and within 5 miles either side of the Gage VORTAC 072° radial, extending from the 7-mile radius area southwest of Gage VORTAC; excluding the Gage, Okla., control zone and transition area.

West Yellowstone, Mont.
That airspace extending upward from 700 feet above the surface within 5 miles west and 9.5 miles east of the 026° and 206° bearings from the Targhee, Montana LOM (latitude 44°34'33" N., longitude 111°11'48" W.), extending from 18 miles northeast to 18.5 miles southwest of the LOM; that airspace extending upward from 1,200 feet above the surface within 5 miles each side of the 209° bearing from the LOM extending from the LOM to 41.5 miles southwest of the LOM, and 5 miles each side of the 304° bearing from the LOM extending from the LOM to the east edge of V-343; that airspace extending upward from 10,700 feet MSL within a 29-mile radius of the Targhee LOM extending clockwise from the 081° bearing from the LOM to 5 miles east of the 236° bearing from the LOM and within 5 miles each side of the 236° bearing from the LOM extending from the LOM to 50 miles southwest of the LOM; that airspace extending upward from 12,000 feet MSL within a 35-mile radius of the Targhee LOM extending clockwise from the 026° bearing from the LOM to the 081° bearing from the LOM; that airspace extending upward from 13,000 feet MSL,within a 35-mile radius of the Targhee LOM extending clockwise from the 315° bearing to the 026° bearing from the LOM, excluding that portion that overlies V-343. This transition area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

Wetumpka, Ala.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of Wetumpka Airport, excluding the portion that coincides with the Montgomery, Ala., transition area.

AMENDMENTS 3/23/78 42 F. R. 63168 (Rewritten)

Weyers Cave, Va.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the center (lat. 38°15'49" N., long. 78°53'46" W.) of Shenandoah Valley Airport, Weyers Cave, Va., within 4.5 miles southeast and 9.5 miles northwest of the Shenandoah Valley Airport ILS localizer southwest course, extending from the localizer to 18.5 miles southwest of the OM;
within a 7.5-mile radius of the center (lat. 38°21'58" N., long. 78°57'35" W.) of Bridgewater Airpark, Bridgewater, Va., and within 4.5 miles northwest and 6.5 miles southeast of the 210° bearing and the 030° bearing from the Bridgewater RBN (lat. 38°21'56" N., long. 78°57'41" W.), extending from 5.5 miles northeast of the RBN to 11.5 miles southwest of the RBN.

Wharton, Tex.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Wharton Municipal Airport (latitude 29°15'15" N., longitude 96°09'15" W.); within 2.5 miles each side of the Eagle Lake, Tex., VORTAC 162° radial extending from the 5-mile radius to 23.5 miles southeast of the Eagle Lake VORTAC and within 3.5 miles each side of the 153° bearing of the Wharton RBN (latitude 29°15'17" N., longitude 96°09'11" W.) extending from the 5-mile radius to 11.5 miles southeast of the RBN and within 3.5 miles each side of the 324° bearing from the Wharton RBN extending from the 5-mile radius to 11.5 miles northwest of the RBN, excluding the portion within the El Campo, Tex., transition area.

Wheeling, W. Va.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of Wheeling-Ohio County Airport (latitude 40° 10' 25" N., longitude 80° 38' 55" W.); within 2 miles each side of the Wheeling VOR 036° and 216° radials, extending from the 7-mile radius area to 8 miles NE of the VOR, and within 2 miles each side of the Wheeling ILS localizer SW course, extending from the 7-mile radius area to 8 miles SW of the OM.

Whidbey Island, Wash.
That airspace extending upward from 700 feet above the surface bounded on the E by a line extending from latitude 48°40'00" N., longitude 122°05'00" W. to latitude 48°05'00" N., longitude 121°55'00" W.. on the S by latitude 48°05'00" N., on the W by the W edge of V-440, and the United states/Canadian border to latitude 48°25'00" N., thence via latitude 48°25'00" N. to an arc of a 13-mile radius circle centered on Ault Field, Whidbey Island, Wash. (latitude 48°21'10" N., longitude 122°39'20" W.), thence clockwise via the 13-mile radius arc to longitude 122°45'00" W., thence to latitude 48°40'00" N., longitude 122°43'00" W., on the N by latitude 48°40'00" N. to point of beginning, and that airspace NW of Whidbey Island NAS bounded by a line beginning at the point of intersection of latitude 48°25'00" N., and the United States/Canadian border, thence via the United States/Canadian border to altitude 48°40'00" N., thence via latitude 48°40'00" N., to longitude 123°02'00" W., thence direct to point of beginning; that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at latitude 48°52'00" N., longitude 122°00'00" W., thence via longitude 122°00'00" W. to latitude 48°43'00" N., thence via latitude 48°43'00" N. to longitude 121°45'00" W., thence via longitude 121°45'00" W., to latitude 48°05'00" N., thence via latitude 48°05'00" N., to longitude 121°55'00" W., thence to
latitude 48°40'00" N., longitude 122°05'00" W., thence via latitude 48°40'00" N., to longitude 122°43'00" W., thence to latitude 48°31'00" N., longitude 122°45'00" W., to intercept an arc of a 13-mile radius circle centered on Ault Field, Whidbey Island, Wash. (latitude 48°21'10" N., longitude 122°39'20" W.), thence counterclockwise via the 13-mile radius arc to latitude 48°25'00" N., thence via latitude 48°25'00" N., to its intersection with the United States/Canadian border, thence to latitude 48°40'00" N., longitude 123°02'00" W., thence via latitude 48°40'00" N., to the east edge of Canadian VOR airway V-300, thence N via the east edge of V-300 to the United States/Canadian border, thence via the United States/Canadian border to latitude 48°52'00" N., thence to point of beginning; that airspace extending upward from 8,200 feet MSL bounded on the E by longitude 121°30'00" W., to latitude 48°00'00" N., thence via latitude 48°00'00" N., to longitude 121°35'00" W., thence via longitude 121°35'00" W., to latitude 48°05'00" N., thence via latitude 48°05'00" N., to longitude 121°45'00" W., on the W by longitude 121°45'00" N., to latitude 48°38'00" N., thence via latitude 48°38'00" N., to longitude 121°30'00" W.; that airspace extending upward from 12,000 feet MSL bounded on the E by longitude 121° 00'00" W., on the S by latitude 48°00'00" N., on the W by longitude 121°30'00" W., and on the N by latitude 48°30'00" N.

Whitefield, NH.
That airspace extending upward from 700 feet above the surface within an arc of a 25.5-mile radius circle centered on the Whitefield, NH., Regional Airport (lat. 44°21'53" N., long. 71°33'07" W.) extending clockwise between the 012° and 160° bearings from the Whitefield Airport; within an arc of a 29.5-mile radius circle centered on the Whitefield Airport extending clockwise between the 160° and 218° bearings from the Whitefield Airport; within an arc of a 12.5-mile radius circle centered on the Whitefield Airport extending clockwise between the 218° and 294° bearings from the Whitefield Airport; within an arc of a 24-mile radius circle centered on the Whitefield Airport extending clockwise between the 294° and 337° bearings from the Whitefield Airport; within an arc of a 17-mile radius circle centered on the Whitefield Airport extending clockwise between the 337° and 012° bearings from the Whitefield Airport; within 3.5 miles each side of the 267° bearing from the Dalton, NH., NDB extending from the 12.5-mile radius area to 11.5 miles west of the NDB, excluding that airspace contained within the Berlin, NH., and North Conway, NH., transition areas.
That airspace extending upward from 1,200 feet above the surface within 5 miles each side of a direct line extending from the Dalton, NH., NDB (lat. 44°21'43" N., long. 71°41'08" W.) to the North Conway, NH., NDB (lat. 44°01'26" N., long. 71°06'59" W.); within 5 miles each side of a direct line extending from the Dalton NH., NDB to the Newport, VT., NDB (lat. 44°57'10" N., long. 72°10'40" W.); within 5 miles each side of a direct line extending from the Dalton, NH., NDB to the Montpelier, VT., VOR; within 5 miles each side of a direct line extending from the Dalton, NH., NDB to the Lebanon, NH., VOR; and within 4.5 miles north and 9.5 miles south of the 267° bearing from the Dalton, NH., NDB extending from the Dalton, NH., NDB to a point 18.5 miles west, excluding those portions that coincide with the Burlington, VT., and Lebanon, NH., 1,200-foot transition areas.

White Plains, N. Y.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the center, 41° 04'00" N., 73°42'33" W., of Westchester County Airport, White Plains, N. Y., extending clockwise from a 047° bearing to a 307° bearing from the airport, within a 10-mile radius of the center of the airport, extending clockwise from a 307° bearing to a 047° bearing from the airport; within 6.5 miles northwest and 4.5 miles southeast of the Carmel, N. Y., VORTAC 245° and 065° radials, extending from 5.5 miles southwest to 11.5 miles northeast of the VORTAC; within 6.5 miles southwest and 4.5 miles northeast of the Westchester County Airport ILS localizer northwest course, extending from 5.5 miles southeast of the OM to 11.5 miles northwest of the OM; within 5 miles each side of the Westchester County Airport ILS localizer northwest course, extending from the 8.5-mile radius area and 10-mile radius area to 12 miles northwest of the OM; within 5 miles each side of the extended centerline of Runway 16, extending from the southeast end of Runway 16 to 13 miles southeast of the southeast end of Runway 16; within 5 miles each side of the Carmel, N. Y., VORTAC 206° radial, extending from the 8.5-mile radius area and 10-mile radius area to the Carmel, N. Y., VORTAC; and within 5 miles each side of the Carmel, N. Y., VORTAC 232° radial, extending from 4 miles southwest to 10 miles southwest of the Carmel, N. Y., VORTAC; that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at 41°31'00" N., 73°54'00" W., to 41°31'00" N., 73°30'00" W., to 41°25'00" N., 73°30'00" W., to 41° 20'00" N., 73°44'00" W., to 41°18'00" N., 73°42'00" W., to 41°16'00" N., 73°45'00" W., to 41°20'00" N., 73°49' 00" W., to 41°15'00" N., 73°59'30" W., to 41°00'00" N., 73°38'00" W., to 41°00'00" N., 73°54'00" W., to 41° 08'10" N., 74°13'00" W., to 41°11'00" N., 74°09'00" W., to 41°12'00" N., 74°00'00" W., to 41°19'00" N., 74° 00'00" W., to point of beginning.

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Whiteville, N.C.
That airspace extending upwards from 700 feet above the surface within a 6.5-mile radius of Columbus County Municipal Airport (lat. 34°16'23"N., long. 78°42'52"W.); within 3 miles each side of the 231° bearing from the Camp RBN (lat. 34°16'19"N., long. 78°42'55"W.), extending from the 6.5-mile radius area to 8.5 miles southwest of the RBN.

Wichita, Kans.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the Wichita, Kans., Mid-Continent Airport (lat. 37°39'09"N., long. 97°25'47"W.) and from 9.5 miles west of the LOC (BC) to Runway 1L extending from 8.5 miles to 15 miles south of the airport to 4.5 miles east of the LOC (FC) to Runway 1R to 6.5 miles east of the 176° radial of the Wichita, Kans., VORTAC facility, extending from the 8.5-mile radius to 15 miles south of the airport; within an 8.5-mile radius of the McConnell AFB (lat. 37° 37'26"N., long. 97°15'51"W.); and 2 miles each side of the McConnell AFB ILS localizer south course, extending from the 8.5-mile radius to 13 miles south of the AFB within a 5-mile radius of the Comotara Airpark (lat. 37° 44'45"N., long. 97°13'20"W.); and within 2 miles each side of the 344° bearing from the Comotara Airpark extending from the 5-mile radius to 6 miles north; within a 5-mile radius of the Augusta, Kans., Airport (lat. 37°40'21"N., long. 97°04'38"W.), and 3 miles each side of the 116° radial of the Wichita, Kans., VORTAC extending from the 8.5-mile radius of the AFB to 14 miles east of the Cessna Aircraft Field Airport (lat. 37° 38'55"N., long. 97°15'01"W.).

AMENDMENTS 11/2/78 43 F. R. 38375 (Rewritten)

Wichita Falls, Tex.
That airspace extending upward from 700 feet above the surface within a 20-mile radius of latitude 33°59'56" N., longitude 98°30'25" W.

Wildwood, N. J.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of the center, 39°00'15" N., 74°54'30" W. of Cape May County Airport, Wildwood, N. J.; within 2 miles each side of the Sea Isle, N. J., VORTAC 225° radial, extending from the 6-mile-radius area to the VORTAC and within 2.5 miles each side of a 360° bearing from a point 39°00'15" N., 74°54'30" W., extending from the 6-mile-radius area to 6.5 miles north of said point.

Wilkes-Barre, Pa.
That airspace extending upward from 700 feet above the surface within a 12.5-mile radius of the center, lat. 41°20'18" N., long. 75°43'29" W. of Wilkes-Barre-Scranton Airport, extending clockwise from a 260° bearing to a 355° bearing from the airport; within a 15.5-mile radius of the center of the airport, extending clockwise from a 355° bearing to a 025° bearing from the airport; within a 12.5-mile radius of the center of the airport, extending clockwise from a 025° bearing to a 050° bearing from the airport; within a 17.5-mile radius of the center of the airport, extending clockwise from a 050° bearing to a 210° bearing from the airport; within a 10-mile radius of the center of the airport extending clockwise from a 210° bearing to a 260° bearing from the airport; within 3.5 miles each side of the Wilkes-Barre-Scranton Airport ILS localizer southwest course, extending from the OM to 11.5 miles southwest of the OM; and within 5 miles each side of the Wilkes-Barre-Scranton Airport ILS localizer northeast course, extending from the localizer to 13.5 miles northeast of the localizer, excluding the portions that coincide with the Honesdale, Pa., and Mount Pocono, Pa., transition areas.

Wilkesboro, N. C.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Wilkes County Airport (lat. 36°08'33" N., long. 81°11'36" W.); within 5 miles north and 3 miles south of the 070° bearing from Wilkesboro RBN (lat. 36°08'36" N., long. 81°11'44" W.), extending from the 8.5-mile radius area to 10 miles east of the RBN.

Williamsburg, Va.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center, 37°14'20"N., 76°42'59"W., of Williamsburg-Jamestown Airport.

AMENDMENTS 12/29/77 42 F. R. 57446 (Added)
AMENDMENTS 12/29/77 42 F. R. 64112 (Changed)

Williamson, N. Y.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center, lat. 43° 14'10" N., long. 77°07'20" W. of Williamson-Sodus Airport, Williamson, N. Y., extending clockwise from a 055° to a 320° bearing from the airport; within a 5-mile radius of the center of the airport extending clockwise from a 320° to a 055° bearing from the airport.

Williamsport, Pa.
That airspace extending upward from 700 feet above the surface within a 20.5-mile radius of the center, 41° 14'32" N , 76°55'12" W. of Williamsport-Lycoming County Airport, extending clockwise from a 025° bearing to a 067° bearing from the airport; within a 14.5-mile radius of the center of the airport, extending clockwise from a 067° bearing to a 145° bearing from the airport; within a 10-mile radius of the center of the airport, extending clockwise from a 145° bearing to a 203° bearing from the airport; within a 20.5-mile radius of the center of the airport, extending clockwise from a 203° bearing to a 316° bearing from the airport; within a 22.5-mile radius of the center of the airport, extending clockwise from a 316° bearing to a 025° bearing from the airport; within 4.5 miles north and 9.5 miles south of the Williamsport-Lycoming County Airport ILS localizer east course, extending from the Picture Rocks, Pa., RBN to 18.5 miles east of the RBN; within 5 miles each side of the Williamsport-Lycoming County Airport ILS localizer east course, extending from the Picture Rocks, Pa., RBN to 13 miles east of the RBN.

Williamston, N. C.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Martin County Airport (lat.35°51'45" N., long. 77°10'35" W.); within 3 miles each side of the 018° bearing from the Williamston RBN (lat. 33°51'39" N., long. 77°10'31" W.), extending from the 6.5 mile radius area to 8.5 miles north of the RBN.

Willimantic, Conn.
That airspace extending upward from 700 feet above the surface within an 8-mile radius of the center 41°44'40" N., 72°10'46" W. of Windham Airport, Willimantic, Conn.; within 2 miles each side of the centerline of Runway 9 extended from the 8-mile radius area to 9.5 miles E of the end of the runway; within 2 miles each side of the Norwich VOR 323° radial extended from the 8-mile radius area to the VOR; and within 2 miles each side of the centerline of Runway 27 extended from the 8-mile radius area to 9 miles W of the end of the runway. This transition area shall be in effect from sunrise to sunset.

Williston, N. Dak.
That airspace extending upward from 700 feet above the surface within a 10-mile radius of the Sloulin International Airport (latitude 48°10'35" N., longitude 103°38'10" W.); within 3½ miles each side of the Williston VOR 316° radial, extending from the 10-mile radius area to 11½ miles northwest of the VOR; and within 3½ miles each side of the 126° bearing from the Sloulin International Airport, extending from the 10-mile radius area to 14½ miles southeast of the airport; and that airspace extending upward from 1,200 feet above the surface within a 13-mile radius of the Williston VOR, extending from the Williston VOR 203° radial clockwise to the Williston VOR 088° radial, and within 9½ miles southwest and 4½ miles northeast of the Williston VOR 316° radial, extending from the 13-mile radius area to 18½ miles northwest of the VOR; and within 5 miles southwest and 9½ miles northeast of the 126° bearing from the Sloulin International Airport extending from the 10-mile radius area to 21½ miles southeast of the airport.

Willmar, Minn.
That airspace extending upward from 700 feet above the surface within 5 miles N and 8 miles S of the 104° and 284° bearings from Willmar, Minnesota, Municipal Airport (Lat. 45°06'52" N., Long. 95°05'11" W.), extending from 7 miles E to 13 miles W of the airport.

Willows, Calif.
That airspace extending upward from 700 feet above the surface within 3.5 miles each side of the Maxwell, Calif., VORTAC 360° radial, extending from 3.5 miles to 19.5 miles north of the VORTAC.

Wilmington, Del.
That airspace extending upward from 700 feet above the surface within an 11.5-mile radius of the center 39°40'42"N., 75°36'27"W. of Greater Wilmington Airport, Wilmington, Del., extending clockwise from a 270° bearing to a 030° bearing from the airport; within a 10-mile radius of the center of Greater Wilmington Airport, extending clockwise from a 030° bearing to a 270° bearing from the airport; within 5 miles each side of the New Castle, Del., VORTAC 281° radial, extending from the VORTAC to 16.5 miles west of the VORTAC; within 5 miles each side of the New Castle, Del., VORTAC 111° radial, extending from the VORTAC to 11 miles east of the VORTAC; within a 5-mile radius of the center 39°31'17"N., 75°43'17"W. of Summit Airpark Airport, Middletown; Del.; within 2.5 miles each side of a line bearing 345° from a point 39°23'36"N., 75°40'36"W., extending from said point to the 5-mile radius area centered on Summit Airpark Airport and within 3 miles each side of a 234° bearing from the Greater Wilmington Airport ILS RWY 1 LOM, extending from the Summit Airpark Airport 5-mile radius area to 13 miles southwest of the LOM.

AMENDMENTS 8/21/78 43 F. R. 36894 (Rewritten)

Wilmington, N. C.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of New Hanover Airport (latitude 34°16'15" N., longitude 77°54'05" W.).

Wilmington, Ohio
That airspace extending upward from 700 feet above the surface within a 10-mile radius of the Wilmington Industrial Airport (latitude 30°25'45" N., longitude 83°48'00" W.).

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Wilson, N. C.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Wilson Municipal Airport (lat. 35°46'00"N., long. 77°58'00"W.); within 3 miles each side of the 223° bearing from the Wilson RBN, extending from the 6.5-mile radius area to 8.5 miles southwest of the RBN; excluding that portion that coincides with the Rocky Mount, N. C., transition area.

Winamac, Ind.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Arens Airport (latitude 41°05'35" N., longitude 86°36'45" W.); within 2 miles each side of the Knox VORTAC 173° radial extending from the 5-mile radius area to 10 miles south of the VORTAC.

Winchester, Ind.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Randolph County Airport (latitude 40°10'15" N., longitude 84°55'15" W.); within 2.5 miles either side of the 111° bearing extending from the 5-mile radius to 6 miles southeast of the airport.

Winchester, Ky.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Codell Airport (lat. 38°01'21" N., long. 84°13'00" W.); within 2 miles each side of Lexington VORTAC 074° radial, extending from the 5-mile radius area to 8 miles east of the VORTAC.

Winchester, Va.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center 39° 08'30" N., 78°08'30" W. of Winchester Municipal Airport; within a 9.5-mile radius of the center of the airport extending clockwise from a 187° bearing to a 008° bearing from the airport; within 3.5 miles each side of the Front Royal, Va., VORTAC 223° radial, extending from the VORTAC to 11.5 miles southwest of the VORTAC; within 2.5 miles each side of a 133° bearing from a point 39°08'17" N., 78°08'16" W., extending from said point to 11 miles southeast of said point.

Winder, Ga.
That airspace extending upward from 700 feet above the surface within a 6-mile radius of Winder Airport (lat. 33°58'52" N., long. 83°40'02" W.); within 2 miles each side of Athens VORTAC 277° radial, extending from the 6-mile radius area to 13.5 miles west of the VORTAC.

Windom, Minn.
That airspace extending upward from 700 feet above the surface within a 6½-mile radius of the Windom Municipal Airport (latitude 43°54'50" N., longitude 95°06'35" W.); and within 9½ miles west and 4½ miles east of the 354° and 174° bearings from the Windom Municipal Airport extending from 4 miles south of the airport to 18½ miles north of the airport.

Window Rock, Ariz.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Window Rock Airport (latitude 35°39'29"N, longitude 109°03'28"W) and within 3 miles each side of the Gallup VORTAC 318° radial, extending from the 5-mile radius area to the Gallup VORTAC.

Winnemucca, Nev.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Winnemucca Municipal Airport (lat. 40°53'50"N., long. 117°48'07"W.) and within 9 miles west and 5 miles east of the Winnemucca NDB (lat. 40°53'50"N., long. 117°48'20"W.) 342° bearing, extending from the 5-mile radius area to 11 miles north of the NDB; that airspace extending upward from 1,200 feet above the surface within 5 miles each side of the 342° and 162° bearings extending from the NDB to the southeast edge of V-113 and the north edge of V-6N.

AMENDMENTS 6/29/78 43 F. R. 17347 (Added)

Winner, S. Dak.
That airspace extending upward from 700 feet above the surface within a 7½-mile radius of the Wiley Field (latitude 43°23'25" N., longitude 99°50'40" W.); within three miles each side of the Winner VOR 212° radial extending from the 7½-mile radius area to the VOR; and that airspace extending upward from 1,200 feet above the surface within 9½ miles northwest and 4½ miles southeast of the Winner VOR 032° and 212° radials extending from 5 miles southwest of the VOR to 18½ miles northeast of the VOR; and within 5 miles each side of the Winner VOR 212° radial extending from the VOR to 20 miles southwest of the VOR.

Winnfield, La.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Winnfield NDB (latitude 31°57'46" N., longitude 92°39'25" W.); within 3 miles each side of a 276° bearing from the Winnfield NDB extending from the 5-mile radius area to 8 miles west of the NDB.

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Winnsboro, S. C.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Fairfield County Airport (latitude 34°19'00" N., longitude 81°06'30" W.); within 3 miles each side of the 208° bearing from Winnsboro RBN (latitude 34°18'56" N., longitude 81°06'41" W.), extending from the 5-mile radius area to 8.5 miles southwest of the RBN.

Winnsboro, Tex.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Winnsboro Municipal Airport (latitude 32°56'22" N., longitude 95°16'43" W.) and within 1.5 miles each side of the Quitman, Tex., VORTAC 052° radial extending from the 5-mile radius area to the VORTAC.

Winona, Minn.
That airspace extending upward from 700 feet above the surface within a 12-mile radius of Winona Municipal-Max Conrad Field (latitude 44°04'37" N., longitude 91°42'22" W.); excluding that portion which overlies the La Crosse, Wis., transition area.

Winslow, AZ.
That airspace extending upward from 700 feet above the surface within a 10.5-mile radius of Winslow Municipal Airport (latitude 35°01'15" N.,longitude 110°43'15" W.), and that airspace within an arc of a 10-mile radius circle centered on Winslow VORTAC extending clockwise from a line 4 miles south of and parallel to the Winslow 277° radial to a line 4 miles north of and parallel to the Winslow 292° radial; that airspace extending upward from 1,200 feet above the surface within 9.5 miles north and 16.5 miles south of the Winslow 112° and 292° radials, extending from 15.5 miles east to 19 miles west of the VORTAC.

Winston-Salem, N. C.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Smith Reynolds Airport (latitude 36°08'01.3" N., longitude 80°13'22.1" W.); within 3 miles each side of Winston-Salem ILS localizer southeast course, extending from the 8.5-mile radius area to 8.5 miles southeast of the LOM; excluding the portion that coincides with the Greensboro transition area.

Wiscasset, Maine
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, 43°57' 40" N., 69°42'50" W. of the Wiscasset, Maine, Airport; within 6 miles on the north side and 4 miles on the south side of the 252° and 072° bearings from the Wiscasset, Maine, NDB, 43°58'57" N., 69°38'27" W., extending to 5.5 miles southwest, and 11.5 miles northeast of the NDB; excluding that portion which coincides with the Brunswick, Maine, 700-foot transition area.

Wisconsin
That airspace extending upward from 1,200 feet above the surface within the boundary of the State of Wisconsin.

Wisconsin Rapids, WI.
That airspace extending upward from 700 feet above the surface within a 6½-mile radius of the Alexander Field, Southwood County Airport (latitude 44°21'31" N., longitude 89°50'15" W.); and within 3 miles each side of the 193° bearing from Alexander Field, Southwood County Airport, extending from the 6½-mile radius area to 8 miles south of the airport and within 3 miles each side of the 125° bearing from Alexander Field, Southwood County Airport, extending from the 6½-mile radius to 8 miles southeast of the airport and within 4 miles each side of the Stevens Point VORTAC 230° radial extending from the 6½-mile radius to 13 miles northeast of the airport excluding the portion that overlies the Stevens Point, Wis., transition area.

Wise, Va.
That airspace extending upward from 700 feet above the surface within an 11-mile radius of the center, 36° 59'15"N., 82°31'50"W., of Lonesome Pine Airport, Wise, Va., and within 3 miles each side of the 056° bearing from the Wise NDB (37°01'18"N., 82°28'04"W.), extending from the 11-mile radius area to 8.5 miles northeast of the NDB.

Wolf Point, Mont.
That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the Wolf Point, Mont., NDB (latitude 48°06'16" N., longitude 105°36'05" W.); and that airspace extending upward from 1,200 feet above the surface within a 12-mile radius of the Wolf Point NDB; and within 4.5 miles north and 9.5 miles south of the 294° bearing from the Wolf Point NDB extending from the 12-mile radius area to 18.5 miles northwest of the NDB, excluding that portion that overlies the Glasgow, Mont., transition area.

Woodland, Calif.
That airspace extending upward from 700 feet above the surface within a 3-mile radius of Woodland-Watts Airport (lat. 38°40'30"N., long. 121°52'15"W.) and within 3 miles each side of the Sacramento VORTAC 313° radial, extending from the 3-mile radius area to the Sacramento VORTAC.

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Woodruff, Wis.
That airspace extending upward from 700 feet above the surface within a 9-mile radius of Lakeland Airport (latitude 45°55'38" N., longitude 89°43'53" W.).

Woodsfield, Ohio
That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the Monroe County Airport (latitude 39°46'45" N., longitude 81°06'15" W.).

Wooster, Ohio
That airspace extending upward from 700 feet above the surface within a 7-mile radius of the center, lat. 40° 52'29" N., long. 81°53'14" W., of Wayne County Airport, Wooster, Ohio, and within 3.5 miles each side of the 090° bearing from the Smithville RBN, lat. 40°52'30" N., long. 81°50'00" W., extending from the 7-mile radius area to 11.5 miles east of the RBN.

Worcester, Mass.
That airspace extending upward from 700 feet above the surface within a 7-mile radius of Worcester, Mass., Airport (latitude 42°16'05" N., longitude 71°52'20" W.).

Worland, Wyo.
The airspace extending upward from 700 feet above the surface within 4.5 miles east and 9.5 miles west of the Worland VOR 352° and 172° radials extending from 18.5 miles north to 6 miles south of the VOR; that airspace extending upward from 1,200 feet above the surface, within a 23-mile radius of the VOR.

Worthington, Minn.
That airspace extending upward from 700 feet above the surface within an 8-mile radius of the Worthington Municipal Airport (latitude 43°39'17" N., longitude 95°35'01" W.); and that airspace extending upward from 1,200 feet above the surface and within 9½ miles west and 4½ miles east of the Worthington VOR 189° radial extending from the VOR to 18½ miles south of the VOR, excluding the portion in Minnesota.

Wrangell, Alaska
That airspace extending upward from 700 feet above the surface within 2 miles south and 4 miles north of the 087° radial of the Level Island VOR extending from 6 miles east to 30 miles east of the VOR; and within 5 miles southwest and 5 miles northeast of the Wrangell localizer southeast and northwest courses extending from 3 miles southeast to 30 miles northwest of the Wrangell localizer (latitude 56°29'03" N., longitude 132°21'35" W.).

Wrightstown, N. J.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, 40°04'00" N., 74°10'40" W. of Lakewood Airport, Lakewood, N. J.; within a 12-mile radius of McGuire AFB (latitude 40°00'55" N., longitude 74°35'25" W.); within a 9.5-mile radius of the center, 40°02'00"N., 74°21'00"W., of NAEC Lakehurst, Lakehurst, N. J.; within a 13-mile radius of the Navy Lakehurst TACAN, extending clockwise from the Navy Lakehurst TACAN 310° radial to the 148° radial; within 5 miles each side of the Coyle VORTAC 031° radial, extending from the Coyle VORTAC to 13 miles northeast; within 5 miles each side of the Robbinsville VORTAC 148° radial, extending from the Robbinsville VORTAC to 18.5 miles southeast; within 3 miles southwest and 5 miles northeast of the Navy Lakehurst TACAN 148° radial, extending from the TACAN to 14 miles southeast; within 3.5 miles each side of the 050° bearing from the Navy Lakehurst UHF RBN, extending from the RBN to 11.5 miles northeast; within a 5-mile radius of the Trenton-Robbinsville Airport (lat. 40°12'50" N., long. 74°36'05" W.); within 6.5 miles north and 4.5 miles south of the 278° and 098° radials of the Robbinsville VORTAC, extending from 5.5 miles west to 11.5 miles east of the VORTAC; within a 5-mile radius of Monmouth County Airport (latitude 40°11'05" N., longitude 74°07'20" W.); within 2 miles each side of the Colts Neck VOR 167° radial extending from the Monmouth County Airport 5-mile radius area to the VOR; and within a 5-mile radius of the center, 40°13'05" N., 74°05'30" W., of the Asbury Park-Neptune Airport, Neptune, N. J., and within 2 miles each side of the Colts Neck VOR 151° radial extending from the Asbury Park-Neptune Airport 5-mile radius area to the VOR; within a 7-mile radius of lat. 39°55'41" N., long. 74°17'30" W. of Robert J. Miller Air Park, Toms River, N. J.; within 1.5 miles each side of the Coyle, N. J. VORTAC 044° radial extending from the 7-mile radius area to the Coyle VORTAC; within a 6-mile radius of the center of latitude 39°56'30" N., longitude 74°50'30" W. of Burlington County Airpark, Mt. Holly, N. J.

AMENDMENTS 2/23/78 43 F. R. 5509 (Changed)

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Wurtsboro, N. Y.
That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the center, 41°35'52" N., 74°27'32" W., of Wurtsboro-Sullivan County Airport, Wurtsboro, N. Y.; within a 9.5-mile radius of the center of the airport, extending clockwise from a 352° bearing to a 016° bearing from the airport; within a 10.5-mile radius of the center of the airport, extending clockwise from a 016° bearing to a 025° bearing from the airport; within a 12-mile radius of the center of the airport, extending clockwise from a 025° bearing to a 036° bearing from the airport; within a 14.5-mile radius of the center of the airport, extending clockwise from a 036° bearing to a 070° bearing from the airport; within an 8.5-mile radius of the center of the airport, extending clockwise from a 070° bearing to a 086° bearing from the airport; within an 8.5-mile radius of the center of the airport, extending clockwise from a 169° bearing to a 192° bearing from the airport; within a 10.5-mile radius of the center of the airport, extending clockwise from a 192° bearing to a 238° bearing from the airport; within a 12-mile radius of the center of the airport, extending clockwise from a 238° bearing to a 310° bearing from the airport; within an 11.5-mile radius of the center of the airport, extending clockwise from a 310° bearing to a 335° bearing from the airport; within a 10-mile radius of the center of the airport, extending clockwise from a 335° bearing to a 352° bearing from the airport; within 4.5 miles north and 6.5 miles south of the Stewart VOR (41°30'30" N., 74°05'51" W.) 288° radial extending from 2.5 miles west to 19.5 miles west of the Stewart VOR; excluding the portions that coincide with the Newburgh, N. Y., and Monticello, N.Y., transition areas. This transition area is effective from sunrise to sunset, daily.

AMENDMENTS 12/15/77 42 F. R. 58931 (Added) Corr: 42 F. R. 60122

Xenia, Ohio
That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the Greene County Airport (latitude 39°41'30" N., longitude 83°59'25" W.); and within 3.5 miles each side of the 063° bearing from the Greene County Airport extending from the 5.5-mile radius to 14.5 miles northeast of the airport excluding that airspace that overlies the Dayton, Ohio, transition area.

Yakataga, Alaska
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Yakataga Airport (lat. 60°04'57"N., long. 142°29'30"W.); within 3 miles each side of the 268° bearing from the Yakataga NDB. extending from the 5-mile radius area to 18 miles west of the NDB.

Yakima, Wash.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Yakima Airport (lat. 46°33'35"N., long. 120°32'25"W.), within 5 miles northeast and 10 miles southwest of the Yakima VORTAC 115° and 295° radials, extending from 1 mile northwest to 23 miles southeast of the VORTAC, and within 3.5 miles north and 5 miles south of the ILS localizer west course, extending from 11 to 27 miles northwest of the Donald OM; that airspace extending upward from 1,200 feet above the surface within a 25-mile radius of the Yakima VORTAC, excluding the airspace north of Yakima that overlies the Ellensburg, Wash., Transition Area; that airspace northeast of the 25-mile radius circle bounded on the north by lat. 47°00', on the east by 120°00', on the southeast by V-448, and on the northwest by the Ellensburg, Wash., Transition Area; that airspace within 9 miles northeast and 6 miles southwest of the Yakima VORTAC 129° radial, extending from the VORTAC to 33 miles southeast of the VORTAC; and that airspace south of the 25-mile radius circle bounded on the northeast by V-4, on the south by V-520, and on the west by V-25E.

Yakutat, Alaska
That airspace extending upward from 700 feet above the surface within a 15-mile radius of the Yakutat VORTAC, and within a 15-mile radius of the Ocean Cape, Alaska, RBN, excluding the portion NE of a line 5 miles NE of and parallel to the Yakutat VORTAC 319° and 139° radials; and that airspace extending upward from 1,200 feet above the surface within 5 miles each side of the Yakutat VORTAC 147° radial, extending from the 15-mile radius area to 18 miles SE of the VORTAC; and within 5 miles each side of the Yakutat VORTAC 119° radial, extending from the 700-foot transition area to 65 miles southeast of the VORTAC.

Yankton, S. Dak.
That airspace extending upward from 700 feet above the surface within a 9-mile radius of Chan Gurney Municipal Airport (latitude 42°54'45" N., longitude 97°23'15" W.); and within 9½ miles northeast and 4½ miles southwest of the Yankton VOR 321° radial extending from the VOR to 18½ miles northwest of the VOR; and that airspace extending upward from 1,200 feet above the surface within 9½ miles northeast and 4½ miles southwest of the Yankton VOR 135° radial extending from the VOR to 18½ miles southeast of the VOR; excluding that portion in the State of Nebraska.

Yazoo City, Miss.
That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Barrier Field (latitude 32°52'30" N., longitude 90°24'25" W.); within 3 miles each side of the Jackson, Miss., VORTAC 332° radial, extending from the 6.5-mile radius area to 17.5 miles northwest of the VORTAC.

Yerington, Nev.
That airspace extending upward from 11,000 feet MSL within 12 miles, southwest and 8 miles northeast of the Reno, Nev., VORTAC 135° radial, extending from 10 miles northwest to 22 miles southeast of the INT of Reno VOR 135° and Lovelock, Nev., VORTAC 197° radials, excluding the airspace within Federal airways.

Yoakum, Tex.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Yoakum Municipal Airport (latitude 29°18'50" N, longitude 97°08'18" W.) and within 3.5 miles either side of the 143° radial extending from the 5-mile radius to a point 8 miles southeast of the NDB (latitude 29°18'50" N, longitude 97°08'18" W).

York, Pa.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, 39°55' 09" N., 76°52'30" W., of the York Airport, York, Pa.; within a 7-mile radius of the center of the airport, extending clockwise from a 069° bearing to a 205° bearing from the airport; within an 8.5-mile radius of the center of the airport, extending clockwise from a 205° bearing to a 244° bearing from the airport; within a 7-mile radius of the center of the airport, extending clockwise from a 244° bearing to a 271° bearing from the airport and within 3.5 miles each side of the 336° and 156° bearings from the Thomasville, Pa., RBN (39°58' 39" N., 76°54'35" W.); extending from the 5-mile radius area to 11.5 miles northwest of the RBN.

Youngstown, Ohio
That airspace extending upward from 700 feet above the surface within a 9-mile radius of the center, lat. 41° 15'28" N., long. 80°40'34" W. of Youngstown Municipal Airport, Youngstown, Ohio; within a 7-mile radius of the center, lat. 41°03'33" N., long. 80°49'55" W. of Youngstown Executive Airport, Youngstown, Ohio; within a 5.5 mile radius of the center, lat. 41°07'45" N., long. 80°37'15" W. of Lansdowne Airport, Youngstown, Ohio; within 3.5 miles each side of the Youngstown VORTAC 358° radial, extending from the Youngstown Municipal Airport 9-mile radius area to 11.5 miles north of the Youngstown VORTAC; within 3.5 miles each side Youngstown Municipal Airport ILS localizer southeast course, extending from the OM to 11.5 miles southeast of the OM; within 4.5 miles each side of the Youngstown VORTAC 203° radial, extending from 9 miles southwest of the VORTAC to 15.5 miles southwest of the VORTAC; within 5 miles each side of the 023° radial of the Youngstown VORTAC extending from the Youngstown Municipal Airport 9-mile radius area to 11.5 miles north of the VORTAC.

Yuma, Ariz.
That airspace extending upward from 700 feet above the surface, within an 11-mile radius of Yuma MCAS/Yuma International Airport (latitude 32°39'10" N., longitude 114°36'20" W.), within 2 miles each side of the Yuma VORTAC 181° radial, extending from the 11-mile radius area to 21 miles south of the VORTAC, that airspace within a 13-mile radius of the Yuma VORTAC extending from the 11-mile radius area bounded on the west by a line 4 miles west of and parallel to the Yuma VORTAC 351° radial and on the east by longitude 114°30'00" W., within 3 miles each side of the Yuma VORTAC 062° radial, extending from the VORTAC to 16 miles northeast of the VORTAC
and within 5 miles north and 6 miles south of the Yuma VORTAC 089° radial, extending from the VORTAC to 20.5 miles east of the VORTAC; that airspace extending upward from 1,200 feet above the surface, within 12 miles west and 11 miles east of the Yuma VORTAC 351° radial, extending from the north edge of V-66 to 20 miles north of the VORTAC, within 5 miles north and 8 miles south of the Yuma VORTAC 087° radial, extending from the VORTAC to 14 miles east of the VORTAC, within 11 miles east and 8 miles west of the Yuma VORTAC 180° radial, extending from the VORTAC to the United States/Mexico border; within six miles each side of the Yuma VORTAC 211° radial, extending from the VORTAC to the United States/Mexico border, and that airspace northwest of Yuma,
extending upward from 4,000 feet MSL, bounded on the north by the arc of an 18-mile radius circle centered on the Blythe, Calif., Airport (latitude 33°37'15" N., longitude 114°43'00" W.), on the east by the west edge of V-135, on the south by the north edge of V-66, and on the northwest and west by lines 5 miles northwest and west of and parallel to the Imperial and Blythe, Calif., VORTAC's, 064° and 187° radials respectively; excluding that portion outside the United States; that airspace extending upward
from 9,000 feet MSL bounded on the west by the west edge of V-135, on the east by R-2306C, and R-2306A, extending from 20 miles north of the Yuma VORTAC to the arc of an 18-mile radius circle centered on the Blythe, Calif., VORTAC.

Zanesville, Ohio
That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Zanesville Municipal Airport (latitude 39°56'40" N., longitude 81°53'20" W.); within 8 miles E and 5 miles W of the Zanesville VOR 222° radial extending from the VOR to 12 miles SW of the VOR.

Zionsville, Ind.
That airspace extending upward from 700 feet above the surface within a 5-mile radius of Indianapolis Terry Airport (latitude 40°02'08" N., longitude 86°15'18" W.); within 2 miles either side of the 359° bearing extending from the airport to 6 miles north.

Zuni, N. Mex.
That airspace extending upward from 8,500 feet MSL within 10 miles N and 7 miles S of the Zuni VORTAC 087° and 267° radials extending from 20 miles E to 9 miles W of the VORTAC, excluding the portion within the State of New Mexico.

SUBPART H - POSITIVE CONTROL AREAS

§71.193 Designation of Positive Control Areas.
The parts of airspace described below are designated as positive control areas.

Continental positive control area.
That airspace within the continental control area from 18,000 feet MSL to and including flight level 600 within the 48 contiguous States and District of Columbia excluding the Santa Barbara Island, Farallon Island, and the portion south of lat. 25°04'00" N.

Alaska Positive Control Area
That airspace of the State of Alaska, from 18,000 feet MSL to and including flight level 600 but not including the airspace less than 1,500 feet above the surface of the earth and the Alaska Peninsula west of longitude 160°00'00"W.

SUBPART I - REPORTING POINTS

§ 71.201 Designation.
The locations described in this Subpart are designated as reporting points.

§ 71.203 Domestic low altitude reporting points.
The reporting points listed below are designated at all altitudes up to but not including 18,000 feet MSL.

Aberdeen, S. Dak.
Abilene, Tex.
Acton, Tex.
Ainsworth, Nebr.
Akron, Colo.
Alamosa, Colo.
Albany, Ga.
Albany, N. Y.
Albuquerque, N. Mex.
Alexandria, La.
Alexandria, Minn.
Allendale, S. C.
Allentown, Pa.
Alma, Ga.
Amarillo, Tex.
AMZ1E: INT Bangor, Maine, 146° radial, centerline of Control 1143.
Anderson, S. C.
Anton Chico, N. Mex.
Appleton, Ohio
Ardmore, Okla.
Atlanta, Ga.
Augusta, Ga.
Augusta, Maine
Austin, Tex.
Avenal, Calif.
Badger, Wis. AMENDMENTS 7/13/78 43 F. R. 19212 (Changed)
Baker, Oreg.
Bakersfield, Calif.
Bangor, Maine
Barretts Mountain, N. C.
Baton Rouge, La.
Battle Mountain, Nev.
Beatty, Nev.
Beaumont, Tex.
Bellingham, Wash.
Bemidji, Minn.
Berlin, N. H.
Bible Grove, Ill.
Bigbee, Miss. AMENDMENTS 3/23/78 43 F. R. 3545 (Added)
Big Spring, Texas
Big Sur, Calif.
Billings, Mont.
Binghamton, N. Y.
Biscayne Bay, Fla.
Bismarck, N. Dak.
Bluefield, W. Va.
Blue Ridge, TX
Blue Springs, Mo.
Blythe, Calif.
Boise, Idaho.
Bonneville, Utah
Boston, Mass.
Boulder City, Nev.
Bowling Green, Ky.
Boysen Reservoir, Wyo.

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Bozeman, Mont.
Bradford, Ill.
Brainerd, Minn.
Bridgeport, Tex.
Brooke, Va.
Brookley, Ala.
Brookwood, Ala.
Brownsville, Tex.
Brunswick, Ga.
Bryce Canyon, Utah
Buckeye, Ariz.
Buffalo, N. Y.
Burley, Idaho
Burlington, Iowa
Burlington, Vt.
Butler, Mo.
Cape Girardeau, Mo.
Capital, Ill.
Carleton, Mich.
Carlsbad, N. Mex.
Carmel, N. Y.
Casa Grande, Ariz.
Casper, Wyo.
Cedar Rapids, Iowa
Centralia, Ill.
Chadron, Nebr.
Champaign, Ill.
Chanute, Kans.

CHARL: Lat. 47°28'21" N., Long. 114°07'19" W. (a. INT Mullan Pass, Idaho, 089°, Kalispell, Mont., 177° radials. b. Mullan Pass, Idaho, 089° radials, 62 NM from Mullan Pass).

Charleston, S. C.
Charleston, W. Va.
Chattanooga, Tenn.
Cherokee, Wyo.
Chesterfield, S. C.
Cheyenne, Wyo.
Chicago Heights, Ill.
Childress, Tex.
Cimarron, N. Mex.
Cincinnati, Ohio
Cleveland, Ohio
Coaldale, Nev.
Cochise, Ariz.

COFAX: INT Johnstown, Pa., 093°, St. Thomas, Pa., 358° radials.

Cofield, N. C.
Columbia, Mo.
Columbia, S. C.
Columbus, Ga.
Columbus, Nebr.
Columbus, N. Mex.
Concord, N. H.

COOBE: INT Clarion, Pa., 044°, Franklin, Pa., 099° radials.

Corona, N. Mex.
Corpus Christi, Tex.
Cotulla, Tex.
Coyle, N. J.
Crazy Woman, Wyo.
Crescent City, Calif.
Crestview, Fla.
Cross City, Fla.
Cunningham, KY
Cut Bank, Mont.
Dalhart, Tex.
Dallas-Fort Worth, Tex.
Danville, Ill.
Darwin, Minn.
Davenport, Iowa
Dayton, Ohio
Decatur, Ill.
DeLancey, N. Y.
Delta, Utah.
Deming, N. Mex.
Denver, Colo.
Des Moines, Iowa
Dickinson, N. Dak.
Dillon, Mont.
Dogwood, Mo.

Douglas, Ariz.
Douglas, Wyo.
Dublin, Ga.
Dubois, Idaho
Dubuque, Iowa
Duluth, Minn.
Dunkirk, N. Y.
Dupree, S. Dak.
Dyersburg, Tenn.
Eagle Lake, Tex.
Eaton, Miss.
Eau Claire, Wis.

AMENDMENTS 3/23/78 43 F. R. 3545 (Added)

EDGEE: INT Fort Wayne, Ind., 039°. Waterville, Ohio, 273° radials.

El Dorado, Ark.
Elkins, W. Va.
Elko, Nev.
Ellensburg, Wash.
Elmira, N. Y.
El Paso, Tex.
Ephrata, Wash.
Erie, Pa.
Escanaba, Mich.
Eugene, Oreg.
Evansville, Ind.
Fairfield, Utah
Fairmont, Minn.
Falmouth, Ky.
Fargo, N. Dak.
Farmington, Minn.
Farmington, Mo.
Farmington, N. Mex.
Fayetteville, N. C.
Fellows, Calif.
Fillmore, Calif.
Findlay, Ohio
Fish Hook, Fla. RBN
Flat Rock, Va.

FLINT: INT Kessel, W. Va., 038°, Martinsburg, W. Va., 297° radials.

Flint, Mich.
Florence, S. C.
Fort Bridger, Wyo.
Fort Dodge, Iowa
Fort Jones, Calif.
Fort Mill, S. C.
Fort Myers, Fla.
Fort Smith, Ark.
Fort Stockton, Tex.
Fortuna, Calif.
Fort Wayne, Ind.
Franklin, Va.
Fresno, Calif.
Friant, Calif.
Front Royal, Va.
Gage, Okla.
Gainesville, Fla.
Garden City, Kans.

GAREN: INT Goshen, Ind., 108°, Ft. Wayne, Ind., 016° radials.

GARRI: INT Drummond, Mont., 092° Butte, Mont., 002° radials.

Gaviota, Calif.
Gaylord, Mich.
Gila Bend, Ariz.
Gill, Colo.

GILLS: INT Jefferson, Ohio, 279°, Cleveland, Ohio, 024° radials.

Goffs, Calif.
Goodland, Kans.
Gordonsville, Va.
Goshen, Ind.
Graham, Tenn.
Grand Island, Nebr.
Grand Junction, Colo.
Grand Rapids, Minn.
Grand Strand, S. C.

GRANT: INT Columbus, Ga., 068° and Albany, Ga., 357° radials.

Grantsburg, Wis.
Grantsville, Md.
Great Falls, Mont.
Green Bay, Wis.
Greensboro, N. C.
Greenville, Fla.

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Greenwood, Miss.
Greenwood, S. C.
Gregg County, Tex.
Gulfport, Miss.
Gunnison, Colo.
Guthrie, Tex.
Hallsville, Mo.
Hamilton, Ala.
Hanksville, Utah
Harcum, Va.
Harris, Ga., VORTAC
Harrisburg, Pa.
Harrison, Ark.
Hartford, Conn.
Hastings, Nebr.
Hayden, Colo.
Hayes Center, Nebr.
Hays, Kansas
Hazen, Nev.
Hector, Calif.
HEFIN: INT Talladega, Ala., 087°, LaGrange, Ga., 342° radials.
Helena, Mont.
Hibbing, Minn.
Hill City, Kans.
Hinch Mountain, Tenn.
Hobart, Okla.
Hobbs, N. Mex.
Hobby, Tex.
Hoquiam, Wash.
Holston Mountain, Tenn.
Hot Springs, Ark.
Houghton, Mich.
Houlton, Maine
Hudspeth, Tex.
Hugo, Colo.
Huron, S. Dak.
Hutchinson, Kans.
Imperial, Calif.
Indianapolis, Ind.
International Falls, Minn.
Iron Mountain, Mich.
Ironwood, Mich.
Jacks Creek, Tenn.
Jackson, Mich.
Jackson, Miss.
Jacksonville, Fla.
Jamestown, N. Dak.
Janesville, Wis.
Joliet, Ill.
Julian, Calif.
Junction, Tex.
Kansas City, Mo.
Kearney, Nebr.
Keating, Pa.
Keeler, Mich.
Kennebunk, Maine
Kenton, Del.
Key West, Fla.
Kimberly, Oregon
Kingston, N. Y.
Kinston, N. C.
Kirksville, Mo.
Klamath Falls, Oreg.
Knoxville, Tenn.
Kokomo, Ind.
Kremmling, Colo.
LaBelle, Fla.
Lafayette, Ind.
Lafayette, La.
Lake Charles, La.
Lake Henry, Pa.
Lake Hughes, Calif.
Lakeland, Fla.
Lamar, Colo.
Lamoni, Iowa
Lancaster, Pa.
Lansing, Mich.
Laramie, Wyo.
Laredo, Tex.
Las Vegas, Nev.

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Lawrenceville, Va.
Leona, Tex.
LESSY: INT Salem, Mich., 273°, Lansing, Mich., 159° radials.
Lewis, Ind.
Lewistown, Mont.
Lexington, Ky.
Liberal, Kans.
Liberty, N. C.
Linden, Calif.
Linden, Va.
Litchfield, Mich.
Little Rock, Ark.
Livingston, Mont.
Llano, Tex.
Lometa, Tex.
London, Ky.
Lone Rock, Wis.
Los Angeles, Calif.
Louisville, Ky.
Lovelock, Nev.
Lubbock, Tex.
Lucin, Utah
Lufkin, Tex.
Lynchburg, Va.
Macon, Ga.
MADDI: INT Greenwood, S. C., 240° and Athens, Ga., 195° radials.
Malad City, Idaho
Malden, Mo.
Manistee, Mich.
Mankato, Kans.
Mankato, Minn.
Mansfield, Ohio
Maples, Mo.
Marianna, Fla.
Marion, Ill.
Marquette, Mich.
Martinsburg, W. Va.
Massena, N. Y.
Mason City, Iowa
McAlester, Okla.
McCall, Idaho
McComb, Miss.
McCook, Nebr.
Medford, Oreg.
Medicine Bow, Wyo.
Menominee, Mich.
Meridian, Miss.
Miami, Fla.
Midland, Tex.
Miles City, Mont.
Milford, Utah
Millinocket, Maine
Millsap, TX
MILTO: INT Eau Claire, Wis., 134°, and Nodine, Minn., 055° radials.
Milton, Pa.
Minneapolis, Minn.
Minot, N. Dak.
Missoula, Mont.
Mitchell, S. Dak.
Modena, Pa.
Moline, Ill.
Monroe, La.
Monroeville, Ala.
Montebello, Va.
Montgomery, Ala.
Mormon Mesa, Nev.
Morgantown, W. Va.
Mount Pleasant, Mich.
Mullan Pass, Idaho
Muncie, Ind.
Muscle Shoals, Ala.
Muskegon, Mich.
Myton, Utah
Nabb, Ind.
Nantucket, Mass.
Nashville, Tenn.
Needles, Calif.
NELLO: INT Atlanta, Ga., 001°, Chattanooga, Tenn., 127° radials.
Neola, Iowa
Neosho, Mo.
Newcombe, Ky.
Newman, Tex.

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New Orleans, La.
Newport, Oreg.
Nodine, Minn.
Norfolk, Nebr.
North Bend, Oreg.
Northbrook, Ill.
North Platte, Nebr.
Nottingham, Md.
Oakland, Calif.
Ocala, Fla.
Oceanside, Calif.
Ogden, Utah
Oklahoma City, Okla.
Omaha, Nebr.
O'Neill, Nebr.
Ontario, Calif.
Orlando, Fla.
Ormond Beach, Fla.
Oshkosh, Wis.
Oswego, Kans.
Ottumwa, Iowa
Pahokee, Fla.
Palacios, Tex.
Palm Beach, Fla.
Palmdale, Calif.
Palm Springs, Calif.
Panoche, Calif.
Parker, Calif.
Parkersburg, W. Va.
Park Rapids, Minn.
Paso Robles, Calif.
Patuxent, Md.
Pawling, N. Y.
Pawnee City, Nebr.
Peach Springs, Ariz.
Pecos, Tex.
Pellston, Mich.
Pembina, N. Dak.
Pendleton, Oreg.
Peoria, Ill.
Peotone, Ill.
Philipsburg, Pa.
Phoenix, Ariz.
Pierre, S. Dak.
Pine Bluff, Ark.
Pinon, NM.
Pioneer, OK.
Plainview, Tex.
Plattsburg, N. Y.
Pocatello, Idaho
Point Reyes, Calif.
Polo, Ill.
Pomona, Calif.
Pontiac, Ill.
Porterville, Calif.
Portland, Fla. RBN
Portland, Oreg.
Prescott, Ariz.
Presque Isle, Maine
Priest, Calif.
Princeton, Maine
Providence, R. I.
Pueblo, Colo.
Pulaski, Va.
Pullman, Mich.
Quincy, Ill.
Quitman, Tex.
Raleigh-Durham, N. C.
Rapid City, S. Dak.
Ravine, Pa.
Raymond, Nebr.
Razorback, Ark.
Readsville, Mo.
Red Bluff, Calif.
Redmond, Oreg.
Redwood Falls, Minn.
Reno, Nev.
Rewey, Wis.
Rhinelander, Wis.
Roberts, Ill.
Rochester, Minn.
Rochester, N. Y.
Rocket, Ala.
Rockford, Ill.

AMENDMENTS 9/7/78 43 F. R. 31127 (Changed)

AMENDMENTS 3/23/78 43 F. R. 3545 (Added)

Rock Springs, Wyo.
Rocky Mount, N. C.
Rome, Oreg.
Rosewood, Ohio
Roswell, N. Mex.
Sacramento, Calif.
Saginaw, Mich.
St. Johns, Ariz.
St. Louis, Mo.
St. Petersburg, Fla.
Salem, Mich.
Salina, Kans.
Salisbury, Md.
Salt Flat, Tex.
Salt Lake City, Utah
Samsville, Ill.
San Angelo, Tex.
San Antonio, Tex.
San Luis Obispo, Calif.
San Simon, Ariz.
Santa Barbara, Calif.
Santa Fe, N. Mex.
Sault Ste. Marie, Mich.
Savannah, Ga.
SAYBO: INT Carmel, N. Y., 093°, Riverhead, N. Y., 046° radials.
Sayre, Okla.
Schoolcraft, Mich.
SCIPO: INT Syracuse, N. Y., 210° Georgetown, N. Y., 273° radials.
Scottsbluff, Nebr.
Scurry, Tex.
Sea Isle, N. J.
Seal Beach, Calif.
Seattle, Wash.
Selinsgrove, Pa.
Semmes, Ala.
Shelbyville, Ind.
Sheridan, Wyo.
Shreveport, La.
Sidney, Nebr.
Sioux City, Iowa
Sioux Falls, S. Dak.
Snow Hill, Md.
Sod House, Nev.
South Bend, Ind.
South Boston, Va.
Spokane, Wash.
Springfield, Mo.
STACY: INT Blackford, Va., 009°, Bluefield, W. Va., 267° radials.
Stevens Point, Wis.
Stockton, Calif.
Sugarloaf Mountain, N. C.
Sulphur Springs, Tex.
Syracuse, N. Y.
Tallahassee, Fla.
Tar River
Texarkana, Ark.
The Dalles, Oreg.
Thermal, Calif.
Thurman, Colo.
Tidioute, Pa.
Tiverton, Ohio
Tobe, Colo.
Topeka, Kans.
Traverse City, Mich.
Troy, Ill.
Truth or Consequences, N. Mex.
Tuba City, Ariz.
Tucson, Ariz.
Tucumcari, N. Mex.
Tulsa, Okla.
Tuscola, Tex.
Tuskegee, Ala.
Twenty-Nine Palms, Calif.
Twin Falls, Nev.
Tyrone, Pa.
Ukiah, Calif.

AMENDMENTS 3/23/78 43 F. R. 3545 (Added)

AMENDMENTS 1/26/78 42 F. R. 59377 (Added)

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Vance, S. C.
Vandalia, Ill.
Ventura, Calif.
Vero Beach, Fla.
Vichy, Mo.
Vienna, Ga.
Vulcan, Ala.
Waco, Tex.
Walnut Ridge, Ark.
Waterloo, Iowa
Watertown, N. Y.
Watertown, S. Dak.
Waterville, Ohio
Waukon, Iowa
Wausau, Wis.
Waycross, Ga.
White Cloud, Mich.
Whitehall, Mont.
White Lake, La.
Whitesburg, Ky.
Wichita, Kans.
Wichita Falls, Tex.
Wilkes-Barre, Pa.
Williams, Calif.
Williamsport, Pa.
Wilmington, N. C.
Wink, Texas
Winslow, Ariz.
Wiregrass, Ala.
Wolbach, Nebr.
Woodside, Calif.
Woodstown, N. J.
Worthington, Minn.
Yakima, Wash.
Yankton, S. Dak.
York, Ky.
Youngstown, Ohio
Yuma, Ariz.
Zuni, N. Mex.

AMENDMENTS 3/23/78 43 F. R. 3545 (Added)

AMENDMENTS 3/23/78 43 F. R. 3545 (Added)

§ 71.207 Domestic high altitude reporting points.

The reporting points listed below are designated at all altitudes from 18,000 feet MSL to Flight Level 450, inclusive.

Aberdeen, S. Dak.
Abilene, Tex.
Alamosa, Colo.
Albany, N. Y.
Albuquerque, N. Mex.
Alexandria, La.
Alma, Ga.
Amarillo, Tex.
Appleton, Ohio
Atlanta, Ga.
Augusta, Ga.
Austin, Tex.
Badger, Wis.
Bakersfield, Calif.
Bangor, Maine
Battle Mountain, Nev.
Beckley, W. Va.
Bellaire, Ohio
Billings, Mont.
Biscayne Bay, Fla.
Blythe, Calif.
Boise, Idaho
Boston, Mass.
Boulder City, Nev.
Bowling Green, Ky.
Bradford, Ill.
Brownsville, Tex.
Bryce Canyon, Utah
Buffalo, N. Y.
Butler, Mo.
Carleton, Mich.
Casanova, Va.
Chardon, Ohio
Charleston, S. C.
Charleston, W. Va.
Cleveland, Ohio
Coaldale, Nev.
Columbia, S. C.
Coyle, N. J
Crazy Woman, Wyo.
Crestview, Fla.
Dallas-Fort Worth, Tex.
DAVES: INT Yarmouth, Nova Scotia, 230°, Bangor, Maine, 152° radials.
Delta, Utah
Denver, Colo.
Des Moines, Iowa
Dickinson, N. Dak.
Dove Creek, Colo.
Dubois, Idaho
Duluth, Minn.
Dunkirk, N. Y.
Dupree, S. Dak.
El Paso, Tex.
Evansville, Ind.
Falmouth, Ky.
Fargo, N. Dak.
Farmington, Mo.
Farmington, N. Mex.
Fort Stockton, Tex.
Flat Rock, Va.
Flint, Mich.
Florence, S. C.
Fresno, Calif.
Front Royal, Va.

AMENDMENTS 7/13/78 43 F. R. 19212 (Changed)

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Garden City, Kans.
Gila Bend, Ariz.
Goodland, Kansas
Gordonsville, Va.
Grand Junction, Colo.
Great Falls, Mont.
Green Bay, Wis.
Greensboro, N. C.
Greenwood, Miss.
Hancock, N. Y.
Harrisburg, Pa.
Hector, Calif.
Hill City, Kans.
Hobby, Tex.
Indianapolis, Ind.
Iowa City, Iowa
Jackson, Miss.
Jacksonville, Fla.
Jamestown, N. Y.
Joliet, Ill.

KANNA: Lat. 26°00'00" N., Long. 96°35'26" W. (INT Hobby, Tex., 198° radial, Houston Oceanic CTA/FIR boundary).

Kansas City, Mo.
Keating, Pa.
Kennedy, N. Y.
Key West, Fla.
Kimberly, Oreg.
Knoxville, Tenn.
Lake Charles, La.
Lakeview, Oreg.
Laredo, Tex.
Las Vegas, N. Mex.
Lewistown, Mont.
Lincoln, Nebr.
Little Rock, Ark.
Los Angeles, Calif.
Louisville, Ky.
Lufkin, Tex.
Malad City, Idaho
Mason City, Iowa
Massena, N. Y.
Mecker, Colo.
McCall, Idaho
McComb, Miss.
Medford, Oreg.
Memphis, Tenn.
Meridian, Miss.
Miami, Fla.
Milford, Utah
Millinocket, Maine
Millsap, Tex.
Minneapolis, Minn.
Mission Bay, Calif.
Montgomery, Ala.
Mullan Pass, Idaho
Nantucket, Mass.
Nashville, Tenn.
New Orleans, La.
Nodine, Minn.
Norfolk, Va.
Northbrook, Ill.
Oakland, Calif.
Oklahoma City, Okla.
O'Neill, Nebr.
Orlando, Fla.
Ormond Beach, Fla.

Palmdale, Calif.
Parker, Calif.
Pawnee City, Nebr.
Peach Springs, Ariz.
Peck, Mich.
Pembina, N. Dak.
Pendleton, Oreg.
Philipsburg, Pa.
Phoenix, Ariz.
Plattsburgh, N. Y.
Presque Isle, Maine
Pueblo, Colo.
Pulaski, Va.
Pullman, Mich.
Putnam, Conn.
Raleigh-Durham, N. C.
Rapid City, S. Dak.
Razorback, Ark. AMENDMENTS 9/7/78 43 F. R. 31127 (Changed)
Red Bluff, Calif.
Reno, Nev.
Richmond, Va.
Robbinsville, N. J.
Rock Springs, Wyo.
Rome, Oreg.
Roswell, N. Mex.
Rosewood, Ohio
Sacramento, Calif.
St. Louis, Mo.
St. Petersburg, Fla.
Salem, Mich.
Salina, Kans.
Salt Lake City, Utah
San Antonio, Tex.
San Juan, P. R. RBN
San Simon, Ariz.
Sault Ste. Marie, Mich.
Savannah, Ga.
Scottsbluff, Nebr.
Seattle, Wash.
Semmes, Ala. AMENDMENTS 3/23/78 43 F. R. 3545 (Added)
Shreveport, La.
Sidney, Nebr.
Sioux Falls, S. Dak.
South Bend, Ind,
Sparta, N. J.
Spartanburg, S. C.
Spokane, Wash.
Springfield, Mo.
Stockton, Calif.
Syracuse, N. Y.
Tallahassee, Fla.
Taylor, Fla.
Texarkana, Ark.
Tuba City, Ariz.
Tucson, Ariz.
Tulsa, Okla.
Vero Beach, Fla.
Vulcan, Ala. AMENDMENTS 3/23/78 43 F. R. 3545 (Added)
Waco, Tex.
Walnut Ridge, Ark.
Westminster, Md.
Whitehall, Mont.
Wichita, Kans.
Wilmington, N. C.
Wilson Creek, Nev.
Wink, Tex.
Wolbach, Nebr.
Yuma, Ariz.

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§ 71.209 **Other domestic reporting points.**
The reporting points listed below are designated at all altitudes.

ABACO: Lat. 27°00'00" N., Long. 77°34'10" W. (INT of a direct line between Carolina Beach, N. C., RBN and Nassau, Bahamas, RBN, with the 050° bearing from Bimini, Bahamas, RBN.)

ALASK: Lat. 16°49'30" N., Long. 66°32'27" W. (INT Ponce, P. R., 181°, St. Croix, V. I., 243° radials.

ALLBA: Lat. 27°32'05" N., Long. 95°08'52" W. (INT Galveston, Tex., NDB 191°, Corpus Christi, Tex., NDB 097° bearings).

BACUS: Lat. 34°26'41" N., Long. 73°50'36" W. (INT Weeksville, N. C., NDB 133° bearing and New York Oceanic CTA/FIR boundary).

Bimini, Bahamas, RBN.

BOGGY: Lat. 28°15'00" N., Long. 91°27'47" W. (INT New Orleans, La., NDB 208° Galveston, Tex., NDB 110° bearings).

BRIMS: Lat. 28°15'00" N., Long. 91°12'34" W. (INT Grand Isle, La., NDB 227°, Galveston, Tex., NDB 108° bearings).

CARPS: Lat. 30°24'07" N., Long. 77°44'00" W. (INT of a direct line between Carolina Beach, N. C., RBN and Nassau, Bahamas, RBN, with the 090° bearing from Dinsmore, Fla., RBN, and with the Jacksonville, Fla., VORTAC 090° radial.)

CATFI: Lat. 28°15'00" N., Long. 90°57'52" W. (INT Grand Isle, La., NDB 220°, Galveston, Tex., NDB 107° bearings).

COVIA: Lat. 27°56'10" N., Long. 84°44'10" W. (INT Sarasota, Fla., 286°, Tallahassee, Fla., 187° radials).

CRABI: Lat. 28°01'14" N., Long. 84°43'24" W. (INT Wakulla, Fla., NDB, 188°, Egmont Key, Fla., NDB 284° bearings).

CROAK: Lat. 36°57'18" N., Long. 73°00'00" W. (a. INT Weeksville, N. C., NDB 073° bearing and New York Oceanic CTA/FIR boundary. b. INT Norfolk, Va., 088° radial, Sea Isle, N. J., 146° radials. c. Norfolk, Va., 088° radial, 154 NM from Norfolk).

DAKES: Lat. 17°03'00" N., Long. 67°00'00" W. (Ponce, Puerto Rico 206°, St. Croix, V. I., 253° radials).

DOLPH: Lat. 28°15'00" N., Long. 90°01'09" W. (INT Grand Isle, La., NDB 177°, Galveston, Tex., NDB 103° bearings).

Dorado, Puerto Rico, NDB

EARNS: Lat. 28°15'00" N., Long. 93°44'55" W. (INT Galveston, Tex., NDB 140°, Grand Isle, La., NDB 255° bearings).

FLASH: Lat. 28°15'00" N., Long. 89°32'02" W. (INT Grand Isle, La., NDB 153°, Pickens, Fla., RBN 223° bearings).

FLORI: Lat. 16°53'47" N., Long. 65°25'56" W. (San Juan, P. R., NDB 149° and St. Croix, V. I., 220° radials).

GATES: Lat. 34°12'53" N., Long. 123°03'27" W. (INT San Luis Obispo, Calif., 242° radial and Oakland Oceanic

HEMLO: Lat. 43°18'08" N., Long. 126°40'46" W. (INT Newport, Oreg., 237° radial and Oakland Oceanic CTA/FIR boundary).

HERIN: Lat. 42°00'09" N., Long. 67°47'30" W. (INT Nantucket, Mass., 066° radial, Long. 67°47'30" W.).

HOBEE: Lat. 29°13'10" N., Long. 79°09'38" W. (INT of the 192° bearing from Carolina Beach, N. C., RBN and the Orlando, Fla., VORTAC 070° radials).

IDAHO: Lat. 19°11'09" N., Long. 67°35'45" W. (INT Ramey, P. R. 326°, San Juan, P. R., 296° radials).

IOHIOS: Lat. 19°53'34" N., Long. 66°46'07" W. (INT Ramey, P. R. 013°, San Juan, P. R., 333° radials).

PERCH: Lat. 33°52'03" N., Long. 119°09'24" W. (INT Los Angeles, Calif., 264°, Ventura, Calif., 200° radials).

Ramey, P. R.

St. Croix, Virgin Islands

San Juan, P. R.

SEDAR: Lat. 45°30'28" N., Long. 126°42'59" W. (INT Hoquiam, Wash., 232° radial and Oakland Oceanic CTA/FIR boundary).

SMELT: Lat. 31°58'38" N., Long. 77°00'00" W. (INT Ashley, S. C. NDB 110° bearing, Long. 77°00'00" W.).

SQUID: Lat. 30°24'40" N., Long. 78°03'42" W. (INT of the 191° bearing from Croaton, N. C., RBN, the 090° bearing from Dinsmore, Fla., RBN, and the Jacksonville, Fla., VORTAC 090° radial.)

TADPO: Lat. 24°00'00" N., Long. 81°13'02" W. (INT Marathon, Fla., NDB 189° bearing, Lat. 24°00'00" N.).

TROUT: Lat. 30°22'35" N., Long. 77°00'00" W. (INT Dinsmore, Fla., NDB 090° bearing, Long. 77°00'00" W.).

UTAHS: Lat. 19°34'40" N., Long. 67°13'42" W. (INT San Juan, P. R., 314°, Ramey, P. R., 354° radials).

VERMO: Lat. 20°04'09" N., Long. 66°15'42" W. (INT Ramey, P. R., 027°, San Juan, P. R., 351° radials).

VIPER: Lat. 28°14'17" N., Long. 88°53'08" W. (INT Grand Isle, La., NDB 132°, Pickens, Fla., NDB 215° radials).

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§ 71.211 Alaskan low altitude reporting points.

The reporting points listed below are designated up to but not including 18,000 feet MSL.

Adak, Alaska, NDB
Anchorage, Alaska
Aniak, Alaska, NDB
Annette Island, Alaska
Barrow, Alaska
Barter Island, NDB
Bear Creek, Alaska, NDB
Bethel, Alaska
Bettles, Alaska
Big Delta, Alaska
Big Lake, Alaska
Biorka Island, Alaska
Bishop, NDB
Cape Newenham, Alaska, NDB
Cape Sarichef, Alaska, NDB
CARTS: Lat. 55°41'49" N., Long. 136°34'31" W. (INT Sandspit, British Columbia, Canada, NDB 314°, Sitka, Alaska, NDB 207° bearings).
Chandalar, Alaska, NDB
Chena, Alaska, NDB
CLAMS: Lat. 59°53'27" N., Long. 152°16'23" W. (INT Homer, Alaska, 294°, Kenai, Alaska, 217° radials).
Coghlan Island, Alaska, NDB
Cold Bay, Alaska
Cold Bay LOM
CORVA: Lat. 60°15'32" N., Long. 145°09'28" W. (INT Hinchinbrook, Alaska, NDB 106°, Cordova, Alaska, NDB 151° bearings).
CRACK: Lat. 57°20'51"N., Long. 159°24'09"W. (INT King Salmon, Alaska, LOM 226°, Port Heiden, Alaska, NDB 314° bearings). AMENDMENTS 11/2/78 43 F. R. 30042 (Changed) Corr: 43 F. R. 36431
Deadhorse, Alaska
Delta Junction, Alaska, NDB
Dillingham, Alaska
Dutch Harbor, Alaska, NDB
Elephant, NDB
Evansville, NDB
Fairbanks, Alaska
Farewell, Alaska, NDB
FLUKE: Lat. 60°05'48" N., Long. 163°57'49" W. (INT Oscarville, Alaska, NDB 237°, Cape Newenham, Alaska, NDB 327° bearings).
Fort Davis, Alaska, NDB
Fort Yukon, Alaska
FRIED: Lat. 54°14'23"N., long. 133°39'49"W. (INT Annette Island, Alaska, 237°, Sandspit, British Columbia, Canada, 313° radials).
Galena, Alaska
GARRS: Lat. 58°19'09" N., Long. 161°20'25" W. (INT King Salmon, Alaska, LOM 262°, Cape Newenham, Alaska, NDB 131° bearings).
Glenallen, Alaska, NDB
Gulkana, Alaska
Haines, Alaska, NDB
HAPIT: Lat. 58°11'59" N., Long. 137°31'05" W. (INT Ocean Cape, Alaska, NDB 139°, Cape Spencer, Alaska, NDB 273° bearings).
HAZZY: Lat. 56°19'14" N., Long. 134°17'19" W. (INT Sitka, Alaska, NDB 127° and Petersburg, Alaska, NDB 238° bearings.

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HERRY: Lat. 57°50'30" N., Long. 160°20'27" W. (INT King Salmon, Alaska, LOM 246°, Cape Newenham, Alaska, NDB 131° bearings).
Hinchinbrook, Alaska, NDB
Homer, Alaska
Hotham, NDB
Iliamna, Alaska, NDB
Johnstone Point, Alaska
Julius, Alaska, NDB
Kachemak, Alaska, NDB
Kenai, Alaska
King Salmon, Alaska
King Salmon LOM
Kodiak, Alaska
Kotzebue, Alaska
Level Island, Alaska
MARLO: Lat. 57°27'53" N., Long. 150°31'44" W. (INT Kodiak, Alaska, 107° radial and Anchorage CTA/FIR boundary).
McGrath, Alaska
Middleton Island, Alaska
MOCHA: Lat. 54°30'13"N., long. 133°01'40"W. (INT Annette Island, Alaska, 237°, Sandspit, British Columbia, Canada, 331° radials).
MORDI: Lat. 54°52'29" N., Long. 165°03'54" W. (INT Cold Bay, Alaska, LOM 253°, Cape Sarichef, Alaska, NDB 344° bearings).
Moses Point, Alaska
Nabesna, Alaska, NDB
Nenana, Alaska
Nichols, Alaska, NDB
Nome, Alaska
North River, Alaska, NDB
Northway, Alaska
Norton Bay, Alaska, NDB
Ocean Cape, Alaska, NDB
Oliktok, Alaska, NDB
Oscarville, Alaska, NDB
Petersburg, Alaska, NDB
Peters Creek, NDB
Puntilla Lake, Alaska, NDB
Put River, Alaska, NDB
St. Marys, Alaska, NDB
Shemya, Alaska, NDB
SHRIM: Lat. 56°40'57" N., Long. 138°45'53" W. (INT Wessels, Alaska, NDB 122°, Cape Spencer, Alaska, NDB 218° bearings).
Sisters Island, Alaska
Sitka, Alaska, NDB
SKILA: Lat. 60°29'31" N., Long. 150°38'18" W. (INT Anchorage, Alaska, 198°, Homer, Alaska, 027° radials).
Skwentna, Alaska, NDB
SNOUT: Lat. 57°53'28" N., Long. 141°45'13" W. (INT Wessels, Alaska, NDB 122°, Ocean Cape, Alaska, NDB 213° bearings).
SOLID: Lat. 58°41'13" N., Long. 148°14'03" W. (INT Kachemak, Alaska, NDB 118° bearing and Anchorage CTA/FIR boundary).
Sparrevohn, Alaska, NDB
Summit, Alaska, NDB
Takotna River, Alaska, NDB
Tanana, Alaska
TUCKS: Lat. 60°13'43" N., Long. 152°28'08" W. (INT Kenai, Alaska, 239°, Homer, Alaska, 316° radials).
Umiat NDB
Unalakleet, Alaska
Wessels, Alaska, NDB
WIDTH: Lat. 57°20'35"N., Long. 155°59'16"W. (INT King Salmon, Alaska, LOM 163°, Port Heiden, Alaska, NDB 074° bearings). AMENDMENTS 11/2/78 43 F. R. 30042 (Changed) Corr: 43 F. R. 36431
Wildwood, Alaska, NDB
Woody Island, Alaska, NDB
Yakutat, Alaska
Yukon River, NDB
ZANDA: Lat. 56°09'10" N., Long. 134°44'52" W. (INT Sitka, Alaska, NDB 148° and Petersburg, Alaska, NDB 238° bearings.

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§ 71.213 Alaskan high altitude reporting points.
The reporting points listed below are designated at 18,000 feet MSL to Flight Level 450.

Adak, Alaska, NDB
Anchorage, Alaska
Annette Island, Alaska
Barrow, Alaska
Barter Island, NDB
Bethel, Alaska
Bettles, Alaska
Big Delta
Big Lake, Alaska
Blorka Island, Alaska
Brownerville, Alaska, NDB
Cape Newenham, Alaska, NDB
CARTS: Lat. 55°41'49" N., Long. 136°34'31" W. (INT Sandspit, British Columbia, Canada, NDB 314° bearing, Biorka Island, Alaska, 207° radial).
Cold Bay, Alaska
Deadhorse, Alaska
Dillingham, Alaska
Dutch Harbor, Alaska, NDB
Fairbanks, Alaska
FLUKE: Lat. 60°05'48" N., Long. 163°57'49" W. (INT Oscarville, Alaska, NDB 237°, Cape Newenham, Alaska, NDB 327° bearings).
FRIED: Lat. 54°14'23"N., long. 133°39'49"W. (INT Annette Island, Alaska, 237°, Sandspit, British Columbia, Canada, 313° radials).
Fort Yukon, Alaska
Galena, Alaska
GARRS: Lat. 58°19'09" N., Long. 161°20'25" W. (INT King Salmon, Alaska, LOM 262°, Cape Newenham, Alaska, NDB 131° bearings).
Gulkana, Alaska.
HERRY: Lat. 57°50'30" N., Long. 160°20'27" W. (INT King Salmon, Alaska, LOM 246°, Cape Newenham, Alaska, NDB 131° bearings).
JIMMY: Lat. 57°19'59"N., Long. 159°22'27"W. (INT King Salmon, Alaska, 226° radial, Port Heiden, Alaska, NDB 314° bearing). AMENDMENTS 11/2/78 43 F. R. 30042 (Changed) Corr: 43 F. R. 36431
Johnstone Point, Alaska
KILLA: Lat. 58°44'58" N., Long. 140°35'39" W. (INT Yakutat, Alaska, 213° radial, Hinchinbrook, Alaska, NDB 118° bearing).
King Salmon, Alaska.
Kodiak, Alaska
Kotzebue, Alaska
MARLO: Lat. 57°27'53" N., Long. 150°31'44" W. (INT Kodiak, Alaska, 107° radial and Anchorage CTA/FIR boundary).
McGrath, Alaska
Middleton Island, Alaska
MOCHA: Lat. 54°30'13"N., long. 133°01'40"W. (INT Annette Island, Alaska, 237°, Sandspit, British Columbia, Canada, 331° radials).
Nenana, Alaska
Nome, Alaska
Northway, Alaska
Ocean Cape, Alaska, NDB
Prudhoe Bay, Alaska, NDB
Put River, Alaska, NDB
Saint Paul, Alaska, NDB
Sisters Island, Alaska
SNOUT: Lat. 57°53'28" N., Long. 141°45'13" W. (a. INT Wessels, Alaska, NDB 122° bearing, Yakutat, Alaska, 215° radial. b. INT Middleton Island, Alaska, 121°, Yakutat, Alaska, 215° radials. c. INT Middleton Island, Alaska, 121° radial, 171 NM from Middleton Island).
Unalakleet, Alaska
Yakutat, Alaska.

§ 71.215 Hawaiian reporting points.
The reporting points listed below are designated at all altitudes.

BATES: Lat. 20°00'42" N., Long. 153°33'16" W. (Hilo, Hawaii, 078° radial, Honolulu CTA/FIR boundary).

BROMS: Lat. 21°19'11" N., Long. 158°31'06" W. (INT Honolulu, Hawaii, 269°, Lihue, Hawaii, 130° radials).

CODDY: Lat. 21°26'16" N., Long. 155°08'30" W. (INT Hilo, Hawaii, 356° radial and Honolulu CTA/FIR boundary).

CUTLE: Lat. 20°04'48" N., Long. 153°37'46" W. (INT Upolu Point, Hawaii, 093° radial and Honolulu CTA/FIR boundary).

DOGGY: Lat. 21°55'23"N., Long. 161°19'31"W. (INT South Kauai, Hawaii, 271° radial and Honolulu CTA/FIR boundary).

EELIC: Lat. 19°27'35" N., Long. 153°18'21" W. (INT Hilo, Hawaii, 099° radial and Honolulu CTA/FIR boundary).

FISHE: Lat. 21°46'50" N., Long. 155°32'18" W. (INT Molokai, Hawaii, 067°, Upolu Point, Hawaii, 010° radials).

Hilo, Hawaii

Honolulu, Hawaii

Lanai, Hawaii

Lihue, Hawaii

LOBBS: Lat. 21°00'34" N., Long. 154°39'36" W. (INT Maui, Hawaii, 086° radial and Honolulu CTA/FIR boundary).

LULUS: Lat. 19°43'21" N., Long. 158°00'10" W. (INT Honolulu, Hawaii, 179°, Lanai, Hawaii, 223° radials).

MAKAI: Lat. 21°01'34" N., Long. 158°01'36" W. (INT Honolulu, Hawaii, 179°, Molokai, Hawaii, 262° radials).

Maui, Hawaii

Molokai, Hawaii

PALMS: Lat. 21°05'15" N., Long. 157°34'28" W. (INT Honolulu, Hawaii, 119° and Molokai, Hawaii, 262° radials).

PARIS: Lat. 20°10'18" N., long. 155°13'29" W. (INT Hilo, Hawaii, 336°, Upolu Point, Hawaii, 093° radials).

POTEN: Lat. 20°47'03" N., Long. 159°28'01" W. (INT Koko Head, Hawaii, 254°, Lihue, Hawaii, 186° radials).

RISES: Lat. 22°05'56" N., Long. 155°46'09" W. (INT Koko Head, Hawaii, 065°, Upolu Point, Hawaii, 002° radials).

SHARK: Lat. 22°31'06" N., Long. 156°05'33" W. (INT Koko Head, Hawaii, 050°, Upolu Point, Hawaii, 355° radials).

SILLS: Lat. 21°17'49" N., Long. 159°31'53" W. (INT Honolulu, Hawaii, 269°, Lihue, Hawaii, 195° radials).

South Kauai, Hawaii

TOADS: Lat. 22°46'14" N., Long. 156°41'53" W. (INT Molokai, Hawaii, 015° radial and Honolulu CTA/FIR boundary).

Upolu, Hawaii

VANDA: Lat. 22°24'00" N., Long. 161°15'00" W. (INT South Kauai, Hawaii, 288° radial, Long. 161°15'00" W.).

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SUBPART J - AREA LOW ROUTES

§71.301 Designation.
The parts of airspace described below are designated as area low routes.

SUBPART K - TERMINAL CONTROL AREAS

§71.401 Designation.
The parts of the airspace described below are designated as terminal control areas. The primary airport or airports for each terminal control area are also designated. Except as otherwise specified, all mileages are nautical miles.

(a) Group I, Terminal Control Areas:

Atlanta, Ga., Terminal Control Area

Primary Airport
Atlanta Airport (lat. 33°38'31"N., long. 84°25'34"W.)

Boundaries.

Area A. That airspace extending upward from the surface to and including 12,500 feet MSL, bounded on the east and west by a seven-mile radius of the Atlanta VORTAC, on the south by a line four miles south of and parallel to the Runway 09R/27L localizer courses, and on the north by a line four miles north of and parallel to the Runway 08/26 localizer courses; excluding the Charlie Brown County Control Zone.

Area B. That airspace extending upward from 2,500 feet MSL to and including 12,500 feet MSL, bounded on the east and west by a 12-mile radius of the Atlanta VORTAC, on the south by a line four miles south of and parallel to the Runway 09R/27L localizer courses, and on the north by a line four miles north of and parallel to the Runway 08/26 localizer courses; excluding the Charlie Brown County Control Zone and that airspace contained in Area A.

Area C. That airspace extending upward from 3,500 feet MSL to and including 12,500 feet MSL, bounded on the east and west by a 20-mile radius of the Atlanta VORTAC, on the south by a line eight miles south of and parallel to the Runway 09R/27L localizer courses, and on the north by a line eight miles north of and parallel to the Runway 08/26 localizer courses; excluding that airspace contained in Areas A and B.

Area D. That airspace extending upward from 6,000 feet MSL to and including 12,500 feet MSL within a 25-mile radius of the Atlanta VORTAC; excluding that airspace clockwise between the Atlanta VORTAC 138° and 218° radials south of a line 12 miles south of and parallel to the Runway 09R/27L localizer courses, that airspace clockwise between the Atlanta VORTAC 323° and 031° radials north of a line 12 miles north of and parallel to the Runway 08/26 localizer courses, and that airspace contained in Areas A, B, and C.

Area E. That airspace extending upward from 8,000 feet MSL to and including 12,500 feet MSL within a 29-mile radius of the Atlanta VORTAC; excluding that airspace contained within Areas A, B, C, and D.

Area F. That airspace extending upward from 10,000 feet MSL to and including 12,500 feet MSL within a 35-mile radius of the Atlanta VORTAC; excluding that airspace contained in Areas A, B, C, D, and E.

Boston, Mass., Terminal Control Area
Primary Airport
Logan International Airport (lat. 42°21'47" N., long. 71°00'19" W.); Boston VORTAC (lat. 42°21'28" N., long. 70°59'38" W.).

Boundaries
Area A. That airspace extending upward from the surface to and including 7,000 feet MSL within an 8-mile radius of the Boston VORTAC.

Area B. That airspace extending upward from 2,000 feet MSL to and including 7,000 feet MSL within a 10.5-mile radius of the Boston VORTAC, excluding Area A.

Area C. That airspace extending upward from 3,000 feet MSL to and including 7,000 feet MSL within a 20-mile radius of the Boston VORTAC, excluding Areas A and B previously described and that airspace within and underlying Area D described hereinafter.

Area D. That airspace extending upward from 4,000 feet MSL to and including 7,000 feet MSL between the 15- and 20-mile radii of the Boston VORTAC extending from the Boston VORTAC 230° radial clockwise to the Boston VORTAC 005° radial.

Group I, Terminal Control Areas:

Chicago, Ill., Terminal Control Area

Primary Airport
Chicago O'Hare International Airport (lat. 41°58'57"N., long. 87°54'25"W.)
Chicago O'Hare VORTAC (lat. 41°59'16"N., long. 87°54'17"W.)

Boundaries.

Area A. That airspace extending upward from the surface to and including 7,000 feet MSL within 5 DME (NM) radius of Chicago O'Hare (ORD) VORTAC from the 347° radial clockwise to the 070° radial then within the 6.5 DME (NM) radius of Chicago O'Hare (ORD) VORTAC from the 070° radial clockwise to the 242° radial thence via a direct line to intercept the 6.5 DME (NM) on the 295° radial, then clockwise via the 6.5 DME (NM) radius to the 347° radial, thence via the 347° radial to the point of origin.

Area B. That airspace extending upward from 1,900 feet MSL to and including 7,000 feet MSL within 10.5 DME (NM) radius of Chicago O'Hare (ORD) VORTAC, excluding Area A previously described and that area bounded on the southeast by a line 2 nautical miles northwest and parallel to the extended centerline of Runway 22R, on the south by the Chicago O'Hare (ORD) VORTAC 5 DME (NM) radius, and southwest by the southwest boundary of Glenview, Ill., control zone, on the north by a 10.5 DME (NM) radius of the Chicago O'Hare (ORD) VORTAC, and excluding Area E described hereinafter.

Area C. That airspace extending upward from 3,000 feet MSL to and including 7,000 feet MSL within 15 DME (NM) radius of Chicago O'Hare (ORD) VORTAC, excluding Areas A and B, previously described, Area E, described hereinafter.

Area D. That airspace extended upward from 3,600 feet MSL to and including 7,000 feet MSL within 25 DME (NM) radius of Chicago O'Hare (ORD) VORTAC, excluding Areas A, B, and C, previously described, Area E described hereinafter, and excluding the area between the 20 and 25 DME (NM) radii of Chicago O'Hare (ORD) VORTAC from a line 7 nautical miles southwest of and parallel to the extended centerline of Runway 32L, clockwise to a line 7 nautical miles southeast of and parallel to the extended centerline of Runway 4R, and excluding the area between the 20 and 25 DME (NM) radii of Chicago O'Hare (ORD) VORTAC from a line 7 nautical miles northwest of and parallel to the extended centerline of Runway 4L clockwise to a line extending from a point on the 20 DME (NM) radius of Chicago O'Hare (ORD) VORTAC 7 nautical miles southwest of the extended centerline of Runway 14R and a point on the 25 DME (NM) radius of Chicago O'Hare (ORD) VORTAC 6 nautical miles southwest of the extended centerline of Runway 14R.

Area E. That airspace northeast of Chicago extending upward from 2,500 feet MSL to and including 7,000 feet MSL bounded on the northeast by the 10.5 DME (NM) radius of Chicago O'Hare (ORD) VORTAC, on the south by the extended centerline of Runway 9/27 at NAS Glenview and on the northwest of and parallel to the extended centerline of Runway 22R at Chicago O'Hare International Airport.

AMENDMENTS 7/13/78 43 F. R. 21448 (Rewritten)

Dallas-Fort Worth, Tex., Terminal Control Area

Primary Airport
Dallas-Fort Worth Airport (lat. 32°53'53" N., long. 97°02'24" W.).

Boundaries.

Area A. That airspace extending from the surface to and including 8,000 feet m.s.l. beginning at latitude 33°00'30" N., longitude 96°59'30" W., thence counterclockwise along a 7-nmi arc of the Dallas-Fort Worth Airport to latitude 32°58'30" N., longitude 97°08'45" W., to latitude 32°55'30" N., longitude 97°05'30" W., to latitude 32°47'30" N., longitude 97°05'30" W., thence counterclockwise along a 7-nmi arc of the Dallas-Fort Worth Airport to latitude 32°51'45" N., longitude 96°54'30" W., to latitude 32°56'00" N., longitude 96° 59'30" W., to point of beginning.

Area B. That airspace extending from 2,000 feet m.s.l. to and including 8,000 feet m.s.l., beginning at latitude 33°00'30" N., longitude 96°59'30" W., to latitude 33°02'45" N., longitude 96°59'30" W., thence counterclockwise along a 9-nmi arc of the Dallas-Fort Worth Airport to latitude 33°00'00" N., longitude 97° 10'15" W., to latitude 32°58'30" N., longitude 97°08'45" W., thence clockwise along a 7-nmi arc of the Dallas-Fort Worth Airport to the point of beginning; and that airspace beginning at latitude 32°51'45" N., longitude 96°54'30" W., to latitude 32°50'10" N., longitude 96°52'30" W., thence clockwise along a 9-nmi arc of the Dallas-Fort Worth Airport to latitude 32°45'15" N., longitude 97°05'30" W., to latitude 32°47'30" N., longitude 97°05'30" W., thence counterclockwise along a 7-nmi arc of the Dallas-Fort Worth Airport to the point of beginning.

Dallas-Fort Worth TCA continued on next page.

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Group I, Terminal Control Areas:

Area C. That airspace extending from 3,000 feet MSL to and including 8,000 feet MSL beginning at lat. 32° 51'45"N., long. 96°54'30"W.; to lat. 33°07'15"N., long. 96°54'30"W.; thence counterclockwise along a 15 NM arc of the Dallas-Fort Worth Airport to lat. 33°08'44"N., long. 97°01'47"W.; to lat. 33°11'43"N., long. 97° 01'47"W.; to lat. 33°11'30"N., long. 97°11'30"W.; to lat. 32°35'20"N., long. 97°11'30"W.; thence counterclockwise along the 20 NM arc to lat. 32°33'56"N., long. 97°01'47"W.; to lat. 32°38'57"N., long. 97°01'47"W.; thence counterclockwise along the 15 NM arc to lat. 32°45'45"N., long. 96°47'30"W.; thence to the point of beginning, excluding Areas A and B.

Area D. That airspace extending from 4,000 feet MSL to and including 8,000 feet MSL beginning at lat. 32° 45'45"N., long. 96°47'30"W.; thence clockwise along a 15 NM arc of the Dallas-Fort Worth Airport to lat. 32° 38'57"N., long. 97°01'47"W.; to lat. 32°33'56"N., long. 97°01'47"W.; thence counterclockwise along a 20 NM arc of the Dallas-Fort Worth Airport to lat. 32°42'00"N., long. 96°43'10"W.; to the point of beginning; and that airspace beginning at lat. 33°07'15"N., long. 96°54'30"W.; to lat. 33°12'00"N., long. 96°54'30"W.; to lat. 33°11'43"N., long. 97°01'47"W.; to lat. 33°08'44"N., long. 97°01'47"W.; thence clockwise along the 15 NM arc of the Dallas-Fort Worth Airport to the point of beginning.

Area E. That airspace extending from 5,000 feet m.s.l. to and including 8,000 feet m.s.l., beginning at latitude 33°12'00" N., longitude 96°52'10" W., thence clockwise via a 20-nmi arc of the Dallas-Fort Worth Airport to latitude 33°11'20" N., longitude 97°14'15" W., thence direct to point of beginning, excluding Areas A, B, C, and D.
AMENDMENTS 7/13/78 43 F. R. 17937 (Changed)

Los Angeles, Calif., Terminal Control Area

Primary Airport
Los Angeles International Airport (lat. 33°56'25" N., long. 118°24'10" W.)

Boundaries
That airspace up to and including 7,000 feet MSL.

Area A. That airspace extending upward from the surface to 2,500 feet MSL and from 5,000 feet MSL to and including 7,000 feet MSL bounded on the north by Bolona Creek, on the east by the San Diego Freeway, on the south by Imperial Boulevard, and on the west by the Pacific Ocean shoreline.

Area B. That airspace extending upward from the surface to and including 7,000 feet MSL east of Los Angeles Airport bounded on the east by the Los Angeles, Calif., VORTAC 10-mile radius arc, on the south by the Los Angeles VORTAC 091° radial, on the west by the San Diego Freeway and on the north by the Los Angeles VORTAC 061° radial; and that airspace west of Los Angeles Airport bounded on the east by the Pacific Ocean shoreline, on the southeast by the Los Angeles VORTAC 207° radial, on the west by the Los Angeles VORTAC 11-mile radius arc, and on the north by the Santa Monica VOR 270° radial and the Ventura, Calif., VORTAC 107° radial.

Area C. That airspace extending upward from 2,000 feet MSL to and including 7,000 feet MSL east of Los Angeles between the 10- and 15-mile radii of the Los Angeles VORTAC bounded on the north by the Los Angeles VORTAC 061° radial and on the south by the Santa Monica VOR 112° radial; and that airspace west of Los Angeles bounded on the east by the Los Angeles VORTAC 11-mile radius arc and the Los Angeles VORTAC 207° radial, and the south by the Seal Beach, Calif., VORTAC 266° radial, on the west by the Los Angeles VORTAC 20-mile radius arc, and on the north by the Santa Monica VOR 270° radial.

Area D. That airspace extending upward from 2,500 feet MSL to and including 7,000 feet MSL east and northeast of Los Angeles Airport bounded by a line beginning at the intersection of the Los Angeles VORTAC 061° radial and the San Diego Freeway, thence northwest along the San Diego Freeway to and northeast along the Los Angeles VORTAC 024° and the Santa Monica VOR 057° radials to and east along the Ontario, Calif., VORTAC 288° and the Pomona VORTAC 266° radials to and south along the Los Angeles VORTAC 20-mile radius arc to and west along the Ontario VORTAC 268° radial to and north along the Los Angeles VORTAC 15-mile radius arc to and southwest along the Los Angeles VORTAC 061° radial to the point of beginning.

Area E. That airspace extending upward from 4,000 feet MSL to and including 7,000 feet MSL east of Los Angeles bounded on the east by the Los Angeles VORTAC 25-mile radius arc, on the south by the Ontario VORTAC 268° radial, on the west by the Los Angeles VORTAC 20-mile radius arc, and on the north by the Pomona VORTAC 266° radial; that airspace bounded on the east by the Los Angeles VORTAC 180° radial, on the south by the Seal Beach VORTAC 266° radial, and on the northwest by the Los Angeles VORTAC 207° radial; and that airspace northwest of Los Angeles bounded on the northeast by the Los Angeles VORTAC 320° radial, on the south by the Santa Monica VOR 270° radial and the Ventura VORTAC 107° radial, on the west by the Los Angeles VORTAC 20-mile radius arc, and on the north by the Ventura VORTAC 090° radial.

Area F. That airspace extending upward from 5,000 feet MSL to and including 7,000 feet MSL north of Los Angeles bounded by a line beginning at the intersection of the Ventura VORTAC 090° radial and the Santa Monica VOR 057° radial, thence southwest along the Santa Monica VOR 057° radial to the Los Angeles VORTAC 024° radial, thence southwest along the Los Angeles VORTAC 024° radial to Bolona Creek, thence southwest along Bolona Creek to the Pacific Ocean shoreline, thence northwest along the Los Angeles VORTAC 320° radial to the Ventura 090° radial, thence east along the Ventura 090° radial to the point of beginning; and that airspace southeast of Los Angeles bounded on the southeast by the Los Angeles VORTAC 12-mile radius arc, on the south by the Seal Beach VORTAC 266° radial, on the west by the Los Angeles VORTAC 180° radial and on the north by Areas A, B, and C.

Area G. That airspace extending upward from 6,000 feet MSL to and including 7,000 feet MSL southeast of Los Angeles bounded on the southeast by the Los Angeles VORTAC 25-mile radius arc, on the southwest by the Seal Beach VORTAC 330°/150° radials, and on the north by the Ontario 268° radial.

Group I, Terminal Control Areas:

Miami, Fla., Terminal Control Area

Primary Airport
Miami International Airport (Lat. 25°47'34" N., Long. 80°17'10" W.).

Boundaries

Area A. That airspace extending upward from the surface to and including 7,000 feet MSL within a 6-mile radius of the Miami International Airport, excluding that airspace that is both northeast of the Miami VORTAC (lat. 25°57'47" N., long. 80°27'39" W.) 130° radial and north of lat. 25°52'02" N., (northwest 103rd Street/49th Street in the City of Hileah), and within and underlying Area F described hereinafter.

Area B. That airspace extending upward from 1,500 feet MSL to and including 7,000 feet MSL within a 10-mile radius of Miami International Airport, excluding that airspace that is both northeast of the Miami VORTAC 130° radial and north of lat. 25°52'02" N., that airspace south of the Biscayne Bay VORTAC (lat. 25°40'17" N., long. 80°10'40" W.) 090° and 270° radials, Area A previously described, and within and underlying Areas C and F described hereinafter.

Area C. That airspace extending upward from 2,000 feet MSL to and including 7,000 feet MSL within an area bounded on the northeast by a 5-statute mile radius arc of the New Tamiami Airport (lat. 25°38'51" N., long. 80° 25'59" W.), on the south by the Biscayne Bay VORTAC 270° radial, and on the southwest by a 10-mile radius arc of the Miami International Airport.

Area D. That airspace extending upward from 3,000 feet MSL to and including 7,000 feet MSL within a 20-mile radius of Miami International Airport, excluding that airspace beyond a 15-mile radius of Miami International Airport extending clockwise from the Miami VORTAC 270° radial to the Miami VORTAC 090° radial, and extending clockwise from the Miami VORTAC 150° radial to the Biscayne Bay VORTAC 270° radial, Areas A, B, and C previously described, and within and underlying Areas F and G described hereinafter.

Area E. That airspace extending upward from 4,000 feet MSL to and including 7,000 feet MSL between the 15-mile and 20-mile radii of the Miami International Airport extending clockwise from the Miami VORTAC 270° radial to the Biscayne Bay VORTAC 331° radial.

Area F. That airspace extending upward from but not including 1,000 feet MSL to and including 7,000 feet MSL bounded on the east by a 6-mile radius arc of the Miami International Airport, and on the west by the west shoreline of Biscayne Bay.

Area G. That airspace extending upward from 5,000 feet MSL to and including 7,000 feet MSL south of the Biscayne Bay VORTAC 270° radial, north and east of the 15-mile radius arc of the Miami International Airport and west of U. S. Route 1.

New York, N. Y., Terminal Control Area

Primary Airports
John F. Kennedy International Airport (lat. 40°38'25" N., long. 73°46'41" W.).
La Guardia Airport (lat. 40°46'36" N., long. 73°52'24" W.).
Newark International Airport (lat. 40°41'40" N., long. 74°10'02" W.).

Boundaries
That airspace up to and including 7,000 feet MSL.

Area A. That airspace extending upward from the surface to and including 7,000 feet MSL within an 8-mile radius circle of Kennedy (JFK) VORTAC; within a 4-mile radius circle centered at Lat. 40°41'30" N., Long. 74° 10'00" W.; and within a 6-mile radius circle of La Guardia (LGA) VOR; excluding the airspace within and below Areas B, D and J hereinafter described and excluding that airspace east of La Guardia Airport bounded by a line beginning at the point of intersection of the LGA VOR 071° radial and the 6-mile arc of the LGA VOR, thence clockwise along the LGA VOR 6-mile arc to the LGA 093° radial, thence westerly to the intersection of the Clearview Expressway with a line extending from the LaGuardia 093° radial 6-mile DME fix to the southern edge of Bowne Park; thence to the southern edge of Leavitts Park; thence direct to the JFK VORTAC 340° radial 9-mile DME fix; direct to the JFK VORTAC 341° radial 10-mile DME fix; thence direct to the point of beginning.

Area B. That airspace extending upward from above 500 feet MSL to and including 7,000 feet MSL within an 8-mile radius circle of JFK VORTAC south of a line beginning at the intersection of the JFK VORTAC 237° radial and the Atlantic Ocean shoreline, thence easterly along the shoreline to its intersection with the JFK VORTAC 125° radial 5-mile DME fix, thence northerly along the 5-mile DME arc to and easterly along the JFK VORTAC 094° radial to the 6-mile radius circle of JFK VORTAC; that airspace within a 6-mile radius circle of LGA VOR bounded by a line beginning at the intersection of the 6-mile radius circle and the LGA VOR 039° radial, thence southwesterly along the LGA VOR 039° radial to and southerly along the Bronx shoreline to the north stanchion of the Throggs Neck Bridge, thence direct to the intersection of the LGA VOR 071° radial and the 6-mile radius circle of LGA VOR, thence counterclockwise along the 6-mile radius circle to the point of beginning; and that airspace between the 4-mile and the 6.5-mile radii of a circle centered at Lat. 40°41'30" N., Long. 74°10'00" W.; excluding that airspace within and below Areas C, D and J hereinafter described.
New York TCA continued on next page.

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Group I, Terminal Control Areas:

Area C. That airspace extending upward from above 800 feet MSL to and including 7,000 feet MSL within a 6.5-mile radius circle centered at Lat. 40°41'30" N., Long. 74°10'00" W., and bounded by a line beginning at the point where the 6.5-mile radius circle intersects U. S. Highway No. 1, thence northeast along U. S. Highway No. 1 to its point of intersection with a 4-mile radius circle centered at Lat. 40°41'30: N., Long. 74°10'00" W., at the Esso Research Center, thence direct to the public service powerplant, thence direct to the Staten Island Expressway at its point of intersection with the 4-mile radius circle, thence east via the Staten Island Expressway to Richmond Avenue, thence south along Richmond Avenue to the 6.5-mile radius circle, thence clockwise along the 6.5-mile radius circle to the point of beginning.

Area D. That airspace extending upward from above 1,100 feet MSL to and including 7,000 feet MSL within the 6-mile radius circle of LGA VOR west of the east bank of the Hudson River; that airspace between the east and west banks of the East River southwest of the north end of Roosevelt Island; and that airspace within the 6.5-mile radius circle centered at Lat. 40°41'30" N., Long. 74°10'00" W., east of the Colts Neck VORTAC 012° radial.

Area E. That airspace extending upward from 1,500 feet MSL to and including 7,000 feet MSL within the area bounded by a line beginning at the intersection of the 20-mile radius circle of JFK VORTAC and the JFK VORTAC 203° radial, thence counterclockwise along the 20-mile arc to its intersection with the Long Island shoreline, thence southwest along the Long Island shoreline to and counterclockwise along the 13-mile radius circle of JFK VORTAC to and counterclockwise along the 11-mile radius circle of LGA VOR to the LGA VOR 351° radial, thence direct to the LGA VOR 283° radial at the LGA VOR 17-mile DME fix, thence counterclockwise along a 10-mile radius circle centered at Lat. 40°41'30" N., Long. 74°10'00" W., to its intersection with the Colts Neck VORTAC 005° radial, thence direct to the intersection of the Colts Neck VORTAC 034° radial and the New Jersey shoreline at Sandy Hook, thence south along the New Jersey shoreline to the point of beginning; and that airspace within 2 miles each side of the Newark ILS Runway 4L localizer course, extending from the CHESA outer marker to 6 miles southwest of the outer marker, excluding that airspace within and below Areas A, B, C, and D previously described; and excluding the airspace within and below Areas F and J hereinafter described.

Area F. That airspace extending upward from 1,800 feet MSL to and including 7,000 feet MSL within an area bounded by a line beginning at the intersection of the LGA VOR 337° radial and the Erie Lackawanna Railroad tracks, thence south along the railroad tracks to the east branch of the Hackensack River, thence south and west along the river to the LGA VOR 299° radial, thence direct to the intersection of the six-mile radius circle of LGA VOR and the LGA VOR 264° radial, thence south along the west bank of the Hudson River to its intersection with, then counterclockwise along the 6.5-mile radius circle centered at Lat. 40°41'30" N., Long. 74°10'00" W., to and southwest along the New Jersey Highway Route No. 22 to and clockwise along a 10-mile radius circle centered at Lat. 40°41'30" N., Long. 74°10'00" W., to LGA VOR 283° radial, thence direct to the point of beginning.

Area G. That airspace extending upward from 3,000 feet MSL to and including 7,000 feet MSL within a 20-mile radius circle centered at Lat. 40°41'30" N., Long. 74°10'00" W., within a 20-mile radius circle of JFK VORTAC; and within a 20-mile radius circle of LGA VOR, excluding the airspace within and below Areas A, B, C, D, E, and F previously described and excluding the airspace within and below Areas H and J hereinafter described.

Area H. That airspace extending upward from 4,000 feet MSL to and including 7,000 feet MSL between the 13- and 20-mile radii circles of JFK VORTAC bounded on the north by the JFK VORTAC 050° radial and on the south by the Long Island shoreline, excluding that airspace north of Hempstead Turnpike and west of the Seaford-Oyster Bay Expressway.

Area J. That airspace extending upward from above 1,200 feet MSL to and including 7,000 feet MSL within a 6.5-mile radius circle centered at Lat. 40°41'30" N., Long. 74°10'00" W., and bounded by a line beginning at the intersection of the 6.5-mile radius circle and the tracks of the Central Railroad of New Jersey, thence eastward along the railroad tracks to their point of intersection with the 4-mile radius circle centered at Lat. 40°41' 30" N., Long. 74°10'00" W., thence counterclockwise along the 4-mile radius circle to U. S. Highway No. 1 thence southwest along U. S. Highway No. 1 to the 6.5-mile radius circle, thence clockwise along the 6.5-mile radius circle to the point of beginning; and that airspace beginning at the north stanchion of the Throggs Neck Bridge, thence westerly to the Kennedy VORTAC 341° radial 10-mile DME fix, thence southerly to the Kennedy VORTAC 349° radial 9-mile DME fix, thence direct to the southern edge of Leavitts Park, thence direct to the south edge of Bowne Park, thence easterly to the intersection of the Clearview Expressway with a line extending from the south edge of Bowne Park to the LaGuardia 093° radial 6-mile DME fix; thence northerly along the Clearview Expressway to the north stanchion of the Throgs Neck Bridge.

AMENDMENTS 3/2/78 43 F. R. 8507 (Changed) Corr: 43 F. R. 10340 . Corr: 43 F. R. 12675
AMENDMENTS 9/7/78 43 F. R. 31127 (Changed)
AMENDMENTS 10/30/78 43 F. R. 50418 (Changed)

Group I, Terminal Control Areas:

San Francisco, Calif., Terminal Control Area
Primary Airport

San Francisco International Airport (latitude 37°37'07" N., longitude 122°22'35" W.), San Francisco LVOR/DME (latitude 37°37'10" N., longitude 122°22'22" W.).
Boundaries

Area A. That airspace extending upward from the surface to and including 8,000 feet MSL within a 7-mile radius of the San Francisco (SFO) VOR extending clockwise from the SFO VOR 247° radial to the SFO VOR 127° radial and within a 5-mile radius of the SFO VOR extending clockwise from the SFO VOR 127° radial to the SFO VOR 247° radial, excluding that airspace within a 3-mile radius of the Oakland VORTAC and excluding that airspace west of the Pacific coast shoreline.
Area B. That airspace extending upward from 1,500 feet MSL to and including 8,000 feet MSL bounded on the northwest by a 5-mile radius arc of the SFO VOR, on the southeast by a 10-mile radius arc of the SFO VOR, on the northeast by the SFO VOR 107° radial, and on the southwest by the SFO VOR 137° radial, excluding that airspace within Area A.

Area C. That airspace extending upward from 2,500 feet MSL to and including 8,000 feet MSL bounded on the northwest by a 10-mile radius arc of the SFO VOR, on the southeast by a 15-mile radius arc of the SFO VOR, on the northeast by the SFO VOR 107° radial, and on the southwest by the SFO VOR 137° radial.

Area D. That airspace extending upward from 4,000 feet MSL to and including 8,000 feet MSL bounded by a line beginning at the 5-mile DME point on the SFO VOR 137° radial thence southeast along the 137° radial to and counterclockwise along a 15-mile DME arc of the SFO VOR to and east along the SFO VOR 107° radial to and clockwise along the 20-mile radius DME arc of the SFO VOR to and northwest along the SFO VOR 167° radial to and counterclockwise along the 5-mile radius DME arc of the SFO VOR to the point of beginning.

Area E. That airspace extending upward from 6,000 feet MSL to and including 8,000 feet MSL bounded by a line beginning at the 5-mile DME point on the SFO VOR 167° radial thence southeast along the 167° radial to and counterclockwise along the 20-mile DME arc of the SFO VOR to and east along the SFO VOR 107° radial to and clockwise along the 25-mile DME arc of the SFO VOR to and northwest along the Point Reyes VORTAC 161° radial to and northeast along the SFO VOR 217° radial to and counterclockwise along the 5-mile DME arc of the SFO VOR to the point of beginning.

Area F. That airspace extending upward from 2,100 feet MSL to and including 8,000 feet MSL bounded by a line beginning at the 10-mile DME point on the SFO VOR 247° radial thence clockwise along the 10-mile DME arc to and west along the SFO VOR 107° radial to and counterclockwise along the 7-mile DME arc of the SFO VOR to and clockwise along the 3-mile DME arc of the Oakland VORTAC to and counterclockwise along the 7-mile DME arc of the SFO VOR to and southwest along the SFO VOR 247° radial to the point of beginning.

Area G. That airspace extending upward from 3,000 feet MSL to and including 8,000 feet MSL between the 10- and 15-mile radii of the SFO VOR from the SFO VOR 247° radial clockwise to the SFO VOR 107° radial, excluding the airspace southwest of the Point Reyes VORTAC 161° radial.

Area H. That airspace extending upward from 4,500 feet MSL to and including 8,000 feet MSL bounded by a line beginning at the intersection of the Sausalito VORTAC 052° radial and the Oakland VORTAC 305° radial thence northeast along the Sausalito VORTAC 052° radial to and clockwise along the 20-mile DME arc of the SFO VOR to and southwest along the SFO VOR 072° radial to and counterclockwise along the 15-mile DME arc of the SFO VOR to and northwest along the Oakland VORTAC 305° radial to the point of beginning.

Area I. That airspace extending upward from 6,000 feet MSL to and including 8,000 feet MSL between the 20- and 25-mile radii of the SFO VOR from the Sausalito VORTAC 052° radial clockwise to the SFO VOR 072° radial, excluding the airspace north of latitude 38°00'00" N.

Area J. That airspace extending upward from 5,000 feet MSL to and including 8,000 feet MSL bounded on the northeast by a 5-mile radius arc of the SFO VOR, on the southeast by the SFO VOR 217° radial, on the southwest by the Point Reyes VORTAC 161° radial, and on the northwest by the SFO VOR 247° radial.

Area K. That airspace extending upward from 1,500 feet MSL to and including 8,000 feet MSL bounded on the west by a 7-mile radius arc of the SFO VOR and on the east by the Pacific coast shoreline.

Washington, D. C. Terminal Control Area
Primary Airports
1. Washington National Airport (lat. 38°51'05" N., long. 77°02'20" W.).
2. Andrews AFB (lat. 38°48'40" N., long. 76°52'05" W.).

Boundaries

Area A. That airspace extending upward from the surface to and including 7,000 feet MSL within a 7-mile radius of the Washington, D. C., VOR and within a 7-mile radius of the Andrews, Md., VORTAC excluding the airspace bounded on the north by lat. 38°45'50" N., on the east by long. 76°54'25" W., on the south by a 7-mile radius circle of the Andrews VORTAC, and on the west by long. 76°59'30" W.; and excluding Prohibited Area P-56.

Area B. That airspace extending upward from 1,500 feet MSL to and including 7,000 feet MSL within a 10-mile radius of the Washington VOR and a 10-mile radius of the Andrews VORTAC, excluding Area A.

Area C. That airspace extending upward from 2,500 feet MSL to and including 7,000 feet MSL between the 10-mile and 15-mile radius circles of the Washington VOR and the Andrews VORTAC, excluding that airspace west of a line from a point on the Nottingham 308° T radial 31.75 nautical miles northwest of the VORTAC to a point on the Nottingham 268° T radial 25.25 nautical miles west of the VORTAC.

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SUBPART K - TERMINAL CONTROL AREAS

71.401 Designation.

The parts of the airspace described below are designated as terminal control areas. The primary airport or airports for each terminal control area are also designated. Except as otherwise specified, all mileages are nautical miles.

(b) Group II, Terminal Control Areas:

Cleveland, Ohio, Terminal Control Area

Primary Airport
Cleveland-Hopkins International Airport (Lat. 41°24'37" N., Long. 81°50'56" W.).
Cleveland-Hopkins distance measuring equipment (DME) antenna (Lat. 41°24'15" N., Long. 81°51'44" W.).

Boundaries
Area A. That airspace extending upward from the surface to and including 8,000 feet MSL within a 5-mile radius of the Cleveland-Hopkins International Airport DME antenna, excluding that airspace within a 1-mile radius of the Strongsville Airpark (Lat. 41°19'25" N., Long. 81°52'00" W.) and Gilbert Airport (Lat. 41°22'00" N., Long. 81°58'00" W.).

Area B. That airspace extending upward from 1900 feet MSL to and including 8,000 feet MSL within an 8.5-mile radius of the Cleveland-Hopkins International Airport DME antenna excluding Area A previously described, and that airspace within a 2-mile radius of Burke Lakefront Airport (Lat. 41°30'45" N., Long. 81°41'15" W.).

Area C. That airspace extending upward from 3,000 feet MSL to and including 8,000 feet MSL within a 15-mile radius of the Cleveland-Hopkins International Airport DME antenna excluding Areas A and B previously described.

Area D. That airspace extending upward from 4,000 feet MSL to and including 8,000 feet MSL within a 20-mile radius of the Cleveland-Hopkins International Airport DME antenna, excluding Areas A, B, and C previously described.

Denver, Colo., Terminal Control Area
Primary Airport
Denver Stapleton International Airport (lat. 39°45'55"N., long. 104°52'46"W.)
Denver VORTAC (lat. 39°48'02.12"N., long. 104°53'12.26"W.)
Denver-Stapleton International distance measuring equipment (DME) antenna (lat. 39°45'21"N., long. 104°53'54"W.)
Boundaries
Area A. That airspace extending upward from the surface to and including 11,000 feet MSL beginning at a point 10 miles north of the Stapleton International DME antenna and 1.5 miles west of the Denver VORTAC 004° radial; thence clockwise along the 10-mile radius arc of the Stapleton International DME antenna to and south parallel 2.5 miles east of the Denver VORTAC 004° radial, to and clockwise along the 7-mile radius area of the Stapleton International DME antenna to and south parallel 4 miles east of the Denver VORTAC 004° radial to and east parallel 3.5 miles north of the Denver VORTAC 093° radial to and clockwise along the 7-mile radius circle of the Stapleton International DME antenna to and west along Colfax Avenue to and south parallel 3.5 miles east of the Denver VORTAC 184° radial to and clockwise along the 7-mile radius arc of the Stapleton International DME antenna to and north parallel 3.5 miles west of the Denver VORTAC 184° radial to and west parallel 5 miles south of the Denver VORTAC 273° radial to and clockwise along the 7-mile radius of the Stapleton International DME antenna to and east parallel 1.5 miles north of the Denver VORTAC 273° radial to and north parallel 1.5 miles west of the Denver VORTAC 004° radial to and clockwise along the 7-mile radius of the Stapleton International DME antenna to and north parallel 1.5 miles west of the Denver VORTAC 004° radial to the point of beginning excluding Prohibited Area P-26.
Area B. That airspace extending upward from 7,000 feet MSL to and including 11,000 feet MSL bounded on the north by the 16-mile point of the Stapleton International DME antenna and 3.5 miles west of the Denver VORTAC 004° radial, then clockwise along the 16-mile radius arc of the Stapleton International DME antenna to and south parallel 4 miles east of the Denver VORTAC 004° radial to and clockwise along the 10-mile radius arc of the Stapleton International DME antenna to and east parallel 1.5 miles north of the Denver VORTAC 093° radial to and clockwise along the 16-mile radius arc of the Stapleton International DME antenna to and west along Colfax Avenue to the 7-mile radius circle of the Stapleton International DME antenna. Thence beginning again at line 8.5 miles south of and parallel to the extended centerline of Runway 26L/8R Stapleton International Airport and 3.5 miles west of the Denver VORTAC 184° radial, thence west parallel 8.5 miles south of the extended centerline of Runway 26L/8R Stapleton International Airport to and clockwise along the 10-mile radius circle of the Stapleton International DME antenna to and north parallel 3.5 miles west of the Denver VORTAC 004° radial to the point of beginning excluding Areas A and C.
Area C. That airspace extending upward from 7,500 feet MSL to and including 11,000 feet MSL bounded on the north by Colfax Avenue, on the east by the 16-mile radius arc of the Stapleton International DME antenna, on the west by Area A and a line parallel 3.5 miles west of the Denver VORTAC 184° radial to and east along a line 8.5 miles south and parallel of the extended centerline of Runway 26L/8R Stapleton International Airport to and southeast bound along the 162° radial of the Denver VORTAC to the 16-mile radius arc of the Stapleton International DME antenna.
Area D. That airspace extending upward from 8,000 feet MSL to and including 11,000 feet MSL within a 16-mile radius of the Stapleton International DME antenna bounded on the west by long. 105°11'00"W. and that airspace east of Denver between the 16-mile and 20-mile radius circles centered on the Stapleton International DME antenna bounded on the north by Interstate 70 and on the west by the 162° radial of the Denver VORTAC excluding Areas A, B, and C.
Denver TCA continued on next page.

Group II, Terminal Control Areas:

Area E. That airspace extending upward from 9,000 feet MSL to and including 11,000 feet MSL between the 16-mile and 20-mile radius circles centered on the Stapleton International DME antenna bounded on the north by a line 1.5 miles north of the Denver VORTAC 093° radial and on the south by Interstate 70 and that airspace north of Denver bounded on the west by a line 3.5 miles west of the Denver VORTAC 004° radial and on the east by a line 4 miles east of the Denver VORTAC 004° radial.
Area F. That airspace extending upward from 10,000 feet MSL to and including 11,000 feet MSL between the 16-mile and 20-mile radius circles centered on the Stapleton International DME antenna excluding Areas D and E and that area west of long. 105°11'00"W.

AMENDMENTS 11/2/78 43 F. R. 40212 (Rewritten) Corr: 43 F. R. 46525

Detroit, Mich., Terminal Control Area

Primary Airport
Detroit Metropolitan Wayne County Airport (lat. 42°13'07" N., long. 83°20'55" W.).

Boundaries
Area A. That airspace extending upward from the surface to and including 8,000 feet MSL within the Detroit, Mich. (Metropolitan Wayne County Airport), control zone.

Area B. That airspace extending upward from 2,300 feet MSL to and including 8,000 feet MSL within a 10-mile radius of Detroit Metropolitan Wayne County Airport excluding Area "A" previously described, that airspace east of the west edge of the Detroit River, and the Detroit, Mich. (Willow Run Airport) control zone.

Area C. That airspace extending upward from 3,000 feet MSL to and including 8,000 feet MSL, within a 16-mile radius of Detroit Metropolitan Wayne County Airport, excluding Areas A and B previously described, that airspace within a 3-mile radius arc of the Salem VORTAC, west of the Salem VORTAC 197° radial, and east of the United States/Canadian Border.

Area D. That airspace extending upward from 5,000 feet MSL to and including 8,000 feet MSL south of Detroit Metropolitan Wayne County Airport, bounded on the north by a 16-mile radius arc of the Detroit Metropolitan Wayne County Airport, on the east by the United States/Canadian Border, on the south by a 25-mile radius arc of the Detroit Metropolitan Wayne County Airport, on the west by the Salem VORTAC 197° radial and the Waterville VORTAC 353° radial; and an area north of Detroit Metropolitan Wayne County Airport bounded on the south by a 16-mile radius arc of Detroit Metropolitan Wayne County Airport, on the northwest by the Salem 052° radial, on the northeast by the Windsor VOR 320° radial and on the southeast by the United States/Canadian Border.

Houston, Tex., Terminal Control Area
Primary Airport
Houston Intercontinental Airport (lat. 29°59'08" N., long. 95°20'46" W.).

Boundaries
Humble VORTAC (IAH) (lat. 29°57'24" N., long. 95°20'44" W.).

Area A. That airspace extending upward from the surface to and including 7,000 feet MSL, within 8 miles of the IAH VORTAC, excluding that airspace within and underlying Area D, hereinafter described.

Area B. That airspace extending upward from 1,800 feet MSL to and including 7,000 feet MSL, within a 15-mile radius of the IAH VORTAC, excluding Area A, previously described, that airspace within and underlying Areas C and D described hereinafter and that airspace south of an east-west line extending from the IAH VORTAC 125° radial 20-mile DME point to the IAH VORTAC 233° radial 20-mile DME point.

Area C. That airspace northwest of IAH extending from 3,000 feet MSL to and including 7,000 feet MSL, bounded on the northeast by the IAH VORTAC 313° radial, on the east by the 8-mile DME arc of the IAH VORTAC, on the south by a line 2 miles north of and parallel to the IAH Runway 8L centerline extended, and on the west by the 15-mile DME arc of the IAH VORTAC.

Area D. That airspace extending upward from 4,000 feet MSL to and including 7,000 feet MSL between the 15- and 20-mile radii of the IAH VORTAC and that airspace southwest of the IAH VORTAC bounded on the east by the 7-mile DME arc of the IAH VORTAC, on the southeast by the 215° radial of the IAH VORTAC, on the west by the 15-mile DME arc of the IAH VORTAC, and on the north by the 258° radial of the IAH VORTAC. Excluding that airspace within a 2-mile radius of Lakeside Airport (lat. 29°49'02" N., long. 95°40'29" W.) and that airspace south of an east-west line extending from the IAH VORTAC 125° radial 20-mile DME point to the IAH VORTAC 233° radial 20-mile DME point.

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Group II, Terminal Control Areas:

Kansas City, Mo., Terminal Control Area

Primary Airport
Kansas City International Airport (lat. 39°18'18" N., long. 94°42'40" W.).

Boundaries
Area A. That airspace extending upward from the surface to and including 8,000 feet MSL within a 6-mile radius of the Kansas City International Airport, excluding that airspace within a 1-mile radius of the Noah's Ark Airport (lat. 39°13'50" N., long. 94°48'15" W.).

Area B. That airspace extending upward from 2,400 feet MSL to and including 8,000 feet MSL within a 10-mile radius of the Kansas City International Airport excluding Area A, that airspace within a 2-mile radius of the Fairfax Airport (lat. 39°08'49" N., long. 94°36'09" W.) and that airspace within a 1½-mile radius of the Sherman Army Airfield (lat. 39°22'15" N., long. 94°54'45" W.).

Area C. That airspace extending upward from 3,000 feet MSL to and including 8,000 feet MSL within a 15-mile radius of the Kansas City International Airport excluding Area A and Area B.

Area D. That airspace extending upward from 4,000 feet MSL to and including 8,000 feet MSL within a 20-mile radius of the Kansas City International Airport excluding Area A, Area B and Area C.

Las Vegas, Nev., Terminal Control Area

Primary Airport:
McCarran International Airport (lat. 36°04'48" N., long. 115°09'08" W.).
Las Vegas VORTAC (lat. 36°04'47" N., long. 115°09'32" W.).

Boundaries: (Based on Las Vegas VORTAC (LAS) arcs, DME distances, and radials).

Area A. That airspace extending upward from the surface to and including 9,000 feet MSL within an area bounded by a line beginning at the 15-mile DME point on the LAS 005° radial, thence clockwise via the 15-mile arc to the 022° radial, thence direct to the 20-mile DME point on the 033° radial, thence northeast along the 033° radial to and southeast along the 22-mile arc to and southwest along the 046° radial to and south along the 7-mile arc to and nortnwest along the 150° radial to and counterclockwise along the 2-mile radius circle of Henderson Sky Harbor Airport (lat. 35°58'35" N., long. 115°07'55" W.) to and south along the 180° radial to and north along the 6-mile arc to and counterclockwise along the 2.5-mile radius circle of North Las Vegas Air Terminal (lat. 36°12'17" N., long. 115°11'42" W.) to and north along the 005° radial to the point of beginning.

Area B. That airspace extending upward from 3600 feet MSL to and including 9,000 feet MSL between the LAS 7 and 10-mile radii bounded on the North by the 046° radial and on the South by the 150° radial.

Area C. That airspace extending upward from 4,500 feet MSL to and including 9,000 feet MSL within an area bounded by a line beginning at the 15-mile DME point on the LAS 075° radial thence clockwise along the 15-mile arc to and northwest along the 115° radial to and counterclockwise along the 10-mile arc to and east along the 075° radial to the point of beginning.

Area D. That airspace extending upward from 5,500 feet MSL to and including 9,000 feet MSL within an area bounded by a line beginning at the 15-mile point on the LAS 046° radial thence clockwise along the 15-mile arc to and west along the 075° radial to and counterclockwise along the 10-mile arc to and northeast along the 046° radial to the point of beginning.

Area E. That airspace extending upward from 6,500 feet MSL to and including 9,000 feet MSL bounded by a line beginning at the 20-mile DME point on the LAS 055° radial thence clockwise along the 20-mile arc to and west along the 115° radial to and counterclockwise along the 15-mile arc to and northeast along the 055° radial to the point of beginning.

Area F. That airspace extending upward from 6,000 feet MSL to and including 9,000 feet MSL bounded by a line beginning at the 10-mile DME point on the LAS 150° radial thence northwest along the 150° radial to and counterclockwise along the 2-mile radius circle of the Henderson Sky Harbor Airport to and south along the 180° radial to and counterclockwise along the 15-mile arc to and northwest along the 115° radial to and clockwise along the 10-mile arc to the point of beginning.

Area G. That airspace extending upward from 8,000 feet MSL to and including 9,000 feet MSL within an area bounded by a line beginning at the 15-mile DME point on the LAS 155° radial thence southeast along the 155° radial to and clockwise along the 20-mile arc to and north along the 200° radial to and counterclockwise along the 15-mile arc to the point of beginning.

Area H. That airspace extending upward from 5,000 feet MSL to and including 9,000 feet MSL between the LAS 10 and 15-mile radii bounded on the east by the 180° radial and on the northwest by the 235° radial.
Las Vegas TCA continued on next page.

Group II, Terminal Control Areas:

Area I. That airspace extending upward from 4,000 feet MSL to and including 9,000 feet MSL between the LAS 6 and 10-mile radii bounded on the east by the 180° radial and on the north by the 275° radial.

Area J. That airspace extending upward from 5,500 feet MSL to and including 9,000 feet MSL between the LAS 10 and 12-mile radii bounded on the south by the 235° radial and on the north by the 275° radial.

Area K. That airspace extending upward from 6,500 feet MSL to and including 9,000 feet MSL between the LAS 12 and 15-mile radii bounded on the south by the 235° radial and on the north by the 275° radial.

Area L. That airspace extending upward from 4,000 feet MSL to and including 9,000 feet MSL within an area bounded by a line beginning at the 15-mile DME point on the LAS 005° radial thence south along the 005° radial to and clockwise along the 2.5-mile radius circle of North Las Vegas Air Terminal until intercepting U. S. Highway 95 2.5 miles southeast of North Las Vegas Air Terminal thence northwest along U. S. Highway 95 to and clockwise along a 15-mile arc to the point of beginning.

Area M. That airspace extending upward from 6,500 feet MSL to and including 9,000 feet MSL within an area bounded by a line beginning at the 20-mile DME point on the LAS 033° radial thence direct to the 15-mile DME point on the LAS 022° radial thence west along the 15-mile arc to and northwest along U. S. Highway 95 to and clockwise along the 20-mile arc to the point of beginning.

Area N. That airspace extending upward from 7,500 feet MSL to and including 9,000 feet MSL bounded by a line beginning at the 36-mile DME point on the LAS 033° radial thence southwest along the 033° radial to and counterclockwise along the 20-mile arc to U. S. Highway 95 direct to the 36-mile DME point on the 005° radial thence clockwise along the 36-mile arc to the point of beginning.

Area O. That airspace extending upward from 7,000 feet MSL to and including 9,000 feet MSL within an area bounded by a line beginning at the 36-mile DME point on the LAS 055° radial thence southwest along 055° radial to and counterclockwise along the 15-mile arc to and northeast along the 046° radial to and counterclockwise along the 28-mile arc to and northeast along the 033° radial to and clockwise along the 36-mile arc to the point of beginning.

Area P. That airspace extending upward from 5,000 feet MSL to and including 9,000 feet MSL within an area bounded by a line beginning at the 28-mile DME point on the LAS 046° radial thence southwest along the 046° radial to and counterclockwise along the 22-mile arc to and northeast along the 033° radial to and clockwise along the 28-mile arc to the point of beginning.

Minneapolis, Minn., Terminal Control Area

Primary Airport
Minneapolis-St. Paul International Airport (lat. 44°53'03" N., long. 93°12'54" W.).

Boundaries
Area A. That airspace extending upward from the surface to and including 8,000 feet MSL within a 6-mile radius of Minneapolis-St. Paul International Airport Distance Measuring Equipment (DME) Antenna (lat. 44°52'28" N., long. 93°12'21" W.).

Area B. That airspace extending upward from 2,300 feet MSL to and including 8,000 feet MSL within an 8.5-mile radius of Minneapolis-St. Paul International Airport DME antenna excluding Area A previously described.

Area C. That airspace extending upward from 3,000 feet MSL to and including 8,000 feet MSL within a 12-mile radius of Minneapolis-St. Paul International Airport DME Antenna excluding Areas A and B previously described.

Area D. That airspace extending upward from 4,000 feet MSL to and including 8,000 feet MSL within a 20-mile radius of Minnespolis-St. Paul International Airport DME antenna excluding Areas A, B, and C previously described.

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Group II, Terminal Control Areas:

New Orleans, La., Terminal Control Area

Primary Airport
New Orleans International Airport-Moisant Field (lat. 29°59'30" N., long. 90°15'37" W.).

Boundaries
Area A. That airspace extending upward from the surface to and including 7,000 feet MSL within a 7-mile radius of the New Orleans International Airport-Moisant Field, and within a 1.5-mile radius of the ILS Runway 10 outer compass locator (lat. 30°01'30" N., long. 90°23'59" W.) excluding that airspace north of the south shore of Lake Pontchartrain, that airspace within and underlying Area C described hereinafter, and that airspace ½ nautical mile either side of a line extending from lat. 30°01'09" N., long. 90°07'47" W., to lat. 29°59'30" N., long. 90°15'37" W., to lat. 30°03'36" N., long. 90°22'10" W.

Area B. That airspace extending upward from 600 feet MSL to and including 7,000 feet MSL north of the south shore of Lake Pontchartrain within a 7-mile radius of the New Orleans International Airport-Moisant Field excluding that airspace ½ nautical mile either side of a line extending from lat. 30°01'09" N., long. 90°07'47" W., to lat. 29°59'30" N., long. 90°15'37" W., to lat. 30°03'36" N., long. 90°22'10" W.

Area C. That airspace extending upward from 1,000 feet MSL to and including 7,000 feet MSL within an area bounded by a line beginning 7 miles southwest of the New Orleans International Airport-Moisant Field on the north shore of the Mississippi River, thence east along the Mississippi River north shore to and southeast along a line ½ mile east of and parallel to the Sellers Field Runway 16/34 extended centerline, to and southwest along the Southern Pacific Railroad track to and counterclockwise along a 4-mile radius of the New Orleans International Airport-Moisant Field to and east along the north shore of the Mississippi River to and southeast along the Harvey 300°T (295°M) radial to and clockwise along the 7-mile radius of the New Orleans International Airport-Moisant Field to the point of beginning.

Area D. That airspace extending upward from 2,000 feet MSL to and including 7,000 feet MSL within a 15-mile radius of the New Orleans International Airport-Moisant Field excluding Areas A, B, and C previously described, Area F described hereinafter, the airspace within the New Orleans Lakefront Airport Control Zone which lies within a 15-mile radius of the New Orleans International Airport-Moisant Field, and the airspace within a 5-statute mile radius of NAS New Orleans-Alvin Callender Field (lat. 29°49'40" N., long. 90°01'25" W.).

Area E. That airspace extending upward from 4,000 feet MSL to and including 7,000 feet MSL within a 20-mile radius of the New Orleans International Airport-Moisant Field, excluding Areas A, B, C, and D previously described and Area F described hereinafter.

Area F. That airspace extending upward from the surface to 1,000 feet MSL and from 2,000 feet MSL to 7,000 feet MSL ½-nautical mile either side of a line extending from lat. 30°01'09" N., long. 90°07'47" W., to lat. 29°59'30" N., long. 90°15'37" W., to lat. 30°03'36" N., long. 90°22'10" W., excluding that airspace below 600 feet MSL north of the south shore of Lake Pontchartrain.

Philadelphia, Pa., Terminal Control Area

Primary Airport
Philadelphia International Airport (Lat. 39°52'23" N., Long. 75°14'58" W.).

Boundaries.
Area A. That airspace extending upward from the surface to and including 7,000 feet MSL within a 6-mile radius of the Philadelphia International Airport, excluding that airspace within and underlying Areas B and C.

Area B. That airspace extending upward from 300 feet MSL to and including 7,000 feet MSL, beginning at the east tip of Tinicum Island, along the south shore of Tinicum Island to the westernmost point, thence direct to the outlet of Darby Creek at the north shore of the Delaware River, thence along the north shore of the river to Chester Creek, thence eastward direct to Thompson Point, thence eastward along the south shore of the Delaware River to Bramell Point, thence direct to the point of beginning.

Area C. That airspace extending upward from 600 feet MSL to and including 7,000 feet MSL, beginning at Bramell Point, along the south shore of the Delaware River to Thompson Point, thence direct to the outlet of Chester Creek at the Delaware River, thence southwestward along the north shore of the Delaware River, to the 6-mile arc of the Philadelphia International Airport, thence counterclockwise along the 6-mile arc to Kings Highway (Route 551), thence northward direct to Bramell Point.

Area D. That airspace extending upward from 1,500 feet MSL to and including 7,000 feet MSL within an 11-mile radius of the Philadelphia International Airport, excluding Areas A, B, and C.

Area E. That airspace extending upward from 3,000 feet MSL to and including 7,000 feet MSL within a 15-mile radius of Philadelphia International Airport, excluding that airspace southeast of a line extending from lat. 39°32'50" N., long. 75°10'30" W., to lat. 40°00'00" N., long. 74°50'45" W., and Areas A, B, C, and D.

Area F. That airspace extending upward from 4,000 feet MSL to and including 7,000 feet MSL within a 20-mile radius of Philadelphia International Airport, excluding that airspace southeast of a line extending through lat. 39°32'50" N., long. 75°10'30" W., and lat. 40°00'00" N., long. 74°50'45" W., and Areas A, B, C, D and E.

Group II, Terminal Control Areas:

Pittsburgh, Pa., Terminal Control Area

Primary Airport
Greater Pittsburgh Airport (Latitude 40°29'37"N., Longitude 80°13'54"W.)

Boundaries. (Based on Latitude 40°29'12"N., Longitude 80°14'03"W.)

Area A. That airspace extending upward from the surface to and including 8,000 feet MSL within the Pittsburgh, Pa. (Greater Pittsburgh) Control Zone.

Area B. That airspace extending upward from 2,500 feet MSL to and including 8,000 feet MSL within a 10-mile radius of Latitude 40°29'12"N., Longitude 80°14'03"W., excluding Area A.

Area C. That airspace extending upward from 3,000 feet MSL to and including 8,000 feet MSL between the 10-mile and 12.5-mile radii of Lat. 40°29'12"N., Long. 80°14'03"W., extending from the 076° bearing clockwise to the 106° bearing excluding Areas A and B; between the 10-mile and 12-mile radii of Lat. 40°29'12"N., Long. 80°14'03"W., extending from the 117° bearing clockwise to the 147° bearing excluding Areas A and B; between the 10-mile and 14-mile radii of Lat. 40°29'12"N., Long. 80°14'03"W., extending from the 259° bearing clockwise to the 288° bearing excluding Areas A and B.

Area D. That airspace extending upward from 4,000 feet MSL to and including 8,000 feet MSL within a 20-mile radius of Lat. 40°29'12"N., Long. 80°14'03"W., and between the 20-mile and 30-mile radii of Lat. 40°29'12"N., Long. 80°14'03"W., extending from the 076° bearing clockwise to the 106° bearing and from the 259° bearing clockwise to the 288° bearing: excluding Areas A, B and C.

St. Louis, Mo., Terminal Control Area

Primary Airport
St. Louis International Airport (lat. 38°44'54" N., long. 90°21'47" W.).
Boundaries
Area A. That airspace extending upward from the surface to and including 8,000 feet MSL within a 6-mile radius of the St. Louis International Airport ASR Antenna (lat. 38°44'25" N., long. 90°22'14" W.), excluding that airspace within a 2-mile radius of the Creve Coeur Airport (lat. 38°43'35" N., long. 90°30'35" W.).

Area B. That airspace extending upward from 2,000 feet MSL to and including 8,000 feet MSL within a 10-mile radius of the St. Louis International Airport ASR Antenna excluding Area A previously described and the area within and underlying Area C hereinafter described.

Area C. That airspace extending upward from 3,000 feet MSL to and including 8,000 feet MSL within a 15-mile radius of the St. Louis International Airport ASR Antenna, and that area which lies south of the Foristell 097° radial which is contained within the 10-mile radius of the St. Louis International Airport ASR Antenna, excluding Areas A and B previously described, and the area within and underlying Area E hereinafter described.

Area D. That airspace extending upward from 4,500 feet MSL to and including 8,000 feet MSL within a 20-mile radius of the St. Louis International Airport ASR Antenna excluding Areas A, B, and C previously described and Area E described hereinafter.

Area E. That airspace extending upward from 3,600 feet MSL to and including 8,000 feet MSL within a 15-mile radius of the St. Louis International Airport ASR Antenna, bounded on the northwest by the Troy VORTAC 233° radial, and on the west by a line extending from lat. 38°35'00" N., long. 90°12'00" W., to lat. 38°10'00" N., long. 90°07'00" W.

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Group II, Terminal Control Areas:

Seattle, Wash., Terminal Control Area

Primary Airport:
Seattle Tacoma International Airport (lat. 47°26'55" N., long. 122°18'28" W.).

Boundaries: (Based on Seattle VORTAC (SEA) (lat. 47°26'08" N., long. 122°18'30" W.) arcs, DME distances, and radials.)

Area A. That airspace extending upward from the surface to and including 7,000 feet MSL within an area bounded by a line beginning at the 4-mile DME point on the SEA 012° radial thence south along the 012° radial to and clockwise along a 2-mile arc to and southeast along the 163° radial to and clockwise along a 5-mile arc to and north along the 192° radial to and clockwise along a 2-mile arc to and northwest along the 342° radial to and clockwise along a 4-mile arc to the point of beginning.

Area B. That airspace extending upward from 1,100 feet MSL to and including 7,000 feet MSL beginning at the 6-mile DME point on the SEA 007° radial, thence south along the 007° radial to and counterclockwise along a 4-mile arc to and north along the 346° radial to and clockwise along a 6-mile arc to the point of beginning.

Area C. That airspace extending upward from 1,600 feet MSL to and including 7,000 feet MSL within an area bounded by a line beginning at the 5-mile DME point on the SEA 163° radial, thence south along the 163° radial to and clockwise along an 11-mile arc to and north along the 192° radial to and counterclockwise along the 5-mile arc to the point of beginning.

Area D. That airspace extending upward from 1,800 feet MSL to and including 7,000 feet MSL within an area bounded by a line beginning at the 12-mile DME point on the SEA 007° radial, thence south along the 007° radial to and counterclockwise along a 6-mile arc to and northwest along the 342° radial to and clockwise along the 12-mile arc to the point of beginning.

Area E. That airspace extending upward from 3,000 feet MSL to and including 7,000 feet MSL within an area bounded by a line beginning at the 18-mile DME point on the SEA 007° radial, thence south along the 007° radial to and counterclockwise along a 12-mile arc to and southeast along the 342° radial to and clockwise along a 6-mile arc to and southeast along the 346° radial to and counterclockwise along a 4-mile arc to and southeast along the 342° radial to and counterclockwise along a 2-mile arc to and south along the 192° radial to and counterclockwise along an 11-mile arc to and northwest along the 163° radial to and counterclockwise along a 5-mile arc to and southeast along the 137° radial to and clockwise along a 15-mile arc to and north along the 185° radial to the 14-mile DME point, thence direct to the 15-mile DME point on the 257° radial, thence clockwise along a 15-mile arc to and northwest along the 312° radial to and clockwise along an 18-mile arc to the point of beginning, and that airspace within an area bounded by a line beginning at the 12-mile DME point on the 032° radial, thence southwest along the 032° radial to and counterclockwise along the 8-mile arc to and north along the 007° radial to and clockwise along the 12-mile arc to the point of beginning.

Area F. That airspace extending upward from 4,000 feet MSL to and including 7,000 feet MSL within an area bounded by a line beginning at the 5-mile DME point on the SEA 123° radial, thence southeast along the 123° radial to and clockwise along a 15-mile arc to and northwest along the 137° radial to and counterclockwise along a 15-mile arc to the point of beginning; and that airspace within an area bounded by a line beginning at the 15-mile DME point on the SEA 137° radial, thence southeast along the 137° radial to and clockwise along an 18-mile arc to and north along the 185° radial to and counterclockwise along a 15-mile arc to the point of beginning.

Area G. That airspace extending upward from 5,000 feet MSL to and including 7,000 feet MSL within an area bounded by a line beginning at the 22-mile DME point on the SEA 032° radial, thence south along the 032° radial to and counterclockwise along a 12-mile arc to and north along the 007° radial to and counterclockwise along the 18-mile arc to and northwest along the 312° radial to and clockwise along the 22-mile arc to the point of beginning; and that airspace within an area bounded by a line beginning at the 15-mile DME point on the 123° radial, thence southeast along the 123° radial to and clockwise along an 18-mile arc to and northwest along the 137° radial to and counterclockwise along a 15-mile arc to the point of beginning.

PART 73

SPECIAL USE AIRSPACE

SUBPART A -- GENERAL

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SUBPART B -- RESTRICTED AREAS

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SUBPART C -- PROHIBITED AREAS

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DESCRIPTIONS OF DESIGNATED PROHIBITED AREAS

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SUBPART A — GENERAL

§ 73.1 Applicability.

The airspace that is described in Subpart B and Subpart C of this part is designated as special use airspace. These parts prescribe the requirements for the use of that airspace.

§ 73.3 Special use airspace.

(a) Special use airspace consists of airspace of defined dimensions identified by an area on the surface of the earth wherein activities must be confined because of their nature, or wherein limitations are imposed upon aircraft operations that are not a part of those activities, or both.
(b) The vertical limits of special use airspace are measured by designated altitude floors and ceilings expressed as flight levels or as feet above mean sea level. Unless otherwise specified, the word "to" (an altitude or flight level) means "to and including" (that altitude or flight level).
(c) The horizontal limits of special use airspace are measured by boundaries described by geographic coordinates or other appropriate references that clearly define their perimeter.
(d) The period of time during which a designation of special use airspace is in effect is stated in the designation.

§ 73.5 Bearings; radials; miles.

(a) All bearings and radials in this part are true from point of origin.
(b) Unless otherwise specified, all mileages in this part are stated as statute miles.

SUBPART B — RESTRICTED AREAS

§ 73.11 Applicability.

This subpart designates restricted areas and prescribes limitations on the operation of aircraft within them.

§ 73.13 Restrictions.

No person may operate an aircraft within a restricted area between the designated altitudes and during the time of designation, unless he has the advance permission of
(a) The using agency described in § 73.15; or
(b) The controlling agency described in § 73.17.

§ 73.15 Using agency.

(a) For the purposes of this subpart, the following are using agencies:
(1) The agency, organization, or military command whose activity within a restricted area necessitated the area being so designated.
(2) [Reserved]
(b) Upon the request of the FAA, the using agency shall execute a letter establishing procedures for joint use of a restricted area by the using agency and the controlling agency, under which the using agency would notify the controlling agency whenever the controlling agency may grant permission for transit through the restricted area in accordance with the terms of the letter.
(c) The using agency shall --
(1) Schedule activities within the restricted area;
(2) Authorize transit through, or flight within, the restricted area as feasible; and
(3) Contain within the restricted area all activities conducted therein in accordance with the purpose for which it was designated.

§ 73.17 Controlling agency.

For the purposes of this part, the controlling agency is the FAA facility that may authorize transit through or flight within a restricted area in accordance with a joint-use letter issued under § 73.15.

§73.19 Reports by using agency.

(a) Each using agency shall prepare a report on the use of each restricted area assigned thereto during any part of the preceding 12-month period ended September 30, and transmit it by the following January 31 of each year to the Chief, Air Traffic Division in the regional office of the Federal Aviation Administration having jurisdiction over the area in which the restricted area is located, with a copy to the Director, Air Traffic Service, Federal Aviation Administration, Washington, D. C. 20591.
(b) In the report under this section the using agency shall:
(1) State the name and number of the restricted area as published in this part, and the period covered by the report.
(2) State the activities (including average daily number of operations if appropriate) conducted in the area, and any other pertinent information concerning current and future electronic monitoring devices.
(3) State the number of hours daily, the days of the week, and the number of weeks during the year that the area was used.
(4) For restricted areas having a joint-use designation, also state the number of hours daily, the days of the week, and the number of weeks during the year that the restricted area was released to the controlling agency for public use.
(5) State the mean sea level altitudes or flight levels (whichever is appropriate) used in aircraft operations and the maximum and average ordinate of surface firing (expressed in feet, mean sea level altitude) used on a daily, weekly, and yearly basis.
(6) Include a chart of the area (of optional scale and design) depicting, if used, aircraft operating areas, flight patterns, ordnance delivery areas, surface firing points, and target, fan, and impact areas. After once submitting an appropriate chart, subsequent annual charts are not required unless there is a change in the area activity or altitude (or flight levels) used, which might alter the depiction of the activities originally reported. If no change is to be submitted, a statement indicating "no change" shall be included in the report.
(7) Include any other information not otherwise required under this part which is considered pertinent to activities carried on in the restricted area.
(c) If it is determined that the information submitted under paragraph (b) of this section is not sufficient to evaluate the nature and extent of the use of a restricted area, the FAA may request the using agency to submit supplementary reports. Within 60 days after receiving a request for additional information, the using agency shall submit such information as the Director of the Air Traffic Service considers appropriate. Supplementary reports must be sent to the FAA officials designated in paragraph (a) of this section.

AMENDMENTS 12/11/77 42 F. R. 54797 (Rewritten)

SUBPART C — PROHIBITED AREAS

§ 73.81 Applicability.

This subpart designates prohibited areas and prescribes limitations on the operation of aircraft therein.

§ 73.83 Restrictions.

No person may operate an aircraft within a prohibited area unless authorization has been granted by the using agency.

§ 73.85 Using agency.

For the purpose of this subpart, the using agency is the agency, organization or military command that established the requirements for the prohibited area.
Note: Sections 73.87 through 73.99 are reserved for descriptions of designated prohibited areas.

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SUBPART B — RESTRICTED AREAS

§ 73.21 **Alabama**

R-2101 Anniston Army Depot, Ala.
Boundaries. Beginning at latitude 33°41'20" N., longitude 86°00'30" W.; to latitude 33°41'20" N., longitude 85°59'00" W.; to latitude 33°40'30" N., longitude 85°59'00" W.; to latitude 33°39'40" N., longitude 85°59'50" W.; to latitude 33°39'40" N., longitude 86°00'30" W.; to the point of beginning.
Designated altitude. Surface to 5,000 feet MSL.
Time of designation. From 0700 to 1800 c.s.t., Monday through Friday.
Using agency. Commanding Officer, Anniston Army Depot.

R-2102 Fort McClellan, Ala.
Boundaries: Beginning at latitude 33°45'00" N., longitude 85°53'55" W.; to latitude 33°44'07" N., longitude 85°53'36" W.; to latitude 33°44'07" N., longitude 85°52'55" W.; to latitude 33°41'04" N., longitude 85°52'55" W.; to latitude 33°40'15" N., longitude 85°54'00" W.; to latitude 33°41'20" N., longitude 85°55'30" W.; to latitude 33°41'20" N., longitude 86°01'07" W.; to latitude 33°43'55" N., longitude 86°01'07" W.; to latitude 33°44'11" N., longitude 86°00'54" W.; to latitude 33°45'00" N., longitude 86°00'45" W.; to latitude 33°45'20" N., longitude 86°00'31" W.; to latitude 33°45'27" N., longitude 86°00'16" W.; to latitude 33°45'27" N., longitude 85°59'26" W.; to latitude 33°45'14" N., longitude 85°59'26" W.; to latitude 33°45'14" N., longitude 85°55'17" W.; to latitude 33°45'00" N., longitude 85°55'17" W.; to point of beginning.
Designated altitudes: Subarea A, surface to and including 8,000 feet MSL. Subarea B, from 8,000 feet MSL to and including 14,000 feet MSL. Subarea C, from 14,000 feet MSL to 24,000 feet MSL.
Time of use: Continuous.
Controlling agency: Federal Aviation Administration, Atlanta ARTC Center.
Using agency: Commanding Officer, Fort McClellan, Ala.

R-2103 Fort Rucker, Ala.

Boundaries. A circular area with a radius of 4 miles centered at latitude 31°26'55" N., longitude 85°47'45" W.
Designated altitudes. Surface to 15,000 feet MSL.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Jacksonville ARTC Center.
Using agency. Commanding General, U. S. Army Aviation Center, Fort Rucker, Ala.

R-2104A Huntsville, Ala.
Boundaries. Beginning at lat. 34°38'40"N., long. 86°43'00"W., to lat. 34°38'40"N., long. 86°41'00"W., to lat. 34°38'00"N., long. 86°40'53"W., to lat. 34°37'35"N., long. 86°37'40"W., to lat. 34°37'00"N., long. 86°37'00"W., to lat. 34°36'27"N., long. 86°36'38"W., to lat. 34°34'50"N., long. 86°36'38"W., thence west along the Tennessee River to lat. 34°35'02"N., long. 86°43'25"W., to lat. 34°37'19"N., long. 86°43'20"W., to lat. 34°37'19"N., long. 86°43'05"W., thence to point of beginning.
Designated altitudes. Surface to FL 300.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Memphis ARTC Center.
Using agency. Commanding General, U. S. Army Missile Command, Redstone Arsenal, Ala.

R-2104B Huntsville, Ala.
Boundaries. Beginning at lat. 34°38'53"N., long. 86°37'40"W., to lat. 34°37'55"N., long. 86°35'21"W., to lat. 34°35'05"N., long. 86°35'24"W., thence west along the Tennessee River to lat. 34°34'50"N., long. 86°36'38"W., to lat. 34°36'27"N., long. 86°36'38"W., to lat. 34°37'00"N., long. 86°37'00"W., thence to point of beginning.
Designated altitudes. Surface to 2400 feet MSL.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Memphis ARTC Center.
Using agency. Commanding General, U. S. Army Missile Command, Redstone Arsenal, Ala.

R-2104C Huntsville, Ala.
Boundaries. Beginning at lat. 34°41'25"N., long. 86°42'57"W., to lat. 34°42'00"N., long. 86°41'35"W., to lat. 34°38'40"N., long. 86°41'00"W., to lat. 34°38'40"N., long. 86°43'00"W., thence to point of beginning.
Designated altitudes. Surface to FL 300.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Memphis ARTC Center.
Using agency. Commanding General, U. S. Army Missile Command, Redstone Arsenal, Ala.

AMENDMENTS 12/1/77 42 F. R. 47822 (Added)

§ 73.22 **Alaska**

R-2202A Big Delta, Alaska
Boundaries. Beginning at latitude 64°14'45" N., longitude 146°43'15" W.; to latitude 63°56'17" N., longitude 145°49'30" W.; to latitude 63°54'20" N., longitude 145°50'20" W.; to latitude 63°50'30" N., longitude 145°50'00" W.; to latitude 63°43'00" N., longitude 145°54'01" W.; to latitude 63°42'15" N., longitude 146°13'26" W.; to latitude 63°44'00" N., longitude 146°30'00" W.; to latitude 63°50'50" N., longitude 146°47'30" W.; thence along the E bank of the East Fork and Little Delta Rivers to the point of beginning, excluding that airspace within R-2202B.
Designated altitudes. Surface to unlimited.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Anchorage ARTC Center.
Using agency. President, U. S. Army Arctic Test Board, Fort Greely, Alaska.

R-2202B Big Delta, Alaska
Boundaries. Beginning at latitude 64°07'30" N., longitude 146°27'30" W.; to latitude 64°02'30" N., longitude 146°11'30" W.; to latitude 63°53'00" N., longitude 146°24'30" W.; to latitude 63°57'00" N., longitude 146°41'00" W.; to point of beginning.
Designated altitudes. Surface to 5,000 feet MSL.
Time of designation. Continuous.
Using agency. President, U. S. Army Arctic Test Board, Fort Greely, Alaska

R-2203A Eagle River. Alaska
Boundaries. Beginning at latitude 61°22'00" N., longitude 149°33'48" W.; thence southwesterly along the Alaska Railroad to lat. 61°18'00"N., long. 149°39'45"W.; to lat. 61°18'00"N., long. 149°44'00"W.; to lat. 61°17'15"N., long. 149°42'25"W.; to lat. 61°17'15"N., long. 149°36'15"W.; to the point of beginning.
Designated altitudes. Surface to 11,000 feet MSL.
Time of designation: Daily, Monday through Friday, other times as activated by NOTAM issued by the using agency at least 24 hours in advance.
Controlling agency: FAA, Anchorage Approach Control.
Using agency. 172nd Infantry Brigade (Alaska) Fort Richardson, Alaska.

R-2203B Eagle River, Alaska
Boundaries. Beginning at lat. 61°24'34"N., long. 149°33'48"W.; thence southwesterly along the shoreline to lat. 61°19'45"N., long. 149°44'00"W.; to lat. 61°18'00"N., long. 149°44'00"W.; to lat. 61°18'00"N., long. 149°39'45"W.; thence northeasterly along the Alaska Railroad to lat. 61°22'00"N., long. 149°33'48"W; to the point of beginning.
Designated altitudes. Surface to 11,000 feet MSL.
Time of designation: Daily, Monday through Friday, other times as activated by NOTAM issued by the using agency at least 24 hours in advance.
Controlling agency: FAA, Anchorage Approach Control.
Using agency. 172nd Infantry Brigade (Alaska) Fort Richardson, Alaska.

R-2203C Eagle River, Alaska
Boundaries. Beginning at lat. 61°19'45"N., long. 149°44'00"W.; thence westerly along the shoreline to lat. 61°19'38"N., long. 149°46'36"W.; to lat. 61°19'12"N., long. 149°46'36"W.; to lat. 61°18'00"N., long. 149°44'00"W.; to point of beginning.
Designated altitudes. Surface to 5,000 feet MSL.
Time of designation. Daily, Monday through Friday, other times as activated by NOTAM issued by the using agency at least 24 hours in advance.
Controlling agency. FAA, Anchorage Approach Control.
Using agency. 172nd Infantry Brigade (Alaska) Fort Richardson, Alaska.

R-2204 Shemya, Alaska.
Boundaries. Beginning at Lat. 52°44'48" N, Long. 174°07'06" E; to Lat. 52°43'42" N, Long. 174°07'06" E; to Lat. 52°43'42" N, Long. 174°05'16" E; to Lat. 52°44'48" N, Long. 174°05'16" E; to the point of beginning.
Designated altitudes. Surface to 2,500 feet MSL.
Time of designation. Continuous.
Using agency. Commander, 5073rd Air Base Squadron, Shemya AFB, Alaska.

R-2205 Yukon, Alaska
Boundaries. Beginning at Lat. 64°45'30" N, Long. 146°47'20" W; Counterclockwise along the arc of a 25-mile radius circle centered at Lat. 64°50'13" N, Long. 147°36'46" W; to Lat. 64°46'12" N, Long. 146°46'40" W; to Lat. 64°46'10" N, Long. 146°11'15" W; to Lat. 64°35'18" N, Long. 146°11'15" W; to Lat. 64°33'24" N, Long. 146°18'30" W; to Lat. 64°33'25" N, Long. 146°25'00" W; to the point of beginning.
Designated altitudes. Surface to 20,000 feet MSL.
Time of Designation. Continuous from April 1 through November 30; other times as activated by NOTAM issued by the using agency at least 24 hours in advance.
Controlling agency. Federal Aviation Administration, Eielson Approach Control.
Using agency. 172nd Infantry Brigade (Alaska) Fort Richardson, Alaska.

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R-2206 Clear, Alaska
Boundaries: Beginning at latitude 64°19'46" N., longitude 149°10'08" W.; to latitude 64°19'46" N., longitude 149°15'33" W.; to latitude 64°16'19" N., longitude 149°15'33" W.; to latitude 64°16'19" N., longitude 149°10'05" W ; thence north, 100 feet west of and parallel to the Alaskan railroad to the point of beginning.
Designated altitudes: Surface to 8,800 feet MSL.
Time of designation: Continuous.
Using agency: Commander 13th Missile Warning Squadron, Clear, Alaska.

R-2211 Blair Lakes, Alaska
Boundaries. Beginning at lat. 64°30'00"N., long. 147°44'00"W.; to lat. 64°20'00"N., long. 147°19'00"W.; to lat. 64°13'30"N., long. 147°32'00"W.; to lat. 64°22'30"N., long. 147°58'00"W.; to point of beginning.
Time of designation. 0800 to 1800, local time, Monday through Friday and at other times as activated by NOTAM issued by the using agency at least 24 hours in advance.
Designated altitudes. Surface to 18,000 feet MSL.
Controlling agency. Federal Aviation Administration, Eielson RAPCON.
Using agency. Alaskan Air Command.

§ 73.23 Arizona

R-2301E Ajo East, Ariz.
Boundaries. Beginning at lat. 32°50'25"N., long. 112°49'00"W.; thence to lat. 32°11'30"N., long. 112°56'45"W.; to lat. 32°11'30"N., long. 113°05'30"W.; to lat. 31°58'00"N., long. 113°05'30"W.; along the United States-Mexican border to the intersection of the United States-Mexican border and long. 113°30'30"W.; to lat. 32°44'15"N., long. 113°41'05"W.; to lat. 32°45'50"N., long. 113°34'30"W.; to the point of beginning.
Designated altitudes. Surface to Flight Level 800.
Time of designation. Intermittent.
Controlling agency. Federal Aviation Administration, Albuquerque ARTCC.
Using agency. Commander, Luke AFB, Ariz.

AMENDMENTS 11/2/78 43 F. R. 46961 (Added)

R-2301W Ajo West, Ariz.
Boundaries. Beginning at the intersection of the United States-Mexican Border and long. 113°30'30"W.; thence along the United States-Mexican Border to lat. 32°23'45"N., long. 114°28'30"W.; thence direct to lat. 32°30'00"N., long. 114°28'30"W.; thence direct to lat. 32°30'00"N., long. 114°31'00"W.; thence direct to lat. 32°35'00"N., long. 114°31'00"W.; thence direct to lat. 32°35'00"N., long. 114°28'30"W.; thence direct to lat. 32°39'40"N., long. 114°28'30"W.; thence direct to lat. 32°40'45"N., long. 114°18'29"W.; thence along the Southern Pacific Railroad and U.S. Highway to lat. 32°44'15"N., long. 113°41'05"W.; thence direct to the point of beginning.
Designated altitudes. Surface to Flight Level 800.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Los Angeles ARTCC.
Using agency. Commander, Luke AFB, Ariz.

AMENDMENTS 11/2/78 43 F. R. 36896 (Added)

R-2302 Flagstaff, Arizona.
Boundaries. A circular area with a 6,600-foot radius centered at latitude 35°10'20" N., longitude 111°51'19" W.
Designated altitudes. Surface to 11,000 feet MSL.
Time of designation. 0800 to 2400 MST, Monday through Saturday.
Using agency. Commanding Officer, Navajo Ordance Depot, Flagstaff, Arizona.

R-2303A Fort Huachuca, Ariz.
Boundaries: Beginning at latitude 31°40'40" N., longitude 110°11'00" W.; to latitude 31°34'00" N., longitude 110°08'30" W.; to latitude 31°34'00" N., longitude 110°22'00" W.; to latitude 31°33'00" N., longitude 110°23'00" W.; to latitude 31°29'00" N., longitude 110°23'00" W.; to latitude 31°29'00" N., longitude 110°41'30" W.; to latitude 31°34'00" N., longitude 110°43'30" W.; to latitude 31°38'30" N., longitude 110°42'00" W.; to latitude 31°38'30" N., longitude 110°39'30" W.; to latitude 31°41'00" N., longitude 110°33'30" W.; to latitude 31°41'00" N., longitude 110°12'00" W.; to point of beginning.
Designated altitudes: Surface to 15,000 feet MSL.
Time of designation: Continuous.
Controlling agency: Federal Aviation Administration, Albuquerque ARTC Center.
Using agency: Commander, Headquarters, Fort Huachuca, Ariz.

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R-2303B Fort Huachuca, Ariz.

Boundaries: Beginning at latitude 31°35'00" N., longitude 110°00'00" W.; to latitude 31°24'00" N., longitude 110°00'00" W.; to latitude 31°24'00" N., longitude 110°45'00" W.; to latitude 31°48'00" N., longitude 110°46'00" W.; to latitude 31°48'00" N., longitude 110°25'45" W.; to point of beginning.
Designated altitudes: 15,000 feet MSL to FL 450.
Time of designation: Continuous.
Controlling agency: Federal Aviation Administration, Albuquerque ARTC Center.
Using agency: Commander, Headquarters, Fort Huachuca, Ariz.

R-2304 Gila Bend, Arizona.

Boundaries. Beginning at latitude 32°38'30" N., longitude 112°18'00" W.; to latitude 32°26'40" N., longitude 112°18'00" W.; to latitude 32°26'40" N., longitude 112°43'30" W.; to latitude 32°49'00" N., longitude 112°39'00" W.; to the point of beginning.
Designated altitudes. Surface to flight level 240.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Albuquerque Center.
Using agency. Commander, Luke AFB, Arizona.

AMENDMENTS 7/13/78 43 F. R. 25331 (Changed)

R-2305 Gila Bend, Arizona

Boundaries. Beginning at Lat. 32°50'25" N, Long. 112°49'00" W; to Lat. 32°50'52" N, Long. 112°42'53" W; to Lat. 32°49'00" N, Long. 112°39'00" W; to Lat. 32°29'00" N, Long. 112°43'00" W; to Lat. 32°29'00" N, Long. 112°53'30" W; to the point of beginning.
Designated altitudes. Surface to flight level 240.
Time of designation. Continuous.
Controlling agency: Federal Aviation Administration, Albuquerque Center.
Using agency. Commander, Luke AFB, Ariz.

AMENDMENTS 7/13/78 43 F. R. 25331 (Changed)

R-2306A Yuma West, Ariz.
Boundaries: Beginning at latitude 33°00'00" N., longitude 114°30'00" W.; to latitude 33°02'48" N., longitude 114°30'00" W.; to latitude 33°02'48" N., longitude 114°34'00" W.; to latitude 33°15'00" N., longitude 114°34'37" W.; to latitude 33°15'00" N., longitude 114°15'00" W.; thence south along Highway 95 to latitude 33°00'00" N., longitude 114°17'20" W.; to point of beginning.
Designated altitudes: Surface to 80,000 feet MSL.
Time of designation: Continuous.
Controlling agency: Federal Aviation Administration, Los Angeles Air Route Traffic Control Center.
Using agency: Commanding officer, Yuma Proving Ground, Yuma, Ariz.

R-2306B Yuma West, Ariz.
Boundaries: Beginning at latitude 33°28'00" N., longitude 114°13'00" W.; thence south along Highway 95 to latitude 33°15'00" N., longitude 114°15'00" W.; to latitude 33°15'00" N., longitude 114°30'00" W.; to latitude 33°26'00" N., longitude 114°30'00" W.; to latitude 33°28'00" N., longitude 114°28'00" W.; to point of beginning.
Designated altitudes: Surface to 80,000 feet MSL.
Time of designation: Continuous.
Controlling agency: Federal Aviation Administration, Los Angeles Air Route Traffic Control Center.
Using agency: Commanding Officer, Yuma Proving Ground, Yuma, Ariz.

R-2306C Yuma West, Ariz.
Boundaries: Beginning at latitude 33°15'00" N., longitude 114°34'37" W.; to latitude 33°23'00" N., longitude 114°34'37" W.; to latitude 33°26'00" N., longitude 114°30'00" W.; to latitude 33°15'00" N., longitude 114°30'00" W.; to point of beginning.
Designated altitudes: Surface to 17,000 feet MSL.
Time of designation: Continuous.
Controlling agency: Federal Aviation Administration, Los Angeles Air Route Traffic Control Center.
Using agency: Commanding Officer, Yuma Proving Ground, Yuma, Ariz.

R-2307 Yuma, Ariz.

Boundaries. Beginning at latitude 32°52'00" N., longitude 114°00'00" W.; to latitude 32°52'50" N., longitude 113°50'10" W.; to latitude 32°58'00" N., longitude 113°37'20" W.; to latitude 33°02'00" N., longitude 113°37'20" W.; to latitude 33°02'00" N., longitude 113°56'30" W.; to latitude 33°00'00" N., longitude 114°11'00" W.; to latitude 33°00'00" N., longitude 114°30'00" W.; thence along the west bank of the Colorado River to latitude 32°51'45" N., longitude 114°27'50" W.; to latitude 32°52'30" N., longitude 114°21'00" W.; to latitude 32°51'15" N., longitude 114°21'00" W.; to the point of beginning.
Designated altitudes. Unlimited.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Los Angeles ARTC Center.
Using agency. Commanding Officer, Yuma Proving Ground, Yuma, Ariz.

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R-2308A Yuma East, Ariz.
Boundaries: Beginning at latitude 33°28'00" N., longitude 114°13'00" W.; to latitude 33°17'30" N., longitude 113°39'04" W.; to latitude 33°17'30" N., longitude 113°45'00" W.; to latitude 33°02'00" N., longitude 113°56'30" W.; to latitude 33°00'00" N., longitude 114°11'00" W.; to latitude 33°00'00" N., longitude 114°17'20" W.; thence north along Highway 95 to point of beginning.
Designated altitudes: 1,500 feet AGL to 80,000 feet MSL.
Time of designation: Continuous.
Controlling agency: Federal Aviation Administration, Los Angeles Air Route Traffic Control Center.
Using agency: Commanding Officer, Yuma Proving Ground, Yuma, Ariz.

R-2308B Yuma East, Ariz.
Boundaries: Beginning at latitude 33°02'00" N., longitude 113°45'00" W.; to latitude 33°17'30" N., longitude 113°45'00" W.; to latitude 33°17'30" N., longitude 113°39'04" W.; to latitude 33°02'00" N., longitude 113°39'04" W.; to point of beginning.
Designated altitudes: Surface to 80,000 feet MSL.
Time of designation: Continuous.
Controlling agency: Federal Aviation Administration, Los Angeles Air Route Traffic Control Center.
Using agency: Commanding Officer, Yuma Proving Ground, Yuma, Ariz.

§ 73.24 Arkansas

R-2401 Fort Chaffee, Ark.

Boundaries. Beginning at lat. 35°18'35" N., long. 94°11'48" W.; to lat. 35°18'10" N., long. 94°16'30" W.; to lat. 35°16'06" N., long. 94°19'03" W.; to lat. 35°13'50" N., long. 94°15'00" W.; to lat. 35°13'50" N., long. 94°11'30" W.; to point of beginning.
Designated altitudes. Surface to and including 30,000 feet MSL.
Time of designation. Continuous April 1 through September 30 and 0600 Saturday to 2400 Sunday, October 1 through March 31, other times following issuance of a NOTAM at least 24 hours in advance.
Controlling agency. Federal Aviation Administration, Memphis ARTC Center.
Using agency. Commanding General, Fort Chaffee, Ark.

R-2402 Fort Chaffee, Ark.

Boundaries. Beginning at lat. 35°17'51" N., long. 94°03'00" W.; to lat. 35°17'00" N., long. 94°03'00" W.; to lat. 35°17'00" N., long. 94°01'00" W.; to lat. 35°10'20" N., long. 94°01'00" W.; thence west along Arkansas State Highway No. 10 to lat. 35°11'33" N., long. 94°12'00" W.; to lat. 35°18'10" N., long. 94°12'24" W.; to lat. 35°18'12" N., long. 94°09'51" W.; thence east along Arkansas State Highway No. 22 to point of beginning.
Designated altitudes. Surface to and including 30,000 feet MSL.
Time of designation. Continuous April 1 through September 30 and 0600 Saturday to 2400 Sunday, October 1 through March 31, other times following issuance of NOTAM at least 24 hours in advance.
Controlling agency. Federal Aviation Administration, Memphis ARTC Center.
Using agency. Commanding General, Fort Chaffee, Ark.

R-2403A Little Rock, Ark.

Boundaries. Beginning at lat. 34°57'00" N., long. 92°15'00" W.; to lat. 34°54'52" N., long. 92°15'00" W.; to lat. 34°54'08" N., long. 92°19'30" W.; to lat. 34°57'00" N., long. 92°19'30" W.; to point of beginning.
Designated altitudes. Surface to 16,000 feet MSL.
Time of designation. Daily 0700 to 2100 May 1 through August 31, to be activated by NOTAM 48 hours in advance. Other times, 0700 Saturday to 1700 Sunday, September 1 through April 30, to be activated by NOTAM at least 24 hours in advance. All times local.
Controlling agency. Federal Aviation Administration, Memphis ARTC Center.
Using agency. Arkansas Army National Guard.

R-2403B Little Rock, Ark.

Boundaries. Beginning at lat. 34°54'52" N., long. 92°15'00" W.; to lat. 34°51'45" N., long. 92°15'00" W.; to lat. 34°51'45" N., long. 92°19'30" W.; to lat. 34°54'08" N., long. 92°19'30" W.; to point of beginning.
Designated altitudes. Surface to 16,000 feet MSL.
Time of designation. Daily 0700 to 2100 1 May through 31 August, to be activated by NOTAM 48 hours in advance stating period of activation. Other times, 0700 Saturday to 1700 Sunday, 1 September through 30 April, to be activated by NOTAM 24 hours in advance.
Controlling agency. Federal Aviation Administration, Memphis ARTC Center.
Using agency. Arkansas Army National Guard.

§ 73.25 California

R-2501N Bullion Mountains North, Calif.
Boundaries. Beginning at latitude 34°43'00" N., longitude 116°26'20" W.; to latitude 34°43'00" N., longitude 116°17'00" W.; to latitude 34°41'15" N., longitude 116°04'30" W.; to latitude 34°33'12" N., longitude 116°15'30" W.; to latitude 34°34'37" N., longitude 116°20'43" W.; to latitude 34°35'40" N., longitude 116°22'52" W.; to latitude 34°35'40" N., longitude 116°28'15" W.; to latitude 34°40'30" N., longitude 116°29'40" W.; to point of beginning.
Designated altitudes. Unlimited.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Los Angeles ARTC Center.
Using agency. Commanding General, Marine Corps Base, Twentynine Palms, Calif.

R-2501S Bullion Mountains South, Calif.
Boundaries. Beginning at Lat. 34°21'40"N., Long. 116°21'33"W.; to Lat. 34°27'50"N., Long. 116°09'40"W.; to Lat. 34°27'15"N., Long. 116°04'07"W.; to Lat. 34°14'00"N., Long. 115°55'40"W.; to Lat. 34°14'00"N., Long. 116°17'00"W.; to the point of beginning.
Designated altitudes. Unlimited.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Los Angeles ARTC Center.
Using agency. Commanding General, Marine Corps Base, Twentynine Palms, Calif.

R-2501E Bullion Mountaine East, Calif.
Boundaries. Beginning at latitude 34°41'15" N., longitude 116°04'30" W.; to latitude 34°41'00" N., longitude 116°03'00" W.; to latitude 34°35'30" N., longitude 115°58'00" W.; to latitude 34°33'00" N., longitude 115°47'00" W.; to latitude 34°25'00" N., longitude 115°47'00" W.; to latitude 34°25'00" N., longitude 115°44'00" W.; to latitude 34°14'00" N., longitude 115°44'00" W.; to latitude 34°14'00" N., longitude 115°55'40" W.; to latitude 34°27'15" N., longtiude 116°04'07" W.; to latitude 34°27'50" N., longitude 116°09'40" W.; to latitude 34°33'12" N., longitude 116°15'30" W.; to point of beginning.
Designated altitudes. Unlimited.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Los Angeles ARTC Center.
Using agency. Commanding General Marine Corps Base, Twentynine Palms, Calif.

R-2501W Bullion Mountains West, Calif.
Boundaries. Beginning at Lat. 34°21'40"N., Long. 116°21'33"W.; to Lat. 34°30'00"N., Long. 116°26'30"W.; to Lat. 34°35'40"N., Long. 116°28'15"W.; to Lat. 34°35'40"N., Long. 116°22'52"W.; to Lat. 34°34'37"N., Long. 116°20'43"W.; to Lat. 34°33'12"N., Long. 116°15'30"W.; to Lat. 34°27'50"N., Long. 116°09'40"W.; to the point of beginning.
Designated altitudes. Unlimited.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Los Angeles ARTC Center.
Using agency. Commanding General, Marine Corps Base, Twentynine Palms, Calif.

R-2502N Fort Irwin, CA.
Boundaries. Beginning at latitude 35°37'45" N., longitude 116°29'40" W.; to latitude 35°34'30" N., longitude 116°29'40" W.; to latitude 35°34'30" N., longitude 116°23'30" W.; to latitude 35°28'35" N., longitude 116°18'45" W.; to latitude 35°10'25" N., longitude 116°42'15" W.; to latitude 35°08'50" N., longitude 116°48'40" W.; to latitude 35°10'00" N., longitude 116°49'00" W.; to latitude 35°19'00" N., longitude 116°49'00" W.; to latitude 35°19'00" N., longitude 116°55'20" W.; to latitude 35°37'45" N., longitude 116°55'20" W.; to point of beginning.
Designated altitudes. Unlimited.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Los Angeles, ARTC Center.
Using agency. Commander, Fort Irwin, Calif.

R-2502E Fort Irwin, CA.
Boundaries. Beginning at latitude 35°28'35" N., longitude 116°18'45" W.; to latitude 35°18'45" N., longitude 116°18'45" W.; to latitude 35°07'00" N., longitude 116°34'00" W.; to latitude 35°07'00" N., longitude 116°47'45" W.; to latitude 35°08'50" N., longitude 116°48'40" W.; to latitude 35°10'25" N., longitude 116°42'15" W.; to point of beginning.
Designated altitudes. Unlimited.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Los Angeles, ARTC Center.
Using agency. Commander, Fort Irwin, Calif.

R-2503 Camp Pendleton, Calif.

Boundaries. Beginning at latitude 33°24'23" N., longitude 117°15'15" W.; to latitude 33°18'00" N., longitude 117°16'08" W.; to latitude 33°17'30" N., longitude 117°16'40" W.; to latitude 33°18'20" N., longitude 117°21'48" W.; to latitude 33°27'48" N., longitude 117°33'15" W.; to latitude 33°30'13" N., longitude 117°29'13" W.; to the point of beginning.
Designated altitudes. Surface to 15,000 feet MSL.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, El Toro Approach Control.
Using agency. Commanding General, Camp Pendleton, Calif.

R-2504 Camp Roberts, Calif.

Boundaries. Beginning at latitude 35° 42' 18" N., longitude 120° 47' 55" W.; to latitude 35° 42' 18" N., longitude 120° 47' 20" W.; to latitude 35° 42' 58" N., longitude 120° 45' 33" W.; to latitude 35° 46' 38" N., longitude 120° 44' 38" W.; to latitude 35° 47' 18" N., longitude 120° 44' 45" W.; to latitude 35° 47' 54" N., longitude 120° 45' 49" W.; to latitude 35° 49' 10" N., longitude 120° 45' 40" W.; to latitude 35° 51' 00" N., longitude 120° 46' 25" W.; to latitude 35° 51' 11" N., longitude 120° 47' 55" W.; to latitude 35° 48' 50" N., longitude 120° 49' 58" W.; to latitude 35° 46' 00" N., longitude 120° 49' 55" W.; to latitude 35° 44' 03" N., longitude 120° 48' 08" W.; to latitude 35° 43' 08" N., longitude 120° 49' 00" W.; to latitude 35° 42' 44" N., longitude 120° 48' 46" W.; to the point of beginning.
Designated altitudes. Surface to 15,000 feet MSL.
Time of designation. 0600 to 2400 P.s.t., daily.
Controlling agency. Federal Aviation Administration, Oakland ARTC Center.
Using agency. Commander, Camp Roberts, Calif.

R-2505 China Lake, Calif.

Boundaries. Beginning at Lat. 36°14'00" N, Long. 117°53'00" W; to Lat. 36°14'00" N, Long. 117°25'00" W; to Lat. 35°40'30" N, Long. 117°25'00" W; to Lat. 35°37'30" N, Long. 117°35'30" W; to Lat. 35°37'30" N, Long. 117°47'30" W; to Lat. 35°54'00" N, Long. 117°53'00" W; to the point of beginning.
Designated altitudes. Unlimited.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Los Angeles ARTC Center.
Using agency. Commander, Naval Weapons Center, China Lake, Calif.

R-2506 China Lake South, Calif.

Boundaries. Beginning at latitude 35°37'30" N., longitude 117°41'20" W.; to latitude 35°28'00" N., longitude 117°40'50" W.; to latitude 35°28'00" N., longitude 117°47'00" W.; to latitude 35°37'30" N., longitude 117°47'30" W.; to the point of beginning.
Designated altitudes. Surface to 6,000 feet MSL.
Time of designation. Sunrise to sunset, Monday through Friday.
Controlling agency. Federal Aviation Administration, Los Angeles ARTC Center.
Using agency. Commander, Naval Weapons Center, China Lake, Calif.

R-2507 North Chocolate Mountains, Calif.

Boundaries. Beginning at lat. 33°32'40"N., long. 115°33'50"W.; to lat. 33°31'30"N., long. 115°32'00"W.; to lat. 33°31'15"N., long. 115°26'45"W.; to lat. 33°29'00"N., long. 115°20'00"W.; to lat. 33°25'50"N., long. 115°14'30"W.; to lat. 33°24'15"N., long. 115°17'00"W.; to lat. 33°23'00"N., long. 115°14'30"W.; to lat. 33°14'00"N., long. 115°22'30"W.; to lat. 33°21'30"N., long. 115°32'55"W.; to lat. 33°23'40"N., long. 115°33'20"W.; to lat. 33°28'30"N., long. 115°42'10"W.; thence to the point of beginning.
Designated altitudes. Surface to FL 400.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Los Angeles ARTCC.
Using agency. Commanding Officer, U. S. Marine Corps Air Station, Yuma, Ariz.

AMENDMENTS 11/2/78 43 F. R. 40215 (Rewritten) Corr: 43 F. R. 50421

R-2507 South Chocolate Mountains, Calif.

Boundaries. Beginning at lat. 33°23'00"N., long. 115°14'30"W.; to lat. 33°21'40"N., long. 115°12'00"W.; to lat. 33°22'50"N., long. 115°09'58"W.; to lat. 33°08'45"N., long. 114°56'40"W.; to lat. 33°01'00"N., long. 115°06'00"W.; to lat. 33°14'00"N., long. 115°22'30"W.; thence to the point of beginning.
Designated altitudes. Surface to FL 400.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Los Angeles ARTCC.
Using agency. Commanding Officer, U. S. Marine Corps Air Station, Yuma, Ariz.

AMENDMENTS 11/2/78 43 F. R. 40215 (Added) Corr: 43 F. R. 50421

R-2508 Complex, Calif.

Boundaries. Beginning at Lat. 37°12'00" N, Long. 117°20'00" W; to Lat. 35°34'00" N, Long. 116°23'00" W; to Lat. 35°28'35" N, Long. 116°18'45" W; to Lat. 35°18'45" N, Long. 116°18'45" W; to Lat. 35°07'00" N, Long. 116°34'00" W; to Lat. 35°07'00" N, Long. 116°47'45" W; to Lat. 35°08'50" N, Long. 116°48'40" W; to Lat. 35°06'30" N, Long. 116°58'40" W; to Lat. 34°53'30" N, Long. 117°11'50" W; to Lat. 34°50'20" N, Long. 117°32'00" W; to Lat. 34°48'30" N, Long. 117°32'00" W; to Lat. 34°48'00" N, Long. 117°35'00" W; to Lat. 34°48'00" N, Long. 118°01'00" W; to Lat. 34°49'40" N, Long. 118°05'45" W; to Lat. 34°51'30" N, Long. 118°05'45" W; to Lat. 34°56'00" N, Long. 118°21'00" W; Lat. 35°15'00" N, Long. 118°35'00" W; to Lat. 37°12'00" N, Long. 118°35'00" W; to the point of beginning.
Designated altitudes. 20,000 feet MSL to unlimited.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Los Angeles ARTC Center.
Using agency. Commander, Naval Weapons Center, China Lake, Calif.

R-2509 Cuddeback Dry Lake, Calif.

Boundaries. Beginning at Lat. 35°25'00" N, Long. 117°26'00" W; to Lat. 35°25'00" N, Long. 117°16'52" W; to Lat. 35°15'56" N, Long. 117°16'52" W; to Lat. 35°15'56" N, Long. 117°26'00" W; to the point of beginning.
Designated altitudes. Unlimited.
Time of designation. Continuous.
Controlling agency. Federal Aviation Agency, Los Angeles ARTC Center.
Using agency. Commander, George AFB, Calif.

R-2510 El Centro, Calif.

Boundaries. Beginning at latitude 32°59'35" N., longitude 115°43'30" W.; to latitude 32°55'35" N., longitude 115°40'15" W.; to latitude 32°53'45" N., longitude 115°40'15" W.; thence counterclockwise along the arc of a 5-mile radius circle centered at latitude 32°49'20" N., longitude 115°40'15" W.; to latitude 32°50'05" N., longitude 115°45'20" W.; to latitude 32°50'05" N., longitude 115°55'00" W.; to latitude 32°55'50"N., longitude 115°55'00" W.; to latitude 33°01'20" N., longitude 116°02'15" W.; to latitude 33°06'35" N., longitude 115°56'50" W.; to latitude 33°06'35" N., longitude 115°51'12" W.; to point of beginning.
Designated altitudes. Surface to flight level 500.
Time of designation. Continuous, surface to 20,000 feet MSL; Sunrise to sunset, Monday through Friday, 20,000 feet MSL to flight level 500.
Controlling agency. Federal Aviation Administration, Los Angeles ARTC Center.
Using agency. Commanding Officer, U. S. Marine Corps Air Station, Yuma, Ariz.

R-2511 Fort Ord, California

Boundaries. Beginning at latitude 36° 37' 42" N., longitude 121° 48' 47" W.; to latitude 36° 38' 25" N., longitude 121° 46' 29" W.; thence counterclockwise around the arc of a 3-mile radius circle centered at latitude 36° 40' 55" N., longitude 121° 45' 41" W.; to latitude 36° 38' 43" N., longitude 121° 44' 00" W.; to latitude 36° 38' 08" N., longitude 121° 43' 20" W.; to latitude 36° 35' 45" N., longitude 121° 42' 42" W.; to latitude 36° 34' 45" N., longitude 121° 47' 24" W.; thence counterclockwise along the arc of a 3-mile radius circle centered at latitude 36° 35' 30" N., longitude 121° 50' 30" W.; to the point of beginning.
Designated altitudes. Surface to 5,000 feet MSL.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Monterey Approach Control
Using agency. Commanding General, Fort Ord, California.

R-2512 Holtville, Calif.

Boundaries. Beginning at Lat. 33°05'00" N, Long. 115°17'30" W; to Lat. 33°00'00" N, Long. 115°13'30" W; to Lat. 32°51'00" N, Long. 115°05'30" W; to Lat. 32°51'00" N, Long. 115°17'00" W; to Lat. 32°58'00" N, Long. 115°17'30" W; to Lat. 33°05'00" N, Long. 115°20'00" W; to the point of beginning.
Designated altitudes. Surface to 23,000 feet MSL.
Time of designation. Continuous.
Using agency. Commanding Officer, U.S. Marine Corps Air Station, Yuma, Ariz.
Controlling agency. Federal Aviation Administration, Los Angeles ARTC Center.

R-2513 Hunter-Liggett, Calif.

Boundaries. From lat. 36°03'43"N., long. 121°22'38"W., to lat. 36°02'45"N., long. 121°17'45"W., to latitude 35°59'18" N., longitude 121°13'30" W., to latitude 35°56'45" N., longitude 121°09'45" W., to latitude 35°55'20" N., longitude 121°05'45" W., to latitude 35°48'17" N., longitude 121°10'53" W., to latitude 35°51'02" N., longitude 121°16'15" W., to latitude 35°51'02" N., longitude 121°17'20" W., to latitude 35°58'10" N., longitude 121°23'40" W., to latitude 35°58'10" N., longitude 121°21'40" W., to latitude 36°02'12" N., longitude 121°24'40" W., to the point of beginning.
Designated altitudes. Surface to FL 240.
Time of designation. Continuous.
Controlling agency. FAA, Oakland ARTC Center.
Using agency. Commanding General, Fort Ord, Calif.

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R-2515 Muroc Lake, Calif.
Boundaries. Beginning at Lat. 35°19'00" N, Long. 118°49'00" W; to Lat. 35°10'00" N, Long. 116° 49'00" W; to Lat. 35°08'50" N, Long. 116°48'40" W; to Lat. 35°06'30" N, Long. 116°58'40" W; to Lat. 34°53'30" N, Long. 117°11'50" W; to Lat. 34°50'20" N, Long. 117°32'00" W; to Lat. 34°48'30" N, Long. 117°32'00" W; to Lat. 34°48'00" N, Long. 117°35'00" W; to Lat. 34°48'00" N, Long. 118°01'00" W; to Lat. 34°49'40" N, Long. 118°05'45" W; to Lat. 35°01'00" N, Long. 118°05'45" W; to Lat. 35°27'40" N, Long. 117°26'00" W; to Lat. 35°15'56" N, Long. 117°28'00" W; to Lat. 35°15'56" N, Long. 116°55'20" W; to Lat. 35°19'00" N, Long. 116°55'20" W; to the point of beginning.
Designated altitudes. Unlimited.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Los Angeles ARTC Center.
Using agency. Commander, Air Force Flight Test Center, Edwards AFB, Calif.

AMENDMENTS 11/2/78 43 F. R. 51011 (Changed)

R-2516 Naval Missile Facility, Point Arguello, Calif.
Boundaries: Beginning at latitude 34°59'32" N., longitude 120°41'50" W.; to latitude 34°53'30" N., longitude 120°33'20" W.; to latitude 34°50'15" N., longitude 120°31'30" W.; to latitude 34°46'15" N., longitude 120°26'40" W.; to latitude 34°39'50" N., longitude 120°31'15" W.; to latitude 34°35'00" N., longitude 120°31'40" W.; to latitude 34°34'52" N., longitude 120°42'37" W.; thence 3 nautical miles from and parallel to the shoreline to the point of beginning.
Designated altitudes: Surface to unlimited.
Time of designation: Continuous.
Using agency: HQ, Space and Missile Test Center, (SAMTEC) ROSF, Vandenberg, AFB, Calif.

R-2517 Naval Missile Facility, Point Arguello, Calif.
Boundaries. Beginning at latitude 34°34'52" N., longitude 120°42'37" W.; to latitude 34°35'00" N., longitude 120°31'40" W.; to latitude 34°24'45" N., longitude 120°27'20" W.; to latitude 34°24'00" N., longitude 120°30'00" W.; thence three nautical miles from and parallel to the shoreline to the point of beginning.
Designated altitudes. Surface to unlimited.
Time of designation. Continuous.
Using agency. HQ, Space and Missile Test Center, (SAMTEC) ROSF, Vandenberg AFB, Calif.

R-2518 Castle Rock, Calif.
Boundaries. A circular area with a 300-yard radius centered at Lat. 33°02'04" N, Long. 118°36'47" W.
Designated altitudes. Surface to 2,000 feet MSL.
Time of designation. Sunrise to 2000 local time.
Using agency. Commanding Officer, Fleet Air Control and Surveillance Facility, San Diego, Calif.

R-2519 Point Mugu, Calif.
Boundaries. Beginning at Lat. 34°07'00" N, Long. 119°07'00" W; to Lat. 34°04'15" N, Long. 119° 03'40" W; to Lat. 34°02'15" N, Long. 119°04'20" W; thence 3 nautical miles from and parallel to the shoreline to Lat. 34°05'30" N, Long. 119°13'00" W; to Lat. 34°05'55" N, Long. 119°11'15" W; to Lat. 34°07'08" N, Long. 119°09'32" W; to the point of beginning.
Designated altitudes. Unlimited.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Los Angeles ARTC Center.
Using agency. Commander, Pacific Missile Range, Point Mugu, Calif.

R-2520 Point Mugu, Calif.
Boundaries. Beginning at Lat. 34°08'30" N, Long. 119°06'10" W; to Lat. 34°07'00" N, Long. 119° 05'00" W; to Lat. 34°06'15" N, Long. 119°05'25" W; to Lat. 34°07'00" N, Long. 119°07'00" W; to Lat. 34°07'07" N, Long. 119°09'00" W; to Lat. 34°08'30" N, Long. 119°07'40" W; to the point of beginning.
Designated altitudes. Surface to 3,000 feet MSL.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Los Angeles ARTC Center.
Using agency. Commander, Pacific Missile Range, Point Mugu, Calif.

R-2521 Salton Sea, Calif.
Boundaries. Beginning at latitude 33°18'00" N., longitude 115°44'00" W.; to latitude 33°10'10" N., longitude 115°44'00" W.; to latitude 33°10'40" N., longitude 115°49'50" W.; to latitude 33°23'15" N., longitude 115°58'40" W.; to latitude 33°26'15" N., longitude 115°54'00" W.; to the point of beginning.
Designated altitudes: Surface to flight level 400 sunrise to sunset; surface to 4,000 feet MSL sunset to sunrise.
Time of designation: Continuous.
Controlling agency. Federal Aviation Administration, Los Angeles ARTC Center.
Using Agency. Commanding Officer, Naval Air Facility, El Centro, Calif.

R-2524 Trona, Calif.
Boundaries. Beginning at Lat. 35°47'46" N, Long. 118°55'20" W; to Lat. 35°15'56" N, Long. 116° 55'20" W; to Lat. 35°15'56" N, Long. 117°16'52" W; to Lat. 35°25'00" N, Long. 117°16'52" W; to Lat. 35°25'00" N, Long. 117°28'00" W; to Lat. 35°36'00" N, Long. 117°26'00" W; to Lat. 35°47'46" N, Long. 117°16'52" W; to the point of beginning.
Designated altitudes. Unlimited.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Los Angeles ARTC Center.
Using agency. Commander, Naval Weapons Center, China Lake, Calif.

R-2529 Fort Ord West, California
Boundaries. Beginning at latitude 36° 42' 00" N., longitude 121° 49' 45" W.; to latitude 36° 40' 45" N., longitude 121° 48' 22" W.; thence south along California State Highway No. 1 to latitude 36° 38' 05" N., longitude 121° 49' 55" W.; to latitude 36° 38' 15" N., longitude 121° 51' 45" W.; to the point of beginning.
Designated altitudes. Surface to 1,000 feet MSL.
Time of designation. Thirty minutes before sunrise to thirty minutes after sunset.
Controlling agency. Federal Aviation Administration, Monterey Approach Control.
Using agency. Commanding General, Fort Ord, California.

R-2530 Sierra Army Depot, Calif.
Boundaries. Beginning at latitude 40° 18' 21" N., longitude 120° 05' 06" W.; to latitude 40° 18' 21" N., longitude 120° 02' 51" W.; to latitude 40° 16' 06" N., longitude 120° 02' 51" W.; to latitude 40° 16' 06" N., longitude 120° 05' 06" W.; to the point of beginning.
Designated altitudes. Surface to 8,600 feet MSL.
Time of designation. 0[illegible] to 1800 p.s.t., Monday through Friday.
Using agency. Commanding Officer, Sierra Army Depot, Herlong, California.

R-2531 Tracy, Calif.
Boundaries. Beginning at latitude 37°40'34" N., longitude 121°33'42" W.; to latitude 37°40'45" N., longitude 121°31'29" W.; to latitude 37°39'28" N., longitude 121°30'28" W.; to latitude 37°38'50" N., longitude 121°31' 05" W.; to latitude 37°39'03" N., longitude 121°34'03" W.; thence to the point of beginning.
Designated altitudes. Surface to 4,000 feet MSL.
Time of designation. 1000 to 1800, local time, Monday through Friday.
Using agency. United States Energy Research and Development Administration, San Francisco Operations Office.

R-2533 Oceanside, Calif.
Boundaries: Beginning at latitude 33°27'48" N., longitude 117°33'15" W.; thence to latitude 33°18'20" N., longitude 117°21'48" W.; thence to latitude 33°17'30" N., longitude 117°16'40" W.; thence to latitude 33°13'20" N., longitude 117°29'00" W.; thence 3 nautical miles from and parallel to the shoreline to latitude 33°22'30" N., longitude 117°39'45" W.; thence to the point of beginning.
Designated altitudes: Surface to 2,000 feet MSL.
Time of designation: Continuous.
Controlling agency: FAA, El Toro RATCF
Using agency: Commanding General, Marine Corps Base (MCB), Camp Pendleton, Calif.

R-2534A Point Arguello, Calif.
Boundaries: Beginning at latitude 34°38'35" N., longitude 120°31'20" W.; to latitude 34°35'45" N., longitude 120°28'10" W.; to latitude 34°36'20" N., longitude 120°27'20" W.; to latitude 34°30'00" N., longitude 120°15'30" W.; to latitude 34°25'10" N., longitude 120°15'30" W.; thence 3 miles from and parallel to the shoreline to latitude 34°24'40" N., longitude 120°19'10" W.; to point of beginning.
Designated altitudes: 500 feet above the surface to unlimited.
Time of designation: Continuous.
Controlling agency: FAA, ARTCC, Los Angeles, Calif.
Using agency: HQ, Space and Missile Test Center, (SAMTEC) ROSF, Vandenberg AFB, Calif.

R-2534B Point Arguello, Calif.
Boundaries: Beginning at latitude 34°38'35" N., longitude 120°31'20" W.; to latitude 34°24'40" N., longitude 120°19'10" W.; to latitude 34°24'45" N., longitude 120°27'20" W.; to latitude 34°35'00" N., longitude 120°31'40" W.; to point of beginning.
Designated altitudes: 500 feet above the surface to unlimited.
Time of designation: Continuous.
Controlling agency: FAA, ARTCC, Los Angeles, Calif.
Using agency: HQ, Space and Missile Test Center, (SAMTEC) ROSF, Vandenberg, AFB, Calif.

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§ 73.26 Colorado

R-2601 Fort Carson, Colo.
Boundaries: Beginning at lat. 38°38'19" N., long. 104°52'00" W.; thence northeasterly along Colorado Highway No. 115 to lat. 38°42'40" N., long. 104°49'04" W.; to lat. 38°41'20" N., long. 104°47'00" W.; to lat. 38°40'15" N., long. 104°46'20" W.; to lat. 38°40'00" N., long. 104°45'40" W.; to lat. 38°32'06" N., long. 104°45'00" W.; to lat. 38°32'06" N., long. 104°49'18" W.; to lat. 38°36'20" N., long. 104°52'00" W.; to the point of beginning.
Designated altitudes: Surface to 35,000 feet MSL; 35,000 feet MSL to 60,000 feet MSL, by NOTAM issued 24 hours in advance.
Time of designation: Continuous.
Controlling agency: Federal Aviation Administration, Denver ARTC Center.
Using agency: Commanding General, Fort Carson, Colo.

R-2602 Fort Carson, Colo.
Boundaries: Beginning at Lat. 38°38'19" N., Long. 104°52'00" W.; thence to Lat. 38°36'20" N., Long. 104°52'00" W.; to Lat. 38°32'06" N., Long. 104°49'18" W.; to Lat. 38°32'06" N., Long. 104°45'00" W.; to Lat. 38°25'35" N., Long. 104°49'00" W.; to Lat. 38°26'10" N., Long. 104°57'13" W.; to Lat. 38°32'58" N., Long. 104°57'00" W.; thence northeast along Colorado Highway Number 115 to point of beginning.
Designated altitudes: Surface to and including 35,000 feet MSL; 35,000 feet MSL to and including 60,000 feet MSL, by NOTAM issued 24 hours in advance.
Time of designation: Continuous.
Controlling agency: Federal Aviation Administration, Denver ARTC Center.
Using agency: Commanding General, Fort Carson, Colo.

R-2604 Platteville, Colo.
Boundaries. A circular area with a 3,000-foot radius centered at lat. 40°10'48"N., long. 104°43'30"W.
Designated altitude. Surface to 6,000 feet MSL.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Denver Approach Control.
Using agency. Office of Telecommunications, Boulder, Colo.

AMENDMENTS 5/18/78 43 F. R. 9596 (Added)

§ 73.27 Connecticut

§ 73.28 Delaware

§ 73.29 Florida

R-2901A Avon Park, Fla.
Boundaries. Beginning at lat. 27°44'45"N., long. 81°25'20"W.; via lat. 27°44'45"N., long. 81°11'40"W.; lat. 27°35'00"N., long. 81°09'00"W.; lat. 27°32'30"N., long. 81°07'30"W.; lat. 27°29'00"N., long. 81°13'30"W.; lat. 27°32'40"N., long. 81°16'50"W.; lat. 27°32'32"N., long. 81°21'40"W.; lat. 27°42'00"N., long. 81°25'20"W.; to point of beginning.
Designated altitudes. Surface to and including 14,000 feet MSL.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Miami ARTCC.
Using/scheduling agency. 56th TFW, MacDill AFB, Fla.

AMENDMENTS 3/23/78 43 F. R. 3549 (Rewritten)

R-2901B Avon Park, Fla.
Boundaries. Beginning at lat. 27°44'45"N., long. 81°25'20"W.; via lat. 27°44'45"N., long. 81°11'40"W.; lat. 27°35'00"N., long. 81°09'00"W.; lat. 27°32'40"N., long. 81°12'20"W.; lat. 27°32'32"N., long. 81°21'40"W.; lat. 27°42'00"N., long. 81°25'20"W.; to point of beginning.
Designated altitudes. 14,000 feet MSL to and including FL 180.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Miami ARTCC.
Using/scheduling agency. 56th TFW, MacDill AFB, Fla.

AMENDMENTS 3/23/78 43 F. R. 3549 (Rewritten)

R-2901C Avon Park, Fla.
Boundaries. Beginning at lat. 27°44'45"N., long. 81°25'20"W.; via lat. 27°46'00"N., long. 81°25'20"W.; thence east along Florida State Routes 60 and 630 to lat. 27°48'30"N., long. 81°14'00"W.; lat. 27°44'50"N., long. 81°14'00"W.; to point of beginning.
Designated altitudes. Surface to 14,000 feet MSL.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Miami ARTCC.
Using/scheduling agency. 56th TFW, MacDill AFB, Fla.

AMENDMENTS 3/23/78 43 F. R. 3549 (Rewritten)

R-2901D Avon Park, Fla.
Boundaries. Beginning at lat. 27°46'00"N., long. 81°25'20"W.; via lat. 27°50'00"N., long. 81°25'20"W.; lat. 27°50'00"N., long. 81°14'00"W.; lat. 27°48'30"N., long. 81°14'00"W.; thence west along Florida State Routes 80 and 630 to point of beginning.
Designated altitudes. 500 feet MSL to 4,000 feet MSL east of long. 81°21'00"W.; 1,000 feet AGL to 4,000 feet MSL west of long. 81°21'00"W.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Miami ARTCC.
Using/scheduling agency. 56th TFW, MacDill AFB, Fla.

AMENDMENTS 3/23/78 43 F. R. 3549 (Rewritten) Corr: 43 F. R. 6762

R-2901E Avon Park, Fla.
Boundaries. Beginning at lat. 27°50'00"N., long. 81°25'20"W.; via lat. 27°55'00"N., long. 81°25'20"W.; lat. 28°00'00"N., long. 81°21'00"W.; lat. 28°00'00"N., long. 81°14'00"W.; lat. 27°50'00"N., long. 81°14'00"W.; to point of beginning.
Designated altitudes. 1,000 feet MSL to 4,000 feet MSL.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Miami ARTCC.
Using/scheduling agency. 56th TFW, MacDill AFB, Fla.

AMENDMENTS 3/23/78 43 F. R. 3549 (Rewritten)

R-2901F Avon Park, Fla.
Boundaries. Beginning at lat. 27°32'32"N., long. 81°21'40"W.; via lat. 27°32'40"N., long. 81°16'50"W.; lat. 27°29'00"N., long. 81°13'30"W.; lat. 27°24'45"N., long. 81°11'00"W.; lat. 27°30'45"N., long. 81°17'50"W.; to point of beginning.
Designated altitudes. 4,000 feet MSL to 5,000 feet MSL.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Miami ARTCC.
Using/scheduling agency. 56th TFW, MacDill AFB, Fla.
AMENDMENTS 3/23/78 43 F. R. 3549 (Rewritten)

R-2901G Avon Park, Fla.
Boundaries. Beginning at lat. 27°29'00"N., long. 81°13'30"W.; via lat. 27°32'30"N., long. 81°07'30"W.; lat. 27°29'30"N., long. 81°05'30"W.; lat. 27°24'45"N., long. 81°11'00"W.; to point of beginning.
Designated altitudes. Surface to 5,000 feet MSL.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Miami ARTCC.
Using/scheduling agency. 56th TFW, MacDill AFB, Fla.

AMENDMENTS 3/23/78 43 F. R. 3549 (Rewritten)

R-2901H Avon Park, Fla.
Boundaries. Beginning at lat. 27°24'45"N., long. 81°11'00"W.; via lat. 27°29'30"N., long. 81°05'30"W.; lat. 27°21'00"N., long. 81°00'00"W.; to point of beginning.
Designated altitudes. 1,000 feet MSL to 4,000 feet MSL.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Miami ARTCC.
Using/scheduling agency. 56th TFW, MacDill AFB, Fla.
AMENDMENTS 3/23/78 43 F. R. 3549 (Added)

R-2901I Avon Park, Fla.
Boundaries. Beginning at lat. 27°24'45"N., long. 81°11'00"W.; via lat. 27°21'00"N., long. 81°00'00"W.; lat. 27°16'45"N., long. 81°06'00"W.; to point of beginning.
Designated altitudes. 1,500 feet MSL to 4,000 feet MSL.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Miami ARTCC.
Using/scheduling agency. 56th TFW, MacDill AFB, Fla.

AMENDMENTS 3/23/78 43 F. R. 3549 (Added)

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R-2903B Stevens Lake, Fla.
Boundaries: Within a 5 nautical mile radius of lat. 29°53'04" N., longitude 81°59'00" W., excluding the airspace bounded by lat. 29°53'45" N., long. 82°04'50" W.; lat. 29°52'35" N., long. 82°02'00" W.; lat. 29°50'27" N., long. 82°00'00" W.; lat. 29°48'30" N., long. 81°57'00" W.; with a southeast extension beginning at lat. 29°52'30" N., long. 81°53'30" W.; to lat. 29°49'00" N., long. 81°46'20" W.; to lat. 29°44'50" N., long. 81°49'05" W.; to lat. 29°48'30" N., long. 81°57'00" W.; counterclockwise along an arc of a circle 5 nautical miles in radius centered at lat. 29°53'04" N., long. 81°59'09" W.; to the point of beginning; and a northeast extension beginning at lat. 29°59'50" N., long. 81°57'40" W.; to lat. 29°56'45" N., long. 81°53'15" W.; to lat. 29°55'30" N., long. 81°54'10" W.; counterclockwise along an arc of a circle 5 nautical miles in radius centered at lat. 29°53'04" N., long. 81°59'09" W.; to lat. 29°58'10" N., long. 81°59'10" W.; to point of beginning.
Designated altitudes: Within the circular area, surface to FL 230; within the southeast extension, surface to 7,000 feet MSL in the area beginning at lat. 29°52'30" N., long. 81°53'30" W.; to lat. 29°51'10" N., long. 81°51'00" W.; to lat. 29°47'00" N., long. 81°53'55" W.; to lat. 29°48'30" N., long. 81°57'00" W.; counterclockwise along an arc of a circle 5 nautical miles in radius centered at lat. 29°53'04" N., long. 81°59'09" W.; to point of beginning. Surface to 5,000 feet MSL in the area beginning at lat. 29°51'10" N., long. 81°51'00" W.; to lat. 29°49'00" N., long. 81°46'20" W.; to lat. 29°44'50" N., long. 81°49'05" W.; to lat. 29°47'00" N., long. 81°53'55" W.; to lat. 29°51'10" N., long. 81°51'00" W.; within the northeast extension, surface to 7,000 feet MSL.
Time of designation: Continuous.
Controlling agency. Federal Aviation Administration, Jacksonville TRACON.
Using agency: Department of Army Affairs, State of Fla., St. Augustine, Fla.

R-2904 Starke, Fla.
Boundaries. Beginning at lat. 30°03'30"N., long. 81°55'40"W.; to lat. 29°58'55"N., long. 81°55'40"W.; to lat. 29°58'55"N., long. 82°02'46"W.; to lat. 30°03'30"N., long. 82°02'46"W.; to point of beginning.
Designated altitudes. Surface to but not including 1800 feet MSL.
Time of designation. Daily, April through August 0800-1700 local. September through March, Saturday and Sunday 0800-1700 local. Other times by NOTAM at least 24 hours in advance.
Controlling agency. Federal Aviation Administration, Jacksonville TRACON.
Using agency. Department of Military Affairs, State Arsenal, St. Augustine, Fla.

R-2905A Tyndall AFB, Fla.
Boundaries. Beginning at lat. 30°01'30"N., long. 85°32'30"W., to lat. 30°01'15"N., long. 85°30'00"W., to lat. 29°56'00"N., long. 85°33'00"W., thence 3 nautical miles from and parallel to the shoreline to lat. 29°59'00"N., long. 85°36'30"W. to point of beginning.
Designated altitudes. Surface to 10,000 feet MSL.
Time of designation. Intermittent, as announced by NOTAM, for periods of approximately 10 minutes during launch or recovery.
Controlling agency. Federal Aviation Administration, Jacksonville ARTC Center.
Using agency. Air Defense Weapons Center, Tyndall AFB, Fla.

R-2905B Tyndall AFB, Fla.
Boundaries. Beginning at lat. 30°01'15"N., long. 85°30'00"W., to lat. 30°01'00"N., long. 85°27'00"W., to lat. 29°54'00"N., long. 85°27'00"W., thence 3 nautical miles from and parallel to the shoreline to lat. 29°56'00"N., long. 85°33'00"W., to point of beginning.
Designated altitudes. Surface to 10,000 feet MSL.
Time of designation. Intermittent, as announced by NOTAM, for periods of approximately 10 minutes during launch or recovery.
Controlling agency. Federal Aviation Administration, Jacksonville ARTC Center.
Using agency. Air Defense Weapons Center, Tyndall, AFB, Fla.

R-2906 Rodman, Fla.
Boundaries: A circle with a 5-nautical-mile radius centered at latitude 29°29'00" N., longitude 81°46'00" W.; excluding the area east of the east bank of the St. Johns River.
Designated altitudes: Surface to 14,000 feet MSL.
Time of designation: Continuous.
Controlling agency: Federal Aviation Administration, Jacksonville TRACON.
Using agency. Fleet Area Control and Surveillance Facility (FACSFAC JAX), NAS Jacksonville, Fla.

AMENDMENTS 7/13/78 43 F. R. 21450 (Changed)

R-2907 Lake George, Fla.
Subarea A
Boundaries: Beginning at latitude 29°23'00" N., longitude 81°31'10" W.; to latitude 29°12'30" N., longitude 81°30'00" W.; to latitude 29°12'30" N., longitude 81°38'30" W.; to latitude 29°15'05" N., longitude 81°40'00" W.; to latitude 29°20'30" N., longitude 81°40'00" W.; to latitude 29°23'00" N., longitude 81°40'00" W.; to latitude 29°23'00" N., longitude 81°39'10" W.; thence via a 5-nautical-mile arc centered at latitude 29°19'11" N., longitude 81°35'15" W.; to point of beginning.
Designated altitudes: Surface to FL 230.
Time of designation: Continuous.
Controlling agency: Federal Aviation Administration, Jacksonville ARTC Center.
Using agency: Jacksonville Operating Area Coordination Center (JOACC), NAS Jacksonville, Fla.

Subarea B
Boundaries: Beginning at latitude 29°20'05" N., longitude 81°40'00" W.; to latitude 29°15'05" N., longitude 81°40'00" W.; to latitude 29°15'05" N., longitude 81°51'50" W.; to latitude 29°20'05" N., longitude 81°51'50" W.; to point of beginning.
Designated altitudes: Surface to 9,000 feet MSL from a line of longitude 81°40'00" W., to a line of longitude 81°42'55" W.; surface to 6,000 feet MSL from a line of longitude 81°42'55" W., to a line of longitude 81°51'50" W.
Time of designation: Continuous.
Controlling agency: Federal Aviation Administration, Jacksonville ARTC Center.
Using agency. Fleet Area Control and Surveillance Facility (FACSFAC JAX), NAS Jacksonville, Fla.

AMENDMENTS 7/13/78 43 F. R. 21450 (Changed)

R-2908 Pensacola, Fla.
Boundaries. Bounded on the N by the Alabama-Florida shoreline; on the E by a line extending from Lat. 30°15'00" N, Long. 87°41'00" W to Lat. 30°11'20" N, Long. 87°44'15" W; on the S by a line 3 nautical miles from and parallel to the Alabama-Florida shoreline; and on the W by Long. 88°01'30" W.
Designated altitudes. Surface to 12,000 feet MSL.
Time of designation. Sunrise to sunset.
Controlling agency. FAA, Pensacola RATCF.
Using agency. Commander, Training Air Wing SIX, Naval Air Station, Pensacola, Fla.

R-2910 Pinecastle, Fla.
Boundaries: A circle withi a 5-nautical mile radius centered at latitude 29°06'52" N., longitude 81°42'55" W.; with a northwest extension to the circle beginning at latitude 29°07'55" N., longitude 81°48'20" W.; to latitude 29°10'00" N., longitude 81°50'35" W.; to latitude 29°14'00" N., longitude 81°45'50" W.; to latitude 29°11'50" N., longitude 81°43'00" W.; and with a southeast extension to the circle beginning at latitude 29°10'05" N., longitude 81°38'50" W.; to latitude 28°57'55" N., longitude 81°28'25" W.; to latitude 28°53'50" N., longitude 81°33'45" W.; to latitude 29°03'05" N., longitude 81°47'00" W.
Designated altitudes: Surface to FL 230 within the 5-nautical mile radius. Surface to 9,000 feet MSL within the northwest extension. Surface to 9,000 feet MSL within the southeast extension from the circle to a line from latitude 29°04'25" N., longitude 81°33'55" W.; to latitude 28°58'50" N., longitude 81°40'30" W. Surface to 6,000 feet MSL within that portion of the southeast extension that lies southeast of a line from latitude 29°04'25" N., longitude 81°33'55" W.; to latitude 28°58'50" N., longitude 81°40'30" W.
Time of designation: Continuous.
Controlling agency: Federal Aviation Administration, Jacksonville ARTC Center.
Using agency. Fleet Area Control and Surveillance Facility (FACSFAC JAX), NAS Jacksonville, Fla.

AMENDMENTS 7/13/78 43 F. R. 21450 (Changed)

R-2914A Valparaiso, Fla.
Boundaries: Beginning at lat. 30°43'15" N., long. 86°25'00" W.; to lat. 30°43'45" N., long. 86°10'30" W.; to lat. 30°41'00" N., long. 86°05'10" W.; to lat. 30°24'00" N., long. 85°56'00" W.; to lat. 30°19'15" N., long. 85°56'00" W.; to lat. 30°22'00" N., long. 86°08'00" W.; to lat. 30°23'20" N., long. 86°08'10" W.; to lat. 30°30'45" N., long. 86°25'00" W.; thence to point of beginning.
Designated altitudes: Surface to unlimited, excluding that airspace within R-2917.
Time of designation: Continuous.
Controlling agency: Federal Aviation Administration, Jacksonville ARTC Center.
Using agency: Commander, Armament Development and Test Center (ADTC), Eglin AFB, Fla.

R-2914B Valparaiso, Fla.
Boundaries: Beginning at lat. 30°22'00" N., long. 86°08'00" W.; to lat. 30°19'15" N., long. 85°56'00" W.; to lat. 30°11'00" N., long. 85°56'00" W.; thence 3 nautical miles from and parallel to the shoreline to lat. 30°15'00" N., long. 86°06'51" W.; to point of beginning.
Designated altitudes: 8,500 feet MSL to unlimited.
Time of designation: Continuous.
Controlling agency: Federal Aviation Administration, Jacksonville ARTC Center.
Using agency: Commander, Armament Development and Test Center (ADTC), Eglin AFB, Fla.

R-2915A Eglin AFB, Fla.
Boundaries. Beginning at latitude 30°33'40" N., longitude 86°55'00" W.; to latitude 30°38'45" N., longitude 86°55'00" W.; thence along the L and N Railroad to latitude 30°42'45" N., longitude 86°45'45" W.;to latitude 30°42'50" N., longitude 86°38'02" W.; to latitude 30°29'01" N., longitude 86°38'02" W.; to latitude 30°26'30" N., longitude 86°51'30" W.; thence along the Navarre-Milton Highway to point of beginning.
Designated altitudes. Surface to unlimited.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Jacksonville ARTC Center.
Using agency. Commander, Armament Development and Test Center (ADTC), Eglin AFB, Fla.

R-2915B Eglin AFB, Fla.
Boundaries. Beginning at lat. 30°26'30" N., long. 86°51'30" W.; to lat. 30°29'01" N., long. 86°38'02" W.; to lat. 30°23'45" N., long. 86°38'15" W.; thence along the shoreline to lat. 30°23'00" N., long. 86°51'30" W.; to lat. 30°24'20" N., long. 86°48'00" W.; to point of beginning.
Designated altitudes. Surface to unlimited.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Jacksonville ARTC Center.
Using agency. Commander, Armament Development and Test Center (ADTC), Eglin AFB, Fla.

R-2915C Eglin AFB, Fla.
Boundaries. Beginning at lat. 30°23'00" N., long. 86°51'30" W.; thence along the shoreline to lat. 30°23'45" N., long. 86°38'15" W.; to lat. 30°20'50" N., long. 86°38'50" W.; thence 3 nautical miles from and parallel to the shoreline to lat. 30°19'30" N., long. 86°51'30" W.; to point of beginning.
Designated altitudes. 8,500 feet MSL to unlimited.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Jacksonville ARTC Center.
Using agency. Commander, Armament Development and Test Center (ADTC) Eglin AFB, Fla.

R-2916 Cudjoe Key, Fla.
Boundaries. A circular area 4 statute miles in diameter centered at latitude 24°42'01" N., longitude 81° 30'30" W.
Designated altitudes. Surface to 14,000 feet MSL.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Miami ARTC Center.
Using agency. USAF, 20th Air Division.

R-2917 DeFuniak Springs, Fla.
Boundaries: A circle with a 1½-mile radius centered at latitude 30°34'19" N., longitude 86°12'56" W.
Designated altitude: Surface to 5,000 feet MSL.
Time of designation: Continuous.
Using agency. Commander, Armament Development and Test Center (DTC), Eglin AFB, Fla.

R-2918 Valparaiso, Fla.
Boundaries: Beginning at latitude 30°43'10" N., longitude 86°27'37" W., to latitude 30°43'15" N., longitude 86°25'00" W., to latitude 30°33'00" N., longitude 86°25'00" W., to latitude 30°33'00" N., longitude 86°25'30" W., to latitude 30°37'00" N., longitude 86°25'30" W., to latitude 30°37'00" N., longitude 86°27'37" W., to point of beginning.
Designated altitudes: Surface to unlimited.
Time of designation: Continuous.
Controlling agency: Federal Aviation Administration, Jacksonville ARTC Center.
Using agency: Commander, Armament Development and Test Center, Eglin AFB, Fla.

R-2919A Valparaiso, Fla.
Boundaries. Beginning at lat. 30°30'45" N., long. 86°25'00" W.; to lat. 30°23'20" N., long. 86°08'10" W.; to lat. 30°22'00" N., long. 86°08'00" W.; to lat. 30°25'00" N., long. 86°22'26" W.; to lat. 30°25'00" N., long. 86°25'00" W.; to point of beginning.
Designated altitudes. Surface to unlimited.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Jacksonville ARTC Center.
Using agency. Commander, Armament Development and Test Center (ADTC), Eglin AFB, Fla.

R-2919B Valparaiso, Fla.
Boundaries. Beginning at lat. 30°25'00" N., long. 86°22'26" W.; to lat. 30°22'00" N., long. 86°08'00" W.; to lat. 30°15'00" N., long. 86°06'15" W.; thence 3 nautical miles from and parallel to the shoreline to lat. 30°19'45" N., long. 86°23'45" W.; to point of beginning.
Designated altitudes. 8,500 feet MSL to unlimited.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Jacksonville ARTC Center.
Using agency. Commander, Armament Development and Test Center (ADTC), Eglin AFB, Fla.

R-2921 Cape Kennedy, Fla.
Boundaries. Beginning at lat. 28°49'10"N., long. 80°50'45"W.; to lat. 28°51'15"N., long. 80°47'15"W.; to lat. 28°51'15"N., long. 80°42'20"W.; thence three nautical miles from and parallel to the shoreline to lat. 28°45'20"N., long. 80°38'25"W.; to lat. 28°42'10"N., long. 80°48'20"W.; to point of beginning.
Designated altitudes. 8,000 feet MSL to but not including FL 180.
Time of designation. Intermittent, to be activated by NOTAM at least 24 hours in advance.
Controlling agency. Federal Aviation Administration, Miami ARTC Center.
Using agency. Commander, Air Force Eastern Test Range, Patrick Air Force Base, Fla.

R-2922 Cape Kennedy, Fla.
Boundaries. Beginning at lat. 28°42'10"N., long. 80°48'20"W.; to lat. 28°45'20"N., long. 80°38'25"W.; to lat. 28°40'00"N., long. 80°40'28"W.; to lat. 28°38'00"N., long. 80°47'02"W.; to point of beginning.
Designated altitudes. 1200 feet MSL to but not including FL 180.
Time of designation. Intermittent, to be activated by NOTAM at least 24 hours in advance.
Controlling agency. Federal Aviation Administration, Miami ARTC Center.
Using agency. Commander, Air Force Eastern Test Range, Patrick Air Force Base, Fla.

R-2923 Cape Kennedy, Fla.
Boundaries. Beginning at Lat. 28°40'00"N., Long. 80°40'28"W.; to Lat. 28°41'40"N., Long. 80°35'00"W.; thence three nautical miles from, and parallel to the shoreline to Lat. 28°30'00"N., Long. 80°29'05"W.; to Lat. 28°30'00"N., Long. 80°36'42"W.; to Lat. 28°34'00"N., Long. 80°35'45"W.; to point of beginning.
Designated altitudes. Surface to 5000 feet MSL.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Miami ARTC Center.
Using agency. Commander, Air Force Eastern Test Range, Patrick AFB, Fla.

R-2924 Cape Kennedy, Fla.
Boundaries. Beginning at Lat. 28°24'30"N., Long. 80°38'00"W.; to Lat. 28°24'30"N., Long. 80°30'30"W.; thence three nautical miles from, and parallel to the shoreline to Lat. 28°30'00"N., Long. 80°29'05"W.; to Lat. 28°30'00"N., Long. 80°36'42"W.; to point of beginning.
Designated altitudes. Surface to 5000 feet MSL.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Miami ARTC Center.
Using agency. Commander, Air Force Eastern Test Range, Patrick AFB, Fla.

R-2925 Cape Kennedy, Fla.
Boundaries. Beginning at Lat. 28°40'00"N., Long. 80°40'28"W.; to Lat. 28°41'40"N., Long. 80°35'00"W.; thence three nautical miles from, and parallel to the shoreline to Lat. 28°24'30"N., Long. 80°30'30"W.; to Lat. 28°24'30"N., Long. 80°38'00"W.; to Lat. 28°34'00"N., Long. 80°35'45"W.; to point of beginning.
Designated altitudes. 5000 feet MSL to unlimited.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Miami ARTC Center.
Using agency. Commander, Air Force Eastern Test Range, Patrick AFB, Fla.

R-2926 Cape Kennedy, Fla.
Boundaries. Beginning at lat. 28°38'00"N., long. 80°47'02"W.; to lat. 28°40'00"N., long. 80°40'28"W.; to lat. 28°34'00"N., long. 80°35'45"W.; to lat. 28°24'30"N., long. 80°38'00"W.; to lat. 28°24'30"N., long. 80°41'45"W.; to lat. 28°30'30"N., long. 80°43'30"W.; to lat. 28°37'35"N., long. 80°46'50"W.; to point of beginning.
Designated altitudes. Surface to unlimited—except that airspace below 1200 feet AGL west of line from lat. 28°31'20"N., long. 80°43'50"W.; to lat. 28°28'40"N., long. 80°40'30"W.; to lat. 28°24'30"N., long. 80° 40'30"W.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Miami ARTC Center.
Using agency. Commander, Air Force Eastern Test Range, Patrick Air Force Base, Fla.

R-2927 Cape Kennedy, Fla.
Boundaries. Beginning at lat. 28°24'30"N., long. 80°41'45"W.; to lat. 28°24'30"N., long. 80°30'30"W.; to lat. 28°22'30"N., long. 80°35'00"W.; to lat. 28°22'30"N., long. 80°40'50"W.; to point of beginning.
Designated altitudes. 8,000 feet MSL to but not including FL 180.
Time of designation. Intermittent, to be activated by NOTAM at least 24 hours in advance.
Controlling agency. Federal Aviation Administration, Miami ARTC Center.
Using agency. Commander, Air Force Eastern Test Range, Patrick Air Force Base, Fla.

R-2928 Cape Kennedy, Fla.
Boundaries. Beginning at lat. 28°40'00"N., long. 80°40'28"W.; to lat. 28°45'20"N., long. 80°38'25"W.; thence three nautical miles from and parallel to the shoreline to lat. 28°41'40"N., long. 80°35'00"W.; to point of beginning.
Designated altitudes. Surface to unlimited.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Miami ARTC Center.
Using agency. Commander, Air Force Eastern Test Range, Patrick Air Force Base, Fla.

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R-3002A Fort Benning, Ga.
Boundaries. Beginning at lat. 32°31'46" N., long. 84°51'13" W.; to lat. 32°18'55" N., long. 84°41'45" W.; thence along the Central of Georgia Railroad to lat. 32°20'54" N., long. 84°47'20" W.; to lat. 32°15'25" N., long. 84°47'20" W.; to lat. 32°15'25" N., long. 84°53'10" W.; thence along the Chattahoochee River to lat. 32°14'40" N., long. 84°55'30" W.; to lat. 32°14'40" N., long. 84°58'42" W.; to lat. 32°20'15" N., long. 84°58'42" W.; thence along the north side of Dixie Road to lat. 32°21'10" N., long. 84°56'45" W.; to lat. 32°22'30" N., long. 84°56'45" W.; thence along Upatoi Creek to lat. 32°24'00" N., long. 84°53'30" W.; to lat. 32°29'17" N., long. 84°52'32" W.; to lat. 32°29'17" N., long. 84°51'35" W.; to lat. 32°30'19" N., long. 84°51'35" W.; to lat. 32°30'19" N., long. 84°52'21" W.; to lat. 32°30'50" N., long. 84°52'15" W.; thence along the Central of Georgia Railroad to point of beginning.
Designated altitudes. Surface to 4,000 feet MSL.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, ATC Tower, Columbus, Ga.
Using agency. Commanding Officer, Fort Benning, Ga.

R-3002B Fort Benning, Ga.
Boundaries. Beginning at lat. 32°31'46" N., long. 84°51'13" W.; to lat. 32°18'55" N., long. 84°41'45" W.; thence along the Central of Georgia Railroad to lat. 32°20'54" N., long. 84°47'20" W.; to lat. 32°15'25" N., long. 84°47'20" W.; to lat. 32°15'25" N., long. 84°53'10" W.; thence along the Chattahoochee River to lat. 32°14'40" N., long. 84°55'30" W.; to lat. 32°14'40" N., long. 84°58'42" W.; to lat. 32°20'15" N., long. 84°58'42" W.; thence along the north side of Dixie Road to lat. 32°21'10" N., long. 84°56'45" W.; to lat. 32°22'30" N., long. 84°56'45" W.; thence along Upatoi Creek to lat. 32°24'00" N., long. 84°53'30" W.; to lat. 32°29'17" N., long. 84°52'32" W.; to lat. 32°29'17" N., long. 84°51'35" W.; to lat. 32°30'19" N., long. 84°51'35" W.; to lat. 32°30'19" N., long. 84°52'21" W.; to lat. 32°30'50" N., long. 84°52'15" W.; thence along the Central of Georgia Railroad to point of beginning.
Designated altitudes. 4,000 feet MSL to 8,000 feet MSL.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, ATC Tower, Columbus, Ga.
Using agency. Commanding Officer, Fort Benning, Ga.

R-3002C Fort Benning, Ga.
Boundaries. Beginning at lat. 32°31'46" N., long. 84°51'13" W.; to lat. 32°18'55" N., long. 84°41'45" W.; thence along the Central of Georgia Railroad to lat. 32°20'54" N., long. 84°47'20" W.; to lat. 32°15'25" N., long. 84°47'20" W.; to lat. 32°15'25" N., long. 84°53'10" W.; thence along the Chattahoochee River to lat. 32°14'40" N., long. 84°55'30" W.; to lat. 32°14'40" N., long. 84°58'42" W.; to lat. 32°20'15" N., long. 84°58'42" W.; thence along the north side of Dixie Road to lat. 32°21'10" N., long. 84°56'45" W.; to lat. 32°22'30" N., long. 84°56'45" W.; thence along Upatoi Creek to lat. 32°24'00" N., long. 84°53'30" W.; to lat. 32°29'17" N., long. 84°52'32" W.; to lat. 32°29'17" N., long. 84°51'35" W.; to lat. 32°30'19" N., long. 84°51'35" W.; to lat. 32°30'19" N., long. 84°52'21" W.; to lat. 32°30'50" N., long. 84°52'15" W.; thence along the Central of Georgia Railroad to point of beginning.
Designated altitudes. 8,000 feet MSL to 14,000 feet MSL.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, ATC Tower, Columbus, Ga.
Using agency. Commanding Officer, Fort Benning, Ga.

R-3002D Fort Benning, Ga.
Boundaries. Beginning at lat. 32°31'46" N., long. 84°51'13" W.; thence along the Central of Georgia Railroad to lat. 32°32'10" N., long. 84°40'40" W.; to lat. 32°31'20" N., long. 84°40'20" W.; thence along Upatoi Creek to lat. 32°31'46" N., long. 84°39'25" W.; to lat. 32°18'30" N., long. 84°39'25" W.; to lat. 32°18'55" N., long. 84°41'45" W.; thence northwest to point of beginning.
Designated altitudes. Surface to 8,000 feet MSL.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, ATC Tower, Columbus, Ga.
Using agency. Commanding Officer, Fort Benning, Ga.

R-3002E Fort Benning, Ga.
Boundaries. Beginning at lat. 32°31'46" N., long. 84°51'13" W.; thence along the Central of Georgia Railroad to lat. 32°32'10" N., long. 84°40'40" W.; to lat. 32°31'20" N., long. 84°40'20" W.; thence along Upatoi Creek to lat. 32°31'46" N., long. 84°39'25" W.; to lat. 32°18'30" N., long. 84°39'25" W.; to lat. 32°18'55" N., long. 84°41'45" W.; thence northwest to point of beginning.
Designated altitudes. 8,000 feet MSL to 14,000 feet MSL.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, ATC Tower, Columbus, Ga.
Using agency. Commanding Officer, Fort Benning, Ga.

R-3002F Fort Benning, Ga.
Boundaries. Beginning at lat. 32°31'46" N., long. 84°51'13" W.; thence along the Central of Georgia Railroad to lat. 32°32'10" N., long. 84°40'40" W.; to lat. 32°31'20" N., long. 84°40'20" W.; thence along Upatoi Creek to lat. 32°31'46" N., long. 84°39'25" W.; to lat. 32°18'30" N., long. 84°39'25" W.; to lat. 32°18'55" N., long. 84°41'45" W.; thence northwest to point of beginning.
Designated altitudes. 14,000 feet MSL to FL 250.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Atlanta ARTC Center.
Using agency. Commanding Officer, Fort Benning, Ga.

R-3003 Fort Gordon, Ga.
Boundaries. Beginning at latitude 33°23'35" N., longitude 82°08'30" W.; to latitude 33°22'15" N., longitude 82°08'18" W.; to latitude 33°21'35" N., longitude 82°09'10" W.; to latitude 33°22'15" N., longitude 82°17'00" W.; to latitude 33°25'00" N., longitude 82°12'00" W.; to point of beginning.
Designated altitude. Surface to 4,000 feet MSL.
Time of designation. 0730 to 1700 local time, Monday through Sunday and at other times when published by NOTAM 24 hours in advance.
Controlling agency. Federal Aviation Administration, Augusta, Ga., ATC Tower.
Using agency. Commanding Officer, Fort Gordon, Ga.

R-3004 Fort Gordon, Ga.
Boundaries. Beginning at latitude 33°21'53" N., longitude 82°12'15" W.; to latitude 33°19'43" N., longitude 82°12'15" W.; to latitude 33°16'20" N., longitude 82°18'00" W.; to latitude 33°17'29" N., longitude 82°23'00" W.; to latitude 33°21'15" N., longitude 82°18'47" W.; to latitude 33°22'15" N., longitude 82°17'00" W.; to point of beginning.
Designated altitudes. Surface to 17,000 feet MSL.
Time of designation. As published by NOTAM 24 hours in advance.
Controlling agency. Federal Aviation Administration, Jacksonville ARTC Center.
Using agency. Commanding Officer, Fort Gordon, Ga.

R-3005A Fort Stewart, Ga.
Boundaries. Beginning at latitude 32°04'40" N., longitude 81°50'00" W.; to latitude 32°07'00" N., longitude 81°43'30" W.; to latitude 32°06'15" N., longitude 81°31'30" W.; to latitude 32°05'30" N., longitude 81°31'30" W.; to latitude 32°05'15" N., longitude 81°30'00" W.; to latitude 31°56'30" N., longitude 81°30'00" W.; thence along the arc of a 5-mile circle centered at latitude 31°53'20" N., longitude 81°33'45" W.; to latitude 31°56'48" N., longitude 81°30'42" W.; thence SW along Georgia Highway 144 to latitude 31°53'11" N., longitude 81°37'51" W.; to latitude 31°51'45" N., longitude 81°38'08" W.; to latitude 31°55'30" N., longitude 81°53'00" W.; to latitude 31°57'00" N., longitude 81°53'15" W.; to latitude 31°59'45" N., longitude 81°51'06" W., to the point of beginning.
Designated altitudes. Surface to 29,000 feet MSL.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Jacksonville ARTC Center.
Using agency. Commanding Officer, Fort Stewart, Ga.

R-3005B Fort Stewart, Ga.
Boundaries. Beginning at latitude 32°05'15" N., longitude 81°30'00" W.; to latitude 32°04'15" N., longitude 81°22'30" W.; thence along the Ogeechee River to latitude 32°00'30" N., longitude 81°19'30" W.; to latitude 31°58'45" N., longitude 81°19'45" W.; to latitude 31°56'15" N., longitude 81°23'00" W.; to latitude 31°54'03" N., longitude 81°28'45" W.; thence along the arc of a 5-statute-mile-radius circle centered at latitude 31°53'20" N., longitude 81°33'45" W.; to latitude 31°56'30" N., longitude 81°30'00" W., to the point of beginning.
Designated altitudes. Surface to 29,000 feet MSL.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Jacksonville ARTC Center.
Using agency. Commanding Officer, Fort Stewart, Ga.

§ 73.31 Hawaii

R-3101 PMRFAC FOUR, Hawaii

SUBAREA A
Boundaries: Beginning at latitude 22°13'00" N., longitude 159°42'00" W.; thence to latitude 22°09'45" N., longitude 159°42'00" W.; thence counterclockwise along the shoreline of Kauai to latitude 22°04'36" N., longitude 159°46'20" W.; thence to latitude 22°04'25" N., longitude 159°46'06" W.; thence to latitude 22°03'55" N., longitude 159°46'29" W.; thence to latitude 22°01'45" N., longitude 159°46'53" W.; thence to latitude 22°01'07" N., longitude 159°46'20" W.; thence to latitude 22°00'55" N., longitude 159°45'53" W.; thence to latitude 21°59'52" N., longitude 159°45'14" W.; thence to latitude 21°59'35" N., longitude 159°45'55" W.; thence counterclockwise along the shoreline of Kauai to latitude 21°58'25" N., longitude 159°43'35" W.; thence to latitude 21°58'30" N., longitude 159°48'55" W.; thence clockwise along a line 3 nautical miles from the shoreline of Kauai to the point of beginning.
Designated altitudes: Surface to 5,000 feet MSL.
Time of designation: Continuous.
Controlling agency: Honolulu Air Route Traffic Control Center.
Using agency: Commanding Officer, Pacific Missile Range Facility, Hawaii (COPMRFAC HAWAII).

AMENDMENTS 5/18/78 43 F. R. 21449 (Changed)

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SUBAREA B
Boundaries: Beginning at latitude 22°13'00" N., longitude 159°42'00" W.; thence to latitude 22°09'45" N., longitude 159°42'00" W.; thence counterclockwise along the shoreline of Kauai to latitude 22°04'36" N., longitude 159°46'20" W.; thence to latitude 22°04'25" N., longitude 159°46'06" W.; thence to latitude 22°03'55" N., longitude 159°46'29" W.; thence to latitude 22°01'45" N., longitude 159°46'53" W.; thence to latitude 22°01'07" N., longitude 159°46'20" W.; thence to latitude 22°00'55" N., longitude 159°45'53" W.; thence to latitude 21°59'52" N., longitude 159°45'14" W.; thence to latitude 21°59'35" N., longitude 159°45'55" W.; thence counterclockwise along the shoreline of Kauai to latitude 21°58'25" N., longitude 159°43'35" W.; thence to latitude 21°58'30" N., longitude 159°48'55" W.; thence clockwise along a line 3 nautical miles from the shoreline of Kauai to the point of beginning.
Designated altitudes: 5,000 feet MSL to unlimited.
Time of designation: Continuous.
Controlling agency: FAA, Honolulu ARTC Center.
Using agency: Commanding Officer, Pacific Missile Range Facility, Hawaii (COPMRFAC HAWAII).

R-3103 Humuula, Hawaii
Boundaries. Beginning at latitude 19°48'25" N., longitude 155°37'30" W.; thence to latitude 19°43'30" N., longitude 155°29'20" W.; thence to latitude 19°35'00" N., longitude 155°34'30" W.; thence to latitude 19°35'00" N., longitude 155°40'25" W.; thence to latitude 19°40'15" N., longitude 155°43'45" W.; thence to latitude 19°46'40" N., longitude 155°42'20" W.; to the point of beginning.
Designated altitudes. Surface to 30,000 feet MSL.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Hilo Combined Station/Tower.
Using agency. Commanding General, U. S. Army, Hawaii, Schofield Barracks, Hawaii.

R-3104A Island of Kahoolawe, Hawaii
Boundaries. Beginning at latitude 20°34'20" N., longitude 156°40'30" W.; thence clockwise 1 mile from and parallel to the shoreline to lat. 20°36'20"N., long. 156°36'30"W.; to lat. 20°36'20"N., long. 156°34'50"W.; to lat. 20°35'20"N., longitude 156°31'45" W.; thence clockwise 1 mile from and parallel to the shoreline to latitude 20°30'20" N., longitude 156°31'45" W.; to latitude 20°30'00" N., longitude 156°31'00" W.; to latitude 20°28'30" N., longitude 156°30'45" W.; thence clockwise 3 nautical miles from and parallel to the shoreline to latitude 20°35'25" N., longitude 156°43'00" W.; to the point of beginning.
Designated altitudes: Surface to 10,000 feet MSL.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Honolulu ARTC Center.
Using agency: Commander, Fleet Training Group Pearl Harbor (COMFLETRAGRU PEARL).

R-3104B Island of Kahoolawe, Hawaii
Boundaries: Beginning at latitude 20°34'20" N., longitude 156°40'30" W.; thence clockwise 1 mile from and parallel to the shoreline to lat. 20°36'20"N., long. 156°36'30"W.; to lat. 20°36'20"N., long. 156°34'50"W.; to lat. 20°35'20"N., longitude 156°31'45" W.; thence clockwise 1 mile from and parallel to the shoreline to latitude 20°30'20" N., longitude 156°31'45" W.; to latitude 20°30'00" N., longitude 156°31'00" W.; to latitude 20°28'30" N., longitude 156°30'45" W.; thence clockwise 3 nautical miles from and parallel to the shoreline to latitude 20°35'25" N., longitude 156°43'00" W.; to the point of beginning.
Designated altitudes: 10,000 feet MSL to FL 180.
Time of designation: Continuous.
Controlling agency: Federal Aviation Administration, Honolulu ARTC Center.
Using agency: Commander, Fleet Training Group Pearl Harbor (COMFLETRAGRU PEARL).

R-3104C Island of Kahoolawe, Hawaii
Boundaries: Beginning at latitude 20°34'20" N., longitude 156°40'30" W.; thence clockwise 1 mile from and parallel to the shoreline to lat. 20°36'20"N., long. 156°36'30"W.; to lat. 20°36'20"N., long. 156°34'50"W.; to lat. 20°35'20"N., longitude 156°31'45" W.; thence clockwise 1 mile from and parallel to the shoreline to latitude 20°30'20" N., longitude 156°31'45" W.; to latitude 20°30'00" N., longitude 156°31'00" W.; to latitude 20°28'30" N., longitude 156°30'45" W.; thence clockwise 3 nautical miles from and parallel to the shoreline to latitude 20°35'25" N., longitude 156°43'00" W.; to the point of beginning.
Designated altitudes: FL 180 to unlimited.
Time of designation: Continuous.
Controlling agency: Federal Aviation Administration, Honolulu ARTC Center.
Using agency: Commander, Fleet Training Group Pearl Harbor (COMFLETRAGRU PEARL).

R-3107A Kaula Rock, Hawaii

Boundaries. A circular area with a 3-nautical mile radius centered at Lat. 21°39'30" N, Long. 160°32'30" W.
Designated altitudes: Surface to FL 180
Time of designation. Continuous.
Controlling agency: Federal Aviation Administration, Honolulu ARTC Center.
Using agency: Commander, Fleet Training Group Pearl Harbor (COMFLETRAGRU PEARL).

R-3107B Kaula Rock, Hawaii
Boundaries: A circular area with a 3-nautical-mile radius centered at latitude 21°39'30" N., longitude 160°32'30" W.
Designated altitudes: FL 180 to FL 300
Time of designation: Continuous.
Controlling agency: Federal Aviation Administration, Honolulu ARTC Center.
Using agency: Commander, Fleet Training Group Pearl Harbor (COMFLETRAGRU PEARL).

R-3109A Schofield-Makua, Oahu, Hawaii
Boundaries. Beginning at lat. 21°30'29"N., long. 158°04'09"W.; to lat. 21°29'25"N., long. 158°05'00"W.; to lat. 21°27'28"N., long. 158°05'55"W.; to lat. 21°29'11"N., long. 158°07'35"W.; to lat. 21°29'30"N., long. 158°08'40"W.; to lat. 21°33'15"N., long. 158°08'40"W.; to lat. 21°32'14"N., long. 158°05'12"W.; to the point of beginning.
Designated altitudes. Surface to but not including 9,000 feet MSL.
Time of designation. Intermittent.
Controlling agency. FAA, Honolulu Flight Service Station.
Using agency. U. S. Army, Hawaii, Schofield Barracks, Hawaii.

AMENDMENTS 11/2/78 43 F. R. 40214 (Rewritten)

R-3109B Schofield-Makua, Oahu, Hawaii
Boundaries. Beginning at lat. 21°30'29"N., long. 158°04'09"W.; to lat. 21°29'25"N., long. 158°05'00"W.; to lat. 21°27'28"N., long. 158°05'55"W.; to lat. 21°29'11"N., long. 158°07'35"W.; to lat. 21°29'30"N., long. 158°08'40"W.; to lat. 21°33'15"N., long. 158°08'40"W.; to lat. 21°32'14"N., long. 158°05'12"W.; to the point of beginning.
Designated altitudes. From 9,000 feet MSL to but not including 19,000 feet MSL.
Time of designation. Intermittent.
Controlling agency. FAA, Honolulu Flight Service Station.
Using agency. U. S. Army, Hawaii, Schofield Barracks, Hawaii.

AMENDMENTS 11/2/78 43 F. R. 40214 (Rewritten)

R-3109C Schofield-Makua, Oahu, Hawaii
Boundaries. Beginning at lat. 21°30'29"N., long. 158°04'09"W.; to lat. 21°29'25"N., long. 158°05'00"W.; to lat. 21°27'28"N., long. 158°05'55"W.; to lat. 21°29'11"N., long. 158°07'35"W.; to lat. 21°29'30"N., long. 158°08'40"W.; to lat. 21°33'15"N., long. 158°08'40"W.; to lat. 21°32'14"N., long. 158°05'12"W.; to the point of beginning.
Designated altitudes. From 19,000 feet MSL to 29,000 feet MSL.
Time of designation. Intermittent.
Controlling agency. FAA, Honolulu Flight Service Station.
Using agency. U. S. Army, Hawaii, Schofield Barracks, Hawaii.

AMENDMENTS 11/2/78 43 F. R. 40214 (Added)

R-3110A Schofield-Makua, Oahu, Hawaii
Boundaries. Beginning at lat. 21°29'30"N., long. 158°08'40"W.; to lat. 21°31'00"N., long. 158°14'00"W.; to lat. 21°32'30"N., long. 158°14'30"W.; to lat. 21°33'15"N., long. 158°15'15"W.; to lat. 21°34'30"N., long. 158°15'15"W.; to lat. 21°34'30"N., long. 158°13'15"W.; to lat. 21°33'15"N., long. 158°08'40"W.; to the point of beginning.
Designated altitudes. Surface to but not including 9,000 feet MSL.
Time of designation. Intermittent.
Controlling agency. FAA, Honolulu Flight Service Station.
Using agency. U. S. Army, Hawaii, Schofield Barracks, Hawaii.

AMENDMENTS 11/2/78 43 F. R. 40214 (Added)

R-3110B Schofield-Makua, Oahu, Hawaii
Boundaries. Beginning at lat. 21°29'30"N., long. 158°08'40"W.; to lat. 21°31'00"N., long. 158°14'00"W.; to lat. 21°32'30"N., long. 158°14'30"W.; to lat. 21°33'15"N., long. 158°15'15"W.; to lat. 21°34'30"N., long. 158°15'15"W.; to lat. 21°34'30"N., long. 158°13'15"W.; to lat. 21°33'15"N., long. 158°08'40"W.; to the point of beginning.
Designated altitudes. From 9,000 feet MSL to but not including 19,000 feet MSL.
Time of designation. Intermittent.
Controlling agency. FAA, Honolulu Flight Service Station.
Using agency. U. S. Army, Hawaii, Schofield Barracks, Hawaii.

AMENDMENTS 11/2/78 43 F. R. 40214 (Added)

R-3110C Schofield-Makua, Oahu, Hawaii
Boundaries. Beginning at lat. 21°29'30"N., long. 158°08'40"W.; to lat. 21°31'00"N., long. 158°14'00"W.; to lat. 21°32'30"N., long. 158°14'30"W.; to lat. 21°33'15"N., long. 158°15'15"W.; to lat. 21°34'30"N., long. 158°15'15"W.; to lat. 21°34'30"N., long. 158°13'15"W.; to lat. 21°33'15"N., long. 158°08'40"W.; to the point of beginning.
Designated altitudes. From 19,000 feet MSL to 29,000 feet MSL.
Time of designation. Intermittent.
Controlling agency. FAA, Honolulu Flight Service Station.
Using agency. U. S. Army, Hawaii, Schofield Barracks, Hawaii.

AMENDMENTS 11/2/78 43 F. R. 40214 (Added)

R-3120 PMRFAC Five, Hawaii
Boundaries: Beginning at latitude 21°58'30" N., longitude 159°48'55" W., thence to latitude 21°58'25" N., longitude 159°43'35" W., thence southeasterly along the shoreline of the Island of Kauai to latitude 21°57'45" N., longitude 159°42'00" W., thence to latitude 21°54'45" N., longitude 159°42'00" W., thence clockwise along a line 3 nautical miles from and parallel to the shoreline of the Island of Kauai to the point of beginning.
Designated altitudes: Surface to 5,000 feet MSL.
Time of designation: Continuous.
Controlling agency: Honolulu Air Route Traffic Control Center.
Using agency: Commanding Officer, Pacific Missile Range Facility Hawaii (COPMRFAC HAWAII).

AMENDMENTS 5/18/78 43 F. R. 21449 (Changed)

§ 73.32 Idaho

R-3202 Saylor Creek, Idaho
SUBAREA A
Boundaries. Beginning at latitude 42°53'00" N., longitude 115°42'20" W.; to latitude 42°53'00" N., longitude 115°24'15" W.; to latitude 42°36'00" N., longitude 115°24'15" W.; to latitude 42°36'00" N., longitude 115°42'20" W.; to point of beginning.
Designated altitudes. Surface to flight level 180.
Time of designation. 0700 to 0100 local time, Monday through Friday.
Controlling agency. FAA, Salt Lake City ARTC Center.
Using agency. Commander, 366th Tactical Fighter Wing, Mountain Home AFB, Idaho.
PENDING AMENDMENT
The Time of designation for R-3202 Saylor Creek, Idaho, Subarea A is amended as follows:
Time of designation. Daily 0600 to 0200 local time. Other times by NOTAM.

AMENDMENTS 12/28/78 43 F. R. 52214 (Changed)

SUBAREA B
Boundaries. Beginning at latitude 42°36'00" N., longitude 115°37'00" W.; to latitude 42°36'00" N., longitude 115°30'00" W.; to latitude 42°33'00" N., longitude 115°30'00" W.; to latitude 42°33'00" N., longitude 115°37'00" W.; to point of beginning.
Designated altitudes. Surface to 14,000 feet MSL.
Time of designation. 0700 to 0100 local time, Monday through Friday.
Controlling agency. FAA, Salt Lake City ARTC Center.
Using agency. Commander, 366th Tactical Fighter Wing, Mountain Home AFB, Idaho.
PENDING AMENDMENT
The Time of designation for R-3202 Saylor Creek, Idaho, Subarea B is amended as follows:
Time of designation. Daily 0600 to 0200 local time. Other times by NOTAM.

AMENDMENTS 12/28/78 43 F. R. 52214 (Changed)

SUBAREA C
Boundaries. Beginning at latitude 42°33'00" N., longitude 115°37'00" W.; to latitude 42°33'00" N., longitude 115°30'00" W.; to latitude 42°07'00" N., longitude 115°30'00" W.; to latitude 42°07'00" N., longitude 115°37'00" W.; to point of beginning.
Designated altitudes. Surface to 11,000 feet MSL.
Time of designation. 0700 to 0100 local time, Monday through Friday.
Controlling agency. FAA, Salt Lake City ARTC Center.
Using agency. Commander, 366th Tactical Fighter Wing, Mountain Home AFB, Idaho.
PENDING AMENDMENT
The Time of designation for R-3202 Saylor Creek, Idaho, Subarea C is amended as follows:
Time of designation. Daily 0600 to 0200 local time. Other times by NOTAM.

AMENDMENTS 12/28/78 43 F. R. 52214 (Changed)

§ 73.33 Illinois

R-3302 Savanna, Ill.

Boundaries. A circular area with a 1,500-foot radius centered on latitude 42°13'59" N., longitude 90°21'43" W.
Designated altitudes. Surface to 2,300 feet MSL.
Time of designation. 0800 to 2200 c.s.t.
Using agency. Commanding Officer, Ordnance Depot, Savanna, Ill.

§ 73.34 Indiana

R-3401A Atterbury Reserve Forces Training Area, Ind.

Boundaries. Beginning at Lat. 39°21'30" N, Long. 86°06'00" W; to Lat. 39°21'30" N, Long. 85°59'30" W; to Lat. 39°13'00" N, Long. 85°59'30" W; to Lat. 39°13'00" N, Long. 86°06'00" W; to the point of beginning.
Designated altitudes. Surface to 40,000 feet MSL.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Indianapolis ARTC Center.
Using agency. Adjutant General, State of Indiana, Indianapolis, IN.

R-3401B Atterbury Reserve Forces Training Area, Ind.

Boundaries. Beginning at lat. 39°22'00" N., long. 86°06'40" W.; to lat. 39°22'00" N., long. 85°59'30" W.; to lat. 39°21'30" N., long. 85°59'30" W.; to lat. 39°21'30" N., long. 86°06'00" W.; to lat. 39°13'00" N., long. 86°06'00" W.; to lat. 39°13'00" N., long. 85°59'30" W.; to lat. 39°12'30" N., long. 85°59'30" W.; to lat. 39°12'30" N., long. 86°09'50" W.; to lat. 39°19'00" N., long. 86°11'20" W.; to point of beginning.
Designated altitude. 1200 feet AGL to and including 14,000 feet MSL.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Indianapolis ARTC Center.
Using agency. Adjutant General, State of Indiana, Indianapolis, Ind.

R-3403A Jefferson Proving Ground, Ind.
Boundaries. Beginning at latitude 39°02'57" N., longitude 85°27'42" W.; to latitude 39°02'00" N., longitude 85°22'00" W.; to latitude 38°56'06" N., longitude 85°22'00" W.; to latitude 38°50'35" N., longitude 85°22'50" W.; to latitude 38°50'00" N., longitude 85°24'00" W.; to latitude 38°50'00" N., longitude 85°27'42" W.; to the point of beginning.
Designated altitudes. Surface to 43,000 feet MSL.
Time of designation. Daily, 0800 to 2300 local time.
Controlling agency. Federal Aviation Administration, Indianapolis ARTC Center.
Using agency. Commanding Officer, Jefferson Proving Ground, Madison, Ind.

R-3403B Jefferson Proving Ground, Ind.
Boundaries. Beginning at lat. 39°05'00"N., long. 85°30'00"W.; to lat. 39°05'00"N., long. 85°22'00"W.; to lat. 39°02'00"N., long. 85°22'00"W.; to lat. 39°02'57"N., long. 85°27'42"W.; to lat. 38°55'00"N., long. 85°27'42"W.; to lat. 38°57'30"N., long. 85°30'00"W.; to point of beginning.
Designated altitudes. 1200 feet AGL to FL 180.
Time of designation. Daily 0800 to 2300 local time.
Controlling agency. Federal Aviation Administration, Indianapolis ARTC Center.
Using agency. Commanding Officer, Jefferson Proving Ground, Madison, Ind.

R-3404 Crane, IN.

Boundaries. A circular area 1 nautical mile in diameter, centered on latitude 38°49'18" N., longitude 86°50'03" W.
Designated altitudes. Surface to 1,800 feet MSL.
Time of designation. Sunrise to Sunset.
Controlling agency. Federal Aviation Administration, Terre Haute Flight Service Station.
Using agency. Commanding Officer, Naval Ammunition Depot, Crane, IN.

§ 73.35 Iowa

V 4 4 / 1 J A 2 7 9 UMI

§ 73.36 Kansas

R-3601A Brookville, Kans.
Boundaries. Beginning at latitude 38°45'20" N., longitude 97°46'00" W.; to latitude 38°39'45" N., longitude 97°46'00" W.; along the Missouri Pacific Railroad to latitude 38°38'20" N., longitude 97°47'30" W.; to latitude 38°38'20" N., longitude 97°56'00" W.; to latitude 38°45'20" N., longitude 97°56'00" W.; to point of beginning.
Designated altitudes. Surface to FL 180.
Time of designation. Sunrise to 2400 hours c.s.t., Tuesday through Saturday; sunrise to sunset Sunday.
Controlling agency. Federal Aviation Administration, Kansas City ARTC Center.
Using agency. Commander, Kansas ANG, McConnell AFB, Kans.

R-3601B Brookville, Kans.
Boundaries. Beginning at latitude 38°38'20" N., longitude 97°50'00" W.; to latitude 38°35'00" N., longitude 97°50'00" W.; to latitude 38°35'00" N., longitude 97°56'00" W.; to latitude 38°38'20" N., longitude 97°56'00" W.; to point of beginning.
Designated altitudes. Surface to 6,500 feet MSL.
Time of designation. Sunrise to 2400 hours c.s.t., Tuesday through Saturday; sunrise to sunset Sunday.
Controlling agency. Federal Aviation Administration, Kansas City ARTC Center.
Using agency. Commander, Kansas ANG, McConnell AFB, Kans.

R-3602 Manhattan, Kans.
Subarea A
Boundaries: Beginning at latitude 39°17'45" N., longitude 96°49'50" W.; thence along the southern edge of the Chicago, Rock Island and Pacific Railroad right-of-way to latitude 39°18'33" N., longitude 96°57'39" W.; thence south to the shoreline of the main body of Milford Reservoir at latitude 39°12'27" N., longitude 96°57'39" W.; thence along the shoreline of the main body of Milford Reservoir to latitude 39°10'58" N., longitude 96°55'00" W.; to latitude 39°10'58" N., longitude 96°53'13" W.; to latitude 39°08'22" N., longitude 96°53'13" W.; to latitude 39°08'22" N., longitude 96°49'52" W.; thence north along U. S. Highway No. 77 to the point of beginning.
Designated altitudes: Surface to 29,000 feet MSL.
Time of designation: Continuous.
Controlling agency: Federal Aviation Administration, Kansas City ARTC Center.
Using agency: Commanding General, Fort Riley, Kans.

Subarea B
Boundaries: Beginning at latitude 39°17'45" N., longitude 96°49'50" W.; thence south along U. S. Highway No. 77 to latitude 39°07'54" N., longitude 96°49'52" W.; to latitude 39°04'24" N., longitude 96°52'22" W.; to latitude 39°04'24" N., longitude 96°51'15" W.; thence clockwise along the arc of a 4 nautical mile radius circle centered on the Marshall Army Air Field RBN at latitude 39°01'34" N., longitude 96°47'40" W.; to latitude 39°05'17" N., longitude 96°45'40" W.; to latitude 39°08'20" N., longitude 96°43'00" W.; to latitude 39°09'23" N., longitude 96°43'00" W.; to latitude 39°10'43" N., longitude 96°40'55" W.; to latitude 39°12'17" N., longitude 96°40'55" W.; to latitude 39°13'00" N., longitude 96°42'35" W.; to latitude 39°13'16" N., longitude 96°42'35" W.; thence along the southerly edge of the Chicago, Rock Island and Pacific Railroad right-of-way to the point of beginning.
Designated altitudes: Surface to 29,000 feet MSL.
Time of designation: Continuous.
Controlling agency: Federal Aviation Administration, Kansas City ARTC Center.
Using agency: Commanding General, Fort Riley, Kans.

§ 73.37 Kentucky

R-3701A Fort Campbell, Ky.
Boundaries. Beginning at lat. 36°39'00"N., long. 87°34'13"W., to lat. 36°39'00"N., long. 87°32'30"W., to lat. 36°39'15"N., long. 87°30'12"W., to lat. 36°39'30"N., long. 87°29'45"W., to Lat. 36°39'30"N., long. 87°28'33"W., to lat. 36°38'23"N., long. 87°28'33"W., to lat. 36°38'23"N., long. 87°31'22"W., to lat. 36°37'41"N., long. 87°31'54"W., to lat. 36°38'00"N., long. 87°32'22"W., to lat. 36°38'21"N., long. 87°32'42"W., to lat. 36°38'19"N., long. 87°34'13"W., thence to point of beginning.
Altitudes. Surface to and including 5,000 feet MSL.
Time of designation. By NOTAM 24 hours in advance.
Controlling agency. Federal Aviation Administration, Memphis ARTC Center.
Using agency. Commanding General, Fort Campbell, Ky.

R-3701B Fort Campbell, Ky.
Boundaries. Beginning at lat. 36°39'00"N., long. 87°34'13"W., to lat. 36°39'00"N., long. 87°32'30"W., to lat. 36°39'15"N., long. 87°30'12"W., to lat. 36°39'30"N., long. 87°29'45"W., to lat. 36°39'30"N., long. 87°28'33"W., to lat. 36°38'23"N., long. 87°28'33"W., to lat. 36°38'23"N., long. 87°31'22"W., to lat. 36°37'41"N., long. 87°31'54"W., to lat. 36°38'00"N., long. 87°32'22"W., to lat. 36°38'21"N., long. 87°32'42"W., to lat. 36°38'19"N., long. 87°34'13"W., thence to point of beginning.
Altitudes. 5,000 feet MSL to and including 10,000 feet MSL.
Time of designation. By NOTAM 24 hours in advance.
Controlling agency. Federal Aviation Administration, Memphis ARTC Center.
Using agency. Commanding General, Fort Campbell, Ky.

R-3701C Fort Campbell, Ky.
Boundaries. Beginning at lat. 36°39'00"N., long. 87°34'13"W., to lat. 36°39'00"N., long. 87°32'30"W., to lat. 36°39'15"N., long. 87°30'12"W., to lat. 36°39'30"N., long. 87°29'45"W., to lat. 36°39'30"N., long. 87°28'33"W., to lat. 36°38'23"N., long. 87°28'33"W., to lat. 36°38'23"N., long. 87°31'22"W., to lat. 36°37'41"N., long. 87°31'54"W., to lat. 36°38'00"N., long. 87°32'22"W., to lat. 36°38'21"N., long. 87°32'42"W., to lat. 36°38'19"N., long. 87°34'13"W., thence to point of beginning.
Altitudes. 10,000 feet MSL to and including FL 180.
Time of designation. By NOTAM 24 hours in advance.
Controlling agency. Federal Aviation Administration, Memphis ARTC Center.
Using agency. Commanding General, Fort Campbell, Ky.

R-3702A Fort Campbell, Ky.
Boundaries. Beginning at lat. 36°43'30"N., long. 87°48'15"W., to lat. 36°43'30"N., long. 87°43'00"W., to lat. 36°42'00"N., long. 87°40'30"W., to lat. 36°39'00"N., long. 87°40'00"W., to lat. 36°39'00"N., long. 87°34'13"W., to lat. 36°38'19"N., long. 87°34'13"W., to lat. 36°38'21"N., long. 87°32'42"W., to lat. 36°38'00"N., long. 87°32'32"W., to lat. 36°37'41"N., long. 87°31'54"W., to lat. 36°32'00"N., long. 87°32'30"W., to lat. 36°32'00"N., long. 87°35'00"W., to lat. 36°33'30"N., long. 87°42'30"W., to lat. 36°35'30"N., long. 87°45'00"W., to lat. 36°37'30"N., long. 87°48'15"W., thence to point of beginning.
Altitudes. Surface to and including FL 220.
Time of designation. By NOTAM 24 hours in advance.
Controlling agency. Federal Aviation Administration, Memphis ARTC Center.
Using agency. Commanding General, Fort Campbell, Ky.

R-3702B Fort Campbell, Ky.
Boundaries. Beginning at lat. 36°43'30"N., long. 87°48'15"W., to lat. 36°43'30"N., long. 87°43'00"W., to lat. 36°42'00"N., long. 87°40'30"W., to lat. 36°39'00"N., long. 87°40'00"W., to lat. 36°39'00"N., long. 87°34'13"W., to lat. 36°38'19"N., long. 87°34'13"W., to lat. 36°38'21"N., long. 87°32'42"W., to lat. 36°38'00"N., long. 87°32'32"W., to lat. 36°37'41"N., long. 87°31'54"W., to lat. 36°32'00"N., long. 87°32'30"W., to lat. 36°32'00"N., long. 87°35'00"W., to lat. 36°33'30"N., long. 87°42'30"W., to lat. 36°35'30"N., long. 87°45'00"W., to lat. 36°37'30"N., long. 87°48'15"W., thence to point of beginning.
Altitudes. FL 220 to and including FL 270.
Time of designation. By NOTAM 24 hours in advance.
Controlling agency. Federal Aviation Administration, Memphis ARTC Center.
Using agency. Commanding General, Fort Campbell, Ky.

R-3703A Fort Campbell, Ky.
Boundaries. Beginning at lat. 36°37'41"N., long. 87°31'54"W., to lat. 36°38'23"N., long. 87°31'22"W., to lat. 36°38'23"N., long. 87°28'33"W., to lat. 36°37'12"N., long. 87°28'33"W., to lat. 36°37'12"N., long. 87°29'50"W., to lat. 36°34'00"N., long. 87°29'50"W., to lat. 36°32'00"N., long. 87°32'30"W., thence to point of beginning.
Altitudes. Surface to and including 5,000 feet MSL.
Time of designation. By NOTAM 24 hours in advance.
Controlling agency. Federal Aviation Administration, Memphis ARTC Center.
Using agency. Commanding General, Fort Campbell, Ky.

R-3703B Fort Campbell, Ky.
Boundaries. Beginning at lat. 36°37'41"N., long. 87°31'54"W., to lat. 36°38'23"N., long. 87°31'22"W., to lat. 36°38'23"N., long. 87°28'33"W., to lat. 36°37'12"N., long. 87°28'33"W., to lat. 36°37'12"N., long. 87°29'50"W., to lat. 36°34'00"N., long. 87°29'50"W., to lat. 36°32'00"N., long. 87°32'30"W., thence to point of beginning.
Altitudes. 5,000 feet MSL to and including 10,000 feet MSL.
Time of designation. By NOTAM 24 hours in advance.
Controlling agency. Federal Aviation Administration, Memphis ARTC Center.
Using agency. Commanding General, Fort Campbell, Ky.

R-3703C Fort Campbell, Ky.
Boundaries. Beginning at lat. 36°37'41"N., long. 87°31'54"W., to lat. 36°38'23"N., long. 87°31'22"W., to lat. 36°38'23"N., long. 87°28'33"W., to lat. 36°37'12"N., long. 87°28'33"W., to lat. 36°37'12"N., long. 87°29'50"W., to lat. 36°34'00"N., long. 87°29'50"W., to lat. 36°32'00"N., long. 87°32'30"W., thence to point of beginning.
Altitudes. 10,000 feet MSL to FL 180.
Time of designation. By NOTAM 24 hours in advance.
Controlling agency. Federal Aviation Administration, Memphis ARTC Center.
Using agency. Commanding General, Fort Campbell, Ky.

R-3704 Fort Knox, Ky.
Boundaries. Beginning at Lat. 37°59'00" N, Long. 85°45'00" W; to Lat. 37°47'30" N, Long. 85°45'00" W; to Lat. 37°47'30" N, Long. 85°55'30" W; along U. S. Highway 31-W to Lat. 37°50'45" N, Long. 85°57'00" W; along Wilson Road to Lat. 37°55'17" N, Long. 85°56'46" W; to Lat. 37°55'17" N, Long. 85°57'16" W; to Lat. 37°56'04" N, Long. 85°57'33" W; to Lat. 37°56'23" N, Long. 85°57'00" W; along Wilson Road to Lat. 37°58'00" N, Long. 85°57'45" W; along the Illinois Central Railroad to Lat. 37°59'00" N, Long. 85°57'00" W; to Lat. 38°01'00" N, Long. 85°54'30" W; along Kentucky Route 44 to Lat. 38°00'30" N, Long. 85°52'00" W; to Lat. 37°59'00" N, Long. 85°52'00" W; to the point of beginning.
Designated altitudes: Subarea A surface to and including 10,000 feet MSL.
Subarea B from 10,000 feet MSL to 20,000 feet MSL.
Time of designation: Subarea A 0600 to 2400 e.s.t.; other times by NOTAM 24 hours in advance.
Subarea B by NOTAM 24 hours in advance.
Controlling agency. Federal Aviation Administration, Standiford Control Tower, Louisville, Ky.
Using agency. Commanding General, U. S. Army Armor Center, Fort Knox, Ky.

§ 73.38 Louisiana

R-3801A Camp Claiborne, La.
Boundaries. Beginning at latitude 31°18'00" N., longitude 92°46'30" W.; to latitude 31°13'55" N., longitude 92°49'45" W.; to latitude 31°23'40" N., longitude 93°05'45" W.; to latitude 31°27'30" N., longitude 93°03'00" W.; to point of beginning.
Designated altitudes. 1,500 feet AGL to and including 4,000 feet MSL northwest of a line extending from latitude 31°20'50" N., longitude 92°51'15" W.; to latitude 31°16'40" N., longitude 92°54'30" W.; and 500 feet AGL to and including 4,000 feet MSL southeast of a line extending from latitude 31°20'50" N., longitude 92°51'15" W.; to latitude 31°16'40" N., longitude 92°54'30" W.
Time of designation. Continuous.
Controlling agency. FAA, Houston ARTC Center.
Using agency. Commander, England AFB, La.

R-3801B Camp Claiborne, La.
Boundaries. Beginning at latitude 31°11'45" N., longitude 92°30'15" W.; to latitude 31°05'15" N., longitude 92°34'50" W.; to latitude 31°13'55" N., longitude 92°49'45" W.; to latitude 31°18'00" N., longitude 92°46'30" W.; to latitude 31°15'15" N., longitude 92°41'45" W.; to latitude 31°17'10" N., longitude 92°40'10" W.; to point of beginning.
Designated altitudes. Surface to and including 7,000 feet MSL.
Time of designation. Continuous.
Controlling agency. FAA, Houston ARTC Center.
Using agency. Commander, England AFB, La.

R-3801C Camp Claiborne, La.
Boundaries. Beginning at latitude 31°11'45" N., longitude 92°30'15" W.; to latitude 31°05'15" N., longitude 92°34'50" W.; to latitude 31°13'55" N., longitude 92°49'45" W.; to latitude 31°18'00" N., longitude 92°43'30" W.; to latitude 31°15'15" N., longitude 92°41'45" W., to latitude 31°17'10" N., longitude 92°40'10" W.; to point of beginning.
Designated altitudes. 7,000 feet MSL to and including 14,000 feet MSL.
Time of designation. Continuous. R-3801C shall not be activated unless the Houston ARTC Center radar (Alexandria system) is operational.
Controlling agency. FAA, Houston ARTC Center.
Using agency. Commander, England AFB, La.

R-3803A Fort Polk, La.
Boundaries. Beginning at lat. 31°23'36"N., long. 93°09'57"W.; to lat. 31°23'12"N., long. 93°09'48"W.; to lat. 31°22'00"N., long. 93°10'05"W.; to lat. 31°19'16"N., long. 93°11'10"W.; to lat. 31°19'16"N., long. 93°20'15"W.; to lat. 31°24'30"N., long. 93°20'15"W.; to lat. 31°24'30"N., long. 93°16'42"W.; to lat. 31°23'35"N., long. 93°13'24"W.; to point of beginning.
Designated altitudes. Surface to FL 180.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Houston, Tex., ARTC Center.
Using agency. Commanding General, Fort Polk, La.

R-3803B Fort Polk, La.
Boundaries. Beginning at lat. 31°23'36"N., long. 93°09'57"W.; to lat. 31°23'12"N., long. 93°09'48"W.; to lat. 31°22'00"N., long. 93°10'05"W.; to lat. 31°19'16"N., long. 93°11'10"W.; to lat. 31°19'16"N., long. 93°20'15"W.; to lat. 31°24'30"N., long. 93°20'15"W.; to lat. 31°24'30"N., long. 93°16'42"W.; to lat. 31°23'35"N., long. 93°13'24"W.; to point of beginning.
Designated altitudes. FL 180 to FL 450.
Time of designation. As activated by NOTAM issued at least 24 hours in advance.
Controlling agency. Federal Aviation Administration, Houston, Tex., ARTC Center.
Using agency. Commanding General, Fort Polk, La.

R-3804A Fort Polk, La.
Boundaries. Beginning at latitude 31°00'52" N., longitude 93°08'11" W.; to latitude 31°00'52" N., longitude 92°56'52" W.; to latitude 31°00'19" N., longitude 92°56'13" W.; to latitude 31°00'19" N., longitude 92°54'22" W.; to latitude 31°03'54" N., longitude 92°51'33" W.; to latitude 31°09'34" N., longitude 92°58'24" W. to latitude 31°09'34" N., longitude 93°00'55" W.; to latitude 31°08'42" N., longitude 93°01'54" W.; to latitude 31°08'42" N., longitude 93°08'11" W.; to point of beginning.
Designated altitudes. Surface to FL 180.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Houston, Tex. ARTC Center.
Using agency. Commanding General, Fort Polk, Louisiana.

R-3804B Fort Polk, La.
Boundaries. Beginning at latitude 31°00'52" N., longitude 93°10'52" W.; to latitude 31°00'52" N., longitude 93°08'11" W.; to latitude 31°06'10" N., longitude 93°08'11" W.; to latitude 31°04'14" N., longitude 93°12'30" W.; to point of beginning.
Designated altitudes. Surface to 3,000 feet MSL.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Houston, Tex., ARTC Center.
Using agency. Commanding General, Fort Polk, Louisiana.

R-3804C Fort Polk, La.
Boundaries. Beginning at latitude 31°00'52" N., longitude 93°08'11" W.; to latitude 31°00'52" N., longitude 92°56'52" W.; to latitude 31°00'19" N., longitude 92°56'13" W.; to latitude 31°00'19" N., longitude 92°54'22" W.; to latitude 31°03'54" N., longitude 92°51'33" W.; to latitude 31°09'34" N., longitude 92°58'24" W.; to latitude 31°09'34" N., longitude 93°00'55" W.; to latitude 31°08'42" N., longitude 93°01'54" W.; to latitude 31°08'42" N., longitude 93°08'11" W.; to point of beginning.
Designated altitudes. FL 180 to FL 450.
Controlling agency. Federal Aviation Administration, Houston, Tex., ARTC Center.
Time of designation. As published by NOTAM 24 hours in advance.
Using agency. Commanding General, Fort Polk, La.

R-3806 England Air Force Base, La.
Boundaries. Beginning at latitude 31°03'00" N., longitude 92°49'30" W.; to latitude 30°58'00" N., longitude 92°39'00" W.; to latitude 30°38'00" N., longitude 92°49'00" W.; to latitude 30°43'00" N., longitude 92°58'00" W.; to latitude 30°50'30" N., longitude 93°01'00" W.; to latitude 30°55'25" N., longitude 92°54'40"W.; to point of beginning.
Designated altitudes. 500 feet AGL to and including 7,000 feet MSL, excluding the airspace below 1,500 feet AGL within a two-nautical-mile radius of the City of Elizabeth, La.
Time of designation. Daylight hours, Monday through Friday.
Controlling agency. Federal Aviation Administration, Houston ARTC Center.
Using agency. Commander, 23rd Tactical Fighter Wing, England AFB, La.

§ 73.39 Maine

§ 73.40 Maryland

R-4001A Aberdeen, Md.
Boundaries. Beginning at lat. 39°30'30" N., long. 76°10'00" W.; to lat. 39°29'00" N., long. 76°08'00" W.; to lat. 39°29'30" N., long. 76°05'00" W.; to lat. 39°27'00" N., long. 76°00'30" W.; to lat. 39°19'47" N., long. 76°11'34" W.; to lat. 39°17'30" N., long. 76°12'59" W.; to lat. 39°16'24" N., long. 76°16'18" W.; to lat. 39°17'13" N., long. 76°18'49" W.; to lat. 39°19'41" N., long. 76°22'01" W.; to lat. 39°22'00" N., long. 76°22'00" W.; to lat. 39°23'28" N., long. 76°20'40" W.; to lat. 39°26'10" N., long. 76°14'50" W.; to lat. 39°27'00" N., long. 76°12'30" W.; to point of beginning.
Designated altitudes and time of designation.
1. Surface to unlimited, 0700 to 2400 local time.
2. Surface to 10,000 feet MSL, 0000 to 0700 local time; higher altitudes by NOTAM issued 24 hours in advance.
Controlling agency. Federal Aviation Administration, Washington ARTC Center.
Using agency. Commanding General, Aberdeen Proving Ground, Md.

R-4001B Aberdeen, Md.
Boundaries. Beginning at lat. 39°17'30" N., long. 76°12'59" W.; to lat. 39°12'10" N., long. 76°16'30" W.; to lat. 39°12'45" N., long. 76°22'30" W.; to lat. 39°17'30" N., long. 76°19'45" W.; to lat. 39°18'30" N., long. 76°22'00" W.; to lat. 39°19'41" N., long. 76°22'01" W.; to lat. 39°17'13" N., long. 76°18'49" W.; to lat. 39°16'24" N., long. 76°16'18" W.; to point of beginning.
Designated altitudes and time of designation.
1. Surface to unlimited, 0700 to 2400 local time.
2. Surface to 10,000 feet MSL, 0000 to 0700 local time; higher altitudes by NOTAM issued 24 hours in advance.
Controlling agency. Federal Aviation Administration, Washington ARTC Center.
Using agency. Commanding General, Aberdeen Proving Ground, Md.

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R-4002 Bloodsworth Island, Md.
Boundaries. Beginning at Lat. 38°13'00" N, Long. 76°00'00" W; to Lat. 38°08'00" N, Long. 76°00'00" W; to Lat. 38°08'00" N, Long. 76°08'50" W; to Lat. 38°13'00" N, Long. 76°11'20" W; to the point of beginning.
Designated altitudes. Surface to and including 20,000 feet MSL.
Time of designation. From sunrise to 2400 hours, local time, daily, other times as specified in a NOTAM issued 48 hours in advance.
Controlling agency. Federal Aviation Administration, Washington ARTC Center.
Using agency. Commanding Officer, Naval Amphibious School Little Creek, Norfolk, Va.

R-4005 Patuxent River, Md.
Boundaries. Beginning at latitude 38°05'40" N., longitude 76°33'32" W.; to latitude 38°11'10" N., longitude 76°25'10" W.; to latitude 38°18'20" N., longitude 76°17'05" W.; to latitude 38°18'26" N., longitude 76°14'30" W.; to latitude 38°13'00" N., longitude 76°11'20" W.; to latitude 38°08'00" N., longitude 76°08'50" W.; to latitude 37°55'15" N., longitude 76°02'30" W.; to latitude 37°53'10" N., longitude 76°14'00" W.; to the point of beginning.
Designated altitudes. Surface to FL 850.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Washington ARTC Center.
Using agency. Commanding Officer, NAS Patuxent River, Md.

R-4006 Patuxent River, Md.
Boundaries: Beginning at latitude 38°41'15" N., longitude 75°46'00" W.; to latitude 38°32'30" N., longitude 75°43'45" W.; to latitude 38°19'00" N., longitude 75°37'00" W.; along Pennsylvania Railroad to latitude 38°12'30" N., longitude 75°41'30" W.; to latitude 38°02'30" N., longitude 75°52'30" W.; to latitude 37°55'00" N., longitude 75°52'30" W.; to latitude 37°45'00" N., longitude 75°58'45" W.; to latitude 37°45'00" N., longitude 76°23'30" W.; to latitude 37°50'30" N., longitude 76°32'00" W.; to latitude 38°05'10" N., longitude 76°34'15" W.; to latitude 38°11'10" N., longitude 76°25'10" W.; to latitude 38°30'00" N., longitude 76°04'00" W.; to latitude 38°36'00" N., longitude 75°55'30" W.; along the Pennsylvania Railroad to point of beginning, excluding R-4002, R-4005, and R-6609.
Designated altitudes: 3,500 feet MSL to FL 850.
Time of designation: Continuous.
Controlling agency: Federal Aviation Administration, Washington ARTC Center.
Using agency: Commanding Officer, NAS Patuxent River, Md.

R-4007A Patuxent River, Md.
Boundaries. Beginning at lat. 38°21'00"N., long. 76°14'00"W.; to lat. 38°11'10"N., long. 76°25'10"W.; to lat. 38°05'10"N., long. 76°34'05"W.; to lat. 38°15'00"N., long. 76°36'35"W.; to lat. 38°17'25"N., long. 76°33'00"W.; to lat. 38°25'40"N., long. 76°23'35"W.; to the point of beginning.
Designated altitudes. Surface to but not including 5,000 feet MSL.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Washington ARTCC.
Using agency. Commanding Officer, NAS Patuxent River, Md.

AMENDMENTS 9/7/78 43 F. R. 28813 (Changed)

R-4007B Patuxent River, Md.
Boundaries. Beginning at lat. 38°21'00"N., long. 76°14'00"W.; to lat. 38°11'10"N., long. 76°25'10"W.; to lat. 38°05'10"N., long. 76°34'05"W.; to lat. 38°15'00"N., long. 76°36'35"W.; to lat. 38°17'25"N., long. 76°33'00"W.; to lat. 38°25'40"N., long. 76°23'35"W.; to the point of beginning.
Designated altitudes. 5,000 feet MSL to 17,000 feet MSL.
Time of designation. 0800 to 1800 hours, local time, daily to January 1, 1982.
Controlling agency. Federal Aviation Administration, Washington ARTC Center.
Using agency. Commanding Officer, NAS Patuxent River, Md.

AMENDMENTS 9/7/78 43 F. R. 28813 (Added)

§ 73.41 Massachusetts

R-4101 Camp Edwards, Mass.
Boundaries. Beginning at Lat. 41°40'52" N., Long. 70°33'09" W.; to Lat. 41°41'01" N., Long. 70°34'00" W.; to Lat. 41°41'58" N., Long. 70°34'58" W.; to Lat. 41°42'52" N., Long. 70°34'58" W.; to Lat. 41°43'52" N., Long. 70°34'32" W.; to Lat. 41°44'30" N., Long. 70°34'16" W.; to Lat. 41°45'17" N., Long. 70°34'13" W.; to Lat. 41°45'12" N., Long. 70°34'01" W.; to Lat. 41°46'07" N., Long. 70°33'04" W.; to Lat. 41°45'18" N., Long. 70°31'18" W.; to Lat. 41°44'37" N., Long. 70°30'42" W.; to Lat. 41°44'11" N., Long. 70°29'40" W.; to Lat. 41°43'06" N., Long. 70°30'08" W.; to Lat. 41°43'07" N., Long. 70°30'36" W.; to Lat. 41°42'45" N., Long. 70°30'50" W.; to Lat. 41°42'38" N., Long. 70°30'33" W.; to Lat. 41°41'51" N., Long. 70°30'52" W.; to Lat. 41°41'38" N., Long. 70°31'18" W.; to Lat. 41°41'20" N., Long. 70°31'29" W.; to Lat. 41°41'18" N., Long. 70°31'26" W.; to Lat. 41°41'06" N., Long. 70°31'54" W.; to point of beginning.
Designated altitudes. Surface to 9,000 feet MSL.
Time of designation. From 0600 to 1800 local time, daily, or other times as specified by NOTAM issued 48 hours in advance.
Controlling agency. Federal Aviation Administration, Otis Approach Control.
Using agency. Commander, U. S. Army Garrison, Camp Edwards, Massachusetts.

R-4105 No Man's Land Island, Mass.

Boundaries. A circular area with a 3-mile radius centered at Lat. 41°15'30" N, Long. 70°48'40" W.
Designated altitudes. Surface to but not including 18,000 feet MSL.
Time of designation. 0700 to 2400 EST.
Controlling agency. Federal Aviation Administration, Otis Approach Control.
Using agency. Commanding Officer, NAS South Weymouth, Mass.

AMENDMENTS 1/26/78 42 F. R. 62360 (Changed)

§ 73.42 Michigan

R-4201 Camp Grayling, Mich.

SUBAREA A
Boundaries: Beginning at latitude 44°56'00" N., longitude 84°29'00" W.; to latitude 44°47'00" N., longitude 84°29'00" W.; to latitude 44°47'00" N., longitude 84°39'00" W.; to latitude 44°56'00" N., longitude 84°39'00" W.; to point of beginning.
Designated altitudes: Surface to 23,000 feet MSL.
Time of designation: Continuous.
Controlling agency: Federal Aviation Administration, Minneapolis ARTC Center.
Using agency: Adjutant General, State of Michigan, Lansing, Mich.

SUBAREA B
Boundaries: Beginning at latitude 44°47'00" N., longitude 84°29'00" W.; to latitude 44°41'00" N., longitude 84°29'00" W.; to latitude 44°41'00" N., longitude 84°40'00" W.; to latitude 44°43'00" N., longitude 84°40'00" W.; to latitude 44°43'00" N., longitude 84°38'00" W.; to latitude 44°47'00" N., longitude 84°38'00" W.; to point of beginning.
Designated altitudes: Surface to 9,000 feet MSL.
Time of designation: Continuous.
Controlling agency: Federal Aviation Administration, Minneapolis ARTC Center.
Using agency: Adjutant General, State of Michigan, Lansing, Mich.

R-4202 Lake Margrethe, Mich.

Boundaries. Beginning at latitude 44°36'45" N., longitude 84°51'00" W.; to latitude 44°36'45" N., longitude 84°48'00" W.; to latitude 44°34'15" N., longitude 84°48'00" W.; to latitude 44°34'15" N., longitude 84°50'00" W.; to latitude 44°35'00" N., longitude 84°51'00" W.; to the point of beginning.
Designated altitudes. Surface to 8,200 feet MSL.
Time of designation. June 1 through August 31, with specific dates to be published by NOTAM.
Using agency. Adjutant General, State of Michigan, Lansing, Mich.
Controlling agency. Federal Aviation Administration, Traverse City Flight Service Station.

R-4207 Upper Lake Huron, Mich.

Boundaries. Beginning at latitude 45°17'00" N., longitude 83°00'00" W.; to latitude 45°20'24" N., longitude 82°31'18" W.; along the United States-Canadian Border to latitude 44°31'00" N., longitude 82°19'54" W.; to latitude 44°27'42" N., longitude 82°47'08" W.; to the point of beginning.
Designated altitudes. Surface to flight level 450.
Time of designation. Sunrise to sunset.
Controlling agency. Federal Aviation Administration, Minneapolis ARTC Center.
Using agency. Commander, Permanent Field Training Site Detachment, Phelps-Collins ANGB, Alpena, Mich.

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§ 73.43 Minnesota

R-4301 Camp Ripley, Minn.
Boundaries. Beginning at Lat. 46°18'54"N., Long. 94°29'02"W.; thence along south bank of Crow Wing River and west bank of Mississippi River to Lat. 46°10'49"N., Long. 94°21'52"W.; to Lat 46°07'11"N., Long. 94°21'52"W.; thence along the west bank of Mississippi River to Lat. 46°06'22"N., Long. 94°21'10"W.; to Lat. 46°06'22"N., Long. 94°22'15"W.; to Lat. 46°06'03"N., Long. 94°22'15"W.; to Lat. 46°06'03"N., Long. 94°26'06"W.; to Lat. 46°08'00"N., Long. 94°26'06"W.; to Lat. 46°08'00"N., Long. 94°30'00"W.; to Lat. 46°18'18"N., Long. 94°30'00"W.; to point of beginning.
Designated altitudes. Surface to 27,000 feet MSL.
Time of designation. 0730 to 2400 local times daily. Other times as specified by NOTAM issued 24 hours in advance.
Controlling agency. Federal Aviation Administration, Minneapolis ARTC Center.
Using agency. Commanding Officer, Camp Ripley, Minn.

R-4305 Lake Superior, Minn.

Boundaries. Beginning at latitude 47°45'00" N., longitude 90°05'00" W.; to latitude 47°45'00" N., longitude 89°28'00" W.; to latitude 46°55'00" N., longitude 89°28'00" W.; to latitude 46°55'00" N., longitude 90°05'00" W.; to the point of beginning.
Designated altitudes. Surface to flight level 450.
Time of designation. 0001 local time Monday to 2400 local time Friday.
Controlling agency. Federal Aviation Administration, Minneapolis ARTC Center.
Using agency. Commander, Eighth Air Force, Barksdale AFB, La.

§ 73.44 Mississippi

R-4401 Camp Shelby, Miss.

Boundaries. Beginning at latitude 31°12'54" N.; longitude 89°11'03" W.; to latitude 31°11'48" N.; longitude 89°00'00" W.; to latitude 31°10'15" N.; longitude 88°56'34" W.; to latitude 31°09'10" N.; longitude 88°56'34" W.; thence southwest along Mississippi State Highway No. 15 to latitude 31°04'36" N.; longitude 88°59'24" W.; to latitude 31°04'36" N.; longitude 89°11'03" W.; to point of beginning.
Designated altitudes. Subarea A, surface to 4,000 feet MSL. Subarea B, 4,000 feet MSL to 18,000 feet MSL. Subarea C, 18,000 feet MSL to 29,000 feet MSL.
Time of designation. As activated by NOTAMs at least 24 hours in advance. NOTAMs to contain information concerning deactivation of area.
Controlling agency. Federal Aviation Administration, Houston ARTC Center.
Using agency. Adjutant General, State of Mississippi, Jackson, Miss.

R-4403 Gainesville, Miss.

Boundaries. Beginning at latitude 30°21'02" N., longitude 89°36'53" W.; to latitude 30°22'33" N., longitude 89°36'53" W.; to latitude 30°22'34" N., longitude 89°34'05" W.; to latitude 30°21'03" N., longitude 89°34'04" W.; to the point of beginning.
Altitudes. From surface to 5,000 feet MSL.
Time of use. Continuous.
Controlling agency. Federal Aviation Administration, Houston ARTC Center.
Using agency. Manager, Mississippi Test Operations, National Aeronautics and Space Administration, Bay St. Louis, Miss.

R-4404 Macon, Miss.

Boundaries: 1. Beginning at lat. 33°02'39" N., long. 88°42'37" W.; to lat. 33°04'30" N., long. 88°40'18" W.; to lat. 33°03'34" N., long. 88°39'08" W.; to lat. 33°01'43" N., long. 88°41'23" W.; to point of beginning. 2. A circle with a 5-nautical mile radius centered at lat. 33°03'11" N., long. 88°40'41" W.
Designated altitudes: Surface to 11,500 feet MSL, within the area described in Item 1; from 1,200 feet above the surface to 11,500 feet MSL, within the area described in Item 2.
Time of designation: Sunrise to Sunset, Monday through Saturday.
Controlling agency: Federal Aviation Administration, Memphis ARTC Center.
Using agency: Commander, Training Wing 1 NAS Meridian, Miss.

§ 73.45 Missouri

R-4501A Fort Leonard Wood West, Mo.
Boundaries. Beginning at latitude 37°41'06" N., longitude 92°09'17" W.; to latitude 37°38'15" N., longitude 92°09'17" W.; to latitude 37°36'23" N., longitude 92°13'52" W.; to latitude 37°36'23" N., longitude 92°15'21" W.; to latitude 37°39'38" N., longitude 92°15'21" W.; to latitude 37°41'07" N., longitude 92°14'23" W.; to point of beginning.
Designated altitudes. Surface to but not including 18,000 feet MSL.
Time of designation. a. surface to 2,200 feet MSL: Continuous. B. 2,200 feet MSL and above: by NOTAM issued at least 24 hours in advance.
Controlling agency. Federal Aviation Administration, Kansas City ARTC Center.
Using agency. Commanding General, Fort Leonard Wood, Mo.
PENDING AMENDMENT
Under R-4501A Fort Leonard Wood, Mo., the boundaries are amended as follows:
Boundaries. Beginning at lat. 37°41'06"N., long. 92°09'17"W.; to lat. 37°38'15"N., long. 92°09'17"W.; to lat. 37°37'35"N., long. 92°10'37"W.; to lat. 37°36'15"N., long. 92°10'37"W.; to lat. 37°36'15"N., long. 92°15'21"W.; to lat. 37°39'28"N., long. 92°15'21"W.; to lat. 37°41'07"N., long. 92°14'23"W.; to the point of beginning.
The "Designated altitudes." are amended as follows:
Designated altitudes. Surface to but not including 2,200 feet MSL.
The "Time of designation." is amended as follows:
Time of designation. As specified by NOTAM issued at least 24 hours in advance.

AMENDMENTS 12/28/78 43 F. R. 51010 (Changed)

R-4501B Fort Leonard Wood East, Mo.
Boundardies. Beginning at latitude 37°43'00" N., longitude 92°06'55" W.; to latitude 37°42'11" N., longitude 92°06'14" W.; to latitude 37°39'07" N., longitude 92°06'17" W.; to latitude 37°38'15" N., longitude 92°09'17" W.; to latitude 37°43'02 N., longitude 92°09'17" W.; to the point of beginning.
Designated altitudes.
The area north of a line between latitude 37°42'51" N., longitude 92°06'47" W.; and latitude 37°42'53" N., longitude 92°02'17" W. surface to 1,500 feet MSL.
The area south of this line, surface to 2,200 feet MSL.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Kansas City ARTC Center.
Using agency. Commanding General, Fort Leonard Wood, Mo.

PENDING AMENDMENT
R-4501C Fort Leonard Wood, Mo.
Boundaries. Beginning at lat. 37°41'00"N., long. 92°16'10"W.; to lat. 37°41'26"N., long. 92°10'15"W.; to lat. 37°40'16"N., long. 92°07'05"W.; to lat. 37°38'20"N., long. 92°06'55"W.; to lat. 37°36'07"N., long. 92°10'27"W.; to lat. 37°35'22"N., long. 92°15'31"W.; to the point of beginning.
Designated altitudes. From 2,200 feet MSL to but not including FL 180.
Time of designation. As specified by NOTAM issued at least 24 hours in advance.
Controlling agency. Federal Aviation Administration, Kansas City ARTCC.
Using agency. Commanding General, Fort Leonard Wood, Mo.

AMENDMENTS 12/28/78 43 F. R. 51010 (Added)

PENDING AMENDMENT
R-4501D Fort Leonard Wood, Mo.
Boundaries. Beginning at lat. 37°41'06"N., long. 92°09'17"W.; to lat. 37°38'15"N., long. 92°09'17"W.; to lat. 37°37'35"N., long. 92°10'37"W.; to lat. 37°36'15"N., long. 92°10'37"W.; to lat. 37°36'15"N., long. 92°15'21"W.; to lat. 37°39'28"N., long. 92°15'21"W.; to lat. 37°41'07"N., long. 92°14'23"W.; to the point of beginning.
Designated altitudes. From 2,200 feet MSL to but not including FL 180.
Time of designation. As specified by NOTAM issued at least 24 hours in advance.
Controlling agency. Federal Aviation Administration, Kansas City ARTCC.
Using agency. Commanding General, Fort Leonard Wood, Mo.

AMENDMENTS 12/28/78 43 F. R. 51010 (Added)

§ 73.46 Montana

§ 73.47 Nebraska

§ 73.48 Nevada

R-4802 Lone Rock, Nev.
Boundaries. A circular area with a 3-mile radius centered at Lat. 39°52'36" N, Long. 118°20'47" W.
Designated altitudes. Surface to 8,000 feet MSL.
Time of designation. 0600 to 2400 local time, Monday through Saturday.
Using agency. Commander, Light Attack Wing Pacific, NAS Lemoore, Calif.

R-4803 Fallon, Nev.
Boundaries. A 3-nautical mile radius circle centered at Lat. 39°20'40" N, Long. 118°52'15" W; and within 3 nautical miles W and 2 nautical miles E of a line extending 349.5° True from the center to 15 nautical miles NNW.
Designated altitudes. Surface to 8,000 feet MSL N, and surface to 18,000 feet MSL S of a line extending from Lat. 39°27'40" N, Long. 118°57'55" W; to Lat. 39°30'20" N, Long. 118°51'55" W.
Time of designation. 0600 to 2400 local time daily.
Controlling agency. Federal Aviation Administration, Oakland ARTC Center.
Using agency. Commander, Light Attack Wing Pacific, NAS Lemoore, Calif.

R-4804 Twin Peaks, Nev.
Boundaries. A 5-nautical mile radius circle centered at lat. 39°13'00"N., long. 118°12'42"W.; and a 3-nautical mile radius circle centered at lat. 39°14'15"N., long. 118°17'30"W.
Designated altitudes. Surface to but not including FL 180 excluding that portion from 2,000 feet AGL up to but not including 4,000 feet AGL, which lies north of and one NM from U. S. Highway 50, between the intersections of U. S. Highway 50 with longitudes 118°25'30"W. and 118°09'50"W.
Time of designation. 0600 to 2400 local time daily.
Controlling agency. Federal Aviation Administration, Oakland ARTC Center.
Using agency. Commander, Light Attack Wing Pacific, NAS Lemoore, Calif.

R-4806 Las Vegas, Nev.
Boundaries: Beginning at latitude 37°17'00" N., longitude 115°18'00" W.; to latitude 36°26'00" N., longitude 115°18'00" W.; to latitude 36°26'00" N., longitude 115°23'00" W.; to latitude 36°35'00" N., longitude 115°37'00" W.; to latitude 36°35'00" N., longitude 115°53'00" W.; to latitude 36°36'00" N., longitude 115°56'00" W.; to latitude 37°06'00" N., longitude 115°56'00" W.; to latitude 37°06'00" N., longitude 115°35'00" W.; to latitude 37°17'00" N., longitude 115°35'00" W.; to point of beginning.
Designated altitudes: Surface to unlimited, Monday through Saturday; Sunday from 13,000 feet MSL to unlimited.
Time of designation: Continuous.
Controlling agency. Federal Aviation Administration, Los Angeles ARTC Center.
Using agency: Commander, Nellis AFB, Nev.

R-4807 Tonopah, Nev.
Boundaries. Beginning at latitude 36°51'00" N., longitude 116°33'30" W.; to latitude 37°26'30" N., longitude 117°04'30" W.; to latitude 37°53'00" N., longitude 117°01'00" W.; to latitude 37°53'00" N., longitude 116°55'00" W.; to latitude 37°47'00" N., longitude 116°55'00" W.; to latitude 37°33'00" N., longitude 116°43'00" W.; to latitude 37°33'00" N., longitude 116°26'00" W.; to latitude 37°53'00" N., longitude 116°26'00" W.; to latitude 37°53'00" N., longitude 116°11'00" W.; to latitude 37°42'00" N., longitude 116°11'00" W.; to latitude 37°42'00" N., longitude 115°53'00" W.; to latitude 37°33'00" N., longitude 115°53'00" W.; to latitude 37°33'00" N., longitude 115°48'00" W.; to latitude 37°28'00" N., longitude 115°48'00" W.; to latitude 37°28'00" N., longitude 116°00'00" W.; to latitude 37°16'00" N., longitude 116°00'00" W.; to latitude 37°16'00" N., longitude 116°34'00" W.; to the point of beginning.
Designated altitudes. Unlimited Monday through Saturday. Sunday from 13,000 feet MSL to unlimited.
Time of designation. Continuous.
Using agency. Commander, Nellis AFB, Nev.

R-4808N Las Vegas, Nev.
Boundaries. Beginning at latitude 36°41'00" N., longitude 115°56'00" W.; to latitude 36°41'00" N., longitude 116°14'45" W.; to latitude 36°46'00" N., longitude 116°26'30" W.; to latitude 36°51'00" N., longitude 116°26'30" W.; to latitude 36°51'00" N., longitude 116°33'30" W.; to latitude 37°16'00" N., longitude 116°34'00" W.; to latitude 37°16'00" N., longitude 116°00'00" W.; to latitude 37°28'00" N., longitude 116°00'00" W.; to latitude 37°28'00" N., longitude 115°35'00" W.; to latitude 37°06'00" N., longitude 115°35'00" W.; to point of beginning.
Designated altitudes: Unlimited.
Time of designation: Continuous.
Using agency: Manager, United States Energy Research and Development Administration, Las Vegas, Nev.

R-4808S Las Vegas, Nev.
Boundaries. Beginning at latitude 36°46'00" N., longitude 116°26'30" W.; to latitude 36°41'00" N., longitude 116°14'45" W.; to latitude 36°41'00" N., longitude 116°26'30" W.; to point of beginning.
Designated altitudes: Unlimited.
Time of designation: Continuous.
Controlling agency: Federal Aviation Administration, Los Angeles ARTC Center.
Using agency: Manager, United States Energy Research and Development Administration, Las Vegas, Nev.

R-4809 Tonopah, Nev.
Boundaries. Beginning at Lat. 37°53'00" N, Long. 116°26'00" W; to Lat. 37°33'00" N, Long. 116°26'00" W; to Lat. 37°33'00" N, Long. 116°43'00" W; to Lat. 37°47'00" N, Long. 116°55'00" W; to Lat. 37°53'00" N, Long. 116°55'00" W; to the point of beginning.
Designated altitudes. Unlimited.
Time of designation. Continuous.
Using agency. Manager, United States Energy Research and Development Administration, Albuquerque, N. Mex.

R-4810 Desert Mountains, Nev.
Boundaries. A 5-nautical mile radius circle centered at Lat. 39°10'00" N, Long. 118°37'30" W; and a 3-nautical mile radius circle centered at Lat. 39°09'15" N, Long. 118°42'20" W.
Designated altitudes. Surface to and including Flight Level 170.
Time of designation. 0600 to 2400 local time daily.
Controlling agency. Federal Aviation Administration, Oakland ARTC Center.
Using agency. Commander, Light Attack Wing Pacific, NAS Lemoore, Calif.

R-4811 Hawthorne, Nev.
Boundaries. A 1½-nautical-mile radius circle centered at latitude 38°14'45" N., longitude 118°38'15" W.
Designated altitudes. Surface to 15,000 feet MSL.
Time of designation. 0800 to 1500 local time, Monday through Friday.
Using agency. Commanding Officer, Naval Ammunition Depot, Hawthorne, Nev.

R-4812 Sand Springs, Nev.
Boundaries: That area within 5-nautical miles either side of a line extending from latitude 39°10'00" N., longitude 118°37'30" W.; to latitude 39°13'00" N., longitude 118°12'42" W.; and bounded on the east by R-4804 and bounded on the west by R-4810.
Designated altitudes. Surface to but not including Flight Level 180 excluding that portion from 2,000 feet AGL up to but not including 4,000 feet AGL, which lies north of and one NM from U. S. Highway 50, between the intersections of U. S. Highway 50 with longitudes 118°25'30"W. and 118°09'50"W.
Time of designation: 0600 to 2400 local time daily.
Controlling agency: Oakland ARTC Center.
Using agency: Commander, Light Attack Wing Pacific, NAS Lemoore, Calif.

R-4813 Carson Sink, Nev.
Boundaries. Beginning at lat. 39°51'00" N., long. 118°38'00" W.; to lat. 40°01'00" N., long. 118°15'00" W.; to lat. 40°01'00" N., long. 118°01'00" W.; to lat. 39°58'00" N., long. 118°01'00" W.; to lat. 39°38'00" N., long. 118°17'00" W.; thence via the arc of a 15-nautical mile radius circle centered at lat. 39°52'36" N., long. 118°20'27" W.; to lat. 39°45'50" N., long. 118°38'00" W.; thence to point of beginning.
Designated altitudes. Surface to but not including Flight Level 180.
Time of designation. 0600 to 2400 local time daily.
Controlling agency: Oakland ARTC Center.
Using agency: Commander, Light Attack Wing Pacific, NAS Lemoore, Calif.

R-4816N Dixie Valley, Nev.
Boundaries. Beginning at lat. 39°51'00" N., long. 118°00'00" W.; to lat. 39°51'00" N., long. 117°31'00" W.; to lat. 39°34'00" N., long. 117°39'30" W.; to lat. 39°34'00" N., long. 118°12'30" W.; to point of beginning.
Designated altitudes. 1500 feet AGL to but not including Flight Level 180.
Time of designation. 0700 to 2400 local time, Monday through Saturday.
Controlling agency. Federal Aviation Administration, Oakland ARTC Center.
Using agency. Commanding Officer, Naval Air Station, Fallon, Nev.

R-4816S Dixie Valley, Nev.
Boundaries. Beginning at lat. 39°34'00" N., long. 118°12'30" W.; to lat. 39°34'00" N., long. 117°39'30" W.; to lat. 39°18'00" N., long. 117°47'30" W.; to lat. 39°18'00" N., long. 118°13'15" W.; to lat. 39°17'00" N., long. 118°21'00" W.; to lat. 39°30'00" N., long. 118°15'30" W.; to point of beginning.
Designated altitudes. 500 feet AGL to but not including Flight Level 180 excluding that portion from 2,000 feet AGL up to but not including 4,000 feet AGL, which lies north of and one NM from U. S. Highway 50, between the intersections of U. S. Highway 50 with longitudes 118°25'30"W. and 118°09'50"W.
Time of designation. 0700 to 2400 local time, Monday through Saturday.
Controlling agency. Federal Aviation Administration, Oakland ARTC Center.
Using agency. Commanding Officer, Naval Air Station, Fallon, Nev.

§ 73.49 New Hampshire

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§ 73.50 New Jersey

R-5001 Fort Dix, N. J.

Subarea A

Boundaries: Beginning at latitude 40°02'45" N., longitude 74°27'00" W.; to latitude 40°00'00" N., longitude 74°26'20" W.; to latitude 39°59'00" N., longitude 74°25'08" W.; to latitude 39°58'00" N., longitude 74°25'00" W.; to latitude 39°58'45" N., longitude 74°28'00" W.; to latitude 39°58'45" N., longitude 74°31'25" W.; to latitude 39°59'15" N., longitude 74°33'30" W.; to latitude 40°01'53" N., longitude 74°33'30" W.; to latitude 40°02'45" N., longitude 74°32'30" W.; to the point of beginning.

Designated altitudes: Surface to and including 4,000 feet MSL.

Time of designation: Continuous.

Controlling agency. Federal Aviation Administration, New York ARTC Center.

Using agency: Commanding General, Fort Dix, N. J.

Subarea B

Boundaries: Beginning at latitude 40°02'45" N., longitude 74°27'00" W.; to latitude 40°00'00" N., longitude 74°26'20" W.; to latitude 39°59'00" N., longitude 74°25'08" W.; to latitude 39°58'00" N., longitude 74°25'00" W.; to latitude 39°58'45" N., longitude 74°28'00" W.; to latitude 39°58'45" N., longitude 74°31'25" W.; to latitude 40°01'53" N., longitude 74°33'30" W.; to latitude 40°02'45" N., longitude 74°32'30" W.; to the point of beginning.

Designated altitudes: From 4,000 feet MSL to and including 8,000 feet MSL.

Time of designation: Continuous, sunrise Friday to sunset Sunday, other times by NOTAM, 48 hours in advance.

Controlling agency. Federal Aviation Administration, New York ARTC Center.

Using agency: Commanding General, Fort Dix, N. J.

R-5002 Warren Grove, N. J.

Boundaries: Beginning at latitude 39°45'50" N., longitude 74°20'00" W.; to latitude 39°43'25" N., longitude 74°17'37" W.; to latitude 39°38'25" N., longitude 74°24'20" W.; to latitude 39°38'25" N., longitude 74°29'00" W.; to latitude 39°39'35" N., longitude 74°29'00" W.; to latitude 39°44'50" N., longitude 74°24'40" W.; to latitude 39°45'20" N., longitude 74°23'45" W.; to point of beginning.

Designated altitudes. Surface to 14,000 feet MSL, except surface to 4,000 feet MSL for the portion N of Lat. 39°45'00" N; surface to 9,000 feet MSL SE of a line between Lat. 39°43'45" N, Long. 74°17'57" W, and Lat. 39°38'25" N, Long. 74°24'56" W.

Time of designation. Sunrise to sunset, Tuesday through Saturday; other days by NOTAM 48 hours in advance.

Controlling agency. Federal Aviation Administration, New York ARTC Center.

Using agency. Commander, 108th Tactical Fighter Wing, New Jersey Air National Guard, McGuire AFB, N. J.

§ 73.51 New Mexico

R-5101 Los Alamos, N. Mex.

Boundaries: Beginning at lat. 35°47'00"N., long. 106°14'48"W.; to lat. 35°50'03"N., long. 106°21'36"W.; to lat. 35°52'22"N., long. 106°20'42"W.; to lat. 35°52'52"N., long. 160°16'48"W.; to lat. 35°52'30"N., long. 106°14'48"W.; to the point of beginning.

Designated altitudes: Surface to 12,000 feet MSL.

Time of designation: Continuous.

Using agency: Manager, Energy Research and Development Administration, Los Alamos, N. Mex.

R-5103 McGregor, N. Mex.

Boundaries. Beginning at latitude 32°45'00" N., longitude 105°59'00" W.; to latitude 32°45'00" N., longitude 105°52'20" W.; to latitude 32°33'20" N., longitude 105°30'00" W.; to latitude 32°26'20" N., longitude 105°30'00" W.; to latitude 32°00'15" N., longitude 105°56'40" W.; to latitude 32°00'30" N., longitude 106°10'25" W.; to latitude 32°05'20" N., longitude 106°09'20" W.; to latitude 32°06'00" N., longitude 106°15'30" W.; along the Southern Pacific Railroad to latitude 32°28'00" N., longitude 106°02'00" W.; to latitude 32°27'40" N., longitude 106°00'00" W.; to latitude 32°36'00" N., longitude 106°00'00" W.; to the point of beginning, excluding that airspace within a two nautical mile radius of latitude 32°39'02" N., longitude 105°40'34" W.; from the surface to 1,500 feet above the surface; and also excluding that airspace beginning at lat. 32°42'49" N., long. 105°48'10" W.; to lat. 32°40'47" N., long. 105°49'38" W.; to lat. 32°39'42" N., long. 105°47'42" W.; to lat. 32°41'58" N., long. 105°46'12" W.; to the point of beginning from the surface to 1500 feet above the surface.

Designated altitude. Surface to unlimited.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Albuquerque ARTC Center.

Using agency. Commanding General, Fort Bliss, Texas.

R-5104A Melrose, N. Mex.

Boundaries: Beginning at lat. 34°28'00" N., long. 103°43'15" W., to lat. 34°25'25" N., long. 103°40'00" W., to lat 34°14'30" N., long. 103°40'00" W., to lat. 34°10'00" N., long. 103°46'00" W., to lat. 34°10'00" N., long. 103°55'00" W., to lat. 34°28'00" N., long. 103°55'00" W., to point of beginning.

Designated altitudes: Surface to 18,000 feet MSL.

Time of designation: Continuous.

Controlling agency: Federal Aviation Administration, Albuquerque, N. Mex., ARTC Center.

Using agency: Commander, Cannon AFB, N. Mex.

R-5104B Melrose, N. Mex.

Boundaries: Beginning at lat. 34°28'00" N., long. 103°43'15" W., to lat. 34°25'25" N., long. 103°40'00" W., to lat. 34°14'30" N., long. 103°40'00" W., to lat. 34°10'00" N., long. 103°46'00" W., to lat. 34°10'00" N., long. 103°55'00" W., to lat. 34°28'00" N., long. 103°55'00" W., to point of beginning.

Designated altitudes: 18,000 feet MSL to 23,000 feet MSL.

Time of designation: Continuous.

Controlling agency: Federal Aviation Administration, Albuquerque, N. Mex., ARTC Center.

Using agency: Commander, Cannon AFB, N. Mex.

R-5105 Melrose, N. Mex.

Boundaries. Beginning at lat. 34°39'00"N., long. 103°55'00"W.; to lat. 34°39'00"N., long. 103°40'00"W.; to lat. 34°25'25"N., long. 103°40'00"W.; to lat. 34°28'00"N., long. 103°43'15"W.; to lat. 34°28'00"N., long. 103°55'00"W.; to the point of beginning.

Designated altitudes. Surface to 10,000 feet MSL.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Albuquerque ARTCC.

Using agency. Commander, Cannon AFB, N. Mex.

AMENDMENTS 9/7/78 43 F. R. 31128 (Changed)

R-5107A White Sands Missile Range, N. Mex.

Boundaries. Beginning at latitude 32°23'18" N., longitude 106°07'03" W.; to latitude 32°05'00" N., longitude 106°18'20" W.; to latitude 32°05'00" N., longitude 106°29'00" W.; to latitude 32°06'20" N., longitude 106°34'00" W.; to latitude 32°18'00" N., longitude 106°34'00" W.; to latitude 32°18'00" N., longitude 106°39'00" W.; to latitude 32°19'30" N., longitude 106°39'30" W.; to latitude 32°19'30" N., longitude 106°20'36" W.; to latitude 32°24'48" N., longitude 106°09'00" W.; to the point of beginning.

Designated altitude. Surface to unlimited.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Albuquerque ARTC Center.

Using agency. Commanding General, Fort Bliss, Texas.

R-5107B White Sands Missile Range, N. Mex.

Boundaries: Beginning at latitude 33°44'45" N., longitude 106°04'00" W.; to latitude 32°50'00" N., longitude 106°04'00" W.; to latitude 32°36'00" N., longitude 106°06'00" W.; to latitude 32°25'00" N., longitude 106°06'00" W.; to latitude 32°23'18" N., longitude 106°07'03" W.; to latitude 32°24'48" N., longitude 106°09'00" W.; to latitude 32°19'30" N., longitude 106°20'36" W.; to latitude 32°19'30" N., longitude 106°39'30" W.; to latitude 33°13'00" N., longitude 106°52'00" W.; to latitude 33°49'45" N., longitude 106°45'20" W.; to latitude 33°49'30" N., longitude 106°16'30" W.; thence along the south side of U. S. Highway 380 to the point of beginning; excluding the airspace in R-5107D, R-5107F, and R-5107G; and that airspace from the surface to and including 1,500 feet above the surface within a 2-nautical mile radius of latitude 32°26'35" N., longitude 106°40'45" W., latitude 32°30'00" N., longitude 106°41'10" W., and latitude 32°23'49" N., longitude 106°41'27" W.

Designated altitudes. Surface to unlimited.

Time of designation. Continuous.

Using agency. Deputy for Air Force, White Sands Missile Range, N. Mex. 88002.

R-5107C White Sands Missile Range, N. Mex.

Boundaries: Beginning at latitude 34°17'00" N., longitude 106°04'00" W.; to latitude 33°44'45" N., longitude 106°04'00" W.; thence along the south side of U. S. Highway 380 to latitude 33°49'30" N., longitude 106°16'30" W.; to latitude 33°49'45" N., longitude 106°45'20" W.; to latitude 34°15'45" N., longitude 106°40'30" W.; to latitude 34°17'00" N., longitude 106°12'00" W.; to the point of beginning.

Designated altitudes. Surface to unlimited.

Time of designation. Continuous Monday through Friday. Other times as activated by NOTAM issued at least 12 hours in advance.

Controlling agency. Federal Aviation Administration, Albuquerque ARTC Center.

Using agency. Deputy for Air Force, White Sands Missile Range, N. Mex. 88002.

R-5107D White Sands Missile Range, N. Mex.

Boundaries: Beginning at lat. 33°34'00" N., long. 106°04'00" W.; to lat. 33°04'00" N., long. 106°21'00" W.; to lat. 32°34'00" N., long. 106°15'00" W.; to lat. 32°34'00" N., long. 106°06'00" W.; to lat. 32°36'00" N., long. 106°06'00" W.; to lat. 32°50'00" N., long. 106°04'00" W.; to point of beginning.

Designated altitudes: Surface to 22,000 feet MSL.

Time of designation: Continuous.

Controlling agency: Federal Aviation Administration, Albuquerque, ARTC Center.

Using agency: Deputy for Air Force, White Sands Missile Range, N. Mex. 88002

R-5107E White Sands Missile Range, N. Mex.

Boundaries. From the point where an arc of 19 nautical miles radius centered at latitude 33°45'00" N., longitude 106°26'30" W., intersects the western boundary of R-5107C, to latitude 33°54'00" N., longitude 106°46'30" W.; to latitude 33°32'45" N., longitude 106°58'45" W.; to latitude 33°26'50" N., longitude 107°00'00" W.; to latitude 33°35'00" N., longitude 106°48'00" W.; to the point of beginning.

Designated altitudes. Surface to unlimited.

Time of use. As published in NOTAMs at least 12 hours in advance.

Controlling agency. FAA, Albuquerque ARTC Center.

Using agency. Deputy for Air Force, White Sands Missile Range, N. Mex. 88002.

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R-5107F White Sands Missile Range, N. Mex.
Boundaries: Beginning at lat. 33°10'10" N., long. 107°10'55" W.; to lat. 33°20'30" N., long. 107°08'20" W.; to lat. 33°16'10" N., long. 106°51'40" W.; to lat. 33°05'30" N., long. 106°04'00" W.; to lat. 33°00'00" N., long. 105°27'00" W.; to lat. 32°45'00" N., long. 105°27'00" W.; to lat. 32°45'00" N., long. 105°49'00" W.; to lat. 32°50'30" N., long. 106°04'00" W.; to lat. 33°05'00" N., long. 106°50'20" W.; to point of beginning.
Designated altitude: From FL 240 to FL 450.
Time of designation: Continuous.
Controlling agency: Federal Aviation Administration, Albuquerque ARTC Center.
Using agency: Deputy for Air Force, White Sands Missile Range, N. Mex. 88002.

R-5107G White Sands Missile Range, N. Mex.
Boundaries: Beginning at lat. 33°11'40" N., long. 107°10'25" W.; to lat. 33°21'00" N., long. 107°08'00" W.; to lat. 33°22'55" N., long. 107°05'50" W.; to lat. 33°25'20" N., long. 105°27'00" W.; to lat. 33°14'00" N., long. 105°27'00" W.; to point of beginning.
Designated altitude: From FL 240 to FL 450.
Time of designation: Continuous.
Controlling agency: Federal Aviation Administration, Albuquerque, ARTC Center.
Using agency: Deputy for Air Force, White Sands Missile Range, N. Mex. 88002.

R-5109A White Sands Missile Range, N. Mex.
Boundaries. Beginning at latitude 33°31'30" N., longitude 105°27'00" W.; to latitude 32°45'00" N., longitude 105°27'00" W.; to latitude 32°45'00" N., longitude 105°59'00" W.; to latitude 32°36'00" N., longitude 106°00'00" W.; to latitude 32°36'00" N., longitude 106°06'00" W.; to latitude 32°50'00" N., longitude 106°04'00" W.; to latitude 33°44'10" N., longitude 106°04'00" W.; to the point of beginning, excluding the airspace in Restricted Areas R-5107F and R-5107G.
Designated altitudes. From 24,000 feet MSL to unlimited.
Time of designation. Continuous Monday through Friday. Other times as activated by NOTAM issued at least 12 hours in advance.
Controlling agency. Federal Aviation Administration, Albuquerque ARTC Center.
Using agency. Deputy for Air Force, White Sands Missile Range, N. Mex. 88002.

R-5109B White Sands Missile Range, N. Mex.
Boundaries. Beginning at latitude 34°17'00" N., longitude 106°04'00" W.; to latitude 34°17'00" N., longitude 105°51'00" W.; to latitude 33°57'00" N., longitude 105°27'00" W.; to latitude 33°31'30" N., longitude 105°27'00" W.; to latitude 33°44'10" N., longitude 106°04'00" W.; to the point of beginning.
Designated altitudes. From 24,000 feet MSL to unlimited.
Time of designation. Continuous Monday through Friday. Other times as activated by NOTAM issued at least 12 hours in advance.
Controlling agency. Federal Aviation Administration, Albuquerque ARTC Center.
Using agency. Deputy for Air Force, White Sands Missile Range, N. Mex. 88002.

R-5111A Elephant Butte, N. Mex. (East).
Boundaries. Beginning at latitude 33°00'00" N., longitude 106°49'00" W.; to latitude 33°00'00" N., longitude 107°00'00" W.; to latitude 33°26'50" N., longitude 107°00'00" W.; to latitude 33°35'00" N., longitude 106°48'00" W.; to latitude 33°13'00" N., longitude 106°52'00" W.; to the point of beginning, excluding the airspace in Restricted Areas R-5107F and R-5107G.
Designated altitudes. Surface to unlimited.
Time of designation. As published by NOTAM at least 12 hours in advance.
Controlling agency. Federal Aviation Administration, Albuquerque ARTC Center.
Using agency. Deputy for Air Force, White Sands Missile Range, N. Mex. 88002.

R-5111B Elephant Butte, N. Mex. (West).
Boundaries. Beginning at latitude 33°00'00" N., longitude 106°49'00" W.; to latitude 32°43'00" N., longitude 106°45'00" W.; to latitude 32°47'00" N., longitude 107°06'00" W.; to latitude 33°00'00" N., longitude 107°13'00" W.; to latitude 33°21'00" N., longitude 107°08'00" W.; to latitude 33°26'50" N., longitude 107°03'00" W.; to latitude 33°00'00" N., longitude 107°00'00" W.; to the point of beginning, excluding the airspace in Restricted Areas R-5107F and R-5107G.
Designated altitudes. Surface to unlimited.
Time of designation. As published by NOTAM at least 12 hours in advance.
Controlling agency. Federal Aviation Administration, Albuquerque ARTC Center.
Using agency. Deputy for Air Force, White Sands Missile Range, N. Mex. 88002.

R-5113 Socorro, N. Mex.
Boundaries. Beginning at latitude 34°00'00" N., longitude 107°07'30" W.; thence to latitude 33°55'30" N., longitude 107°07'30" W.; to latitude 33°55'30" N., longitude 107°12'30" W.; to latitude 34°00'00" N., longitude 107°12'30" W.; to point of beginning.
Designated altitudes. Surface to 45,000 feet MSL.
Time of designation. From 0900 to 1900 local time, daily June 1 through September 30, annually.
Controlling agency. Federal Aviation Administration, Albuquerque ARTC Center.
Using agency. U. S. Navy, Office of Naval Research, Atmospheric Sciences.

§ 73.52 New York

R-5201 Fort Drum, N. Y.
Boundaries. Beginning at lat. 44°15'00" N., long. 75°31'30" W.; to lat. 44°11'15" N., long. 75°25'00" W.; to lat. 44°03'00" N., long. 75°33'30" W.; to lat. 44°00'45" N., long. 75°37'25" W.; to lat. 44°03'25" N., long. 75°39'30" W.; to lat. 44°05'47" N., long. 75°44'30" W.; to lat. 44°10'00" N., long. 75°39'30" W.; to point of beginning.
Designated altitudes. Surface to 23,000 feet MSL, April 1 through September 30; surface to 20,000 feet MSL, October 1 through March 31.
Time of designation. Continuous April 1 through September 30 and 0600 through 1800 hours local time. October 1 through March 31; other times by NOTAM 48 hours in advance.
Controlling agency. Federal Aviation Administration, Watertown, N. Y. Flight Service Station.
Using agency. Commanding Officer, Fort Drum, N. Y.

R-5202 Gardiner's Island, N. Y.
Boundaries. A circular area with a 3-nautical mile radius centered at Lat. 41°08'30" N, Long. 72° 08'50" W.
Designated altitudes: Surface to 10,000 feet MSL, inclusive.
Time of designation: 0900 to 1800 local time, April 15 through October 14; 0900 to 1600 local time, October 15 through April 14.
Controlling agency: FAA, Quonset RATCF.
Using agency: Naval Plant Representative Office, Grumman Aerospace Corporation, Bethpage, N. Y.

R-5203 Oswego, N. Y.
Boundaries. Beginning at Lat. 43°37'00" N, Long. 76°45'00" W; to Lat. 43°24'00" N, Long. 76°45' 00" W; to Lat. 43°24'00" N, Long. 78°00'00" W; to Lat. 43°37'00" N, Long. 78°00'00" W; to the point of beginning.
Designated altitudes. Surface to Flight Level 500.
Time of Designation. Continuous
Controlling agency. Federal Aviation Administration, Cleveland ARTC Center.
Using agency. 21st Air Division, Hancock Field, Syracuse, N. Y.

R-5206 West Point, N. Y.
Boundaries: Beginning at lat. 41°23'08" N., long. 74°00'00" W.; to lat. 41°23'08" N., long. 73°59'42" W.; thence along south side of U. S. Highway 9W to lat. 41°22'32" N., long. 73°58'58" W.; to lat. 41°22'18" N., long. 73°58'58" W.; to lat. 41°20'04" N., long. 74°00'42" W.; thence along north side of Mine Torne Road to lat. 41°21'24" N., long. 74°02'38" W.; thence along east side of New York State Highway 293 to point of beginning.
Designated altitudes: Surface to and including 5,000 feet MSL.
Time of designation: 0600 to 2400 local, July 1 to August 31, other dates and times by NOTAM 48 hours in advance.
Controlling agency: Federal Aviation Administration, New York ARTC Center.
Using agency: Superintendent, U. S. Military Academy, West Point, N. Y.

R-5207 Romulus, N. Y.
Boundaries. A circular area with a radius of 1,350 feet centered at latitude 42°46'59" N., longitude 76°53'06" W.
Designated altitudes. Surface to 2,000 feet MSL.
Time of designation. 0730 to 1600 local time, Monday through Friday.
Using agency. Commanding Officer, Seneca Army Depot, Romulus, N. Y.

§ 73.53 North Carolina

R-5301A Albemarle Sound, N. C.
Boundaries. A circular area with a 3-mile radius centered at latitude 36° 03' 30" N., longitude 76° 20' 00" W., excluding the airspace within R-5301B.
Designated altitudes. Surface to 5,000 feet MSL.
Time of designation. Sunrise to sunset.
Using agency. Fleet Area Control and Surveillance Facility (FACSFAC VACAPES), NAS Oceana, Virginia Beach, Va.
Controlling agency. Federal Aviation Administration, Washington ARTC Center.

AMENDMENTS 7/13/78 43 F. R. 21450 (Changed)

R-5301B Albemarle Sound, N. C.
Boundaries. A circular area within a 1½-nmi radius centered at latitude 36° 05' 25" N., longitude 76° 18' 30" W.
Designated altitudes. Surface to 5,000 feet MSL.
Time of designation. Continuous.
Using agency. Fleet Area Control and Surveillance Facility (FACSFAC VACAPES), NAS Oceana, Virginia Beach, Va.
Controlling agency. Federal Aviation Administration, Washington ARTC Center.

AMENDMENTS 7/13/78 43 F. R. 21450 (Changed)

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R-5301C Albemarle Sound, N. C.
Boundaries. A circular area within a 1½ nautical mile radius centered at Lat. 36°05'25" N., Long. 76° 18' 30" W.
Designated altitudes. From 5,000 feet MSL to and including 14,000 feet MSL.
Time of designation. As activated by NOTAM at least 24 hours in advance.
Using agency. Fleet Area Control and Surveillance Facility (FACSFAC VACAPES), NAS Oceana, Virginia Beach, Va.
Controlling agency. Federal Aviation Administration, Washington ARTC Center.

AMENDMENTS 7/13/78 43 F. R. 21450 (Changed)

R-5302 Harvey Point, N. C.
Boundaries. Beginning at lat. 36°06'30"N., long. 76°20'00"W.; to lat. 36°05'25"N., long. 76°17'00"W.; to lat. 36°03'30"N., long. 76°05'30"W.; to lat. 36°00'00"N., long. 76°05'30"W.; to lat. 36°00'00"N., long. 76°15'00"W.; to lat. 36°00'30"N., long. 76°20'00"W.; thence clockwise via a 3 NM arc centered at lat. 36° 03'30"N., long. 76°20'00"W.; to the point of beginning, excluding the airspace within R-5301A, B, or C, when either or all of these areas are activated.
Designated altitudes. Surface to 14,000 feet MSL.
Time of designation. 1300Z to 0400Z.
Controlling agency. Federal Aviation Administration, Washington ARTC Center, Leesburg, Va.
Using agency. Fleet Area Control and Surveillance Facility (FACSFAC), NAS Oceana, Va.

AMENDMENTS 9/7/78 43 F. R. 30536 (Rewritten) Corr: 43 F. R. 38378

R-5306A Cherry Point, N. C.
Boundaries. Beginning at latitude 35°23'15" N., longitude 76°34'40" W.; to latitude 35°18'15" N., longitude 76°16'40" W.; to latitude 35°04'30" N., longitude 76°04'30" W.; to latitude 34°46'45" N., longitude 76°24'45" W.; to latitude 34°46'00" N., longitude 76°30'00" W.; to latitude 35°08'00" N , longitude 76°51'20" W.; thence to point of beginning.
Designated altitudes. Surface to, but not including FL 180.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Washington ARTC Center.
Using agency. Commanding General, U. S. Marine Corps Air Station, Cherry Point, N. C.

R-5306C Cherry Point, N. C.
Boundaries. Beginning at latitude 34°51'00" N., longitude 77°05'30" W.; to latitude 34°42'00" N., longitude 76°54'45" W.; to latitude 34°41'50" N., longitude 76°56'20" W.; to latitude 34°37'30" N., longitude 76°56'20" W.; thence southwest along a line 3-nautical miles from and parallel to the shoreline to latitude 34°34'30" N., longitude 77°09'00" W.; to latitude 34°44'50" N., longitude 77°14'40" W.; to latitude 34°49'30" N., longitude 77°10'00" W.; thence to point of beginning.
Designated altitudes. From 1200 feet MSL to, but not including FL 180.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Washington ARTC Center.
Using agency. Commanding General, U. S. Marine Corps Air Station, Cherry Point, N. C.

AMENDMENTS 1/26/78 42 F. R. 61038 (Changed)

R-5306D Cherry Point, N. C.
Boundaries. Beginning at latitude 34°44'50" N., longitude 77°14'40" W.; to latitude 34°34'30" N., longitude 77°09'00" W.; thence southwest along a line 3-nautical miles from and parallel to the shoreline to latitude 34°30'20" N., longitude 77°15'50" W.; to latitude 34°33'00" N., longitude 77°19'00" W.; to latitude 34°36'05" N., longitude 77°26'08" W.; to latitude 34°40'00" N., longitude 77°22'00" W.; to latitude 34°39'10" N., longitude 77°20'50" W.; thence to point of beginning.
Designated altitudes. Surface to, but not including FL 180.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Washington ARTC Center.
Using agency. Commanding General, U. S. Marine Corps Air Station, Cherry Point, N. C.

R-5306E Cherry Point, N. C.
Boundaries. Beginning at latitude 34°40'20" N., longitude 77°22'12" W.; to latitude 34°40'00" N., longitude 77°22'00" W.; to latitude 34°36'05" N., longitude 77°26'08" W.; to latitude 34°38'12" N., longitude 77°26'00" W.; thence to point of beginning.
Designated altitudes. Surface to, but not including FL 180.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Washington ARTC Center.
Using agency. Commanding General, U. S. Marine Corps Air Station, Cherry Point, N. C.

R-5311A Fort Bragg, N. C.
Boundaries. Beginning at latitude 35°10'46" N., longitude 79°01'56" W.; to latitude 35°08'47" N., longitude 79°02'00" W.; to latitude 35°07'00" N., longitude 79°02'30" W.; to latitude 35°05'35" N., longitude 79° 01°50" W.; to latitude 35°02'55" N., longitude 79°05'40" W.; to latitude 35°02'45" N., longitude 79°20'10" W.; to latitude 35°07'05" N., longitude 79°22'50" W.; to latitude 35°09'40" N., longitude 79°20'10" W.; thence along Little River to point of beginning.
Designated altitudes. Surface to but not including 7,000 feet MSL.
Time of designation. Continuous.
Using agency. Commanding General, Fort Bragg, N. C.
Controlling agency. Federal Aviation Administration, Washington ARTCC.

AMENDMENTS 9/7/78 43 F. R. 30043 (Changed)

R-5311B Fort Bragg, N. C.
Boundaries: Beginning at latitude 35°10'46" N., longitude 79°01'56" W.; to latitude 35°08'47" N., longitude 79°02'00" W.; to latitude 35°07'00" N., longitude 79°02'30" W.; to latitude 35°05'35" N., longitude 79°01'50" W.; to latitude 35°02'55" N., longitude 79°05'40" W.; to latitude 35°02'45" N., longitude 79°20'10" W.; to latitude 35°07'05" N., longitude 79°22'50" W.; to latitude 35°09'40" N., longitude 79°20'10" W.; thence along Little River to point of beginning.
Designated altitudes. From 7,000 feet MSL to but not including 12,000 feet MSL.
Time of designation: Continuous.
Controlling agency: Federal Aviation Administration, ARTC Center, Washington.
Using agency: Commanding General, Fort Bragg, N. C.

AMENDMENTS 9/7/78 43 F. R. 30043 (Changed)

R-5311C Fort Bragg, N. C.
Boundaries. Beginning at lat. 35°10'45"N., long. 79°01'56"W.; to lat. 35°08'47"N., long. 79°02'00"W.; to lat. 35°07'00"N., long. 79°02'30"W.; to lat. 35°05'35"N., long. 79°01'50"W.; to lat. 35°02'55"N., long. 79°05'40"W.; to lat. 35°02'45"N., long. 79°20'10"W.; to lat. 35°07'05"N., long. 79°22'50"W.; to lat. 35° 09'40"N., long. 79°20'10"W.; thence along Little River to the point of beginning.
Designated altitudes. From 12,000 feet MSL but not including FL 290.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Washington ARTCC.
Using agency. Commanding General, Fort Bragg, N. C.

AMENDMENTS 9/7/78 43 F. R. 30043 (Added)

R-5313 Long Shoal Point, N. C.
Boundaries. A circular area with a 3-mile radius centered at Lat. 35°32'48" N, Long. 75°41'26" W.
Designated altitudes. Surface to 18,000 feet MSL.
Time of designation. Continuous.
Using agency. Fleet Area Control and Surveillance Facility (FACSFAC VACAPES), NAS Oceana, Virginia Beach, Va.
Controlling agency. Federal Aviation Administration, Washington ARTC Center.

AMENDMENTS 7/13/78 43 F. R. 21450 (Changed)

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R-5314 Dare County, N. C.

Subarea A

Boundaries. Beginning at latitude 35°45'40" N., longitude 75°49'20" W.; to latitude 35°40'10" N., longitude 75°50'15" W.; to latitude 35°41'30" N., longitude 76°00'20" W.; to latitude 35°47'00" N., longitude 75°59'00" W; to the point of beginning.

Designated altitudes. Surface to flight level 205.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Washington ARTC Center.

Using agency. Commander, 4th Tactical Fighter Wing, Seymour Johnson AFB, N. C.

Subarea B

Boundaries. Beginning at latitude 35°39'30" N., longitude 75°45'45" W.; to latitude 35°34'40" N., longitude 75°46'50" W.; to latitude 35°36'45" N., longitude 76°01'20" W.; to latitude 35°41'30" N., longitude 76°00'20" W.; to the point of beginning.

Designated altitudes. 500 feet above the surface to flight level 205.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Washington ARTC Center.

Using agency. Commander, 4th Tactical Fighter Wing, Seymour Johnson AFB, N. C.

Subarea C.

Boundaries. Beginning at latitude 35°48'30" N., longitude 75°43'40" W.; to latitude 35°45'00" N., longitude 75°44'35" W.; to latitude 35°47'00" N., longitude 75°59'00" W.; to latitude 35°51'35" N., longitude 75°57'55" W.; to latitude 35°49'30" N., longitude 75°45'00" W.; to the point of beginning.

Designated altitudes. 500 feet above the surface to flight level 205.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Washington ARTC Center

Using agency. Commander, 4th Tactical Fighter Wing, Seymour Johnson AFB, N. C.

Subarea D.

Boundaries. Beginning at latitude 35°40'30" N., longitude 75°52'15" W.; to latitude 35°38'40" N., longitude 75°52'35" W.; to latitude 35°39'00" N., longitude 75°54'35" W.; to latitude 35°40'40" N., longitude 75°54'10" W.; to the point of beginning.

Designated altitudes. Surface to flight level 205.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Washington ARTC Center.

Using agency. Commander, 4th Tactical Fighter Wing, Seymour Johnson AFB, N. C.

Subarea E.

Boundaries. Beginning at latitude 35°47'50" N., longitude 75°48'50" W.; to latitude 35°45'40" N., longitude 75°49'20" W.; to latitude 35°46'10" N., longitude 75°52'35" W.; to latitude 35°48'00" N., longitude 75°52'00" W.; to the point of beginning.

Designated altitudes. Surface to flight level 205.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Washington ARTC Center.

Using agency. Commander, 4th Tactical Fighter Wing, Seymour Johnson AFB, N. C.

Subarea F.

Boundaries. Beginning at latitude 35°45'00" N., longitude 75°44'35" W.; to latitude 35°39'30" N., longitude 75°45'45" W.; to latitude 35°40'10" N., longitude 75°50'15" W.; to latitude 35°45'40" N., longitude 75°49'20" W.; to the point of beginning.

Designated altitudes. 500 feet above the surface to flight level 205.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Washington ARTC Center.

Using agency. Commander, 4th Tactical Fighter Wing, Seymour Johnson AFB, N. C.

Subarea G

Boundaries. Beginning at latitude 35°49'40" N., longitude 75°58'20" W.; to latitude 35°38'55" N., longitude 76°01'00" W.; to latitude 35°39'20" N., longitude 76°05'00" W.; to latitude 35°50'20" N., longitude 76°02'30" W.; to the point of beginning.

Designated altitudes. 200 feet above the surface to 15,000 feet MSL.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Washington ARTC Center.

Using agency. Commander, 4th Tactical Fighter Wing, Seymour Johnson AFB, N. C.

Subarea H

Boundaries. Beginning at latitude 35°50'20" N., longitude 76°02'30" W.; to latitude 35°39'20" N., longitude 76°05'00" W.; to latitude 35°40'25" N., longitude 76°12'25" W.; to latitude 35°51'25" N., longitude 76°10'05" W.; to the point of beginning.

Designated altitudes. 500 feet above the surface to 10,000 feet MSL.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Washington ARTC Center.

Using agency. Commander, 4th Tactical Fighter Wing, Seymour Johnson AFB, N. C.

Subarea J.

Boundaries. Beginning at latitude 35°51'25" N., longitude 76°10'05" W.; to latitude 35°40'25" N., longitude 76°12'25" W.; to latitude 35°43'50" N., longitude 76°35'30" W.; to latitude 35°54'50" N., longitude 76°33'10" W.; to the point of beginning.

Designated altitudes. 1,000 feet above the surface to 6,000 feet MSL.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Washington ARTC Center.

Using agency. Commander, 4th Tactical Fighter Wing, Seymour Johnson AFB, N. C.

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§ 73.54 North Dakota

§ 73.55 Ohio

R-5502 Lacarne, Ohio

Boundaries: Beginning at latitude 41°41'15" N., longitude 83°07'45" W.; to latitude 41°41'17" N., longitude 83°00'00" W.; to latitude 41°35'30" N., longitude 82°54'48" W.; to latitude 41°32'19" N., long. 83°00'05" W., to latitude 41°32'16" N., longitude 83°01'24" W., to latitude 41°36'54" N.; longitude 83°07'45" W.; to the point of beginning.

Designated altitudes: April 1 to May 31 surface to and including 5,000 feet MSL; June 1 to July 31 surface to and including 23,000 feet MSL; and August 1 to November 30 surface to and including 5,000 feet MSL.

Time of designation: 0800 to 1600 local time Saturday and Sunday April 1 through May 31; 0800 to 1600 local time daily June 1 through July 31; 0800 to 1600 local time Saturday and Sunday August 1 through November 30; other dates, time and altitudes (not to exceed 23,000 feet MSL) by NOTAM, published at least 48 hours in advance.

Controlling agency: Federal Aviation Administration, Cleveland ARTC Center.

Using agency: The Adjutant General State of Ohio.

R-5503 Wilmington, Ohio

Boundaries. Beginning at lat. 39°30'00" N., long. 83°02'00" W.; to lat. 38°48'30" N., long. 83°02'00" W.; to lat. 38°58'30" N., long. 84°05'00" W.; to lat. 39°15'45" N., long. 84°05'00" W.; to lat. 39°17'50" N., long. 84°02'30" W.; to lat. 39°26'05" N., long. 83°48'10" W.; to lat. 39°30'00" N., long. 83°38'35" W.; to point of beginning.

Designated altitudes. 4,000 feet MSL to flight level 600.

Time of designation. 0800 to 2200 hours, local time, Monday through Saturday.

Controlling agency. Federal Aviation Administration, Indianapolis ARTC Center.

Using agency. Aeronautical Systems Division, Wright-Patterson AFB, Ohio.

§ 73.56 Oklahoma

R-5601A Fort Sill, Okla.

Boundaries. Beginning at latitude 34°38'15" N., longitude 98°17'00" W.; to latitude 34°38'15 N., longitude 98°20'55" W.; thence counterclockwise along the arc of a 3-mile radius circle centered at latitude 34°38'18" N., longitude 98°24'06" W.; to latitude 34°40'12" N., longitude 98° 26'17" W.; to latitude 34°39'33" N., longitude 98°26'17" W.; thence counterclockwise along the arc of a 2.5-mile radius circle centered at latitude 34°38'18" N., longitude 98°24'06" W.; to latitude 34°38'15" N., longitude 98°26'46" W.; to latitude 34°38'15" N., longitude 98°45'20" W.; to latitude 34°41'58" N., longitude 98°45'20" W.; to latitude 34°41'58" N., longitude 98°39'43" W.; to latitude 34°43'30" N., longitude 98°35'39" W.; to latitude 34°43'30" N., longitude 98°21'20" W.; to latitude 34°43'45" N., longitude 98°21'00" W.; to latitude 34°46'06" N., longitude 98°21'00" W.; to latitude 34°46'06" N., longitude 98°17'00" W.; to point of beginning.

Designated altitude. Surface to 23,000 feet MSL.

Time of designation. Continuous.

Using agency. Commanding General, Fort Sill, Oklahoma.

R-5601B Fort Sill, Okla.

Boundaries Beginning at latitude 34°38'15" N., longitude 98°26'46" W.; thence clockwise along the arc of a 2.5-mile radius circle centered at latitude 34°38'18" N., longitude 98°24'06" W.; to latitude 34°39'33" N., longitude 98°26'17" W.; to latitude 34°40'12" N., longitude 98°26'17" W.; thence clockwise along the arc of a 3-mile radius circle centered at latitude 34°38'18" N., longitude 98°24'06" W.; to latitude 34°38'15" N., longitude 98°20'55" W.; thence to point of beginning.

Designated altitude. Surface to 23,000 feet MSL.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Fort Worth ARTC Center.

Using agency. Commanding General, Fort Sill, Okla.

R-5601C, Fort Sill, Okla.

Boundaries. Beginning at latitude 34°38'15" N., longitude 98°17'00" W.; to latitude 34°38'15" N., longitude 98°45'20" W.; to latitude 34°41'58" N., longitude 98°45'20" W.; to latitude 34°41'58" N., longitude 98°39'43" W.; to latitude 34°43'30" N., longitude 98°35'39" W.; to latitude 34°43'30" N., longitude 98°21'20" W.; to latitude 34°43'45" N., longitude 98°21'00" W.; to latitude 34°46'06" N., longitude 98°21'00" W.; to latitude 34°46'06" N., longitude 98°17'00" W.; to point of beginning.

Designated altitude. 23,000 feet MSL to 65,000 feet MSL.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Fort Worth ARTC Center.

Using Agency. Commanding General, Fort Sill, Okla.

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R-5601D Fort Sill, Okla.
Boundaries. Beginning at latitude 34°38'15" N., longitude 98°38'00" W.; to latitude 34°38'15" N., longitude 98°48'00" W.; to latitude 34°42'15" N., longitude 98°50'00" W.; to latitude 34°45'00" N., longitude 98°40'30" W.; to latitude 34°43'30" N., longitude 98°35'39" W.; to latitude 34°41'58" N., longitude 98°39'43" W.; to latitude 34°41'58" N., longitude 98°45'20" W.; to latitude 34°38'15" N., longitude 98°45'20"W.; to point of beginning.
Designated altitudes. Surface to 16,500 feet MSL.
Time of designation. Sunrise to sunset.
Controlling agency. Federal Aviation Administration, Fort Worth ARTC Center.
Using agency. Commanding General, Fort Sill, Okla.

R-5601E Fort Sill, Okla.
Boundaries. Beginning at latitude 34°38'15" N., longitude 98°38'00" W.; to latitude 34°36'00" N., longitude 98°46'45" W.; to latitude 34°38'15" N., longitude 98°48'00" W.; to point of beginning.
Designated altitudes. Surface to 6,000 feet MSL.
Time of designation. Sunrise to sunset.
Controlling agency. Federal Aviation Administration, Fort Worth ARTC Center.
Using agency. Commanding General, Fort Sill, Okla.

§ 73.57 Oregon

R-5701 Boardman Oreg.
Boundaries and designated altitudes. A 5-nautical-mile radius circle centered at latitude 45°43'36" N., longitude 119°41'03"W., surface to flight level 200; within 2 nautical miles N and 3 nautical miles S of the 082° bearing from the center of the circle extending to a line one nautical mile W of and parallel to Butter Creek, surface to 10,000 feet MSL to a distance of 7 nautical miles from the center of the circle, thence surface to 6,000 feet MSL to the E extremity; within 3 nautical miles either side of the 234° bearing from the center of the circle extending to 10 nautical miles from the center, excluding the airspace within VOR Federal airway No. 112, surface to 10,000 feet MSL to a distance of 7 nautical miles from the center of the circle, thence surface to 6,000 feet MSL to the SW extremity; within 3 nautical miles either side of the 270° bearing from the center of the circle extending to 15 nautical miles from the center, surface to 10,000 feet MSL to a distance of 7 nautical miles from the center of the circle, thence surface to 6,000 feet MSL to the W extremity.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Seattle ARTC Center.
Using agency. Commander, Medium Attack Tactical Electronic Warfare Wing, NAS Whidbey Island, Wash.

R-5704 Hermiston, Oreg.
Boundaries. Beginning at latitude 45°52'00" N., longitude 119°29'00" W.; to latitude 45°50'00" N., longitude 119°29'00" W.; to latitude 45°50'00" N., longitude 119°30'30" W.; to latitude 45°52'00" N.; longitude 119°30'30" W.; to point of beginning.
Designated altitudes. Surface to 5,000 feet MSL.
Time of designation. 0800 to 2000 Pst, Monday through Friday.
Using agency. Commanding Officer, Umatilla Ordnance Depot, Hermiston, Oreg.

R-5706 Boardman, Oreg.
Boundaries. Beginning at latitude 45°40'40" N., longitude 120°02'25" W.; to latitude 45°40'40" N., longitude 120°09'00" W.; to latitude 45°45'45" N., longitude 120°09'00" W.; thence east along the south shore of the Columbia River to latitude 45°51'00" N., longitude 119°40'00" W.; to latitude 45°53'00" N., longitude 119°31'00" W.; to latitude 45°46'35" N., longitude 119°31'00" W.; to latitude 45°46'10" N., longitude 119°35'00" W.; thence counterclockwise along the arc of a 5-nautical-mile radius circle centered at latitude 45°43'36" N., longitude 119°41'03" W.; to latitude 45°46'35" N., longitude 119°46'50" W.; to latitude 45°46'35" N., longitude 120°02'25" W.; to point of beginning.
Designated altitudes. 3,500 feet MSL to 10,000 feet MSL.
Time of designation. Continuous.
Controlling agency. FAA, Seattle ARTC Center.
Using agency. Commander, Medium Attack Tactical Electronic Warfare Wing, NAS Whidbey Island, Wash.

§ 73.58 Pennsylvania

R-5801 Chambersburg, Pa.
Boundaries. The arc of a circle, having a 5,000-foot radius, centered at latitude 39°59'44" N., longitude 77°43'55" W.
Designated altitudes. Surface to 4,000 feet MSL.
Time of designation. 0800 to 1600 EST, Monday through Friday.
Using agency. Commanding Officer, Letterkenny Ordnance Depot, Chambersburg, Pa.

R-5802 Fort Indiantown Gap, Pa.
Boundaries. Beginning at latitude 40°28'45" N., longitude 76°35'30" W.; to latitude 40°26'05" N., longitude 76°35'30" W.; to latitude 40°24'55" N., longitude 76°36'55" W.; to latitude 40°23'45" N., longitude 76°43'11" W.; to latitude 40°24'20" N., longitude 76°44'40" W.; to latitude 40°28'45" N., longitude 76°37'40" W.; to the point of beginning.
Designated altitudes. Surface to 13,000 feet MSL.
Time of designation. February 15 through May 10 and September 1 through December 15, 0800-2300 local time on Saturdays and 0800-1200 local time on Sundays; May 11 through August 31, 0800-2400 local time on Saturdays and 0800-2000 local time on all other days; other times by Notice to Airmen (NOTAM) issued at least 48 hours in advance.
Controlling agency. Federal Aviation Administration, New York ARTC Center.
Using agency. Commander, Fort Indiantown Gap, Annville, Pa.
AMENDMENTS 7/13/78 43 F. R. 21450 (Changed)

PENDING AMENDMENT
R-5802 Fort Indiantown Gap, Pa., is revoked.
AMENDMENTS 12/28/78 43 F. R. 51011 (Revoked)

PENDING AMENDMENT
R-5802A Fort Indiantown Gap, Pa.
Boundaries. Beginning at lat. 40°27'30"N., long. 76°44'35"W.; to lat. 40°29'31"N., long. 76°39'08"W.; to lat. 40°28'31"N., long. 76°36'22"W.; to lat. 40°25'06"N., long. 76°44'48"W.; to the point of beginning.
Designated altitudes. 200 feet AGL to 5,000 feet MSL.
Time of designation. February 15 through May 10 and September 1 through December 15, 0800-2300 local time on Saturdays and 0800-1200 local time on Sundays; May 11 through August 31, 0800-2400 local time on Saturdays and 0800-2000 local time on all other days; other times by Notice to Airmen (NOTAM) issued at least 48 hours in advance.
Controlling agency. Federal Aviation Administration, New York ARTCC.
Using agency. Commander, Fort Indiantown Gap, Annville, Pa.
AMENDMENTS 12/28/78 43 F. R. 51011 (Added)

PENDING AMENDMENT
R-5802B Fort Indiantown Gap, Pa.
Boundaries. Beginning at lat. 40°25'06"N., long. 76°44'48"W.; to lat. 40°28'31"N., long. 76°36'22"W.; to lat. 40°27'00"N., long. 76°35'06"W.; to lat. 40°23'24"N., long. 76°43'35"W.; to the point of beginning.
Designated altitudes. Surface to 13,000 feet MSL.
Time of designation. February 15 through May 10 and September 1 through December 15, 0800-2300 local time on Saturdays and 0800-1200 local time on Sundays; May 11 through August 31, 0800-2400 local time on Saturdays and 0800-2000 local time on all other days; other times by Notice to Airmen (NOTAM) issued at least 48 hours in advance.
Controlling agency. Federal Aviation Administration, New York ARTCC.
Using agency. Commander, Fort Indiantown Gap, Annville, Pa.
AMENDMENTS 12/28/78 43 F. R. 51011 (Added)

R-5803 Chambersburg, Pa.
Boundaries. A circular area with a 2,400-foot radius centered at Lat. 40°02'29" N, Long. 77°44'20" W.
Designated altitudes. Surface to 4,000 feet MSL.
Time of designation. 0800 to 1600 EST, Monday through Friday.
Using agency. Commanding Officer, Letterkenny Ordnance Depot, Chambersburg, Pa.

§ 73.59 Rhode Island

§ 73.60 South Carolina

R-6001 Fort Jackson, S. C.
Boundaries. Beginning at Lat. 34°03'51" N, Long. 80°42'12" W; to Lat. 34°01'40" N, Long. 80°42'15" W; to Lat. 34°01'50" N, Long. 80°55'15" W; to Lat. 34°02'21" N, Long. 80°56'02" W; to Lat. 34°04'45" N, Long. 80°53'02" W; to Lat. 34°06'19" N, Long. 80°48'47" W; to Lat. 34°05'58" N, Long. 80°46'05" W; to the point of beginning.
Designated altitudes. Surface to 24,000 feet MSL.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Jacksonville ARTC Center.
Using agency. Commanding General, Fort Jackson, S. C.

R-6002 Poinsett-Sumter, S. C.
Boundaries. Beginning at latitude 33°54'24" N., longitude 80°24'12" W., to latitude 33°46'25" N., longitude 80°23'12" W.,
to latitude 33°44'27" N., longitude 80°31'42" W., to latitude 33°50'13" N., longitude 80°31'03" W., to latitude 33°53'37" N., longitude 80°31'03" W., to point of beginning. Excluding that airspace within the Shaw AFB control zone.
Designated altitudes. Surface to 13,000 feet MSL.
Time of designation. Sunrise to 2400 hours local time.
Controlling agency. Federal Aviation Administration, Jacksonville ARTC Center.
Using agency. Commander, Shaw AFB, S. C.

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§ 73.61 South Dakota

§ 73.62 Tennessee

§ 73.63 Texas

R-6302A Fort Hood, Tex.
Boundaries. Beginning at lat. 31°10'00"N., long. 97°35'40"W.; to lat. 31°10'00"N., long. 97°41'00"W.; to lat. 31°11'00"N., long. 97°43'00"W.; to lat. 31°10'00"N., long. 97°45'00"W.; to lat. 31°09'00"N., long. 97°45'00"W.; to lat. 31°10'00"N., long. 97°48'00"W.; to lat. 31°15'00"N., long. 97°51'00"W.; to lat. 31°19'00"N., long. 97°51'00"W.; to lat. 31°24'00"N., long. 97°48'00"W.; to lat. 31°23'00"N., long. 97°43'00"W.; to lat. 31°21'00"N., long. 97°41'00"W.; to lat. 31°20'00"N., long. 97°41'00"W.; to lat. 31°14'00"N., long. 97°33'00"W.; to the point of beginning.
Designated altitudes. Surface to 30,000 feet MSL.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Houston ARTC Center.
Using agency. Commanding Officer, Fort Hood, Tex.

R-6302B Fort Hood, Tex.
Boundaries. Beginning at lat. 31°10'00"N., long. 97°41'00"W.; to lat. 31°09'30"N., long. 97°43'00"W.; to lat. 31°09'00"N., long. 97°43'30"W.; to lat. 31°09'00"N., long. 97°45'00"W.; to lat. 31°10'00"N., long. 97°45'00"W.; to lat. 31°11'00"N., long. 97°43'00"W.; to the point of beginning.
Designated altitudes. Surface to 30,000 feet MSL.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Houston ARTC Center.
Using agency. Commanding Officer, Fort Hood, Tex.

R-6302C Fort Hood, Tex.
Boundaries. Beginning at lat. 31°09'00"N., long. 97°45'00"W.; to lat. 31°09'00"N., long. 97°52'00"W.; to lat. 31°09'00"N., long. 97°55'00"W.; to lat. 31°16'00"N., long. 97°54'00"W.; to lat. 31°19'00"N., long. 97°51'00"W.; to lat. 31°15'00"N., long. 97°51'00"W.; to lat. 31°10'00"N., long. 97°48'00"W.; to the point of beginning.
Designated altitudes. Surface to 30,000 feet MSL.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Houston ARTC Center.
Using agency. Commanding Officer, Fort Hood, Tex.

R-6302D Fort Hood, Tex.
Boundaries. Beginning at lat. 31°08'00"N., long. 97°37'00"W.; to lat. 31°08'00"N., long. 97°39'00"W.; to lat. 31°10'00"N., long. 97°41'00"W.; to lat. 31°10'00"N., long. 97°35'40"W.; to the point of beginning.
Designated altitudes. Surface to 30,000 feet MSL.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Houston ARTC Center.
Using agency. Commanding Officer, Fort Hood, Tex.

R-6302E Fort Hood, Tex.
Boundaries. Beginning at lat. 31°14'00"N., long. 97°33'00"W.; to lat. 31°06'00"N., long. 97°33'00"W.; to lat. 31°08'00"N., long. 97°39'00"W.; to lat. 31°08'00"N., long. 97°37'00"W.; to the point of beginning.
Designated altitudes. Surface to 30,000 feet MSL.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Houston ARTC Center.
Using agency. Commanding Officer, Fort Hood, Tex.

R-6312 Cotulla, Tex.,
Boundaries: The area within 5 nmi of geographical points located at 28°14'50" N., 98°43'30" W.; and 28°05'53" N., 98°42'51" W.
Designated altitudes: Surface to 12,000 feet MSL except for the area west of a line between 28°17'40" N., 98°47'55" W., and 28°11'55" N., 98°48'00" W., and the area along Highway 624 extending ½ mile each side where the floor is 1,000 feet AGL.
Time of designation: Sunrise to sunset.
Controlling agency. Federal Aviation Administration, ARTCC, Houston, Tex.
Using agency: Chief of Naval Air Advanced Training Command, NAS Corpus Christi, Tex.

§ 73.64 Utah

R-6402 Dugway Proving Ground, Dugway, Utah
Boundaries. Beginning at latitude 40°25'00" N., longitude 112°56'00" W., to latitude 40°13'00" N., longitude 112°43'00" W., to latitude 39°49'00" N., longitude 112°43'00" W., to latitude 39°44'00" N., longitude 113°08'00" W., to latitude 39°49'00" N., longitude 113°08'00" W., to latitude 39°52'00" N., longitude 113°27'00" W., to latitude 39°55'00" N., longitude 113°26'40" W., to latitude 40°20'20" N., longitude 113°20'02" W., to latitude 40°20'20" N., longitude 113°07'00" W., to latitude 40°25'00" N., longitude 113°07'00" W., to the point of beginning.
Designated altitudes. Surface to Flight Level 580.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Salt Lake City ARTC Center.
Using agency. Commanding Officer, Dugway Proving Ground.

R-6403 Tooele, Utah
Boundaries: Beginning at latitude 40°30'44" N., longitude 112°27'30" W.; to latitude 40°29'32" N., longitude 112°27'30" W.; to latitude 40°29'32" N., longitude 112°29'15" W.; to latitude 40°30'44" N., longitude 112°29'15" W.; to the point of beginning.
Designated altitudes. Surface to 9,000 feet MSL.
Time of designation. 0800 to 2000 local time, Monday through Friday.
Using agency. Commanding Officer, Tooele Army Depot, Tooele, Utah.

R-6404A Hill AFB, Utah
Boundaries. Beginning at Lat. 41°15'00"N., Long. 113°43'50"W.; to Lat. 41°10'40"N., Long. 112°45'00"W.; to Lat. 41°00'00"N., Long. 112°45'00"W.; to Lat. 41°00'00"N., Long. 112°56'30"W.; to Lat. 40°51'30"N., Long. 112°56'30"W.; to Lat. 40°48'30"N., Long. 113°40'00"W.; to point of beginning.
Designated altitudes. Surface to FL 580.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Salt Lake City ARTC Center.
Using agency. Commander, Hill AFB, Utah.

R-6404B Hill AFB, Utah
Boundaries. Beginning at lat. 41°10'40"N., long. 112°45'00"W.; to lat. 41°07'00"N., long. 112°39'00"W.; to lat. 41°01'00"N., long. 112°39'00"W.; to lat. 40°51'30"N., long. 112°56'30"W.; to lat. 41°00'00"N., long. 112°56'30"W.; to lat. 41°00'00"N., long. 112°45'00"W.; to point of beginning.
Designated altitudes. 100 feet AGL to FL 580.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Salt Lake City ARTC Center.
Using agency. Commander, Hill AFB, Utah.

R-6405 Wendover, Utah
Boundaries. Beginning at latitude 39°44'00" N., longitude 113°08'00" W., to latitude 39°23'00" N., longitude 113°19'00" W., to latitude 39°23'00" N., longitude 113°48'00" W., to latitude 39°55'00" N., longitude 113°48'00" W., to latitude 39°55'00" N., longitude 113°26'40" W., to latitude 39°52'00" N., longitude 113°27'00" W., to latitude 39°49'00" N., longitude 113°08'00" W., to the point of beginning.
Designated altitudes. Surface to flight level 580.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Salt Lake City ARTC Center.
Using agency. Commander, Hill AFB, Utah.

R-6406 Wendover, Utah
Boundaries. Beginning at 40°40'30" N., 113°00'00" W., to 40°29'00" N., 113°00'00" W., to 40°25'00" N., 112°56'00" W.,to 40°25'00" N., 113°07'00" W., to 40°20'20" N., 113°07'00" W., to 40°20'20" N., 113°49'00" W., to 40°17'00" N., 114°00'00" W., to 40°38'30" N., 114°00'00" W., to point of beginning.
Designated altitudes. Surface to flight level 580.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Salt Lake City ARTC Center.
Using agency. Commander, Hill Air Force Base, Utah.

R-6407 Dugway Proving Ground, Dugway, Utah
Boundaries. Beginning at latitude 40°20'20" N., longitude 113°20'02" W., to latitude 39°55'00" N., longitude 113°26'40" W., to latitude 39°55'00" N., longitude 113°48'00" W., to latitude 40°00'00" N., longitude 113°48'00" W., to latitude 40°00'00" N., longitude 114°00'00" W., to latitude 40°17'00" N., longitude 114°00'00" W., to latitude 40°20'20" N., longitude 113°19'00" W., to the point of beginning.
Designated altitudes. Surface to Flight Level 580.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Salt Lake City ARTC Center.
Using agency. Commanding Officer, Dugway Proving Ground

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R-6412 Camp Williams, Utah
Beginning at latitude 40°27'30" N., longitude 111°56'24" W.; thence southerly along Redwood Road (Utah Highway 68) to latitude 40°23'30" N., longitude 111°54'58" W.; to latitude 40°23'30" N., longitude 112°06'00" W.; to latitude 40°27'30" N., longitude 112°06'00" W.; to point of beginning.
Designated altitudes. Surface to 10,000 feet MSL.
Time of designation. Maximum two-week period during the month of June each year with specific dates to be published by NOTAM.
Controlling agency. Federal Aviation Administration, Salt Lake City Tower,
Using agency. The Adjutant General, State of Utah.

R-6413 Green River, Utah
Boundaries. Beginning at lat. 38°57'00" N., long. 110°03'40" W.; thence to lat. 38°46'03" N., long. 110° 06'00" W.; to lat. 38°31'30" N., long. 109°57'00" W.; to lat. 38°31'30" N., long. 109°51'00" W.; to lat. 38° 33'27" N., long. 109°46'00" W.; to lat. 38°49'15" N., long. 109°57'02" W.; to lat. 38°58'02" N., long. 110°05' 33" W.; thence to point of beginning.
Designated altitudes. Surface to unlimited.
Time of designation. As published by NOTAM issued 48 hours in advance of area activation.
Controlling agency. Federal Aviation Administration, Denver ARTC Center.
Using agency. Deputy for Air Force, White Sands Missile Range, N. Mex. 88002.

§ 73.65 Vermont

R-6501 Underhill, Vt.
Boundaries. Beginning at latitude 44°30'00" N., longitude 72°52'00" W.; to latitude 44°27'00" N., longitude 72°52'00" W.; to latitude 44°27'00" N., longitude 72°55'00" W.; to latitude 44°28'30" N., longitude 72°56'30" W.; to latitude 44°29'15" N., longitude 72°56'30" W.; to latitude 44°30'00" N., longitude 72°53'30"W.; to the point of beginning.
Designated altitudes. Surface to 13,600 feet MSL.
Time of designation: Continuous, Monday through Saturday, other time by a NOTAM issued 24 hours in advance.
Controlling agency. Federal Aviation Administration, Burlington Approach Control.
Using Agency. Adjutant General, State of Vermont, Montpelier, Vt.

§ 73.66 Virginia

R-6601 Fort A. P. Hill, Va.
Boundaries. Beginning at latitude 38°06'50" N., longitude 77°10'31" W.; to latitude 38°05'30" N., longitude 77°09'06" W.; to latitude 38°04'40" N., longitude 77°10'20" W.; to latitude 38°03'12" N., longitude 77°09'35" W.; to latitude 38°02'22" N., longitude 77°11'40" W.; to latitude 38°02'30" N., longitude 77°14'40" W.; to latitude 38°01'50" N., longitude 77°16'08" W.; to latitude 38°02'15" N., longitude 77°18'04" W.; to latitude 38°03'40" N., longitude 77°18'45" W.; to latitude 38°04'37" N., longitude 77°18'45" W.; thence along highway U. S. 301 to latitude 38°08'01" N., longitude 77°14'04" W.; to latitude 38°07'53" N., longitude 77°13'40" W.; to latitude 38°06'46" N., longitude 77°12'21" W.; thence to the point of beginning.
Designated altitudes. Surface to 5,000 feet MSL.
Time of designation. 0700 to 2300 e.s.t., June 1 through September 8; and 0700 to 2300 e.s.t., September 9, through May 31, by NOTAM issued at least 48 hours in advance.
Controlling agency. Federal Aviation Administration, Washington ARTC Center.
Using agency. Commander, Fort Lee, Va.

R-6602 Fort Pickett, Va.
Boundaries. Beginning at latitude 37°05'37" N., longitude 77°51'54" W.; to latitude 37°04'25" N., longitude 77°51'45" W.; along State Highway No. 40 to latitude 37°03'55" N., longitude 77°51'05" W.; to latitude 37°02'43" N., longitude 77°50'38" W.; to latitude 37°01'05" N., longitude 77°50'43" W.; to latitude 36°59'50" N., longitude 77°50'34" W.; to latitude 36°57'58" N., longitude 77°52'14" W.; to latitude 36°57'54" N., longitude 77°53'19" W.; to latitude 36°58'12" N., longitude 77°57'42" W.; to latitude 37°01'50" N., longitude 77°58'40" W.; to latitude 37°01'50" N., longitude 77°55'58" W.; to latitude 37°05'37" N., longitude 77°56'00" W.; to point of beginning.
Designated altitudes. The area NW of a line between latitude 37°01'05" N., longitude 77°50'43" W., and latitude 36°57'54" N., longitude 77°53'19" W., surface to 18,500 feet MSL. The area SE of this line, surface to 1,900 feet MSL.
Time of designation. Continuous from June 1 through September 8; 0600 EST Saturday to 2200 EST Sunday from September 9 through May 31; other times after issuance of NOTAMS by the using agency at least 48 hours in advance. When activated by NOTAM, another NOTAM shall be issued upon termination of use.
Controlling agency. Federal Aviation Administration, Washington ARTC Center.
Using agency. Commander, Fort Lee, Va.

R-6604 Chincoteague Inlet, Va.
Boundaries. Beginning at Lat. 37°56'45" N. Long. 75°27'30" W; to Lat. 37°51'30" N, Long. 75°17'15" W; thence 3 nautical miles from and parallel to the shoreline to Lat. 37°38'45" N, Long. 75°31'20" W; to Lat. 37°50'24" N, Long. 75°31'20" W; to the point of beginning.
Designated altitudes. Unlimited.
Time of designation. Continuous.
Controlling agency: Federal Aviation Administration, Washington ARTC Center.
Using agency. Chief, Wallops Station, National Aeronautics and Space Administration, Wallops Island, Va.

R-6606 Pendleton, Va.
Boundaries. Beginning at lat. 36°50'41" N., long. 75°54'40" W.; thence 3 nautical miles from and parallel to the shoreline to lat. 36°34'33" N., long. 75°48'40" W.; to lat. 36°45'03" N., long. 75°56'12" W.; to lat. 36°44'45" N.,long. 75°57'05" W.; to lat. 36°44'39" N., long. 75°59'00" W.; to lat. 36°47'00" N., long. 75° 58'45" W.; to lat. 36°47'18" N., long. 75°56'54" W.; to the point of beginning.
Designated altitudes. Surface to and including 51,000 feet MSL.
Time of designation. 0800-1700 hours local time, Monday through Friday. Other times by NOTAM issued 48 hours in advance.
Controlling agency. Federal Aviation Administration, Washington ARTC Center.
Using agency. Virginia Capes Operating Area Coordinator (VCOAC) COMNAVAIRLANT, NAS Oceana, Virginia Beach, Va.

R-6608 Quantico, Va.
Boundaries. Beginning at latitude 38°31'15" N., longitude 77°24'20" W.; to latitude 38°29'00" N., longitude 77°28'45" W.; to latitude 38°31'20" N., longitude 77°34'07" W.; to latitude 38°37'00" N., longitude 77°34'07" W.; to latitude 38°37'50" N., longitude 77°32'20" W.; to latitude 38°37'00" N., longitude 77°25' 34" W.; to latitude 38°34'00" N., longitude 77°24'00" W.; to the point of beginning.
Designated altitudes. Surface to 10,000 feet MSL.
Time of designation: 0700 to 2400 local time.
Controlling agency. Federal Aviation Administration, Washington ARTC Center.
Using agency. Commanding General, Marine Corps Development and Education Command, Quantico, Va.

R-6609 Tangier Island, Va.
Boundaries: Beginning at latitude 37°53'10" N., longitude 76°14'00" W.; to latitude 37°55'15" N., longitude 76°02'30" W.; to latitude 37°50'00" N., longitude 76°00'52" W.; to latitude 37°41'00" N., longitude 76°00'52" W.; to latitude 37°40'00" N., longitude 76°01'30" W.; to latitude 37°40'00" N., longitude 76°10'00" W.; to latitude 37°45'00" N., longitude 76°11'33" W.; to point of beginning.
Designated altitudes: Surface to FL 200.
Time of designation: 0800 to 2300 hours, local time, other times by NOTAM issued at least 48 hours in advance.
Controlling agency: Federal Aviation Administration, Washington ARTC Center.
Using agency: Commanding Officer, NAS Patuxent River, Md.

R-6611 Dahlgren Complex, Va.
Subarea A
Boundaries. Beginning at Lat. 38°21'30" N, Long. 77°01'15" W; to Lat. 38°17'30" N, Long. 76°56'00" W; to Lat. 38°15'45" N, Long. 76°52'00" W; to Lat. 38°13'00" N, Long. 76°54'35" W; to Lat. 38°19'15" N. Long. 77°02'00" W; to the point of beginning.
Designated altitudes. Surface to 40,000 feet MSL.
Time of designation. 0800-1700 local time, Monday through Friday, other times by NOTAM issued 48 hours in advance.
Controlling agency. Federal Aviation Administration, Washington ARTC Center.
Using agency. Commander, Naval Surface Weapons Center, Dahlgren, Va.

AMENDMENTS 5/18/78 43 F. R. 11574 (Changed)

Subarea B
Boundaries. Beginning at lat. 38°21'30" N., long. 77°01'15" W.; to lat. 38°17'30" N., long. 76°56'00" W.; to lat. 38°15'45" N., long. 76°52'00" W.; to lat. 38°13'00" N., long. 76°54'35" W.; to lat. 38°19'15" N., long. 77°02'00" W.; to the point of beginning.
Designated altitudes. 40,000 feet MSL to 60,000 feet MSL.
Time of designation. By NOTAM issued 48 hours in advance.
Controlling agency: Federal Aviation Administration, Washington ARTC Center.
Using agency. Commander, Naval Surface Weapons Center, Dahlgren, Va.

AMENDMENTS 5/18/78 43 F. R. 11574 (Changed)

R-6612 Dahlgren Complex, Va.
Boundaries. Two overlapping circular areas with 7,000-foot radii centered at Lat. 38°17'59" N, Long. 77°02'15" W, and Lat. 38°18'23" N, Long. 77°02'57" W.
Designated altitudes. Surface to 7,000 feet MSL.
Time of Designation. 0800-1700 local time, Monday through Friday, other times by NOTAM issued 48 hours in advance.
Controlling agency. Federal Aviation Administration, Washington ARTC Center.
Using agency. Commander, Naval Surface Weapons Center, Dahlgren, Va.

AMENDMENTS 5/18/78 43 F. R. 11574 (Changed)

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R-6613 Dahlgren Complex, Va.
Subarea A
Boundaries. Beginning at Lat. 38°15'45" N, Long. 76°52'00" W; to Lat. 38°13'30" N, Long. 76°46'35" W; to Lat. 38°10'00" N, Long. 76°50'00" W; to Lat. 38°13'00" N, Long. 76°54'35" W; to the point of beginning.
Designated altitudes. Surface to 40,000 feet MSL.
Time of designation. 0800-1700 local time, Monday through Friday, other times by NOTAM 48 hours in advance.
Controlling agency. Federal Aviation Administration, Washington ARTC Center.
Using agency. Commander, Naval Surface Weapons Center, Dahlgren, Va.

AMENDMENTS 5/18/78 43 F. R. 11574 (Changed)

Subarea B.
Boundaries. Beginning at lat. 38°15'45" N., long. 76°52'00" W.; to lat. 38°13'30" N., long. 76°46'35" W.; to lat. 38°10'00" N., long. 76°50'00" W.; to lat. 38°13'00" N., long. 76°54'35" W.; to the point of beginning.
Designated altitudes. 40,000 feet MSL to 60,000 feet MSL.
Time of designation. By NOTAM issued 48 hours in advance.
Controlling agency. Federal Aviation Administration, Washington ARTC Center.
Using agency. Commander, Naval Surface Weapons Center, Dahlgren, Va.

AMENDMENTS 5/18/78 43 F. R. 11574 (Changed)

§ 73.67 Washington

R-6701 Admiralty Inlet, Wash.
Boundaries. Beginning at Lat. 48°10'00" N, Long. 122°34'48" W; to Lat. 48°05'45" N, Long. 122°31'30" W; to Lat. 48°06'06" N; Long. 122°41'12" W; to Lat. 48°10'00" N, Long. 122°40'56" W; to the point of beginning.
Designated altitudes: Surface to 5,000 feet MSL.
Time of designation. Sunrise to sunset, Monday through Friday. Saturday and Sunday as published by NOTAM 24 hours in advance.
Controlling agency. Federal Aviation Administration, Seattle ARTC Center.
Using agency. Commander, Medium Attack Tactical Electronic Warfare Wing, NAS Whidbey Island, Wash.

R-6703 Fort Lewis, Wash.

Subarea A
Boundaries. Beginning at latitude 47°03'08" N., longitude 122°41'05" W.; to latitude 47°04'35" N., longitude 122°41'05" W.; to latitude 47°04'42" N., longitude 122°38'15" W.; to latitude 47°03'38" N., longitude 122°35'36" W.; to latitude 46°58'17" N., longitude 122°37'40" W.; thence via the Nisqually River to point of beginning.
Designated altitudes. Surface to 14,000 feet MSL.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, McChord Approach Control.
Using agency. Commanding General, Fort Lewis, Wash.

Subarea B
Boundaries. Beginning at latitude 47°03'38" N., longitude 122°35'36" W.; to latitude 47°02'36" N., longitude 122°34'48" W.; to latitude 47°00'46" N., longitude 122°34'48" W.; to latitude 47°00'00" N., longitude 122°35'35" W.; to latitude 46°58'17" N., longitude 122°37'40" W.; to point of beginning.
Designated altitudes. Surface to 5,000 feet MSL.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, McChord Approach Control.
Using agency. Commanding General, Fort Lewis, Wash.

Subarea C
Boundaries. Beginning at latitude 46°58'17" N., longitude 122°37'40" W.; to latitude 46°54'35" N., longitude 122°41'25" W.; to latitude 46°54'18" N., longitude 122°43'32" W.; to latitude 46°55'12" N., longitude 122°44'30" W.; to latitude 47°03'08" N., longitude 122°41'05" W.; thence via the Nisqually River to point of beginning.
Designated altitudes. Surface to 14,000 feet MSL.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, McChord Approach Control.
Using agency. Commanding General, Fort Lewis, Wash.

Subarea D
Boundaries. Beginning at latitude 47°03'38" N., longitude 122°35'36" W.; to latitude 47°02'14" N., longitude 122°32'15" W.; to latitude 47°01'48" N., longitude 122°31'38" W.; to latitude 47°01'00" N., longitude 122°31'37" W.; to latitude 47°00'42" N., longitude 122°33'12" W.; to latitude 47°00'30" N., longitude 122°33'16"W.; to latitude 47°00'00" N., longitude 122°35'35" W.; to latitude 47°00'46" N., longitude 122°34'48" W.; to latitude 47°02'36" N., longitude 122°34'48" W.; to point of beginning.
Designated altitudes. Surface to 5,000 feet MSL.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, McChord Approach Control.
Using agency. Commanding General, Fort Lewis, Wash.

R-6707 Queets, Wash.
Boundaries. Beginning at Lat. 47°29'25" N, Long. 124°25'00" W; clockwise along the arc of a 3-mile radius circle centered at Lat. 47°27'00" N, Long. 124°24'15" W to Lat. 47°24'25" N, Long. 124°24'30" W; thence 3 nautical miles from and parallel to the shoreline to the point of beginning.
Designated altitudes. Surface to 12,000 feet MSL.
Time of designation. 0800 to 1700 local time, Monday through Friday.
Controlling agency. Hoquiam FSS.
Using agency. Commander, Medium Attack Tactical Electronic Warfare Wing, NAS Whidbey Island, Wash.

R-6713A Whidbey Island, Wash.
Boundaries. Beginning at lat. 48°14'54" N., long. 122°53'30" W.; to lat. 48°21'27" N., long. 122°59'34" W.; to lat. 48°23'06" N., long. 122°55'18" W.; to lat. 48°22'54" N., long. 122°49'12" W.; to lat. 48°20'12" N., long. 122°46'42" W.; to lat. 48°16'00" N., long. 122°48'27" W.; to point of beginning excluding that airspace within 1000 feet both horizontally and vertically around Smith Island centered at lat. 48°19'10" N., long. 122°50'33" W.; and excluding that airspace from the surface to 100 feet AGL beyond a 1.25-nautical mile surface radius of lat. 48°19'11" N., long. 122°54'12" W.
Designated altitudes. Surface to 5,000 feet MSL (less exclusions).
Time of designation. Daily, 0700 to 2400 local time.
Controlling agency. Federal Aviation Administration, Seattle ARTC Center.
Using agency. Commander Medium Attack Tactical Electronic Warfare Wing, U. S. Pacific Fleet (COMMATVAQWINGPAC), NAS Whidbey Island, Wash.

R-6713B Whidbey Island, Wash.
Boundaries. Beginning at lat. 48°14'54" N., long. 122°53'30" W.; thence to lat. 48°21'27" N., long. 122°59'34" W.; to lat. 48°23'06" N., long. 122°55'18" W.; to lat. 48°22'54" N., long. 122°49'12" W.; to lat. 48°20'12" N., long. 122°46'42" W.; to lat. 48°16'00" N., long. 122°48'27" W.; to point of beginning.
Designated altitudes. 5000 feet MSL to 10,000 feet MSL.
Time of designation. 0800 to 2400 local time, Monday through Friday.
Controlling agency. Federal Aviation Administration, Seattle ARTC Center.
Using agency. Commander Medium Attack Tactical Electronic Warfare Wing, U. S. Pacific Fleet (COMMATVAQWINGPAC), NAS Whidbey Island, Wash.

R-6713C Whidbey Island, Wash.
Boundaries. Beginning at lat. 48°14'54" N., long. 122°53'30" W.; thence to lat. 48°21'27" N., long. 122°59'34" W.; to lat. 48°23'06" N., long. 122°55'18" W.; to lat. 48°22'54" N., long. 122°49'12" W.; to lat. 48°20'12" N., long. 122°46'42" W.; to lat. 48°16'00" N., long. 122°48'27" W.; to point of beginning.
Designated altitudes. 10,000 feet MSL to 15,000 feet MSL.
Time of designation. 0800 to 2400 local time, Monday through Friday.
Controlling agency. Federal Aviation Administration, Seattle ARTC Center.
Using agency. Commander Medium Attack Tactical Electronic Warfare Wing, U. S. Pacific Fleet (COMMATVAQWINGPAC), NAS Whidbey Island, Wash.

R-6714A Yakima, Wash.
Boundaries. Beginning at lat. 46°51'00"N., long. 119°58'00"W.; along the west shore of the Columbia River to lat. 46°42'30"N., long. 119°58'15"W.; to lat. 46°33'00"N., long. 120°04'00"W.; to lat. 46°37'00"N., long. 120°20'00"W.; to lat. 46°40'35"N., long. 120°26'35"W.; to lat. 46°43'00"N., long. 120°26'38"W.; to lat. 46°51'00"N., long. 120°21'30"W.; to lat. 46°51'00"N., long. 120°16'30"W.; to lat. 46°54'30"N., long. 120°15'00"W.; clockwise along the arc of a 12-mile radius circle centered at lat. 46°44'45"N., long. 120°20'00"W.; to lat. 46°51'00"N., long. 120°08'30"W.; to point of beginning.
Designated altitudes. Surface to 29,000 feet MSL.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Seattle ARTC Center.
Using agency. Commanding General, Fort Lewis, Wash.

R-6714B Yakima, Wash.
Boundaries. Beginning at lat. 46°42'30"N., long. 119°58'15"W.; along the west shore of the Columbia River, to lat. 46°38'30"N., long. 119°55'30"W.; to lat. 46°33'00"N., long. 119°55'30"W.; to lat. 46°33'00"N., long. 120°04'00"W.; to point of beginning.
Designated altitudes. Surface to 29,000 feet MSL.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Seattle ARTC Center.
Using agency. Commanding General, Fort Lewis, Wash.

R-6714C Yakima, Wash.
Boundaries. Beginning at lat. 46°33'00"N., long. 120°04'00"W.; to lat. 46°33'00"N., long. 120°09'00"W.; to lat. 46°37'00"N., long. 120°20'00"W.; to point of beginning.
Designated altitudes. Surface to 29,000 feet MSL.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Seattle ARTC Center.
Using agency. Commanding General, Fort Lewis, Wash.

§ 73.68 West Virginia

§ 73.69 Wisconsin

R-6901 Camp McCoy, WI.
Boundaries: Beginning at latitude 44°08'40" N., longitude 90°44'20" W.; to latitude 44°08'40" N., longitude 90°40'22" W.; to latitude 44°09'36" N., longitude 90°40'22" W.; to latitude 44°09'36" N., longitude 90°36'50" W.; to latitude 44°00'02" N., longitude 90°36'35" W.; to latitude 44°00'02" N., longitude 90°35'15" W.; to latitude 43°56'22" N., longitude 90°35'20" W.; to latitude 43°56'22" N., longitude 90°39'00" W.; to latitude 43°56'38" N., longitude 90°41'00" W.; to latitude 43°56'40" N., longitude 90°45'05" W.; to latitude 43°58'30" N., longitude 90°44'30" W.; to latitude 43°58'40" N., longitude 90°43'55" W.; to latitude 44°02'45" N., longitude 90°44'30" W.; and then to the point of beginning.
Designated altitudes: Surface to 20,000 feet MSL.
Time of designation: Continuous.
Using agency: Commanding Officer, Camp McCoy, WI.
Controlling agency: Federal Aviation Administration, Chicago ARTC Center.

R-6903 Sheboygan, Wis.
Boundaries. Beginning at latitude 43°19'00" N., longitude 87°41'00" W.; to latitude 44°05'30" N., longitude 87°29'45" W.; to latitude 44°02'00" N., longitude 87°02'30" W.; to latitude 43°15'30" N., longitude 87°14'00" W.; to the point of beginning.
Designated altitudes. Surface to flight level 450.
Time of designation. Continuous, sunrise to sunset.
Controlling agency. Federal Aviation Administration, Chicago ARTC Center.
Using agency. Commander, Volk Field, Wisconsin.

R-6904A Volk Field, Wis.
Boundaries. Beginning at lat. 44°18'00"N., long. 89°59'00"W.; to lat. 44°10'00"N., long. 89°59'00"W.; to lat. 44°10'00"N., long. 90°11'00"W.; to lat. 44°18'00"N., long. 90°11'00"W.; thence to point of beginning excluding that airspace within R-6904B.
Designated altitudes. 150 feet AGL to 17,000 feet MSL.
Time of designation. Continuous, sunrise to sunset.
Controlling agency. Federal Aviation Administration, Chicago ARTC Center.
Using agency. Commander, Volk Field, Wis.

AMENDMENTS 5/18/78 43 F. R. 11573 (Added)

R-6904B Volk Field, Wis.
Boundaries. Beginning at lat. 44°15'00"N., long. 89°59'00"W.; to lat. 44°13'00"N., long. 89°59'00"W.; to lat. 44°13'00"N., long. 90°07'00"W.; to lat. 44°15'00"N., long. 90°07'00"W.; thence to point of beginning.
Designated altitudes. Surface to 17,000 feet MSL.
Time of designation. Continuous, sunrise to sunset.
Controlling agency. Federal Aviation Administration, Chicago ARTC Center.
Using agency. Commander, Volk Field, Wis.

AMENDMENTS 5/18/78 43 F. R. 11573 (Added)

R-6905A Lake Michigan
Boundaries. Within 1½ NM each side of a direct line between coordinates lat. 44°17'00"N., long. 87°32'00"W., and lat. 44°05'00"N., long. 86°29'00"W., ending at the shoreline.
Designated altitude. Surface to 6,000 feet MSL.
Time of use. As activated by NOTAM, 12 hours in advance.
Controlling agency. Federal Aviation Administration, Chicago ARTC Center.
Using agency. University of Wisconsin.

R-6905B Lake Michigan
Boundaries. Within 1½ NM each side of a direct line between coordinates lat. 44°09'00"N., long. 86°56'30"W., and lat. 43°15'00"N., long. 87°10'00"W.
Designated altitude. Surface to 6,000 feet MSL.
Time of use. As activated by NOTAM, 12 hours in advance.
Controlling agency. Federal Aviation Administration, Chicago ARTC Center.
Using agency. University of Wisconsin.

§ 73.70 Wyoming

R-7001 Guernsey, Wyo.
Boundaries. Beginning at latitude 42°27'30" N., longitude 104°52'30" W., latitude 42°27'30" N., longitude 104°42'30" W., latitude 42°22'30" N., longitude 104°42'30" W., latitude 42°20'00" N., longitude 104°52'30" W., thence to point of beginning.
Designated altitudes. Surface to 23,500 feet MSL.
Time of designation. 0430 to 2400 local time March 1 through November 30.
Controlling agency. Federal Aviation Administration, Denver ARTC Center.
Using agency. Adjutant General, State of Wyoming.

§ 73.71 Puerto Rico

R-7103 Salinas, P. R.
SUBAREA A
Boundaries: Beginning at latitude 18°03'00" N., longitude 66°14'35" W.; to latitude 18°01'16" N., longitude 66°15'14" W.; to latitude 17°59'57" N., longitude 66°16'00" W.; to latitude 17°59'16" N., longitude 66°17'11" W.; to latitude 18°01'00" N., longitude 66°19'58" W.; to latitude 18°01'53" N., longitude 66°18'53" W.; to latitude 18°02'34" N., longitude 66°18'47" W.; to latitude 18°03'25" N., longitude 66°17'54" W.; to latitude 18°04'07" N., longitude 66°17'00" W.; to point of beginning.

SUBAREA B
Boundaries: Beginning at latitude 18°03'00" N., longitude 66°14'35" W.; to latitude 18°02'37" N., longitude 66°13'39" W.; to latitude 17°58'53" N., longitude 66°15'22" W.; to latitude 17°58'30" N., longitude 66°16'30" W.; to latitude 17°59'00" N., longitude 66°17'37" W.; to latitude 17°59'16" N., longitude 66°17'11" W.; to latitude 17°59'57" N., longitude 66°16'00" W.; to latitude 18°01'16" N., longitude 66°15'14" W.; to point of beginning.

SUBAREA C
Beginning at latitude 17°59'16" N., longitude 66°17'11" W.; to latitude 17°59'00" N., longitude 66°17'37" W.; to latitude 17°59'44" N., longitude 66°19'17" W.; to latitude 18°00'27" N., longitude 66°18'58" W.; to point of beginning.
Designated altitudes: Subarea A, Surface to 12,000 feet MSL. Subarea B, 3,000 feet MSL to 12,000 feet MSL. Subarea C, 2,000 feet MSL to 12,000 feet MSL.
Time of designation: Continuous, June 1 through August 31, other times as activated by NOTAMs issued at least 24 hours in advance.
Controlling agency: Federal Aviation Administration, San Juan ARTC Center.
Using agency: The Adjutant General, Commonwealth of Puerto Rico.

R-7104 Vieques Island, P. R.
Boundaries. The airspace over Vieques Island and the surrounding waters beginning at latitude 18°02'45" N., longitude 65°27'05" W.; to latitude 18°13'10" N., longitude 65°25'27" W.; thence clockwise along the 3-nautical-mile limit from the shoreline to point of beginning.
Designated altitudes. Surface to FL 500.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, San Juan ARTC Center.
Using agency. Commanding Officer, Atlantic Fleet Weapons Training Facility, NS, Roosevelt Roads, Puerto Rico.

§ 73.72 Guam

R-7201 Farallon De Medinilla Island, Mariana Islands

Boundaries: The area within a 3-nautical mile radius of lat. 16°01'00" N., long. 146°04'30" E.
Designated altitudes: Surface to FL 600.
Time of use: Continuous.
Using agency: Commander, Naval Forces, Marianas.

SUBPART B — PROHIBITED AREAS

§ 73.87 Prohibited Areas

P-56 District of Columbia
Boundaries:
A. Beginning at the southwest corner of the Lincoln Memorial (latitude 38°53'20" N.; longitude 77°03'03" W.);
Thence via a 327° bearing, 0.6 mile, to the intersection of New Hampshire Avenue and Rock Creek and Potomac Parkway NW (latitude 38°53'45" N.; longitude 77°03'24" W.);
Thence northeast along New Hampshire Avenue, 0.6 mile, to Washington Circle, at the intersection of New Hampshire Avenue and K street NW (latitude 38°54'08" N.; longitude 77°03'02" W.);
Thence east along K Street, 2.5 miles, to the railroad overpass between First and Second Streets NE (latitude 38°54'08" N.; longitude 77°00'14" W.);
Thence southeast via a 158° bearing, 0.7 mile, to the southeast corner of Stanton Square, at the intersection of Massachusetts Avenue and Sixth Street NE (latitude 38°53'35" N.; longitude 76°59'57" W.);
Thence southwest via a 211° bearing, 0.8 mile, to the Capitol Power Plant at the intersection of New Jersey Avenue and E Street SE. (latitude 38°52'59" N.; longitude 77°00'25" W.);
Thence west via a 265° bearing. 0.7 mile, to the intersection of the Southwest Freeway (Interstate Route 95) and Sixth Street SW., extended (latitude 38°52'56" N.; longitude 77°01'13" W.);
Thence north along Sixth Street, 0.4 mile, to the intersection of Sixth Street and Independence Avenue SW. (latitude 38°53'15" N.; longitude 77°01'13" W.);
Thence west along the north side of Independence Avenue, 0.8 mile, to the intersection of Independence Avenue and 15th Street SW. (latitude 38°53'16" N.; longitude 77°02'02" W.);
Thence west along the southern lane of Independence Avenue, 0.4 mile to the west end of the Kutz Memorial Bridge over the Tidal Basin (latitude 38°53'12" N.; longitude 77°02'28" W.);
Thence west via a 285° bearing, 0.6 mile, to the southwest corner of the Lincoln Memorial, the point of beginning.
B. That area within a one-half mile radius from the center of the U. S. Naval Observatory located between Wisconsin and Massachusetts Avenues at 34th Street NW. (latitude 38°55'17" N.; longitude 77°04'02" W.).
Designated altitudes: Surface to 18,000 feet MSL.
Time of designation: Continuous.
Using agency: Administrator, Federal Aviation Administration, Washington, D. C.

§73.88

P-77 Plains, Ga.

Boundaries. That airspace within one mile each side of a line extending from lat. 32°02'00"N., long. 84° 23'38"W.; to lat. 32°01'03"N., long. 84°25'25"W., and within a one mile radius of each of the above coordinates.
Designated altitudes. Surface to 1500 feet MSL.
Time of designation. Continuous.
Using agency. Administrator, Federal Aviation Administration, Washington, D. C.

§73.89

P-47 Amarillo, Tex.

Boundaries. Beginning at lat. 35°21'09"N., long. 101°37'03"W., to lat. 35°21'11"N., long. 101°32'27"W., to lat. 35°18'09"N., long. 101°32'27"W., to lat. 35°18'09"N., long. 101°34'48"W., to lat. 35°17'55"N., long. 101°35'08"W., to lat. 35°17'55"N., long. 101°35'37"W., to lat. 35°19'05"N., long. 101°35'40"W., to lat. 35°19'05"N., long. 101°36'04"W., to lat. 35°18'02"N., long. 101°36'27"W., to lat. 35°18'02"N., long. 101°37'03"W., to point of beginning.
Designated altitudes. Surface to 4,800 feet MSL (1,200 feet AGL).
Time of designation. Continuous.
Using agency. Manager, Pantex Field Office, Department of Energy, Amarillo, Tex.

AMENDMENTS 4/19/78 43 F. R. 11574 (Added)

§73.90

P-40 Thurmont, Md.

Boundaries: That airspace within a one nautical mile radius of the Naval Support Facility, latitude 39°38'53" N., longitude 77°28'01" W.
Designated altitudes: Surface to but not including 5,000 feet MSL.
Time of designation. Continuous.
Using agency. Administrator, Federal Aviation Administration, Washington, D. C.

§73.91

P-73 Mount Vernon, Va.

Boundaries: That airspace within a 0.5-mile radius of latitude 38°42'28" N., longitude 77°05'11" W.
Designated altitudes. Surface to but not including 1,500 feet MSL.
Time of designation. Continuous.
Using agency. Administrator, Federal Aviation Administration, Washington, D. C.

§73.92

P-26 Denver, Colo.

Boundaries. Beginning at latitude 39°48'45" N., longitude 104°50'46" W.; to latitude 39°50'00" N., longitude 104°50'46" W.; to latitude 39°51'22" N., longitude 104°50'18" W.; to latitude 39°51'22" N., longitude 104°48'00" W.; to latitude 39°48'45" N., longitude 104°48'00" W.; to point of beginning.
Designated altitudes. Surface to 6,900 feet MSL.
Time of designation. Continuous.
Using agency. Commanding Officer, Rocky Mountain Arsenal, Denver, Colo.

PART 75-ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

SUBPART A -- GENERAL
Sec.
75.1 Applicability.
75.11 Jet routes
75.13 Area high routes; control area designation.
75.15 Reserved
75.17 Bearings; Radials; Miles

SUBPART B -- JET ROUTES
Sec.
75.100 Jet routes

SUBPART C — RESERVED

SUBPART D -- AREA HIGH ROUTES
75.400 Area high routes.

SUBPART A -- GENERAL

§75.1 Applicability.

The routes described in Subpart B, between high altitude navigational aids or intersections of their signals, are designated as jet routes along which aircraft may be operated between 18,000 feet MSL and flight level 450.
The routes described in Subpart D of this Part are designated as area high routes.

§75.11 Jet Routes

Each jet route designated in Subpart B consists of a direct course for navigating aircraft between 18,000 feet MSL and flight level 450, inclusive, between the navigational aids and intersections specified for that route.

§75.13 Area high routes; control area designation.

(a) Each area high route designated in Subpart D of this Part consists of a direct course for navigating aircraft at altitudes between 18,000 feet MSL and flight level 450, inclusive, between the waypoints specified for that route.
(b) Unless otherwise specified, that airspace on each side of an area high route that has a lateral extent specified in §71.6 and that extends outside the continental control areas, is designated as a control area.

§75.15 Reserved

§75.17 Bearings; Radials; Miles

(a) All bearings and radials in this Part are true and are applied from point of origin.
(b) Unless otherwise specified, all mileages in this Part are stated as nautical miles.

SUBPART B -- JET ROUTES

§75.100 Jet Routes.

SUBPART C — RESERVED

SUBPART D -- AREA HIGH ROUTES

§ 75.400 Area high routes.

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SUBPART B - JET ROUTES

§ 75.100 Jet routes.

(Unless otherwise specified the place names appearing in the description of the jet routes indicate the VOR or VORTAC facilities identified by such names.).

Jet Route No. 1 From the INT of the United States/Mexican Border with the direct course between the Mission Bay, Calif., VORTAC and the Tijuana, Mexico, VOR, via Mission Bay; Oceanside, Calif.; Los Angeles, Calif.; INT of the Los Angeles 319° and the Avenal, Calif., 145° radials; Avenal; Oakland, Calif.; Red Bluff, Calif.; Medford. Oreg.; Portland, Oreg., to Seattle, Wash.

Jet Route No. 2 From Mission Bay, Calif., via Imperial, Calif.; Yuma, Ariz.; INT of the Yuma 089° and Gila Bend, Ariz., 261° radials; Gila Bend, Cochise, Ariz.; El Paso, Tex.; Fort Stockton, Tex.; Junction, Tex.; San Antonio, Tex.; Humble, Tex.; Lake Charles, La.; INT of the Lake Charles 089° and the New Orleans, La., 275° radials; New Orleans; Semmes, Ala.; Crestview, Fla.; INT of the Crestview 091° and the Tallahassee, Fla., 290° radials; Tallahassee; to Jacksonville, Fla.

AMENDMENTS 11/2/78 43 F. R. 43294 (Changed)

Jet Route No. 3 From Oakland, Calif., via Red Bluff, Calif.; Lakeview, Oreg.; Kimberly, Oreg.; Spokane, Wash., to Cranbrook, British Columbia, excluding the portion that lies over Canadian territory.

Jet Route No. 4 From Twentynine Palms, Calif., via intersection of Twentynine Palms 103° and Casa Grande, Ariz., 299° radials; Casa Grande; San Simon, Ariz.; Newman, Tex.; Wink, Tex.; Abilene, Tex.; Dallas-Fort Worth, Tex.; Shreveport, La.; Jackson, Miss.; Meridian, Miss.; Montgomery, Ala.; INT Montgomery 051° and Augusta, Ga., 273° radials; Augusta; Columbia, S. C.; Florence, S. C.; to Wilmington. N. C.

Jet Route No. 5 From Los Angeles, Calif., via the INT of the Palmdale, Calif., 291° and the Bakersfield, Calif., 149° radials; Bakersfield; Reno. Nev.; Lakeview, Oreg.; Seattle, Wash.; to Vancouver, British Columbia, excluding that portion within Canada.

Jet Route No. 6 From the INT of the Salinas, Calif., 145° and the Palmdale, Calif., 291° radials via Palmdale; Hector, Calif.; Needles, Calif.; Prescott, Ariz.; Zuni, Ariz.; Albuquerque, N. Mex.; Tucumcari, N. Mex.; Amarillo, Tex.; Oklahoma City, Okla.; Little Rock, Ark.; Bowling Green, Ky.; Charleston, W. Va.; Front Royal, Va.; Westminster, Md.; INT of Westminster 080° and Robbinsville, N. J. 239° radials; to Robbinsville.

Jet Route No. 7 From Oakland, Calif., via Sacramento, Calif.; Reno, Nev.; Rome, Oreg.; Boise, Idaho; Dillon, Mont.; Great Falls, Mont.; to Swift Current, Saskatchewan, Canada. The airspace within Canada is excluded.

AMENDMENTS 9/7/78 43 F. R. 30537 (Changed)

Jet Route No. 8 From Needles, Calif., via Winslow, Ariz.; Gallup, N. Mex.; Las Vegas, N. Mex.; Borger, Tex.; INT Borger 095° and Kingfisher, Okla., 261° radials; Kingfisher; Springfield, Mo.; St. Louis, Mo.; Louisville, Ky.; Charleston, W. Va.; Casanova, Va.; INT Casanova 051° and Westminster, Md., 080° radials; INT Westminster 030° and Robbinsville, N. J., 239° radials; to Robbinsville.

Jet Route No. 9 From Los Angeles, Calif., via Daggett, Calif.; INT of Daggett 046° and Boulder City, Nev., 245° radials; Boulder City; Milford, Utah; Fairfield, Utah; Salt Lake Citv. Utah; Dubois, Idaho; Dillon, Mont., to Great Falls, Mont.

Jet Route No. 10 From Los Angeles, Calif., via intersection Los Angeles 083° and Twentynine Palms, Calif., 269° radials; Twentynine Palms; intersection of Twentynine Palms 075° and Prescott, Ariz., 262° radials; Prescott; Farmington, N. Mex., Gunnison, Colo.; INT Gunnison, Colo., 055° and Denver, Colo., 225° radials; Denver; INT Denver 058° and North Platte, Nebr., 260° radials; North Platte, Nebr.; to Wolbach, Nebr.

AMENDMENTS 1/26/78 42 F. R. 62359 (Changed)
AMENDMENTS 11/2/78 43 F. R. 39753 (Changed)

Jet Route No. 11 From Tucson, Ariz., via INT Tucson 316° and Phoenix, Ariz., 161° radails: Phoenix: Prescott, Ariz.; Bryce Canyon, Utah; Fairfield, Utah; to Salt Lake City, Utah.

Jet Route No. 12 From Salt Lake Citv. Utah. via Fairfield. Utah: to Grand Junction. Colo.

Jet Route No. 13 From the INT of the United States/Mexican border and the Truth or Consequences, N. Mex., 162° radial via Truth or Consequences; Albuquerque, N. Mex.; Alamosa, Colo.; Denver, Colo.; Cheyenne, Wyo.; Casper, Wyo.; Billings, Mont.; Great Falls, Mont.; to Lethbridge, Alberta, Canada. The airspace within Canada is excluded.

AMENDMENTS 1/26/78 42 F. R. 61039 (Changed)
AMENDMENTS 9/7/78 43 F. R. 30537 (Changed)

Jet Route No. 14 From Amarillo, Tex., via Oklahoma City, Okla.; Little Rock, Ark.; Vulcan, Ala.; to Atlanta, Ga.; INT Atlanta, Ga., 092° and Spartanburg, S. C., 234° radials; Spartanburg; Greensboro. N. C.; Richmond, Va.; to Kenton, Del.

AMENDMENTS 3/23/78 43 F. R. 3545 (Changed)

Jet Route No. 15 From Humble, Tex., via INT Humble 269° and Junction, Tex., 112° radials; Junction; Wink, Tex.; Roswell, N. Mex.; INT of the Roswell 319° and the Albuquerque, N. Mex., 126° radials; Albuquerque; Farmington, N. Mex.; Grand Junction, Colo.; Salt Lake City, Utah; Boise Idaho; Kimberly, Oreg.; INT Kimberly 288° and Portland, Oreg., 136° radials; to Portland.

AMENDMENTS 9/7/78 43 F. R. 30044 (Changed)

Jet Route No. 16 From Portland, Oreg., via Pendleton, Oreg.; Whitehall, Mont.; Billings, Mont.; Dupree, S. Dak.; Sioux Falls, S. Dak.; Mason City, Iowa; Badger, Wis.; Peck, Mich.; via the Peck 100° radial to the United States/Canadian Border. From the United States/Canadian Border to Buffalo, N. Y., via the Buffalo 274° radial; Albany, N. Y., to Boston, Mass.

AMENDMENTS 7/13/78 43 F. R. 19212 (Changed)

Jet Route No. 17 From San Antonio, Tex., via Abilene, Tex.; Amarillo, Tex.; Tobe, Colo.; Pueblo, Colo.; Denver. Colo., to Rapid City, S. Dak.

AMENDMENTS 1/26/78 42 F. R. 62359 (Changed)

Jet Route No. 18 From Mission Bay, Calif., via Imperial, Calif.; Yuma, Ariz., INT of the Yuma 089° and Gila Bend, Ariz., 261° radials; Gila Bend; Phoenix, Ariz.; St. Johns, Ariz.; Albuquerque, N. Mex.; Las Vegas, N. Mex. Garden City, Kans.; Salina, Kans.; Kirksville, Mo.; Bradford; to Joliet, Ill.

Jet Route No. 19 From Phoenix, Ariz., via INT Phoenix 051° and Zuni, Ariz., 242° radials; Zuni; Las Vegas, N. Mex.; Liberal, Kans.; Wichita, Kans.; Butler, Mo.; to St. Louis, Mo.

Jet Route No. 20 From Seattle, Wash., via Yakima, Wash.; Pendleton, Oreg.; McCall, Idaho; Pocatello, Idaho; Rock Springs, Wyo.; Denver, Colo.; Kiowa, Colo.; Lamar, Colo.; Liberal, Kans.; INT Liberal 137° and Oklahoma City, Okla., 282° radials; Oklahoma City; Shreveport, La.; Jackson, Miss.; Montgomery, Ala.; Meridian, Miss.; Tallahassee, Fla.; INT Tallahassee 129° and Orlando, Fla., 306° radials; Orlando; to the INT of the Orlando 118° and the Vero Beach, Fla., 341° radials.

AMENDMENTS 11/2/78 43 F. R. 39753 (Changed)

Jet Route No. 21 From the INT of the United States/Mexican Border and the Laredo, Tex., 172° radial via Laredo; San Antonio, Tex.; Austin, Tex.; Waco, Tex.; Dallas-Fort Worth, Tex.; INT Dallas-Fort Worth 355° and Oklahoma City, Okla., 158° radials; Oklahoma City; Wichita, Kans.; Omaha, Nebr.; Minneapolis, Minn.; to Duluth, Minn.

Jet Route No. 22 From Nuevo Laredo, Mexico, via Laredo, Tex.; Corpus Christi, Tex.; Palacios, Tex.; Lake Charles, La.; McComb, Miss.; Meridian, Miss.; Vulcan, Ala.; Knoxville, Tenn.; Pulaski, Va.; to Gordonsville, Va. The airspace within Mexico is excluded.

AMENDMENTS 3/23/78 43 F. R. 3545 (Changed)

Jet Route No. 23 From San Antonio, Tex., via Millsap, Tex.; Oklahoma City, Okla.; Pioneer, Okla.; to Wichita, Kans.

Jet Route No. 24 From Myton, Utah, to Hayden Colo. From Hugo, Colo., via Salina, Kans.; Kansas City, Mo.; St. Louis, Mo.; Indianapolis, Ind.; Falmouth, Ky.; Charleston, W. Va.; to Richmond, Va.

AMENDMENTS 1/26/78 42 F. R. 62359 (Changed)
AMENDMENTS 11/2/78 43 F. R. 39753 (Changed)

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Jet Route No. 25 From Matamoras, Mex., via Brownsville, Tex.; INT of the Brownsville 358° and the Corpus Christi, Tex., 178° radials; Corpus Christi; INT of the Corpus Christi 311° and the San Antonio, Tex., 167° radials; San Antonio; Austin, Tex.; Waco, Tex.; Dallas-Fort Worth, Tex., Tulsa, Okla.; Butler, Mo.; INT of the Butler 009° and the Des Moines, Iowa, 196° radials; Des Moines; Mason City, Iowa; to Minneapolis, Minn. The airspace within Mexico is excluded.

Jet Route No. 26 From Ciudad Juarez, Mex., via El Paso, Tex.; INT of El Paso 070° and Roswell, N. Mex., 215° radials; Roswell; Amarillo, Tex.; Gage, Okla.; Wichita, Kans.; Kansas City, Mo.; Kirksville, Mo.; Bradford, Ill.; to Joliet, Ill. The airspace within Mexico is excluded.

Jet Route No. 27 From San Antonio, Tex., to Lufkin, Tex.

Jet Route No. 28 From Pueblo, Colo., via Garden City, Kans., to Wichita, Kans.

Jet Route No. 29 From the INT Of the United States/Mexican Border and the Corpus Christi, Tex., 229° radial via Corpus Christi; Palacios, Tex.;
Humble, Tex.; Lufkin, Tex.; Shreveport, La.; Memphis, Tenn.;
Evansville, Ind., INT Evansville 051° and Rosewood, Ohio, 230° radials; Rosewood; Cleveland, Ohio; Jamestown, N. Y.; Syracuse, N. Y.; Plattsburgh, N. Y.; Bangor, Maine, to Presque Isle. The airspace within Mexico is excluded.

Jet Route No. 30 From Minneapolis, Minn., via Nodine, Minn.; Joliet, Ill., Appleton, Ohio;
INT of Appleton 111° and Belaire, Ohio, 142° radials; to Front Royal, Va.

Jet Route No. 31 From New Orleans, La., via Meridian, Miss.; to Vulcan.

AMENDMENTS 3/23/78 43 F. R. 3545 (Changed)

Jet Route No. 32 From Oakland, Calif., via Sacramento, Calif.; Reno, Nev.; Battle Mountain, Nev.;
Malad City, Idaho; Bovsen Reservoir,
Wyo.; Crazy Woman, Wyo., Dupree, S. Dak.; Aberdeen, S. Dak.; Duluth, Minn.; to the INT of the Duluth 051° radial and the United States/Canadian Border.

Jet Route No. 33 From Humble, Tex., via INT Humble 349° and Dallas-Fort Worth, Tex., 138° radials to Dallas-Fort Worth.

Jet Route No. 34 From Hoquiam, Wash., via Olympia, Wash., Moses Lake, Wash.; Helena, Mont.; Billings, Mont.; Dupree, S. Dak.; Redwood Falls, Minn.; Nodine,
Minn.; Badger, Wis.; INT of Badger 098° and Carleton, Mich., 297° radials; Carleton; Cleveland, Ohio;
Bellaire, Ohio; to INT of Bellaire 104° and Westminster, Md., 247° radials.

AMENDMENTS 7/13/78 43 F. R. 19212 (Changed)
PENDING AMENDMENT
Under Jet Route No. 34 "Bellaire, Ohio; to INT of Bellaire 104° and Westminster, Md., 247° radials." is deleted and "Bellaire, Ohio; to Martinsburg, W. Va." is substituted therefor.

AMENDMENTS 12/28/78 43 F. R. 51012 (Changed)

Jet Route No. 35 From New Orleans, La., via McComb, Miss.; Greenwood, Miss.; Memphis, Tenn.; Farmington, Mo.; St. Louis, Mo.;
Capital, Ill.; the INT of the Capital 036° and the Joliet, Ill., 204° radials; Joliet, to Northbrook, Ill.

Jet Route No. 36 From Mullan Pass, Idaho, via Great Falls, Mont.; Dickinson, N. D., via Fargo, N. Dak.; Minneapolis, Minn.; Nodine, Minn.; Badger, Wis.; INT Badger 086° and Flint, Mich., 278° radials; Flint; INT Flint 102° and Dunkirk, N. Y., 274° radials;
Dunkirk; to Huguenot, N. Y., excluding the portion within Canada.

AMENDMENTS 7/13/78 43 F. R. 19212 (Changed)

Jet Route No. 37 From Hobby, Tex., via INT of the Hobby 090° and New Orleans, La., 257° radials; New Orleans; Semmes, Ala.; Montgomery, Ala.; Spartanburg, S. C.; Gordonsville, Va.; Kenton, Del.; Coyle, N. J.; Kennedy, N. Y.; Albany, N. Y.; Massena, N. Y., to the INT of the Massena 037° radial and the United States/Canadian Border.

AMENDMENTS 9/7/78 43 F. R. 32408 (Changed)

Jet Route No. 38 From the INT of the United States/Canadian Border and the direct radial between Duluth, Minn., and Sioux Narrows, Ont., via Duluth; Green Bay, Wis., to Peck, Mich.

Jet Route No. 39 From Crestview, Fla., via Montgomery, Ala.; Vulcan, Ala., Nashville, Tenn.; Louisville, Ky., to Rosewood, Ohio.

AMENDMENTS 3/23/78 43 F. R. 3545 (Changed)

Jet Route No. 40 From Montgomery, Ala., via Macon, Ga.; Charleston, S. C.; Wilmington, N. C.; Richmond, Va.; INT Richmond 009° and Gordonsville, Va., 059° radials; INT Gordonsville 059° and New Castle, Del., 222° radials; to New Castle.

Jet Route No. 41 From Key West, Fla., via INT of Key West 358° and St. Petersburg, Fla., 151° radials; St. Petersburg; Tallahassee, Fla.; Montgomery, Ala.; Vulcan, Ala.; Memphis, Tenn.; Springfield, Mo., Kansas City, Mo., to Omaha, Nebr.

AMENDMENTS 3/23/78 43 F. R. 3545 (Changed)

Jet Route No. 42 From Dallas-Fort Worth, Tex., via Texarkana, Ark.; Memphis, Tenn.; Nashville, Tenn.; Beckley, W. Va.;
Casanova, Va.; INT Casanova 051° and Westminster, Md., 080° radials; INT Westminster 080° and Robbinsville, N. J. 239° radials; Robbinsville; INT Robbinsville 073° and Hampton 223° radials; to Hampton.

Jet Route No. 43 From Miami, Fla., via St. Petersburg, Fla.; Tallahassee, Fla.; Atlanta, Ga.; Knoxville, Tenn.; Falmouth, Ky.; Rosewood, Ohio; Carleton, Mich., to Sault Ste, Marie, Mich.

AMENDMENTS 11/2/78 43 F. R. 39754 (Changed)

Jet Route No. 44 From Phoenix, Ariz., via Winslow, Ariz., Farmington, N. Mex.; Alamosa, Colo.; INT Alamosa 003° and Denver, Colo.; 225° radials; to INT Denver 225° and Kiowa, Colo., 266° radials.

AMENDMENTS 1/26/78 42 F. R. 62359 (Changed)
AMENDMENTS 11/2/78 43 F. R. 39753 (Changed)

Jet Route No. 45 From Biscayne Bay, Fla., via INT Biscayne Bay 015° and Vero Beach, Fla., 143° radials; Vero Beach; Ormond Beach, Fla., Jacksonville, Fla.; Alma, Ga.; Macon, Ga.; Atlanta, Ga.; Nashville, Tenn.; St. Louis, Mo.; Des Moines, Iowa; Sioux Falls, S. Dak.; to Aberdeen, S. Dak.

Jet Route No. 46 From Tulsa, Okla., via Walnut Ridge, Ark.; Nashville, Tenn., to Knoxville, Tenn.

Jet Route No. 47 From Charleston, S. C., via Columbia, S. C., to Spartanburg, S. C.

Jet Route No. 48 From Pulaski, Va., via Westminster, Md.; INT Westminster 043° and Kennedy, N. Y., 252° radials; Kennedy; INT Kennedy 042° and Boston, Mass., 252° radials; to Boston.

Jet Route No. 49 From Phillipsburg, Pa., via Hancock, N. Y.; Albany, N. Y.; Bangor, Maine; Presque Isle, Maine.

AMENDMENTS 1/26/78 42 F. R. 56602 (Changed)

Jet Route No. 50 From Bakersfield, Calif., via Ontario, Calif.; intersection Ontario 093° and Blythe, Calif., 282° radials;
Blythe; intersection Blythe 096° and Gila Bend, Ariz., 299° radials; Gila Bend; Casa Grande, Ariz.; San Simon, Ariz.; INT San Simon 105° and El Paso, Tex., 275° radials; El Paso; INT El Paso 093° and Wink, TX., 266° radials; Wink; Abilene, TX.; Waco, TX.; Lufkin, TX; INT of the Lufkin 086° and the Alexandria, La., 270° radials; Alexandria; McComb, Miss., to Crestview, Fla.

Jet Route No. 51 From Jacksonville, Fla., via Savannah, Ga.; Columbia, S. C.; Raleigh-Durham, N. C.; to Norfolk, Va.

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Jet Route No. 52 From Vancouver, British Columbia, Canada, via Spokane, Wash.; Salmon, Idaho; Dubois, Idaho; Rock Springs, Wyo.; Denver, Colo.; Kiowa, Colo.; Lamar, Colo.; Liberal, Kans.; INT Liberal 137° and Ardmore, Okla., 309° radials; Ardmore; Dallas-Fort Worth, Tex.; Texarkana, Ark.; Greenwood, Miss.; Bigbee, Miss.; Vulcan, Ala.; Atlanta, Ga.; Augusta, Ga.; Columbia, S. C.; Raleigh-Durham, N. C.; to Richmond, Va. The portion within Canada is excluded.

AMENDMENTS 3/23/78 43 F. R. 3545 (Changed)
AMENDMENTS 11/2/78 43 F. R. 39753 (Changed)

Jet Route No. 53 From Biscayne Bay, Fla., via Orlando, Fla.; Jacksonville, Fla.; Augusta, Ga.; Spartanburg, S. C.; Pulaski, Va.; INT of Pulaski 015° and Ellwood City, Pa., 177° radials; Ellwood City; to Kleinburg, Ontario, Canada. The portion within Canada is excluded.

AMENDMENTS 1/26/78 42 F. R. 60123 (Changed)

Jet Route No. 54 From Tatoosh, Wash., via Olympia, Wash.; Pendleton, Oreg.; Boise, Idaho; to Pocatello, Idaho.

AMENDMENTS 11/2/78 43 F. R. 39755 (Changed)

Jet Route No. 55 From Jacksonville, Fla., via Savannah, Ga.; Charleston, S. C.; Florence, S. C.; INT of the Florence 007° and the Raleigh, N. C., and the Raleigh-Durham, N. C., 224° radials; Raleigh-Durham, Flat Rock, Va.; INT of the Flat Rock 025° and the Gordonsville, Va., 059° radials; INT of the Grodonsville 059 and Sea Isle, N. J., 253° radials; Sea Isle; INT Sea Isle 050° and Hampton, N. Y., 223° radials; Hampton; Providence, R. I.; Boston, Mass.; Kennebunk, Maine: Presque Isle, Maine; to Mont Joli, Quebec, Canada, excluding the portion within Canada.

Jet Route No. 56 From Mina, Nev., via Salt Lake City, Utah; Hayden, Colo.; INT Hayden 090° and Denver, Colo., 325° radials; to Denver.

AMENDMENTS 1/26/78 42 F. R. 62359 (Changed)
AMENDMENTS 11/2/78 43 F. R. 39753 (Changed)

Jet Route No. 57 From Truth or Consequences, N. Mex., via Socorro, N. Mex.; to Albuquerque, N. Mex.

Jet Route No. 58 From Oakland, Calif., via Stockton, Calif.; Coaldale, Nev.; Wilson Creek, Nev.; Bryce Canyon, Utah; Farmington, N. Mex.; Las Vegas, N. Mex.; Amarillo, Tex.; Wichita Falls, Tex.; Dallas-Fort Worth, Tex., Alexandria, La.; INT of the Alexandria 126° and the New Orleans, La., 295° radials; New Orleans; INT of Grand Isle, La., 104° and Crestview, Fla., 201° radials; INT of Grand Isle 104° and Sarasota, Fla., 286° radials; Sarasota; INT of Sarasota 138° and Biscayne Bay, Fla., 301° radials; to Biscayne Bay.

AMENDMENTS 11/2/78 43 F. R. 39754 (Changed)

Jet Route No. 59 From Philipsburg, Pa., to Syracuse, N.Y.

Jet Route No. 60 From Los Angeles, Calif., via Ontario, Calif.; Hector, Calif.; Boulder City, Nev.; Bryce Canyon, Utah; Hanksville, Utah; Grand Junction, Colo.; Denver, Colo.; Hayes Center, Nebr.; Lincoln, Nebr.; Iowa City, Iowa; Joliet, Ill.; Cleveland, Ohio; Philipsburg, Pa.; INT Phillipsburg 100° and Robbinsville, N. J., 293° radials; to Robbinsville.

Jet Route No. 61 From Westminster, Md., via Philipsburg, Pa., to Buffalo, N.Y.

Jet Route No. 62 From Kennedy, N. Y., via the INT of Kennedy 080° and the Nantucket, Mass., 255° radials; Nantucket; to lat. 41°08'00"N., long. 67°00'00"W.

AMENDMENTS 5/18/78 43 F. R. 15415 (Changed)

Jet Route No. 63 From Kennedy, N. Y., via Huguenot, N. Y.; INT of Huguenot 321° and Syracuse, N. Y., 149° radials; to Syracuse.

AMENDMENTS 5/18/78 43 F. R. 15415 (Revoked) Corr: 43 F. R. 17940

Jet Route No. 64 From Los Angeles, Calif., via Ontario, Calif.; Hector, Calif.; Peach Springs, Ariz.; Tuba City, Ariz.; Farmington, N. Mex.; Alamosa, Colo.; Hill City, Kans.; Pawnee City, Nebr.; Lamoni, Iowa; Bradford, Ill.; via the INT of the Bradford 089° and the Fort Wayne, Ind., 280° radials; Fort Wayne; Ellwood City, Pa.; to Robbinsville, N.J.

Jet Route No. 65 From Abilene, Tex., via Roswell, N. Mex.; Truth or Consequences, N. Mex.; Phoeniz, Ariz.; INT Phoenix 272° and Blythe, Calif., 096° radials; Blythe; Palmdale, Calif.; INT Palmdale 291° and Bakersfield, Calif., 149° radials; Bakersfield; Fresno, Calif.; Sacramento, Calif.; to Red Bluff, Calif.

Jet Route No. 66 From Dallas-Fort Worth, Tex., via Little Rock, Ark.; Memphis, Tenn.; to Rome, Ga.

Jet Route No. 67 From Lakeview, Oreg., direct Portland, Oreg.

Jet Route No. 68 From Badger, Wis., via INT Badger 086° and Flint, Mich., 278° radials; Flint; INT Flint 102° and Dunkirk, N.Y., 274° radials; Dunkirk; Hancock, N.Y.; INT Hancock 082° and Putnam, Conn., 293° radials; Putnam; Providence, R.I.; to Nantucket, Mass., excluding the portion within Canada.

AMENDMENTS 7/13/78 43 F. R. 19212 (Changed)

Jet Route No. 69 From Semmes, Ala., via INT of the Semmes 015° and the Vulcan, Ala., 232° radials; to Vulcan.

AMENDMENTS 3/23/78 43 F. R. 3545 (Changed)

Jet Route No. 70 From Hoquiam, Wash., via Seattle, Wash.; Ephrata, Wash.; Mullan Pass, Idaho; Lewiston, Mont.; Dickinson, N. Dak.; Aberdeen, S. Dak.; Minneapolis, Minn.; INT of the Minneapolis 109° and the Badger, Wis., 312° radials; Badger; Pullman, Mich.; Salem, Mich.; Jamestown, N. Y.; Sparta, N. J.; to Kennedy, N. Y.
AMENDMENTS 7/13/78 43 F. R. 19212 (Changed)

Jet Route No. 71 From Memphis, Tenn., Centralia, Ill.; INT Centralia 019° and Northbrook, Ill., 186° radials; to Northbrook.

Jet Route 72 From Boulder City, Nev., via Peach Springs, Ariz.; Winslow, Ariz.; Zuni, Ariz.; Albuquerque, N. Mex.; Texico, N. Mex.; Wichita Falls, Texas; to Dallas-Fort Worth, Tex.

Jet Route No. 73 From Tallahassee, Fla., via LaGrange, Ga.; Nashville, Tenn.; Lewis, Ind.; to Northbrook, Ill.

Jet Route No. 74 From Los Angeles, Calif., via Ontario, Calif.; INT of the Ontario 093° and the Parker, Calif., 261° radials; Parker; St. Johns, Ariz., Scorro, N. Mex.; Texico, N. Mex.; to Oklahoma City, Okla.

Jet Route No. 75 From Biscayne Bay, Fla., via the Biscayne Bay 301° and the Lakeland, Fla., 175° radials; Lakeland, Fla.; Taylor, Fla.; Columbia, S.C.; Greensboro, N.C.; Gordonsville, Va.; Westminster, Md.; Huguenot, N.Y.; Albany, N.Y.; Plattsburgh, N.Y., to the INT of the Plattsburgh 334° radial and the United States/Canadian Border.
AMENDMENTS 11/2/78 43 F. R. 39754 (Changed)

Jet Route No. 76 From Boulder City, Nev., via Tuba City, Ariz.; Las Vegas, N. Mex.; Tucumcari, N. Mex.; Wichita Falls, Tex.; to Dallas-Fort Worth, Tex.

Jet Route No. 77 From Wilmington, N. C., via Gordonsville, Va.; Westminster, Md.; Huguenot, N. Y.; to Boston, Mass.

Jet Route No. 78 From Los Angeles, Calif., via Ontario, Calif.; INT of the Ontario 093° and the Parker, Calif., 261° radials; Parker, Prescott, Ariz.; Zuni, Ariz.; Albuquerque, N. Mex.; Tucumcari, N. Mex.; Amarillo, Texas; Oklahoma City, Okla.; Tulsa, Okla.; Farmington, Mo.; Louisville, Ky.; Charlesto, W. Va.; Philipsburg, Pa.; INT Philipsburg 083° and Keating, Pa., 099° radials; to Kennedy, N. Y.

Jet Route No. 79 From Key West, Fla., via Miami, Fla.; Palm Beach, Fla.; Vero Beach, Fla.; Ormond Beach, Fla.; INT of Ormond Beach 360° and Jacksonville, Fla., 028° radials; Charleston, S.C.; Wilmington, N.C.; Haw, N.C.; Norfolk, Va.; INT of Norfolk 023° and Coyle, N.J., 208° radials; Coyle; Kennedy, N. Y.; INT Kennedy 080° and Nantucket, Mass., 255° radials; INT Nantucket 255° and Hyannis, Mass., 205° radials; Hyannis; INT Hyannis 003° and Bangor, Maine, 206° radials; Bangor.
AMENDMENTS 1/26/78 42 F. R. 60123 (Changed)
AMENDMENTS 3/23/78 43 F. R. 3553 (Changed)

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Jet Route No. 80 From Oakland, Calif., via Stockton, Calif., Coaldale, Nev.; Wilson Creek, Nev.; Milford, Utah; Grand Junction, Colo.; Denver, Colo.; Goodland, Kans.; Hill City, Kans.; Kansas City, Mo.; Capital, Ill.; Indianapolis, Ind.; Bellaire, Ohio; INT of the Bellaire 090° and Robbinsville, N. J., 264° radials; Robbinsville; to Kennedy, N.Y.

Jet Route No. 81 From Miami, Fla., to Orlando, Fla.

Jet Route No. 82 From Portland, Oreg., via McCall, Idaho; Dubois, Idaho; Crazy Woman, Wyo.; Rapid City, S. Dak; Sioux Falls, S. Dak.; Fort Dodge, Iowa; Dubuque, Iowa; INT of Dubuque 095° and Joliet, Ill., 317° radials; Joliet; Cleveland, Ohio; Jamestown, N.Y.; to Albany, N.Y.

Jet Route No. 83 From Spartanburg, S. C., via INT Spartanburg 341° and Appleton, Ohio, 184° radials; Appleton; to Cleveland, Ohio.

Jet Route No. 84 From Oakland, Calif., via Linden, Calif.; Mina, Nev.; Delta, Utah; Meeker, Colo.; Sidney, Nebr.; Wolbach, Nebr.; Dubuque, Iowa; to Northbrook, Ill.

Jet Route No. 85 From Biscayne Bay, Fla., via INT Biscayne Bay 328° and Lakeland, Fla., 140° radials; Lakeland; Taylor, Fla.; Alma, Ga.; Augusta, Ga.; Spartanburg, S.C.; Charleston, W. Va.; INT of the Charleston 357° and the Cleveland, Ohio 172° radials; Cleveland; to Salem, Mich. The portion within Canada is excluded.

AMENDMENTS 1/26/78 42 F. R. 60123 (Changed)

Jet Route No. 86 From Boulder City, Nev., via Peach Springs, Ariz.; Winslow, Ariz.; El Paso, Tex.; Fort Stockton, Texas; Junction, Tex.; Austin, Tex.; Humble, Tex.; Leeville, La.; INT of Leeville 104° and Sarasota, Fla., 286° radials; Sarasota; INT of Sarasota 103° and Miami, Fla., 315° radials; to Miami.

AMENDMENTS 11/2/78 43 F. R. 39754 (Changed)

Jet Route No. 87 From Humble, Tex., via Navasota, Tex.; Dallas-Fort Worth, Tex.; Tulsa, Okla.; Butler, Mo.; Kirksville, Mo.; Bradford, Ill.; Joliet, Ill.; to Northbrook, Ill.

AMENDMENTS 9/7/78 43 F. R. 23703 (Rewritten)

Jet Route No. 88 From Los Angeles, Calif., via Santa Barbara, Calif.; Salinas, Calif.; to Point Reyes, Calif.

Jet Route No. 89 From Biscayne, Fla., via the INT of Biscayne Bay 301° and Lakeland, Fla., 166° radials; Lakeland; Cross City, Fla.; Atlanta, Ga.; Louisville, Ky.; Lafayette, Ind.; Northbrook; Badger, Wis., to Duluth, Minn.

AMENDMENTS 7/13/78 43 F. R. 19212 (Changed)
AMENDMENTS 11/2/78 43 F. R. 39754 (Changed)
PENDING AMENDMENT
Under J-89, ", to Duluth, Minn." is deleted and "; Duluth, Minn.; to Winnipeg, Manitoba, Canada. The portion within Canada is excluded." is substituted therefor.

AMENDMENTS 2/22/79 43 F. R. 56021 (Changed)

Jet Route No. 90 From Seattle, Wash., via Ephrata, Wash.; Mullan Pass, Idaho; Lewistown, Mont.; Miles City, Mont.; Aberdeen, S. Dak.; Redwood Falls, Minn.; Mason City, Iowa; INT of the Mason City 095° and the Northbrook, Ill., 292° radials; to Northbrook.

Jet Route No. 91 From Atlanta, Ga., via Knoxville, Tenn., Henderson, W. Va.; to Bellaire, Ohio.

Jet Route No. 92 From Reno, Nev., via Coaldale, Nev.; Beatty, Nev.; INT Beatty 131° and Boulder City, Nev., 284° radials; Boulder City; Prescott, Ariz.; Phoenix, Ariz.; Casa Grande, Ariz.; INT of Casa Grande 145° and Tucson, Ariz., 298° radials; Tucson; to the INT of the Tucson 185° radial and the United States/Mexican border.

Jet Route No. 93 From the INT of the United States/Mexican Border and the Julian, Calif., 123° radial via Julian; to Ontario, Calif.

Jet Route No. 94 From Oakland, Calif., via Stockton, Calif.; Reno, Nev.; Battle Mountain, Nev.; Lucin, Utah; Rock Springs, Wyo.; Scottsbluff, Nebr.; O'Neill, Nebr.; Fort Dodge, Iowa; Dubuque, Iowa; Northbrook; Pullman, Mich.; Flint, Mich.; Peck, Mich.; to the INT of the Peck 100° radial with the United States/Canadian Border. From the United States/Canadian Border at its INT with the Buffalo, N.Y., 274° radial via Buffalo; Albany, N.Y., to Boston, Mass.

Jet Route No. 95 From Kennedy, N.Y., via Huguenot, N.Y., Buffalo, N.Y.; to Kleinburg, Ontario, Canada, excluding the portion which lies over Canadian territory.

Jet Route No. 96 From Los Angeles, Calif., via Seal Beach, Calif.; Thermal, Calif.; Parker, Calif.; Prescott, Ariz.; INT Prescott 084° and Gallup, N. Mex., 246° radials; Gallup; Cimarron, N. Mex.; Garden City, Kans.; Salina, Kans; Kirksville, Mo.; Bradford, Ill.; to Joliet, Ill.

Jet Route No. 97 From lat. 39°07'00"N., long. 67°00'00"W., via Nantucket; Boston, Mass.; to Plattsburgh, N. Y.

AMENDMENTS 5/18/78 43 F. R. 15415 (Changed)

Jet Route No. 98 From Liberal, Kans., via Gage, Okla.; Oklahoma City, Okla.; via Tulsa, Okla.; Springfield, Mo.; to Farmington, Mo.

Jet Route No. 99 From Augusta, Ga., via Knoxville, Tenn.; to Louisville, Ky.

Jet Route No. 100 From Los Angeles, Calif., via Daggett, Calif.; INT of Daggett 046° and Boulder City, Nev., 245° radials; Boulder City; Bryce Canyon, Utah; Meeker, Colo.; Sidney, Nebr.; Wolbach, Nebr.; Dubuque, Iowa; to Northbrook, Ill.

Jet Route No. 101 From Humble, Texas, via Lufkin, Texas; Shreveport, La.; Little Rock, Ark.; St. Louis, Mo.; Capital, Ill.; INT of the Capital 036° and the Joliet, Ill., 204° radials; Joliet; Northbrook, Ill.; Badger, Wis.; Green Bay, Wis.; to Sault Ste. Marie, Mich.

AMENDMENTS 7/13/78 43 F. R. 19212 (Changed)

Jet Route No. 102 From Phoenix, Ariz., via INT of Phoenix 066° and Zuni, N. Mex., 226° radials; Zuni; Alamosa, Colo.; Lamar, Colo.; to Salina, Kans.

Jet Route No. 103 From St. Petersburg, Fla., via Orlando, Fla.; Ormond Beach, Fla.; to Savannah, Ga.

Jet Route No. 104 From Twentynine Palms, Calif., via intersection Twentynine Palms 103° and Gila Bend, Ariz., 312° radials; Gila Bend, Tucson, Ariz.; San Simon, Ariz.; Socorro, N. Mex.; Las Vegas, N. Mex.; to Pueblo, Colo.

AMENDMENTS 11/2/78 43 F. R. 39753 (Changed)

Jet Route No. 105 From Dallas-Fort Worth, Tex., via Razorback, Ark.; Springfield, Mo.; Bradford, Ill.; to Badger, Wis.

AMENDMENTS 7/13/78 43 F. R. 19212 (Changed)
AMENDMENTS 9/7/78 43 F. R. 31127 (Changed)

Jet Route No. 106 From Minneapolis, Minn., via Green Bay, Wis.; INT Green Bay 106° and Flint, Mich., 310° radials; Flint; INT Flint 127° and Salem, Mich., 092° radials; Jamestown, N.Y.; Sparta, N.J.; to Kennedy, N.Y., excluding the portion within Canada.

Jet Route No. 107 That airspace over United States territory from Los Angeles, Calif., via Daggett, Calif.; INT of Daggett 046° and Boulder City, Nev., 245° radials; Boulder City; Milford, Utah; Delta, Utah; Rock Springs, Wyo.; Crazy Woman, Wyo.; Dickinson, N. Dak.; Pembina, N. Dak., to Kenora, Ontario, Canada.

Jet Route No. 108 From Winslow, Ariz., via St. Johns, Ariz.; Truth or Consequences, N. Mex.; INT Truth or or Consequences, N. Mex., 106° and Wink, Tex., 297° radials; to Wink, Tex.

Jet Route No. 109 From Wilmington, N.C., via Gordonsville, Va.; Front Royal, Va.; to Buffalo, N.Y.

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Jet Route No. 110 From Oakland, Calif., via Salinas, Calif.; Fresno, Calif.; Boulder City, Nev.; Farmington, N. Mex.; Alamosa, Colo.; Garder City, Kans.; Butler, Mo.; St. Louis, Mo.; Indianapolis, Ind.; Bellaire, Ohio; Coyle, N. J.; to Kennedy, N. Y.

AMENDMENTS 11/2/78 43 F. R. 36896 (Changed)

Jet Route No. 111 From Nome, Alaska, via Unalakleet, Alaska; McGrath, Alaska; Anchorage, Alaska; Middleton Island, Alaska; to SNOUT INT (Middleton Island 121° and Yakutat, Alaska 215° radials).

Jet Route No. 112 From Butler, Mo., via Farmington, Mo., to Louisville, Ky.

Jet Route No. 113 From Northbrook, Ill., via Dubuque, Iowa; to Minneapolis, Minn.

Jet Route No. 114 From Denver, Colo.; O'Neill, Nebr.; Sioux Falls, S. Dak.; to Minneapolis, Minn.

Jet Route No. 115 From Shemya, Alaska, NDB, via Adak, Alaska, NDB; Dutch Harbor, Alaska, NDB; Cold Bay, Alaska; King Salmon, Alaska; INT King Salmon 053° and Kenai, Alaska, 239° radials; Kenai; Anchorage, Alaska; Fairbanks. Alaska: Chandalar. Alaska. NDB; to Deadhorse. Alaska.

Jet Route No. 116 From Salt Lake City, Utah, via Fairfield, Utah; Meeker, Colo.; to Denver, Colo.

Jet Route No. 117 From McGrath, Alaska, via Galena, Alaska; to Kotzebue, Alaska.

Jet Route No. 118 From Memphis, Tenn., via Chattanooga, Tenn., to Spartanburg, S.C.

Jet Route No. 119 From St. Petersburg, Fla., to Taylor, Fla.

AMENDMENTS 11/2/78 43 F. R. 39754 (Changed)

Jet Route No. 120 From Bethel, Alaska, via McGrath, Alaska; Fairbanks, Alaska; Fort Yukon, Alaska; to the Barter Island. Alaska. NDB.

Jet Route No. 121 From Jacksonville, Fla., via Charleston, S. C.; Norfolk, Va.; INT Norfolk 023° and Snow Hill, Md., 211° radials; Snow Hill; Sea Isle, N. J.; INT Sea Isle 050° and Hampton, N. Y., 223° radials; Hampton; Providence, R. I.; to INT Providence 045° and Boston, Mass., 066° radials.

Jet Route No. 122 From Fairbanks, Alaska, via Galena, Alaska; to Nome, Alaska.

Jet Route No. 123 From INT Kodiak, Alaska, 107° radial and NW boundary Anchorage Oceanic Control Area at lat. 57°28'00"N., long. 150°32'00"W., via Kodiak; King Salmon, Alaska; Bethel, Alaska; Nome, Alaska; Kotzebue, Alaska: to Barrow, Alaska.

Jet Route No. 124 From Anchorage, Alaska, via Big Lake, Alaska; Gulkana, Alaska; to Northway, Alaska.

Jet Route No. 125 From Kodiak, Alaska, via Anchorage, Alaska; Talkeetna, Alaska; to Nenana, Alaska.

Jet Route No. 126 From Los Angeles, Calif., via the INT of the Los Angeles 319° and the Avenal, Calif., 145° radials; Avenal; Stockton, Calif.; Sacramento, Calif.; Red Bluff, Calif.; Medford, Oreg.; Eugene, Oreg.; Newberg, Oreg.; Olympia, Wash.; to Vancouver, British Columbia, Canada. That portion outside the United States is excluded.

Jet Route No. 127 From Cape Newenham, Alaska, NDB via King Salmon, Alaska; to INT King Salmon 042° and Anchorage, Alaska, 246° radials.

Jet Route No. 128 From Los Angeles, Calif., via Hector, Calif.; Peach Springs, Ariz.; Tuba City, Ariz.; Gunnison. Colo.: Denver, Colo.: Hays Center, Nebr.; Wolbach, Nebr.; Dubuque, Iowa; to Northbrook, Ill.

Jet Route No. 129 From Nome, Alaska, to Kotzebue, Alaska, via INT Nome 009° and Kotzebue 221° radials.

Jet Route No. 130 From Wilson Creek, Nev., via INT Wilson Creek 068° and Grand Junction, Colo., 274° radials; Grand Junction; INT Grand Junction 090° and Kiowa, Colo., 256° radials; INT Kiowa 256° and Denver, Colo., 225° radials to INT Denver 225° and Kiowa 266° radials.

AMENDMENTS 1/26/78 42 F. R. 62359 (Changed)
AMENDMENTS 11/2/78 43 F. R. 39753 (Changed)

Jet Route No. 131 From San Antonio, Tex., via INT San Antonio 007° and Dallas-Fort Worth, Tex., 218° radials; Dallas-Fort Worth; Texarkana, Ark.; Little Rock, Ark.; to Evansville, Ind.

Jet Route No. 132 From Fort Dodge, Iowa, to Mason City, Iowa.

Jet Route No. 133 From Biorka Island, Alaska, via Hinchinbrook, Alaska, NDB; to Johnstone Point, Alaska.

Jet Route No. 134 From Los Angeles, Calif., via intersection Los Angeles 083° and Twentynine Palms, Calif., 269° radials; Twentynine Palms; intersection of Twentynine Palms 075° and Parker, Calif., 062° radials; intersection Parker 062° and Winslow, Ariz., 265° radials; Winslow; Gallup, N. Mex.; Cimarron, N. Mex.; Liberal, Kans., Wichita, Kans.; Butler, Mo.; St. Louis, Mo.; Falmouth, Ky.; INT of Falmouth 085° and Front Royal, Va., 264° radials; to Front Royal.

Jet Route No. 135 From Bethel, Alaska, to Unalakleet, Alaska.

Jet Route No. 136 From Newport, Oreg., via Portland, Oreg., Yakima, Wash., Spokane, Wash.; Mullan Pass, Idaho; INT Mullan Pass 101° and Billings, Mont., 301° radials; to Billings.

Jet Route No. 137 From Capital, Ill., via Farmington, Mo.; Walnut Ridge, Ark.; to Little Rock, Ark.

AMENDMENTS 1/26/78 42 F. R. 59752 (Added)

Jet Route No. 138 From Fort Stockton, Tex., via Center Point, Tex.; San Antonio, Tex.; Hobby, Tex.; to Lake Charles, La.

AMENDMENTS 7/13/78 43 F. R. 21451 (Changed)

Jet Route No. 139 From Bettles, Alaska, to Deadhorse, Alaska.

Jet Route No. 140 From Fargo, N. Dak., via Duluth, Minn., to Sault Ste. Marie, Mich.

Jet Route No. 142 From San Simon, Ariz., via the INT of the San Simon 038° and the Socorro, N. Mex., 233° radials: to Socorro.

Jet Route No. 143 From Eugene, Oreg., via The Dallas, Oreg.; to Spokane, Wash.

Jet Route No. 144 From Wolbach, Nebr.: via Des Moines, Iowa; to Dubuque, Iowa.

Jet Route No. 145 From Toccoa, Ga., via Charleston, W. Va.; INT Charleston 034° and the Ellwood City, Pa., 194° radials to Ellwood City, Pa.

Jet Route No. 146 From Los Angeles, Calif., via Ontario, Calif.; Hector, Calif.; Boulder, Nev.; Dove Creek, Colo.; Gunnison, Colo., Goodland, Kans.; Lincoln, Nebr.; Iowa City, Iowa; Joliet, Ill.; South Bend, Ind.; INT South Bend 089° and Chardon, Ohio, 279° radials; Chardon, Keating, Pa.; to Kennedy, N. Y., excluding the portion within Canada.

Jet Route No. 147 From Beckley, W. Va., to Gordonsville, Va.

Jet Route No. 148 From Coaldale, Nev., via Delta, Utah; Myton, Utah; Cheyenne, Wyo.; to O'Neill, Nebr.

Jet Route No. 149 From Casanova, Va., via INT of Casanova 280° and Rosewood, Ohio, 116° radials; Rosewood; to Fort Wayne, Ind.

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Jet Route No. 150 From Gordonsville, Va., via INT Gordonsville 059° and Woodstown, N. J., 230° radials; Woodstown; Robbinsville, N. J.; Hampton, N. Y.; INT Hampton 069° and Hyannis, Mass., 237° radials; Hyannis; to the INT Hyannis 068° and Boston, Mass., 097° radials.

Jet Route No. 151 From Vulcan, Ala., via INT Vulcan 335° and Farmington, Mo., 139° radials; Farmington; St. Louis, Mo.; Des Moines, Iowa; O'Neill, Nebr.; Rapid City, S. Dak.; Billings, Mont.; INT Billings 266° and Whitehall, Mont., 103° radials; to Whitehall.

AMENDMENTS 3/23/78 43 F. R. 3545 (Changed)

Jet Route No. 152 From Capital, Ill., via INT Capital 091° and Rosewood, Ohio, 263° radials; Rosewood; Johnstown, Pa.; Harrisburg, Pa.; to INT Harrisburg 099° and Westminster, Md., 058° radials.

Jet Route No. 154 From Sacramento, Calif., via INT Sacramento 046° and Battle Mountain, Nev., 253° radials; Battle Mountain; Bonneville, Utah; Salt Lake City, Utah; to Rock Springs, Wyo.

Jet Route No. 155 From the Chandalar Lake, Alaska, NDB to Nenana, Alaska.

Jet Route No. 156 From Wilson Creek, Nev., to Meeker, Colo.

Jet Route No. 157 From the INT of Denver, Colo., 058° and Gill, Colo., 151° radials, via INT Denver 058° and Scottsbluff, Nebr., 189° radials; Scottsbluff; to Rapid City, S. Dak.

AMENDMENTS 1/26/78 42 F. R. 62359 (Added)
AMENDMENTS 11/2/78 43 F. R. 39753 (Rewritten)

Jet Route No. 158 From Mina, Nev., via Lucin, Utah; Malad City, Idaho; INT Malad City 087° and Casper, Wyo., 241° radials; Casper; Rapid City, S. D.; to Aberdeen, S. D.

Jet Route No. 159 From Portland, Oreg., to Redmond, Oreg.

Jet Route No. 160 From Fairbanks, Alaska, via INT Fairbanks 016° and Fort Yukon, Alaska, 229° radials; Fort Yukon; to Komakuk, Yukon Territory, Canada, NDB. The airspace within Canada is excluded.

Jet Route No. 161 From Zuni, N. Mex., to Farmington, N. Mex.

Jet Route No. 162 From Cleveland, Ohio, via Bellaire, Ohio, INT of Bellaire 142° and Front Royal, Va., 283° radials; to Front Royal.

Jet Route No. 163 From Rock Springs, Wyo., to Hayden, Colo.

AMENDMENTS 1/26/78 42 F. R. 62359 (Added)
AMENDMENTS 11/2/78 43 F. R. 39753 (Rewritten)

Jet Route No. 164 From Bryce Canyon, Utah, via INT Bryce Canyon 090° and Grand Junction, Colo., 232° radials to Grand Junction.

Jet Route No. 165 From Charleston, S. C., to Richmond, Va.

Jet Route No. 166 From San Simon, Ariz.; via Truth or Consequences, N. Mex.; Roswell, N. Mex.; to Wichita Falls, Texas.

Jet Route No. 167 From Johnstone Point, Alaska, via Gulkana, Alaska; Big Delta, Alaska; to Fort Yukon, Alaska.

Jet Route No. 168 From Wichita Falls, Tex., via Lamar, Colo.; Hugo, Colo.; to Kiowa, Colo.

AMENDMENTS 11/2/78 43 F. R. 39753 (Rewritten)

Jet Route No. 169 From Los Angeles, Calif.; via Seal Beach, Calif.; Thermal, Calif.; Blythe, Calif.

Jet Route No. 170 From Crazy Woman, Wyo., via Casper, Wyo.; Medicine Bow, Wyo.; INT Medicine Bow 165° and Denver, Colo., 325° radials; to Denver.
AMENDMENTS 1/26/78 42 F. R. 62359 (Added)
AMENDMENTS 11/2/78 43 F. R. 39753 (Changed)

Jet Route No. 171 From Tobe, Colo., via Hugo, Colo.; to Kiowa, Colo.

AMENDMENTS 1/26/78 42 F. R. 62359 (Added)

Jet Route No. 172 From the INT of Denver, Colo., 058° and Gill, Colo., 151° radials, via INT Denver 058° and Sidney, Nebr., 189° radials; to Sidney.

AMENDMENTS 1/26/78 42 F. R. 62359 (Added)
AMENDMENTS 11/2/78 43 F. R. 39753 (Rewritten)

Jet Route No. 173 From Salt Lake City, Utah, to Meeker, Colo.

AMENDMENTS 1/26/78 42 F. R. 62359 (Added)

Jet Route No. 174 From Hampton, N. Y., via INT Hampton 069° and Hyannis, Mass., 237° radials; Hyannis; to the INT of Hyannis 080° and Nantucket, Mass., 066° radials.

Jet Route No. 177 From Humble, Tex., via Hobby, Tex., to Tampico, Mexico, excluding the portion south of Lat. 26°00'00" N.

Jet Route No. 178 From Fort Wayne, Ind., to Appleton, Ohio.

Jet Route No. 180 From Humble, Tex., via Daisetta, Tex.; to Little Rock, Ark.

Jet Route No. 181 From Phoenix, Ariz., to Newman, Tex.

Jet Route No. 185 From Traverse City, Mich., to Flint, Mich.

Jet Route No. 186 From Toccoa, Ga., to the INT of the Spartanburg, S. C., 341° and the Appleton, Ohio, 184° radials.

Jet Route No. 189 From Avenal, Calif., via Linden, Calif.; Klamath Falls, Oreg.; Portland, Oreg.; to Seattle, Wash.

Jet Route No. 192 From Goodland, Kans., to Pawnee City, Nebr.

Jet Route No. 195 From Annette Island, Alaska, to Biorka Island, Alaska.

Jet Route No. 196 From Bryce Canyon, Utah, via INT Bryce Canyon 048° and Meeker, Colo., 247° radials; to Meeker.

Jet Route No. 197 From Gunnison, Colo., via INT Gunnison 083° and Goodland, Kans., 251° radials; Goodland; Wolbach, Nebr.; to Sioux Falls, S.D.

Jet Route No. 198 From Linden, Calif., via INT Linden 063° and Mina, Nev., 298° radials; Mina; Wilson Creek, Nev.; INT Wilson Creek 075° and Meeker, Colo., 247° radials; to Meeker.

Jet Route No. 199 From Wilson Creek, Nev., via Delta, Utah; INT Delta 068° and Meeker, Colo., 262° radials; to Meeker.

Jet Route No. 200 From Linden, Calif., via INT Linden 021° and Sacramento, Calif., 046° radials; INT Sacramento 046° and Battle Mountain, Nev., 253° radials; to Battle Mountain.

Jet Route No. 201 From Myton, Utah, via INT Myton 056° and Rock Springs, Wyo., 084° radials; to Scottsbluff, Nebr.

Jet Route No. 202 From Fairfield, Utah, via INT Fairfield 026° and Rock Springs, Wyo., 249° radials; Rock Springs; to Casper, Wyo.

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Jet Route No. 203 From Billings, Mont., via INT Billings 347° and Great Falls, Mont., 093° radials; to Great Falls.

Jet Route No. 204 From Dupree, S.D., via Miles City, Mont.; INT Miles City 295° and Great Falls, Mont., 093° radials; to Great Falls.

Jet Route No. 500 From Thunder Bay, Ontario, via Sault Ste. Marie, Mich.; North Bay, Ontario, Canada; Killaloe, Ontario, RBN; Ottawa, Ontario; St. Johns, Quebec; Sherbrooke, Quebec; Millinocket, Maine to Fredericton, New Brunswick excluding the portions outside the United States.

Jet Route No. 501 From Point Reyes, Calif., via Medford, Oreg.; Hoquiam, Wash., INT Hoquiam 354° and Tatoosh, Wash., 162° radials; Tatoosh; Cape Scott, British Columbia, Canada, RBN; Sandspit, British Columbia, Canada; Biorka Island, Alaska; Yakutat, Alaska; Johnstone Point, Alaska; Anchorage, Alaska; Sparrevohn, Alaska, NDB; to Bethel, Alaska, excluding the airspace within Canada.

AMENDMENTS 11/2/78 43 F. R. 39755 (Changed)

Jet Route No. 502 From Seattle, Wash.; via Victoria, British Columbia, Canada; Malcolm Island, Canada; Annette Island, Alaska; Level Island, Alaska; Sisters Island, Alaska; Burwash Landing, Yukon Territory Canada, RBN; Northway, Alaska; Fairbanks, Alaska, to Kotzebue, Alaksa, excluding the airspace within Canada.

Jet Route No. 503 From Seattle, Wash., to the United States/Canadian Border via the Seattle direct radial to Princeton, British Columbia.

Jet Route No. 505 From Seattle, Wash., via the Seattle 061° radial to the United States/Canadian border.

Jet Route No. 506 From Millinocket, Maine, via the intersection of Millinocket 114° and St. John, N.B., 267° radials; to the intersection of the St. John 267° radial with the United States/Canadian border.

Jet Route No. 507 From Barrow, Alaska, via Deadhorse, Alaska; Fort Yukon, Alaska, Northway, Alaska; to Yakutat, Alaska, excluding the portion within Canada.

Jet Route No. 509 From Beauce, Quebec, via Houlton, Maine, to Moncton, New Brunswick, excluding the portion outside the United States.

Jet Route No. 511 From Cape Newenham, Alaska, NDB via Dillingham, Alaska; Anchorage, Alaska; Big Lake, Alaska; Gulkana, Alaska; to Burwash Landing, Yukon Territory, Canada, RBN, excluding the portion which lies over Canadian territory.

Jet Route No. 513 From Thunder Bay, Ontario, Canada, direct to Sudbury, Ontario, Canada, excluding the portion within Canada.

Jet Route No. 515 From Fargo, N. Dak., via Pembina, N. Dak.; to INT Pembina 356° radial and the United States/Canadian border. From Whitehorse, Yukon Territory, Canada, via Northway, Alaska; Fairbanks, Alaska; Bettles, Alaska; to Barrow, Alaska. The airspace within Canada is excluded.

Jet Route No. 516 From Great Falls, Mont., to Lethbridge, Alberta, Canada. The airspace within Canada is excluded.

AMENDMENTS 9/7/78 43 F. R. 30537 (Changed)

Jet Route No. 517 From Boise, Idaho, via Spokane, Wash., to Cranbrook, British Columbia, Canada, excluding the portion which lies over Canadian territory.

Jet Route No. 518 From Cleveland, Ohio, via INT of Cleveland 120° and Westminster, Md., 288° radials; to Westminster.

Jet Route No. 522 From Green Bay, Wis., via Traverse City, Mich.; Kleinburg, Ontario, Canada; Hancock, N.Y.; to Huguenot, N.Y., excluding the airspace within Canada.

Jet Route No. 523 From Seattle, Wash.; Tatoosh, Wash., to Malcomb, British Columbia, Canada. From Sandspit, British Columbia, Canada, to Annette Island, Alaska; excluding the airspace within Canada.
AMENDMENTS 11/2/78 43 F. R. 39755 (Changed)

Jet Route No. 531 From Buffalo, N.Y., via Kleinburg, Ont., Canada; Wiarton, Ont., Canada; to Sault Ste. Marie, Mich., excluding the portion which lies over Canadian territory.

Jet Route No. 532 From Pembina, N. Dak., to the United States/Canadian Border via the Pembina to Red Lake, Ontario RBN direct radial.

Jet Route No. 533 From Duluth, Minn., to the United States/Canadian border via the Duluth to Thunder Bay, Ontario, direct radial.

Jet Route No. 534 From Bellingham, Wash., to Williams Lake, British Columbia, Canada, excluding the airspace within Canada.

AMENDMENTS 11/2/78 43 F. R. 38815 (Added)

Jet Route No. 536 From Sisters Island, Alaska; to Whitehorse, Yukon Territory, Canada. The airspace within Canada is excluded.

Jet Route No. 538 From the INT of the United States/Canadian border and the direct radial between Duluth, Minn., and Kenora, Ont., to Duluth.

Jet Route No. 540 From Mullan Pass, Idaho, to the INT of Mullan Pass 041° radial and the United States/Canadian border.

J-541 From Yakutat, Alaska, to Sisters Island, Alaska.

Jet Route No. 545 From Cleveland, Ohio, to the INT of the Cleveland 024° radial and the United States/Canadian Border.

Jet Route No. 546 From Peck, Mich., to the United States/Canadian Border via the Peck to Kleinburg, Ontario direct radial.

Jet Route No. 547 From Northbrook, Ill., via Pullman, Mich.; Flint, Mich.; Peck, Mich.; London, Ontario; Buffalo, N.Y.; Syracuse, N.Y.; INT Syracuse 094° and Albany, N.Y., 058° radials; to Kennebunk, Maine, excluding the portion which lies over Canadian territory.

Jet Route No. 548 From Pullman, Mich.; via Traverse City, Mich.; Sault Ste Marie, to the United States/Canadian border via the Sault Ste. Marie to Timmins, Ontario, RR direct radial.

Jet Route No. 524 From the INT of Albany, N. Y., 343° and Montreal, Quebec, 188° radials to the INT of the Montreal 188° radial with United States/Canadian border.

Jet Route No. 528 From Bellingham, WA., to Williams Lake, British Columbia, Canada. The airspace within Canada is excluded.

Jet Route No. 530 From Great Falls, Mont., to Swift Current, Saskatchewan, Canada. The airspace within Canada is excluded.

AMENDMENTS 9/7/78 43 F. R. 30537 (Changed)

Jet Route No. 551 From Peck, Mich., to the United States/Canadian border via the Peck to Wiarton, Ontario, direct radial.

Jet Route No. 552 From Sault Ste. Marie, Mich., to United States/Canadian Border via the Sault Ste. Marie to Kamuskasing, Ontario. direct radial.

Jet Route No. 553 From Peck, Mich., to Midland, Ontario, Canada. That airspace within Canada is excluded.

Jet Route No. 554 From South Bend, Ind., via Carleton, Mich.; to Jamestown, N. Y., excluding the portion within Canada.

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Jet Route No. 559 From Syracuse, N.Y., to the INT of Syracuse 005° radial and the United States/Canadian border.

Jet Route No. 560 From Plattsburgh, N.Y., to Quebec, Quebec, Canada, excluding the airspace over Canada.

Jet Route No. 561 From Presque Isle, Maine, to Mont Joli, Quebec, excluding the portion outside the United States.

Jet Route No. 563 From Albany, N.Y., via INT of Albany 008° and Sherbrooke, Quebec, Canada, 217° radials to Sherbrooke, excluding the airspace over Canada.

Jet Route No. 564 From Beauce, Quebec, Canada, via Presque Isle, Maine; Charlo, New Brunswick NDB; to Port Menier, Quebec, Canada, excluding the airspace within Canada.

Jet Route No. 566 From Massena, N.Y., to the INT of the Massena 037° radial and the United States/Canadian border.

Jet Route No. 567 From Plattsburgh, N.Y., to the INT of the Plattsburgh 334° radial and the United States/Canadian border.

Jet Route No. 570 From Albany, N. Y., to Mirabel, Quebec, excluding the portion outside the United States.

Jet Route No. 573 From Providence, R.I., via INT Providence 045° and Kennebunk, Maine, 180° radials; Kennebunk; to St. John, New Brunswick, Canada, excluding the portion within Canada.

Jet Route No. 575 From Boston, Mass., to Yarmouth, N.S., Canada, excluding the portion under the jurisdiction of Canada.

Jet Route No. 581 From Kennedy, N. Y., via INT of Kennedy 042° and Putnam, Conn., 236° radials; Putnam; Kennebunk, Maine; Bangor, Maine, to the INT of the Bangor 058° radial and the United States/Canadian border.

Jet Route No. 582 From Presque Isle, Maine, to Sept Isle, Quebec, excluding the portion outside the United States.

Jet Route No. 584 From Northbrook, Ill., via INT of Northbrook 094° and Carleton, Mich., 270° radials; Carleton; Slate Run, Pa.; INT Slate Run 101° and Kennedy, N.Y., 291° radials; to Kennedy.

Jet Route No. 585 From Nantucket, Mass., to Yarmouth, N.S., Canada, excluding the portion under the jurisdiction of Canada.

Jet Route No. 586 From Carleton, Mich., via London, Ont., Canada; Stirling, Ont., Canada; Massena, N.Y.; to St. Jean, Quebec, Canada. That airspace within Canada is excluded.

Jet Route No. 587 From Kleinburg, Ontario, Canada, via Midland, Ontario, Canada, INT Midland 313° and Sault Ste. Marie, Mich., 110° radials; to Sault Ste. Marie, excluding the portion within Canada.

Jet Route No. 588 From Sault Ste. Marie, MI., via INT Sault Ste. Marie 110° and Stirling, Ontario, Canada, 297° radials; to Stirling, excluding the portion within Canada.

Jet Route No. 595 From London, Ontario via latitude 43°52'30"N., longitude 78°43'00"W.); Watertown, N.Y.; Plattsburgh, N.Y.; Bangor, Maine; to St. John, New Brunswick, Canada; excluding the portion outside the United States.

SUBPART C - Reserved

SUBPART D - AREA HIGH ROUTES

§75.400 Area high routes.

The parts of airspace described below are designated as area high routes.

Waypoint name	Location		Reference facility
J800R New York, N. Y., to Los Angeles, Calif.			
Robbinsville, N. J., VORTAC	40°12'08" N.	74°29'44" W.	Robbinsville, N. J.
RIDES	39°58'04" N.	78°04'45" W.	Philipsburg, Pa.
HORNS	40°00'43" N.	80°13'38" W.	Elwood City, Pa.
THACK	39°59'34" N.	84°01'53" W.	Rosewood, Ohio
MELOT	39°53'23" N.	87°00'54" W.	Lafayette, Ind.
CHAPS	39°39'52" N.	90°35'08" W.	St. Louis, Mo.
WALCO	39°13'06" N.	94°59'28" W.	Butler, Mo.
ENTER	38°58'04" N.	96°59'46" W.	Wichita, Kans.
CEDAR	38°29'43" N.	100°10'41" W.	Garden City, Kans.
GRAND	37°59'43" N.	102°37'19" W.	Lamar, Colo.
Delhi, Colo.	37°40'09" N.	104°13'02" W.	Pueblo, Colo.
SANDY	37°19'13" N.	105°48'11" W.	Alamosa, Colo.
Flora, N. Mex.	36°46'16" N.	108°09'14" W.	Farmington, N. Mex.
CAMEL	35°58'37" N.	111°12'21" W.	Tuba City, Ariz.
FENNY	34°48'12" N.	115°00'57" W.	Parker, Calif.
MORRO	34°02'51" N.	117°14'54" W.	Oceanside, Calif.

Waypoint name	Location		Reference facility
J801R Los Angeles, Calif., to New York, N. Y.			
MESIC	35°44'20" N.	115°32'01" W.	Boulder City, Nev.
Boulder City, NV.	35°59'45" N.	114°51'46" W.	Boulder City, NV.
Paria, Ariz.	36°53'51" N.	111°55'43" W.	Bryce Canyon, Utah
MONTE	37°51'16" N.	108°33'32" W.	Farmington, N. Mex.
CABIN	38°21'36" N.	106°34'31" W.	Gunnison, Colo.
GOFEL	38°42'44" N.	105°05'24" W.	Pueblo, Colo.
DRESS	39°38'14" N.	100°23'38" W.	Hayes Center, Nebr.
RUSKI	40°08'16" N.	97°56'34" W.	Wolbach, Nebr.
GARDE	40°53'49" N.	93°30'28" W.	Des Moines, Iowa
Joliet, Ill., VORTAC	41°32'47" N.	88°19'06" W.	Joliet, Ill.
WOLVI	42°13'36" N.	83°58'14" W.	Carleton, Mich.
SPOTS	42°00'19" N.	80°56'16" W.	Carleton, Mich.
ORMBY	41°48'09" N.	78°38'27" W.	Buffalo, N. Y.
Sparta, N. J., VORTAC	41°04'03" N.	74°32'19" W.	Sparta, N. J.

Waypoint name	Location		Reference facility
J802R New York, N. Y., to Oakland, Calif.			
Robbinsville, N. J., VORTAC	40°12'08" N.	74°29'44" W.	Robbinsville, N. J.
FURNA	40°36'35" N.	78°02'40" W.	Philipsburg, Pa.
SHILO	40°57'44" N.	82°30'16" W.	Appleton, Ohio
PERRY	41°08'24" N.	87°02'53" W.	Lafayette, Ind.
Bradford, Ill.	41°09'35" N.	89°35'16" W.	Iowa City, Iowa
Lincoln, Nebr.	40°55'26" N.	96°44'30" W.	Pawnee City, Nebr.
MELTO	40°39'38" N.	100°57'02" W.	Hayes Center, Nebr.
GILLY	40°16'43" N.	104°49'59" W.	Denver, Colo.
BIAND	39°53'01" N.	107°52'45" W.	Meeker, Colo.
HILLS	39°33'51" N.	109°58'03" W.	Myton, Utah
NEBOS	39°16'43" N.	111°38'27" W.	Fairfield, Utah
GRAFT	38°43'06" N.	114°32'58" W.	Wilson Creek, Nev.
Coaldale, Nev., VORTAC	38°00'12" N.	117°46'10" W.	Coaldale, Nev.

Waypoint name	Location		Reference facility
J803R Mina, Nev., to Sparta, N. J.			
Mina, Nev.	38°33'55" N.	118°01'55" W.	Coaldale, Nev.
BRISK	39°23'01" N.	114°50'10" W.	Wilson Creek, Nev.
CIARA	39°52'08" N.	112°42'38" W.	Delta, Utah
Ouray, Utah	40°22'59" N.	110°12'19" W.	Myton, Utah
MAYBE	40°45'44" N.	108°07'47" W.	Meeker, Colo.
TANKS	41°17'12" N.	104°47'30" W.	Cheyenne, Wyo.
SANDS	41°44'19" N.	101°09'59" W.	Hayes Center, Nebr.
PLUMS	42°07'05" N.	96°53'26" W.	Lincoln, Nebr.
SCALE	42°22'53" N.	90°24'00" W.	Iowa City, Iowa
Haven, Mich.	42°19'27" N.	86°17'17" W.	South Bend, Ind.
WOLVI	42°13'36" N.	83°58'14" W.	Carleton, Mich.
SPOTS	42°00'19" N.	80°56'16" W.	Carleton, Mich.
ORMBY	41°48'09" N.	78°38'27" W.	Buffalo, N. Y.
Sparta, N. J. VORTAC	41°04'03" N.	74°32'19" W.	Sparta, N. J.

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Waypoint name	Location		Reference facility
J805R Gateway Hemlock, Oreg., to Woodstock, Ill.			
HEMLO	43°18'08" N.	126°40'46" W.	Newport, Oreg.
Newport, Oreg.	44°34'32" N.	124°03'34" W.	Newport, Oreg.
DAYAH	44°35'59" N.	119°26'41" W.	Pendleton, Oreg.
McCall, Idaho	44°46'02" N.	116°12'19" W.	McCall, Idaho
LIMES	44°52'56" N.	112°13'36" W.	Dubois, Idaho
BIGGS	44°52'08" N.	108°42'55" W.	Billings, Mont.
CLEAR	44°43'43" N.	106°20'12" W.	Crazy Woman, Wyo.
ASHEY	44°19'46" N.	101°52'35" W.	Dupree, S. Dak.
Sioux Falls, S. Dak.	43°38'58" N.	96°46'51" W.	Sioux Falls, S. Dak.
WILDT	42°57'17" N.	91°45'37" W.	Nodine, Minn.
STOCK	42°21'21"N.	88°24'13"W.	Badger, Wis.

AMENDMENTS 7/13/78 43 F. R. 19212 (Changed)

Waypoint name	Location		Reference facility
J806R Robbinsville, N. J., to Gateway Hemlock			
Robbinsville, N. J.	40°12'08" N.	74°29'44" W.	Robbinsville, N. J.
FURNA	40°36'35" N.	78°02'40" W.	Philipsburg, Pa.
SHILO	40°57'44" N.	82°30'16" W.	Appleton, Ohio
Plant, Ind.	41°37'29" N.	87°15'57" W.	Lafayette, Ind.
MORRI	41°55'53" N.	89°47'00" W.	Bradford, Ill.
ELBER	42°00'53" N.	92°15'40" W.	Dubuque, Iowa
KAMRA	42°25'45" N.	93°43'56" W.	Fort Dodge, Iowa
Sioux Falls, S. Dak.	43°38'58" N.	96°46'51" W.	Sioux Falls, S. Dak.
ASHEY	44°19'46" N.	101°52'35" W.	Dupree, S. Dak.
CLEAR	44°43'43" N.	106°20'12" W.	Crazy Woman, Wyo.
BIGGS	44°52'08" N.	108°42'55" W.	Billings, Mont.
LIMES	44°52'56" N.	112°13'36" W.	Dubois, Idaho
McCall, Idaho	44°46'02" N.	116°12'19" W.	McCall, Idaho
DAYAH	44°35'59" N.	119°26'41" W.	Pendleton, Oreg.
Newport, Oreg.	44°34'32" N.	124°03'34" W.	Newport, Oreg.
HEMLO	43°18'08" N.	126°40'46" W.	Newport, Oreg.

Waypoint name	Location		Reference facility
J810R South Bend, Ind., to New York, N. Y.			
KINDS	41°47'37" N.	85°00'23" W.	Fort Wayne, Ind.
MARCH	41°38'39" N.	82°31'06" W.	Cleveland, Ohio
AVAST	41°07'46" N.	77°23'00" W.	Philipsburg, Pa.
SWEET	40°48'06"N.	74°55'59"W.	Sparta, N. J.

AMENDMENTS 1/26/78 42 F. R. 62000 (Changed)

Waypoint name	Location		Reference facility
J811R Chicago, IL., to Miami, FL.			
JUDYS	40°14'20" N.	87°22'35" W.	Indianapolis, Ind.
ELMAN	36°19'34" N.	85°50'29" W.	Nashville, Tenn.
Rome, Ga.	34°09'45"N.	85°07'10"W.	Vulcan, Ala.
MAUKS	32°29'12" N.	84°24'51" W.	Macon, Ga.
PENNY	30°07'24" N.	83°33'01" W.	Gainesville, Fla.
REPLY	26°10'36" N.	81°06'53" W.	Palm Beach, Fla.

AMENDMENTS 3/23/78 43 F. R. 3545 (Changed)

Waypoint name	Location		Reference facility
J812R Miami, Fla., to Chicago, Ill.			
HIGHT	28°11'22" N.	80°42'24" W.	Vero Beach, Fla.
APORT	28°25'30" N.	81°55'45" W.	Ormond Beach, Fla.
ARCHI	29°34'20" N.	82°33'00" W.	Gainesville, Fla.
Alma, GA.	31°32'11" N.	82°30'30" W.	Savannah, GA.
CORNI	33°04'52"N.	83°36'18"W.	Augusta, Ga.
CANTE	34°19'29" N.	84°25'39" W.	Chattanooga, Tenn.
SHUTO	37°14'52" N.	85°21'50" W.	Knoxville, Tenn.
BORDE	38°37'12" N.	86°02'11" W.	Evansville, Ind.
FORES	40°51'20" N.	87°11'36" W.	Fort Wayne, Ind.
Chicago Heights, IL.	41°30'36" N.	87°34'17" W.	Fort Wayne, IN.

Waypoint name	Location		Reference facility
J815R Washington, D. C., to Atlanta, Ga.			
Casanova, Va.	38°38'28" N.	77°51'57" W.	Gordonsville, Va.
COPPA	36°52'22" N.	80°35'26" W.	Greensboro, N. C.
SHINE	35°18'05" N.	83°02'00" W.	Spartanburg, S. C.
MACEY	34°19'37"N.	83°41'45"W.	Spartanburg, S. C.

Waypoint name	Location		Reference facility
J819R Boston, Mass., to Chicago, Ill.			
MERRY	42°41'31" N.	71°24'10" W.	Putnam, Conn.
SPADS	43°04'37" N.	74°41'42" W.	Hancock, N. Y.
PEKIN	43°02'17" N.	78°39'07" W.	Buffalo, N. Y.
VERMI	42°37'50" N.	84°40'50" W.	Carleton, Mich.
POPPY	42°16'16" N.	87°36'28" W.	South Bend, Ind.

Waypoint name	Location		Reference facility
J820R Chicago, Ill., to Boston, Mass.			
O'Hare, IL.	41°59'16" N.	87°54'17" W.	Joliet, IL.
WOLVI	42°13'36" N.	83°58'14" W.	Carleton, Mich.
SCHOO	42°20'03" N.	80°20'13" W.	Chardon, Ohio
HAMET	42°20'40" N.	79°05'55" W.	Slate Run, Pa.
CHERI	42°40'52" N.	73°18'11" W.	Albany, N. Y.
Gardner, MA.	42°32'45" N.	72°03'31" W.	Putnam, CT.

Waypoint name	Location		Reference facility
J836R Chicago, Ill., to Cincinnati, Ohio			
JUDYS	40°14'20" N.	87°22'35" W.	Indianapolis, Ind.
OGDEN	39°09'27" N.	85°12'25" W.	Fort Wayne, Ind.

Waypoint name	Location		Reference facility
J842R Dallas-Fort Worth, Tex., to New York, N. Y.			
Dallas-Fort Worth, Tex.	32°51'57" N.	97°01'40" W.	Dallas-Fort Worth, Tex.
Texarkana, AR.	33°30'50" N.	94°04'23" W.	Shreveport, LA.
SURRY	34°56'34"N.	89°57'35"W.	Walnut Ridge, Ark.
ELMAN	36°19'34" N.	85°50'29" W.	Nashville, Tenn.
WOODI	36°50'56" N.	84°02'21" W.	Knoxville, Tenn.
KIMBO	37°24'00" N.	81°27'57" W.	Charleston, W. Va.
Gordonsville, VA.	38°00'48" N.	78°09'12" W.	Richmond, VA.
Atlantic City, NJ.	39°27'21" N.	74°34'36" W.	Westminster, MD.

Waypoint name	Location		Reference facility
J843R New York, N. Y., to Dallas-Fort Worth, Tex.			
Robbinsville, NJ.	40°12'08" N.	74°29'44" W.	Robbinsville, NJ.
Westminster, MD.	39°29'42" N.	76°58'44" W.	Gordonsville, VA.
RENFO	38°24'04" N.	81°23'29" W.	Beckley, W. Va.
SHUTO	37°14'52" N.	85°21'50" W.	Knoxville, Tenn.
SADER	36°41'06" N.	87°06'56" W.	Evansville, Ind.
BIRLE	35°27'43" N.	90°35'28" W.	Walnut Ridge, Ark.
HOREB	33°58'47" N.	94°21'05" W.	Texarkana, Ark.
Dallas-Fort Worth, Tex.	32°51'57" N.	97°01'40" W.	Dallas-Fort Worth, Tex.

Waypoint name	Location		Reference facility
J851R San Francisco, Calif., to Los Angeles, Calif.			
LOGAN	36°58'59" N.	121°43'26" W.	Fresno, Calif.
VIRGA	34°13'24" N.	118°49'11" W.	Los Angeles, Calif.

Waypoint name	Location		Reference facility
J853R Los Angeles, Calif., to Phoenix, Ariz.			
Seal Beach, Calif.	33°47'00" N.	118°03'14" W.	Oceanside, Calif.
KOFFA	33°30'58" N.	113°53'17" W.	Yuma, Ariz.
Phoenix, Ariz.	33°25'53" N.	111°53'17" W.	Phoenix, Ariz.

Waypoint name	Location		Reference facility
J855R Dallas, Tex., to San Francisco, Calif.			
Wichita Falls, TX.	33°59'14" N.	98°35'35" W.	Wichita Falls, TX.
CROWS	34°08'33" N.	99°45'50" W.	Wichita Falls, Tex.
Texico, NM	34°29'42" N.	102°50'21" W.	Texico, NM.
PALMA	34°54'19" N.	105°18'29" W.	Las Vegas, N. Mex.
VOLCA	35°06'22" N.	106°39'29" W.	Socorro, N. Mex.
DEFER	35°26'19" N.	109°09'39" W.	Gallup, N. Mex.
FOURR	35°41'03"N.	111°20'14"W.	Tuba City, Ariz.
Boulder City, Nev.	35°59'45" N.	114°51'46" W.	Boulder City, Nev., VORTAC
LUCKY	36°02'22" N.	115°50'08" W.	Beatty, Nev.
Modesto, CA.	37°37'39" N.	120°57'25" W.	Fresno, CA.

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Waypoint name	Location		Reference facility
J861R El Paso, Tex., to Los Angeles, Calif.			
El Paso, Tex.	31°48'57" N.	106°16'52" W.	El Paso, Tex.
WYCOX	32°23'21" N.	109°50'08" W.	San Simon, Ariz.
ELOPE	32°46'04" N	111°37'04" W.	Phoenix, Ariz.
KOFFA	33°30'58" N.	113°53'17" W.	Yuma, Ariz.
BEAUT	34°05'40" N.	116°44'17" W.	Thermal, Calif.

Waypoint name	Location		Reference facility
J862R Jacksonville, Fla., to Pittsburgh, Pa.			
SIMON	30°41'20" N.	81°17'25" W.	Alma, Ga.
Columbia, SC.	33°51'26" N.	81°03'15" W.	Spartanburg, SC.
Elkins, WV.	38°54'52" N.	80°05'58" W.	Charleston, WV.
NESTO	40°11'39" N.	79°42'49" W.	Bellaire, Ohio

Waypoint name	Location		Reference facility
J863R New York, NY., to Atlanta, GA.			
Coyle, NJ.	39°49'02" N.	74°25'55" W.	Coyle, NJ.
Gordonsville, Va.	38°00'48" N.	78°09'12" W.	Richmond, Va.
Galax, Va.	36°28'30" N.	80°34'05" W.	Greensboro, N. C.
MACEY	34°19'37"N.	83°41'45"W.	Spartanburg, S. C.

Waypoint name	Location		Reference facility
J864R Chicago, Ill., to Washington, D. C.			
Peotone, IL	41°16'11" N.	87°47'28" W.	Indianapolis, IN.
TIPPY	41°06'17" N.	85°59'10" W.	Indianapolis, Ind.
Rosewood, OH.	40°17'16" N.	84°02'36" W.	Rosewood, OH.
CAMEO	39°41'31" N.	80°55'50" W.	Bellaire, Ohio
Front Royal, VA.	39°05'26" N.	78°12'02" W.	Casanova, VA.
Armel, Va,	38°56'04" N.	77°28'01" W.	Casanova, Va.

Waypoint name	Location		Reference facility
J865R Washington, D. C., to Chicago, Ill.			
Martinsburg, W. Va.	39°23'08" N.	77°50'55" W.	Philipsburg, Pa.
BALSA	40°29'20" N.	81°04'05" W.	Appleton, Ohio
SHILO	40°57'44" N.	82°30'16" W.	Appleton, Ohio
PLANT	41°37'29" N.	87°15'57" W.	Lafayette, Ind.

Waypoint name	Location		Reference facility
J875R Atlanta, Ga., to Memphis, Tenn.			
BREME	33°39'32" N.	85°12'55" W.	Montgomery, Ala.
Vulcan, Ala.	33°40'12"N.	86°53'59"W.	Montgomery, Ala.
BANKS	34°46'20" N.	89°29'51" W.	Memphis, Tenn.

AMENDMENTS 3/23/78 43 F. R. 3545 (Changed)

Waypoint name	Location		Reference facility
J880R Jacksonville, Fla., to Cleveland, Ohio			
KICKS	30°45'00" N.	81°44'02" W.	Savannah, Ga.
Augusta, GA.	33°32'40" N.	82°08'00" W.	Columbia, SC.
BEECH	36°05'30" N.	82°04'58" W.	Spartanburg, S. C.
Henderson, WV.	38°45'15" N.	82°01'35" W.	Charleston, WV.
RITZS	40°59'52" N.	81°44'06" W.	Bellaire, Ohio

Waypoint name	Location		Reference facility
J883R Minneapolis, Minn., to New York, N. Y.			
Minneapolis, MN.	45°08'45" N.	93°22'23" W.	Minneapolis, MN.
DENNY	44°23'25"N.	87°53'34"W.	Badger, Wis.
NIRVA	44°01'23" N.	85°45'09" W.	Pullman, Mich.
SANIL	43°32'29" N.	82°37'40" W.	Peck, Mich.
BLAKE	42°47'58" N.	78°41'50" W.	Buffalo, N. Y.
Kingston, NY.	41°39'55" N.	73°49'22" W.	Huguenot, NY.

AMENDMENTS 7/13/78 43 F. R. 19212 (Changed)

Waypoint name	Location		Reference facility
J894R New York, N. Y., to Minneapolis, Minn.			
Huguenot, N. Y.	41°24'35" N.	74°35'31" W.	Hancock, N. Y.
GOWER	42°33'27" N.	78°48'58" W.	Buffalo, N. Y.
CARTE	43°25'49" N.	82°38'59" W.	Peck, Mich.
NIRVA	44°01'23" N.	85°45'09" W.	Pullman, Mich.
DENNY	44°23'25"N.	87°53'34"W.	Badger, Wis.
Minneapolis, Minn.	45°08'45" N.	93°22'23" W.	Minneapolis, Minn.

AMENDMENTS 7/13/78 43 F. R. 19212 (Changed)

Waypoint name	Location		Reference facility
J886R Chicago, Ill., to REDOO			
MORRI	41°55'53" N.	89°47'00" W.	Bradford, Ill.
ELBER	42°00'53" N.	92°15'40" W.	Dubuque, Iowa
DANNY	42°13'53" N.	95°38'35" W.	Omaha, Nebr.
DRIES	42°20'04" N.	98°25'33" W.	Wolbach, Nebr.
Otsie, Nebr.	42°29'03" N.	103°28'24" W.	Scottsbluff, Nebr.
SPLIT	42°25'17" N.	108°14'00" W.	Boysen Reservoir, Wyo.
Malad City, Idaho	42°12'00" N.	112°27'02" W.	Malad City, Idaho
DELIA	42°02'01" N.	114°24'46" W.	Twin Falls, Idaho
COLES	41°40'53" N.	117°39'54" W.	Rome, Oreg.
LIKED	41°20'21" N.	120°12'09" W.	Lakeview, Oreg.
Fortuna, Calif.	40°40'17" N.	124°14'00" W.	Fortuna, Calif.
REDOO	40°38'22" N.	126°56'27" W.	Fortuna, Calif.

Waypoint name	Location		Reference facility
J887R REDOO to Chicago, Ill.			
REDOO	40°38'22" N.	126°56'27" W.	Fortuna, Calif.
Fortuna, Calif.	40°40'17" N.	124°14'00" W.	Fortuna, Calif.
LIKED	41°20'21" N.	120°12'09" W.	Lakeview, Oreg.
COLES	41°40'53" N.	117°39'54" W.	Rome, Oreg.
DELIA	42°02'01" N.	114°24'46" W.	Twin Falls, Idaho
Malad City, Idaho	42°12'00" N.	112°27'02" W.	Malad City, Idaho
SPLIT	42°25'17" N.	108°14'00" W.	Boysen Reservoir, Wyo.
Otsie, Nebr.	42°29'03" N.	103°28'24" W.	Scottsbluff, Nebr.
DRIES	42°20'04" N.	98°25'33" W.	Wolbach, Nebr.
KAMRA	42°25'45" N.	93°43'56" W.	Des Moines, Iowa
SCALE	42°22'53" N.	90°24'00" W.	Iowa City, Iowa
STOCK	42°21'21"N.	88°24'13"W.	Badger, Wis.

AMENDMENTS 7/13/78 43 F. R. 19212 (Changed)

Waypoint Name	Location		Reference facility
J888R AMOTT-RHODE			
AMOTT	60°54'04"N.	151°17'12"W.	Anchorage, Alaska
MALOS	60°49'00"N.	155°00'00"W.	King Salmon, Alaska
MOUSY	60°44'00"N.	157°00'00"W.	Bethel, Alaska
KULIK	60°29'15"N.	161°44'30"W.	Bethel, Alaska
RHODE	60°19'10"N.	164°09'46"W.	Bethel, Alaska

AMENDMENTS 7/13/78 43 F. R. 17347 (Added)

PENDING AMENDMENTS

Waypoint name	Location		Reference facility
J889R Anchorage, Alaska, to Yakutat, Alaska			
NOWEL	60°29'01"N.	148°38'01"W.	Anchorage, Alaska
ARISE	60°00'02"N.	146°09'06"W.	Middleton Island, Alaska
KONKS	59°33'04"N.	144°00'00"W.	Middleton Island, Alaska
KILLA	58°45'00"N.	140°35'00"W.	Yakutat, Alaska

AMENDMENTS 12/28/78 43 F. R. 45345 (Added)

Corr: 43 F. R. 51012

Waypoint name	Location		Reference facility
J896R Chicago, Ill., to Philadelphia, Pa.			
Peotone, IL.	41°16'11" N.	87°47'28" W.	Indianapolis, IN.
TIPPY	41°06'17" N.	85°59'10" W.	Indianapolis, Ind.
Rosewood, OH.	40°17'16" N.	84°02'36" W.	Rosewood, OH.
CONIC	40°19'10" N.	80°48'55" W.	Bellaire, Ohio
Harrisburg, PA.	40°14'29" N.	77°01'19" W.	Westminster, MD.
BUCKS	40°04'49" N.	75°43'26" W.	Westminster, Md.

Waypoint name	Location		Reference facility
J900R San Francisco, Calif., to Seattle, Wash.			
Napa Calif.	38°10'46" N.	122°22'19" W.	Ukiah, Calif.
HILLY	40°05'58" N.	122°21'35" W.	Redbluff, Calif.
Hyatt, Oreg.	42°27'23" N.	122°20'36" W.	Medford, Oreg.
YACHT	45°44'50" N.	122°19'12" W.	Portland, Oregon
SUMMA	47°11'08" N.	122°18'30" W.	Portland, Oregon

Waypoint name	Location		Reference facility
J903R Los Angeles, Calif., to Tucson, Ariz.			
Seal Beach, CA.	33°47'00" N.	118°03'14" W.	Oceanside, CA.
KOFFA	33°30'58" N.	113°53'17" W.	Yuma, Ariz.
Tucson, Ariz.	32°07'21" N.	110°49'12" W.	Tucson, Ariz.

Waypoint name	Location		Reference facility
J906R Los Angeles, Calif., to Ogden, Utah			
Los Angeles, Calif.	33°55'59" N.	118°25'52" W.	Palmdale, Calif.
Hector, Calif.	34°47'49" N.	116°27'43" W.	Boulder City, Nev.
MESIC	35°44'20" N.	115°32'01" W.	Boulder City, Nev.
ADAPT	37°40'22" N.	113°31'53" W.	Wilson Creek, Nev.
FOOLS	39°38'15" N.	112°18'42" W.	Delta, Utah
Ogden, Utah	41°13'27" N.	112°05'51" W.	Malad City, Mont.

Waypoint name	Location		Reference facility
J907R Hobby, Tex., to Los Angeles, Calif.			
Humble, Tex.	29°57'24" N.	95°20'44" W.	Hobby, Tex.
Austin, TX.	30°17'51" N.	97°42'11" W.	San Antonio, TX.
Junction, Tex.	30°35'52" N.	99°49'02" W.	San Angelo, Tex.
Fort Stockton, Tex.	30°57'07" N.	102°58'31" W.	Wink, Tex.
TOYAH	31°31'23" N.	104°03'00" W.	Wink, Tex.
ORGAN	32°14'48" N.	106°52'20" W.	Truth or Consequences, N. Mex.
WYCOX	32°23'21" N.	109°50'08" W.	San Simon, Ariz.
ELOPE	32°46'04" N.	111°37'04" W.	Phoenix, Ariz.
BRENT	33°43'58" N.	113°47'00" W.	Yuma, Ariz.
BEAUT	34°05'40" N.	116°44'17" W.	Thermal, Calif.

Waypoint name	Location		Reference facility
J912R Dallas-Fort Worth, Tex., to Chicago, Ill.			
Dallas-Fort Worth, Tex.	32°51'57" N.,	97°01'40" W.	Dallas-Fort Worth, Tex.
STICK	35°06'27" N.	95°07'27" W.	Tulsa, Okla.
Springfield, Mo.	37°21'21" N.	93°20'02" W.	Butler, Mo.
PEONY	40°40'07" N.	89°41'28" W.	Capital, Ill.
Joliet, Ill.	41°32'47" N.	88°19'06" W.	Joliet, Ill.
WRENS	41°48'38" N.	88°16'07" W.	Joliet, Ill.

Waypoint name	Location		Reference facility
J914R Dallas-Fort Worth, Tex., to New Orleans, La.			
Dallas-Fort Worth, Tex.	32°51'57" N.	97°01'40" W.	Dallas-Fort Worth, Tex.
TENNA	31°52'49" N.	94°14'33" W.	Shreveport, La.
Alexandria, La.	31°15'23" N.	92°30'02" W.	Alexandria, La.
New Orleans, La.	30°01'47" N.	90°10'20" W.	New Orleans, La.

Waypoint name	Location		Reference facility
J917R San Francisco, Calif., to Phoenix, Ariz.			
LOGAN	36°58'59" N.	121°43'26" W.	Fresno, Calif.
EASTA	36°45'17" N.	119°49'48" W.	Fresno, Calif.
WILDY	36°19'37" N.	116°51'41" W.	Beatty, Nev.
Boulder City, Nev.	35°59'45" N.	114°51'46" W.	Boulder City, Nev.
SYCMO	34°37'25" N.	112°55'26" W.	Needles, Calif.
Phoenix, Ariz.	33°25'53" N.	111°53'17" W.	Phoenix, Ariz.

Waypoint name	Location		Reference facility
J918R Hobby, Tex., to New Orleans, La.			
Humble, Tex.	29°57'24" N.	95°20'44" W.	Hobby, Tex.
GUEST	30°01'21" N.	92°28'52" W.	Alexandria, La.
New Orleans, LA.	30°01'47" N.	90°10'20" W.	New Orleans, LA.

Waypoint name	Location		Reference facility
J919R El Paso, Tex., to San Antonio, Tex.			
El Paso, Tex.	31°48'57" N.	106°16'53" W.	El Paso, Tex.
Fort Stockton, Tex.	30°57'07" N.	102°58'31" W.	Wink, Tex.
TELLA	30°06'45" N.	100°00'31" W.	Junction, Tex.
San Antonio, Tex.	29°38'38" N.	98°27'40" W.	Austin, Tex.

Waypoint name	Location		Reference facility
J920R Great Falls, Mont., to Salt Lake City, Utah			
KRUMS	49°00'00" N.	109°27'26" W.	Lewistown, Mont.
MILLE	47°02'01" N.	111°24'11" W.	Lewistown, Mont.
JEFFE	45°11'50" N.	111°38'35" W.	Dillon, Mont.
CHESS	44°03'49" N.	111°46'44" W.	Dubois, Idaho
Ogden, Utah	41°13'27" N.	112°05'51" W.	Malad City, Idaho

Waypoint name	Location		Reference facility
J924R Los Angeles, Calif., to Seattle, Wash.			
Avenal, CA.	35°38'49" N.	119°58'40" W.	Fresno, CA.
WASHY	39°25'23" N.	120°39'06" W.	Reno, Nev.
QUART	42°24'45" N.	121°14'23" W.	Lakeview, Oreg.
SUMMA	47°11'08" N.	122°18'30" W.	Portland, Oreg.

Waypoint name	Location		Reference facility
J929R Atlanta, Ga., to Hobby, Tex.			
BREME	33°39'32" N.	85°12'55" W.	Montgomery, Ala.
Meridian, MS.	32°22'42" N.	88°48'15" W.	Jackson, MS.
BURKE	30°43'25" N.	93°24'11" W.	Lake Charles, La.
Humble, Tex.	29°57'24" N.	95°20'44" W.	Hobby, Tex.

Waypoint name	Location		Reference facility
J932R New Orleans, LA., to Memphis, TN.			
New Orleans, LA.	30°01'47" N.	90°10'20" W.	New Orleans, LA.
Jackson, MS.	32°30'26" N.	90°10'03" W.	Meridian, MS.
SURRY	34°56'34"N.	89°57'35"W.	Walnut Ridge, Ark.

Waypoint name	Location		Reference facility
J933R Dallas, Tex., to Los Angeles, Calif.			
Wichita Falls, TX.	33°59'14" N.	98°35'35" W.	Wichita Falls, TX.
CROWS	34°08'33" N.	99°45'50" W.	Wichita Falls, Tex.
Texico, N. Mex.	34°29'42" N.	102°50'21" W.	Texico, N. Mex.
VAULT	34°37'10" N.	105°12'02" W.	Las Vegas, N. Mex.
TERRA	34°43'28" N.	109°08'57" W.	Gallup, N. Mex.
MANIA	34°48'42" N.	110°48'56" W.	Gallup, N. Mex.
DRAKE	34°56'54" N.	112°32'15" W.	Prescott, Ariz.
CHUBS	34°32'20" N.	114°48'08" W.	Parker, Calif.
MORRO	34°02'51" N.	117°14'54" W.	Oceanside, Calif.

Waypoint name	Location		Reference facility
J934R Dallas-Fort Worth, Tex., to Atlanta, Ga.			
Dallas-Fort Worth, Tex.	32°51'57"N.	97°01'40" W	Dallas-Fort Worth, Tex.
Texarkana, AR.	33°30'50" N.	94°04'23" W.	Shreveport, LA.
MONEY	33°31'12" N.	90°08'54" W.	Jackson, Miss.
Bigbee, Miss.	33°29'07"N.	88°30'49"W.	Jackson, Miss.
Vulcan, Ala.	33°40'12"N.	86°53'59"W.	Montgomery, Ala.
Rome, Ga.	34°09'45"N.	85°07'10"W.	Vulcan, Ala.

AMENDMENTS 3/23/78 43 F. R. 3545 (Changed)

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Waypoint name	Location		Reference facility
J937R ALCOA to Chicago, Ill.			
ALCOA	37°50'00"N.	125°50'00"W.	Ukiah, Calif.
SAWED	38°37'27" N.	123°04'28" W.	Ukiah, Calif.
Reno, NV.	39°31'53" N.	119°39'18" W.	Reno, NV.
TENBO	40°06'20" N.	116°46'26" W.	Battle Mountain, Nev.
Bonneville, UT.	40°43'34" N.	113°45'24" W.	Bonneville, UT.
WOODS	40°58'05" N.	112°06'09" W.	Malad City, Idaho
QUEEN	41°25'15" N.	108°58'31" W.	Rock Springs, Wyo.
SLATE	41°53'12" N.	104°53'16" W.	Cheyenne, Wyo.
Berea, NE.	42°02'38" N.	103°07'04" W.	Sidney, NE.
DRIES	42°20'04" N.	98°25'33" W.	Wolbach, Nebr.
KAMRA	42°25'45" N.	93°43'56" W.	Fort Dodge, Iowa
SCALE	42°22'53" N.	90°24'00" W.	Iowa City, Iowa
STOCK	42°21'21"N.	88°24'13"W.	Badger, Wis.

AMENDMENTS 7/13/78 43 F. R. 19212 (Changed)

Waypoint name	Location		Reference facility
J938R Chicago, Ill., to BEBOP			
MORRI	41°55'53" N.	89°47'00" W.	Bradford, Ill
ELBER	42°00'53" N.	92°15'40" W.	Dubuque, Iowa
UTERO	42°02'05" N.	95°44'37" W.	Omaha, Nebr.
CUMIN	41°59'41" N.	98°22'59" W.	Wolbach, Nebr.
ANGLO	41°47'19" N.	103°03'32" W.	Sidney, Nebr.
BORAX	41°39'48" N.	104°50'04" W.	Cheyenne, Wyo.
VERON	41°16'13" N.	108°57'02" W.	Rock Springs, Wyo.
MAGNA	40°52'19" N.	112°05'03" W.	Fairfield, Utah
ARIES	40°37'37" N.	113°43'47" W.	Bonneville, Utah
TENBO	40°06'20" N.	116°46'26" W.	Battle Mountain, Nev.
Reno, NV.	39°31'53" N.	119°39'18" W.	Reno, NV.
Napa, Calif.	38°10'46" N.	122°22'19" W.	Ukiah, Calif.
PALIS	37°36'00" N.	123°30'00" W.	Ukiah, Calif.
BEBOP	37°00'00"N.	125°00'00"W.	Oakland, Calif.

AMENDMENTS 1/26/78 42 F. R. 62000 (Changed)

Waypoint name	Location		Reference facility
J939R Chicago, Ill., to Seattle, Wash.			
MORRI	41°55'53" N.	89°47'00" W.	Bradford, Ill.
ELBER	42°00'53" N.	92°15'40" W.	Dubuque, Iowa
COREY	42°58'37" N.	93°54'48" W.	Fort Dodge, Iowa
HEIDY	44°07'06" N.	96°00'04" W.	Sioux Falls, S. Dak.
TURTS	44°45'05" N.	98°39'52" W.	Aberdeen, S. Dak.
REVAS	45°39'50" N.	103°12'58" W.	Dickinson, N. Dak.
Klein, Mont.	46°27'51" N.	108°26'58" W.	Billings, Mont.
HOLTE	46°51'21" N.	111°54'03" W.	Helena, Mont.
Avery, Idaho	47°10'05" N.	115°41'12" W.	Mullan Pass, Idaho
Amber, Wash.	47°17'02" N.	117°39'24" W.	Spokane, Wash.
Seattle, Wash.	47°26'08" N.	122°18'30" W.	Seattle, Wash.

Waypoint name	Location		Reference facility
J940R Seattle, Wash., to Chicago, Ill.			
Seattle, WA.	47°26'08" N.	122°18'30" W.	Seattle, WA.
Amber, WA.	47°17'02" N.	117°39'24" W.	Spokane, WA.
Avery, ID.	47°10'05" N.	115°41'12" W.	Mullan Pass, ID.
HOLTE	46°51'21" N.	111°54'03" W.	Helena, Mont.
Klein, MT.	46°27'51" N.	108°26'58" W.	Billings, MT.
REVAS	45°39'50" N.	103°12'58" W.	Dickinson, N. Dak.
TURTS	44°45'05" N.	98°39'52" W.	Aberdeen, S. Dak.
HEIDY	44°07'06" N.	96°00'04" W.	Sioux Falls, S. Dak.
ORATO	43°27'29" N.	93°09'59" W.	Mason City, Iowa
STOCK	42°21'21"N.	88°24'13"W.	Badger, Wis.

AMENDMENTS 7/13/78 43 F. R. 19212 (Changed)

Waypoint name	Location		Reference facility
J941R Dallas-Fort Worth, Tex., to Las Vegas, Nev.			
Dallas-Fort Worth, Tex.	32°51'57" N.	97°01'40" W.	Dallas-Fort Worth, Tex.
Bridgeport, TX.	33°14'16" N.	97°45'58" W.	Ardmore, OK.
CROWS	34°08'33" N.	99°45'50" W.	Wichita Falls, Tex.
Texico, NM.	34°29'42" N.	102°50'21" W.	Texico, NM.
PALMA	34°54'19" N.	105°18'29" W.	Las Vegas, N. Mex.
VOLCA	35°06'22" N.	106°39'29" W.	Socorro, N. Mex.
DEFER	35°26'19" N.	109°09'39" W.	Gallup, N. Mex.
FOURR	35°41'03"N.	111°20'14"W.	Tuba City, Ariz.
Boulder City, NV.	35°59'45" N.	114°51'46" W.	Boulder City, NV.

Waypoint name	Location		Reference facility
J945R CAMEL to DINTY			
CAMEL	35°58'37" N.	111°12'21" W.	Tuba City, Ariz.
DODIE	35°21'49" N.	114°38'38" W.	Needles, Calif.
Palmdale, Calif.	34°37'53" N.	118°03'47" W.	Palmdale, Calif.
Santa Barbara, Calif.	34°30'35" N.	119°46'12" W.	Santa Barbara, Calif.
DINTY	33°29'00"N.	122°35'00"W.	Santa Barbara, Calif.

Waypoint name	Location		Reference facility
J948R New Orleans, La., to Oklahoma City, Okla.			
KENNA	29°59'05" N.	90°15'04" W.	New Orleans, La.
MONZA	30°30'42" N.	90°47'09" W.	New Orleans, La.
DIXIE	32°43'53" N.	93°50'55" W.	Shreveport, La.
DIBBS	35°10'02" N.	97°31'55" W.	Oklahoma City, Okla.

Waypoint name	Location		Reference facility
J949R Oklahoma City, Okla., to Houston, Tex.			
KAYES	35°16'32" N.	97°46'21" W.	Oklahoma City, Okla.
Dallas-Fort Worth, Tex.	32°51'57" N.	97°01'40" W.	Dallas-Fort Worth, Tex.
Navasota, Tex.	30°17'20" N.	96°03'30" W.	Humble, Tex.

Waypoint name	Location		Reference facility
J952R New York, N. Y., to Hobby, Tex.			
Coyle, NJ.	39°49'02" N.	74°25'55" W.	Coyle, NJ.
Gordonsville, VA.	38°00'48" N.	78°09'12" W.	Richmond, VA.
COPPA	36°52'22" N.	80°35'26" W.	Greensboro, N. C.
BEECH	36°05'30" N.	82°04'58" W.	Spartanburg, S. C.
TRION	34°27'25" N.	85°14'12" W.	Atlanta, Ga.
IRONY	33°19'28" N.	87°13'18" W.	Montgomery, Ala.
Meridian, MS.	32°22'42" N.	88°48'15" W.	Jackson, MS.
BURKE	30°43'25" N.	93°24'11" W.	Lake Charles, La.
Humble, Tex.	29°57'24" N.	95°20'44" W.	Hobby, Tex.

Waypoint name	Location		Reference facility
J953R New Orleans, La., to New York, N. Y.			
New Orleans, LA.	30°01'47" N.	90°10'20" W.	New Orleans, LA.
Monroeville, AL.	31°27'37" N.	87°21'10" W.	Montgomery, AL.
Montgomery, AL.	32°13'20" N.	86°19'11" W.	Montgomery, AL.
STONE	33°39'00" N.	84°01'00" W.	Macon, Ga.
GRAMS	34°57'15" N.	82°06'05" W.	Columbia, S. C.
SEMOL	36°31'24" N.	79°25'48" W.	Raleigh-Durham, N. C.
Atlantic City, NJ.	39°27'21" N.	74°34'36" W.	Westminster, MD.

Waypoint name	Location		Reference facility
J957R Jacksonville, FL., to Washington, D. C.			
SIMON	30°41'20" N.	81°17'25" W.	Alma, Ga.
BAGGY	32°36'40" N.	80°27'00" W.	Charleston, S. C.
Florence, SC.	34°13'58" N.	79°39'26" W.	Florence, SC.
Richmond, VA.	37°30'08" N.	77°19'14" W.	Flat Rock, VA.
MARBY	38°30'12" N.	77°07'07" W.	Flat Rock, Va.

Waypoint name	Location		Reference facility
J958R Washington, DC., to Jacksonville, FL.			
Brooke, VA.	38°20'10" N.	77°21'11" W.	Richmond, VA.
Flat Rock, Va.	37°31'42" N.	77°49'43" W.	Richmond, Va.
SOCHE	34°37'30" N.	79°45'00" W.	Florence, S. C.
RITES	32°47'00" N.	80°37'30" W.	Charleston, S. C.
CHEST	30°52'25" N.	81°28'52" W.	Jacksonville, Fla.

Waypoint name	Location		Reference facility
J959R Miami, Fla., to Detroit, Mich.			
ANDRE	26°09'43"N.	80°17'36" W.	Vero Beach, Fla.
PONTE	30°12'23" N.	81°21'38" W.	Jacksonville, Fla.
Augusta, GA.	33°32'40" N.	82°08'00" W.	Columbia, SC.
RADER	36°06'51" N.	82°59'07" W.	Knoxville, Tenn.
MINER	38°42'28" N.	83°54'20" W.	Louisville, Ky.
Dayton, OH.	40°00'59" N.	84°23'49" W.	Fort Wayne, IN.
Milan, MI.	42°03'05" N.	83°44'55" W.	Fort Wayne, IN.

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Waypoint name	Location		Reference facility
J961R DINTY to PARIA			
DINTY	33°29'00"N.	122°35'00"W.	Santa Barbara, Calif.
Santa Barbara, Calif.	34°30'35" N.	119°46'12" W.	Santa Barbara, Calif.
Palmdale, Calif.	34°37'53" N.	118°03'47" W.	Palmdale, Calif.
RABBI	34°44'09" N.	117°08'00" W.	Hector, Calif.
SANUP	36°08'19" N.	113°51'29" W.	Peach Springs, Ariz.
PARIA	36°53'51" N.	111°55'43" W.	Bryce Canyon, Utah

Waypoint name	Location		Reference facility
J964R Coaldale, Nev., to BEBOP			
Coaldale, NV.	38°00'12" N.	117°46'10" W.	Coaldale, NV.
BUCKO	37°40'09" N.	119°59'55" W.	Fresno, Calif.
MERLE	37°20'54" N.	122°50'36" W.	Oakland, Calif.
BEBOP	37°00'00"N.	125°00'00"W.	Oakland, Calif.

AMENDMENTS 1/26/78 42 F. R. 62000 (Changed)

Waypoint name	Location		Reference facility
J966R ALCOA to Mina, Nev.			
ALCOA	37°50'00"N.	125°50'00"W.	Ukiah, Calif.
PALIS	37°36'00" N.	123°30'00" W.	Ukiah, Calif.
MAYAN	38°00'02" N.	121°25'14" W.	Sacramento, Calif.
Mina, Nev.	38°33'55" N.	118°01'55" W.	Coaldale, Nev.

Waypoint name	Location		Reference facility
J967R CLUKK to Mina, Nev.			
CLUKK	36°05'00"N.	124°50'00"W.	Oakland, Calif.
MERLE	37°20'54" N.	122°50'36" W.	Oakland, Calif.
STANI	37°46'30" N.	120°51'48" W.	Linden, Calif.
Mina, Nev.	38°33'55" N.	118°01'55" W.	Coaldale, Nev.

Waypoint name	Location		Reference facility
J974R Washington, D. C., to Los Angeles, Calif.			
Front Royal, Va.	39°05'26" N.	078°12'02" W.	Casanova, Va.
Henderson, W. Va.	38°45'15" N.	082°01'35" W.	Charleston, W. Va.
MINER	38°42'28" N.	083°54'20" W.	Louisville, Ky.
MARIN	38°43'46" N.	089°51'54" W.	Capital, Ill.
HAWKS	38°42'35" N.	090°55'59" W.	Farmington, Mo.
TIGHT	38°21'43" N.	093°34'00" W.	Springfield, Mo.
Wichita, Kans.	37°43'40" N.	097°27'11" W.	Pioneer, Okla.
IARCH	37°10'36" N.	100°29'46" W.	Garden City, Kans.
SOFIA	36°25'38" N.	104°01'41" W.	Tucumcari, N. Mex.
SPRIN	36°15'07" N.	104°46'52" W.	Las Vegas, N. Mex.
DEFER	35°26'19" N.	109°09'39" W.	Gallup, N. Mex.
DRAKE	34°56'54" N.	112°32'15" W.	Prescott, Ariz.
CHUBS	34°32'20" N.	114°48'08" W.	Parker, Calif.
MORRO	34°02'51" N.	117°14'54" W.	Oceanside, Calif.

Waypoint name	Location		Reference facility
J976R Seattle, Wash., to Minneapolis, Minn.			
BOTHS	47°43'56" N.	122°05'03" W.	Seattle, Wash.
COULE	47°39'42" N.	119°24'00" W.	Ephrata, Wash.
Mullan Pass, ID.	47°27'25" N.	115°38'42" W.	Mullan Pass, ID.
EDENS	47°21'50" N.	111°25'15" W.	Great Falls, Mont.
MOULT	47°16'24" N.	109°34'42" W.	Lewiston, Mont.
BROCK	46°59'51" N.	105°50'24" W.	Miles City, Mont.
LARKS	46°29'51" N.	101°20'11" W.	Dupree, S. Dak.
Oakes, ND.	46°01'58" N.	98°09'59" W.	Aberdeen, SD.
Minneapolis, MN.	45°08'45" N.	93°22'23" W.	Minneapolis, MN.

Waypoint name	Location		Reference facility
J981R Los Angeles, Calif., to Washington, D. C.			
Parker, Calif.	34°06'07" N.	114°40'53" W.	Needles, Calif.
Prescott, Ariz.	34°42'09" N.	112°28'46" W.	Phoenix, Ariz.
WELLS	35°13'59" N.	108°47'53" W.	St. Johns, Ariz.
MORAS	35°52'40" N.	105°18'54" W.	Las Vegas, N. Mex.
CANAS	36°21'15" N.	101°48'33" W.	Amarillo, Tex.
TANGY	36°32'14" N.	099°56'38" W.	Kingfisher, Okla.
IRWIN	37°30'10" N.	094°18'35" W.	Butler, Mo.
SPROT	37°56'21" N.	090°16'20" W.	Farmington, Mo.
CANTO	38°16'02" N.	085°35'26" W.	Louisville, Ky.
RENFO	38°24'04" N.	081°23'29" W.	Beckley, W. Va.
Diana, W. Va.	38°29'44" N.	080°11'01" W.	Beckley, W. Va.

Waypoint name	Location		Reference facility
J983R Miami, FL., to New Orleans, LA.			
HIGHT	26°11'22" N.	80°42'24" W.	Vero Beach, Fla.
Sarasota, FL.	27°23'51" N.	82°33'16" W.	Sarasota, FL.
NEPTA	28°36'40" N.	87°38'36" W.	Crestview, Fla.
New Orleans, LA.	30°01'47" N.	90°10'20" W.	New Orleans, LA.

Waypoint name	Location		Reference facility
J984R Hobby, Tex., to Miami, Fla.			
Humble, Tex.	29°57'24" N.	95°20'44" W.	Hobby, Tex.
Leeville, LA.	29°10'30" N.	90°06'14" W.	Leeville, LA.
NEPTA	28°36'40" N.	87°38'36" W.	Crestview, Fla.
Sarasota, FL.	27°23'51" N.	82°33'16" W.	Sarasota, FL.
REPLY	26°10'36" N.	81°06'53" W.	Palm Beach, Fla.

Waypoint name	Location		Reference facility
J985R San Antonio, TX., to Phoenix, AZ.			
San Antonio, TX.	29°38'38" N.	98°27'40" W.	Austin, TX.
TELIA	30°06'45" N.	100°00'31" W.	Junction, Tex.
Fort Stockton, TX.	30°57'07" N.	102°58'31" W.	Wink, TX.
TOYAH	31°31'23" N.	104°03'00" W.	Wink, Tex.
ORGAN	32°14'48" N.	106°52'20" W.	Truth or Consequences, N. Mex.
SHELL	32°47'55" N.	109°05'10" W.	San Simon, Ariz.
Phoenix, AZ.	33°25'53" N.	111°53'17" W.	Phoenix, AZ.

Waypoint name	Location		Reference facility
J990R Phoenix, AZ., to Bridgeport, TX.			
Phoenix, AZ.	33°25'53" N.	111°53'17" W.	Phoenix, AZ.
MULEY	33°21'55" N.	109°11'49" W.	St. Johns, Ariz.
Truth or Consequences, NM.	33°16'57" N.	107°16'48" W.	Socorro, NM.
Roswell, NM.	33°20'15" N.	104°37'15" W.	Roswell, NM.
PLAIN	33°20'52" N.	102°50'29" W.	Texico, N. Mex.
ROCKS	33°18'28" N.	99°50'01" W.	Abilene, Tex.
Bridgeport, TX.	33°14'16" N.	97°45'58" W.	Ardmore, OK.

Waypoint name	Location		Reference facility
J993R John F. Kennedy Airport, N. Y., to Miami, Fla.			
BOUND	38°06'45" N.	75°26'05" W.	Richmond, Va.
RESCO	36°47'30" N.	76°25'30" W.	Richmond, Va.
SURFY	34°06'00" N.	78°00'00" W.	Raleigh-Durham, N. C.
AZANA	32°23'32" N.	78°14'57" W.	Charleston, S. C.
GAUGE	30°25'29" N.	78°33'57" W.	Ormond Beach, Fla.
SAILS	30°00'00" N.	78°38'00" W.	Ormond Beach, Fla.
TARPO	28°00'00" N.	79°30'00" W.	Vero Beach, Fla.
PINKS	26°17'31" N.	79°54'49" W.	Palm Beach, Fla.

Waypoint name	Location		Reference facility
J994R John F. Kennedy Airport, N. Y., to Orlando, Fla.			
BOUND	38°06'45" N.	75°26'05" W.	Richmond, Va.
RESCO	36°47'30" N.	76°25'30" W.	Richmond, Va.
CLARK	34°26'30" N.	78°57'30" W.	Raleigh-Durham, N. C.
RITES	32°47'00" N.	80°37'30" W.	Charleston, S. C.
CHEST	30°52'25" N.	81°28'52" W.	Jacksonville, Fla.
Jacksonville, Fla.	30°27'00" N.	81°33'52" W.	Jacksonville, Fla.
Orlando, Fla.	28°32'33" N.	81°20'07" W.	Orlando, Fla.

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Waypoint name	Location		Reference facility
J995R Dulles International Airport, Va., to Miami, Fla.			
Casanova, Va.	38°38'28" N.	77°51'57" W.	Gordonsville, Va.
Flat Rock, Va.	37°31'42" N.	77°49'43" W.	Richmond, Va.
SURFY	34°06'00" N.	78°00'00" W.	Raleigh-Durham, N. C.
AZANA	32°23'32" N.	78°14'57" W.	Charleston. S. C.
GAUGE	30°25'29" N.	78°33'57" W.	Ormond Beach, Fla.
SAILS	30°00'00" N.	78°38'00" W.	Ormond Beach, Fla.
HALBI	26°41'00" N.	79°08'05" W.	Vero Beach, Fla.
BONDI	26°03'28" N.	79°46'14" W.	Palm Beach, Fla.

Waypoint name	Location		Reference facility
J996R Cape Newenham-Amott			
Cape Newenham	58°39'24"N.	162°04'25"W.	King Salmon, Alaska
NERKA	59°26'00"N.	158°55'00"W.	King Salmon, Alaska
CARBU	60°15'30"N.	154°58'00"W.	King Salmon, Alaska
AMOTT	60°54'04"N.	151°17'12"W.	Anchorage, Alaska

AMENDMENTS 7/13/78 43 F. R. 17347 (Added)
AMENDMENTS 9/7/78 43 F. R. 30537 (Changed)

PENDING AMENDMENT

Waypoint name	Location		Reference facility
J997R Anchorage, Alaska, to Annette Island, Alaska			
NOWEL	60°29'01"N.	148°38'01"W.	Anchorage, Alaska
TONTS	59°51'06"N.	146°18'00"W.	Middleton Island, Alaska
DUNKS	57°58'07"N.	140°14'00"W.	Yakutat, Alaska
HOLLI	56°40'00"N.	137°00'00"W.	Biorka Island, Alaska
MOCHA	54°29'05"N.	133°00'02"W.	Annette Island, Alaska

AMENDMENTS 12/28/78 43 F. R. 45345 (Added)

[FR Doc. 78-35117 Filed 12-29-78; 8:45 am]

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Monday	Tuesday	Wednesday	Thursday	Friday
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DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/OHMO	USDA//FSQS		DOT/OHMO	USDA/FSQS
DOT/OPSO	USDA/REA		DOT/OPSO	USDA/REA
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List of Public Laws

NOTE: A complete listing of all public laws from the second session of the 95th Congress was published as Part II of the issue of December 4, 1978. (Price: 75 cents. Order by stock number 022-003-00960-4 from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402, Telephone 202-275-3030.)

The continuing listing will be resumed upon enactment of the first public law for the first session of the 96th Congress, which will convene on Monday, January 15, 1979.

Documents Relating to Federal Grants Programs

This is a list of documents relating to Federal grants programs which were published in the FEDERAL REGISTER during the previous week.

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HEW-OE—Higher Education Act of 1965; reauthorization; hearings on programs to be held in various regions in January and February 1979 ..... 60667; 12–28–78

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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[3410-08-M]

Title 7—Agriculture

CHAPTER IV—FEDERAL CROP INSURANCE CORPORATION, DEPARTMENT OF AGRICULTURE

[Amdt. No. 101]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

COUNTIES AND CROPS DESIGNATED FOR CROP INSURANCE FOR THE 1979 CROP YEAR

AGENCY: Federal Crop Insurance Corporation.

ACTION: Final rule.

SUMMARY: This rule provides the complete listing of counties and crops approved by the Board of Directors of the Federal Crop Insurance Corporation and designated under 7 CFR Part 401 for crop insurance effective for the 1979 and succeeding crop years. This list is provided for the convenience and information of all interested parties as a base list. Any additions or deletions of counties or crops in this or succeeding crop years will be made by amendment to this list.

EFFECTIVE DATE: January 3, 1979.

FOR FURTHER INFORMATION CONTACT:

Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, 202-447-3325.

SUPPLEMENTARY INFORMATION: Section 401.101 of the Federal Crop Insurance Regulations for the 1969 and Succeeding Crop Years (32 FR 15911, November 21, 1967) provides that, before insurance is offered in any county under Part 401, there shall be published by appendix to § 401.101, the name of the counties in which, and the crops on which the insurance will be offered.

In accordance with these regulations, the Federal Crop Insurance Corporation has published annually the full list of counties and crops eligible under Part 401 for crop insurance for the particular crop year, repeating the entire process each successive crop year. This has been accomplished by publishing appendices to § 401.101 of the regulations.

The Board of Directors of the Federal Crop Insurance Corporation has determined that it would be more effective administratively, less costly, and less time consuming if the full roster of counties and crops insured by the Corporation under Part 401 were to be published as a document to remain in effective indefinitely and amended when necessary to add or delete counties and/or crops. Inasmuch as the publication of counties and crops insured by the Corporation merely provides guidance for the general public, and publication as described above will be beneficial to present and potential policyholders, it is found and determined that compliance with the procedure for notice and public participation in the proposed rule making process would be impracticable, unnecessary, and contrary to the public interest. Therefore, this amendment is issued without compliance with such procedure.

FINAL RULE

Under the authority contained in the Federal Crop Insurance Regulations for the 1969 and Succeeding Crop Years (32 FR 15911, November 21, 1967), § 401.101 of such regulations as found in 7 CFR Part 401 is hereby amended effective with the 1979 and succeeding crop years by adding the following appendix to § 401.101 effective with the 1979 and succeeding crop year.

APPENDIX

The counties where crop insurance is authorized to be offered and the crops upon which such insurance is offered under the provisions of 7 CFR Part 401 are as follows:

COUNTIES DESIGNATED FOR BARLEY CROP INSURANCE

ARIZONA	
Maricopa	Yuma
Pinal	
CALIFORNIA	
Colusa	Sacramento
Fresno	San Benito
Kern	San Joaquin
Kings	Solano
Madera	Stanislaus
Merced	Sutter
Modoc	Tulare
Monterey	Yolo
COLORADO	
Boulder	Morgan
Larimer	Weld
IDAHO	
Ada	Jerome
Bannock	Kootenai
Benewah	Latah
Bingham	Lewis
Bonneville	Lincoln
Camas	Madison
Canyon	Minidoka
Caribou	Nez Perce
Cassia	Oneida
Franklin	Owyhee
Fremont	Power
Gooding	Teton
Idaho	Twin Falls
Jefferson	
MARYLAND	
Carolina	Queen Annes
Kent	
MINNESOTA	
Becker	Otter Tail
Big Stone	Pennington
Chippewa	Polk
Clay	Pope
Douglas	Red Lake
Grant	Roseau
Kittson	Stevens
Mahnomen	Swift
Marshall	Traverse
Norman	Wilkin
MONTANA	
Big Horn	McCone
Blaine	Musselshell
Carbon	Phillips
Cascade	Pondera
Chouteau	Prairie
Daniels	Richland
Dawson	Roosevelt
Fallon	Rosebud
Fergus	Sheridan
Gallatin	Stillwater
Garfield	Teton
Glacier	Toole
Golden Valley	Valley
Hill	Wheatland
Judith Basin	Yellowstone
Liberty	

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NORTH DAKOTA

Adams
Barnes
Benson
Billings
Bottineau
Bowman
Burke
Burleigh
Cass
Cavalier
Dickey
Divide
Dunn
Eddy
Emmons
Foster
Golden Valley
Grand Forks
Grant
Griggs
Hettinger
Kidder
La Moure
Logan
McHenry
McIntosh
McKenzie
McClean
Mercer
Morton
Mountrail
Nelson
Oliver
Pembina
Pierce
Ramsey
Ransom
Renville
Richland
Rolette
Sargent
Sheridan
Sioux
Slope
Stark
Steele
Stutsman
Towner
Traill
Walsh
Ward
Wells
Williams

OREGON

Gilliam
Jefferson
Klamath
Linn
Malheur
Morrow
Sherman
Umatilla
Union
Wallowa
Wasco
Wheeler

PENNSYLVANIA

Adams
Chester
Cumberland
Dauphin
Franklin
Lebanon
York

SOUTH DAKOTA

Beadle
Brookings
Brown
Brule
Campbell
Clark
Codington
Day
Deuel
Edmunds
Faulk
Grant
Gregory
Hamlin
Jerauld
Kingsbury
Lake
McPherson
Marshall
Miner
Roberts
Spink

UTAH

Cache
Davis
Salt Lake
Utah
Weber

WASHINGTON

Adams
Asotin
Columbia
Franklin
Garfield
Grant
Klickitat
Lincoln
Spokane
Walla Walla
Whitman

WYOMING

Big Horn
Goshen
Park
Washakie

Counties Designated for Dry Bean Crop Insurance

State and county	Class(es) of dry beans insured
COLORADO	
Boulder	Pinto
Kit Carson	Do.
Larimer	Do.
Logan	Do.
Morgan	Do.
Phillips	Do.
Sedgewick	Do.
Washington	Do.
Weld	Do.
Yuma	Do.
IDAHO	
Ada	Pinto
Canyon	Great northern, pink, pinto, red kidney, small red.[1]
Cassia	Do.[1]
Gooding	Do.[1]
Jerome	Do.[1]
Lincoln	Do.
Minidoka	Do.[1]
Owyhee	Do.
Twin Falls	Do.[1]
KANSAS	
Sherman	Pinto
MICHIGAN	
Bay	Pea and medium white, light and dark red kidney, cranberry, turtle, pinto.
Genessee	Do.
Gratiot	Do.
Huron	Do.
Saginaw	Do.
Sanilac	Do.
Shiawassee	Do.
Tuscola	Do.
NEBRASKA	
Box Butte	Great northern, pink, pinto.
Morrill	Do.
Scotts Bluff	Do.
Sheridan	Do.
WASHINGTON	
Adams	Great northern, pink, pinto, small flat whites, small red.
Franklin	Do.
Grant	Do.
WYOMING	
Big Horn	Great northern, pinto.
Goshen	Do.
Park	Do.
Platte	Do.

[1] Insurance is also provided on bush varieties of garden seed beans.

Counties Designated for Corn Crop Insurance

ALABAMA

DeKalb
Jackson
Lawrence
Marshall
Pike

COLORADO

Adams
Baca
Boulder
Cheyenne
Kit Carson
Larimer
Logan
Morgan
Phillips
Prowers
Sedgwick
Washington
Weld
Yuma

DELAWARE

Kent
New Castle
Sussex

FLORIDA

Suwannee

GEORGIA

Colquitt
Houston
Mitchell

ILLINOIS

Adams
Bond
Boone
Brown
Bureau
Carroll
Cass
Champaign
Christian
Clark
Clay
Clinton
Coles
Crawford
Cumberland
De Kalb
De Witt
Douglas
Edgar
Effingham
Fayette
Ford
Fulton
Greene
Grundy
Hamilton
Hancock
Henderson
Henry
Iroquois
Jasper
Jefferson
Jersey
Jo Daviess
Kane
Kankakee
Kendall
Knox
La Salle
Lawrence
Lee
Livingston
Logan
McDonough
McHenry
McLean
Macon
Macoupin
Madison
Marion
Marshall
Mason
Menard
Mercer
Monroe
Montgomery
Morgan
Moultrie
Ogle
Peoria
Piatt
Perry
Pike
Putnam
Randolph
Richland
Rock Island
St. Clair
Sangamon
Schuyler
Scott
Shelby
Stark
Stephenson
Tazewell
Vermilion
Warren
Washington
Wayne
White
Whiteside
Will
Winnebago
Woodford

INDIANA

Adams
Allen
Bartholomew
Benton
Blackford
Boone
Carroll
Cass
Clay
Clinton
Daviess
Decatur
De Kalb
Delaware
Elkhart
Fayette
Fountain
Franklin
Fulton
Gibson
Grant
Greene
Hamilton
Hancock
Hendricks
Henry
Howard
Huntington
Jackson
Jasper
Jay
Johnson
Knox
Kosciusko
Lagrange
La Porte
Madison
Marion
Marshall
Miami
Montgomery
Morgan
Newton
Noble
Parke
Posey
Pulaski
Putnam
Randolph
Ripley
Rush
Shelby
Sullivan
Tippecanoe
Tipton
Union
Vermillion
Vigo
Wabash
Warren
Wayne
Wells
White
Whitley

IOWA

Adair
Adams
Allamakee
Appanoose
Audubon
Benton
Black Hawk
Boone
Bremer
Buchanan
Buena Vista
Butler
Calhoun
Carroll
Cass
Cedar
Cerro Gordo
Cherokee
Grundy
Guthrie
Hamilton
Hancock
Hardin
Harrison
Henry
Howard
Humboldt
Ida
Iowa
Jackson
Jasper
Jefferson
Johnson
Jones
Keokuk
Kossuth
Lee
Linn
Louisa
Lucas
Lyon
Madison
Mahaska
Marion
Marshall
Mills
Mitchell
Monona
Monroe
Montgomery
Muscatine
O'Brien
Osceola
Page
Palo Alto
Plymouth
Pocahontas
Polk
Pottawattamie
Powashiek
Ringgold
Sac
Scott
Shelby
Sioux
Story
Tama
Taylor
Union
Van Buren

IOWA—Continued

Wapello
Washington
Wayne
Webster
Winnebago
Winneshiek
Woodbury
Worth
Wright

KANSAS

Atchison
Bourbon
Brown
Cheyenne
Crawford
Decatur
Doniphan
Douglas
Edwards
Finney
Ford
Franklin
Gove
Grant
Gray
Greeley
Hamilton
Haskell
Hodgeman
Jackson
Jefferson
Jewell
Johnson
Kearney
Lane
Leavenworth
Linn
Logan
Lyon
Marshall
Meade
Miami
Morton
Nemaha
Osage
Pawnee
Pottawattamie
Pratt
Rawlins
Republic
Scott
Seward
Shawnee
Sheridan
Sherman
Stanton
Stevens
Thomas
Wallace
Washington
Wichita

KENTUCKY

Christian
Daviess
Henderson
Hopkins
McLean
Todd
Union

LOUISIANA

Pointe Coupee

MARYLAND

Caroline
Kent
Queen Annes
Talbot

MICHIGAN

Branch
Calhoun
Cass
Clinton
Eaton
Genessee
Gratiot
Hillsdale
Ingham
Ionia
Jackson
Kalamazoo
Lenawee
Livingston
Monroe
Saginaw
St. Clair
St. Joseph
Shiawassee
Tuscola
Washtenaw

MINNESOTA

Anoka
Benton
Big Stone
Blue Earth
Brown
Carver
Chippewa
Chisago

MINNESOTA—Continued

Cottonwood
Dakota
Dodge
Douglas
Faribault
Fillmore
Freeborn
Goodhue
Grant
Houston
Isanti
Jackson
Kandiyohi
Lac qui Parle
Le Sueur
Lincoln
Lyon
McLeod
Martin
Meeker
Mille Lacs
Morrison
Mower
Murray
Nicollet
Nobles
Olmstead
Otter Tail
Pipestone
Pope
Ramsey
Redwood
Renville
Rice
Rock
Scott
Sherburne
Sibley
Stearns
Steele
Stevens
Swift
Todd
Traverse
Wabasha
Wadena
Waseca
Washington
Watonwan
Winona
Wright
Yellow Medicine

MISSISSIPPI

Calhoun
Tippah

MISSOURI

Adair
Andrew
Atchison
Audrain
Barton
Bates
Boone
Buchanan
Butler
Caldwell
Callaway
Cape Girardeau
Carroll
Cass
Chariton
Clark
Clay
Clinton
Cooper
Daviess
De Kalb
Dunklin
Franklin
Gentry
Grundy
Harrison
Henry
Holt
Howard
Jackson
Jasper
Johnson
Knox
Lafayette
Lawrence
Lewis
Lincoln
Linn
Livingston
Macon
Marion
Mercer
Mississippi
Monroe
Montgomery
New Madrid
Nodaway
Pemiscot
Perry
Pettis
Pike
Platte
Putnam
Ralls
Randolph
Ray
St. Charles
Saline
Schuyler
Scotland
Scott
Shelby
Stoddard
Sullivan
Vernon
Worth

NEBRASKA

Adams
Antelope
Boone
Buffalo
Burt
Butler
Cass
Cedar
Chase
Clay
Colfax
Cuming
Custer
Dakota
Dawson
Dixon
Dodge
Douglas
Dundy
Fillmore
Franklin
Frontier
Furnas
Gage
Gosper
Hall
Hamilton
Harlan
Hitchcock
Holt
Howard
Johnson
Kearney
Knox
Lancaster
Lincoln
Madison
Merrick
Nance
Nemaha
Nuckolls
Otoe
Pawnee
Phelps
Pierce
Platte
Polk
Red Willow
Richardson
Saline
Sarpy
Saunders
Scotts Bluff
Seward
Sherman
Stanton
Thayer
Thurston
Washington
Wayne
York

NEW YORK

Chautauqua
Niagara
Ontario
Yates

NORTH CAROLINA

Anson
Beaufort
Brunswick
Columbus
Hyde
Nash
Northampton
Pamlico
Pitt
Robeson
Rowan
Scotland
Union
Washington

NORTH DAKOTA

Cass
Ransom
Richland
Sargent
Traill

OHIO

Allen
Ashland
Auglaize
Butler
Champaign
Clark
Clinton
Crawford
Darke
Defiance
Delaware
Erie
Fairfield
Fayette
Franklin
Fulton
Greene
Hancock
Hardin
Henry
Highland
Huron
Knox
Licking
Logan
Lucas
Madison
Marion
Medina
Mercer
Miami
Montgomery
Morrow
Ottawa
Paulding
Pickaway
Preble
Putnam
Richland
Sandusky
Seneca
Shelby
Union
Van Wert
Wayne
Williams
Wood
Wyandot

OKLAHOMA

Cimarron
Texas

PENNSYLVANIA

Adams
Chester
Cumberland
Dauphin
Erie
Franklin
Lancaster
Lebanon
Perry
York

SOUTH CAROLINA

Calhoun
Orangeburg

SOUTH DAKOTA

Aurora
Beadle
Bon Homme
Brookings
Brule
Charles Mix
Clark
Clay
Codington
Davison
Day
Deuel
Douglas
Grant
Gregory
Hamlin
Hanson
Hutchinson
Jerauld
Kingsbury
Lake
Lincoln
McCook
Miner
Minnehaha
Moody
Roberts
Sanborn
Turner
Union
Yankton

TENNESSEE

Crockett
Franklin
Obion

TEXAS

Bailey
Castro
Dallam
Deaf Smith
Gaines
Hansford
Lamb
Moore
Parmer
Williamson

VIRGINIA

Nansemond
Southampton

WISCONSIN

Barron
Brown
Buffalo
Calumet
Chippewa
Clark
Columbia
Crawford
Dane
Dodge
Dunn
Eau Claire
Fond du Lac
Grant
Green
Iowa
Jackson
Jefferson
Kenosha
Kewaunee
La Crosse
Lafayette
Manitowoc
Marathon
Monroe
Outagamie
Pepin
Pierce
Polk
Portage
Racine
Richland
Rock
St. Croix
Sauk
Sheboygan
Trempealeau
Vernon
Walworth
Waukesha
Winnebago
Wood

WYOMING

Goshen

COUNTIES DESIGNATED FOR COMBINED CROP INSURANCE

State and county	Crop(s)
NORTH DAKOTA	
Barnes	Barley, flax, oats, rye, wheat.
Grand Forks	Barley, flax, oats, wheat.
Pierce	Barley, flax, oats, rye, wheat.
Ransom	Barley, flax, oats, wheat.
Richland	Barley, flax, oats, rye, soybeans, wheat.
Sargent	Barley, flax, oats, wheat.
Steele	Barley, flax, oats, wheat.

COUNTIES DESIGNATED FOR COTTON CROP INSURANCE

ALABAMA

Blount
Cherokee
Chilton
Colbert
Conecuh
Covington
Cullman
Dallas
De Kalb
Escambia
Etowah
Hale
Jackson
Lauderdale
Lawrence
Limestone
Madison
Marshall
Morgan
Pickens
Shelby
Tuscaloosa

ARIZONA

Maricopa
Pinal
Yuma

ARKANSAS

Arkansas
Ashley
Chicot
Clay
Craighead
Crittenden
Cross
Desha
Greene
Jackson
Jefferson
Lawrence
Lee
Lincoln
Lonoke
Mississippi
Monroe
Phillips
Poinsett
Prairie
Randolph
St. Francis
Woodruff

CALIFORNIA

Fresno
Imperial
Kern
Kings
Madera
Merced
Riverside
Tulare

GEORGIA

Ben Hill
Brooks
Clay
Colquitt
Cook
Crisp
Decatur
Dooly
Early
Houston
Irwin
Lee
Miller
Mitchell
Randolph
Sumter
Terrell
Thomas
Tift
Turner
Worth

KENTUCKY

Fulton

LOUISIANA

Acadia
Avoyelles
Bossier
Caddo
Caldwell
Catahoula
Concordia
Evangeline
Franklin
Lafayette
Madison
Morehouse
Natchitoches
Pointe Coupee
Rapides
Richland
St. Landry
Tensas
West Carroll

MISSISSIPPI

Alcorn
Benton
Bolivar
Calhoun
Carroll
Chickasaw
Coahoma
De Soto
Hinds
Holmes
Humphreys
Issaquena
Lee
Leflore
Madison
Monroe
Panola
Pontotoc
Prentiss
Quitman
Sharkey
Sunflower
Tallahatchie
Tippah
Tunica
Union
Washington
Yazoo

MISSOURI

Butler
Dunklin
Mississippi
New Madrid
Pemiscot
Scott
Stoddard

NEW MEXICO

Chaves
Dona Ana
Eddy
Lea
Roosevelt

NORTH CAROLINA

Anson
Edgecombe
Halifax
Hoke
Nash
Northampton
Robeson
Scotland
Union

OKLAHOMA

Beckham
Caddo
Grady
Harmon
Jackson
Kiowa
Tillman
Washita

SOUTH CAROLINA

Aiken
Allendale
Anderson
Bamberg
Barnwell
Calhoun
Chester
Chesterfield
Clarendon
Darlington
Dillon
Dorchester
Edgefield
Florence
Hampton
Kershaw
Laurens
Lee
Lexington
Marion
Marlboro
Orangeburg
Spartanburg
Sumter
Williamsburg
York

TENNESSEE

Carroll
Chester
Crockett
Dyer
Fayette
Franklin
Gibson
Giles
Hardeman
Haywood
Henderson
Lake
Lauderdale
Lawrence
Lincoln
McNairy
Madison
Obion
Shelby
Tipton
Weakley

TEXAS

Austin
Bailey
Bell
Bosque
Brazos
Briscoe
Burleson
Calhoun
Cameron
Castro
Childress
Cochran
Collin
Collingsworth
Crosby
Dawson
Deaf Smith
Denton
Ellis
El Paso
Falls
Fannin
Floyd
Fort Bend
Gaines
Garza
Grayson
Hale
Hall
Haskell
Hidalgo
Hill
Hockley
Hudspeth
Hunt
Knox
Lamar
Lamb
Limestone
Lubbock
Lynn
Matagorda
McClennan
Milam
Navarro
Nueces
Parmer
Pecos
Presidio
Reeves
Refugio
Robertson
San Patricio
Stonewall
Swisher
Terry
Travis
Victoria
Wharton
Willbarger
Willacy
Williamson
Yoakum

VIRGINIA

Southampton

COUNTIES DESIGNATED FOR FLAX CROP INSURANCE

MINNESOTA

Becker
Big Stone
Chippewa
Clay
Grant
Kittson
Lac qui Parle
Lincoln
Lyon
Mahnomen
Marshall
Murray
Nobles
Norman
Otter Tail
Pennington
Pipestone
Polk
Pope
Red Lake
Redwood
Roseau
Stevens
Swift
Traverse
Wilkin
Yelow Medicine

NORTH DAKOTA

Barnes
Benson
Bottineau
Burleigh
Cass
Cavalier
Dickey
Eddy
Emmons
Foster
Grand Forks
Griggs
Kidder
La Moure
Logan
McHenry
McIntosh
McLean
Mountrail
Nelson
Pembina
Pierce
Ramsey
Ransom
Renville
Richland
Rolette
Sargent
Sheridan
Steele
Stutsman
Towner
Traill
Walsh
Ward
Wells

SOUTH DAKOTA

Brookings
Brown
Campbell
Clark
Codington
Corson
Day
Deuel
Edmunds
Grant
Hamlin
Kingsbury
Lake
McPherson
Marshall
Minor
Moody
Roberts
Walworth

COUNTIES DESIGNATED FOR GRAIN SORGHUM CROP INSURANCE

ARIZONA

Maricopa
Pinal
Yuma

CALIFORNIA

Colusa
Madera
Sacramento
Solano
Yolo

COLORADO

Baca
Kit Carson
Prowers

KANSAS

Allen
Anderson
Atchison
Barton
Bourbon
Brown
Butler
Chase
Cheyenne
Cherokee
Clay
Cloud
Coffey
Cowley
Crawford
Dickinson
Doniphan
Douglas
Elk
Ellis
Ellsworth
Finney
Ford
Franklin
Geary
Grant
Gray
Greenwood
Harvey
Haskell
Jackson
Jefferson
Jewel
Johnson
Kearny
Kingman
Labette
Leavenworth
Lincoln
Linn
Lyon
Marion
Marshall
McPherson
Meade
Miami
Mitchell
Montgomery
Morris
Morton
Nemaha
Neosho
Osage
Osborne
Ottawa
Pawnee
Phillips
Pottawatomie
Pratt
Reno
Republic
Rice
Riley
Rooks
Rush
Russell
Saline
Scott
Sedgwick
Seward
Shawnee
Sheridan
Smith
Stafford
Stanton
Stevens
Sumner
Wabaunsee
Wallace
Washington
Wichita
Wilson
Woodson

MISSOURI

Atchison
Barton
Bates
Cass
Cooper
Henry
Jasper
Johnson
Monroe
Platte
Vernon

V 4 4 / 2 J A 3 7 9 UMI

NEBRASKA

Adams	Kearney
Boone	Lancaster
Butler	Madison
Cass	Nance
Clay	Nemaha
Colfax	Nuckolls
Dodge	Otoe
Dundy	Pawnee
Fillmore	Platte
Franklin	Polk
Frontier	Red Willow
Furnas	Richardson
Gage	Saline
Gosper	Saunders
Hall	Seward
Hamilton	Thayer
Harlan	Thurston
Hitchcock	Webster
Henderson	York
Johnson	

NEW MEXICO

Curry	Roosevelt
Lea	

OKLAHOMA

Caddo	Mayers
Cimmaron	Nowata
Craig	Ottawa
Delaware	Texas
Kay	Washita

SOUTH DAKOTA

Bon Homme	Hanson
Charles Mix	Hutchison
Davison	Lyman
Douglas	Tripp
Gregory	

TENNESSEE

Obion

TEXAS

Bailey	Hockley
Bell	Hunt
Bosque	Hutchinson
Brazos	Jones
Briscoe	Knox
Burleson	Lamb
Calhoun	Lubbock
Cameron	Lynn
Carson	Matagorda
Castro	McLennan
Cochran	Milam
Collins	Moore
Collingsworth	Navarro
Crosby	Neuces
Dallam	Ochiltree
Deaf Smith	Oldham
Denton	Parmer
Ellis	Randall
Falls	Refugio
Fannin	Robertson
Floyd	San Patricio
Fort Bend	Starr
Gaines	Swisher
Grayson	Terry
Guadalupe	Travis
Hales	Victoria
Hansford	Wharton
Hartley	Willacy
Haskell	Williamson
Hildalgo	Yoakum
Hill	

COUNTIES DESIGNATED FOR OAT CROP INSURANCE

CALIFORNIA

Modoc

ILLINOIS

Bureau	Jo Daviess
Carroll	Ogle
Henry	Stephenson

IOWA

Adair	Jasper
Adams	Jefferson
Allamakee	Johnson
Appanoose	Jones
Audubon	Keokuk
Benton	Kossuth
Black Hawk	Lee
Boone	Linn
Bremer	Louisa
Buchanan	Lucas
Buena Vista	Lyon
Butler	Madison
Calhoun	Mahaska
Carroll	Marion
Cass	Marshall
Cedar	Mills
Cerro Gordo	Mitchell
Cherokee	Monona
Chichasaw	Monroe
Clarke	Montgomery
Clay	Muscatine
Clayton	O'Brien
Clinton	Osceola
Crawford	Page
Dallas	Palo Alto
Davis	Plymouth
Decatur	Pocahontas
Delaware	Polk
Des Moines	Pottawattamie
Dickinson	Poweshiek
Dubuque	Sac
Emmet	Scott
Fayette	Shelby
Floyd	Sioux
Franklin	Story
Fremont	Tama
Greene	Taylor
Grundy	Union
Guthrie	Van Buren
Hamilton	Wapello
Hancock	Warren
Hardin	Washington
Harrison	Webster
Henry	Winnebago
Howard	Winneshiek
Humbolt	Woodbury
Ida	Worth
Iowa	Wright
Jackson	

MINNESOTA

Anoka	Chisago
Becker	Clay
Benton	Cottonwood
Big Stone	Dakota
Blue Earth	Dodge
Brown	Douglas
Carver	Faribault
Chippewa	Fillmore

MINNESOTA—Continued

Freeborn	Pipestone
Goodhue	Polk
Grant	Pope
Houston	Ramsey
Isanti	Red Lake
Jackson	Redwood
Kandiyohi	Renville
Kittson	Rice
Lac qui Parle	Roseau
Le Sueur	Scott
Lincoln	Sherburne
Lyon	Sibley
McLeod	Stearns
Mahnomen	Steele
Marshall	Stevens
Martin	Swift
Meeker	Todd
Mille Lacs	Traverse
Morrison	Wabasha
Mower	Wadena
Murray	Waseca
Nicollet	Washington
Nobles	Watonwan
Norman	Wilkinin
Olmstead	Winona
Otter Tail	Wright
Pennington	Yellow Medicine

NEBRASKA

Cedar	Pierce
Dakota	Wayne
Dixon	Thurston
Knox	

NORTH DAKOTA

Adams	McLean
Barnes	Mercer
Benson	Morton
Billings	Mountrail
Bottineau	Nelson
Bowman	Oliver
Burke	Pembina
Burleigh	Pierce
Cass	Ramsey
Cavalier	Ransom
Dickey	Renville
Divide	Richland
Dunn	Rolette
Eddy	Sargent
Emmons	Sheridan
Foster	Sioux
Golden Valley	Slope
Grand Forks	Stark
Grant	Steele
Griggs	Stutsman
Hettinger	Towner
Kidder	Traill
La Moure	Walsh
Logan	Ward
McHenry	Wells
McIntosh	Williams
McKenzie	

OREGON

Klamath

PENNSYLVANIA

Chester	Dauphin
Cumberland	Perry

SOUTH DAKOTA

Aurora	Hutchinson
Beadle	Hyde
Bon Homme	Jerauld
Brookings	Kingsbury
Brown	Lake
Brule	Lincoln
Campbell	Lyman
Charles Mix	McCook
Clark	McPherson
Clay	Marshall
Codington	Miner
Davison	Minnehaha
Day	Moody
Deuel	Potter
Douglas	Roberts
Edmunds	Sanborn
Faulk	Spink
Grant	Sully
Gregory	Tripp
Hamlin	Turner
Hand	Union
Hanson	Walworth
Hughes	Yankton

WISCONSIN

Barron	Lafayette
Brown	Manitowoc
Buffalo	Marathon
Calumet	Monroe
Chippewa	Outagamie
Clark	Pepin
Columbia	Pierce
Crawford	Polk
Dane	Portage
Dodge	Racine
Dunn	Richland
Eau Claire	Rock
Fond du Lac	St. Croix
Grant	Sauk
Green	Sheboygan
Iowa	Trempealeau
Jackson	Vernon
Jefferson	Walworth
Kenosha	Waukesha
Kewaunee	Winnebago
La Crosse	Wood

COUNTIES DESIGNATED FOR PEANUT CROP INSURANCE

State and County and Type(s) of Peanuts Insured

ALABAMA

Barbour	Runner, Southeast Spanish, Virginia
Coffee	Do.
Conecuh	Do.
Covington	Do.
Crenshaw	Do.
Dale	Do.
Geneva	Do.
Henry	Do.
Houston	Do.
Pike	Do.

FLORIDA

Jackson	Runner, Southeast Spanish, Virginia
Santa Rosa	Do.

GEORGIA

Baker	Runner, Southeast Spanish, Virginia
Ben Hill	Do.
Bulloch	Do.
Calhoun	Do.
Clay	Do.
Coffee	Do.
Colquitt	Do.

GEORGIA—Continued

Cook	Do.
Crisp	Do.
Decatur	Do.
Dodge	Do.
Dooly	Do.
Early	Do.
Grady	Do.
Houston	Do.
Irwin	Do.
Laurens	Do.
Lee	Do.
Miller	Do.
Mitchell	Do.
Randolph	Do.
Seminole	Do.
Sumter	Do.
Terrell	Do.
Thomas	Do.
Tift	Do.
Toombs	Do.
Turner	Do.
Wilcox	Do.
Worth	Do.

NEW MEXICO

Roosevelt	Valencia

NORTH CAROLINA

Bertie	Runner, Virginia
Bladen	Virginia
Chowan	Do.
Edgecombe	Runner, Virginia
Gates	Virginia
Halifax	Runner, Virginia
Hertford	Virginia
Martin	Runner, Virginia
Nash	Virginia
Northampton	Runner, Virginia
Pitt	Virginia
Washington	Do.

OKLAHOMA

Bryan	Southwest Spanish
Caddo	Do.
Grady	Do.

SOUTH CAROLINA

Lee	Virginia
Sumter	Do.

TEXAS

Atacosa	Southwest Spanish, Runner
Brown	Do.
Comanche	Do.
Eastland	Do.
Erath	Do.
Fannin	Southwest Spanish
Frio	Southwest Spanish, Runner
Gaines	Southwest Spanish
Grayson	Do.
Hood	Southwest Spanish, Runner
Lee	Southwest Spanish
Wilson	Southwest Spanish, Runner

VIRGINIA

Dinwiddie	Virginia
Greensville	Do.
Isle of Wight	Do.
Nansemond	Do.
Prince George	Do.
Southampton	Do.
Surrey	Do.
Sussex	Do.

COUNTIES DESIGNATED FOR POTATO CROP INSURANCE

IDAHO

Canyon

NORTH DAKOTA

Walsh

WASHINGTON

Grant

COUNTIES DESIGNATED FOR RICE CROP INSURANCE

ARKANSAS

Arkansas	Jackson
Ashley	Jefferson
Chicot	Lonoke
Clay	Monroe
Craighead	Poinsett
Crittenden	Prairie
Cross	St. Francis
Desha	Woodruff
Greene	

CALIFORNIA

Colusa	Sutter
Sacramento	Yolo
Solano	

LOUISIANA

Acadia	Lafayette
Calcasieu	Morehouse
Evangeline	St. Landry
Jefferson Davis	Vermillion

MISSISSIPPI

Bolivar	Washington
Leflore	

TEXAS

Brazoria	Matagorda
Fort Bend	Wharton

COUNTIES DESIGNATED FOR SOYBEAN CROP INSURANCE

ALABAMA

Baldwin	Lauderdale
Colbert	Lawrence
Dallas	Limestone
De Kalb	Madison
Escambia	Marshall
Hale	Morgan
Jackson	Shelby

ARKANSAS

Arkansas	Lee
Ashley	Lincoln
Chicot	Lonoke
Clay	Mississippi
Craighead	Monroe
Crittenden	Phillips
Cross	Poinsett
Desha	Prairie
Greene	Randolph
Jackson	St. Francis
Jefferson	White
Lawrence	Woodruff

DELAWARE

Kent	Sussex
New Castle	

GEORGIA

Bullock	Houston
Colquitt	Mitchell

ILLINOIS

Adams
Bond
Boone
Brown
Bureau
Carroll
Cass
Champaign
Christian
Clark
Clay
Clinton
Coles
Crawford
Cumberland
De Kalb
De Witt
Douglas
Edgar
Effingham
Fayette
Ford
Fulton
Greene
Grundy
Hamilton
Hancock
Henderson
Henry
Iroquois
Jasper
Jefferson
Jersey
Jo Daviess
Kane
Kankakee
Kendall
Knox
La Salle
Lawrence
Lee
Livingston
Logan
McDonough
McHenry
McLean
Macon
Macoupin
Madison
Marion
Marshall
Mason
Menard
Mercer
Monroe
Montgomery
Morgan
Moultrie
Ogle
Peoria
Perry
Piatt
Pike
Putnam
Randolph
Richland
Rock Island
St. Clair
Sangamon
Schuyler
Scott
Shelby
Stark
Stephenson
Tazewell
Vermilion
Warren
Washington
Wayne
White
Whiteside
Will
Winnebago
Woodford

INDIANA

Adams
Allen
Bartholomew
Benton
Blackford
Boone
Carroll
Cass
Clay
Clinton
Daviess
Decatur
De Kalb
Delaware
Elkhart
Fayette
Fountain
Franklin
Fulton
Gibson
Grant
Greene
Hamilton
Hancock
Henry
Hendricks
Howard
Huntington
Jackson
Jasper
Jay
Johnson
Knox
Kosciusko
Lagrange
La Porte
Madison
Marion
Marshall
Miami
Montgomery
Morgan
Newton
Noble
Parke
Posey
Pulaski
Putnam
Randolph
Ripley
Rush
Shelby
Sullivan
Tippecanoe
Tipton
Union
Vermillion
Vigo
Wabash
Warren
Wayne
Wells
White
Whitley

IOWA

Adair
Adams
Allamakee
Appanoose
Audubon
Benton
Black Hawk
Boone
Bremer
Buchanan
Buena Vista
Butler
Calhoun
Carroll
Cass
Cedar
Cerro Gordo
Cherokee
Chickasaw
Clarke
Clay
Clayton
Clinton
Crawford
Dallas
Davis
Decatur
Delaware
Des Moines
Dickinson
Dubuque
Emmet
Fayette
Floyd
Franklin
Fremont
Greene
Grundy
Guthrie
Hamilton
Hancock
Hardin
Harrison
Henry
Howard
Humboldt
Ida
Iowa
Jackson
Jasper
Jefferson
Johnson
Jones
Keokuk
Kossuth
Lee
Linn
Louisa
Lucas
Lyon
Madison
Mahaska
Marion
Marshall
Mills
Mitchell
Monona
Monroe
Montgomery
Muscatine
O'Brien
Osceola
Page
Palo Alto
Plymouth
Pocahontas
Polk
Pottawattamie
Poweshiek
Ringgold
Sac
Scott
Shelby
Sioux
Story
Tama
Taylor
Union
Van Buren
Wapello
Warren
Washington
Wayne
Webster
Winnebago
Winneshiek
Woodbury
Worth
Wright

KANSAS

Allen
Anderson
Atchison
Bourbon
Brown
Cherokee
Coffey
Crawford
Doniphan
Douglas
Franklin
Greenwood
Jackson
Jefferson
Johnson
Labette
Leavenworth
Linn
Lyon
Marshall
Miami
Montgomery
Nemaha
Neosho
Osage
Pottawattamie
Shawnee
Wilson
Woodson

KENTUCKY

Calloway
Daviess
Fulton
Graves
Henderson
Hopkins
McLean
Ohio
Union

LOUISIANA

Acadia
Avoyelles
Bossier
Caddo
Calcasieu
Caldwell
Catahoula
Concordia
Evangeline
Franklin
Jefferson Davis
Lafayette
Madison
Morehouse
Natchitoches
Pointe Coupee
Rapides
Richland
St. Landry
Tensas
West Carroll

MARYLAND

Caroline
Kent
Queen Annes
Talbot

MICHIGAN

Branch
Cass
Clinton
Genessee
Gratiot
Hillsdale
Lenawee
Monroe
Saginaw
St. Joseph
Shiawassee
Washtenaw

MINNESOTA

Anoka
Becker
Benton
Big Stone
Blue Earth
Brown
Carver
Chippewa
Chisago
Clay
Cottonwood
Dakota
Dodge
Douglas
Fairbault
Fillmore
Freeborn
Goodhue
Grant
Houston
Isanti
Jackson
Kandiyohi
Lac qui Parle
Le Sueur
Lincoln
Lyon
McLeod
Martin
Meeker
Mille Lacs
Morrison
Mower
Murray
Nicollet
Nobles
Norman
Olmstead
Otter Tail
Pipestone
Pope
Ramsey
Redwood
Renville
Rice
Rock
Scott
Sherburne
Sibley
Stearns
Steele
Stevens
Swift
Todd
Traverse
Wabasha
Wadena
Waseca
Washington
Watonwan
Wilkin
Winona
Wright
Yellow Medicine

MISSISSIPPI

Benton
Bolivar
Calhoun
Caroll
Chickasaw
Coahoma
De Soto
Hinds
Holmes
Humphreys
Issaquena
Lee
Leflore
Madison
Monroe
Panola
Pontotoc
Prentiss
Quitman
Sharkey
Sunflower
Tallahatchie
Tippah
Tunica
Union
Washington
Yazoo

MISSOURI

Adair
Andrew
Atchison
Audrain
Barton
Bates
Boone
Buchanan
Butler
Caldwell
Callaway
Cape Girardeau
Carroll
Cass
Chariton
Clark
Clay
Clinton
Cooper
Daviess
De Kalb
Dunklin
Gentry
Grundy
Harrison
Henry
Holt
Howard
Jackson
Jasper
Johnson
Knox
Lafayette
Lewis
Lincoln
Linn
Livingston
Macon
Marion
Mercer
Mississippi
Monroe
Montgomery
New Madrid
Nodaway
Pemiscot
Perry
Pettis
Pike
Platte
Putnam
Ralls
Randolph
Ray
St. Charles
Saline
Schuyler
Scotland
Scott
Shelby
Stoddard
Sullivan
Vernon
Worth

NEBRASKA

Burt
Butler
Cass
Cedar
Colfax
Cuming
Dakota
Dixon
Dodge
Douglas
Lancaster
Madison
Nemaha
Otoe
Pierce
Platte
Richardson
Saunders
Sarpy
Staton
Thurston
Washington
Wayne

NORTH CAROLINA

Anson
Beaufort
Brunswick
Columbus
Craven
Hyde
Johnston
Jones
Pamlico
Pitt
Robeson
Union
Washington

OHIO

Allen
Ashland
Auglaize
Butler
Champaign
Clark
Clinton
Crawford
Darke
Defiance
Delaware
Erie
Fairfield
Fayette
Franklin
Fulton
Greene
Hancock
Hardin
Henry
Highland
Huron
Knox
Licking
Logan
Lucas
Madison
Marion
Medina
Mercer
Miami
Montgomery
Morrow
Ottawa
Paulding
Pickaway
Preble
Putnam
Richland
Sandusky
Seneca
Shelby
Union
Van Wert
Wayne
Williams
Wood
Wyandot

OKLAHOMA

Craig
Ottawa

SOUTH CAROLINA

Aiken
Allendale
Bamberg
Barnwell
Calhoun
Clarendon
Darlington
Dillion
Dorche
Florence
Hampton
Horry
Kershaw
Lee
Lexington
Marion
Marlboro
Orangeburg
Sumter
Williamsburg

SOUTH DAKOTA

Bon Homme
Brookings
Charles Mix
Clay
Deuel
Grant
Hamlin
Hutchinson
Kingsbury
Lake
Lincoln
McCook
Minnehaha
Moody
Roberts
Turner
Union
Yankton

TENNESSEE

Carroll
Chester
Crockett
Dyer
Fayette
Gibson
Hardeman
Haywood
Lake
Lauderdale
Madison
Obion
Shelby
Tipton
Weakley

VIRGINIA

Nansemond
Southampton

WISCONSIN

Buffalo
Dane
Dunn
Jackson
Jefferson
Kenosha
Pepin
Pierce
Polk
Racine
Rock
St. Croix
Trempealeau
Walworth

COUNTIES DESIGNATED FOR SUGAR BEET CROP INSURANCE

ARIZONA

Maricopa
Pinal

CALIFORNIA

Colusa
Fresno
Imperial
Kern
Kings
Madera
Merced
Monterey
Sacramento
San Benito
San Joaquin
Solano
Stanislaus
Sutter
Tulare
Yolo

COLORADO

Adams
Boulder
Kit Carson
Larimer
Logan
Morgan
Phillips
Sedgwick
Weld
Yuma

IDAHO

Ada
Bannock
Bingham
Bonneville
Canyon
Cassia
Franklin
Jerome
Minidoka
Owyhee
Power
Twin Falls

KANSAS

Finney
Grant
Kearney
Sherman
Stanton
Wallace

MICHIGAN

Bay
Huron
Saginaw
Tuscola

MINNESOTA

Chippewa
Clay
Faribault
Grant
Kandiyohi
Kittson
Lac qui Parle
Marshall
Norman
Polk
Redwood
Renville
Swift
Traverse
Wilkin
Yellow Medicine

MONTANA

Carbon
Custer
Dawson
Prairie
Richland
Rosebud
Stillwater
Treasure
Yellowstone

NEBRASKA

Box Butte
Morrill
Scotts Bluff

NORTH DAKOTA

Cass
Grand Forks
McKenzie
Pembina
Richland
Traill
Walsh
Williams

OHIO

Hancock
Henry
Lucas
Ottawa
Putnam
Sandusky
Wood

OREGON

Malheur

UTAH

Box Elder
Cache
Davis
Salt Lake
Utah
Weber

WASHINGTON

Adams
Benton
Franklin
Grant
Yakima

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WYOMING

Big Horn	Park
Goshen	Washakie

COUNTIES DESIGNATED FOR CANNING AND FREEZING SWEET CORN CROP INSURANCE

MINNESOTA

Renville

WISCONSIN

Dodge

COUNTIES DESIGNATED FOR SUNFLOWER CROP INSURANCE

MINNESOTA

Becker	Norman
Big Stone	Otter Tail
Clay	Pennington
Grant	Polk
Kittson	Red Lake
Mahnomen	Traverse
Marshall	Wilkin

NORTH DAKOTA

Barnes	Pembina
Cass	Ransom
Dickey	Richland
Eddy	Sargent
Foster	Steele
Grand Forks	Stutsman
Griggs	Traill
Lamoure	Walsh
Nelson	Wells

SOUTH DAKOTA

Roberts

COUNTIES DESIGNATED FOR TOBACCO CROP INSURANCE

State, County and Type(s)

FLORIDA

Alachua	14
Columbia	14
Hamilton	14
Madison	14
Suwanee	14

GEORGIA

Appling	14
Atkinson	14
Bacon	14
Ben Hill	14
Berrien	14
Brantley	14
Brooks	14
Bulloch	14
Candler	14
Coffee	14
Colquitt	14
Cook	14
Decatur	14
Grady	14
Irwin	14
Jeff Davis	14
Lanier	14
Lowndes	14
Mitchell	14
Pierce	14
Tattnall	14
Thomas	14
Tift	14
Toombs	14
Turner	14
Ware	14
Wayne	14
Worth	14

KENTUCKY

Adair	31
Allen	31, 35
Anderson	31
Barren	31
Bath	31
Boone	31
Bourbon	31
Boyle	31
Bracken	31
Brenkinridge	31
Caldwell	22, 31, 35
Calloway	23, 35
Carroll	31
Casey	31
Christian	22, 31, 35
Clark	31
Daviess	31, 36
Fayette	31
Fleming	31
Franklin	31
Garrard	31
Grant	31
Graves	23, 31, 35
Green	31
Harrison	31
Hart	31
Henderson	31, 36
Henry	31
Hopkins	31, 36
Jessamine	31
Larue	31
Lewis	31
Lincoln	31
Logan	22, 31, 35
McLean	31, 36
Madison	31
Marion	31
Marshall	23, 31, 35
Mason	31
Meade	31
Mercer	31
Metcalfe	31
Montgomery	31
Muhlenburg	22, 31, 35
Nelson	31
Nicholas	31
Ohio	31, 36
Owen	31
Pendleton	31
Pulaski	31
Robertson	31
Russell	31
Scott	31
Shelby	31
Simpson	22, 31, 35
Spencer	31
Taylor	31
Todd	22, 31, 35
Trigg	22, 31, 35
Warren	31, 35
Washington	31
Wayne	31
Woodford	31

MISSOURI

Buchanan	31
Platte	31

NORTH CAROLINA

Alamance	11a
Alexander	11a
Beaufort	12
Bertie	12
Bladen	13
Brunswick	13
Buncombe	31
Carteret	12
Caswell	11a
Chatham	11b
Chowan	12
Columbus	13
Craven	12
Cumberland	13
Davidson	11a
Davie	11a
Duplin	12
Durham	11b
Edgecombe	12
Forsythe	11a
Franklin	11b
Gates	12
Granville	11b
Greene	12
Guilford	11a
Halifax	12
Harnett	11b
Haywood	31
Hertford	12
Hoke	13
Iredell	11a
Johnston	12
Jones	12
Lee	11b
Lenoir	12
Madison	31
Martin	12
Mitchell	31
Montgomery	11b
Moore	11b
Nash	12
Northampton	12
Onslow	12
Orange	11b
Pamlico	12
Pender	12
Person	11a
Pitt	12
Randolph	11a
Richmond	11b
Robeson	13
Rockingham	11a
Sampson	12
Scotland	13
Stokes	11a
Surrey	11a
Vance	11b
Wake	11b
Warren	11b
Washington	12
Wayne	12
Wilkes	11a
Wilson	12
Yadkin	11a
Yancey	31

OHIO

Adams	31
Brown	31
Highland	31

PENNSYLVANIA

Lancaster	41

SOUTH CAROLINA

Chesterfield	13
Clarendon	13
Darlington	13
Dillon	13
Dorchester	13
Florence	13
Georgetown	13
Horry	13
Kershaw	13
Lee	13
Marion	13
Marlboro	13
Orangeburg	13
Sumter	13
Williamsburg	13

TENNESSEE

Anderson	31
Blount	31

Carter	31
Claiborne	31
Cocke	31
De Kalb	31
Dickson	31
Franklin	31
Giles	31
Grainger	31
Greene	31
Hamblen	31
Hancock	31
Hawkins	31
Jackson	31
Jefferson	31
Johnson	31
Knox	31
Lawrence	31
Lincoln	31
Loudon	31
McMinn	31
Macon	31, 35
Marshall	31
Maury	31
Monroe	31
Montgomery	22, 31
Putnam	31
Robertson	22, 31, 35
Sevier	31
Smith	31
Stewart	22, 31
Sullivan	31
Sumner	22, 31, 35
Trousdale	31
Unicoi	31
Washington	31
Weakley	23, 35
White	31
Williamson	31
Wilson	31

VIRGINIA

Amelia	11a, 21
Appomattox	11a, 21
Brunswick	11a, 21
Campbell	11a, 21
Charlotte	11a, 21
Cumberland	11a, 21
Dinwiddie	11a, 21
Franklin	11a
Greensville	11a
Halifax	11a
Henry	11a
Lee	31
Lunenburg	11a, 21
Mecklenburg	11a
Nansemond	11a
Nottoway	11a, 21
Patrick	11a
Pittsylvania	11a
Prince Edward	11a, 21
Russell	31
Scott	31
Smyth	31
Southampton	11a
Sussex	11a
Washington	31

WISCONSIN

Crawford	55
Dane	54
La Crosse	55
Richland	55
Trempealeau	55
Vernon	55

COUNTIES DESIGNATED FOR TOMATO CROP INSURANCE

CALIFORNIA

Monterey	San Benito

OHIO

Darke	Ottawa
Fulton	Putnam
Henry	Sandusky
Lucas	Wood

COUNTIES DESIGNATED FOR WHEAT CROP INSURANCE

ARIZONA

Maricopa	Yuma
Pinal	

ARKANSAS

Chicot	Desha
Clay	Greene
Craighead	Mississippi
Crittenden	Poinsett
Cross	St. Francis

CALIFORNIA

Colusa	Sacramento
Fresno	San Joaquin
Imperial	Stanislaus
Kern	Solano
Kings	Sutter
Madera	Tulare
Merced	Yolo
Modoc	

COLORADO

Adams	Logan
Arapahoe	Morgan
Baca	Phillips
Cheyenne	Prowers
Elbert	Sedgewick
Kit Carson	Washington
Larimer	Weld
Lincoln	Yuma

GEORGIA

Houston

IDAHO

Ada	Jefferson
Bannock	Jerome
Benewah	Kootenai
Bingham	Latah
Bonneville	Lewis
Camas	Lincoln
Canyon	Madison
Caribou	Minidoka
Cassia	Nez Perce
Franklin	Oneida
Fremont	Power
Gooding	Teton
Idaho	Twin Falls

ILLINOIS

Adams	McDonough
Bond	McLean
Brown	Macon
Cass	Macoupin
Champaign	Madison
Christian	Marion
Clark	Mason
Clay	Menard
Clinton	Monroe
Coles	Montgomery
Crawford	Morgan
Cumberland	Moultrie
Dewitt	Perry
Douglas	Piatt
Edgar	Pike
Effingham	Randolph
Fayette	Richland
Fulton	St. Clair
Greene	Sangamon
Hamilton	Schuyler
Hancock	Scott
Iroquis	Shelby
Jasper	Tazewell
Jefferson	Vermilion
Jersey	Washington
Kane	Wayne
Kankakee	White
Lawrence	Will
Logan	

INDIANA

Adams	Knox
Allen	Kosciusko
Bartholomew	Lagrange
Benton	Laporte
Blackford	Madison
Boone	Marion
Carroll	Marshall
Cass	Miami
Clay	Montgomery
Clinton	Morgan
Daviess	Newton
Decatur	Noble
De Kalb	Parke
Delaware	Posey
Elkhart	Pulaski
Fayette	Putnam
Fountain	Randolph
Franklin	Ripley
Fulton	Rush
Gibson	Shelby
Grant	Sullivan
Greene	Tippecanoe
Hamilton	Tipton
Hancock	Union
Hendricks	Vermillion
Henry	Vigo
Howard	Wabash
Huntington	Warren
Jackson	Wayne
Jasper	Wells
Jay	White
Johnson	Whitley

IOWA

Davis	Lee
Des Moines	Mills
Fremont	Monona
Harrison	Pottawattamie

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KANSAS

Allen
Anderson
Atchison
Barber
Barton
Bourbon
Brown
Butler
Chase
Chautauqua
Cherokee
Cheyenne
Clark
Clay
Cloud
Coffey
Comanche
Cowley
Crawford
Decatur
Dickinson
Doniphan
Douglas
Edwards
Elk
Ellis
Ellsworth
Finney
Ford
Franklin
Geary
Gove
Graham
Grant
Gray
Greeley
Greenwood
Hamilton
Harper
Harvey
Haskell
Hodgeman
Jackson
Jefferson
Jewell
Johnson
Kearney
Kingman
Kiowa
Labette
Lane
Leavenworth
Lincoln
Linn
Logan
Lyon
McPherson
Marion
Marshall
Meade
Miami
Mitchell
Montgomery
Morris
Morton
Nemaha
Neosha
Ness
Norton
Osage
Osborne
Ottawa
Pawnee
Phillips
Pottawattamie
Pratt
Rawlins
Reno
Republic
Rice
Riley
Rooks
Rush
Russell
Saline
Scott
Sedgewick
Seward
Shawnee
Sheridan
Sherman
Smith
Stafford
Stanton
Stevens
Sumner
Thomas
Trego
Wabaunsee
Wallace
Washington
Wichita
Wilson
Woodson

KENTUCKY

Christian

MARYLAND

Caroline
Kent
Queen Annes

MICHIGAN

Bay
Branch
Calhoun
Cass
Clinton
Eaton
Genessee
Gratiot
Hillsdale
Huron
Ingham
Ionia
Jackson
Kalamazoo
Lenawee
Livingston
Monroe
Saginaw
St. Clair
St. Joseph
Sanilac
Shiawassee
Tuscola
Washtenaw

MINNESOTA

Becker
Big Stone
Blue Earth
Brown
Carver
Chippewa
Clay
Cottonwood
Dakota
Dodge
Douglas
Fairbault
Freeborn
Goodhue
Grant
Kandiyohi
Kittson
Lac qui Parle
Le Sueur
Lincoln
Lyon
McLeod
Mahnomen
Marshall
Meeker
Mower
Nicollett
Norman
Olmstead
Otter Tail
Pennington
Polk
Pope
Red Lake
Redwood
Renville
Rice
Roseau
Scott
Sibley
Stearns
Steele
Stevens
Swift
Todd
Traverse
Wabasha
Waseca
Washington
Wilkin
Wright
Yellow Medicine

MISSISSIPPI

Bolivar
Calhoun
Coahoma
Humphreys
Leflore
Quitman
Sharkey
Sunflower
Tallahatchie
Tunica
Washington

MISSOURI

Adair
Andrew
Atchison
Audrain
Barton
Bates
Boone
Buchanan
Butler
Caldwell
Callaway
Cape Girardeau
Carroll
Cass
Chariton
Clark
Clay
Clinton
Cooper
Dade
Daviess
De Kalb
Dunklin
Franklin
Gentry
Harrison
Henry
Holt
Howard
Jackson
Jasper
Johnson
Knox
Lafayette
Lawrence
Lewis
Lincoln
Linn
Livingston
Macon
Marion
Mississippi
Monroe
Montgomery
New Madrid
Nodaway
Pemiscot
Perry
Pettis
Pike
Platte
Ralls
Randolph
Ray
St. Charles
Saline
Scotland
Scott
Shelby
Stoddard
Sullivan
Verno

MONTANA

Big Horn
Blaine
Carbon
Cascade
Chouteau
Custer
Daniels
Dawson

MONTANA—Continued

Fallon
Fergus
Gallatin
Garfield
Glacier
Golden Valley
Hill
Judith Basin
Liberty
McCone
Musselshell
Petroleum
Phillips
Pondera
Prairie
Richland
Roosevelt
Rosebud
Sheridan
Stillwater
Teton
Toole
Treasure
Valley
Wheatland
Wibaux
Yellowstone

NEBRASKA

Adams
Banner
Box Butte
Butler
Cass
Chase
Cheyenne
Clay
Dawes
Dueul
Dundy
Dodge
Fillmore
Franklin
Frontier
Furnas
Gage
Garden
Gosper
Hall
Hamilton
Harlan
Hayes
Hitchcock
Jefferson
Johnson
Kearney
Keith
Kimball
Lancaster
Lincoln
Merrick
Morrill
Nance
Nemaha
Nuckolls
Otoe
Pawnee
Perkins
Phelps
Polk
Red Willow
Richardson
Saline
Saunders
Scotts Bluff
Seward
Sheridan
Thayer
Washington
Webster
York

NEW MEXICO

Curry
Roosevelt

NORTH DAKOTA

Adams
Barnes
Benson
Billings
Bottineau
Bowman
Burke
Burleigh
Cass
Cavalier
Dickey
Divide
Dunn
Eddy
Emmons
Foster
Golden Valley
Grand Forks
Grant
Griggs
Hettinger
Kidder
La Moure
Logan
McHenry
McIntosh
McKenzie
McLean
Mercer
Morgan
Mountrail
Nelson
Oliver
Pembina
Pierce
Ramsey
Ransom
Renville
Richland
Rolette
Sargent
Sheridan
Sioux
Slope
Stark
Steele
Stutsman
Towner
Traill
Walsh
Ward
Wells
Williams

OHIO

Allen
Ashland
Auglaize
Butler
Champaign
Clark
Clinton
Crawford
Darke
Defiance
Delaware
Erie
Fairfield
Fayette
Franklin
Fulton
Greene
Hancock
Hardin
Henry
Highland
Huron
Knox
Licking
Logan
Lucas
Madison
Marion
Medina
Mercer
Miami
Montgomery
Morrow
Ottawa
Paulding
Pickaway
Preble
Putnam
Richland
Sandusky
Seneca
Shelby
Union
Van Wert
Wayne
Williams
Wood
Wyandot

OKLAHOMA

Alfalfa
Beaver
Beckham
Blaine
Caddo
Canadian
Cimarron
Comanche
Cotton
Craig
Custer
Delaware
Dewey
Ellis
Garfield
Grady
Grant
Greer
Harmon
Harper
Jackson
Kay
Kingfisher
Kiowa
Logan
Major
Mayes
Noble
Nowata
Osage
Ottawa
Pawnee
Payne
Texas
Tillman
Williams
Washita
Woods
Woodward

OREGON

Gilliam
Jefferson
Klamath
Linn
Malheur
Morrow
Sherman
Umatilla
Union
Wallowa
Wasco
Wheeler

PENNSYLVANIA

Adams
Chester
Cumberland
Dauphin
Franklin
Lancaster
Lebanon
Perry
York

SOUTH DAKOTA

Aurora
Beadle
Bennett
Bon Homme
Brown
Brule
Campbell
Clark
Codington
Corson
Day
Dueul

SOUTH DAKOTA—Continued

Dewey
Douglas
Edmunds
Faulk
Grant
Gregory
Haakon
Hamlin
Hand
Hughes
Hutchinson
Hyde
Jerauld
Jones
Kingsbury
Lake
Lyman
McPherson
Marshall
Melette
Miner
Perkins
Potter
Roberts
Spink
Stanley
Sully
Tripp
Walworth

TENNESSEE

Crockett
Dyer
Lake
Lauderdale
Obion
Robertson

TEXAS

Baylor
Carson
Castro
Collin
Collingsworth
Cooke
Dallam
Deaf Smith
Denton
Fannin
Floyd
Foard
Gray
Grayson
Hale
Hansford
Hartley
Hutchinson
Jones
Knox
Lipscomb
Moore
Ochiltree
Oldham
Parmer
Randall
Sherman
Stonewall
Swisher
Willbarger
Williamson

UTAH

Box Elder
Cache
Davis
Salt Lake
Utah
Weber

WASHINGTON

Adams
Asotin
Benton
Columbia
Douglas
Franklin
Garfield
Grant
Klickitat
Lincoln
Okanogan
Spokane
Walla Walla
Whitman
Yakima

WYOMING

Goshen
Laramie
Platte

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended (7 U.S.C. 1506, 1516).)

NOTE.—The reporting requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942, and OMB Circular No. 840.

Dated: November 7, 1978.

PETER F. COLE,
Secretary, Federal Crop Insurance Corporation.

Dated: December 20, 1978.

Approved by: JAMES D. DEAL,
Manager.

[FR Doc. 79-283 Filed 1-2-79; 8:45 am]

[6450-01-M]

Title 10—Energy

CHAPTER II—DEPARTMENT OF ENERGY

SUBCHAPTER E—ALTERNATE FUEL

[Docket No. ERA-R-78-21]

PART 515 TRANSITIONAL FACILITIES

Hearing on Interim Rule to Permit Classification of Certain Powerplants and Installations as Existing Facilities

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Hearing Location.

SUMMARY: The Economic Regulatory Administration hereby announces the location of a second public hearing on its Interim Rule to Permit Classification of Certain Powerplants and Installations as Existing Facilities which was published on November 22, 1978 (43 FR 54912).

DATES: Hearing date: January 15, 1979, 9:00 a.m. Requests to speak by January 5, 1979, 4:30 p.m. Written comments on the Interim Rule are due on or before January 15, 1979.

ADDRESSES: Send comments and requests to speak to: Department of Energy, Public Hearing Management, Room 2313, 2000 M Street, N.W., Washington, D.C. 20461. Docket No. ERA-R-78-21. Hearing location: Center Ballroom, Lord Baltimore Hotel, 20 West Baltimore Street, Baltimore, Maryland.

FOR FURTHER INFORMATION CONTACT:

William L. Webb (Office of Public Information), Economic Regulatory Administration, Department of Energy, Room B-110, 2000 M Street, N.W., Washington, D.C. 20461, (202) 634-2170.

John L. Gurney (Regulations and Emergency Planning), Economic Regulatory Administration, Department of Energy, Room 6010, 2000 M Street, N.W., Washington, D.C. 20461, (202) 254-9766.

Barton House (Fuels Regulation Program Office), Economic Regulatory Administration, Department of

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Energy, Room 6128I, 2000 M Street, N.W., Washington, D.C. 20461, (202) 254-3905.

James H. Heffernan (Office of General Counsel), Department of Energy, Room 6144, 12th & Pennsylvania Ave., N.W., Washington, D.C. 20461 (202) 633-9296.

SUPPLEMENTARY INFORMATION: On November 16, 1978, the Economic Regulatory Administration (ERA) of the Department of Energy issued, effective upon publication (November 22, 1978, 43 FR 54912), interim rules to implement certain provisions of the Powerplant and Industrial Fuel Use Act of 1978 ("the Act"). The interim rules permit ERA to classify certain major fuel burning installations and powerplants which began substantial construction or acquisition after April 20, 1977, and before November 9, 1978, as existing facilities under the Act. ERA held a public hearing on the interim rule on December 13, 1978. ERA has scheduled a second public hearing to be held on January 15, 1979, at the Lord Baltimore Hotel, 20 West Baltimore Street, Baltimore Maryland at 9:00 a.m.

Interested persons who would like to participate should contact the Office of Public Hearing Management, 2000 M Street, N.W. Room 2313, Washington, D.C., (202) 254-5201. A request to participate in the hearing shall be in writing and signed by the person making the request. Please provide a phone number where we may contact you through the day before the hearing. Since we may have to limit the number of speakers, you should include a description of your interest in this proceeding, the anticipated content of the presentation, and why you are a proper representative of a group or class of persons that has an interest in this proceeding. Participants should provide a copy of their testimony and each exhibit to be presented to ERA no later than January 10, 1979. The hearing will be conducted in accordance with the procedures set forth in the November 22, 1978 Interim Rule.

We will notify each person selected to be heard before 4:30 p.m., January 12, 1979.

(Department of Energy Organization Act, Pub. L. 95-91; Powerplant and Industrial Fuel Use Act, Pub. L. 95-620)

Issued in Washington, D.C., December 22, 1978.

DAVID J. BARDIN,
Administrator, Economic Regulatory Administration.

[FR Doc. 78-33562 Filed 12-28-78; 10:59 am]

[4810-33-M]

Title 12—Banks and Banking

CHAPTER I—COMPTROLLER OF THE CURRENCY, DEPARTMENT OF THE TREASURY

PART 1—INVESTMENT SECURITIES REGULATION

Eligibility of Securities for Purchase, Dealing in and Underwriting; Limitations on Holdings

AGENCY: Comptroller of the Currency, Treasury.

ACTION: Final rule.

SUMMARY: This amendment adds to 12 CFR Part 1 selected significant investment rulings issued by the Comptroller of the Currency during the past year. The rulings were issued in response to specific requests from banks inquiring as to the applicability of federal banking law and regulations to securities which the bank holds, or desires to purchase, deal in or underwrite. The document also invites public comment on a preliminary proposal which would revise Part 1 and discontinue publication of individual rulings.

EFFECTIVE DATE: The rulings became effective when originally issued in letter form. The date of issuance is indicated in parentheses at the end of each ruling.

ADDRESS: Send preliminary comments to Mr. John E. Shockey, Chief Counsel, Office of the Comptroller of the Currency, Washington, D.C. 20219.

FOR FURTHER INFORMATION CONTACT:

Richard H. Neiman, Attorney, Office of the Comptroller of the Currency, Washington, D.C. 20219, 202-447-1880.

SUPPLEMENTARY INFORMATION: 12 CFR 1.9 provides that a bank may request the Comptroller to rule on the applicability of 12 CFR Part 1 or paragraph Seventh of 12 U.S.C. 24 to any security which it holds, or desires to deal in, underwrite, or purchase for its own account.

12 CFR Part 1, beginning at § 1.105, contains those investment rulings issued by the Comptroller since 1962. A number of the rulings have been published in the past which, while important to the requesting bank, were not of significant general interest to the banking industry as a whole. It was for this reason that the Comptroller pledged, in furtherance of the President's Executive Order 12044 on improving government regulations, to review the entire 12 CFR Part 1. The purpose of the review was to simplify and clarify the regulation where possible and to reduce the number of rulings where they were found to be duplicative or unnecessary. See 43 FR 22324, 43 FR 52121 (May 24, 1978, Nov. 8, 1978).

As a result of the review process, the Comptroller has decided that for this year, only those rulings which have general significant interest will be published in the FEDERAL REGISTER and codified in the Code of Federal Regulations.

It should also be noted that the Comptroller has under consideration a proposal which would discontinue the publication of individual rulings, although such rulings would continue to be issued in letter form in response to bank requests. Instead of publication and codification, the Comptroller would make such rulings available to the public in the same manner as is afforded other significant letters issued by the Comptroller and his staff. In this way the rulings would be obtainable by private reporting services which are widely used by banks and bank counsel. In the event that this proposal is adopted, it is also expected that Part 1 would be revised by developing from the existing individual rulings a general set of principles applicable to bank investment activities. Although any specific revisions to Part 1 would first be published for comment in the FEDERAL REGISTER, the Comptroller at this time invites interested parties to submit any preliminary comments on the contemplated approach to a revision Mr. John E. Shockey, Chief Counsel, Office of the Comptroller of the Currency, Washington, D.C. 20219.

DRAFTING INFORMATION

The principal drafter of this document was Mr. Richard H. Neiman, Staff Attorney.

ADOPTION OF AMENDMENT

12 CFR Part 1 is amended by changing the subheading immediately preceding § 1.105 to read "Eligibility of Securities for Purchase, Dealing in and Underwriting; Limitations on Holdings" and by adding the following new sections:

Sec.
1.469 Branch Brook Park Housing Association, Inc., Elderly Housing Revenue Bonds Section 8 Assisted.
1.470 Dade County, Florida, Guaranteed Entitlement Revenue Bonds.
1.471 Illinois Educational Facilities Authority (The Art Institute of Chicago).
1.472 Missouri-Kansas-Texas Railroad Guaranteed Collateral Trust Notes.
1.473 New York State Medical Care Facilities Finance Agency and the New York State Housing Finance Agency Health Facilities, Bond Anticipation Notes.
1.474 Arkansas Student Loan Authority Student Loan Revenue Bonds.
1.475 Marine Leasing Corporation Guaranteed Ship Financing Bonds.
1.476 Baytown Area Water Authority Water Supply Contract Revenue Bonds.
1.477 County of San Diego, California, 1978 Revenue and Tax Anticipation Notes.
1.478 Riverside County (California) Board of Education Service Center Building Corporation Leasehold Mortgage Bonds.
1.479 Public Building Commission of the City of Lawrence, Kansas, Public Building Revenue Bonds.
1.480 Atascadero (California) Unified School District Educational Facilities Corporation.

AUTHORITY: Sections 1.469-1.480 issued under 12 U.S.C. 1 *et seq.*, 24(7), unless otherwise noted.

§ 1.469 Branch Brook Park Housing Association, Inc., Elderly Housing Revenue Bonds Section 8 Assisted.

(a) *Request.* Ruling on the eligibility of the $7,190,000 Branch Brook Park Housing Association, Inc., Elderly Housing Revenue Bonds, Series 1977, Section 8 Assisted for dealing in and underwriting by national banks under paragraph Seventh of 12 U.S.C. 24 subject to the 10 percent limitation thereof.

(b) *Opinion.* (1) The Bonds are being issued by the Branch Brook Park Housing Association, Inc. to permanently finance the acquisition of an 11-story, 200-unit apartment house for elderly persons of low income in Newark, New Jersey. The Association will lease the Project to the Housing Authority of the City of Newark. The Authority will sublet each of the apartment units in the Project to elderly and handicapped individuals and families of low income who are eligible for assistance under Section 8 of the United States Housing Act of 1937, as amended. In addition to the payments which the Authority will make to the Association, the Bonds will be secured by the revenues from the Department of Housing and Urban Development to the Authority pursuant to Section 8.

(2) In addition to general obligations of a State or political subdivision, national banks are permitted to underwrite and deal in revenue bonds subject to limitation of 10% of the bank's capital and surplus provided that such obligations are issued by an agency of a State or political subdivision for housing purposes. 12 U.S.C. 24(7). There is no question that the proceeds of this particular issue are to be used for housing purposes. The critical question is whether the Bonds are issued by an agency of a State or political subdivision.

(3) The Branch Brook Park Housing Association, Inc. is a non profit corporation organized under the laws of the State of New Jersey. This fact alone would not be sufficient to qualify it as an agency of the State. However, the Association has been deemed by HUD to be an agency of the Housing Authority of the City of Newark in accordance with Section 11(b) of the Housing Act and 24 CFR 811.105 issued August 3, 1977 (42 FR 39205). The Authority is a public body corporate and politic created in accordance with Title 55 of the laws of the State of New Jersey.

(4) The authority to determine whether obligatons issued by a public housing agency to finance Section 8 projects are tax exempt under Section 11(b) has been granted to HUD. Section 3 of the Housing Act defines public housing agency as any State, county, municipality, or other governmental entity or public body (or agency or instrumentality thereof) which is authorized to engage in or assist in the development or operation of low-income housing.

(5) In order to receive HUD approval as an agency or instrumentality of a public housing agency, the issuer must establish that it has been designated or created as the duly authorized agency or instrumentality of the parent entity (the public housing agency) and that such creation is not prohibited by State law. 24 CFR 811.105(a). Its activities must be limited to carrying out or assisting in carrying out one or more low-income housing projects, and the assistance may consist only of borrowing and lending funds for the project. HUD regulations also set forth provisions concerning the relationship between the parent and the agency or instrumentality. Such regulations require in part that the parent entity approve the charter and by-laws of the issuer and any amendments to those documents are subject to approval by the parent entity and by HUD; that the parent entity approve each project and projected expenditures of the issuer; that an annual financial audit of the issuer be conducted by an independent certified public accountant with review by the parent entity and submission of a copy of the audit and review to HUD; and that upon dissolution of the issuer, title to or other interest in any real or personal property owner by such issuer shall be vested in the parent entity. In addition, the Branch Brook Park Housing Association, Inc. is governed by a Board of Trustees consisting of five Trustees who are also members or officers of the Housing Authority of the City of Newark.

(6) Though HUD's determination that the issuer is an agency or instrumentality of a public housing agency goes only to whether the obligations of the issuer are tax exempt, the Comptroller has determined that because of the identity that must be established between the agency and the parent entity, HUD's determination will also serve as evidence that the obligations are issued by an agency of a State or political subdivision for purposes of 12 U.S.C. 24(7). However, in each case a determination must also be made that the obligations are of investment grade and marketable. You have indicated that investment grade ratings have been assigned to the issue by both the national rating services.

(c) *Ruling.* It is our conclusion that the $7,190,000 Branch Brook Park Housing Association, Inc., Elderly Housing Revenue Bonds, Series 1977, Section 8 Assisted are issued by an agency of a State or political subdivision for housing purposes and are eligible under paragraph Seventh of 12 U.S.C. 24 for purchase, dealing in, underwriting and holding by national banks within the ten percent limitation with respect to aggregate holdings of obligations issued by the Branch Brook Park Housing Association, Inc., the Housing Authority of the City of Newark and any other agencies or instrumentalities of the Housing Authority of the City of Newark. (Letter dated Dec. 20, 1977.)

§ 1.470 Dade County, Florida, Guaranteed Entitlement Revenue Bonds.

(a) *Request.* Ruling on the eligibility of the $65,000,000 Dade County, Florida, Guaranteed Entitlement Revenue Bonds for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) Dade County is issuing these bonds to refund $42,250,000 in outstanding capital project bonds and to provide funds for the initial phases of a building project intended to centralize County government operations which are currently scattered in numerous locations.

(2) The bonds are secured by a pledge of funds which the County will receive as guaranteed entitlements under the Revenue Sharing Act of the State of Florida. These funds are derived from state taxes on cigarettes, motor vehicles and intangible personal property. The Act defines guaranteed entitlement to mean the amount of revenue which must be shared with an eligible unit of government. It also provides that local governments shall not pledge for the payment of their bonds or other debts created under this Act in excess of the guaranteed entitlement. The Act, however, does not provide a basis for concluding that the State has undertaken an obligation to do any more than share the revenues which it well receive from a specified group of taxes in accordance with a formula.

(c) *Ruling.* It is our conclusion that the $65,000,000 Dade County, Florida Guaranteed Entitlement Revenue

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Bonds, Series A are not eligible for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of the 12 U.S.C. 24. However, national banks may purchase and hold these bonds for their own account subject to the 10% limitation of paragraph Seventh. (Letter dated Feb. 14, 1978.)

§ 1.471 Illinois Educational Facilities Authority (The Art Institute of Chicago).

(a) *Request.* Ruling on the eligibility of the $15,000,000 Illinois Educational Facilities Authority, Series 1978 Revenue Bonds (The Art Institute of Chicago) for dealing in underwriting by national banks under paragraph Seventh of 12 U.S.C. 24 subject to the ten percent limitation thereof.

(b) *Opinion.* (1) The Illinois Educational Facilities Authority is a body politic and corporate created by the Illinois Educational Facilities Authority Act of 1969. The Act provides that the Authority is a public instrumentality and that the exercise of its powers shall be deemed to be the performance of an essential public function. The Authority is authorized by the Act to issue bonds to finance and refinance the cost of the construction or acquisition of education facilities for private institutions of higher education.

(2) The proceeds of the Bonds will be used by the Art Institute of Chicago to finance a portion of the costs it incurred in connection with a major construction and renovation project involving the School of the Art Institute of Chicago, and certain museum facilities used by the School and its students.

(3) The Art Institute of Chicago is an Illinois not-for-profit corporation, first incorporated as "The Chicago Academy of fine Arts" in 1979. Located near downtown Chicago, on Michigan Avenue, the Art Institute houses a museum of art of international renown and stature.

(4) The School of the Art is a unit of the Art Institute, and is directed by the Vice President for Academic Affairs of the Art Institute. The School's existence (as "The Chicago Academy of Design") predates the incorporation of the Art Institute by thirteen years. The School currently enrolls approximately 800 student candidates for the degree of Bachelor of Fine Arts, 200 student candidates for the degree of Master of Fine Arts, and 600 students at large. The School maintains 65 full-time and 45 part-time highly qualified faculty members.

(5) The School of Art is listed by the Illinois Office of Education as a private college or university and as an accredited institution of post secondary education by the American Council on Education.

(6) The construction and renovation project ("the Project") which is being financed was undertaken in 1971 to be completed in 1978 with total costs estimated at approximately $31,000,000.

(7) The portion of the Project costs to be financed with the proceeds of the Bonds, approximately $13,547,000, represents that portion of the project financed by the Institute with funds which were diverted or withdrawn from endowment. The remaining portion of the Project costs were financed by the Institute through a fund-raising program for the benefit of the Project and for other purposes.

(8) The Project's principal component was the construction of a new building of a new building of 201,550 square feet to allow the School of Art to consolidate its departments in adequate, permanent facilities. The new building provides classroom, studio, library and office space for the School of Art as well as an auditorium and dining facilities used by the School's students and faculty and visitors to the Institute. The building also provides a new public entrance to the main facilities of the Institute, to which the new building is adjacent. The Project also included the construction and renovation of several galleries in the Museum used in part by the School of Art and its students for research and teaching purposes.

(c) *Rulings.* It is our conclusion that the $15,000,000 Illinois Educational Facilities Authority, Series 1978 Revenue Bonds (The Art Institute of Chicago) are issued by an agency of a State for university purposes and are eligible under paragraph Seventh of 12 U.S.C. 24 for dealing in, underwriting and holding by national banks within the ten percent limitation with respect to aggregate holdings of obligations issued by the Illinois Educational Facilities Authority. (Letter dated Feb. 24, 1978.)

§ 1.472 Missouri-Kansas-Texas Railroad Guaranteed Collateral Trust Notes.

(a) *Request.* Ruling on the eligibility of the $16,000,000 5% Guaranteed Collateral Trust Notes for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The notes were issued by the Missouri-Kansas-Texas Railroad Company, a corporation duly organized and existing under the laws of the State of Delaware. The extension of the maturity dates of various notes contained in this package have been properly approved as evidenced by the Supplemental Collateral Trust Agreements dated April 30, 1972, and April 30, 1976, respectively. The Corporation issued these notes for the purpose of reimbursement for expenditures from its own funds made after January 1, 1957, for certain additions and betterments or other capital expenditures.

(2) The notes are secured by $24,000,000 aggregate principal amount of the Corporation's Prior Mortgage 5% Bonds, Series G due January 1, 2011. These Bonds are held in trust pursuant to the Collateral Trust Agreement dated May 1, 1976, by the Chemical Bank New York Trust Company. In addition, the notes are guaranteed by the Interstate Commerce Commission in accordance with the Transportation Act of 1958. The Transportation Act provides in pertinent part:

> • • • The Commission (Interstate Commerce Commission) • • • may guarantee • • • (any) private financing institution or trustee under trust indenture or agreement for the benefit of holders of any securities issued thereunder • • • for the purpose of aiding any common carrier by railroad subject to this Act in financing or refinancing (1) of additions or betterments or other capital expenditures, made after January 1, 1957, or to reimburse the carrier for expenditures, made from its own funds for such additions and betterments or other capital expenditures • • •

(3) In connection with transactions of this nature, the Attorney General has determined that any obligation undertaken by the Interstate Commerce Commission pursuant to the Transportation Act of 1958 will constitute an obligation of the United States. 41 OP. ATTY GEN. 403 (1959).

(c) *Ruling.* It is our conclusion that the $16,000,000 5% Guaranteed Collateral Trust Notes are general obligations of the United States under paragraph Seventh of 12 U.S.C. 24 and are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. (Letter dated Apr. 14, 1978.)

§ 1.473 New York State Medical Care Facilities Finance Agency and the New York State Housing Finance Agency Health Facilities, Bond Anticipation Notes.

(a) *Request.* Ruling on the eligibility of the $24,215,000 New York State Medical Care Facilities Finance Agency Hospital and Nursing Home Project Bond Anticipation Notes, dated May 15, 1978, and the $6,145,000 New York State Housing Finance Agency Health Facilities Bond Anticipation Notes, dated May 15, 1978 for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Ruling.* Both issues have the same legal basis as the $43,000,000 New York State Medical Care Facilities Finance Agency Hospital and Nursing Home Project Bond Anticipation Notes dated December 23, 1974 which were the subject of the Comptroller's ruling of December 12, 1974 (12 CFR 1.397). Both issues are therefore eligible for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24. (Letter dated May 10, 1978.)

§ 1.474 Arkansas Student Loan Authority Student Loan Revenue Bonds.

(a) *Request.* Ruling on the eligibility of the $7,500,000 State of Arkansas Student Loan Authority, Student Loan Revenue Bonds, Series 1978, for dealing in and underwriting by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The Arkansas Student Loan Authority was established under Arkansas law as an agency of the State of Arkansas to supplement the activities of the Student Loan Guarantee Foundation of Arkansas. The Authority is authorized (i) to make student loans to qualified students attending participating institutions where such loans are guaranteed by the Foundation and in turn federally reinsured under the Higher Education Act of 1965, as amended; (ii) to make student loans to qualified students attending participating institutions where such loans are insured pursuant to provisions of the federally insured student loan program; and (iii) to acquire student loan notes from eligible lenders where such notes are guaranteed by the Foundation and federally reinsured.

(2) In order to provide the necessary funds to carry out these purposes, the Authority is authorized to issue student loan revenue bonds not exceeding $15,000,000 aggregate principal amount outstanding at anytime. The proceeds of the bonds will be used by the Authority to create a secondary market to acquire federally reinsured student loan notes originated by certain banks and other financial institutions and, where appropriate, to make federally insured student loans to qualified students attending participating institutions. The term "participating institutions" is defined by Arkansas Statutes as any post high school educational institution, public or private, whose students are eligible for guaranteed student loans.

(3) The Foundation is currently eligible for and receives 100% federal reinsurance. However, such 100% reinsurance may be reduced to as low as 80% depending upon the default experience of the Foundation's program. Therefore, even though the loans are currently 100% federally reinsured there is no guaranty that this 100% coverage will remain in effect through maturity of the bonds. We therefore conclude that the subject bonds are not sufficiently supported by the federal insurance program to be considered obligations of the United States as you have requested.

(4) However, because the bonds are to be issued by an agency of the State to provide financial assistance for students to attend institutions of higher education, it is our conclusion that the bonds are being issued for a university purpose as that term is used in 12 U.S.C. 24 (Seventh). In addition, we also conclude that the bonds are of investment quality.

(c) *Ruling.* It is our conclusion that the $7,500,000 State of Arkansas Student Loan Authority, Student Loan Revenue Bonds, Series 1978, are issued by an agency of a State for university purposes and are eligible under paragraph Seventh of 12 U.S.C. 24 for purchase, dealing in, underwriting and holding by national banks within the ten percent limitation with respect to aggregate holdings of obligations issued by the Arkansas Student Loan Authority. (Letter dated June 13, 1978.)

§ 1.475 Marine Leasing Corporation Guaranteed Ship Financing Bonds.

(a) *Request.* Ruling on the eligibility of the $3,450,000 United States Government Guaranteed Ship Financing Bonds issued by the Marine Leasing Corporation for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The bonds will be guaranteed as to principal and interest by the United States of America under Title XI of the Merchant Marine Act of 1936, as amended, 46 U.S.C. 1271 *et seq.* Title XI expressly provides that: "That full faith and credit of the United States is pledged to the payment of all guarantees made under this title with respect to both principal and interest, including interest, as may be provided for in the guarantee, accruing between the date of default under a guaranteed obligation and the payment in full of the guarantee." 46 U.S.C. 1273(d).

(2) In an opinion dated March 26, 1973 given by the Attorney General of the United States to the Secretary of Commerce, the Attorney General concluded: (i) That the guarantees made by the Secretary in conformance with Title XI are valid and binding general obligations of the United States; (ii) that the full faith and credit of the United States is pledged to the payment of all such guarantees with respect to both principal and interest; and (iii) that the validity of such guarantees are incontestable in the hands of the holders of the guaranteed obligations.

(c) *Ruling.* It is our conclusion that the $3,450,000 United States Government Guaranteed Ship Financing Bonds issued by the Marine Leasing Corporation are obligations of the United states and are eligible for purchase, dealing in, underwriting, and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24 (Letter dated June 23, 1978.)

§ 1.476 Baytown Area Water Authority Water Supply Contract Revenue Bonds.

(a) *Request.* Ruling on the eligibility of the $11,850,000 Baytown Area Water Authority, Water Supply Contract Revenue Bonds (City of Baytown, Texas Project) Series 1978 for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The Authority is issuing these bonds to finance the construction of water treatment and pumping facilities with a capacity of 19.5 million gallons of water daily to enable it to fulfill its contract to supply the City of Baytown with treated surface water for use in the water distribution system of the City. The City has agreed to pay for the water through the establishment of water rates sufficient to pay the authority's costs in applying the water. This contract is secured by the City's pledge of the gross revenues of its utility system.

(2) The Authority has pledged the payments to be made by the City for the payment of the principal of and interest on the bonds. The bonds and interest coupons are special obligations of the authority and are not payable directly or indirectly from funds derived or to be derived by taxation.

(c) *Ruling.* It is our conclusion that the $11,850,000 Baytown Area Water Authority, Water Supply Contract Revenue Bonds are not general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and accordingly are not eligible for dealing in, underwriting or unlimited holding by national banks. They are, however, eligible for purchase and holding subject to the 10% limitation of paragraph Seventh. (Letter dated Sept. 12, 1978.)

§ 1.477 County of San Diego, California 1978 Revenue and Tax Anticipation Notes.

(a) *Request.* Ruling on the eligibility of the $60,000,000 County of San Diego, California, 1978 Revenue and Tax Anticipation Notes for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The Constitution of California provides that no county shall incur any indebtedness exceeding in any year the income and revenue provided for such year without the assent of two-thirds of the electors thereof voting at an election. Califor-

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nia Statutes authorize a county to issue notes in any fiscal year in an amount not in excess of 85 percent of the estimated amount of the then uncollected taxes, income, revenue, cash receipts and other moneys of the county which will be available for the payment of the notes and the interest thereon. The Statutes authorize the pledge of taxes, income, revenue, cash receipts or other moneys of the county for the payment of the notes and additionally provide that the notes shall be general obligations of the county and to the extent not paid from the funds pledged shall be paid with interest moneys of the county lawfully available therefor.

(2) The Board of Supervisors of the County of San Diego has adopted a resolution directing the County Auditor and Controller to make a segregation of general fund revenues in the amount of 20 percent of the par value of the Notes issued for each of the five 28-day accounting periods subsequent to January 6, 1979. The segregated funds are to be placed into a special debt service fund to be used exclusively for the retirement of the Notes upon maturity. It is estimated that the amount of revenue available for transfer from the general fund to the special debt fund totals $137,100,000.

(3) As a result of the approval of Proposition 13 and subsequent adoption of implementing legislation, it is estimated that the County of San Diego will incur a revenue loss of $70,200,000 for 1978–79. However, the State Legislature has appropriated revenue block grants to partially replace the projected revenue losses of local governments. San Diego County is to receive a grant of $8,900,000. In addition, the State will assume the County's share for a number of health and welfare programs for 1978–79 only, totaling approximately $51,800,000. The net effect of these changes will be an overall reduction in County resources of $9,500,000 or 1.7% of the 1978–79 proposed budget. To offset the impact of these changes, the County has taken action to revise various fees and service charges so as to produce addtional funds. As a result, it is not anticipated that any major changes in the County's programs or financial position will occur during the 1978–79 fiscal year.

(c) *Ruling.* It is our conclusion that the $60,000,000 County of San Diego, California, 1978 Revenue and Tax Anticipation Notes are general obligations of a State or a political sudivision thereof under paragraph Seventh of 12 U.S.C. 24 and are eligible for purchase, dealing in underwriting and unlimited holding by national banks. (Letter dated Oct. 5, 1978.)

§ 1.478 Riverside County (California) Board of Education Service Center Building Corporation Leasehold Mortgage Bonds.

(a) *Request.* Ruling on the eligibility of the $6,320,000 Riverside County (California) Board of Education Service Center Building Corporation Leasehold Mortgage Bonds, Issue of 1978, for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The Riverside County Board of Education Service Center Building Corporation, a California nonprofit corporation acting on behalf of the Riverside County Board of Education, was created to provide financial assistance to the Board of Education by financing the construction, improvement and remodeling of an administrative facility for use by the Board and the Office of the Riverside County Superintendent of Schools. The Corporation is issuing these bonds to construct such an administrative facility. The completed facility will be leased to and operated by the Board of Education. The lease-rental agreement provides for the Board to pay annual lease rentals to the Corporation in an amount sufficient to meet annual interest and principal payments on the Bonds, as well as other necessary expenses. The rental obligations incurred by the Board will be paid from the County School Service Fund. Under the provisions of the lease, the Board covenants to include the total rentals in its annual budget and to make the necessary annual apropriations for such payments.

(2) As a result of the approval of Proposition 13, the Board's entitlement of property tax revenues will be reduced from about $7.9 million in Fiscal 1977–78 to $3.6 million in Fiscal 1978–79. The California State Legislature has appropriated $6.8 million to the Board to replace lost property tax revenues to be used for any purpose determined by the Board in Fiscal 1978–79. However, neither the Board nor the Corporation can predict the actions of the Legislature in subsequent years as to any further State apportionments or as to any restrictions which might be imposed on the use of such apportionments.

(c) *Ruling.* Because of the uncertainty created by Proposition 13 and the lack of assurance that the Board will be able to fund its lease-rental payments through maturity of the Bonds, the Comptroller concludes at this time that the $6,320,000 Riverside County (California) Board of Education Service Center Building Corporation Leasehold Mortgage Bonds, Issue of 1978, are not general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and are not eligible for dealing in, underwriting or unlimited holding by national banks. (Letter dated Oct. 17, 1978.)

§ 1.479 Public Building Commission of the City of Lawrence, Kansas, Public Building Revenue Bonds.

(a) *Request.* Ruling on the eligibility of the $1,970,000 Public Building Commission of the City of Lawrence Kansas, Public Building Revenue Bonds, Series 1978, for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The Public Building Commission of the City of Lawrence, Kansas is a municipal corporation created under the laws of the State of Kansas. Among its powers, the Commission is authorized to acquire a site and construct, equip, furnish and operate a building for lease to the City for municipal purposes and to issue revenue bonds to finance such operations. The Commission is issuing these bonds for that purpose. The City of Lawrence has unconditionally promised in the lease rental agreement to pay annual lease rentals to the Commission in an amount sufficient to meet annual interest and principal payments on these bonds, as well as other necessary expenses.

(2) Although the City possesses general powers of property taxation, the City's aggregate tax rate currently equals the maximum amount permitted to be levied under State law. State law authorizes the City to suspend the aggregate tax levy limitation for one year or for a specified number of years whenever a majority of the electors of the City voting in an election vote in favor of such a suspension. In light of the limitations imposed on the City's ability to levy additional taxes, the City's obligation under the lease agreement cannot be regarded as a general obligation of the City for purposes of 12 U.S.C. 24.

(c) *Ruling.* It is our conclusion that the $1,970,000 Public Building Commission of the City of Lawrence, Kansas, Public Building Revenue Bonds, Series 1978, are not general obligations of a State or a political subdivision under paragraph Seventh of 12 U.S.C. 24 and are therefore not eligible for dealing in, underwriting or unlimited holding by national banks. The Bonds are, however, eligible for purchase and holding subject to the ten percent limitation of paragraph Seventh. (Letter dated Nov. 30, 1978.)

§ 1.480 Atascadero Unified School District Educational Facilities Corporation.

(a) *Request.* Ruling on the eligibility of the $2,170,000 Atascadero Unified School District Educational Facilities Corporation, Series of 1978 Bonds, for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The Atascadero Unified School District Educational Facilities Corporation, a California nonprofit Corporation acting on behalf of the Atascadero Unified School District, was created to render financial assistance to the District by financing and constructing public school buildings and facilities. The Corporation is issuing these bonds to finance the construction of Phase II of a project which will add additional classrooms and facilities to the Santa Margarita School in Santa Margarita and the Santa Rosa School and Atascadero Junior school in Atascadero. Phase I of the project was financed by bonds issued in 1977 which were the subject of the Comptroller's ruling of July 22, 1977 (12 CFR 1.459).

(2) The completed project will be leased to and operated by the District. The District has unconditionally promised in the lease rental agreement to pay annual lease rentals to the Corporation in an amount sufficient to meet annual interest and principal payments on the bonds, as well as other necessary expenses.

(3) On June 6, 1978, California voters approved a Constitutional Amendment, commonly known as Proposition 13, which limits to 1% of full cash value the amount of property tax which can be levied by a county and distributed to the districts within the county. Excluded from this limit were taxes to pay interest and redemption charges on any indebtedness approved by the voters prior to July 1, 1978. The State legislation implementing Proposition 13 has interpreted this to mean that in addition to the tax of 1% of full cash value ($4.00 per $100 of assessed valuation) which each county shall levy and distribute, any school district (or other eligible local agency) may levy a property tax equal to "the amount needed to (pay) interest and principal on general obligation bonds or other indebtedness approved by the voters prior to July 1, 1978, or the amount levied pursuant to * * * Sections 39308, (and) 39311 * * * of the Education Code." CAL. REV. & TAX CODE § 2237 (1978 Cal. Stats. Chpt. 292, as amended). The applicable provisions of the California Education Code permit a school district to lease permanent school facilities and with the approval of a majority of the voting electorate to increase taxes above the maximum tax rate to provide funds necessary for the lease rental payments. On November 2, 1976, voters in the Atascadero Unified School District, by a 57.5% majority, authorized a maximum increase of 36¢ per $100 of assessed valuation to be levied as needed for the financing and leasing of new additions at six existing District schools.

(4) The District's principal source of revenue to meet its lease rental payments is expected to be the maximum 39¢ leasing tax rate. Based on current assessed valuation, the estimated leasing tax revenues would provide 1.18 coverage of the maximum total estimated annual rentals for Phases I and II of the project. Because it is expected that the assessed valuation in the District will continue to increase, it is also expected that this coverage margin will widen. In addition, unrestricted general fund revenues of the District may be used to meet rental payments. The District has thus unconditionally promised to make funds available for payment of its lease obligation sufficient to meet principal and interest payments on the bonds.

(c) *Ruling.* It is our conclusion that the $2,170,000 Atascadero Unified School District Educational Facilities Corporation, Series of 1978 Bonds, are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. (Letter dated Dec. 8, 1978.)

Dated: December 27, 1978.

JOHN G. HEIMAN,
Comptroller of the Currency.

[FR Doc. 79-209 Filed 1-2-79; 8:45 am]

[6210-01-M]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. Z; FC-0154]

PART 226—TRUTH IN LENDING

Final Official Staff Interpretation

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final Official Staff Interpretation.

SUMMARY: The Board is publishing in final form official staff interpretation FC-0154 of Regulation Z approving the use of certain tables and accompanying instructions to be used to compute the annual percentage rate on graduated payment mortgages under the HUD/FHA Section 245 Program. The agency is taking this action after reviewing the comments received upon publication of the interpretation.

DATE: Effective January 3, 1979.

FOR FURTHER INFORMATION CONTACT:

Glenn E. Loney, Section Chief, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202) 452-3867.

SUPPLEMENTARY INFORMATION: (1) In the version of FC-0154 published for comment the staff proposed to approve the use of certain tables and accompanying instructions prepared by the U.S. Department of Housing and Urban Development for computing the annual percentage rate on graduated payment mortgages under the HUD/FHA Section 245 Experimental Financing Program.

(2) FC-0154 was published for comment on September 19, 1978, and two comments were received.

(3) In light of the comments received and further consideration by the staff, the final publication contains the following revisions to the instructions which accompany the tables:

(a) The term "prepaid finance charges" has been changed to "prepaid finance charge" so that it will conform to the proper terminology required by Regulation Z.

(b) The explanations of Items (f) and (h) in Example #1, and Item (h) in Examples #2 and #3 have been slightly revised to clarify the relationship between the initial mortage interest and the prepaid finance charge in the three types of transactions.

(c) The term "interim mortgage interest" in the footnote to Example #2 has been changed to "initial mortgage interest" so that the terminology will be consistent throughout the instructions.

(d) Both the explanations and the figures for Items (e) and (f) in Example #3 have been revised to avoid giving the impression that an interest credit reduces the prepaid finance charge for purposes of Truth in Lending disclosures and to clarify that the interest credit should be reflected in the amount financed on such disclosures.

(e) Because of the revision described in paragraph (d), above, the explanation for computing the adjusted net proceeds in Example #3 has been revised to indicate that the divisor is the "proceeds" of $35,000 rather than the full "loan amount" of $35,081.51.

In addition, the following revisions are made to the text of the letter:

(a) The reference to HUD Handbook 4240.2 in the third paragraph has been changed to reflect the more recent, revised edition of that publication which is now available.

(b) A new fourth paragraph has been added to clarify the fact that al-

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though the tables include information concerning level payment mortgages, the staff's approval for use of the tables extends only to the graduated payment mortgages.

(c) Minor editorial changes were made.

(4) Official Staff Interpretation FC-0154, as revised is effective immediately.

(5) Authority: 15 U.S.C. 1640(f).

§ 226.5(b)—Approval of tables for computing annual percentage rate for HUD/FHA Section 245 graduated payment mortgages.

DECEMBER 19, 1978.

This letter is in response to our correspondence and conversations concerning proper computation of the annual percentage rate for graduated payment mortgages made under the Department of Housing and Urban Development's FHA Section 245 Experimental Financing Program. You have requested that the Board staff review and verify that the attached tables, when used in accordance with the attached instructions, yield an accurate annual percentage rate for purposes of Regulation Z.

The staff has reviewed the attached materials and concludes that, subject to the limitations set forth below, use of the tables in accordance with the instructions which accompany them results in an accurate annual percentage rate.

It should be noted that this approach may be used only when the first payment period, i.e., the period from the date on which the finance charge begins to accrue to the date of the first payment, falls within the ranges described in the minor irregularities provisions of Regulation Z, § 226.5(d) and Interpretation § 226.503. This means that the first payment must be due not more than 62 days after consummation of the loan in order for use of the tables to yield an accurate annual percentage rate. Use of this method also presumes that the monthly payments have been properly calculated using HUD Handbook 4240.2 Rev., dated June 1978. These tables and instructions cannot be used for graduated payment plans involving private mortgage insurance premiums, unless the calculations involved are made in the same manner as the calculations involved in the FHA Section 245 Graduated Payment Mortgage program, including the computation of the insurance premiums.

Finally, we note that, although the attached tables include information concerning level payment mortgages as well as graduated payment mortgages, the approval contained herein extends only to use of these tables for the graduated payment mortgages. The staff expresses no opinion concerning use of the tables for computing rates for level payment plans.

INSTRUCTIONS FOR COMPUTING ANNUAL PERCENTAGE RATES FOR COMPLIANCE WITH REGULATION Z

These instructions are to be used in conjunction with the attached annual percentage rate tables prepared by the Actuarial Division, Department of Housing and Urban Development. The tables are applicable only to FHA-insured 30-year level payment and graduated payment (Section 245) loans where the annual mortgage insurance premium (MIP) is ½ of 1 percent.

The annual percentage rate (APR) computation in the tables assumes that the closing takes place exactly one month prior to the due date of the first payment. The following three examples show how to adjust the net proceeds when the date of closing is not one month prior to the first payment, in order to provide a more accurate APR.

NOTE.—For purposes of this computation, closings must be not more than 62 days before the due date of the first payment.

EXAMPLE #1. Closings held more than one month prior to due date of first payment and interim interest collected at closing.

(a)	Contract Interest Rate	8-3/4%
(b)	Loan Type	GPM Plan V
(c)	Due Date of 1st Payment	June 1, 1978
(d)	Date of Closing	April 10, 1978
(e)	Loan Amount	$42,000.00
(f)	Prepaid Finance Charge (Includes Initial Interest (h))	$2,311.44
(g)	Net Proceeds (e-f)	$39,688.56
(h)	Initial Mortgage Interest	$211.44

Compute adjusted net proceeds per $100 of face.

($39,688.56 + $211.44) x 100 ÷ $42,000 = 95.000

(Net Proceeds From (g) + Initial Mortgage Interest From (h)) x 100 ÷ Loan Amount From (e) =

Find closest net proceeds per hundred from the APR table for 8-3/4% interest and column for GPM Plan V.

Closest net proceeds per hundred - 95.036

Read across for APR - 9.80%

EXAMPLE #2. Closing held more than one month prior to due date of first payment and interim interest collected with the first payment or one month prior to first payment.

(a)	Contract Interest Rate	8-1/2%
(b)	Loan Type	GPM Plan III
(c)	Due Date of 1st Payment	May 1, 1978
(d)	Date of Closing	March 17, 1978
(e)	Loan Amount	$20,000.00
(f)	Prepaid Finance Charge	$1,200.00
(g)	Net Proceeds (e-f)	$18,800.00
(h)	Initial Mortgage Interest	$69.86

Compute adjusted* net proceeds per $100 of face.

*When initial mortgage interest is collected (or rebated) at any time other than at closing, it has not been deducted from Net Proceeds (g) and therefore it is not necessary to add it to (or subtract it from, in the case of a rebate) the Net Proceeds before determining the APR.

3

$18,800 x 100 ÷ $20,000 = 94.00

Net Proceeds From (g) x 100 ÷ Loan Amount From (e) =

Find closest net proceeds per hundred from the APR table for 8-1/2% interest and column for GPM Plan III.

Closest net proceeds per hundred - 93.972

Read across for APR - 9.67%

EXAMPLE #3. Closing is held less than one month prior to due date of first payment and interest from date one month prior to first payment date to the closing date is rebated to purchaser at closing.

(a)	Contract Interest Rate	8-1/2%
(b)	Loan Type	GPM Plan II
(c)	Due Date of 1st Payment	April 1, 1978
(d)	Date of Closing	March 11, 1978
(e)	Loan Amount (Proceeds of $35,000 + Initial Interest Credit (h))	$35,081.51
(f)	Prepaid Finance Charge	$1,925.00
(g)	Net Proceeds (e-f)	$33,156.51
(h)	Initial Mortgage Interest Paid to Borrower at Closing or Credited to Closing Costs	$81.51

Compute adjusted net proceeds per $100 of face.

($33,156.51 - $81.51) x 100 ÷ $35,000 = 94.500

(Net Proceeds From (g) - Initial Mortgage Interest From (h)) x 100 ÷ Proceeds From (e) =

Find closest net proceeds per hundred from the APR tables for 8-1/2% interest and column for GPM Plan II.

Closest net proceeds per hundred - 94.507

Read across for APR - 9.62%

TABLES SHOWING ANNUAL PERCENTAGE RATES INCLUDING MORTGAGE INSURANCE PREMIUMS FOR FHA-INSURED LEVEL PAYMENT AND GRADUATED PAYMENT MORTGAGE AMORTIZATION PLANS AUTHORIZED UNDER SECTION 245

Description of the Graduated Payment Mortgage (GPM) Plans Shown in the Accompanying Tables

PLAN	DESCRIPTION
I	5 years of increasing payments at 2-1/2 percent each year
II	5 years of increasing payments at 5 percent each year
III	5 years of increasing payments at 7-1/2 percent each year
IV	10 years of increasing payments at 2 percent each year
V	10 years of increasing payments at 3 percent each year

Prepared by:
Actuarial Division
Office of Housing
Department of Housing
and Urban Development

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TABLE 1

ANNUAL PERCENTAGE RATES INCLUDING MORTGAGE INSURANCE PREMIUMS
FOR FHA INSURED LEVEL PAYMENT AND GPM AMORTIZATION PLANS
WITH A CONTRACT RATE OF 7.75 PERCENT, .5 PERCENT INSURANCE PREMIUM AND 30 - YEAR TERM

APR	NET PROCEEDS PER HUNDRED DOLLARS OF FACE AMOUNT LEVEL PMT	I	II	GPM PLANS III	IV	V
8.25	99.999	99.999	99.999	99.999	99.999	99.939
8.26	99.906	99.905	99.903	99.901	99.902	99.900
8.27	99.814	99.810	99.906	99.803	99.805	99.801
8.28	99.721	99.715	99.710	99.704	99.708	99.702
8.29	99.629	99.621	99.614	99.607	99.611	99.603
8.30	99.537	99.527	99.517	99.509	99.515	99.504
8.31	99.445	99.433	99.422	99.411	99.418	99.406
8.32	99.353	99.339	99.326	99.313	99.322	99.307
8.33	99.261	99.245	99.230	99.216	99.226	99.209
8.34	99.170	99.152	99.135	99.119	99.130	99.111
8.35	99.078	99.058	99.039	99.022	99.034	99.013
8.36	98.987	98.965	98.944	98.925	98.939	98.915
8.37	98.896	98.872	98.849	98.828	98.843	98.817
8.38	98.805	98.779	98.754	98.731	98.748	98.720
8.39	98.714	98.686	98.659	98.635	98.652	98.623
8.40	98.623	98.593	98.565	98.539	98.557	98.525
8.41	98.533	98.500	98.470	98.442	98.462	98.428
8.42	98.442	98.408	98.376	98.346	98.368	98.331
8.43	98.352	98.316	98.282	98.250	98.273	98.235
8.44	98.262	98.223	98.188	98.155	98.178	98.138
8.45	98.172	98.131	98.094	98.059	98.084	98.042
8.46	98.082	98.040	98.000	97.964	97.990	97.945
8.47	97.992	97.948	97.907	97.868	97.896	97.849
8.48	97.902	97.856	97.813	97.773	97.802	97.753
8.49	97.813	97.765	97.720	97.678	97.708	97.657
8.50	97.723	97.673	97.627	97.583	97.614	97.562
8.51	97.634	97.582	97.534	97.489	97.521	97.466
8.52	97.545	97.491	97.441	97.394	97.428	97.371
8.53	97.456	97.400	97.348	97.300	97.334	97.276
8.54	97.367	97.309	97.255	97.205	97.241	97.180
8.55	97.278	97.219	97.163	97.111	97.148	97.085
8.56	97.190	97.128	97.071	97.017	97.056	96.991
8.57	97.101	97.038	96.979	96.923	96.963	96.896
8.58	97.013	96.948	96.886	96.830	96.870	96.802
8.59	96.925	96.857	96.795	96.736	96.778	96.707
8.60	96.837	96.767	96.703	96.643	96.686	96.613
8.61	96.749	96.678	96.611	96.549	96.594	96.519
8.62	96.661	96.588	96.520	96.456	96.502	96.425
8.63	96.573	96.498	96.428	96.363	96.410	96.331
8.64	96.486	96.409	96.337	96.270	96.318	96.237
8.65	96.399	96.320	96.246	96.178	96.227	96.144
8.66	96.311	96.231	96.155	96.085	96.136	96.051
8.67	96.224	96.142	96.064	95.993	96.044	95.957
8.68	96.137	96.053	95.974	95.900	95.953	95.864
8.69	96.050	95.964	95.883	95.808	95.862	95.771
8.70	95.964	95.875	95.793	95.716	95.771	95.679
8.71	95.877	95.787	95.703	95.624	95.681	95.586
8.72	95.791	95.698	95.613	95.533	95.590	95.494
8.73	95.704	95.610	95.523	95.441	95.500	95.401
8.74	95.618	95.522	95.433	95.349	95.410	95.309
8.75	95.532	95.434	95.343	95.258	95.320	95.217
8.76	95.446	95.346	95.254	95.167	95.230	95.125
8.77	95.360	95.259	95.164	95.076	95.140	95.033
8.78	95.274	95.171	95.075	94.985	95.050	94.942
8.79	95.189	95.084	94.986	94.894	94.960	94.850
8.80	95.103	94.997	94.897	94.804	94.871	94.759
8.81	95.018	94.909	94.808	94.713	94.782	94.667
8.82	94.933	94.822	94.719	94.623	94.693	94.576
8.83	94.848	94.735	94.631	94.533	94.604	94.485
8.84	94.763	94.649	94.542	94.443	94.515	94.395
8.85	94.678	94.562	94.454	94.353	94.428	94.304
8.86	94.594	94.476	94.365	94.263	94.337	94.213
8.87	94.509	94.389	94.277	94.173	94.249	94.123
8.88	94.425	94.303	94.189	94.084	94.160	94.033
8.89	94.340	94.217	94.102	93.994	94.072	93.943
8.90	94.256	94.131	94.014	93.905	93.984	93.853
8.91	94.172	94.045	93.926	93.816	93.896	93.763
8.92	94.088	93.959	93.839	93.727	93.808	93.673
8.93	94.004	93.874	93.752	93.638	93.721	93.584
8.94	93.921	93.788	93.665	93.549	93.633	93.494

TABLE 1(CONT)

ANNUAL PERCENTAGE RATES INCLUDING MORTGAGE INSURANCE PREMIUMS
FOR FHA INSURED LEVEL PAYMENT AND GPM AMORTIZATION PLANS
WITH A CONTRACT RATE OF 7.75 PERCENT, .5 PERCENT INSURANCE PREMIUM AND 30 - YEAR TERM

APR	NET PROCEEDS PER HUNDRED DOLLARS OF FACE AMOUNT LEVEL PMT	I	II	GPM PLANS III	IV	V
8.95	93.837	93.703	93.578	93.461	93.548	93.405
8.96	93.754	93.618	93.491	93.372	93.458	93.316
8.97	93.671	93.533	93.404	93.284	93.371	93.227
8.98	93.587	93.448	93.317	93.196	93.284	93.138
8.99	93.504	93.363	93.231	93.108	93.197	93.049
9.00	93.421	93.278	93.144	93.020	93.111	92.961
9.01	93.339	93.194	93.058	92.932	93.024	92.872
9.02	93.256	93.109	92.972	92.844	92.938	92.784
9.03	93.173	93.025	92.886	92.757	92.851	92.696
9.04	93.091	92.941	92.800	92.669	92.765	92.607
9.05	93.009	92.857	92.715	92.582	92.679	92.520
9.06	92.927	92.773	92.629	92.495	92.593	92.432
9.07	92.844	92.689	92.543	92.408	92.507	92.344
9.08	92.763	92.605	92.458	92.321	92.421	92.257
9.09	92.681	92.521	92.373	92.234	92.336	92.169
9.10	92.599	92.438	92.288	92.148	92.250	92.082
9.11	92.517	92.355	92.203	92.061	92.165	91.995
9.12	92.436	92.272	92.118	91.975	92.080	91.908
9.13	92.355	92.188	92.033	91.889	91.995	91.821
9.14	92.273	92.105	91.949	91.803	91.910	91.734
9.15	92.192	92.023	91.864	91.717	91.825	91.647
9.16	92.111	91.940	91.780	91.631	91.740	91.561
9.17	92.031	91.857	91.696	91.545	91.656	91.475
9.18	91.950	91.775	91.612	91.460	91.571	91.388
9.19	91.869	91.693	91.528	91.374	91.487	91.302
9.20	91.789	91.610	91.444	91.289	91.403	91.216
9.21	91.708	91.528	91.360	91.204	91.319	91.131
9.22	91.628	91.446	91.277	91.119	91.235	91.045
9.23	91.548	91.364	91.193	91.034	91.151	90.959
9.24	91.468	91.283	91.110	90.949	91.067	90.874

TABLE 2

ANNUAL PERCENTAGE RATES INCLUDING MORTGAGE INSURANCE PREMIUMS
FOR FHA INSURED LEVEL PAYMENT AND GPM AMORTIZATION PLANS
WITH A CONTRACT RATE OF 8.00 PERCENT, .5 PERCENT INSURANCE PREMIUM AND 30 - YEAR TERM

APR	NET PROCEEDS PER HUNDRED DOLLARS OF FACE AMOUNT LEVEL PMT	I	II	GPM PLANS III	IV	V
8.50	99.999	99.999	99.999	99.999	99.999	99.999
8.51	99.908	99.906	99.904	99.902	99.904	99.901
8.52	99.817	99.813	99.809	99.805	99.808	99.804
8.53	99.726	99.719	99.714	99.709	99.712	99.706
8.54	99.635	99.627	99.619	99.612	99.617	99.608
8.55	99.544	99.534	99.524	99.515	99.522	99.511
8.56	99.453	99.441	99.430	99.419	99.427	99.414
8.57	99.363	99.348	99.335	99.323	99.332	99.317
8.58	99.272	99.256	99.241	99.227	99.237	99.220
8.59	99.182	99.164	99.147	99.131	99.142	99.123
8.60	99.092	99.072	99.053	99.035	99.048	99.027
8.61	99.002	98.980	98.959	98.939	98.953	98.930
8.62	98.912	98.888	98.865	98.844	98.859	98.834
8.63	98.822	98.796	98.772	98.749	98.765	98.738
8.64	98.733	98.704	98.678	98.653	98.671	98.642
8.65	98.643	98.613	98.585	98.558	98.578	98.546
8.66	98.554	98.522	98.492	98.463	98.484	98.450
8.67	98.465	98.431	98.399	98.369	98.390	98.354
8.68	98.376	98.340	98.306	98.274	98.297	98.259
8.69	98.287	98.249	98.213	98.180	98.204	98.164
8.70	98.198	98.158	98.120	98.085	98.111	98.069
8.71	98.109	98.067	98.028	97.991	98.018	97.974
8.72	98.021	97.977	97.936	97.897	97.925	97.879
8.73	97.933	97.887	97.843	97.803	97.833	97.784
8.74	97.844	97.798	97.751	97.710	97.740	97.690
8.75	97.756	97.708	97.660	97.618	97.648	97.595
8.76	97.668	97.618	97.568	97.522	97.555	97.501
8.77	97.580	97.527	97.476	97.429	97.463	97.407
8.78	97.493	97.437	97.385	97.336	97.372	97.313
8.79	97.405	97.347	97.293	97.243	97.280	97.219
8.80	97.318	97.258	97.202	97.150	97.188	97.125
8.81	97.230	97.169	97.111	97.057	97.097	97.032
8.82	97.143	97.080	97.020	96.965	97.005	96.938
8.83	97.056	96.991	96.929	96.872	96.914	96.845
8.84	96.969	96.902	96.839	96.780	96.823	96.752

APR	NET PROCEEDS PER HUNDRED DOLLARS OF FACE AMOUNT LEVEL PMT	I	II	GPM PLANS III	IV	V
8.85	96.882	96.813	96.748	96.688	96.732	96.659
8.86	96.796	96.724	96.658	96.596	96.641	96.566
8.87	96.709	96.636	96.568	96.504	96.550	96.474
8.88	96.623	96.548	96.477	96.412	96.460	96.381
8.89	96.537	96.459	96.387	96.320	96.370	96.289
8.90	96.450	96.371	96.298	96.229	96.279	96.196
8.91	96.364	96.284	96.208	96.137	96.189	96.104
8.92	96.279	96.196	96.118	96.046	96.099	96.012
8.93	96.193	96.108	96.029	95.955	96.009	95.921
8.94	96.107	96.021	95.940	95.864	95.920	95.829
8.95	96.022	95.933	95.850	95.773	95.830	95.737
8.96	95.936	95.846	95.761	95.683	95.741	95.646
8.97	95.851	95.759	95.673	95.592	95.651	95.555
8.98	95.766	95.672	95.584	95.502	95.562	95.463
8.99	95.681	95.585	95.495	95.411	95.473	95.372
9.00	95.596	95.498	95.407	95.321	95.384	95.282
9.01	95.511	95.412	95.318	95.231	95.295	95.191
9.02	95.427	95.325	95.230	95.141	95.207	95.100
9.03	95.342	95.239	95.142	95.052	95.118	95.010
9.04	95.258	95.152	95.054	94.962	95.030	94.920
9.05	95.174	95.066	94.966	94.873	94.942	94.829
9.06	95.089	94.980	94.878	94.783	94.854	94.739
9.07	95.005	94.895	94.791	94.694	94.766	94.650
9.08	94.922	94.809	94.703	94.605	94.678	94.560
9.09	94.838	94.723	94.616	94.516	94.590	94.470
9.10	94.754	94.638	94.529	94.427	94.502	94.381
9.11	94.671	94.552	94.442	94.339	94.415	94.291
9.12	94.587	94.467	94.355	94.250	94.328	94.202
9.13	94.504	94.382	94.268	94.162	94.241	94.113
9.14	94.421	94.297	94.182	94.074	94.154	94.024
9.15	94.338	94.212	94.095	93.986	94.067	93.935
9.16	94.255	94.128	94.009	93.898	93.980	93.847
9.17	94.172	94.043	93.922	93.810	93.893	93.758
9.18	94.090	93.959	93.836	93.722	93.807	93.670
9.19	94.007	93.874	93.750	93.634	93.720	93.581

TABLE 2(CONT)

ANNUAL PERCENTAGE RATES INCLUDING MORTGAGE INSURANCE PREMIUMS
FOR FHA INSURED LEVEL PAYMENT AND GPM AMORTIZATION PLANS
WITH A CONTRACT RATE OF 8.00 PERCENT, .5 PERCENT INSURANCE PREMIUM AND 30 - YEAR TERM

APR	NET PROCEEDS PER HUNDRED DOLLARS OF FACE AMOUNT LEVEL PMT	I	II	GPM PLANS III	IV	V
9.20	93.925	93.790	93.664	93.547	93.634	93.493
9.21	93.843	93.706	93.579	93.460	93.548	93.405
9.22	93.760	93.622	93.493	93.372	93.462	93.317
9.23	93.678	93.538	93.407	93.285	93.376	93.230
9.24	93.597	93.455	93.322	93.198	93.290	93.142
9.25	93.515	93.371	93.237	93.112	93.205	93.055
9.26	93.433	93.288	93.152	93.025	93.119	92.967
9.27	93.352	93.204	93.067	92.938	93.034	92.880
9.28	93.270	93.121	92.982	92.852	92.949	92.793
9.29	93.189	93.038	92.897	92.766	92.863	92.706
9.30	93.108	92.955	92.812	92.680	92.778	92.619
9.31	93.027	92.872	92.728	92.593	92.694	92.533
9.32	92.946	92.789	92.644	92.508	92.609	92.446
9.33	92.865	92.707	92.559	92.422	92.524	92.360
9.34	92.784	92.624	92.475	92.336	92.440	92.273

APR	NET PROCEEDS PER HUNDRED DOLLARS OF FACE AMOUNT LEVEL PMT	I	II	GPM PLANS III	IV	V
9.35	92.703	92.542	92.391	92.251	92.356	92.187
9.36	92.623	92.460	92.307	92.165	92.271	92.101
9.37	92.543	92.378	92.224	92.080	92.187	92.015
9.38	92.462	92.296	92.140	91.995	92.103	91.929
9.39	92.382	92.214	92.057	91.910	92.019	91.844
9.40	92.302	92.132	91.973	91.825	91.936	91.758
9.41	92.222	92.050	91.890	91.740	91.852	91.673
9.42	92.143	91.969	91.807	91.655	91.769	91.588
9.43	92.063	91.888	91.724	91.571	91.685	91.503
9.44	91.983	91.806	91.641	91.487	91.602	91.418
9.45	91.904	91.725	91.558	91.402	91.519	91.333
9.46	91.825	91.644	91.475	91.318	91.436	91.248
9.47	91.746	91.563	91.393	91.234	91.353	91.163
9.48	91.666	91.482	91.311	91.150	91.270	91.079
9.49	91.588	91.402	91.228	91.066	91.188	90.994

TABLE 3

ANNUAL PERCENTAGE RATES INCLUDING MORTGAGE INSURANCE PREMIUMS
FOR FHA INSURED LEVEL PAYMENT AND GPM AMORTIZATION PLANS
WITH A CONTRACT RATE OF 8.25 PERCENT, .5 PERCENT INSURANCE PREMIUM AND 30 - YEAR TERM

APR	NET PROCEEDS PER HUNDRED DOLLARS OF FACE AMOUNT LEVEL PMT	I	II	GPM PLANS III	IV	V	APR	NET PROCEEDS PER HUNDRED DOLLARS OF FACE AMOUNT LEVEL PMT	I	II	GPM PLANS III	IV	V
8.75	99.999	99.999	99.999	99.999	99.999	99.999	9.10	96.928	96.858	96.793	96.732	96.777	96.705
8.76	99.909	99.907	99.905	99.904	99.905	99.903	9.11	96.842	96.771	96.704	96.641	96.688	96.613
8.77	99.819	99.815	99.812	99.808	99.811	99.806	9.12	96.757	96.683	96.615	96.551	96.598	96.522
8.78	99.730	99.724	99.718	99.713	99.716	99.710	9.13	96.672	96.596	96.526	96.460	96.509	96.430
8.79	99.640	99.632	99.624	99.617	99.622	99.614	9.14	96.587	96.509	96.437	96.370	96.420	96.339
8.80	99.551	99.540	99.531	99.522	99.529	99.518	9.15	96.502	96.422	96.348	96.279	96.331	96.248
8.81	99.461	99.449	99.438	99.427	99.435	99.422	9.16	96.417	96.336	96.260	96.189	96.242	96.157
8.82	99.372	99.358	99.344	99.332	99.341	99.326	9.17	96.332	96.249	96.172	96.099	96.153	96.067
8.83	99.283	99.267	99.251	99.237	99.248	99.231	9.18	96.248	96.163	96.083	96.009	96.065	95.976
8.84	99.194	99.176	99.159	99.143	99.154	99.135	9.19	96.163	96.076	95.995	95.919	95.976	95.885
8.85	99.105	99.085	99.066	99.048	99.061	99.040	9.20	96.079	95.990	95.907	95.830	95.888	95.795
8.86	99.016	98.994	98.973	98.954	98.968	98.945	9.21	95.995	95.904	95.819	95.740	95.800	95.705
8.87	98.928	98.904	98.881	98.860	98.875	98.850	9.22	95.911	95.818	95.732	95.651	95.711	95.615
8.88	98.840	98.813	98.789	98.766	98.783	98.755	9.23	95.827	95.732	95.644	95.562	95.623	95.525
8.89	98.751	98.723	98.696	98.672	98.690	98.660	9.24	95.743	95.647	95.557	95.473	95.536	95.435
8.90	98.663	98.633	98.604	98.578	98.598	98.566	9.25	95.659	95.561	95.469	95.384	95.448	95.348
8.91	98.575	98.543	98.513	98.484	98.505	98.471	9.26	95.576	95.478	95.382	95.295	95.360	95.258
8.92	98.487	98.453	98.421	98.391	98.413	98.377	9.27	95.492	95.390	95.295	95.206	95.273	95.167
8.93	98.399	98.363	98.329	98.298	98.321	98.283	9.28	95.409	95.305	95.208	95.118	95.186	95.077
8.94	98.312	98.274	98.238	98.204	98.229	98.189	9.29	95.326	95.220	95.121	95.029	95.098	94.988
8.95	98.224	98.184	98.146	98.111	98.137	98.095	9.30	95.243	95.135	95.035	94.941	95.011	94.899
8.96	98.137	98.095	98.055	98.018	98.046	98.001	9.31	95.160	95.050	94.948	94.853	94.924	94.810
8.97	98.050	98.006	97.964	97.928	97.954	97.908	9.32	95.077	94.966	94.862	94.765	94.838	94.722
8.98	97.963	97.916	97.873	97.833	97.863	97.815	9.33	94.994	94.881	94.775	94.677	94.751	94.633
8.99	97.876	97.828	97.782	97.740	97.772	97.721	9.34	94.912	94.797	94.689	94.589	94.664	94.545
9.00	97.789	97.739	97.692	97.648	97.681	97.628	9.35	94.829	94.712	94.603	94.501	94.578	94.456
9.01	97.702	97.650	97.601	97.556	97.590	97.535	9.36	94.747	94.628	94.517	94.414	94.492	94.368
9.02	97.616	97.561	97.511	97.464	97.499	97.442	9.37	94.665	94.544	94.432	94.326	94.406	94.280
9.03	97.529	97.473	97.421	97.372	97.408	97.350	9.38	94.582	94.460	94.346	94.239	94.320	94.192
9.04	97.443	97.385	97.331	97.280	97.318	97.257	9.39	94.501	94.376	94.260	94.152	94.234	94.105
9.05	97.357	97.297	97.241	97.188	97.227	97.165	9.40	94.419	94.293	94.175	94.065	94.148	94.017
9.06	97.271	97.209	97.151	97.097	97.137	97.072	9.41	94.337	94.209	94.090	93.978	94.062	93.929
9.07	97.185	97.121	97.061	97.005	97.047	96.980	9.42	94.255	94.126	94.005	93.891	93.977	93.842
9.08	97.099	97.033	96.972	96.914	96.957	96.888	9.43	94.174	94.042	93.920	93.805	93.891	93.755
9.09	97.013	96.945	96.882	96.823	96.867	96.796	9.44	94.092	93.959	93.835	93.718	93.806	93.668

TABLE 3(CONT)

ANNUAL PERCENTAGE RATES INCLUDING MORTGAGE INSURANCE PREMIUMS
FOR FHA INSURED LEVEL PAYMENT AND GPM AMORTIZATION PLANS
WITH A CONTRACT RATE OF 8.25 PERCENT, .5 PERCENT INSURANCE PREMIUM AND 30 - YEAR TERM

APR	NET PROCEEDS PER HUNDRED DOLLARS OF FACE AMOUNT LEVEL PMT	I	II	GPM PLANS III	IV	V	APR	NET PROCEEDS PER HUNDRED DOLLARS OF FACE AMOUNT LEVEL PMT	I	II	GPM PLANS III	IV	V
9.45	94.011	93.876	93.750	93.632	93.721	93.581	9.60	92.806	92.645	92.493	92.352	92.459	92.291
9.46	93.930	93.793	93.665	93.546	93.636	93.494	9.61	92.727	92.563	92.410	92.268	92.376	92.206
9.47	93.849	93.710	93.581	93.460	93.551	93.407	9.62	92.648	92.482	92.328	92.183	92.293	92.121
9.48	93.768	93.628	93.496	93.374	93.466	93.320	9.63	92.569	92.401	92.245	92.099	92.210	92.037
9.49	93.687	93.545	93.412	93.288	93.382	93.234	9.64	92.490	92.321	92.163	92.015	92.128	91.952
9.50	93.607	93.463	93.328	93.202	93.297	93.148	9.65	92.411	92.240	92.081	91.932	92.045	91.868
9.51	93.526	93.380	93.244	93.117	93.213	93.061	9.66	92.332	92.159	91.998	91.848	91.962	91.784
9.52	93.446	93.298	93.160	93.031	93.129	92.975	9.67	92.253	92.079	91.916	91.764	91.880	91.699
9.53	93.365	93.216	93.076	92.946	93.045	92.889	9.68	92.175	91.999	91.834	91.681	91.798	91.615
9.54	93.285	93.134	92.993	92.861	92.961	92.804	9.69	92.096	91.918	91.752	91.597	91.716	91.531
9.55	93.205	93.052	92.909	92.776	92.877	92.718	9.70	92.018	91.838	91.671	91.514	91.634	91.448
9.56	93.125	92.970	92.826	92.691	92.793	92.632	9.71	91.939	91.758	91.589	91.431	91.552	91.364
9.57	93.045	92.889	92.742	92.606	92.709	92.547	9.72	91.861	91.679	91.508	91.348	91.470	91.280
9.58	92.966	92.807	92.659	92.521	92.626	92.461	9.73	91.783	91.599	91.426	91.265	91.388	91.197
9.59	92.886	92.726	92.576	92.436	92.543	92.376	9.74	91.705	91.519	91.345	91.183	91.307	91.114

TABLE 4

ANNUAL PERCENTAGE RATES INCLUDING MORTGAGE INSURANCE PREMIUMS
FOR FHA INSURED LEVEL PAYMENT AND GPM AMORTIZATION PLANS
WITH A CONTRACT RATE OF 8.50 PERCENT, .5 PERCENT INSURANCE PREMIUM AND 30 - YEAR TERM

APR	NET PROCEEDS PER HUNDRED DOLLARS OF FACE AMOUNT						APR	NET PROCEEDS PER HUNDRED DOLLARS OF FACE AMOUNT					
	LEVEL PMT	GPM PLANS I	II	III	IV	V		LEVEL PMT	GPM PLANS I	II	III	IV	V
9.00	99.999	99.999	99.999	99.999	99.999	99.999	9.35	96.972	96.902	96.837	96.776	96.822	96.750
9.01	99.911	99.909	99.907	99.905	99.906	99.904	9.36	96.888	96.816	96.749	96.686	96.734	96.659
9.02	99.822	99.818	99.814	99.811	99.813	99.809	9.37	96.804	96.730	96.661	96.597	96.646	96.569
9.03	99.734	99.727	99.722	99.716	99.720	99.714	9.38	96.720	96.644	96.573	96.507	96.558	96.479
9.04	99.645	99.637	99.630	99.622	99.628	99.619	9.39	96.636	96.558	96.486	96.418	96.470	96.389
9.05	99.557	99.547	99.537	99.529	99.535	99.525	9.40	96.552	96.473	96.398	96.329	96.382	96.299
9.06	99.469	99.457	99.445	99.435	99.443	99.430	9.41	96.468	96.387	96.311	96.240	96.294	96.210
9.07	99.381	99.367	99.354	99.341	99.351	99.336	9.42	96.385	96.302	96.224	96.151	96.207	96.120
9.08	99.293	99.277	99.262	99.248	99.258	99.241	9.43	96.302	96.216	96.137	96.062	96.119	96.031
9.09	99.206	99.187	99.170	99.154	99.166	99.147	9.44	96.218	96.131	96.050	95.974	96.032	95.941
9.10	99.118	99.098	99.079	99.061	99.075	99.053	9.45	96.135	96.046	95.963	95.885	95.945	95.852
9.11	99.031	99.009	98.988	98.968	98.983	98.959	9.46	96.052	95.961	95.876	95.797	95.858	95.763
9.12	98.944	98.919	98.896	98.875	98.891	98.866	9.47	95.969	95.877	95.790	95.709	95.771	95.674
9.13	98.856	98.830	98.805	98.782	98.800	98.772	9.48	95.887	95.792	95.704	95.621	95.684	95.586
9.14	98.769	98.741	98.715	98.690	98.708	98.679	9.49	95.804	95.707	95.617	95.533	95.597	95.497
9.15	98.683	98.652	98.624	98.597	98.617	98.586	9.50	95.721	95.623	95.531	95.445	95.511	95.409
9.16	98.596	98.563	98.533	98.505	98.526	98.492	9.51	95.639	95.539	95.445	95.357	95.424	95.320
9.17	98.509	98.475	98.443	98.413	98.435	98.399	9.52	95.557	95.455	95.359	95.270	95.338	95.232
9.18	98.423	98.386	98.352	98.321	98.345	98.307	9.53	95.475	95.371	95.273	95.182	95.252	95.144
9.19	98.336	98.298	98.262	98.229	98.254	98.214	9.54	95.393	95.287	95.188	95.095	95.166	95.056
9.20	98.250	98.210	98.172	98.137	98.163	98.121	9.55	95.311	95.203	95.102	95.008	95.080	94.968
9.21	98.164	98.122	98.082	98.045	98.073	98.029	9.56	95.229	95.119	95.017	94.921	94.994	94.881
9.22	98.078	98.034	97.992	97.954	97.983	97.937	9.57	95.147	95.036	94.932	94.834	94.909	94.793
9.23	97.992	97.946	97.903	97.862	97.893	97.845	9.58	95.066	94.952	94.846	94.747	94.823	94.706
9.24	97.907	97.858	97.813	97.771	97.803	97.753	9.59	94.984	94.869	94.761	94.661	94.738	94.618
9.25	97.821	97.771	97.724	97.680	97.713	97.661	9.60	94.903	94.786	94.676	94.574	94.653	94.531
9.26	97.735	97.683	97.634	97.589	97.623	97.569	9.61	94.822	94.703	94.592	94.488	94.567	94.444
9.27	97.650	97.596	97.545	97.498	97.534	97.477	9.62	94.741	94.620	94.507	94.402	94.482	94.357
9.28	97.565	97.509	97.456	97.407	97.444	97.386	9.63	94.660	94.537	94.423	94.315	94.398	94.271
9.29	97.480	97.422	97.367	97.317	97.355	97.295	9.64	94.579	94.454	94.338	94.229	94.313	94.184
9.30	97.395	97.335	97.279	97.226	97.266	97.203	9.65	94.498	94.372	94.254	94.144	94.228	94.097
9.31	97.310	97.248	97.190	97.136	97.177	97.112	9.66	94.417	94.289	94.170	94.058	94.144	94.011
9.32	97.225	97.161	97.102	97.046	97.088	97.022	9.67	94.337	94.207	94.086	93.972	94.059	93.925
9.33	97.141	97.075	97.013	96.956	96.999	96.931	9.68	94.257	94.125	94.002	93.887	93.975	93.839
9.34	97.056	96.988	96.925	96.866	96.911	96.840	9.69	94.176	94.043	93.918	93.801	93.891	93.753

TABLE 4(CONT)

ANNUAL PERCENTAGE RATES INCLUDING MORTGAGE INSURANCE PREMIUMS
FOR FHA INSURED LEVEL PAYMENT AND GPM AMORTIZATION PLANS
WITH A CONTRACT RATE OF 8.50 PERCENT, .5 PERCENT INSURANCE PREMIUM AND 30 - YEAR TERM

APR	NET PROCEEDS PER HUNDRED DOLLARS OF FACE AMOUNT						APR	NET PROCEEDS PER HUNDRED DOLLARS OF FACE AMOUNT					
	LEVEL PMT	GPM PLANS I	II	III	IV	V		LEVEL PMT	GPM PLANS I	II	III	IV	V
9.70	94.096	93.961	93.834	93.716	93.807	93.667	9.85	92.908	92.746	92.594	92.452	92.562	92.394
9.71	94.016	93.879	93.751	93.631	93.723	93.581	9.86	92.829	92.666	92.512	92.369	92.480	92.310
9.72	93.936	93.797	93.667	93.546	93.639	93.495	9.87	92.751	92.586	92.431	92.286	92.398	92.226
9.73	93.856	93.716	93.584	93.461	93.556	93.410	9.88	92.673	92.506	92.349	92.203	92.316	92.143
9.74	93.777	93.634	93.501	93.376	93.472	93.325	9.89	92.595	92.426	92.268	92.120	92.234	92.059
9.75	93.697	93.553	93.418	93.292	93.389	93.239	9.90	92.517	92.346	92.186	92.037	92.153	91.976
9.76	93.618	93.472	93.335	93.207	93.306	93.154	9.91	92.440	92.267	92.105	91.954	92.071	91.893
9.77	93.538	93.390	93.252	93.123	93.222	93.069	9.92	92.362	92.187	92.024	91.872	91.990	91.810
9.78	93.459	93.309	93.169	93.038	93.139	92.984	9.93	92.284	92.108	91.943	91.789	91.909	91.727
9.79	93.380	93.229	93.087	92.954	93.057	92.900	9.94	92.207	92.029	91.863	91.707	91.828	91.644
9.80	93.301	93.148	93.004	92.870	92.974	92.815	9.95	92.130	91.950	91.782	91.625	91.747	91.561
9.81	93.222	93.067	92.922	92.786	92.891	92.731	9.96	92.053	91.871	91.701	91.543	91.666	91.478
9.82	93.143	92.987	92.840	92.703	92.809	92.646	9.97	91.975	91.792	91.621	91.461	91.585	91.396
9.83	93.065	92.906	92.758	92.619	92.726	92.562	9.98	91.898	91.714	91.541	91.379	91.504	91.313
9.84	92.986	92.826	92.676	92.535	92.644	92.478	9.99	91.822	91.635	91.460	91.297	91.424	91.231

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TABLE 5

ANNUAL PERCENTAGE RATES INCLUDING MORTGAGE INSURANCE PREMIUMS
FOR FHA INSURED LEVEL PAYMENT AND GPM AMORTIZATION PLANS
WITH A CONTRACT RATE OF 8.75 PERCENT, .5 PERCENT INSURANCE PREMIUM AND 30 - YEAR TERM

APR	NET PROCEEDS PER HUNDRED DOLLARS OF FACE AMOUNT LEVEL PMT	GPM PLANS I	II	III	IV	V	APR	NET PROCEEDS PER HUNDRED DOLLARS OF FACE AMOUNT LEVEL PMT	GPM PLANS I	II	III	IV	V
9.25	99.999	99.999	99.999	99.999	99.999	100.000	9.60	97.016	96.946	96.880	96.819	96.866	96.794
9.26	99.912	99.910	99.908	99.906	99.908	99.906	9.61	96.933	96.861	96.794	96.731	96.779	96.705
9.27	99.825	99.821	99.817	99.813	99.816	99.812	9.62	96.850	96.776	96.707	96.642	96.692	96.616
9.28	99.737	99.731	99.726	99.720	99.724	99.718	9.63	96.767	96.691	96.620	96.554	96.605	96.527
9.29	99.650	99.642	99.635	99.628	99.633	99.625	9.64	96.684	96.607	96.534	96.466	96.519	96.438
9.30	99.564	99.553	99.544	99.535	99.542	99.531	9.65	96.602	96.522	96.448	96.378	96.432	96.350
9.31	99.477	99.465	99.453	99.442	99.451	99.438	9.66	96.519	96.438	96.362	96.290	96.346	96.261
9.32	99.390	99.376	99.363	99.350	99.360	99.345	9.67	96.437	96.354	96.276	96.203	96.259	96.173
9.33	99.304	99.287	99.272	99.258	99.269	99.252	9.68	96.355	96.269	96.190	96.115	96.173	96.085
9.34	99.217	99.199	99.182	99.166	99.178	99.159	9.69	96.273	96.186	96.104	96.028	96.087	95.997
9.35	99.131	99.111	99.092	99.074	99.088	99.066	9.70	96.191	96.102	96.018	95.940	96.001	95.909
9.36	99.045	99.023	99.002	98.982	98.997	98.974	9.71	96.109	96.018	95.933	95.853	95.915	95.821
9.37	98.959	98.935	98.912	98.890	98.907	98.881	9.72	96.027	95.934	95.847	95.766	95.829	95.733
9.38	98.873	98.847	98.822	98.799	98.817	98.789	9.73	95.946	95.851	95.762	95.679	95.744	95.646
9.39	98.787	98.759	98.732	98.707	98.727	98.697	9.74	95.864	95.767	95.677	95.592	95.658	95.558
9.40	98.702	98.671	98.643	98.616	98.637	98.605	9.75	95.783	95.684	95.592	95.506	95.573	95.471
9.41	98.616	98.584	98.554	98.525	98.547	98.513	9.76	95.701	95.601	95.507	95.419	95.488	95.384
9.42	98.531	98.497	98.464	98.434	98.457	98.422	9.77	95.620	95.518	95.422	95.333	95.402	95.297
9.43	98.446	98.409	98.375	98.343	98.368	98.330	9.78	95.539	95.435	95.338	95.247	95.318	95.210
9.44	98.361	98.322	98.286	98.253	98.278	98.239	9.79	95.458	95.352	95.253	95.160	95.233	95.123
9.45	98.276	98.235	98.197	98.162	98.189	98.147	9.80	95.378	95.270	95.169	95.074	95.148	95.036
9.46	98.191	98.148	98.109	98.072	98.100	98.056	9.81	95.297	95.187	95.085	94.988	95.063	94.950
9.47	98.106	98.062	98.020	97.981	98.011	97.965	9.82	95.216	95.105	95.000	94.903	94.979	94.863
9.48	98.021	97.975	97.932	97.891	97.922	97.874	9.83	95.136	95.023	94.916	94.817	94.894	94.777
9.49	97.937	97.889	97.843	97.801	97.834	97.783	9.84	95.056	94.940	94.832	94.731	94.810	94.691
9.50	97.853	97.802	97.755	97.711	97.745	97.693	9.85	94.976	94.858	94.749	94.646	94.726	94.605
9.51	97.768	97.716	97.667	97.621	97.657	97.602	9.86	94.895	94.776	94.665	94.561	94.642	94.519
9.52	97.684	97.630	97.579	97.532	97.568	97.512	9.87	94.816	94.695	94.581	94.476	94.558	94.433
9.53	97.600	97.544	97.491	97.442	97.480	97.422	9.88	94.736	94.613	94.498	94.391	94.475	94.348
9.54	97.516	97.458	97.404	97.353	97.392	97.332	9.89	94.656	94.531	94.415	94.308	94.391	94.262
9.55	97.432	97.372	97.316	97.263	97.304	97.242	9.90	94.576	94.450	94.332	94.221	94.307	94.177
9.56	97.349	97.287	97.229	97.174	97.216	97.152	9.91	94.497	94.369	94.249	94.136	94.224	94.092
9.57	97.265	97.201	97.141	97.085	97.129	97.062	9.92	94.417	94.287	94.166	94.052	94.141	94.006
9.58	97.182	97.116	97.054	96.996	97.041	96.973	9.93	94.338	94.206	94.083	93.967	94.058	93.921
9.59	97.099	97.031	96.967	96.908	96.954	96.883	9.94	94.259	94.125	94.000	93.883	93.975	93.837

TABLE 5(CONT)

ANNUAL PERCENTAGE RATES INCLUDING MORTGAGE INSURANCE PREMIUMS
FOR FHA INSURED LEVEL PAYMENT AND GPM AMORTIZATION PLANS
WITH A CONTRACT RATE OF 8.75 PERCENT, .5 PERCENT INSURANCE PREMIUM AND 30 - YEAR TERM

APR	NET PROCEEDS PER HUNDRED DOLLARS OF FACE AMOUNT LEVEL PMT	GPM PLANS I	II	III	IV	V	APR	NET PROCEEDS PER HUNDRED DOLLARS OF FACE AMOUNT LEVEL PMT	GPM PLANS I	II	III	IV	V
9.95	94.180	94.044	93.917	93.799	93.892	93.752	10.10	93.008	92.845	92.693	92.551	92.663	92.495
9.96	94.101	93.964	93.835	93.715	93.809	93.667	10.11	92.930	92.766	92.612	92.469	92.582	92.413
9.97	94.022	93.883	93.753	93.631	93.726	93.583	10.12	92.853	92.687	92.532	92.386	92.501	92.330
9.98	93.943	93.802	93.670	93.547	93.644	93.498	10.13	92.776	92.608	92.451	92.304	92.420	92.247
9.99	93.865	93.722	93.588	93.463	93.561	93.414	10.14	92.699	92.530	92.371	92.223	92.340	92.165
10.00	93.786	93.642	93.506	93.390	93.479	93.330	10.15	92.623	92.451	92.291	92.141	92.259	92.083
10.01	93.708	93.562	93.425	93.296	93.397	93.246	10.16	92.546	92.373	92.211	92.059	92.179	92.000
10.02	93.630	93.482	93.343	93.213	93.315	93.162	10.17	92.469	92.294	92.131	91.978	92.098	91.918
10.03	93.552	93.402	93.261	93.130	93.233	93.078	10.18	92.393	92.216	92.051	91.896	92.018	91.836
10.04	93.474	93.322	93.180	93.047	93.151	92.995	10.19	92.316	92.138	91.971	91.815	91.938	91.755
10.05	93.396	93.242	93.098	92.964	93.069	92.911	10.20	92.240	92.060	91.891	91.734	91.858	91.673
10.06	93.318	93.162	93.017	92.881	92.988	92.828	10.21	92.164	91.982	91.812	91.653	91.778	91.591
10.07	93.240	93.083	92.936	92.798	92.906	92.744	10.22	92.088	91.904	91.732	91.572	91.699	91.510
10.08	93.163	93.004	92.855	92.716	92.825	92.661	10.23	92.012	91.827	91.653	91.491	91.619	91.429
10.09	93.085	92.924	92.774	92.633	92.744	92.578	10.24	91.936	91.749	91.574	91.410	91.540	91.347

TABLE 6

ANNUAL PERCENTAGE RATES INCLUDING MORTGAGE INSURANCE PREMIUMS
FOR FHA INSURED LEVEL PAYMENT AND GPM AMORTIZATION PLANS
WITH A CONTRACT RATE OF 9.00 PERCENT, .5 PERCENT INSURANCE PREMIUM AND 30 - YEAR TERM

APR	NET PROCEEDS PER HUNDRED DOLLARS OF FACE AMOUNT LEVEL PMT	GPM PLANS I	II	III	IV	V	APR	NET PROCEEDS PER HUNDRED DOLLARS OF FACE AMOUNT LEVEL PMT	GPM PLANS I	II	III	IV	V
9.50	99.999	99.999	99.999	100.000	99.999	100.000	9.85	97.059	96.989	96.923	96.862	96.910	96.838
9.51	99.913	99.911	99.909	99.908	99.909	99.907	9.86	96.977	96.905	96.838	96.774	96.824	96.750
9.52	99.827	99.823	99.819	99.816	99.819	99.814	9.87	96.895	96.821	96.752	96.687	96.738	96.662
9.53	99.741	99.735	99.730	99.724	99.728	99.722	9.88	96.813	96.738	96.667	96.600	96.653	96.574
9.54	99.656	99.647	99.640	99.633	99.638	99.630	9.89	96.732	96.654	96.581	96.513	96.567	96.487
9.55	99.570	99.560	99.550	99.541	99.548	99.538	9.90	96.650	96.571	96.496	96.427	96.482	96.399
9.56	99.484	99.472	99.461	99.450	99.458	99.446	9.91	96.569	96.488	96.411	96.340	96.396	96.312
9.57	99.399	99.385	99.371	99.359	99.369	99.354	9.92	96.488	96.405	96.326	96.253	96.311	96.225
9.58	99.314	99.298	99.282	99.268	99.279	99.262	9.93	96.407	96.322	96.242	96.167	96.226	96.138
9.59	99.229	99.210	99.193	99.177	99.190	99.171	9.94	96.326	96.239	96.157	96.081	96.141	96.051
9.60	99.144	99.123	99.104	99.086	99.100	99.079	9.95	96.245	96.156	96.073	95.994	96.056	95.964
9.61	99.059	99.037	99.016	98.996	99.011	98.988	9.96	96.165	96.074	95.988	95.908	95.972	95.878
9.62	98.974	98.950	98.927	98.905	98.922	98.897	9.97	96.084	95.991	95.904	95.823	95.887	95.791
9.63	98.890	98.863	98.838	98.815	98.833	98.806	9.98	96.004	95.909	95.820	95.737	95.803	95.705
9.64	98.805	98.777	98.750	98.725	98.745	98.715	9.99	95.923	95.827	95.736	95.651	95.718	95.618
9.65	98.721	98.690	98.662	98.635	98.656	98.624	10.00	95.843	95.744	95.652	95.566	95.634	95.532
9.66	98.636	98.604	98.574	98.545	98.567	98.534	10.01	95.763	95.662	95.568	95.480	95.550	95.446
9.67	98.552	98.518	98.486	98.455	98.479	98.443	10.02	95.683	95.581	95.485	95.395	95.466	95.360
9.68	98.468	98.432	98.398	98.366	98.391	98.353	10.03	95.603	95.499	95.401	95.310	95.382	95.275
9.69	98.384	98.346	98.310	98.276	98.303	98.263	10.04	95.523	95.417	95.318	95.225	95.298	95.189
9.70	98.301	98.260	98.222	98.187	98.215	98.173	10.05	95.444	95.336	95.234	95.140	95.215	95.103
9.71	98.217	98.175	98.135	98.098	98.127	98.083	10.06	95.364	95.254	95.151	95.055	95.131	95.018
9.72	98.133	98.089	98.047	98.008	98.039	97.993	10.07	95.285	95.173	95.068	94.970	95.048	94.933
9.73	98.050	98.004	97.960	97.919	97.951	97.903	10.08	95.205	95.092	94.985	94.886	94.965	94.848
9.74	97.967	97.918	97.873	97.831	97.864	97.814	10.09	95.126	95.011	94.902	94.801	94.882	94.763
9.75	97.884	97.833	97.786	97.742	97.777	97.724	10.10	95.047	94.930	94.820	94.717	94.799	94.678
9.76	97.801	97.748	97.699	97.653	97.689	97.635	10.11	94.968	94.849	94.737	94.633	94.716	94.593
9.77	97.718	97.663	97.612	97.565	97.602	97.546	10.12	94.889	94.768	94.655	94.549	94.633	94.508
9.78	97.635	97.579	97.526	97.477	97.515	97.457	10.13	94.810	94.688	94.572	94.465	94.550	94.424
9.79	97.552	97.494	97.439	97.388	97.428	97.368	10.14	94.732	94.607	94.490	94.381	94.468	94.339
9.80	97.470	97.409	97.353	97.300	97.342	97.280	10.15	94.653	94.527	94.408	94.297	94.385	94.255
9.81	97.387	97.325	97.267	97.212	97.255	97.191	10.16	94.575	94.447	94.326	94.214	94.303	94.171
9.82	97.305	97.241	97.181	97.124	97.169	97.102	10.17	94.497	94.366	94.244	94.130	94.221	94.087
9.83	97.223	97.157	97.095	97.037	97.082	97.014	10.18	94.418	94.286	94.163	94.047	94.139	94.003
9.84	97.141	97.073	97.009	96.949	96.996	96.926	10.19	94.340	94.206	94.081	93.964	94.057	93.919

TABLE 6(CONT)

ANNUAL PERCENTAGE RATES INCLUDING MORTGAGE INSURANCE PREMIUMS
FOR FHA INSURED LEVEL PAYMENT AND GPM AMORTIZATION PLANS
WITH A CONTRACT RATE OF 9.00 PERCENT, .5 PERCENT INSURANCE PREMIUM AND 30 - YEAR TERM

APR	NET PROCEEDS PER HUNDRED DOLLARS OF FACE AMOUNT LEVEL PMT	GPM PLANS I	II	III	IV	V	APR	NET PROCEEDS PER HUNDRED DOLLARS OF FACE AMOUNT LEVEL PMT	GPM PLANS I	II	III	IV	V
10.20	94.262	94.127	93.999	93.880	93.975	93.836	10.35	93.106	92.943	92.791	92.648	92.762	92.595
10.21	94.185	94.047	93.918	93.797	93.894	93.752	10.36	93.030	92.865	92.711	92.567	92.683	92.514
10.22	94.107	93.967	93.837	93.715	93.812	93.669	10.37	92.954	92.787	92.632	92.486	92.603	92.432
10.23	94.029	93.888	93.756	93.632	93.731	93.585	10.38	92.878	92.710	92.552	92.405	92.523	92.351
10.24	93.952	93.809	93.675	93.549	93.649	93.502	10.39	92.802	92.632	92.473	92.324	92.443	92.269
10.25	93.874	93.729	93.594	93.467	93.568	93.419	10.40	92.725	92.554	92.394	92.243	92.364	92.188
10.26	93.797	93.650	93.513	93.384	93.487	93.336	10.41	92.650	92.477	92.315	92.163	92.285	92.107
10.27	93.720	93.571	93.432	93.302	93.406	93.254	10.42	92.575	92.400	92.236	92.082	92.205	92.026
10.28	93.643	93.492	93.352	93.220	93.325	93.171	10.43	92.499	92.322	92.157	92.002	92.126	91.945
10.29	93.566	93.414	93.271	93.138	93.244	93.088	10.44	92.424	92.245	92.078	91.921	92.047	91.864
10.30	93.489	93.335	93.191	93.056	93.164	93.006	10.45	92.349	92.168	91.999	91.841	91.968	91.783
10.31	93.412	93.256	93.111	92.974	93.083	92.923	10.46	92.274	92.091	91.921	91.761	91.890	91.703
10.32	93.335	93.178	93.031	92.892	93.003	92.841	10.47	92.198	92.015	91.842	91.681	91.811	91.622
10.33	93.259	93.100	92.951	92.811	92.923	92.759	10.48	92.124	91.938	91.764	91.601	91.732	91.542
10.34	93.182	93.021	92.871	92.729	92.843	92.677	10.49	92.049	91.861	91.686	91.522	91.654	91.462

TABLE 7

ANNUAL PERCENTAGE RATES INCLUDING MORTGAGE INSURANCE PREMIUMS
FOR FHA INSURED LEVEL PAYMENT AND GPM AMORTIZATION PLANS
WITH A CONTRACT RATE OF 9.25 PERCENT, .5 PERCENT INSURANCE PREMIUM AND 30 - YEAR TERM

APR	NET PROCEEDS PER HUNDRED DOLLARS OF FACE AMOUNT LEVEL PMT	GPM PLANS I	II	III	IV	V	APR	NET PROCEEDS PER HUNDRED DOLLARS OF FACE AMOUNT LEVEL PMT	GPM PLANS I	II	III	IV	V
9.75	99.999	99.999	99.999	100.000	99.999	100.000	10.10	97.101	97.031	96.965	96.904	96.953	96.881
9.76	99.914	99.912	99.911	99.909	99.910	99.908	10.11	97.020	96.948	96.881	96.818	96.868	96.794
9.77	99.830	99.826	99.822	99.818	99.821	99.817	10.12	96.940	96.866	96.796	96.732	96.784	96.708
9.78	99.745	99.739	99.733	99.728	99.732	99.726	10.13	96.859	96.783	96.712	96.646	96.699	96.621
9.79	99.661	99.652	99.645	99.638	99.643	99.635	10.14	96.779	96.701	96.628	96.560	96.615	96.535
9.80	99.576	99.566	99.557	99.548	99.555	99.544	10.15	96.698	96.619	96.544	96.474	96.530	96.449
9.81	99.492	99.480	99.468	99.458	99.466	99.453	10.16	96.618	96.537	96.460	96.389	96.446	96.362
9.82	99.408	99.394	99.380	99.368	99.378	99.363	10.17	96.538	96.455	96.377	96.303	96.362	96.276
9.83	99.324	99.308	99.292	99.278	99.289	99.272	10.18	96.458	96.373	96.293	96.218	96.278	96.190
9.84	99.240	99.222	99.204	99.188	99.201	99.182	10.19	96.379	96.291	96.210	96.133	96.194	96.105
9.85	99.156	99.136	99.117	99.099	99.113	99.092	10.20	96.299	96.210	96.126	96.048	96.111	96.019
9.86	99.073	99.050	99.029	99.010	99.025	99.002	10.21	96.219	96.128	96.043	95.963	96.027	95.934
9.87	98.989	98.965	98.942	98.920	98.937	98.912	10.22	96.140	96.047	95.960	95.878	95.944	95.848
9.88	98.906	98.879	98.854	98.831	98.850	98.822	10.23	96.061	95.966	95.877	95.793	95.860	95.763
9.89	98.822	98.794	98.767	98.742	98.762	98.733	10.24	95.981	95.885	95.794	95.709	95.777	95.678
9.90	98.739	98.709	98.680	98.653	98.675	98.643	10.25	95.902	95.804	95.711	95.624	95.694	95.593
9.91	98.656	98.624	98.593	98.565	98.597	98.554	10.26	95.823	95.723	95.628	95.540	95.611	95.508
9.92	98.573	98.539	98.506	98.476	98.500	98.465	10.27	95.744	95.642	95.546	95.456	95.528	95.423
9.93	98.490	98.454	98.420	98.388	98.413	98.376	10.28	95.666	95.561	95.464	95.372	95.446	95.339
9.94	98.408	98.369	98.333	98.299	98.326	98.287	10.29	95.587	95.481	95.381	95.288	95.363	95.254
9.95	98.325	98.285	98.247	98.211	98.240	98.198	10.30	95.509	95.400	95.299	95.204	95.281	95.170
9.96	98.243	98.200	98.161	98.123	98.153	98.109	10.31	95.430	95.320	95.217	95.120	95.198	95.085
9.97	98.160	98.116	98.074	98.035	98.066	98.021	10.32	95.352	95.240	95.135	95.037	95.116	95.001
9.98	98.078	98.032	97.988	97.947	97.980	97.932	10.33	95.274	95.160	95.053	94.953	95.034	94.917
9.99	97.996	97.948	97.902	97.860	97.894	97.844	10.34	95.195	95.080	94.971	94.870	94.952	94.833
10.00	97.914	97.864	97.817	97.772	97.808	97.756	10.35	95.117	95.000	94.890	94.787	94.870	94.750
10.01	97.832	97.780	97.731	97.685	97.722	97.668	10.36	95.040	94.920	94.808	94.704	94.788	94.666
10.02	97.751	97.696	97.645	97.598	97.636	97.580	10.37	94.962	94.841	94.727	94.621	94.707	94.582
10.03	97.669	97.613	97.560	97.510	97.550	97.492	10.38	94.884	94.761	94.646	94.538	94.625	94.499
10.04	97.587	97.529	97.475	97.423	97.464	97.404	10.39	94.807	94.682	94.565	94.455	94.544	94.416
10.05	97.506	97.446	97.389	97.336	97.379	97.317	10.40	94.729	94.602	94.484	94.372	94.462	94.332
10.06	97.425	97.363	97.304	97.250	97.293	97.229	10.41	94.652	94.523	94.403	94.290	94.381	94.249
10.07	97.344	97.279	97.219	97.163	97.208	97.142	10.42	94.575	94.444	94.322	94.207	94.300	94.167
10.08	97.263	97.197	97.135	97.076	97.123	97.055	10.43	94.497	94.365	94.241	94.125	94.219	94.084
10.09	97.182	97.114	97.050	96.990	97.038	96.968	10.44	94.420	94.286	94.161	94.043	94.138	94.001

TABLE 7(CONT).

ANNUAL PERCENTAGE RATES INCLUDING MORTGAGE INSURANCE PREMIUMS
FOR FHA INSURED LEVEL PAYMENT AND GPM AMORTIZATION PLANS
WITH A CONTRACT RATE OF 9.25 PERCENT, .5 PERCENT INSURANCE PREMIUM AND 30 - YEAR TERM

APR	NET PROCEEDS PER HUNDRED DOLLARS OF FACE AMOUNT LEVEL PMT	GPM PLANS I	II	III	IV	V	APR	NET PROCEEDS PER HUNDRED DOLLARS OF FACE AMOUNT LEVEL PMT	GPM PLANS I	II	III	IV	V
10.45	94.344	94.208	94.080	93.961	94.058	93.918	10.60	93.203	93.040	92.887	92.744	92.861	92.694
10.46	94.267	94.129	94.000	93.879	93.977	93.836	10.61	93.128	92.963	92.809	92.664	92.782	92.613
10.47	94.190	94.051	93.920	93.797	93.897	93.754	10.62	93.053	92.886	92.730	92.584	92.703	92.533
10.48	94.113	93.972	93.840	93.715	93.816	93.671	10.63	92.978	92.809	92.652	92.504	92.624	92.452
10.49	94.037	93.894	93.760	93.634	93.736	93.589	10.64	92.903	92.733	92.573	92.424	92.546	92.372
10.50	93.961	93.816	93.680	93.552	93.656	93.507	10.65	92.828	92.656	92.495	92.344	92.467	92.292
10.51	93.884	93.738	93.600	93.471	93.576	93.426	10.66	92.753	92.580	92.417	92.265	92.389	92.212
10.52	93.808	93.660	93.520	93.390	93.496	93.344	10.67	92.679	92.503	92.339	92.185	92.311	92.132
10.53	93.732	93.582	93.441	93.309	93.416	93.262	10.68	92.604	92.427	92.261	92.106	92.233	92.052
10.54	93.656	93.504	93.361	93.228	93.336	93.181	10.69	92.530	92.351	92.183	92.026	92.155	91.972
10.55	93.580	93.426	93.282	93.147	93.257	93.099	10.70	92.456	92.275	92.106	91.947	92.077	91.892
10.56	93.505	93.349	93.203	93.066	93.177	93.018	10.71	92.381	92.199	92.028	91.868	91.999	91.813
10.57	93.429	93.272	93.124	92.985	93.098	92.937	10.72	92.307	92.123	91.951	91.789	91.921	91.733
10.58	93.354	93.194	93.045	92.905	93.019	92.856	10.73	92.233	92.048	91.873	91.710	91.844	91.654
10.59	93.278	93.117	92.986	92.824	92.940	92.775	10.74	92.160	91.972	91.796	91.632	91.766	91.575

TABLE 8

ANNUAL PERCENTAGE RATES INCLUDING MORTGAGE INSURANCE PREMIUMS
FOR FHA INSURED LEVEL PAYMENT AND GPM AMORTIZATION PLANS
WITH A CONTRACT RATE OF 9.50 PERCENT, .5 PERCENT INSURANCE PREMIUM AND 30 - YEAR TERM

APR	NET PROCEEDS PER HUNDRED DOLLARS OF FACE AMOUNT LEVEL PMT	I	II	GPM PLANS III	IV	V
10.00	99.999	99.999	99.999	100.000	100.000	100.000
10.01	99.916	99.914	99.912	99.910	99.912	99.910
10.02	99.832	99.828	99.824	99.821	99.824	99.820
10.03	99.749	99.743	99.737	99.732	99.736	99.730
10.04	99.668	99.657	99.650	99.643	99.648	99.640
10.05	99.582	99.572	99.563	99.554	99.561	99.550
10.06	99.499	99.487	99.476	99.465	99.474	99.461
10.07	99.417	99.402	99.389	99.376	99.386	99.372
10.08	99.334	99.317	99.302	99.288	99.299	99.283
10.09	99.251	99.233	99.215	99.199	99.212	99.194
10.10	99.168	99.148	99.129	99.111	99.126	99.105
10.11	99.086	99.064	99.043	99.023	99.039	99.016
10.12	99.004	98.979	98.956	98.935	98.952	98.927
10.13	98.922	98.895	98.870	98.847	98.866	98.839
10.14	98.839	98.811	98.784	98.759	98.780	98.750
10.15	98.758	98.727	98.698	98.672	98.693	98.662
10.16	98.676	98.643	98.613	98.584	98.607	98.574
10.17	98.594	98.559	98.527	98.497	98.521	98.486
10.18	98.512	98.476	98.442	98.409	98.435	98.398
10.19	98.431	98.392	98.356	98.322	98.350	98.310
10.20	98.349	98.309	98.271	98.235	98.264	98.223
10.21	98.268	98.226	98.186	98.148	98.179	98.135
10.22	98.187	98.143	98.101	98.062	98.093	98.048
10.23	98.108	98.060	98.016	97.975	98.008	97.961
10.24	98.025	97.977	97.931	97.889	97.923	97.873
10.25	97.944	97.894	97.847	97.802	97.838	97.786
10.26	97.864	97.811	97.762	97.716	97.753	97.700
10.27	97.783	97.729	97.678	97.630	97.669	97.613
10.28	97.703	97.646	97.593	97.544	97.584	97.526
10.29	97.622	97.564	97.509	97.458	97.500	97.440
10.30	97.542	97.482	97.425	97.372	97.415	97.353
10.31	97.462	97.400	97.341	97.286	97.331	97.267
10.32	97.382	97.318	97.257	97.201	97.247	97.181
10.33	97.302	97.236	97.174	97.116	97.163	97.095
10.34	97.222	97.154	97.090	97.030	97.079	97.009
10.35	97.142	97.072	97.007	96.945	96.995	96.924
10.36	97.063	96.991	96.923	96.860	96.912	96.838
10.37	96.983	96.910	96.840	96.775	96.828	96.753
10.38	96.904	96.828	96.757	96.690	96.745	96.667
10.39	96.825	96.747	96.674	96.606	96.662	96.582
10.40	96.746	96.666	96.591	96.521	96.578	96.497
10.41	96.667	96.585	96.509	96.437	96.495	96.412
10.42	96.588	96.504	96.426	96.353	96.413	96.327
10.43	96.509	96.424	96.344	96.268	96.330	96.242
10.44	96.430	96.343	96.261	96.184	96.247	96.158
10.45	96.352	96.263	96.179	96.100	96.165	96.073
10.46	96.273	96.182	96.097	96.017	96.082	95.989
10.47	96.195	96.102	96.015	95.933	96.000	95.905
10.48	96.117	96.022	95.933	95.849	95.918	95.820
10.49	96.039	95.942	95.851	95.766	95.836	95.736
10.50	95.961	95.862	95.769	95.682	95.754	95.653
10.51	95.883	95.782	95.688	95.599	95.672	95.569
10.52	95.805	95.703	95.606	95.516	95.590	95.485
10.53	95.727	95.623	95.525	95.433	95.508	95.402
10.54	95.650	95.544	95.444	95.350	95.427	95.318
10.55	95.572	95.464	95.363	95.267	95.346	95.235
10.56	95.495	95.385	95.282	95.185	95.264	95.152
10.57	95.418	95.306	95.201	95.102	95.183	95.069
10.58	95.341	95.227	95.120	95.020	95.102	94.986
10.59	95.264	95.148	95.039	94.938	95.021	94.903
10.60	95.187	95.069	94.959	94.855	94.940	94.820
10.61	95.110	94.991	94.878	94.773	94.860	94.738
10.62	95.033	94.912	94.798	94.691	94.779	94.655
10.63	94.957	94.834	94.718	94.610	94.699	94.573
10.64	94.880	94.755	94.638	94.528	94.618	94.491
10.65	94.804	94.677	94.558	94.446	94.538	94.409
10.66	94.727	94.599	94.478	94.365	94.458	94.327
10.67	94.651	94.521	94.398	94.284	94.378	94.245
10.68	94.575	94.443	94.319	94.202	94.298	94.163
10.69	94.499	94.365	94.239	94.121	94.218	94.082

TABLE 8(CONT)

ANNUAL PERCENTAGE RATES INCLUDING MORTGAGE INSURANCE PREMIUMS
FOR FHA INSURED LEVEL PAYMENT AND GPM AMORTIZATION PLANS
WITH A CONTRACT RATE OF 9.50 PERCENT, .5 PERCENT INSURANCE PREMIUM AND 30 - YEAR TERM

APR	NET PROCEEDS PER HUNDRED DOLLARS OF FACE AMOUNT LEVEL PMT	I	II	GPM PLANS III	IV	V
10.70	94.423	94.287	94.160	94.040	94.139	94.000
10.71	94.348	94.210	94.081	93.959	94.059	93.919
10.72	94.272	94.132	94.001	93.879	93.980	93.837
10.73	94.196	94.055	93.922	93.798	93.901	93.756
10.74	94.121	93.978	93.843	93.717	93.821	93.675
10.75	94.046	93.901	93.765	93.637	93.742	93.594
10.76	93.970	93.824	93.686	93.557	93.663	93.513
10.77	93.895	93.747	93.607	93.476	93.584	93.433
10.78	93.820	93.670	93.529	93.396	93.506	93.352
10.79	93.745	93.593	93.450	93.316	93.427	93.272
10.80	93.671	93.517	93.372	93.236	93.348	93.191
10.81	93.596	93.440	93.294	93.157	93.270	93.111
10.82	93.521	93.364	93.216	93.077	93.192	93.031
10.83	93.447	93.287	93.138	92.997	93.114	92.951
10.84	93.372	93.211	93.060	92.918	93.035	92.871
10.85	93.298	93.135	92.982	92.839	92.957	92.791
10.86	93.224	93.059	92.904	92.759	92.880	92.712
10.87	93.150	92.983	92.827	92.680	92.802	92.632
10.88	93.076	92.908	92.750	92.601	92.724	92.553
10.89	93.002	92.832	92.672	92.523	92.647	92.473
10.90	92.928	92.756	92.595	92.444	92.569	92.394
10.91	92.855	92.681	92.518	92.365	92.492	92.315
10.92	92.781	92.606	92.441	92.287	92.415	92.236
10.93	92.708	92.530	92.364	92.208	92.338	92.157
10.94	92.634	92.455	92.287	92.130	92.261	92.078
10.95	92.561	92.380	92.211	92.052	92.184	92.000
10.96	92.488	92.305	92.134	91.974	92.107	91.921
10.97	92.415	92.230	92.058	91.896	92.030	91.843
10.98	92.342	92.156	91.981	91.818	91.954	91.765
10.99	92.269	92.081	91.905	91.740	91.877	91.686

TABLE 9

ANNUAL PERCENTAGE RATES INCLUDING MORTGAGE INSURANCE PREMIUMS
FOR FHA INSURED LEVEL PAYMENT AND GPM AMORTIZATION PLANS
WITH A CONTRACT RATE OF 9.75 PERCENT, .5 PERCENT INSURANCE PREMIUM AND 30 - YEAR TERM

APR	NET PROCEEDS PER HUNDRED DOLLARS OF FACE AMOUNT						APR	NET PROCEEDS PER HUNDRED DOLLARS OF FACE AMOUNT					
	LEVEL PMT	GPM PLANS I	II	III	IV	V		LEVEL PMT	GPM PLANS I	II	III	IV	V
10.25	99.999	99.999	100.000	100.000	100.000	100.000	10.60	97.183	97.113	97.048	96.986	97.037	96.966
10.26	99.917	99.915	99.913	99.911	99.913	99.911	10.61	97.105	97.033	96.965	96.902	96.955	96.881
10.27	99.835	99.831	99.827	99.823	99.826	99.822	10.62	97.027	96.953	96.883	96.818	96.872	96.797
10.28	99.752	99.746	99.741	99.735	99.740	99.733	10.63	96.948	96.873	96.801	96.735	96.790	96.713
10.29	99.670	99.662	99.655	99.647	99.653	99.645	10.64	96.870	96.793	96.720	96.651	96.708	96.628
10.30	99.589	99.578	99.569	99.560	99.567	99.557	10.65	96.792	96.713	96.638	96.568	96.626	96.545
10.31	99.507	99.494	99.483	99.472	99.481	99.469	10.66	96.714	96.633	96.556	96.484	96.544	96.461
10.32	99.425	99.411	99.397	99.385	99.395	99.380	10.67	96.637	96.553	96.475	96.401	96.462	96.377
10.33	99.343	99.327	99.312	99.297	99.309	99.292	10.68	96.559	96.473	96.393	96.318	96.380	96.293
10.34	99.262	99.244	99.226	99.210	99.223	99.205	10.69	96.481	96.394	96.312	96.235	96.299	96.210
10.35	99.181	99.160	99.141	99.123	99.138	99.117	10.70	96.404	96.315	96.231	96.152	96.217	96.126
10.36	99.099	99.077	99.056	99.036	99.052	99.029	10.71	96.327	96.235	96.150	96.069	96.136	96.043
10.37	99.018	98.994	98.971	98.949	98.967	98.942	10.72	96.249	96.156	96.069	95.987	96.055	95.960
10.38	98.937	98.911	98.886	98.863	98.882	98.855	10.73	96.172	96.077	95.988	95.904	95.974	95.877
10.39	98.856	98.828	98.801	98.776	98.797	98.768	10.74	96.095	95.998	95.907	95.822	95.893	95.794
10.40	98.775	98.745	98.716	98.690	98.712	98.680	10.75	96.018	95.919	95.827	95.740	95.812	95.711
10.41	98.695	98.662	98.632	98.603	98.627	98.594	10.76	95.941	95.841	95.746	95.657	95.731	95.629
10.42	98.614	98.580	98.547	98.517	98.542	98.507	10.77	95.865	95.762	95.666	95.575	95.651	95.546
10.43	98.534	98.497	98.463	98.431	98.457	98.420	10.78	95.788	95.684	95.586	95.493	95.570	95.464
10.44	98.453	98.415	98.379	98.345	98.373	98.334	10.79	95.712	95.605	95.505	95.412	95.490	95.381
10.45	98.373	98.333	98.295	98.259	98.288	98.247	10.80	95.635	95.527	95.425	95.330	95.410	95.299
10.46	98.293	98.251	98.211	98.173	98.204	98.161	10.81	95.559	95.449	95.345	95.248	95.329	95.217
10.47	98.213	98.169	98.127	98.088	98.120	98.075	10.82	95.483	95.371	95.266	95.167	95.249	95.135
10.48	98.133	98.087	98.043	98.002	98.036	97.989	10.83	95.407	95.293	95.186	95.086	95.169	95.053
10.49	98.053	98.005	97.960	97.917	97.952	97.903	10.84	95.331	95.215	95.106	95.004	95.090	94.972
10.50	97.974	97.923	97.878	97.832	97.868	97.817	10.85	95.255	95.137	95.027	94.923	95.010	94.890
10.51	97.894	97.842	97.793	97.747	97.785	97.731	10.86	95.179	95.060	94.948	94.842	94.930	94.809
10.52	97.815	97.761	97.709	97.662	97.701	97.646	10.87	95.103	94.982	94.868	94.761	94.851	94.727
10.53	97.736	97.679	97.626	97.577	97.618	97.560	10.88	95.028	94.905	94.789	94.681	94.771	94.646
10.54	97.656	97.598	97.543	97.492	97.534	97.475	10.89	94.952	94.827	94.710	94.600	94.692	94.565
10.55	97.577	97.517	97.460	97.407	97.451	97.390	10.90	94.877	94.750	94.631	94.519	94.613	94.484
10.56	97.498	97.436	97.378	97.323	97.368	97.305	10.91	94.802	94.673	94.552	94.439	94.534	94.403
10.57	97.419	97.355	97.295	97.238	97.285	97.220	10.92	94.727	94.596	94.474	94.359	94.455	94.322
10.58	97.341	97.274	97.212	97.154	97.202	97.135	10.93	94.652	94.519	94.395	94.278	94.376	94.241
10.59	97.262	97.194	97.130	97.070	97.120	97.050	10.94	94.577	94.443	94.317	94.198	94.297	94.161

TABLE 9(CONT)

ANNUAL PERCENTAGE RATES INCLUDING MORTGAGE INSURANCE PREMIUMS
FOR FHA INSURED LEVEL PAYMENT AND GPM AMORTIZATION PLANS
WITH A CONTRACT RATE OF 9.75 PERCENT, .5 PERCENT INSURANCE PREMIUM AND 30 - YEAR TERM

APR	NET PROCEEDS PER HUNDRED DOLLARS OF FACE AMOUNT						APR	NET PROCEEDS PER HUNDRED DOLLARS OF FACE AMOUNT					
	LEVEL PMT	GPM PLANS I	II	III	IV	V		LEVEL PMT	GPM PLANS I	II	III	IV	V
10.95	94.502	94.366	94.238	94.118	94.219	94.080	11.10	93.392	93.229	93.076	92.932	93.053	92.887
10.96	94.427	94.289	94.160	94.038	94.140	94.000	11.11	93.319	93.154	92.999	92.854	92.976	92.809
10.97	94.353	94.213	94.082	93.959	94.062	93.920	11.12	93.246	93.079	92.922	92.776	92.899	92.730
10.98	94.278	94.137	94.004	93.879	93.984	93.840	11.13	93.173	93.004	92.846	92.698	92.823	92.652
10.99	94.204	94.060	93.926	93.799	93.905	93.760	11.14	93.100	92.930	92.770	92.620	92.746	92.573
11.00	94.129	93.984	93.848	93.720	93.827	93.680	11.15	93.027	92.855	92.693	92.542	92.670	92.495
11.01	94.055	93.908	93.770	93.641	93.749	93.600	11.16	92.954	92.781	92.617	92.464	92.593	92.417
11.02	93.981	93.832	93.693	93.562	93.672	93.521	11.17	92.882	92.706	92.541	92.387	92.517	92.339
11.03	93.907	93.757	93.615	93.482	93.594	93.441	11.18	92.809	92.632	92.465	92.309	92.441	92.261
11.04	93.833	93.681	93.538	93.403	93.516	93.362	11.19	92.737	92.558	92.390	92.232	92.365	92.183
11.05	93.759	93.605	93.460	93.325	93.439	93.282	11.20	92.664	92.484	92.314	92.155	92.289	92.106
11.06	93.686	93.530	93.383	93.246	93.361	93.203	11.21	92.592	92.410	92.238	92.077	92.213	92.028
11.07	93.612	93.454	93.306	93.167	93.284	93.124	11.22	92.520	92.336	92.163	92.000	92.138	91.951
11.08	93.539	93.379	93.229	93.089	93.207	93.045	11.23	92.448	92.262	92.087	91.923	92.062	91.873
11.09	93.465	93.304	93.152	93.010	93.130	92.966	11.24	92.376	92.188	92.012	91.847	91.987	91.796

TABLE 10

ANNUAL PERCENTAGE RATES INCLUDING MORTGAGE INSURANCE PREMIUMS
FOR FHA INSURED LEVEL PAYMENT AND GPM AMORTIZATION PLANS
WITH A CONTRACT RATE OF 10.00 PERCENT, .5 PERCENT INSURANCE PREMIUM AND 30 - YEAR TERM

APR	NET PROCEEDS PER HUNDRED DOLLARS OF FACE AMOUNT LEVEL PMT	I	II	GPM PLANS III	IV	V	APR	NET PROCEEDS PER HUNDRED DOLLARS OF FACE AMOUNT LEVEL PMT	I	II	GPM PLANS III	IV	V
10.50	99.999	99.999	100.000	100.000	100.000	100.000	10.85	97.224	97.154	97.088	97.026	97.078	97.007
10.51	99.918	99.916	99.914	99.913	99.914	99.912	10.86	97.146	97.074	97.007	96.943	96.997	96.924
10.52	99.837	99.833	99.829	99.826	99.829	99.825	10.87	97.069	96.995	96.926	96.861	96.915	96.840
10.53	99.756	99.750	99.744	99.739	99.743	99.737	10.88	96.992	96.916	96.845	96.778	96.834	96.757
10.54	99.675	99.667	99.659	99.652	99.658	99.650	10.89	96.915	96.837	96.764	96.695	96.753	96.674
10.55	99.594	99.584	99.575	99.566	99.573	99.563	10.90	96.838	96.758	96.683	96.613	96.672	96.591
10.56	99.514	99.502	99.490	99.479	99.488	99.476	10.91	96.761	96.680	96.603	96.531	96.592	96.509
10.57	99.433	99.419	99.406	99.393	99.404	99.389	10.92	96.684	96.601	96.522	96.449	96.511	96.426
10.58	99.353	99.337	99.321	99.307	99.319	99.302	10.93	96.608	96.522	96.442	96.367	96.430	96.344
10.59	99.273	99.254	99.237	99.221	99.234	99.216	10.94	96.531	96.444	96.362	96.285	96.350	96.261
10.60	99.192	99.172	99.153	99.135	99.150	99.129	10.95	96.455	96.366	96.282	96.203	96.270	96.179
10.61	99.112	99.090	99.069	99.049	99.066	99.043	10.96	96.379	96.288	96.202	96.121	96.189	96.097
10.62	99.032	99.008	98.985	98.963	98.981	98.957	10.97	96.303	96.210	96.122	96.040	96.109	96.015
10.63	98.953	98.926	98.901	98.878	98.897	98.870	10.98	96.226	96.132	96.042	95.958	96.029	95.933
10.64	98.873	98.844	98.818	98.792	98.813	98.784	10.99	96.151	96.054	95.963	95.877	95.949	95.851
10.65	98.793	98.763	98.734	98.707	98.730	98.699	11.00	96.075	95.976	95.883	95.796	95.870	95.769
10.66	98.714	98.681	98.651	98.622	98.646	98.613	11.01	95.999	95.898	95.804	95.715	95.790	95.688
10.67	98.634	98.600	98.567	98.537	98.562	98.527	11.02	95.923	95.821	95.724	95.634	95.710	95.606
10.68	98.555	98.518	98.484	98.452	98.479	98.442	11.03	95.848	95.743	95.645	95.553	95.631	95.525
10.69	98.476	98.437	98.401	98.367	98.396	98.356	11.04	95.772	95.666	95.566	95.472	95.552	95.444
10.70	98.397	98.356	98.318	98.282	98.312	98.271	11.05	95.697	95.589	95.487	95.392	95.472	95.363
10.71	98.318	98.275	98.235	98.198	98.229	98.186	11.06	95.622	95.512	95.408	95.311	95.393	95.282
10.72	98.239	98.194	98.153	98.113	98.146	98.101	11.07	95.547	95.435	95.329	95.231	95.314	95.201
10.73	98.160	98.114	98.070	98.029	98.063	98.016	11.08	95.472	95.358	95.251	95.150	95.235	95.120
10.74	98.081	98.033	97.988	97.945	97.981	97.931	11.09	95.397	95.281	95.172	95.070	95.157	95.039
10.75	98.003	97.953	97.905	97.861	97.898	97.847	11.10	95.322	95.204	95.094	94.990	95.078	94.959
10.76	97.924	97.872	97.823	97.777	97.815	97.762	11.11	95.247	95.128	95.015	94.910	95.000	94.878
10.77	97.846	97.792	97.741	97.693	97.733	97.678	11.12	95.172	95.051	94.937	94.830	94.921	94.798
10.78	97.768	97.712	97.659	97.609	97.651	97.594	11.13	95.098	94.975	94.859	94.750	94.843	94.718
10.79	97.690	97.632	97.577	97.525	97.569	97.509	11.14	95.024	94.899	94.781	94.671	94.765	94.638
10.80	97.612	97.552	97.495	97.442	97.487	97.425	11.15	94.949	94.822	94.703	94.591	94.686	94.558
10.81	97.534	97.472	97.413	97.358	97.405	97.341	11.16	94.875	94.746	94.625	94.512	94.608	94.478
10.82	97.456	97.392	97.332	97.275	97.323	97.258	11.17	94.801	94.670	94.548	94.433	94.531	94.398
10.83	97.379	97.313	97.250	97.192	97.241	97.174	11.18	94.727	94.595	94.470	94.353	94.453	94.319
10.84	97.301	97.233	97.169	97.109	97.160	97.090	11.19	94.653	94.519	94.393	94.274	94.375	94.239

TABLE10(CONT)

ANNUAL PERCENTAGE RATES INCLUDING MORTGAGE INSURANCE PREMIUMS
FOR FHA INSURED LEVEL PAYMENT AND GPM AMORTIZATION PLANS
WITH A CONTRACT RATE OF 10.00 PERCENT, .5 PERCENT INSURANCE PREMIUM AND 30 - YEAR TERM

APR	NET PROCEEDS PER HUNDRED DOLLARS OF FACE AMOUNT LEVEL PMT	I	II	GPM PLANS III	IV	V	APR	NET PROCEEDS PER HUNDRED DOLLARS OF FACE AMOUNT LEVEL PMT	I	II	GPM PLANS III	IV	V
11.20	94.579	94.443	94.315	94.195	94.297	94.160	11.35	93.484	93.321	93.168	93.024	93.147	92.982
11.21	94.505	94.368	94.238	94.116	94.220	94.080	11.36	93.412	93.247	93.092	92.948	93.071	92.904
11.22	94.432	94.292	94.161	94.038	94.143	94.001	11.37	93.340	93.173	93.016	92.869	92.995	92.827
11.23	94.358	94.217	94.084	93.959	94.065	93.922	11.38	93.268	93.099	92.941	92.792	92.920	92.749
11.24	94.285	94.142	94.007	93.880	93.988	93.843	11.39	93.196	93.026	92.868	92.715	92.844	92.672
11.25	94.212	94.067	93.930	93.802	93.911	93.764	11.40	93.124	92.952	92.790	92.638	92.769	92.595
11.26	94.138	93.992	93.853	93.724	93.834	93.686	11.41	93.052	92.879	92.715	92.562	92.693	92.518
11.27	94.065	93.917	93.777	93.645	93.758	93.607	11.42	92.981	92.805	92.640	92.485	92.618	92.441
11.28	93.992	93.842	93.700	93.567	93.681	93.528	11.43	92.909	92.732	92.565	92.409	92.543	92.364
11.29	93.919	93.767	93.624	93.489	93.604	93.450	11.44	92.838	92.659	92.490	92.332	92.468	92.287
11.30	93.847	93.693	93.548	93.411	93.528	93.372	11.45	92.766	92.586	92.416	92.256	92.393	92.210
11.31	93.774	93.618	93.471	93.334	93.451	93.294	11.46	92.695	92.513	92.341	92.180	92.318	92.134
11.32	93.701	93.544	93.395	93.256	93.375	93.215	11.47	92.624	92.440	92.266	92.104	92.243	92.057
11.33	93.629	93.469	93.319	93.178	93.299	93.138	11.48	92.553	92.367	92.192	92.028	92.169	91.981
11.34	93.556	93.395	93.243	93.101	93.223	93.060	11.49	92.482	92.294	92.118	91.952	92.094	91.905

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This is an official staff interpretation of Regulation Z, issued after publication for comment in accordance with § 226.1(d)(2) of the regulation, and it is strictly limited to the situation discussed herein. It will become effective upon publication in the FEDERAL REGISTER.

Sincerely,

NATHANIEL E. BUTLER,
Associate Director.

Board of Governors of the Federal Reserve System, December 20, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 79-175 Filed 1-2-79; 8:45 am]

[6355-01-M]

Title 16—Commercial Practices

CHAPTER II—CONSUMER PRODUCT SAFETY COMMISSION

SUBCHAPTER B—CONSUMER PRODUCT SAFETY ACT REGULATIONS

PART 1302—BAN OF EXTREMELY FLAMMABLE CONTACT ADHESIVES

PART 1303—BAN OF LEAD-CONTAINING PAINT AND CERTAIN CONSUMER PRODUCTS BEARING LEAD-CONTAINING PAINT

Final Rule; Correction

AGENCY: Consumer Product Safety Commission.

ACTION: Corrections.

SUMMARY: This rule corrects the titles of 16 CFR Parts 1302 and 1303. Part 1302 was published as FR Doc. 77-36116, and appeared at page 63731 in the Monday, December 19, 1977 issue of the FEDERAL REGISTER. Part 1303 was published as FR Doc. 77-25472, and appeared at page 44201 of the Thursday, September 1, 1977 issue of the FEDERAL REGISTER.

DATE: The corrections are effective January 3, 1979.

FOR FURTHER INFORMATION CONTACT:

David Melnick, 202-634-7770.

SUPPLEMENTARY INFORMATION: This correction adds the words "BAN OF" to the titles of Parts 1302 and 1303 so as to clearly indicate the nature of the rules set forth in those parts and to make the titles of Parts 1302 and 1303 consistent with other banning rules appearing in the CFR. This correction does not change any provision of the rules other than the title and the rules remain in effect as published in the CFR.

Accordingly, the title of Parts 1302 and 1303 are amended to read as follows:

PART 1302—BAN OF EXTREMELY FLAMMABLE CONTACT ADHESIVES

PART 1303—BAN OF LEAD-CONTAINING PAINT AND CERTAIN CONSUMER PRODUCTS BEARING LEAD-CONTAINING PAINT

Dated: December 22, 1978.

SADYE E. DUNN,
Secretary, Consumer Product Safety Commission.

[FR Doc. 79-250 Filed 1-2-79; 8:45 am]

[4210-01-M]

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI 4800]

PART 1914—COMMUNITIES ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final Rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The date listed in the fourth column of the table.

ADDRESSES: The addresses where flood insurance policies can be obtained are published at 24 CFR 1912.7.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, DC 20410.

SUPPLEMENTARY INFORMATION: The Flood Disaster Protection Act of 1973 (Pub. L. 93-234), amended, requires the purchase of flood insurance as a condition of Federal financial assistance of insurable property if such assistance is:

(1) For acquisition and construction purposes as defined in Part 1909 of Title 24 of the Code of Federal Regulations and

(2) For property located in a special flood hazard area identified by the Secretary of Housing and Urban Development.

The requirement applies to all identified special flood hazard areas within the United States, and no such financial assistance can legally be provided for acquisition or construction except as authorized by section 202(a) of the Act unless the community has entered the program. Accordingly, for communities listed under this part no such restriction exists, although insurance, if required, must be purchased.

Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurers Association (NFIA) servicing company for the State.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

Section 1914.6 is amended by adding in alphabetical sequence new entries to the table.

§ 1914.6 List of eligible communities.

State	County	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
California	Ventura	Ojai, City of	060416-B	November 15, 1978, suspension withdrawn.	5-3-74 & 11-28-75.
Do	Solano	Vallejo, City of	060374-B	do	7-19-74 & 12-12-75.
Georgia	Coweta	Newnan, City of	130062-B	do	11-15-78.
Illinois	DuPage & Cook	Hanover Park, Village of	170099-B	do	4-12-74 & 2-13-76.
Do	Cook	LaGrange Park, Village of	170115-B	do	6-28-74 & 10-10-75.
Kansas	Johnson	Olathe, City of	200173-B	do	3-1-74 & 2-28-75.
Do	do	Shawnee, City of	200177-B	do	6-28-74 & 11-21-75.
Massachusetts	Hampden	Hampden, Town of	250140-B	do	6-21-74 & 7-30-76.
Michigan	Ottowa	Holland, City of	260492-B	do	7-9-76 & 4-12-74.
Minnesota	Yellow Medicine	Unincorporated Areas	270544-A	do	8-19-77.
New Jersey	Middlesex	Carteret, Borough of	340257-A	do	1-9-74.
New York	Cattaraugus	Allegany, Town of	360061-B	do	8-26-74 & 7-30-76.
Do	Suffolk	Southampton, Town of	365342-B	do	9-28-73.
Do	do	Westhampton Beach, Village of	365345-C	do	7-1-72.
North Carolina	Wake	Morrisville, Town of	370242-B	do	10-29-76.
Ohio	Franklin	Bexley, City of	390168-B	do	5-17-74 & 4-23-76.
Pennsylvania	Schuylkill	Gordon, Borough of	420773-B	do	9-6-74 & 5-7-76.
Vermont	Chittendon	Burlington, City of	500032-B	do	7-19-74 & 3-4-77.
Virginia	Scott	Weber City, Town of	510146-B	do	5-10-74 & 6-25-76.

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	Community No.
Pennsylvania	Monroe	East Stroudsburg, Borough of.	Mar. 26, 1974, emergency; Sept. 29, 1978, regular; Sept. 29, 1978, suspended; Oct. 30, 1978, reinstated.	May 4, 1974 June 4, 1976	420691
Tennessee	Sevier	Pigeon Forge, City of	Nov. 13, 1971, emergency; Sept. 1, 1972, regular; Dec. 15, 1975, suspended; Oct. 30, 1978, reinstated.	Aug. 31, 1972	475442-A
Idaho	Bannock	McCammon, City of	Dec. 21, 1978, emergency; Dec. 21, 1978, regular.	Apr. 23, 1976	160176-A
Indiana	Fountain	Unincorporated Areas	Dec. 21, 1978, emergency	Nov. 4, 1977	180064
Michigan	Lenawee	Deerfield, Township of	do		260717-New
Alabama	Lawrence	Hillsboro, Town of	do	Oct. 1, 1976	010305
Arkansas	Lincoln	Unincorporated Areas	do	June 28, 1977	050445-A
Kentucky	Johnson	Unincorporated Areas	Oct. 30, 1978, emergency	Nov. 11, 1977	210339
Minnesota	Dakota	Miesville, City of	Dec. 21, 1978, emergency; Dec. 21, 1978, regular.	July 19, 1974 Jan. 23, 1976	270111-A
North Carolina	Rowan	China Grove, Town of	Dec. 21, 1978, emergency; Dec. 21, 1978, regular.	Jan. 9, 1974	370210-A
Texas	San Augustine	Unincorporated Areas	Dec. 21, 1978 emergency		481183
Florida	Lake	Unincorporated Areas	do	May 26, 1978	120421
Kentucky	McLean	Calhoun, City of	do	Feb. 1, 1974	210154-A
Minnesota	Hennepin	Medicine Lake, City of	do	Dec. 17, 1976	270690
Ohio	Wyandot	Unincorporated Areas	do	Feb. 17, 1978	390787
Michigan	St. Clair	St. Clair, Township of	Mar. 9, 1973, emergency; Aug. 1, 1978, regular; Aug. 1, 1978, suspended; Dec. 21, 1978, reinstated.	Sept. 20, 1974 Sept. 24, 1976	260205-B
Pennsylvania	Carbon	Palmerton, Borough of	Mar. 29, 1974, emergency; Sept. 15, 1978, regular; Sept. 15, 1978, suspended; Dec. 21, 1978, reinstated.		420253-A
Wisconsin	Lafayette	Unincorporated Areas	Mar. 10, 1972, emergency; Sept. 15, 1978, regular; Sept. 15, 1978, suspended; Dec. 21, 1978, reinstated.	Dec. 27, 1974	550223 A
Mississippi	Noxubee	Unincorporated Areas	Dec. 21, 1978, emergency	Dec. 23, 1977	280305
Do	Webster	Unincorporated Areas	do	Feb. 24, 1978	280284
Do	Winston	Unincorporated Areas	do	Dec. 2, 1977	280308
Oklahoma	Ellis	Shattuck, Town of	Dec. 21, 1978, emergency	May 24, 1974 Apr. 30, 1976	
South Carolina	Fairfield	Unincorporated Areas	do	Nov. 25, 1977	450075
Illinois	Jaspar	Newton, City of	do	Dec. 17, 1973 May 28, 1976	170303-A
Louisiana	Webster Parish	Cotton Valley, Town of	do	Jan. 14, 1977	220322-A
Michigan	Livingston	Putnam, Township of	do	July 22, 1977	260422
Minnesota	Goodhue	Dennison, City of	do		270713
Ohio	Jefferson	Richmond, Village of	do	Aug. 22, 1975	390724
Pennsylvania	Butler	Concord, Township of	do	Jan. 17, 1975	422346
Do	Beaver	Frankford Springs, Borough of.	do	Jan. 17, 1975	422315
Do	Allegheny	Sewickley Heights, Borough of.	do	Mar. 22, 1974 May 17, 1974	420071-B
Do	Greene	Whiteley, Township of	do	Dec. 27, 1974 Apr. 30, 1976	421680-A
Minnesota	Hennepin	Osseo, City of	Dec. 21, 1978, emergency; Dec. 21, 1978, regular.	Jan. 10, 1975	270658
Mississippi	Pike	Magnolia, City of	Dec. 21, 1978, emergency	Nov. 25, 1977	280297

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State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	Community No.
•	•	•	•	•	•
New York	Chautauqua	Brocton, Village of	do	Aug. 27, 1976	360134
Kansas	Labette	Unincorporated Areas	do	Oct. 25, 1977	200590-A
Ohio	Lake	Waite Hill, Village of	do	Dec. 17, 1973	390649-A
				June 25, 1976	
Texas	Lampasas	Unincorporated Areas	do	Nov. 8, 1977	480899-A
South Carolina	Laurens	do	do	Nov. 25, 1977	450122
New York	Cattaraugus	Cold Springs, Town of	Dec. 21, 1978, emergency; Dec. 21, 1978, regular.	June 21, 1974	360064-B
				June 25, 1976	
Do	Allegany	Wirt, Town of	Dec. 21, 1978, emergency		361597-New
Kansas	Neosho	St. Paul, City of	Dec. 21, 1978, emergency	Sept. 19, 1975	200526
Kentucky	Henry	Unincorporated Areas	Dec. 20, 1978, emergency	Oct. 18, 1974	210110
				May 20, 1977	
Do	Magoffin	do	Dec. 18, 1978, emergency	Aug. 26, 1977	210158
Mississippi	Pontotoc & Union	Sherman, Town of	Dec. 21, 1978, emergency	June 10, 1977	280296-A
Missouri	Andrew	Savannah, City of	do	Nov. 5, 1976	290664
New Mexico	Tribal Territory	Zuni, Pueblo of	do		350143-New
Pennsylvania	Huntingdon	Jackson, Township of	do	Dec. 13, 1974	421691
Texas	Williamson	Leander, City of	do		481536-New
Alabama	Pickens	Ethelsville, Town of	do	Feb. 25, 1977	010281-A
Indiana	Parke	Mecca, Town of	do	Jan. 23, 1974	180330-A
				June 18, 1976	
Kentucky	Henry	Lockport, City of	Dec. 20, 1978, emergency		210360-New
Louisiana	Rapides	Forest Hill, Village of	Dec. 21, 1978, emergency	Nov. 12, 1976	220287
Ohio	Seneca	Bettsville, Village of	do	Apr. 12, 1974	390500-A
Do	Jackson	Coalton, Village of	do	Feb. 1, 1974	390291-A
				May 21, 1976	
Colorado	Pueblo	Pueblo, City of	June 18, 1971, emergency; Aug. 24, 1973, regular; Apr. 30, 1976, suspended; Dec. 21, 1978, reinstated.		

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (42 U.S.C. 4001-4128), and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557. 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-51 Filed 1-2-79; 8:45 am]

[4210-01-M]

[Docket No. FI 4801]

PART 1915—IDENTIFICATION AND MAPPING OF SPECIAL HAZARD AREAS

List of Communities with Special Hazard Areas

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final Rule.

SUMMARY: This rule identifies communities with areas of special flood, mudslide, or erosion hazards as authorized by the National Flood Insurance Program (NFIP). The identification of such areas is to provide guidance to communities on the reduction of property losses, by the adoption of appropriate flood plain managment, or other measures to minimize damage. It will enable communities to guide future construction, where practicable, away from locations which are threatened by food or other hazards.

EFFECTIVE DATES: The date listed in the eighth column of the table or February 2, 1979, whichever is later.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, DC 20410.

SUPPLEMENTARY INFORMATION: The Flood Disaster Protection Act of 1973 (Pub. L. 93-234), as amended, requires the purchase of flood insurance as a condition of Federal financial assistance of insurable property if such assistance is:

(1) For acquisition and construction of buildings as defined in Part 1909 of Title 24 of the Code of Federal Regulations, and

(2) For buildings located in a special flood hazard area identified by the Secretary of Housing and Urban Development.

For communities participating in the NFIP, (see the fifth column in the table for a community's program status), this requirement applies on the date listed in the eighth column. For communities not participating in the program, Section 202 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), as amended, provides that no direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area effective one year from the hazard identification date (the date in the eighth column of the table).

This 30 day period before the map action becomes effective does not supersede the statutory requirement that a community, whether or not participating in the program, be given the opportunity for a period of six months to establish that it is not seriously flood prone or that such flood hazards as may have existed have been corrected by floodworks or other flood control methods. The six months period shall be considered to begin February 2, 1979, or the effective date of the

Flood Hazard Boundary Map, whichever is later. Similarly, the one year period a community has to enter the program under section 201(d) of the Flood Disaster Protection Act of 1973 shall be considered to begin 30 days after publication in the FEDERAL REGISTER or the effective date of the Flood Hazard Boundary Map, whicherver is later.

This identification is made in accordance with Part 1915 of Title 24 of the Code of Federal Regulations as authorized by the National Flood Insurance Program (42 U.S.C. 4001-4128).

Section 1915.3 is amended by adding in alphabetical sequence a new entry to the table:

§ 1915.3 List of communities with special hazard areas (FHBMs in effect).

JA 3 79 UMI

[4210-01-C]

STATE	COUNTY	COMMUNITY NAME AND NO. OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM AND CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE (S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
IL	White	White County (Uninc. 0001A-0006A Areas)	170906	N-5	I	F	Dec. 1, 1978	Dec. 1, 1978	Gene Garrett, Ch. Co. Bd. Courthouse East Main Street Carmi, IL 62821 Phone: (618) 382-7211
TN	Van Buren	Van Buren County (Uninc. 0001A-0004A only Areas)	470342	N-5	I	F	Dec. 1, 1978	Dec. 1, 1978	A. P. Baker, Judge Box 217 Spencer, TN 38585 Phone: (615) 946-2314
WI	Taylor	Taylor County (Uninc. 0001A-0012A Areas)	550599	N-5	I	F	Dec. 1, 1978	Dec. 1, 1978	Vernon Brecke, Ch. Co. Bd. Courthouse Medford, WI 54451 Phone: (715) 748-3131

STATE	COUNTY	COMMUNITY NAME & NUMBER OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM & CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE(S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
IA	Uninc. Area	Fremont County 0001A-0006A	190868 A	E-5	I	F	5 DEC 78	5 DEC 78	Mr. Jack Shirley - Chairman - Fremont County - Board of Supervisors - Sidney, IA 51652 (712) 374-2415
OK	Grady	City of Minco 0001B-0002B	400406 B	N-8,11,12	I	F	28 JAN 77	5 DEC 78	Honorable Glenn Gibson - Mayor - P.O. Box 512 - Minco, OK 73059 (405) 352-4274
SD	Beadle	Town of Wolsey 0001A	460150 A	N-12	I	F	13 AUG 76	5 DEC 78	Honorable Charles Tepley - Mayor - Box 262 - Wolsey, SD 57384 (605) 883-4360

STATE	COUNTY	COMMUNITY NAME AND NO. OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM AND CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE (S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
AL	Choctaw	Choctaw County (Uninc. 0006B only Areas)	010310	E-11	I	F	Jan. 27, 1978	Dec. 8, 1978	Charles V. Ford, Judge Courthouse Butler, AL 36904 Phone: (205) 459-2417
AL	Blount	Blount County (Uninc. 0002B Only Areas)	010230	N-12, 14	I	F	Feb. 24, 1978	Dec. 8, 1978	Frank J. Green, Judge P. O. Box 668 Oneonta, AL 35121 Phone: (205) 274-2134
AL	Covington	Town of Gantt 01	010053B	N-12, 14	I	F	June 7, 1974 Jan. 2, 1976	Dec. 8, 1978	Bud Solomon, Mayor P. O. Drawer 8 Gantt, AL 36038 Phone: (205) 388-2561
AL	Lee	Lee County (Uninc. 0004B, 0005B only Areas)	010250	N-12, 14	I	F	March 31, 1978	Dec. 8, 1978	Judge Hal Smith, Ch. Co. Comm. P. O. Box 666 Opelika, AL 36801 Phone: (205) 745-6365
GA	Macon	City of Montezuma 0001B	130132	E-12	I	F	Aug. 16, 1974 Feb. 6, 1976	Dec. 8, 1978	H. E. Parsons, Mayor City Hall Montezuma, GA 31063 Phone: (912) 472-8144
KY	Hopkins	City of Madisonville 0001B-0002B	210115	E-11, 12, 14	I	F	May 17, 1974 Feb. 6, 1976	Dec. 8, 1978	(Mrs.) Jane Moore, Hopkins Co. Planning Comm. 416 East Broadway Madisonville, KY 42431 Phone: (502) 821-3746
MS	Tallahatchie	City of Glendora 01	280210A	E-11, 12, 14	I	F	Jan. 10, 1975	Dec. 8, 1978	Henry Reese, Mayor City Hall Glendora, MS 38928 Phone: (601) 375-9311
MS	Covington	Town of Mount Olive 01	280048A	N-11, 12, 14	I	F	Aug. 1, 1975	Dec. 8, 1978	Hugh Warren, Mayor P. O. Box 61 Mt. Olive, MS 39119 Phone: (601) 797-3496
MS	Noxubee	Town of Shuqualak 01	280324A	N-5	I	F	Dec. 8, 1978	Dec. 8, 1978	C. E. Barrett, Mayor P. O. Box 73 Shuqualak, MS 39361 Phone: (601) 793-4559
TN	DeKalb	DeKalb County (Uninc. 0001A-0006A Areas)	470369	N-5	I	F	Dec. 8, 1978	Dec. 8, 1978	Billy J. Lafever, Judge Courthouse Smithville, TN 37166 Phone: (615) 597-5175

STATE	COUNTY	COMMUNITY NAME & NUMBER OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM & CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE(S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
CO	Elbert	Town of Elizabeth 0001B	080056 B	N-8,11,12	I	F	6 SEP 74 6 FEB 76	12 DEC 78	Honorable Billie Bandt - Mayor - Box 147 - Elizabeth, CO 80107 (303) 646-4166
CO	Mesa	City of Grand Junction 0001C-0002C	080117 C	N-8,11,12	I	F	1 FEB 74 28 JUN 74 10 OCT 75	12 DEC 78	Mr. Don Warner - Planning Commission - 250 North Fifth - Grand Junction, CO 81501 (303) 243-2633 (Ext. 202)
LA	Uninc. Area	Ascension Parish 0001A-0005A	220013 A	E-5	I	F	12 DEC 78	12 DEC 78	Mr. Vincent J. Tortorich - President - Office of Police Jury - P.O. Box 351 - Donaldson, LA 70346 (504) 473-4815

STATE	COUNTY	COMMUNITY NAME AND NO. OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM AND CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE (S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
AL	Tallapoosa	Town of Camville 0001A	010375	N-5	I	F	Dec. 15, 1978	Dec. 15, 1978	Ralph G. Weldon, Mayor 304 Main Street East Tallasee, AL 36023 Phone: (205) 283-3316
AL	DeKalb	Town of Collinsville 0001B	010066	E-11, 12, 14	I	F	May 17, 1974 Jan. 2, 1976	Dec. 15, 1978	Roy R. Watts, Mayor P. O. Drawer N Collinsville, AL 35961 Phone: (205) 524-2135
AL	Elmore	Elmore County (Uninc. Areas) 0001A-0009A	010406	N-5	I	F	Dec. 15, 1978	Dec. 15, 1978	J. F. Cody, Engineer Box E Wetumpka, AL 36092 Phone: (205) 567-6441
AL	Marengo	City of Linden 0001B	010158	E-11, 12, 14	I	F	June 28, 1974 May 21, 1976	Dec. 15, 1978	Bracey Hill, Mayor 211 North Main Linden, AL 36748 Phone: (205) 295-5051
AL	Chilton	Town of Maplesville 0001B	010032	E-11, 12, 14	I	F	Sept. 13, 1974 July 23, 1976	Dec. 15, 1978	Aubrey Morrison, Mayor P. O. Box 9 Maplesville, AL 36750 Phone: (205) 366-4211
AL	Washington	Town of Millry 0001A	010207	N-11, 12, 14	I	F	Nov. 12, 1976	Dec. 15, 1978	Robert Dearmon, Mayor P. O. Box 11 Millry, AL 36558 Phone: (205) 846-2422

STATE	COUNTY	COMMUNITY NAME AND NO. OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM AND CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE (S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
AL	St. Clair	Town of Odenville 0001B	010188	E-11, 12, 14	I	F	May 24, 1974 Jan. 2, 1976	Dec. 15, 1978	Mary Martin, City Clerk Town Hall Odenville, AL 35120 Phone: (205) 629-2562
AL	Etowah	Town of Southside 0001B-0002B	010082	E-8, 11, 12, 14	I	F	Dec. 7, 1973 Jan. 9, 1976	Dec. 15, 1978	Joe Brown, Mayor Rt. 1, Box 87 Gadsden, AL 35901 Phone: (205) 442-2255
IL	Gallatin	Gallatin County (Uninc. Areas) 0001A-0006A	170900	E-5	I	F	Dec. 15, 1978	Dec. 15, 1978	William C. Lawler, Ch. Co. Bd. Courthouse Shawneetown, IL 62984 Phone: (618) 269-3269
MN	Lincoln	City of Lake Benton 01-04	270692B	N-12, 14	I	F	April 1, 1977	Dec. 15, 1978	Roy Miller, Mayor Farmers State Bank Lake Benton, MN 56149 Phone: (507) 368-4641
NJ	Morris	Township of Chester 0001A-0002A	340555	E-8, 11, 12, 14	I	F	Dec. 6, 1974	Dec. 15, 1978	R. Patterson Warlick, Mayor P. O. Box 428 Chester, NJ 07930 Phone: (201) 879-5571
NJ	Morris	Township of Mendham 0001A-0002A	340511	E-8, 11, 14	I	F	Sept. 17, 1976	Dec. 15, 1978	Richard C. Vetter, Mayor Mendham Township Brookside, NJ 07926 Phone: (201) 543-4555
NC	Northampton	Town of Gaston 0001A	370413	N-5	I	F	Dec. 15, 1978	Dec. 15, 1978	Firman C. Myrick, Mayor P. O. Drawer M Gaston, NC 27832 Phone: (919) 537-1046
SC	Pickens, Anderson	Town of Clemson 0001A	450238	N-5	I	F	Dec. 15, 1978	Dec. 15, 1978	Catherine Smith, Mayor P. O. Box 1566 Clemson, SC 29631 Phone: (803) 654-2636

STATE	COUNTY	COMMUNITY NAME & NUMBER OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM & CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE(S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
CA	Marin	City of Sausalito 0001B	050182 B	E-8,11,12	C	F	17 MAY 74 3 OCT 75	19 DEC 78	Mr. Norman Wohlschlanger, P.E. - Director of Public Works, City Engineer - 420 Litho Street - P.O. Box 127 - Sausalito, CA 94965 (415) 332-3346
CT	Litchfield	Town of Watertown 01A-09A	090058 A	E-11,12	I	F	31 MAY 74	19 DEC 78	Mr. James Troup - Town Manager - Town Hall Annex - 424 Main Street Watertown, CT 05795 (203) 274-5111
KS	Uninc. Area	Shawnee County 0001B-0007B	200331 B	N-11,12	I	F	21 FEB 78	19 DEC 78	Mr. Kevin R. Davis - Planner III - Topeka-Shawnee Co. Metropolitan Planning Commission - 820 SE Quincy - Suite 512 - Topeka, KS 66612 (913) 295-3969

STATE	COUNTY	COMMUNITY NAME AND NO. OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM AND CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE (S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
NY	Essex	Town of Keene 0001B-0003B	361151 B	E-11	I	F	Nov. 1, 1974 July 16, 1976	Dec. 22, 1978	Robert Purdy, Supr. Town Hall Keene, NY 12942 Phone: (518) 576-4444
TN	Hickman	Hickman County (Uninc. Areas) 0001A-0009A	470091 A	N-5	I	F	Dec. 22, 1978	Dec. 22, 1978	Hunt McClanahan, Judge Courthouse Centerville, TN 37033 Phone: (615) 729-2492
TN	Perry	Perry County (Uninc. Areas) 0001A-0006A	470144 A	N-5	I	F	Dec. 22, 1978	Dec. 22, 1978	Frank B. Parnell, Judge Linden, TN 37096 Phone: (615) 589-2216
WI	Douglas	Douglas County (Uninc. Areas) 0001A-0015A	550538 A	E-5	I	F	Dec. 22, 1978	Dec. 22, 1978	Tom Higgins, Ch. Co. Bd. Courthouse Superior, WI 54880 Phone: (715) 394-0341

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-52 Filed 1-2-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4896]

PART 1915—IDENTIFICATION AND MAPPING OF SPECIAL HAZARD AREAS

List of Communities with Special Hazard Areas

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final Rule.

SUMMARY: This rule identifies communities with areas of special flood, mudslide, or erosion hazards as authorized by the National Flood Insurance Program (NFIP). The identification of such areas is to provide guidance to communities on the reduction of property losses, by the adoption of appropriate flood plain management, or other measures to minimize damage. It will enable communities to guide future construction, where practicable, away from locations which are threatened by flood or other hazards.

EFFECTIVE DATES: The date listed in the eighth column of the table or February 2, 1979, whichever is later.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, DC 20410.

SUPPLEMENTARY INFORMATION: The Flood Disaster Protection Act of 1973 (Pub. L. 93-234), as amended, requires the purchase of flood insurance as a condition of Federal financial assistance of insurable property if such assistance is:

(1) For acquisition and construction of buildings as defined in Part 1909 of Title 24 of the Code of Federal Regulations and

(2) For buildings located in a special flood hazard area identified by the Secretary of Housing and Urban Development

For communities participating in the NFIP (see the fifth column in the table for a community's program status), this requirement applies on the date listed in the eighth column. For communities not participating in the program, Section 202 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), as amended, provides that no direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area effective one year from the hazard identification date (the date in the eighth column of the table).

This 30 day period before the map action becomes effective does not supersede the statutory requirement that a community, whether or not participating in the program, be given the opportunity for a period of six months to establish that it is not seriously flood prone or that such flood hazards as may have existed have been corrected by floodworks or other flood control methods. The six months period shall be considered to begin February 2, 1979, or the effective date of the Flood Hazard Boundary Map, whichever is later. Similarly, the one year period a community has to enter the program under section 201(d) of the Flood Disaster Protection Act of 1973 shall be considered to begin February 2, 1979, or the effective date of the Flood Hazard Boundary Map, whichever is later.

This identification is made in accordance with Part 1915 of Title 24 of the Code of Federal Regulations as authorized by the National Flood Insurance Program (42 U.S.C. 4001-4128).

Section 1915.3 is amended by adding in alphabetical sequence a new entry to the table:

§ 1915.3 List of communities with special hazard areas (FHBMs in effect).

[4210-01-C]

STATE	COUNTY	COMMUNITY NAME AND NO. OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM AND CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE (S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
AL	Washington	Town of Chatom 0001A	010376	N-S	I	P	Oct. 20, 1978	Oct. 20, 1978	James J. Thompson, Mayor P. O. Box 309 Chatom, AL 36518 Phone: (205) 847-2476
AL	Sumter	Town of Epes 01	010383A	N-S	I	P	Oct. 20, 1978	Oct. 20, 1978	C. D. Rucks, Mayor P. O. Box 126 Epes, AL 35460 Phone: (205) 652-7144
IL	Fulton	City of Farmington 0001A	170952	N-S	I	P	Oct. 20, 1978	Oct. 20, 1978	P. James Hurst, Mayor 33 North East Street Farmington, IL 61531 Phone: (309) 245-2011
IL	Williamson Franklin	Village of Freeman Spur 0001A	170953	N-S	I	P	Oct. 20, 1978	Oct. 20, 1978	Ralph Murray, V. Pres. Village Hall Freeman Spur, IL 62841 Phone: (618) 942-3340
MI	Eaton	City of Potterville 0001A	260711	E-S	I	P	Oct. 20, 1978	Oct. 20, 1978	Leon LaFave, Mayor 223 W. Main Street Potterville, MI 48876 Phone: (517) 645-7577
NC	Chatham	Town of Pittsboro 0001A	370420	N-S	I	P	Oct. 20, 1978	Oct. 20, 1978	Norris Farrell, Mayor P. O. Box 753 Pittsboro, NC 27312 Phone: (919) 542-4621
NC	Watauga	Watauga County (Uninc. 0002A-0007A Areas)	370251	E-10, 11, 12, 14	I	P	Jan. 10, 1975	Oct. 20, 1978	Gene Wilson, Ch. Co. Comm. Courthouse Boone, NC 28607 Phone: (704) 264-2267
OH	Richland	Village of Lexington 0001B	390618	E-8, 11, 12, 14	I	P	Oct. 18, 1974 Aug. 1, 1975	Oct. 20, 1978	Donald Herbert, Mayor 44 West Main Street Lexington, OH 44904 Phone: (419) 884-1329
OH	Shelby	Shelby County (Uninc. 0001B-0006B Areas)	390503	N-11, 12, 14	I	P	Dec. 20, 1974 Dec. 23, 1977	Oct. 20, 1978	Donald Conklin, Ch. Co. Bd. Courthouse Sidney, OH 45365 Phone: (513) 492-1153
OH	Muskingum	Village of South Zanesville 01	390860A	N-S	I	P	Oct. 20, 1978	Oct. 20, 1978	H. Gale Harper, Mayor 77 Kensington Avenue South Zanesville, OH 43701 Phone: (614) 452-5620
OH	Van Wert	Village of Willshire 01	390867A	N-S	I	P	Oct. 20, 1978	Oct. 20, 1978	Larry Dean King, Mayor Hogan Street Willshire, OH 45898 Phone: (419) 495-2570

STATE	COUNTY	COMMUNITY NAME AND NO. OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM AND CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE (S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
OH	Pickaway	Village of Williamsport 0001A	390866	N-S	I	F	Oct. 20, 1978	Oct. 20, 1978	Paul E. Long, Mayor P. O. Box 105 Williamsport, OH 43164 Phone: (614) 986-3763 (hom
SC	Horry	Horry County (Uninc. 0001A-0015A Areas)	450104	N-S	C	F	Oct. 20, 1978	Oct. 20, 1978	Julian Richardson, Ch. Co. Council P. O. Box 36 Conway, SC 29526 Phone: (803) 248-6247

STATE	COUNTY	COMMUNITY NAME & NUMBER OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM & CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE(S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
CA	Uninc. Area	Los Angeles County 0001A-0042A	065043 A	E-5	C&I	F	24 OCT 78	24 OCT 78	Mr. Harry Hufford - Chief Administrative Officer - County of Los Angeles - Board of Supervisors - Room 381, Hall of Administration - 500 W. Temple Street - Los Angeles, CA 90012 (213) 974-1234
NV	Uninc. Area	Nye County 0001A-0006A, 0008A-0016A, 0018A-0022A, 0024A-0026A, 0029A-0035A, 0037A-0038A, 0042A-0053A, 0055A-0072A, 0074A-0080A, 0082A-0084A, 0086A-0100A, 0103A-0105A, 0107A-0108A, 0113A-0115A, 0120A-0121A, 0127A, 0133A-0134A, 0140A-0141A, 0146A-0147A, 0151A-0152A, 0156A-0169A	320018 A	E-8,11,12	I	F	18 OCT 74	24 OCT 78	Mr. Andrew M. Eason - Chairman - Board of County Commissioners - County Courthouse - Tonopah, NV 89049 (702) 482-3330

STATE	COUNTY	COMMUNITY NAME AND NO. OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM AND CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE (S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
AL	Escambia	Escambia County (Uninc. 0001A-0003A Areas) 0005A-0008A, 0010A	010251	N-5	I	F	Oct. 27, 1978	Oct. 27, 1978	Devon Wiggins, Ch. Co. Co Courthouse Brewton, AL 36426 Phone: (205) 867-3659
AL	Barbour	City of Eufaula 0001B-0003B	010011	E-8, 11, 12, 14	I	F	Dec. 17, 1973 Dec. 19, 1975	Oct. 27, 1978	James Clark, Mayor Box 377 Eufaula, AL 36027 Phone: (205) 687-6621
AL	Tallapoosa	Town of New Site 0001A	010395	N-5	I	F	Oct. 27, 1978	Oct. 27, 1978	Johnnie R. Cotney, Mayor Rt. 4 Alexander City, AL 35010 Phone: (205) 234-2049
IL	Edwards	Edwards County (Uninc. 0001A-0003A, Areas)	170937	N-5	I	F	Oct. 27, 1978	Oct. 27, 1978	Kenneth Mewes, Ch. Co. Co Courthouse Albion, IL 62806 Phone: (618) 447-3389
MS	Holmes	Town of Cruger 01	280313A	N-5	I	F	Oct. 27, 1978	Oct. 27, 1978	Robert K. O'Reilly, Mayor Town Hall Cruger, MS 38924 Phone: (601) 453-3966
MS	Jasper	Town of Louin 0001A	280316	N-5	I	F	Oct. 27, 1978	Oct. 27, 1978	M. H. Bassett, Mayor P. O. Box 3 Louin, MS 39338 Phone: (601) 739-3621
NY	Greene	Town of Windham 0001B-0005B	361401	N-11, 12, 14	I	F	Nov. 4, 1977	Oct. 27, 1978	Thomas P. Meehan, Jr., Sup Box 56 Maplecrest, NY 12454 Phone: (518) 734-4305
OH	Montgomery	City of Centerville 0001B	390408	E-11, 12, 14	I	F	May 17, 1974 Sept. 12, 1975	Oct. 27, 1978	Mr. Karl M. Schab, Engr. 100 W. Spring Valley Rd. Centerville, OH 45459 Phone: (513) 433-71151
OH	Crawford	Village of Chatfield 01	390818A	N-5	I	F	Oct. 27, 1978	Oct. 27, 1978	Sylvanus Kalb, Mayor Village Hall Chatfield, OH 44825 Phone: (419) 988-2231
OH	Tuscarawas	Village of Newcomerstown 0001B	390544	E-10, 11, 12, 14	I	F	May 17, 1974 May 21, 1976	Oct. 27, 1978	Robert G. Hall, Mayor 124 E. Church Street Newcomerstown, OH 43832 Phone: (614) 498-6313

STATE	COUNTY	COMMUNITY NAME AND NO. OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM AND CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE (S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
TN	Macon	Macon County (Uninc. 0001A-0004A Areas)	470371	N-5	I	F	Oct. 27, 1978	Oct. 27, 1978	Aubrey Dallas, Judge 201 County Courthouse Lafayette, TN 37083 Phone: (615) 666-2363
VA	Pittsylvania	Town of Hurt 0001B	510219	E-11, 12, 14	I	F	Nov. 1, 1974 Oct. 3, 1975	Oct. 27, 1978	Robert Payne, Mayor P. O. Box 160 Hurt, VA 24563 Phone: (804) 324-4411
WI	Brown	Village of Ashwaubenon 0001A	550600	N-5	I	F	Oct. 27, 1978	Oct. 27, 1978	John Monfort, V. Pres. 580 Cormier Ave. Green Bay, WI 54304 Phone: (414) 494-6867

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CA	Calaveras	City of Angels 0001B	060021 B	E-11,12	I	F	21 JUN 74 8 AUG 75	31 OCT 78	Honorable Oliver W. Garcia - Mayor - City Hall - Angels, CA 95222 (209) 736-2181
CO	Weld	City of Gilcrest 01A	080213 A	E-11,12	I	F	22 AUG 75	31 OCT 78	Honorable Jose Castaneda - Mayor - P.O. Box 8 - Gilcrest, CO 80623 (303) 737-2992
ID	Cassia	City of Oakley 0001B	160045 B	N-11,12	I	F	18 OCT 74 19 NOV 76	31 OCT 78	Honorable J. Gorringe - Mayor - P.O. Box 266 - Oakley, ID 83348 (208) 862-3313
IA	Black Hawk & Bremer	City of Janesville 0001B	190023 B	N-8,11	I	F	28 DEC 73 16 JAN 76	31 OCT 78	Honorable Dale E. Eden - Mayor - City Hall - Janesville, IA 50647 (319) 987-2905
IA	Delaware	City of Masonville 01A	190365 A	N-11,12	I	F	13 AUG 76	31 OCT 78	Honorable William C. Alden - Mayor - City Hall - Masonville, IA 50654 (319) 927-2507
LA	Terrebonne Parish	City of Houma 0001B	220220 B	E-8,11,12	I	F	28 NOV 73 9 APR 76	31 OCT 78	Mr. Martin Bruno, Jr. - Director of Planning & Zoning - P.O. Box 6097 - Houma, LA 70360 (504) 868-5050

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ND	Grand Forks	City of Thompson 01A	380208 A	N-8,11,12	I	F	14 FEB 75	31 OCT 78	Honorable James W. Weber - Mayor City Hall - Thompson, ND 58278 (701) 599-2973

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AL	Marengo	City of Demopolis 0001B	010157	E-8, 11, 12, 14	I	F	June 7, 1974 Dec. 19, 1975	Nov. 3, 1978	Hugh Allen, Jr., Mayor P. O. Box 580 Demopolis, AL 36732 Phone: (205) 289-0577
AL	Etowah	City of Glencoe 0001B-0002B	010081	E-8, 11, 12, 14	I	F	May 17, 1974 Dec. 19, 1975	Nov. 3, 1978	Ronnie Rampey, Mayor 119 Lonesome Band Rd. Glencoe, AL 35905 Phone: (205) 492-1424
AL	Coosa	Town of Goodwater 0001A	010387	N-5	I	F	Nov. 3, 1978	Nov. 3, 1978	Charles W. Stewart, Mayor P. O. Box 115 Goodwater, AL 35072 Phone: (205) 837-6301
AL	DeKalb	Town of Hammondville 0001A	010388	N-5	I	F	Nov. 3, 1978	Nov. 3, 1978	(Mrs.) Vesta Hawkins, Mayor Rt. 1 Valley Head, AL 35989 Phone: (205) 635-2291
AL	Jefferson	City of Hoover 0001A-0002A	010123	E-8, 11, 12, 14	I	F	Nov. 29, 1974	Nov. 3, 1978	John Hodnett, Mayor Montgomery Highway Hoover, AL 35216 Phone: (205) 823-3912
IL	Macon	Village of Blue Mound 01	170946A	N-5	I	F	Nov. 3, 1978	Nov. 3, 1978	Russell Edmunds, V. Pres. P. O. Box 0 Blue Mound, IL 62513 Phone: (217) 692-2713

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IL	Rock Island Henry	Village of Coal Valley 0001B	170585	E-8, 11, 12, 14	I	F	March 1, 1974 Dec. 20, 1974	Nov. 3, 1978	Patrick Huys, V. Pres. P. O. Box 105 Coal Valley, IL 61240 Phone: (309) 799-3604
IL	Wabash	Wabash County (Uninc. Areas) 0001A-0005A	170938	N-5	I	F	Nov. 3, 1978	Nov. 3, 1978	Robert Witsman, Ch. Co. Bd. P. O. Box 270 Mt. Carmel, IL 62863 Phone: (618) 262-4661
IN	Wayne	Town of Spring Grove 01	180286A	E-8, 11, 12, 14	I	F	Dec. 13, 1974	Nov. 3, 1978	Dr. John H. Mader, Bd. Pres. 1528 Chester Blvd. Richmond, IN 47374 Phone: (317) 966-7724
MI	St. Joseph	Township of Lockport 0001A-0002A	260715	N-5	I	F	Nov. 3, 1978	Nov. 3, 1978	John I. Major, Clerk 236 Schrader Road Centerville, MI 49032 Phone: (616) 467-7791
MS	Lawrence	Town of New Hebron 0001A	280317	N-5	I	F	Nov. 3, 1978	Nov. 3, 1978	Pat Shivers, Mayor P. O. Box 199 New Hebron, MS 39140 Phone: (601) 694-2222
MS	Lamar	Town of Purvis 0001A	280318	N-5	I	F	Nov. 3, 1978	Nov. 3, 1978	J. W. McKellar, Mayor P. O. Box 2 Purvis, MS 39475 Phone: (601) 794-2472
MS	Hinds	Town of Raymond 01	280320A	N-5	I	F	Nov. 3, 1978	Nov. 3, 1978	Bill Brent, Mayor P. O. Box 82 Raymond, MS 39154 Phone: (601) 857-8711
NY	Tioga	Village of Nichols 01	360838B	E-12, 14	I	F	June 7, 1974 April 30, 1976	Nov. 3, 1978	Glen Cole, Mayor Main Street Nicholas, NY 13812 Phone: (607) 699-3062
NY	Westchester	City of Rye 01-03	360931B	E-15	I	F	NOV 3,1978	Nov. 3, 1978	Robert D. McEvoy, Mgr. City Hall Rye, NY 10580 Phone: (914) 967-5400
NC	Gaston Lincoln	City of High Shoals 0001A	370405	N-5	I	F	Nov. 3, 1978	Nov. 3, 1978	Jack Whitener, Mayor P. O. Box 6 High Shoals, NC 28077 Phone: (704) 735-1651
NC	Northampton	Town of Severn 01	370422A	N-5	I	F	Nov. 3, 1978	Nov. 3, 1978	Wallace W. Stevenson, Mayor Town Hall Severn, NC 27877 Phone: (919) 585-0500
OH	Athens	Village of Coolville 0001A	390822	N-5	I	F	Nov. 3, 1978	Nov. 3, 1978	Howard Russell, Mayor P. O. Box 136 Coolville, OH 45723 Phone: (614) 667-3845

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OH	Franklin	Village of Dublin 0001A	390673	N-S	I	F	Jan. 3, 1975	Nov. 3, 1978	Charles Coffman, Mayor P. O. Box 206 Dublin, OH 43017 Phone: (614) 889-2175
OH	Montgomery	City of Englewood 0001A	390828	N-S	I	F	Nov. 3, 1978	Nov. 3, 1978	James McGraw, Mayor 833 West National Rd. Englewood, OH 45322 Phone: (513) 836-5106
OH	Hamilton	Village of Newtown 0001B	390230	E-12	I	F	Feb. 1, 1974 May 28, 1976	Nov. 3, 1978	Gregory Delmling, Clerk 3536 Church Street Cincinnati, OH 45244 Phone: (513) 871-3330
TN	Stewart	Town of Cumberland City 0001A	470375	N-S	I	F	Nov. 3, 1978	Nov. 3, 1978	H. Ryan Holley, Mayor Town Hall Cumberland City, TN 37050 Phone: (615) 827-2409 (home)
VA	Tazewell	Town of Pocahontas 01	510337	N-S	I	F	Nov. 3, 1978	Nov. 3, 1978	John Sabo, Jr., Mayor P. O. Box 127 Pocahontas, VA 24635 Phone: (703) 945-5115
WI	Columbia	Columbia County (Uninc. Areas) 0001A-0010A	550581	E-S	I	F	Nov. 3, 1978	Nov. 3, 1978	Herbert Raether, Ch. Co. Bd. Box 177 Administrative Bldg. Portage, WI 53901 Phone: (608) 742-2191
WI	Sauk	Village of LaValle 01	550395B	E-11, 12, 14	I	F	Dec. 28, 1973 Nov. 21, 1975	Nov. 3, 1978	Wayne Blinston, V. Pres. Village Hall LaValle, WI 53941 Phone: (608) 985-7418
WI	Polk	Polk County (Uninc. Areas) 0001A-0012A	550577	E-S	I	F	Nov. 3, 1978	Nov. 3, 1978	Raymond Bauerfield, Ch. Co. Bd. Courthouse Balsam Lake, WI 54810 Phone: (715) 485-3161

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CA	San Bernardino	City of Adelanto 0001A-0002A	060639 A	N-S	I	F	7 NOV 78	7 NOV 78	Honorable Hastell F. Hollis - Mayor - 11740 Bartlett Avenue - Adelanto, CA 92301 (714) 246-8606
NB	Madison	City of Norfolk 0001B	310147 B	E-8,11,12	I	F	23 JAN 74 13 AUG 76	7 NOV 78	Mr. Donald G. Hyde - City Engineer - 111 South First Street - Norfolk, NB 68701 (402) 371-5393
ND	Mercer	City of Stanton 0001A	380250 A	N-12	I	F	2 APR 76	7 NOV 78	Honorable Robert Wetzel - Mayor P.O. Box 156 - Stanton, ND 58571 (701) 745-3371
OR	Benton	City of Corvallis 0001C-0002C	410009 C	E-8,11,12	I	F	14 JUN 74 26 DEC 75 27 DEC 77	7 NOV 78	Mr. Jerry A. Hortsch - Finance Director / City Recorder - 501 S.W. Madison Avenue - Corvallis, OR 97330 (503) 757-6945
SD	Turner	City of Parker 0001A	460211 A	N-8,12	I	F	27 JUN 75	7 NOV 78	Mr. Frisco Petersen - City Finance Officer - City Hall - Parker, SD 57053 (605) 297-4453
SD	Walworth	City of Selby 01A-02A	460214 A	N-8,11,12	I	F	25 JUL 75	7 NOV 78	Honorable Wilfred Stoick - Mayor City Hall - Selby, SD 57472 (605) 649-7985
AL	Lee	City of Auburn 0001C-0004C	010144	E-8, 11, 14,	I	F	June 7, 1974 Oct. 3, 1975 Sept. 10, 1976	Nov. 10, 1978	Donald Hayhurst, Mayor P. O. Box 511 Auburn, AL 36830 Phone: (205) 821-1900
IL	Tazewell	Village of Mackinaw 0001A	170959	N-S	I	F	Nov. 10, 1978	Nov. 10, 1978	Lee Smith, Vil. Pres. 101 East Fast Mackinaw, IL 61755 Phone: (309) 359-6891
IN	Warren	Warren County (Uninc. Areas) 0001A-0005A	180448	N-S	I	F	Nov. 10, 1978	Nov. 10, 1978	Larry W. Crane, Area Plan. Dir. Courthouse Williamsport, IN 47993 Phone: (317) 762-6311
MN	Beltrami	City of Bemidji 0001A	270711	N-S	I	F	Nov. 10, 1978	Nov. 10, 1978	Douglas Peterson, Mayor P. O. Box 92 Bemidji, MN 56601 Phone: (218) 751-5610
MN	Todd Wadena	City of Staples 0001A	270717	N-S	I	F	Nov. 10, 1978	Nov. 10, 1978	John G. Wilson, Mayor R R # 2 Staples, MN 56479 Phone: (218) 894-2550

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[illegible]	Beltrami	City of Wilton 0001A	270719	N-S	I	F	Nov. 10, 1978	Nov. 10, 1978	Jane Hilligan, Mayor Wilton, MN 56687 Phone: (218) 751-5207
[illegible]	Hinds	Town of Learned 01	280315A	N-S	I	F	Nov. 10, 1978	Nov. 10, 1978	W. K. Riggin, Mayor P. O. Box 47 Learned, MS 37093 Phone: (601) 354-7218
NC	Hertford	Town of Murfreesboro 0001A	370419	N-S	I	F	Nov. 10, 1978	Nov. 10, 1978	William W. Hill, Mayor P. O. Box 6 Murfreesboro, NC 27855 Phone: (919) 398-4665
OH	Clinton	Village of Clarksville 01	390820A	N-S	I	F	Nov. 10, 1978	Nov. 10, 1978	Harry J. Bagford, Mayor Village Hall Clarksville, OH 45113 Phone: (513) 289-2411
OH	Montgomery	Village of Clayton 01	390821A	N-S	I	F	Nov. 10, 1978	Nov. 10, 1978	Dick Reynolds, Mayor 270 Talmadge Clayton, OH 45315 Phone: (513) 836-3024
OH	Marion	Marion County (Uninc. 0005B only Areas)	390774	E-11, 12, 14	I	P	Jan. 6, 1978	Nov. 10, 1978	John F. Ifler, Ch. Co. Comm. Courthouse Marion, OH 43302 Phone: (614) 393-4971
SC	Anderson	City of Anderson 0001B	450014	E-8, 11, 12, 14	I	F	May 17, 1974 Dec. 13, 1974	Nov. 10, 1978	Darvin Wright, Mayor P. O. Box 4026 Anderson, SC 29621 Phone: (803) 226-7403
TN	McNairy	Town of Eastview 0001A	470376	N-S	I	P	Nov. 10, 1978	Nov. 10, 1978	Ron Richardson, Mayor Rt. 2 Ramer, TN 38367 Phone: (901) 645-7710
TN	Moore	Moore County (Uninc. 0001A-0003A Areas)	470260	N-S	I	P	Nov. 10, 1978	Nov. 10, 1978	Claude Read, Judge Courthouse Lynchburg, TN 37352 Phone: (615) 759-7076
WI	Walworth	Village of East Troy 0001B	550464	E-8, 11, 12, 14	I	P	May 24, 1974 May 14, 1976	Nov. 10, 1978	Kenneth Pluess, Vil. Pres. 2816 School St. East Troy, WI 53120 Phone: (414) 642-5570

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CO	Jefferson	City of Edgewater . 018	080089 B	E-8,11,12	I	F	14 JUN 74 19 DEC 75	14 NOV 78	Mr. Emmett L. Lane - City Engineer - 5845 West 25th Avenue - Edgewater, CO 80214 (303) 238-0573
LA	Uninc. Area	Madison Parish . 0001A-0012A	220122 A	E-5	I	F	14 NOV 78	14 NOV 78	Mr. A. L. Harvey - President of Police Jury - Office of Police Jury - Courthouse Building - Tallulah, LA 71282 (318) 574-3451
UT	Uninc. Area	Sanpete County 0004A-0005A, 0007A-0008A,0011A,0014A-0015A,0018A	490111 A	E-5	I	F	14 NOV 78	14 NOV 78	Mr. Douglas A. Jorgensen - Clerk-Auditor - Sanpete County Courthouse - Manti, UT 84642 (801) 835-2131

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AL	Wilcox	Town of Pine Hill 0001A	010397	N-S	I	F	Nov. 17, 1978	Nov. 17, 1978	H. E. Swearingen, Mayor P. O. Box 368 Pine Hill, AL 36769 Phone: (205) 963-4650
AL	Marengo	Town of Providence 01	010159A	N-10, 11, 14	I	P	Nov. 1, 1974	Nov. 17, 1978	Tommy Ray, Mayor P. O. Box 581 Providence, AL 36748 Phone: (205) 295-8419
AL	Marengo	Town of Thomaston 01	010273A	E-11, 12, 14	I	P	Jan. 10, 1975	Nov. 17, 1978	C. C. Pritchett, Mayor P. O. Box 185 Thomaston, AL 36783 Phone: (205) 627-3434
IL	Mason	Mason County (Uninc. 0001A-0009A Areas)	170463	E-10, 11, 12, 14	I	P	Jan. 31, 1975	Nov. 17, 1978	Byron Bunch, Supt. of Hwys. Courthouse Havana, IL 62644 Phone: (309) 543-3759
MS	Perry	Town of Richton 0001A	280321	N-S	I	F	Nov. 17, 1978	Nov. 17, 1978	L. L. Adkins, Mayor P. O. Drawer N Richton, MS 39476 Phone: (601) 788-2251
MS	Alcorn	Town of Rienzi 01	280322A	E-S	I	P	Nov. 17, 1978	Nov. 17, 1978	C. L. Dick, Mayor Rt. 2, Box 2 Rienzi, MS 38865 Phone: (601) 462-5327

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NC	Cleveland	Town of Casar 0001A	370408	N-S	I	F	Nov. 17, 1978	Nov. 17, 1978	Saye Melton, Mayor P. O. Box 45 Casar, NC 28020 Phone: (704) 538-9661
NC	Craven	Craven County (Uninc. Areas) 0001A-0014A	370072	E-10, 11, 12, 14	I	F	Dec. 20, 1974	Nov. 17, 1978	Tyler Harris, Co. Planner P. O. Drawer R New Bern, NC 28560 Phone: (919) 638-1474
OH	Stark	Village of Brewster 0001B	390510	E-8, 11, 12, 14	I	F	Feb. 8, 1974 March 28, 1975	Nov. 17, 1978	Jack L. McCool, Mayor 302 South Wabash Brewster, OH 44613 Phone: (216) 767-2414
TN	Chester	Chester County (Uninc. Areas) 0001A-0004A only	470348	N-S	I	F	Nov. 17, 1978	Nov. 17, 1978	Harold Garland, Judge Courthouse P. O. Box 296 Henderson, TN 38340 Phone: (901) 989-5672

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AR	Uninc. Area	Crawford County 0001B-0011B	050428 B	N-11,12	I	F	17 JUN 77	21 NOV 78	Honorable Walter Keylor - County Judge - County Court House - Van Buren, AR 72956 (501) 474-1511
CO	Otero	City of La Junta 0001B	080133 B	E-11,12	I	F	12 APR 74 3 DEC 76	21 NOV 78	Honorable C. A. Denney - Mayor - P.O. Box 630 - La Junta, CO 81050 (303) 384-2577
CO	Sedgwick	Town of Ovid 0001A	080170 A	N-11,12	I	F	15 NOV 74	21 NOV 78	Ms. Shirlene Dillehay - Town Clerk - P.O. Box 396 - Ovid, CO 80744 (303) 463-5446
ME	Penobscot	Town of Newburgh 0001A-0002A	230379 A	E-5,15	I	F	21 NOV 78	21 NOV 78	Mr. Milton Torrey - Selectman - c/o Evelyn Young - Town Clerk - RD #1, Hampden Highlands - Newburgh, ME 04445 (207) 234-4841
MO	Oregon	City of Thayer 0001B	290267 B	E-11,12	I	F	8 MAR 74 26 DEC 75	21 NOV 78	Honorable A.D. Pierce - Mayor - Box 76 - Thayer, MO 65791 (417) 264-3921

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AL	Lauderdale	Town of Anderson 0001A	010407	N-S	I	F	Nov. 24, 1978	Nov. 24, 1978	W. S. Turpen, Mayor Main Street Anderson, AL 35610 Phone: (205) 247-5260
FL	Jackson	Town of Cottondale 0001A	120583	N-S	I	F	Nov. 24, 1978	Nov. 24, 1978	George D. Hilton, Jr., Mayor P. O. Box 398 Cottondale, FL 32431 Phone: (904) 352-4361
FL	Baker	City of MacClenny 0001A	120590	N-S	I	F	Nov. 24, 1978	Nov. 24, 1978	Lonnie Thrift, Mayor 118 East MacClenny Avenue MacClenny, FL 32063 Phone: (904) 259-6261
IL	Lawrence	Lawrence County (Uninc. Areas) 0001A-0006A	170409	N-S	I	F	Nov. 24, 1978	Nov. 24, 1978	Dick Throwbridge, Engr. Box 88 Lawrenceville, IL 62439 Phone: (618) 943-4215
IN	Vermillion	Vermillion County (Uninc. Areas) 0001A-0004A	180449	N-S	I	F	Nov. 24, 1978	Nov. 24, 1978	Elmo Riggen, Ch. Co. Comm. Courthouse Newport, IN 47966 Phone: (317) 665-3318
NC	Swain, Jackson, Graham, Cherokee, Haywood	Eastern Band of Cherokee Indians 0001A-0003A, 0005A, 0007A	370401	E-S	I	F	Nov. 24, 1978	Nov. 24, 1978	John Crowe, Principal Chief P. O. Box 455 Cherokee, NC 28719 Phone: (704) 497-4951
TN	Union	Union County (Uninc. Areas) 0001A-0004A	470194	N-S	I	F	Nov. 24, 1978	Nov. 24, 1978	Von Richardson, Judge Courthouse Maynardsville, TN 37807 Phone: (615) 992-3061

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STATE	COUNTY	COMMUNITY NAME & NUMBER OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM & CHANGE CODE	INLAND OR COASTAL	HAZARD E/M/E	IDENTIFICATION DATE(S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
CA	Fresno	City of Fresno 00018-00078	060048 B	E-11,12	I	F	18 OCT 74 10 JAN 78	28 NOV 78	Honorable Daniel K. Whitehurst - Mayor - City Hall - 2326 Fresno Street - Fresno, CA 93721 (209) 488-1375
CA	Tulare	City of Lindsay 00018	060406 B	E-8,11,12	I	F	1 MAR 74 10 OCT 75	28 NOV 78	Honorable Jim Chapman - Mayor - 251 E. Honolulu Street - Lindsay, CA 93247 (209) 562-2511
CO	Huerfano	City of Walsenburg 00018	080083 B	E-11,12	I	F	23 JAN 74 5 MAR 76	28 NOV 78	Honorable Leo Maes - Mayor - 122 East Sixth Street - Walsenburg, CO 81089 (303) 738-1540
SD	Lincoln	City of Lennox 00018	460192 B	N-8,11,12	I	F	26 SEP 75 12 NOV 76	28 NOV 78	Honorable Fred Courey - Mayor - 220 South Main Street - Lennox, SD 57039 (605) 647-2234
TX	Midland	City of Midland 00018-00058	480477 B	E-8,11,12	I	F	7 JUN 74 6 FEB 76	28 NOV 78	Honorable Ernest Angelo, Jr. - Mayor - P.O. Box 1152 - Midland, TX 79702 (915) 683-4281
TX	Austin	City of Sealy 00018	480017 B	E-8,11	I	F	17 DEC 73 28 MAY 76	28 NOV 78	Honorable Jim Walters - Mayor - P.O. Box 517 - Sealy, TX 77474 (713) 885-3511

(National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 91-557, 92 Stat. 2080, this rule has been granted waiver of the Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: December 19, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-53 Filed 1-2-79; 8:45 am]

[4210-01-M]

[Docket No. FI 4897]

PART 1915—IDENTIFICATION AND MAPPING OF SPECIAL HAZARD AREAS

Withdrawal of Flood Insurance Maps

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final Rule.

SUMMARY: This rule lists communities where Flood Insurance Rate Maps or Flood Hazard Boundary Maps published by the Federal Insurance Administration, have been temporarily withdrawn for administrative or technical reason. During that period that the map is withdrawn, the insurance purchase requirement of the National Flood Insurance Program is suspended.

EFFECTIVE DATES: The date listed in the fifth column of the table.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, DC 20410.

SUPPLEMENTARY INFORMATION: The list includes the date that each map was withdrawn, and the effective date of its republication, if it has been republished. If a flood prone location is now being identified on another map, the community name for the effective map is shown.

The Flood Disaster Protection Act of 1973 (Pub. L. 93-234), as amended, requires, at Section 102, the purchase of flood insurance as a condition of Federal financial assistance if such assistance is:

(1) For acquisition and construction of buildings, and

(2) For buildings located in a special flood hazard area identified by the Secretary of Housing and Urban Development.

One year after the identification of the community as flood prone, the requirement applies to all identified special flood hazard areas within the United States, so that, after that date, no such financial assistance can legally be provided for acquisition and construction of buildings in these areas unless the community has entered the program. The denial of such financial assistance has no application outside of the identified special flood hazard areas of such flood-prone communities.

Prior to July 1, 1975, the statutory requirement for the purchase of flood insurance did not apply until and unless the community entered the program and the special flood hazard areas were identified by the issuance of a flood insurance map. However, after July 1, 1975, or one year after identification, whichever is later, the requirement applies to all communities in the United States that are identified as having special flood hazard areas within their community boundaries, so that, no such financial assistance can legally be provided for buildings in these areas unless the community has entered the program.

The insurance purchase requirement with respect to a particular community may be altered by the issuance or withdrawal of the Federal Insurance Administration's (FIA's) official Flood Insurance Rate Map (FIRM) or the Flood Hazard Boundary Map (FHBM). A FHBM is usually designated by the letter "E" following the community number and a FIRM by the letter "R" following the community number. If the FIA withdraws a FHBM for any reason the insurance purchase requirement is suspended during the period of withdrawal. However, if the community is in the Regular Program and only the FIRM is withdrawn but a FHBM remains in effect, then flood insurance is still required for properties located in the identified special flood hazard areas shown on the FHBM, but the maximum amount of insurance available for new applications or renewal is first layer coverage under the Emergency Program, since the community's Regular Program status is suspended while the map is withdrawn. (For definitions see 24 CFR Part 1909 et. seq.).

As the purpose of this revision is the convenience of the public, notice and public procedure are unnecessary, and cause exists to make this amendment effective January 3, 1979. Accordingly, Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended as follows:

1. Present § 1915.6 is revised to read as follows:

§ 1915.6 Administrative withdrawal of maps.

(a) *Flood Hazard Boundary Maps (FHBM's).* The following is a cumulative list of withdrawals pursuant to this part:

40 FR 5149
40 FR 17015
40 FR 20798
40 FR 46102
40 FR 53579
40 FR 56672
41 FR 1478
41 FR 50990
41 FR 13352
41 FR 17726
42 FR 8895
42 FR 29433
42 FR 46226
42 FR 64076
43 FR 24019
43 FR 38691
43 FR (*Enter page number of this notice in* FEDERAL REGISTER.)

(b) *Flood Insurance Rate Maps (FIRM's).* The following is a cumulative list of withdrawals pursuant to this part:

40 FR 17015
41 FR 1478
42 FR 49811
42 FR 64076
43 FR 24019

2. The following additional entries (which will not appear in the Code of Federal Regulations) are made Pursuant to § 1915.6:

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[4210-01-C]

STATE	COMMUNITY NAME AND NUMBER	COUNTY	DATE OF RESCINDED MAP	RESCISSION DATE	REASON	EFFECTIVE MAP OR PROPER APPLICANT
CA	Arcadia, City 065014A (E)	Los Angeles	5/14/76	9/21/77	1	
CO	Custer County 080040A	Custer	6/7/77	10/11/77	2	
FL	Bithlo, Town 120323	Orange	12/13/74	10/18/77	3	Orange County, FL
IL	Hammond, Village 170548A	Piatt	4/9/76	10/11/77	1	
MD	Cecilton, Town 240020A (E)	Cecil	12/19/75	9/21/77	1A	
NJ	Fanwood, Borough 340463A (E)	Union	1/28/77	9/21/77	1A	
NJ	Fort Lee, Borough 340035A (E)	Bergen	2/6/76	9/21/77	1A	
NY	Champlain, Town 361311 (E)	Clinton	11/8/74	10/18/77	4	FHBM, 11/12/76
NY	Clarendon, Town 361254A (E)	Orleans	10/15/76	10/14/77	1	
NY	Upper Nyack, Village 360695A (E)	Rockland	6/18/76	9/21/77	1A	
NC	Spindale, Town 370256	Rutherford	6/27/75	10/11/77	1	
NC	Scotland Neck Town 370118A (E)	Halifax	6/18/76	9/21/77	1A	
ND	Lankin, City 380183	Walsh	4/2/76	10/11/77	1	

STATE	COMMUNITY NAME AND NUMBER	COUNTY	DATE OF RESCINDED MAP	RESCISSION DATE	REASON	EFFECTIVE MAP OR PROPER APPLICANT
SD	Bristol, City 460101A	Day	6/3/77	9/14/77	1A	
SD	Claire City, Town 460070	Roberts	2/11/77	9/14/77	1A	
SD	Claremont, Town 460105	Brown	4/25/75	9/14/77	1A	
SD	Hosmer, City 460117	Edmunds	10/29/76	9/14/77	1A	
SD	Leola, City 460193	McPherson	6/27/75	9/14/77	1A	
SD	New Effington, Town 460127	Roberts	7/25/75	9/14/77	1A	
SD	Northville, Town 460080	Spink	12/13/74	9/14/77	1A	
SD	Peever, City 460130	Roberts	8/15/75	9/14/77	1A	
SD	Roslyn, Town 460137	Day	4/25/75	9/14/77	1A	
SD	Summit, Town 460141	Roberts	7/18/75	9/14/77	1A	
SD	Tulare, Town 460145	Spink	7/25/75	9/14/77	1A	
SD	Waubay, City 460226	Day	7/23/76	9/14/77	1A	

STATE	COMMUNITY NAME AND NUMBER	COUNTY	DATE OF RESCINDED MAP	RESCISSION DATE	REASON	EFFECTIVE MAP OR PROPER APPLICANT
CA	Pomona, City 060149 (E)	Los Angeles	6/28/74	10/27/77	1	
CO	Bennett, Town 080003	Adams	11/22/74	10/27/77	1	
ID	Meridian, City 160180	Ada	5/28/76	10/27/77	1	
IA	Blairsburg, City 190703	Hamilton	8/6/76	10/27/77	1	
IA	Edgewood, City 190573	Clayton & Delaware	8/29/75	10/27/77	1	
IA	Knoxville, City 190603A (E)	Marion	4/15/77	10/27/77	1	
IA	Newton, City 190628 (E)	Jasper	4/30/76	10/27/77	1	
IA	Pacific Junction City 190206 (E)	Mills	6/28/74	10/27/77	1	
KS	Assaria, City 200385 (E)	Saline	8/22/75	10/28/77	1	
KS	St. John, City 200525	Stafford	7/16/76	10/28/77	1	
MO	Camdenton, City 290742	Camden	11/5/76	10/28/77	1	
MO	Maysville, City 290686A	DeKalb	4/15/77	10/28/77	1	
MO	Wentzville, City 290320A (E)	St. Charles	4/12/74	10/28/77	1	
MT	St. Ignatius, Town 300123	Lake	2/14/75	10/28/77	1	
NB	Chappell, City 310358 (E)	Deuel	8/6/76	10/28/77	1	
NB	Herman, Village 310229 (E)	Washington	11/15/74	10/28/77	1	
UT	Manila, Town 490202	Daggett	9/19/75	10/26/77	1	

STATE	COMMUNITY NAME AND NUMBER	COUNTY	DATE OF RESCINDED MAP	RESCISSION DATE	REASON	EFFECTIVE MAP OR PROPER APPLICANT
CO	Sugar City, Town 080224	Crowley	8/15/75	11/1/77	1A	
CO	Westcliffe, Town 080227	Custer	8/13/76	11/1/77	1A	
GA	Denton, City 130215	Jeff Davis	12/13/74	10/31/77	1	
IL	East Moline, City 170587A (E)	Rock Island	10/29/76	10/31/77	1	
LA	Campti, Village 220317	Natchitoches	11/5/76	11/4/77	1A	
MN	Alvarado, City 270267 (E)	Marshall	8/2/74	10/31/77	1	
MN	Donaldson, City 270225	Kittson	1/24/75	10/31/77	1	
MN	Oklee, City 270389	Red Lake	7/11/75	10/31/77	1	
MO	Normandy, 290371A (E)	St. Louis	6/11/76	11/4/77	1A	
NC	Cary, City 370238 (E)	Wake	6/28/74	2/16/77	1A	
ND	Maddock, City 380004A	Benson	11/15/74	11/1/77	1A	
ND	Page, City 380193	Cass	2/14/75	11/1/77	1A	
ND	Sanborn, City 380202	Barnes	2/21/75	11/1/77	1A	
OH	Marion, City 390376	Marion	9/5/75	10/31/77	1	
NY	Rye, City 360931A (E)	Westchester	5/20/77	11/1/77	2	
OR	Johnson City, City 410267	Clackamas	8/6/76	11/2/77	1A	
PA	Connoquenessing Borough 421413 (E)	Butler	11/15/74	10/31/77	1	
TX	Clarendon, City 480200	Donley	6/11/76	11/4/77	1A	
TX	Gustine, Town 480153A	Comanche	3/19/76	11/4/77	1A	
WI	Rockland, Village 550222	LaCrosse	7/11/75	10/31/77	1	

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STATE	COMMUNITY NAME AND NUMBER	COUNTY	DATE OF RESCINDED MAP	RESCISSION DATE	REASON	EFFECTIVE MAP OR PROPER APPLICANT
CO	Leadville, City 080096A	Lake	3/7/75	11/15/77	1	
CO	Stratton, Town 080263	Kit Carson	3/26/76	11/15/77	1	
IN	Lawrence, Town 180160A	Marion	1/21/77	11/15/77	3	City of Indianapolis, IN
KS	Delia, City 200139	Jackson	8/30/74	11/22/77	1A	
KS	Huron, City 200012	Atchison	12/13/74	11/22/77	1A	
KS	Montezuma, City 200539A	Gray	7/5/77	11/16/77	1	
KS	Soldier, City 200145	Jackson	11/22/74	11/24/77	1A	
KS	Wetmore, City 200376	Nemaha	2/14/75	11/24/77	1A	
MT	Columbus, Town 300109	Stillwater	4/2/76	11/16/77	1A	
NB	Axtell, Village 310344A	Kearney	12/3/76	11/16/77	1	
ND	Gackle, City 380172	Logan	8/22/75	11/16/77	1	
ND	Leeds, City 380003	Benson	1/2/76	11/16/77	1A	
ND	Munich, City 380189	Cavalier	1/17/75	11/16/77	1A	
SD	Webster, City 460227	Day	12/24/76	11/16/77	1	
VT	Concord, Village 500208	Essex	2/11/77	11/16/77	3	Town of Concord, VT

STATE	COMMUNITY NAME AND NUMBER	COUNTY	DATE OF RESCINDED MAP	RESCISSION DATE	REASON	EFFECTIVE MAP OR PROPER APPLICANT
IL	Albion, Village 170866	Edwards	8/15/75	12/20/77	1A	
IL	Astoria, Town 170741	Fulton	1/31/75	12/20/77	1A	
IL	Bardolph, Village 170470A	McDonough	4/16/76	12/20/77	1A	
IL	Bartelso, Village 170859	Clinton	3/28/75	12/20/77	1A	
IL	Casey, City 170039A	Clark	6/4/76	12/20/77	1A	
IL	Clear Lake, Village 170839	Sangamon	2/21/75	12/20/77	1A	
IL	Cornell, Village 170823	Livingston	3/21/75	12/20/77	1A	
IL	Cullom, Village 170422A	Livingston	7/2/76	12/20/77	1A	
IL	Danforth, Village 170292A	Iroquois	2/6/77	12/20/77	1A	
IL	Dubois, Village 170846	Washington	3/28/75	12/20/77	1A	
IL	East Gillespie, Village 170432A	Macoupin	5/7/76	12/20/77	1A	
IL	Ellisville, Village 170889A	Fulton	4/9/76	12/20/77	1A	
IL	Gilberts, Village 170326A	Kane	5/7/76	12/20/77	1A	
IL	Golden, Village 62339	Adams	6/4/76	12/20/77	1A	
IL	Henning, Village 170666	Vermillion	8/29/75	12/20/77	1A	
IL	Hollowayville, Village 170852	Bureau	3/28/75	12/20/77	1A	
IL	Indian Creek, Village 170369	Lake	8/23/74	12/20/77	1A	
IL	Lexington, City 170500A	McLean	6/4/76	12/20/77	1A	
IL	Lincolnwood, Village 170118A	Cook	3/26/76	12/20/77	1A	

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STATE	COMMUNITY NAME AND NUMBER	COUNTY	DATE OF RESCINDED MAP	RESCISSION DATE	REASON	EFFECTIVE MAP OR PROPER APPLICANT
IL	Little York, Village 170884		4/11/75	12/20/77	1A	
IL	Matherville, Village 170833	Mercer	3/28/75	12/20/77	1A	
IL	Middletown, Village 170880	Logan	3/28/75	12/20/77	1A	
IL	Montrose, Village 170230A	Effingham	6/11/76	12/20/77	1A	
IL	Nason, City 170309A	Jefferson	4/16/76	12/20/77	1A	
IL	New Minden, Village 170847	Washington	6/27/75	12/20/77	1A	
IL	Niantic, Village 170430A	Macon	5/14/76	12/20/77	1A	
IL	Norris, Village 170770A	Fulton	9/26/75	12/20/77	1A	
IL	Orient, Village 170871	Franklin	4/4/75	12/20/77	1A	
IL	Reddick, Village 170824	Kankakee	4/18/75	12/20/77	1A	
IL	Ridott, Village 170643A	Stephenson	4/16/76	12/20/77	1A	
IL	Royalton, Village 170867	Franklin	3/21/75	12/20/77	1A	
IL	Sadorus, Village 170855	Champaign	3/21/75	12/20/77	1A	
IL	Somonauk, Village 170190	DeKalb	1/24/75	12/20/77	1A	
IL	South Wilmington, Village 170874	Grundy	3/21/75	12/20/77	1A	
IL	Springerton, Village 170686	White	12/6/74	12/20/77	1A	
IL	Stonefort, Village 170600A	Saline	6/18/76	12/20/77	1A	
IL	Urbain, Village 170869	Franklin	6/18/76	12/20/77	1A	
IL	Vermont, Village 170781A	Fulton	4/30/76	12/20/77	1A	
IL	Waltonville, Village 170310A	Jefferson	3/19/76	12/20/77	1A	
IL	Waterman, Village 170864	DeKalb	3/21/75	12/20/77	1A	
IL	Willow Hill, City 170214A	Greene	6/4/76	12/20/77	1A	
IL	Yale, Village 170821	Jasper	3/21/75	12/20/77	1A	
IL	Yates City, Village 170356A	Knox	1/30/76	12/20/77	1A	
MO	Hayti Heights, City 290277 (E)	Pemiscot	4/23/76	12/18/77	3	Pemiscot County, MO

STATE	COMMUNITY NAME AND NUMBER	COUNTY	DATE OF RESCINDED MAP	RESCISSION DATE	REASON	EFFECTIVE MAP OR PROPER APPLICANT
AL	Andalusia, City 010331	Covington	1/13/78	1/24/78	2	
MN	Dayton, City 270157A (E)	Hennepin	10/15/76	1/4/78	2	
MN	Delavan, City 270117A	Faribault	6/4/76	1/24/78	1	
NY	Hague, Town 360873	Warren	11/5/76	1/24/78	1	
OH	Jerusalem, Township 390597 (E)	Lucas	8/16/74	1/31/78	3	Lucas Co., OH
OK	Inola, Town 400456A (E)	Rogers	12/26/75	1/24/78	1	
PA	West Fallowfield, Township 421577 (E)	Crawford	1/17/75	4/20/78	2	
SD	Arlington, City 460233	Kingsbury	8/13/76	1/24/78	1A	
SD	Bryant, City 460160	Hamlin	7/9/76	1/25/78	1A	
SD	Clear Lake, City 460165	Devel	8/8/75	1/25/78	1A	
SD	Lake Norden, City 460124	Hamlin	9/19/75	1/25/78	1A	
SD	Oldham, City 460129	Kingsburg	10/29/76	1/25/78	1A	
SD	Springfield, City 460216	Bon Homme	8/6/76	1/2/78	1A	
SD	Volga, City 460223	Brookings	10/8/76	1/25/78	1A	
SD	White, City 460148	Brookings	4/30/76	1/25/78	1A	
CA	Soledad, City 060204A (E)	Monterey	10/3/75	3/13/78	1	
WA	College Place City 530195A (E)	Walla Walla	6/27/75	4/12/77	1	

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STATE	COMMUNITY NAME AND NUMBER	COUNTY	DATE OF RESCINDED MAP	RESCISSION DATE	REASON	EFFECTIVE MAP OR PROPER APPLICANT
CO	Simla, Town 080058	Elbert	9/13/74	4/18/78	1A	
CO	Victor, Town 080226	Teller	5/2/75	4/18/78	1A	
FL	Bristol, Town 120324	Liberty	12/13/74	4/18/78	1A	
GA	Catoosa County 130028A (E)	Catoosa	4/1/77	4/18/78	4	FHBM 6/3/77
GA	Cobbtown, City 130398	Tattnall	4/11/75	4/18/78	1A	
GA	Haralson, Town 130299	Coweta& Merriweather	4/18/75	4/18/78	1A	
ID	Firth, City 160136	Bingham	4/23/76	4/18/78	1	
KS	Iuka, City 200425	Pratt	9/26/75	4/18/78	1A	
KS	Valley Falls, City 200154A	Jefferson	10/10/75	4/18/78	1A	
MI	Springfield, Township 260478A	Oakland	4/1/77	4/18/78	4	
NB	Elmwood, Village 310364	Cass	8/29/75	4/18/78	1A	
NJ	Audubon Park, Borough 340122A	Camden	7/9/76	4/18/78	1A	
ND	Balfour, City 380045	McHenry	9/5/75	4/18/78	1A	
ND	Berthold, City 380157	Ward	7/11/75	4/18/78	1A	
ND	Granville, City 380176	McHenry	1/17/75	4/18/78	1A	
ND	Lakota, City 380075A	Nelson	12/26/75	4/19/78	1A	
ND	St. Thomas, City 380249	Pembina	2/21/75	4/18/78	1A	
ND	Sherwood, City 380204	Renville	2/14/75	4/18/78	1A	

STATE	COMMUNITY NAME AND NUMBER	COUNTY	DATE OF RESCINDED MAP	RESCISSION DATE	REASON	EFFECTIVE MAP OR PROPER APPLICANT
ND	Surrey, City 380206	Ward	6/27/75	4/18/78	1A	
ND	Upham, City 380050	McHenry	12/6/74	4/18/78	1A	
ND	Wildrose, City 380211	Williams	8/15/75	4/18/78	1A	
OH	Albany, Village 390727	Athens	2/14/75	4/18/78	1A	
OH	Commercial Point Village 390711	Rickaway	1/31/75	4/18/78	1A	
OH	Kimbolton, Village 390 201A	Guernsey	5/28/76	4/18/78	1A	
OH	Lewisburg, Village 390617	Preble	8/8/75	4/18/78	1A	
OH	Osgood, Village 390141A	Darke	5/21/76	4/18/78	1A	
OH	Rochester, Village 390744	Lorain	1/10/75	4/18/78	1A	
OH	Mariemont, Village 390226A	Hamilton	1/10/75	4/18/78	1A	
SD	Alcester, City 460152	Union	7/11/75	4/19/78	1A	
SD	Avon, City 460154	Bon Homme	10/29/76	4/19/78	1A	
SD	Beresford, City 460155	Lincoln & Union	7/18/75	4/19/78	1A	
SD	Bowdle, City 460157	Edmunds	10/29/76	4/19/78	1A	
SD	Irene, Town 460120	Yankton	7/11/75	4/19/78	1A	
SD	Tripp, City 460219	Hutchinson	12/3/76	4/19/78	1A	
TN	Jamestown, City 470052	Fentress	3/28/75	4/18/78	1A	

STATE	COMMUNITY NAME NUMBER	COUNTY	HAZARD ID DATE	RESCISSION DATE	REASON	EFFECTIVE MAP OR PROPER APPLICANT
CALIFORNIA	Emeryville, City 06005B (E)	Alameda	1/16/76	4/21/78	IA	
CALIFORNIA	Gardena, City 060119A (E)	Los Angeles	12/5/75	4/21/78	IA	
CALIFORNIA	MANHATTAN Beach, City 060237 (B) (E)	LOS ANGELES	8-6-76	5/8/78	IA	
CALIFORNIA	Covina, City 065024B (E)	Los Angeles	8/27/76	5-25-78	IA	
CALIFORNIA	Dos Palos, City 060443 (E)	Merced	6-22-75	5-25-78	IA	
CALIFORNIA	El Segundo City 060118A (E)	Los Angeles	10-31-75	5-25-78	IA	
CALIFORNIA	Sonora, City 060412 A (E)	Tuolumne	10-10-75	5-25-78	IA	
CALIFORNIA	La Puente, City 065039 A (E)	Los Angeles	10-31-75	5-25-78	IA	
CALIFORNIA	Livingston, City 060450 (E)	Merced	10-29-76	5-25-78	IA	
COLORADO	LaSalle, Town 080186 A (E)	Weld	5-28-76	5-25-78	IA	

STATE	COMMUNITY NAME NUMBER	COUNTY	HAZARD ID DATE	RESCISSION DATE	REASON	EFFECTIVE MAP OR PROPER APPLICANT
ILLINOIS	Atwood, Village 170543A (E)	Douglas	9-21-75	5-25-78	IA	
ILLINOIS	Coal City, Village 170258A	Grundy	9-26-75	5-25-78	IA	
ILLINOIS	Chebanse, Village 170288 A (E)	Kapkakee	4-9-76	5-25-78	IA	
ILLINOIS	Diamond, Village 170259A (E)	Grundy	1-16-76	5-25-78	IA	
ILLINOIS	Evergreen Paris Village 170733A (E)	Cook	5-28-76	5-25-78	IA	
ILLINOIS	Fairmount, Village 170663 (E)	Vermi-lion	8-8-75	5-25-78	IA	
ILLINOIS	Norridge, Village 170131A (E)	Cook	4-16-76	5-25-78	IA	
ILLINOIS	Oakwood, Village 170796A (E)	Vermi-lion	5-7-76	5-25-78	IA	
ILLINOIS	Onarga, Village 170295A (E)	Irogulis	10-31-77	5-25-78	IA	
ILLINOIS	Sesser, City 170868 (E)	Franklin	3-21-75	5-25-78	IA	
ILLINOIS	Tallula, Village 170803A (E)	Neward	8-6-76	5-25-78	IA	
ILLINOIS	Virden, City 170435B (E)	Macoupin	11-21-75	5-25-78	IA	

STATE	COMMUNITY NAME NUMBER	COUNTY	HAZARD ID DATE	RECISSION DATE	REASON	EFFECTIVE MAP OR PROPER APPLICANT
ILLINOIS	West City, Village 170812 (E)	Franklin	3-28-75	5-25-78	IA	
ILLINOIS	Verona, Village 170264A (E)	Grundy	1-7-77	5-25-78	IA	
INDIANA	Chalmers, Town 180297 (E)	White	11-28-74	5-25-78	IA	
INDIANA	Churubu SCO Town 180299A	Whitley	3-5-76	5-25-78	IA	
INDIANA	Darlington, Town 180321A (E)	Montgomery	6-11-76	5-25-78	IA	
INDIANA	LaCrosse, Town 180145A (E)	LaPorte	1-9-76	5-25-78	IA	
INDIANA	Monticellority 180294A	White	9-12-75	5-25-78	IA	
INDIANA	Speedway, Town 180162 (E)	Marion	10-26-73	4/18/78	3	City of Indianapolis, Indiana
INDIANA	Ossian, Town 180290A (E)	Wells	3-5-76	5-25-78	IA	
INDIANA	Poneto, Town 180291A (E)	Wells	6-11-76	5-25-78	IA	

STATE	COMMUNITY NAME NUMBER	COUNTY	HAZARD ID DATE	RESCISSION DATE	REASON	EFFECTIVE MAP OR PROPER APPLICANT
INDIANA	Seelyville, Town 180310 (E)	Vigo	11-29-74	5-25-78	IA	
INDIANA	Wolcott, Town 180296A	White	5-14-76	5-25-78	IA	
INDIANA	Uniondale, Town 180292	Wells	11-15-74	5-25-78	IA	
INDIANA	Blenco, City 190705	Monona	10-29-76	5-25-78	IA	
KANSAS	Mayetta, City 200143 (E)	Jackson	11-8-74	5-25-78	IA	
LOUISIANA	Fordoche, Village 220141 (E)	Pointe Coupee	7-11-75	5-25-78	IA	
LOUISIANA	Loreauville, Village 220081A (E)	Iberia	10-24-75	5-25-78	IA	
LOUISIANA	Livowia, Village 220142A	Pointe Coupee	3-5-76	5-25-78	IA	
MICHIGAN	Dowagiac, City 260055A (E)	Cass	10-24-75	5-25-78	IA	
MICHIGAN	Delta County 260260 (E)	Delta	1-3-75	4-18-78	3	None
MICHIGAN	Madison Heights City 260174A (E)	Oakland	10-31-75	5-25-78	IA	

STATE	COMMUNITY NAME NUMBER	COUNTY	HAZARD ID DATE	RESCISSION DATE	REASON	EFFECTIVE MAP OR PROPER APPLICANT
MICHIGAN	Royal Oak, City 260178A	Oakland	6-4-76	5-25-78	IA	
MONTANA	Hysham, Town 300080A	Trasure	11-5-76	4-28-78	IA	
MONTANA	Country Club Hills City 290746 (E)	St. Louis	5-7-76	5-25-78	IA	
NEW JERSEY	Edgewater Park Township 340096A (E)	Erie	5-21-76	5-25-78	IA	
NEW JERSEY	Roosevelt, Boro 340322A (E)	Monmouth	3-5-76	5-25-78	IA	
NEW YORK	Trenton, Village 360557A	Oneida	6-18-76	4-18-78	3	Barneveld, Vill New York
NEW YORK	Plan Dome, Village 360484A (E)	Nassau	10-31-75	5-25-78	IA	
NEW YORK	Nyack, Village 360685A (E)	Rockland	4-23-76	5-25-78	IA	
NEW YORK	Shoreham, Village 361506A (E)	Suffolk	7-23-76	5-25-78	IA	
OKLAHOMA	Byng, Town 400175 (E)	Pontofol	8-30-74	5-24-78	IA	

STATE	COMMUNITY NAME NUMBER	COUNTY	HAZARD ID DATE	RESCISSION DATE	REASON	EFFECTIVE M PROPER APPL
OKLAHOMA	Caddo, Town 400353 (E)	Bryan	4-16-76	5-25-78	IA	
OKLAHOMA	Braggs, Town 400121 (E)	Muskogee	12-27-74	5-25-78	IA	
OKLAHOMA	Frederick, City 400205A	Tillman	4-23-76	5-25-78	IA	
OKLAHOMA	Granite, Town 400066A (E)	Greek	1-23-76	5-25-78	IA	
OKLAHOMA	HUNTER, TOWN 400286	Garfield	7-11-75	5-25-78	IA	
OKLAHOMA	Kremlin, City 400135A (E)	Garfield	4-9-76	5-25-78	IA	
OKLAHOMA	Oktaha, Town 400126 (E)	Muskogee	11-29-74	5-25-78	IA	
OKLAHOMA	Red Rock, City 400135A (E)	Noble	10-10-75	5-25-78	IA	
OHIO	Smithfield, Village 390725A (E)	Jefferson	7-30-76	5-25-78	IA	
OHIO	Woodsfield, Village 390406A (E)	Monroe	6-11-76	5-25-78	IA	

STATE	COMMUNITY NAME NUMBER	COUNTY	HAZARD ID DATE	RESCISSION DATE	REASON	EFFECTIVE MAP OR PROPER APPLICANT
OHIO	Cadiz, Village 390258A (E)	Harrison	5-21-76	5-25-78	IA	
OHIO	Clarksburg, Village 390483 (E)	Ross	11-15-74	5-25-78	IA	
OHIO	Castalia, Village 390653A (E)	Erie	5-21-76	5-25-78	IA	
OHIO	Harborview, Village 390702 (E)	Lucas	8-8-75	5-25-78	IA	
OHIO	Lakemore, Village 390527A (E)	Summit	5-28-76	5-25-78	IA	
OHIO	Lincoln Heights City 390222A (E)	Hamilton	12-31-76	5-25-78	IA	
OHIO	Belle Center Village 390339	Logan	11-5-76	4-28-78	IA	
OKLAHOMA	Vian, Town 400200A (E)	Sequoyah	12-12-75	5-25-78	IA	
OKLAHOMA	Warner, Town 400130 (E)	Muskogee	8-13-76	5-25-78	IA	

STATE	COMMUNITY NAME NUMBER	COUNTY	HAZARD ID DATE	RESCISSION DATE	REASON	EFFECTIVE MAP OR PROPER APPLICANT
OREGON	Boardman, City 41074A (E)	Morrow	9-12-75	5-25-78	IA	
OREGON	Waterloo, Town 41048A (E)	Linn	11-28-75	5-25-78	IA	
PENNSYLVANIA	Homestead, Boro 420044A	Allegheny	6-18-76	5-25-78	IA	
PENNSYLVANIA	Susquehana, TWP 420659A (E)	Lycoming	7-1-77	5-7-78	4	FHBM 10-12-73
PENNSYLVANIA	Sharpsville, Boro 420682A (E)	Mercer	5-21-76	5-25-78	IA	
PENNSYLVANIA	Souderton, Boro 421906 (E)	Montgomery	11-1-74	5-25-78	IA	
PENNSYLVANIA	Whitaker, Boro 420087A	Allegheny	8-13-76	5-25-78	IA	
SOUTH DAKOTA	Tea, Town 460151	Lincoln	9-19-75	5-24-78	IA	
SOUTH DAKOTA	Worthing, Town 460143	Lincoln	8-22-75	5-24-78	IA	
SOUTH DAKOTA	Humboldt, Town 460118	Mynnehaha	9-5-75	4-28-78	IA	
SOUTH DAKOTA	Ramona, Town 460134	Lake	7-25-75	4-28-78	IA	
SOUTH DAKOTA	Roscoe, Town 460136	Edmonds	11-12-76	4-28-78	IA	

STATE	COMMUNITY NAME NUMBER	COUNTY	HAZARD ID DATE	RESCISSION DATE	REASON	EFFECTIVE MAP OR PROPER APPLICANT
SOUTH DAKOTA	Wakonda, Town 460232	Clay	11-12-76	4-28-78	IA	
TEXAS	Anson, City 48041A (E)	Jones	3-12-76	5-25-78	IA	
TEXAS	Clyde, City 480721A	Callahan	5-21-76	5-25-78	IA	
TEXAS	Edcouch, City 480337A (E)	Hidalgo	3-19-78	5-25-78	IA	
TEXAS	Elsa, City 480339A (E)	Hidalgo	4-23-76	5-25-78	IA	
TEXAS	Gorman, City 481103 (E)	Eastland	8-8-75	5-25-78	IA	
TEXAS	Kerens, City 480955 (E)	Naurro	8-29-75	5-25-78	IA	
TEXAS	Manor, City 481027 (E)	Travis	2-12-75	5-25-78	IA	
TEXAS	Saint, Jo, City 480940	Montague	6-27-75	5-25-78	IA	
TEXAS	Stamford, City 480403A (E)	Jones	5-14-76	5-25-78	IA	
TEXAS	Winters, City	Runners	5-14-76	5-25-78	IA	
VIRGINIA	Duffield, Town 510240A	Scott	7-2-76	5-25-78	IA	
WASHINGTON	ALgona, City 530072A (E)	King	3-12-76	5-25-78	IA	
WISCONSIN	Livingston, Village 550151A (E)	Grant	5-28-76	5-25-78	IA	

STATE	COMMUNITY NAME NUMBER	COUNTY	HAZARD ID DATE	RESCISSION DATE	REASON	EFFECTIVE MAP OR PROPER APPLICANT
CALIFORNIA	Bradbury, City 065017 (E)	Los Angeles	11-15-74	6-3-78	3	
CALIFORNIA	Lomita, City 060135 (E)	Los Angeles	6-28-74	6-3-78	3	
GEORGIA	Comer, City 130211 (E)	Madison	4-12-74	6-1-78	3	
MINNESOTA	Taopi, City 270604	Mower	1-24-76	6-8-78	1A	
MISSOURI	Owensville, City 290143 (E)	Gasconade	5-10-74	6-7-78	1A	
NEBRASKA	Fort Calhoun, City 310368	Washington	7-25-75	6-3-78	3	
UTAH	City of Syracuse 490051 (E)	Davis	7-30-76	6-1-78	1A	
VERMONT	Grafton, Town 500129 (E)	Windham	2-21-78	6-2-78	2	
ARKANSAS	Subiaco, Town 050288 (E)	Logan	4-25-78	7-5-78	IA	
OKLAHOMA	Jay, Town 400057A (E)	Delaware	6-28-74	7-5-78	IA	
OKLAHOMA	Laverne, Town 400069A (E)	Harper	6-21-77	7-5-78	IA	
OKLAHOMA	Sterling Town (E) 400414	Comancho	1-10-75	7-5-78	IA	

STATE	COMMUNITY NAME NUMBER	COUNTY	HAZARD ID DATE	RESCISSION DATE	REASON	EFFECTIVE MAP OR PROPER APPLICANT
CALIFORNIA	LaPalma, City 060225 (E)	Orange	4-6-76	7-21-78	IA	
INDIANA	Bargersville, TN 180112 (E)	Johnson	11-1-74	7-21-78	IA	
INDIANA	Morristown, TN 180393 (E)	Shelby	-	7-21-78	IA	
INDIANA	Summitville 180157 (E)	Madison	9-19-75	7-21-78	IA	
INDIANA	Thornton, TN 180014 (E)	Boone	12-7-73	7-21-78	IA	
MICHIGAN	Oak Park 260323	Oakland	-	7-21-78	IA	
NEW HAMPSHIRE	Rindge, TN 330189 (E)	Cheshire	4-4-75	7-21-78	IA	
OREGON	Halsey, City 41039 (E)	Linn	11-22-74	7-21-78	IA	
OHIO	Poland, Village 390370 (E)	Mahoning	3-1-74	7-21-78	IA	
PENNSYLVANIA	Biglerville, Boro 422649	Adams	-	7-21-78	IA	
PENNSYLVANIA	Broad Top, City 420483 (E)	Huntington	1-10-75	7-21-78	IA	
PENNSYLVANIA	Loretta, Boro 421431	Cambria	11-15-74	7-21-78	IA	

STATE	COMMUNITY NAME NUMBER	COUNTY	HAZARD ID DATE	RESCISSION DATE	REASON	EFFECTIVE MAP OR PROPER APPLICANT
PENNSYLVANIA	New Paris 421326 (E)	Bedford	11-22-74	7-21-78	IA	
UTAH	Clinton City 490042 (E)	Davis	8-2-74	7-21-78	IA	
TEXAS	San Juan, City 480348 (E)	Hidalgo	3-22-74	7-21-78	IA	
TEXAS	Big Lake, City 480534 (E)	Reagan	12-19-75	7-21-78	IA	
WISCONSIN	West Milwaukee Village 550561 (E)	Milwaukee	-	7-21-78	IA	
MICHIGAN	Gaines, Vil 260294 (E)	Genesse	1-31-75	7-21-78	IA	
PENNSYLVANIA	Yatesville, Boro 420634 (E)	Luzerne	10-29-76	7-31-78	IA	
PENNSYLVANIA	West Hazelton 421821 (E)	Luzerne	11-1-74	7-31-78	IA	
PENNSYLVANIA	South New Castle 422467 (E)	Lawrence	1-17-75	7-31-78	IA	
PENNSYLVANIA	Pen-Brook, Boro 420391 (E)	Dauphin	-	7-31-78	IA	
PENNSYLVANIA	Hughstown, Boro 422626 (E)	Luzerne	-	7-31-78	IA	
PENNSLYVANIA	Hazelton, City 421203	Luzerne	-	7-31-78	IA	
PENNSYLVANIA	Mt. Penn. Boro 420143 (E)	Berks	11-26-76	7-31-78	IA	
PENNSYLVANIA	Jeddo, Boro 422269 (E)	Luzerne	1-17-75	7-31-78	IA	

STATE	COMMUNITY NAME NUMBER	COUNTY	HAZARD ID DATE	RESCISSION DATE	REASON	EFFECTIVE MA OR PROPER APPLICANT
MARYLAND	Cheverly, TN 240131	Prince Georges	3-11-77	8-5-78	IA	
MISSOURI	Kingston, City 290583	Caldwell	6-4-76	8-5-78	IA	
MISSOURI	Mendenmines, City 290570	Barton	4-18-75	8-5-78	IA	
MISSOURI	Moscow Mills City, 290546	Lincoln	7-2-76	8-5-78	IA	
MISSOURI	Palmyra, City 290224	Marion	7-18-75	8-5-78	IA	
MISSOURI	Rivermines, Vil 290544	St. Francois	4-2-76	8-5-78	IA	
MISSOURI	Schell, City 290519	Vernon	4-18-75	8-5-78	IA	
MISSOURI	Shoal Creek, TN 290487	Newton	8-16-74	8-5-78	IA	
MISSOURI	Urich, City 290651	Henry	10-29-76	8-5-78	IA	
MISSOURI	Wellington 290651	LaFayette	9-19-75	8-5-78	IA	

STATE	COMMUNITY NAME NUMBER	COUNTY	HAZARD ID DATE	RESCISSION DATE	REASON	EFFECTIVE MAP OI PROPER APPLICAN
NORTH DAKOTA	Esmond, City 380167 (E)	Benson	2-12-75	8-1-78	IA	
SOUTH CAROLINA	Jamestown 450220	Berkley	2-7-75	8-1-78	IA	
VIRGINIA	Haymarket, TN 510121	Prince William	8-9-74	8-5-78	IA	
VIRGINIA	Roundhill 510279	Loudon	5-13-77	8-5-78	IA	
INDIANA	Morgantown 180178	Morgan	9-20-74	5-25-78	IA	

KEY TO SYMBOLS

E The community is participating in the Emergency Program. It will remain in the Emergency Program without a FHBM.

C The community is participating in the Emergency Program. It will be converted to the Regular Program without an FIA map.

R The community is participating in the Regular Program.

1. The Community appealed its flood-prone designation and FIA determined the Community would not be inundated by a flood having a one-percent chance of occurrence in any given year.

1A. FIA determined the Community would not be inundated by a flood having a one-percent chance of occurrence in any given year.

2. The Flood Hazard Boundary Map (FHBM) contained printing errors or was improperly distributed. A new FHBM will be prepared and distributed.

3. The Community lacked land-use authority over the special flood hazard area.

4. A more accurate FIA map is the effective map for this community.

5. The FHBM does not accurately reflect the Community's special flood hazard areas (i.e., sheet flow flooding, extremely inaccurate map, etc.). A new FHBM will be prepared and distributed.

6. The Flood Insurance Rate Map was rescinded because of inaccurate flood elevations contained on the map.

7. The Flood Insurance Rate Map was rescinded in order to re-evaluate the mudslide hazard in this Community.

8. The T&E or H&E Map was rescinded.

9. A revision of the FHBM within a reasonable period of time was not possible. A new FHBM will be prepared and distributed.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: December 19, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-54 Filed 1-2-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4248]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Glendale, Maricopa County, Arizona

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Glendale, Maricopa County, Arizona. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Glendale, Maricopa County, Arizona.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Glendale, Maricopa County, Arizona, are available for review at the Office of the Director of Engineering and Development, Phoenix, Arizona.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Glendale, Maricopa County, Arizona.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation, feet above ground level
Grand Ave	From 54th Ave. to 70th Ave.	(1)
	From 43d Ave. to 54th Ave..	(2)
Arizona Canal	From 43d Ave. to 54th Ave. along south bank of canal.	(3)
Grand Canal	From Camelback Rd. to Missouri Ave. extended.	(1)
Arizona Canal	From 51st Ave. to 67th Ave. along north bank of canal.	1,218
Skunk Creek	700 ft upstream of 67th Ave. bridge over Skunk Creek.	1,239
	59th Ave. Bridge—Downstream.	1,269
	59th Ave. Bridge—Upstream.	1,270
	2,300 ft east of intersection of Union Hills Drive and 59th Ave.	1,277

[1] Estimated depth=1.0.
[2] Estimated depth=2.0.
[3] Estimated depth=3.0.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: October 19, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1 Filed 1-2-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4297]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATIONS AND JUDICIAL REVIEW

Final Flood Elevation Determinations for the City of Perris, Riverside County, California

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Perris, Riverside County, California.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Perris, California.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Perris, Riverside County, California, are available for review at the office of Mr. Eugene L. Diepholz, City Engineer, City of Perris, Neste, Brudin and Stone, 535 East Florida Avenue, Hemet, California.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Perris, Riverside County, California.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the

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Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation, in feet, National Geodetic Vertical Datum
San Jacinto River.	Escondido Expressway Southeast*.	1420
Perris Valley Storm Drain.	San Jacinto Avenue*.....	1420
	Nuevo Road—200 feet**.	1425
	Orange Avenue—150 feet*.	1432
	Rider Street—200 feet**.	1442
Mountain Avenue Wash.	Downstream Corporate Limit.	1419
	River Road—120 feet**...	1430

*At Centerline.
**Upstream of Centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719).

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional reveiw requirements in order to permit it to take effect on the date indicated.

Issued: October 19, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2 Filed 1-2-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4086]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of San Luis Obispo, San Luis Obispo County, California

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of San Luis Obispo, San Luis Obispo County, California. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of San Luis Obispo, California.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of San Luis Obispo, San Luis Obispo County, California, are available for review at Office of the City Engineer, Community Development Department, 990 Palm Street, San Luis Obispo, California.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of San Luis Obispo, San Luis Obispo County, California.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Stenner Creek	North Pomo Street*.....	187
	U.S. Route 101**.....	189
	U.S. Route 101*.....	199
	Santa Rosa Street*.....	230
	Foothill Boulevard**.....	240
	Foothill Boulevard*.....	254
	Foothill Boulevard* (0.3 mile).	264
Old Garden Creek	Broad and Lincoln Streets*.	199
	Mission Avenue*.....	217
	Ramona Drive*.....	233
	Center of Felton Way.....	252
Prefumo Creek	U.S. Route 101*.....	108
	Madonna Road*.....	125
	Los Osos Valley Road**..	128
	Los Osos Valley Road*...	137
San Luis Obispo Creek.	Confluence with Froom Creek.	98
	Prado Road Bridge*.....	135
	Bianci Lane Bridge*.....	169
	Broad Street Bridge*.....	195
	Johnson Avenue Bridge*	236
	Andrews Street Bridge*..	275
	U.S. Route 101**.....	303
	U.S. Route 101*.....	319
East Fork San Luis Obispo Creek.	Broad Street*.....	160
	Private Drive approximately 0.16 mile upstream of Broad Street.	166

*Upstream side.
**Downstream side.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: October 19, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-3 Filed 1-2-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4300]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Fort Myers, Lee County, Florida

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Fort Myers, Lee County, Florida. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Fort Myers, Florida.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Fort Myers, Lee County, Florida, are available for review at City Hall, 2200 Second Street, Fort Myers, Florida.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Fort Myers, Florida.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, (National Geodetic Vertical Datum)
Caloosahatchee River.	Intersection of Gasparilla Drive and Stuart Court.	11
	Intersection of McGregor Boulevard and Lynnwood Avenue.	11
	Edison Bridge*.....	11
	Intersection of Marion Street and Palmetto Avenue.	11
	Upstream Corporate Limits.	11
Billy Creek	Marsh Avenue*.....	11
	Nuna Avenue*.....	12
	Upstream Corporate Limits.	12

*At Centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: October 16, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-4 Filed 1-2-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4367]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Village of Bannockburn, Lake County, Illinois

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Village of Bannockburn, Lake County, Illinois. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Village of Bannockburn, Lake County, Illinois.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Village of Bannockburn are available for review at the Village Hall, Bannockburn, Illinois.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for Village of Bannockburn, Lake County, Illinois.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, (National Geodetic Vertical Datum)
Middle Fork North Branch Chicago River.	South Corporate Limits.	657
	North Corporate Limits.	658
West Fork North Branch Chicago River.	South Corporate Limits.	665
	At Interstate 94	665
	1,500 feet North of Duffy Lane.	667

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

J A 3 7 9 UMI

Issued: October 25, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-5 Filed 1-2-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4311]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Salem, Marion County, Illinois

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Salem, Marion County, Illinois. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Salem, Marion County, Illinois.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Salem, Marion County, Illinois, are available for review at the Code Enforcement Office, 103 South Broadway, Salem, Illinois.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Salem, Marion County, Illinois.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448). 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of Flooding	Location	Elevation in Feet, (National Geodetic Vertical Datum)
Town Creek	Downstream Corporate Limits.	508
	Sewage Plant Culvert	512
	Missouri Pacific Railroad.	514
	East Main Street	523
	North Broadway	528
	West Boone Street	531
	City Dam	550
	Upstream Corporate Limits.	551
Chicago & Eastern Illinois Reservoir Branch of Town Creek.	Chessie System	516
	Main Street	520
	Chicago & Eastern Illinois Dam.	530
Folks Creek	East Seneff Street	530
	Blair Street	528
	Missouri Pacific Railroad.	536
	West Main Street	539
	North Roddy Road	549
	West Boone Street	553
Tributary #2	West Blair Street	542
	Chessie System	544
	West Main Street	546

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: October 25, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-6 Filed 1-2-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4233]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Town of Bristol, Elkhart County, Indiana

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Bristol, Elkhart County, Indiana. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Town of Bristol, Elkhart County, Indiana.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Bristol, Elkhart County, Indiana, are available for review at the Town Hall, East Vistule Street, Bristol, Indiana.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Bristol, Elkhart County, Indiana.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, National Geodetic Vertical Datum
St. Joseph River	Downstream Corporate Limits.	755
	Divison Street	756
	Upstream Corporate Limits.	758
Little Elkhart	Confluence with St. Joseph River.	757
	State Route 15	757
	Upstream Corporate Limits.	757

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: October 16, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-7 Filed 1-2-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4173]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for Jefferson County, Kentucky

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in Jefferson County, Kentucky. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for Jefferson County, Kentucky.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for Jefferson County, Kentucky, are available for review at the bulletin board in the County Courthouse, Louisville, Kentucky.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for Jefferson County, Kentucky.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, National Geodetic Vertical Datum
Ohio River	Mill Creek Confluence	444
	Mill Creek Cutoff Confluence.	446
Middle Fork Beargrass Creek.	Cannons Lane	493
	Oxmoor Bridge (Downstream).	532
	Perry Lane	587
Weicher Creek	Downstream Corporate Limits.	549
	Upstream Corporate Limits.	554
South Fork Beargrass Creek.	Hill Creek Drive	512
	Avoca Creek Confluence	539
	Taylorsville Road	633
Bueckel Branch	Southern Railroad	476
	Progress Boulevard (Downstream).	488
	Bardstown Road	499
Mill Creek Cutoff	Cane Run Road	446
	Terry Lane	446
Upper Mill Creek	Imperial Terrace (Upstream).	441
	Lynnview Ditch confluence.	440
Cane Run Ditch	Teaneck Drive (Upstream).	440
	Illinois Central Railroad	443
	Campground Road (Downstream).	444
Boxwood Ditch	Rockford Lane	439
	Lynnview Avenue	440
East Branch Boxwood Ditch.	Tata Gale Drive (Downstream).	440
	Huges Lane (Downstream).	441
Lynnview Ditch	Rockford Lane	440
	Crums Lane (Downstream).	443
	Cane Run Road	450
Big Run	Dixie Highway (Downstream).	460
	Walkway	480
Lower Mill Creek	Orell Road	444
	Greenwood Road	444
Black Pond Creek	Johnsontown Road	444
	Terry Road (Upstream)	446
Valley Creek	Alandale Road	444
	Maryman Drive	446
Stephan Ditch	Johnsontown Road	444
	Maryman Drive	448
Ponder Creek	Dixie Highway	454
	Private Road (Upstream).	473
Pond Creek	Katharyn Road	443
	Dodges Lane	445
	New Cut Road (Upstream).	457
Northern Ditch	Old National Turnpike	458
	Old Shepherdsville Road (Upstream).	479
Fern Creek	Flirtation Way (Downstream).	481
	Fegenbush Lane	492
Greasy Ditch	Kentucky Turnpike (I-65) (Upstream).	460
	Poplar Level Road (Downstream).	466
Southern Ditch	Old National Trunpike	458
	Preston Highway (Upstream).	473
Fishpool Creek	Blue Lick Road (Upstream).	468
	Manslick Road	478
Roberson Run	Santa Paula Lane	474
	Judge Boulevard	506
Floyds Fork	U.S. Route 31 (Upstream).	489
	Routt Run Road	552
	Aiken Road	624

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: October 16, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-8 Filed 1-2-79; 8:45 am]

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[4210-01-M]

[Docket No. FI-2475]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for City of Lowell Middlesex County, Massachusetts

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Lowell, Middlesex County, Massachusetts. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Lowell, Middlesex County, Massachusetts.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Lowell, Middlesex County, Massachusetts, are available for review at the lobby of the City Hall and at John F. Kennedy Civic Center Office of Planning and Development, Lowell, Massachusetts.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Lowell, Middlesex County, Massachusetts.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, National Geodetic Vertical Datum
Concord River	Church Street (Upstream).	72
	Wamesit Power Company Dam (Upstream).	103
	Boston & Maine Railroad.	105
Merrimack River	Downstream Corporate Limits.	59
	Hunts Falls Bridge	64
	Moody Street Bridge	79
	Pawtucket Dam	99
	Upstream Corporate Limits.	103

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719).

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: October 24, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-9 Filed 1-2-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4098]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Zilwaukee, Saginaw County, Michigan

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Zilwaukee, Saginaw County, Michigan. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Zilwaukee, Michigan.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Zilwaukee, Saginaw County, Michigan, are available for review at City Hall, 319 Tittabawassee Drive, Saginaw, Michigan.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Zilwaukee, Michigan.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, National Geodetic Vertical Datum
Saginaw River	Interstate Highway 75	588
	Upstream Corporate Limit.	589

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: October 25, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-10 Filed 1-2-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4279]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Town of Conway, Carroll County, New Hampshire

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Conway, Carroll County, New Hampshire. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Town of Conway, Carroll County, New Hampshire.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Conway, Carroll County, New Hampshire, are available for review at Town Hall, Conway, New Hampshire 03813.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Conway, Carroll County, New Hampshire.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation, in feet, National Geodetic Vertical Datum
Saco River	Eastern Corporate Limits.	413
	Just upstream from Route 302 Bridge.	433
	Just upstream of Route 16 Bridge.	452
	Just upstream of River Road.	480
Kearsarge Brook	Approximately 150 feet upstream from Maine Central Railroad.	490
	Cranemore Road	531
Swift River	Just upstream of West Side Road Bridge.	456
	Approximately 100 feet downstream from western corporate limits.	478

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: October 11, 1978.

GLORIA M. JIMENEZ.
Federal Insurance Administrator.

[FR Doc. 79-11 Filed 1-2-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4189]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Town of Hollis, Hillsborough County, New Hampshire

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Hollis, Hillsborough County, New Hampshire.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Town of Hollis, Hillsborough County, New Hampshire.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Hollis are available for review at the Board of Selectmen's Office, Hollis, New Hampshire.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for Town of Hollis, Hillsborough County, New Hampshire.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received

from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Nashua River	At Eastern Corporate Limit.	167
	Just Downstream of Runnels Road.	173
	Just Upstream of Runnels Road.	175
	At Southern Corporate Limit.	177
Missitissit River	At Southern Corporate Limit.	209
	Just Downstream of Brookline Road.	215
	At Western Corporate Limit.	219
Witches Brook	At Corporate Limit with Merrimack.	191
	Just Downstream of South Merrimack Road.	191
	Just Upstream of South Merrimack Road.	192
	3,380 feet Upstream of South Merrimack Road.	193
	2,429 feet Downstream of Ames Road.	200
	At New Hampshire Route 122.	215

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: September 28, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-12 Filed 1-2-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4316]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Borough of Beachwood, Ocean County, New Jersey

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Borough of Beachwood, Ocean County, New Jersey. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Borough of Beachwood, Ocean County, New Jersey.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of Beachwood, Ocean County, New Jersey, are available for review at the Beachwood Borough Hall, 315 Atlantic City Boulevard, Beachwood, New Jersey.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Borough of Beachwood, Ocean County, New Jersey.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Barnegat Bay	Shoreline	6

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: October 25, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-13 Filed 1-2-79; 8:45 am]

[4210-01-M]

[Docket No. FI-2634]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Township of East Hanover, Morris County, New Jersey

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Township of East Hanover, Morris County, New Jersey. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Township of East Hanover, Morris County, New Jersey.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Township of East Hanover, Morris County, New Jersey, are available for review at the lobby on the Bulletin Board in the Township Hall, 411 Ridgedale Avenue, East Hanover, New Jersey.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Township of East Hanover, Morris County, New Jersey.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Passaic River	Route 280	174
	Route 10	175
Whippany River	Edwards Road (Ridgedale Avenue).	175
	Troy Road	178
	Route 10	182
		183
Black Brook-Pinch Brook Swamp Area (including Hassock Brook).		

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: October 19, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-14 Filed 1-2-79; 8:45 am]

[4210-01-M]

[Docket No. FI-2332]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Borough of Elmwood Park, Bergen County, New Jersey

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Borough of Elmwood Park, Bergen County, New Jersey. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Borough of Elmwood Park, New Jersey.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of Elmwood Park, Bergen County, New Jersey, are available for review at Borough Hall, Market Street, Elmwood, New Jersey.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Borough of Elmwood Park, Bergen County, New Jersey.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Fleischer Brook	Industrial Road	45
	Molnar Drive	45
	Interstate Highway 80	45
	New York, Susquehanna and Western Railroad (upstream).	44
	(downstream)	43
	Market Street	39
	Boulevard (upstream)	38
	(downstream)	37
	Garden State Parkway	33
	U.S. route 46	32
	Martha Avenue	31
	Kipp Avenue	31
Passaic River	State Route 4	37
	New York, Susquehanna and Western Railroad.	36
	Market Street	35
	Interstate Highway 80	35
	U.S. Route 46	33
	Garden State Parkway	33

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: October 24, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-15 Filed 1-2-79; 8:45 am]

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[4210-01-M]

[Docket No. FI-4355]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Township of Delanco, Burlington County, New Jersey

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Township of Delanco, Burlington County, New Jersey. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Township of Delanco, New Jersey.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Township of Delanco, Burlington County, New Jersey, are available for review at Township Hall, Burlington Avenue, Burlington, New Jersey.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Township of Delanco, New Jersey.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Rancocas Creek.....	Confluence with Delaware River.	11
	Burlington Avenue.....	11
	Conrail.....	11
	Upstream Corporate Limits.	11
Delaware River.....	Downstream Corporate Limits.	11
	Upstream Corporate Limits.	11

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: October 25, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-16 Filed 1-2-79; 8:45 am]

[4210-01—M]

[Docket No. FI-4356]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Township of Riverside, Burlington County, New Jersey

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Township of Riverside, Burlington County, New Jersey.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Township of Riverside, New Jersey.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Township of Riverside, Burlington County, New Jersey, are available for review at Township Hall, Scott and Pavilion Avenues, Riverside, New Jersey.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Township of Riverside, New Jersey.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Rancocas Creek.....	Pavilion Avenue—30 feet.[1]	11
	Conrail—30 feet [1]	11

[1] Upstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: October 25, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-17 Filed 1-2-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4424]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Township of Willingboro, Burlington County, New Jersey

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Township of Willingboro, Burlington County, New Jersey. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Township of Willingboro, New Jersey.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Township of Willingboro, Burlington County, New Jersey, are available for review at Municipal Complex, Salem Road, Willingboro, New Jersey.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Township of Willingboro, New Jersey.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Rancocas Creek.....	Burlington Pike Route 130—50 feet.[1]	11
	Bridge Street—50 feet.[1]..	11
Mill Creek	Beverly Road—50 feet.[1]..	11
	Pennypacker Road—50 feet.[1]	11
	Levitt Parkway—50 feet.[1].	13
	Kennedy Parkway—50 feet.[1].	22
	Willingboro Parkway—100 feet.[1].	26
	Footbridge—40 feet.[1].....	29
South Branch Mill Creek.	Levitt Parkway—50 feet.[1]	17
	Middlebury Lane—30 feet.[1].	22
	Messenger Lane—100 feet.[1].	27
	Kennedy Parkway—50 feet.[1].	31
Tributary to Mill Creek.	Levitt Parkway—40 feet.[2].	23

[1] Upstream of centerline.
[2] Downstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: October 25, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-18 Filed 1-2-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4280]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Town of Aurora, Erie County, New York

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Aurora, Erie County, New York. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Town of Aurora, Erie County, New York.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Aurora, Erie County, New York, are available for review at Aurora Town Hall, 5 South Grove Street, East Aurora, New York 14052.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Aurora, Erie County, New York.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received

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from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Cazenovia Creek....	Just upstream of Big Tree Road (Route 20A) Bridge.	816
West Branch Cazenovia Creek.	Just upstream of Jewett Holmwood Road Bridge.	825
	Approximately 100 feet downstream Southern Corporate Limit.	941
East Branch Cazenovia Creek.	Just upstream of Jewett Holmwood Road Bridge.	823
	Just upstream Center Street Route 12 Bridge.	875
	Just upstream of Emery Road (Route 67) Bridge.	914
	Just upstream of Darling Road (Route 379) Bridge.	922

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: October 10, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-19 Filed 1-2-79; 8:45 am]

[4210-01-M]

[Docket No. FI-3413]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Town of Brutus, Cayuga County, New York

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Brutus, Cayuga County, New York. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Town of Brutus, Cayuga County, New York.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Brutus, Cayuga County, New York, are available for review on the Bulletin Board, in the Supervisor's Office, 2686 East Brutus Street, Weedsport, New York.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Brutus, Cayuga County, New York.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Seneca River.....	State Route 34.....	383
	Upstream Corporate Limits.	384
Skaneatles Creek ..	Upstream of farm bridge.	384
	Upstream Corporate Limits.	384
Cold Spring Brook	Upstream of Stein Road	388
	Interstate 90 (upstream)	391
	CONRAIL.....	392
	West Brutus Road.....	396
	Erie Canal Aqueduct.....	397
North Brook	Hamilton Road	401
	Upstream Corporate Limit.	417
North Brook Tributary 1.	Hamilton Road	405
Putnam Brook.....	Conrail Spur Line (downstream).	395
	Conrail Spur line (upstream).	399
	CONRAIL.....	405
	State Route 31	409
	State Route 31B	427
	Shepherd Road.....	436
	Jericho Road North	482
	Cooper Road	540
	Stevens Road.....	566
	Upstream Corporate Limits.	576
Putnam Brook Tributary No. 1.	Shepherd Road.....	460
Putnam Brook.....	Bibbens Road ford	489
Tributary No. 2	State Route 31B	522
Putnam Brook.....	Jericho Road.....	526
Tributary No. 3	Upstream Corporate Limits.	550
Putnam Brook.....	State Route 5	569
Tributary No. 4	Upstream Corporate Limits.	579

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: October 25, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-20 Filed 1-2-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4212]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Village of Dobbs Ferry, Westchester County, New York

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Village of Dobbs Ferry, Westchester County, New York. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Village of Dobbs Ferry, Westchester County, New York.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Village of Dobbs Ferry, Westchester County, New York, are available for review at the Village clerk's Office, Dobbs Ferry, New York.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Village of Dobbs Ferry, Westchester County, New York.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Saw Mill River.....	Downstream Corporate Limits (Conrail Tracks).	124
	Saw Mill River Parkway	127
	Upstream Corporate Limits (Conrail Bridge).	128

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Wickers Creek	Confluence with the Hudson River.	8
	Conrail Bridge.....	10

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: October 24, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-21 Filed 12-79; 8:45 am]

[4210-01-M]

[Docket No. FI-2294]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Town of Hempstead, Nassau County, New York

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Hempstead, Nassau County, New York. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Town of Hempstead, Nassau County, New York.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Hempstead, Nassau County, New York, are available for review at the Town Hall, Town Hall Plaza, Main Street, Hempstead, New York.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Hempstead, Nassau County, New York.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Atlantic Ocean	Atlantic Boulevard near East Rockaway Inlet.	10
	Luchon and Ocean Boulevard Intersection.	10
	Parkside Drive and Beach Street Intersection.	10
Head of Jamaica Bay.	Forest Road and Southgate Road Intersection.	10
	Hungry Harbor Road and Longacre Avenue Intersection.	10
	Saddleridge Road and East End Intersection.	10
Midway Bay.....	Bayside Avenue and Hoke Avenue Intersection.	8
	Yost Boulevard and Thompson Avenue Intersection.	8
	Baldwin Road and Bonnie Drive Intersection.	8
	Dog Island	8
East Bay	Big Crow Island.....	7
	South Line Island.....	7
	East Crow Island	7
	Zachs Bay	7

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's dele-

gation of authority to Federal Insurance Administrator, 43 FR 7719)

In accordance with section (7)(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: October 19, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-22 Filed 1-2-79; 8:45 am]

[4210-01-M]

[Docket No. FI-3459]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Town of Ogden, Monroe County, New York

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Ogden, Monroe County, New York. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Town of Ogden, Monroe County, New York.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Ogden, Monroe County, New York, are available for review at the Bulletin Board in the Town Clerk's Office, 409 South Union Street, Spencerport, New York.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Ogden, Monroe County, New York.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Northrup Creek	Town Line Road	469
	Downstream Big Ridge Road.	485
	Downstream Side of Nichols Street.	569
	Ogden Center Road	581
West Branch Northrup Creek.	Corporate Limits (Downstream).	566
	Colby Street	581
Little Black Creek.	Grossitt Road	571
	Route 33	577
	Hutchins Road	585
	Route 259	591

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: October 19, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-23 Filed 1-2-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4285]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Township of Millcreek, Erie County, Pennsylvania

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Township of Millcreek, Erie County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Township of Millcreek, Erie County, Pennsylvania.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Township of Millcreek, Erie County, Pennsylvania, are available for review at the Millcreek Township Hall, 3608 West 26th Street, Erie, Pennsylvania.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Township of Millcreek, Erie County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lake Erie	West of Presque Isle State Park.	577
	East of Presque Isle State Park.	578
Walnut Creek	Zuck Road	857
	Zimmerly Road	874
	Interstate Route 79	883
	Confluence of Beaver Run.	893
	Mall Access Road	899
	U.S. Route 19	909
	Southern Corporate Limit.	952
Beaver Run	Confluence with Walnut Creek.	893
	U.S. Route 19	899
	Patton Street (extended).	903
	Washington Avenue	904
	Spring Valley Drive (extended).	911
Mill Creek	City of Erie Corporate Limit.	805
	Evans Road	824
	Lake Plesant Road	904
	Cider Mill Road	921
	Wattsburg Road (upstream).	938
Mill Creek Tributary No. 1.	Wattsburg Road (upstream).	939
	Conrad Road (upstream).	958

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: October 16, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-24 Filed 1-2-79; 8:45 am]

[4210-01-M]

[Docket No. FI-3430]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Aiken, Aiken County, South Carolina

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Aiken, Aiken County, South Carolina. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Aiken, Aiken County, South Carolina.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Aiken, Aiken County, South Carolina, are available for review at the City Clerk's Office, Aiken, South Carolina.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Aiken, Aiken County, South Carolina.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Sand River	Downstream Corporate Limits.	344
	860 feet upstream of Corporate Limits.	351
	1,800 feet upstream of Corporate Limits.	375
Tributary C of Sand River.	Downstream Corporate Limits.	356
	Laurens Street extended	382
	Newberry Street extended.	389
	300 feet upstream of Newberry Street extended.	400
	1,000 feet upstream of Newberry Street extended.	428
Tributary C1 of Sand River.	Confluence of Tributary C.	361
	300 feet upstream of confluence of Tributary C.	370
	800 feet upstream of confluence of Tributary C.	394
Sand River Tributary Branch 1.	Dibble Road	297
	Downstream side of Southern RR.	312
Tributary V	Downstream Corporate Limits.	367
	800 feet upstream of Corporate Limits.	392
	1,200 feet upstream of Corporate Limits.	402
Redds Branch	Two Notch Road	461
	Brentwood Place	484

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: October 25, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-25 Filed 1-2-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4199]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Tullahoma, Coffee County, Tennessee

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Tullahoma, Coffee County, Tennessee.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Tullahoma, Coffee County, Tennessee.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Tullahoma, Coffee County, Tennessee, are available for review at the City Hall, Tullahoma, Tennessee.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Tullahoma, Coffee County, Tennessee.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Rock Creek	Rock Creek Road	999
	Clement Drive	1,019
	Warren Street	1,023
	Lincoln Street	1,029
	Grundy Street	1,030
	Wilson Avenue	1,037
	Confluence with West and North Fork of Rock Creek.	1,038
West Fork Rock Creek.	Confluence with Rock Creek.	1,038
	Ledford Mill Road	1,039
	Corporate Limits	1,049
North Fork Rock Creek.	Confluence with Rock Creek.	1,038
	Old Railroad Fill	1,052
	Old Airport Road	1,052
	Dike at 1.22 Miles above Mouth.	1,059
	Corporate Limits	1,065
Bobo Creek	Confluence with East and West Forks Bobo Creek.	1,022
West Fork Bobo Creek.	Confluence with Bobo Creek.	1,022
	Lincoln Street	1,035
	Anderson Street	1,042
	Main Street	1,043
	Carroll Street—Highway 55.	1,047
	Confluence of Prong of West Bobo Creek.	1,052
East Fork Bobo Creek.	East Lincoln Street	1,032
	East Carroll Street—Highway 55.	1,038
Prong of West Fork Bobo Creek.	L & N Railroad	1,057

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: October 16, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-26 Filed 1-2-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4105]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Village of Lakeway, Travis County, Texas

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Village of Lakeway, Travis County, Texas. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Village of Lakeway, Travis County, Texas.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Village of Lakeway, Travis County, Texas, are available for review at City Hall, 1204 Lakeway Drive, Austin, Texas.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Village of Lakeway, Travis County, Texas.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lake Travis	Entire Shoreline	725
Hurst Creek	Upstream of Lohmann Crossing Road.	750
	Upstream of Lakeway Drive.	765
	Downstream of World Tennis Boulevard.	778

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: October 10, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-27 Filed 1-2-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4292]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Town of Wheatland, Platte County, Wyoming

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Wheatland, Platte County, Wyoming. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Town of Wheatland, Wyoming.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Wheatland, Platte County, Wyoming, are available for review at Town Hall, 600 Ninth Street, Wheatland, Wyoming.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Wheatland, Platte County, Wyoming.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Rock Creek	Oak Street—20 feet. [1]	4718
	Antelope Gap Road—90 feet. [1]	4732
	Slide Gate at Canal No. 2—70 feet. [1]	4759
	Colorado and Southern Railroad—200 feet. [1]	4770
	40 feet downstream of corporate limit, approximately 5,925 feet upstream of Cole Street.	4792
Wheatland Creek	U.S. Highway 87—40 feet. [1]	4696
	U.S. Interstate 25—approximately 200 feet downstream of centerline.	4722
	U.S. Interstate 25—60 feet. [1]	4730
	Oak Street—35 feet. [1]	4731
	Walnut Street—approximately 200 feet. [1]	4749

[1] Upstream of Centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: October 16, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-28 Filed 1-2-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4541]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Town of Pembroke Park, Broward County, Florida

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Pembroke Park, Broward County, Florida. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Town of Pembroke Park, Broward County, Florida.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Pembroke Park, Broward County, Florida, are available for review at the Office of the Town Clerk, Town Hall, 3150 S.W.

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52nd Avenue, Pembroke Park, Florida 33023.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Pembroke Park, Broward County, Florida.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Desoto Lakes.....	Intersection of Hallandale Beach Boulevard and East Lake Shore Drive.	10
	Intersection of S.W. 48th Avenue and Hallandale Beach Boulevard.	10

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-29 Filed 1-2-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4341]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Town of Louise, Humphreys County, Mississippi

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Louise, Humphreys County, Mississippi. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Town of Louise, Humphreys County, Mississippi.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Louise, Humphreys County, Mississippi, are available for review at the Town Hall, Louise, Mississippi 39097.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Louise, Humphreys County, Mississippi.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Silver Creek	Just upstream County Road.	103
	Just upstream Old U.S. Highway 49.	104

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-30 Filed 1-2-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4283]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for The Town of Holland, Erie County, New York

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Holland, Erie County, New York. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Town of Holland, Erie County, New York.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Holland, Erie County, New York, are available for review at Holland Town Hall, Pearl Street, Holland, New York. 14080.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Holland, Erie County, New York.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation feet, national geodetic vertical datum
East Branch Cazenovia Creek.	Approximately 100 feet upstream of Route 16 Bridge (Approximately 2800 feet South of the North Corporate Limit).	954
	Approximately 100 feet upstream of Route 16 Bridge, Southwest of Humphrey Cemetery.	982
	Just upstream North Canada Street.	1022
	Just upstream Highway 396 (Extended).	1037
	Just upstream Glenwood Holland Road Route 223 Bridge.	1083

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-31 Filed 1-2-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4289]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Unincorporated Areas of Kerr County, Tex.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the unincorporated areas of Kerr County, Texas. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the unincorporated areas of Kerr County, Texas.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the unincorporated areas of Kerr County, Texas, are available for review at the County Clerk's Office, Kerr County Courthouse, Kerrville, Texas 78028.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the unincorporated areas of Kerr County, Texas.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Guadalupe River...	Farm Road 480	1506
	Confluence of Turtle Creek.	1534
	Confluence of Johnson Creek.	1692
	State Highway 39	1751
Johnson Creek	Just upstream State Highway 39.	1694
	Just downstream State Highway 41.	1919
North Fork Guadalupe River.	Just upstream Farm Road 1350.	1790
South Fork Guadalupe River.	Western Crossing of State Highway 39.	1865
Town Creek.....	Just upstream Interstate Highway 10 (west bound land).	1688
East Town Creek...	Approximately 150 feet upstream confluence with Town Creek.	1690
Quinlan Creek.....	Just upstream Interstate Highway 10 (west bound lane).	1722

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-32 Filed 1-2-79; 8:45 am]

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[4210-01-M]

[Docket No. FI-4329]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Village of East Alton, Madison County, Ill.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Village of East Alton, Madison County, Illinois. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Village of East Alton, Madison County, Illinois.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Village of East Alton are available for review at the Zoning Commissioner's Office, Village Hall, East Alton, Illinois.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Village of East Alton, Madison County, Illinois.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Mississippi River...	Upstream corporate limits.	437
	Downstream corporate limits.	437
Wood River.....	Corporate limits downstream from Illinois Terminal Railroad Bridge.	437
	Corporate limits west of Shamrock Street Bridge.	438
	Just downstream Shamrock Street Bridge.	439
	½ mile downstream Magazine Road Bridge.	443
	Just downstream Magazine Road Bridge.	444
	Northeast corporate limits.	450
East Alton Ditch...	At the levee.....	433
	500 feet downstream Main Street Bridge.	433
	Just downstream Main Street Bridge.	436
	Just downstream Washington Street Bridge.	437
	Just downstream Fifth Street Bridge.	438
	900 feet upstream of Fifth Street Bridge.	440

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section (7)(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: October 16, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-33 Filed 1-2-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4330]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Village of Hartford, Madison County, Illinois

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Village of Hartford, Madison County, Illinois. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Village of Hartford, Madison County, Illinois.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Village of Hartford are available for review at the Municipal Building, Hartford, Illinois.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for Village of Hartford, Madison County, Illinois.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Mississippi River...	1500 feet south of Donna Drive and west of Illinois Terminal Railroad.	436
	Hawthorne Street west of Illinois Terminal Railroad.	437
	Northern corporate limit.	437

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: October 16, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-34 Filed 1-2-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4331]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Village of Roxana, Madison County, Illinois

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Village of Roxana, Madison County, Illinois. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Village of Roxana, Madison County, Illinois.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Village of Roxana are available for review at the Municipal Building, Roxana, Illinois.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for Village of Roxana, Madison County, Illinois.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Runoff from precipitation.	Ponding areas to the east of village between north and south corporate limits.	434

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: October 16, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-35 Filed 1-2-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4332]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Wood River, Madison County, Ill.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Wood River, Madison County, Illinois. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Wood River, Madison County, Illinois.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Wood River are available for review at the Municipal Building, 111 North Wood River Avenue, Wood River, Illinois.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for City of Wood River, Madison County, Illinois.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination

to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Mississppi River	South corporate limits ...	437
	Northwest corporate limits.	437

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: October 16, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-36 Filed 1-2-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4333]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Hampton, Franklin County, Iowa

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Hampton, Franklin County, Iowa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Hampton, Franklin County, Iowa.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Hampton are available for review at the City Hall, 122 First Avenue, N.W., Hampton, Iowa.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Hampton, Franklin County, Iowa.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Squaw Creek.....	At eastern corporate limits.	1090
	100 feet upstream of corporate limits.	1093
	1,750 feet upstream of corporate limits.	1093
	75 feet downstream of Central Avenue East.	1102
	500 feet upstream of Central Avenue East.	1104
	300 feet downstream of sewage treatment plant road.	1105
	50 feet upstream of sewage treatment plant road.	1109
	75 feet downstream of private cemetery road.	1112
	50 feet upstream of private cemetery road.	1114
	125 feet downstream of Fourth Street N.E..	1114
	50 feet upstream of Second Street N.E..	1119
	125 feet downstream of First Street N.E..	1119
	100 feet downstream of First Street N.W..	1121
	100 feet upstream of First Street N.W..	1125
	150 feet downstream of Chicago & Northwestern Railway (1350 feet upstream of First Street N.W.).	1125
	150 feet upstream of Chicago & Northwestern Railway (1350 feet upstream of First Street N.W.).	1132
	75 feet upstream of Chicago & Northwestern Railway (3200 feet upstream of First Street N.W.).	1132
	At western corporate limits.	1137

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: October 11, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-37 Filed 1-2-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4267]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Pittsburg, Crawford County, Kans.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Pittsburg, Crawford County, Kansas.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Pittsburg, Crawford County, Kansas.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Pittsburg are available for review at the Gordon House, City Planner & Inspector, Pittsburg, Kansas.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for City of Pittsburg, Crawford County, Kansas.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Taylor Branch.....	Eastern corporate limit ..	898
	At Rouse Avenue	903
	Downstream at St. Louis-San Francisco Railroad.	908
	Upstream at St. Louis-San Francisco Railroad.	910
	At Fourth Street	916
	160 feet upstream from St. Louis-San Francisco Railroad.	917
	50 feet downstream of Missour Pacific Railroad culvert.	921
	At downstream end, Missouri-Pacific Railroad culvert.	929
	At upstream end, Kansas City Southern Railroad culvert.	935
East Fork Taylor Branch.	At corporate limits at Fourth Street.	908
	Downstream side of 14th Street.	910
	Upstream side of 14th Street.	913
	Downstream St. Louis-San Francisco Railroad.	914
	150 feet upstream St. Louis-San Francisco Railroad.	916
	At 20th Street	917
	At Northeast corporate limit.	918
First Cow Creek	Confluence with South Drain Broadway Street.	880 885
	At St Louis-San Francisco Railroad.	891
	160 feet upstream of Quincy Avenue.	895
	At Missouri Pacific Railroad.	897
	At western corporate limit (4th Street).	899
	Downstream side of St. Louis-San Francisco Railroad (upstream crossing).	900
	Upstream side of St. Louis-San Francisco Railroad (upstream crossing).	906
	At northern corporate limit at 20th Street.	908

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator (43 FR 7719))

Issued: October 19, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-38 Filed 1-2-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4338]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Warren, Macomb County, Mich.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Warren, Macomb County, Michigan. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Warren, Macomb County, Michigan.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Warren are available for review at the City Hall, Warren, Michigan.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for City of Warren, Macomb County, Michigan.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Red Run Drain.....	North corporate limits ...	610
	Just upstream of Van Dyke Road.	812
	Just upstream of Conrail.	615
	Just upstream of Mound Road.	617
	Just upstream of Ryan Road.	619
	At Dequidre Road	621
Big Beaver Creek ..	Mouth at Red Run Drain.	611
	North corporate limits ...	611

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Bear Creek	Confluence with Red Run Drain.	611
	Van Dyke Road	611
Meckler Drain	Confluence with Red Run Drain.	613
	At Chicago Road	613
	Service road Conrail	615

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: October 16, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-39 Filed 1-2-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4340]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Lakeville, Dakota County, Minn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Lakeville, Dakota County, Minnesota. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Lakeville, Dakota County, Minnesota.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Lakeville, Dakota County, Minnesota are available for review at City Hall, Lakeville, Minnesota 55044.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Lakeville, Dakota County, Minnesota.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
North Creek	Just upsteam of Pilot Knob Road.	924
	Just upstream of Gannon Avenue.	942
	Just downstream of Highview Avenue.	977
South Creek	Approximately 100 feet downstream of Hamburg Avenue.	949
	Just upstream of 202nd Street.	973
Marion Lake	Entire shoreline	985
Crystal Lake	Entire shoreline	936

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional reveiw requirements in order to permit it to take effect on the date indicated.

Issued: October 24, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-40 Filed 1-2-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4339]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of New Ulm, Brown County, Minn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of New Ulm, Brown County, Minnesota. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of New Ulm, Brown County, Minnesota.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of New Ulm, Brown County, Minnesota, are available for review at the City Clerk's Office, City Hall, P.O. Box 697, New Ulm, Minnesota 56073.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of New Ulm, Brown County, Minnesota.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Minnesota River	20th South Street (Extended).	808
	Just downstream U.S. Highway 14 Bridge.	809
	19th North Street (extended).	810
Cottonwood River	Just downstream Chicago and Northwestern Railroad Bridge.	807
	Just upstream State Highway 15 Bridge.	811
	Cottonwood Street Bridge.	816

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: October 24, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-41 Filed 1-2-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4274]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Spring Park, Hennepin County, Minn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Spring Park, Hennepin County, Minnesota. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Spring Park, Hennepin County, Minnesota.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Spring Park are available for review at the City Hall, 4349 Warren, Spring Park, Minnesota.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Spring Park, Hennepin County, Minnesota.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lake Minnetonka	Area within corporate limits.	931

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: October 16, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-42 Filed 1-2-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4275]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Tonka Bay, Hennepin County, Minn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Tonka Bay, Hennepin County, Minnesota. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Tonka Bay, Hennepin County, Minnesota.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Tonka Bay are available for review at the City Hall, 4901 Manitov Road, Tonka Bay, Minnesota.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for City of Tonka Bay, Hennepin County, Minnesota.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lake Minnetonka..	Around shoreline and in cove areas.	931

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: October 16, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-43 Filed 1-2-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4277]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of St. Peters, St. Charles County, Mo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of St. Peters, St. Charles County, Missouri. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of St. Peters, St. Charles County, Missouri.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of St. Peters, are available for review at the Engineering Department, Administration Building, Venture Avenue, St. Peters, Missouri.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of St. Peters, St. Charles County, Missouri.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Dardenne Creek....	Upstream of Norfolk and Western Railroad.	447
	Upstream of State Route C.	448
	Just upstream of I-70.....	458
	At Mexico Road (corporate limit).	461
East Branch of Dardenne Creek.	At the north corporate limit.	467
	Upstream of St. Peters-Cottleville Road.	477
	Upstream of Oak Hill Lane.	495
	Upstream of Jane Drive.	502
Spencer Creek	Norfolk and Western Railroad at north corporate limit.	447
	Downstream of I-70.....	448
	150 feet upstream I-70 ...	453
	Just upstream of Mexico Road.	456
	Upstream of Willott Road.	468
	Just upstream of Horstmier Road.	500
	3500 feet upstream of Horstmier Road.	526
West Branch of Spencer Creek.	Upstream of Baltizor Road (west corporate limit).	456
	900 feet upstream from Baltizor Road (corporate limit).	459
	Just upstream of Mexico Road.	467
	Downstream of Willott Road at south corporate limit.	500
East Branch of Spencer Creek.	At confluence with Spencer Creek.	456
	1900 feet upstream from the confluence with Spencer Creek.	461
	4200 feet upstream from the confluence with Spencer Creek.	470
	Jugerman Road (east corporate limit).	499

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: October 11, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-44 Filed 1-2-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4278]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Town of Bartlett, Carroll County, N.H.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Bartlett, Carroll County, New Hampshire. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Town of Bartlett, Carroll County, New Hampshire.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Bartlett, Carroll County, New Hampshire, are available for review at Town Hall, Bartlett, New Hampshire 03812.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Bartlett, Carroll County, New Hampshire.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Saco River.....	Approximately 200 feet upstream of the confluence of Rocky Branch.	564
	Approximately 100 feet upstream of U.S. Route 302.	581
	Just downstream of Bear Notch Road Bridge.	671
East Branch Saco River.	Just upstream of the Main Central Railroad Bridge.	530
	Just upstream of Route 16.	552
	Approximately 100 feet upstream of Town Hall Road.	785
Ellis River	Approximately 150 feet upstream of U.S. Route 302.	542
	Approximately 150 feet upstream of Route 16.	690
Rocky Branch.....	Just upstream of U.S. Route 302.	573
Bartlett Brook.....	Just upstream of U.S. Route 302.	653
	Just upstream of Foster Street Bridge.	670

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 7719)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: October 11, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-45 Filed 1-2-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4315]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Town of Tilton, Belknap County, N.H.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Tilton, Belknap County, New Hampshire. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Town of Tilton, Belknap County, New Hampshire.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Tilton, Belknap County, New Hampshire, are available for review at Town Hall, 145 Main Street, Tilton, New Hampshire 03276.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Tilton, Belknap County, New Hampshire.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

V 4 4 / 2 J A 3 7 9 UMI

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Winnipesaukee River.	Confluence of Tributary A.	407
	Just upstream Route 3B Bridge.	446
	Just upstream Route I-93 Bridge Northbound.	466
	Just upstream Union Road Bridge.	486
Tributary A	Just downstream Route 3&11 Culvert.	433
	Just upstream Route 3&11 Culvert.	441
	Approximately 250 feet downstream of Clark Road.	460
Packer Brook	Pleasant Street Culvert..	450
	Approximately 200 feet downstream of Colby Road.	538
Tributary B	Just upstream Route 3&11 Culvert.	458
	Just upstream of School Street Culvert.	491
	Approximately 200 feet downstream of Colby Road.	524
Hunt Brook	Just downstream Boston and Maine Railroad Culvert.	461
	Just upstream Boston and Maine Railroad Culvert.	472
	Just downstream Route 3&11 Culvert.	498
	Just upstream Route 3&11 Culvert.	520
Gulf Brook	Just upstream Route 3&11 Culvert.	473
Tributary C	Just upstream Route 3&11 Culvert.	479
Tributary D	Just downstream Boston and Maine Railroad Culvert.	471
	Just upstream Boston and Maine Railroad Culvert.	477
	Just downstream Route 3&11 Culvert.	477
	Just upstream Route 3&11 Culvert.	482
Winding Hill Brook.	Just downstream Brook Road Culvert.	481
	Just upstream Brook Road Culvert.	484
	Just upstream Route 3&11 Culvert.	489

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: October 24, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-46 Filed 1-2-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4518]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Village of New Richmond, Clermont County, Ohio

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Village of New Richmond, Clermont County, Ohio. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Village of New Richmond, Clermont County, Ohio.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Village of New Richmond are available for review at the Town Hall, New Richmond, Ohio.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for Village of New Richmond, Clermont County, Ohio.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Ohio River	210 feet upstream of northern corporate limit.	504
	265 feet downstream of southern corporate limit.	505
Twelvemile Creek	530 feet upstream of Front Street.	504
	60 feet downstream of eastern corporate limit.	505
Little Indian Creek.	475 feet upstream of U.S. 52 culvert.	505
	2325 feet upstream of U.S. 52 culvert and 25 feet upstream of Driveway culvert.	510
	1160 feet downstream of Little Indian Creek culvert and 25 feet upstream of Driveway culvert.	522
	105 feet upstream of Little Indian Creek culvert.	557
	200 feet downstream of western corporate limit.	596

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: October 16, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-47 Filed 1-2-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4287]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Castroville, Medina County, Tex.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Castroville, Medina County, Texas. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Castroville, Medina County, Texas.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Castroville, Medina County, Texas, are available for review at City Hall, Castroville, Texas 78009.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Castroville, Medina County, Texas. This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Medina River	Just upstream of Constantinople Street.	745
	Just upstream of U.S. Highway 90.	750

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: October 19, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-48 Filed 1-2-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4323]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Woodway, McLennan County, Tex.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Woodway, McLennan County, Texas. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Woodway, McLennan County, Texas.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Woodway, McLennan County, Texas, are available for review at the Tax Office, Woodway City Hall, P.O. Box 7485, Waco, Texas 76710.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Woodway, McLennan County, Texas.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Most Easterly Tributary.	Just downstream of Bosque Boulevard.	522
	Chadwick Road extended.	541
	Approximately 200 feet downstream of U.S. Highway 85.	607
East Central Tributary.	Just downstream of Estates Drive.	530
	Just upstream of Brookwood Circle.	598
	Just upstream of Jimmark Road.	621
West Central Tributary.	Northern corporate limits.	500
Most Westerly Tributary.	Northern corporate limits.	500
	Approximately 170 feet downstream of Harbor Drive.	609

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: October 25, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-49 Filed 1-2-79; 8:45 am]

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[4210-01-M]

[Docket No. FI- 4184]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Town of Norton, Bristol County, Mass.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Norton, Bristol County, Massachusetts. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Town of Norton, Bristol County, Massachusetts.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Norton are available for review at the Town Offices, Norton, Massachusetts.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for Town of Norton, Bristol County, Massachusetts.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Wading River	At Confluence with Rumford River.	61
	350 feet Upstream of Route 140.	68
	1200 feet Upstream of Route 140.	70
	3850 feet Upstream of Route 140.	72
	3350 feet Downstream of Barrows Street.	82
	Just Upstream of Barrows Street.	86
	Just Upstream of Dam No. 1 (650 feet Upstream of Barrows Street).	92
	2200 feet Downstream of West Main Street.	93
	Just Upstream of West Main Street.	97
	Just Upstream of Walker Street.	104
	2100 feet Downstream of Richardson Street.	105
	Just Upstream of Richardson Street.	110
Rumford River	2900 feet Upstream of Confluence with Wading River.	63
	2250 feet Downstream of Pine Street.	67
	Just Upstream of Pine Street.	73
	Just Upstream of Route 123.	74
	Just Upstream of Cross Street.	84
	Just Upstream of Dam (250 feet Upstream of Cross Street).	89
	Downstream of Reservoir Avenue.	93
Canoe River	900 feet Upstream of Winnecunnet Pond.	67
	At Plain Street	69
	3500 feet Upstream of Plain Street.	70
	Just Upstream of Route 123.	77
	3000 feet Upstream of Route 123.	83
	7500 feet Upstream of Route 123.	85

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: August 9, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-50 Filed 1-2-79; 8:45 am]

[4830-01-M]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

[T.D. 7582]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Exemption From Withholding for Certain Commissions Paid to Nonresident Aliens

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains a final regulation relating to the exemption from withholding of certain compensation paid to nonresident aliens. This regulation adds an additional exemption from withholding and provides persons required to withhold on compensation of nonresident aliens with needed guidance to comply with the law.

DATE: This regulation is effective January 3, 1979.

FOR FURTHER INFORMATION CONTACT:

Diane L. Renfroe of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T, 202-566-3289, not a toll-free call.

SUPPLEMENTARY INFORMATION:

BACKGROUND

This document contains a final regulation under section 1441 (c)(4) of the Internal Revenue Code of 1954 relating to the exemption from withholding of certain commissions paid to nonresident aliens.

COMMISSIONS PAID BY SHIP SUPPLIERS TO CERTAIN NONRESIDENT ALIENS EXEMPT FROM WITHHOLDING

This regulation provides that commissions or rebates paid by ship suppliers to nonresident aliens employed by nonresident alien individuals, foreign partnerships, or foreign corporations in the operation of ships of foreign registry for purchasing supplies from these suppliers will not be subject to the withholding requirements of section 1441(a).

RATIONALE FOR EXEMPTION

The practice of paying commissions or rebates to foreign ship captains for purchasing supplies from a particular supplier is widespread. The Service's position with respect to these commissions as expressed in Rev. Rul. 58-479, 1958-2 C.B. 60 is that they are subject to withholding under section 1441(a).

On June 28, 1978, H.R. 13336 was introduced to amend section 1441(c) of the Internal Revenue Code to exempt ship suppliers from the withholding requirements of section 1441(a). Treasury supported the objectives of this amendment because in many instances the amount of U.S. source income involved as a result of these payments is so small that the ship captains have little or no final U.S. tax liability. Since section 1441(c)(4) gives the Secretary a broad grant of authority to promulgate regulations exempting compensation of aliens from withholding, this exemption is being made under the regulations.

DRAFTING INFORMATION

The principal author of this regulation is Diane L. Renfroe of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

ADOPTION OF AMENDMENTS TO THE REGULATIONS

Accordingly, 26 CFR Part 1 is amended as follows:

Paragraph (b)(1) of § 1.1441-4 is amended by adding a new subdivision (v) to read as follows:

§ 1.1441-4 Exemptions from withholding.

* * * * * *

(b) *Compensation for personal services of an individual—(1) Exemption from withholding.* * * *

(v) Such compensation is paid after January 3, 1979 as a commission or rebate paid by a ship supplier to a nonresident alien individual, who is employed by a nonresident alien individual, foreign partnership, or foreign corporation in the operation of a ship or ships of foreign registry, for placing orders for supplies to be used in the operation of such ship or ships with the supplier. See section 162(c) and the regulations thereunder for denial of deduction for illegal bribes, kickbacks, and other payments.

* * * * * *

In accordance with 5 U.S.C. 553(b)(B) the Commissioner has determined that there is an immediate need to eliminate the economic disadvantage which U.S. ship suppliers are subjected by virtue of requiring withholding on these commissions. For this reason notice and public procedure would be contrary to the public interest. In addition the total U.S. tax liability of foreign ship masters on these commissions is so small that notice and public procedure would be unnecessary. Furthermore, this regulation is being published in final form effective immediately in compliance with 5 U.S.C. 553(d)(1) which excepts a substantive rule which grants or recognizes an exemption from the requirement of publication 30 days before its effective date.

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68 A Stat. 917; 26 U.S.C. 7805).

JEROME KURTZ,
Commissioner of Internal Revenue.

Approved: December 18, 1978.

DONALD C. LUBICK,
Assistant Secretary of the Treasury.

FR Doc. 79-193 Filed 1-2-79; 8:45 am]

[4830-01-M]

[T.D. 7583]

PART 5—TEMPORARY INCOME TAX REGULATIONS UNDER THE REVENUE ACT OF 1978

Taxable Years of Members of Controlled Groups of Corporations That Include December 31, 1978

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulation.

SUMMARY: This document provides a temporary regulation for component members of controlled groups of corporations. Changes to the applicable tax law were made by the Revenue Act of 1978. This regulation will affect component members of controlled groups of corporations and will provide them with the guidance needed to comply with the law.

DATE: The regulation applies to taxable years that include December 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles M. Whedbee of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T (202-566-3463, not a toll-free number).

SUPPLEMENTARY INFORMATION:

BACKGROUND

This document contains a temporary regulation relating to component members of controlled groups of corporations for taxable years that include December 31, 1978. Further, this document adds a new Part 5, Temporary Income Tax Regulations under the Revenue Act of 1978, to Title 26 of the Code of Federal Regulations.

Section 301 (a) of the Revenue Act of 1978 (the Act) replaces the surtax exemption with four taxable income brackets (each of $25,000) that will be taxed at rates less than the maximum rate of 46 percent. Section 301 (b) (19) of the Act limits the members of a controlled group of corporations to an aggregate of $25,000 in each bracket. Section 106 of the Act provides that the amendments made by section 301 are to be treated as a change in a rate of tax.

This regulation sets forth the method of apportioning the $50,000 surtax exemption available before January 1, 1979, and the amounts in the four taxable income brackets available after December 31, 1978, among component members for taxable years that include December 31, 1978. The regulation is based on paragraph (a) (3) of § 1.1561-2A of the Income Tax Regulations, relating to the application to members of controlled groups of the increase in the surtax exemption to $50,000 as of January 1, 1975.

DRAFTING INFORMATION

The principal author of this regulation is Robert C. Graff of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

WAIVER OF CERTAIN PROCEDURAL REQUIREMENTS OF FINAL TREASURY DIRECTIVE

A determination has been made by Jerome Kurtz, Commissioner of Internal Revenue, that there is need for immediate guidance in order to enable members of controlled groups of corporations to compute tax liabilities for their taxable years that include December 31, 1978. This is because sections 301 (a) and 106 of the Revenue

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Act of 1978 replace the surtax exemption with four taxable income brackets, effective January 1, 1979, and section 301 (b) (19) of the Act limits members of a controlled group to an aggregate of $25,000 in each bracket. Because of the immediate need for this regulation, compliance with the procedural requirements of paragraphs 8 through 14 of the final Treasury directive (43 FR 52121), relating to improving regulations, would be impractical and, therefore, these requirements have not been followed.

ADOPTION OF REGULATION

Accordingly, a new Part 5, Temporary Income Tax Regulations under the Revenue Act of 1978, is added to Title 26 of the Code of Federal Regulations and the following temporary regulation is adopted:

§ 5.1561-1 Taxable years of component members of controlled group of corporations that include December 31, 1978.

(a) *In general.* This section prescribes a regulation for applying sections 301 (a) and (b) (19), and 106, of the Revenue Act of 1978 (the Act) in the case of certain taxable years of component members of a controlled group of corporations (as defined in section 1563 of the Internal Revenue Code). The section applies only to taxable years that include December 31, 1978, and only if the taxable year of at least one component member ends in 1979.

(b) *Background.* Section 301(a) of the Act amends section 11 of the Code (relating to tax imposed on corporations) to provide for taxable income brackets that are subject to tax at rates less than the maximum rate of 46 percent. Section 301(b)(19) of the Act amends section 1561(a) of the Code (relating to limitations on certain multiple tax benefits in the case of certain controlled corporations) to limit the component members of a controlled group to an aggregate amount in each bracket which does not exceed the maximum amount in such bracket to which a corporation which is not a component member of a controlled group is entitled. Section 106 of the Act amends section 21 of the Code (relating to effect of changes in rate of tax) to provide that the amendments made by section 301 of the Act shall be treated as a change in a rate of tax. Since the amendments made by section 301 of the Act are effective for taxable years beginning after December 31, 1978, under the amendment to section 21 the effective date of the change in rate of tax is January 1, 1979.

(c) *No apportionment plan in effect.* If no apportionment plan (see § 1.1561-3 of the Income Tax Regulations) is in effect with respect to December 31, 1978, the single $50,000 surtax exemption available before January 1, 1979, and the single bracket amounts available after December 31, 1978, shall be equally divided among the component members of the controlled group on December 31, 1978. In the case of a controlled group which includes component members that join in the filing of a consolidated return and other component members that do not join in the filing of such a return, each component member of the group (including each component member that joins in filing the consolidated return) shall be treated as a separate corporation for purposes of equally apportioning the $50,000 surtax exemption in effect before January 1, 1979, and the bracket amounts in effect after December 31, 1978. In such a case, the surtax exemption and bracket amounts of the corporations filing the consolidated return shall be the sum of the amount apportioned to each component member that joins in filing the consolidated return.

(d) *Apportionment plan.* (1) If one or more component members of the controlled group have a calendar taxable year and if an apportionment plan is adopted under § 1.1561-3 apportioning the entire $50,000 surtax exemption available for 1978 to such calendar-year members, then the amount in each taxable income bracket available for fiscal-year members is zero. If only a part of the $50,000 surtax exemption is apportioned to calendar-year members, then a proportionate part of the $25,000 amount in each taxable income bracket is available for the fiscal-year members. For example, if $30,000 (⅗ of $50,000) is apportioned to calendar-year members, ⅗ of the $25,000 amount in each bracket, or $10,000, as well as the remaining ⅗ of the 1978 surtax exemption, is available to the fiscal-year members.

(2) The amount in each taxable income bracket available to fiscal-year members may be apportioned among such members in any manner the controlled group may select. For example, the available amount in the first bracket (subject to a 17-percent rate) may be allocated to one member, the amount in the second bracket (subject to a 20-percent rate) may be allocated to another member, and so on. Moreover, the available amount in each bracket may be divided among the members in any manner the group may select.

(3) In computing 1978 tentative taxes under section 21, the total surtax exemption available to fiscal-year members for 1978 must be divided among such members in the same proportion as the sum of the available amount in each bracket is divided among them. Thus, if the sum of the available bracket amounts is $100,000 (*i.e.*, $25,000 in each bracket), and if corporation X is apportioned 30 percent, or $30,000, of this amount (regardless of which brackets corporation X may select), then 30 percent of the surtax exemption available to the fiscal-year members for 1978 (*i.e.*, 30 percent of $50,000, or $15,000) must be apportioned to corporation X.

(e) *Corporations affected.* The provisions of section 1561 may reduce the surtax exemption or bracket amounts of any corporation which is a component member of a controlled group of corporations and which is subject to the tax imposed by section 11, or by any other provision of subtitle A of the Code if the tax under such other provisions is computed by reference to the tax imposed by section 11. Such other provisions include, for example, sections 511(a)(1), 594, 802, 831, 852, 857, 882, 1201, and 1378.

(f) *Example.* This section may be illustrated by the following example:

Example. Corporations X, Y, and Z are component members of a controlled group of corporations on December 31, 1978. X has taxable income of $10,000 for the taxable year ending December 31, 1978. Y has taxable income of $60,000 for the taxable year ending June 30, 1979. Z has taxable income of $90,000 for the taxable year ending September 30, 1979. The group files an apportionment plan under § 1.1561-3 apportioning $10,000 (i.e., ⅕ of $50,000) to X, the calendar-year member. Therefore, ⅘ of the amount in each bracket, or $20,000, is available to Y and Z, the fiscal-year members. Under the plan, Y is apportioned the entire amount in the first bracket and $10,000 of the amount in the second bracket. Z is apportioned $10,000 of the amount in the second bracket and the entire amount in the third and fourth brackets. Therefore, Y is apportioned $30,000, or ¾ of the total available amount in the four brackets, and Z is apportioned $50,000, or ⅝ of the total available amount. The tax liabilities of Y and Z for their taxable years ending in 1979 are computed as follows: (Computation of X's tax liability for 1978, using a surtax exemption of $10,000, is not shown.)

1979 TENTATIVE TAX

	Y
Taxable income	$60,000
Tax on amount in first bracket: 17 percent of $20,000	3,400
Tax on amount in second bracket: 20 percent of $10,000	2,000
Tax on remaining income: 46 percent of $30,000	13,800
1979 tentative tax	19,200

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1978 TENTATIVE TAX—Continued

		Z
Taxable income		90,000
Tax on amount in second bracket: 20 percent of $10,000		2,000
Tax on amount in third bracket: 30 percent of $20,000		6,000
Tax on amount in fourth bracket: 40 percent of $20,000		8,000
Tax on remaining income: 46 percent of $40,000		18,400
1979 tentative tax		34,400

1978 TENTATIVE TAX

		Y
Taxable income		60,000
Normal tax:		
20 percent of $7,500 (⅜ of $20,000)		1,500
22 percent of $52,500		11,550
		13,050
Surtax:		
Taxable income	$60,000	
Surtax exemption	15,000 (⅜ of $40,000)	
	$45,000 × 26 percent	11,700
1978 tentative tax		24,750
		Z
Taxable income		90,000
Normal tax:		
20 percent of $12,500 (⅝ of $20,000)		2,500
22 percent of $77,500		17,050
		19,500
Surtax:		
Taxable income	$90,000	
Surtax exemption	25,000 (⅝ of $40,000)	
	$65,000 × 26 percent	16,900
1978 tentative tax		36,450
The 1978 and 1979 tentative taxes are apportioned as follows:		
Corporation Y:		
1978—184/365 of $24,750		12,477
1979—181/365 of $19,200		9,521
Total tax for taxable year		21,998
Corporation Z:		
1978—92/365 of $36,450		9,187
1979—273/365 of $34,400		25,729
Total tax for taxable year		34,916

There is a need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impracticable to issue it with notice and public procedure under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

JEROME KURTZ,
Commissioner of Internal Revenue.

Approved: December 21, 1978.

DONALD C. LUBICK,
Assistant Secretary of the Treasury.

[FR Doc. 79-194 Filed 1-2-79; 8:45 am]

[3125-01-M]

Title 40—Protection of Environment

CHAPTER V—COUNCIL ON ENVIRONMENTAL QUALITY

NATIONAL ENVIRONMENTAL POLICY ACT—REGULATIONS

Implementation of Procedural Provisions; Corrections

AGENCY: Council on Environmental Quality, Executive Office of the President.

ACTION: Corrections to final regulations.

SUMMARY: On November 29, 1978 (43 FR 55978), the Council published in the FEDERAL REGISTER final regulations for the implementation of the procedural provisions of the National Environmental Policy Act. The following are corrections to the November 29 publication. Typographical errors will be corrected when the regulations are published in the Code of Federal Regulations.

EFFECTIVE DATE: July 30, 1979.

FOR FURTHER INFORMATION CONTACT:

Nicholas C. Yost, General Counsel, Council on Environmental Quality, Executive Office of the President, 722 Jackson Place, N.W., Washington, D.C. 20006 (telephone number (202) 633-7032 or (202) 395-5750).

PART 1500—PURPOSE, POLICY, AND MANDATE

1. On page 55991, in § 1500.4(i), first line, change "programs" to "program".

PART 1501—NEPA AND AGENCY PLANNING

2. On page 55993, in § 1501.5(e)(2), 4th line, delete the work "above".

PART 1504—PREDECISION REFERRALS TO THE COUNCIL OF PROPOSED FEDERAL ACTIONS DETERMINED TO BE ENVIRONMENTALLY UNSATISFACTORY

3. On page 55999, in § 1504.3(h), last line, the word "Procedures" should read "Procedure".

PART 1506—OTHER REQUIREMENTS OF NEPA

4. On page 56002, in § 1506.10(b)(2), 27th line, the word "Procedures" should read "Procedure".

PART 1508—TERMINOLOGY AND INDEX

5. On page 56005, in § 1508.27(a), sixth line, change the word "Significant" to "Significance".

NICHOLAS C. YOST,
General Counsel.

[FR Doc. 79-292 Filed 1-2-79; 8:45 am]

[6820-24-M]

Title 41—Public Contracts and Property Management

CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

SUBCHAPTER G—TRANSPORTATION AND MOTOR VEHICLES

[FPMR Amdt. G-48]

PART 101-38—MOTOR EQUIPMENT MANAGEMENT

Subpart 101-38.6—Exemptions From Use of Official U.S. Government Tags and Other Identification

MOTOR VEHICLE AND TRANSPORTATION MANAGEMENT

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This amendment broadens the list of organizational activities of the Department of the Treasury to which GSA has granted unlimited exemptions from displaying U.S. Government tags and other identification. This amendment will show the full extent of the Department of the Treasury's exemptions.

EFFECTIVE DATE: January 3, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. John I. Tait, Director, Regulations and Management Control Division, Office of the Executive Director, Federal Supply Service, General Services Administration, Washington, DC 20406 (703-557-1914).

Section 101-38.602(n) is revised to read as follows:

§ 101-38.602 Unlimited exemptions.

* * * * *

(n) *Treasury, Department of the.* All motor vehicles operated by the U.S. Secret Service; Intelligence Division and Internal Security Division of the Internal Revenue Service; Bureau of Alcohol, Tobacco, and Firearms; Office of Investigation of the U.S. Customs Service; and vehicles used for investigative purposes by the Collection Division of the Internal Revenue Service.

* * * * *

(Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c)).)

Dated: December 21, 1978.

PAUL E. GOULDING,
Acting Administrator of General Services.

[FR Doc. 79-282 Filed 1-2-79; 8:45 am]

[7035-01-M]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Amdt. No. 7 to Service Order No. 1231]

PART 1033—CAR SERVICE

Consolidated Rail Corporation Authorized To Operate Over Tracks of Louisville and Nashville Railroad Co.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order (Amendment No. 7 to Service Order No. 1231).

SUMMARY: Service Order No. 1231 authorizes the Consolidated Rail Corporation to operate over tracks abandoned by the Louisville and Nashville Railroad at Brazil, Indiana, for the purpose of providing rail service to shippers served by those tracks. The involved tracks are to be sold to Consolidated Rail Corporation. The order is printed in full in the FEDERAL REGISTER, Volume 41 at page 8480. This amendment extends the order for six months.

DATES: *Effective 11:59 p.m., December 31, 1978. Expires 11:59 p.m., June 30, 1979.*

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423. Telephone (202) 275-7840, Telex 89-2742.

Decided: December 22, 1978.

Upon further consideration of Service Order No. 1231 (41 FR 8480, 15414, 27729; 42 FR 3310, 34520; 43 FR 762 and 28496), and good cause appearing therefor:

It is ordered, that § 1033.1231 *Consolidated Rail Corporation authorized to operate over tracks of Louisville and Nashville Railroad Company,* Service Order No. 1231 is amended by substituting the following paragraph (f) for paragraph (f) thereof:

(f) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., June 30, 1979, unless otherwise modified, changed or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., December 31, 1978.

(49 U.S.C. (10304-10305 and 11121-11126).)

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission, at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael. Member Joel E. Burns not participating.

NANCY L. WILSON,
Acting Secretary.

[FR Doc. 79-180 Filed 1-2-79; 8:45 am]

[7035-01-M]

[S.O. No. 1340]

PART 1033—CAR SERVICE

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order Service Order, No. 1340 Denial of Appeals.

SUMMARY: On September 22, 1978, the Commission ordered the Seaboard Coast Line Railroad and other lines members of its system collectively to furnish 100 locomotives to the Louisville and Nashville Railroad Company, also a system railroad. Requests for reconsideration were filed by the Seaboard Coast Line and affiliates and by the Fertilizer Institute. Tesoro Coal Company requested that the Commission require the Louisville and Nashville to furnish weekly reports of its distribution of cars to unit-train shippers of coal. The Commission's decision, dated December 20, 1978 denies the petitions for reconsideration and the petition for expansion of the reporting requirements of Service Order No. 1340.

FOR FURTHER INFORMATION CONTACT:

Charles C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington; D.C., 20423, Telephone (202) 275-7840, Telex 89-2742.

SUPPLEMENTARY INFORMATION: The Order is printed in full below.

ATLANTA AND WEST POINT RAIL ROAD COMPANY, CLINCHFIELD RAILROAD COMPANY, GEORGIA RAILROAD, SEABOARD COAST LINE RAILROAD COMPANY AND WESTERN RAILWAY OF ALABAMA TO DELIVER LOCOMOTIVES TO LOUISVILLE AND NASHVILLE RAILROAD COMPANY

Decided December 20, 1978.

Appeals of the decision on the order to show cause, and of Service Order No. 1340 are denied.

On August 3, 1978 (43 FR 35082, August 8, 1978), the Commission entered an order requiring the six railroads named above (collectively known as the Family Lines), all of which are owned or controlled by the Seaboard Coast Line Railroad Company (SCL), to show cause why the Commission should not issue two proposed service orders. One proposed service order, entitled *Regulations For The Use Of Locomotives,* would have ordered the other five members of the Family Lines collectively to deliver 100 locomotives to the Louisville and Nashville Railroad Company (LN). The other Proposed service order, entitled *Regulations For Distribution Of Hopper Cars,* would have ordered the LN to supply weekly to each coal mine ordering cars for single-car or non-unit-train shipments a minimum of forty percent of its daily mine rating multiplied by the number of working days in the week. The order to show cause was entered as a result of the Commission's conclusion that an acute shortage of locomotives and hopper cars for transporting single-car shipments of coal originating at stations on the LN in Eastern Kentucky existed.

Numerous responses to the show cause order were filed by the Family Lines, by producers and receivers of coal and of other commodities, and by public officials in the States served by the Family Lines. The Commission held oral argument on the show cause order on September 7, 1978.

In a decision served September 22, 1978 (43 FR 44606, September 28, 1978), the Commission ordered that the proposed service order entitled *Regulations For The Use Of Locomotives* be issued in modified form. The Commission deferred issuance of the proposed service order entitled *Regulations For The Distribution Of Hopper Cars.*

Service Order No. 1340, *Regulations For The Use Of Locomotives,* was also served on September 22, 1978 (43 FR 44536, September 28, 1978). The order was to become effective on date of service, and to expire at 11:59 p.m., January 15, 1979. It ordered the other members of the Family Lines collectively to deliver 100 locomotives to the LN according to the following schedule: 50 locomotives on or before October 15, 1978; 75 locomotives on or before November 15, 1978; and 100 locomotives on or before December 15, 1978.

In issuing Service Order No. 1340, the Commission acted under the emergency powers of Section 1(15) of the Interstate Commerce Act.

Effective October 17, 1978, the Interstate Commerce Act was recodified without substantive change by Public Law 95-473, "An Act To Revise, Codify, and Enact without Substantive Change the Interstate Commerce Act and Related Laws as Subtitle IV of Title 49, United States Code, 'Transportation'." Section 1(15) of the Act, as relevant to this decision, was recodified at 49 U.S.C. § 11123. Because no substantive change was made by the recodification, the Commission's emergency powers, and the conditions for the use of those powers, are the same under 49 U.S.C. § 11123 as under Section 1(15) of the Act. In the remainder of this decision, the discussion of Section 1(15) of the Act applies equally to 49 U.S.C. § 11123, which is substantively identical and presently in effect.

On October 7, 1978, the SCL, the LN, the Atlanta and West Point Rail Road Company (AWP), the Clinchfield Railroad Company (CRR) and the Georgia Railroad (Ga) jointly filed a petition for extension of Service Order No. 1340's initial compliance date of October 15, 1978. The Commission denied that petition in a decision served October 12, 1978.

Administrative appeals of the decision on the order to show cause, and of Service Order No. 1340, have been filed by the SCL, the LN, the Atlanta and West Point Rail Road Company, the Clinchfield Railroad Company, the Georgia Railroad and the Western Railway of Alabama jointly; by the Fertilizer Institute; and by the Tesoro Coal Company (Tesoro).

We deny all of the appeals.

PROCEDURAL ERROR HAS NOT OCCURRED

The Primary argument of the appellant railroads for repeal of Service Order No. 1340 is that prejudicial procedural error has occurred in the issuance of Service Order No. 1340.

We find that procedural error has not occurred. The Commission acted properly in responding to a car service emergency under the authority of Section 1(15) of the Interstate Commerce Act.

Section 1(15) expressly allows the Commission to bypass normal procedures, including formal pleadings, notice, and hearing, and the making or filing of a report, in responding to a car service emergency requiring immediate action. Section 1(15) leaves to the Commission's discretion the procedures to be followed in issuing an emergency car service order such as Service Order No. 1340. Its discretion is of course limited by the requirement that no party to the proceeding be prejudiced.

Appellant railroads do not question the Commission's authority to bypass normal procedures under section 1(15). Instead, appellants argue that the procedures adopted by the Commission in issuing Service Order No. 1340 go beyond the minimum requirements of Section 1(15), and do not meet the procedural requirements of the other section of the Act under which the Commission may issue rules and regulations relating to car service. This argument is without merit.

It has been clear from the beginning of this proceeding that the Commission has been acting under the emergency powers provided by Section 1(15). The first two proposed service orders, which were attached to the order to show cause, both stated that it was the opinion of the Commission that an emergency existed, requiring immediate action to promote car service in the interest of the public and the commerce of the people, and that, accordingly, the Commission found that notice and public procedure were impractical and contrary to the public interest, and that good cause existed for making the proposed orders effective upon less than thirty days' notice. This statement in the two proposed service orders, using language taken directly from Section 1(15) itself, made it clear that the Commission was responding to an emergency by dispensing with normal procedures, as allowed by section 1(15). The later Service Order No. 1340 contained the same statement.

Appellant railroads point out that in issuing Service Order No. 1340, the Commission took more procedural steps than it was required to take under section 1(15). This does not mean, however, that the emergency proceeding was therefore converted into a normal rulemaking or an adjudication beyond the scope of Section 1(15). Section 1(15) leaves to the Commission's discretion the procedures to be followed in a proceeding involving an emergency car service order. In this proceeding, the Commission granted to interested parties, including appellants, an opportunity to present their views both in written responses and at oral argument. The Commission was not required to do so, but it wished to give all parties an opportunity to provide information and arguments on

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the issue of how best to meet the car service emergency it had found to exist. The essential character of the emergency proceeding was not altered by the fact that the parties were afforded more procedural rights than they were entitled to. Cf. *United States* vs. *Allegheny-Ludlum Steel*, 406 U.S. 742 (1972).

In addition, the particular means used by the Commission to elicit the comments of the railroads and other parties—an order to show cause—did not remove the proceeding from the scope of Section 1(15). The show cause order was merely a reasonable means of calling for public participation, including that of the affected railroads, in fashioning car service orders most appropriate to the circumstances. It was addressed to the Family Lines because the emergency was found to exist on one of its members, and because the attached proposed service orders were addressed to the Family Lines. When the later decision on the order to show cause found that the railroad respondents had failed to show cause why Service Order No. 1340 should not be issued, it indicated that in view of the evidence submitted by the railroads and the other parties, the car service emergency which the Commission had believed to exist did indeed exist on the LN and Service Order No. 1340 was a proper response to it.

Appellant railroads also suggest that the proceeding was beyond the scope of Section 1(15) because of the length of time that elapsed between the Commission's initial awareness of the car service emergency and the Commission's final issuance of Service Order No. 1340. The fact that the Commission's issuance of Service order No. 1340 was not more immediate does not mean, however, that a genuine emergency did not exist under Section 1(15). As stated earlier, the Commission wished to give the railroads and other interested parties an opportunity to comment on the matter. It was within the Commission's discretion to take the time to do so under Section 1(15). The fact that the car service emergency may have existed for some time before the issuance of Service Order No. 1340 does not mean that the emergency did not exist at the time the service order was finally issued. See *United States* vs. *Southern Ry. Co.*, 364 F.2d 86 (5th Cir, 1966) *cert. denied* 386 U.S. 1031 (1967).

THE COMMISSION'S FINDINGS OF FACT AND CONCLUSIONS OF LAW WERE CORRECT AND ADEQUATE

The Commission's findings of fact and conclusions of law in the decision on the order to show cause and in Service Order No. 1340 were correct, and were adequate to support the service order.

The Commission may act under Section 1(15) without the making or filing of a report. In this proceeding, however, the Commission, after granting the parties an opportunity to submit evidence in written responses and at oral argument, simultaneously issued both a service order and a decision on the earlier order to show cause. Section 1(15) confines the power of the Commission to emergencies, and requires that emergency orders be reasonable and in the interest of the public and of commerce. Both Service Order No. 1340 and the accompanying decision found that a car service emergency existed on the LN, caused by a shortage of locomotives for transporting coal from mines on the LN in Eastern Kentucky, particularly from non-unit-train mines. And both the service order and the decision found that the service order would promote car service "in the interest of the public and the commerce of the people." These two findings were explained and supported in the service order and decision.

As stated in the decision on the order to show cause, there was substantial agreement among the parties as to the existence of a shortage of cars for transporting shipments of coal on the LN. The Family Lines themselves stated in their response that non-unit-train coal shippers served by the LN in Eastern Kentucky were receiving only about 20 percent of the cars they ordered. In issuing the car service order, the Commission rejected the Family Lines' argument that no amelioration of the admitted car shortage was possible. While the Commission recognized that the ultimate solution to the problem must be a long-term one, it decided that in the near term, the car service order would enable the LN to supply additional cars to non-unit-train shippers out of productivity increases in car utilization made possible by the additional locomotives. The Family Lines' arguments that there were significant shortages of locomotives on the other Family Lines besides the LN, and that the LN's facilities were operating at peak capacity and could not absorb additional traffic, were found by the Commission to be unsupported by the evidence.

There is no inconsistency between the finding that the ultimate solution must be a long-term one, and the expiration of the service order on January 15, 1979. An emergency requiring Commission action under Section 1(15) need not be sudden in origin or temporary in nature. *United Stated* vs. *Southern Ry., supra.* The Commission realized that the service order by itself would not solve all of the car service problems on the LN. It nevertheless found that the order would help to alleviate the car shortage in the near term, and would thus promote car service in the interest of the public and the commerce of the people. If the car service emergency still exists at the expiration of the service order, the Commission will consider whether the emergency orders should be extended as well as other possible responses to the problem. For example, in a decision served October 30, 1978, in Docket No. 37063, *Increased Rates on Coal, L&N RR, October 31, 1978*, the Commission allowed coal rate increases to become effective, provided that funds derived from the increases be used to improve service to affected shippers. The Commission did not suspend those increases, but is currently investigating them.

In the decision on the order to show cause, the Commission stated that the transfer of 100 locomotives would more equitably distribute motive power throughout the entire Family Lines System. The Commission also stated that while it realized that the effects of the transfer on Family Lines operations were somewhat speculative, it believed that the transfer could be accomplished without excessive harm to operations. There is no inconsistency between these two statements. The Commission recognized that there was no absolute certainty that the locomotive transfer could alleviate the car shortage on the LN without having at least some effect on the operations of the other Family Lines. It was for this reason that the service order provided for the transfer of the locomotives on a more gradual basis than was first proposed. It was also for this reason that the service order contained reporting requirements for the LN to report weekly its service to non-unit-train mines, and for the Family Lines to report weekly the number of trains and cars held because of a lack of motive power. With this data, the Commission can evaluate the results of its service order and make any changes that may be required.

Appellant railroads also contend that the Commission abused its discretion by becoming involved in operational matters and usurping managerial prerogatives. Every car service order necessarily limits the operational discretion of an affected railroad's management. Such effects, however, have never been held to be a ground for overturning a Commission emergency car service order. All that is required is that the Commission find an emergency to exist and that the Commission's order be reasonably addressed to the emergency. These requirements have been met in this case.

In their appeal, the railroads also object to the fact that the service order required the locomotives to be transferred to the LN from the other Family Lines, instead of from other railroads outside the Family Lines System. The Commission believed, and we continue to believe, that as an initial step in resolving the car shortage on the LN, the other members of the system to which the LN belongs, all of which are controlled by a single parent, are the most logical source of immediate supply. And the Commission found that such a transfer would not cause excessive harm to the operations of the other Family Lines or to the shippers located on those lines, including shippers of phosphate represented by the Fertilizer Institute. As a precaution, nevertheless, we undertook to an have been monitoring the effects of compliance with our order upon other members of the Family Lines and their shippers. The reports we have received to date verify that there has been very little adverse effect. Whether our orders should be expanded to encompass railroads other than Family Lines members can be explored at the time we consider whether the present service order should be extended. We will consider arguments as to why such an order would be appropriate in addition to, or in lieu of the existing order. The simple assertion, however, that we should have considered entering such an order, advanced for the first time at the appellate stage of this proceeding is of no assistance to us in determining whether the entry of such an order would be an appropriate exercise of our discretion.

[FR Doc. 79-182 Filed 1-2-79; 8:45 am]

[7035-01-M]

[Amdt. No. 4 to Service Order No. 1321]

PART 1033—CAR SERVICE

Lenawee County Railroad Co., Inc., Authorized to Operate Over Tracks of Consolidated Rail Corp.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order (Amendment No. 4 to Service Order No. 1321).

SUMMARY: The Lenawee County Railroad operates two separate lines of railroad in the vicinity of Grosvenor, Michigan. Service Order No. 1321 authorizes the Lenawee County Railroad to operate over 3.6 miles of a line of the Consolidated Rail Corporation between Lenawee Junction, Michigan, and Grosvenor, Michigan, which permits their single locomotive to serve both line segments. The Order is printed in full in the FEDERAL REGISTER Volume 43 at page 16341. The amendment extends this order for three months.

DATES: *Effective 11:59 p.m., December 31, 1978. Expires 11:59 p.m., March 31, 1979.*

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, Telephone (202) 275-7840, Telex 89-2742.

Decided December 22, 1978.

Upon further consideration of Service Order No. 1321 (43 FR 16341, 34150, 45866, and 59383), and good cause appearing therefor:

It is ordered, that § 1033.1321 *Lenawee County Railroad Company, Inc., authorized to operate over tracks of Consolidated Rail Corporation,* Service Order No. 1321 is amended by substituting the following paragraph (d) for paragraph (d) thereof:

(d) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., March 31, 1979, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., December 31, 1978.

(49 U.S.C. (10304-10305 and 11121-11126).)

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission, at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael. Member Joel E. Burns not participating.

NANCY L. WILSON,
Acting Secretary.

[FR Doc. 79-181 Filed 1-2-79; 8:45 am]

[7035-01-M]

[Service Order No. 1350]

PART 1033—CAR SERVICE

West Virginia Railroad Maintenance Authority Authorized To Operate Over Tracks Abandoned by the Chesapeake & Ohio Railway Co.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order. Service Order No. 1350.

SUMMARY: The Chesapeake and Ohio Railway Company (CO), in Docket AB18 (Sub No. 17), has been authorized to abandon its line between North Caldwell, West Virginia, and Durbin, West Virginia. The West Virginia Railroad Maintenance Authority has offered to purchase the line between Cass, West Virginia, and Durbin, West Virginia, and plans to operate the railroad between Cass and Durbin. Service Order No. 1350 authorizes the West Virginia Railroad Maintenance Authority to commence operations on that portion of the line effective on the date of abandonment of operations by the CO in order to provide uninterrupted rail service to shippers located on this line.

DATES: *Effective 12:01 a.m., December 30, 1978. Expires 11:59 p.m., June 30, 1979.*

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, Telephone (202) 275-7840, Telex 89-2742.

SUPPLEMENTARY INFORMATION: The Order is printed in full below.

Decided: December 26, 1978.

The Chesapeake and Ohio Railway Company (CO) has been authorized by the Commission, in Docket AB-18 (Sub-No. 17), to abandon its line between North Caldwell, West Virginia, and Durbin, West Virginia, a distance of approximately 92.04 miles. The West Virginia Railroad Maintenance Authority (RMA) has made an offer to purchase the portion of this railroad between Cass, West Virginia, and Durbin, West Virginia, a distance of approximately 17.21 miles. Operation of this line by RMA will permit a continuation of freight service between Durbin and Cass, and will provide a route between the Western Maryland Railway Company and the Cass Scenic Railroad.

It is the opinion of the Commission that an emergency exists; that operation by RMA over these tracks abandoned by CO is necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, that § 1033.1350 *West Virginia Railroad Maintenance authority authorized to operate over tracks abandoned by the Chesapeake and Ohio Railway Company.* (a) The West Virginia Railroad Maintenance

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Authority (RMA) is authorized to operate over tracks abandoned by The Chesapeake and Ohio Railway Company (CO) between former CO Valuation Station 4117 + 75 at Cass, West Virginia, and former CO Valuation Station 5021 + 22 at Durbin, West Virginia, a distance of approximately 17.21 miles, pending disposition of an application of RMA seeking permanent authority to operate this line.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(c) Nothing herein shall be considered as a prejudgement of the application of RMA seeking authority to operate over these tracks.

(d) *Rates applicable.* Inasmuch as this operation by RMA over tracks previously operated by CO is deemed to be due to carrier's disability, the rates applicable to traffic moved over these lines shall be the rates applicable to traffic routed to, from, or via these lines which were formerly in effect on such traffic when routed via CO, until tariffs naming rates and routes specifically applicable via RMA become effective.

(e) In transporting traffic over these lines, RMA and all other common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to that traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between the carriers; or upon failure of the carriers to so agree, the divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 12:01 a.m., December 30, 1978.

(g) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., June 30, 1979, unless otherwise modified, changed or suspended by order of this Commission.

(49 U.S.C. (10304-10305 and 11121-11126).)

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael. Member Joel E. Burns not participating.

NANCY L. WILSON,
Acting Secretary.

[FR Doc. 79-179 Filed 1-2-79; 8:45 am]

[7035-01-M]

[Service Order No. 1347-A]

PART 1033—CAR SERVICE

Hillsdale County Railway Company Inc. Authorized To Operate Over Tracks Abandoned by Penn Central Transportation Co.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order Service Order No. 1347-A.

SUMMARY: On November 20, 1978, The Commission by Service Order No. 1347 authorized the Hillsdale County Railroad to operate 2.93 miles of line formerly operated by Penn Central Transportation Company between Pleasant Lake, Indiana, and Steubenville, Indiana. Unknown to the Commission an action in Quo Warrento and Eminent Domain with respect to this trackage was then, and is pending before the Steuben Circuit Court on behalf of the Indiana Northern Railroad Company. Service Order No. 1347 is being vacated without prejudice to the filing of new applications when the right to use of this line, subject to Commission authority has been determined by the Steuben Circuit Court.

DATES: *Effective on date of Service.*

FOR FURTHER INFORMATION CONTACT:

Charles C. Robinson, Chief Utilization and Distribution Branch Interstate Commerce Commission, Washington, D.C. 20423, Telephone (202) 275-7840 Telex 89-2742.

SUPPLEMENTARY INFORMATION:

Decided: December 27, 1978.

On November 20, 1978, the Commission, by Service Order No. 1347, authorized the Hillsdale County Railway Company Inc. (HCRC) to operate over tracks abandoned by Penn Central Transportation Company between Pleasant Lake, Indiana, and a connection with the Norfolk and Western Railway Company (NW), a distance of approximately 2.93 miles.

The attorneys for the HCRC requested the immediate issuance of a Service Order authorizing operation of this line by the HCRC stating that brush clearing and other necessary restoration work would commence upon the issuance of the requested order. The applicant stated that acquisition of this line would enable the HCRC to connect with the NW at Steubenville. It further informed the Commission that it has purchased the line from its former owners and therefore had authority to operate the line subject to approval by this Commission.

On December 7, 1978, The Indiana Northern Railroad Company (IN) requested that Service Order No. 1347 be vacated, on the grounds that an action in Quo Warranto and Eminent Domain relating to the right-of-way covered by Service Order No. 1347, and which the HCRC stated it has purchased, was pending before the Steuben Circuit Court as cause 85-6362. IN states that on October 28, 1978, that court ordered that a pre-trail conference in cause 85-6362 be held on February 2, 1979. IN further states that there is no track connection at Steubenville between these tracks and the NW and never has been.

In a letter dated December 18, 1978, the Director, Department of Transportation, State of Indiana (Indiana), urged that the petition of IN be denied. Indiana states that it fears abandonment of the line of the NW between Wakarusa, Indiana, and Montpelier, Ohio, passing through Steubenville, Indiana; and that it is presently subsidizing other operations of HCRC. It requests that HCRC's authority to operate the former Penn Central trackage between Pleasant Lake and Steubenville be continued because of possible abandonement of the NW line through Steubenville and its subsequent operation under a State proffered subsidy.

It is the opinion of the Commission that the petition of the HCRC for an emergency order to operate over these tracks was premature. The line is not presently in operating condition and will require extensive rehabilitation before it can be used. Further there is no track connection between this line and the NW at Steubenville and no evidence that the construction of such a connection has been agreed to between HCRC and NW much less commenced. Further although the HCRC has purchased this line its ultimate right to retain and operate it as a railroad is uncertain because of the pending suit in the Steuben Circuit Court.

We will grant the petition of IN that Service Order No. 1347 be vacated without prejudice to any subsequent requests from either the HCRC or the IN that may be filed after the action in the Steuben Circuit Court has been disposed of, any such application that may be filed with the Commission must include evidence that the applicant has full legal right to the use of this property and that an agreement has been reached with whomever may then be the operator of the NW line passing through Steubenville to construct and operate a connecting track between that line and the former Penn Central Transporation Company line between Pleasant Lake and Steubenville.

§ 1033.1347 [Vacated].

It is ordered, Service Order No. 1347 is vacated and set aside.

This order shall become effective upon date of service.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael. Member Joel E. Burns not participating.

NANCY L. WILSON,
Acting Secretary.

[FR Doc. 79-297 Filed 1-2-79; 8:45 am]

[7035-01-M]

[Service Order No. 1351]

PART 1033—CAR SERVICE

Massachusetts Central Railroad Corp. Authorized To Operate Over Tracks Formerly Operated by Boston & Maine Corp., Robert W. Meserve and Benjamin H. Lacy, Trustees

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order Service Order No. 1351.

SUMMARY: The line of the Boston and Maine passing through Ware, Massachusetts is unserviceable. There are several shippers at Ware who are in need of rail services. Service Order No. 1351 authorizes the Massachusetts Central Railroad Corporation to operate over tracks of the Boston and Maine, including interchange tracks connecting with the Consolidated Rail Corporation for the purpose of restoring rail service to these shippers.

DATES: *Effective 12:01 a.m., January 1, 1979. Expires 11:59 p.m., June 30, 1979.*

FOR FURTHER INFORMATION CONTACT:

Charles C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C., 20423, Telephone (202) 275-7840, Telex 89-2742.

SUPPLEMENTARY INFORMATION:

Decided: December 22, 1978.

The line of the Boston and Maine Corporation, Robert W. Meserve and Benjamin H. Lacy, Trustees (BM), serving Ware, Massachusetts, is unserviceable because of deteriorated bridges and track. There is a connection between this line and the Consolidated Rail Corporation (Conrail) at Ware. Several industries served by the BM line at Ware are in need of restoration of railroad services. A newly organized company, the Massachusetts Central Railroad Corporation (Mass) has been organized for the purpose of operating various portions of this BM line and is prepared to offer railroad service to those shippers by operations over BM tracks between mileposts twenty-eight (28) and thirty (30) at Ware, including the necessary interchange tracks with Conrail. The BM has consented to this use of its tracks at Mass.

It is the opinion of the Commission that an emergency exists requiring the operation by Mass over tracks formerly operated by BM in the interest of the public; that notice and public procedure are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

§ 1033.1351 Service Order No. 1351.

(a) *Massachusetts Central Railroad Corporation authorized to operate over tracks formerly operated by Boston and Maine Corporation, Robert W. Meserve and Benjamin H. Lacy, trustees.* The Massachusetts Central Railroad Corporation (Mass) is authorized to operate over tracks of the Boston and Maine Corporation, Robert W. Meserve and Benjamin H. Lacy, Trustees (BM), between milepost 28 and milepost 30, at Ware, Massachusetts, including interchange tracks with the Consolidated Rail Corporation.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(c) Nothing herein shall be considered as a prejudgement of the application of Mass seeking authority to operate over these tracks.

(d) *Rates applicable.* Inasmuch as this operation by the Mass over tracks previously operated by the BM is deemed to be due to carrier's disability, the rates applicable to traffic moved over these lines shall be the rates applicable to traffic routed to, from, or via these lines which were formerly in effect on such traffic when routed via BM, until tariffs naming rates and routes specifically applicable via Mass become effective.

(e) In transporting traffic over these lines, Mass and all other common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to that traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between the carriers; or upon failure of the carriers to so agree, the divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 12:01 a.m., January 1, 1979.

(g) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., June 30, 1979, unless otherwise modified, changed or suspended by order of this Commission.

(49 U.S.C. 10304-10305 and 11121-11126)

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael. Member Joel E. Burns not participating.

NANCY L. WILSON,
Acting Secretary.

[FR Doc. 79-298 Filed 1-2-79; 8:45 am]

[7035-01-M]

[Ex Parte No. MC-19 (Sub-No. 9(a))]

PART 1056—TRANSPORTATION OF HOUSEHOLD GOODS IN INTERSTATE OR FOREIGN COMMERCE

Transportation of Household Goods[1] (Agency Relationships)

DECEMBER 28, 1978.

AGENCY: Interstate Commerce Commission.

ACTION: Final Rule.

SUMMARY: The Interstate Commerce Commission has modified its regulations governing agency relationships of household goods carriers. As modified, these regulations specify the types of information which a principal carrier must give to a prospective agent prior to the signing of an agency contract; simplify the process of reporting the signing of an agency agreement to the Commission; prescribe a form for reporting agency agreements to the Commission; exempt certain agency relationships from the reporting and disclosure re-

[1] Formerly entitled *Practices of Motor Common Carriers of Household Goods (Agency Relationships).*

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quirements; and continue the requirement that principal carriers are responsible for all acts or omissions of all of their agents.

DATES: Effective July 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Michael Erenberg 202-275-7292.

SUPPLEMENTARY INFORMATION: The Commission has modified its regulations governing agency relationships of motor common carriers of household goods, 49 CFR 1056.19 and .20. As modified, these regulations specify the information which a principal carrier must disclose to a prospective agent prior to the signing of an agency contract. This information must only be reported to what are defined as prime and military agents. In recognition of the fact that certain agency relationships are of such short duration and such limited scope that the agent faces minimal financial risks as a result of the agency agreement, certain agency relationships have been exempted from the disclosure requirements. The agents exempted from the disclosure requirements are identified as temporary agents, who are defined essentially as agents who perform non-booking origin or destination services for a principal carrier only on an emergency or temporary basis.

In addition, the regulations adopted specify the information which a principal carrier must report to the Commission concerning an agency relationship. Temporary agents are exempted from the reporting requirement.

As originally drafted, the final rules contained certain typographical errors and omissions, and did not prescribe a form for reporting requirements. The rules as modified in this notice require use of BOp-109, the proposed form rejected in the decision in this proceeding, in reporting the information required by 49 CFR 1056.19(e). Many carriers who have submitted filings have generally attempted to duplicate the proposed form. But their products have lacked uniformity and caused difficulty in processing the requisite data. Efforts of carriers to reproduce the form indicate a need for the form to eliminate carrier confusion. Uniformity in the reporting form should better inform individuals seeking agency relationship data and facilitate Commission oversight of and enforcement efforts related to agency relationships. Language prescribing use of the mentioned form is included in 49 CFR § 1056.19(e). A copy of form BOp-109 is appended to this notice (Appendix). To allow for any difficulties which might attend compliance, the effective date of the regulations has been extended to July 1, 1979.

The regulations continue the requirements, imposed in the Commission's present agency regulations, that principal carriers be fully responsible for all acts or omissions of their agents, whether those agents are defined as prime, military, or temporary agents. Principal carriers must also continue to use due diligence in selecting and maintaining agents that are able to provide adequate household goods transportation services (including accessorial and terminal services).

A copy of the Commission report, which contain a discussion of the issues considered in the development of the final regulations and a list of the participants, is available upon request. Requests should be sent to: Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

These rules are issued under the authority of Subtitle IV of Title 49, United States Code and 5 U.S.C. 552, 553, and 559 (The Administrative Procedure Act).

Issued in Washinton, D.C., on December 19, 1978.

By the Commission, Chairman O'Neal, Vice Chairman Christian, Commissioners Brown, Stafford, Gresham and Clapp. Vice Chairman Christian dissenting, Commissioner Brown absent and not participating.

H. G. Homme, Jr.,
Secretary.

VICE CHAIRMAN CHRISTIAN (dissenting)

I dissent from the majority's decision to require use of BOp-109. Our prior decision, served July 20, 1978, gave serveral good, practical reasons why use of BOp-109 would not be necessary. Today's decision does not state why those reasons are no longer valid. In addition, I am unpersuaded that enough of a practical problem exists to justify imposition of yet another form.

RULE CHANGE

49 CFR 1056 is amended by deleting present sections 1056.19 and .20 and by substituting for those sections the following:

§ 1056.19 Reporting and disclosure requirements.

(a) For the purposes of 1056.19, agents employed by or providing transportation services for any principal carrier shall be defined as follows:

(1) Prime agents are defined as all agents who are permitted or required under the terms of any agreement or arrangement with a principal carrier to provide any transportation service for or on behalf of the principal carrier, including the selling of or arranging for any transportation service, and who perform such services on other than an emergency or temporary basis.

(2) Military agents are defined as all agents who are permitted or required under the terms of any agreement or arrangement with a principal carrier to provide origin and/or destination services only on shipments transported on Government bills of lading issued by the Department of Defense, and who perform such services on other than an emergency or temporary basis.

(3) Temporary agents are defined as all agents who are permitted or required under the terms of any agreement or arrangement with a principal carrier to provide origin and/or destination services on behalf of the principal carrier, excluding the selling of or arranging for any transportation service, and who perform such services on an emergency or temporary basis.

(b) Each principal carrier must disclose the following information to each prospective prime agent and to each prospective military agent:

(1) The names under which the principal will do business.

(2) Official names and addresses and principal places of business of the principal carrier and any affiliated carrier (including prime and military agents that are carriers) that will engage in business with the prospective agent.

(3) A copy of Schedule 100 (Organization) to the principal carrier's most recent Motor Carrier Annual Report Form M-1 or M-2 (as appropriate).

(4) A balance sheet and a profit and loss statement for each year of the most recent 3-year period of the principal carrier's operations.

(5) A statement of the standards (if any) by which the principal carrier determines whether the agency should be terminated. If no such standards are generally applicable, the principal carrier must state either that the agency may be terminated at will or that standards governing termination are subject to negotiation between the principal carrier and the prospective prime agent.

(6) A complete statement of the rights and obligations of the principal and the agent, including rights and obligations with respect to training, advertising, claims handling, and frequency and method of payment. The principal carrier also must furnish a copy of its most recent performance report (as described in 49 CFR 1056.7(b)); state the number of vehicles in its vehicle fleet; and list the tariffs under which it operates.

(7) The names, addresses, and telephone numbers of the five agencies whose principal offices are in the closest geographic proximity to the prospective agent. If the principal maintains fewer than five agencies, it shall furnish a statement that it maintains fewer than five agencies.

(8) A statement of the territorial protection offered by the principal carrier or a statement that no such territorial protection is offered.

(9) A statement of the training required of the agent and its employees and the rules and regulations with which the agent and its employees must be familiar and for which they must be responsible.

(10) A statement concerning the methods (if any) by which disputes between the principal and its agents are settled.

(c) The information required by subsection 1056.19(b) must be received in writing by a prospective prime or military agent prior to the signing of an agency agreement, and the principal must obtain a receipt for that written information, signed by the prospective agent on the date of its receipt.

(d) Agreements between principal carriers and their prime or military agents must be reduced to writing and signed by the principal and the prime agent, and copies of any such agreements must be retained in the files of the principal carrier.

(e) Each principal carrier must report to the Commission within 20 days of the making of any agreement between itself and a prime or military agent the information specified in (1) through (7) below. The data required shall be reported to the Commission on form BOp-109. Any change in the information described in parts (1), (2), and (3) below must be reported to the Commission within 20 days of such change. Each principal carrier must maintain a record of all changes in the information described in parts (1) through (7) below.

(1) Name, address and MC number of principal carrier.

(2) Name, including trade names, if any, address, telephone number and MC number, if any, of agent.

(3) Date of agency agreement and identification of the agreements as being either prime or military.

(4) A list of all addresses at which agent proposes to conduct operations under the agency agreement with the carrier listed under item (1) and the name under which the agent operates at each listed address.

(5) A definite statement that the agent, or any other business owned or controlled by the agent, *does* or *does not* represent any motor carrier other than the carrier listed under item (1) as a prime agent. If the agent, or any other business owned or controlled by the agent, does represent any carrier other than the carrier listed under item (1) under a prime agency agreement, the name, including trade name(s), address(es) of the agency, and the name of all carriers represented must be listed.

(6) If the agent, or a business owned or controlled by the agent, represents another carrier not listed in item (1) under a prime agency agreement, the carrier must file a statement describing the conditions prevailing within the agreements which preclude the agent from operating as a broker of household goods in contravention of 49 U.S.C. 10924.

(7) A statement of the means by which the principal carrier will police the operations of the agent or a statement that the carrier has previously filed a statement or description of its agent policing or supervision program with the Commission.

The report must be signed by the person responsible for completing it, and shall contain the following statement above that person's signature: "I certify in signing the foregoing statement that I am aware that anyone who in any matter within the jurisdiction of any agency of the United States makes or uses any false, fictitious, or fraudulent writing may be subject to prosecution and fined up to $10,000 and imprisoned for up to 5 years. 18 U.S.C. 1001." When the prime or military agent holds operating authority from this Commission in its own right, the principal carrier need not report information which the prime or military agent has already listed in a report filed under this subsection.

(f) Each principal carrier must report termination of any prime or military agent to the Commission within 20 days of that termination.

§ 1056.20 Responsibility of principal carriers for acts of agents.

(a) Each principal carrier shall be absolutely responsible for all acts or omissions of any of its agents which relate to the performance of household goods transportation services (including accessorial or terminal services) in interstate or foreign commerce when those services are held out or performed for the principal carrier or when the shipper is led to believe that those transportation services would be performed by the principal carrier.

(b) Each principal carrier shall use due diligence and reasonable care in selecting and maintaining agents who are sufficiently knowledgeable, fit, willing, and able to provide adequate household goods transportation services (including accessorial and terminal services) and to fulfill the obligations imposed upon them by the Commission and by their principal.

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[7035-01-C]

Reporting Form

Interstate Commerce Commission Bureau of Operations REPORT OF AGENCY RELATIONSHIPS	Date

In accordance with the requirements contained in Part 1056.19(e), Title 49 Code of Federal Regulations, the following information is submitted to the Interstate Commerce Commission, Bureau of Operations, Washington, D. C. 20423.

I. PRINCIPAL CARRIER

NAME	MC NUMBER
ADDRESS	

II. AGENT

NAME	MC NUMBER
ADDRESS	TELEPHONE NO.

III. AGREEMENT

DATE	TYPE
	[ ] Prime [ ] Military

IV. LIST ALL LOCATIONS AGENT PROPOSES TO OPERATE UNDER THIS AGREEMENT. Use additional page, if necessary.

NAME	ADDRESS
NAME	ADDRESS

V. If any carriers, other than the carrier filing this report, are represented by the agent, or by any other business owned or controlled by the agent, identified under Item II, under prime agency agreements, list the carriers represented and the name of the agent or affiliate representing each carrier listed. If no other carriers are represented under prime agency agreements, insert "none" in space provided. Use extra page, if necessary.

AGENT NAME	CARRIER REPRESENTED
ADDRESS	

VI. DISCLOSE RESTRICTIONS CONTAINED IN AGREEMENT THAT PRECLUDE AGENT FROM OPERATING IN CONTRAVENTION OF SECTION 211 OF THE INTERSTATE COMMERCE ACT.

VII. AGENCY POLICING STATEMENT [ ] IS ATTACHED [ ] WAS PREVIOUSLY SUBMITTED.

CERTIFICATION: I certify in signing the foregoing statement that I am aware that anyone who, in any matter within the jurisdiction of any agency of the United States makes or uses any false, fictitous, or fraudulent writing may be, subject to prosecution and fined up to $10,000 and imprisoned for up to five years. 18 U.S.C. § 1001.

SIGNATURE of owner, partner, or responsible corporate official of carrier.	TITLE

NOTICE - It is the responsibility of the principal carrier to complete and furnish this form to the Interstate Commerce Commission.

[FR Doc. 79-299 Filed 1-2-79; 8:45 am]

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[7035-01-M]

[Ex Parte No. 282 (Sub-No. 2)]

PART 1111—RAILROAD ACQUISITION, CONTROL, MERGER, CONSOLIDATION PROJECT, TRACKAGE RIGHTS AND LEASE PROCEDURES

Railroad Consolidation Procedures, General Policy Statement

AGENCY: Interstate Commerce Commission.

ACTION: Statement of policy.

SUMMARY: This policy statement describes how the Commission will treat certain aspects of applications seeking approval of the consolidation of major railroad systems. It is intended to assist parties planning or participating in railroad consolidation proceedings. The policy statement discusses criteria to be applied in considering applications; public interest considerations; public participation; inclusion of other carriers; labor protection; and procedural matters.

DATES: The policy statement will be effective February 2, 1979.

FOR FURTHER INFORMATION CONTACT:

Richard Schiefelbein, (202) 254-6983.

SUPPLEMENTARY INFORMATION: On April 14, 1978, we published a proposed general policy statement on railroad consolidation procedures (43 FR 15753). The proposed policy statement was prepared after an extensive study was completed by the Rail Services Planning Office (RSPO). The RSPO study culminated in the publication of a document, entitled *Rail Merger Study, Final Report,* which was published February 1, 1978. That document recommended that we adopt a general policy statement to advise potential participants in railroad consolidation proceedings of our role and principal concerns.

In adopting this policy statement we have considered the comments offered by parties at all stages of the RSPO study. As a result of these comments and the comments submitted on the proposed policy statement published in April, some relatively minor changes have been made in order to clarify the intent of the policy statement and to simplify its language. Two changes affect the entire statement. First, in most cases, the word "consolidation" has been substituted for the word "merger". Second, citations to the Interstate Commerce Act are to the Recodified Act (Public Law 95-473), which was signed into law October 17, 1978. Other changes are discussed below in the order in which they appear in the policy statement.

General. Several of the comments have questioned the necessity, purpose, and effect on substantive law of this policy statement. We emphasize that we are adopting a policy statement, not a regulation. The statement is intended to offer guidance to parties planning and participating in railroad consolidation proceedings. We believe it will aid in the preparation and presentation of evidence. It does not establish a binding norm, and it is not finally determinative of the issues or rights which it discusses. When the policy enunciated in the statement is applied in a specific proceeding, parties to that proceeding will have the opportunity to challenge or support the policy through appropriate evidence or argument.

Consolidation criteria. This section of the policy statement has been modified to include a reference to the criteria which the Interstate Commerce Act requires us to consider in consolidation proceedings. In addition to the statutory criteria, the policy statement lists seven others which we will consider. Two minor changes have been made in the proposed criteria. First, we have added intermodal competition as one of the factors to be considered. Second, we have eliminated the labor protection criterion because it is one of the statutory criteria which we must consider.

It should be emphasized that the list of criteria is not intended to be a ranking of priorities. We recognize the need to balance considerations which sometimes may conflict. Furthermore, the weight given to each individual criterion may vary in different consolidation proceedings.

Inclusion. One of the comments expressed concern that the Commission would require inclusion in a consolidated system of a portion of another railroad without its consent. Transactions under section 11344 and 11346 are consensual. We can impose conditions upon our approval of a consolidation proposal, but we cannot require the applicants to consummate the transaction, nor can we require another railroad to relinquish parts of its system to a consolidated system. Thus the Commission may not force an inclusion, except to the extent parties involved are willing to accept the inclusion in order to obtain a decision approving their consolidation proposal.

Inclusion is an extreme measure. A party seeking inclusion must establish that there is no other reasonable alternative for preserving essential services, that the facilities to be included fit operationally into the merged system, and that inclusion can be accomplished without endangering the financial success of the consolidated system. Clear and precise quantitative data must be produced.

Labor protection. The Commission has a duty to require a fair and equitable arrangement to protect the interest of railroad employees affected by a proposed transaction. If a bargaining agreement is reached between the parties, we have a duty to review the adequacy of its protective provisions. An adequate agreement must contain provisions no less protective of the interest of the employees than those imposed previously under section 11347 and those established pursuant to section 405 of the Rail Passenger Service Act (45 U.S.C. 565). This is the statutory minimum level of protection required either by an agreement or our imposition of conditions.

We favor voluntarily negotiated labor protection agreements, tailored to the particular transaction and addressing the concerns of affected employees. However, in the absence of such an agreement, we will ordinarily impose the protection prescribed by statute. In this manner, similarly situated employees may expect to be treated equally when we must fashion the protection. Of course, in each case, parties will have the opportunity to establish that special circumstances require the imposition of a greater level of protection to achieve a fair and equitable arrangement.

Inclusion in section 11346 proceedings. The comments expressed some confusion regarding the Commission's authority to condition a section 11346 transaction on inclusion. A petition for inclusion may not be filed in response to an application filed under section 11346 of the Act. The legislative history is clear: "* * * the Commission is directed to approve, disapprove, or modify the application before it, based on the public interest test and without concerning itself with inclusion applications * * *." *H.R. Rep. No. 94-781,* 94th Cong., 2d Sess. 175 (1976). "Also, under the proposed procedure the carriers attempting to merge would be able to propose their merger to the Commission without fear of inclusion petitions." *H.R. Rep. No. 94-725,* 94th Cong. 2d Sess. 63 (1975).

However, section 11346(d)(2) authorizes the Commission to approve a transaction "* * * with conditions and modifications that it determines are in the public interest." When discussing protective conditions, we have stated that "* * * of these conditions, requiring inclusion of another railroad in the system resulting from the transaction, is the greatest amount of protection we can provide short of denying the proposal." Ex Parte No. 282 (Sub-No. 1A), *Railroad Consolidation Procedures* (not printed), decided March 23, 1978.

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Applications for control under section 11346. Section 11346(a) permits rail carriers subject to the Act or the Secretary of Transportation to seek "• • • approval of a merger, consolidation, unification or coordination project • • •, joint use of tracks or other use of facilities, or acquisition or sale of assets • • •." The section does not specifically provide for railroads to seek approval for control transactions. We believe that it should be possible to initiate control transactions under this section of the Act, and we see no indication that Congress intended them to be excluded. Therefore, we will consider control transactions proposed under section 11346(a) of the Act, in addition to those transactions specifically listed in that section.

This decision is not a major Federal action significantly affecting the quality of the human environment or energy consumption.

Parties participating in this stage of this proceeding were: the United States Department of Transportation; the Office of Rail Public Counsel; the Iowa Department of Transportation; Stanley E. G. Hillman, Trustee of the Property of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor; William M. Gibbons, Trustee of the Property of the Chicago, Rock Island and Pacific Railroad Company, Debtor; the Norfolk and Western Railway Company; the Soo Line Railroad Company; the Southern Railway System; the Western Pacific Railroad Company; the Railway Labor Executives' Association; John W. McGinness, Illinois Legislative Director of the United Transportation Union; and Garvey, Inc.

It is ordered: Part 1111 of Title 49 of Chapter X of the Code of Federal Regulations is amended by the addition of new § 1111.10 General Policy Statement, set forth below.

By the Commission, Chairman O'Neal, Vice Chairman Christian, Commissioners Brown, Stafford, Gresham, and Clapp.

H. G. HOMME, Jr.,
Secretary.

§ 1111.10 General Policy Statement.

(a) *General.* The Interstate Commerce Commission encourages the rationalization of railroad facilities and the reduction of excess rail capacity through private industry initiatives rather than active government intervention. The Commission favors consolidations where operating efficiencies will occur, marketing opportunities will be enhanced, essential rail services will be retained, and competition will not be unnecessarily diminished. The Commission also encourages other means of attaining these ends, including the joint use of rail facilities and the use of run-through trains. It does not favor rail industry restructuring through the exercise of managerial and financial control unless the controlling entity assumes full responsibility for carrying out the operating railroad's common carrier obligation to provide adequate service upon reasonable demand.

(b) *Consolidation Criteria.* The Commission's consideration of rail consolidation proposals is governed by the criteria prescribed in sections 11344 and 11346 of the Interstate Commerce Act and by the National Transportation Policy set forth in section 10101 of the Act. In addition to the statutory criteria, the Commission will consider:

(1) Whether essential rail services will continue to be provided, either by the consolidating companies or by other railroads which may be affected by the consolidation ("essential services" include, but are not limited to, those required by the national defense and those shown necessary to achieve other established national goals, such as energy conservation and rural and community development);

(2) Whether opportunities to achieve operating efficiencies will be increased;

(3) Whether redundant facilities will be eliminated;

(4) Whether the ability of the consolidated system to attract new business will be enhanced;

(5) Whether the consolidated company will be financially viable;

(6) Whether effective inter- and intramodal competition will be maintained wherever economic realities make it possible; and

(7) Whether there will be any adverse impact on the environment of the region served.

(c) *Public interest considerations.* Individual rail consolidation proposals may have a profound impact upon the national rail system. The Commission will examine each proposal in light of the significant public policy issues raised. In deciding whether to approve a railroad consolidation application the Commission will examine the effect which the proposed consolidation would have on the total rail system and the needs of the users of rail service. Proposals which fail to take advantage of potential long-run efficiencies, or to provide for the utilization of the most efficient and best located rail facilities, may be denied as not being in the public interest, or approved only subject to conditions. The Commission interprets the public interest tests under sections 11344 and 11346 of the Act to be the same.

(d) *Public participation.* In an effort to assure a fully developed record on the impacts of a proposed railroad consolidation, the Commission will—

(1) Encourage participation in railroad consolidation proceedings by other government departments and agencies, particularly those with direct responsibility for issues related to the nation's defense needs, transportation policies, environmental and energy policies, rural and urban needs, employment policies, and business development;

(2) Encourage participation by State and local governments and regional and local planning bodies;

(3) Permit participation by interested persons;

(4) Assure that environmental and energy issues are adequately addressed; and

(5) Provide, if necessary, for the intervention of Commission staff to develop the record.

(e) *Inclusion of other carriers pursuant to section 11344*(c). (1) The Commission believes that the railroad consolidation process should not be used as a means for preserving the systems of financially weak and marginal railroads or for protecting them from undergoing reorganization, if necessary, under the bankruptcy laws. The Commission is concerned with the preservation of service, not of companies or railroad systems, and will, therefore, use its powers to condition approval of a railroad consolidation upon the acceptance of inclusion of all or parts of other railroad systems only when it can be shown that there is no other reasonable alternative for preserving essential services; that the facilities to be included fit operationally into the new system; and that inclusion can be accomplished without endangering the operational or financial success of the new company. Application of these criteria will mean that requests for inclusion of an entire railroad system are less likely to be successful than those offering more limited, and clearly identified, facilities for acquisition by the railroad consolidation partners.

(2) The Commission recognizes that a particular consolidation of strong carriers could worsen the condition of other railroads to the extent that they could not survive. In such a situation, the Commission will attempt to assess the impact of a particular carrier's being forced into reorganization or having to terminate service. If it appears that the end result of a proposed railroad consolidation would be the permanent cessation of essential services by some other railroad, the Commission may deny the consolidation application or condition its approval upon the willingness of the applicants to restructure their proposal.

(f) *Labor protection.* The Commission encourages voluntary negotiation of labor protective conditions in individual rail consolidation proceedings. The Commission will, however, review negotiated agreements to assure that they provide adequate protection for railroad employees and do not jeopardize the future viability of the consolidated company. In the absence of a negotiated settlement, labor protective conditions will normally provide for protection at the level mandated by law, unless it is proven that more stringent protection is required to provide a fair and equitable arrangement to protect the interests of the railroad employees adversely affected.

(g) *Procedures.* (1) Generally the Commission will consider applications on an individual basis in order to expedite the proceeding and insure compliance with the statutory time limits. However, related applications by protestants seeking protection from the proposed consolidation will normally be consolidated with the primary application. Other related applications, such as those seeking inclusion or trackage rights, may also be consolidated. Other applications in the same geographic area may be consolidated when appropriate, if they are in similar procedural stages, have common parties, and involve potential cumulative and crossover effects on those parties.

(2) The Commission will not accept petitions for inclusion in proceedings governed by section 11346 of the Act. If, however, the record in such a proceeding showed that a transaction would be in the public interest only if some or all of another carrier's system were included to preserve essential rail services, the Commission would consider conditioning its approval of the transaction on the inclusion.

(3) The Commission will accept applications for control under section 11346 of the Act, in addition to the transactions specified in that section.

(h) *Expiration date.* Unless previously extended by the Commission, this section expires January 3, 1984.

NANCY WILSON,
Acting Secretary.

[FR Doc. 79-178 Filed 1-2-79; 8:45 am]

[3522-10-M]

Title 50—Wildlife and Fisheries

CHAPTER VI—FISHERY CONSERVATION AND MANAGEMENT, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 651—ATLANTIC GROUNDFISH (COD, HADDOCK, AND YELLOWTAIL FLOUNDER)

Final Regulations

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Final regulations.

SUMMARY: These final regulations govern domestic fishing for Atlantic groundfish (cod, haddock, and yellowtail flounder) and implement the fishery management plan for Atlantic groundfish, as amended (FMP). The regulations were proposed on October 4, 1978 (43 FR 45872) and were effective immediately as emergency regulations. On November 15, 1978, the emergency period was extended until December 29 (43 FR 53040). Public comment was invited through November 14.

EFFECTIVE DATE: December 29, 1978. Two versions of Appendix B are published, one in effect from December 29 to December 31, 1978, the other in effect beginning January 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. William G. Gordon, Regional Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Gloucester, Massachusetts 01930 Telephone: (617) 281-3600.

SUPPLEMENTARY INFORMATION: The FMP was amended by the New England Fishery Management Council (Council) to provide for management of Atlantic groundfish on the basis of a fishing year commencing on October 1. Other minor amendments were also made by the Council. These were all approved by the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration (NOAA). In addition, a Secretarial amendment revising the incidental catch allowance at the request of the Council was approved.

The amendments to the FMP were designed by the Council to stabilize management of the fishery until a new management plan for the fishery could be developed and implemented. The history of management in this fishery since the FMP first took effect in March 1977 has been a series of rapid emergency actions, each designed to address short-term problems. The FMP did not anticipate the rapid influx of new vessels into the fishery, high demand for groundfish in the marketplace, or generally favorable weather. Each of these factors has exerted unforeseeable pressures on the fishery.

The Council has determined to take a fresh look at management of this very complex fishery and to formulate a more effective scheme.

The recent amendments to the FMP, and these regulations, are intended to provide interim management while the new FMP is being prepared.

PUBLIC COMMENTS

Only three letters were received from the general public commenting on the proposed regulations. The proposed regulations were also discussed by the Council's Groundfish Oversight Committee at its public meeting held in Peabody, Massachusetts on November 13, 1978. the comments are summarized and responses appear below.

A. *Permits.* One commenter suggested that a fisherman be allowed to fish while his application for a permit is being processed, since the 30-day processing period provided by the regulations could prove to be an undue delay for a new vessel. Our experience has been that the permit issuance process does not take the full 30-day period and that, when necessay, permits have been processed on a priority basis. Further, a permit may be applied for before a vessel is acutally ready to go fishing, that is, as soon as the vessel has been officially documented and/or receives a valid state registration number. Therefore, no change has been made in this part of the regulations.

B. *Vessel Classes.* A number of comments were received concerning the vessel class allocation system. One was that the distinctions between classes should be maintained throughout the year, so that no vessel class is required to bear the burden for excess fishing by another class. Although § 651.20(d) has been clarified so that adjustments are made within classes as much as possible, some classes may have to be closed before their allocations have been reached at the end of the year in order to prevent exceeding the overall annual quota. The Council has clearly indicated that the overall annual quota for the fishery should not be exceeded.

It was also suggested that classes should be treated differently with respect to the timing of closures, since reduced weekly catch limitations are more disruptive than closures for some vessel classes. The regulations provide a range of considerations for determining when the catch limitation adjustments and closures should be applied. Thus, the Assistant Administrator for Fisheries has the authority to reduce weekly catch limits to avoid closures, but he also has the option of allowing continued "open" fishing which may result in an early closure. These management tools will be applied reasonably in each instance.

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A question was also raised concerning the treatment of jig fishing or jigging. It was inappropriately included in the proposed regulations under recreational fishing. These final regulations place it in the fixed gear class.

C. *Gear.* One commenter suggested that fishermen should not be required to report every time they change their fishing gear. Especially in the case of small vessels, multiple gear is the rule rather than the exception. Section 651.4(b) is not intended to require such detailed reporting. A fisherman could specify a number of different types of gear in his initial permit application. However, whenever he plans to utilize additional types of gear not already noted on his permit, he should report it within 15 days.

Some fishermen have contended that the regulations allowed them to operate mobile gear and fixed gear at the same time, and claim weekly catch limit allowances for two vessel classes. The Council never intended to allow this. On November 8, 1978, the National Marine Fisheries Service, Northeast Region, issued a press release explaining that vessels may not claim weekly catch limit allowances for two vessel classes at the same time. These final regulations clearly state this intention in § 651.23(a).

A question arose concerning the treatment of Scottish seines under these regulations. This is a type of seine which is set but not pursed, and then is towed aboard the fishing vessel. Because the gear fishes by moving through the water, it is treated as mobile gear.

D. *Reporting:* One commenter stated that the catch reporting requirements of the regulations were stringent and duplicative. All of the information which is required to be reported is necessary for the establishment and maintenance of an adequate data base for management. Much of it is required by the Fishery Conservation and Management Act of 1976 (the Act). These reporting requirements have not been changed in the final regulations.

E. *Enforcement and Boarding procedures.* One comment was received concerning the requirements of § 651.8. The commenter questioned the applicability of the International Code of Signals and the mandatory boarding procedures to U.S. fishing vessels. The commenter suggested that instead of communicating by light signals, VHF-FM radio telephone be used. This is now the current standard practice prior to any boarding operations. The common signals in the regulations are included for the safety and information of vessel captains, should radio communication fail. NOAA, in conjunction with the U.S. Coast Guard, is presently considering all of the provisions of § 651.8 in regard to the comment received. At this time, however, no changes are made to the regulations.

F. *Incidental Catch.* When the Council's FMP amendments were approved in September, 1978, the Assistant Administrator, on behalf of the Secretary, approved an amendment to the incidental catch provisions of the FMP. This amendment was made effective immediately in the emergency implementation of the regulations while the Council's statutory 45-day review period ran. No comments were received from the council. That amendment is, therefore, made final and implemented pursuant to section 304(c)(2) of the Act.

One comment was that the incidental catch limitation should be 4 percent or a certain poundage (depending on vessel class), whichever was *greater;* the proposed regulation only allowed the *lesser* amount. The difficulty with an open ended restriction based on the *greater* of alternatives is that overfishing can continue rather than be controlled. Some fishermen have indicated that the levels established by the regulations and implemented on October 1, 1978, are feasible as a true incidental catch in nonregulated fisheries. Those fishermen that insist on directing effort to cod and haddock after fisheries are closed will continue to have problems with this provision as written. The FMP amendment has not been modified; these regulations allow an incidental catch of 4 percent or a certain poundage, whichever is the *lesser* amount.

G. *Other Provisions.* One commenter suggested that the definition of "discard" in § 651.2 was difficult to understand. As a result, the definition has been revised to clarify the meaning of the no discard provision contained in § 651.7(e).

It was pointed out that the common form of listing latitude and longitude coordinates is to list latitude first; the regulations have been changed to do this.

The prohibition on fishing with modified midwater gear in the closed spawning area has been moved from the section on management measures to the prohibitions section.

The prohibition added to the Act by Pub. L. 95-354 has been added at § 651.7(t). This amendment to the Act deals with joint ventures between United States and foreign fishermen. In connection with this addition, a definition has been added to § 651.2 of the term "United States harvested fish."

A sentence has been added to § 651.24(a) to clarify the provision on closures. The Regional Director may anticipate the adjustment of quarterly quotas, based on preliminary catch statistics, in order to project a closure date in the following quarter.

H. *The New Fishing Quarter.* Since the current fishing year began October 1, 1978, a number of closures have been effected pursuant to § 651.24. These appear in the first version of Appendix B and will remain in effect until January 1, 1979, when a new fishing quarter begins. The Assistant Administrator has determined that, except as noted hereafter, catch limits are restored to the levels in effect of October 1. The exception is a closure in the Gulf of Maine for vessels in the over 125 GRT vessel class. The catch limits effective January 1 appear in the second version of Appendix B at the end of the regulations.

Since most vessel classes exceeded their allocations for the first quarter, the amounts of the overages will be deducted from subsequent quarters pursuant to § 651.20(d)(2). The exact amounts will not be known until the complete statistics are available in mid-January.

Specific revisions to the proposed regulations follow:

1. In § 651.2, the definition of "discard" is revised to read as follows: "*Discard* means to throw away, cast back, or return to the sea any fish that has been caught. The removal and release of a live fish before that fish is brought on board a vessel is not a discard. Failure to retain any live fish once it is on board a vessel, or the failure to retain any dead fish, is a discard."

2. In § 651.2, the definition of "Fixed gear" is revised to read as follows: "*Fixed gear* includes, but is not limited to, all gill nets, long lines, line trawls, and jig lines."

3. In § 651.2, add the following definition in its appropriate alphabetical order: "*United States harvested fish* means fish caught, taken, or harvested by vessels of the United States within any foreign or domestic fishery regulated under the Act."

4. Section 651.21(c) is eliminated, and the following is added to § 651.7: "(b) While fishing in closed areas I or II, attach any protective device to midwater fishing gear or employ any modification to any gear that would, in effect, make it possible to fish for groundfish." Former §§ 651.7(b) through (r) are renumbered accordingly; former § 651.7(s) is renumbered as § 651.7(u).

5. The following is added to § 651.7: "(t) transfer directly or indirectly, or attempt to so transfer, any United States harvested fish to any foreign fishing vessel within the FCZ unless the vessel has been issued a permit which authorizes the receipt by such vessel of United States harvested fish of the species concerned."

6. The following is added at the end of § 651.20(d): "To the extent possible, adjustments shall be made within appropriate vessel classes."

7. Section 651.21(a)(1) is revised to read as follows: "An area known as closed area I bounded by straight lines connecting the following coordinates in the order stated: 42°10'N., 69°55'W.; 41°10'N., 69°10'W.; 41°35'N., 68°30'W.; 41°50'N., 68°45'W.; 41°50'N., 69°00'W.; 42°10'N., 69°55'W."

Section 651.21(a)(2) is revised to read as follows: "An area known as closed area II bounded by straight lines connecting the following coordinates in the order stated: 42°20'N., 67°00'W.; 41°15'N., 67°00'W.; 41°15'N., 65°40'W.; 42°00'N., 65°40'W.; 42°20'N., 66°00'W.; 42°20'N., 67°00'W."

8. Section 651.22(a)(4) is amended to read as follows: "(4) Recreational."

9. The following new language is added at the end of § 651.23(a): "For any fishing trip, a vessel is entitled to the catch limitation for only one vessel class."

10. The language of § 651.23(d) is eliminated and replaced with the following: "The catch limitations in Appendix B govern the amount of cod and haddock which may be caught, taken, harvested or landed by domestic commercial fishermen using mobile or fixed gear during a fishing week."

11. The language of § 651.23(e) is eliminated and replaced with the following: "The catch limitations in Appendix B govern the amount of yellowtail flounder which may be caught, taken, harvested, or landed by domestic commercial fishermen during a fishing trip or during a fishing week, whichever time period is longer."

12. The following is added at the end of § 651.24(a): "When the Regional Director reasonably expects that adjustments to quarterly quotas under § 651.20(d) will be made in the following quarter, he may anticipate those adjustments in projecting closure dates."

NOTE.—The Assistant Administrator finds that this is not a significant Federal action with respect to the National Environmental Policy Act of 1969; and does not require analyses under Executive Orders 11821, 11949, and 12044.

Signed at Washington, D.C., this 28th day of December, 1978.

WINFRED H. MEIBOHM,
Acting Executive Director,
National Marine Fisheries Service.

Part 651 is adopted as final to read as set forth below:

Subpart A—General

Sec.
651.1 Purpose and scope.
651.2 Definitions.
651.3 Relation to other laws [reserved].
651.4 Vessel Permits.
651.5 Recordkeeping and reporting requirements.
651.6 Vessel identification.
651.7 Prohibitions.
651.8 Enforcement.
651.9 Penalties.

Subpart B—Management Measures

651.20 General limitations.
651.21 Closed areas.
651.22 Vessel class and gear limitations.
651.23 Catch limitations.
651.24 Closures.

AUTHORITY: 16 U.S.C. 1801 et seq.

Subpart A—General

§ 651.1 Purpose and scope.

The regulations in this part govern fishing for groundfish by fishing vessels of the United States within that portion of the Atlantic Ocean over which the United States exercises exclusive fishery management authority. These regulations implement the Atlantic groundfish fishery management plan developed by the New England Management Council.

§ 651.2 Definitions.

Some definitions in the Act have been repeated here to aid understanding of the regulations. In addition to the terms defined in the Act, the terms used in this part shall have the following meanings:

Act means the Fishery Conservation and Management Act of 1976, 16 U.S.C. 1801-1882, as amended.

Assistant Administrator means the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, or an individual to whom appropriate authority has been delegated.

Authorized Officer means:

(a) Any commissioned, warrant, or petty officer of the United States Coast Guard;

(b) Any certified enforcement officer or special agent of the National Marine Fisheries Service;

(c) Any officer designated by the head of any Federal or State agency which has entered into an agreement with the Secretary and the Commandant of the Coast Guard to enforce the provisions of the Act; or

(d) Any Coast Guard personnel accompanying and acting under the direction of any person described in paragraph (a) of this definition.

Catch, take or harvest includes, but is not limited to, any activity which results in killing any fish, or bringing any live fish on board a vessel.

Discard means to throw away, cast back, or return to the sea any fish that has been caught. The removal and release of a live fish before that fish is brought on board a vessel is not a discard. Failure to retain any live fish once it is on board a vessel, or the failure to retain any dead fish, is a discard.

Fishery Conservation Zone (FCZ) means that area adjacent to the United States which, except where modified to accommodate international boundaries, encompasses all waters from the seaward boundary of each of the coastal States to a line on which each point is 200 nautical miles from the baseline from which the territorial sea of the United States is measured.

Fishing means any activity, other than scientific research activity conducted by a scientific research vessel, which involves:

(a) The catching, taking, or harvesting of fish;

(b) The attempted catching, taking, or harvesting of fish;

(c) Any other activity which can reasonably be expected to result in the catching, taking, or harvesting of fish; or

(d) Any operations at sea in support of, or in preparation for, any activity described above.

Fishing vessel means any vessel, boat, ship or other craft which is used for, equipped to be used for, or of a type which is normally used for: (a) Fishing; or (b) aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including, but not limited to, preparation, supply, storage, refrigeration, transportation or processing.

Fishing week means the weekly period running from 0001 hours Sunday through 2400 hours Saturday.

Fixed gear includes, but is not limited to, all gill nets, longlines, line trawls, and jig lines.

Georges Bank and South means that area of the Northwest Atlantic Ocean subject to the fishery jurisdiction of the United States, except the Gulf of Maine.

Groundfish means any cod (*Gadus morhua*), haddock (*Melanogrammus aeglefinus*), or yellowtail flounder (*Limanda ferruginea*).

Gulf of Maine means that portion of the Northwest Atlantic Ocean north of 42°20' North latitude, plus that area south of 42°20' North latitude which is west of 70°00' West longitude and which is bounded on the south by the northern shore of Cape Cod.

Land means to begin offloading fish, or to arrive in port with the intention of offloading fish.

Operator, with respect to any vessel, means the master or other individual on board and in charge of that vessel.

Owner, with respect to any vessel, means:

(a) Any person who owns that vessel in whole or in part;

(b) Any charterer of the vessel, whether bareboat, time or voyage;

(c) Any person who acts in the capacity of a charterer, including but

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not limited to parties to a management agreement, operating agreement, or any similar agreement that bestows control over the destination, function or operation of the vessel; or

(d) Any agent designated as such by any person in (a), (b), or (c).

Person means any individual (whether or not a citizen or national of the United States), corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local or foreign government or any entity of any such government.

Regional Director means the Regional Director, Northeast Region, National Marine Fisheries Service, or his designee.

Regulated Species means any species for which fishing by a vessel of the United States is regulated pursuant to the Act.

Trip means a period of time during which fishing is conducted, beginning when the vessel leaves port and ending when the vessel begins to offload fish in port.

United States harvested fish means fish caught, taken, or harvested by vessels of the United States within any foreign or domestic fishery regulated under the Act.

Vessel of the United States means:

(a) Any vessel documented or numbered by the Coast Guard under United States law; or

(b) Any vessel, under five net tons, which is registered under the laws of any State.

§ 651.3 Relation to Other Laws [Reserved].

§ 651.4 Vessel permits.

(a) *General.* Any vessel of the United States fishing for groundfish must have a permit under this Part.

(b) *Application.* (1) An application for a vessel permit for the groundfish fishery shall be submitted and signed by the vessel owner on an appropriate form, which may be obtained from the Regional Director. The application shall be submitted to the Regional Director, prior to the date on which the applicant desires to have the permit made effective.

(2) Applicants shall provide all of the following information:

(i) The name, mailing address, and telephone number of the applicant and the vessel's master;

(ii) The name of the vessel;

(iii) The vessel's United States Coast Guard documentation number or State license number;

(iv) The home port, gross tonnage, and net tonnage of the vessel;

(v) The engine horsepower of the vessel;

(vi) The approximate fish-hold capacity of the vessel in pounds;

(vii) The type and quantity of fishing gear used by the vessel; and

(viii) The size of the crew, which may be stated in terms of a range.

(c) *Issuance.* (1) Upon receipt of a completed application, the Regional Director shall issue a permit within 30 days.

(2) Upon receipt of an incomplete or improperly executed application, the Regional Director shall notify the applicant of the deficiency in the application. If the applicant fails to correct the deficiency within ten days following the date of notification, the application shall be considered abandoned.

(d) *Expiration.* A permit shall expire when the owner or name of the vessel changes.

(e) *Duration.* A permit shall continue in full force and effect until it expires or is revoked, suspended, or modified pursuant to 50 CFR Part 621.

(f) *Alteration.* Any permit which has been substantially altered, erased, or mutilated shall be invalid.

(g) *Replacement.* Replacement permits may be issued. An application for a replacement permit shall not be considered a new application.

(h) *Transfer.* Permits issued under this part are not transferable or assignable. A permit shall be valid only for the vessel for which it is issued.

(i) *Display.* Any permit issued under this Part must be carried on board the fishing vessel at all times. The permit shall be displayed for inspection upon request of any Authorized Officer.

(j) *Revocation.* Subpart D of 50 CFR Part 621 shall govern the imposition of sanctions against a permit issued under this Part. As specified in that Subpart D, a permit may be revoked, modified, or suspended if the vessel for which the permit is issued is used in the commission of an offense prohibited by the Act or by this part; or if a civil penalty or criminal fine imposed under the Act and pertaining to such a vessel is not paid.

(k) *Fees.* No fee is required for any permit under this part.

(l) *Change in Application Information.* Any change in the information specified in paragraph (b) of this section shall be reported to the Regional Director within 15 days of the change.

§ 651.5 Recordkeeping and reporting requirements.

(a) *Fishing vessel records.* (1) The operator of any fishing vessel conducting any fishing operation subject to this part shall:

(i) Maintain an accurate and complete fishing logbook on forms supplied by the Regional Director, according to the requirements of § 651.5(a)(2);

(ii) Make the fishing logbook available for inspection by an Authorized Officer, or any employee of the National Marine Fisheries Service designated by the Regional Director to make such inspection, at any time during or after a trip;

(iii) Keep each fishing logbook for one year after the date of the last entry in the logbook; and

(iv) Submit fishing logbook reports, as specified in § 651.5(a)(2).

(2) The owner or operator of any fishing vessel conducting any fishing operation subject to this part shall submit a complete fishing logbook report to the Regional Director within 48 hours after the end of any fishing week or fishing trip, whichever is the longer time period. Fishing logbooks shall contain information on a daily basis for the entirety of any trip during which any regulated species are caught, and shall contain information for all fish which are caught.

(3) The Assistant Administrator may revoke, modify, or suspend the permit of a vessel whose owner or operator falsifies or fails to submit the records and reports prescribed by this section, in accordance with the provisions of 50 CFR Part 621.

(b) *Fish Dealer or Processor Reports.* Any person who receives groundfish for a commercial purpose from a fishing vessel subject to this part shall:

(1) File a report with the Regional Director on forms supplied by him, within 48 hours of the end of any fishing week. Such report shall include information on all transfers, purchases or receipts of all fish made during that fishing week; and

(2) Permit an Authorized Officer, or any employe of the National Marine Fisheries Service designated by the Regional Director to make inspections, to inspect any records of transfers, purchases or receipts of groundfish.

§ 651.6 Vessel identification.

(a) *Official Number.* Each fishing vessel subject to this Part over 25 feet in length shall display its Official Number on the port and starboard sides of the deckhouse or hull, and on an appropriate weather deck so as to be visible from above. The Official Number is the documentation number issued by the Coast Guard or the certificate number issued by a State or by the Coast Guard for undocumented vessels.

(b) *Numerals.* The Official Number shall be permanently affixed to each vessel subject to this Part in contrasting block Arabic numerals at least 18 inches in height for vessels over 65 feet and at least 10 inches in height for all other vessels over 25 feet in length.

(c) *Vessel length and number.* The length of a vessel, for purposes of this section, shall be that length set forth by Coast Guard or State records.

(d) *Duties of operator.* The operator of each vessel subject to this part shall:

(1) Keep the identifying markings clearly legible and in good repair; and

(2) Ensure that no part of the vessel, its rigging or its fishing gear obstructs the view of the Official Number from an enforcement vessel or aircraft.

(e) *Nonpermanent markings.* Vessels carrying fishing parties on a per capita basis or by charter shall use markings that meet the above requirements, except for the requirement that they be permanently affixed. The nonpermanent markings shall be displayed in conformity with the above requirements when the vessel is fishing for groundfish.

§ 651.7 Prohibitions.

It is unlawful for any person to:

(a) Fish for, take, catch or harvest any groundfish in an area specified in § 651.21 during a period in which that area is closed, unless allowed by that section;

(b) While fishing in closed areas I or II, attach any protective device to midwater fishing gear or employ any modification to any gear that would, in effect, make it possible to fish for groundfish;

(c) Fish for, take, catch, harvest or land any groundfish during a closure under § 651.24, except to the extent allowed by that section;

(d) Fish for, take, catch, harvest or land any groundfish in excess of the fishing vessel's applicable catch limitation, if any, established by § 651.23;

(e) Fish for, catch, take, harvest or land any groundfish caught with nets having smaller than the minimum mesh size allowed by § 651.22 except as provided for under § 651.22(e);

(f) Discard, at sea, any groundfish;

(g) Use any vessel for taking, catching, harvesting or landing of any groundfish unless the vessel has a valid permit issued pursuant to this part, and the permit is on board the vessel;

(h) Fail to report to the Regional Director, within 15 days of any such change, any change in the information contained in a permit application for a vessel;

(i) Falsify or fail to make, keep, maintain, or submit any logbook, or other record or report required by this part;

(j) Refuse to permit an Authorized Officer, or any employee of the National Marine fisheries Service designated by the Regional Director to make such inspections, to inspect any logbooks or records relating to the taking, catching, harvesting, landing, purchase or sale of any groundfish;

(k) Make any false statement, oral or written, to an Authorized Officer, concerning the taking, catching, harvesting, landing, purchase, sale or transfer of any groundfish;

(l) Possess, have custody or control of, ship, transport, offer for sale, sell, purchase, import, or export any groundfish taken in violation of the Act, this part, or any other regulation promulgated under the Act;

(m) Fail to affix and maintain permanent or nonpermanent markings as required by § 651.6;

(n) Refuse to permit an Authorized Officer to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of this Act, this part, or any other regulation promulgated under the Act;

(o) Forcibly assault, resist, oppose, impede, intimidate or interfere with any Authorized Officer in the conduct of any inspection or search described in paragraph (n) of this section;

(p) Resist a lawful arrest for any act prohibited by this part;

(q) Interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, with the knowledge that such other person has committed any act prohibited by this part;

(r) Interfere with, obstruct, delay, or prevent by any means the lawful investigation or search in the process of enforcing this Act;

(s) Fail to comply with enforcement and boarding procedures specified in § 651.8;

(t) Transfer directly or indirectly, or attempt to so transfer, any United States harvested fish to any foreign fishing vessel within the FCZ unless the foreign vessel has been issued a permit which authorizes the receipt by such vessel of United States harvested fish of the species concerned;

(u) Violate any other provision of this Part, the Act, or any other regulation promulgated pursuant thereto.

§ 651.8 Enforcement.

(a) *General.* The owner or operator of any fishing vessel subject to this part shall immediately comply with instructions issued by an Authorized Officer to facilitate safe boarding and inspection of the vessel, its gear, equipment, logbook, and catch for purposes of enforcing the Act and this part.

(b) *Signals.* Upon being approached by a Coast Guard cutter or aircraft, or other vessel or aircraft authorized to enforce the Act, the operator of a fishing vessel shall be alert for signals conveying enforcement instructions. The following signals extracted from the International Code of Signals are among those which may be used:

(1) "L" meaning "You should stop your vessel instantly,"

(2) "SQ3" meaning "You should stop or heave to; I am going to board you," and

(3) "AA AA AA etc.," which is the call to an unknown station, to which the signaled vessel must respond by illuminating the vessel identification required by § 651.6(a).

(c) *Boarding.* A vessel signaled to stop or heave to for boarding shall:

(1) Stop immediately and lay to or maneuver in such a way so as to permit the Authorized Officer and his/her party to come aboard;

(2) Provide a ladder for the Authorized Officer and his/her party;

(3) When necessary to facilitate the boarding, provide a man rope, safety line and illumination for the ladder; and

(4) Take such other actions as are necessary to ensure the safety of the Authorized Officer and his/her party and to facilitate the boarding.

§ 651.9 Penalties.

Any person or fishing vessel found to be in violation of this Part will be subject to the civil and criminal penalty provisions and forfeiture provisions of the Act, and to 50 CFR Parts 620 (Citations) and 621 (Civil Procedures), and other applicable Federal law.

Subpart B—Management Measures

§ 651.20 General limitations.

(a) *Fishing year.* The fishing year for groundfish begins on October 1 and ends on September 30.

(b) *Headboat and charter boat quotas.* Quotas limiting the amount of groundfish which may be taken during the fishing year by headboats and charter boats are: For cod in the Gulf of Maine, 2,500 metric tons; for haddock in all areas, 2,000 metric tons.

(c) *Other quotas.* Quarterly and annual quotas limiting the amount of groundfish which may be taken by commercial and recreational vessels subject to this part are set forth in Appendix A to this part. The quotas for cod and haddock apply only to commercial fishing vessels. The quotas for yellowtail flounder apply to commercial and recreational fishing vessels.

(d) *Adjustment of quarterly quotas.* The Assistant Administrator may adjust the quarterly quotas set forth in Appendix A in the following circumstances:

(1) If a quarterly quota is not reached, to add the suplus onto quotas in subsequent quarters;

(2) If a quarterly quota is exceeded, to deduct the overage from quotas in subsequent quarters.

To the extent possible, adjustments shall be made within appropriate vessel classes.

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§ 651.21 Closed areas.

(a) *General.* Except as allowed by paragraph (b) of this section during the months of March, April and May, no person may fish for, catch, take or harvest any groundfish within the following areas:

(1) An area known as Closed Area I bounded by straight lines connected by the following coordinates in the order stated:

42°10' N., 69°55' W., 41°10' N., 69°10' W.;
41°35' N., 68°30' W., 41°50' N., 68°45' W.;
41°50' N., 69°00' W., 42°10' N., 69°55' W.

(2) An area known as Closed Area II bounded by straight lines connected by the following coordinates in the order stated:

42°20' N., 67°00' W., 41°15' N., 67°00' W.;
41°15' N., 65°40' W., 42°00' N., 65°40' W.;
42°20' N., 66°00' W., 42°20' N., 67°00' W.

(b) *Exceptions.* Paragraph (a) of this section shall not apply to:

(1) Vessels that fish in Closed Area I with hooks having a gape of not less than 1.18 inches;

(2) Vessels that fish in either Closed Area I or II or both using only the following fishing gear:

(i) Pot gear designed and used to take lobster; or

(ii) Dredges designed and used to take scallops.

§ 651.22 Vessel class and gear limitations.

(a) *Vessel classes.* The following vessel classes are established:

(1) Mobile Gear:

(i) 0-60 gross registered tons.

(ii) 61-125 gross registered tons.

(iii) Over 125 gross registered tons.

(2) Fixed Gear.

(3) Charter boats and headboats.

(4) Recreational.

(b) *Trawl nets.* Except as provided in paragraph (e) of this section, the minimum mesh size for any trawl net used by a vessel subject to this part is 5⅛ inches in the cod end, and 4½ inches in the body of the net.

(c) *Gill nets.* Except as provided in paragraph (e) of this section, the minimum mesh size for any gill net used by a vessel subject to this part is 5½ inches.

(d) *Mesh measurements.* Mesh sizes are measured when wet after use by a wedge-shaped gauge having a taper of two centimeters in eight centimeters and a thickness of 2.3 millimeters, inserted into the meshes under pressure or pull of five kilograms. The mesh size of the body of the net shall be the average of the measurements of any series of 20 consecutive meshes. The cod end shall be measured in the same manner at least 10 meshes from the lacings, beginning at the after end and running parallel to the long axis.

(e) *Exceptions.* The mesh size limitations contained in paragraphs (b) and (c) of this section do not apply to a vessel which can demonstrate that its catch or groundfish for the entire trip:

(1) Is less than each of the following amounts:

(i) The larger of 1,000 pounds or 10 percent of the total fish landed, by weight, for any groundfish species;

(ii) The amount allowed under any applicable catch limitation established under § 651.23;

(iii) During a closure, the amount allowed under incidental catch provisions contained in § 651.24(d); and

(2) Includes at least 2,000 pounds of fish other than groundfish caught on the same trip (this subparagraph (2) does not apply to vessels in the northern shrimp fishery).

§ 651.23 Catch limitations.

(a) *General.* Appendix B to this part sets forth the catch limitations which govern fishing for groundfish. For any fishing trip, a vessel is entitled to the catch limitation for only one vessel class.

(b) *Overruns.* A mobile-gear vessel may overrun its applicable trip limitation for cod and haddock, as set forth in Appendix B. The amount of any overrun will be deducted from the vessel's limitation for the following week. No overruns are allowed for fixed-gear vessels or for yellowtail flounder.

(c) *Fishing weeks.* For purposes of this section, a vessel which is at sea during more than one fishing week may count its fish against any fishing week during which fishing was conducted on that trip. However, a vessel whose logbook fails to indicate when fishing was conducted shall have its fish counted against the fishing week in which they were landed.

(d) *Cod and haddock.* The catch limitations in Appendix B govern the amount of cod and haddock which may be caught, taken, harvested or landed by domestic commercial fishermen using mobile or fixed gear during a fishing week.

(e) *Yellowtail flounder.* The catch limitations in Appendix B govern the amount of yellowtail flounder which may be caught, taken, harvested or landed by domestic commercial fishermen during a trip or during a fishing week, whichever time period is longer.

(f) *Adjustments.* (1) The Assistant Administrator shall, upon a finding that any vessel class in any area is likely to exceed its quarterly quota for any species, adjust the limitations and overrun allowances set forth in Appendix B for any or all such species and vessel classes, if he finds such adjustment necessary to achieve any of the following purposes:

(i) To spread fishing effort over the entire quarter;

(ii) To reduce the need for quarterly or annual closures;

(iii) To allow each of the vessel classes to harvest its historic percentage of the catch.

(2) In making the findings and adjustments referred to in paragraph (f)(1) of this section the Assistant Administrator shall consider:

(i) Landings for the current or previous quarters;

(ii) Projected harvests;

(iii) Geographic and seasonal availability of fish;

(iv) Traditional and anticipated fishing patterns;

(v) Number of vessels of each class in the fishery;

(vi) Capability of vessels to fish in other locations or for other species,

(vii) Status of unregulated species in the trawl fishery; and

(viii) Incidental catch of cod, haddock, and yellowtail flounder during fishing for unregulated species.

§ 651.24 Closures.

(a) *Projected catch.* The Regional Director shall monitor catches and landings of groundfish, and other data, and shall, on or about the 1st and 16th day of each month, project a date when the allocation of any species of groundfish, by vessel class, less an anticipated amount of such species to be taken incidentally pursuant to paragraph (d) of this section shall have been taken for each relevant area and quarterly or annual period. If the Regional Director reasonably expects that adjustments to quarterly quotas under § 651.20(d) will be made in the following quarter, he may anticipate those adjustments in projecting closure dates.

(b) *Recommendation of closure.* As soon as possible after projecting a closure date pursuant to paragraph (a) of this section, if such closure date is within 30 days of the projection, the Regional Director shall recommend to the Assistant Administrator that the groundfish fishery be closed on that date for the relevant species, vessel class, area, and quarter or fishing year. The Regional Director may, based upon subsequent information, rescind or revise such recommendation at any time before the Assistant Administrator has taken action pursuant to paragraph (c) of this section.

(c) *Notice of closure.* The Assistant Administrator shall, by publication of a notice in the FEDERAL REGISTER, close the fishery for groundfish for the relevant species, vessel class, and area, on the date recommended under paragraph (b) of this section, or on such other date as the Assistant Administrator determines will prevent the quarterly or annual quota from being exceeded.

(d) *Incidental catch.* During any closure, any vessel in the following vessel classes to which the closure applies

may catch, take, harvest or land no more than the following amounts of the species to which the closure applies:

(1) Cod and haddock:

0-60 GRT—500 pounds or 4 percent by weight of all fish on board, whichever is the lesser amount, per trip.
61-125 GRT—1,000 pounds or 4 percent by weight of all fish on board, whichever is the lesser amount, per trip.
Over 125 GRT—2,000 pounds or 4 percent by weight of all fish on board, whichever is the lesser amount, per trip.
Fixed gear—500 pounds or 4 percent by weight of all fish on board, whichever is the lesser amount, per trip.

(2) Yellowtail flounder:

All vessels—500 pounds or 4 percent by weight of all fish on board, whichever is the lesser amount, per trip.

[FR Doc. 78-36470 Filed 12-28-78; 4:47 pm]

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proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[6450-01-M]

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[10 CFR Parts 211 and 212]

[Docket No. ERA-R-78-18]

PRODUCTION INCENTIVES FOR MARGINAL PROPERTIES

Request for Additional Comments

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of Request for Additional Comments.

SUMMARY: The Economic Regulatory Administration ("ERA") of the Department of Energy ("DOE") requests additional comments on the Notice of Proposed Rulemaking concerning production incentives for marginal properties issued on November 2, 1978 (43 FR 52186, November 8, 1978). The additional specific comments requested are whether it would be feasible and appropriate to establish differing decline rates and related production incentives for properties depending upon whether secondary or tertiary recovery techniques are being employed on such properties.

DATE: Comments are January 29, 1979, 4:30 p.m.

ADDRESS: All comments to: Public Hearing Management, Docket No. ERA-R-78-18, Department of Energy, Room 2313, 2000 M Street N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Hearing Procedures), Economic Regulatory Administration, 2000 M Street, N.W., Room 2214B, Washington, D.C. 20461, 202-254-5201.

William Webb (Office of Public Information), Economic Regulatory Administration, 2000 M Street, N.W., Room B110, Washington, D.C. 20461, 202-634-2170.

William Carson (Office of Regulations and Emergency Planning), Economic Regulatory Administration, 2000 M Street, N.W., Room 2304, Washington, D.C. 20461, 202-254-7477.

Cliff Russell (Office of General Counsel), Department of Energy, 12th and Pennsylvania Avenue, N.W., Room 5132, Washington, D.C. 20461, 202-633-8622.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On November 2, 1978, the ERA issued a notice of proposed rulemaking concerning production incentives for marginal properties (the November 2 Notice). In that notice, several alternative proposals provided suggestions that certain production from "marginal" properties might qualify for market clearing prices. The amount of production from a "marginal" property that could be sold at market level prices under that alternative would be the difference between that property's actual production and sale of domestic crude oil for a given month and that property's marginal base production control level (Marginal BPCL).

Under the proposal, the Marginal BPCL would be determined first by reducing the average daily production during a specified base period by a certain percentage and thereafter reducing it at an imputed decline rate. In an example given in the notice for illustrative purposes, the average base period production was reduced by 20 percent (that is, was multiplied by a 0.8 "multiplier") and the imputed decline rate was 1.1 percent per month or the property's actual decline rate plus 0.2 percent, whichever is greater. Different percentages or imputed decline rates could be used in any final rule that is adopted.

ADDITIONAL INFORMATION REQUESTED

The purpose of this Notice is to seek specific comments, in addition to those comments requested in the November 2 Notice, on the impact of the formula as proposed on properties employing secondary and tertiary recovery techniques. In order to focus comments on this issue, we request that commenters address themselves to as many of the following issues as possible:

(1) Whether an initial multiplier of less than .8 (or whatever multiplier may be determined to be appropriate for properties generally) should apply to properties undergoing secondary or tertiary recovery, in order to provide sufficient additional incentives to undertake or maintain such projects;

(2) Whether a greater reduction factor than 0.2 percent per month (or whatever reduction factor is determined to be appropriate for properties generally) in addition to the actual decline rate should apply to properties undergoing secondary or tertiary recovery;

(3) Whether properties employing tertiary recovery techniques should be treated differently from those employing secondary recovery methods, and, if so, to what extent;

(4) Whether discrete classification of "secondary" versus "tertiary" recovery for purposes of these possible amendments is feasible, and, if so, what criteria should be used to distinguish them from primary recovery and from each other;

(5) If secondary or tertiary recovery properties are to be treated differently from other producing properties under these provisions, whether we should require some type of certification by appropriate state of federal agencies that the properties are secondary or tertiary.

We also solicit commenters' views on how and to what extent any additional incentives of this nature for enhanced recovery would affect, exceed or duplicate existing regulatory incentives for tertiary recovery under 10 CFR 212.78.

To the extent that comments are submitted in response to this request, they should be accompanied by as much supporting financial data, either general in nature or relating to specific properties, as are available to the commenter. As indicated in the November 2 Notice, we will treat as confidential data submitted pursuant to this request that are proprietary in nature, that are so labelled and that are otherwise submitted in accordance with the procedures set out in the November 2 Notice for the submission of confidential data. In general, the procedures set forth in the November 2 Notice for the submission of written comments should be observed in submitting comments in response to this request for additional comments.

Issued in Washington, D.C. on December 27, 1978.

DAVID J. BARDIN,
Administrator, Economic Regulatory Administration.

[FR Doc. 78-36463 Filed 12-28-78; 11:07 am]

[6210-01-M]

FEDERAL RESERVE SYSTEM

[12 CFR Part 215]

[Docket No. R-0194; Regulation O]

LOANS TO INSIDERS OF MEMBER BANKS

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule.

SUMMARY: The Board of Governors of the Federal Reserve System proposes to amend Regulation O (12 CFR Part 215), which governs loans by a member bank to its executive officers, to implement certain additional requirements imposed by section 22(h) of the Federal Reserve Act on loans by member banks to certain persons associated with the bank. Section 22(h) was recently enacted by Congress as section 104 of the Financial Institutions Regulatory and Interest Rate Control Act of 1978 (92 Stat. 3641). The additional requirements relate to loans by a member bank to executive officers, directors and principal shareholders of the member bank and of its holding company affiliates. The requirements are also applicable to companies and political or campaign committees controlled by such insiders.

DATE: Comments must be received by January 29, 1979.

FOR FURTHER INFORMATION CONTACT:

Michael E. Bleier, Senior Attorney, Legal Division (202-452-3721), or Mary Curtin, Senior Attorney, Division of Banking Supervision and Regulation (202-452-2620), Board of Governors of the Federal Reserve System.

SUPPLEMENTARY INFORMATION: Section 22(h) of the Federal Reserve Act imposes four requirements on loans by member banks to insiders and their related interests. Insiders include the executive officers and directors of a bank and its principal shareholders, *i.e.* any individual or company that controls more than ten percent of any class of voting shares of the bank. Persons that have the same relationship with the member bank's parent bank holding company and other subsidiaries of the parent bank holding company are also considered insiders. The proposed regulation would include shares held by an individual's immediate family in determining principal shareholder status. Related interests include companies controlled by insiders and political or campaign committees that are controlled by or benefit insiders.

The statute:

(1) Establishes an aggregate lending limit of 10 percent of a member bank's capital and surplus for loans by the bank to an insider (other than a director) and all related interests of such an insider;

(2) Prohibits the payment by a member bank of an overdraft on an account of an insider (other than a principal shareholder) at the bank;

(3) Requires that every extension of credit by a member bank to an insider or to an insider's related interests be made on substantially the same terms as those prevailing at the time for comparable transactions with other persons and not involve more than the normal risk of repayment or present other unfavorable features; and

(4) Requires that every extension of credit by a member bank to an insider or to any related interest of the insider that would exceed, when aggregated, $25,000, be approved in advance by a majority of the bank's board of directors, with the interested party abstaining.

The proposed regulation defines the terms "executive officer," "extension of credit," and "lending limit" used in section 22(h). The current definitions of "executive officer" and "extension of credit" in Regulation O have been incorporated into the proposed rule. The definition of extension of credit excludes (1) certain indebtedness necessary to protect the bank against loss and (2) credit card and similar indebtedness in an amount not to exceed $5,000.

The proposed rule defines a bank's lending limit to insiders and their related interests to be an amount equal to 10 percent of the bank's capital stock and unimpaired surplus as those terms are defined by its appropriate Federal banking agency. In the case of a national bank, capital stock and surplus are defined in 12 CFR 7.1100. In the case of a State-chartered member bank, those terms are defined in 12 CFR 250.162. These definitions are currently under review by the agencies. Comment is specifically requested on these definitions in the context of the lending limit established by section 22(h)(1) of the Federal Reserve Act.

As proposed, the regulation would exempt an extension of credit by a member bank to any of its executive officers from the 10 percent lending limit where the extension would be authorized under section 22(g) of the Federal Reserve Act, which permits loans to executive officers for housing or educational purposes.

The proposed rule further requires that any extension(s) of credit made by a member bank that was outstanding on November 10, 1978, and that would, if made after March 10, 1979, exceed the statutory 10 per cent lending limit be brought into compliance with the lending limit by March 10, 1980. Such extension(s) of credit may only be renewed after March 10, 1979, on terms that will bring them into compliance with the lending limit by March 10, 1980. If such extension(s) of credit cannot be brought into timely compliance, an explanation shall be promptly furnished to the bank's appropriate Federal banking agency. Two additional one-year extensions may be granted by the appropriate agency for good cause shown.

In the case of extensions of credit made between November 10, 1978, and March 10, 1979, that would, if made after March 10, 1979, exceed the statutory lending limit, compliance with the lending limit is required by June 10, 1979. The Comptroller or the appropriate Reserve Bank may extend this period, for good cause, until March 10, 1980.

Finally, to ensure compliance with section 22(h) of the Federal Reserve Act, member banks will be required to maintain appropriate records.

To aid in consideration of this matter by the Board, interested persons are invited to submit relevant data, views, or comments. Any such materials should be submitted in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received by January 29,1979. All material submitted should include the Docket Number R-0194. Such material will be made available for inspection and copying upon request, except as provided in section 261.6(a) of the Board's Rules Regarding Availability of Information (12 CFR 261.6(a)).

Pursuant to its authority under sections 22(g) and (h) of the Federal Reserve Act (12 U.S.C. 375a and —), the Board of Governors proposes to amend Regulation O (12 CFR Part 215) by the following language:

Part 215 is revised to read as set forth below:

Sec.
215.1 Authority, purpose and scope.
215.2 Definitions.
215.3 Extension of credit.
215.4 General prohibitions.
215.5 Extensions of credit outstanding on March 10, 1979.
215.6 Records by member banks.
215.7 Reports.
215.8 Civil penalties.

AUTHORITY: Secs. 11(i), 22(g) and 22(h), Federal Reserve Act, as amended (12 U.S.C. 248(i); 375a.

§ 215.1 Authority, purpose and scope.

(a) *Authority.* This Part is issued pursuant to sections 11(i), 22(g), and 22(h) of the Federal Reserve Act, as amended (12 U.S.C. 248(i), 375a, and ——).

(b) *Purpose and Scope.* This Part relates to the extension of credit by a member bank to any executive officer,

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director, or principal shareholder of the member bank, its parent bank holding company, or the holding company's other subsidiaries ("insiders"). It also applies to the extension of credit by a member bank to (1) companies controlled by insiders or (2) political or campaign committees that benefit insiders or are controlled by them.

§ 215.2 Definitions.

(a) "Executive officer" means an officer of a member bank who participates or has authority to participate, otherwise than in the capacity of a director, in major policy-making functions of the bank, regardless of whether: (1) the officer has an official title, (2) the title designates the officer an assistant, or (3) the officer is serving without salary or other compensation.[1] The chairman of the board, the president, every vice president, the cashier, secretary, and the treasurer of a member bank shall be deemed executive officers, unless any such officer is excluded, by resolution of the board of directors or by the bank's bylaws, from participation in major policy-making functions, other than in the capacity of a director of the bank, and such officer does not actually participate therein.

(b) "Insider" means an executive officer, director, or principal shareholder of: (1) the member bank, (2) its parent bank holding company (as defined in 12 U.S.C. 1841(a)), or (3) any other subsidiary of such parent bank holding company.

(c) The "lending limit" for member banks for purposes of § 215.4(c) of this Part shall be an amount equal to 10 percent of the bank's capital and unimpaired surplus as those terms are defined by its appropriate Federal banking agency.

(d) "Member bank" means any banking institution that is a member of the Federal Reserve System.

(e) "Principal shareholder" means any individual or company (other than an insured bank) that directly or indirectly, or acting through or in concert with one or more persons, owns, controls, or has power to vote more than 10 percent of any class of voting securities of a member bank. However, for the purposes of § 215.4(c) of this Part, where the member bank is located in a city, town, or village with less than 30,000 in population, this percentage shall be "more than 18 percent." For the purpose of this definition, shares held by any member of an individual's immediate family (as defined in § 206.2(k) of this chapter) shall be deemed to be held by the individual.

(f) "Related interest" means (1) any company (other than an insured bank) controlled by an insider or (2) any political or campaign committee, the funds or services of which will benefit an insider or that is controlled by an insider.

(g) "Company," "control," "overdraft," and "person" shall have the meaning provided in sections 22(h)(5) and (6) of the Federal Reserve Act, (12 U.S.C. —).

§ 215.3 Extension of credit.

(a) An extension of credit is the making or renewal of any loan or the extending of credit in any manner whatsoever, and includes:

(1) Any purchase of securities, other assets, or obligations under repurchase agreement;

(2) Any advance by means of an overdraft, cash item, or otherwise;

(3) A standby letter of credit (or other similar arrangement however named or described) and an ineligible acceptance, as those terms are defined in § 208.8(d) of this chapter;

(4) The acquisition by discount, purchase, exchange, or otherwise of any note, draft, bill of exchange, or other evidence of indebtedness upon which a person may be liable as maker, drawer, endorser, guarantor, or surety;

(5) The increase of an existing indebtedness, except on account of (a) accrued interest or (b) taxes, insurance, or other expenses incidental to the existing indebtedness and advanced by the bank for its own protection;

(6) Any advance of unearned salary or other unearned compensation for periods in excess of 30 days; and

(7) Any other transaction as a result of which a person becomes obligated to a bank, directly or indirectly by any means whatsoever, by reason of an endorsement on an obligation or otherwise, to pay money or its equivalent.

(b) Such terms, however, do not include:

(1) Advances against accrued salary or other accrued compensation, or advances for the payment of authorized travel or other expenses incurred or to be incurred on behalf of the bank;

(2) The acquisition by a bank of any check deposited in or delivered to the bank in the usual course of business unless it results in the carrying of a cash item or the granting of an overdraft;

(3) The acquisition of any note, draft, bill of exchange, or other evidence of indebtedness (a) through a merger or consolidation of banks or a similar transaction by which a bank acquires assets and assumes liabilities of another bank or similar organization or (b) through foreclosure on collateral or similar proceeding for the protection of the bank;

(4)(a) The endorsement or guarantee for the protection of a member bank of any loan or other asset previously acquired by such bank in good faith or (b) any indebtedness for the purpose of protecting a member bank against loss or giving financial assistance to it; or

(5) Indebtedness of $5,000 or less arising by reason of any general arrangement under which a bank (a) aquires charge or time credit accounts or (b) makes payments to or on behalf of participants in a bank credit card plan, check credit plan, or similar plan, *provided:* (i) such indebtedness does not involve prior individual clearance or approval by the bank other than for the purposes of determining authority to participate in the arrangement and complaince with any dollar limit under the arrangement and (ii) such indebtedness is incurred under terms that are not more favorable than those offered to the general public.

§ 215.4 General prohibitions.

(a) *Terms and Creditworthiness.* No member bank shall extend credit to any insider or to any related interest of such an insider unless the extension of credit: (1) is made on substantially the same terms, including interest rates and collateral, as those prevailing at the time for comparable transactions by the bank with other persons not associated with the bank and (2) does not involve more than the normal risk of repayment or present other unfavorable features.

(b) *Prior Approval.* No member bank shall extend credit or grant a line of credit to any insider or to any related interest of such an insider in an amount that, when aggregated with the amount of all other extensions of credit and lines of credit by the member bank to the insider and to all related interests of the insider, would exceed $25,000 unless such an extension of credit or line of credit has been approved in advance by a majority of the bank's entire board of directors with the interested party abstaining from participating directly or indirectly in the voting.

(c) *Aggregate Lending Limit.* No member bank shall extend credit to any insider (other than a director) or to any related interest of such an insider in an amount that, when aggregated with the amount of all other extensions of credit by the member bank to the insider and to all related interests of the insider, would exceed the lending limit of the member bank as specified in § 215.2(c) of this Part. This lending limit shall not apply so as to prohibit a loan to an executive officer made pursuant to § 215.4(e) of this Part, where such loan, when aggregated with all other loans to the executive officer and the officer's related interests, does not exceed $90,000.

(d) *Overdrafts.* No member bank shall pay an overdraft on an account of an insider (other than a principal shareholder) at such bank unless the draft is made (1) pursuant to an automatic transfer system or plan authorized under § 217.5(c)(2) of this chapter or (2) in accordance with a written preauthorized interest-bearing extension of credit that specifies a method of repayment.

(e) *Extension of Credit to Executive Officers.* No member bank shall extend credit to any of its own executive officers, and no executive officer of a member bank shall borrow from or otherwise become indebted to such bank, except in such amounts, for such purposes, and upon such conditions as are specified in section 22(g) of the Federal Reserve Act (12 U.S.C. 375a).

(f) *Extension of Credit to Partnerships.* No member bank shall extend credit to a partnership in which one or more executive officers of such bank are partners and, either individually or together, hold a majority interest except as provided in section 22(g) of the Federal Reserve Act (12 U.S.C. 375a).

§ 215.5 Extensions of credit outstanding on March 10, 1979.

(a) *Credit Extended Before November 10, 1978.* (1) Any extension of credit made by a member bank that was outstanding on November 10, 1978, and that would, if made after March 10, 1979, exceed the lending limit provided in § 215.4(c) of this Part shall be reduced in amount to comply with that lending limit on or before March 10, 1980, and shall only be renewed or extended after March 10, 1979, on terms that will bring such extension of credit into compliance with such lending limit on or before March 10, 1980.

(2) If a member bank is unable to bring any extension of credit outstanding on November 10, 1978, into compliance with the lending limit provided in § 215.4(c) of this Part on or before March 10, 1980, the member bank shall promptly report such fact to the Comptroller of the Currency, in the case of a national bank, or the appropriate Federal Reserve Bank, in the case of a State chartered member bank, together with an explanation of the reasons why the extension of credit could not be brought into compliance. The Comptroller or the Reserve Bank, as the case may be, is authorized to extend the March 10, 1980 date for compliance for not more than two additional one-year periods for good cause shown.

(b) *Credit Extended After November 10, 1978.* (1) Any extension of credit made by a member bank between November 10, 1978 and March 10, 1979, that would, if made after March 10, 1979, exceed the lending limit provided in § 215.4(c) of this Part shall be reduced in amount to comply with that lending limit on or before June 10, 1979.

(2) If a member bank is unable to bring any extension of credit made between November 10, 1978 and March 10, 1979, into compliance with the lending limit provided in § 215.4(c) of this Part on or before June 10, 1979, the member bank shall promptly report such fact to the Comptroller of the Currency, in the case of a national bank, or the appropriate Federal Reserve Bank, in the case of a State chartered member bank, together with an explanation of the reasons why the extension of credit could not be brought into compliance. The Comptroller or the Reserve Bank, as the case may be, is authorized to extend the June 10, 1979 date for compliance until March 10, 1980 for good cause shown.

§ 215.6 Records by member banks.

Every member bank shall maintain such records as are necessary to insure its compliance with the requirements of this Part. Such records shall appropriately identify all insiders and their related interests and the amount and terms of each extension of credit by the member bank to such persons.

§ 215.7 Reports.

Every member bank and every executive officer of a member bank shall file the reports required by section 22(g) of the Federal Reserve Act, 12 U.S.C. 375a.

§ 215.8 Civil penalties.

As specified in section 29 of the Federal Reserve Act (12 U.S.C. —), any member bank that violates, or any officer, director, employee, agent, or other person participating in the conduct of the affairs of the bank who violates, any provision of this Part shall be subject to a civil penalty of not more than $1,000 per day for each day during which such violation continues.

Board of Governors of the Federal Reserve System, December 27, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 79-268 Filed 1-2-79; 8:45 am]

[1] The term is not intended to include persons who may have official titles and may exercise a certain measure of discretion in the performance of their duties, including discretion in the maing of loans, but who do not participate in the determination of major policies of the bank and whose decisions are circumscribed by policy standards fixed by the top management of the bank. For example, the term would not include a manager or assistant manager of a branch of a bank unless he participates, or is authorized to participate, in major policymaking functions.

[7535-01-M]

NATIONAL CREDIT UNION ADMINISTRATION

[12 CFR Part 701]

ORGANIZATION AND OPERATIONS OF FEDERAL CREDIT UNIONS

Proposed Rulemaking—Refund of Interest

AGENCY: National Credit Union Administration.

ACTION: Proposed Rule.

SUMMARY: The purpose of this proposed rule is to provide Federal credit unions the option to authorize refunds of interest that vary according to different classes of loans.

DATE: Comments must be received on or before January 17, 1979.

ADDRESS: Send comments to Robert S. Monheit, Senior Attorney, Office of General Counsel, National Credit Union Administration, Room 4202, 2025 M Street, N.W., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT:

Robert M. Fenner, Assistant General Counsel, at the above address. Telephone: (202) 632-4870.

SUPPLEMENTARY INFORMATION: Section 113 of the Federal Credit Union Act (the Act) provides that the Board of Directors of a Federal credit union may

"• • • subject to such regulations as may be issued by the Administrator, authorize an interest refund to members of record at the close of business on the last day of any dividend period in proportion to the interest paid by them during the dividend period." 12 U.S.C. 1761b.

Section 701.24 of the National Credit Union Administration's rules and regulations sets forth the current regulations concerning interest refunds. That section requires that a refund be given to *all* members of record who paid interest during the dividend period, and that the amount of each member's refund be determined by the application of *uniform* percentage to the amount of interest paid.

The implementation of new lending powers granted to Federal credit unions by Pub. L. 95-22 (April 19, 1977, 91 Stat. 49) has caused the Administration to reassess these requirements of § 701.24. For example, line of credit and credit card accounts, which are subject to the 1% per month interest rate ceiling (12 U.S.C. 1757(5)(A)(vi)), may earn a substantially lower return for the credit union and its membership than other classes of loans. Thus, it may not always be equitable for the board of directors to be required to apply the same percentage to these and other types of loans

in determining the amount of each borrower's interest refund.

Further, the legislative history of the original interest refund authority indicates that a refund is in effect a "readjustment of the interest rate", and that Congress intended to "* * * authorize a refund to borrowers whose payment of interest made possible the earnings (that allow the refund)." *See*, S. Rep. No. 394, 83d Cong., 1st Sess. 1, 2, (1953).

In view of these factors, and considering the specific grant of regulatory authority in Section 113 of the Act, the administration believes it is appropriate to amend § 701.24, to permit the board of directors of a Federal credit union to authorize varying interest refunds. Consistent with the Administration's lending regulations (12 CFR 701.21), it is proposed that interest refunds may vary according to the classifications set forth in § 701.21-1(c), i.e.: type of line of credit or loan plan, purpose of the loan, and type or value of security in relation to the amount of the loan. Further, it is proposed that the board of directors be allowed to exclude a given class of loans from an interest refund if the board determines that class of loans has not made a significant contribution to the earnings that make the refund possible. These proposals are contained in § 701.24(b) of the amended regulation as set forth below. Although the basis for excluding a class of loans would be limited to considerations of profitability, the Administration does invite comment on whether other considerations should be permitted, and if so, the rationale therefor.

Sections 701.24(a), (c), (d) and (e) of the proposal restate requirements of the present regulation.

REASON FOR ABBREVIATED COMMENT PERIOD

Interest refunds for 1978 dividend periods will normally be authorized no later than January 31, 1979. The Administration is hopeful that, should it determine to issue a final regulation implementing this proposal, Federal credit unions that wish to do so may make use of the amendment in their December 31, 1978 refunds. To accomplish this, the Administration must require that comments on this proposal be received not later than January 17, 1979.

LAWRENCE CONNELL,
Administrator.

DECEMBER 2, 1978.

(12 U.S.C. 1761b.)

Accordingly, it is proposed that 12 CFR 701.24 be revised to read as follows:

§ 701.24 Refund of interest.

(a) The board of directors of a Federal credit union may authorize an interest refund to members who paid interest to the credit union during any dividend period and who are members of record at the close of business on the last day of such dividend period.

(b) The amount of interest refund to each member shall be determined as a percentage of the interest paid by the member. Such percentage may vary according to reasonable classifications of loans. Distinctions among classifications shall be based upon one or more of the criteria set forth in 12 CFR 701.21-1(c). In its discretion, the board of directors may exclude from an interest refund any class of loans that has not made a significant contribution to the earnings that have made the refund possible.

(c) The board of directors may authorize an interest refund for a dividend period only during such time as it may declare a dividend. However, if in a given calendar year a credit union has dividend periods more frequent than annual and an interest refund was not made authorized for one or more dividend periods, the board, during the time permitted for the declaration of the current dividend, may authorize an interest refund for the current dividend period and for any one or more of the omitted dividend periods.

(d) The board of directors shall not authorize an interest refund for any dividend period unless dividends have been declared and paid on share accounts.

(e) An interest refund shall be recorded on the books of the credit union as a reduction of interest income.

[FR Doc. 79-264 Filed 1-2-79; 8:45 am]

[6320-01-M]

CIVIL AERONAUTICS BOARD

[14 CFR Part 239]

[EDR-369; Docket No. 34191; Dated: December 7, 1978]

REPORTING DATA PERTAINING TO FREIGHT LOSS AND DAMAGE CLAIMS BY CERTIFICATED ROUTE AIR CARRIERS AND FOREIGN ROUTE AIR CARRIERS

Proposed Revocation; Correction

DECEMBER 27, 1978.

AGENCY: Civil Aeronautics Board.

ACTION: Erratum to Notice of Proposed Rulemaking EDR-369, 43FR 58193, December 13, 1978.

SUMMARY: This erratum corrects a docket number in the address section which should read as follows:

ADDRESSES: Twenty copies of comments should be sent to Docket 34191, Docket Section, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W. Washington, D.C. 20428. Individuals may submit their views as concumers without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. as soon as they are received.

FOR FURTHER INFORMATION CONTACT:

Raymond Kurlander, Director, Bureau of Accounts and Statistics, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, 202-673-5270.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 79-293 Filed 1-2-79; 8:45 am]

[3510-60-M]

DEPARTMENT OF COMMERCE

Office of the Secretary

[15 CFR Subtitle A]

PUBLIC TELECOMMUNICATIONS FACILITIES PROGRAM

AGENCY: National Telecommunications and Information Administration, Commerce.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The National Telecommunications and Information Administration (NTIA), Department of Commerce seeks to identify issues to be addressed in the adoption of rules to govern the issuance of construction and planning grants under the Public Telecommunications Financing Act of 1978 (92 Stat. 2405). This action is required since the Act Boardened the former educational broadcasting facilities program and transferred it from the Department of Health, Education, and Welfare to NTIA. In publishing the advance notice, NTIA seeks public participation in developing rules for the expenditious processing of grants.

DATES: Comments should be submitted on or before January 22, 1979.

ADDRESS: Send comments to National Telecommunications and Information Administration, Office of Chief Counsel, 1800 G Street N.W., Washington, D.C. 20504.

FOR FURTHER INFORMATION CONTACT:

Kenneth Salomon, (202) 395-5616.

SUPPLEMENTARY INFORMATION:

In the matter of public telecommunications facilities program, advance notice of proposed rulemaking.

Approved: December 20, 1978.

By the Administrator:

1. Advance notice is hereby given of proposed rulemaking in the above matter.

2. The "Public Telecommunications Financing Act of 1978" [1] (hereafter referred to as the "Act") transfers the Educational Broadcasting Facilities Program (EBFP) from the Department of Health, Education and Welfare (DHEW) to the Department of Commerce (DOC). The Act also mandates a number of significant changes in the facilities program.

3. The purpose of this proceeding is to identify what issues should be addressed in the process of establishing rules for the issuance of grants for the planning and construction of public telecommunications facilities.

4. It is hoped that the comments received on the various matters set out below will assist us in developing proposed rules for the issuance of such grants. It is also hoped that the comments received will suggest additional issues to be addressed.

5. The Act sets as the primary objective of the program, delivery of "noncommercial educational and cultural radio and television programs, and related noncommercial instructional or informational material" to as many citizens as possible by means of radio or television or other telecommunications technology (Sections 390, 397(14)).[2] To accomplish this, the Act requires that not less than 75 percent of appropriated funds be available to extend delivery of public telecommunications services to *areas not receiving them* "through grants for facilities or new and existing public telecommunications entities, and preoperational expenses associated with such facilities" (Section 393(c)).

6. The Act sets as a second program objective increasing minority and women's ownership and operation of public telecommunications facilities (Sec. 390). Thus, the Act requires the Secretary of Commerce to "give special consideration to applications which would increase minority and women's ownership of, operation of, and participation in public telecommunication entities" (Sec. 392(f)).

7. The Act extends eligibility for grants under the program to "noncommercial telecommunications entities" organized primarily to disseminate educational and cultural programs by means other than a primary television or radio broadcast station, and to other nonprofit organizations organized primarily for educational or cultural purposes (Sec. 392(a)(1)).

8. The Act requires the applicant to submit a five-year plan outlining the applicant's projected facilities requirements to the Secretary and demonstrate to the Secretary that the applicant has participated in comprehensive planning, including the evaluation of alternative technologies, in the area which the applicant proposes to serve (Sec. 392(a)).

9. The Act authorizes the Secretary to make project planning grants of up to 100% of the amount deemed necessary for planning specific projects for which the applicant would then seek facilities construction funds. (Sec. 392(c)).

10. The Act requires the Secretary of Commerce, in consultation with the Corporation for Public Broadcasting, public telecommunications entities, and others, to develop a long-range plan, with detailed five-year projections of national public telecommunications facilities needs, and the cost thereof to accomplish the above stated objectives and the objective of "strengthening the capability of existing public television and radio stations to provide . . . services to the public" (Sec. 390). The Act authorizes the Secretary of Commerce to use appropriated funds to cover the costs of administering the facilities program, including the cost of preparing the 5-year plan which must be updated annually (Sec. 391).

11. The Act authorizes $40 million for the Public Telecommunications Facilities Program (PTFP) for each of the fiscal years 1979, 1980, and 1981 (Sec. 391). It is likely, however, that the appropriation will remain below the authorized level in FY 79 since funds for the program were not included in the FY 79 Labor-HEW Appropriation bill and the program is operating under a continuing resolution.

12. If the appropriation remains at the current level, more will have to be done for a larger constituency with the same funds—actually less, when the costs of administration and of the five-year long range plan are deducted from the appropriation (not to mention the effects of inflation on the prices of equipment). Thus, the breadth or narrowness of regulations will determine how effectively the available funds can be distributed to worthy projects.

ISSUES TO BE CONSIDERED

13. The issues which underlie the promulgation of regulations under the act may be divided into four convenient categories:

- Eligibility of Applicants
- Priority Among Applicants
- Processing and Evaluation of Applications
- Administration and Recovery of Grant Funds

ELIGIBILITY ISSUES

14. Of the eligible entities enumerated in the Act, the terms, "public broadcast station," "State or local government," and "political or special subdivision of a State" seem clear and do not require elaboration here. It is much less clear exactly what "nonprofit foundation, corporation, institution or association organized primarily for educational or cultural purposes" or a "noncommercial telecommunications entity" is. The Act defines the latter as any enterprise that:

(A) Is owned and operated by a State (or a subdivision thereof), a public agency or a nonprofit private foundation, corporation or association; and (B) has been organized primarily for the purpose of disseminating audio or video noncommercial educational and cultural programs to the public by means other than a primary television or radio broadcast station * * * (Sec. 397(f)).

These terms raise a number of difficult Constitutional and policy questions:

(1) Would churches or other religious organizations claiming that their sectarian broadcasts are also educational and/or cultural be eligible for grants to transmit such sectarian programming using broadcast or nonbroadcast media?

(2) What about a labor union or political organization, such as NOW or the NAACP, or a fraternal organization making similar claims?

(3) Need an organization be exempt under Sec. 501(c)(3) or some other section of the Internal Revenue Code to qualify for a PTFP grant?

Such questions rarely came up under the Educational Broadcasting Facilities Act of 1976 [3] since grantees had to hold noncommercial educational FCC licenses or permits. (HEW independently took the position that religious organizations primarily engaged in sectarian broadcasting were not eligible for EBFP grants.)

ISSUES OF PRIORITY

15. Section 392(e) authorizes the Secretary to establish rules and regulations relating to the order of priority in approving applications and determining the amount of grants. Section 392(f) requires that the Secretary "give special consideration to applications which would increase minority and women's ownership of, operation of, and participation in public telecommunications entities." while this does not constitute an absolute priority, it is a clear mandate, all other things being equal.

16. The first question is relatively straightforward: which groups are to be included in the definition of "minority," as invisioned in the Act? The term "minority" is not defined in the Act. However, the Senate Report (No. 95-858) at page 11 states that "the term * * * is intended to include: American Indians, or Alaskan Native;

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[1] Pub. L. 95 567

[2] Unless otherwise indicated, all statutory references are to 47 U.S.C.

[3] Pub. L. 94-309

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Asian or Pacific Islander; Hispanic; and Blacks, not of Hispanic Origin." The Report notes that these designations are consistent with the recommendations of the Office of Management and Budget's Ad Hoc Committee on Race/Ethnic Categories and the Department of Justice regulations, 28 CFR Sec. 42.402(e).

17. Having established a definition of "minority," a more difficult question arises. What exactly do the terms, "ownership of", "operation of" and "participation in" mean in the context of nonprofit and governmental entities, and what degree of each is sufficient to trigger "special consideration?"

(4) Does "ownership" or "operation" mean at least 51% of the governing board be comprised of members of one or of several minority groups, or of women, or of a combination of women and minorities?

(5) What does "participation" mean? In programming—as producers or as subjects of programs? In Management?

(6) Need a station or telecommunications entity merely have a certain composition to qualify, or must it also serve the needs and interest of minorities and women in the community?

(7) Are there First Amendment or other legal prohibitions to using programming as a criterion in this regard?

18. A set-aside is a special form of priority. It orders the appropriation rather than individual applications. There is one such set-aside in the Act. Section 393(c) provides that not less than 75 percent (of the appropriation) *shall be available* for the creation of new noncommercial telecommunications entities and for the expansion of service areas of existing ones. (The Act also mandates that "a substantial amount" of the appropriation shall be available for the expansion or development of noncommercial radio broadcast station facilities.)

19. The creation of new public telecommunications entities or the expansion of the coverage area of an existing entity is dependent on many other factors than the award of a facilities grant. In the case of broadcast stations, frequencies must be found to establish or expand the coverage area of a signal. To do this often requires moving (the frequency assignment of) several other noncommercial radio stations in the community. Moreover, sufficient local and national operating funds, as well as capital funds for PTFP matching and for "bricks and mortar," must be raised. In some cases, State legislatures or local agencies must act to authorize and fund new entities. In short, to a large extent, the creation or expansion of public telecommunications entities is a process having a rhythm of its own. In the recent past less than 58% of the appropriation was granted for radio and television activation or expansion; less than 15% of the appropriation was granted for radio activation or expansion, even though both of these activities are assigned higher priorities in noncommercial radio in the current regulations than are improvement grants, which received the balance of the appropriation. In FY 77, with an appropriation of $14 million, the grant (and the approximate application) pattern looked like this:

Million of dollars

	Radio	Television	Radio & TV
Activation...	1.060 (7%)	2.424 (17%)	3.418 (24%)
Expansion...	1.034 (8%)	3.608 (26%)	4.701 (34%)
Activation & Expansion.	2.094 (15%)	6.032 (43%)	8.119 (58%)

20. A crucial question therefore remains: what if fundable requests for the creation and expansion of eligible entities do not, in any given fiscal year, total 75 percent of the appropriation? Can the remainder legally be spent on lower priority (improvement) applications? Perhaps the answer lies in the phrase, "shall be available." If the setaside is viewed as establishing priority between competing applications, rather than a rigid division of the appropriation, then the intent of Congress to favor creation and expansion can be carried out without denying the Secretary the necessary flexibility to use the appropriation to the wisest and most beneficial manner consistent with the Act.

21. After a preliminary determination has been made as to whether or not an applicant is seeking funds for expansion or activation, there are several other questions which must be asked:

(8) Should applications for importing first public radio or television service to an area receive higher funding consideration than applications for bringing local radio or television service to an area which receives one or more distant public radio or T.V. signals?

(9) Should applications for bringing first radio or television service to an area receive higher funding consideration than applications for bringing multiple radio and television service to an area, if the service to be provided is different than the local service already provided?

(10) In considering applications for bringing multiple service to an area, should applications which propose bringing first or increased radio or television programming to minorities and women receive higher priority than those which would result in bringing multiple public television or radio service to the entire community?

GRANT APPLICATION AND PROCESSING ISSUES

22. Section 392(c) authorizes the Secretary to make planning grants for any project for which construction funds may be obtained under the program. The applicant is required to provide assurance that it meets the eligibility requirements to receive a construction grant. While the applicants for each type of grant must be similarly eligible, the purpose and items of expenditure of a planning grant are quite different from those of a construction grant. The former would typically entail the purchase of the services of a planner or coordinator who would in turn contract for the services of a consulting engineer (to perform frequency searches, compile equipment lists and price estimates, and to prepare the technical portions of FCC filings); of counsel to prepare an application for a construction permit; and of others to help with ascertainment, fundraising, public relations, development of community advisory and governing boards, etc. All of these activities and more are required to put a public broadcasting station on the air, and many of them are required to expand a signal or improve existing production facilities. *The issue here is which of them are properly and practically (given such limited funds) includable in a planning grant as envisioned in the Act.* Other questions suggest themselves as well:

(11) Should administrative limits be placed on the total amount of such grants (for example, 10 percent)?

(12) Should a limit be placed on the amount or duration of individual grants?

(13) Since Congress intended the planning grant provision to aid those applicants who otherwise might not be able to bring themselves to the stage of applying for a facilities construction grant, should a showing of financial hardship be required?

(14) If so, what standard should be used?

23. Another question to be considered is what time of year should planning grants be awarded i.e., should they be made early enough so that applicants can complete their planning and submit an application for a construction grant in the same year?

24. Section 392(a)(1)-(6) requires the applicant to submit certain information and assurances. Most of the assurances required are straightforward and can be implemented by citation to the Act. Subsection (a)(4), however, could raise a problem. This provision requires each applicant to provide assurances satisfactory to the Secretary that "such public telecommunications facilities will be used only for the provision of public telecommunications services." Section 397(14), it will be remembered, defines the term "public telecommunications services" as "noncommercial educational and cultural radio and television programs, and related noncommercial instructional or informational material." . . . . Such a requirement would not seem to raise an issue, yet there have been a few cases where equipment purchased in part with an EBFP grant was allegedly used for "commercial" purposes. A case in point occured not long ago in the State of Washington. KWSU (TV Channel 10) borrowed some (EBFP-funded) equipment from KSPS Spokane to produce a telecast of a series of basketball games which were, in turn, picked up by the Spokane station on a delayed basis. Spokane then re-transmitted the games via a public TV microwave link to a Seattle commercial station which was given permission to broadcast them. The Seattle station inserted commercials into the broadcasts, which it did *not* have permission to do. A Seattle lawyer, representing a commercial producer who, the lawyer claimed, was deprived of the opportunity to produce the games on a commercial basis due to unfair competition resulting, in part, from the use of publicly-funded equipment, complained to HEW/EBFP. The commercial station stopped carrying the programs but the problem remains unresolved.

25. Plans for the PBS and NPR satellite systems call for sharing excess time on transponders and ground stations with commercial users for the explicit purpose of producing revenue. Thus, the satellite era may see the partial blurring of strict distinctions between commercial and noncommercial use of equipment, particularly where the technology demands high capital investment and allows the simultaneous use (such as of a satellite downlink) by many separate services. It remains, however, for the Secretary of Commerce to determine the extent to which PTFP funded facilities may be used for other than the provision of public telecommunications services, if at all.

ADMINISTRATION AND RECOVERY OF GRANTS

26. The Act permits appropriations to remain available until expended so long as applications approved by the Secretary are submitted in the same fiscal year in which the appropriations are made (Sec. 391). In practice, many projects are not completed until several years have passed after they are approved, so this carryover ability is vital. Barring extraordinary legal or bureaucratic problems, and assuming adequate personnel, there should be no reason why applications cannot be approved in the same fiscal year in which they are submitted, provided the application deadline is placed reasonably early in the fiscal year.

27. The EBFP grants for FY 77 were held up for an unreasonable length of time due to a dispute within HEW as to whether CPB funds could be used to match EBFP grants. At the urging of CPB and against strong recommendations from his own agency, the Secretary of HEW decided, after a lengthy process, that CPB funds were not Federal funds once in the possession of the grantee, and therefore could be used to match HEW grants. This issue will have to be revisited by the Secretary of Commerce.

28. Section 392(g) empowers the United States to recover a certain portion of any facilities should the applicant cease to be eligible for a facilities grant (i.e. change its character or go out of business), or if the facilities cease to be used for noncommercial educational purposes (with the Secretary empowered to make exceptions for good cause). Title of the equipment purchased with facilities grants resides in the applicant. The Act does not give the United States any priority over the creditors in the case of a bankruptcy of the applicant.

29. Recently, in a bankruptcy proceeding involving KIPC, Albuquerque, a Federal judge denied the government's claim of a prior lien on KIPC's EBFP-funded equipment. As a result, the government was unable to recover anything. Although cases like these are rare, they do occur. Therefore, it is appropriate to consider whether to require execution of some instrument which gives the Government a priority lien against such equipment in the event of bankruptcy.

30. Those filing comments should key their responses to the numbered paragraphs.

31. This action is taken pursuant to Department of Commerce Administrative Order 218-7. Interested parties should file their comments, no later than January 22, 1979. Responses will be available for public inspection during regular business hours in NTIA's Office of Administration at 1800 G Street, in Washington, D.C.

GREGG SKALL,
Chief Counsel, National Telecommunications and Information Adminstration.

[FR Doc. 79-174 Filed 1-2-79; 8:45 am]

[6750-01-M]

FEDERAL TRADE COMMISSION

[16 CFR Part 13]

[File No. 9055]

CAVANAGH COMMUNITIES CORP., ET AL.

Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Provisional consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this provisionally accepted consent agreement, among other things, would require a Miami, Fla. land sales firm and eight wholly-owned subsidiaries to cease misrepresenting or failing to disclose the nature and purpose of promotional activities; the legal significance of signing a contract form; the monetary risks involved in the purchase of undeveloped land; and the advisability of consulting with a real estate specialist prior to purchase. Unavailability of utilities, sewage disposal, water, or other improvements would have to be set forth in contracts and sales presentations, and the firms would be required to provide purchasers with a cooling-off period during which they could cancel their dealings. The order would also require that purchasers be informed that certain subdivisions are located in designated flood areas and considerable expenditure would be required to make lots usable. Any sales representation concerning the availability of electricity, phone service, recreational facilities, and/or other improvements would have to be contractually guaranteed, and failure to fulfill such obligations in a timely manner would entitle purchasers to a refund of their full purchase price plus 7% interest. In addition, the order would limit purchasers' liability in the event of default, and require the firms to send previous purchasers prescribed "truth" letters which contain information about investments, subdivision development, assessments, contractual rights, and possible tax benefits should purchasers default.

DATE: Comments must be received on or before March 5, 1979.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th St. and Pennsylvania Ave., NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

FTC/PM, Edward D. Steinman, Washington, D.C. 20580. (202) 523-3909.

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SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 3.25(f) of the Commission's rules of practice (16 CFR 3.25(f)), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and provisionally accepted by the Commission, has been placed on the public record for a period of sixty days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's rules of practice (16 CFR 4.9(b)(14)).

UNITED STATES OF AMERICA BEFORE THE FEDERAL TRADE COMMISSION

[Docket No. 9055]

CAVANAGH COMMUNITIES CORP., ET AL.

AGREEMENT CONTAINING CONSENT ORDER TO CEASE AND DESIST

In the matter of Cavanagh Communities Corporation, Cape Cave Corporation, Cavanagh Marketing Corporation, Cavad, Inc., Universal Properties, Inc., Wellington Orient, Inc., Miami Beach Vacations, Inc., Palm Beach Investment Properties, Inc., Perdido Bay Management Corp., corporations, and their subsidiaries, and Joseph Klein and Arthur Meltzer, individually and as officers of said corporations.

The Agreement herein, by and between Cavanagh Communities Corporation (formerly Cavanagh Leasing Corporation), a corporation, and its wholly owned subsidiary corporations Cape Cave Corporation, Cavanagh Marketing Corporation (formerly Cavanagh Land Sales Corporation), Cavad, Inc., Universal Properties, Inc., Wellington Orient, Inc., Miami Beach Vacations, Inc., Palm Beach Investment Properties, Inc., and Perdido Bay Management Corp. and their subsidiaries, and Joseph Klein and Arthur Meltzer, individually and as past or present officers and/or directors of Cavanagh Communities Corporation and one of more of said subsidiary corporations, hereinafter sometimes referred to as respondents, is entered into in accordance with the Commission's rules governing consent order procedure.

1. Respondent Cavanagh Communities Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its principal office and place of business located at 444 Brickell Avenue, Miami, Florida.

Respondent Cape Cave Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its principal office and place of business located at 444 Brickell Avenue, Miami, Florida.

Respondents Cavanagh Marketing Corporation, Cavad, Inc., Wellington Orient, Inc., Miami Beach Vacations, Inc., Palm Beach Investment Properties, Inc., and Perdido Bay Management Corp., are corporations organized, existing and doing business under and by virtue of the laws of the State of Florida, with their principal offices and places of business located at 444 Brickell Avenue, Miami, Florida.

Respondent Universal Properties, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Ohio, with its principal office and place of business located at 444 Brickell Avenue, Miami, Florida.

Respondents Joseph Klein and Arthur Meltzer are now and/or have been officers and directors of respondent Cavanagh Communities Corporation and several of the other corporate respondents. Their address is 444 Brickell Avenue, Miami, Florida.

2. Respondents have been served with the Commission's Complaint charging them with violation of Section 5 of the Federal Trade Commission Act, together with a form of the Order to Cease and Desist the Commission believed warranted in the circumstances.

3. Respondents admit all the jurisdictional facts set forth in the Commission's Complaint.

4. Respondents waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of facts and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this Agreement.

5. This Agreement shall not become a part of the official record of the proceeding unless and until it is accepted by the Commission. If this Agreement is accepted by the Commission it will be placed on the public record for a period of 60 days and information in respect thereto publicly released; and such acceptance may be withdrawn by the Commission if, within 60 days after acceptance, comments or views submitted to the Commission disclose facts or considerations which indicate that the Order contained in this Agreement is inappropriate, improper, or inadequate.

6. This Agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated in any respect, including but not limited to the acts and practices alleged in the Commission's Complaint.

7. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 3.25(d) of the Commission's rules, the Commission may, without further notice to respondents:

(a) Issue its decision containing the following Order to Cease and Desist in disposition of the proceeding; and

(b) Make information public in respect thereto. When so entered, the Order to Cease and Desist shall have the same force and effect and shall become final and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The Order shall become final upon service. Mailing of the Complaint and Order to Cease and Desist to the attention of respondents' respective corporate secretaries at the address as set forth in this Agreement shall constitute service. Respondents waive the right to have any other manner of service.

8. The relief set forth in the Order herein fully satisfies any claim for consumer redress which the Commission may have under Sections 5 and 19 of the Federal Trade Commission Act, *as amended*, arising out of the acts and practices alleged in the Complaint. By its final acceptance of this Agreement, with such modifications, if any, which the parties may make prior to such final acceptance, the Commission waives its right to commence a civil action under Section 19 of the Federal Trade Commission Act, *as amended*, with respect to the acts and practices alleged in the Complaint.

9. The Complaint may be used in construing the terms of the Order, and no agreement, understanding, representation or interpretation not contained in the Order or the Agreement may be used to vary or contradict the terms of the Order.

10. Respondents have read the Commission's Complaint and the Agreement containing an Order to Cease and Desist and they understand that once the Order has been served, they will be required to file one or more compliance reports showing that they have fully complied with the Order, and that they may be liable for a civil penalty in the amount provided by law for each violation of the Order after it becomes final.

ORDER

As used in this Order, the following definitions shall apply:

"Property Report" shall include documents entitled "Public Property Report," "Public Offering Statement," "Subdivision Public Report," "Offering Statement," "Prospectives," "Prospectus," "Public Report," and any other document providing information regarding the purchase of land in general or a specific subdivision in particular which is required by federal or state law to be distributed to prospective purchasers or purchasers of land.

"Respondents' subdivision" refers to a subdivision:

(a) The land in which is being sold by one or more of the respondents; (b) for which one or more of the respondents is a mortgagee and exercises control over the advertising, offering for sale, or sale of land in the subdivision; (c) for which one or more of the respondents is the registrant with any state or federal agency which regulates land sales; or (d) for which one or more of the respondents is a party to the contracts of sale for lots therein which have been or are being sold to purchasers.

"Land" or "lots" shall mean any real property located in one of respondents' subdivisions, but shall exclude (i) land or lots upon which a residential or commercial structure is located; (ii) land or lots which is or are sold together with or under a contract to construct a house or other building thereon within 24 months of the date of sale of the land or lots; and (iii) land or lots sold to a purchaser pursuant to a single contract for a sum in excess of $50,000.

"Commission" shall refer to the Federal Trade Commission and/or its duly authorized representatives and employees.

As used in this Order, a requirement to cease and disist from representing or misrepresenting shall include representing or misrepresenting directly or by implication, and by any manner or means.

No provision of this Order shall be construed as limiting the application of any other paragraph of this Order unless such limitation is *expressly* provided for in this Order.

It is ordered, That respondents Cavanagh Communities Corporation, Cape Cave Corporation, Cavanagh Marketing Corporation, Cavad, Inc., Universal Properties, Inc., Wellington Orient, Inc., Miami Beach Vacations, Inc., Palm Beach Investment Properties, Inc., and Perdido Bay Management Corp., corporations, and their officers, and their subsidiaries and the said subsidiaries' officers, and Joseph Klein and Arthur Meltzer, individually, and respondents' successors, assigns, agents, representatives and employees, directly or through any corporate or other device in connection with the advertising, offering for sale, or sale of real property in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. (a) Failing to disclose, clearly and conspicuously, in any written or oral invitation or other communication concerning any event or activity, including but not limited to dinner parties or other similar gatherings, contests, or awards of free or low cost gifts, vacations, or sightseeing tours, or any other goods or services, which is in any manner a part of a plan or procedure to sell land, the following statement:

The purpose of (the event or activity) is to sell you land in (name of State in which land is located) priced from approximately (price which is at or above the price, including assessments, of at least 5% of the lots being offered for sale).

(b) If the invitation or communication referred to in subparagraph (a) above is in writing, such disclosure shall be in writing and shall be made clearly and conspicuously in the invitation or communciation; if such invitation or communication is oral and delivered in person, such disclosure shall be both oral and in writing and shall be made clearly and conspicuously and in conjunction with the invitation or communciation; if such invitation or communciation is made by telephone, such disclosure shall be made orally and clearly and conspicuously in the telephone invitation or communication, and in writing. All written disclosures shall be received by the prospective purchaser prior to the event or activity.

(c) Misrepresenting the true nature and purpose of any event or activity, including but not limited to dinner parties or other similar gatherings, contests, awards of free or reduced price gifts or vacations, and sightseeing tours.

2. Failing to set forth as the title of any contract for the purchase of land, in boldface type of a minimum size of 24 points, the following language: "CONTRACT FOR THE PURCHASE OF LAND."

3. (a) Failing to print the following in 12-point boldface type as the only writing, in addition to that required by paragraph 2 above, subparagraph 3(b) below if applicable, and, at respondents' option, the name of the seller, the subdivision in which the lot is located, the contract number, and/or the date of the contract, on the first page of all contracts for the sale of land:

This is a contract by which you agree to purchase land.

The future value of this land, as well as all undeveloped real estate, is speculative and risky. It is unlikely that the value of the land will increase or that you will be able to resell your land without significant community development and population growth, which may not occur for a number of years, if at all.

[Subparagraph 3(b)(i) Disclosure]

[Subparagraph 3(b)(ii)-(vi) Disclosures]

[Subparagraph 3(b)(vii) Disclosure]

You have 10 business days in which to cancel this contract and get all your money back. Carefully read the property report (sometimes called an offering statement, public report or prospectus) which must be given to you when you sign this contract. It explains many important facts about your lot. You should go over this contract and the property report with a qualified professional before your 10 days are up.

Provided, however, That in the event no property report is required for the lot or lots being offered for sale, the following paragraph shall be used in lieu of the last paragraph of the above disclosure:

You have 10 business days in which to cancel your contract and get all your money back. You should go over this contract with a qualified professional before your 10 days are up.

(b) Failing to print in the form and place set out in subparagraph (a) above, such of the following statements as are applicable:

(i) For contracts for the sale of lots whose elevations are below the 100-year flood level established by the United States Department of Housing and Urban Development, or are otherwise subject of flooding, add the following:

This land [, as most of coastal Florida,] is susceptible to flooding. Unusual or costly building requirements may be applicable.

Provided, however, That the bracketed language must be omitted when the subdivision being advertised, if other than a Rotonda subdivision, is not located within five miles of the Atlantic or Gulf Coasts of Florida: *And further provded*, That, in the event respondents have a contractual obligation, in accordance with paragraph 15 below, to develop all lots being sold within the subdivision being advertised at sufficient elevations with regard to the established 100-year flood levels to enable purchasers to build on their lots with no extra expense or unusual building requirements, then the disclosure required by this subparagraph may be omitted.

(ii) For contracts for the sale of lots to which electricity and/or telephone service are not available at the time of sale and to which respondents or any other party, including any utility company franchised or regulated by a government agency, are not legally obligated to provide or assure the availability of electricity and/or telephone service, add the following, including whichever of the bracketed language is applicable:

No plans have been made to make [electricity and telephone service] available to your lot.

(iii) For contracts for the sale of lots to which electricity and/or telephone service will be provided only upon the payment of a line extension fee, add

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the following, including whichever of the bracketed language is applicable:

The payment which must be made to a utility company in order to get [electricity and telephone service] to your lot may be very high.

(iv) For contracts for the sale of lots to which respondents or any other party, including any utility company franchised or regulated by a government agency, are not legally obligated to provide or assure the availability of potable water and/or sewage disposal, add the following, including whichever of the bracketed language is applicable:

[Drinkable water and sewage disposal] may not be available to your lot.

(v) For contracts for the sale of lots to which the legal obligation of respondents or any other party regarding the roads to be provided to such lots is limited to the installation of unpaved roads with no maintenance obligations, add the following, including the bracketed language if the roads to the lot being offered for sale have not been constructed at the time of sale:

[The land you are purchasing is undeveloped land.] Your lot will be accessible, if at all, only by unpaved, unmaintained roads which may become impassable.

(vi) For contracts for the sale of lots to which respondents or any other party are legally obligated to provide only drainage and/or unpaved roads with no maintenance obligations, and to which electricity and telephone service are not available at the time of sale, add the following, including the bracketed language if such roads have not been constructed at the time of sale, in lieu of the disclosures in subparagraphs (ii)-(v) above:

[The land you are purchasing is undeveloped land.] Electricity, water, sewage disposal, and telephone service are not planned and may be impossible to obtain. Your lot will be accessible, if at all, only by unpaved, unmaintained roads which may become impassable. Your lot has virtually no use at present or in the foreseeable future.

(viii) For contracts for the sale of lot to which respondents or any other party are legally obligated to provide only drainage, or no improvements at all, add the following in lieu of the disclosures in subparagraphs (ii)-(iv) above:

The land you are purchasing is completely undeveloped. No roads or other improvements are planned, and your lot is probably inaccessible by conventional means of transportation. Your lot has virtually no use at present or in the foreseeable future.

(viii) For contracts for the sale of lots which are designated or zoned for any use other than single family residential, add the following:

The designation or zoning of a lot as [indicate lot's designation or zoning classificaton, *e.g.*, multiple family residential] may have no bearing on its value.

4. Failing, in connection with the sale of land, to disclose, clearly and conspicuously, in all sales presentations, promotional materials, and advertisements other than billboards primarily containing road directions to a subdivision, the following statement:

Since land values are speculative and risky, you should consult a qualified professional before buying. It is unlikely that you will be able to resell your land or resell it at a profit without significant community development and population growth, which may not occur for a number of years, if at all.

Provided, however, That in lieu of the above statement, the following statement may be used in (i) radio or television advertisements of 30 seconds or less; (ii) magazine advertisements of ⅛ page or less; and (iii) newspaper advertisements of ⅛ page or less:

Remember—buying land is risky! Consult a qualified professional before buying!

5. Failing to furnish the purchaser of land with a fully completed copy of any contract at the time of its signing by the purchaser, which is in the same language, *e.g.*, Spanish, as that principally used in the oral sales presentation, if any, and which shows the date of the transaction and contains the name and address of the respondent corporation which is the contracting party, provided that the contract need not at this time contain the signature of respondents.

6. Failing to print all conditions and provisions of any contract for the sale of the land in a clear and conspicuous manner, and, where any conditions or provisions are set forth on the reverse side of said contract, failing to indicate in a clear and conspicuous manner at the bottom of the front side of said contract that the purchaser should carefully examine the reverse side.

7. (a) Failing to furnish each purchaser of land, at the time he or she signs the contract, with a completed form in duplicate captioned "NOTICE OF CANCELLATION" which shall contain in boldface type of a minimum size of 10 points, except for the language designated as "Note" relating to notification, which may appear in any type setting which is clear and conspicuous, the following statement in the same language, *e.g.*, Spanish, as that used in the contract:

NOTICE OF CANCELLATION

.....
[enter date of transaction]

.....
[enter purchaser(s) name(s)]

You may cancel this transaction, without any loss, expense, penalty or obligation, at any time prior to midnight of the 10th business day after the above date.

If you cancel, all payments made by you under the contract will be returned within 15 calendar days following receipt by the seller of your cancellation notice.

To cancel this transaction, mail or deliver a signed copy of this cancellation notice or any other written notice, or send a telegram to: (*name of applicable respondent*), at (*address of applicable respondent's place of business*) not later than midnight of ——— (date).

NOTE.—Notification by mail shall be considered given at the time postmarked; notification by telegram shall be considered given at the time filed for transmission; and notification by other writing shall be considered given at the time delivered to respondent's place of business.

I (We) hereby cancel this transaction. (If only one purchaser signs this notice, it means he or she has the permission of any other purchasers to act for them.)

....
Purchaser's Signature — Date

.....
Purchaser's Signature

(b) Failing, before furnishing copies to the purchaser of the "Notice of Cancellation" set forth in subparagraph (a) above, to complete both copies by entering the name of the applicable respondent, the address of the applicable respondent's place of business, the date of the transaction, the purchaser's name, and the date, not earlier than the 10th business day following the date of the transaction, by which the purchaser must give notice of cancellation.

(c) Failing to inform each prospective purchaser orally, at the time the contract is signed, of the right to cancel as stated in subparagraph (a) above.

8. Requiring the purchaser of land to make a personal inspection of any property or the general vicinity thereof as a condition precedent to the cancellation of any contract or the refund of any moneys paid thereunder, unless:

(a) Respondents limit such inspection to the purchaser's lot and the subdivision in which it is located;

(b) The purchaser is actually taken to and shown his or her lot: *Provided, however,* That if the purchaser's lot is not reasonably identifiable, and accessible by conventional means of transportation, during the inspection period provided by the contract, respondents shall extend the period until such time as the lot is identifiable and accessible, and shall notify the purchaser that his right to cancel his contract and receive a refund upon inspection of his lot has been so extended;

(c) In the event more than one purchaser has signed the contract, one purchaser is permitted to make the inspection as the representative of all the purchasers;

(d) Respondents provide the purchaser three business days following the date of inspection within which to cancel the contract or request the refund; and

(e) The purchaser's contract, as part of any provision requiring the purchaser to make a property inspection in order to cancel the contract and/or obtain a refund, clearly and conspicuously discloses the facts set out in subparagraphs (a)-(d) above.

9. (a) Failing to furnish each purchaser of land at the completion of the property inspection made in accordance with paragraph 8 above a completed form in duplicate captioned "NOTICE OF CANCELLATION" which shall contain in boldface type of a minimum size of 10 points, except for the language designated as "Note" relating to notification, which may appear in any type setting which is clear and conspicuous, the following statement in the same language, *e.g.*, Spanish, as that used in the purchaser's contract:

NOTICE OF CANCELLATION

.....
[enter date of inspection]

.....
[enter purchaser(s) name(s)]

You may cancel your contract, without any loss, expense, penalty or obligation, at any time prior to midnight of the third business day after the above date.

If you cancel, all payments made by you under the contract will be returned within 10 business days following receipt by the seller of your cancellation notice.

To cancel your contract, mail or deliver a signed copy of this cancellation notice or any other written notice, or send a telegram to: (*name of applicable respondent*), at (*address of applicable respondent's place of business*) not later than midnight of ——— (date).

NOTE.—Notification by mail shall be considered given at the time postmarked; notification by telegram shall be considered given at the time filed for transmission; and notification by other writing shall be considered given at the time delivered to respondent's place of business.

I (We) hereby cancel the contract. (If only one purchaser signs this notice, it means he or she has the permission of any other purchasers to act for them.)

....
Purchaser's Signature — Date

.....
Purchaser's Signature

(b) Failing to complete both copies of the "Notice of Cancellation" set out in subparagraph (a) above prior to furnishing them to the purchaser by entering the name of the applicable respondent and the address of its place of business, the date of the lot inspection, the names of the purchaser(s) making the inspection and the date, not earlier than the third business day following the date of said inspection, by which the purchaser(s) must give notice of cancellation.

10. (a) Failing in any instance where a timely notice of cancellation is received pursuant to subparagraphs 7(a) or 9(a) above, and said notice is not sufficient or proper in any manner and respondents do not intend to honor the notice, to immediately notify the purchaser by certified mail, return receipt requested, enclosing the notice, informing the purchaser of his or her error, and stating clearly and conspicuously that a sufficient notice properly signed must be mailed by midnight of the third day following the purchaser's receipt of said mailing if the purchaser is to obtain a refund.

(b) Failing to make refunds in accordance with the terms of any notices of cancellation timely received by respondents pursuant to subparagraphs 7(a), 9(a), or 10(a) above.

11. In connection with the refund provision set forth in paragraph 8 above, representing to prospective purchasers and purchasers that they may cancel their contracts and get refunds unless such is the fact and unless all conditions and limitations applicable thereto, including but not limited to the facts, where applicable, that the purchaser may be subjected to additional sales presentations while seeking to obtain a refund and that the purchaser must pay his or her transportation costs to and from the lot, are clearly disclosed in immediate conjunction therewith and with the same conspicuousness.

12. Transferring, selling, assigning, or otherwise conveying any note or other evidence of indebtedness of the purchaser executed subsequent to the date this Order becomes final to a finance company or other third party prior to midnight of the 20th business day following the day the contract was signed.

13. (a) Offering for sale or selling lots which are represented as suitable for homesites unless the contracts for the sale of such lots contain a legal obligation on the part of respondents in accordance with paragraph 15 below, to provide or assure the availability of roads, electricity, telephone service, potable water, sewage disposal, and where necessary, drainage, to such lots, installed or constructed to no less than those minimum government standards required for obtaining a building permit for a dwelling unit on such lots.

(b) Representing, in connection with the sale of land, that respondents will provide to a subdivision or lot therein, or that a subdivision or lot therein will have available, roads, electricity, telephone service, potable water, sewage disposal, or drainage, unless the contracts for the sale of lots in that subdivision, at the time of the representation, contain a legal obligation on the part of respondents, in accordance with paragraph 15 below, to provide or assure the availability of each such utility or improvement represented.

14. Representing, in connection with the sale of land, that respondents' subdivisions have or will have available, or that residents of respondents' subdivisions or lot purchasers therein have or will have the use of, any recreational facility, improvement, utility, amenity, or structure whether or not located in respondents' subdivisions (other than those utilities and improvements listed in subparagraph 13(b) above), including but not limited to golf courses, clubhouses, waterways, lakes, marinas, hotels, motels, shopping facilities, professional service facilities, beaches, and parks, unless

(a) For representations of present availability or use: (i) such representation is true, and (ii) the terms and conditions of availability to or use by purchasers and residents are clearly and conspicuously disclosed at the time of such representation, provided that such terms and conditions regarding retail stores and public establishments need not be disicosed if they are typical and customary for such stores and establishments, and (iii) at the time of the representation, respondents reasonably believe the recreational facility, improvement, utility, amenity, or structure will continue to be available in the foreseeable future.

(b) For representations of availability or use in the future:

(i) The terms and conditions of availability to or use by purchasers and residents, including the date of completion or availability, are clearly and conspicuously disclosed at the time of such representation: *Provided,* That such terms and conditions regarding retail stores and public establishments—other than the date of completion—need not be disclosed if they are typical and customary for such stores and establishments; and

(ii) At the time of the representation, one of the following conditions is met: (a) Respondents are contractually obligated to provide such facility, improvement, utility, amenity, or structure in accordance with paragraph 15 below; or (b) Any other party is legally obligated to lot purchasers to provide such facility, improvement, utility, amenity, or structure, and respondents clearly and conspicuously disclose in immediate conjunction with such representation that respondents have no contractual obligation to make such facility, improvement, utility, amenity, or structure available or to assure its continued availability; or

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(c) Such facility, improvement, utility, amenity, or structure is at least 50 percent completed with completion reasonably anticipated by respondents within one year, and respondents have a reasonable basis to believe it will be available for use by purchasers and residents when completed and will continue to be so available in the foreseeable future.

15. (a) With respect to any recreational facility, improvement, utility, amenity, or structure which respondents are contractually obligated to provide or make available, failing to provide (i) through (v) below in the contract:

(i) An adequate description of each recreational facility, improvement, utility, amenity, and structure to be provided or available.

(ii) The date by which each such recreational facility, improvement, utility, amenity, and structure will be provided or available. For improvements and utilities, said date shall be a date certain not later than the date the purchaser's final scheduled payment would be due under the payment schedule contained in the applicable contract in use at the time of purchase which was offered to purchasers not paying on an accelerated basis. *Provided,* That in the case of central water or central sewage facilities, the contract may provide either A or B below:

(A) Said facilities will be installed within one year after respondents' receipt of written notice from the purchaser that he or she intends to build on his or her lot, provided that if the contract provides for this alternative, such contract may also provide, where applicable, the roads to such lot do not have to be paved until the expiration of said one year period; or

(B) Said facilities will be available when a stated level of population density in a specified area is achieved: *Provided,* That the contract further states, in accordance with subparagraph (b) below, that respondents assure the availability of potable water by means of a well and/or sewage disposal by means of a septic tank.

(iii) The dollar amount of all costs, fees, and/or assessments which a purchaser must pay for the construction and/or installation of each recreational facility, improvement, utility, amenity, and structure; *Provided, however,* That if the costs, fees and/or assessments so represented are estimates, (1) the contract shall disclose this fact and that these costs, fees, and assessments may actually be higher. Said disclosure shall be made clearly, in immediate conjunction with the representation of the costs, fees, and/or assessments and with the same conspicuousness as such representation; and (2) such estimates must be substantiated in writing at the time they are represented by competent and reliable engineering studies which shall include a reasonable allowance for inflation. Such substantiation shall be maintained for at least three years after all fees, costs and/or assessments which it relates to have been paid by the purchaser.

(iv) If under the terms of the contract the purchaser may be required to pay for the installation of a well and/or septic tank, a provision stated as follows, including whichever of the bracketed language is appropriate:

> In the event that the purchaser determines, within five years after his payments are completed or the deed has been issued, whichever is later, that a [well or septic tank] cannot be used on his or her lot, the seller shall refund to the purchaser the cost of the test which determined that the [well or septic tank] cannot be used: *Provided,* That in the event the cost of the test is substantially higher than the prevailing rate for such test by qualified businesses in the vicinity of the applicable subdivision, the seller may limit such refund to the prevailing rate for such test.
>
> It shall be the responsibility of the purchaser, within 90 days after determining that [either a well or septic tank] cannot be used on his or her lot to notify the seller of this fact and request a refund of the cost of the test which determined that the [well or septic tank] cannot be used.

(v) A provision stated as follows:

> In the event the subdivision or the lot which is the subject of the contract has not been provided with or does not have available any contracted-for improvement or utility, or there has been a material failure to provide or make available any contracted-for recreational facility, amenity or structure, within six months of the time specified in the contract plus the actual number of days of any delay caused by any strike or work stoppage beyond respondents' control, or an act of God, the seller will, within 60 days after the expiration of the applicable time period, provide the purchaser by certified mail, return receipt requested, with notice of such failure to provide or such unavailability, and of the purchaser's right to a refund of all moneys paid (including but not limited to principal, interest, taxes, and assessments) under the contract plus interest at the rate of 7 percent per annum computed from the date of default: *Provided, however,* That at the time the purchaser is notified of such refund, the purchaser may also be offered the option of selection, in lieu of such refund, an exchange of the purchaser's lot, at no additional cost to the purchaser, for another lot to which all contractual obligations of respondents have been met, which was or would have been of at least equal price on the date the purchaser's contract was signed, which is located in the same subdivision or community, is at least the same size, has the same zoning classification, has the same utilities and improvements as respondents were obligated to provide under the original contract, and is located no further from the same or substantially similar recreational and commercial facilities and amenities as the original lot.

(b) If under the terms of the contract potable water and/or sewage disposal are to be provided for any period of time by means of a well and/or septic tank, in the event a well or septic tank cannot be used on such lot within 5 years after the purchaser completes his or her payments or receives a deed, whichever is later, respondents, within 60 days after determining or receiving notice of that fact, shall comply with either (i) or (ii) below, at respondents' option:

(i) Contract with the purchaser to provide central sewage and/or central water to the lot not later than 1 year after determining or receiving notice that a well and/or septic tank cannot be used on the lot: *Provided, however,* That if the deed to the lot had not been issued at the time respondents reach such a determination or receive such notice respondents may provide central sewage and/or central water to the lot at any time within 1 year from the date the purchaser's final scheduled payment is due under the contract.

(ii) Offer the purchaser a refund of all moneys paid (including but not limited to principal, interest, taxes, and assessments) under the contract plus interest at the rate of 7 percent per annum computed from the date of default: *Provided, however,* That at the time the purchaser is offered such refund, the purchaser may also be offered, in lieu of such refund, an exchange of the purchaser's lot for another lot to which all contractural obligations of respondents have been met, which was or would have been of at least equal price on the date the purchaser's contract was signed, and which is located in the same subdivision or community, is at least the same size, has the same zoning classification, has the same utilities and improvements as respondents were obligated to provide under the original contract, and is located no further from the same or substantially similar recreational and commercial facilities and amenities as the original lot.

(c) Failing to notify the purchaser of his or her right to a refund or exchange as set out in subparagraphs (a)(v) and (b) above; failing to provide central sewage and/or central water to the purchaser's lot as provided in subparagraph (b)(1) above; and failing to make the refund or exchange provided for in subparagraphs (a)(v) and (b) above within 30 days of receipt of the purchaser's request for such refund or exchange: *Provided, however,* That in the event respondents are obligated under this paragraph to make refunds exceeding $500,000 as a result of a single default common to many lots, it shall not be a violation of this Order for respondents to prorate such refunds, with interest at a rate of 7 percent per annum from the date of default, over a period of 5 years from the date of default.

16. (a) Representing that a central sewage and/or water system will be available when a stated level of population density in a specified area is achieved unless it is clearly and conspicuously disclosed in immediate conjunction therewith and with the same conspicuousness (i) that purchasers will be required to use a well and/or septic tank if they build on their lots before said level of population density is reached, and (ii) the approximate cost to the purchaser of installing a well and/or septic tank.

(b) Failing to clearly and conspicuously disclose in writing the substance of paragraph 15(a)(iv) above, at the time the deed is issued, to each purchaser of a lot to which a central sewage and/or water system will be made available when a stated level of population density in a specified area is achieved.

(c) Collecting assessments prior to the start of construction for a central sewage and/or a central water system which is required to be provided or made available when a stated level of population density is achieved unless the following conditions are complied with:

(i) Collection of such assessments is begun no sooner than 2 years prior to the commencement of construction of such system(s);

(ii) Such assessments are placed in escrow;

(iii) In the event construction does not commence within 2 years after the collection of assessments has begun, all such assessments shall be refunded to the purchasers from whom they were collected with interest at a rate of 7 percent per annum from the date each assessment payment was received until the date such refund was made; and

(iv) In the event the central sewage and/or central water system has not been provided or made available to a lot within 5 years after the collection of assessments has begun plus the actual number of days of any delay caused by an act of God or a strike or work stoppage beyond respondents' control, all such assessments shall be refunded to the purchasers of such lots with interest at a rate of 7 percent per annum from the date each assessment payment was received until the date such refund is made.

Provided, however, That in the event State or Federal regulations require that assessments collected pursuant to this subparagraph of the Order be placed in an escrow account subject to the control of a State or Federal agency, respondents shall use their best efforts to provide in any agreement for refund provisions in accordance with subparagraphs (c)(iii) and (c)(iv) above or otherwise to obtain a legally binding commitment from such State or Federal agency to permit respondents to comply with subparagraphs (c)(iii) and (c)(iv) above.

(d) Failing to make refunds within 90 days after the expiration of the 2 year period described in subparagraph (c)(iii) above and after the expiration of the 5 year period described in subparagraph (c)(iv) above.

17. (a) Representing to a prospective purchaser or to a purchaser prior to the time a deed for his or her lot is issued, that respondents will construct or cause to be constructed a building on the prospective purchaser or purchaser's lot or will rent or sell such a building or units therein for the benefit of the purchaser, unless respondents offer to enter into a contract with the purchaser to do so or offer the purchaser the right to an option to enter into such a contract at a future date, on mutually agreeable terms, and unless that contract contains a provision which gives the prospective purchaser or purchaser, in the event respondents default in their obligation to build or have built, rent or sell such building or units therein, the right to cancel the contract for the purchase of the lot upon which said building has been or was to be constructed and receive a refund of all monies paid thereunder, including but not limited to payments of principal, interest, taxes, assessments, and recording costs, plus interest at the rate of 7 percent per annum from the date of default.

(b) Failing within 60 days of receipt of a prospective purchaser or purchaser's request for a refund made in accordance with subparagraph (a) above to make the refund so requested.

18. Soliciting or obtaining the purchaser's assent to or otherwise imposing any condition, waiver or limitation upon the right of a purchaser to a refund or exchange as set forth in paragraphs 15 and 17 of this Order; *Provided, however,* That:

(i) Respondents may require purchasers to request a refund or exchange within a stated time period of not less than 90 days after the purchaser is notified by respondents of their default under the contract;

(ii) This paragraph shall not preclude respondents from offering a purchaser additional alternatives which may be selected, at the purchaser's option, in lieu of a refund or exchange; and

(iii) In the event the purchaser has received a deed or other evidence of title in the contracted-for property other than a contract, or has recorded the contract, the purchaser must, as a condition of obtaining such refund or exchange, reconvey to the seller such interest by deed and/or other appropriate instruments provided by respondents.

19. (a) Failing to include in all contracts for the sale of land entered into on or after the date this Order becomes final:

(i) A provision limiting the moneys paid by a purchaser under the contract to be forfeited in the event of the purchaser's default to an amount not greater than 40% of the "cash price"; and

(ii) A provision stating that, in the event the purchaser fails to make any payment required under the contract, the purchaser shall be deemed in default not later than six months after the payment was due: *Provided,* That the default has not been cured prior to that time; *Provided, however,* That respondents shall be permitted to delay declaring a delinquent purchaser in default if so requested by the purchaser.

(b) Failing to refund to purchasers, in accordance with the contract provision set forth in subparagraph (a)(i) above, all moneys paid under the contract, including but not limited to principal, interest, taxes, and assessments which in the aggregate exceed 40% of the "cash price," within 60 days after the purchaser is deemed to have defaulted: *Provided, however,* That it shall not be a violation of this Order for respondents to pro-rate all such refunds with interest at the rate of 8% per annum from the date of default, over a period of three years from the date of default or, in the event of a refund of $1,500 or more to a single purchaser, over a period of five years from the date of default for that purchaser's refund: *And further provided,* That this subparagraph shall not preclude respondents from offering a defaulting purchaser additional alternatives which may be selected at the purchaser's option, in lieu of a refund.

For purposes of this paragraph of the Order, "cash price" shall be the amount of money described in the purchaser's contract as the "cash price" in accordance with § 226.2(n) of Truth-in-Lending Regulation Z, 12 CFR Part 226.

20. In connection with the sale of land:

(a) Failing to disclose, clearly and conspicuously in 10-point boldface type in printed advertisements and promotional materials, and clearly and conspicuously in sales films and other audio-visual materials used during sales presentations, for subdivisions in which at least 15% of the platted lots are, at the time of sale, at elevations below the 100-year flood level established by the United States Department of Housing and Urban Develop-

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ment, or are otherwise subject to flooding, the following:

This land [, as most of coastal Florida,] is susceptible to flooding. Unusual or costly building requirements may be imposed.

Provided, however, That the bracketed language must be omitted when the subdivision being advertised, if other than a Rotonda subdivision, is not located within five miles of the Atlantic or Gulf Coasts of Florida: *And further provided,* That in the event respondents have a contractual obligation, in accordance with paragraph 15 above, to develop all lots being sold within the subdivision being advertised at sufficient elevations with regard to the established 100-year flood levels to enable purchasers to build on their lots with no extra expense or unusual building requirements, then the disclosure required by this subparagraph may be omitted.

(b) In the event a lot represented as suitable for a homesite whose elevation is below the 100-year flood level established by the United States Department of Housing and Urban Development, or which is otherwise subject to flooding, cannot lawfully be used, even with pilings, fill dirt, or other usual and customary building techniques, if any, as a homesite at the time the deed should issue due to zoning regulations or other laws related to the lot's elevation or susceptibility to flooding, respondents shall offer to the purchaser of such lot one of the following, or an option of selecting from one of the following:

(i) A refund of all moneys paid (including but not limited to principal, interest, taxes, and assessments) under the contract plus interest at the rate of 7% per annum computed from the date of default; or

(ii) An exchange of the purchaser's lot for another lot to which all contractual obligations of respondents have been met, which was or would have been of at least equal price on the date the purchaser's contract was signed, and which is located in the same subdivision or community, is at least the same size, has the same zoning classification, has the same utilities and improvements as respondents were obligated to provide under the original contract, and is located no further from the same or substantially similar recreational and commercial facilities and amenities as the original lot.

Provided, however, That this subparagraph of the Order should not be construed to limit any additional rights and remedies the purchaser may have under his or her contract.

(c) Failing to offer the purchaser the refund or exchange set out in subparagraph (b) above within 90 days of determining that the lot cannot lawfully be used as a homesite at the time the deed should issue, and failing to make the refund or exchange in accordance with subparagraph (b) above within 30 days of receipt of the purchaser's request for such relief.

21. (a) Making any statement or representation in writing, or orally in sales films or other audio-visual materials used during sales presentations, concerning the purchase price of land without clearly disclosing in immediate conjunction therewith and with the same conspicuousness as such statement or representation the nature and estimated amount of any additional assessments and other improvement costs which must be paid by the purchaser to respondents or any third party: *Provided, however,* That this subparagraph shall not apply to the disclosure required by subparagraph 1(a) above.

(b) Failing to clearly disclose in the contract, in immediate conjunction with the purchase price of the lot and with the same conspicuousness:

(i) The nature and estimated amount of any assessments and other improvement costs; and

(ii) A reference to the other items for which payments are required, including but not limited to utilities not included in the assessments, fill dirt, pilings, conservation associations, property taxes, and canal maintenance, which must be paid by the purchaser to respondents or any third party in order to purchase such lot and make it usable for the purposes represented.

22. (a) Requiring purchasers of lots in respondents' subdivisions to join a Conservation Association or any other association, society, league, corporation, or other entity which can require its members to pay assessments or other fees [hereinafter in paragraph 22 referred to as a Conservation Association], or including in such purchasers' contracts or in the deeds of restriction provisions whereby they became members of a Conservation Association, unless the declaration, bylaws or other regulations governing the Conservation Association:

(i) Give each purchaser a vote in association matters at the time he or she becomes a member; (ii) apportion all votes in a fair and equitable manner, provided that land which has not been platted into lots shall not be apportioned or otherwise used as a basis for determining a member's voting rights; and (iii) provide nonresident members a reasonable means to participate and vote in Conservation Association matters.

(b) Failing to disclose to all prospective purchasers of land in subdivisions where a Conservation Association has been or is planned to be established, clearly and conspicuously in writing:

(i) The circumstances under which they become members of the Conservation Association;

(ii) That the Conservation Association may assess such purchasers for the maintenance of and capital improvements to the common properties in the subdivisions in which their lots are located, if such is the fact;

(iii) The specific items, and the assessment per lot for each such item, for which association members have been assessed over the past three years; and

(iv) The estimated time period during which respondents will be the sole voting member or will otherwise have voting control of the Conservation Association.

23. Representing any of the following to any prospective purchaser or purchaser of land:

(a) That the purchase of a lot in one of respondents' subdivisions is a way to insure financial security, to deal with inflation, or to become wealthy.

(b) That real estate is a good or safe investment.

(c) That land in respondents' subdivisions is being offered for sale for investment purposes or is suitable for investment purposes.

(d) That the purchase of a lot in one of respondents' subdivisions is a good or safe investment.

(e) That land is becoming scarce: *Provided, however,* That this subparagraph shall not prohibit any representations permitted under paragraph 43 below.

Provided, however, That this paragraph shall not prohibit any representations permitted under paragraph 25 below.

24. Representing to any prospective purchaser or purchaser of land that the prices for land in respondents' subdivisions periodically rise, or that such prices have increased, are increasing, or may or will increase, unless the following is clearly disclosed in immediate conjunction with such representations and with the same conspicuousness:

Price increases are made at the seller's discretion and do not mean that the land has increased in value or that a purchaser can resell a lot at the higher price or at any price.

Provided, however, That in the case of oral representations, such disclosures shall be made both orally and in writing.

25. Representing to any prospective purchaser or purchaser of land that the value of or demand for any land, including lots in respondents' subdivisions, has increased, is increasing, or will or may increase, or that purchasers have made, are making, or will or may in the future make, a profit through the purchase of a lot or lots in respondents' subdivisions.

Provided, however, That respondents may truthfully represent to a prospective purchaser at the time of sale, or to a purchaser at the time of a property inspection:

(a) The price at which vacant lots in respondents' subdivisions have been resold by the original purchaser or subsequent purchasers if the following conditions are met:

(i) Respondents and/or their agents, representatives or employees were not parties (*i.e.,* seller or purchaser) to the resale;

(ii) The resale was an arms's-length transaction for cash or its equivalent;

(iii) The resale was of a lot in the same subdivision or community as the lot which is being offered for sale to the prospective purchaser or which was sold to the purchaser. For the purposes of this subparagraph, the term "community" shall mean two or more adjacent subdivisions sold pursuant to a common promotional plan;

(iv) The resale lot has the same zoning or use classification as the lot which is being offered for sale to the prospective purchaser or which was sold to the purchaser;

(v) The site classification (*e.g.,* interior lot, greenbelt, canal, riverfront, golf course) of the resale lot is comparable or less valuable than that of the lot which is being offered for sale to the prospective purchaser or which was sold to the purchaser;

(iv) The resale lot is similar in size or smaller and has the same or lesser improvements and utilities, as the lot which is being offered for sale to the prospective purchaser or which was sold to the purchaser;

(vii) At least five resales of lots meeting the conditions set out in this subparagraph have occurred within the two years prior to the representation;

(viii) The resale price does not exceed by more that 20% the mean or median price of all resales meeting the conditions set out in this subparagraph which occured within two years of the representation. Respondents shall not be considered to be in violation of this subparagraph if the resale price they are representing exceeds the mean or median resale price by more than 20% solely due to resales which occurred within six months of the representation; and

(ix) The following is clearly disclosed in immediate conjunction with the representation and with the same conspicuousness:

The fact that other lots in this subdivision have been resold does not mean that there is a resale market, or that you will be able to resell your lot at any price. Check with a local real estate broker for resale information.

Provided, however, That in connection with the sale of land in the Rotonda subdivisions, respondents shall make no representations of the price of resales in the Oakland Hills segment of Rotonda West except with respect to sales of Oakland Hills lots, and shall not represent the price of resales in the other segments of Rotonda West in connection with the sale of lots in the other Rotonda subdivisions.

(b) The price at which any lot in a competing subdivision which is similar to the lot which is being offered for sale to the prospective purchaser or which was sold to the purchaser is currently being sold, or the last price at which any such lot was sold in a transaction to which respondents and/or their agents, representatives, or employees were not parties (*i.e.,* seller or purchaser), if the following is clearly disclosed in immediate conjunction with the representation and with the same conspicuousness:

The fact that lots in other subdivisions are being sold does not mean that you will be able to resell your lot at the same price or at any price. Check with a local real estate broker for resale information.

Respondents shall not be considered to be in violation of this subparagraph if the sales price represented is not current or the resale price represented is not the last such price solely due to price changes or new resales occurring within six months of the representation.

Respondents shall maintain, for a period of three years after making any representation pursuant to subparagraphs (a) or (b) above, data sufficient to substantiate each such representation, and shall make such data available during normal business hours to the Commission for inspection and copying.

26. Misrepresenting the past, present, or future sales price of lots in respondents' subdivisions.

27. Making any representation in connection with the sale of land which refers to or concerns investment in stocks, insurance, banks, or any other form of investment other than land in respondents' subdivisions and other comparable subdivisions.

28. Making rerpresentations in connection with the sale of land concerning or comprised of statistics or trends of population, employment, business, or industry, or making representations concerning or comprised of other statistics or trends, unless respondents have at the time of making such representations, and maintain for three years thereafter, a reasonable basis to believe:

(i) For representations concerning or comprised of statistics or trends regarding past or present events, that such representations are true; and

(ii) For representations concerning or comprised of statistics or trends regarding future events, that such statistics or trends will occur as represented.

A reasonable basis shall consist of current, relevant, and objective statistical or economic data or studies, where such data are collected or such studies are conducted in accordance with accepted applicable demographic, economic, and/or statistical principles.

29. Representing that respondents may or will buy back lots from or resell lots for purchasers, or may or will set up a resale division; or misrepresenting that purchasers will be able to sell their lots or their interest therein.

30. Representing that respondents have developed new towns or communities, or are well-known, experienced, or highly regarded community developers; or misrepresenting respondents' business experience, reputation, or financial conditions.

31. Representing that respondents' subdivisions or waterfront property therein provide access by boat to the Atlantic Ocean, Gulf of Mexico, or any other body of water, or that canals, lakes, or other waterways are navigable or can be used for any recreational activity, unless such is fact and unless all material qualifications pertaining to such access, navigability or use, including but not limited to the size or type of boats which can obtain access to open water or navigate the waterways and speed limits which may be established, are clearly disclosed in immediate conjunction therewith and with the same conspicuousness as such representation.

32. Misrepresenting the mileage, percentage, or other amount or proportion of any recreational facility, improvement or utility, including but not limited to roads, curbs, gutters, utility lines, and water or sewage mains, which has been completed, is under construction, or will be constructed in respondents' subdivisions.

33. Using similar names for subdivisions in which the recreational facilities, improvements, utilities, and amenities available in each such subdivision are not substantially identical: *Provided, however,* That respondents shall not be obligated to rename any currently platted subdivision.

34. (a) Making any representation concerning Palm Beach Garden in any advertisement, promotional material, or sales presentation for any land located in Palm Beach or Martin Counties, Florida.

(b) Making any representation concerning any recreational facility, improvement, utility, or amenity available or located in a city, community, subdivision or other geographic area during a sales presentation of in an ad-

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vertisement or promotional material relating to one or more of respondents' subdivisions at which similar recreational facilities, improvements, utilities, or amenities have not been provided and there is no contractual obligation to so provide or assure the availability of, unless respondents disclose in immediate conjunction therewith and with the same conspicouousness as such representation that similar recreational facilities, improvements, utilities, or amenities will not be provided at respondents' subdivision or subdivisions to which the sales presentation, advertisement, or promotional material relates.

35. Representing:

(a) That Rotonda West, Rotonda Shores, Rotonda Lakes, Rotonda Heights, Rotonda Meadows, Rotonda Springs, Rotonda Sands, or Rotonda Villas have been or will be provided, either singly or in conjunction with one or more of the other Rotonda subdivisions, with a multimillion dollar clubhouse or clubhouses, underground electric or telephone lines, concrete curbs and gutters, sidewalks, a fully developed central core, a tennis clinic, more than two golf courses, or a private island.

(b) That Twin Lakes Country Club and Estates will be provided with gas lines.

(c) That Paradise Hills will be developed in any manner.

(d) That Palm Beach Heights has been or will be provided with any recreational facility, improvement, utility or amenity other than unpaved, unmaintained dirt roads and drainage.

(e) That any lot in Perdido Bay Country Club Estates will be developed prior to the date for completion of improvements stated in the contract.

Provided, however, That this paragraph shall not preclude respondents from making any of the representations prohibited by subparagraphs (a)-(e) above if, at the time the representation is made, respondents have a contractual obligation in accordance with paragraph 15 above to develop the subdivision as represented.

36. (a) Representing that any recreational facility, improvement, utility, amenity, or residential structure is planned for a subdivision or part thereof when such plans have been altered, abandoned, superseded, postponed, or otherwise will not be completed as represented.

(b) Representing that any recreational facility, improvement, utility, or amenity has been provided or is available at a subdivision or part thereof when such recreational facility, improvement, utility, or amenity has been closed or is no longer available for use.

37. In the event that the development plans for any subdivision, including plans for any recreational facility, improvement, utility, amenity, or residential structure, are materially altered, abandoned, or otherwise will not be completed as represented, failing to disclose such alteration, abandonment, or other change in plans within 90 days of such event to each purchaser of a lot in the subdivision in which the development plans were to occur, and to each purchaser in any other of respondents' subdivisions which is located within 25 miles of the subdivision in which the development plans were to occur: *Provided, however,* That in connection with development plans in the Rotonda subdivisions:

(i) If the subdivision in which the development plans were to occur is Rotonda West, then such disclosure shall be made to all purchasers of lots in each of the Rotonda subdivisions;

(ii) If the development plans concerned a recreational facility, improvement, utility, amenity, or residential structure which was to serve more than one of the Rotonda subdivisions, then such disclosure shall be made to all purchasers of lots in each such subdivision;

(iii) If the development plans were to occur in a subdivision other than Rotonda West, and the recreational facility, improvement, utility, amenity, or residential structure was not intended to serve more than one Rotonda subdivision, then such disclosure shall be made to all purchasers in the one subdivision affected.

Notwithstanding the above, if the change in development plans directly affects 100 or fewer lots, will have no impact on the overall development of a subdivision or community, and does not concern a recreational facility, amenity, or residential strucure which was represented in any advertisement or promotional material for respondents' land, such disclosure is required to be made only to the purchasers of the lots directly affected.

38. Misrepresenting the past, present, or future development plans or state of development of any subdivision or part thereof, including but not limited to the recreational facilities, improvements, utilities, amenities, or residential structures therein; or misrepresenting the size, qualities, characteristics, location, or usefulness of any subdivision or part thereof.

39. (a) Representing that any person who acquired real property in any of respondents' subdivisions free, for a nominal cost, at a price substantially below fair market value, or as payment for services, purchased said property or chose to buy or live in said subdivision rather than in other places; or misrepresenting how or why a person acquired property in any of respondents' subdivisions.

(b) Representing that any person who acquired real property in any of respondents' subdivision free, for a nominal cost, at a price substantially below fair market value, or as payment for services, acquired such property and/or lives in such subdivision unless it is clearly disclosed in immediate conjunction with such representation and with the same conspicuousness that the person acquired his property free, for a nominal cost, at a price substantially below fair market value, or as payment for servies, whichever is appropriate.

40. (a) Representing that Ed McMahon is an officer of any of the corporate respondents.

(b) Representing that any well-known person is an officer or employee of any of the corporate respondents unless such representation is true and unless said person performs duties commensurate with the office and spends a substantial portion of his time in such corporate capacity; *Provided, however,* That respondents shall be permitted to make representation otherwise prohibited by this subparagraph when such representations are required by law, in the form and manner specifically prescribed by such law: *And further provided,* That documents containing such prescribed representations shall not be distributed to prospective purchasers or purchasers unless required by such law.

(c) Misrepresenting that any well-known person lives in one of respondents' subdivisions, owns stock in any of the corporate respondents, or is a substantial investor in any of the corporate respondents or in any of respondents' subdivisions.

41. Representing that General Electric Co. or its affiliates, subsidiaries, or divisions planned, designed, engineered, or developed any subdivision or part thereof, or put its entire corporate resources behind any subdivision; or misrepresenting the participation of General Electric Co., or any other company in respondents' subdivisions.

42. Representing that persons being solicited to purchase respondents' land are being asked to take the first step, are reserving the land, are taking an option to buy the land, are not making a final decision, or are not buying the land; or otherwise misrepresenting the legal significance of signing a contract.

43. Representing that prospective purchasers must sign a contract immediately in order to assure purchasing real property in a choice location or in a particular subdivision or community, unless such is the fact; or misrepresenting the number of lots available for sale at present or in the future in any subdivision, group of interrelated subdivision, or other area.

44. Failing to clearly and conspicuously disclose, both orally and in writing, to each prospective purchaser of any lot which is located within one-half mile of railroad tracks, the distance of the lot from said railroad tracks.

45. Including in any contract or other document any waiver, limitation or condition on the right of a purchaser to cancel a transaction or receive a refund under any provision of this Order, except as such waiver, limitation or condition is by this Order expressly allowed.

46. Including in any contract for the sale of land, or in any document shown or provided to purchasers or prospective purchasers of land, whether or not signed by such purchasers or prospective purchasers, language stating expressly or by implication:

(a) That no express or implied representations have been made in connection with the sale of respondents' land or that any particular representation has not been made in connection therewith;

(b) That the purchaser has had an opportunity to examine or understand any property report, offering statement or similar document required by state or Federal law to be made available to him: *Provided, however,* That such language may be included when required by the Interstate Land Sales Full Disclosure Act, presently codified at 15 U.S.C. Sections 1701-20 (1970).

47. Making any statement or representation concerning the rights or obligations of respondents or the purchaser which differs in any material respect from the rights or obligations of the parties as stated in the contract.

48. Misrepresenting the right of a purchaser to cancel a transaction or receive a refund under any provision of this Order or any applicable statute or regulation.

49. Misrepresenting to any prospective purchaser or purchaser of land the contents or significance of any pleading, finding of fact, conclusion of law, order, decision, opinion, or any other document or written or oral ruling concerning any legal proceeding in a court, before an administrative agency, or in any other forum.

II

It is further ordered: A. That within two months after this Order becomes final respondents forward to all current purchasers of land in Palm Beach Heights the letter attached as Appendix A: *Provided, however,* That if changes are necessary to render such letter accurate as of the date of mailing, respondents shall submit such changes to the Commission not less than 45 days prior to the date of mailing. The Commission, within 30 days after its receipt of such changes, shall have the right to reject them in whole or in part, and respondents will then mail such letter with the changes, if any, which were not rejected by the Commission.

B. That within two months after this Order becomes final respondents foward to all current purchasers of land in any of the Rotonda subdivisions who purchased their lots prior to June 1, 1978, the letter attached as Appendix B: *Provided, however,* That if changes are necessary to render such letter accurate as of the date of mailing, respondents shall submit such changes to the Commission not less than 45 days prior to the date of mailing. The Commission, within 30 days after its receipt of such changes, shall have the right to reject them in whole or in part, and respondents will then mail such letter with the changes, if any, which were not rejected by the Commission.

C. That with respect to all contracts for the purchase of respondents' land other than the Perdido Bay Country Club Estates and Runaway Bay subdivisions entered into prior to the date this Order becomes final, respondents or their agents or representatives shall not (i) take legal action, or threaten to take legal action, to recover unpaid balances due under such contracts in the event a purchaser defaults; or (ii) represent to purchasers that they are personally liable to complete the payments under their contracts. In addition, respondent shall obtain and destroy all copies of executed promissory notes other than those in the possession or control of purchasers.

D. (1) That within six months after this Order becomes final respondents set aside and designate in the land records of Charlotte County, Florida, a portion of their property on Don Pedro Island, comprised of contiguous land exceeding five acres in size which fronts at least 400 feet on both the Gulf of Mexico and Lemon Bay, as not to be sold but to be retained by respondents in perpetuity for the use of residents of all the Rotonda subdivisions and as not to be further improved except in a manner consistent with such use, and file in the land records of Charlotte County a perpetual easement pursuant to which residents of all the Rotonda subdivisions will be granted access to the entire beach consistent with current State law; and (2) that respondents retain such property in perpetuity for the use of residents of all the Rotonda subdivisions and not improve such land except in a manner consistent with such use: *Provided, however,* That nothing herein shall prevent respondents from causing such property to be conveyed to one or more duly constituted Rotonda property owners associations or prevent respondents from reserving an easement over or title to such property for the purpose of assuring access over the property.

E. That for a period of seven years from the date this Order becomes final respondents shall continue to provide free ferry service for Rotonda residents to Don Pedro Island, consistent with the ferry service previously provided such residents, and at the conclusion of such period respondents shall convey free and clear title to a ferry or other suitable water vehicle in good working condition, to one or more duly constituted Rotonda property owners associations.

F. That except with the prior authorization of the Commission, respondents, through June 30, 1990:

1. Shall limit the sale and development of land in Charlotte County, Florida, to the following land: the Rotonda subdivisions as platted on January 1, 1977, the land continguous to the Rotonda subidivisions owned by respondents as of January 1, 1977, the Cape Haze subdivision, and Don Pedro Island; and

2. Shall not sell, in the land comprising the Rotonda subdivisions on January 1, 1977, a greater number of lots, or lots which would contain in the aggregate a greater potential population, than is contained in the plats in effect on January 1, 1977 for the Rotonda subdivisions. For the purposes of this subparagraph, (a) lots sold prior to the date this Order becomes final shall be included in determining the number of lots sold or the potential population of the lots sold; and (b) lots returned to inventory due to forfeiture, exchange, or any other reason shall not be considered as sold.

G. 1. That respondent Cape Cave Corporation send copies to the Commission of any reports concerning land development at the Rotonda subdivisions, or the expenditures for or the financing of such land development, which are or may be required to be submitted to the division of Florida Land Sales and Condominiums, Department of Business Regulation, State of Florida ("Division"), including but not limited any "Improvement Trust Reports" required to be submitted to the Division pursuant to various Improvement Escrow Agreements to which the division and Cape Cave Corporation are parties. Cape Cave Corporation shall submit copies of such reports within 15 days of the date said reports are required to be submitted to the Division.

2. Respondent Cape Cave Corporation shall maintain, for a perlod of 5 years after they are prepared, copies of all audited financial statements not submitted to the Commission pursuant to subparagraph (1) above, and shall make such financial statements avaialble during normal business

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hours to the Commission for inspection and copying.

III

It is further ordered: A. That respondents deliver, by certified mail or in person, a copy of this Order to all of their present and future salesmen and other employees, independent brokers, advertising agencies and others who sell or promote the sale of respondents' land or who otherwise have contact with the public on behalf of respondents;

B. That respondents provide each person so described in paragraph (A) above with a form to be returned to respondents, clearly stating that person's intention to conform his or her business practices to the requirements of this Order;

C. That respondents inform each person described in paragraph (A) above that respondents shall not use any such person or the services of any such person, unless such person agrees to and does file notice with respondents that he or she will conform his or her business practices to the requirements of this Order;

D. That in the event such person will not agree to so file notice with respondents and to conform his or her business practices to the requirements of this Order, respondents shall not use such person or the services of such person;

E. That respondents so inform the persons described in paragraph (A) above that respondents are obligated by this Order to discontinue dealing with those persons who engage on their own in the acts or practices prohibited by this Order;

F. That respondents institute a program of continuing surveillance adequate to reveal whether the sales practices of each said person described in paragraph (A) above conforms to the requirements of this Order; and

G. That respondents discontinue dealing with any person described in paragraph (A) above, revealed by the aforesaid program of surveillance, who repeatedly engages on his own in the acts or practices prohibited by this Order: *Provided, however,* That in the event remedial action is taken, the sole fact of such dismissal or termination shall not be admissible against respondents in any proceeding brought to recover penalties for alleged violation of any other paragraph of this Order.

IV

It is further ordered: A. That in the event the Interstate Land Sales Full Disclosure Act, presently codified at 15 U.S.C. 1701-20 (1970), or any regulation promulgated pursuant thereto by the Office of Interstate Land Sales Registration of the U.S. Department of Housing and Urban Development, requires an act or practice which is prohibited by any provision of this Order, such Order prohibition shall be inoperative.

B. That in the event any provision of this Order requires an act or practice which is prohibited by the Interstate Land Sales Full Disclosure Act, presently codified at 15 U.S.C. 1701-20 (1970), or any regulation promulgated pursuant thereto by the Office of Interstate Land Sales Registration of the U.S. Department of Housing and Urban Development, such Order requirement shall be inoperative.

C. That in the event the Commission promulgates a valid trade regulation rule applicable to respondents' sale of land to consumers which contains provisions setting out the amount or percentage of moneys paid by a purchaser which may be retained by the seller in the event of the purchaser's default, then paragraph 19 of this Order shall be deemed modified by said provisions of the trade regulation rule, and said provisions shall be incorporated into this Order.

D. That in the event the Commission promulgates a valid trade regulation rule applicable to respondents' sale of land to consumers which contains provisions setting out disclosures to be made in contracts and/or in advertisements and promotional materials, any parts of paragraphs 3 and 4 of this Order which are inconsistent with the disclosures set out in said trade regulations rule shall be deemed modified by said provisions of the trade regulation rule, and said provisions shall be incorporated into this Order.

E. That in the event the notices required to be sent to purchasers by paragraphs II (A) and (B) of this Order are required by law to be approved by another federal agency prior to dissemination, in the event respondents submit such notice or offer to the appropriate federal agency for approval at least 45 days prior to the date it is due to be disseminated under this Order and such approval is not granted within 30 days, then the date by which the notice or offer must be disseminated will be extended to 15 days following the date respondents receive notice that such approval has been granted.

F. That this Order shall become effective in accordance with standard Federal Trade Commission procedure: *Provided, however,* That all written advertising and promotional materials, and form contracts, which must be filed with and accepted for dissemination by state or federal agencies, shall not be subject to the provisions of this Order, except for those provisions which prohibit or limit the use of any statement, representation, or misrepresentation, for a period of six months from the date this Order becomes final or until said acceptance for dissemination is obtained from all applicable state or federal agencies, whichever occurs first: *And further, provided,* That until said six month period expires or said acceptance for dissemination is obtained, whichever occurs first, respondents shall file with the Commission monthly reports detailing respondents' progress toward obtaining the aforementioned acceptance for dissemination by the applicable state or federal agencies.

V

It is further ordered, That respondent corporations shall forthwith distribute a copy of this Order to each of their operating divisions engaged in the sale of real property to consumers.

It is further ordered, That respondents herein shall, within 60 days after service upon them of this Order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this Order.

It is further ordered, That respondents notify the Commission at least 30 days prior to any proposed change in the corporate respondents, such as dissolution, assignment, reorganization, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of this Order.

APPENDIX A

IMPORTANT NOTICE TO PALM BEACH HEIGHTS LOT BUYERS

The Federal Trade Commission is sending this letter to all Palm Beach Heights lot purchasers. It contains facts you should know about your lot.

Palm Beach Heights is owned by Palm Beach Heights Development and Sales Corporation. Lots in Palm Beach Heights were sold on behalf of the owner by Palm Beach Investment Properties, Inc., a subsidiary of Cavanagh Communities Corporation.

In 1975, the Federal Trade Commission began a lawsuit against Cavanagh Communities Corporation, Palm Beach Investment Properties, Inc., and other subsidiaries of Cavanagh. This letter is part of a Consent Order which has been reached in settlement of that lawsuit.

Please read this letter and think about it carefully.

Your Palm Beach Heights lot.

Under your contract, the owner of Palm Beach Heights is required to put in unpaved (sand or gravel) roads. Many of these roads were required to be completed by December 31, 1975 or December 31, 1976. At the time of your purchase, county permits were not required in order to install the roads. Since that time, however, the county passed an ordinance which prohibits the construction of unpaved roads in subdivisions such as Palm Beach Heights, and therefore no roads have yet been constructed. The owner of Palm Beach Heights has filed a lawsuit in order to get unpaved roads approved for Palm Beach Heights, but has thus far been unsuccessful. If the county wins the lawsuit and if the owner refuses to put in paved roads, there will be no roads in Palm Beach Heights at all. Unless roads are constructed in Palm Beach Heights, your lot will not be usable as a homesite.

It will be difficult to resell your lot.

Even if the roads are put in, it is unlikely that you will be able to resell your lot in the foreseeable future at or near the price you have paid or are paying for it. You should be aware that neither Cavanagh nor Palm Beach Investment Properties will buy back your lot or help you resell it.

Palm Beach Heights is likely to remain undeveloped.

The owner of Palm Beach Heights is not required to put in electric or telephone lines, recreational canals, or any amenities whatever. In addition, the owner is not required to see that your lot has a water supply or a means of sewage disposal. The owner is required only to put in unpaved roads and drainage. Even if unpaved roads are eventually built, the owner does not have to maintain them, and they may become impassable due to erosion unless the property owners themselves decide to provide for maintenance.

Payment for improvements and taxes.

Under your contract, you are required to pay assessments for roads and drainage, taxes on your lot, and interest on both assessments and taxes if the owner has paid these costs on your behalf. You should be aware that you will be required to make a payment of between $500 and $1,000 per acre after you complete your regular payments to pay for these additional costs.

The matters discussed in this letter are serious, and require your attention.

If you have any questions about the contents of this letter, write to me. Please do not telephone.

If you have questions about your account or your specific lot call Cavanagh collect at (305) 353-1200. An account executive will return your call. Instead of calling, you may wish to write to:

Cavanagh Communities Corporation, 444 Brickell Avenue, Miami, Florida.

In any letter you should include your name as set forth in your contract, your account number, your current address and telephone number, and the name of the subdivision in which your lot is located.

Sincerely,

JEFFREY TURECK,
Attorney.

APPENDIX B

IMPORTANT NOTICE TO ROTONDA LOT BUYERS

The Federal Trade Commission is sending this letter to all Rotonda lot buyers. It contains facts you should know about your lot.

In 1975, the Federal Trade Commission brought a lawsuit against Cavanagh Communities Corp., Cape Cave Corp. (the developer of Rotonda) and other Cavanagh subsidiaries. This letter is part of the Consent Order issued when the lawsuit was settled. The Deltona Corporation, which has managed Rotonda since May 1976, was not a party to the lawsuit or the Consent Order.

Please read this letter and think about it carefully. Then decide whether to go on making payments or stop. If you stop, you'll lose your lot and all the money you've paid for it so far.

In order to assist you in making your decision, you should consider all the facts outlined below:

I. *Lot Value and Resale*

[The following two paragraphs shall be included in letters to purchasers of lots in Rotonda West other than the Oakland Hills and Pebble Beach segments:]

There is no resale market in Rotonda for lots which have not been developed. If your lot is presently undeveloped, it is unlikely that you would be able to resell it now even at a substantial loss. The extent of community development and population growth in the particular area of Rotonda where your lot is located will determine whether or not you could resell your lot once it is developed. The population growth and community development necessary to enable you to sell your lot at or near the price you paid or are paying for it may not occur for many years.

You should be aware that neither Cavanagh nor The Deltona Corporation will buy back your lot or help you resell it.

[The following two paragraphs shall be included in letters to purchasers of lots in all Rotonda subdivisions other than Rotonda West, except that the words "if at all" at the end of the first paragraph shall be omitted in letters to purchasers of lots in Rotonda Heights, Rotonda Lakes, and Rotonda Shores:]

There is no resale market in Rotonda for lots which have not been developed. Since your lot is presently undeveloped, it is unlikely that you would be able to resell it now even at a substantial loss. After your lot is developed, it is unlikely that you will be able to resell it at or near the price you paid or are paying for it until there is substantial community development and population growth, which may not occur for many years, if at all.

You should be aware that neither Cavanagh nor The Deltona Corporation will buy back your lot or help you resell it.

II. *Status of Rotonda*

A. *Changes in Plan of Development.* The following changes or clarifications in the plans for the development of Rotonda have been announced by Cape Cave.

Except for the modifications described below, Cape Cave plans to complete construction and development of the Rotonda Community consistent with its contractual obligations. However, there is no guarantee that Cape Cave will be able to live up to these obligations. It is important to note that many of the changes discussed in this notice must still be approved by the appropriate governmental agencies. The approval process can be lengthy and its results cannot be assured.

1. *Improvement Schedule*—Cape Cave presently estimates that the improvements in Rotonda Lakes, Rotonda Heights, and certain areas of Rotonda West (Broadmoor, Long Meadow, White Marsh, and Pine Valley) will be finished December 31, 1978, instead of December 31, 1977. Also, it is estimated that Rotonda Springs will be finished by July 31, 1983, instead of August 31, 1982. Cape Cave now plans to complete all other subdivisions on time *except* for about 1400 lots in Rotonda Sands (and about a hundred lots elsewhere) which cannot be developed *at all.* Purchasers of these lots will be notified within 30 days and will be advised of certain exchange rights to lots which can be developed.

2. *Improvement Assessments—Current studies indicate that Cape Cave's original improvement assessment estimates will no longer be accurate in most instances.* As a result, substantially higher assessment charges for many existing lot purchasers will be necessary. [Put in revised assessment figures.]

3. *Golf Courses*—The original design of Rotonda West was based upon construction of seven golf courses, one in each segment of Rotonda West except St. Andrews, by December 31, 1977. The golf course in the Oakland Hills segment of Rotonda West is complete and open to the public for play. However, while Cape Cave is also required by contract to complete the other six courses by that date, Cape Cave is no longer planning to do so. The areas formerly planned as golf courses will instead be landscaped to resemble golf courses, *but will not be playable.* Although Cape Cave has agreed to keep money in escrow to open the other golf courses later, this does not mean these courses will be built. Based on population projections, it does not seem that there will be a need for the second golf course for at least 5 years. The remaining courses are unlikely to be opened for many years, if ever.

B. *Flood Prevention Costs.* The Rotonda subdivisions, like most of coastal Florida, are located within an area now designated by the U.S. Department of Housing and Urban Development as a 100-year flood plain. That means it is expected that property in the area which is below a certain height may be subject to flooding once in 100 years. The Charlotte County Zoning Regulations now require that new houses shall have the lowest floor of the house built at or above the level of the 100-year flood. Many lots in Rotonda, including all or most lots in Rotonda Springs, Villas, [etc.] are below the 100-year flood level and will not be raised by the developer to such a level. Additional fill dirt or pilings paid for by the lot owner would therefore be required in order to build on these lots. The cost of fill dirt depends on the size of the house and lot and on the number of feet of elevation needed. For average houses and lots, the cost of fill dirt presently ranges from about $400 for one foot of elevation to about $2300 for four feet of elevation. Should you decide to use pilings, the cost is much greater.

C. *Various Improvements, Amenities and Facilities.* The complaint issued by the Federal Trade Commission also alleged that certain statements had been made regarding other plans for Rotonda which are not dealt with in your contract. The following information deals with those matters:

1. *Waterways*—In order to get permits to develop Rotonda, Cape Cave has had to make significant changes in the Rotonda canal system. Only 26 miles of the original 32-mile canal system are still proposed to be completed. None of the canals will connect with either Coral Creek (the large lake in Rotonda West) or the Gulf of Mexico. Although Deltona may attempt to get permits to connect the canal system to the Gulf, it is unlikely that they will be successful. Finally, you should be aware that the canal system will not be usable for such sports as water skiing.

2. *Don Pedro Island.* (a) While there are no current plans for development, it is anticipated that Don Pedro Island, where the

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beach for Rotonda is located, may eventually be developed with high-rise condominiums and other structures.

(b) Cape Cave will designate an area of Don Pedro Island, comprising not less than 400 feet of beach frontage, for the perpetual use of Rotonda residents. This area is in addition to the beach frontage along the entire beach which must be maintained as a public area under Florida law.

(c) Access to Don Pedro is presently available free of charge by ferry from Gasparilla Marina, near Rotonda. Cape Cave has agreed to continue free ferry service to Don Pedro Island through 1983, after which the ferry will be donated to a Rotonda property owners association.

3. *Clubhouses*—At one time plans were announced to build a multi-million dollar clubhouse in Oakland Hills. This structure will not be erected. A more modest clubhouse has been constructed at a cost of approximately $300,000. Other clubhouses are planned to be built when additional golf courses are opened, which probably will not occur for many years, if at all.

4. *Power Lines, Curbs and Gutters*—The Oakland Hills segment of Rotonda West will be serviced by underground power and telephone lines. All other power lines throughout Rotonda will be above ground. Oakland Hills will also be the only part of Rotonda to be constructed with curbs and gutters. In the rest of Rotonda, drainage will be provided by grass swales next to the paved roadway system.

5. *Commercial Establishments, Facilities, and Residential Housing*—Cape Cave assumes no responsibility, and has no plans, for development of the central core of Rotonda West. The company also assumes no obligation to establish commercial facilities in any other area of Rotonda or to assure that any exiting commercial establishments remain in operation. A number of proposed housing projects and facilities that were previously announced will not be constructed. These include a hotel, garden apartments, and a townhouse complex.

D. *Environmental Problems.* The development of some areas in Rotonda is subject to the issuance of permits by government agencies. Delays, or rejection of proposed developments, are often encountered in attempting to obtain the necessary permits required for construction to proceed in such areas.

Permits to develop Rotonda have not been applied for at this time from the appropriate government agencies. Since the development of these subdivisions could have an adverse impact on the environment, there is a chance that these permits will be denied. If these permits are denied, Rotonda etc. could not be developed as planned. Therefore, if you continue to make payments you should be aware that there is some degree of risk that the permits will be denied, and your lot may not get developed.

IV. Options Available to Purchasers

There are a number of options available to you at this time which you should review based on the information provided in this notice:

1. You can continue making your payments.

2. You can refuse to make any further payments. According to your contract and the FTC Consent Order you *cannot* be required to pay any more money. If you elect this option, you will lose your land and all the money you have paid. Also if you purchased your lot as an investment and not for your own use as a homesite, you may be able to declare the money you lost as a tax loss, deductible form your income on federal and state tax returns. It is suggested that you contact your local District Director of the Internal Revenue Service before deciding whether to stop payments, if your decision is based on the possibility of taking a tax loss. Whether your loss is deductible will be based on your specific situation.

3. Under your contract, you may have the right to exchange your lot for a different lot in Rotonda. You may be required to pay more money for this new lot, however.

4. Your contract has a "grace period" under which you can withhold payments without giving up your land for a period of from 60-150 days, depending upon the amount of money you have paid on your contract.

If you have any questions about the contents of this letter, write to me. Please do not telephone.

If you have questions about your account or the development of your specific lot call the Rotonda Customer Affairs Department of Deltona *toll free* at (800) ———. An account executive will return your call. Instead of calling, you may wish to write to:

Rotonda Customer Affairs, P.O. Box 450783, Miami, Florida 33145.

In any letter, you should include your name as set forth in your contract, your account number, your current address and telephone number, and the name of the Rotonda subdivision in which your lot is located.

Sincerely,

JEFFERY TURECK,
Attorney.

CAVANAGH COMMUITIES CORP., ET AL. DOCKET No. 9055

ANALYSIS OF CONSENT AGREEMENT TO AID PUBLIC COMMENT

On September 16, 1975, the Federal Trade Commission issued a Complaint against Cavanagh Communities Corporation, eight of its wholly-owned subsidiaries (Cape Cave Corp., Cavanagh Marketing Corp., Cavad, Inc., Universal Properties, Inc., Wellington Orient, Inc., Miami Beach Vacations, Inc., Palm Beach Investment Properties, Inc., and Perdido Bay Management Corp.), and two of its officers (Joseph Klein and Arthur Meitzer). During the course of the adjudicative proceeding, a Consent Agreement containing an Order to "cease and desist" and other remedies was offered to the Commission by the parties in settlement of the case. The Commission has considered the Consent Agreement and has accepted it.

The Consent Agreement has been placed on the public record for 60 days so that interested persons may read it and submit comments to the Commission. Any comments received during this 60-day period becomes part of the public record. After the 60-day period, the Commission will review the Consent Agreement in light of the comments received. It will then decide whether it should withdraw from the Agreement or make it final and implement the proposed Order.

The purpose of this analysis is to make it easier for the public to comment on the Consent Agreement. It is not intended to be an official interpretation of either the Consent Agreement or the proposed Order.

Allegations in the Complaint

The Complaint alleges that the respondents (Cavanagh and the other companies and individuals against whom the Complaint was issued) falsely represented, through advertising, in sales presentations, and through statements by sales personnel:

That the purchase of a lot in their subdivisions is an investment which will provide significant financial return to purchasers;

That the current value of purchasers' lots has increased substantially over their original sales prices;

That respondents will buy back or resell purchasers' lots;

That certain recreational facilities, improvements and utilities, including golf courses, clubhouse, sidewalks, and water and gas lines, were planned or were already completed;

That General Electric Co. played a major role in the planning and development of Rotonda West;

The role of TV personality Ed McMahon in connection with respondent Cavanagh Communities Corp. and the Rotonda subdivisions.

The Complaint also alleges, among other things, that respondents failed to disclose that lots in some of their subdivisions are located in flood hazard areas, that significant expenses other than the purchase price of a lot had to be incurred by purchasers, and that land sales presentations had to be attended in order to receive free or low-cost gifts or services from respondents. Finally, provisions in respondents' contracts, including forfeiture and inspection refund provisions, are alleged to be unfair.

Proposed Consent Agreement—Section I

Section I of the Consent Agreement contains the provisions designed to prevent the recurrence of the unfair and deceptive acts and practices alleged in the Complaint. Most of the provisions in this section of the Order either prohibit respondents from making certain statements and representations or limit the use of such statements and representations. Other provisions in Section I require the disclosure of material facts, set up contract cancellation rights, and prohibit or modify other contract provisions.

A. Provisions which prohibit or limit the use of certain statements and representations.

The following Order paragraphs are the most significant of the provisions falling into this area:

Paragraphs 23-27 prohibit respondents from making almost any representation which states or implies that lots in their subdivisions are suitable for investment purposes. Paragraphs 23 and 27 prohibit respondents from representing their lots as good investments or comparing them to other forms of investment. Paragraphs 24 and 25, with very narrow exceptions, prohibit respondents from representing that the price, value or demand for any lot has increased, is increasing, or may increase. In the few instances where respondents are permitted to make representations as to resale prices or price increases, they must disclose that these prices may have no bearing on the purchaser's ability to resell his or her lot. Paragraph 26 prohibits respondents from misrepresenting the sales prices of their lots.

Paragraphs 13-15 deal with representations concerning recreational facilities, improvements, utilities, amenities and structures to be made available at respondents' subdivisions or to purchasers of lots in these subdivisions. These paragraphs prohibit respondents from representing the availability of these facilities and improvements unless certain conditions are met to assure that they will be made available as represented. Paragraph 13(a) prohibits respondents from representing that their lots will be suitable for homesite use unless the utilities and improvements required for building purposes are contractually guaranteed. Paragraph 13(b) prohibits respondents from representing that specified improvements and utilities will be provided unless each represented improvement or utility is contractually guaranteed. Paragraph 14 prohibits respondents from representing the present or future availability of any non-essential recreation facility, improvement, utility, amenity or structure unless it is presently available or, for representations of future availability, is either contractually guaranteed or almost completed. Finally, Paragraph 15 sets out the terms of respondents' contractual obligation required to satisfy Paragraphs 13 and 14.

Paragraph 21 prohibits respondents from representing the sales price of their lots unless all other costs which must be paid by the purchaser, such as assessments and taxes, are disclosed.

Paragraphs 39 and 40 deal with the problem of the use of celebrities in advertising. Paragraph 39 prohibits respondents from representing that a person bought a lot in a subdivision when the person bought the lot at less than fair market value, or received the lot at no cost or as a payment for services. Paragraph 40 prohibits respondents from representing that a celebrity is an officer of any of the corporate respondents unless the celebrity actually performs the duties of such office and spends a substantial amount of time performing such duties.

Other Order paragraphs which seek to prevent misrepresentations by prohibiting certain statements or representations are Paragraph 17 (prohibits representations that respondents will construct buildings on purchasers' lots unless respondents offer to enter into a contract to do so); Paragraph 28 (prohibits statistical representations unless respondents have a "reasonable basis" to support them); Paragraph 29 (prohibits representations that respondents will buy back or resell purchasers' lots); Paragraph 30 (prohibits misrepresentations of respondents' business experience); Paragraph 31 (prohibits misrepresentations of marine activities available at respondents' subdivisions); Paragraph 32 (prohibits misrepresentations of the extent of construction at respondents' subdivisions); Paragraph 33 (prohibits using similar names for non-identical subdivisions); Paragraphs 34-38 (prohibit various misrepresentations regarding the development of subdivisions, and requires that changes in development plans be disclosed); Paragraph 41 (prohibits misrepresentation of the participation of any company, including General Electric Co., in the development of respondents' subdivisions); Paragraph 42 (prohibits misrepresenting the significance of signing a contract); Paragraph 43 (prohibits misrepresenting the need for signing a contract immediately); Paragraphs 47 and 48 (prohibit misrepresenting purchasers' rights under their contracts or under the Order); and Paragraph 49 (prohibits misrepresenting any legal pleadings or rulings to purchasers).

B. Provisions requiring disclosure of material facts.

The provisions in Section I which require respondents to disclose certain material facts to prospective purchasers are the following:

Paragraphs 3 and 4 require respondents to disclose investment and other information on the front page of all contracts and in most advertisement and promotional materials. The main points of the disclosures in regard to investment are that the purchase of land is speculative and risky, and that it is unlikely that purchasers will be able to resell their lots for many years, if at all. Paragraph 3(b) also requires, where applicable, the disclosure on the front page of contracts, of possible flooding hazards, lack of availability or high cost of improvements and utilities, uselessness of the land, and the relation of zoning to value;

Paragraph 1 requires a disclosure, where applicable, that the purpose of holding dinner parties, awarding free gifts, and other similar promotions is to sell land. The approximate cost of the land must also be disclosed;

Paragraph 2 requires all contracts to be titled "Contract For the Purchase of Land";

Paragraph 20 requires that respondents' advertisements and promotional materials disclose, where applicable, that the land being advertised is subject to flooding, which may entail unusual or costly building requirements;

Paragraph 44 requires respondents to disclose to prospective purchasers of lots located ½ mile or less from railroad tracks, the distance from their lots to the tracks.

C. Contract cancellation rights.

Paragraphs 7-11 deal with the issue of purchasers' contract cancellation rights. Paragraph 7 gives purchasers a ten business day cooling-off period during which they may cancel their contracts and get a full refund for any reason whatever. Paragraphs 8 and 9 set standards for cancellation rights contingent on the purchaser's visit to the subdivision in which his or her lot is located. If respondents elect to offer such a cancellation option to purchasers, the option must remain in effect until the purchaser's lot is both accessible and identifiable. This insures that the purchaser knows what he or she is purchasing prior to the expiration of the cancellation option. As an additional safeguard, the purchaser must be given an additional three days following the subdivision visit in which to exercise the cancellation option. Paragraphs 10 and 11 are additional provisions designed to implement Paragraphs 7-9.

D. Provisions which prohibit or modify respondents' form contracts.

A final category of Order provisions in Section I are those which prohibit or set standards for certain contract provisions:

Paragraph 19 limits a purchaser's forfeiture in the event of default to an amount not greater than 40% of the "cash price" stated in the contract. The cash price is the price before interest or assessments are added on. Previously, respondents' contracts provided that all of a purchaser's payments were forfeited in the event of a default.

Paragraph 22 sets standards for the Conservation Associations (similar to a Homeowners Association, with the power to assess members for maintenance of common property and enforce restrictive covenants) respondents set up in their subdivisions. If respondents' contracts require purchasers to become members of a Conservation Association, each purchaser must have a fairly apportioned vote from the time he or she becomes a member, and non-resident members must be afforded a reasonable means to participate in Association matters.

Paragraph 46 prohibits respondents from using two provisions in their form contracts which could serve as waivers of purchasers' rights. Subparagraph 46(a) prohibits the use of terms which state that certain express or implied representations have not been made by respondents. Subparagraph 46(b) prohibits respondents from using contract language by which the purchaser admits to having read the property report. Both of these provisions could serve to unfairly preclude a purchaser from successfully suing respondents for contract rescission.

Other Order provisions which deal with contract language are Paragraph 5, which requires contracts to be written in the same language used in the sales presentation; Paragraph 6, which requires contract provisions to be printed in a clear and concise manner; and Paragraph 45, which prohibits respondents' contracts from containing provisions which limit any cancellation rights contained in the Order.

E. Other Section I Order provisions.

The remaining provisions in Section I each deal with different issues. Paragraph 12 prohibits respondents from assigning any notes signed by purchasers to third parties until after the ten business day cooling-off period expires. This provision insures that purchasers will not remain liable to pay for their lots if they decide to cancel their contracts during the cooling-off period.

Paragraph 16 sets standards for respondents to comply with in those situations where they represent that central sewage and/or central water systems will be installed when required by population density. Subparagraph 16(a) requires respondents to disclose that a well and/or septic tank must be used prior to the installation of central water and sewage. They also must disclose the cost of the well and/or septic tank. Subparagraph 16(b) requires respondents to further disclose that purchasers have five years after the deed is issued to determine if a well or septic tank can be used on their lots. Subparagraph 16(c) prohibits respondents from collecting assessments for central sewage and water systems more than two years prior to the start of construction, and requires construction to be completed within five years. It also requires such assessments to be placed in escrow. Finally, subparagraph 16(d) orders respondents to refund the assessments if the sewage or water systems are not started or completed on time.

Lastly, Paragraph 18 prohibits respondents from imposing any condition or limitation on the right of a purchaser to a refund or exchange under Paragraphs 15 and 17 of the Order.

Section II

Section II of the Order contains provisions designed to aid past purchasers of land from Cavanagh and its subsidiaries. Due to their poor financial condition, it was impossible to order respondents to make refunds to purchasers who bought land subject to

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the abuses set out in the Complaint. Instead, we have attempted to provide purchasers with the facts they need to evaluate their land purchases, and, if they choose, relieve them from any obligation to make additional payments. Naturally, purchasers are not precluded from pursuing any of their traditional legal remedies.

Paragraphs A and B require respondents to send out "truth" letters to purchasers of lots in the Palm Beach Heights and Rotonda subdivisions within two months after the Order becomes final. These subdivisions account for approximately 95 percent of respondents' sales over the last ten years. These letters, attached to the Order as Appendixes A and B, disclose facts about investment, subdivision development, and assessments and other costs to purchasers. The Rotonda letter also informs purchasers about rights they have under their contracts and possible tax benefits if they default.

Paragraph C orders respondents to refrain from representing that purchasers are obligated to complete their contract payments, and from taking legal action to recover unpaid balances. Under this provision, all purchasers (other than purchasers in the Perdido Bay and Runaway Bay subdivisions) are given the option of discontinuing the payments under their contracts and forfeiting their past payments. This may be the only viable remedy for many purchasers who decide they no longer wish to purchase their lots.

Paragraphs D and E require respondents to maintain a portion of their oceanfront island, Don Pedro Island, in its natural state for Rotonda residents, and to provide access to the island for such residents.

Paragraph F limits the land in Charlotte County, Florida (the site of Rotonda) that respondents are permitted to sell through 1990, and limits the lots respondents are permitted to sell in Rotonda during this same period. The purpose of this paragraph is twofold. First, it is an attempt to limit the number of lots respondents can sell in the area of Rotonda, in order to make it easier for Rotonda purchasers to resell their lots. Second, by requiring respondents to concentrate their sales efforts in Charlotte County, in the immediate vicinity of Rotonda, it gives respondents an added incentive to complete the development of Rotonda.

Lastly, Paragraph G will enable the Commission to insure that respondents are spending a sufficient amount of their accounts receivable on the development of Rotonda. Although the Division of Florida Land Sales and Condominiums, through its Improvement Escrow Agreements, is primarily responsible for overseeing the development of Rotonda, the documents to be provided under Paragraph G will give the Commission sufficient information to keep abreast of any future problems.

Sections III, IV and V

Sections III, IV, and V are provisions designed to insure proper implementation of the Order, and to prevent respondents from having to comply with conflicting dictates of various agencies. Section III requires respondents to make sure that all their sales personnel, including independent contractors, comply with the Order. Section IV, Paragraphs A and B, state that where there is a direct conflict between the Order and regulations promulgated by the Office of Interstate Land Sales Registration, the OILSR regulations take precedence. Paragraphs C and D hold that, if the Commission promulgates a land sales Trade Regulation Rule in two limited areas, forfeiture and investment disclosures, the TRR would modify the Order accordingly. Paragraph E holds that, if the "truth" letters which must be sent out under Section II are required to receive approval by another federal agency (presumably OILSR) prior to being sent to purchasers, respondents will not be held responsible for that agency's delay, if any, in approving the letters. Paragraph F relieves respondents from liability under certain Order provisions due to the necessity to get State approval to disseminate advertising and promotional materials. Finally, Section V sets out certain "boilerplate" provisions which deal with normal compliance obligations imposed upon all respondents subject to Orders of the Commission.

CAROL M. THOMAS,
Secretary.

[FR Doc. 79-272 Filed 1-2-79; 8:45 am]

[6750-01-M]

[16 CFR Part 455]

USED MOTOR VEHICLES

Proposed Trade Regulation Rule; Extension of Time to File Post Record Comments

AGENCY: Federal Trade Commission.

ACTION: Extension of time to file post record comments.

SUMMARY: On June 30, 1978, notice of publication of the presiding officer's report on the proposed trade regulation rule on used motor vehicles was published in the FEDERAL REGISTER, 43 FR 28521. On November 14, 1978, notice of publication of the staff report on the proposed rule was published in the FEDERAL REGISTER, 43 FR 52729. The date on which comments on both reports would have been due was January 14, 1979. This notice extends the comment period to February 13, 1979.

DATE: Comments on both the presiding officer's and staff report must be filed no later than February 13, 1979.

ADDRESSES: Requests for copies of the reports should be sent to: Public Reference Branch, Room 130, Federal Trade Commission, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580. Comments should be sent to: Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

Bernard J. Phillips, Attorney, Federal Trade Commission, Washington, D.C. 20580, 202-523-1642.

SUPPLEMENTARY INFORMATION: Pursuant to Rule 1.13(h) of the Commission's Rules of Practice, 16 CFR 1.13(h), interested persons are afforded 60 days to comment on the staff and presiding officer reports filed in rulemaking proceedings. In this proceeding that comment period is scheduled to end on January 14, 1979. The Commission has determined to extend the comment period to allow additional time for post-record comments including comments on a report by the Bureau of Economics will be placed on the record, January 5, 1979.

The Commission has determined that a limited extension of 30 days is in the public interest. Accordingly, all post record comments pursuant to Rule 1.13(h) must be filed no later than February 13, 1979. The Commission anticipates that no further extension of time will be necessary.

By direction of the Commission dated December 26, 1978.

JAMES A. TOBIN,
Acting Secretary.

[FR Doc. 79-271 Filed 1-2-79; 8:45 am]

[1505-01-M]

DEPARTMENT OF AGRICULTURE

Forest Service

[36 CFR Parts 222, 231]

GRAZING AND LIVESTOCK USE ON THE NATIONAL FOREST SYSTEM

Proposed Procedures for Determining Annual Grazing Fees

Correction

In FR Doc. 78-34777 appearing at page 58387 in the issue for Thursday, December 14, 1978, make the following corrections:

(1) In the third column of page 58387, the formula which appears at the top should have read as follows:

$$EC = \$1.23 \times \frac{FVI + (BCPI - PPI)}{100}$$

EC = Economic value
FVI = Forage value index
BCPI = Beef cattle price index
PPI = Price paid index

(2) In the first column of page 58388, the formula appearing under "Implementation" should have read as follows:

$$EC = \$1.23 \times \frac{195 + (216 - 246)}{100} = \$2.03$$

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[1505-01-M]

POSTAL SERVICE

[39 CFR Parts 310 and 320]

RESTRICTIONS ON PRIVATE CARRIAGE OF LETTERS

Proposed Revisions in Comprehensive Standards for Permissible Private Carriage of Letters

Correction

In FR Doc. 78-36217 appearing at page 60615 in the issue of Thursday, December 28, 1978, make the following correction:

On page 60615, in the middle column, under the heading "DATE", substitute "February 12, 1979" for "[45 days]".

[6730-01-M]

FEDERAL MARITIME COMMISSION

[46 CFR Part 544]

[Docket No. 78-57]

FINANCIAL RESPONSIBILITY FOR WATER POLLUTION, OUTER CONTINENTAL SHELF

Proposed Rulemaking

AGENCY: Federal Maritime Commission.

ACTION: Proposed Rulemaking.

SUMMARY: The Federal Maritime Commission is hereby giving notice of proposed regulations affecting persons who own and operate vessels carrying oil from offshore facilities above the Outer Continental Shelf. A recently enacted Federal law imposes upon such vessel owners and operators a new liability for damages and removal costs resulting from discharges of oil. Vessel operators will be required to demonstrate that they are financially able to meet such potential liability before their vessels may lawfully engage in any segment of the transportation of oil from an offshore facility above the Outer Continental Shelf. This rulemaking proposes the manner by which financial responsibility can be demonstrated to the Commission in accordance with the new law and provides for the issuance of Certificates of Financial Responsibility which must be carried aboard vessels and presented to officials of the U.S. Coast Guard, or their designees, upon request.

DATES: Comments will not be accepted later than January 24, 1979.

ADDRESS: Comments should be directed to: Secretary, Federal Maritime Commission, 1100 L Street NW., Washington, D.C. 20573.

FOR FURTHER INFORMATION CONTACT:

Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street NW., Washington, D.C. 20573, (202) 523-5725.

SUPPLEMENTARY INFORMATION: This action is intended to propose regulations which will implement the vessel certification and financial responsibility provisions of Title III of the Outer Continental Shelf Lands Act Amendments of 1978 (the OCSLA Act). The President's authority to issue regulations concerning financial responsibility with respect to vessels is expected to be delegated to the Commission shortly.

After considering comments from interested parties concerning these proposed regulations, the commission will issue its final regulations. The final regulations will *not* supersede the Commission's existing regulations which implement the vessel certification and financial responsibility provisions of two other laws; specifically, section 311 of the Federal Water Pollution Control Act (the FWPCA) and section 204(c) of the Trans-Alaska Pipeline Authorization Act (the TAPAA). Accordingly, after this proposed rulemaking is finalized, the Commission will maintain three separate sets of regulations concerning financial responsibility for oil pollution caused by vessels: 46 CFR Part 542 revised,[1] implementing section 311 of the FWPCA; 46 CFR Part 543, implementing section 204(c) of the TAPAA; and the hereby proposed 46 CFR Part 544, implementing the financial responsibility and related penalty provisions of the OCSLA Act insofar as those provisions apply to vessels.

These proposed regulations apply to a very limited class of vessels, i.e., those vessels which are transporting oil from an offshore facility located on the Outer Continental Shelf, and then only when such vessels are in offshore waters.

THe OCSLA Act provides that the owner *and* any *responsible* operator of a subject vessel shall be "jointly, severally, and strictly liable for all loss for which a claim may be asserted under section 303 of" the OCSLA Act. Section 303 provides that claims for econmic loss, arising out of incidents which cause or pose an imminent threat of oil pollution, may be asserted for removal costs and damages.

"Removal costs," include, but are not limited to, costs of reasonable measures taken, after an incident has occurred, to prevent, minimize, or mitigate oil pollution from such incident; costs of actions taken to actually remove oil from the water and shorelines; and costs for restoring or replacing natural resources.

"Damages" include compensation for the following: injury to, or destruction of, real or personal property; loss of use of real or personal property; injury to or destruction of natural resources; loss of use of natural resources; loss of profits or impairment of earning capacity due to injury to, or destruction of, real or personal property or natural resources; and loss of tax revenue for a period of one year due to injury to real or personal property.

Under various conditions and circumstances set forth in Title III of the OCSLA Act, any person may assert a claim against a vessel owner and/or operator for removal costs and damages. Except under certain circumstances, the liability of a vessel owner and operator is limited to $300 per gross ton of the involved vessel, or $250,000, whichever is greater. Any claim authorized by section 303(a) of the OCSLA Act may be asserted directly against an insurer, guarantor or surety. (Merely for uniformity of reference, under these proposed regulations an insurer, guarantor or surety is termed an "underwriter.")

Section 305(a) of the OCSLA Act provides that the owner or operator of a subject vessel shall establish and maintain, in accordance with applicable regulations, evidence of financial responsibility in the amount of $300 per gross ton or $250,000, whichever is greater. The OCSLA Act and, therefore, these proposed regulations permit evidence of financial responsibility to be demonstrated only by means of insurance, surety bonds, guaranties and self-insurance.

In cases when a person is responsible for more than one vessel, the OCSLA Act provides that the evidence of financial responsibility need be established in an amount based only on the gross tonnage of the largest vessel. That provision of the law is compatible with evidence of financial responsibility in the form of surety bonds, guaranties and self-insurance, but it has little or no practical applicability to insurance. Insurance is always provided by underwriters on the basis of each vessel having its own separate coverage, not on the basis of the largest vessel covered by the insurance. Proposed Insurance Form FMC-193 reflects that fact. In any event, liability under the OCSLA Act (as well as the FWPCA and TAPAA) is based on a per incident basis. Thus, if two vessels belonging to the same vessel owner or operator each cause an oil pollution incident, the vessel owner and operator would be liable for an amount of removal costs and damages based on the aggregate gross tonnage of the two

[1] 46 CFR Part 542 revised, entitled General Order 40, was issued on August 11, 1978 (43 FR 35704) and was modified on September 1, 1978 (43 FR 39102) by the temporary deletion of provisions concerning pollution caused by discharges of "hazardous substances."

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vessels, not merely on the tonnage of the largest vessel. In effect, therfore, in cases of multiple vessel operation, the OCSLA Act requires evidence of financial responsibility in a lesser amount than the potential amount of liability at any given time.

Due to the OCSLA Act requirements concerning financial responsibility, these proposed regulations provide that, after a vessel operator submits (1) insurance or other acceptable evidence of financial responsibility, (2) an application Form FMC-192 and (3) appropriate fees, the Commission will issue a "Certificate of Financial Responsibility (Outer Continental Shelf)" to each vessel covered by the evidence of financial responsibility. The proposed regulations further provide that such Certificates shall be carried aboard the certificated vessels and be presented for inspection upon the request of the U.S. Coast Guard, or its designee, as proof of compliance with the financial responsibility provisions of the OCSLA Act.

Vessels which, upon request, cannot produce a valid Certificate issued by the Commission, are subject to denial of entry to any port or place in the United States or to the navigable waters of the United States. Such vessel also is subject to detainment at the port or place in the United States from which it is about to depart for any other port or place in the United States. The OCLSA Act further provides that any person who fails to comply with regulations implementing the financial responsibility provisions of the OCSLA Act shall be subject to a civil penalty in an amount not exceeding $10,000.

Attention is directed to the following aspects of the proposed Part 544 regulations:

1. Section 544.1 sets forth, in general terms, the scope of these regulations by indicating the circumstances under which a vessel would become subject to those regulations. It should be noted, however, that a subject vessel also would be subject to the current regulations in Part 542 if such vessel (1) exceeded 300 gross tons; (2) was either self-propelled or had on board *any* type of oil (animal, vegetable or mineral), in any quantity for any purpose and (3) operated in the internal waters, coastal waters, three-mile territorial sea or any other navigable waters of the United States such as the Panama Canal. Eventually, the carriage of pollutants other than oil (which pollutants are termed "hazardous substances") also would subject such vessel to the regulations in Part 542. Any vessel also would be subject to the regulations in existing Part 543 if at any time it has on board, for any purpose, oil which had been transported through the trans-Alaska Pipeline and which had not yet been brought ashore at a United States port.

The same vessel, therefore, eventually could be subject to three separate pollution laws and three separate sets of Commission regulations, requiring three separate Certificates of Financial Responsibility from the Commission. Congress has made clear its hope that the three separate water pollution laws soon can be combined into one, comprehensive "superfund" law, requiring only one Certificate of Financial Responsibility. Until that time, vesssel operators who have difficulty in determining what water pollution regulations govern particular operations of their vessels should not hesitate to contact the Commission's Office of Water Pollution Responsibility (telephone 202-523-5820).

2. Section 544.3(d) of the proposed regulations provides that unless the regulations are complied with, a subject vessel operator "* * * shall not permit such vessel to have on board, for any purpose, oil that has been produced by an offshore facility, unless that oil already has been brought ashore at a United States or foreign location." By that provision, the Commission intends to prohibit any vessel operator from loading, carrying, lightering, transshipping or storing Outer Continental Shelf-produced oil without first obtaining a Certificate pursuant to Part 544, unless (1) the oil has already been brought ashore at a United States or foreign location or (2) such loading, carrying, lightering, transshipping or storing, takes place, completely, in waters other than the offshore waters of the United States.

The reason for the two exemptions is the narrow definition of "vessel" [2] in section 301.(5) of the OCSLA Act. That definition, by including the phrase "transporting oil directly from an offshore facility" excludes a vessel carrying Outer Continental Shelf-produced oil after the oil has been brought ashore. The definition also excludes a vessel not operating in offshore waters, i.e., the waters above submerged lands *seaward* from the coastline of a State and the waters above the Outer Continental Shelf. While Congress recognizes that vessels handling Outer Continental Shelf-produced oil in all waters of the United States should be covered under an OCSLA Act type law (i.e., a law that provides coverage for private parties as well as the Government), Congress also has made it clear that such coverage must await the above referred to "superfund" law.

3. Section 544.8(b)(3)(iii) of the proposed regulations provides that, in order to avoid duplications of reports, self-insurers (and guarantors) need not submit financial data for purposes of Part 544, if the financial data submitted under Parts 540, 542, or 543 demonstrate amounts of net worth and working capital sufficient to satisfy, in the aggregate, Part 544 as well. Guarantors, however, would have to submit a Guaranty Form FMC-195.

4. The proposed Insurance, Surety and Guaranty Forms FMC-193, 194, and 195, respectively, require the vessel operator to be named thereon, but does not require the name of the vessel owner if different than the operator. As was the case when the Commission issued regulations to implement a similar joint and several liability statute in 1977 (the TAPAA), the Commission sees no need to burden underwriters under the OCSLA Act by requiring them to also list the names of each of the vessel owners of each of the vessels covered by a particular form. The more names listed on the forms, the greater the paperwork required from underwriters to keep the forms current.

However, the Commission wishes to emphasize that, because vessel owners and operators are jointly and severally liable for removal costs and damages under the OCSLA Act, any liability incurred by a vessel owner is also the liability of the vessel operator. Thus, Forms FMC-193 through 195 are intended to cover the liabilities of operators resulting from acts of the vessel owners as well as acts of the vessel operators. It follows, then, that a named vessel operator would remain covered by a particular Form FMC-193, 194, or 195 even though the vessel is sold to a new owner, provided, of course, that the vessel operator retains responsibility for operating the vessel for the new owner.

Comments are invited with respect to all aspects of the proposed regulations, especially (1) the specific amount of burden imposed by the reporting or recordkeeping requirements contained in these proposed regulations, and whether these requirements in any way duplicate information previously filed at a Federal agency, and (2) major economic costs and consequences of these regulations.

Because the new Certificates of Financial Responsibility required by the OCSLA Act need to be obtained as soon as possible, persons desiring to comment upon this proposed rulemaking will be afforded only 21 days in which to do so. Extensions of time within which to comment will be granted only upon a definite showing of extreme necessity and impairment of the public interest. All commentators participating in this rulemaking proceeding shall file an original and 15 copies of their comments with the Commission.

Accordingly, it is proposed that Title 46 CFR be amended by the addition of a Part 544 reading as set forth below.

FRANCIS C. HURNEY,
Secretary.

[2] The definition of vessel in section 301(5) of the OCSLA Act reads, in pertinent part, as follows: "(5) "vessel" means every description of watercraft * * * which is operating in the waters above the Outer Continental Shelf * * * or which is operating in the waters above submerged lands seaward from the coastline of a State * * * and which is transporting oil directly from an offshore facility;"

PART 544—FINANCIAL RESPONSIBILITY FOR OIL POLLUTION—OUTER CONTINENTAL SHELF

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AUTHORITY: Section 305(a)(1) of the Outer Continental Shelf Lands Act Amendments of 1978.

§ 544.1 Scope.

These regulations (Part 544 of Title 46 of the Code of Federal Regulations) implement the vessel financial responsibility requirements of the Outer Continental Shelf Lands Act Amendments of 1978. That Act applies to all vessels engaged in any segment of the transportation of oil from an offshore facility when such vessels are operating in the waters above submerged lands seaward from the coastline of a State or the waters above the Outer Continental Shelf.

§ 544.2 Definitions.

For purposes of this part, the following terms shall have the indicated meanings:

(a) "Act" means the Outer Continental Shelf Lands Act Amendments of 1978 (Pub. L. 95-372).

(b) "Applicant" means any vessel operator, as defined in paragraph (p) of this section, who has applied for a Certificate or for the renewal of a Certificate.

(c) "Application" means Application for Certificate of Financial Responsibility (Outer Continental Shelf), Form FMC-192.

(d) "Cargo" means oil carried on board a vessel for purposes of transportation, in any quantity and under any conditions.

(e) "Certificant" means any operator, as defined in paragraph (p) of this section, who has been issued a Certificate.

(f) "Certificate" means a Certificate of Financial Responsibility (Outer Continental Shelf) issued by the Federal Maritime Commission pursuant to the regulations in this Part 544.

(g) "Commission" means the Federal Maritime Commission.

(h) "Damages" means economic loss arising directly or indirectly from oil pollution, including injury to, or destruction of, real or personal property; loss of use of real or personal property; injury to, or destruction of, natural resources; loss of use of natural resources; loss of profits or impairment of earning capacity due to injury to, or destruction of, real or personal property or natural resources; loss of tax revenue for a period of one year due to injury to real or personal property; and reasonable costs associated with preparation and presentation of natural resource damage claims. Removal costs are not included in this definition.

(i) "Discharge" means any emission, intentional or unintentional, and includes, but is not limited to, spilling, leaking, pumping, pouring, emptying, or dumping.

(j) "Financial responsibility" means proof of financial ability to satisfy claims for damages and removal costs as required by section 305(a)(1) of the Act.

(k) "Incident" means any occurrence or series of related occurrences, involving one or more vessels, which causes or poses an imminent threat of oil pollution from any source. For purposes of these regulations, an "imminent" threat, as used in the Act, is synonymous with a "substantial" threat, as used in the Federal Water Pollution Control Act, as amended (33 U.S.C. 1321).

(l) "Insurer" means one or more acceptable insurance companies, corporations or associations of insurers, shipowners' protection and indemnity associations, or other persons acceptable to the Commission.

(m) "Offshore facility" includes any oil refinery, drilling rig, drilling structure, oil storage or transfer terminal, or pipeline, or any appurtenance related to any of the foregoing, which is used to drill for, produce, store, handle, transfer, process, or transport oil produced from the Outer Continental Shelf, and is located on the Outer Continental Shelf, except that a vessel or a deepwater port (as the term "deepwater port" is defined in section 3(10) of the Deepwater Port Act of 1974 (33 U.S.C. 1502)) is not included in this definition.

(n) "Oil" means petroleum, including crude oil or any fraction or residue therefrom, whether or not carried on board a vessel.

(o) "Oil pollution" means:

(i) The presence of oil, either in an unlawful quantity or which has been discharged at an unlawful rate (A) in or on the waters above submerged lands seaward from the coastline of a State, or on the adjacent shoreline of such State or (B) on the waters of the contiguous zone established by the United States under Article 24 of the Convention on the Territorial Sea and the Contiguous Zone (15 UST 1606); or

(ii) The presence of oil in or on the waters of the high seas outside the territorial limits of the United States (A) when discharged in connection with activities conducted under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 *et seq.*) or (B) causing injury to or loss of natural resources belonging to, appertaining to, or under the exclusive management authority of, the United States; or

(iii) The presence of oil in or on the territorial sea, navigable or internal waters, or adjacent shoreline of a foreign country, in a case where damages are recoverable by a foreign claimant under Title III of the Act.

(p) "Operator" or "vessel operator" means a demise charterer or any other person responsible for the operation of a vessel, including a person who both owns and is responsible for the operation of a vessel.

(q) "Outer Continental Shelf" means all submerged lands lying seaward and outside of the area of lands beneath navigable waters (as the term "lands beneath navigable waters" is defined in section 1301 of the Submerged Lands Act (43 U.S.C. 1301)), and of which the subsoil and seabed appertain to the Unites States and are subject to its jurisdiction and control.

(r) "Owner" or "vessel owner" means any person holding legal or equitable title to a vessel. In a case where a Certificate of Registry or equivalent document has been issued, the owner shall be deemed to be the person or persons whose name or names appear thereon as owner; *Provided, however,* That where a Certificate of Registry has been issued in the name of the President or Secretary of an incorporated company pursuant to 46 U.S.C. 15, such incorporated company will be deemed to be the owner; *And provided, further,* That this definition does not include a person who, without participating in the management or operation of a vessel, holds indicia of ownership primarily to protect a security interest in that vessel.

(s) "Person" includes, but is not limited to, an individual, a governmental entity, a firm, a corporation, an association, a partnership, a joint-stock company, a joint venture, a consortium, a business trust, or an unincorporated organization.

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(t) "Public vessel" means a vessel, not engaged in commerce, the operator of which is the Government of the United States or a State or political subdivision thereof, or the government of a foreign entity.

(u) "Remove," "removing," or "removal" means (1) the physical removal of oil from the water and shorelines; (2) the taking of such other actions as may be necessary to prevent, minimize or mitigate damage to the public health or welfare (including, but not limited to, fish, shellfish, wildlife and public or private property, shorelines and beaches), resulting from a discharge or substantial threat of a discharge of oil; (3) the restoration or replacement of natural resources damaged or destroyed as the result of a discharge of oil in violation of section 311(b) of the Federal Water Pollution Control Act; (4) reasonable measures taken, after an incident has occurred, to prevent, minimize, or mitigate oil pollution from such incident; and (5) measures of a similar or related nature under section 5 of the Intervention on the High Seas Act.

(v) "Submerged lands seaward from the coastline of a State" means the area of "lands beneath navigable waters" as described in section 2(a) of the Submerged Lands Act (43 U.S.C. 1301(a)(2)). Generally, that area can be described as all lands permanently or periodically covered by tidal waters up to but not above the line of mean high tide and seaward to a line three geographical miles distant from the coastline of a State, and to the boundary line of each such State where in any case such boundary extends seaward (or into the Gulf of Mexico) beyond three geographical miles.

(w) "Underwriter" means an insurer, a surety company, a guarantor, or any other person, other than the operator, who provides evidence of financial responsibility for an operator.

(x) "United States" or "State" means any place under the jurisdiction of the United States, including, but not limited to, the States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, Guam, American Samoa, the United States Virgin Islands, the Trust Territory of the Pacific Islands and the Commonwealth of the Northern Mariana Islands.

(y) "Vessel" means every discription and size of watercraft or other artificial contrivance, other than a public vessel, which is operating in the waters above the Outer Continental Shelf or in the waters above submerged lands seaward from the coastline of a State, and which is engaged in any segment of the transportation of oil from an offshore facility, including carrying, lightering, transshipping, or storing such oil.

§ 544.3 General.

(a) The regulations in this Part set forth the procedures whereby an owner and operator of a vessel subject to these regulations can demonstrate that each is financially able to meet liability for removal costs and damages in the amount of $300 per gross ton of such vessel, or $250,000, whichever is greater. That amount represents the maximum amount of liability under section 304 of the Act in a case where the owner and operator of a particular vessel are entitled to limit their liability. Owners and operators are jointly, severally and strictly liable.

(b) Upon the satisfactory demonstration of financial responsibility in accordance with the regulations of this part, the Commission shall issue Certificates which are to be carried aboard the vessels named on such Certificates. The carriage of a valid Certificate will indicate to the United States Coast Guard that the vessel named thereon is in compliance with the financial responsibility provisions of the Act. Failure to carry a valid Certificate subjects a vessel to enforcement action by the Coast Guard and also subjects the vessel owner and operator to penalty procedures by the Commission.

(c) In a case where a vessel is actually operated by its owner, or the owner is responsible for its operation, the owner shall be considered to be the operator and shall file the application for a Certificate. In all other cases, the vessel operator shall file the application.

(d) Before March 17, 1979, the operator of each vessel subject to the regulations in this part shall have submitted to the Commission a properly completed Application Form FMC-192, acceptable evidence of financial responsibility and application and certification fees. Otherwise, such vessel operator shall not permit such vessel to have on board, for any purpose, oil that has been produced by an offshore facility, unless that oil already has been brought ashore at a United States or foreign location.

(e) The gross tons of a vessel subject to these regulations shall be presumed to be the tonnage indicated in the vessel's Certificate of Registry, or, in the absence thereof, other marine documents acceptable to the Commission. If a vessel has more than one gross tonnage, the higher tonnage shall apply.

§ 544.4 Where to apply and obtain forms.

(a) Any operator who wishes to be issued a Certificate shall file or cause to be filed with the Commission an Application Form FMC-192, fees and evidence of financial responsibility at the following address:

Office of Water Pollution Responsibility, Federal Maritime Commission, Washington, D.C. 20573.

(b) Regulations concerning application Forms FMC-192 are set forth in §§ 544.5 and 544.6. Regulations concerning fees are set forth in § 544.12, and regulations concerning evidence of financial responsibility are set forth in § 544.8. Forms may be obtained from the Commission's Office in Washington, D.C. and from the Commission offices at New York, New York; New Orleans, Louisiana; Miami, Florida; San Francisco, California; Chicago, Illinois; Savannah, Georgia; San Pedro, California and Hato Rey, Puerto Rico. All requests for assistance, including telephone inquiries, in completing applications should be directed to the Commission's Office of Water Pollution Responsibility in Washington, D.C.

§ 544.5 Time to apply.

A completed application, fees and evidence of financial responsibility shall be filed as soon as possible before March 17, 1979. After that date, filings shall be made at least 21 days prior to the date the Certificate is required. Applications will be processed in the order in which they are filed.

§ 544.6 Applications, general instructions.

(a) All applications and supporting documents shall be in English. All monetary terms shall be in United States currency.

(b) Only vessel operators, as defined in paragraph (p) of § 544.2, may apply for a Certificate. The spaces on the Application Form FMC-192 shall be filled in only with the information requested or the phrase "Not applicable."

(c) The application shall be signed by an authorized official of the applicant, whose title shall be shown in the space provided on the application. A written statement proving authority to sign shall be required where the signer is not disclosed on the application as an individual (sole proprietor) applicant, a partner in a partnership applicant, or a director or officer of a corporate applicant.

(d) If, prior to the issuance of a Certificate, the applicant becomes aware of a change in any of the facts contained in the application or supporting documentation, the applicant shall, in writing, within five (5) days of becoming aware of the change, notify the Commission of the change.

§ 544.7 Renewal of Certificates.

After Certificates are issued, certificants shall apply to the Commission for the issuance of renewal Certificates. Such applications shall be made in writing at least 21 days, but not earlier than 90 days, prior to the expiration dates of the existing Certificates.

Each application shall be accompanied by appropriate recertification (renewal) fees, shall identify any item of information on the original Application Form FMC-192 which has changed since the original application was filed, and shall set forth the correct information in full.

§ 544.8 Financial responsibility, how established.

(a) *General.* In addition to filing an Application Form FMC-192 and appropriate fees, each vessel operator subject to the regulations in this Part shall demonstrate that it is able to satisfy liability under Title III of the Act, in an amount not less than $300 per gross ton or $250,000, whichever is greater. The evidence of financial responsibility required by these regulations shall cover the vessel owners as well as the vessel operators, jointly and severally. The amount of evidence of financial responsibility required by the regulations in this Part 544 is separate from and in addition to the amount, if any, required of an applicant pursuant to Parts 540, 542 and 543 of this title.

(b) *Methods.* An applicant shall establish evidence of financial responsibility by any one of, or by any acceptable combination of, the following methods:

- Insurance;
- Surety Bond;
- Self-Insurance;
- Guaranty.

(1) *Insurance.* Insurance may be established by filing with the Commission an Insurance Form FMC-193 executed by an insurer which is acceptable to the Commission for purposes of the regulations in this part;

(2) *Surety Bond.* An applicant may file with the Commission a Surety Bond Form FMC-194, executed by the applicant and by a surety company which is located in the United States and which is acceptable to the Commission for purposes of the regulations in this part. To be acceptable, surety companies must, at a minimum, be certified by the United States Department of the Treasury with respect to the issuance of Federal bonds in the penal sum of the bonds to be issued under these regulations;

(3) *Self-Insurance.* A vessel operator may qualify as a self-insurer by maintaining, in the United States, working capital and a net worth, each in the amount of $300 per gross ton of the largest vessel to be self-insured or $250,000, whichever is greater. For the purposes of this subparagraph, "working capital" is defined as the amount of current assets located in the United States, less *all* current liabilities; and "net worth" is defined as the amount of all assets located in the United States, less *all* liabilities. The amounts of working capital and net worth required by this subparagraph are in addition to the amounts of working capital and net worth, if any, required by Part 540 (Security for the Protection of the Public), Part 542 (Financial Responsibility for Water Pollution) and Part 543 (Oil Pollution Cleanup—Alaska Pipeline) of this Title 46. Maintenance of the required working capital and net worth shall be demonstrated by submitting with the initial application the items specified in subdivision (i) of this subparagraph for the applicant's last fiscal year preceding the date of application. Thereafter, for each of the applicant's fiscal years, the applicant/certificant shall submit the items specified in subdivisions (i) and (ii) of this subparagraph and shall be subject to the provisions of subdivisions (iii), (iv), (v) and (vi) of this subparagraph:

(i) *Initial and annual submissions.* An applicant/certificant shall submit an annual, current non-consolidated balance sheet and an annual, current non-consolidated statement of income and surplus, certified by an independent Certified Public Accountant. Those financial statements shall be accompanied by an additional statement from the applicant's/certificant's Treasurer (or equivalent official in the case of non-corporate applicant/certificant), certifying to both the amount of current assets and the amount of total assets, included in the accompanying balance sheet, which are located in the United States and acceptable for purposes of this part, e.g., not pledged for purposes of Part 540, Part 542 or Part 543. If the balance sheet and statement of income and surplus cannot be submitted in non-consolidated form, consolidated statements may be submitted if accompanied by an additional statement prepared by the involved Certified Public Accountant, certifying to the amount by which (A) the applicant's/certificant's total assets, located in the United States and acceptable for purposes of this part, exceed its total liabilities, and (B) the applicant's/ceritficant's current assets, located in the United States and acceptable for purposes of this Part, exceed its current liabilities. Such additional statement by the Certified Public Accountant must specifically name the applicant/certificant, must indicate that the amounts so certified relate only to the applicant/certificant, apart from any other entity, and must identify the consolidated financial statement to which it applies;

(ii) *Semi-annual submissions.* When the applicant's/certificant's demonstrated net worth is not at least ten times the required amount, an affidavit shall be filed by the applicant's/certificant's corporate Treasurer (or the equivalent official in cases where the applicant/certificant is not a corporation) covering the first six months of the applicant's/certificant's fiscal year. Such affidavits shall state that neither the working capital nor the net worth have, during the first six months, fallen below the required amounts;

(iii) *Additional submissions.* If an applicant's/certificant's annual and semi-annual submissions of financial data under Parts 540, 542 or 543 demonstrate amounts large enough to meet the requirements of this part as well, separate annual and semi-annual submissions for purposes of this part shall not be necessary. Additional financial information, however, shall be submitted upon request of the Commission. All applicants/certificants who choose self-insurance shall notify the Commission within five days of the date such persons know, or have reason to believe, that the amount of working capital or net worth have fallen below the amounts required by this subparagraph;

(iv) *Time for submissions.* All required annual financial statements shall be received by the Commission within three calendar months after the close of the applicant's/certificant's fiscal year, and all six-month affidavits within one calendar month after close of the applicable six-month period. Upon written request, the Commission may grant a reasonable extension of the time limits for filing financial statements/affidavits: *Provided,* That the request sets forth good and sufficient reason to justify the requested extension and is received 15 days before the statements/affidavits are due. The Commission will not consider a request for an extension of more than 45 days;

(v) *Failure to submit.* Failure to timely file any statement, data, or affidavit required by this subparagraph (3) shall cause the revocation of the Certificate;

(vi) *Waivers of submissions.* For good cause shown in writing by the applicant/certificant, the Commission may waive the working capital requirement in cases where the applicant/certificant is an economically regulated public utility, a municipal or higher-level governmental entity, or an entity which operates solely as a charitable, non-profiting organization. The Commission will consider good cause to have been shown in those cases when the applicant/certificant demonstrates in writing that the grant of such waiver would benefit at least a local public interest without resulting in undue risk to the environment *and* without resulting in undue risk that the applicant's/certificant's limits of liability could not be met. In addition, for good cause shown in writing by an applicant/certificant, the Commission

may waive the working capital requirement in any case where it can be demonstrated that working capital is not a significant factor in the applicant's/certificant's financial condition. An applicant's/certificant's net worth in relation to the amount of its exposure under the Act, as well as a history of stable operations will be major elements in such demonstration;

(4) *Guaranty.* A vessel operator may file with the Commission a Guaranty Form FMC-195 executed by a guarantor acceptable to the Commission for purposes of the regulations in this part. A guarantor shall be subject to and must fully comply with all of the self-insurance provisions of subparagraph (3) of this paragraph (b). In addition, the amounts of working capital and net worth required to be demonstrated by an acceptable guarantor shall be no less than the aggregate amounts underwritten as a guarantor and self-insurer pursuant to these regulations and the regulations of Part 540, Part 542 and 543 of this title;

(5) *Other methods.* An applicant may not choose any other method of demonstrating financial responsibility, nor any modifications of any of the foregoing methods;

(c) *Forms—General.* The Commission's Application Form FMC-192, Insurance Form FMC-193, Surety Bond Form FMC-194 and Guaranty Form FMC-195, as appended to this part, are hereby incorporated into this part. If more than one insurer, guarantor, or surety joins in executing an insurance, guaranty, or surety bond form, such action shall constitute joint and several liability on the part of such joint underwriters. Each form submitted to the Commission pursuant to these regulations shall set forth in full the correct name of the vessel operator to whom Certificates are to be issued.

(d) *Direct action.* Forms FMC-193 through FMC-195 shall permit a claimant to commence an action for removal cost and damage claims authorized by section 303 of the Act directly against the underwriter. Such forms shall also provide that in the event such action is brought directly against the underwriter, such underwriter shall be entitled to invoke only those rights and defenses permitted by section 305(c) of the Act.

(e) *Public access to data.* Financial data filed by applicants, certificants, and underwriters shall be public information to the extent required by the Freedom of Information Act and permitted by the Privacy Act.

§ 544.9 Certificates, issuance.

(a) A separate Certificate for each vessel listed on completed applications shall be issued by the Commission when acceptable evidence of financial responsibility has been provided and appropriate fees have been paid. Such Certificates will be issued only to vessel operators, as defined in paragraph (p) of § 544.2. Each Certificate shall be effective for not more than three years from the date of issue.

(b) The original Certificate shall be carried on the vessel named on the Certificate. However, a legible copy (certified as accurate by a notary public or other person authorized to take oaths) may be carried in lieu of the original Certificate if the vessel is an unmanned barge which (1) does not require a Certificate of Inspection from the United States Coast Guard, (2) is owned and operated by United States entities and (3) does not have a facility which the vessel operator believes would offer suitable protection for the original Certificate issued by the Commission. If a copy is carried aboard such barge, the original shall be retained at a location in the United States and shall be kept readily accessible for inspection by U.S. Government officials.

(c) Erasures or other alterations on a Certificate or copy is prohibited (even if made by government authorities) and automatically voids such Certificate or copy.

(d) If at any time after a Certificate has been issued a certificant becomes aware of a change in any of the facts contained in the application or supporting documentation, the Certificant shall notify the Commission in writing within five (5) days of becoming aware of the change.

(e) If for any reason, including a vessel's demise or transfer to a new operator, a certificant ceases to be the vessel's operator, as defined in paragraph (p) of § 544.2, the certificant shall, within ten (10) days, complete the reverse side of that vessel's original Certificate and return it to the Commission. Such Certificate and any copy thereof is automatically void (whether or not returned to the Commission), and its use is prohibited. Where such voided Certificate cannot be returned because it has been lost or destroyed, the certificant shall, as soon as possible, submit the following written information to the Commission:

(1) The number of the Certificate and the name of the vessel;

(2) The date and reason why the certificant ceased to be the operator of the vessel;

(3) The location of the vessel on the date the certificant ceased to be the operator;

(4) The name and mailing address of the person to whom the vessel was returned, sold or transferred; and

(5) The reason why the Certificate cannot be returned.

§ 544.10 Operator's responsibility for identification.

Except in the case of unmanned barges, operators who are not also the owners of certificated vessels shall carry on board such vessels the original or legible copy of the demise charter-party or any other written document which demonstrates that such operators are, in fact, the operators designated on the Certificates. Such documents shall be presented for examination to U.S. Government officials upon request.

§ 544.11 Certificates, denial or revocation.

(a) A certificate shall be denied or revoked for any of the following reasons:

(1) Making any willfully false statement to the Commission in connection with an application for an initial Certificate or a request for a renewal Certificate or the retention of an existing Certificate;

(2) Failure of an applicant or certificant to establish or maintain acceptable evidence of financial responsibility as required by the regulations in this part;

(3) Failure to comply with or respond to lawful inquiries, regulations, or orders of the Commission pertaining to activities subject to this part;

(4) Failure to timely file the statements or affidavits required by subdivisions (i), (ii), or (iii) of subparagraph (3) of paragraph (b) of § 544.8 of these regulations; or

(5) Cancellation or termination of any insurance form, surety bond or guaranty issued by an underwriter pursuant to these regulations, unless acceptable substitute evidence of financial responsibility has been submitted to the Commission.

(b) Denial or revocation of a Certificate shall be immediate and without prior notice in a case where the applicant or certificant (1) is no longer the responsible operator of the vessel in question, (2) fails to furnish acceptable evidence of financial responsibility in support of an application, (3) permits the cancellation or termination of the insurance form, surety bond or guaranty upon which the continued validity of the Certificate was based, or where (4) the Certificate no longer reflects current information, as would occur in the case of a name change or other change. In any other case, prior to the denial or revocation of a Certificate, the Commission shall advise the applicant or certificant, in writing, of its intention to deny or revoke the Certificate, and shall state the reason therefor.

(c) If the reason for an intended revocation is failure to file the required financial statements or affidavits, the revocation shall be effective ten (10) days after the date of the notice of intention to revoke, unless the certificant shall, prior to revocation, demonstrate that the required statements were timely filed.

(d) If the intended denial or revocation is based upon one of the reasons in § 544.11(a) (1) or (3), the applicant or certificant may request, in writing, a hearing to show that the applicant or certificant is in compliance with the provisions of the regulations in this part, and, if such request is received within 30 days after the date of the notification of intention to deny or revoke, such hearings shall be granted by the Commission. Hearings pursuant to these regulations shall be conducted in accordance with the Commission's rules of practice and procedure (46 CFR Part 502).

§ 544.12 Fees.

(a) This section establishes the application fee which shall be imposed by the Commission for processing Application Form FMC-192 and also establishes the certification fee which shall be imposed for the issuance or renewal of Certificates.

(b) No Certificate shall be issued unless the application and/or certification fees set forth in paragraphs (d) and (e) of this section have been paid.

(c) Fees shall be paid by check, draft, or postal money order in United States currency, and be made payable to the Federal Maritime Commission.

(d) Each applicant who submits Application Form FMC-192 for the first time shall pay an initial, non-refundable application fee of $100. Applications for additional Certificates, or to amend or renew existing Certificates, shall not require new application fees. However, once an Application Form FMC-192 is withdrawn or denied for any reason, and the same applicant, holding no valid Certificates, wishes to reapply for a Certificate (covering the same or new vessel), a new application form and application fee of $100 shall be required.

(e) Applicants shall pay a $20 fee for each Certificate issued. Applicants shall submit such certification fee for each vessel listed in, or later added to, an application. The $20 certification fee is required to renew or to reissue a Certificate for any reason, including, but not limited to, a name change or a lost Certificate.

(f) Certification fees shall be refunded, upon receipt of a written request, if the application is withdrawn or denied prior to issuance of the Certificates. Over-payments in the application fees and/or the certification fees will be refunded on request only if the refund is $10 or more. However, any overpayments not refunded will be credited, for a period of three years from the date of receipt of the monies by the Commission, for the applicant's possible future use in connection with the regulations in this part.

§ 544.13 Enforcement.

(a) Any operator of a vessel subject to the regulations in this part who fails to comply with the regulations in this part shall be subject to a civil penalty of not more than $10,000 for each such failure to comply, in accordance with section 312(a) of the Act. Such penalties may be assessed and compromised by the Federal Maritime Commission pursuant to the provisions of section 312(a) of the Act.

(b) The Secretary of the Department in which the Coast Guard is operating may (1) deny entry to any port or place in the United States or the navigable waters of the United States and (2) detain at the port or place in the United States from which it is about to depart for any other port or place in the United States, any vessel subject to the regulations in this part, which, upon request, does not produce a valid Certificate.

§ 544.14 Service of process.

When executing the forms required by the regulations in this part, each applicant and underwriter shall designate thereon a person in the United States as its agent for service of process for the purposes of Title III of the Act and of the regulations in this part. Each designation shall be acknowledged in writing by the designee unless the designee, pursuant to these regulations, has already furnished the Commission with a "master" concurrence showing that it has agreed in advance to act as the United States agent for service of process for the applicant or underwriter in question.

FORM FMC-192

FEDERAL MARITIME COMMISSION,
WASHINGTON, D.C. 20573

APPLICATION FOR CERTIFICATE OF FINANCIAL RESPONSIBILITY (OUTER CONTINENTAL SHELF)

INSTRUCTIONS: Please type or print clearly and submit this application to the Office of Water Pollution Responsibility, Federal Maritime Commission, Washington, D.C. 20573. The application is in four parts: Part I—General; Part II—Evidence of Financial Responsibility; Part III—Declaration; and Part IV—Concurrence of Agent. Applicants must answer Item 4 and all other applicable questions. If a question does not apply, answer "not applicable." Incomplete applications will be returned. If additional space is required, supplemental sheets may be attached.

THIS SPACE FOR USE BY FMC ONLY

GENERAL (PART I OF 4 PARTS)

1. (a) Legal name of applicant (name of legally responsible operator of all vessels listed in Part II):

(b) English equivalent of legal name if customarily written in language other than English:

(c) Trade name, if any:

2. (a) Is this the first time the above-named applicant is applying for a Certificate of Financial Responsibility (Outer Continental Shelf)?

NOTE.—This question does not refer to any other type of Certificate.

☐ Yes
☐ No If "No," complete item "b" below.

(b) What FMC control number was assigned to the first Application Form FMC-192?

3. (a) State applicant's legal form of organization, i.e., whether operating as an individual, corporation, partnership, association, joint stock company, business trust or other organized group of persons (whether incorporated or not), or as a receiver, trustee, or other liquidating agent, and briefly describe current business activities and length of time engaged therein:

(b) If a corporation, association, or other organization, please indicate:

Name of state of foreign country in which incorporated or organized:

Date of incorporation or organization:

(c) If a partnership, give name and address of each partner:

4. Name and address of applicant's United States agent or other person authorized by applicant to accept legal service in the United States (see PART IV):

EVIDENCE OF FINANCIAL RESPONSIBILITY (PART II OF 4 PARTS)

5. Please list each vessel for which a Certificate is desired. Vessels for which the operator named in item 1(a) is not responsible should not be listed in this form. In column (f) indicate the number "1" if the operator is also the registered owner. Indicate "2" in column (f) if the operator is not the registered owner.

(a) Name of Vessel
(b) Type of Vessel
(c) Country of registry
(d) Registration number
(e) Gross tons
(f) "1" or "2"

(g) If applicant indicated "2" for any vessel listed above in column 5(f), please indicate:

Name of vessel
Owner
Owner's mailing address

6. Items 7 through 10 are optional methods of establishing financial responsibility. Check the appropriate box(es) below and answer only the item(s) which are applicable to this application:

☐ Insurance (Answer Item 7)
☐ Surety Bond (Answer Item 8)
☐ Guaranty (Answer Item 9)
☐ Self-Insurer (Answer Item 10)

7. Name and address of applicant's insurer (evidence of insurance acceptable to the Federal Maritime Commission must be filed on Insurance Form FMC-193 before a Certificate will be issued):

8. (a) Total amount of surety bond. (Surety Bond Form FMC-194 must be filed with and acceptable to the Commission before a Certificate will be issued.):

(b) Name and address of applicant's surety:

9. (a) Name and address of applicant's guarantor (Guaranty Form FMC-195 and all required financial data must be filed before a Certificate will be issued.):

☐ (b) Guarantor's fiscal year:

——————— to ———————

(Month) (Day) (Month) (Day)

10. If applicant intends to qualify as a self-insurer, attach all required financial data and indicate fiscal year:

——————— to ———————

(Month) (Day) (Month) (Day)

DECLARATION (PART III OF 4 PARTS)

11. Applicant's mailing address (street, number, post office box, city, state or country, and ZIP code if in the United States):

12. Telex Number and answerback:

13. Type or print in this space the name and title of the official who is signing this application:

14. Area code and telephone number:

I declare that I have examined this application, including any accompanying schedules and statements, and, to the best of my knowledge and belief, it is true, correct, and complete. Furthermore, it is agreed that the applicant named in item 1(a) of Part I above is the responsible operator of all vessels now listed in or later added to this application. I also agree that in the event the agent designated in item 4 of Part I above, or his replacement as may be appointed later with the approval of the Federal Maritime Commission, cannot be served due to death, disability, or unavailability, the Secretary, Federal Maritime Commission, shall be deemed to be the agent for service of process. I have signed this application in my above-indicated capacity as an authorized official of the applicant, or, if acting under a power of attorney, pursuant to the power vested in me by the said applicant as evidenced by the attached document.

IMPORTANT

Date: ———————

Signature of above official:

———————

NOTE.—Please be sure that Parts I, II, and III have been completed in full and that Part III has been dated and signed. Then proceed to Part IV, attached.

Comments:

The statements hereinabove set forth are made subject to penalties prescribed by law for any person who knowingly and willfully makes false statements on any matter within the jurisdiction of an agency of the United States (18 U.S.C. 1001).

CONCURRENCE OF AGENT (PART IV OF 4 PARTS)

Part IV-A must be completed by the person designated in Item 4 of Part I to serve as applicant's United States agent for service of legal process. Part IV-B must be completed by the applicant. After Parts IV-A and IV-B are completed, Part IV should be submitted to the Commission by the applicant or by the agent, either separately or together with Parts I, II, and III. (Part IV need not be completed if the agent designated in Item 4 of Part I already has submitted to the Commission an acceptable blanket Concurrence of Agent, agreeing to serve on behalf of certain applicants who designate such agent. Part IV also need not be completed if the applicant is a United States entity and has appointed itself as agent in item 4 of Part I.)

Part IV-A

It is hereby agreed that

.....

(Type name of United States agent)

shall serve as the herein named applicant's United States agent for service of legal process for purposes of Part 544, Title 46, CFR, and Title III of the Outer Continental Shelf Lands Act Amendments of 1978. This designation and agreement shall cease immediately in the event that said applicant designates a new agent acceptable and agreed to by the Federal Maritime Commission.

Date: ———————

Signature of person signing on behalf of agent:

———————

Title: ———————

Business address: ———————

Part IV-B

TO BE COMPLETED BY APPLICANT

Name of applicant (from item 1(a)):

———————

Signature of person signing on behalf of applicant: (person signing here should also sign in appropriate place on Part III)

———————

Date: ———————

Type or print name and title: ———————

———————

FEDERAL MARITIME COMMISSION

INSURANCE FORM FMC-193 NO. —— FURNISHED AS EVIDENCE OF FINANCIAL RESPONSIBILITY UNDER TITLE III OF THE OUTER CONTINENTAL SHELF LANDS ACT AMENDMENTS OF 1978 (PUB. L. 95-372)

.....

(Name of Insurer)

(hereinafter "Insurer") hereby certifies that for purposes of complying with the provisions of section 305(a)(1) of the Outer Continental Shelf Lands Act Amendments of 1978 (hereinafter "Act"), each of the vessel operators specified in the schedules below is insured by it, in respect to each of the vessels respectively specified therein, against liability for removal costs and damages to which such vessel operators could be subjected under Title III of the Act. The amount of liability insured herein is $300 per gross ton or $250,000, whichever is greater, per vessel, in any one incident.

.....

(Name of Agent)

with offices located at ———————

is hereby designated as the Insurer's agent for service of process for the purposes of Title III of the Act and for the purposes of the regulations of the Federal Maritime Commission (Part 544 of Title 46, Code of Federal Regulations). If the designated agent cannot be served due to death, disability or unavailability, the Secretary of the Federal Maritime Commission shall be deemed to be the agent for service of process.

The Insurer consents to be sued directly in respect of any claim authorized under section 303 of the Act against any of the said operators: *Provided, however,* That in any such direct action its liability per vessel in any one incident shall not exceed $300 per gross ton of such vessel or $250,000, whichever is greater. The Insurer shall be entitled to invoke only the rights and defenses permitted by Title III of the Act to the vessel operator and the defense that the incident was caused by the willful misconduct of the vessel operator.

The insurance evidenced by this undertaking shall be applicable only in relation to incidents occurring on or after the effective date and before the termination date of this undertaking, and shall be applicable only to incidents giving rise to claims authorized under section 303 of the Act in respect to any of the below-listed vessels.

The effective date of this undertaking shall, for each vessel listed below, be the date such vessel is named in or added to the schedules below. For each such vessel, the termination date of this undertaking shall be 30 days after the date of receipt of written notice by the Federal Maritime Commission (FMC) that the Insurer has elected to terminate the insurance evidenced by this undertaking, and has so notified the vessel operator. However, for any vessel carrying Outer Continental Shelf-produced oil as cargo that has been loaded prior to the scheduled date of termination, such termination shall not take effect until (1) completion of discharge of such cargo, or (2) until 60 days after the date of receipt in writing by the FMC of notice that the Insurer has elected to terminate the insurance evidenced by this undertaking, whichever date is earlier.

Termination of this undertaking as to any vessel shall not affect the liability of the Insurer in connection with an incident occurring prior to the date such termination becomes effective.

If, during the currency of this undertaking, a below-named operator requests that an additional vessel be made subject to this undertaking, and if the Insurer accedes to such request and should so notify the FMC, then such vessel shall be deemed included in the schedules below.

If more than one insurer joins in executing this document, such action shall constitute joint and several liability on the part of such insurers. The definitions in 46 CFR 544.2 shall apply to this undertaking.

Effective Date of Coverage for Vessels Originally Named on this Undertaking:

.....

Day/month/year

.....

(Name of Insurer)

.....

(Mailing Address)

.....

.....

By:

.....

(Signature of Official Signing on Behalf of Insurer)

.....

Typed Name and Title of Signer)

Insurance Form FMC-193 No. ——

SCHEDULE OF VESSELS AND ASSURED OPERATORS

Vessel	Gross Tons	Assured Operator

Insurance Form FMC-193 No. ——

SCHEDULE OF VESSELS AND ASSURED OPERATORS ADDED TO ABOVE SCHEDULE

Vessel	Gross Tons	Assured Operator	Date Added

Insurance Form FMC-193 No. ——

[Surety Co. Bond No. ——]

FEDERAL MARITIME COMMISSION

OIL DISCHARGE SURETY BOND FORM FMC-194 FURNISHED AS EVIDENCE OF FINANCIAL RESPONSIBILITY UNDER TITLE III OF THE OUTER CONTINENTAL SHELF LANDS ACT AMENDMENTS OF 1978 (PUB.L. 95-372)

KNOW ALL MEN BY THESE PRESENTS, that We

.....

(Name of Vessel Operator)

of ———————

(City, State, and Country)

as Principal (hereinafter called Principal), and

.....

(Name of Surety)

a company created and existing under the laws of

.....

(State and Country)

and authorized to do business in the United States, as Surety (hereinafter called Surety), are held and firmly bound unto the United States of America and other claimants for damages and removal cost liability under Title III of the Outer Continental Shelf Lands Act Amendments of 1978 (hereinafter "Act") in the penal sum of

$ ———————

(Penal Sum May Not Be Less Than $250,000)

for which payment, well and truly to be made, we bind ourselves and our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, The Principal intends to become or is a holder of a Certificate of Financial Responsibility (Outer Continental Shelf) pursuant to the provisions of Part 544 of Title 46, Code of Federal Regulations, and has elected to file with the Federal Maritime Commission (FMC) such a bond as will insure financial responsibility to meet liability for removal costs and damages in connection with claims authorized by section 303 of the Act, and

WHEREAS, this bond is written to insure compliance by the Principal with the requirements of section 305(a)(1) of the Act, and shall inure to the benefit of claimants under Title III of the Act,

NOW, THEREFORE, the condition of this obligation is such that if the Principal shall pay or cause to be paid to claimants any sum or sums for which the Principal may be held legally liable under Title III of the Act, then this obligation, to the extent of such payment, shall be void, otherwise to remain in full force and effect.

The liability of the Surety shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penalty of the bond. In no event shall the Surety's obligation hereunder exceed the amount of said penalty: *Provided,* That the Surety furnishes written notice to the FMC forthwith of all claims filed, judgments rendered, and payments made by said Surety under this bond.

Any claim for which the Principal may be liable under Title III of the Act may be brought against the Surety. In the event of such direct claim, the Surety shall be entitled to invoke only (1) the rights and defenses permitted by Title III of the Act to the Principal (vessel operator) and (2) the defense that the incident giving rise to the claim was caused by the willful misconduct of the Principal.

This bond is effective the — day of ———, 19—, 12:01 a.m., standard time at the address of the Surety as stated herein and shall continue in force until terminated as hereinafter provided. The Principal or the Surety may at any time terminate this bond by written notice sent by certified mail to the other party with a copy (plainly indicating that the original notice was sent by certified mail) to the FMC at its office in Washington, D.C., such termination to become effective thirty (30) days after actual receipt of said written advice by the FMC: *Provided, however,* That with respect to any of the Principal's vessels which are carrying Outer Continental Shelf-produced oil as cargo that has been loaded prior to the time such termination would otherwise have become effective, such termination shall not become effective (1) until completion of discharge of such cargo, or (2) until 60 days after the date of receipt by the FMC of notice of termination of the bond by the Principal or the Surety under the conditions set forth above, whichever date is earlier. The Surety shall not be liable hereunder in connection with an incident occurring after the termination of this bond as herein provided, but such termination shall not affect the liability of the Surety in connection with an incident occurring prior to the date such termination becomes effective.

The Surety designates

.....

(Name of Agent)

with offices at ———————

as the Surety's agent for service of process for the purposes of Title III of the Act and for the purposes of the regulations of the FMC (Part 544 of Title 46, Code of Federal Regulations). If the designated agent cannot be served due to death, disability, or unavailability, the Secretary of the FMC shall be deemed to be the agent for service of process.

If more than one surety company joins in executing this bond, such action shall constitute joint and several liability on the part of such sureties. The definitions in 46 CFR 544.2 shall apply to this bond.

In witness whereof, the Principal and Surety have executed this instrument on the — day of ———, 19—.

(Please type name of signer under each signature. In the case of a partnership, each partner must sign.)

PRINCIPAL

.....

.....

(Individual Principal or Partner)
(Business Address)

.....

.....

(Individual Principal or Partner)
(Business Address)

.....

.....

(Individual Principle or Partner)
(Business Address)

.....

.....

Corporate Principal

.....

Business Address

.....

.....

By
(Affix Corporate Seal)

.....

Title

.....

.....

SURETY

.....

Corporate Surety

.....

Business Address

.....

.....

By
(Affix Corporate Seal)

.....

Title

Surety Co. Bond No. ——

Form FMC-194

FEDERAL MARITIME COMMISSION

GUARANTY FORM FMC-195 IN RESPECT OF LIABILITY FOR DISCHARGE OF OIL UNDER TITLE III OF THE OUTER CONTINENTAL SHELF LANDS ACT AMENDMENTS OF 1978 (P.L. 95-372)

1. WHEREAS

.....

(Name of Vessel Operator)

(hereinafter referred to as the "Operator") is the Operator of the Vessel(s) specified in the annexed schedules (hereinafter "Vessel" or "Vessels"), and whereas the Operator desires to establish its financial responsibility

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V 4 4 / 2

in accordance with section 305(a)(1) of the Outer Continental Shelf Lands Act Amendments of 1978 (hereinafter referred to as "the Act"), the undersigned Guarantor hereby guarantees, subject to the provisions of clause 4 hereof, to discharge the Operator's legal liability for damages and removal costs under Title III of the Act, in the event that such legal liability has not been discharged by the Operator within 21 days after the claimant has obtained a final judgment (after appeal, if any) against the Operator, in accordance with Title III of the Act, or has become entitled to payment of a specified sum by virtue of a compromise settlement agreement made with the Operator, with the approval of the Guarantor. Upon payment of the agreed sum, the Operator is to be fully, irrevocably and unconditionally discharged from all further liability to the claimant under this Guaranty with respect to such claim. The Operator's legal liability under Title III of the Act, which is covered by this Guaranty, is $300 per gross ton or $250,000, whichever is greater.

2. The Guarantor's liability per vessel in any one incident, under this Guaranty, shall in no event exceed $300 per gross ton or $250,000, whichever is greater, provided that the Guarantor furnishes prompt written notice to the Federal Maritime Commission (FMC) of all claims filed, judgments rendered and payments made by the Guarantor under this Guaranty.

3. The Guarantor's liability under this Guaranty shall attach only in relation to incidents giving rise to claims, authorized under section 303 bof the Act, against the Operator in respect of any of the Vessels for removal costs and damages, occurring on or after the effective date of this Guaranty and before the termination date of this Guaranty. The effective date, as to each of such Vessels, shall be the date such Vessel is named in Schedule A or added to Schedule B below. The termination date, as to each of such Vessels, shall be the date 30 days after the date of receipt by the FMC of notice in writing that the Guarantor has elected to terminate this Guaranty: *Provided, however,* That with respect to any Vessel which is carrying Outer Continental Shelf-produced oil as cargo that has been loaded prior to the scheduled date of termination, such termination shall not become effective (1) until completion of discharge of such cargo, or (2) until 60 days after the date of receipt by the FMC of such notice of termination, whichever date is earlier. Termination of this Guaranty as to any of such Vessels shall not affect the liability of the Guarantor in connection with an incident occurring prior to the date such termination becomes effective.

4. Any claim against the Operator, authorized by section 303 of the Act, may be brought directly against the Guarantor. In the event of such direct claim, the Guarantor shall be entitled to invoke only (1) the rights and defenses permitted by Title III of the Act to the vessel operator and (2) the defense that the incident was caused by the willful misconduct of the Operator.

5. If, during the currency of this Guaranty, the Operator requests that a vessel operated by the Operator, and not specified in the annexed Schedules A and B, should become subject to this Guaranty, and if the Guarantor accedes to such request and so notifies the FMC in writing, then such vessel shall thereupon be deemed to be one of the Vessels included in Schedule B and subject to this Guaranty.

6. The Guarantor hereby designates

.....
(Name of Agent)

with offices at _____

_____

as the Guarantor's agent in the United States for service of process for purposes of Title III of the Act and for purposes of Part 544 of Title 46, Code of Federal Regulations. If the designated agent cannot be served due to death, disability or unavailability, the Secretary of the FMC shall be deemed to be the agent for service of process.

7. If more than one Guarantor joins in executing this Guaranty, such action shall constitute joint and several liability on the part of such guarantors.

8. The definitions in 46 CFR Part 544 shall apply to this Guaranty.

Effective date:

.....
(Month/Day/Year and Place of Execution)

.....
(Type Name of Guarantor)

.....
(Type Address of Guarantor)

.....

.....

By:

.....
(Signature)

.....
(Type Name and Title of Person Signing Above)

.....

FMC-195 Guaranty No. ——

SCHEDULE A.—*Vessels Initially Listed*

Vessels	Gross Tons	Operator

FMC-195 Guaranty No. ——

SCHEDULE B.—*Vessels Added in Accordance With Clause 5*

Vessels	Gross Tons	Operator	Date Added

FMC-195 Guaranty No. ——

[FR Doc. 79-224 Filed 1-2-79; 8:45 am]

[6712-01-M]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 15]

[Gen. Docket No. 78-348]

MEASUREMENT TECHNIQUES OF TELEVISION RECEIVER NOISE FIGURES

Order Extending Time for Filing of Technical Papers and Conference

AGENCY: Federal Communications Commission.

ACTION: Extension of time.

SUMMARY: Because of delay in publishing and distributing copies of Docket No. 78-348, the dates for submitting technical papers and for the technical conference have been extended.

DATES: Technical papers must be submitted by January 15, 1979. The technical conference will be held on February 15, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Lawrence MiddleKamp, OCE/Laboratory Division (301) 725-1585.

ORDER EXTENDING DATES FOR FILING OF TECHNICAL PAPERS AND CONFERENCE [43 FR 51650]

Adopted: December 19, 1978.

Released: December 21, 1978.

By the Chief Engineer:

1. On November 1, 1978, the Commission adopted a Notice of Inquiry in the above captioned matter. Paragraph 6 (B.2) required technical papers to be submitted by January 1, 1979; and, paragraph 6 (B.3) set February 1, 1979, as the date for the technical conference.

2. Because of the delay in publishing and distributing the docket an extension of time to January 15, 1979 for filing of technical papers (6 B.2), and February 15, 1979 for the Conference (6 B.3) is hereby *ordered* pursuant to § 0.241(d) of the Commission's Rules.

RAYMOND E. SPENCE,
Chief Engineer.

[FR Doc. 79-288 Filed 1-2-79; 8:45 am]

[4910-06-M]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[49 CFR Chapter II]

[Docket No. RSSI-78-5, Notice No. 7]

GENERAL SAFETY INQUIRY

Public Hearing

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of Change of Hearing Dates.

SUMMARY: The purpose of this notice is to reschedule the fifth 2-day public hearing that FRA will conduct to evaluate and improve the effectiveness of its safety regulatory program. The effect of this action will be to postpone the fifth hearing on signal and train control systems from January 17 and 18 to February 21 and 22, 1979. This action is taken in response to numerous requests received from persons and organizations desiring to participate in this public hearing.

DATES: (1) The public hearing will begin at 10:00 a.m. on February 21, 1979. (2) Prepared written statements for the hearing should be submitted by February 13, 1979, in triplicate to the Docket Clerk, Office of the Chief Counsel (RCC-1), Federal Railroad Administration, Room 4406, 2100 Second Street, SW., Washington, D.C. 20590. (3) Persons desiring to participate in the hearing should notify the principal program person by February 13, 1979, and indicate the amount of time they need to present their views.

ADDRESS: Hearing Location: Trans Point Building, Room 3201, 2100 Second Street, SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Principal Program Person: Rolf Mowatt-Larssen, Office of Safety (RRS-20), FRA, Room 4414N, 2100 Second Street, SW., Washington, D.C. 20590, phone 202-426-0924.

Principal Attorney: Barbara Betsock, Office of the Chief Counsel (RCC-40), FRA, Room 5101, 400 Seventh Street, SW., Washington, D.C. 20590, phone 202-426-8285.

SUPPLEMENTARY INFORMATION: On December 12, 1978, FRA published in the FEDERAL REGISTER a notice of public hearing (43 FR 58100). That notice announced that the fifth two-day public hearing concerning signal and train control systems would be held on January 17 and 18, 1979.

FRA has recently received communications from numerous interested persons and organizations requesting that this hearing be postponed to facilitate their participation. FRA wishes to encourage the participation of all interested persons and organizations in the hearing being held to improve its safety regulatory program. Therefore, the fifth two-day hearing has been rescheduled at a later date as indicated in this notice.

Although the hearing has been postponed, the issues to be addressed are in no way affected by this postponement. Accordingly, interested persons should refer to the notice published in the FEDERAL REGISTER on December 12, 1978 (43 FR 58100), for a summary of the issues that will be addressed at this hearing.

PUBLIC PARTICIPATION

FRA requests that the Association of American Railroads, the American ShortLine Railroad Association, individual railroads, signal and train control equipment suppliers, the National Transportation Safety Board, railroad employee organizations and other interested persons participate actively in the hearing. Specifically, FRA requests that these persons and organizations provide knowledgeable spokespersons and pertinent technical, manufacturing, service, and cost data. These spokespersons should present detailed information to justify their positions.

Section 25, Interstate Commerce Act, as amended (49 U.S.C. 26); Sections 202 and 208, Federal Railroad Safety Act of 1970 (45 U.S.C. 431 and 437); § 1.49(g) and (n) of the regulations of the Office of the Secretary of Transportation (49 CFR 1.49(g) and (n)).

Issued in Washington, D.C. on December 28, 1978.

JOHN M. SULLIVAN,
Administrator.

FR Doc. 79-290 Filed 1-2-79; 8:45 am]

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-11-M]

DEPARTMENT OF AGRICULTURE

Forest Service

ROADLESS AREA REVIEW AND EVALUATION (RARE II)

Amendment to the Inventory List

Notice is hereby given of amendment to the inventory of roadless and undeveloped areas within the National Forests and Grasslands, as published in the FEDERAL REGISTER, Friday, November 18, 1977, pages 59690-59715. Subsequent amendments were published Tuesday, February 14, 1978, pages 6291-6292, Thursday, June 8, 1978, pages 24876-24881, Tuesday, October 3, 1978, pages 45754-45755, Thursday, October 19, 1978, page 48670, and Wednesday, December 13, 1978, pages 58208-58209.

The inventory has been subject to adjustment from time to time as corrected data becomes available, as areas are modified or areas are added or deleted from the list. Public review has been continuous, and many challenges for both additions and deletions of particular areas have been made. Decisions are rendered as expeditiously as possible; however, not all challenges have been acted on, and some decisions have been appealed to the Secretary of Agriculture. It is the objective of RARE II to publish a final environmental statement that will display a proposed allocation of roadless areas according to the inventory as it exists on this date. Administrative review and resolution will continue as a separate process for challenge or appeals regarding specific areas that are not currently a part of the inventory.

This amendment contains 4 changes to eliminate private land from an inventoried area, 30 changes reflect a recalculation of acreage, 11 areas have been changed or deleted to reflect enactment of wilderness legislation, one area found to meet inventory criteria is added, 9 areas have been changed to reflect inclusion of additional acreage found to meet inventory criteria, 3 areas are deleted to reflect allocation to nonwilderness uses as a result of completed land management plans, 8 areas have been added for the purpose of considering in RARE II portions of primitive areas not previously endorsed by the administration for wilderness classification, 1 typographical error is corrected, and 2 areas are changed as a result of allocation of additional acreage to RARE II evaluation in a completed land management plan.

State: Alaska:
Chugach National Forest:
The inventory list is changed to reflect a revision of the numbering system and show a recalculation and correction of gross acreage.

Area code, area name and gross acres

CA001, A-Resurrection, 112,500.
CB001, B-Resurrection, 174,000.
C0002, Boston Bar, 52,000.
C0003, Johnson Pass, 147,500.
CA004, A-Kenai Lake, 149,500.
CB004, B-Kenai Lake, 52,000.
CA005, A-E. Kenai Mountain, 221,500.
CB005, B-E Kenai Mountain, 73,000.
C0006, Twenty mile, 171,000.
C0007, Harriman Fiord, 83,000.
C0008, Golden, 130,500.
C0009, Unakwik, 116,000.
C0010, Columbia Glacier, 17,000.
C0011, Nellie Juan, 32,500.
C0012, Prince William Sounds Islands, 137,400.
C0013, Montague Islands, 204,500.
C0014, Fidalgo/Gravina, 328,000.
C0015, Hinchenbrook-Hawkins, 145,000.
C0016, Sheridan Glacier, 171,900.
C0017, Copper River Wetlands, 69,800.
C0018, Bering Lake, 539,100.
C0019, Tonki Cape, 64,000.
C0020, Red Peak, 57,000.
C0021, Malina Bay, 38,000.

State: Arizona:
Apache-Sitgreaves National Forest:
Add P3169, Blue Range Primitive, 1,090 acres
(To add to the inventory for the purpose of considering in RARE II a portion of a primitive area not previously endorsed by the administration for wilderness classification).
State: Idaho:
Clearwater National Forest:
Change 1300, Mallard Larkins, to 137,234 acres
(Reflects recalculation of acreage)
Clearwater, Payette, and Nezperce National Forests:
Add P4913, IPA-Parts, 411,552 acres
Add P1300, Mallard L, 67,146 acres
Add P1913, Dixie Tail, 8,288 acres
(To add to the inventory for the purpose of considering in RARE II portions of primitive areas not previously endorsed by the administration for wilderness classifications.)
Salmon National Forests:
Delete 4507, Haystack Mountain
Delete 4508, Phelan
Delete 4509, Deep Creek
(Reflects allocation to nonwilderness uses as a result of the Leesburg land management plan).
State: Illinois:
Shawnee National Forests:
Change 9100, Garden of the Gods, to 4,373 acres
(Reflects recalculation of acreage and deletion of 408 acres of private land from the roadless areas).
State: Michigan:
Ottawa National Forests:
Change Sylvania, 9211, to A9211, 17,974 acres
(Reflects deletion of 3,242 acres of private land and developments).
State: Minnesota:
Superior National Forests:
Change 9132, Little Indian Sioux, to A9132, 970 acres
Change Brule Lake-Eagle Mtn., 9138 to A9138, 7,427 acres
Change Kawishiwi Lake to Sawbill, 9139 to A9139, 15,715 acres
Delete 9133, Moose Portage III
Delete 9134, Baldpate Lake
Delete 9135 Hegman Lakes
Delete 9136, Wood Lake
Delete 9137, South Kawishiwi River
Change 9140, Baker-Homer-Brule Lakes, to 8,942 acres
(The above changes and deletions reflect classification as wilderness all or portions of the inventoried roadless areas pursuant to PL 95-495).
Change 9117, Mississippi Creek, to 7,211 acres
Change 9119, Tait Lake, to 7,000 acres
(Reflects recalculation of acreage).
State: Mississippi:
National Forests in Mississippi:
Change 08311, Black Creek from 5,000 acres to 4,560 acres.
(The purpose of this change is to eliminate private lands from the inventoried area).
State: Missouri:
Mark Twain National Forests:
Change 9220, Devilsbackbone, to 6,830 acres
(Reflects recalculation of acreage).
State: Montana:
Beaverhead National Forests:
Change 1549, Madison, to 157,795 acres
(Reflects recalculation of acreage).
State: New Hampshire:
White Mountain National Forests:
Change 9066, Pemigewasset, to 76,610 acres
Change 9067, Sandwich Range, to 37,884 acres
(Reflects addition of acreage which a completed land management plan allocated to be studied with an adjacent roadless area).
State: New Mexico:
Gila National Forests:
Add P3167, Gila Primitive, 49,032 acres
Add P31689, Black and Aldo, 30,726 acres
Add P3169, Blue Range Primitive, 21,400 acres
(To add to the inventory for the purpose of considering in RARE II portions of a primitive area not previously endorsed by the administration for wilderness classification).
State: Oregon:
Malheur National Forests:
Add 6248, Pine Creek, 5,400 acres
Change 6232, Myrtle-Silvies to 13,426 acres
Change 6234, Malheur River, to 6,719 acres
Change 6238, Strawberry Mtn., to 415,710 acres
Change 6240, Monument Rock, to 26,150 acres
Change 6241, North Form Malheur, to 18,735 acres
Change 6243, Dixie Butte, to 17,142 acres
Change 6252, Greenhorn Mtn., to 47,014 acres
(These changes, and the addition of one area, are made to include additional acreage found to meet inventory criteria).
Mt. Hood National Forests:
Change 6095, Salmon-Huckleberry, to 68,800 acres
(To include additional area found to meet inventory criteria).
Ochoco National Forests:
Change 6214, Lookout Mountain, to 15,360 acres
(To reflect additional area found to meet inventory criteria).
Umpqua National Forests:
Change 6130, Rogue Umpqua Divide, to 64,509 acres
(To include additional area found to meet inventory criteria).
State: Tennessee:
Cherokee National Forests:
Roadless Area Flint Mill, previously identified as 8280, is corrected to 8176.
State: Texas:
National Forests in Texas:
Change 8133, Four Notch, from 6,850 acres to 5,606 acres
(The purpose of this change is to eliminate private lands from the inventoried area).
State: Utah:
Ashley National Forests:
Add P4913, HUPA-4, 34,367 acres
(To add to the inventory for the purpose of considering in RARE II a portion of a primitive area not previously endorsed by the administration for wilderness classification).
State: Washington:
Olympic National Forests:
Change 6081, Quilcene, to 68,182 acres
(Reflects recalculation of acreage).
State: Wisconsin:
Nicolet National Forests:
Delete 9175, Blackjack Springs
Delete 9176, Whisker Lakes
(To reflect classification as Wilderness pursuant to Pub. L. 95-494).

Dated: December 27, 1978.

F. LEROY BOND,
Acting Chief.

[FR Doc. 79-270 Filed 1-2-79; 8:45 am]

[3410-16-M]

Soil Conservation Service

SOIL AND WATER RESOURCES

Meetings

Pursuant to the Soil and Water Resources Conservation Act (RCA), Pub. L. 95-192, the U.S. Department of Agriculture (USDA), under the leadership of the Soil Conservation Service (SCS), is appraising the Nation's soil, water, and related resources; developing a national soil and water conservation program; and preparing a statement of national policy concerning these resources.

The Secretary of Agriculture designated an interagency coordinating committee to guide this implementation effort. Interested individuals are invited to attend the coordinating committee meetings as observers. The next meeting of the committee will be held at 2 p.m., Thursday, January 4, 1979, in Room 218-A, Administration Building, U.S. Department of Agriculture. For further information about this or future meetings, contact Lawrence Libby, Executive Secretary to the Committee, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202-447-6827.

(Pub. L. 95-192, 91 Stat. 1407, 16 U.S.C. 2001 et seq., November 18, 1977.)

Dated: December 22, 1978.

DAVID G. UNGER,
Deputy Assistant Secretary for Conservation, Research and Education.

[FR Doc. 79-289 Filed 1-2-79; 8:45 am]

[6320-01-M]

CIVIL AERONAUTICS BOARD

AMERFORD AIRWAYS, INC.

Application for an All-Cargo Air Service Certificate

DECEMBER 21, 1978.

In accordance with Part 291 (14 CFR 291) of the Board's Economic Regulations (effective November 9, 1978), notice is hereby given that the Civil Aeronautics Board has received an application, Docket 34027, from Amerford Airways, Inc. of Jamaica, New York for an all-cargo air service certificate to provide domestic cargo transportation.

Under the provisions of § 291.12(c) of Part 291, interested persons may file an answer in opposition to this application on or before January 24, 1979. An executed original and six copies of such answer shall be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. It shall set forth in detail the reasons for the position taken and must relate to the fitness, willingness, or ability of the applicant to provide all-cargo air service or to comply with the Act or the Board's orders and regulations. The answer shall be served upon the applicant and state the date of such service.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 79-273 Filed 1-2-79; 8:45 am]

[6335-01-M]

COMMISSION ON CIVIL RIGHTS

MARYLAND ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Maryland Advisory Committee (SAC) of the Commission will convene at 7:30 p.m. and will end at 9:30 p.m. on January 17, 1979 at 2574 Riva Road, Unit 1A, Annapolis, Maryland 21401.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, 2120 L Street, NW., Room 510, Washington, D.C. 20037.

The purpose of this meeting is to propose suggestions for the project proposal for a study of complaint procedures against the Baltimore police.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., December 28, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 79-275 Filed 1-2-79; 8:45 am]

[6335-01-M]

MARYLAND ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Maryland Advisory Committee (SAC) of the Commission will convene at 10:00 a.m. and will end at 4:00 p.m. on January 27, 1979 in Conference Room #1, BWI Airport, Baltimore, Maryland.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, 2120 L Street, NW., Room 510, Washington, D.C. 20037.

The purpose of this meeting is to discuss methodology for the study of the complaint procedures involving al-

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leged police brutality or other misconduct.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C. December 28, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 79-276 Filed 1-2-79; 8:45 am]

[6335-01-M]

PENNSYLVANIA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Pennsylvania Advisory Committee (SAC) of the Commission will convene at 12:00 noon and will end at 3:00 p.m. on January 11, 1979, in the Federal Building and Courthouse, Room 804, Harrisburg, Pennsylvania 17108.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, 2120 L Street, N.W., Room 510, Washington, D.C. 20037.

The purpose of this meeting is to discuss program planning for and access the status of civil rights in the State of Pennsylvania.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C. December 28, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 79-277 Filed 1-2-79; 8:45 am]

[6335-01-M]

WASHINGTON ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provision of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Washington Advisory Committee (SAC) of the Commission will convene at 9:00 a.m. and will end at 12:00 noon on January 27, 1979 at 915 Second Avenue, Room 2854, Seattle, Washington 98174.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northwestern Regional Office of the Commission, 915 Second Avenue, Room 2852, Seattle, Washington, 98174.

The purpose of this meeting is to discuss ongoing and future projects.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C. December 28, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 79-278 Filed 1-2-79; 8:45 am]

[3510-25-M]

DEPARTMENT OF COMMERCE

Industry and Trade Administration

MEMORY AND MEDIA SUBCOMMITTEE OF THE COMPUTER PERIPHERALS, COMPONENTS AND RELATED TEST EQUIPMENT TECHNICAL ADVISORY COMMITTEE

Partially Closed Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Memory and Media Subcommittee of the Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee will be held on Monday, January 22, 1979, at 1:30 p.m. in Room 5611, Main Commerce Building, 14th Street and Constitution Avenue, NW., Washington, D.C.

The Computer Peripherals, Components and Related Test Equipment Technically Advisory Committee was initially established on January 3, 1973. On December 20, 1974, January 13, 1977 and August 28, 1978, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act. The Memory and Media Subcommittee of the Computer Peripherals, Components and related Test Equipment Technical Advisory Committee was established on December 21, 1978, with the approval of the Assistant Secretary for Industry and Trade, pursuant to the charter of the Committee.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to computer peripherals, components and related test equipment, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls. The Memory and Media Subcommittee was formed to study random and sequential access computer related peripheral memory devices and to provide the Committee with information to include in reports to the Department related to the Committee's charter.

The Subcommittee meeting agenda has five parts:

GENERAL SESSION

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the public.
3. Discussion of Subcommittee membership.
4. Discussion of the work program for the subcommittee.

EXECUTIVE SESSION

5. Discussion of matters properly classified under Executive Order 11652 or 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Subcommittee. Written statements may be presented at any time before or after the meeting.

With respect to agenda item (5), the Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 6, 1978, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government in the Sunshine Act, P.L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of the national defense or foreign policy. All materials to be reviewed and discussed by the Subcommittee during the Executive Session of the meeting have been properly classified under Executive Order 11652 or 12065. All Subcommittee members have appropriate security clearances.

Copies of the minutes of the open portion of the meeting will be available upon written request addressed to the Freedom of Information Officer, Room 3012, Industry and Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office fo Export Administration, Industry and Trade Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202-377-4196.

The complete Notice of Determination to close meetings or portions thereof the series of meetings of the Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee and of any subcommittees thereof, was published in the FEDERAL REGISTER on September 14, 1978 (43 FR 41071).

Dated: December 28, 1978.

RAUER H. MEYER,
Director, Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

[FR Doc. 79-291 Filed 1-2-79; 8:45 am]

[3510-25-M]

BOSTON UNIVERSITY SCHOOL OF MEDICINE

Withdrawal of Application for Duty Free Entry of Scientific Article

The Boston University School of Medicine has withdrawn Docket Number 78-00405 an application for duty-free entry of an ultramicrotome.

Accordingly, further administrative proceedings will not be taken by the Department of Commerce with respect to this application.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 79-256 Filed 1-2-79; 8:45 am]

[3510-25-M]

NATIONAL INSTITUTES OF HEALTH, ET AL.

Applications for Duty Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, Bureau of Trade Regulation, U.S. Department of Commerce, Washington, D.C. 20230, on or before January 23, 1979.

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 a.m. and 5:00 p.m., Monday through Friday, in Room 6886C of the Department of Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket Number: 79-00070.
Applicant: National Institutes of Health, Building 10, Room 7B-15, Bethesda, Maryland 20014.
Article: Balloon Inflation Device complete with accessories and special accessories.
Manufacturer: Schneider Medintag, AG, Switzerland.
Intended use of article: The article is intended to be used to increase the blood flow to the heart of patients with coronary artery disease by dilating obstructions in the coronary arteries.
Application received by Commissioner of Customs: December 5, 1978.

Docket Number: 79-00071.
Applicant: National Institutes of Health, Building 10, Room 7B-15, Bethesda, Maryland 20014.
Article: 2 (Two) each 16 Gruntzig Dilation Catheters and accessories.
Manufacturer: Schneider Medintag, AG, Switzerland.
Intended use of article: The article is intended to be used to increase the blood flow to the heart of patients with coronary artery disease by dilating obstuctions in the coronary arteries.
Application received by Commissioner of Customs: December 5, 1978.

Docket Number: 79-00072.
Applicant: Brigham Young University, Provo, Utah 84602.
Article: JNM/FX 90Q(II) Nuclear Magnetic Resonance Spectrometer, and accessories.
Manufacturer: JEOL Ltd., Japan.
Intended use of article: The article is intended to be used for chemical investigations of the following:

(a) Structure of molecules with constrained geometry derived from such compounds as 2,5-norbornadione and 2,5-norbornadiene.
(b) Structure of synthetic and naturally occurring compounds of potential medicinal interest, particularly anticancer compounds: Non-pteridine heterocycles designed as inhibitors of folate dependent enzymes other than dihydrofolate reductase, e.g., 2-aryl-2,3-dihydro-1*H*-imidazo (1,5-a(quinolinium salts and related quinoxalines and triazanaphthalenes.
(c) Configuration and rates of inversion of novel heterotricyclic compounds.
(d) Search for organoboron compounds which could be used in laser separation of boron isotopes.
(e) Electrochemical oxidation of amines.
(f) Preparation of polymeric surface active agents using perfluorinated amines.
(g) Resins from coal.
(h) Radical-radical reactions of stable radicals.
(i) Macrocyclic polyethers and their derivatives.
(j) Factors which influence conformations and aggregation in biopolymers.
(k) Identity of compounds in air particulates.
(l) Catalysts for photochemical production of hydrogen.
(m) Role of Manganese in photosynthesis.
(n) Synthesis of heterocyclic antimetabolites: Pyrrolopyrimidines, pyrrolopyridazines, pyrrolodipyrimidines, pyrrolodipy- ridazines, and pyrimidopyrrolopyridazines.
(o) Synthesis of quinilino (1,2-c) quinazoline quarternary salts.
(p) Carcinogenic polycyclic thiophenes in flue dust.
(q) Folic acid antagonists: pyridazino(2,3-d) pyridazines.
(r) Extracts of common barks and berries.

The article will also be used for educational purposes in various chemistry courses.

Application received by Commissioner of Customs: December 13, 1978.

Docket Number: 79-00073.
Applicant: University of Wisconsin School of Pharmacy, 425 N. Charter Street, Madison, Wis. 53706.
Article: FX90Q FT NMR Spectrometer and accessories.
Manufacturer: JEOL Ltd., Japan.
Intended use of article: The article is intended to be used for the measurement of $T_{1\rho}$ (T_1 in the rotating frame) in a program devoted to the analysis of conformation and conformation dynamics of nucleotides and oligonucleotides via the phosphorus-proton and proton-proton nuclear Overhauser effects and phosphorous and carbon spin-lattice relaxation.
Application received by Commissioner of Customs: December 13, 1978.

Docket Number: 79-00084.
Applicant: University of Arizona, Dept. of Cellular and Develop. Biology, Tucson, Arizona 85721.
Article: Electron Microscope, Model JEM 100CX/SEGZ with eucentric goniometer stage and accessories.
Manufacturer: JEOL Ltd., Japan.
Intended use of Article: The article is intended to be used for the investigation of ultrastructural correlates of experimentally and developmentally induced alterations of physiological and genetic functions in cells, tissues and viruses. Experiments will be conducted to explore the possibilities of virus gene delivery systems; to explicate some features of differentiation using the pigment cell as a model system; to map viral DNA and RNA; to determine the mechanism of hormonal control of the pituitary; to determine the structural organization of membrane receptor in hormonal nonresponsive mutant cells; to develop some understanding of the origin of

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primitive multicellularity using bacteria as a model system. In addition, the article will be used to train students and faculty in the use and maintenance of electron microscopes and in the interpretation of electron microscope data in the courses Cell and Dev. Biology 312, 299 and 399.

Application received by Commissioner of Customs: December 13, 1978.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

RICHARD M. SEPPA,
Director,
Statutory Import Programs Staff.

[FR Doc. 79-254 Filed 1-2-79; 8:45 am]

[3510-25-M]

UNIVERSITY OF ILLINOIS—URBANA

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue, NW., Washington, D.C. 20230.

DOCKET NUMBER: 78-00412. APPLICANT: University of Illinois, Urbana-Champaign Campus, Purchasing Division, 223 Administration Building, Urbana, Ill. 61801. ARTICLE: 89 mm Widebore 85000 Gauss Superconducting Solenoid Magnet. MANUFACTURER: Oxford Instruments, United Kingdom. INTENDED USE OF ARTICLE: The article is intended to be used for studies of very low concentrations of deuterium nuclei in biological membrances, dilute protein solution. Experiments will consist of observation of electronic quadrupole splittings of deuterium resonance in artificial and biological membrane labelled with deuterium nuclei.

COMMENTS: No comments have been received with respect to this application.

DECISION: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the U.S. Customs Service received this application (August 31, 1978).

REASONS: The foreign article provides a wide bore (89 mm) at room temperature and a field strength of 8.5 Tesla. The Department of Health, Education, and Welfare advises in its memorandum dated November 28, 1978 that (1) the capabilities of the foreign article described above are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use at the time Customs received this application.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the U.S. Customs Service received this application.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

RICHARD M. SEPPA,
Director, Statutory
Import Programs Staff.

[FR Doc. 79-255 Filed 1-2-79; 8:45 am]

[3510-25-M]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

ANNOUNCING IMPORT RESTRAINT LEVELS FOR CERTAIN COTTON, WOOL AND MAN-MADE FIBER TEXTILE PRODUCTS FROM MALAYSIA, EFFECTIVE JANUARY 1, 1979

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Establishing import restraint levels for certain cotton, wool, and man-made fiber textile products imported from Malaysia, effective on January 1, 1979.

SUMMARY: The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of May 17 and June 8, 1978, between the Governments of the United States and Malaysia, establishes levels of restraint for certain cotton, wool and man-made fiber textile products in Categories 317, 319, 320, 331, 339, 340, 347, 348, 445, 446, and 638/639, produced or manufactured in Malaysia and exported to the United States during the twelve-month period beginning on January 1, 1979. Accordingly, there is published below a letter from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs directing that entry into the United States for consumption, or withdrawal from warehouse for consumption, of cotton, wool and man-made fiber textile products in the foregoing categories be limited to the designated twelve-month levels of restraint.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), and September 5, 1978 (43 FR 39408)).

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

EFFECTIVE DATE: January 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Robert C. Woods, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-5423).

ARTHUR GAREL,
Acting Chairman, Committee for the Implementation of Textile Agreements.

DECEMBER 27, 1978.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C.

DEAR MR. COMMISSIONER: Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of May 17 and June 8, 1978, between the Governments of the United States and Malaysia; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on January 1, 1979 and for the twelve-month period extending through December 31, 1979, entry into the United States for consumption, and withdrawal from warehouse for consumption, of cotton, wool and man-made fiber textile products, exported from Malaysia in the following categories in excess of the indicated twelve-month levels of restraint:

Category	Twelve-Month Level of Restraint
317	3,000,000 square yards.
319	1,350,000 square yards.
320	6,500,000 square yards.
331	429,286 dozen pairs.
339	138,889 dozen.
340	228,317 dozen.
347	83,764 dozen.
348	50,548 dozen.
445	6,720 dozen.
446	13,441 dozen.
638/639	151,466 dozen of which not more than 56,800 dozen shall be in Category 639.

In carrying out this directive, entries of cotton, wool and man-made fiber textile products in the foregoing caregories, produced or manufactured in Malaysia, which have been exported to the United States prior to January 1, 1979, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during the twelve-month period beginning on January 1, 1978 and extending through December 31, 1978. In the event the levels of restraint established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter.

The levels set forth above are subject to adjustment in the future according to the provisions of the bilateral agreement of May 17 and June 8, 1978, between the Governments of the United States and Malaysia which provide, in part, that: (1) within the aggregate and group limits, specific levels of restraint, including their sublimits, may be exceeded by designated percentages; (2) specific levels may be increased for carryover and carryforward up to 11 percent of the applicable category limit; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement. Any appropriate adjustments under the provisions of the bilateral agreement, referred to above, will be made to you by letter.

A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), and September 5, 1978 (43 FR 39408).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Malaysia and with respect to imports of cotton, wool and man-made fiber textile products from Malaysia have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ARTHUR GAREL,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 79-206 Filed 1-2-79; 8:45 am]

[3510-25-M]

ANNOUNCING IMPORT RESTRAINT LEVELS FOR CERTAIN COTTON, WOOL AND MAN-MADE FIBER TEXTILE PRODUCTS FROM THE POLISH PEOPLE'S REPUBLIC, EFFECTIVE ON JANUARY 1, 1979

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Establishing import restraint levels for certain cotton, wool and man-made fiber textile products from Poland, effective on January 1, 1979.

SUMMARY: The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of January 9 and 12, 1978, as amended, between the Governments of the United States and the Polish People's Republic establishes levels of restraint for certain cotton, wool and man-made fiber textile products in Categories 333, 334, 335, 338, 339, 347, 410, 433, 434, 435, 443/643/644, 634, 635, 645/646 and 647, produced or manufactured in Poland and exported to the United States during the twelve-month period beginning on January 1, 1979. Accordingly, there is published below a letter from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs directing that entry into the United States for consumption, or withdrawal from warehouse for consumption, of cotton, wool and man-made fiber textile products in the foregoing categories be limited to the designated twelve-month levels of restraint. The level of restraint for Category 338 (only T.S.U.S.A. 380.0651 and 380.0652) has been adjusted to reflect carry-forward used in the agreement year which began on January 1978. (A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), and September 5, 1978 (43 FR 39408)).

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

EFFECTIVE DATE: January 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Shirley Hargrove, Trade and Industry Assistant, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-5423).

ARTHUR GAREL,
Acting Chariman, Committee for the Implementation of Textile Agreements.

DECEMBER 27, 1978.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C.

DEAR MR. COMMISSIONER: Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-made Fiber Textile Agreement of January 9 and 12, 1978, as amended, between the Governments of the United States and the Polish People's Republic; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on January 1, 1979 and for the twelve-month period extending through December 31, 1979, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in the following categories, produced or manufactured in Poland, in excess of the indicated levels of restraint:

Category	Twelve-Month Levels of Restraint
333	64,420 dozen.
334	16,949 dozen.
335	31,826 dozen.
338	610,972 dozen of which not more than 180,556 dozen shall be in T.S.U.S.A. numbers 380.0028, 380.0029, 380.0651 and 380.0652.
339	203,167 dozen.
347	60,000 dozen.
410	1,704,000 square yards.
433	7,014 dozen.
434	3,707 dozen.
435	5,611 dozen.
443/643/644	12,751 dozen.
634	107,797 dozen.
635	56,465 dozen.
645/646	73,557 dozen.
647	107,191 dozen.

In carrying out this directive, entries of cotton, wool and man-made fiber textile products in the foregoing categories, produced or manufactured in Poland, which have been exported to the United States prior to January 1, 1979, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during the twelve-month period beginning on January 1, 1978 and extending through December 31, 1978. In the event the levels of restraint established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter.

The levels of restraint set forth above are subject to adjustment in the future according to the provisions of the bilateral agreement of January 9 and 12, as amended, between the Governments of the United States and the Polish People's Republic, which provide, in part, that: (1) within the aggregate and applicable group limits of the agreement, specific levels of restraint may be exceeded by destignated percentages; (2) these levels may also be increased for carryover and carryforward; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement. Any appropriate aadjustments under the provisions of the bilateral agreement will be made to you by letter.

A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), and September 5, 1978 (43 FR 39408).

In carrying out the above directions, entry into the United States for con-

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sumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Polish People's Republic and with respect to imports of cotton, wool and man-made fiber textile products from Poland have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ARTHUR GAREL,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 79-207 Filed 1-2-79; 8:45 am]

ANNOUNCING IMPORT RESTRAINT LEVELS FOR CERTAIN COTTON, WOOL AND MAN-MADE FIBER TEXTILE PRODUCTS FROM THAILAND

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Establishing import restraint levels for certain cotton, wool, and man-made fiber textile products imported from Thailand, effective on January 1, 1979.

SUMMARY: The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of October 4, 1978 between the Governments of the United States and Thailand establishes levels of restraint for certain cotton, wool and man-made fiber textile products in Categories 320, 331, 338/339, 340, 445/446, 639 and 645/646, produced or manufactured in Thailand and exported to the United States during the twelve-month period beginning on January 1, 1979. Accordingly, there is published below a letter from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs directing that entry into the United States for consumption, or withdrawal from warehouse for consumption, of cotton, wool, and man-made fiber textile products in Categories 320, 331, 338/339, 340, 445/446, 639 and 645/646 be limited to the designated twelve-month levels of restraint.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), and September 5, 1978 (43 FR 39408)).

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

EFFECTIVE DATE: January 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Jane C. Bonds, International Trade Specialist, Office of Textiles, U.S. Department of Commerce 20230 (202/377-5423).

ARTHUR GAREL,
Acting Chairman, Committee for the Implementation of Textile Agreements.

DECEMBER 27, 1978.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C.

DEAR MR. COMMISSIONER: Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of October 4, 1978, between the Governments of the United States and Thailand; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on January 1, 1979 and for the twelve-month period extending through December 31, 1979 entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products, produced or manufactured in Thailand, in excess of the indicated twelve-month levels of restraint:

Category	Twelve-Month Level of Restraint
320	8,000,000 square yards
331	336,286 dozen pairs
338/339	477,041 dozen
340	84,135 dozen
445/446	14,254 dozen
639	1,057,888 dozen
645/646	60,553 dozen

In carrying out this directive, entries of cotton textile products in the foregoing categories, except Categories 320, 331, 445/446 and 639, produced or manufactured in Thailand which have been exported to the United States prior to January 1, 1979, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during the twelve-month period beginning on January 1, 1978 and extending through December 31, 1978. In the event the levels of restraint established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter. Textile products in Categories 320, 331, 445/446 and 639 that have been exported to the United States before January 1, 1979 shall not be subject to this directive.

The levels of restraint set forth above are subject to adjustment according to the provisions of the bilateral agreement of October 4, 1978, between the Governments of the United States and Thailand which provide, in part, that: (1) specific levels of restraint may be increased for carryover and carryforward up to 11 percent of the applicable category limit; and (2) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement. Any appropriate adjustments under the provisions of the bilateral agreement, referred to above, will be made to you by letter.

A detailed descripton of the textile categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), and September 5, 1978 (43 FR 39408).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Thailand and with respect to imports of cotton, wool and man-made fiber textile products from Thailand have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ARTHUR GAREL,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 79-205 Filed 1-2-79; 8:45 am]

CERTAIN COTTON, WOOL, AND MAN-MADE FIBER TEXTILE PRODUCTS FROM THE REPUBLIC OF SINGAPORE

Announcing Import Restraint Levels

DECEMBER 28, 1978.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Establishing import restraint levels for certain cotton, wool and man-made fiber textile products imported from Singapore, effective on January 1, 1979.

SUMMARY: The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of September 21 and 22, 1978, between the Governments of the United States and the Republic of Singapore establishes levels of restraint for certain cotton, wool and man-made fiber textile products in Categories 315, 347/348, 445/446, 604, 638/639, and 641, produced or manufactured in Singapore and exported to the United States during the twelve-month period beginning on January 1, 1979. Accordingly, there is published below a letter from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs directing that entry into the United States for consumption, or withdrawal from warehouse for consumption, of cotton, wool and man-made fiber textile products in the foregoing categories be limited to the designated levels of restraint.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421, March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), and September 5, 1978 (43 FR 39408)).

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

EFFECTIVE DATE: January 1, 1979.

FOR FURTHER INFORMATION CONTRACT:

Robert C. Woods, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230, 202-377-5423.

ARTHUR GAREL,
Acting Chairman, Committee for the Implementation of Textile Agreements.

DECEMBER 28, 1978.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C.

DEAR MR. COMMISSIONER: Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of September 21 and 22, 1978, between the Governments of the United States and the Republic of Singapore; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on January 1, 1979 and for the twelve-month period extending through December 31, 1979, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products exported from Singapore in the following categories, in excess of the designated twelve-month levels of restraint:

Category	12-Month Level of Restraint
315	1,000,000 square yards.
347/348	525,000 dozen of which not more than 452,156 dozen shall be in Cat. 347 and not more than 204,094 dozen shall be in Cat. 348.
445/446	20,000 dozen.
604	700,000 pounds.
638/639	2,801,600 dozen of which not more than 350,200 dozen shall be in Cat. 638.
641	48,276 dozen.

In carrying out this directive, entries of textile products in the foregoing categories, except Category 315, produced or manufactured in Singapore, which have been exported to the United States prior to January 1, 1979, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during the twelve-month period beginning on January 1, 1978 and extending through December 31, 1978. In the event the levels of restraint established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter. Textile products in Categories 315 and 602 that have been exported before January 1, 1979 shall not be subject to this directive.

The levels of restraint set forth above are subject to adjustment in the future according to the provisions of the bilateral agreement of September 21 and 22, 1978, between the Governments of the United States and the Republic of Singapore which provide, in part, that: (1) within the aggregate and applicable group limits, specific limits and sublimits may be exceeded by designated percentages; (2) specific levels of restraint may be increased for carryover and carryforward up 11 percent of the applicable category limit; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement. Any appropriate adjustments under the provisions of the bilateral agreement, referred to above will be made to you by letter.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on January 4, 1978 (43 F.R. 884), as amended on January 25, 1978 (43 F.R. 3421), March 3, 1978 (43 F.R. 8828), June 22, 1978 (43 F.R. 26773), and September 5, 1978 (43 F.R 39408).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Republic of Singapore and with respect to imports of cotton, wool and man-made fiber textile products from Singapore have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ARTHUR GAREL,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 79-259 Filed 1-2-79; 8:45 am]

[3510-25-M]

CERTAIN COTTON TEXTILE PRODUCTS FROM THE SOCIALIST REPUBLIC OF ROMANIA

Announcing Import Restraint Levels

DECEMBER 28, 1978.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Establishing import restraint levels for certain cotton textile products from Romania during the twelve-month period beginning on January 1, 1979.

SUMMARY: The Bilateral Cotton Textile Agreement of January 6 and 25, 1978 between the Governments of the United States and the Socialist Republic of Romania establishes levels of restraint for cotton textile products in Categories 333, 334, 338, 340, and 359, produced or manufactured in Romania and exported to the United States during the twelve-month period beginning on January 1, 1979. Accordingly, there is published below a letter from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs directing that entry into the United States for consumption, or withdrawal from warehouse for consumption, of cotton textile products in Categories 333, 334, 338, 340 and 359 be limited to the designated twelve-month levels of restraint.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), and September 5, 1978 (43 FR 39408)).

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

EFFECTIVE DATE: January 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Shirley Hargrove, Trade and Industry Assistant, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-5423).

ARTHUR GAREL,
Acting Chairman, Committee for the Implementation of Textile Agreements.

DECEMBER 28, 1978.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C.

DEAR MR. COMMISSIONER: Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December

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15, 1977; pursuant to the Bilateral Cotton Textile Agreement of January 6 and 25, 1978, between the Governments of the United States and the Socialist Republic of Romania; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on January 1, 1979 and for the twelve-month period extending through December 31, 1979, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in the following categories in excess of the indicated levels of restraint.

Category	12-Month Level of Restraint
333	66,298 dozen.
334	238,320 dozen.
338	250,000 dozen of which not more than 97,222 dozen shall be in T.S.U.S.A. numbers 380.0028, 380.0029, 380.0651 and 380.0652.
340	112,500 dozen.
359	652,174 pounds.

In carrying out this directive, entries of cotton textiles products in the foregoing categories, produced or manufactured in the Socialist Republic of Romania, which have been exported to the United States prior to January 1, 1979, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during the twelve-month period beginning on January 1, 1978 and extending through December 31, 1978. In the event the levels of restraint established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter.

The levels of restraint set forth above are subject to adjustment according to the provisions of the bilateral agreement of January 6 and 25, 1978, between the Governments of the United States and the Socialist Republic of Romania, which provide, in part, that: (1) the two governments will consult regarding increases in consultation levels and (2) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), and September 5, 1978 (43 FR 39408)).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Socialist Republic of Romania and with respect to imports of cotton textile products from Romania have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ARTHUR GAREL,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 79-261 Filed 1-2-79; 8:45 am]

[3510-25-M]

CERTAIN WOOL AND MAN-MADE FIBER TEXTILE PRODUCTS FROM THE SOCIALIST REPUBLIC OF ROMANIA

Announcing Import Restraint Levels

DECEMBER 28, 1978.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Establishing import restraint levels for certain wool and man-made fiber textile products from Romania during the twelve-month period beginning on January 1, 1979.

SUMMARY: The Bilateral Wool and Man-Made Fiber Textile Agreement of June 17, 1977, as amended, between the Governments of the United States and the Socialist Republic of Romania establishes levels of restraint for wool and man-made fiber textile products in Categories 433/434, 435/444, 443, 459, 634, 638/639, 643/644 and 645/646, produced or manufactured in Romania and exported to the United States during the twelve-month period beginning on January 1, 1979. Accordingly, there is published below a letter from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs directing that entry into the United States for consumption, or withdrawal from warehouse for consumption, of wool and man-made fiber textile products in Categories 433/434, 435/444, 443, 459, 634, 638/639, 643/644 and 645/646 be limited to the designated twelve-month levels of restraint. The levels of restraint for Categories 443 and 643/644 (not knit) have been adjusted to reflect carryforward used during the agreement year that began on January 1, 1978.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on January 4, 1978 (43 F.R. 884), as amended on January 25, 1978 (43 F.R. 3421), March 3, 1978 (43 F.R. 8828), June 22, 1978 (43 F.R. 26773), and September 5, 1978 (43 F.R. 39408)).

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

EFFECTIVE DATE: January 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Shirley Hargrove, Trade and Industry Assistant, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-5423).

ARTHUR GAREL,
Acting Chairman, Committee for the Implementation of Textile Agreements.

DECEMBER 28, 1978.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C.

DEAR MR. COMMISSIONER: Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Wool and Man-Made Fiber Textile Agreement of June 17, 1977, as amended, between the Governments of the United States and the Socialist Republic of Romania; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on January 1, 1979 and for the twelve-month period extending through December 31, 1979, entry into the United States for consumption and withdrawal from warehouse for consumption of wool and man-made fiber textile products in the following categories in excess of the indicated levels of restraint.

Category	12-Month Level of Restraint
433/434	225,000 square yards.
435/444	6,944 dozen.
443	6,990 dozen.
459	75,000 pounds.
634	53,269 dozen of which not more than 36,320 dozen shall be in T.S.U.S.A. numbers 380.0405, 380.8101, 380.8109, 380.8111 and 791.7460.
638/639	2,675,000 square yards.
643/644[1]	20,025 dozen.
643/644[2]	2,083 dozen.
645/646	149,456 dozen.

[1] In Category 643/644, all T.S.U.S.A. numbers except 380.0420, 380.8145, 380.8148, 382.0447, 382.7868 and 382.7868.

[2] In Category 643/644, only the T.S.U.S.A. numbers listed in footnote 1.

In carrying out this directive, entries of wool and man-made fiber textile products in the foregoing categories, produced or manufactured in the Socialist Republic of Romania, which have been exported to the United States prior to January 1, 1979, shall, to the extent of any unfilled balance, be charged against the levels of restraint established for such goods during the twelve-month period beginning on January 1, 1978 and extending through December 31, 1978. In the event the levels of restraint established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter.

The levels of restraint set forth above are subject to adjustment according to the provisions of the bilateral agreement of June 17, 1977, as amended, between the Governments of the United States and the Socialist Republic of Romania, which provide, in part, that: (1) specific limits within the applicable group limits may be exceeded by designated percentages to account for flexibility; (2) specific ceilings may be increased for carryover and carryforward up to 11 percent of the applicable category limit; (3) consultation levels may be increased within the applicable group limits upon agreement between the two governments; and (4) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement. Any appropriate future adjustments under the foregoing provisions of the bilateral agreement will be made to you by letter.

A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on January 4, 1978 (43 F.R. 884), as amended on January 25, 1978 (43 F.R. 3421), March 3, 1978 (43 F.R. 8828), June 22, 1978 (43 F.R. 26773), and September 5, 1978 (43 F.R. 39408)).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Socialist Republic of Romania and with respect to imports of wool and man-made fiber textile products from Romania have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ARTHUR GAREL,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 79-260 Filed 1-2-79; 8:45 am]

[1505-01-M]

ENDANGERED SPECIES COMMITTEE

CONSIDERATION OF AN EXEMPTION FOR THE GRAYROCKS DAM AND RESERVOIR PROJECT

Hearing

Correction

In FR Doc. 78-35733 appearing on page 59871 in the issue for Friday, December 22, 1978, in the middle column, under the heading SUPPLEMENTARY INFORMATION, under the third paragraph and above paragraph "(2)" insert the following:

"Public hearings will be held for the purpose of receiving information and comment relevant to the Committee's determinations. The hearings will be held on January 8, 1979. The hearings will be held in Washington, D.C., at 9:00 a.m. at the Department of the Interior Auditorium, 18th and C Streets NW.; and in Cheyenne, Wyoming at the Ramada Inn Conference Room, 3839 East Lincoln Way.

Information and comment is solicited on: (1) The availability of reasonable and prudent alternatives to the Grayrocks Project, and the nature and extent of the benefits of the Project and of alternative courses of action consistent with conserving the whooping crane and its critical habitat;"

[6450-01-M]

DEPARTMENT OF ENERGY

NATIONAL PETROLEUM COUNCIL, TASK GROUPS OF THE COMMITTEE ON MATERIALS AND MANPOWER REQUIREMENTS

Meetings

Notice is hereby given that a subcommittee and three task groups of the Committee on Materials and Manpower Requirements will meet in January 1979. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Materials and Manpower Requirements will analyze the potential constraints in these areas which may inhibit future production and will report its findings to the National Petroleum Council. Its analysis and findings will be based on information and data to be gathered by the various task groups. The subcommittee scheduling a meeting is the Government Subcommittee. The three task groups scheduling meetings are the Task Group on Well Servicing, the Task Group on Tubular Steel, and the Task Group on Geological and Geophysical Services. The time, location and agenda of each task group meeting follows:

The first meeting of the Government Subcommittee will be on Tuesday, January 23, 1979, starting at 9:00 a.m. in the Main Conference Room on the 26th floor of the General Crude Oil Company's office, One Allen Center Building, 500 Dallas Street, Houston, Texas.

The tentative agenda for the meeting follows:

1. Introductory remarks by Chairman and Government Cochairman.
2. Discussion of scope of the NPC study on Materials and Manpower Requirements.
3. Discussion of the study methodology to be employed by the Government Subcommittee.
4. Discussion of the timetable of the Government Subcommittee.
5. Discussion of any other matters pertinent to the overall assignment of the Government Subcommittee.

The first meeting of the Well Servicing Task Group will be on Thursday, January 11, 1979, starting at 9:00 a.m. in the Board Room of WellTech, Inc., 700 Rusk Avenue, Houston, Texas.

The tentative agenda for the meeting follows:

1. Introductory remarks by Chairman and Government Cochairman.
2. Discussion of the study methodology to be employed by the Geological and Geophysical Services Task Group and review of assignments.
3. Discussion of the timetable of the Geological and Geophysical Services Task Group.
4. Discussion of any other matters pertinent to the overall assignment of the Geological and Geophysical Services Task Group.

The meetings are open to the public. The chairman of the task groups are empowered to conduct the meetings in a fashion that will, in their judgement, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the task groups will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform James R. Hemphill, Office of Resource Applications, 202-633-8383, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Transcripts or summary minutes of the meetings will be available for public review at the Freedom of Information Public Reading Room, Room GA 152, DOE, Forrestal Building, 1000

2. Discussion of scope of the NPC study on Materials and Manpower Requirements.
3. Discussion of the study methodology to be employed by the Well Servicing Task Group.
4. Discussion of the timetable of the Well Servicing Task Group.
5. Discussion of any other matters pertinent to the overall assignment of the Well Servicing Task Group.

The second meeting of the Tubular Steel Task Group will be on Thursday, January 18, 1979, starting at 9:00 a.m. in the Conference Room of the U.S. Steel offices on the 20th floor of the Tenneco Building, 1010 Milam Street, Houston, Texas.

The tentative agenda for the meeting follows:

1. Introductory remarks by Chairman and Government Cochairman.
2. Discussion of the study methodology to be employed by the Tubular Steel Task Group and review of assignments.
3. Discussion of the timetable of the Tubular Steel Task Group.
4. Discussion of any other matters pertinent to the overall assignment of the Tubular Steel Task Group.

The second meeting of the Geological and Geophysical Task Group will be on Thursday, January 25, 1979, starting at 10:00 a.m. in the meeting room of the Marriott Inn North, 7750 LBJ Freeway North, Dallas, Texas.

The tentative agenda for the meeting follows:

1. Introductory remarks by Chairman and Government Cochairman.
2. Discussion of the study methodology to be employed by the Geological and Geophysical Services Task Group and review of assignments.
3. Discussion of the timetable of the Geological and Geophysical Services Task Group.
4. Discussion of any other matters pertinent to the overall assignment of the Geological and Geophysical Services Task Group.

The meetings are open to the public. The chairman of the task groups are empowered to conduct the meetings in a fashion that will, in their judgement, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the task groups will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform James R. Hemphill, Office of Resource Applications, 202-633-8383, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Transcripts or summary minutes of the meetings will be available for public review at the Freedom of Information Public Reading Room, Room GA 152, DOE, Forrestal Building, 1000

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Independence Avenue SW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Any person may purchase a copy of the transcripts from the reporter.

Issued at Washington, D.C. on December 27, 1978.

R. D. LANGENKAMP,
Acting Assistant Secretary for Resource Applications.

[FR Doc. 79-263 Filed 1-2-79; 8:45 am]

[1505-01-M]

Economic Regulatory Administration

DOMESTIC CRUDE OIL ALLOCATION PROGRAM

Entitlement Notice for October 1978

Correction

In FR Doc. 78-35711 appearing at page 60185 in the issue for Tuesday, December 26, 1978, the following corrections are made to the table "Entitlements for crude oil":

1. On page 60187, the following entry should be aded in alphabetical order:

Reporting firm short name	Deemed old oil adjusted receipts	Entitlement position: Total issued	Entitlements: Exceptions and appeals	Entitlements: Product	Entitlements: California	Required to buy	Required to sell
Coastal	234,547	1,216,507	0	−13,378	0	0	981,960

2. Also on page 60187, in the entry for "Goldking", the figure under the last column headed "Required to sell" which reads "42,750" is corrected to read "42,758."

3. On page 60188, in the entry for "Princeton", the figure under the last column headed "Required to sell" which reads "78,954" is corrected to read "70,954".

4. On page 60189, in the entry for "Tonkawa", the figure under the last column headed "Required to sell" which reads "26,951" is corrected to read "28,951".

[6450-01-M]

[ERA Docket No. 77-009-LNG]

NORTHWEST PIPELINE CORP.

Application for an Order Amending the Order Authorizing the Continued Importation of Natural Gas Into the United States from Canada

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of receipt of application and invitation to submit comments and petitions to intervene in the proceeding.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt of an application under section 3 of the Natural Gas Act from Northwest Pipeline Corporation (Northwest) to import natural gas from Westcoast Transmission Company (Westcoast) of Vancouver, Canada. Northwest will take delivery of the gas at the Kingsgate import point on the U.S.A.-Canadian border. Pacific Gas Transmission Company (PGT) will receive the volumes at Kingsgate and transport such volumes for delivery to Northwest at two existing points of interconnection between the facilities of PGT and Northwest.

DATE: Petitions to intervene, comments and requests for hearing: January 26, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. Finn K. Neilsen, Director, Import/Export Division, 2000 M Street, N.W., Room 6318, Washington, D.C. 20461, telephone 202-254-9730.

Mr. Martin S. Kaufman, Office of General Counsel, 12th and Pennsylvania Avenue, N.W., Room 5116, Washington, D.C. 20461, telephone 202-566-9380.

SUPPLEMENTARY INFORMATION: On November 16, 1978, Northwest Pipeline Company, P.O. Box 1526, Salt Lake City, Utah 84110, filed an application (ERA Docket No. 77-009-NG) pursuant to section 3 of the Natural Gas Act, and part 153 of the regulations under the Natural Gas Act, requesting authorization to import natural gas by pipeline from Canada to the United States as more fully set forth in the application on file with the ERA. The application is open to public inspection in ERA's Public Docket Room at 2000 M Street, N.W., Washington, D.C., Room No. B-120 between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except for Federal holidays.

Northwest has contracted with Westcoast to continue purchasing natural gas for a one year period commencing November 1, 1978. Northwest proposes to purchase and import 125,000 Mcf per day on peak days and up to 30,000 Mcf on an average day basis of natural gas beginning November 1, 1978, and ending on October 31, 1979. The applicant has agreed to pay the currently effective border price of $2.16 (U.S.) per MMBtu as established by the Canadian National Energy Board. Applicant proposes to take delivery of the natural gas at the Kingsgate import point on the U.S.A. Canadian border. Northwest has contracted with PGT, an interstate pipeline company, to have the gas transported from Kingsgate to the two existing points of interconnection between the facilities of PGT and Northwest near Stanfield, Oregon and Spokane, Washington. Transportation costs will be subject to the provisions of Rate Schedule T-1 and the General Terms and Conditions of PGT's FPC Gas Tariff, Original Volume No. 1. No new or additional facilities are necessary to effect the importation and transportation of this gas.

The ERA hereby invites petitions for intervention, comments on the application in ERA Docket No. 77-009-NG, and requests for hearing to be filed with the Economic Regulatory Administration, Room 6318, 2000 M Street, Washington, D.C., 20461, in accordance with the requirements of the rules of practice and procedure (18 CFR 1.8), and the regulations under the Natural Gas Act (18 CFR 157.10). Petitions for intervention, comments, or requests for hearing should be marked "ERA Docket No. 77-009-LNG" on the first page and the envelope, and will be accepted for consideration if filed no later than 4:30 p.m., January 26, 1979.

Any person wishing to become a party to the proceeding or to participate as a party in any hearing which may be convened therein must file a petition to intervene in accordance with the above-mentioned rules.

A formal hearing will not be held on this application if no petition to intervene is filed within the required time, or if the ERA on its own review of the matter finds that a grant of the approval is in the public interest. However, if during the appropriate comment period a request for such hearing is timely filed by an intervener and is granted by ERA, or if the ERA on its own motion believes that such a hearing is required, further notice of such hearing will be duly given.

Issued in Washington, D.C., on December 28, 1978.

FINN K. NEILSEN,
Acting Assistant Administrator, Fuels Regulation, Economic Regulatory Administration.

[FR Doc. 79-262 Filed 1-2-79; 8:45 am]

[6740-02-M]

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RA79-6]

ANADARKO PRODUCTION CO.

Filing of Petition for Review Under 42 U.S.C. 7194

DECEMBER 26, 1978.

Take notice that Anadarko Production Company (Anadarko) on November 30, 1978, filed a Petition for Review under 42 U.S.C. § 7194(b) (1977 Supp.) from an order of Secretary of Energy, issued on October 31, 1978, which granted exception relief to Panhandle Eastern Pipeline Company.

Copies of the petition for review have been served on the Secretary, Department of Energy, and all participants in prior proceedings before the Secretary.

Any person desiring to be heard with reference to such filing should on or before January 8, 1979 file a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with the Commission's rules of practice and procedure (18 CFR 1.8). Any person wishing to become a party or to participate as a party must file a petition to intervene. Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St. NE., Washington, D.C. 20426.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-230 Filed 1-2-79; 8:45 am]

[6740-02-M]

[Docket No. CP79-116]

COLUMBIA GAS TRANSMISSION CORP. AND COLUMBIA GULF TRANSMISSION CORP.

Application

DECEMBER 27, 1978.

Take notice that on December 12, 1978, Columbia Gas Transmission Corporation (Columbia), P.O. Box 1273, Charleston, West Virginia 25325, and Columbia Gulf Transmission Corporation (Columbia Gulf), 3805 West Alabama Avenue, Houston, Texas 77002, (Applicants) filed in Docket No. CP79-116 a joint application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities, all as more fully set forth in the application on file with the Commission and open to public inspection.

The application states that Columbia operates a pipeline system which extends in a southeasterly direction from an existing point of delivery from Columbia Gulf to Columbia which is in Madison County, Kentucky, to an existing point of delivery from Columbia to Cumberland Valley Pipe Line Company (Cumberland) in Clay County, Kentucky. The application further states that Columbia has approximately 5,500 Mcf of local production available to this system from currently attached supply sources, and that the actual production from these supply sources is currently limited to Columbia's market requiremens in this area. It is stated that during the winter period the full level of production can be utilized to serve Columbia's market requirements, but that during the summer period Columbia's local market requirements are only approximately 2,600 Mcf per day. It is further stated that in addition to the approximately 2,900 Mcf per day which cannot be produced during the summer period, Columbia is negotiating with Cumberland for the purchase of an additional 5,000 Mcf per day. As a result, Columbia would have available approximately 7,900 Mcf of gas per day which cannot be absorbed by its local markets during summer periods but is needed to supply Columbia's other interstate markets, it is said.

Applicants propose the construction of a new point of interconnection at Bybee, Madison County, Kentucky, in order to move available gas volumes to Columbia's interstate market. Applicants states that the new interconnection would permit Columbia Gulf to receive gas volumes for transportation to its existing delivery points to Columbia in northeastern Kentucky. It is indicated that in order to establish the new point of interconnection Columbia Gulf would construct an interconnecting tap facility at an estimated cost of $15,900 and Columbia would construct measuring facilities at an estimated cost of $11,600.

It is asserted that Columbia Gulf's pipeline system operates at pressure in excess of Columbia's pipeline system at the proposed Bybee interconnection. Therefore, Columbia proposes to install three 230 horsepower units totaling 690 horsepower in Estill County, Kentucky, at a point approximately 14.1 miles south of Bybee at an estimated cost of $96,000. Columbia's pipeline system on the suction side of the proposed compressor station is limited to 300 psig operation but on the discharge side is capable of 1,000 psig operation, thereby permitting the discharge pressure to match Columbia Gulf's operation pressure, it is stated.

Applicants indicate that the total estimated cost of the facilities proposed herein is $124,400, which cost they would finance from internally generated funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 15, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to

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appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-231 Filed 1-2-79; 8:45 am]

[6740-02-M]

[Docket Nos. CP74-289 *et al.*, CP77-289, and CP78-500; Docket No. CP77-512]

EL PASO NATURAL GAS CO. AND CLAY BASIN STORAGE CO.

Order Amending Prior Orders Issuing Certificates of Public Convenience and Necessity, Setting Question for Hearing, Issuing Temporary Certificate, Denying Appeal of Tariff Rejection, and Granting Petitions To Intervene

DECEMBER 22, 1978.

On August 30, 1978, El Paso Natural Gas Company (El Paso) filed in Docket Nos. CP77-289 and CP78-500 respectively, applications for certificates of public convenience and necessity authorizing certain amendments to the terms of the plan of restitution approved by the Commission in its Opinion No. 800-B.[1] El Paso alleges that the restitution of gas has not progressed as rapidly as El Paso had originally contemplated, and maintains that it is in the public interest that the restitution be expedited. Toward that end El Paso makes three general proposals: (1) El Paso requests that the terms of the restitution plan be amended to permit certain beneficiaries of the restitution gas to dispose of their entitlement (by sale or storage) in a way not contemplated in Opinion No. 800-B; (2) El Paso seeks authority to transfer from Priority 1 and 2 customers to Priority 5 customers[2] the burden of certain alleged continuing costs attributable to the unrepaid balance of restitution gas; (3) El Paso seeks authority to offset undercollected revenues related to the plan of restitution against overcollected revenues unrelated to the plan of restitution, where both the undercollection and overcollection were from the same group of customers. As explained, *infra*, we shall grant in substantial part proposal (1), set for hearing proposal (2), and deny proposal (3).

I. BACKGROUND

In order to provide winter-season protection for its Priority 1 and 2 East of California (EOC) customers, El Paso entered into a special operating arrangement with Pacific Gas and Electric Company (PG&E) to utilize PG&E's excess storage capacity to husband gas. The agreement with PG&E provided that El Paso would predeliver a certain volume of gas to PG&E during the summer injection period in return for the future ability to curtail otherwise scheduled deliveries to PG&E if and when additional gas is needed by El Paso to sustain deliveries to its EOC Priority 1 and 2 requirements. The arrangement included a surcharge to EOC Priority 1 and 2 customers to recover the cost of service, with a provision to recover from or pay back to the customers any excess or deficiency resulting from such surcharge.

El Paso commenced making predeliveries to PG&E in 1974 pursuant to temporary certificate authorization. During the 1974 and 1975 summer injection periods El Paso predelivered approximately 28.8 Bcf of gas to PG&E. The special operating arrangements expired by their own terms on April 30, 1977. As circumstances developed, El Paso was able to serve all EOC high priority loads without resorting to reducing otherwise scheduled deliveries to PG&E, and so El Paso never called for return of any of these volumes.

In Opinion No. 800[3] the Commission granted permanent authorization for the special operating arrangement with PG&E. However, it was determined that the manner by which El Paso had accumulated the gas volumes it predelivered to PG&E was discriminatory. Gas was appropriated from *EOC* Priority 5 end users rather than from *all* Priority 5 end users on El Paso's system. Thus, the Commission directed that corrective action be taken to restore prospectively the volumes misappropriated from EOC Priority 5 customers, and El Paso was required to file a proposal consistent therewith.

El Paso filed a proposal to implement restitution which was addressed in Commission Opinion No. 800-B. Opinion No. 800-B authorized El Paso to return the advance sale volumes, in accordance with a schedule of customer entitlements, to those Priority 5 customers from whom the advance sale volumes were originally taken. However, in order to insure service to the EOC high priority customers during the 1977-78 winter season the Commission authorized 5.8 Bcf of gas to be retained in PG&E's storage facilities for drawdown as needed through April 30, 1978. In net effect Opinion 800-B authorized the immediate repayment of all of the advance sale volume (28.8 Bcf of gas) save 5.8 Bcf, the repayment of which would be deferred until after April 30, 1978.

In conjunction with the authorization granted in Opinion No. 800-B to implement restitution the Commission accepted El Paso's related tariff filings. These tariff filings provided that El Paso would impose upon its customers purchasing gas for Priority 1 and 2 use a surcharge related to the special operating arrangements with PG&E. The surcharge was designed to recover El Paso's cost of service related to the restitution of the 28.8 Bcf of advance sale gas over the period May 1977 through October 31, 1978.[4] Although El Paso proposed to impose the surcharge over the 12-month period from November 1, 1977 through October 31, 1978,[5] it anticipated that full restitution of the advance sale gas would be complete by April 1978.

facilities operating charge = 2.71¢ · net cumulative sales of advance sale gas to PG&E

carrying charge = 1.3% · net cumulative sum paid by PG&E for advance sale gas

reduction in deliveries charge = 57.65¢ · portion of advance sale gas delivered to meet EOC P-1 and P-2 requirements during 77-78 winter (up to 5.8 Bcf)

The actual surcharge imposed, based upon El Paso's estimated timing of the advance sale gas payback, was .7905¢ per Mcf.

However, the restitution was not complete by April 1978 as El Paso had contemplated. Indeed, El Paso estimates that as of November 1, 1978, 16.8 Bcf of gas still remains to be repaid.

II. PROPOSAL

In its instant pleadings El Paso claims that this "delay" in the restituion has engendered several difficulties. First El Paso claims that the outstanding balance "800-B payback" gas remaining to be taken back by the affected EOC customers "has and will continue to burden PG&E with substantial operating difficulties" until full restoration of payback volumes. El Paso claims that while the original advance sale arrangement was undertaken by PG&E in contemplation of excess storage capacity through the summer of 1977, PG&E no longer has excess storage capacity. Second, El Paso points out that as long as gas remains to be paid back pursuant to Opinion No. 800-B costs will continue to be accrued by PG&E, which passes those costs to EL Paso. As noted earlier, in Opinion No. 800-B the Commission authorized El Paso to recover such costs associated with the restitution by means of a surcharge against the EOC P-1 and P-2 customers. However, the tariff authority to impose such surcharge ended October 31, 1978, and so El Paso presently stands to suffer the burden of PG&E's costs incurred on and after November 1, 1978. Finally El Paso points out that whomever properly should bear the surcharge is suffering an ever-increasing burden as long as the restitution is imcomplete.

In view of these difficulties, El Paso consulted the parties affected by the "800-B payback" to determine how to expedite the restitution. As a result of those consultations, El Paso tendered the instant filings in which it makes three general proposals designed to complete the restitution by February 28, 1979.

A. RESTRUCTURED RESTITUTION PLAN

First, El Paso proposes that the restitution plan contemplated in Opinion No. 800-B be amended to permit expeditious payback. El Paso explains that subsequent to the issuance of Opinion No. 800-B various circumstances including an abundance of cheap purchased electric power, a slowdown in the economy and the conversion of some customers to a fuel other than natural gas—have contributed to a reluctance on the part of certain EOC Priority 5 customers to take their respective full compliment of restitution gas. Accordingly El Paso has arranged for certain customers to dispose of their respective entitlement by means other than that which was contemplated in Opinion No. 800-B.

1. Sale of Entitlement

El Paso states that certain customers are willing to relingusih their "800-B payback" entitlement for certain consideration.[6] At the same time certain other customers are willing to purchase and utilize those quantities of 800-B payback gas relinguished by others.[7] El Paso applies in Docket No. CP78-500 for certificate authority to transport and deliver for direct sale to APS, Salt River, Phelps Dodge, and Kennecott the volumes of gas which Southern Union (708,000 Mcf) and Cananea (416,000 Mcf) are presently entitled to receive under the terms of Opinion No. 800-B. Additionally El Paso seeks authority to pay Southern Union and Cananea the difference between the proceeds of such direct sale ($1.75 per Mcf) and the sum of El Paso's effective Rate Schedule B-1 rate at the time of such sale plus 7 cents (representing the Arizona Transaction Privilege and Education Excise Tax payable by El Paso on the proceeds of such sale).[8]

2. Storage of Entitlement

In addition El Paso states that one customer, Southwest Gas Corporation (Southwest), requests that a portion of its "800-B payback" entitlement be stored on Southwest's behalf by El Paso in the Clay Basin Storage facility.

Southwest has advised El Paso that, while it intends to take back the major part of its allocable share of the restitution gas prior to February 28, 1979, it desires to store the remaining portion for its own use as required during subsequent periods. To accommodate Southwest, El Paso and Clay Basin Storage Company (Storage Company) have agreed to enter into a Letter Agreement which will permit the preservation (through September 30, 1980) of a portion of the restitution gas in the Clay Basin Storage Field.

By order issued September 30, 1977, in *Mountain Fuel Resources, Inc.*, Docket Nos. CP76-285, *et al.*, temporary certificate authorization was granted to El Paso, Storage Company, Northwest Pipeline Corporation (Northwest) and Mountain Fuel Resources, Inc. (Mountain Fuel) for the utilization of a portion of the Clay Basin Field located in Goggett County, Utah, for the protection of service to El Paso's EOC Priority 1 and 2 markets through December 31, 1979. Subsequently, the parties entered into various agreements to extend the term of such arrangements through September 30, 1980. By order issued July 3, 1978, the various parties received temporary authorization for the extended Clay Basin Storage Arrangements.

El Paso and Storage Company in Docket Nos. CP77-289 and CP77-512, respectively, request that the July 3, 1978, order be amended to permit the utilization of the Clay Basin Storage Arrangements to store a portion of the restitution gas entitled to Southwest.

El Paso will sell to Storage Company and deliver to Northwest, for Storage Company's account, those quantities of restitution gas to be stored for Southwest. Northwest will transport such quantities to the Clay Basin Storage Field where such gas will be delivered to Mountain Fuel for injection into the field for Storage Company's account. The gas will be held in storage until Southwest calls for equivalent quantities. The return of such gas to Southwest will be accomplished by reversing the above described delivery procedure, with El Paso making deliveries to Southwest for Storage Company's account at existing delivery points. Such deliveries to Southwest will be subject to the prior use of the Clay Basin arrangements to make gas available for protection of service to El Paso's EOC Priority 1 and 2 markets. However, the deliveries of gas to Southwest will be made at Southwest's request without regard to the priorities of service to be served thereby.

El Paso will sell the restitution gas for storage at Storage Company at the current Rate Schedule G rate and Storage Company will sell such gas back to Southwest at a rate in effect for El Paso's sales of gas to Southwest at the time of delivery.

As consideration for the storage service, Southwest will pay El Paso a monthly surcharge.[9] Such surcharge will be designed to compensate El Paso for all costs associated with the storage service provided for Southwest and will be consistent with the surcharge approved by the Commission in the September 30, 1977, Order in Docket Nos. CP76-285, *et al.*

B. OFFSET OF CHARGES

As explained earlier the restitution plan adopted by the Commission in Opinion No. 800-B contemplated the imposition by El Paso of a surcharge to recover its costs incurred during the pendency of the restitution. El Paso originally calculated and billed the surcharge under the assumption that full restitution would be made by April 1978. As it developed the gas was not repaid as rapidly as El Paso had anticipated, and so El Paso's estimate of surcharge was substantially understated. Indeed El Paso estimates that its revenue deficiency as of October 31, 1978, is approximately $6.5 million. Although the tariff approved by the Commission in Opinion No. 800-B included a provision to recover or flow through any over-under-collections of the surcharge when compared with actual costs incurred through October 31, 1978, El Paso proposes a different mechanism to recover its undercollection of the "800-B payback" surcharge. El Paso proposes to offset that undercollection of revenues against a $7 million overcollection by El Paso against the same group of customers for an unrelated storage service. To this end El Paso filed on August 30, 1978, proposed tariff revisions in Docket No. CP77-289.

C. REALLOCATION OF SURCHARGE

El Paso was granted authority to impose the "800-B payback" surcharge through October 31, 1978. Sub-

[1] "Opinion and Order on Remedial Compliance Filing and Granting Conditioned Certificate of Public Convenience and Necessity After Statutory Hearing," issued December 30, 1977, in Docket No. CP74-289, *et al.*

[2] "Priority 1, 2, and 5 customers" refers to buyers which purchase gas from El Paso for Priority 1, 2, or 5 use as defined in El Paso's curtailment plan.

[3] Opinion No. 800, 58 FPC ——— (May 23, 1977). See also Opinion No. 800-A, 59 FPC ——— (July 20, 1977).

[4] El Paso's tariff also included a provision to recover from or payback to the P-1 and P-2 customers any excess or deficiency yielded by such surcharge.

[5] The surcharge imposed was a function of the balance of gas remaining to be refunded consisting of three separate charges, to wit:

[6] Compania Minera de Cananea, SA de CU (Cananea) and Southern Union Company (Southern Union).

[7] Arizona Public Service Company (APS); Salt River Project Agricultural Improvement and Power District (Salt River); Kennecott Copper Corporation (Kennecott); Phelps Dodge Corporation (Phelps).

[8] El Paso's current Rate Schedule B-1 rate is $1.3685. ($1.3685 + $.07) = $.3115 difference to be paid Southern Union and Cananea.

[9] Any difference between the cost of gas sold to Storage Company and the proceeds of Storage Company's sale to Southwest will be reflected as a credit or debit in the calculation of the surcharge.

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sequent to that date El Paso has no further authority to recoup its costs related to the restitution plan. For the period subsequent to October 31, 1978, El Paso proposes in Docket No. CP78-500 a surcharge which would be imposed only against those EOC Priority 5 customers having restitution volumes remaining unrepaid after November 1, 1978, the surcharge would be imposed against the respective EOC P-5 customers in proportion to the respective share of gas each had outstanding of the total restitution volumes outstanding. In net effect this proposal would shift the burden of the surcharge effective November 1, 1978, from EOC Priorities 1 and 2 customers to those EOC Priority 5 customers which have yet to take their full "800-B payback" entitlement.

III. Other Pleadings

El Paso filed, concurrently with its companion applications in Docket Nos. CP77-289 and CP78-500, a Petition for Expedited Procedures.[10] El Paso supplemented that Petition on September 7, 1978. These two requests for expedited procedures, in turn, generated a flurry of response and counter-response.[11] Finally on November 17, 1978, El Paso filed in Docket No. CP74-289, *et al.* a request for temporary authorization as necessary to assure that El Paso may impose its surcharge effective November 1, 1978.

After due notice of the instant application AEPCO and El Paso Electric Company (El Paso Electric) filed petitions to intervene in Docket No. CP78-500.* Both AEPCO and El Paso Electric are EOC Priority 5 customers of El Paso with outstanding entitlement to restitution gas under Opinion No. 800-B. Both protest so much of El Paso's proposal that would impose the surcharge on EOC Priority 5 customers rather than Priorities 1 and 2 customers, and both request hearing on this matter. In addition, AEPCO objects to El Paso's proposed offset of charges. There are no objections to El Paso's proposal to restructure the plan of restitution adopted in Opinion No. 800-B.

Arizona Public Service Company
Southern California Gas Company
Southwest Gas Corporation
The State of New Mexico Energy and Minerals Department
Pacific Gas and Electric Company
Salt River Project Agricultural Improvement and Power District
Southern Union Company

None of these petitioners expressed any objection to El Paso's proposal.

IV. Discussion

Restructured Restitution Plan

It was the Commission's intent, as expressed in Opinion Nos. 800, 800-A and 800-B, that the volumes of gas originally curtailed from the EOC Priority 5 customers for purposes of El Paso's special operating arrangement with PG&E be repaid to the same priority 5 customers and in the same proportions from which it came. El Paso's proposal would allow some Priority 5 customers to sell their entitlement and another to store its entitlement for later use not necessarily to serve the same Priority 5 usage which was originally curtailed. Nevertheless, since the distribution customers to whom the restitution is directed have effectively waived their rights to the restitution volumes, we see no conflict between Opinion Nos. 800-800B and the restructured repayment arrangements.

There remains, however, one difficulty with this portion of El Paso's proposal. Under the agreements tendered by El Paso pursuant to which Southern Union and Cananea will sell their respective restitutionary entitlements there is no certainly when, if ever, the propective buyers will purchase the restitution gas. Thus it is possible that the proposed sale will not expedite restitution at all. However, that concern is substantially allayed by our decision, discussed below, temporarily permitting El Paso to impose the "800-B payback" surcharge against the Priority 5 customers which have outstanding payback entitlements. The fact that Southern Union and Cananea will suffer the surcharge as long as any part of their entitlement is outstanding will, we think, encourage every reasonable effort on their part to expedite the restitution.

Offset of Surcharges

The proposal of El Paso to offset the undercollection attributable to the "800-B payback" surcharge against an overcollection attributable to El Paso's Clay Basin storage arrangements has previously been acted upon by the Commission. By letter order dated October 2, 1978, we rejected those tariff sheets which would have affected the proposed offset. On October 19, 1978, El Paso filed an appeal from the Commission's letter order. Subsequently on November 22 and 29, 1978, El Paso tendered separate filings in Docket No. CP74-289, *et al.* and Docket No. CP77-289 pursuant to its existing tariff providing, respectively, for recoupment of the undercollected "800-B payback" surcharge and credit for the overcollected Clay Basin surcharge.

El Paso has existing tariff language permitting the recoupment/payback of surcharge under/overcollections as necessary with respect to both the "800-B payback" and Clay Basin storage arrangements. El Paso has not shown how the two matters bear anything in common warranting an offset of the respective surcharges. Moreover El Paso has offered no change in its tariff language to permit such an offset. The *ad hoc* offset that El Paso here proposes would lend much difficulty to the task of tracing the revenues attributable to these two separate surcharges in future tariff filings. Since El Paso has offered no substantial benefit to be gained by the offset we affirm our previous rejection of the proposed tariff sheets implementing a surcharge offset.

Reallocation of "800-B Payback" Surcharge From Priorities 1 and 2 to Priority 5 Customers

As long as the "800-B payback" is incomplete El Paso continues to incur charges from PG&E. However after October 31, 1978, El Paso no longer has tariff authority to pass those charges to any of its customers by means of a surcharge. As we have noted in the past, it is not our intent to have El Paso suffer financial hardship for providing a service found to be required by the public convenience and necessity.[12] The question then is against whom should El Paso assess the surcharge.

El Paso suggests in the instant filings that commencing November 1, 1978, the "800-B payback" surcharge should be assessed against these EOC Priority 5 customers that have restitution volumes outstanding. El Paso contends that after October 31, 1978, there is no further service of benefit to Priorities 1 and 2 customers, and so the surcharge should not properly be assessed against them. El Paso maintains that the continued necessity of the surcharge is wholly attributable to the delay by certain Priority 5 customers accepting their respective payback entitlements, therefore those customers should bear the continuing surcharge.

El Paso further contends that assessing the surcharge against those Priority 5 customers will redound to the general benefit of the affected parties. To the extent the Priority 5 customers suffer the surcharges their motivation increases to expedite the payback. The sooner the payback is complete, El Paso's argument goes, the sooner PG&E is relieved of the burden on its storage capacity and the lesser will be the total accumulation of surcharges.

In response AEPCO maintains that it "is not dragging its feet in using this payback gas. El Paso's recent increase in flowing gas supplies as well as various operational considerations, have made it impossible for AEPCO to use the 800-B payback gas as fast as El Paso projected it could."[13] Moreover, AEPCO contends there is no factual support for the proposed surcharge which must be justified anew since it is to be applied to a new set of customers.

El Paso Electric appears to agree with AEPCO's latter contention and protests the imposition of the surcharge against customers which intend to complete payback within the time specified in El Paso's application (February 28, 1979).

In Opinion No. 800-B we did not establish a specific timetable for the restitution. Instead, both the contributor (PG&E) and the receivers (EOC Priority 5 customers) were accorded discretion in scheduling daily deliveries of restitution gas. On the other hand we did assume that restitution would be accomplished in good faith "as promptly as possible."[14]

Thus, the propriety of assessing the surcharge against those Priority 5 customers that have outstanding payback entitlements appears to turn largely on the factual question of the good faith ability of those customers to take the payback gas. Several other factual questions also appear to be relevant:

> What is the extent of burden, if any, on PG&E of any delay in completing the payback.
>
> How is the surcharge factually defined and what is its purpose.
>
> Who receives the benefit of the service to which the surcharge is related and in what proportion.

We presume AEPCO and El Paso Electric seek evidentiary hearing in order to explore these factual issues. For that purpose we shall grant their request for hearing.

Although we do not decide as a final matter herein against whom the surcharge properly should be assessed, we do conclude that the surcharge should not continue to be assessed against Priorities 1 and 2 customers pending the outcome of that final decision. Instead we shall grant, *pendente lite*, under temporary authority El Paso's proposal to assess the surcharge against those certain Priority 5 customers.

The current surcharge mechanism does not encourage expedition of the restitution. Since the Priority 5 customers have not been obliged to pay the surcharge the surcharge does not serve as a financial incentive for them to hasten their takes of payback gas. Indeed there may be a disincentive for the Priority 5 customers have, in effect, a storage service without charge. Moreover, as El Paso's surcharge undercollection demonstrates, the longer the payback obligation continues the greater the total surcharges.[15] Furthermore, if as PG&E contends the payback obligation is presently burdening its storage capability, then any delay in restitution would only increase that burden.

Accordingly, we shall grant, effective November 1, 1978, temporary authority for El Paso to assess the "800-B payback" surcharge against those Priority 5 customers with outstanding payback entitlements as outlined in El Paso's application. By so doing total surcharges and burden on PG&E, if any there may be, will be minimized *pendente lite*. The surcharge assessed pursuant to this temporary grant of authority shall be subject to refund as ultimately deemed appropriate as a result of the hearing ordered herein.

Schedule of Restitution

We note with regard to the expedition of the restitution that each Priority 5 customer, save one, has provided El Paso a projection of its contemplated schedule for taking the outstanding payback volumes. The lone holdout is AEPCO. AEPCO gives no explanation in its several pleadings for its refusal. AEPCO does not allege, nor can we envision, how such a payback schedule would infringe on AEPCO's exercise of discretion in scheduling its receipt of gas paybacks.

Without commenting on the reasonableness of AEPCO's failure to date to take its payback entitlement, we think "good faith" requires that AEPCO at least give El Paso its best estimate of how it expects to take its payback entitlement. If for no other reason, estimated payback schedules provide El Paso with some basis upon which to bill its surcharge. This would help avoid a recurrence of the past year's experience when El Paso's surcharge, based on its estimated date of payback completion, was understated by approximately $6.5 million.

Accordingly, we shall order that AEPCO provide within 30 days of this order its plan for the disposition of its "800-B payback" entitlement.

El Paso's Tariff Submittals

Finally, we must deal with El Paso's proposed tariff sheets filed in conjunction with its instant certificate applications.[16] El Paso has asked for waiver of § 154.22 of our Regulations (18 CFR 154.22) to permit the acceptance of the tendered sheets concurrently with this order. El Paso's intent it appears was to insure continuity of its surcharge collection by requesting an effective date of November 1, 1978. We have effectively assured such continuity by granting El Paso temporary authorization to impose the surcharge effective November 1, 1978. However, the terms of this order leaves the tariff sheets themselves in some disarray. Certain portions of those sheets have been rejected and other portions may be affected by our conclusions herein. Therefore, we shall deny waiver of § 154.22 and thereby require El Paso to submit tariff sheets consistent with the terms of this order.

The Commission finds:

(1) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require (1) that the order issued December 30, 1977, accompanying Opinion No. 800-B in Docket No. CP74-289, *et al.*, and the order issued July 3, 1978, *Mountain Fuel Resources, Inc.*, et al., in Docket No. CP76-285, *et al.* be amended as hereinafter ordered, and (2) that a temporary certificate of public convenience and necessity be issued granting El Paso authority to assess the "800-B payback" surcharge against those EOC Priority 5 customers with outstanding payback entitlements subject to the ultimate determination of the Commission in the hearing hereinafter ordered.

(2) Participation by the above-named petitioners in these proceedings may be in the public interest.

The Commission orders:

(A) The terms of Opinion No. 800-B and accompanying order issued December 30, 1977, are amended to permit the revised scheme of restitution including the transportation of natural gas by El Paso on behalf of Southern Union and Cananea for direct sale to certain Priority 5 customers and on behalf of Southwest for storage in the Clay Basin Field all as more fully set forth herein and in the application of EL Paso in Docket No. CP78-500.

(B) The terms of the Commission's order issued July 3, 1978, in Docket No. CP76-285 issuing a temporary cer-

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[10] By its petition El Paso asked that we act upon the instant certificate and tariff matters without awaiting or considering answers or protests. No compelling reason was given for employing such extraordinary procedures and so we declined to do so.

[11] On September 15, 1978, PG&E filed an answer in support of El Paso's petition for expedition. On September 22, 1978, Arizona Electric Power Cooperative, Inc. and the City of Willcox (AEPCO) filed an answer objecting to the requested shortening of procedures. Finally on October 4, 1978, PG&E a reply to AEPCO's answer.

* Petitions to intervene were also filed by:

[12] See, e.g., Opinion No. 800-B, *supra*, mimeo p. 13.

[13] AEPCO's Answer to El Paso's Petition for Expedited Procedures filed September 22, 1978, at p. 5.

[14] See Opinion No. 800-B, *supra* mimeo pp. 11-12.

[15] Illustrative of the magnitude of this problem is El Paso's experience this past year. Had payback been complete as contemplated by El Paso on April 30, 1978, total surcharges would have been approximately $10 million. The continuation of the payback through November 1, 1978, has amassed an additional $7 million in surcharges.

[16] Certain of these tariff sheets, specifically those that propose the surcharge offset, were filed as El Paso's biannual Clay Basin Surcharge adjustment as well as in conjunction with its certificate application.

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tificate governing the operation of the Clay Basin Storage project is amended to permit the use of Clay Basin for storage of Southwest's "800-B payback" entitlement as more fully set forth herein and in the applications of El Paso and Clay Basin Storage Company in Docket Nos. CP77-289 and CP77-512 respectively.

(C) Pursuant to the authority of the Natural Gas Act, particularly Sections 7 and 16 thereof and the Commission's rules and regulations, a public hearing shall be held concerning El Paso's proposal, effective November 1, 1978, to assess the "800-B payback" surcharge against EOC Priority 5 customers with outstanding payback entitlements.

(D) A Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge for that purpose (18 CFR 3.5(d)), shall convene a prehearing conference in this proceeding to be held within 30 days of the issuance of this order in a hearing or conference room of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. The Presiding Administrative Law Judge is authorized to establish such further procedural dates as may be necessary, and to rule upon all motions (except motions to consolidate, sever, or dismiss), as provided for in the rules of practice and procedure.

(E) Pursuant to the authority of the Natural Gas Act, particularly Sections 7 and 16 thereof, a temporary certificate of public convenience and necessity is granted to El Paso authorizing it to collect, subject to refund upon the ultimate resolution of the hearing ordered in Paragraph (c) above, a surcharge from those certain Priority 5 customers with outstanding "800-B payback" entitlements all as more fully set forth herein and in the application of El Paso in Docket No. CP78-500.

(F) El Paso's appeal of the Commission's letter order dated October 2, 1978, in Docket No. CP77-289 is denied.

(G) El Paso's request for waiver of § 154.22 of the Commission's Regulations is denied.

(H) AEPCO, as recipient of restitution gas ordered to be repaid pursuant to the terms of Commission Opinion No. 800-B, is directed to provide El Paso and file with the Commission within 30 days of this order its plan for the disposition of its "800-B payback" entitlement.

(I) The above-named petitioners are permitted to intervene in these proceedings subject to the Rules and Regulations of the Commission; *Provided, however,* That the participation of such intervenors shall be limited to matters affecting asserted rights and interests as specifically set forth in their petitions for leave to intervene; and *Provided, further,* That the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any orders of the Commission entered in these proceedings.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-232 Filed 1-2-79; 8:45 am]

[6740-02-M]

[Docket No. CP75-104; Docket No. CP76-118]

HIGH ISLAND OFFSHORE SYSTEM AND U-T OFFSHORE SYSTEM

Order Granting Amendments To Certificates of Public Convenience and Necessity

DECEMBER 22, 1978.

On October 2, 1978, U-T Offshore System (U-T) filed pursuant to Section 7(c) of the Natural Gas Act, Section 157.5 *et seq.* of the Commission's Regulations and Section 1.7 of the Commission's Rules of Practice and Procedure a petition to amend further the certificate of public convenience and necessity granted to U-T by order issued January 13, 1977, as amended by orders issued March 7, 1978, and June 12, 1978. U-T requests authorization to transport up to 730,000 Mcf per day of gas for its shippers on a firm basis and, to the extent its existing facilities permit U-T to do so, transport all of the gas its shippers make available to it from the High Island Offshore System (HIOS) on an interruptible overrun basis, all as more fully set forth in U-T's application to amend which is on file with the Commission and open to public inspection.[1]

On October 19, 1978, HIOS filed pursuant to Section 7(c) of the Natural Gas Act, Section 157.5 *et seq* of the Commission's Regulations and Section 1.7 of the Commission's Rules of Practice and Procedure, a petition to further amend the certificate of public convenience and necessity granted to HIOS by order issued June 4, 1976, as amended.[2] HIOS requests authorization, to the extent its existing facilities permit it to do so, to transport gas on an interruptible overrun basis, in excess of its present certificated firm capacity of 988,000 Mcf per day.[3]

[1] On October 16, 1978, U-T filed with the Commission, a petition for temporary authorization to transport natural gas volumes tendered by its shippers in excess of U-T's certificated capacity of 589,920 Mcf per day, until such time as the Commission acted upon U-T's October 2, 1978, petition.

[2] The certificate has previously been amended by orders issued on July 20, 1976, December 6, 1976, June 12, 1978 and June 21, 1978.

[3] HIOS also requested the issuance of a temporary certificate pending final action on the petition to amend.

I. THE U-T PROPOSAL

U-T owns and operates approximately 30 miles of 42-inch pipeline and appurtenant facilities extending from a point of interconnection with the HIOS system in West Cameron Block 167, offshore Louisiana, to a point of interconnection with the existing onshore facilities of Transcontinental Gas Pipe Line Corporation (Transco) near Johnson's Bayou, Louisiana. U-T was originally authorized to transport up to 589,920 Mcf per day of gas for Natural Gas Pipeline Company of America (Natural), United Gas Pipe Line Company (United) and Transco.

On June 12, 1978, the Commission issued an order giving both HIOS and U-T blanket authorization to transport, within the limits of their respective certificated capacities, natural gas for shippers not affiliated with HIOS or U-T. U-T states that the capacity requested in its system by affiliated and non-affiliated shippers exceeds 1 Bcf per day. Due to the certificated capacity limitation of 589,920 Mcf per day, U-T shippers received firm capacity entitlements pursuant to Paragraph 2.2 of the transportation agreements with U-T. Furthermore, as a result of the mechanics of Paragraph 2.2 and the different mix of shippers on the HIOS and U-T systems, the U-T shippers in HIOS have less firm capacity in U-T than they have in HIOS. Therefore, none of the U-T shippers are presently able to transport as much gas through U-T as they are able to transport through HIOS on a firm basis.

U-T states that its onshore facilities in Johnson's Bayou, Louisiana were designed to receive up to 600,000 Mcf per day having an average liquid hydrocarbon content of 10 barrels per MMCF at a pressure of 850 psi and at a temperature of 120 degrees Fahrenheit. U-T states that the gas transported through its system to date has had an average liquid hydrocarbon content of only about 2 barrels per MMcf, an average temperature of 70 degrees Fahrenheit and a gas pressure of about 1,050 psi. Furthermore, the gas delivered through U-T has contained less water vapor than expected. U-T, therefore, concludes that without the installation of any new facilities, it is presently capable of transporting and redelivering all pipeline quality natural gas that its shippers are able to transport through HIOS within their currently effective contract demands.

U-T, therefore, proposes that it be permitted to transport on a firm basis approximately 730,000 Mcf per day pursuant to the following contract demands:

Shippers and proposed contract demands

	Million Cubic feet
Natural	131,530
Transco	131,530
United	143,500
Columbia	40,620
Consolidated	24,950
Tennessee	15,270
El Paso	17,560
Trunkline	133,130
Northern	86,420
National Fuel	5,490
	730,000

U-T also seeks authorization to transport as much overrun gas as its shippers are able to transport through the HIOS system.[4]

U-T further proposes to cease transportation service pursuant to its interim rate and to commence service under its permanent rates on November 1, 1978, utilizing the Commission's presribed demand-commodity rate design. U-T states that it expects to have available for transportation during the 12-month period beginning November 1, 1978, some 239,805,000 Mcf of gas. U-T proposes to utilize the 239,805,000 Mcf volume, which equates to 90% of the contract demands annualized, in the computation of the commodity component of the two part rate. U-T bases the 239,805,000 Mcf figure upon factors such as pipeline maintenance and repair, adverse weather, well workovers and other factors, but states that it is difficult to forecast the volumes which will be transported through Stingray Pipeline Company's facilities into HIOS and U-T. Should U-T transport more than 239,805,000 Mcf, it would recompute its commodity rate on the basis of the larger volume and credit any overcollection to its reserve for depreciation, after appropriate allowance for income taxes. Finally, with regard to the interruptible overrun service, U-T proposes to credit the demand revenues attributable to such service proportionately to each shipper having unused capacity during the period in which the overrun service was rendered. As to demand revenues not redistributed to the shippers U-T proposes to credit such revenues to its reserve for depreciation, after appropriate allowance for income taxes.

II. THE HIOS PROPOSAL

HIOS owns and operates a system to transport natural gas from the High Island Area in Offshore Texas to a point of interconnection at Block 167 in the West Cameron Island Area on Offshore Louisiana with the facilities of the U-T system and the facilities of Michigan Wisconsin Pipe Line Company (Michigan Wisconsin) HIOS was originally authorized to transport up to an aggregate of 988,000 Mcf per day.

The affiliated and non-affiliated shippers through the HIOS system have requested firm capacity in the system substantially in excess of the certificated firm capacity of 988,000 Mcf per day. Pursuant to the provisions of Paragraph 2.2 of the HIOS transportation agreements, the contract demands of each shipper have been reduced below those volumes in excess of 988,000 Mcf per day. HIOS, therefore, proposes to transport on an interruptible overrun basis, volumes in excess of 988,000 Mcf per day, to the extent that its existing facilities will permit.[5] HIOS proposes to credit the demand revenues attributable to such service proportionately to each shipper having unused capacity during the period in which the overrun service was rendered. Further, should HIOS transport more than 360,620,000 Mcf annually, it proposes to credit the revenues attributable to such excess volumes to its reserve for depreciation, after appropriate allowance for income taxes.

III. DISCUSSION

We believe that it is in the public interest to approve the interruptible overrun service proposed by U-T and HIOS. As U-T and HIOS state, the transportation of such additional supplies of gas by U-T and HIOS will assist the shippers in meeting their customers' requirements. We will, however, require U-T and HIOS to file with the Commission within 30 days of the date of this order flow diagrams showing the ability of the respective systems to transport volumes in excess of their present firm capacities of 589,920 Mcf per day and 988,000 Mcf per day respectively. We further believe that the rate methodology proposed by U-T and HIOS for the overrun service are appropriate.

HIOS and U-T propose to credit those demand revenues attributable to the interruptible overrun gas transported through temporary unused capacity proportionately to those shippers having unused capacity. Any additional interruptible demand revenues would be credited, net of taxes, to the reserve for depreciation. Moreover, HIOS and U-T propose to credit any commodity revenues resulting from transportation of volumes in excess of 360.6 and 239.8 bcf, respectively, to the reserve for depreciation, after appropriate allowance for income taxes. The effect of the proposals would be that HIOS and U-T would be able to recover their costs and that individual shippers presently unable to utilize their contracted capacity would be compensated for the use of such capacity by others. We recognize that both HIOS and U-T are in a period of build-up in throughput volumes and that contracted capacities have not yet been fully aligned with the needs of individual shippers. We will, therefore, accept the proposals to credit the demand revenues for the interruptible service to those shippers having unused capacity for a one (1) year period from January 1, 1979, after which time the contracted capacities should more nearly represent the capacity requirements. Should it be possible to render interruptible overrun service after than one-year period, we will require that the revenues accrue to the benefit of the system and all shippers.

HIOS and U-T propose to credit to the reserve for depreciation any remaining demand revenues and any commodity revenues attributable to volumes transported in excess the volumes used for purposes of determining the level of the commodity charges. This would assure that the companies would not over-recover fixed costs and would ultimately enable those shippers having invested in the projects and contracted for firm capacity to benefit from the interim use of the systems. While this approach appears reasonable, the particular treatment of the revenues results in remaining book investment being reduces through increases in the accumulated depreciation reserve more rapidly than the amounts charged to book depreciation expenses. Moreover, the proposals would credit only after tax revenues which avoids recording income tax expense, including provision for deferred income taxes. It appears that a more reasonable approach would be to require a supplemental depreciation charge equal to all revenues attributable to excess volumes. This approach coupled with the comprehensive tax allocation procedures required in the original certificate authorizations will achieve the same rate base but will better facilitate the determination of income tax allowance in future rate proceedings. For this reason we will require that the excess revenues be added to both the depreciation expense and the accumulated depreciation reserve.

We have directed that U-T and HIOS utilize a 100% load factor in computing the commodity portion of their permanent rates.[6] U-T, in its Oc-

[4] U-T proposes to charge its shippers a rate for the interruptible overrun service equivalent to the proposed demand—commodity rate for firm service at a 100% load factor.

[5] HIOS proposes to charge its shippers a rate for the interruptible overrun service equivalent to the proposed demand-commodity rate for firm service at a 100% load factor.

[6] On the U-T system, *see e.g.*, the Commission orders of January 13, 1977, and March 7, 1978, in Docket No. CP76-118. On the HIOS system, *see e.g.*, the Commission order of July 20, 1976.

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tober 2 petition, proposes to utilize the 239,805,000 Mcf volume which it estimates will be available for transportation through its system during the 12-month period, November 1, 1978, through October 31, 1979, in computing the commodity component of its permanent rate. This volume equates to a 90% load factor. As we have noted previously U-T states that its estimate of volumes for the 12 months ending October 31, 1979, is based upon such factors as normal maintenance and repair, adverse weather conditions and routine well workovers.

We will accept U-T's estimate that approximately 239,805,000 Mcf will be transported over the 12-months ended October 31, 1979. Therefore, since some shippers in U-T are unable to utilize their full contract demands, U-T's methodology of utilizing a 90% load factor for computing the commodity rate will result in a charge more in line with the actual use of the system. If the commodity charge is based upon a realistic estimation of the annual volumes which will flow through the system, U-T will have a greater assurance of earning its allowed return and the shippers utilizing the system will pay a charge which reflects a fair share of the costs. Since a build-up period is now being experienced on the U-T system, we will limit the utilization of the 90% load factor computation in U-T's commodity rate to a one year period. We will also require U-T to provide detailed deliverability studies which establish the volumes from specific wells that U-T anticipates will be delivered through its system during the 12-months ended October 31, 1979. Since neither HIOS nor U-T were able to render the proposed services commencing November 1, 1978, as requested, the authorization issued herein shall be effective January 1, 1979.

The Commission orders:

(A) The certificates of public convenience and necessity issued to HIOS and U-T in Docket Nos. CP75-104 and CP76-118 respectively are amended to permit HIOS and U-T to render an interruptible overrun service commencing January 1, 1979, pursuant to the following conditions:

(1) the rate charged shall be based upon U-T's and HIOS' 100 percent load factor firm rate.

(2) for the first year of service, demand revenues attributable to any unused capacity under the contract to HIOS and U-T shippers shall be credited proportionately to each shipper having unused capacity during the period in which the overrun service is rendered. Thereafter, a supplemental charge for depreciation and concurrent credit to accumulated provisions for depreciation shall be recorded in an amount equal to such demand revenues.

(3) a supplemental charge for depreciation and concurrent credit to accumulated provisions for depreciation shall be recorded in an amount equal to all revenues attributable to annual volumes transported in excess of 360,620,000 Mcf by HIOS and all demand revenues attributable to annual volumes transported in excess of 266,450,000 Mcf by U-T.

(4) within 30 days from the date of this order, U-T and HIOS shall submit detailed flow diagrams showing their maximum capacity utilizing their existing facilities.

(5) HIOS and U-T shall file tariff sheets consistent with the conditions proposed herein.

(B) U-T is herein permitted to increase its transportation contract demands to 730,000 Mcf per day commencing January 1, 1979, subject to the following conditions:

(1) for the first year of service, U-T, in computing the commodity component of its permanent rate shall utilize 239,805,000 Mcf as the annual billing determinant.

(2) a supplemental charge for depreciation and a concurrent credit to accumulated provisions for depreciation shall be recorded in an amount equal to any overcollections attributable to the commodity rate resulting from U-T transporting annual volumes in excess of 239,805,000 Mcf.

(3) thereafter, U-T, in computing the commodity component of its permanent rate shall utilize the 100% load factor volume of 266,450,000 Mcf.

(4) within 30 days of the date of this order, U-T shall provide detailed deliverability studies which establish the volumes from specific wells that U-T anticipates will be delivered through its system during the 12 months ended October 31, 1979.

(C) The return on equity portion of HIOS' and U-T's rates shall be collected subject to refund pending Commission determination of the appropriateness of their rates of return.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-233 Filed 1-2-79; 8:45 am]

[6740-02-M]

[Docket Nos. CP75-104, *et al.*]

HIGH ISLAND OFFSHORE SYSTEM

Order Granting Appeal in Part and Denying Appeal in Part, Rejecting Resubmitted Tariff Sheets and Directing HIOS To Make a Compliance Filing

DECEMBER 22, 1978.

On December 7, 1978, the Director of the Office of Pipeline and Producer Regulation of the Federal Energy Regulatory Commission issued a letter[1] rejecting the September 29, 1978 initial rate filing of High Island Offshore System (HIOS) in the captioned docket. On December 15, 1978, HIOS filed an appeal from Staff's rejection of its initial rate filing and refiling its previously rejected tariff sheets. For the reasons set forth below, we shall grant in part and deny in part HIOS' appeal.

HIOS' initial rate filing was rejected for inconsistencies with its certificate authorization and tariff. The annual cost of service included in HIOS' filing contained approximately $10 million of costs associated with separation, dehydration and measuring services performed onshore at Cameron Meadows and Grand Chenier, Louisiana. The rejection letter noted that HIOS' transportation agreements prohibit it from processing gas. In addition, HIOS failed to allocate costs to the transportation and handling of liquids and liquefiables as required by the conditions of its certificate.[2] Finally, Section 4 of HIOS' proposed rate schedule provides that demand revenues attributable to overrun gas transported through temporary unused capacity be credited to certain shippers on a proportionate share basis. Staff's rejection letter pointed out that no accounting of other potential overrun demand and commodity revenues was proposed. For these reasons, HIOS' filing was rejected without prejudice to HIOS' rights to make appropriate certificate and tariff applications to: (1) provide for processing services; (2) show an allocation of costs to transportation of liquids; and (3) account for all potential overrun demand and commodity revenues.

In its appeal, HIOS contends that it is obligated to measure, separate and dehydrate the gas transported through its system and that such functions do not constitute processing of the gas. The Commission is satisfied that the services performed onshore at Cameron Meadows and Grand Chenier, Louisiana do not involve processing of the gas and, therefore, are in compliance with HIOS' transportation agreements.

Staff's rejection letter also found HIOS' filing deficient for failure to account for all potential overrun demand and commodity revenues. In an order issued this day,[3] the issue of crediting of revenues was resolved by the Commission and need not be discussed further in this order.

[1] Pursuant to 18 CFR Section 3.5(f)(3).

[2] High Island Offshore System, Docket Nos. CP75-104, CP75-81, CP75-16 (issued June 4, 1976), Ordering Paragraph C & E.

[3] *High Island Offshore System, et al.*, Order Granting Amendments to Certificates of Public Convenience and Necessity, Docket Nos. CP75-104, *et al.*

HIOS argues that it is entitled to include in its cost of service as a charge to the shippers for the transportation of gas approximately $10 million in costs, a portion of which is associated with handling of liquids and liquefiables. In addition HIOS has failed to allocate any costs to the transportation of such liquids and liquefiables. This position is in conflict with the conditions of HIOS' certificate which require that costs shall be allocated to the handling and transportation of liquids and liquefiables. HIOS is permitted to charge its shippers for all costs incurred in transporting and handling either gas or liquids. However, HIOS must provide for recovery of costs associated with the handling of liquids and liquefiables through a separate charge.[4] To the extent that a portion of the $10 million included in HIOS' cost of service is related to the separation of liquids, then those charges, as well as the charges allocated to the transportation of liquids, must be recovered through a separate charge.

HIOS notes (Petition, pp. 10-11) that a charge of 20 cents per barrel is the only charge which the Commission has previously found appropriate for allocating the costs of transportation and delivery of liquids from offshore to onshore. It was further pointed out that this charge as adjusted to reflect subsequent inflation has been proposed by other pipelines for meeting certificate conditions similar to those contained in HIOS' certificate.

The Commission finds that for purposes of meeting HIOS' certificate requirements, a unit charge for the transportation and delivery of liquids of 20 cents per barrel as adjusted to reflect inflation[5] would be appropriate.

With respect to a unit charge for the transportation and delivery of liquefiables by HIOS, the Commission finds that a charge, equal to the unit rate resulting from 100 percent load factor usage of the charges under its FERC tariff for the transportation of gas, would meet the requirements of HIOS' certificate.

Accordingly, we shall reject HIOS' resubmitted tariff sheets and shall direct HIOS to file prior to January 1, 1979, revised tariff sheets reflecting a rate for transportation of gas which excludes from its earlier claimed annual cost of service the sum of the following amounts: (1) a unit charge of 20 cents per barrel adjusted for inflation for the transportation and handling of liquids based on annual throughout (2) a charge for transportation and delivery of liquefiables which is equal to the unit charge resulting from 100 percent load factor usage under its FERC tariff for the transportation of gas times the annual volumes, and (3) the portion of the charges from Mich-Wisc and UTOS attributable to the separation, handling and storage of liquids. The unit charges for the liquids and the liquefiables service shall be separately stated. Upon receipt of a filing complying with the above stated provisions, the Commission shall grant waiver of the 30 day notice requirements and permit the tariff to become effective on January 1, 1979. These allocation methods shall be considered appropriate for purposes of meeting HIOS certificate requirements but shall be subject to review in a HIOS rate proceeding under section 4 or 5 of the Natural Gas Act or a rate filing made pursuant to Ordering Paragraph A of the Commission's December 6, 1977, order issued in *High Island Offshore System, et al.*, Docket No. CP75-104, *et al.*, whichever is sooner.

The Commission orders:

(A) The appeal of HIOS is granted in part to eliminate those conditions of the Staff rejection letter which would require HIOS to make appropriate certificate and tariff applications to:

(1) provide for processing services;

(2) account for all potential overrun demand and commodity revenues.

(B) HIOS' resubmitted tariff sheets submitted in Appendix B to its petition are rejected.

(C) HIOS is hereby directed to file prior to January 1, 1979 a new tariff application in compliance with the certificate conditions discussed in this order. Upon receipt of a filing in compliance with this order, the Commission shall grant waiver of the 30 day notice requirement and make it effective as of January 1, 1979.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-234 Filed 1-2-79; 8:45 am]

[4] The necessity of requiring a separate allocation of these costs is a result of the outstanding issue as to whether the shippers may pass on such charges to their gas customers. (See FERC order issued April 12, 1978, *Union Oil Company of California*, Docket Nos. CI77-828, *et al.*,)

[5] The inflation adjustment shall be based upon the GNP Implicit Price Deflator methodology reflected on Appendix C to HIOS' petition from 1970 through the latest period available at the time HIOS makes its compliance filing.

[6740-02-M]

[Project No. 2800, Docket No. ES78-44]

LAWRENCE HYDROELECTRIC ASSOCIATES AND ESSEX CO.

Application

DECEMBER 22, 1978.

Take notice that on December 15, 1978, the Lawrence Hydroelectric Associates (LHA), a limited partnership organized under the laws of the Commonwealth of Massachusetts, with its principal business office in Boston, Massachusetts, filed an application pursuant to Section 204 of the Federal Power Act, seeking authorization to (1) secure a construction loan of up to $25 million, and (2) issue 25-year secured notes (equal to 80% of project costs) of up to $18,656,000, and to provide equity capital (equal to 20% of the project costs) at the time of completion of project No. 2800.

Any person desiring to be heard or to make any protests with reference to said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) on or before January 3, 1979. The application is on file and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-235 Filed 1-2-79; 8:45 am]

[6740-02-M]

[Docket No. RA79-7]

McCULLOCH GAS PROCESSING CORP.

Filing of Petition for Review Under 42 U.S.C. 7194

DECEMBER 26, 1978.

Take notice that McCulloch Gas Processing Corporation (McCulloch) on December 1, 1978, filed a Petition for Review under 42 U.S.C. § 7194(b) (1977 Supp.) from an order of Secretary of Energy, issued on November 22, 1978, denying McCulloch's application for exception relief.

Copies of the petition for review have been served on the Secretary, Department of Energy, and all participants in prior proceedings before the Secretary.

Any person desiring to be heard with reference to such filing should on or before January 8, 1979 file a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Commission's rules of practice and procedure (18 CFR 1.8). Any person wishing to become a party or to participate as a

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party must file a petition to intervene. Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-236 Filed 1-2-79; 8:45 am]

[6740-02-M]

[Docket No. CP79-107]

McCULLOCH INTERSTATE GAS CORP.

Application

DECEMBER 21, 1978.

Take notice that on December 8, 1978, McCulloch Interstate Gas Corporation (Applicant), 10880 Wilshire Boulevard, Los Angeles, California 90024, filed an application in Docket No. CP79-107 pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to continue the transportation of natural gas for Montana-Dakota Utilities Company (MDU), all as more fully set forth in the application on file with the Commission and open to public inspection.

On November 8, 1978, the Commission issued an order in Docket No. CP77-1, *et al.*, requiring Applicant to apply for certificate authority to continue transporting natural gas from the Atlantic Richfield Company (Arco) to MDU. Accordingly, Applicant states that the instant filing is an attempt to comply with that requirement.

The proposed transportation service would entail Applicant's transporting approximately 46,000 Mcf per month of MDU's gas from Arco's Kitty Processing Plant to Arco's Recluse Plant, both in Cambell County, Wyoming. Applicant states that further detail concerning the proposed service must await the execution of a transportation agreement between it and MDU.

Applicant requests that the certificate authority be for a limited term only, to expire if and when the Commission authorizes the abandonment proposed by Applicant in the proceeding pending in Docket No. CP77-1.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 12, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-237 Filed 1-2-79; 8:45 am]

[6740-02-M]

[Docket No. RP73-43 (PGA78-4)]

MID LOUISIANA GAS CO.

Order Terminating Proceeding

DECEMBER 27, 1978.

BACKGROUND

On June 16, 1978, Mid Louisiana Gas Company (Mid Louisiana) filed Alternate Thirtieth Revised Sheet No. 3a to FERC Gas Tariff First Revised Volume No. 1. Included in this filing were certain costs attributable to two emergency gas purchases which Mid Louisiana made from Louisiana Intrastate Gas Corporation (LIG) at rates in excess of the appropriate nationwide rate. By order issued July 31, 1978 the rates contained in Alternate Thirtieth Revised Sheet No. 3a were suspended one day, to become effective August 2, 1978, and hearing procedures were instituted to determine whether the rates paid in the emergency purchases were prudent under the circumstances. Acceptance of the rates for filing was further conditioned upon the filing of a revised sheet (Substitute Alternate Thirtieth Revised Sheet No. 3a) reflecting proper supplier rates. No protests or petitions for intervention were filed.

Pursuant to the Commission's order of July 31, 1978, Mid Louisiana's case-in-chief was timely filed. The Company's evidence included prepared testimony and certain exhibits. In addition, Mid Louisiana filed written answers to interrogatories propounded by the Commission Staff. An informal prehearing conference was held on September 27, 1978, at which time the evidence and issues were reviewed and the question of prudency of the rates was resolved. On October 12, 1978, Staff issued its Statement of Position wherein it determined that the costs incurred by Mid Louisiana for purchase of emergency gas were prudent under the circumstances.

Staff found that Mid Louisiana exhibited a need for the emergency gas as evidenced by the fact that priority two customers would have been curtailed without such gas. Also, Mid Louisiana did attempt to find alternate gas supplies from at least three other sources but was unable to obtain any gas at prices as low as the subject emergency purchases. The prices paid did not exceed the prices paid for new contracts for intrastate gas in Louisiana which prevailed during the period of ongoing emergency sales. Finally, the language of the Emergency Purchase contracts entered into by Mid Louisiana and LIG demonstrates that the parties did not use their corporated affiliation in an improper manner. Mid Louisiana was under no obligation to take a required amount of gas nor did the contracts require Mid Louisiana to purchase gas for the full 60 day term. Staff concluded that the emergency purchases were at rates a reasonable and prudent pipeline would pay for gas under the same circumstances and accordingly recommended that this docket and the refund obligation of Mid Louisiana be terminated.

On November 2, 1978, Mid Louisiana filed a *Motion for Waiver and Ommission of Intermediate Decision Procedure* in which it recited the foregoing facts and conclusions and requested that, on the basis of the record developed in this proceeding, the Substitute Alternate Thirtieth Revised Sheet No. 3a be approved and the refund condition contained in the Commission's order of July 31, 1978, be terminated. On November 7, 1978, Staff filed comments in support of Mid Louisiana's motion.

DISCUSSION

Our review of the record in this proceeding indicates that the emergency purchases were reasonable and prudent under the circumstances in this case, as supported by Staff's findings in its Statement of Position. No other issues exist between Mid Louisiana and the Staff. Good cause therefore exists to terminate this proceeding.

The Commission orders: (A) This proceeding is hereby terminated.

(B) Mid Louisiana's refund obligation contained in the Commission's order of July 31, 1978, is hereby terminated.

(C) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-238 Filed 1-2-79; 8:45 am]

[6740-02-M]

[Docket No. RP74-97 (PGA79-1)]

MONTANA-DAKOTA UTILITIES CO.

Order Accepting for Filing and Suspending PGA Rate Increase, and Prescribing Conditions

DECEMBER 27, 1978.

On December 1, 1978, Montana Dakota Utilities Company (MDU) tendered for filing a proposed rate adjustment pursuant to its PGA clause,[1] containing a surcharge of 10.516¢ per Mcf to recover deferred gas costs of $91,794. The deferred account balance includes an adjustment of $18,988 to correct an error in the computation of the deferred balances for the months of July, August, and September 1975. MDU states that inaccurate base gas costs were used in the original calculations. MDU requests an effective date of January 1, 1979.

Public notice of the filing was issued on December 7, 1978, providing for protests or petitions to intervene to be filed on or before December 15, 1978.

MDU requests waiver of its present PGA clause to recover the balance in the deferred account using a four month surcharge in lieu of its normal six month surcharge. MDU states that Order Nos. 13 and 13-A change MDU's PGA adjustment dates to May 1 and November 1 of each year from its present adjustment dates of January 1, and July 1. MDU states that the requested waiver is necessary to synchronize the recovery of the balance in the deferred account to these new adjustment dates. MDU further states that carrying charges on the deferred balance will be significantly reduced by amortizing such balance over the shortened period. We agree that MDU should be permitted to use a one-time four month recovery period for its surcharge, and we shall grant the requested waiver.

MDU has included in its total system gas costs, and allocated to all of its customers, the costs of purchases made from a new field in Converse County, Wyoming (Powell II). This gas has been used exlusively to serve MDU's Sheridan System, which is entirely within the State of Wyoming, physically isolated from MDU's interstate pipeline system, and has been operated previously as a non-jurisdictional intrastate distribution system. The inclusion of Powell II gas costs in MDU's PGA adjustment attributable to serving MDU's Sheridan System is an issue of proceedings in Docket No. RP74-97 (PGA78-1). Accordingly, we shall suspend the effectiveness of MDU's filing for one day until January 2, 1978 and provide that the inclusion of costs related to the Powell II purchases for service to the Sheridan System shall be subject to the outcome of the proceedings in Docket No. RP74-97 (PGA78-1).

The Commission orders: (A) MDU's proposed Tenth Revised Sheet No. 3A to FERC Gas Tariff, Original Volume No. 4 is accepted for filing, and suspended for one day until January 2, 1979, at which time it may become effective subject to refund.

(B) Waiver of MDU's PGA clause provisions governing semiannual adjustments is hereby granted to allow MDU to recover the deferred gas cost balance included in its December 1, 1978 filing over a four month period.

(C) Inclusion of costs of the intrastate Powell II gas purchases for service to MDU's intrastate Sheridan System is hereby subject to the outcome of proceedings in Docket No. RP74-97 (PGA78-1).

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-239 Filed 1-2-79; 8:45 am]

[6740-02-M]

[Docket No. ER77-427 and Docket No. ER77-473]

MINNESOTA POWER & LIGHT CO. AND SUPERIOR WATER, LIGHT & POWER CO.

Certification

DECEMBER 26, 1978.

Take notice that on October 23, 1978, Presiding Administrative Law Judge Sherman P. Kimball certified the settlement agreement in Docket No. ER77-473. Docket Nos. ER77-427 and ER77-473 were consolidated by Order of the Commission issued July 21, 1977. Docket No. ER77-473 involves Superior's one jurisdictional customer, Dahlberg Light & Power Company, which did not intervene in this proceeding.

The Presiding Judge indicated that at the commencement of the hearing in the consolidated proceeding on June 6, 1978, counsel indicated on the record that a settlement in principle had been reached in connection with Docket No. ER77-473 (Tr. 35). Counsel for Superior thereafter presented the offer of settlement, as formalized, dated October 11, 1978, at a conference convened on October 20, 1978.

The Presiding Judge also indicated the settlement offer was received in evidence as Exhibit 2. The Presiding Judge was requested to certify the proposed settlement and the underlying record in Docket No. ER77-473 to the Commission.

The Presiding Judge further indicated Superior and the Commission Staff are the only active parties to Docket No. ER77-473. The Public Service Commission of Wisconsin has intervened, but its petition for intervention stated that no hearing was requested and it sought to participate only in the event a formal hearing is held.

The Presiding Judge also stated that it should be noted that the hearing in Minnesota Power & Light Company, Docket No. ER77-427, has been concluded and is currently at the briefing stage.

Any person desiring to be heard or to protest said setlement agreement should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before January 12, 1979. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-240 Filed 1-2-79; 8:45 am]

[6740-02-M]

[DocketNo.RP73-37(PGA79-1) (DCA79-1)]

PANHANDLE EASTERN PIPE LINE CO.

Change in Tariff

DECEMBER 27, 1978.

Take notice that on December 14, 1978 Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing Twenty-Seventh Revised Sheet No. 3-A and Fourth Revised Sheet No. 3-B to its FERC Gas Tariff, Original Volume No. 1. Panhandle submits that these revised tariff sheets reflect rate adjustments as follows:

(1) A DCA Commodity Surcharge Adjustment pursuant to Section 16.6(e) of the General Terms and Conditions; and

(2) A Rate Adjustment pursuant to Section 18.4 of the General Terms and Conditions, such adjustment reflecting a proposed Pipeline Supplier rate adjustment to be effective concurrently herewith; and

(3) A PGA Rate Adjustment pursuant to Section 18.2 of the General

[1] Tenth Revised Sheet No. 3A to FERC Gas Tariff, Original Volume No. 4.

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Terms and Conditions which reflects the current cost of gas and recovery of amounts in the deferred purchased gas cost account; and

(4) Changes in purchased gas costs directly attributable to the Natural Gas Policy Act of 1978 pursuant to Section 154.38(d)(4)(x) of the Commission's Regulations.

An effective date of February 1, 1979 is proposed.

Panhandle states that copies of its filing have been served on all jurisdictional customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 8, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-241 Filed 1-2-79; 8:45 am]

[6740-02-M]

[Docket No. RP73-49 (PGA79-1)]

SOUTH GEORGIA NATURAL GAS CO.

Revision to Tariff

DECEMBER 22, 1978.

Take notice that on December 1, 1978, South Georgia Natural Gas Company (South Georgia) tendered for filing the following sheets to its FPC Gas Tariff, First Revised Volume No. 1: Eighth Revised Sheet No. 4, First Revised Sheet No. 33 and First Revised Sheet No. 34.

These tariff sheets and supporting information are being filed 30 days before the effective date of January 1, 1979, pursuant to the Purchased Gas Adjustment Provisions set out in Section 14 of South Georgia's tariff.

South Georgia states that Eighth Revised Sheet No. 4 reflects increases in the rates of Southern Natural Gas Company as filed on November 22, 1978, to be effective January 1, 1979. South Georgia states that this rate change will increase the cost of purchased gas by $6,960,171. In addition, Eighth Revised Sheet No. 4 reflects a surcharge adjustment filed pursuant to Section 14.3 of the General Terms and Conditions of South Georgia's FERC Gas Tariff. This surcharge is proposed to be assessed over a six month period beginning January 1, 1979, and is intended to recoup a debit balance of $369,370 in South Georgia's Unrecovered Purchased Gas Account.

In Order No. 13, the Commission required pipelines to adopt the principles of interperiod income tax allocation in connection with balances in Account No. 191 and not to compound interest. First Revised Sheet Nos. 33 and 34 set out revisions to the Unrecovered Purchased Gas Account as required by Order No. 13.

South Georgia states further that, pursuant to the requirement set forth in Docket No. RM79-1, it elects to continue to recover its Purchased Gas Costs through its Purchased Gas Cost Adjustment Clause.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). It appears that a period for filing protests and petitions to intervene shorter than fifteen days is reasonable and consistent with the public interest. Accordingly, all such petitions or protest should be filed on or before December 29, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petiton to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-247 Filed 1-2-79; 8:45 am]

[6740-02-M]

[Docket No. ER79-113]

SOUTHERN INDIANA GAS AND ELECTRIC CO.

Proposed Tariff Change

DECEMBER 27, 1978.

Take notice that Southern Indiana Gas and Electric Company (Southern Indiana) on December 19, 1978, tendered for filing, proposed changes in its FPC Electric Service Tariff.

Southern Indiana indicates that the purpose of this filing is to revise Service Schedule A—Contract Power. The Capacity Charge for Contract Power is proposed to be increased from $1.75 to $2.60 per Kw per month of Scheduled and Unscheduled Demand and the Capacity Charge for Emergency Service and Maintenance Power in Service Schedules B and C, is proposed to be increased from $0.40 to $0.60 per Kw per week and the term of the interconnection agreement is extended to December 1, 1988 and thereafter, unless terminated by either party by written notice to the other not less than five (5) years prior to any termination date.

The proposed revision and addition reflect a desire on the part of both parties to provide for present and anticipated future increases in costs and to attain the maximum benefit from the interconnection of their systems.

Southern Indiana requests waiver of the notice requirements of Section 35.3 of the Commission's regulations to permit an effective date of January 1, 1979.

Southern Indiana states that copies of the filing were served upon City of Jasper, Indiana who has filed its Certification of Concurrence.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before January 19, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-242 Filed 1-2-79; 8:45 am]

[6740-02-M]

[Docket No. RP77-120]

STINGRAY PIPELINE CO.

Change in Tariff

DECEMBER 22, 1978.

Take notice that on November 29, 1978 Stingray Pipeline Company (Stingray) tendered for filing Eleventh Revised Sheet No. 4 to its FERC Gas Tariff, Original Volume No. 1. An effective date of January 1, 1979 was proposed.

Stingray states that the FERC approved a final settlement of all issues affecting Stingray's rates in this docket on September 11, 1978, and that this settlement reflected a Federal Income Tax level of 48%. Stingray proposes a reduction of $.04 per Mcf in its demand rate to reflect the reduction in the Federal Income Tax level to 46% provided by the Revenue Act of 1978.

Stingray submits that this revised tariff sheets reflects a rate adjustment due to the Federal Income Tax level being reduced to 46% by the Revenue Act of 1978.

Stingray states that copies of its filing have been served on all customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). It appears that a period for filing protests and petitions to intervene of less than fifteen days is reasonable and consistent with the public interest. Accordingly, all such petitions or protests should be filed on or before December 29, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-248 Filed 1-2-79; 8:45 am]

[6740-02-M]

[Docket No. RM79-3]

NATURAL GAS POLICY ACT OF 1978

Receipt of Report of Determination Process

DECEMBER 27, 1978.

Pursuant to section 18 CFR 274.105 of the Federal Energy Regulatory Commission's Regulations, a jurisdictional agency may file a report with the Commission describing the method by which such agency will make certain determinations in accordance with sections 102, 103, 107, and 108 of the Natural Gas Policy Act of 1978.

A report in conformance with 18 CFR 274.105 has been received by the Commission from the following jurisdictional agency:

Agency and Date

State of Arizona, Oil and Gas Conservation Commission, December 14, 1978.

A copy of this report is available for public inspection in the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-249 Filed 1-2-79; 8:45 am]

[6740-02-M]

[Docket No. CP79-109]

TEXAS EASTERN TRANSMISSION CORP.

Application

DECEMBER 27, 1978.

Take notice that on December 8, 1978, Texas Eastern Transmission Corporation (Applicant), One Houston Center, Houston, Texas 77002, filed an application in Docket No. CP79-109 pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to transport natural gas for Indiana Gas Company, Inc. (Indiana), all as more fully set forth in the application on file with the Commission and open to public inspection.

The application states that Indiana and Applicant, on November 6, 1978, executed an agreement pursuant to which Applicant would transport for Indiana up to 550 dekatherms equivalent of natural gas per day from Lebanon, Ohio, to an existing point of delivery in Greensburg, Indiana. Applicant states that it would charge $226.00 per month for all rendered services. It is stated that Indiana has an urgent need for the gas to met its high priority requirements during the upcoming winter.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 15, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 7-243 Filed 1-2-79; 8:45 am]

[6740-02-M]

[Docket No. RP74-41]

TEXAS EASTERN TRANSMISSION CORP.

Proposed Changes in FERC Gas Tariff

DECEMBER 27, 1978.

Take notice that Texas Eastern Transmission Corporation on December 18, 1978, tendered for filing as a part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following tariff sheets:

Substitute Forty-sixth Revised Sheet No. 14
Substitute Forty-sixth Revised Sheet No. 14A
Substitute Forty-sixth Revised Sheet No. 14B
Substitute Forty-sixth Revised Sheet No. 14C
Substitute Forty-sixth Revised Sheet No. 14D

These sheets are issued pursuant to the Purchased Gas Cost Adjustment provision and Demand Charge Adjustment Commodity Surcharge provision contained in Sections 23 and 12.4, respectively, of the General Terms and Conditions of Texas Eastern's FERC Gas Tariff, Fourth Revised Volume No. 1. The change in the proposed rates reflects a Cost of Gas Adjustment, a Surcharge Adjustment, and a Demand Charge Adjustment Commodity Surcharge. The Cost of Gas Adjustment and Surcharge Adjustment reflect amounts attributable to the Natural Gas Policy Act of 1978 (NGPA). Texas Eastern states that such NGPA amounts are in accordance with the Commission's directives expressed in Docket Nos. RM79-3 and RM79-7.

The proposed effective date of the above tariff sheets is February 1, 1979.

Copies of the filing were served on the company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 16, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-244 Filed 1-2-79; 8:45 am]

[6740-02-M]

TRANSCONTINENTAL GAS PIPE LINE CORP., ET AL.

Order Amending Order Issuing and Amending Certificates

DECEMBER 20, 1978.

In the matter of Transcontinental Gas Pipe Line Corporation (Docket Nos. CP76-241 and CP76-242), Southern Natural Gas Company (Docket No. CP76-249), Gas Gathering Corporation (Docket No. CP76-270), Natural Gas Pipeline Company of America (Docket No. CP77-156), Texas Eastern Transmission Corporation and National Fuel Gas Supply Corporation (Docket No. CP77-185).

On November 20, 1978, Cone Mills Corporation filed in Docket Nos. CP76-242, CP76-249, and CP76-270 an application for rehearing [1] or, in the alternative, a motion for clarification of the order of October 18, 1978, in Docket No. CP76-241, *et al.*, which, *inter alia*, amended the order issuing certificates of public convenience and necessity in the former dockets pursuant to Section 7(c) of the Natural Gas Act authorizing the transportation of natural gas in interstate commerce within the contemplation of Section 2.79 of the Commission's General Policy and Interpretations. The order of October 18, 1978, authorized the transportation of natural gas for Cone Mills Corporation and Nabisco, Inc., for high priority end uses.

Based upon information submitted in support of the applications and petitions to amend, which information is summarized in the order of October 18, 1978, the Commission concluded,

Based on the foregoing forecasts, it appears that not all of Cone Mills' and Nabisco's plants will be subjected to high priority gas curtailment over the next two winters. All parties are, therefore, reminded that gas is not to be transported to any Cone Mills or Nabisco facility absent high priority gas curtailment. [mimeo. p. 9]

The Commission ordered.

(E) The gas to be transported herein is to be transported only to those plants which are experiencing high priority curtailment. [mimeo. p. 12]

It is to the latter condition that Cone Mills Corporation objects.

Among the gas supply forecasts supplied to Cone Mills Corporation and Nabisco, Inc., and transmitted to the Commission as part of and in support of the applications and petitions to amend which were granted by the order of October 18, 1978, were those of Peoples Gas Light and Coke Company which serves the Nabisco, Inc., plant in Chicago, Illinois, and of National Fuel Gas Supply Corporation which serves the Nabisco, Inc., plants in Buffalo and Niagara Falls, New York. These two suppliers project no curtailments of gas deliveries to those plants of Nabisco, Inc., for high priority uses during the time in question. Because certain of the requests for transportation authorizations pertained to both Cone Mills Corporation and Nabisco, Inc., the admonition and condition in the order with respect to the limitation of the authorizations to transportation of gas only to plants experiencing curtailments of gas deliveries for high priority uses necessarily pertains to transporters which are common to both Cone Mills Corporation and Nabisco, Inc.

Paragraph (f) of Section 2.79 recognizes that arrangements may not be possible between gas producers and industrial purchasers which would permit the purchasers to vary the amount of gas received depending upon the degree of curtailments of deliveries to such purchasers by their traditional suppliers. In those instances in which such arrangements cannot be made, paragraph (f) sets forth a policy to issue transportation certificates upon the condition that the industrial purchaser agree to reduce the volume of gas it would receive under the curtailment plan of its existing supplier for high priority uses to the extent that the volumes of gas transported under the transportation certificates exceed the volume of curtailment experienced by the customer for high priority uses. Cone Mills Corporation claims that as the result of the limitation imposed by ordering paragraph (E), it cannot avail itself of the relief provided by paragraph (f) of Section 2.79 because at the time of the filing of the application for rehearing its plants were not being curtailed.

The Commission concurs that ordering paragraph (E) is unduly restrictive. The intent of the policy on transportation of natural gas for industrial consumers is set forth in part in paragraph (e) of Section 2.79 wherein the policy is stated to apply to those consumers whose deliveries are curtailed or are subject to imminent curtailment. Consistent therewith ordering paragraph (E) will be modified to limit deliveries to those plants to which deliveries of gas for high priority uses are being curtailed or which are subject to imminent curtailment.

The order of October 18, 1978, notes, at mimeo. p. 4, that Transcontinental Gas Pipe Line Corporation's (Transco) treatment of the revenues derived from the authorized transportation service is not at issue because it is Transco's policy to credit such revenues to its Unrecovered Purchased Gas Costs, Account No. 191 of the Uniform System of Accounts Prescribed for Natural Gas Companies. By letter filed November 17, 1978, Transco advises that it is not its policy to credit such revenues to Account No. 191 and that the disposition of revenues from the authorized transportation service are the subject of its offer of settlement submitted in the proceeding pending in Docket No. RP77-108. Upon review the Commission finds that the disposition of such revenues are indeed the subject of the offer of settlement pending in Docket No. RP77-108 and so the order of October 18, 1978, will be modified to condition Transco's treatment of such revenues to the disposition of Docket No. RP77-108.

The Commission finds:

It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the order of October 18, 1978, be amended as hereinafter ordered.

The Commission orders:

The order of October 18, 1978, is amended by modifying ordering paragraph (E) thereof to read as follows:

(E) The gas authorized to be transported herein is to be transported only to those plants which are experiencing high priority curtailment or which are subject to imminent curtailment.

and by adding the following ordering paragraph (L):

(L) The treatment of revenues for the transportation service by Transco is subject to the disposition of the proceedings pending in Docket No. RP77-108.

and in all other respects said order shall remain in full force and effect.

By the Commission. Chairman Curtis and Commissioner Smith voted present.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-245 Filed 1-2-79; 8:45 am]

[1] The pleading was not filed within the time prescribed by the Natural Gas Act for applications for rehearing; therefore, it cannot be entertained as such.

[6740-02-M]

[Docket No. ER79-107]

THE UPPER PENINSULA POWER CO.

Filing

DECEMBER 27, 1978.

Take notice that on December 14, 1978, the Upper Peninsula Power Company (UPPCO) tendered for filing proposed changes in the rate schedules for service to the Alger-Delta Cooperative Electric Association, The Ontonagon County Rural Electrification Association, Village of Baraga, City of Gladstone, Village of L'Anse, City of Negaunee, and to the Wisconsin Electric Power Company.

UPPCO states that the schedule in the rate filed will supersede the schedule presently on file with this Commission.

UPPCO further states that the proposed changes would increase revenues from these jurisdictional sales by $630,214 based on the 12-month period ended May 31, 1978.

UPPCO requests an effective date of January 31, 1979, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served upon UPPCO's affected jurisdictional customers, and the Michigan Public Service Commission, according to UPPCO.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 12, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-246 Filed 1-2-79; 8:45 am]

[6450-01-M]

DEPARTMENT OF ENERGY

Office of Hearings and Appeals

CASES FILED

Week of December 8 Through December 15, 1978

Notice is hereby given that during the week of December 8, 1978 through December 15, 1978, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under the DOE's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the DOE action sought in such cases may file with the DOE written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

MELVIN GOLDSTEIN,
Director, Office of Hearings and Appeals.

DECEMBER 21, 1978.

List of Cases Received by the Office of Hearings and Appeals

[Week of December 8 through December 15, 1978]

Date	Name and location of applicant	Case No.	Type of submission
Dec. 8, 1978	Central Petroleum Corporation, Bronx, New York.	DPI-0032	Exception from base fee requirements. If granted: Central Petroleum Corporation would be permitted to import residual fuel oil on a fee exempt basis and would receive a refund of fees already paid.
Dec. 8, 1978	New England Power Company, Houston, Texas.	DRH-0037	Motion for Evidentiary Hearing. If granted: An evidentiary hearing would be convened with respect to the Objections which have been raised to a Proposed Remedial Order issued to Coastal States Gas Corporation (Case No. DRO-0113).
Dec. 8, 1978	Northland Oil & Refining Company, Tulsa, Oklahoma.	DES-0129	Stay Request. If granted: The obligation of Northland Oil & Refining Company to purchase entitlements would be stayed pending a determination on its Application for Exception.
Dec. 8, 1978	Phillips Petroleum Company, Bartlesville, Oklahoma.	DEZ-0001	Interlocutory Order. If granted: The DOE would hold in abeyance the Application for Exception filed by Phillips Petroleum Company to enable the firm to submit additional data regarding the DOE's proposal to modify the 15 percent rate of return used in analyzing capital investment cases.
Dec. 8, 1978	Save O.K. Oil & Gas Company, Lakeland, Florida.	DEE-2048	Exception to change supplier. If granted: Save O.K. Oil & Gas Co. would be assigned a new base period supplier of motor gasoline to replace the Superior Oil Company.
Dec. 8, 1978	Texaco, Inc., Houston, Texas	DEE-2049 thru DXE-2067.	Extension of relief granted in *Texaco, Inc.*, Case Nos. DXE-1238 thru DXE-1240, DXE-1242, DXE-1244, DXE-1246 thru DXE-1255, DXE-1257 (decided August 9, 1978) (unreported decision); Case Nos. DEE-1384, DEE-1388 (decided October 4, 1978) (unreported decision); Case No. DEE-0948 (decided July 6, 1978) (unreported decision). If granted: The applicant would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at its Apache, Blessing, Camrick, Coalinga Nose, Dover Hennessey, Elmwood, Headless, Humble, Lamesa, Lockridge, Maurice, Mermentau, North Cowden, Old Ocean, Onoa, Pampa, Pledge, Wilcox and Wilson Creek plants.
Dec. 11 1978	Office of Special Counsel, Washington, D.C.	DRD-0016	Motion for Discovery. If granted: The Office of Special Counsel would be granted discovery in connection with a Proposed Remedial Order issued to Crown Central Petroleum Company by DOE Region III on August 31, 1978.
Dec. 12, 1978	Amerada Hess Corporation, New York, New York.	DEE-2073	Price Exception (Section 212.73). If granted: Amerada Hess Corporation would be permitted to sell the crude oil produced from the Tioga Madison Unit, located in Williams, Mountrail and Burke Counties, North Dakota at upper tier ceiling prices.
Dec. 12, 1978	Kenneth L. Tipps, Denver, Colorado	DEE-2074	Price Exception (Section 212.73). If granted: Kenneth L. Tipps would be permitted to sell the crude oil produced from the Marick 1-A lease, located in Cimarron Field, Washington County, Colorado, at upper tier ceiling prices.

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List of Cases Received by the Office of Hearings and Appeals—Continued

[Week of December 8 through December 15, 1978]

Date	Name and location of applicant	Case No.	Type of submission
Dec. 12, 1978	Mid-Michigan Truck Service, Inc., Kalamazoo, Michigan.	DES-0130	Stay Request. If granted: Mid-Michigan Truck Service, Inc. would receive a stay of the provisions of 10 CFR 211.25 pending the finalization of the Proposed Decision and Order issued to the firm on December 12, 1978 (Case No. DXE-1997).
Dec. 12, 1978	Nevada Refining Company, Bakersfield, California.	DEE-2072	Exception from Entitlements Program (California Crude Oil). If granted: Nevada Refining Company would be issued additional entitlements for each barrel of California crude oil which it purchases and processes in its refinery.
Dec. 14, 1978	Kimwill Oil Associates, Washington, D.C	DEE-2075	Price Exception (Section 212.73). If granted: Kimwill Oil Associates would be permitted to sell the crude oil produced from E/2 Warrant No. 2837 located in Mead Township, Warren County, Pennsylvania, at upper tier ceiling prices.
Dec. 14, 1978	Oahu Gas Service, Inc., Washington, D.C	DEH-0041	Motion for Evidentiary Hearing. If granted: An evidentiary hearing would be convened with respect to the Motion for Reconsideration filed by Oahu Gas Service, Inc. in connection with the September 20, 1978 Decision and Order which was issued to the firm.
Dec. 14, 1978	Town Pump, Inc., Washington, D.C	DST-2046 and DES-2046.	Request for Temporary Stay and Request for Stay. If granted: Town Pump, Inc. would be granted a temporary increase in its base period allocation of motor gasoline pending a final determination on its application for exception.
Dec. 15, 1978	R. W. Tyson Producing Co., Inc., Jackson, Mississippi.	DXE-2068 thru DXE-2071.	Price Exception (Section 212.73). If granted: R. W. Tyson Producing Co., Inc. would be permitted to sell the crude oil produced from the Carter No. 1, Vickers No. 3, Federal Land Bank No. 1, and McCann No. 1 Wells located in Jones County, Mississippi at market prices.
Dec. 15, 1978	San Joaquin Refining Company, Newport Beach, California.	DEX-0132	Supplemental Order. If granted: San Joaquin Refining Company's obligations to purchase entitlements during the period December 1978 through June 1979 would be stayed in part pending a final Decision and Order in Case No. DXE-1977.
Dec. 15, 1978	Union Oil Company of California, Los Angeles, California.	DXE-2078	Extension of relief granted in *Union Oil Company of California*, 2 DOE Par. —— (December 1, 1978). If granted: Union Oil Company of California would be permitted to continue to sell the crude oil produced from Pt. Conception Field located in Santa Barbara County, California at upper tier ceiling prices.

Notices of Objection Received

Date	Name and location of applicant	Case No.
Dec. 8, 1978	Charter Oil Co., Jacksonville, Florida	DEE-0458
Dec. 11, 1978	Tauber Oil Company, Washington, D.C	DEO-0154
Dec. 12, 1978	Osage Tribe of Indians, Tulsa, Oklahoma	DEE-0939
Dec. 15, 1978	Kern County Refinery, Los Angeles, California	DXE-1904
Dec. 13, 1978	Southland Oil Co., Washington, D.C	DXE-1903
Dec. 13, 1978	Warrior Asphalt Co., Washington, D.C	DXE-1891
Dec. 14, 1978	Bunting Oil Co., Washington, D.C	FEE-4409
Dec. 14, 1978	Mohawk Petroleum Corp., Los Angeles, California	DXE-1905
Dec. 14, 1978	Gulf Oil Corp., Houston, Texas	DEE-1952

Proposed Remedial Orders

Dec. 12, 1978	Gilliland Oil and Land Company, Fresno, California	DRO-0157
Dec. 12, 1978	LaJet, Inc., Abilene, Texas	DRO-0156
Dec. 12, 1978	Locus Corporation, Abilene, Texas	DRO-0155

[FR Doc. 79-196 Filed 1-2-79; 8:45 am]

[6450-01-M]

ISSUANCE OF PROPOSED DECISIONS AND ORDERS

December 11 through December 15, 1978

Notice is hereby given that during the period December 11 through December 15, 1978, the Proposed Decision and Order which is summarized below was issued by the Office of Hearings and Appeals of the Department of Energy with regard to an Application for Exception which had been filed with that Office.

Amendments to the DOE's procedural regulations, 10 CFR, Part 205, were issued in proposed form on September 14, 1977 (42 FR 47210 (September 20, 1977)), and are currently being implemented on an interim basis. Under the new procedures any person who will be aggrieved by the issuance of the Proposed Decision and Order in final form may file a written Notice of Objection within ten days of service. For purposes of the new procedures, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. The new procedures also specify that if a Notice of Objection is not received from any aggrieved party within the time period specified in the regulations, the party will be deemed to consent to the issuance of the Proposed Decision and Order in final form. Any aggrieved party that wishes to contest any finding or conclusion contained in a Proposed Decision and Order must also file a detailed Statement of Objections within 30 days of the date of service of the Proposed Decision and Order. In that Statement of Objections an aggrieved party must specify each issue of fact or law contained in the Proposed Decision and Order which it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of this Proposed Decision and Order are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.s.t., except federal holidays.

MELVIN GOLDSTEIN,
Director,
Office of Hearings and Appeals.

DECEMBER 21, 1978.

San Joaquin Refining Company, Newport Beach, California, DXE-1977, crude oil

San Joaquin Refining Company filed an Application for Exception from the provisions of 10 CFR 211.67 (the Entitlements Program). The exception request, if granted, would relieve San Joaquin of its obligation to purchase entitlements under the provisions of Section 211.67 beginning in December 1978 to account for the firm's crude oil runs to stills and receipts in October 1978 and subsequent months. On December 14, 1978 the DOE issued a Proposed Decision and Order which determined that during the period December 1, 1978 through February 28, 1979, San Joaquin's obligation to purchase entitlements should be reduced by $1,007,574 per month, and that during the period March 1, 1979 through June 30, 1979, San Joaquin's obligations to purchase entitlements should be reduced by $134,603 per month.

[FR Doc. 79-195 Filed 1-2-79; 8:45 am]

[1505-01-M]

FARM CREDIT ADMINISTRATION

IMPROVING GOVERNMENT REGULATIONS

Final Report

Correction

In FR Doc. 78-32639 appearing at page 54291 in the issue of Tuesday, November 21, 1978, make the following changes:

1. On page 54292, second column, first complete paragraph, twentieth line, "tion" should be corrected to read "ting".

2. On Page 54292, third column, fourth paragraph, 12th line, "of" should be corrected to read "or".

3. On page 54292, third column, fifth paragraph, first line, "13 CFR" is corrected to read "12 CFR".

[6730-01-M]

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License No. 2009]

EDWARD R. THOMAS

Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4, further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of Edward R. Thomas, 109-45 124th Street, Jamaica, New York, 11420, FMC No. 2009, was cancelled effective November 11, 1978.

By letter dated September 5, 1978, Edward R. Thomas was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 2009 would be automatically revoked or suspended unless a valid surety bond was filed with the Commission.

Edward R. Thomas has failed to furnish a valid surety bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised) section 5.10(d) dated August 8, 1977;

It is ordered, that Independent Ocean Freight Forwarder License No. 2009 be and is hereby revoked effective November 11, 1978.

It is further ordered, that Independent Ocean Freight Forwarder License No. 2009, issued to Edward R. Thomas be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published by the FEDERAL REGISTER and served upon Edward R. Thomas.

ROBERT G. DREW,
Director, Bureau of Certification and Licensing.

[FR Doc. 79-257 Filed 1-2-79; 8:45 am]

[6730-01-M]

INDEPENDENT OCEAN FREIGHT FORWARDERS LICENSES

Revocation

By Decision served July 24, 1978, in Docket No. 77-53, *Licensing of Independent Ocean Freight Forwarders* (Federal Register, Vol. 43, No. 146, P. 32776, July 28, 1978), the Federal Maritime Commission amended its General Order 4 (46 CFR 510) to require all licensed independent ocean freight forwarders to file with the Commission a surety bond in the amount of $30,000. The amendment stated that if a licensee fails to file such bond on or before December 1, 1978, the license shall be revoked in accordance with Rule 510.9 of General Order 4.

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond in the prescribed amount is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4 further provides that a license will automatically be revoked or suspended for failure of a licensee to maintain a valid bond on file.

The following licensed independent ocean freight forwarders have failed to furnish a valid surety bond in the amount of $30,000:

FMC-2108, Mateus Shipping Corporation, 42 Broadway, Room 1737, New York, NY 10004.
FMC-2107, TMI (Trade & Marketing International Limited, dba), 3579 East Cliff Drive, Salt Lake City, Utah 84117.
FMC-2071, Holder's Overseas Shipping & Crating Services Corp., 360 Sumner Avenue, Brooklyn, NY 11221.
FMC-2057, Astro Maritime Agency, Inc., 100 Brannan Street, San Francisco, CA 94107.
FMC-2048, Harold L. Burke, 11412 Gaynor Avenue, Granada Hills, CA 91344.
FMC-2047, William M. Beidl, 618 Fifth Avenue, River Edge, NJ 07661.
FMC-2043, International Exporters Consultants, Inc., One World Trade Center, Suite 5121, New York, NY 10048.
FMC-2027, Alf Halbig, 39 Broadway, Suite 2701, New York, NY 10006.
FMC-2025, Robert Warren, 610 N.E. 12th Avenue, No. 206, Hallandale, FL 33009.
FMC-1999, Air Van Lines, Inc., 8151 Occidental Avenue, Seattle, WA 98124.
FMC-1991, Continental Crating & Forwarding, Inc., 9821 Clinton Drive, Houston, TX 77029.
FMC-1983, Jan Shipping Co. (Jean Catanzaro, dba), 116 John Street, New York, NY 10038.
FMC-1978, Corponic Shipping, Inc., Bldg., No. 2148, Suite 215, Miami International Airport, Miami, FL 33148.
FMC-1972, Socal Export Forwarding (William R. Kokott and Maxine Stafford, dba), 4415 Bandini Blvd., Los Angeles, CA 90023.
FMC-1964R, International Cargo Express (F. Carlos Maidana, dba), 5534 Armour Drive, Houston, TX 77020.
FMC-2071, Holder's Overseas Shipping & Crating Services Corp., 360 Sumner Avenue, Brooklyn, NY 11221.
FMC-2057, Astro Maritime Agency, Inc., 100 Brannan Street, San Francisco, CA 94107.
FMC-2048, Harold L. Burke, 11412 Gaynor Avenue, Granada Hills, CA 91344.
FMC-2047, William M. Beidl, 618 Fifth Avenue, River Edge, NJ 07661.
FMC-2043, International Exporters Consultants, Inc., One World Trade Center, Suite 5121, New York, NY 10048.
FMC-2027, Alf Halbig, 39 Broadway, Suite 2701, New York, NY 10006.
FMC-2025, Robert Warren, 610 N.E. 12th Avenue, No. 206, Hallandale, FL 33009.
FMC-1999, Air Van Lines, Inc., 8151 Occidental Avenue, Seattle, WA 98124.

FMC-1991, Continental Crating & Forwarding, Inc., 9821 Clinton Drive, Houston, TX 77029.
FMC-1983, Jan Shipping Co. (Jean Catanzaro, dba), 116 John Street, New York, NY 10038.
FMC-1978, Corponic Shipping, Inc., Bldg., No. 2148, Suite 215, Miami International Airport, Miami, FL 33148.
FMC-1972, Socal Export Forwarding (William R. Kokott and Maxine Stafford, dba), 4415 Bandini Blvd., Los Angeles, CA 90023.
FMC-1964R, International Cargo Express (F. Carlos Maidana, dba), 5534 Armour Drive, Houston, TX 77020.
FMC-1954, Mover's International, Inc., 18800 Highway 99, Suite 110, Lynwood, WA 98036.
FMC-1917, Jar Forwarding, Ltd., 198 Broadway, No. 607, New York, NY 10038.
FMC-1904, Hopkins Services (James Edward Hopkins, dba), 1314 Texas Avenue, Suite 1204, Houston, TX 77002.
FMC-1883, Dachser Transport of America, Inc., 148-02 New York Blvd., Jamaica, NY 11434.
FMC-1882, New England Household International, Division of New England Household Moving & Storage, Inc., 241 W. Central Street, Natick, MA 01760.
FMC-1873, Ibertresa, U.S.A., Inc., One World Trade Center, Suite 8553, New York, NY 10048.
FMC-1862, Merit Brokerage Co., Inc., 1748 W. Katella Avenue, Orange, CA 92667.
FMC-1839, Allen E. Jones Company, 3030 N. 21 E., Omaha, Nebraska 68110.
FMC-1818, Michael C. Williams, Francisco Zuniga Street, 5A-18, Terrazas de Fairview, Cupey, Rio Piedras, Puerto Rico 00926.
FMC-1806, Globe Expediters Ltd., 4034 Tugwell Drive, Franklin Park, IL 60131.
FMC-1795, Export International (James E. Jones, Jr., dba), 3780 Starlighter Drive, Virginia Beach, VA 23452.
FMC-1787R, AAA Foreign Freight Forwarders (Antonio S. Jimmy, dba), 2505 Champlain Street, N.W., No. 2, Washington, D.C. 20019.
FMC-1774, Tierra Mar Aire Packing & Shipping Inc., 45-18 83rd Street, Elmhurst, NY 11373.
FMC-1755, Takasuke Okada, 1129-G Dominquez Street, Carson, CA 90746.
FMC-1750R, Panocean Services (Christine K. Stockwell, dba), 1241 High Street, Oakland, CA 94601.
FMC-1749, Aeromar (Ruth H. Skinner, dba), 107 Camp Street, New Orleans, LA 70130.
FMC-1724, Satin Air Freight, Incorporated, 147-02 181 Street, Jamaica, NY 11413.
FMC-1719, Mer Shipping Company (Manuel A. Ronquillo, dba), 15 West 44th Street, Room 329, New York, NY 10036.
FMC-1714R, Essex Shipping Company (Pablo Fernando Guevara, dba), 106-16 Corona Avenue, Corona, NY 11368.
FMC-1710, Skelton-Kohara & Co. (Leslie Parker Skelton, dba), Suite 402, 850 Richards Street, Honolulu, Hawaii 96813.
FMC-1693, Mattoon & Co., Inc., & Mattoon & Co., Inc. of L.A., 244 Jackson Street, San Francisco, CA 94111.
FMC-1692, Blais Forwarding (Eva A. Blais, dba), 530 W. 6th Street, Suite 608, Los Angeles, CA 90014.
FMC-1691, El Faro De Cabo Rojo Shipping Co., Inc., 363 Metropolitan Avenue, Brooklyn, NY 11211.
FMC-1689, Malvar Cargo Service (Alberto Malvar, dba), 7760 N.W. 71st Street, Miami, FL 33166.
FMC-1685, Sergio E. Vasquez, 1215 West 6th Street, Los Angeles, CA 90017.
FMC-1677, Thomas A. Farrelly Co., Inc., 400 Post Road, Fairfield, CT 06430.
FMC-1676, Pouch Forwarding Corporation, Edgewater Street, Clifton, Staten Island, NY 10305.
FMC-1659, Richard Macchione, Board of Trade Bldg., Suite 315, 131 State Street, Boston, MA 02109.
FMC-1650, Inter-Crest Maritime & Associates, 427 West 5th Street, Main Office, Suite 424, Los Angeles, CA 90013.
FMC-1647, Nissin International Transport, U.S.A., Inc., 623 Hindry Avenue, Inglewood, CA 90301.
FMC-1642R, D&A Forwarding Service (Dan Antonoglou, dba), 17710 N.W. 32 Avenue, Miami, FL 33056.
FMC-1607R, Norma E. Sanchez, Room 302, Grosch Bldg., No. 402 Comercio Street, Old San Juan, Puerto Rico 09001.
FMC-1600, Fast Cargo Services of Miami, Inc., 9416 N.W. 13th Street, Miami, FL 33172.
FMC-1598, S. J. Watt, 20528 Woodland, Harper Woods, MI 48225.
FMC-1564, La Borincana Travel Agency, Inc., 1744 Washington Street, Boston, MA 02118.
FMC-1562, All Ports Household Goods Forwarders, 2556 31st Street, Astoria, NY 11102.
FMC-1559, Ocean Freight Agency (Richard James Peck, dba), 9424 N.W. 13 Street, A-51, Miami, FL 33126.
FMC-1556, A. Amato, P.O. Box 3342, Baton Rouge, LA 70821.
FMC-1555, By-Line Traffic Service, Inc., 15033 Alondra Blvd., La Mirada, CA 90637.
FMC-1549, Almont Shipping Company, U.S. Highway 421 North, P.O. Box 1726, Wilmington, NC 28401.
FMC-1548, Jumpe Forwarders Corp., Langford Building, Room 502, 121 S.E. First Street, Miami, FL 33131.
FMC-1538, Divison M, Inc., 4139 George, Schiller Park, IL 60176.
FMC-1536, Amerea Forwarding Company (Moo Hyun Sonn, dba), 74 Trinity Place, Room 2007, New York, NY 10006.
FMC-1529, Valley Transportation & Warehouse Co., Inc., 1825 S. Black Canyon Highway, Phoenix, AZ 85009.
FMC-1524, Kennelly & Sisman Co., 563 Lycaste Avenue, Detroit, MI 48214.
FMC-1513, Coast Alaska Pacific, Ltd., 22906 76th West, Edmonds, WA 98020.
FMC-1478, Dean Forwarding Company, Inc., 5252 Argosy Drive, Huntington Beach, CA 92647.
FMC-1474R, D. L. Buchanan, Inc., 101 Beachmont, Port Lavaca, TX 77979.
FMC-1465, Mantis Transport Corp., P.O. Box 329 Bowling Green Station, New York, NY 10004.
FMC-1464R, Miami Cargo Services (Ramon Argueiles & Ramon E. Argueiles, dba), 3050 Biscayne Blvd., Suite 306, Miami, FL 33137.
FMC-1459, Air Cargo Expediters, Inc. dba Ace Shipping Corp., P.O. Box 8621, San Francisco, CA 94128.
FMC-1454, Aarid Consolidators & Forwarders, Inc., 1340 Chesapeake Avenue, Baltimore, MD 21226.
FMC-1447, Atlas International (Gonzalo Garcia, dba), P.O. Box 523317, Miami, FL 33152.
FMC-1422, Glen Ellyn Storage Corporation, 384 Duane Street, Glen Ellyn, IL 60137.
FMC-1411, Surface Cargo Specialists, Inc., 11 Broadway, New York, NY 10004.
FMC-1410R, Apollo International Company, 10984 North Freeway, Houston, TX 77038.
FMC-1409, Arrow World, Inc., P.O. Box 9605, Alexandria, VA 22304.
FMC-1406R, Perishable Forwarders International, Inc., 390 E. Alisal Street, Salinas, CA 93901.
FMC-1386R, Smith's Moving & Storage Company, Inc., 611 South Pickett Street, Alexandria, VA 22304.
FMC-1381, United Dispatch Services (Rene Lopez & David Romano, dba), 1349 N.W. 88th Avenue, Miami, FL 33126.
FMC-1343, Chesapeake Shipping, Inc., 1961 Benhill Avenue, Baltimore, MD 21226.
FMC-1294, L.T.C. Air Cargo, Inc., 114-32 Sutphin Blvd., Jamaica, NY 11430.
FMC-1289R, Brie International Customhouse Brokers, Inc., Betty R. Irby dba Brie International, 4910 E. 5th Avenue, No. 114B, Columbus, OH 43217.
FMC-1285, Imperial Air Freight Service, Inc., 57 Freeman Street, Newark, NY 07105.
FMC-1280R, "K" Shipping Co. (Nak Hyun Sohn, dba), 12 Riverview Drive, Upper Montclair, NJ 17043.
FMC-1267, Orlando Sala, 402 Comercio Street, Office 301, Old San Juan, Puerto Rico 00903.
FMC-1250, Adolfo Ferrer Luchessi, P.O. Box 2092, Old San Juan, Puerto Rico 00903.
FMC-1236, Imperial Van Lines, Inc., of California, 2805 Columbia Street, Torrance, CA 90503.
FMC-1227R, Fast Shipping Company, 9984 S.W. 19 Street, Miami, FL 33165.
FMC-1201, Lion Transfer & Storage Company, 663 Taylor Street, N.E., Washington, D.C. 20017.
FMC-1186, Wall Shipping Customhouse Brokers, Inc., P.O. Box 17145, Air Cargo Bldg., Dulles International Airport, Washington, D.C. 20041.
FMC-1178, W. D. Lurry & Company (Walter David Lurry III, dba), 111 Iberville Street, No. 510, New Orleans, LA 70130.
FMC-1153, Nettles & Company, Inc., 10600 West Higgins Road, Rosemont, IL 60018.
FMC-1144, Mangili Shipping Corp., 39 Broadway, Room 1017, New York, NY 10006.
FMC-1139R, Engel Van Lines, Inc., 901 Julia Street, Elizabeth, NJ 07201.
FMC-1105, A. F. Burstrom & Son, Inc., 15400 Lincoln Boulevard, Oak Park, MI 48237.
FMC-1073, S. Swartz, Customhouse Broker (Serena Swartz, dba), P.O. Box 15126, Kansas City, MO 64106.
FMC-1053, Aerotyme, Inc., P.O. Box 20048, New Orleans, LA 70141.
FMC-1041, Delfa Lines Agency (Robert Joseph Fearon, dba), Metroport Terminals, P.O. Box 983, Tampa, FL 33601.
FMC-988, H.E. Schurig & Co. of Louisiana, 1810 International Trade Mart Tower, New Orleans, LA 70130.
FMC-972, Stone & Downer Company, 131 State Street, Boston, MA 02109.
FMC-966, Abarim Freight Service, Inc., 232 6th Street, Brooklyn, NY 11215.
FMC-961, International Expediters, Inc., 325 Spring Street, New York, NY 10013.

FMC-955R, A.B. Barone Forwarding, Inc., 611 Gravier Street, Room 805, New Orleans, LA 70130.
FMC-899, J. Ashton Greene & Associates (J. Ashton Greene, dba), P.O. Box 494, Montebella Road, Pass Christian, MS 39571.
FMC-852R, Leo Hill, Inc., 704 North 13th Street, Tampa, FL 33605.
FMC-818, J.P. Reiss Co. (Josiah Reiss, dba), 150 Broadway, Suite 1709, New York, NY 10038.
FMC-801, Stevens Shipping & Terminal Company, Public Ledger Building, 6th & Chestnut Streets, Philadelphia, PA 19106.
FMC-779, Gerry Schmitt & Company (Geraldine L. Schmitt, dba), 28111 Hoover Road, Suites 5A & 6A, Warren, MI 48092.
FMC-773, Novo International Corp., 100 Bush Street, San Francisco, CA 94104.
FMC-686, Trans-World Shipping Service, Inc., 300 Water Street, Baltimore, MD 21202.
FMC-684, Miguel A. Vega, P.O. Box 29262, 65th Infantry Station, Rio Piedras, Puerto Rico 00929.
FMC-672, Southern Steamship Agency, Inc., 61 Saint Joseph Street, Mobile, AL 36601.
FMC-622, Malabe Shipping Co., Inc., 45 Bergen Street, Brooklyn, NY 11201.
FMC-608R, Murray H. Weiss & Son, Inc., 1115 Main Street, Room 502, Bridgeport, CT 06601.
FMC-599, The Firm of Juan B. Figueroa (Rigoberto Figueroa Jiminez I. dba), Caribbean Towers Bldg., Room 321, 670 Ponce de Leon Avenue, Santurce, PR 00903.
FMC-524, B. R. Anderson & Co., 1000 Second Avenue, Seattle, WA 98104.
FMC-520, Pistorino & Company, Inc., 115 Broad Street, Boston, MA 02110.
FMC-481, W. O. Smith & Co., Inc., Law Bldg. No. 423-527, Norfolk, VA 23514.
FMC-466R, B.H. Sobelman & Co., Inc., 248 Bourse Bldg., Philadelphia, PA 19106.
FMC-457, Continental Forwarding Inc., One World Trade Center, Suite 1509, New York, NY 10048.
FMC-398, Herb B. Meyer & Co., Inc., 11223 South Hindry Avenue, Los Angeles, CA 90009.
FMC-381R, Sobel Shipping Co., Inc., 11 Broadway, New York, NY 10004.
FMC-373, Merit Shipping Company, One Broadway, New York, NY 10004.
FMC-347, T.A. Provence & Company, Incorporated, One Stuart Circle, Mobile, AL 36601.
FMC-339, Hampton Roads Shipping Corporation, C&O Terminal Building, Newport News, VA 23607.
FMC-323R, G. Cosimano, Inc., P.O. Box 17092 Dulles Airport, Door 75, Cargo Bldg. No. 3, Washington, DC 20041.
FMC-319, Bishop & Bahler, 156 University Avenue, Palo Alto, CA 94301.
FMC-316, Express Package Shipping Co. of America (Rebecca Rosenthal, dba), 853 Broadway, Room 410, New York, NY 10003.
FMC-306, W.C. Auger & Company, 545 Sansome Street, San Francisco, CA 94126.
FMC-283, Sea-Lanes Shipping Co., Inc., 39 Broadway, Suite 1017, New York, NY 10004.
FMC-267, Alba Forwarding Co., Inc., 30 Vesey Street, New York, NY 10007.
FMC-162, Geo. S. Bush & Co., Inc., P.O. Box 8829, Portland, OR 97208.
FMC-141, Tom J. Watts, 1409 E. Jefferson, Brownsville, TX 78520.
FMC-133, A.L. Rankin (Arthur Louis Rankin, dba), 722 Wilson Bldg., Corpus Christi, TX 78401.
FMC-99, Glen Shipping Company (Raul Daniel Flores, dba), 44 Beaver Street, Room 403, New York, NY 10004.
FMC-84, The J.D. Richardson Company, 1225 Lafayette Bldg., Detroit, MI 48226.
FMC-64, Heidi's, Inc., 107 Washington Street, New York, NY 10006.
FMC-1345R, Sentry Air Freight Corp. dba Sentry Ocean Services, Bldg. No. 2141 MIAD, Miami International Airport, Miami, FL 33148.
FMC-1930, Panda Freight Forwarders, Inc., 1303 N.W. 78 Avenue, Miami, FL 33126.

Therefore, Notice is hereby given that the Independent Ocean Freight Forwarder Licenses identified above were revoked effective December 2, 1978, in accordance with Rule 510.5 of Federal Maritime Commission General Order 4, for failure to submit the required $30,000 bond.

It is ordered, That such licenses be returned to the Commission.

It is further ordered, That a copy of this Notice be published in the FEDERAL REGISTER and served upon the above identified persons.

By the Commission December 27, 1978.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 79-258 Filed 1-2-79; 8:45 am]

[6210-01-M]

FEDERAL RESERVE SYSTEM

CITIZENS BANCORPORATION

Proposed Acquisition of Citizens Management Services Corporation

Citizens Bancorporation, Sheboygan, Wisconsin, has applied, pursuant to § 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR § 225.4(b)(2)), for permission to acquire voting shares of Citizens Management Services Corporation, Sheboygan, Wisconsin. Notice of the application was published on November 14, 1978 in the Appleton, Wisconsin *Post Crescent*, and the Sheboygan, Wisconsin *Press*, on November 11, 1978 in the Green Bay, Wisconsin *Post Gazette*, and the Milwaukee, Wisconsin *Journal* and on November 16, 1978 in the Madison, Wisconsin *State Journal*.

Applicant states that the proposed subsidiary would engage *de novo* in providing management consulting advice to non-affiliated banks. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than January 22, 1979.

Board of Governors of the Federal Reserve System, December 22, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 79-266 Filed 1-2-79; 8:45 am]

[6210-01-M]

TRELECO, INC.

Formation of Bank Holding Company

DECEMBER 27, 1978.

Treleco, Inc., Trenton, Nebraska, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of State Bank of Trenton, Trenton, Nebraska. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than January 22, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 22, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 79-267 Filed 1-2-79; 8:45 am]

[1610-01-M]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on December 14, 1978. See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed OSM request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before January 22, 1979, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street, NW, Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

The OSM, Interior Department, is requesting an extension of the clearance of Form OSM 705-1, Statement of Employment and Financial Interests (For Use by State Employees). State employees who will be performing functions or duties under Public Law 95-87, the Surface Mining Control and Reclamation Act of 1977, are required to file this form. The information collected by the form concerns employment and financial interests of the employees, their spouses, minor children, and other relatives who are full-time residents of their immediate household.

State regulatory agencies will use this form to ensure that their employees comply with section 517(g) of the Surface Mining Control and Reclamation Act which states that no employee of the State Regulatory Authority shall have a direct or indirect financial interest in any underground or surface coal mining operation. This information may also be reviewed by OSM officials. If the statement is provided to the OSM, it will be subject to the requirements of Federal law, including the Privacy Act of 1974, 5 U.S.C. 552a, as stated on the form. The OSM estimates potential respondents to be aproximately 800 State employees and that reporting time will average 30 minutes per annual response.

NORMAN F. HEYL,
Regulatory Reports, Review Officer.

[FR Doc. 79-294 Filed 1-2-79; 8:45 am]

[1610-01-M]

REGULATORY REPORTS REVIEW

Receipt of Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on December 21, 1978. See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipts.

The notice includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed CAB, ICC, and NRC requests are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed requests, comments (in triplicate) must be received on or before January 22, 1979, and should be addressed to Mr. John Lovelady, Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street, NW, Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

CIVIL AERONAUTICS BOARD

The Civil Aeronautics Board (CAB) requests an extension no change clearance of the reporting requirements of CAB Form 272 of Part 375—Navigation of Foreign Civil Aircraft Within the United States. The objective of this reporting requirement is to regulate the admission to, and navigation in, the United States of foreign civil aircraft other than aircraft operated by holders of foreign air carrier permits. This reporting requirement is mandatory under the Federal Aviation Act. CAB estimates that respondents number approximately 60 foreign air carriers who complete an average of 4 forms annually and that each Form 272 requires one hour to complete.

The CAB also requests extension no change clearance of the recordkeeping requirements contained in the following parts of the CAB's Economic Regulations: Part 207—Charter Trips and Special Services; Part 208—Terms, Conditions, and Limitations of Certificates to Engage in Supplemental Air Transportation; Part 212—Charter Trips by Foreign Air Carriers; and Part 214—Authorizing Charter Transportation Only. These recordkeeping requirements are mandatory under the Federal Aviation Act. CAB estimates that respondents number approximately 46 U.S. certificated route carriers for Part 207, 10 U.S. supplemental carriers for Part 208, 69 foreign route carriers for Part 212, and 30 foreign charter-only carriers for Part 214. The CAB does not estimate that there will be any additional burden imposed on the air carriers because the air carriers would normally retain the required documents even in the absence of the CAB's regulation.

INTERSTATE COMMERCE COMMISSION

The ICC is requesting an extension no change clearance of the Report of Incentive Per Diem Items—Railroads, Form IPD (ACC-128) which all railroads are required to file pursuant to order of the Interstate Commerce Commission dated April 28, 1970, in Ex Parte No. 252 (Sub No. 1), Incentive Per Diem Charges—1968. The information collected on Form IPD will enable the Commission to determine the effectiveness of the incentive per diem program in lessening the shortage of general service unequipped boxcars, and to ascertain whether the monies generated from the incentive per diem are being used in accordance with its regulations. The ICC estimates the reporting burden for carriers to average 8 hours per response. Reports are mandatory and ICC estimates that 350 railroads will file them.

NUCLEAR REGULATORY COMMISSION

The Nuclear Regulatory Commission (NRC) requests clearance of a new recordkeeping requirement to be contained in 10 CFR Part 35, Human Uses of Byproduct Material. New section 35.25 requires that teletherapy licensees maintain, for inspection by the NRC, records of the measurements and tests required by sections 35.21 through 35.24. Teletherapy licensees are required to perform periodic full calibration and spot-check measurements on each teletherapy unit used to treat patients. Sections 35.21 through 35.24 are designed to ensure that teletherapy units are properly calibrated so that patients will receive the prescribed radiation dose. The recordkeeping requirement imposed by new section 35.25 is needed to allow representatives of NRC's Office of Inspection and Enforcement to determine if a licensee has complied with the required measurements and tests. The NRC estimates that potential respondents will be approximately 590 licensees and that the burden per licensee will average 3 hours annually.

NORMAN F. HEYL,
Regulatory Reports, Review Officer.

[FR Doc. 79-295 Filed 1-2-79; 8:45 am]

[4110-02-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

PRIVACY ACT OF 1974

Announcement of Two New Systems of Records

AGENCY: Office of Education/HEW.

ACTION: Publication of two notices of new systems of records.

SUMMARY: The Office of Education proposes to establish two new systems of records, as defined by the Privacy Act. The systems' numbers and names are:

09-40-0081—Women Administrators in Vocational Education
09-40-0082—Health Education Assistance Loan Program Loan Control Master File

DATES: HEW filed new system reports for these systems with the Director, OMB, the Speaker of the House of Representatives, and the President of the Senate on December 22, 1978.

These systems will be operable 60 days from that date. The routine uses will be adopted as proposed on February 2, 1979, unless the Acting Director of the Fair Information Practices Staff receives comments which would result in a contrary determination.

ADDRESSES: Persons wishing to comment may address comments in writing to: Acting Director, Fair Information Practices Staff, Department of Health, Education, and Welfare, 200 Independence Avenue SW., Washington, D.C. 20201.

Comments received will be available for inspection in Room 526F, Hubert H. Humphrey Building.

FOR FURTHER INFORMATION CONTACT:

William A. Wooten, Privacy and Information Rights Officer, Office of Education, 400 Maryland Avenue SW., Room 3851 Donohoe Building, Washington, D.C. 20202, (202) 472-2655.

SUPPLEMENTARY INFORMATION:

1. Women Administrators in Vocational Education.—The Office of Education will use the personal information to publish a *Directory of Women Administrators in Vocational Education.* OE will make the directory available to the vocational education community and other interested parties. The purpose is to identify women who administer programs in non-traditional areas for women, and to make their names available to persons who need their services. These women will submit the information voluntarily. OE considers the information public.

2. Health Education Assistance Loan Program Loan Control Master File.—The personal information will be used to administer loans of the Health Education Assistance Loan Program. The information is submitted voluntarily by those wishing to participate in the program, and represents the minimum necessary to satisfy lenders and to protect the federal interest in the loans. Applicants for loans must include all the information, except the Social Security Number, for the application to be accepted by OE and lending institutions.

Dated: December 22, 1978.

FREDERICK M. BOHEN,
Assistant Secretary for Management and Budget.

09-40-0081

System name:

Women Administrators in Vocational Education.

Security classification:

None.

System location:

The National Center for Research in Vocational Education, The Ohio State University, 1960 Kenny Road, Columus, Ohio 43210.

Categories of individuals covered by the system:

Women administrators of vocational education programs who voluntarily submit personal information to be published in a *Directory of Women Administrators in Vocational Education.* A panel of six vocational education administrators representing two state education agencies, two local education agencies, universities/colleges, and junior/community colleges/technical institutes will choose which individuals to invite to submit information for publication in the directory.

Categories of records in the system:

Name; job title; employing organization; size of budget administered; number of vocational programs, students, and teachers supervised; school district serving; percentage of time devoted to administering a vocational-technical education program; number of years in present position; highest level of education; specialized training in administration; area of expertise; experience in policymaking and decisionmaking; and membership in professional administration associations. All information in this system will become public information.

Authority for maintenance of the system:

Section 171(a) (1) and (2) of the Vocational Education Act of 1963 as amended by Section 202(a) of Public Law 94-482. Information is provided voluntarily. Failure to provide the information would result in the individual not being included in the directory.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

As all information in this system will be public, and not subject to disclosure accounting (45 CFR § para. 5b.9(c)), there are no routine use disclosures.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

The directory will be printed and distributed to the U.S. Office of Education, members of the Directory Selection Criteria Panel, ERIC, and staff of the National Center for Research in Vocational Education. The directory will also be made available to the vocational education community and other interested persons on a cost-recovery basis through the National Center for Research in Vocational Education Publication Department. Survey forms will be stored in standard file cabinets and on magnetic tape.

Retrievability:

OE, its contractor, and other users retrieve information by name of an individual. The users will utilize information to identify and contact respondents whose skills and experience might qualify them for job opportunities, or to participate in meetings on vocational education.

Safeguards:

Only authorized contractor employees, or employees of OE, will have access to individual data in the system. The contractor will maintain information in accordance with NBS and departmental ADP security standards. This limited access will serve to protect the integrity of individual data in the system.

Retention and disposal:

OE will maintain hard copy until the information is obsolete. OE will main-

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tain magnetic tapes until the contractor updates the directory.

System manager(s) and address:

Project Director for Directory of Women Administrators, Research Branch, Bureau of Occupational and Adult Education, Room 5018 ROB-3, 7th and D Streets SW., Washington, D.C. 20202.

Notification procedure:

In order to determine whether a record exists in the system of records under her name an individual should either consult the directory or contact the system manager at the above address, and provide her name.

Records access procedures:

An individual interested in seeing her record should contact the system manager, provide her name, and reasonably specify the record contents being sought.

Contesting record procedures:

An individual who wishes to contest the content of a record in the system should contact the system manager, identify herself, and state, in writing, which portion of the record should be changed. The individual should also provide a justification and authorization for the change.

Record source categories:

Individuals will provide necessary information directly to the Office of Education and its contractor on a voluntary basis.

Systems exempted from certain provisions of the act:

None.

09-40-0082

System name:

Health Education Assistance Loan Program (HEAL), Loan Control Master File.

Security classification:

None.

System location:

ROB#3, Room 3674, 7th & "D" Streets, S.W., Washington, D.C. 20202.

Categories of individuals covered by the system:

Students applying for health education assistance loans or having received educational loans under the provisions of the HEAL Program.

Categories of records in the system:

Contains name, social security number or other identifying number, birthdate, demographic background, educational status, loan location and status, financial information about the individual for whom the record is maintained. Contains lender and school identification.

Authority for maintenance of the system:

Title VII, Part C, Subpart I of the Public Health Service Act (42 U.S.C. 294-294l).

Routine uses of records maintained in the system including categories of users and the purposes of such uses:

The information may be provided by OE to Federal, State or local agencies, to private parties such as relatives, present and former employers, business and personal associates, to guarantee agencies, to educational and financial institutions, and to agency contractors, in order to verify the identity of the applicant, to determine program eligibility and benefits, to permit servicing or collection of the loan, to counsel the borrower in repayment efforts, to investigate possible fraud and abuse and to verify compliance with program regulations, or to locate a delinquent or defaulted borrower.

The information may be provided by OE to an educational agency or lending institution against which a complaint has been made; and for uses 1, 3, 4, 5, 6, 8 and 9 in Appendix B of the Departmental Regulations (45 CFR Part 5b).

Disclosure may be made by OE to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual.

In the event of litigation where one of the parties in (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department of any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

OE maintains the file on magnetic tape and disk packs in a library room at the above named location. A microfilm file will be kept in the same location and stored in a file cabinet.

Retrievability:

OE retrieves information by social security number or other identifying number. Data are utilized to provide HEAL Program staff with statistical and managerial reports. Other uses by HEAL staff include: to identify students participating in the HEAL Program; to determine eligibility of loan applicants; to determine loan status of borrower; to compute insurance premium for Federal insurance; to compile and generate managerial and statistical reports; to update file and correct errors.

Safeguards:

HEAL screens authorized contractor personnel. Contractor will maintain automated data in accordance with provisions of departmental ADP systems security standards. Direct access is restricted to authorized staff in performance of official duties. Maintained in locked cabinets.

Retention and disposal:

OE retains information as long as the loan is unpaid. At the time of full payment OE will erase computer tapes and destroy all paperwork.

System manager(s) and address:

Director, Division of Policy and Program Development, Bureau of Student Financial Assistance, U.S. Office of Education, 400 Maryland Avenue, S.W., ROB#3, Room 3674, Washington, D.C. 20202.

Notification procedure:

An individual should contact the system manager to determine whether a record exists for him or her. The individual should at the above address supply name, date of birth, and social security number or other identifying number whichever is appropriate.

Record access procedures:

An individual who is interested in seeing his or her record should contact the system manager, provide the information listed in notification procedure and reasonably specify the record contents being sought.

Contesting record procedures:

An individual who wishes to contest the content of his or her record in this system should contact the system manager, identify himself or herself and state, in writing, which portion of the record should be changed and provide a justification and authorization for the change.

Record source categories:

OE obtains information from applications, correspondence, medical records, necessary legal documentation, and reports from borrowers and their families, lenders, schools, medical reports, employers, credit agencies, and Federal and State governmental agencies.

Systems exempted from certain provisions of the act:

None.

[FR Doc 78-35832 Filed 12-28-78;10:05 a.m.]

[4310-55-M]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

ENDANGERED SPECIES PERMIT

Receipt of Application

Applicant: The Columbus Zoological Gardens, Powell, Ohio 43065.

The applicant requests a permit to export one (1) male and one (1) female captive-bred South American Tapir (*Tapirus terrestris*) to the Ruhr Zoo, West Germany for enhancement of propagation.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service, (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-3565. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address within 30 days of the date of this publication. Please refer to the file number when submitting comments.

Dated: December 27, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 79-199 Filed 1-2-79; 8:45 am]

[4310-55-M]

ENDANGERED SPECIES PERMIT

Receipt of Application

Applicant: F. M. Driscoll, Lexington Pheasantry, Kelso, Washington 98626

The applicant requests a permit to import in the course of a commercial activity one (1) captive-bred female white-eared pheasant (*Crossoptilon crossoptilon*) from Ontario, Canada for enhancement of propagation.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service, (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-3554. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address within 30 days of the date of this publication. Please refer to the file number when submitting comments.

Dated: December 27, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 79-200 Filed 1-2-79; 8:45 am]

[4310-55-M]

ENDANGERED SPECIES PERMIT

Receipt of Application

DECEMBER 27, 1978.

Applicant: Robin Huw Crompton, Harvard University, Cambridge, Massachusetts 02138.

The applicant requests a permit to import two (2) specimens of mouse lemurs (*Microcebus murinus*) from the United Kingdom for scientific research.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service, (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-3570. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address within 30 days of the date of this publication. Please refer to the file number when submitting comments.

Dated: December 27, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 79-201 Filed 1-2-79; 8:45 am]

[4310-55-M]

ENDANGERED SPECIES PERMIT

Receipt of Application

Applicant: Bob E. Riley, Windy Hill Bird Farm, Robstown, Texas 78380.

The applicant requests a permit to purchase in interstate commerce four (4) captive-bred male and four (4) captive-bred female white-eared pheasants (*Crossoptilon crossoptilon*) from Charles Sivelle, Dix Hills, New York for enhancement of propagation.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service, (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-3550. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address within 30 days of the date of this publication. Please refer to the file number when submitting comments.

Dated: December 27, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 79-202 Filed 1-2-79; 8:45 am]

[4310-55-M]

ENDANGERED SPECIES PERMIT

Receipt of Application

Applicant: San Francisco Zoological Gardens, San Francisco, California 94132.

The applicant requests a permit to import one (1) captive—bred Persian Leopard (*Panthera pardus saxicolor*) from Mallorca, Spain for enhancement of propagation.

Humane care and treatement during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service, (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-3557. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address within 30 days of the date of this publication. Please refer

to the file number when submitting comments.

Dated: December 27, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 79-203 Filed 1-2-79; 8:45 am]

[4310-55-M]

ENDANGERED SPECIES PERMIT

Receipt of Application

Applicant: Charles Sivelle, Dix Hills, New York 11746

The applicant requests a permit to export four (4) captive-bred male and four (4) captive-bred female Palawan Peacock Pheasants (*Polyplectron emphanus*) to Mr. Van Ende of Belgium.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service, (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-3574. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address within 30 days of the date of this publication. Please refer to the file number when submitting comments.

Dated: December 27, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office U.S. Fish and Wildlife Service.

[FR Doc. 79-204 Filed 1-2-79; 8:45 am]

[4310-05-M]

Office of Surface Mining Reclamation and Enforcement

ADVISORY COMMITTEE ON MINING AND MINERAL RESOURCES RESEARCH

Meeting

This notice is issued in accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C. App. I) and the Office of Management and Budget's Circular No. A-63, Revised.

The Advisory Committee on Mining and Mineral Resources Research will meet from 9:00 a.m. to 5:00 p.m. (or completion of business) on January 16, 1979, in room 1042, Columbia Plaza, 2401 E Street, N.W., Washington, D.C.

The meeting will deal with the following principal subjects:

1. Opening statement—Director Walter N. Heine.
2. Review of minutes of previous meeting—Assistant Director David R. Maneval.
3. Review of quarterly progress of mineral institutes.
4. Review of procedures for requesting, processing and awarding research grants.
5. Discussion of site visits to designated Mining and Mineral Resources Research Institutes.
6. Policies and future activities of the Advisory Committee.

The meeting of this committee is open to the public. Approximately 40 visitors can be accommodated on a first come, first serve basis. Written statements concerning the subjects are welcome.

Visitors who expect to attend should make this known no later than January 9, 1979, to: Dr. David R. Maneval, Assistant Director, Technical Services and Research, Office of Surface Mining, Room 114, South Interior Building, 19th and Constitution Avenue, N.W., Washington, D.C. 20240, phone (202) 343-5238.

PAUL L. REEVES,
Deputy Director.

[FR Doc. 79-265 Filed 1-2-79; 8:45 am]

[4810-25-M]

JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

ADVISORY COMMITTEE ON ACTUARIAL EXAMINATIONS

Meeting

Notice is hereby given that the Advisory Committee on Actuarial Examinations will meet in the Sheraton Park Hotel, 2660 Woodley Road, NW., Washington, D.C. on January 24, 1979, beginning at 9:00 a.m.

The purpose of the meeting is to discuss topics and questions which may be recommended for inclusion on the Joint Board's examinations in actuarial mathematics and methodology referred to in Title 29 U.S. Code, Sections 1242(a)(1) (B) and (C) and to discuss possible topics for inclusion on the syllabus for the Joint Board's examinations.

A determination as required by Section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) has been made that the portion of the meeting dealing with discussion of questions which may appear on the Joint Board's examinations will fall within the exceptions to the open meeting requirement set forth in Title 5 U.S. Code, Section 552b(c)(9)(B), and that the public interest requires that such portion be closed to public participation.

The portion of the meeting dealing with the Joint Board examination syllabus will commence at approximately 3:15 p.m. and will be open to the public as space is available. Time permitting, after discussion of the syllabus by Committee members, interested persons may make statements germane to this subject. Persons wishing to make oral statements should advise the Committee Management Officer in writing prior to the meeting to aid in scheduling the time available and should submit the written text or, at a minimum, an outline of comments they propose to make orally. Such comments will be restricted to ten minutes in length. Any interested person may file a written statement for consideration by the Committee by sending it to Mr. Leslie S. Shapiro, Joint Board for the Enrollment of Actuaries, c/o U.S. Department of the Treasury, Washington, D.C. 20220.

Dated: December 28, 1978.

LESLIE S. SHAPIRO,
Advisory Committee Management Officer, Joint Board for the Enrollment of Actuaries.

[FR Doc. 79-208 Filed 1-2-79 8:45 am]

[7536-01-M]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

HUMANITIES PANEL

Meeting

DECEMBER 26, 1978.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that a meeting of the Humanities Panel will be held at 806 15th Street NW., Washington, D.C. 20506, in the first floor conference room from 9 a.m. to 5:30 p.m. on January 12, 1979.

The purpose of the meeting is to review Archaeology applications submitted to the General Research Program of the National Endowment for the Humanities, for projects beginning March 1, 1979.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street NW., Washington, D.C. 20506, or call area code 202-724-0367.

V. J. LOUGHNAN,
Acting Advisory Committee Management Officer.

[FR Doc. 79-253 Filed 1-2-79; 8:45 am]

[7590-01-M]

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-3, 50-247 and 50-286]

CONSOLIDATED EDISON CO. OF NEW YORK, INC., POWER AUTHORITY OF THE STATE OF NEW YORK

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 19 and 43 to Facility Operating License Nos. DPR-5 and DPR-26 issued to Consolidated Edison Company of New York, Inc. and Amendment No. 19 to Facility Operating License No. DPR-64 issued to Power Authority of the State of New York (the licensees), which revised Technical Specifications for operation of the Indian Point Station, Unit No. 1 and Indian Point Generating Plant, Unit Nos. 2 and 3 (the facilities) located in Buchanan, Westchester County, New York. The amendment is effective as of the date of issuance.

These amendments revised the Technical Specifications to allow use of morpholine in the secondary side and its discharge to the river when used, and made a change in the entrainment survival sampling station.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of these amendments were not required since the amendments did not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the applications for amendment dated April 20, 1977 and May 27, 1977, (2) Amendment Nos. 19, 43, and 19 to DPR-5, DPR-26 and DPR-64, respectively, and (3) the Commission's letter dated December 21, 1978. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the White Plains Public Library, 100 Martine Avenue, White Plains, New York. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 21st Day of December 1978.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc. 79-251 Filed 1-2-79; 8:45 am]

[7590-01-M]

[Docket No. 50-344]

PORTLAND GENERAL ELECTRIC CO. TROJAN NUCLEAR PLANT, CITY OF EUGENE, OREGON, PACIFIC POWER & LIGHT CO.

Exemption

I.

Portland General Electric Company, the city of Eugene, Oregon and Pacific Power & Light Company (the licensees) are the holders of Facility Operating License No. NPF-1 which authorizes the operation of the nuclear power reactor known as Trojan Nuclear Plant (the facility) at steady reactor power levels not in excess of 3411 megawatts thermal (rated power). The facility consists of a Westinghouse Electric Corporation designed pressurized water reactor (PWR) located at the licensees' site in Columbia County, Oregon.

II.

In accordance with the requirements of the Commission's ECCS Acceptance Criteria 10 CFR 50.46, the licensees submitted on March 31, 1977 an ECCS evaluation for proposed operation using 17 × 17 fuel manufactured by the Westinghouse Electric Corporation. This evaluation included limits on the peaking factor. The ECCS performance evaluation submitted by the licensees was based upon an ECCS evaluation developed by the Westinghouse Electric Corporation (Westinghouse), the designer of the Nuclear Steam Supply System for this facility. The Westinghouse ECCS Evaluation Model had been previously found to conform to the requirements of the Commission's ECCS Acceptance Criteria, 10 CFR Part 50.46 and Appendix K. The evaluation indicated that with the peaking factor limited as set forth in the evaluation, and with other limits set forth in the facility's Technical Specifications, the ECCS cooling performance for the facility would conform with the criteria contained in 10 CFR 50.46(b) which govern calculated peak clad temperature, maximum cladding oxidation, maximum hydrogen generation, coolable geometry and long-term cooling.

On March 23, 1978 Westinghouse informed the Nuclear Regulatory Commission (NRC) that an error had been discovered in the fuel rod heat balance equation involving the incorrect use of only half of the volumetric heat generation due to metal-water reaction in calculating the cladding temperature. Thus, the LOCA analyses previously submitted to the Commission by licensees of Westinghouse reactors were in error. The staff promptly determined that no immediate action was required to assure safe operation of these plants. Moreover, the Trojan facility has not operated since March 17, 1978.

The error identified would result in an increase in calculated peak clad temperature, which, for some plants, could result in calculated temperatures in excess of 2,200°F unless the allowable peaking factor was reduced somewhat. Westinghouse identified a number of other areas im the approved model which Westinghouse indicated contained sufficient conservatism to offset the calculated increase in peak clad temperature resulting from the correction of the error noted above. Four of these areas were generic, applicable to all plants, and a number of others were plant specific. As outlined in the Safety Evaluation Report (SER), the staff determined that some of these modifications would be appropriate to offset to some extent the penalty resulting from correction of the error. The SER sets forth the value for each modification applicable to each facility.

Revised computer calculations correcting the error, noted above, and incorporating the modifications described in the SER have not been run for each plant. However, the various parametric studies that have been made for various aspects of the approved Westinghouse model over the course of time provide a reasonable basis for concluding that when final revised calculations for the facility are submitted using the revised and corrected model, they will demonstrate

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that when operated at the peaking factors set forth in the SER operation will conform to the criteria of 10 CFR 50.46(b). Such revised calculations fully conforming to 10 CFR 50.46 have not yet been completed by Westinghouse for the Trojan facility. They are expected to be completed and submitted before April, 1979.

Operation of the facility would nevertheless be technically in non-conformance with the requirements of § 50.46, in that specific computer runs for the particular facility employing revised models with the Westinghouse metal-water error corrected and with the proposed model changes considered as a complete entity will not be complete for some time. However, operation as specified in this Exemption will assure that the ECCS system will conform to the performance criteria of § 50.46. Accordingly, while the actual computer runs for the specific facility are carried out to achieve full compliance with 10 CFR 50.46, operation of the facility will not endanger life or property or the common defense and security.

In the absence of any safety problem related to this ECCS matter associated with operation of the facility during the period until the computer computations are completed, there appears to be no public interest consideration favoring restriction of the operation of the captioned facility. Accordingly, the Commission has determined that an exemption in accordance with 10 CFR 50.12 is appropriate. The specific exemption is limited to the period of time necessary to complete computer calculations.

IV.

Copies of the Safety Evaluation and the following documents are available for inspection at the Commission's Public Document Room at 1717 H Street, Washington, D.C. 20555, and are being placed in the Commission's local public document room at the Columbia County Courthouse Law Library, Circuit Court Room, St. Helens, Oregon 97501.

(1) Letter from Westinghouse to NRC dated April 7, 1978.

(2) Letter from Portland General Electric Company, to Mr. A. Schwencer, Operating Reactors Branch No. 1, dated April 12, 1978.

(3) This Exemption in the matter of Trojan Nuclear Plant.

Wherefore, in accordance with the Commission's regulations as set forth in 10 CFR Part 50, the licensees are hereby granted an exemption from the requirements of 10 CFR 50.46(a)(1) that ECCS performance be calculated in accordance with an acceptable calculational model which conforms to the provisions in Appendix K, without errors discussed herein. This exemption is conditioned as follows:

As soon as possible, but not later than April 1, 1979, the licensees shall submit a reevaluation of ECCS cooling performance calculated in accordance with the Westinghouse Evaluation Model, approved by the NRC staff and corrected for the errors described herein.

Dated at Bethesda, Md., this 20th day of December 1978.

For the Nuclear Regulatory Commission.

VICTOR STELLO, Jr.,
Director, Division of Operating Reactors, Office of Nuclear Reactor Regulation.

[FR Doc. 79-252 Filed 1-2-79; 8:45 am]

[8010-01-M]

SECURITIES AND EXCHANGE COMMISSION

[Administrative Proceeding File No. 3-5608]

SHELL OIL CO. AND SHELL PIPE LINE CORP.

Application and Opportunity for Hearing

DECEMBER 22, 1978.

NOTICE IS HEREBY GIVEN THAT Shell Oil Company, a Delaware corporation ("Shell"), and Shell Pipe Line Corporation, a Maryland corporation ("Shell Pipe Line"), have filed an application under clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939, as amended (the "1939 Act"), for a finding by the Securities and Exchange Commission (the "Commission") that the trusteeship of Morgan Guaranty Trust Company of New York, a New York trust company (the "Bank"), under a certain indenture which is qualified under the 1939 Act and under New Indentures which are not qualified under the 1939 Act are not so likely to involve a material conflict of interest as to make it necessary in the public interest or the protection of investors to disqualify the Bank from acting as Trustee under any of said indentures.

Shell and Shell Pipe Line allege that:

1. The Bank, as trustee, has entered into an Indenture dated July 1, 1969 (the "1969 Indenture") with Shell Pipe Line and Shell pursuant to which there have been issued $60,000 aggregate principal amount of Shell Pipe Line's 7½% Guaranteed Sinking Fund Debentures Due 1999 (the "Shell Pipe Line Debentures"). Payment of the Shell Pipe Line Debentures has been unconditionally guaranteed by Shell pursuant to the terms of such Debentures and the 1969 Indenture. The 1969 Indenture was filed as exhibit 2(a)(1) to Registration Statement No. 2-33377 under the Securities Act of 1933, as amended (the "1933 Act") and has been qualified under the 1939 Act.

2. On October 31, 1978 the Parish of Ascension, a political subdivision of the State of Louisiana (the "Parish") and the Bank, as trustee, entered into two Indentures dated as of October 1, 1978 (the "1978 Indentures") pursuant to which the Parish issued its Pollution Control Revenue Bonds (Shell Oil Company Project) Series 1978 in the aggregate principal amount of $17,000,000 and its Environmental Improvement Revenue Bonds (Shell Oil Company Project) Series 1978 in the aggregate principal amount of $1,000,000 (collectively, the "Bonds"). The Bonds are being issued to finance the cost of certain pollution control and environmental improvement facilities at Shell's chemical plant located in the Parish at Geismar, Louisiana. The Parish has entered into two Agreements of Sale as of September 1, 1978 with Shell (the "1978 Agreements of Sale") pursuant to which said facilities are upon completion thereof from time to time, to be acquired by the Parish from Shell and simultaneously resold to Shell. The Bonds will be payable from, and secured by a pledge of, the income and revenues derived from the sale of said facilities, which income and revenues will be sufficient to pay the principal of, premium, if any, and interest on the Bonds. The Bonds have not been registered under the 1933 Act on the basis of the exemption provided by Section 3(a)(2) thereof and the 1978 Indentures have not been qualified under the 1939 Act on the basis of the provisions of Section 304(a)(4)(B) thereof.

3. Under section 8.08(c)(ii) of the 1969 Indenture, the Bank shall not be deemed to have a conflicting interest by reason of acting as Trustee under the 1978 Indentures if Shell and Shell Pipe Line shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that the trusteeships under the 1969 Indenture and under the 1978 Indentures are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Bank from acting as Trustee under any of said Indentures.

4. Neither Shell nor Shell Pipe Line is in default under the 1969 Indenture or the 1978 Indentures. Shell's obligations under its guarantees in respect of the Shell Pipe Line Debentures and its obligations under the 1978 Agreements of Sale as they relate to the Bonds are wholly unsecured and rank equally *pari passu*. There are no covenants of Shell included in the 1978 Agreements of Sale comparable to those in the 1969 Indenture. Shell Pipe Line has no obligations in respect of the Bonds.

5. Such differences as exist between the 1969 Indenture and the 1978 Indentures and the 1978 Agreements of Sale are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Bank from acting as Trustee under any of said Indentures.

Shell and Shell Pipe line have waived (a) notice of hearing, (b) hearing on the issues raised by said application and (c) all rights to specify procedures under Rule 8(b) of the Commission's Rules of Practice.

For a more detailed account of the matters of fact and law asserted, all persons are referred to said application, which is a public document on file in the offices of the Commission at the Public Reference Room, 1100 L Street, N.W., Washington, D.C.

Notice is further given that any interested person may, not later than January 15, 1979 request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of law or fact raised by such application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest or the protection of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-296 Filed 1-2-79; 8:45 am]

[8025-01-M]

SMALL BUSINESS ADMINISTRATION

[License No. 05/15-5025]

POOLED RESOURCES INVESTING IN MINORITY ENTERPRISES, INC.

Filing of Application for Approval of Conflict of Interest Transaction

Notice is hereby given that Pooled Resources Investing in Minority Enterprises, Inc. (Prime), 1845 David Whitney Building, Detroit, Michigan 48226, a Federal licensee under Section 301(d) of the Small Business Investment Act of 1958, as amended (Act), has filed an application pursuant to 13 CFR 107.1004 (1978) for approval of a conflict of interest transaction.

It is proposed that Prime loan $75,000 to Mr. John Thomas, 20925 Lahser Road, Apartment 300, Southfield, Michigan 48034. The Funds will be used to purchase and operate a taxi-servicing facility and a fleet of taxicabs. Prime will make a 5 year loan with an interest rate of 15 percent.

Mr. John Thomas is the former President of Prime (resigned May 28, 1978); however, Mr. Thomas has remained as a consultant until Prime elected a new President. Pursuant to Section 107.3(a) of the Regulations, Mr. Thomas is considered to be an associate of Prime.

Accordingly, the transaction falls within the purview of 13 CFR 107.1004 (1978) requiring prior written approval of the Small Business Administration (SBA).

Notice is further given that any person may, not later than January 18, 1979, submit to SBA, in writing, relevant comments on the proposed transaction. Any such communication should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Detroit, Michigan.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: December 27, 1978.

ARTHUR P. CYR,
Acting Deputy Associate Administrator for Investment.

[FR Doc. 79-229 Filed 1-2-79; 8:45 am]

[8025-01-M]

[Delegation of Authority No. 30, Rev. 15, Amdt. 25]

PROGRAM ACTIVITIES IN FIELD OFFICES

Delegation of Authority

Delegation of Authority No. 30, Revision 15, republished in the FEDERAL REGISTER on November 24, 1978 (43 FR 55220) is hereby further amended to reflect changes in position titles and dollar limitations in the Surety Guarantee Program. Additionally, the title of Part III has been changed due to reorganization and authority to enter into lease guarantee agreements has been deleted because no funds for the program have been appropriated since FY 1976.

Accordingly, Delegation of Authority No. 30, Rev. 15, Part III, is amended as follows:

* * * * *

PART III—OTHER FINANCIAL AND GUARANTEE PROGRAMS

Section C—Deleted

SECTION D—*Surety Guarantee.* 1. To guarantee sureties against portion of losses resulting from the breach of bid, payment, or performance bonds on contracts, not to exceed the following amounts:

a. Regional Director, $500,000
b. Assistant Regional Director for F&I, $500,000.
c. District Director, Philadelphia, San Francisco, New York, Baltimore, and all Region IV District Offices only, $500,000
d. Assistant District Director for F&I, Philadelphia, New York, San Francisco, Baltimore, and all Region IV District Offices only, $500,000.
e. Surety Bond Coordinator, $250,000.
f. Senior Surety Bond Guarantee Specialist, $250,000.
g. Chief, Financing Division, Philadelphia District Office only, $250,000.
h. Chief, CED Division, New York and Philadelphia District Offices only, $250,000.

* * * * *

Effective Date: January 3, 1979.

HAROLD A. THEISTE,
Acting Associate Administrator for Operation.

[FR Doc. 79-228 Filed 1-2-79; 8:45 am]

[8025-01-M]

REGION III PHILADELPHIA ADVISORY COUNCIL

Public Meeting

The Small Business Administration Region III Philadelphia Advisory Council will hold a public meeting at 1:00 p.m., on Wednesday, January 17, 1979, in the Philadelphia District Office Conference Room, U. S. Small Business Administration, Philadelphia District Office, Suite 400, East Lobby, One Bala Cynwyd Plaza, Bala Cynwyd, Pennsylvania, to discuss such business as may be presented by members, the staff of the Small Business Administration, or others attending.

For further information, write or call George J. Forensky, Acting District Director, U. S. Small Business Administration, Suite 400 East Lobby, One Bala Cynwyd Plaza, 231 St.

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Asaphs Road, Bala Cynwyd, Pennsylvania 19004—(215) 596-5901.

K. DREW,
Deputy Advocate for Advisory Councils.

[FR Doc. 79-269 Filed 1-2-79; 8:45 am]

[4710-09-M]

DEPARTMENT OF STATE

[Public Notice 644]

FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976

Applications for Permits to Fish Off the Coasts of the United States

The Fishery Conservation and Management Act of 1976 (Pub. L. 94-265) as amended (the "Act") provides that no fishing shall be conducted by foreign fishing vessels in the Fishery Conservation Zone of the United States after February 28, 1977, except in accordance with a valid and applicable permit issued pursuant to Section 204 of the Act.

The Act also requires that a notice of receipt of all applications for such permits, a summary of the contents of such applications, and the names of the Regional Fishery Management Councils that receive copies of these applications, be published in the FEDERAL REGISTER.

Applications have been received from Italy, Japan, Poland, and the Union of Soviet Socialist Republics for fishing during 1979 and are reproduced herewith. Individual vessel applications for fishing during 1979 have been received from foreign nations and are summarized herein.

If additional information regarding any application is desired, it may be obtained from: Permits and Regulations Division (F37), National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235 (Telephone: (202)634-7265).

Dated: December 27, 1978.

JAMES A. STORER,
Director, Office of Fisheries Affairs.

Fishery codes and designation of regional councils which review applications for individual fisheries are as follows:

Code	Fishery	Regional council
ABS	Atlantic Billfishes and Sharks	New England, Mid-Atlantic, South Atlantic, Gulf of Mexico, and Caribbean.
BSA	Bering Sea and Aleutian islands trawl, longline and herring gillnet	North Pacific.
CRB	Crab (Bering Sea)	North Pacific.
GOA	Gulf of Alaska	North Pacific.
NWA	Northwest Atlantic	New England and Mid-Atlantic.
SMT	Seamount groundfish (Pacific Ocean)	Western Pacific.
SNL	Snails (Bering Sea)	North Pacific.
WOC	Washington, Oregon, California trawl	Pacific.

Activity codes specify categories of fishing operations applied for as follows:

Activity code and fishing operations

1—Catching, processing, and other support.
2—Processing and other support only.
3—Other support only.

Nation/vessel name/vessel type	Application No.	Fishery	Activity
Japan:			
Hokuto Maru No. 5, cargo/transport vessel	JA-79-0002	BSA	1
Katsuyama Maru, pair trawler	JA-79-0833	BSA	1
Shiroyama Maru, pair trawler	JA-79-0834	BSA	1
Tateyama Maru, pair trawler	JA-79-0835	BSA	1
Nishiyama Maru, pair trawler	JA-79-0836	BSA	1
Kaiyo Maru, cargo/transport vessel	JA-79-1137	GOA, BSA	3
Poland:			
Saturn, large stern trawler	PL-79-0056	WOC, GOA, BSA	1
U.S.S.R.:			
Berill, large stern trawler	UR-79-0378	NWA	1
Yukhan Syutiste, large stern trawler	UR-79-0382	NWA	1
Gordy, cargo/transport vessel	UR-79-0409	NWA	3
Rambinas, cargo/transport vessel	UR-79-0410	NWA	3
Strogij, cargo/transport vessel	UR-79-0412	NWA	3
Stoiky, cargo/transport vessel	UR-79-0413	NWA	3
Uragan, cargo/transport vessel	UR-79-0418	NWA	3
Yugla, tanker fuel/water	UR-79-0430	NWA	3
Rumbula, tanker fuel/water	UR-79-0431	NWA	3
Debretsen, tanker fuel/water	UR-79-0432	NWA	3
Zhalgeris, tanker fuel/water	UR-79-0433	NWA	3
Narvskij Zaliv, cargo/transport vessel	UR-79-0437	NWA	3
Privolzhsk, cargo/transport vessel	UR-79-0441	NWA	3
Noginsk, cargo/transport vessel	UR-79-0442	NWA	3
Kazis Prejkshas, cargo/transport vessel	UR-79-0443	NWA	3
Vladivostok, cargo/transport vessel	UR-79-0444	NWA	3
Ostrov Mednij, cargo/transport vessel	UR-79-0445	NWA	3
Aktyubinsk, cargo/transport vessel	UR-79-0446	NWA	3
Fritz Hekkert, cargo/transport vessel	UR-79-0447	NWA	3
Antanas Snechkus, cargo/transport vessel	UR-79-0448	NWA	3
Dimant, cargo/transport vessel	UR-79-0449	NWA	3
Ostrov Atlasova, cargo/transport vessel	UR-79-0450	NWA	3
Ostrov Russkij, cargo/transport vessel	UR-79-0451	NWA	3
Ostrov Litke, cargo/transport vessel	UR-79-0452	NWA	3
Ostrov Sibiryakova, cargo/transport vessel	UR-79-0453	NWA	3
Ostrov Kotlin, cargo/transport vessel	UR-79-0454	NWA	3
Ostrov Beringa, cargo/transport vessel	UR-79-0455	NWA	3
Pioner Zapolyarya, large stern trawler	UR-79-0490	NWA	1
Leningrad, large stern trawler	UR-79-0594	NWA	1
Korall, large stern trawler	UR-79-0598	NWA	1
Ants Laikmaa, large stern trawler	UR-79-0611	NWA	1
Birshtonas, large stern trawler	UR-79-0685	NWA	1
Iokhannes Semper, large stern trawler	UR-79-0686	NWA	1
Kaskad, large stern trawler	UR-79-0687	NWA	1

Nation/vessel name/vessel type	Application No.	Fishery	Activity
Kazan, large stern trawler	UR-79-0688	NWA	1
Komsomol Ukrainy, large stern trawler	UR-79-0689	NWA	1
Koltsov, large stern trawler	UR-79-0690	NWA	1
Luga, large stern trawler	UR-79-0691	NWA	1
Lyudas Gira, large stern trawler	UR-79-0692	NWA	1
Nikolayevsky Komsomolets, large stern trawler	UR-79-0693	NWA	1
Otrog, large stern trawler	UR-79-0694	NWA	1
Radischev, large stern trawler	UR-79-0695	NWA	1
Robert Eideman, large stern trawler	UR-79-0696	NWA	1
Sinyavino, large stern trawler	UR-79-0697	NWA	1
Yakov Smushkevich, large stern trawler	UR-79-0698	NWA	1
Yaronimas Uboryavichus, large stern trawler	UR-79-0699	NWA	1
Sulak, factory ship	UR-79-0238	BSA, GOA, WOC	2
Slavny, patrol vessel (cargo)	UR-79-0407	NWA	3
Alexander Maxutov, large stern trawler	UR-79-0553	BSA, GOA, WOC	1
Japan:			
Shosei Maru No. 30, Danish seiner	JA-79-0556	BSA	1
Taisei Maru No. 101, cargo/transport	JA-79-1144	NWA, CRB, BSA, GOA, SNA.	3
Chiyo Maru No. 57, longliner	JA-79-1319	ABS	1
Mexico:			
Costa De Noruega, large stern trawler	MX-79-0060	NWA	1
Nuevo Mundo, large stern trawler	MX-79-0061	NWA	1
Italy:			
Tortorelli E, large stern trawler	IT-79-0011	NWA	1
Nicola Specchio, large stern trawler	IT-79-0017	NWA	1
Giovanni Cefalu', large stern trawler	IT-79-0022	NWA	1
De Giosa L., large stern trawler	IT-79-0023	NWA	1

[FR Doc. 79-191 Filed 1-2-79; 8:45 am]

[4710-02-M]

Agency for International Development

[Redelegation Nos. 5.16, 23.3, 38.12, 40.4, 41.5, 75.3, 99.4, 100.3]

REDELEGATION OF AUTHORITIES TO THE FIELD LATIN AMERICA AND THE CARIBBEAN REGION

SECTION I. DEFINITION

AID MISSIONS AND OFFICES

AID Missions subject to this redelegation of authorities shall be the AID Missions located in Barbados, Bolivia, Chile, Colombia, Costa Rica, Dominican Republic, El Salvador, Guatemala, Guyana, Haiti, Honduras, Jamaica, Nicaragua, Panama, Paraguay, Peru, and ROCAP.

SECTION II. AUTHORITIES

A. IMPLEMENTING AUTHORITIES

Authority to negotiate, execute, and implement, in accordance with applicable statutes and regulations, all loan, grant and guaranty agreements, and amendments thereto, to their respective countries, whether heretofore or hereafter authorized, including authority:

1. To sign project agreements, trust fund agreements, and grant agreements with foreign governments, foreign government agencies, and international organizations having a membership consisting primarily of such foreign governments;

2. To sign Project Implementation Orders (PIO's or PIPA's); and

3. To approve all borrower/grantee contracts financed in whole or in part by an AID loan or grant.

B. WAIVER AUTHORITIES

Selected Free World

Authority to waive, in accordance with applicable statutes and regulations, including the terms of Delegation of Authority No. 40 (AID Handbook 5) and the criteria prescribed by Supplement B of AID Handbook 1, U.S. source, origin or nationality requirements, to permit procurement of goods and services, other than transportation services, in countries included in AID Geographic Code 941 (Selected Free World) and the cooperating country, when the cost of goods and services does not exceed $50,000 (exclusive of transportation costs) of funds made available under the Foreign Assistance Act of 1961, as amended (the "Act"); provided, however, that any waiver of the United States source and origin requirements for motor vehicle procurement shall not exceed $25,000 for any one transaction.

Free World

Authority to make specific exceptions to U.S. or AID Geographic Code 941 source, origin or nationality requirements, in accordance with applicable statutes and regulations, including the terms of Delegations of Authority No. 40 (AID Handbook 5) and the criteria prescribed by Supplement B of AID Handbook 1, to permit procurement of goods and services, other than transportation services, in any country included in AID Geographic Code 899 (Free World), when the cost of goods and services does not exceed $50,000 (exclusive of transportation costs) of funds made available under the Act; provided, however, that any waiver of the United States source and origin requirements for motor vehicle procurement shall not exceed $25,000 for any one transaction.

Emergency Procurement

Authority to approve waivers of source, origin, and nationality requirements in accordance with applicable statutes and regulations in situations involving emergency or disaster relief, for procurement not in excess of $100,000 per transaction, from countries included in AID Geographic Code 941 and 899.

C. EXCESS PROPERTY

In accordance with the provisions of Section 607 of the Act and of AID Handbook 16, and subsequent to my authorizing such assistance, authority:

1. To execute transfer or transfer/trust agreements with friendly countries or with international organizations having a membership primarily of foreign governments;

2. To make the determination prescribed in subsection 607(b) of the Act.

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D. SPECIAL DEVELOPMENT ACTIVITIES

Authority to use a total of $50,000 annually in Development Grant funds for Special Development Activities undertaken pursuant to the provisions of AID Manual Order 1323.1.1 or such other amount as may be authorized by AID/W.

E. EXTENSION OF TERMINAL DATES

In accordance with AIDTO Circular A-24, dated January 26, 1978, and any amendments thereto, authority to extend:

1. the terminal date for signing a Project Agreement for a cumulative period of not to exceed six months;

2. the terminal date for meeting initial conditions precedent for a cumulative period of not to exceed six months;

3. the terminal date for requesting disbursing authorizations for a cumulative period of not to exceed one year; and

4. the terminal date for completion of performing services and furnishing goods (the PACD) for a cumulative period of not to exceed one year.

SECTION III. REDELEGATION OF AUTHORITIES

Pursuant to the authorities delegated to me as Assistant Administrator for Latin America and the Caribbean, I hereby delegate all of the authorities set forth in Section II hereof, retaining for myself concurrent authority to exercise any of the functions herein redelegated, to the Director, AID Affairs Officer, or AID Representative, as appropriate, or Missions or Offices included in Section I.

SECTION IV. MISCELLANEOUS

A. The authorities redelegated pursuant to Section III hereof shall be exercised after consultation with a Regional Legal Advisor or GC/LAC, as appropriate, and/or SER/CM or SER/COM, as appropriate.

B. The authorities redelegated pursuant to Section III hereof may, in the discretion of the principal AID Officer, be further redelegated to one additional officer or may be exercised by the person acting in the capacity of the respective Mission Director, AID Affairs Officer or AID Representative while the latter is out of the country (with my prior approval).

C. This redelegation of authorities shall become effective on the date of my execution of this document and shall supersede on that date all delegations of authority previously issued to the affected AID Missions or Offices or to the United States Embassies by the Assistant Administrator for Latin America and the Caribbean and/or the Deputy U.S. Coordinator of the Alliance for Progress; provided, however, that all actions taken under the delegations of authority which are hereby superseded shall remain valid and are hereby reaffirmed.

Dated: December 6, 1978.

ABELARDO L. VALDEZ,
Assistant Administrator for Latin America and the Caribbean.

SECTION I. DEFINITION

AID MISSIONS AND OFFICES

AID Missions and Offices subject to this redelegation of authorities shall be the AID Missions or Offices located in Brazil, Ecuador, and Uruguay.

SECTION II. AUTHORITIES

A. IMPLEMENTING AUTHORITIES

Authority to negotiate, execute, and implement, in accordance with applicable statutes and regulations, all loan, grant, and guaranty agreements, and amendments thereto, to their respective countries, whether heretofore or hereafter authorized, including authority:

1. to sign project agreements, trust fund agreements, and grant agreements with foreign governments, foreign government agencies, and international organizations having a membership consisting primarily of such foreign governments;

2. to sign Project Implementation Orders (PIO's or PIPA's); and

3. to approve borrower/grantee contracts financed in whole or in part by an AID loan or grant; provided that this approving authority shall be limited to contracts not to exceed $50,000.

B. WAIVER AUTHORITIES

Selected Free World

Authority to waive, in accordance with applicable statutes and regulations, including the terms of Delegation of Authority No. 40 (AID Handbook 5) and the criteria prescribed by Supplement B of AID Handbook 1, U.S. source, origin or nationality requirements, to permit procurement of goods and services, other than transportation services, in countries included in AID Geographic Code 941 (Selected Free World) and the cooperating country, when the cost of goods and services does not exceed $25,000 (exclusive of transportation costs) of funds made available under the Foreign Assistance Act of 1961, as amended (the "Act").

Free World

Authority to make specific exceptions to U.S. or AID Geographic Code 941 source, origin or nationality requirements, in accordance with applicable statutes and regulations, including the terms of Delegation of Authority No. 40 (AID Handbook 5) and the criteria prescribed by Supplement B of AID Handbook 1, to permit procurement of goods and services, other than transportation services, in any country included in AID Geographic Code 899 (Free World), when the cost of the goods and services does not exceed $25,000 (exclusive of transportation costs) of funds made available under the Act.

C. EXCESS PROPERTY

In accordance with the provisions of Section 607 of the Foreign Assistance Act of 1961, as amended, (the "Act"), and of AID Handbook 16, and subsequent to my authorizing such assistance, authority:

1. to execute transfer or transfer/trust agreements with friendly countries or with international organizations having a membership primarily of foreign governments;

2. to make the determination prescribed in subsection 607(b) of the Act.

D. SPECIAL DEVELOPMENT ACTIVITIES

Authority to use a total of $50,000 annually of Development Grant Funds for Special Development Activities undertaken pursuant to the provisions of AID Manual Order 1323.1.1 or such other amount as may be authorized by AID/W.

E. EXTENSION OF TERMINAL DATES

In accordance with AIDTO Circular A-24, dated January 26, 1978, and any amendments thereto, authority to extend:

1. the terminal date for signing a Project Agreement for a cumulative period or not to exceed six months;

2. the terminal date for meeting initial conditions precedent for a cumulative period of not to exceed six months;

3. the terminal date for requesting disbursing authorizations for a cumulative period of not to exceed one year; and

4. the terminal date for completion of performing services and furnishing goods (the PACD) for a cumulative period of not to exceed one year.

SECTION III. REDELEGATION OF AUTHORITIES

Pursuant to the authorities delegated to me as Assistant Administrator for Latin America and the Caribbean, I hereby delegate all of the authorities set forth in Section II hereof, retaining for myself concurrent authority to exercise any of the functions herein redelegated to the Director, AID Affairs Officer, or AID Representative, as appropriate, of Missions or Offices included in Section I.

SECTION IV. MISCELLANEOUS

A. The authorities redelegated pursuant to Section III hereof shall be exercised after consultation with a Regional Legal Advisor, or GC/LAC, as appropriate, and/or SER/CM or SER/COM, as appropriate.

B. The authorities redelegated pursuant to Section III may be redelegated, in the discretion of the principal AID Officer, to one additional officer or may be exercised by the person acting in the capacity of the respective Mission Director, AID Affairs Officer or AID Representative.

C. This redelegation of authorities shall become effective on the date of my execution of this document and shall supersede on that date all delegations of authority previously issued to the affected AID Missions or Officers or the United States Embassies by the Assistant Administrator for Latin America and the Caribbean and/ or the Deputy U.S. Coordinator of the Alliance for Progress; provided, however, that all actions taken under the delegations of authority which are hereby superseded shall remain valid and are hereby reaffirmed.

Dated: December 6, 1978.

EDWARD W. COY,
Acting Assistant Administrator for Latin America and the Caribbean.

[FR Doc. 79-197 Filed 1-2-79; 8:45 am]

[4810-40-M]

DEPARTMENT OF THE TREASURY

Office of the Secretory

[Department Circular Public Debt Series—No. 31-78]

TREASURY BONDS OF 1944

DECEMBER 28, 1978.

1. INVITATION FOR TENDERS

1. 1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately $1,500,000,000 of United States securities, designated Treasury Bonds of 1994 (CUSIP No. 912810 CF 3). The securities will be sold at auction with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued for cash to Federal Reserve Banks as agents of foreign and international monetary authorities.

2. DESCRIPTION OF SECURITIES

2. 1. The securities will be dated January 11, 1979, and will bear interest from that date, payable on a semiannual basis on August 15, 1979, and each subsequent 6 months on February 15 and August 15, until the principal becomes payable. They will mature February 15, 1994, and will not be subject to call for redemption prior to maturity.

2. 2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2. 3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2. 4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered and book-entry securities, and the transfer of registered securities will be permitted.

2. 5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. SALE PROCEDURES

3. 1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C 20226, up to 1:30 p.m., Eastern Standard time, Thursday, January 4, 1979. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Wednesday, January 3, 1979.

3. 2. Each tender must state the face amount of securities bid for. The minimum bid is $1,000 and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.11%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender and the amount may not exceed $1,000,000.

3. 3. All bidders must certify that they have not made and will not make any agreements for the sale or purchase of any securities of this issue prior to the deadline established in Section 3. 1. for receipt of tenders. Those authorized to submit tenders for the account of customers will be required to certify that such tenders are submitted under the same conditions, agreements, and certifications as tenders submitted directly by bidders for their own account.

3. 4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3. 5. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by a deposit of 5% of the face amount of securities applied for (in the form of cash, maturing Treasury securities or readily collectible checks), or by a guarantee of such deposit by a commercial bank or a primary dealer.

3. 6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 96.250. That rate of interest will be paid on all of the securities. Based on such interest rate, the price

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on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3. 7. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

4. RESERVATIONS

4. 1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. PAYMENT AND DELIVERY

5. 1. Settlement for allotted securities must be made or completed on or before Thursday, January 11, 1979, at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received at such institution no later than:

(a) Tuesday, January 9, 1979, if the check is drawn on a bank in the Federal Reserve District of the institution to which the check is submitted (the Fifth Federal Reserve District in case of the Bureau of the Public Debt), or

(b) Monday, January 8, 1979, if the check is drawn on a bank in another Federal Reserve District.

Checks received after the dates set forth in the preceding sentence will not be accepted unless they are payable at the applicable Federal Reserve Bank. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5. 2. In every case where full payment is not completed on time, the deposit submitted with the tender, up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5. 3. Registered securities tendered as deposits and in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5. 4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5. 5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. GENERAL PROVISIONS

6. 1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6. 2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

ANTHONY M. SOLOMON,
Acting Secretary of the Treasury.

SUPPLEMENTARY STATEMENT

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the Departmental procedures applicable to such regulations.

[FR Doc. 79-274 Filed 1-2-79; 8:45 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

[Notice No. 766]

ASSIGNMENT OF HEARINGS

DECEMBER 27, 1978.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 135231 (Sub-27F), North Star Transport, Inc., now being assigned for hearing on January 11, 1979, (2 days), at the Court Room No. 584, Federal Building, 316 North Robert Street., St. Paul, Minnesota.

MC 35227 (Sub-8F), Edson Express, Inc., now assigned January 8, 1979, at Denver, Colo., is postponed to February 26, 1979, (15 days), at Denver, Colo., in a hearing room to be later designated.

MC 114457 (Sub-445F), Dart Transit Company, now being assigned January 15, 1979, (5 days), at St. Paul, Minn., in a hearing room to be later designated.

MC 2202 (Sub-560F), Roadway Express, Inc., now assigned for hearing on January 11, 1979, at Lake Charles, Louisiana will be held in the Downtowner Motel Inn.

MC 118696 (Sub-10), Ferree Furniture Express, Inc., now being assigned for January 30, 1979 (2 days), at Chicago, Ill., in Room 204A, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 128460 (Sub-4F), John J. Conahan DBA, Central Air Freight Service, now being assigned for hearing on January 18, 1979 (2 days), at Philadelphia, Pennsylvania, at the New Court House, 601 Market Street.

MC 114632 (Sub-169), Apple Lines, Inc., No. MC 117940 (Sub-No. 284F), Nationwide Carriers, Inc. and No. MC 144622 (Sub-No. 2F), Glenn Bros. Trucking, Inc., now assigned for hearing on January 11, 1979, at New York, N.Y. is postponed indefinitely.

MC 113908 (Sub-421), Erickson Transport Corporation, now being assigned for continued hearing on February 5, 1979, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 20783 (Sub-111F), Tompkins Motor Lines, Inc., now assigned for January 9, 1979, at Tampa, Florida is canceled and reassigned for January 9, 1979 (4 days), at Orlando, Florida at the Holiday Inn, 6515 International Drive.

MC 116077 (Sub-395F), DSI Transport, Inc., now assigned for February 14, 1979, at New Orleans, La., is canceled and reassigned for Feburary 14, 1979 (3 days), at Houston, Texas, at the Holiday Inn—Downtown, 801 Calhoun Street.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-189 Filed 1-2-79; 8:45 am]

[7035-01-M]

[Docket No. AB-1 (Sub-No. 62)]

CHICAGO AND NORTH WESTERN TRANSPORTATION CO.

Abandonment Near Conover and Phelps in Vilas County, WI; Findings

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by a decision entered on November 6, 1978, a finding, which is administratively final, was made by the Administrative Law Judge, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.—Abandonment Goshen*, 354 I.C.C. 584 (1978), and for public use as set forth in said decision, the present and future public convenience and necessity permit the abandonment by the Chicago and North Western Transportation Company of its branch line of railroad between milepost 0.0 near Conover, WI, to milepost 9.2 at Phelps, WI, a distance of 9.2 miles in Vilas County, WI. A certificate of abandonment will be issued to the Chicago and North Western Transportation Company based on the above-described finding of abandonment, 30 days after publication of this notice, (February 2, 1979) unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691, as amended by publication of May 10, 1978, at 43 FR 20072. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced decision.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 79-183 Filed 1-2-79; 8:45 am]

[7035-01-M]

[Docket No. AB-1 (Sub-No. 69F)]

CHICAGO AND NORTH WESTERN TRANSPORTATION CO.

Abandonment in Webster and Hamilton Counties, IA; Findings

Notice is hereby given pursuant to Section 1a of the Interstate Commerce Act (49 U.S.C. 1a) that by a Certificate and Decision decided December 13, 1978, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.-Abandonment Goshen*, 354 I.C.C. 584 (1978) and further that applicant shall keep intact all of the right-of-way underlying the track between Evanston and Flugstad including all of the bridges and culverts for a period of 120 days from the effective date of the certificate and decision to permit any state or local government agency or other interested party to negotiate the acquisition for public use of all or any portion of the right-of-way, the present and future public convenience and necessity permit the abandonment by the Chicago and North Western Transportation Company only of that portion of the proposed abandonment between Evanston, IA, (milepost 6.7) to Flugstad, IA, (milepost 13.7). A certificate of public convenience and necessity permitting abandonment of the above-described line was issued to the Chicago and North Western Transportation Company. Since no investigation for this part of the line was instituted, the requirement of § 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the FEDERAL REGISTER be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (Section 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than 15 days after publication of this Notice. The offer, as filed, shall contain information required pursuant to § 1121.38(b)(2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment only of that portion of the proposed abandonment between Evanston, IA, (milepost 6.7) to Flugstad, IA, (milepost 13.7) shall become effective on or before February 20, 1979.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 79-190 Filed 1-2-79; 8:45 am]

[7035-01-M]

[Docket No. AB-111]

DETROIT, TOLEDO, AND IRONTON RAILROAD CO.

Abandonment Portion of Tecumseh Branch, Lenawee County, MI, and Fulton County, OH, and Abandonment-Operations over the Tracks of Norfolk and Western Railway Co. Between Leaf and Page, Lenawee County, MI; Findings

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by a decision decided October 31, 1978, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.-Abandonment Goshen*, 354 I.C.C. 584 (1978), the present and future public convenience and necessity permit abandonment by the Detroit, Toledo, and Ironton Railroad Company of operations (a) over the portion of its Tecumseh Branch extending from milepost 18.7 near Wauseon, Fulton County, OH, to near milepost 32 at Bimo, Lenawee County, MI, and (b) over the trackage owned and operated by the Norfolk and Western Railway Company extending from milepost 35.7 near Leaf, Lenawee County, MI, to milepost 44.3 near Page, Lenawee County, MI. A certificate of abandonment will be issued to the Detroit, Toledo, and Ironton Railroad Company based on the above-described finding of abandonment, 30 days after publication of this notice (February 2, 1979), unless within 30 days from the date of publication, the Commission further finds that:

(1) a financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) it is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691, as amended by publication of May 10, 1978, at 43 FR 20072. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced decision.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 79-185 Filed 1-2-79; 8:45 am]

[7035-01-M]

[Docket No. AB-43 (Sub-No. 40)]

ILLINOIS CENTRAL GULF RAILROAD CO.

Abandonment Near Soso and Laurel in Jones County, MS; Findings

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by a decision decided July 17, 1978, and the decision of the Commission, Division 2, acting as an Appellate Division, served November 14, 1978, adopted the decision of the Commission, Review Board Number 5, which is administratively final, stating that the present and future public convenience and necessity permit abandonment of that portion of the Illinois Central Gulf Railroad Company line of railroad extending from milepost 141.8 at Soso, MS, to milepost 151.1 at Laurel, MS, a distance of 9.3 miles located in Jones County, MS, subject to the conditions for the protection of employees discussed in *Oregon Short Line R. Co.—Abandonment Goshen*, 354 I.C.C. 584 (1978), and subject to the condition that, subsequent to the abandonment, the Illinois Central Gulf Railroad Company will continue to base rates on pulpwood and chips on mileages existing prior to the abandonment, contingent upon the elimination over a two year period of mileage blocks in the existing rate scales for distances less than 50 miles. Further, applicant shall keep intact all of the right-of-way underlying the track, within the City of Laurel for a period of 120 days from the effective date of a certificate to permit any state and/or local government agency or other interested party to negotiate the acquisition for public use of all or any portion of the right-of-way. A certificate of abandonment will be issued to the Illinois Central Gulf Railroad Company based on the above-described finding of abandonment 30 days after publication of this notice, (February 2, 1979) unless within 30 days from the date of publication, the Commission further finds that:

(1) a financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) it is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691, as amended by publication of May 10, 1978, at 43 FR 20072. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced decision.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 79-186 Filed 1-2-79; 8:45 am]

[7035-01-M]

[Docket No. AB-83 (Sub-No. 3)]

MAINE CENTRAL RAILROAD CO.

Abandonment Between North Anson and Bingham, in Somerset County, ME; Findings

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by a decision decided March 30, 1978, and the decision of the Commission, Division 1, acting as an Appellate Division, served November 20, 1978, adopted the decision of the Administrative Law Judge, which is administratively final, stating that the present and future public convenience and necessity permit the abandonment by the Maine Central Railroad Company of its line of railroad extending from about half a mile north of the railroad bridge over the Carrabassett River at North Anson to milepost 120.29 in Bingham, a distance of about 16 miles, in Somerset County, ME, subject to conditions for the protection of labor that are at least as beneficial as provisions established pursuant to Section 5(2)(f) of the Interstate Commerce Act and pursuant to Section 405 of *the Rail Passenger Service Act of 1976* (45 U.S.C. 565). A certificate of abandonment will be issued to the Maine Central Railroad Company based on the above-described finding of abandonment, 30 days after publication of this notice, (February 2, 1979) unless within 30 days from the date of publication, the Commission further finds that:

(1) a financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) it is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691, as amended by publication of May 10, 1978, at 43 FR 20072. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced decision.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 79-184 Filed 1-2-79; 8:45 am]

[7035-01-M]

[Finance Docket No. 28919F]

WEST VIRGINIA RAILROAD MAINTENANCE AUTHORITY

Acquisition and Operation—Over Chesapeake & Ohio Railway Co. Near Cass and Durbin in Pocahontas County, W. VA.

West Virginia Railroad Maintenance Authority (RMA), 922 Quarrier Street, Suite 422, Charleston, WV 25301, represented by John P. Killoran, Executive Director, West Virginia Railroad Maintenance Authority, 922 Quarrier Street, Suite 422, Charleston, WV 25301, hereby give notice that on the 6th day of December, 1978, it filed with the Interstate Commerce Commission at Washington, DC, an application under Section 1(18) of the Interstate Commerce Act for a decision approving and authorizing the acquisition and operation of a line of railroad owned by the CHESAPEAKE AND OHIO RAILROAD COMPANY (C&O) of a portion of its Greenbrier Branch between C&O Valuation Station 4117+75 at or near Cass, WV, and C&O Valuation Station 5021+22 at or near Durbin, WV, a distance of approximately 17.21 miles, all in Pocahontas County, WV.

RMA proposes to acquire by donation the entire Greenbrier Branch between North Caldwell and Durbin, in Greenbrier and Pocahontas Counties, approximately 92.04 miles of right-of-way. In addition, RMA proposes to acquire all track, ties and other track materials between Cass and Durbin, a distance of approximately 17.21 miles for approximately $600,000 and, if permission is granted by the Commission, operate as a common carrier, subject to Part I of the Act, over this section of the line. That portion of the line not now operated will be held by the State in Rail Bank for possible future operation. By application filed March 15, 1975, in Docket No. AB-18 (Sub-No. 17) C&O sought authority to abandon the line of railroad subject of this application. The abandonment application was approved and the certificate was issued by the Commission on October 20, 1978.

In the opinion of the Applicant, the granting of the authority sought will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. In accordance with the Commission's regulations (49 C.F.R. 1108.8) in Ex Parte No. 55 (Sub-No. 4), *Implementation—National Environmental Policy Act, 1969*, 352 I.C.C. 451 (1976), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall indicate with specific data the exact nature and degree of the anticipated impact. See *Implementation—National Environmental Policy Act, 1969, supra*, at p. 487.

Pursuant to the provisions of the Interstate Commerce Act, as amended, the proceeding will be handled without public hearings unless comments in support or opposition on such application are filed with the Secretary, Interstate Commerce Commission, 12th and Constitution Avenue, N.W., Washington, DC 20423, and the aforementioned counsel for applicant, within 30 days after date of first publication in a newspaper of general circulation. Any interested person is entitled to recommend to the Commission that it approve, disapprove, or take any other specified action with respect to such application.

H. G. HOMME, Jr.
Acting Secretary.

[FR Doc. 79-187 Filed 1-2-79; 8:45 am]

[7035-01-M]

[Docket No. 36388]

1977-1978 PLATFORM STUDY OF CLASS I AND CLASS II MOTOR COMMON CARRIERS OF GENERAL FREIGHT SUBJECT TO ACCOUNTING; INSTRUCTION 27

Informal Conference

AGENCY: Interstate Commerce Commission.

ACTION: Setting this matter for informal conference.

SUMMARY: An informal conference with the Commission's staff will be held on January 11, 1979. The purpose of this conference is to solicit comments and recommendations from interested parties concerning the staff's analysis of the 1977-1978 Platform Study data. The results of analysis of this data will be released as a rulemaking proceeding for formal adoption by the Commission prior to use in costing procedures.

NOTICE OF INTENT TO PARTICIPATE: This conference is open to all parties having an interest in this matter, and who have substantive comments or recommendations con-

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cerning the analysis of the 1977-1978 Platform Study data. A notice of intent to participate in this informal conference is due by January 5, 1979. This notice of intent should be directed to:

William T. Bono, Chief, Section of Cost Development, Room 6331, Interstate Commerce Commission, Washington, D.C. 20423.

SUPPLEMENTARY INFORMATION: The Commission's Order in Docket No. 36388, *1977-1978 Platform Study of Class I and Class II Motor Common Carriers of General Freight Subject to Accounting Instruction 27*, formally initiated the 1977-1978 Platform Study. A discussion of the conduct of the study and the staff's analytical procedures may be obtained from William T. Bono at the above address or by calling (202) 275-7653.

In order to give interested parties an opportunity to provide the Commission staff with recommendations and suggestions on various approaches for analyzing the 1977-1978 Platform Study data, an informal conference is scheduled for January 11, 1978, at 9:00 a.m. at the Commission's offices in Washington, D.C. Persons intending to participate are requested to notify the Commission by January 5, 1979. The participants should include a statement estimating how much time would be required for any formal oral presentations they intend to make. Substantive written comments of interested participants are welcomed by the Commission staff prior to the conference. All parties participating in the conference are requested to submit a written summary of their comments by January 19, 1979. Written comments should also be forwarded to William T. Bono at the above address.

To promote an informative discussion of the 1977-1978 Platform Study, the conference will open with a discussion of the sample design and implementation. At the end of the discussion, questions will be taken. In addition, comments will be invited concerning the analysis required to compute the platform handling times. Specific areas of interest include:

1. Data editing procedures;
2. Methods by which cluster shipment time may be apportioned to the individual shipments within the cluster;
3. The method for determining what shipment characteristics should be used in the analysis; and,
4. Methods for computing platform handling times.

The above list is neither intended to be all inclusive nor to set limitations upon the particular issues or subissues to be discussed.

Dated: DECEMBER 28, 1978.

JAMES B. THOMAS, Jr.,
Director, Bureau of Accounts.

[FR Doc. 79-188 Filed 1-2-79; 8:45 am]

[7035-01-M]

[Docket No. AB-6 Sub-No. 56F]

BURLINGTON NORTHERN, INC.

Abandonment Near Lombardville and Buda in Stark and Bureau Counties, IL; Findings

Notice is hereby given pursuant to Section 1a of the Interstate Commerce Act (49 U.S.C. 1a) that by a Certificate and Decision decided December 13, 1978, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.—Abandonment Goshen*, 354 I.C.C. 584 (1978), the present and future public convenience and necessity permit the abandonment by the Burlington Northern, Inc. of a line of railroad known as the Lombardville to Buda Line extending from railroad milepost 6.80 near Lombardville, IL, to railroad milepost −0.32 near Buda, IL, a distance of 7.12 miles, in Stark and Bureau Counties, IL. A certificate of public convenience and necessity permitting abandonment was issued to the Burlington Northern, Inc. Since no investigation was instituted, the requirement of § 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the FEDERAL REGISTER be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (§ 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than 15 days after publication of this Notice. The offer, as filed, shall contain information required pursuant to § 1121.38(b)(2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abondonment shall become effective 45 days from the date of this publication.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 79-280 Filed 1-2-79; 8:45 am]

[7035-01-M]

[Docket No. AB-2 (Sub-No. 23F)]

LOUISVILLE AND NASHVILLE RAILROAD CO.

Abandonment Near Dotiki Junction at Clay in Webster County, KY; Findings

Notice is hereby given pursuant to Section 1a of the Interstate Commerce Act (49 U.S.C. 1a) that by a Certificate and Decision decided December 13, 1978, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.—Abandonment Goshen*, 354 I.C.C. 584 (1978) and for public use as set forth in said decision, the present and future public convenience and necessity permit the abandonment by the Louisville and Nashville Railroad Company of a portion of its line of railroad known as the Morganfield Branch extending from railroad milepost MB-296.92 near Dotiki Junction, KY, to the end of the line, milepost MB-299.37 at Clay, KY, a distance of 2.45 miles, in Webster County, KY. A certificate of public convenience and necessity permitting abandonment was issued to the Louisville and Nashville Railroad Company. Since no investigation was instituted, the requirement of Section 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the FEDERAL REGISTER be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (Section 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than 15 days after publication of this Notice. The offer, as filed, shall contain information required pursuant to Section 1121.38(b)(2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 45 days from the date of this publication.

H. G. HOMME, Jr.
Acting Secretary.

[FR Doc. 79-279 Filed 1-2-79; 8:45 am]

[7035-01-M]

[Decision No. MC-112184 (Sub-No. 57)]

THE MANFREDI MOTOR TRANSIT CO. EXTENSION; CLEVELAND PAINT INGREDIENTS, NEWBERRY, OH

Decided: DECEMBER 15, 1978.

We have considered the record in this proceeding and:

(1) Petition of applicant, filed September 18, 1978, for reconsideration; and

(2) Reply by Quality Carriers, Inc., protestant, filed October 6, 1978.

SUMMARY OF THE PROCEEDING

Applicant seeks a permit authorizing transportation of paint and paint products, in bulk, in tank vehicles (1) from Oak Creek, WI and Wallingford, CT to Cleveland, OH, and (2) from Cleveland, OH to 17 named points in the United States and to described ports of entry on the International Boundary line between the United States and Canada. The proceeding was assigned for handling under the modified procedure and two protestants, Quality Carriers, Inc., and Coastal Tank Lines, Inc., filed verified statements in opposition to the application. Review Board Number 3, by decision entered August 1, 1978, granted authority to the applicant to transport paint ingredients from Cleveland, OH, to described ports of entry on the International Boundary line between the United States and Canada. As a preliminary matter, the board concluded that the supporting shipper's statements contained evidence concerning only the service from Oak Creek to Cleveland and from Cleveland to the described ports of entry, and it then treated the application as one seeking authority to provide only this service. It determined that there is a need for such service from Oak Creek and Cleveland. But it also determined that granting authority from Oak Creek could result in a complete diversion from protestant Quality of all of its traffic handled for the shipper from Oak Creek, and that there is a possibility of substantial harm to Quality without there being a showing that applicant's duplicating services are or will be needed. The board also concluded that the shipper's products moving from Cleveland are paint ingredients, not paint or paint products, and that the granting of authority to transport such commodities should be published in the FEDERAL REGISTER.

Applicant seeks reconsideration of the review board's decision challenging the board's failure to make a complete grant of the authority sought. Protestant Quality opposes any grant of authority to provide service from Oak Creek to Cleveland, OH. Protestant Coastal, by failing to file a reply to applicant's petition, has indicated a lack of continuing interest in this proceeding and in the involved traffic, detracting from the weight its opposition normally would be accorded.

PERTINENT FACTS AND CONCLUSIONS

We believe this proceeding should be reopened for reconsideration on the present record. The evidence of record, when considered in light of the pleadings, warrants a grant of the authority sought, to the extent set forth in the appendix to this decision.

In its petition, applicant asserts that the review board erred in considering the application only as seeking authority from Oak Creek to Cleveland and from Cleveland to the specified Canadian ports of entry, in finding that a grant of authority to provide service from Oak Creek to Cleveland would not be consistent with the public interest and the national transportation policy, and in granting authority to transport paint ingredients rather than paint and paint products.

The supporting shipper, PPG Industries, Inc., developed a new type of automobile undercoating paint in 1977. Since the introduction of this new product, PPG's sales of undercoating paint have increased very substantially and are continuing to increase. PPG manufactures this new paint at Cleveland and produces ingredients for the paint at Oak Creek. It appears that shipper also either produces or purchases ingredients for the paint at Wallingford, CT. PPG ships the undercoating paint from Cleveland to automobile assembly facilities in the United States and Canada.

The evidence submitted by PPG in support of the application relates almost entirely to its traffic from Oak Creek to Cleveland and from Cleveland to the Canadian ports of entry. Virtually no evidence has been presented in support of the other portions of the application, which are unopposed, other than identification of the origins and destinations for the involved traffic and identification of the commodity shipped. However, it does appear that PPG ships paint ingredients from Oak Creek and Wallingford to Cleveland, and that it either has, or is now seeking, customers for its undercoating paints at the 17 specific destination points set forth in part (2) of the application. Although this evidence is quite minimal, we believe the review board should have considered it. The supporting shipper has not identified the volume of traffic moving from Wallingford to Cleveland or from Cleveland to points in the United States, how that traffic now moves, or how much of that traffic will be tendered to applicant if the application is granted. Shipper has, however, presented evidence showing that it is shipping large volumes of a new product from its Cleveland facilities and that it is vigorously expanding its share of the automobile undercoating paint market. In these circumstances, specific evidence regarding traffic volumes may not be available and would be of somewhat limited value. Further, where relatively new traffic is involved and the shipper bases its support for new transportation service largely on projected future need, meaningful evidence of adequacy of existing service will be less likely to be available.

Our consideration of the evidence under the criteria of section 209(b) of the Interstate Commerce Act leads us to conclude that the portions of the application not considered by the review board should be granted to the extent set forth in the appendix. (1) Applicant will continue to serve eight shippers, a weak but adequate showing under the first criterion. (2) Applicant will serve shipper with dedicated equipment which has been specially modified to handle shipper's traffic. (3) No carrier protests a grant of authority to provide service from Wallingford to Cleveland or from Cleveland to the 17 specific destination points set forth in part (2) of the application. No protestant, therefore, stands to be adversely affected by a grant of the authority sought to that extent. (4) A denial of the portions of the application not considered by the review board, however, would prevent shipper from expanding its use of applicant's specialized services as it continues to increase its marketing and distribution of its new undercoating paint. (5) The changing character of shipper's transportation requirements, other than as already discussed, does not appear to be a significant factor in this proceeding.

Although we have been able to ascertain at least the outline of shipper's reasonable transportation requirements based on the evidence and the inferences which may be drawn from the evidence, we would remind applicant that an evidentiary presentation in support of an application which is, at best, skeletal, unnecessarily increases the burden on this Commission in framing an appropriate grant of authority. Applicant is cautioned to take greater care in any future proceedings to present supporting evidence in a more complete and coherent manner than was done in this proceeding.

The review board considered the evidence of need for service from Oak Creek to Cleveland and concluded that a grant of such authority would not be consistent with the public interest and the national transportation policy. We believe that the review board, in considering the evidence regarding the Oak Creek traffic, gave undue weight

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to the possibility of diversion of traffic from protestant Quality. From February 1977 to February 1978, shipper's traffic from Oak Creek to Cleveland increased from 2 loads a day to 11 loads a day. Only protestant Quality has appropriate authority and equipment to handle this traffic. It has been handling all of this traffic and has been providing good service. In view of the substantial and increasing volume of this traffic, however, shipper should not be forced to rely on the services of a single carrier. Although a loss of all of shipper's Oak Creek to Cleveland traffic would be detrimental to protestant's operations, the record does not reveal that a grant of authority to applicant might realistically result in a diversion of all or most of this traffic from protestant to applicant. The shipper states that it will not deprive Quality of any traffic or revenue, and, in fact, anticipates that it will be able to increase the amount of traffic tendered to Quality due to the substantial increase in demand for its products. As shipper's traffic increases, Quality should fact little, if any, loss of traffic to applicant so long as it continues to provide responsive service. We must conclude, therefore, that a grant of authority to provide service from Oak Creek to Cleveland, as set forth in the appendix, will be consistent with the public interest and the national transportation policy.

Applicant asserts that the review board erred in granting authority to transport paint ingredients rather than paint and paint products as sought in the application. The evidence indicates that the traffic involved in part (1) of the application consists of shipments of ingredients used in the production of shipper's underocoating paint and that the traffic involved in part (2) of the application consists of shipments of PPG's automobile undercoating paint. The evidence does not disclose that the commodities moving to Cleveland are other that the "clear" and the "major intermediate" used in producing the undercoating paint. These commodities have not been shown to be paint, but appear to be paint ingredients. The authority granted in part (1) of the application, therefore, will be for the transportation of paint ingredients and publication of notice of the scope of the authority granted will be required for the reasons discussed in the review board's decision.

We find, on reconsideration:

Operation by applicant, in interestate or foreign commerce, as a contract carrier by motor vehicle, over irregular routes, performing the service described in the appendix, will be consistent with the public interest and the national transportation policy. Applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's regulations. This decision does not significantly affect the quality of the human environment. An appropriate permit should be granted.

The holding by applicant of the permit authorized here and the certificates it holds in No. MC-128302 will be consistent with the public interest and the national transportation policy subject to the condition in the appendix.

It is ordered:

The proceeding is reopened for reconsideration on the present record.

The decision of Review Board Number 3, entered August 1, 1978, to the extent inconsistent with this decision, is vacated.

A permit will be issued authorizing the operations described in the appendix if applicant complies with the appropriate requirements set forth in the Cost of Federal Regulations (49 C.F.R. §§ 1043, 1044, 1053, and 1307). Applicant must comply within 90 days after the date of service of this decision or the grant of authority will be void and the application will stand denied.

This decision will be effective 30 days after its date of service.

By the Commission, Division 1, Acting as an Appellate Division, Commissioners Brown, Gresham, and and Clapp.

NANCY L. WILSON,
Acting Secretary.

APPENDIX

SERVICE AUTHORIZED:

To transport (1) paint ingredients, in bulk, in tank vehicles, from Oak Creek, WI, and Wallingford, CT, to Cleveland, OH; and (2) paint and paint products, in bulk, in tank vehicles, from Cleveland, OH, to (a) Leeds, MO, Chicago, IL, Tarreytown, NY, Wilmington, DE, Oklahoma City, OK, Baltimore, MD, Atlanta, Doraville, and Lakewood, GA, Arlington, TX, Norfolk, VA, Minneapolis and St. Paul, MN, Louisville, KY, Fremont, San Jose, Southgate and Van Nuys, CA; and (b) ports of entry on the International Boundary line between the United States and Canada which lie between Buffalo, NY, and Calais, ME, inclusive, under a continuing contract or contracts with PPG Industries, Inc., of Pittsburgh, PA.

CONDITION:

The right of the Commission is expressly reserved to impose such conditions in the future as it may find necessary in order to insure that the operations of applicant conform to the provisions of section 210 of the Act.

SPECIAL CONDITION FOR ISSUANCE OF PERMIT:

Issuance of the above authorized permit is subject to prior publication in the FEDERAL REGISTER of a notice of the authority actually granted in this proceeding. Issuance of a permit will be withheld until 30 days after such publication and the disposition of any petitions for leave to intervene filed within that time.

[FR Doc. 79-281 Filed 1-2-79; 8:45 am]

[7035-01-M]

[Notice No. 238]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

DECEMBER 21, 1978.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field offical named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

NOTE.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

MOTOR CARRIERS OF PROPERTY

MC 21227 (Sub 13 TA), filed November 13, 1978. Applicant: MIDLAND TRUCK LINES, INC., 311 Marion St., St. Louis, MO 63104. Representative: George M. Catlett, 709 McClure Bldg., Frankfort, KY 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Evansville, IN and the facilities of General Electric Co. and Mead Johnson & Co. Mount Vernon, IN, from Evansville, IN, over Indiana Highway 62 to Mount Vernon, IN with service restricted to the facilities of the General Electric Co. and Mead Johnson & Co., located at Mount Vernon, IN, for 180 days. SUPPORTING SHIPPER(S): General Electric Company, Eexan Lane, Mt. Vernon, IN. Mead Johnson & Co., 2404 Pennsylvania Ave., Evansville, IN 47721. SEND PROTESTS TO: P. E. Binder, I.C.C., Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 29886 (Sub 359 TA), filed November 13, 1978. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4314 39th Avenue, Kenosha, WI. Representative: Albert P. Barber, 4314 39th Avenue, Kenosha, WI 53142. *Trucks and truck chassis, in secondary movements, in driveaway service, and parts and equipment thereof*, from Chesapeake and Portsmouth, Virginia to points in the United States (except AK and HI). RESTRICTION: The authority granted herein is restricted to the transportation of vehicles manufactured or assembled at the sites of the plants of A.B. Volvo, in Sweden, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Freightliner Corporation, P.O. Box 3849, Portland, OR 97208. SEND PROTESTS TO: Gail Daugherty, Trans. Asst., I.C.C., U.S. Federal Bldg., & Courthouse, 517 East Wisconsin Avenue, Rm. 619, Milwaukee, WI 53202.

MC 49368 (Sub-105TA), filed November 14, 1978. Applicant: COMPLETE AUTO TRANSIT, INC., East 4111 Andover Road, Bloomfield Hills, MI 48013. Representative: Eugene C. Ewald, 100 West Long Lake Road, Suite 102. Bloomfield Hills, MI 48013. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicles*, in initial movements, in truckaway service, from the facilities of General Motors Corporation located at Flint, MI to points in AL, FL, GA, MN, NC and SC, for 180 days. The operations described herein are limited to a transportation service to be performed under a continuing contract or contracts with General Motors Corporation. SUPPORTING SHIPPER(S): General Motors Corporation, GM Logistics Operations, 30007 Van Dyke Avenue, Warren, MI 48090. SEND PROTESTS TO: Timothy S. Quinn, ICC, 604 Federal Building and U.S. Courthouse, 231 W. Lafayette Boulevard, Detroit, MI 48226.

MC 56679 (Sub-115TA), filed November 13, 1978. Applicant: BROWN TRANSPORT CORP. 352 University Avenue S.W., Atlanta, GA 30315. Representative: Leonard S. Cassell, 352 University Avenue S.W., Atlanta, GA 30315. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment due to size and weight, between Miami, FL and Key West, FL, serving all intermediate points, from Miami FL over U.S. 1 to Key West, FL and return over the connection with the above described route, all points in the FL Keys South of Florida City, FL and serving Commercial Zones, for 180 days. There are approximately (19) statement of support attached to this application which may be examined at the I.C.C., in Wash. D.C., or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: Sara K. Davis, Trans. Asst., ICC, 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.

MC 85961 (Sub-4TA), filed November 13, 1978. Applicant: LYNN E. SIGLER D/B/A Alturas Fort Bidwell Stage Line, 1200 W. 11th Street, Alturas, CA 96101. Representative: Lynn E. Sigler, 1200 W. 11th Street, Alturas, CA 96104. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except commodities of unusual value, Class A and B explosives, household goods as defined by the Commission, between Alturas, CA and Klamath Falls, OR, serving all intermediate points, from Klamath Falls, OR over OR Highway 39 to the Oregon/California border, thence over CA highway 139 to the junction with CA highway 299, thence via CA highway 299 to Alturas, CA. Note: Tacking and interlining requested, for 180 days. SUPPORTING SHIPPER(S): Fitzhugh Creek Gun Shop, Reno Highway, Alturas, CA 96101. Groves Hardware and Dept. Store, 604 Main St., Cedarville, CA 96104. Suprise Valley Drug, 521 Main Street, Box 190, Cedarville, CA 96104. Fort Bidwell General Store, P.O. Box 187, Fort Bidwell, CA 96112. SEND PROTESTS TO: W. J. Huetig, I.C.C., 203 Federal Bldg., 705 North Plaza St., Carson City, NV 89701.

MC 95540 (Sub-1055TA), filed November 13, 1978. Applicant: WATKINS MOTOR LINES, INC., 1144 West Griffin Road, P.O. Box 1636, Lakeland, FL 33802. Representative: Benjy W. Fincher, 1144 West Griffin Road, P.O. Box 1636, Lakeland, FL 33802. *Wearing apparel and store displays, fixtures and supplies*, from Minneapolis, MN to Philadelphia, PA. There is no environmental impact involved in this application, for 180 days. SUPPORTING SHIPPER(S): County Seat Stores, P.O. Box 1442, Minneapolis, MN 55440. SEND PROTESTS TO: Donna M. Jones, Trans. Asst., I.C.C., Monterey Bldg., Suite 101, 8410 N.W. 53rd Terrace, Miami, FL 33166.

MC 95540 (Sub-1056TA), filed November 13, 1978. Applicant: WATKINS MOTOR LINES, INC. 1144 West Griffin Road. P.O. Box 1636, Lakeland, FL 33802. Representative: Benjy W. Fincher, 1144 West Griffin Road, P.O. Box 1636, Lakeland, FL 33802. *Wearing apparel and store displays, fixtures and supplies*, from Dallas, TX to Tampa, and Orlando, FL and Atlanta, GA. There is no evironmental impact involved in this application, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): County Seat Stores, P.O. Box 1442, Minneapolis, MN 55440. SEND PROTESTS TO: Donna M. Jones, Trans. Asst., I.C.C., Monterey Bldg., Suite 101, 8410 N.W. 53rd Terrace, Miami, FL 33166.

MC 107403 (Sub-1137TA), filed November 13, 1978. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr., same as above. *Lubricating oils and hydrolic fluids*, in bulk, in tank vehicles, from Carrollton, GA, to Greenville, MS, Little Rock, AR, Plaqemine, LA and Freeport, TX, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): E. F. Houghton & Co., 451 Garrett St., Carrollton, GA 30117. SEND PROTESTS TO: T. M. Esposito, Trans. Asst., ICC, 600 Arch St., Rm. 3238, Phila., PA 19106.

MC 108053 (Sub-151TA), filed November 13, 1978. Applicant: LITTLE AUDREY'S TRANSPORTATION COMPANY, INC., 1520 West 23rd St., Fremont, NE 68025. Representative: Arther J. Sibik, 7025 South Pulaski Road, Chicago, IL 60629. *Alcoholic liquors*, in containers, from Lawrenceburg, IN, Lousiville, KY, and Detroit, MI to points in CA, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Wilbert T. Patterson, General Traffic Mrg., Joseph E. Seagram & Sons, Inc., 800 Third Ave., New York, NY 10022. SEND PROTESTS TO: Carroll Russell, I.C.C., Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 108461 (Sub-131TA), filed November 14, 1978. Applicant: SUNDANCE FREIGHT LINES, INC., dba, SUNDANCE TRANSPORTATION, 821 E. Pasadena, P.O. Box 7676, Phoe-

nix, AZ 85011. Representative: William S. Richards, 48 Post Office Place, P.O. Box 2465, Salt Lake City, UT 84110. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment, (1) Between Tucson, AZ and Lordsburg, NM, serving no intermediate points. From Tucson, AZ, over Interstate Hwy 10 (AZ Hwy 86, U.S. Hwy 80 and NM Hwy 14) to Lordsburg, NM and return over the same route. (2) Between Phoenix, AZ and Albuquerque, NM, serving no intermediate points, as follows: From Phoenix, AZ, over Interstate Hwy 17 to Flagstaff, AZ, thence over Interstate Hwy 40 to Albuquerque, NM and return over the same route, for 180 days. With authority to tack and interline at Tucson and Phoenix, AZ, and Lordsburg and Albuquerque, NM and to serve the commercial zones of all authorized service points. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): There are approximately 353 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: Andrew V. Baylor, ICC, Room 2020 Federal Building, 230 N. First Avenue, Phoenix, AZ 85025.

MC 113822 (Sub-9TA), filed November 14, 1978. Applicant: DALGARNO TRANSPORTATION, INC., Box 340, Casper, WY 82601. Representative: Rick J. Hall, P.O. Box 2465, Salt Lake City, UT 84110. (1) *Machinery, equipment, materials, and supplies*, used in or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum, and their products and by-products, and *machinery, materials, equipment, and supplies* used in or in connection with the construction, operations, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, between points in AR, AZ, CA, CO, ID, KS, LA, MS, MT, NE, NV, NM, ND, OK, OR, SD, TX, UT, WA, and WY; and (2) *Earth drilling machinery and equipment, and machinery, equipment, materials, supplies, and pipe* incidental to, used in or in connection with: (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells, between points in AR, AZ, CA, CO, ID, KS, LA, MS, MT, NE, NV, NM, ND, OK, OR, SD, TX, UT, WA, and WY, for 180 days. To the extent required in Ex Parte 55 Sub No. 8, applicant seeks authority to tack the applied for authority to its existing authority in Docket Nos. MC-113822 Sub Nos. 3 and 4. Restriction: The above authority to the extent that it duplicates authority presently held by applicant in Docket No. MC-113822 Sub Nos. 3 and 4 shall not be construed as conferring more than a single operating right. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): There are approximately 11 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: Paul A. Naughton, ICC, Room 105 Federal Building and Court House, 111 South Wolcott, Casper, WY 82601.

MC 114457 (Sub-446TA), filed October 25, 1978. Applicant: DART TRANSIT COMPANY, 2102 University Avenue, St. Paul, MN 55114. Representative: James H. Wills (Same as above). *Office furniture, fabrics, lighting fixtures, partitions, dividers, materials, equipment and supplies used in the manufacture and assembly thereof*, from the facilities of E. F. Hauserman at Marked Tree, AR; Philadephia, PA; and Cleveland, OH, to points in the U.S. in and east of the states of ND, SD, NE, CO, and NM, for 180 days. SUPPORTING SHIPPER(S): The E. F. Hauserman Company, 5711 Grant Avenue, Cleveland, OH 44105. SEND PROTESTS TO: Delores A. Poe, ICC, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 114457 (Sub-456TA), filed November 13, 1978. Applicant: DART TRANSIT COMPANY, 2102 University Avenue, St. Paul, MN 55114. Representative: James H. Wills, 2102 University Avenue, St. Paul, MN 55114. *Metal containers and container ends*, from Winston-Salem, NC, to Oklahoma City, OK, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): National Can Corp., 8101 West Higgins Road, Chicago, IL 60631. SEND PROTESTS TO: Delores A. Poe, Trans. Asst., I.C.C., 414 Federal Building & U.S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401.

MC 115322 (Sub-155TA), filed October 18, 1978. Applicant: REDWING REFRIGERATED, INC., P.O. Box 10177, Taft, FL 32809. Representative: L. W. Fincher, P.O. Box 426, Tampa, FL 33601. *Frozen foods*, from Allentown and Chambersburg, PA, to points in GA, NC, and SC, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Pet Incorporated, Frozen Foods Division, P.O. Box 392, St. Louis, MO. SEND PROTESTS TO: G. H. Fauss, Jr., ICC, Box 35008, 400 W. Bay Street, Jacksonville, FL 32202.

MC 115826 (Sub-365TA), filed November 14, 1978. Applicant: W. J. DIGBY, INC., 6015 East 58th Street, Commerce City, CO 80022. Representative: Howard Gore (Same as above). *Potato products*, from points in OR to Turlock, CA, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Banquet Foods Corp., 100 North Broadway, St. Louis, MO 63102. SEND PROTESTS TO: Herbert C. Ruoff, ICC, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 115826 (Sub-367TA), filed November 8, 1978. Applicant: W. J. DIGBY, INC., 6015 E. 58th Avenue, Commerce City, CO 80022. Representative: Howard Gore (same as above). *Meats, meat products, and meat by-products and articles distributed by meat packinghouses described in Section A and C of Appendix I to the report in descriptions in Motor Carrier Certificates 61 M.C.C., 209 and 766* (except hides and commodities in bulk), from Waterloo and Independence, IA to points in GA, FL, LA and TN, for 180 days. SUPPORTING SHIPPERS(S): Cudahy Foods Co., P.O. Box 29029, 100 W. Clarendon, Phoenix, AZ 85038. SEND PROTESTS TO: H. C. Ruoff, I.C.C., 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 115975 (Sub-30TA), filed November 14, 1978. Applicant: C.B.W. TRANSPORT SERVICE, INC., P.O. Box 48, Wood River, IL 62985. Representative: Ernest A. Brooks, II, 1301 Ambassador Building, St. Louis, MO 63101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum lubricating oils*, in bulk, in tank vehicles, from the facilities of Mobil Oil Corporation at Beaumont, TX to Baton Rouge, LA, for 180 days. RESTRICTION: The operations authorized above are limited to a transportation service to be performed under a continuing contract or contracts with the Mobil Oil Corporation. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Mobil Oil Corporation, 8350 N. Central Expressway, 522, Dallas, TX 75206. SEND PROTESTS TO: Charles D. Little, ICC, 414 Leland Office Building, 527 East Capitol Avenue, Springfield, IL 62701.

MC 115975 (Sub-31TA), filed November 14, 1978. Applicant: C.B.W. TRANSPORT SERVICE, INC., P.O. Box 48, Wood River, IL 62985. Representative: Ernest A. Brooks, II, 1301 Ambassador Building, St. Louis, MO 63101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum lubricating grease*, in bulk, from the facilities of Mobil Oil Corporation in Beaumont, TX to U.S. Steel Corporation in Mountain Iron, MN, for 180 days. RESTRICTION: The operations authorized above are limited to a transportation service to be performed under a continuing contract or contracts with the Mobil Oil Corporation. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Mobil Oil Corporation, 8350 N. Central Expressway, 522, Dallas, TX 75206. SEND PROTESTS TO: Charles D. Little, ICC, 414 Leland Office Building, 527 East Capitol Avenue, Springfield, IL 62701.

MC 118142 (Sub-192TA), filed November 13, 1978. Applicant: M. BRUENGER & CO., INC., 6250 North Broadway, Wichita, KS 67219. Representative: Albert L. Kamas, 612 Douglas Bldg., Wichita, KS 67202. *Frozen foods and materials and supplies used in the manufacture or distribution of frozen foods* (except commodities in bulk), between facilities of Tony's Pizza Service at or near Salina, KS, on the one hand, and the other, points in the U.S. (except AL, HI, & KS). Restriction: Restricted to the transportation of traffic originating at or destined to the facilities of Tony's Pizza Service at or near Salina, KS, for 180 days. SUPPORTING SHIPPER(S): Subsidiary of Schwan Sales Enterprises, Inc., Tony's Pizza Service, Marshall, MN. SEND PROTESTS TO: M. E. Taylor, I.C.C., 101 Litwin Bldg., Wichita, KS 67202.

MC 119628 (Sub-3TA), filed November 8, 1978. Applicant: GARMARC TRANSPORTATION CO., INC., 10 Independence St., Rochester, NY 14611. Representative: S. Michael Richards/Raymond A. Richards, P.O. Box 225, Webster, NY 14580. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fresh and frozen hanging and boxed meats*, in vehicles equipped with mechanical refrigeration, from Rochester, NY to Miami, Fl, for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers: William Hurvitz, Sec., Double B Packing Corp., 571 Colfax St., Rochester, NY, 14606, and William Hurvitz, Sec/Treas Rochester Independent Packer, Inc., 11 Independence St., Rochester, NY 14611. Send protests to: ICC, U.S. Courthouse & Federal Bldg. 100 S. Clinton St., Rm. 1259, Syracuse, NY 13260.

MC 119631 (Sub-31TA), filed November 13, 1978. Applicant: DEIOMA TRUCKING COMPANY, P.O. Box 3315, Mt. Union Station, Alliance, OH 44601. Representative: Edward G. Villalon, 1032 Pennsylvania Bldg., Penn. Ave & 13th St. N.W., Washington, D.C. 20004. *Sugar in containers*, from the facilities of Revere Sugar Corp. in or near Boston, MA, to points in OH and IL, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Revere Sugar Corp., 333 Medford Street, Charlestown, MA 02129. SEND PROTESTS TO: Frank L. Galvary, I.C.C., 220 Federal Bldg. & U.S. Courthouse, 85 Marconi Blvd., Columbus, OH 43215.

MC 119991 (Sub-24TA), filed November 8, 1978. Applicant: YOUNG TRANSPORT, INC., P.O. Box 3, Logansport, IN 46947. Representative: Warren C. Moberly, 320 North Meridian Street, Indianapolis, IN 46204. *Steel and steel products*, from Auburn, New York to points in the states of IA, IN, IL, KS, KY, MI, MO, NE, OH, PA, WI, WV, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Ambassador Steel Corp., Box 397, Butler, IN 46721. SEND PROTESTS TO: J. H. Gray, ICC, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

MC 123819 (Sub-70TA), filed November 13, 1978. Applicant: ACE FREIGHT LINE, INC., 3359 Cazassa Road, P.O. Box 16589, Memphis, TN 38116. Representative: Mr. Bill R. Davis, Suite 101—Emerson Center, 2814 New Spring Road, Atlanta, GA 30339. *Animal and poultry feed, fish feed, and corn products*, (except in bulk, in tank vehicles), from Birmingham and Decatur, AL and Springfield, TN to points in TX and OK, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): The Jim Dandy Company, P.O. Box 10687, Birmingham, AL 35202. SEND PROTESTS TO: Mr. Floyd A. Johnson, I.C.C., 100 North Main Bldg.—Suite 2006, 100 North Main Street, Memphis, TN 38103.

MC 124174 (Sub-123TA), filed November 14, 1978. Applicant: MOMSEN TRUCKING CO., 13811 "L" Street, Omaha, NE 68137. Representative: Karl E. Momsen (Same as above). *Paper and plastic cups, containers, plates, lids, covers, pails, and related articles*, from the facilities of Lily Division of Ownes-Illinois, at Springfield, MO to points in NE and MN, for 180 days. Applicant intends to interline with other carriers at Omaha, NE and Minneapolis and St. Paul, MN. Applicant intends to tack the authority applied for with its existing authority in MC-124174. SUPPORTING SHIPPER(S): Lily Division of Owens-Illinois, 1st National Bank Building, 606 Madison Avenue, P.O. Box 1035, Toledo, OH 43666. SEND PROTESTS TO: Carroll Russell, ICC, Suite 620, 110 No. 14th Street, Omaha, NE 68102.

MC 133189 (Sub-17TA), filed November 14, 1978. Applicant: VANT TRANSFER, INC., 5075 Northeast Mulcare Drive, Minneapolis, MN 55421. Representative: John B. Van de North, Jr., 2200 First National Bank Building, St. Paul, MN 55101. *Iron and steel articles*, from Newport, MN to points in CO, IN, KY, MO, TN and KS, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Simcote, Inc., P.O. Box 97, Minneapolis, MN 55055. SEND PROTESTS TO: Delores A. Poe, ICC, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 133689 (Sub-239TA), filed November 13, 1978. Applicant: OVERLAND EXPRESS, INC., 719 First Street, Southwest, New Brighton, MN 55112. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Merchandise as dealt in by retail department stores and mail order houses and in conjunction therewith, equipment, materials and supplies used in the conduct of such business*, from points within the Chicago, IL commercial zone to points within the Minneapolis, MN commercial zone, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Sears, Roebuck & Co., P.O. Box 5208, Chicago, IL 60680. SEND PROTESTS TO: Delores A. Poe, Trans. Asst., I.C.C., 414 Federal Bldg. & U.S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401.

MC 133689 (Sub-240TA), filed November 13, 1978. Applicant: OVERLAND EXPRESS, INC., 719 First Street, Southwest, New Brighton, MN 55112. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Merchandise as dealt in by retail department stores and mail order houses and in conjunction therewith, equipment, materials and supplies used in the conduct of such business*, from the plant of Lifetime Foam Co., Batavia, IL to points within the commercial zone of Minneapolis, MN, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Sears, Roebuck & Co., P.O. Box 5208, Chicago, IL 60680. SEND PROTESTS TO: Delores A. Poe, Trans. Asst., I.C.C., 414 Federal Bldg. & U.S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401.

MC 133689 (Sub-241 TA), filed November 13, 1978. Applicant: OVERLAND EXPRESS, INC., 719 First Street, Southwest, New Brighton, MN

55112. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Wearing apparel, wearing apparel accessories and sundries and equipment, materials and supplies used in the sale and distribution of the above described commodities* from Brooklyn Park, MN to Philadelphia, Pa and points in OH, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): County Seat Stores, Inc., 8816 70th Avenue North, Brooklyn Park, MN 55428. SEND PROTESTS TO: Delores A. Poe, Trans. Asst., I.C.C., 414 Federal Bldg. & U.S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401.

MC 133689 (Sub-242 TA), filed November 13, 1978. Applicant: OVERLAND EXPRESS, INC., 719 First Street, Southwest, New Brighton, MN 55112. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Such merchandise as is dealt in by wholesale, retail and chain grocery and food business houses and by wholesale and retail discount and department stores* (except commodities in bulk) and merchandise, equipment and supplies used in the conduct of the above specified types of business houses, from Chicago, IL to Twin Cities, MN, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Allied Shippers & Receivers Association, 2029 West Hubbard Street, Chicago, IL 60612. SEND PROTESTS TO: Delores A. Poe, Trans. Asst., I.C.C., 414 Federal Bldg. & U.S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401.

MC 133920 (Sub-18TA), filed November 14, 1978. Applicant: HOWARD SHEPPARD, INC., P.O. Box 755, Sandersville, GA 31082. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Blvd., Atlanta, GA 30349. *Canned foodstuffs* from the facilities of Holmes Canning Company, Inc., at or near Sandersville, Ga to Columbia, SC, for 180 days An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Holmes Canning Company, Inc., Route 4, Box 636, Sandersville, GA 31082. SEND PROTESTS TO: Sara K. Davis, I.C.C., 1252 W. Peachtree Street, N.W., Room 300, Atlanta, GA 30309.

MC 135082 (Sub-79TA), filed November 14, 1978. Applicant: ROADRUNNER TRUCKING, INC., P.O. Box 26748, 415 Rankin Road, NE, Albuquerque, NM 87125. Representative: Randall R. Sain (Same as above). *Marble limestone in bags*, from Tucson, AZ to points in NM and TX, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Catalina Marble Company, P.O. Box 8997, Catalina Branch, Tucson, AZ. SEND PROTESTS TO: I C.C. 1106 Federal Office Building, 517 Gold Avenue, SW, Albuquerque, NM 87101.

MC 138104 (Sub-60TA), filed November 14, 1978. Applicant: MOORE TRANSPORTATION CO., INC., 3509 N. Grove Street, Fort Worth, TX 76106. Representative: Bernard H. English, 6270 Firth Road, Fort Worth, TX 76116. *Roofing granules*, in bulk, in dump vehicles, from Annapolis, MO, to the facilities of Johns-Manville, Fort Worth, TX, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Johns Manville, 2222 W. Fifth Street, Fort Worth, TX 76104. SEND PROTESTS TO: Martha A. Powell, ICC, Room 9A27, Federal Building, 819 Taylor Street, Fort Worth, TX 76102.

MC 140248 (Sub-1TA), filed August 3, 1978, published in the FEDERAL REGISTER issue of October 16, 1978, and republished as corrected this issue. Applicant: IDEAL CONTRACT CARRIERS, INC. (a Delaware corporation), 89 Main Street, P.O. Box Z, Medway, MA 02053. Representative: Grove, Jaskiewicz, Gilliam & Cobert, 1730 M Street, Suite 501, Washington, DC 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic materials* (except commodities in bulk), between Holliston, MA, on the one hand, and, on the other, points in Athens, Birmingham, Dothan, Guntersville, Huntsville, Lafayette, Mobile, Montgomery, AL; Phoenix, Prescott, Tucson, AZ; Little Rock, Waldo, AR; Burbank, Encinatas, Huntington Park, La Habra, Lakewood, Los Angeles, Mountain View, Oakland, San Diego, San Francisco, Santa Ana, Upland, CA; Colorado Springs, Denver, Wheatridge, CO; Avon, Bridgeport, Bristol, Hamden, Hartford, Milford, New Haven, Norwalk, Orange, Southington, Stratford, West Haven, Westbrook, Winstead, CT; Wilmington, DE; Dayton Beach, Fort Lauderdale, Fort Meyers, Gainesville, Jacksonville, Melbourne, Miami, Ocala, Orlando, Pensacola, Pinellas Park, Saint Petersburg, Sunrise, Tallahassee, Tampa, Temple Terrace, West Palm Beach, FL; Albany, Atlanta, Decatur, Norcross, Roswell Woodstock, GA; Chicago, Dixon, Milan, Morton Grove, Rockford, Springfield, IL; Evansville, Fort Wayne, Greenwood, Indianapolis, Mishawaka, Richmond, South Bend, Terre Haute, IN; Cedar Rapids, Des Moines, Waterloo, IA; Wichita, KS; Lexington, Louisville, KY; Baton Rouge, Lafayette, Monroe, New Orleans, Shreveport, LA; Baltimore, Forestville, Greenbelt, MD; Ada, Detroit, Flint, Grand Rapids, Niles; MI; Detroit Lakes, Minneapolis, MN; Gulfport, Jackson, Tupelo, MS; Joplin, Kansas City, Saint Louis, MO; Omaha, NE; Englewood, Lakewood, Newark, Paramus, Saddle Brook, Sewell, Summit, West Deptford, Woodbridge, NJ; Artesia, NM; Albany, Binghampton, Brooklyn, Buffalo, East Patchogue, Farmingdale, New York, Ozone Park, Rochester, NY; Charlotte, Greensboro, Raleigh, NC; Canton, Columbus, Strongsville, Youngstown, OH; Muskogee, Oklahoma City, Tulsa, OK; Allentown, Ardmore, Erie, Philadelphia, York, PA; Charlestown, Florence, SC; Chattanooga, Johnson City, Knoxville, Memphis, Nashville, TN; Amarillo, Dallas, El Paso, Fort Worth, Houston, Lubbock, Pasadena, San Antonio, Wichita Falls, TX; Lynchburg, Richmond, VA, and Milwaukee, WI, for 180 days. SUPPORTING SHIPPER(S): Filfast Corporation, P.O. Box 155, Pope Road, Holliston, MA 01746. SEND PROTESTS TO: John B. Thomas DS, Room 501, 150 Causeway Street, Boston, MA 02114.

MC 140829 (Sub-147TA), filed November 13, 1978. Applicant: CARGO CONTRACT CARRIER CORP., P.O. Box 206, U.S. Highway 20, Sioux City, IA 51102. Representative: William J. Hanlon, 55 Madison Ave., Morristown, NJ 07960. *Rubber articles, plastic articles, and rubber and plastic combined products*, from the facilities of Entek Corporation of America, at or near Irving, TX to CO, IL, IA, KS, MN, MO, NE, OK, SD, and WI. RESTRICTION: Restricted to traffic originating at the named and destined to points in the named destination states, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Robert B. Nielsen, Vice President, Raw Materials—Traffic, Entek Corp. of America, 104 County Line Road, Irving, TX 75060. SEND PROTESTS TO: Carroll Russell, I.C.C., Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 141533 (Sub-5TA), filed November 14, 1978. Applicant: LYN TRANSPORT, INC., 37 North Central Avenue, Elmsford, NY 10532. Representative: Bruce J. Robbins, 118-21 Queens Boulevard, Forest Hills, NY 11375. *Foodstuffs*, in vehicles equipped with mechanical refrigeration, between points in the commercial zones of New York, NY, and Philadelphia, PA on the one hand, and, on the other, points in PA on and west of U.S. Hwy 219, and points in Chautauqua County, NY, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): M & N Meat Company, 201 Penn Center Building, Pittsburgh, PA. SEND PROTESTS TO: Maria B. Kejss, ICC, 26 Federal Plaza, New York, NY 10007.

MC 141533 (Sub-6TA), filed November 14, 1978. Applicant: LYN TRANSPORT, INC., 37 North Central Avenue, Elmsford, NY 10532. Representative: Bruce J. Robbins, 118-21 Queens Boulevard, Forest Hills, NY 11375. *Foodstuffs*, in vehicles equipped with mechanical refrigeration, from the plantsite and facilities used by Cliffstar Corporation at or near Dunkirk, NY, to points in CT, ME, MA, NH, RI, VT, and the Counties of Nassau and Suffolk, NY, and the New York, NY commercial zone, returned, refused and rejected shipments on return, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Cliffstar Corporation, One Cliffstar Avenue, Dunkirk, NY 14048. SEND PROTESTS TO: Maria B. Kejss, ICC, 26 Federal Plaza, New York, NY 10007.

MC 142062 (Sub-17TA), filed November 8, 1978. Applicant: VICTORY FREIGHTWAY SYSTEM, INC., P.O. Box 62, Sellersburg, IN 47172. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Building, wall, and insulation boards, and materials, supplies and equipment* used in the installation thereof (except in bulk), from the facilities of Armstrong Cork Co., at or near Beaver Falls, PA, to points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, and WY. RESTRICTION: Restricted to the transportation of shipments under a continuing contract or contracts with Armstrong Cork Co., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Armstrong Cork Company, Liberty & Charlotte Streets, Lancaster, PA 17604. SEND PROTESTS TO: Beverly J. Williams, Trans. Asst., ICC, Federal Bldg., & Courthouse, 46 East Ohio Street, Rm. 429, Indianapolis, IN 46204.

MC 142189 (Sub-38TA), filed November 14, 1978. Applicant: C. M. BURNS, d.b.a. WESTERN TRUCKING, 521 Lincoln Avenue, Baker, MT 59313. Representative: Michael R. Griffith, Box 980, Baker, MT 59313. *Lumber and lumber products*, from Ashland, MT to points in IA, IL, MN and WI, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Andersonia Forest Products, Inc., P.O. Box 4240, Arcata, CA 95521. SEND PROTESTS TO: Paul J. Labane, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 142268 (Sub-36TA), filed November 13, 1978. Applicant: GORSKI BULK TRANSPORT INC., R.R. #4, Harrow, Ontario, Canada NOR 1GO. Representative: Bernard S. Gorski, 843 Central Avenue, Windsor, Ontario, Canada N8Y 4S2. *Alcoholic liquors*, in bulk, in tank vehicles, from the international border crossings between U.S. and Canada at the states of MT, and ID, for furtherance to Menlo Park, CA, and from the international border crossings between U.S. and Canada, at the state of MI, for furtherance to Menlo Park, CA, on shipments originating at a point in Canada, as a through service, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Heubleing, Inc., 330 New Park Ave., Hartford, CT 06101 (David F. Tucker Trans. Mgr.) SEND PROTESTS TO: Timothy S. Quinn, I.C.C., 604 Federal Bldg. & U.S. Courthouse, 231 W. Lafayette Blvd., Detroit, MI 48226.

MC 142269 (Sub-3TA), filed November 13, 1978. Applicant: EAGLE HAWK CORP. d.b.a. ALL IOWA LTL PERISHABLE SERVICE, P.O Box 155, Fort Dodge, IA 50501. Representative: Thomas E. Leahy, Jr., 1980 Finacial Center, Des Moines, IA 50309. *Foodstuffs*, from the facilities of Kold Storage, Inc., Fort Dodge, IA to Glenn Falls, Buffalo, Syracuse, Mt. Morris, and Bronx, NY and Secaucus and Moonchie, NJ, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Kold Storage, Inc., P.O. Box 1181, Fort Dodge, IA 50501. SEND PROTESTS TO: Herbert W. Allen, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 142603 (Sub-6TA), filed November 8, 1978. Applicant: CONTRACT CARRIERS OF AMERICA, INC., P.O. Box 1968, Springfield, MA 01101. Representative: S. Michael Richards/Raymond A. Richards, P.O. Box 225, Webster, NY 14580. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles*, from South Deerfield, MA and Danville, KY to all points in the United States (except Alaska and Hawaii), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Deerfield Plastics Co., Inc., P.O. Box 97 South Deerfield, MA 01373. SEND PROTESTS TO: David M. Miller, I.C.C., 436 Dwight St., Rm. 338, Springfield, MA 01103.

MC 143436 (Sub-20TA), filed November 14, 1978. Applicant: CONTROLLED TEMPERATURE TRANSIT, INC., 9049 Stonegate Road, Indianapolis, IN 46227. Representative: Stephen M. Gentry, 1500 Main Street, Speedway, IN 46224. *Such merchandise as is dealt in by retail and wholesale grocery houses, retail chain department stores and drug stores and display and advertising materials* in vehicles equipped with mechanical refrigeration, from the facilities of City Haul and Storage, Inc., located at or near Indianapolis, IN to points in IN, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): There are approximately (5) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: Beverly J. Williams, ICC, Federal Building and U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, IN 46204.

MC 143621 (Sub-5TA), filed November 8, 1978. Applicant: TENNESSEE STEEL HAULERS, INC., 403 Maplewood Avenue, Nashville, TN 37219. Representative: Roland M. Lowell, 618 United American Bank Building, Nashville, TN 37219. *Central heating and air conditioning units, accessories and parts thereof when moving with the above*, from the facilities of Heil-Quaker Corporation at or near Nashville, TN to points in FL and GA, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Heil-Quaker Corporation 1714 Heil-Quaker Blvd., LaVergne, TN 37086. SEND PROTESTS TO: Glenda Kuss, Trans. Asst., I.C.C., Suite A-422—U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 143659 (Sub-5TA), filed November 13, 1978. Applicant: VALLEY TRUCKING, INC., Box 55, Rural Route 2, Fargo, ND 58102. Representative: James B. Hovland, 414 Gate City Building, Box 1680, Fargo, ND 58102. *Meats, meat products, meat by-products and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in decriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Huron Dressed Beef at or near Huron, SD, to Los Angeles, CA, for 180 days. SUPPORTING SHIPPER(S): Huron Dressed Beef, P.O. Box 924, Huron, SD 57350. SEND PROTESTS TO: Ronald R. Mau, I.C.C., Rm. 268, Federal Bldg. & U.S. Post Office, 657 2nd Avenue North, Fargo, ND 58102.

MC 143775 (Sub-33TA), filed November 8, 1978. Applicant: PAUL YATES, INC., 6601 West Orangewood, Glendale, AZ 85301. Representative: Michael R. Burke, 6601 West Orangewood, Glendale, AZ 85301. *Building materials and equipment and supplies used in the construction industry*, from the facilities of Leigh Products Division-Leigh Products, Inc. at or near Coopersville and Saranac, MI, to points in the United States (except MI, IL, IN, KY and OH), for 180 days. Applicant holds contract carrier authority at MC 143620; therefore dual operations may be involved. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Leigh Products Division/Leigh Products Inc., Coopersville, MI 49404. SEND PROTESTS TO: Andrew V.

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Baylor, I.C.C., Rm 2020 Federal Bldg., 230 N. First Ave., Phoenix, AZ 85025.

MC 143775 (Sub-34TA), filed November 8, 1978. Applicant: PAUL YATES, INC., 6601 West Orangewood, Glendale, Arizona 85301. Representative: Michael R. Burke, 6601 West Orangewood, Glendale, Arizona 85301. *Frozen Foods*, from Traverse City, Michigan to AZ, CA, CO, CT, DC, DE, ID, MA, MD, ME, MT, ND, NH, NJ, NM, NY, NV, OR, PA, RI, UT, VA, VT, WA, and WV, for 180 days. Applicant holds contract carrier authority at MC 143610; therefore dual operations may be involved. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Chef Pierre, Inc., P.O. Box 1009, Traverse City, MI 49684. SEND PROTESTS TO: Andrew V. Baylor, ICC, Rm. 2020 Federal Bldg., 230 N. First Ave., Phoenix, AZ 85025.

MC 144051 (Sub-4TA), filed November 13, 1978. Applicant: ALFORD-LOGSTON, INC., 1714 Tabor, Houston, TX 77009. Representative: Dale Alford, 1714 Tabor, Houston, TX 77009. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Home care products*, from Memphis, Tenn, to Ascension, Assumption, E. Baton Rouge, E. Feliciana, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, St. Bernanr, St. Charles, St. Helena, St. James, St. John the Baptist, St. Mary, St. Tammany, Tangipohoa, Terrebonne, Washington, W. Baton Rouge and W. Feliciana Parishes, LA., with the exception of the area within the New Orleans City limits, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Stanley Home Products, Inc., 112-116 Pleasarit St., Easthampton, MA 01027. SEND PROTESTS TO: John F. Mensing, I.C.C., 8610 Federal Bldg., 515 Rusk Ave., Houston, TX 77002. Under a continuing contract or contracts with Stanley Home Products, Inc.

MC 144218 (Sub-3TA), filed November 13, 1978. Applicant: FELDSPAR TRUCKING CO., INC., P.O. Box 858, Spruce Pine, NC 28777. Representative: George W. Clapp, P.O. Box 836, Taylors, SC 29687. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Stoves and stove parts* from Spruce Pine, NC and points in its commercial zone, to points in CO, FL, GA, IL, IN, KY, MI, MN, MT, NY, ND, OH, PA, SC, SD, TN, VA, WA, WV, and WI, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Minpro Supply, Route 1, Spruce Pine, NC 28777. SEND PROTESTS TO: Terrill Price, 800 Briar Creek Rd—Rm CC516, Mart Office Bldg., Charlotte, NC 28205. Under a continuing contract or contracts with Minpro Supply.

MC 144300 (Sub-6TA), filed November 14, 1978. Applicant: J & D TRUCKING, INC., 2985 Meadow Avenue, P.O. Box 1610, Fort Myers, FL 33902. Representative: William P. Jackson, Jr., 3426 N. Washington Boulevard, P.O. Box 1240, Arlington, VA 22210. Authority sought to operate as *contract carrier*, by motor vehicle, over irregular routes, transporting: *Carpet*, from the facilities of Lewis Carpet Mills at or near Cartersville, GA, to points in AZ, CA, ID, OR, and WA, for 180 days. Restricted to the transportation of shipments under a continuing contract or contracts with Lewis Carpet Mills. There is no environmental impact involved in this application. SUPPORTING SHIPPER(S): Lewis Carpet Mills, P.O. Box 490, Cartersville, GA 30120. SEND PROTESTS TO: Donna M. Jones, ICC, Monterey Building, Suite 101, 8410 N.W. 53rd Terrace, Miami, FL 33166.

MC 144503 (Sub-3TA), filed November 14, 1978. Applicatant: ADAMS REFRIGERATED EXPRESS, INC., P.O. Box F, Forest Park, GA 30050. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Blvd., Atlanta, GA. 30349. *Meats, meat products, and meat by-products, and articles distributed by meat packinghouses, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766* (except hides and commodities in bulk), from the facilities of Farmland Foods, Inc., at or near Denison, Iowa Falls, Carroll, Sioux City, Fort Dodge, and Des Moines, IA; and, Crete, Omaha, and Lincoln, NE, to points in AL, FL, GA, KY, LA, MS, NC, SC and TN, for 180 days. Restricted to the transportation of shipments originating at the named facilities and destined to the named destinations. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Farmland Foods, Inc., P.O. Box 403, Denison, IA 51442. SEND PROTESTS TO: Sara K. Davis, ICC, 1252 W. Peachtree Street, N.W., Room 300, Atlanta, GA 30309.

MC 144572 (Sub-No. 7TA), filed November 8, 1978. Applicant's Name: MONFORT TRANSPORTATION COMPANY, P.O. Box G, Greeley, CO 80631. Representative: John T. Wirth, 717—17th Street, Suite 2600, Denver, CO 80202. *Clutches, clutch parts, and iron and steel castings* from Rock Falls, IL; Auburn and La Porte, IN; Ludington, MI; Hibbing, MN; Tiffin, OH and Brillion, WI to the facilities of Dana Corporation, Spicer Clutch Division in Colorado Springs, CO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Dana Corporation, Spicer Clutch Division, 1210 Garden of the Gods Road, Colorado Springs, CO 80907. Send protests to: Roger L. Buchanan, I.C.C., 721 19th St., 492 U.S. Customs House, Denver, CO 80202.

MC 145152 (Sub-23TA), filed November 14, 1978. Applicant: BIG THREE TRANSPORTATION, INC., P.O. Box 706, Springdale, AR 72764. Representative: Don Garrison, 324 North Second Street, Rogers, AR 72756. *Toilet preparations and toilet articles* (in vehicles equipped with mechanical refrigeration), from the facilities of Roux Laboratories, Inc., at or near Jacksonville, FL to points in AL, AR, CT, DC, DE, GA, MA, MD, ME, MS, NY, NH, NJ, OK, PA, RI, VT and points on U.S. Highway 1 in the State of VA, for 180 days. SUPPORTING SHIPPER(S): Roux Laboratories, Inc., 3733 University Boulevard, Jacksonville, FL 32217. SEND PROTESTS TO: William H. Land, Jr., ICC, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 145220 (Sub-4TA), filed November 12, 1978. Applicant: IREDELL MILK TRANSPORTATION, INC., Route 3, Box 368, Mooresville, NC 28115. Representative: George W. Clapp, P.O. Box 836, Taylors, SC 29687. (1) *Apple juice*, in bulk, in tank vehicles, from Lyndonville and North Rose, NY, and points in their commercial zones, and point in VA, to Charlotte, NC; (2) *vinegar*, in bulk, in tank vehicles, (a) from Montgomery, AL; Atlanta, GA; Lyndonville and North Rose, NY; Memphis, TN; and points in their commercial zones, to Charlotte, NC; and (b) from Charlotte, NC to Birmingham, AL; Atlanta and Conyers, GA; Greenville, SC; Knoxville and Memphis, TN; and points in their commercial zones; and (3) *vinegar stock*, in bulk, in tank vehicles, from Atlanta, GA, and points in its commercial zone, to Charlotte, NC, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Speas Company, 2921 North Tryon, Charlotte, NC 28206. SEND PROTESTS TO: Terrell Price, ICC, 800 Briar Creek Road, Room CC516, Mart Office Building, Charlotte, NC 28205.

MC 145435 (Sub-No. 2 TA), filed November 13, 1978. Applicant: WESTERN AG INDUSTRIES, INC., 2750 No. Parkway, Fresno, CA 93771. Representative: Roland J. Mefford, 2750 No. Parkway, Fresno, CA 93771. *Foodstuffs*, from the site of Real Fresh Milk, Inc., at Visalia, CA and Horsehead, NY, on the one hand, and points in OR, WA, UT, CO, MO, IL, WI, MI, PA, NY, NJ, and GA, on the other hand, for 180 days. SUPPORTING SHIPPER(S): Real Fresh, Inc., 1211 E. Noble, Visalia, CA 93277. SEND PROTESTS TO: Michael M. Butler, I.C.C., 211 Main—Suite 500, San Francisco, CA 94105.

MC 145462 (Sub-No. 2 TA), filed November 8, 1978. Applicant: HOLLIS E. LOWE D/B/A LOWE TRUCKING COMPANY, 6639 Abington Pike, Richmond, IN 47374. Representative: Russell H. Schussler, 400 First National Bank Bldg., Richmond, IN 47374. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Castings*, from Washington, MO, to Richmond, IN, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Dana Corporation, 1400 Dana Parkway, Richmond, IN 47374. SEND PROTESTS TO: Beverly J. Williams, Trans. Asst., ICC, Federal Bldg. & U.S. Courthouse, 46 East Ohio Street, Rm. 429, Indianapolis, IN 46204. Under a continuing contract or contracts with Dana Corporation

MC 145471 (Sub-2TA), filed November 13, 1978. Applicant: JOHN K. GRAY TRUCKING, 30 South "G" Street, Arcata, CA 95521. Representative: (Same as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and wood products*, from the plants and facilities of Eel River Sawmills located at Fortuna, Carlotta and Redcrest, CA to rail reload operations located at their plants and facilities in Mendocino and Sonoma Counties, CA, under a continuing contract or contracts with Eel River Sawmills, Inc., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Eel River Sawmills, Inc., Route #1, Box 459-A, Fortuna, CA. SEND PROTESTS TO: A. J. Rodriguez, ICC, 211 Main Street, Suite 500, San Francisco, CA 94105.

MC 145614 (Sub-No. 1 TA), filed November 13, 1978. Applicant: TRIPLE A TRANSPORT, INC., Littleford Rd., Springvale, ME 04083. Representative: John C. Lightbody, 30 Exchange Street, Portland, ME 04101. *Meat, meat by-products and articles distributed by meatpacking houses* from Omaha, Nebraska to points in Massachusetts, for 90 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Palmera Beef Corp., 25th & "Z" Street, Omaha, NE 68107. SEND PROTESTS TO: I.C.C., Rm. 305, 76 Pearl Street, Portland, ME 04111.

MC 145666 TA, filed November 11, 1978. Applicant: EUDELL WATTS, III, dba, WATTS TRANSFER COMPANY, 825 First Avenue, Rock Island, IL 61201. Representative: Daniel C. Sullivan, 10 South LaSalle Street, Suite 1600, Chicago, IL 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are dealt in by distributors of warehouse and factory storage systems*, from Davenport, IA; Plymouth, MI; Pontiac, Aurora, Niles, Chicago and Pinkneyville, IL to points in IA and IL under a continuing contract or contracts with Storage Systems, Inc., for 180 days. SUPPORTING SHIPPER(S): Storage Systems, Inc., 1927 Comenitz Drive, Davenport, IA 52802. SEND PROTESTS TO: Lois M. Stahl, ICC, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 145678 (Sub-1TA), filed November 14, 1978. Applicant: BOYD WAYNE ANDERSON, dba, SHORT ROUND TRUCKING, 6637 South 95 West, Apt. 72, Murray, UT 84107. Representative: Boyd Wayne Anderson (same as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cheese*, from WI, IA and MN to the facilities of Mountain Farms, Inc., at or near Hyde Park, UT, under a continuing contract or contracts with Mountain Farms Incorporated, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Mountain Farms Incorporated, P.O. Box 376, 3663 N. Highway 91, Hyde Park, UT 84318. SEND PROTESTS TO: L. D. Helfer, ICC, 5301 Federal Building, Salt Lake City, UT 84138.

MC 145704 (Sub-1TA), filed September 29, 1978. Applicant: FREDERICKSEN TANK LINES, INC., POB 717, 850 Delta Lane, West Sacramento, CA 95691. Representative: Martin J. Rosen, 256 Montgomery Street, San Francisco, CA 94104. *Petroleum and petroleum products*, in bulk, in tank vehicles, from points in Contra Costa, Solano, Butte, Sacramento, San Joaquin and Yolo Counties, CA to points in Washoe, Humboldt, Pershing, Lander, Churchill, Storey, Lyon, Douglas, Mineral, Carson City Counties, NV, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): There are approximately 5 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: A. J. Rodriguez, ICC, 211 Main Street, Suite 500, San Francisco, CA 94105.

MC 145708 TA, filed November 8, 1978. Applicant: William A. Long, Inc., Bealeton, VA 22712. Representative: Daniel B. Johnson, 4304 East-West Highway, Washington, DC 20014, (301) 654-2240. *Concrete highway barriers* between points in VA, on the one hand, and, on the other, points in CT, DE, GA, IN, KY, MA, MD, NJ, NY, NC, OH, PA, RI, SC, TN, WV, and DC, for 180 days. Concrete Safety Systems, Inc., Midland, VA 22728. SEND PROTESTS TO: T. M. Esposito, Trans. Asst., 600 Arch St., Rm. 3238, Phila., PA 19106.

MC 145711 TA, filed November 8, 1978. Applicant: KEYSTONE TRANSPORTATION, INC., 3400 Oakcliff Road, Atlanta, GA 30340. Representative: Richard M. Tettelbaum, SERBY & MITCHELL, P.C., Fifth Floor, Lenox Towers S, 3390 Peachtree Road NE., Atlanta, GA 30326. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Inorganic mineral fillers and materials, equipment and supplies used in the manufacture, sale and distribution of inorganic mineral fillers*, between the facilities of Solem Industries, Inc. at or near Benton, AR, and Fairmount, GA, on the one hand, and, on the other, points in the U.S. under continuing contract or contracts with Solem Industries, Inc., Atlanta, GA, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Solem Industries, Inc., 3400 Oakcliff Road, Atlanta, GA 30340. SEND PROTESTS TO: Sara K. Davis, Trans. Asst., ICC, 1252 West Peachtree Street NW., Rm. 300, Atlanta, GA 30309.

MC 145716 TA, filed November 8, 1978. Applicant: INTERNATIONAL TRANSPORTATION SERVICE, INC., Suite 1-M, 3300 Northeast Expressway, Atlanta, GA 30341. Representative: J. Michael May, Suite 508, 1447 Peachtree Street NE., Atlanta, GA 30309. *Charcoal, in bags*, from Meta, Steelville and Wesco, MO; Paris, AR; and Jacksonville, TX, to Cleveland, OH. Temporary authority sought for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Cleveland Charcoal Supply Co., 3905 Jennings Road, Cleveland, OH 44109. SEND PROTESTS TO: Sara K. Davis, Trans. Assit., I.C.C., 1252 West Peachtree Street NW., Rm. 300, Atlanta, GA 30309.

MC 145729 TA, filed November 14, 1978. Applicant: SYMPLEX LEASING, INC., 90 East 5th Street, Bayonne, NJ 07002. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paints, painting equipment, patching compounds and adhesives* (except in bulk) and on return *materials, equipment; and supplies used in the manufacturing and sales of paints, painting equipment, patching compounds and adhesives* (except in bulk), from Bayonne, NJ, to points in the Unites States except AK and HI, under a continuing contract or contracts with Norton & Son, Inc., for 180 days. An underlying ETA seeks 90

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days authority. SUPPORTING SHIPPER(S): Norton & Son, Inc., P.O. Box 455, Bayonne, NJ 07002. SEND PROTESTS TO: Robert E. Johnston, ICC, 9 Clinton Street, Newark, NJ 07102.

MC 145756 TA, filed November 13, 1978. Applicant: R AND J TRUCKING COMPANY, INC., 1110 North Main Street, Summerville, SC 29483. Representative: Roy Oliver, 1110 North Main Street, Summerville, SC 29483. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plywood paneling, particle board paneling, Gyp board paneling and related wood mouldings*, from Charleston, SC, to points in NY, IN, IL, OH, TN, NC, GA, FL, VA, PA, MD, WI, IA, and SC, for 180 days. SUPPORTING SHIPPER(S): Textone, Inc., 3 Hock Avenue, North Charleston, SC 29406. SEND PROTESTS TO: E. E. Strotheid, I.C.C., Rm. 302, 1400 Bldg., 1400 Pickens Street, Columbia, SC 29201. Under a continuing contract or contracts with Textone, Inc.

PASSENGER CARRIERS

144307 (Sub-No. 2TA), filed November 8, 1978. Applicant: RIVER BUS LINES, INC., P.O. Box 8622, Jackson, MS 39204. Representative: Don A. Smith, P.O. Box 43, Fort Smith, AR 72902. Authority sought to operate as a *common carrier*, by motor vehicle, over regular and irregular routes, transporting: (a) *passengers and their baggage and express and newspapers* in the same vehicle with passengers, regular route: between Memphis, TN and Helena, AR: From Memphis, TN over Interstate Hwy 40 and/or U.S. Hwy 70 to Lehi, AR, then over U.S. Hwy 79 to Marianna, AR, then over AR Hwy 1 to junction U.S. Hwy 49, then over U.S. Hwy 49 to Helena, AR, and return over the same route, serving all intermediate points, and (b) *passengers and their baggage*, in one-way and round-trip charter operations, irregular route: From points on the routes described in (a) above to all points in the United States including Alaska but excluding Hawaii, and return, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): There are approximately (9) statement of support attached to this application which may be examined at the I.C.C., in Washington, D.C., or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: Alan C. Tarrant, I.C.C., Rm. 212, 145 East Amite Bldg., Jackson, MS 39201.

MC 145739 (Sub-1TA), filed November 13, 1978. Applicant: MONARCH COACH LINES, LTD., 211-8204-104 Street, Edmonton, AB, Canada T6E 4E6. Representative: W. B. Tainsh (Same as above). *Passengers and their baggage*, (1) from the U.S.-Canada International Boundary line near the port of entry at Sumas, WA to Seattle, WA and Portland, OR, and from Portland, OR to the U.S.-Canada International Boundary line near Blaine, WA and (2) from the U.S.-Canada International Boundary line at the port of entry near Eastport, ID to Sandpoint, ID and Whitefish, MT and from Whitefish, MT to the port of entry on the U.S.-Canada International Boundary line near Roosville, BC, Canada, for 180 days. SUPPORTING SHIPPER(S): Polar Ski Club, 11706-123 St., Edmonton, AB, Canada. Edmonton Oil Kings Hockey Club, 800 Macdonald Hotel, 100 St & Jasper Ave., Edmonton, AB, Canada. SEND PROTESTS TO: Paul J. Labane, I.C.C., 2602 First Avenue North, Billings, MT 59101.

By the Commission.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc. 79-177 Filed 1-2-79; 8:45 am]

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sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 522b(e)(3).

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Federal Energy Regulatory Commission	2
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[6351-01-M]

1

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., January 5, 1979.

PLACE: 2033 K Street NW., Washington, D.C., eighth floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Judicial session.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-2623-78 Filed 12-29-78; 11:27 am]

[6740-02-M]

2

DECEMBER 28, 1978.

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: 10 a.m., January 4, 1979.

PLACE: 825 North Capitol Street NE., Washington, D.C. 20426, room 9306.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

NOTE.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, telephone 202-275-4166.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda, however, all public documents may be examined in the Office of Public Information.

GAS AGENDA—213TH MEETING—JANUARY 4, 1979, REGULAR MEETING

CAG-1. Docket No. R-406, Raton Natural Gas Co.
CAG-2. Docket No. CI78-569 et al., Shell Oil Co. et al.; Docket No. CI78-563, Shell Oil Co.; Docket No. CI78-608, Mobil Oil Corp.; Docket No. CI79-83, Sun Oil Co.; and Docket No. CS71-844 et al., Donald A Beadle and Macero Minerals, Inc. et al.
CAG-3. Docket No. CI78-797, Mobil Oil Corp.;
CAG-4. Docket No. CI78-289 et al., Kerr-McGee Corp. et al.;
CAG-5. Docket Nos. G-5025 and G-5659, Shell Oil Co.;
CAG-6. Docket No. CS75-563 et al., Robert L. Manning et al.;
CAG-7. Docket No. CS78-451 et al., SCG Gas Quest, Inc. et al.; and
CAG-8. Docket No. CP77-363, Columbia Gas Transmission Corp., National Fuel Gas Supply Corp.
CAG-9. Docket No. CP79-127, Northwest Pipeline Corp.
CAG-10. Docket No. CP79-134, Texas Gas Transmission Corp., Tennessee Gas Pipe Line Co.
CAG-11. Docket No. CP78-174, Kansas-Nebraska Natural Gas Co., Inc. Docket No. CP78-216, Michigan Wisconsin Pipe Line Co.
CAG-12. Docket No. CP76-322, Tennessee Gas Pipeline Co., a Division of Tenneco Inc., East Tennessee Natural Gas Co.
CAG-13. Docket No. CP77-85, Transcontinental Gas Pipe Line Corp.
CAG-14. Docket No. CP78-525, Columbia Gulf Transmission Co., Texas Gas Transmission Corp.
CAG-15. Docket No. CP78-542, Texas Eastern Transmission Corp.
CAG-16. Docket No. CP78-520, El Paso Natural Gas Co.
CAG-17. Docket No. CP79-1, Cities Service Gas Co.
CAG-18. Docket No. CP78-526, Natural Gas Pipeline Co. of America, Transcontinental Gas Pipe Line Corp.
CAG-19. Docket No. CP78-507, Texas Gas Transmission Corp.
CAG-20. Docket No. CP79-6, Northern Natural Gas Co.
CAG-21. Docket No. CP77-488, United Gas Pipe Line Co.
CAG-22. Docket No. CP77-538, Transcontinental Gas Pipe Line Corp., Consolidated Gas Supply Corp., Michigan Wisconsin Pipe Line Co., Natural Gas Pipeline Co. of America, and Trunkline Gas Co.
CAG-23. Docket No. CP73-322, Crown Zellerbach Corp.

I. PIPELINE RATE MATTERS

RP-1. Docket No. RP71-11 (PGA76-1), Tennessee Natural Gas Lines, Inc.; Docket No. RP76-71 *Tennessee Public Service Commission, Complainant v. Tennessee Natural Gas Lines, Inc.*, Respondent; Docket No. RP71-15 and RP75-28 (PGA 76-1) (DCA76-1), East Tennessee Natural Gas Co.; and Docket No. RP76-70, *Tennessee Public Service Commission*, Complainant v. *East Tennessee Natural Gas Co.*, Respondent.

II. PRODUCER MATTERS

CI-1. Docket No. CI76-253, CIG Exploration, Inc.

GAS AGENDA—213TH MEETING—JANUARY 4, 1979, REGULAR

III. PIPELINE CERTIFICATE MATTERS

CP-1. Docket No. RP71-130, RP72-58 and RP75-111, Texas Eastern Transmission Corp.
CP-2. Docket No. CP78-237, Northern Natural Gas Co.
Docket No. CP66-110 et al., Great Lakes Gas Transmission Co.
CP-3. Docket No. CP76-16, Tenneco Lng Inc.

MISCELLANEOUS AGENDA—213TH MEETING—JANUARY 4, 1979, REGULAR MEETING

CAM-1. Docket No. RA79-8, Monsanto Co.
CAM-2. Secretary of Energy's proposed regulations including nonrefining uses of price-controlled domestic crude oil within the entitlements program.
CAM-3. Citizens Utilities Co.
CAM-4. Gulf States Utilities Co.
CAM-5. Kansas Gas & Electric Co.
CAM-6. Central Telephone & Utilities Corp.
CAM-7. Electric Energy, Inc.
CAM-8. Jersey Central Power & Light Co.
CAM-9. Project No. 2309, Jersey Central Power & Light Co. and Public Service Electric & Gas Co., co-licensees.
CAM-10. Vermont Yankee Nuclear Power Corp.

MISCELLANEOUS AGENDA—213TH MEETING—JANUARY 4, 1979, REGULAR MEETING

M-1. Proposed rulemaking implementing section 401 of the NGPA.
M-2. Docket No. RM79- . Procedures for adjustments of rules and orders issued by the Federal Energy Regulatory Commission under the NGPA.
M-3. Interim rule on § 315 of NGPA, offers and right of first refusal.
M-4. Docket No. RM79- , treatment of certain production related costs for gas to be transported through the Alaska Natural Gas Transportation System.
M-5. Staff recommendations on the Revenue Act of 1978 which reduces the statutory corporate Federal income tax rate from 48 percent to 46 percent.
M-6. Docket No. RM78-17. Procedures for review by the Federal Energy Regulatory Commission of adjustment request denials by the Secretary of Energy.
M-7. Clarification of Commission's policy respecting indefinite price escalator clauses in existing interstate and intrastate contracts and bilateral schedule modification of these contracts.

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POWER AGENDA—213TH MEETING—JANUARY 4, 1979, REGULAR MEETING

CAP-1. Docket No. ER79-76, Montana Light & Power Co.
CAP-2. Docket No. ER79-61, Niagara Mohawk Power Corp.
CAP-3. Docket No. ER77-535, Arkansas Power & Light Co.
CAP-4. Project No. 2800, Docket No. ES78-44, Lawrence Hydroelectric Associates and Essex Co.
CAP-5. Project No. 2787, White Current Corp.

POWER AGENDA—213TH MEETING—JANUARY 4, 1979, REGULAR MEETING

ELECTRIC RATE MATTERS

ER-1. Docket No. ER79-58, Metropolitan Edison Co.
ER-2. Docket No. ER78-513, Public Service Co. of Indiana, Inc.
ER-3. Docket Nos. ER76-149 and E-9537, Public Service Co. of Indiana, Inc.
ER-4. Docket No. ER76-285 (phase II), Public Service Co. of New Hampshire.
ER-5. Docket No. ER76-87, Sierra Pacific Power Co.
ER-6. Docket No. ER76-445, Boston Edison Co.
ER-7. Docket No. ER76-398, Pennsylvania Power & Light Co.
ER-8. Docket No. ER76-495 (phase II), Carolina Power & Light Co.
ER-9. (a) Docket Nos. ER78-19 (phase I) and ER78-81, Florida Power & Light Co. and (b) Docket Nos. ER78-376 and ER78-19, ER78-81, ER78-282, and ER78-325, Florida Power & Light Co.
ER-10. Docket Nos. ER78-566, ER78-567 and ER78-19 et al., (consolidated), Florida Power & Light Co.
ER-11. Docket No. E-9592, *Roscoe E. Dean, Jr., and William D. Lovin*, complainants v. *Georgia Power Co.*, defendant.
ER-12. Docket No. EL78-15 and ER78-339, Public Service Co. of New Hampshire.
ER-13. (A) Docket No. ID-1823, Robert P. Reuss. (B) Docket No. ID-1758, Charles T. Fisher, III and Docket No. ID-1759, Richard C. Gerstenberg.
ER-14. Docket No. ID-1709, Willis C. Fitkin and Docket No. ID-1710, William Cyrus Macinnes.

KENNETH F. PLUMB,
Secretary.

[S-2622-78 Filed 12-29-78; 11:27 am]

[8120-01-M]

3
[Meeting No. 1205]

TENNESSEE VALLEY AUTHORITY.

TIME AND DATE: 10:30 a.m., Thursday, January 4, 1979.

PLACE: Conference room B-32, West Tower, 400 Commerce Avenue, Knoxville, Tenn.

STATUS: Open.

MATTERS FOR ACTION:

OLD BUSINESS

1. Project Authorization No. 3407—acceleration of commercial and industrial energy conservation. (Discussed at December 14, 1978, Board Meeting.)
2. Filing of condemnation suit to acquire interest in a tract of land needed for construction of the Volunteer-Sullivan 500-kV Transmission Line, loop into Phipps Bend—Tract VPL-1TE. (Discussed at December 14, 1978, Board Meeting.)

NEW BUSINESS

PURCHASE AWARDS

1. Rejection of bid received in response to Invitation No. 823986 for labor, tools, equipment and material to install masonry materials at Hartsville Nuclear Plants and Phipps Bend Nuclear Plant.
2. Rejection of bids received in response to Invitation No. 572848 for indefinite quantity term contract for fasteners, steel and brass, for any TVA project or warehouse.
3. Rejection of bids received in response to Invitation No. 561140 for railroad tank cars for Chemical Development, Design Branch.
4. Rejection of bids received in response to Invitation No. 824935 for indefinite quantity term contract for continuous slot channels and accessories for the Hartsville Nuclear Plant.
5. Rejection of bids received in response to Invitation No. 824554 for refuse handling equipment for Paradise Steam Plant.
6. Rejection of Bids Received in Response to Invitation No. 824271 for Flue Gas Desulfurization system for Paradise Steam Plant.
7. Req. No. 562162—Indefinite quantity term contract for lumber for Hartsville Nuclear Plants.
8. Req. No. 577136—Indefinite quantity term contract for crushed stone for Yellow Creek Nuclear Plant.
9. Req. No. 572828—Indefinite quantity term contract for refractory cement for any TVA project or warehouse.
10. Req. No. 563[illegible]—Requirement contract for ready-mixed concrete for Paradise Steam Plant.

PROJECT AUTHORIZATIONS

1. No. 3384.1—Amendment to project authorization/for upgrading of existing electrostatic precipitators at Cumberland Steam Plan.
2. No. 3391—Reconductor the Decatur-Huntsville 161-kV transmission line.

POWER ITEMS

1. Agreement with the city of Huntsville, Alabama—Water heater and space conditioning control test.
2. New Power Contract with Plateau Electric Cooperative.
3. Lease and Amendatory Agreement with the city of Florence, Alabama—Elgin 161-kV Substation.
4. Letter agreement among the city of Decatur, Alabama, Joe Wheeler Electric Membership Corporation and TVA—Extending term of service area agreement.

REAL PROPERTY TRANSACTIONS

1. Sale of 30-year easement to Northeast Alabama Government Employees Federal Credit Union for an office building, affecting approximately 2.32 acreas of the Widows Creek Steam Plant Reservation—Tract XCSPA-43B.
2. Grant of permanent easement to the Tennessee Department of Transportation for public road right of way, effecting approximately 1.1 acres of Guntersville Reservoir land in Marion County, Tennessee—Tract XTGR-129H.
3. Abandonment of portion of Great Falls-McMinnville Transmission Line right of way in Warren County, Tennessee—Tracts GFES-46 through GFES-56 and portions of Tracts GFES-45 and GFES-57.
4. Filing of Condemnation Suits.

UNCLASSIFIED

1. Settlement agreement with Webster County Coal Corporation—Price escalation claims under contract.
2. Revised TVA policy code relating to procurement of personal property and services.
3. Revised TVA policy code relating to disposal of personal property not needed by TVA.
4. Compliance with Ethics in Government Act of 1978 requiring TVA employees in certain positions to make financial disclosure reports at specific times.

DATED: December 28, 1978.

CONTACT PERSON FOR MORE INFORMATION:

John Van Mol, Director of Information, or a member of his staff can respond to requests for information about this meeting. Call 615-632-3257, Knoxville, Tennessee. Information is also available at TVA's Washington Office, 207-566-1401.

[S-2621-78 Filed 12-29-78; 11:27 am]

federal register

WEDNESDAY, JANUARY 3, 1979
PART II

THE NATIONAL ARCHIVES OF THE UNITED STATES 1934

DEPARTMENT OF ENERGY

PROPERTY MANAGEMENT REGULATIONS

[6450-01-M]

Title 41—Public Contracts and Property Management

CHAPTER 109—DEPARTMENT OF ENERGY

PROPERTY MANAGEMENT REGULATIONS

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE) hereby publishes as a final rule its Property Management Regulations (DOE-PMR). These Regulations implement and supplement the Federal Property Management Regulations (FPMR) and prescribe policies and procedures for the conduct of property management activities by DOE direct Government operations and by operating and on-site service contractors under contract to the Department of Energy.

EFFECTIVE DATE: January 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. Francis Roche, Chief, Property and Equipment Management Branch, Procurement and Contracts Management Directorate, Room 400 RB, Washington, DC 20545, telephone (202) 376-4562.

SUPPLEMENTARY INFORMATION: On October 24, 1978, DOE published its proposed Property Management Regulations in the FEDERAL REGISTER (43 FR 49636). Interested persons were invited to submit written comments on the proposal to the Department of Energy. Those comments received were from DOE component organizations. The changes made in this final rule reflect changes to the FPMR's issued by the General Services Administration in FPMR Amendments E-223, F-34, and G-47, and the recommended revisions contained in the comments received.

CHANGES TO THE PROPOSED DOE-PMR

A. Resulting from FPMR Changes:

1. In the introductory section, Subchapter F is changed from "no change" to read "Subchapter F—revised."

2. In the table of contents, Part 109-32 is deleted, and the title of Subchapter F is revised to read "ADP and Telecommunications." Part 109-36 is added under Subchapter F.

3. In Section 109-1.5148-1, report number 7 under Motor Vehicle is changed to reflect new references.

4. In Subchapter E, Part 109-32 is deleted and is redesignated as Part 109-36 under Subchapter F.

5. The heading for Subchapter F is revised to read "ADP and Telecommunications."

6. Under Subchapter F, new Part 109-36 is added, redesignated from § 109-32, Subchapter E, and the heading is revised to read "ADP Management."

7. The table of contents for Part 109-38 in Subchapter G is amended to add Section 109-38.1306.

8. In subchapter G, Sections 109-38.1305(a), (b), (c) and (d) are transferred to new Section 109-38.1306, and some editorial changes are made.

B. Other Changes:

1. In Section 109-1.5110, a sentence has been added to permit use or installation of privately owned decorative items or memorabilia to the workplace.

2. Section 109-38.100-1(d) is revised to provide instructions on submitting motor vehicle reports in mechanized form.

Accordingly, the following regulations are issued as a final rule, effective January 1, 1979, to appear as Chapter 109 in Title 41 of the Code of Federal Regulations.

Dated: December 22, 1978.

HILARY J. RAUCH,
Deputy Director Procurement and Contracts, Management Directorate.

CHAPTER 109—DEPARTMENT OF ENERGY PROPERTY MANAGEMENT REGULATIONS

SUBCHAPTER A—GENERAL

Part 109-1—Introduction.

SUBCHAPTER C—DEFENSE MATERIALS

Part 109-14—National Stockpile.

SUBCHAPTER E—SUPPLY AND PROCUREMENT

Part 109-25—General.
Part 109-26—Procurement Sources and Programs.
Part 109-27—Inventory Management.
Part 109-28—Storage and Distribution.
Part 109-29—Federal Specifications and Standards.
Part 109-30—Federal Catalog System.

SUBCHAPTER F—ADP AND TELECOMMUNICATIONS

Part 109-36—ADP Management.

SUBCHAPTER G—TRANSPORTATION AND MOTOR VEHICLES

Part 109-38—Motor Equipment Management.
Part 109-39—Interagency Motor Vehicle Pools.

SUBCHAPTER H—UTILIZATION AND DISPOSAL

Part 109-42—Property Rehabilitation Services and Facilities.
Part 109-43—Utilization of Personal Property.
Part 109-44—Donation of Personal Property.
Part 109-45—Sale, Abandoment, or Destruction of Personal Property.
Part 109-46—Utilization and Disposal of Personal Property Pursuant to Exchange/Sale Authority.
Part 109-48—Utilization, Donation, or Disposal of Abandoned and Forfeited Personal Property.
Part 109-50—Programmatic Disposal of DOE Property.

SUBCHAPTER I—[RESERVED]

SUBCHAPTER J—INDUSTRIAL PLANT EQUIPMENT

Part 109-51—Loans of Industrial Plant Equipment from the Defense Industrial Plant Equipment Center (DIPEC).

SUBCHAPTER A—GENERAL

PART 109-1 INTRODUCTION

Subpart 109-1.1—Regulation System

Sec.
109-1.100 Scope of subpart.
109-1.100-50 Definitions.
109-1.103-50 DOE-PMR temporary regulations.
109-1.104 Publication and distribution of DOE-PMR.
109-1.104-1 Publication.
109-1.104-2 Distribution.
109-1.105 Authority for DOE-PMR.
109-1.106 Applicability.
109-1.107 Consultation regarding DOE-PMR.
109-1.108 Agency implementation and supplmentation of FPMR.
109-1.109 Numbering of DOE-PMR.
109-1.110 Deviation.
109-1.110-2 Procedure.

Subpart 109-1.50—Personal Property and Supply Management Program

109-1.5000 Scope of subpart.
109-1.5001 Policy.
109-1.5002 Property and supply management program objectives.
109-1.5003 Definitions.
109-1.5004 Responsibilities and authorities.
109-1.5004-1 The Director of Procurement and Contracts Management.
109-1.5004-2 The Director of Administration.
109-1.5004-3 Heads of field offices and contracting officers.
109-1.5004-4 Heads of Headquarters organizations.
109-1.5005 Review of contractors' procedures and practices.

Subpart 109-1.51—Personal Property Management Standards and Practices

109-1.5100 Scope of subpart.
109-1.5101 Definition.
109-1.5102 Official use of property.
109-1.5103 Maximum use of property.
109-1.5104 Loan of property.
109-1.5105 Borrowing of property.
109-1.5106 Control of property.
109-1.5106-1 Identification marking of property.
109-1.5106-2 Segregation of property.
109-1.5106-3 Physical protection of property.
109-1.5106-4 Control of sensitive items.
109-1.5106-5 Physical inventories.
109-1.5107 Retirement of property.
109-1.5108 Property belonging to others.
109-1.5109 Employee participation and development.
109-1.5110 Use of non-Government owned property.
109-1.5148 Records and reports.
109-1.5148-1 Personal Property Management Reports.

AUTHORITY: Title V, Department of Energy Organization Act (Pub. L. 95-91); Administrative Procedure Act, as amended (5 U.S.C. 551 et seq.).

Subpart 109-1.1—Regulation System

§ 109-1.100 Scope of subpart.

This subpart establishes a system and describes procedures for promulgating Department of Energy Property Management Regulations (DOE-PMR) 41 CFR Chapter 109, within the Federal Property Management Regulations System (FPMR), 41 CFR Chapter 101, as established by the General Services Administration (GSA). These regulations implement and supplement the FPMR's governing the acquisition, utilization, management, and disposition of personal property.

§ 109-1.100-50 Definitions.

As used in these Regulations the following definitions apply:

(a) "Heads of field offices" are the heads of any officially established Departmental office located outside the Washington, D.C. metropolitan area.

(b) "Direct operations" means operations conducted by DOE personnel.

(c) Operating and on-site service contractors:

(1) Operating contractors are those which—

(i) manage Government-owned laboratories, production plants, and research facilities located on Government-owned or leased sites, where the programs being conducted are considered of a long-term, continuing nature,

(ii) operate Government-owned facilities located on contractor-owned or -leased sites where the programs being conducted are of a long-term, continuing nature. An example of this category would be those contracts with universities for the operation of Government-owned laboratories and facilities, located on university-owned sites, for the purpose of conducting long-term basic research programs; or

(iii) are designated by the senior procurement offical, Headquarters, or the head of a procuring activity to be subject to the provisions of these regulations. An example would be a major cost-reimbursement contract for construction on a Government-owned or -leased site.

(2) On-site service contracts are those cost-reimbursement type contracts for the performance of services of a continuing nature for DOE at Government-owned or leased sites.

(3) Single purpose contracts for the operation of process developmental units, pilot plants, and demonstration plants where the purpose is to demonstrate the viability of processes toward the goal of commercialization are not considered, unless designated, operating contracts in accordance with § 109-1.100-50(c)(1)(iii) for the purpose of this section.

(d) "Contractor" means operating or on-site service contractor or as designated in accordance with § 109-1.100-50(c)(1)(iii).

§ 109-1.103-50 DOE-PMR temporary regulations.

(a) The Department of Energy Property Management Regulations System includes a temporary-type issuance which will be used when—

(1) The regulation will remain in effect for a specific temporary period of time or is for one-time application; or

(2) Time will not permit preparation and publication of the regulations in final codified form.

(b) As a general rule, temporary-type regulations having continuing application will be converted to permanent form within 180 days after publication.

§ 109-1.104 Publication and distribution of DOE-PMR.

§ 109-1.104-1 Publication.

The DOE-PMR will be published in the FEDERAL REGISTER and will appear in the Code of Federal Regulations as Chapter 109 of Title 41, Public Contracts and Property Management. Looseleaf publications will be distributed to DOE offices.

§ 109-1.104-2 Distribution.

The responsibilities and authorities for distribution of publications in the FPMR series are as follows:

(a) The Director of Procurement and Contracts Management—

(1) Designates an official to serve as liaison with GSA;

(2) Establishes and maintains distribution patterns; and

(3) Processes DOE-PMR Handbooks for final approval and publication.

(b) The Director of Administration—

(1) Distributes publications in accordance with established distribution patterns; and

(2) Provides additional support services as required.

(c) Heads of Field Offices—

(1) Provide Director of Procurement and Contracts Management, as necessary, with field office and contractor requirements;

(2) Forward one-time requests for additional copies of specific centrally distributed publications to the Office of Administrative Services, Headquarters (AD-473); and

(3) Distribute publications in accordance with established distribution patterns.

§ 109-1.105 Authority for DOE-PMR.

The DOE-PMRs are prescribed by the Secretary or his designee and the head of any DOE Headquarters organization having functional responsibility for the Regulations being prescribed, pursuant to the authority of the Department of Energy Organization Act of 1977, (42 USC 7101 et seq.), the Federal Property and Administrative Services Act of 1949, as amended (40 USC 471 et seq.), and FPMR 101-1.108.

§ 109-1.106 Applicability.

(a) The FPMR and this DOE-PMR apply to all direct operations.

(b) Unless otherwise provided in the appropriate part or subpart, contracting officers shall assure tha the FPMR and DOE-PMR are applied to operating and on-site service contractors. The FPMR and DOE-PMR shall be used by contracting officers in their review, approval, administration or appraisal of such contrator operations.

§ 109-1.107 Consultation regarding DOE-PMR.

DOE-PMRs shall be fully coordinated with all Departmental elements substantively concerned with the subject matter.

§ 109-1.108 Agency implementation and supplementation of FPMR.

(a) The DOE-PMRs shall include regulations deemed necessary to understand basic and significant Departmental property management policies and procedures which implement, supplement, or deviate from the FPMR.

(b) Implementing procedures, instructions, and guides which are necessary to clarify or to implement the DOE-PMR may be issued by Headquarters or field organizations, providing the implementing procedures, instructions and guides—

(1) Are consistent with the policies and procedures contained in this regulation as implemented and supplemented from time to time;

(2) To the extent practicable, follow the format, arrangement, and numbering system of this regulation; and

(3) Contain no material which duplicates, paraphrases, or is inconsistent with the contents of this regulation.

§ 109-1.109 Numbering of DOE-PMR.

(a) Where the DOE-PMRs implement the FPMR, the implementing part, subpart, section or subsection of

the DOE-PMR will be numbered and captioned, to the extent possible, to correspond to the part, subpart, section, or subsection of the FPMR.

(b) Where the DOE-PMRs supplement the FPMR, the numbers 50 and up will be assigned to the parts, subparts, sections or subsections involved.

(c) Where the subject matter contained in a part, subpart, section, or subsection of the FPMR requires no implementation, the DOE-PMR will contain no corresponding part, subpart, section, or subsection number and the subject matter as published in the FPMR governs within the meaning of § 109-1.106.

§ 109-1.110 Deviation.

§ 109-1.110-2 Procedure.

(a) In individual cases, deviations from the FPMR and DOE-PMR may be authorized by the head of the Headquarters organization having functional responsibility. A supporting statement for each individual deviation, which indicates briefly the nature of the deviation, the reasons for such special action, and the Headquarters approval, shall be maintained by the Headquarters organization concerned.

(b) In classes of cases, requests for deviations from the FPMR and DOE-PMR shall be forwarded to the head of the Headquarters organization having functional responsibility, and shall be accompanied by a supporting statement. Requests shall be considered on an expedited basis and coordination with Headquarters organizations will be obtained as appropriate. Requests involving the FPMR will be considered jointly by DOE and GSA, unless, in the judgment of the Headquarters organization having functional responsibility, circumstances preclude such joint effort. In such case, the organization having functional responsibility will approve such class deviations as determined to be necessary and notify GSA.

Subpart 109-1.50—Personal Property and Supply Management Program

§ 109-1.5000 Scope of subpart.

This subpart supplements the FPMR, states DOE personal property and supply management policy and program objectives, and prescribes authorities and responsibilities of heads of Headquarters organizations, and heads of field offices exercising property management functions.

§ 109-1.5001 Policy.

It is DOE policy that a program for the management of Government personal property (sometimes referred to as personal property or as property) shall be established and maintained to meet program needs economically and efficiently and in accordance with applicable Federal statutes and Federal agency regulations.

§ 109-1.5002 Property and supply management program objectives.

The objectives of the DOE Property and Supply Management Program are to provide—

(a) A system for managing Government personal property in the custody or possession of DOE and its contractors; and

(b) Uniform principles, policies, standards, and procedures for economical and efficient management of Government personal property that are sufficiently broad in scope and flexible in nature to facilitate adaptation to local needs and various kinds of operations.

§ 109-1.5003 Definitions.

As used in these regulations, the following definitions apply:

(a) "Government personal property"—

(1) Is property which is Government-owned or -rented or -leased from commercial sources in the custody of DOE or its contractors; and

(2) Is property of any kind or type except real property; records; special source materials, which includes source materials and special nuclear material, and those other materials to which the provisions of DOE Manual Part 7400 apply, such as deuterium, enriched lithium, neptunium 237 and tritium, and atomic weapons and by-product materials as defined in Section II of the Atomic Energy Act of 1954, as amended; enriched uranium in stockpile and storage; and petroleum being held in reserve in the Strategic Petroleum Reserve and the Naval Petroleum Reserve.

(b) "Personal property and supply management" means the implementation, development and administration of policies, programs and procedures for effective and economical receipt, storage, issue, use, control, physical protection, care and maintenance, disposal, determination of requirements and maintenance of related operating records, as appropriate, for Government personal property exclusive of the accounting records. It includes such established management functions as (1) making special surveys and studies of practices and procedures and regular staff reviews and analyses of property requirements in budget estimates, financial plans, and reports, (2) furnishing staff assistance and guidance to DOE and contractor counterparts, (3) assuring the maintenance of pertinent costs at reasonable levels, and (4) conducting periodic appraisals of performance.

§ 109-1.5004 Responsibilities and authorities.

§ 109-1.5004-1 The Director of Procurement and Contracts Management.

The Director of Procurement and Contracts Management—

(a) Develops and maintains Departmental personal property policies, standards and procedures;

(b) Develops and publishes Departmental regulations relating to personal property and supply management;

(c) Represents the Department with GSA and other agencies on matters relating to personal property and supply management;

(d) Submits Departmental personal property and supply management reports to GSA, the Congress and other Federal agencies;

(e) Provides staff assistance to Departmental organizations performing personal property and supply management functions;

(f) Conducts reviews and appraisals of Departmental personal property and supply management functions;

(g) Prepares the Departmental aircraft and motor vehicle budget; and

(h) Reviews and provides staff evaluation and support of budget proposals relating to stores inventories.

§ 109-1.5004-2 The Director of Administration.

The Director of Administration—

(a) Manages personal property for Headquarters organizations located in the Washington, D.C. Metropolitan area and for those Departmental organizations outside the Washington, D.C. Metropolitan area for which he has been assigned property management responsibilities; and

(b) Exercises responsibilities cited in § 109-1.5004-3 as they relate to functions under his management control.

§ 109-1.5004-3 Heads of field offices and contracting officers.

Heads of field offices and contracting officers—

(a) Assure effective management of Government personal property in the custody of DOE and its contractors, consistent with applicable laws and regulations;

(b) Interpret Departmental personal property management policies and procedures for their contractors and promote improved property management practices and controls;

(c) Arrange with contractors to establish effective administrative procedures, to the extent practicable and economical, which will ensure adequate physical protection and control of Government personal property, proper utilization of Government personal property, adequate supply support of approved programs, and compliance with applicable laws and regulations;

(d) Assure that new contracts or modifications, extensions, or amendments to existing contracts contain provisions that will promote efficient and economical management of Government personal property in the custody or possession of the contractors;

(e) Review and approve personal property management policies, practices and procedures of contractors and assure that they are maintained in writing on a current basis consistent with the terms of the contract and pertinent DOE regulations;

(f) Authorize the use of Government personal property for purposes other than performance of official work of the United States Government only in accordance with applicable laws;

(g) Authorize loans of Government personal property to other Government agencies and to others for official purposes;

(h) Assure that DOE employees and contractors are aware that acts of theft, illegal possession, and unlawful destruction or use of Government personal property are violations punishable under Federal law, notwithstanding disciplinary measures taken under administrative policy;

(i) Assure that DOE employees and contractors are aware that every user of Government personal property is responsible for its physical protection and for reporting the loss, theft, destruction or damage of property;

(j) Apply personal property management regulations, instructions, standards, procedures, and practices as prescribed in the FPMRs and the DOE-PMRs;

(k) Assure that responsibility for an effective property and supply management program is clearly and definitely assigned to a responsible member or members of each staff; and

(l) Provide reports on property management activities as provided in these regulations.

§ 109-1.5004-4 Heads of Headquarters organizations.

Heads of Headquarters organizations will exercise responsibilities as described in these regulations for property management activities for which they have a programmatic responsibility

§ 109-1.5005 Review of contractors' procedures and practices.

(a) Contracting Officers shall review Contractors' procedures and practices for control and management of property as soon as practicable after approval of the contract if the contractor is to use Government personal property. Further reviews shall be made as necessary.

(b) The type and frequency of reviews will depend on—

(1) The quantity and value of Government personal property to be furnished; and

(2) The period of time the property is to be used or consumed; that is, whether or not storage and subsequent issue are involved or the property will be issued or used on the job directly following receipt.

(c) Whether the review consists of a simple desk review of procedures or a full scale onsite appraisal shall be based on the amount of property involved, conditions of usage, storage, and other pertinent factors.

Subpart 109-1.51—Personal Property Management Standards and Practices

§ 109-1.5100 Scope of subpart.

This subpart provides general guidance on DOE standards and practices to be applied in the managment of Government personal property.

§ 109-1.5101 Definition.

"Sensitive items" are those items of property which are considered to be susceptible to being appropriated for personal use or which can be readily converted to cash, for example: firearms, portable photographic equipment, binoculars, portable tape recorders, portable calculators, and portable power tools.

§ 109-1.5102 Official use of property.

Property shall be used only in the performance of official work of the United States Government, except (a) in emergencies threatening loss of life or property, or (b) as otherwise authorized by law and approval by heads of organizations having property management responsibilities, or by the contracting officer.

§ 109-1.5103 Maximum use of property.

Property and supply management practices shall assure that the best possible use is made of property. Supplies and equipment provided for DOE work shall be generally limited to those items essential for carrying out the programs of DOE effectively. Adequate staff review shall be made of operating programs to coordinate and plan furture supply activities and to assure against overstocking, waste, and improper use of property.

§ 109-1.5104 Loan of property.

(a) Property which would otherwise be out of service for temporary periods (and not excess) may be loaned to other DOE offices and contractors, other Federal agencies, and to others for official purposes. Such loans shall be covered by written agreements or memorandum receipts which shall include all terms of the loan (such as loan period, delivery time, method and payment of transportation, point of delivery and return, conditions of use, responsibilities of the borrower for condition of property on return, inspection requirements, etc.) that may be required to ensure proper control and protect DOE's interest. The loan period should not exceed one year, but may be renewed.

(b) Requests for loan by foreign Governments and other foreign organizations shall be submitted to the Office of Assistant Secretary for International Affairs, for approval, with a copy to the cognizant Headquarters program office.

§ 109-1.5105 Borrowing of property.

(a) Offices and contractors are encouraged to borrow property within DOE to further DOE programs. Property classified as "Equipment Held For Future Projects (EHFFP)" or as "In Standby" should be reviewed by those receiving availability inquiries for short-term loans (one year or less). Borrowing of Government property from other Federal agencies is also encouraged when required for short periods of time. Such transactions shall be be covered by written agreements which include all the terms of the transaction.

(b) In determining whether it is practical and economical to borrow property, consideration shall be given to suitability, condition, value, extent and nature of use, extent of availability, portability, cost of transportation, and other similar factors.

§ 109-1.5106 Control of property.

§ 109-1.5106-1 Identification marking of property.

(a) Identification marking of property by numbering may be used where it has been administratively determined to be sufficiently advantageous to justify the cost.

(b) All capitalized Government property shall be permanently marked to identify it as U.S. Government property. Other property susceptible to unauthorized personal use should be considered for marking for control purposes. Marking may be accomplished by any means which will produce a permanent marking and which is most adaptable to the particular item of property.

(c) To the extent practiable and economical, markings shall be removed prior to disposal outside of DOE, or additional markings may be added to indicate such disposal.

(d) Property which by its nature cannot be marked is exempted from this requirement. Where such Government property is in the custody of con-

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tractors it should not be commingled with contractor-owned property unless it is administratively determined by the contracting officer to be advantegeous to the Government.

§ 109-1.5106-2 Segregation of property.

Ordinarily, provisions shall be made for the contractor to keep Government property segregated from contractor-owned property. Commingling of Government-owned and contractor-owned property may be allowed only when—

(a) The segregation of the property would materially hinder the progress of the work, i.e., segregation is not feasible for reasons such as small quantities, lack of space, or increased costs; and

(b) Control procedures are adequate, i.e., the Government property is specifically marked or otherwise identified as being Government property.

§ 109-1.5106-3 Physical protection of property.

Controls such as property pass systems, memorandum records, regular or intermittent gate checks, marking of tools, and perimeter fencing shall be established as required to prevent loss, theft, or unauthorized movement of property from the premises on which such property is located.

§ 109-1.5106-4 Control of sensitive items.

(a) Controls shall be established over the acquisition, storage, issue, use, and return of sensitive items of property. These controls should be applied with judgment and should take into consideration the dollar value of the items to be controlled and costs of administration.

(b) A list of sensitive items shall be maintained for items considered to require special controls before and after issue. Determination of specific sensitive items shall be a matter for management judgment at individual locations.

(c) Written procedures shall be established for control of sensitive items. Specific procedures to be considered for control before and after issue include—

(1) Approval of purchase requisitions or issue documents at an appropriate supervisory level prior to purchase or issue;

(2) Establishment of administrative controls in the central receiving and warehousing department. Such controls could include extraordinary physical protection, guidance for receiving and warehousing personnel as to procedures for protection, and a current listing of sensitive items;

(3) Establishment and maintenance of appropriate property management records, including all necessary information for adequate functional control;

(4) Requirements for tagging and identification;

(5) Use of memorandum receipts or custody documents at time of assignment or change in custody;

(6) Establishment of custodial responsibilities describing—

(i) Need for extraordinary physical protection;

(ii) Requirement for prompt reporting of apparent loss, damage or destruction;

(iii) Requirement to return items in condition beyond economical repair to an appropriate organizational element;

(iv) Requirement for promptly reporting changes in custody or extended loans;

(v) Reminder of prohibition of use for other than official purposes, and penalties for misuse;

(vi) Requirement for effective physical and administrative control of sensitive items assigned for general use within an organizational unit as appropriate to the type of property and the circumstances; and

(vii) A clear definition of the extent of responsibility or financial accountability, depending on contractor policy.

(7) Requirement for annual physical inventory;

(8) Requirement for prompt and thorough investigation of losses;

(9) Requirement for an employee transfer or termination checkout procedure and examination and adjustment of records; and

(10) Reference to other property and supply management procedures which, through experience and independent audit, have demonstrated effective physical and administrative control over sensitive items.

§ 109-1.5106-5 Physical inventories.

(a) Physical inventories shall be conducted at all DOE and contractor locations. The physical inventory shall be conducted consistent with approved procedures and generally accepted accounting procedures.

(b) The frequency of physical inventories shall be as follows:

(1) Moveable capital equipment—not less frequently than every two years.

(2) Sensitive items—annually.

(3) Stores inventories—annually.

(4) Precious metals—semi-annually.

(c) Adjustments will be made to the control records and all significant discrepancies shall be investigated.

(d) Full use should be made of accounting records and reports.

§ 109-1.5107 Retirement of property.

When Government property is worn out, lost, stolen, destroyed, abandoned, or damaged beyond economical repair, it shall be listed on a retirement work order. A full explanation shall be supported by an investigation, if necessary, as to the date and circumstances surrounding loss, theft, destruction, abandonment, or damage. The retirement work order shall be signed by the responsible official initiating the report and reviewed and approved by an official at least one supervisory echelon above the official initiating the report.

§ 109-1.5108 Property belonging to others.

Procedures shall be established which will provide for no less attention to the management of property belonging to other Federal agencies in the posssession or custody of DOE orits contractors than for DOE property.

§ 109-1.5109 Employee participation and development.

Full advantage shall be taken of suitable methods for stimulating employee participation and cooperation in carrying out an effective and economical program of property and supply management. Some examples of effective methods are (a) indoctrination of new employees and others who have access to or use property, (b) the use of incentive award plans to promote interest, (c) the use of visual aids such as posters, plant publications, outdoor signboards, and displays to keep employees informed as to progress and to remind them of their responsibilities, and (d) training of employees in specialty fields.

§ 109-1.5110 Use of non-Government-owned- property.

Personal property, title to which is vested in a DOE employee, an employee of a DOE contractor, or in any person or organization not under contract or subcontract to DOE, shall not be installed in, affixed to, or otherwise made a part thereof, of any Government-owned personal or real property. This restriction does not apply to the use and installation of privately owned decorative items or memorabilia to the workplace, provided that the structure or safety of the facility is not thereby degraded.

§ 109-1.5148 Records and reports.

(a) Inventory records and reports will be maintained and will serve as a basis for (1) effecting maximum utilization of available property, including excess, (2) prompt identification and reporting of excess property, (3) maximizing effective physical protection of property, and (4) preparation of special and recurring reports. Full use will be made of accounting records and reports to avoid duplication.

(b) Property management reports which require input from the DOE field offices or from Headquarters organizations exercising property management responsibilities, and Financial Information Sub-systems generated reports, are listed in § 109-1.5148-1.

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§ 109-1.5148-1 Personal property management reports.

PERSONAL PROPERTY MANAGEMENT REPORTS

1. Property and Equipment

Report Title	Form No. (No. of Cys.)	Frequency	Submitted To	Due at HQ	Narrative Analysis Required	References	Comments
1. Utilization and Disposal of Personal Property Pursuant to Exchange/Sale Authority	Letter (1)	Annually	HQ PRPH	Nov. 30	No	FPMR 101-46.407 DOE-PMR 109-46.406	The annual Departmental report to GSA is submitted by HQ PRPH
2. Changes in Plant and Equipment - Supporting Details	DOE Form CR-84-31 (3)	Annually	Hq CR	Sept. 30 + 12 work days	Yes	DOE Order 2200, Chapter XI	
3. Plant and Equipment by Facilities	DOE Form CR-84-35 (3)	Annually	HQ CR	Sept. 30 + 12 work days	Yes	DOE Order 2200, Chapter XI	
4. Plant and Equipment by Location	DOE Form CR-84-35 (3)	Annually	HQ CR	Sept. 30 + 12 work days	Yes	DOE Order 2200, Chapter XI	
5. Plant and Equipment Facilities in Standby and Maintenance Costs	DOE Form CR-85-1 (3)	Annually	HQ CR	Sept. 30 + 12 work days	Yes	DOE Order 2200, Chapter XI	
6. Utilization and Disposal of Excess and Surplus Personal Property	DOE Form CR-85-2 (1)	Annually	HQ CR	Sept. 30 + 12 work days	Yes	FPMR 101-43.4701 DOE-PMR 109-43.4701 DOE Order 2200, Chapter XI	The annual Departmental report to GSA (SF 121) is submitted by HQ PRPH
7. Excess Personal Property Furnished to Non-Federal Recipients	Letter	Annually	HQ PRPH	Nov. 10	No	FPMR 101-43.4701 DOE-PMR 109-43.4701	The annual Departmental report to GSA is submitted by HQ PRPH

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PERSONAL PROPERTY MANAGEMENT REPORTS

Report Title	Form No. (No. of Cys.)	Frequency	Submitted To	Due at HQ	Narrative Analysis Required	References	Comments
8. Disposal of Foreign Excess Property	DOE Form CR-85-3 (3)	Annually	HQ CR	Sept. 30 + 32 work days	Yes	FPMR 101-43.4701 DOE-PMR 109-43.4701 DOE Order 2200, Chapter XI	The annual Departmental report to Congress is submitted by HQ PRPM
9. Summary of Excess Property Received from Other Agencies	DOE Form CR-85-4 (3)	Annually	HQ CR	Sept. 30 + 32 work days	No	DOE Order 2200, Chapter XI	
10. Annual Wastepaper Report		Annually	HQ PRPM	Oct. 30	No	40 CFR 246.100g	
			11. Supply				
1. Direct Labor Costs of Stores Inventory Warehousing Activities	DOE Form CR-85-7 (3)	Annually	HQ CR	Sept. 30 + 32 work days	Yes	DOE Order 2200, Chapter XI	Information for the annual Supply Activity Report submitted to GSA by HQ PRPM
2. Precious Metals	Letter (1)	Annually	HQ PRPM	Oct. 30	No	FPMR 101-42.301-2 DOE-PMR 109-42.301-2	The annual Departmental report to GSA is submitted by HQ PRPM

PERSONAL PROPERTY MANAGEMENT REPORTS

III. Motor Vehicles

Report Title	Form No. (No. of Cys.)	Frequency	Submitted To	Due at HQ	Narrative Analysis Required	References	Comments
1. Agency Report of Motor Vehicle Data	SF 82	Annually	HQ PRPM	Sept. 30 + 21 work days	Yes	FPMR 101-38.1 DOE-PMR 109-38.100-1	The annual Departmental report to GSA (SF 82) is submitted by HQ PRPM
1a. Agency Report of Sedan Data	SF 82-d	Annually	HQ PRPM	Sept. 30 + 21 work days	Yes	FPMR/FR G-22 DOE-PMR 109-38.100-1	The annual Departmental report to GSA (SF 82d) is submitted by HQ PRPM
2. Supplemental (Motor Vehicle) Data Reports		Annually	HQ PRPM	Sept. 30 + 21 work days	No	DOE-PMR 109-38.100-1	
2a. Acquisitions and Disposals by Transfer	DOE-PMR 109-38.4950	Annually	HQ PRPM	Sept. 30 + 21 work days	No	DOE-PMR 109-38.100-1	
2b. Special Purpose Vehicles	DOE-PMR 109-38.4951	Annually	HQ PRPM	Sept. 30 + 21 work days	No	DOE-PMR 109-38.100-1	
2c. Age and Mileage Analysis	SF82-b DOE-PMR 109-38.4952	Annually	HQ PRPM	Sept. 30 + 21 work days	Yes	DOE-PMR 109-38.100-1	
3. Cross-Servicing Arrangements for Motor Vehicle Fuel and Oil	Letter	Semi-Annually	HQ PRPM	Oct. 10 April 10	No	GSA Bulletin G-16 DOE-PMR 109-38.53	The semiannual Departmental report to GSA is submitted by HQ PRPM

PERSONAL PROPERTY MANAGEMENT REPORTS

	Report Title	Form No. (No. of Cys.)	Frequency	Submitted To	Due at HQ	Narrative Analysis Required	References	Comments
4.	Unused Passenger Vehicle Replacement Authorizations	Letter	Annually	HQ PRPM	June 15	No	DOE-PMR 109-38.5101-5(b)	
5.	Geographical Distribution of Motor Vehicles	Letter	Annually	HQ PRPM	Feb. 13	No	Department of Transportation	The annual Departmental report to DOT is submitted by HQ PRPM
6.	Report of Exempted Motor Vehicles	Letter	On Request	HQ PRPM	On Request	Yes	FPMR 101-38.607 DOE-PMR 109-38.607	The requested Departmental report is submitted to GSA by HQ PRPM
7.	Annual Plan for Acquisition of Fuel Efficient Passenger Automobiles	Letter	Annually	HQ PRPM	Nov. 1	No	Executive Order 12004, FPMR Temporary Bulletin G-32, DOE-PMR 109-38.1305	The Departmental consolidated plan is submitted to GSA by HQ PRPM

PERSONAL PROPERTY MANAGEMENT REPORTS

IV. FIS Generated Reports

	Report Title	Form No. (No. of Cys.)	Frequency	Submitted To	Due at HQ	Narrative Analysis Required	References	Comments
1.	Analysis of Stores	DOE 84-20				Yes	DOE Order 2200, Chapter XI	Reports 1 and 2 provide data for the Departmental annual Supply Activity Report to be submitted to GSA (GSA 1471) by HQ PRPM Reference: FPMR 101-25.48 DOE-PMR 109-25.48
2.	Summary of Current Use and Standby Stores Inventory Transactions	DOE 84-21				Yes	DOE Order 2200, Chapter XI	
3.	Changes in Plant and Equipment and Accumulated Depreciation	DOE 84-30				No	DOE Order 2200, Chapter XI	
4.	Completed Plant and Accumulated Depreciation by Type	DOE 84-32				No	DOE Order 2200, Chapter XI	
5.	Equipment Held for Future Projects					Yes	DOE Order 2200, Chapter XI DOE PMR 109-27.5109	

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SUBCHAPTER C—DEFENSE MATERIALS

PART 109-14—NATIONAL STOCKPILE

Sec.
109-14.000 Scope of part.

Subpart 109-14.1—Transfer of Excess Strategic and Critical Materials to the National Stockpile

109-14.103-1 General requirements of reporting.

AUTHORITY: Title V, Department of Energy Organization Act (Pub. L. 95-91); Administrative Procedure Act, as amended (5 U.S.C. 551 et seq.).

§ 109-14.000 Scope of part.

This part implements and supplements FPMR Part 101-14, National Stockpile.

Subpart 109-14.1—Transfer of Excess Strategic and Critical Materials to the National Stockpile

§ 109-14.103-1 General requirements of reporting.

Holding activities shall submit reports of storage materials determined to be excess to their needs, through appropriate administrative channels, to the Procurement and Contracts Management Directorate (PR-221) for determination of Departmental requirements and, if appropriate, for further reporting to GSA as required by FPMR 101-14.103-1.

SUBCHAPTER E—SUPPLY AND PROCUREMENT

PART 109-25—GENERAL

Sec.
109-25.000 Scope of subchapter.
109-25.001 Scope of part.

Subpart 109-25.1—General Policies

109-25.101-1.50 Definitions.
109-25.101-3 Supply through consolidated purchase for direct delivery to use points.
109-25.109 Laboratory and research equipment.
109-25.109-1 Identification of idle equipment.
109-25.109-2 Equipment pools.

Subpart 109-25.3—Use Standards

109-25.302 Office furniture, furnishings and equipment.
109-25.302-1 Executive type office furniture and furnishings.
109-25.302-2.50 Filing equipment and supplies.
109-25.302-3 Electric typewriters.
109-25.304 Additional systems and equipment for passenger motor vehicles.
109-25.350 Use of furnishings and household goods in Government personnel quarters.
109-25.351 Furnishing of Government clothing and individual equipment to employees.

Subpart 109-25.4—Replacement Standards

109-25.403 Office machines.
109-25.405 Materials handling equipment.

Subpart 109-25.48—Reports

109-25.4800 Scope of subpart.
109-25.4800-50 Applicability.

AUTHORITY: Title V, Department of Energy Organization Act (Pub. L. 95-91); Administrative Procedure Act, as amended (5 U.S.C. 551 et seq.).

§ 109-25.000 Scope of subchapter.

This subchapter implements and supplements FPMR Subchapter E, Supply and Procurement.

§ 109-25.001 Scope of part.

This part implements and supplements FPMR Part 101-25, General, and provides cross-references to the DOE Procurement Regulations (DOE-PR) where appropriate.

Subpart 109-25.1—General Policies

§ 109-25.101-1.50 Definitions.

As used in this subpart, the following definitions apply:

(a) "Equipment" consists of those items having an anticipated service life of one year or more regardless of use or source of funding.

(b) "Equipment pool" is a formally designated collection of equipment, generally functionally associated, which is available for loan or temporary use. The pool may be a physical collection of equipment or may be a record system which provides identification, location and availability information on equipment available for loan or temporary use.

(c) "Equipment in storage" is all equipment not in use, whether stored in formal storage areas, stored in or adjacent to work areas, held for future projects, or retained in standby or abandoned facilities.

§ 109.25.101-3 Supply through consolidated purchase for direct delivery to use points.

See DOE-PR 9-5.5206-19, Procurement of gas masks and canisters.

§ 109-25.109 Laboratory and research equipment.

(a) The provisions of FPMR 101-25.109 and § 109-25.109 shall apply to all types of equipment and not be limited to laboratory and research equipment.

(b) The provisions of FPMR 101-25.109 and § 109-25.109 apply to all DOE field offices and contractors, and are not limited to Federal laboratories.

§ 109-25.109-1 Identification of idle equipment.

(a) See § 109-25.109(b).

(b) As a minimum, management walk-through inspections shall be scheduled to provide for coverage of all operating and storage areas at least once every two years to identify idle and unneeded equipment. The frequency of management walk-through inspections may vary with the operation or area involved. A report of walk-throughs conducted, including participants, areas covered, findings, recommendations, and results achieved, shall be submitted to the head of the laboratory or other facility involved. Equipment identified as idle and unneeded shall be redeployed, reassigned, placed in equipment pools or declared excess, as appropriate.

(c) In accordance with FPMR 101-25.109-1(c), members of management walk-through inspection teams should be appointed by the head of the laboratory or other DOE or contractor facility.

(d) Heads of field offices and contracting officers or their designated representatives shall periodically review walk-through procedures and practices of organizations under their jurisdiction to evaluate their effectiveness. This review should include actual walk-through inspections of representative DOE or contractor activities.

§ 109-25.109-2 Equipment pools.

(b) Equipment pools shall be established where practicable to obtain optimum utilization of equipment. The number and types of pools to be established will depend upon local circumstances. In addition to those provided in FPMR 101-25.109-2, factors to be considered are types of equipment, number and location of potential users and distances involved.

(c) Surveys of equipment holdings should be conducted periodically to determine those items which are suitable for pooling. Criteria for placing an item in a pool should include (but not be limited to) the following: the item is suitable for use by more than one individual or group; its use is intermittent rather than full time; it has a degree of portability; and, it has sufficient cost or value to merit controlling. It is anticipated that items pooled would vary from one activity to another due to local conditions, and each activity should develop its own criteria for items to be pooled. Items to be considered for pooling include (but are not limited to) certain types of measuring and recording equipment, pumps, electric motors, photographic equipment, portable tools, microscopes, portable radios, power supplies, amplifiers, business machines, radiation detection instruments, and construction and automotive equipment. Where feasible, equipment pools should be combined with existing calibration and maintenance services to foster use and control of pooled equipment.

(d) Records of usage shall be maintained to permit the evaluation of need for quantities and types of equipment in pools. Reviews of usage should be conducted periodically (at least annually) to eliminate items which are no longer required. Heads of field offices and contracting offices shall require laboratories or other DOE or contractor facilities to submit to them annually the report on the use and effectiveness of equipment pooling required by FPMR 101-25.109-2(d).

(e) Heads of field offices and contracting offices shall require periodic independent reviews of equipment pool operations as required by FPMR 101-25.109-2(e).

Subpart 109-25.3—Use Standards

§ 109-25.302 Office furniture, furnishings, and equipment.

(a) The criteria contemplated in FPMR 101-25.302 shall be established by the Director of Administration for the DOE Headquarters, and heads of field offices shall establish criteria for their offices, consistent with FPMR 101-25.302-1 and this subpart. Office furniture, furnishings, and equipment shall be limited to that required for immediate needs, considering such factors as ordering lead time, potential emergency needs and economical ordering quantities. Items used only occasionally should be pooled within an office when and as necessary. Requirements shall be met to the fullest extent practicable and economical from available excess or by rehabilitation or repair. A distinction should be made between the requirements of organizational elements concerned with purely administrative functions and those of a technical, scientific, or specialized nature.

(b) Contractors should be encouraged to limit executive-type furniture and furnishings to contractor personnel who organizationally are in positions that are similar or comparable to DOE positions authorized to use executive type office furniture as provided in FPMR 101-25.302-1, when such action will effect economy without decreasing efficiency.

§ 109-25.302-1 Executive type office furniture and furnishings.

The Director of Administration for Headquarters activities and heads of field offices or their designees are authorized to make the determination contemplated by FPMR 101-25.302-1.

§ 109-25.302-2.50 Filing cabinets and equipment.

In addition to the use standards prescribed in FPMR 101-25.302-2, the following standards are applicable:

(a) Filing equipment:

(1) Letter-size cabinets shall be used for letter-size records. When legal- and letter-size records are interfiled and less than 20% are legal-size, the legal-size papers are to be folded and the entire collection placed in letter-size cabinets. When more than 20% of the records to be filed consist of legal-size papers, legal-size cabinets may be used.

(2) Cabinet types appropriate for use in DOE:

(i) General purpose cabinets (noninsulated and nonsecurity) are used for unclassified records. General purpose cabinets equipped with a key lock may be used to house unclassified sensitive records requiring access restrictions. Key lock cabinets are not tamper proof nor do they meet security standards for the protection of classified material.

(ii) Security cabinets are equipped with a three-way combination lock and are designed to provide the protection required for storage of classified records.

(iii) Insulated cabinets designed to protect their contents from fire shall be used for irreplaceable records having an unusual importance or major value when stored in non-fire-resistant structures. Insulated cabinets shall not normally be used in fire-resistant buildings or structures equipped with fire detection devices, an approved sprinkler system or a connection to a source of adequate fire department response. Buildings equipped with automatic sprinkler systems generally are considered to provide adequate protection for records outside the immediate area of fire origin. Where records are considered irreplaceable, and duplicate copies are not available at another location, insulated cabinets may be required for primary fire protection.

(3) Shelf files should be considered instead of filing cabinets for file collections of 20 or more cubic feet because they provide a greater concentration of files per square foot of floor space at less cost. Shelf files accommodate with equal facility almost all varieties of files from those arranged by number or name to subjectively arranged correspondence files.

(4) The metal transfer case, a single file drawer enclosed as a complete unit, may be bolted together to form stacks of any convenient height. Transfer cases are not recommended for general office use, but may be used in inactive storage areas or in offices where usage may be of relatively short term, such as field construction sites.

(5) Such items as lateral files (as used in the office landscaping concept), hanging files, safes, map files, film cabinets (both x-ray and microfilm), and visible files are special purpose equipment designed to fulfill specific filing requirements. Each potential application of special purpose equipment should be fully evaluated prior to purchase.

(6) The proposed use of power files requires a cost-benefit study due to the extraordinary cost of this equipment. This study must include an analysis of various alternatives to the application in addition to any benefits to be derived from its procurement. All such benefits accruing to the agency and other information documenting the decision to obtain this equipment must be made a matter of record.

(b) To attain the maximum use of low-cost filing equipment such as shelf files for housing collections of classified records, as well as increased utilization of manpower, consideration should be given to the use of security-approved vaults or vault-type rooms in lieu of acquiring additional security cabinets.

§ 109-25.302-3 Electric typewriters.

The Director of Administration for Headquarters and heads of field offices or their designees are authorized to approve exceptions to the criteria contained in FPMR 101-25.302-3.

§ 109-25.304 Additional systems and equipment for passenger motor vehicles.

(a) If an item is determined to be essential and the guidelines in FPMR 101-25.304 cannot be met, or the required item is not shown in Federal Standard 122, requisitions, accompanied by supporting justifications, shall be submitted to the Procurement and Contracts Management Directorate (PR-221), for further coordination with the Commissioner, Federal Supply Service, General Services Administration, prior to procurement.

(b) See FPMR 101-26.501, "Purchase of new motor vehicles," and DOE-PR 9-5.5201-2, "Consolidated purchase of new vehicles by General Services Administration."

§ 109-25.350 Use of furnishings and household goods in Government personnel quarters.

The Director of Administration for Headquarters and heads of field offices and other contracting officers have the authority to authorize the use of furnishings and household goods in Government personnel quarters.

§ 109-25.351 Furnishing of Government clothing and individual equipment to employees.

(a) Government-owned clothing and individual equipment may be furnished employees under the circumstances indicated below. Care should be exercised to avoid the purchase and

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furnishing of clothing and individual equipment to be fitted to an employee who may soon be separated from service or permanently assigned to other duties.

(b) Special clothing and individual equipment for the protection of personnel may be furnished employees. Protection as used in this subparagraph means protection from physical injury or occupational disease.

(c) Articles of clothing and individual equipment may be furnished employees when the items are such that the employee could not reasonably be required to furnish them as a part of their personal clothing and equipment necessary to enable them to perform the regular duties of the position to which they are assigned or for which their services were engaged.

(This section does not apply to provision of uniforms or uniform allowances under the Federal Employees Uniform Allowances Act of 1954, as amended.)

Subpart 109-25.4—Replacement Standards

§ 109-25.403 Office machines.

The Director of Administration for Headquarters and heads of field offices or their designees are authorized to approve replacement of office machines under the conditions cited in FPMR 101-25.403(c).

§ 109-25.405 Materials handling equipment.

The Director of Administration for Headquarters, heads of field offices and other contracting officers or their designees are authorized to approve replacement of materials handling equipment under the conditions cited in FPMR 101-25.405(b).

Subpart 109-25.48—Reports

§ 109-25.4800 Scope of subpart.

This subpart supplements information concerning the reporting of supply management data to GSA as contained in FPMR 101-25.48, 101-25.49, 101-25.4902-1473, and 101-25.4902-1473-1.

§ 109-25.4800-50 Applicability.

The provisions of FPMR Part 101-25.48 and 101-25.49 and this subpart apply only to those DOE direct operations and contractors controlling Government-owned stores inventories. However, based on an agreement with GSA, the DOE Supply Activity Report is prepared at Headquarters from supply management data available in DOE's financial reports and is sent to GSA by the Director of Procurement and Contracts Management. Therefore, no additional reports are required from those field organizations or contractors reporting under the DOE financial reporting system. Those activities with stores operations which do not report under the DOE financial reporting system shall submit Supply Activity Reports to the Procurement and Contracts Management Directorate (PR-221) by November 15 for inclusion in the Departmental report.

PART 109-26—PROCUREMENT SOURCES AND PROGRAMS

109-26.000 Scope of part.
109-26.001-50 Applicability.

Subpart 109-26.2—Federal Requisitioning System

109-26.201 General.
109-26.205-2 Assignment of codes.

Subpart 109-26.4—Purchase of Items From Federal Supply Schedule Contracts

109-26.406 U.S. Government National Credit Card for use in obtaining service station deliveries and services.
109-26.406-1 General.

Subpart 109-26.5—GSA Procurement Programs

109-26.501 Purchase of new motor vehicles.

AUTHORITY: Title V, Department of Energy Organization Act (Pub. L. 95-91); Administrative Procedure Act, as amended (5 U.S.C. 551 et seq.).

§ 109-26.000 Scope of part.

This part implements and supplements FPMR Part 101-26, Procurement Sources and Programs.

§ 109-26.001-50 Applicability.

FPMR Part 101-26 and this part are applicable to contractors to the extent that Government supply sources are made available. For DOE policy on the use of Government supply sources by contractors, see DOE-PR Part 9-5 and 9-50.5.

Subpart 109-26.2—Federal Requisitioning System

§ 109-26.201 General.

The GSA Handbook entitled "FEDSTRIP Operating Guide" and revisions thereto, as discussed in FPMR 101-26.201, are distributed within DOE based on the standard distribution pattern established by the Procurement and Contracts Management Directorate. Requests for additional copies or a change in the distribution pattern should be coordinated with the local DOE publications control office.

§ 109-26.205-2 Assignment of codes.

Applications for FEDSTRIP Activity Address Codes and Contractor authorizations for use of GSA supply sources shall be forwarded to the Procurement and Contracts Management Directorate (PR-221) for review and further processing to GSA for assignment.

Subpart 109-26.4—Purchase of Items From Federal Supply Schedule Contracts

§ 109-26.406 U.S. Government National Credit Card for use in obtaining service station deliveries and services.

§ 109-26.406-1 General.

The Director of Administration and heads of field offices or their designees may authorize the use of U.S. Government National Credit Cards as contemplated in FPMR 101-26.406-1.

Subpart 109-26.5—GSA Procurement Programs

§ 109-26.501 Purchase of new motor vehicles.

See DOE-PR 9-5.5201-2, "Consolidated purchase of new vehicles by General Services Administration."

PART 109-27—INVENTORY MANAGEMENT

Sec.
109-27.000 Scope of part.
109-27.001-50 Objectives.
109-27.001-51 Definitions.
109-27.001-52 Evaluation of stores inventory management.

Subpart 109-27.1—Stock Replenishment

109-27.102 Economic order quantity principle.
109-27.102-1 Applicability.

Subpart 109-27.2—Management of Shelf-Life Materials

109-27.202 Applicability.

Subpart 109-27.3—Maximizing Use of Inventories

109-27.302 Applicability.

Subpart 109-27.4—Elimination of Items from Inventory

109-27.402 Applicability.

Subpart 109-27.5—Return of GSA Stock Items

109-27.500-50 Policy.

Subpart 109-27.50—Inventory Management Policies, Procedures and Guidelines

109-27.5001 Scope of subpart.
109-27.5002 Stock control.
109-27.5002-1 General.
109-27.5002-2 Criteria.
109-27.5002-3 Construction inventories.
109-27.5003 Guide levels for construction inventories.
109-27.5004 Sub-stores.
109-27.5005 Shop, bench, cupboard or site stock.
109-27.5006 Standardization of stores items.
109-27.5007 Stores catalogs.
109-27.5008 Physical inventories
109-27.5008-1 Procedures.
109-27.5008-2 Inventory adjustments.
109-27.5009 Control of drug substances and potable alcohol.
109-27.5010 Containers returnable to vendors.
109-27.5011 Identification marking of metals and metal products.
109-27.5011-1 General.
109-27.5011-2 Exception.
109-27.5011-3 Federal standards applicable to marking.

Subpart 109-27.51—Management of Equipment Held for Future Projects

109-27.5100 Scope of subpart.
109-27.5101 Definition.
109-27.5102 Other exclusions.
109-27.5103 Objective.
109-27.5104 Storage.
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Subpart 109-27.52—Management of Spare Equipment

109-27.5200 Scope of subpart.
109-27.5201 Definition.
109-27.5202 Exclusions.
109-27.5203 Classification.
109-27.5204 Management policy.

AUTHORITY: Title V, Department of Energy Organization Act (Pub. L. 95-91); Administrative Procedure Act, as amended (5 U.S.C. 551 et seq.).

§ 109-27.000 Scope of part.

This part implements and supplements FPMR Part 101-27, Inventory Management, but excludes atomic weapons or byproducts and source or special nuclear materials as defined in the Atomic Energy Act of 1954, as amended, enriched uranium in stockpile storage, and petroleum held in reserve in the Strategic Petroleum Reserve and the Naval Petroleum Reserve.

§ 109-27.001-50 Objectives.

Necessary inventories shall be established and maintained at reasonable levels, consistent with program requirements. They shall be managed and controlled in the most practicable and economical manner consistent with program needs, applicable laws and regulations and the following objectives:

(a) Provide materials and supplies as needed to meet DOE requirements.

(b) Maintain reasonable inventory levels.

(c) Provide adequate safeguards for protection.

(d) Maintain adequate quantity controls for effective management over all inventories, including those not under financial controls.

(e) Assure maximum efficient utilization and avoid waste.

(f) Maintain an economical operation.

(g) Standardize inventories to the greatest extent practicable.

§ 109-27.001-51 Definitions.

As used in this part the following definitions apply:

(a) "Construction inventories" are supplies, materials and parts held for exclusive use on construction projects.

(b) "Economic order quantity (EOQ)" means the size of the order which produces a level at which the combined costs of procuring and carrying inventory are at a minimum.

(c) "Expensed inventories" are items for which the cost is charged to operations and are not under financial control.

(d) "Inventories" are stocks of stores, construction, special reactor and other special materials, supplies and parts used in support of DOE programs.

(e) "Inventory level," usually expressed in the number of months supply on hand based on anticipated usage, is the maximum amount of supplies authorized to be on hand and due-in less any amount due-out.

(f) "Inventory management" means the effective use of methods, procedures and techniques for recording, analyzing, evaluating, adjusting, and regulating inventories in accordance with established policy. The following related functions are included:

(1) Providing adequate protection against misuse, theft, and misappropriation.

(2) Providing proper analyses of quantities to determine their turnover so that only minimal obsolescence losses will be encountered.

(3) Providing accurate analyses of quantities to determine requirements and adequate inventory levels to meet program schedules.

(4) Providing adequate and accessible storage facilities and services based upon analyses of program requirements so that a minimum and economical amount of time is required to service the program.

(g) "Other special materials" include precious metals and other rare materials having a very high monetary value in relation to volume or weight, special barrier materials, and any others that have been specifically approved by the Controller.

(h) "Physical inventory" means the process of counting the quantities of items on hand and reconciling quantities counted with the quantities shown on control records.

(i) "Quantity control" means the management of inventories through control of levels, determination of requirements, and replenishment of stock.

(j) "Safety stock" is that portion of inventories under stock control carried for protection against stock depletion due to an increase in demand or when lead time is greater than anticipated.

(k) "Shop, bench, cupboard or site stock" is a collection or store of materials located at or near the point of use.

(l) "Special reactor materials" include special materials approved for research and for use in reactors but not generally available through the usual channels in sufficient quantity because of limited commercial production applications.

(m) "Standardization" is the reduction of stores inventories to the least practicable variety of sizes, shapes and materials compatible with program needs.

(n) "Stock record" is a device for collecting, storing, and providing historical data on recurring transactions for each line item of inventory. The stock record of a line item may be a visible register or transactions recorded by hand or by machine for that item, or it may be the input, output, stored data, or the corresponding print-out of such data representing transactions on the item in an electronic data processing system.

(o) "stores catalog" means a listing of stock items for use in requisitioning supplies and materials.

(p) "Sub-store" is a geographically removed part of the main store's operation conducted as a subordinate element of it and subject to the same management policies and inventory controls.

§ 109-27.001-52 Evaluation of stores inventory management.

(a) Comparison of investment in stores inventories to annual issues shall be made to assure that minimum inventories are maintained for the support of programs. This comparison may be expressed either as a turnover ratio (issues divided by dollar value of inventory) or in the average number of months' supply on hand. Turnover or number of months' supply is calculated only on "current-use" (for issue) inventory.

(b) Performance goals, in terms of months' investment or turnover ratio, are established for each stores using activity and shall take into account the application of EOQ and other management practices. The evaluation of stores inventory management at each level shall take into account the current number of months' investment or turnover ratio, particularly in relation to the goal established for each such activity.

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Subpart 109-27.1—Stock Replenishment

§ 109-27.102 Economic order quantity principle.

§ 109-27.102-1 Applicability.

Procedures and practices shall be established for replenishment of stock items having recurring demands to minimize costs involved. Guidelines for implementing the EOQ principle of stock replenishment are described in the GSA Handbook, "The Economic Order Quantity Principle and Application," issued by the General Services Administration. When considered more suitable, contactors may use any of the other generally accepted approaches to EOQ.

Subpart 109-27.2—Management of Shelf-Life Materials

§ 109-27.202 Applicability.

Procedures and practices shall be established for managing shelf-life items to minimize loss and ensure maximum use prior to deterioration. FPMR 101-27.2 prescribes principles and objectives for such a program. When considered more suitable, contractors may use any other generally accepted approach to the management of shelf-life items.

Subpart 109-27.3—Maximizing Use of Inventories

§ 109-27.302 Applicability.

Procedures and practices shall be established for maximizing use of inventories. FPMR 101-27.3 prescribes policies and procedures to assure maximum use of inventories based upon recognized economic limitations. When considered more suitable, contractors may use any other generally accepted approach to maximizing use of inventories.

Subpart 109-27.4—Elimination of Items From Inventory

§ 109-27.402 Applicability.

Procedures and practices shall be established for eliminating from inventory items that can be obtained more economically from readily available sources on a timely basis. FPMR 101-27.4 provides policies and procedures for such a program. When considered more suitable, contractors may use other generally accepted approaches to determine which items should be retained in inventory.

Subpart 109-27.5—Return of GSA Stock Items

§ 109-27.500-50 Policy.

Procedures and practices shall be established to provide for the return of GSA stock items for credit when such action is feasible and economical and consistent with DOE program needs.

Subpart 109-27.50—Inventory Management Policies, Procedures, and Guidelines

§ 109-27.5001 Scope of subpart.

This subpart supplements FPMR Part 101-27 by providing additional policies, principles and guidelines for the economical and efficient management of inventories in support of DOE programs.

§ 109-27.5002 Stock control.

§ 109-27.5002-1 General.

Stock control shall be maintained on the basis of stock record accounts of inventories on hand, on order, received and issued, and supported by proper documents in evidence of these transactions. Stock record accounts shall be susceptible to review and inspection.

§ 109-27.5002-2 Criteria.

Effective quanity control shall be maintained over inventories not under financial control. Ordinarily, when such items are warehoused or stored for an extended period (generally 90 days or more), the controls should include stock cards, bin cards, or other suitable records showing usage and quantities on hand. Bench or cupboard stocks at individual work stations may sometimes temporarily exceed 90 days' requirements with justification, and it is not intended that these be subjected to quantity control stock records.

§ 109-27.5002-3 Construction inventories.

Stock control for construction inventories shall be maintained by the regular checking of individual items to assure that the quantities ordered plus amounts on hand do not exceed current job requirements. To test the effectiveness of such checks, they should be supplemented with DOE reviews of inventory items on a selective basis at approximately the 25 percent, 50 percent, and 75 percent construction completion stages. Undelivered portions of purchase orders, which these checks and reviews indicate are not needed to complete the project, should be canceled.

§ 109-27.5003 Guide levels for construction inventories.

To ensure that inventories maintained for construction programs and activities are reasonable, the following standards are established as guides (variations may be used where it is established by field organizations that they will more effectively or economically assure that inventory levels are held to the amounts required to complete the construction project):

(a) Ordinary construction materials and supplies readily available from commercial sources and not available from Government excess stocks permit phasing of deliveries and cancellation of undelivered quantities that may prove excess to project requirements. The onhand inventory of such materials generally should not exceed a three or four months' supply at the anticipated usage rates.

(b) Ordinary construction materials and supplies readily obtainable from Government excess stocks should be procured only in the amounts estimated to complete the construction project.

(c) Items obtained in bulk quantities that do not lend themselves to direct charge treatment, and which are obtainable only by special manufacturer or fabrication, should be limited to the estimates of requirements to complete the project as determined by a take-off from plans and specifications, except as outlined in (d) below.

(d) Inventory levels in excess of estimates to complete the project should be confined to items so unusual in character or unique to the DOE program that they are obtainable only by special manufacture and will be required for maintenance purposes or for operation of the completed plant.

§ 109-27.5004 Sub-stores.

(a) Sub-stores shall be established when necessary in isolated or remote locations to expedite delivery of materials and supplies to the users, serve emergencies, provide economy in transportation, reduce shop and site stocks, and enable stores personnel to assist personnel in obtaining materials and supplies as needed.

(b) Items stored for issue in the sub-stores shall be treated as inventory items for control and reporting purposes. Stock records shall be integrated with central stock records so that the total amount on hand of any item at all locations is known.

§ 109-27.5005 Shop, bench, cupboard or site stock.

(a) Shop, bench, cupboard or site stocks are an accumulation of small inventories of fast-moving materials at the point of use. Normally, these inventories are expensed. However, when stocks of such inventories are not consumed or do not turn over in a reasonable period of time, which normally should not exceed 30 to 90 days, these items should be subject to the required physical controls and recorded in the proper inventory account.

(b) Care shall be exercised to prevent excessive accumulation of inventories at such points. As a control measure, requisitions should be

screened against issue data as reflected in stock records at the supply point. Also, work orders, retirement notices, minor construction projects, maintenance programs, and research and experimental projects, involving removal and dismantling should be reviewed and screened to prevent excessive inventories at point of use. However, the most effective control at point of use may be effected by administrative action through visual examination of quantities on hand, and close supervisory control and training of persons who requisition materials and supplies.

§ 109-27.5006 Standardization of stores items.

Stores items shall be standardized to the greatest extent practicable, taking into consideration the minimum requirements of the users, the need to follow good purchasing practices, the limitations of competitive bidding in specifying proprietary items, the availability of excess, and other limiting factors. In standardizing stores items, there should be close coordination among the supply, planning and user groups.

§ 109-27.5007 Stores catalogs.

A suitable stores catalog for customer use in requisitioning stores items shall be established for each stores operation. Exceptions to this requirement are authorized where establishment of a catalog is impracticable or uneconomical because of small total value or number of items involved, or temporary need for the facility. To minimize the need for revision, catalog appendices may be used to show standard or average unit prices and various locations of items. Revisions should be made at reasonable intervals.

§ 109-27.5008 Physical inventories.

§ 109-27.5008-1 Procedures.

The following procedures shall be established for taking physical inventory of stocks subjected to quantity controls as well as those under financial control:

(a) Completing an inventory at least once a year.

(b) Reconciling quantities shown by inventory with the stock record cards.

(c) Preparing a report evaluating the effectiveness of inventory control, projection methods, records management, and showing debit and credit adjustments made.

§ 109-27.5008-2 Inventory adjustments.

(a) Discrepancies between physical inventories and stock records shall be adjusted and the supporting adjustment records shall be reviewed and approved by a responsible official at least one supervisory echelon above the supervisor in charge of the warehouse or storage facility. Items on an adjustment report which are not within reasonable tolerances for particular items shall be thoroughly investigated before approval.

(b) Such inventory adjustment reports, when properly approved, support credits to the stock record cards and financial inventory accounts. Adjustment reports shall be retained on file for inspection and review.

§ 109-27.5009 Control of drug substances and potable alcohol.

(a) This section provides policies and procedures for the management of drug substances and potable alcohol.

(b) The term "controlled substance" means any drug or substance which has been assigned a "Bureau of Controlled Substance Code Number" as published in 21 CFR 1308—Schedule of Controlled Substances.

(c) Effective procedures and practices shall be established for the management and physical security of controlled substances and potable alcohol to the point of use. Such procedures shall, as a minimum, provide for (1) safeguarding, (2) proper use, (3) adequate records, and (4) compliance with applicable laws and regulations, whether such items are used in laboratories for research, instruction, experiments, analysis, medical purposes, or otherwise. Controls of potable alcohol shall be maintained on quantities of one quart and above.

(d) Effective procedures and practices shall be established for the management and physical security of hypodermic needles to prevent illegal use. Controls shall include prior signed supervisory approval for issue, and storage in locked repositories, and the needles shall be made useless upon disposal.

§ 109-27.5010 Containers returnable to vendors.

Containers furnished by vendors shall be administratively and physically controlled before and after issuance. Prompt action shall be taken to return such containers to vendors for credit after they have served their intended use.

§ 109-27.5011 Identification marking of metals and metal products.

§ 109-27.5011-1 General.

Metals and metal products shall be identification marked in accordance with applicable Federal standards. This requirement applies to direct charges as well as to items procured for store, shop or floor stock, or for use on construction projects. Additional markings not covered by the Federal standards should be used to show special properties, corrosion data or test data as required. The preferred process is for the marking to be done in the manufacturing process, but it may be applied by jobbers or other vendors when circumstances warrant.

§ 109-27.5011-2 Exception.

Exception to the marking requirement may be made when—

(a) It is necessary to procure small quantities from suppliers not equipped to do the marking;

(b) It would delay delivery of emergency orders; or

(c) Procurement is from DOE or other Federal agency excess.

§ 109-27.5011-3 Federal standards applicable to marking.

(a) Federal Standard 182A(2) "Identification Marking of Nickel and Nickel Base Alloys."

(b) Federal Standard 183B "Continuous Identification Marking of Iron and Steel Products."

(c) Federal Standard 184A "Identification Marking of Aluminum, Magnesium and Titanium."

(d) Federal Standard 185 "Continuous Marking of Copper and Copper Base Alloy Mill Products."

Copies of the above Federal standards can be obtained from the General Services Administration, Federal Supply Service (3 FRI), Washington, D.C. 20407.

Subpart 109-27.51—Management of Equipment Held for Future Projects

§ 109-27.5100 Scope of subpart.

This subpart provides policies, principles and guidelines to be used in the DOE program for the management of equipment held for future projects (EHFFP).

§ 109-27.5101 Definition.

"Equipment Held For Future Projects (EHFFP)" is equipment that is being retained, based on approved economic justifications for retention, (a) for a known future use, i.e., equipment earmarked for use in future approved projects, (b) for a potential use in planned projects, or (c) for potential use in as yet unidentified projects. Ideally, such equipment should fall under (a) or (b) above. However, there may be instances where retention is justified even though the project in which it may be used cannot be identified as in the case where the equipment has been specially fabricated, may be required in the future to confirm experimental results, and has little recovery value other than as scrap. This classification excludes spare equipment retained as backup for equipment in service or equipment placed in equipment pools, (classified as "In Service") and spare and other equipment consti-

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tuting a part of the facilities in standby (classified as "Standby").

§ 109-27.5102 Other exclusions.

In addition to the exclusions cited in § 109-27.5101, the following categories of equipment will not be included in EHFFP:

(a) Excess completed plant and equipment.

(b) Equipment classified as "Plant and Equipment Changes in Progress."

§ 109-27.5103 Objective.

The objective of the "Equipment Held for Future Projects" program is to enable management to retain equipment not in use in current programs but which has a known or potential use in future DOE programs while providing visibility on the types and amounts of equipment so retained through review and reporting procedures. It is intended that equipment be retained which is economically justifiable for retention, that it be made available for use by others, and that equipment no longer needed be excessed.

§ 109-27.5104 Storage.

EHFFP will ordinarily be stored in warehouse space allocated for that purpose. However, where considered more appropriate, such equipment may be stored in storage yards or other areas with due consideration to the type of property and protection required.

§ 109-27.5105 Retention.

Equipment not required in current programs may be held for future projects when it is considered by appropriate authorities to be economically justified for retention, considering costs of replacement, storage, obsolescence, deterioration or future availability.

§ 109-27.5106 Justification and review procedures.

Procedures shall be established to provide for the following:

(a) The original decision to classify and retain equipment as EHFFP shall be justified in writing, providing sufficient detail to support the need for retention of the equipment. This justification will cite the project for which retained, the potential use to be made of the equipment or other reasons for retention.

(b) The validity of initial classification of equipment held for future projects shall be reviewed at a level of management one echelon above that of the individual making the initial determination.

(c) Retention of EHFFP shall be rejustified periodically (at least annually) to ensure that original justifications remain valid. These rejustifications will be supported with sufficient detail to support retention.

(d) Periodic rejustifications for retention of EHFFP shall be reviewed at a level of management above that of the individual making the determination to retain the equipment as held for future projects. Procedures should provide for higher level management review at the time the equipment held is extended.

(e) Suitable records shall be maintained by the holding organization to support initial justifications for retaining EHFFP, rejustifications of retention, and periodic reviews conducted by higher levels of management.

§ 109-27.5107 Field organization review.

Heads of field offices and contracting officers shall conduct periodic reviews of validity of justifications for retaining EHFFP, including those of contractors under their jurisdiction. These reviews should include onsite surveys of a representative sample of equipment in this classification.

§ 109-27.5108 Utilization.

It is DOE policy that, where practicable and consistent with program needs, EHFFP be considered as a source of supply to avoid or postpone procurement. Procedures shall be established to provide for—

(a) Distribution within the holding organization of lists of EHFFP to purchasing offices (or some other central screening office) and potential users for screening against requirements prior to procurement;

(b) Exchange of lists of EHFFP which can be made available for loan between organizations involved in the same or similar programs; and

(c) Encouragement of informal contacts between technical personnel and those engaged in similar work at other DOE facilities for the purpose of arranging property loans to meet program requirements.

§ 109-27.5109 Reports.

Instructions for submission of financial data for this report are contained in DOE Order 220, Chapter XI.

Subpart 109-27.52—Management of Spare Equipment

§ 109-27.5200 Scope of subpart.

This subpart provides policy guidance to be used in the management of spare equipment.

§ 109-27.5201 Definition.

"Spare equipment" is equipment held as replacement spares for equipment in current use in DOE programs.

§ 109-27.5202 Exclusions.

The following categories of equipment will not be considered spare equipment:

(a) Equipment installed for emergency backup, e.g., an emergency power facility, or an electric motor or a pump, any of which is in place and electrically connected.

(b) Equipment-like items properly classified as stores inventory.

§ 109-27.5203 Classification.

Equipment retained as replacement spares for plant and equipment in current use shall be classified as Plant and Equipment in Service.

§ 109-27.5204 Management policy.

(a) Procedures shall be established to provide that equipment retained as replacement spares for plant and equipment in current use is identified as spare equipment, that its purpose for retention is known, and that its need for retention is periodically reviewed.

(b) Reviews shall be made based on technical evaluations of the continued need for the equipment, as related to the equipment it backs up. Frequency of review should normally be biennial. In addition, individual item levels shall be reviewed when spare equipment is installed for use, the basic equipment is removed from service, or the process supported is changed.

(c) Procedures shall be established to provide that unneeded equipment is identified, promptly offered for use elsewhere within DOE as excess, or disposed of.

PART 109-28—STORAGE AND DISTRIBUTION

Sec.
109-28.000 Scope of part.
109-28.001-50 Policy.
109-28.001-51 Storage guidelines.

AUTHORITY: Title V, Department of Energy Organizations Act (Pub. L. 95-91). Administrative Procedure Act, as amended (5 U.S.C. 551 et seq.).

§ 109-28.000 Scope of part.

This part implements and supplements FPMR Part 101-28, Storage and Distribution.

§ 109-28.001-50 Policy.

Storage and warehouse services shall be—

(a) Established for the receipt, storage, issued, safekeeping and protection of Government-owned property when advantageous to the Government;

(b) Provided in the most economical and efficient manner through the use of Government-owned facilities, and where necessary available commercial facilities, consistent with program requirements; and

(c) Operated in accordance with generally accepted industrial management practices and principles.

§ 109-28.001-51 Storage guidelines.

(a) Adequate storage facilities shall be provided to ensure the proper safeguarding of all Government property. Facilities required will vary largely between the projects and other activities of the Department. Actual requirements will depend upon such factors as volume of property to be handled, characteristics of commodities to be stored, and nature of the operations.

(1) Indoor storage areas should be arranged to obtain proper stock protection and maximum utilization of space within established floor load capacities, but should be subject to flexibility to provide for periodic changes in specific space requirements. Employees engaged in warehouse and storage operations shall be instructed in safety and fire protection regulations pertaining to these operations.

(2) Storage yards for items not requiring covered protection shall be protected by locked fenced enclosures to the extent necessary to protect the Government's interest. Outside storage areas shall be prominently posted to clearly indicate that the property stored therein is U.S. Government property. Entrance to such areas should be restricted to authorized personnel only.

(b) The following general storage principles shall be observed in the planning for the storage of Government personal property.

(1) Efficient storage demands the maximum utilization of space with a minimum amount of labor. Where practicable, labor should be conserved by use of modern materials handling equipment and storage aids which permit stacking by unit loads rather than by individual container units.

(2) Fast-moving items should be stored in convenient locations from which they can be issued with minimum handling. Stocks of individual items or classes of items should be segregated to facilitate handling, issuing, and inventorying.

(3) Different types of property should be stored according to the kind of protection required. Protection requirements will vary greatly with the types of commodities stocked. All items must be protected from fire and theft. Certain items require protection from dampness, heat, freezing, or extreme temperature changes. Others must be stored away from light and odors, protected from vermin infestation, or, because of their hazardous characteristics, stored separate from other stocks. These factors, as well as maximum protection of property against all causes of deterioration or destruction, must be considered in selecting proper storage locations.

(4) Orderly arrangement is essential to efficient operation of storehouses. All items, whether stored in bins, bays, in bulk, or in original containers should be so arranged that nomenclature and quantity may be readily determined.

(5) Stock rotation is based on the general storage principle of "first in, first out." The fact that many items, such as perishables, food stuffs, medicines, paints, and chemicals are subject to deterioration or infestation, requires that the older stock be issued first.

(6) The safety regulations pertaining to the handling and storage of flammable materials, including bulk storage of gasoline, fuel oil, etc., and explosives are issued by the Department of Labor pursuant to the Occupational Safety and Health Act (PL 91-956). DOE offices and contractors are required to comply with the regulations contained in the Act.

PART 109-29—FEDERAL SPECIFICATIONS AND STANDARDS

Sec.
109-29.000 Scope of part.

Subpart 109-29.1—General

109-29.103 Availability of Federal standardization documents.

AUTHORITY: Title V, Department of Energy Organization Act (Pub. L. 95-91); Administrative Procedure Act, as amended (5 U.S.C. 551 et seq.).

§ 109-29.000 Scope of part.

This part implements and supplements FPMR Part 101-29, Federal Specifications and Standards.

Subpart 109-29.1—General

§ 109-29.103 Availability of Federal standardization documents.

The Index of Federal Specifications, Standards, and Handbooks may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Copies of Federal Specifications and Standards may be obtained as provided in the Index.

PART 109-30—FEDERAL CATALOG SYSTEM

Sec.
109-30.000 Scope of part.
109-30.000-50 Applicability.

Subpart 109-30.5—Maintenance of the Federal Catalog System

109-30.503 Maintenance actions required.

AUTHORITY: Title V, Department of Energy Organization Act (Pub. L. 95-91); Administrative Procedure Act, as amended (5 U.S.C. 551 et seq.).

§ 109-30.000 Scope of part.

This part supplements FPMR Part 101-30, Federal Catalog System.

§ 109-30.000-50 Applicability.

The provisions in FPMR Part 101-30 and this part do not apply to contractors.

Subpart 109-30.5—Maintenance of the Federal Catalog System

§ 109-30.503 Maintenance actions required.

(a) Standard Form 1303, "Request for Federal Cataloging/Supply Support Action," will be used to request cataloging action involving additions, deletions, or revisions. The instructions on the reverse of the form, supplemented as follows, will govern its preparation and submission.

(b) The original and two copies of the completed form shall be sent to GSA for processing. Inquiries concerning policy should be directed to the Procurement and Contracts Management Directorate (PR-221).

SUBCHAPTER F—ADP AND TELECOMMUNICATIONS

PART 109-36—ADP MANAGEMENT

§ 109-36.000 Scope of Part.

Subpart 109-36.3—Reutilization of Automatic Data Processing Equipment and Supplies

Sec.
109-36.300-50 Scope of Subpart.
109-36.302-50 Reassignment of ADPE, and use and reutilization of excess ADPE within DOE.
109-36.303 Reutilization of excess ADPE.
109-36.303-0.50 Reporting excess or exchange/sale ADPE within DOE.
109-36.303-1 Designation of agency ADPE point of contact.
109-36.303-50 Transfer of ADPE within DOE.
109-36.304 Availability list.
109-36.306 Requests for transfer of excess ADPE or exchange/sale ADPE.

Subpart 109-36.47—Reports

109-36.4700 Scope of subpart.
109-36.4702 Reporting excess or exchange/sale ADPE.

AUTHORITY: Title V, Department of Energy Organization Act (Pub. L. 95-91); Administrative Procedure Act, as amended (5 U.S.C. 551 et seq.).

§ 109-36.000 Scope of part.

This part implements and supplements FPMR Part 101-36 as it relates to excess utilization and disposal of Automatic Data Processing Equipment (ADPE). Guidance on other areas, such as resources utilization, acquisition studies, procurement and contracting, and maintenance and repair is or will be published in other parts of the DOE Directives System.

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Subpart 109-36.3—Reutilization of Automatic Data Processing Equipment and Supplies

§ 109-36.300-50 Scope of subpart.

This subpart implements and supplements FPMR Subpart 101-36.3. Policies and procedures relating to acquisition, reassignment, or retention of excess ADPE are contained in policies and procedures established by the Office of the Director of Administration.

§ 109-36.302-50 Reassignment of ADPE, and use and reutilization of excess ADPE within DOE.

Data processing equipment and related services shall not be acquired (purchased or leased) from commercial sources until the necessary approvals have been obtained in accordance with instructions issued by the Office of the Director of Administration.

§ 109-36.303 Reutilization of excess ADPE.

§ 109-36.303-0.50 Reporting excess or exchange/sale ADPE within DOE.

(a) All ADPE, either Government-owned or -leased, which is no longer needed or is scheduled for replacement, shall be made available for utilization within DOE as soon as plans for the release of such equipment are known.

(b)(1) SF 120s for Government-owned ADPE shall be circularized for screening within DOE prior to reporting the item to GSA. The SF 120 shall contain the information required in FPMR 101-36.4702 and, for internal screening purposes, a release date (date of availability). If the release date is not firm, a tentative release date should be given, which would be subject to change until the actual release date is established.

(2) ADPE shall not be reported to GSA as excess until this screening has been accomplished and it has been established that there are no DOE claimants. Concurrent screening within DOE and GSA shall not be done. A minimum of 30 days should be allowed for screening ADPE prior to reporting it to GSA. In those instances where the release date can be determined sufficiently in advance, additional screening time should be allowed to permit maximum time for processing of requests to acquire excess ADPE.

(c) The procedures prescribed in § 109-36.303-0.50(b) shall be followed for leased ADPE. However, when time does not permit sequential DOE and GSA circularization, excess leased ADPE may be circularized concurrently in DOE and GSA to assure earned credits are not lost to the Government. The SF 120 should clearly indicate concurrent screening by DOE and GSA. Where time does not permit assurance that earned credits are not lost to the Government, announcement of availability of excess leased ADPE may be circularized within DOE by teletype (TWX).

(d) SF 120's or teletypes shall be sent to DOE activities listed on the distribution pattern of installations to receive reports of excess as provided in § 109-43.311-1.50. In addition, a copy of each report of excess Government-owned or -leased ADPE shall be provided to the Director of Administration, who will perform an additional screening of excess ADPE against known DOE requirements.

§ 109-36.303-1 Designation of agency ADPE point of contact.

The Director of Administration shall designate the DOE point of contact to carry out the responsibilities contained in FPMR 101-36.303-1.

§ 109-36.303-50 Transfer of ADPE within DOE.

(a) Transfers of excess ADPE having a current market price equal to or greater than that specified for major items as defined in the DOE Program Budget Structure are made pursuant to the requirement for proposals submitted in accordance with instructions from the Office of the Director of Administration.

(b) Transfers of excess ADPE with a current market price of less than that specified for major items shall be approved by the head of the field office and the head of the Headquarters organization having ADPE responsibility for the equipment. However, when more than one request is received, the field office head shall notify the requestors that acquisition proposals prepared in accordance with instructions from the Office of the Director of Administration shall be forwarded to the field office for review. After receipt of all proposals, the field office head shall—

(1) Approve the request for transfer which is judged to be in the best interests of DOE; or

(2) Where this judgment cannot be made locally, forward the proposals to the Director of Administration for action in a manner similar to proposals for equipment having a current market price equal to or greater than that specified for major items.

§ 109-36.304 Availability lists.

The Director of Administration shall develop and maintain distribution patterns for availability lists of excess and exchange/sale ADPE as contemplated in FPMR 101-36.304.

§ 109-36.306 Requests for transfer of excess ADPE or exchange/sale ADPE.

The Director of Administration, heads of field offices, the Administrator, Energy Information Administration and contracting officers are authorized to sign Standard Form (SF) 122, Transfer Order Excess Personal Property, after appropriate approvals, involving requests for transfer of excess or exchange/sale ADPE, as required by FPMR 101-36.306(a). This authority may be redelegated to DOE personnel under their jurisdiction.

Subpart 109-36.47—Reports

§ 109-36.4700 Scope of subpart.

This subpart implements and supplements FPMR subpart 101-36.47 as it relates to reporting excess or exchange/sale ADPE to GSA.

§ 109-36.4702 Reporting excess or exchange/sale ADPE.

Excess Government-owned or leased ADPE and exchange/sale ADPE shall be reported to GSA on Standard Form (SF) 120, Report of Excess Personal Property, in accordance with the requirements of FPMR 101-36.4702. No provision is made in FPMR 101-36.4702 for the use of a TWX as a substitute for the SF 120 in reporting excess ADPE to GSA. When a TWX is used to report excess leased ADPE to GSA, it shall be followed up with an SF 120 to GSA, providing appropriate cross-reference information.

SUBCHAPTER G—TRANSPORTATION AND MOTOR VEHICLES

PART 109-38—MOTOR EQUIPMENT MANAGEMENT

Sec.

109-38.000 Scope of part.
109-38.000-50 Policy.

Subpart 109-38.0—Definition of Terms

109-38.001 Definitions.

Subpart 109-38.1—Reporting Motor Vehicle Data

109-38.100-1 Reporting forms.
109-38.102 Preparation of forms.
109-38.102-2 Reporting domestic and foreign vehicles.
109-38.102-50 Supplementary data reports.

Subpart 109-38.2—Registration and Inspection

109-38.202-50 Registration in foreign countries.
109-38.202-51 Shipment to foreign countries.

Subpart 109-38.3—U.S. Official Government Tags

109-38.302 Records.
109-38.303 Procurement.
109-38.305 Display, assignment and removal of U.S. Government tags.
109-38.305-3 Removal.

Subpart 109-38.4—Offical Legend and Agency Identification

109-38.404 Procurement of decalcomanias.

Subpart 109-38.6—Exemptions From Use of Official U.S. Government Tags and Other Identification

109-38.602 Unlimited exemptions.
109-38.602-50 Department of Energy exemptions.
109-38.605 Additional exemptions.
109-38.606 Approval of tag requests for exempted vehicles in the District of Columbia.
109-38.607 Report of exempted motor vehicles.

Subpart 109-38.7—Transfer of Title to Government-Owned Motor Vehicles

109-38.701 Methods of transfer.
109-38.701-50 Delegation of authority to sign Standard Forms 97 and 97A.

Subpart 109-38.9—Motor Vehicle Replacement Standards

109-38.900-50 Policy.
109-38.907 Fleets.
109-38.908 Exception.
109-38.908-50 Prompt disposal of replaced passenger vehicles.

Subpart 109-38.10—Scheduled Maintenance of Motor Vehicles

109-38.1002 Agency requirements.
109-38.1003 Guidelines.
109-38.1005 Assistance to agencies.

Subpart 109-38.12—Preparation and Control of Standard Form 149, U.S. Government National Credit Card

109-38.1200 General.
109-38.1201 Billing Code.
109-38.1202 Administrative control of credit cards.

Subpart 109-38.13—Energy Conservation in Motor Vehicle Management

109-38.1304 Mandatory provisions affecting the acquisition and use of all motor vehicles.
109-38.1304-50 Selection of type of motor vehicles.
109-38.1305 Mandatory provisions affecting the acquisition, use, and replacement of motor vehicles.
109-38.1306 Acquisition of fuel-efficient passenger automobiles.
109-38.1350 Conservation of motor vehicle fuels.

Subpart 109-38.49—Form and Reports

109-38.4950 Acquisitions and disposals by transfer.
109-38.4951 Special purpose vehicles.
109-38.4952 Supplemental age and mileage analysis.

Subpart 109-38.50—Utilization of Motor Vehicles

109-38.5000 General.
109-38.5001 Utilization practices.
109-38.5002 Use objectives for motor vehicles.
109-38.5003 Application of use goals.

Subpart 109-38.51—Acquisition of Motor Vehicles

109-38.5100 General requirements.
109-38.5101 Authority required for purchase or hire of passenger motor vehicles.
109-38.5101-1 Statute.
109-38.5101-2 Administration of the requirements of the statute with respect to acquisition of passenger motor vehicles.
109-38.5101-3 Administration of the requirements of the statute with respect to the hire or loan of passenger motor vehicles.
109-38.5101-4 Limitation on unit cost of sedans and station wagons.
109-38.5101-5 Passenger motor vehicle allocations.
109-38.5102 Procurement.

Subpart 109-38.52—Aircraft

109-38.5200 Scope of subpart.
109-38.5201 Definitions.
109-38.5202 General.
109-38.5203 Aircraft safety.
109-38.5204 Pilot responsibility and authority.
109-38.5205 Acquisition of aircraft.
109-38.5205-1 Statute.
109-38.5205-2 Approval requirements.
109-38.5205-3 Acquisition from excess sources.
109-38.5205-4 Notification of acquisition authorization.
109-38.5206 Management responsibility.
109-38.5207 Registration and identification.
109-38.5208 Airworthiness.
109-38.5209 Maintenance.
109-38.5210 Operation.
109-38.5211 Records.
109-38.5212 Reports.

Subpart 109-38.53—Cost Reductions Obtainable Through Cross-Servicing Arrangements for Motor Vehicle Fuel and Oil

109-38.5300 Scope of subpart.
109-38.5301 Submission of reports.

Subpart 109-38.54—Official Use of Motor Vehicles and Aircraft

109-38.5400 Scope of subpart.
109-38.5401 Statutory requirement.
109-38.5402 Policy.
109-38.5403 Official purposes.
109-38.5404 Approval of authorizations.
109-38.5405 Duration of authorizations.
109-38.5406 Use of a motor vehicle to drive to residence at start of official travel.
109-38.5407 Use of Government-owned or furnished motor vehicles in travel status.
109-38.5408 Use of Government-owned or leased bus systems.
109-38.5409 Use of Government motor vehicles in emergencies.
109-38.5410 Use of motor vehicles by the Postal Service.
109-38.5411 Instructions to motor vehicle operators.

AUTHORITY: Title V, Department of Energy Organization Act, (Pub. L. 95-91); Administrative Procedure Act, as amended (5 U.S.C. 551 et seq.).

§ 109-38.000 Scope of part.

This part implements and supplements FPMR Part 101-38 concerning the management of motor equipment, vehicles and aircraft.

§ 109-38.000-50 Policy.

Necessary motor equipment, vehicles and aircraft shall be provided, maintained and utilized in support of DOE programs in the most practical and economical manner consistent with program requirements, safety considerations, fuel economy and applicable laws and regulations.

Subpart 109-38.0—Definition of Terms

§ 109-38.001 Definitions.

As used in this part the following definitions apply:

(a) "Motor equipment" means any item of equipment which is self-propelled or drawn by mechanical power, including motor vehicles, motorcycles and scooters, construction and maintenance equipment, materials handling equipment, aircraft and vessels.

(b) "Motor vehicle" means any equipment, self-propelled or drawn by mechanical power, designed to be operated principally on the highways in the transportation of property or passengers. This includes both motorcycles and motor scooters.

(c) A "replacement off-set" is an authorization to one field office to acquire a new passenger motor vehicle to replace an old passenger motor vehicle which is excess to another field office. The transaction does not require the physical transfer of the excess vehicle, but it is limited to a documentary transfer.

(d) "Special purpose vehicles" have limited but essential missions. They cannot be used generally to carry passengers, freight or other material. Trucks with permanently mounted equipment—such as fire trucks, special tank trucks, wreckers and trucks with compressors or generators in fixed mounting on the body may be classified as special purpose trucks. Vehicles other than sedans and station wagons which are to be used only during a defined or specified contingency, such as evacuation or other similar emergency, may also be classified as special purpose vehicles. For reporting purposes within DOE, motorcycles and motor scooters will also be reported as special purpose vehicles.

(e) "Experimental vehicles" are those acquired solely for testing and research purposes or otherwise designated for experimental purposes. Such vehicles are to be the object of testing and research as differentiated from those used as vehicular support to testing and research. Experimental vehicles are not to be used as passenger

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carrying vehicles, and they are not subject to statutory price limitations or to authorization limitations.

Subpart 109-38.1—Reporting Motor Vehicle Data

§ 109-38.100-1 Reporting forms.

(a) Organizations operating motor vehicles shall provide the following reports:

(1) Agency Report of Motor Vehicle Data, Standard Form 82 (SF-82).

(2) Agency Report of Sedan Data, Standard Form 82-D (SF 82-D).

(3) Supplementary Data Reports:

(i) Acquisitions and Disposals by Transfer (§ 109-38.4950)

(ii) Special Purpose Vehicles (§ 109-38.4951)

(iii) Supplemental Age and Mileage Analysis (§ 109-38.4952).

(b) One copy of each of the above reports shall be submitted to the Procurement and Contracts Management Directorate (PR-221) by the 21st working day following September 30 of each year.

(c) Each field office and reporting Headquarters organization shall submit consolidated reports on all vehicles for organizations under their jurisdiction and, attached thereto, the separate reports for each field organization, multi-program laboratory and contractor which submits a Budget Schedule 81 to Headquarters.

(d) Where authorized by the Procurement and Contracts Management Directorate (PR-221) the reports shall be submitted in mechanized form in accordance with separate instructions for the preparation of mechanized reports.

§ 109-38.102 Preparation of forms.

(a) Costs in the Standard Forms shall be shown in dollars (not rounded to thousands).

(b) Narrative comments shall be submitted in connection with these reports. The comments shall include (1) a comparison of statistical information between fiscal years, (2) an explanation of any significant changes between years, and (3) any other information that will assist in the interpretation of data contained in the reports.

§ 109-38.102-2 Reporting domestic and foreign vehicles.

Separate SF-82's and supplementary data forms shall be prepared for vehicles located (a) in the United States, including territories and possessions, and (b) in a foreign country.

§ 109-38.102-50 Supplementary data reports.

(a) Supplementary Data on Acquisitions and Disposals by Transfer, in the format illustrated in § 109-38.4950, shall be submitted with each SF-82. The purpose of the supplementary data on acquisition and disposal is to identify the number of motor vehicles transferred (1) between DOE and other agencies, (2) between DOE activities, (3) from one vehicle type to another by reclassification, and (4) to permit reporting of the actual number of vehicles acquired or disposed of by DOE.

(b) Supplementary data on age and mileage of sedans and light trucks, less than 12,500 pounds (one ton and under), 4 x 2, shall be reported in the format illustrated in § 109-38.4952. This supplementary data shall be submitted only for those sedans and light trucks, 4 x 2, listed in the SF-82 submitted in accordance with § 109-38.100-1.

(c) Supplementary data on Special Purpose Vehicles shall be reported in the format illustrated in § 109-38.4952. For the purpose of this report, contaminated vehicles shall be reported as special purpose.

Subpart 109-38.2—Registration and Inspection

§ 109-38.202-50 Registration in foreign countries.

Motor vehicles used in foreign countries are to be registered and carry license tags in accordance with the existing motor vehicle regulations of the country concerned.

§ 109-38.202-51 Shipment to foreign countries.

(a) When motor vehicles are being shipped for use in a foreign country, the desk officer or individual handling the affairs pertaining to that country in the Department of State shall be contacted before shipment is made for information concerning the licensing and shipping of the vehicle.

(b) The person responsible for, and expected to use, a motor vehicle in a foreign country shall make inquiry at the United States Embassy, Legation, or Consulate concerning the regulations that apply to registration, licensing, and operation of motor vehicles and shall be guided accordingly.

Subpart 109-38.3—U.S. Official Government Tags

§ 109-38.302 Records.

(a) The Director of Procurement and Contracts Management assigns "blocks" of U.S. Government tag numbers to DOE organizations and maintains a current record of such assignments. Additional "blocks" will be assigned upon request.

(b) Each Departmental organization shall maintain a current record of individual assignments of tags to the motor vehicles under its jurisdiction as required by FPMR 101-38.302.

§ 109-38.303 Procurement.

The procedures for procuring official Government tags by DOE activities are covered in DOE-PR 9-5.5206-9.

§ 109-38.305 Display, assignment and removal of U.S. Government tags.

§ 109-38.305-3 Removal.

Necessary controls shall be established to ensure that tags which are voided shall be destroyed or defaced to prevent their reuse.

Subpart 109-38.4—Official Legend and Agency Identification

§ 109-38.404 Procurement of decalcomanias.

The official legend and agency identification for DOE shall be of elastomeric pigmented film type decalcomania which are currently standardized DOE Form 597. The form shall be requisitioned from the Office of the Director of Administration (AD-472), on a regular six-month basis.

Subpart 109-38.6—Exemptions From Use of Official U.S. Government Tags and Other Identification

§ 109-38.602 Unlimited exemptions.

§ 109-38.602-50 Department of Energy exemptions.

(a) Exemptions from the requirements for the display of Federal license tags and other official identification may be approved by heads of field offices or the Director of Administration for motor vehicles under their cognizance which are used in the conduct of security operations or in the enforcement of security regulations of the DOE.

(b) The requirements for displaying Federal license tags on the front and rear of all motor equipment is modified in the case of trailers to require tags in the rear only.

(c) The requirements for the display of Federal license tags and other identification does not apply to motor vehicles used in foreign countries, Trust Territories, or the Pacific Test Areas (see FPMR 101-38.202 and § 109-38.202-50).

§ 109-38.605 Additional exemptions.

(a) Requests made pursuant to FPMR 101-38.605 for exemption from the requirement for displaying U.S. Government tags and other identification on motor vehicles which are not within the criteria in FPMR 101-38.602 shall be submitted through normal administrative channels to the Procurement and Contracts Management Directorate (PR-221). Each such request shall describe the vehicle for which exemption is sought, the nature of the work on which it is used, and include a certification to the effect that conspicuous identification would interfere with such use.

(b) The Director of Procurement and Contracts Management shall be notified promptly when—

(1) The need for a previously authorized exemption no longer exists;

(2) An exempted motor vehicle is rotated to other work not requiring continued exemption; or

(3) An exempted motor vehicle is replaced by another vehicle, in which case the notification shall include a description of the replacement vehicles.

(c) Copies of certifications and cancellation notices required to be furnished to GSA pursuant to FPMR 101-38.605 will be transmitted to GSA by the Director of Procurement and Contracts Management.

§ 109-38.606 Approval of tag requests for exempted vehicles in the District of Columbia.

The Director of Administration is designated as the DOE Liaison Representative to approve requests for regular District of Columbia tags for Headquarters motor vehicles exempted from carrying U.S. Government tags and other official identification, and furnishes annually to the District of Columbia Department of Motor Vehicles the name and specimen signature of each representative authorized to approve such requests.

§ 109-38.607 Report of exempted motor vehicles.

The Director of Administration, heads of field offices and other contracting officers or their designees shall maintain records of motor vehicles exempted from displaying Federal license tags and other identification which will permit the submission of reports by the Director of Procurement and Contracts Management upon request of GSA in accordance with FPMR 101-38.607. The records shall contain a listing by type of each exempted vehicle operated during the previous fiscal year, giving the information for each vehicle on hand at the beginning of the year and each of those newly authorized during the year, including—

(a) By whom exemption was authorized, by name and title of authorizing official (including any authorization by Headquarters and GSA);

(b) Date exemption was authorized;

(c) Reasons for exemptions and limitations on uses of the exempted vehicle;

(d) Date of discontinuance for any exemption discontinued during the year; and

(e) Probable duration of exemption for vehicles continuing in use.

Subpart 109-38.7—Transfer of Title to Government-Owned Motor Vehicles

§ 109-38.701 Methods of transfer.

(c) The certificates and copies of Certificate of Release of a Motor Vehicle (SF's 97 and 97A) shall be numbered consecutively by each DOE organization disposing of motor vehicles.

§ 109-38.701-50 Delegation of authority to sign Standard Forms 97 and 97A.

(a) Heads of DOE organizations may delegate the authority to sign SF's 97 and 97A to responsible DOE personnel under their jurisdiction. The name of the officer delegated to sign will be typed on the certificate in addition to the signature in ink.

(b) All DOE organizations shall establish proper controls to prevent blank copies of SF's 97 and 97A from being obtained by unauthorized persons.

Subpart 109-38.9—Motor Vehicle Replacement Standards

§ 109-38.900-50 Policy.

It is the policy of DOE to continue in service motor vehicles which meet prescribed replacement standards, but which are in usable and workable condition, provided that—

(a) A continued need exists for the vehicle;

(b) The vehicle can be operated safely and dependably without excessive repair and maintenance costs. Normally, when any single repair job exceeds 25 percent of the estimated current market value of a vehicle, consideration should be given to replacement in lieu of repair and retention;

(c) Repair parts are readily obtainable; and

(d) Retention will not substantially reduce the trade-in value of the vehicle.

§ 109-38.907 Fleets.

(a) The replacement limitations cited in FPMR 101-38.907 are applicable to each of DOE's field offices and may not be exceeded.

(b) For replacement purposes, fleet vehicles are classified as follows:

(1) Automobiles (sedans and station wagons)

(2) All other passenger vehicles (ambulances, buses)

(3) All trucks and truck tractors.

(c) To be replaced, vehicles must meet age and mileage standards shown in FPMR 101-38.9.

§ 109-38.908 Exceptions.

After certification by the appropriate head of the field office, or the head of the appropriate Headquarters organization, that a motor vehicle is beyond economical repair due to wreck or damage, including wear caused by abnormal operating conditions, it may be replaced without regard to replacement standards in FPMR 101-38.9.

§ 109-38.908-50 Prompt disposal of replaced passenger vehicles.

Because of the limitation on the total number of passenger vehicles which DOE may have, replaced passenger vehicles shall be removed from service and disposed of prior to or as soon as practicable after delivery of the replacement equipment to avoid concurrent operation of both vehicles. Because of disposal problems, there may be occasions where quick disposal of the old equipment may not be feasible or advantageous to the Government, e.g., it may be determined that there is an insufficient number for economical sale or that sale would bring substantially better prices at a later date because of seasonal effects on sale prices. Under such circumstances, retention of the replaced passenger vehicle may be justified. However, such retention may not be used as justification for concurrent operation of the new and replaced vehicles.

Subpart 109-38.10—Scheduled Maintenance of Motor Vehicles

§ 109-38.1002 Agency requirements.

All DOE organizations responsible for Government-owned motor vehicle and equipment operations shall establish a scheduled maintenance program.

§ 109-38.1003 Guidelines.

(a) In line with the basic maintenance policy in FPMR 101-38.10, the scheduled maintenance program for motor vehicles and equipment shall consist of a systematic written procedure for servicing and inspection to ensure safe, efficient and economical operation throughout the period of use and to meet warranty requirements. Maintenance procedures shall be reviewed by the field offices at least annually and revised as necessary to reflect approved changes.

(b) Motor vehicles and equipment shall be maintaned in accordance with the manufacturers' recommended specifications.

(c) Whenever practicable, existing Government shops and service facilities shall be consolidated or commercial shops and services shall be utilized to reduce to a minimum the maintenance facilities and equipment, supplies, parts, stocks and overhead costs.

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(d) Maintenance also shall be geared to a planned replacement program. Individual jacket files shall be kept and made readily available to appropriate maintenance personnel to provide historical records of past repairs, as a control against unnecessary repairs and overmaintenance, and as an aid in determining the most economical time for replacement.

(e) One-time maintenance and repair limitations shall be established by heads of field offices. To exceed repair limitations, approval from heads of field offices is required, particularly as the time of replacement approaches.

(f) Adequate maintenance schedules shall be provided to accomplish the following objectives in the most economical manner:

(1) To maintain equipment in safe and economical operating condition.

(2) To prevent equipment failures resulting in program delays and excessive downtime.

(3) To prevent premature wear and deterioration.

(4) To prevent undue depreciation.

(5) To conserve materials and manpower.

(g) A "Guide for Preventive Maintenance of Motor Vehicles," published by GSA, is available for the guidance of all those responsible for maintenance of Government-owned motor vehicles.

(h) *Warranties.* (1) Special attention shall be devoted to the warranty on each motor vehicle to ensure that maximum benefits are realized from each warranty. Defective materials and workmanship on vehicles under warranty should be corrected under the terms of the warranty to avoid maintenance and repair of such vehicles at Government expense.

(2) When motor vehicles are maintained in Government shops in isolated locations that are distant from franchised dealer shops, or when it is not practical to return the vehicles to a dealer, billback agreements shall be sought from manufacturers to permit warranty work to be performed in Government shops on a reimbursable basis. GSA's "New Vehicle Guide, Warranty, Delivery Acceptance and Recall of Motor Vehicles," provides guidance on the procedures to be followed in the development of billback agreements as well as other aspects of motor vehicle warranties.

§ 109-38.1005 Assistance to agencies.

GSA is prepared to furnish comments and suggestions with respect to scheduled maintenance programs and, at no cost, will make motor equipment management technicians available to assist in establishing or reviewing preventive maintenance programs. Requests for GSA assistance should be made to the Procurement and Contracts Management Directorate (PR-221) through normal administrative channels.

Subpart 109-38.12—Preparation and Control of Standard Form 149, U.S. Government National Credit Card

§ 109-38.1200 General.

FPMR 101-26.406 authorizes the use of Standard Form 149, U.S. Government National Credit Card for Federal agencies for obtaining service station deliveries and services. The use of SF-149 by each field organization within DOE is optional. When a field organization elects to use the form, it shall be used on a field organization basis. Procedures concerning the methods to obtain credit cards shall be as specified in FPMR 101-26.406-5.

§ 109-38.1201 Billing Code.

DOE organizations shall request the assignment of billing address code numbers from the Procurement and Contracts Management Directorate (PR-221). Following the assignment, DOE organizations shall submit orders for issuance of national credit cards in accordance with FPMR 101-26.406-5. The billing code consists of the following:

(a) The first three digits of the 10-digit billing code embossed on national credit cards in use by DOE will always be 000.

(b) The fourth digit may be used by DOE organizations and contractors to designate the vehicle class or provide additional billing code numerals. If not used for either of these purposes, zero will be used.

(c) The fifth and sixth digits will be "89," the agency code assigned to DOE.

(d) The seventh, eighth, and ninth digits indicate the billing address code number.

§ 109-38.1202 Administrative control of credit cards.

(a) In the event an SF-149 is lost or stolen, reasonable precautions shall be taken to minimize the opportunity of purchases being made by unauthorized persons. The following actions shall be taken as a minimum:

(1) The paying office shall be notified of the loss or theft and to be on the alert for any unauthorized bills.

(2) Appropriate service station outlets in the area shall be notified of the loss or theft to guard against purchases by unauthorized persons.

(b) The head of each office using credit cards shall be responsible for establishing procedures to provide for the administrative control of credit cards in accordance with the guidelines set forth in FPMR Part 101-38.

Subpart 109-38.13—Energy Conservation in Motor Vehicle Management

§ 109-38.1304 Mandatory provisions affecting the acquisition and use of all motor vehicles.

(c) The use of motor vehicles for official purposes within DOE is governed by the provisions of DOE Subpart 109-38.55.

§ 109-38.1304-50 Selection of type of motor vehicles.

(a) All vehicles acquired for use, whether by purchase, hire, lease, forfeiture or transfer from another agency, shall be limited to the minimum body size, engine size, maximum fuel efficiency, and to only that operational equipment (if any) necessary to fulfill programmatic needs.

(b) The least expensive unit overall should be used, considering both acquisition and operating costs for units to be purchased, and rental rates for rented or leased units.

(c) Dual purpose vehicles capable of hauling both personnel and light cargo shall be used whenever appropriate to avoid the need for two vehicles when one can serve both purposes. However, truck-type or van vehicles shall not be acquired for passenger use merely to avoid limitations on the number of passenger vehicles which may be acquired.

(d) Motor scooters and motorcycles in place of higher cost motor vehicles can be used advantageously for certain applications within plant areas, such as mail and messenger service and small parts and tool delivery. Their advantage, however, should be weighed carefully from the standpoint of overall economy (comparison with costs for other types of motor vehicles) and increased safety hazards, particularly when mingled with other motor vehicle traffic.

(e) Electric vehicles may be used advantageously for certain applications. The use of these vehicles is encouraged wherever it is feasible to use them to further the goal of fuel conservation.

§ 109-38.1305 Mandatory provisions affecting the acquisition, use, and replacement of motor vehicles.

Requests to acquire passenger automobiles larger than class 1A, 1B or II shall be forwarded with justifications through normal administrative channels to the Procurement and Contracts Management Directorate (PR-221) for certification to GSA.

§ 109-38.1306 Acquisition of fuel-efficient passenger automobiles.

(a) DOE shall comply with the requirements established by the Energy Policy and Conservation Act (Pub. L. 94-163, 42 U.S.C. 6201, Sec. 510) and Executive Order 12003, "Relating to Energy Policy and Conservation," and current GSA implementation concerning the acquisition of fuel efficient motor vehicles.

(b) Offices conducting motor vehicle operations shall forward annually (on or before November 1) to the Procurement and Contracts Management Directorate (PR-221) their plan for acquisition of motor vehicles for the next fiscal year. This plan shall conform to the fuel efficiency standards for motor vehicles for the applicable fiscal year, as established by Executive Order 12003 and as implemented by GSA and current DOE directives. Additional guidance for the preparation of the plan will be issued by the Procurement and Contract Management Directorate (PR-221) as required. This organization shall also review each submission for conformance with established fuel efficiency standards and shall forward to GSA the Departmental consolidated annual motor vehicle acquisition forecast.

(c) Requisitions for the purchase of these motor vehicles shall be forwarded to the Procurement and Contracts Management Directorate (PR-221) for review, certification and submission to GSA.

(d) Proposals/requests for commercially leased passenger automobiles, for a period of 60 continuous days or more, shall be forwarded to the Procurement and Contracts Management Directorate (PR-221) for review and certification prior to entering into an agreement to lease in order to comply with Executive Order 12003 as implemented by GSA.

§ 109-38.1350 Conservation of motor vehicle fuels.

In furtherance of the President's announced energy conservation objectives, each organization within DOE shall establish programs which will ensure achievement of the reduced motor vehicle fuel consumption objectives. The following actions shall be adopted to achieve the conservation goals of reduced motor vehicle fuel consumption:

(a) Do not idle engine for long periods of time. Limit idle time to one minute when the vehicle is parked.

(b) Reduce motor vehicle travel to the maximum extent practicable without jeopardizing essential business.

(c) Use the smallest vehicle that is feasible for the job.

(d) Maintain tire pressure to tire manufacturer's recommendations. Check pressure at least once each week.

(e) Give wide publicity on proper driving techniques as prescribed by GSA to conserve fuels and require that all drivers diligently follow them.

(f) Travel at reduced speeds and limit speed to the National Speed Limit.

(g) Enforce proper maintenance and servicing procedures, such as tuneups, in accordance with the manufacturer's latest specifications.

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§ 109-38.4950 Acquisitions and disposals by transfer.

ACQUISITIONS AND DISPOSALS BY TRANSFER

	Sedans	Station Wagons	Ambulances	Buses	Light 4X2	Trucks 4X4	Medium Trucks	Heavy Trucks	Special Purpose	Total
Acquired By Transfer										
From Other Agencies										
From Other DOE Offices										
By Reclassification										
Disposal By Transfer										
To Other Agencies										
To Other DOE Offices										
By Reclassification										

Note 1: With regard to sedans, station wagons, ambulances and buses, the acquiring office should specifically identify the agency or office from which acquired and the disposing office should specifically identify the acquiring office or agency.

Note 2: Vehicles transferred by reclassification should specifically identify by footnote the gaining and losing category, i.e., one each 2-1/2 T truck to special purpose.

§ 109-38.4951 Special purpose vehicles.

Special purpose vehicles

(Fiscal year 19)

	Totals
1. Vehicles on Hand, October 1	
2. Acquisitions	
3. Disposals	
4. Vehicles on Hand, September 30	
5. Cost of Vehicles Acquired	
6. Proceeds from Sales	
7. Net Cost (Line 5 minus 6)	
8. Number Assigned from Interagency Motor Pools (Term Basis)	
9. Cost of 8 above	
10. Number of Rented Commercially (Term Basis)	
11. Cost of 10 above	

§ 109-38.4952 Supplemental age and mileage analysis.

SUPPLEMENTAL AGE AND MILEAGE ANALYSIS

Model	NUMBER OF VEHICLES, BY CUMULATIVE MILES OPERATED										
	0 TO 999	1,000 TO 9,999	10,000 TO 19,999	20,000 TO 29,999	30,000 TO 39,999	40,000 TO 49,999	50,000 TO 59,999	60,000 TO 79,999	80,000 TO 99,999	100,000 AND OVER	TOTAL
CURRENT YEAR											
PRECEDING YEAR											
2ND PRECEDING YEAR											
3RD PRECEDING YEAR											
4TH PRECEDING YEAR											
5TH PRECEDING YEAR											
6TH PRECEDING YEAR											
7TH PRECEDING YEAR											
8TH PRECEDING YEAR											
9TH PRECEDING YEAR											
10TH PRECEDING YEAR											
TOTAL											

Subpart 109-38.50—Utilization of Motor Vehicles

§ 109-38.5000 General.

To keep the number of motor vehicles at the minimum which will adequately satisfy program requirements, continuing attention shall be given to developing and implementing methods and practices which will help achieve the most practical and economical utilization of vehicles.

§ 109-38.5001 Utilization practices.

Methods and practices for achieving maximum economical utilization of motor vehicles shall include but not be limited to—

(a) The maximum use of equipment pooling arrangements, taxicabs, or other common service arrangements;

(b) The minimum, practicable assignment of equipment to individuals, groups or specific organizational components;

(c) Frequent review of vehicle utilization statistics by appropriate levels of management;

(d) The careful selection of equipment types to permit the maximum appropriate use of multi-purpose equipment;

(e) The rotation of equipment between high and low mileage assignments where practicable to maintain the fleet in the best overall replacement age and mileage balance and operating economy; and

(f) The maintenance of individual equipment use records, such as trip tickets or vehicle logs, showing sufficiently detailed information to evaluate appropriateness of assignment and adequacy of use being made. If one-time use is involved, such as assignments from motor pools, the individual's trip records must, as a minimum, identify the vehicle and show the name of the operator, dates, destination, time of departure and return, and mileage.

§ 109-38.5002 Use objectives for motor vehicles.

The following use goals are established for DOE as average objectives:

(a) Sedans and station wagons—3,000 miles per quarter or 12,000 miles per year.

(b) Light trucks and general purpose vehicles, one ton and under (less than 12,500 GVW)—10,000 miles per year.

(c) Medium trucks and general purpose vehicles, 1½ ton through 2½ ton (12,500 to 16,999 GVW)—7,500 miles per year.

(d) Heavy trucks and general purpose vehicles, three ton and over (17,000 GVW and over)—7,500 miles per year.

(e) Truck tractors—10,000 miles per year.

(f) All-wheel-drive vehicles—7,500 miles per year.

(g) Other motor vehicles—No average use goals for other trucks, ambulances, buses, and special purpose vehicles are established. The use of such equipment shall be reviewed and necessary action taken to ensure that the equipment is fully utilized or declared excess to the Department's needs.

§ 109-38.5003 Application of use goals.

Individual motor vehicle utilization cannot always be measured or evaluated strictly on the basis of miles operated or against any Department-wide mileage standard. Other measures of use will need to be considered. Accordingly, as an aid in achieving maximum feasible utilization, local use objectives which represent practical units of measurement for vehicle utilization and for planning and evaluating future vehicle requirements should be established. Such objectives should generally be initiated by the organization involved and reviewed and adjusted as appropriate, but not less often than annually. The objectives will take into consideration past performance, future requirements and special operating conditions and should be consistent with the justifications used to obtain vehicle authorizations.

Subpart 109-38.51 Acquisition of Motor Vehicles

§ 109-38.5100 General requirements.

The acquisition of motor vehicles shall be limited to the minimum number needed to adequately serve program requirements. Any additions to the fleet must be fully justified and the justification shall include satisfaction that established utilization objectives are being achieved.

§ 109-38.5101 Authority required for purchase or hire of passenger motor vehicles.

§ 109-38.5101-1 Statute.

(a) 31 USC 638a(a) provides that no appropriation shall be available for the purchase or hire of passenger motor vehicles unless specifically authorized by the appropriation concerned or other law. Such authority will generally be included in the annual appropriation acts for DOE. These acts usually are specific as to the number of passenger motor vehicles which may be purchased and whether they are to be "replacements" or "additions." Any authority for DOE to hire passenger motor vehicles is also contained in the acts (although numbers are not specified).

(b) 31 USC 638a(e) provides that the acquisition of passenger motor vehicles by any agency by transfer from another department of the Government shall be considered as a purchase within the meaning thereof.

§ 109-38.5101-2 Administration of the requirements of the statute with respect to acquisition of passenger motor vehicles.

In implementation of the provisions of 31 USC 638a(a) and (e) and the Comptroller General's Decision B-154282, dated October 15, 1966, passenger motor vehicles may not be acquired by purchase or transfer unless they are—

(a) Specifically authorized by the Director of Procurement and Contracts Management, pursuant to the appropriation concerned or other law;

(b) Acquired from excess without reimbursement for upgrading or replacement purposes and an equal number of replaced vehicles are reported for disposal as excess within 30 days; or

(c) For temporary emergency needs not in excess of three months in lieu of commercial rentals.

§ 109-38.5101-3 Administration of the requirements of the statute with respect to the hire or loan of passenger motor vehicles.

(a) Inclusion of specific authority in the DOE appropriation or other law is sufficient basis for hiring passenger motor vehicles.

(b) Prior to commercial rental, temporary vehicle needs which cannot be filled by GSA motor pools shall be obtained from available excess (or other Federal agencies on a loan basis) to the greatest extent feasible and economical. Excess (or loaned) vehicles may be acquired to fill temporary needs for periods not to exceed three months without specific Headquarters approval or without charging against the number authorized for purchase. If, however, it becomes desirable to extend the use of such vehicles in excess of three months, they shall be charged against the number authorized for purchase unless otherwise approved by the Procurement and Contracts Management Directorate (PR-221). (Comp Gen B-154282 dated October 15, 1965.)

§ 109-38.5101-4 Limitation on unit cost of sedans and station wagons.

(a) Public Law 91-423 dated September 26, 1970, amends paragraph (1) of subsection (c) of section 5 of the Act of July 16, 1914, as amended (31 USC 638a), and provides that "unless otherwise specifically provided, no appropriation available for any department shall be expended • • • to purchase any passenger motor vehicle (exclusive of buses and ambulances), at a cost, completely equipped for operation, and including the value of any vehicles exchanged, in excess of the maximum price therefor, if any, established pursuant to law by a Government agency and in no event more than such amount as may be specified in an appropriation or other Act, which shall be in addition to the amount required for transportation."

(b) The above amendment continues as follows: "A passenger motor vehicle shall be deemed completely equipped for operation if it includes the systems and equipment which the Administrator of General Services finds are customarily incorporated into a standard passenger motor vehicle completely equipped for ordinary operation. Notwithstanding any other provisions of law, additional systems or equipment may be purchased whenever the Administrator finds it appropriate. The price of such additional systems or equipment shall not be considered in determining whether the cost of a passenger motor vehicle is within any maximum price otherwise established by law." The Administrator of General Services has issued instructions to Federal agencies for procurement of additional systems and equipment in FPMR 101-25.304 and 101-26.501.

(c) The essentiality of additional systems and equipment shall be based on requirements for safety, efficiency, economy, suitability of the vehicle for purposes intended and fuel economy.

(d) Requests may be made in the annual budget estimates, where appropriate, for the cost of additional systems and equipment on sedans and station wagons, including those police-type vehicles necessary for security purposes. Actual purchase of passenger vehicles shall be made only after allocation by the Director of Procurement and Contracts Management based on Congressional authorizations contained in the Departmental appropriation acts.

§ 109-38.5101-5 Passenger motor vehicle allocations.

(a) To assure that DOE purchases do not exceed the number of passenger motor vehicles authorized to be purchased in any fiscal year, the Director of Procurement and Contracts Management shall allocate to field offices the number that they may purchase and shall inform them of the number of passenger motor vehicles which may be purchased. These allocations and applicable unit cost limitations shall not be exceeded.

(b) In order that unused authority to purchase may be reallocated, the offices concerned shall notify the Procurement and Contracts Management Directorate (PR-221) when allocations will not be used. Such notifications shall be submitted as soon as possible but not later than June 15 of each year.

(c) In order that passenger vehicles no longer needed by one field office may be used by another, either by actual transfer for continued use or as replacement off-sets, they shall be reported to the Procurement and Contracts Management Directorate (PR-221) prior to any disposal action so that such use can be properly coordinated within DOE.

§ 109-38.5102 Procurement.

(a) Policies and procedures for the purchase of new motor vehicles, including provisions for the procurement of additional systems and equipment for sedans and station wagons, are set forth in FPMR 101-26.5 and DOE-PR 9-5.52.

(b) Selection guidelines for justification of air-conditioning and other additional systems and equipment, with respect to procurement of new sedans and station wagons and procurement for installation in such vehicles already in service, are contained in FPMR 101-25.304, and 101-26.501.

(c) Special procedures relating to the delivery, inspection, and acceptance of motor vehicles are provided in FPMR 101-26.501-6. These special procedures are designed primarily to identify and report on deliveries of unsatisfactory motor vehicles ordered by GSA.

Subpart 109-38.52—Aircraft

§ 109-38.5200 Scope of subpart.

This subpart establishes basic policies and procedures that apply to the management of aircraft and aircraft services. The policies and procedures set forth herein are the minimum required, and the head of each field office operating aircraft shall issue such supplemental instructions as may be needed to ensure efficient management of aircraft.

§ 109-38.5201 Definitions.

As used in this subpart the following definitions apply:

(a) "Aircraft" means a device that is used or intended to be used for flight in the air, including: heavier than air and lighter than air aircraft, airplanes, gliders, helicopters, rigid and nonrigid airships, and balloons.

(b) "Chartered aircraft" are aircraft rented or hired on an intermittent basis, with or without a pilot or other operating aircrew members.

(c) "Leased aircraft" are aircraft obtained on a contractual basis, for a stipulated time interval, as distinguished from intermittent charter or short-term rental.

(d) "Military aircraft" are aircraft on loan from the Department of Defense (DOD).

(e) "Pilot" is an individual possessing the required FAA credentials and meeting the qualification requirements and other criteria as required by the employing office.

(f) "Part-time pilot" is one who is employed specifically to operate aircraft on a "when-needed" basis.

§ 109-38.5202 General.

Department-wide policies, standards, guidelines and procedures for management of aircraft and aviation services, necessary staff assistance, and general liaison with other Federal agencies are provided by the Director of Procurement and Contracts Management.

§ 109-38.5203 Aircraft safety.

(a) Policy development and general overview of aircraft safety in Departmental operations is exercised by the Assistant Secretary's for Environment operational and environmental safety staff.

(b) Minimum aviation operations and aircraft safety standards, criteria and procedures for DOE aviation operations shall be established by the Assistant Secretary's for Environment operational and environmental safety staff in coordination with the procurement and Contracts Management Directorate and heads of field offices. Heads of field offices may establish higher safety standards, criteria and procedures when they have determined that it is necessary to assure the safety of specific operations under their jurisdiction.

§ 109-38.5204 Pilot responsibility and authority.

(a) It shall be the responsibility of the pilot to be aware of and conform to Federal Aviation Regulations and other requirements of the Federal Aviation Administration, Departmental policies and field office directives, and the regulations and directives of other applicable authority, including those relating to use for official purposes only.

(b) The maintenance and repair of aircraft are also the responsibility of the pilot who shall be responsible for determining that the aircraft is airworthy and that the required FAA maintenance checks are performed periodically and on schedule.

(c) The pilot is at all times responsible for the safe operation of his aircraft and for the safety of his crew and passengers. Insofar as the loading of the aircraft, weather, mechanical, and other safety conditions are concerned, the pilot shall have final authority for determining whether a particular flight shall be continued or terminated and how it shall be made.

§ 109-38.5205 Acquisition of aircraft.

§ 109-38.5205-1 Statute.

(a) 31 U.S.C. 638a(b) provides that no appropriation shall be available for the purchase, maintenance or operation of any aircraft, unless specifical-

ly authorized by the appropriation concerned or other law. Such authority will generally be included in the annual appropriation acts for DOE. These acts usually are specific as to the number of aircraft which may be purchased and, whether they are to be "replacements" or "additions." Any authority for DOE to hire aircraft is also contained in these acts (although numbers are not specified).

(b) 31 U.S.C. 638a(e) provides that the acquisition of aircraft by any agency by transfer from another department of the Government shall be considered as a purchase within the meaning thereof.

§ 109-38.5205-2 Approval requirements.

(a) All proposed acquisitions of aircraft (with or without reimbursement) except for temporary (30 days or less) rentals or loans shall be referred to the Director of Procurement and Contracts Management for prior approval. Temporary rental or loans (30 days or less) may be approved by heads of field offices.

(b) The acquisition of specific aircraft by type shall be coordinated with the Assistant Secretary's for Environment operational and environmental safety staff to assure that the selected aircraft type can perform the mission requirements safely and meet all applicable safety standards.

(c) Because of the limitation on the number of aircraft which DOE may acquire, replaced aircraft shall be removed from service and disposed of prior to or as soon as practicable after delivery of the replacement equipment to avoid concurrent operation of both aircraft.

§ 109-38.5205-3 Acquisition from excess sources.

Acquisition from excess sources is encouraged when there is specific authority for additional or replacement aircraft. Aircraft may also be acquired from excess sources for upgrading or replacement purposes, provided (a) that such acquisition is without reimbursement, and (b) that an equal number of aircraft is reported to GSA as excess within 30 days after delivery of the replacement aircraft. The aircraft being declared excess should not be routinely circularized within the Department. The SF 120, Report of Excess Property, shall be annotated to identify the GSA transfer order number shown on the transfer document for the replacement aircraft, and a copy of the SF 120 shall be forwarded to the Procurement and Contracts Management Director (PR-221). Prior to the acquisition of aircraft from any excess source, the Federal Aviation Administration should be contacted to ensure that the Federal Aviation Regulations authorize the type of operations to be conducted and that the aircraft can be certified as airworthy without extensive or costly modification.

§ 109-38.5205-4 Notification of acquisition authorization.

To assure that acquisitions do not exceed the number of aircraft authorized by statute to be acquired in any fiscal year, the Director of Procurement and Contracts Management shall inform DOE field offices each fiscal year of the number of aircraft which may be acquired. These authorizations shall not be exceeded.

§ 109-38.5206 Management responsibility.

The head of each field office having an aircraft operation shall establish procedures to ensure—

(a) That the acquisition of aircraft, including military aircraft, is centrally controlled to ensure that authorizations are not exceeded;

(b) That each aircraft is equipped with the instruments, accessories, radio, navigational aids, safety equipment, and survival gear necessary for the same performance of each operating mission, including the installation of aircraft crash position indicators as needed. Safety equipment shall include, as a minimum, seat belts and/or shoulder harnesses for the pilot and all passengers, at least one emergency fire extinguisher, and a first aid kit. Aircraft used on night flights and/or under other than visual flight rules (VFR) conditions shall be equipped for instrument flight (IFR). Life jackets shall be provided and readily available for all occupants of aircraft on extended overwater flights as defined in Federal Aviation Regulation 1.1. Aircraft on flights into isolated areas shall be equipped with emergency rations and appropriate survival gear;

(c) Conformance with Federal Aviation Administration requirements for the registration, certification, maintenance, and operation of aircraft, engines and component equipment;

(d) Selection of qualified pilots and crew members and the maintenance of pilot and crew competence commensurate with job requirements;

(e) Establishment of dispatching and tracking procedures or other controls that will assure knowledge of aircraft location when operating in areas where flight plan service is not available;

(f) Overall safe, efficient, and economical operation, maintenance, utilization, and replacement of aircraft;

(g) The pooling of usage as a means of increasing utilization;

(h) That contract or charter pilots are duly certified to meet all requirements and regulations established by the Federal Aviation Administration for the particular aircraft, and that chartered, leased, or rented aircraft are operated and maintained in compliance with all rules, regulations, and minimum standards of the Federal Aviation Administration. Any rental or hire of aircraft and operators meeting no more than the minimum basic operating standards of Part 91 of the Federal Aviation Regulations is discouraged, and such marginally safe aircraft and operators shall not be used to transport passengers or hazardous cargo; and

(i) That all pilots are aware of the provisions of 31 U.S.C. 638a(c)(2) which prohibits the use of any Government-owned or leased aircraft for other than official purposes (see subpart 109-38.54).

§ 109-38.5207 Registration and identification.

(a) Department-owned aircraft shall be registered with the Federal Aviation Administration. The certificate of registration shall be displayed in the aircraft in accordance with FAA requirements. A similar requirement shall be included in any arrangement for the charter, rent, hire, or lease of aircraft.

(b) All aircraft shall display markings as required by the Federal Aviation Regulations for registered aircraft of the United States.

§ 109-38.5208 Airworthiness.

With the exception of public use aircraft being operated under special regulations of the Federal Aviation Administration, all aircraft shall be required to have a currently effective Federal Aviation Administration Airworthiness Certificate appropriate to the proposed usage. This certificate shall be displayed in the aircraft. Exceptions to this requirement are (a) uncertified aircraft may be ferried with minimum crew when there is a written determination by the head of the field office of his designee that the aircraft is safe for flight, and (b) aircraft obtained by transfer from the Department of Defense or the U.S. Coast Guard may be ferried incident to such transfer when the aircraft has been released as airworthy for flight.

§ 109-38.5209 Maintenance.

As a minimum, all aircraft, aircraft engines, propellers, accessories, and equipment shall be maintained and serviced in accordance with Federal Aviation Administration requirements for air carrier and non-air carrier aircraft, as appropriate, and the instructions of the manufacturer. All repairs and alterations shall be performed and approved in accordance with applicable FAA or military standards and requirements. Preventive maintenance inspections shall be made of the airframe, engine, and accessory equipment in conformance with the equipment manufacturer's recommendations and FAA or military requirements, as applicable.

§ 109-38.5210 Operation.

(a) Flight operations must comply with the Federal Aviation Regulations, and responsibility for such compliance rests with the pilot of the aircraft (§ 109-38.5204). Any special problem requiring deviation from the regulations shall be submitted through normal administrative channels to the Assistant Secretary's for Environment operational and environmental safety staff for review and possible referral to the FAA for an appropriate waiver. Such a waiver is required for all fixed-wing aircraft engaged in low-level flying, and any change of conditions shall be reported to the responsible FAA District Office.

(b) Flight plans are required for all flights over isolated areas, and are also required for flights under visual flight rules (VFR) conditions except where the flight is of a local nature. Where normal flight plan channels are not available, a flight dispatching and tracking procedure or other control shall be followed that will assure current knowledge by responsible DOE or DOE contractor personnel of the aircraft's operating plan and of its arrival at destination.

(c) Aircraft, engines, and equipment shall be operated within the operating limits prescribed by the manufacturer.

(d) Adequate preflight and in-flight check lists shall be provided to, and used by, all pilots. A visual preflight inspection shall be made by the pilot before each takeoff, and any deficiency which might affect the safety of the flight shall be corrected before takeoff.

(e) All flights shall be planned and conducted so that the aircraft will arrive over its destination with a fuel reserve sufficient to reach a planned alternate destination. Flights conducted under FAA Instrument Flight Rules shall be required to conform to FAA fuel time minimum requirements, or better.

§ 109-38.5211 Records.

As a minimum, flight, aircraft, and engine logs shall be maintained in accordance with FAA requirements, and records of operation and maintenance shall be maintained as required for management, budgetary and reporting purposes. Heads of field offices shall establish requirements for other records needed.

§ 109-38.5212 Reports.

(a) Reports shall be submitted as required by the Federal Aviation Administration, the National Transportation Safety Board, the Assistant Secretary's for Environment operational and environmental safety staff and others. Heads of field offices shall establish the requirements for other reports that may be needed for management or other purposes.

(b) All accidents involving aircraft shall be reported promptly to the National Transportation Safety Board, Federal Aviation Administration as required, the head of the field office concerned and the Assistant Secretary's for Environment operational and environmental safety staff.

Subpart 109-38.53—Cost Reductions Obtainable Through Cross-Servicing Arrangements for Motor Vehicle Fuel and Oil

§ 109-38.5300 Scope of subpart.

This subpart provides instructions for application of GSA Bulletin FPMR G-36, "Cost Reduction Obtainable Through Cross-Servicing Arrangements for Motor Vehicle Fuel and Oil," and submission of reports required by that Bulletin.

§ 109-38.5301 Submission of reports.

Headquarters and field offices shall prepare semi-annual reports as of September 30 and March 31 which will include the information requested in paragraph 5, GSA Bulletin FPMR G-36. The reports shall be submitted through normal administrative channels to the Procurement and Contracts Management Directorate (PR-221) by October 10 and April 10 of each year. A negative report is required.

Subpart 109-38.54—Official Use of Motor Vehicles and Aircraft

§ 109-38.5400 Scope of subpart.

This subpart supplements FPMR Part 101-38, implements the provisions of statutes concerning the use of Government-owned or leased motor vehicles and aircraft for official purposes and prescribes policies and procedures governing the use of such vehicles and aircraft acquired for official purposes.

§ 109-38.5401 Statutory requirement.

(a)(1) 31 U.S.C. 638a(c)(2) provides "Unless otherwise specifically provided, no appropriation available for any department shall be expended * * * for the maintenance, operation, and repair of any Government-owned passenger motor vehicle or aircraft not used exclusively for official purposes; and 'official purposes' shall not include the transportation of officers and employees between their domiciles and places of employment, except in cases of medical officers on outpatient medical service and except in cases of officers and employees engaged in field work the character of whose duties makes such transportation necessary and then only as to such latter cases when the same is approved by the head of the department concerned. Any officer or employee of the Government who willfully uses or authorizes the use of any Government-owned passenger motor vehicle or aircraft or of any passenger motor vehicle or aircraft leased by the Government, for other than official purposes or otherwise violates the provisions of this paragraph shall be suspended from duty by the head of the department concerned, without compensation, for not less than one month and shall be suspended for a longer period or summarily removed from office if circumstances warrant * * *"

(2) The above quoted statute is interpreted to preclude reimbursement to Government contractors for the maintenance, operation or repair of Government-owned or leased passenger motor vehicles or aircraft which are used by contractor personnel for other than official purposes.

(b) Under the provisions of 18 U.S.C. 641, any person who knowingly misuses any Government property (which includes Government motor vehicles) is subject to criminal prosecution and, upon conviction, to fines up to $10,000 or imprisonment for up to 10 years.

§ 109-38.5402 Policy.

All Government-owned or leased motor vehicles and aircraft operated by DOE and its contractors shall be utilized for official purposes only, and officers, employees and contractors of the Department shall not use or authorize others to use any Government-owned or leased motor vehicle or aircraft for other than official purposes.

§ 109-38.5403 Official purposes.

(a) The term "official purposes" means those purposes required to carry out authorized programs, including program work carried out under contracts made pursuant to authority vested in the Department. "Official purposes" largely is a matter of administrative discretion and determination based on the particular facts of the case and the Government interest in the proposed use of the Government motor vehicle. It is the responsibility of the person authorizing or approving the use to examine the circumstances surrounding such use and assure that the facts sufficiently justify a conclusion of "official purpose."

(b) The term "field work" as used in 31 U.S.C. 638a quoted above refers to the nature of the work performance; it is not restricted to "field service" as distinguished from "Headquarters service."

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§ 109-38.5404 Approval of authorizations.

(a) The Director of Administration and heads of field offices may approve the use of a Government-owned or leased motor vehicle between a DOE employee's domicile and place of employment. This authority may be redelegated. Redelegation shall not be below the chief administrative officer level.

(b) Heads of field offices and contracting officers shall require contractors to assure that—

(1) Contractors prescribe and issue, subject to approval by the head of the field office or contracting officer, such local written guidelines regarding the official use of motor vehicles or aircraft as may be necessary and appropriate for particular operating situations;

(2) The use of Government-owned or leased motor vehicles or aircraft by contractor employees for transportation between places of employment and domiciles, including their storage at or near such domiciles, conforms to official use policies and guidelines, and that they make and document appropriate administrative determinations, authorizations, or approvals for such use and storage by contractor employees at appropriate supervisory levels within the contractors' organizations.

(c) Except as provided in § 109-38.5407, the approving official shall determine the nature of the field duties of the employees which makes such transportation necessary. Approvals shall be in writing.

§ 109-38.5405 Duration of authorizations.

An authorization to use a motor vehicle for transportation between a domicile and place of employment shall be limited to the period of actual need. Where such need extends beyond a year, each authorization shall be limited to a single year. Requests for renewals of authorizations shall be subject to the same justification as original requests, and must also show what attempts were made during the original period to eliminate the necessity for the request.

§ 109-38.5406 Use of a motor vehicle to drive to residence at start of official travel.

The use of a Government motor vehicle by an officer or employee to drive to his residence when it is in the interest of the Government that he start on official travel in the vehicle from that point, rather than from his place of business, is not regarded as prohibited by 31 USC 638a(c)(2), (25. Comp. Gen. 844) or by Departmental policy.

§ 109-38.5407 Use of Government-owned or furnished motor vehicles in travel status.

The use of Government-owned or Government-furnished motor vehicles by Government employees while in travel status is governed by the Federal and DOE Travel Regulations.

§ 109-38.5408 Use of Government-owned or leased bus systems.

The provisions of this subpart do not affect passenger use of Government-owned or leased bus systems (regardless of type of vehicle used in such system) established under the provisions of section 161e of the Atomic Energy Act of 1954, as amended (42 USC 2201e).

§ 109-38.5409 Use of Government motor vehicles in emergencies.

In limiting the use of Government motor vehicles to official purposes, it is not intended to preclude their use in emergencies threatening loss of life or property (see § 109-1.5102). Such use shall be documented.

§ 109-38.5410 Use of motor vehicles by the Postal Service.

(a) Section 411 of the Postal Reorganization Act provides that executives agencies are authorized to furnish property and services to the Postal Service under such terms and conditions, including reimbursability, as the Postal Service and the agency concerned deem appropriate. Executive Order 11672 establishes a requirement for reimbursement at fair market value of such property or at a rate based on appropriate commercial charges for comparable property, as agreed to by the agency head and the Postmaster General, unless the Director of the Office of Management and Budget finds that a different basis of valuation is more equitable or better serves the public interest.

(b) Pursuant to the authority in 39 USC 411, motor vehicles may be made available to the Postal Service for temporary use, particularly during the Christmas season. The rental rate to be charged shall be the same as is charged by the General Services Administration for similar motor vehicles available from the interagency motor pool serving the geographical area involved, with appropriate allowances for any fuel and oil furnished by the Postal Service.

§ 109-38.5411 Instructions to motor vehicle operators.

Procedures shall be established to ensure that motor vehicle operators are informed concerning—

(a) The statutory requirement that motor vehicles shall be used only for official purposes;

(b) Personal responsibility for safe driving and operation of motor vehicles, and for compliance with Federal, State, and local laws and regulations, and all accident reporting requirements;

(c) Protection under the Federal Tort Claims Act (28 USC 2671) when acting within the scope of his/her employment;

(d) The penalties for unauthorized use of motor vehicles;

(e) The prohibition against picking up strangers or hitchhikers; and

(f) Any other duties and responsibilities assigned to motor vehicle operators with regard to the use, care, operation, and maintenance of motor vehicles.

PART 109-39—INTERAGENCY MOTOR VEHICLE POOLS

Subpart 109-39.3—Motor Vehicle Exemptions

Sec.
109-39.302 Unlimited exemptions.
109-39.303 Limited exemptions.

Subpart 109-39.4—Establishment, Modification, and Discontinuance of Motor Pools

109-39.404-3 Problems involving service or cost.
109-39.404-4 Agency requests to withdraw participation.

Subpart 109-39.5—Services

109-39.502 Services available.
109-39.502-50 Commercially rented vehicles available through Interagency Motor Pools.

Subpart 109-39.6—Official Use of Government Motor Vehicles and Related Motor Pool Services

109-39.601 General requirements.
109-39.602 Authorized use.
109-39.602-1 Government vehicles.

AUTHORITY: Title V, Department of Energy Organization Act (Pub. L. 95-91); Administrative Procedure Act, as amended (5 U.S.C. 551 et seq.).

Subpart 109-39.3—Motor Vehicle Exemptions

§ 109-39.302 Unlimited exemptions.

In those instances where it is determined that an unlimited exemption from inclusion of a vehicle in the Interagency Motor Pool System is warranted under the criteria set forth in FPMR 101-39.302, full particulars shall be forwarded to the Procurement and Contracts Management Directorate (PR-221) for consideration and possible referral to the Administrator of General Services.

§ 109-39.303 Limited exemptions.

The procedure established in § 109-39.302 shall be followed in seeking limited exemptions under the criteria set forth in FPMR 101-39.303.

Subpart 109-39.4 Establishment, Modification and Discontinuance of Motor Pools

§ 109-39.404-3 Problems involving service or cost.

To resolve problems involving motor pool service or cost, the affected field or Headquarters organization shall bring the matter to the attention of the chief of the motor pool providing the vehicles. In the event a satisfactory solution does not result, full particulars shall be forwarded to the Procurement and Contracts Management Directorate (PR-221), for consideration and possible referral to the Administrator of General Services.

§ 109-39.404-4 Agency requests to withdraw participation.

Should circumstances arise at a given interagency motor pool location which tend to justify discontinuance or curtailment of participation by a DOE organization, the participating organization should forward complete details to the Procurement and Contracts Management Directorate (PR-221) for consideration and possible referral to the Administrator of General Services.

Subpart 109-39.5—Services

§ 109-39.502 Services available.

§ 109-39.502-50 Commercially rented vehicles available through Interagency Motor Pools.

(a) Interagency motor pool locations, services, and rental rates are published periodically by GSA in a leaflet for the current information and guidance of Federal agencies. Availability of this publication and details concerning distribution are announced in GSA Bulletins.

(b) Details concerning the availability and arrangements for GSA contract commercial rental car services are contained in Federal Supply Schedule, Industrial Group 751, Motor Vehicle Rental Without Driver and in a leaflet, "Traveler's Pocket Guide." Copies may be obtained from GSA regional offices.

Subpart 101-39.6—Official Use of Government Motor Vehicles and Related Motor Pool Services

§ 109-39.601 General requirements.

(a) The head of each office operating leased vehicles is designated as responsible for certifying that leased vehicles larger than Type II (compact) are essential to the mission of the particular organization concerned.

(b) New requirements for leased vehicles on a nationwide basis shall be submitted to the Procurement and Contracts Management Directorate (PR-221), for transmittal to the General Services Administration.

§ 109-39.602 Authorized use.

§ 109-39.602-1 Government vehicles.

(a) Subpart 109-38.54, Official Use of Motor Vehicles and Aircraft, prescribes DOE policies and procedures governing the official use of Government motor vehicles.

(b) The heads of field offices and the Director of Administration are responsible for compliance with FPMR 101-39.602-1(b), which places limitations on the use of Government-owned or leased motor vehicles for official purposes.

SUBCHAPTER H—UTILIZATION AND DISPOSAL

PART 109-42—PROPERTY REHABILITATION SERVICES AND FACILITIES

Sec.
109-42.000 Scope of part.
109-42.000-50 Applicability.

Subpart 109-42.3—Recovery of Precious Metals and Critical Materials

109-42.301-1 Guidelines for conducting intra-agency surveys.
109-42.301-2 Reporting to GSA.
109-42.302 Recovery of silver from used hypo solution and scrap film.
109-42.350 Platinum and platinum family.

Subpart 109-42.50—Reclamation of Wastepaper

109-42.5000 Scope of subpart.
109-42.5001 Policy.
109-42.5002 Definition.
109-42.5003 Responsibilities and authorities.
109-42.5003-1 Responsibility for Department-wide coordination.
109-42.5003-2 Responsibility for implementing and conducting wastepaper recovery programs.
109-42.5004 Reports.

AUTHORITY.—Title V, Department of Energy Organization Act (Pub. L. 95-91); Administrative Procedure Act, as amended (5 U.S.C. 551 et seq.).

§ 109-42.000 Scope of part.

This part implements and supplements FPMR Part 101-42, Property Rehabilitation Services and Facilities.

§ 109-42.000-50 Applicability.

The provisions of FPMR 101-42 and this part apply to contractors which generate used hypo solution, scrap film, other precious metals scrap and other recoverable scrap materials.

Subpart 109-42.3—Recovery of Precious Metals and Critical Materials

§ 109-42.301-1 Guidelines for conducting intra-agency surveys.

The intra-agency survey required by FPMR 101-42.301-1 shall be prepared by each DOE organization and contractor that has no precious metal recovery program as directed by the Director of Procurement and Contracts Management. The format of the report is included in FPMR 101-42.4801.

§ 109-42.301-2 Reporting to GSA.

(a) The annual silver or other precious metals recovery report required by FPMR 101-42.301-2 shall be prepared by each DOE organization and contractor conducting a precious metal recovery program. The format of the report is included in FPMR 101-42.4802. Negative reports are required. A report shall also be submitted providing applicable information in those instances where activities use indirect methods of recovery by shipping the hypo solution or scrap film to another recovery activity or by disposal by sale.

(b) Individual reports shall cover the entire fiscal year and shall be forwarded to the appropriate field office for forwarding to the Procurement and Contracts Management Directorate (PR-221) not later than 30 days after the end of each fiscal year.

109-42.302 Recovery of silver from used hypo solution and scrap film.

A program for recovery of silver from used hypo solution and scrap film is established for DOE. All DOE organizations and contractors shall recover silver from hypo solution and scrap film where economically feasible. Where and activity generates minimal amounts of hypo solution, consideration shall be given to combining output with another recovering activity as contemplated in FPMR 101-42.301-1. 109-402.350 Platinum and platinum family.

See § 109-43.313-52 for procedures for reporting excess platinum for recovery and subsequent redistribution within DOE.

Subpart 109-42.50—Reclamation of Wastepaper

§ 109-42.5000 Scope of subpart.

This subpart implements and supplements 40 CFR 246, "Materials Recovery Guidelines for source Separation" as issued by the Environmental Protection Agency (EPA), states DOE policy on reclamation of paper, and prescribes authorities and responsibilities of Heads of Headquarters organizations, heads of field offices, and other contracting officers.

§ 109-42.5001 Policy.

It is DOE policy that a program for recovery and reclamation of wastepaper shall be established at any DOE facility where such recovery is economically feasible, i.e., implementa-

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tion and operating costs are not greater than revenue derived, in accordance with the criteria contained in 40 CFR 246.

§ 109-42.5002 Definition.

"DOE facilities" as used in this subpart means Government-owned or leased buildings operated by DOE personnel or operating and onsite service contractors.

§ 109-42.5003 Responsibilities and authorities.

§ 109-42.5003-1 Responsibility for Department-wide coordination.

The Director of Procurment and Contracts Management is responsible for (a) representing the Department with EPA and other Federal agencies on matters relating to the recovery and reclamation of wastepaper at DOE facilities, (b) consolidating the Departmental reports on recovery of wastepaper for submission EPA, and (c) providing staff assistance to DOE organizations implementing the guidelines contained in 40 CFR 246.

§ 109-42.5003-2 Responsibility for implementing and conducting wastepaper recovery programs.

The Director of Administration, heads of field offices, and contracting officers are responsible for implementation and conduct of a wastepaper recovery program in accordance with 40 CFR 246 at DOE facilities under their cognizance and shall submit the required reports to the Procurement and Contracts Management Directorate (PR-221) within 30 days after the end of each fiscal year in the format illustrated in § 109-42.5004.

§ 109-42.5004 Reports.

Wastepaper recovery reports shall be submitted in the following format:

Facility Name and Address	No. of Office Workers	Implementation Date	Tons of Wastepaper Recovered	Revenue Received

PART 109-43—UTILIZATION OF PERSONAL PROPERTY

Sec.

109-43.000 Scope of part.
109-43.000-50 Applicability.
109-43.001 Definitions.
109-43.001-5 Excess personal property.
109-43.001-14 Personal property.
109-43.001-50 Nonreportable property.
109-43.001-51 Platinum.
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Subpart 109-43.1—General Provisions

109-43.101 Surveys.
109-43.102 Reassignment of property within executive agencies.
109-43.103 Agency utilization officials.

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109-43.301-50 Policy.
109-43.302 Agency responsibility.
109-43.302-50 Utilization and disposal by contractors.
109-43.303-1 Acquisition of mercury.
109-43.306 Property not required to be reported.
109-43.311-1.50 Circularization within DOE.
109-43.311-5 Property at installations due to be discontinued.
109-43.312 Exceptions to reporting.
109-43.313 Items requiring special handling.
109-43.313-2 Printing, binding, and blankbook equipment and supplies.
109-43.313-50 Classified property.
109-43.313-51 Naval gun mounts.
109-43.313-52 Platinum and platinum family.
109-43.313-53 Shielding material.
109-43.313-54 Property in which the Government has an interest.
109-43.313.55 Department of Defense excess.
109-43.315-5 Procedure for effecting transfers.
109-43.317 Costs and proceeds.
109-43.317-1 Cost of care and handling.
109-43.317-2 Proceeds.
109-43.319 Use of excess property on cost-reimbursement type contracts.
109-43.320 Use of excess property on grants.
109-43.321 Certification of non-Federal agency screeners.

Subpart 109-43.5—Utilization of Foreign Excess Personal Property

109-43.503 Holding agency responsibilities.
109-43.504-50 Disposition of property not selected for return to the United States.

Subpart 109-43.47—Reports

109-43.4701 Performance reports.

Subpart 109-43.51—Utilization of Personal Property Held for Facilities in Standby

109-43.5100 Scope of subpart.
109-43.5101 Definition.
109-43.5102 Policy.
109-43.5103 Reviews to determine need for retaining items.
109-43.5104 Utilization of property in facilities in standby status.

§ 109-43.000 Scope of part.

This part implements and supplements FPMR Part 101-43, Utilization of Personal Property.

§ 109-43.000-50 Applicability.

The provisions of FPMR Part 101-43 and this part are applicable to contractors unless otherwise provided herein.

§ 109-43.001 Definitions.

§ 109-43.001-5 Excess personal property.

The definition of excess personal property in FPMR 101-43.001-5 is supplemented to provide that excess personal property, generally referred to herein as "excess property," means personal property which is—

(a) Under the control of a DOE organization or contractor and not required for the holder's needs or in the discharge of its responsibilities and which has been documented as excess by a responsible DOE or contractor official having responsibility for its custody and accountability; or

(b) Under the control of any Federal agency, including DOE, and not required for its needs or the discharge of its responsibilities. Property is not considered to be excess to DOE until it has been determined that no requirement for the property exists within the Department.

§ 109-43.001-14 Personal property.

The definition in FPMR 101-43.001-14 is modified to read as follows: Personal property means property of any kind or type except real property; records; special source materials, which includes source materials and special nuclear material, and those other materials to which the provisions of DOE Manual Part 7400 apply, such as deuterium, enriched lithium, neptunium 237 and tritium, and atomic weapons and byproduct materials as defined in Section 11 of the Atomic Energy Act of 1954, as amended; enriched uranium in stockpile storage; and petroleum being held in reserve in the Strategic Petroleum Reserve and the Naval Petroleum Reserve.

§ 109-43.001-50 Nonreportable property.

"Nonreportable property" is excess personal property which is not required to be formally circularized within DOE or reported to GSA.

§ 109-43.001-51 Platinum.

"Platinum" means platinum family, including platinum, palladium, rhodium, iridium, ruthenium and osmium.

§ 109-43.001-52 Reportable property.

"Reportable property" is excess personal property which is required to be formally circularized within DOE and, if not required within DOE, reported to GSA.

Subpart 109-43.1—General Provisions

§ 109-43.101 Surveys.

Each organization holding Government personal property shall continuously survey property under its control to assure efficient use and shall promptly make property excess to its needs available for use elsewhere. See § 109-25.109-1 for DOE policy on the conduct of management walk-through inspection tours to identify idle and unneeded equipment.

§ 109-43.102 Reassignment of property within executive agencies.

See DOE Order 2200, Chapter XI for preparation of the feeder reports upon which the consolidated DOE report of internal property reassignments is based.

§ 109-43.103 Agency utilization officials.

The director of Procurement and Contracts Management shall designate the DOE National Utilization Officer.

Subpart 109-43.3—Utilization of Excess

§ 109-43.301-50 Policy.

It is the policy of DOE to consider excess property as the first source of supply. In no case, however, will excess property be acquired unless a present or foreseeable program need exists for the property. In carrying out this policy, the objective of which is to obtain maximum effective and economical utilization of property already owned by the Federal Government, consideration should be given to such factors as—

(a) Nature and cost of any repairs required to restore excess equipment to a safe, dependable, and economical operating condition;

(b) Duration of the job on which the equipment will be used;

(c) Economic feasibility of ownership vs. loan or rental of the equipment. Frequency of use, particularly where the equipment will be needed only infrequently, is one of the factors which must be considered in determining the most economical method of acquisition; and

(d) Handling and transportation costs involved in acquisition of excess property.

§ 109-43.302 Agency responsibility.

Procedures shall be established to assure the effective conduct of the excess property utilization program and to assure, to the fullest extent practicable, that excess personal property available within DOE or from other Federal agencies is used as a first source of supply in fulfilling requirements.

§ 109-43.302-50 Utilization and disposal by contractors.

Heads of field offices may authorize contractors to perform the functions pertaining to utilization and disposal of excess property, provided such activities are in accordance with written policies and procedures which they have approved as being consistent with this part and those contained in FPMR Part 101-45 and DOE-PMR Part 109-45.

§ 109-43.303-1 Acquisition of mercury.

Notwithstanding the provisions of FPMR 101-43.303-1, requests for 76 pound flasks of mercury, for use by DOE or its contractors, shall be forwarded to the Director, Supply Division, Oak Ridge Operations Office, Oak Ridge, Tennessee.

§ 109-43.306 Property not required to be reported.

To the extent practicable and economical, notification of availability of nonreportable excess property shall be made on an informal basis to other DOE installations and other Federal agencies known to use such property. If no requirement is established within a reasonable time, usually not more than 30 days after the availability of the property is announced, the property will be considered surplus to the needs of the Government.

§ 109-43.311-1.50 Circularization within DOE.

(a) Prior to reporting excess personal property to GSA as required by FPMR 101-43.311-1, reportable property shall be listed and circularized as available excess within DOE using Standard Form 120, "Report of Excess Personal Property" and Standard Form 120a, "Continuation Sheet." Distribution patterns, points of contact, and number of copies of excess lists to be sent to DOE installations shall be issued annually by the Procurement and Contracts Management Directorate (PR-221) based on information submitted by the field offices. Revisions during the year shall be coordinated with the appropriate contacts by the DOE offices concerned. In cases where time does not permit the circularization of excess lists, notification of the availability may be made by telegram, teletype or telephone, with due consideration to the additional costs involved.

(b) A period of at least 15 calendar days from the date of transmittal should be allowed potential users within DOE to request the transfer of items listed. When necessary, an additional 15 calendar days may be allowed to permit potential users to inspect the property or to obtain additional information regarding the items on the list. Concurrent circularization of lists of DOE excess property within DOE and to other Federal agencies generally shall not be permitted.

(c) If, after DOE circularization, reportable property is known to be needed by another Federal agency, it shall be transferred as provided in FPMR 101-43.315-5(a).

§ 109-43.311-5 Property at installations due to be discontinued.

(a) In closing out installations or any activities where it is important that upon completion of the work the personnel be released and activities ended as quickly as possible in order to avoid large expenditures, arrangements may be made for expediting the utilization and disposal of excess inventories and other excess property. (See DOE-PR 9-8 for special provisions regarding disposition of contractor inventories arising out of termination of contracts.)

(b) DOE field organizations shall work with appropriate GSA regional offices to develop a utilization and disposal program which takes into consideration all the factors involved, is expedited to the maximum degree, and is mutually satisfactory and in the best overall interest of the Government. When closeout involves an activity which is not located geographically in a DOE installation, information concerning the situation shall be given to the appropriate regional administrator of GSA, as early as possible, by letter (copy to the Procurement and Contracts Management Directorate (PR-221)). The information should include the types of property available and indicate that the activity is to be discontinued, the scheduled date for the removal of personnel from the location, and the last dates when the property will be needed. The following guidelines are furnished for possible use, although variations may be used as long as agreement is reached with GSA and there is no conflict with DOE requirements except as noted in paragraph (b)(1) of this section:

(1) If a proposed expedited program provides for deviation from the DOE policy or procedural requirements, approval of the Director of Procurement and Contracts Management shall be obtained.

(2) Approval of the proposed plan by the appropriate GSA regional office, when deviation from existing GSA regulations is involved, will be sufficient to validate the plan. A copy of the approval plan should be forwarded for information to the Procurement and Contracts Management Directorate (PR-221).

(3) In developing an expedited disposal program, property shall be determined to be excess to DOE before it is reported to GSA. Concurrent circularization of lists of DOE excess prop-

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erty within DOE and to other Federal agencies generally is not permitted.

(4) Summary catalog listings of certain categories of excess property, such as property in classes 48, 51, 55, 56, etc., showing estimated release dates, might be furnished GSA with good utilization results. On the other hand, excess property in such classes as 23, 24, 32, 34 and 38 shall normally be listed by individual item with sufficient description for ready identification.

(5) In order to obtain maximum utilization of the property by other Federal agencies, the plan shall provide that the field office will furnish assistance to GSA, upon request, to arrange for invitational inspections by Federal agency representatives.

(6) Upon request, DOE can provide assistance to GSA in its circularization of reportable items to other Federal agencies or in locating potential users within the government.

(7) Care should be exercised to be sure that orders from other Federal agencies for excess property are processed through GSA, as may be required by the GSA regional office concerned.

(8) Although it may be possible to arrange for expediting donations for educational, public health, or civil defense purposes, adequate time must be allowed for the screening of all donable property.

(9) Provisions should be made for accelerated release by GSA of excess property for disposal as surplus, particularly where there is little or no potential use by other Federal agencies.

(10) Methods should be developed whereby last minute requests for surplus property, cataloged for an auction sale or listed in a sealed bid invitation and inspected by prospective bidders, can be kept to a minimum.

§ 109-43.312 Exceptions to reporting.

In addition to the categories of nonreportable property identified in FPMR 101-43.312 (a) through (g), the following property, when determined excess to a DOE installation, is not reportable and shall not be formally circularized within DOE or reported to GSA—

(h) Asphalt products in less than carload (LCL) quantities (roofing tile, paving materials);

(i) Cement and fabricated cement products in LCL quantities (concrete block, pumic block, cinder block, pipe and fittings);

(j) Fabricated clay products in LCL quantities (brick, title, pipe and fittings);

(k) Fuels in LCL quantities (gasoline, diesel fuels, coal and coke and kerosene);

(l) Special purpose or site fabricated shelving, cabinets, shop tables, etc., of limited adaptability or with high cost of disassembly or transportation;

(m) Uncrated window glass; and

(n) Equipment, parts, accessories, jigs and components, which are of special design, composition, or manufacture and which are intended for use only by specific DOE installations, such as spare parts for equipment used in atomic processes.

§ 109-43.313 Items requiring special handling.

§ 109-43.313-2 Printing, binding, and blankbook equipment and supplies.

DOE installations shall report excess printing, binding and blankbook equipment to the Office of Administration for processing in accordance with the Joint Committee on Printing Regulations.

§ 109-43.313-50 Classified property.

Classified personal property which is excess to DOE needs shall be stripped of all characteristics which cause it to be classified, or otherwise rendered unclassified prior to disposal, in accordance with instructions of the head of the field office concerned. Declassification shall be accomplished in a manner which will preserve, so far as practicable, any civilian utility or commercial value of the property.

§ 109-43.313-51 Naval gun mounts.

When a naval gun mount obtained from the Naval Sea Systems Command, Department of the Navy, becomes excess, it may be listed, circularized, and transferred within DOE in the same manner as other excess property. However, when a naval gun mount is determined to be excess to DOE, it shall be reported to the Department of the Navy, Naval Sea Systems Command, Washington, D.C. 20360, and shall not be disposed of except in accordance with instructions of that Department.

§ 109-43.313-52 Platinum and platinum family.

All precious metals in the platinum family which become excess shall be reported to the Chicago Operations Office for recovery and/or subsequent redistribution within DOE. It is intended that any platinum which is not needed for current or foreseeable requirements shall be reported to the Chicago Operations Office. This means platinum in any form, including shapes, scrap, or which is radioactively contaminated. The Chicago Operations Office will furnish necessary shipping instructions. (For pricing of transfers, see DOE Order 2200, Chapter III.)

§ 109-43.313-53 Shielding material.

All excess movable shielding material of any type will be circularized within DOE using normal excessing procedures. However, prior to disposal outside DOE (by transfer to other Federal agencies or by sale), the Procurement and Contracts Management Directorate (PR-221) shall be advised concerning the types and quantities which remain available.

§ 109-43.313-54 Property in which the Government has an interest.

Personal property in which the Government has an interest means (a) Government-owned property which is available for exchange or sale and (b) property leased with an option to purchase. Such property shall be circularized within DOE for possible utilization whenever it is practicable to do so, considering the contract terms, cost in relation to remaining useful life, location of item, purchase option time remaining, etc.

§ 109-43.313-55 Department of Defense excess.

An interagency agreement between DOE and the Department of Defense has been executed which permits certain DOE contractors to screen excess property listings from the Defense Property Disposal Service concurrently with military activities for use in support of DOE/DOD programs.

§ 109-43.315-5 Procedure for effecting transfers.

Notwithstanding the provisions of FPMR 101-43.315-5(b), in accordance with a DOE agreement with GSA, execution of transfer orders by a DOE official is not required in those cases where heads of field offices have authorized contractors to perform this function, and GSA has been notified of such authorization. GSA regional offices will furnish the cognizant DOE field office a copy of each transfer order received from contractors. This copy of the transfer order will be reviewed by the cognizant DOE field office to determine if the contractor has been authorized to submit orders for excess property. If the contractor submitting the transfer order to the GSA regional office has not been authorized in writing to submit such orders, GSA will not honor such requests unless they are subsequently executed by an appropriate DOE official.

§ 109-43.317 Costs and proceeds.

§ 109-43.317-1 Cost of care and handling.

DOE field offices and contractors shall comply with the provisions of DOE Order 2200, Chapter III as they relate to billings for direct costs in-

curred in the transfer of excess property.

§ 109-43.317-2 Proceeds.

For DOE procedures on the handling of proceeds from transfer of excess property to another Government agency with reimbursement, see DOE Order 2200, Chapter III.

§ 109-43.319 Use of excess property on cost-reimbursement type contracts.

(b) It is DOE policy for operating and on-site service contractors to use Government excess personal property to the maximum extent possible to reduce contract costs. However, the determination required in FPMR 101-43.319(b) does not apply to such contracts and the acquisitions of Government excess personal property by these contractors are not subject to the annual reporting requirements of FPMR 101-43.4701(c). The procedures prescribed in § 109-43.315-5 for execution of transfer orders apply.

§ 109-43.320 Use of excess property on grants.

The requirements of FPMR 101-43.320 do not apply to operating and on-site service contracts.

§ 109-43.321 Certification of non-Federal agency screeners.

Contracting officers shall maintain a record of the number of certified non-Federal agency screeners operating under their authority and shall immediately notify the appropriate GSA regional office of any changes in screening arrangements.

Subpart 109-43.5—Utilization of Foreign Excess Personal Property

§ 109-43.503 Holding agency responsibilities.

(a) Property which remains excess after utilization screening within the general foreign geographical area where the property is located should be reported to the Procurement and Contracts Management Directorate (PR-221) for consideration for return to the U.S. for further utilization within DOE, by other Government agencies, or for donation, based on such factors as cost, residual value, usefulness in ongoing or future programs, condition, and cost of transportation.

(b) If determined to be in the interest of the Government for return to the U.S., the property shall be reported on excess listings (SF 120) to the accountable field office or Headquarters program organization. These listings should contain information on location and available transportation facilities in addition to the detailed descriptions required by FPMR 101-43.4901-120-1. The field office or Director of Administration, acting for the responsible Headquarters program organization, will circularize the property within DOE. If not claimed by a DOE activity, it shall be reported to the Procurement and Contracts Management Directorate (PR-221) for coordination with GSA.

§ 109-43.504-50 Disposition of property not selected for return to the United States.

Property not selected for return to the U.S. for utilization within DOE or the Government or for donation in accordance with FPMR 101-44.7 shall be disposed of in accordance with § 109-45.5105.

Subpart 109-43.47—Reports

§ 109-43.4701 Performance reports.

Instructions for submission of financial data for the reports required in FPMR 101-43.4701 (a) and (b) are contained in DOE Order 2200, Chapter XI. The report prescribed in FPMR 101-43.4701(c) does not apply to excess property acquired by operating and on-site service contractors.

Subpart 109.43.51—Utilization of Personal Property Held for Facilities in Standby

§ 109-43.5100 Scope of subpart.

This subpart supplements FPMR Part 101-43 by providing policies and procedures for the economic and efficient utilization of personal property associated with facilities placed in standby status.

§ 109-43.5101 Definition.

"Facility in standby" is a significant segment of plant and equipment, such as a complete plant or section of a plant, which is neither "in service" or declared "excess."

§ 109-43.5102 Policy.

Procedures and practices shall be established to assure economical and efficient utilization of property associated with facilities placed in standby status as provided for in this subpart.

§ 109-43.5103 Reviews to determine need for retaining items.

Procedures and practices shall be established which require an initial review at the time the plant is placed in standby to determine which items can be made available for use elsewhere within the established startup criteria, periodic reviews (no less than biennially) to determine need for continued retention of property, and special reviews when a change in startup time is made or when circumstances warrant. Such procedures should recognize that (a) generally, equipment, spares, stores items, and materials peculiar to a plant should be retained for possible future operation of the plant, (b) where practicable, common-use stores should be removed and used elsewhere, and (c) uninstalled equipment and other personal property not required should be utilized elsewhere onsite or be disposed of as excess.

§ 109-43.5104 Utilization of property in facilities in standby status.

(a) Procedures and practices shall be established which require that property comprising the plant in standby, to the extent consistent with program requirements reflected by the startup criteria, be considered as a source of supply prior to procurement. Such procedures should provide for (1) furnishing potential users and procurement officers or some other reponsible screening office, both onsite and offsite, listings of equipment and other significant property holdings available for loan or transfer, and (2) removal and use elsewhere of installed equipment which can be replaced or returned within the established startup criteria.

(b) In addition to the above procedures, organizations should encourage informal contacts between their technical staffs and those engaged in similar work at other DOE locations for the purpose of ascertaining the availability of Government property to meet their program requirements.

PART 109-44—DONATION OF PERSONAL PROPERTY

Sec.

109-44.000 Scope of part.
109-44.000-50 Policy.
109-44.000-51 Responsibilities and authorities.

Subpart 109-44.3—Donation of Foreign Excess Personal Property

109-44.301 Holding agency responsibility.
109-44.305 Costs incurred incident to donation.

Subpart 109-44.47—Reports

109-44.4701 Reports.

AUTHORITY: Title V, Department of Energy Organization Act (Pub. L. 95-91); Administrative Procedure Act, as amended (5 U.S.C. 551 et seq.).

§ 109-44.000 Scope of part.

This part implements and supplements FPMR Part 101-44, Donation of Personal Property. For donation of surplus personal property in foreign areas, see § 109-45.51.

§ 109-44.000-50 Policy.

It is the policy of the DOE to cooperate fully with all public agencies and their accredited representatives authorized to participate in the donation program. Upon reasonable request,

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DOE organizations shall make available complete information on surplus property held for disposal.

§ 109-44.000-51 Responsibilities and authorities.

Heads of field offices shall appoint officers to make findings and reviews as required in FPMR 101-44.7 relating to donation of property to public bodies. Decisions relating to the actual donation of Government personal property are to be reserved to the Government and cannot be delegated to contractors.

Subpart 109-44.3—Donation of Foreign Excess Personal Property

§ 109-44.301 Holding agency responsibility.

After utilization screening and prior to disposal in the foreign area, property shall be considered available for return to the United States for donation as provided in FPMR 101-44.7 and § 109-43.5.

§ 109-44.305 Costs incurred incident to donation.

For DOE procedures on costs incurred incident to donation, see DOE Order 2200, Chapter III.

Subpart 109-44.47—Reports

§ 109-44.4701 Reports.

Instructions for submission of financial data for this report are contained in DOE Order 2200, Chapter XI.

PART 109-45—SALE, ABANDONMENT, OR DESTRUCTION OF PERSONAL PROPERTY

Sec.
109-45.000 Scope of part.
109-45.000-50 Policy.

Subpart 109-45.1—General

109-45.101-50 Applicability.
109-45.103 Sales responsibilities.
109-45.103-1 Responsibilities of the General Services Administration.
109-45.103-2 Responsibilities of holding agencies.

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109-45.105 Exclusions and exemptions.
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Subpart 109-45.3—Sale of Personal Property

109-45.301-50 Sales by DOE contractors.
109-45.302-50 Sales to DOE and contractor employees.
109-45.303 Reporting property for sale.
109-45.303-1 Describing property.
109-45.304-2 Negotiated sales at fixed prices.
109-45.304-6 Reviewing authority.
109-45.304-7 Advertising.
109-45.304-50 Processing bids and award of contract.
109-45.304-51 Documentation.
109-45.307 Proceeds from sales.
109-45.309 Special classes of property.
109-45.309-50 Unserviceable property (salvage and scrap).
109-45.310 Anti-trust laws.
109-45.316 Report on identical bids.

Subpart 109-45.5—Abandonment or Destruction of Surplus Property

109-45.501 Findings justifying abandonment and destruction.
109-45.501-1 General.
109-45.501-2 Reviewing authority.

Subpart 109-45.50—Excess and Surplus Radioactively Contaminated Personal Property

109-45.5001 Scope of subpart.
109-45.5002 Responsibilities.
109-45.5002-1 Development of criteria for utilization and disposal outside DOE.
109-45.5002-2 Approval of requests for utilization and disposal outside DOE.
109-45.5003 Procedures.
109-45.5003-1 Suspect personal property.
109-45.5003-2 Handled as uncontaminated equipment.
109-45.5003-3 Contaminated property.

Subpart 109-45.51—Disposal of Excess Personal Property in Foreign Areas

109-45.5100 Scope of subpart.
109-45.5101 Authority.
109-45.5102 General.
109-45.5103 Definitions.
109-45.5104 Responsibilities.
109-45.5104-1 Director of Procurement and Contracts Management.
109-45.5104-2 Heads of activities in foreign areas.
109-45.5105 Disposal.
109-45.5105-1 General.
109-45.5105-2 Methods of disposal.
109-45.5106 Reports.

AUTHORITY: Title V, Department of Energy Organization Act (Pub. L. 95-91); Administrative Procedure Act, as amended (5 U.S.C. 551 et seq.).

§ 109-45.000 Scope of part.

This part implements and supplements FPMR 101-45, Sale, Abandonment, or Destruction of Personal Property, but does not apply to (a) sale or other disposal activities for deuterium, enriched lithium, atomic weapons, and byproduct, source and special nuclear materials, as defined in Section 11 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2014), (b) properties which are sold or otherwise disposed of pursuant to special statutes, or (c) disposal of personal property in foreign areas (see § 109-45.51).

§ 109-45.000-50 Policy.

It is the policy of DOE to provide for the disposal of surplus personal property in an economical and efficient manner, and when sales are involved, for the fair and equal treatment of all prospective buyers, and for the protection of the Government's interests.

Subpart 109-45.1—General

§ 109-45.101-50 Applicability.

The provisions of FPMR Part 101-45 and this part are applicable to contractors which are authorized to dispose of surplus personal property.

§ 109-45.103 Sales responsibilities

§ 109-45.103-1 Responsibilities of the General Services Administration.

GSA regional offices are responsible for the conduct of sales of surplus and replacement property in the custody of DOE direct operations, except that DOE will continue to sell replacement property where trade-in offers are also involved in the transaction.

§ 109-45.103-2 Responsibilities of holding agencies.

See § 109-45.105-3, Exemptions, and § 109-45.3 for policy and procedures governing the sale of personal property by DOE contractors.

§ 109-45.105 Exclusions and exemptions.

§ 109-45.105-3 Exemptions.

The General Services Administration, by letter dated May 28, 1965, authorizes DOE contractors to sell contractor inventory, including replacement property. This exemption is for sales of contractor inventory only. All surplus property in the custody of DOE direct operations (except replacement property where trade-in offers are involved) will be reported to GSA in accordance with FPMR 101-45.303.

Subpart 109-45.3—Sale of Personal Property

§ 109-45.301-50 Sales by DOE contractors.

Sales of contractor inventory will be made by DOE contractors when heads of field offices determine that it is in the best interests of the Government to do so.

§ 109-45.302-50 Sales to DOE and contractor employees.

(a) Employees of DOE and DOE contractors shall be afforded the same opportunity to purchase Government-owned property as is afforded the general public, provided the employees warrant in writing prior to award that they have not either directly or indirectly—

(1) Participated in the determination to dispose of the property;

(2) Participated in the preparation of the property for sale;

(3) Participated in determining the method of sale; or

(4) Acquired information not otherwise available to the general public regarding usage, condition, quality, or value of the property.

(b) Special clothing and other articles of personal equipment purchased for the exclusive use of and fitted to an individual employee, when not otherwise usable by, and in all respects excess to the needs of, the holding installation, may be sold to DOE or contractor employees at the best price obtainable in the event of termination of their employment or their permanent assignment to duties not requiring such clothing or equipment.

§ 109-45.303 Reporting property for sale.

(a) *Reportable property.* In those cases where GSA is to be responsible for the sales function, the GSA regional offices will normally initiate sales action from the list of items remaining as surplus on Standard Form 120 reports after utilization and donation screening. In order to assure no misunderstanding at GSA regional offices as to who is to perform the sales function, each Standard Form 120 report forwarded to GSA (whether for DOE or DOE contractor property) shall bear a capitalized notation in a prominent place reading either "TO BE SOLD BY GSA" or "NOT TO BE SOLD BY GSA" as appropriate.

§ 109-45.303-1 Describing property.

DOE organizations shall assure that property reported or offered for sale is described accurately. In addition to the requirements contained in FPMR 101-45.303-1, particular emphasis should be placed on the accuracy of item quantities to achieve uniformly fair and reasonable disposition of all surplus personal property, protecting the interests of both the Government and the purchaser.

§ 109-45.304-2 Negotiated sales and negotiated sales at fixed prices.

(a) Negotiated sales, including purchases or retentions at less than cost by the contractor, may be made when the contracting officer determines and documents that the use of this method of sale is essential to expeditious contract closeout, or is otherwise justified on the basis of circumstances enumerated below, provided that the Government's interests are adequately protected. Negotiated sales, including purchases or retentions at less than cost by the contractor, shall be at prices which are fair and reasonable and not less than the proceeds which could reasonably be expected to be obtained if the property was offered for competitive sale. Specific conditions justifying negotiated sales are when—

(1) No acceptable bids have been received as a result of competitive bidding under a suitably advertised sale;

(2) Property is of such small value that the proceeds to be derived would not warrant the expense of a formal competitive sale;

(3) The disposal will be to states, territories, possessions, political subdivisions thereof, or tax-supported agencies therein, and the estimated fair market value of the property and other satisfactory terms of disposal are obtained;

(4) The specialized nature and limited use potential of the property would create negligible bidder interest;

(5) Removal of the property would result in a significant reduction in value, or the accrual of disproportionate expenses in handling; or

(6) It can be clearly established that such action is essential to the Government's interests.

See FPMR 101-45.304-6 and § 109-45.304-6 for reviewing authority requirements.

(b) Negotiated sales at fixed prices. When determined to be in the best interests of the Government, heads of field offices may authorize fixed-price sales of contractor inventory by DOE contractors provided (1) the reasonable recovery value of the property to be sold to any one purchaser at any one time does not exceed $100, (2) adequate procedures for publicizing such sales have been established, (3) the sales prices are not less than could reasonably be expected if competitive bid sales were employed and the prices have been approved by a reviewing authority designated by the heads of field offices, and (4) the warranty prescribed in § 109-45.302-50(a) is obtained when sales are made to employees.

§ 109-45.304-6 Reviewing authority.

The reviewing authority required under FPMR 101-45.304-6 may consist of one or more persons designated by the head of the field office who will be responsible for providing an adequate and independent review of proposed sales for the purpose of determining whether—

(a) The method of sale is in accordance with established policies and procedures; and

(b) Proceeds constitute a reasonable return for the property sold.

§ 109-45.304-7 Advertising.

(b) Procedures shall be established by all sales activities to assure that notification is provided to the Department of Commerce of proposed sales of surplus property with an acquisition cost of $250,000 or more as required by FPMR 101-45.304-7(b).

§ 109-45.304-50 Processing bids and award of contract.

The procedures established in FPR 1-2.4 shall be made applicable to execution, receipt, safeguarding, opening, abstracting, and evaluation of bids and awarding sales contracts, except that in evaluating bids and awarding contracts, disposal under conditions most advantageous to the Government based on high bids received shall be the determining factor. For mistakes in bids, see FPMR 101-45.8.

§ 109-45.304-51 Documentation.

Files pertaining to sales shall contain copies of all documents necessary to provide a complete record of the transaction and as a minimum shall include the following:

(a) A copy of request for proposals if written proposals are employed.

(b) A list of prospective bidders contacted.

(c) An abstract of proposals received, whether oral or written.

(d) Copies of written proposals or confirming proposals received, including Standard Forms 119 (see FPMR 101-45.313-9) which have been received from prospective bidders, together with other relevant information.

(e) A notation concerning basis for determination that proceeds constitute a reasonable return for property sold.

(f) Full and adequate justification for not advertising for competitive bids when the fair market value of property sold in this manner in any one case exceeds $1,000.

(g) A notation concerning any award made to other than the high bidder.

(h) The approval of reviewing authority when required.

(i) A copy of notice of award.

(j) All related correspondence.

(k) In the case of auction or spot bid sales, the following additional information should be included:

(1) A list of items or lots sold indicating book cost and sales price for each item or lot sold.

(2) A copy of advertising literature distributed to prospective bidders.

(3) A summary listing of advertising by means of newspapers, radio, television, public posting, etc.

(4) The names of prospective bidders who attended sale if list was made.

(5) A copy of any pertinent contract for auctioneering services and related documents or appropriate reference to files containing such documents.

(6) A record of deposits and payments made or appropriate reference to files containing such records.

§ 109-45.307 Proceeds from sales.

Notwithstanding the provisions of FPMR 101-45.307, DOE installations shall comply with the provisions of DOE Order 2200, Chapter IV.

§ 109-45.309 Special classes of property.

§ 109-45.309-50 Unserviceable property (salvage and scrap).

(a) A continuous cleanup program shall be maintained at all DOE instal-

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lations to locate, efficiently handle, and promptly dispose of unserviceable property (salvage and scrap). Property inventories and construction, wrecking, dismantling and other projects which might produce scrap, should be regularly reviewed, particularly for metals and other items which offer potential as marketable materials and for economic returns to the Government. (See FPMR Part 101-42 and DOE-PMR Part 109-42 for recovery of precious metals and reporting requirements.)

(b) Scrap metals shall be segregated to the maximum economical extent consistent with good industrial practice.

(c) Scrap metal which is contaminated with radioactive material shall be segregated and appropriately marked at the source as to type and degree of contamination.

§ 109-45.310 Antitrust laws.

Selling organizations shall submit to the Office of the General Counsel, with a copy to the Director of Procurement and Contracts Management, the report on proposed sales of surplus personal property with an acquisition cost of $3,000,000 or more, or a patent, process, technique, or invention, regardless of cost. Information to be included is contained in FPMR 101-45.310.

§ 109-45.316 Report on identical bids.

Selling organizations shall forward the report on identical bids required by FPMR 101-45.316 to the Office of the General Counsel, with a copy to the Director of Procurement and Contracts Management.

Subpart 109-45.5—Abandonment or Destruction of Surplus Property

§ 109-45.501 Findings justifying abandonment and destruction.

§ 109-45.501-1 General.

(a) The finding required by FPMR 101-45.501-1(a) that property has no commercial value or the estimated cost of its continued care and handling would exceed the estimated proceeds from its sale shall be in writing and shall be made by an official designated by the head of the field office concerned.

§ 109-45.501-2 Reviewing authority.

The head of the field office concerned or his designee will be the reviewing authority for approval to abandon or destroy property with an acquisition cost of more than $1,000.

Subpart 109-45.50—Excess and Surplus Radioactively Contaminated Personal Property

§ 109-45.5001 Scope of subpart.

This subpart provides policies and procedures for the utilization and disposal outside of DOE of excess and surplus personal property which has been radioactively contaminated.

§ 109-45.5002 Responsibilities.

§ 109-45.5002-1 Development of criteria for utilization and disposal outside DOE.

The Assistant Secretary's for Environment operational and environmental safety staff has responsibility for development of criteria for utilization and disposal of excess and surplus radioactively contaminated personal property outside of DOE.

§ 109-45.5002-2 Approval of requests for utilization and disposal outside DOE.

Requests for utilization and disposal outside DOE shall be forwarded to the Director of Procurement and Contracts Management for approval and coordination with the Assistant Secretary's for Environment operational and environmental safety staff for recommendations as to approval or disapproval.

§ 109-45.5003 Procedures.

§ 109-45.5003-1 Suspect personal property.

(a) Each excess item of personal property (including scrap), having a history of use in an area where exposure to radioactive materials may occur, shall be considered suspect and shall be monitored using appropriate instruments and techniques by qualified personnel of the DOE office or contractor generating the excess.

(b) Prior to utilization or disposal outside DOE, with due consideration to the economic factors involved, every effort shall be made to reduce the level of radioactive contamination of items of excess or surplus property to the lowest practicable level.

(c) If contamination is suspect and the property is of such size, construction, or location as to make the contamination inaccessible for the purpose of measurement, such property shall not be utilized or disposed of outside DOE through normal channels.

§ 109-45.5003-2 Handled as uncontaminated equipment.

If monitoring of suspect equipment indicates that the contamination does not exceed applicable standards, it may be utilized and disposed of in the same manner as uncontaminated equipment, provided the guidance in § 109-45.5003-1(b) has been considered. However, recipients shall be advised where levels of contamination require specific controls for shipment as provided in Department of Transportation Regulations for shipment of radioactive materials (49 CFR Parts 171-179, inclusive). In addition, when such equipment is circularized within DOE, reported to GSA, or otherwise disposed of, the kind and degree of contamination must be plainly indicated on all pertinent documents.

§ 109-45.5003-3 Contaminated property.

When the holding activity determines it is appropriate to dispose of contaminated personal property, such contaminated personal property shall be disposed of by DOE in accordance with appropriate Federal regulations governing radiation exposure to the public and contamination in the environment. In special cases where Federal regulations do not exist or apply, appropriate national consensus standards shall be used. Prior to utilization or disposal outside of DOE, approvals of the Director, Procurement and Contracts Management, and the Assistant Secretary's for Environment operational and environmental safety staff, are required. The requests for approval of utilization or disposal outside of DOE shall be forwarded to the Director of Procurement and Contracts Management for Headquarters coordination and approval.

Subpart 109-45.51—Disposal of Excess Personal Property in Foreign Areas

§ 109-45.5100 Scope of subpart.

This subpart prescribes policies and procedures governing the disposal of DOE-owned foreign excess and surplus personal property.

§ 109-45.101 Authority.

The policies and procedures contained in this subpart are issued pursuant to the provisions of the Federal Property and Administrative Services Act of 1949, as amended (40 USC 471). Title IV of that Act entitled "Foreign Excess Property" provides that, except where commitments exist under previous agreements, all excess property located in foreign areas shall be disposed of by the owning agency, and directs that the head of such an agency conform to the foreign policy of the United States in making such disposals.

§ 109-45.5102 General.

Disposal of Government-owned property in the custody of DOE or its contractors in foreign areas shall be made in an efficient and economical manner, and in conformance with the foreign policy of the United States.

§ 109-45.5103 Definitions.

As used in this subpart, the following definitions apply:

(a) "Foreign" means outside the United States, Puerto Rico, American Samoa, Guam, the Trust Territory of the Pacific Islands, and the Virgin Islands.

(b) "Foreign service post" means the local diplomatic or consular post in the area where the excess prop-erty is located.

§ 109-45.5104 Responsibilities.

§ 109-45.5104-1 Director of Procurement and Contracts Management.

The Director of Procurement and Contracts Management—

(a) Develops and interprets policies, principles, and general procedures for the disposal of excess property in foreign areas; and

(b) Prepares an annual report to GSA on the disposal of excess property in foreign areas. (See FPMR 101-43.4701, 101-44.4701, and 101-45.4701).

§ 109-45.5104-2 Heads of offices in foreign areas.

Heads of DOE foreign offices—

(a) Are authorized to handle foreign excess disposal matters in accordance with Title IV, "Foreign Excess Property" of the Federal Property and Administrative Services Act of 1949, as amended and this subpart;

(b) Shall refer to the Procurement and Contracts Management Directorate (PR-221), any requests for advice or approval of the State Department on proposed disposals of excess property in foreign areas for review, coordination and handling through appropriate channels; and

(c) Shall approve the exchange or lease of foreign excess property when in their opinion such action is clearly in the best interest of the Government as provided in § 109-45.5105-2(b).

§ 109-45.5105 Disposal.

§ 109-45.5105-1 General.

(a) Foreign excess property which is not required for transfer within DOE or to other U.S. Government agencies shall be considered surplus and may be disposed of by transfer, sale, exchange, or lease, for cash, credit, or other property and upon such other terms and conditions as may be deemed proper. Such property may also be donated, abandoned, or destroyed under the conditions specified in § 109-45.5105-2(c). Most foreign governments have indicated to the State Department that they wish to be consulted before U.S. Government property is disposed of in their countries (except in the case of transfers to other U.S. Government agencies). Matters concerning customs duties and taxes, or similar charges, may require prior agreement with the foreign government involved. The State Department shall be contacted in regard to these problems. Whenever advice or approval of the State Department is required by this subpart, it may be obtained either through the foreign service post in the foreign area involved or from the State Department in Washington, D.C. If the problem is to be presented to the State Department in Washington, D.C., it shall be referred through appropriate administrative channels to the Director of Procurement and Contracts Management, for review, coordination and handling.

(b) Foreign excess property which is not transferred for use may be transferred to other U.S. Government agencies for disposal. This procedure may often prove advantageous, particularly when only small amounts of property are involved or when personnel of the other agencies are generally engaged in disposal activities.

§ 109-45.5105-2 Methods of disposal.

(a) Sales of foreign excess shall be conducted in accordance with the following guidelines:

(1) Generally, all sales of surplus foreign excess property shall be conducted under the competitive bid process unless it is advantageous and more practicable to the Government not to do so. When competitive bids are not solicited, reasonable inquiry of prospective purchasers shall be made in order that sales may be made on terms most advantageous to the U.S. Government.

(2) In no event shall any property be sold in foreign areas without a condition which states that its importation into the United States is forbidden unless the U.S. Secretary of Agriculture (in the case of any agricultural commodity, food, or cotton or woolen goods), or the U.S. Secretary of Commerce (in the case of any other property), determines or has determined that the importation of such property would relieve domestic shortages or otherwise be beneficial to the economy of the United States.

(3) Sales documents shall provide that the purchaser must pay any import duties or taxes levied against property sold in the country involved and further provide that the amount of this duty or tax shall not be included as a part of the price paid the U.S. Government for the property. In the event the levy is placed upon the seller by law, the buyer will be required to pay all such duties or taxes and furnish the seller copies of his receipts prior to the release of the property to him. However, if the foreign government involved will not accept payment from the buyer, the seller will collect the duties or taxes and turn the amounts collected over to the foreign government. Accounting for the amounts collected shall be coordinated with the disbursing officer of the nearest United States foreign service post. The property shall not be released to the purchaser until the disposal officer is satisfied that there is no responsibility for payment by the United States (as contrasted to collection by the United States) of taxes, duties, excises, etc.

(4) Certain categories of property, including small arms and machine guns; artillery and projectiles; ammunition, bombs, torpedoes, rockets and guided missiles; fire control equipment and range finders; tanks and ordnance vehicles; chemical and biological agents, propellents and explosives; vessels of war and special naval equipment; aircraft and all components, parts and accessories for aircraft; military electronic equipment; aerial cameras, military photo-interpretation, stereoscopic plotting and photogrammetry equipment; and all material not enumerated which is classified from the standpoint of military security (United States Munitions List, 22 CFR 121.01), are subject to restrictions as to disposal. Advance approval must be obtained from the State Department for the sale of all such articles. Therefore, prior to the sale of any of the articles enumerated in the U.S. Munitions List, the foreign service post in the area shall be consulted.

(5) Prior to the sale of property which had a total acquisition cost of $250,000 or more, plans for such sale shall be reported to the Procurement and Contracts Management Directorate (PR-221) in ample time to allow considerations of possible foreign policy aspects and advice thereon from the State Department. (See § 109-45.5106(a).) All proposed sales, regardless of the total acquisition cost of the property involved, which the head of the DOE foreign office believes might have a significant effect on the economic or political situation in a particular area, shall be discussed with the foreign service post.

(b) While there is authority for exchange or lease of foreign surplus property, such authority shall be exercised only when such action is clearly in the best interests of the U.S. Government. Disposals by exchange are subject to the same requirements as disposals by sale under § 109-45.5105-2(a).

(c) Foreign excess or surplus property (including waste, salvage, and scrap) may be donated, abandoned, or destroyed provided (1) the property has no commercial value, or the estimated cost of its care and handling would exceed the estimated proceeds from its sale and (2) a written finding to that effect is made and approved by

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the head of the DOE foreign office. No property shall be abandoned or destroyed if donation is feasible. Donations under these conditions may be made to any agency of the U.S. Government, or to educational public health or charitable nonprofit organizations of foreign governments. Foreign excess property may also be abandoned or destoyed when such action is required by military necessity, safety, or considerations of health or security. A written statement explaining the basis for disposal by this means and approval by the head of the DOE foreign office is required. Property shall not be abandoned or destroyed in a manner which is detrimental or dangerous to public health and safety, or which will cause infringement on the rights of other persons.

§ 109-45.5106 Reports.

(a) Proposed sales of foreign excess property having an acquisition cost of $250,000 or more reported to the Director of Procurement and Contracts Management should present all pertinent data, including the following:

(1) The description of property to be sold, including—

(i) Identification of property (description should be in terms understandable to persons not expert in technical nomenclature); property covered by the Munitions List and regulations pertaining thereto (as published in 22 CFR 121.01) should be clearly indicated;

(ii) Quantity;

(iii) Condition; and

(iv) Acquisition cost.

(2) The proposed method of sale (i.e., bid, negotiated sale, etc.).

(3) Any currency to be received and payment provisions (i.e., U.S. dollars, foreign currency, or credit, including terms of proposed agreement).

(4) Any restrictions on use of property to be sold (such as retransfer of property, disposal as scrap, demilitarization, etc.).

(5) Any special terms.

(6) The categories of prospective purchasers (e.g., host country, other foreign countries, special qualifications, etc.).

(7) How taxes, excises, duties, etc. will be handled.

(b) Instructions for reporting foreign excess utilization and disposal transactions are contained in DOE Order 2200, Chapter III.

PART 109-46—UTILIZATION AND DISPOSAL OF PERSONAL PROPERTY PURSUANT TO EXCHANGE/SALE AUTHORITY

Sec.
109-46.000 Scope of part.
109-46.000-50 Applicability.

Subpart 109-46.4—Disposal

Sec.
109-46.407 Reports.

AUTHORITY: Title V, Department of Energy Organization Act (Pub. L. 95-91); Administrative Procedure Act, as amended (5 U.S.C. 551 et seq.).

§ 109-46.000 Scope of part.

This part implements and supplements FPMR Part 101-46.

§ 109-46.000-50 Applicability.

This part is not applicable to DOE contractors.

Subpart 109-46.4—Disposal

§ 109-46.407 Reports.

Feeder reports of exchange/sale transactions required by FPMR 101-46.407 shall be submitted through normal administrative channels to the Procurement and Contracts Management Directorate (PR-221) within 60 days after the close of the fiscal year. Negative reports are required.

PART 109-48—UTILIZATION, DONATION, OR DISPOSAL OF ABANDONED AND FORFEITED PERSONAL PROPERTY

Sec.
109-48.000 Scope of part.
109-48.001-50 Applicability.

Subpart 109-48.1—Utilization of Abandoned and Forfeited Personal Property

109-48.101-6 Transfer to other Federal agencies.
109-48.102-4 Proceeds.

AUTHORITY: Title V, Department of Energy Organization Act (Pub. L. 95-91); Administrative Procedure Act, as amended (5 U.S.C. 551 et seq.).

§ 109-48.000 Scope of part.

This part implements and supplements FPMR Part 101-48, Utilization, Donation, or Disposal of Abandoned and Forfeited Personal Property.

§ 109-48.001-50 Applicability.

The provisions of FPMR 101-48 and this part are applicable to contractor operations where the abandoned or forfeited personal property is found on premises owned or leased by the Government.

Subpart 109-48.1—Utilization of Abandoned and Forfeited Personal Property

§ 109-48.101-6 Transfer to other Federal agencies.

(d) Transfer orders covering requests for transfers of forfeited or voluntarily abandoned distilled spirits, wine and malt beverages for medicinal, scientific or mechanical purposes shall be forwarded through normal administrative channels for signature by the Procurement and Contracts Management Directorate (PR-221) and for subsequent forwarding to GSA for release.

§ 109-48.102-4 Proceeds.

After retention of any monies received from disposal of abandoned or forfeited property for the three-year period specified in FPMR 101-48.102-4 with no claim being filed, such monies shall be deposited as provided in DOE Order 2200, Chapter IV.

PART 109-50—PROGRAMMATIC DISPOSAL OF DOE PROPERTY

Sec.
109-50.000 Scope of part.
109-50.001 Applicability.

Subpart 109-50.1—General

109-50.101 Authority.

Subpart 109-50.3—Used Energy-Related Laboratory Equipment Grant Program

Sec.
109-50.300 Scope of subpart.
109-50.301 Applicability.
109-50.302 General.
109-50.303 Authority.
109-50.304 Definitions.
109-50.305 Responsibilities and authorities.
109-50.305-1 Director of Procurement and Contracts Management.
109-50.305-2 Director, Office of Education, Business and Labor Affairs, Assistant Secretary for Intergovernmental and Institutional Relations.
109-50.305-3 Heads of field offices.
109-50.305-4 Grants officers.
109-50.305-5 Excess used energy-related laboratory equipment holdings activities.
109-50.305-6 Screening locations.
109-50.306 Types of equipment which may be granted.
109-50.307 Types of equipment which may not be granted.
109-50.308 Procedure.
109-50.309 Reports.
109-50.310 Screening locations.

Subpart 109-50.4—Programmatic Disposal to Contractor of DOE Property in a Mixed Facility

Sec.
109-50.400 Scope of subpart.
109-50.401 Definitions.
109-50.402 Responsibilities and authorities.
109-50.402-1 Director of Procurement and Contracts Management.
109-50.402-2 The Director of Administration.
109-50.402-3 Heads of Headquarters Program Organizations.
109-50.402-4 Heads of field offices and contracting officers.
109-50.403 Programmatic disposal of DOE property in mixed facilities.
109-50.403-1 Submission of proposals.
109-50.403-2 Need to establish DOE program benefit.
109-50.404 Notification.

AUTHORITY: Title V, Department of Energy Organization Act (Pub. L. 95-91); Administrative Procedure Act, as amended (5 U.S.C. 551 et seq.).

§ 109-50.000 Scope of part.

This part provides guidance on the authorities, policies, and procedures for the disposal of DOE property for programmatic purposes.

§ 109-50.001 Applicability.

The provisions of this Part 109-50 apply to direct DOE activities, but do not apply to contractors unless specifically provided in the appropriate subpart.

Subpart 109-50.1—General

§ 109-50.101 Authority.

Programmatic disposals of DOE property generally are made under the authority and subject to the provisions of the Atomic Energy Act of 1954, as amended (42 USC 2011), the Energy Reorganization Act of 1974 (42 USC 5801), the Department of Energy Organization Act (42 USC 7101), and other special laws which provide authority for DOE program activities.

Subpart 109-50.3—Used Energy-Related Laboratory Equipment Grant Program

§ 109-50.300 Scope of subpart.

This subpart provides guidance on the granting of used, energy-related laboratory equipment to universities and colleges and other nonprofit educational institutions of higher learning in the United States for use in energy-oriented educational programs.

§ 109-50.301 Applicability.

This subpart is applicable to direct operations and to contractors.

§ 109-50.302 General.

DOE, to encourage research in the field of energy, awards grants of used energy-related laboratory equipment to eligible institutions for use in energy-oriented educational programs. Under the Used Energy-Related Laboratory Equipment Grant Program, grants of used energy-related equipment excess to the requirements of DOE offices and contractors may be made to eligible institutions prior to reporting the equipment to GSA for utilization.

§ 109-50.303 Authority.

The used Energy-Related Laboratory Equipment Grant Program is conducted under the authority of Article 31 of the Atomic Energy Act of 1954, as amended, section 103, paragraph 10, of the Energy Reorganization Act of 1974, and Title III of the Department of Energy Organization Act.

§ 109-50.304 Definitions.

As used in this subpart the following definitions apply:

(a) "Book value" means acquisition cost less depreciation.

(b) "Eligible institution" means any nonprofit educational institution of higher learning, such as universities, colleges, junior colleges, hospitals, and technical institutes or museums located in the United States and interested in establishing or upgrading energy-oriented educational programs.

(c) "Energy-oriented education program" means one that deals partially or entirely in energy or energy-related topics.

(d) "DOE Assistance Regulations (DOE-AR)" is the Department of Energy regulation which establishes a uniform administrative system for application, award, and administration of assistance awards, including grants and cooperative agreements.

(e) "Grants officer" is an employee or officer of DOE who has been delegated the authority to take final action on grants by signing grant awards and modifications thereto.

§ 109-50.305 Responsibilities and authorities.

§ 109-50.305-1 Director of Procurement and Contracts Management.

The Director of Procurement and Contracts Management—

(a) Establishes policies and procedures for the award and administration of grants; and

(b) Delegates grants officer authority.

§ 109-50.305-2 Director, Office of Education, Business and Labor Affairs, Assistant Secretary for Intergovernmental and Institutional Relations.

The Director, Office of Education, Business and Labor Affairs, Assistant Secretary for Intergovernmental and Institutional Relations—

(a) Has program responsibility for the Used Energy-Related Laboratory Equipment Grants Program;

(b) Issues general instructions and information on the program to institutions;

(c) Reviews and, where appropriate, approves requests from institutions for used equipment where the book value of an item of equipment exceeds $100,000 or where the cumulative book value of used equipment grants to any one institution exceeds $100,000; and

(d) Issues annual summary reports of equipment granted under this program to field offices and Headquarters organizations. Advises when grants to individual institutions approach the $100,000 book value cumulative limit.

§ 109-50.305-3 Heads of field offices.

Heads of field offices shall establish procedures for review and evaluation of equipment grant proposals in accordance with this subpart.

§ 109-50.305-4 Grants officers.

Grants officers—

(a) Award energy-related laboratory equipment grants under this program in accordance with the DOE Assistance Regulations (DOE-AR) and program instructions issued by the Director, Office of Education, Business and Labor Affairs, Assistant Secretary for Intergovernmental and Institutional Relations, and this subpart;

(b) Forward a copy of each approved and accepted grant to the Office of Education, Business and Labor Affairs; and

(c) Forward to Office of Education, Business and Labor Affairs, for approval prior to award of grant, requests from institutions for used equipment where the book value of the equipment exceeds $100,000 or where the cumulative book value of grants to an institution exceeds $100,000.

§ 109-50.305-5 Excess used energy-related laboratory equipment holding activities.

Each DOE and Contractor organization holding excess used energy-related laboratory equipment shall forward copies of excess reports (SF 120) to screening locations cited in § 109-50.310.

§ 109-50.305-6 Screening locations.

Activities designated in § 109-50.310 shall retain current files of reports of excess used energy-related laboratory equipment for review by eligible institutions.

§ 109-50.306 Types of equipment which may be granted.

Examples of types of equipment which may be granted under the Used Energy-Related Laboratory Equipment Grant Program are listed below. These examples are merely illustrative and not inclusive.

—radiation detectors, monitors, scalers, and counters
—nuclear reactors and accelerators
—neutron howitzers and generators
—critical and subcritical assemblies
—bubble and cloud chambers
—dosimeters, survey meters, radiometers, and spectroscopes
—radiation shields and reactor associated components
—mass spectrometers, infrared spectrometers, and ultraviolet spectrometers
—gas and liquid chromatographs
—ammeters, voltmeters, electrometers
—linear and pulse-height analyzers
—power supplies
—catalyst test units
—distillation columns

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—temperature and pressure recorders
—ion control gauges
—gas tracers and analyzers
—solar collectors and heliometers

§ 109-50.307 Types of equipment which may not be granted.

Types of equipment which will not be granted include—

(a) Any equipment determined to be required by DOE direct operations or DOE contractors;

(b) General supplies, such as Bunsen burners, hoods and work benches; furniture; office equipment, such as typewriters, adding machines, and duplicating machines; slide rules, and drafting and office supplies; refrigerators; tools; presses, lathes, furnaces, hydraulic and mechanical jacks, cranes and hoists; and computing equipment; or

(c) Any equipment which has been obtained as excess from another Federal agency.

§ 109-50.308 Procedure.

(a) Copies of excess reports (SF 120) of used energy-related laboratory equipment will be forwarded by each holding activity to the sites listed in § 109-50.310 for use by eligible institutions in reviewing and earmarking specific equipment. These reports will be separately prepared and identified with the caption "Used Energy-Related Laboratory Equipment."

(b) The following periods have been established during which time equipment will remain available to this program prior to reporting it to the General Services Administration for utilization by other Federal agencies:

(1) Sixty days from the date the report is issued to permit suitable time for eligible institutions to review and earmark the desired equipment.

(2) An additional sixty days after the equipment is earmarked to permit the eligible institutions to prepare and submit an equipment proposal request and to provide time for field organizations to review and evaluate the proposal and take appropriate action.

(c) Upon approval of the proposal, the issuance of the grant instrument and acceptance by the institution are deemed to constitute transfer of title.

(d) A Standard Form 120, accompanied by a copy of the completed grant, shall be used to drop accountability of the granted equipment from the financial records.

(e) The cost of care and handling of property incident to the grant shall be charged to the receiving institution. Such costs may consist of packing, crating, shipping and insurance, and are limited to actual costs. In addition, where appropriate, the cost of any repair and/or modification to any equipment shall be borne by the recipient institution.

§ 109-50.309 Reports.

(a) In addition to the copy of the awarded grant required to be forwarded in accordance with § 109-50.305-4(b), each awarded grant shall be reported in the Integrated Procurement Management Information System.

(b) Heads of field offices shall include grants made under this program in the annual report of property transferred to non-Federal activities, as required by FPMR 101-43.4701(c).

§ 109-50.310 Screening locations.

The following locations shall retain current files of SF-120's, reports of excess used energy-related laboratory equipment, for review by eligible institutions. DOE activities shall forward copies of SF 120s covering used energy-related laboratory equipment to these locations.

California

Property Management Office, Atomics International Division, Rockwell International Corporation, 8900 DeSoto Avenue, Canoga Park, California 91305
Property Manager, Lawrence Livermore Laboratory, University of California, Livermore, California 94720
Business Services, L-53, Lawrence Livermore Laboratory, University of California, Livermore, California 94550

Colorado

Rocky Flats Area Office, Department of Energy, P.O. Box 928, Golden, Colorado 80401

Idaho

Property Management Branch, EG & G, 539 Second Street, Idaho Falls, Idaho 83401
Property Management & Administrative Services Branch, Idaho Operations Office, 550 Second Street, Idaho Falls, Idaho 83401

Illinois

Plant Operations, Plant Management, Argonne National Laboratory, 9700 South Cass Avenue, Argonne, Illinois 60439

Missouri

Kansas City Area Office, Department of Energy, P.O. Box 202, Kansas City, Missouri 66141

Nevada

Property Management, Nevada Operations Office, Department of Energy, P.O. Box 14100, Las Vegas, Nevada 89114

New Mexico

Office of University Relations, Sandia Laboratories, P.O. Box 5800, Albuquerque, New Mexico 87115.

New York

Supply and Materials Office, Brookhaven National Laboratory, Upton, Long Island, New York 11973

Ohio

Property Management, Mound Laboratory, Monsanto Research Corporation, P.O. Box 32, Miamisburg, Ohio 45342

South Carolina

University Relations Office, Savannah River Laboratory, E. I. DuPont de Nemours & Co., Aiken, South Carolina 29801

Iowa

Materials Handling and Property Office, Room 152, Research Building, Ames Laboratory, Iowa State University, Ames, Iowa 50010

Tennessee

Materials and Services, Oak Ridge National Laboratory, P.O. Box X, Oak Ridge, Tennessee 37830

Washington

Excess Utilization, Rockwell Hanford, Building 1167-A, P.O. Box 250, Richland, Washington 99352

Subpart 109-50.4—Programmatic Disposal to Contractor of DOE Property in a Mixed Facility

§ 109-50.400 Scope of subpart.

This subpart contains guidance to be followed when it is proposed to sell or otherwise transfer DOE personal or real property located in a mixed facility to the Contractor who is the operator of that facility.

§ 109-50.401 Definitions.

As used in this subpart, the following definitions apply:

(a) "DOE property" is the DOE-owned personal or real property in a mixed facility.

(b) "Contractor" is the operator of the mixed facility.

(c) "Mixed facility" is a partly DOE-owned and partly contractor-owned facility. For purposes of this subpart, however, this definition does not apply to such a facility operated by an educational or other nonprofit institution under a basic research contract with DOE.

§ 109-50.402 Responsibilities and authorities.

§ 109-50.402-1 Director of Procurement and Contracts Management.

The Director of Procurement and Contracts Management is authorized to approve proposals for the programmatic disposal of DOE personal property in a mixed facility to the contractor operating that facility.

§ 109-50.402-2 Director of Administration.

The Director of Administration is authorized to approve proposals for the programmatic disposal of DOE real property in a mixed facility to the contractor operating that facility.

§ 109-50.402-3 Heads of Headquarters Program Organizations.

Heads of Headquarters Program Organizations shall review and, where appropriate, forward to the authorized officers in § 109-50.402-1 and 402-2 for approval, proposals for the programmatic disposal of DOE property in a mixed facility to the contractor operating that facility.

§ 109-50.402-4 Heads of field offices and contracting officers.

Heads of field offices and contracting officers shall submit proposals involving programmatic disposals of DOE property in mixed facilities through appropriate administrative channels to the cognizant Headquarters program organization for review and forwarding for approval.

§ 109-50.403 Programmatic Disposal of DOE Property in mixed facilities.

§ 109-50.403-1 Submission of proposals.

Proposals involving programmatic disposals of DOE property in mixed facilities to contractors operating the facility shall be forwarded through the appropriate program organization to the authorized officers in § 109-50.402-1 and 402-2 for review and processing for approval. Each such request for review and approval shall include all information necessary for a proper evaluation of the proposal. The proposal shall include, as a minimum—

(a) The purpose of the mixed facility;

(b) The character, condition and present use of the DOE property involved, as well as its acquisition cost, accumulated depreciation, and net book value;

(c) The programmatic benefits which would accrue to DOE from the disposal to the contractor (including the considerations which become important if the disposal is not made);

(d) The appraised value of the DOE property (preferably by independent appraisers); and

(e) The proposed terms and conditions of disposal (covering for example, (1) price, (2) priority to be given work for DOE requiring the use of the transferred property, and including the basis for any proposed charge to DOE for amortizing the cost of plant and equipment items, (3) recapture of the property if DOE foresees a possible future urgent need, and (4) delivery of the property, whether "as is-where is," etc.).

§ 109-50.403-2 Need to establish DOE program benefit.

When approval for a proposed programmatic disposal of DOE property in a mixed facility is being sought, it must be established that the disposal will benefit a DOE program. For example, approval might be contingent on a showing that—

(a) The entry of the contractor as a private concern into the energy program is important and significant from a programmatic standpoint; and

(b) The sale of property to the contractor will remove obstacles which otherwise discourage his entry into the field.

§ 109-50.404 Notification.

The Under Secretary will be advised prior to any disposal which is considered sensitive.

SUBCHAPTER J—INDUSTRIAL PLANT EQUIPMENT

PART 109-51—LOANS OF INDUSTRIAL PLANT EQUIPMENT FROM THE DEFENSE INDUSTRIAL PLANT EQUIPMENT CENTER (DIPEC)

Sec.
109-51.000 Scope of part.
109-51.000-50 Policy.
109-51.001 Memorandum of Agreement.
109-51.002 General provisions.
109-51.003 DIPEC Handbook.

AUTHORITY: Title V, Department of Energy Organization Act (Pub. L. 95-91); Administrative Procedure Act, as amended (5 U.S.C. 551 et seq.).

§ 109-51.000 Scope of part.

This part prescribes the policy and conditions for loans of industrial plant equipment (IPE) from the Department of Defense General Reserve under the management of the Defense Industrial Plant Equipment Center (DIPEC) and makes reference to the DOE DIPEC Handbook which prescribes procedures for arranging loans of IPE from DIPEC.

§ 109-51.000-50 Policy.

Since loan of DIPEC equipment is at no cost, except for packing, crating, handling, and transportation charges, DOE field offices and contractors are encouraged to use DIPEC as a source of industrial plant equipment in lieu of purchasing such equipment.

§ 109-51.001 Memorandum of Agreement.

An agreement between DOE and the Defense Logistics Agency establishes the policies, procedures and conditions by which DOE may obtain loans of IPE from DIPEC. (Exhibit A of the DIPEC Handbook).

§ 109-51.002 General provisions.

(a) DOE field offices and contractors may requisition IPE on a loan basis for periods up to five years. The IPE loan period may be extended on mutual agreement between DIPEC and the DOE field office involved.

(b) DOE and DOE contract personnel may visit DIPEC headquarters or storage centers to acquire information or to inspect requisitioned or required IPE. Visit arrangements are to be coordinated through DIPEC.

(c) DOE has a 30-day period to accept or reject IPE placed on hold by DIPEC.

(d) DOE field offices or contractors will pay costs of transportation, dismantling, crating and handling of IPE from and to DOD.

(e) On completion of the loan period, the DOE field office or contractor shall return the DIPEC-IPE in the same condition as received except for fair wear and tear.

(f) DOE is required under terms of the agreement to decontaminate IPE prior to return or replace the equipment with an equivalent item.

§ 109-51.003 DIPEC Handbook.

The DIPEC Handbook is available through field organizations or by request to the Procurement and Contracts Management Directorate (PR-221). The Handbook cites the procedures for arranging loan of IPE, illustrates the forms used and provides a bibliography of DIPEC publications which list the available IPE by type of equipment and by DIPEC control numbers.

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WEDNESDAY, JANUARY 3, 1979
PART III



DEPARTMENT OF ENERGY

REGULATORY REFORM

Improving Government Regulations

[6450-01-M]

DEPARTMENT OF ENERGY

REGULATORY REFORM

Improving Government Regulations

AGENCY: Department of Energy.

ACTION: Notice of DOE's plan for regulatory reform during FY 1979, and steps taken to implement Executive Order 12044, on "Improving Government Regulations."

SUMMARY: The Department of Energy has made a firm commitment to the goal of reducing regulatory burdens on producers and consumers of energy. DOE established a Regulatory Reform Task Force on January 31, 1978, published its proposed response to Executive Order 12044 on "Improving Government Regulations" on May 1, 1978 (43 FR 18634), and held four public meetings on regulatory reform.

DOE's regulatory reform actions discussed below are based on the May 1 FEDERAL REGISTER notice and the public comments received in response to that notice. The more than 200 oral and written public comments and suggestions for new reform initiatives are discussed in today's notice. In addition, this notice discusses the status of the 15 reform initiatives announced in the May 1 notice and contains as an Appendix DOE's final plan to implement E.O. 12044.

Additionally, DOE has prepared an agenda of 16 new reform initiatives for the first half of FY 1979, based entirely on suggestions received from the public. In this new agenda, special emphasis has been given to the need to streamline reporting requirements and reduce other regulatory burdens which add to inflation or impose special hardships on small businesses. This agenda, along with DOE's revised procedures for developing new regulations, will contribute substantially to the Department's ability to implement national energy policy conscientiously, effectively, with full public participation, and without imposing unnecessary burdens.

EFFECTIVE DATE: The attached Order 2030 was effective December 18, 1978.

FOR FURTHER INFORMATION CONTACT:

William Strauss, Director, Regulatory Programs Division, Office of Policy & Evaluation, Department of Energy, Room 7-H-075, Forrestal Building, Washington, D.C. 20585, (202) 252-5727.

SUPPLEMENTARY INFORMATION:

I. Background
II. Final DOE Order for the Development of New Regulations
III. Current Initiatives
IV. Public Comments
A. New Initiatives in Response to Comments
B. Comments Not Resulting in New Initiatives
V. Next Status Report
Apppendix. DOE's Order Establishing Procedures for the Development and Analysis of New Regulations.

I. BACKGROUND

On March 24, 1978, the President issued Executive Order 12044, "Improving Government Regulations." The Executive Order called upon all Federal agencies to reduce regulatory burdens imposed upon the American public, to write regulations more clearly, and to seek ways to involve the public more in the regulatory process.

In January of 1978, DOE formed a special Regulatory Reform Task Force. This Task Force, composed of DOE Assistant Secretaries, Administrators, and Office Directors, was charged with the task of reviewing the full scope of regulatory strategy within the Department. The Task Force was instructed by its Chairman, Deputy Secretary John O'Leary, to review carefully the need for existing regulations and to ensure that future regulations are properly developed and implemented.

One of the first actions of the Regulatory Reform Task Force was to identify a list of 15 reform initiatives, which DOE published in the FEDERAL REGISTER on May 1, 1978. In the same notice, an interim management directive was published incorporating the requirements of the Executive Order in all DOE rulemaking procedures. In addition to seeking public comment on these matters, DOE solicited suggestions for possible future reforms.

The Department conducted four regional public meetings beginning in June, 1978, to give officials of DOE and members of the public an opportunity to discuss the reform issues presented in the FEDERAL REGISTER notice, as well as any other concerns about DOE regulatory problems. Participants at the meetings represented a cross-section of interests and helped DOE to focus on the varying regional, economic and social impacts of energy regulation. In all, approximately 250 members of the public attended the meetings in Los Angeles, Houston, Minneapolis and Washington, D.C., 61 of whom made statements. Twenty-eight DOE representatives participated on the panels, including the Deputy Secretary, the Administrator of the Economic Regulatory Administration, the Assistant Secretary for Intergovernmental and Institutional Relations and the Assistant Secretary for Policy and Evaluation.

At the Los Angeles meeting, speakers particularly emphasized the need for coordination of requirements for environmental impact statements between State and Federal governments, and the need for special incentives in the regulations for the development of renewable energy resources. There were several representatives of local governments present at this meeting, reflecting a strong regional interest in regulatory issues. These representatives stressed the burdens which Federal energy regulations impose on their governments, especially by time-consuming grant application procedures. An issue of special concern at this meeting was off-shore siting of LNG facilities. Several other speakers encouraged the development of geothermal resources and the granting of incentives for cogeneration.

At the Houston public meeting, many speakers addressed the need for DOE regulation to strike a fair balance between energy and environmental objectives. There was widespread agreement that more public participation is needed in the regulatory process. Claiming that DOE seldom changed proposed regulations in response to public comments, one participant urged that the Department establish, as a matter of high priority, more explicit procedures for involving concerned members of the public early in regulatory decisions. Representatives from the oil and gas industry urged decontrol of prices and less regulation in general.

The concerns of small businessmen were stressed in Minneapolis, with much discussion about the burdens of reporting requirements. Several propane dealers advocated decontrol of this fuel, which is widely used in the midwest. There was also interest expressed in Federal standards for energy-related products and the Federal weatherization program. Speakers also asked for better State and Federal coordination on State regulatory processes. Officials from community action agencies and labor organizations complained of legalistic, highly technical regulations which they claimed are unintelligible to lay persons.

The Washington, D.C. meeting, had the broadest cross-section of participants, with a large number of public interest advocates and national business association representatives. Public participation issues dominated the discussion, with the case made for and against DOE funding of public intervention in regulatory processes. Many speakers recommended that DOE have a policy of public disclosure of outside communications before regulations are published. Oil companies proposed various decontrol strategies, and propane retailers cited reasons for

removing Federal controls on their product.

Approximately 150 written comments were also received in response to the May 1 FEDERAL REGISTER notice. These letters were circulated to appropriate DOE offices for their review and use. Excerpts from the letters and oral statements were sent to all DOE offices.

From the public meetings and the written comments, the Regulatory Reform Task Force extracted three things: a set of comments on the interim procedures for regulatory development; a set of comments on the 15 existing regulatory initiatives; and proposals for further regulatory reform initiatives. All of these are discussed in this notice.

II. FINAL DOE ORDER FOR THE DEVELOPMENT OF NEW REGULATIONS

DOE is committed to the objectives of Executive Order 12044 on "Improving Government Regulations." The Department's preliminary plan for regulatory development, published on May 1, 1978, reflected the agency's intent to make its regulatory procedures more open to the public, while at the same time ensuring more careful review within the agency itself. The plan particularly emphasized the need for more careful analysis of the economic impact a proposed regulation was likely to have, as well as the need to offer more public involvement in rulemaking. The final DOE Order attached to this notice represents DOE's further efforts to insure that these goals are accomplished.

Public comments led to several revisions in DOE's regulation development procedures, while other suggestions were not adopted. The major issues are described below.

Definition of Regulation—Because the original definition of "regulation" included notices of inquiry, advance notices of proposed rulemaking, and proposed and final regulations, some commenters were not sure what was meant by references to a "proposed regulation." The new definitions now make clear that a "regulation" is an action that will ultimately be published in the *Code of Federal Regulations*. That regulation will be published in the FEDERAL REGISTER, in proposed and final form, and the text of the Order makes clear whether the proposed or final form of a regulation is meant. The text also makes clear that other formal steps may be taken in the regulation development process, such as publication of a notice of inquiry or advance notice of proposed rulemaking, prior to the drafting and publication of a proposed regulation. It is DOE's policy to publish one of these documents when the agency lacks sufficient information to prepare the proposed regulation.

Definition of Significant Regulation—Some commenters suggested that the definition of "significant regulation" was too restrictive. The final plan provides that a DOE regulation will be considered "significant" unless the lead office, in consultation with other Secretarial offices, finds that the regulation is not expected to affect important policy concerns, have adverse effects with respect to employment, economic growth, the ability of consumers to have adequate energy supplies at reasonable prices, or have more than a minimal effect on State and local governments. The Department anticipates that most DOE regulations will be considered "significant," although the order now gives examples of types of regulations that will likely be found non-significant. Some commenters argued for a 60-day comment period for all regulations, including non-significant ones, to give the public more time to analyze important proposed regulatory actions and develop an adequate response. This was considered unnecessary in light of the revised definition of significance.

Definition of Major Impact—Many suggestions advocated lowering the economic cost threshold for determining when a regulatory action may have a "major impact." However, the Department felt that the current figure represents a reasonable standard which will be reached by a substantial share of DOE's regulatory actions. It should be noted that the determination of major impact is not contingent upon the $100 million figure alone. Considerations of adverse impacts on competition or on costs or prices for individual industries, levels of government, geographic regions or demograhic groups may also result in such a determination.

Waiver—The provisions for the waiver of the normal regulatory development process in "extraordinary circumstances" have been clarified and made to conform more closely to the requirements of the Executive Order. The authority to grant a waiver is placed in the Secretary, Deputy Secretary and Under Secretary, and a requirement has been added that the name of the official granting the waiver and the reasons for the waiver must be made public at the time the proposed and final rulemakings are promulgated.

Public Participation—Public comments suggested that DOE make its plans for public participation more explicit. Commenters suggested specific means by which public participation in rulemakings should be encouraged. One suggested that a small number of affected local governments be interviewed before regulations are drafted. Other commenters suggested mailing notices of rulemakings to each State governor.

A new section on public participation has been added to the Order, enumerating steps that DOE may take to include the public in the regulatory development process. These steps include: special notification of interested parties (Governors, regional associations, etc.); distribution of notices in trade journals, newspapers, and press releases, to reach those who may not see the FEDERAL REGISTER; and public hearings and conferences with interested groups, including local governments.

Several commenters suggested periodic updates on pending rulemakings. DOE believes that the status reports contained in the semi-annual agenda of regulations that is required to be published by Executive Order 12044 will serve to keep the public aware of the status of pending rulemakings. Consequently, no additional requirements for such updates have been added.

Several commenters asked that procedures be deveioped for ensuring that public comments receive full consideration when regulations are drafted or revised. The Order expresses DOE's policy to publish notices of inquiry and advance notices of proposed rulemaking to encourage early public participation in rulemakings. DOE offices will summarize and analyze public comments and to revise draft regulations where appropriate. In addition, the Order requires lead offices to ensure that public comments have been considered before publishing final regulations.

Other commenters expressed concern about reported incidents of unauthorized disclosures of information by DOE employees to certain interest groups in advance of public notice, and requested that the DOE prepare and publish guidelines concerning such disclosures. The Secretary issued such guidance to all DOE employees on September 29, 1978, which prohibits unauthorized advance disclosures of information concerning regulatory development.

Sunset—Many commenters urged the need for a "sunset" provision, to eliminate obsolete and ineffective regulations. DOE has chosen not to require sunset provisions in its new regulations because such provisions may encourage noncompliance and could be inconsistent with DOE's statutory mandates. Instead, the Order contains a section on republication and review of all regulations. Each new regulation will be republished within 5 years of its effective date, and all existing regulations will be republished by September 30, 1983. Based on public comments received at the time of republi-

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cation, DOE will decide whether it is necessary to propose or adopt changes to each regulation (including rescission or modification).

Several commenters asked that the Department review existing regulations (particularly those affecting renewable resources) to ensure that they do not add unnecessary cost and delay and do not reduce competition. The republication requirements for all existing regulations will help to address potential problems of this nature. The new regulatory development procedures, which allow for more in-depth public commentary, should also help bring about more effective regulations in the future.

Semiannual Agenda—The scope of the semiannual agenda has been expanded in the Order. In addition to listing significant regulations under development, DOE will also list nonsignificant regulations then in the development process. The agenda will describe each regulation, list the current status and state the determination as to whether the regulation will have a major impact. Beginning in May 1979, DOE will use this agenda to list existing regulations scheduled for review.

Working Group Participation—The comment that the working groups should include non-DOE members was not adopted. Early public participation will be achieved through other means. The suggestion that the Offices of Enforcement and Special Counsel be excluded from participation in a working group was also not accepted, since the perspectives of those offices are necessary to identify the anticipated administrative and compliance burdens of a proposed regulation.

III. Current Initiatives

The public comments DOE received following its May 1, 1978 Federal Register notice were generally supportive of the fifteen regulatory reform initiatives. DOE's original intention was to complete each of these intitatives by the end of fiscal year 1978. This has been substantially accomplished, but some follow-up work must be done.

The following paragraphs provide status reports on each of the fifteen reform initiatives. With respect to those initiatives which have not been completed, DOE will provide updates as part of next April's semiannual regulatory agenda.

Economic Regulatory Administration

1a. *Development of Options for the Deregulation of Butane, Kerosene-base Jet Aviation Fuel, Aviation Gasoline, Natural Gasoline, and Motor Gasoline.* The preliminary regulatory analysis necessary for consideration of deregulation of *butane and natural gasoline* is being prepared. Deregulation of *kerosene-base jet aviation fuel and aviation gasoline* have been the subject of public hearings and panel meetings at DOE and the Federal Energy Regulatory Commission (FERC). The FERC has concurred in the deregulation recommendations, but submission of the final deregulation actions to Congress for its review is still pending. Hearings have also been held and public comments received on *motor gasoline* deregulation and the proposal has been concurred in by the FERC. The environmental impacts of such deregulation have been addressed in a Draft Environmental Impact Statement recently released to the public for comment.

1b. *Simplification of Crude Oil Pricing Regulations.* The Economic Regulatory Administration (ERA) has convened a working group for the purpose of reviewing the public comments from an earlier notice of inquiry on a simplified crude oil pricing system and performing a regulatory analysis of the economic and social impacts involved. The group's review will address possible alternatives to the present regulatory system, including an entitlements-driven price control program and the imposition of entitlements obligations on the first purchasers of crude oil. A notice of proposed rulemaking on the first phase of a simplified crude oil pricing system is expected to be published in the near future.

1c. *Review of the Crude Oil Supplier/Purchaser Relationship to Assess Competitive Effects and Regulatory Impacts.* DOE staff is currently examining the need for reconsideration of the supplier/purchaser rule. The staff, will address the basic purpose of the rule, possible changes that might be made in connection with changes in the crude oil pricing system described above, and implementation issues associated with these changes.

1d. *Revision of the Mandatory Oil Import Program.* ERA has under review the simplification of this program. Some changes in this respect have already been made in a new Proclamation issued by the President on December 8, 1978. Some additional simplification actions may depend upon the outcome of Congressional and administrative actions and studies regarding protection of the domestic refining industry and incentives to expand and improve its capacity.

1e. *Revision of Regulations on Energy Import and Export Procedures for Natural Gas and Liquified Natural Gas.* The final rule on one aspect of this initiative—*ex parte* communications during adjudicatory proceedings—was published in the Federal Register on September 1. That rulemaking revised procedures employed by the Federal Power Commission, making them more flexible and more appropriate in the context of an executive department. ERA is continuing revisions of the other aspects of import and export procedures to improve the decisionmaking process. An advance notice of proposed rulemaking is expected to be published in 1979.

1f. *Revision of Enforcement Audit Policy for Small Firms.* On June 27, 1978, ERA published a notice in the Federal Register outlinging future enforcement audit procedures for resellers of refined products and small resellers of propane. These procedures reduce the regulatory burden on small firms by reducing record-keeping requirements and liability periods for nonwillful violations of the regulations.

1g. *Development of Transfer Pricing Policies.* Revision of the transfer pricing regulations is being examined. Consideration is being given to simplifying the program and transferring it to the Energy Information Administration as an information program to assist policymaking.

1h. *Publication of Proposed reporting Forms With ERA's Proposed Regulations Whenever They Involve Collection of Information from 10 or More People.* ERA will publish, to the extent possible, draft reporting forms with its proposed regulations in order to obtain comment on both at the same time. A public policy statement by the Energy Information Administration supporting this initiative and extending it to all of DOE will be published in FY 1979.

Procurement and Contracts Management

2. *Preparation of a DOE Procurement Guide.* The Procurement Office has completed and printed the new procurement guide. Fifty thousand copies will be distributed to Congressional offices, DOE program offices, the Regional Representatives throughout the country, and procurement field offices. The 30-page guide describes the entire procurement process, the DOE organization, and the names of appropriate contacts for prospective contractors.

Resource Applications

3a. *Revision of Geothermal Leasing Regulations and Streamlining the Geothermal Loan Guarantee Program Application Process.* A notice of proposed rulemaking for revising the geothermal leasing regulations is scheduled for publication in the Federal Register in 1979. Proposed regulations to implement amendments enacted in Public Law 95-238 to improve the marketability and management of the Geothermal Loan Guarantee Program are scheduled for publication in the Federal Register early in 1979.

3b. *Development of Uniform Procedures for Public Participation in Power Marketing Administration Rulemakings.* Draft regulations will be issued in 1978 or early 1979, detailing uniform procedures for ratemaking by the Power Marketing Administrations, including ample opportunity for public participation.

Energy Information Administration

4a. *Consolidation of Energy Data Systems.* This initiative will be implemented over a period lasting as long as two years. The Energy Information Administration has completed the first phase of this initiative resulting in 14 proposals for consolidation or elimination of energy data forms or groups of forms. Of the 14 proposals, 5 have been acted on, resulting in the eliminations of 5 energy forms. Of the remaining proposals 7 are being acted on or are scheduled for action before the end of FY 1979 and two are ongoing projects requiring more study. Special emphasis has been placed on the reduction of reporting burdens for the public and on the justification for data collection by the DOE program offices. The FY 1978 program has resulted in approximately a 24% reduction in reporting burden. For FY 1979, a 5% reduction goal has been established for existing reporting requirements.

4b. *Development of Element-by-Element Justification for All Newly Proposed Reporting Requirements.* The Energy Information Administration is currently developing procedures for requiring program offices to justify their collection of information from the public. These justification procedures are being implemented as part of DOE's overall forms and reports clearance process.

Office of General Counsel

5. *Preparation of Clear and Concise Preambles in All Proposed and Final Regulations.* DOE's Order on developing regulations requires that preambles be reviewed carefully by lead offices and the General Counsel before regulations are published to ensure that they are as clearly written as possible.

Intergovernmental and Institutional Relations

6. *Expansion of Public Participation in the Regulatory Process.* The Office of Intergovernmental and Institutional Relations has drafted a plan for increasing public input in regulatory development. Many features in the plan were extracted from comments of Governors, Mayors, regulated industries, and consumer groups. The plan included policies for mailing, the publication of hearing agendas, and a variety of other means by which the public can get involved sooner in DOE rulemakings. Also a pamphlet will be published early in 1979, describing DOE's regulatory process and opportunities for the public to participate in them.

IV. Public Comments

The Department received many responses from the public suggesting possible regulatory reform initiatives for Fiscal Year 1979. Proposals spanned nearly all of DOE's responsibilities.

The Department selected those reform proposals which reflected a broad consensus and which related to tangible problems and solutions. These proposals are described below, along with the names of commenters who suggested each reform, DOE's brief response to the comments, and a description of the action DOE will take. The DOE had endeavored to set forth fairly the thrust of the comments received in this proceeding. In some cases the DOE has agreed that the subject area addressed by these comments may merit some additional consideration by the Department. However, the DOE does not thereby necessarily agree with the particular characterization of its existing programs and regulations given by commenters. DOE intends to undertake the actions described early in 1979. A discussion of the public reform suggestions that have not been included in the FY 79 list is also presented.

A. New Initiatives in Response to Comments

Office of Policy and Evaluation:

1. *Proposal:* Develop new mechanisms for increasing public participation in the development of basic energy policies, through public meetings, written comments, and the like.

Proposed by: Common Cause.

DOE Respones: The Department of Energy has frequently received suggestions that the public be given the opportunity to participate not only in the development of regulations, but also in the formulation of the basic policies which underlie regulatory programs. We have a strong commitment to doing this now, and we hope to do a better job in the future.

The DOE is now preparing a national Energy Policy plan that will complement previous initiatives, In drafting that Plan, DOE is required to "seek" the active participation by regional, State, and local agencies and instrumentalities to "insure that the views and proposals of all segments of the economy are taken into account * * *," and to consult "consumers, small businesses, and a wide range of other interests, including those of individual citizens who have no financial interest in the energy industry" in the development of the Plan.

DOE Action: The Department initiated public participation in the national Energy Policy Plan with a public meeting on November 6, 1978, to discuss the scope of environmental issues in the Plan. The Department will hold a series of hearings and seminars to obtain public comments on the contents of the second National Energy Policy Plan.

Office of Hearings and Appeals:

2. *Proposal:* Revise procedures and rules in the exceptions and appeals process to reduce alleged administrative delay, to assure consistent, prompt and rational handling of all applications, and to make relief retroactive to the date of application; and to afford additional procedural protection to parties against whom DOE is proceeding in enforcement actions.

Proposed by: Champlin Petroleum, Exxon, McCulloch Gas Processing Corporation, and Mobil Oil.

DOE Response: On September 15, 1978, an administrative order was promulgated which describes the responsibilities and basic operation of the new Office of Hearings and Appeals (OHA). OHA is responsbile for, among other things, dealing with applications for exceptions from the operation of DOE's regulations and appeals from DOE's actions. Procedural regulations for the exceptions and appeals process were proposed in September 1977 and January 1978, and have been implemented on an interim basis. These changes and the recent augmentation of OHA's staff should facilitiate the exceptions and appeals process. Further improvements in the management of this process will be made as needed.

DOE Action: OHA will publish final rules of procedure. In doing so, they will take into consideration public comments that were made in the course of the regulatory reform meetings, as well as those received on the proposed procedures.

Economic Regulatory Administration:

3. *Proposal:* Accelerate the process of amending Subpart K of the Mandatory Petroleum Price Regulations (10 CFR Part 212). (Subpart K specifies the method by which sellers of natural gas liquids must calculate the maximum price they may charge.) Proposed amendments to these regulations have been pending for more than a year. If natural gas liquids are not deregulated, Subpart K should be extensively revised.

Proposed by: CONOCO, National LP Gas Producers, and Standard Oil (Indiana).

DOE Response: Since these comments were submitted, the proposed amendments to Subpart K have been

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adopted. They modify the way natural gas processors are permitted to calculate and pass through non-product cost increases.

DOE Action: DOE will consider whether there are other issues relating to the pricing of natural gas liquids that may need to be resolved. If appropriate, DOE will issue either a notice of inquiry or a notice of proposed rulemaking concerning further amendments to Subpart K over the next year. The time required to implement any new rules on these issues would depend upon comments received from the public, the status of product decontrol actions, and other regulatory priorities.

4. *Proposal:* Revise Section 212.93(b)(4)(iii), of the Mandatory Petroleum Price Regulations. This section deals with the increased non-product costs which resellers and retailers of butane, propane, and natural gasoline may reflect in prices. Specifically, the standard non-product markup should be increased, and the section should be amended to include such other specific non-product cost items as equity owners' salaries, bad debts, and the rental of personal property.

Proposed by: National LP Gas Producers.

DOE Response: The impact of such changes has not yet been fully determined. The DOE intends, through a rulemaking, to evaluate carefully the contentions that the present rule imposes great financial burdens, restraints competition, and has inflationary impacts upon consumers.

DOE Action: A proposed rule may be issued in FY 79. A final rule may then be issued depending upon the comments received and DOE's evaluation of the present rules' impacts.

5. *Proposal:* Remove all biases or special treatment from the entitlements program.

Proposed by: Standard Oil (Indiana).

DOE Response: Within the entitlements program are a number of provisions which accord additional benefits to certain segments of the petroleum industry, regions of the country or particular situations. All of these exist because of actions taken in response to special legislative mandates or particular problems of supply, cost, price, or competition within the petroleum industry pertaining to interests which DOE is required by law to protect to the maximum extent possible. Thus, DOE doubts that all of these benefits could be removed as long as statutory crude oil allocation and price controls and the entitlements program are in effect. Some of the areas accorded special treatment in the entitlements program are Puerto Rican naphtha imports, residual fuel oil imports in the East Coast and other import dependent areas, entitlements adjustments for California crude oil, and exemption from the export sales deduction provision for residual fuel oil used in ship bunkering. In each case, there have been extensive analyses and opportunities for public comment on the impacts of these benefits and they were deemed necessary to achieve the equity required by legislation.

One of the largest of the additional benefits is the small refiner bias, granting extra entitlements to refineries according to their refining capacity. The ERA has pending a rulemaking to continue the bias but reduce substantially the benefits provided to small refiners.

DOE Action: Proposals for modifying the small refiner bias were published in November 1978. Further actions will be based on ongoing analysis and on public comments received.

6. *Proposal:* DOE should consider the decontrol of propane or, alternatively, ways in which small propane distributors can increase their profit margins.

Proposed by: Ohio LP Gas Association, National LP Gas Association, Indiana LP Gas Association, and Phillips Petroleum Company.

DOE Response: Decontrol of propane should be considered together with decontrol of related products and substitutes, i.e., butane, natural gas liquids, and NGL products. DOE may study the decontrol of all of these products early in FY 1979. If decontrol does not take place, modifications to the existing regulations may be considered to address issues of flexibility and cost recovery.

DOE Action: Decontrol of propane and other products will be studied, and the results of this study and public comment will determine whether decontrol or some other modification of the regulations is appropriate.

7. *Proposal:* Clarify 10 CFR 212.83(e)(7)(ii). This section provides that the amount of unrecouped costs that may be added to May 15, 1973 selling prices shall not exceed:

> an amount which, when added to compute maximum allowable prices, results in maximum allowable prices for the current month which are no more than 10 percent higher than the highest prices computed pursuant to this Part at which at least 25 percent of the sales of the product concerned in the preceding month were priced * * *.

Proposed by: Conoco.

DOE Response: The provision in question limits the amount of prior unused increased costs that may be passed through in product prices in any one month. An example will illustrate its operation. Suppose that A is currently selling more than 25% of its total sales to B at a lawful price of 55 cents per gallon. Section 212.83 (e)(7)(ii) provides that in the next month A could increase its maximum allowable price to both B and C by up to, but not more than, 5.5 cents per gallon, assuming sufficient banked costs to justify the increase.

The purpose of the restriction is to prevent use of large amounts of increased costs in a shortage situation resulting in massive price increases. If there is widespread confusion over the application of this provision, it has not been brought to DOE's attention previously.

DOE Action: Through the first six months of FY 1979, the Economic Regulatory Administration will compile a list of regulatory provisions which are identified by any source as being difficult to understand. This list will then be reviewed, and regulatory language will be clarified to the extent it appears necessary and appropriate.

Office of Environment:

8. *Proposal:* Coordinate certain Federal regulatory requirements, such as the environmental impact analysis, with similar State and local regulations to avoid unnecessary delay.

Proposed by: Mayor's Office, City of Los Angeles, Santa Barbara Department of Environmental Resources, Metro Council of Minnesota, and Northern States Power.

DOE Response: DOE intends to expedite the process of performing environmental impact analyses by better coordinating Federal, State, and local responsibilities. The Department fully concurs in the need for this reform and recognizes its role in helping to prevent delays, reduce unnecessary paperwork, and minimize other burdens associated with its regulatory requirements. *DOE Action:* DOE is revising its proposed *National Environmental Policy Act* regulations (10 CFR 1021) now that the Council on Environmental Quality has published final NEPA regulations, to which all other agencies' regulations must conform. DOE will prepare supplementary procedures for implementing the new regulations.

Energy Information Administration:

9a. *Proposal:* Reduce the number of firms which must comply with current reporting requirements (especially those unrelated to enforcement) using sampling techniques to draw conclusions about overall industry issues or needs.

Proposed by: Exxon.

DOE Response: DOE is expending considerable effort to reduce respondent reporting burden through the use of appropriate sampling techniques as suggested in this initiative. The Energy Information Administration (EIA), in particular, is increasing its use of appropriate sampling techniques for a variety of data collection efforts in order to reduce the reporting burdens, while still obtaining valid results for statistical purposes. For example, The Municipal Federal Project Financial Reporting System is an effort for which a sample survey will be used in place of a universe canvass with results statistically as effective but far less burdensome on potential respondents. New collection efforts already implemented or being planned will also continue utilizing sampling techniques (e.g., the Crude Oil, Natural Gas and Natural Gas Liquids Reserves Survey, the Natural Gas End Use Customers' Profile Survey, and several household energy conservation surveys).

DOE Action. See below.

9b. *Proposal:* Define terminology used in data requirements, and make consistency mandatory in the use of such terms throughout all levels of the agency.

Proposed by: Exxon Society of Independent Gasoline Marketers of America.

DOE Response: EIA recognizes the need to standardize energy data terminology used throughout the Department, whenever possible, and has established a task force to recommend procedures for accomplishing the task. A glossary of standard energy terms and definitions is being drafted within EIA and a system has been developed which categorizes similar data elements used on various DOE forms and describes them. EIA will also assess industry definitions as part of this task.

DOE Action: See below.

9c. *Proposal:* The instructions on reporting forms are not consistent on all forms. Specifically, requirements for resubmitting the forms to reflect changes in the reported information or data are not always clearly delineated.

Proposed by: Exxon.

DOE Response: As part of its program to consolidate forms wherever possible, reduce unnecessary reporting requirements, and standardize the terminology used in DOE energy data requirements, EIA has begun efforts to standardize and make consistent all instructions on DOE reporting forms. This effort is currently in the preliminary stage of assessing the degree and scope of standardization possible, considering the diversity of the content of forms currently in use in the Department.

DOE Action: See below.

9d. *Proposal:* Use standard size forms for greater efficiency in duplication of copies.

Proposed by: Exxon.

DOE Response: EIA's Forms Clearance Office is making plans to address this proposed initiative. Factors such as readability and ease of completing and processing the form must be considered in determining the size of the form. EIA recognizes that benefits can be gained from using standard size forms in photocopying, printing, filing, and processing of the forms. Such benefits will accrue not only to industry, but to the government as well.

DOE Action: See below.

9e. *Proposal:* Review all periodic reporting requirements to see which monthly reports can be made quarterly, which quarterly reports can be made semi-annual, and which yearly reports can be made bi-annual (e.g., cooperative agreements, grants, and awards).

Proposed by: California Energy Commission and Tennessee Energy Authority.

DOE Response: Since September 15, 1978, standard clearance procedures have been in effect in the Office of Energy Data Standards and Statistical Design. The procedures dictate that when a new energy-related reporting requirement is proposed or an existing requirement is to be extended, the frequency of data collection is reviewed as part of the overall survey design, which includes sampling design, data collection procedures, data processing requirements, and relationship of data elements collected to survey purpose and output. With regard to reporting frequency, specifically, the review is intended to establish whether the data can be collected less frequently, whether the reporting requirement can be consolidated with other requirements and whether the burden of the reporting requirement can be reduced. Review of specific projects has occurred whenever the OMB approval approaches expiration or before DOE requests OMB approval for a new form. As mentioned under initiative No. 11 below, however, plans are now proceeding to review reporting requirements for whole DOE subject areas at the same time.

DOE Action (For 9a, 9b, 9c, 9d, and 9e): DOE will continue its policy of review and reassessment of reporting requirements in order to reduce reporting burdens. Specifically, the use of sampling techniques will be accelerated, and reporting form sizes will be standardized, as appropriate. Also, DOE will continue standardizing and making consistent reporting form instructions whenever appropriate and will work with other government agencies and industry groups to standardize definitions of energy terminology.

DOE will publish in the FEDERAL REGISTER a policy statement explaining more fully its efforts to reduce reporting burdens on industry, state and local governments, and the public. This policy statement will be published in early 1979.

10. *Proposal:* Combine Petroleum Imports Program Forms P113 and P114, thereby eliminating the need for reconciliation between the two and wasteful duplication.

Proposed by: Exxon.

DOE Response: Considerable discussion within DOE has focused on whether the two forms in question can or should be combined. The final conclusion is that these forms cannot be combined effectively for reasons associated with timeliness of data receipt, differing needs for the data, and respondent burden. The P113 is filed monthly by importers, statistically aggregated and published in a monthly periodical on general energy statistics. The data filed on the P114 depends on U.S. Customs Forms. DOE receipt of these forms usually occurs 2-3 weeks following the date of actual importation as verified by the U.S. Customs Bureau. While consolidation of the two forms would not affect the timeliness of the P114 data for use in administering the Mandatory Oil Import Program, it would directly and adversely affect the timeliness of the monthly statistical publication in which the P113 data is presented.

The P113 requires data to be filed upon the "date of importation" while the P114 requires a company to file according to a "fees incurred date" which can be any one of several dates. Due to differing purposes for which the data are collected the different reporting periods cannot be reconciled into a consolidated form. Finally, if the P113 and P114 were combined, the resulting single form would have to be of increased complexity to allow all importers who currently file the two forms to provide information specific to their situation. Experience with other forms developed to serve differing purposes such as this has shown the level of response error to be high.

While DOE decided not to combine the P113 and P114, it has made modifications to the P114 to eliminate unnecessary duplication, thus reducing total respondent burden. This new form, the ERA-17, will require the company merely to verify information already provided to Customs and specify the dispositions of payments and credits. It will no longer be necessary for companies to list each item imported and the associated financial data.

DOE Action: The ERA-17 was transmitted to OMB for approval. DOE considered all suggestions received from potential respondents, as well as other industry and public groups, during the design phase of the form.

11. *Proposal:* Eliminate the duplicative reporting information required by DOE, USGS, FTC, and Census for: 1) reserve and production data, 2) financial data, and 3) drilling statistics data. Several forms identified as being indications of this duplicative reporting are EIA's Financial Reporting System

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and Oil and Gas Reserve Report; Census' Annual Survey of Oil and Gas, and Five Year Census of Mineral Industries; and FERC's Forms 40, 64, and 108.

Proposed by: Atlantic Richfield.

DOE Response: DOE recognizes the need to eliminate unnecessary, outdated reporting requirements. Currently OMB is reviewing some of the requirements cited in this comment, including the proposed Oil and Gas Reserve Report, EIA-23. When EIA-23 is cleared, and implemented, the FPC 40 will be terminated. DOE is working closely with OMB, Census, and other agencies directly and through the Federal Energy Information Council in an effort to eliminate unnecessary and duplicative reporting requirements. For example, as expiration dates for OMB approval of forms approach, EIA undertakes a comprehensive review of each project. As part of this review, an assessment of the overall data collection effort is made, with each data element on a form reviewed in an effort to eliminate unnecessary or duplicative reporting requirements. In addition to internal DOE review, other government agencies and private groups are contacted to help identify and eliminate other possible sources of duplication. Likewise, DOE works closely with OMB in reviewing other agencies' energy-related forms.

DOE Action: DOE will continue its efforts to eliminate duplicative reporting requirements, working more with other agencies as well as OMB and the Office of Federal Statistical Policy and Standards of the Department of Commerce.

Intergovernmental and Institutional Relations:

12. *Proposal:* Develop special mailing lists for various substantive areas to inform interested parties about regulatory proposals which have been declared significant, as well as final rules and regulations in their interest area. Supplement these mailings with notices in trade journals, newsletters, or other appropriate publications.

Proposed by: Mr. Brandt Mannchen, National Consumers League, Federal Bar Association, Federal Energy Law Committee, League of Women Voters, Petrochemical Energy Group, Energy Action, Common Cause, Interstate Natural Gas Association, Texas Independent Producers and Royalty Owners Association, and National Society of Professional Engineers.

DOE Response: DOE considers these to be worthwhile proposals. Its current effort to improve public participation identified these activities as part of the Department's outreach effort. The Office of Consumer Affairs is developing specialized mailing lists, and the Office of Public Affairs will continue to take measures to provide timely regulatory information to the media, including the trade press and public interest media.

DOE Action: Complete specialized mailing lists and begin distributing notices of rulemakings to the parties on those lists.

Conservation and Solar Applications:

13. *Proposal:* Ensure that EPCA's provisions requiring States to develop lighting efficiency standards are properly implemented. DOE should provide practical guidance to the States in the development of their respective lighting standards.

Proposed by: California State Engery Commission.

DOE Response: The State of California and ASHRAE are currently advising DOE on the development of minimum practical conservation goals for lighting against which State standards can be developed.

DOE Action: DOE has contracted with ASHRAE to develop data for an interior lighting standard and will amend its regulations as appropriate after that work is completed.

14. *Proposal:* Review existing regulations affecting plentiful or renewable energy supplies to ensure that they do not unnecessarily add to the cost or delay of development of such supplies, or do not reduce competition.

Proposed by: Garret Corporation, Dr. Starhle Edmunds, University of California, Mr. Michael Freeman, Congressional candidate from Minnesota, and Mr. Brandt Mannchen.

DOE Response: The Office of Conservation and Solar Applications intends to hasten the development of renewable energy supplies consistent with procedural requirements such as a minimum 60-day comment period, and public hearings. These requirements are not expected to impose any significant delay on the development of renewable energy sources. DOE realizes that certain regulatory programs may handicap efforts to increase the development or use of renewable rsources. Price controls on oil and gas, for example, increase the cost disadvantage for solar energy and other renewable resources, hindering their development. In many cases, DOE is required by statute to treat various fuels differently; in other cases, however, any disadvantages imposed on renewable energy sources may be inadvertent and correctable. It is DOE's policy to promote the development of these fuels, whenever possible.

DOE Action: The Office of Conservation and Solar Applications (CS) will review its own regulations to identify those which may add to the cost or delay of their development or which may reduce competition. Those regulations will be corrected if that is consistent with DOE's statutory mandate and other policy objectives. Also, CS will work with other DOE offices to identify other regulations which may impede the development or use of these energy resources.

Office of General Counsel:

15. *Proposal:* Develop procedures to clarify those areas in which communications between DOE employees and members of the public should be limited during the development of a regulation.

Proposed By: Energy Action, Common Cause, League of Women Voters, Texas Public Interest Research Group, Congress Watch, New England Fuel Institute, and Columbia Gas System Service Corp.

DOE Response: DOE agrees that procedures for communicating with the public in the rulemaking process should be developed and published.

DOE Action: The Secretary has limited the extent to which DOE employees may communicate with the public concerning regulatory actions, and the General Counsel will provide further guidance to all DOE employees concerning communications with the public during informal relemakings.

16. *Proposal:* Abolish the retroactive application of rules or rule interpretations, except for firms which specifically request retroactive application in their case. Also, revise auditing procedures which may conflict with Section 7(k) of the FEA Act of 1974. Section 7K prohibited civil actions against marketers of petroleum products for violations of FEA's regulations when the action was based on a retroactive application or interpretation of the regulation and the marketer had relied in good faith on the regulation or interpretation of the regulation.

Proposed By: New England Fuel Institute, Mobil Oil Company, Shell Oil Company, and Energy Consumers and Producers Association.

DOE Response: Legislation establishing the Department of Energy repealed section 7(k) of the Federal Energy Administration Act. However, on August 2, 1977, Secretary James R. Schlesinger sent a letter to Members of Congress which stated that it is DOE's intent to carry out its regulatory responsibilities as if section 7(k) had not been repealed. The provision was reenacted as section 805 of the Powerplant and Industrial Fuel Use Act of 1978.

DOE Action: In response to a request from the chairman of the House Subcommittee on Energy and Power, DOE will prepare a report by March 1, 1979 on this issue. DOE will publish its draft report for public comment in early 1979.

B. COMMENTS NOT REFLECTED IN NEW INITIATIVES REPORTING REQUIREMENTS

There were many responses received from the public relating to the revision, consolidation, and elimination of reporting requirements.

One suggestion was to reevaluate the validity of Form P124 (the Domestic Crude Oil Purchaser's Report). This initiative is already being carried out through a series of evaluations that ERA has contracted for on crude oil purchasing data. This evaluation and internal review have indicated that this form is still necessary.

Another recommendation was to revise rulemaking and reporting procedures to insure the confidentiality of industry proprietary data. DOE believes that there are already adequate procedures for protecting such information. EIA is also proposing a Financial Reporting System which will further refine collection techniques.

Internal procedures to implement the Federal Reports Act were suggested. There already are agency procedures which apply to all Departmental units and serve the same basic purpose.

Another suggestion was that DOE revise existing reporting requirements under EPCA so that budget data not related to Federally-funded projects need not be included in monthly reports. However, DOE does not currently require reports on how much money is being spent on non-Federal projects, merely what is being done in State and local programs related to the Federally-funded project.

DOE was asked to modify the guidelines for accounting and reporting on grants and awards so that such reporting can be made on a total grant rather than a project-by-project basis. However, DOE presently believes that all reporting for such grants should be on a project-by-project basis, to insure proper program accountability. Therefore revising the reporting guidelines does not seem approriate.

Some public comments urged DOE to undertake a new reform initiative to eliminate several specific reporting overlaps. Such consolidation was one of the agency's original reform initiatives and is being carried out through EIA's ongoing consolidation project.

Finally, DOE was asked to discontinue reporting requirements for decontrolled products. While some requirements have been eliminated for decontrolled products, the final response to the proposal is contingent upon ERA's study of further product decontrol. If decontrol of some products occurs as a result of this study, elimination of some reporting requirements will likely take place. Some reporting will continue to be necessary, however, in order to monitor supply, demand, and price of the decontrolled products, and to assess the potential need for any reimposition of controls in the event of an energy emergency.

Enforcement

Several comments were addressed to the burdens imposed by audit and enforcement procedures. The Department has already taken some action in this area. In June 1978, the Economic Regulatory Administration published amendments to rules on recordkeeping and a Statement of Audit Policy, establishing time limits for recordkeeping, audits, and the imposition of civil penalties.

One comment suggested that a litigation policy be developed and made public, setting out priorities that DOE would use in deciding when to go to court. DOE believes that litigation strategy is best developed on a case-by-case basis, depending on the nature of the issues involved. Moreover, prior disclosure of litigation priorities might encourage noncompliance by firms with those parts of the regulations not identified in the litigation priorities.

Many commenters raised questions that related more to the management of the DOE's enforcement process than to needed regulatory changes. Complaints were made about the time it takes for the issuance of interpretations and rulings, inconsistency among interpretations, and lack of flexibility in compliance options. The office of General Counsel, the Office of the Special Counsel for Enforcement, and the Assistant Administrator for Enforcement of ERA are expediting interpretive and enforcement procedures and using more flexible enforcement tools, including settlement agreements. A separate Interpretations and Rulings Division has been established in the Office of the General Counsel, which has greatly accelerated the time in which interpretations and rulings are issued. The Department will continue its efforts to improve performance in these areas.

Procurement

DOE was urged to amend existing regulations to provide exceptions to the procurement restrictions contained in the regulations for State conservation plans promulgated under authority of EPCA (specifically, the prohibition against using Federal funds to purchase equipment other than office equipment). At the time the regulations were promulgated, the agency took the position that undue emphasis should not be placed upon purchase of equipment from funds appropriated for the programs. The Department will consider allowing more money for equipment if the need is demonstrated through program administration.

Pricing and Allocation

Many comments were received that suggested further changes in DOE's pricing and allocation regulations for oil and related products beyond those discussed previously. While some of these have been accepted, others were deemed inappropriate for a variety of reasons.

Revisions to the Natural Gas Liquids price and allocation regulations which have been published in proposed form should solve some of the problems that were pointed out in this sector of the industry. In the event of product decontrol, other issues raised by commenters such as the revision of the equal applications rule and the industrial use limitation would become moot.

One commenter suggested that DOE remove restrictions on SNG plants which limit operation and distribution potential, permitting year-round operations to supply regional and national needs that may arise. Under existing ERA regulations, SNG plants may apply for a waiver of current limitations to enable them to meet the needs of high-priority users of natural gas. No further action by DOE is needed to allow this flexibility.

DOE was urged to revise or rescind completely its procedures for declaring and selling surplus propane. These procedures were described as too slow, necessitating storage or flaring of surplus propane. DOE has recognized the problem of surplus product reporting procedures and will address it in a natural gas liquids allocation rulemaking currently pending before the FERC. If that rule becomes final, propane suppliers will be able to sell surplus propane immediately upon notifying DOE that a surplus exists.

Other Comments

DOE was asked to replace the current cash bonus system used in leasing Federal lands for geothermal development with a royalty based bidding system. However, the Geothermal Steam Act specifies that the Government royalty in such leases must be between 10% and 15%. This range is too narrow to allow the use of the royalty in place of a bonus as the basis for lease awards.

Finally, one comment suggested that DOE develop a policy for increasing reliance on consensus standards, in such areas as energy efficiency standards for appliances. DOE's reliance on consensus standards is determined by OMB policy as well as Federal statute. P.L. 95-70, section 32, prescribes rules for use of commercial standards by DOE, including requirements concerning quality, effectiveness, and competitive impacts of such standards. In developing testing procedures and targets for appliances, DOE has in fact

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relied partly on consensus standards. Consensus standards are not always used, however, as there are sometimes policy considerations of concern to DOE that are not adequately addressed by industry consensus standards.

V. NEXT STATUS REPORT

In May, 1979, as part of its second semi-annual regulations agenda, DOE will report on progress in carrying out E.O. 12044 and implementing the 31 regulatory reform initiatives begun to date. At that time, DOE will also identify its reform initiatives for the second half of the 1979 Fiscal Year (April 1, 1979, September 30, 1979). Public comments will be requested on all of these items. In the interim, DOE welcomes queries, comments, or suggestions from the public regarding DOE's implementation of E.O. 12044 or any other regulatory reform issue. These should be addressed to William A. Strauss, Director, Regulatory Programs Division, Office of Policy and Evaluation, Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

Issued in Washington, D.C., December 20, 1978.

JOHN F. O'LEARY,
Deputy Secretary,
Department of Energy.

PROCEDURES FOR THE DEVELOPMENT AND ANALYSIS OF REGULATIONS, STANDARDS, AND GUIDELINES

1. *Purpose.* Establish procedures for the development and analysis of all Department of Energy (DOE) regulations, except those developed by the Federal Energy Regulatory Commission (FERC), and to implement Executive Order 12044 on "Improving Government Regulations."

2. *Background.* The Executive Order 12044 requires all executive agencies to distinguish between "significant" and "nonsignificant" regulations, and to determine which regulations impose "major impacts" requiring special analysis. It also requires agencies to follow specified procedures in developing regulations, to review them periodically, and to publish a semi-annual regulatory agenda.

3. *Reference.* DOE 1900.1 Federal Register Management, of 10-30-78, which defines responsibilities for the administrative management of FEDERAL REGISTER documents, including approval, promulgation, and certification of all DOE proposed and final rules, regulations, and official documents, except those of FERC.

4. *General.*

a. DOE will consider a regulation "significant" unless it is not expected to affect important policy concerns and is not the object of much public interest. A significant regulation will be developed by a special DOE working group, reviewed before publication to ensure compliance with the Executive Order, and published for comment for a minimum of 60 days. In addition, steps will be taken to ensure adequate public participation in the regulation's development.

b. If DOE determines that a significant regulation is likely to have a major impact (e.g., imposing annual economic costs of $100 million or more), then a regulatory analysis will be prepared and published with the draft and final regulation.

c. DOE will republish every regulation within 5 years for public comment, and will review existing regulations based on a variety of criteria. Every October and April, DOE will publish a regulatory agenda to improve the public's ability to participate early in the development of each regulation.

5. *Definitions.*

a. *Regulation.* Any DOE action which will result in an addition or revision to the "Code of Federal Regulation," including new regulations, amendments to existing regulations, standards, and guideline.

b. *Notice of Inquiry.* The FEDERAL REGISTER document, published early in the regulation development process, which requests public comments prior to the drafting of a proposed regulation.

c. *Advance Notice of Proposed Rulemaking.* The FEDERAL REGISTER document requesting public comment on DOE's preliminary decisions regarding a future regulatory action.

d. *Lead Office.* The Secretarial Office responsible for administering a regulation and managing the regulatory development process.

e. *Working Group.* The ad hoc group, representing interested Secretarial Officers, which works with the lead office in developing a regulation.

f. *Secretarial Offices.* Assistant Secretaries; Inspector General; General Counsel; Administrators of Economic Regulatory and Energy Information Administrations; Directors of Energy Research, Administration, Procurement and Contracts Management, Hearings and Appeals, and Office of the Secretary; and Controller.

6. *Procedures for the development of regulations.*

a. *Initiation.*

(1) A lead office proposing to develop a regulation must first notify the Director, Office of the Executive Secretariat (XS-1). If the lead office considers the regulation to be nonsignificant, it should explain its rationale in the notification to XS-1. The development of all regulations will be tracked by XS-1, either through the Action Coordination and Tracking System (ACTS) or through a similar system: the lead office will inform XS-1 of the completion of development milestones and notify all Secretarial Officers and the Deputy Secretary or Under Secretary of a lead office's proposal to initiate regulation development.

(2) The Secretarial Officers will then notify the lead office if they wish to participate in developing the regulation and associated documents. If the lead office considers the regulation to be nonsignificant, the Secretarial Officers will be assumed to concur unless they indicate otherwise.

(3) A regulation will be significant unless the lead office, in consultation with other Secretarial Officers, finds that:

(a) It has no more than a minimal effect upon:

1 The objectives of national energy policy or energy statutes;

2 Inflation, unemployment, economic growth, or the ability of consumers to have adequate energy supplies at reasonable prices;

3 Competition;

4 The quality of the environment, or the public health and safety;

5 State and local Government programs; and

6 Existing regulatory programs of the Department of Energy or other Executive Agencies;

(b) It will not impose new compliance and reporting burdens nor add to existing requirements;

(c) It is not a matter of major concern to the President or Congress;

(d) It will not require substantial Department of energy resources to develop and enforce it; and

(e) Substantial public comment is not anticipated.

(4) Examples of nonsignificant regulations are:

(a) Regulatory amendments that are designed to correct errors in draftmanship;

(b) Regulatory amendments that are determined to be exempt from the public notice requirements of the "Administrative Procedures Act;" and

(c) Purely internal DOE regulations which do not affect the broader public interest.

7. *Development of nonsignificant regulations.*

a. If the lead office and other Secretarial Officers agree that a proposed regulation is not signifcant, the lead office will so inform XS-1 and the Deputy Secretary or Under Secretary. The lead office, working with representatives of other interested Secretarial Officers, will then develop and publish the regulation.

b. A nonsignificant regulation will be drafted in clear, concise English. The mandate or need for the regulation will be clearly explained. The FEDERAL REGISTER notice of the regulation will include a brief preamble, understandable to non-experts and non-lawyers, which will contain a summary of the objectives, terms, and anticipated impacts of the regulation. The preamble will also include the name, address, and telephone number of the lead office and General Counsel representatives primarily responsible for drafting the regulation.

c. When a proposed nonsignificant regulation is published in the FEDERAL REGISTER, the notice will provide at least a 30-day public comment period and will include a statement explaining the need for an probable effect of the regulation and why the regulation is not considered significant.

d. If public comments contest the determination of nonsignificance, the lead office will reconsider whether the regulation is significant and determine whether the public comment period should be extended.

e. Draft and final regulations will be circulated for comment in accordance with the concurrence process described in paragraph 11. The Director of Administration (AD-1) will certify and transmit proposed and final regulations to the Office of the Federal Register.

8. *Development of significant regulations.*

a. If the regulation is significant, the lead office will establish a working group to aid in developing it. This working group will include representatives of the Assistant Secretary for Policy and Evaluation (PE-1), the General Counsel (GC-1), and other interested Secretarial Officers. The lead office must call a meeting of this working group at least once before the draft regulation is published. Working group members will assist the lead office in reviewing alternative means of solving the perceived problem and setting target dates for the completion of each phase of the regulation development process. The working group members will also perform other duties, as assigned by the lead office.

b. It is DOE's general policy to publish notices of inquiry or advance notices of proposed rulemaking prior to drafting proposed significant regulations, in circumstances where DOE lacks sufficient information on the subject to be regulated.

c. In coordination with PE-1, the lead office and other working group members will prepare a plan for the subsequent evaluation of the regulation. The plan will indicate which measures of program performance could be assessed and what, when, and how evaluation data could be collected.

d. In coordination with IR-1, the lead office and other working group members will provide adequate opportunities for public participation in the regulation development process.

e. The lead office will work with EV-1 and GC-1 to ensure compliance with the "National Environmental Policy Act" and other environmental requirements.

f. If the lead office and working group members find that a regulation is likely to have a major impact, then a regulatory analysis will be prepared prior to publication of the proposed regulation. If EV-1, in accordance with the legal conclusions of GC-1, finds that a regulation requires an Environmental Impact Statement under the "National Environmental Policy Act," then that statement will be prepared in coordination with the regulatory analysis.

g. Proposed regulations intended to implement any function transferred to the Secretary under Section 301 or Section 306 of the Department of Energy Organization Act will be referred to the Federal Energy Regulatory Commission when published in the FEDERAL REGISTER.

h. A significant regulation will be drafted in clear, concise English. The mandate or need for the regulation will be clearly explained. The FEDERAL REGISTER notice of the regulation will include a brief preamble, understandable to non-experts and non-lawyers, which will contain a summary of the objectives, terms, and anticipated impacts of the regulation. The preamble will also include the name, DOE address, and telephone number of the lead office and General Counsel representatives primarily responsible for drafting the regulation.

i. At least a 60-day public comment period will be provided after publication of a proposed significant regulation.

j. After a significant regulation is drafted, the draft, together with the draft regulatory analysis, if required, will be circulated for comment in accordance with the process described in paragraph 11. AD-1 will certify and transmit the proposed regulation to the Office of the Federal Register.

k. When the period for public comment is completed, the lead office will summarize all comments received. Then, together with the other working group members, the lead office will analyze the public comments and revise the regulation and regulatory analysis where appropriate.

l. The final regulation, together with the final regulatory analysis if the regulation is expected to have major impacts, will be circulated for comment and concurrence in accordance with the process described in paragraph 11. AD-1 will transmit the final regulation to the Office of the Federal Register.

9. *Development of regulatory analyses for significant regulations likely to have major impacts.*

a. If the lead office and other working group members determine that a significant regulation is likely to have a major impact, then a regulatory analysis will be required.

b. A significant regulation is likely to have a major impact if:

(1) The regulation is likely to have a substantial effect on any of the objectives of national energy policy or energy statutes;

(2) The regulation is likely to impose:

(a) Gross economic costs of $100 million per year; or

(b) A major increase in costs or prices for individual industries, levels of government, geographic regions, or demographic groups;

(3) The regulation is likely to have an adverse impact on competition; or

(4) If the Secretary, Deputy Secretary, or Under Secretary considers the regulation likely to have a major impact for any other reason.

c. In determining whether a regulation is likely to have a major impact, attention should be directed to the regulation's incremental effect on the existing regulatory environment, not to the regulation's hypothetical effect on an unregulated environment.

d. The regulatory analysis will generally consist of a five-to-ten page summary and supporting documentation. The summary will be prepared by the lead office, in cooperation with the working group, and will include the following:

(1) A succinct statement of the problem and the mandate for government action;

(2) A statement of policy objectives and their relationship to the objectives of national energy policy or energy statutes;

(3) A description of the major alternatives; including nonregulatory alternatives, for dealing with the problem and achieving the policy objectives;

(4) A brief analysis of the economic consequences of each of these alternatives, quantified whenever possible; and

(5) An explanation of the reasons for choosing the preferred alternative.

e. The supporting documentation will be provided by the lead office, the Energy Information Administration, and other DOE organizations that have been assigned tasks by the lead office, and will include the following:

(1) A more extensive statement of the problem;

(2) A description and analysis of the preferred alternative and other reasonable and feasible policy alternatives, including:

(a) Legislative authority,

(b) Institutional or other impediments to implementation, and

(c) Enforceability; and

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(3) A comparative analysis of the impacts of these alternatives, quantified whenever possible, including their effects on:

(a) The objectives of national energy policy on energy statutes,

(b) The economic well-being of the Nation as a whole, individual industries, levels of government, geographic regions, and demographic groups,

(c) Compliance and reporting requirements,

(d) Competition,

(e) Other relevant costs and benefits, and

(f) The fairness of the distribution of the costs and benefits.

f. The regulatory analysis will be circulated to GC-1, EIA-1, PE-1, IR-1, and any other appropriate Secretarial Officers. Review and concurrence will take place in accordance with the process described in paragraph 11.

g. When a proposed regulation likely to have a major impact is published in the FEDERAL REGISTER the summary portion of the draft regulatory analysis will be included, and the public will be asked to comment on the findings of the analyses. The FEDERAL REGISTER notice will also indicate how members of the public can obtain the supporting documentation.

h. After the end of the public comment period, the draft regulatory analysis will be reviewed by the lead office in light of the comments received. If any changes are made, the revised analysis must be approved through the process described in paragraph 11.

i. When the final regulation is published in the FEDERAL REGISTER the summary portion of the final regulatory analysis will be included. The FEDERAL REGISTER notice will also indicate how members of the public can obtain the supporting documentation.

j. If a significant regulation is determined not to have a major impact, the lead office, in cooperation with the working group, will publish in the FEDERAL REGISTER with the proposed and final regulation, a brief description of the anticipated effects of the regulation. If public comments indicate that the regulation has major impacts, the lead office, in cooperation with the working group, may reconsider its original determination. If appropriate, a regulatory analysis may then be published with the final regulation.

10. Public participation.

a. It is the policy of the Department of Energy to develop regulations in an open and accountable manner with extensive public participation early in the process.

b. The lead office and other working group members will work with IR-1 to include the public in the consideration of significant regulations. These steps may include:

(1) Notification of interested parties, the Governor of each state, DOE regional representatives, and appropriate Federal advisory committees, in accordance with the President's Memorandum of 3-23-78, establishing procedures for consultation with state and local officials.

(2) Distribution of appropriate notices or press releases describing the regulatory action to trade journals, newspapers, and newsletters read by interested parties;

(3) Public hearings and conferences with interested groups and individuals (with adequate advance notification), where appropriate; and

(4) Any other actions that may be required to provide DOE with a broad range of public opinion.

11. Concurrence.

a. Every regulation must be reviewed by the lead office to ensure conformance with the procedures required by this Order, including with specific regard to the following checklist:

(1) The mandate or need for the regulation is clearly explained;

(2) The preamble is concise and understandable to persons who are neither experts nor lawyers, and includes a good summary of the regulation, its objectives, and its anticipated impacts;

(3) The entire regulation is written in clear, concise English;

(4) The name, address, and telephone number of the lead office and General Counsel representatives responsible for drafting the regulation are included;

(5) The comment period is at least 30 days (for proposed nonsignificant regulations) or 60 days (for proposed significant regulations), or public comments have been considered and an adequate response prepared (for final regulations);

(6) Satisfactory steps are planned, or have been taken, to encourage public participation in the regulation's development;

(7) The anticipated impacts of the regulation are properly described:

(8) Alternative approaches have been considered, and the preferred alternative accomplishes the desired policy objectives without imposing any more burdens than necessary (for significant regulations with major impacts);

(9) The determinations of "significance" and "major impact" have been properly made, with the reasons adequately stated in the regulation;

(10) The regulatory analysis is properly prepared (for significant regulations with major impacts);

(11) A satisfactory plan for evaluating the regulation after its issuance has been prepared by the lead office (for significant regualtions);

(12) An estimate has been made of the new or changed reporting requirements imposed by the regulation, and these are not unnecessarily burdensome; and

(13) Environmental review of the regulations's impacts has been completed and, as appropriate, a negative determination, environmental assessment, or environmental impact statement has been prepared.

b. After its own review is complete, the lead office will circulate the regulation to PE-1, GC-1, IR-1, and EIA-1. On behalf of the Secretary, Deputy Secretary, and Under Secretary, these offices will help insure that the regulation complies with this Order, with regard to the above checklist.

c. The lead office will also distribute the regulation to Secretarial Officers whose representatives participated on the working group for their review and concurrence.

d. The lead office will ensure that all appropriate DOE offices have reviewed the regulation, found it in compliance with this Order, and concurred in its publication. The lead office will apprise the Secretary, Deputy Secretary, or Under Secretary of their concurrence, or request resolution of a nonconcurrence.

12. *Waiver.* Under extraordinary circumstances, the Secretary, Deputy Secretary, or Under Secretary may waive some or all of this Order's requirements for a particular regulation. When any requirements mandated by Executive Order 12044 are waived, the FEDERAL REGISTER notices of both the proposed and final regulations will include a statement that a waiver has been granted, the name of the official approving the waiver, and an explanation of any requirements that have been waived, and a description of the emergency, short-term statutory or judicial deadline, or public interest consideration that justifies the waiver.

13. *Republication and review of existing regulations.*

a. The DOE will periodically evaluate the continued need for and effectiveness of its regulatory programs. To assist this reevaluation, each regulation must be republished within 5 years of its effective date (or, for existing regulations, by September 30, 1983). Regulations may be republished together with similar regulations in an effort to obtain comments on an overall regulatory program administered by the same office.

b. When a regulation is republished, a 60-day comment period will be provided, and public comment will be requested regarding:

(1) Whether the regulation should be continued or terminated;

(2) Any ambiguities or other interpretative difficulties;

(3) The actual impacts of the regulation;

(4) Suggested changes in the regulation; and

(5) The impacts which would result from the termination of the regulation.

c. Based on the public comments received and agency experience, the office administering the regulation will determine whether the regulation should be continued, modified, or rescinded, and will draft a statement advising the public of its determination. Within 120 days after the close of the comment period, and upon the concurrence of the GC-1 and PE-1, this statement will be published in the FEDERAL REGISTER.

d. Other regulations or regulatory procedures will periodically be selected for review, based on the following criteria:

(1) The continued need for the regulation;

(2) The type and number of complaints or suggestions received;

(3) The burdens imposed on those directly affected by the regulations;

(4) The need to simplify or clarify language;

(5) The need to eliminate overlapping and duplicative regulations;

(6) The availability of less burdensome alternatives;

(7) The length of time since the regulation has been evaluated, or the degree to which technology, economic conditions or other factors have changed in the area affected by the regulation; and

(8) Administrative costs or problems associated with a regulation.

14. *Semiannual regulations agenda.*

a. In April and October of each year, the Department of Energy will publish a semiannual regulations agenda in the FEDERAL REGISTER. The agenda will include descriptions of all regulations then in the development process as well as all existing regulations which are scheduled for review. The GC-1, in coordination with PE-1, the Administrator of the ERA, and other appropriate Secretarial officers, will draft the regulations agenda. The Secretary will approve the agenda before publication.

b. For each significant regulation under development, planned for republication, or otherwise under review, the regulations agenda will:

(1) State the need and legal basis for the regulation, and the current stage of the development process;

(2) Indicate if a regulatory analysis is required; and

(3) Include the name and telephone number of the lead office contact in the working group.

c. Each agenda will also give the status of those regulations listed on the previous agendas.

d. Supplements to the regulatory agenda may be published at any other time during the year, as needed.

15. *Responsibilities.*

a. The *Secretary* will approve the publication of the semiannual regulation agenda.

b. The *Secretary, Deputy Secretary,* or *Under Secretary* will be informed of the development of all regulations and will approve the publication in the FEDERAL REGISTER of all proposed and final significant regulations.

c. The *lead office* is responsible for development of a regulation, preparation of any regulatory analysis, and compliance with the terms of this Order. This includes assigning and coordinating working group tasks, providing XS-1 with the necessary information notifying the Secretary, Deputy Secretary, or Under Secretary of the need for the regulation, to maintain an accurate regulation tracking system, notifying the Secretary, Deputy Secretary, or Under Secretary of the need for the regulation, obtaining their approval for publication of a proposed and final significant regulation, assuring that the regulation undergoes proper coordination and concurrence, and republishing it within 5 years.

d. *Working group members* will perform tasks pertaining to regulation development and analysis assigned by the lead office. They are responsible for representing their Secretarial Officers' views, keeping them informed of the progress and content of the regulations under development, and advising them whether they should concur in the publication of a regulation.

e. The *Assistant Secretary for Policy and Evaluation (PE-1)* is responsible for coordinating the policy aspects of the DOE's rulemaking activity; ensuring consistency with Executive Order 12044, this Order, and national energy policy; and acting as interagency liaison on matters concerning the Executive Order. PE-1 will participate in development and analysis of all regulations. PE-1 will review all proposed and final regulations before concurring in their publication to ascertain whether they are understandable, not unduly burdensome, preferable to non-regulatory alternatives, and consistent with DOE policy. PE-1 will also review draft and final regulatory analyses before concurrence.

f. The *General Counsel (GC-1)* will participate in the development and analysis of all regulations and will review all proposed and final regulations to ascertain whether they are carefully drafted, legally sufficient, and enforceable. The GC-1 is also responsible for preparing the semiannual regulations agenda.

g. The *Assistant Secretary for Intergovernmental and Institutional Relations (IR-1)* will assist the working groups in soliciting the view of outside persons and organizations, the Congress, State and local governments, and other Executive agencies. IR-1 will assist the working groups in preparing and distributing press releases, answering press inquiries, coordinating press coverage of hearings, and answering Congressional correspondence.

h. The *Administrator of the Energy Information Administration (EIA)* is responsible for reviewing the data collection requirements of all regulations, ensuring that they are compatible with existing DOE data systems, are properly cleared with OMB, and do not impose unnecessary paperwork or reporting requirements. EIA will also help prepare documentation for regulatory analyses at the request of the lead office.

i. The *Director of the Office of Administration (AD-1)* is responsible for certifying and transmitting all documents to the Office of Federal Register and ensuring that prior to such transmittal all necessary concurrences have been obtained.

j. The *Assistant Secretary for Environment (EV-1),* in accordance with the legal conclusions of the GC-1, will determine whether a regulation is a major federal action requiring preparation of an environmental impact statement or when a regulation requires provisions to implement environmental regulations or requirements.

k. The *Director, Office of the Executive Secretariat (XS-1),* is responsible for tracking the development of all regulations and for informing the Secretarial Officers, the deputy Secretary, and Under Secretary of a lead office's proposal to initiate a regulation development.

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WEDNESDAY, JANUARY 3, 1979
PART IV



DEPARTMENT OF LABOR

Employment and Training Administration

■

CLASSIFYING LABOR SURPLUS AREAS

Preference in Federal Procurement

[4510-30-M]

Title 20—Employees' Benefits

CHAPTER V—EMPLOYMENT AND TRAINING ADMINISTRATION, DEPARTMENT OF LABOR

PART 651—GENERAL PROVISIONS GOVERNING THE FEDERAL-STATE EMPLOYMENT SERVICE SYSTEM

PART 654—SPECIAL RESPONSIBILITIES OF THE EMPLOYMENT SERVICE SYSTEM

Preference in Federal Procurement Under Defense Manpower Policy DMP-4A and Executive Orders 12073 and 10582

MODIFICATION OF RULES FOR CLASSIFYING LABOR SURPLUS AREAS

AGENCY: Employment and Training Administration, Labor.

ACTION: Final rule.

SUMMARY: The Department of Labor is modifying its rules for classifying labor surplus areas under Defense Manpower Policy DMP-4A and Executive Order 10582 to reflect the promulgation of Executive Order 12073 and changes being made as a result of comments received.

EFFECTIVE DATE: January 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Davis A. Portner, Office of Policy Evaluation and Research, 601 "D" Street, NW., Room 9420, Washington, D.C. 20213, (202) 376-6274.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Defense Manpower Policy No. 4A (DMP-4A), 32A CFR Part 134, became effective November 3, 1977. The purpose of DMP-4A is to encourage the purchase of goods and services by the Federal Government and the placement of Federal facilities in areas of labor surplus. Under DMP-4A the Secretary of Labor is required to classify labor surplus areas and disseminate this information for the use of all Federal agencies in directing procurement activity and locating new plants or facilities. Firms which agree to perform most of the work in labor surplus areas are eligible for preference in the award of procurement contracts and grants and the execution of agreements.

On March 3, 1978, the Department of Labor published in the FEDERAL REGISTER final regulations for classifying labor surplus areas under Defense Manpower Policy DMP-4A and Executive Order 10582. In order to implement DMP-4A as rapidly as possible, the Department shortened the period for comment on the proposed regulations and accepted comment during the 60 day period subsequent to the publication date of the final regulations.

On August 16, 1978 the President signed Executive Order 12073—Federal Procurement in Labor Surplus Areas. This executive order strengthened DMP-4A and provided additional authority for the Department's implementing regulations in 20 CFR Part 654.

At this time the Department is making revisions and corrections to these regulations primarily as a result of the comments which were received and the promulgation of the executive order. The changes also reflect the Department's experience under these regulations.

SUMMARY OF CHANGES

The primary objective of these changes is to more effectively accomplish the purpose of DMP-4A to target Federal procurement to areas of greatest need. Effective targeting is a goal of the strengthened procedures in E.O. 12073 and a central concern of the comments received on the Department's regulations.

A review of operating data indicates that the present criteria used for classifying labor surplus areas are too broad for the effective targeting of Federal funds. Based on comments received and internal analysis, the Department of Labor has concluded that the criteria for classifying labor surplus areas should be focused more sharply on communities with problems of chronically high unemployment which have the greatest need of the labor surplus set aside program. To accomplish this objective the following changes are being made in the system for defining program eligibility.

1. In order to focus programs more sharply on the community level, labor surplus will no longer be defined in terms of broad geographic areas in which there is a concentration of economic activity or labor demand and in which workers can generally change jobs without changing their residences. Instead, the conditions for defining labor surplus will be in terms of discrete civil jurisdictions, i.e., counties, county equivalents, and cities with a population of at least 50,000. In this way, funds will be directed to specific localities with high unemployment rather than to all jurisdictions in any given metropolitan area, not all of which suffer from the same degree of unemployment.

2. In order to target procurement contracts to localities with the greatest degree of unemployment, eligibility will be limited to those jurisdictions which have an average unemployment rate which is 120 percent of the national unemployment rate or higher during the reference period.

3. The reference period used in making the classifications will be an average of the previous two calendar years. By using an average of 24 months of unemployment data in place of the present 12 months, it should be possible to target contracts into communities experiencing high structural unemployment.

4. Eligibility status will be determined annually (rather than quarterly) effective each May 1. The purpose of this change is to provide more stability in the contracting process.

5. In classifying labor surplus areas for those jurisdictions in standard metropolitan statistical areas for which the current population surveys (CPS) were used to determine the annual unemployment data prior to January 1, 1978, the Assistant Secretary shall make determinations of the average unemployment rates in such jurisdictions. The purpose of this change is to prevent these areas from being penalized by the change in the unemployment estimating procedures involving the discontinuation of separate CPS estimates for these areas.

Since these regulations involve a matter relating to "public property, loans, grants, benefits, or contracts" they are exempt from the rulemaking requirements of the Administrative Procedure Act. (5 U.S.C. §553(a)(2)). Moreover, the Secretary of Labor has determined that it is in the public interest to publish these regulations in final form so that program implementation may move more rapidly without disruption of the Federal procurement process. This finding constitutes a waiver of the Department's regulation in 29 CFR 2.7. These rules will therefore become effective January 1, 1979.

Accordingly, Parts 651 and 654, Chapter V, Title 20 of the Code of Federal Regulations are amended as follows:

PART 651—GENERAL PROVISIONS GOVERNING THE FEDERAL-STATE EMPLOYMENT SERVICE SYSTEM

1. The table of contents for Part 654—Special Responsibilities of the Employment Service System is amended to read as follows:

. . . . .

§ 651.6 Consolidated table of contents for Parts 651–658.

SUBPART A—RESPONSIBILITIES UNDER DEFENSE MANPOWER POLICY NO. 4A (32A CFR PART 134) AND EXECUTIVE ORDER 12073

654.1 Purpose of subpart.
654.2 Description of DMP-4A.
654.3 Description of Executive Order 12073.
654.4 Definitions.
654.5 Classification of labor surplus areas.
654.6 Termination of classification.
654.7 Publication of area classifications.
654.8 Services to firms and individuals in labor surplus areas.
654.9 Filing of employment service-related complaints.

SUBPART B—RESPONSIBILITIES UNDER EXECUTIVE ORDER 10582

654.11 Purpose of subpart.
654.12 Description of Executive Order 10582.
654.13 Determination of areas of substantial unemployment.
654.14 Filing of employment service-related complaints.

SUBPART C—TRANSITION PROVISIONS

654.21 Interim classifications.

PART 654—SPECIAL RESPONSIBILITIES OF THE EMPLOYMENT SERVICE SYSTEM

2. Part 654, in its entirety, is amended to read as follows:

SUBPART A—RESPONSIBILITIES UNDER DEFENSE MANPOWER POLICY NO. 4A (32A CFR PART 134) AND EXECUTIVE ORDER 12073

654.1 Purpose of subpart.
654.2 Description of DMP-4A.
654.3 Description of Executive Order 12073.
654.4 Definitions.
654.5 Classification of labor surplus areas.
654.6 Termination of classification.
654.7 Publication of area classifications.
654.8 Services to firms and individuals in labor surplus areas.
654.9 Filing of employment service-related complaints.

SUBPART B—RESPONSIBILITIES UNDER EXECUTIVE ORDER 10582

654.11 Purpose of subpart.
654.12 Description of Executive Order 10582.
654.13 Determination of areas of substantial unemployment.
654.14 Filing of employment service-related complaints.

SUBPART C—TRANSITION PROVISIONS

654.21 Interim classifications.

AUTHORITY: Pub. L. 95-89; 50 U.S.C. App. 2061, et seq.; 41 U.S.C. 10a et seq.; 29 U.S.C. 49 et seq., E.O. 12073; E.O. 11725; E.O. 11051, as amended; E.O. 10582; E.O. 10480; 32A CFR Part 134.

Subpart A—Responsibilities Under Defense Manpower Policy No. 4A (32A CFR Part 134) and Executive Order 12073

§ 654.1 Purpose of subpart.

This subpart implements the responsibilities of the Secretary of Labor in classifying labor surplus areas in accordance with Defense Manpower Policy No. 4A of the Federal Preparedness Agency, General Services Administration (32A CFR Part 134—Preservation of the Mobilization Base Through the Placement of Procurement and Facilities in Labor Surplus Areas (DMP-4A)), and Executive Order 12073 (Federal Procurement in Labor Surplus Areas). The Secretary of Labor has delegated responsibilities to the Assistant Secretary, Employment and Training Administration.

§ 654.2 Description of DMP-4A.

(a) Defense Manpower Policy No. 4A (DMP-4A) consists of the Federal regulations at 32A CFR Part 134—Preservation of the Mobilization Base Through the Placement of Procurement and Facilities in Labor Surplus Areas.

(b) The DMP-4A regulations were issued pursuant to Pub. L. 95-89: Executive Order 10480; Executive Order 11051, as amended; and Executive Order 11725. Implementation of the regulations is the responsibility of the Federal Preparedness Agency of the General Services Administration.

(c) The purpose of DMP-4A is to encourage the purchase of goods and services by the Federal Government and the placement of Federal facilities in areas of labor surplus.

(d) Under DMP-4A, the Secretary of Labor is required to:

(1) Classify labor surplus areas and disseminate this information on a timely basis to Federal departments and agencies.

(2) In cooperation with State and local authorities and the Secretary of Commerce, provide labor-market data and related economic information in efforts to assist in the initiation of industrial expansion programs in labor surplus areas.

(3) Identify occupations and skills which are in surplus supply within labor surplus areas and make this information available to firms requiring such occupations and skills and interested in establishing new plants and facilities.

(4) Identify occupations and skills for which labor will be needed by new or expanding industries and industries that expand during a mobilization; and, in collaboration with other Government agencies, make assistance available to labor surplus area institutions and users in developing on-the-job, apprentice, or other training programs for developing skills of the work force.

(5) Through the affiliated State employment services, receive job openings on a voluntary basis and/or under the mandatory listing program provided for by section 2012 of Title 38 of the United States Code and by Executive Order 11701, and refer qualified unemployed workers to concerns in labor surplus areas.

(e) Under DMP-4A, all Federal agencies are required to:

(1) Use their best efforts to award all procurement contracts and grants, and execute agreements, greater than $2,500 to concerns that will perform a substantial proportion of the manufacturing, production, or appropriate services on those contracts within labor surplus areas, to the extent that procurement objectives will permit.

(2) Ensure that firms in labor surplus areas that are on appropriate bidders mailing lists are given the opportunity to submit offers on all procurements for which they are qualified. Whenever the number of firms on a bidders mailing list is excessive in relation to size and type of procurement, a representative number of firms from labor surplus areas shall be given the opportunity to submit offers.

(3) Establish programs to encourage prime contractors to award subcontracts to firms that agree to perform a substantial proportion of the production, manufacturing or appropriate services on those subcontracts in labor surplus areas.

(4) Cooperate with other Federal departments and agencies in achieving the objectives of this policy.

(f) Under DMP-4A, the Secretary of Commerce is required to:

(1) In cooperation with State economic development agencies, the Secretary of Defense, the Administrator of General Services, and the Administrator of the Small Business Administration, assist concerns which have agreed to perform contracts in labor surplus areas in obtaining Government procurement business by: (A) Providing such concerns with timely information on proposed Government procurements; and (B) maintaining current information on the manufacturing capabilities of such concerns with respect to Government procurement and disseminating such information to Federal departments and agencies.

(2) Urge concerns planning new production facilities to consider the advantages of locating in labor surplus areas.

(3) Provide technical advice and counsel to groups and organizations in labor surplus areas on planned industrial parks, industrial development organizations, expanding tourist business, and available Federal aids.

(g) Under DMP-4A, the Administrator of the Small Business Administration is required to make available to small business concerns in labor surplus areas all of its services, endeavor to ensure opportunity for maximum participation by such concerns in Government procurement, and give consideration to the needs of these concerns in the making of joint small business set asides with Government procurement agencies.

(h) Under DMP-4A, there is continued in operation within the Federal Preparedness Agency the Surplus Manpower Committee. The Committee is chaired by the Director of the Federal Preparedness Agency or the Director's designee. The Committee

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includes representation from the Office of Federal Procurement Policy; Department of Defense; Department of Commerce; Department of Labor; General Services Administration; Small Business Administration; Department of Health, Education, and Welfare; Department of Housing and Urban Development; Department of Energy; and other interested departments and agencies. The Committee advises the Director, Federal Preparedness Agency, on policies, procedures, and activities in existence or needed to carry out the purpose of DMP-4A.

(i) When an entire industry that sells a significant portion of its production to the Government is generally depressed or has a significant proportion of its production units located in a labor surplus area, the Committee may make appropriate recommendations relative to that industry in lieu of recommendations relative to specific geographical areas. In such cases, after notice to and hearing of interested parties, the Director, Federal Preparedness Agency, gives consideration to appropriate measures applicable to the entire industry.

(j) Under DMP-4A, all Federal agencies are required to give consideration to labor surplus areas in the selection of sites for Government-financed facilities, including expansion, to the extent that such selection is consistent with existing law and essential economic and strategic factors that must also be taken into account.

§ 654.3 Description of Executive Order 12073.

Executive Order 12073 also requires executive agencies to emphasize procurement set-asides in labor surplus areas. The Secretary of Labor is responsible under this order for classifying and designating labor surplus areas.

§ 654.4 Definitions.

(a) "Assistant Secretary" shall mean Assistant Secretary for Employment and Training, U.S. Department of Labor.

(b) "Civil jurisdiction" shall mean:

(1) Cities of 50,000 or more population on the basis of the most recently available Bureau of the Census estimates; or

(2) Towns and townships in the States of New Jersey, New York, Michigan, and Pennsylvania of 50,000 or more population and which possess powers and functions similar to cities; or

(3) All counties, except those counties which contain any of the types of political jurisdictions defined in (1) and (2) above.

(4) All other counties are defined as "balance of county" (i.e., total county less component cities and townships identified in (1) and (2) above).

(5) County equivalents which are towns in the States of Massachusetts, Rhode Island and Connecticut.

(c) "Labor surplus area" shall mean a civil jurisdiction that, in accordance with the criteria specified in § 654.5, has been classified as a labor surplus area for purposes of Defense Manpower Policy No. 4A.

(d) "Reference period" shall mean the two year period ending December 31 of the year prior to the May 1 annual date of eligibility determination.

§ 654.5 Classification of labor surplus areas.

(a) *Basic criteria.* The Assistant Secretary shall classify a civil jurisdiction as a labor surplus area whenever, as determined by the Bureau of Labor Statistics, the average unemployment rate for the civilian labor force in the civil jurisdiction for the reference period is (1) 120 percent of the national average unemployment rate or higher for the reference period as determined by the Bureau of Labor Statistics, or (2) 10 percent or higher: *Provided, however,* That no civil jurisdiction shall be classified as a labor surplus area if the average unemployment rate for the reference period is less than 6.0 percent.

(b) In classifying civil jurisdictions within those standard metropolitan statistical areas and for central cities for which current population surveys (CPS) were used to determine annual unemployment data prior to January 1, 1978, the Assistant Secretary shall, until the end of Fiscal Year 1981, make determinations of the average unemployment rates in such jurisdictions so as to assure that eligibility is not denied by the termination of the use of such surveys.

(c) *Criteria for exceptional circumstances.* The Assistant Secretary, upon petition submitted by the appropriate State employment security agency, may classify a civil jurisdiction as a labor surplus area without regard to the reference period, whenever the civil jurisdiction meets or is expected to meet the unemployment tests established under § 654.5 (a) or (b) as a result of exceptional circumstances. For purposes of this paragraph, "exceptional circumstances" shall mean catastrophic events such as natural disasters, plant closings, and contract cancellations expected to have a long-term impact on labor market area conditions, discounting temporary or seasonal factors.

§ 654.6 Termination of classification.

(a) *Basic procedure.* The Assistant Secretary shall terminate the classification of a civil jurisdiction as a labor surplus area after any year in which the Assistant Secretary determines that the criteria established under § 654.5 (a) and (b) are no longer met.

(b) *Procedure for exceptional circumstances.* The Assistant Secretary shall terminate the classification of a civil jurisdiction classified as a labor surplus area pursuant to the provisions of § 654.5(c) after any year in which the Assistant Secretary determines that the exceptional circumstances criteria of that paragraph are no longer met.

§ 654.7 Publication of area classifications.

The Assistant Secretary shall publish annually a list of labor surplus areas together with geographic descriptions thereof.

§ 654.8 Services to firms and individuals in labor surplus areas.

To carry out the purposes and policy objectives of Defense Manpower Policy No. 4A and Executive Order 10582, the Assistant Secretary shall cooperate with and assist the State employment service agencies and the Secretary of Commerce, as appropriate, to:

(a) Provide relevant labor market data and related economic information to assist in the initiation of industrial expansion programs in labor surplus areas;

(b) Identify upon request the skills and numbers of unemployed persons available for work in labor surplus areas, providing such information to firms interested in establishing new plants and facilities or expanding existing plants and facilities in such areas;

(c) Identify the occupational composition and skill requirements of industries contemplating locating in labor surplus areas and make such information available to training and apprenticeship agencies and resources in the community for purposes of appropriate training and skill development;

(d) Identify unemployed individuals in need of, and having the potential for, training in occupations and skills required by new or expanding industries and refer such individuals to appropriate training opportunities;

(e) Receive job openings on a voluntary basis and/or under the mandatory listing program provided by 38 U.S.C. 2012 and Executive Order 11701 and refer qualified unemployed workers to such openings, making appropriate efforts to refer to such openings qualified individuals who reside in the labor surplus area.

§ 654.9 Filing of employment service-related complaints.

Employment service-related complaints arising under Subpart A of this Part may be filed directly with the appropriate Department of Labor regional office in accordance with the provisions at 20 CFR § 658.420-423. For purpose of § 658.421, a complainant filing a complaint under this subsection shall be deemed to have exhausted the State agency administrative remedies set forth at 20 CFR § 658.410-416.

Subpart B—Responsibilities Under Executive Order 10582

§ 654.11 Purpose of subpart.

This subpart implements the responsibilities of the Secretary of Labor in determining areas of substantial unemployment in accordance with Executive Order 10582 issued pursuant to the Buy American Act, 41 U.S.C. 10a et seq.

§ 654.12 Description of Executive Order 10582.

(a) Under the Buy American Act, heads of executive agencies are required to determine, as a condition precedent to the purchase by their agencies of materials of foreign origin for public use within the United States, (1) that the price of like materials of domestic origin is unreasonable, or (2) that the purchase of like materials of domestic origin is inconsistent with the public interest.

(b) Section 3(c) of Executive Order 10582 issued pursuant to the Buy American Act permits executive agencies to reject a bid or offer to furnish materials of foreign origin in any situation in which the domestic supplier, offering the lowest price for furnishing the desired materials, undertakes to produce substantially all of the materials in areas of substantial unemployment, as determined by the Secretary of Labor.

§ 654.13 Determination of areas of substantial unemployment.

An area of substantial unemployment, for purposes of Executive Order 10582, shall be any area classified as a labor surplus area at § 654.5 of this Part pursuant to the procedures set forth at Subpart A of this Part.

§ 654.14 Filing of employment service-related complaints.

Employment service-related complaints arising under Subpart B of this Part may be filed directly with the appropriate Department of Labor regional office in accordance with the provisions at 20 CFR § 658.420-423. For purposes of § 658.421, a complainant filing a complaint under this subsection shall be deemed to have exhausted the State agency administrative remedies set forth at 20 CFR § 658.410-416.

Subpart C—Transition Provisions

§ 654.21 Interim classifications.

The transition from the quarterly classification of the March 3, 1978 regulations to the new annual classification system will not be fully accomplished until May 1, 1979. During the interim period, from January 1, 1979 through April 30, 1979, the list of labor surplus areas will be derived as follows:

(a) the list of labor surplus areas under the March 3, 1978 regulations for the quarter ending December 31, 1978 will remain in effect;

(b) the list will be supplemented by any additional labor surplus areas which would have qualified under the March 3, 1978 regulations for the first quarter of calendar year 1979; and

(c) upon petition submitted by the appropriate State employment security agency the Assistant Secretary may classify any civil jurisdiction which meets the basic provisions of § 654.5, as amended, based on the most recent satisfactory 12 months unemployment data.

Signed at Washington, D.C., on 29 December, 1978.

RAY MARSHALL,
Secretary of Labor.

[FR Doc. 79-397 Filed 1-2-79; 9:23 am]

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WEDNESDAY, JANUARY 3, 1979
PART V



THE PRESIDENT

EXECUTIVE ORDERS
12106–12110

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[3195-01-M]

presidential documents

Title 3—The President

Executive Order 12106 · **December 28, 1978**

Transfer of Certain Equal Employment Enforcement Functions

By the authority vested in me as President of the United States of America by Section 9 of Reorganization Plan No. 1 of 1978 (43 FR 19807), in order to effectuate the transfer of certain functions relating to the enforcement of equal employment programs, and in order to make certain technical amendments in other Orders to reflect this transfer of functions, it is hereby ordered as follows:

1-101. The transfer to the Equal Employment Opportunity Commission of certain functions of the Civil Service Commission, relating to enforcement of equal employment opportunity programs as provided by Sections 1, 2, 3 and 4 of Reorganization Plan No. 1 of 1978 (43 FR 19807), shall be effective on January 1, 1979.

1-102. Executive Order No. 11478, as amended, is further amended by deleting the preamble, by substituting "national origin, handicap, or age" for "or national origin" in the first sentence of Section 1, and revising Sections 3, 4, and 5 to read as follows:

"Sec. 3. The Equal Employment Opportunity Commission shall be responsible for directing and furthering the implementation of the policy of the Government of the United States to provide equal opportunity in Federal employment for all employees or applicants for employment (except with regard to aliens employed outside the limits of the United States) and to prohibit discrimination in employment because of race, color, religion, sex, national origin, handicap, or age.

"Sec. 4. The Equal Employment Opportunity Commission, after consultation with all affected departments and agencies, shall issue such rules, regulations, orders, and instructions and request such information from the affected departments and agencies as it deems necessary and appropriate to carry out this Order.

"Sec. 5. All departments and agencies shall cooperate with and assist the Equal Employment Opportunity Commission in the performance of its functions under this Order and shall furnish the Commission such reports and information as it may request. The head of each department or agency shall comply with rules, regulations, orders and instructions issued by the Equal Employment Opportunity Commission pursuant to Section 4 of this Order.".

1-103. Executive Order No. 11022, as amended, is further amended by revising Section 1(b) to read as follows:

"(b) The Council shall be composed of the Secretary of Health, Education, and Welfare, who shall be Chairman, the Secretary of the Treasury, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Labor, the Secretary of Housing and Urban Development, the Secretary of Transportation, the Administrator of Veterans Affairs, the Director of the Office of Personnel Management, the Director of the Community Services Administration, and the Chairman of the Equal Employment Opportunity Commission.".

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1-104. Executive Order No. 11480 of September 9, 1969, is amended by deleting "and the Chairman of the United States Civil Service Commission" in Section 4 and substituting therefor "Director of the Office of Personnel Management, and the Chairman of the Equal Employment Opportunity Commission".

1-105. Executive Order No. 11830 of January 9, 1975, is amended by deleting Section 2 and revising Section 1 to read as follows:

"In accord with Section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791) and Section 4 of Reorganization Plan No. 1 of 1978 (43 FR 19808), the Interagency Committee on Handicapped Employees is enlarged and composed of the following, or their designees whose positions are Executive level IV or higher:

(1) Secretary of Defense.
(2) Secretary of Labor.
(3) Secretary of Health, Education, and Welfare, Co-Chairman.
(4) Director of the Office of Personnel Management.
(5) Administrator of Veterans Affairs.
(6) Administrator of General Services.
(7) Chairman of the Federal Communications Commission.
(8) Chairman of the Equal Employment Opportunity Commission, Co-Chairman.
(9) Such other members as the President may designate.".

1-106. This Order shall be effective on January 1, 1979.

Jimmy Carter

THE WHITE HOUSE,
December 28, 1978.

[FR Doc. 78-36478 Filed 12-29-78; 2:24 pm]

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Executive Order 12107 · **December 28, 1978**

Relating to the Civil Service Commission and Labor-Management in the Federal Service

By virtue of the authority vested in me as President by the Constitution and statutes of the United States of America, and by Section 403 of Reorganization Plan No. 2 of 1978 (43 FR 36037), it is hereby ordered as follows:

SECTION 1

IMPLEMENTATION OF REORGANIZATION PLAN NO. 2 OF 1978

1-1. *Office of Personnel Management.*

1-101. *Establishment of Office of Personnel Management.* The establishment of the Office of Personnel Management and of the positions of Director, Deputy Director, and Associate Directors of that Office, as provided in Sections 101 and 103 of Reorganization Plan No. 2 of 1978, shall be effective on January 1, 1979.

1-102. *Transfer of Functions.* Section 102 of Reorganization Plan No. 2 of 1978, transferring functions to the Director of the Office of Personnel Management, shall be effective on January 1, 1979.

1-2. *Merit Systems Protection Board.*

1-201. *Redesignation of Civil Service Commission.* The redesignation of the Civil Service Commission as the Merit Systems Protection Board and of the Commissioners as Members of the Board as provided in Section 201 of Reorganization Plan No. 2 of 1978 shall be effective on January 1, 1979.

1-202. *Functions of the Merit Systems Protection Board.* The functions of the Merit Systems Protection Board as provided in Section 202 and the savings provisions of Section 203 of Reorganization Plan No. 2 of 1978 shall be effective on January 1, 1979.

1-3. *The Special Counsel.*

1-301. *Establishment of the Office of Special Counsel.* The establishment of the Office of Special Counsel to the Merit Systems Protection Board as provided in Section 204(a) of Reorganization Plan No. 2 of 1978 shall be effective on January 1, 1979.

1-302. *Functions of the Special Counsel.* The transfer of functions provided for in Section 204(b) and the performance of functions set forth in Section 204(c)-(g) of Reorganization Plan No. 2 of 1978 shall be effective on January 1, 1979.

1-4. *The Federal Labor Relations Authority.*

1-401. *The Establishment of the Federal Labor Relations Authority and the Office of General Counsel.* The establishment of the Federal Labor Relations Authority as provided in Section 301 and of the Office of General Counsel of the Authority as provided in Section 302 of Reorganization Plan No. 2 of 1978 shall be effective on January 1, 1979.

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1-402. *The Federal Service Impasses Panel.* The continuation of the Federal Service Impasses Panel established under Executive Order No. 11491, as amended, as a distinct organizational entity within the Federal Labor Relations Authority as provided in Section 303 of Reorganization Plan No. 2 of 1978, shall be effective on January 1, 1979.

1-403. *Functions of the Federal Labor Relations Authority, the General Counsel, and the Federal Service Impasses Panel.* The transfer of functions provided for in Section 304 of Reorganization Plan No. 2 of 1978 shall be effective on January 1, 1979.

1-5. *General.*

1-501. *General Effective Date.* All other provisions of Reorganization Plan No. 2 of 1978 shall be effective on January 1, 1979.

SECTION 2

REDESIGNATIONS, AMENDMENTS TO RULES AND EXECUTIVE ORDERS AND GENERAL PROVISIONS

2-1. *Redesignations.*

2-101. *Office of Personnel Management.* Each of the Executive orders, as amended, listed in this Section under subsections (a) and (b), as applicable, and any other order which relates to functions or areas of responsibility delegated to the Office of Personnel Management, is amended and revised by substituting the words "Office of Personnel Management" for the words "Civil Service Commission" or "United States Civil Service Commission"; by substituting the word "Office" for the word "Commission" wherever the word "Commission" is used as a reference to United States Civil Service Commission; and by substituting the words "Director, Office of Personnel Management" for the words "Chairman, Civil Service Commission", "Chairman, United States Civil Service Commission", "Commissioners" or "Commissioner" wherever they appear.

(a) Executive orders relating to the Civil Service Rules, ethics and other matters of Presidential interest.

Executive Orders Numbered

8743
10577, as amended, except for

Rules IV and V, as amended in this order,

10641
10717
10927
11183
11222
11315
11451
11570
11639
11648

11721
11935
12004
12014
12043

(b) Other Executive orders relating to Federal Personnel Management, and membership on Councils, Boards, and Committees.

Executive Orders Numbered

8744
9230
9712
9830
9932
9961
10000
10242
10422
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10459
10530
10549
10550
10552
10556
10647
10763
10774, except for Section 3(e)
10804
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2-102, *Merit Systems Protection Board.* The provisions of Section 3(e) of Executive Order No. 10774 and Executive Order No. 11787, are hereby amended and revised by substituting the words "Merit Systems Protection Board" for the words "Civil Service Commision" or "Commission" when used as a reference to the Civil Service Commission wherever such words appear.

2-103. *Amending the Civil Service Rules.* Section 101 of Executive Order No. 10577, as amended, is further amended by substituting for Rule II—Appointment Through the Competitive System, a new Sec. 2.4 as follows:

"Sec. 2.4. *Probationary period.* Persons selected from registers of eligibles for career or career-conditional appointment and employees promoted, transferred, or otherwise assigned, for the first time, to supervisory or managerial positions shall be required to serve a probationary period under terms and conditions prescribed by the Office.";

by deleting the last sentence under Rule IV—Prohibited Practices, Sec. 4.3; and

by substituting for Rule V—Regulations, Investigations, and Enforcement, a new Rule V as follows:

"RULE V—REGULATIONS, INVESTIGATIONS, EVALUATION, AND ENFORCEMENT"

"Sec. 5.1. *Civil Service Regulations.* The Director, Office of Personnel Management, shall promulgate and enforce regulations necessary to carry out the provisions of the Civil Service Act and the Veterans' Preference Act, as reenacted in Title 5, United States Code, the Civil Service Rules, and all other statutes and Executive orders imposing responsibilities on the Office. The Director is authorized, whenever there are practical difficulties and unnecessary hardships in complying with the strict letter of the regulation, to grant a variation from the strict letter of the regulation if such a variation is within the spirit of the regulations, and the efficiency of the Government and the integrity of the competitive service are protected and promoted. Whenever a variation is granted the Director shall note the official record to show: (1) the particular practical difficulty or hardship involved, (2) what is permitted in place of what is required by regulation, (3) the circumstances which protect or promote the efficiency of the Government and the integrity of the competitive service, and (4) a statement limiting the application of the variation to the continuation of the conditions which gave rise to it. Like variations shall be granted whenever like conditions exist. All such decisions and information concerning variations noted in the official record shall be published promptly

in a Federal Personnel Manual, Letter or Bulletin and in the Director's next annual report.

"Sec. 5.2. *Investigation and Evaluations.* The Director may secure effective implementation of the civil service laws, rules, and regulations, and all Executive orders imposing responsibilities on the Office by:

(a) Investigating the qualifications and suitability of applicants for positions in the competitive service. The Director may require appointments to be made subject to investigation to enable the Director to determine, after appointment, that the requirements of law or the civil service rules and regulations have been met.

(b) Evaluating the effectiveness of: (1) personnel policies, programs, and operations of Executive and other Federal agencies subject to the jurisdiction of the Office, including their effectiveness with regard to merit selection and employee development; (2) agency compliance with and enforcement of applicable laws, rules, regulations and office directives; and (3) agency personnel management evaluation systems.

(c) Investigating, or directing an agency to investigate and report on, apparent violations of applicable laws, rules, regulations, or directives requiring corrective action, found in the course of an evaluation.

(d) Requiring agencies to report, in a manner and at times as the Director may prescribe, personnel information the Director requests relating to civilian employees in the Executive branch of the Government, as defined by Section 311 of the Civil Service Reform Act of 1978, including positions and officers and employees in the competitive, excepted and Senior Executive services, whether permanent, career-conditional, temporary or emergency.

"Sec. 5.3. *Enforcement.*

(a) The Director is authorized to ensure enforcement of the civil service laws, rules, and regulations, and all applicable Executive orders, by:

(1) Instructing an agency to separate or take other action against an employee serving an appointment subject to investigation when the Director finds that the employee is disqualified for Federal employment. Where the employee or the agency appeals the Director's finding that a separation or other action is necessary, the Director may instruct the agency as to whether or not the employee should remain on duty and continue to receive pay pending adjudication of the appeal: *Provided,* That when an agency separates or takes other action against an employee pursuant to the Director's instructions, and the Director, on the basis of new evidence, subsequently reverses the initial decision as to the employee's qualifications and suitability, the agency shall, upon request of the Director, restore the employee to duty or otherwise reverse any action taken.

(2) Reporting the results of evaluation or investigations to the head of the agency concerned with instructions for any corrective action necessary, including cancellation of personnel actions where appropriate. The Director's findings resulting from evaluations or investigations are binding unless changed as a result of agency evidence and arguments against them. If, during the course of any evaluation or investigation under this Section, the Director finds evidence of matters which come within the investigative and prosecutorial jurisdiction of the Special Counsel of the Merit Systems Protection Board, the Director shall refer this evidence to the Special Counsel for appropriate disposition.

(b) Whenever the Director issues specific instructions as to separation or other corrective action with regard to an employee, including cancellation of a personnel action, the head of the agency concerned shall comply with the Director's instructions.

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(c) If the agency head fails to comply with the specific instructions of the Director as to separation or other corrective action with regard to an employee, including cancellation of a personnel action, the Director may certify to the Comptroller General of the United States the agency's failure to act together with such additional information as the Comptroller General may require, and shall furnish a copy of such certification to the head of the agency concerned. The individual with respect to whom such separation or other corrective action was instructed shall be entitled thereafter to no pay or only to such pay as appropriate to effectuate the Director's instructions.

"Sec. 5.4 *Information and Testimony.* When required by the Office, the Merit Systems Protection Board, or the Special Counsel of the Merit Systems Protection Board, or by authorized representatives of these bodies, agencies shall make available to them, or to their authorized representatives, employees to testify in regard to matters inquired of under the civil service laws, rules, and regulations, and records pertinent to these matters. All such employees, and all applicants or eligibles for positions covered by these rules, shall give to the Office, the Merit Systems Protection Board, the Special Counsel, or to their authorized representatives, all information, testimony, documents, and material in regard to the above matters, the disclosure of which is not otherwise prohibited by law or regulation. These employees, applicants, and eligibles shall sign testimony given under oath or affirmation before an officer authorized by law to administer oaths. Employees are performing official duty when testifying or providing evidence pursuant to this section.

2-104. *Effectiveness of Rule Changes.* The amendments to rules shall be effective on January 1, 1979, to the extent provided by law on that date.

2-2. *Revocation of Executive Orders and Delegation of Functions.*

2-201. *Revocation of Executive Orders and Delegation of Functions to the Director.* Executive Orders numbered 10540 and 10561 are revoked and the authority vested in the President by Section 202(c)(1)(C) of the Annual Sick Leave Act of 1951, as amended, and the authority of the President, pursuant to the Civil Service Act of January 16, 1883, to designate official personnel folders in government agencies as records of the Office of Personnel Management and to prescribe regulations relating to the establishment, maintenance and transfers of official personnel folders, are delegated to the Director of the Office of Personnel Management. Any rules, regulations, directives, instructions or other actions taken pursuant to the authority delegated to the Director of the Office of Personnel Management shall remain in effect until amended, modified, or revoked pursuant to the delegations made by this Order.

2-202. *Savings Provision.* All personnel actions and decisions affecting employees or applicants for employment made on or before January 11, 1979 shall continue to be governed by the applicable Executive order, and the rules and regulations implementing that Order, to the same extent as if that Executive order had not been revoked effective January 11, 1979 unless amended, modified or revoked pursuant to this Order.

2-3. *Labor Management Relations in the Federal Service.*

2-301. *Labor Management Relations.* Executive Order No. 11491 of October 29, 1969, as amended by Executive Orders numbered 11616, 11636, 11838, 11901, and 12027, relating to labor-management relations in the Federal service, is further amended as follows:

1. Subsections (g), (h) and (i) of Section 2 are amended and a new subsection (j) is added to read as follows:

"(g) 'Authority' means the Federal Labor Relations Authority;

"(h) 'Panel' means the Federal Service Impasses Panel;

"(i) 'Assistant Secretary' means the Assistant Secretary of Labor for Labor Management Relations; and

"(j) 'General Counsel' means the General Counsel of the Authority.".

2. Section 3(b) is amended—

(a) by substituting for paragraph (6) the following:

"(6) The Tennessee Valley Authority; or"; and

(b) by adding the following:

"(7) Personnel of the Federal Labor Relations Authority (including the Office of the General Counsel and the Federal Service Impasses Panel).".

3. Section (d) is amended to read as follows:

"(d) Employees engaged in administering a labor-management relations law or this Order who are otherwise authorized by this Order to be represented by a labor organization shall not be represented by a labor organization which also represents other groups of employees under the law or this Order, or which is affiliated directly or indirectly with an organization which represents such a group of employees.".

4. Section 4 is amended to read as follows:

"Sec. 4. *Powers and Duties of the Federal Labor Relations Authority.*

"(a) [Revoked].

"(b) The Authority shall administer and interpret this Order, decide major policy issues, and prescribe regulations.

"(c) The Authority shall, subject to its regulations:

(1) decide questions as to the appropriate unit for the purpose of exclusive recognition and related issues submitted for its considerations;

(2) supervise elections to determine whether a labor organization is the choice of a majority of the employees in an appropriate unit as their exclusive representative, and certify the results;

(3) decide questions as to the eligibility of labor organizations for national consultation rights;

(4) decide unfair labor practice complaints; and

(5) decide questions as to whether a grievance is subject to a negotiated grievance procedure or subject to arbitration under an agreement as provided in Section 13(d) of this Order.

"(d) The Authority may consider, subject to its regulations:

(1) appeals on negotiability issues as provided in Section 11(c) of this Order:

(2) exceptions to arbitration awards;

(3) appeals from decisions of the Assistant Secretary of Labor for Labor-Management Relations issued pursuant to Section 6(b) this Order; and

(4) other matters it deems appropriate to assure the effectuation of the purposes of this Order.

"(e) In any matters arising under subsection (c) and (d)(3) of this Section, the Authority may require an agency or a labor organization to cease and desist from violations of this Order and require it to take such affirmative action as the Authority considers appropriate to effectuate the policies of this Order.

"(f) In performing the duties imposed on it by this Section, the Authority may request and use the services and assistance of employees of other agencies in accordance with Section 1 of the Act of March 4, 1915 (38 Stat. 1084, as amended; 31 U.S.C. 686).".

5. The caption of Section 5 is amended to read as follows:

"Sec. 5. *Powers and Duties of the Federal Service Impasses Panel.*"

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6. Section 5(a) is amended:

(a) by substituting the words "a distinct organizational entity within the Authority" for the words "an agency within the Council" in the first sentence; and

(b) by substituting the word "Authority" for the word "Council" in the third sentence.

7. Section 6 is amended to read as follows:

"Sec. 6. *Powers and Duties of the Office of the General Counsel and the Assistant Secretary of Labor for Labor-Management Relations.*

"(a) The General Counsel is authorized, upon direction by the Authority, to:

(1) investigate complaints of violations of Section 19 of this Order;

(2) make final decisions as to whether to issue unfair labor practice complaints and prosecute such complaints before the Authority;

(3) direct and supervise all employees in the Office of General Counsel, including employees of the General Counsel in the regional office of the Authority;

(4) perform such other duties as the Authority may prescribe; and

(5) prescribe regulations needed to administer his functions under this Order.

"(b) The Assistant Secretary shall:

(1) decide alleged violations of the standards of conduct for labor organizations, established in Section 18 of this Order; and

(2) prescribe regulations needed to administer his functions under this Order.

"(c) In any matter arising under paragraph (b) of this Section, the Assistant Secretary may require a labor organization to cease and desist from violations of this Order and require it to take such affirmative action as he considers appropriate to effectuate the policies of this Order.

"(d) In performing the duties imposed on them by this Section, the General Counsel and the Assistant Secretary may request and use the services and assistance of employees of other agencies in accordance with Section 1 of the Act of March 4, 1915 (38 Stat. 1084, as amended; 31 U.S.C. 686).".

8. Section 9 is amended:

(a) by substituting the word "Authority" for the word "Council" in the first sentence of subsection (a); and

(b) by substituting the word "Authority" for the words "Assistant Secretary" in subsection (c).

9. Section 10 is amended:

(a) by substituting the word "Authority" for the words "Assistant Secretary" in the last sentence of subsection (b); and

(b) by substituting the word "Authority" for the words "Assistant Secretary" and the word "it" for the word "him", in the first sentence of subsection (d).

10. Section 11 is amended:

(a) by substituting the word "Authority" for the word "Council" in the first sentence of subsection (a); and

(b) by substituting the word "Authority" for the word "Council" in paragraph (4) of subsection (c).

11. Section 11(d) is revoked.

12. Section 13 is amended:

(a) by substituting the word "Authority" for the word "Council" in the third sentence of subsection (b); and

(b) by substituting the word "Authority" for the words "Assistant Secretary" in the first and second sentence of subsection (d).

13. Section 19(d) is amended by substituting the word "Authority" for the words "Assistant Secretary" in the last sentence.

14. Section 21(a) is amended by substituting the words "Office of Personnel Management" for the words "Civil Service Commission" in the second sentence.

15. Section 22 is amended:

(a) by substituting the words "Office of Personnel Management" for the words "Civil Service Commission" in the first sentence and

(b) by substituting the words "Merit Systems Protection Board" for the words "Civil Service Commission" in the second and third sentences.

16. Section 25(a) is amended:

(a) by substituting the words "Office of Personnel Management" for the words "Civil Service Commission" in the first, second and third sentences; and

(b) by substituting the word "Authority" for the word "Council" in the third sentence.

17. Section 25(b) is amended by substituting the words "Office of Personnel Management" for the words "Department of Labor and Civil Service Commission.".

2-4. *General Provisions.*

2-401. *Study and Report Provisions.* The Director of the Office of Personnel Management is directed to conduct a study of Executive orders listed in Section 2-101(a) and (b) and to coordinate the study with such other agencies as may be named in or affected by these orders. The Director of Personnel Management and the Director of the Office of Management and Budget are directed to submit a report on or before July 1, 1981 to the President concerning the performance of functions specified in these Executive orders and any other Executive orders affecting the functions or responsibilities of the Office of Personnel Management. The report shall contain specific detailed recommendations for the continuation, modification, revision or revocation of each Executive order.

2-402. *Continuing Effect of this Order.* Except as required by the Civil Service Reform Act of 1978 as its provisions become effective, in accord with Section 7135 of Title 5, United States Code, as amended, and in accord with Section 902(a) of that Act, the provisions of this Order shall continue in effect, according to its terms, until modified, terminated or suspended.

2-403. *Transfers and Determinations.*

(a) The records, property, personnel and positions, and unexpended balances of appropriations or funds related to Civil Service Commission functions reassigned by this Order that are available, or to be made available, and necessary to finance or discharge the reassigned functions are transferred to the Director of the Office of Personnel Management, the Federal Labor Relations Authority, or the Federal Service Impasses Panel, as appropriate.

(b) The Director of the Office of Management and Budget shall make such determinations, issue such Orders and take all actions necessary or appropriate to effectuate the transfers or reassignments provided by this Order, including the transfer of funds, records, property and personnel.

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2-404. *Effective Date.* Except as otherwise specifically provided in this Order, this Order shall be effective on January 1, 1979.

Jimmy Carter

THE WHITE HOUSE,
December 28, 1978.

[FR Doc. 78-36479 Filed 12-29-78; 2:25 pm]

[3195-01-M]

Executive Order 12108 **December 28, 1978**

Employee Retirement Income Security Act Transfers

By the authority vested in me as President of the United States of America by Section 109 of Reorganization Plan No. 4 of 1978 (43 FR 47713), it is hereby ordered that the provisions of Reorganization Plan No. 4 of 1978 shall be effective on Sunday, December 31, 1978.

Jimmy Carter

THE WHITE HOUSE,
December 28, 1978.

[FR Doc. 78-36480 Filed 12-29-78; 2:26 pm]

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[3195-01-M]

Executive Order 12109 · **December 28, 1978**

Federal Physicians Comparability Allowance

By the authority vested in me as President of the United States of America by Section 5948 of Title 5 and Section 301 of Title 3 of the United States Code, it is hereby ordered as follows:

1-101. The Director of the Office of Personnel Management is hereby designated and empowered to exercise, in consultation with the Director of the Office of Management and Budget, the authority of the President under Section 5948 of Title 5 of the United States Code, to prescribe regulations, criteria, and conditions with regard to the payment of comparability allowances to recruit and retain certain Federal physicians.

1-102. Until the Office of Personnel Management is established (on or before January 1, 1979), pursuant to Reorganization Plan No. 2 of 1978 (43 FR 36037), the Civil Service Commission shall exercise the authority delegated under this Order to the Director of the Office of Personnel Management.

Jimmy Carter

THE WHITE HOUSE,
December 28, 1978.

[FR Doc 78-36481 Filed 12-29-78; 2:27 pm]

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[3195-01-M]

Executive Order 12110 **December 28, 1978**

Continuance of Certain Federal Advisory Committees

By the authority vested in me as President by the Constitution and statutes of the United States of America, and in accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), it is hereby ordered as follows:

1-101. Each advisory committee listed below is continued until December 31, 1980.

(a) Committee for the Preservation of the White House—Executive Order No. 11145, as amended (Department of the Interior).

(b) President's Commission on White House Fellowships—Executive Order No. 11183, as amended (United States Civil Service Commission).

(c) President's Committee on the National Medal of Science—Executive Order No. 11287, as amended (National Science Foundation).

(d) President's Council on Physical Fitness and Sports—Executive Order No. 11562, as amended (Department of Health, Education, and Welfare).

(e) President's Export Council—Executive Order No. 11753 of December 20, 1973 (Department of Commerce).

(f) President's Committee on Mental Retardation—Executive Order No. 11776 of March 28, 1974 (Department of Health, Education, and Welfare).

(g) Federal Advisory Council on Occupational Safety and Health—Executive Order No. 11807 of September 28, 1974 (Department of Labor).

(h) Presidential Advisory Board on Ambassadorial Appointments, Executive Order No. 11970 of February 5, 1977 (Department of State).

(i) Committee on Selection of Federal Judicial Officers—Executive Order No. 11992 of May 24, 1977 (Department of Justice).

(j) United States Circuit Judge Nominating Commission—Executive Order No. 12059, as amended (Department of Justice).

(k) United States Court of Military Appeals Nominating Commission—Executive Order No. 12063 of June 5, 1978 (Department of Defense).

(l) United States Tax Court Nominating Commission—Executive Order No. 12064 of June 5, 1978 (Department of the Treasury).

(m) Judicial Nominating Commission for the District of Puerto Rico—Executive Order No. 12084, as amended (Department of Justice).

1-102. Notwithstanding the provisions of any other Executive order, the functions of the President under the Federal Advisory Committee Act which are applicable to the committees listed in Section 1-101 of this Order, except that of reporting annually to Congress, shall be performed by the head of the department or agency designated after each committee, in accordance with guidelines and procedures established by the Administrator of General Services.

1-103. The following Executive orders, that established committees which have terminated or whose work is completed, are revoked:

(a) Executive Order No. 11482 of September 22, 1969, establishing a Construction Industry Collective Bargaining Commission.

(b) Executive Order No. 11849 of April 1, 1975, establishing the Collective Bargaining Committee in Construction.

(c) Executive Order No. 11534 of June 4, 1970, establishing the National Council on Organized Crime.

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(d) Executive Order No. 11971, as amended, establishing the Committee on Selection of the Director of the Federal Bureau of Investigation.

(e) Executive Order No. 11973 of February 17, 1977, establishing the President's Commission on Mental Health.

(f) Executive Order No. 11998 of June 27, 1977, establishing the President's Commission on Military Compensation.

1-104. Executive Order No. 11948 is superseded.

1-105. This Order shall be effective December 31, 1978.

Jimmy Carter

THE WHITE HOUSE,
December 28, 1978.

[FR Doc. 78-36482 Filed 12-29-78; 2:28 pm]

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR notice 41 FR 32914, August 6, 1976.)

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	LABOR			LABOR
	HEW/FDA			HEW/FDA

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Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

***NOTE: As of January 1, 1979, the Merit Systems Protection Board (MSPB) and the Office of Personnel Management (OPM) will publish on the Tuesday/Friday schedule. (MSPB and OPM are successor agencies to the Civil Service Commission.)**

federal register

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NOTE: A complete listing of all public laws from the second session of the 95th Congress was published as Part II of the issue of December 4, 1978. (Price: 75 cents. Order by stock number 022–003–00960–4 from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402, Telephone 202–275–3030.)

The continuing listing will be resumed upon enactment of the first public law for the first session of the 96th Congress, which will convene on Monday, January 15, 1979.

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[3195-01-M]

Title 3—The President

Executive Order 12111 • **January 2, 1979**

Levels IV and V of the Executive Schedule

By the authority vested in me as President of the United States of America by Section 5317 of Title 5 of the United States Code, and in order to place the position of Counselor on Labor Management Relations, Department of Commerce, in level IV of the Executive Schedule, Executive Order No. 12076, as amended, is further amended by deleting "Assistant to the Secretary and Land Utilization Adviser, Department of the Interior." from Section 1-102(g) and inserting "(s) Counselor on Labor Management Relations, Department of Commerce." in alphabetical order in Section 1-101 thereof.

Jimmy Carter

THE WHITE HOUSE,
January 2, 1979.

[FR Doc. 79-445 Filed 1-2-79; 2:01 pm]

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[3195-01-M]

Executive Order 12112 **January 2, 1979**

Seal for the Office of Administration

By the authority vested in me as President by the Constitution of the United States of America, it is hereby ordered as follows:

1-101. There is established for the Office of Administration in the Executive Office of the President an official seal described as follows:

On a blue seal, the Arms of the United States proper above the inscription "OFFICE OF ADMINISTRATION," in gold raised letters, all within a white border edged gold and inscribed "EXECUTIVE OFFICE OF THE PRESIDENT OF THE UNITED STATES," in blue raised letters. Dark blue suggested by the Seal of the President denotes the direct organizational link with the Presidential office.

1-102. The seal shall be of the design which is attached hereto and made a part of this Order.

Jimmy Carter

THE WHITE HOUSE,
January 2, 1979.



[FR Doc. 79-453 Filed 1-2-79; 2:02 pm]

V 4 4 / 3 J A 4 8 7 9 UMI

[3195-01-M]

Memorandum of December 30, 1978

Relations With the People on Taiwan

Memorandum for All Departments and Agencies

THE WHITE HOUSE,
Washington, December 30, 1978.

As President of the United States, I have constitutional responsibility for the conduct of the foreign relations of the nation. The United States has announced that on January 1, 1979, it is recognizing the government of the People's Republic of China as the sole legal government of China and is terminating diplomatic relations with the Republic of China. The United States has also stated that, in the future, the American people will maintain commercial, cultural and other relations with the people of Taiwan without official government representation and without diplomatic relations. I am issuing this memorandum to facilitate maintaining those relations pending the enactment of legislation on the subject.

I therefore declare and direct that:

(A) Departments and agencies currently having authority to conduct or carry out programs, transactions, or other relations with or relating to Taiwan are directed to conduct and carry out those programs, transactions, and relations beginning January 1, 1979, in accordance with such authority and, as appropriate, through the instrumentality referred to in paragraph D below.

(B) Existing international agreements and arrangements in force between the United States and Taiwan shall continue in force and shall be performed and enforced by departments and agencies beginning January 1, 1979, in accordance with their terms and, as appropriate, through that instrumentality.

(C) In order to effectuate all of the provisions of this memorandum, whenever any law, regulation, or order of the United States refers to a foreign country, nation, state, government, or similar entity, departments and agencies shall construe those terms and apply those laws, regulations, or orders to include Taiwan.

(D) In conducting and carrying out programs, transactions, and other relations with the people on Taiwan, interests of the people of the United States will be represented as appropriate by an unofficial instrumentality in corporate form, to be identified shortly.

(E) The above directives shall apply to and be carried out by all departments and agencies, except as I may otherwise determine.

I shall submit to the Congress a request for legislation relative to nongovernmental relationships between the American people and the people on Taiwan.

This memorandum shall be published in the FEDERAL REGISTER.

Jimmy Carter

[FR Doc. 79-479 Filed 1-2-79; 4:26 pm]

V 4 4 / 3

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[3175-01-M]

Title 6—Economic Stabilization

CHAPTER VII—COUNCIL ON WAGE AND PRICE STABILITY

PART 705—NONINFLATIONARY PAY AND PRICE BEHAVIOR

Correction of Error in Printing

AGENCY: Council on Wage and Price Stability.

ACTION: Correction of error in printing.

SUMMARY: On December 28, 1978, the Council on Wage and Price Stability published in the FEDERAL REGISTER at 43 FR 60772 voluntary standards for compliance with the President's anti-inflation program. Due to an error in printing, ten words were inadvertently included in Section 705A-5(b) which should be deleted. This error would tend to confuse or mislead the reader. Accordingly, the words, "need not comply with the general price deceleration standard but" should be deleted from Section 705A-5(b) from 43 FR 60774.

EFFECTIVE DATE: December 13, 1978.

FOR FURTHER INFORMATION CONTACT:

Roy A. Nierenberg, Assistant General Counsel, Council on Wage and Price Stability, 726 Jackson Place, N.W., Washington, D.C. 20506.

Issued in Washington, D.C., January 2, 1979.

Dated: January 2, 1979.

BARRY BOSWORTH,
Director, Council on Wage and Price Stability.

[FR Doc. 79-396 Filed 1-3-79; 8:45 am]

[3410-02-M]

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Navel Orange Reg. 447]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period January 5-11, 1979. Such action is needed to provide for orderly marketing of fresh navel oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: January 5, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under this marketing order, and upon other information, it is found that the limitation of handling of navel oranges, as hereafter provided, will tend to effectuate the declared policy of the act by tending to establish and maintain such orderly marketing conditions for such oranges as will provide, in the interests of producers and consumers, an orderly flow of the supply thereof to market throughout the normal marketing season to avoid unreasonable fluctuations in supplies and prices, and is not for the purpose of maintaining prices to farmers above the level which it is declared to be the policy of Congress to establish under the act. This regulation has not been determined significant under the USDA criteria for implementing Executive Order 12044.

The committee met on December 29, 1978, to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of navel oranges deemed advisable to be handled during the specified week. The committee reports the demand for navel oranges continues to be dull.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 907.747 Navel Orange Regulation 447.

Order. (a) The quantities of navel oranges grown in Arizona and California which may be handled during the period January 5, 1979, through January 11, 1979, are established as follows:

(1) District 1: 450,000 cartons;

(2) District 2: 59,556 cartons;

(3) District 3: unlimited movement.

(b) As used in this section, "handled", "District 1", "District 2", "District 3", and "carton" mean the same as defined in the marketing order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.)

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Dated: January 3, 1979.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-559 Filed 1-3-79 11:31 am]

[4910-13-M]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 78-CE-24-AD; Amendment 39-3386]

PART 39—AIRWORTHINESS DIRECTIVES

Beech 33, 35, 36, 55, 56, 58, 65, 70, 90, 95, 99, 100 and 200 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule, supersedure of existing Airworthiness Directive.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to certain Beech 33, 35, 36, 55, 56, 58, 65, 70, 90, 95, 99, 100 and 200 series airplanes, which supersedes AD 74-13-02. The new AD requires a one-time visual inspection of the control systems for improper screws and the replacement thereof with screws having proper strength. Approximately 3,159 additional airplanes not presently covered by AD 74-13-02 are added to the applicability statement of this AD. The action set forth herein will assure continued structural integrity of these control systems and preclude possible failures which could have an adverse effect on aircraft controllability.

DATE: Effective date, January 8, 1979.

COMPLIANCE SCHEDULE: As prescribed in the body of the AD.

ADDRESSES: Beechcraft Service Instructions No. 0629-150, Revision II, applicable to this AD, may be obtained from local Beechcraft Aviation and Aero Centers or Beech Aircraft Corporation, Commercial Service Department, 9709 East Central, Wichita, Kansas 67201. A copy of the service instructions cited above is contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106 and at Room 916, 800 Independence Avenue, S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

William L. (Bud) Schroeder, Aerospace Engineer, Engineering and Manufacturing Branch FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106; telephone (816) 374-3446.

SUPPLEMENTARY INFORMATION: Amendment 39-1874 (39 FR 20784), AD 74-13-02, published in the FEDERAL REGISTER on June 14, 1974, currently requires a one-time inspection of the control systems on certain Beech 33, 35, 36, 55, 56, 58, 65, 90, 95, and 100 series airplanes for improper screws and the replacement thereof with screws having proper strength in accordance with Beechcraft Service Instructions No. 0629-150.

Investigation of three reports recently received involving certain Beech airplanes, that were not included in the applicability of AD 74-13-02, show that the manufacturer produced additional airplanes before and after the issuance of AD 74-13-02, in which understrength screws were inadvertently installed at certain locations in the control systems. These understrength screws are subject to fatigue failure since their fatigue endurance limit stress is lower than the stresses expected to occur in service. Failure of these screws could have an adverse effect on aircraft controllability.

To correct this problem on new production aircraft, the manufacturer has now initiated a procedure to color-code low strength screws and has added an item entry in the production inspection record books for inspection sign-off of the control systems fasteners. To correct the problem on in-service airplanes, the manufacturer issued Revision II to Beechcraft Service Instructions No. 0629-150 which recommends, on all airplanes currently affected by AD 74-13-02 which have not accomplished said AD and approximately 3,159 additional airplanes, a one-time visual inspection of the control systems for under strength screws and the replacement thereof with the correct fasteners.

Accordingly, the FAA has decided to supersede AD 74-13-02 with a new AD applicable to certain Beech 33, 35, 36, 55, 56, 58, 65, 70, 90, 95, 99, 100 and 200 series airplanes making compliance with the recommendations of Beechcraft Service Instructions No. 0629-150, Revision II, mandatory, unless AD 74-13-02 has previously been accomplished.

Since a situation exists that requires the expeditious adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

ADOPTION OF THE AMENDMENT

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator, Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

BEECH. Applies to the following models and serial number airplanes, certificated in all categories, except those that have previously complied with AD 74-13-02:

Models	Serial numbers	Item numbers (refers to items in table I)
F33A	CE-447 through CE-684	(1), (2)
F33A	CE-372	(2)
F33C	CJ-31 through CJ-128	(1), (2)
G33	CD-1292 through CD-1304	(1), (2)
35-C33	CD-970	(1), (2)
35-C33, 35-C33A	CD-1066 & CE-62	(2)
35-B33	CD-700	(2)
V35B	D-9478 through D-9480, D-9482 through D-9531, D-9533 through D-9536 and D-9539.	(1)
A36	E-323	(2)
A36	E-441 through E-954	(1), (2)
D55 & D55A	TE-485, TE-615, TE-703 and TE-710	(2)
E55 & E55A	TE-790, TE-911	(2)
E55 & E55A	TE-905, TE-923 through TE-937, TE-939, TE-940, TE-942, and TE-943 through TE-1084.	(1), (2)
56TC	TG-78 and TG-83	(2)
58 & 58A	TH-49, TH-77, TH-114, TH-180, TH-217, TH-324	(2)
58 & 58A	TH-145, TH-340 and TH-343 through TH-779	(1), (2)
58P & 58PA	TJ-2 through TJ-97	(1), (2)
58TC & 58TCA	TK-1 through TK-37	(1), (2)
65-B80	LD-441 through LD-511	(1), (3), (5), (6), (7)
70	LB-31 through LB-35	(1), (3), (5), (6), (7)
B90 & C90	LJ-500 through LJ-706	(1), (3), (5), (6), (7)
E90	LW-1 through LW-209	(1), (3), (5), (6), (7)
95-A55	TC-241	(1)
95-B55 & 95-B55A	TC-661 and TC-1510	(2)
95-B55 & 95-B55A	TC-1570 through TC-2011	(1), (2)
95-C55 & 95-C55A	TE-271	(2)
95-C55 & 95-C55A	TE-415	(1)
99, 99A, A99A, B99	U-134 through U-164	(1), (3), (4), (5), (6), (7)
100 & A100	B-61 through B-178, B-180 through B-204 and B-206 through B-231.	(1), (3), (4), (5), (6), (7)
B100	BE-1 through BE-19	(1), (3), (4), (5), (6), (7)
200	BB-2 through BB-185, & BB-187 through BB-199	(3), (4), (8), (9), (10)
200T	BT-1	(3), (4), (8), (9), (10)

COMPLIANCE: Required as indicated unless already accomplished.

To assure continued structural integrity of certain screws in the airplane control system, in accordance with instructions set forth herein and in Beechcraft Service Instructions No. 0629-150, Revision II or later approved revisions, accomplish the following:

(A) Within 100 hours time-in-service after the effective date of this AD:

For affected models and serial numbers, determine those Item Numbers applicable thereto by referring to the column above entitled "Item Numbers". Next, determine the number, type and location of screws by referring to Table I of this AD (see below). Replace each screw at the specified location except that an existing screw need not be replaced if inspection shows that the head has at least one raised or depressed "X" mark. Replace the screws one at a time at the hinge brackets to retain original alignment of the bracket.

(B) Any equivalent means of compliance with this AD must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

TABLE I

Item 1. Two AN502-10-10 screws securing each hinge bracket at leading edge of rudder or ruddevator.

Item 2. Two AN502-10-10 screws securing each hinge bracket at leading edge of elevator.

Item 3. Two AN502-10-12 screws securing elevator control cables to forward bellcrank under pilot's compartment left floorboard.

Item 4. Two AN503-8-8 screws securing elevator control cables to aft bellcrank in fuselage tail section.

Item 5. Two AN503-8-10 screws securing rudder control cables to forward bell crank under pilot's compartment floorboard aft of left rudder pedals.

Item 6. Two AN503-8-6 screws securing rudder control cables to aft bell crank in the fuselage tail section.

Item 7. Two AN503-8-6 screws securing aileron control cables to bellcrank under floor-board just forward of the rear spar.

Item 8. Two AN503-8-8 screws securing rudder control cables to forward bellcrank under pilot's compartment floorboard aft of left rudder pedals.

Item 9. Two AN503-8-8 screws securing rudder control cables to the aft quadrant assembly in the fuselage tail section.

Item 10. Two AN503-8-8 screws securing aileron control cables to bellcrank under floorboard just forward of the rear spar.

This AD supersedes AD 74-13-02, Amendment 39-1874 (39 FR 20784).

NOTE.—Scheduling accomplishment of this Airworthiness Directive simultaneously with accomplishment of Airworthiness Directive No. 78-22-05 will result in a savings of man-hours.

This amendment becomes effective January 8, 1979.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and Sec. 11.89 of the Federal Aviation Regulations (14 CFR 11.89).

NOTE.—The Federal Aviation Administration has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Kansas City, Missouri on December 21, 1978.

JOHN E. SHAW,
Acting Director, Central Region.

[FR Doc. 79-218 Filed 1-3-79; 8:45 am]

[4910-13-M]

[Docket No. 78-CE-22-AD; Amendment 39-3385]

PART 39—AIRWORTHINESS DIRECTIVES

Beech Models E50, F50, G50, H50, J50, 65, A65, A65-8200, 65-80, 65-A80-8800, 65-B80, 65-88, 70, C50, D50, D50A, D50B, D50C, and D50E Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY. This Amendment adopts a new Airworthiness Directive (AD), applicable to Beech Models E50, F50, G50, H50, J50, 65, A65, A65-8200, 65-80, 65-A80-8800, 65-B80, 65-88, 70, C50, D50, D50A, D50B, D50C, and D50E airplanes. This AD consolidates, incorporates, and simplifies the requirements of ADs 72-18-7, 73-23-04, 75-25-04, 76-13-03, and 77-25-01 into one document. These ADs required modifications and inspections to reduce the possibility of catastrophic in-flight powerplant fires. It also cancels AD 72-18-8, deletes certain models on which compliance with AD 77-25-01 is not necessary, and includes an additional inspection requirement in the wing leading edge of certain Beech Models 65, 65-80 and 65-A80 airplanes. This AD action is taken to ease compliance without compromising safety.

EFFECTIVE DATE: January 8, 1979.

COMPLIANCE: As prescribed in the body of the AD.

ADDRESSES: Copies of the service instructions cited herein are contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106 and at Room 916, 800 Independence Avenue, S.W., Washington, D.C. 20591. Beechcraft Service Instructions noted in this AD may be obtained from local Beechcraft Aviation Centers (Dealers) or Beech Aircraft Corporation, Commercial Service Department, 9709 East Central, P.O. Box 85, Wichita, Kansas 67201.

FOR FURTHER INFORMATION CONTACT:

Donald L. Page, Aerospace Engineer, Engineering and Manufacturing Branch, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106; telephone (816) 374-3446.

SUPPLEMENTARY INFORMATION: The FAA has issued several previous ADs applicable to certain Beech Models 50, 65 and 70 series airplanes to reduce the possibility of fatal accidents resulting from in-flight powerplant fires. These ADs were 72-18-7, 72-18-8, 73-23-04, 75-25-04, 76-13-03 and 77-25-01. Subsequent to the issuance of these ADs, the FAA has completed investigations, received field reports and reviewed the requirements of these AD actions. As a result, the agency has determined that certain models to which these ADs were applicable may be deleted, the requirements of the ADs may be simplified and a new inspection of the wing leading edge should be added to the presently required inspections. Accordingly, the FAA is issuing a new AD superseding the above mentioned ADs which will accomplish these actions.

The FAA has determined that there is an immediate need for a regulation to facilitate compliance to assure safe operation of the affected airplanes without compromising safety. Therefore, notice and public procedure under 5 U.S.C. 553(b) is impracticable and contrary to the public interest and good cause exists for making this amendment effective in less than thirty (30) days after the date of its publication in the FEDERAL REGISTER.

BEECH: Applies to Models E50, F50, G50, H50, J50, 65, A65, A65-8200, 65-80, 65-A80, 65-A80-8800, 65-B80, 65-88, and 70 and those Models C50, D50, D50A D50B, D50C, and D50E airplanes modified per STC SA76SW.

Compliance: Required as indicated unless already accomplished. To prevent or reduce the possibility of in-flight fires in the engine compartment, wing, nacelle and main landing gear wheel well accomplish the following:

A. Modifications or parts replacement. Within 100 hours time-in-service after December 12, 1977, or the last inspection per AD 77-25-01, on all applicable airplanes except those exempted below:

1. Unless previously accomplished per AD 72-18-7 on Models 65 (S/Ns L-1, L-2, L-6, LF-7, LF-8 and LC-1 thru LC-239) A65 and A65-8200 (S/Ns LC-240 thru LC-335); 70 (S/Ns LB-1 thru LB-35) 65-80, 65-A80, 65-A80-8800, and 65-B80 (S/Ns LD-1 thru LD-456)

and 65-88 (S/Ns LP-1 thru LP-47) airplanes.

a. Install Beech Part No. 131072 Flight Manual Supplement in the Airplane Flight Manual.

b. Install Beech P/N 50-910615-3 decal or a locally fabricated placard using 3/32" high letters on the overhead or instrument panel which reads as follows:

EMERGENCY ENGINE SHUTDOWN PROCEDURES

1. MIXTURE CONT-IDLE CUT-OFF
2. FUEL SELECTOR-OFF
3. OIL SHUT-OFF HDL-UP AND LKD
4. PROP CONTROL-FEATHERED
5. THROTTLE-FULLY OPEN
6. BOTH BOOST PUMPS-OFF
7. MAGNETO SWITCH-OFF
8. ALTNTR/GEN SWITCH OFF

2. Unless previously accomplished per AD 73-23-04 on Models 65 (S/Ns L-1, L-2, L6, LF-7 and up and LC-1 thru LC-239), A65 and A65-8200 (S/Ns LC240 through LC-335) 65-80 [S/Ns LD-1 thru LD-150 (except LD-34 and LD-46)]; 65A80 and 65-A80-8800 (S/Ns LD-34, LD-46, LD-151 thru LD-269); 65-B80 (S/Ns LD-270 thru LD-475); 70 (S/Ns LB-1 and up) E50 (S/Ns EH-1 thru EH-70); F50 (S/Ns FH-71 thru FH-96 (except FH-94)] G50 (S/Ns GH-94, GH-97 thru GH-119); H50 (S/Ns HH-120 thru HH-149); J50 (S/Ns JH-150 and up) airplanes, except those modified per STCs SA444SW, SA76SW or SA587SW install Beech Nacelle Interior Fire Seal Kit No. 65-9008-1.

3. Unless previously accomplished per AD 73-23-04 on Models 65-88 [S/Ns LP-1 and up (except LP-27 and LP-29)] airplanes, except those modified per STCs SA444SW, SA76SW or SA587SW install Beech Nacelle Interior Fire Seal Kit No. 65-9008-3.

4. Unless previously accomplished per AD 75-25-04 on Model 65-B80 (S/Ns LD-476 thru 502 and LD-504) airplanes, visually inspect the nacelle interior fire shield installation for the proper installation of the P/N 50-980109-5 and -7 shields in accordance with Beechcraft Service Instruction No. 0771-065 or later revision and correct as necessary in accordance with the above service instruction.

5. Unless previously accomplished per AD 76-13-03 on Model 65-88 (S/Ns LP-1 thru LP-26, LP-28 and LP-30 thru LP-47) airplanes, visually inspect the LH and RH nacelle fire shield installation in accordance with Beechcraft Service Instructions 0809-065 or later approved revision for installation of the small P/N 50-980109-5 shield above the second stage augmenter tube on the inboard side of both nacelles. If not present install this part in accordance with the above Instruction.

B. Inspections

1. With 25 hours time-in-service after December 12, 1977, or 100 hours time-in-service after the last inspection per AD 77-25-01 and each 100 hours time-in-service thereafter, except as noted in paragraph B.2., accomplish the following:

a. Engine Compartment Inspection

Open the cowl doors and visually inspect engine and powerplant components forward of the firewall as indicated.

(i) Drain plugs, filters and strainers for security, leakage and dirt accomulation.

(ii) Engine cylinders for cracks, abnormal leakage and security of hold down nuts. Note: Minor oil seepage stains at engine parting lines, rocker box covers, and push rod housings are acceptable.

(iii) Engine carburetion and induction system for security of attachment, evidence of leakage, deterioration and damage such as stains, chafing, cuts, bulges and cracks.

(iv) Fuel and oil lines and their fittings for security as evidenced by torque paint or putty, and evidence of deterioration such as stiffness, stains, cracks, chafing, and leakage. Note: Fire sleeves need not be removed for this inspection.

(v) Exhaust system stacks and primary augmenters for security of attachment, integrity of supports, cracks, bulges and alignment.

(vi) Drains for deterioration and blockage.

(vii) Cowl and firewall for fuel and oil stains and indications of source of these stains.

(viii) Firewall for missing or deteriorated grommets and open holes.

b. Nacelle and wheel well inspection: Remove augmenter covers, open or remove access doors and inspection covers, canvas covers over fuel selectors (if installed), inverter access covers (if installed), and cover over the hydraulic driven cabin pressurization compressor (Moded 65-88) and visually inspect the following components in the engine nacelles as indicated:

(i) All flammable fluid lines and drain lines for deterioration, chafing against other components, other damage and fitting security.

(ii) Oil tank installation including supply, return and vent lines for evidence of deterioration, leakage or damage.

(iii) Fuel selector valve and hydraulic cabin pressurization system reservoir for evidence of damage, leakage and security of line fittings and mounting.

c. Fuel System Leakage Inspection: On airplanes having engines with Bendix fuel injection system disconnect and cap the hose at the fuel injection nozzle at the top of the induction housing, select main tanks, turn main boost pump ON, place mixture control in rich position and check all fuel carrying lines and fitting in the engine compartment and wheel well for leakage. Correct leaks detected and recheck prior to installing hose on nozzle fitting. On other airplanes, with mixture control in "cut off" select main tanks, turn main boost pump ON and check all fuel carrying lines and fittings in the engine compartment and wheel well for leakage. Correct leaks detected and recheck.

d. Wing Inspection:

(i) Visually inspect the wings for fuel stains or wetness of the lower wing skin from fuel cell leakage.

(ii) Remove leading edge between nacelle and fuselage and visually inspect flexible and solid flammable fluid line and electrical bundles for adequate separation.

2. Within 100 hours time-in-service since last inspection per AD 77-25-01 and each 500 hours time-in-service thereafter, on Models 65 (Serial Number LC-163 thru LC-324); 65-80 (Serial Numbers LD-1 thru LD-150) and 65-A80 (Serial Numbers LD-151 thru LD-269, except LD-263)

a. Remove the inboard secondary augmenter and visually inspect fuel flow indicator hoses on aft side of firewall above augmenters for evidence of deterioration or chafing, tightness of fittings and line security.

3. After completion of above inspections, correct all unsatisfactory or unairworthy conditions noted and reinstall or close all door panels or access plates removed for the inspection.

C. Engine Run Up and Fuel System Functional Check.

1. After completion of inspections required by Section B, start and warm up engines using normal procedures. Check functioning of fuel injector or carburetor idle cutoff by moving mixture controls to "idle cutoff" position and observing RPM and fuel pressure, or flow indications as appropriate, for drop. When drop is observed move mixture control back to full rich position and check for proper fuel tank selector valve operation by placing selector in "OFF" position and observe engine RPM and fuel pressure or flow indications, as appropriate, for drop. After stopping engines, open cowls and vusually inspect engine compartments and nacelles for fuel or oil leakage and correct as necessary before returning airplane to service.

D. The interval for the repetitive inspection and checks set forth in Paragraphs A, B and C of this AD may be extended by 10 hours up to a maximum of 110 hours time-in-service to allow compliance at previously scheduled maintenance periods.

E. Any equivalent method of compliance with this AD must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

Beech Service Bulletins No. 66-24 or later revisions, Beech Service Bulletin No. 67-8 or later revisions, Beechcraft Service Instruction 0509-016 or later revision, Beechcraft Service Instruction No. 0771-065 or later revision, and Beechcraft Service Instructions 0809-065 or later revision pertain to this subject.

This AD supersedes the following: AD 72-18-7, Amendment 39-1512 (37 FR 18030); AD 72-18-8, Amendment 39-1513 (37 FR 18030 and 18031) as amended by Amendment 39-3152 (43 FR 9593 and 9594); AD 73-23-04, Amendment 39-1740 (38 FR 30867), as amended by Amendments 39-1771 (39 FR 2469) and 39-1813 (39 FR 13072 and 13073); AD 75-25-04, Amendment 39-2449 (40 FR 56883); AD 76-13-03, Amendment 39-2690 (41 FR 25997); and 77-25-01, Amendment 39-3092 (42 FR 61993-61995).

This amendment becomes effective January 8, 1979.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and Sec. 11.89 of the Federal Aviation Regulations (14 CFR 11.89).)

NOTE.—The Federal Aviation Administration has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 982; March 8, 1978).

Issued in Kansas City, Missouri on January 21, 1978.

JOHN E. SHAW,
Acting Director, Central Region.

[FR Doc. 79-217 Filed 1-3-79; 8:45 am]

[4910-13-M]

[Docket No. 78-CE-23-AD; Amdt. 39-3384]

PART 39—AIRWORTHINESS DIRECTIVES

Great Lakes Models 2T-1A-1 and 2T-1A-2 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new Airworthiness Directive (AD) applicable to Great Lakes Models 2T-1A-1 and 2T-1A-2 airplanes. It requires repetitive inspections of the exhaust system heat exchanger and the heat exchanger hanger and the replacement of cracked or failed parts. Optionally, the AD will authorize discontinuance of the inspections upon removal of the heat exchanger and installation of a standard exhaust system. This AD is necessary because failures of these exhaust systems have resulted in carbon monoxide entering the cockpit area. Such a condition may cause pilot incapacitation and adversely affect safety of flight.

EFFECTIVE DATE: January 4, 1979.

COMPLIANCE: As required in the body of the AD.

ADDRESSES: Great Lakes Aircraft Company (GLAC) Service Bulletin No. 9, dated November 17, 1978; or later revisions, applicable to this AD, may be obtained from Great Lakes Aircraft Company, c/o Aerotique, Inc., Box 3526, Enid, Oklahoma 73701; Telephone (405) 233-4686. A copy of the service bulletin cited above is contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106 and at Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Paul O. Pendleton, Aerospace Engineer, Engineering and Manufacturing District Office, Federal Aviation Administration, Central Region, Room 238, Terminal Building, Mid-Continent Airport, Wichita, Kansas 67209, telephone (316) 942-7927.

SUPPLEMENTARY INFORMATION: Several failures of the exhaust system heat exchanger support plate have occurred on a Great Lakes Model 2T-1A-2 airplane. In one of these instances, the occupants of the aircraft became ill because of carbon monoxide poisoning. In addition, the manufacturer has advised that a substantial number of replacement heat exchanger hangers have been supplied to the field. Failure of these hangers will result in excessive stresses being imposed on the exhaust system heat exchanger support plate which, in turn, will accelerate failure of this plate. The manufacturer has issued Great Lakes Aircraft Company (GLAC) Service Bulletin No. 9, dated November 17, 1978, containing instructions for inspection and/or removal of the optional exhaust heat exchanger. Since the unsafe condition described herein is likely to exist or develop in other airplanes of the same type design, the FAA is issuing an AD requiring visual inspection of the exhaust system heat exchanger support plate for cracks or failure within 25 hours time-in-service after the effective date of this AD and each 25 hours time-in-service thereafter. Additionally, the AD will also require visual inspection of the heat exchanger hanger for cracks or failure at each preflight inspection. Optionally, the exhaust system heat exchanger may be replaced with a standard exhaust system and the foregoing inspections discontinued. The inspection procedures in the AD are less stringent than those recommended by the manufacturer because the FAA considers the 100-hour interval ZYGLO or DYE CHECK inspections unnecessary.

The FAA has determined that there is an immediate need for a regulation to assure safe operation of the affected airplanes. Therefore, notice and public procedure under 5 U.S.C. 553(b) is impracticable and contrary to the public interest and good cause exists for making the amendment effective in less than thirty (30) days after the date of its publication in the FEDERAL REGISTER.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive.

GREAT LAKES: Applies to Models 2T-1A-1 and 2T-1A-2 airplanes.

Compliance: Required as indicated unless already accomplished.

To preclude contamination of cockpit heater air with carbon monoxide, accomplish the following:

(A) Within the next 25 hours time-in-service after the effective date of this AD:

1. Determine if the airplane is equipped with a cockpit heater system and, if not, make an entry in the airplane's maintenance record that the airplane complies with Paragraph A)1 and that futher compliance with this AD is not required. This determination and maintenance record entry may be made by the owner or holder of a valid pilot certificate.

2. If the airplane is equipped with a cockpit heater system, prior to further flight, install a revision in the walk around inspection (Section II C. 2.) of the Flight Manual adding an inspection of the exhaust system hanger (Figure 1 of this AD).

3. If the airplane is equipped with a cockpit heater system, prior to further flight, and within each 25 hours time-in-service thereafter:

(a) Remove the cowl to gain access to the engine installation.

(b) Disconnect the two cockpit air heater ducts from the heater shroud and remove the shroud.

(c) Visually inspect the support plates of the heat exchanger at both ends for cracks between the five tube cluster.

(d) If no cracks are found, return the heat exchanger to service.

(e) If cracks are found, either replace the heat exchanger system with an airworthy part or, in the alternative comply with Paragraph B) of this AD.

(B) Remove the optional heat exchanger system and:

(1) Install P/N 50126-1 stack assembly on all aircraft and P/N 50172-1 shield on aircraft equipped with IO-360-BIF6 and AEIO-360-BIG6 engines using QS100-M32W or equivalent clamps.

(2) Block existing cockpit heat control valve in closed position by safety wiring control arm to adjacent aircraft structure.

(3) Block the cockpit air supply opening in the left vertical engine cooling baffle per AC 43.13 1 and 2.

(4) Remove Aircraft Flight Manual Revision specified in Paragraph A)2 of this AD (if installed).

(C) Inspections specified in Paragraph A)3 of this AD may be discontinued upon removal of the cockpit heat exchanger per Paragraph B) of this AD.

(D) Any equivalent method of compliance with this AD must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

Great Lakes Aircraft Company (GLAC) Service Bulletin No. 9, dated November 17, 1978, or later revisions, pertain to portions of this subject.

This amendment becomes effective on January 4, 1979.

AIRPLANE FLIGHT MANUAL REVISION

(AD 78-26-10 requires this revision to remain in the below designated airplane flight manual when the airplane is equipped with the optional cockpit heat system.)

MODEL—— N—— S/N——

In addition to the presently specified preflight procedures, prior to each flight:

1. Inspect the left engine exhaust tail pipe hanger for deformation or failure.

2. If found failed, the hanger must be repaired prior to further flight.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421 and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.89 of the Federal Aviation Regulations (14 CFR Sec. 11.89).)

NOTE: The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as imple-

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mented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Kansas City, Missouri on December 19, 1978.

C. R. MELUGIN, Jr.,
Director, Central Region.

[FR Doc. 79-210 Filed 1-3-79; 8:45 am]

[4910-13-M]

[Docket No. 77-WE-39-AD; Amdt. 39-3387]

PART 39—AIRWORTHINESS DIRECTIVES

Piper (Ted Smith) Aerostar Models 600, 601, and 601P Airplanes

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive that supersedes AD 77-26-04, and which continues and clarifies an existing requirement for installation of a low fuel warning system, requires initial and periodic inspections of the wing fuel filler caps for air leakage, reduces the total usable fuel quantity from 174.5 U.S. gallons to 165.5 U.S. gallons, requires modifications to the fuel gaging system in the cockpit, requires installation of wing fuel tank overpressure valves on aircraft that lack this feature, and requires revisions to the Airplane Flight Manual and placards. This amendment is needed to reduce the possibility of double engine failure due to fuel starvation.

DATES: Effective February 2, 1979. Compliance schedule—As prescribed in the body of the AD.

ADDRESSES: The applicable service information may be obtained from: Piper Aerostar, Customer Service Department, 2560 Skyway Drive, Santa Maria, California 93454.

Also, a copy of the service information may be reviewed at, or a copy obtained from: Rules Docket in Room 916, FAA, 800 Independence Avenue, S.W., Washington, D.C. 20591, or Rules Docket in Room 6W14, FAA Western Region, 15000 Aviation Boulevard, Hawthorne, California 90261.

FOR FURTHER INFORMATION CONTACT:

Jerry Presba, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009. Telephone: (213) 536-6351.

SUPPLEMENTARY INFORMATION: Amendment 39-3103 (42 FR 64111), AD 77-26-04 was made effective December 30, 1977 to require: changes to the airplane flight manual, installation of a placard concerning fuel system operation, and the installation of a low fuel warning system on all Aerostar Model 600 series airplanes. Amendment 39-3103 was later amended by Amendment 39-3135, effective February 13, 1978, to delete reference to hours time in service for accomplishment while maintaining the originally specified calendar compliance time.

Adoption of AD 77-26-04 emanated as a first priority action from an FAA Special Certification Review (SCR) Team study initiated in August, 1977 to review the apparent problems of Aerostar Model 600 series airplane double engine failures due to fuel starvation. Flight tests were not included in the SCR Team's activities; but the team recommended that further studies and flight testing be completed in a follow-on effort to resolve a number of issues raised by the team. In addition to the priority actions required by AD 77-26-04, these issues concerned: the fuel quantity indicating system; fuel system management procedures; the fuel tank vent system; baffling of the wing tank compartments; the ability to restart an engine in flight; and the adequacy of the placards, markings, and manuals. Accordingly, the preamble to AD 77-26-04 indicated that the Aerostar Model 600 series airplane fuel system was the subject of continuing FAA studies.

Other SCR team recommendations concerned the possible need to amend the fuel system requirements of the Federal Aviation Regulations, Part 23, which are outside the scope of this amendment.

Subsequent to the adoption of AD 77-26-04, the FAA has conducted an extensive review of the Aerostar Model 600 series airplane fuel system type design data and accident and incident data. Discussions were also held with pilots who were involved in double engine failure accidents or incidents. A new issue was raised relative to the effects of possible air leakage through the wing tank fuel filler caps on the wing fuel feeding characteristics. The SCR Team recommendations and the information gained from the studies conducted subsequent to the adoption of AD 77-26-04 were used to develop a comprehensive flight and ground test program to complete a total re-evaluation of the Aerostar Model 600 series airplane fuel system features and characteristics. These flight and ground tests included a re-evaluation of the fuel system feeding characteristics at various flight attitudes; wing tank venting; adequacy of the fuel quantity indicating system; adequacy of fuel system operating information instructions and limitations available to the pilot; engine restarting characteristics in flight; effect of wing tank fuel filler cap air leakage on wing tank fuel feeding, refueling procedures and characteristics; and the quantities of fuel that can be loaded on the aircraft under typical refueling conditions to be expected in service.

As a result of the flight and ground tests, the FAA has concluded that two features questioned by the SCR Team, namely the wing fuel tank vent valve, and the lack of baffling in the wing fuel tanks do not constitute unsafe conditions that justify required design changes. It was also determined that the engines can be readily restarted in flight after fuel starvation once fuel flow to the stopped engine has been reestablished.

The flight and ground tests confirmed the importance of maintaining a usable quantity of fuel in the fuselage tank for feeding the engines, particularly during turbulence or during descent and approach to landing. Depletion, or shutoff, of the fuselage tank was found to result in relatively high unusable fuel quantities in the wing tanks which under certain attitudes, maneuvers, or turbulence might result in unexpected engine failures due to fuel flow interruption.

It was confirmed by flight tests that air leakage through the wing fuel filler caps could unbalance the relative pressure heads between the affected wing tank and the fuselage tank feeding an engine, and thus could cause the fuselage tank to deplete prematurely. Inspections are therefore needed to ensure that the wing fuel filler caps provide a tight air seal. Extended flight with one wing low was also found by flight test to unbalance the relative pressure heads between the fuselage tank and the fuel tank in the down wing. This situation could also contribute to premature fuselage tank depletion.

Hence, the importance of the low fuel warning system required by AD 77-26-04, set to warn the pilot when the fuel level in the fuselage tank was at or below approximately 12 gallons, was reconfirmed. Preservation of a usable quantity of fuel in the fuselage tank until the point of landing is imperative to the safe operation of the airplane. Fuel flow from the fuselage tank to an engine is shut off when crossfeed is selected for that engine. The selection of crossfeed on both engines (double crossfeed), blocks fuel in the fuselage tank from reaching either engine. Because it is particularly important to maintain flow of fuel from the fuselage tank to both engines during descent and approach to landing, selection of double crossfeed during this phase of flight must continue to be prohibited.

Because of the importance of the fuselage tank, priority must be given to filling the fuselage tank when a flight is initiated with less than full fuel aboard. A placard statement at the wing fuel filler locations is needed to ensure this practice.

Improvement in readability of the fuel gaging system, including fuel gage relocation was found to be necessary by flight evaluation. It is also particularly important that the gaging system provide a continuous indication of the fuselage tank fuel quantity remaining. Furthermore, the system must provide the pilot with a means to assess the consumption of fuel from the fuselage tank relative to that consumed from the wing tanks to reduce the possibility that the first indication of premature fuselage tank depletion, from whatever cause, is given when the low fuel warning light illuminates.

The need for wing tank overpressure relief valves, with a relief pressure setting of approximately 1.5 p.s.i. was established to provide for fuel expansion in the wing tanks on the ground, which in turn precludes overpressurizing wing fuel tanks when the aircraft is left in the sun or is moved to a warmer environment after refueling. Later production airplanes have the overpressure relief valves but some earlier production airplanes do not. Installation of these valves is intended to obviate the need to deliberately leave the wing fuel filler caps loose after refueling, which has been found to be a common practice. Flight with a loose wing fuel filler cap will lead to premature depletion of the fuselage fuel tank, as mentioned above.

Ground tests confirmed that, due to the thin wing tank geometry and low wing dihedral, small changes in the lateral attitude of the airplane from level, (e.g. small ramp slopes), while refueling, can result in several gallons less than full fuel being loaded aboard when full fueling was intended. It was also found that several gallons of fuel can be lost overboard during normal heating expansion of the wing fuel while the airplane is setting on the ramp in the sun or in a warming environment. From these findings, the FAA has concluded that the maximum usable fuel for safe flight planning must not exceed one hundred sixty five and one half, (165.5) U.S. gallons. One hundred seventy four and one half, (174.5), U.S. gallons are presently specified.

A need was found to provide better general descriptive information in the Airplane Flight Manual and placards on the fuel system. Also, fuel system operating limitations, precautionary information, and fuel system emergency precedures, are needed in the Airplane Flight Manual and on placards for display in the cockpit and at fuel filler locations. One of the more important placard changes considered necessary has to do with the use of double crossfeed. AD 77-26-04 introduces a limitation against the use of double crossfeed. This limitation should be modified to prohibit use of double crossfeed except in those emergency situations where the fuselage tank fuel supply has been depleted to the warning light level, and a safe landing location is not available within the time remaining with 12 gallons of fuselage tank fuel. If the pilot determines that fuel remains in the wing tanks, use of double crossfeed is the only way to preserve the remaining fuselage tank fuel for use during descent and approach to landing after reaching a location where a safe landing can be accomplished. The fuel selectors must then be taken out of double crossfeed to make the fuselage tank fuel available for descent on approach to landing. For normal operation, FAA continues to consider use of double crossfeed a hazardous practice because, even with large fuel quantities in the wing tanks, fuel supplied from the fuselage tank is shut off by the selection of double crossfeed and subjects both engines to loss of fuel flow due to fuel shifts in the wing tanks caused by aircraft attitude changes or turbulence.

A need was also determined to add a caution note in the Airplane Flight Manual against using a fuel flow totalizer, now commonly available, as a primary indication of fuel quantity. Some totalizer systems only subtract engine fuel consumed from initial fuel aboard data input by the pilot. The accuracy of these systems is totally dependent upon the accuracy of the pilot's pre-takeoff initialization of fuel aboard data. A requirement is also needed to adjust certain types of totalizers, which have a pre-set total usable fuel quantity memory (Silvertron and Symbolic Display), to ensure that the total usable fuel quantity data, pre-set in the memory system of these totalizers, has been changed to reflect the new, reduced, 165.5 U.S. gallons total usable fuel quantity.

As a result of the findings made during reevaluation of the Aerostar Model 600 series airplane fuel system, as summarized above, the FAA has determined that a number of corrective actions must be required to facilitate good fuel management practices and to ensure that unsafe conditions do not exist or develop on airplanes of the same type design. These corrective actions consist of: continuing and clarifying the existing requirement for a low fuel warning system; initial and periodic inspections of the wing fuel filler caps to preclude possible air leakage; a reduction in the total usable fuel quantity limitation from 174.5 U.S. gallons to 165.5 U.S. gallons; modifications to the fuel gaging system in the cockpit; addition of wing fuel tank over-pressure relief valves on airplanes that don't presently have this feature; and inspection of the relief pressure setting on airplanes that presently have the feature; and a number of revisions to the Airplane Flight Manual and placards. Differing compliance times have been established for the various corrective actions, consistent with the importance of each corrective action to safety and the availability of Airplane Flight Manual revisions, placards, and modification parts.

Since a situation exists requiring immediate adoption of this regulation, it is found that notice and public procedure thereon are impracticable. Paragraph (d) of this amendment has an extended compliance time and has been included to provide a complete statment of required corrective actions based on safety considerations. Also, adoption of Paragraph (d) at this time provides lead time for Piper Aerostar, or other interested persons, to develop and obtain FAA approval of the required modifications, and provides lead time for the operators to schedule and plan compliance with a minimum burden. To prescribe the modifications required by Paragraph (d) of this AD under the usual notice and public procedures followed by the FAA within the time the FAA has determined is required in the interest of safety, would necessarily result in a reduction of compliance time for the modification required by Paragraph (d) of this AD. This could possibly leave the operators insufficient time to schedule airplanes for compliance with the AD. Therefore, accomplishment of modifications required by Paragraph (d) of this AD within the time the FAA has determined is necessary makes strict compliance with the notice and public procedure provisions of the Administrative Procedures Act impracticable and this amendment becomes effective on or before February 5, 1979. However, interested persons are invited to submit such written data, views, or arguments as they may desire regarding Paragraph (d) of this AD. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Rules Docket, FAA Western Region, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009. All communications received on or before March 1, 1979 will be considered by the FAA and Paragraph (d) or this AD may be changed in light of the comments received. All comments submitted will be available, both before and after March 1, 1979, in the Rules Docket for examination by interested persons. A report summariz-

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ing each FAA-public contact, concerned with the substance of the AD, will be filed in the Rules Docket.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) Amendment 39-3103 (42 FR 64111) AD 77-26-04 as amended by Amendment 39-3135 is superseded by adding the following new airworthiness directive:

PIPER. (TED SMITH) Applies to Aerostar Models 600, 601, 601P Airplanes certificated in all categories.

Compliance required as indicated.

To reduce the possibility of double engine failure due to fuel starvation, accomplish the following unless already accomplished:

(a) Within the next 10 days after the effective date of this AD accomplish the following:

(1) On airplanes serial numbers 0001 through 0255 inclusive, install a low fuel warning light system which provides a warning when the fuel quantity in the fuselage fuel tank is at or below 12+1 −0 U.S. gallons.

NOTE.—Aerostar Kit Option No. 156-1 provides an acceptable means of complying with this requirement provided the warning level is set at 12+1 −0 U.S. gallons.

(2) On airplanes serial numbers 0256 and subsequent, adjust the existing low fuel warning light system to provide a warning when the fuel quantity in the fuselage fuel tank is at or below 12+1 −0 U.S. gallons.

NOTE.—Aerostar Kit Option No. 157-1 provides an acceptale means of complying with this requirement provided the warning level is set at 12+1 −0 U.S. gallons.

(3) On all airplanes, install Aerostar placard P/N 030100-1, on the cockpit instrument panel in clear view of the pilot and revise the Airplane Flight Manual by incorporating FAA approved Aerostar revision dated November 7, 1977.

(4) On all airplanes:

i. Check the condition of the rubber O-ring seal on each wing fuel filler cap to ensure it is capable of forming a positive seal. Replace the O-ring prior to further flight if deterioration is found.

ii. Check the fuel filler cap receptacle in each wing to ensure that the cap can be tightly sealed. Damaged or deformed receptacles must be replaced prior to further flight.

iii. Check and ensure that the wing fuel filler cap locking tabs provides a positive lock indicating sufficient compression of the O-ring to form a positive seal.

(5) The checks required by Paragraph (a)(4) of this AD may be performed by the pilot.

NOTE.—For the requirements regarding the listing of compliance and method or compliance with this AD in the airplane's permanent maintenance record, See FAR 91.173.

(b) Within the next 30 days after the effective date of this AD, and thereafter at intervals not to exceed one year since the last inspection, accomplish the following on the wing fuel tank filler caps:

NOTE.—Aerostar Service Bulletin 600-77 addresses the subject of fuel cap security.

(1) For airplanes having Shaw Aero filler caps (P/N 431-248), inspect the caps and ensure that the cap locking tab provides a positive lock by measuring the opening pull force at the finger tab with a tension indicator (e.g. "fish scale") aligned approximately 75° from the plane of the cap as follows:

i. Measure the opening pull force on the tab with the cap uninstalled (tab friction force). The tab friction force must not exceed 2 pounds. If the force is greater than 2 pounds, inspect for wear, dirt, corrosion, etc. under tab and clean as necessary to reduce the friction force or replace the cap with a serviceable cap before further flight.

ii. Measure the opening pull force on the tab with the cap installed in the wing receptacle. If the opening pull force is outside the range of 16±3 pounds, before further flight, adjust cap by removing cotter pin, turn adjusting nut (clockwise to increase, counterclockwise to decrease) to achieve required pull force, and install new cotter pin to prevent the nut from loosening during service.

(2) For all airplanes, ensure that each wing tank filler cap forms a positive seal by accomplishing the "Leak and Pressure Testing" procedures specified in Section 4 of the Aerostar Maintenance Manual, or in accordance with the following procedures:

i. Completely fill the wing tanks to the filler neck (capacity) and install filler caps.

ii. Park the aircraft in the sun to produce fuel expansion, lower wing tip below the "wings level" attitude, and observe for evidence of fuel leaking from filler cap area. Repeat this process for the opposite wing.

NOTE.—If the cap is leaking, the leak should become evident within one hour due to fuel expansion and pressure increase within the wing tank. Fuel may leak from the wing overpressure relief valve during these tests. With wing still lowered, carefully release the filler cap and verify that fuel flows out of the filler port. If fuel does not flow out of the filler port, sufficient fuel expansion has not occurred for a valid test, and, the test must be repeated.

(c) Within the next 30 days after the effective date of this AD, accomplish the following:

(1) To reduce the maximum usable fuel quantity limitations for flight planning purposes, install a new placard on the instrument panel in clear view of the pilot that reads as follows:

"TOTAL USABLE FUEL 185.5 U.S. GAL.
FUSELAGE USABLE FUEL 41.5 U.S. GAL.
EACH WING USABLE FUEL 62 U.S. GAL.

(2) To show a reduced maximum usable fuel quantity for each wing tank of 62 U.S. gallons, and to ensure first fueling priority is given to the fuselage tank, replace the placard at each wing tank filler location with a placard that reads as follows:

"100/130 OR 100LL MINIMUM GRADE AVIATION FUEL. DO NOT ADD FUEL TO WING TANKS UNLESS FUSELAGE TANK IS FULL.
EACH WING TOTAL USABLE FUEL 62 U.S. GALLONS. DO NOT INSERT NOZZLE OVER 3 INCHES.

(3) To show a reduced maximum usable fuel quantity in the fuselage tank of 41.5 U.S. gallons, replace the placard at the fuselage tank filler location with a placard that reads as follows:

"100/130 OR 100LL MINIMUM GRADE AVIATION FUEL. FUSELAGE TOTAL USABLE FUEL 41.5 U.S. GALLONS."

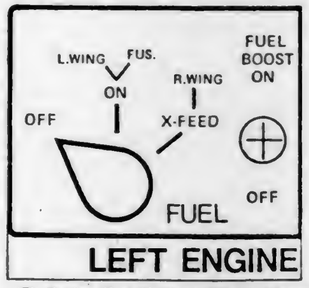
(4) Install a new placard on the cockpit instrument panel in the vicinity of the fuel quantity gage to read as follows:

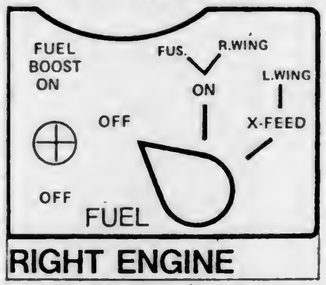
"READ FUEL QUANTITY IN LEVEL FLIGHT ONLY."

(5) Replace the X-feed placard required by Paragraph (a) of AD 77-26-04 with a placard that reads as follows:

"X-FEED LEVEL FLIGHT ONLY.
TAKEOFF PROHIBITED WITH LOW FUEL LIGHT ON.
DOUBLE X-FEED LIMITED TO LEVEL FLIGHT EMERGENCY ONLY."

(6) Revise the markings on the cockpit instrument panel at the right and left engine fuel selector switches as follows:





(7) Revise the Airplane Flight Manuals with Aerostar supplement dated December 5, 1978, or later FAA-approved revisions to incorporate the following changes:

(i) Reduction of airplane total usable fuel capacity to 165.5 gallons.

(ii) Revised fuel system emergency procedures.

(iii) Added fuel system descriptive material.

(iv) Revised airplane refueling procedures.

(v) Added note to caution against use of fuel flow totalizer as a primary fuel quantity instrument.

NOTE.—The placards and Airplane Flight Manual supplements described by Aerostar Service Bulletin 600-79 are acceptable for compliance with Paragraphs (c)(1) through (c)(7). The Airplane Flight Manual supplements are interim revisions that may be replaced by FAA approved revisions that contain the same information, at a later date.

(8) For airplanes which have either a Silverton or Symbolic Display type fuel flow totalizer system installed, which incorporates a pre-set maximum usable fuel quantity memory, adjust the preset quantity to read no more than 165.5 U.S. gallons.

(d) By December 31, 1979, accomplish the following modifications in accordance with a design and procedures approved by the Chief, Aircraft Engineering Division, FAA Western Region:

(1) On or near the centerline of the instrument panel, in clear view of the pilot, install:

i. Three gages that provide a continuous reading of fuel quantities contained in the fuselage tank and in each of the wing tanks; or

ii. A single gage that provides a continuous reading of fuel quantity contained in the fuselage tank and will, upon switch selection by the pilot, provide a reading of fuel quantity contained in each wing tank.

NOTE.—Fuel gage modifications to meet the requirements of paragraph (d)(1) are being developed by Piper Aerostar. Proposed modifications may also be presented by other persons for approval.

(2) Install and test an overpressure relief valve in each wing fuel tank which has a pressure relief setting of 1.2 to 1.5 psi. For airplanes which already have an overpressure relief valve installed, test to ensure pressure relief is provided at 1.2 to 1.5 psi.

NOTE.—Piper Aerostar DWG. 106068 provides an acceptable means of installing overpressure relief valves.

(3) Revise the Airplane Flight Manual and placards in the cockpit as necessary to envisage the modifications approved for compliance with Paragraph (d)(1).

(e) Previous compliance with AD 77-26-04 satisfies compliance with Paragraphs (a)(1) or (a)(2), and (a)(3) of this AD.

(f) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections required by this AD.

(g) Equivalent inspections, modifications, Airplane Flight Manual revisions, placards, and repairs may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

This supersedes Amendment 39-3103 (42 FR 64111), AD 77-26-04, as amended by Amendment 39-3135 (43 FR 5506).

This amendment becomes effective February 2, 1979.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a) 1421, and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89).

Issued in Los Angeles, California on December 22, 1978.

LEON C. DAUGHERTY,
Director, FAA Western Region.

[FR Doc. 79-219 Filed 1-3-79; 8:45 am]

[4910-13-M]

[Airspace Docket No. 78-ASW-49]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone and Transition Area: Harrison, Ark.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of the action being taken is an alteration of the control zone and transition area at Harrison, Ark. The intended effect of the action is to provide additional controlled airspace for aircraft executing instrument approach procedures to the Boone County Airport. The circumstance which created the need for the action is the scheduled installation of an instrument landing system (ILS) to runway 36 to provide capability for flight under Instrument Flight Rules (IFR) procedures to this runway.

EFFECTIVE DATE: February 22, 1979.

FOR FURTHER INFORMATION CONTACT:

Ken Stephenson, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101; telephone 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION:

HISTORY

On November 2, 1978, a notice of proposed rule making was published in the FEDERAL REGISTER (43 FR 51026) stating that the Federal Aviation Administration was proposing to alter the Harrison, Ark., control zone and transition area to provide controlled airspace for aircraft executing an instrument landing system (ILS) approach to runway 36 at the Boone County Airport. Interested persons were invited to participate in this rule making proceeding by submitting written comments on the proposal to the Federal Aviation Administration. No objections were received to the proposal. Except for editorial changes this amendment is that proposed in the notice.

THE RULE

This amendment to Subpart F and Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) alters the Harrison, Ark., control zone and transition area. This action provides controlled airspace for the protection of aircraft executing instrument approach procedures to the Boone County Airport.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administration, Subpart F and Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (43 FR 355) and (43 FR 440) are amended, effective 0901 GMT, February 22, 1979, as follows:

In Subpart F, § 71.171 (43 FR 355), the Harrison, Ark., control zone is altered by adding the following:

"• • • and within 3 miles each side of the ILS localizer south course extending from the 5-mile radius zone to 8.5 miles south of the LOM (Latitude 36°11'28" N., Longitude 93°09'36" W.)."

In Subpart G, § 71.181 (43 FR 440) the Harrison, Ark., transition area is altered by adding the following:

"• • • and within 4 miles each side of the ILS localizer south course extending from the 12.5-mile radius area to 11.5 miles south of the LOM (Latitude 36°11'28" N., Longitude 93°09'36" W.)."

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); and Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The FAA has determined that this document involves a regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 3, 1978).

Issued in Fort Worth, Tex, on December 19, 1978.

PAUL J. BAKER,
Acting Director,
Southwest Region.

[FR Doc. 79-215 Filed 1-3-79; 8:45 am]

[4910-13-M]

[Airspace Docket Number 78-CE-27]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW POINT ROUTES, CONTROLLED AIRSPACE AND REPORTING POINTS

Alteration of Control Zone and Transition Area at Manhattan, Kansas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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SUMMARY: The nature of this amendment is to alter the 700-foot transition area at Manhattan, Kansas, to provide additional controlled airspace for aircraft executing a new instrument approach procedure to Runway 21 at the Manhattan, Kansas Municipal Airport utilizing an existing VOR, a navigational aid. Also, it has been determined that while the Manhattan Control Zone is adequate for the new instrument approach procedure, a control zone extension to the northeast is no longer required due to an instrument approach procedure being cancelled. Therefore, the extension is being removed from the description.

EFFECTIVE DATE: February 22, 1979.

FOR FURTHER INFORMATION CONTACT:

Dwaine E. Hiland, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-537, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Subpart F, Section 71.171 of the Federal Aviation Regulations (14 CFR 71.171) and Subpart G, Section 71.181 of the Federal Aviation Regulations (14 CFR 71.181) is to alter the control zone and 700-foot transition area at Manhattan, Kansas. To enhance airport usage, a new instrument approach procedure is being established to Runway 21 at the Manhattan, Kansas Municipal Airport utilizing an existing VOR, a navigational aid. It has also been determined that while the Manhattan Control Zone is adequate for the new instrument approach procedure, a control zone extension to the northeast is no longer required due to an instrument approach procedure being cancelled. Therefore, the extension is being removed from the description. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

Discussion of Comments

On pages 53446 and 53447 of the FEDERAL REGISTER dated November 16, 1978, the Federal Aviation Administration published a Notice of Proposed Rule Making which would amend Sections 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the control zone and transition area at Manhattan, Kansas. Interested persons were invited to participate in this rule making proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rule Making.

Accordingly, Subpart F, § 71.171 of the Federal Aviation Regulations (14 CFR 71.171) as republished on January 3, 1978 (43 FR 355), is amended, effective 0901 GMT, February 22, 1979, by altering the following control zone:

MANHATTAN, KANSAS

Within a five-mile radius of the Manhattan, Kansas, Municipal Airport (latitude 39°08'28"N; longitude 96°40'10"W) and within two miles each side of the Manhattan, Kansas, VOR 146° radial, extending from the five-mile radius zone to 11 miles Southeast of the VOR, and within two miles Northeast and three miles Southwest of the 126° bearing from the McDowell Creek RBN, extending from the five-mile radius zone to 10 miles Southeast of the RBN, excluding the Fort Riley, Kansas, control zone and the portion within R-3602. The control zone shall be effective during the times established by Notice to Airmen and published continuously in the Airman's Information Manual.

Additionally, Subpart G, § 71.181, of the Federal Aviation Regulations (14 CFR 71.181) as republishd on January 3, 1978, is amended, effective 0901 GMT, February 22, 1979, by altering the following transition area:

MANHATTAN, KANSAS

That airspace extending upward from 700 feet above the surface, within a seven-mile radius of the Manhattan, Kansas, Municipal Airport (latitude 39°08'28"N; longitude 96°40'10"W) and within four miles each side of the Manhattan, Kansas VOR 046° radial extending from the seven-mile radius area to 11 miles Northeast of the VOR, within two miles Northeast and three miles Southwest of the 126° bearing from the McDowell Creek RBN, extending from the RBN to 10 miles Southeast, within six miles South and nine miles North of the Fort Riley VOR 059° radial extending from the VOR to 21 miles Northeast, within two miles each side of the Fort Riley VOR 222° radial extending from the VOR to eight miles Southwest.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.61 of the Federal Aviation Regulations (14 CFR 11.61).)

NOTE.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Kansas City, Missouri, on December 20, 1978.

C. R. MELUGIN, Jr.,
Director, Central Region.

[FR Doc. 79-222 Filed 1-3-79; 8:45 am]

[4910-13-M]

[Airspace Docket No. 78-RM-28]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE AND REPORTING POINTS

Alteration of Transition Areas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the Minot, North Dakota, Grand Forks, North Dakota, Bismarck, North Dakota, and Sioux Falls, South Dakota 1,200' transition areas to provide controlled airspace within delegated approach control boundaries and to allow approach control the flexibility to utilize all available airspace for air traffic control purposes.

EFFECTIVE DATE: 0901 GMT, February 23, 1979.

FOR FURTHER INFORMATION CONTACT:

Joseph T. Taber/Pruett B. Helm, Operations, Procedures and Airspace Branch, Air Traffic Division, ARM-500, Federal Aviation Administration, Rocky Mountain Region, 10455 East 25th Avenue, Aurora, Colorado 80010; telephone (303) 837-3937.

SUPPLEMENTARY INFORMATION:

History

On November 16, 1978, the FAA published for comment (43 FR 53446), a proposal to alter the Minot, North Dakota, Grand Forks, North Dakota, Bismarck, North Dakota, and the Sioux Falls, South Dakota 1,200' transition areas. Four letters of no objection were received. The only objection received was from the Experimental Aircraft Association (EAA), Rocky Mountain Chapter 301, contending the following:

a. Flight safety will be adversely affected by encouraging the mixing of IFR and VFR traffic, and pilot vigilance is relaxed while under radar surveillance and control.

b. The proposal would invade and endanger the upper 1,800' of airport traffic areas for approximately 60 private and public use airports which lie within the proposed altered transition areas.

c. The need for a 1,200' floor of controlled airspace at distances in excess of 10 miles from an airport is questionable, as minimum en route altitudes for IFR flight are established to maintain at least 2,500' terrain clearance, and the VFR and IFR cruising altitudes, established by FAR Part 91, provide only 500' separation; therefore, a 2,000' controlled airspace floor is recommended rather than the present 1,200' floored controlled airspace.

d. The proposed alteration of the transition areas proposes that IFR traffic in an approach zone should be directed to fly substantially below the minimum en route altitude until ready to descend.

e. The FAA adopt a policy of providing complete separation between VFR and IFR traffic by expanding the available uncontrolled airspace for VFR use and restricting controlled airspace to IFR aircraft only, and establish IFR and VFR approach corridors to all airports with IFR approaches.

In consideration of the objections of Chapter 301 of the Experimental Aircraft Association (EAA), it was disclosed that:

a. The establishment of controlled airspace with its increased meteorological requirements will enhance aviation safety by virtue of enabling the air traffic control system to provide separation and enhance the pilot's responsibility, when meteorological conditions permit, to see and avoid other traffic, terrain or other obstacles, regardless of type of flight plan and whether or not under control of radar facility.

b. Airport traffic areas are established only at airports having a control tower in operation. None of the 60 private and public use airports mentioned have control towers.

c. The Minimum Obstruction Clearance Altitude (MOCA) is 1,000' above the highest obstacle within a horizontal distance of five statute miles from the course to be flown. The 1,200' transition floor is consistent with FAA policy to provide controlled airspace to assure air safety and allow flexibility to utilize all available airspace for air traffic control purposes.

d. The proposal does not propose that IFR traffic be directed to fly substantially below the MEA, but provides controlled airspace for air traffic control flexibility so that aircraft can fly at the MEA's/MOCA's and MVA's.

e. Federal Aviation Regulations provide for controlled airspace to contain certain phases of the approach at airports that have instrument approach procedures with minimums less than VFR. Additionally, it would not be in the best interest of aviation safety to exclude VFR operations from controlled airspace or develop VFR approach corridors.

The Rule

This amendment to subpart G of Part 71 of the Federal Aviation Regulations (FAR's) alters the Minot, North Dakota, Grand Forks, North Dakota, Bismarck, North Dakota, and Sioux Falls, South Dakota 1,200' transition areas. This action is necessary to allow approach control the flexibility to utilize all available delegated airspace for air traffic control purposes.

Drafting Information

The principal authors of this document are Joseph T. Taber/Pruett B. Helm, Operations, Procedures and Airspace Branch, Air Traffic Division, and Daniel J. Peterson, Office of Regional Counsel.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended effective February 23, 1979, as follows:

By amending subpart G, § 71.181 (44 FR 442):

MINOT, NORTH DAKOTA

• • • that airspace extending upward from 1,200 feet above the surface within a 54 mile radius of Minot AFB excluding the area north of latitude 49°00'00" N.

GRAND FORKS, NORTH DAKOTA

• • • and that airspace extending upward from 1,200 feet above the surface within a 39 mile radius of Grand Forks AFB, within the State of North Dakota.

BISMARCK, NORTH DAKOTA

• • • that airspace extending upward from 1,200 feet above the surface within a 41 mile radius of the Bismarck VORTAC excluding all Federal airways.

SIOUX FALLS, SOUTH DAKOTA

• • • and that airspace extending upward from 1,200 feet above the surface within the State of South Dakota bounded on the west by longitude 97°50'00" W., and on the north by latitude 44°30'00" N., excluding all Federal airways.

(Sec. 307(a) Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); and 14 CFR 11.69).

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Aurora, Colorado on December 21, 1978.

ISAAC H. HOOVER,
Deputy Director,
Rocky Mountain Region.

[FR Doc. 79-214 Filed 1-3-79; 8:45 am]

[4910-13-M]

[Airspace Docket No. 78-EA-103]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Name Change of Blackford VORTAC to Glade Spring VORTAC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment changes the name of the Blackford VORTAC to Glade Spring VORTAC wherever it is used in Part 71 of the Federal Aviation Regulations (14 CFR Part 71). This action eliminates the confusion and potential hazard caused by the similarity of sound and the relative position of this navigation aid with the Bluefield, W. Va., VORTAC.

EFFECTIVE DATE: February 22, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-3715.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to change the name Blackford to Glade Spring wherever it is used in defining VOR Federal Airways V-16 and V-35, the Tri-City, Tenn., Transition Area and the STACY reporting point. Confusion in communications and a potential hazard of misdirected operations is hereby eliminated. Because this action merely renames an existing navigation aid without changing its location, the designation of any airspace or its use, it is a minor matter and one in which the public would have no particular interest. Therefore, notice and public procedure thereon are unnecessary.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.123, § 71.181, § 71.203 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (43 FR 307, 440, 631) is amended, effective 0901 GMT, February 22, 1979, as follows:

In § 71.123, under V-16 "Blackford, Va., 246° radials and Blackford;" is deleted and "Glade Spring, Va., 246° radials and Glade Spring;" is substituted therefor.

Under V-35 "Blackford, Va.;" is deleted and "Glade Spring, Va.;" is substituted therefor.

In § 71.181, under Tri-City, Tenn., "Blackford VOR" is deleted and "Glade Spring, Va.," is substituted therefor.

In § 71.203, under STACY "Blackford, Va.," is deleted and "Glade Spring, Va.," is substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

NOTE.—The FAA has determined that this document involves a regulation which is not significant under the procedures and criteria prescribed by Executive Order 12044 and implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Washington, D.C., on December 27, 1978.

WRAY R. MCCLUNG,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79-223 Filed 1-3-79; 8:45 am]

[4910-13-M]

[Airspace Docket No. 78-EA-110]

PART 73—SPECIAL USE AIRSPACE

Restricted Area User Name Change

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The using agency for the Pendleton, Va., Restricted Area R-6606 has changed its name from "Virginia Capes Operating Area Coordinator" to "Fleet Area Control and Surveillance Facility." This amendment is needed to accurately reflect the name change in the regulation.

EFFECTIVE DATE: February 22, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. Everett L. McKisson, Airspace Regulations Branch (ATT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-3715.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Part 73 is to change the name of the using agency of the Pendleton, Va., restricted area. This change does not alter the airspace or its use. Because this action merely renames the using agency of R-6606 without making any other change, it is a minor matter on which the public would have no particular desire to comment; therefore, notice and public procedure thereon are unnecessary.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 73.66 of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) as republished (43 FR 706) is amended, effective 0901 GMT, February 22, 1979, as follows:

Under R-6606 Pendleton, Va., all after "Using agency." is deleted and "Fleet Area Control and Surveillance Facility, VA-CAPES, Virginia Beach, Va." is substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

NOTE.—The FAA has determined that this document involves a regulation which is not significant under the procedures and criteria prescribed by Executive Order 12044 and implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Washington, D.C., on December 27, 1978.

WRAY R. MCCLUNG,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79-220 Filed 1-3-79; 8:45 am]

[4910-13-M]

[Airspace Docket No. 78-WA-19]

PART 73—SPECIAL USE AIRSPACE

Alteration of Restricted Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the time of use of the upper portion of Restricted Area R-6501, Underhill, Vt., to more clearly reflect its actual time of use. Also, R-6501 is subdivided herein into R-6501A and R-6501B to clarify the times of use of the two portions of the restricted area. This action will effect more efficient use of joint use restricted area airspace.

EFFECTIVE DATE: February 22, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. Lewis W. Still, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8525.

SUPPLEMENTARY INFORMATION:

THE RULE

The purpose of this amendment to Subpart B of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) is to alter the time of use of Restricted Area R-6501, Underhill, Vt. This restricted area is designated from the surface to 13,600 feet MSL and time of use is continuous from Monday through Friday, with other times by NOTAM. Action is taken herein to reflect that only the lower portion below 4,000 feet MSL is used continuously, and that the upper portion from 4,000 feet MSL to 13,600 feet MSL is used intermittently. In order to easily identify the different times of use of the upper and lower portions of the area, the restricted area is divided herein as Subarea A from the surface to 4,000 feet MSL, and as Subarea B from 4,000 feet MSL to 13,600 feet MSL. This amendment effects more efficient use of joint use restricted area airspace by more clearly reflecting its actual time of use. Subpart B of Part 73 of the Federal Aviation Regulations was republished in the FEDERAL REGISTER on January 3, 1978 (43 FR 706). Since this amendment reduces the burden on the public by reducing the time of use of special use airspace, notice and public procedure thereon are unnecessary.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart B of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) as republished (43 FR 706) is amended, effective 0901 GMT, February 22, 1979, as follows:

R-6501 Underhill, Vt., is rewritten as follows:

Subarea A Boundaries. Beginning at Lat. 44°30'00"N., Long. 72°52'00"W.; to Lat. 44°27'00"N., Long. 72°52'00"W.; to Lat. 44°27'00"N., Long. 72°55'00"W.; to Lat. 44°28'30"N., Long. 72°56'30"W.; to Lat. 44°29'15"N., Long. 72°56'30"W.; to Lat. 44°30'00"N., Long. 72°53'30"W.; to point of beginning.

Designated altitudes. Surface to 4,000 feet MSL.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Burlington Approach Control.

Using agency. Adjutant General, State of Vermont, Montpelier, Vt.

Subarea B Boundaries. Beginning at Lat. 44°30'00"N., Long. 72°52'00"W.; to Lat. 44°27'00"N., Long. 72°52'00"W.; to Lat. 44°27'00"N., Long. 72°55'00"W.; to Lat. 44°28'30"N., Long. 72°56'30"W.; to Lat. 44°29'15"N., Long. 72°56'30"W.; to Lat. 44°30'00"N., Long. 72°53'30"W.; to point of beginning.

Designated altitudes. 4,000 feet MSL to 13,600 feet MSL.

Time of designation. Intermittent.

Controlling agency. Federal Aviation Administration, Burlington Approach Control.

Using agency. Adjutant General, State of Vermont, Montpelier, Vt.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

NOTE.—The FAA has determined that this document involves a regulation which is not significant under the procedures and criteria prescribed by Executive Order 12044 and implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Washington, D.C., on December 27, 1978.

WRAY R. MCCLUNG,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79-221 Filed 1-3-79; 8:45 am]

[7510-01-M]

Title 14—Aeronautics and Space

CHAPTER V—NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

PART 1216—ENVIRONMENTAL QUALITY

Subpart 1216.2—Floodplain and Wetlands Management

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: This rule provides guidance and detail procedures to NASA Headquarters and field installations for the uniform implementation of Executive Order 11988—Floodplain Management and Executive Order 11990—Protection of Wetlands.

EFFECTIVE DATE: January 4, 1979.

FOR FURTHER INFORMATION CONTACT:

Norman Willis, Real Estate Management Branch, Facilities Division, National Aeronautics and Space Administration, Washington, D.C. 20546 (202-755-3290).

SUPPLEMENTARY INFORMATION: This final NASA rule adopts to a major degree the Floodplain Management Guidelines for Implementing Executive Order 11988, published by the U.S. Water Resources Council (43 FR 6030). These guidelines provide an explanation of key terms and floodplain management concepts, section-by-section analyses of the Order, and procedures in the form of a decisionmaking process for implementing the Order. On June 9, 1978, we published a proposed rule in the FEDERAL REGISTER (43 FR 25317) soliciting comments until July 10, 1978. Comments were received from the following:

Natural Resources Defense Council, Inc., U.S. Water Resources Council.

The comments were generally similar in addressing the need for more specificity and detail in the guidelines and procedures to assure better implementation of the Orders. Inasmuch as the proposed rule did not attempt to prescribe detailed implementing procedures in all cases, we found the comments to be most helpful in finalizing the rule. Broadly stated, the comments similarly addressed the need to—designate an official responsible for ensuring actions are implemented in compliance with the Order; expand definitions of key words and concepts; assure that harm to lives, property and floodplain values is properly minimized; assure that applicants for facilities use permits and grants evaluate the effect of their proposals on floodplains and wetlands prior to NASA approval; assure that proper restrictions are placed on property proposed for lease, easement and disposal to non-Federal public or private parties; define and expand the public audience and ensure their continuous involvement in floodplain decisionmaking; prescribe how alternative sites will be identified and evaluated, and how impacts will be determined. All of these and other minor comments have been incorporated into the final rule. In addition, for the purpose of clarifying the scope of NASA activities in floodplains and wetlands, it should be understood that NASA has only a small number of facilities located in floodplains, and that nearly all of NASA's wetlands, which are primarily needed to meet safety buffer zone requirements, are managed by the U.S. Fish and Wildlife Service.

14 CFR Chapter V is amended by adding a new Part 1216 consisting at this time of Subpart 1216.2, reading as follows:

Subpart 1216.2—Floodplain and Wetlands Management

Sec.
1216.200 Scope.
1216.201 Applicability.
1216.202 Responsibility of NASA officials.
1216.203 Definition of key terms.
1216.204 General implementation requirements.
1216.205 Procedures for evaluating NASA actions impacting floodplains and wetlands.

AUTHORITY: Executive Order 11988 and Executive Order 11990; 42 U.S.C. 2473(c)(1).

Subpart 1216.2—Floodplain and Wetlands Management

§ 1216.200 Scope.

This Subpart 1216.2 prescribes procedures to:

(a) Avoid long- and short-term adverse impacts associated with the occupancy and modification of floodplains and wetlands;

(b) Avoid direct or indirect support of floodplain and wetlands development wherever there is a practicable alternative;

(c) Reduce the risk of flood loss;

(d) Minimize the impact of floods on human health, safety and welfare;

(e) Restore, preserve and protect the natural and beneficial values served by floodplains and wetlands;

(f) Develop an integrated process to involve the public in the floodplain and wetlands management decisionmaking process;

(g) Incorporate the Unified National Program for Flood Plain Management; and,

(h) Establish internal management controls to monitor NASA actions to assure compliance with the Orders.

§ 1216.201 Applicability.

These procedures are applicable to Federal lands and facilities under the management control of NASA Headquarters and field installations regardless of location.

§ 1216.202 Responsibility of NASA officials.

(a) Directors of Field Installations and, as appropriate, the Associate Administrator for Management Operations at NASA Headquarters, are responsible for implementing the requirements and procedures prescribed in §§ 1216.204 and .205.

(b) The Director, Facilities Division, NASA Headquarters, is responsible for overall coordination of floodplain and wetlands management activities, and for conducting periodic on-site reviews of each installation's floodplain and wetlands management activities to assure compliance with the Orders.

§ 1216.203 Definition of key terms.

(a) *Action*—any NASA activity including, but not limited to, acquisition, construction, modification, changes in land use, issuance of facilities use permits, and disposition of Federal lands and facilities.

(b) *Base Flood*—is that flood which has a one percent chance of occurrence in any given year (also known as a 100-year flood). This term is used in the National Flood Insurance Program (NFIP) to indicate the minimum level of flooding to be used by a community in its floodplain management regulations.

(c) *Base Floodplain*—the 100-year floodplain (one percent chance floodplain). Also see definition of floodplain.

(d) *Critical Action*—any activity for which even a slight chance of flooding would be too great, such as storing lunar samples or highly toxic or water reactive materials.

(e) *Facility*—any item made or placed by a person including buildings, structures and utility items, marine structures, bridges and other land development items, such as levees and drainage canals.

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(f) *Flood or Flooding*—a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland and/or tidal waters, and/or the unusual and rapid accumulation or runoff of surface waters from any source.

(g) *Flood Fringe*—that portion of the floodplain outside of the regulatory floodway (often referred to as "floodway fringe").

(h) *Floodplain*—the lowland and relatively flat areas adjoining inland and coastal waters including flood-prone areas of offshore islands, including at a minimum, that area subject to a one percent or greater chance of flooding in any given year. The base floodplain shall be used to designate the 100-year floodplain (one percent chance floodplain). The critical action floodplain is defined as the 500-year floodplain (0.2 percent chance floodplain). A large portion of NASA coastal floodplains also encompasses wetlands.

(i) *Floodproofing*—the modification of individual structures and facilities, their sites, and their contents to protect against structural failure, to keep water out or to reduce the effects of water entry.

(j) *Minimize*—to reduce to the smallest possible amount or degree.

(k) *One Percent Chance Flood*—the flood having one chance in 100 of being exceeded in any one-year period (a large flood). The likelihood of exceeding this magnitude increases in a time period longer than one year, e.g., there are two chances in three of a larger flood exceeding the one percent chance flood in a 100-year period.

(l) *Practicable*—capable of being done within existing constraints. The test of what is practicable depends upon the situation and includes consideration of the pertinent factors, such as environment, cost or technology.

(m) *Preserve*—to prevent modification to the natural floodplain environment or to maintain it as closely as possible to its natural state.

(n) *Regulatory Floodway*—the area regulated by Federal, State or local requirements; the channel of a river or other watercourse and the adjacent land areas that must be reserved in an open manner; i.e., unconfined or unobstructed either horizontally or vertically to provide for the discharge of the base flood so the cumulative increase in water surface elevation is no more than a designated amount (not to exceed one foot as set by the National Flood Insurance Program (NFIP)).

(o) *Restore*—to re-establish a setting or environment in which the natural functions of the floodplain can again operate.

(p) *Wetlands*—those areas that are frequently inundated by surface or ground water and normally support a prevalence of vegetative or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction. Wetlands generally include swamps, marshes, bogs, and similar areas such as sloughs, potholes, river overflows, mud flats, wet meadows, and natural ponds. Because all NASA wetlands lie in floodplains, and for purposes of simplifying the procedures of this subpart, floodplains will be understood as to encompass wetlands, except in cases where wetlands factors require special consideration. (Also, see definition of floodplain.)

(q) *Support*—actions which encourage or otherwise provide incentives to undertake floodplain or wetlands development, such as extending roads or utilities into or near a floodplain, therefore making floodplain development more feasible.

§ 1216.204 General implementation requirements.

(a) Each NASA field installation shall prepare, if not already available, an installation base floodplain map based on the latest information and advice of the appropriate District Engineer, Corps of Engineers or, as appropriate, the Federal Insurance Administration, Department of Housing and Urban Development. The map shall delineate the limits of both the 100-year and 500-year floodplains. A copy of the map, approved by the Field Installation Director, will be provided to the Director, Facilities Division, NASA Headquarters, by February 28, 1979. The map will conform to the definitions and requirements specified in the Floodplain Management Guidelines for Implementing Executive Order 11988 (43 FR 6030).

(b) For any proposed action or critical action, as defined in § 1216.203(a), using the approved floodplain map, the Field Installation Director, while concurrently seeking to avoid the floodplain, shall determine if the proposed action *will* or *will not* be located in, or may indirectly impact or indirectly support development in, the base (substitute "500-year" for "base" in critical action cases) floodplain and proceed accordingly:

(1) If the action or critical action *will* be located in the base floodplain or may indirectly impact or indirectly support floodplain development, and is not excepted under § 1216.204(h), field installations will adhere to the procedures prescribed in § 1216.205.

(2) If such action or critical action *will not* be located in the base floodplain, or is the type of action that will clearly nor indirectly impact or indirectly support floodplain development, the action may be implemented without further review or coordination, provided all other applicable NASA requirements and policies have been met.

(c) Any request for new authorizations or appropriations transmitted to the Office of Management and Budget shall indicate, on a case-by-case basis, if the action proposed will be located in a floodplain and whether the proposed action is in accordance with Executive Orders 11988 and 11990.

(d) Each field installation shall: Take floodplain management and wetlands protection into account when formulating its water and land use plans—and when evaluating like plans of others—as an integral part of its facilities master planning activities; Restrict the use of land and water resources appropriate to the degree of flood hazard involved; and, Incorporate recommended Federal and State actions for the continuing unified program for planning and action at all levels of government to reduce the risk of flood losses in accordance with the Unified National Program for Flood Plain Management (U.S. Water Resources Council, 1978).

(1) Descriptive documentation supporting these planning matters shall be included in the "land use" section of each field installation's facilities master plan, as prescribed in NASA Management Instruction 7232.1, Master Planning of NASA Facilities. The evaluation and quantification of flood hazards should be expressed in terms of:

(i) Potential for monetary loss;

(ii) Human safety, health, and welfare;

(iii) Shifting of costs, damage or other adverse impacts to off-site properties; and,

(iv) Potential for affecting the natural and beneficial floodplain values.

(2) NASA shall provide appropriate guidance to applicants for facilities use permits and grants to enable them to similarly evaluate, in accordance with the Orders, the effects of their proposals in floodplains and wetlands. This evaluation will be a precondition of any NASA approval of such permit or grant involving floodplains or wetlands.

(e) Facilities to be located in floodplains will be constructed in accordance with the standards and criteria promulgated under the National Flood Insurance Program (NFIP). Deviations are allowed only to the extent that these standards are inappropriate for NASA operations, research and test activities. Because construction of NASA facilities will rarely be necessary in floodplains and wetlands, expertise in the latest flood proofing measures, standards and criteria will not be normally maintained within the NASA staff. To assure full compliance with the NFIP regulations, and that

the Order's key requirement to minimize harm to or within the floodplain or wetlands is met, field installations will:

(1) Consult with the appropriate local office of the Corps of Engineers or FIA and/or U.S. Fish and Wildlife Service, as applicable, on a regular basis throughout the facility design or action planning phase. Documentation of this consultation will be recorded in the field installation's project file.

(2) Submit evidence of the successful completion of this consultation to the Director, Facilities Division, NASA Headquarters, prior to the start of project construction.

(f) If NASA property used or visited by the general public is located in an identified flood hazard area, the installation shall provide on structures, in this area and other places where appropriate (such as where roads enter the flood hazard area), conspicuous delineation of the 100-year and 500-year flood levels, flood of record, and probable flood height in order to enhance public awareness of flood hazards. In addition, field installations shall review their storm control and disaster plans to assure that adequate provision is made to warn and evacuate the general public as well as employees. These plans will include the integration of adequate warning time into such plans. The results of this review shall be submitted to the Director, Facilities Division, NASA Headquarters, by February 28, 1979.

(g) When property in floodplains is proposed for lease, permit, out-grant, easement, right-of-way, or disposal to non-Federal public or private parties, the field installation shall:

(1) Reference in the conveyance document (prepared by the General Services Administration in disposal actions) those uses that are restricted under identified Federal, State, and local floodplain regulations, such as State coastal management plans.

(2) Except where prohibited by law, attach other appropriate restrictions, equal to the Order's in scope and strictness, to the uses of properties by the grantee or purchaser and any successors which assure that:

(i) Harm to lives, property and floodplain values are identified; and

(ii) Such harm is minimized and floodplain values are restored and preserved.

(3) Withhold such properties from conveyance if the requirements of paragraphs (g)(1) and (2) of this section cannot be met.

(h) The NASA Administrator has determined that certain types of actions taken in coastal floodplains and wetlands typically do not possess the potential to result in long- or short-term adverse impacts associated with the occupancy or modification of floodplains, or result in direct or indirect support of floodplain development. Nevertheless, in undertaking these actions, any opportunities to minimize, restore, and preserve floodplain and wetlands values must be considered and implemented. With this understanding, for the following types of actions, Directors of Field Installations in coastal locations may determine that undertaking such actions does not warrant full application of the procedures prescribed in § 1216.205.

(1) Hazard mitigation actions taken by a field installation on an emergency basis to reduce and control hazards associated with established NASA test or operations activities in accordance with the field installation's approved Safety Plan. Any such action must be approved in writing by the Field Installation's Safety Officer, and the approval document retained in the Safety Office files.

(2) Repair, maintenance or modification to existing roadways, bridges and utility systems in coastal floodplains or wetlands which provide long-term support for major NASA operations and test facilities (usually located out of the base floodplain), provided such repair, maintenance or modification activities are of a routine or emergency nature for which the "no action" alternative is not practicable; and it is ostensibly evident that:

(i) The proposed action would not impact the floodplain or wetlands.

(ii) The only alternative would be to construct new duplicate facilities near the same site with attendant impacts on the floodplain or wetlands area.

(3) Rehabilitation and modification of existing minor technical facilities (such as camera pads, weather towers, repeater buildings), including the repair of such damaged facilities to a condition closely matching the original construction, provided it can be readily determined by Directors of Field Installations that there is no practicable alternative but to continue the activity in its current coastal floodplain site. In such cases, the sitings of such facilities must be rigidly constrained by nationally recognized master planning criteria, such as "line-of-sight, quantity-distance, and acoustic sound-pressure-level" factors. In addition, certification of these determinations by Directors of Field Installations will be retained in the project file.

§ 1216.205 Procedures for evaluating NASA actions impacting floodplains and wetlands.

(a) Before taking any action a determination shall first be made whether the proposed action will occur in or may adversely affect a floodplain or wetlands, using the method prescribed in § 1216.204(b).

(b) These procedures apply only to evaluations of those proposed actions which are to be located in or may adversely impact floodplains. These evaluations shall be made at the earliest practicable stage of advance planning, such as during facilities master plan development or when preparing preliminary engineering reports. These evaluations shall include analyses of harm to lives and property, the natural and beneficial values of floodplains and wetlands, and the cumulative impacts of multiple actions over the long term.

(1) Early public notice is the next step in the evaluation process and will normally be accomplished using only the appropriate State and areawide clearinghouses as identified in Office of Management and Budget (OMB) Circular A-95, and by coordinating with these clearinghouses as prescribed in NASA Management Instruction 8800.9, Coordination of NASA Facilities Planning and Projects. If, however, actions involving land acquisition or a major change in land or water use is proposed, the overall public audience will be as broad as reasonably possible including, but not limited to, adjacent property owners and residents, near-by floodplain residents and local elected officials. To assure their continuous interaction and involvement, the field installation will issue public notices and newsletters, and hold public hearing and/or work shops on a formalized scheduled basis to provide the opportunity for public input and understanding of the proposed action. Regardless of the scope of action proposed, initially a notice will be provided to the appropriate OMB Circular A-95 clearinghouses that will not exceed three pages and will include:

(i) A location map of the proposed action.

(ii) The reasons why the action is proposed to be located in a floodplain.

(iii) A statement indicating whether the action conforms to applicable state and local floodplain protection standards.

(iv) A list of any NASA identified alternatives to be considered.

(v) A statement explaining the timing of public notice review actions to provide opportunities for the public to provide meaningful input.

(2) Working with the appropriate OMB Circular A-95 clearinghouses and, if applicable, other public groups and officials, to identify practicable alternatives in addition to those already identified by NASA. The alternatives will include:

(i) Carrying out the proposed action at a location outside the base floodplain (alternative sites).

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(ii) Other means which accomplish the same purpose as the proposed action (alternative actions).

(iii) Taking no action, if the resulting hazards and/or harm to or within the floodplain overbalances the benefits to be provided by the proposed action.

(3) The costs and impacts of all practicable alternatives must now be fully determined to properly assess the practicability of avoiding the base floodplain, or of minimizing harm to the floodplain if alternatives directly or indirectly support floodplain development or have other adverse impacts.

(i) The basic criteria to be used in determining the impacts of the various alternatives appear in the Floodplain Management Guidelines for Implementing Executive Order 11988 (43 FR 6030). These criteria discuss in detail the three basic types of impacts which are to be addressed:

(A) Positive and negative impacts (beneficial and harmful);

(B) Concentrated and dispersed impacts (impacts on-site, near-site, and remote from the installation); and

(C) Short and long-term impacts (include temporary changes and those that take the form of delayed changes resulting from the cumulative effects of many individual actions).

(ii) Also to be determined is the nature of resulting hazards and risk to lives and property; and the restoration and preservation of natural and beneficial floodplain and wetlands values.

(iii) In determining the type, magnitude, costs, timing factors, etc., of the impacts, it is emphasized that subjective assessments have little value. To qualify for inclusion in the evaluation process, an impact must be fully described and quantified in a measurable way compatible with good scientific or engineering practice. Briefly stated, an impact is effected by or based on, and limited to, a quantified alteration of existing coastal or riverine systems including:

(A) Anticipated flood levels, sheet flow, coursing and velocity of flood caused surface water;

(B) Ground water flows and recharge;

(C) Tidal flows;

(D) Topography; and,

(E) Ecology, including water quality, vegetation and the terrestrial and aquatic habitats.

(4) For the proposed action and those alternatives which will impact the floodplain or wetlands, additional analysis must be undertaken to minimize, restore and preserve the natural and beneficial floodplain or wetlands values. Because NASA does not retain expertise in these areas of floodplain management, field installations will consult, on a case-by-case basis, with the appropriate local office of the U.S. Fish and Wildlife Service to assure that, for each of the above alternatives, methods are prescribed which will:

(i) Minimize harm to lives and property from flood hazards;

(ii) Minimize harm to natural and beneficial values of floodplains and wetlands; and

(iii) Restore floodplains or wetlands values, if applicable, to the proposed action.

(5) The proposed action and alternatives shall now be comparatively evaluated taking into account the identified impacts, the steps necessary to minimize these impacts and opportunities to restore and preserve floodplain and wetlands values. The comparison will emphasize floodplain values.

(i) If this evaluation indicates that the proposed action in the base floodplain is still practicable, consider limiting the action so that a non-floodplain site could be more practicable.

(ii) If the proposed action is outside the floodplain but has adverse impacts or supports floodplain development, consider modifying or relocating the action to eliminate or reduce these effects or even taking no action.

(6) If, upon completing the comparative evaluation, the Field Installation Director determines that the only practicable alternative is locating in the base floodplain, a statement of findings and public explanation must be provided to all those who have received the early public notice, and specifically to the appropriate OMB Circular A-95 clearinghouses, and will include as a minimum:

(i) The reasons why the proposed action must be located in the floodplain.

(ii) A statement of all significant facts considered in making the determination including alternative sites and actions.

(iii) A statement indicating whether the actions conform to applicable State and local floodplain protection standards.

(iv) In cases where land acquisition or major changes in land use are involved, it may also be appropriate to include:

(A) A provision for publication in the FEDERAL REGISTER or other appropriate vehicle.

(B) A description of how the activity will be designed or modified to minimize harm to or within the floodplain.

(C) A statement indicating how the action affects natural or beneficial floodplain or wetlands values.

(D) A statement listing other involved agencies and individuals.

(7) After a reasonable period (15 to 30 days) to allow for public response, the proposed action may proceed through the normal NASA approval process, or if disposal is anticipated, the action can be implemented in accordance with Federal Property Management Regulations real property disposal procedures. If, however, significant new information is revealed in comments by the public, the field installation shall re-evaluate the proposed action in accordance with the provisions of paragraph (b)(5) of this section.

(8) For major NASA actions significantly affecting the quality of the human environment, the evaluations required above will be included in any statement prepared under Section 102(2)(C) of the National Environmental Policy Act.

(9) In accordance with § 1216.202(b), the Director, Facilities Division, NASA Headquarters, will conduct periodic on-site reviews to assure that the action is carried out in accordance with the stated findings and plans for the proposed action, in compliance with the Orders.

ROBERT A. FROSCH,
Administrator.

[FR Doc. 79-327 Filed 1-3-79; 8:45 am]

[3510-25-N]

Title 15—Commerce and Foreign Trade

CHAPTER III—INDUSTRY AND TRADE ADMINISTRATION, DEPARTMENT OF COMMERCE

SIMPLIFICATION OF SERVICING PROCEDURES [1]

Final Rule

AGENCY: Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

ACTION: Final rule.

SUMMARY: Exporters who have shipped commodities to the USSR, Eastern Europe and the People's Republic of China after receiving approval from the Office of Export Administration (OEA) often have occasion to service these commodities, frequently on an emergency basis. In many instances, specific approval from OEA is required before the parts necessary for these servicing operations may be exported or reexported to these destinations or before equipment which is brought out of the above destinations for repair is returned to such destination.

This revision simplifies the OEA Regulations pertaining to servicing by permitting certain exports to be made under general license and by permitting certain exports and reexports to be made under the provisions of a Service Supply license.

This revision also establishes a procedure for submitting an individual application to export such parts for servicing when neither the general license nor the Service Supply license procedure can be used for that purpose.

EFFECTIVE DATE: January 4, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles C. Swanson, Director, Operations Division Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-4196).

SUPPLEMENTARY INFORMATION: The *Export Administration Regulations* contain a General License, *GLR*, that authorizes certain commodities sent to the United States for servicing to be returned to their owners in Country Groups T and V [2] without the need to apply for a validated export license. The general license also authorizes the export to Country Groups T and V, under certain conditions, of parts or equipment to replace defective or otherwise unusable parts or equipment that were originally shipped under a validated export license or reexport authorization.

This revision extends the scope of General License *GLR* to cover shipments to Country Groups Q, W, and Y [2] provided certain conditions are met. Among the conditions imposed on such transactions are that exports be reported promptly to the Office of Export Administration and a report be filed on the destruction or return of the defective or otherwise unusable part or equipment. The present requirement that an extra copy of the Shipper's Export Declaration covering a shipment under General License *GLR* to a destination in Country Group T or V is revoked. However, a copy of each Shipper's Export Declaration covering a shipment under General License *GLR* to a destination in Country Group Q, W, or Y must be submitted to the Office of Export Administration.

The Regulations are also revised to establish conditions under which exporters and foreign service facilities which have been authorized by the Office of Export Administration (OEA) to operate under the Service Supply procedure may be granted permission to export or reexport to Country Groups Q, W, and Y parts identified on the Commodity Control List by the symbol "A" where they are to be exported or reexported for the purpose of servicing commodities also identified by the symbol "A" and previously exported to these destinations under a validated license or reexport authorization. Currently, OEA must grant a specific waiver of the Regulations before the export or reexport of such parts can be made to Country Groups Q, W, and Y.

The present value restriction of $6,600 per shipment to which the procedures apply is increased to $8,000. In addition, conditions are established under which those foreign service facilities that are under the effective control of a U.S. exporter may service U.S. equipment sent to them from Country Group Q, W, or Y and return the serviced equipment to the country from which it was sent without specific authorization from OEA. Lastly, the Service Supply procedure is revised to permit reexports between service facilities of a U.S. exporter that have been approved under this procedure.

While these revisions of General License *GLR* and the Service Supply procedure will greatly facilitate servicing of commodities previously approved for export or reexport to Country Groups Q, W, and Y, there will be certain situations not qualifying under the revised procedures where individual export license applications or reexport requests will have to be filed with the OEA. In order to simplify the procedure for filing such applications or requests and to assure, to the extent possible, that exporters and reexporters are aware of limitations of the OEA approval prior to filing their applications or requests, the Regulations are revised to set forth these limitations and to specify the information peculiar to these transactions that should be submitted with the application.

Simplification and clarification of the *Export Administration Regulations* pertaining to the servicing of U.S. equipment previously exported or reexported to Country Group Q, W, or Y has been discussed at meetings of the Subcommittee on Export Administration of the President's Export Council, the Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee, and the Computer Systems Technical Advisory Committee itself. The advice obtained has been utilized in preparing these revisions. In addition, the principal U.S. Government Departments and Agencies that provide advice to the Department of Commerce pursuant to section 5(a) of the Export Administration Act of 1969, as amended, have been consulted and their concurrence in these revisions obtained.

Accordingly, the *Export Administration Regulations* (15 CFR Part 368 *et seq.*) are amended as follows:

PART 371—GENERAL LICENSES

1. Section 371.17(a) is amended to read as follows:

§ 371.17 General License GLR; Return or replacement of certain commodities.

* * * * *

(a) *Commodities sent to the United States for Servicing*—(1) *Definition.* As used in this § 371.17, "servicing" means inspection, testing, calibration or repair, including overhaul and reconditioning.

(2) *Commodities Imported from Country Group T or V.* (i) Any commodity sent to the United States from Country Group T or V for servicing may be exported under this general license to the country from which it was sent, provided the following conditions are met:

(A) The use of this general license is not precluded by the general prohibitions that apply to all general licenses as listed in § 371.2(c), and

(B) The commodity being serviced is not one that has been disposed of by U.S. Government agencies under foreign excess property disposal programs.

(ii) When the serviced commodity is exported, it may include any replacement or rebuilt parts necessary to its repair and may be accompanied by any spare part, tool, accessory, or other item sent to the United States for use in connection with the servicing.

(3) *Commodities Imported from Country Group Q, W, or Y.* (i) Any U.S.-origin commodity previously exported from the United States to a consignee in Country Group Q, W, or Y under a validated export license or authorized by the Office of Export Administration to be reexported to a consignee in Country Group Q, W, or Y, that is returned to the United States for servicing may be exported under this general license to the country from which it was sent, provided the following conditions are met:

(A) The U.S. exporter making the shipment under this general license is the same person or firm to whom the original validated export license or reexport authorization was issued;

(B) The servicing shall not have improved or changed the basic characteristics, *e.g.*, as to accuracy, capability, performance, or productivity of the commodity as originally authorized for export or reexport;

(C) The end-use and the end-user of the serviced commodity and other particulars of the transaction, as set forth in the application and supporting documentation that formed the basis for

[1] The reporting and/or recordkeeping requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

[2] Countries included in the various Country Groups are listed in Supplement No. 1 to Part 370 of the *Export Administration Regulations.*

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issuance of the validated export license or reexport authorization, shall not have changed;

(D) The use of this general license is not precluded by the prohibitions that apply to all general licenses as listed in § 371.2(c); and

(E) The commodity being serviced is not one that has been disposed of by U.S. Government Agencies under foreign excess property disposal programs.

(ii) When the serviced commodity is exported, it may include any replacement or rebuilt parts necessary to its repair and may be accompanied by any spare part, tool, accessory, or other item sent to the United States for use in connection with the servicing.

(4) *Reporting Requirement.* The U.S. exporter servicing U.S.-origin commodities imported from Country Group Q, W, or Y shall report each export of such serviced commodity to the Office of Export Administration, Room 1617M, Department of Commerce, Washington, D.C. 20230. The report must be submitted within two weeks of exportation. It shall be by letter and shall include:

(i) A description of the commodity;

(ii) The nature of the servicing;

(iii) The name and address of the consignee; and

(iv) The license number of the validated export license or reexport authorization that authorized the original export or reexport of the commodity to the consignee.

NOTE.—See § 373.7 for provisions relating to the servicing by foreign-based service facilities of commodities previously exported from the United States.

. . . . .

(F) *Replacements for defective U.S.-origin parts or equipment.* Subject to the following General and Special Conditions, any commodity may be exported under the provisions of this general license to replace a defective or otherwise unusable (*e.g.*, erroneously supplied) U.S.-origin commodity except that no commodity shall be exported to a destination in Country Groups S or Z or to any other destination to replace a defective or otherwise unusable part or equipment owned or controlled by, or leased or chartered to, a country in Country Group S or Z, or a national of such country.

(1) *General conditions.* (i) No commodity shall be exported to replace any part or equipment that is worn out from normal use, nor may any commodity be exported to be held in stock abroad as spare parts or equipment for future use; except that if a stock of parts has previously been exported under a validated license expressly for use as spare parts, any such parts found to be defective or otherwise unusable may be replaced under the provisions of General License *GLR* even though they may be intended ultimately as replacements for parts worn out in normal use; [3]

(ii) The replacement commodity shall not have improved the basic characteristics, e.g., as to accuracy, capability, performance, or productivity, of the commodity as originally approved for export from the United States under a validated export license or for reexport from a third country under an authorization issued by the Office of Export Administration;

(iii) The commodity to be replaced shall have been previously exported in its present form under a validated export license or reexported from a third country under authorization granted by the Office of Export Administration or as a component of a commodity that was exported under a validated export license or reexported under an Office of Export Administration authorization;

(iv) No replacement part or equipment may be exported under this general license if the replacement is to be incorporated into or used in nuclear weapons, nuclear explosive devices, nuclear testing, the chemical processing of irradiated special nuclear or source material, the production of heavy water, the separation of isotopes of source and special nuclear materials, or the fabrication of nuclear reactor fuel containing plutonium, as described in §§ 378.2 and 378.3; and

(v) No replacement of any defective or otherwise unusable part or equipment shall be exported under this general license if the replacement is to be incorporated into or used in any electronic, mechanical, or other device, as described in § 376.13(a), primarily useful for surreptitious interception of wire or oral communications. (2) Special Conditions applicable to exports to Country Groups T and V. In addition to the General Conditions set forth in subparagraph (1) of this paragraph, the following apply to exports under this general license to a destination in Country Group T or V.

(i) The commodity to be replaced shall either be destroyed abroad or returned to the United States or to a foreign firm that is under the effective control of the U.S. exporter that is providing the replacement part or equipment prior to, or promptly after, the replacement commodity is exported from the United States;

(ii) The defective or otherwise unusable commodity shall be replaced free of charge, except for transportation and labor charges;

(iii) Any export made under this § 371.17(f)(2) shall be cleared in accordance with Part 386, except that the exporter or his duly authorized agent shall place the following certification, substituting the appropriate parenthetical phrases, if applicable, on the Shipper's Export Declaration:

I(We) certify that the commodity(ies) described on this Declaration is(are) being exported under the provisions of General License *GLR* to replace a defective or otherwise unusable U.S.-origin part or equipment previously (exported from the United States under validated export license number ——) (reexported from (*name of country*) under OEA Authorization No.——). I(We) further certify that the defective or otherwise unusable part or equipment [(has been) (shall be promptly) returned to the United States]; [(has been) (shall be promptly) returned to (name of foreign firm)]; [(has been) (will be) destroyed abroad].

(3) Special Conditions applicable to exports to Country Groups Q, W, and Y. In addition to the General Conditions set forth in subparagraph (1) of this paragraph, the following apply to exports under this general license to a destination in Country Group Q, W, or Y.

(i) The commodity to be replaced shall be either destroyed or returned to the United States or to a foreign firm in Country Group T or V that is under the effective control of the U.S. exporter that is providing the replacement part or equipment. The destruction or return shall be effected prior to, or promptly after, the replacement is exported from the United States;

(ii) The defective or otherwise unusable commodity shall be replaced free of charge, except for transportation and labor charges, within the warranty period or within 12 months of its delivery to the ultimate consignee in the country of destination, whichever is shorter;

(iii) Any export made under this § 371.17(f) shall be cleared in accordance with Part 386, except that the exporter of his duly authorized agent shall place the following certification, substituting the appropriate parenthetical phrases, if applicable, on the Shipper's Export Declaration:

I(We) certify that the commodity(ies) described on this Declaration is(are) being exported under the provisions of General License *GLR* to replace a defective or otherwise unusable U.S.-origin part or equipment previously (exported from the United States under validated export license number ——) (reexported from (*name of country*) under OEA Authorization No. ——). I(We) further certify that the defective or otherwise unusable part or equipment [(has been) (shall be promptly) returned to the United States)]; [(has been) (shall be promptly) returned to (name of foreign firm)]; [(has been) (will be) destroyed abroad].

(iv) A copy of each Shipper's Export Declaration covering an export under the provisions of this § 371.17(f) to a destination in Country Group Q, W, or Y shall be sent to the Office of Export Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, at the same time copies are presented to the carrier as required by the provisions of Part 386.

(v) The exporter shall file a report on destruction or proof of return to the United States or to the foreign firm named in the certification on the Shipper's Export Declaration within two weeks of clearance of the replacement commodity through Customs. The reports shall be by letter addressed to the Office of Export Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, and shall cite the validated export license number under which the defective or otherwise unusable part or equipment had been exported. If the commodity has not yet been destroyed or returned, the report should so state and give an estimated date of destruction or return. A follow-on report by letter shall be submitted promptly upon the destruction or return of the commodity.

. . . . .

[3] The Service Supply (SL) procedure (§ 373.7) provides a licensing procedure for the prompt servicing of equipment abroad.

PART 373—SPECIAL LICENSING PROCEDURES

2. Section 373.7 is revised to read as follows:

§ 373.7 Service Supply (SL) Procedure.

A Service Supply (SL) Procedure is established to enable persons or firms in the United States or abroad to provide prompt service for equipment exported from the United States, produced abroad by a subsidiary, affiliate, or branch of a U.S. firm, or produced abroad by a manufacturer who uses parts imported from the United States in the manufactured product. The initial license or other authorization will be for a period of one year. This license or authorization may be extended for a period of up to two years. If the activities for which the license or other authorization was issued continue to meet the Service Supply (SL) Procedure requirements after the three-year period, a complete new application shall be submitted. This license or other authorization may be valid for a period of up to two years, and may be extended for an additional period of up to two years.

(a) *Definitions and Interpretations.* Terms used in this § 373.7 (and in related forms) are defined or interpreted in §§ 373.7(a) (1) through (8) below:

(1) *Service and servicing.* The terms "service" and "servicing" refer to normal and usual activities to maintain equipment in proper, efficient, and safe operating condition, or to restore equipment to this condition;

(2) *Service facility.* The term "service facility" refers to a person or firm that has as its function, or as one of its functions, the servicing of equipment;

(3) *Equipment.* The term "equipment" includes, but is not restricted to, instruments, machines, aircraft, vehicles, and apparatus.

(4) *U.S. equipment.* The term "U.S. equipment" refers to equipment (i) exported from the United States, or (ii) manufactured or produced abroad by a U.S. subsidiary;

(5) *U.S. subsidiary.* The term "U.S. subsidiary" means a foreign-based subsidiary, affiliate, or branch of a U.S. person or firm under the full and active control of such U.S. person or firm;

(6) *Effective control.* The term "effective control" means the exercise of a right, under a contractual agreement between the U.S. exporter and the consignee, to determine and control the reexport of parts exported from the United States;

(7) *Replacement parts.* The term "replacement parts" means parts needed for the immediate repair of equipment, including replacement of defective parts. (It does not include test instruments or operating supplies.) Commodities that improve or change the basic design characteristics; e.g., as to accuracy, capability, or productivity, of the equipment upon which they are installed, are not deemed to be replacement parts within the meaning of the Service Supply (*SL*) Procedure;

(8) *Spare parts.* The term "spare parts" refers to parts in the kinds and quantities normally and customarily kept on hand in the event they are needed to assure prompt repair of equipment. (It does not include test instruments and operating supplies.) Commodities that improve or change the basic design characteristics, e.g., as to accuracy, capability, or productivity, of the equipment upon which they are installed, are not deemed to be spare parts within the meaning of the Service Supply (*SL*) Procedure.

(b) *Commodities Subject to Procedure.* Any commodity for which a validated export license is required may be exported or reexported under the provisions of this § 373.7 except:

(1) Parts to service commodities related to nuclear weapons, nuclear explosive devices, nuclear testing, the chemical processing of irradiated special nuclear or source material, the production of heavy water, the separation of isotopes of source and special nuclear material, or the fabrication of nuclear reactor fuel containing plutonium, as described in §§ 378.2 and 378.3;

(2) Parts to service arms, ammunition or implements of war referred to in Supplement No. 2 to Part 370;

(3) Parts to service commodities subject to Atomic Energy Act referred to in § 370.10(e);

(4) Parts to service commodities [4] listed in Supplement No. 1 to this Part 373;

(5) Commodities listed in Supplement No. 1 to this Part 373;

(6) Parts to service any equipment owned, controlled or used by or for a military or police entity in the Republic of South Africa or Namibia.

(c) *Destinations*—(1) *Country Groups S and Z.* No export or reexport may be made, directly or indirectly, under the provisions of § 373.7 to Country Groups S and Z. Furthermore, no equipment owned or controlled by, or under lease or charter to, a country in Country Groups S or Z or a national of such country may be serviced under provisions of this *SL* Procedure.

(2) *Country Groups Q, W, and Y.* Export and reexport to Country Groups Q, W, and Y may be made only in accordance with the provisions of § 373.7(i). Except as provided in § 373.7(i), no equipment owned or controlled by, or under lease or charter to, a country in Country Groups Q, W, and Y or a national of such country may be serviced under the provisions of this *SL* Procedure.

(d) *Types of Service Supply Authorizations.* Three types of export or reexport authorizations are obtainable under the provisions of this § 373.7.

(1) *Exports from the United States.* A U.S. person or firm may obtain a license, valid for twelve months, to export spare and replacement parts to consignees in Country Groups T or V for purposes of servicing U.S. equipment unless such consignees are listed in the U.S. Table of Denial and Probation Orders (see § 373.7(h)(3)). Under certain conditions, replacement parts (but not spare parts) may also be exported to Country Groups Q, W, and Y, subject to the provisions set forth in § 373.7(i).

(i) *Qualification requirements.* To qualify for a Service Supply (*SL*) License authorizing exports from the United States, all of the following requirements must be met:

(*a*) The applicant must be either (*1*) the U.S. person or firm that manufactured or exported the equipment to be serviced abroad, or (*2*) the U.S. firm whose foreign subsidiary manufactured the equipment to be serviced;

(*b*) The supplying of spare and replacement parts must be a normal function of the applicant's business; and

[4] Except that parts may be exported under the provisions of this § 373.7 to service vibration testing equipment identified in Supplement No. 1 to Part 373 under Export Control Commodity No. 1362 and all commodities identified in Supplement No. 1 to Part 373 under Export Control Commodity Nos. 1460 and 4460.

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(c) The export must be made for purposes of servicing U.S. equipment in the possession of the consignee.

(ii) *Applications.* The applicant shall submit the following documents, satisfactorily completed:

(*a*) [*Reserved*]

(*b*) Application for Export License, Form DIB-622P;

(*c*) Form ITA-6026P, Service Supply (*SL*) License Statement by U.S. Exporter; and

(*d*) Comprehensive narrative statement by the exporter.

(*e*) The certification required by § 373.1(a)(2)(i), if applicable.

(iii) *Documents waived.* An application for an *SL* License need not be supported by the Import Certificate or Consignee/Purchaser Statement otherwise required under §§ 375.1 or 375.2. A Swiss Blue Import Certificate or a Yugoslav End-Use Certificate is required, when applicable. (See § 373.7(e) below.)

(iv) *Preparation of documents.* The documents listed in paragraph (d)(1)(ii) of this section shall be prepared as follows:

(*a*) [*Reserved*]

(*b*) *Form DIB-622P.* The applicant shall prepare and submit Form DIB-622P, Application for Export License, in accordance with the provisions of § 372.4(a)(4), with the following specific modifications:

(*1*) The words "Service Supply License" and the date shall be entered in the "Date of Application" space.

(*2*) The word "various" shall be entered in the "Ultimate Consignee" space.

(*3*) A duplicate list of countries of ultimate destination shall be prepared in alphabetical order, and the words "See Attached List" shall be entered in the "Ultimate Destination" space.

(*4*) An estimated one year's supply of spare and replacement parts shall be entered in the "Commodity Description" space. All commodities identified by the code letter "A" following the Export Control Commodity Number on the Commodity Control List (§ 399.1) shall be either listed separately on the application or on an attachment, or, if feasible, described in related "A" product groups. Examples of acceptable "A" product groups are "Semi-conductors, A type;" "Aircraft engines, A type;" etc.

(*5*) All commodities not identified by the code letter "A" having Export Control Commodity Numbers with the same Processing Code may be combined into a single entry. The commodity description for each such entry shall be in terms of broad descriptive categories corresponding with the Commodity Groups and subheadings that appear on the Commodity Control List (see § 399.1(j)).

(*6*) The estimated total value of each commodity with the code letter "A" following the Export Control Commodity Number or related "A" product group, and of each "non-A" product group to be exported during the one-year validity period of the *SL* License shall be shown in the "Total Selling Price" space and a grand total shall be computed for all of the commodities.

(*7*) The following statement shall be entered at the bottom of the "Commodity Description" space:

"No commodity excluded from the *SL* Procedure under the Export Administration Regulations will be exported to any consignee in any destination under this *SL* License if this application is approved."

(*8*) The spaces titled "Export Control Commodity No. and Processing Code," "Unit Price," and "Quantity to Be Shipped" shall be left blank.

(*c*) *Form ITA-6026P.* Three copies of Form ITA-6026P shall be manually signed by the applicant or by a responsible official of the applicant who is authorized to bind the applicant to all of the terms, undertakings, and commitments set forth on the form.

(*d*) *Comprehensive narrative statement.* A comprehensive narrative statement shall be submitted by the applicant in support of his application for an *SL* License. This statement shall set forth the scope of the applicant's servicing activities pertinent to the application and shall include, for each entry listed on the application, the volume of exports for servicing made during the preceding year. If this volume has to be estimated, the basis upon which the estimate was compiled shall be explained.

NOTE.—The preparation of an application for an *SL* License involves a substantial amount of work. Therefore, a prospective applicant may wish to consult the Office of Export Administration to obtain a preliminary determination of the applicability of the *SL* Procedure to his transaction and as to any special information that may be required.

(2) *Reexport authorization by Foreign-based service facility.*—(i) *Country Groups T and V.* A service facility located in Country Group T or V may be authorized to use and to reexport spare and replacement parts to consignees in any other destination in Country Group T or V to service U.S. equipment, unless such consignees are listed in the U.S. Table of Denial and Probation Orders (see § 373.7(h)(3)). If the service facility is approved, reexports are authorized in accordance therewith regardless of any restrictions imposed on reexports under the terms of the other licensing procedures. The service facility may also be authorized to service U.S. equipment in the country where the facility is located and return the serviced equipment to the country from which it was sent within Country Group T or V. In addition, a service facility may be authorized to reexport to any of its U.S exporter's other service facilities approved under the Service Supply procedure.

(ii) *Country Groups Q, W, and Y.* A service facility located in Country Group T or V that is under the effective control of the U.S. exporter may be authorized to reexport, upon specific instructions of the U.S. exporter, replacement parts for immediate repair of U.S. equipment in Country Group Q, W, or Y, subject to the provisions of § 373.7(i). The service facility may also be authorized to service U.S. equipment in the country where the facility is located and return the serviced equipment to the country from which it was sent, subject to the following conditions:

(*a*) The service facility must have no knowledge or reason to believe that the equipment to be serviced was exported or reexported to the Country Group Q, W, or Y destination without the authorization of the U.S. Government;

(*b*) The equipment to be serviced must have been originally exported from the United States or obtained from a U.S. subsidiary;

(*c*) The servicing shall not improve the basic characteristics, *e.g.*, as to accuracy, capability, performance, or productivity, of the equipment as originally approved for export or reexport to the consignee in Country Group Q, W, or Y that is requesting the servicing; and

(*d*) The recordkeeping and reporting requirements of §§ 373.7(j) and 373.7(k) shall be complied with.

(iii) *Qualification requirements.* To qualify to receive reexport or servicing authorization under the SL Procedure, a foreign person or firm must have been designated as a service facility by the U.S. manufacturer or by the U.S. exporter of the U.S. equipment to be serviced, and servicing such equipment must be a normal function of the designated facility.

(iv) *Application.* The service facility shall submit to the Office of Export Administration (Room 1617M), U.S. Department of Commerce, Washington, D.C. 20230, a letter requesting authorization to use and reexport spare and replacement parts under the SL Procedure. This letter shall be accompanied by three completed copies of Form ITA-6052, Statement by Foreign Consignee in Support of Special License Application, and by a comprehensive narrative statement by the operator of the service facility prepared in accordance with the following instructions:

(*a*) The statement shall identify the U.S. manufacturer(s) or U.S. exporter(s) that has (have) designated the facility to be its service facility and shall indicate the period for which the designation shall remain in effect.

(*b*) If the service facility is under the effective control of the U.S. person or firm, the statement shall so indicate.

(*c*) The statement shall describe in detail the services performed by the service facility, as indicated on Form ITA-6052.

(3) *Reexports by foreign manufacturer.* A manufacturer located in Country Group T or V who incorporates parts exported from the United States into a product may be authorized to reexport to consignees in Country Group T or V such U.S.-origin parts as spare or replacement parts for servicing the manufactured products in the consignee's possession, unless such consignees are listed in the U.S. Table of Denial and Probation Orders (see § 373.7(h)(3)).

(i) *Qualification requirements.* To qualify to receive reexport authorization under the *SL* Procedure, a foreign manufacturer must use parts exported from the United States in the manufactured equipment to be serviced, and the parts to be reexported for purposes of servicing such equipment must be of the same type as the components they are to replace.

(ii) *Application.* Each application for reexport by a foreign manufacturer shall include the documents specified in (*a*) and (*b*) below, and, if applicable, the certification required by § 373.1(a)(2)(i):

(*a*) A letter from the manufacturer requesting permission to reexport under the Service Supply License Procedure parts imported from the United States to replace such parts incorporated into a product manufactured by the applicant;

(*b*) Form ITA-6052, identifying the manufactured products containing parts exported from the United States and the countries to which these products are exported.

(e) *Exports and Reexports to Switzerland or Yugoslavia.* For an export or reexport of spare and replacement parts to service equipment located in Switzerland or Yugoslavia, the U.S. exporter or his approved service facility, or the authorized foreign manufacturer, must obtain for each transaction a Swiss Blue Import Certificate or a Yugoslav End-Use Certificate showing the United States as the country of origin of the parts to be shipped. Exporters shall forward these documents to the Office of Export Administration in accordance with the provisions of § 373.7(k) below. Approved Form ITA-6052 holders (i.e., foreign service facilities and manufacturers) shall forward, on a monthly basis, the originals of these documents (or reproduced copies if the originals are required by the government of the country in which the Form ITA-6052 holder is located) directly to the Office of Export Administration (Room 1617M), U.S. Department of Commerce, Washington, D.C. 20230. A letter of transmittal showing the *SL* License number of the approved Form ITA-6052 shall accompany the documents.

(f) *Action by Office of Export Administration on License Applications.*—(1) *Approved license applications.* When an application for an *SL* License is approved, Form DIB-628, Export License, will be issued authorizing, subject to the provisions of the Export Administration Regulations and to the terms and provisions of the license, the export of commodities covered during a validity period of one year. An approved copy of Form ITA-6026P will also be issued to the exporter. The *SL* License will be similar to a validated license described in § 372.9 with the following exceptions:

(i) *Validation.* The license will be validated in the license number space with a stamp which includes a facsimile of the U.S. Department of Commerce seal, the letter "D", and a series of numbers to indicate the year, month, and day on which the license was validated. An explanation of the coded dates shown on the license is set forth in § 373.2(d)(1)(i).

(ii) *Case Number.* The case number consists of the letter "A" followed by six digits, and is used for initial computerization of the application, and subsequent retrieval.

(iii) *Service Supply License Number.* Immediately below the validation stamp, the *SL* License number assigned to the license will be indicated. This license number will be a four-digit number prefixed by the letter "S."

(iv) *Special conditions.* Special conditions or restrictions may be imposed on the use of an *SL* License in addition to the general conditions or restrictions set forth in the Export Administration Regulations. These conditions or restrictions will be set forth on the license document at the time of issuance, or a separate written notification of these conditions or restrictions will be given to the licensee.

(2) *Applications returned without action.* When an *SL* License application is returned without action by the Office of Export Administration, the application, together with related documents, will be returned to the applicant with Form DIB-651, Advice on Application Returned Without Action. This form will state the reason(s) for return of the license application and will explain the corrections and additional information required if the application is to be resubmitted to the Office of Export Administration for further consideration.

(3) *Applications not approved.* When an application for an *SL* License is not approved by the Office of Export Administration, the applicant will be notified and the notice will explain the reason(s) why the application was not approved. The applicant may apply for an individual or other appropriate type of validated license for transactions covered by the *SL* License application that was not approved.

(g) *Export Clearance.*—(1) *License or other approval action.* The license or amendment is not required to be filed with the customs office or postmaster. When exporting by mail, the *SL* License number shall be entered on the address side of the wrapper on the package. Exports by mail shall be made in accordance with the provisions of § 386.1(b).

(2) *Limitation on amount shipped.* Exports under an *SL* License of any commodity or commodity group identified thereon by the code letter "A" are limited for each such entry, during the entire validity period of the license, to the amount shown on the license for that entry. However, exports of an entry not identified by the code letter "A" may exceed the amount shown for that particular entry provided the total amount of all such shipments does not exceed the grand total of the amounts authorized for all of the commodities not identified by the code letter "A" shown on the license.

(3) *Notice to ultimate consignee.* The following notice shall be entered on the commercial invoice covering each shipment under the *SL* License:

These commodities are sent for the authorized repair purposes only and may not be used for any other purpose.

(4) *Shipper's Export Declaration.* As set forth in the standard instructions for preparing Shipper's Export Declarations, the validated license number must be shown on the Declaration. In the case of an *SL* License, the license number is prefixed by the letter "S". (See § 373.7(f)(1)(ii) above.

NOTE.—Although the *SL* License describes the commodities in broad descriptive terms, commodity descriptions on the Declaration shall be specific. The description of a commodity shall (1) conform to the applicable Commodity Control List description, and (2) incorporate any additional information where required by Schedule B; for example, the type, size, or name of the specific commodity.

(h) *Action by Office of Export Administration on Reexports.*—(1) *Reexports by foreign-based service facility.* If the Office of Export Administration approves the request of a foreign-based service facility for authorization to reexport parts imported from the

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United States under the *SL* Procedure, a validated copy of Form ITA-6052 will be sent to the service facility, via the U.S. Foreign Service. This shall be retained by the service facility as evidence of its authority to reexport spare or replacement parts imported from the United States. However, this authority shall in no way relieve the service facility from its responsibilities to comply with the laws, rules, and regulations of the countries from which the parts are to be reexported, or of any other country having authority over any phase of the transaction. If the service facility's Form ITA-6052 was submitted to the Office of Export Administration through its U.S. parent firm, the validated copy will be sent through the U.S. parent firm, with an extra copy for retention by the U.S. parent firm. The copy of the validated Form ITA-6052 will bear a Facility Number on the bottom right corner of the form. When ordering spare or replacement parts from the United States under the individual validated license procedure, the service facility shall cite this Form ITA-6052 Facility Number instead of submitting the documentation otherwise required to support of a license application (such as an import certificate or a consignee/purchaser statement). Normally, the Office of Export Administration will accept this number instead of documents otherwise required. Unless specifically restricted, an approved Form ITA-6052 authorizes the named service facility to:

(i) Service the types of equipment indicated on the Form ITA-6052 in the country where the facility is located and return the serviced equipment to the country from which it was sent within Country Group T or V; [5] and

(ii) Reexport parts imported from the United States to consignees in Country Group T or V for the purpose of servicing U.S.-origin equipment in the possession of the consignee. If the service facility is under the effective control of the U.S. exporter, it may, upon specific instructions of the exporter, reexport replacement (but not spare) parts to a consignee in Country Group Q, W, or Y, subject to the special provisions set forth in § 373.7(i).[6] The reexport authorizations described in this § 373.7(h)(1)(ii) normally will apply to commodities imported under the provisions of any type of U.S. export license. Except when specifically limited by the Office of Export Administration, reexports under an approved Form ITA-6052 are authorized regardless of any restrictions imposed under the terms of any other licensing procedure. In all cases, reasonable care and diligence must be exercised to prevent shipments of kinds and quantities of parts in excess of that not needed for the authorized service.

(2) *Reexports by foreign manufacturer.* If the Office of Export Administration approves the request of a foreign manufacturer for authorization to reexport U.S. spare or replacement parts, a validated copy of Form ITA-6052 will be sent to the manufacturer, via the U.S. Foreign Service. This shall be retained by him as evidence of his authority to reexport the spare or replacement parts to the countries listed in the form ITA-6052. However, this authority shall in no way relieve the manufacturer from its responsibilities to comply with the laws, rules, and regulations of the country from which the commodity is to be reexported, or of any other country having authority over any phase of the transaction. This reexport authorization normally will apply to commodities imported under the provisions of any type of U.S. export license. Except when specifically limited by the Office of Export Administration, reexports under an approved Form ITA-6052 are authorized regardless of any restrictions imposed under the terms of other licensing procedures. In all cases, reasonable care and diligence must be exercised to prevent shipments of kinds and quantities of parts not needed for the authorized service.

(3) *Table of Denial and Probation Orders.* A U.S. parent firm shall furnish its foreign-based service facility(ies) or foreign manufacturer(s) with current reprints of the "Table of Denial and Probation Orders Currently in Effect" [7] when the validated Form ITA-6052 is forwarded. Thereafter, each addendum to the Table shall also be furnished promptly to each foreign-based service facility or manufacturer. If the foreign-based service facility or manufacturer is not a U.S. subsidiary, the current Table will be sent with the validated Form ITA-6052 by the Office of Export Administration. Thereafter, it will be the responsibility of the facility or manufacturer to obtain each addendum to the Table, either by subscription to the Export Administration Regulations, by written request to the Office of Export Administration, or by other suitable arrangements.

(i) *Special Provisions for Country Groups Q, W, and Y.* An export or reexport may be made to Country Group Q, W, or Y under the provisions of this § 373.7 only if the following conditions and restrictions are complied with:

(1) *Replacement parts only.* The U.S. exporter or a foreign service facility under the U.S. exporter's effective control may export or reexport only replacement parts to a consignee in Country Group Q, W, or Y. Spare parts, as defined in § 373.7(a)(8), may not be exported or reexported to these destinations under the *SL* Procedure.

(2) *Servicing restricted to authorized exports or reexports.* The U.S. exporter or the reexporting service facility must have no knowledge or reason to believe that the equipment to be serviced was exported or reexported to the Country Group Q, W, or Y destination without the authorization of the U.S. Government.

(3) *Servicing of U.S. equipment only.* The shipment must be for the purpose of servicing equipment originally exported from the United States or obtained from a U.S. subsidiary. Further, the shipment may be made in a total quantity no greater, and a quality no better, than that necessary for this purpose.

(4) *Restriction on parts to be exported.* Parts identified by the code letter "A" following the Export Control Commodity Number on the Commodity Control List may not be exported or reexported under this procedure to Country Group Q, W, or Y if the value of the parts included in a shipment is more than $8,000.

(5) [Deleted.]

(6) *Records and reports.* Special recordkeeping and reporting requirements for exports and reexports to Country Groups Q, W, and Y must be observed. (See §§ 373.7 (j) and (k) below.)

(j) *Records*—(1) *U.S. exporter.* A U.S. exporter shall prepare records of all exports made under the Service Supply (*SL*) Procedure containing, as a minimum, the information required by § 373.7(k) below. Such records shall be retained for a period of two years.

(2) *Foreign-based service facility or foreign manufacturer.* A foreign-based service facility or a foreign manufacturer shall prepare, and retain for a period of two years, records of all commodities received under the provisions of the Service Supply (*SL*) Procedure, as well as all such commodities it has used or supplied domestically or reexported. All such records shall be made available to U.S. Government officials for inspection, upon request, in accordance with the provisions of § 387.11. As a minimum these records shall show:

(i) The Form ITA-6052 approval number and the full name and address of the individual or firm that supplied the parts, as well as the individual or firm that received, used, or reexported the parts;

(ii) A description of the equipment on which the parts were used or for which they were intended;

(iii) A description of the parts, including quantity and value; and

(iv) The date the parts were received, used, supplied, or reexported.

In the event that a foreign governmental regulation or statute prohibits a U.S. Government representative from inspecting these records in the foreign country, the Office of Export Administration may, in substitution, require the submission of specified records, documents, or both.

(k) *Reports.* Each exporter who has been issued an SL License under the provisions of § 373.7(f) (1) shall prepare and submit, on a monthly basis, a report on all exports made during the preceding month under the SL License. The report shall cite the license number indicated on the export license and shall show, as a minimum for each consignee, a separate aggregate value for each product group shown on his license (*i.e.,* for each commodity identified by the code letter "A" following the Export Control Commodity Number or related "A" product group, and for each "non-A" product group). Where exports are made to service vessels or aircraft, both the country of registry and the country to which the shipment was made shall be listed. Yugoslav End-Use Certificates and Swiss Blue Import Certificates covering exports to these destinations shall be submitted as attachments to the report. If exports of commodities identified by the code letter "A" following the Export Control Commodity Number on the Commodity Control List have been made to Country Group Q, W, or Y under the SL Procedure, the monthly report shall show each of these shipments separately, the date of each shipment, and shall include the following additional information for each such commodity:

(1) A description of the equipment serviced in Commodity Control List terms;

(2) The quantity or number and the value of such items of equipment serviced; and

(3) The country in which the equipment was serviced.

If the U.S. exporter has authorized his approved foreign-based service facility to reexport such commodities identified by the code letter "A" following the Export Control Commodity Number to Country Group Q, W, or Y, or to service such equipment at its facility and to return the serviced equipment to the destination from which it was received for servicing, a similar monthly report shall be submitted in the same detail as set forth above. In addition, the Office of Export Administration may require additional reports regarding any aspects of exports or reexports under the provisions of this § 373.7. The reports shall be submitted in original only and transmitted to the Office of Export Administation (Room 1617M), U.S. Department of Commerce, Washington, D.C. 20230.

(l) *Exceptions.* In the event that a U.S. exporter is unable to meet any of the requirements of this *SL* Procedure, but believes that unusual circumstances warrant a waiver or an exception to one or more of these requirements, he may consult or write to the Office of Export Administration, explaining the circumstances in full and requesting a waiver or exception.

(m) *Cancellation or Restriction of License or Reexport Authorization.* The Office of Export Administration may find it necessary to revoke, suspend, revise, or restrict a Service Supply License or a reexport authorization granted under the provisions of the *SL* Procedure with or without prior notice.

(n) *Extensions and Amendments of Service Supply Licenses and Reexport Authorizations*—(1) *Extensions.*—(i) *Form to use.* Requests to extend the validity period of an existing Service Supply License shall be submitted on Form DIB-685P, Request for and Notice of Amendment Action, supported by the following certification:

I (We) certify that all the facts and intentions set forth in our previously submitted comprehensive narrative statement remain the same, except (enter the word "none," or specify the changes.)

The extended validity period will be of two-year duration unless a one-year period is specifically requested. For those service facilities that are designated by U.S. exporters, extension of the validity period for two years may also be requested on Form DIB-685P with the appropriate certification attached, as cited above. Foreign manufacturers approved as a service facility may furnish a letter requesting the two-year extension in lieu of Form DIB-685P with appropriate certification attached. In the years when the exporter is not entitled to file the request for extension by amendment, a complete new application must be submitted in accordance with the provisions of § 373.7(d)(1)(ii).

(ii) *When to Apply.* An extension request should be submitted to the Office of Export Administration from 60 to 90 days before the expiration date in order to avoid interruption of shipments under the license.

(2) *Amendments.*—(i) *Form to use.* All requests for amendments shall be submitted on Form DIB-685P in the usual manner (see § 372.11), including those requests to extend the validity period (see § 373.7(n)(1)(i) above).

(ii) *When to Apply.* A person or firm desiring to increase the amount authorized for export under the *SL* Procedure may do so at any time during the validity period of the license.

(iii) *Action by Office of Export Administration.* Each extension request is analyzed by the Office of Export Administration as to the past license activity to determine whether an extension is justified. Prior to asking for an extension the licensee should examine his own records to see if the criteria described in § 373.7(d)(1)(i) were met during the initial validity of the license. If not, the licensee should apply for an individual or other appropriate type of license instead of an extension of the Service Supply License. When action has been taken by the Office of Export Adminstration, this form will be returned to the licensee for retention in his files.

(o) *Effect of Other Provisions.* Insofar as consistent with the provisions of this § 373.7, all of the provisions of the Export Administration Regulations shall apply equally to licenses and reexport authorizations issued under this § 373.7 and to applications for licenses and requests for reexport authorization.

PART 376—SPECIAL COMMODITY POLICIES AND PROCEDURES

3. A new § 376.4 is established as follows:

§ 376.4 Servicing of equipment previously exported or reexported to Country Groups Q, W, and Y.

(a) *Scope.* A procedure is established under which a person or firm may apply for an export license or reexport authorization to export or reexport parts needed to service equipment previously exported or reexported to a destination in Country Group Q, W, or Y under a validated export license or reexport authorization.

(b) *Limitations.* The procedure described in this § 376.4 is limited as follows:

(1) Servicing may only be performed on those instruments or equipment that are specifically identified in the export license application or reexport request.

(2) Parts to be used in servicing are limited to those that are identical to the parts that constituted the instrument or equipment as it was originally licensed for export or reexport.

(3) When a new part is installed in or added to instruments or equipment, the identical replaced part must be removed from such instrument or equipment and destroyed or returned to the licensee or to a foreign-based service facility owned or controlled by the licensee and located in Country Group T or V.

[5] If the service facility is under the effective control of the U.S. exporter, it may also return the serviced equipment to Country Groups Q, W, and Y.

[6] Further authorization from the U.S. Treasury Department is not required for reexports to Country Group Q, W, or Y authorized by the Office of Export Administration under the *SL* Procedure.

[7] This table, in Part 388, lists names of all persons or firms currently on probation or denied export privileges.

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(4) Parts may not be stored in Country Group Q, W, or Y for subsequent servicing. Requests for an exception to this limitation will be considered on a case-by-case basis.

(5) When the export or reexport of service kits, (i.e., kits that include test instruments and/or a supply of replacement parts that might be needed to service the instrument or equipment) is authorized, such kits while in a destination in Country Group Q, W, or Y shall remain under the exclusive possession and control of an authorized Western representative of the person or firm to which the export or reexport authorization was granted.

(6) Servicing is limited to instruments and equipment in the possession of consignees to which the export or reexport of the instruments or equipment had been originally authorized by the Office of Export Administration.

(c) *License Application or Reexport Request.* The following provisions supplement the regular requirements for submitting an export license application or request for reexport authorization (see Parts 372 and 374).

(1) *Ultimate Consignee.* Where shipments are contemplated to be made to more than one ultimate consignee, the phrase "Various—see attached list" shall be entered in Item 3 of Form ITA-622P or Item 5 of Form ITA-699P, as appropriate.

(2) *Country of Ultimate Destination.* Where shipments are contemplated to be made to consignees in more than one country, the phrase "Various—see attached list" shall be entered in Item 5 of Form ITA-622P.

(3) *Quantity and Value.* The quantity and value for each commodity listed on the export license application or request for reexport authorization shall be an estimate of the requirements for up to one year's supply of parts for all the consignees covered by the application or reexport request.

(4) *Supporting Documentation.* The application or reexport request shall be accompanied by a listing of the name and address of each consignee to whom exports are contemplated and, for each such consignee, the commodity or commodities to be serviced by the parts covered by the application or reexport request. Form DIB-629P, Statement by Ultimate Consignee and Purchaser, will not be required to be submitted with the application, although the Office of Export Administration may require such documentation, if in the review of the application or reexport request, it is determined to be necessary.

(5) *Certification.* The following certification shall be entered after the commodity description on Form ITA-622P or ITA-699P:

I(We) certify that the limitations set forth in § 376.4(b) and any other conditions that may be imposed by the Office of Export Administration in approving this application (request for reexport authorization) shall be strictly adhered to and that I(we) shall immediately discontinue exports (or reexports) so authorized and notify the Office of Export Administration in writing where I(we) learn, or have reason to believe, that such limitations or conditions are being, or have been, ignored.

(d) *Reports.* (1) The U.S. exporter to whom a validated export license is issued pursuant to the provisions of this § 376.4 shall prepare and submit, on a monthly basis, a report of all exports made against the license during the preceding month. The report shall include, as a minimum:

(i) The export license number and expiration date;

(ii) A description of the instrument or equipment that was serviced;

(iii) The full name and address of the person or firm on whose premises the instrument or equipment was serviced;

(iv) A description of the part or parts, including the quantity and value, that were used to service the instrument or equipment; and

(v) The date the servicing was performed.

(2) This report shall be in addition to the entries on the reverse side of the export license required by § 386.2(d).

(e) *Records.* (1) The foreign-based service facility named on a reexport authorization issued pursuant to the provisions of this § 376.4 shall maintain a record of each reexport made against the reexport authorization. The record shall include, as a minimum:

(i) The reexport authorization number and expiration date;

(ii) A description of the instrument or equipment that was serviced;

(iii) The full name and address of the person or firm on whose premises the instrument or equipment was serviced;

(iv) A description of the part or parts, including quantity and value, that were used to service the instrument or equipment; and

(v) The date the servicing was performed.

(2) All such records shall be made available to U.S. Government officials for inspection, upon request, in accordance with the provisions of § 387.11. In the event that a foreign government regulation or statute prohibits a U.S. Government representative from inspecting the records in a foreign country, the Office of Export Administration may, in substitution, require the submission of specified records, documents, or both.

(f) *Relationship to foreign laws.* No authorization granted under the provisions of this part shall in any way relieve any person from his responsibility to comply fully with the laws, rules, and regulations of the country from which the commodity is to be reexported or of any other country having authority over any phase of the transaction. Conversely, no foreign law, rule, regulation, or authorization in any way relieves any person from his responsibility to obtain such authorization from the Office of Export Administration as may be required by the *Export Administration Regulations.*

(g) *Effect of other regulations.* Insofar as consistent with the provisions of this Part, all of the other provisions of the *Export Administration Regulations* shall apply.

(Sec. 4 Pub. L. 91-184, 83 Stat. 842 (50 U.S.C. App. 2403), as amended; E.O. 12002, 42 FR 35623 (1977); Department Organization Order 10-3, dated December 4, 1977, 42 FR 64721 (1977); and Industry and Trade Administration Organization and Function Order 45-1, dated December 4, 1977, 42 FR 64716 (1977).)

Dated: December 20, 1978.

STANLEY J. MARCUSS,
Deputy Assistant Secretary for Trade Regulation.

[FR Doc. 78-36483 Filed 12-29-78; 3:43 pm]

[6740-02-M]

Title 18—Conservation of Power and Water Resources

CHAPTER I—FEDERAL ENERGY REGULATORY COMMISSION

[Docket No. RM79-4]

PART 154—RATE SCHEDULES AND TARIFFS

Amendments to the Commission's Regulations Relating to Independent Producer Filing Requirements

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Commission is amending its regulations relating to blanket affidavit filing requirements for collection of a maximum lawful price under sections 104 and 106(a) of the Natural Gas Policy Act of 1978. The amendments alter the date upon which a rate change filing takes effect, modify the subscription requirements for the blanket affidavit filing, and provide for protests to blanket affidavit filings.

EFFECTIVE DATE: December 28, 1978.

COMMENTS: Written comments by January 31, 1979.

ADDRESS: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 (Reference Docket No. RM79-4).

FOR FURTHER INFORMATION CONTACT:

Romulo L. Diaz, Jr., Office of General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 (202) 275-3771.

Howard Kilchrist, Office of Pipeline and Producer Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 (202) 275-4539.

A. BACKGROUND

On November 17, 1978, the Federal Energy Regulatory Commission (Commission) issued Final Regulations 43 FR 55756, November 29, 1978) amending Parts 154 and 157 of its regulations relating to producer filing requirements. Although the regulations were made effective upon issuance, the Commission solicited written comments by interested parties. The Commission has received four written comments. In response to these comments and the filings it has received pursuant to the amended regulations, the Commission has decided to modify some of the regulations issued on November 17 and to clarify the meaning and effect of others.

SUMMARY OF AMENDMENTS TO THE COMMISSION'S FINAL REGULATIONS

Under the regulations as amended November 17, 1978, a producer must file a blanket affidavit with the Commission in order to charge and collect a maximum lawful price and any periodic escalations under sections 104 and 106(a) of the Natural Gas Policy Act of 1978 (NGPA). In response to comments in this regard, the Commission emphasizes that these filing requirements are mandatory but that small producers covered by a blanket certificate under § 157.40(b) of the regulations are exempt from their coverage.

The Commission has received many affidavit filings under the amended regulations which do not comply with the subscription requirements in § 154.94(h)(6). That section requires that the affidavit be subscribed in accordance with § 1.16 of the regulations, except that § 1.16(a)(1)(iv), permitting subscription by an authorized attorney, does not apply. The Commission wishes to adopt requirements relative to signing of affidavits which parallel other signature requirements in its regulations implementing the NGPA. Consequently, § 154.94(h)(6) is being amended to require that the affidavit filing be signed in accordance with signature requirements imposed in § 274.201(c) of the interim regulations, which pertains to filing for determinations to be made by jurisdictional agencies. Many of the filings submitted under § 154.94(h) were signed by a responsible official of the filing party and thus comply with the amended rather than the original requirements. The Commission advises that it will deem acceptable, all affidavits filed in accordance with § 154.94(h)(6) as originally promulgated or as amended. Affidavits subscribed by attorneys comply with neither regulation and are not acceptable.

The Commission believes that this amendment to the signature requirements will eliminate the basis for complaint that the responsibility of diligent inquiry imposed upon the affidavit in the last paragraph of the form affidavit (Appendix A to § 154.94) was overburdensome. In most cases, the affidavit will now be signed by a responsible official of a company, for whom such inquiry should be neither unnecessary nor overburdensome.

The Commission declines to adopt one suggestion that the filing party indicate the amount of taxes and any other adjustments to which each sale listed in the blanket affidavit is subject. The Commission contemplates obtaining such information in the future in some other form such as an annual report. The Commission does not now wish to incorporate that information into a filing the single purpose for which is to fulfill the requirements imposed by the Natural Gas Act (NGA) in order to permit collection under the NGPA of the maximum lawful price and periodic escalations.

The Commission is amending § 154.94(h)(2)(iii) to comply with the thirty days' notice requirement imposed by section 4(d) of the NGA. Thus, absent specification in the filing of a later effective date, a rate change filing to collect a base rate takes effect on the thirty-first rather than the thirtieth day after the date of filing, provided the filing has not been suspended or rejected. Paragraph (1) of the Blanket affidavit, Appendix A to § 154.94, is being amended to reflect the fact that, where the two are not synonymous, the filing party rather than the affiant, is the one entitled to collect the maximum lawful price.

We have provided for a new subparagraph 154.94(h)(7) which states explicitly that the filing of a blanket affidavit does not permit the collection of a maximum lawful price which is not contractually authorized.[1] This is consistent with Section 101(b)(9) of the NGPA, which provides that a maximum lawful price shall not "supersede or nullify the effectiveness of the price established under such contract," and with § 270.101(b) of the Commission's Regulations.

The Commission has added a new subparagraph (h)(8) to § 154.94 which sets forth a protest procedure for the affidavit filings required to be made under § 154.94(h)(1). Under this procedure protests are required to be filed within thirty days of the filing of the affidavit, or, in the case of an affidavit filed before December 30, 1978, on or before January 30, 1979.

The Commission is making these amendments effective upon the date of issuance upon a finding that good cause exists to proceed without compliance with the notice, public procedure, and effective date provisions of 5 U.S.C. 553. Changes in rate filing requirements and institution of a protest procedure must be immediately effective in order to avoid an unduly disruptive transition from the pricing rules established under the NGA to those prescribed under the NGPA. For this reason, the Commission has found it necessary to make these amendments effective upon issuance of this order.

WRITTEN COMMENT PROCEDURES

Although these amendments are being made effective immediately, interested persons are invited to submit written comments, data, views or arguments with respect to the amendments. An original and 14 copies should be filed with the Secretary of the Commission. All comments received prior to January 31, 1979, will be considered by the Commission, and if appropriate, further revisions will be made. All written submissions will be placed in the Commission's public files and will be available for public inspection in the Commission's Office of Public Information, 825 North Capitol Street, N.E., Washington, D.C. 20426, during regular business hours. Comments should be submitted to the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, and should reference Docket No. RM79-4. Also since these amendments are directly related to the Interim Regulations promulgated pursuant to the NGPA (43 FR 5648), oral presentations of data, views and arguments on these amendments may be made at the public hearings to be held on the Interim Regulations.

(Natural Gas Act, as amended, 15 U.S.C. 717 *et seq.*, Department of Energy Organization Act, Pub. L. 95-91, E.O. 12009, 42 FR 46267.)

In consideration of the foregoing, Part 154 of Subchapter E, Chapter I, Title 18, Code of Federal Regulations,

[1] The question of what contractual authorization is required to permit the collection of the maximum lawful prices under section 104 of the NGPA is not addressed herein. The issue of contractual authorization (either existing contractual provisions or amendments to existing contracts) will be addressed by a subsequent Commission order.

is amended as set forth below, effective immediately.

By the Commission.

KENNETH F. PLUMB,
Secretary.

§ 154.94 [Amended].

1. Section 154.94(h)(2)(iii) is amended in the second sentence by striking out "thirtieth" and inserting in lieu thereof the word "thirty-first."

2. Section 154.94(h)(6) is amended by striking out the first sentence and inserting in lieu thereof the sentence, "Any affidavit filed under subparagraph (1) shall be signed in accordance with § 274.201(c) of this chapter."

3. Section 154.94(h) is amended in paragraph (1) of the Blanket Affidavit Filing Under § 154.94(h) at Appendix A, by striking out "he" and inserting in lieu thereof the phrase "the filing party" and by adding new subparagraphs (7) and (8) to read as follows:

* * * * *

(7) *Contractual authorization.* Except in the case of minimum rate gas (as defined in § 271.402(b)(9) of this chapter), neither the filing of a blanket affidavit, nor the acceptance for filing of such an affidavit by the Commission, will affect any person's contractual right to purchase natural gas at a rate which is less than the applicable maximum lawful price under the NGPA.

(8) *Protest procedure.* Any protest to an affidavit required to be filed under this paragraph shall be filed within thirty days of the filing of the affidavit, or, in the case of an affidavit filed before December 30, 1978, on or before January 30, 1979.

[FR Doc. 79-315 Filed 1-3-79; 8:45 am]

[4830-01-M]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

[T.D. 7584]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Information Reporting Requirements For Bearer Certificates of Deposit

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to information reporting requirements. The regulations enable the Internal Revenue Service to obtain information returns with respect to interest paid on certificates of deposit issued in bearer form. The regulations apply to all persons carrying on the banking business and making interest payments on certificates of deposit issued in bearer form in denominations of less than $100,000.

DATE: The regulations are effective for payments of interest on bearer certificates of deposit made after March 13, 1978. For certificates of deposit issued before the regulations take effect, the identity of the person to whom the certificate was originally issued need not be supplied by the bank, if this information is unknown at the time the information return is made.

FOR FURTHER INFORMATION CONTACT:

Leonard T. Marcinko of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3459).

SUPPLEMENTARY INFORMATION:

BACKGROUND

On March 13, 1978, the FEDERAL REGISTER published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 6049 of the Internal Revenue Code of 1954 (43 FR 10411). The amendments were proposed in order to require information returns by banks for interest paid on certificates of deposit issued in bearer form in denominations of less than $100,000. After consideration of all comments regarding the proposed amendments, those amendments are adopted as revised by this Treasury decision.

EXPLANATION OF PROVISIONS

This Treasury decision makes several minor changes to the rules contained in the notice of proposed rulemaking relating to information reporting requirements for bearer certificates of deposit. Most of the changes made by this document are intended merely to clarify the rules contained in the notice. These final regulations are necessary to enable the Internal Revenue Service to obtain information returns for use in its document matching program with respect to interest paid on certain certificates of deposit issued in bearer form.

The information return required by the proposed rules would have to show the aggregate amount of interest paid with respect to a bearer certificate of deposit and the amount of interest attributable to each calendar year falling within the term of the certificate. Paragraph 1 of the Treasury decision alters this rule by revising the requirement so that the only interest required to be shown on the return (other than the aggregate amount of interest paid) is the amount of interest attributable to the current calendar year. This change reduces the reporting burden on the payor banks without affecting the ability of the Service to utilize the information returns for matching purposes.

Paragraph 1, in response to several comments received on the notice, amends § 1.6049-1(a)(1)(vi) of the proposed regulations to make it clear that an information return is required for any calendar year in which interest is actually paid by a bank on a bearer certificate of deposit, whether payment is made during the term of the certificate or at its redemption. This point is emphasized by the two examples added to § 1.6049-1(a)(1)(vi) of the proposed regulations by this document. The second of these examples also illustrates that the reporting requirements contained in this Treasury decision do not affect the substantive rules governing when interest or original issue discount must be reported by the recipient on his tax return.

A number of comments received with respect to the notice of proposed rulemaking urged that the information reporting requirements be extended to bearer certificates in denominations of $100,000 or more. A well established secondary market exists in which these larger denomination certificates of deposit are frequently negotiated. Information returns with respect to frequently negotiated instruments could be of limited value to the Service in its matching program since the information return would show the full amount of interest payable to the last holder of the instrument, who in many cases would be taxable only on a portion of the interest. For this reason it was decided not to extend the reporting requirements at this time to larger denomination certificates of deposit. However, the Internal Revenue Service is presently considering whether and to what extent reporting on certificates of deposit in amounts over $100,000 would be feasible and useful.

Several comments protested the provision in the proposed regulations that would eliminate the floor of $10 in annual interest with respect to bearer certificates of deposit in denominations under $100,000. The reason for eliminating the interest floor is that such certificates are generally available in denominations as low as $25, and under existing regulations banks are not required to aggregate interest paid to the same taxpayer on different

instruments. Therefore, in order to prevent avoidance of the new reporting requirements by multiple purchases of small denomination certificates, this Treasury decision adopts the position taken in the proposed regulations.

The principal effect of these final regulations is to generate information returns with respect to interest paid on certain bearer certificates of deposit for use in the Internal Revenue Service's document matching program. In addition to detecting those taxpayers who fail to include this interest on their income tax returns, these new reporting requirements should encourage the voluntary inclusion of this interest in income. Evaluation of the effectiveness of these regulations after issuance will be based upon comments received from offices within Treasury and the Internal Revenue Service, other governmental agencies, State and local governments, and the public.

DRAFTING INFORMATION

The principal author of this regulation is Leonard T. Marcinko of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

ADOPTION OF AMENDMENTS TO THE REGULATIONS

Accordingly, the amendments to §§ 1.6049-1, 1.6049-2, and 1.6049-3 in 26 CFR Part 1, published as a notice of proposed rulemaking in the FEDERAL REGISTER on March 13, 1978 (43 F.R. 10411), are hereby adopted as proposed subject to the following changes:

PARAGRAPH 1. Section 1.6049-1(a)(1)(vi), as set forth in paragraph 1 of the notice of proposed rulemaking, is revised to read as follows:

§ 1.6049-1 Returns of information as to interest paid in calendar years after 1962 and original issue discount includible in gross income for calendar years after 1970.

(a) *Requirement of reporting*—(1) *In general.* * * *

(vi) Every person carrying on the banking business who makes payments of interest to another person (whether or not aggregating $10 or more) during a calendar year with respect to a certificate of deposit issued in bearer from (other than such a certificate issued in an amount of $100,000 or more) shall make an information return on Forms 1096 and 1099-BCD for such calendar year. The preceding sentence applies whether such payments are made during the term of the certificate or at its redemption. The information return required by this subdivision for the calendar year shall show the following:

(*a*) The name, address, and taxpayer identification number of the person to whom the interest is paid;

(*b*) The aggregate amount of interest paid to such person during the calendar year with respect to the certificate of deposit;

(*c*) The name, address, and taxpayer identification number of the person to whom the certificate was originally issued;

(*d*) The portion of the interest with respect to the certificate reported under (*b*) that is attributable to the current calendar year; and

(*e*) Such other information as is required by the form.

The application of this subdivision (vi) may be illustrated by the following examples:

Example (1). On June 1, 1978, X Bank issues a $1,000 bearer certificate of deposit to A. The certificate of deposit is not redeemable until May 31, 1979, and no interest is to be paid on the instrument until its redemption. On September 1, 1978, A transfers the bearer certificate to B and on May 31, 1979, B presents the certificate to X for payment and receives the $1,000 principal amount plus all the accrued interest. Under paragraph (a)(1)(vi) of this section, X is not required to make an information return for 1978 with respect to the bearer certificate of deposit because no interest is actually paid to a holder of the certificate during 1978. X is required to file an information return for 1979 with respect to the certificate, identifying B as the payee of the entire amount of the interest and A as the original purchaser of the certificate. (For rules relating to statements to be made to recipients of interest payments, see § 1.6049-3.)

Example (2). On July 1, 1978, Y Bank issues a $5,000 bearer certificate of deposit to C. The certificate of deposit is not redeemable until June 30, 1981, and no interest is to be paid on the instrument until its redemption. C holds the certificate for the entire term and on June 30, 1981, presents it to Y for payment and receives the $5,000 principal amount plus the accrued interest. Under paragraph (a)(1)(vi) of this section, Y is not required to file an information return for calendar years 1978, 1979, or 1980 with respect to this bearer certificate of deposit because no interest is actually paid to C during those calendar years. Y is required to file an information return for 1981 with respect to the certificate identifying C as the payee of the entire amount of the interest and as the original purchaser. (Although Y is not required to file an information return for interest paid on the certificate until its redemption in 1981, C must report as income on his tax returns for 1978, 1979, 1980, and 1981 the ratable portion of such interest includible in income under section 1232.)

* * * * *

PAR. 2. The last sentence of paragraph (a) of § 1.6049-3, as set forth in paragraph 4 of the notice of proposed rulemaking, is revised by deleting "Form 1099-CD" and inserting in lieu thereof "Form 1099-BCD".

This Treasury decision is issued under the authority contained in sections 6049 and 7805 of the Internal Revenue Code of 1954 (76 Stat. 1056, 26 U.S.C. 6049; 68A Stat. 917; 26 U.S.C. 7805).

JEROME KURTZ,
Commissioner of Internal Revenue.

Approved: December 21, 1978.

DONALD C. LUBICK,
Assistant Secretary of the Treasury.

amount plus all the accrued interest. Under paragraph (a)(1)(vi) of this section, X is not required to make an information return for 1978 with respect to the bearer certificate of deposit because no interest is actually paid to a holder of the certificate during 1978. X is required to file an information return for 1979 with respect to the certificate, identifying B as the payee of the entire amount of the interest and A as the original purchaser of the certificate. (For rules relating to statements to be made to recipients of interest payments, see § 1.6049-3.)

Example (2). On July 1, 1978, Y Bank issues a $5,000 bearer certificate of deposit to C. The certificate of deposit is not redeemable until June 30, 1981, and no interest is to be paid on the instrument until its redemption. C holds the certificate for the entire term and on June 30, 1981, presents it to Y for payment and receives the $5,000 principal amount plus the accrued interest. Under paragraph (a)(1)(vi) of this section, Y is not required to file an information return for calendar years 1978, 1979, or 1980 with respect to this bearer certificate of deposit because no interest is actually paid to C during those calendar years. Y is required to file an information return for 1981 with respect to the certificate identifying C as the payee of the entire amount of the interest and as the original purchaser. (Although Y is not required to file an information return for interest paid on the certificate until its redemption in 1981, C must report as income on his tax returns for 1978, 1979, 1980, and 1981 the ratable portion of such interest includible in income under section 1232.)

* * * * *

PAR. 2. Paragraph (a)(2) of § 1.6049-2 is amended to read as follows:

§ 1.6049-2 Interest and original issue discount subject to reporting.

(a) *Interest in general.* * * *

(2) Interest on deposits (except deposits evidenced by negotiable time certificates of deposit issued in an amount of $100,000 or more) paid (or credited) by persons carrying on the banking business. In the case of a certificate of deposit issued in bearer form, the term "interest", as used in the preceding sentence and in paragraph (a)(1)(vi) of § 1.6049-1, has the same meaning as in § 1.61-7 (regardless of whether taxable to the payee in the year the information return is made).

* * * * *

PAR. 3. Paragraph (c)(2) of § 1.6049-2 is amended to read as follows:

§ 1.6049-2 Interest and original issue discount subject to reporting.

* * * * *

(c) *Original issue discount*—(1) *In general.* * * *

(2) *Coordination with interest reporting.* In the case of an obligation issued after May 27, 1969 (other than an obligation issued pursuant to a written commitment which was binding on May 27, 1969, and at all times thereafter), original issue discount which is not subject to the reporting requirements of paragraph (a)(1)(ii) of § 1.6049-1 is interest within the meaning of paragraph (a) of this section. Original issue discount which is subject to the reporting requirements of paragraph (a)(1)(ii) of § 1.6049-1 is not interest within the meaning of paragraph (a) of this section.

* * * * *

§ 1.6049-3 [Amended]

PAR. 4. Paragraph (a) of § 1.6049-3 is amended by adding the following sentence at the end thereof: "References in this section to Form 1099 shall be construed to include Form 1099-BCD, except that in applying paragraph (b)(2) of this section no information relating to the person to whom the certificate of deposit was originally issued shall be disclosed to another person to whom the payment of interest is made."

[FR Doc. 79-342 Filed 1-2-79; 10:09 am]

[4830-01-M]

[T.D. 7585]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Change of Treatment With Respect to Itemized Deductions; Annualization of Taxable Income for Purposes of Estimated Tax Rules

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations on two matters: A change of treatment with respect to the zero bracket amount and itemized deductions after the taxpayer has filed a return for the taxable year, and the annualization of taxable income for purposes of determining whether an addition to tax is imposed for underpayment of estimated tax. The Tax Reduction and Simplification Act of 1977 amended the applicable tax law. These regulations provide the public with the necessary guidance on these two matters.

EFFECTIVE DATE: The regulations are effective for taxable years beginning after 1976.

FOR FURTHER INFORMATION CONTACT:

Paul A. Francis of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-6640).

SUPPLEMENTARY INFORMATION:

BACKGROUND

On August 30, 1978, the FEDERAL REGISTER published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under sections 63 and 6654 of the Internal Revenue Code of 1954 (43 FR 38725). The amendments were proposed to conform the regulations to section 102 (a) and (b)(16) of the Tax Reduction and Simplification Act of 1977 (91 Stat. 135, 139). No written comments were submitted regarding the proposed regulations, and no public hearing was requested or held. The proposed amendments are adopted without change by this Treasury decision.

CHANGE OF TREATMENT WITH RESPECT TO ITEMIZED DEDUCTIONS

The Tax Reduction and Simplification Act of 1977 redefined the term "taxable income" and eliminated the concept "standard deduction" from the Internal Revenue Code. For taxable years beginning after 1976, a taxpayer generally may elect to itemize deductions only if the taxpayer has itemized deductions in excess of the taxpayer's zero bracket amount. Certain taxpayers who were prohibited from taking the standard deduction or whose standard deduction was subject to special restrictions under prior law are treated as having elected to itemize deductions under the new law.

New Code section 63(g)(5) provides that a taxpayer may change a decision with respect to itemizing deductions after the taxpayer has filed a return for the taxable year. This privilege is subject to restrictions similar to those that applied to changes with respect to the standard deduction under prior law.

In addition to the general rule that taxpayers may change the treatment of itemized deductions, new § 1.63-1 sets forth the special requirements applicable to spouses filing separate returns. The new regulations also state the exception to the general rule for taxable years for which the tax liability of either the taxpayer or the taxpayer's spouse has been compromised. The new regulations were adapted from § 1.144-2 which dealt with changes of election with respect to the standard deduction under prior law.

ANNUALIZATION OF TAXABLE INCOME IN CONNECTION WITH UNDERPAYMENT OF ESTIMATED TAX

Secion 6654 of the Code imposes an addition to tax on individuals who fail to make sufficient estimated income tax payments. There is no addition to tax, however, if the payments made by an individual equal or exceed any of several amounts specified in section 6654(d). In order to determine one of those amounts, it is necessary to place the taxable income for a given period on an annualized basis. For taxable years beginning before 1977, section 6654 and § 1.6654-2(a)(2) set forth the method by which taxable income had to be annualized.

The redefinition of the term "taxable income" by the Tax Reduction and Simplification Act of 1977 makes a revision of that method necessary for taxable years beginning after 1976. That Act amended section 6654(d)(2) to provide that the regulations should prescribe the new method for annualizing taxable income. The report of the Senate Finance Committee indicated the method intended by Congress S. Rep. No. 95-66, 95th Cong., 1st Sess. 59 (1977).

The regulations, as amended by this Treasury decision, provide that an affected taxpayer first annualize the adjusted gross income and itemized deductions for the months in question. The taxpayer then determines any excess itemized deductions or unused zero bracket amount and computes annualized tax table income. If the taxpayer is unable to use the tax tables to determine tax at this point, the taxpayer deducts personal exemptions from annualized tax table income to arrive at annualized taxable income. The amendment adds two new examples to § 1.6654-2(c) to illustrate these computations.

DRAFTING INFORMATION

The principal author of these regulations is Paul A. Francis of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

MISCELLANEOUS MATTERS

The regulations adopted by this Treasury decision impose no new reporting burdens or recordkeeping requirements. The principal effect of the final regulations is to conform the Income Tax Regulations under sections 63 and 6654 of the Code to changes made by the Tax Reduction and Simplification Act of 1977. The Treasury Department will review these regulations from time to time in light of comments received from offices within the Treasury Department and Internal Revenue Service or from the public.

ADOPTION OF AMENDMENTS TO THE REGULATIONS

The amendments to 26 CFR Part 1 published as a notice of proposed rulemaking in the FEDERAL REGISTER for August 30, 1978 (43 FR 38725), are hereby adopted as proposed.

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

JEROME KURTZ,
Commissioner of Internal Revenue.

Approved: December 15, 1978.

DONALD C. LUBICK,
Assistant Secretary of the Treasury.

PARAGRAPH 1. Section 1.63 is deleted.

§ 1.63 [Deleted]

PAR. 2. The following new section is added immediately after § 1.62-1:

§ 1.63-1 Change of treatment with respect to the zero bracket amount and itemizes deductions.

(a) *In general.* An individual who files a return on which the individual itemizes deductions in accordance with section 63(g) may later make a change of treatment by recomputing taxable income for the taxable year to which that return relates without itemizing deductions. Similarly, an individual who files a return on which the individual computes taxable income without itemizing deductions may later make a change of treatment by itemizing deductions in accordance with section 63(g) in recomputing taxable income for the taxable year to which that return relates.

(b) *No extension of time for claiming credit or refund.* A change of treatment described in paragraph (a) of this section does not extend the period of time prescribed in section 6511 within which the taxpayer may make a claim for credit or refund of tax.

(c) *Special requirements if spouse filed separate return*—(1) *Requirements.* If the spouse of the taxpayer filed a separate return for a taxable year corresponding to the taxable year of the taxpayer, the taxpayer may not make a change of treatment described in paragraph (a) of this section for that year unless—

(i) The spouse makes a change of treatment on the separate return consistent with the change of treatment sought by the taxpayer; and

(ii) The taxpayer and the taxpayer's spouse file a consent in writing to the assessment of any deficiency of either spouse to the extent attributable to the change of treatment, even though the assessment of the deficiency would otherwise be prevented by the operation of any law or rule of law. The consent must be filed with the district director for the district in which the taxpayer applies for the change of treatment, and the period during which a deficiency may be assessed shall be established by agreement of the spouses and the district director.

(2) *Corresponding taxable year.* A taxable year of one spouse corresponds to a taxable year of the other spouse if both taxable years end in the same calendar year. If the taxable year of one spouse ends with death, however, the corresponding taxable year of the surviving spouse is that in which the death occurs.

(d) *Inapplicable if tax liability has been compromised.* The taxpayer may not make a change of treatment described in paragraph (a) of this section for any taxable year if—

(1) The tax liability of the taxpayer for the taxable year has been compromised under section 7122; or

(2) The tax liability of the taxpayer's spouse for a taxable year corresponding to the taxable year of the taxpayer has been compromised under section 7122. See paragraph (c)(2) of this section for the determination of a corresponding taxable year.

(e) *Effective date.* This section applies to taxable years beginning after 1976.

PAR. 3. Section 1.6654 is deleted.

§ 1.6654 [Deleted]

PAR. 4. Section 1.6654-2 is amended by revising paragraph (a)(2)(i), by revising the last sentence of paragraph (a)(2)(ii), and by adding new examples (8) and (9) at the end of paragraph (c). These revised and added provisions read as follows:

§ 1.6654-2 Exceptions to imposition of the addition to the tax in the case of individuals.

(a) *In general.* * * *

(2) * * *

(i) Taxable income shall be placed on an annualized basis—

(A) For taxable years beginning after 1976, by—

(*1*) Multiplying by 12 (or the number of months in the taxable year if less than 12) the adjusted gross income and the itemized deductions for the calendar months in the taxable year ending before the month in which the installment is required to be paid,

(*2*) Dividing the resulting amounts by the number of such calendar months,

(*3*) Increasing the amount of the annualized adjusted gross income by the unused zero bracket amount, if any, determined by reference to the annualized itemized deductions, or decreasing the amount of the annualized adjusted gross income by the excess

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itemized deductions, if any, determined by reference to the annualized itemized deductions (the amount resulting under this step is annualized tax table income), and

(*4*) Deducting from the annualized tax table income the deduction for personal exemptions (such personal exemptions being determined as of the date prescribed for payment of the installment).

If the taxpayer would be eligible to use the tax tables on the basis of annualized tax table income, the amount which would have been required to be paid for purposes of this subparagraph may be determined by applying the tax tables to annualized tax table income, the amount resulting under (3).

(B) For taxable years beginning before 1977, by—

(*1*) Multiplying by 12 (or the number of months in the taxable year if less than 12) the taxable income (computed without the standard deduction and without the deduction for personal exemptions), or the adjusted gross income if the standard deduction is to be used for the calendar months in the taxable year ending before the month in which the installment is required to be paid,

(*2*) Dividing the resulting amount by the number of such calendar months, and

(*3*) Deducting from such amount the standard deduction, if applicable, and the deduction for personal exemptions (such personal exemptions being determined as of the date prescribed for payment of the installment).

(*i*) • • • For this purpose, wages are annualized by multiplying by 12 (or the number of months in the taxable year in the case of a taxable year of less than 12 months) the wages for such calendar months and dividing the resulting amount by the number of such months.

• • • • •

(c) *Examples.* • • •

Example (*8*). C, an unmarried individual for whom another taxpayer is entitled to a deduction under section 151(e), has adjusted gross income of $4,000 for the period January 1, 1977, through August 31, 1977. All of C's income is non-exempt interest. For the same period C, who is entitled to one personal exemption, has itemized deductions amounting to $300. C is entitled to no credits other than the general tax credit. C filed a declaration of estimated tax on April 15, 1977, and on or before September 15, 1977, makes estimated tax payments for 1977 which total $460. For purposes of determining whether the exception described in paragraph (a)(2) of this section applies, the following computations are necessary:

Adjusted gross income for the period ending Aug. 31, 1977, on an annual basis ($4,000 × 12÷8)	$6,000.00
Itemized deductions for the period ending Aug. 31, 1977, on an annual basis ($300 × 12÷8)	450.00
Unused zero bracket amount computation required under sec. 63(e)(1)(D):	
Zero bracket amount	$2,200.00
Annualized itemized deductions	450.00
Unused zero bracket amount	1,750.00
Annualized adjusted gross income	6,000.00
Plus: unused zero bracket amount	1,750.00
Annualized tax table income	7,750.00
Tax from tables	757.00
Amount specified in paragraph (a)(2) of this section (¾ × 80 pct. × $757)	454.20

The exception described in paragraph (a)(2) applies, and no addition to tax will be imposed.

Example (*9*). An unmarried taxpayer entitled to one exemption, has adjusted gross income of $16,000 and itemized deductions of $2,000 for the period January 1, 1977, through August 31, 1977. D has no net earnings from self-employment and is entitled to no credits other than the general tax credit. D files a declaration of estimated tax on April 15, 1977, and on or before September 15, 1977, makes estimated tax payments for 1977 which total $3,000. For purposes of determining whether the exception in paragraph (a)(2) of this section applies, the following computations are necessary:

Adjusted gross income for the period ending Aug. 31, 1977, on an annual basis ($16,000 × 12÷8)	$24,000
Itemized deductions for the period ending Aug. 31, 1977 on an annual basis ($2,000 × 12÷8)	3,000
Annualized itemized deductions	$3,000
Minus zero bracket amount	2,200
Excess itemized deductions	800
Annualized adjusted gross income	24,000
Minus excess itemized deductions	800
Annualized tax table income	23,200
Minus: Personal exemption	750
Annualized taxable income	22,450
Tax under sec. 1(c) on annualized taxable income	5,325
Minus: general tax credit	180
Total	5,145
Amount specified in paragraph (a)(2) of this section (¾ × 80 pct. × $5,145)	3,087

The exception described in paragraph (a)(2) does not apply.

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[FR Doc. 79-343 Filed 1-3-79; 8:45 am]

[4830-01-M]

[T.D. 7586]

PART 5—TEMPORARY INCOME TAX REGULATIONS UNDER THE REVENUE ACT OF 1978

Treatment of Certain Capital Gains of Regulated Investment Companies and Real Estate Investment Trusts

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document provides temporary regulations relating to the treatment of certain capital gains by regulated investment companies, real estate investment trusts, and their shareholders. Changes to the applicable tax law were made by the Revenue Act of 1978. These regulations affect regulated investment companies, real estate investment trusts, and their shareholders and provide them with guidance needed to comply with the law.

EFFECTIVE DATES: The temporary regulations are effective for any taxable year of a regulated investment company or a real estate investment trust beginning after November 30, 1977, and ending before January 1, 1979. They are also effective for dividends paid after October 31, 1978, and before January 1, 1979, under sections 855, 858, 859 (as in effect prior to enactment of the Revenue Act of 1978) and 860 of the Internal Revenue Code of 1954.

FOR FURTHER INFORMATION CONTACT:

Kent J. Schreiner of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224 (Attention: CC:LR:T, 202-566-3803).

SUPPLEMENTARY INFORMATION:

BACKGROUND

This document contains temporary regulations relating to the treatment of certain capital gains by regulated investment companies, real estate investment trusts, and their shareholders. The temporary regulations are necessary because of the amendments made to section 1202 by section 402 of the Revenue Act of 1978 (Pub. Law 95-600, 92 Stat. 2867). Additional temporary regulations will be adopted relating to the treatment of capital gains by regulated investment companies, real estate investment trusts, and their shareholders and will apply with respect to taxable years ending after December 31, 1978. The additional temporary regulations will also apply to dividends paid after December 31, 1978, under sections 855, 858, 859 (as in effect prior to enactment of the Revenue Act of 1978) and 860.

EXPLANATION OF PROVISIONS

Section 402 of the Revenue Act of 1978 amends section 1202 of the Code (relating to deduction for capital gains) by increasing the deduction for capital gains from 50 percent to 60 percent of the amount of net capital gain. Section 1202(c) provides a transitional rule for determining the applicable deduction for capital gains for a taxpayer other than a corporation. Under the transitional rule, a deduction is allowed equal to 60 percent of the lesser of the net capital gain for the taxable year, or the net capital gain taking into account only sales and exchanges after October 31, 1978. The transitional rule also provides for a deduction equal to 50 percent of the excess of the net capital gain for the taxable year over the amount taken into account in computing the 60 percent deduction.

Under sections 852(b)(3)(B) and 857(b)(3)(B), capital gain dividends received by shareholders of a regulated investment company and real estate investment trust are treated as gain from the sale or exchange of a capital asset held for more than 1 year and are included in income in the taxable year of the shareholder in which the dividend is received. The temporary regulations require that the regulated investment company or real estate investment trust designate the portion of a shareholder's capital gain dividend that is to be taken into account in computing the 60 percent capital gain deduction. In making the designation, the regulated investment company or real estate investment trust must consider capital gain dividends as being made first from capital gains that can be taken into account in computing the 60 percent capital gain deduction, to the extent thereof, and then from capital gains that can be taken into account in computing the 50 percent capital gain deduction. The temporary regulations contain rules for determining a shareholder's proportionate share of the capital gain dividend.

Under section 852(b)(3)(D) a regulated investment company may designate an amount of undistributed capital gains that shareholders must include in gross income as gain from the sale or exchange of a capital asset held for more than 1 year. The temporary regulations prescribe the same rules for designated undistributed capital gains as those prescribed for capital gain dividends.

The Income Tax Regulations (26 CFR Part 1) under subchapter M, chapter 1 of the Code continue to apply while the temporary regulations provided by this document are effective. However, in cases where the temporary regulations contained in this document are inconsistent with such Income Tax Regulations, the temporary regulations are to apply.

WAIVER OF CERTAIN PROCEDURAL REQUIREMENTS

There is need for expeditious adoption of the provisions contained in this document because regulated investment companies, real estate investment trusts and their shareholders must be provided with immediate guidance in applying the short-term transitional rule provided by section 402 of the Revenue Act of 1978. For this reason, Jerome Kurtz, Commissioner of Internal Revenue, has determined that the provisions of paragraphs 8 through 14 of the Treasury Department directive implementing Executive Order 12044 must be waived.

DRAFTING INFORMATION

The principal author of this regulation is Kent J. Schreiner of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

ADOPTION OF AMENDMENTS TO THE REGULATIONS

Accordingly, the following new sections are adopted and inserted in Part 5, Temporary Income Tax Regulations Under the Revenue Act of 1978 (26 CFR Part 5):

§ 5.852-1 Treatment of certain capital gains of regulated investment companies with taxable years beginning after November 30, 1977, and ending before January 1, 1979, and of certain dividends paid after October 31, 1978, and before January 1, 1979.

(a) *Taxation of certain capital gains of shareholders of regulated investment companies*—(1) *In general.* Section 402 of the Revenue Act of 1978 increases the deduction for capital gains from 50 percent to 60 percent of the amount of net capital gain. Section 1202(c), as amended by the Revenue Act of 1978, contains a transitional rule for determining the applicable deduction for capital gains for a taxpayer other than a corporation and provides for capital gains to be classified as pre-November 1978 capital gain and post-October 1978 capital gain. Under section 852(b)(3)(B), capital gain dividends received by shareholders of a regulated investment company in respect of capital gains for a taxable year for which the company is taxable under part I, subchapter M, chapter 1 of the Code are treated as gain from the sale or exchange of a capital asset held for more than 1 year and are included in income in the taxable year of the shareholder in which the dividend is received. However, for a regulated investment company with a taxable year beginning after November 30, 1977, and ending before January 1, 1979, paying capital gain dividends with respect to such year, or for a regulated investment company with any taxable year distributing capital gain dividends under section 855 or 860 after October 31, 1978, and before January 1, 1979, the portion of a shareholder's capital gain dividend that is post-October 1978 capital gain is only the portion of the total dividend so designated by the regulated investment company pursuant to paragraph (b) of this section. Any capital gain dividend, or portion thereof, not designated post-October 1978 capital gain is to be considered pre-November 1978 capital gain. For dividends paid before November 1, 1978, for taxable years ending before November 1, 1978, see § 1.852-4. For definitions of "pre-November 1978 capital gain" and "post-October 1978 capital gain", see paragraph (d) of this section.

(2) *Undistributed capital gains.* A shareholder of a regulated investment company at the close of the company's taxable year for which it is taxable under part I, subchapter M, chapter 1 of the Code shall include in his gross income as gain from the sale or exchange of a capital asset held for more than 1 year any amount of undistributed capital gains designated by the company under section 852(b)(3)(D). Such amount shall be included in the shareholders' gross income for the taxable year that includes the last day of the taxable year of the regulated investment company for which the undistributed capital gains were designated. However, for undistributed capital gains designated for any taxable year of a regulated investment company beginning after November 30, 1977, and ending before January 1, 1979, the portion of each shareholder's designated undistributed capital gains that is post-October 1978 capital gain is only the portion so designated by the regulated investment company pursuant to paragraph (c) of this section. Any designated undistributed capital gains, or portion thereof, not designated post-October 1978 capital gain is to be considered pre-November 1978 capital gain. For undistributed capital gains designated for taxable years ending before November 1, 1978, see § 1.852-9.

(b) *Definition of capital gain dividend.* A capital gain dividend is any dividend, or part thereof, that is designated by a regulated investment com-

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pany as a capital gain dividend in a written notice mailed to its shareholders not later than 45 days after the close of its taxable year. A regulated investment company with a taxable year beginning after November 30, 1977, and ending before January 1, 1979, designating capital gain dividends with respect to such year, or a regulated investment company with any taxable year distributing capital gain dividends under sections 855 or 860 after October 31, 1978, and before January 1, 1979, must include in its written notice designating the capital gain dividend a statement showing the shareholder's proportionate share of the dividend that is post-October 1978 capital gain. In determining the portion of the capital gain dividend that is post-October 1978 capital gain, the regulated investment company shall consider that capital gain dividends for the taxable year are made first from its post-October 1978 capital gain, to the extent thereof, and then from its pre-November 1978 capital gain. For purposes of the preceding sentence, the company's post-October 1978 capital gain shall be allocated first to capital gain dividends, to the extent thereof, second to designated undistributed capital gains, to the extent thereof, and third to capital gains retained by the company that are not designated undistributed capital gains. The proportionate share of post-October 1978 capital gain of a shareholder is the amount that bears the same ratio to the amount paid to him as a capital gain dividend for the year as (1) the aggregate amount of the company's post-October 1978 capital gain paid to all shareholders bears to (2) the aggregate amount of the capital gain dividend paid for the year. Every regulated investment company shall keep a record of the proportion of each capital gain dividend (to which this paragraph applies) that is post-October 1978 capital gain.

(c) *Special procedural requirements applicable to designation under section 852(b)(3)(D).* A regulated investment company with a taxable year beginning after November 30, 1977, and ending before January 1, 1979, that designates undistributed capital gains for that year shall show on Form 2439 the shareholder's proportionate share of such gains that is considered post-October 1978 capital gain. In determining the shareholder's portion of the designated undistributed capital gains that is post-October 1978 capital gain, the company shall consider the designated amount as being first from its post-October 1978 capital gain, to the extent thereof, and then from its pre-November 1978 capital gain. For purposes of the preceding sentence, the company's post-October 1978 capital gain shall be allocated first to capital gain dividends, to the extent thereof, second to designated undistributed capital gains, to the extent thereof, and third to capital gains retained by the company that are not designated undistributed capital gains. A shareholder's proportionate share of undistributed capital gains for a taxable year that is from post-October 1978 capital gain is the amount that bears the same ratio to the amount included in his income as designated undistributed capital gains for the year as (1) the aggregate amount of the company's post-October 1978 capital gain for the year designated as undistributed capital gains bears to (2) the aggregate amount of the company's gains for the year that are designated as undistributed capital gains. Every regulated investment company shall keep a record of the proportion of undistributed capital gains (to which this paragraph applies) that is from post-October 1978 capital gain.

(d) *Definitions*—(1) *Post-October 1978 capital gain.* For purposes of this section, the term "post-October 1978 capital gain" means net capital gain described in section 1202(c)(1), as amended by the Revenue Act of 1978.

(2) *Pre-November 1978 capital gain.* For purposes of this section, the term "pre-November 1978 capital gain" means net capital gain described in section 1202(c)(2), as amended by the Revenue Act of 1978.

(e) *Other applicable regulations.* In general, the Income Tax Regulations (26 CFR Part 1) under part I, subchapter M, chapter 1 of the Code shall apply to the treatment of capital gains by regulated investment companies. However, in any case where this section is inconsistent with such Income Tax Regulations, this section is to apply.

(f) *Example.* The rules of this section are illustrated by the following example:

Example. XYZ Company, a regulated investment company making its return on the calendar year basis, realized the following capital gains and losses during 1978:

	July	November
Long term capital gain	$600	$1500
Long term capital loss	100	200
Short term capital gain	300	100
Short term capital loss	0	300
Total 1978 net capital gain	$1800	

XYZ Company distributes $1000 to its shareholders as a capital gain dividend, designates $500 as undistributed capital gains, and retains the remaining $300 of capital gains. Under paragraph (a) of this section, the portion of a shareholder's capital gain dividend that is post-October 1978 capital gain is only the portion designated as post-October 1978 capital gain by the company. Under paragraph (b) of this section, the company must consider that capital gain dividends for 1978 are made first from post-October 1978 capital gain, to the extent thereof, and then from pre-November 1978 capital gain. Further, under paragraphs (b) and (c) of this section, the company's post-October 1978 capital gain must be allocated first to capital gain dividends, to the extent thereof, second to designated undistributed capital gains, to the extent thereof, and third to capital gains retained by the company that are not designated undistributed capital gains.

Under paragraph (d)(1) of this section, post-October 1978 capital gain is defined as the net capital gain described in section 1202(c)(1) or $1100 (the lesser of $1800 net capital gain for 1978 or $1100 net capital gain taking into account sales and exchanges after October 31, 1978). Under paragraph (d)(2) of this section, pre-November 1978 capital gain is defined as the net capital gain described in section 1202(c)(2) or $700 (the excess of $1800 net capital gain for 1978 over $1100 taken into account in computing post-October 1978 capital gain).

Thus, of the $1000 distributed as capital gain dividend, $1000 must be designated as post-October 1978 capital gain and $0 is pre-November 1978 capital gain. Of the $500 designated undistributed capital gain, $100 is post-October 1978 capital gain (the remaining post-October 1978 capital gain after taking into account capital gain dividends) and $400 is pre-November 1978 capital gain. The $300 capital gain retained by the company is all pre-November 1978 capital gain.

Under the rules of paragraph (b) of this section each shareholder's proportionate share of post-October 1978 capital gain distributed as a dividend is 100 percent of the capital gain dividend paid to him ($1000 post/October 1978 capital gain distributed to all shareholders divided by $1000 total capital gain paid for 1978). Similarly, each shareholder's proportionate share of post-October 1978 designated undistributed capital gain is 20 percent of the capital gain dividend paid to him ($100 post-October 1978 undistributed capital gains designated to all shareholders divided by $500 total designated as undistributed capital gains).

§ 5.852-2 Treatment of certain capital gains of regulated investment companies with respect to taxable years ending after December 31, 1978, and of certain dividends paid after December 31, 1978. [Reserved]

§ 5.857-1 Treatment of certain capital gains of real estate investment trusts with taxable years beginning after November 30, 1977, and ending before January 1, 1979, and of certain dividends paid after October 31, 1978, and before January 1, 1979.

(a) *Taxation of certain capital gains of shareholders of real estate investment trusts.* Section 402 of the Revenue Act of 1978 increases the deduction for capital gains from 50 percent to 60 percent of the amount of net capital gain. Section 1202(c), as amended by the Revenue Act of 1978, contains a transitional rule for determining the applicable deduction for

capital gains for a taxpayer other than a corporation and provides for capital gains to be classified as pre-November 1978 capital gain and post-October 1978 capital gain. Under section 857(b)(3)(B), capital gain dividends received by shareholders of a real estate investment trust in respect of capital gains for a taxable year for which the trust is taxable under part II, subchapter M, chapter 1 of the Code are treated as gain from the sale of exchange of a capital asset held for more than 1 year and are included in income in the taxable year of the shareholder in which the dividend is received. However, for a real estate investment trust with a taxable year beginning after November 30, 1977, and ending before January 1, 1979, paying capital gain dividends with respect to such year, or for a real estate investment trust with any taxable year distributing capital gain dividends under sections 858, 859 (as in effect prior to enactment of the Revenue Act of 1978) or 860 after October 31, 1978, and before January 1, 1979, the portion of a shareholder's capital gain dividend that is post-October 1978 capital gain is only the portion of the total dividend so designated by the real estate investment trust pursuant to paragraph (b) of this section. Any capital gain dividend or portion thereof, not designated post-October 1978 capital gain is to be considered pre-November 1978 capital gain. For dividends paid before November 1, 1978, for taxable years ending before November 1, 1978, see § 1.857-4. For definitions of "pre-November 1978 capital gain" and "post-October 1978 capital gain", see paragraph (c) of this section.

(b) *Definition of capital gain dividend.* A capital gain dividend is any dividend, or part thereof, that is designated by a real estate investment trust as a capital gain dividend in a written notice mailed to its shareholders not later than 30 days after the close of its taxable year. A real estate investment trust with a taxable year beginning after November 30, 1977, and ending before January 1, 1979, designating capital gain dividends with respect to such year, or a real estate investment trust with any taxable year distributing capital gain dividends after October 31, 1978, and before January 1, 1979, under sections 858, 859 (as in effect prior to enactment of the Revenue Act of 1978) or 860, must include in its written notice designating the capital gain dividend a statement showing the shareholder's proportionate share of the dividend that is post-October 1978 capital gain. In determining the portion of the capital gain dividend that is post-October 1978 capital gain, the real estate investment trust shall consider that capital gain dividends for the taxable year are made first from its post-October 1978 capital gain, to the extent thereof, and then from its pre-November 1978 capital gain. For purposes of the preceding sentence, the trust's post-October 1978 capital gain shall be allocated first to capital gain dividends to the extent thereof, and then to capital gains retained by the trust. The proportionate share of post-October 1978 capital gain of a shareholder is the amount that bears the same ratio to the amount paid to him as a capital gain dividend for the year as (1) the aggregate amount of the real estate investment trust's post-October 1978 capital gain paid to all shareholders bears to (2) the aggregate amount of the capital gain dividend paid for the year. Every real estate investment trust shall keep a record of the proportion of each capital gain dividend (to which this paragraph applies) that is post-October 1978 capital gain.

(c) *Definitions*—(1) *Post-October 1978 capital gain.* For purposes of this section, the term "post-October 1978 capital gain" means net capital gain described in section 1202(c)(1), as amended by the Revenue Act of 1978.

(2) *Pre-November 1978 capital gain.* For purposes of this section, the term "pre-November 1978 capital gain" means net capital gain described in section 1202(c)(2), as amended by the Revenue Act of 1978.

(d) *Other applicable regulations.* In general, the Income Tax Regulations (26 CFR Part 1) under part II, subchapter M, chapter 1 of the Code shall apply to the treatment of capital gains by real estate investment trusts. However, in any case where this section is inconsistent with such Income Tax Regulations, this section is to apply.

(e) *Example.* The rules of this section are illustrated by the following example:

Example. XYZ, a real estate investment trust making its return on the calendar year basis, realized the following capital gains and losses during 1978:

	July	November
Long term capital gain	$300	$1,500
Long term capital loss	100	200
Short term capital gain	0	100
Short term capital loss	300	300
Total 1978 net capital gain	$1,000	

XYZ distributes $900 to its shareholders as a capital gain dividend. Under paragraph (a) of this section, the portion of a shareholder's capital gain dividend that is post-October 1978 capital gain is only the portion designated as post-October 1978 capital gain by the trust. Further, under paragraph (b) of this section, the trust must consider that capital gain dividends for 1978 are made first from post-October 1978 capital gain, to the extent thereof, and then from pre-November 1978 capital gain.

Under paragraph (c)(1) of this section, post-October 1978 capital gain is defined as the net capital gain described in section 1202(c)(1) or $1,000 (the lesser of $1,000 net capital gain for 1978 or $1,100 net capital gain taking into account only sales and exchanges after October 31, 1978). Under paragraph (c)(2) of this section, pre-November 1978 capital gain is defined as the net capital gain described is section 1202(c)(2) or $0 (the excess of $1,000 net capital gain for 1978 over $1,000 taken into account in computing post-October 1978 capital gain).

Thus, of the $900 distributed as capital gain dividend, $900 must be designated as post-October 1978 capital gain and $0 (the total amount of pre-November 1978 capital gain) is pre-November 1978 capital gain.

Under the rules of paragraph (b) of this section each shareholder's proportionate share of post-October 1978 capital gain is 100% of the capital gain dividend paid to him ($900 post-October 1978 capital gain paid to all shareholders divided by $900 total capital gain dividend paid for 1978).

§ 5.857-2 Treatment of certain capital gains of real estate investment trusts with respect to taxable years ending after December 31, 1978, and of certain dividends paid after December 31, 1978. [Reserved]

There is need for the immediate guidance provided by the provisions contained in this Treasury decision. For this reason, it is found impracticable to issue this Treasury decision with notice and public procedure under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

JEROME KURTZ,
Commissioner of Internal Revenue.

Approved: December 28, 1978.

EMIL M. SUNLEY,
Acting Assistant Secretary of the Treasury.

[FR Doc. 78-36486 Filed 12-29-78 4:24 pm]

[4830-01-M]

SUBCHAPTER C—EMPLOYMENT TAXES

[T.D. 7588]

PART 31—EMPLOYMENT TAXES; APPLICABLE ON AND AFTER JANUARY 1, 1955

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PART 37—TEMPORARY EMPLOYMENT TAX REGULATIONS UNDER THE FOREIGN EARNED INCOME ACT

Wage Withholding on Remuneration for Which a Corresponding Deduction Is Allowable Under Section 913

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document provides Temporary Employment Tax Regulations relating to reduced income tax withholding on the remuneration of employees living abroad for which a corresponding deduction is allowable under section 913. Changes to the applicable tax law were made by the Foreign Earned Income Act of 1978. In addition, the rules contained in the temporary regulations set forth in this document also serve as a notice of proposed rulemaking by which the rules contained therein are proposed to be prescribed as final regulations.

DATES: These temporary regulations are effective on January 1, 1979. Written comments and requests for a public hearing must be delivered or mailed by March 16, 1979.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-212-78), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

Mary E. Dean of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, Attention: CC:LR:T, 202-566-3289, not a toll-free call.

SUPPLEMENTARY INFORMATION:

BACKGROUND

This document contains temporary regulations under section 3401(a)(18) of the Internal Revenue Code of 1954. The temporary regulations are necessary because of the amendment made to section 3401(a) by section 207(a) of the Foreign Earned Income Act of 1978 (92 Stat. 3097, 3108).

The regulations promulgated in this document are also proposed to be prescribed as final Employment Tax Regulations (26 CFR Part 31) under section 3401(a)(18) of the Internal Revenue Code of 1954.

EXPLANATION OF PROVISION

Section 3401(a)(18) provides that the term "wages" does not include remuneration paid to, or on behalf of, an employee if at the time of the payment it is reasonable to believe that a corresponding deduction is allowable under section 913 (relating to deduction for certain expenses of living abroad).

Section 37.3401(a)(18)-1(a)(2) of the temporary regulations provides for proration over the employee's taxable year of the reduction in wages subject to withholding. Section 37.3401(a)(18)-1(b) provides acceptable forms for written statements which the employee may furnish to the employer and upon which the employer may justifiably rely in determining whether the employee will meet the bona fide foreign residency or physical presence test of section 913. These statements are similar to the statements appearing in § 31.3401(a)(8)(A) of the Employment Tax Regulations (26 CFR Part 31) under section 3401(a)(8)(A) of the Code. Finally, § 37.3401(a)(18)-1(c) of the temporary regulations provides an acceptable form for a written statement upon which the employer may justifiably rely in determining the anticipated amount of the employee's deduction under section 913.

WAIVER OF PROCEDURAL REQUIREMENTS OF TREASURY DIRECTIVE

There is need for expeditious adoption of the provisions contained in this document because of the need for immediate guidance to employers and employees to whom section 3401(a)(18) applies in ascertaining the proper amounts to be treated as wages subject to income tax withholding. For this reason, Jerome Kurtz, Commissioner of Internal Revenue, has determined that the provisions of paragraphs 8 through 14 of the Treasury Department directive implementing Executive Order 12044 must be waived.

COMMENTS AND REQUESTS FOR A PUBLIC HEARING

Before adoption of the final regulations proposed in this document, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the FEDERAL REGISTER.

DRAFTING INFORMATION

The principal author of these regulations is Mary E. Dean of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

ADOPTION OF AMENDMENTS TO THE REGULATIONS

Accordingly, a new Part 37, Temporary Employment Tax Regulations under the Foreign Earned Income Act, is added to Title 26 of the Code of Federal Regulations and the following temporary regulations are adopted:

§ 37.3401(a)(18)-1 Remuneration for which a corresponding deduction is allowable under section 913.

(a) *General rule*—(1) *In general.* Remuneration paid for services performed outside the United States for an employer (other than the United States or any agency thereof) by a citizen or resident of the United States does not constitute wages and hence is not subject to withholding if, and to the extent that, at the time of the payment it is reasonable to believe that a corresponding deduction is allowable under the provisions of section 913, relating to deduction for certain expenses of living abroad. The reasonable belief contemplated by section 3401(a)(18) of the Internal Revenue Code of 1954, as added by section 207(a) of the Foreign Earned Income Act of 1978 (92 Stat. 3108), and this paragraph (a)(1) may be based upon any evidence reasonably sufficient to induce this belief, even though this evidence may be insufficient upon closer examination by the district director or the courts finally to establish that there is a corresponding deduction allowable under section 913 of the Internal Revenue Code of 1954. The reasonable belief is based upon the application of section 913. For rules relating to reasonable belief of an employer as to the availability to an employee of a section 913 deduction, see paragraph (b) of this section. For rules relating to reasonable belief of an employer as to the anticipated amount of section 913 deduction allowable to an employee, see paragraph (c) of this section. If a section 913 deduction is expected to be allowable to an employee for the year, the amount of the reduction in wages subject to withholding is determined in accordance with paragraph (a)(2) of this section.

(2) *Proration.* For purposes of this section, the portion of each payment of remuneration during the taxable year to an employee for services performed outside the United States which portion does not constitute wages is determined by prorating, as of the time of each payment, the then anticipated amount of the employee's deduction allowable under section 913 for the year, to the total then anticipated amount of payments of remuneration during the year to the employee for services outside the United States. Thus, that portion of each separate payment of remuneration which is not wages is determined by the following formula:

$$\frac{\text{Amount of sec. 913 deduction (anticipated for the taxable year)}}{\text{Total payments of remuneration for services outside the United States (anticipated for the taxable year)}} \times \text{The subject payment of remuneration for services outside the United States}$$

The remaining part of the payment of remuneration is wages and hence is subject to withholding, unless that remaining part is not wages under another provision of section 3401(a) of the Internal Revenue Code of 1954. For the purpose of applying this proration under this paragraph (a)(2), an employer is not required to ascertain or take account of information with respect to amounts of remuneration received by the employee from any other source. The proration provided by this paragraph (a)(2) may be illustrated by the following examples:

Example (1). Employee A, a calendar year taxpayer, reasonably expects to receive remuneration of $48,000 from employer B during 1980 for services performed outside the United States. A anticipates that A's section 913 deduction for 1980 will amount to $12,000. A's remuneration for January 1980 is $4,000. The amount of this payment of remuneration which does not constitute wages is $1,000, *i.e.*, ($12,000/$48,000 × $4,000). The remaining part of the remuneration, $3,000, is wages and is subject to withholding, unless that part is not wages under another provision of section 3401(a).

Example (2). Employee A, a calendar year taxpayer, reasonably expected on January 1, 1980, to receive remuneration of $48,000 from employer B during 1980 for services performed outside the United States. A anticipated that A's section 913 deduction for 1980 would amount to $12,000. For each of the first 6 months of 1980, A's remuneration was $4,000, and $1,000 of this remuneration did not constitute wages. On July 1, 1980, A first realizes that the anticipation of a $12,000 deduction under section 913 for 1980 was incorrect, and that instead A may reasonably expect that the section 913 deduction for 1980 will amount to $6,000. A's remuneration for July, 1980, is $4,000. The amount of this payment of remuneration which does not constitute wages is $500, *i.e.*, ($6,000/$48,000 × $4,000). The remaining part of the remuneration, $3,500, is wages and is subject to withholding, unless that part is not wages under another provision of section 3401(a).

(b) *Availability of section 913 deduction*—(1) *In general.* In order for a deduction to be allowable under section 913, an employee must satisfy the requirements of section 913(a)(1) or (2), relating, respectively, to bona fide residence of a United States citizen in a foreign country and to physical presence of a United States citizen or resident in a foreign country. For purposes of this section, a portion of a payment of remuneration may not constitute wages only if the employer reasonably believes that the employee-recipient of the payment will meet the residence requirement of section 913(a)(1) or the presence requirement of section 913(a)(2).

(2) *Statement of residence in a foreign country.* (i) The employer may, in the absence of cause for a reasonable belief to the contrary, presume that an employee will be a bona fide resident of a foreign country or countries, within the meaning of section 913(a)(1), for an uninterrupted period which includes each taxable year, or applicable portion thereof, of the employee in respect of which the employee properly executes and furnishes to the employer a statement in the following form:

Statement for claiming benefits of section 913(a)(1) for calendar year ——— or fiscal year beginning ——— and ending ———.

I am a citizen of the United States. I have been a bona fide resident of the following foreign country or countries namely, ———, for an uninterrupted period which began on ———, 19—.

I expect to remain a bona fide resident of a foreign country or countries from the date of this statement until the end of the taxable year in respect of which this statement is executed or, if not for that period, from the date of this statement until the following date within the taxable year, namely, ———, 19—.

On the basis of the facts in my case I have good reason to believe that, with respect to the above period of foreign residence falling within the taxable year, I will satisfy the bona fide foreign-residence requirement prescribed by section 913(a)(1) of the Internal Revenue Code of 1954.

In the event I become disqualified for the deduction provided by section 913(a) in respect of all or part of the above period of foreign residence falling within the taxable year, I will immediately notify my employer, giving sufficient facts to indicate the part, if any, of the period falling within the year in respect of which I am qualified for the deduction under section 913.

I understand that any reduction in withholding of tax permitted by reason of the furnishing of this statement is not a determination by the district director of internal revenue that any deduction is allowable under section 913.

I declare under the penalties of perjury that this statement has been examined by me and to the best of my knowledge and belief is true and correct.

———
(Signature of taxpayer)

Date: ———, 19—.

(ii) If the employer was entitled to presume for the 2 consecutive taxable years immediately preceding an employee's current taxable year that the employee was a bona fide resident of a foreign country or countries for an uninterrupted period which includes these preceding taxable years, the employer may, if the employee is residing in a foreign country on the first day of the current taxable year, presume, in the absence of cause for a reasonable belief to the contrary, and without obtaining from the employee the statement prescribed in subdivision (i) of this paragraph (b)(2), that the employee will be a bona fide resident of a foreign country or countries in the current taxable year.

(3) *Statement of presence in a foreign country.* The employer may, in the absence of cause for a reasonable belief to the contrary, presume that an employee will be present in a foreign country or countries during at least 510 full days during any period of 18 consecutive months within the meaning of section 913(a)(2), and that this period includes each taxable year, or applicable portion thereof, of the employee in respect of which the employee properly executes and furnishes to the employer a statement in the following form:

Statement for claiming benefits of section 913(a)(2) for calendar year ——— or fiscal year beginning ——— and ending ———.

J A 4 7 9 UMI

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I am a citizen or resident of the United States. Except for occasional absences which have not disqualified me for the benefit of section 913(a)(2) of the Internal Revenue Code of 1954, I have been present in the following foreign country or countries, namely, ———, during the period of time which began on ———, 19—.

I expect to be present in a foreign country or countries, except for occasional absences not disqualifying me for the benefit of section 913(a)(2), from the date of this statement until the end of the taxable year in respect of which this statement is executed or, if not for that period, from the date of this statement until the following date within the taxable year, namely, ———, 19—.

On the basis of the facts in my case I have good reason to believe that, with respect to the above period of presence in a foreign country or countries falling within the taxable year, I will satisfy the 510 full-day requirement prescribed by section 913(a)(2).

In the event I become disqualified for the deduction provided by section 913(a)(2) in respect of all or part of the above period of presence in a foreign country or countries falling within the taxable year, I will immediately notify my employer, giving sufficient facts to indicate the part, if any, of the period falling within the year in respect of which I am qualified for the deduction under section 913.

I understand that any reduction in withholding of tax permitted by reason of the furnishing of this statement is not a determination by the district director of internal revenue that any deduction is allowable under section 913.

I declare under the penalties of perjury that this statement has been examined by me and to the best of my knowledge and belief is true and correct.

———————————
(Signature of taxpayer)

Date: ———, 19—.

(c) *Amount of section 913 deduction.*—(1) *In general.* Section 913(a) allows a deduction for certain expenses of living abroad which is the sum of the amounts qualifying under section 913(b). For purposes of this section, a portion of a payment of remuneration may not constitute wages only if the employer has reasonable evidence of the anticipated amount of the employee's deduction allowable under section 913 for the taxable year.

(2) *Statement of amount of section 913 deduction.* The employer may, in the absence of cause for a reasonable belief to the contrary, presume that the anticipated deduction allowable under section 913 for a taxable year is correctly determined (and reasonably evidenced) when the employee properly executes and furnishes to the employer a statement in the following form:

Statement of anticipated deduction under section 913 for calendar year ——— or fiscal year beginning ——— and ending ———.

I anticipate that I will qualify for a deduction under section 913 of the following amounts:

(1) Qualified cost-of-living differential	
(2) Qualified housing expenses	
(3) Qualified schooling expenses	
(4) Qualified home leave travel expenses	
(5) Qualified hardship area deduction	
Total section 913 deduction anticipated	

I understand that the total entered above plus the total reported on any other statements outstanding with other employers, should not exceed my anticipated deduction under section 913 for the year.

I understand that the deduction allowed by section 913 shall not exceed my earned income from sources outside the United States for the portion of the taxable year in which my tax home is in a foreign country, reduced by the sum of—

(a) Any amounts of that earned income which are excluded from gross income under section 119, and

(b) Any amounts of deductions properly allocable to or chargeable against that earned income (whether or not excluded from gross income under section 119), other than the deduction allowed by section 913.

I understand that any reduction in withholding of tax permitted by reason of furnishing this statement is not a determination by the district director of internal revenue that any deduction is allowable under section 913.

I declare under the penalties of perjury that this statement has been examined by me and to the best of my knowledge and belief is true and correct.

———————————
(Signature of taxpayer)

Date: ———, 19—.

(3) *New statement.* The employee may furnish a new statement at any time during the taxable year when the employee reasonably anticipates that the amount of the deduction which will be allowable under section 913 has changed from the previous statement.

There is a need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impracticable to issue it with notice and public procedure under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

JEROME KURTZ,
Commissioner of Internal Revenue.

Approved:

EMIL M. SUNLEY,
Acting Assistant Secretary of the Treasury.

DECEMBER 29, 1978.

[FR Doc. 78-36484 Filed 12-29-78 4:24 pm]

[4910-14-M]

Title 33—Navigation and Navigable Waters

CHAPTER 1—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 78-74]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Overpeck Creek, N.J.

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the Consolidated Rail Corporation (Conrail) and the New York, Susquehanna and Western Railroad Company, the Coast Guard is changing the regulations governing the two railroad bridges at mile 0.0, Overpeck Creek, to require at least 24 hours notice at all times before the draws need open for the passage of vessels. This change is being made because of limited requests for the opening of these draws. This action will relieve the bridge owner of the burden of having a person constantly available to open the draw.

EFFECTIVE DATE: February 5, 1979.

FOR FURTHER INFORMATION CONTACT:

Frank L. Teuton, Jr., Chief, Drawbridge Regulations Branch (G-WBR/73), Room 7300, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590 (202-426-0942).

SUPPLEMENTARY INFORMATION: On June 22, 1978, the Coast Guard published a proposed rule (43 FR 26756) concerning this amendment. The Commander, Third Coast Guard District, also published these proposals as a Public Notice dated July 17, 1978. Interested persons were given until July 21, 1978 and August 21, 1978, respectively, to submit comments.

DRAFTING INFORMATION

The principal persons involved in drafting this rule are: Frank L. Teuton, Jr., Project Manager, Office of Marine Environment and Systems, and Mary Ann McCabe, Project Attorney, Office of the Chief Counsel.

DISCUSSION OF COMMENTS

Three comments were received. Two had no objection or no comment. The third letter from the New York, Susquehanna and Western Railroad Company requested that the first bridge across Overpeck Creek be identified as theirs rather than Conrail's and that it be regulated identically with the Conrail bridge next to it. The Coast Guard recognizes the validity of this request and the proposal is amended accordingly.

In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations is amended by revising § 117.225(f)(1) to read as follows:

§ 117.225 Navigable waters in the State of New Jersey; bridges where constant attendance of draw tenders is not required.

* * * * *

(f) * * *

(1) Overpeck Creek, Consolidated Rail Corporation and New York, Susquehanna and Western Railroad Company drawbridges. The draws of each bridge shall open on signal if at least 24 hours notice is given.

* * * * *

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5).)

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended, and OMB Circular A-107.

Dated: December 28, 1978.

J. B. HAYES,
Admiral, U.S. Coast Guard Commandant.

[FR Doc. 79-386 Filed 1-3-79; 8:45 am]

[3510-22-M]

Title 50—Wildlife and Fisheries

CHAPTER II—NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

HUMPBACK WHALE HARASSMENT IN THE HAWAIIAN ISLANDS AREA

Interpretation

AGENCY: National Oceanic and Atmospheric Administration, National Marine Fisheries Service.

ACTION: Notice of interpretation.

SUMMARY: The National Oceanic and Atmospheric Administration, National Marine Fisheries Service, interprets "taking by harassment" with regard to humpback whales (*Megaptera novaeangliae*) in waters adjacent to the islands of the State of Hawaii for purposes of imposing civil penalties under the Marine Mammal Protection Act of 1972, as amended, and the Endangered Species Act of 1973, as amended (the "Acts"). Those activities which will be presumed to constitute harassment of humpback whales under the Acts are defined.

DATE: This notice is effective on January 4, 1979, and this interpretation will be re-evaluated in April 1979.

COMMENTS: Comments on this interpretation are welcome. All comments should be mailed to: Gerald V. Howard, Regional Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, Calif. 90731. Telephone: 213-548-2575.

FOR FURTHER INFORMATION CONTACT:

Doyle E. Gates, Administrator, Western Pacific Program Office, National Marine Fisheries Service, P.O. Box 3830, 2570 Dole Street, Honolulu, Hawaii 96812. Telephone: 808-946-2181.

Martin B. Hochman, Southwest Regional Counsel, Southwest Regional Office, NOAA Office of General Counsel, 300 South Ferry Street, Room 2020, Terminal Island, Calif. 90731. Telephone: 213-548-2758.

SUPPLEMENTARY INFORMATION: As a result of commercial whaling during the first half of this century, the number of humpback whales (*Megaptera novaeangliae*) in the North Pacific is seriously reduced from former levels. Population levels have declined from an estimated 15,000 in 1905 to a present estimate of 850. Humpback whales received protection in 1966 when the International Whaling Commission placed a prohibition on the commercial taking of them. In 1970, the humpback whale was designated an endangered species under the Endangered Species and Conservation Act of 1969. Humpback whales are now protected by the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the Convention on International Trade in Endangered Species of Wild Fauna and Flora, March 3, 1973 (T.I.A.S. No. 8249).

Estimates of the size of the stock of humpback whales that winters in Hawaiian waters range from 336 to 590 animals. This stock is believed to represent approximately 60 percent of the estimated total North Pacific population.

Each year humpback whales begin arriving in the Hawaiian Islands area in late October. Their numbers peak in late January through February and remain fairly constant through mid-March. The whales return each year to the waters inside the 100-fathom curve surrounding the main Hawaiian Islands for the purposes of calving, nursing, and breeding. Their major areas of concentration are Penguin Bank; the waters bounded by the islands of Molokai, Lanai, Maui, and Kahoolawe; and the coastal waters of the island of Hawaii from Kamakamaka Point to Keahole Point. The annual northward migration begins in April, and by early June most of the humpbacks have left the Hawaiian Islands area.

The humpbacks presumably calve and breed in the Hawaiian Islands area because it offers the environmental conditions for calving and nursing most favored by the whales. Activities that force the humpback whales to abandon these breeding grounds may result in a substantially lower recruitment rate for an already severely reduced population.

While in the Hawaiian Islands area, the humpback whales are the subject of commercial photography, whale-watching tours, and scientific research. They are also affected by other human activities such as marine construction, commercial shipping, and turbidity resulting from agricultural activities. There is information that these activities may be adversely affecting the behavior and distribution of humpbacks. The whales appear to be abandoning some areas, and are becoming more difficult to approach in other areas. During the 1940's and 1950's, humpbacks were present between Wailupe and Koko Head on Oahu in numbers observed and recorded during that period by the Wailupe Whale Watch Organization. During the 1975-1976 calving and breeding season, virtually no whales were observed in this area.

Within the past five years, there have been at least nine special television programs and three record albums produced which focus on the humpback whales. This publicity has generated heightened public awareness, which in turn has resulted in a rapid expansion of whale-watching activities. According to reports received by the National Marine Fisheries Service, the number of encounters between whales and boats is increasing. Seminars and workshops are being advertised with the promise that the participants will be able to view humpback whales in their natural habitat, and the opportunity to see a humpback whale is becoming an increasingly important component of Hawaiian Islands tour promotions.

Both the Marine Mammal Protection Act of 1972 and the Endangered Species Act of 1973 prohibit the "taking" of humpback whales. By definition in the statutes, harassment is a form of "taking," although harassment is not separately defined. The Marine Mammal Protection Act of 1972 provides that a civil penalty of not more than $10,000 for each violation may be assessed against any

person violating any provision of the statute (16 U.S.C. 1375(a)). The Endangered Species Act of 1973 also provides for civil penalties of up to $10,000 (16 U.S.C. 1540(a)). Both Acts provide for criminal penalties under some circumstances.

Based in part on information developed by the Marine Mammal Commission workshop on humpback whales in July, 1977, and concerns expressed at two public hearings held by the National Marine Fisheries Service in the State of Hawaii in June, 1978, the National Marine Fisheries Service has developed this interpretation of "taking by harassment" to further protect the humpback whale population during its critical breeding and calving period in the Hawaiian Islands area, to define certain activities which will be presumed to constitute harassment of humpback whales under the Marine Mammal Protection Act and the Endangered Species Act, and to afford notice that actions defined in this notice will be subject to civil penalty proceedings under the Acts.

NOTICE OF INTERPRETATION OF "TAKING BY HARASSMENT" IN REGARD TO HUMPBACK WHALES IN THE HAWAIIAN ISLANDS AREA

AUTHORITY: Marine Mammal Protection Act of 1972, as amended, 16 U.S.C. 1361 *et seq.*, and the Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 *et seq.*

I. This notice applies to persons subject to the jurisdiction of the United States under the Marine Mammal Protection Act of 1972, as amended, and the Endangered Species Act of 1973, as amended, in waters adjacent to the islands of the State of Hawaii extending to 200 nautical miles.

II. Activities authorized by scientific research permits (see 50 CFR 220) are governed by the terms of the permits, including the requirement that permit holders are required to display triangular yellow pennants while engaging in permitted activities in these waters.

III. Each of the following activities is presumed to constitute "harassment" with respect to humpback whales under the Marine Mammal Protection Act of 1972, 16 U.S.C. 1362(3) and 1372(a), and the Endangered Species Act of 1973, 16 U.S.C. 1532(14) and 1538(a):

A. *Aircraft:* Approaching a humpback whale by flying lower than 1000 feet while within a horizontal distance of 300 yards from the humpback whale. "Flying" includes hovering, circling, or buzzing.

B. *Vessels, swimmers, and divers:*

1. In calving and breeding grounds—Approaching within 300 yards of a humpback whale, or herding or driving a humpback whale from any distance, in the following calving and breeding grounds (see map):

a. Lanai—all waters within two miles of the mean high water line from Kaena Point east by southeast, passing Halepalaoa Landing and Kikoa Point, to Kamaiki Point;

b. Maui—all waters inshore from a line drawn from Hekili Point at Olowalu southeast to Puu Olai.

2. In all areas subject to this notice other than the calving and breeding grounds described above—

a. Approaching within 100 yards of a humpback whale;

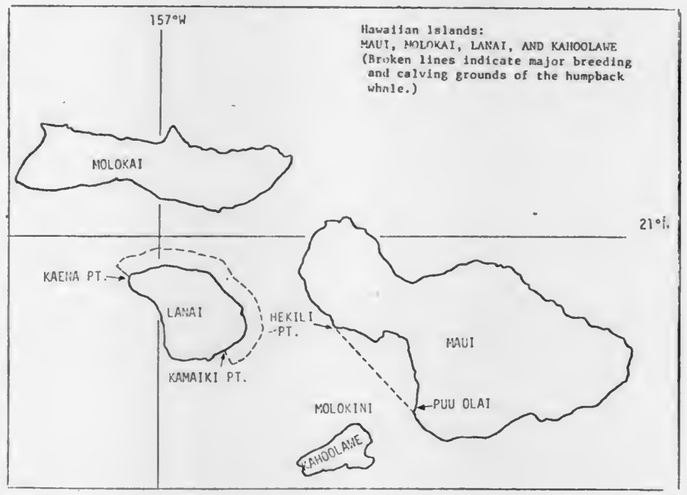
b. Traveling faster than a humpback whale, or the slowest whale in a group of whales, while between 100 and 300 yards of the whale or whales;

c. Multiple changes in vessel speed while between 100 and 300 yards of the whale;

d. Separating a whale from a calf;

e. Herding or driving whales.

C. Any other act or omission that substantially disrupts the normal behavioral pattern of a humpback whale is also presumed to constitute harassment. A substantial disruption of a normal behavioral pattern may be manifested by, among other actions on the part of the whale, a rapid change in direction or speed; escape tactics such as prolonged diving, underwater course changes, underwater exhalation, or evasive swimming patterns such as swimming away rapidly at the surface; stopping of breeding, nursing or feeding; attempts by a female or her escort to shield a calf from a vessel or a human observer by tail swishing or by other movements to protect a calf; or the abandonment of a previously frequented area.



Dated: December 28, 1978.

WINFRED H. MEIBOHM,
Acting, Executive Director,
National Marine Fisheries Service.

[FR Doc. 79-353 Filed 1-3-79; 8:45 am]

[3510-22-M]

CHAPTER VI—FISHERY CONSERVATION AND MANAGEMENT, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 611—FOREIGN FISHING REGULATIONS

PART 671—TANNER CRAB OFF ALASKA

Final Regulations for 1979

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Extension of effective date of regulations.

SUMMARY: This rule extends the effective date of the Fishery Management Plan (FMP) for Tanner crab off the coast of Alaska and regulations implementing the FMP from December 31, 1978 through October 31, 1979. The regulations are applicable to vessels of the United States and foreign nations fishing for Tanner crab off Alaska.

DATE: The regulations are extended until October 31, 1979.

FOR FURTHER INFORMATION CONTACT:

Harry L. Rietze, Regional Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99807, Telephone: (907) 586-7221.

SUPPLEMENTARY INFORMATION: The FMP for the commercial Tanner crab fishery which was prepared by the North Pacific Fishery Management Council was approved by the Secretary of Commerce (Secretary) and published in the FEDERAL REGISTER (FR) on May 16, 1978 (43 FR 21180). The FMP contained conservation and management measures for both the foreign and domestic Tanner crab fisheries off the coast of Alaska under authority of the Fishery Conservation and Management 1976 Act, as amended, 16 USC 1801 *et seq.* Proposed regulations to implement the plan were published on May 16, 1978 (43 FR 21170 regulating foreign vessels, and 43 FR 21171 regulating vessels of the United States). The FMP was designed to conserve and manage Tanner crab resources off the coast the Alaska during 1978.

On November 8, 1978 (43 FR 52034) an amendment extending the FMP through October 31, 1979 was published for public comment. The amendment made no changes in the management measures or specifications of optimum yield, domestic harvesting capacity or total allowable level of foreign fishing established in the 1978 FMP.

No comments were received on the amendment. No proposed regulations were published because the implementing regulations are unchanged from the regulations applicable to fishing for Tanner crab during 1978. The effect of this action is to repromulgate the 1978 regulations for the period from January 1, 1979 through October 31, 1979.

The regulations for 1979 are effective immediately for the following reasons:

(1) Lack of public comment indicates that the amendment raises no controversial issues;

(2) The regulatory measures imposed are unchanged from 1978, and no time is required to adjust to new requirements; and

(3) U.S. vessels fish for Tanner crab year-round, and the interest of conservation of the resource may be endangered if regulations are allowed to lapse.

The Assistant Administrator for Fisheries has determined that extending the effective date of the FMP and implementing regulations through October 31, 1979.

(1) Is necessary and appropriate to the conservation and management of Tanner crab resources off the coast of Alaska;

(2) Is consistent with the National Standards and other provisions of the Act and other applicable law;

(3) Does not constitute a major Federal action requiring the preparation of an environmental impact statement; and

(4) Does not require the preparation of a regulatory impact analysis under Executive Order 12044.

Because the applicable regulations were published in December 1978, the text is readily available and will not be republished at this time.

50 CFR 611.91 (43 FR 59292, 59320 December 19, 1978) applicable to vessels of foreign nations, and 50 CFR Part 671 (43 FR 57150, December 6, 1978) applicable to vessels of the United States, are extended for the period from January 1, 1979 through October 31, 1979.

Signed in Washington, D.C., this 28th day of December 1978.

WINFRED H. MEIBOHM,
Acting, Executive Director,
National Marine Fisheries Service.

[FR Doc. 79-360 Filed 1-3-79; 8:45 am]

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proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[3410-05-M]

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

[7 CFR Part 1421]

1979 CROP FLAXSEED PRICE SUPPORT PROGRAM

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Secretary of Agriculture is preparing to make determinations with respect to the price support program for 1979-crop flaxseed. These determinations are to be made pursuant to the Agricultural Act of 1949, as amended. The program will enable producers to obtain price support on 1979-crop flaxseed. Written comments are invited from interested persons.

DATES: Comments must be received on or before March 5, 1979, in order to be sure of consideration.

ADDRESSES: Acting Director, Production Adjustment Division, ASCS, USDA, Room 3630, South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

Harry A. Sullivan (ASCS) (202) 447-7951.

SUPPLEMENTARY INFORMATION: A. *Price support program and price support rate.* The Agricultural Act of 1949, as amended, authorizes the Secretary to make price support available to producers of flaxseed through loans, purchases or other operations at a level not in excess of 90 percent of the parity price. The Act requires that, in determining whether price support shall be made available and in determining the level of support, consideration be given to the supply of the commodity in relation to the demand therefore, the price levels at which other commodities are being supported, the availability of funds, the perishability of the commodity, in importance of the commodity to agriculture and the national economy, the ability to dispose of stocks acquired through such an operation, the need for offsetting temporary losses of export markets, and the ability and willingness of producers to keep supplies in the line with demand.

B. *Price support program availability dates.* The purchase availability dates for 1978-crop flaxseed are May 31, 1979, for Minnesota, North Dakota, South Dakota, and Montana, and April 30, 1979, for all other States.

C. *Detailed operating provisions.* Detailed operating provisions under which the present program for flaxseed is being carried out may be found in the regulations in Part 1421 of Title 7 of the Code of Federal Regulations.

PROPOSED RULE

The Secretary of Agriculture is considering the following determinations for 1979-crop flaxseed:

A. Whether price support shall be made available on 1979-crop flaxseed and the method of support.

B. The level of support to be established, and differentials for quality location, and other factors. It is contemplated that support rates for flaxseed will reflect market differentials under which flaxseed is merchandised (area and grade for instance).

C. Price support program availability dates.

D. Detailed operating provisions to carry out the program. Prior to making these determinations, consideration will be given to any data, views and recommendations submitted in writing to the Acting Director, Production Adjustment Division, Agricultural Stabilization and Conservation Service, USDA, Washington, D.C. 20250. All comments will be made available to the public at the office of the Acting Director, Production Adjustment Division, ASCS, USDA, during regular business hours (8:15 a.m. to 4:45 p.m.), Monday through Friday, in room 3630, South Building, 14th and Independence Avenue, S.W., Washington, D.C. (7 CFR 1.27 (b)).

NOTE: An approved Draft Impact Analysis is available for Harry A. Sullivan (ASCS) 202-447-7951.

NOTE: Based on an assessment of the environment impacts of the proposed action, it has been determined that an Environmental Impact Statement need not be prepared since the proposals will have no significant effect on the quality of the human environment.

Signed at Washington, D.C. on December 28, 1978.

RAY FITZGERALD,
Executive Vice President,
Commodity Credit Corporation.

[FR Doc. 79-314 Filed 1-3-79; 8.45 am]

[6210-01-M]

FEDERAL RESERVE SYSTEM

[12 CFR Part 226]

[Reg. Z, Docket No. R-0195]

TRUTH IN LENDING

Calculation and Disclosure of Annual Percentage Rates

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed revisions to Regulation Z regarding methods of calculating and disclosing annual percentage rates.

SUMMARY: This notice solicits comment on the requirements of Regulation Z with regard to the degree of precision and treatment of payment schedule variations in the calculation and disclosure of the annual percentage rate. The Board is reviewing the existing provisions in order to ascertain what changes, if any, may be necessary to provide greater uniformity and simplicity in the determination of this credit term. This publication describes certain problems, together with possible alternative solutions, and invites comment on these and other aspects of the annual percentage rate provisions. Specific regulatory changes resulting from this review will be proposed for comment at a later time.

DATE: Comments must be received on or before March 5, 1979.

ADDRESS: Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

FOR FURTHER INFORMATION CONTACT:

Dolores S. Smith, Section Chief, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-2412).

SUPPLEMENTARY INFORMATION: The Truth in Lending Act requires the Board to prescribe rules for determining and disclosing the annual percentage rate, as a measure of the cost of credit for consumer credit transactions. The present rules permit numerous variations in the computation methods. These variations result in a lack of uniformity which deprives consumers of a standard measure for comparing credit sources. Additionally, these variations cause uncertainty for creditors and difficulties in enforcement.

The Board believes that the present lack of uniformity arises primarily from the ways in which Regulation Z deals with two issues: (1) the degree of precision required in calculating and disclosing the annual percentage rate and (2) the treatment of irregularities in payment amounts and periods. The first issue relates both to the number of decimal places employed in computation and disclosure and to the limitation of disclosure options to either an exact or a rounded rate. The second issue involves the manner in which the creditor either takes specific account of variations in the payment schedule or, to the extent permitted, ignores those variations in computing the annual percentage rate.

Resolution of these issues may require a wide range of regulatory actions, including amendment or revocation of various provisions of the regulation, revocation and substitution of Board interpretations, and revisions of Supplement I and Volume I of the Board's Annual Percentage Rate Tables. In considering such extensive changes, the Board wishes to encourage a thorough public discussion which will address the likely impact of those changes and the extent to which commenters perceive the need for any changes at all. This notice describes specific problems which the Board has identified in the present annual percentage rate provisions and sets forth possible methods of resolving those problems. The options presented for each issue may not be mutually exclusive, nor do they constitute the only remedies which the Board might consider. After analysis of the comments received on this matter, the Board will determine which courses of action, if any, merit further consideration, and will propose for comment specific regulatory language to implement those changes.

The Board believes that all of the options discussed below could be implemented on the basis of its rulemaking authority under §§ 105 and 107 of the Truth in Lending Act, but welcomes comment on this matter as well.

I. TOLERANCE

The annual percentage rate for any credit transaction may be disclosed, under the existing rules, as an exact figure or rounded to the nearest one-quarter per cent. A number of methods for determining annual percentage rates are authorized by the current provisions of Regulation Z and various Board and staff interpretations. However, creditors disclosing a rate between these "Correct" rates could find themselves in violation of the regulation. For example, using one authorized computation procedure, a creditor might obtain an annual percentage rate of 9.13 per cent. Using another permitted calculation technique for the same transaction, the creditor might determine the annual percentage rate to be 9.20 per cent. Disclosure of either of these rates or a rounded rate of 9.25 per cent would be permissible but a creditor disclosing 9.23 per cent would be in violation of the regulation if 9.23 per cent was not determined by a specifically sanctioned computation method.

Another shortcoming of the rounding option is that the degree of protection afforded creditors is not uniform, since the margin of error diminishes as the true annual percentage rate approaches the quarter per cent. For example, an annual percentage rate of 9.12 per cent may be rounded down .12 percentage points to 9.00 per cent, while a 9.01 annual percentage rate may be rounded down only .01 percentage points.

Finally, where the exact annual percentage rate lies extremely close to the midpoint of the one-quarter per cent range, determining whether to round up or down to the nearest quarter of one per cent becomes an almost impossible task. For example, where the true annual percentage rate is near 9.125 per cent, an error of less than one thousandth of one per cent could result in an understatement at 9.00 per cent or an overstatement at 9.25 per cent.

In order to facilitate compliance and eliminate the inequities associated with the current rounding option, the Board is considering replacing this provision with a rule providing a tolerance for minor variations in rate computation methods and insignificant errors in disclosed annual percentage rates. In view of the complexities involved in establishing a workable rule, the Board requests comment on the following questions:

1. Should the tolerance be the same for overstatements and understatements, or should a greater tolerance be permitted for overstatements?

One argument for allowing a greater tolerance for overstatements is evidence indicating the existence of certain technical difficulties involving the production and use of rate charts and tables. These difficulties tend to produce substantial overstatements.

2. How much tolerance should be allowed? Should the tolerance prescribed be stated as a fixed amount (e.g., within one eighth of a percentage point from the true rate) or as a variable amount (e.g., as a percentage of the true rate)?

3. Should the same tolerance be prescribed for both closed end and open end credit transactions?

4. Should distinctions be made on the basis of length of maturity, credit amount, or other such factors? For example, should the same tolerance prescribed for a credit transaction of $1,000 maturing in one year also be applicable to a $50,000 credit extension with a maturity of thirty years?

5. Should distinctions be made between rates produced by charts and tables and those generated by potentially more accurate devices, such as computers and calculators?

6. How should the occasional slight differences between rates produced by the United States Rule and those produced by the actuarial method be accounted for in prescribing a tolerance?

Since application of the United States Rule sometimes produces a higher rate that the actuarial method for a given amount of finance charge, one alternative might be to measure the degree of overstatement allowed from the rate produced by the former method and determine the degree of permissible understatement based on the latter method.

7. Should the tolerance prescribed apply uniformly to all computation methods or should different treatment continue to be provided, as in the following cases:

(a) Charts and tables applicable to specific ranges or brackets of balances under § 226.5(c)(2)(iv) and

(b) The single add-on rate transaction method under Board Interpretation § 226.502.

8. Is the constant ratio method of rate computation authorized under § 226.5(e) still needed, or could this provision be deleted?

9. Should use of Volume I of the Board's Annual Percentage Rate Tables be restricted to transactions for which the annual percentage rate produced falls within the tolerance to be prescribed?

10. Are there other factors that the Board should consider in establishing a rule allowing a tolerance in annual percentage rate computations?

II. NUMBER OF DECIMAL PLACES

Presently, neither the Act nor the regulation provides definitive rules regarding the degree of precision required at various stages in the annual percentage rate computations or for disclosure purposes. Although such guidelines are contained implicitly in Supplement I to Regulation Z and in various Public Information Letters, the absence of specific requirements is

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a source of confusion in both open end and closed end credit.

The number of decimal places to which calculations are carried throughout the rate computation process drastically affects the accuracy of the disclosed annual percentage rate. Certain practices, including truncation or rounding of "significant" digits at interim steps in the calculation process, frequently result in significant distortions in the disclosed annual percentage rate. To eliminate this problem, the Board is considering adoption of a rule requiring disclosed annual percentage rates for all credit transactions to be rounded to two decimal places. In arriving at such rates, calculator and computer programs would be expected to carry all available digits throughout the calculations, rounding only the final result to two decimal places. Similarly, charts and tables would be required to provide listed factors that permit a determination of the annual percentage rate rounded to two decimals.

In open end credit, periodic rates used to compute the finance charge are also required to be disclosed. In this regard, the Board is considering adopting a rule requiring disclosure of the exact periodic rate applied.

III. Ignoring Irregularities

Regulation Z currently contains three "minor irregularities" provisions: § 226.5(d) and Board Interpretations §§ 226.503 and 226.505. These sections permit creditors to disregard certain variations in payment amounts and payment periods for purposes of determining the annual percentage rate, the amount of the finance charge, or both. That is, where the first payment period differs from the subsequent periods by no more than a specified number of days or where any one payment differs from the other payments by no more than a specified per cent, creditors have been permitted to ignore such variations, treating the odd period or amount as though it were regular.

Use of the minor irregularities provisions necessarily creates distortion in the annual percentage rate and the finance charge disclosed insofar as they allow that which is irregular to be treated as regular. Although the provisions were designed to minimize the distortion by limiting their applicability to differences within certain specified ranges, the variations produced can be considerable. This distortion is proportionately greater in short term transactions. For example, using the minor irregularities option, a variation of 10 days in the length of the first period in a transaction payable monthly will cause the annual percentage rate for a six month transaction to vary by approximately 10 per cent of the true rate; a one year transaction, approximately 5 per cent of the true rate; a two year transaction, approximately 2½ per cent of the true rate; a five year transaction, approximately 1 per cent of the true rate; and a thirty year transaction, approximately ⅓ per cent of the true rate.

The variability is increased by the fact that creditors are free to take advantage of the provisions when it is to their benefit to do so (e.g., treating short periods as regular) and to disregard them when it is advantageous to take specific account of irregularities (e.g., a long period). The variability is further increased by the fact that, for a given transaction, a lender has the option of using the minor irregularities provisions for both the annual percentage rate and the finance charge, for one and not the other, or for neither one.

The variation in rates and charges thus obtained under the current minor irregularities rules creates several problems. First, it impairs comparability of what are intended to be the two most important items of credit information to consumers, thus hampering credit shopping. It also considerably complicates administrative enforcement, in that examiners attempting to verify disclosed information must perform numerous calculations to see whether any one of several permissible approaches might yield the disclosed annual percentage rate or finance charge. Finally, due to their fairly technical nature, these provisions are often misunderstood.

In light of these considerations, the Board would like to receive public comment on the following options:

Option 1. Eliminate the current minor irregularities provisions altogether.

One argument in favor of this option, aside from those noted above with regard to the variety of results permitted, is that the need for these provisions has been greatly reduced as the sophistication and availability of tools capable of producing exact rates and charges have increased. The need for the protection offered by these provisions would be further reduced if certain other options suggested in this proposal are adopted. For example, if a uniform method of dealing with irregular periods is specified (see Section IV below), the task of accounting for the most common irregularity would be simplified. Allowance of a specified tolerance in the annual percentage rate accuracy requirement (see Section I above) could also minimize the need for the current minor irregularities provisions. If, for instance, there are irregularities which are truly so minor that ignoring them results in an annual percentage rate close enough to the true rate to fall within the specified tolerance, a creditor could continue to ignore those irregularities without violating the regulation.

An argument against Option 1 is that the minor irregularities provisions appear to be widely relied upon by creditors. Their elimination would put a greater burden on creditors to take specific account of payment schedule irregularities, even in those cases where the irregularities are caused by a desire to accommodate customer preferences (e.g., scheduling the first payment to coincide with a payday).

Option 2 Revise the minor irregularities provisions to permit only *overstatements* of the annual percentage rate and finance charge.

Within this option, several further choices could be made, for example:

(a) Should the provisions apply to both periods and payment amounts or just to periods? Under the latter, for example, the extra days in the period from the transaction date to the first payment could be ignored, but any variation in payment amount would have to be reflected.

(b) Should the provisions apply to both the annual percentage rate and the finance charge or to just one, for example, the annual percentage rate (so that irregularities could be disregarded for rate computation purposes, but the exact dollar amount of finance charge would have to be disclosed)? If applicable to both the annual percentage rate and the finance charge, should the creditor be required, for a given transaction, to use the minor irregularities provisions for both annual percentage rate and finance charge if it chooses to use it for either one?

(c) Should the "degree" of irregularity be limited in some way as in the current provisions (e.g., for a transaction payable monthly, allow a period of not more than 50 days to be treated as if it were regular)?

Since one of the problems with the current provisions is the variety of rates and charges they permit to be disclosed, this option would have the advantage of decreasing the number of permissible disclosures. In addition, customers would never be told that the rate or charge was lower than it actually was. Moreover, since creditors would be making disclosures that might put them at a competitive disadvantage (because they would be disclosing an annual percentage rate or finance charge higher than that actually imposed), use of the provision would be discouraged in competitive markets.

A major argument against this option is that such a provision would continue to allow inaccurate statements of the annual percentage rate and finance charge, thus impeding comparison shopping.

Option 3 Leave the substance of the current minor irregularities provisions unchanged, making only editorial revisions.

The provisions presently appear in three separate places in the regulation and Board interpretations. At a minimum, the rules could be restated more clearly in a single location.

Option 4 Adopt a new provision to allow slight payment schedule variations arising from particular practices to be disregarded in determining and disclosing the annual percentage rate, finance charge and schedule of payments.

There are a number of very slight payment schedule irregularities which arise from valid (even necessary) business practices, and which affect, however negligibly, the amount of certain required disclosures. One such irregularity is the difference between the final payment and all other payments in a simple interest loan, which difference results from the rounding of payment amounts to whole cents. This slight irregularity in the payment schedule is unavoidable, since creditors cannot collect fractions of pennies. Under the current regulation, however, a technical violation could result unless the precise amount of that final payment were computed and disclosed, and the finance charge adjusted accordingly.

Another example arises in certain transactions in which interest is paid on the outstanding balance and payments are made by payroll deduction. Although paydays may be scheduled, for example, on the 15th and the last day of the month, the employer may have a policy of advancing the payday if one of those dates falls on a Saturday, Sunday or holiday. The payment schedule would have occasional slight variations due to this practice as well as to the fact that the last day of the month varies. Under the current regulation, the creditor could not assume a uniform semi-monthly payment schedule, but would have to take account of the advanced payment dates.

The impact of such slight variations on the annual percentage rate may be small enough to allow such variations to be disregarded without causing the rate to fall outside the annual percentage rate tolerances discussed in Section I above. However, there are other non-rate disclosures, e.g., finance charge and total of payments, that are also affected by these variations. Option 4 would permit such variations to be ignored for disclosure purposes.

The Board would like public comment on whether such a provision would be appropriate and, if so, whether there are other similar practices resulting in slight payment schedule variations which should properly be included in the provision.

IV. Accounting for Irregularities

An irregularity occurs when an interval between advances or payments in a transaction is shorter or longer than the unit-period for that transaction. A unit-period is that time interval between advances or payments which occurs most frequently in the transaction. In the most common case, an odd first period is created when a transaction is consummated on a date which does not fall exactly one unit-period prior to the first payment or advance date. In cases where the minor irregularities provisions do not apply, or where the creditor chooses to account for these irregularities, the creditor must determine the number of days in the odd period and relate that number to a regular period.

Since no single method has ever been specified for making this calculation, creditors use a variety of methods. Among the methods commonly used by creditors to determine the length of an odd period are counting the actual number of days, counting on the basis of an assumed 30-day month and counting months and days in the period. The possible variations thus produced are further compounded by the creditor's choice of options in determining the fractional value of the odd days, which may be related either to 30 (assuming a standard month of 30 days) or to 365/12 (dividing the number of days per year by the number of months). These seemingly minor differences in accounting for odd days may produce significant variations in the resulting annual percentage rates.

The Board is considering the revision of Supplement I to specify a uniform method for determining the number of odd days and relating that number to a regular unit-period. In transactions involving a unit-period of a month, one suggested method is first to determine the number of whole months in the odd period by working back from the calendar date of an advance or payment to the corresponding calendar date in the previous month, and then to count forward the exact number of days from the beginning of the odd period to the first calendar date corresponding to the date of the payment or advance, as applicable. For example, in a transaction consummated on January 5 with the first monthly payment due on February 23, the creditor would count back from February 23 to January 23 as one full unit-period, and then count forward from January 5 through January 23, thus determining that there are 18 odd days in the first period. If this approach were adopted, Supplement I would also specify uniform rules for transactions involving other unit-periods.

Although this issue might assume greater importance if the minor irregularities provisions discussed above were revoked, it should be emphasized that retention of those provisions would not eliminate this issue. Odd periods must continue to be accounted for in those transactions in which the minor irregularities option is not chosen, or in which the number of odd days is beyond the ranges now permitted to be ignored.

V. Reliance on Charts and Tables

Under § 226.5(c)(3), an annual percentage rate or finance charge error that results from an error in the chart or table used by the creditor does not constitute a violation of Regulation Z, subject to certain conditions. Two issues have arisen regarding this provision. First, calculators and computer software are now used extensively for computation purposes, in substitution for charts and tables. However, as written, § 226.5(c)(3) appears to be available solely to users of charts and tables. Second, the Board's statutory authority for implementing this section, which protects creditors against civil liability under § 130 of the Truth in Lending Act, has been questioned.

The Board is considering the following alternative courses of action to resolve these issues:

Option 1 Rescind § 226.5(c)(3), making creditors using any computation tool equally liable for finance charge and annual percentage rate errors, without regard to the source of those errors.

Advances over the past ten years in calculator technology and chart production may warrant elimination of § 226.5(c)(3). This option would also accomodate, in the simplest and most direct fashion, the concerns expressed regarding both the unequal availability of the protection afforded by the present rule and the Board's authority to promulgate it.

Option 2 Amend § 226.5(c)(3) to extend its protection to any creditor using faulty software or a faulty calculator acquired or produced in good faith.

If this option is pursued, the Board may consider conditioning the availability of this protection on certain requirements, such as the maintenance of procedures reasonably adapted to detect or avoid errors and the adjustment of customers' accounts to correct such errors.

To aid in the consideration of these matters by the Board, interested persons are invited to submit relevant data, views, comments or arguments. Any such material should be submitted in writing to the Secretary, Board of Governors of the Federal Reserve

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System, Washington, D.C. 20551, to be received no later than March 5, 1979, and should include the docket number R-0195. The material submitted will be made available for public inspection and copying, except as provided in § 261.6(a) of the Board's Rules Regarding Availability of Information (12 C.F.R. 261.6(a)).

By order of the Board of Governors, December 22, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 79 345 Filed 1-2-79; 8:45 am]

[4910-13-M]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 18606]

AIRWORTHINESS DIRECTIVES

Avions Marcel Dassault—Breguet Aviation Falcon 10

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to adopt an Airworthiness Directive that would require modification of the passenger door control mechanism, on certain Avions Marcel Dassault Falcon 10 airplanes, by adding a sensor device and associated annunicator light to provide pilots with a visual indication that the passenger door control mechanism is fully engaged and by installing a protective guard around the door control pushbotton unlock mechanism. The proposed AD is needed to prevent the inadvertent opening of the door in flight due to its not being fully engaged or by inadvertent bumping of the unlock pushbotton.

DATES: Comments must be received on or before February 19, 1979.

ADDRESSES: Send comments on the proposal in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-24) Docket No. 18606, 800 Independence Avenue, S.W., Washington, D.C. 20591. The applicable service bulletin may be obtained from: Falcon Jet Corporation, 90 Moonachie Ave., Moonachie, New Jersey 07074. A copy of the service bulletin is contained in the Rules Docket, Rm 916, 800 Independence Avenue, S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Don C. Jacobsen, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, Telephone 513.38.30.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

There has been one report of flight operations conducted where the passenger door control mechanism was unlocked although door "closed" indicators indicated a safe condition. The FAA has determined that the possibility of an inadvertent in-flight opening of the passenger door on certain Avions Marcel Dassault Falcon 10 airplanes is increased because it is possible to get passenger door closed indication with the passenger door control mechanism unlocked or not fully engaged. Furthermore, the passenger door control mechanism unlocking pushbotton is not protected from inadvertent bumping by persons moving about in the cabin. Since this condition is likely to exist or develop on other airplanes of the same type design, the proposed AD would require installation of a microswitch sensor on the passenger door control mechanism and associated electrical circuitry to a "CABIN" annunciator light in the cockpit and the installation of a transparent cup around the passenger door control mechanism unlocking pushbotton on certain Falcon 10 airplanes.

THE PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation regulations 914 CFR 39.13) by adding the following new Airworthiness Directive:

AVIONS MARCEL DASSAULT—BREGUET AVIATION. Applies to Falcon 10 airplanes, Serial Numbers 1 through 122 except 118 and 121, certificated in all categories.

Compliance is required within the next 500 hours time in service after the effective date of this AD, unless already accomplished. To prevent inadvertent unlocking of the passenger door in flight, accomplish the following:

(a) Modify the passenger door control mechanism by installing a microswitch connected to a cockpit annunciator "CABIN" light and install a transparent cup around the passengers' door control mechanism unlocking pushbotton in accordance with Avions Marcel Dassault (AMD) Service Bulletin AMD-BA F10-0163 dated May 17, 1978, at Revision 1 dated June 9, 1978, or equivalent approved by the Chief, Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Region, c/o American Embassy, Brussels, Belgium.

(b) Revise the airplane maintenance manual and illustrated parts catalog for modifications performed in complying with paragraph (a) of this AD.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); 14 CFR 11.85).

NOTICE.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Washington, D.C., on December 26, 1978.

C. A. MCKAY,
Acting Director,
Flight Standards Service.

[FR Doc. 79-211 Filed 1-3-79; 8:45 am]

[4910-13-M]

[14 CFR Part 71]

[Airspace Docket No. 78-RM-25]

ESTABLISHMENT AND ALTERATION OF TRANSITION AREAS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice of proposed rulemaking (NPRM) proposes to establish a 700' transition area at Wagner, South Dakota, and lower the 9,500' floored airspace to a 1,200' transition area at Mitchell, South Dakota, to provide controlled airspace for aircraft executing the new NDB runway 26 standard instrument approach procedure developed for the Wagner Municipal Airport, Wagner, South Dakota.

DATES: Comments must be received on or before January 29, 1979.

ADDRESSES: Send comments on the proposal to: Chief, Air Traffic Division, Attn: ARM-500, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colorado 80010. A public docket will be available for examination by interested persons in the office of the Regional Counsel, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colorado 80010.

FOR FURTHER INFORMATION CONTACT:

Joseph T. Taber/Pruett B. Helm, Airspace and Procedures Specialists, Operations, Procedures and Airspace Branch (ARM-530), Air Traffic Division, Federal Aviation Administration, Rocky Mountain Region, 10455 East 25th Avenue, Aurora, Colorado 80010; telephone (303) 837-3937.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colorado 80010. All communications received will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

AVAILABILITY OF NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, S.W., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

THE PROPOSAL

The Federal Aviation Administration is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR part 71) by establishing a 700' transition area at Wagner, South Dakota and altering the 9,500' floored airspace to a 1,200' transition area at Mitchell, South Dakota to provide controlled airspace for aircraft executing the new NDB runway 26 standard instrument approach procedure developed for the Wagner Municipal Airport, Wagner, South Dakota.

At present, the Wagner Municipal Airport is Visual Flight Rule (VFR) only. As a result of the new NDB runway 26 standard instrument approach procedure developed for the Wagner Municipal Airport, it is necessary to change the status of subject airport VFR to Instrument Flight Rule (IFR) and develop a 700' and 1,200' transition area to provide controlled airspace for aircraft executing the NDB runway 26 standard instrument approach procedure. The 1,200' transition area will be expanded to include controlled airspace which is presently floored at 9,500' and will provide additional controlled airspace for air traffic control purposes and charting clarity.

It is proposed to make the establishment of the transition areas coincident with the effective date of the new standard instrument approach. Accordingly, the Federal Aviation Administration proposes the following amendments to Subpart g of part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

By amending 71.181 so as to establish and alter the following transition area to read:

WAGNER, SOUTH DAKOTA

That airspace extending upward from 700' above the surface within a 5 mile radius of the Wagner Municipal Airport (latitude 43°03'33"N., longitude 98°17'31"W.) and within 3 miles each side of the 086° bearing from Wagner Municipal Airport extending from the 5 mile radius area to 8 miles east of the airport.

MITCHELL, SOUTH DAKOTA

• • • and that airspace extending upward from 1,200' above the surface within 4.5 miles southwest and 9.5 miles northeast of the Mitchell VOR, latitude 43°46'37"N., longitude 98°02'14"W., 149° radial, extending from the VOR to 18.5 miles southeast of the VOR; and within 4.5 miles northeast and 9.5 miles southwest of the Mitchell VOR 300° radial, extending from the VOR to 18.5 miles northwest of the VOR; and that airspace southwest of Mitchell within the area bounded on the east by V-159, on the south by V-148 and Nebraska/South Dakota stateline, on the west by a line from latitude 43°00'00"N., longitude 99°00'00"W., direct to latitude 44°00'00"N., longitude 99°43'00"W., and on the north by the Pierre, South Dakota 1,200' transition area and V-120.

DRAFTING INFORMATION

The principal authors of this document are Joseph T. Taber/Pruett B. Helm, Air Traffic Division, and Daniel J. Peterson, Office of the Regional Counsel, Rocky Mountain Region.

This amendment is proposed under authority of section 307(a) of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1348(a)), and of Section 6 (c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

NOTE: The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Issued in Aurora, Colorado on December 19, 1978.

M. M. MARTIN,
Director,
Rocky Mountain Region

[FR Doc. 79-212 Filed 1-3-79; 8:45 am]

[4910-13-M]

[14 CFR Part 71]

[Airspace Docket No. 78-RM-33]

ALTERATION OF TRANSITION AREA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This Notice of Proposed Rulemaking (NPRM) proposes to alter the Williston, North Dakota 1,200' transition area to provide controlled airspace for aircraft executing the new RNAV runway 29 standard instrument approach procedure developed for the Sloulin Field International Airport, Williston, North Dakota.

DATES: Comments must be received on or before January 17, 1979.

ADDRESSES: Send comments on the proposal to: Chief, Air Traffic Division, Attn: ARM-500, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colorado 80010. A public docket will be available for examination by interested persons in the office of the Regional Counsel, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colorado 80010.

FOR FURTHER INFORMATION CONTACT:

Joseph T. Taber/Pruett B. Helm, Airspace and Procedures Specialists, Operations, Procedures and Airspace Branch (ARM-530), Air Traffic Division, Federal Aviation Administration, Rocky Mountain Region, 10455 East 25th Avenue, Aurora, Colorado 80010; telephone (303) 837-3937.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colorado 80010. All communications received will be considered before action is taken on the proposed amendment. No public hearing is contemplated at

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this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

AVAILABILITY OF NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, S.W., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

THE PROPOSAL

The Federal Aviation Administration is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the Williston, North Dakota 1,200' transition area. The present transition areas are inadequate in size to contain the new RNAV runway 29 standard instrument approach procedure developed for Sloulin Field International Airport, Williston, North Dakota. It is proposed to make the transition area's alteration effective coincident with the effective date of the new standard instrument approach. Accordingly, the Federal Aviation Administration proposes to amend Subpart G of the Federal Aviation Regulations Part 71 (14 CFR Part 71) as follows:

By amending § 71.181 so as to alter the following transition area to read:

WILLISTON, NORTH DAKOTA

• • • and that airspace extending upward from 1,200' above the surface within a 13-mile radius of the Williston VOR, latitude 48°15 12' N., longitude 103°45'01"W., extending from the Williston VOR 203° radial clockwise to the Williston VOR 088° radial, and within 9.5 miles southwest and 4.5 miles northeast of the Williston VOR 316° radial, extending from the 13 mile radius area to 18.5 miles northwest of the VOR, and within 45 miles of the Williston VOR extending clockwise from V-430 to V-439.

DRAFTING INFORMATION

The principal authors of this document are Joseph T. Taber/Pruett B. Helm, Air Traffic Division, and Daniel J. Peterson, Office of the Regional Counsel, Rocky Mountain Region.

This amendment is proposed under authority of section 307(a) of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1348(a)), and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655 (c)).

NOTE: The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Issued in Aurora, Colorado on December 19, 1978.

M. M. MARTIN,
Director,
Rocky Mountain Region.

[FR Doc. 79-213 Filed 1-3-79; 8:45 am]

[4910-13-M]

[14 CFR Part 71]

[Airspace Docket No. 78-ASW-55]

PROPOSED DESIGNATION OF TRANSITION AREA: GRUVER, TEX.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to designate a transition area at Gruver, Tex., to provide controlled airspace for aircraft executing a proposed instrument approach procedure to the Gruver Municipal Airport using a nondirectional radio beacon (NDB) to be located on the airport.

DATES: Comments must be received by February 5, 1979.

ADDRESSES: Send comments on the proposal to: Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101. The official docket may be examined at the following location: Office of the Regional Counsel, Southwest region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas. An informal docket may be examined at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Ken Stephenson, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, telephone: (817) 624-4911, extension 302.

SUPPLEMENTARY INFORMATION: Subpart G 71.181 (43 FR 440) of FAR Part 71 contains the description of transition areas designated to provide controlled airspace for the benefit of aircraft conducting IFR activity. Designation of the transition area at Gruver, Tex., will necessitate an amendment to this subpart.

COMMENTS INVITED

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101. All communications received on or before February 5, 1979 will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rule making (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, or by calling 817-624-4911, extension 302. Communications must identify the notice number of this MPRM. Persons interested in being placed on a mailing list for future NPRMs should contact the office listed above.

THE PROPOSAL

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate a transition area at Gruver, Tex. The FAA believes this action will enhance IFR operations at the Gruver Municipal Airport by providing controlled airspace for aircraft executing a proposed instrument approach procedure using the NDB to be located on the airport. Subpart G of Part 71 was republished in the Federal Register on January 3, 1978 (43 FR 440).

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (43 FR 440) by adding the Gruver, Tex., transition area as follows:

GRUVER, TEX.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the Gruver Municipal Airport (latitude 36°14'12" N., longitude 101°25'56" W.); within 3.5 miles each side of the NDB (latitude 36°14'01" N., longitude 101°25'42" W.) 019° bearing extending from the 5.5-mile radius area to 11.5 miles north of the NDB.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a); and Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 3, 1978).

Issued in Fort Worth, Texas, on December 20, 1978.

PAUL J. BAKER,
Acting Director,
Southwest Region.

[FR Doc. 79-216 Filed 1-3-79; 8:25 am]

[6750-01-M]

FEDERAL TRADE COMMISSION

[16 CFR Part 450]

ADVERTISING FOR OVER-THE-COUNTER DRUGS

Publication of Presiding Officer's Report Regarding Proposed Trade Regulation Rule

AGENCY: Federal Trade Commission.

ACTION: Publication of Presiding Officer's Report.

SUMMARY: On September 16, 1976, the presiding officer published in the FEDERAL REGISTER final notice of the proposed trade regulation rulemaking proceeding. The presiding officer's report, required by the Commission's Rules of Practice for Rulemaking consisting of his summary, findings and conclusions with regard to the issues designated by him in this proceeding has been made public and placed on the public record.

DATE: The 60-day period which the Commission's Rules of Practice for rulemaking provide for public comment on both the report by the presiding officer and the report of the staff will not commence until the staff's report has been made public and placed on the public record.

ADDRESS: Copies of the Presiding Officer's report may be obtained by writing a request to the Federal Trade Commission/SSD, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

Roger J. Fitzpatrick, Presiding Officer, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, 202-724-1045.

SUPPLEMENTARY INFORMATION: On September 16, 1976, the presiding officer published in the FEDERAL REGISTER (41 FR 39768) final notice of the proposed trade regulation rulemaking proceeding. The presiding officer's report, required by the Commission's Rules of Practice for rulemaking (16 CFR 1.13(f)) consisting of his summary, findings and conclusions with regard to those issues designated by him, has been made public and placed on Public Record 215-51. A limited number of copies of the presiding officer's report have been printed for distribution; to obtain a copy, address a request to the Federal Trade Commission/SSD, Washington, D.C. 20580.

When completed, the staff's report on the rulemaking record and its recommendations to the Commission also will be made public and notice thereof published in the FEDERAL REGISTER. The 60-day period which the Rules of Practice for Rulemaking (16 CFR 1.13(g)) provide for public comment on both the report by the presiding officer and the report of the staff will not commence until the staff's report has been made public and placed on the public record. Comment on the presiding officer's report alone would be considered premature at this time. The presiding officer's report has not been reviewed or adopted by either the Bureau of Consumer Protection or the Commission itself and its publication should not be interpreted as reflecting the present views of the Commission or any individual Commissioner.

Issued: January 3, 1979.

ROGER J. FITZPATRICK,
Presiding Officer.

[FR Doc. 79-318 Filed 1-3-79; 8:45 am]

[4710-02-M]

DEPARTMENT OF STATE

Agency for International Development

[22 CFR Part 211]

[A.I.D. Regulation 11]

TRANSFER OF FOOD COMMODITIES FOR USE IN DISASTER RELIEF AND ECONOMIC DEVELOPMENT, AND OTHER ASSISTANCE

Proposed Revision in Requirements

AGENCY: Agency for International Development (AID).

ACTION: Proposed rules.

SUMMARY: These proposed rules would amend A.I.D. Regulation 11, Transfer of Food Commodities for use in disaster relief and economic development, and other assistance, to conform it to amendments made to Title II of the Agricultural Trade Development and Assistance Act of 1954, as amended (Public Law 480), by the International Development and Food Assistance Act of 1977 (Pub. L. 95-88) and the Food and Agriculture Act of 1977 (Pub. L. 95-113); would add new provisions regarding responsibilities of voluntary agencies and commercial freight forwarders with respect to receipt and handling of Title II commodities at ports of export, requirements for surveying of bulk grain shipments, authority to reimburse voluntary agencies for costs of rebagging commodities in foreign countries, and modifications in record-keeping requirements for Title II emergency programs; and would make other minor changes in the regulation.

DATES: comments on these proposed rules must be received on or before February 5, 1979.

ADDRESS: Comments should be submitted to: Ms. Jessie C. Vogler, Office of Food for Peace, Bureau for Private and Development cooperation, Room 540, P.P. Bldg., Agency for International Development, Department of State, Washington, D.C. 20523.

FOR FURTHER INFORMATION, CONTACT:

Ms. Jessie C. Vogler, at the above address or by phone at (703) 235-9213 or 9214.

SUPPLEMENTARY INFORMATION: Under provisions of the Agricultural Trade Development and Assistance Act of 1954, as amended (Public Law 480), A.I.D. is authorized to provide agricultural commodities to foreign governments, U.S. and foreign Voluntary Agencies, or intergovernmental organizations to meet famine or other urgent or extraordinary relief requirements, to combat malnutrition, and to promote economic and community development. A.I.D. Regulation 11, 22 CFR Part 211—Transfer of Food Commodities for Use in Disaster Relief and Economic Development, and Other Assistance, contains the regulations prescribing the terms and conditions governing the transfer of U.S. agricultural commodities pursuant to Title II of Public Law 480. A.I.D. Regulation 11 was last published, in its entirety, in the FEDERAL REGISTER on November 1, 1976 (41 FR 47919-47927).

The proposed revisions listed below are intended to update A.I.D. Regulation 11 to reflect amendments to Title II of Public Law 480 contained in the International Development and Food Assistance Act of 1977 (Pub. L. 95-88)

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and the Food and Agriculture Act of 1977 (Pub. L. 95-113); to specifically authorize the reimbursement of the costs of rebagging Title II commodities in foreign countries in certain circumstances, and to better delineate the responsibilities of voluntary agencies and freight forwarders with respect to receipt and handling of Title II commodities, both at port of export and at time of arrival at destination port. The principal changes in the regulation are as follows:

1. The statutory excerpts in § 211.1(b), subsections (2) through (7) have been revised to conform them to changes in Public Law 480.

2. Section 211.2(c) has been revised to include foreign non-profit voluntary agencies registered with the Advisory Committee on Voluntary Foreign Aid within the terms "cooperating sponsor." Under the 1977 amendments registered foreign Private Voluntary Organizations (PVOs) were made eligible for receipt of Title II commodities when no registered U.S. Private Voluntary Organization is available to provide such assistance. Section 211.2(r) has also been revised to include foreign nonprofit voluntary agencies within the term "voluntary agency."

3. In Section 211.2(1), the words "expecting and lactating mothers" has been changed to "women of childbearing age" in order to more clearly reflect the intended beneficiaries of maternal pre-school feeding programs.

4. A new § 211.4(b)(3) has been added which delineates the specific responsibilities of voluntary agencies and freight forwarders they employ for cargoes arriving in trucks, rail cars or barges at U.S. loading ports. The new subsection specifies the type of documentation voluntary agencies are responsible for obtaining and other actions which must be taken at the time of arrival of Title II commodities at loading port. This provision would provide immediate information as to the condition of commodities and packaging upon arrival at foreign destination and would assist in determining the liability if and when any losses occur.

5. Section 211.4(c)(3) has been revised by deleting language relating to general average contributions, which is relocated to § 211.9(h); and adds new provisions authorizing reimbursement of ocean freight charges to inland points of entry in four situations. Regulation 11 and Section 203 of Public Law 480 previously authorized reimbursement to points of entry other than ports only in the case of landlocked countries.

6. Section 211.4(e), General Average, has been relocated to § 211.9(h) and § 211.4 (f) and (g) redesignated (e) and (f), respectively.

7. New provisions have been added to § 211.5(a) requiring, as part of cooperating sponsor program descriptions, information from which determination can be made that Title II programs will not have a disincentive effect on the domestic agricultural production of the recipient country and that adequate storage will exist for Title II commodities in the recipient country. Amendments to Public Law 480 now require such determinations to be made before Title II commodities may be made available.

8. Section 211.5(b) has been revised to include foreign private voluntary organizations in the requirement for a local representative responsible to such organization for the supervision and control of the program within the country of distribution.

9. A new § 211.7(e) has been added which authorizes the reimbursement of the costs (up to $500.00) of rebagging Title II commodities in a foreign country by cooperating sponsors when necessary to ensure that the commodity arrives at the distribution point in wholesome condition. Such costs exceeding $500.00 may be authorized by the USAID or Diplomatic Post in advance of repackaging unless such prior approval is specifically waived in writing. This new reimbursement authority was added because of Title II of Pub. L. 480 explicitly declares that one of the primary purposes of the Food for Peace Program is the use of the abundant agricultural productivity of the United States to combat hunger and malnutrition. The failure to repackage commodities held in damaged bags could well result in the loss of such items to the program itself.

10. Section 211.9(c)(1)(ii), relating to ocean carrier loss and damage, has been revised to more clearly state the responsibilities of cooperating sponsors with respect to the conduct of independent cargo surveys in the case of discharge of bulk grain shipments. Section 211.9(c)(1)(iv), which provides for a location for submitting certain reports, has been deleted and § 211.9(c)(1)(v) redesignated 211.9(c)(1)(iv).

11. Section 211.9(c)(2)(ii)(e) has been modified to raise from $400 to $600 the upper limit of a claim that voluntary agencies may terminate collection activity on without the prior approval of the Commodity Credit Corporation.

12. A new § 211.9(h) has been added consolidating in one place provisions regarding the handling of general average claims. This Section is substantially the same as the present § 211.4(e).

13. A new § 211.10(b)(5) and an additional sentence has been added to § 211.10(c) regarding reporting requirements and auditing for Title II emergency programs in which normal record-keeping requirements cannot be followed because of the emergency nature of the program. The new provision permits the Mission concerned to authorize alternative record-keeping methods if necessary which provide, nevertheless, for the recording of essential information necessary to account for Title II commodities in such situations. Inspections and audits of emergency programs are to take into account the circumstances under which such programs are carried out.

14. Other grammatical or minor confirming revisions have been made to Sections 211.5(c)(2), 211.7(a), 211.7(c), 211.9(c)(1)(iii), 211.9(c)(2)(ii)(a), 211.9(c)(2)(ii)(b) (1) and (2), 211.9(c)(2)(iii), 211.9(g), and 211.10(b)(2). Because of the substantial revisions proposed, the proposed A.I.D. Regulation 11, as revised, is printed below in its entirety.

It is proposed to revise 22 CFR Part 211 to read as follows:

PART 211—TRANSFER OF FOOD COMMODITIES FOR USE IN DISASTER RELIEF AND ECONOMIC DEVELOPMENT, AND OTHER ASSISTANCE

Sec.
- 211.1 General purpose and scope.
- 211.2 Definitions.
- 211.3 Cooperating sponsor agreements.
- 211.4 Availability of commodities.
- 211.5 Obligations of cooperating sponsors.
- 211.6 Processing, repackaging, and labeling commodities.
- 211.7 Arrangements for entry and handling in foreign country.
- 211.8 Disposition of commodities unfit for authorized use.
- 211.9 Liability for loss and damage or improper distribution of commodity.
- 211.10 Records and reporting requirements of cooperating sponsor.
- 211.11 Termination of program.
- 211.12 Waiver and amendment authority.

AUTHORITY: Secs. 105, 201, 202, 203, and 305, Agricultural Trade Development and Assistance Act of 1954, as amended, 7 U.S.C. 1705, 1721, 1722, 1723, and 1693; 68 Stat. 454, as amended.

SOURCE: A.I.D. Reg. 11, 41 FR 47919, Nov. 1, 1976, unless otherwise noted.

§ 211.1 General purpose and scope.

(a) *Terms and conditions.* This Part 211 contains the regulations prescribing the terms and conditions governing the transfer of agricultural commodities to foreign governments, U.S. voluntary agencies, or intergovernmental organizations (except the World Food Program and United Nations Relief and Works Agency) pursuant to Title II, the Agricultural Trade Development and Assistance Act of 1954, as amended (Pub. L. 480, 83rd Congress, as amended).

(b) *Legislation.* The legislation implemented by the regulations in this part is as follows:

(1) Section 2(3) of the Agricultural Trade Development and Asssistance Act of 1954, as amended, provides that in furnishing food aid, the President shall:

relate United States food assistance to efforts by aid-receiving countries to increase their own agricultural production, with emphasis on development of small, family farm agriculture, and improve their facilities for transportation, storage, and distribution of food commodities.

(2) Section 201 of the Agricultural Trade Development and Assistance Act of 1954, as amended, provides as follows:

(a) The President is authorized to determine requirements and furnish agricultural commodities on behalf of the people of the United States of America, to meet famine or other urgent or extraordinary relief requirements; to combat malnutrition, especially in children; to promote economic and community development in friendly developing areas, and for needy persons and nonprofit school lunch and preschool feeding programs outside the United States. The Commodity Credit Corporation shall make available to the President such agricultural commodities determined to be available under section 401 as he may request.

(b) The minimum quantity of agricultural commodities distributed under this title—(1) for fiscal years 1978 through 1980 shall be 1,600,000 metric tons, of which not less than 1,300,000 metric tons shall be distributed through nonprofit voluntary agencies and the World Food Program; (2) for fiscal year 1981 shall be 1,650,000 metric tons, of which not less than 1,350,000 metric tons shall be distributed through nonprofit voluntary agencies and the World Food Program; and (3) for fiscal year 1982 and each fiscal year thereafter shall be 1,700,000 metric tons, of which not less than 1,400,000 metric tons shall be distributed through nonprofit voluntary agencies and the World Food Program; unless the President determines and reports to the Congress, together with his reasons, that such quantity cannot be used effectively to carry out the purposes of this title: *Provided*, That such minimum quantity shall not exceed the total quantity of commodities determined to be available for disposition under this Act pursuant to section 401, less the quantity of commodities required to meet famine or other urgent or extraordinary relief requirements.

(3) Section 202 of the Agricultural Trade Development and Assistance Act of 1954, as amended, provides as follows:

(a) The President may furnish commodities for the purposes set forth in section 201 through such friendly governments and such agencies, private or public, including intergovernmental organizations such as the World Food Program and other multilateral organizations in such manner and upon such terms and conditions as he deems appropriate. The President shall, to the extent practicable, utilize nonprofit voluntary agencies registered with, and approved by, the Advisory Committee on Voluntary Foreign Aid. If no United States nonprofit voluntary agency registered with and approved by the Advisory Committee on Voluntary Foreign Aid is available, the President may utilize a foreign nonprofit voluntary agency which is registered with and approved by the Advisory Committee. Insofar as practicable, all commodities furnished hereunder shall be clearly identified by appropriate markings on each package or container in the language of the locality where they are distributed as being furnished by the people of the United States of America. Except in the case of emergency, the President shall take reasonable precaution to assure that commodities furnished hereunder will not displace or interfere with sales which might otherwise be made.

(b)(1) Assistance to needy persons under this title shall be directed, insofar as practicable, toward community and other self-help activities designed to alleviate the causes of need for such assistance.

(2) In order to assure that food commodities made available under this title are used effectively, indigenous workers shall be employed, to the extent feasible, to provide information on nutrition and conduct food distribution programs in the most remote villages.

(3) In distributing food commodities under this title, priority shall be given, to the extent feasible, to those who are suffering from malnutrition by using means such as (A) giving priority within food programs for preschool children to malnourished children, and (B) giving priority to the poorest regions of countries.

(4) Section 203 of the Agricultural Trade Development and Assistance Act of 1954, as amended, provides as follows:

The Commodity Credit Corporation may, in addition to the cost of acquisition, pay with respect to commodities made available under this title costs for packaging, enrichment, preservation, and fortification, processing, transportation, handling, and other incidental costs up to the time of their delivery free on board vessels in U.S. ports. Ocean freight charges from U.S. ports to designated ports of entry abroad; transportation from United States ports to designated points of entry abroad in the case (1) of landlocked countries, (2) where ports cannot be used effectively because of natural or other disturbances, (3) where carriers to a specific country are unavailable, or (4) where a substantial savings in cost or time can be effected by the utilization of points of entry other than ports; and charges for general average contributions arising out of the ocean transport of commodities transferred pursuant thereto.

(5) Section 204 of the Agricultural Trade Development and Assistance Act of 1954, as amended, provides in part as follows:

Programs of assistance shall not be undertaken under this title during any calendar year which call for an appropriation of more than $750,000,000[45] to reimburse the Commodity Credit Corporation for all costs incurred in connection with such programs (including the Corporation's investment in commodities made available) plus any amount by which programs of assistance undertaken under this title in the preceding calendar year have called or will call for appropriations to reimburse the Commodity Credit Corporation in amounts less than were authorized for such purpose during such preceding year.

In addition to other funds available for such purposes under any other act, funds made available under this title may be used in an amount not exceeding $7,500,000 annually to purchase foreign currencies accruing under title I of this Act in order to meet costs (except the personnel and administrative costs of cooperating sponsors, distributing agencies, and recipient agencies; and the costs of construction or maintenance of any church owned or operated edifice or any other edifices to be used for sectarian purposes) designed to assure that commodities made available under this title are used to carry out effectively the purposes for which such commodities are made available or to promote community and other self-help activities designed to alleviate the causes or the need for such assistance: *Provided, however*, That such funds shall be used only to supplement and not substitute for funds normally available for such purposes from other non-United States Government sources.

(6) Section 206 of the Agricultural Trade Development and Assistance Act of 1954, as amended, provides in part as follows:

Except to meet famine or other urgent or extraordinary relief requirements, no assistance under this title shall be provided under an agreement permitting generation of foreign currency proceeds unless (1) the country receiving the assistance is undertaking self-help measures in accordance with section 109 of this Act, (2) the specific uses to which the foreign currencies are to be put are set forth in a written agreement between the United States and the recipient country, and (3) such agreement provides that the currencies will be used for increasing the effectiveness of the programs of food distribution and increasing the availability of food commodities provided under this title to the neediest individuals in recipient countries. The President shall include information on currencies used in accordance with the section in the reports required under section 408 of this Act and section 657 of the Foreign Assistance Act of 1961.

(7) Section 401 of the Agricultural Trade Development and Assistance Act of 1954, as amended, provides as follows:

(a) After consulting with other agencies of the Government affected and within policies laid down by the President for implementing this Act, and after taking into account productive capacity, domestic requirements, farm and consumer price levels, commercial exports and adequate carryover, the Secretary of Agriculture shall determine the agricultural commodities and quantities thereof available for disposition under this Act, and the commodities and quantities thereof which may be included in the negotiations with each country. No commodity shall be available for disposition under this Act if such disposition would reduce the domestic supply of such commodity below that needed to meet domestic requirements, adequate carryover, and anticipated exports for dollars as determined by the Secretary of Agriculture at the time of exportation of such commodity, unless the Secretary of Agriculture determines that some part of the supply thereof should be used to carry

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out urgent humanitarian purposes of this Act.

(b) No agricultural commodity may be financed or otherwise made available under the authority of this Act except upon a determination by the Secretary of Agriculture that (1) adequate storage facilities are available in the recipient country at the time of exportation of the commodity to prevent the spoilage or waste of the commodity, and (2) the distribution of the commodity in the recipient country will not result in a substantial disincentive to domestic production in that country.

(8) Section 402 of the Agricultural Trade Development and Assistance Act of 1954, as amended, provides, in part, as follows:

The term "agricultural commodity" as used in this Act shall include any agricultural commodity produced in the United States or product thereof produced in the United States: *Provided, however,* That the term "agricultural commodity" shall not include alcoholic beverages, and for the purposes of title II of this Act, tobacco or products thereof. Subject to the availability of appropriations therefor, any domestically produced fishery product may be made available under this Act.

(9) Section 404 of the Agricultural Trade Development and Assistance Act of 1954, as amended, provides as follows:

The programs of assistance undertaken pursuant to this Act shall be directed toward the attainment of the humanitarian objectives and national interest of the United States.

(10) Section 405 of the Agricultural Trade Development and Assistance Act of 1954, as amended, provides as follows:

The authority and funds provided by this Act shall be utilized in a manner that will assist friendly countries that are determined to help themselves toward a greater degree of self-reliance in providing enough food to meet the needs of their people and in resolving their problems relative to population growth.

§ 211.2 Definitions.

(a) "AID" means the Agency for International Development or any successor agency, including, when applicable, each USAID. "USAID" means an office of AID located in a foreign country. "AID/W" means the Office of AID located in Washington, D.C.

(b) "CCC" means the Commodity Credit Corporation, a corporate agency and instrumentality of the United States within the U.S. Department of Agriculture.

(c) "Cooperating sponsor" means the foreign government, the U.S. registered nonprofit voluntary agency, the American National Red Cross, or the intergovernmental organization, which enters into an agreement with the U.S. Government for the use of agricultural commodities and/or funds (including local currencies), and which is directly responsible under the agreement for administration and implementation of and reporting on programs involving the use of the commodities and/or funds made available to meet the requirements of eligible recipients. The term also includes foreign nonprofit voluntary agencies registered with the Advisory Committee on Voluntary Foreign Aid entering into such agreements following a determination of unavailability of a U.S. registered nonprofit voluntary agency to provide the assistance.

(d) "Diplomatic Posts" means the offices of the Department of State located in foreign countries, and may include Embassies, Legations, and Consular offices.

(e) "Disaster relief organizations" means organizations which are authorized by AID/W, USAID, or by a Diplomatic Post to assist disaster victims.

(f) "Disaster victims" means persons who, because of flood, drought, fire, earthquake, other natural or man-made disasters, or extraordinary relief requirements, are in need of food, feed, or fiber assistance.

(g) "Duty free" means exempt from all customs duties, duties, tolls, taxes or governmental impositions levied on the act of importation.

(h) "Food for Peace Program Agreement" constitutes the agreement between the cooperating sponsor(s) and the U.S. Government. The Food for Peace Program Agreement may be specific, listing the kinds and quantities of commodities to be supplied, program objectives, criteria for eligibility of recipients, plan for distribution of commodities, and other specific program provisions in addition to the provisions set forth in this part; or it will state that the cooperating sponsor will comply with this part and such other terms and conditions as set forth in other AID programing documents.

(i) "Institutions" means nonpenal, public or nonprofit private establishments that are operated for charitable or welfare purposes where needy persons reside and receive meals, including, but not limited to, homes for the aged, mentally and physically handicapped, refugee camps, and leprosy asylums.

(j) "Intergovernmental organizations" means agencies sponsored and supported by the United Nations organization or by two or more nations, one of which is the United States of America.

(k) "Maternal-child feeding, primary school and other child feeding programs":

(1) Maternal and preschool feeding programs means programs conducted for women of child bearing age, for mothers with preschool children, and for children below the usual enrollment age for the primary grade at public schools.

(2) School feeding programs refers to programs conducted for the benefit of children enrolled in primary schools.

(3) Other child feeding programs refers to programs designed to reach preschool or primary school age, needy children in child care centers, orphanages, institutions, nurseries, kindergartens, and similar activities.

(l) "Nonprofit" means that the residue of income over operating expenses accruing in any activity, project, or program is used solely for the operation of such activity, project, or program.

(m) "Primary School" means a public or nonprofit facility, or an activity within such facility, which has as its primary purpose the education of children at education levels which are generally comparable to those of elementary schools in the United States.

(n) "Recipient agencies" means schools, institutions, welfare agencies, disaster relief organizations, and public or private agencies whose food distribution functions are sponsored by the cooperating sponsor and who receive commodities for distribution to eligible recipients. A cooperating sponsor may be a recipient agency.

(o) "Recipients" means persons who are in need of food assistance because of their economic condition or who are otherwise eligible to receive commodities for their own use in accordance with the terms and conditions of the Food for Peace Program Agreement.

(p) "Refugees" means persons who fled or were forced to leave their country of nationality or residence and are living in a country other than that of which they hold or have held citizenship or in a part of their country of nationality or residence other than that which they normally consider their residence, and become eligible recipients.

(q) "USDA" means the U.S. Department of Agriculture.

(r) "Voluntary Agency" means the American National Red Cross and any U.S. or foreign voluntary nonprofit agency registered with, and approved by, the Advisory Committee on Voluntary Foreign Aid of the Agency for International Development.

(s) "Welfare agencies" means public or nonprofit private agencies that provide care, including food assistance, to needy persons who are not residents of institutions.

§ 211.3 Cooperating sponsor agreements.

(a) *Food for Peace Program Agreement.* The cooperating sponsor shall enter into a written agreement with AID by assigning a Food for Peace Program Agreement which shall incorporate by reference or otherwise the terms and conditions set forth in this part.

(b) *Individual Country Food for Peace Program Agreement.* Voluntary agencies or intergovernmental organizations shall, in addition to the Food for Peace Program Agreement, enter into a separate written Food for Peace Agreement with the foreign government of each cooperating country. This agreement shall incorporate by reference or otherwise the terms and conditions set forth in this part; Provided, however, that where such written agreement is not feasible or practicable, the USAID or Diplomatic Post shall assure AID/W that the program can be effectively operated without such an agreement.

§ 211.4 Availability of Commodities.

(a) *Distribution and use of commodities.* Commodities shall be available for distribution and use in accordance with the provisions of the Food for Peace Program Agreement and this part.

(b) *Transfer of title and delivery.* (1) Unless the Food for Peace Program Agreement provides otherwise, title to the commodity shall pass to the cooperating sponsor at the time and place of delivery f.o.b. or f.a.s. vessels at the U.S. ports except that in the case of voluntary agencies and intergovernmental organizations, title may pass at the discretion of USDA at other points in the United States.

(2) Voluntary agencies and intergovernmental organizations shall make the necessary arrangements to accept commodities at the points of delivery designated by the USDA.

(3) For cargoes arriving in trucks, rail cars or barges at the U.S. loading port, voluntary agencies and intergovernmental organizations shall ensure that proper actions are taken and necessary documentation obtained to protect the interests of CCC. Voluntary agencies or intergovernmental organizations may employ freight forwarders to perform these functions and to obtain the necessary documents. If freight forwarders are employed, voluntary agencies or intergovernmental organizations shall ensure that the freight forwarders are advised of the provisions of this subparagraph and understand their responsibilities to CCC to properly perform the functions and/or to obtain the documents as provided herein. Voluntary agencies, intergovernmental organizations and/or freight forwarders shall be responsible for the following: to receive notices of arrival from the rail carrier; arrange to have the cargoes unloaded at the port within the free time period and document such arrangements; to receive and review rail carriers' demurrage bills and take appropriate action to have such bills paid by the liable party; to note and record any missing seal or seal discrepancy, and shortage and/or damage to cargo at the time of unloading; to immediately notify the representative of the carrier of any missing seal or seal discrepancy, shortage and/or damage; and to immediately reject damaged cargo to the representative of the carrier and advise the representative where the damaged cargo may be received. Notifications shall be immediately confirmed in writing to the carrier. Voluntary agencies, intergovernmental organizations and/or freight forwarders shall be responsible for obtaining the following documents:

(i) Arrival Notice for each conveyance, (ii) seal information, (iii) unloading tally for each rail car, truck or barge, as prepared by unloading personnel, (iv) Consignee's Receipt (form MP-269-B), (v) carrier's Over, Short and Damage Report, signed by carrier's representative, or other similar report, (vi) signed dock receipt, and (vii) copy of notifications to carrier.

The above documentation must be furnished to the appropriate USDA-ASCS Office within 15 days after unloading of a conveyance. Voluntary agencies, intergovernmntal organizations or freight fowarders who negligently fail to properly perform the functions stated herein shall be liable to CCC for losses or expenses incurred by CCC which cannot be otherwise collected or recovered by CCC because of the voluntary agencies or intergovernmental organizations or freight forwarders' failure to properly perform in accordance with the requirements herein stated.

(c) *Processing, handling, transportation and other costs.* (1) The United States will pay processing, handling, transportation, and other incidental costs incurred in making commodities available to cooperating sponsors free on board (f.o.b.) or free along side (f.a.s.) vessel at U.S. ports, or free at inland destinations in the United States except as otherwise provided in this paragraph (c).

(2) Voluntary agencies and intergovernmental organizations shall reimburse the United States for expenses incurred at their request and for their accommodation which are in excess of those which the United States would have otherwise incurred in making delivery (i) at the lowest combination of inland and ocean transportation costs to the United States as determined by the United States or (ii) in sizes and types of packages announced as available.

(3) All costs and expenses incurred subsequent to the transfer of title in the United States to cooperating sponsors except as otherwise provided herein shall be borne by them. Upon the determination that it is in the interests of the program to do so, the United States may pay or make reimbursement for ocean transportation costs from U.S. ports to the designated ports of entry aboard; or to designated points of entry abroad in the case (i) of landlocked countries, (ii) where ports cannot be used effectively because of natural or other disturbances, (iii) where carriers to a specific country are unavailable, or (iv) where a substantial savings in cost or time can be effected by the utilization of points of entry other than ports.

(d) *Transportation authorization.* A transportation authorization will be issued to cover the ocean freight paid directly by the United States. When CCC contracts for ocean carriage, disbursement to the carriers shall be made by CCC upon presentation of Standard Form 1113 and three copies of 1113A (Public Voucher for Transportation Charges), together with three copies of the related onboard ocean bill of lading, one copy of which must contain the following certification signed by an authorized representative of the steamship company:

I certify that this document is a true and correct copy of the original onboard ocean bill of lading under which the goods herein described were loaded on the above-named vessel and that the original and all other copies thereof have been clearly marked as not to be certified for billing.

.....
(Name of steamship co.)
By
(Authorized representative)

Such vouchers should be submitted to: Director Ocean Transportation Division, Office of the General Sales Manager, U.S. Department of Agriculture, Washington, D.C. 20250. Except for duty, taxes and other costs exempted in § 211.7 (a) and (b) of this part, voluntary agencies booking their own vessels will be reimbursed as provided in AID Regulation 2 (Part 202 of this chapter) for ocean freight authorized by the United States upon presentation to AID/W (or to a U.S. Bank holding an AID Letter of Commitment) of proof of payment to the ocean carrier.

(e) *Shipping instructions*—(1) *Shipments booked by CCC.* Request for shipment of commodities shall originate with the cooperating sponsor and shall be submitted to USAID or Diplomatic Post for clearance and transmittal to AID/W. AID/W shall, through cables, airgrams or letters to USAID or Diplomatic Posts, provide cooperating sponsors (and where applicable voluntary agency headquarters) with names of vessels, expected times of arrival (ETAs), and other pertinent information on shipments booked by CCC. At the time of exportation of

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commodities, applicable ocean bills of lading shall be sent airmail, or by the fastest means available, by the freight forwarder, representing CCC, to USDA, to USAID or Diplomatic Posts (and where applicable to USAID Controller, voluntary agency headquarters, and voluntary agency field representatives), and to the consignee in sufficient time to advise of the arrival of the shipment.

(2) *Shipments booked by voluntary agency or intergovernmental organization.* Requests for shipment of commodities shall originate with the cooperating sponsor and shall be cleared by the USAID or Diplomatic Post before transmittal to the voluntary agency's or intergovernmental organization's headquarters for concurrence and issuance. USAID or Diplomatic Post shall promptly clear voluntary agency and intergovernmental organization requests for shipment of commodities or, if there is reason for delay or disapproval, advise the cooperating sponsor and AID/W within seven (7) days of receipt of requests for shipment. After the voluntary agency or intergovernmental organization headquarters concurs in the request and issues the order, the original will be sent promptly to USDA with a copy to the USAID or Diplomatic Posts. Headquarters of voluntary agencies and intergovernmental organizations which book their own shipments shall provide their representatives and the USAID or Diplomatic Posts with the names of vessels, expected times of arrival (ETAs) and other pertinent information on shipments booked. At the time of exportation of commodities, applicable ocean bills of lading shall be sent airmail or by the fastest means available by the freight forwarder, representing the voluntary agency or intergovernmental organization, to USDA to the USAID or Diplomatic Post (and where applicable to USAID Controller and voluntary agencies' representatives), and to the consignee in the country of destination in sufficient time to advise of the arrival of the shipment. However, voluntary agencies will also forward cable advice of actual exportation to their program directors in countries within the Caribbean area which are supplied by vessels having a rapid and short run from U.S. port to destination.

(f) *Tolerances.* Delivery by the United States to the cooperating sponsor at point of transfer of title within a tolerance of 5 percent (2 percent in the case of quantities over 10,000 metric tons) plus or minus, of the quantity ordered for shipment shall be regarded as completion of delivery. There shall be no tolerance with respect to the ocean carrier's responsibility to deliver the entire cargo shipped and the United States assumes no obligation for failure by an ocean carrier to complete delivery to port of discharge.

§ 211.5 Obligations of cooperating sponsor.

(a) *Plan of operation.* Each cooperating sponsor shall submit to the USAID or Diplomatic Post for the approval of AID/W, within such times and on the forms prescribed by AID/W, a description of the programs it is sponsoring or proposes to sponsor. This description will provide basic information for preparation and amendment of Food for Peace Program Agreements and Individual Country Food for Peace Program Agreements and will include program purposes and goals, criteria for measuring program effectiveness, and other specific provisions in addition to those set forth in this Part. Further, this description will include information from which it may be determined that the distribution of commodities in the recipient country will not result in a substantial disincentive to domestic production and that adequate storage facilities are available in the recipient country at the time of exportation of the commodity to prevent the spoilage or waste of the commodity.

(b) *Program supervision.* Cooperating sponsors shall provide adequate supervisory personnel for the efficient operation of the program, including personnel to plan, organize, implement, control, and evaluate programs involving distribution of commodities, and, in accordance with AID guidelines, to make internal reviews, including warehouse inspections, physical inventories, and end-use checks. Maximum use of volunteer personnel shall be encouraged, but U.S. voluntary agencies shall be represented by a U.S. citizen, resident in the country of distribution or other nearby country approved by AID/W, who is appointed by and responsible to the voluntary agency for distribution of commodities in accordance with the provisions of this part. Intergovernmental organizations foreign nonprofit voluntary agencies and the American National Red Cross shall be represented by a person appointed by and responsible to these organizations for the supervision and control of the program in the country of distributions in accordance with the provisions of this part.

(c) *Internal Reviews*—(1) *Voluntary Agencies.* At intervals mutually agreed upon in writing by USAIDs or the Diplomatic Post and the voluntary agency as appropriate for good management, the voluntary agencies shall conduct or arrange to have conducted comprehensive internal reviews or a series of examinations which, when combined, will represent a complete review of the Title II program(s) under their jurisdiction. Copies of reports of these comprehensive examinations shall be submitted to USAIDs or Diplomatic Posts as required in § 211.10(b)(3).

(2) *Other Cooperating Sponsor.* In the case of programs administered by cooperating governments and intergovernmental organizations, responsibility for conducting internal audit examinations shall be determined by AID/W on a case by case basis. For records and reporting requirements for emergency programs see § 211.10(5).

(d) *Commodity requirements.* Each cooperating sponsor shall submit to the USAID or Diplomatic Post, within such times and on the form prescribed by AID/W, estimates of requirements showing the quantities of commodities required for each program proposed. Requirements shall be summarized for all programs in the country on a form prescribed by AID/W.

(e) *Determination of eligibility.* Cooperating sponsors shall be responsible for determining that the recipients and recipient agencies to whom they distribute commodities are eligible in accordance with the terms and conditions of the Food for Peace Program Agreement and this part. Cooperating sponsor shall impose upon recipient agencies responsibility for determining that the recipients to whom they distribute commodities are eligible. Commodities shall be distributed free of charge except as provided in paragraph (i) of this section, or as otherwise authorized by AID/W.

(f) *No discrimination.* Cooperating sponsors shall distribute commodities only to eligible recipient agencies and eligible recipients without regard to nationality, race, color, sex, or religious or political beliefs, and shall impose similar conditions upon distribution by recipient agencies.

(g) *Public recognition.* To the maximum extent practicable, and with the cooperation of the host government, adequate public recognitions shall be given in the press, by radio, and other media that the commodities have been furnished by the people of the United States. At distribution centers the cooperating sponsor shall, to the extent feasible, display banners, posters, or similar media which shall contain information similar to that prescribed for containers in § 211.6(c). Recipients' individual identification cards shall, insofar as practicable be imprinted to contain such information.

(h) *Containers*—(1) *Markings.* Unless otherwise specified in the Food for Peace Program Agreement, when commodities are packaged for shipment from the United States, bags and other containers shall be marked with the CCC contract number or other identification, the AID emblem and the following information stated in English and, as for as practicable, in the language of the country receiving the commodity:

(i) Name of the commodity.

(ii) Furnished by the people of the United States of America.

(iii) Not to be sold or exchanged (where applicable). Emblems or other identification of voluntary agencies and intergovernmental organizations may also be added.

(2) *Disposal of containers.* Cooperating sponsors may dispose of containers, other than containers provided by carriers, in which commodities are received in countries having approved Title II programs, by sale or exchange, or distribute the containers free of charge to eligible food or fiber recipients for their personal use. If the containers are to be used commercially, the cooperating sponsor must arrange for the removal or obliteration of U.S. Government markings from the containers prior to such use.

(i) *Use of funds.* In addition to funds accuring to cooperating sponsors from the sale of containers, funds may also be available from charges made in maternal, preschool, school and other child feeding programs where payment by the recipients will be encouraged on the basis of ability to pay. Funds from these sources shall be used for payment of program costs such as transportation, storage, (including the improvement of storage facilities and the construction of warehouses) handling, insect and rodent control, rebagging of damaged or infested commodities, and other program expenses specifically authorized by AID to carry out the objectives of the program for which the commodities were furnished. Funds may also be used for payment of indigenous and/or third country personnel employed by cooperating sponsors or recipient agencies in support of Title II programs. However, such funds may not be used to purchase land for sectarian purposes, to acquire or construct church buildings, or to make alterations in existing church-owned buildings. Actual out-of-pocket expenses incurred in effecting any sale of containers may be deducted from the sales proceeds.

(j) *No displacement of sales.* Except in the case of emergency or disaster situations, the donation of commodities furnished for these programs shall not result in increased availability for export by the foreign country on the same or like commodities and shall not interfere with or displace sales in the recipient country which might otherwise take place. A country may be exempt from this proviso if circumstances warrant. Missions should seek AID/W guidance on this matter.

(k) *Commodities borrowed or exchanged.* After the date of the program approval by AID/W, but before arrival at the distribution point of the commodities authorized herein, the cooperating sponsor may, with prior approval of the USAID or Diplomatic Post, borrow same or similar commodities from local sources to meet program requirements provided that: (1) Such of the commodities borrowed as are used in accordance with the terms of the applicable Food for Peace Program Agreement will be replaced with commodities authorized herein on an equivalent value basis at the time and place that the exchange takes place as determined by mutual agreement between the cooperating sponsor and the USAID or Diplomatic Post except, that at the request of the cooperating sponsor the USAID or Diplomatic Post may determine that such replacement may be made on some other justifiable basis; (2) packaged commodities which are borrowed shall be appropriately identified in the language of the country of distribution as having been furnished by the people of the United States; and (3) suitable publicity shall be given to the exchange of commodities as provided in paragraph (g) of this section and containers for borrowed commodities shall be marked to the extent practicable in accordance with § 211.6(c).

(l) *Commodity Transfer.* After the date of program approval by AID/W, but before distribution of the commodities authorized herein by the recipient agency, the USAID or the Diplomatic Post, or the cooperating sponsor with prior approval of the USAID or Diplomatic Post, may transfer commodities between approved Title II programs to meet emergency disaster requirements or to improve efficiency of operation; for example, to meet temporary shortages due to delays in ocean transportation, or to provide for rapid distribution of stocks in danger of deterioration. Transfers may also be made to disaster organizations for use in meeting exceptional circumstances. Commodity transfers shall be made at no cost to the U.S. Government and with the concurrence of the cooperating sponsor or disaster organization concerned. The USAID or the Diplomatic Post may, however, provide funds to pay the costs of transfers to meet extraordinary relief requirements in which case AID/W shall be advised promptly of the details of the transfer. Commodities transferred as described above shall not be replaced by the U.S. Government unless AID/W authorizes such replacement.

(m) *Disposal of excessive stock of commodities.* If commodities are on hand which cannot be utilized in accordance with the applicable Food for Peace Program Agreement, the cooperating sponsor shall promptly advise USAID or the Diplomatic Post of the quantities, location, and condition of such commodities, and, where possible shall propose an alternate use of the excess stocks, USAID or Diplomatic Post shall determine the most appropriate use of the excess stocks, and with prior AID/W concurrence, shall issue instructions for disposition. Transportation costs and other charges attributable to transferring commodities from one program to another within the country shall be the responsibility of the cooperating sponsor, except that in case of disaster or emergency, AID/W may authorize the use of disaster or emergency funds to pay for the costs of such transfers.

§ 211.6 Processing, repackaging, and labeling commodities.

(a) *Commercial processing and repackaging.* Cooperating sponsors may arrange for processing commodities into different end products and for packaging or repackaging commodities prior to distribution. When commercial facilities are used for processing, packaging or repackaging, cooperating sponsors shall enter into written agreements for such services. Except in the case of commodities and/or containers provided to foreign governments for sale under section 206 of the Act, the agreements must have the prior approval of USAID or Diplomatic Post in the country of distribution. Copies of the executed agreements shall be provided to the USAID or Diplomatic Post. Agreements for such services shall provide as a minimum that:

(1) No part of the commodities delivered to the processing, packaging, or repackaging company shall be used to defray processing, packaging, repackaging, or other costs, except as provided in paragraph (a)(2) of this section.

(2) When the milling of grain is authorized in the cooperating country, the United States will not pay any part of the processing costs, directly or indirectly, except that with the prior approval of AID/W, the value of the offal may be used to offset such part of the processing costs as it may cover.

(3) The party providing such services shall:

(i) Fully account to the cooperating sponsor for all commodities delivered to the processor's possession and shall maintain adequate records and submit perodic reports pertaining to the performance fo the agreement;

(ii) Be liable for the value of all commodities not accounted for as provided in § 211.9(g);

(iii) Return or dispose of the containers in which the commodity is received from the cooperating sponsor

according to instructions from the cooperating sponsor; and

(iv) Plainly lable cartons, sacks, or other containers containing the end product in accordance with paragraph (c) of this section.

(b) *Use of cooperating sponsor facilities.* When cooperating sponsors utilize their own facilities to process, package, or repackage commodities into different end products, and when such products are distributed for consumption off the premises of the cooperating sponsor, the cooperating sponsor shall plainly lable the containers as provided in paragraph (c) of this section, and banners, posters, or similar media which shall contain information similar to that prescribed in paragraph (c) of this section, shall be displayed at the distribution center. Recipients' individual identification cards shall to the maximum extent practicable be imprinted to contain such information.

(c) *Labeling.* If prior to distribution the cooperating sponsor arranges for packaging or repackaging donated commodities the cartons, sacks, or other containers in which the commodities are packed shall be plainly labeled with the AID emblem, in the language of the country in which the commodities are to be distributed with the following information:

(1) Name of commodity;

(2) Furnished by the people of the United States of America; and

(3) Not to be sold or exchanged (where applicable). Emblems or other identification of voluntary agencies and intergovernmental organizations may also be added.

(d) *Where commodity containers are not used.* When the usual practice in a country is not to enclose the end product in a container, wrapper, sack, etc., the cooperating sponsor shall, to the extent practicable, display banners, posters, or other media, and imprint on individual recipient identification cards information similar to that prescribed in paragraph (c) of this section.

§ 211.7 Arrangements for entry and handling in foreign country.

(a) *Costs at discharge ports.* Except as otherwise agreed upon by AID/W and provided in the applicable shipping contract or in paragraph (d) and (e) of this section, the cooperating sponsor shall be responsible for all costs, other than those assessed by the delivering carrier either in accordance with its applicable tariff for delivery to the discharge port or in accordance with the applicable charter or booking contract. The cooperating sponsor shall be responsible for all costs for (1) distributing the commodity as provided in the Food for Peace Program Agreement to end users, and (2) for demurage, detention, and overtime, and (3) for obtaining independent discharge survey reports as provided in § 211.9. The cooperating sponsor shall also be responsible for wharfage, taxes, dues, and port charges assessed against the cargo whenever assessed and collected by local authorities from the consignee, and for lighterage (when not a custom of the port), and lightening costs when assessed as a charge separate from the freight rate.

(b) *Duty, taxes, and consular invoices.* Commodities shall be admitted duty free and exempt from all taxes. Consular invoices shall not be required unless specific provision is made in the Food for Peace Program Agreement. If required, they shall be issued without cost to the cooperating sponsor or to the Government of the United States.

(c) *Storage facilities and transportation in foreign countries.* Cooperating sponsors shall make all necessary arrangements for receiving the commodities and assume full responsibility for storage and maintenance of commodities from time of delivery at port of entry abroad or, when authorized, at other designated points of entry abroad agreed upon between the cooperating sponsor and AID. Before recommending approval of a program to AID/W, USAID, or Diplomatic Post shall obtain from the cooperating sponsor, assurance that provision has been made for internal transportation, and for storage and handling which are adequate by local commercial standards. The cooperating sponsor shall be responsible for the maintenance of commodities in such manner as to assure distribution of the commodities in good condition to recipient agencies or eligible recipients.

(d) *Inland transportation in intermediate countries.* In the case of landlocked countries, transportation in the intermediate country to a designated inland point of entry in the recipient country shall be arranged by the cooperating sponsor unless otherwise provided in the Food for Peace Program Agreement or other program document. Voluntary agencies and intergovernmental organizations shall handle claims arising from loss or damage in the intermediate country, in accordance with § 211.9(e). Other cooperating sponsors shall assign any rights that they may have to any claims that arise in the intermediate country to USAID which shall pursue and retain the proceeds of such claims.

(e)(1) *Authorization for Reimbursement of Costs.* If, because of packaging damage, it is determined by a voluntary agency or intergovernmental organization that commodities must be repackaged to ensure that the commodities arrive at the distribution point in a wholesome condition, voluntary agencies and intergovernmental organizations may incur expenses for such repackaging up to $500.00 and such costs will be reimbursed to the voluntary agency or intergovernmental organization by CCC. If costs will exceed $500.00 the authority to repackage and incur the costs must be approved by the USAID or Diplomatic Post in advance of repackaging unless such prior approval is specifically waived in writing by the USAID or Diplomatic Post.

(2) *Method of Reimbursement.* (i) *Repackaging Required Because of Damage Occurring Prior to or During Discharge from the Ocean Carrier.* Costs of such reconstitution or repackaging should be included, as a separate item in claims filed against the ocean carrier (see 211.9(c)). Full reimbursement of such costs up to $500.00 will be made by CCC, Kansas City Commodity Office, upon receipt of invoices or other documents to support such costs. For amounts expended in excess of $500.00, reimbursement will be made upon receipt of supporting invoices or other documents establishing the costs of repackaging and showing the prior approval of the USAID or Diplomatic Post to incur the costs (unless approval waived, see § 211.7(e)(1) of this chapter).

(ii) *Repackaging Required Because of Damage Caused After Discharge of the Cargo from the Ocean Carrier.* Costs of such repackaging will be reimbursed to the agency or organization by CCC (USDA-ASCS Financial Management Division, 14th & Independence Avenue, Washington, D.C. 20250) upon receipt of documentation as set forth in § 211.7(e)(2) of this chapter.

§ 211.8 Disposition of commodities unfit for authorized use.

(a) *Prior to delivery to cooperating sponsor at discharge port or point of entry.* If the commodity is damaged prior to delivery to the cooperating sponsor (other than a voluntary agency or an intergovernmental organization) at discharge port or point of entry overseas, the USAID or Diplomatic Post shall immediately arrange for inspection by a public health official or other competent authority. If the commodity is determined to be unfit for human consumption, the USAID or Diplomatic Post shall dispose of it in accordance with the priority set forth in paragraph (b) of this action. Expenses incidental to the handling and disposition of the damaged commodity shall be paid by USAID or the Dispolmatic Post from the sales proceeds, from CCC Account No. 20 FT 401 or from special Title II, Pub. L. 480 Agricultural Commodity Account. The net proceeds of sales shall be deposited with the U.S. Disbursing Officer American Embassy, for the credit of CCC Account No. 20 FT 401.

(b) *After delivery to cooperating sponsor.* If after arrival in a foreign country it appears that the commodity, or any part thereof, may be unfit for the use authorized in the Food for Peace Program Agreement, the cooperating sponsor shall immediately arrange for inspection of the commodity by a public health official or other competent authority approved by USAID or the Diplomatic Post. If no competent local authority is available, the USAID or Diplomatic Post may determine whether the commodities are unfit for human consumption, and if so may direct disposal in accordance with paragraphs (b) (1) through (4) of this section. The cooperating sponsor shall arrange for the recovery for authorized use of that part designated during the inspection as suitable for program use. If, after inspection, the commodity (or any part thereof) is determined to be unfit for authorized use the cooperating sponsor shall notify USAID or the Diplomatic Post of the circumstances pertaining to the loss or damage as prescribed in § 211.9(f). With the concurrence of USAID or the Diplomatic Post, the commodity determined to be unfit for authorized use shall be disposed of in the following order of priority:

(1) By transfer to an approved Food for Peace Program for use as livestock feed. AID/W shall be advised promptly of any such transfer so that shipments from the United States to the livestock feeding program can be reduced by an equivalent amount:

(2) Sale for the most appropriate use, i.e., animal feed, fertilizer, or industrial use, at the highest obtainable price. When the commodity is sold all U.S. Government markings shall be obliterated:

(3) By donation to a governmental or charitable organization for use as animal feed or for other nonfood use: and

(4) If the commodity is unfit for any use or if disposal in accordance with subparagraph (b) (1), (2), or (3) of this section is not possible, the commodity shall be destroyed under the observation of a representative of USAID or Diplomatic Post, if practicable, in such manner as to prevent its use for any purpose. Expenses incidental to the handling and disposition of the damaged commodity shall be paid by the cooperating sponsor unless it is determined by the USAID or the Diplomatic Post that the damage could not have been prevented by the proper exercise of the cooperating sponsor's responsibility under the terms of the Food for Peace Program Agreement Actual expenses incurred in effecting any sale may be deducted from the sales proceeds and the net proceeds shall be deposited with the U.S. Disbursing Officer, American Embassy, with instructions to credit the deposit to CCC Account No. 20 FT 401. The cooperating sponsor shall promptly furnish USAID or the Diplomatic Post a written report of all circumstances relating to the loss and damage and shall include in this report, or a supplemental report, a certification by a public health official or other competent authority of the exact quantity of the damaged commodity disposed of because it was determined to be unfit for human consumption.

§ 211.9 Liability for loss and damage or improper distribution of commodities.

(a) *Fault cooperating sponsor prior to loading on ocean vessel.* If a voluntary agency or intergovernmental organization books cargo for ocean transportation and is unable to have a vessel at the U.S. port of export for loading in accordance with the agreed shipping schedule, the voluntary agencies and intergovernmental organizations shall immediately notify the USDA. The USDA will determine whether the commodity shall be (1) moved to another available outlet: (2) stored at the port for delivery to the voluntary agencies or intergovernmental organization until a vessel is available for loading: or (3) disposed of as the USDA may deem proper. When additional expenses are incurred by CCC as a result of a failure of the voluntary agency or intergovernmental organization, or their agent; (4) to meet the agreed shipping schedule, or (5) to make necessary arrangements to accept commodities at the points of delivery designated by CCC, and it is determined by CCC that the expenses were incurred because of the fault or negligence of the voluntary agency or intergovernmental organization, or their agents, the voluntary agency or intergovernmental organization shall reimburse CCC for such expenses or take such action as directed by CCC.

(b) *Fault of others prior to loading on ocean vessel.* Upon the happening of any event creating any rights against a warehouseman, carrier, or other person for the loss of or damage to a commodity occurring between the time title is transferred to a voluntary agency or intergovernmental organization and the time the commodity is loaded on board vessel at designated port of export, the voluntary agencies or intergovernmental organizations shall immediately notify CCC and promptly assign to CCC any rights to claims which may accrue to them as a result of such loss or damage and shall promptly forward to CCC all documents pertaining thereto. CCC shall have the right to initiate and prosecute, and retain the proceeds of all claims for such loss or damage.

(c) *Ocean carrier loss and damage—*(1) *Survey and outturn reports.* (i) Cooperating sponsors shall arrange for an independent cargo surveyor to attend the discharge of the cargo and to count or weigh the cargo and examine its condition, unless USAID or the Diplomatic Post determines that such examination is not feasible, or if CCC has made other provisions for such examinations and reports. The surveyor shall prepare a report of his findings showing the quantity and condition of the commodities discharged. The report shall also show the probable cause of any damage noted, and set forth the time and place when the examination was made. If practicable, the examination of the cargo shall be conducted jointly by the surveyor, the consignee, and the ocean carrier, and the survey report shall be signed by all parties. Customs receipts, port authority reports, shortlanding certificates, cargo boat notes, stevedore's tallies, etc., where applicable, shall be obtained and furnished with the report of the surveyor. The cooperating sponsor shall obtain a certification by public health official or similar competent authority as to (*a*) the condition of the commodity in any case where a damaged commodity appears to be unfit for its intended use; and (*b*) a certificate of disposition in the event the commodity is determined to be unfit for its intended use. Such certificates shall be obtained as soon as possible after discharge of the cargo. In any case where the cooperating sponsor can provide a narrative chronology or other commentary to assist in the adjudication of ocean transportation claims, such information should be forwarded. Cooperating sponsors shall prepare such a statement in any case where the loss is estimated to be in excess of $5,000.00. All documentation shall be in English or supported by an English translation and shall be forwarded as set forth in paragraph (c)(1) (iii) and (iv) of this section. The cooperating sponsor may, at his option, also engage the independent surveyor to supervise clearance and delivery of the cargo from customs or port areas to the cooperating sponsor or its agent and to issue delivery survey reports thereon.

(ii) In the event of cargo loss and damage, the cooperating sponsor shall provide the names and addresses of individuals who were present at the time of discharge and during survey and can verify the quantity lost or damaged. In the case of bulk grain shipments, the cooperating sponsor shall obtain the services of an independent surveyor to (*a*) observe the discharge of the cargo, (*b*) report on discharging techniques and furnish information as to whether cargo was carefully discharged in accordance with the cus-

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toms of the port, (c) estimate the quantity of cargo, if any, loss during discharge through carrier negligence, (d) advise quality of sweepings, (e) obtain copies of port and/or vessel records, if possible, showing quantity discharged, (f) provide immediate notification to cooperating sponsor if additional services are necessary to protect cargo interests or if surveyor has reason to believe that the correct quantity was not discharged. The cooperating sponsor, in the case of damage to bulk grain shipments, shall obtain and provide the same documentation regarding quality of cargo as set forth in § 211.8(a) of this chapter and paragraph (c)(1)(i) of this section. In the case of shipments arriving in container vans, cooperating sponsors shall require the independent surveyor to list the container van numbers and seal numbers shown on the container vans, and indicate whether the seals were intact at the time the container vans were opened, and whether the container vans were in any way damaged.

(iii) Cooperating Sponsors shall send copies of all reports and documents pertaining to the discharge of commodities to USDA.

(iv) CCC will reimburse the voluntary agencies and intergovernmental organizations for the costs incurred by them in obtaining the services of an independent surveyor to conduct examinations of the cargo and render the report set forth above. Reimbursement will be made when the surveyor's invoice or other documents that establish the survey cost are furnished to CCC. However, CCC will not reimburse voluntary agencies or intergovernmental organizations for the costs of only a delivery survey, in the absence of a discharge survey, or for any other survey not taken contemporaneously with the discharge of the vessel, unless such deviation from the documentation requirements of § 211.9(c)(1) is justified to the satisfaction of CCC.

(2) *Claims against ocean carriers.* (i) Irrespective of transfer of title to the commodities, CCC shall have the right to initiate and prosecute, and retain the proceeds of, all claims against ocean carriers for cargo loss and damage or cargos for which CCC contracts for ocean transportation.

(ii)(*a*) Unless otherwise provided in the Food for Peace Program Agreement or other program document, voluntary agencies and intergovernmental organizations shall file notice of any cargo loss and damage with the carrier immediately upon discovery of any such loss and damage and shall promptly initiate claims against the ocean carriers for cargo loss and damage, and shall take all necessary action to obtain restitution for losses within any applicable periods of limitations and shall transmit to CCC copies of all such claims. However, the voluntary agencies or intergovernmental organizations need not file a claim when the cargo loss is not in excess of $25, or in any case when the loss is in excess of $25, but not in excess of $100 and it is determined by the voluntary agencies or intergovernmental organizations that the cost of filing and collecting the claim will exceed the amount of the claim. The voluntary agencies and intergovernmental organizations shall transmit to CCC copies of all claims filed with the ocean carriers for cargo loss and damage, as well as information and/or documentation on shipments when no claim is to be filed. When General Average has been declared, no action will be taken by the voluntary agencies of intergovernmental organizations to file or collect claims for loss or damage to commodities. (See paragraph (c)(2)(iii) of this section.)

(*b*) *Determination of value.* When payment is made for commodities misused, lost or damaged, the value shall be determined on the basis of the domestic market price at the time and place the misuse, loss or damage occurred, or, in case it is not feasible to obtain or determine such market price, the f.o.b. or f.a.s. commercial export price, of the commodity at the time and place of export, plus ocean freight charges and other costs incurred by the Government of the United States in making delivery to the cooperating sponsor. When the value is determined on a cost basis, the voluntary agencies or intergovernmental organizations may add to the value any provable costs they have incurred prior to delivery by the ocean carrier. In preparing the claim statement, these costs shall be clearly segregated from costs incurred by the Government of the United States. With respect to claims other than ocean carrier loss and/or damage claims, at the request of the cooperating sponsor and/or upon the recommendation of the USAID or diplomatic Post, AID W may determine that such value may be determined on some other justifiable basis. When replacements are made, the value of commodities misused, lost or damaged, shall be their value at the time and place the misuse, loss, or damage occurred and the value of the replacement commodities shall be their value at the time and place replacement is made.

(c) Amounts collected by voluntary agencies and intergovernmental organizations on claims against ocean carriers not in excess of $100 may be retained by the voluntary agencies or intergovernmental organizations.

On claims involving loss or damage having a value in excess of $100 the voluntary agencies or intergovernmental organizations may retain from collections received by them, the larger of (*1*) the amount of $100 plus 10 percent of the difference between $100 and the total amount collected on the claim, up to a maximum of $350, or (*2*) actual administrative expenses incurred in collection the claim; provided retention of such expenses is approved by CCC. Collection costs shall not be deemed to include attorneys fees, fees of collection agencies, and the like. In no event will collection costs in excess of the amount collected on the claim be paid by CCC. The voluntary agencies or intergovernmental organizations may also retain from claim recoveries remaining after allowable deductions for administrative expenses of collection, the amount of any special charges, such as handling, packing, and insurance costs, which the voluntary agency or intergovernmental organization has incurred on the lost or damaged commodity and which are included in the claim and paid by the liable party.

(*d*) The voluntary agencies and intergovernmental organizations may redetermine claims on the basis of additional documentation or information, not considered when the claims were originally filed when such documentation or information clearly changes the ocean carriers liability. Approval of such changes by CCC is not required regardless of amount. However copies of redetermined claims and supporting documentation or information shall be furnished to CCC.

(*e*) Voluntary agencies of intergovernmental organizations may negotiate compromise settlements of claims regardless of the amount thereof, except that proposed compromise settlements of claims having a value in excess of $5,000 shall not be accepted until such action has been approved in writing, by CCC. When a claim is compromised, the voluntary agency or intergovernmental organization may retain from the amount collected, the amounts authorized in (c)(2)(ii)(c) of this section and in addition, an amount representing the percentage of the special charges described in (c)(2)(ii)(c) of this section as the compromised amount is to the full amount of the claim. When a claim is not in excess of $600, the voluntary agencies or intergovernmental organizations may terminate collection activity on the claim according to the standards set forth in 4 CFR 104.3 (1972). Approval of such termination by CCC is not required but the voluntary agencies or intergovernmental organizations shall notify CCC when collection activity on a claim is terminated.

(*f*) All amounts collected in excess of the amounts authorized herein to be retained shall be remitted to CCC. For

the purpose of determining the amount to be retained by the voluntary agencies or intergovernmental organizations from the proceeds of claims filed against ocean carriers, the word "claim" shall refer to the loss and damage to commodities which are shipped on the same voyage of the same vessel to the same port destination, irrespective of the kinds of commodities shipped or the number of different bills of lading issued by the carrier. If a voluntary agency or intergovernmental organization is unable to effect collection of a claim or negotiate an acceptable compromise settlement within the applicable period of limitation or any extension thereof granted in writing by the liable party or parties, the rights of the voluntary agencies or intergovernmental organizations to the claim shall be assigned to CCC in sufficient time to permit the filing of legal action prior to the expiration of the period of limitation or any extension thereof. Voluntary agencies or intergovernmental organizations shall promptly assign their claim rights to CCC upon request. In the event CCC effects collection or other settlement of the claim after the rights of the voluntary agency or intergovernmental organization to the claim have been assigned to CCC, CCC shall, except as shown below, pay to the voluntary agency or intergovernmental organization the amount the agency or organization would have been entitled to retain had they collected the same amount. However, the additional 10 percent on amounts collected in excess of $100 will be payable only if CCC determines that reasonable efforts were made to collect the claim prior to the assignment, or if payment is deemed to be commensurate with the extra efforts exerted in further documenting claims. Further, if CCC determines that the documentation requirements of § 211.9(c)(1) have not been fulfilled and the lack of such documentation has not been justified to the satisfaction of CCC, CCC reserves the right to deny payment of all allowances to the voluntary agency.

(*g*) When voluntary agencies or intergovernmental organizations fail to file claims, or permit claims to become time-barred, or fail to provide for the right of CCC to assert such claims, as provided in this § 211.9 and it is determined by CCC that such failure was due to the fault or negligence of the voluntary agency or intergovernmental organization, the agency or organization shall be liable to the United States for the cost and freight (C&F) value of the commodities lost to the program.

(iii) If a cargo loss has been incurred on a voluntary agency or intergovernmental organization shipment, and general average has been declared, the voluntary agency or intergovernmental organization shall furnish to the Chief Claims and Collections Division, Kansas City ASCS Commodity Office, P.O. Box 8377, Shawnee Mission, Kansas, ZIP 66208, with a duplicate copy to AID/W-PDC/FFP/POD, (a) copies of booking confirmations and the applicable on-board bill(s) of lading, (b) the related outturn or survey report(s), (c) evidence showing the amount of ocean transportation charges paid to the carrier(s), and (d) an assignment to CCC of the cooperating sponsor's rights to the claim(s) for such loss.

(d) *Fault of cooperating sponsor in country of distribution.* If the cooperating sponsor improperly distributes a commodity or knowingly permits it to be used for a purpose not permitted under the Food for Peace Program Agreement or this part, or causes loss or damage to a commodity through any act or omission or fails to provide proper storage, care, and handling, the cooperating sponsor shall pay to the United States the value of the commodities lost, damaged, or misused (or may, with prior USAID approval, replace such commodities with similar commodities of equal value), unless it is determined by AID that such improper distribution or use, or such loss or damage, could not have been prevented by proper exercise of the cooperating sponsor's responsibility under the terms of the agreement. Normal commercial practices in the country of distribution shall be considered in determining that there was a proper exercise of the cooperating sponsor's responsibility. Payment by the cooperating sponsor shall be made in accordance with paragraph (b) of this section.

(e) *Fault of others in country of distribution and in intermediate country.* (1) In addition to survey and/or outturn reports to determine ocean carrier loss and damage, the cooperating sponsor shall, in the case of landlocked countries, arrange for an independent survey at the point of entry into the country and to make a report as set forth in § 211.9(c)(1). CCC will reimburse the cooperating sponsor for the costs of survey as set forth in § 211.9(c)(1)(v).

(2) Upon the happening of any event creating any rights against a warehouseman, carrier or other person for the loss of, damage to, or misuse of any commodity, the cooperating sponsor shall make every reasonable effort to pursue collection of claims against the liable party or parties for the value of the commodity lost, damaged, or misused and furnish a copy of the claim and related documents to USAID or Diplomatic Post. Cooperating sponsors who fail to file or pursue such claims shall be liable to AID for the value of the commodities lost, damaged, or misused: *Provided, however,* That the cooperating sponsor may elect not to file a claim if the loss is less than $300 and such action is not detrimental to the program. Cooperating sponsors may retain $100 of any amount collected on a claim. In addition, cooperating sponsors may, with the written approval of the USAID or Diplomatic Post, retain special costs such as legal fees that they have incurred in the collection of a claim. Any proposed settlement for less than the full amount of the claim must be approved by the USAID or Diplomatic Post prior to acceptance. When the cooperating sponsor has exhausted all reasonable attempts to collect a claim, it shall request the USAID or Diplomatic Post to provide further instructions.

(f) *Reporting losses to USAID or Diplomatic Post.* The cooperating sponsor shall promptly notify USAID or the Diplomatic Post in writing of the circumstances pertaining to any loss, damage, or misuse occurring within the country of distribution or intermediate country and shall include information as to the name of the responsible party; kind and quantities of commodities; size, and type of containers; the time and place of misuse, loss, or damage; the current location of the commodity; and the Food for Peace Program Agreement number, the CCC contract numbers, if known, or if unknown, other identifying numbers printed on the commodity containers; the action taken by the cooperating sponsor with respect to recovery or disposal; and the estimated value of the commodity. If any of the above information is not available, an explanation of its unavailability shall be made by the cooperating sponsor. Proceeds from sale and the disposition of the proceeds if any, should also be reported.

(g) *Handling claims proceeds.* Claims against ocean carriers shall be collected in U.S. dollars (or in currency in which freight is paid, or a pro rata share of each) and shall be remitted (less amounts authorized to be retained) by voluntary agencies and intergovernmental organizations to CCC. Claims against voluntary agencies and intergovernmental organizations shall be paid to CCC or AID/W in U.S. dollars. Amounts paid by other cooperating sponsors and third parties in the country of distribution shall be deposited with the U.S. Disbursing Officer, American Embassy, preferably, in U.S. dollars with instructions to credit the deposit to CCC Account No. 12X4336, or in local currency at the official exchange rate applicable to dollar imports at the time of deposit with instructions to credit the deposit to Treasury sales account 20FT401.

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(h) *General average.* CCC shall (1) be responsible for settling general average and marine salvage claims, (2) retain the authority to make or authorize any disposition of commodities which have not commenced ocean transit or of which the ocean transit is interrupted, and receive and retain any monetary proceeds resulting from such disposition, (3) in the event of a declaration of general average, initiate and prosecute, and retain all proceeds of, cargo loss and damage claims against ocean carriers and (4) receive and retain any allowance in general average. CCC will pay any general average or marine salvage claims determined to be due.

§ 211.10 Records and reporting requirements of cooperating sponsor.

(a) *Records.* Cooperating sponsors shall maintain records and documents in a manner which will accurately reflect all transactions pertaining to the receipt, storage, distribution, sale and inspection of commodities. This shall include a periodic summary report and records of receipt and disbursement of any funds accruing from the operation of the program. Such records shall be retained for a period of 3 years from the close of the U.S. fiscal year to which they pertain.

(b) *Reports.* Cooperating sponsors shall submit reports to the USAID or Diplomatic Post, at such times and on such forms as prescribed by AID. The following is a list of the principal types of reports that are to be submitted:

(1) Periodic summary reports showing receipt, distribution, and inventory of commodities and proposed schedules of shipments or call forwards.

(2) In the case of Title II sales agreements under section 206 of the Act, the foreign government is directly responsible for reporting on programs involving the use of funds for purposes specified in the agreement.

(3) Reports relating to progress and problems in the implementation and operation of the program, and inspection reports, as may be required from time to time by AID/W, or as may be agreed upon between the USAID or Diplomatic Post and the cooperating sponsor and approved by AID/W.

(4) Reports of all comprehensive internal reviews prepared in accordance with § 211.5(c) shall be submitted to the USAID or Diplomatic Post for review as soon as completed and in sufficient detail to enable the USAID or Diplomatic Post to assess and to make recommendations as to the ability of the cooperating sponsors to effectively plan, manage, control and evaluate the Food for Peace programs under their administration.

(5) Emergency programs. At the time that an emergency program under PL 480, Title II is initiated, either on a government-to-government basis or through an intergovernmental organization or a voluntary agency, the Mission should (i) make a determination regarding the ability of the cooperating sponsor to perform the record-keeping required by § 211.10, and (ii) in those instances in which those specific record-keeping requirements cannot be followed, due to emergency circumstances, specify exactly which essential information will be recorded in order to account fully for Title II commodities.

(c) *Inspection and audit.* Cooperating sponsors shall cooperate with and give reasonable assistance to U.S. Government representatives to enable them at any reasonable time to examine activities of the cooperating sponsors, processors, or others, pertaining to the receipt, distribution, processing, repackaging, and use of commodities by recipients; to inspect commodities in storage, or the facilities used in the handling or storage of commodities; to inspect and audit records, including financial records and reports pertaining to storage, transportation, processing, repackaging, distribution and use of commodities; the deposit of and use of any Title II generated local currencies; to review the overall effectiveness of the program as it relates to the objectives set forth in the Food for Peace Program Agreement; and to examine or audit the procedure and methods used in carrying out the requirements of this Part. Inspections and audits of Title II emergency programs will take into account the circumstances under which such programs are carried out.

§ 211.11 Termination of program.

All or any part of the assistance provided under the program, including commodities in transit, may be terminated by AID at its discretion if the cooperating sponsor fails to comply with the provisions of the Food for Peace Program Agreement, this part, or if it is determined by AID that the continuation of such assistance is no longer necessary or desirable. Under such circumstances title to commodities which have been transferred to the cooperating sponsor shall at the written request of USAID, the Diplomatic Post, or AID/W, be retransferred to the U.S. Government by the cooperating sponsor. Any excess commodities on hand at the time the program is terminated shall be disposed of in accordance with § 211.5(1). If it is determined that any commodity to be supplied under the Food for Peace Program Agreement is no longer available for Food for Peace Programs, such authorization shall terminate with respect to any commodities which, as of the date of such determination have not been delivered f.o.b. or f.a.s. vessel, provided every effort will be made to give adequate advance notice to protect cooperating sponsors against unnecessarily booking vessels.

§ 211.12 Waiver and amendment authority.

AID may waive, withdraw, or amend, at any time, any or all of the provisions of this Part 211 if such provision is not statutory and if AID determines it is in the best interest of the U.S. Government to do so. Any cooperating sponsor which has failed to comply with the provisions of this part or any instructions or procedures issued in connection herewith, or any agreements entered into pursuant hereto may at the discretion of AID be suspended or disqualified from further participation in any distribution program. Reinstatement may be made at the option of AID. Disqualification shall not prevent AID from taking other action through other available means when considered necessary.

Dated: December 20, 1978.

ROBERT H. NOOTER,
Deputy Administrator.

[FR Doc. 79-385 Filed 1-3-79; 8:45 am]

[4210-01-M]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Part 1917]

[Docket No. FI-4859]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the city of Lincoln, Logan County, Ill.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Lincoln, Logan County, Illinois. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Logan County Regional Planning Commission, 529 South McClain Street, Lincoln, Illinois. Send comments to: The Honorable Edward M. Malerich, Mayor, City of Lincoln, 700 Broadway Street, Lincoln, Illinois 62656, Attention: Mr. Pat Glithero, Logan County Regional Planning Commission.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Lincoln, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Brainard Branch...	Just upstream of State Route 121.	564
	Just upstream of Jefferson Street.	564
	Just upstream of State Street.	566
	Just downstream of Palmer Avenue.	568
	Just upstream of Oglesby Avenue.	569
	Just downstream of Union Street.	570
	Just upstream of Illinois Central Gulf Railroad.	574
	Northern corporate limit.	575

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o) (4) of the Department of HUD Act, section 324 of the Housing and Community Development Amendments of 1978, Pub L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 19, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-55 Filed 1-3-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4860]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Village of Lyons, Cook County, Ill.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Village of Lyons, Cook County, Illinois. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Village Clerks Office, Lyons, Illinois. Send comments to: The Honorable William G. Smith, Village President, Village of Lyons, 7801 Ogden Avenue, Lyons, Illinois 60535.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Village of Lyons, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.4(a)).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Des Plaines River..	At southern corporate limit.	598
	100 feet Downstream of Ogden Avenue.	600
	Downstream of Hoefman Dam.	604
	700 feet upstream of Hoefman Dam.	610
	3,000 feet Upstream of Hoefman Dam.	612
	1,000 feet Upstream of Salt Creek confluence at north corporate limit.	613
Salt Creek	At confluence with Des Plaines River.	612
	1,200 feet Upstream of confluence with Des Plaines River.	613
	2,030 feet Upstream of confluence with Des Plaines River.	614
	North corporate limits ...	615

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review re-

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quirements in order to permit publication at this time for public comment.

Issued: December 14, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-56 Filed 1-3-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4861]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Village of Shorewood, Will County, Ill.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Village of Shorewood, Will County, Illinois. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Village Administrator's Office, Route 52 and Raven Road, Joliet, Illinois. Send comments to: The Honorable Richard Talaga, Village President, Village of Shorewood, Village Administrator's Office, Route 52 and Raven Road, Joliet, Illinois 60435.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Village of Shorewood, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Du Page River	1,600 feet downstream of Seal Road.	564
	Just downstream of Seal Road.	565
	Just upstream of Seal Road.	567
	Southern corporate limit.	569
	Just downstream of Cottage Street.	574
	Just upstream of U.S. Route 52.	577
	7,200 feet upstream of U.S. Route 52.	582
Hammel Creek	Confluence with Du Page River.	577
	Just downstream of Hammel Woods service road.	577
	Just upstream of Hammel Woods service road.	578
	100 feet downstream of Cottage Street.	583
	Just upstream of Cottage Street.	585
	Just downstream of Brookshore Drive.	591
	Just upstream of Brookshore Drive.	595
	150 feet downstream of Raven Road.	601
	Just upstream of Raven Road.	606
	Just downstream of private drive, 2,600 feet upstream of Raven Road.	614
	500 feet upstream of private drive, 2,600 feet upstream of Raven Road.	616

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and the Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 19, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-57 Filed 1-3-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4862]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Martinsville, Morgan County, Ind.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Martinsville, Morgan County, Indiana. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, P.O. Box 1415, Martinsville, Indiana. Send comments to: The Honorable James Gardener, Mayor, City of Martinsville, P.O. Box 1415, Martinsville, Indiana 46151.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Martinsville, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
White River	Approximately 3.7 miles downstream of Conrail Railroad Bridge.	590
	Upstream side of Conrail Bridge.	596
	Upstream side of State Route 39 Bridge.	600
	Approximately 2.69 miles upstream of State Route 39 at Northern Extraterritorial Limits.	604
Indian Creek	At mouth of White River.	590
	Upstream side of State Route 37.	592
	Upstream side of 500 West Road.	599
	2.8 miles upstream of 500 West Road.	606

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 19, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-58 Filed 1-3-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4863]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Town of Porter, Porter County, Ind.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Porter, Porter County, Indiana. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, Porter, Indiana. Send comments to: Mr. Donald Cope, Town Board President, Town of Porter, 303 Franklin, Porter, Indiana 46304, Attention: Mr. William Fisher, Town Manager.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Porter, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Little Calumet River.	At downstream corporate limits.	613
	At Howe Road	614
	Just upstream of U.S. Highway 20.	616
	Just upstream of I-94	618
	At Waverly Road	620
	Upstream of Conrail	622
	Upstream corporate limits.	622
Peterson Ditch	At confluence with Little Calumet River.	614
	30 feet upstream from Howe Road.	615
	800 feet upstream from Howe Road.	616
	Downstream side of Beam Street.	621
	Upstream side of Beam Street.	627
	185 feet upstream of Conrail.	627
	200 feet downstream from U.S. Highway 20.	632
	Upstream of U.S. Highway 20.	636
	Upstream of I-94	637
	Upstream side of Conrail.	638
	Upstream side of Elgin Joliet and Eastern Railroad.	638
	At 23rd Street (Corporate limits).	638

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 19, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-59 Filed 1-3-79; 8:45 am]

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[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4864]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Town of Parsonfield, York County, Maine

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Parsonfield, York County, Maine. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Town Clerk's Office, Route 2, Kezar Falls, Maine. Send comments to: Mr. Joe Watson, Chairman, Board of Selectmen, Town of Parsonsfield, Town Clerk's Office, Route 2, Kezar Falls, Maine 04047.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Parsonsfield, Maine, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Ossipee River	Downstream Corporate Limits.	309
	Central Maine Power Company Dam-50 feet*.	349
	Central Maine Power Company Dam-50 feet**.	355
	State Highway 25-50 feet**.	363
	Old Wooden Dam-100 feet*.	364
	Old Wooden Dam-100 feet**.	371
	Confluence with Mill Brook.	382
	Upstream Corporate Limits.	386

*Downstream from centerline.
**Upstream from centerline

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-60 Filed 1-3-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4865]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Barton, Allegany County, Md.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Barton, Allegany County, Maryland. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Hall, Barton, Maryland. Send comments to: Honorable James E. Shaw, Mayor of Barton, P.O. Box 153, Barton, Maryland 21521.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Barton, Allegany County, Maryland in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Georges Creek	Georges Creek Boulevard.	1,248
	Temperance Run Road	1,264
	Confluence of Butcher Run.	1,266
Butcher Run	Footbridge (culvert)	1,284
	Georges Creek Boulevard.	1,296
	Upstream Corporate Limits.	1,337

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 19, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-61 Filed 1-3-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4866]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Town of Lonaconing, Allegany County, Md.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Lonaconing, Allegany County, Maryland. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Hall, Lonaconing, Maryland. Send comments to: Honorable John H. Evans, Mayor of Lonaconing, 7 Jackson Street, P.O. Box 339, Lonaconing, Maryland 21539.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Lonaconing, Allegany County, Maryland in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Georges Creek	Downstream Corporate Limits.	1,473
	Union Street	1,490
	Confluence of Koontz Run.	1,503
	"A" Street	1,517
	East Main Street	1,536
	Upstream Corporate Limits.	1,550
Jackson Run	Island Avenue	1,481
	Union Street	1,492
	Alley #4	1,500
	Hanekemp Street	1,520
	Robin Street	1,534
	Jackson Street	1,615
	Upstream Corporate Limits.	1,647
Koontz Run	East Main Street	1,511
	Scotch Hill Road	1,567
	Beechwood Road	1,582

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 19, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-62 Filed 1-3-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4867]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Town of Thurmont, Frederick County, Md.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Thurmont, Frederick County, Maryland. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Office, Thurmont, Maryland. Send comments to: Mr. C. Ray Weddle, President of the Council of Thurmont, 10 Frederick Road, Thurmont, Maryland 21788.

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FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Thurmont, Frederick County, Maryland in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Rouzer Creek	Water Street	465
	Approximately 540 feet upstream from Water Street.	470
	Approximately 690 feet downstream from Park Lane.	475
	Approximately 310 feet downstream from Park Lane.	480
	Approximately 130 feet downstream from Park Lane.	485
	Park Lane	492
	East Main Street	496
	Approximately 180 feet upstream from East Main Street.	500
	Approximately 415 feet upstream from East Main Street.	505
	Approximately 330 feet downstreat from Woodside Avenue.	510
	Woodside Avenue	517
	Approximately 160 feet upstream from Woodside Avenue.	520
	Approximately 270 feet upstream from Woodside Avenue.	525
	Sabillasville Road—State Route 81.	531
	Emmitsburg Road	539
Hunting Creek	Downstream Corporate Limits.	434
	Moser Street	436
	Hagerstown & Frederick Railroad.	444
	Approximately 420 feet downstream from confluence of Rouzer Creek.	453
	Confluence of Rouzer Creek.	457
	Approximately 270 feet upstream from confluence of Rouzer Creek.	465
	At unnamed road approximately 720 feet upstream from confluence of Rouzer Creek.	478
	Approximately 720 feet downstream from Frederick Road.	481
	Approximately 210 feet downstream from Frederick Road.	490
	Frederick Road	492
	Approximately 530 feet upstream from Frederick Road.	500
	Approximately 860 feet upstream from Frederick Road.	505
	Approximately 880 feet downstream from U.S. Route 15.	510
	Approximately 600 feet downstream from U.S. Route 15.	517
	U.S. Route 15	528
	Approximately 660 feet upstream from U.S. Route 15.	536
	Approximately 460 feet downstream from Foxville Road.	545
	Foxville Road	557
	Upstream Corporate Limits.	566

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-63 Filed 1-3-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4868]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Delano, Wright County, Minn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Delano, Wright County, Minnesota. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, Delano, Minnesota. Send comments to: The Honorable Cornelius Van Lith, Mayor, City of Delano, 2nd and Bridge Street, Delano, Minnesota 55328 Attention: Ms. Jean L. Johnson, City Clerk.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Delano, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more

stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
South Fork Crow River.	Northern corporate limits.	924
	200 feet downstream of Minnesota Highway 12 Bridge Avenue.	926
	Southern corporate limits.	929

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804; November 28, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 19, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-64 Filed 1-3-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4869]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Henderson, Sibley County, Minn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Henderson, Sibley County, Minnesota. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, Henderson, Minnesota. Send comments to: The Honorable Heinrich Rannow, Sr., Mayor, City of Henderson, City Hall, Henderson, Minnesota 56044, Attention: Louise Krueger, City Clerk.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Henderson, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Minnesota River	At downstream corporate limit.	740
	Just downstream of Minnesota Highway 19.	740
	Just upstream of Minnesota Highway 19.	741
	At upstream corporate limit.	741

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 19, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-65 Filed 1-3-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4870]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Isle, Mille Lacs County, Minn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Isle, Mille Lacs County, Minnesota. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, Isle, Minnesota. Send comments to: The Honorable Dennis Haggbery, Mayor, City of Isle, City Hall. Isle, Minnesota 56342.

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FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Isle, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Mille Lacs Lake	Shoreline of Isle	1,254
Malone Creek	Just downstream of U.S. Highway 47.	1,254
	Just upstream of U.S. Highway 47.	1,256
	East corporate limits	1,256

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 19, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-66 Filed 1-3-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4871]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Kasota, Le Sueur County, Minn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Kasota, Le Sueur County, Minnesota. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, P.O. Box 218, Kasota, Minnesota. Send comments to: The Honorable Walter Vetter, Mayor, City of Kasota, City Hall, P.O. Box 218, Kasota, Minnesota 56050.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Kasota, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum)
Minnesota River	Downstream corporate limits.	762
	1,300 feet upstream of northwest corporate limit.	763
Shanaska Creek	Just upstream of Pearl Street.	827
	750 feet upstream of Pearl Street.	832
	1,150 feet upstream of Pearl Street.	840
	At State Route 22	845

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 19, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-67 Filed 1-3-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4872]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Ramsey, Anoka County, Minn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations

listed below for selected locations in the City of Ramsey, Anoka County, Minnesota. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Ramsey City Hall, 15153 Nowthen Boulevard, Anoka, Minnesota. Send comments to: The Honorable Arnold Cox, Mayor, City of Ramsey, Ramsey City Hall, 15153 Nowthen Boulevard, Anoka, Minnesota 55303.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Ramsey, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Mississippi River	At eastern corporate limits.	847
	At western corporate limits.	856
Rum River	At southern corporate limits.	852
	At Roanoak Street	863
	At northern corporate limits.	865
Trott Brook	At mouth	862
	2,400 feet upstream of St. Francis Boulevard.	862
	Just downstream of Nowthen Boulevard.	885
	Just upstream of Nowthen Boulevard.	871
	Just downstream of Armstrong Boulevard.	872
	Just upstream of Armstrong Boulevard.	873
	1 mile upstream of Armstrong Boulevard.	874
	Just downstream of trail near western corporate limit.	877
	3,700 feet downstream of Ermine Boulevard.	883
	Just downstream of Ermine Boulevard (near Eaton Street).	889
	Just upstream of Ermine Boulevard (near Eaton Street).	891
	Just downstream of Ermine Boulevard (near 180th Avenue).	891
	At western corporate limits.	898
East Channel Trott Brook.	At confluence with Trott Brook.	877
	At point of divergence with Trott Brook.	882
Ford Brook	At mouth	863
	Just downstream of Green Valley Road.	863
	Just upstream of Green Valley Road.	876
	Just downstream of St. Francis Boulevard.	877
	Just upstream of St. Francis Boulevard.	879
	4,000 feet upstream of St. Francis Boulevard.	880

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 19, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-68 Filed 1-3-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4873]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Rockford, Hennepin County, Minn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Rockford, Hennepin County, Minnesota. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, 6031 Main Street, Rockford, Minnesota. Send comments to: The Honorable Vernon Vergin, Mayor, City of Rockford, City Hall, 6031 Main Street, Rockford, Minnesota 55373.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Rockford, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.4(a)).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain manage-

ment requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Crow River	Northern corporate limits.	913
	Just upstream from State Highway 55.	915
	Southwest corporate limits.	917

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and the Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 9, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-69 Filed 1-3-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4874]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Unincorporated Areas of Anoka County, Minn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Unincorporated areas of Anoka County, Minnesota. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Anoka County Comprehensive Health Department & Environment Services, Anoka Court House, 325 East Main Street, Anoka, Minnesota. Send comments to: Mr. Albert Kordiak, Chairperson of County Board of Commission, Anoka County, 325 East Main Street, Anoka, Minnesota 55303.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Unincorporated areas of Anoka County, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.4(a).)

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Cedar Creek	At corporate boundary with the City Andover.	865
	7,250 feet upstream of county highway 9.	865
	Just downstream of county highway 22.	871
	Just upstream of county highway 22.	873
	5,300 feet upstream of county highway 22.	874
	500 feet downstream of Burlington-Northern Railroad.	877
	Just upstream of county highway 13.	880
	5,000 feet upstream of county highway 13.	881
	At corporate boundary with the City of East Bethel.	883
Ford Brook	At corporate boundary with the City of Ramsey.	877
	Just upstream of State Highway 47 near City of Ramsey corporate boundary.	879
	1,850 feet upstream of State Highway 47 near Viking Boulevard.	884
	800 feet downstream of county highway 22.	888
	Just upstream of county highway 22.	894
	Just upstream of Verde Valley Road.	897
	5,300 feet upstream of Verde Valley Road.	898
	250 feet downstream of county road 66.	905
Rum River	At corporate boundary with with City of Ramsey.	865
	At County Highway 22...	875
	At corporate boundary with the City of St. Francis.	891
West Branch Sunrise River.	At county boundary with Chisago County.	889
	1,850 feet upstream of county road 75.	894
	Just upstream of East Martin Lake Drive.	896
	Just upstream of county road 76 (Typo Lake).	900

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and the Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 19, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-70 Filed 1-3-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4875]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Vermillion, Dakota County, Minn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Vermillion, Dakota County, Minnesota. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City of Vermillion, Dakota County, Minnesota. Send comments to: The Honorable Elmer Kiekow, Mayor, City of Vermillion, Vermillion City Hall, Vermillion, Minnesota 55085.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Vermillion, Dakota County, Minnesota, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Vermillion River...	At northern corporate limits.	830
	300 feet downstream from 190th Street East.	834
	At western corporate limits.	837

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-71 Filed 1-3-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4876]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Wayzata, Hennepin County, Minn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Wayzata, Hennepin County, Minnesota. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, 600 Rice Street, Wayzata, Minnesota. Send comments to: The Honorable John W. Palmer, Mayor, City of Wayzata, City Hall, 600 Rice Street, Wayzata, Minnesota 55391.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Wayzata, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lake Minnetonka..	Entire lake	931
Gleason Creek	Just downstream of Burlington Northern Railroad.	931
	Just upstream of Rice Street.	937

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Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Just downstream of Wayzata Boulevard.	937
	Just upstream of Wayzata Boulevard.	941
	Just downstream of Central Avenue.	942
	Just downstream of U.S. Highway 12.	943
	Just upstream of Hollybrook Road.	945
	Mouth of Gleason Lake.	946

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 14, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-72 Filed 1-3-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4894]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Township of Woodward, Lycoming County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of Woodward, Lycoming County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Township Building. Send comments to: Mr. Burton S. Smeal, Chairman of the Board of Supervisors of Woodward, R.D. 2, Linden, Pennsylvania 17744.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Township of Woodward, Lycoming County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
West Branch Susquehanna River.	Downstream Corporate Limits.	537
	Conrail	538
	Upstream Corporate Limits.	541
Quenshukeny Run	Conrail	539
	U.S. Route 220	539
	Township Route 367	542
	Township Route 369	557
	Legislative Route 41028	579
	Township Route 375	630
	Upstream Corporate Limits.	635
Pine Run	Township Route 372	541
	Conrail	543
	Legislative Route 41026	543
	Township Route 343	546
	U.S. Route 220 East	556
	U.S. Route 220 West	557

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 19, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-73 Filed 1-3-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4877]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Lake Lotawana, Jackson County, Mo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Lake Lotawana, Jackson County, Missouri. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, Route 4 Gate 1, Lake Lotawana, Missouri. Send comments to: The Honorable Robert Cox, Mayor, City of Lake Lotawana, City Hall, Route 4 Gate 1, Lake Lotawana, Missouri 64063.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Lake Lotawana, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.4(a)).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lake Lotawana	Within the corporate limits of the City of Lake Lotawana.	886
West Fork	Just upstream of Shore Drive at Dam.	886
	350 feet downstream of Shore Drive.	883
	780 feet downstream of Shore Drive.	842
	1,300 feet downstream of Shore Drive.	840
	2,200 feet downstream of Shore Drive.	840
	Eastern Corporate Boundary.	838

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 19, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-74 Filed 1-3-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4878]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of North Platte, Lincoln County, Nebr.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of North Platte, Lincoln County, Nebr. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, North Platte, Nebraska. Send comments to: The Honorable Carl E. Bieber, Mayor, City of North Platte, 211 West 3rd, North Platte, Nebraska 69101.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of North Platte, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.4(a)).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Fremont Slough	At the downstream extraterritorial limits.	2,779
	5,100 feet upstream of extraterritorial limits.	2,783
	6,300 feet downstream of Sutherland Power Return Canal.	2,791
	Just upstream of Sutherland Power Return Canal.	2,800
	Just upstream of Echo Drive.	2,807
	Just upstream of Walker Road.	2,818
	At upstream extraterritorial limits.	2,825
South Platte River.	3,200 feet upstream of extraterritorial limits.	2,831
	At the downstream extraterritorial limits.	2,778
	5,500 feet downstream of Sutherland Power Return Canal.	2,789
	Just upstream of U.S. Route 83.	2,802
	Centerline of Bufalo Bill Avenue extended.	2,812
	At Upstream extraterritorial limits.	2,835
North Platte River.	At the downstream extraterritorial limits.	2,775
	Just downstream of U.S. Route 30.	2,783
	Just upstream of Union Pacific Railroad.	2,788
	Just upstream of U.S. Route 83.	2,801
	At the upstream extraterritorial limits.	2,821
	2,600 feet upstream of extraterritorial limits.	2,824

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review re-

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quirements in order to permit publication at this tijme for public comment.

Issued: December 19, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-75 Filed 1-3-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4879]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Pleasant Valley, Dutchess County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Pleasant Valley, Dutchess County, New York. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Pleasant Valley Town Hall, Pleasant Valley, New York. Send comments to: Mr. Gary Veeder, Town Supervisor or Mr. Arthur Wager, Zoning Administrator, Pleasant Valley Town Hall, Pleasant Valley, New York 12569.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Pleasant Valley, Dutchess County, New York, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Wappinger Creek..	Approximately 200 feet upstream U.S. Route 44.	205
	Just upstream of Hurley Road.	228
	Just upstream of Hibernia Road.	237
Little Wappinger Creek.	Just upstream Salt Point Turnpike.	241
	Northern Corporate Limit.	252
East Branch Wappinger Creek.	Just upstream of Route 82.	267
Branch 2 Wappinger.	Approximatley 100 feet upstream of Parksville Lane.	253
Branch 3 Wappinger Creek.	Old Route 72	236
Branch 4 Wappinger Creek.	Just upstream of Hibernia Road.	239
Great Spring Creek.	Just upstream Route 72.	212
	Approximately 50 feet upstream Sherow Road.	217
Branch 1 Great Spring Creek.	Just downstream of Route 17.	237

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of congressional review requirements in order to permit publication at this time for public comment.

Issued: December 19, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-76 Filed 1-3-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4359]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Village of Valleyview, Franklin County, Ohio; Correction

AGENCY: Federal Insurance Administration, HUD.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 43 FR 35069 of the FEDERAL REGISTER of August 8, 1978.

EFFECTIVE DATE: August 8, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street, SW, Washington, D.C. 20410, (202) 755-5581 or Toll Free Line 800-424-8872.

The following elevation:

Source of flooding	Location	Elevation in feet national geodetic vertical datum
Dry Run	At upstream corporate limit.	788

Should be corrected to read:

Source of flooding	Location	Elevation in feet national geodetic vertical datum
Dry Run	At upstream corporate limit.	787

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and the Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719).

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 19, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-77 Filed 1-3-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4880]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Township of Clinton, Lycoming County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of Clinton, Lycoming County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Township Building, Montgomery, Pennsylvania. Send comments to: Mr. George E. Smith, Chairman of the Board of Supervisors of Clinton, R.D. 1, Montgomery, Pennsylvania 17752.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Township of Clinton, Lycoming County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
West Branch Susquehanna River.	Corporate Limits (Downstream).	489
	Conrail	491
	Conrail	502
	Pennsylvania Route 405.	504
	Corporate Limits (Upstream).	516
Black Hole Creek..	Corporate Limits (Downstream).	492
	Legislative Route 41005.	500
	Township Route 801	507
	Township Route 522	536
	Township Route 520	577
	U.S. Route 15	599

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 19, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-78 Filed 1-3-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI- 4681]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Borough of Dunmore, Lackawanna County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of Dunmore, Lackawanna County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Manager's Office, Borough Building, Dunmore, Pennsylvania. Send comments to: Honorable Martin S. Monaghan, Jr., Mayor of Dunmore, 1527 Electric Street, Dunmore, Pennsylvania 18512.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Borough of Dunmore, Lackawanna County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second

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layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Roaring Brook	Downstream Corporate Limits.	922
	Interstate Route 81	962
	Upstream of Abandoned Piers.	1,005
	Dam-Reservoir No. 7	1,062
	Upstream of Interstate Routes 380 and 84.	1,146
	Upstream Corporate Limits.	1,246
Little Roaring Brook.	Confluence with Roaring Brook.	1,028
	Hennigan Street	1,099
	East Drinker Street	1,133
	1,380 feet upstream of East Drinker Street.	1,162
Meadow Brook	Culvert Headwall at Electric Street.	836
	Jefferson Avenue	857
	1,360 feet upstream of Jefferson Avenue.	873

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 19, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-79 Filed 1-3-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4882]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Township of East Hempfield, Lancaster County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of East Hempfield, Lancaster County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the East Hempfield Township Building, Lancaster, Pennsylvania. Send comments to: Mr. Robert R. Good, Chairman of the Board of Supervisors of East Hempfield, 901 Roherstown Road, Lancaster, Pennsylvania 17601.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Township of East Hempfield, Lancaster County, Pennylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Tributary 1	Stevens Street	382
	State Road (Upstream)	345
	Leabbrook Road	328
	Route 230 (Upstream)	316
Millers Run	2,200 feet above mouth	326
	Old Harrisburg Pike (Upstream).	315
Swarr Run	Nissley Road	356
	Colebrook Road (Upstream).	322
	Roherstown Road	311
	Shriener Road (Upstream).	308
Brubaker Run	Roherstown Road (Upstream).	330
	Confluence with Little Conestoga Creek.	292
Little Conestoga Creek.	Quarry Road (Upstream).	343
	Buch Road (Upstream)	324
	Flory Mill Road (Upstream).	316
	Conrail (Upstream)	313
	Harrisburg Pike (Upstream).	300
	Marietta Avenue	294
	Columbia Avenue (Upstream) (Route 340).	292
West Branch Little Conestoga Creek.	Donnerville Road (Upstream).	396
	Columbia Avenue (Upstream).	387
Chickies Creek	Erisman Road (Upstream).	355
	Route 230 (Upstream)	348
	Chiques Road (Upstream).	344

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-80 Filed 1-3-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4883]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Township of Gregg, Union County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of Gregg, Union County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Gregg Township Fire Hall, Gregg, Pennsylvania. Send comments to: Mr. Hugh Foresman, Supervisor of the Township of Gregg, R.D. 1, Allenwood, Pennsylvania 17810.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Township of Gregg, Union County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
West Branch Susquehanna river.	Downstream Corporate Limits.	480
	Pennsylvania Route 44	483
	Upstream Corporate Limits.	488
White Deer Hole Creek.	Conrail	481
	Legislative Route 627	481
	Legislative Route 59039	481
	Township Route 526	489

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Depatment of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-81 Filed 1-3-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4884]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Lancaster, Lancaster County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Lancaster, Lancaster, County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Bureau of Engineering, City Hall, 120 North Duke Street, Lancaster, Pennsylvania. Send comments to: Honorable Richard M. Scott, Mayor of Lancaster, 120 North Duke Street, Lancaster, Pennsylvania 17604.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Lancaster, Lancaster County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Tributary No. 1 to Little Conestoga Creek.	Harrisburg Pike Bridge	307
	Conrail Bridge	310
Conestoga River	East Strawberry Street	256
	Rockford Road	258
	Service Road	262
	Conrail Bridge	271
	Water Plant Bridge	272
Tributary No. 2 to Conestoga River.	Service Road to Water Treatment Plant.	271

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

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NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-82 Filed 1-3-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4885]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Borough of Lemoyne, Cumberland County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of Lemoyne, Cumberland County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Borough Office, 665 Market Street, Lemoyne, Pennsylvania 17043.Send comments to: Mr. Kenneth Lantz, Jr., President of the Council of Lemoyne, 741 Walnut Street, Lemoyne, Pennsylvania 17043,

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Borough of Lemoyne, Cumberland County, Pennsylvania, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Susquehanna River.	Downstream Corporate Limits.	316
	Dam (upstream) 1,425 feet upstream of corporate limits.	317
	Upstream Corporate limits.	320

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-83 Filed 1-3-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4886]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Borough of Lincoln, Allegheny County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of Lincoln, Allegheny County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the residence of Ms. Lianne Booth, Secretary of Lincoln, R. D. 4, Elizabeth, Pennsylvania. Send comments to: Honorable John Kismarik, Mayor of Lincoln, R. D. 1, Box 192 Finney Road, Elizabeth, Pennsylvania 15037.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Borough of Lincoln, Allegheny County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Monongahela River.	Downstream Corporate Limits.	747
	Upstream Corporate Limits; confluence with Wylie Run.	748
Wylie Run	Confluence with Monongahela River.	748
	Corporate Limits 410' upstream confluence with Monongahela River.	748
	Upstream side of Glassport Road; Corporate Limits.	748
	Approximately 1,110' upstream of Glassport Road.	748
	Approximately 770' downstream from confluence with Happy Hollow Run.	755
	Confluence with Happy Hollow Run.	764

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-84 Filed 1-3-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4887]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Township of Lower Saucon, Northhampton County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of Lower Saucon, Northhampton County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Township Administrative Office, Bethlehem, Pensylvania. Send comments to: Honorable Anthony Mathione, Mayor of Lower Saucon, 4 Willowbrook Drive, Bethlehem, Pennsylvania 18015.

FOR FURTHER INFORMATION CONTACT:

Mr: Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Township of Lower Saucon, Northhampton County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lehigh River	At downstream Corporate Limites.	209
	At upsteam Corporate Limits.	223
Saucon Creek	Friedensville Road (Upstream).	277
	Skibo Road (Upstream)	284
	Conrail (Downstream)	291
	Conrail (Upstream)	296
	Meadows Road (Upstream).	301
	Old Mill Road (Upstream).	307
	Conrail (Upstream)	311
	Binder Road (Upstream)	328
	At upstream Corporate Limits.	333
Black River	Friedensville Road (Upstream).	304
	Mildred Lane (Upstream).	310
	Dam (Downstream)	318
	Dam (Upstream)	323
	Bingen Road (Upstream).	335
	Sandbrook Drive (Upstream).	375
	Black River Road (Upstream).	386
	State Route 378 (Downstream).	401
	State Route 378 (Upstream).	406
	Old Philadephia Pike (Upstrem).	413
	Black River Road (Downstream).	496
	Black River Road (Upstream).	502
	At upstream Corporate Limits.	513

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of congressional review requirements in order to permit publication at this time for public comment.

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Issued: December 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-85 Filed 1-3-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4888]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Township of North Annville, Lebanon County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of North Annville, Lebanon County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the residence of Mr. Edgar Wagner, 1929 Thompson Avenue, Jonestown, Pennsylvania. Send comments to: Mr. Marvin K. Meyer, Chairman of the Township of North Annville, R.D. 1, Annville, Pennsylvania 17003.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Township of North Annville, Lebanon County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Swatara Creek	Gravel Hill Road (Upstream).	363
	7,500' Upstream of Gravel Hill Road.	367
	2,800' Downstream of Legislative Route 38004.	395
	Legislative Route 38004 (Upstream).	397
	3,900' Upstream of Legislative Route 38004.	398
Unnamed Stream F.	Confluence with Swatara Creek.	396
	Private Drive 825' Downstream of Harrison Road.	396
	Harrison Road (Upstream).	405

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-86 Filed 1-3-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4889]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Township of North Londonderry, Lebanon County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of North Londonderry, Lebanon County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the North Londonderry Township Building, Ridge Road, North Londonderry, Pennsylvania. Send comments to: Mr. Arthur Kling, Jr., Chairman of the Board of North Londonderry, P.O. Box 307, Palmyra, Pennsylvania 17078.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Township of North Londonderry, Lebanon County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Unnamed Stream "C".	Legislative Route 38001 (Upstream).	463
	Private Road 430 feet downstream from Legislative Route 38001 (Upstream).	456
	Unnamed Dam 1,330 feet downstream from Legislative Route 38001 (Upstream).	444
	Unnamed Dam 1,330 feet downstream from Legislative Route 38001 (Downstream).	437
	Private Road 2,320 feet downstream from Legislative Route 38001 (Upstream).	420
	Unnamed Dam 3,530 feet downstreanf from Legislative Route 38001 (Upstream).	401
	Unnamed Dam 3,530 feet downstream from Legislative Route 38001 (Downstream).	394
	Private Road 4,490 feet downstream from Legislative Route 38001 (Upstream).	384
	300 feet upstream from confluence with Quittapahilla Creek.	379

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub .L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-87 Filed 1-3-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4890]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Borough of Port Vue, Allegheny County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of Port Vue, Allegheny County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Borough Building, Port Vue, Pennsylvania. Send comments to: Honorable Ed Pollack, Mayor of Port Vue, 1624 Myer Avenue, Port Vue, Pennsylvania 15113.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Borough of Port Vue, Allegheny County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Youghlogheny River.	Downstream Corporate Limits.	744
	River Mile One Post	744
	15th Street Bridge.....	745
	Upstream Corporate Limits.	745

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-88 Filed 1-3-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4891]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Township of Roaring Brook, Lackawanna County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of Roaring Brook, Lackawanna County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified

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for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the residence of the Township Secretary, R.D. 2, Moscow, Pennsylvania. Send comments to: Mr. Ronald B. Boyer, Chairman of the Board of Supervisors of Roaring Brook, R.D. 2, Box 168, Moscow, Pennsylvania 18444.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Township of Roaring Brook, Lackawanna County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Roaring Brook.....	At Upstream Corporate Limits with the Borough of Dunmore.	1,154
	Conrail Bridge Upstream.	1,213
	Upstream of Dam located about 2,100 feet upstream of Conrail Bridge.	1,229
	Upstream of Private Lane crossing.	1,270
	Upstream of Interstate 84.	1,342

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub.L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 19, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-89 Filed 1-3-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4892]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Borough of South Waverly, Bradford County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of South Waverly, Bradford County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Borough of South Waverly, Bradford County, Pennsylvania. Send comments to: Honorable Joseph Yanuzzi, Mayor of South Waverly 55 Pleasant Street, Waverly, New York 14892.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Borough of South Waverly, Bradford County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Dry Brook	Downstream Corporate Limits.	785
	U.S. Route 202 Downstream.	808
	U.S. Route 202 Upstream.	812
	Elmira Street (L.R. 08114) Foot Bridge.	821
	Foot Bridge.....	826
	Route N.Y. 17 Southern Tier Expressway Downstream.	827
	Route N.Y. 17 Southern Tier Expressway Upstream.	833
	Bradford Street Downstream.	833

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Bradford Street Upstream.	837
	Upstream Corporate Limits.	837
Chemung River.....	Downstream Corporate Limits.	776
	Upstream Corporate Limits.	778

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 19, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-90 Filed 1-3-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4893]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Borough of Trafford, Allegheny County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of Trafford, Allegheny County Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Borough Hall, Trafford, Pennsylvania. Send comments to: Honorable Frank Stankovich, Mayor of Trafford, Box 91, Trafford, Pennsylvania 15085.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Borough of Trafford, Allegheny County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Turtle Creek	Downstream Corporate Limits.	777
	Westernhouse Dam Upstream.	780
	Forbes Road Upstream ..	791
	About 2,000 feet upstream of Forbes Road Bridge.	798
Brush Creek.....	Conrail Bridge Upstream.	777
	Wallace Avenue Upstream.	782
	Upstream Corporate Limits.	785

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 19, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-91 Filed 1-3-79; 8:45 am]

[4210-01-M]

[24 CFR PART 1917]

[Docket No. FI-4403]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Town of Brookfield, Fairfield County, Conn.; Correction

AGENCY: Federal Insurance Administration, HUD.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 43 FR 38421 of the FEDERAL REGISTER of August 28, 1978.

EFFECTIVE DATE: August 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

The following:

Source of flooding	Location	Elevation in feet national geodetic vertical datum
Still River.....	900 feet upstream from Route 7 (downstream of Grays Road).	282
East Brook	2,680 feet upstream from Rocky Road.	429

Should be corrected to read:

Source of flooding	Location	Elevation in feet national geodetic vertical datum
Still River.....	900 feet upstream from Route 7 (downstream of Grays Bridge Road).	282
East Brook	2,650 feet upstream from Rocky Road.	429

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and the Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Develop-

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ment Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-92 Filed 1-3-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4788]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Town of East Haddam, Middlesex County, Conn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of East Haddam, Middlesex County, Conn. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Hall, East Haddam, Connecticut. Send comments to: The Honorable D. J. Ferrary, First Selectman, town of East Haddam, town Office Building, Goodspeed Plaza, East Haddam, Connecticut 06423.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of East Haddam, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.4(a)).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Salmon River.....	Confluence with Connecticut River.	12
	Confluence of Moodus River.	12
	Just upstram of Leesville Road.	12
	Just downstream of dam located upstream of Leesville Road.	12
	Just upstream of dam located upstream of Leesville Road.	29
	5,000 feet upstream of dam located upstream of Leesville Road.	31
Moodus River	Confluence with Salmon River.	12
	Just downstream of Johnsville Road.	12
	60 feet upstream of Johnsville Road.	18
	Just downstram of Johnson Mill Dam.	19
	Just upstream of Johnson Mill Dam.	33
	Just downstream of first dam located upstream of Leesville Road.	79
	Just upstream of first dam located upstream of Leesville Road.	92
	Just downstream of second dam located upstream of Leesville Road.	97
	Just upstream of second dam located upstream of Leesville Road.	107
	Just downstream of Moodus-Leesville Road.	112
	Just upstream of Moodus-Leesville Road.	115
	Just downstream of first dam located upstream of Moodus-Leesville Road.	119
	Just upstream of first dam located upstream of Moodus-Leesville Road.	128
	Just downstream of second dam located upstream of Moodus-Leesville Road.	144
	Just upstream of second dam located upstream of Moodus-Leesville Road.	152
	Just upstream of abandoned North Moodus Road bridge.	157
	Just downstream of North Moodus Road culvert.	168
	Just upstream of North Moodus Road culvert.	170
	Just downstream of dam located upstream of North moodus Road.	177
	Just upstream of dam located upstream of North Moodus Road.	188
	Just upstream of Sawmill road.	194
	Just downstream of dam located upstream of Sawmill Road.	199
	Just upstream of dam located upstream of Sawmill road.	203
	Just downstream of Falls Road.	244
	Just downstream of dam located upstream of Falls Road.	267
	Just upstream of dam located upstream of Falls Road.	270
	Just downstream of Natural Falls.	277
	Just upstream of Natural Falls.	338
	Just downstream of falls Bashan Road.	350
	Just upstream of Falls Bashan Road.	354
Connecticut River.	Southern corporate limits.	11
	Just upstream of State route 82.	11
	Confluence of Salmon River.	12
Succor Brook	Confluence with Connecticut River.	11
	Just upstream of Lumber Yard Road.	11
	Just downstream of Creamery Road.	16
Eightmile River.....	Southern corporate limits.	58
	Just upstream of Farm Bridge.	59
	Just downstream of State Route 82.	67
	Just upstream of Three Bridges Road.	73
	265 feet upstream of confluence with Hedge Brook.	83

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-93 Filed 1-3-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4789]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of East Hampton, Middlesex County, Conn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of East Hampton, Middlesex County, Connecticut. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Hall, 20 East High Street, East Hampton, Connecticut. Send comments to: The Honorable Eaton E. Smith, Chairman, Board of Selectmen, Town Hall, 20 East High Street, East Hampton, Connecticut 06424.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Middlesex County, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Connecticut River.	Southern Corporate Limits.	18
	Northern Corporate Limits.	20
Salmon River.....	Southern Corporate Limits.	30
	0.7 mile Upstream of Southern Corporate Limits.	31
Pocotopang Creek.	Just Upstream of Old Chestnut Hill Road.	288
	0.2 mile Downstream of Skinner Street.	298
	Just Upstream of Skinner Street.	301
	Just Upstream of Middletown Avenue.	305
	Just Downstream of Dam.	341
	Just Upstream of Dam ...	353
	0.15 mile Upstream of Dam.	354

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-94 Filed 1-3-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4404]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Hamden, New Haven County, Conn.; Correction

AGENCY: Federal Insurance Administration, HUD.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 43 FR 38422 of the FEDERAL REGISTER of August 28, 1978.

EFFECTIVE DATE: August 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410,

The following:

Source of flooding	Location	Elevation in feet national geodetic vertical datum
Shepard Brook	50 feet Upstream of Dixwell Ave.	73
Brookdale Stream.	20 feet Upstream of Still Hill Rd.	304
Jepp Brook.....	20 feet Downstream of Bookdale Ave.	131
	1,100 feet Upstream of Dale Ave.	137
	120 feet Upstream of Still Hill Rd.	265
Farm Brook.....	100 feet Downstream of Brook St.	51
	100 feet Upstream of Wilbur Cross Parkway.	72
West Branch Farm Brook.	20 feet Upstream of Clover Circle.	73

Should be corrected to read:

Source of flooding	Location	Elevation in feet national geodetic vertical datum
Shepard Brook	Just Upstream of Dixwell Ave.	73
Brookdale Stream.	Just Upstream of Still Hill Rd.	304
Jepp Brook.....	Just Downstream of Bookdale Ave.	131
	1,100 feet Upstream of Brookdale Ave.	137
	Just Upstream of Still Hill Rd.	265
Farm Brook.....	Just Downstream of Brook St.	51
	Just Upstream of Wilbur Cross Parkway.	72
West Branch Farm Brook.	Just Upstream of Clover Circle.	73

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(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-95 Filed 1-3-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4790]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Newington, Hartford County, Conn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Newington, Hartford County, Conn.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Engineer's Office, Newington, Conn.

Send comments to: Mr. Peter M. Curry, Town Manager, Town of Newington, Town Hall, 131 Cedar Street, Newington, Conn. 06111.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Newington, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.4(a)).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Webster Brook	Downstream corporate limits.	45
	Just upstream of Kelsey St.	50
	Approximately 1,000 feet below New Britain Ave.	62
	Just downstream of New Britain Ave.	63
Rockhole Brook	Mouth at Webster Brook.	50
	Just downstream of Stonehedge Dr.	54
	Just upstream of Stonehedge Dr.	56
	740 feet upstream of Stonehedge Dr. at upstream side of footbridge.	64
	Approximately 1,740 feet above Stonehedge Dr.	72
	Approximately 200 feet below Church St.	80
	Just upstream of Church St.	84
	Upstream limit of study below Willard Ave.	85
Mill Brook	Mouth of Piper Creek	53
	Just upstream of Hartford Ave.	54
	Just upstream of Main St.	54
	Just downstream of Dowd St.	55
	Just downstream of Cedar St.	60
	Just upstream of Cedar St.	63
	Just upstream of Mill Pond Dam.	75
	Just upstream of Wilson Ave.	77
	Just downstream of Robbins Ave.	79
	Just upstream of Robbins Ave.	81
Piper Brook.....	Downstream corporate limit.	53
	Just upstream of Main St.	55
	Upstream side of Willard Ave.	58
	Approximately 2,600 feet above Willard Ave.	60
	Just upstream of Conrail, Railroad Bridge.	65
	Just downstream of Cedar St.	71
	Upstream corporate limits.	80

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-96 Filed 1-3-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4365]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Borough of Naugatuck, New Haven County, Conn.; Correction

AGENCY: Federal Insurance Administration, HUD.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 43 FR 35496 of the FEDERAL REGISTER of August 10, 1978.

EFFECTIVE DATE: August 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

The following location:

Source of flooding	Location	Elevation in feet national geodetic vertical datum
Naugatuck River...	Confluence of Beacon Hill Brook.	166
	Just Downstream of Dam located 400 feet Downstream of Route 63.	185
	Just Upstream of Route 63.	186
Beacon Hill Brook	60 feet Upstream of Private Crossing located 1,400 feet Downstream of Beacon Valley Rd.	253
Webb Brook.....	Just Upstream of Field St.	330
Fulling Mill Brook	Confluence of Cold Spring Brook.	230
	At a point 1,850 feet Upstream of Schildgen Brook.	400

Should be corrected to read:

Source of flooding	Location	Elevation in feet national geodetic vertical datum
Naugatuck River...	Just Downstream of confluence of Beacon Hill Brook.	166
	Just Downstream of Dam located 400 feet Downstream of State Route 63.	185
	Just Upstream of State Route 63.	186
Beacon Hill Brook	Just Upstream of Private Crossing, located 1,400 feet Downstream of Beacon Valley Rd.	253
Webb Brook.....	250 feet Upstream of Field St.	330
Fulling Mill Brook	Just Upstream of confluence of Cold Spring Brook.	230
	At a point 1,825 feet Upstream of Schildgen Brook.	400

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and the Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-97 Filed 1-3-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4791]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Crown Point, Lake County, Ind.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Crown Point, Lake County, Ind.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Crown Point City Hall, Crown Point, Ind.

Send comments to: Honorable Richard Collins, Mayor of Crown Point, 101 North East Street, Crown Point, Ind. 46307.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Crown Point, Lake County, Ind., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Main Beaver Dam Ditch.	State Route 43	679
	Madison St.....	682
	Farm Rd.....	684
	Merrillville Rd	683
	State Route 55	688
	Conrail.....	680
South Tributary Main Beaver Dam Ditch.	Summit St.....	694
	Pratt St	694
	Wirtz Rd	684
	U.S. Route 831	695

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-98 Filed 1-3-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4440]

NATIONAL FLOOD INSURANCE PROGRAM

Revision of Proposed Flood Elevation Determinations for the City of Lewiston, Androscoggin County, Maine

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

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SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Lewiston, Androscoggin County, Maine.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in 43 F.R. 38715 on August 30, 1978, and in the *The Lewiston Daily Sun* published on August 29, and September 5, 1978, and hence supersedes those previously published rules.

DATE: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the City Planning Department, City Hall, Lewiston, Maine 04240.

Send comments to: Mayor Lillian Caron or Mr. Gore Flynn, City Planning Director, City Hall, Lewiston, Maine 04240.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in the City of Lewiston, Androscoggin County, Maine, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Androscoggin River.	Downstream of the Gulf Island Dam.	215
	Just downstream of the Vietnam Veteran's Memorial Bridge.	179
	At North Bridge (Main St.).	137
	At Maine Turnpike	133
No Name Brook	At No Name Pond Rd	246
	Approximately 50 feet upstream of Sabattus St.	246
	Just upstream of Grove St.	203
	Just upstream of Webster Rd.	197
	Just upstream of Foss Rd.	189
No Name Brook Tributary A.	Approximately 100 feet downstream of Sabattus St.	210
	Approximately 200 feet upstream of No Name Pond Rd.	204
Salmon Brook	Eastern Corporate Limits.	138
Moody Brook	At Pinewoods Rd	160
Hart Brook	Just downstream of Westminster St.	207
	Approximately 100 feet upstream of Lisbon Rd.	189
	Just downstream of River Rd.	153
Jepson Brook	Approximately 50 feet upstream of Farwell St.	245
	At Brault St	216
	Just downstream of College Rd.	208
	Just downstream of Main St.	199
Stetson Brook	Just upstream of Hamel Rd.	242
	Approximately 200 feet downstream of Saint Tekakwitha Drive.	234
	At College Rd. upstream of Fairgrounds.	206
	Just downstream of Main St.	195

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 23, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.– In accordance with Section 7(o)(4) of the Depatment of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-99 Filed 1-3-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4792]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Town of Amherst, Hampshire County, Mass.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Amherst, Hampshire County, Mass. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Office of the Town Clerk, Amherst, Mass. Send comments to: Mr. Louis Hayward, Chairman of the Board of Selectmen of Amherst, Amherst Town Hall, Amherst, Mass. 01002.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Amherst, Hampshire County, Mass., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Hop Brook	Boston & Maine Railroad.	159
	Station Rd. (Upstream).	163
Muddy Brook	Pomeroy Lane	143
	West St. (Upstream)	149
Plum Brook	West St	143
	Pomeroy Court (Upstream).	147
	Pomeroy Lane (Upstream).	149
	Potwine Lane (Upstream).	160
Fort River	Downstream Corporate Limits.	140
	West St. (Upstream)	150
	Boston & Maine Railroad (Upstream).	160
	Route 9 (Upstream)	168
	Pelham Rd. (Upstream).	174
Mill River	Downstream Corporate Limits.	148
	Meadow St. (Upstream)	155
	Sanderland Rd. (Upstream).	172
	Montague Rd. (Upstream).	174
	Mill St. (Upstream)	203

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-100 Filed 1-3-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4793]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Town of Berlin, Worcester County, Mass.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Berlin, Worcester County, Mass.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Hall, Berlin, Mass.

Send comments to: The Honorable Phillip Bartlett, Chairman, Board of Selectmen, Town Hall, Berlin, Mass. 01503.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Berlin, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Wrack Meadow Brook.	At mouth	289
	Just upstream of railroad bridge located 340 feet downstream of West St.	294
	Just upstream of West St.	295
	Approximately 700 feet downstream of railroad grade.	298
	Just downstream of railroad grade located 200 feet downstream of Boylston Rd.	306
	Just upstream of railroad grade located 200 feet downstream of Boylston Rd.	312
	Just downstream of Boylston Rd.	312
	Just upstream of Boylston Rd.	317
	Approximately 1,690 feet upstream of Boylston Rd.	323
	Upstream corporate limit.	334
Assabet River	At corporate limit with Town of Marlborough.	215
	Just upstream of Bigelow St.	216
	At corporate limit with Town of Northborough.	218
Branch #2 Assabet River.	At corporate limit with Town of Hudson.	266
	Approximately 765 feet upstream of downstream corporate limits.	270
	Approximately 900 feet upstream of downstream corporate limit.	291
	Just downstream of Gates Pond Rd.	317
	Just upstream of Gates Pond Rd.	320
	Approximately 750 feet upstream of Gates Pond Rd.	321
North Brook	At mouth	217
	Just upstream of Bridge Rd.	221
	Just upstream of Whitney St.	223
	Just downstream of Pleasant St.	224
	Just downstream of Wheeler Pond Dam.	227
	Just upstream of Wheeler Pond Dam.	229
	Just upstream of Crosby Rd.	263
	Just downstream of Jones Rd.	238

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Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Just upstream of South St.	241
	Approximately 160 feet downstream of Linden St.	247
	Just downstream of Ross Dam.	249
	Just upstream of Ross Dam.	274
	Just downstream of West St.	274
	Just upstream os West St.	284
	Just upstream of Earth Dam.	287
	Just upstream of Randall Rd 292.	
	Approximately 1,100 feet upstream of Randall Rd.	293
	Approximately 3,720 feet downstream of Lancaster Rd.	318
	Just downstream of railroad grade located 2,490 feet downstream of Lancaster Rd.	323
	Just upstream of railroad grade located 2,490 feet downstream of Lancaster Rd.	336
	Approximately 1,100 feet downstream of Lancaster Rd.	343
	Approximately 950 feet downstream of Lancaster Rd.	349
	Just downstream of Lancaster Rd 357.	
	Just upstream of Lancaster Rd.	361
	Just downstream of Asphalt Rd.	361
	Just upstream of Asphalt Rd.	366
	Upstream corporate limit.	366

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-101 Filed 1-3-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4794]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Town of Bolton, Worcester County, Mass.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Bolton, Worcester, Mass. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Hall, Bolton, Mass.

Send comments to: The Honorable Thomas D. Kelley, Chairman Board of Selectmen, Town of Bolton, Town Hall, Bolton, Mass. 01740.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Bolton, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.4(a)).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Still/Nashua River.	2.5 miles downstream of Main St. at western corporate limit.	230
	.02 mile downstream of Main St.	231
	Just upstream of Main St.	232
	.38 mile upstream of Main St.	232
Mill Brook	At corporate limit .97 mile downstream of Mill Road at Hudson-Bolton corporate limit.	291
	.7 mile downstream of Mill Rd.	300
	.41 mile downstream of Mill Rd. at dirt road.	302
	.21 mile downstream of Mill Rd.	304
	Just downstream of Mill Rd.	310
	.08 mile upstream of Mill Rd. at foot bridge.	311
	.1 mile upstream of Mill Rd.	312
	At Mill Road .4 mile downstream of Spectacle Hill Rd.	313
	.17 mile downstream of Spectacle Hill Rd.	315
	.15 mile downstream of Spectacle Hill Rd. at asphalt road.	320
	.13 miles downstream of Spectacle Hill Rd. at corrugated steel pipe.	334
	.02 mile downstream of Spectacle Hill Rd.	343
	Just downstream of Spectacle Hill Rd.	344
Great Brook	.89 mile downstream of East End Rd. at Bolton-Hudson corporate limits.	231
	.66 mile downstream of East End Rd.	232
	.64 mile downstream of East End Rd. at downstream foot of dam.	233
	.54 mile downstream of East End Rd. at top of dam.	237
	.50 mile downstream of East End Rd.	240
	.49 mile downstream of East End Rd. at East Bolton Dam.	244
	Just downstream of East End Rd.	247
	Just upstream of East End Rd.	249
	.51 mile upstream of East End Rd., at private road.	269
	Just upstream of foot bridge .21 mile downstream of Main St.	274

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	.2 mile downstream of Main St.	275
	Just downstream of Main St.	280
	.03 mile upstream of Main St.	281
	.22 mile upstream of Main St.	286
	At Main St. .28 mile downstream of Burnam Rd.	291
	Just upstream of Burnam Rd.	326
	.03 mile downstream of Route 495 exit ramp.	326
	Just upstream of Route 495 exit ramp.	327
	.03 mile upstream of Route 495 exit ramp.	330
	At Route 495	330
	Just upstream of Main St.	333
	.11 mile upstream of Main St. at Route 495 exit ramp.	333
	.21 mile upstream of Main St. just upstream of dirt road.	338
	.33 mile upstream of Main St. just upstream of dirt road.	341
	.45 mile upstream of Main St.	341
	.60 mile upstream of Main St. just upstream of dirt road.	348
	.77 mile upstream of Main St. just downstream of dirt road.	354
	.77 mile upstream of Main St. just upstream of dirt road.	362
	.99 mile upstream of Main St. just upstream of foot bridge.	365
	1.17 miles upstream of Main St. at foot bridge.	370
	1.30 miles upstream of Main St. just upstream of foot bridge.	371
	1.34 miles upstream of Main St. just upstream of foot bridge.	375
	1.35 miles upstream of Main St. .03 mile downstream of second Main St. crossing.	376
	.02 mile upstream of second Main St. crossing.	377
	.12 mile downstream of Harvard Rd. just downstream of first dam.	392
	.10 mile downstream of Harvard Rd. just upstream of second dam.	395
	.06 mile downstream of Harvard Rd. just upstream of dirt road.	399
	Just upstream of Harvard Rd.	403
	Just upstream of Nousse Rd.	430

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and the Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of congressional review requirements in order to permit publication at this time for public comment.

Issued: December 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-102 Filed 1-3-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4795]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Hatfield, Hampshire County, Mass.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Hatfield, Hampshire County, Mass. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Clerk's Office, Hatfield, Mass. Send comments to: The Honorable A. Cory Bardwell, Chairman Board of Selectmen, Town of Hatfield, Town Hall, Hatfield, Mass. 011038.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Hatfield, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.4(a)).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Connecticut River.	Southwest corporate limits.	126
	Northeast corporate limits.	129
Mill River	At confluence with Connecticut River.	126
	Just downstream of Prospect St. Dam.	126
	Just upstream of Prospect St. Dam.	136
	Just upstream of Bridge St.	138
	Just upstream of Chestnut St.	141
	Just upstream of Boston & Main Railroad.	144
	Just upstream of U.S. Highway 5.	148
	Just upstream of Bradford Depot Rd..	153
	Northern corporate limits.	155
Running Gutter Brook.	At confluence with Mill River.	138
	Just upstream of Boston & Maine Railroad.	139
	Just upstream of Interstate 91.	140
	0.20 Mile upstream of U.S. Highway 5.	143

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and the Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557,

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92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-103 Filed 1-3-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4796]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Town of Lynnfield, Essex County, Mass.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Lynnfield, Essex County, Mass. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Town Hall, Planning Board Office, Lynnfield, Mass. Send comments to: Mr. David Miller, Chairman, Board of Selectmen, Town of Lynnfield, Town Hall, Lynnfield, Mass. 01940.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Lynnfield, Mass., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Sugas River	Salem St.—at centerline.	64
	At confluence with Beaverdam Brook.	74
	Boston & Maine Railroad—100 feet*.	76
	Vernon St.—100 feet*	79
Beaverdam Brook	Main St. (downstream crossing)—50 feet*.	75
Bates Brook	Boston & Maine Railroad—10 feet*.	105
	Chatham Way—40 feet*.	116
Pillings Pond	At the west end of Island Road.	99

*Upstream of centerline

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-104 Filed 1-3-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4797]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Topsfield, Essex County, Mass.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Topsfield, Essex County, Mass. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Town Clerk's Office, Town Hall, 8 West Common Street, Topsfield, Mass. 01983. Send comments to: Mr. Jetson Pratt, Chairman, Board of Selectmen, Town of Topsfield, Town Hall, 8 West Common Street, Topsfield, Mass. 01983.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Topsfield, Mass., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Ipswich River	Newburyport Turnpike	39
	Rowley Bridge St	40
Branch of Ipswich River.	Dirt Rd	38
	Boston & Maine Railroad.	41
	Newburyport Turnpike	42
Fish Brook	Washington St	45
	River Rd	46
	Corporate Limits	47
Mile Brook	Newburyport Turnpike	46
	Dirt Rd	50
Pye Brook	Haverhill Rd.—40 Feet downstream from centerline.	59
	Haverhill Rd.—at centerline.	64
Howlett Brook	Newburyport Turnpike	50
	North St.	51
	Stage Coach Rd	54

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-105 Filed 1-3-79; 8:45 am]

[4210-01—M]

[24 CFR Part 1917]

[Docket No. FI-4798]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Franklin, Merrimack County, N.H.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Framklin, Merrimack County, N.H.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Franklin Planning Office, Franklin City Hall, Franklin, N.H.

Send comments to: Mr. K. A. Larrivee, City Manager of Franklin, Franklin City Hall, Franklin, N.H. 03235.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Franklin, Merrimack County, N.H. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Merrimack and Pemigewasset Rivers	Franklin Falls Dam (Downstream).	309
	Eastman Falls Dam (Upstream).	309
	Eastman Falls Dam (Downstream).	273
	Confluence of Winnipesaukee River.	272
	Confluence of Shaw Brook.	270
	Downstream Corporate Limits.	268
Winnepesaukee River.	Upstream Corporate Limits.	407
	Cross Mill Rd. Bridge	406
	Corporate Limits 1,795 feet downstream from Cross Mill Rd. Bridge.	386
	Abandoned Railroad Trestle 1,320 feet upstream from Breached Dam.	359
	Breached Dam (Upstream).	345
	Breached Dam (Downstream).	337
	Central Street (Upstream).	324
	J. P. Stevenson Co. Dam (Upstream).	323
	J. P. Stevenson Co. Dam (Downstream).	302
	Public Service Company Dam (Upstream).	301
	Public Service Company Dam (Downstream).	291
	Sulloway Mills Dam (Upstream).	286
	Sulloway Mills Dam (Downstream).	273
Chance Pond Brook.	Carr Street (Upstream)	400
	Webster Lake Dam (Upstream).	400
	Webster Lake Dam (Downstream).	395
	Kimball Street Bridge (Upstream).	369
	Boston and Maine Railroad.	364
	Unnamed Dam 164 feet upstream from North Main St. (Upstream).	309
	Unnamed Dam 164 feet upstream from North Main St. (Downstream).	297
	North Main St.	292
	Confluence with Pemigewasset River.	276

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: Dec. 8, 1978

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-106 Filed 1-3-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4422]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Town of Northfield, Merrimack County, N.H.; Correction

AGENCY: Federal Insurance Administration, HUD.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 43 FR 38860 of the FEDERAL REGISTER of August 31, 1978.

EFFECTIVE DATE: August 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755-5581 or Toll-Free line 800-424-8872.

The following:

Source of Flooding	Location	Elevation in feet, national geodetic vertical datum
Williams Brook	Just downstream of Route 38.	429
	Just upstream of Route 38.	434

Should be corrected to read:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Williams Brook	Just downstream of Route 3B.	429
	Just upstream of Route 3B.	434

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and the Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-107 Filed 1-3-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4799]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Town of Milford, Hillsborough County, N. H.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Milford, Hillsborough County, New Hampshire. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Milford Town Office, Milford, New Hampshire. Send comments to: Mr. Walter Putnam Chairman of the Board of Selectmen of Milford, Milford Town Office, Milford, New Hampshire 03055.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Milford, Hillsborough County, New Hampshire in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Souhegan River.....	State Route 101 (Upstream).	222
	Old Public Service Dam (Downstream).	233
	Old Public Service Dam (Upstream).	237
	Goldman Dam (Downstream).	239
	Goldman Dam (Upstream).	242
	Confluence of Great Brook.	243
	Confluence of Tucker Brook.	249
	Confluence of Hartshorn Brook.	251
	Confluence of Purgatory Brook	253
	Jones Crossing (Upstream).	279
	Wilton Road (Upstream).	298
	Boston & Maine Railroad (Upstream).	301
	Upstream Corporate Limits.	316
Great Brook.....	Confluence with Souhegan River.	243
	Railroad Pond Dam (Downstream)	249
	Railroad Pond Dam (Upstream).	258
	Boston and Maine Railroad.	258
	Lincoln St	258
	Boston & Maine Railroad.	259
	Milford Waterworks	261
	Confluence of Tributary E.	263
	Union St. (Downstream)	264
	Union St. (Upstream)	267
	Confluence of Ox Brook	268
	Osgood Rd. (Downstream)	269
	Osgood Pond Dam (Downstream)	270
	Osgood Pond Dam (Upstream).	274
	Mason Rd. (Upstream)...	279
Tucker Brook.....	Confluence with Souhegan River.	249
	State Route 101 (Upstream).	254
	Boston & Maine Railroad (Upstream).	259
	Service Road "A" (Upstream).	267
	New State Route 101 (Upstream).	275
Purgatory Brook ...	Confluence with Souhegan River.	253
	North River Rd. (Upstream).	260
	North Purgatory Rd. (Upstream).	263
Hartshorn Brook ..	Confluence with Souhegan River.	251
	North River Rd. (Upstream).	254
	Jennison Rd. (Upstream).	258
Ox Brook	Confluence with Great Brook.	268
	Armory Rd. (Upstream).	269

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-108 Filed 1-3-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4845]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Perth Amboy, Middlesex County, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Perth Amboy, Middlesex County, N.J. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Perth Amboy City Hall, Perth Amboy, N.J. Send comments to: Honorable George Otlowski, Mayor of Perth Amboy, 260 High Street, Perth Amboy, N.J. 08861.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Perth Amboy, Middlesex County, N.J., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Raritan Bay	Shoreline.....	12

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-109 Filed 1-3-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4846]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Passaic, Passaic County, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Passaic, Passaic County, N.J.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, Passaic, N.J. Send comments to: Honorable Robert Hare, Mayor of Passaic, 101 Passaic Avenue, Passaic, N.J. 07055.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Passaic, Passaic County, N.J., in accordance with section 110 of the Flood Disaster Protec-

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tion Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Passaic	Downstream Corporate Limit.	15
	Union Ave. Downstream	15
	Gregory Ave. Downstream.	16
	Market St. Upstream and Downstream.	17
	Monroe St. Upstream	20
	Upstream Corporate Limit.	21
MacDonald Brook	Main Ave. Upstream	46
	High St. Downstream	50
	Pennington Ave. Upstream.	56
	Passaic Ave. Downstream.	65
	Dam Downstream	71
	Dam Upstream	74
	Road Upstream	76
	Mineral Spring Ave. Downstream.	85
Weasel Brook	Confluence with Passaic River.	17
	Monroe St. Upstream	18
	Sherman St. Downstream.	24
	Parker Ave. Downstream.	26

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-110 Filed 1-3-79; 8:45 am]

[4210-01—M]

[24 CFR Part 1917]

[Docket No. FI-4847]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Town of Plattsburgh, Clinton County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Plattsburgh, Clinton County, N.Y.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Office of the Supervisor, R.D. 1, Banker Road, Plattsburgh, N.Y.

Send comments to: Mr. Arthur LeSevre, Supervisor of the Town of Plattsburgh, R.D. 1, Box 341, Banker Road, Plattsburgh, N.Y. 12901.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Plattsburgh, Clinton County, N.Y., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, National Geodetic Vertical Datum
Saranac River	Upstream Corporate Limits.	735
	Cadyville Dam Upstream.	735
	Cadyville Dam Downstream.	684
	Delaware and Hudson Railroad Upstream.	658
	Mill "C" Dam Upstream	658
	Mill "C" Downstream	606
	Kents Falls Rd. Bridge Upstream.	591
	Kents Falls Dam Upstream.	591
	Kents Falls Dam Downstream.	532
	State Route 228 Bridge Upstream.	350
	Treadwells Mill Dam Upstream.	289
	Treadwells Mill Dam Downstream.	268
	Fredenburgh Dam Upstream.	251
	Fredenburgh Dam Downstream.	223
	Indian Rapids Dam Upstream.	201
	Indian Rapids Dam Downstream.	190
	Downstream Corporate Limits.	102
Cumberland Bay	Gunboat Rock—entire reach.	102
	Grand Isle Ferry	102
	Gravelly Point—entire reach.	102
	Martin Paint—entire reach.	102
Scomotion Creek	Adirondack Northway Upstream.	102
Lake Champlain	Cliff Haven—entire reach.	102
	Bluff Point—entire reach.	102

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-111 Filed 1-3-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4848]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Township of Armstrong, Lycoming County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of Armstrong, Lycoming County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Township Building, Armstrong, Pa.

Send comments to: Mr. Jack Reigle, Chairman of the Board of Armstrong, R.D. 4, Box 16, Williamsport, Pa. 17701.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Township of Armstrong, Lycoming County, Pa., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, National Geodetic Vertical Datum
West Branch Susquehanna River.	Downstream Corporate Limits.	517
	Market Street	530
	Arch Street	535
	Upstream Corporate Limits.	537
Mosquito Creek	Edgewood Ave	570
	Dam	579
	Legislative Route 41015	583
	Dam	602
	Legislative Route 41117	608
	Dam Downstream	623
	Dam Upstream	628
	Private Bridge Downstream.	628
	Private Bridge Upstream.	636
	Township Route 430	642
	Dam	678
	Private Bridge Downstream.	687
	Private Bridge Upstream.	691

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administator.

[FR Doc. 79-112 Filed 1-3-79; 8:45 am]

[4210-01—M]

[24 CFR Part 1917]

[Docket No. FI-4849]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Borough of Baden, Beaver County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of Baden, Beaver County, Pa.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Borough Building, 369 State Street, Baden, Pa.

Send comments to: Honorable Robert Weber, Mayor of Baden, 369 State Street, Baden, Pa. 14004.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Borough of Baden, Beaver County, Pa., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Ohio River	Downstream Corporate Limits.	707
	Upstream Corporate Limits.	708

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-113 Filed 1-3-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4850]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Township of Hunlock, Luzerne County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of Hunlock, Luzerne County, Pa.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Township Office, Hunlock Fire Department, Hunlock, Pa. Send comments to: Mr. Harry Cragle, Chairman of the Board of Supervisors of Hunlock, R.D. 1, Hunlock Creek, Pa. 18621.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Township of Hunlock, Luzerne County, Pa., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Susquehanna River.	Corporate Limits (Downstream).	528
	State Hospital Bridge	530
Hunlock Creek	Conrail	533
	Dam Upstream of U.S. Route 11 (Upstream).	539
	Dam Upstream of U.S. Route 11 (Downstream).	545
	(Downstream Crossing) Legislative Route 935.	627
	Legislative Route 935	714
	Township Route 483	752
Tributary No. 1 to Hunlock Creek.	Dam (Downstream)	648
	Dam (Upstream)	655
	Private Bridge	689
Tibutary No. 2 to Hunlock Creek.	Private Bridge	715
	Legislative Route 935	798
	Township Route 532 (Downstream).	816
	Township Route 532 (Upstream).	820
Tributary No. 1 to Tributary No. 2.	Confluence with Tributary No. 2 to Hunlock Creek.	759
	2,325 feet above confluence with Tributary No. 2 to Hunlock Creek at Cross Section BQD.	780

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-114 Filed 1-3-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4851]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Township of Penn, Snyder County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of Penn, Snyder County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Township Building, Clifford Road, R.D. 1, Selinsgrove, Pennsylvania. Send comments to: Mr. Charles W. Mull, Chairman of the Township of Penn, R.D. 1, Selinsgrove, Pennsylvania 17870.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Township of Penn, Snyder County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Susquehanna River.	Downstream Corporate Limits.	430
	Upstream Corporate Limits.	434
Penns Creek	Confluence of Susquehanna River.	430
	U.S. Route 11/15	433
	Approach Road to U.S. Route 11/15.	433
	Gravel Pit Road (17,800 feet upstream of Approach Road to U.S. Route 11/15.	444
Middle Creek	U.S. Route 11/15	433
	Downstream Side of Dam (600 feet upstream of Middle Creek Road, Legislative Route 54021).	433
	Upstream Side of Dam (700 feet upstream of Middle Creek Rd. Legislative Route 54021).	444
	State Route 35	450
	Creek Road	460

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-115 Filed 1-3-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4853]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Township of Susquehanna, Lycoming County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of Susquehanna, Lycoming County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the residence of the Borough Secretary, R. D. 4, Williamsport, Pennsylvania. Send comments to: Mr. Kenneth Hafer, Sr. Chairman of the Board of Supervisors of Susquehanna, R. D. 4, Box 212, Williamsport, Pennsylvania 17701.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Township of Susquehanna, Lycoming County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

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Source of flooding	Location	Elevation in feet, national geodetic vertical datum
West Branch Susquehanna River.	Downstream Corporate Limits.	537
	Conrail Bridge Upstream.	538
	Upstream Corporate Limits.	543
Bender Run	Legislative Route 41016 (Upstream).	538
	Porch (Upstream)	542
	Private Dam (Upstream).	587
	Private Bridge at confluence of Left Branch Bender Run (Upstream).	602
	Private Bridge approximately 4,250 feet above West Branch Susquehanna River.	624
	Private Bridge approximately 4,950 feet above West Branch Susquehanna River.	647
	Private Bridge approximately 6,200 feet above West Branch Susquehanna River.	690
	Valley Rd. (Upstream)	730
	Upstream Corporate Limits.	739
Bender Run Left Branch.	Legislative Route 41016	539
	Valley Rd. (Upstream)	586
	Upstream Corporate Limits.	600

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 93 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-116 Filed 1-3-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4855]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Borough of Watsontown, Northumberland County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of Watsontown, Northumberland County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Borough Building, Watsontown, Pennsylvania. Send comments to: Honorable Oliver Wetton, Mayor of Watsontown, P.O. Box 273, Watsontown, Pennsylvania 17777.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Borough of Watsontown, Northumberland County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
West Branch Susquehanna River.	Downstream Corporate Limits.	476
	L. R. 240 Spur	478
	Upstream Corporate Limits.	479
Spring Run	Confluence of West Branch Susquehanna River.	479
	Main Street	479
	Conrail Bridge (Downstream).	487
	Conrail Bridge (Upstream).	487
	Culvert (Downstream)	487
	Conrail Railroad Culvert.	492
	Culvert (Upstream)	494
	Liberty Street	497
	Upstream Corporate Limits.	499

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 8, 1978.

GLORIA M. JIMINEZ,
Federal Insurance Administrator.

[FR Doc. 79-117 Filed 1-3-79; 8:45 am]

[4210-01—M]

[24 CFR Part 1917]

[Docket No. FI-4854]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Borough of Throop, Lackawanna County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of Throop, Lackawanna County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Municipal Building, Throop, Pennsylvania. Send comments to: Honorable John J. Stecco, Mayor of Throop, 104 George Street, Throop, Pennsylvania 18512.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Borough of Throop, Lackawanna County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lackawanna River	Downstream Corporate Limit.	733
	Boulevard Ave. Upstream.	736
	Upstream Corporate Limit.	750

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-118 Filed 1-3-79; 8:45 am]

[4210-01—M]

[24 CFR Part 1917]

[Docket No. FI-4856]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Township of White Deer, Union County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of White Deer, Union County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the White Deer Township Building. Send comments to: Mr. Leonard Caris, Chairman of the Board of Supervisors of White Deer, R.D. 1, Box 262, New Columbia, Pennsylvania 17856.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Township of White Deer, Union County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
West Branch Susquehanna River.	Interstate Route 80	473
	Legislative Route 240 Spur.	477
	Corporate Limits Upstream.	480
Dog Run	River Road	471
	U.S. Route 15	485
	Private Bridge	487
	Legislative Route 59024	507
	Legislative Route 59024	529
	Private Bridge	533
	Legislative Route 59024	540
White Deer Creek	Conrail	477
	Buck Road Covered Bridge.	528
	Interstate Route 80	563
	Legislative Route 59045	601

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-119 Filed 1-3-79; 8:45 am]

V 4 4 / 3 J A 4 7 9 UMI

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4857]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Bridport, Addison County, Vt.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Bridport, Addison County, Vermont. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Office, Bridport, Vermont. Send comments to: The Honorable Bernard V. Giard, Chairman, Board of Selectmen, Town of Bridport, Town Office, Bridport, Vermont 05734.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Bridport, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lake Champlain....	From Northern corporate limit to Southern corporate limit.	103

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section (o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1973, Pub. L. 95-557, 92 Stat. 2030, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administration.

[FR Doc. 79-120 Filed 1-3-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4858]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Weirton, Brooke and Hancock Counties, W. Va.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Weirton, Brooke and Hancock Counties, West Virginia. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Weirton Department of Inspections, Weirton, West Virginia. Send comments to: Mr. Joseph E. Nagy, City Manager of Weirton, 200 Municipal Plaza, Weirton, West Virginia 26062.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Weirton, Brooke and Hancock Counties, West Virginia in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Ohio River	Downstream Corporate Limits.	671
	Conrail.....	672
	Steubenville-Weirton Highway.	672
	National Steel Corporation Bridge.	674

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Upstream Corporate Limits.	875
Harmon Creek.....	Confluence with Ohio River.	672
	Private Drive (Downstream).	672
	Private Drive (Upstream).	680
	Conrail.....	680
	State Route 2	681
Kings Creek.....	Confluence with Ohio River.	675
	Conrail.....	675
	Kings Creek Rd. (1.22 miles above Mouth) (Downstream).	687
	Kings Creek Rd. (1.22 miles Above Mouth (Upstream).	895
	Private Road (2.25 miles above Mouth).	708
	Kings Creek Rd. (3.53 miles above Mouth) (Upstream).	737
	North 12th Street (Upstream).	754
	Park Road (5.05 miles above Mouth).	771
	Park Road (5.12 miles above Mouth).	772
	Sondra Dr. (Upstream)...	777
	Culler Rd. (Upstream)....	801

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-121 Filed 1-3-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4852]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Borough of Olyphant, Lackawanna County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of Olyphant, Lackawanna County, Pennsylvania.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Borough Building, Olyphant, Pennsylvania. Send comments to: Honorable John Chichilla, Mayor of Olyphant, Willow Street, Olyphant, Pennsylvania 18447.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Borough of Olyphant, Lackawanna County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lackawanna River..	Downstream Corporate Limits.	750
	Upstream Colliery Bridge.	756
	Upstream Delaware & Hudson Railroad Bridge.	762
	Upstream West Lackawanna Avenue Bridge.	766
	Upstream Corporate Limits.	792
Sterry Creek	Downstream Corporate Limits.	816
	About 2,100 feet upstream of downstream Corporate Limits.	837
	Upstream Limit of Detailed Study.	914

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-122 Filed 1-3-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4895]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Brookfield, Waukesha County, Wis.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Brookfield, Waukesha County, Wisconsin. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed

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rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Office of City Clerk, 2000 North Calhoun Road, Brookfield, Wisconsin. Send comments to: Mr. Clark Wangerin, City Engineer, City of Brookfield, City Hall, 2000 North Calhoun Road, Brookfield, Wisconsin 53005.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Brookfield, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Fox River	Just upstream of Town Line Rd.	823
	Just downstream of North Ave.	824
	At north corporate limits.	827
Poplar Creek	Just upstream of Enterprise Rd.	824
	Just upstream of Davidson Rd.	829
Deer Creek	Corporate limits at Brookfield Rd.	830
	Just upstream of North Dechant Rd.	836
	South corporate limits	839
Underwood Creek	Downstream corporate limits.	751
	Just upstream of Clearwater Dr.	757
	Just upstream of Santa Maria Dr.	770
	Just upstream of Wood bridge Rd.	788
	Just upstream of Indian Creek Parkway.	798
	Approximately 100 feet upstream of Chicago, Milwaukee, St. Paul & Pacific Railroad.	816
	Just upstream of Pilgrim Rd.	822
Underwood Creek South Branch.	Just upstream of Chicago, Milwaukee, St. Paul & Pacific Railroad.	720
Underwood Creek North Branch.	Just upstream of Burleigh Rd.	755
Dousman Ditch	Just downstream of North Ave.	825
	Brookfield-Elm Grove corporate limit just downstream of Gebhardt Rd.	828
	Just downstream of Calhoun Rd.	835
Butler Ditch	Just upstream of Hampton Rd.	752
	Just upstream Lisbon Rd.	756
	Just upstream of Lilly Rd.	759
	Corporate limits at Lisbon Rd.	773
Butler Ditch South branch.	Mouth at Butler Ditch	762
	Just downstream of Capitol Dr.	767

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 14, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-123 Filed 1-3-79; 8:45 am]

[4830-01-M]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

[LR-198-77]

INCOME TAX

Claims for Credit or Refund by Income Tax Return Preparers

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the filing of claims for credit or refund of certain penalties assessed against income tax return preparers. Changes to the applicable law were made by the Tax Reform Act of 1976. The regulations would affect all preparers claiming overpayment of these penalties and would provide them with the guidance needed to comply with the law.

DATES: Written comments and requests for a public hearing must be delivered or mailed by March 5, 1979.

Generally, the regulations are proposed to apply to claims filed more than 30 days after the date of publication of the final regulations in the FEDERAL REGISTER. However, the Internal Revenue Service will accept as properly filed all claims filed in accordance with either these proposed regulations or the final regulations until the expiration of this 30-day period after the publication of the final regulations in the FEDERAL REGISTER.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-198-77), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

Mark L. Yecies of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention: CC:LR:T, 202-566-3464, not a toll-free call.

SUPPLEMENTARY INFORMATION:

BACKGROUND

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 6696 of the Internal Revenue Code of 1954, relating to the filing of claims for credit or refund of certain penalties assessed against income tax return preparers. These amendments are proposed to conform the regulations to the portion of section 1203 (f) of the Tax reform Act of 1976 which relates to the subject matter of these amendments (90 Stat. 1693), and are to be issued under the authority contained in section 6696 (c) of the Internal Revenue Code of 1954 (90 Stat. 1693; 26 U.S.C. 6696 (c)) and in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Section 1203 of the Tax Reform Act of 1976 established duties for income tax return preparers and provided penalties for the breach of these duties and procedures with respect to the collection of the penalties. On November 23, 1977, and on November 20, 1978, the FEDERAL REGISTER published final regulations to implement most of the provisions of section 1203 of the Act. The regulation proposed with this notice of proposed rulemaking would provide procedures for the filing by a preparer of a claim for credit or refund of an overpayment of any of these penalties. This regulation would not affect present Internal Revenue Service procedures which allow a preparer to request informally abatement of an assessed preparer penalty prior to payment of any part of the penalty. The regulation would also not affect present Service procedures providing for administrative appeal of preparer penalties prior to the filing of a claim for refund.

This regulation does not meet the Treasury criteria for a significant regulation under paragraph eight of the final Treasury Directive appearing in the FEDERAL REGISTER for Wednesday, November 8, 1978 (43 FR 52120).

DESCRIPTION OF PROPOSED REGULATION

Section 1.6696-1 (a) requires the Internal Revenue Service to issue to each income tax return preparer one or more statements of notice and demand for payment for all preparer penalties assessed against the preparer. Section 1.6696-1 (b) provides that a claim for credit or refund of a preparer penalty (or penalties) may be filed only by the preparer against whom the penalty (or penalties) is assessed. Section 1.6696-1 (c) provides that a preparer shall file a separate claim for each penalty asserted in each statement of notice and demand, or may file one or more consolidated claims for certain penalties imposed on the preparer by a single Internal Revenue Service Center (or district director).

Section 1.6696-1 (d) sets forth the required content of a claim for credit or refund of a preparer penalty (or penalties). Section 1.6696-1 (e) provides that Form 6118 is the form prescribed for filing this information with the Internal Revenue Service. Section 1.6696-1 (f) specifies that the claim is to be filed with the Internal Revenue Service Center (or district director) which issued the statement (or statements) of notice and demand to the preparer. Section 1.6696-1 (g) requires, generally, that the claim be filed within 3 years from the date the penalty payment was made.

Section 1.6696-1 (h) provides that the Internal Revenue Service may credit any amount of an overpayment of a preparer penalty (or penalties) against any outstanding liability of the preparer to the Internal Revenue Service. Section 1.6696-1 (i) (1) provides for the payment of interest by the Internal Revenue Service on the overpayment of a preparer penalty (or penalties). Section 1.6696-1 (i) (2) provides for the payment of interest by a preparer to the Internal Revenue Service on a preparer penalty (or penalties).

Finally, § 1.6696-1 (j) (1) provides that a preparer may not maintain a civil action for the recovery of any of the preparer penalties in a court which would otherwise have jurisdiction of the proceeding if the preparer had not filed a claim as provided in these regulations. Section 1.6696-1 (j) (2) provides that, generally, the periods of limitation contained in section 6532 and the regulations thereunder apply to a preparer's suit for the recovery of a preparer penalty.

COMMENTS AND REQUESTS FOR A PUBLIC HEARING

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the FEDERAL REGISTER.

DRAFTING INFORMATION

The principal author of these proposed regulations is Mark L. Yecies of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

PROPOSED AMENDMENTS TO THE REGULATIONS

The Income Tax Regulations (26 CFR Part 1) are proposed to be amended by adding the following new section immediately after § 1.6695-1:

§ 1.6696-1 Claims for credit or refund by income tax return preparers.

(a) *Notice and demand.* (1) The Internal Revenue Service shall issue to each income tax return preparer one or more statements of notice and demand for payment for all penalties assessed against the preparer under section 6694 and § 1.6694-1, or under section 6695 and § 1.6695-1.

(2) For the definition of the term "income tax return preparer" (or "preparer"), see section 7701(a)(36) and § 301.7701-15.

(b) *Claim filed by preparer.* A claim for credit or refund of a penalty (or penalties) assessed against a preparer under section 6694 and § 1.6694-1, or under section 6695 and § 1.6695-1, may be filed under this section only by the preparer (or the preparer's estate) against whom the penalty (or penalties) is assessed and not by, for example, the preparer's employer.

(c) *Separation and consolidation of claims.* (1) Unless paragraph (c)(2) of this section applies, a preparer shall file a separate claim for each penalty asserted in each statement of notice and demand issued to the preparer.

(2) A preparer may file one or more consolidated claims for any or all penalties imposed on the preparer by a single Internal Revenue Service Center (or district director) under section 6695(a) and § 1.6695-1(a) (relating to failure to furnish copy of return to taxpayer), section 6695(b) and § 1.6695-1(b) (relating to failure to sign), section 6695(c) and § 1.6695-1(c) (relating to failure to furnish identifying number), or under section 6695(d) and § 1.6695-1(d) (relating to failure to retain copy of return or record), whether the penalties are asserted on a single or on separate statements of notice and demand. In addition, a preparer may file one consolidated claim for any or all penalties imposed on the preparer by a single Internal Revenue Service Center (or district director) under section 6695(e) and § 1.6695-1(e) (relating to failure to file correct information return), which are asserted on a single statement of notice and demand.

(d) *Content of claim.* Each claim for credit or refund of any penalty (or penalties) paid by a preparer under section 6694 and § 1.6694-1, or under section 6695 and § 1.6695-1, shall include the following information, verified by a written declaration by the preparer that the information is provided under penalty of perjury:

(1) The preparer's name.

(2) The preparer's identification number. If the preparer is—

(i) An individual (not described in subdivision (iii) of this paragraph (d)(2)) who is a citizen or resident of the United States, the preparer's social security account number shall be provided;

(ii) An individual who is not a citizen or resident of the United States and also was not employed (or engaged) by

another preparer to prepare the document (or documents) with respect to which the penalty (or penalties) was assessed, the preparer's employer identification number shall be provided; or

(iii) A person (whether an individual, corporation, or partnership) who employed (or engaged) one or more persons to prepare the document (or documents) with respect to which the penalty (or penalties) was assessed, the preparer's employer identification number shall be provided.

(3) The preparer's address where the Internal Revenue Service mailed the statement (or statements) of notice and demand and, if different, the preparer's address shown on the document (or documents) with respect to which the penalty (or penalties) was assessed.

(4)(i) The address of the Internal Revenue Service Center (or district director) which issued to the preparer the statement (or statements) of notice and demand for payment of the penalty (or penalties) included in the claim; and

(ii) The date (or dates) and identifying number (or numbers) of the statement (or statements) of notice and demand.

(5)(i) The identification, by amount, type, and document to which related, of each penalty included in the claim. Each document referred to in the preceding sentence shall be indentified by the form title or number, by the taxpayer's (or nontaxable entity's) name and identification number, and by the taxable year to which the document relates;

(ii) The date (or dates) of payment of the amount (or amounts) of the penalty (or penalties) included in the claim; and

(iii) The total amount claimed.

(6) A statement setting forth in detail—

(i) Each ground upon which each penalty overpayment claim is based; and

(ii) Facts sufficient to apprise the Internal Revenue Service of the exact basis of each such claim.

(e) *Form for filing claim.* Notwithstanding § 301.6402-2 (c), Form 6118 is the form prescribed for making a claim as provided in this section.

(f) *Place for filing claim.* A claim filed under this section shall be filed with the Internal Revenue Service Center (or district director) which issued to the preparer the statement (or statements) of notice and demand for payment of the penalty (or penalties) included in the claim.

(g) *Time for filing claim.* (1) Except as provided in section 6694 (c) (1) and § 1.6694-2 (a) (3) (ii) and (4), and in section 6694 (d) and § 1.6694-1 (c)—

(i) A claim for a penalty paid by a preparer under section 6694 and § 1.6694-1, or under section 6695 and § 1.6695-1, shall be filed within 3 years from the date the payment was made; and

(ii) A consolidated claim, permitted under paragraph (c) (2) of this section, shall be filed within 3 years from the first date of payment of any penalty included in the claim.

For purposes of this paragraph (g) (1), payment is considered made on the date payment is received by the Internal Revenue Service or, where applicable, on the date an amount is credited in satisfaction or the penalty.

(2) The rules under sections 7502 and 7503 and the regulations thereunder apply to the timely filing of a claim as provided in this section.

(h) *Application of refund to outstanding liability of income tax return preparer.* The Internal Revenue Service may, within the applicable period of limitation, credit any amount of an overpayment by a preparer of a penalty (or penalties) paid under section 6694 and § 1.6694-1, or under section 6695 and § 1.6695-1, against any outstanding liability for any tax (or for any interest, additional amount, addition to the tax, or assessable penalty) owned by the preparer making the overpayment. If a portion of an overpayment is so credited, only the balance will be refunded to the preparer.

(i) *Interest.* (1) Section 6611 and the regulations thereunder apply to the payment by the Internal Revenue Service of interest on an overpayment by a preparer of a penalty (or penalties) paid under section 6694 and § 1.6694-1, or under section 6695 and § 1.6695-1.

(2) Section 6601 and the regulations thereunder apply to the payment of interest by a preparer to the Internal Revenue Service on any penalty (or penalties) assessed against the preparer under section 6694 and § 1.6694-1 or under section 6695 and § 1.6695-1.

(j) *Suits for refund of preparer penalty.* (1) A preparer may not maintain a civil action for the recovery of any penalty paid under section 6694 and § 1.6694-1, or under section 6695 and § 1.6695-1, unless the preparer has previously filed a claim for credit or refund of the penalty as provided in this section (and the court has jurisdiction of the proceeding). See sections 6694 (c) and 7422.

(2) (i) Except as provided in section 6694 (c) (2) and § 1.6694-2 (b), the periods of limitation contained in section 6532 and the regulations thereunder apply to a preparer's suit for the recovery of any penalty paid under section 6694 and § 1.6694-1, or under section 6695 and § 1.6695-1.

(ii) The rules under section 7503 and the regulations thereunder apply to the timely commencement by a preparer of a suit for the recovery of any penalty paid under section 6694 and § 1.6694-1, or under section 6695 and § 1.6695-1.

JEROME KURTZ,
Commissioner of Internal Revenue.

[FR Doc. 79-344 Filed 1-3-79; 8:45 am]

[4830-01-M]

[26 CFR Part 1]

[LR-1671]

ARBITRAGE BONDS

Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed amendments to the arbitrage bond regulations, under section 103(c) of the Internal Revenue Code of 1954, which appeared in the FEDERAL REGISTER for September 7, 1978 (43 FR 39822).

DATES: The public hearing will be held on February 7, 1979, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by January 26, 1979.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, D.C. The outlines for oral comments on the proposed amendments to the regulations should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (LR-1671), 1111 Constitution Avenue, NW., Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

George Bradley or Charles Hayden of the legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224; telephone 202-566-3935, not a toll-free call.

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed amendments to the arbitrage bond regulations under section 103(c) of the Internal Revenue Code of 1954. These proposed amendments appeared in the FEDERAL REGISTER for Thursday, September 7, 1978 (43 FR 39822).

On May 3, 1973, the FEDERAL REGISTER published proposed Income Tax Regulations (26 CFR Part 1) under section 103(c) of the Internal Revenue Code of 1954 (38 FR 10944). The proposed regulations were revised by notices of proposed rulemaking published in the FEDERAL REGISTER for December 3, 1975 (40 FR 56488), October 9, 1976 (41 FR 47679), May 31 1977 (42 FR 27610), June 9 1977 (42 FR 29517), May 8 1978 (43 FR 19675), corrected by notices published in the FEDERAL REGISTER for May 11, 1973 (38 FR 12405), December 18, 1975 (40 FR 58656), November 24, 1976 (41 FR 51840), and June 21, 1977 (42 FR 31462). The proposed regulations which are the subject of this hearing further revise the proposed regulations.

The rules of § 601.601(a)(3) of the Statement of Procedural Rules (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed amendments and who desire to present oral comments at the hearing on the proposed amendments must submit an outline of the comments to be presented at the hearing and the time they wish to devote to each subject. As stated above, this outline must be delivered or mailed by January 26, 1979. Each speaker will be limited to 10 minutes for an oral presentation exclusive of the time taken by questions from the panel for the Government and answers to these questions.

Because of controlled access restrictions, those attending the hearing cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the FEDERAL REGISTER for Wednesday, November 8, 1978.

By direction of the Commissioner of Internal Revenue.

ROBERT A. BLEY,
Director, Legislation and Regulations Division.

[FR Doc. 79-388 Filed 1-3-79; 8:45 am]

[4830-01-M]

[26 CFR Part 31]

PART 31—EMPLOYMENT TAXES; APPLICABLE ON AND AFTER JANUARY 1, 1955

Wage Withholding on Remuneration for Which a Corresponding Deduction is Allowable Under Section 913

AGENCY: Internal Revenue Service, Treasury.

ACTION: Proposed rulemaking cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations portion of this FEDERAL REGISTER, the Internal Revenue Service is issuing a temporary income tax regulation relating to wage withholding on remuneration for which a corresponding deduction is allowable under section 913. The temporary regulation also serves as a notice of proposed rulemaking for final income tax regulations.

DATES: The temporary regulations are effective on January 1, 1979. The regulations are prescribed under a change to the applicable tax law which was made by the Foreign Earned Income Act of 1978. The proposed regulations are to be effective for the same period. Written comments and requests for public hearing must be delivered or mailed by March 16, 1979.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention, CC:LR:T, (LR-212-78) Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

Mary E. Dean of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T 202-566-3289, not a toll-free call.

SUPPLEMENTARY INFORMATION: The temporary regulation in the Rules and Regulations portion of this issue of the FEDERAL REGISTER amends 26 CFR Part 37. The final regulations which are proposed to be based on the temporary regulation would amend 26 CFR Part 31.

For the text of the temporary regulation, see FR Doc. 78-36484 (T.D. 7588) published in the Rules and Regulation portion of this issue of the FEDERAL REGISTER.

JEROME KURTZ,
Commissioner of Internal Revenue.

DECEMBER 29, 1978.

[FR Doc. 78-36485 Filed 12-29-78; 4:24 pm]

[7550-01-M]

NATIONAL MEDIATION BOARD

[29 CFR Parts 1202, 1206]

REPRESENTATION DISPUTES AND RULES OF PROCEDURE

Extension of Public Comment Periods

AGENCY: National Mediation Board.

ACTION: Notice of the extension of public comment periods.

SUMMARY: The comment periods for the three proposed rulemaking actions specified below have been extended until January 24, 1979. This extension has been granted in order to permit additional public consideration of the Board's proposed regulations. The proposed rulemaking actions affected by this extension are the following:

(1) Notice of Proposed Rulemaking publised at 43 FR 49015 on October 20, 1978, relating to the time limits for filing R-case applications provided by 29 CFR § 1206.4;

(2) Notice of Proposed Rulemaking published at 43 FR 52032 on November 8, 1978, relating to the page limitations for briefs in NMB hearings to be provided by 29 CFR § 1202.15; and

(3) Notice of Proposed Rulemaking published at 43 FR 54267 on November 21, 1978, relating to deleting the showing of interest requirement for unrepresented employees provided by 29 CFR § 1206.2.

DATES: Consideration will be given to all written comments received at the Board's offices on or before January 24, 1979.

ADDRESS: Written comments should be addressed to Mr. Rowland K. Quinn, Jr., Executive Secretary, National Mediation Board, Washington, D.C. 20572.

FOR FURTHER INFORMATION CONTACT:

Rowland K. Quinn, Jr., Executive Secretary, National Mediation Board, Telephone: 202-523-5920.

By direction of the National Mediation Board.

Dated: December 28, 1978.

ROWLAND K. QUINN, Jr.,
Executive Secretary.

[FR Doc. 79-328 Filed 1-3-79; 8:45 am]

[8320-01-M]

VETERANS ADMINISTRATION

[38 CFR Part 21]

VETERANS' EDUCATION

Post-Vietnam Era Veterans; Educational Assistance

AGENCY: Veterans Administration and Department of Defense.

ACTION: Proposed regulations.

SUMMARY: The following regulatory provisions implement portions of the Veterans' Education and Employment Assistance Act of 1976. They deal with a new participatory program for educational assistance for persons who first enter active duty in the Armed Forces after December 31, 1976. The regulations included in this publication will implement this new program.

DATES: Comments must be received on or before March 5, 1979. It is proposed to make this amendment effective January 1, 1977, the effective date

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of sections 401-408 of Pub. L. 94-502 (90 Stat. 2383).

ADDRESSES: Send written comments to: Administrator of Veterans Affairs (271A) Veterans Administration, 810 Vermont Avenue NW, Washington, DC 20420. Comments will be available for inspection at the above address during normal business hours until March 15, 1979.

FOR FURTHER INFORMATION CONTACT:

June C. Schaeffer, Assistant Director for Policy and Program Administration, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue NW., Washington, DC 204020 (202-389-2092)

SUPPLEMENTARY INFORMATION: Chapter 32, title 38, United states Code, as added by sections 401-408 of Pub. L. 94-502, effective January 1, 1977, provides for a new participatory veterans educational assistance program to replace the previous nonparticipatory one. Service members will contribute varying amounts of money to a fund to be supplemented on a two for one basis by the Veterans Administration (with other supplemental funds, if any, from the Department of Defense). Individuals who qualify will be entitled to 36 months of benefits in an amount dependent upon their respective fund balances. These regulations are designed to incorporate policy used to administer chapters 34 and 36 educational assistance programs to the extent that the policies are consistent with the provisions of chapter 32. Other regulations proposed, of necessity, have no counterpart in former policies due to different legal criteria for eligibility, etc., required by the terms of chapter 32.

ADDITIONAL COMMENT INFORMATION

Interested persons are invited to submit written comments, suggestions or objections regarding the proposal to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue NW., Washington, DC 20420. All written comments received will be available for public inspection at the above address only between the hours of 8 am and 4:30 pm Monday through Friday (except holidays), until March 15, 1979. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in room 132. Such visitors to any VA field station will be informed that records are available for inspection only in Central Office and furnished the address and the above room number.

Approved: December 21, 1978.

MAX CLELAND,
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In Part 21, a new Subpart G is added to read as follows:

Subpart G—Post-Vietnam Era Veterans' Educational Assistance Under 38 U.S.C. Ch. 32

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AUTHORITY: 72 Stat. 1114, 90 Stat. 2393; (38 U.S.C. 210, 1601-1643).

ADMINISTRATIVE

§ 21.5001 Administration of benefits program; chapter 32.

The provisions of the following sections are to be applied in the administration of benefits payable under chapter 32, title 38, United States Code, in the same manner as they are applied for the administration of chapters 34 and 36:

(a) Section 21.4001—Delegations of authority.

(b) Section 21.4002—Finality of decisions.

(c) Section 21.4003—Revision of decisions.

(d) Section 21.4005—Conflicting interests.

(e) Section 21.4006—False or misleading statements.

(f) Section 21.4007—Forfeiture.

(g) Section 21.4008—Prevention of overpayments.

(h) Section 21.4009—Overpayments; waiver or recovery. (38 U.S.C. 1641)

GENERAL

§ 21.5020 Post-Vietnam era veterans' educational assistance.

Chapter 32, title 38, United States Code, effective January 1, 1977, provides for a participatory program for educational assistance benefits to veterans and service members eligible under the terms of § 21.5040. The intent of Congress is that this program shall:

(a) Provide educational assistance to those men and women who enter the Armed Forces after December 31, 1976,

(b) Assist such individuals to obtain an education they might not otherwise be able to afford, and

(c) Promote and assist the all volunteer military program of the United States by attracting qualified persons to serve in the Armed Forces. (38 U.S.C. 1601)

§ 21.5021 Definitions.

For the purpose of Subpart G and payment of chapter 32 benefits the following definitions shall apply:

(a) "Eligible veteran" or "veteran"—means any veteran whose service

meets the requirements of § 21.5040. The term includes a serviceman or servicewoman whose service meets the requirements of § 21.5040(d). (38 U.S.C. 1602)

(b) "Active duty"—means full-time duty in the Armed Forces or as a commissioned officer of the regular or Reserve Corps of the Public Health Service or of the National Oceanic and Atmospheric Administration. It does not include any period during which an individual:

(1) Was assigned full-time by the Armed Forces to a civilian institution for a course of education which was substantially the same as established courses offered to civilians,

(2) Served as a cadet or midshipman at one of the service academies,

(3) Served under the provisions of section 511(d) of title 10, United States Code, pursuant to an enlistment in the military reserves or national guards,

(4) Served in an excess leave without pay status, or

(5) Served in a status specified in § 3.15 of this chapter. (38 U.S.C. 1602)

(c) "State"—means each of the several States, territories and possessions of the United States, the District of Columbia, the Commonwealth of Puerto Rico and the Canal Zone. (38 U.S.C. 101)

(d) "Unit"—means not less than one hundred and twenty 60-minute hours or their equivalent of study in any high school subject in 1 academic year. (38 U.S.C. 1641; 1788)

(e) "School", "educational institution", "institution"—mean the same as defined for chapter 34 benefits in § 21.4200(a)(1). (38 U.S.C. 1602; 1652)

(f) "Divisions of the school year"—means the same as defined in § 21.4200(b).

(g) "External degree", "standard college degree," "undergraduate college degree", "standard class session", and "institution of higher learning" have the same meaning as defined in § 21.4200 (d) through (h). (38 U.S.C. 1641; 1652)

(h) "Participant"—means a person who is participating in the educational benefits program established under chapter 32. This includes: (1) A person who has enrolled in and is making contributions by monthly payroll deduction to the "fund".

(2) Those veterans or servicepersons who have contributed to the "fund" and have not disenrolled (i.e., users or potential users of benefits). (38 U.S.C. 1602)

(i) "Fund"—means that trust fund account established to maintain the dollar contributions of the participant (and contributions, if any, from the Department of Defense). The statistical and dollar amount segment of this "fund" will be recorded and maintained by the Veterans Administration. (38 U.S.C. 1622)

(j) "Suspends"—means a participant stops contributing to the "fund" (temporarily or permanently). Such person can resume contributions without penalty and/or can utilize benefits accrued, if otherwise eligible. (38 U.S.C. 1621)

(k) "Disenrolls"—means a participant terminates participation and forfeits any entitlement to benefits except for a refund of his or her contributions previously made. (38 U.S.C. 1621)

(l) "Hardship" or "other good reasons"—means circumstances considered to be such by the Department of Defense and the Veterans Administration when referring to suspension or disrollments, such as illness of the participant or a member of his or her immediate family, unexpected personal expense, etc. (38 U.S.C. 1621(b))

§ 21.5022 Eligibility under more than one program.

An individual eligible to receive educational assistance pursuant to chapter 32, title 38, United States Code, and the provisions of Subpart G is not eligible to receive educational assistance allowance pursuant to chapter 34, title 38, United States Code. If otherwise eligible, a veteran may receive vocational rehabilitation training pursuant to chapter 31, title 38, United States Code, and/or educational assistance allowance pursuant to chapter 35, title 38, United States Code, but not concurrently with benefits under chapter 32. The 48-month limitation on benefits under more than one program does not apply to benefits under chapter 32. (38 U.S.C. 1621)

§ 21.5023 Nonduplication; Federal programs.

An individual may not receive educational assistance allowance pursuant to chapter 32, title 38, United States Code, if the individual is:

(a) On active duty and is pursuing a course of education which is being paid for, in whole or in part, by the Armed Forces (or by the Department of Health, Education, and Welfare in the case of the Public Health Service), or

(b) Attending a course of education or training paid for, in whole or in part, under the Government Employees' Training Act and whose full salary is being paid to him or her while so training. (38 U.S.C. 1641, 1781)

CLAIMS AND APPLICATIONS

§ 21.5030 Applications, claims, informal claims, and time limits.

(a) An individual must apply to become a participant to his or her Service Department on forms prescribed by the Service Department and/or the Secretary of Defense.

(b) Rules and regulations of each Service Department and/or the Department of Defense shall apply to determine if the application constitutes a timely claim for participation.

(c) The provisions of the following sections shall apply to claims for educational assistance allowances or loans pursuant to chapter 32, title 38, United States Code, in the same manner as they are applied for the administration of chapters 34 and 36:

(1) Section 21.1030—Claims.

(2) Section 21.1031—Informal claims.

(3) Section 21.1032—Time limits. (38 U.S.C. 1641, 1671)

ELIGIBILITY

§ 21.5040 Basic eligibility.

Basic eligibility for educational assistance under chapter 32, title 38, United States Code, is subject to the following requirements:

(a) *Service.* The veteran must have initially entered into military service on or after January 1, 1977. He or she must serve on active duty for a period of 181 or more continuous days commencing on or after January 1, 1977, or, if the individual serves less than 181 continuous days after that date, he or she must have been discharged or released from active duty after January 1, 1977 for a service-connected disability. (38 U.S.C. 1602)

(b) *Periods excluded.* In computing the 181 or more continuous days of service, there will be excluded any period excluded by § 21.5021(b) from the definition of what constitutes "active duty". (38 U.S.C. 1602)

(c) *Discharge or release.* The veteran must have received an unconditional discharge or release from the initial period of military service required by paragraph (a) of this section, under conditions other than dishonorable and from any other period of service upon which eligibility is predicated, unless the individual is on active duty and qualifies under paragraph (d) of this section. A discharge or release will be considered to be unconditional if the individual was eligible for complete separation from active duty on the date the discharge was issued. The provisions of § 3.12 of this chapter as to character of discharge and § 3.13 of this chapter as to conditional discharges are applicable. (38 U.S.C. 1602)

(d) *Persons on active duty.* Educational assistance may be afforded a participating individual under chapter 32 even though the individual is on active duty: *Provided:*

(1) The individual initially entered into military service on or after January 1, 1977, served on active duty for a period of 181 or more continuous days after that date, and has completed the

lesser of the following two periods of active duty:

(i) The individual's first obligated period of active duty which began after December 31, 1976, or

(ii) The individual's period of active duty which first began after December 31, 1976, and which is 6 years in length, or

(2) The individual initially entered into military service on or after January 1, 1977, and served on active duty for a period of 181 or more continuous days after that date and the individual is training under the Predischarge Education Program in the last 6 months of the individual's first period of active duty which began after December 31, 1976. (38 U.S.C. 1631(b)). See § 21.5233.

§ 21.5041 Periods of entitlement.

(a) No educational assistance benefits shall be afforded an eligible veteran or serviceperson under chapter 32 beyond the date of 10 years after his or her last discharge or release from active duty. (38 U.S.C. 1632)

(b) The veteran may use his or her entitlement at anytime during the 10-year period determined under paragraph (a) of this section and is not required to use it in consecutive months. (38 U.S.C. 1632)

PARTICIPATION

§ 21.5050 Requirements for participation.

(a) *General.* An individual, who is otherwise eligible to become a participant, must apply to the Service Department under which he or she serves upon forms prescribed by the Service Department and/or Secretary of Defense. No application to participate may be made prior to entry upon active duty and each application must be submitted in time to permit the Service Department to make the required deduction from the individual's military pay for at least 1 month prior to the discharge or release of the applicant from active duty. (38 U.S.C. 1621)

(b) *Minimum period of participation.* Each individual who agrees to participate must do so for a minimum period of 12 consecutive months and the Service Department will withhold at least the minimum contribution of $50 per month from the pay of the individual for such period, unless the participant is permitted to suspend for hardship reasons, is allowed to disenroll for hardship reasons, is discharged or released from active duty, or otherwise ceases to be legally eligible to participate. During the 12-month period the participant may increase or decrease the amount of the contribution as provided in paragraph (e) of this section but may not terminate all participation unless he or she qualified under one of the above exceptions. The inservice student must have completed 3 months of contributions to the fund before becoming entitled to receive benefits for any type of training except the Predischarge Education Program, and he or she must be serving on active duty in an enlistment or period subsequent to the periods of initial active duty defined in § 21.5040(d)(1) (i) or (ii), except in the Predischarge Education Program. To qualify for payment for the Predischarge Education Program training the individual must meet the requirements of paragraph (c) of this section and must have made a contribution to the fund for at least 1 month. (38 U.S.C. 1621, 1631)

(c) *Predischarge Education Program.* Participants, who otherwise qualify, may receive up to 6 months of benefits for Predischarge Education Program training, without a charge to chapter 32 entitlement, at the rate of $311 per month for full-time training, or the cost of the course, whichever is the lesser, provided:

(1) The individual has contributed to the fund for at least 1 month, and

(2) The training is received while the individual is serving the last 6 months of his or her first enlistment after December 31, 1976. Similar training may be taken in subsequent enlistments, but it will not be considered to be Predischarge Education Program training and the benefits will be paid on the same basis as any other type of chapter 32 training, with a charge to entitlement. (38 U.S.C. 1631, 1696)

(d) *Dates of participation.* A person may participate on or after January 1, 1977, but may not enroll to participate after December 31, 1981, unless the program is extended as provided in section 408, Pub. L. 94-502 (90 Stat. 2398) and may not, having participated, receive benefits prior to July 1, 1977 unless discharged after January 1, 1977 for a service-connected condition.

(e) *Amount of participation.* The individual applying to participate must specify the amount of his or her participation by a contribution to the fund of at least $50 per month but not more than $75 per month. The participant may at any time during the period of participation increase or decrease the amount of his or her monthly contribution to the fund and may do so more than one time, but no more frequently than once per month. The amount of the participant's authorized contribution must always be divisible by five. (38 U.S.C. 1622)

(f) *Maximum contribution.* A person whose contribution is at the rate of $75 per month may contribute for a maximum of 36 months; a person contributing $50 per month may contribute for a maximum of 54 months; persons contributing amounts between these amounts may only contribute for the number of months required to reach $2700 of total contributions, i.e., more than 36 and less than 54 months. (38 U.S.C. 1622)

(g) *Resumption of participation.* A participant, who remains otherwise eligible, may resume active contribution to the fund, if he or she has voluntarily elected to suspend following completion of minimum participation as defined in paragraph (b) of this section or has suspended at any time for reason of hardship. A person who has disenrolled may reenroll, but will have to qualify for minimum participation as described in paragraph (b) of this section. If a person does reenroll he or she may not "repurchase" entitlement by tendering previously refunded contributions which he or she received upon disenrollment. (38 U.S.C. 1621)

(h) *Participation after discharge.* A person may not continue to make contributions to the fund after date of discharge. (38 U.S.C. 1622)

§ 21.5051 Disenrollment.

(a) *Disenrollment.* A participant may elect to disenroll at any time within the initial 12 months of participation for reasons of personal hardship and at any time after the initial 12 months of participation without such a reason. The Veterans Administration and/or Department of Defense may under circumstances described in paragraph (b) (3) and (4) of this section disenroll the participant without his or her consent. If a participant disenrolls or is disenrolled, he or she will be granted a refund of all contributions made by the individual to the fund and will be ineligible to receive benefits under §§ 21.5130 and 21.5131 unless the individual reenrolls as a participant and agrees to participate for a new period of 12 consecutive months as provided in § 21.5050(g). The amount of the contributions refunded upon disenrollment shall be limited to the amount of his or her contributions not utilized to receive benefits as of the date of disenrollment. (38 U.S.C. 1621; 1623)

(b) *Date of disenrollment and date of refund.* An individual who is a participant will be disenrolled effective the date the Veterans Administration or the Service Department determines he or she has ceased to be legally entitled to participate or the date the request of the participant for voluntary disenrollment is received by the Service Department, whichever is the earlier. The date upon which the refund of contributions, if any, will be made shall be determined as follows:

(1) If a participant voluntarily disenrolls from the program prior to discharge or release from active duty, such participant's contributions remaining in the fund will be refunded

on the date of the participant's discharge or release from active duty or within 60 days of receipt of notice by the Veterans Administration of the participant's discharge or disenrollment, except that refunds may be made earlier in instances of hardship or for other good reasons.

(2) If a participant voluntarily disenrolls from the program after discharge or release from active duty, under other than dishonorable conditions, the participant's contributions remaining in the fund shall be refunded within 60 days of receipt by the Veterans Administration of an application for a refund from the participant.

(3) A participant who is discharged or released from active duty under dishonorable conditions will be automatically disenrolled and will be refunded any contributions remaining in the fund on the date of the participant's discharge or release from active duty or within 60 days of receipt of notice by the Veterans Administration of the participant's discharge or release, whichever is the later.

(4) A participant who has not utilized all of his or her entitlement to benefits within the 10-year delimiting period stated in § 21.5041 will be automatically disenrolled and participant's contributions remaining in the fund shall be refunded.

(i) The Veterans Administration shall notify the participant that the delimiting period has expired and shall state the amount of unused contributions for which a refund will be made.

(ii) No refund will be made under this subparagraph unless the participant shall request it.

(iii) If no request is received by the Veterans Administration within 1 year from the date that the participant was notified of his or her entitlement to a refund, it will be presumed that the participant's whereabouts is unknown and the funds on deposit for that participant will be transferred in accordance with the provisions of section 725s, title 31, United States Code. (38 U.S.C. 1623, 1632)

§ 21.5052 Suspension of participation.

A participant may suspend participation in the program without disenrolling. If the person suspends participation he or she may resume participation at any time thereafter while on active duty.

(a) A participant may suspend participation anytime after 12 months of participation, at his or her election, but

(b) An individual who has participated for less than 12 consecutive months may not suspend unless the Secretary of Defense determines that the reason for the suspension is due to a personal hardship. (38 U.S.C. 1621)

§ 21.5053 Death of participant.

If a participant dies, the amount of his or her unused contributions to the fund shall be paid:

(a) To the beneficiary or beneficiaries designated by the participant under the participant's Servicemen's Group Life Insurance policy, or

(b) To the participant's estate if no beneficiary has been designated under the participant's Servicemen's Group Life Insurance policy or if the participant has no such policy. (38 U.S.C. 1624)

ENTITLEMENT

§ 21.5060 Entitlement.

A participant shall be entitled to a maximum monthly benefit equal to the months of participation, not to exceed 36, or the equivalent in part-time training, for periods of time during which the individual is enrolled in, and satisfactorily pursuing, an approved program of education as elsewhere provided in this Subpart G. The amount of the benefit payment will vary from individual to individual and, in some instances, from month to month in accordance with the provisions for payment set forth in § 21.5131. The number of months of entitlement charged for each benefit payment for an applicable benefit period shall be determined as follows:

(a) *Residence training.* One month of entitlement will be charged for each sum of money paid equivalent to what the veteran would have been paid had he or she been a full-time student for 1 month. When the computation results in a period of time other than a full month, the entitlement charge will be prorated. (38 U.S.C. 1631)

(b) *Predischarge Education Program.* No entitlement charge will be made. (38 U.S.C. 1641, 1696)

(c) *Flight and correspondence training courses.* A charge against the period of entitlement for a program consisting exclusively of flight training or correspondence training will be made on the basis of 1 month for each sum of money paid equivalent to the dollar value of a month of entitlement as determined under § 21.5131(b)(4), which is paid to the veteran or serviceperson as an educational assistance allowance for such course.

(1) When the computation results in a period of time other than a full month the charge will be prorated.

(2) If the individual is contributing to the fund at the same time that benefits are being used or contributes additional sums subsequently, the entitlement charges will not be recomputed. Thus if the monthly rate arrived at by applying the formula is determined to be $150 at the time that a benefit payment for flight or correspondence training is computed the individual will be charged 1 month of entitlement for each $150 paid. If a different monthly rate is computed at the time of a subsequent payment for such training, no adjustment will be made in the entitlement charged for the previous payment(s) even though the value of each month's entitlement may vary from payment to payment. (38 U.S.C. 1631(c))

§ 21.5061 Excessive absences.

Where absence deductions are made throughout an enrollment period the combined portions of a month for which absence deductions were made will be computed and no entitlement charge will be made for the combined deductions. (38 U.S.C. 1641, 1780)

§ 21.5062 Active duty.

A charge against the period of entitlement for a program of education pursued by a serviceperson on active duty will be made on the basis described in § 21.5060. (38 U.S.C. 1631)

§ 21.5063 Overpayment cases.

Entitlement will be charged for an overpayment in educational assistance allowance only if the overpayment is discharged in bankruptcy or waived and is not recovered. The charge will be at the appropriate rate for the elapsed period covered by the overpayment. (38 U.S.C. 1631)

§ 21.5064 Interruption to conserve entitlement.

A certified period of enrollment may not be interrupted for the purpose of conserving entitlement. Nor may a period of enrollment be certified for a fractional part of the normal term, quarter or semester if the eligible veteran is actually enrolled for the term, quarter or semester. Entitlement will be charged for the entire period of enrollment certified, if otherwise eligible for benefits, except when benefits are interrupted under any of the following conditions:

(a) Enrollment is actually terminated;

(b) Enrollment is canceled and no educational benefits check has been negotiated for any part of the certified period of enrollment;

(c) Enrollment is interrupted at the scheduled end of any term, quarter, semester or school year within the certified period of enrollment and no check for educational benefits has been negotiated for the succeeding term, quarter, semester or school year;

(d) Interruption or cancellation is requested for any break when a school was closed during a certified period of enrollment and payments were continued under an established policy based upon an Executive order of the President or due to an emergency situation whether or not a check for education-

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al benefits for the certified period has been negotiated. (38 U.S.C. 1641, 1780)

COUNSELING

§ 21.5100 Counseling.

(a) The purpose of counseling is to assist in selecting an objective, in developing a suitable program of education or training and in resolving any personal problems which are likely to interfere with successful pursuit of a program.

(b) Except as specified by § 21.5102, counseling will be required before a second or subsequent change of program is approved, or before a change of program or reentrance is approved where an earlier course was discontinued because of unsatisfactory conduct or progress. (See § 21.4277) (38 U.S.C. 1641, 1791)

(c) Counseling may not be given for an initial course selected by a veteran or servicemember or for a first change from such course when conduct and progress are satisfactory.

§ 21.5101 Failure to cooperate.

When counseling is required and a veteran fails to report or fails to cooperate in the counseling process, further action on the application will not be taken.

§ 21.5102 Counseling: change or reentrance.

(a) *Required counseling.* When required, counseling, or additional counseling, will be required under the following circumstances.

(1) For any change of program if the program was interrupted or discontinued due to the veteran's or serviceperson's own misconduct, neglect, or lack of application; or

(2) For reentrance into training (same or different program) following discontinuance because of unsatisfactory conduct or progress under § 21.4277; or

(3) For a second or subsequent change unless a counseling psychologist finds on the basis of evidence submitted by the veteran or serviceperson and/or the evidence of record that the change requested is to a program suitable to the veteran's or serviceperson's aptitudes, interests, and abilities. (38 U.S.C. 1641, 1791)

(b) *Approval.* The counselor will recommend approval of a change of program or reentrance into the same program, if he or she finds that the program which the veteran or eligible serviceperson proposes to pursue is suitable to his or her aptitudes, interests, and abilities; and where the veteran's or serviceperson's program has been interrupted, or he or she has failed to progress in his or her program, due to his or her own misconduct, neglect or lack of application, or other reason the cause for the unsatisfactory progress or conduct has been removed and there exists a reasonable likelihood that there will not be a recurrence of such an interruption or failure to progress. Subject to these approval criteria, approval for changes of program subsequent to the second change may be recommended. (38 U.S.C. 1641, 1791)

§ 21.5103 Travel expenses.

(a) The Veterans' Administration shall determine and pay the necessary cost of travel to and from the place of counseling for veterans who are required to receive counseling in accordance with §§ 21.5100 and 21.5102: *Provided*, That:

(1) The Veterans' Administration determines that the veteran is unable to defray the cost based upon his or her annual declaration and certification, or

(2) The veteran has a service-connected disability.

(b) A disabled veteran who otherwise qualifies under paragraph (a) of this section shall be furnished the services of an attendant while traveling for counseling when an attendant is required because of the severity of the veteran's disability. (38 U.S.C. 111)

CROSS-REFERENCE: Authorization for travel of attendants. See § 21.274.

PAYMENTS; EDUCATIONAL ASSISTANCE ALLOWANCE

§ 21.5130 Payments; educational assistance allowance.

The provisions of the following sections are to be applied in the administration of benefits payable under chapter 32, title 38, United States Code, in the same manner as they are applied for the administration of chapters 34 and 36.

(a) Section 21.4130 (except that portion relating to apprenticeship and on-the-job training)—Educational assistance allowance.

(b) Section 21.4131 (except paragraphs (c)(3) and (e) of this section)—Commencing dates.

(c) Section 21.4132—Waiver of time limits.

(d) Section 21.4134—Withholding and discontinuance.

(e) Section 21.4135 (except paragraphs (b), (c), (d), (o), and (v) of this section)—Discontinuance dates.

(f) Section 21.4138—Certifications and release of payments.

(g) Section 21.4139 (except paragraph (b) of this section)—Payee.

(h) Section 21.4146—Assignments of benefits prohibited. (38 U.S.C. 1641)

§ 21.5131 Amount of benefit.

The amount of each participant's monthly benefit shall be computed as provided in paragraphs (a) through (d) of this section.

(a) *Residence training (monthly payment).* (1) Take the number of full months in the applicable benefit period. Add to it a figure obtained by dividing the number of days in excess of the number of full months by 30. Multiply by 1 if the veteran is a full-time student, by .75 if the veteran is a three-quarter time student, by .5 if the veteran is a half-time student and .25 if the veteran is a quarter-time student.

(2) Determine the amount of the veteran's contributions to the fund which still remains in the fund at the time of computation. Multiply this amount by the figure obtained in paragraph (a)(1) of this section. Divide the result by the number of months of the veteran's remaining entitlement. This is the veteran's portion of his or her benefit payment.

(3) Multiply the fugure obtained in paragraph (a)(2) of this section by 2. This is the Veterans Administration's portion of the veteran's benefit payment.

(4) Determine the amount of contributions, if any, made to the fund by the Secretary of Defense, on behalf of the participant, which still remains in the fund at the time of the computation. Multiply this amount by the fugure obtained in paragraph (a)(1) of this section. Divide the result by the number of months of the veteran's remaining entitlement. This is the Department of Defense's portion of the veteran's benefit payment.

(5) Add together the figures obtained in paragraph (a)(2), (3) and (4) of this section.

(6) Multiply the amount of the veteran's contributions to the fund which still remains in the fund at the time of the contribution by 2.

(7) Add together the amount of the veteran's contributions to the fund which still remains in the fund at the time of the computation; the contributions made by the Secretary of Defense to the fund on behalf of the participant which still remain in the fund at the time of the computation; and the figure obtained in paragraph (a)(6) of this section.

(8) The veteran's benefit payment is either the figure obtained in paragraph (a)(5) of this section or the figure obtained in paragraph (a)(7) of this section, whichever is less.

(9) This amount will be paid regardless of whether the training is pursued on a less than half-time basis or by in-service participants (i.e., prorated charges based on tuition and fees for chapter 34 do not apply to chapter 32 benefit payments). (38 U.S.C. 1631)

(b) *Flight training (monthly payment).* (1) Divide the amount of the veteran's contributions to the fund which still remains in the fund at the time of the computation by the number of months of the veteran's remaining entitlement.

(2) Multiply the figure obtained in paragraph (b)(1) of this section by 2.

(3) Divide the amount of contributions made to the fund by the Secretary of Defense on behalf of the participant which still remains in the fund at the time of computation by the number of months of the veteran's remaining entitlement.

(4) Add together the figures obtained in paragraph (b)(1), (2), and (3) of this section. This is the veteran's full-time montly benefit rate.

(5) Divide the total flight charges for the training received during the month by the figure obtained in paragraph (b)(4) of this section.

(6) Multiply the amount of the veteran's contributions to the fund which still remains in the fund at the time of computation by the figure obtained in paragraph (b)(5) of this section. Divide the result by the number of months of the veteran's remaining entitlement. This is the veteran's portion of the benefit payment.

(7) Multiply the figure obtained in paragraph (b)(6) of this section by 2. This is the Veteran Administration's portion of the benefit payment.

(8) Multiply the amount of contributions made to the fund by the Secretary of Defense on behalf of the participant which still remains in the fund by the figure obtained in paragraph (b)(5) of this section. Divide the result by the number of remaining months of the veteran's entitlement. This is the Department of Defense's portion of the benefit payment.

(9) Add together the figures obtained in paragraph (b)(6), (7) and (8) of this section.

(10) Multiply the amount of the veteran's contributions to the fund which still remains in the fund at the time of the computation by 2.

(11) Add together the amount of the veteran's contributions to the fund, which still remains in the fund at the time of the computation; the contributions made by the Secretary of Defense to the fund on behalf of the participant which still remain in the fund at the time of the computation; and the figure obtained in paragraph (b)(10) of this section.

(12) The veteran's benefit payment is either the figure obtained in paragraph (b)(9) of this section or the figure obtained in paragraph (b)(11) of this section, whichever is less.

(13) The amount of the payment is based on 100 percent of the established charges for tuition and fees which similarly circumstanced nonveterans enrolled in the same flight course are required to pay. If the participant does not have sufficient funds available to cover the entire month's charges incurred, the excess charges shall remain unreimbursed, but if the participant is still participating or later participates again in the program by making a contribution to the fund, the additional entitlement thus acquired may be used to reimburse the participant for flight charges not previously reimbursed. The option is the participant's, and the election to apply new entitlement to old flight charges must be specifically made. Once this option is elected by the participant, it may be altered as to further new entitlement acquired, but may not be reversed as to payments made pursuant to the original election. (38 U.S.C. 1631)

(c) *Correspondence training (quarterly payment).* (1) The benefit payment for a participant who is pursuing a correspondence course shall be calculated in the same manner as that for a participant enrolled in a flight course except that in making the calculation the total charges for lessons completed during a quarter shall be used instead of flight charges for training received in a month.

(2) If the total charges for lessons completed during the quarter exceeds the benefit payment, the excess may be carried forward under the same conditions as provided for flight charges in paragraph (b)(13) of this section. (38 U.S.C. 1631)

(d) *PREP (lump-sum payment).* (1) The amount of payment shall be at the rate of $311 per month for full-time training, $233 for ¾ time training, $156 for ½ time training, and $78 for ¼ time or less training or the cost of the course, whichever is the lesser.

(2) Payment shall be made in a lump sum for the term, quarter or semester at the beginning of the month immediately following the month in which training begins. (38 U.S.C. 1641, 1696)

STATE APPROVING AGENCIES

§ 21.5150 State approving agencies

The provisions of the following sections are to be applied in the administration of benefits payable under chapter 32, title 38, United States Code, in the same manner as they are applied for the administration of chapters 34 and 36:

(a) Section 21.4150 (except paragraph (e) of this section)—Designation.

(b) Section 21.4151—Cooperation.

(c) Section 21.4152—Control by agencies of the United States.

(d) Section 21.4153—Reimbursement of expenses. (38 U.S.C. 1641, 1770, 1771, 1772, 1773, 1774)

SCHOOLS

§ 21.5200 Schools.

The provisions of the following sections are to be applied in the administration of benefits payable under the provisions of chapter 32, title 38, United States Code, in the same manner as they are applied for the administration of chapters 34 and 36:

(a) Section 21.4200 (except paragraph (c) of this section)—Definitions. (38 U.S.C. 1641)

(b) Section 21.4201—Restrictions on enrollment; percentage of students receiving financial support. (38 U.S.C. 1641, 1673(d))

(c) Section 21.4202—Overcharges; restrictions on enrollments. (38 U.S.C. 1641, 1790)

(d) Section 21.4203 (except paragraph (f)/3) of this section)—Reports by schools; requirements. (38 U.S.C. 1641, 1784)

(e) Section 21.4204 (except paragraph (e) of this section)—Periodic certifications. (38 U.S.C. 1641, 1784)

(f) Section 21.4205—Absences. (38 U.S.C. 1641, 1784)

(g) Section 21.4206—Reporting fee. (38 U.S.C. 1641, 1784)

(h) Section 21.4207—Failure of school to meet requirements. (38 U.S.C. 1641, 1790)

(i) Section 21.4208—Central Office Education and Training Review Panel. (38 U.S.C. 1641, 1790)

(j) Section 21.4209 (except so much of paragraph (c) of this section as relates to apprentice and other on-job training)—Examination or records.) (38 U.S.C. 1641, 1790)

PROGRAMS OF EDUCATION

§ 21.5230 Programs of education.

The provisions of the following section are to be applied in the administration of benefits payable under chapter 32, title 38, United States Code, in the same manner as in the administration of chapters 34 and 36: Section 21.4230 (except paragraphs (c)(2), (d) and (e) of this section)—Requirements. (38 U.S.C. 1641)

§ 21.5231 Combination.

The provisions of § 21.4233(b), (c), and (e) are to be applied in the administration of benefits payable under the provisions of chapter 32, title 38, United States Code, in the same manner as they are applied for the administration of chapters 34 and 36. (38 U.S.C. 1641)

§ 21.5232 Change of program.

The provisions of § 21.4234, except paragraphs (c) and (d) of that section are to be applied in the administration of benefits payable under the provisions of chapter 32, title 38, United States Code, in the same manner as

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they are applied for the administration of chapters 34 and 36. (38 U.S.C. 1641)

§ 21.5233 Predischarge Education Program (PREP); Chapter 32.

(a) *Enrollment.* Enrollment of a servicemember may be approved in any elementary, secondary, preparatory, refresher, remedial, deficiency, or special educational assistance course not otherwise prohibited, regardless of the individual's previous educational experience. The individual must be on active duty, must be a participant in the chapter 32 program, and must meet the requirements for eligibility stated in § 21.5040. The course or courses (but not including correspondence courses) must be required to receive a secondary school diploma, or the course or courses (including individual unit subjects within a General Education Development (G.E.D.) examination program) must be required for, or preparatory to, the pursuit of an appropriate course or training program in an approved educational institution or training establishment. (38 U.S.C. 1631, 1641, 1696)

(b) *Measurement.* Courses will be measured as provided in § 21.4270 et seq. (38 U.S.C. 1631, 1641, 1696)

(c) *Payment and entitlement charge.* Payment will be on the basis of the cost of the course not to exceed $311 per month for full-time training and no charge will be made against the entitlement of the individual under chapter 32. (38 U.S.C. 1631, 1641, 1696)

(d) *Costs.* A serviceperson pursuing education or training under PREP is entitled to an allowance computed at the rate of the established charges for tuition and fees which the school requires other similarly circumstanced students enrolled in the same or a similar program to pay, and the cost of books and supplies peculiar to the course which the school requires other students in the same or a similar program to have. The Veterans Administration will establish the rates for tuition and fees when the school offers no same program for other students. The cost is to be established by the Veterans Administration on the basis of a report from the State approving agency showing the estimated cost for operation of the program and the anticipated enrollment.

(1) *Acceptable costs.* The reasonable costs for depreciation, rent or lease expenses, textbooks, taxes and insurance, administrative expenses, operation and maintenance expenses, consumable supplies, teaching and related personnel, travel and miscellaneous expenses may be included by the State approving agency, except as provided in paragraph (d)(2) of this section. Acceptable, for example, are the cost of travel expenses for supervisors who are required to travel, and the cost of social security and health insurance for teaching and related personnel.

(2) *Unacceptable costs.* The following costs are not considered to be acceptable for inclusion for approval:

(i) *Unreasonable costs for depreciation.* These include:

(*a*) Depreciation for equipment purchased from PREP tuition prior to establishing rates by cost determination.

(*b*) Depreciation which has been determined in a manner inconsistent with the Internal Revenue Service principles for computing depreciation.

(*c*) Depreciation for the exhaustion, wear, tear and obsolescence of property which exceeds the amount which should be set aside by the school in accordance with a reasonably consistent plan (not necessarily at a uniform rate), so that the aggregate of the amounts set aside, plus the salvage value, does not at the end of the estimated useful life of the depreciable property exceed the cost or other basis of the property.

(*d*) Depreciation which permits the school to recoup, within the first year, all or most of the costs of establishing the course, including necessary equipment and program costs when no same course is offered. Schools should be able to provide these needed courses to servicepersons by adhering to recognized business procedures relating to depreciation of facilities and equipment.

(ii) *Rent or lease expense.* Costs which exceed the reasonable cost of space used for instruction.

(iii) *Textbooks.* The cost of workbooks unless they are the only books used for the course. (In that event they may be classified as "textbooks.")

(iv) *Taxes and insurance.* Income taxes and personal life insurance costs.

(v) *Administrative expenses.* Administrative expenses at the home campus when the clerical functions are performed at the branch facility; i.e., at the actual location of the PREP, including honorariums, expenses due to a subcontractual arrangement not contemplated in the approval granted by a State approving agency, or by the Veterans Administration Central Office through the Director of the Education and Rehabilitation Service.

(vi) *Operation and maintenance.* Capital outlays for equipment and renovating buildings in the physical plant already determined to be adequate by the State approving agency.

(vii) *Consumable supplies.* Consumable supplies which are not described and supported.

(viii) *Teaching and related personnel.* (*a*) The cost of the formal training of instructors hired as fully qualified to teach, and effectively charging the students and ultimately the Veterans Administration for such instruction. These are not acceptable costs.

(*b*) The full salary payment for teachers meeting PREP classes for as few as 15 hours per week. Generally the full-time salary for a teacher may be included only for 25 to 30 hours of classes per week unless it is clearly substantiated by documentation that other schools in the same general area pay full salary for a teaching schedule on the same level for less hours. Salaries in excess of the prevailing rate in the same area for similarly qualified instructors will not be included.

(*c*) Costs of excess clerical personnel to assist teachers in records-keeping (without strong justification). No more than one clerk's salary will be included for an average of 100 students per day.

(*d*) Costs of personnel not essential to the teaching functions. Essential persons are those assisting with instructional material, laboratory, supply room, counseling, library, or supervision.

(ix) *Travel.* (*a*) Travel expense for instructors except those teaching courses for which itinerant instructors are required to commute from the principal campus at which they are regularly employed.

(*b*) A daily commuting expense paid to bring full-time instructors from their place of residence to their place of employment.

(*c*) An allowance for travel expense to bring instructors and administrative personnel to more than one in-service training session each semester or term.

(x) *Miscellaneous.* Costs of such items as meals for directors and consultants, bus transportation for field trips to home campuses, and the travel of instructors for meetings conducted at locations out of the State in which the PREP program is offered. (38 U.S.C. 1631, 1641, 1696(c))

(e) *Contingency fund.* A contingency fund for profit and nonprofit schools not to exceed 5 percent of the acceptable costs may be included if the surplus has been offset on the rate established. If the PREP program is terminated or if approval for a PREP course is withdrawn the amount of money remaining in the fund to which the school is not entitled shall be paid to the Veterans Administration. Within 6 months following the date of termination or withdrawal or approval of a PREP program the school shall verify that this has been done by auditing the financial records of the program. A copy of the audit shall be furnished to the Director of the Veterans Administration field station of jurisdiction. The records necessary to support the audit will be kept intact and in good condition at the school for at least 3 years following the day the audit is completed. Longer retention will not be required unless a written request is received from the General Accounting Office or the Veterans Administration not later than 30 days prior to the end of the 3-year period. (38 U.S.C. 1631, 1641, 1696)

(f) *Referrals.* If the State approving agency and the school are unable to agree on the estimated cost of PREP where there is no same program, the State will report the full facts to the Veterans Administration regional office. If the regional office is unable to resolve the question, the matter will be referred to the Director, Education and Rehabilitation Service to determine the cost. (38 U.S.C. 1641, 1696)

(g) *Certified cost data.* If the matter is referred to the Veterans Administration to determine the cost, certified cost data will be utilized. (38 U.S.C. 1641, 1696)

(h) *Customary practices.* Analysis will be made to determine whether the customary teaching practices on campus and the customary organizational practices of the institution on campus do reflect reasonable and necessary expenses of conducting the program. (38 U.S.C. 1641, 1696)

(i) *Refund policy.* Rates established on the basis on cost data must be subject to a pro rata refund policy. A shift to other than a pro rata refund policy would be detrimental to the serviceperson and would lead to receipt from the Veterans Administration of an amount less than charged by the school in case of interruption. (38 U.S.C. 1641, 1696)

COURSES

§ 21.5250 Courses.

The provisions of the following sections are to be applied in the administration of benefits payable under chapter 32, title 38, United States Code, in the same manner as they are applied for the administration of chapters 34 and 36.

(a) Section 21.4250 (except paragraph (c) (1) and (6) of this section)—Approval of courses. (38 U.S.C. 1641, 1772)

(b) Section 21.4251—Period of operation of course. (38 U.S.C. 1641, 1789)

(c) Section 21.4252 (except paragraph (f) of this section)—Courses precluded. (38 U.S.C. 1641, 1673)

(d) Section 21.4253—Accredited courses. (38 U.S.C. 1641, 1775)

(e) Section 21.4254—Nonaccredited courses. (38 U.S.C. 1641, 1776)

(f) Section 21.4255—Refund policy; nonaccredited courses. (38 U.S.C. 1641, 1776)

(g) Section 21.4256—Correspondence courses. (38 U.S.C. 1641, 1786)

(h) Section 21.4258 (except paragraph (c) of this section)—Notice of approval. (38 U.S.C. 1641, 1778)

(i) Section 21.4259—Suspension or disapproval. (38 U.S.C. 1641, 1779)

(j) Section 21.4260—Courses in foreign countries. (38 U.S.C. 1641, 1676)

(k) Section 21.4263—Flight training; 38 U.S.C. chapter 34. (38 U.S.C. 1641, 1677)

(l) Section 21.4265 (except paragraph (g) of this section)—Practical training approved as institutional training. (38 U.S.C. 1641, 1772)

(m) Section 21.4266—Courses offered at subsidiary branches or extensions. (38 U.S.C. 1641, 1772, 1789(c))

ASSESSMENT AND PURSUIT OF COURSE

§ 21.5270 Assessment and pursuit of course.

The provisions of the following sections are to be applied in the administration of benefits payable under chapter 32, title 38, United States Code, in the same manner as they are applied for the administration of chapters 34 and 36.

(a) Section 21.4270 (except paragraphs (j), (k) and (l) and in the footnotes: the first sentence of [3] and numbers [5] and [6])—Measurement of courses. (38 U.S.C. 1641, 1788)

(b) Section 21.4271—Trade or technical; high schools. (38 U.S.C. 1641, 1788)

(c) Section 21.4272 (except paragraph (f)(2) of this section)—Collegiate undergraduate; credit-hour basis. (38 U.S.C. 1641, 1788)

(d) Section 21.4273—Collegiate graduate. (38 U.S.C. 1641, 1788)

(e) Section 21.4274—Law courses. (38 U.S.C. 1641, 1788)

(f) Section 21.4275—Practical training courses; measurement. (38 U.S.C. 1641, 1788)

(g) Section 21.4277—Discontinuance; unsatisfactory progress and conduct. (38 U.S.C. 1641, 1674)

(h) Section 21.4278—Reentrance after discontinuance. (38 U.S.C. 1641, 1674)

(i) Section 21.4279—Combination correspondence; resident program. (38 U.S.C. 1641, 1788)

(j) Section 21.4280—Independent study leading to a standard college degree. (38 U.S.C. 1641, 1673)

NONDISCRIMINATION IN VOCATIONAL REHABILITATION AND EDUCATIONAL PROGRAMS—TITLE VI, CIVIL RIGHTS ACT OF 1964

§ 21.5300 Civil Rights.

The provisions of the following sections are to be applied in the administration of benefits payable under chapter 32, title 38, United States Code, in the same manner as they are applied for the administration of chapters 34 and 36:

(a) Section 21.4300—Civil rights assurances; title VI, Pub. L. 88-352.

(b) Section 21.4301—Institutions of higher learning; elementary and secondary schools; medical institutions.

(c) Section 21.4302—Proprietary vocational schools and training establishments.

(d) Section 21.4303—State approving agencies.

(e) Section 21.4304—Assurance of compliance received—institutions of higher learning; elementary and secondary schools; medical facilities.

(f) Section 21.4305—Noncompliance; complaints; initial action.

(g) Section 21.4306—Payments after final agency action.

(h) Section 21.4307—Posttermination compliance.

EDUCATION LOANS

§ 21.5500 Education loans.

The provisions of the following sections are to be applied in the administration of the benefits payable under chapter 32, title 38, United States Code, in the same manner as they are applied for the administration of chapters 34 and 36:

(a) Section 21.4500—Definitions. (38 U.S.C. 1631, 1798)

(b) Section 21.4501—Eligibility (the individual must, in lieu of the requirements for eligibility stated in paragraph (a)(5) of this section, be a participant in receipt of educational assistance benefits under chapter 32). (38 U.S.C. 1641, 1798)

(c) Section 21.4502—Applications. (38 U.S.C. 1631, 1798)

(d) Section 21.4503—Determination of loan amount (except that, notwithstanding paragraph (b)(2) of this section, the maximum to be loaned will be obtained by multiplying the number of months of chapter 32 entitlement remaining times the monthly rate determined in accordance with § 21.5131, or $2,500, whichever is the lesser). (38 U.S.C. 1631, 1798)

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[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 1032-5]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Proposed Approval of Revisions to the Louisiana Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: This action proposes approval of numerous administrative and procedural changes to the Louisiana State Implementation Plan (SIP). The changes involve a general update of sixteen sections of the State's rules and regulations, and serve to reflect

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current applicability, operational procedures, and organizational structure.

DATE: Comments by February 5, 1979.

ADDRESSES: Copies of the State's submittal are available for review at the locations below:

Environmental Protection Agency, Region VI, Air Program Branch, 1201 Elm Street, Dallas, Texas 75270.

Environmental Protection Agency, Public Information Reference Unit, Room 2922, 401 M Street, S.W., Washington, D. C. 20460.

COMMENTS TO: EPA, Region VI, Air Program Branch, 1201 Elm St., Dallas, Texas 75270.

FOR FURTHER INFORMATION CONTACT:

Jack S. Divita, Environmental Protection Agency, Region VI, Air Program Branch, Dallas, Texas 75270, (214) 767-2745.

SUPPLEMENTARY INFORMATION: On December 9, 1977, the Governor of Louisiana, after adequate notice and public hearing, submitted administrative and procedural revisions to the Louisiana SIP. Although the revisions concern the State's rules and regulations, there is no regulation included in this rulemaking action which directly involves the limitation of pollutant emissions. The discussion below provides a more detailed explanation of the changes to the various sections of the State's rules and regulations.

Regulation 2.0—Scope

In Section 2.1, the reference to "air quality standards and emission regulations" is changed to "regulations and air quality standards and emission limitations".

Regulation 3.0—Authority

In Section 3.1, the name of the organization authorized to administer the State's regulations is changed to the Office of Health Services and Environmental Quality.

Regulation 4.0—Definitions

In Section 4.7, the reference to "permit" is changed to "certificate of approval (permit)".

Add the definition of "Condensate" as Section 4.15, and renumber the remaining definitions accordingly.

In Section 4.17, the definition of "Department" is changed to "Air Quality Section, Bureau of Environmental Services, Office of Health Services and Environmental Quality, of the Department of Health and Human Resources".

For the current definition of "Impairment of Visibility" in Section 4.34, the Louisiana State Driver's Guide, Part IV, is referenced for vehicle speed and stopping distance. In the revised definition, the speeds and stopping distances are listed.

In Section 4.35, tepee burners, conical burners, and jug burners are excluded from the definition of "Incinerator".

The definition of "Modification" is revised to include a change in materials or feedstocks used, or products manufactured.

In Section 4.40, the reference to "standards" is changed to "regulations".

In Section 4.44, the definition of "Opacity" is changed to reflect the degree to which emissions reduce the transmission of light and obscure the view of an object in the background.

In Section 4.45, the definition of "Organic Solvents" is changed to include gaseous as well as liquid hydrocarbons.

In Section 4.46, the definition of "Outdoor Burning" is changed to be synonymous with "Open Burning".

The definitions of "particulate matter" and "suspended particulate matter" are provided in Sections 4.47 and 4.72 respectively. Aerosols are included in the definition of particulate matter and finely divided liquids are included in the definition of suspended particulate matter. These definitions suggest that entrained water would be subject to control. Since the reference method used to determine particulate in ambient air does not quantify liquid droplets, compliance with applicable emissions limits could be difficult to enforce. Therefore, Sections 4.47 and 4.72 are not considered approvable.

In Section 4.56, the definition of "Refuse" is expanded to include waste from industry.

In Section 4.74, the definition of "Undesirable levels" is expanded to include a statement that the Department may use reasonable information and relationships to determine if undesirable levels, as defined, are created.

In Section 4.76, the definition of "Variance" is changed to show that it is a waiver issued under the authority of the Commission rather than by the Commission, and it is further defined as a license to do some act contrary to the State's regulations.

In Section 4.77, the definition of "Volatile Organic Compounds" is changed so that the vapor pressure determination is made under actual flow as well as storage conditions.

Regulation 5.0—Meetings of the Commission

In the current meeting procedures of the Commission, as described in Section 5.5, complaints concerning undesirable levels of pollutants will not be heard until they are submitted to the Technical Secretary in writing and he has conducted an investigation. Regulation 5.0 is revised by deleting Section 5.5.

Regulation 6.0—Development of Facts

Section 6.1 requires an applicable facility to apply for a permit before beginning construction or modification or operation. In addition to applying to new installations and modification, the revised Section 6.1 applies to relocations of installations.

In the current Section 6.1.1, the Commission may exempt sources from the requirements of Regulation 6.0 if no significant contribution of air contaminants is made. In the revision, the Technical Secretary may make such exemptions and issue certificates of approval if no significant contributions are made. In addition, the Technical Secretary must report all exemptions and approvals to the Commission upon request, and at least annually.

A new Section 6.1.2 is added. In this Section, the Technical Secretary may approve permits for facilities complying with Sections 22.3 and 22.4 (storage of volatile organic compounds in large and small tanks respectively) provided the information required by Section 6.3 is subnmitted.

New Section 6.1.3 is a revised version of the current 6.1.2. In the revision, a new emission source may not prevent attainment or maintenance of national air quality standards of State standards, and a new source may not violate applicable portions of the control strategy. A statement has been added to the effect that approval to construct or modify does not relieve the owner or operator of a source of responsibility to comply with regulations of the applicable plan.

New Section 6.1.4 requires notification of the Louisiana Air Control Commission of changes in ownership.

Section 6.3 is revised to require a permit request to include all applicable information.

Section 6.3.3 is revised to include the requirement that fugitive emissions shall be determined from test results or best available technical data.

Section 6.3.5 is revised to include the requirement that the estimated effects on air quality should predict cumulative maximum worst case ground level concentrations, considering new and existing emission sources.

Section 6.3.6 is a new section which allows the Technical Secretary to require a more detailed air quality analysis, which will involve predicting maximum ambient concentrations from all sources in an area defined by the Secretary.

The current Section 6.3.6 is renumbered as Section 6.3.7.

Section 6.4 is revised to include a statement that emission data is not considered confidential or secret.

Section 6.5 is revised to exclude alterations of a facility or process which will not increase emissions as a requirement for notification to the Technical Secretary.

Section 6.6 is revised to allow sources covered by New Source Performance Standards to submit a copy of any Federal requirements in addition to the State's permit application.

Section 6.7 is a new section which allows the Technical Secretary to grant a variance to the provisions of Section 6.1 for preliminary site preparation work, provided that an acceptable permit application has been submitted. Examples of site preparation work include clearing, grubbing, road work, driving test piles, and installing temporary facilities.

If Section 6.7 specifically limited construction activities to those that are listed and prohibited a continuous construction program, it would be acceptable. However, in its present form, a variance under Section 6.7 could allow a source to "commence construction" within the definition provided in Section 165 of the Clean Air Act prior to receiving a State construction permit. Because a variance under Section 6.7 could conflict with preconstruction requirements for the prevention of significant deterioration (PSD), Section 6.7 is not considered approvable.

Section 6.8 is a new section which allows the Technical Secretary to issue a relocation approval to asphalt plants and other transportable facilities if they are operating under an approved permit prior to relocation.

In addition other conditions of approval must be met, such as meeting applicable zoning laws, operating required abatement devices, continued use of a fuel with the same sulfur content, and ambient standards will not be violated at the new location.

Section 6.9 is a new section which allows the Technical Secretary to grant temporary exemptions of not more than three months from the provisions of Section 6.1 to sources to conduct tests to determine the effect of a proposed modification of emission rates. Applicable sources must submit a report of the test results to the Technical Secretary within 30 days of test completion. Sources requesting an exemption must provide the information required by Section 6.3.

The thrust of Section 6.9 is contrary to the purpose of preconstruction review requirements. It should be assumed that the burden is on a source to show that there will not be an increase in emissions and, therefore, that a permit is not needed. Section 6.9 implicitly reverses such an assumption. Under the Administrator's Interpretative Ruling, emission offsets are to be attained prior to the emission of new pollutants. Section 6.9 conflicts with this procedure. Under PSD, State and EPA permits are to be issued prior to the commencement of construction. Section 6.9 conflicts with this procedure. For these reasons, Section 6.9 is not considered approvable.

Current Sections 6.7, 6.7.1, and 6.7.2 are renumbered as Section 6.10, 6.10.1, and 6.10.2 respectively.

Regulation 7.0—Investigations

Section 7.5 addresses the treatment of confidential or secret information. A statement is added that emission data is not considered secret.

Regulation 8.0—Air Contaminants

Section 8.2 is revised by deleting the condition that the emission of undersirable levels of pollutants be shown to be willful, negligent, a failure to provide necessary facilities, or a failure to take necessary precautions.

In Section 8.4, the references to "Table 1" are changed to "Tables 1 and 1a."

Section 8.5.1 is a new section which requires sources to maintain records and report emission data or other necessary information semiannually to the Department.

Section 8.8 is a new section which prohibits the circumvention of the State's regulations.

Section 8.9 is a new section which states that air pollution control facilities should be installed whenever feasible. There is a requirement that if control facilities are installed, they shall be maintained in proper working order, even though air quality standards may not be violated.

Regulation 9.0—Control of Air Pollution From Particulate Matter (Suspended Particulate Matter)

Section 9.1 is revised by adding "Particulate Matter" in parentheses at the end of title of the section.

Section 9.1.2 is revised by adding the words "Which emit" between "sources" and "particulate matter", and deleting "of".

Section 9.1.3 is revised by making the section applicable to suspended particulate matter and particulate matter. In addition, the reference to "Table 1" is changed to "Tables 1 and 1a."

The current Section 9.2 is deleted. Current Sections 9.3, 9.3.1, and 9.3.2 are renumbered as Section 9.2, 9.2.1, 9.2.2 respectively.

Current Sections 9.4, 9.4.1, and 9.4.2 are renumbered as Sections 9.3, 9.3.1, and 9.3.2 respectively.

Current Sections 9.5, 9.5.1, and 9.5.2 are renumbered as Sections 9.4, 9.4.1, and 9.4.2 respectively. In addition, the reference to "Table II" is changed to "Table 2" in new Section 9.4.1.

Regulation 10.0—Control of Air Pollution From Dustfall

Regulation 10.0 is deleted.

Regulation 11.0—Control of Air Pollution From Outdoor Burning (Open Burning)

Section 11.2 is revised by changing the wording on the prohibition of outdoor burning.

In Section 11.3.8 paragraph (b) is revised by also expressing 1000 feet as 305 meters.

Current sections 11.3.9 and 11.3.10 are combined as new Section 11.3.9.

Current Section 11.3.11 is renumbered as Section 11.3.10. In addition, the general language of the section is changed, but the applicability and intent is unchanged.

Current Section 11.3.12 is renumbered as Section 11.3.11. In addition, the new Section 11.3.11 requires that exemptions for special situations be made by the Technical Secretary.

In the current Section 11.4 traffic hazards caused by smoke, suspended particulate matter, or uncombined water are prohibited. In the revised Section 11.4, the prohibition is expanded to include any air contaminants or combinations thereof.

Section 11.5 is revised by adding "of this section" at the end of the section.

Regulation 12.0—Control of Pollution From Sulfur Dioxide

Section 12.1 is revised by making Regulation 12.0 applicable to both ambient air standards and regulations rather than air standards only.

Section 12.2 is revised by inserting "emissions" between "sulfur dioxide" and "into the ambient air".

Section 12.3 and 12.4.1 are revised by adding a statement that compliance with air quality standards does not authorize emissions in excess of applicable limitations.

Regulation 13.0—Control of Air Pollution From Carbon Monoxide

Section 13.1 is revised by inserting "ambient" between "established" and "air quality standards".

Section 13.2 is revised by inserting "emissions" between "carbon monoxide" and "into the ambient air".

Section 13.3 and 13.4.1 are revised by changing the reference to "Table 1" to "Table 1 and 1a".

Section 13.4.2 is revised by adding a statement that compliance with air quality standards does not authorize emissions in excess of applicable limitations.

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REGULATION 15.0—CONTROL OF AIR POLLUTION FROM ATMOSPHERIC OXIDANTS

Section 15.1 is revised by inserting "ambient" between "established" and "air quality standards".

Sections 15.3 and 15.4.1 are revised by changing the reference to "Table 1" to "Tables 1 and 1a". In addition, the reference to "photochemical oxidants" in Section 15.4.1 is changed to "total oxidants".

Section 15.4.2 is revised by adding a statement that compliance with air quality standards does not authorize emissions in excess of applicable limitations.

Section 15.5.1 is revised by changing the reference to "atmospheric oxidants" to "total oxidants".

REGULATION 16.0—CONTROL OF AIR POLLUTION FROM NITROGEN OXIDES

Section 16.1 is revised by inserting "ambient" between "establish" and "air quality standards".

Section 16.3 and 16.4.1 are revised by changing the reference to "Table 1" to "Table 1 and 1a".

Section 16.4.2 is revised by adding a statement that compliance with air quality standards does not authorize emissions in excess of applicable limitations.

REGULATION 17.0—SOURCE EMISSIONS

Section 17.1 is revised by expanding the scope of the standards to protect health and welfare "from any known or anticipated adverse effects of air contaminants".

Section 17.2 is revised by inserting "all sources emitting to" between "pertain to" and "the atmosphere".

In the current Section 17.5, instruments and sensing devices are excluded from the requirements of a new source for providing sampling equipment and facilities. In the revised Section 17.5, this exclusion is removed.

New section 17.6 addresses the requirement for continuous emission monitoring. Rather than submit a separately developed regulation, the State selected to incorporate Federal requirements by reference. In Section 17.6.1, the source categories to which the requirements apply are those listed in Appendix P, 40 CFR Part 51. This procedure allows the State to automatically include any new source categories added to the list by EPA. In Section 17.6.1.1, sources subject to the New Source Performance Standards are exempted. In Section 17.6.2, sources are required to meet the minimum requirements as set forth in Appendix P, paragraphs 2 through 5. In Section 17.6.3, the Louisiana Air Control Commission is allowed to approve alternative methods if the original requirements cannot be implemented because of physical plant limitations, extreme economic burden, inaccurate monitoring would result, or if a facility is infrequently operated.

Current Section 17.6 is renumbered as Section 17.7.

Current Section 17.6.1 is renumbered as Section 17.7.1. In addition, the Technical Secretary is now allowed to approve a variance rather than the Department.

Current Sections 17.6.2 and 17.7 are renumbered as Sections 17.7.2 and 17.8 respectively.

A New Section 17.9 is added. This section states that air pollution control facilities should be installed where feasible. If such facilities are installed, they must be used and maintained in proper working order.

A New Section 17.10 is added. this section prohibits sources of air contaminants from emitting pollutants which will result in undesirable levels as defined in Section 4.74.

A New Section 17.11 is added. This section requires that the Department be notified in writing within seven calendar days of emergency occurrences or upsets which cause substantially increased emission. Notification does not imply that the Technical Secretary will automatically grant an exemption to the source of excessive emissions.

PREVIOUS SIP DISAPPROVALS

On September 26, 1974, the Louisiana SIP was disapproved because Sections 6.4 and 7.5 of the Regulations could, in some circumstances, prohibit the disclosure of emission data to the public. On November 28, 1975, EPA promulgated a regulation to correct this deficiency. In this submittal, Sections 6.4 and 7.5 are revised to exclude emission data from being treated as confidential or secret. This revision corrects the deficiency, and Sections 6.4 and 7.5 are now considered approvable.

PUBLIC COMMENTS

Interested persons may participate in this proposed rulemaking by submitting written comments to the Environmental Protection Agency, Region VI, Air Program Branch, 1201 Elm Street, Dallas, Texas 75270. All Comments received on or before February 5, 1979 will be considered.

CURRENT ACTION

This rulemaking proposes approval of all revised and new regulations discussed above except Sections 6.7 and 6.9, which are being proposed for disapproval. Action on the approvable regulations supersedes action on previous SIP revisions submitted on December 18, 1972, concerning Regulations 8.0, 9.0, 12.0 through 17.0, Table 1A, and Table 4; January 2, 1973, concerning Section 6.1.2 of Regulation 6.0; August 24, 1973, concerning Regulations 4.0, 6.0, 8.0, 17.0, 22.0 A22.0, and Table 1A; and June 21, 1974, concerning Regulations 4.0 and 6.0.

This notice of proposed rulemaking is issued under the authority of Section 110(a) of the Clean Air Act, as amended, 42 U.S.C. 7410-(a).

Dated: December 11, 1978.

EARL N. KARI,
Acting Regional Administrator.

It is proposed to amend Part 52 of Chapter 1, Title 40 of the Code of Federal Regulations as follows:

Subpart T—Louisiana

1. In § 52.970 paragraph (c) is amended by adding a new paragraph (8) as follows:

§ 52.970 Identification of plan.

* * * * *

(c) * * *

(8) Minor changes and administrative revisions to regulations 2.0, 3.0, 4.0, 5.0, 6.0, 7.0, 8.0, 9.0, 10.0, 11.0, 12.0, 13.0, 14.0, 15.0, 16.0, and 17.0 of the Louisiana SIP were submitted by the Governor on December 9, 1977.

2. Subpart T is amended by revising § 52.976 to read as follows:

§ 52.976 Review of new sources and modifications.

(a) Section 6.7 of Regulation 6.0 is disapproved since it could conflict with the preconstruction requirements for the prevention of significant deterioration (PSD) of air quality.

(b) Section 6.9 of Regulation 6.0 is disapproved since it could conflict with the preconstruction requirements for the prevention of significant deterioration (PSD) of air quality, and the Administrator's Interpretative Rule of December 21, 1976.

§ 52.982 [Reserved]

3. Section 52.982 is revoked and reserved.

4. Subpart T is amended by adding § 52.988 to read as follows:

§ 52.988 Rules and regulations.

(a) The requirements of § 51.22 of this chapter are not met since the definitions of "particulate matter" and "suspended particulate matter," as provided in Sections 4.47 and 4.72 respectively, could in some circumstances make applicable emission limitations of the Louisiana Air Control Commission unenforceable. Therefore, Sections 4.47 and 4.72 are disapproved.

(b) The following definition of particulate matter applies to Regulations 9.0 and 27.0: "Particulate matter" means any finely divided solid or liquid material, other than uncombined water, as measured by the high volume method prescribed in Appendix B of Part 50, Title 40 of the Code of Federal Regulations.

(c) The following definition of particulate matter applies to Regulations 19.0, 20.0. 21.0, 23.0, and 28.0: "particulate matter" means any finely divided solid or liquid material, other than uncombined water, as measured by Method 5, or an equivalent or alternative method, of Appendix A, Part 60, Title 40 of the Code of Federal Regulations.

[FR Doc. 79-304 Filed 1-3-79; 8:45 am]

[6560-01-M]

[40 CFR Part 65]

[FRL 1034-3]

DELAYED COMPLIANCE ORDERS

Proposed Approval of an Administrative Order Issued by the Louisiana Air Control Commission to Tenneco Oil Company

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve an administrative order issued by the Louisiana Air Control Commission to Tenneco Oil Company. The order requires the company to bring air emissions from its Chalmette Refinery in Chalmette, Louisiana, into compliance with certain regulations contained in the federally-approved Louisiana State Implementation Plan (SIP) by June 30, 1979. Because the order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the Act). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the Order. The purpose of this notice is to invite public comment on EPA's proposed approval of the order as a delayed compliance order.

DATE: Written comments must be received on or before February 5, 1979.

ADDRESS: Comments should be submitted to Howard Bergman, Director, Enforcement Division, EPA, Region 6, First International Building, 1201 Elm Street, Dallas, Texas 75720. The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Mr. James Veach, Legal Branch, Enforcement Division, U.S. Environmental Protection Agency, Region 6, First International Building, 1201 Elm Street, Dallas, Texas 75270, (214)-767-2760.

SUPPLEMENTARY INFORMATION: Tenneco Oil Company operates a refinery at Chalmette, Louisiana. The order under consideration addresses emissions from the refinery, which are subject to Section 24 of the Louisiana Air Control Commission Regulations. The regulation limits the emissions of sulfur dioxide, and is part of the federally approved Louisiana State Implementation Plan. The order requires final compliance with the regulation by June 30, 1979, through installation of appropriate equipment and control apparatus. Tenneco Oil Company has consented to the terms of the order and has already completed certain increments of progress. Because this order has been issued to a major source of particulate matter emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before it becomes effective as a delayed compliance order under section 113(d) of the Clean Air Act (the Act). EPA may approve the order only if it satisfies the appropriate requirements of this subsection. The necessary elements of subsection 113(d) have been met: the order contains a schedule and timetable for compliance; the order provides for final compliance with the Louisiana Implementation Plan as expeditiously as practical and prior to July 1, 1979; the order requires compliance with the best practicable system of interim emission reduction; the order finds that no interim emission monitoring is reasonable or practicable; the order notifies the source that it will be required to pay a noncompliance penalty in the event it fails to achieve final compliance by July 1, 1979; and the order will be issued only after notice to the public and opportunity for public hearing.

If the order is approved by EPA, source compliance with its terms would preclude federal enforcement action under section 113 of the Act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provision of the Act (Section 304) would be similarly precluded. If approved, the order would also constitute an addition to the Louisiana SIP.

All interested persons are invited to submit written comments on the proposed order. Written comments received by the date specified above will be considered in determining whether EPA may approve the order.

After the public comment period, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR Part 65.

Dated: December 18, 1978.

ED GRISHAM,
Acting Regional Administrator
Region 6.

[FR Doc. 79-306 Filed 1-3-79; 8:45 am]

[6560-01-M]

[40 CFR Part 65]

[FRL 1032-3; Docket No. VII-78-DCO-20]

DELAYED COMPLIANCE ORDERS

Proposed Approval of an Administrative Order Issued By Iowa Department of Environmental Quality to Norris Construction Co., Ottumwa, Iowa

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposed to approve an administrative order issued by the Iowa Department of Environmental Quality to Norris Construction Company. The order requires the company to bring air emissions from its asphalt plant in Ottumwa, Iowa into compliance with certain regulations contained in the federally-approved Iowa State Implementation Plan (SIP) by April 30, 1979. Because the order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the Act). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the Order. The purpose of this notice is to invite public comment on EPA's proposed approval of the order as a delayed compliance order.

DATE: Written comments must be received on or before February 5, 1979.

ADDRESS: Comments should be submitted to Director, Enforcement Division, EPA, Region VII, 1735 Baltimore, Kansas City, Missouri 64108. The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Peter J. Culver or Henry F. Rompage, Environmental Protection Agency, Region VII, Enforcement Division, 1735 Baltimore, Kansas City, Missouri 64108, telephone 816-374-2576.

SUPPLEMENTARY INFORMATION: Norris Construction Company operates an asphalt plant at Ottumwa, Iowa. The order under consideration addresses emissions from the asphalt plant at the facility, which are subject to subrule 400—4.4(2) Iowa Administrative Code, Asphalt batching plants. The regulation limits the emissions of particulates, and is part of the federally approved Iowa State Implementation Plan. The order requires final compliance with the regulation by April 30, 1979. The source has consented to the terms of the order.

Because this order has been issued to a major source of particulate emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before it becomes effective as a delayed compliance order under Section 113(d) of the Clean Air Act (the Act). EPA may approve the order only if it satisfies the appropriate requirements of this subsection.

If the order is approved by EPA, source compliance with its terms would preclude federal enforcement action under Section 113 of the Act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provision of the Act (Section 304) would be similarly precluded. If approved, the order would also constitute an addition to the Iowa SIP.

All interested persons are invited to submit written comments on the proposed order. Written comments received by the date specified above will be considered in determining whether EPA may approve the order. After the public comment period, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR Part 65.

(42 U.S.C. 7413, 7601)

Dated: December 20, 1978.

KATHLEEN Q. CAMIN,
Regional Administrator, Region VII.

BEFORE THE IOWA DEPARTMENT OF ENVIRONMENTAL QUALITY; AIR QUALITY COMMISSION, DES MOINES, IOWA

ORDER

[Docket No. 78-A-015]

In the matter of: Norris Construction Co., Plant No. 51, Ottumwa, Iowa.

Whereas employees of the Department of Environmental Quality conducted an inspection of the Norris Construction Co. on August 4, 1978, and determined that the emissions from the Asphalt Plant No. 51 exceeded the emission standard(s) of subrule 400—4.4(2) I.A.C.

Whereas the said subrule is a part of the federally-approved implementation plan applicable to Air Quality Control Region 091 in which the Asphalt Plant No. 51 in Ottumwa, Iowa, is located;

Whereas Norris Construction Co. has acknowledged that it is in violation of subrule 400—4.4(2) I.A.C. and has agreed to waive its rights to a contested case hearing under the Iowa Administrative Procedure Act and to waive its rights under section 455B.17 of the Iowa Code;

Whereas Norris Construction Co. is hereby given notice that in the event it fails to meet any requirement of this order, it will be subject to civil penalties for such noncompliance, and that if it fails to achieve final compliance as specified in Subparagraph A-5 by July 1, 1979, it shall be required to pay a noncompliance penalty under Section 120 of the Clean Air Act as amended (42 U.S.C. 7420) or under Iowa Law subsequently enacted to obtain delegation under that section;

Whereas after full consideration of relevant facts, including the seriousness of the violation and any good faith efforts to comply the source cannot immediately comply and compliance with the order below is reasonable and expeditious;

Therefore, it is ordered, By the Air Quality Commission:

A. That Norris Construction Co. complete the following acts with respect to the Asphalt Plant No. 51 on or before the dates specified.

1. January 1, 1979—Submit final control plan.

2. February 1, 1979—Award bids and execute contracts for emission control equipment.

3. March 1, 1979—Initiate on-site construction or installation of emission control equipment.

4. April 30, 1979—Complete on-site construction or installation of emission control equipment.

5. April 30, 1979—Complete shakedown operations and performance tests on system and achieve final compliance with subrule 400—4.4(2) I.A.C.

B. That until final compliance as specified in Subparagraph A-5 is achieved, Norris Construction Co. shall comply with the following interim requirements:

No interim requirements are feasible.

C. That Norris Construction Co. shall monitor such emissions and report such information as required by the Executive Director of the Department of Environmental Quality pursuant to Subrule 400—2.1(6) (455B) I.A.C.

D. That Norris Construction Co., prior to the initiation of on-site construction or installation of emission control equipment required by paragraph A-3, obtain a permit for the proposed equipment or related control equipment from the Permits Section of the Air and Land Quality Division of the Department of Environmental Quality, as defined in subrule 400—3.1 I.A.C.

E. That Norris Construction Co. certify to the Chief of the Surveillance Section of the Air and Land Quality Division of the Department of Environmental Quality no later than seven (7) days after the deadline for completing such increment of progress, whether such increment has been achieved; if an increment has not been achieved by the deadline date, a full report of the reasons why the increment was not achieved and of whether the failure is expected to put the subsequent deadline dates in jeopardy should be submitted.

F. That Norris Construction Co., 15 days prior to conducting the performance tests required by this order give notice of such scheduled test to the Chief of Surveillance Section to afford him an opportunity to have an observer present.

Dated: November 16, 1978.

HAL B. RICHERSON,
Chairman, Air Quality Commission.

Dated: September 14, 1978.

M. G. NORRIS,
President, Norris Construction Co.

A public notice was published on October 2, 1978 in the Ottumwa Courier regarding this order, (and the schedule for compliance contained herein), and a public hearing was held before the Iowa Air Quality Commission on November 16, 1978 at the Department of Environmental Quality, Henry A. Wallace Building, 900 East Grand Avenue, Des Moines, Iowa.

DEPARTMENT OF ENVIRONMENTAL QUALITY,
DES MOINES, IOWA

In the matter of: Norris Construction Co., Plant No. 51, Ottumwa, Iowa.

WAIVER

Norris Construction Co. acknowledges that it is in violation of subrule 400—4.4(2) I.A.C. and agrees to waive its rights to a contested case hearing under the Iowa Administrative Procedure Act and its rights under 455B.17 of the Iowa Code. Furthermore, Norris Construction Co. has reviewed Order 78-A-015, believes it to be a reasonable means to attain compliance with the applicable regulations in that it accords with the intentions of Norris Construction regarding asphalt plant No. 51 and it consents to the terms of the order. Finally, Norris Construction Co. acknowledges that compliance with Order 78-A-015 does not relieve it of the responsibility to comply with the provisions of the Rules of the Air Quality Commission.

Dated: September 14, 1978.

M. G. NORRIS,
President, Norris Construction Co.

[FR Doc. 79-312 Filed 1-3-79; 8:45 am]

[6560-01-M]

[40 CFR Part 65]

[FRL 1032-7; Docket No. DCO-78-38]

DELAYED COMPLIANCE ORDERS

Proposed Approval of an Administrative Order Issued by the Gerogia Department of Natural Resources Environmental Protection Division

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve a delayed compliance order (EPD-AQC-156) issued by the Georgia Department of Natural Resources, Environmental Protection Division, to Georgia Pacific Company's Warrenton Mill. The order requires Georgia Pacific Company's Warrenton Mill, to bring air emissions from its wood fired boiler in Warrenton, Georgia, into compliance with certain regulations contained in the federally-approved Georgia State Implementation Plan (SIP) by June 1, 1979. Because the order has been issued to a major source and permits a delay in compliance with the provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the Act). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the order. The purpose of this notice is to invite public comment on EPA's proposed approval of the order as a delayed compliance order.

DATE: Written comments must be received on or before February 5, 1979.

ADDRESSES: Comments should be submitted to Director, Enforcement Division, EPA, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30308. The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Mr. William Voshell, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30308. Telephone Number: 404/881-4253.

SUPPLEMENTARY INFORMATION: Georgia Pacific Corporation's Warrenton Mill operates a wood-fired boiler at its facility in Warren County, Georgia. The order under consideration addresses particulate emissions from fuel-burning equipment. These emissions are subject to Georgia's Rules and Regulations for Air Quality Control Section 391-3-1-.02(2)(d)(ii), which deals with the control of particulate emissions from fuel-burning equipment. This regulation is part of the Federally-approved Georgia State Implementation Plan. The order requires final compliance with particulate emission regulations by June 1, 1979, through the implementation of the following schedule for the construction or installation of contol equipment:

(1) Execute a binding contract or purchase order for equipment and construction by September 21, 1978.

(2) Begin construction by January 1, 1979.

(3) Complete construction by May 1, 1979.

(4) Attain full compliance as demonstrated by a valid particulate emission compliance test by June 1, 1979.

The source has agreed to the terms of the order and has agreed to meet the order's increments during the period of this informal rulemaking. As an interim limit, the boiler shall not exceed 30% opacity, as defined by EPA Method 9.

Because this order has been issued to a major source of particulate matter emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before becoming effective as delayed compliance order under Section 113(d) of the Clean Air Act (the Act). EPA may approve the order only if it satisfies the appropriate requirements of this subsection. EPA has tentatively determined that the above referenced order satisfies these requirements.

If this order is approved by EPA, source compliance with its terms would preclude federal enforcement action under Section 113 of the Act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provision of the Act (Section 304) would be similarly precluded. If approved, the order would also constitute an addition to the Georgia SIP. Compliance with the proposed order will not exempt the company from the requirements contained in any subsequent revisions to the SIP which are approved by EPA.

All interested persons are invited to submit written comments on the proposed order. Written comments received by the date specified above will be considered in determining whether EPA may approve the order. After the public comment period, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR Part 65.

(42 U.S.C. 7413, 7601.)

Dated: December 15, 1977.

JOHN C. WHITE,
Regional Administator, Region IV.

[FR Doc. 79-311 Filed 1-3-79; 8:45 am]

[6560-01-M]

[40 CFR Part 65]

[FRL1032-8; Docket No. DCO-78-18]

DELAYED COMPLIANCE ORDERS

Proposed Delayed Compliance Order For Tennessee State University, Nashville, Tenn.

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to issue a Delayed Compliance Order (DCO) to Tennessee State University (TSU), located in Nashville, Tennessee. The DCO requires TSU to bring coal-fired boiler nos. 1, 3, and 4, into compliance with certain regulations contained in the Federally-approved Tennessee State Implementation Plan (SIP). Because TSU is unable to comply with these regulations at this time, the proposed DCO would establish an expeditious schedule requiring final compliance by June 29, 1979. Source compliance with the Order would preclude suits under the federal enforcement and citizen suit provisions of the Clean Air Act for violation of the SIP regulations covered by the Order. The purpose of this notice is to invite public comment and to offer an opportunity to request a public hearing on EPA's proposed issuance of the Order.

DATES: Written comments and requests for a public hearing must be received on or before February 5, 1979, and requests for a public hearing must be received on or before January 19, 1979. All requests for a public hearing should be accompanied by a statement as to why the hearing would be beneficial and a text or summary of any proposed testimony to be offered at the hearing. If there is significant public interest in a hearing, it will be held after twenty-one days prior notice of the date, time, and place of the hearing has been given in this publication.

ADDRESSES: Comments and requests for a public hearing should be submitted to Paul J. Traina, Director, Enforcement Division, EPA, Region IV, 345 Courtland Street, Atlanta, Georgia 30308. Material supporting the Delayed Compliance Order and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Bert Cole, Air Enforcement Branch, Enforcement Division, EPA, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30308; telephone number 404/881-4298.

SUPPLEMENTARY INFORMATION: Pursuant to Section 113(a)(1) of the Act, 42 U.S.C. 7413(a)(1), on February 20, 1976, the Environmental Protection Agency issued a Notice of Violation to TSU informing TSU that the coal-fired boiler nos. 1, 3, and 4 were found to be in violation of Sections 4-1-7 and 4-1-2 of the Nashville-Davidson County Air Pollution Control Ordinance, dealing with the control of particulate emissions from non-process sources and the control of visible emissions, respectively. These regulations

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are part of the Federally-approved State Implementation Plan.

Subsequent to the issuance of the Notice of Violation, TSU made modifications to boiler nos. 1 and 4 which were to bring them into compliance with the applicable regulations. Based upon oral agreements made in a September 2, 1977, meeting in Atlanta, Georgia, TSU was to conduct a source test on boiler no. 1 by November 30, 1977, and on boiler no. 4 by December 31, 1977. Boiler no. 3 was no longer operating. Since the agreed test dates were not subsequently complied with by TSU, by letter of February 3, 1978, EPA required TSU to source test boiler nos. 1 and 4, pursuant to Section 114(a) of the Clean Air Act, 42 U.S.C. 7414(a), no later than February 28, 1978, and to submit the test results by March 30, 1978.

TSU tested boiler no. 4 on February 15, 1978, but failed to test boiler no. 1. The preliminary test results on boiler no. 4 indicated that the boiler would not comply with the applicable regulations. TSU felt that boiler no. 1 would also not comply with the regulations. On May 2, 1978, a show cause hearing was held between representatives of TSU and EPA to determine whether or not the TSU case should be referred to the Department of Justice for appropriate judicial action.

Based upon pollution control commitments made by TSU to EPA during the meeting, subsequently confirmed by TSU in a letter of May 9, 1978, EPA has determined that a DCO is a reasonable method to achieve compliance.

This Agency believes that the proposed Delayed Compliance Order satisfies the applicable requirements of Section 113(d) of the Act. The Delayed Compliance Order requires final compliance with Sections 4-1-7 and 4-1-2 by June 29, 1979, and the source has consented to its terms. The source has agreed to comply with the Delayed Compliance Order's remaining increments during the period of this informal rulemaking. If the Delayed Compliance Order is issued, source compliance with its terms would preclude further EPA enforcement against this source for violation of the regulations covered by the Delayed Compliance Order while the Delayed Compliance Order is in effect. Enforcement against the source under the citizen suit provision of the Act (Section 304) would be similarly precluded.

Comments received by the date specified above will be considered in determining whether EPA should issue the Delayed Compliance Order. Testimony given at any public hearing concerning the Delayed Compliance Order will also be considered. After the public comment period and any public hearing, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the Delayed Compliance Order in 40 CFR Part 65.

The provisions of 40 CFR Part 65 will be promulgated by EPA soon, and will contain the procedures for EPA's issuance, approval, or disapproval of a Delayed Compliance Order under Section 113(d) of the Act. In addition, Part 65 will contain sections listing or including orders issued, approved, or disapproved by EPA. A prior notice proposing regulations for Part 65, published at 40 FR 14876 (April 2, 1975) will be withdrawn and replaced by a notice promulgating these new regulations.

Dated: December 13, 1978.

JOHN C. WHITE,
Regional Administrator.

In consideration of the foregoing, it is proposed to amend 40 CFR Chapter I as follows:

1. By adding an entry to the table in § 65.470, *Federal delayed compliance orders issued under Section 113(d)(1), (3), and (4) of the Act.* to reflect approval of the following order:

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the matter of Tennessee State University, Nashville, Tennessee—proceeding under § 113(d) Clean Air Act, as amended, Docket No. DCO-78-18.

DELAYED COMPLIANCE ORDER

This Delayed Compliance Order is issued this date pursuant to Section 113(d) of the Clean Air Act, as amended, 42 U.S.C. 7413 (d) (hereinafter referred to as the "Act"). This Delayed Compliance Order contains a schedule for compliance and reporting requirements. Public notice, opportunity for a public hearing, and thirty days notice to the City of Nashville, Davidson County, and the State of Tennessee have been provided pursuant to Section 113(d)(1) of the Act.

FINDINGS

On February 20, 1976, Mr. Jack E. Ravan, then Regional Administrator, Region IV, United States Environmental Protection Agency, pursuant to authority delegated to him by the Administrator, issued a Notice to Tennessee State University (hereinafter referred to as "TSU"), informing TSU that coal fired boilers nos. 1, 3, and 4 were found to be in violation of the Air Pollution Control Ordinance of the Metropolitan Nashville-Davidson County Health Department (NDCHD), Division of Air Pollution Control, Sections 4-1-7 and 4-1-2, dealing with the control of particulate emissions from non-process sources and the control of visible emissions, respectively. Said violations have continued beyond the 30th day after receipt of the Regional Administrator's notification to TSU.

After a thorough investigation and analysis of all relevant facts, including the fact that TSU is unable to comply immediately and that installation of control equipment is necessary to facilitate compliance with the applicable Nashville-Davidson County air pollution regulations, EPA has determined that compliance in accordance with the schedule hereinafter set forth is reasonable and as expeditious as practicable.

ORDERED

I

ABATEMENT PROGRAM

The attached Appendices governing an abatement program are incorporated into and made a part of this Delayed Compliance Order for the control of particulate emissions and visible emissions at TSU located in Nashville, Tennessee.

The Appendices are designated as follows:
Appendix A: Boilers nos. 1 and 4.
Appendix B: Boiler no. 3.

II

REPORTS—ADDRESSEES

All submissions of source performance test results, reports and other items required by this Delayed Compliance Order shall be made to Paul J. Traina, Director, Enforcement Division, United States Environmental Protection Agency, 345 Courtland Street, Atlanta, Georgia 30308 (hereinafter referred to as the "Director"), with copies to the Director, Tennessee Division of Air Pollution Control, 256 Capitol Hill Building, Nashville, Tennessee, 37219 (hereinafter referred to as the "State Director"), and the Director, Division of Air Pollution Control, Nashville-Davidson County Health Department, 311 23rd Avenue, North Nashville, Tennessee, 38105 (hereinafter referred to as the "Local Director").

III

PROGRESS REPORTS—MILESTONE CERTIFICATION

TSU shall submit, no later than five (5) days after the end of each month, commencing with October 1, 1978, a monthly progress report for the emission points specified in Part I. These reports shall contain specific information on the progress toward each milestone in Part I. If any delay is anticipated in meeting said milestones, TSU shall immediately notify the Director in writing of the anticipated delay and reasons therefore. Notification to EPA of any anticipated delay shall not excuse the delay. In addition, TSU shall submit, no later than five (5) days after the deadline for completing each milestone required by Part I, certification to the Director, State Director and Local Director whether such milestone has been met.

IV

METHOD OF TESTS AND REQUIRED NOTIFICATION

TSU shall provide the Director, State Director and Local Director, with twenty (20) days notice prior to the conducting of any performance tests required by Part I in order to afford an opportunity to evaluate the test procedure and to have an observer present at such testing. The required tests for particulate emissions and opacity shall be conducted in accordance with EPA test reference methods specified in 40 CFR Part 60.

V

MALFUNCTIONS AND BREAKDOWNS

TSU shall perform operation and maintenance practices on all sources as necessary to prevent malfunctions or breakdowns and to reduce emissions in excess of regulations

to the maximum extent practicable. When emissions due to sudden and unforeseen malfunction or breakdown of the affected facility exceed those which occur during the normal operation of the boilers for greater than four (4) hours, the owner or operator shall notify this office and the appropriate State or local air pollution control agency by telephone or telegram as promptly as possible, and in no event later than twelve (12) hours following the start of such malfunction or breakdown, and shall cause written notice to be sent to the Director, the State Director and the Local Director, no later than the end of the next working day following the start of such malfunction or breakdown. Such notices shall specify the name of the affected facility, its location, the address and telephone number of the person responsible for the affected facility, the nature and cause of the malfunction or breakdown, the date and time when such malfunction or breakdown was first observed, the expected duration, and an estimate of the physical and chemical composition, rate, and concentration of the emission. TSU shall remedy the malfunction or breakdown as soon as possible thereafter and shall take reasonable steps to reduce emissions during the malfunction or breakdown.

The Regional Administrator shall have the authority during a malfunction or breakdown to require TSU to take specific steps to reduce emissions, including process equipment modifications and/or reductions, or termination if necessary. Within ten (10) days after the termination of a malfunction or breakdown requiring the above notification, the owner shall submit a report detailing:

(1) The time the excess emission began and ended;

(2) The time of the beginning and end of the malfunction or breakdown which is asserted to be the cause of the excess emission;

(3) An estimate of the physical and chemical composition, rate, and concentration of emissions which occurred, and where continuous monitoring is required or is in effect (including visible emission detector), the strip charts with plots of all emissions monitored versus time, including a summary of the monitoring instruments' written record expressed in units of the applicable standard.

(4) An explanation and, where appropriate, an engineering analysis of the cause of the malfunction or breakdown;

(5) A description of those operating and/or maintenance procedures and practices in use prior to and during the occurrence which were designed to prevent or minimize the extent and duration of the malfunction or breakdown;

(6) Any other steps taken to minimize the extent or duration of the malfunction or breakdown;

(7) An analysis of what steps will be taken to prevent or minimize similar occurrences in the future; and

(8) Such additional information as the Regional Administrator may require.

VI

INTERIM REQUIREMENTS

A. For the period during which this order is in effect, TSU shall at all times comply with the following interim emission requirements for coal fired boiler nos. 1 and 4 which represent the best practicable system of emission reduction:

1. Maintain and operate the present pollution control equipment until such time as additional equipment is installed.

2. Visible emissions shall not exceed 40% opacity.

3. By November 1, 1978, use washed coal with no more than 1% sulfur and an ash content so as to reduce the emissions to no more than 0.38 lbs/MMBTU as determined by an acceptable compliance test.

4. By November 30, 1978, complete performance testing on boiler nos. 1 and 4 to determine compliance with the interim emission limits contained in paragraphs 2 and 3.

5. By December 30, 1978, submit interim emissions performance test results.

If, at any time during the effective period of this Order, the applicable interim emission requirements are violated, TSU shall notify EPA of the violation as soon as possible, but no later than twenty-four hours after the start of the violation.

B. In addition to the foregoing interim emission requirements, for the period during which this Order is in effect, TSU shall take all necessary steps to comply with the applicable emission limitations contained in the State Implementation Plan insofar as TSU is able, and shall take all necessary precautions to ensure that its emissions will not cause or contribute to a violation or violations of National Ambient Air Quality Standards.

C. Furthermore, TSU shall comply with any emergency requirements specified by EPA pursuant to section 303 of the Clean Air Act, 42 U.S.C. 7603, to prevent an imminent and substantial endangerment to human health.

VII

CONTINUOUS MONITORING

TSU shall, as part of the control strategy and pursuant to Section 113(a) of the Act, submit a plan on or before October 1, 1978, for the installation, calibration, maintenance, and operation of monitoring devices which (1) continuously measure and permanently record the opacity of the stack serving boiler nos. 1 and 4, and (2) continuously measure and permanently record the oxygen level in the stack gases. As a minimum, the plan shall include the following: (1) Operation, calibration, maintenance, accuracy, and operating range of the continuous monitoring equipment; (2) a time schedule for installation of the continuous monitoring equipment for boiler nos. 1 and 4 with final installation no later than November 15, 1978. Said monitoring plan shall be subject to review, modification, and approval by the Director. Upon approval, the monitoring and recording plan will be incorporated into and become enforceable as part of this Delayed Compliance Order.

VIII

COMPLIANCE RESPONSIBILITY

Nothing herein shall affect the responsibility of the source to comply with all other applicable Federal, State or local regulations.

IX

ORDER TERMINATION

This Delayed Compliance Order shall be terminated in accordance with section 113(d)(8) of the Act if the Administrator determines on the record after notice and hearing, that an inability to comply with Sections 4-1-7 and 4-1-2 no longer exists.

X

VIOLATION OF REQUIREMENTS

Violation of any requirement of this Delayed Compliance Order shall result in one or more of the following actions:

(a) Enforcement of such requirement through the commencement of a civil action for injunctive relief and the assessment of civil penalties pursuant to Section 113(b) of the Act, or a criminal prosecution pursuant to Section 113(c) of the Act, or both:

(b) Revocation of this Delayed Compliance Order, after notice and opportunity for a public hearing, and subsequent enforcement of Sections 4-1-7 and 4-1-2, in accordance with Sections 113(b) and/or (c) of the Act.

XI

NONCOMPLIANCE PENALTY

Failure by TSU to achieve and certify compliance by June 29, 1979, and maintain compliance thereafter, shall result in one or more of the actions identified in Part X(a). In addition, noncompliance beyond August 7, 1979, shall subject TSU to an administratively assessed noncompliance penalty pursuant to the requirements of Section 120 of the Act and any rules and regulations promulgated pursuant thereto, unless TSU is exempted by Section 120(a)(2)(B) or (C) of the Act.

In the event of noncompliance after August 7, 1979, TSU will be formally notified of its noncompliance pursuant to Section 120(b)(3) of the Act.

XII

WAIVER OF RIGHTS

By consenting to the terms and conditions of this Delayed Compliance Order TSU waives any and all rights it may have to seek a stay of enforcement of this Delayed Compliance Order in connection with any judicial review of the Tennessee State Implementation Plan or portion thereof.

XIII

EFFECTIVE DATE

This Delayed Compliance Order shall have full force and effect upon execution.

APPENDIX A

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

DELAYED COMPLIANCE ORDER [1]

TSU shall complete or have completed the following acts with respect to the control of particulate and visible emissions for boiler Nos. 1 and 4 located in Nashville, Tennessee, on or before the dates specified:

[1] This appendix is attached to and incorporated by reference into a Delayed Compliance Order issued to Tennessee State University on ——— pursuant to Section 113(d) of the Clean Air Act, 42 U.S.C. 7413(d).

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1. September 20, 1978—Complete general specifications for emission control equipment and submit to EPA a control plan that describes at a minimum the steps to be taken to achieve compliance with the applicable particulate and visible emission limiting regulations.

2. October 20, 1978—Negotiate and sign all necessary contracts for the emission control system.

3. February 20, 1979—Initiate on-site construction or installation of emission control equipment.

4. June 1, 1979—Complete on-site construction or installation of emission control equipment.

5. June 29, 1979—Complete performance testing and achieve final compliance with all applicable particulate and visible emission limiting regulations and certify such compliance to EPA.

APPENDIX B

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

DELAYED COMPLIANCE ORDER [1]

TSU shall complete the following acts with respect to control of particulate emissions for its boiler No. 3 located in Nashville, Tennessee, on or before the dates specified:

October 1, 1978—Render boiler No. 3 inoperable and certify to the Director, State Director, and Local Director that such action has been completed.

CONSENT [2]

Tennessee State University acknowledges that the visible emissions and the particulate emissions from coal fired boilers Nos. 1, 3, and 4 located at its facility in Nashville, Tennessee, are in violation of the applicable emission limitations contained in the Federally-approved Tennessee Implementation Plan. The University has reviewed this Delayed Compliance Order, believes it to be a reasonable and expeditious means to achieve compliance with the applicable particulate emission limiting regulation and visible emission regulation as contained in the Federally-approved Tennessee Implementation Plan, and consents to all of the requirements and terms of this Delayed Compliance Order. The University also agrees to meet all of the provisions of this Order during the informal rulemaking process.

Tennessee State University hereby represents that it has full legal authority and the necessary governmental approval to enter into and perform in accordance with the terms and provisions of this Delayed Compliance Order. The signatory below represents that he has the authority to execute this Consent on behalf of the University.

Dated: November 22, 1978.

FREDERICK S. HUMPHRIES,
Tennessee State University.

[FR Doc. 79-310 Filed 1-3-79; 8:45 am]

[2]This Consent is attached to and incorporated by reference into a Delayed Compliance Order issued to Tennessee State University on —— pursuant to Section 113(d) of the Clean Air Act, 42 U.S.C. 7413(d).

[6560-01-M]

[40 CFR Part 65]

[FRL 1033-3]

DELAYED COMPLIANCE ORDERS

Proposed Disapproval of an Administrative Order Issued by West Virginia Air Pollution Control Commission to National Steel Corporation; Weirton Steel Division

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to disapprove an administrative order by the West Virginia Air Pollution Control Commission to National Steel Corporation, Weirton Steel Division. The order requires the company to bring air emissions from its Mainland Coke Plant in Weirton, Hancock County, West Virginia into compliance with certain regulations contained in the federally-approved West Virginia State Implementation Plan (SIP) by July 1, 1979. Because the order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the "Act"). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the Order. The purpose of this notice is to invite public comment on EPA's proposed disapproval of the order as a delayed compliance order.

DATE: Written comments must be received on or before February 5, 1979.

ADDRESS: Comments should be submitted to Director, Enforcement Division, EPA Region III, Curtis Building, 6th and Walnut Sts., Philadelphia, PA 19106. The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Joseph W. Kunz, U.S. EPA Region III, Curtis Building, 6th and Walnut Sts., Philadelphia, PA 19106, (215) 597-8338.

SUPPLEMENTARY INFORMATION: National Steel Corporation, Weirton Steel Division operates a Coke Plant at Weirton, West Virginia. The order under consideration addresses emissions from charging, pushing, door, and topside operations at the facility, which are subject to Regulation VII of the West Virginia Administrative Regulations of the Air Pollution Control Commission.

The regulation limits the emissions of visible and particulate air pollution, and is part of the federally approved West Virginia State Implementation Plan. The order requires final compliance with the regulation by July 1, 1979 through the installation of charging and pushing emissions control systems and the implementation of operating practices for the control of topside and door emissions. Because this order has been issued to a major source of particulate emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before it become effective as a delayed compliance order under section 113(d) of the Act. EPA may approve the order only if it satisfies the appropriate requirements of this subsection. While it is recognized that the order satisfies part of the provisions of section 113(d) for approving such an order, EPA may grant its approval only if the order satisfies all of the applicable requirements of this subsection. EPA proposes to disapprove this order because it does not satisfy the requirements of section 113(d) of the Act which are set forth below:

(1) Section 113(d)(1)(C) and (d)(7)—there are no enforceable interim emission limitations which must be met for the period during which the order is in effect;

(2) Section 113(d)(1)(C)—there are no emission monitoring requirements;

(3) Section 113(d)(1)(D)—(a) with respect to the control systems contemplated by the order, the State and the company for control of pushing emissions, EPA has not received sufficient information on the emission limitation capabilities of these systems upon which to base a determination that these systems and, therefore, the order provide for final compliance with the requirements of the applicable implementation plan as expeditiously as practicable but in no event later than July 1, 1979; (b) EPA has not received sufficient information upon which to base a determination that the provisions of the order require compliance as expeditiously as practicable; (c) the information given to EPA to date supports a conclusion that the equipment which is contemplated under the order will not control visible and particulate matter emissions to the nature and extent required by the requirement of the applicable implementation plan and that this equipment may serve to circumvent this requirement.

(4) Section 113(d)(3), (d)(1)(C), (d)(6), and (d)(7)—the order does not require or establish a bond or other surety in an amount equal to the cost of actual compliance by battery 7 and it does not include any interim schedule of compliance.

If the order is approved by EPA, source compliance with its terms would preclude Federal enforcement action under section 113 of the Act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provision of the Act (Section 304) would be similarly precluded. If approved, the order would also constitute an addition to the West Virginia SIP. All interested persons are invited to submit written comments on the proposed order. Written comments received by the date specified above will be considered in determining final EPA action. Due to the timing of the publication of this proposed rulemaking, final rulemaking on the subject order will not occur until some date which is more than ninety (90) days after receipt of the order from the State of West Virginia on July 5, 1978, because, among other things, it will be necessary to provide adequate time for public comment and EPA review and evaluation of such comment prior to final rulemaking. After the public comment period, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR Part 65.

Dated: October 20, 1978.

JACK J. SCHRAMM,
Regional Administrator,
EPA Region III.

[FR Doc. 79-307 Filed 1-3-79; 8:45 am]

[6560-01-M]

[40 CFR Part 65]

[FRL 1033-2]

DELAYED COMPLIANCE ORDERS

Proposed Disapproval of an Administrative Order Issued by West Virginia Air Pollution Control Commission to National Steel Corporation; Weirton Steel Division

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to disapprove an administrative order issued by the West Virginia Air Pollution Control Commission to National Steel Corporation, Weirton Steel Division. The order requires the company to bring air emissions from its Sinter Plant in Weirton, Hancock County, West Virginia into compliance with certain regulations contained in the federally-approved West Virginia State Implementation Plan (SIP) by July 1, 1979. Because the order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the "Act"). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the Order. The purpose of this notice is to invite public comment on EPA's proposed disapproval of the order as a delayed compliance order.

DATE: Written comments must be received on or before February 5, 1979.

ADDRESSES: Comments should be submitted to Director, Enforcement Division, EPA Region III, Curtis Building, 6th and Walnut Sts., Philadelphia, PA 19106. The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Joseph W. Kunz, U.S. EPA Region III, Curtis Building, 6th and Walnut Sts., Philadelphia, PA 19106, (215) 597-8338.

SUPPLEMENTARY INFORMATION: National Steel Corporation, Weirton Steel Division operates a Sinter Plant at Weirton, West Virginia. The order under consideration addresses emissions from the windbox at the facility, which are subject to Regulation VII of the West Virginia Administrative Regulations of the Air Pollution Control Commission.

The regulation limits the emissions of visible and particulate air pollution, and is part of the federally approved West Virginia State Implementation Plan. The order requires final compliance with the regulation by July 1, 1979 through the installation of additional fan capacity.

Because this order has been issued to a major source of particulate emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before it becomes effective as a delayed compliance order under Section 113(d) of the Act. EPA may approve the order only if it satisfies the appropriate requirements of this subsection. While it is recognized that the order satisfies part of the provisions of Section 113(d) for approving such an order, EPA may grant its approval only if the order satisfies all of the applicable requirements of this subsection. EPA proposes to disapprove this order because it does not satisfy the requirements of Section 113(d)(1)(D) of the Act. With respect to the control system contemplated by the Order, the State and the Company for control of emissions from the sinter plant windbox, EPA has not received sufficient information on the emission limitation capabilities of this system upon which to base a determination that this system and, therefore, the order provide for final compliance with the requirements of the applicable implementation plan as expeditiously as practicable but in no event later than July 1, 1979.

If the order is approved by EPA, source compliance with its terms would preclude federal enforcement action under Section 113 of the Act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provisions of the Act (Section 304) would be similarly precluded. If approved, the order would also constitute an addition to the West Virginia SIP. All interested persons are invited to submit written comments on the proposed order. Written comments received by the date specified above will be considered in determining final EPA action. Due to the timing of the publication of this proposed rulemaking, final rulemaking on the subject order will not occur until some date which is more than ninety (90) days after receipt of the order from the State of West Virginia on July 5, 1978, because, among other things, it will be necessary to provide adequate time for public comment and EPA review and evaluation of such comment prior to final rulemaking. After the public comment period, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR Part 65.

Dated: October 20, 1978.

JACK J. SCHRAMM,
Regional Administrator,
EPA Region III.

[FR Doc. 79-308 Filed 1-3-79; 8:45 am]

[6560-01-M]

[40 CFR Part 65]

[FRL 1033-1]

DELAYED COMPLIANCE ORDERS

Proposed Disapproval of an Administrative Order Issued by West Virginia Air Pollution Control Commission to National Steel Corporation; Weirton Steel Division

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to disapprove an administrative order by the

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West Virginia Air Pollution Control Commission to National Steel Corporation, Weirton Steel Division. The order requires the company to bring air emissions from its Mainland Coke Plant in Weirton, Hancock County, West Virginia into compliance with certain regulations contained in the federally-approved West Virginia State Implementation Plan (SIP) by June 30, 1980. Because the order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the "Act"). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the Order. The purpose of this notice is to invite public comment on EPA's proposed disapproval of the order as a delayed compliance order.

DATE: Written comments must be received on or before February 5, 1979.

ADDRESSES: Comments should be submitted to Director, Enforcement Division, EPA Region III, Curtis Building, 6th and Walnut Sts., Philadelphia, PA 19106. The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Joseph W. Kunz, U.S. EPA Region III, Curtis Building, 6th and Walnut Sts., Philadelphia, PA 19106, 215-597-8338.

SUPPLEMENTARY INFORMATION: National Steel Corporation, Weirton Steel Division operates a Coke Plant at Weirton, West Virginia. The order under consideration addresses emissions from Mainland Coke Plant coke oven gas combustion at the facility, which are subject to Regulation X of the West Virginia Administrative Regulations of the Air Pollution Control Commission.

The regulation limits the emissions of Sulfur Dioxide, and is part of the federally approved West Virginia State Implementation Plan. The order requires final compliance with the regulation by June 30, 1980 through the installation of a coke oven gas desulfurization system.

Because this order has been issued to a major source of Sulfur Dioxide emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before it becomes effective as a delayed compliance order under Section 113(d) of the Act. EPA may approve the order only if it satisfies the appropriate requirements of this subsection. While it is recognized that the order satisfies part of the provisions of Section 113(d) for approving such an order, EPA may grant its approval only if the order satisfies all of the applicable requirements of this subsection. EPA proposes to disapprove this order because it does not satisfy the requirements of Section 113(d) of the Act which are set forth below:

(1) Section 113(d)(1)(C)—there are no emission monitoring requirements;

(2) Section 113(d)(1)(D)—(a) with respect to the control systems contemplated by the order, the State and the Company for desulfurization of coke oven gas, EPA has not received sufficient information on the emission limitation capabilities of these systems upon which to base a determination that these systems and, therefore, the order provides for final compliance with the requirements of the applicable implementation plan as expeditiously as practicable but in no event later than July 1, 1979; (b) the information given to EPA to date supports a conclusion (i) that the order does not provide for compliance as expeditiously as practicable, and (ii) that the equipment which is contemplated under the order (vacuum carbonate system and Claus acid plant) does not constitute a new means of emission limitation and does not satisfy the criteria of Section 113(d)(4) (B) and (C) of the Act concerning authorization of a final compliance date in the order which is later than July 1, 1979, but in no event later than five years after the date on which the source would otherwise be required to be in full compliance with the requirement. If the order is approved by EPA, source compliance with its terms would preclude federal enforcement action under Section 113 of the Act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provisions of the Act (Section 304) would be similarly precluded. If approved, the order would also constitute an addition to the West Virginia SIP. However, in the event final compliance is not achieved by July 1, 1979, source compliance with the order will not preclude assessment of any noncompliance penalties under Section 120 of the Act, unless the source is otherwise entitled to an exemption under Section 120(a)(2) (B) or (C). All interested persons are invited to submit written comments on the proposed order. Written comments received by the date specified above will be considered in determining final EPA action. Due to the timing of the publication of this proposed rulemaking, final rulemaking on the subject order will not occur until some date which is more than ninety (90) days after receipt of the order from the State of West Virginia on July 5, 1978, because, among other things, it will be necessary to provide adequate time for public comment and EPA review and evaluation of such comment prior to final rulemaking. After the public comment period, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR Part 65.

Dated: October 20, 1978.

JACK J. SCHRAMM,
Regional Administrator,
EPA Region III.

[FR Doc. 79-309 Filed 1-3-79; 8:45 am]

[6315-01-M]

COMMUNITY SERVICES ADMINISTRATION

[45 CFR Part 1067]

[CSA Instruction 6004-5]

FUNDING OF CSA GRANTEES

Due Process Rights for Applicants Denied Benefits Under CSA-Funded Programs

AGENCY: Community Services Administration.

ACTION: Extension of comment period.

SUMMARY: The Community Services Administration is extending the comment period for its proposed rule on due process rights for applicants denied benefits under CSA-funded programs which appeared in the FEDERAL REGISTER on December 14, 1978 (43 FR 58393). This action is being taken in order to comply with the agency's rule on "Improving CSA Regulations Under Executive Order 12044" since it substantially affects the eligibility of the poor for benefits under CSA programs. The extension will provide a more meaningful opportunity for the public to impact on the final regulation.

DATE: The closing date for receipt of comments is extended to February 2, 1979. Comments received by that date will be considered in writing the final rule.

ADDRESS: Please send all comments to: Ms. Jacqueline G. Lemire, Community Services Administration, Office of Community Action, Policy Development and Review Division, 1200 19th Street, NW., Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT:

Ms. Jacqueline G. Lemire, Telephone (202) 254-5047, Teletypewriter (202) 254-6218.

The provisions of this subpart are issued under the authority of section 602, 78 Stat. 530; 42 U.S.C. 2942.

THOMAS J. MACK,
Acting General Counsel, Office of Legal Affairs and General Counsel.

[FR Doc. 79-192 Filed 1-3-79; 8:45 am]

[3510-22-M]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Part 285]

ATLANTIC TUNA FISHERIES

Bluefin Tuna; Hearing Announcement

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Announcement of public hearing.

SUMMARY: The National Marine Fisheries Service will hold a number of informational hearings to introduce a proposed new management system for the Atlantic Bluefin Tuna fishery. This proposal may evetually modify existing regulations, including annual catch quotas, seasons, and reporting and inspection requirements for vessels of the United States.

EFFECTIVE DATE: The hearings will be held on January 8 through 11, 1979.

ADDRESSES: See SUPPLEMENTARY INFORMATION below.

FOR FURTHER INFORMATION CONTACT:

Mr. William G. Gordon, Regional Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Gloucester, Massachusetts 01930, telephone 617-281-3600.

SUPPLEMENTARY INFORMATION: Pursuant to section 6 of the Atlantic Tunas Convention Act of 1976 (the Act), 16 U.S.C. 971d, final regulations were published on June 21, 1978 (43 FR 26581) to implement the International Convention for the Conservation of Atlantic Tunas (20 U.S.T. 2887) and provisions of the Act. These regulations prescribe measures including permits, seasons, quotas, gear restrictions, vessel inspections, and reporting requirements to manage the Atlantic Bluefin Tuna fishery. The National Marine Fisheries Service (NMFS) is contemplating a new management strategy for this fishery which may result in modifications to the existing regulations. Therefore, NMFS will hold a number of information hearings at the following dates, locations, and times to inform the public concerning this proposed management strategy:

January 8, 1979—Holiday Inn (7-9 p.m.), Route 1, Peabody, Massachusetts, 617-535-4600.

January 9, 1979—Howard Johnson's Motor Lodge (7-9 p.m.), Jefferson Boulevard, Warwick, Rhode Island, 401-467-9800.

January 10, 1979—Hilton Hotel (7-9 p.m.), Route 36, Tinton Falls, (Eatontown), New Jersey, 201-544-9300.

January 11, 1979—Quality Inn Lake Wright (7-9 p.m.), 6280 Northampton Boulevard, Box 2048, Norfolk, Virginia, 804-461-6251.

Comments on the proposed management system will be received at these hearings. Written comments may be sent to the Regional Director at the above address on or before February 12, 1979.

(16 U.S.C. 971 *et seq.*)

Signed at Washington, D.C., this the 28th day of December 1978.

WINFRED H. MEIBOHM,
Acting Executive Director,
National Marine Fisheries Service.

[FR Doc. 79-313 Filed 1-3-79; 8:45 am]

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-01-M]

DEPARTMENT OF AGRICULTURE

Office of the Secretary

SECTION 22 IMPORT FEES

Determination of Quarterly Import Fees on Sugar

AGENCY: Office of the Secretary.

ACTION: Notice.

SUMMARY: Headnote 4(c) of Part 3 of the Appendix to the Tariff Schedules of the United States (TSUS) requires the Secretary of Agriculture to determine on a quarterly basis the amount of the fees which shall be imposed on imports of raw and refined sugar (TSUS items 956.05, 956.15 and 957.15) under the authority of Section 22 of the Agricultural Adjustment Act of 1933, as amended. This notice announces those determinations for the first calendar quarter of 1979.

EFFECTIVE DATE: January 1, 1979.

FOR FURTHER INFORMATION CONTACT:

William F. Doering, Foreign Agricultural Service, Department of Agriculture, Washington, D.C. 20250 (202-447-6723).

SUPPLEMENTARY INFORMATION: By Presidential Proclamation dated December 28, 1978, Headnote 4 of Part 3 of the TSUS was amended to provide that quarterly adjusted fees shall be imposed on imports of raw and refined sugar (TSUS items 956.05, 956.15 and 957.15). Paragraph (c)(ii) of Headnote 4 provides that the quarterly adjusted fee for item 956.15 shall be the amount by which the average of the daily spot (world) price quotations for raw sugar for the first 20 consecutive market days preceding the 20th day of the month preceding the calendar quarter during which the fee shall be applicable (as reported by the New York Coffee and Sugar Exchange or, if such quotations are not being reported, by the International Sugar Organization), expressed in United States cents per pound, Caribbean ports, in bulk, adjusted to a United States delivered basis by adding the applicable duty and 0.90 cents per pound to cover attributed costs for freight, insurance, stevedoring, financing, weighing and sampling, is less than 15.0 cents per pound. However, whenever the average of the daily spot price quotations for 10 consecutive market days within any calendar quarter, adjusted to a United States delivered basis, plus the fee then in effect: (1) exceeds 16.0 cents, the fee then in effect shall be decreased by one cent; or (2) is less than 14.0 cents, the fee then in effect shall be increased by one cent. Paragraph (c)(i) further provides that the quarterly adjusted fee for items 956.05 and 957.15 shall be the amount of the fee for item 956.15 plus .52 cents per pound. The fee, in no event, may be greater than 50 per centum of the average of such daily spot price quotations.

The average of the daily spot (world) price quotations for raw sugar for the applicable period prior to the first calendar quarter of 1979 has been calculated to be 7.94 cents per pound. This results in a fee of 3.35 cents per pound for item 956.15 [15.0 cents−(7.94 cents average spot price + 2.81 cents duty + .90 cents attributed costs) = 3.35 cents]. Accordingly, the fee for items 956.05 and 957.05 for the first calendar quarter of 1979 is 3.87 cents per pound.

Headnote 4(c) requires the Secretary of Agriculture to determine and announce the amount of the quarterly fees prior to the calendar quarter during which the fees shall be applicable. The Secretary is also required to certify the amount of such fees to the Secretary of the Treasury and file notice thereof with the FEDERAL REGISTER. This notice is therefore being issued in order to comply with the requirements of Headnote 4(c).

NOTICE

Notice is hereby given that, in accordance with the requirements of Headnote 4(c) of Part 3 of the Appendix to the Tariff Schedules of the United States, it is determined that the quarterly adjusted fees for raw and refined sugar (TSUS items 956.05, 956.15, and 957.15) for the first calendar quarter of 1979 shall be as follows:

Item:	Fee
956.05	3.87 cents/lb.
956.15	3.35 cents/lb.
957.15	3.87 cents/lb.

The amounts of such fees have been certified to the Secretary of the Treasury in accordance with paragraph (c)(iii) of Headnote 4.

Signed at Washington, D.C. on December 28, 1978.

CAROL TUCKER FOREMAN,
Acting Secretary of Agriculture.

[FR Doc. 78-36477 Filed 12-29-78; 8:45 am]

[3410-01-M]

MEAT IMPORT LIMITATIONS

First Quarterly Estimate

Public Law 88-482, approved August 22, 1964 (hereinafter referred to as the Act), provides for limiting the quantity of fresh, chilled, or frozen cattle meat (TSUS 106.10) and fresh, chilled, or frozen meat of goats and sheep, except lamb (TSUS 106.20), which may be imported into the United States in any calendar year. Such limitations are to be imposed when it is estimated by the Secretary of Agriculture that imports of such articles, in the absence of limitations during such calendar year, would equal or exceed 110 percent of the estimated quantity of such articles, prescribed by section 2(a) of the Act.

In accordance with the requirements of the Act, the following first quarterly estimates for 1979 are published.

1. The estimated aggregate quantity of such articles prescribed by Section 2(a) of the Act during the calendar year 1979 is 1,131.6 million pounds.

2. The estimated aggregate quantity of such articles which would, in the absence of limitations under the Act, be imported during calendar year 1979 is 1,570.0 million pounds. This estimate is based upon the successful completion of a restraint program being negotiated by the Department of State with major supplying countries. Were it not for the expected restraint program, the estimate of imports in 1979 subject to the Act would have been higher.

Since the estimated quantity of imports exceeds 110 percent of the estimated quantity prescribed by section 2(a) of the Act, limitations for the calendar year 1979 on the importation of fresh, chilled, or frozen cattle meat (TSUS 106.10) and fresh, chilled, or frozen meat of goats and sheep, except lamb (TSUS 106.20) are required to be imposed but may be suspended by the President pursuant to section 2(d) of the Act.

Done at Washington, D.C. this 29th day of December 1978.

CAROL TUCKER FOREMAN,
Acting Secretary.

[FR Doc. 79-368 Filed 1-3-79; 8:45 am]

[6320-01-M]

CIVIL AERONAUTICS BOARD

[Order 78-12-190; Dockets 33494, 33588, 33907, 34119]

DELTA AIR LINES, INC., ET AL.

Service to North Carolina; Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 29th day of December, 1978.

In the matter of: Application of Delta Air Lines, Inc. for deletion of service at Asheville, North Carolina (Docket 33494), application of Piedmont Aviation, Inc. for amendment of its certificate of public convenience and necessity for Route 87 (Docket 33588), notice of Delta Air Lines, Inc. of termination of all service at Asheville, North Carolina under section 401(j) of the Federal Aviation Act of 1958, as amended (Docket 33907), and notice of United Air Lines, Inc. of termination of all service at Asheville, North Carolina under section 401(j) of the Federal Aviation Act of 1958, as amended (Docket 34119).

On September 20, 1978, Delta Air Lines filed an application under section 401(j) of the Federal Aviation Act for deletion of Asheville, North Carolina, from its certificate for Route 54. The following day it filed a petition for an order to show cause why its application should not be granted.

In support of its application and petition, Delta states that its operations at Asheville in recent years have not been economically self-sustaining, with extremely low load factors and operating losses;[1] that Route 54 points account for only 20 percent of Asheville's O&D and connecting traffic; and that since there can be little dispute as to the material facts upon which the application is based, show-cause procedures are the appropriate means of handling the request.

Answers to Delta's application have been filed by the City Council of the City of Asheville and the County Commissioners of Buncombe County, the North Carolina Department of Transportation, and the City of Asheville. The Commissioners oppose the request unless a carrier not now serving the point is authorized to replace Delta's services. The N.C.D.O.T. states that if Delta is to be granted permission to drop Asheville, then Piedmont's restrictions in several markets should be lifted, and that any new carriers that might be interested in providing service to Asheville should be granted such authority.

The City opposes Delta's application, contending that: an abrupt suspension of service would cause irreparable harm to the people of Asheville; the point is the predominate metropolitan hub of western North Carolina; as one of only two trunk carriers serving Asheville, Delta has used very little of its extensive route authority at the city; the community has been attempting to work out a route transfer or other appropriate arrangement between Delta and a carrier not now serving Asheville; approval of the deletion request at this time would seriously impair those efforts; and the application should be denied since Asheville's traffic potential has not been adequately tested and Delta's overall financial standing is not in jeopardy. The City further argues that the new Act, as reported from Conference Committee, assures that communities to be deleted will have at the very least an opportunity to seek replacement service or administratively fight the proposed deletion; that Delta's services are clearly essential within the meaning of the proposed Act;[2] and that under these circumstances, it would be an abuse of discretion for the Board to grant a deletion without a hearing.

On October 2, 1978, Piedmont Aviation filed an application for amendment of its certificate to eliminate one-stop restrictions between Asheville and four points—Columbia, S.C., Columbus, Ohio, Chicago, Ill., and Miami/Ft. Lauderdale.[3] It also filed a motion to consolidate its application with Delta's application in Docket 33494. Finally, it filed a petition for an order to show cause why its request cannot be granted.

On November 1, 1978, Delta filed a notice, under section 401(j) of the 1978 Act, of termination of service at Asheville. The City of Asheville filed an answer, presenting basically the same arguments contained in its answer to the deletion request. Delta filed a reply to the answer.[4]

On November 28, 1978, United Air Lines filed a 401(j) notice of termination of service at Asheville.[5]

We have decided to (1) allow the termination notices to take effect, and (2) issue an order to show cause which proposes to (a) deny Delta's application for deletion of Asheville, and (b) remove existing one-stop restrictions contained in Piedmont's certificate in the Asheville-Columbia/Columbus/Chicago/Miami/Ft. Lauderdale markets.[6]

Our decision on the termination notices is based on the following considerations. Delta and United have never been significant factors in the carriage of traffic at Asheville. For the year ended December 31, 1977, they carried only 7.5 and 10 percent, respectively, of the single-carrier traffic transported into and out of the point by certificated carriers during that period. Furthermore, Piedmont, with nonstop authority between Asheville and Atlanta, provides a total of 10 daily one-way flights in the market, providing convenient connections to and from points throughout the country. United only operates two one-way flights daily in that market, which in 1977 generated nearly 150,000 passengers. Delta, with no usable authority to Atlanta from Asheville, routes its flights to Cincinnati and Chicago. The Cincinnati market generated only 5,000 O&D plus connecting passengers during 1977. The Chicago market, which ranks fourth for Asheville, generated 26,000 O&D plus connecting passengers. Piedmont, whose services via one intermediate point currently supplement those of Delta to Chicago, should be able to absorb the additional passengers who now use Delta's services.

Our review of the services now being provided at Asheville convinces us that essential air transportation will be maintained at the point without the services of Delta or United. In addition, Piedmont's authority as contemplated in this order will permit improved service in two of Asheville's largest markets, if it chooses to implement it, and there is already ample service to Atlanta, the largest Asheville market. Given the minor role of

[1] The carrier indicates that it carried an average of only 11 passengers per day each way to and from Asheville between September 15, 1977 and June 30, 1978; that it carried only 2.5 percent of Asheville passenger traffic in 1977; and that resulting losses were $652,310.

[2] It cites the facts that Delta provides the only service between Asheville and Columbia; that the carrier provides one-half of all Asheville-Chicago-single-plane service, a market in which it holds the only nonstop authority and which ranks number four for Asheville; and that the carrier provides the only nonstop service to Cincinnati.

[3] Piedmont currently serves Miami under exemption authority granted in Order 78-4-129. By Order 78-9-148, dated September 29, 1978, interested persons were directed to show cause why Piedmont's certificate should not be amended to permit nonstop service between Charleston, S.C. and Columbia, on the one hand, and Miami, on the other.

[4] The reply was accompanied by a motion for leave to file. We will grant the motion.

[5] United's application has triggered the provisions of section 419(a)(2)(B), which requires us to make a determination of essential air transportation at a point within 180 days of the date on which we receive notice that only one carrier will be serving such point.

[6] This assumes that Miami/Ft. Lauderdale will be include in Piedmont's certificate by the time this order is finalized.

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Delta and United in the development of the city's traffic, the elimination of their services does not reasonably appear to deprive Asheville of essential air transportation. We will therefore allow the notices of termination to become effective after the required 90-day notice periods.[7]

As to Delta's deletion application, we tentatively conclude that since the carrier will suspend service at Asheville at the end of the 90-day notice period, deletion of the point from its certificate would not be consistent with the public convenience and necessity. In support of our conclusion, we make the following tentative findings. Under the new Act the elimination of non-essential air services, including suspension of service at a point, can be accomplished without Board intervention, provided only that proper notice is given to the communities affected. We can see no reason to delete Delta's authority to serve Asheville when suspension accomplishes the same objective and permits the flexibility to resume service at any time in the carrier's discretion if circumstances warrant such action. We are especially concerned that deletion would eliminate the ability of the community to attract service under the dormant authority provisions of the 1978 Act. Under these circumstances, we tentatively conclude that Delta's application to delete Asheville from its certificate should be denied.[8]

We also tentatively conclude that the proposed amendment of Piedmont's certificate to permit nonstop operations in four Asheville markets is consistent with the public convenience and necessity. Delta is the only unrestricted carrier in the Asheville-Chicago market, and currently only one-stop service is offered. With its one-stop restriction removed, Piedmont will be able to accommodate those passengers and will also be able to realize cost savings from the elimination of an intermediate stop. Direct service to Miami is not currently available; authorization in that market will permit Piedmont to integrate its services to the southeast more fully with the rest of its system operations and to provide nonstop service in a market which in 1977 generated 20,000 O&D plus connecting passengers. Delta is the only carrier authorized to provide nonstop service in the Columbia and Columbus markets and operates one daily round trip between Asheville and Columbia. It offers no direct service to Columbus. Authorization of nonstop service by Piedmont will permit it to replace Delta's Columbia nonstop services if it chooses and to offer new service in the Columbus market.[9]

Finally, we tentatively conclude that Piedmont is fit, willing, and able to perform properly the air transportation authorized by the certificate proposed to be issued here and to conform to the provisions of the Act and our rules, regulations, and requirements; that our proposed action would not constitute a major Federal action significantly affecting the quality of the environment within the meaning of the National Environmental Policy Act of 1969; and that it is not a major regulatory action under the Energy Policy and Conservation Act of 1975.[10]

We will give interested persons 20 days.[11] following the service date of this order to show cause why the tentative findings and conclusions set forth here should not be made final; replies will be due within 10 days thereafter. We expect those persons to direct their objections, if any, to specific matters dealt with here, and to support their objections with detailed economic analysis. If an oral evidentiary hearing complete with the opportunity for cross-examination is requested, the objector should state, in detail, why such a hearing is necessary and what relevant and material facts the objector would expect to establish through such a hearing that cannot be established in written pleadings. We will not entertain general, vague, or unsupported objections. We remind objectors that under the 1978 Act, they have the burden of showing why the authority proposed here will not be consistent with the public convenience and necessity.

Accordingly,

1. We direct all interested persons to show cause why we should not issue an order making final the tentative findings and conclusions stated here and amending the certificate of Piedmont Aviation, Inc. for Route 87 so as to permit nonstop service between Asheville, N. C., on the one hand, and Columbia, S. C., Columbus, Ohio, Miami/Ft. Lauderdale, Fla., and Chicago, Ill., on the other;

2. We direct any interested persons having objections to the issuance of an order making final the proposed findings, conclusions, and certificate amendments set forth here to file with us, no later than January 18, 1979, and serve upon all persons listed in paragraph 9, below, a statement of objections together with a summary of testimony, statistical data, and evidence expected to be relied upon to support the stated objections; interested persons shall file answers to objections no later than January 29, 1979;

3. If timely and properly supported objections are filed, we will give full consideration to the matters or issues raised before we take further action; [12]

4. In the event no objections are filed to any part of this order, we will eliminate all further procedural steps relating to such part or parts and we will proceed to enter an order in accordance with the tentative findings and conclusions set forth in this order;

5. We deny the petition of Delta Air Lines for an order to show cause in Docket 33494;

6. We dismiss the petition filed by the City of Asheville in Docket 33907 for review of essential air service under section 419(a)(10) of the 1978 Act;

7. We grant the motion of Delta Air Lines for leave to file an otherwise unauthorized document;

8. We dismiss the motion of Piedmont Aviation to consolidate its application in Docket 33588 with Docket 33494, but we grant its motion for an order to show cause;

9. We will serve this order on Piedmont Aviation, Inc.; Delta Air Lines, Inc.; the City Council of the City of Asheville and the County Commissioners of Buncombe County; the North Carolina Department of Transportation; the City of Asheville; the City of Chicago; the City of Cincinnati; the City of Columbia; the City of Miami, Fla.; the City of Ft. Lauderdale; the City of Columbus, Ohio; and the Postmaster General;

10. The notice filed by Delta Air Lines for termination of service at Asheville, N.C., may be effective on February 1, 1979; and

11. The notice filed by United Air Lines for termination of service at Asheville, N.C., may be effective on February 28, 1979.

We will publish this order in the FEDERAL REGISTER.

By the Civil Aeronautics Board: [13]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 79-382 Filed 1-3-79; 8:45 am]

[7] We are treating the answer Asheville has filed in opposition to Delta's notice as a petition under section 419(a)(10) of the 1978 Act. We have considered the arguments raised and have determined, based on the above findings, to dismiss the petition.

[8] Delta's motion for an order to show cause in Docket 33494 will therefore be denied.

[9] We also invite other certificate applications for Asheville authority. We expect to process such applications by show-cause procedures.

[10] Piedmont filed an environmental representation that no additional flights are planned at this time and that the authority received by restriction removal would be used primarily for operating and scheduling flexibility between cities already served by Piedmont. No answers to the filing have been received.

[11] We are shortening the number of days allowed for objections from 30 days to 20 days in order to receive and process responses by February 1, 1979, the effective date of Delta's 401(j) notice.

[12] Since provision is made for the filing of objections to this order, we will not entertain petitions for reconsideration.

[13] All members concurred.

[6320-01-M]

[Order 78-12-191; Dockets 33054, 33163, 33519, 33597, 33630]

PIEDMONT AVIATION, INC.

Applications for Certificate Authority; Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 29th day of December, 1978.

In the matter of applications of Piedmont Aviation, Inc., Southern Airways, Inc., Trans World Airlines, Inc., Allegheny Airlines, Inc., and Braniff Airways, Inc., for certificate authority.

On July 19, 1978, Piedmont Aviation filed an application for unrestricted nonstop authority in the Nashville-Denver/Las Vegas/Phoenix and Knoxville-Denver markets, accompanied by a motion for hearing. While Piedmont requests show cause procedures, it states that if other applications are consolidated into this proceeding, it would not object to our instituting a hearing.

In support of its motion, it states that it will offer discounts of 30 to 40 percent from existing fares in the Denver-Nashville/Knoxville and Phoenix/Las Vegas-Nashville markets; that it will provide first one-stop, single plane, or single-carrier service from points elsewhere on its system, with the promise that its proposed schedules will avoid the congested hub airports currently used as connecting points by much of the traffic; and that it will earn a net profit (after return on investment and tax) of $228,000 based upon Subpart K costing methodology.

A number of civic parties have filed answers in support.[1]

On August 7, 1978, Southern Airways filed a motion without supporting documentation, requesting that its application in Docket 33163, which asks for authority identical to that requested by Piedmont in its application, be consolidated with it.

Subsequently, TWA, Allegheny and Braniff filed applications accompanied by motions to consolidate, requesting some of the same authority.[2]

On August 30, 1978, Western Air Lines filed an answer to Piedmont's motion for hearing, in which it raised the point that Piedmont's application, apparently by oversight, treats Phoenix, Las Vegas and Denver as co-terminals on a segment from Nashville, although the language of its motion makes clear that it intends to exclude purely local traffic rights between Denver-Phoenix, Denver-Las Vegas and Las Vegas-Phoenix. It contends that such local traffic rights should not be considered in this proceeding, because Denver-Las Vegas is currently at issue in the *St. Louis-Denver-Las Vegas/Reno Route Investigation*, Docket 32920, and Las Vegas-Phoenix is currently at issue in the *Phoenix-Las Vegas/Reno Competitive Nonstop Service Investigation*, Docket 30055.[3]

We tentatively conclude, on the basis of the tentative findings below, that it is consistent with the public convenience and necessity to grant, on a subsidy-incligible basis, the Nashville-Denver/Phoenix/Las Vegas and Knoxville-Denver applications of Piedmont, Southern, TWA, Allegheny, Braniff and any other fit, willing and able applicant whose fitness, willingness and ability can be established by officially noticeable data.[4] Further, we tentatively conclude that no oral evidentiary hearing is needed here since there are no material determinative issues of fact requiring such a hearing for their resolution.

Under the Airline Deregulation Act of 1978, we must approve an application for certificate authority unless we find, by a preponderance of the evidence, that approval would not be consistent with the public convenience and necessity (Pub. L. No. 95-504, section 14). The new Act creates a presumption that the grant of all applications is consistent with the public convenience and necessity. It places on any opponents of these applications the burden of proving them inconsistent with the public convenience and necessity (Pub. L. No. 95-504, section 14). To give such opponents a reasonable opportunity to meet an admittedly heavy burden of proof, it is our view that applicants must indicate what type of service they would provide if, after receiving authority, they chose to serve the markets at issue. This does not mean that an applicant must show that it will provide service if it receives authority but rather what the nature of its service would be if it decided to serve. We will give all existing and would-be applicants 15 days from the date of service of this order to supply data,[5] in order to give interested persons sufficient information on the nature of the applicant's proposal to assess consistency with the public convenience and necessity. Our tentative findings concerning all applicants that have not filed illustrative service proposals are contingent on such filings.

Upon review of all the facts and pleadings in this case, we have tentatively determined that there is no reason why we should not grant multiple awards. Our tentative conclusions comport with the letter and spirit of the Airline Deregulation Act of 1978, particularly the declaration of policy set forth in section 102 which instructs us to rely, to the maximum extent possible, on competitive forces, including potential competition.[6] See our general conclusions about the benefits of mul-

[1] The Metropolitan Nashville Airport Authority; the City and County of Denver; the Public Utilities Commission of the State of Colorado and the State of Colorado; the Raleigh-Durham Airport Authority; the Las Vegas Parties (Clark County, Nevada, the Greater Las Vegas Chamber of Commerce, the City of Las Vegas, the Nevada Resort Association and the Las Vegas Convention/Visitors Authority); the Norfolk Port and Industrial Authority; the Metropolitan Knoxville Airport Authority; the Greater Charlotte Chamber of Commerce and the City of Charlotte; and the North Carolina Department of Transportation.

[2] TWA filed its application (Docket 33519) and a companion motion to consolidate on September 22, 1978, requesting new authority in Nashville-Denver/Phoenix/Las Vegas as a new segment for its Route 2 certificate. Allegheny filed its application (Docket 33597) and a motion to consolidate on October 2, 1978, requesting Nashville-Denver/Phoenix/Las Vegas as a new segment for its Route 97 certificate. Braniff filed its application (Docket 33630) and a motion to consolidate on October 6, 1978, requesting Nashville-Denver/Phoenix/Las Vegas nonstop authority. TWA, Allegheny and Braniff supplied no supporting documentation.

[3] Based on the exhibits filed by Piedmont, we believe that it is seeking the Nashville-Phoenix, Nashville-Las Vegas and Nashville-Denver segments and does not seek authority between Denver-Phoenix, Denver-Las Vegas or Las Vegas-Phoenix.

[4] Officially noticeable data consist of that material filed under Rule 24(m) of our Procedural Regulations. Applicants whose fitness cannot be so established must make a showing of fitness, as well as dealing with any questions under sections 408 and 409 of the Act. Should such applications be filed, we will then consider how to deal with them procedurally. On the basis of officially noticeable data, we find that Piedmont, Southern, TWA, Allegheny and Braniff are citizens of the United States and are fit, willing and able to perform the air services proposed and to conform to the provisions of the Act and our rules, regulations and requirements.

[5] They should submit an illustrative schedule of service in the markets at issue, which shows all points that they might choose to serve, the type and capacity of the equipment they would likely use and the elapsed trip time of flights in block hours over the segments. For the markets at issue only, they should also provide an environmental evaluation as required by Part 312 of our Regulations, and an estimate of the gallons of fuel to be consumed in the first year of operations in the markets if they instituted the proposed service, as well as a statement on the availability of the required fuel.

[6] Section 102(a) specifies as being in the public interest, among other things: "The replacement of maximum reliance on competitive market forces and on actual and potential competition (a) to provide the needed air transportation system, and (b) to encourage efficient and well-managed carriers to earn adequate profits and to attract capital" and "The encouragement, development, and maintenance of an air transportation system relying on actual and potential competiton to provide efficiency, innovation and low prices, and to determine the variety, quality, and price of air transportation services."

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tiple permissive authority in *Improved Authority to Wichita Case, et al.*, Order 78-12-106, December 14, 1978. Accordingly, we conclude that it is desirable to award the additional authority sought by the applicants, whether or not services are in fact operated. The existence of additional operating rights in market now being served by incumbent carriers or authorized to be served will best effect the statute's policy objective of placing maximum reliance on the decisions of the marketplace. This will occur because newly authorized carriers may actually enter the market in order to exploit unmet demand, both in terms of price and service, or because incumbents will be encouraged by the realistic threat of entry to meet that demand. Because demand is dynamic in character and therefore constantly changing, the most effective means to assure that competitive forces will operate quickly and efficiently is to award multiple operating authority to carriers that are fit, willing and able to provide service.

Notwithstanding the foregoing tentative conclusions in support of multiple authority in this proceeding, we wish to make clear that we in no way desire to deter objections that might be asserted under the 1978 Act by air carriers, civic interests or other interested persons. The new statute contains a completely revised declaration of policy in section 102, as well as numerous additional and modified substantive provisions. Some of these statutory changes relate to considerations not expressly covered in the preceding statute. For example, while diversion from existing carriers will not be given decisive weight in rejection applications for new authority except upon an extraordinary showing of financial jeopardy on the part of one or more existing air carriers, with the consequent loss of essential air service which cannot be immediately replaced, other provisions suggest that the Congress desires us to take into account other factors. These include, but are not limited to satellite airport questions and the degree of concentration within the industry and safety. Any party in this proceeding may explain in full why the authority that we propose to grant should not issue. Such explanations should apply specifically to the applications in issue, and should be sufficiently detailed to overcome the statutory presumption of favorable treatment that the Act bestows on applications.

Finally, upon review of the environmental evaluation submitted by Piedmont in its application, to which no answers have been filed, we find that our decision to award it authority does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, or a major regulatory action under the Energy Policy and Conservation Act of 1975. We reserve judgment on the environmental consequences of other applications, pending submission of environmental data.

We will give interested persons 30 days following the service data of this order to show cause why the tentative findings and conclusions set forth here should not be made final; replies will be due within 10 days thereafter. We expect such persons to direct their objections, if any, to specific markets, and to support such objections with detailed economic analysis. If an evidentiary hearing is requested, the objector should state, in detail, why such a hearing is necessary and what relevant and material facts he would expect to establish through such a proceeding that cannot be established in written pleadings. We will not entertain general, vague, or unsupported objections.

ACCORDINGLY,

1. We direct all interested persons to show cause why we should not issue an order making final the tentative findings and conclusions stated above and amending the certificate of public convenience and necessity of Piedmont Aviation for Route 87 and Southern Airways for Route 98 so as to authorize the carriers to engage in nonstop operations between Nashville, on the one hand, and Denver, Phoenix and Las Vegas, on the other, and between Knoxville and Denver; and amending the certificates of public convenience and necessity of Trans World Airlines for Route 2, Allegheny Airlines for Route 7 and Braniff Airways for Route 9, so as to authorize them to engage in nonstop operations between Nashville, on the one hand, and Denver, Phoenix and Las Vegas, on the other; and amending, to grant any of the authority in issue, the certificates of any other fit, willing and able applicants the fitness of which can be established by officially noticeable material;

2. We direct any interested persons having objections to the issuance of an order making final any of the proposed findings, conclusions, or certificate amendments set forth here, to file with us and serve upon all persons listed in paragraph 7, no later than February 2, 1979, a statement of objections, together with a summary of testimony, statistical data, and other material expected to be relied upon to support the stated objections; answers shall be due no later than February 12, 1979;

3. If timely and properly supported objections are filed, we will accord full consideration to the matters and issues raised by the objections before we take further action;[1]

4. In the event no objections are filed, we will deem all further procedural steps to have been waived and we may proceed to enter an order in accordance with the tentative findings and conclusions set forth here;

5. We grant the motions of Southern, TWA, Allegheny and Braniff to consolidate their applications in Dockets 33163, 33519, 33597, and 33630, respectively, with Piedmont's application in Docket 33054;

6. We direct Southern, TWA, Allegheny, Braniff and any other applicant for the authority in issue to file the data set forth in footnote 5 no later than January 18, 1979; and

7. We will serve a copy of this order upon all persons named in the service list of Docket 33054.

We will publish this order in the FEDERAL REGISTER.

By the Civil Aeronautics Board:[2]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 79-383 Filed 1-3-79; 8:45 am]

[3510-22-M]

DEPARTMENT OF COMMERCE

Industry and Trade Administration

[File No. 563]

GEO SPACE CORP.

Order Regarding Export Administration

A Compliance Division letter of February 16, 1978, as amended on December 19, 1978 charged that Geo Space Corporation (herein "respondent"), 5803 Glenmont Drive, P.O. Box 36374, Houston, Texas 77036, had violated the Export Administration Act, 50 U.S.C. App. 2401 et seq. and the Export Administration Regulations, 15 CFR Part 368 *et seq.*, by reason of exporting approximately $4,000,000 worth of controlled electronic seismic equipment on 46 separate occasions without first obtaining the requisite validated licenses from the Office of Export Administration.

Respondent, although denying it had knowingly violated the regulations, admitted that it had made the subject exportations without first applying for validated licenses. It does not admit violations of law. However, for the purposes of this proceeding, it negotiated a consent agreement in conformity with 15 CFR 388.10 with the Office of General Counsel and the Compliance Division.

The Hearing Commissioner reviewed the consent proposal, the evidence, and all other materials of record. He noted that four charges were related to exportations to Eastern European countries and one to the Peoples Republic of China; there is no presemption that licenses to these countries would have been issued in all cases. He stated that the respondent indicated it had relied on an advisory licensing opinion, issued by the Office of Export Administration in 1973, that certain of the items involved in this proceeding could be exported under general license to all except SZ countries. He found the reliance to be erroneous. He stated that respondent recognized its error, had cooperated in its own investigation, gave assurance of future compliance and that respondent is not otherwise suspect. He recommended the approval of the consent proposal and the issuance of this Order.

On the basis of the Commissioner's report, I find that Geo Space Corporation illegally exported controlled electronic seismic equipment as alleged in the charging letter.

I have considered respondent's explanatory statement for its reliance on the advisory opinion, its admission of error and assurances to comply with the export laws and regulations. I also considered the respondent's agreement to pay a monetary penalty as authorized in law, and to accept the further sanctions outlined below. The consent proposal is designed to achieve effective enforcement of the Export Administration Regulations and is hereby approved.

Therefore, pursuant to the authority delegated to me, 15 CFR Part 388.

It is ordered, I. A $36,000 civil penalty is imposed upon respondent.

II. All outstanding validated export licenses issued to respondent or in which it has interests are hereby revoked and must be returned forthwith to the Office of Export Administration for cancellation. Except as otherwise specifically provided in this Order or as otherwise especially authorized:

(1) For a period beginning on the effective date of this Order and ending January 22, 1979, respondent is denied all privileges of participating directly or indirectly, in any manner or capacity, in any transaction involving the export of commodities or technical data; domestic sales as defined below shall be permitted.

(2) For a further period beginning January 23, 1979, and ending March 22, 1979, respondent is denied all privileges of participating directly or indirectly, in any manner or capacity in any transaction involving the export of commodities or technical data requiring validated export licenses.

Respondent may not solicit new orders or enter into new negotiations with foreign customers during the period of denial except upon prior approval by the Director, Office of Export Administration or other authorized officer.

III. The denial of export privileges shall extend to respondent's agents, employees, or successors in interest. During the time when respondent is denied export privileges described herein, no person, firm, corporation, partnership or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Office of Export Administration, shall do any of the above mentioned acts, directly or indirectly, or carry on negotiations with respect thereto in any manner, or capacity, on behalf or in any association with respondent, may obtain any benefit therefrom, or have any interest or participation therein directly or indirectly.

IV. For the purpose of this Order the term "domestic sales" is defined to include sales or transfers where—

(1) Title, possession and control of the product or data pass in the United States to a purchaser other than a related party; and

(2) The purchaser is a domestic end user or is a United States exporter who is acting for his own account and in that transaction is not a broker, freight forwarder, or other party acting as an agent.

V. The respondent is conditionally restored to export privileges on March 22, 1979, *Subject*, however, to a period of probation ending December 22, 1980; the terms of probation are that the respondent shall fully comply with the Export Administration Act of 1969, as amended, and all regulations, licenses and orders issued thereunder.

VI. The provisions of 15 CFR 388.16 are applicable. The Director, Office of Export Administration, or other authorized officer, may revoke outstanding validated export licenses and deny export privileges for the remaining period of this Order upon a finding that respondent has failed to comply with the requirements and conditions of this Order. Such action may be taken without notice when national security or foreign policy considerations are involved. If a supplemental order should be issued because of breach of the terms and conditions herein it will contain the proscriptions of 15 CFR 387.10 and 388.1. A supplemental order will not preclude the Department of Commerce from taking further action in connection with any violation. Respondent will be permitted to file objection to a supplemental order, petition that the order be set aside, and may request an oral hearing in accordance with the pertinent Export Administration Regulations, 15 CFR 388.16; but proceedings under § 388.16 will not stay the order of revocation which order will remain in effect until otherwise modified or cancelled.

This order is effective immediately.

Dated: December 22, 1978.

RAUER H. MEYER,
Director,
Office of Export Administration.

[FR Doc. 79-350 Filed 1-3-79; 8:45 am]

[3510-22-M]

National Oceanic and Atmospheric Administration

PACIFIC FISHERY MANAGEMENT COUNCIL, SCIENTIFIC AND STATISTICAL COMMITTEE, SALMON ADVISORY SUBPANEL AND PLAN DEVELOPMENT TEAM AND DUNGENESS CRAB ADVISORY SUBPANEL AND PLAN DEVELOPMENT TEAM

Public Meeting With Partially Closed Session

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Pacific Fishery Management Council and its Scientific and Statistical Committee, Salmon and Dungeness Crab Advisory subpanels and Plan Development Teams will conduct a series of meetings.

DATES: February 6-9, 1979.

ADDRESS: The meetings will take place at the Seattle Hyatt House, 17001 Pacific Highway South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT:

Mr. Lorry M. Nakatsu, Executive Director, Pacific Fishery Management Council, 526 SW Mill Street, Second floor, Portland, Oregon 97201, Telephone: (503) 221-6352.

SUPPLEMENTAL INFORMATION: The Pacific Fishery Management Council was established by the Fishery Management Act of 1976 (Pub. L. 94-265), and the Council has established a Scientific and Satistical Committee, Salmon Advisory Subpanel and Plan Development Team and Dungeness Crab Advisory Subpanel and Plan Development Team to assist in carrying out its responsibilties.

Meeting Agendas follow:

Salmon Advisory Subpanel and Plan Development Team (open meeting) February 6, 1979 (1:00 p.m. to 5:00 p.m.) and February 7, 1979 (8:00 a.m. to 5:00 p.m.).

Agenda: Consideration of Amendments to the Ocean Salmon Plan for 1979.

Dungeness Crab Advisory Subpanel Team (open meetiang) February 7, 1979 (10:00 a.m. to 5:00 p.m.).

Agenda: Consideration of the first draft of the Dungeness Crab FMP.

Scientific and Statistical Committee (open meeting) February 6, 1979 (1:00

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[1] Since provision is made for the filing of objections to this order, we will not entertain petitions for reconsideration.

[2] All Members concurred.

V 4 4 / 3 J A 4 7 9 UMI

p.m. to 5:00 p.m.) February 7, 1979 (10:00 a.m. to 5:00 p.m.) February 8, 1979 (8:00 a.m. to 5:00 p.m.)

Agenda: Review of report on Economics of Charterboat Industry; review of Oregon State University Socio/Economic study on salmon fishery; review of report on coho salmon production; final recommendations for amendments to the Ocean Salmon Plan for 1979; development of FMPs: Comprehensive Salmon; Squid; Groundfish; Billfish; Dungeness Crab; Jack Mackerel; Pink Shrimp and Anchovy; operational and procedural matters of the Council, including advisory panel and management plan development team activities; public comment period beginning at 3:30 p.m. on February 7, 1979, and other committee business.

Council (partially closed meeting) February 8-9, 1979 (8:00 a.m. to 5:00 p.m.) on both days:

NOTE.—Meeting will be closed to the public from 8:00 a.m. to 10:00 a.m. on February 8, 1979.

Agenda: February 8, 1979 (8:00 a.m. to 10:00 a.m.) The closed session is being held to discuss classified material on the status of current maritime boundary and resource negotiations between the United States and Canada. Personnel matters, including appointments to possible vacancies on subpanels and teams, will be discussed. Only those Council members, SSC members and related staff having security clearances will be allowed to attend this closed session.

Agenda: February 8, 1979 Following the closed session, the rest of the meeting will be open to the public for consideration of the first draft of the Dungeness Crab FMP; consideration of the first draft of the Pink Shrimp FMP; consideraton of amendments to the Ocean Salmon Plan for 1979; status of other FMPs; review of communications from other agencies and organizations, and public comment period beginning at 4:00 p.m.

Agenda: February 9, 1979. Operational and procedural matters of the Council, including its staff, advisory panels, and committee activities; consideration of reports from ad hoc committees; review of communication from other agencies and organizations; and status of other FMPs.

The Assistant Secretary for Administration of the Department of Commerce, with the concurrence of its General Counsel, formally determined, on November 30, 1978 pursuant to Section 10(d) of the Federal Advisory Committee Act, that the agenda items covered in the closed session may be exempt from the provisions of the act relating to open meetings and public participation therein, because items will be concerned with matters that are within the purview of 5 U.S.C. 552B (c)(1) as information which is properly classified pursuant to Executive Order 11652, and disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy. (A copy of the determination is available for public inspection and copying in the Public Reading Room, Central Reference and Record Inspection Facility, Room 5317, Department of Commerce).

Dated: December 29, 1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc. 79-349 Filed 1-3-79; 8:45 am]

[3510-22-M]

WESTERN PACIFIC REGIONAL FISHERY MANAGEMENT COUNCIL; SCIENTIFIC AND STATISTICAL COMMITTEE

Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Scientific and Statistical Committee of the Western Pacific Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), will meet to discuss the status of Fishery Management Plan for the spiny lobster, billfish and bottomfish fisheries.

DATES: The meeting will convene on Tuesday, January 9, 1979, at 9:00 a.m. and adjourn on Wednesday, January 10, 1979, at 5:00 p.m. The meeting is open to the public.

ADDRESS: The meeting will take place in the Kepuhi room of the Sheraton Molokai Hotel, Molokai Island.

FOR FURTHER INFORMATION CONTACT:

Edwin K. Lee, Administrative Officer, Western Pacific Fishery Management Council, Room 1608, 1164 Bishop Street, Honolulu, Hawaii 96813, Telephone: (808) 523-1368.

Dated: December 28, 1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc. 79-319 Filed 1-3-79; 8:45 am]

[3510-26-M]

Office of the Secretary

METROPOLITAN STATISTICAL AREAS

Hearing on Second Proposal for Changes in Criteria for Designation and Definition

AGENCY: Office of Federal Statistical Policy and Standards, Department of Commerce.

ACTION: Notice of Hearing on Second Proposal for Changes in Criteria for Designation and Definition of Metropolitan Statistical Areas.

Notice is hereby given of a public hearing on the second proposal for revising the criteria for establishing the metropolitan statistical areas (formerly known as Standard Metropolitan Statistical Areas). This revised proposal has been prepared by the Federal Committee on Standard Metropolitan Statistical Areas following the period of public review and comment on the first proposal which was published in the FEDERAL REGISTER for June 22, 1978. The revised criteria proposal was published for public comment in Part V of the FEDERAL REGISTER for November 29, 1978, and in the November 1978 issue of the *Statistical Reporter*. Copies are also available from the Office of Federal Statistical Policy and Standards.

The morning hearing will be held at 9:30 a.m. on Tuesday, January 23, 1979, in the Freeholders Meeting Room, Middlesex County Administration Building, John F. Kennedy Square, New Brunswick, New Jersey. The afternoon hearing will be held at 2 p.m. in Conference Room C, 4th Floor, Gateway Building No. 1, Market Street and Penn Plaza, Newark, New Jersey. Persons wishing to be on the agenda should contact the Office of Federal Statistical Policy and Standards, U.S. Department of Commerce, Washington, D.C. 20230, telephone (202) 673-7965 by January 19, 1979. Written statements may be presented in lieu of attendance at the hearing. Oral summaries of statements should be limited to 10 minutes.

COURTENAY M. SLATER,
Chief Economist for the Department of Commerce.

[FR Doc. 79-347 Filed 1-3-79; 8:45 am]

[3510-25-M]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

INDIA

Announcing Import Restraint Levels for Certain Cotton, Wool, and Man-Made Fiber Textile Products

DECEMBER 29, 1978.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Establishing import restraint levels for certain cotton, wool and man-made fiber textile products from India during the twelve-month period beginning on January 1, 1979 and extending through December 31, 1979.

SUMMARY: The Bilateral Cotton Textile Agreement of December 30, 1977, as amended, between the Governments of the United States and India, establishes levels of restraint for certain cotton, wool and man-made fiber textile products in Categories 330-369, 431-469, and 630-669, as a group, and individual Categories 335, 336, 338/339/340, 341, 342, 347/348, 359 and 666. Accordingly, in the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to limit imports into the United States for consumption, or withdrawal from warehouse for consumption, of cotton, wool and man-made fiber textile products in Categories 330-369, 431-469, and 630-669, as a group, and individual Categories 335, 336, 338/339/340, 341, 342, 347/348, 359 and 666 to the designated amounts during the twelve-month period beginning on January 1, 1979. The levels for Categories 341 and 347/348 have been reduced to reflect carryforward used during the agreement year which began on January 1, 1978 in respective amounts of 120,727 dozen and 6,369 dozen.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), and September 5, 1978 (43 FR 39408)).

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

EFFECTIVE DATE: January 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Donald R. Foote, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-5423).

ARTHUR GAREL,
Acting Chairman, Committee for the Implementation of Textile Agreements.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

DECEMBER 29, 1978.

COMMISSIONER OF CUSTOMS,
Department of the Treasury, Washington, D.C. 20229.

DEAR MR. COMMISSIONER: Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 30, 1977, as amended, between the Governments of the United States and India; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on January 1, 1979 and for the twelve-month period extending through December 31, 1979, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in the following categories, produced or manufactured in India, in excess of the indicated levels of restraint:

Category	Twelve-Month Level of Restraint
330-369, 431-469 and 630-669	37,881,210 square yards equivalent
335	16,949 dozen
342	39,326 dozen
359	152,174 pounds
666	256,410 pounds

However, apparel products in Categories 330-359, which are accompanied by an elephant-shaped certification, shall be permitted entry up to a level of 3 million dozen during the twelve-month period beginning on January 1, 1979 and extending through December 31, 1979, and shall not be charged to the foregoing levels.

You are further directed to prohibit, effective on January 1, 1979 and for the twelve-month period extending through December 31, 1979, entry into the United States for consumpton and withdrawal from warehouse for consumption of cotton textile products in Categories 336, 338/339/340, 341, and 347/348, produced or manufactured in India, in excess of the following levels of restraint:

Category	Twelve-Month Level of Restraint
336	179,963 dozen
338/339/340	946,932 dozen
341	1,951,754 dozen
347/348	105,086 dozen

Cotton textile products in Categories 336, 338/339/340, 341 and 347/348 are also chargeable to the level of restraint established for Categories 330-369, 431-469 and 630-669, as a group, unless accompanied by an elephant-shaped certification in which case they shall be chargeable to the level of 3 million dozen established for apparel products in Categories 330-359.

In carrying out this directive, entries of cotton, wool and man-made fiber textile products in Categories 330-369, 431-469 and 630-669, as a group, and individual Categories 335, 336, 338/339/340, 341, 342, 347/348, 359 and 666, including products accompanied by the elephant-shaped certification, produced or manufactured in India and exported to the United States prior to January 1, 1979, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during the twelve-month period beginning on January 1, 1979 and extending through December 31, 1979. In the event that the levels of restraint established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

With the exception of apparel products in Categories 330-349, which are accompanied by the elephant-shaped certification, the levels of restraint set forth above are subject to adjustment in the future according to the provisions of the bilateral agreement of December 30, 1977, as amended, between the Governments of the United States and India which provide, in part, that: (1) Within the aggregate, group limits may be exceeded by designated percentages; (2) these same levels may be increased for carryover and carry forward, and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement. Any appropriate adjustments under the provisions of the bilateral agreement referred to above will be made to you by letter.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers and factors for converting equivalent square yards was published in the FEDERAL REGISTER on January 4, 1978 (43 F.R. 884), as amended on January 25, 1978 (43 F.R. 3421), March 3, 1978 (43 F.R. 8828), June 22, 1978 (43 F.R. 26773) and September 5, 1978 (43 F.R. 39408).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of India and with respect to imports of cotton, wool and man-made fiber textile products from India have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ARTHUR GAREL,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 79-348 Filed 1-3-79; 8:45 am]

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[3510-25-M]

POLISH PEOPLE'S REPUBLIC

Increasing the Levels of Restraint for Certain Cotton and Wool Apparel Products Imported

AGENCY: Committee for the Implementation of textile Agreements.

ACTION: Increasing the levels of restraint established for certain cotton and wool apparel products in Categories 333, 335, 433 and 443/643/644 for the agreement year which began on January 1, 1978 by the application of flexibility.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), and September 5, 1978 (43 FR 39408).)

SUMMARY: Paragraph 8 of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of January 9 and January 12, 1978, as amended, between the Governments of the United States and the Polish People's Republic provides that specific ceilings may be increased by designated percentages for flexibility. Pursuant to the cited paragraph of the bilateral agreement, and at the request of the Government of the Polish People's Republic, the import restraint levels for categories 333, 335, 433, and 443/643/644 are being increased.

EFFECTIVE DATE: December 29, 1978

FOR FURTHER INFORMATION CONTACT:

Jane C. Bonds, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-5423).

SUPPLEMENTARY INFORMATION: On March 22, 1978, a letter dated March 17, 1978 was published in the FEDERAL REGISTER (43 FR 11845) from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs which established the levels of restraint applicable to certain specified categories of textile products which have been produced or manufactured in Poland and exported to the United States during the twelve-month period which began on January 1, 1978. In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to permit entry of cotton and wool textile products in Categories 333, 335, 433 and 443/643/644, produced or manufactured in Poland, at the designated increased levels of restraint during the agreement year which began on January 1, 1978.

ARTHUR GAREL,
Acting Chairman, Committee for the Implementation of Textile Agreements.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

DECEMBER 28, 1978.

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C.

DEAR MR. COMMISSIONER: On March 17, 1978, the Chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry during the twelve-month period beginning on January 1, 1978 and extending through December 31, 1978 of cotton, wool and man-made fiber textile products in certain specified categories, produced or manufactured in Poland, in excess of designated levels of restraint. The Chairman further advised you that the levels of restraint are subject to adjustment.[1]

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of January 9 and 12, 1978, as amended, between the Governments of the United States and the Polish People's Republic; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed, effective on December 29, 1978, to increase the twelve-month levels of restraint for Categories 333, 335, 433 and 443/643/644 to the following;

Category	Amended Twelve-Month Level of Restraint [1]
333	65,027 dozen
335	32,126 dozen
433	7,291 dozen
443/643/644	13,257 dozen

[1] The levels of restraint have not been adjusted to reflect any imports after December 31, 1977.

The actions taken with respect to the Government of the Polish People's Republic and with respect to imports of cotton and wool textile products from Poland have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ARTHUR GAREL,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 79-316 Filed 1-3-79; 8:45 am]

[1] The term "adjustment" refers to those provisions of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of January 9 and 12, 1978, as amended, between the Governments of the United States and the Polish People's Republic which provides, in part, that: (1) within the aggregate and applicable group limits of the agreement, specific levels of restraint may be exceeded by designated percentages; (2) these levels may also be increased for carryover and carryforward; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

[3510-25-M]

REPUBLIC OF KOREA

Announcing Import Restraint Levels for Certain Cotton, Wool and Man-Made Fiber Textile Products

DECEMBER 28, 1978.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Establishing import restraint levels for certain cotton, wool and man-made fiber textile products imported from the Republic of Korea, effective on January 1, 1979.

SUMMARY: The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 23, 1977, as amended, between the Governments of the United States and the Republic of Korea, establishes levels of restraint for cotton, wool and man-made fiber textile products in Categories 314, 320, 331, 333/334/335, 340, 341, 347/348, 350, 410, 433/434, 438, 440, 442, 443, 444, 445/446, 447, 448, 459 (pt.), 605, 614, 627, 631, 633/634/635, 638/639, 640, 641, 643, 645/646, and 647, produced or manufactured in the Republic of Korea and exported to the United States during the twelve-month period beginning on January 1, 1979. Accordingly, there is published below a letter from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs directing that entry into the United States for consumption, or withdrawal from warehouse for consumption, of textile products in the foregoing categories be limited to the designated twelve-month levels of restraint.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), and September 5, 1978 (43 FR 39408)).

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

EFFECTIVE DATE: January 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Robert C. Woods, International Trade Specialist, Office of Textiles, U. S. Department of Commerce, Washington, D.C. 20203 (202/377-5423).

ARTHUR GAREL,
Acting Chairman, Committee for the Implementation of Textile Agreements.

DECEMBER 28, 1978.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C.

DEAR MR. COMMISSIONER: Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 23, 1977, as amended, between the Governments of the United States and the Republic of Korea; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on January 1, 1979 and for the twelve-month period extending through December 31, 1979, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in the following categories in excess of the indicated levels of restraint:

Category	Twelve-Month Level of Restraint
314	8,500,000 square yards
320	19,000,000 square yards
331	330,000 dozen pairs
333/334/335	81,531 dozen of which not more than 46,391 dozen shall be in Cat. 333/334 and not more than 47,370 dozen shall be in Cat. 335
340	143,910 dozen
341	89,655 dozen
347/348	214,533 dozen of which not more than 151,491 dozen shall be in Cat. 347 and not more than 116,675 dozen shall be in Cat. 348
350	19,608 dozen
410	2,850,000 square yards
433/434	16,362 dozen of which not more than 11,897 dozen shall be in Cat. 433 and not more than 6,102 dozen shall be in Cat. 434
438	44,111 dozen
440	201,999 dozen
442	1,852 dozen
443	26,704 dozen
444	3,829 dozen
445/446	49,420 dozen
447	79,000 dozen
448	7,611 dozen
459 [1]	2,850,000 pounds
605	3,426,571 pounds of which not more than 1,303,951 pounds shall be in T.S.U.S.A. 316.6020
614	3,000,000 square yards
627	384,615 pounds
631	516,086 dozen pairs
633/634/635	1,233,762 dozen of which not more than 157,698 dozen shall be in Cat. 333; not more than 726,452 dozen shall be in Cat. 634; and not more than 534,676 dozen shall be in Cat. 635
638/639	4,872,238 dozen
640 [2]	4,002,491 dozen
640 [3]	1,480,964 dozen
641	921,496 dozen
643	54,564 dozen
645/646	2,864,467 dozen
647	891,333 dozen

[1] In Category 459, only T.S.U.S.A. Numbers 700.7510 through 700.7580.

[2] In Category 640, only T.S.U.S.A. Numbers 380.0455, 380.8431 and 380.8433.

[3] In Category 640, all T.S.U.S.A. Numbers in the category except those listed in footnote 2.

In carrying out this directive, entries of cotton, wool and man-made fiber textile products in the foregoing categories, except Categories 320, 350, 442, 614, 627, and 631 produced or manufactured in the Republic of Korea, which have been exported to the United States prior to January 1, 1979, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during the twelve-month period beginning on January 1, 1978 and extending through December 31, 1978. In the event that the levels of restraint established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter. Cotton, wool and man-made fiber textile products in Categories 320, 350, 442, 614, 627, and 631 which have been exported to the United States prior to January 1, 1979 shall not be subject to this directive.

The levels of restraint set forth above are subject to adjustment in the future pursuant to the provisions of the bilateral agreement of December 23, 1977, as amended, between the Governments of the United States and the Republic of Korea which provide, in part, that: (1) within the aggregate and applicable group limits, specific levels of restraint may be exceeded by designated percentages; (2) these same levels may be increased for carryover and carryforward up to 11 percent of the applicable category limit; (3) consultation levels may be increased within the aggregate and applicable group limits upon agreement between the two governments; and (4) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement. Any appropriate adjustments under the provisions of the bilateral agreement referred to above will be made to you by letter.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers and factors for converting equivalent square yards was published in the FEDERAL REGISTER on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), and September 5, 1978 (43 FR 39408).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Republic of Korea and with respect to imports of cotton, wool and man-made fiber textile products from the Republic of Korea have been determined by the Committee for the Impelementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ARTHUR GAREL,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 79-317 Filed 1-3-79; 8:45 am]

[3510-25-M]

PEOPLE'S REPUBLIC OF CHINA

Soliciting Public Comment on Discussions Concerning Textile Products

On April 21, 1974, the Committee for the Implementation of Textile Agreements published a notice in the FEDERAL REGISTER (39 FR 13307) conveying the Committee's intention to announce, and solicit comment on, U.S. Government actions implementing the GATT Arrangement Regarding International Trade in Textiles and bilateral textile agreements entered into under its terms.

Pursuant to the terms of the Arrangement, the Government of the United States anticipates holding discussions with the Government of the People's Republic of China concerning cotton, wool and man-made fiber textile products exported to the United States from the People's Republic of China, beginning on January 22, 1979. Any party wishing to express a view or provide data or information with regard to the treatment of any product, or comment on production or availability of domestic textile products, is invited to submit such in ten copies to Mr. Robert E. Shepherd, Chairman of the Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Domestic Business Development, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Room 3826, Washington, D.C. 20230.

Comments should be received no later than January 18, 1979.

Views, data or information submitted under this procedure will be available for public inspection in the Office of Textiles, Room 2815, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230, and may be obtained upon written request. Whenever practicable, public comment may be invited concerning views, comments or information received from the public which the Committee for the Implementa-

tion of Textile Agreements considers appropriate for further consideration.

The solicitation of comments on any negotiation, consultation, market disruption or any other matter pursuant to this notice is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) and 554(a)(4) relating to matters which constitute "a foreign affairs function of the United States."

ROBERT E. SHEPHERD,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Domestic Business Development.

[FR Doc. 79-539 Filed 1-3-79; 10:18 am]

[3710-08-M]

DEPARTMENT OF DEFENSE

Office of the Secretary

MILITARY TRAFFIC MANAGEMENT COMMAND; MILITARY PERSONAL PROPERTY SYMPOSIUM

Open Meeting

Announcement is made of a meeting of the Military Personal Property Symposium. This meeting will be held on January 25, 1979, at the Springfield Hilton, Springfield, VA., and will convene at 0900 hours and adjourn at approximately 1500 hours.

PROPOSED AGENDA: The purpose of the Symposium is to provide an open discussion and free exchange of ideas with the public on procedural changes to the Personal Property Traffic Management Regulation (DOD 4500.34-R), and the handling of other matters of mutual interest relating to the movement and/or storage of household goods and unaccompanied baggage, as well as proposed changes and innovations in the Department of Defense Personal Property Moving and Storage Program.

All interested persons desiring to submit topics to be discussed should submit them in writing to the Commander, Military Traffic Management Command, ATTN: MT-PPM, Washington, DC 20315. Topics to be discussed should be received on or before January 18, 1979.

Dated: December 27, 1978.

DONALD H. MENSCH,
Colonel, GS,
Director of Personal Property.

[FR Doc. 79-351 Filed 1-3-79; 8:45 am]

[6740-02-M]

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL78-27]

ALABAMA ELECTRIC COOPERATIVE, INC., ET AL., PETITIONERS V. ALABAMA POWER CO., RESPONDENT

Order Instituting Declaratory Relief Proceeding and Granting Motion for Consolidation

DECEMBER 27, 1978.

On May 23, 1978, the Alabama Electric Cooperative (AEC), nine Alabama distribution cooperatives (Cooperatives) [1] twelve Alabama municipalities (Municipalities) [2] and the Municipal Electric Utility Association of Alabama (MEUA) (collectively called Petitioners) petitioned this Commission for a declaratory order to terminate an actual controversy and remove an uncertainty concerning Alabama Power Company's (APC) application of its fuel adjustment clauses as it relates to the Petitioners' purchase of electric energy from APC. In addition, the Petitioners moved that this declaratory order proceeding be consolidated with the ongoing proceeding in Docket No. ER78-77. Notice of the petition for a declaratory order and the motion to consolidate was issued on June 30, 1978, with petitions or protests due no later than July 13, 1978.

PETITIONERS' CONTENTION

APC flows through its fuel adjustment clauses [3] certain costs associated with APC's purchases of energy from the Southern Company System Pool (Pool) pursuant to the Southern Company Intercompany Interchange Contract. [4] Petitioners assert that APC illegally billed Petitioners via its fuel adjustment clauses for certain noneconomy purchased energy costs (fuel handling costs, and variable operation and maintenance expenses). According to Petitioners, Order No. 517 [5], Section 35.14 of the Commission's Regulations, and Commission precedent [6] preclude the flow-through of noneconomy purchased energy costs (*other than actual identifiable fossil and nuclear fuel costs*) unless such costs displace the purchaser's (APC) higher energy cost from its own generation.

Petitioners contend that this illegal flow through of purchased energy costs has allowed APC to collect $2,870,995.92 in excessive fuel adjustment charges for the month of August, 1977 alone. It is Petitioners' belief that APC will continue to flow through the excessive fuel adjustment charges whenever it purchases noneconomy energy from the Pool, unless the Commission issues a declaratory order.

ALABAMA POWER COMPANY'S ANSWER

In response to Petitioners' request for declaratory order and motion to consolidate, APC, on June 30, 1978, filed a document entitled "Alabama Power Company's Motion To Dismiss Petition For Declaratory Order, Answer And Opposition To Motion For Consolidation." In support thereof, APC makes several arguments, the most important of which are summarized as follows:

(1) That Section 35.14(a)(2)(iii) of the Commission's Regulations clearly permits APC to include the cost of energy which it purchases from the Pool "when such energy is purchased [as in this docket] on an economic dispatch basis."

(2) That the petition for a declaratory order is merely an attempt to "circumvent the clear and unambiguous terms of the fuel adjustment clauses agreed to by the parties in settlement of Docket No. ER76-659 which was approved by the Commission" effective October 1, 1976. As such, the Commission would not be able to revise those rates nor order refunds in light of the "filed rate doctrine" [7] and the principle of "retroactive ratemaking." [8]

(3) The petition for a declaratory order is premature inasmuch as the issue of the misapplication of the fuel adjustment clauses is presently pending in Docket No. ER78-77.[9] (See Appendix A).

PETITIONERS' REPLY

On July 5, 1978, and July 6, 1978, the Municipalities and Cooperatives separately filed responses to APC's answer to the petition for declaratory order.[10] The Petitioners reiterate that APC's flow through of all of its purchased energy costs via its fuel adjustment clauses, merely because such purchased energy costs are being incurred on an "economic dispatch" basis, violates the intent of Order No. 517.

With respect to APC's "filed rate doctrine" and "retroactive ratemaking" defenses, Petitioners respond that they do not seek a revision or amendment of APC's fuel adjustment clauses since petitioners admit that these clauses as written are in compliance with the Regulations and Order No. 517. Rather, Petitioners argue that they are only seeking a determination that APC's *cost treatment* of energy purchased from the Pool is not in compliance with APC's fuel adjustment clauses or with Order No. 517.

Finally, Petitioners argue that they were not dilatory in raising the improper billing issue since they did not become aware of APC's improper billing of purchased energy costs before November 16, 1977.

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[1] The nine distribution cooperatives are: Baldwin County Electric Membership Corporation, Central Alabama Electric Cooperative, Clarke-Washington Electric Membership Corporation, Coosa Valley Electric Cooperative, Inc., Dixie Electric Cooperative, Inc., Pea River Electric, Tallapoosa River Electric Cooperative, Inc., and Wiregrass Electric Cooperative, Inc. AEC is a nonprofit, membership electric cooperative, organized under Alabama law which has electric power generation and transmission facilities and which generally acts as power supply agent for its distribution cooperative members.

[2] The twelve municipalities or municipal utilities boards (all members of MEUA, which acts as their coordinating representative) are: Alexander City, Dothan, Fairhope, Utilities Board of City of Foley, Lafayette, Lanett, Luverne, Opelika, Piedmont, Utilities Board of City of Sylacauga, Troy, and Utilities Board of Tuskegee.

[3] In the past, APC has billed petitioners pursuant to several fuel adjustment clauses which are contained in separate rate schedules (FERC Electric Rate Schedule Nos. 133, REA-1, and MUN-1, applicable to AEC, Cooperatives and Municipalities respectively). *See*, Appendix A. Petitioners and APC agree that, despite minor differences, the clauses are identical for all relevant purposes.

[4] Southern Company Services, Inc. FERC Electric Rate Schedule No. 46.

[5] *See*, "Order Amending Section 35.14 of the Regulations under the Federal Power Act," 52 F.P.C. 1304 (1974), 18 C.F.R. 35.14 (1977).

[6] Order Instituting Investigation Under Federal Power Act (issued May 10, 1978 in *Investigation Into Wholesale Power Transactions During Line Of Fuel Inadequacies* FERC Docket No. ER78-367 (at p. 3); Opinion No. 809 issued July 6, 1977 in *Boston Edison Co.*, FPC Docket Nos. E-7738 and E-7784 (at pp. 13-15).

[7] Simply stated, the "filed rate doctrine" provides that: "Since all rates subject to the Commission's jurisdiction must be filed and filed rates cannot be changed except as provided (by § 824(c) and 824(d)), utilities must sell their energy at the filed rate." *Borough of Ellwood City* v. *Federal Energy Regulatory Commission*, No. 77-960 slip op. at 12 (3d Cir. filed August 8, 1978).

[8] The principle of "retroactive ratemaking" stands for the proposition that the Commission is without authority to order a utility to refund moneys properly collected under an approved rate even though a utility has over-collected costs pursuant to that approved rate. See, *e.g.*, *Montana-Dakota Utilities Co.* v. *Northwestern Public Service Co.*, 341 U.S. 246, 254 (1951) and *F.P.C.* v. *Sunray Oil Co.*, 391 U.S. 9, 24 (1968).

[9] APC questions why petitioners waited until May 23, 1978 to raise the improper billing issue when they could have raised that issue in several prior proceedings before this Commission. *See* Appendix A.

[10] For purposes of brevity, we shall consider the allegations raised separately by either the Cooperatives or Municipalities in their reply pleadings as allegations raised by all Petitioners.

DISCUSSION

We believe that the pleadings of all parties raise significant issues of fact which should be resolved in hearing in the ongoing ER78-77 proceeding. While the principle of "retroactive ratemaking" precludes the Commission from *changing the lawfully approved rates* in order to make reparations, it does not prevent the Commission from correcting past improper billing practices under the lawfully approved rates. It is the unvarying fuel clause formulas which constitute the rate and not the varying charges that result from the implementation of the formulas. *Virginia Electric and Power Company*, Docket No. ER76-415 (Order issued June 20, 1977), at 4, affirmed, *Virginia Electric and Power Company* v. *F.E.R.C.*, 580 F. 2d 710 (4th Cir. 1978).

The practical effect of granting a declaratory order would be to dispose summarily of the improper billing issue as it arises in ER78-77. This action would be proper only if there were no triable issues of fact in connection with this matter. However, we cannot conclude that there are no such triable issues. We believe that, at the very least, the following questions must be answered before the improper billing issue is ripe for a final Commission resolution:

(1) Did APC purchase energy from the Pool only to displace its own higher cost energy, or did APC purchase energy from the Pool at certain times when it did not have any self-generating capacity available to serve Petitioners?

(2) Who (APC or a central dispatching office of the Pool) determines whether a particular APC unit is available for generation for purchased energy purposes?

(3) Does the fact that the Pool dispatches energy to its affiliates (such as APC) on an "economic dispatch" basis indicate that all energy purchased from the Pool necessarily displaces higher cost energy generated by the purchasing affiliate?

(4) Did fuel clause base period fuel costs include purchase energy costs comparable to those subsequently included for current billing periods? This question applies separately to fuel clauses at issue in Docket Nos. E-8851 and ER76-659.

Accordingly, we shall direct the Administrative Law Judge to address these and other relevant issues in a declaratory relief proceeding and consolidate the proceeding with ER78-27 docket in which the same issue of APC's improper billing practices (from January 2, 1978 to present) is being litigated.

APC's initial adjustment clause which conformed to Order No. 517 became effective on April 19, 1975, subject to refund, in Docket No. E-8851. The declaratory relief inquiry into APC's billing practices under the Order No. 517 format is not required to consider time periods prior to April 19, 1975. Prior to Order No. 517, the filing requirements for the fuel adjustment clauses provided that the cost of fuel would include no items other than those in Account 151 of the Commission's Uniform System of Accounts. The present filing requirements for fuel adjustment clauses permit the inclusion of net energy cost of energy purchasers to be included in fuel cost when such energy is purchased on an "economic dispatch" basis.

The Commission orders:

(A) A declaratory relief proceeding is hereby instituted so that the answers to the questions posed in the body of the order may provide a factual predicate on which a declaratory order may be issued.

(B) Petitioner's request for a declaratory order to terminate an actual controversy and remove an uncertainty concerning APC's application of its fuel adjustment clauses is hereby deferred until a sufficient factual predicate has been developed.

(C) The Petitioner's motion for consolidation is granted.

By the Commission.

KENNETH F. PLUMB,
Secretary.

APPENDIX A.—*The Following Tabulation Shows the Effective Dates, Docket Numbers and Present Status of the Rate Filings Incorporating the Fuel and Purchased Power Adjustment Clauses.*

FPC or FERC Docket No.	Date rate made effective	Date rate was superseded	Status of proceeding
E-8851	Sept. 12, 1974	Oct. 1, 1976	Initial decision of administrative law judge issued; pending on exceptions before the Commission
ER76-659	Oct. 1, 1976	Jan. 2, 1978	Settlement agreement approved by the Commission by order dated Oct. 27, 1977.
ER78-77	Jan. 2, 1978		Pending for hearings before administrative law judge.

[FR Doc. 79-323 Filed 1-3-79; 8:45 am]

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[6740-02-M]

[Docket No. RP78-76]

GAS RESEARCH INSTITUTE

Order Approving Research, Development and Demonstration Clauses Related Rate Increases and Rejecting Surcharge Filing

DECEMBER 27, 1978.

In Opinion No. 30,[1] issued on September 21, 1978, in the above-referenced docket, the Commission approved the 1979 research, development and demonstration (RD&D) program of the Gas Research Institute (GRI). The Commission found that GRI's 1979 funding requirement of $39,700,000 is just and reasonable and that a 3.5 mills per Mcf General R&D Funding Unit was the appropriate payment to GRI by its members to collect this amount. Also, the Commission provided in Opinion No. 30 that jurisdictional members of GRI may collect the GRI funding unit by filing, if they have not already done so, appropriate R&D cost adjustment provisions which comply with Section 154.38 (d)(5)(v) of the Commission's regulations and the requirements stated in Ordering Paragraph (C) of Opinion 30. Finally, the Commission provided that collection of the 3.5 mills per MCF surcharge could commence on January 1, 1979.

Pursuant to these provisions of Opinion No. 30 the nineteen pipeline companies listed in Appendix A filed revised tariff sheets to collect the GRI funding unit. In addition, the companies propose other changes as described below.

The companies listed in Group (1) in Appendix B have eliminated from their base rates an increment to reflect the elimination of the funding of the American Gas Association (AGA) Utility Research and Coal Gasification Programs. This adjustment is required by Opinion 30. (See mimeo at 31) El Paso Natural Gas Company and Texas Gas Transmission Corporation have retained an increment in their base rates to recover payments to AGA which have not yet been fully recovered. This is consistent with ordering paragraph (B) of *Order Granting Rehearing* in this Docket RP78-76, issued November 22, 1978. Natural Gas Pipeline Company of America (Natural) requests permission to retain in its base rates costs which Natural had been paying to AGA for research projects which will be taken over by GRI but presents no justification to retain these amounts in its rates in accordance with our order issued November 22, 1978, in this proceeding. Natural states that the amounts involved are the subject of a downward adjustment in Natural's current settlement proceeding in Docket No. RP78-78, and the rates are currently in effect subject to refund. Natural's request shall be denied without prejudice, however, to allow Natural to refile its tariff sheets to reflect only those AGA cost in its base rates which Natural can demonstrate are permitted by the November 22, 1978, order. Natural's proposed treatment of the AGA costs is inconsistent with Opinion 30 and the pendency of its Section 4(e) filing does not eliminate Natural's obligation to remove the AGA costs from its base rates.

The three companies discussed above which are retaining AGA costs in their base rates are listed in Group (2) in Appendix B. The companies which had no AGA costs in their base rates are listed in Group (3) of Appendix B. Companies which filed only changes in transportation agreement rates are listed in Group (4) of Appendix B. Finally, three companies (see Appendix A footnotes) submitted amended filings to correct minor errors in previous filings. We shall accept the amended filings, rendering the previous filings moot and of no force and effect.

Our review of the GRI surcharge filings indicates that, with the exception of Natural, such charges are appropriate and properly reflect the Commission's instruction in Opinion 30. Accordingly, the GRI surcharges are approved and will be permitted to go into effect January 1, 1979.

The Commission finds:

(1) Good cause exists to approve the GRI surcharge tariff provisions filed pursuant to Opinion No. 30, subject to the exception below.

(2) Natural Gas Pipeline Company of Americas' proposed surcharge is inconsistent with the requirements of Opinion 30.

The Commission orders:

(A) The Commission hereby approves all GRI charges listed in Appendix A except for the charge proposed by Natural Gas Pipeline Company of America.

(B) Natural's proposed surcharge is rejected without prejudice, however, to allow Natural to refile tariff sheets to reflect only those AGA costs in its base rates which Natural can demonstrate are permitted by our November 22, 1978, order issued in this docket.

(C) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[1] Opinion and Order Approving the Gas Research Institute's 1979 Research and Development Program.

APPENDIX A

Company Name	Volume No.	Sheet Nos.	Filed	Effective
Algonquin Gas Transmission Co	1st Revised Vol. No. 1	6th Revised Sheet No. 10-A and 46th Revised Sheet No. 10.	11/30/78	1/1/79
Columbus Gas Transmission Corp	Original Vol. No. 1	Forty-Eighth Revised Sheet No. 16	11/28/78	1/1/79
El Paso Natural Gas Company	Original Vol. No. 1	Substitute 23-Revised Sheet No. 3-B	12/1/78	1/1/79
	3rd Revised Vol. 2	Substitute 13th Sheet No. 1-D & Substitute 6th Revised Sheet No. 1-D.2.	12/1/78	1/1/79
	Original Vol. No. 2A	Substitute 15th Revised Sheet No. 1-C & Substitute 11th Revised Sheet No. 1-D.	12/1/78	1/1/79
Florida Gas Transmission Co	Original Vol. No. 1	Twentieth Revised Sheet No. 3-A	12/1/78	1/1/79
Great Lakes Gas Transmission Co	1st Revised Vol. No. 1	29th Revised Sheet No. 57	10/16/78	1/1/79
Kansas-Nebraska Natural Gas Co	3rd Revised Vol. No. 1	7th Revised Sheet No. 4	10/23/78	1/1/79
Kentucky-West Virginia Gas Co	1st Revised Vol. No. 1	Second Revised Sheet No. 8 & 10	11/30/78	1/1/79
Michigan Wisconsin Pipeline Co.[1]	2nd Revised Vol. No. 1	Substitute Twenty-Second Revised Sheet No. 27-F.	12/1/78	1/1/79
Mississippi River Transmission Corp	1st Revised Vol. No. 1	First Revised Sheet No. 3-C	11/30/78	1/1/79
Natural Gas Pipeline Co. of America	3rd Revised Vol. No. 1	Thirty-sixth Revised Sheet No. 5	11/16/78	1/1/79
Pacific Gas Transmission Co	Original Vol. No. 1	Second Revised Sheet No. 18	11/14/78	1/1/79
Panhandle Eastern Pipe Line Co	Original Vol. No. 1	Twenty-sixth Revised Sheet No. 3-A	11/22/78	1/1/79
Tennessee Gas Pipeline	9th Revised Vol. No. 1	First Revised Sheet No. 213P, 250B, 264H, 265C, 266I, 279D, 280D.	12/1/78	1/1/79
Texas Eastern Transmission Corp	4th Revised Vol. No. 1	Revised Substitute 45th Revised Sheet No. 14.	12/4/78	1/1/79
Texas Gas Transmission Corp.[2]	3rd Revised Vol. No. 1	Revised Second Substitute 24th Revised Sheet No. 7.	11/29/78	1/1/79

[1] Filed in substitution for 22nd Revised Sheet No. 27F (filed 11/16/78) to correct technical error.
[2] Filed in substitution for 2nd Substitute Twenty-fourth Revised Sheet No. 7 (filed 11/14/78) to reflect settlement base tariff rates approved by the Commission November 17, 1978 in Docket No. RP77-139.

TRANSCONTINENTAL GAS PIPELINE CORP.

Second Revised Volume No. 1:
Eleventh Revised Sheet No. 12
First Revised Sheet No. 13
Tenth Revised Sheet No. 15
First Revised Sheet No. 252
Original Volume No. 2
Twenty-Fifth Revised Sheet No. 52
Seventh Revised Sheet No. 53
Seventeenth Revised Sheet No. 121
Twenty-First Revised Sheet No. 321
Ninth Revised Sheet No. 351
Eighteenth Revised Sheet No. 416
Second Revised Sheet No. 499
Fourth Revised Sheet No. 637
Fourth Revised Sheet No. 670
Third Revised Sheet No. 745
Third Revised Sheet No. 755
Fourth Revised Sheet No. 761
Third Revised Sheet No. 766
Third Revised Sheet No. 788
Third Revised Sheet No. 795
Third Revised Sheet No. 843
Third Revised Sheet No. 884
Third Revised Sheet No. 912
Third Revised Sheet No. 961
Third Revised Sheet No. 967
Fourth Revised Sheet No. 973
Fourth Revised Sheet No. 979
Third Revised Sheet No. 991
Fourth Revised Sheet No. 996
Third Revised Sheet No. 1014
Fourth Revised Sheet No. 1028
Third Revised Sheet No. 1037
Third Revised Sheet No. 1042
Second Revised Sheet No. 1202
Third Revised Sheet No. 1210
Second Revised Sheet No. 1238
Third Revised Sheet No. 1243
Second Revised Sheet No. 1251
Second Revised Sheet No. 1257
Second Revised Sheet No. 1265
Third Revised Sheet No. 1272
Second Revised Sheet No. 1278
Third Revised Sheet No. 1286
Second Revised Sheet No. 1291
Third Revised Sheet No. 1298
Second Revised Sheet No. 1321
Second Revised Sheet No. 1343
Second Revised Sheet No. 1350
Second Revised Sheet No. 1363
Second Revised Sheet No. 1370
Second Revised Sheet No. 1377
Third Revised Sheet No. 1400
Third Revised Sheet No. 1407
Third Revised Sheet No. 1414
Filed
December 1, 1978
Effective
January 1, 1979

Company Name	Volume No.	Sheet Nos.	Filed	Effective
Transwestern Pipeline Co	2nd Revised Vol. No. 1	Revised 10th Revised Sheet No. 5	12/4/78	1/1/79
Trunkline Gas Company [1]	Original Vol. No. 1	Substitute 24th Revised Sheet No. 3-A	11/29/78	1/1/79
United Gas Pipeline Co	Original Vol. No. 2	Ninth Revised Sheet No. 187 & Third Revised Sheet No. 397-401, 407, 909, and Fourth Revised Sheet No. 957 and Second Revised Sheet No. 1156.	11/28/78	1/1/79

[1] Filed in substitution for Twenty-fourth Revised Sheet No. 3-A (filed 11/22/78) to correct typographical error.

[FR Doc. 79-322 Filed 1-3-79; 8:45 am]

[6740-02-M]

[Docket No. ER79-108]

INDIANA & MICHIGAN ELECTRIC CO.

Filing

DECEMBER 27, 1978.

Take notice that American Electric Power Service Corporation (AEP) on December 14, 1978, tendered for filing on behalf of its affiliate, Indiana and Michigan Electric Company (Indiana & Michigan), Amendment No. 14 dated October 1, 1978 to the Operating Agreement dated March 1, 1966, among Indiana & Michigan, Consumers Power Company and the Detroit Edison Company (Michigan Companies), designated Indiana & Michigan Rate Schedule FERC No. 68.

AEP states that Section 1 of Amendment No. 14 provides for an increase in the demand charge for Short Term Power from $0.60 to $0.70 per kilowatt per week and Section 3 provides for an increase in the demand charge for Limited Term Power from $3.25 to $3.75 per kilowatt per month. AEP further states that Section 2 of Amendment No. 14 provides for an increase in the transmission charge for third party Short Term Power transactions from $0.15 per kilowatt per week to $0.175 per kilowatt per week and Section 4 provides for an increase in the transmission charge for third party Limited Term transaction from $0.65 per kilowatt per month to $0.75 per kilowatt per month, both schedules proposed to become effective December 1, 1978. AEP indicates that since the use of Short Term Limited term power cannot be accurately estimated, it is impossible to estimate the increase in revenues resulting from the Amendment.

AEP proposes an effective date of December 1, 1978, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served upon the Public Service Commission of Indiana and the Michigan Public Service Commission, according to AEP.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E. Washington, D.C. 20426, in accordance with §1.8, 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 12, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-324 Filed 1-3-79; 8:45 am]

[6740-02-M]

[Docket No. CP79-106]

McCULLOCH INTERSTATE GAS CORP.

Application

DECEMBER 26, 1978.

Take notice that on December 8, 1978, McCulloch Interstate Gas Corporation (Applicant), 10880 Wilshire Boulevard, Los Angeles, California 90024, filed an application in Docket No. CP79-106 pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to continue the sales of natural gas for resale in interstate commerce to McCulloch Gas Transmission Company (MGT), all as more fully set forth in the appli-

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cation on file with the Commission and open to public inspection.

On November 8, 1978, the Commission issued an order in Docket Nos. CP77-1, et al., requiring Applicant to apply for certificate authority to continue sales of natural gas for resale in interstate commerce to MGT. Accordingly, the instant filing is Applicant's attempt to comply with such requirement.

The authority requested involves a contract between Applicant and MGT dated February 1, 1970, as amended, under which MGT would purchase volumes totaling approximately 8,500 Mcf of gas per day from Applicant. The sales would be made under Applicant's FERC Gas Tariff, sheet No. 88, Original Volume No. #1, which provides for a currently effective tariff rate of $1.3979 per MMBtu.

Applicant requests that the certificate authority be for a limited term, to expire if and when the Commission grants the abandonment proposed by Applicant in the proceeding pending in Docket No. 77-1, *et al.*

Any person desiring to be heard or to make any protest with reference to said application should on or before January 15, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-325 Filed 1-3-79; 8:45 am]

[6740-02-M]

[Docket No. ER78-511]

PUBLIC SERVICE CO. OF OKLAHOMA

Order Granting Motion for Permission To Collect Settlement Rates in Lieu of Filed Rates

DECEMBER 27, 1978.

On December 12, 1978, the Public Service Company of Oklahoma (PSO) filed a Motion For An Order Granting Leave To Collect Settlement Rates In Lieu Of Filed Rates with this Commission in the above-docketed proceeding.

On July 28, 1978, PSO filed a general rate increase for its jurisdictional customers. On October 12, 1978, this Commission suspended the effective date of the proposed rate increase until January 1, 1979. That order also accepted PSO's rates for filing, granted intervention to certain intervenors, established procedures, and made summary disposition of certain issues in this proceeding. The Company contends that the summary disposition in our order of October 12, 1978, had the effect of reducing the annual revenue increase from one yielding approximately $3,009,446 to one yielding approximately $2,839,177. The Company's motion designated the rates filed on July 28, 1978, as the proposed rates, while it designated the subsequent filing made necessary by our summary disposition as the revised proposed rates. These revised proposed rates were filed on November 3, 1978. Subsequent to this action, the Company and its intervenor customers executed a Stipulation and Agreement in this proceeding which was filed with the Commission on December 6, 1978, for approval. This filing will be referred to henceforth as the settlement agreement. The Settlement Agreement contains revised and lowered rates as opposed to the originally filed proposed rates and subsequently filed revised proposed rates. No Commission action has been taken on the settlement agreement now on file. PSO does not want to collect the higher revised proposed rates from January 1, 1979, until the Commission approval of the settlement, and is aware of the possibility that the settlement agreement will not be approved by the Commission before the effective date of the revised proposed rates. Therefore, PSO has filed this motion to allow the substitution of the lower settlement rates for a period of up to six months so that the Commission may complete its consideration of the settlement agreement. The Company cites as authority the Commission's order in Illinois Power Company, Docket No. ER77-531, issued July 25, 1978. The facts in the Illinois Power Company proceeding are quite similar to the facts and relief sought by PSO in the instant proceeding with the exception that the Illinois Power Company did not seek a six month effective collection period as PSO now requests.

The Company further notes that collection of the settlement rates would result in a substantially lower level of collections subject to refund from its jurisdictional customers than would collection of the revised proposed rates which would otherwise go into effect on January 1, 1979. PSO states that collections from its jurisdictional customers under the settlement rates would be $1,406,394.88 annually, in lieu of the $2,839,177 which would be collected under the revised proposed rates.

Examination of the Illinois Power Company order reveals that Illinois Power filed a Motion For An Order Granting Leave To Collect A Rate Level Different From That Provided In A Filed Rate Schedule. Illinois Power proposed to charge its customers the amount that it would recover under the terms of a settlement offer made to the customers pending a resolution of the issues by settlement or decision by the Commission.

In the last of a series of orders, the Commission on July 25, 1978, granted Illinois Power the limited authority to collect the lower rate during the pendency of the rate proceeding, with the proviso that if the Commission ultimately determined that something more than the settlement figure was the lawful rate, Illinois Power would be able to collect the higher amount *prospectively* only.

Our decision in the Illinois Power Company order on rehearing should be applied to the instant PSO motion. However, PSO presents one new issue which must be considered. The Company seeks permission to collect the settlement rates until July 1, 1979, or until the Commission approves the proposed settlement or enters a final order approving rates in this proceeding, whichever occurs first. If, at the end of six months, the settlement had not been approved, then PSO would begin to collect the revised proposed rates in lieu of the settlement rates.

The favorable response to this motion on the part of all jurisdictional customers and the Staff,[1] coupled with consideration of all the facts concerned in this motion lead us to the conclusion that it is in the public interest to agree to the collection of the proposed settlement rates for up to six months as requested by the Company. No matter what the final result is in this case, the customer would benefit by being charged the lower settlement rate as opposed to the higher proposed revised rates for six months. Both the settlement rate and the proposed revised rates shall be charged subject to refund upon final Commission action.

The Commission finds:

(1) Good cause exists to grant Public Service Company of Oklahoma's Motion.

(2) The proposed settlement rates should be designated for filing and suspended subject to refund. The 60-day notice requirement should be waived pursuant to Section 35.11 of the Commission's regulations.

(3) Good cause exists to grant special permission to change suspended rates during the period of suspension pursuant to Section 35.17(b) of the Commission's regulations.

The Commission orders:

(A) The Public Service Company of Oklahoma's Motion is hereby granted.

(B) The proposed settlement rates filed in the instant motion are accepted for filing and suspended to become effective on January 1, 1979, subject to refund. The 60-day notice requirement is hereby waived pursuant to Section 35.11 of the Commission's regulations. The proposed settlement rates are hereby designated as shown on Attachment A.

(C) Good cause being shown, permission is granted to change the suspended rate in this proceeding during the period of suspension pursuant to Section 35.17(b) of the Commission regulations.

(D) Beginning with the effective date of January 1, 1979, Public Service Company of Oklahoma is hereby authorized to collect the proposed settlement rates, which will allow it an increase of $1,406,394.88 annually, for six months only beginning on the effective date, unless the proposed settlement now before the Commission is accepted, or the Commission otherwise enters a final order approving rates in this docket prior to July 1, 1979. If the proposed settlement is not accepted or the docket has not been finally determined on July 1, 1979, then the proposed revised rates shall become effective thereafter until the Commission enters a final order approving the rates in this docket. All rates collected pursuant to this order shall be subject to refund.

(E) Public Service Company of Oklahoma shall not be entitled to collect other than prospectively any rate greater than the proposed settlement rate or the proposed revised rate, whichever is or has been in effect, in the event that the Commission ultimately determines that such higher rate is the just and reasonable rate.

(F) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

ATTACHMENT A—*Public Service Company of Oklahoma, Docket No. ER78-511*

Dated: Undated.
Filed: December 12, 1978.

Supplement No.	Supersedes Supp. No.	FPC Rate Schedule No.	Customer
5	4	188	City of Altus.
5	4	169	City of Frederick.
5	4	170	City of New Cordell.
5	4	171	City of Kaw City.
5	4	188	Anadarko Pub. Works Authority.
3	2	189	City of South Coffeyville.
4	3	190	City of Marlow.
5	4	192	City of Pawhuska.
5	4	193	City of Hominy.
5	4	195	City of Copan.
4	3	197	Western Farmers Electric Cooperative.
4	3	198	KAMO Electric Coop. Inc.
4	3	199	Town of Manitou.
4	3	200	City of Walters.
4	3	201	Town of Granite.
4	3	202	Town of Eldorado.
4	3	203	Town of Olustee.
4	3	204	City of Comanche.
4	3	205	Town of Ryan.
4	3	206	City of Wetumka.
4	3	207	City of Duncan.
2	1	196	Southwestern Power Admin.

[FR Doc. 79-321 Filed 1-3-79; 8:45 am]

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[1] The Commission received telegrams from counsel for all municipal and cooperative customers and counsel for Southwestern Power Administration on December 19, 1978, in support of PSO's motion.

[6740-02-M]

[Docket No. CP79-118]

UNITED GAS PIPE LINE CO.

Application

DECEMBER 27, 1978.

Take notice that on December 13, 1978, United Gas Pipe Line Company (Applicant), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP79-118 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 1,000 Mcf of natural gas per day for Trunkline Gas Company (Trunkline), all as more fully set forth in the application on file with the Commission and open to public inspection.

It is indicated that Trunkline has acquired the right to purchase up to 1,000 Mcf of natural gas per day from onshore production in Bossier Parish, Louisiana, attributable to the interests of Anadarko Production Company and Pan Eastern Exploration Company. It is further indicated that on October 24, 1978, Applicant and Trunkline entered into a transportation agreement whereby Trunkline would deliver or cause to be delivered up to 1,000 Mcf of the natural gas per day to Applicant for the account of Trunkline at the outlet side of a measuring and regulating station to be constructed by Applicant at Trunkline's expense at a mutually agreeable point on Applicant's existing 10-inch Latex-Sarepta pipeline in Bossier Parish. Applicant states that it would redeliver equivalent volumes of gas to Trunkline, at the tailgate of Exxon's Garden City Plant in St. Mary Parish, Louisiana, pursuant to the terms of the agreement.

Applicant indicates that it would charge Trunkline for the proposed transportation service an amount per Mcf equal to 75 percent of its average jurisdiction transmission cost of service in effect from time to time in Applicant's Northern Rate Zone as such may be determined by Applicant based on rate filings made from time to time with the Commission. The current average jurisdictional transmission cost of service, exclusive of the cost of gas consumed in Applicant's operation is 24.46 cents per Mcf in Applicant's Northern Rate Zone, it is said.

Any person desiring to be heard or to make any protest with reference to

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said application should on or before January 15, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 10426, a petition to intervene or a protest in accordance with the requirements of the Commisson's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commision by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. It a petition for leave to intervene is timely filed, or if the Commision on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-326 Filed 1-3-79; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1033-5; OPP-180255]

CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE

Issuance of Specific Exemption To Use Methiocarb To Control Snails on Artichokes

The Environmental Protection Agency (EPA) has granted a specific exemption to the California Department of Food and Agriculture (hereafter referred to as the "Applicant") to use Mesurol (methiocarb) on 11,000 acres of artichokes in California. This exemption was granted in accordance with, and is subject to, the provisions of 40 CFR Part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, SW., Room E-315, Washington, D.C. 20460.

According to the Applicant, due to unusually wet weather conditions, extremely high populations of brown garden snails have developed in the coastal artichoke acreage. Many of the snails remain on the plant rather than descending to the ground. Therefore, according to the Applicant, to achieve control of the pest, the artichoke plant itself must be treated and not just the surrounding soil.

The Applicant states that at the current rate of increase in snail populations, damage to the 11,000 acres of artichokes in California could result in a total loss of this crop. The total approximate value of these artichoke plantings is $15,300,000.

Metaldehyde in granular form is registered for control of snails in crop plantings; however, the Applicant states that it is suitable only for application to the ground surrounding the plant, and not the plant itself. Furthermore, according to the Applicant, metaldehyde is not efficacious when the population level is high. Earlier this year the Applicant issued a special local need registration for use of methiocarb granules around the artichoke plants to help reduce population levels. While the pesticide was effective for this use, damaging populations are still present on the plants themselves. The proposed pesticide (Mesurol 75WP) allows for treatment of the plants.

The Applicant proposes to use Mesurol 75WP at a rate of one and one-third pounds product per acre. A maximum of five applications will be made using ground equipment, by or under the supervision of State-certified applicators. There will be a field reentry safety interval of 24 hours and a preharvest interval of seven days.

EPA has determined that as a result of this use, residues of methiocarb and its metabolites are not expected to exceed 3 parts per million (ppm). This level is deemed adequate to protect the public health.

This pesticide is toxic to fish and aquatic invertebrates; however, since applications are to be made directly to the artichoke plants, and if care is taken to prevent significant drift to water sources, no hazard to aquatic life is expected. There are no endangered or threatened species that would be adversely affected as a result of this use.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of snails has occurred; (b) there is no effective pesticide presently registered and available for use to control snails in California; (c) there are no alternative means of control taking into account the efficacy and hazard; (d) significant economic problems may result if the snails are not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until December 31, 1978. The specific exemption is also subject to the following conditions:

1. A total of 55,000 pounds active ingredient of the product Mesurol 75WP may be used at a dosage rate of one and one-third pounds product per acre;

2. A maximum of five applications may be made on a maximum of 11,000 acres;

3. Application may be made by ground equipment;

4. All applications will be made by or under the supervision of State-certified applicators;

5. The Applicant is responsible for ensuring that all of the provisions of this specific exemption are adhered to and must submit a report summarizing the results of this program by June 30, 1979;

6. This product is toxic to fish. It must be applied with care in areas adjacent to any body of water;

7. All applicable directions, restrictions, and precautions on the label must be followed;

8. The EPA shall be immediately informed of any adverse effects resulting from the use of Mesurol in connection with this exemption;

9. Artichokes with residues of methiocarb that do not exceed 3 ppm may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been notified of this action; and

10. A seven-day pre-harvest interval will be observed.

(Sec. 18, Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; (7 U.S.C. 136).))

Dated: December 22, 1978.

JAMES M. CONLON,
Acting Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-302 Filed 1-3-79; 8:45 am]

[6560-01-M]

[FRL 1033-4; OPP-180251]

CALIFORNIA, COLORADO, MICHIGAN, NEW YORK, OREGON, PENNSYLVANIA, UTAH, AND WASHINGTON

Issuance of Specific Exemptions To Use Pydrin To Control Pear Psylla in Eight States

The Environmental Protection Agency (EPA) has granted specific exemptions to the Departments of Agriculture in Colorado, Michigan, Oregon, Pennsylvania, Utah, and Washington, the California Department of Food and Agriculture, and the New York Department of Environmental Conservation (hereafter referred to collectively as the "Applicants" or individually by State) to use Pydrin to control Pear Psylla on a total of 97,336 acres of pears. These exemptions were granted in accordance with, and are subject to, the provisions of 40 CFR Part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the applications on file with the Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street SW., Room E-315, Washington, D.C. 20460.

According to the Applicants, pear psylla is a very serious and difficult pest to control. The insect has three distinct developmental forms: the egg, the nymph, and the adult. In addition to a spring generation, there are three to five summer generations of this pest. Adults of the final summer generation are referred to as the over-wintering adults; they survive the winter in cracks and crevices of the bark and buds of pear and other trees. Although adults may be found on many different hosts, development of the immature insect occurs only on pears. Pear psylla causes serious damage, such as pear decline, decreased tree vitality, leaf blackening and leaf drop, tree death, fruit russeting, and reduced fruit size.

According to the Applicants, chemical control of pear psylla begins well before the growing season. In most orchards both a dormant and delayed-dormant (pre-bloom) spray of superior oil plus an insecticide(s) are applied to kill over-wintering adult psylla before they lay their eggs. Because there is little dispersal of pear psylla during the summer months, an effective dormant treatment is extremely important to reduce future summer populations. During the last ten years, perthane and endosulfan have been used in the pre-bloom program to reduce adult psylla populations; however, the Applicants stated that these chemicals have lost their effectiveness in controlling over-wintering adults. For example, endosulfan seems to be effective only during the early nymphal stages; pear psylla have also developed resistance to organophosphates. Therefore, according to the Applicants, the current problem is the unavailability of an efficacious pesticide to control the pest during the summer growing season. The problem has been intensified by the withdrawal of chlordimeform from the market; this pesticide had previously been effective in providing control during this season. Although chlordimeform is still registered for the proposed use, it was not available to pear growers last year and will be unavailable again this year.

The Applicants proposed to use Pydrin 2.4 E.C., manufactured by Shell Chemical Company, which contains cyano (3-phenoxyphenyl) methyl-4-chloro-alpha (1-methylethyl) benzeneacetate. Applications will be made by air and ground in all eight States except Utah, where application will be made by ground only, at a rate of up to 0.4 pound active ingredient (a.i.) per acre. A maximum of two applications will be made in all States except Colorado which will make a third application. Pydrin will be applied during the dormant to pre-bloom stages of pear tree development in all States except California, Colorado, and Michigan. California and Michigan will make their two applications during the post-harvest to pre-bloom stages, and Colorado will make its third application post-harvest next fall. Spray mixtures of Pydrin and oil will be applied in Colorado and Washington. Colorado, Michigan, New York, Pennsylvania, and Washington will treat pears that are interplanted with apples. The Applicants anticipate losses valued at over $26 million if Pydrin is not used to control pear psylla.

EPA has determined that the proposed use of Pydrin should not result in residue levels exceeding 0.01 part per million (ppm) in or on pears or apples. Secondary residues in meat, fat, and meat byproducts should not exceed the established 0.02 ppm temporary tolerances provided cover crops grown in treated orchards are not fed to livestock. These residue levels have been deemed adequate to protect the public health. After consultation with the Fish and Wildlife Service, U.S. Department of the Interior, EPA has concluded that the proposed use of Pydrin is not likely to jeopardize the continued existence of endangered species or adversely modify their critical habitats.

After reviewing the applications and other available information, EPA has determined that (a) pest outbreaks of pear psylla have occurred; (b) there is no effective pesticide presently registered and available for use to control the pear psylla in the eight States; (c) there are no alternative means of control taking into account the efficacy and hazard; (d) significant economic problems may result if the pear psylla is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, all the Applicants except Colorado have been granted specific exemptions to use the pesticide noted above until June 30, 1979; Colorado may use Pydrin until October 30, 1979. The specific exemptions are also subject to the following conditions:

1. Pydrin may be applied at a rate of up to 0.4 pound active ingredient per acre per application;

2. In California and Michigan, a maximum of two applications may be made during the post-harvest to the pre-bloom stages of pear tree development; in Colorado, a maximum of three applications may be made: two from the dormant to the pre-bloom stages of pear tree development, and a single post-harvest application may be applied in 1979. In the five other States, a maximum of two applications may be made, limited to the dormant to the pre-bloom stages of pear tree development;

3. Applications may be made with ground equipment or by aircraft in all States except Utah, where application may be made with ground equipment;

4. Spray mixture volumes of 3 to 20 gallons will be applied by all States using aircraft. In Colorado, Michigan, New York, Pennsylvania, and Washington, spray mixture volumes of 3 to 400 gallons will be applied by ground equipment. In California, Oregon, and Utah spray mixture volumes of 25 to 400 gallons will be applied by ground equipment. In Colorado and Washington, Pydrin may be applied in combination with water or a superior type oil;

5. The following maximum acreage may be treated in each State:

California—37,000 acres
Colorado—600 acres
Michigan—4,500 acres
New York—4,282 acres
Oregon—23,500 acres
Pennsylvania—750 acres
Utah—704 acres
Washington—26,000 acres

6. In Colorado, Michigan, New York, Pennsylvania, and Washington, pear orchards which are interplanted with apples may be treated as specified above, provided applications are made during the post-harvest to the pre-bloom stages of development of both apple and pear trees;

7. All applications will be limited to commercial orchards;

8. All applications will be made by State-certified private or commercial applicators;

9. Precautions will be taken to avoid spray drift to non-target areas;

10. Pydrin is extremely toxic to fish and aquatic invertebrates. Care will be used when applying it in areas adjacent to any body of water. There will be no applications when weather conditions favor run-off or drift. Pydrin will be kept out of lakes, streams, and ponds. Contamination of water caused by cleaning of equipment or disposal of wastes is to be avoided;

11. Pydrin is highly toxic to bees exposed to direct treatment or residues on crops or weeds. It may not be applied, or allowed to drift, to weeds in bloom on which an economically significant number of bees are actively foraging. Each State's Cooperative Agricultural Extension Service will provide information on protection of bees;

12. Pears and apples with residue levels of Pydrin not exceeding 0.01 ppm may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

13. The feeding or grazing of orchard cover crops is prohibited;

14. All applicable directions, restrictions, and precautions on the product label must be followed;

15. Each State is responsible for assuring that all of the provisions of its specific exemption are met and must submit a report summarizing the results of its program by August 31, 1979, except Colorado which has until November 15, 1979 to submit its report; and

16. The EPA shall be immediately informed of any adverse effects resulting from the use of Pydrin in connection with the exemptions.

(Sec. 18, Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136)).

Dated: December 22, 1978.

JAMES M. CONLON,
Acting Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-301 Filed 1-3-79; 8:45 am]

[6560-01-M]

[FRL 1033-8]

HOUSTON AIR QUALITY STUDIES

Public Meeting

The Environmental Protection Agency, Region 6, will hold a public meeting Thursday, January 25, 1979 at 7:30 p.m. at the Holiday Inn—Medical Center, 6701 South Main, Houston, Texas.

The purpose of the meeting is to discuss the progress of present studies regarding the quality of the air in Houston. Public comment and information are an integral part of the process of developing plans to improve air quality in the area. The public is urged to take part in the meeting which will be in the Tanglewood Room.

A report will be presented on a research study plan which is being developed by Radian Corporation.

In addition, a preliminary report will be presented on field work conducted in the Houston area during 1978. The research includes a stratospheric ozone intrusion study, a study of aerosol composition and an ozone study for modelling purposes.

A third report will cover the status of a research study examining the relationship between air quality and the performance of athletes in running events. EPA is in the final stages of negotiating a contract for this study.

Persons wishing to comment at the meeting are asked to contact Mark Satterwhite, U.S. Environmental Protection Agency, Office of Public Awareness, 1201 Elm Street, Dallas, Texas 75270 (214) 767-2630.

In addition, attendees wishing to comment may register at the meeting and will be heard as time permits.

Dated: December 21, 1978.

ADLENE HARRISON,
Regional Administrator.

[FR Doc. 79-300 Filed 1-3-79; 8:45 am]

[6174-01-M]

FEDERAL DEPOSIT INSURANCE CORPORATION

[Reg. Z]

TRUTH IN LENDING

Joint Notice of Statement of Enforcement Policy

CROSS REFERENCE: For a notice of statement of enforcement policy regarding truth in lending, Regulation Z, issued jointly by the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the National Credit Union Administration, see FR Doc. 79-340 in the "Notices" section of this issue. Refer to the table of contents under "Federal Reserve Board" for the correct page number.

[6720-01-M]

FEDERAL HOME LOAN BANK BOARD

[Reg. Z]

TRUTH IN LENDING

Joint Notice of Statement of Enforcement Policy

CROSS REFERENCE: For a notice of statement of enforcement policy regarding truth in lending, Regulation Z, issued jointly by the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the National Credit Union Administration, see FR Doc. 79-340 in the "Notices" section of this issue. Refer to the table of contents under "Federal Reserve Board" for the correct page number.

[6210-01-M]

FEDERAL RESERVE SYSTEM

CITIZENS BANCORPORATION

Formation of Bank Holding Company

Citizens Bancorporation, Charles City, Iowa, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 87.9 percent of the voting shares of The Citizens National Bank of Charles City, Charles City, Iowa. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received no later than January 29, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 28, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 79-332 Filed 1-3-79; 8:45 am]

[6210-01-M]

ELSIE, INC.

Formation of Bank Holding Company

Elsie, Inc., Elsie, Nebraska, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent (less directors' qualifying shares) of the voting shares of Commercial State Bank, Elsie, Nebraska. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than January 18, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 27, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 79-333 Filed 1-3-79; 8:45 am]

[6210-01-M]

FEDERAL OPEN MARKET COMMITTEE

Domestic Policy Directive of November 21, 1978

In accordance with § 271.5 of its rules regarding availability of information, there is set forth below the Committee's Domestic Policy Directive issued at its meeting held on November 21, 1978.[1]

The information reviewed at this meeting suggests that in the current quarter real output of goods and services is continuing to grow moderately. In October industrial production expanded further, nonfarm payroll employment rose considerably, and the unemployment rate declined from 6.0 to 5.8 per cent. Following 2 months of gains, the dollar value of total retail sales declined somewhat to a level slightly above the average in the third quarter. Average producer prices of finished goods rose substantially in October, as in September, in part because of further large increases in prices of foods. The advance in the index of average hourly earnings has been somewhat faster so far in 1978 than it was on the average during 1977. In late October the Government announced a new program aimed at moderating increases in prices and wages.

On November 1 a broad program to strengthen the dollar in foreign exchange markets and thereby to counter continuing domestic inflationary pressures was announced. The program included an increase in Federal Reserve discount rates from 8½ to 9½ per cent, establishment of a supplementary reserve requirement of 2 per cent against member bank time deposits in denominations of $100,000 or more, increases in Federal Reserve reciprocal currency arrangements with certain central banks, and other measures to mobilize key foreign currencies.

The trade-weighted value of the dolloar against major foreign currencies declined rapidly during the last week of October, but following the actions taken to strengthen the dollar, it rose sharply to a level somewhat above that in early October. The U.S. trade deficit was about the same in the third quarter as in the second quarter.

Growth in M-1, which had been rapid in August and September, slowed markedly in October, and growth in M-2 and M-3 also moderated. Inflows of the interest-bearing deposits included in the broader aggregates slowed somewhat, although sales of 6-month money market certificates at both commercial banks and nonbank thrift institutions expanded to record levels. Short-term market interest rates have risen substantially further since mid-October. Bond rates also have increased on balance, although they have declined appreciably since November 1; mortgage interest rates have continued to rise.

In light of the foregoing developments, it is the policy of the Federal Open Market Committee to foster monetary and financial conditions that will resist inflationary pressures while encouraging continued moderate economic expansion and contributing to a substainable pattern of international transactions. At its meeting on October 17, 1978, in setting ranges for the monetary aggregates, the Committee recognized the uncertainties concerning the effects that the November 1 introduction of the automatic transfer service (ATS) would have on measures of the money supply, especially M-1. Against that background, the Committee agreed that appropriate monetary and financial conditions would be furthered by growth of M-2 and M-3 from the third quarter of 1978 to the third quarter of 1979 within ranges of 6½ to 9 per cent and 7½ to 10 per cent, respectively. The narrowly defined money supply (M-1) was expected to grow within a range of 2 to 6 per cent over the period, depending in part on the speed and extent of transfers from demand to savings deposits resulting from the introduction of ATS. The associated range for bank credit is 8½ to 11½ per cent. Growth of M-1+(M-1 plus savings deposits at commercial banks and NOW accounts) in a range of 5 to 7½ per cent was thought to be generally consistent with the ranges of growth for the foregoing aggregates. These ranges are subject to reconsideration at any time as conditions warrant.

In the short run, the Committee seeks to achieve bank reserve and money market conditions that are broadly consistent with the longer-run ranges for monetary aggregates cited above, while giving due regard to the program for supporting the foreign exchange value of the dollar, to developing conditions in domestic financial markets, and to uncertainties associated with the introduction of ATS. Early in the period before the next regular meeting, System open market operations are to be directed at attaining a weekly average Federal funds rate slightly above the current level. Subsequently, operations shall be directed at maintaining the weekly average Federal funds rate within the range of 9¾ to 10 per cent. In deciding on the specific objective for the Federal funds rate, the Manager is to be guided mainly by a range of tolerance for the annual rate of growth over the November-December period of 6 to 9½ per cent in M-2, provided that the rate of growth in M-1 does not appear to exceed 5 per cent.

The objective for the funds rate is to be raised or lowered within its range if the rate of growth of M-2 appears to be close to or beyond the upper or lower limit of its range. Weight is to be given to M-1 if it appears to be growing at a rate close to or above its limit.

If the rates of growth in the aggregates appear to be falling outside the limits of the indicated ranges at a time when the objective for the funds rate has already been moved to the corresponding limit of its range, the Manager will promptly notify the Chairman, who will then decide whether the situation calls for supplementary instructions from the Committee.

By order of the Federal Open Market Committee, December 22, 1978.

MURRAY ALTMANN,
Secretary.

[FR Doc. 79-334 Filed 1-3-79; 8:45 am]

[1] The Record of Policy Actions of the Committe for the meeting of November 21, 1978 is filed as part of the original document. Copies are available on request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

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[6210-01-M]

[Regulation Z]

TRUTH IN LENDING

Joint Notice of Statement of Enforcement Policy

AGENCIES: The Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the National Credit Union Administration.

ACTION: Statement of interagency enforcement policy—Regulation Z.

SUMMARY: This statement of enforcement policy sets forth uniform guidelines which the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the National Credit Union Administration will use to enforce the Truth in Lending Act and Regulation Z. Specific, standardized guidelines will promote improved enforcement of the Truth in Lending through uniform corrective action, including reimbursement for borrowers who have been overcharged as a result of violations of the Act.

EFFECTIVE DATE: This statement shall become effective on January 4, 1979.

FOR FURTHER INFORMATION CONTACT:

Alan Dombrow, Office of the Comptroller of the Currency, 202-447-1600; Peter M. Kravitz, Federal Deposit Insurance Corporation, 202-389-4427; Harry W. Quillian, Federal Home Loan Bank Board, 202-377-6440; Margaret Stewart, Federal Reserve Board, 202-452-2412; Linda Cohen, National Credit Union Administration, 202-254-8760.

SUPPLEMENTARY INFORMATION: This document sets forth the principles that the federal regulatory agencies involved will use in enforcing the Truth in Lending Act and Regulation Z. Coordination among the agencies is desirable in order to bring about uniformity in the administrative actions that will be taken when violations of the Act are detected. To that end, the agencies have developed a set of policy guidelines for measuring and correcting the conditions resulting from certain violations of the Truth in Lending Act.

The guidelines which follow are intended to address those violations which result in overcharges to customers. It should be emphasized that it will continue to be the policy of the enforcing agencies that, whenver *any* violation of the Act is detected, prospective correction of the violation will be required—that is, creditors will be required to take whatever action is necessary to ensure that the violation does not recur. For example, a creditor using forms that do not comply with the type size requirements will be required to obtain new forms which do comply.

These guidelines are not intended to substitute for any other administrative authority that any of the agencies has to enforce the Act, nor do they foreclose the customer's right to bring a civil action where authorized by the Act. Further, where apparently willful and knowing violations are found, the agencies will notify the Department of Justice.

As new examination data concerning the extent and type of violations are received, the guidelines will be reviewed and revised as appropriate. They may be modified at the discretion of the agencies so as to be more responsive to specific or unique circumstances which may exist. The guidelines are also subject to revision where necessary to reflect changes in the Truth in Lending Act or Regulation Z.

The five participating agencies published a proposed statement of enforcement policy in October 1977. More than 300 comments, raising at least twenty different substantive and technical issues, were received. In the months following the close of the comment period in December 1977, the staffs of the participating agencies analyzed the comments and drafted several revised proposals in an effort to accommodate, to the extent possible, the concerns expressed in those comments, as well as the views of all the agencies. In September 1978, the Interagency Coordinating Committee, which is composed of senior representatives of the five agencies, agreed on a final draft and recommended its adoption. That action has now been taken by all the agencies involved.

Among the more significant aspects of the revised guidelines are the following:

1. The guidelines set forth a minimum standard for enforcement of the Truth in Lending Act. Each enforcing agency retains the option of taking alternative action where warranted and is in no way precluded from taking enforcement action for violations not covered by the guidelines.

2. The agencies will require reimbursement for violations discovered on outstanding loans consummated after October 28, 1974, and on terminated loans originated no more than two years prior to the date of examination in which the violation is discovered.

3. A creditor which understates the annual percentage rate will be required to adjust the cost of credit to assure that the customer pays no more than the disclosed annual percentage rate. A creditor understating the finance charge must reimburse customers for the difference between the actual and the disclosed finance charge. Where the creditor failed to disclose an annual percentage rate as required, the customer's cost of credit must be adjusted to the amount of the rate shown on the note or contract. Where the annual percentage rate is undisclosed and no rate is shown on the note or contract, the creditor will be required to reduce the actual annual percentage rate by one quarter of one percentage point in first lien mortgage transactions and by one percentage point in other transactions.

4. The guidelines provide a tolerance of one-eighth of one percentage point in disclosure of an annual percentage rate, meaning that an annual percentage rate which understates the true cost of credit will be subject to corrective action only if the understatement is greater than one-eighth of one percentage point. The guidelines also provide a tolerance for finance charge disclosures. If the disclosed finance charge understates the true finance charge by no more than $100 or 1% of the correct finance charge, whichever is lower, the understatement will not be subject to corrective action.

5. The agencies will require reimbursement for a violation resulting in an overcharge of $1.00 or more for an individual account. They may also require some form of corrective action for amounts under this level where the violations are part of a consistent pattern or are due to gross negligence or a willful violation of the Act.

6. Once the amount of the overcharge is determined to be above the tolerance levels for annual percentage rate and finance charge disclosures, and thus subject to reimbursement, the creditor will also be required to reimburse that portion of the overcharge representing the tolerance amount. The same principle will apply to the $1.00 minimum amount necessary to trigger reimbursement. Thus, these amounts will be included in computing the total required to be returned to the customer.

7. The creditor may, at its option, use either the lump sum method or the lump sum/payment reduction method as a method of reimbursement where overcharges are discovered. These methods are defined in the guidelines.

8. The agencies will not require reimbursement for violations involving disclosures of property insurance charges under § 226.4(a)(6) and the charges listed in § 226.4(b).

9. The agencies will require reimbursement for certain violations not involving disclosure of the finance charge and the annual percentage rate. These violations are related to disclosure of late payment charges, prepayment penalties and the method of rebating unearned finance charges.

10. A customer whose transaction is subject to reimbursement must be told that the reimbursement is the result of the creditor's failure to properly disclose information required by the Truth in Lending Act.

11. Special rules apply when credit life insurance is excluded from the finance charge, but disclosure of the voluntary nature of the insurance was not made in accordance with the Act and regulation.

12. While the guidelines do not apply specifically to open end credit violations, the agencies intend such violations to be subject to the general policies set forth in these guidelines and reimbursement will be required in appropriate cases.

These guidelines are adopted pursuant to the enforcement authority contained in 15 U.S.C. 1607 and 12 U.S.C. 1818(b) in the cases of the Federal Reserve Board, the Federal Deposit Insurance Corporation, and the Comptroller of the Currency, pursuant to 15 U.S.C. 1607 and 12 U.S.C. 1464(d)(2) and 1730(e) in the case of the Federal Home Loan Bank Board, and pursuant to 15 U.S.C. 1607 and 12 U.S.C. 1786(e)(1) in the case of the National Credit Union Administration.

In consideration of the foregoing, the following statement of enforcement policy is adopted:

Statement of Enforcement Policy

DEFINITIONS

Other than as listed below, all definitions are those found in the Truth in Lending Act and Regulation Z (hereinafter referred to as the "Act").

1. "Lump sum method" means a method of reimbursement under which a cash payment equal to the total overcharge will be made to a customer.

2. "Lump sum/payment reduction method" means a method of reimbursement under which a cash payment which will fully compensate the customer for past overcharges will be returned to the customer and the remaining payment amounts on the loan will be reduced to eliminate future overcharges.

3. "Understated APR" means a disclosed annual percentage rate, increased by ⅛ of one percentage point, which is less than the annual percentage rate calculated in accordance with the Act without rounding.

4. "Understated finance charge" means disclosed finance charge which is less than the finance charge calculated in accordance with the Act by an amount greater than the lesser of: (i) $100, or (ii) 1% of the correct finance charge.

GENERAL POLICIES

1. *Rules of application.* (a) The prescribed policies and remedies are understood to represent the minimum standards to be used by the agencies in enforcing the Act. Each enforcing agency will retain authority to take appropriate alternative action consistent with the intent of these guidelines. This statement of policy will not preclude enforcement of provisions of the Act which are not covered herein.

(b) These guidelines specifically apply to violations in other than open-end transactions. Open-end credit violations will be treated on a case-by-case basis, subject to the general policies set forth in these guidelines.

(c) Where violations are discovered in loans purchased by the holding institution from another institution, the enforcing agency for the holder will refer the violations to the agency with jurisdiction over the originating institution.

2. *De minimis rule.* (a) Violations discovered which result in overcharges shall require corrective action in the form of reimbursement to individual accounts for each overcharge of one dollar or more.

(b) The agencies reserve the right to require reimbursement or other corrective action for violations that result in amounts below the de minimis amount when they are part of a consistent pattern or are due to gross negligence or a willfull violation of the Act.

3. *Period for which corrective action is required.* (a) Corrective action shall be required for all violations within the scope of these guidelines on outstanding loans consummated since October 28, 1974.

(b) Corrective action shall be required for all violations within the scope of these guidelines on terminated loans consummated within two years of the examination in which the violation was noted.

4. *Violations involving the improper disclosure of annual percentage rate (APR) or finance charge.* (a) Where there is an understated APR and the finance charge is either correct or not disclosed, the creditor shall take corrective action to ensure that the customer's true cost of credit does not exceed the disclosed APR. Where there is an understated finance charge and the APR is correct, the creditor shall reimburse the overcharge (the difference between the actual and the understated finance charge). If the disclosed APR and finance charge are both understated, the creditor shall take appropriate action to correct the larger overcharge.

(b) In cases where an APR was required to be disclosed but was omitted, the disclosed APR shall be considered to be:

(1) The contract rate, if such a rate was disclosed on the note or Truth in Lending disclosure statement, or

(2) If such contract rate was not disclosed, the actual APR, reduced by ¼ of 1 percentage point in the case of first lien mortgage transactions, and by 1 percentage point in all other transactions.

The creditor shall take corrective action to ensure that the customer's true cost of credit does not exceed the disclosed APR as defined in this paragraph.

5. *Methods of adjustment.* In the event a customer has been overcharged, the customer will be reimbursed using either the lump sum method or the lump sum/payment reduction method, at the discretion of the creditor.

6. *Violations involving the improper disclosure of credit life, accident, health or loss of income insurance.* (a) If the creditor has not disclosed to the customer in writing that credit life, accident, health or loss of income insurance is optional, the insurance shall be treated as having been required by the creditor and improperly excluded from the finance charge. The creditor shall take appropriate corrective action for the overcharge resulting from the understated finance charge or APR. The insurance will remain in effect.

(b) If the creditor has disclosed to the customer in writing that credit life, accident, health or loss of income insurance is optional but there is either no signed insurance option or no disclosure of the cost of the insurance, the creditor shall, unless a claim was made on the insurance policy and paid, be required to send a written notice to the affected customer disclosing the cost of the insurance and notifying the customer that the insurance is optional and that it may be cancelled within 45 days to obtain a full refund of all premiums charged. If the creditor receives no response within 45 days, the insurance will remain in effect and no further corrective action will be required.

(c) Omission of the date on the insurance option shall not be considered to result in an overcharge.

7. *Special disclosure violations.* (a) If a creditor has not included the premium for required property insurance as part of the finance charge, and has failed to make required disclosure under 12 CFR 226.4(a)(6), it shall not constitute an overcharge.

(b) If a creditor has not itemized and disclosed the charges found in 12 CFR § 226.4(b) and has not included them in the finance charge as required by that Section, the resulting disclosure

violation shall not constitute an overcharge.

8. *Non-finance charge violations.* (a) If a prepayment penalty or late payment charge in excess of that disclosed has been collected, the excess shall be reimbursed.

(b) (1) A creditor which gives a less favorable rebate of unearned finance charges than was disclosed must reimburse the difference between the disclosed and actual rebate amounts.

(2) Failure to rebate unearned finance charges results in an overcharge if the creditor has not disclosed that unearned finance charges will not be rebated. In such event, the creditor will be required to rebate unearned finance charges according to the method disclosed or, if none was disclosed, according to the method specified under State law. If no method was disclosed and State law is silent, the creditor shall rebate unearned finance charges pursuant to the actuarial method based on scheduled payments.

9. *Disclosure of reason for corrective action.* Whenever corrective action in the form of reimbursement is made to a customer, the creditor must inform the customer that the reimbursement is being made as a result of the creditor's failure to make disclosures required by the Truth in Lending Act.

10. *Reimbursement procedures.* Creditors are encouraged to make reimbursement voluntarily and are reminded that the Act absolves them of civil liability for unintentional violations corrected within 15 days of discovery of an error.

In the event a creditor refuses to make reimbursement as requested, the agency may issue an cease-and-desist order to require corrective action in accordance with procedures prescribed in its general enforcement authority.

Dated: December 26, 1978.

HENRY C. WALLICH,
Member, Board of Governors of the Federal Reserve System.

Dated: December 27, 1978.

JOHN G. HEIMANN,
Comptroller of the Currency.

Dated: December 27, 1978.

JOHN G. HEIMANN,
Acting Chairman, Federal Deposit Insurance Corporation.

Dated: December 27, 1978.

ROBERT H. MCKINNEY,
Chairman, Federal Home Loan Bank Board.

Dated: December 26, 1978.

LAWRENCE CONNELL, Jr.,
Administrator, National Credit Union Administration.

[FR Doc. 79-340 Filed 1-3-79; 8:45 am]

[1610-01-M]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on December 27, 1978. See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipts.

The notice includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed ICC requests are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed requests, comments (in triplicate) must be received on or before January 22, 1979, and should be addressed to Mr. John Lovelady, Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street, NW, Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulator Reports Review Staff, 202-275-3532.

INTERSTATE COMMERCE COMMISSION

ICC requests an extension without change clearance of the Quarterly Report of Freight Loss and Damage Claims—Motor Carriers, Form QL&D-M, required to be filed by some 2280 motor carriers of property with an average operating revenue of $1 million or more, pursuant to Section 220 of the Interstate Commerce Act. Data are used for economic regulatory purposes. Reporting burden for carriers is estimated to average 36 hours per report. Reports are mandatory and available for use by the public.

ICC requests an extension without change clearance of Quarterly Report of Freight Loss and Damage Claims—Railroads, Form QL&D-R, required to be filed by some 42 Class I line-haul railroads, except switching and terminal companies, with an average operating revenue of $50 million or more, pursuant to Section 20 of the Interstate Commerce Act. This is a smaller number of carriers than previous due to revised revenue classifications. Data are used for economic regulatory purposes. Reporting burden for carriers is estimated to average 64 hours per report. Reports are mandatory and available for use by the public.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc. 79-320 Filed 1-3-79; 8:45 am]

[4210-01-M]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

[Docket No. NFD-654; FDAA-568-DR]

KENTUCKY

Major Disaster and Related Determinations

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the Commonwealth of Kentucky (FDAA-568-DR), dated December 12, 1978, and related determinations.

DATED: December 12, 1978.

FOR FURTHER INFORMATION CONTACT:

A. C. Reid, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202/634-7825).

NOTICE: Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on December 12, 1978, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the Commonwealth of Kentucky resulting from severe storms and flooding beginning about December 7, 1978, is of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 93-288. I therefore declare that such a major disaster exists in the Commonwealth of Kentucky.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285, I hereby appoint Mr. Thomas P. Credle of the Federal Disaster Assistance Administration to act as the Federal Coordinating Officer for this declared major disaster.

I do hereby determine the following areas of the State of Kentucky to have been adversely affected by this declared major disaster.

The Counties of:

Anderson	Magoffin
Bullitt	Martin
Clark	Mercer
Franklin	Morgan
Hardin	Nelson
Henry	Owen
Jessamine	Powell
Bath	Woodford
Carroll	

(Catalog of Federal Domestic Asst. No. 14.701, Disaster Asst.)

WILLIAM H. WILCOX,
Federal Disaster Assistance Administration.

[FR Doc. 79-330 Filed 1-3-79; 8:45 am]

[4210-01-M]

[Docket No. NFD-653 FDAA-568-DR]

KENTUCKY

Amendment to Notice of Major Disaster Declaration

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of major disaster declaration for the Commonwealth of Kentucky (FDAA-568-DR), dated December 12, 1978.

DATED: December 17, 1978.

FOR FURTHER INFORMATION CONTACT:

A. C. Reid, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202/634-7825).

NOTICE: The Notice of major disaster for the Commonwealth of Kentucky dated December 12, 1978, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of December 12, 1978.

The Counties of:

Bourbon	Lawrence
Breathitt	Lee
Carter	Lincoln
Casey	Madison
Estill	Oldham
Fayette	Rowan
Fleming	Trimble
Harrison	Wolfe

(Catalog of Federal Domestic Assistance No. 14,701, Disaster Assistance)

WILLIAM H. WILCOX,
Administrator, Federal Disaster Assistance Administration.

[FR Doc. 79-331 Filed 1-3-79; 8:45 am]

[4210-01-M]

[Docket No. NFD-652; FDAA-569-DR]

WEST VIRGINIA

Major Disaster and Related Determinations

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of West Virginia (FDAA-569-DR), dated December 14, 1978, and related determinations.

DATED: December 14, 1978.

FOR FURTHER INFORMATION CONTACT:

A. C. Reid, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202/634-7825).

NOTICE: Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285 and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on December 14, 1978, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the State of West Virginia resulting from severe storms and flooding beginning about December 7, 1978, is of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 93-288. I therefore declare that such a major disaster exists in the State of West Virginia.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No D-74-285, I hereby appoint Mr. Robert Adamcik of the Federal Disaster Assistance Administration to act as the Federal Coordinating Officer for this delcared major disaster.

I do hereby determine the following areas of the State of West Virginia to have been adversely affected by this declared major disaster.

The Counties of:

Cabell	Mingo
Jackson	Wayne
Lincoln	

(Catalog of Federal Domestic Asst. No. 14,701, Disaster Asst.)

WILLIAM H. WILCOX,
Federal Disaster Assistance Administration.

[FR Doc. 79-329 Filed 1-3-79; 8:45 am]

[4210-01-M]

[Docket No. D-78-450]

ASSISTANT SECRETARY FOR HOUSING—FEDERAL HOUSING COMMISSIONER

Revocation of Redelegation of Authority

AGENCY: Department of Housing and Urban Development, Federal Disaster Assistance Administration (FDAA).

ACTION: Revocation of Redelegation of Authority (temporary Housing).

SUMMARY: This notice revokes the redelegation of authority from the Administrator, FDAA, to the Assistant Secretary for Housing—Federal Housing Commissioner, HUD (41 FR 29719, July 19, 1976). That redelegation authorized the Assistant Secretary to exercise certain authorities in section 404, Disaster Relief Act of 1974 (42 U.S.C. 5174, Pub. L. 93-288, Sec. 404) pertaining to disaster temporary housing. This revocation returns those authorities to the Administrator. By another notice published today's FEDERAL REGISTER, the Administrator redelegates the authorities to the Regional Directors, FDAA.

FOR FURTHER INFORMATION CONTACT:

Richard Sanderson, Director, Individual Assistance Office, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202-634-7860).

SUPPLEMENTAL INFORMATION: The Administrator, FDAA, has the authority to exercise certain of the powers and authorities of the President with respect to Federal disaster assistance. The Administrator's authorities were delegated by the President to the Secretary of Housing and Urban Development by section 1, Executive Order 11795 (39 FR 25939, dated July 11, 1974) and by the Secretary to the Administrator by the Delegation of Authority (39 FR 28227, August 5, 1974). Under this authority, the Administrator redelegated to the Assistant Secretary for Housing—Federal Housing Commissioner certain authorities in section 404 of the Disaster Relief Act of 1974 (41 FR 29719, July

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19, 1976) pertaining to the provision of temporary housing.

By this notice, the Administrator revokes the redelegation of authority to the Assistant Secretary. The effect of the revocation is to return the authorities to provide temporary housing to the Administrator. By another notice published today's FEDERAL REGISTER, the Administrator redelegates the authority to provide temporary housing to the Regional Directors, FDAA.

Because of the revocation of the redelegation of authority to the Assistant Secretary, that official's redelegation of authority to the Regional Administrators (41 FR 37659, September 7, 1976) is automatically revoked as of the effective date of this notice.

The purposes of these changes are to improve the coordination of temporary housing assistance with other Federal disaster relief activities and to permit more flexibility in determining how temporary housing may be best provided. The changes are consistent with FDAA's efforts to simplify the application process for assistance. The changes are also consistent with the assumption by States of increased responsibility for the provision of temporary housing.

This revocation is effective for major disasters and emergencies declared on or after January 28, 1979.

Accordingly, the redelegation of authority from the Administrator, FDAA, to the Assistant Secretary for Housing—Federal Housing Commissioner (41 FR 29719, July 19, 1976) is revoked effective for major disasters and emergencies declared on or after January 28, 1979.

(Disaster Relief Act of 1974 (42 U.S.C. 5121 et seq., Pub. L. 93-288); E.O. 11795 (39 FR 25939, dated July 11, 1974); Delegation of Authority (39 FR 28227, August 5, 1974).

Issued at Washington, D.C., December 26, 1978.

WILLIAM WILCOX,
Administrator, Federal Disaster Assistance Administration.

[FR Doc. 79-381 Filed 1-3-79; 8:45 am]

[4210-01-M]

[Docket No. D-78-448]

REGIONAL DIRECTORS, FDAA

Redelegation of Authority

AGENCY: Department of Housing and Urban Development, Federal Disaster Assistance Administration (FDAA).

ACTION: Redelegation of Authority (Temporary Housing).

SUMMARY: This notice redelegates from the Administrator, FDAA, to the Regional Directors, FDAA, certain authorities in Section 404 of the Disaster Relief Act of 1974 pertaining to temporary housing. By another notice published in today's FEDERAL REGISTER, the Administrator revokes an earlier redelegation of the same authorities to the Assistant Secretary for Housing, Federal Housing Commissioner, HUD.

FOR FURTHER INFORMATION CONTACT:

Richard Sanderson, Director, Individual Assistance Office, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202-634-7860).

SUPPLEMENTAL INFORMATION: The Administrator, FDAA, has the authority to exercise certain of the powers and authorities of the President with respect to Federal disaster assistance. The Administrator's authorities were delegated by the President to the Secretary of Housing and Urban Development by section 1, Executive Order 11795 (39 FR 25939, dated July 11, 1974) and by the Secretary to the Administrator by the Delegation of Authority (39 FR 283227, August 5, 1974). Under this authority, the Administrator redelegated to the Assistant Secretary for Housing—Federal Housing Commissioner—HUD, certain authorities in section 404 of the Disaster Relief Act of 1974 pertaining to the provision of temporary housing (41 FR 29719, July 19, 1976). Simultaneously, the Administrator revoked an earlier redelegation of the same authorities to the Regional Directors, FDAA (41 FR 29719, July 19, 1976). Simultaneously, the Administrator revoked an earlier redelegation of the same authorities to the Regional Directors, FDAA (41 FR 29719, July 19, 1976).

By another notice published today's FEDERAL REGISTER, the Administrator revokes the redelegation of authority to the Assistant Secretary. By this notice, the Administrator redelegates the same authorities to the Regional Directors. Therefore, the notices today essentially undo the Administrator's actions in 1976.

This redelegation of authority is effective for major disasters and emergencies declared on or after January 28, 1979, which is the same effective date as the revocation of the redelegation of authority to the Assistant Secretary.

This redelegation of authority effectively supersedes the July 19, 1976, amendment to the existing redelegation of authority to the Regional Directors relating to the authorities in section 404. The original redelegation of authority was published at 39 FR 32046, September 4, 1974, and was amended at 39 FR 40186, November 14, 1974. The amendment relating to the authorities in section 404 was published at 41 FR 29719, July 19, 1976. The original document delegated all the authorities of the Administrator with certain exceptions. The redelegation of the temporary housing authorities is accomplished by limiting the scope of the exception relating to section 404.

Accordingly, the redelegation of authority from the Administrator, FDAA, to the Regional Directors, FDAA (39 FR 32046, September 4, 1974) as amended (39 FR 40186, November 14, 1974, and 41 FR 29719, July 19, 1976) is further amended so that paragraph 5 reads as follows:

5. The authorities to authorize installation of essential utilities at Federal expense and to provide other more economical or accessible sites for mobile homes or other readily fabricated dwellings under section 404(a) and the authority to sell or otherwise make available temporary housing units directly to States, other governmental entities and voluntary organizations under section 404(d)(2) of the Act.

This redelegation of authority is effective for major disasters and emergencies declared on or after January 28, 1979.

(Disaster Relief Act of 1974 (42 USC 5121 et seq., Pub. L. 93-288); E.O. 11795 (39 FR 25939, dated July 11, 1974); Delegation of Authority (39 FR 28227, August 5, 1974).

Issued at Washington, D.C., December 26, 1978.

WILLIAM WILCOX,
Administrator, Federal Disaster Assistance Administration.

[FR Doc. 79-380 Filed 1-3-79; 8:45 am]

[4310-09-M]

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

CONTRACT NEGOTIATIONS TO PAY COSTS OF AMERICAN FALLS REPLACEMENT DAM MINIDOKA PROJECT, IDAHO-WYOMING

Intent To Begin Contract Negotiations To Discharge Liability of Irrigation Spaceholders

Although the Department of the Interior has not formally adopted procedures for public participation in contract negotiations, we believe that it is in the interests of the Department to advise the public that contractual arrangements are being considered.

The Department of the Interior, through the Bureau of Reclamation, intends to open negotiations to implement section 7 of the Reclamation Safety of Dams Act of 1978 (92 Stat. 2471) enacted November 2, 1978. Section 7 provides that " • • • the Secretary of the Interior is authorized and directed to pay and discharge that portion of the costs associated with the replacement of the American Falls Dam which the irrigation spaceholder contracting entities are obligated to pay pursuant to the implementation of the Act of December 28, 1973 (87 Stat. 904), to treat such costs as costs incurred under this Act, and to enter into contracts with the irrigation spaceholder contracting entities to accomplish the payment and discharge of such costs."

The American Falls Replacement Dam, located on the Snake River in south Idaho, forms a reservoir with 1.7 million acre-feet of capacity. The stored water is used for irrigation and power production. The new dam, which has been under construction since 1976, replaces a deteriorated Federal structure that was built in 1927.

The replacement dam was constructed by the American Falls Reservoir District, as authorized by the Act of December 28, 1973 (87 Stat. 904), on behalf of waterusers who had previously contracted with the United States for storage rights in the reservoir. Title to the replacement dam will be conveyed to the United States. The dam and reservoir will be operated as an integral part of the Minidoka Federal Reclamation Project.

Before the benefits of section 7 can be made available to the spaceholders, some of the existing contractual arrangements will need to be modified.

The amount to be paid on behalf of the irrigation spaceholders is estimated at $19 million. Payment is contingent upon congressional appropriation of funds in addition to successful conclusion of the necessary contracts with the United States.

The public may observe any negotiating sessions. The public is also invited to submit written comments on the form of proposed contracts. Comments must be received within 30 days after the completed contract drafts are declared to be available to the public.

For further information on scheduled negotiating sessions and copies of the proposed contract forms, please contact: Miss Patricia Gallagher, Chief, Repayment & Statistics Branch, Division of Water, Power, and Lands, Bureau of Reclamation, Box 043, 550 West Fort Street, Boise, Idaho 83724, telephone 208-384-1160.

Dated: December 28, 1978.

CLIFFORD I. BARRETT,
Acting Commissioner of Reclamation.

[FR Doc. 79-357 Filed 1-3-79; 8:45 am]

[4310-10-M]

Office of the Secretary

U.S. FISH AND WILDLIFE SERVICE'S MAMMALIAN PREDATOR DAMAGE MANAGEMENT FOR LIVESTOCK PROTECTION IN THE WESTERN UNITED STATES

Extension of Public Comment Period

AGENCY: Fish and Wildlife Service, Department of the Interior.

ACTION: Extension of public comment period on a draft environmental impact statement (DEIS) on the U.S. Fish and Wildlife Service's western predator damage management program (78-49).

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, Pub. L. 91-190, the Department of the Interior has prepared a Draft Environmental Impact Statement (DEIS) on the Service's western predator damage management program. The DEIS examines the Service's mammalian predator damage management program as presently conducted in the Western United States and its impact on the physical, cultural, biological, and economic environment; on recreation, human health and safety, and on public attitudes.

DATES: Comments must be received on or before February 12, 1979.

ADDRESSES: All comments should be sent to U.S. Fish and Wildlife Service, Division of Animal Damage Control, Department of the Interior, Washington, D.C., 20240.

The draft statement is available for inspection and copies are available, upon request, from the following locations:

Associate Director, Fish and Wildlife Resources, U.S. Fish and Wildlife Service, 18th and C Streets, N.W.—Room 3254, Washington, D.C. 20240, Telephone: (202) 343-5333.

Regional Director, U.S. Fish and Wildlife Service, Lloyd 500 Building, Suite 1692, 500 N.E. Multnomah Street, Portland, Oregon 97232, Telephone: (503) 231-6118.

Regional Director, U.S. Fish and Wildlife Service, 500 Gold Avenue, S.W., Albuquerque, New Mexico 87103, Telephone: (505) 766-2321.

Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111, Telephone: (612) 725-3563.

Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive, N.E., Atlanta, Georgia 30347, Telephone: (404) 881-4671.

Regional Director, U.S. Fish and Wildlife Service, 1 Gateway Center, Suite 700, Newton Corner, Massachusetts 02158, Telephone: (617) 965-5100, Ext. 9200.

Regional Director, U.S. Fish and Wildlife Service, Lake Plaza North, 134 Union Boulevard, Lakewood, Colorado 80228, Telephone: (303) 234-2209.

Alaska Area Director, U.S. Fish and Wildlife Service, 1101 E. Tudor Road, Anchorage, Alaska 99503, Telephone: (907) 276-3800.

A limited number of single copies are also available by writing the Chief, Division of Animal Damage Control at the address below.

FOR FURTHER INFORMATION, CONTACT:

Clarence E. Faulkner, Chief, Division of Animal Damage Control, U.S. Fish and Wildlife Service, Washington, D.C. 20240, Telephone: (202)-632-7463.

For additional information on predator damage, persons may wish to review a copy of the Fish and Wildlife Service Report entitled, *Predator Damage Management in the West.* This document will be available for review on or about January 1, 1979 at all Fish and Wildlife Service offices listed above. A limited number of single copies are available, upon request, by contacting the above offices.

Dated: December 29, 1978.

HEATHER L. ROSS,
Deputy Assistant Secretary.

[FR Doc. 79-335 Filed 1-3-79; 8:45 am]

[4410-01-M]

DEPARTMENT OF JUSTICE

U.S. CIRCUIT JUDGE NOMINATING COMMISSION, SIXTH CIRCUIT PANEL

Meeting

The first meeting of the nominating panel for the Sixth Circuit of the United States Circuit Judge Nominating Commission will be held in Louisville, Kentucky on the 28th Floor of Citizens Plaza, Fifth and Jefferson Streets (40202) at 11:00 a.m. on January 22, 1979. The morning session will be open to the public. The afternoon session will be devoted to discussion of candidates and will be closed to the public pursuant to Pub. L. 92-463, Section 10(D) as amended. (CF 5 U.S.C. 552b (c)(6).)

The second meeting will be held on February 6, 1979, at 9:30 a.m. in Room 501 of the U.S. Post Office and Federal Building, Cincinnati, Ohio. The purpose of this meeting is to consider nominations and the meeting will be closed to the public pursuant to Pub. L. 92-463, Section 10(D) as amended. (CF 5 U.S.C. 552b (c)(6).) If necessary, the meeting will be continued through February 7, 1979.

JOSEPH A. SANCHES,
Advisory Committee Management Officer.

DECEMBER 29, 1978.

[FR Doc. 79-363 Filed 1-3-79; 8:45 am]

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[4410-01-M]

U.S. CIRCUIT JUDGE NOMINATING COMMISSION, SEVENTH CIRCUIT PANEL

The second meeting of the nominating panel for the Seventh Circuit of the United States Circuit Judge Nominating Commission will be held on January 18 and 19, 1979 at 9:00 a.m., in the Concourse Hotel, One West Dayton Street, Madison, Wisconsin 53703.

These meetings will be closed to the public pursuant to Pub. L. 92-463, Section 10(D) as amended. (CF U.S.C. 552b (c)(6).)

JOSEPH A. SANCHES,
Advisory Committee Management Officer.

DECEMBER 29, 1978.

[FR Doc. 79-364 Filed 1-3-79; 8:45 am]

[4410-01-M]

NATIONAL COMMISSION FOR THE REVIEW OF ANTITRUST LAWS AND PROCEDURES

Meeting

In accordance with Executive Order 12022 and section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 86 Stat. 770), notice is hereby given that the National Commission for the Review of Antitrust Laws and Procedures will hold a public meeting on Tuesday, January 16, 1979 beginning at 10:30 a.m. in Room 2141 Rayburn House Office Building, Independence and South Capitol Street, S.W., Washington, D.C.

The purpose of the meeting is to adopt the final report tentatively approved at its meeting on December 18, 1978.

Dated: December 29, 1978.

WENDELL B. ALCORN, Jr.,
Special Counsel.

[FR Doc. 79-337 Filed 1-3-79; 8:45 am]

[7535-01-M]

NATIONAL CREDIT UNION ADMINISTRATION

[Reg. Z]

TRUTH IN LENDING

Joint Notice of Statement of Enforcement Policy

CROSS REFERENCE: For a notice of statement of enforcement policy regarding truth in lending, Regulation Z, issued jointly by the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the National Credit Union Administration, see FR Doc. 79-340 in the "Notices" section of this issue. Refer to the table of contents under "Federal Reserve Board" for the correct page number.

[4910-58-M]

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 79-1]

ACCIDENT REPORT; SPECIAL STUDY; SAFETY RECOMMENDATIONS

Availability

AIRCRAFT ACCIDENT REPORT

The National Transportation Safety Board has completed its investigation of the crash of a National Airlines Boeing 727-235 into Escambia Bay last May 8 while executing a surveillance radar approach to runway 25 of the Pensacola (Fla.) Regional Airport. The Safety Board's formal investigation report, No. NTSB-AAR-78-13, was released December 27.

Investigation showed that the aircraft crashed about 3 mi from the east end of runway 25 and came to rest in about 12 ft of water. There were 52 passengers and a crew of six on board; three passengers were drowned. The accident occurred during the hours of darkness and in instrument meteorological conditions.

The Safety Board determined that the probable cause of this accident was the flightcrew's unprofessionally conducted nonprecision instrument approach, in that the captain and the crew failed to monitor the descent rate and altitude, and the first officer failed to provide the captain with required altitude and approach performance callouts. The crew failed to check and utilize all instruments available for altitude awareness, turned off the ground proximity warning system, and failed to configure the aircraft properly and in a timely manner for the approach. Contributing to the accident was the radar controller's failure to provide advance notice of the start-descent point which accelerated the pace of the crew's cockpit activities after the passage of the final approach fix.

PIPELINE SPECIAL STUDY

In releasing its special study, "Safe Service Life for Liquid Petroleum Pipelines," the Safety Board strongly urged quick action on regulatory proposals of the U.S. Department of Transportation (DOT) for tighter regulation of liquefied petroleum gas (LPG) pipelines. Noting the great losses arising from LPG accidents, the Safety Board has been seeking new safety measures since 1971.

This study, Report No. NTSB-PSS-78-1 released December 14, includes the results of an analysis of liquid pipeline accident data collected over a 9-year period (1968 to 1976) by DOT. The purpose of the analysis was to determine if a model could be developed to help determine when a liquid pipeline has become so hazardous that its operation should be modified or terminated. Also, the analysis highlights significant trends from the causes of pipeline leaks and accidents. The analysis revealed that sufficient data has not been collected to support a model of this sort. The report presents summarized data that will aid in the evaluation of current damage prevention programs and the assessment of accident trends in such areas as the cause and frequency of leaks and the fatalities or injuries resulting from the leaks.

The study showed that LPG accidents accounted for 10 percent of the 2,881 accidents in all liquid pipeline operations in the 9-year period. LPG accidents caused 62 percent of the 55 fatalities and 51 percent of the 127 injuries. The study also disclosed that in the LPG accidents, nearly five nonemployees have been killed for every employee fatality, and three nonemployees have been injured for every injured employee. Board investigations have shown that the public normally is the first to be exposed to leaked LPG and that such usually harmless actions as starting a car or operating a light switch often set off LPG explosions.

As a result of this study, recommendations were made to DOT, to the American Petroleum Institute, and to the Governors of the States of Texas and Oklahoma to improve DOT techniques for gathering and analyzing data, to strengthen Federal regulations concerning LPG pipelines, and to promote and encourage participation in statewide "one-call" systems. Under date of October 25, 1978, the Safety Board specifically recommended that:

DOT's Office of Pipeline Safety Operations, Materials Transportation Bureau—

Publish a plan that describes how the OPSO will use accident report data to formulate safety regulations and to develop a safe service life model for pipelines. (P-78-58)

Redesign the Liquid Pipeline Accident Report System to include data similar to that collected in the Natural Gas Accident Reporting System. (P-78-59)

Provide clear instructions and definitions to insure the accuracy and consistency of the data recorded on the liquid pipeline accident report forms. (P-78-60)

Computerize the redesigned Liquid Pipeline Accident Report System. Include the capability to: (a) Compute the historical accident/leak rate-per-mile of pipe for each carrier as well as the nationwide rate; (b) make periodic comparisons of each carrier's accident/leak rate against the nationwide accident/leak rate; (c) compute and plot selective accident/leak rates based on pipeline parameters such as age, specified yield strength, depth of cover, product transported, etc.; (d) selectively retrieve and summarize accident/leak data pertaining to any given accident or classification of accidents; and (e) produce summarized reports reflecting the above-listed information. (P-78-61)

Conduct audits of the completed liquid pipeline accident reports to insure that mandatory data is provided. (P-78-62)

Expedite completion of the rulemaking to strengthen the Federal regulations concerning LPG pipelines. (P-78-63)

American Petroleum Institute—

Urge member companies to participate in and encourage improvement in any "one-call" system in areas where their pipelines operate, and help organize systems where they do not exist. (P-78-64)

Governors of the States of Oklahoma and Texas—

Take action to develop and implement statewide "one-call" excavation notification systems. (P-78-65)

PIPELINE SAFETY RECOMMENDATIONS

At 1:30 p.m., c.d.t., on June 12, 1978, a 10-inch natural gas pipeline owned by the Gas Service Company of Kansas City, Mo., was struck and ruptured by excavation equipment during construction of a sewer in Kansas City. The natural gas, at more than 110-psig pressure, escaped from a 5-inch-long hole in the pipeline. At 3:15 p.m., the gas ignited while two gas company employees were cleaning the pipe with hand tools before installing a pipe repair clamp. Both men were burned seriously.

The Safety Board has completed its investigation of the accident and will make available to the public its formal report. The report will provide factual information, analysis, conclusions, and the probable cause of the accident. Announcement will be made in the FEDERAL REGISTER when the report is to be released.

As a result of its investigation of this accident, the Safety Board on December 29 recommended that:

Gas Service Company of Kansas City—

Improve liaison with the municipalities and consulting engineers within its operating area and request that the gas company be notified of all preconstruction meetings to determine if gas facilities will be affected by the construction activities. (P-78-68)

Improve communications and cooperation between its engineering and field personnel to insure that responsible gas company employees are aware of a contractor's questions regarding gas facilities as the contractor's work progresses. (P-78-69)

Require its personnel to record all information requested on the Pipe Condition Report Form. Any pipeline depths of less than the minimum required in 49 CFR 192.237 should be carefully noted on pipeline maps and other records. (P-78-70)

Revise its emergency plan to show what segments of a pipeline can be taken out of service for repairs, and establish the maximum safe operating pressures for repairs to such pipelines. (P-78-71)

Revise its emergency plan to include all of the liaison and coordination requirements of 49 CFR 192.615, and provide training material to local fire departments about the hazards of extinguishing gas fires. (P-78-73)

Include in company maintenance procedures the requirement that vegetation on pipeline rights-of-way and around line marker signs be cleared before construction equipment is used near gas pipelines. (P-78-73)

Require the use of flame-retardant material in the uniforms of personnel required to work in gaseous atmospheres. (P-78-74)

Train its distribution repair crews to work safely on high-pressure transmission pipelines. (P-78-75)

Torson Construction Company of Kansas City—

Protect pipelines to be crossed during construction by verifying the location, elevation, and dimensions of all known or suspected underground obstructions ahead of the work and by reviewing all requirements in the specifications with its field supervisor. (P-78-76)

Establish an early liaison with the gas company before commencement of construction projects and coordinate the field activities of the construction crews to afford maximum protection of pipeline facilities. (P-78-77)

Require its employees to precisely establish the horizontal and vertical locations of gas pipelines by means of hand-excavated test holes before allowing heavy excavation equipment in the area of a pipeline crossing. (P-78-78)

Occupational Safety and Health Administration, U.S. Department of Labor—

Establish standards for gas industry safety clothing to protect workers repairing leaking gas pipelines where ignition of the gas could cause serious burns. (P-78-79)

Governor, State of Missouri—

Amend State law to specify the use of hand-excavated test holes, or other proven, accurate method, to establish a precise depth or location of the underground facility, and to establish a wide buffer zone beside a pipeline location, over which heavy equipment cannot operate, to allow for errors in establishing the approximate location of underground facilities. (P-78-80)

Require municipalities to incorporate the amended State "Underground Facility Safety and Damage Prevention Act" in the specifications of construction projects which use large excavating equipment and during which gas pipeline facilities will be crossed, and require that the contractor have the specifications with the State law requirements at the job site for ready reference by the workers. (P-78-81)

NOTE: Single copies of the accident report, the special study, and the Board's recommendation letters are available free of charge. All requests for copies must be in writing, identified by report or recommendation number. Address inquiries to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

Multiple copies of the accident report and the special study may be purchased by mail from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va., 22151.

(Secs. 304(a)(2) and 307 of the Independent Safety Board Act of 1974 (Pub. L. 93-633, 88 Stat. 2169, 2172 (49 U.S.C. 1903, 1906)))

MARGARET L. FISHER,
Federal Register Liaison Officer.

DECEMBER 29, 1978.

[FR Doc. 79-356 Filed 1-3-79; 8:45 am]

[3110-01-M]

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

ANTI-INFLATION MEASURES AFFECTING FEDERAL CONTRACTS

Policy Statement

AGENCY: Office of Federal Procurement Policy (OFPP), Office of Management and Budget.

ACTION: OFPP policy letter.

SUMMARY: This document contains an OFPP Policy Statement that will be incorporated into the Defense Acquisition Regulations (DAR) and the Federal Procurement Regulations (FPMR). The President has determined that the Government will benefit by contracting only with companies which cooperate in the fight against inflation. This means that whenever possible, the Government will refrain from awarding contracts to companies which do not cooperate in anti-inflation efforts by keeping price and wage increases within standards established by the Council on Wage and Price Stability. This policy is applicable to Federal prime contractors and first tier subcontractors. Initially, the policy will be limited to transactions in excess of $5 million. This dollar threshold may be lowered at a later date.

EFFECTIVE DATE: February 15, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. LeRoy J. Haugh, Associate Administrator for Regulations and Procedures, (202) 395-6166.

SUPPLEMENTARY INFORMATION: On Wednesday, November 8, 1978, there was published for comment in the FEDERAL REGISTER, 43 FR 52032, a proposed rule entitled Wage and Price Standards for Federal Contracts. Consideration has been given to all comments received which resulted in re-

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finement reflected in the final rule set forth below. As noted therein, this policy issuance will be incorporated into the Defense Acquisition Regulation and the Federal procurement Regulations.

This policy letter is being promulgated under Section 6 of Pub. L. 93-400 (41 U.S.C. 405).

LESTER A. FETTIG,
Administrator.

DECEMBER 27, 1978.

[Policy Letter No. 78-6]

TO: THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

SUBJECT: Wage and Price Standards for Federal Contractors

A program of voluntary wage and price standards was announced by President Carter on October 24, 1978. The President directed that Federal procurement of supplies and services be conducted so as to recognize anti-inflationary efforts and to benefit Federal contracting by doing business with those firms which limit wage and price increases. Application to executive agencies and military departments was provided by Executive Order 12092 of November 1, 1978.

To implement this program, the following provisions will be incorporated into the Defense Acquisition Regulation (DAR) and the Federal Procurement Regulations (FPR) (FPR citations are within parentheses). The provisions are specifically designed to avoid placing administrative burdens on the acquisition process. Contracting officers, auditors, or other acquisition officials are cautioned that it is not their responsibility to determine if an offeror or contractor is or is not in compliance with the wage and price standards.

DAR 1-340 (FPR Sec. 1-1.340) (new):

"1-340 (Sec. 1-1.340) Prohibition Against Inflationary Procurement Practices.

(a) *Authority.* Executive Order 12092, November 1, 1978, (43 FR 51375, November 3, 1978) requires that procurement of personal property and services by executive agencies and military departments be accomplished at prices and wage rates which are noninflationary.

(b) *Acquisition Policy.* The Government will, to the extent provided in paragraph (d) below, purchase goods and services only from companies, as companies are defined by the published standards of the Council on Wage and Price Stability (CWPS), in compliance with wage and price standards reflected in Executive Order 12092 of November 1, 1978, and the Wage and Price Standards issued by CWPS (6 CFR Part 705, Appendix, and Part 706). The company which signs the contract or solicitation is considered to be certifying compliance for all units contained within the business structure of that company. Companies determined by CWPS, after notice and opportunity to be heard, to be in noncompliance with the standards will be considered noncompliant companies.

(c) *Compliance Monitoring by CWPS.* The CWPS will monitor overall compliance with the wage and price standards (6 CFR Part 705, Appendix, and Part 706). The CWPS will publish in accordance with procedures designed to ensure fairness and due process the names of companies which are not in compliance with the standards. The names of those determined to be in noncompliance with the standards will be republished in Defense Acquisition Circulars (FPR Bulletins) for the convenience of contracting officers. Contracting officers, auditors and other acquisition officials are cautioned that it is not their responsibility to determine if an offeror or contractor is or is not in compliance with the wage and price standards.

(d) *Noncompliant Companies.*

1. Companies determined by CWPS to be in noncompliance shall be ineligivle for contract awards anticipated to exceed $5 million resulting from solicitations or other actions issued on or after February 15, 1979, unless the certification provision(s) is waived as provided for in paragraph (i). This dollar threshold may be lowered at a later date.

2. companies listed by CWPS as not being in compliance shall not be considered to be in compliance until CWPS removes them from the list of noncompliant companies or otherwise determines that they are in compliance.

(e) *Sales Contrants and Foreign Contracts and Subcontracts.* This paragraph does not apply to sales contracts awarded by the Government, or to contracts or subcontracts that are to be performed wholly outside the United States, as that term is defined in 10 U.S.C. Sec. 101 (1970), with labor recruited and material purchased outside the United States.

(f) *Certification Provisions.*

1. *Solicitation Provision.* All bids and proposals received as a result of solicitations issued on or after February 15, 1979, where it is expected that the award will exceed $5 million or where cumulative orders expected to be placed under an indefinite delivery type contract award will exceed $5 million, shall include the following certification. The certification shall be accepted by the contracting agency unless the company has been determined by CWPS to be noncompliant. Any CWPS determination is not subject to protest to the General Accounting Office.

CERTIFICATION—WAGE AND PRICE STANDARDS (1979 JAN)

(Applicable to awards in excess of $5 million, and awards of indefinite delivery type contracts under which cumulative orders are expected to exceed $5 million.)

(a) By submission of this bid or offer, the bidder or offeror certifies that he is in compliance with the Wage and Price Standards issued by the Council on Wage and Price Stability (6 CFR Part 705, Appendix, and Part 706).

(b) The clause entitled, "Certification—Wage and Price Standards," set forth elsewhere in this solicitation, shall be incorporated in any resulting contract except where waived by agency head involved.

(End of Notice)

2. *Contract Provision.* All contracts, including indefinite delivery type contracts, resulting from solicitations issued on or after February 15, 1979 expected to exceed $5 million, and all orders or new work added by supplemental agreements to existing contracts in excess of $5 million executed on or after February 15, 1979, will contain the following clause. The certification shall be accepted by the contracting agency unless the company has been determined by CWPS to be noncompliant.

CERTIFICATION—WAGE AND PRICE STANDARDS (1979 JAN)

(This clause is applicable if the award, an order under an existing contract or a supplemental agreement for new work is in excess of $5 million, or the expected cumulative value of orders (when the contract is of the indefinite delivery type) is in excess of $5 million.)

(a) The contractor hereby certifies that, as of the date of this action, he is in compliance with the Wage and Price Standards issued by the Council on Wage and Price Stability (6 CFR 705, Appendix, and Part 706).

(b) If it is later determined after notice and opportunity to be heard, that the contractor was willfully not in compliance with such standards as of the date of this certification, then this contract may be terminated in accordance with the provisions of the Termination for Default Clause.

(c) Should the Government determine that termination for default would not be in the public interest, the contractor agrees that he will accept an equitable reduction of the contract price or cost allowance and profit or fee, as appropriate under the circumstances.

(d) The contractor shall require a Certification—Wage and Price Standards limited to (a) above, as a condition of award of any first tier subcontract which exceeds $5 million. The contractor further agrees that should any price adjustment in subcontract prices result from the operation of this provision as to subcontracts, he will advise the contracting officer and an equitable adjustment of the contract price will be made. The operation of this provision in any subcontract shall not excuse the contractor from performance of this contract in accordance with its terms and conditions. Any waiver or relaxation of the certification requirements with respect to such first-tier subcontractors can only be made by the agency head involved.

(End of Clause)

(g) *Enforcement.*

1. A contractor who has certified as provided in paragraph (f) above and who has been determined, after notice and opportunity to be heard, to have been willfully not in compliance with the wage and price standards as of the date of the certification, may be terminated for default in accordance with the contract provision in paragraph (f)(2) above.

2. Any such contractor will be ineligible for any further Federal contracts and subcontracts in excess of $5 million unless such ineligibility is waived by the agency head in accordance with paragraph (h) below.

3. If the contractor has been determined to be in breach of contract under (f) above, he shall be notified of such determination and given the opportunity within 10 days, to apply for waiver of default termination and the application of some lesser penalty. The contracting officer shall furnish his decision and the reasons therefore, within 10 days after receipt of the application.

(h) *Waiver of Termination for Default and of Ineligibility for Federal Contracts and Subcontracts.* Termination for default or a determination of ineligibility for Federal contracts and subcontracts may be waived by the agency head if he determines in writing that:

(i) the agency's need for the product or service is essential to National security or public safety, and there are no alternative sources of supply, or that seeking alternative sources is not feasible because of urgency of requirements, or disruption of essential program functions; or

(ii) such action would result in severe financial hardship and threaten the contractor's or subcontractor's ability to survive; or

(iii) the contractor or subcontractor agrees to come into compliance with the wage and price standards and to make any reduction of the contract price that is equitable in the circumstances.

(i) *Waiver of Certification.*

1. Waiver of the contract certification should be considered only in situations where the Government cannot forego or postpone a procurement because of an urgent National security or public safety requirement and where there are no alternative sources or that seeking alternative sources is not feasible because of urgency of requirements, or disruption of essential program functions.

2. Such waivers will be granted only by the agency head involved, and only after thoroughly exhausting all reasonable alternatives.

3. Waivers shall be in writing, and a copy of such waiver shall be forwarded within 10 days to the Administrator for Federal Procurement Policy.

4. Prime contractors will submit requests for subcontract award waivers to the Contracting Officer."

LESTER A. FETTIG,
Administrator.

[FR Doc. 79-426 Filed 1-3-79; 8:45 am]

[3190-01-M]

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

ADVISORY COMMITTEE FOR TRADE NEGOTIATIONS

Notice of Meeting

Pursuant to the Federal Advisory Committee Act, 5 U.S.C. App. (the Act), notice is hereby given that a meeting of the Advisory Committee for Trade Negotiations will be held Thursday, January 25, 1979, from 2:00 p.m. to 5:00 p.m. at the Office of the Special Representative for Trade Negotiations, 1800 G Street N.W., Washington, D.C.

The purpose of this meeting will be to review and discuss the status of, and the United States strategy and objectives for, the multilateral trade negotiations currently underway in Geneva.

In accordance with section 10(d) of the Act, the meeting will not be open to the public because information falling within the purview of 5 U.S.C. 552b(c)(1) (the exception to the Government in the Sunshine Act for matters specifically required by Executive order to be kept secret in the interest of foreign policy) will be reviewed and discussed.

More detailed information can be obtained by contacting Phyllis O. Bonanno, Executive Director, Advisory Committee for Trade Negotiations, Office of the Special Representative for Trade Negotiations, 1800 G Street, Room 725, Washington, D.C. 20506.

PHYLLIS O. BONANNO,
Executive Director, Advisory Committee for Trade Negotiations.

ADVISORY COMMITTEE FOR TRADE NEGOTIATIONS

DETERMINATION OF CLOSING OF MEETING

The meeting of the Advisory Committee for Trade Negotiations (the Advisory Committee) to be held Thursday, January 25, 1979, from 2:00 p.m. to 5:00 p.m. at the Office of the Special Representative for Trade Negotiations, 1800 G Street, N.W., Washington, D.C., will involve a review and discussion of the status of, and United States strategy and objectives for, the multilateral trade negotiations currently underway in Geneva. Such review and discussion will deal with information properly classified pursuant to Executive Order 11652 and specifically required by such order to be kept secret in the interests of national security (i.e., the conduct of foreign relations) of the United States. All members of the Advisory Committee have appropriate security clearances. Accordingly, I hereby determine that this meeting of the Advisory Committee will be concerned with matters listed in section 552b(c)(1) of Title 5 of the United States Code.

ROBERT S. STRAUSS,
Special Representative for Trade Negotiations.

[FR Doc. 79-358 Filed 1-3-79; 8:45 am]

[4710-07-M]

DEPARTMENT OF STATE

[Public Notice CM-8/142]

SHIPPING COORDINATING COMMITTEE SUBCOMMITTEE ON SAFETY OF LIFE AT SEA

Meeting

The working group on ship design and equipment of the Subcommittee on Safety of Life at Sea, a subcommittee of the Shipping Coordinating Committee, will hold an open meeting at 9:30 a.m. on Wednesday, January 17, 1979, in Room 9232 of the Department of Transportation, 400 Seventh Street, S.W., Washington, D.C.

The purpose of this meeting will be to consider the following items concerning the Code of Safety for Nuclear Merchant Ships:

Review the various angles of heel and list which are used to describe limited conditions throughout the Code.

Discuss the adequacy of the quality assurance measures currently in the Code.

Discuss comparison of Code with OECD General Review Paper.

Requests for further information should be directed to Commander John Deck III, United States Coast Guard, (G-MMT-4/82), telephone number (202) 426-2197.

The Chairman will entertain comments from the public as time permits.

RICHARD K. BANK,
Chairman.

DECEMBER 26, 1978.

[FR Doc. 79-352 Filed 1-3-79; 8:45 am]

[4910-14-M]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 78-179]

ALTERATION OF MEMORIAL BRIDGE ACROSS THE CLEARWATER RIVER, MILE 2.0, AT LEWISTON, IDAHO

Supplemental Notice of Public Hearing

The Commandant has authorized a public hearing to be held by the Commander, Thirteenth Coast Guard District in conjunction with the State of Idaho Transportation Department. The hearing will be held on Thursday evening, February 1, 1979, at 7:30 p.m., in the Lewiston Community Center, 1424 Main Street, Lewiston, Idaho. Notice of this Public Hearing was first published on December 21, 1978 in 43 FEDERAL REGISTER, page 59565. In that notice no reference was made to the no-build alternative. The purpose of this supplemental notice is to inform all interested parties that the Coast Guard has considered this alternative. This alternative is discussed in the draft Environmental Impact Statement and comments on this alternative will be received at the public hearing.

Also, the zip code for the Commander, Thirteenth Coast Guard District should read 98174.

(42 U.S.C. 4321 et seq., 49 U.S.C. 1653(f); 33 U.S.C. 511, et seq., 49 U.S.C. 1655(g)(3); 33 CFR Part 116 and 49 CFR 1.46(c)(6))

Dated: December 28, 1978.

F. P. SCHUBERT,
Captain, U.S. Coast Guard, Acting Chief, Office of Marine Environment and Systems.

[FR Doc. 79-362 Filed 1-3-79; 8:45 am]

[4910-22-M]

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

COMMERCIAL MOTOR CARRIER SAFETY INSPECTION AND WEIGHING DEMONSTRATION PROGRAM

Invitation for State Interest

AGENCY: Federal Highway Administration, DOT.

ACTION: Invitation for State Interest in the Demonstration Program.

SUMMARY: This notice announces the Federal Highway Administration's Commercial Motor Carrier Safety Inspection and Weighing Demonstration Program and invites interested States to respond, in writing, indicating their willingness and capability to participate.

FOR FURTHER INFORMATION CONTACT:

Russell G. Toth, Hazardous Materials Liaison Officer, or George A. Whitney, Transportation Safety Analyst, Regulations Division, Bureau of Motor Carrier Safety, 202-426-9767; or David C. Oliver, Attorney, Motor Carrier and Highway Safety Law Division, Office of the Chief Counsel, 202-26-0824, Federal Highway Administration, U.S. Department of Transportation, 400 Seventh Street SW., Washington, D.C. 20590.

SUPPLEMENTARY INFORMATION: For years concern has been expressed among parties in the private and public sector over the involvement of commercial motor vehicles in highway accidents. More recently, the Congress and others have raised questions regarding the harmful effects of overweight trucks on the safety and the structural integrity of the Nation's highways and bridges and the need to protect an already substantial State and Federal investment.

The buying power of funds available to construct and maintain the Nation's highways is dwindling while the need for increased maintenance is soaring. More effective control of overweight trucks can partially alleviate this rate of increase. Criticisms have already been levied challenging the effectiveness of the present Federal/State approach regarding the inspection of trucks and their drivers and related State truck weighing activities.

Presently, Federal and State Governments share mutual responsibilities for protecting the public from the inherent risks of motor carrier operations. Federal responsibility to regulate motor carrier commerce between the States came into being with enactment of the Motor Carrier Act of 1935 (Part II, Interstate Commerce Act, 49 U.S.C. 304), the Federal Motor Carrier Safety Regulations, 49 CFR 390-397), and are implemented under Part II of the Act. State responsibilities are contained in various State statutes and rules pertaining to the regulation and control of motor vehicles under police, safety, and health authorities.

The Federal Government does not conduct weighing operations; however, States are required under 23 U.S.C. 141 to certify enforcement of Federal size and weight limitations. The States vary widely to the extent in which they weigh motor vehicles and enforce maximum weight laws. Some States employ several permanent fixed scales, while others use few or no permanent scale facilities at all. Hours of scale operations also vary widely and enforcement ranges from strict to lax resulting in varying degrees of effectiveness by State and by installation. Fragmented Federal and State authorities, exercising varying levels of program activity, resulted from a single Federal safety regulatory program which covers only interstate motor carriers, and non-uniform State regulations covering only certain aspects of intrastate operations. Many of the present activities conducted independently by Federal and State Governments, exhibit interrelated interests, compatible objectives, and similar techniques. These activities are often carried out simultaneously at the same locations; for example, truck weighing by State personnel and vehicle/driver safety inspection by Federal employees at State scale facilities with the assistance of State traffic enforcement personnel.

As authorized in the Motor Carrier Act of 1935, the Federal Government continues to conduct uniform safety inspection of vehicles and drivers engaged in interstate motor carrier operations. This activity is performed by the FHWA's Bureau of Motor Carrier Safety in implementing the Federal Motor Carrier Safety Program. Also, a few States manage active inspection programs, while others conduct minimal or token programs, or may offer no safety inspection systems at all.

It is believed that a Federal financial assistance program, utilizing solely State forces and uniform procedures to conduct driver/equipment inspections and expanded vehicle weight measurement activities, will result in more efficient safety management and successfully address the serious problem of unsafe or overweight trucks operating on public highways.

COMMERCIAL MOTOR CARRIER SAFETY INSPECTION AND WEIGHING DEMONSTRATION PROGRAM

Public Law 95-335, Department of Transportation and Related Agencies Appropriation Act, 1979, enacted August 4, 1978, provides $3,000,000 to initiate the Demonstration Program. Specifically, the Demonstration Program is designed to promote the establishment and maintenance of motor carrier safety programs, and the adoption of consistent safety standards for both intrastate and interstate motor carrier commerce.

The orgainzation within the Department of Transportation having overall responsibility for the Demonstration Program is the FHWA's Bureau of Motor Carrier Safety. However, the detailed planning, programming, monitoring and evaluation of the program shall be the result of a coordinated effort by headquarters and field offices and participating States.

Presently, it is envisioned that the FHWA, pursuant to Pub. L. 95-224, Federal Grant and Cooperative Agreement Act of 1977, will enter into a "cooperative agreement" to fund one to three States for a 3-year period to demonstrate the extent to which benefits can be obtained as a result of expanded State activity in the weighing and inspection of trucks engaged in intrastate and interstate commerce. Upon completion and successful results, major elements of the Demonstration Program could be advanced as an on-going program to include any number of States subsequent to Congressional approval.

In satisfaction of Congressional intent, participating States must contribute to the cost of the program. Thus, a State must provide a core staff of personnel engaged in vehicle weighing and driver/equipment inspection activities. In furtherance of its contributory obligation, a State's expenditures necessary to conduct its current (base) level of effort in these areas will be required to be maintained. Such expenditures will not be eligible for up to 100 percent Federal funding.

The cooperative agreement will serve as the legal instrument to ensure that the optimal working relationship exists between the States and the FHWA and will stipulate the mutually agreed upon rights and responsibilities of each party. Additionally, the cooperative agreement will specify the quantity and content of State activity required during the Demonstration period and will address funding procedures for authorization, billing, payment, accounting and auditing.

The Demonstration Program will include, at least, the following elements and require a participating State to:

- *Conduct Commercial Intrastate and Interstate Vehicle Weighing Activities*

A State shall provide a core staff of personnel presently conducting vehicle weighing activities and with additional personnel and equipment funded with Federal assistance:

- Expand the hours of operation at existing State fixed scale facilities with 24 hour operations at selected facilities and expand the use of additional portable scale weighting operations;
- Weigh as many vehicles as practicable during hours of operation at specified locations; and
- Identify overweight vehicles and remove them from the public highways or impose other appropriate State sanctions to include off-loading when necessary.

- *Conduct Commercial Intrastate and Interstate Driver/Equipment Inspection Activities*

A State shall provide a core staff of personnel presently conducting driver/equipment inspection activities and with additional personnel and equipment funded with Federal assistance:

- Train State personnel in BMCS prescribed inspection procedures;
- Expand the hours of operation at existing and additional inspection locations;
- Identify imminently unsafe vehicles and remove them from the public highways;
- Identify other equipment defects and driver violations and require appropriate remedial action; and
- Impose State sanctions as applicable.

In addition, a participating State will be required to forward the results of such activities on a periodic basis utilizing prescribed reporting procedures for subsequent evaluation by headquarters and field offices.

EVALUATION OF PROGRAM EFFECTIVENESS

In general, a participating State will determine which equipment and drivers to inspect using two separate techniques; a prescribed visual selection procedure, conducted routinely and a modified random sampling procedure, conducted periodically. The visual selection procedure will assist State forces in the identification and removal of unsafe vehicles and drivers from the public highways while the modified random sampling procedure will, in addition, provide useful information for making statistical projections.

Overall, the evaluation will demonstrate the extent to which benefits can be obtained and determine if the program is effective in promoting a decline in the number of unsafe vehicles and drivers operating on the public highways. It is recognized that the planned 3-year demonstration period may be too short to establish a trend in accident reduction and related fatalities, injuries, and property damage associated with interstate trucks. However, an inference can be drawn that upon demonstrating a decline in the number (and percentages) of unsafe drivers and pieces of equipment and overweight vehicles identified during the course of the program's life, a positive influence will have been made by encouraging motor carriers to promote their own safety programs. The program's time frame may be better suited for evaluation of intrastate operations and such evaluation will be undertaken as well. Moreover, successful weighing and inspection results will substantiate any increased benefits that may be derived from a State's adoption of consistent safety standards for both intrastate and interstate motor carrier commerce.

A State will collect information which will be evaluated to determine if the program:

1. Increases the detection and removal of overweight trucks operating on the public highways;
2. Increases the detection and removal of mechanically unsafe trucks operating on the public highways;
3. Increases the detection and removal of unsafe truck drivers violating qualifications and driving limitations;
4. Increases highway safety and reduces the frequency and severity of truck-involved accidents, particularly those relating to intrastate operations;
5. Decreases road damage/axle load ratios to protect an already substantial investment in the Nation's highways; and
6. Increases awareness and activity of motor carriers to adopt and enforce consistent safety standards for both intrastate and interstate motor carrier commerce.

Moreover, the Demonstration Program will be evaluated to determine if a participating State can realize sufficient additional revenues from discovery and prosecution of parties operating unsafe or overweight commercial trucks in violation of State law to aid in offsetting the program's costs.

SELECTION OF STATES

This Notice shall serve as the formal invitation for States, interested in participating in the Demonstration Program, to accept in writing.

In addition to a State's willingness to participate in the program, a State must have certain capabilities. These capabilities must exist prior to the signing of a cooperative agreement with the FHWA.

To assist the FHWA in determining if a State is interested and tentatively qualified, a State should determine if it has:

1. A core staff of personnel conducting truck weighing and driver/equipment inspection activities;
2. Fixed weighing facilities (permanent scales) with parking space to accomodate trucks removed from the public highways;
3. Authority to require off-loading of overweight trucks operating in violation of State law;
4. Adopted, as a minimum, the Federal Motor Carrier Safety Regulations (FMCSR) 49 CFR, Parts 390 through 397;
5. Authority to require both private and for-hire carriers operating within its boundaries to comply with its motor carrier safety laws and regulations;
6. Authority to impose penalties (fines and other sanctions) for trucks and drivers found to be operating in violation of its laws and regulations; and
7. A management information system and personnel capable of providing weighing, inspection and accident data.

Each State indicating its belief that it can respond affirmatively to all of the above items will be placed on a Candidate State List. Candidate States will receive a request for proposal (RFP) containing additional program information. After receipt of the RFP, a Candidate State will be requested to submit a formal plan illustrating how it would intend to achieve the program's objectives and perform the required tasks. A Candidate State's detailed plan will be evaluated by the FHWA in conformance with the evaluation criteria contained in the RFP. Candidate States which successfully meet the evaluation criteria will enter into negotiations with the FHWA. Subsequent to these negotiations, one to three States will be selected for participation in the Demonstration Program.

A State may determine that it does not have all of the capabilities at this time, but would be willing to acquire them. In this case, a State is requested to indicate the date by which the presently lacking capability would exist. These States will receive an RFP with an indication of the capability to be corrected and other pertinent stipulations. The FHWA can give no assurance that a State, upon merely correcting a specific deficiency will ultimately participate in the Demonstration Program. As indicated previously, a participant State will be selected based upon further evaluation and negotiation with the FHWA.

A State, upon not accepting within the specified time limit, will be considered as disinterested and will not receive further consideration in the Demonstration Program.

If this invitation is accepted, it must be in writing, signed by a singularly responsible State official, and submitted on or before February 5, 1979. All replies will be acknowledged.

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State acceptances shall be forwarded to Robert A. Kaye, Director, Bureau of Motor Carrier Safety, Federal Highway Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590.

(49 U.S.C. 304, 49 U.S.C. 1655, 49 CFR 1.48.)

Issued on: December 29, 1978.

ROBERT A. KAYE,
Director, Bureau of Motor Carrier Safety.

[FR Doc. 79-338 Filed 1-3-79; 8:45 am]

[4910-06-M]

Federal Railroad Administration

MINORITY BUSINESS RESOURCE CENTER ADVISORY COMMITTEE

Meeting

Pursuant to section 19(a) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463); 5 U.S.C. App. I), notice is hereby given of a meeting of the Minority Business Resource Center Advisory Committee to be held January 26, 1979, at 10 a.m. until 3 p.m. at the Department of Transportation, 400 Seventh Street, Southwest, Room 4234, Washington, DC 20590.

The agenda for the meeting is as follows:

- Expanding Market Opportunities
- MBRC Interim Assesment of Program Needs

Attendance is open to the interested public but limited to the space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to attend and persons wishing to present oral statements should notify the Minority Business Resource Center not later than the day before the meeting. Information pertaining to the meeting may be obtained from Mr. Harvey C. Jones, Advisory Committee Staff Assistant, Minority Business Resource Center, Federal Railroad Administration, 400 Seventh Street, Southwest, Washington, DC 20590, telephone (202) 472-2449. Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, DC, on December 27, 1978.

KENNETH E. BOLTON,
Director.

[FR Doc. 79-365 Filed 1-3-79; 8:45 am]

[4910-60-M]

Materials Transportation Bureau

APPLICATIONS FOR EXEMPTIONS

Grants and Denials

AGENCY: Materials Transportation Bureau, DOT.

ACTION: Notice of Grants and Denials of Applications for Exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given of the exemption granted November 1978. The modes of transportation involved are identified by a number in the "Nature of Exemption Thereof" portion of the table below as follows: 1-Motor vehicle, 2-Rail freight, 3-Cargo-vessel, 4-Cargo-only aircraft, 5-Passenger-carrying aircraft.

Application numbers prefixed by the letters EE represent applications for Emergency Exemptions.

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
		RENEWALS		
868-X	DOT-E 868	U.S. Department of Defense, Washington, D.C.	49 CFR 173.3(a), 173.7(a), 174.8, 174.10, 174.104(f).	To authorize shipment of certain Class A and Class B explosives without certain carrier inspections. (modes 1, 2)
970-X	DOT-E 970	U.S. Department of Defense, Washington, D.C.	49 CFR 173.21(b), 173.300, 173.301.	To ship a flammable poisonous gas in DOT Specification 3AA2015 or 3AA2400 cylinders. (modes 1, 2)
2462-X	DOT-E 2462	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	49 CFR 173.73(b)	To ship a Class A explosive in glass bottles overpacked in wooden boxes. (mode 1)
2913-X	DOT-E 2913	U.S. Department of Energy, Washington, D.C.	49 CFR 172.101, 173.34(d), 173.301.	To ship certain nonliquefied compressed gases in non-DOT specification metal cylinders. (modes 1, 4)
3142-X	DOT-E 3142	U.S. Department of Energy, Washington, D.C.	49 CFR 173.24(a)(1)	To ship nonflammable compressed gases in a DOT Specification 3A1800 or 3A2000 cylinders as part of a leak calibration apparatus. (modes 1, 2)
4453-X	DOT-E 4453	W. A. Murphy, Inc., El Monte, Calif.; Austin Powder Co., Cleveland, Ohio; Monsanto, Co., St. Louis, Mo.; Strawn Explosives, Inc., Dallas, Tex.	49 CFR 173.182(c)	To ship nitro carbo nitrate in a non-DOT specification bulk, hopper-type tank. (mode 1)
4612-X	DOT-E 4612	MC/B Manufacturing Chemists, Norwood, Ohio;.	49 CFR Part 173	To ship certain hazardous materials in small quantities in inside glass bottles in metal cans overpacked in DOT-12B boxes. (mode 1)
4631-X	DOT-E 4631	Energy Sciences and Consultants, Inc., Biwabik, Minn.	49 CFR 173.182(c), 173.304(a)	To ship an oxidizing material and a nonflammable compressed gas in non-DOT hopper type tank trucks and cargo tank trailers, and a non-DOT pressure vessel, respectively. (mode 1)
4717-X	DOT-E 4717	Stauffer Chemical Co., Westport, Conn	49 CFR 172.101, 173.314(c)	To ship a flammable liquefied compressed gas in a non-DOT specification tank car, (mode 2)
5232-X	DOT-E 5232	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	49 CFR 173.314(c) table	To ship certain flammable and nonflammable liquefied compressed gases in AAR Specification 120A300W tank cars, and DOT-105A500-W tank cars. (mode 2)
5365-X	DOT-E 5365	Sun-O-Lin Chemical Co., Claymont, Del	49 CFR 172.101, 173.315(a)	To ship a flammable gas in non-DOT specification cargo tanks. (mode 1)
5493-X	DOT-E 5493	Montana Sulfur and Chemical Co., Billings, Mont.	49 CFR 172.504(a), 173.314(c)	To ship a flammable gas in DOT Specification 105A600W tank cars. (mode 2)
5736-X	DOT-E 5736	Stauffer Chemical Co., Westport, Conn	49 CFR 172.101, 173.314(c)	To ship a flammable gas in two non-DOT specification tank cars. (modes 2, 3)

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
		RENEWALS—Continued		
5852-X	DOT-E 5852	Gas Incorporated, Lowell, Mass.; Philadelphia Gas Works, Philadelphia, Pa.	49 CFR 172.101, 173.315(a)	To ship certain flammable liquefied compressed gases in a non-DOT Specification insulated cargo tank designed and constructed in accordance with Section VIII of the ASME Code. (mode 2)
5944-X	DOT-E 5944	Dow Chemical U.S.A., Midland, Mich	49 CFR 172.101, 173.315(a)(1)	To ship a flammable liquefied compressed gas in a non-DOT specification cargo tank designed and constructed in accordance with Section VIII of the ASME Code. (mode 1)
5972-X	DOT-E 5972	E. I. du Pont de Nemours and Co., Inc., Wilmington, Del.	49 CFR 173.119(b), 173.125, 173.128; 46 CFR 98.35.	To ship certain flammable and combustible liquids in a non-DOT portable tank. (modes 1, 3)
6016-X	DOT-E 6016	Guttman Supply Co., Belle Vernon, Pa	49 CFR 173.315(a)	To ship certain non-flammable gases in a non-DOT specification portable tank designed and constructed in accordance with Section VIII of ASME Code. (mode 1)
6066-X	DOT-E 6066	Union Carbide Corp., Bound Brook, N.J.	49 CFR 173.119, 173.125; 46 CFR 98.35.	To ship certain flammable and combustible liquids in non-DOT specification portable tanks. (modes 1, 3)
6071-X	DOT-E 6071	Walter Kidde and Company, Inc., Belleville, N.J.	49 CFR 173.304, 173.305, 175.3	To ship a nonflammable compressed gas in non-DOT specification stainless steel pressure vessel complying with DOT Specification 4DA with certain exceptions. (modes 1, 2, 4, 5)
6117-X	DOT-E 6117	Montana Sulphur and Chemical Co., Billings, Mont.	49 CFR 172.504, 173.314(c)	To ship hydrogen sulfide in DOT Specification 105A600W and AAR proposed Specification 120A600W tank car. (mode 1)
6231-X	DOT-E 6231	Lox Equipment Co., Livermore, Calif	49 CFR 172.101, 173.314(c)	To manufacture, mark and sell non-DOT specification insulated tank car tanks for shipment of a flammable compressed gas. (mode 2)
6267-P	DOT-E 6267	Alden Leeds, Inc., South Kearney, N.J	49 CFR 173.217(a)	To become a party to Exemption 6267. (See Application No. 6267-X). (modes 1, 2, 3)
6397-P	DOT-E 6397	USS Agri-Chemicals, Atlanta, Ga	49 CFR 173.346(a)	To become a party to Exemption 6397. (See Application No. 6397-X). (modes 1, 2)
6453-X	DOT-E 6453	General Motors Corp., Warren, Mich	49 CFR 173.302(a)(1), 175.3	To ship certain nonflammable compressed gases in a non-refillable, welded steel cylinder built in compliance with DOT Specification 39 with certain exceptions. (modes 1, 2, 4, 5)
6466-X	DOT-E 6466	Ensign Bickford Co., St. Simsburg, Conn	49 CFR 173.64(a)(1), 173.87	To ship a Class A explosive in DOT Specification 12H fiberboard boxes. (mode 1)
6518-X	DOT-E 6518	Union Carbide Corp., Bound Brook, N.J.; Stauffer Chemical Co., Westport, Conn.	49 CFR 172.101, 173.134(a)(5), 173.154, 172.302.	To ship a flammable liquid, or solid in non-DOT specification steel portable tanks. (modes 1, 3)
6536-X	DOT-E 6536	Delmarva Power and Light Co., Wilmington, Del.	49 CFR 172.101, 173.315(a)	To ship certain flammable and nonflammable gases in a non-DOT Specification cargo tank. (mode 1)
6538-X	DOT-E 6538	Wonder Corporation of America, Stamford, Conn.; Aladdin Industries, Inc., Nashville, Tenn.	49 CFR 173.304(d)(3)(ii), 178.33	To ship a certain flammable gas in non-DOT specification inside metal containers comparable to DOT Specification 2P. (modes 1, 3)
6554-X	DOT-E 6554	Coastal Industries, Inc., Carlstadt, N.J.; Georgia-Pacific Corp., Montebello, Calif.	49 CFR 173.154, 173.217	To ship certain dry oxidizing materials in non-DOT single-trip, molded, removable head, polyethylene containers. (modes 1, 2, 3)
6556-X	DOT-E 6556	Castle and Cooke, Inc., San Francisco, Calif.	49 CFR 173.132	To ship a flammable liquid in a non-DOT specification single compartment portable tank. (modes 1, 3)
6563-X	DOT-E 6536	Mada Medical Products Inc., Garfield N.J.; Liquid Carbonic Corp., Chicago, Ill.; Vital Air Oxygen Co., Cleveland, Ohio.	49 CFR 173.302(a)(1), 175.3	To ship certain nonliquefied, nonflammable compressed gases in a non-DOT specification steel cylinder made in compliance with DOT Specification 3E with certain exceptions. (modes 1, 2, 3, 4, 5)
6569-X	DOT-E 6569	The Blue Star Line, Inc., San Francisco, Calif.; Bacardi International, Limited, Hamilton, Bermuda; Bacardi and Company, Limited, Nassau, Bahamas.	49 CFR 173.119(b)	To ship certain flammable liquids in a non-DOT specification portable tank. (modes 1, 2, 3)
6602-X	DOT-E 6602	Dow Chemical Co., Midland, Mich	49 CFR 173.245(a), 173.314(c), 173.315(a)(1).	To ship certain corrosive liquids and nonflammable compressed gases in DOT Specification MC-331 tank motor vehicles and DOT Specification 105A500W tank cars or 106A50X tanks. (modes 1, 2)
6606-X	DOT-E 6606	Stauffer Chemical Co., Westport, Conn	49 CFR 173.358(a)(2)	To ship a certain Class B poisonous liquid in a DOT Specification 17C steel drum with an inside DOT Specification 2SL polyethylene container. (modes 1, 3)
6651-X	DOT-E 6651	Heatbath Corp., Springfield, Mass.; Park Chemical Co., Detroit, Mich.	49 CFR 173.28 (h), (m)	To ship a certain Class B poisonous solid in DOT Specification 37A metal drums under certain requalification requirements. (mode 2)
6653-X	DOT-E 6653	Shell Oil Co., Houston, Tex	49 CFR 173.245, 173.358	To ship a poison B liquid or corrosive material in inside polyethylene containers overpacked in DOT Specification 6D removable head cylindrical steel overpack. (modes 1, 2, 3)
6743-X	DOT-E 6743	Atlas Powder Co., Dallas, Tex	49 CFR 173.182	To ship an oxidizing material in DOT Specification 56 portable tanks. (mode 1)
6751-X	DOT-E 6751	Dow Chemical Co, Pittsburg, Calif	49 CFR 173.263(a)(10), 173.249(a)(6).	To ship certain corrosive liquids in a non-DOT specification fiberglass reinforced plastic cargo tank. (mode 1)

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Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
		RENEWALS—Continued		
6772-X	DOT-E 6772	Monsanto Co., St. Louis, Mo	49 CFR 173.119(a)(22), 173.245, 173.264(a), 173.346, 173.349, 173.369.	To ship certain flammable liquids, corrosive liquids and poisonous liquids in inside glass or compatible plastic bottles or metal cans overpacked in DOT Specification 17H steel drums. (mode 1)
6774-X	DOT-E 6774	The Boeing Co., Seattle, Wash	49 CFR 173.302(a)(2), 175.3	To ship a nonflammable gas in a non-DOT specification cylinder complying with DOT Specification 3HT with certain exceptions. (modes 1, 4)
6816-X	DOT-E 6816	U.S. Department of Defense, Washington, D.C.	49 CFR 173.53(p)	To ship certain rocket ammunition equipped with liquid engines. (modes 1, 2, 3)
6844-X	DOT-E 6844	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	49 CFR 173.249a	To ship a certain corrosive liquid in a non-DOT Specification single-trip polyethylene container overpacked in a strong wooden box. (modes 1, 2, 3)
6847-X	DOT-E 6847	Olin Corp., Stamford, Conn	49 CFR 173.346(a)	To ship certain Class B poisons in a non-DOT Specification steel portable tank. (modes 1, 3)
6929-X	DOT-E 6929	U.S. Department of Energy, Washington, D.C.	49 CFR 173.88(e) (2)(ii), 173.92(b).	To ship a certain rocket motor, Class B explosive in a propulsive state. (modes 1, 3)
6949-X	DOT-E 6949	Monsanto Co., St. Louis, Mo.; FMC Corp., Philadelphia, Pa.	49 CFR 173.190(b)(4)	To ship a certain flammable solid in marine portable tanks. (modes 1, 2, 3)
7005-P	DOT-E 7005	Transcontainer Leasing, S.A.; Geneva, Switzerland; Logemafer, S.A., Paris, France.	49 CFR Parts 173; 46 CFR 90.05-3.	To become a party to Exemption 7005. (See Application No. 7005-X). (modes 1, 3)
7041-X	DOT-E 7041	Ethyl Corp., Baton Rouge, La	49 CFR 173.134(a)(6)	To ship a flammable liquid in non-DOT specification cargo tank. (mode 1)
7052-X	DOT-E 7052	U.S. Department of Defense, Washington, D.C.	49 CFR 172.101, 173.206(e)(1), 175.3.	To ship lithium batteries subject to certain qualification and specialized packaging. (modes 1, 2, 3, 4)
7052-P	DOT-E 7052	Ultra Energy Inc., El Paso, Tex	49 CFR 172.101, 173.206(e)(1), 175.3.	To become a party to Exemption 7052. (See Application No. 7052-X). (modes 1, 2, 3, 4)
7096-X	DOT-E 7096	Fike Metal Products Corp., Blue Springs, Mo.	49 CFR 173.304(a)(1), 178.55	To ship a certain nonflammable liquefied compressed gas in an non-DOT specification cylinder. (modes 1, 2, 3)
7206-X	DOT-E 7206	Ruan Transport Corp., Des Moines, Iowa	49 CFR 173.245(a)	To transport certain corrosive liquids in non-DOT specification stainless steel cargo tanks. (mode 1)
7529-X	DOT-E 7529	Airesearch Manufacturing Company of Phoenix, Ariz.	49 CFR 173.302(a)(4), 175.3	To ship nonflammable gas assemblies in non-DOT specification welded steel pressure vessels. (modes 1, 4)
7597-X	DOT-E 7597	Riverside Chemical Co., Memphis, Tenn.; Southland Agricultural Chemicals, Montgomery, Ala.	49 CFR 173.358, 173.359	To ship certain Class B poisons in DOT specification 17E steel drums. (mode 1)
7607-P	DOT-E 7607	Dow Chemical Co., Freeport, Tex	49 CFR 172.101, 175.3	To become a party to Exemption 7607. (See Application No. 7607-X). (mode 4)
7625-X	DOT-E 7625	Hydrite Chemical Co., Milwaukee, Wis	49 CFR 173.245, 173.249, 173.263, 173.268, 173.272.	To ship certain corrosive liquids in DOT Specification 56 portable tanks. (mode 1)
7665-X	DOT-E 7665	Phillips Petroleum Co., Lafayette, La	46 CFR 90.05-35; 49 CFR 173.119.	To ship combustible or flammable unrefined petroleum in non-DOT specification portable tanks. (mode 3)
7671-X	DOT-E 7671	Hugonnet, S.A., Paris, France	46 CFR 90.05-35; 49 CFR Parts 173.	To ship certain hazardous materials in non-DOT specification portable tanks. (modes 1, 2, 3)
7695-X	DOT-E 7695	Orval-Manutention, Paris, France; Lowaco S.A., Geneva, Switzerland.	46 CFR 90.05-35; 49 CFR Parts 173.	To ship certain hazardous materials in a non-DOT insulated portable tank. (modes 1, 3)
7695-P	DOT-E 7695	Transcontainer Leasing, S.A., Paris, France.	46 CFR 90.05-35; 49 CFR Parts 173.	To become a party to exemption 7695. (See Application No. 7695-X). (modes 1, 3)
7725-X	DOT-E 7725	Economics Laboratory, Inc., St. Paul, Minn.	49 CFR 172.201(a)(3)	To allow the shipping description on shipping papers to contain coded information. (modes 1, 2, 3, 4, 5)
7778-X	DOT-E 7778	Schenley Industries, Inc., New York, NY.	49 CFR 172.400(a), Appendix B to Subpart B, Part 107, Subpart B.	To ship certain alcohol, n.o.s. in DOT Specification 10B barrels or non-DOT specification barrels. (modes 1, 2)
7802-X	DOT-E 7802	Bennett Industries, Pacoima, Calif	49 CFR Part 173, Subpart F; 49 CFR Part 173, Subpart D; 178.19.	To manufacture, mark and sell non-DOT specification removable head molded polyethylene containers for shipment of corrosive liquids and flammable liquids. (modes 1, 2, 3)
7820-X	DOT-E 7820	Hugonnet, S.A., Paris, France; Eurotainer, Paris, France; Lowaco, S.A., Geneva, Switzerland.	46 CFR 90.05-35; 49 CFR 173.119, 173.125, 173.131(a), 173.132(a), 173.145(a), 173.346(a).	To ship certain corrosive liquids, flammable liquids, poison B liquids, and combustible liquids in non-DOT specification IMCO Type II insulated portable tanks. (modes 1, 2, 3)
7820-P	DOT-E 7820	Transcontainer Leasing, S.A., Geneva, Switzerland.	49 CFR 90.05-35; 49 CFR Parts 173.	To become a party to Exemption 7820. (See Application No. 7820-X)
7864-X	DOT-E 7864	Mine Safety Appliances Co., Pittsburgh, Pa.	49 CFR 173.202	To ship a flammable solid in DOT Specification 4BW 240 cylinders. (modes 1, 2, 3)
7876-X	DOT-E 7876	Allied Chemical Corp., Morristown, N.J	49 CFR 173.299(a)	To ship corrosive materials described as etching acid, liquid. (modes 1, 2, 3, 4)
7923-X	DOT-E 7923	Allied Chemical Corp., Mounts Clemens, Mich.	49 CFR 173.302(a)(1), 178.65	To ship a nonflammable compressed gas in a non-DOT specification steel cylinder. (mode 1)

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
		NEW EXEMPTIONS		
7658-N	DOT-E 7658	Spectro Industries, Inc., Jenkintown, Pa.	49 CFR 173.1200	To ship ORM-D items on a fiberboard tray with entire tray shrink wrapped in a polyethylene film. (mode 1)
7962-N	DOT-E 7962	DuBois Chemicals, Cincinnati, Ohio	49 CFR 173.256	To ship a liquid cleaning compound in a DOT Specification 37M/2U composite container. (modes 1, 2)
7983-N	DOT-E 7983	Union Carbide Corp., New York, N.Y	49 CFR Part 107, Appendix B; Parts 171-178.	To ship miniature batteries containing lithium metal essentially exempt from the hazardous materials regulations. (modes 1, 2, 3, 4, 5)
7997-N	DOT-E 7997	Dow Chemical Co., Midland, Mich	49 CFR 173.245	To ship a certain corrosive liquid in a DOT Specification MC-312/ISO type lead lined portable tank by highway and vessel. (modes 1, 3)
7999-N	DOT-E 7999	Caterpillar Tractor Co., Peoria, Ill	49 CFR 172.101, 172.200, 172.300, 176.905.	To ship motor vehicles containing up to 110 gallons of fuel classed as combustible liquids in the fuel tanks, as othewise nonregulated items. (mode 3)
8002-N	DOT-E 8002	Bignier Schmid-Laurent, Paris, France	46 CFR 90.05-35; 49 CFR Parts 173.	To ship flammable liquids, corrosive materials, poison B liquids, combustible liquids, and ORM-A materials in non-DOT specification IMCO Type 2 portable tanks. (modes 1, 3)
8006-N	DOT-E 8006	Kilgore Corp., Tonne, Tenn	49 CFR 172.400(a), 172.504	To ship a Class C explosive without labels and placards. (mode 1)
8013-N	DOT-E 8013	Air Products and Chemicals, Inc., Allentown, Pa.	49 CFR 173.302, 173.304, 175.3	To ship certain nonliquefied flammable and nonflammable gases in a DOT 4E240 specification cylinder. (modes 1, 4, 5)
8014-N	DOT-E 8014	Dow Chemical Co., Midland, Mich	49 CFR 173.353(a) (2)	To ship a certain Class B poisonous liquid in certain metal cans overpacked in DOT Specification 12A fiberboard boxes. (modes 1, 2, 3)
8016-N	DOT-E 8016	Forest Service, USDA, Washington, D.C.	49 CFR 175.3, 175.30, 175.35, 175.40, 175.75.	To ship certain explosives in passenger-carrying aircraft for firefighting purposes. (mode 5)
8027-N	DOT-E 8027	Carrier International Corp., Syracuse, N.Y.	49 CFR 172.101	To ship air conditioning machines described as "air conditioning machines" as an alternative to "refrigerating machine." (modes 1, 2, 3)
8040-N	DOT-E 8040	Mobil Chemical Co., Richmond, Va	49 CFR Part 107, Appendix B and Parts 170-178.	To ship a specific brand of di-(2-ethyl hexyl) phosphoric acid as a deregulated noncorrosive material. (modes 1, 2, 4, 5)
8064-N	DOT-E 8064	GTE Sylvania, Needham, Heights	49 CFR 173.247(a) (9)	To ship a corrosive liquid in DOT Specification 5C metal drums. (modes 1, 2, 3)
8094-N	DOT-E 8094	Milport Chemical Co., Milwaukee, Wis	49 CFR 173.245, 173.249, 173.263, 173.268, 173.272.	To ship certain oxidizers and corrosive liquids in a DOT Specification 56 tank. (mode 1)

EMERGENCY EXEMPTIONS
Applications Received and Granted

EE8102-N	DOT-E 8012	Flying Tiger Line, Los Angeles, Calif	49 CFR 172.101, 175.30(a)(1)	To transport ammunition for cannon and explosive components via cargo-only aircraft. (mode 4)
EE8103-N	DOT-E 8103	Alaska International Air, Fairbanks, Alaska.	49 CFR 172.101, 175.30(a)(1)	To transport a corrosive material in DOT Specification 60 portable tank. (mode 4)

DENIALS

5107-P: Request by Thio-Pet Chemicals Ltd., Edmonton, Alberta—To become a party to Exemption 5107 for shipment of hydrogen sulfide in certain DOT Specification 105A600W tank car tanks, denied November 21, 1978.

EE6611-P: Request by Cities Service Co., Tulsa, Okla.—For an emergency exemption to become a party to Exemption 6611 for shipment of helium in a non-DOT specification insulated portable tank, denied November 8, 1978.

7813-X: Request by Grove, Jaskiewiz, Gillian and Cobert, Washington, D.C.—To ship a corrosive material in DOT Specification 21C fiber drums, denied November 6, 1978 as being unnecessary.

7873-N: Request by Solchem Inc., New York, N.Y.—To ship liquid methyl bromide in non-DOT specification portable tanks by cargo vessel and motor vehicle, denied November 3, 1978.

7881-X: Request by FMC Corp., Philadelphia, Pa.—To stow a corrosive solid, n.o.s under deck when transported by vessel, denied November 30, 1978. (HM-139 obviates the need)

7956-N: Request by Israel Aircraft Industries Ltd., Beer-Sheba, Israel—To ship liquid methyl bromide in non-DOT specification portable tanks by cargo vessel, motor vehicle and rail freight, denied November 3, 1978.

7980-N: Request by Applied Equipment Co., Van Nuys, Calif.—For reconsideration of denial of application to authorize use of a welded cylinder patterned after the DOT 3HT specification cylinder in a portable emergency lift support system, denied November 16, 1978.

8022-N: Request by Magnavox Government & Industrial Electronics Co., Mahwah, N.J.—To ship by air without labeling and shipping paper description of a device containing a battery with potassium hydroxide, denied November 6, 1978.

8032-N: Request by Degussa, Frankfurt, Germany—To ship acrolein in non-DOT specification portable tanks, denied November 21, 1978.

8048-N: Request by Amoco Production Company, Tulsa, Okla.—To ship gas/oil samples in non-DOT specification gas storage cylinders made to Mil C-5586D specification, denied November 22, 1978.

EE8104-N: Request by General Electric Company, Pleasanton, Calif.—For use of The G. E. Model 8500 as a Type A shipping container for the purpose of export shipments, denied November 9, 1978.

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WITHDRAWALS

5107-P: Request by Stauffer Chemical Company, Westport, Conn.—To ship hydrogen sulfide in certain DOT Specification 105A600W tank car tanks, withdrawn November 21, 1978.

J. R. GROTHE,
Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 79-339 Filed 1-3-79; 8:45 am]

[1505-01-M]

Urban Mass Transportation Administration

[Attachment to UMTA Circular 9050.1]

URBANIZED AREA FORMULA APPORTIONMENTS

Correction

In FR Doc. 78-34827, appearing at page 58935, in the issue for Monday, December 18, 1978, make the following changes:

1. On Page 58939, in the table at the bottom of the page, in the second column under "Apportionment basis", the heading reading, "Business and related capital expenses" should be corrected to read "Bus and related expenses".

2. On page 58940, in the table, in the second column under "Apportionment basis" the heading reading "Business and related capital expenses" should be corrected to read "Bus and related capital expenses".

3. On page 58940, in the table, the entry under "All areas population and population density" for Harrisburg should be corrected to read, "$1,485,556".

4. On page 58940, in the table, the city "Hardford" should be corrected to read "Hartford".

5. On page 58941, in the table in the top half of the page, in the second column under "Apportionment basis", the heading reading, "Business and related capital expenses" should be corrected to read "Bus and related capital expenses".

6. On page 58941, in the table in the top half of the page, in the second column under the heading "All areas population and population density", the entry for Washington, "(Part: Virginia)" which reads "$4,386,402" should be corrected to read "$4,386,403".

7. On page 58941, in the table in the bottom half of the page, the entry under "Total apportionment" for Anniston which reads, "$418,924" should be corrected to read "$410,924".

8. On page 58941, in the table in the bottom half of the page, the entry under "Total apportionment" for Pine Bluff which reads "$538,510" should be corrected to read "$530,510".

9. On page 58941, in the table in the bottom half of the page, the entry under "Total apportionment" for Stockton which reads "$1,496,992" should be corrected to read "$1,498,992".

10. On page 58941, in the table in the bottom half of the page, the entry under "Total apportionment" for Waterbury which reads "$1,305,678" should be corrected to read "$1,305,878".

11. On page 58941, in the table in the bottom half of the page, the city "Bakerfield" should be corrected to read "Bakersfield".

12. On page 58942, in the table, in the second column under "Apportionment basis" the heading reading, "Business and related capital expenses" should be corrected to read "Bus and related capital expenses".

13. On page 58943, in the table, in the second column under "Apportionment basis" the heading reading, "Business and related capital expenses" should be corrected to read "Bus and related capital expenses".

14. On page 58943, in the table, the entry under "Business and related capital expenses" for Jackson, Mississippi which reads $338,203" should be corrected to read "$388,203".

15. On page 58944, in the table, in the second column under "Apportionment basis" the heading reading, "Business and related capital expenses" should be corrected to read "Bus and related capital expenses".

[4810-33-M]

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

[Reg. Z]

TRUTH IN LENDING

Joint Notice of Statement of Enforcement Policy

CROSS REFERENCE: For a notice of statement of enforcement policy regarding truth in lending, Regulation Z, issued jointly by the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the National Credit Union Administration, see FR Doc. 79-340 in the "Notices" section of this issue. Refer to the table of contents under "Federal Reserve Board" for the correct page number.

[4810-22-M]

Office of the Secretary

SPUN ACRYLIC YARN FROM JAPAN

Antidumping Proceeding Notice

AGENCY: U.S. Treasury Department.

ACTION: Initiation of Antidumping Investigation.

SUMMARY: This notice is to advise the public that a petition in proper form has been received and an antidumping investigation is being initiated for the purpose of determining whether imports of spun acrylic yarn from Japan are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended. Sales at less than fair value generally occur when the prices of the merchandise sold for exportation to the United States are less than the prices in the home market or the constructed value.

EFFECTIVE DATE: January 4, 1979.

FOR FURTHER INFORMATION CONTACT:

David R. Chapman, Operations Officer, U.S. Customs Service, 1301 Constitution Avenue, NW, Washington, D.C. 20229, telephone 202-566-5492.

SUPPLEMENTARY INFORMATION: On November 22, 1978, information was received in proper form pursuant to §§ 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), from counsel representing the American Yarn Spinners Association, Gastonia, North Carolina, indicating the possibility that the subject merchandise from Japan is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 *et seq.*).

For purposes of this investigation, the term "spun acrylic yarn" means spun yarn of acrylic, provided for in item 310.50, Tariff Schedules of the United States.

Pricing information was supplied by petitioner for yarn sold to the United States and to the Japanese home market which indicates that there may be less than fair value margins of as much as 58 percent. The petitioner has also supplied information pursuant to section 205(b) of the Act (19 U.S.C. 164(b)), indicating that sales in the home market may be below the cost of production. Accordingly, petitioner constructed the value of spun acrylic yarn produced in Japan and, in comparison with a representative export price to the United States, arrived at an alleged less than fair value margin of 86 percent. Since petitioner has presented sufficient evidence to support the claim of below-cost sales, the investigation will include not only price-to-price comparisons but will also seek to determine (1) whether there have been sales made in the home market at less than the cost of production over an extended period of time and in substantial quantities and (2) whether such sales were not at prices which permit recovery of all costs within a reasonable period of time in the normal course of trade. If there have been such sales, those sales will be disregarded in the determination of foreign market value. If insufficient sales in the home market or to third countries remain at not less than the cost of production, then the constructed value will be employed as the basis of fair value.

There is evidence on record concerning injury or likelihood of injury to an industry in the United States that produces spun acrylic yarns. This information indicates that imports of spun acrylic yarns from Japan are underselling domestic spun acrylic yarn by margins of up to 24 percent, which is fully accounted for by the alleged dumping margins. Imports of spun acrylic yarn from Japan have increased in both absolute and relative terms. Although the Agreement Regarding International Trade in Textiles (MFA) imposed a restraint on the quantities of acrylic yarn which could enter the United States from Japan, the petition indicates that the level of imports in 1978 will substantially exceed that of the previous year. More importantly, the restraint agreement will expire at the end of 1978 unless extended. In any event, the mere existence of such an agreement is not necessarily a basis for determining that sales at substantial margins below fair vlaue cannot result in or threaten injury to the domestic industry.

In addition, domestic production, capacity utilization and sales, which had declined from 1973 to 1976 but had begun to recover in 1976, have failed to continue to increase with increased domestic demand. Furthermore, petitioner's profitability in the production of spun acrylic yarn has failed to improve and employment in the petitioner's plants have been affected by lost sales.

Having conducted a summary investigation as required by § 153.29 of the Customs Regulations (19 CFR 153.29) and having determined as a result thereof that there are grounds for so doing, the U.S. Customs Service is instituting an inquiry to verify the information submitted and to obtain the facts necessary to enable the Secretary of the Treasury to reach a determination as to the fact or likelihood of sales at less than fair value.

This notice is being published pursuant to § 153.30 of the Customs Regulations (19 CFR 153.30).

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

DECEMBER 28, 1978.

[FR Doc. 79-361 Filed 1-3-79; 8:45 am]

[4830-01-M]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Prohibited Transaction Exemption 78-22]

HAROLD PRINTUP, JR., KEOGH PLAN

Exemption From the Prohibitions Respecting a Transaction

AGENCY: Department of the Treasury/Internal Revenue Service.

ACTION: Grant of individual exemption.

SUMMARY: This exemption enables Harold Printup, Jr. (the Employer) to purchase certain real property from the Harold Printup, Jr. Keogh Plan (the Plan).

FOR FURTHER INFORMATION CONTACT:

Ivan Strasfeld, Prohibited Transactions and Projects Section, Employee Plans Technical Branch, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC 20224, Attention: E:EP:PT:2, (202) 566-3045. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: On November 7, 1978, notice was published in the FEDERAL REGISTER (43 FR 51889) of the pendency before the Internal Revenue Service (the Service) of an exemption from the taxes imposed by section 4975(a) and (b) of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1)(A) through (E) of the Code for a transaction described in an application filed on behalf of the Employer.

The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Service in Washington, DC. The notice also invited interested persons to submit comments on the requested exemption to the Service. In addition, the notice stated that any interested person might submit a written request that a hearing be held relating to this exemption. No public comments and no requests for a hearing were received by the Service.

TAX CONSEQUENCES OF TRANSACTION

The purchase of a plan asset by the employer for an amount in excess of its fair market value will constitute a contribution to the plan to the extent of such excess. The deductibility of such a contribution by the employer must be determined in accordance with generally applicable Federal income tax rules.

GENERAL INFORMATION

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 4975(c)(2) of the Code does not relieve a disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Code, including any prohibited transaction provisions to which the exemption does not apply, nor does the fact that the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) This exemption does not extend to transactions prohibited under section 4975(c)(1)(F) of the Code;

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction; and

(4) This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury directive appearing in the FEDERAL REGISTER for Wednesday, May 24, 1978, (43 FR 22319).

EXEMPTION

In accordance with section 4975(c)(2) of the Code and the procedures set forth in Rev. Proc. 75-26, 1975-1 C.B. 722, and based upon the entire record, the Service makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the plan and of the participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the plan.

Accordingly, the following exemption is hereby granted under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in Rev. Proc. 75-26.

The taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the sale of

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real property by the Plan to the Employer, Harold Printup, Jr., for $19,900 cash.

The availability of this exemption is subject to the express conditions that the material facts and representations contained in the application are true and complete and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, DC, this 28th day of December, 1978.

FRED J. OCHS,
Director, Employee Plans Division, Internal Revenue Service.

[FR Doc. 78-36473 Filed 12-20-78; 8:45 am]

[4830-01-M]

[Prohibited Transaction Exemption 78-21]

HENRY E. STORINO, M.D., SELF-EMPLOYED RETIREMENT PLAN

Exemption From the Prohibitions Relating to a Transaction

AGENCY: Department of the Treasury/Internal Revenue Service.

ACTION: Grant of individual exemption.

SUMMARY: This exemption enables Dr. Henry E. Storino, M.D. (the Employer) to purchase certain real estate from the Henry E. Storino, M.D., Self-Employed Retirement Plan's Trust (the Plan).

FOR FURTHER INFORMATION CONTACT:

Pete Knox, Prohibited Transactions and Projects Section, Employee Plans Technical Branch, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC 20224, Attn: E:EP:T:10, (202) 566-6761. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: On November 8, 1978, notice was published in the FEDERAL REGISTER (43 FR 52086) of the pendency before the Internal Revenue Service (the Service) of an exemption from the taxes imposed by section 4975(a) and (b) of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1)(A) through (E) of the Code for a transaction described in the application submitted by the Employer. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Service in Washington, DC. The notice also invited interested persons to submit comments on the requested exemption to the Service. One favorable comment was received. In addition, the notice stated that any interested person might submit a written request that a hearing be held relating to this exemption. No request for a hearing was received by the Service.

GENERAL INFORMATION

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 4975(c)(2) of the Code does not relieve a disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Code, including any prohibited transaction provisions to which the exemption does not apply, nor does the fact that the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) This exemption does not extend to transactions prohibited under section 4975(c)(1)(F) of the Code;

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction;

(4) This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury directive appearing in the FEDERAL REGISTER for Wednesday, May 24, 1978, (43 FR 22319).

EXEMPTION

In accordance with section 4975(c)(2) of the Code and the procedures set forth in Rev. Proc. 75-26, 1975-1 C.B. 722, and based upon the entire record, the Service makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the plan and of the participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the plan.

Accordingly, the following exemption is hereby granted under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in Rev. Proc. 75-26.

The taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the transaction involving the sale of Lot No. 469, Salishan Hills I, Lincoln County, Oregon from the Plan to Dr. Henry E. Storino for $23,500, in cash, provided, however, that the sale price is not less than the fair market value of the property.

The availability of this exemption is subject to the express conditions that the material facts and representations contained in the application are true and complete and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, DC, this 28th day of December, 1978.

FRED J. OCHS,
Director, Employee Plans Division, Internal Revenue Service.

[FR Doc. 78-36474 Filed 12-29-78; 8:45 am]

[4810-25-M]

LIST OF COUNTRIES REQUIRING COOPERATION WITH AN INTERNATIONAL BOYCOTT

In order to comply with the mandate of section 999(a)(3) of the Internal Revenue Code of 1954, the Department of the Treasury is publishing a current list of countries which may require participation in, or cooperation with, an international boycott (within the meaning of section 999(b)(3) of the Internal Revenue Code of 1954). This list is the same as the list published in the September 29, 1978, FEDERAL REGISTER.

On the basis of the best information currently available to the Department of the Treasury, the following countries may require participation in, or cooperation with, an international boycott (within the meaning of section 999(b)(3) of the Internal Revenue Code of 1954).

Bahrain
Egypt
Iraq
Jordan
Kuwait
Lebanon
Libya
Oman
Qatar
Saudi Arabia
Syria
United Arab Emirates
Yemen Arab Republic
Yemen, Peoples Democratic Republic of

Dated: January 2, 1979.

DONALD C. LUBICK,
Assistant Secretary (Tax Policy).

[FR Doc. 79-462 Filed 1-3-79; 8:45 am]

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[7035-01-M]

INTERSTATE COMMERCE COMMISSION

[Notice No. 239]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

DECEMBER 27, 1978.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

NOTE: All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

MOTOR CARRIERS OF PROPERTY

MC 217 (Sub-22TA), filed November 13, 1978. Applicant: POINT TRANSFER, INC., 5075 Navarre Road, S.W., P.O. Box 1441, Station C, Canton, OH 44708. Representative: David A. Turano, 100 East Broad Street, Columbus, OH 43215. *Precast building components and prefabricated building modules, and materials, equipment and supplies* used in the manufacture, erection, and distribution of precast building components and prefabricated building modules, between the facilities of Forest City Dillon Precast Systems, Inc., located in Summit County, OH, on the one hand, and, on the other, points in Connecticut, Delaware, Illinois, Indiana, Kentucky, Maryland, Michigan, New Jersey, New York, Pennsylvania, Virginia, West Virginia, and the District of Columbia, for 180 days. An underlying ETA seeks up to 90 days of authority. SUPPORTING SHIPPER(S): Forest City Dillon Precast Systems, Inc., 1200 Brook Park Road, Cleveland, OH. SEND PROTESTS TO: Franl L. Calvary DS, ICC, 220 Federal Building & U.S. Courthouse, 85 Marconi Boulevard, Columbus, OH 43215.

MC 7840 (Sub-9TA), filed November 15, 1978. Applicant: ST. LAWRENCE FREIGHTWAYS, INC., 650 Cooper Stret, Watertown, NY 13601. Representative: Roy D. Pinsky, 345 S. Warren Street, Syracuse, NY 13202. (1) *Paper and paper products*, and (2) *Materials, equipment and supplies* used and useful in manufacture and shipping of paper and paper products, (1) from the plantsite of Newton Falls Paper Mill, Inc., at Newton Falls, NY., to points in Connecticut, District of Columbia, Delaware, Illinois, Indiana, Iowa, Kentucky, Massachusetts, Maryland, Maine, Michigan, Missouri, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Virginia, Vermont, and WV; and (2) from points in named destination states to facilities of Newton Falls Paper Mill, Inc., at Newton Falls, NY., for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Newton Falls Paper Mill, Inc., Newton Falls, NY 13666. SEND PROTESTS TO: ICC, U.S. Courthouse & Federal Bldg., 100 S. Clinton Street, Room 1259, Syracuse, NY 13260.

MC 11592 (Sub-22TA), filed November 17, 1978. Applicant: BEST REFRIGERATED EXPRESS, P.O. Box 7365, Omaha, NE 68107. Representative: F. E. Myers (same as above). *Meats, meat products, and meat byproducts and articles distributed by meat packinghouses, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766* (except hides and commodities in bulk, in tank vehicles), from Omaha, NE; Council Bluffs and Oakland, IA; to points in NC, SC, GA, FL, TN, AL, MS and LA, for 180 days. SUPPORTING SHIPPER(S): American Beef Packers, Inc., P.O. Box 518, Oakland, IA 51560. Union Packing Company, Inc., 4501 So. 36th Street, Omaha, NE 68107. Dubuque Packing Company, 4003 Dahlman Avenue, Omaha, NE 68107. Great Plains Beef Co., Inc., 2700 South 23rd Street, Council Bluffs, IA 51501. SEND PROTESTS TO: Carroll Russell, ICC, Suite 620, 110 No. 14th Street, Omaha, NE 68102.

MC 32882 (Sub-102TA), filed November 16, 1978. Applicant: MITCHELL BROS. TRUCK LINES, 3841 N. Columbia Blvd., P.O. Box 17039, Portland, OR 97217. Representative: Edward G. Rawle, 1229 N. Blue Gum Avenue, Anaheim, CA 92806. *Insulated building and roofing panels, equipment, materials* and supplies used in the installation thereof, (except commodities in bulk), from the facilities of Panel Eral Corp., at/or near Salt Lake City, UT to points in and west of the States of Minnesota, Iowa, Missouri, Oklahoma, and TX., (except Colorado, Oregon and WA), for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Panel Era Corporation, 1857 S. 3850 West, Salt Lake City, UT 84104. SEND PROTESTS TO: R. V. Dubay DS, ICC, 114 Pioneer Courthouse, Portland, OR 97204.

MC 53965 (Sub-141TA), filed November 15, 1978. Applicant: GRAVES TRUCK LINE, INC., P.O. Box 1387, 2130 South Ohio, Salina, KS 67401. Representative: John E. Jandera, 641 Harrison, Topeka, KS 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), Between Wichita, KS and Pratt, KS: From Wichita over U.S. Highway 54 to Pratt, KS, and return over the same route, serving all intermediate points. Applicant states it intends to tack with Subs 48, 16, 20 and 30 and numerous other subs for direct single line service between the sought points and points in Iowa, Nebraska, Colorado, Texas and MO, for 180 days. Applicant states it intends to interline at Wichita, KS, and other points. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): There are approximtely (64) statements of support attached to this application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: Thomas P. O'Hara DS, ICC, 256 Federal Building & U.S. Courthouse, 444 SE., Quincy, Topeka, KS 66683.

MC 56244 (Sub-67TA), filed November 16, 1978. Applicant: KUHN TRANSPORTATION COMPANY, INC., P.O. Box 98, R.D. #2, Gardners, PA 17324. Representative: John M. Musselman, P.O. Box 1146, 410 North Third Street, Harrisburg, PA 17108. *Such merchandise* as is dealt in by retail, wholesale, chain grocery, and

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food business houses, (except commodities in bulk, and frozen foods), for the account of SSC International, Inc., from points in Penn Township, York County, PA, to points in IL, IN, MI and OH, for 180 days. SUPPORTING SHIPPER(S): SSC International, Inc., Continental Plaza, P.O. Box 825, 401 Hackensack Avenue, Hackensack, NJ 07602. SEND PROTESTS TO: Charles F. Myers DS, ICC, P.O. Box 869 Federal Square Station, 228 Walnut Street, Harrisburg, PA 17108.

MC 63417 (Sub-180TA), filed November 16, 1978. Applicant: BLUE RIDGE TRANSFER COMPANY, INCORPORATED, P.O. Box 13447, Roanoke, VA 24034. Representative: William E. Bain (same address as applicant). *Cans and ends, iron or steel,* from Plymouth, IN to Atlanta, GA, for 180 days. An underlying ETA seeks up to 90 days of authority. SUPPORTING SHIPPER(S): RJR Foods, Inc., P.O. Box 3037, Winston-Salem, NC 27102. SEND PROTESTS TO: Paul D. Collins DS, Room 10-502 Federal Bldg., 400 North 8th Street, Richmond, VA 23240.

MC 74681 (Sub-12TA), filed November 15, 1978. Applicant: STEVENS VAN LINES, INC., 121 South Niagrara Street, Saginaw, MI 48602. Representative: Robert J. Gallagher, 1000 Connecticut Avenue, Suite 1200, Washington, D.C. 20036. *Wooden wardrobe cabinets, uncrated,* from the facility of Furniture Division-Hoover Universal, Inc., at or near Vernon, AL, to points in NH, MA, CT, RI, NY, NJ, PA, MD, DE, VA, WV, NC, SC, GA, FL, AL, MS, TN, KY, OH, IN, IL, MI, WI, MN, SD, NE, IA, CO, KS, MO, NM, OK, AR, TX, LA, ME, VT, and the District of Columbia, for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Furniture Division, Hoover Universal, Inc., Route 2, Tri Port Road, Georgetown, KY 40324. SEND PROTESTS TO: C. R. Flemming DS, ICC, 225 Federal Bldg., Lansing, MI 48933.

MC 93393 (Sub-20TA), filed November 16, 1978. Applicant: NIGHTWAY TRANSPORTATION CO., 4100 Emerald Avenue, Muncie, IN 47303. Representative: William H. Towle, 180 North LaSalle Street, Chicago, IL 60601. *Lard, edible tallow, shortening, vegetable oil shortening, cooking oils and margarine,* from the facilities of Swift & Company at or near Bradley, IL to points in Indiana, Michigan, Ohio and KY., for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): John H. Groth Mgr., Claims & Services, Swift & Company, 115 W. Jackson Blvd., Chicago, IL. SEND PROTESTS TO: Lois M. Stahl Trans. Asst., ICC, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 96324 (Sub-30TA), filed November 16, 1978. Applicant: GENERAL DELIVERY, INC., 1822 Morgantown Avenue, P.O. Box 1816, Fairmont, WV 26554. Representative: Harold G. Hernly, Jr., 110 S. Columbus Street, Alexandria, VA 22314. *Plastic beverage containers,* From Havre de Grace, MD., to Toledo and Lima, OH; Beckley, WV; and Detroit, MI, and points in their respective commercial zones, for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Owens-Illinois, Inc., P.O. Box 1034, Toledo, OH 43666. SEND PROTESTS TO: J. A. Niggemyer DS, ICC, 416 Old Post Office Building, Wheeling, WV 26003.

MC 107403 (Sub-1115TA), filed September 22, 1978, published in the FEDERAL REGISTER issue of November 17, 1978, and republished as corrected this issue. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same address as applicant). *Rock salt,* in bags, from the Village of Brodhead, Northampton County, PA, to points in NJ, NY, MD AND DE., for 180 days. SUPPORTING SHIPPER(S): International Salt Co., 30 Buxton Farm Road, Stamford, CT 06905. SEND PROTESTS TO: T. M. Esposito Trans. Asst., 6—Arch Street, Room 3238, Philadelphia, PA. 19106. The purpose of this republication is to correct the MC-107403 (Sub-115TA) which should be MC 107403 (Sub-1115TA).

MC 111274 (Sub-32TA), filed November 16, 1978. Applicant: SCHMIDGALL TRANSFER, INC., Route 98, Box 356, Morton, IL 61550. Representative: Fred Schmidgall (same address as applicant). Authority sought to operate as *contract carrier,* by motor vehicle, over irregular routes, transporting: *Natural gas powered engines and materials and components of natural gas powered engines,* between Rockford, IL., on the one hand, and, on the other, Denver, CO., Houston, TX; Tulsa, OK.; Alberta; Houma, LA., and Baltimore, MD; under a continuing contract or contracts, with Mep Industries, for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): A. F. George President, Mep Industries, 1111 S. Alpine, Rockford, IL. SEND PROTESTS TO: Charles D. Little DS, ICC 414 Leland Office Building, 527 East Capitol Avenue, Springfield, IL 62701.

MC 113106 (Sub-65TA), filed November 15, 1978. Applicant: THE BLUE DIAMOND COMPANY, 4401 E. Fairmount Avenue, Baltimore, MD 21205. Representative: Chester A. Zyblut, 1030 15th Street, N.W., Washington, D.C. 20005. *Such commodities* as are dealt in by manufacturers of glass and glass products, (except commodities in bulk), from Clearfield, Jefferson and Washington Counties, PA., to Suffolk, Richmond, Danville, Norfold and Williamsburg, VA., and Reidsville, and Eden, NC., and points in their respective commercial zones, for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Blaine E. Carlson, Sr., Transportation Analyst., Brockway Glass Company, Inc., McCullough Ave., Brockway, PA 15824. SEND PROTESTS TO: William L. Hughes DS, ICC, 1025 Federal Building,. Baltimore, MD 21201.

MC 113434 (Sub-80TA), Filed November 6, 1978. Applicant: GRA-BELL TRUCK LINE, INC., 679 Lincoln Avenue, Holland, MI 49423. Representative: Wilhelma Boersma, 1600 First Federal Bldg., Detroit, MI 48226. *Such merchandise* as is dealt in by wholesale, retail and chain grocery and feed business houses; (1) Between Clinton and Davenport, IA on the one hand, and points in Indiana, Michigan, Ohio and IL, on the other hand; (2) Between Battle Creek, MI and Lancaster and Sharonville, OH; (3) From Battle Creek, MI and Lancaster and Sharonville, OH to points in Maryland, New Jersey, New York, Pennsylvania, West Virginia and the District of Columbia, and the commercial zones of the named points, for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Ralston Purina Company, Checkerboard Square, St. Louis, MO 63188. SEND PROTESTS TO: C. R. Flemming DS, ICC, 225 Federal Building, Lansing, MI 48933.

MC 114301 (Sub-100TA), filed October 31, 1978, published in the FEDERAL REGISTER issue of December 1, 1978, and republished as corrected this issue. Applicant: DELAWARE EXPRESS, CO., P.O. Box 97, Elkton, MD 21921. Representative: Maxwell A. Howell, 1511 K St., N.W., Washington, D.C. 20005. *Feed ingredients,* (except in bulk), from Baltimore, MD., to Elkins, N.C., for 180 days. SUPPORTING SHIPPER(S): Patrick Carr Secretary-President, Getkin Associates, Inc., 1701 Swede Road, Norristown, PA. 19401. SEND PROTESTS TO: William L. Hughes DS, ICC, 1025 Federal Bldg., Baltimore, MD. 21201. The purpose of this republication is to correct the territorial description which should read as Elkins, N.C., instead of Elkton, N.C., which was previously published in error.

MC 116273 (Sub-217TA), filed November 16, 1978. Applicant: D & L TRANSPORT, INC., 3800 South Laramie Avenue, Cicero, IL 60650. Representative: William R. Lavery, 3800 South Laramie Avenue, Cicero, IL 60650. *Indolene (A Test Gasoline)* (in bulk, in tank vehicles), from River Rouge, MI., to Portland, OR., for 180 days. SUPPORTING SHIPPER(S): Amoco Oil Company, James D. Christen Traffic Analyst, Chicago, IL 60601. SEND PROTESTS TO: Lois M. Stahl Trans. Asst., ICC, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 116457 (Sub-38TA), filed November 15, 1978. Applicant: GENERAL TRANSPORTATION, INCORPORATED, 1804 S. 27th Avenue, P.O. Box 6484, Phoenix, AZ 85005. Representative: D. Parker Crosby, P.O. Box 6484, 1710 S. 27th Avenue, Phoenix, AZ 85005. *Insulation materials, polystyrene products, eurethane products, insulated building panels, wood fibre products, and products, tools, equipment and supplies* used in the installation thereof, (except in bulk, or tank vehicles), from points in Maricopy County, AZ., to California, Utah, Colorado, Oregon, Washington, Idaho, Wyoming, Nevada, New Mexico, Texas, Montana, Oklahoma, Kansas, Nebraska, Michigan, Missouri, Iowa, North Dakota, South Dakota, Louisiana and AR., for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): (1) Southwest Distributing Company, 222 S. Date Street, Mesa, AZ. 85201. (2) Arizona Diversified Products, Inc., 22 E., Lincoln St., Phoenix, AZ. 85004. SEND PROTESTS TO: Andrew V. Baylor DS, ICC, Room 2020 Federal Bldg., 230 N. First Avenue, Phoenix, AZ. 85025.

MC 117730 (Sub-32TA), filed November 16, 1978. Applicant: KOUBENEC MOTOR SERVICE, INC., Route 47, Huntley, IL 60142. Representative: Stephen H. Loeb, 205 West Touhy Avenue, Suite 200, Park Ridge, IL 60068. *Hospital supplies and drugs,* in vehicles equipped with mechanical refrigeration, (except commodities in bulk), from the facilities of Abbott Laboratories at North Chicago, IL., to Cleveland and Toledo, OH and Pittsburgh, PA., for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Abbott Laboratories, William F. Kelly Senior Traffic Specialist, 1400 Sheridan Road, North Chicago, IL 60064. SEND PROTESTS TO: Lois M. Stahl Trans. Asst., ICC, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 119704 (Sub-1TA), filed November 16, 1978. Applicant: R. A. HARRIS & SONS, INC. 3501 22nd Street, Menominee, MI 49858. Representative: Robert A. Harris (same address as applicant). Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *aluminum Castings, ingots and shavings,* between Peshtigo, WI., on the one hand, and, on the other hand, points in Michigan, Illinois, Indiana and WI., under a continuing contract, or contracts, with Marinette Casting Corp., for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER (S): Marinette Casting Corp., P.O. Box 171, Peshtigo, WI. 54157. SEND PROTESTS TO: C. R. Flemming DS, ICC, 225 Federal Building, Lansing, MI 48933.

MC 119741 (Sub-118TA), filed November 17, 1978. Applicant: GREEN FIELD TRANSPORT COMPANY, INC. P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same as above). *Frozen foods,* from the facilities of Pet Incorporated, Frozen Foods Division, Benton Harbor, Frankfort, and Hart, MI: to points in CO, IL, IN, IA, KS, MN, MO, NE, ND and SD, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER (S): Pet Incorporated, P.O. Box 392, St. Louis, MO 63166. SEND PROTESTS TO: Herbert W. Allen, ICC, 518 Federal Building, Des Moines, IA 50309

MC 124170 (Sub-105TA), filed November 16, 1978. Applicant: FROSTWAYS, INC. 3000 Chrysler Service Drive, Detroit, MI 48207. Representative: William J. Boyd, 600 Enterprise Drive, Suite 222, Oak Brook, IL 60521. *Such commodities* as are dealt in and used by producers and distributors of alcoholic beverages, liquors and wines (except commodities in bulk, in tank vehicles), between the facilities of Heublein, Inc., at or near Paducah, KY., on the one hand, and, on the other, points in the Continental United States, for 180 days. An underlying ETA seeks up to 90 days of authority. SUPPORTING SHIPPER (S): Heublein, Inc., David F. Tucker Trans. Mgr., 330 New Park Avenue, Hartford, CT 06101. SEND PROTESTS TO: Tim Quinn DS, ICC, 604 Federal Bldg., & U.S. Courthouse, 231 W. Lafayette Blvd., Detroit, MI 48226.

MC 124774 (Sub-109TA), filed November 17, 1978. Applicant: MIDWEST REFRIGERATED EXRESS, INC. 4440 Buckingham Avenue, Omaha, NE 68107. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Road, Omaha, NE 68106. *Drugs and medicines and feed and feed supplements,* from Pearl River, NY to Chicago, IL, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): American Cyanamid, Berdan Avenue, Wayne, NJ 07470. SEND PROTESTS TO: Carroll Russell, ICC, Suite 620, 110 No. 14th Street, Omaha, NE 68102.

MC 129480 (Sub-36TA), filed November 15, 1978. Applicant: TRI-LINE EXPRESSWAYS, LTD. 550-71st Avenue, S.E. Calgary, AB, Canada T2H OS6. Representative: Richard S. Mandelson, Jones, Meiklejohn, Kehl & Lyons, 1660 Lincoln Street, 1600 Lincoln Center Bldg., Denver, CO 80264. *Lumber, lumber products, forest products and wood products,* between ports of entry on the United States-Canada International Boundary line located in WA, ID, MT, ND and MN and points in AZ, CA, CO, NV, NM, OK, TX, and UT., for 180 days. SUPPORTING SHIPPERR(S): There are approximately (15) statements of support attached to this application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: Paul J. Labane DS, ICC, 2602 First AVE., North, Billings, MT 59101.

MC 133095 (Sub-219TA), filed November 15, 1978. Applicant: TEXAS-CONTINENTAL EXPRESS, INC., P.O. Box 434, Euless, TX 76039. Representative: Rocky Moore (same address as applicant). (1) *Alcoholic beverages* (except in bulk), and; (2) *Those materials* used in the manufacturing and sale of alcoholic liquors, viz.: containers, caps, closures, labels, botanicals, advertising materials, boxes, barrels, flavor, between Peoria, IL, on the one hand, and, on the other, points in PA, NY, NJ, MD, DE, CT, OH, MA, VT, NH, ME, and the District of Columbia, and KY, VA, WV, NC, AND SC., for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Hiram Walker & Sons, Inc., P.O. Box 479, Peoria, IL 61651. SEND PROTESTS TO: Martha A. Powell Trans. Asst., ICC, Room 9A27, Federal Building, 819 Taylor Street, Fort Worth, TX 76102.

MC 133119 (Sub-148TA), filed November 17, 1978. Applicant: HEYL TRUCK LINES, INC., 200 Norka Drive, P.O. Box 206, Akron, IA 51001. Representative: A. J. Swanson, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. *New furniture,* from the facilities of Triangle Pacific Corporation at or near Auburn, NE, to points in WA, UT, MT, ID, and WY, for 180 days. SUPPORTING SHIPPER(S): Triangle Pacific Corp., 4255 LBJ Freeway, Dallas, TX 75234. SEND PROTESTS TO: Carroll Russell, ICC, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 133566 (Sub-125TA), filed October 27, 1978, and published in the FEDERAL REGISTER issue of December 1, 1978, and republished as corrected this issue. Applicant: GANGLOFF & DOWNHAM TRUCKING CO., INC., P.O. Box 479, Logansport, IN 46947. Representative: Thomas J. Beener, Beinhauer & Rouhana, One World Trade Center, Suite 4959, New York, NY 10048. *Sugar,* in packages, from Brooklyn, NY, to points in IN, OH, IL,

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and MI, for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Amstar, 1251 Avenue of the Americas, New York, NY 10020. SEND PROTESTS TO: J. H. Gray DS, ICC, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802. The purpose of this republication is to correct the commodity description which should read, as "*Sugar,* in packages," instead of *Sand,* in packages.

MC 133689 (Sub-245TA), filed November 16, 1978. Applicant: OVERLAND EXPRESS, INC., 719 First Street, Southwest, New Brighton, MN 55112. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Liquid latex* (except in bulk), for Dalton, GA, to Chicago, IL, for 180 days. An underlying ETA seeks up to 90 days of authority. SUPPORTING SHIPPER(S): Borden, Inc., 180 East Broad Street, Columbus, OH 43215. SEND PROTESTS TO: Delores A. Poe, Trans. Asst., ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 133966 (Sub-56TA), filed October 24, 1978, and published in the FEDERAL REGISTER issue of December 1, 1978, and republished as corrected this issue. Applicant: NORTH EAST EXPRESS, INC., P.O. Box 127, Mountaintop, PA 18707. Representative: Joseph F. Hoary, 121 South Main Street, Taylor, PA 18517. (1) *Metal containers,* with or without lids, from Hanover Township, PA, to Albert Lea, MN, Bowling Green, OH; Chicago, IL; Cincinnati and Columbus, OH; Detroit, MI; Kansas City, KS; Louisville, KY; Milwaukee, WI; Newark, NJ, and New York, NY, and their commercial zones; and (2) *Products* used in the manufacturing, distribution, and sales of metal containers, with or without lids, from Bryan, OH, Chicago, IL, and Elizabeth, NJ, to Hanover Township, PA, for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Bertels Can Company, Hanover Industrial Estates, Wilkes-Barre, PA 18703. SEND PROTESTS TO: Paul J. Kenworthy DS, ICC, 314 U.S. Post Office Bldg., Scranton, PA 18503. The purpose of this republication is to correct NO. MC 133966 (Sub-No. 5TA) and to correct the territorial description which should read as, first the docket NO. MC 133966 (Sub-No. 56TA) instead of NO. MC 133966 (Sub-No. 53TA) and to correct the territorial description which should read as, Detroit, MI; and Kansas City, KS; instead of Detroit, MO; and Kansas City, MO.

MC 134402 (Sub-6TA), filed November 16, 1978. Applicant: WILLIAMS TRUCK LINE, INC., P.O. Box 143, Audubon, IA 50025. Representative: Robert D. Gisvold, 1000 First National Bank Bldg., Minneapolis, MN 55402. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products, and articles distributed by meat packing houses,* (except hides and commodities in bulk), from the facilities of Weinstein International Corp., and Iowa Pork Industries, Inc., at South St. Paul and Buffalo Lake, MN., to points in Minnesota, Wisconsin, Iowa, Nebraska, Kansas, North Dakota, South Dakota, Illinois, Missouri, Indiana, Ohio, Tennessee, Kentucky, Arkansas and MI., under a continuing contract, or contracts, with Weinstein International Corp., for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Brad McAlister Director of Export Trans., Weinstein International Corp., 5738 Olson Highway, Minneapolis, MN 55422. SEND PROTESTS TO: Carroll Russell DS, ICC, Suite 620, 110 North 14th Street, Omaha, NE. 68102.

MC 135283 (Sub-45TA), filed November 13, 1978. Applicant: GRAND ISLAND MOVING & STORAGE CO., INC., 432 South Stuhr Road, P.O. Box 2122, Grand Island, NE 68801. Representative: Lavern R. Holdenman, Peterson, Bowman, Larsen & Swanson, 521 South 14th Street, Suite 500, P.O. Box 81849, Lincoln, NE 68501. *Electric motors,* from the facilities of Baldor Electric, at or near Ft. Smith, AR, to the facilities of Caldwell Manufacturing Co., a Division of Chief Industries, Inc., at or near Kearney, NE, for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Caldwell Manufacturing Co., Robert L. Wells, Purchasing Agent, Kearney Industrial Tract, P.O. Box 338, Kearney, NE. SEND PROTESTS TO: Max Johnston DS, ICC, 285 Federal Building and U.S. Court House, 100 Centennial Mall North, Lincoln, NE 68508.

MC 135684TA, filed November 16, 1978. Applicant: BASS TRANSPORTATION CO., INC., P.O. Box 391, Old Croton Road, Flemington, NJ 08822. Representative: Ronald L. Knowowski, P.O. Box 391, Old Croton Road, Flemington, NJ 08822. *Containers and closures therefor,* from Quakertown, PA; Baltimore, MD; Bridgewater, Clifton, Jersey City, Linden, Piscataway and Rahway, NJ to points in the Boston, MA., Commercial Zone, for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Independent Packaging, Inc., 640 Summer Street, Boston, MA 02210. SEND PROTESTS TO: John P. Lynn Trans. Specialist, ICC, 428 East State Street, Room 204, Trenton, NJ. 08608.

MC 135797 (Sub-163TA), filed November 16, 1978. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 200, Lowell, AR 72745. Representative: Paul R. Bergant, P.O. Box 200, Lowell, AR 72745. *Canned and preserved foodstuffs,* from the facilities of Heinz U.S.A., Division of H. J. Heinz Co., at or near Pittsburgh, PA to points in Arkansas, New Mexico, Oklahoma and TX., restricted to traffic originating at the named origins and destined to the named destinations, for 180 days. SUPPORTING SHIPPER(S): Heinz U.S.A., Division of H. J. Heinz Company, P.O. Box 57, Pittsburgh, PA 15230. SEND PROTESTS TO: William H. Land, Jr., DS, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 135874 (Sub-143TA), filed November 13, 1978. Applicant: LTL PERISHABLES, INC., 550 East 5th Street, South St. Paul, MN 55075. Representative: Randy Busse, 550 East 5th Street South, South St. Paul, MN 55075. *Foodstuffs,* (except commodities in bulk), in vehicles equiped with mechanical refrigeration, from the facilities of Fruit Crest, Inc., at Garden City Park, NY., to points in SD, MN, NE, OH, KS, IA, IL, IN, MI, MO, WI and ND., restricted to traffic originating at the facilities of Fruit Crest, Inc., Garden City Park, NY and destined to points in the named states, for 180 days. An underlying ETA seeks up to 90 days authority. Supporting SHIPPER(S): Fruit Crest, Inc., 250 Fulton Avenue, Garden City Park, NY. 11040. SEND PROTESTS TO: Delores A. Poe Trans. Asst., ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 136220 (Sub-61TA), filed October 11, 1978, published in the FEDERAL REGISTER issue of December 1, 1978, and republished as corrected this issue. Applicant: SULLIVAN'S TRUCKING COMPANY, INC., P.O. Box 2164, Ponca, City, OK 74601. Representative: G. Timothy Armstrong, 6161 North May Avenue, Oklahoma City, OK 73112. *Aluminum dross, aluminum scrap* and *smelting residue,* (in bulk, in dump vehicles), from points in and east of Texas, Kansas, Nebraska, South Dakota and N. Dak., to Sapulpa and Checotah, OK., for 180 days. SUPPORTING SHIPPER(S): Teller Metal Company, 12115 Lackland Road, St. Louis, MO 63141. SEND PROTECTS TO: Connie Stanley Trans. Asst., Room 240 Old Post Office & Court House Bldg., 215 N.W., 3rd, Oklahoma City, OK 73102. The purpose of this republication is to correct the authority sought, which should read as *"Aluminum dross, aluminum scrap* and *smelting residue* (in bulk, in dump vehicles).

MC 136782 (Sub-7TA), filed November 16, 1978. Applicant: R.A.N. TRUCKING COMPANY, P.O. Box 367 Wheatland PA, Eau Clair, PA 16161. Representative: Warren W. Wallin, Sullivan & Associates, Ltd., 10 South LaSalle Street, Suite 1600, chicago, IL 60603. *Meats, meat products, meat by-products, and articles distributed by meat packinghouses,* as described in Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, (except commodities in bulk), from the facilities of the Di Cillo Corporation located at Cleveland, OH, to Baltimore, MD; Washington, DC; Philadelphia and Sharon, PA; Marboro and Boston, MA; Albany, Kingston, Minneola, New York and Utica, NY, for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Di Cillo corporation, 3290 W. 65th Street, Cleveland, OH 44102. SEND PROTESTS TO: John J. England DS, ICC, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

MC 136782 (Sub-8TA), filed November 16, 1978. Applicant: R.A.N., TRUCKING COMPANY, P.O. Box 128, Eau clair, PA 16030. Representative: Daniel C. Sullivan, Sullivan & Associates, Ltd., 10 South LaSalle Street, Suite 1600, Chicago, IL 60603. *Meats, meat products, and meat by-products,* as described in Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, (except commodities in bulk), from Mt. Airy, MD; Wilmington, DE; Philadelphia, PA; the New York Commercial Zone and Logansport, IN, to Cleveland, OH, for 180 days. SUPPORTING SHIPPER(S): A & W Foods, Inc., 4900 Crayton, Cleveland, OH 44104. SEND PROTESTS TO: John J. England DS, ICC, 2111 Federal building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

MC 138258 (Sub-4TA), filed November 16, 1978. Applicant: JAMES D. WILCOX, P.O. Box 128, 201 Depot Street, Boone, NC 28607. Representative: Douglas W. Greene, P.O. Box 629, Boone, NC 28607. *Raw and finished leather goods, parts for refrigeration equipment, awards; knitted fabric; and crude crepe shoe sole rubber,* between Johnson City, Kingsport, Bristol, TN, and their respective commercial zones and Watauga and Ashe Counties, NC, for 180 days. SUPPORTING SHIPPER(S): There are approximately (8) statements of support attached to this application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: Terrell Price DS, 800 Briar Creek Road, Room CC516, Mart Office Building, Charlotte, NC 28205.

MC 138404 (Sub-12TA), filed November 17, 1978. Applicant: DALE FOWLER & MERLE THRAPP, d.b.a. D & M TRANSPORT, P.O. Box 38, Sprague ville, IA 52074. Representative: Dale fowler (same as above). *Heat transfer products and components,* from Maquoketa, IA to Cat Tractor Company, Mossville, IL, Peoria, IL; Aurora, IL; Morton, IL; General Thermodynamics, Inc., Milwaukee, WI; and Helgesen Industries, Hartford, WI, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): General Thermo, Inc., R.R. #1, Jacobsen Drive, Maquoketa, IA 52060. SEND PROTESTS TO: Herbert W. Allen, ICC, 518 Federal Building, Des Moines, IA 50309.

MC 140262 (Sub-5TA), filed November 15, 1978. Applicant: VIKING TRANSPORT, INC., 585 Hi Tech Way, P.O. Box 546, Oakdale, CA 95361. Representative: Eldon M. Johnson, 650 California Street, Suite 2808, San Francisco, CA 94108. *Gold and silver ore,* (in bulk), from the facilities of the Lucky Chance Mining Company, Inc., and the Monte Cristo Mine at or near Mammoth Lakes, CA., to the facilities of Asarco, Inc., at or near Tacoma, WA., for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Lucky Chance Mining Company, Inc., 317 Freeport Blvd., Sparks, NV. 89431. SEND PROTESTS TO: Michael M. Butler DS, 211 Main, Suite 500, San Francisco, CA 94105.

MC 140858 (Sub-3TA), filed November 16, 1978. Applicant: SOS TRANSPORT, INC., Lawrence Street & Pattison Ave., Philadelphia, PA 19148. Representative: Richard M. Ochroch, 316 S. 16th Street, Philadelphia, PA 19103. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Paper and paper products and materials, supplies and equipment* used in the manufacture, sale and distributions of the above, between Philadelphia, PA, on the one hand, and, on the other, points in North Carolina, South Carolina, Georgia, Florida, Louisiana, Indiana, Tennessee, Ohio, Michigan, California, Texas, Minnesota, Arkansas and IA., under a continuing contract, or contracts, with Sterling Paper Co. for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Sterling Paper Co., Castor & Trenton Ave., Philadelphia, PA 19134. SEND PROTESTS TO: T. M. Esposito Trans. Asst., 600 Arch Street, Room 3238, Philadelphia, PA 19106.

MC 141921 (Sub-32TA), filed November 17, 1978. Applicant: SAV-ON TRANSPORTATION, INC., 143 Frontage Road, Manchester, NH 03108. Representative: John A. Sykas (same as above). *Frozen meat,* from Newark, NJ, Mount Airy, MD, Philadelphia, PA, Wilmington, DE and Boston, MA and their respective commercial zones to points in PA and KY, for 180 days. SUPPORTING SHIPPER(S): Gurrentz International Corporation, 2020 Ardmore Drive, Pittsburgh, PA 15221. SEND PROTESTS TO: Ross J. Seymour, ICC, Room 3, 6 Loudon Road, Concord, NH 03301.

MC 142062 (Sub-18TA), Filed November 13, 1978. Applicant: VICTORY FREIGHTWAY SYSTEM, INC., P.O. Drawer P, Sellersburg, IN 47172. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by a manufacturer of liquid plastic materials, (except commodities in bulk), from the facilities of Celanese Polymer Specialities Company, Inc., at Charleston, SC., to Moab, UT, and Green River, WY. RESTRICTION: Restricted to the transportation of shipments under a continuing contract or contracts with Celanese Polymer Specialities Company, Inc., for 180 days. SUPPORTING SHIPPER(S): Celanese Polymer Specialities Company, Inc., P.O. Box 32190, Louisville, KY 40232. SEND PROTESTS TO: Beverly J. Williams Trans. Asst., ICC, Federal Bldg., & U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, IN 46204.

MC 142559 (Sub-66TA), filed November 14, 1978. Applicant: BROOKS TRANSPORTATION, INC. 3830 Kelley Avenue, Cleveland, OH 44114. Representative: John P. McMahon, George, Greek, King, McMahon & McConnaughey, 100 East Broad Street, Columbus, OH 43215. (1)*Rubber and/or plastic articles or rubber and plastic combined;* and (2)*equipment, materials and supplies* used in the manufacture and distribution of the commodities listed in (1) above, (except commodities in bulk); between the facilities of Entek Corporation of America at or near Irving, TX., on the one hand, and, on the other, points in the United States, for 180 days. SUPPORTING SHIPPER(S): Entek Corporation of America, 104 County Line Road, Irving, TX 75060. SEND PROTESTS TO: Mary Wehner DS, ICC, 713 Federal Office Building, 1240 East Ninth Street, Cleveland, OH 44199.

MC 145441 (Sub-3TA), filed November 16, 1978. Applicant: A.C.B. TRUCKING, INC., I-40 & Protho Junction, P.O. Box 5130, North Little Rock, AR 72110. Representative: Hugh

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T. Matthews, 2340 Fidelity Union Tower, Dallas, TX 75201. *Instant coffee*, from Sunbury, OH., to Watsonville and Fullerton, CA; Milwaukie, OR., and Dallas and Houston, TX., for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Nestle Company, 100 Bloomingdale Road, White Plains, NY 10605. SEND PROTESTS TO: William H. Land, Jr., DS, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 144452 (Sub-5TA), filed November 16, 1978. Applicant: ARLEN LINDQUIST, d/b/a ARLEN E. LINDQUIST TRUCKING, 3242 Old Highway 8, Minneapolis, MN 55415. Representative: James B. Hovland, 414 Gate City Building, P.O. Box 1680, Fargo, ND 58102. *Petroleum and petroleum products*, in containers, from St. Louis, MO., to points in CO., for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Ashland Petroleum Company, Division of Ashland Oil, Inc., P.O. Box 391, Ashland, KY 41101. SEND PROTESTS TO: Delores A. Poe Trans. Asst., ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 144776 (Sub-4TA), filed November 16, 1978. Applicant: APACHE TRANSPORT, INC., 833 Warner Street, S.W., Atlanta, GA 30310. Representative: Virgil H. Smith, 1587 Phoenix Blvd., Suite 12, Atlanta, GA 30349. *Plastic articles*, (except in bulk), from the facilities of Mobil Chemical Company, Plastics Division at Covington and Conyers, GA., to points in the state of Louisiana, Tennessee, North Carolina, Virginia, Alabama and SC., for 180 days. SUPPORTING SHIPPER(S): Mobil Chemical Co., Plastics Division, Macedon, NY 14502. SEND PROTESTS TO: Sara K. Davis Trans. Asst., ICC, 1252 West Peachtree St., N.W., Room 300, Atlanta, GA 30309.

MC 145459 (Sub-1TA), filed November 16, 1978. Applicant: SERVICE EQUIPMENT & TRUCKING, INC., E. Route 336, P.O. Box 162, Mattoon, IL 61938. Representative: Thomas F. Kilroy, 6901 Old Keene Mill Road, Suite 406 Executive Bldg., Springfield, MA 22150. *Printed matter*, from Mattoon, IL., to Centralia, Chicago, Decatur, East St. Louis, and Villa Grove, IL.; Indianapolis, IN.; and St. Louis, MO., for continuation by railroad in TOFC service, for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Gerald Palansky General Manager, Family Circle, Inc., 488 Madison Avenue, New York, NY 10022. SEND PROTESTS TO: Charles D. Little DS, ICC, 414 Leland Office Building, 527 East Capitol Avenue, Springfield, IL 62701.

MC 145661 (Sub-1TA), filed November 15, 1978. Applicant: WESTSIDE TRANSPORT, INC., Pacheco Pass Highway, P.O. Box 605, Gilroy, CA 95020. Representative: Marvin Handler, 100 Pine Street, Suite 2550, San Francisco, CA 94111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural machinery, equipment and supplies*, points in CA south of the southern boundary of the counties of Marin, Solano, Sacramento and El Dorado on the one hand, and, on the other, points in AZ south of the northern boundaries of the counties of Yuma, Maricopa, Gila, Graham and Greenlee, under a continuing contract or contracts, with Sun Harvest, Inc., for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Sun Harvest, Inc., 122 East Alisal, Salinas, CA 93902. SEND PROTEST TO: Michael M. Butler DS, 211 Main, Suite 500, San Francisco, CA 94105.

MC 144672 (Sub-5TA), filed November 16, 1978. Applicant: VICTORY EXPRESS, INC., Box 26189, Trotwood, OH 45426. Representative: Richard H. Schaefer, Victory Express, Inc., P.O. Box 26189, Trotwood, OH 45426. (a) *Such merchandise* as is dealt in or used by wholesale, retail, chain, discount and variety stores, from the plantsite of General Home Products Corporation at Edgewater, NJ., and Pennsauken, NJ., on the one hand, and, on the other points in Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, Washington, West Virginia and WI; and (b) *Cart wheels*, from Seabrook, NH., to the plantsite of General Home Products Corporation at Edgewater, NJ., and Pennsauken, NJ., for 180 days. SUPPORTING SHIPPER(S): General Home Products Corporation, Richard White Traffic Manager, Pennsauken, NJ. 08110. SEND PROTESTS TO: Paul J. Lowry DS, ICC, 5514-B Federal Bldg., 550 Main Street, Cincinnati, OH. 45202.

MC 145699 (Sub-1TA), filed November 16, 1978. Applicant: QUALITY TRANSPORT, INC., 4404 West Berteau, Chicago, IL 60641. Representative: William J. Boyd, 600 Enterprise Drive, Suite 222, Oak Brook, IL 60521. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products*, as described in Appendix I to the Report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, From Chicago, IL., to all points in the Continental United States, moving under a continuing contract or contracts, with Midwest Quality Beef, Inc., for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Midwest Quality Beef, Inc., Donald A. Holmes General Manager, 4404 West Bertau, Chicago, IL 60641. SEND PROTESTS TO: Lois M. Stahl Trans. Asst., ICC, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 145703TA, filed November 15, 1978. Applicant: C & K BROKERAGE, INC. d/b/a NORTHERN TRANSPORTATION, R. D. 1, Gouverneur, NY 13642. Representative: Edward N. Button, P.O. Box 1417, 1329 Pennsylvania Avenue, Hagerstown, MD 21740. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Printing paper*, from Potsdam, NY., and its commercial zone to all points in the United States east of the Mississippi; and (2) *Materials and supplies*, (except in bulk), used in the manufacture and distribution thereof, from all points east of the Mississippi to Potsdam, NY and its commercial zone, under a continuing contract, or contracts, with Potsdam Paper Corporation, for 180 days. An underlying ETA secks up to 90 days authority. SUPPORTING SHIPPER(S): Potsdam Paper Corporation, P.O. Box 191, Potsdam, NY 13676. SEND PROTESTS TO: ICC, U.S. Courthouse & Federal Bldg., 100 S. Clinton Street, Room 1259, Syracuse, NY 13260.

MC 145728 (Sub-1TA), filed November 14, 1978. Applicant: VISALIA FREIGHT LINES, INC., 7388 Avenue 308, Visalia, CA 93277. Representative: Earl N. Miles, Jr., 3704 Candlewood Drive, Bakersfield, CA 93306. (1) *Lumber*, from all points and places within the State of OR., to all points and places within the State of CA., and the Nevada Counties of Clark, Churchill, Douglas, Lyon, Storey and Washoe.; and (2) *Trailer axles, wheels and parts*, from Chino, CA., to McMinnville, OR., for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): (1) Kelsey Axle & Brake Division, 14000 Monte Vista, Chino, CA. 91710. (2) Fresno Pallet, 4707 East Vine, Fresno, CA. (3) Rough and Ready Lumber Sales, Inc., Cave Junction, OR 97523. SEND PROTESTS TO: Irene Carlos Trans. Asst., ICC, Room 1321 Federal Bldg., 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 145732 (Sub-1TA), filed November 16, 1978. Applicant: GALEN CHARLES PRITCHARD, d/b/a PRITCHARD TRUCKING, 8505 Ohern #6, Omaha, NE 68127. Representative: Galen Charles Pritchard (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except commodities in bulk, in tank vehicles), between Omaha, NE., on the one hand, and, on the other, points in CA., restricted to traffic originating at or destined to the facilities of H. Shenson, Inc., and under a continuing contract or contracts, with H. Shenson, Inc., for 180 days. An underlying ETA seeks up to 90 days of authority. SUPPORTING SHIPPER(S): Louis A. Grech, H. Shenson, Inc., 1955 Carroll Avenue, San Francisco, CA 94124. SEND PROTESTS TO: Carroll Russell DS, ICC, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 145746 (Sub-1TA), filed November 16, 1978. Applicant: MINDEMANN TRUCKING, INC., W220 N. 5355 Townline Road, Sussex, WI 53089. Representative: Richard Mindemann, N56 W22053 Silver Spring Dr., Sussex, WI 53089. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Brewers grains, wet spent grain, and animal feed*, (in bulk, in dump type vehicles), from Milwaukee, Milwaukee County, WI., and Rochester Township, Racine County, WI., to all points and places in Illinois north of U.S. Highway 136, under a continuing contract or contracts, with Murphy Products Company, Inc., for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Murphy Products Company, Inc., 124 So. Dodge Street, Burlington, WI 53105. SEND PROTESTS TO: Gail Daugherty Trans. Asst., ICC, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

By the Commission.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc. 79-377 Filed 1-3-79 8:45 am]

[7035-01-M]

[Volume No. 131]

PETITIONS, APPLICATIONS, FINANCE MATTERS (INCLUDING TEMPORARY AUTHORITIES), ALTERNATE ROUTE DEVIATIONS, AND INTRASTATE APPLICATIONS

DECEMBER 27, 1978

PETITIONS FOR MODIFICATION, INTERPRETATION OR REINSTATEMENT OF OPERATING RIGHTS AUTHORITY

The following petitions seek modification or interpretation of existing operating rights authority, or reinstatement of terminated operating rights authority.

All pleadings and documents must clearly specify the suffix (e.g. M1 F, M2 F) numbers where the docket is so identified in this notice.

An original and one copy of protests to the granting of the requested authority must be filed with the Commission within 30 days after the date of this notice. Such protests shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247)[1] and shall include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon petitioner's representative, or petitioner if no representative is named.

MC 121060 (Sub-79F) (M1F) (Notice of Filing of Petition to Modify Certificate), filed September 29, 1978. Petitioner: ARROW TRUCK LINES, INC., 1220 West 3rd Street, Birmingham, AL 35201. Representative: William P. Jackson, Jr., 919 Eighteenth Street, NW, Washington, DC 20006. Petitioner holds a motor *common carrier* certificate in MC 121060 Sub E-78 published in the FR issue of July 22, 1975, authorizing transportation, over irregular routes, of *Ceiling systems, paint, plastic light diffusers, adhesives, furring, fasteners, lighting systems, moldings, steel shapes, steel rods, steel channels, steel ceiling beams, applicators and roofing caps, and materials and supplies* used in the installation of any commodity named above (except in bulk) from Mobile, AL, to points in MD, OH, WV, DC, PA, NJ, DE, MN, WI, MI, ME, NH, VT, CT, NY, and VA. By the instant petition, petitioner seeks to modify the above authority by adding "composition board, roofing and roofing materials," to the commodity description.

NOTE.—MC 121060 Sub 79F(M1F) has been assigned as the docket number in this E-Letter Notice Modification and is to be used in reference to this proceeding.

REPUBLICATIONS OF GRANTS OF OPERATING RIGHTS AUTHORITY PRIOR TO CERTIFICATION

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the FEDERAL REGISTER.

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such pleading shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

MC 13900 (Sub-18) (2nd Republication), filed November 23, 1973, published in the FEDERAL REGISTER issues of January 17, 1974 and December 14, 1978, and republished this issue. Applicant: MIDWEST HAULERS, INC., 228 Superior Street, Toledo, OH 43604. Representative: Harold G. Hernly, Jr., 118 North St. Asoph Street, Alexandria, VA 22314. A Decision of the Commission, decided August 24, 1978, and served September 20, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of *General commodities* (except articles of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Cincinnati, OH, Minneapolis and St. Paul, MN, Milwaukee, WI, Chicago, IL, St. Louis, MO and Houston, TX, on the one hand, and, on the other, Memphis, TN, New Orleans, LA, Dallas, Fort Worth, and San Antonio, TX, Kansas City, MO, Phoenix and Tucson, AZ, Salt Lake City, UT, Reno and Las Vegas, NV, Fresno, Oakland, Los Angeles, San Francisco, Sacramento, San Diego, San Jose, and Santa Fe Springs, CA, Portland, OR, and Seattle, Spokane, and Tacoma, WA, restricted to the transported of traffic when moving on the bills of lading of freight forwarders as defined in section 402(a)(5) of the Act. Applicant is permitted to tack the authority granted herein with its existing motor common carrier authority at Cincinnati, OH, Houston, TX, Minneapolis and St. Paul, MN, Milwaukee, WI, Chicago, IL, and St. Louis, MO, to serve points in IL, IN, MN, MO, OH, MI, KY, PA, NY, MA, RI, CT, NJ, MD, WI, and the District of Columbia, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission Washington, D.C. 20423.

indicate applicant's actual grant of authority.

MC 103993 (Sub-892) (2nd Republication), filed May 16, 1977, published in the FEDERAL REGISTER issue of June 30, 1977 and August 17, 1978, and republished this issue. Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West, Elkhart, IN 46514. Representative: Paul D. Borghesani (same address as applicant). A Decision of the Commission, Division 2, decided December 5, 1978, and served December 18, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier,* by motor vehicle, over irregular routes, in the transportation of (1) *Trailers* designed to be drawn by passenger automobiles (except travel trailers and camping trailers), in initial movements, from points in AR, CA, CO, LA, MD, MI, MN, MS, NH, NM, NY, NC, OK, OR, SC, TN, VA, and WI, to points in the United States (except AK and HI); and (2) *buildings, complete or in sections,* mounted on wheeled undercarriages, from origins which are points of manufacture, from CO, MD, NH, NM, NY, NC, SC, and VA, to points in the United States (except AK and HI), that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate applicant's actual grant of authority.

MC 117119 (Sub-680) (Republication), filed March 21, 1978, published in the FEDERAL REGISTER issue of May 11, 1978, and republished this issue. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: M. M. Geffon, P.O. Box 338, Willingboro, NJ 08046. A Decision of the Commission, Review Board Number 4, decided December 6, 1978, and served December 20, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier,* by motor vehicle, over irregular routes, in the transportation of *Frozen meat,* from Philadelphia, PA, to the facilities of the Campbell Soup Company, at Napoleon, OH, Chicago, IL, and Omaha, NE, restricted to the transportation of traffic originating at the named origin (or having a prior movement by water thereto), and destined to the named points, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate applicant's actual grant of authority.

MC 138882 (Sub-53) (Republication), filed March 24, 1978, published in the FEDERAL REGISTER issue of April 27, 1978, and republished this issue. Applicant: WILEY SANDERS, INC., P.O. Box 707, Troy, AL 36081. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. A Decision of the Commission, Review Board Number 1, decided December 5, 1978, and served December 14, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier,* by motor vehicle, over irregular routes, in the transportation of *Malt beverages,* from Fort Worth, TX, and Eden, NC, to Tallahassee, FL, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to modify the commodity description, and add Eden, NC as an origin point.

MC 143149 (Sub-2) (Republication), filed December 14, 1977, published in the FEDERAL REGISTER issue of March 16, 1978, and republished this issue. Applicant: GARY PRESSMAN, d/b/a PRESSMEN TRUCKING, Rural Route #1, Fulton, IL 61252. Representative: Winston A. Hollard, 5900 West Colfax Avenue, Suite 20, P.O. Box 14006, Denver, CO 80214. A Decision of the Commission, Review Board Number 1, decided November 14, 1978, and served December 20, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *contract carrier,* by motor vehicle, over irregular routes, in the transportation of (1) *Iron and steel articles,* from Fairfield, AL; Torrance, CA; Chicago, Hennepin, and Sterling, IL; Burns Harbor and Portage, IN; Kansas City and St. Louis, MO; Norfolk, NE; Lackawanna, NY; Cleveland and Youngstown, OH; Aliquippa, Bethlehem, Clairton, Homestead, Johnstown, and Pittsburgh, PA; Houston, TX; and Geneva, UT, to Denver, CO, under contract with Steel, Inc., of Commerce City, CO; and (2) *steel racks,* from Denver, CO, to points in the United States (except AK, CO, and HI), under a contract with Steel Storage Systems, Inc., of Commerce City, CO, will be consistent with the public interest and the national transportation policy, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate applicant's actual grant of authority.

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

The following applications are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the Federal Register. Failure to seasonably file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with Section 247(e)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use a such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally, protests not in reasonable compliance with the requirements of the rules may be rejected.

The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. All pleadings and documents must clearly specify the "F" suffix where the docket is so identified in this notice. If the protest includes a request for oral hearing, such request shall meet the requirements of Section 247(e)(4) of the special rules, and shall include the certification required therein.

Section 247(f) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request dismissal thereof, and that failure to prosecute an application under procedures ordered by the Commission will result in dismissal of the application.

Further processing steps will be by Commission decision which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the FEDERAL REGISTER of a notice that the proceeding has been assigned for oral hearing.*

Each applicant states that approval of its application will not significantly affect the quality of the human environment nor involve a major regulatory action under the Energy Policy and Conservation Act of 1975.

MC 96324 (Sub-25F), filed March 30, 1978, and previously published in the FEDERAL REGISTER on June 15, 1978. Applicant: GENERAL DELIVERY, INC., P.O. Box 1816, Fairmont, WV 26554. Representative: Harold G. Hernly, Jr., 118 North St. Asaph Street, Alexandria, VA 22314. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *containers and closures for containers, and glassware, materials, equipment and supplies* used or useful in the manufacture or distribution of containers and closures for containers and glassware, (except commodities in bulk); (1) Between Danville, VA, on the one hand, and, on the other, points in CT, DE, FL, GA, KY, ME, MD, MA, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, and DC.; (2) Between Freehold, NJ, on the one hand, and, on the other, points in AL, FL, GA, KY, MD, PA, OH, NC, SC, TN, VA, WV, and DC; (3) Between Huntington, WV, on the one hand, and, on the other, points in VA, TN, NC, SC, FL, GA, AL, MS, and LA; (4) Between Fairmont, WV, on the one hand, and, on the other, points in TN, NC, SC, FL, GA, AL, MS, and LA; (5) Between Columbus, OH, on the one hand, and, on the other, points in CT, DE, FL, GA, KY, ME, MD, MA, NH, NJ, NY, NC, PA, RI, SC, TN, VT, VA, WV, DC, AL, MS, and LA. Note: (1) Applicant intends to tack the authority sought with existing authority in order to provide service between Brockway and Washington, PA, Zanesville, OH, and Clarksburg, WV, on the one hand, and, on the other, points in the states named above. (2) The purpose of this republication is to show the intent of applicant to also tack at Fairmont, WV, to provide service on glass containers from points in GA, NC, and TN, to points in OH, PA, NY, MD, NJ, DE, ME, VT, NH, MA, RI, and CT. (Hearing site: Pittsburgh, PA.)

MC 115331 Sub 472F, filed November 7, 1978. Applicant: TRUCK TRANSPORT INCORPORATED, 29 Clayton Hills Lane, St. Louis, MO 63131. Representative: J. R. Ferris, 230 St. Clair Avenue, East St. Louis, IL 62201. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in, or used by, manufacturers and distributors of containers and related articles (except commodities in bulk), between points in the United States (except Alaska and Hawaii). (Hearing site: Washington, D.C.)

NOTE.—Common control may be involved.

MC 144452 (Sub-2F) (Republication), filed June 26, 1978, previously noticed in the FEDERAL REGISTER issue of August 22, 1978. Applicant: ARLEN LINDQUIST, doing business as ARLEN E. LINDQUIST TRUCKING, 3242 Old Hwy 8, Minneapolis, MN 55418. Representative: James B. Hovland, P.O. Box 1680, Fargo, ND 58102. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting (1) *Oil,* from Roxana, IL, to points in MN, South Bend, IN, the Upper Peninsula of MI, and points in WI north of U.S. Hwy 16 and east of U.S. Hwy 51, (2) *oil* (except in bulk), from Roxana, IL, to points in ND, SD and points in WI on and south of U.S. Hwy 16 and on and west of U.S. Hwy 51, (3) *oil,* in containers, from (a) St. Louis, MO, Green Bay, WI, Anoka, MN, Kansas City, KS, and Ponca City, OK, to points in MN, ND and SD, (b) St. Louis, MO, Anoka, MN and Green Bay, WI, to points in WI, (c) Sewaren, NJ, to Beaver Dam, Green Lake, Waupun, and Mayville, WI; and (d) Chicago, IL, to Chippewa Falls, Wausau and Mellen, WI, restricted against the transportation of traffic in (3)(a) above, from the plantsites of Interstate Oil Co., Inc., Phillips Petroleum Company, STP Corporation and Southwest Grease and Oil (Kansas City), Inc. at the Kansas City, MO-Kansas City, KS Commercial Zone, to points in MN, (4) *lubricants,* in containers, from New Orleans, LA, to points in St. Louis, Koochiching and Lake Counties, MN and Waupaca, Portage, Marathon, Lincoln, Langlade, Oneida, Forest, Oconto, Menominee and Shawano Counties, WI, (5) *tires and tubes,* from (a) Tupelo, MS, Des Moines, IA, Little Rock, AR, Nashville and Memphis, TN and Gunthersville, AL, to points in MN and WI, (b) Tupelo, MS, Des Moines, IA, Gunthersville, AL, St. Louis, MO, Green Bay, WI and Anoka, MN, to points in ND and SD, (c) Memphis, TN, to points in CO and KS (except Kansas City, Topeka and Wichita), the Upper Peninsula of MI, ND, SD and WY, (d) Gunthersville, AL, to points in IA, (e) Green Bay, WI, to points in MN, (f) Anoka, MN, to points in WI; and (g) Chicago, IL, to points in Waupaca, Portage, Marathon, Lincoln, Langlade, Oneida, Forest, Oconto, Menominee and Shawano Counties, WI, restricted in (4) (a) and (b) above against the transportation of traffic from the Firestone Tire and Rubber Company at Des Moines, IA, (6) *retread rubber,* within the territorial scope of (5)(a) above, restricted against the transportation of retread rubber, from Memphis, TN and Gunthersville, AL, to Minneapolis and St. Paul, MN; and (7) *anti-freeze* (except in bulk, in tank vehicles), from Roxana, IL, to points in WI. Note: The purpose of this republication is to indicate the correct territory requested. Dual operations are involved in this proceeding. (Hearing site: St. Paul, MN).

FINANCE APPLICATIONS

NOTICE

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, of rail carriers or motor carriers pursuant to Sections 11343 (formerly Section 5(2)) or 11349 (formerly Section 210a(b)) of the Interstate Commerce Act.

An original and one copy of protests against the granting of the requested authority must be filed with the Commission within 30 days after the date of this Federal Register notice. Such protest shall comply with Special Rules 240(c) or 240(d) of the Commission's *General Rules of Practice* (49 CFR 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant, if no representative is named.

Each applicant states that approval of its application will not significantly affect the quality of the human environment nor involve a major regulatory action under the Energy Policy and Conversation Act of 1975.

MC-F-13774F. Authority sought for purchase by LOZOWICK TRUCKING CO., INC., P.O. Box 292, Sparta, NJ 07871, of the operating rights of HERMAN LOZOWICK TRUCKING CO., 1551 Park Avenue, South, Linden, NJ 07036, and for acquisition by TRANSCO INDUSTRIES, INC. and in turn by FRED M. FINKLE, JR. and BARRY FINKLE, all of P.O. Box 292, Sparta, NJ 07871, of control of such rights through the transaction. Applicant's representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Operating rights sought to be transferred: (1) Bronze, brass, copper, and nickel products and in connection therewith, materials, and supplies used in the manufacture of such products (except commodities in bulk, in tank vehicles), (a) Between the site of the plant of the Phelps Dodge Copper Products Corporation at or near South Brunswick Township, Middlesex County, NJ, and New York, NY, (b) From facility of Phelps Dodge Copper Products Corporation at or near South Brunswick Township, Middlesex County, NJ, to points in named counties in NY, Philadelphia, PA, and points in PA within 15 miles thereof,

and Bridgeport, New Haven, and Waterburn, CT, (c) Between plantsite of the Phelps Dodge Copper Products Corporation at or near South Brunswick Township, Middlesex County, NJ, and points in the NJ portion of the New York, NY Commercial Zone, (d) Between Elizabeth, NJ and New York, NY, (e) From Elizabeth, NJ, to points in named counties in NY, Philadelphia PA, and points in PA within 15 miles thereof and Bridgeport, New Haven, and Waterbury, CT, (f) Between Bayway, NJ, and New York, NY, (g) From Bayway, NJ, to points in named counties in New York, Philadelphia PA, and points in Pennsylvania within 15 miles of Philadelphia and Bridgeport, New Haven, and Waterbury, CT, (2) Aluminum Products and in connection therewith, materials and supplies used in the manufacture of such products (except commodities in bulk, in tank vehicles), (a) Between Bayway, NJ, and the plantsite of the Phelps Dodge Copper Products Corporation at or near South Brunswick Township, Middlesex County, NJ, and points in the New York Commercial Zone, (b) From Bayway, NJ, and the plantsite of the Phelps Dodge Copper Products Corporation at or near South Brunswick Township, Middlesex County, NJ, to points in named counties in New York, Philadelphia, PA, and points in Pennsylvania within 15 miles thereof, and Bridgeport, New Haven, and Waterbury, CT, (3) Salvaged, damaged and returned shipments of the above described commodities, in reverse direction all under continuing contract with Phelps Dodge Copper Products Company, Phelps Dodge Tube Company, divisions of Phelps Dodge Industries, Inc, (4) Copper Billets, From Carteret and Perth Amboy, NJ, to Reading, PA, (5) Copper tubing, Copper Pipe, Brass Pipe, and Brass Tubing, From Reading, PA, to New York, NY, and points in named counties in NJ and NY, (6) Copper Cathodes From Perth Amboy, NJ, to Reading, PA, (7) Copper Anodes, Bars, Billets, Cathodes and Ingot, From Ontelaunee Township, PA, to points in New York, NY Commercial Zone and points in named counties in NJ, (8) Scrap Copper, From points in New York Commercial Zone and points in named counties in NJ to Ontelaunee Township, PA, under a continuing contract with Reading Industries, Inc., (9) Cable and Wire, From Linden and Hillside, NJ, to New York, NY, and points in named counties in NY, (10) Empty Reels, Returned and salvaged shipments and materials and supplies used in manufacture of cable and wire (except in bulk) in reverse direction under continuing contract with Hatfield Wire and Cable Division of Continental Copper & Steel Industries, Inc., (11) Merchandise such as is dealt in by persons engaged in the manufacture and sale of condiments and nonalcoholic and noncarbonated beverages and in connection therewith materials supplies and equipment used in the conduct of such business, except commodities in bulk, in tank vehicles, Between Newark, NJ, and points in Nassau and Westchester Counties, NY, and New York, NY Commercial Zone and Philadephia, PA, under a continuing contract with Allied Old English, Inc., (12) Such merchandise as is dealt in by wholesale and retail chain cigar and drug stores and in connection therewith equipment, materials and supplies used in the conduct of such business, (a) Between New York, NY, and a described portion of NJ, (b) Between New York, NY, and Nyack, NY, limited to a service to be performed under contracts with persons who operate wholesale and retail chain cigar and drug stores. Transco Industries, Inc. holds no authority from the Commission; however its controlling stockholders control (1) North Jersey Transfer, Inc., P.O. Box 292, Sparta, NJ 07871, a contract carrier, authorized to operate in the states of AL, AR, CT, DE, FL, DC, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, VT, WV, VA, and WI, (2) Thruway Freight Lines, Inc., P.O. Box 56, Elmwood Park, NJ, 07407 a common carrier, authorized to operate in the states of NJ, NY, PA, MD, DE, DC, and CT, (3) All Cargo Forwarders, P.O. Box 361, Carlstadt, NJ 07602, a freight forwarder. Application has not been filed for temporary authority under section 210a(b).

NOTE.—MC-145512 is a directly related matter.

MC-F-13857F. Authority sought for purchase by Meat Dispatch, Inc., 2103 Seventeenth Street East, Palmetto, Fl. 33561 of the operating rights and properties of Sherwood Trucking, Inc., 1517 Hoyt Avenue, Muncie, Indiana 47302. Representative: Donald W. Smith, P.O. Box 40659, Indianapolis, In. 46240. Operating Rights Sought to be Transferred: (1) Bananas, from Mobile, Al., and New Orleans, La., to Indianapolis and Terre Haute, In.; From Charleston, S.C., to points in In.; From Gulfport, Ms. to points in In. and DeKalb, Il. (2) Soap, toilet preparations, and other articles produced and distributed by the Colgate Polmolive Company at Jeffersonville and Clarksville, In.; from Jefferson and Clarksville, In. to Birmingham, Al. and New Orleans, La. RESTRICTION: The service authorized herein to Birmingham, Al., is restricted to the transportation of shipments destined Birmingham, Al. (3) Bananas, and coconuts and pineapplies, when transported, in the same vehicle with Bananas, from Mobile, Al. and New Orleans, La. to Fort Wayne and Lafayette, In. (4) Canned goods, from the plantsites of Process Supply Co., Inc. at or near Muncie and Plumtree, In. to points in Ky. (Except Louisville and Covington), TN., La., Ga., Ms., Ar., Tx., and Va. (5) Cheese, from the plantsite of County Line Cheese Company at or near Auburn, In. to points in Fl., Ga., and Al. (6) Foodstuffs (except in bulk) and advertising matter, display racks and premiums when moving at the same time and in the same vehicle with foodstuffs from the facilities of American Home Foods Division of American Home Products Corporation at LaPorte, In. to points in Ga., Tn., Al., La., and Ms. RESTRICTION: The operations authorized herein are restricted to the transportation of shipments originating at the facilities of American Home Foods Division of American Home Products Corporation at LaPorte, Ind. and destined to the named destination points. (7) Bananas, from New Orleans, La. to Gulfport, Ms. (8) Meat, meat products and meat-by-products, between New Orleans, La and Hattiesburg, Gulfport and Biloxi, Ms. (9) Zinc and zinc products, between Greencastle, In. on the one hand, and, on the other, points in Ga., Ky., La., Ms., Mo., N.C., S.C., and Tn. (10) Zinc and zinc products, caps, covers, and discs, for bottles and jars, from Muncie, In. to points in Ga., Ky., La., Ms., Mo., N.C., S.C., and Tn. (11) Bread, and bread products, crackers and cracker meal, cookies and cookie meal, cakes, flour and flour products and sweet goods, (except frozen), from the plant site of the Richmond Baking Co. at Richmond, In. to Paris, Tx., Fort Smith, Ar., and points in Mo. (except St. Louis, Mo., and its commercial zone, as defined by the Commission), Pa., and N.Y. RESTRICTION: The operations authorized herein are restricted to the transportation of shipments originating at the above-described plant site and destined to the above-described destination points. (12) Meats, meat products, and meat-by-products, and articles distributed by meat packing houses as described in Sections A and C of Appendix I to the Report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766, (except hides and commodities in bulk) from the plant site and storage facilities of Wilson Foods Corp. at or near Logansport, In. to points in Al., Ms., La., and Tn. (13) Glass containers and closures therefore, from Dunkirk, In. to points in Ar. and Ms. (14) Foodstuffs, from the plant site of American Home Foods, Inc. at LaPorte, In. to points in Ky. RESTRICTION: The operations authorized herein are restricted to the transportation of traffic originating at the above name plant site. (15) Bakery products (except

frozen), flour, and cookie and cracker meal, from Richmond, In. to Oklahoma City, Ok., Evansdale, Ia., and Fremont, Mi. (16) Glass containers, and closures therefor from Dunkirk, In. to points in N.C., S.C., and Ga. (17) From Muncie, In. to Fort Smith, Ark. RESTRICTION: The operations authorized herein are restricted to the transportation of shipments originating at the plant site and warehouse facilities of Kerr Glass Manufacturing Corporation at Dunkirk and Muncie, In. (18) Glass containers, and closures therefor, from the plantsite and storage facilities of Kerr Glass Manufacturing Corp., at Dunkirk, and Muncie, In. to points in Mo. and points in that part of Tn. on and east of U.S. Hwy. 127 (except Chattanooga, Tn) and; returned shipments of glass containers from points in Mo., and points in that part of Tn. on and east of U.S. Hwy. 127 (except Chattanooga, Tn) to the plantsite and storage facilities of Kerr Glass Manufacturing Corp. at Dunkirk, and Muncie, in. RESTRICTION: Restricted to the transportation of traffic originating at the above named plant site and storage facilities. (19) Paper and paper products, from Eaton, In. to points in Ok., Tx., Ms., and Ar. RESTRICTION: The operations authorized herein are restricted to the transportation of traffic originating at the plant site or storage facilities of Cleveland Partition Corporation at Eaton, In. (20) Sugar, (except in bulk) from Gramercy, La. to Kansas City, Mo. and Points in Al., Ms., and W.Va. (21) Clay, in containers, from Sandersville, Ga. to points in Ar., Il., (except points located in the Chicago, Il. and St. Louis, Il., Commercial Zones as defined by the commission), Ky., (except Louisville, Ky. and Points in its Commercial zone as defined by the Commission), La., Mo., (except points located in the St. Louis, Mo., East St. Louis, Il. Commercial zone as defined by the Commission), Ms., Ok., Tx., and W.Va. (22) Glass containers and closures therefor, from Skyland, N.C. to points in Al., Ms., and La. (23) From Okmulgee, Ok. to points in Ar., Al., Ms., and La. RESTRICTION: Restricted to traffic originating at the plant sites and warehouse facilities of Ball Corporation at Skyland, N.C. and Okmulgee, Ok. (24) Water system tanks (except those which because of size or weight require the use of special equipment) from Rogers, Ar. to points in Al., Ga., In., N.C., Oh., Pa., SC., Va. and Wi. (25) Foodstuffs (except frozen foods and commodities in bulk) from the plant site of American Home Foods at LaPorte, In. to points in Ar., that part of Mo. on and south of Interstate Hwy. 44, and Joplin, Mo. RESTRICTION: Restricted to traffic originating at the indicated plant site and destined to the named destinations. (26) Glass containers and closures for glass containers, from Terre Haute, In. to points in Tn., Ga., La., N.C., and S.C.; materials, equipment and supplies used in the manufacture and distribution of glass containers (except commodities in bulk, in tank vehicles) from points in La., Ga., and Tn. to Terre Haute, In. (27) Wood pulp and paper from Calhoun, Tn. to points in Il. RESTRICTION: Restricted to traffic originating at the plant site and warehouse facilities of Bowaters Southern Paper Corporation located at Calhoun, Tn. and destined to the named destinations. (28) Foodstuffs (except in bulk) from the plant site and warehouse facilities of Duffy-Mott Company, Inc. at Bailey, Hartford, South Haven, Grand and Holland, Mi. to points in Ar., La., Ms., Ok., Tn., and Tx. RESTRICTION: Restricted to traffic originating at the above named plant site and warehouse facilities and destined to the named destinations. (29) Wood pulp and paper, from Calhoun, Tn. to points in that part of In. on and north of U.S. Hwy. 40 and that part of Mi. on and south of Mi. Hwy. 21. RESTRICTION: Restricted to traffic originating at the plant site and warehouse facilities of Bowater Southern Paper Corporation located at Calhoun, tn. and destined to the named destinations. (30) Foodstuffs, and animal and pet foods (except commodities in bulk) from the facilities of Southern Michigan Cold Storage Co., Logansport Refrigerated Services Division, located at or. near Logansport, In. to points in Ky., Tn., Ga., Al., N.C., S.C., Ms., La., Ar., Ok., and Mo. (Except St. Louis). RESTRICTION: Restricted to shipments originating at the named origins and destined to the named destinations. (31) Bread making compounds, from Olathe, Ks. to the plant site of Lewis Brothers Bakery, Located at Evansville, In. RESTRICTION: This certificate may not be joined or tacked with the carrier's other irregular route authority. Vendee is authorized to operate as a contract carrier in all states (except Alaska, Hawaii, Idaho, Utah, Montana, Oregon, and Washington State) Application has been filed for temporary authority under section 210a(b) of the Act.

MOTOR CARRIER ALTERNATE ROUTE DEVIATIONS

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Property (49 CFR 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of this FEDERAL REGISTER notice.

Each applicant states that there will be no significant effect on either the quality of the human environment or energy policy and conservation.

MOTOR CARRIERS OF PROPERTY

MC 112123 (Deviation No. 1), BESTWAY TRANSPORTATION, 1624 S. Central Ave., Phoenix, AZ 85004, filed December 19, 1978. Representative: Donald E. Fernaays, 4040 E. McDowell Rd., Suite 320, Phoenix, AZ 85008. Carrier proposes to operate as a *common carrier,* by motor vehicle, of *general commodities,* with certain exceptions, over a deviation route as follows: From Phoenix, AZ over U.S. Hwy 60 to Florence Junction, AZ, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over pertinent service routes as follows: (1) From Ehrenberg, AZ over Interstate Hwy 10 via Phoenix and Tucson, AZ to the AZ–NM State line, and (2) From Florence Junction, AZ over U.S. Hwy 60 to Globe, AZ, then over U.S. Hwy 70 to Safford, AZ, then over U.S. Hwy 666 to junction Interstate Hwy 10, and return over the same routes.

By the Commission.

H. G. HOMME, JR.,
Secretary.

[FR Doc. 79-378 Filed 1-3-79; 8:45 am]

[7035-01-M]

[Permanent Authority Decisions Volume No. 61]

PERMANENT AUTHORITY APPLICATIONS

Decided: December 19, 1978.

The following applications are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the FEDERAL REGISTER. Failure to file a protest, within 30 days, will be considered as a waiver of opposition to the application. A protest under these rules should comply with Rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant

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should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

We find: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the national transportation policy. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of the Interstate Commerce Act and the Commission's regulations. This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the national transportation policy subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of section 10930 (formerly section 210) of the Interstate Commerce Act.

It is ordered: In the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a noncomplying applicant shall stand denied.

By the Commission, Review Board Number 1, Members Carleton, Joyce, and Jones.

H. G. Homme, Jr.,
Secretary.

MC 409 (Sub-68F), filed November 17, 1978. Applicant: SCHROETLIN TANK LINE, INC., P.O. Box 511, Sutton, NE 68979. Representative: Steven K. Kuhlmann, P.O. Box 82028, Lincoln, NE 68501. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *dry fertilizer,* from Falls City, NE, to points in IA, KS, and MO. (Hearing site: Lincoln or Omaha, NE.)

MC 409 (Sub-69F), filed November 17, 1978. Applicant: SCHROETLIN TANK LINE, INC., P.O. Box 511, Sutton, NE 68979. Representative: Steven K. Kuhlmann, P.O. Box 82028, Lincoln, NE 68501. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *fertilizers, fertilizer materials and agricultural chemicals,* from the facilities of Chemical Enterprises, Inc., (1) in Adams County, NE, to points in CO, IA, KS, MN, MO, ND, OK, SD, TX and WY, and (2) near Odessa, TX, to Garden City, KS, and to the facilities of Chemical Enterprises, Inc., in Adams County, NE. (Hearing site: Lincoln or Omaha, NE.)

MC 2368 (Sub-87F), filed November 20, 1978. Applicant: BRALLEY-WILLETT TANK LINES, INC., 2212 Deepwater Terminal Road, P.O. Box 495, Richmond, VA 23204. Representative: Steven L. Weiman, Suite 145, 4 Professional Drive, Gaithersburg, MD 20760. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *animal and vegetable oils and greases, animal and vegetable oil and grease products, and animal and vegetable oil and grease byproducts,* in bulk, in tank vehicles, between points in VA, on the one hand, and, on the other, points in GA and OH; and (2) *animal oils and greases,* in bulk, in tank vehicles, from Baltimore, MD, to points in VA. (Hearing site: Washington, DC.)

MC 2862 (Sub-62F), filed October 23, 1978. Applicant: ARROW TRANSPORTATION CO. OF DELAWARE D/B/A ARROW TRANSPORTATION COMPANY, 3125 NW 35th Avenue, Portland, OR 97210. Representative: Robert R. Hollis, 400 Pacific Bldg., Portland, OR 97204. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *petroleum and petroleum products,* in bulk, in tank vehicles, from Boise, ID, to points in OR. (Hearing site: Portland, OR, or Seattle, WA.)

MC 11207 (Sub-455F), filed October 12, 1978. Applicant: DEATON, INC., 317 Avenue W, P.O. Box 938, Birmingham, AL 35201. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Ave., Washington, DC 20014. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *plywood, paneling, gypsum board, composition board, and moulding,* from the facilities of the Pan American Gyro-Tex Company, at or near Jacksonville, FL, to points in IN, IL, and OH; and (2) *materials* used in the manufacture of the commodities in (1) above, (except commodities in bulk), in the reverse direction. (Hearing site: Jacksonville, FL, or Birmingham, AL.)

MC 18037 (Sub-8F), filed August 8, 1978. Applicant: CHAS. LEVY CIRCULATING CO., a corporation, 1200 North Branch Street, Chicago, IL 60622. Representative: Edward G. Bazelon, 39 South LaSalle Street, Chicago, IL 60603. To operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting (1) *such commodities* as are dealt in or used by newsdealers, from Chicago, IL, to points in WI, KY, the Lower Peninsula of MI, and those in OH west of a line bounded by Lorain, Ashland, Holmes, Coschocton, Muskingum, Perry, Hocking, Vinton, Jackson, and Lawrence Counties, OH; and (2) *returned shipments* of the commodities

in (1) above, in the reverse direction, under contract with Publishers Distributing Corp. of New York, NY; R.R. Donnelley & Sons Company, of Chicago, IL; Globe Co-munications Corp., of Montreal, Quebec, Canada; Dell Distributing Inc., of Schaumburg, IL; Independent News Co., Inc., of New York, NY; Select Magazines, Inc., of New York, NY; Dayton Press, Inc., of Dayton, OH; Mid America Webpress, Inc., of Lincoln, NE; Downe Publications, Inc., of New York, NY; Time, Inc., of Chicago, IL; and World Color Press of Effingham, IL. (Hearing site: Chicago, IL.)

MC 21866 (Sub-109F), filed October 16, 1978. Applicant: WEST MOTOR FREIGHT, INC., 740 S. Reading Ave., Boyertown, PA 19512. Representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, PA 19102. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *crusher parts, breaker parts, and grinder parts,* from the facilities of Ash Pump Company, in East Whiteland Township, Chester County, PA, to points in AZ, CO, FL, IL, LA, MI, MN, MT, NM, NV, TN, TX, UT, and WI, and (2) *materials and supplies* used in the manufacture of the commodities named in (1) above, in the reverse direction. (Hearing site: Washington, DC, or Philadelphia, PA.)

MC 25798 (Sub-344F), filed November 24, 1978. Applicant: CLAY HYDER TRUCKING LINES, INC., P.O. Box 1186, Auburndale, FL 33823. Representative: Tony G. Russell (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts,* and *articles distributed by meat-packing houses,* as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of John Morrell & Co., at Montgomery, AL, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX (except AL), restricted to the transportation of traffic originating at the named origin. (Hearing site: Chicago, IL.)

MC 25798 (Sub-345F), filed November 27, 1978. Applicant: CLAY HYDER TRUCKING LINES, INC., P.O. Box 1186, Auburndale, FL 33823. Representative: Tony G. Russell (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts,* and *articles distributed by meat-packing houses,* as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of MBPXL Corp., at Dodge City, KS, to points in AL, FL, GA, NC, SC, and VA, restricted to the transportation of traffic originating at the named origin. (Hearing site: Kansas City, MO.)

MC 31389 (Sub-265F), filed November 21, 1978. Applicant: McLEAN TRUCKING COMPANY, a Coproration, P.O. Box 213, Winston-Salem, NC 27102. Representative: David F. Eshelman (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate of foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of the Lynchburg Foundry Co., at or near Radford, VA, as an off-route point in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Roanoke, VA, or Washington, DC.)

MC 41406 (Sub-94F), filed October 16, 1978. Applicant: ARTIM TRANSPORTATION SYSTEM, INC., 7105 Kennedy Ave., Hammond, IN 46323. Representative: Wade H. Bourdon (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles,* from the facilities of Armco Steel Corporation, at or near Kansas City, MO, to points in AL, CT, DE, GA, IL, IN, KY, MA, MD, ME, MI, MS, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VA, VT, WI, WV, and DC. (Hearing site: Chicago, IL.)

MC 41915 (Sub-42F), filed November 9, 1978. Applicant: MILLER'S MOTOR FREIGHT, INC., 1100 Lafayette Street, York, PA 17405. Representative: Christian V. Graf, 407 North Front Street, Harrisburg, PA 17101. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of Dauphin Distribution Services Co., in Hampden Township, Cumberland County, PA, to points in VA, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Harrisburg, PA, or Washington, DC.)

MC 42261 (Sub-141F), filed October 23, 1978. Applicant: LANGER TRANSPORT CORP, Box 305, Jersey City, NJ 07303. Representative: W. C. Mitchell, 370 Lexington Ave., New York, NY 10017. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *liquid fertilizer,* in bulk, in tank vehicles, from Albany, NY, to points in MA and VT. (Hearing site: Albany, NY, or Washington, DC.)

MC 48958 (Sub-166F), filed November 24, 1978. Applicant: ILLINOIS-CALIFORNIA EXPRESS, INC., 510 East 51st Avenue, P.O. Box 16404, Denver, CO 80216. Representative: Lee E. Lacero (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lumber, lumber mill products, and wood products,* from points in AZ, NM, and UT, to Milwaukee, WI, and points in IL, IN, IA, KS, MO, NE, OH, OK, and TX. (Hearing site: Phoenix, AZ, or Albuquerque, NM.)

MC 55896 (Sub-90F), filed September 1, 1978. Applicant: R-W SERVICE SYSTEM, INC., 20225 Goddard Road, Taylor, MI 48180. Representative: George E. Batty (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *silica,* from Tuscola, IL, to points in IN, MI, and OH. (Hearing site: Chicago, IL.)

NOTE.—The person or persons who appear to be engaged in common control between applicant and another regulated carrier must either file an application under 49 USC § 11343 (formerly section 5(2) of the Interstate Commerce Act), or submit an affidavit indicating why such approval is unnecessary.

MC 59264 (Sub-70F), filed October 19, 1978. Applicant: Smith & Solomon Trucking Company, a corporation, How Lane, New Brunswick, NJ 08903. Representative: Herbert Burstein, Suite 2373, One World Trade Center, New York, NY 10048. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *metal containers and metal container ends,* from the facilities of Ball Corporation, at or near Williamsburg, VA, to Philadelphia, PA. (Hearing site: New York, NY, or Washington, DC.)

MC 66886 (Sub-69F), filed September 5, 1978. Applicant: BELGER CARTAGE SERVICE, INC., 2100 Walnut St., Kansas City, MO 64108. Representative: Frank W. Taylor, Jr., Suite 600, 1221 Baltimore Ave., Kansas City, MO 64105. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *asbestos cement pipe, and couplings, fittings, and accessories* used in the installation of asbestos cement pipe, (except commodities in bulk), from the facili-

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ties of CertainTeed Corp., at Hillsboro, TX, to points in the United States (except AK and HI). (Hearing site: Dallas, TX, or Kansas City, MO.)

MC 66886 Sub 71F, filed September 21, 1978. Applicant: BELGER CARTAGE SERVICE, INC., 2100 Walnut St., Kansas City, MO 64108. Representative: Frank W. Taylor, Jr., Suite 600, 1221 Baltimore Ave., Kansas City, MO 64105. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, transporting *asbestos cement pipe,* and *couplings, fittings and accessories* used in the installation of asbestos cement pipe (except commodities in bulk), from the facilities of CertainTeed Corporation, at Ambler, PA, to points in the United States on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, then northward along the western boundaries of Itasca and Koochiching Counties, MN, to the International Boundary line between the United States and Canada. (Hearing site: Philadelphia, PA, or Washington, DC.)

MC 72069 (Sub-17F), filed November 22, 1978. Applicant: BLUE HEN LINES, INC., Box 565, Milford, DE 19963. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 Fifteenth St. NW, Washington, DC 20005. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *canned goods,* from points in Queen Annes, Caroline, and Dorchester Counties, MD, and Accomack and Northampton Counties, VA, to points in AL, FL, GA, KY, LA, NC, SC, TN, and TX. (Hearing site: Washington, DC.)

MC 82492 (Sub-206F), filed October 26, 1978. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., 2109 Olmstead Road, P.O. Box 2853, Kalamazoo, MI 49003. Representative: William C. Harris (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by manufacturers, distributors, converters, and printers of paper and paper products, (except commodities in bulk), between the facilities of Kimberly-Clark Corporation, in Emmett Township, Calhoun County, MI, on the one hand, and, on the other, points in the United States (except AK, HI, and MI). (Hearing site: Chicago, IL, or Columbus, OH.)

MC 96324 (Sub-29F), filed October 19, 1978. Applicant: GENERAL DELIVERY, INC., P.O. Box 1816, Fairmont, WV 26554. Representative: Mel P. Booker, Jr., 110 South Columbus Street, Alexandria, VA 22314. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *Bakery Goods,* from points in Bronx County, NY, to points in MD, VA, WV, PA, OH, and DC. (Hearing site: Washington, DC, or New York, NY.)

MC 99439 (Sub-11F), filed November 24, 1978. Applicant: SUWANNEE TRANSFER, INC., P.O. Box 5630, Jacksonville, FL 32207. Representative; Norman J. Bolinger, 1729 Gulf Life Tower, Jacksonville, FL 32207. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *commodities* the transportation of which by reason of size or weight require the use of special equipment (2) *machinery, contractor's materials and contractor's supplies* when moving in mixed loads with the commodities in (1) above, and (3) *self-propelled vehicles,* between points in FL, on the one hand, and, on the other, points in AL, NC, and SC. (Hearing site: Jacksonville, FL.)

MC 102567 (Sub-215F), filed October 12, 1978. Applicant: McNAIR TRANSPORT, INC., 4295 Meadow Lane, P.O. Drawer 5357, Bossier City, LA 71111. Representative: Joe C. Day, 2040 North Loop West, suite 208, Houston, TX 77018. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *sodium salt solutions,* in bulk, in tank vehicles, from Natchez, MS, to points in LA, those in Ashley and Jefferson Counties, AR, and Cass County, TX. (Hearing site: Houston or Dallas, TX.)

MC 103798 (Sub-21F), filed November 30, 1978. Applicant: MARTEN TRANSPORT, LTD., Route 3, Mondovi, WI 54755. Representative: Robert S. Lee, 1000 First National Bank, Minneapolis, MN 55402. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *feed,* (2) *feed ingredients,* (3) *commodities* used in the manufacture of breads, (4) *dessert preparations,* and (5) *agricultural commodities* which are otherwise exempt from economic regulation under 49 U.S.C. § 10526(a)(6) (formerly Section 203(b)(6) of the Interstate Commerce Act, when moving in mixed loads with the commodities in (1), (2), (3), and (4) above, from Appleton, Plover, and Rothschild, WI, to points in AZ, CA, CO, ID, MO, MT, NV, NM, OR, UT, WA, and WY. (Hearing site; Minneapolis, MN.)

NOTE.—Dual operations may be involved.

MC 103798 (Sub-22F), filed November 30, 1978. Applicant: MARTEN TRANSPORT, LTD., Route 3, Mondovi, WI 54755. Representative: Robert S. Lee, 1000 First National Bank Bldg., Minneapolis, MN 55402. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *digest of meat, poultry, dairy products, fish, and blends of fish,* with protein added, from Mondovi, WI, to points in the United States (except AK and HI); (2) *materials and supplies* used in the manufacture of the commodities in (1) above, from points in IL, IA, MN, NE, OH, and SD, to Mondovi, WI; (3) *digest and homogenate of meat,* from points in IL, IA, MN, NE, OH, SD, and WI, to Los Angeles, CA; (4) *digest of meat,* from Los Angeles, CA, to Mondovi, WI; (5) *canned goods,* from the facilities of Durand Canning Company, at Durand and Mondovi, WI, to points in AR, IL, IN, IA, KS, MN, MO, NE, ND, OH, OK, SD, TN, and TX; (6) *cheese* and *agricultural commodities* otherwise exempt from economic regulation under 49 U.S.C. § 10526(a)(6) formerly Section 203(b)(6) of the Interstate Commerce Act, when moving in mixed loads with cheese, from the facilities of Associated Milk Producers, Inc., at Paynesville, MN, to points in IA, IL, MI, NM, NE, ND, SD, and WI; and (7) *dehydrated commodities* and *agricultural commodities* which are otherwise exempt form economic regulation under 49 U.S.C. § 10526(a)(6) formerly Section 203(b)(6) of the Interstate Commerce Act, when moving in mixed loads with dehydrated commodities, from the facilities of Associated Milk Producers, Inc., at Turtle Lake and Boyceville, WI, Rochester, MN, and Jessup, IA, to points in IA, IL, MI, MN, NE, ND, SD, and WI, restricted in (1) through (7) above to the transportation of traffic originating at the named origins and destined to the indicated destinations. CONDITION: Issuance of a certificate in this proceeding is subject to prior or coincidental cancellation of permits in MC-139853 Sub 1, issued March 8, 1976, and MC-139853 Sub 2, issued April 11, 1977. (Hearing site: St. Paul, MN.)

NOTE.—The purpose of this application in parts (1) through (5) is to covert contract carrier authority to common carrier authority. Also, dual operations may be involved.

MC 105045 (Sub-90F), filed November 27, 1978. Applicant: R. L. JEFFRIES TRUCKING CO., INC., 1020 Pennsylvania Street, Evansville, IN 47701. Representative: Paul F. Sullivan 711 Washington Bldg., Washington, DC 20005. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *construction equipment,* and *parts* for construction equipment, between the facilities of State Equipment Co., in PA, NY, MA, MD, VT, and VA. (Hearing site: Washington, DC.)

MC 106398 (Sub-852F), filed November 16, 1978. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, Tulsa, OK 74103. Representative: Fred Rahal, Jr. (same addres as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *building materials,* and *materials, equipment, and supplies* used in the manufacture, installation, and distribution of building materials, between the facilities of Georgia-Pacific Corporation, at or near Quakertown, PA, on the one hand, and, on the other, points in AL, DE, GA, IL, IN, KY, MD, MI, NJ, NY, NC, OH, SC, TN, VA, WV, WI, and DC. (Hearing site: Philadelphia, PA).

NOTE.—In view of the findings in No. MC-106398 (Sub-No. 741) of which official notice is taken, the certificate to be issued in this proceeding will be limited to a period expiring 3 years from its effective date unless, prior to its expiration (but not less than 6 months prior to its expiration) applicant files a petition for the extension of said certificate and demonstrates that it has been conducting operations in full compliance with the terms and conditions of its certificate and with the requirements of the Interstate Commerce Act and applicable Commission regulations.

MC 107839 (Sub-179F), filed November 20 1978. Applicant: DENVER-ALBUQUERQUE MOTOR TRANSPORT, INC., P.O. Box 16106, Denver, CO 80216. Representative: Edward T. Lyons, Jr., 1600 Lincoln Center Bldg., 1660 Lincoln St., Denver, CO 80264. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts and articles distributed by meat-packing houses,* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of MBPXL Corporation, at or near Dodge City, KS, to points in AL, FL, GA, LA, MS, NC, SC, and TX, restricted to the transportation of traffic originating at the named origin. (Hearing site: At the same time and place as similar applications.)

MC 108119 (Sub-107F), filed November 27, 1978. Applicant: E. L. MURPHY TRUCKING COMPANY, a Corporation, P.O. Box 43010, St. Paul, MN 55164. Representative: Andrew R. Clark, 1000 First national Bank Bldg., Minneapolis, MN 55402. To operate as a *Common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lumber, lumber mill products, cedar fencing,* and *wood products,* from the facilities of Potlatch Corporation, at or near Lewiston, Post Falls, Jaype, St. Maries, Coeur d'Alene, Kamiah, Spalding, and Santa, ID, to points in IL, IN, IA, KY, MI, MN, ND, OH, TN, and WI. (Hearing site: Lewiston, ID, or Spokane, WA.)

MC 110012 (Sub-49F), filed October 26, 1978. Applicant: ROY WIDENER MOTOR LINES, INC., 707 N. Liberty Hill Road, Morristown, TN 38714. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 - 13th Street, N.W., Washington, DC 20004. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting canned and *preseved foodstuffs,* from the facilities of Heinz U.S.A., Division of H.J. Heinz Co., at or near Pittsburgh, PA, to the facilities of Heinz U.S.A., Div. of H.J. Heinz Co., at or near Greenville, SC. restricted to the transportation of traffic originating at the name origin and destined to the indicated destination. (Hearing Site: Washington, DC.)

MC 110988 (Sub-378F), filed November 27, 1978. Applicant: SCHNEIDER TANK LINES, INC., 4321 W. College Avenue, Appleton, WI 54911. Representative: Neil A. DuJardin, P.O. Box 2298, Green Bay, WI 54306. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *liquid chemicals,* in bulk, in tank vehicles, from Marquette, MI, to points in MN and WI. (Hearing site: Chicago, IL.)

MC 111068 (Sub-7F), filed November 22, 1978. Applicant: KENNETH GROTH, Locust Road, R.R. #2, Decorah, IA 52101. Representative: Jack H. Blanshan, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meat, meat products and meat byproducts,* and *articles distributed by meatpacking houses,* as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Hygrade Food Products Corp., at Postville, IA, to points in IN, MI, MN, NE, OH, PA, NJ, and NY, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Chicago, IL.)

MC 111201 (Sub-34F), filed October 23, 1978. Applicant: J. N. ZELLNER & SON TRANSFER COMPANY, a corporation, P.O. Box 91247, East Point, GA 30364. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *plastic containers,* and *parts* for plastic containers, from the facilities of Amoco Chemicals Corporation, at or near Monroe, GA, to points in AL, FL, MS, NC, SC, TN, VA, and WV; and (2) *materials, equipment, and supplies* used in the manufacture and distribution of plastic containers, and parts for plastic containers (except commodities in bulk), in the reverse direction. (Hearing site: Atlanta, GA.)

MC 111545 (Sub-263F), filed November 27, 1978. Applicant: HOME TRANSPORTATION COMPANY, INC., P.O. Box 6426, Station A, Marietta, GA 30065. Represenative: Robert E. Born (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *trailers* designed to be drawn by passenger automobiles (except travel trailers and camping trailers), in initial movements, and (2) *buildings,* mounted on wheeled undercarriages, from points in OR and CA, to points in the United States (including AK but excluding HI). (Hearing site: San Francisco, CA, or Washington, DC.)

MC 111611 (Sub-38F), filed October 23, 1978. Applicant: NOERR MOTOR FREIGHT, INC., 205 Washington Avenue, Lewistown, PA 17044. Representative: William D. Taylor, 100 Pine Street, Suite 2550, San Francisco, CA 94111. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *synthetic textile fibers* and *synthetic yarns,* from the facilities of Avtex Fibers, Inc., at or near Lewistown, PA, Front Royal and Radford, VA, and Nitro, WV, to points in CA. (Hearing site: San Francisco, CA, or Harrisburg, PA.)

MC 111812 (Sub-597F), filed October 23, 1978. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57101. Representative: Ralph H. Jinks (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from points in CT and MA to the facilities of Minnesota Mining and Manufacturing Company, at or near Ames and Knoxville, IA, Alexandria, Chemolite, Fairmont, Hutchinson, Minneapolis, New Brighton, New Ulm, Northfield, Pine City, Roseville, and Staples, MN, and Aberdeen, Brookings, and Mitchell, SD, restricted to the transportation of traffic destined to the indicated destinations. (Hearing site: St. Paul, MN.)

MC 111812 (Sub-598F), filed October 23, 1978. Applicant: MIDWEST

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COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57101. Representative: R. H. Jinks (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *confectionery,* in vehicles equipped with mechanical refrigeration, from the facilities of E. J. Brach & Sons, at Philadelphia, PA, to Reno, NV, restricted to the transportation of traffic originating at the named origin. (Hearing site: Philadelphia, PA.)

MC 112989 (Sub-79F), filed November 17, 1978. Applicant: WEST COAST TRUCK LINES, INC. 85647 Highway 99 South, Eugene, OR 97405. Representative: John W. White, Jr. (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *insulated building and roofing panels,* (2) *equipment, materials and supplies* used in the installation of the commodities in (1) above, (except commodities in bulk), from the facilities of Panel Era Corporation, at or near Chicago, IL, Atlanta, GA, Dallas, TX, Salt Lake City, UT, and Washington, DC, to points in the United States (including AK, but excluding HI), restricted to the transportation of traffic originating at the named origins, and (3) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) and (2) above, in the reverse direction, restricted to the transportation of traffic destined to the indicated destinations. (Hearing site: Salt Lake City, UT.)

MC 112989 (Sub-81F), filed November 21, 1978. Applicant: WEST COAST TRUCK LINES, INC., 85647 Highway 99 South, Eugene, OR 97405. Representative: John W. White, Jr. (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *paper and paper articles,* between Longview, WA and Springfield, OR, on the one hand, and, on the other, points in CA, OR, and WA. (Hearing site: Seattle, WA, or Portland, OR.)

MC 113325 (Sub-155F), filed November 9, 1978. Applicant: SLAY TRANSPORTATION CO., INC., 2001 South Seventh Street, St. Louis, MO 63104. Representative: T. M. Tahan (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *magnesium oxide,* in bulk, in tank vehicles, from Manistee, MI, to points in IL, IN, MO, MN, OH, and TN. (Hearing site: St. Louis, MO, or Washington, DC.)

MC 113434 (Sub-116F), filed October 6, 1978. Applicant: GRA-BELL TRUCK LINE, INC., 5267 144th Avenue, Holland, MI 49423. Representative: Wilhelmina Boersma, 1600 First Federal Building, Detroit, MI 48226. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such merchandise as is dealt in by grocery and feed business houses,* (1) between Clinton and Davenport, IA, on the one hand, and, on the other, points in IN, MI, OH, and IL, (2) between Battle Creek, MI, and Lancaster and Sharonville, OH, and (3) from Battle Creek, MI, and Lancaster and Sharonville, OH, to points in MD, NJ, NY, PA, WV, and DC. (Hearing site: St. Louis, MO, or Chicago, IL.)

MC 114457 (Sub-439F), filed October 13, 1978. Applicant: DART TRANSIT COMPANY, A Corporation, 2102 University Ave., St. Paul, MN 55114. Representative: James H. Wills, (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs,* in vehicles equipped with mechanical refrigeration (except commodities in bulk, in tank vehicles), from the facilities of M&M/Mars, at or near Cleveland, TN, to points in CT, IA, IL, IN, KS, MA, MI, MN, MO, ND, NE, NJ, NY, OH, PA, RI, SD, and WI, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Nashville, TN, or St. Paul, MN.)

MC 114552 (Sub-180F), filed September 22, 1978. Applicant: SENN TRUCKING COMPANY, a Corporation, Post Office Drawer 220, Newberry, SC 29108. Representative: William P. Jackson, Jr., 3426 N. Washington Boulevard, Post Office Box 1240, Arlington, VA 22210. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles,* from the facilities of United States Steel Corporation, at or near Clairton, Duquesne, Fairless, Homestead, Dravosburg, Johnstown, McKeesport, McKees Rocks, and Vandergrift, PA, and Cleveland, Lorain, and Youngstown, OH, to points in AL, FL, GA, NC, SC, TN, and VA. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 114569 (Sub-266F), filed November 20, 1978. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 17072. Representative: N. L. Cummins (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen foods,* from points in CA, ID, OR, and WA, to points in CT, DE, IN, IA, KY, ME, MD, MA, MI, MN, MO, NH, NJ, NY, OH, PA, RI, VA, VT, WV, WI, and DC. (Hearing site: San Francisco, CA, or Washington, DC.)

NOTE.—Dual operations may be involved in this proceeding.

MC 114725 (Sub-93F), filed November 24, 1978. Applicant: WYNNE TRANSPORT SERVICE, INC., 2222 North 11th Street, Omaha, NE 68110. Representative: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, NE 68106. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *waste water treatment sludge,* from Rochester, MN, to Missouri City, MO. (Hearing site: Omaha, NE, or Kansas City, MO.)

MC 115162 (Sub-437F), filed October 23, 1978. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, AL 36401. Representative: Robert E. Tate (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *construction materials* (except commodities in bulk, in tank vehicles), from the plant site of The Celotex Corporation, at or near Lockland, OH, to points in KY, TN, AL, MS, FL, GA, NC, SC, and VA. (Hearing site: Tampa, FL, or Atlanta, GA.)

MC 115162 (Sub-438F), filed October 26, 1978. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, AL 36401. Representative: Robert E. Tate (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles,* from the facilities of Wheeling/Pittsburgh Steel Corporation, at Canfield, Martins Ferry, Mingo Junction, Steubenville, and Yorkville, OH, Beech Bottom, Benwood, Follansbee, and Wheeling, WV, and Allenport and Monessen, PA, to points in AL, AR, FL, GA, KY, LA, MS, NC, OK, SC, TN, VA, and TX. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 115311 (Sub-320F), filed October 23, 1978. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Representative: Paul M. Daniell, P.O. Box 872, Atlanta, GA 30301. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *newsprint,* from points in Richmond County, GA, to points in AL, AR, FL, KY, KS, LA, MS, OK, NC, SD, TN, TX, and VA; and (2) *materials, equipment, and supplies* used in the manufacture and distribution of newsprint (except commodities in bulk), in the reverse direction. (Hearing site: Atlanta, GA.)

MC 115331 (Sub-470F), filed October 23, 1978. Applicant: TRUCK TRANSPORT INCORPORATED, 29 Clayton Hills Lane, St. Louis, MO 63131. Representative: J. R. Ferris, 230 St. Clair Ave., East St. Louis, IL 62201. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *animal feed, feed ingredients,* and *additives,* and (2) *materials and supplies* used in the manufacture and distribution of animal feeds (except commodities in bulk), between the facilities of Kal Kan Foods, Inc., at or near Columbus, OH, on the one hand, and, on the other, those points in the United States on and east of U. S. Highway 85, restricted to the transportation of traffic originating at or destined to the above-named facilities at Columbus, OH. (Hearing site: Columbus, OH, or Chicago, IL.)

MC 115496 (Sub-107F), filed October 16, 1978. Applicant: LUMBER TRANSPORT, INC., P.O. Box 111, Cochran, GA 31014. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Blvd., Atlanta, GA 30349. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plywood, paneling, and wallboard,* from the facilities of Plywood Panels, Inc., at Norfolk, VA, to points in AL, DE, FL, GA, IL, IN, KY, LA, MD, MI, MS, NC, NJ, NY, OH, PA, SC, TN, and WV. (Hearing site: Atlanta, GA, or Norfolk, VA.)

MC 116519 (Sub-58F), filed November 21, 1978. Applicant: FREDERICK TRANSPORT LIMITED, R. R. 6, Chatham, Ontario, Canada M7M 5J6. Representative: Jeremy Kahn, Suite 733 Investment Bldg., Washington, DC 20005. To operate as a *common carrier,* by motor vehicle, in foreign commerce only, transporting (1) *agricultural implements and agricultural machinery,* and (2) *attachments* for the commodities in (1) above, when moving in mixed loads with the commodities in (1) above, from the facilities of McKee Bros. Ltd., at Lincoln, NE, to ports of entry on the International Boundary Line between the United States and Canada in MI and NY, restricted to the transportation of traffic destined to points in the Provinces of Ontario, Quebec, New Brunswick, Nova Scotia, Prince Edward Island, and Newfoundland, Canada. (Hearing site: Washington, DC.)

MC 117686 (Sub-220F), filed October 5, 1978. Applicant: HIRSCHBACH MOTOR LINES, INC., P.O. Box 417, Sioux City, IA 51102. Representative: George L. Hirschbach (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *malt beverages,* from points in Jefferson County, CO, to points in IA and MO, and (2) *beverage containers and materials* used in the manufacture of beverage containers, in the reverse direction. (Hearing site: Denver, CO, or Omaha, NE.)

NOTE.—Dual operations are involved in this proceeding.

MC 118142 (Sub-188F), filed October 24, 1978. Applicant: M. BRUENGER & CO., INC., 6250 North Broadway, Wichita, KS 67219. Representative: Lester C. Arvin, 814 Century Plaza Building, Wichita, KS 67202. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts,* and *articles* distributed by meat-packing houses, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of Riverland Food Corporation, at Gonzales, LA, to points in IL, IN, MN, and WI. (Hearing Site: New Orleans, LA, or Atlanta, GA.)

MC 118142 (Sub-189F), filed October 25, 1978. Applicant: M. BRUENGER & CO., INC., 6250 North Broadway, Wichita, KS 67219. Representative: Brad T. Murphree, 814 Century Plaza Building, Wichita, KS 67202. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *boxed beef,* from the facilities of Theis Packing Co., Inc., at Great Bend, KS, to points in FL and NC, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing Site: Kansas City, MO, or Wichita, KS.)

MC 119489 (Sub-53F), filed November 24, 1978. Applicant: PAUL ABLER, doing business as CENTRAL TRANSPORT COMPANY, P.O. Box 249, Norfolk, NE 68701. Representative: Steven K. Kuhlmann, P.O. Box 82028, Lincoln, NE 68501. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *dry fertilizer,* from Falls City, NE, to points in IA, KS, and MO. (Hearing site: Lincoln or Omaha, NE.)

MC 119668 (Sub-10F), filed November 22, 1978. Applicant: FORREST RATLIFF AND AUBURN RATLIFF, d/b/a/ RATLIFF TRUCKING SERVICE, A Partnership, P.O. Box 366, Oakwood, VA 24631. Representative: Edward G. Villalon, 1032 Pennsylvania Building, Pennsylvania Avenue & 13th Street, NW, Washington, DC 20004. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *mining equipment and mining machinery,* and *parts and accessories* for mining equipment and machinery, between the facilities of Jewel Coal & Coke Company, at or near Vansant, VA, Manchester and Whitley City, KY, and Sutton, WV; (2) *refractory materials,* from Oak Hill, OH, Claysburg, PA, Hitchins, KY, Augusta, GA, and Buffington, IN, to the facilities of Jewel Coal & Coke Company, at or near Vansant, VA; and (3) *iron and steel articles,* from Bethlehem, PA, and Sparrows Point, MD, to the facilities of Jewel Coal & Coke Company, at or near Vansant, VA. (Hearing site: Roanoke, VA, or Washington, DC.)

MC 119726 (Sub-153F), filed October 6, 1978. Applicant: N.A.B. TRUCKING CO., INC., 1644 W. Edgewood Ave., Indianapolis, IN 46217. Representative: James L. Beattey, Suite 1000, 130 E. Washington St., Indianapolis, IN 46204. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *household appliances,* and (2) *parts, accessories, and attachments* for appliances, from the facilities of the Kitchen Appliance Division of McGraw-Edison Company at or near Chattanooga, TN, Air-Comfort Division of McGraw-Edison Company at or near Albion, MI, and Laundry Products Division of McGraw-Edison Company at or near Madisonville, KY, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Chicago, IL, or Indianapolis, IN.)

MC 119789 (Sub-530F), filed November 15, 1978. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr. (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses,* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of MBPXL Corporation, at or near Dodge City, KS, to points in AL, AZ, CA, CT, DE, FL, GA, ID, IL, IN, KY, LA, ME, MD, MA, MI, MS, NM, NV, NH, NJ, NY, NC, OH, OR, PA, RI, SC, TN, TX, UT, VT, VA, WA, WV, WI, and DC, restricted to the transportation of traffic originating at the named origin. (Hearing site: Wichita, KS.)

MC 119894 (Sub-7F), filed October 19, 1978. Applicant: BOWARD TRUCK LINE, INC., 104 Azar Build-

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ing, Glen Burnie, MD 21601. Representative: M. Bruce Morgan (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *pulpboard* and *fiberboard,* from the facilities of Virginia Fiber Corporation, near Riverville, VA, to points in NC and SC, and (2) *scrap paper,* (except in bulk), in the reverse direction. (Hearing site: Lynchburg or Staunton, VA.)

MC 119988 (Sub-174F), filed November 16, 1978. Applicant: GREAT WESTERN TRUCKING CO., INC., P. O. Box 1384, Lufkin, TX 75901. Representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, TX 75201.To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except classes A and B explosives and commoditites in bulk), from the facilities of Houston Merchants Shippers Association and Dal-Worth Shippers Association, in GA, IL, MA, NJ, NC, and PA, to points in TX, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations.(Hearing site: Dallas, TX.)

NOTE.—Dual operations may be involved.

MC 119988 (Sub-175F), filed November 21, 1978. Applicant: GREAT WESTERN TRUCKING CO., INC., Highway 103E, P.O. Box 1384 Lufkin, TX 75901. Representative: Kim G. Meyer, P.O. Box 872, Atlanta, GA 30301. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *wine, spirits, and mixes* for wine and spirits, from points in CA, to points in AZ, NM, and TX. (Hearing site: Dallas, TX, or San Francisco, CA.)

NOTE.—Dual operations may be involved.

MC 123255 (Sub-182F, filed November 14, 1978. Applicant: B & L MOTOR FREIGHT, INC., 1984 Coffman Road Newark, OH 43055. Representative: W. Randall Tye, 1400 Candler Building, Atlanta, GA 30303. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, in tank vehicles), between those points in the United States in and east of MT, WY, CO, and AZ, restricted to the transportation of traffic originating at or destined to the facilities of Owens-Corning Fiberglas Corporation. (Hearing site: Washington, DC.)

MC 123255 (Sub-185F), filed November 24, 1978. Applicant: B & L MOTOR FREIGHT, INC., 1984 Coffman Road Newark, OH 43055. Representative: C.F. Schnee, Jr. (same address as applicant).To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *flat glass and glass glazing units,* from the facilities of Guardian Industries Corporation, at or near Carleton, MI, to points in AL, AR, CT, DE, FL, GA, IA, KY, LA, ME, MA, NM, MS, MO, NH, NJ, NY, NC, RI, SC, TN, BT, BA, WV, and WI.(Hearing site: Columbus, OH.)

MC 123156 (Sub-7F), filed October 13, 1978. Applicant: RANDS TRANSPORT, INC., 11 North Hammonds Ferry Rd., Linthicum, MD 21090. Representative: Walter T. Evans, 7401 Wisconsin Ave., Washington, DC 20014. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *wood chips,* in bulk, from points in DE, MD, NJ, PA, and VA, to Luke, MD, and Spring Grove, PA, under contract with Phelps Brothers Land Clearing, Inc., of Odenton, MD. (Hearing site: Baltimore, MD.)

MC 124947 (Sub-119F), filed October 10, 1978. Applicant: MACHINERY TRANSPORTS, INC., 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: David J. Lister (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *furnaces, air conditioners, combination furnace and air conditioner units, solar energy heating and cooling systems,* and (2) *parts, attachments, and accessories* for the commoditites in (1) above, (except commodities in bulk), from Marshalltown, IA, to points in the Unted States (except AK, HI, and IA). (Hearing site: Chicago, IL.)

MC 124988 (Sub-7F), filed November 16, 1978. Applicant: TRUCK SERVICE COMPANY, A Corporation, 2169 E. Blaine, Springfield, MO 65803. Representative: John L. Alfano, 550 Mamaroneck Avenue, Harrison, NY 10528. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *paint and paint products,* in vehicles equipped with mechanical refrigeration, from Delaware, OH, and Oak Creek, WI, to points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA, and WY, under contract with PPG Industries, Inc., of Pittsburgh, PA. (Hearing site: Pittsburgh, PA.)

MC 126679 (Sub-8F), filed November 20, 1978. Applicant: DENNIS TRUCK LINES, INC., P.O. Box 189, Vidalia, GA 30474. Representative: Ariel V. Conlin, 53 Sixth St. NE, Atlanta, GA 30308. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *poles, posts, piling, and timbers,* between points in Chatham and Toombs Counties, GA, on the one hand, and, on the other, points in AL, FL, GA, MD, NC, SC, TN, and VA. (Hearing site: Atlanta, GA, or Jacksonville, FL.)

MC 127187 (Sub-43F), filed October 12, 1978. Applicant: FLOYD DUENOW, INC., 1728 Industrial Park Blvd., Fergus Falls, MN 56537. Representative: James B. Hovland, 414 Gate City Bldg., P.O. Box 1680, Fargo, ND 58102. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, transporting *fertilizer and fertilizer materials,* in bulk, from the facilities of Land O'Lakes Agricultural Services Division, at or near Mason City, IA, to points in MN, ND, NE, SD, and WI. (Hearing site: Minneapolis, MN.)

MC 128746 (Sub-45F), filed October 16, 1978. Applicant: D'AGATA NATIONAL TRUCKING COMPANY, a corporation, 3240 South 61st St., Philadelphia, PA 19153. Representative: Edward J. Kiley, 1730 M St., N.W., Suite 501, Washington, DC 20036. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *plastic bottles,* and (2) *materials and supplies* used in the manufacture and distribution of plastic bottles (except commodities in bulk), between the facilities of Hoover Beverage Bottle, Division of Hoover Universal, Inc., at or near New Castle, DE, on the one hand, and, on the other, points in CT, MA, MD, NJ, NY, PA, RI, and WV. (Hearing site: Philadelphia, PA, or Washington, DC.)

MC 125535 (Sub-10F), filed November 22, 1978. Applicant: JOHN SHARP TRUCKING COMPANY, INC., 12015 Manchester Road, Suite 118, St. Louis, MO 63131. Representative: Donald S. Helm (same address as applicant). To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *tile, clay, earthenware fixtures, and china fixtures,* and (2) *materials, equipment, and supplies* used in the manufacture and installation of the commodities in (1) above, (except commodities in bulk), (a) between Cloverport and Lewisburg, KY, Olean, NY, and Jackson, TN, on the one hand, and, on the other, those points in the United States in and east of CO, NM, MT, and WY, and (b) between Lansdale and Quakertown, PA, on the one hand, and, on the other, those points in the United States in and east of CO, NM, MT, and WY (except points in CT, DE, ME, MD, MA, NH, NY, PA, RI, VT, VA, WV, and DC) under contract with American Olean Tile Company, of Lansdale, PA. (Hearing site: Washington, DC.)

MC 125951 (Sub-37F), filed October 22, 1978. Applicant: SILVEY REFRIGERATED CARRIERS, INC., 7000 West Center Road, Suite 325, Omaha, NE 61806. Representative: Robert M. Cimino (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *cabinets and vanities,* in containers, from the facilities of Aristo-Kraft, at or near Jasper, IN, to points in NE and IA, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Minneapolis, MN.)

MC 129480 (Sub-35F), filed September 29, 1978. Applicant: TRI-LINE EXPRESSWAYS LTD., 550—71 Avenue SE., Calgary, Alberta, Canada T2H OS6. Representative: Richard S. Mandelson, 1600 Lincoln Center Building, 1660 Lincoln Street, Denver, CO 82064. To operate as a *common carrier,* by motor vehicle, in foreign commerce, over irregular routes, transporting *cement,* in bags, from ports of entry on the International Boundary line between the United States and Canada at points in ID, MN, MT, ND, and WA, to points in AZ, CA, CO, ID, IA, KS, MN, MT, NE, NM, ND, OK, SD, TX, UT, and WY, restricted to the transportation of traffic originating at points in the Provinces of British Columbia and Alberta, Canada. CONDITION: Prior receipt from applicant of an affidavit setting forth its complementary Canadian authority or explaining why no such Canadian authority is necessary. (Hearing site: Portland, OR.)

NOTE.—The restriction and conditions contained in the grant of authority in this proceeding are phrased in accordance with the policy statement entitled Notice to Interested Parties of New Requirements Concerning Applications for Operating Authority to Handle Traffic to and from points in Canada published in the FEDERAL REGISTER on December 5, 1974, and supplemented on November 18, 1975. The Commission is presently considering whether the policy statement should be modified, and is in communication with appropriate officials of the Provinces of Alberta, Saskatchewan, and Manitoba regarding this issue. If the policy statement is changed, appropriate notice will appear in the FEDERAL REGISTER and the Commission will consider all restrictions or conditions which were imposed pursuant to the prior policy statement, regardless of when the condition or restriction was imposed, as being null and void and having no force or effect.

MC 133095 (Sub-197F), filed November 13, 1978. Applicant: TEXAS-CONTINENTAL EXPRESS, INC., P.O. Box 434, Euless, TX 76039. Representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, TX 75201. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *general commodities* (except commodities in bulk and classes A and B explosives), from the facilities of Houston Merchants Shippers Association and Dal-Worth Shippers Association, in GA, IL, MA, NJ, NC, and PA, to points in TX, restricted to the transportation of traffic originating at the indicated origins and destined to the indicated destination. (Hearing site: Dallas, TX.)

MC 133095 (Sub-210F), filed October 26, 1978. Applicant: TEXAS CONTINENTAL EXPRESS, INC., P.O. Box 434, Euless, TX 76039. Representative: Kim G. Meyer, P.O. Box 872, Atlanta, GA 30301. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *petroleum and petroleum products,* in packages, from points in Jefferson County, TX, to points in IN, IL, MI, IA, OH, NE, MO, KY, TN, MS, WI, and LA. (Hearing site: Houston or Dallas, TX.)

MC 133119 (Sub-149F), filed November 17, 1978. Applicant: HEYL TRUCK LINES, INC., P.O. Box 206, Akron, IA 51001. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501. To operate as a *common carrier,* in interstate or foreign commerce, by motor vehicle, over irregular routes, transporting. *Meat, meat products, and meat by-products and articles distributed by meat-packing houses,* as described in Section A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of John Morrell & Co., at Estherville and Sioux City, IA, and Worthington, MN, to points in CA. Restricted to the transportation of traffic originating at the named origins. (Hearing site: Chicago, IL, or Omaha, NE.)

MC 133119 (Sub-151F), filed November 20, 1978. Applicant: HEYL TRUCK LINES, INC., P.O. Box 206, Akron, IA 51001. Representative: A. J. Swanson, P.O. Box 81849, Lincoln, NE 68501. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *new furniture,* from points in Nemaha County, NE, to points in ID, MT, UT, WA, and WY. (Hearing site: Dallas, TX, or Omaha, NE.)

MC 133119 (Sub-152F), filed November 20, 1978. Applicant: HEYL TRUCK LINES, INC., P.O. Box 206, Akron, IA 51001. Representative: A. J. Swanson, P.O. Box 81849, Lincoln, NE 68501. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *insulation and insulation materials,* (except commodities in bulk), from the ports of entry on the International Boundary line between the United States and Canada, at or near Sweetgrass, MT, Pembina and Portal, ND, and Blaine, WA, to those points in the United States in and west of WI, IL, MO, AR, and LA (except AK and HI), restricted to the transportation of traffic originating in the Provinces of British Columbia, Alberta, and Manitoba, Canada. CONDITION: Prior receipt from applicant of an affidavit setting forth its complementary Canadian authority or explaining why no such Canadian authority is necessary. (Hearing site: Portland, OR or Omaha, NE.)

NOTE.—The restriction and conditions contained in the grant of authority in this proceeding are phrased in accordance with the policy statement entitled Notice to Interested Parties of New Requirements Concerning Applications for Operating Authority to Handle Traffic to and from points in Canada published in the FEDERAL REGISTER on December 5, 1974, and supplemented on November 18, 1975. The Commission is presently considering whether the policy statement should be modified, and is in communication with appropriate Canadian officials regarding this issue. If the policy statement is changed, appropriate notice will appear in the FEDERAL REGISTER and the Commission will consider all restrictions or conditions which were imposed pursuant to the prior policy statement, regardless of when the condition or restriction was imposed, as being null and void and having no force or effect.

MC 133841 (Sub-7F), filed October 23, 1978. Applicant: DAN BARCLAY, INC., P.O. Box 426, Li 362 Main St., Lincoln Park, NJ 07035. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *pile driving equipment,* between points in the United States (except AK and HI). (Hearing site: New York, NY, or Washington, DC.)

MC 133841 (Sub-8F), filed October 24, 1978. Applicant: DAN BARCLAY, INC., P.O. Box 426, Lincoln Park, NJ 07035. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *common carrier,* by motor vehicle, in interstate and foreign commerce, over irregular routes, transporting (1) *air handling and energy recovering equipment,* and (2) *materials, equipment, and supplies* used in the manufacture and sale of the commodities named in (1) above, (except commodities in bulk), between the facilities of Flo-Con, Division Tenrac Corp., at or near Garwood and West Milford, NJ, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: New York, NY, or Washington, DC.)

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MC 134105 (Sub-32F), filed November 22, 1978. Applicant: CELERY-VALE TRANSPORT, INC., 1318 East 23rd Street, Chattanooga, TN 37404. Representative: Daniel O. Hands, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *canned foodstuffs,* (except frozen), (1) from the facilities of Bruce Foods Corp., at Cade and Lozes, LA, and Wilson, NC, to points in AL, GA, IL, IN, IA, KS, KY, MI, OH, OK, TN, and WI, and (2) between the facilities of Bruce Foods Corp., at or near Cade and Lozes, LA, on the one hand, and, on the other, the facilities of Bruce Foods Corp., at Wilson, NC, restricted in (1) and (2) above, to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: New Orleans, LA.)

MC 134105 (Sub-33F), filed November 22, 1978. Applicant: CELERY-VALE TRANSPORT, INC., 1318 East 23rd Street, Chattanooga, TN 37404. Representative: Daniel O. Hands, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs,* (except in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of M&M/Mars, at or near Cleveland, TN, to points in AL, AR, CO, FL, GA, ID, IL, IN, IA, KS, LA, MI, MS, MO, MT, NE, NC, OK, OR, SC, TX, WA, and WY, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Atlanta, GA.)

MC 134105 (Sub-34F), filed November 22, 1978. Applicant: CELERY-VALE TRANSPORT, INC., 1318 East 23rd Street, Chattanooga, TN 37404. Representative: Daniel O. Hands, Suite 200, 205 W. Touhy Avenue, Park Ridge, IL 60068. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *malt beverages,* from the facilities of Adolph Coors Co., at Golden, CO, to points in IA, MO, and TX, and (2) *malt beverage containers,* in the reverse direction, restricted in (1) and (2) above, to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Denver, CO.)

MC 134105 (Sub-35F), filed November 28, 1978. Applicant: CELERY-VALE TRANSPORT, INC., 1318 East 23rd Street, Chattanooga, TN 37404. Representative: Daniel O. Hands, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs,* (except in bulk), from the facilities of Southeastern Public Service Company, Mid-Continent Underground Storage, at Bonner Springs, KS, to points in AR, CO, GA, LA, MO, NC, OK, SC, TN, and TX, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations., (Hearing site: Kansas City, KS, or Kansas City, MO.)

MC 134145 (Sub-69F), filed November 24, 1978. Applicant: NORTH STAR TRANSPORT, INC., Rt. 1 Highway 1 and 59 West, Thief River Falls, MN 56701. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *parts* for computing machines, and (2) *materials and supplies* used in the manufacture and operation of computing machines, (except commodities in bulk), from Minneapolis, MN, to New York, NY, under contract with Control Data Corporation, of Minneapolis, MN. (Hearing site: St. Paul, MN.)

NOTE: Dual operations may be involved.

MC 134328 (Sub-6F), filed November 22, 1978. Applicant: D & G TRUCKING COMPANY, INC., P.O. Box 1004, Wynne, AR 72396. Representative: James N. Clay, III, 2700 Sterick Building, Memphis, TN 38103. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *copper articles* and *commodities used in the manufacture and distribution of copper articles,* (except commodities in bulk), between Wynne, AR, Pine Hall, NC, and Zellenople, PA, on the one hand, and, on the other, points in the United States (except AK and HI), under contract with Halstead Metal Products, of Zellenople, PA. (Hearing site: Memphis, TN.)

MC 134838 (Sub-20F), filed November 27, 1978. Applicant: SOUTHEASTERN TRANSFER & STORAGE CO., INC., P.O. Box 39236, Bolton Station, Atlanta, GA 30318. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *material handling equipment and material processing equipment,* from Loganville, GA, to points in AL, FL, KY, MS, NC, SC, TN, VA, and WV; and *materials and equipment* used in the manufacture of the commodities in (1) above, in the reverse direction. (Hearing site: Atlanta, GA.)

MC 135326 (Sub-13F), filed Agust 1, 1978. Applicant: SOUTHERN GULF TRANSPORT, INC., 4277 North Market St., Shreveport, LA 71107. Representative: J. D. Haynes, P.O. Box 7959, Shreveport, LA 71107. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *roofing granules,* in bulk, between the facilities of 3-M Company, at or near Little Rock, AR, on the one hand, and, on the other, the facilities of CertainTeed Corporation, at or near Dallas, TX. (Hearing site: Dallas, TX, or Little Rock, AR.)

MC 135895 (Sub-30F), filed November 27, 1978. Applicant: B & R DRAYAGE, INC., P.O. Box 8534, Battlefield Station Jackson, MS 39204. Representative: Douglas C. Wynn, P.O. Box 1295, Greenville, MS 38701. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting (1) *paper and paper articles,* and (2) *equipment, materials, and supplies* used in the manufacture and distribution of the commodities in (1) above, between Mobile, AL, on the one hand, and, on the other, points in AR, FL, GA, LA, MS, NC, OK, SC, TN, and TX. (Hearing site: Jackson, MS, or Mobile, AL.)

MC 135962 (Sub-4F), filed October 23, 1978. Applicant: MAR-KAY CARTAGE, INC., 5275 Naiman Parkway, Solon, OH 44139. Representative: Earl N. Merwin, 85 East Gay Street, Columbus, OH 43215. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by retail stores, between points in Cuyahoga and Mahoning Counties, OH, on the one hand, and, on the other, points in Lawrence, Mercer, and Venango Counties, PA, and points in Hancock County, WV, under contract with J. C. Penney Company, Inc., of New York, NY. (Hearing site: Columbus or Cleveland, OH.)

MC 136640 (Sub-13F), filed September 18, 1978. Applicant: ROBERT L. ALLEN, d.b.a. R. ALLEN TRANSPORT, P.O. Box 456, Pocomoke City, MD 21851. Representative: S. Michael Richards, P. O. Box 225, Webster, NY 14580. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *canned foods,* from Hallwood, VA, to points in IL, IN, IA, KS, MN, NE, ND, OH, SD, and WI, under contract with John W. Taylor Packing Co., Inc., of Hallwood, VA. (Hearing site: Washington, DC.)

MC 138157 (Sub-95F), filed October 10, 1978. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, 2931 South Market St., Chattanooga, TN 37410. Representative: Patrick E. Quinn, P.O. Box 9596, Chattanooga, TN 37412. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *fireplaces,* and (2) *materials, equipment, and supplies* used in installation of fireplaces, from the facilities of Marco Manufacturing, Inc., at Lynwood, CA, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: San Francisco, CA.)

NOTE.—Dual operations are involved.

MC 138157 (Sub-96F), filed October 10, 1978. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, 2931 South Market Street, Chattanooga, TN 37410. Representative: Patrick E. Quinn, P.O. Box 9596, Chattanooga, TN 37412. To operate as a *common carrier,* by motor, in interstate or foreign commerce, over irregular routes, transporting *shaped metal articles and parts* for shaped metal articles, (except commodities which because of size or weight require the use of special equipment), from the facilities of Simpson Company, at San Leandro, CA, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX, restricted to the transportation of traffic originating at the named origin. (Hearing site: San Francisco, CA.)

NOTE.—Dual operations are involved.

MC 138256 (Sub-11F), filed October 13, 1978. Applicant: INTERIOR TRANSPORT, INC., N. 2128 Waterworks Way, P.O. Box 3347 TA, Spokane, WA 99220. Representative: George H. Hart, 1100 IBM Bldg., Seattle, WA 98101. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *sprinkler irrigation systems,* knocked down, and *components, parts, and accessories* for sprinkler irrigation systems, from Catoosa, OK, to those points in the United States in and west of MN, IA, NE, KS, OK, and TX, (except AK and HI), under contract with Gifford-Hill & Co. Inc., of Spokane, WA. (Hearing site: Seattle, WA.)

MC 138328 (Sub-75F), filed November 17, 1978. Applicant: CLARENCE L. WERNER, d.b.a. WERNER ENTERPRISES, P.O. Box 37308, Omaha, NE 68137. Representative: James F. Crosby, P.O. Box 37205, Omaha, NE 68137. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plastic resins,* from Chicago, IL, to points in AR, CO, KS, NM, OK, TN, and TX. (Hearing site: Dallas, TX.)

NOTE.—Dual operations may be involved.

MC 138366 (Sub-4F), filed October 13, 1978. Applicant: DOUG RUCKDASCHEL, d.b.a. RUCKDASCHEL TRUCK LINE, R. R. 1, Box 9, Postville, IA 52162. Representative: Jack H. Blanshan, Suite 200, 205 West Touhy Ave., Park Ridge, IL 60068. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses,* as described in sections A and C of Appendix I to the reports in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Hygrade Food Products Corp., at Postville, IA, to points in IN, MI, MN, NE, OH, PA, NJ, and NY, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Chicago, IL.)

MC 139482 (Sub-69F), filed October 23, 1978. Applicant: NEW ULM FREIGHT LINES, INC., P.O. Box 877, New Ulm, MN 56073. Representative: James E. Ballenthin, 630 Osborn Building, St. Paul, MN 55102. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen boxed meat,* from (1) Boston, MA, New York, NY, Philadelphia, PA, Wilmington, DE, Baltimore and Mt. Airy, MD, and Miami and Tampa, FL, to points in Allegheny, Washington, and Westmoreland Counties, PA, and points in IL, IN, IA, KY, MI, MN, MO, OH, TN, and WI; and (2) Minneapolis, and Albert Lea, MN, Green Bay and Milwaukee, WI, Fremont and Omaha, NE, Sioux City, IA, Kansas City, MO, and Wichita, KS, to points in AL, AR, FL, GA, IL, IN, IA, KY, LA, MD, MI, MN, MS, MO, NC, OH, OK, SC, TN, TX, VA, WV, and WI. (Hearing site: Chicago, IL.)

MC 139482 (Sub-70F), filed October 23, 1978. Applicant: NEW ULM FREIGHT LINES, INC., P.O. Box 877, New Ulm, MN 56073. Representative: James E. Ballenthin, 630 Osborn Building, St. Paul, MN 55102. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen foodstuffs,* from the facilities of Termicold Corporation, at or near Plover, WI, to points in the United States (except AK, HI, and WI), restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: St. Paul, MN.)

MC 139858 (Sub-32F), filed November 16, 1978. Applicant: AMSTAN TRUCKING, INC., 1255 Corwin Avenue, Hamilton, OH 45015. Representative: Chandler L. Van Orman, 1729 H Street, NW., Washington, DC 20006. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between the facilities of American Standard Inc., in AZ, AR, CA, CO, CT, GA, IL, IN, IA, KS, KY, LA, MD, MI, MO, NJ, NV, NY, NC, OH, PA, SC, TX, and WA, under contract with American Standard Inc., of New Brunswick, NJ. (Hearing site: Cincinnati, OH, or Washington, DC.)

MC 140829 (Sub-148F), filed November 17, 1978. Applicant: CARGO CONTRACT CARRIER CORP., P. O. Box 206, Sioux City, IA 51102. Representative: William J. Hanlon, 55 Madison Ave, Morristown, NJ 07960. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses,* as described in Sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, (except hides and commoditites in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of John Morrell & Company, at East ST. Louis, IL and Cincinnati, OH, to points in CT, DE, MA, MD, NJ, NY, PA, RI, VA, and DC, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations.(Hearing site: Washington, DC.)

NOTE.—Dual operations may be involved in this proceeding.

MC 140859 (Sub-7F), filed November 22, 1978. Applicant: WESTERN KENTUCKY TRUCKING, INC., P. O. Box 1072, Henderson, KY 42420. Representative: George M. Catlett, Suite 708 McClure Bldg., Frankfort, KY 40601. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *foodstuffs* (except frozen) and (2) *materials, equipment and supplies* used in the manufacture and distribution of foodstuffs, between Owensboro and Henderson, KY, on the one hand, and, on the other, points in IL, IN, KY, MO, TN, and those in OH on and south of Interstate Hwy 70. (Hearing site: Owensboro or Henderson, KY.)

NOTE.—Dual operations may be involved in this proceeding.

MC 141085 (Sub-4F), filed November 9, 1978. Applicant: EAST COAST TRUCKING, INC., 90 Rentell Road, Hamden, CT 06514. Representative: John E. Fay, 630 Oakwood Avenue,

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Suite 127, West Hartford, CT 06110. To operate as a *contact carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *processed log products, and millworks*, and (2) *materials, accessories, parts and supplies* used in the assembly and manufacture or log homes, between Houston, MO, Lawrenceville, VA, Great Barrington, MA, on the one hand, and, on the other, points in AZ, AR, CA, ID, IA, LA, MN, MS, MT, NE, NV, ND, OR, SD, UT, WA, and WY, under contract with New England Log Homes, Inc., d.b.a. Nelhi, of Hamden, CT. (Hearing site: Hartford or New haven, CT.)

MC 141459 (Sub-2F), filed November 21, 1978. Applicant: A.G.S. ENTERPRISES, INC., 809 Columbia Blvd., Litchfield, IL 62056. Representative: Allan C. Zuckerman, 39 S. La Salle St., Chicago, IL 60603.To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *plastic articles* (except in bulk), from the facilities of International Paper Company, at Litchfield, IL, to points in AL, AR, CT, FL, GA, IL, KY, MD, NE, NJ, NC, ND, NY, OK, SC, SD, TN, TX, VA, WV, and DC, and (2) *materials, equipment and supplies* used in the manufacture of plastic articles, (except commoditites in bulk), in the reverse direction. (Hearing site: Chicago, IL.)

MC 141546 (Sub-28F), filed October 10, 1978. Applicant: BULK TRANSPORT SERVICE, INC., One Dundee Park, Andover, MA 01810. Representative: Kenneth B. Williams, 84 State St., Boston, MA 02109.To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *gasoline and fuel oil*, in tank vehicles, from the facilities of Gibbs Oil C0., at Revere, MA, to points in RI and NH. (Hearing site: Boston, MA.)

MC 141641 (Sub-9F), filed October 22, 1978. applicant: WILSON CERTIFIED EXPRESS, INC., P. O. Box 3326, Des Moines, IA 50316. Representative: Donald L. Stern, Suite 610, 7171 Mercy Rd., Omaha, NE 68106. To operate as a *common carrrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, foodstuffs, packinghouse products, and those requiring special equipment), from Boston and Holyoke, MA, and New York, NY, to Amarillo, Austin, Dallas, El Paso, Houston, Laredo, Lubbock, and San Antonio, TX, Chicago, IL, St. Louis and Kansas City, MO, Minneapolis, MN, and Milwaukee, WI, restricted to the transportation of traffic moving on bills of lading of freight forwarders. (Hearing site: New York, NY)

NOTE.—Dual operations may be involved.

MC 141805 (Sub-1F), filed November 9, 1978. Applicant: HOOSIER TRANSPORT, INC., R.R. 1, Box 294, Mt. Vernon, IN 47620. Representative: Walter F. Jones, Jr., 601 Chamber of Commerce Bldg., Indianapolis, IN 46204. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from the facilities of Youngstown Sheet and Tube Company, at East Chicago IN, to points in KY and TN. (Hearing site: Chicago, IL, or Washington, DC.)

NOTE.—The person or persons who appear to be engaged in common control must either file an application under 49 USC § 11343(a) formerly Section 5(2) of the Interstate Commerce Act or submit an affidavit indicating why such approval is unnecessary.

MC 141932 (Sub-3F), filed October 25, 1978. Applicant: POLAR TRANSPORT, INC., 176 King Street, Hanover, MA 02339. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs*, (except in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of M&M/Mars, at or near Cleveland, TN, to points in CT, DE, FL, GA, IL, IN, LA, ME, MD, MA, NH, NJ, NY, OH, PA, RI, TX, VT, and WV. (Hearing site: Boston, MA, or Washington, DC.)

NOTE.—Dual operations may be involved.

MC 142189 (Sub-39F), filed November 16, 1978. Applicant: C. M. BURNS, doing business as, Western Trucking, 521 Lincoln Ave., Baker, MT 59313. Representative: Michael R. Griffith, P.O. Box 980, Baker, MT 59313. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lumber products, lumber mill products, wood, and wood products*, from points in ID, MT, OR, and WA, to points in IL, IN, IA, KS, MI, MN, MO, MT, NE, ND, OH, SD, and WI. (Hearing site: Billings, MT.)

MC 143885 (Sub-2F), filed November 8, 1978. Applicant: HARLAND AARON WILCOX AND LEROY H. WILCOX, d.b.a. WILCOX TRUCKING, 206 Charles Street, Elk Rapids, MI 49629. Representative: Eugene D. Anderson, Suite 428, 910 Seventeenth St, N.W., Washington, DC 20006. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes transporting (1) *foodstuffs*, and (2) *materials and supplies* used in the processing of food and food products between Traverse City, Elk Rapids, and East Jordan, MI, on the one hand, and, on the other those points in the United States in and east of MT, WY, CO, and NM, under contracts with Traverse City Canning Co., of Traverse City, MI, Elk Rapids Packing Co., of Elk Rapids, MI, and Sherman Canning Co., Inc., of East Jordan, MI. (Hearing site: Traverse City, MI.)

MC 144488 (Sub-1F), filed November 28, 1978. Applicant: B & B LINES, INC., P.O. BOX 344, Ahoskie, NC 27910. Representative: Richard J. Lee, 4070 Falstone Road, Richmond, VA 23234. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *agricultural fertilizer and agricultural pesticides*, (except in tank vehicles), (1) from Norfolk and Suffolk, VA, to those points in NC on, east, and north of a line beginning at the VA-NC State line and extending along U.S. Hwy 1 to junction U.S. Hwy 70, then along U.S. Hwy 70 to the Atlantic Ocean, and (2) from the destination points in (1) above to points in VA. (Hearing site: Richmond, VA, or Raleigh, NC.)

MC 144819 (Sub-5F), filed November 21, 1978. Applicant: C & N TRANSPORT, INC., 727 South Overhead Drive, Oklahoma City, OK 73108. Representative: C. L. Phillips, Room 248, Classen Terrace Building, 1411 North Classen, Oklahoma City, OK 73106. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Armour & Company, at or near Louisville, KY, to Laredo, TX. (Hearing site: Oklahoma City, OK.)

MC 144819 (Sub-6F), filed November 22, 1978. Applicant: C & N TRANSPORT, INC., 727 South Overhead Drive, Oklahoma City, OK 73108. Representative: C. L. Phillips, Room 248, Classen Terrace Building, 1411 North Classen, Oklahoma City, OK 73106. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Huron, SD, to points in AL, FL, GA, LA, MS, NC, SC,

and TN. (Hearing site: Oklahoma City, OK.)

MC 144888 (Sub-3F), filed November 9, 1978. Applicant: BIL-RIC TRANSPORT SYSTEMS, INC., 92 East Main Street, Somerville, NJ 08876. Representative: Joseph F. Hoary, 121 South Main Street, Taylor, PA 18517. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by cigar stores and drug stores (except commodities in bulk and foodstuffs), from the facilities of Beecham Products Company, at Aiken, SC, to Mechanicsburg, PA, Morrisville (Bucks County) PA, Rockwood, MI, Chicago, IL, Kansas City, MO, Memphis, TN, Savannah, GA, Los Angeles, CA, and Denver, CO, under contract with Beecham Products Company, of Pittsburgh, PA. (Hearing site: Washington, DC.)

MC 145059 (Sub-5F), filed October 5, 1978. Applicant: SPINELLI BROS. TRUCKING, INC., 55 South Wade Boulevard, Millville, NJ 08332. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen foodstuffs*, from the facilities of Green Giant Company, at Vineland, NJ, to points in CT, ME, MA, NH, RI, and VT, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Philadelphia, PA, or Neward, NJ.)

MC 145088 (Sub-2F), filed November 22, 1978. Applicant: S & T TRUCKLOAD, INC., 2527 Northeast 28th Street, Fort Worth, TX 76106. Representative: M. Ward Bailey, 2412 Continental Life Building, Fort Worth, TX 76102. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *asphalt water proofing compounds, asphalt water proofing materials, lubricating oils, and lubricating greases* (except commodities in bulk, in tank vehicles), from Fort Worth, TX, to points in the United States (except AK and HI). (Hearing site: Forth Worth or Dallas, TX.)

MC 145135 (Sub-2F), filed November 28, 1978. Applicant: JOHN E. DILLON, d.b.a. DILLON TRUCKING COMPANY, Route 1, Box 56, Cullen, VA 23934. Representative: Carroll B. Jackson, 1810 Vincennes Road, Richmond, VA 23229. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *buildings knocked down, and parts and attachments* for buildings, and (2) *materials and supplies* used in the installation of buildings, from the facilities of Traditional Log Homes, Inc., at or near State Road, NC, to points in AL, GA, IL, IN, KY, MD, MS, OH, SC, TN, VA, WV, and DC. (Hearing site: Greensboro or Charlotte, NC.)

MC 145277 (Sub-2F), filed October 10, 1978. Applicant: P & P TRUCKING COMPANY, INC., 106 Teaneck Road, Ridgefield Park, NJ 07660. Representative: Michael R. Werner, P.O. Box 1409, 167 Fairfield Road, Fairfield, NJ 07006. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *flavoring syrup, flavoring compounds, and beverage preparations*, in vehicles equipped with mechanical refrigeration (except commodities in bulk), and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above, in vehicles equipped with mechanical refrigeration (except commodities in bulk), between Louisville, KY, on the one hand, and, on the other, points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, WI, and DC, under contract with Pepsi Cola Company, of Purchase, NY. (Hearing site: New York, NY.)

MC 145264 (Sub-1F), filed September 25, 1978. Applicant: GONZALO MENDOZA, d.b.a. MENDOZA TRUCKING CO., 3262 S. Bell St., Chicago, IL 60631. Representative: James R. Madler, 120 W. Madison St., Rm. 718, Chicago, IL 60602. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting (1) *paint, solvents, and cleaning compounds*, and (2) *materials, equipment, and supplies* used in the manufacture, distribution, and application of the commodities in part (1), (except commodities in bulk), between Chicago, IL, on the one hand, and on the other, Jamaica, NY, South Plainfield, NJ, New Haven, CT, those points in IN on and north of U.S. Hwy 20, and those points in MI on and south of MI Hwy 46, under contract with The Enterprise Companies, of Wheeling, IL. (Hearing site: Chicago, IL.)

MC 145350F, filed September 7, 1978. Applicant: NATIONAL OIL & SUPPLY CO., INC., d.b.a. ELLIS TRANSPORT, 2345½ W. Kearney, Springfield, MO 65803. Representative: Turner White, 910 Plaza Towers, Springfield, MO 65804. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *emulsified asphalt*, from Springdale, AR, to points in KS, MO, and OK; and (2) *materials used in the manufacture of emulsified asphalt*, in the reverse direction. (Hearing site: Kansas City or St. Louis, MO.)

NOTE.—(a) The person or persons who appear to be engaged in common control must either file an application under Section 11343(a) (formerly Section 5(2)) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary; (b) Dual operations may be at issue in this proceeding.

MC 145415 (Sub-2F), filed November 9, 1978. Applicant: SEA-BAY TRANSPORTATION, INC., 9 South Massachusetts Street, Seattle, WA 98134. Representative: John S. Banchero, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate of foreign commerce, over irregular routes, transporting, *general commodities* (except classes A and B explosives), in containers, having a prior or subsequent movement by water, between points in the Seattle, WA, commercial zone. (Hearing site: Seattle or Tacoma, WA.)

MC 145527F, filed October 13, 1978. Applicant: ALTON RAY AND ORIN J. WILSON, a Partnership, d.b.a. RAY & WILSON TRUCKING, General Delivery, Micaville, NC 28755. Representative: Eric Meierhoefer, Suite 423, 1511 K St., NW, Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *olivine*, from points in Jackson, Mitchell, and Yancey Counties, NC, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Washington, DC.)

MC 145556F, filed October 13, 1978. Applicant: HEAVY MACHINERY EXPRESS, INC., 1831 East Mission Hills Road, Northbrook, IL 60062. Representative: Patrick H. Smyth, Suite 521, 19 South LaSalle St., Chicago, IL 60603. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *heavy machinery, and parts, attachments, and accessories* for heavy machinery, between points in FL IL, IN, KY, MI, NJ, NY, OH, OK, PA, TX, and WI, under contract with Barr Machinery-IMLI, Inc., of Franklin Park, IL. (Hearing site: Chicago, IL.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 145594F, filed October 18, 1978. Applicant: BARNES MOVING & STORAGE CO., INC., 116 Lucille Avenue, Carrollton, GA 30117. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *Household goods* (except new furniture) and new furniture, between points in Carroll, Coweta, Douglas, Fayette, Haralson,

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and Heard Counties, GA, on the one hand, and, on the other, points in AL, KY, MS, NC, SC, and TN, and in that part of FL on and north of FL Hwy 70. (Hearing site: Atlanta, GA.)

MC 145602F, filed October 24, 1978. Applicant: RAYMOND WARD, d.b.a. WARD TRUCKING, 3095A N.E. Rene, Gresham, OR 97030. Representative: Russell M. Allen, 1200 Jackson Tower, Portland, OR 97205. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *chilled steel shot*, in barrels, from the facilities of Wheelabrator-Frye Inc., at Mishawaka, IN, to points in OR, WA, and ID, under contract with Wheelabrator-Frye Inc., of Mishawaka, IN. (Hearing site: Portland, OR.)

MC 145759F filed November 17, 1978. Applicant: EAST-WEST MOTOR FREIGHT, INC., P.O. Box 525, Selmer, TN 38375. Representative: Richard M. Tettelbaum, Fifth Floor, Lenix Towers South, 3390 Peachtree Rd. NE, Atlanta, GA 30326. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *industrial chemicals and industrial cleaning compounds*, (except commodities in bulk), from points in DE, FL, GA, IN, LA, MD, MA, MI, MO, NJ, PA, TX, and VA, to points in AZ, CA, and NV. (Hearing site: Los Angeles, CA.)

NOTE.—Dual operations may be involved in this proceeding.

MC 145772F, filed June 16, 1978. Applicant: LANG CARTAGE CORP., 338 South 17th Street, Milwaukee, WI 53201. Representative: Richard C. Alexander, 710 North Plankinton Avenue, Milwaukee, WI 53203. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such merchandise* as is dealt in by retail mail order houses (except furniture), from the facilities of Aldens, Inc., at Chicago, IL, to points in WI, the Upper Peninsula of MI, and Dakota, Dodge, Fillmore, Freeborn, Goodhue, Houston, Mower, Olmsted, Steele, Wabasha, Waseca, Winona, Faribault, Martin, Jackson, Cottonwood, Watonwan, Blue Earth, Redwood, Brown, Nicollet, Le Sueur, Rice, Renville, Sibley, Scott, Carver, McLeod, Kandiyohi, Meeker, Wright, Pope, and Stearns Counties, MN. (Hearing site: Chicago, IL.)

NOTE.—Dual operations may be involved in this proceeding.

MC 145805F, filed November 27, 1978. Applicant: LARRY MORRIS, d.b.a. WRIGHT WAY REPAIR, P.O. Box 437, Goldfield, IA 50542. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *disabled motor vehicles*, and (2) *replacement vehicles* for the commodities in (1) above, between points in Hamilton, Humboldt, Webster, and Wright Counties, IA, on the one hand, and, on the other, points in IL, IN, KS, MN, MO, NE, ND, SD, and WI. (Hearing site: Des Moines, IA, or St. Paul, MN.)

PASSENGER AUTHORITY

MC 1515 (Sub-256F), filed November 28, 1978. Applicant: GREYHOUND LINES, INC., Greyhound Tower, Phoenix, AZ 85077. Representative: W. L. McCracken (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *passengers and their baggage*, and *express and newspapers*, in the same vehicle with passengers, (1) between Barstow and Needles, CA, over Interstate Hwy 40, serving all intermediate points. Condition: Carrier must submit a statement indicating the probable impact of the abandonment of its motor carrier regular route passenger service on energy conservation and energy efficiency as provided in 49CFR §§ 1106.5(c) and 1106.7(a), Ex Parte No. 55 (Sub-No. 22), *Implementation of the Energy Policy and Conservation Act of 1975*, 357 I.C.C. 599 (1978). (Hearing site: Barstow, CA.)

NOTE.—Applicant proposes to abandon a portion of its authority as contained in MC 1515 Sub 7, third revised Sheet No. 52-A, Route 257, which reads as follows: from junction Interstate Hwy 40 and old U.S. Hwy 66, at or near Ludlow, CA, over old U.S. Hwy 66, to junction Interstate Hwy 40, northeast of Essex, CA, and return over the same route. This is a major regulatory action as defined in 49CFR § 1106.5(a)(6)

MC 2060 (Sub-12F), filed September 18, 1978. Applicant: PINE HILL-KINGSTON BUS CORPORATION, P.O. Box 175, New York, NY 12401. Representative: Bruce E. Mitchell, Fifth Floor-Lenox Towers I, 3390 Peachtree Rd., Atlanta, GA 30326. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting (A) *express and newspapers*, in the same vehicle with passengers, (1) between Oneonta, NY, and New York, NY, from Oneonta over NY Hwy 28 to Mount Tremper, NY, then over NY Hwy 212 to Woodstock, NY, then over NY Hwy 375 to junction NY Hwy 28, then over NY Hwy 28 to Kingston, NY (also from Oneonta over NY Hwy 28 via Mount Tremper to Kingston, NY), then over NY Hwy 9W to Newburgh, NY, then over NY Hwy 32 to junction NY Hwy 17, then over NY Hwy 17, via Harriman, NY, to the NY-NJ State line (also from Kingston over NY State Thruway to Suffern, NY, then over NY Hwy 17 to the NY-NJ State line), then over NJ Hwy 17 to junction NJ Hwy 3, then over NJ Hwy 3 to junction depressed hwy leading to the Lincoln Tunnel, then over depressed hwy and via the Lincoln Tunnel to New York, NY, and return over the same route, serving (a) those intermediate points between Oneonta and a point 1 mile west of the westerly city line of Kingston, NY, or (b) intermediate points in the transportation of express and newspapers the entire movement of which begins at intermediate point between Oneonta and a point 1 mile west of the westerly city line of Kingston, NY, and ends at an intermediate point on carrier's presently authorized service routes in NJ, or vice versa, restricted against the movement of express and newspapers the entire movement of which begins at New York, NY, and ends at any point in NJ, or vice versa, (2) between Cooperstown, NY, and Oneonta, NY, over NY Hwy 28, serving the intermediate points of Index, Hartwick Seminary, Milford, Portlandville, Milford Center, and Colliersville, NY, (3) serving Kingston, NY, as as intermediate point for the purpose of interlining express and newspapers only, in connection with carrier's presently authorized regular-route operations between Oneonta and New York, NY, and (4) between junction NY Hwy 17 and Interstate Hwy 87, at or near Exit 15 of Interstate Hwy 87, and junction Interstate Hwy 95, and NJ Hwy 3, at or near Exit 17 of Interstate Hwy 95, from junction NY Hwy 17 and Interstate Hwy 87 over Interstate Hwy 87 to junction Garden State Parkway, at or near Exit 14A of Interstate Hwy 87, then over Garden State Parkway to junction Interstate Hwy 80, then over Interstate Hwy 80 to junction Interstate Hwy 95, then over Interstate Hwy 95 to junction NJ Hwy 3, and return over the same route, serving no intermediate points, and serving junction NY Hwy 17 and Interstate Hwy 87 and junction Interstate Hwy 95 and NJ Hwy 3, for purposes of joinder only, as an alternate route for operating convenience only, in connection with carrier's otherwise authorized regular-route operations; and (B) *passengers and their baggage, express, and newspapers*, in the same vehicle with passengers, between Utica, NY, and Cooperstown, NY, from Utica over Interstate Hwy 90 to junction NY Hwy 28, then over NY Hwy 28 to Cooperstown, and return over the same route, serving all intermediate points. (Hearing site: Utica, NY.)

NOTE.—The person or persons who appear to be engaged in common control must either file an application under Section 11343(a) (formerly Section 5(2)) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

MC 73742 (Sub-4F), filed October 24, 1978. Applicant: WINN BUS LINES, INC., 909 N. 17th Street, Richmond, VA 23219. Representative: L. C. Major, Jr., Suite 400, Overlook Building, 6121 Lincolnia Road, Alexandria, VA 22312. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *passengers and their baggage*, in the same vehicle with passengers, in round-trip charter operations, beginning and ending at points in Louisa County, VA, and extending to points in the United States (except AK and HI). (Hearing site: Richmond, VA.)

MC 74761 (Sub-21F), filed August 23, 1978, and previously noticed in the Federal Register issue of November 16, 1978. Applicant: TAMIAMI TRAIL TOURS, INC., d.b.a. TRAILWAYS, 200 Spring St., N.W., Atlanta, GA 30303. Representative: Robert C. Boozer, 1400 Candler Bldg., 127 Peachtree St., N.E., Atlanta, GA 30303. To operate as a *common carrier*, by motor vehicle, over in interstate or foreign commerce, over regular routes, transporting *passenger and their baggage*, and *express and newspapers* in the same vehicle with passengers, (1) between Atlanta, GA, and Orlando, FL, from Atlanta over Interstate Hwy 75 to junction U.S. Hwy 27 near Ocala, FL, then over U.S. Hwy 27 to junction FL Hwy 50 at Clermont, FL, then over FL Hwy 50 to Orlando, and return over the same route, serving the intermediate points of Macon, Cordele, Tifton, and Valdosta, GA, and all intermediate points between Orlando, FL and junction Interstate Hwy 75 and U.S. Hwy 27, and serving junctions Interstate Hwy 75 and GA Hwy 257, Interstate Hwy 75 and U.S. Hwy 90, Interstate Hwy 75 and FL Hwy 47, Interstate Hwy 75 and FL Hwy 26, and Interstate Hwy 75 and FL Hwy 121 for purposes of joinder only, (2) between Cordele, GA, and junction GA Hwy 257 and Interstate Hwy 75, over GA Hwy 257, serving junction GA Hwy 257 and Interstate Hwy 75 for purposes of joinder only, (3) between junction Interstate Hwy 75 and U.S. Hwy 90, and junction Interstate Hwy 75 and FL Hwy 47: from junction Interstate Hwy 75 and U.S. Hwy 90 over U.S. Hwy 90 to Lake City, FL, then over FL Hwy 47 to junction Interstate Hwy 75, and return over the same route, serving the intermediate point of Lake City and serving the termini for purposes of joinder only, (4) between junction Interstate Hwy 75 and FL Hwy 26, and junction Interstate Hwy 75 and FL 121: from junction Interstate Hwy 75 and FL Hwy 26 over FL Hwy 26 to Gainesville, then over U.S. Hwy 441 to junction FL Hwy 331, then over FL Hwy 331 to junction FL Hwy 121, then over FL Hwy 121 to junction Interstate Hwy 75, and return over the same route, serving the intermediate point of Gainesville, and the serving the termini for purposes of joinder only, and (5) between Statenville, GA, and Lake City, FL: from Statenville over U.S. Hwy 129 to Jasper, FL, then over U.S. Hwy 41 to Lake City, and return over the same route, serving all intermediate points. (Hearing site: Atlanta and Valdosta, GA, and Gainesville, Orlando, FL)

NOTE. —This republication modifies the territorial description.

MC 143438 (Sub-4F), filed November 28, 1978. Applicant: DENISE, INC., d.b.a. TRAVEL TIME, 277 Newbury Street, Peabody, MA 01960. Representative: Robert M. Santaniello, 95 State Street, Suite 1010, Springfield, MA 01103. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *passengers and their baggage*, in the same vehicle with passenger between Webster, MA, and Southbridge, MA, from Webster over MA Hwy 197 to the MA-CT State line, then over CT Hwy 197 to Quinebaug, CT, then over CT Hwy 131 to the CT-MA State line, then over MA Hwy 131 to Southbridge, and return over the same route, serving all intermediate points. (Hearing site: Springfield or Boston, MA.)

BROKER AUTHORITY

MC 130539F, filed November 27, 1978. Applicant: APRIL I. W. HORLER, P.O. Box 271, McGraw, NY 13101. Representative: Lawrence E. Lindeman, 1032 Pennsylvania Building, 425 13th Street, N.W., Washington, DC 20004. To engage in operations, in interstate or foreign commerce, as a *broker*, at East Freetown, NY, in arranging for the transportation, by motor vehicle, of *passengers and their baggage*, in charter and special operations, between points in Cortland and Tompkins Counties, NY, on the one hand, and, on the other, points in the United States (including AK but excluding HI). (Hearing site: Cortland, NY.)

MC 130535F, filed September 25, 1978. Applicant: ACCCENT TOURS, INC., 1616 Walnut Street, Suite 709, Philadelphia, PA 19103. Representative: Theodore Roseman (same address as applicant). To engage in operations, in interstate or foreign commerce, as a *broker*, at Philadelphia, PA, in arranging for the transportation, by motor vehicle of *passengers and their baggage*, in the same vehicle with passengers, in special and charter operations, between points in the United States (except AK and HI). (Hearing site: Philadelphia, PA.)

NOTE.—Applicant is cautioned that arrangements for charter parties or groups should be made in conformity with the requirements set forth in *Tauck Tours, Inc., Extension—New York, NY*, 54, M.C.C. 291 (1952).

[FR Doc. 79-379 filed 1-3-79; 8:45 am]

[7035-01-M]

[Notice No. 767]

ASSIGNMENT OF HEARINGS

DECEMBER 28, 1978.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

No. MC 74107 (Sub-No. 2F), Super Motor Lines, Inc., now being assigned for hearing on February 5, 1979, (3 days), at Raleigh, North Carolina in a hearing room to be later designated.

No. MC 139482 (Sub-No. 58F), New Ulm Freight Lines, Inc., now assigned for hearing on January 10, 1979, at New York, New York and will be held in Room E-2222, Federal Building.

No. MC 144473 (Sub-No. 1F), Dorval Corporation, now assigned for hearing on January 8, 1979, at New York, New York and will be held in Room E-2222, Federal Building.

No. MC 56679 (Sub-No. 102), Brown Transport Corporation, now assigned for hearing on January 15, 1979, (2 weeks), at Atlanta, Georgia, and will be held at the Holiday Inn-Downtown, 175 Piedmont Avenue, N.E.

No. MCC 8619, Transport of New Jersey, and Port Authority of New York and New Jersey—Investigation of Operations and Practices ETAL, now assigned for hearing on January 8, 1979, at New York, New York and will be held in Room 2206, Federal Bldg.

No. MC 140024 (Sub-No. 97F), J. B. Montgomery, Inc. a Delaware Corporation, now assigned for hearing on January 11, 1979, at New York, New York and will be held in Room 2206, Federal Bldg.

No. MC 140024 (Sub-No. 98F), J. B. Montgomery, Inc. a Delaware Corporation, now assigned for hearing on January 8, 1979, at New York, New York and will be held in Room 2206, Federal Bldg.

No. MC 36745, Petition For Investigation-Bus Terminal of the Port Authority of New York and New Jersey, now assigned for hearing on January 8, 1979, at New York, New York and will be held in Room 2206, Federal Building.

No. MC 43963 (Sub-No. 16F), Chief Truck Lines, Inc., now assigned for hearing on January 10, 1979, At Birmingham, Alabama and will be held in Ramada Inn Medical Center.

No. MC 138882 (Sub-No. 30), Wiley Sanders, Inc., now assigned for hearing on January 11, 1979, at Birmingham, Alabama and will be held in Ramada Inn Medical Center.

No. MC 124426 (Sub-No. 6F), McCort Drive-A-Way, Inc., now assigned for hearing on January 18, 1979, at Jacksonville, Florida and will be held in Tax Court Room 137, U.S. Post Office and Courthouse.

No. MC 57591 (Sub-No. 19F), Evans Delivery Company Inc., now assigned for hearing on January 15, 1979 (2 days), at Philadelphia, Pa., and will be held in New U.S. Courthouse, 601 Market Street.

No. MC 144620F, Executive Coach, Inc., now assigned for hearing on January 17, 1979, (3 days), at Lancaster, Pa., and will be held at the Holiday Inn-North Route 501, 1492 Lititz Pike.

No. MC 144843 (Sub-No. 1F), W.R. Grace & CO., DBA Grace Distribution Service, now assigned for hearing on January 15, 1979, (1 day), at New York, N.Y., and will be held in Room, D-2206, Federal Building, 26 Fedral Plaza.

No. MC 119619 (Sub-No. 126F), Distributors Service Co., now assigned for hearing on January 16, 1979, (2 days), at New York, N.Y., and will be held in Room D-2206, Federal Building, 26 Federal Plaza.

No. MC 115841 (Sub-No. 624F), Colonial Refrigerated Transportation Inc., now assigned for hearing on January 15, 1979, at Orlando, Florida and will be held in Howard Johnson's Motor Inn.

No. MC 140024 (Sub-No. 99F), J. B. Montgomer, Inc., now assigned for hearing January 22, 1979, (1 day), at New York, N.Y., will be held in Room F-2220, Federal Building, 26 Federal Plaza.

No. MC 138328 (Sub-No. 60F), Clarence L. Werner, DBA Werner, Enterprises, now assigned for hearing January 23, 1979, (2 days), at New York, N.Y., will be held in Room F-2220, Federal Building, 26 Federal Plaza.

No. MC 139584 (Sub-No. 15F), John Busch, now assigned for hearing on January 25, 1979, (2 days), at New York, N.Y., will be held in Room F-2220, Fedral Building, 26 Federal Plaza.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-374 Filed 1-3-79; 8:45 am]

[7035-01-M]

FOURTH SECTION APPLICATION FOR RELIEF

DECEMBER 29, 1978.

This application for long-and short-haul relief has been filed with the I.C.C.

Protests are due at the I.C.C. on or before January 19, 1979.

FSA No. 43647, Nedlloyd Lijnen BV's No. 1, intermodal rates on commodities in containers, from rail carriers' terminals at U.S. Pacific Coast ports, by way of U.S. Atlantic Coast Ports, also New Orleans, La., and Houston, Tex., to ports on the Arabian Gulf, Persian Gulf, Gulf of Aden, and the Red Sea, in its Tariff 1, ICC 1, effective January 7, 1979. Grounds for relief—water competition.

By the Commission.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-373 Filed 1-3-79: 8:45 am]

[7035-01-M]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY—ELIMINATION OF GATEWAY LETTER NOTICES

DECEMBER 27, 1978.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's *Gateway Elimination Rules* (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission by January 15, 1979. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will *not* operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

The following applicants seek to operate as a *common carrier*, by motor vehicles, over irregular routes.

MC 34631 (Sub-E3), filed May 15, 1974. Applicant: A. ARNOLD & SON TRANSFER AND STORAGE CO., INC., 2600 West Broadway, P.O. Box 11033, Louisville, KY 40211. Representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Avenue, NW., Washington, DC 20036. *Household goods*, as defined by the Commission, (1) from points in AL to points in IND, MD, MO, NJ, NY, and DC; (2) from points in AR to points in MD, IND, NJ, NY, OH, PA, and DC; (3) from points in CO to points in NJ; (4) from points in CT to points in FL, GA, IN, MO, OH south of I Hwy 70, VA and DC; (5) from points in DE to points in GA, IL, IN, MO, OH south of I Hwy 70, and TN; (6) from points in FL to points in DE and DC; (7) from points in GA to points in DE, RI, WV, and DC; (8) from points in IL to points in DE, KS, MD, WV, and DC; (9) from points in IN to points in CO, CT, DE, IA, KS, MD, MA, MN, NE, RI, and DC; (10) from points in IA to points in FL, GA, MD, NJ, NY, OH, PA, TN, VA, and DC; (11) from points in KS to points in DC; (12) from points in LA to points in IL, MD, MO, NJ, OH, PA, and DC; (13) from points in MD to points in GA, MI, NC, CT, and RI; (14) from points in MA to points in IL, IN, MD, MO, TN, VA, and DC; (15) from points in MI to points in FL, GA, MD, NJ, NY, TN, VA, and DC; (16) from points in MN to points in FL, GA, MD, NJ, NY, OH, PA, TN, VA, and DC; (17) from points in MS to points in IN, MD, MO, NJ, OH, VA, and DC; (18) from points in MO to points in DE; (19) from points in NE to points in IN, MD, NY, OH, PA and TN; (20) from points in NJ to points in CO, MI, NC, SC, DC, and WV; (21) from points in NY to points in IA, MD, MI, MN, WI, and DC; (22) from points in NC to points in MD, VA, and DC; (23) from points in OH to points in IA; (24) from points in OH south of I Hwy 70 to points in CT, DE, MD, RI, and WI; (25) from points in OK, IL south of US Hwy 36, MD, PA, and DC; (26) from points in PA to points in CO, IA, MN, NE, NC, and SC; (27) from points in RI to points in GA, IN, MD, MO, OH south of I Hwy 70, TN, and DC; (28) from points in SC to points in MD, NJ, NY, and DC; (29) from points in TN to points in KS, MD, NE, OK, and WV; (30) from points in TX to points in MD, NJ, NY, and DC; (31) from points in WV to points in FL, GA, IL, MO, and TN; (32) from points in WI to points in GA, MD, NS, NY, OH south of I Hwy 70, TN, PA, VA, and DC; and (33) from points in DC to points in CT, GA, MA, MI, NC, RI, SC, TN, and WI. (Gateways eliminated: points in KY and VA.)

MC 115826 (Sub-E66), filed December 15, 1977. Applicant: W. J. DIGBY, INC., P.O. Box 5088 Termina, Denver, CO 80217. Representative: William N. Shawn, Suite 501, 1730 M Street NW., Washington, DC 20036. *Pickles*, in containers, from points in CO on and west and south of a line beginning at the CO-NM state line, and extending along Interstate Hwy 25 to Denver, then along U.S. Hwy 85 to junction CO Hwy 14, then along CO Hwy 14 to junction U.S. Hwy 40, then along U.S. Hwy 40 to the CO-UT state line, including service from all points in the commercial zones of cities located on the above-described line, to points in NE on and east of a line beginning at the NE-KS state line, and extending along U.S. Hwy 281 to Grand Island, then along U.S. Hwy 281 to junction NE Hwy 92, then along NE Hwy 92 to junction NE Hwy 11, then along NE Hwy 11 to junction U.S. Hwy 20, then along U.S. Hwy 83 to the NE-SD state line, including service to points in the commercial zones of all cities located along the above—described line. (Eliminate the Gateway of Denver, CO.)

MC 115826 (Sub-E67), filed December 15, 1977. Applicant: W. J. DIGBY, INC., P.O. Box 5088 Termina, Denver, CO 80217. Representative: William N. Shawn, Suite 501, 1730 M Street NW., Washington, DC 20036. *Pickles*, in containers, from points in Colorado on and east and north of a line beginning at the Colorado-Wyoming state line, and extending along U.S. Hwy 287 to junction Colorado Hwy 119, then along Colorado Hwy 119 to junction U.S. Hwy 6, then along U.S. Hwy 6 to the western boundary of Jefferson County, then along the western and southern boundaries of Jefferson County and the southern boundary of Douglas County to the junction of the southern boundary of Douglas County with Colorado Hwy 67, then along Colorado Hwy 67 to Woodland Park, Colorado, then along U.S. Hwy 24 to the Colorado-Kansas state line, to points in Arizona on and west and south of a line beginning at the Utah-Arizona state line and extending along U.S. Hwy 89 to junction U.S. Hwy 66, then along U.S. Hwy 66 to the Arizona-New Mexico state line. (Eliminate the Gateway of Denver, CO.)

MC 115826 (Sub-E68), filed December 15, 1977. Applicant: W. J. DIGBY, INC., P.O. Box 5088 Termina, Denver, CO 80217. Representative: William N. Shawn, Suite 501, 1730 M Street NW., Washington, DC 20036. *Meats, meat products and meat by-products and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from points on and east of a line beginning at the junction of the CO-NM state line and extending along Interstate Hwy 25 to junction U.S. Hwy 50, then along U.S. Hwy 50 to junction U.S. Hwy 285, then along U.S. Hwy 285 to the western boundary of Jefferson County, then along the western boundary of Jefferson County to junction U.S. Hwy 6, then along U.S. Hwy 6 to junction CO Hwy 119, then along CO Hwy 119 to the northern boundary of Gilpin County, then along the northern boundary of Gilpin County to the western boundary of Boulder County, then along the western boundaries of Boulder and Larimer Counties to the junction of the western boundry of Larimer County with U.S. Hwy 34, then along U.S. Hwy 34 to junction U.S. Hwy 287, then along U.S. Hwy 287 to the CO-WY state line, to points in CA on and west and north of a line beginning at the Pacific Ocean, and extending along an unidentified Hwy to Newport Beach, CA then along CA Hwy 55 to junction CA Hwy 91, then along CA Hwy 91 to junction U.S. Hwy 395, then along U.S. Hwy 395 to junction Interstate Hwy 15, then along Interstate Hwy 15 to Barstow, then along CA Hwy 58 to junction U.S. Hwy 395, then along U.S. Hwy 395 to junction U.S. Hwy 6, then along U.S. Hwy 6 to the CA-NV state line. (Eliminate the Gateway of Denver, CO.)

MC 115826 (Sub-E69), filed December 15, 1977. Applicant: W. J. DIGBY, INC., P.O. Box 5088 Termina, Denver, CO 80217. Representative: William N. Shawn, Suite 501, 1730 M Street NW., Washington, DC 20036. *Frozen, fresh* and *cured meats* and *frozen meat products*, from points in CO on and east and south of a line beginning at the CO-NM State line, and extending along U.S. Hwy 85 to junction U.S. Hwy 40, then along U.S. Hwy 40 to junction U.S. Hwy 24, thence along U.S. Hwy 24 to the CO-KS state line, including service from all cities and their commercial zones located on the above-mentioned line, to points in OR on and west of a line beginning at the CA-OR state line and extending along U.S. Hwy 97 to junction U.S. Hwy 20 at or near Bend, OR, then along U.S. Hwy 20 to junction OR Hwy 126 then along OR Hwy 126 to junction OR Hwy 22, then along OR Hwy 22 to junction U.S. I Hwy 5, then along I Hwy 5 to junction I Hwy 205, then along I Hwy 205 to the Columbia River; and those points in WA on and west of a line beginning at the WA-OR state line and extending along I Hwy 5 to Olympia, WA, then returning south on U.S. I Hwy 5 to junction U.S. Hwy 101 and OR Hwy 8, then along U.S. Hwy 101 and OR Hwy 8 to their separation, then along OR Hwy 8 to junction U.S. Hwy 12, then along U.S. Hwy 12 to Aberdeen, WA, then along to the Pacific Ocean, including service to all cities located on the above-mentioned line and their commercial zones. (Gateway eliminated: point within 50 miles of Boulder, CO.)

MC 115826 (Sub-E70), filed December 15, 1977. Applicant: W. J. DIGBY, INC., P.O. Box 5088 Termina, Denver, CO 80217. Representative: William N. Shawn, Suite 501, 1730 M Street NW., Washington, DC 20036. *Malt beverages*, from points in CO on and east of a line beginning at the CO-NM state line, and extending along I Hwy 25 to junction U.S. Hwy 50, then along U.S. Hwy 50 to junction U.S. Hwy 285, then along U.S. Hwy 285 to the western boundary of Jefferson County then along the western boundary of Jefferson County to junction U.S. Hwy 6, then along U.S. Hwy 6 to junction CO Hwy 119, then along CO Hwy 119 to the northern boundary of Gilpin County, then along the northern boundary of Gilpin County to the western boundary of Boulder County, then along the western boundaries of Boulder and Larimer Counties to the junction of Larimer County and U.S. Hwy 34, then along U.S. Hwy 34 to junction U.S. Hwy 287, then along U.S. Hwy 287 to the CO-WY state line, including all points in the commercial zones of all cities lying along the above-described line. (Gateway eliminated: points of Golden, CO.)

MC 125433 (Sub-E64), filed September 5, 1978. Applicant: F-B TRUCK LINE CO., 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same as above). *Commodities which* by reason of size or weight, require special handling or the use of special equipment and commodities when also machinery, boilers, storage tanks, and parts therefor, structural steel, and contractors' outfits, and supplies requiring special equipment or rigging which do not require special handling or the use of special equipment when moving in the same shipment on the same bill of lading as commodities which by reason of size or weight, require special handling or the use of special equipment (except commodities in bulk). (1) between points in CO on and west of U.S. Hwy 50 beginning at the CO-UT state line, extending along U.S. Hwy 50 to junction U.S. Hwy 550, then along on U.S. Hwy 550 to the CO-NM State line, on the one hand, and, on the other, points in MT. (2) between points in CO on and within a line beginning at the CO-UT State line extending along U.S. Hwy 50 to junction U.S. Hwy 550, then south on U.S. Hwy to the CO-NM State line, then along the State line to junction U.S. Hwy 285 then along U.S. Hwy 285 to junction U.S. Hwy 24, then along U.S. Hwy 24 to junction CO Hwy 789, then north on CO Hwy 789 to the CO-WY State line, on the one hand, and, on the other, points in MT on and west of a line beginning at the U.S. Hwy-CN International State line extending along MT Hwy 242 to junction U.S. Hwy 191, then south on U.S. Hwy 191 to junction U.S. Hwy 87, then south on U.S. Hwy 87 to junction U.S. Hwy 310, then south along U.S. Hwy 310 to the MT-WY State line. (3) between points in CO on and within a line beginning at the CO-WY State line extending along CO Hwy 789 to junction U.S. Hwy 24, then east and south on U.S. Hwy 24 to junction U.S. Hwy 285, then north on U.S. Hwy 285 to junction CO Hwy 9, then north on CO Hwy 9 to junction U.S. Hwy 40, then east on U.S. Hwy 40 to junction CO Hwy 125, then north on CO Hwy 125 to the CO-WY State line, on the one hand, and, on the other, points in MT west of a line beginning at the U.S.-Canadian International Boundary extending along MT Hwy 242 to junction U.S. Hwy 191, then south on U.S. Hwy 191 to junction U.S. Hwy 87, then south on U.S. Hwy 87 to junction U.S. Hwy 310, then south along U.S. Hwy 310 to the MT-WY State line. (4) be-

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tween points in CO on and within a line beginning at the CO–NM State line extending along U.S. Hwy 285 to junction CO Hwy 9, then north on CO Hwy 9 to junction U.S. Hwy 40, then east and south on U.S. Hwy 40 to junction I Hwy 25, then south on I Hwy 25 to CO–NM State line, on the one hand, and, on the other, points in MT on and west of a line beginning at the MT–WY State line extending along U.S. Hwy 191 to junction I Hwy 90, then west along I Hwy 90 to junction U.S. Hwy 287, then north along U.S. Hwy 287 to junction U.S. Hwy 91, then north along U.S. Hwy 91 to junction U.S.-Canadian International Boundary line; and (5) between points in CO, on the one hand, and, on the other, points in that part of MT on and west of a line beginning at the MT–ID State line extending along I Hwy 15 to junction U.S. Hwy 10, then west along U.S. Hwy 10 to junction I Hwy 90, then north along I Hwy 90 to junction U.S. Hwy 93, then north on U.S. Hwy 93 to junction U.S.-Canadian State line. (Gateway eliminated: points in UT.)

MC 125433 (Sub-E65), filed September 5, 1978. Applicant: F-B TRUCK LINE CO., 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same as above). *Special-purpose* trailers designed for use in connection with the maintenance and repair of electric power transmission lines, and *those designed for use incidental to construction and mining projects* (except, in either case, trailers designed to be drawn by passenger automobiles in truck-away service), when also commodities which by reason of size or weight, require special handling, or the use of special equipment, and *special-purpose trailers designed for use in connection with the maintenance and repair of electric power transmission lines*, and *those designed for use incidental to construction and mining projects* (except, in either case, trailers designed to be drawn by passenger automobiles in truck-away service), which do not require special handling, or the use of special equipment when moving in the same shipment on the same bill of lading as special-purpose trailers designed for use in connection with the maintenance and repair of electric power transmission lines, and those designed for use incidental to construction and mining projects (except in either case, trailers designed to be drawn by passenger automobiles in truck-away service), when also commodities which by reason of size or weight, require special handling or the use of special equipment; (1) between points in CO on and west of a line beginning at the CO–UT State line extending along U.S. Hwy 50 to junction U.S. Hwy 550, then south on U.S. 550 to the CO–NM state line, on the one hand, and, on the other, points in MT. (2) Between points in CO on and within a line beginning at the CO–UT border extending along U.S. Hwy 50 to junction U.S. Hwy 550, then south on U.S. Hwy 550 to the CO–NM State line, then east on the State line to U.S. Hwy 285, then north on U.S. Hwy 285 to junction U.S. Hwy 24, then north on U.S. Hwy 24 to junction CO Hwy 789, then north on CO Hwy 789 to the CO–WY State line, on the one hand, and, on the other, points in MT on and west of a line beginning at the U.S.–CN International Boundary line extending along MT Hwy 242 to junction U.S. Hwy 191, then south on U.S. Hwy 191 to junction U.S. Hwy 87, then south on U.S. Hwy 87 to junction U.S. Hwy 310, then south along U.S. Hwy 310 to the MT–WY State line. (3) Between points in CO on and within a line beginning at the CO–WY State line extending along CO Hwy 789 to junction U.S. Hwy 24, then east and south on U.S. Hwy 24 to junction U.S. Hwy 285, then north on U.S. Hwy 285 to junction State CO Hwy 9, then north on CO Hwy 9 to junction U.S. Hwy 40, then east on U.S. Hwy 40 to junction CO Hwy 125, then north on CO Hwy 125 to the CO–WY State line, on the one hand, and, on the other, points in MT west of a line beginning at the U.S.–CN International Boundary line extending south along MT Hwy 242 to junction U.S. Hwy 191, then south on U.S. Hwy 191 to junction U.S. Hwy 87, then south on U.S. Hwy 87 to junction U.S. Hwy 310, then south along U.S. Hwy 310 to the MT–WY State line. (4) Between points in CO on and within a line beginning at the CO–NM State line, to junction CO Hwy 9, then north on CO Hwy 9 to junction U.S. Hwy 40, then east and south on U.S. Hwy 40 to junction I Hwy 25, then south on I Hwy 25 to CO–NM State line, on the one hand, and, on the other, points in MT on and west of a line beginning at the junction MT–WY State line extending along U.S. Hwy 191 to junction I Hwy 90, then west along I Hwy 90 to junction U.S. Hwy 287, then north along U.S. Hwy 287 to junction U.S. Hwy 91, then north along U.S. Hwy 91 to junction U.S.–CN International Boundary line. (5) Between points in CO, on the one hand, and, on the other, points in MT on and west of a line beginning at the junction MT–ID State line extending along I Hwy 15 to junction U.S. Hwy 10, then west along U.S. Hwy 10 to junction I Hwy 90, then north along I Hwy 90 to junction U.S. Hwy 93, then north on U.S. Hwy 93 to junction U.S.–CN International Boundary line. (Gateway eliminated: points in UT.)

MC 125433 (Sub-E66), filed September 5, 1978. Applicant: F-B TRUCK LINE CO., 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same as above). *Iron and steel articles* as described in *Appendix V* to the Commission's report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C., 209 and 768 (except commodities in bulk) (1) between points in CO on and west of a line beginning at the CO–UT State line extending U.S. Hwy 50 to junction U.S. Hwy 550, then south on U.S. Hwy 550 to the CO–NM State line on the one hand, and, on the other, points in MT. (2) between points in CO on and within a line beginning at the CO–UT State line extending along U.S. Hwy 50 to junction U.S. Hwy 550, then south on U.S. Hwy 550 to the CO–NM State line, then east along the CO–NM State line to junction U.S. Hwy 285 to junction U.S. Hwy 24, then north on U.S. Hwy 24 to junction CO Hwy 789, then north on CO Hwy 789 to the CO–WY State line, on the one hand, and, on the other, points in MT on and west of a line beginning at the junction U.S.–CN International Boundary line extending along MT Hwy 242 to junction U.S. Hwy 191, then south on U.S. Hwy 191 to junction U.S. Hwy 87, then south on U.S. Hwy 87 to junction U.S. Hwy 310, then south along U.S. Hwy 310 to the MT–WY State line. (3) between points in CO on and within a line beginning at the CO–WY State line extending along CO Hwy 789 to junction U.S. Hwy 24, then east and south on U.S. Hwy 24 to junction U.S. Hwy 285, then north on U.S. Hwy 285 to junction CO Hwy 9, then north on CO Hwy 9 to junction U.S. Hwy 40, then east on U.S. Hwy 40 to junction CO Hwy 125, then north on CO Hwy 125 to the CO–WY State line, on the one hand, and, on the other, points in MT west of a line beginning at the U.S.–CN International Boundary line extending along MT Hwy 242 to junction U.S. Hwy 191, then south on U.S. Hwy 191 to junction U.S. Hwy 87, then south on U.S. Hwy 87 to junction U.S. Hwy 310, then south along U.S. Hwy 310 to the MT–WY State line. (4) between points in CO on and within a line beginning at the CO–NM State line extending along U.S. Hwy 285, then north on U.S. Hwy 285 to junction CO Hwy 9, then north on CO Hwy 9 to junction U.S. Hwy 40, then east and south on U.S. Hwy 40 to junction I Hwy 25, then south on I Hwy 25 to CO–NM State line, on the one hand, and, on the other, points in MT on and west of a line beginning at the MT–WY State line extending along U.S. Hwy 191, to junction I Hwy 90, then west along I Hwy 90 to junction U.S. Hwy 287, then north along U.S. Hwy 287 to junction U.S. Hwy 91, then north along U.S. Hwy 91 to junction U.S.–CN International Boundary line; and (5) between points in CO, on the one hand, and, on the other, points in MT on and west of a line beginning at the junction MT–ID State line extending along I Hwy 15 to junction U.S. Hwy 10, then west along U.S. Hwy 10 to junction I Hwy 90, then north along I Hwy 90 to junction U.S. Hwy 93, then north on U.S. Hwy 93 to junction U.S.–CN International Boundary line. (Gateway eliminated: points in UT.)

MC 125433 (Sub-E67), filed September 5, 1978. Applicant: F-B TRUCK LINE CO., 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same as above). *Pipe* (except iron and steel); and commodities in bulk (1) between points in CO on and west of a line beginning at the CO–UT State line extending along then south on U.S. Hwy 50 to junction U.S. Hwy 550, then south on U.S. Hwy 550 to the CO–NM State line, on the one hand, and, on the other, points in MT. (2) between points in CO on and within a line beginning at the CO–UT State line extending along U.S. Hwy 50 to junction U.S. Hwy 550, then south on U.S. Hwy 550 to the CO–NM State line, then east along the State line to U.S. Hwy 285, then north on U.S. Hwy 285 to junction U.S. Hwy 24, then north on U.S. Hwy 24 to junction CO Hwy 789, then north on CO Hwy 789 to the CO–WY State line, on the one hand, and, on the other, points in MT on and west of a line beginning at the U.S.–CN International Boundary line extending along MT Hwy 242 to junction U.S. Hwy 191, then south on U.S. Hwy 191 to junction U.S. Hwy 87, then south on U.S. Hwy 87 to junction U.S. Hwy 310, then south along U.S. Hwy 310 to the MT–WY State line, (3) between points in CO on and within a line beginning at the CO–WY State line extending along CO Hwy 789 to junction U.S. Hwy 24, then east and south on U.S. Hwy 24 to junction U.S. Hwy 285, then north on U.S. Hwy 285, to junction CO Hwy 9, then north on CO Hwy 9 to junction U.S. Hwy 40, then east and south on U.S. Hwy 40 to junction I Hwy 25, then south on I Hwy 25 to CO–NM State line, on the one hand, and, on the other, points in MT on and west of a line beginning at the MT–WY State line extending along U.S. Hwy 191 to junction I Hwy 90, then west along I Hwy 90 to junction U.S. Hwy 287, then north along U.S. Hwy 287 to junction U.S. Hwy 91, then north along U.S. Hwy 91 to junction U.S.–CN International Boundary line; (5) between points in CO, on the one hand, and, on the other, points in MT on and west of a line beginning at the MT–ID State line extending along I Hwy 15 to junction U.S. Hwy 10, then west along U.S. Hwy 10 to junction I Hwy 90, then north along I Hwy 90 to junction U.S. Hwy 93, then north on U.S. Hwy 93 to junction U.S.–CN International Boundary line. (Gateway eliminated: points in UT.)

By the Commission.

H. G. HOMME, JR.,
Secretary.

[FR Doc. 79-372 Filed 1-3-79; 8:45 am]

[7035-01-M]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY—ELIMINATION OF GATEWAY LETTER NOTICES

DECEMBER 20, 1978.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's *Gateway Elimination Rules* (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission by January 15, 1979. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will *not* operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

The following applicants seek to operate as a *common carrier*, by motor vehicles, over irregular routes.

MC 107012 (Sub-E393), filed May 16, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). (1) From points in CA, to points in AL, FL, GA, KY, NC, SC, TN and VA (points in Greene County, AR). (2) From points in Butte, Lassen, Modoc, Nevada, Plumas, Shasta, Sierra, Siskiyou and Yuba Counties, CA, to points in Ashley, Bradley, Calhoun, Chicot, Cleveland, Columbia, Dallas, Desha, Drew, Lincoln, Quachita, Union, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR (points in Greene County, AR); points in Allamakee, Black Hawk, Bremer, Buchanan, Butler, Cerro Gordo, Chickasaw, Clayton, Delaware, Fayette, Floyd, Franklin, Hancock, Howard, Mitchell, Winnebago, Winneshiek, Worth, Wright, Appanoose, Boone, Clarke, Dallas, Decatur, Greene, Grundy, Hamilton, Hardin, Jasper, Lucas, Madison, Mahaska, Marion, Marshall, Monroe, Polk, Poweshiek, Story, Tama, Warren, Wayne, Webster, Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello and Washington Counties, IA (*Burlington, IA); points in Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Rapids, Saint Landry, Vernon, Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Saint Bernard, Saint Charles, Saint Helena, Saint James, Saint John the Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge and West Feliciana Parishes, LA (points in Greene County, AR); points in Anoka, Blue Earth, Carver, Chisago, Dakota, Dodge, Faribault, Fillmore, Freeborn, Good Hue, Hennepin, Houston, Isanti, Kanabec, LeSueur, McLeod, Mille Lacs, Mower, Nicollet, Olmstead, Pine, Ramsey, Rice, Scott, Sherburne, Sibley, Steele, Wabasha, Wasela, Washington, Winona and Wright Counties, MN (*Burlington, IA); points in MS (points in Greene County, AR). (3) From points in Inyo, Fresno, Kings and Tulare Counties, CA, to points in Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR (points in Greene County, AR); points in Allamakee, Black Hawk, Bremer, Buchanan, Butler, Cerro Gordo, Chickasaw, Clayton, Delaware, Fayette, Floyd, Franklin, Hancock, Howard, Mitchell, Winnebago, Winneshiek, Worth, Wright, Appanoose, Boone, Clarke, Dallas, Decatur, Greene, Grundy, Hamilton, Hardin, Jasper, Lucas, Madison, Mahaska, Marion, Marshall, Monroe, Polk, Poweshiek, Story, Tama,

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Warren, Wayne, Webster, Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello and Washington Counties, IA (*Burlington, IA); points in Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Saint Bernard, Saint Charles, Saint Helena, Saint James, Saint John the Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge and West Feliciana Parishes, LA (points in Greene County, AR); Anoka, Blue Earth, Carver, Chisago, Dakota, Dodge, Faribault, Fillmore, Freeborn, Good Hue, Hennepin, Houston, Isanti, Kanabec, LeSueur, McLeod, Mille Lacs, Mower, Nicollet, Olmstead, Pine, Ramsey, Rice, Scott, Sherburne, Sibley, Steele, Wabasha, Wasela, Washington, Winona and Wright Counties, MN (*Burlington, IA); points in MS (points in Greene County, AR). (4) From points in Glenn, Humboldt, Lake, Mendicino, Tehama and Trinity Counties, CA, to points in AR (points in Greene County, AR); points in Allamakee, Black Hawk, Bremer, Buchanan, Butler, Cerro Gordo, Chickasaw, Clayton, Delaware, Fayette, Floyd, Franklin, Hancock, Howard, Mitchell, Winnebago, Winneshiek, Worth, Wright, Appanoose, Boone, Clarke, Dallas, Decatur, Greene, Grundy, Hamilton, Hardin, Jasper, Lucas, Madison, Marshall, Monroe, Polk, Poweshiek, Story, Tama, Warren, Wayne, Webster, Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello and Washington Counties, IA (*Burlington, IA); points in LA (points in Greene County, AR); points in Anoka, Blue Earth, Carver, Chisago, Dakota, Dodge, Faribault, Fillmore, Freeborn, Good Hue, Hennepin, Houston, Isanti, Kanabec, LeSueur, McLeod, Mille Lacs, Mower, Nicollet, Olmstead, Pine, Ramsey, Rice, Scott, Sherburne, Sibley, Steele, Wabasha, Wasela, Washington, Winona and Wright Counties, MN (*Burlington, IA); points in MS (points in Greene County, AR); points in Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Collin, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt and Wood Counties, TX (points in Greene County, AR). (5) From points in Kern, Los Angeles, Orange, San Luis Obispo, Santa Barbara, Ventura and San Bernadino Counties, CA, to points in Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR (points in Greene County, AR); points in Allamakee, Black Hawk, Bremer, Buchanan, Butler, Cerro Gordo, Chickasaw, Clayton, Delaware, Fayette, Floyd, Franklin, Hancock, Howard, Mitchell, Winnebago, Winneshiek, Worth, Wright, Appanoose, Boone, Clarke, Dallas, Decatur, Greene, Grundy, Hamilton, Hardin, Jasper, Lucas, Madison, Mahaska, Marion, Marshall, Monroe, Polk, Poweshiek, Story, Tama, Warren, Wayne, Webster, Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello and Washington Counties, IA (*Burlington, IA); points in Aitkin, Carlton, Cook, Lake, Saint Louis, Tasca, Anoka, Blue Earth, Carver, Chisago, Dakota, Dodge, Faribault, Fillmore, Freeborn, Good Hue, Hennepin, Houston, Isanti, Kanabec, LeSueur, McLeod, Mille Lacs, Mower, Nicollet, Olmstead, Pine, Ramsey, Rice, Scott, Sherburne, Sibley, Steele, Wabasha, Wasela, Washington, Winona and Wright Counties, MN (*Burlington, IA); points in MS (points in Greene County, AR). (6) From points in Imperial, Riverside and San Diego Counties, CA, to points in Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR (points in Greene County, AR); points in Allamakee, Black Hawk, Bremer, Buchanan, Butler, Cerro Gordo, Chickasaw, Clayton, Delaware, Fayette, Floyd, Franklin, Hancock, Howard, Mitchell, Winnebago, Winneshiek, Worth, Wright, Appanoose, Boone, Clarke, Dallas, Decatur, Greene, Grundy, Hamilton, Hardin, Jasper, Lucas, Madison, Mahaska, Marion, Marshall, Monroe, Polk, Poweshiek, Story, Tama, Warren, Wayne, Webster, Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello and Washington Counties, IA (*Burlington, IA); points in Aitkin, Carlton, Cook, Lake, Saint Louis, Tasca, Beltrami, Clearwater, Kittson, Koochiching, Lake of the Woods, Mahnomen, Marshall, Norman, Pennington, Polk, Red Lake, Roseau, Anoka, Blue Earth, Carver, Chisago, Dakota, Dodge, Faribault, Fillmore, Freeborn, Good Hue, Hennepin, Houston, Isanti, Kanabec, LeSueur, McLeod, Mille Lacs, Mower, Nicollet, Olmstead, Pine, Ramsey, Rice, Scott, Sherburne, Sibley, Steele, Wabasha, Wasela, Washington, Winona and Wright Counties, MN (*Burlington, IA); points in Bolivar, Carroll, Coahoma, Grenada, Holmes, Humphreys, Issaquena, Leflore, Montgomery, Quitman, Sharkey, Sunflower, Tallahatchie, Warren, Washington, Yazoo, Covington, Forrest, George, Greene, Hancock, Harrison, Jackson, Jones, Lamar, Pearl River, Perry, Stone, Wayne, Attala, Clairborne, Clarke, Copiah, Hinds, Jasper, Kemper, Lauderdale, Leake, Madison, Neshoba, Newton, Noxubee, Rankin, Scott, Simpson, Smith, Winston, Alcorn, Benton, Calhoun, Chickasaw, Choctaw, Clay, Desoto, Itawamba, Lafayette, Lee, Lowndes, Marshall, Monroe, Oktibbeha, Panola, Pontotoc, Prentiss, Tate, Tippah, Tishomingo, Tunila, Union, Webster and Yalobusha Counties, MS (points in Greene County, AR). (7) From points in Alameda, Alpine, Amador, Calaveras, Colusa, Contra Costa, Eldorado, Madera, Marin, Mariposa, Merced, Mono, Monterey, Napa, Placer, San Benito, Sacramento, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Stanislaus, Sutter, Tuolumne and Yolo Counties, CA, to points in Ashley, Bradley, Calhoun, Chicot, Cleveland, Columbia, Dallas, Desha, Drew, Lincoln, Ouachita, Union, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR (points in Greene County, AR); points in Allamakee, Black Hawk, Bremer, Buchanan, Butler, Cerro Gordo, Chickasaw, Clayton, Delaware, Fayette, Floyd, Franklin, Hancock, Howard, Mitchell, Winnebago, Winneshiek, Worth, Wright, Appanoose, Boone, Clarke, Dallas, Decatur, Greene, Grundy, Hamilton, Hardin, Jasper, Lucas, Madison, Mahaska, Marion, Marshall, Monroe, Polk, Poweshiek, Story, Tama, Warren, Wayne, Webster, Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello and Washington Counties, IA (*Burlington, IA); points in Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Saint Bernard, Saint Charles, Saint Helena, Saint James, Saint John the Baptist, Saint Martin, Saint Mary,

Saint Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge and West Feliciana Parishes, LA (points in Greene County, AR); points in Anoka, Blue Earth, Carver, Chisago, Dakota, Dodge, Faribault, Fillmore, Freeborn, Good Hue, Hennepin, Houston, Isanti, Kanabec, LeSueur, McLeod, Mille Lacs, Mower, Nicollet, Olmstead, Pine, Ramsey, Rice, Scott, Sherburne, Sibley, Steele, Wabasha, Wasela, Washington, Winona and Wright Counties, MN (*Burlington, IA); points in MS (points in Greene County, AR). (Gateway eliminated: indicated by asterisks above.)

MC 107012 (Sub-E394), filed May 13, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *New Furniture, Crated,* (1) From points in CO, to points in AL, FL, GA, MS, NC, SC and TN (points in Greene County, AR). (2) From points in CO, to points in KY (*Burlington, IA) or points in (Greene County, AR). (3) From points in CO, to points in VA (*Burlington, IA). (4) From points in Garfield, Mesa, Moffat, Rio Blanco and Routt Counties, CO, to points in Ashley, Bradley, Calhoun, Chicot, Cleveland, Columbia, Dallas, Desha, Drew, Lincoln, Ouachita, Union, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR (points in Greene County, AR); points in Allamakee, Black Hawk, Bremer, Buchanan, Butler, Cerro Gordo, Chickasaw, Clayton, Delaware, Fayette, Floyd, Franklin, Hancock, Howard, Mitchell, Winnebago, Winneshiek, Worth, Wright, Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello, and Washington Counties, IA (*Burlington, IA); points in Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Saint Bernard, Saint Charles, Saint Helena, Saint James, Saint John the Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge and West Feliciana Parishes, LA (points in Greene County, AR). (5) From points in Adams, Arapahoe, Boulder, Cedar Creek, Chaffee, Denver, Douglas, Eagle, Elbert, El Paso, Fremont, Gilpin, Grand, Jackson, Jefferson, Lake, Larimer, Park, Pitkin, Summit and Teller Counties, CO, to points in Ashley, Bradley, Calhoun, Chicot, Cleveland, Columbia, Dallas, Desha, Drew, Lincoln, Ouachita, Union, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR (points in Greene County, AR); points in Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello and Washington Counties, IA (*Burlington, IA); points in Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Saint Bernard, Saint Charles, Saint Helena, Saint James, Saint John the Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge and West Feliciana Parishes, LA (points in Greene County, AR). (6) From points in Alamosa, Archuleta, Conejos, Delta, Dolores, Gunnison, Hinsdale, La Plata, Mineral, Montezuma, Montrose, Quray, Rio Grande, Saguache, San Juan, San Miguel, Baca, Bent, Cheyenne, Costilla, Crowley, Custer, Huerfano, Kiowa, Las Animas, Lincoln, Otero, Prowers and Pueblo Counties, CO, to points in Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR (points in Greene County, AR) points in Allamakee, Black Hawk, Bremer, Buchanan, Butler, Cerro Gordo, Chickasaw, Clayton, Delaware, Fayette, Floyd, Franklin, Hancock, Howard, Mitchell, Winnebago, Winneshiek, Worth, Wright, Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello and Washington Counties, IA (*Burlington, IA); points in Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Saint Bernard, Saint Charles, Saint Helena, Saint James, Saint John the Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge and West Feliciana Parishes, LA (points in Greene County, AR). (7) From points in Kit Carson, Logan, Morgan, Phillips, Sedgwick, Washington, Weld and Yuma Counties, CO, to points in Ashley, Bradley, Calhoun, Chicot, Cleveland, Columbia, Dallas, Desha, Drew, Lincoln, Ouachita, Union, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR (points in Greene County, AR); points in Allamakee, Black Hawk, Bremer, Buchanan, Butler, Cerro Gordo, Chickasaw, Clayton, Delaware, Fayette, Floyd, Franklin, Hancock, Howard, Mitchell, Winnebago, Winneshiek, Worth, Wright, Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello and Washington Counties, IA (*Burlington, IA); points in Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Saint Bernard, Saint Charles, Saint Helena, Saint James, Saint John the Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge and West Feliciana Parishes, LA (points in Greene County, AR); points in Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Saint Bernard, Saint Charles, Saint Helena, Saint James, Saint John the Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge and West Feliciana Parishes, LA (points in Greene County, AR). (Gateways eliminated indicated by asterisks above.)

MC 107012 (Sub-E395), filed May 13, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *New Furniture, Crated,* (1) From points in CT, to points in MS. (2) From points in Hartford, New London, Tolland, Windham and Litchfield Counties, CT, to points in AL; points in Bay, Calhoun, Escambia, Gulf, Holmes, Jackson, Okaloosa, Santa Rosa, Walton and Washington Counties, FL; Points in Bartow, Chattooga, Carroll, Catoosa, Dade, Douglas, Floyd, Gordon, Haralson, Heard, Murray, Paulding, Polk, Walker and Whitfield Counties, GA; Points in Bedford, Bledsoe, Bradley, Coffee, Cumberland, Fentress, Franklin, Grundy, Hamilton, Lincoln, Loudon, McMinn, Marion, Marshall, Meigs, Monroe, Moore, Morgan, Polk, Rhea, Roane, Sequatchie, Van Buren, Warren, White, Chester, Crockett, Dyer, Fayette, Gibson, Hardeman, Haywood, Lake, Lauderdale, McNairy, Madison, Obion, Shelby, Tipton, Cannon, Cheatham, Clay, Davidson, DeKalb, Dickson, Jackson, Macon, Montgomery, Overton, Pickett, Putnam, Robertson, Rutherford, Smith, Sumner, Trousdale, Williamson, Wilson, Benton, Carroll, Decatur, Giles, Hardin, Henderson, Henry, Hickman, Houston, Humphreys, Lawrence, Lewis, Maury, Perry, Stewart, Wayne and Weakley Counties, TN. (3) From points in Fairfield, Middlesex and New Haven Counties, CT, to points in Autauga, Bibb, Blout, Calhoun, Chambers, Cherokee, Chilton, Clay, Cleburne, Coosa, Cullman, Elmore, Etowah, Jefferson, Lee, Randolph, St.

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Clair, Shelby, Talladega, Tallapoosa, Colbert, Fayette, Franklin, Lamar, Lauderdale, Lawrence, Marion, Pickens, Tuscaloosa, Walker, Winston, De Kalb, Jackson, Limestone, Madison, Marshall, Morgan, Baldwin, Butler, Choctaw, Clarke, Conecuh, Dallas, Escambia, Greene, Hale, Lawndes, Marengo, Mobile, Monroe, Perry, Sumter, Washington and Wilcox Counties, AL; Points in Bay, Calhoun, Escambia, Gulf, Holmes, Jackson, Okaloosa, Santa Rosa, Walton and Washington Counties, FL; Chester, Crockett, Dyer, Fayette, Gibson, Hardeman, Haywood, Lake, Lauderdale, McNairy, Madison, Obion, Shelby, Tipton, Cannon, Cheatham, Clay, Davidson, DeKalb, Dickson, Jackson, Macon, Montgomery, Overton, Pickett, Putnam, Robertson, Rutherford, Smith, Sumner, Trousdale, Williamson, Wilson, Benton, Carroll, Decatur, Giles, Hardin, Henderson, Henry, Hickman, Houston, Humphreys, Lawrence, Lewis, Maury, Perry, Stewart, Wayne and Weakley Counties, TN. (Gateways eliminated: Points in KY.)

MC 107012 (Sub-E396), filed May 13,1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *New Household Furniture, Crated,* (1) From points in Hartford, Tolland, Windham and Litchfield Counties, CT, to points in Boone, Cabell, Lincoln, Logan, Mingo, Putnam and Wayne Counties, WV. (Gateways eliminated: Points of Cleveland, OH.)

MC 107012 (Sub-E397), filed May 13, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *New Furniture, Crated* (1) From points in DE, to points in AL. (2) From points in Kent County, DE, to points in FL; points in Atkinson, Baker, Ben Hill, Berrien, Bibb, Bleckley, Brooks, Calhoun, Chattahoochee, Clay, Clinch, Coffee, Colquitt, Cook, Crawford, Crisp, Decatur, Dodge, Dooly, Dougherty, Early, Echols, Grady, Harris, Houston, Irwin, Jones, Lamar, Lanier, Lee, Lowndes, Macon, Marion, Meriwether, Miller, Mitchell, Monroe, Muscogee, Peach, Pike, Pulaski, Quitman, Randolph, Schley, Seminole, Steward, Sumter, Talbot, Taylor, Telfair, Terrell, Thomas, Tift, Troup, Turner, Twiggs, Upson, Webster, Wilcox, Worth, Banks, Barrow, Butts, Cherokee, Clarke, Clayton, Cobb, Coweta, Dawson, DeKalb, Elbert, Fannin, Fayette, Forsyth, Franklin, Fulton, Gilmer, Gwinnett, Habersham, Hall, Hart, Henry, Jackson, Jasper, Lumpkin, Madison, Morgan, Newton, Oconee, Pickens, Rabun, Rockdale, Spalding, Stephens, Towns, Union, Walton, White, Baldwin, Burke, Columbia, Emanuel, Glascock, Greene, Hancock, Jefferson, Jenkins, Johnson, Laurens, Lincoln, McDuffie, Oglethorpe, Putnam, Richmond, Tallaferro, Treutlen, Warren, Washington, Wilkes, Wilkinson, Bartow, Chattooga, Carroll, Catoosa, Dade, Douglas, Floyd, Gordon, Haralson, Heard, Murray, Paulding, Polk, Walker and Whitefield Counties, GA; points in Buncombe, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison, Mitchell, Polk, Rutherford, Swain, Transylvania and Yancey Counties, NC; Abbeville, Anderson, Greenville, Ocomee, Pickens, Cherokee, Chester, Edgefield, Greenwood, Lamens, McCormick, Newberry, Saluda, Spartanburg, Union and York Counties, SC. (3) From points in Sussex County, DE, to points in Charlotte, De Soto, Glades, Hardee, Hendry, Highlands, Lee, Manatee, Okeechobee, Sarasota, Broward, Collier, Dade, Martin, Monroe, Palm Beach, Saint Lucie, Brevard, Citrus, Hernando, Hillsborough, Indian River, Lake, Orange, Osceola, Pasco, Pinellas, Polk, Seminole, Sumter, Volusia, Bay, Calhoun, Escambia, Gulf, Holmes, Jackson, Okaloosa, Santa Rosa, Walton, Washington, Columbia, Dixie, Franklin, Gadsen, Gilchrist, Hamilton, Jefferson, Lafayette, Leon, Liberty, Madison, Suwannee, Taylor and Wakulla Counties, FL; Atkinson, Baker, Ben Hill, Berrien, Bibb, Bleckley, Brooks, Calhoun, Chattahoochee, Clay, Clinch, Coffee, Colquitt, Cook, Crawford, Crisp, Decatur, Dodge, Dooly, Dougherty, Early, Echols, Grady, Harris, Houston, Irwin, Jones, Lamar, Lanier, Lee, Lowndes, Macon, Marion, Meriwether, Miller, Mitchell, Monroe, Muscogee, Peach, Pike, Pulaski, Quitman, Randolph, Schley, Seminole, Stewart, Sumter, Talbot, Taylor, Telfair, Terrell, Thomas, Tift, Troup, Turner, Twiggs, Upson, Webster, Wilcox, Worth, Banks, Barrow, Butts, Cherokee, Clarke, Clayton, Cobb, Coweta, Dawson, DeKalb, Elbert, Fannin, Fayette, Forsyth, Franklin, Fulton, Gilmer, Gwinnett, Habersham, Hall, Hart, Henry, Jackson, Jasper, Lumpkin, Madison, Morgan, Newton, Oconee, Pickens, Rabun, Rockdale, Spalding, Stephens, Towns, Union, Walton, White, Baldwin, Burke, Columbia, Emanuel, Glascock, Greene, Hancock, Jefferson, Jenkins, Johnson, Laurens, Lincoln, McDuffie, Oglethorpe, Putnam, Richmond, Tallaferro, Treutlen, Warren, Washington, Wilkes, Wilkinson, Bartow, Chattooga, Carroll, Catoosa, Dade, Douglas, Floyd, Gordon, Haralson, Heard, Murray, Paulding, Polk, Walker and Whitfield Counties, GA; points in Buncombe, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison, Mitchell, Polk, Rutherford, Swain, Transylvania and Yancey Counties, NC; points in Abbeville, Anderson, Greenville, Ocomee, Pickens, Cherokee, Chester, Edgefield, Greenwood, Lamens, McCormick, Newberry, Saluda, Spartanburg, Union and York Counties, SC. (4) From points in New Castle County, DE, to points in FL; points in Atkinson, Baker, Ben Hill, Berrien, Bibb, Bleckley, Brooks, Calhoun, Chattahooche, Clay, Clinch, Coffee, Colquitt, Cook, Crawford, Crisp, Decatur, Dooly, Dougherty, Early, Echols, Grady, Harris, Houston, Irwin, Jones, Lamar, Lanier, Lee, Lowndes, Macon, Marion, Meriwether, Miller, Mitchell, Monroe, Muscogee, Peach, Pike, Pulaski, Quitman, Randolph, Schley, Seminole, Stewart, Sumter, Talbot, Taylor, Telfair, Terrell, Thomas, Tift, Troup, Turner, Twiggs, Upson, Webster, Wilcox, Worth, Banks, Barrow, Butts, Cherokee, Clarke, Clayton, Cobb, Coweta, Dawson, DeKalb, Elbert, Fannin, Fayette, Forsyth, Franklin, Fulton, Gilmer, Gwinnett, Habersham, Hall, Hart, Henry, Jackson, Jasper, Lumpkin, Madison, Morgan, Newton, Oconee, Pickens, Rabun, Rockdale, Spalding, Stephens, Towns, Union, Walton, White, Baldwin, Burke, Columbia, Emanuel, Glascock, Greene, Hancock, Jefferson, Jenkins, Johnson, Laurens, Lincoln, McDuffie, Oglethorpe, Putnam, Richmond, Tallaferro, Treutlen, Warren, Washington, Wilkes, Wilkinson, Appling, Bacon, Brantley, Camden, Charlton, Glynn, Jeff Davis, Long, McIntosh, Montgomery, Pierce, Tattnall, Toombs, Ware, Wayne, Wheeler, Bartow, Chattooga, Carroll, Catoosa, Dade, Douglas, Floyd, Gordon, Haralson, Heard, Murray, Paulding, Polk, Walker and Whitfield Counties, GA; points in Buncombe, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison, Mitchell, Polk, Rutherford, Swain, Transylvania and Yancey Counties, NC; points in Abbeville, Anderson, Greenville, Ocomee, Pickens, Cherokee, Chester, Edgefield, Greenwood, Lamens, McCormick, Newberry, Saluda, Spartanburg, Union and York Counties, SC. (Gateways eliminated: points in TN.)

MC 107012 (Sub-E398), filed May 16, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *New Furniture, Crated,* (1) From Washington, DC, to points in AL; points in Atkinson, Baker, Ben Hill, Berrien, Bibb, Bleckley, Brooks, Calhoun, Chattahoochee, Clay, Clinch, Coffee, Colquitt, Cook, Crawford, Crisp, Decatur, Dodge, Dooly, Dougherty, Early, Echols, Grady, Harris, Houston, Irwin, Jones, Lamar, Lanier, Lee, Lowndes, Macon, Marion, Meriwether, Miller, Mitchell, Monroe, Muscogee, Peach, Pike, Pulaski, Quitman, Randolph, Schley, Seminole, Stewart, Sumter, Talbot, Telfair, Terrell, Thomas, Tift, Troup,

Turner, Twiggs, Upson, Webster, Wilcox, Worth, Banks, Barrow, Butts, Cherokee, Clarke, Clayton, Cobb, Coweta, Dawson, DeKalb, Elbert, Fannin, Fayette, Forsyth, Franklin, Fulton, Gilmer, Gwinnett, Habersham, Hall, Hart, Henry, Jackson, Jasper, Lumpkin, Madison, Morgan, Newton, Oconee, Pickens, Rabun, Rockdale, Spalding, Stephens, Towns, Union, Walton, White, Baldwin, Burke, Columbia, Emanuel, Glascock, Greene, Hancock, Jefferson, Jenkins, Johnson, Laurens, Lincoln, McDuffie, Oglethorpe, Putnam, Richmond, Tallaferro, Treutlen, Warren, Washington, Wilkes, Wilkinson, Appling, Bacon, Brantley, Camden, Charlton, Glynn, Jeff Davis, Long, McIntosh, Montgomery, Pierce, Tattnall, Toombs, Ware, Wayne, Wheeler, Bartow, Chattooga, Carroll, Catoosa, Dade, Douglas, Floyd, Gordon, Haralson, Heard, Murray, Paulding, Polk, Walker and Whitfield Counties, GA; points in Buncombe, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison, Mitchell, Polk, Rutherford, Swain, Transylvania and Yancey Counties, NC; Abbeville, Anderson, Greenville, Ocomee, Pickens, Cherokee, Chester, Edgefield, Greenwood, Lamens, McCormick, Newberry, Salude, Spartanburg, Union and York Counties, SC (*points in Tennessee). (2) From Washington, DC, to points in Cameron, Clarion, Crawford, Elk, Erie, Forest, Jefferson, McKean, Mercer, Potter, Venango and Warren Counties, PA (*Newton Falls, Ohio).

MC 107012 (Sub-E399), filed May 16, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *New Furniture, Crated,* (1) From points in FL, to points in AZ, CA, CO, ID, MT, NV, NM, OK, OR, UT, WA and WY (*Camden, AR). (2) From points in FL, to points in IA, KS and MN (points in Greene County, AR). (3) From points in FL, to points in ND and SD (*Burlington, IA). (4) From points in Charlotte, DeSoto, Glades, Hardee, Hendry, Highlands, Lee, Manatee, Okeechobee and Sarasota Counties, FL, to points in Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Reo River, Sabine and Webster Parishes, LA (*Camden, AR). Points in Broome, Cayuga, Chemung, Chenango, Courtland, Delaware, Madison, Onondaga, Ontario, Otsego, Schoharie, Schuyler, Seneca, Tioga, Tompkins, Wayne, Yates, Allegany, Cattaraugus, Chatauqua, Erie, Genesee, Livingston, Monroe, Niagara, Orleans, Steuben, Wyoming, Herkimer, Jefferson, Lewis, Oneida, Oswego, St. Lawrence, Clinton, Essex, Franklin, Fulton, Hamilton, Montgomery, Saratoga, Schenectady, Warren, Washington and Suffolk Counties, NY (*Marietta); points in Cameron, Clarion, Crawford, Elk, Erie, Forest, Jefferson, McKean, Mercer, Potter, Venango, Warren, Adams, Bedford, Blair, Cambria, Centre, Clearfield, Clinton, Cumberland, Dauphin, Franklin, Fulton, Huntingdon, Juniata, Lycoming, Mifflin, Montour, Northumberland, Perry, Snyder, Tioga, Union, Bradford, Carbon, Columbia, Lackawanna, Luzerne, Monroe, Pike, Sullivan, Susquehanna, Wayne, Wyoming, Allegheny, Armstrong, Beaver, Butler, Fayette, Greene, Indiana, Lawrence, Somerset, Washington and Westmoreland Counties, PA (*Marietta, OH); points in TX (*Camden, AR); (5) From points in Alachua, Baker, Bradford, Clay, Duval, Flagler, Levy, Marion, Nassau, Putnam, Saint Johns and Union Counties, FL, to points in Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Reo River, Sabine and Webster Parishes, LA (*Camden, AR); points in Broome, Cayuga, Chemung, Chenango, Courtland, Delaware, Madison, Onondaga, Ontario, Otsego, Schoharie, Schuyler, Seneca, Tioga, Tompkins, Wayne, Yates, Allegany, Cattaraugus, Chatauqua, Erie, Genesee, Livingston, Monroe, Niagara, Orleans, Steuben, Wyoming, Herkimer, Jefferson, Lewis, Oneida, Oswego, St. Lawrence, Clinton, Essex, Franklin, Fulton, Hamilton, Montgomery, Saratoga, Schenectady, Warren and Washington Counties, NY (*Marietta, OH); points in Cameron, Clarion, Crawford, Elk, Erie, Forest, Jefferson, McKean, Mercer, Potter, Venango, Warren, Bradford, Carbon, Columbia, Lackawanna, Luzerne, Monroe, Pike, Sullivan, Susquehanna, Wayne, Wyoming, Allegheny, Armstrong, Beaver, Butler, Fayette, Greene, Indiana, Lawrence, Somerset, Washington and Westmoreland Counties, PA (*Marietta, OH); points in TX (*Camden, AR); (6) From points in Broward, Collier, Dade, Martin, Monroe, Palm Beach and Saint Lucie Counties, FL, to points in Ballard, Caldwell, Calloway, Carlisle, Crittenden, Daviess, Fulton, Graves, Hancock, Henderson, Hickman, Hopkins, Livingston, Lyon, Marshall, McCracken, McLean, Trigg, Union and Webster Counties, KY (points in Greene County, AR); points in Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Rapids, Saint Landry, Vernon, Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Reo River, Sabine and Webster Parishes, LA (*Camden, AR); points in NY (*Marietta, OH); points in Cameron, Clarion, Crawford, Elk, Erie, Forest, Jefferson, McKean, Mercer, Potter, Venango, Warren, Adams, Bedford, Blair, Cambria, Centre, Clearfield, Clinton, Cumberland, Dauphin, Franklin, Fulton, Huntingdon, Juniata, Lycoming, Mifflin, Montour, Northumberland, Perry, Synder, Tioga, Union, Bradford, Carbon, Columbia, Lackawanna, Luzerne, Monroe, Pike, Sullivan, Susquehanna, Wayne, Wyoming, Allegheny, Armstrong, Beaver, Butler, Fayette, Greene, Indiana, Lawrence, Somerset, Washington and Westmoreland Counties, PA (*Marietta, OH); points in TX (*Camden, AR). (7) From points in Brevard, Citrus, Hernando, Hillsbor-

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ough, Indian River, Lake, Orange, Osceola, Pasco, Pinellas, Polk, Seminole, Sumter and Volusia Counties, FL, to points in Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Reo River, Sabine and Webster Parishes, LA (*Camden, AR); points in Broome, Cayuga, Chemung, Courtland, Delaware, Madison, Onondaga, Ontario, Otsego, Schoharie, Schuyler, Seneca, Tioga, Tompkins, Wayne, Yates, Allegany, Cattaraugus, Chatauqua, Erie, Genesee, Livingston, Monroe, Niagara, Orleans, Steuben, Wyoming, Herkimer, Jefferson, Lewis, Oneida, Oswego, St. Lawrence, Clinton, Essex, Franklin, Fulton, Hamilton, Montgomery, Saratoga, Schenectady, Warren and Washington Counties, NY (*Marietta, OH); points in Cameron, Clarion, Crawford, Elk, Erie, Forest, Jefferson, McKean, Mercer, Potter, Venango, Warren, Adams, Bedford, Blair, Cambria, Centre, Clearfield, Clinton, Cumberland, Dauphin, Franklin, Fulton, Huntingdon, Juniata, Lycoming, Mifflin, Montour, Northumberland, Perry, Snyder, Tioga, Union, Bradford, Carbon, Columbia, Lackawanna, Luzerne, Monroe, Pike, Sullivan, Susquehanna, Wayne, Wyoming, Allegheny, Armstrong, Beaver, Butler, Fayette, Greene, Indiana, Lawrence, Somerset, Washington and Westmoreland Counties, PA (*Marietta, OH); points in Andrews, Archer, Baylor, Blanco, Borden, Bosque, Brown, Burnet, Callahan, Clay, Coke, Coleman, Comanche, Concho, Cooke, Coryell, Crane, Crockett, Crosby, Dawson, Denton, Dickens, Eastland, Ector, Edwards, Erath, Fisher, Gaines, Garza, Gillespie, Glasscock, Hamilton, Haskell, Hill, Hood, Howard, Irion, Jack, Johnson, Jones, Kendall, Kent, Kerr, Kimble, King, Knox, Lampasas, Llamo, Lubbock, Lynn, McCulloch, McLennan, Martin, Mason, Menard, Midland, Mills, Mitchell, Montague, Nolan, Palo Pinto, Parker, Reagan, Runnels, San Saba, Schleicher, Scurry, Shackelford, Somervell, Stephens, Sterling, Stonewall, Sutton, Tarrant, Taylor, Terry, Throckmorton, Tom Green, Upton, Val Verde, Wise, Yoakum, Young, Armstrong, Bailey, Briscoe, Carson, Castro, Childress, Cochran, Collingsworth, Cottle, Dallam, Deaf Smith, Donley, Floyd, Foard, Gray, Hale, Hall, Hansford, Hardeman, Hartley, Hemphill, Hockley, Hutchinson, Lamb, Lipscomb, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, Wichita, Wilbarger, Aransas, Atascosa, Bandera, Bee, Bexar, Brooks, Cameron, Dimmit, Duval, Frio, Goliad, Hidalgo, Jim Hogg, Jim Wells, Kaines, Kenedy, Kinney, Kleberg, LaSalle, Live Oak, McMullen, Maverick, Medina, Nueces, Real, Refugio, San Patricio, Starr, Uvalde, Webb, Willacy, Wilson, Zapata, Zavala, Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Loving, Pecos, Presidio, Reeves, Terrell, Ward, Winkler, Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Collin, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacagdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt and Wood Counties, TX (*Camden, AR). (8) From points in Bay, Calhoun, Escambia, Gulf, Holmes, Jackson, Okaloosa, Santa Rosa, Walton and Washington Counties, FL, to points in Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Reo River, Sabine and Webster Parishes, LA (*Camden, AR); points in NY (*Marietta, OH); points in PA (*Marietta, OH); points in Andrews, Archer, Baylor, Blanco, Borden, Bosque, Brown, Burnet, Callahan, Clay, Coke, Coleman, Comanche, Concho, Cooke, Coryell, Crane, Crockett, Crosby, Dawson, Denton, Dickens, Eastland, Ector, Edwards, Erath, Fisher, Gaines, Garza, Gillespie, Glascock, Hamilton, Haskell, Hill, Hood, Howard, Irion, Jack, Johnson, Jones, Kendall, Kent, Kerr, Kimble, King, Knox, Lampasas, Llamo, Lubbock, Lynn, McCulloch, McLennan, Martin, Mason, Menard, Midland, Mills, Mitchell, Montague, Nolan, Palo Pinto, Parker, Reagan, Runnels, San Saba, Schleicher, Scurry, Shackelford, Somervell, Stephens, Sterling, Stonewall, Sutton, Tarrant, Taylor, Terry, Throckmorton, Tom Green, Upton, Val Verde, Wise, Yoakum, Young, Armstong, Bailey, Briscoe, Carson, Castro, Childress, Cochran, Collingsworth, Cottle, Dallam, Deaf Smith, Donley, Floyd, Foard, Gray, Hale, Hall, Hansford, Hardeman, Hartley, Hemphill, Hockley, Hutchinson, Lamb, Lipscomb, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, Wichita, Wilbarger, Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Loving, Pecos, Presidio, Reeves, Terrell, Ward, Winkler, Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Collin, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt and Wood Counties,TX (*Camden, AR). (9) From points in Columbia, Dixie, Franklin, Gadsden, Gilchrist, Hamilton, Jefferson, Lafayette, Leon, Liberty, Madison, Suwannee, Taylor and Wakulla Counties, FL, to points in Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Reo River, Sabine and Webster Parishes, LA (*Camden, AR); points in Broome, Cayuga, Chemung, Chenango, Courtland, Delaware, Madison, Onondaga, Ontario, Otsego, Schoharie, Schuyler, Seneca, Tioga, Tompkins, Wayne, Yates, Allegany, Cattaraugus, Chatauqua, Erie, Genesee, Livingston, Monroe, Niagara, Orleans, Steuben, Wycoming, Herkimer, Jefferson, Lewis, Oneida, Oswego, St. Lawrence, Clinton, Essex, Franklin, Fulton, Hamilton, Montgomery, Saratoga, Schenectady, Warren and Washington Counties, NY (*Marietta, OH); points in Cameron, Clarion, Crawford, Elk, Erie, Forest, Jefferson, McKean, Mercer, Potter, Venango, Warren, Adams, Bedford, Blair, Cambria, Centre, Clearfield, Clinton, Cumberland, Dauphin, Franklin, Fulton, Huntingdon, Juniata, Lycoming, Mifflin, Montour, Northumberland, Perry, Snyder, Tioga, Union, Bradford, Carbon, Columbia, Lackawanna, Luzerne, Monroe, Pike, Sullivan, Susquehanna, Wayne, Wyoming, Allegheny, Armstrong, Beaver, Butler, Fayette, Greene, Indiana, Lawrence, Somerset, Washington and Westmoreland Counties, PA (*Marietta, OH); points in Andrews, Archer, Baylor, Blanco, Borden, Bosque, Brown, Burnet, Callahan, Clay, Coke, Coleman, Comanche, Concho, Cooke, Coryell, Crane, Crockett, Crosby, Dawson, Denton, Dickens, Eastland, Ector, Edwards, Erath, Fisher, Gaines, Garza, Gillespie, Glasscock, Hamilton, Haskell, Hill, Hood, Howard, Irion, Jack, Johnson, Jones, Kendall, Kent, Kerr, Kimble, King, Knox, Lampasas, Llamo, Lubbock, Lynn, McCulloch, McClenan, Martin, Mason, Menard, Midland, Mills, Mitchell, Montague, Nolan, Palo Pinto, Parker, Reagan, Runnels, San Saba, Schleicher, Scurry, Shackelford, Somervell, Stephens, Sterling, Stonewall, Sutton, Tarrant, Taylor, Terry, Throckmorton, Tom Green, Upton, Val Verde, Wise, Yoakum, Young, Armstrong, Bailey, Briscoe, Carson, Castro, Childress, Cochran, Collingsworth, Cottle, Dallam, Deaf Smith, Donley, Floyd, Foard, Gray, Hale, Hall, Hansford, Hardeman, Hartley, Hemphill, Hockley, Hutchinson, Lamb, Lipscomb, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, Wichita, Wilbarger, Aransas, Atascosa, Bandera, Bee, Bexar, Brooks, Cameron, Dimmit, Duval, Frio, Goliad, Hidalgo, Jim Hogg, Jim Wells, Kaines, Kenedy, Kinney, Kleberg, LaSalle, Live Oak, McMullen, Maverick, Medina, Nueces, Real, Refugio, San Patricio, Starr, Uvalde, Webb, Willacy, Wilson, Zapata, Zavala, Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Loving, Pecos, Presidio, Reeves, Terrell, Ward, Winkler, Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Collin, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacagdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt and Wood Counties, TX (*Camden, AR). (4) From points in Bay, Calhoun, Escambia, Gulf, Holmes, Jackson, Okaloosa, Santa Rosa, Walton and Washington Counties, FL, to points in Hartford, New London, Tolland, Windham and Litchfield Counties, CT (*Cleveland, OH); points in ME (*Milan, IN and points in KY); points in MA (*Cleveland, OH); points in NH (*Milan, IN and points in KY); points in Morris, Sussex and Warren Counties, NJ (*Cleveland, OH); points in RI (*Cleveland, OH); points in VT (*Milan, IN and points in KY); points in Braxton, Clay, Fayette, Kanawha, Nicholas, Webster, Barbour, Berkeley, Doddridge, Grant, Hampshire, Hardy, Harrison, Jefferson, Lewis, Marion, Mineral, Monongalia, Morgan, Pendleton, Preston, Randolph, Taylor, Tucker, Tyler, Upshur, Wetzel, Calhoun, Gilmer, Jackson, Mason, Pleasants, Ritchie, Roane, Wirt, Wood, Brooke, Hancock, Marshall and Ohio Counties, WV (*Milan, IN). (5) From points in Columbia, Dixie, Franklin, Gadsen, Gilchrist, Hamilton, Jefferson, Lafayette, Leon, Liberty, Madison, Suwannee, Taylor and Wakulla Counties, FL, to points in Aroostook, Penobscot, Piscataquis and Somerset Counties, ME (*Milan, IN and points in KY); points in Coos County, NH (*Milan, IN and points in KY); points in Chittenden, Franklin, Grand Isle, Lamoille, Addison, Orange, Washington, Caledonia, Essex and Orleans Counties, VT (*Milan, IN and points in KY); points in Calhoun, Gilmer, Jackson, Mason, Pleasants, Ritchie, Roane, Wirt, Wood, Brooke, Hancock, Marshall and Ohio Counties, WV (*Milan, IN). (2) From points in Alachua, Baker, Bradford, Clay, Duval, Flagler, Levy, Marion, Nassau, Putnam, Saint Johns, Union, Brevard, Citrus, Hernando, Hillsborough, Indian River, Lake, Orange, Osceola, Pasco, Pinellas, Polk, Seminole, Sumter and Volusia Counties, FL, to points in Ballard, Caldwell, Calloway, Carlisle, Crittenden, Daviess, Fulton, Graves, Hancock, Henderson, Hickman, Hopkins, Livingston, Lyon, Marshall, McCracken, McLean, Trigg, Union and Webster Counties, KY (*Evansville, IN); points in Brooke, Hancock, Marshall and Ohio Counties, WV (*Milan, IN). (3) From points in Broward, Collier, Dade, Martin, Monroe, Palm Beach and Saint Lucie Counties, FL, to points in Allen, Barren, Breckinridge, Bullitt, Butler, Christian, Edmondson, Grayson, Hardin, Hart, Henry, Jefferson, LaRue, Logan, Meade, Muhlenberg, Nelson, Ohio, Oldham, Sheleby, Simpson, Spencer, Todd, Trimble and Warren Counties, KY (*Evansville, IN); points in Chittenden, Franklin, Grand Isle and Lamoille Counties, VT (*Milan, IN and points in KY); points in Calhoun, Gilmer, Jackson, Mason, Pleasants, Ritchie, Roane, Wirt, Wood, Brooke, Hancock, Marshall and Ohio Counties, WV (*Milan, IN). (4) From points in Bay, Calhoun, Escambia, Gulf, Holmes, Jackson, Okaloosa, Santa Rosa, Walton and Washington Counties, FL, to points in Hartford, New London, Tolland, Windham and Litchfield Counties, CT (*Cleveland, OH); points in ME (*Milan, IN and points in KY); points in MA (*Cleveland, OH); points in NH (*Milan, IN and points in KY); points in Morris, Sussex and Warren Counties, NJ (*Cleveland, OH); points in RI (*Cleveland, OH); points in VT (*Milan, IN and points in KY); points in Braxton, Clay, Fayette, Kanawha, Nicholas, Webster, Barbour, Berkeley, Doddridge, Grant, Hampshire, Hardy, Harrison, Jefferson, Lewis, Marion, Mineral, Monongalia, Morgan, Pendleton, Preston, Randolph, Taylor, Tucker, Tyler, Upshur, Wetzel, Calhoun, Gilmer, Jackson, Mason, Pleasants, Ritchie, Roane, Wirt, Wood, Brooke, Hancock, Marshall and Ohio Counties, WV (*Milan, IN). (5) From points in Columbia, Dixie, Franklin, Gadsen, Gilchrist, Hamilton, Jefferson, Lafayette, Leon, Liberty, Madison, Suwannee, Taylor and Wakulla Counties, FL, to points in Aroostook, Penobscot, Piscataquis, Somerset, Hancock, Knox, Waldo and Washington Counties, ME (*Milan, IN and points in KY); points in Coos, Carroll and Grafton Counties, NH (*Milan, IN and points in KY); points in VT (*Milan, IN and points in KY); points in Calhoun, Gilmer, Jackson, Mason, Pleasants, Ritchie, Roane, Wirt, Wood, Brooke, Hancock, Marshall and Ohio Counties, WV (*Milan, IN) (Gateways) eliminated: indicated by asterisks above.)

MC 107012 (Sub-E400), filed May 13, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *New Household Furniture, Crated* (1) From points in Charlotte, DeSoto, Glades, Hardee, Hendry, Highlands, Lee, Manatee, Okeechobee and Sarasota Counties, FL, to points in Allen, Barren, Breckinridge, Bullitt, Butler, Christian, Edmonson, Grayson, Hardin, Hart, Henry, Jefferson, LaRue, Logan, Meade, Muhlenberg, Nelson, Ohio, Oldham, Sheleby, Simpson, Spencer, Todd, Trimble, Warren, Ballard, Caldwell, Calloway, Carlisle, Crittenden, Daviess, Fulton, Graves, Hancock, Henderson, Hickman, Hopkins, Livingston, Lyon, Marshall, McCracken, McLean, Trigg, Union and Webster Counties, KY (*Evansville, IN); points in Aroostook, Penobscot, Piscataquis and Somerset Counties, ME (*Milan, IN and points in KY); points in Coos County, NH (*Milan, IN and points in KY); points in Chittenden, Franklin, Grand Isle, Lamoille, Addison, Orange, Washington, Caledonia, Essex and Orleans Counties, VT (*Milan, IN and points in KY); points in Calhoun, Gilmer, Jackson, Mason, Pleasants, Ritchie, Roane, Wirt, Wood, Brooke, Hancock, Marshall and Ohio Counties, WV (*Milan, IN). (2) From points in Alachua, Baker, Bradford, Clay, Duval, Flagler, Levy, Marion, Nassau, Putnam, Saint Johns, Union, Brevard, Citrus, Hernando, Hillsborough, Indian River, Lake, Orange, Osceola, Pasco, Pinellas, Polk, Seminole, Sumter and Volusia Counties, FL, to points in Ballard, Caldwell, Calloway, Carlisle, Crittenden, Daviess, Fulton, Graves, Hancock, Henderson, Hickman, Hopkins, Livingston, Lyon, Marshall, McCracken, McLean, Trigg, Union and Webster Counties, KY (*Evansville, IN); points in Brooke, Hancock, Marshall and Ohio Counties, WV (*Milan, IN). (3) From points in Broward, Collier, Dade, Martin, Monroe, Palm Beach and Saint Lucie Counties, FL, to points in Allen, Barren, Breckinridge, Bullitt, Butler, Christian, Edmondson, Grayson, Hardin, Hart, Henry, Jefferson, LaRue, Logan, Meade, Muhlenberg, Nelson, Ohio, Oldham, Sheleby, Simpson, Spencer, Todd, Trimble and Warren Counties, KY (*Evansville, IN); points in Chittenden, Franklin, Grand Isle and Lamoille Counties, VT (*Milan, IN and points in KY); points in Calhoun, Gilmer, Jackson, Mason, Pleasants, Ritchie, Roane, Wirt, Wood, Brooke, Hancock, Marshall and Ohio Counties, WV (*Milan, IN). (4) From points in Bay, Calhoun, Escambia, Gulf, Holmes, Jackson, Okaloosa, Santa Rosa, Walton and Washington Counties, FL, to points in Hartford, New London, Tolland, Windham and Litchfield Counties, CT (*Cleveland, OH); points in ME (*Milan, IN and points in KY); points in MA (*Cleveland, OH); points in NH (*Milan, IN and points in KY); points in Morris, Sussex and Warren Counties, NJ (*Cleveland, OH); points in RI (*Cleveland, OH); points in VT (*Milan, IN and points in KY); points in Braxton, Clay, Fayette, Kanawha, Nicholas, Webster, Barbour, Berkeley, Doddridge, Grant, Hampshire, Hardy, Harrison, Jefferson, Lewis, Marion, Mineral, Monongalia, Morgan, Pendleton, Preston, Randolph, Taylor, Tucker, Tyler, Upshur, Wetzel, Calhoun, Gilmer, Jackson, Mason, Pleasants, Ritchie, Roane, Wirt, Wood, Brooke, Hancock, Marshall and Ohio Counties, WV (*Milan, IN). (5) From points in Columbia, Dixie, Franklin, Gadsen, Gilchrist, Hamilton, Jefferson, Lafayette, Leon, Liberty, Madison, Suwannee, Taylor and Wakulla Counties, FL, to points in Aroostook, Penobscot, Piscataquis, Somerset, Hancock, Knox, Waldo and Washington Counties, ME (*Milan, IN and points in KY); points in Coos, Carroll and Grafton Counties, NH (*Milan, IN and points in KY); points in VT (*Milan, IN and points in KY); points in Calhoun, Gilmer, Jackson, Mason, Pleasants, Ritchie, Roane, Wirt, Wood, Brooke, Hancock, Marshall and Ohio Counties, WV (*Milan, IN) (Gateways) eliminated: indicated by asterisks above.)

MC 107012 (Sub-E913), filed May 15, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *New Furniture, Crated—MN.* (1) From points in MN, to points in AL, FL, GA, KY, MS, NC, SC, TN and VA (*Burlington, IA). (2) From points in Aitkin, Carlton, Cook, Lake, Saint Louis and Tasca Counties, MN, to points in AZ (*Burlington, IA); points in AR (*Burlington, IA); points in Kern, Los Angeles, Orange, San Luis Obispo, Santa Barbara, Ventura, San Bernardino, Imperial, Riverside and San Diego Counties, CA (*Burlington, IA); points in Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello and Washington Counties, IA (*Burlington, IA); points in LA (*Burlington, IA); points in Bernalillo, Guadalupe, Los Alamos, Sandoval, San Miguel, Santa Fe, Torrance, Valencia, Chaves, Curry, DeBaca, Eddy, Lea, Lincoln, Quay, Roosevelt, Catron, Dona Ana, Grant, Hidalgo, Luna, Otero, Sierra And Socorro Counties, NM (*Burlington, IA); Alfalfa, Beckham, Blaine, Caddo, Comanche, Cotton, Custer, Dewey, Ellis, Greer, Harmon, Harper, Jackson, Kiowa, Major, Roger Mills, Tillman, Washita, Woods, Woodward, Atoka, Bryan, Choctaw, Coal, Haskell, Latimer, LeFlore, McCurtain, Pittsburg and Pushmataha Counties, OK (*Burlington, IA); points in TX (*Burlington, IA). (3) From points in Beltrami, Clearwater, Kittson, Koochiching, Lake of the Woods, Mahnomen, Marshall, Norman, Pennington, Polk, Red Lake and Roseau Counties, MN, to points in AZ (*Burlington, IA); points in AR (*Burlington, IA); Imperial, Riverside and San Diego Counties, CA (*Burlington, IA); points in Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello and Washington Counties, IA (*Burlington, IA); points in LA (*Burlington, IA); points in Bernalillo, Guadalupe, Los Alamos, Sandoval, San Miguel, Santa Fe, Torrance, Valencia, Chaves, Curry, DeBaca, Eddy, Lea, Lincoln, Quay, Roosevelt, Catron, Dona Ana, Grant, Hidalgo, Luna, Otero, Sierra and Socorro Counties, NM (*Burlington, IA); points in Atoka, Bryan, Choctaw, Coal, Haskell, Latimer, LeFlore, McCurtain, Pittsburg and Pushmataha Counties, OK (*Burlington, IA); points in Andrews, Archer, Baylor, Blanco, Borden, Bosque, Brown, Burnet, Callahan, Clay, Coke, Coleman, Comanche, concho, Cooke, Coryell, Crane, Crockett, Crosby, Dawson, Denton, Dickens, Eastland, Ector, Edwards, Erath, Fisher, Gaines, Garza, Gillespie, Glasscock, Hamilton, Haskell, Hill, Hood, Howard, Irion, Jack, Johnson, Jones, Kendall, Kent, Kerr, Kimble, King, Knox, Lampasas, Llamo, Lubbock, Lynn, McCulloch, McLennan, Martin, Mason, menard, Midland, Mills, Mitchell, Montague, Nolan, Palo Pinto, parker, Reagan, Runnels, San Saba, Schleicher, Scurry, Shackelford, Somervell, Stephens, Sterling, Stonewall, Sutton, Tarrant, Taylor, Terry Throckmorton, Tom Green, Upton, Val Verde, Wise, Yoakum, Young, Aransas, Atascosa, Bandera, Bee, Bexar, Brooks, Cameron, Dimmit, Duval, Frio, Goliad, Hidalgo, Jim Hogg, Jim Wells, Kaines, Kenedy, Kinney, Kleberg, LaSalle, Live Oak, McMullen, Maverick, Medina, Nueces,

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Real, Refugio, San Patricio, Starr, Uvalde, Webb, Willacy, Wilson, Zapata, Zavala, Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Loving, Pecos, Presidio, Reeves, Terrell, Ward, Winkler, Austin, Bastrop, Bell, Brazoria, Brazos, Burleson, Caldwell, Calhoun, Chambers, Colorado, Comal, DeWitt, Falls, Fayette, Fort Bend, Galveston, Gonzales, Grimes, Guadalupe, Hardin, Harris, Hays, Houston, Jackson, Jasper, Jefferson, Lavaca, Lee, Leon, Liberty, Limestone, Madison, Matagorda, Milam, Montgomery, Newton, Orange, Polk, Robertson, San Jacinto, Travis, Trinity, Tyler, Victoria, Walker, Waller, Washington, Wharton, Williamson, Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Collin, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, marion, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt and Wood Counties, TX (*Burlington, IA). (4) From points in Anoka, Blue Earth, Carver, Chisago, Dakota, Dodge, Faribault, Fillmore, Freeborn, Good Hue, Hennepin, Houston, Isanti, Kanabec, LeSueur, McLeod, Mille Lacs, Mower, Nicollet, Olmstead, Pine, Ramsey, Rice, Scott, Sherbourne, Sibley, Steele, Wabasha, Wasela, Washington, Winona and Wright Counties, MN, to points in AZ (*Burlington, IA); points in AR (*Burlington, IA); points in CA (*Burlington, IA); Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapellos and Washington Counties, IA (*Burlington, IA); points in Clark, Comanche, Edwards, Finney, Ford, Grant, Gray, Hamilton, Haskell, Hodgeman, Kearny, Kiowa, Meade, Morton, Pawnee, Seward, Stanton and Stevens Counties, KS (*Burlington, IA); points in LA (*Burlington, IA); points in NV (*Burlington, IA); points in Bernalillo, Guadalupe, Los Alamos, Sandoval, San Miguel, Santa Fe, Torrance, Valencia, McKinley, Rio Arriba, San Juan, Chaves, Curry, DeBaca, Eddy, Lea, Lincoln, Quay, Roosevelt, Catron, Dona Ana, Grant, Hidalgo, Luna, Otero, Sierra and Socorro Counties, NM (*Burlington, IA); points in Alfalfa, Beckham, Blaine, Caddo, Comanche, Cotton, Custer, Dewey, Ellis, Greer, Harmon, Harper, Jackson, Kiowa, Major, Roger Mills, Tillman, Washita, Woods, Woodward, Beaver, Cimarron, Texas, Atoka, Bryan, Choctaw, Coal, Haskell, Latimer, LeFlore, McCurtain, Pittsburg and Pushmataha Counties, OK (*Burlington, IA); points in Crook, DeSchutes, Gilliam, Hood River, Jefferson, Sherman, Wasco, Wheeler, Harney, Klamath, Lake, Malheur, Coos, Curry, Douglas, Jackson and Josephine Counties, OR (*Burlington, IA); points in TX (*Burlington, IA); points in Beaver, Iron, Washington, Garfield, Juab, Kane, Millard, Piute, Sanpete, Sevier and Wayne Counties, UT (*Burlington, IA). (5) From points in Becker, Benton, Big Stone, Cass, Chippewa, Clay, Crow Wing, Douglas, Grant, Hubbard, Kandiyohi, Lac Qui Parle, Meeker, Morrison, Otter Tail, Pope, Renville, Stearns, Stevens, Swift, Todd, Traverse, Wadena, Wilkin and Yellow Medicine Counties, MN, to points in Ashley, Bradley, Calhoun, Chicot, Cleveland, Columbia, Dallas, Desha, Drew, Lincoln, Quachita, Union, Baxter, Clay, Craighead, Greene, Crittendon, Cross, Fulton, Independence, Izard, Jackson, Lawrence, Mississippi, Pointsett, Randolph, Saint Francis, Sharp, Stone and Woodruff Counties, AR (*Green County, AR); points in Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR (*Burlington, IA); points in Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Jhonson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello and Washington Counties, IA (*Burlington, IA); points in LA (*Burlington, IA); points in Aransas, Atascosa, Bandera, Bee, Bexar, Brooks, Cameron, Dimmit, Duval, Frio, Goliad, Hidalgo, Jim Hogg, Jim Wells, Kaines, Kenedy, Kinney, Kleberg, LaSalle, Live Oak, McMullen, Maverick, Medina, Nueces, Real, Refugio, San Patricio, Starr, Uvalde, Webb, Willacy, Wilson, Zapata, Zavala, Austin, Bastrop, Bell, Brazoria, Brazos, Burleson, Caldwell, Calhoun, Chambers, Colorado, Comal, DeWitt, Falls, Fayette, Fort Bend, Galveston, Gonzales, Grimes, Guadalupe, Hardin, Harris, Hays, Houston, Jackson, Jasper, Jefferson, Lavaca, Lee, Leon, Liberty, Limestone, Madison, Metagorda, Milam, Montgomery, Newton Orange, Polk, Robertson, San Jacinto, Travis, Trinity, Tyler, Victoria, Walker, Waller, Washington, Wharton and Williamson Counties, TX (*Burlington, IA). (6) From points in Brown, Cottonwood, Jackson, Lincoln, Lyon, Martin, Murray, Nobles, Pipestone, Redwood, Rock and Watonwan Counties, MN, to points in Ashley, Bradley, Calhoun, Chicot, Cleveland, Columbia, Dallas, Desha, Drew, Lincoln, Quachita, Union, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR (points in Greene County, AR); points in Baxter, Clay, Craighead, Greene, Crittendon, Cross, Fulton, Independence, Izard, Jackson, Lawrence, Mississippi, Pointsett, Randolph, Saint Francis, Sharp, Stone and Woodruff Counties, AR (*Burlington, IA); points in Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello and Washington Counties, IA (*Burlington, IA); points in AZ; CA; KS; NH; NM; points in Alfalfa, Beckham, Blaine, Caddo, Comanche, Cotton, Custer, Dewey, Ellis, Greer, Harmon, Harper, Jackson, Kiowa, Major, Roger Mills, Tillman, Washita, Woods, Woodward, Adair, Cherokee, Craig, Delaware, McIntosh, Mayes, Muskogee, Nowata, Okmulgee, Osage, Ottawa, Rogers, Sequoyah, Tulsa, Wagoner, Washington, Beaver, Cimarron and Texas Counties, OK; points in Armstrong, Bailey, Briscoe, Carson, Castro, Childress, Cochran, Collingsworth, Cottle, Dallam, Deaf Smith, Donley, Floyd, Foard, Gray, Hale, Hall, Hansford, Hardeman, Hartley, Hemphill, Hockley, Hutchinson, Lamb, Lipscomb, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, Wichita, Wilbarger, Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Loving, Pecos, Presidio, Reeves, Terrell, Ward and Winkler Counties, TX; points in Arlington, Caroline, Culpeper, Essex, Fairfax, Fauquier, King George, Orange,

MC 107012 (Sub-E414), filed May 13, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *New Furniture, Crated* (1) From points in MS, to points in CO, ID, IA, ME, MN, MT, NV, ND, OR, SD, UT, WA and WY. (2) From points in Bolivar, Carrol, Coahoma, Grenada, Holmes, Humphreys, Issaguena, Leflore, Montgomery, Quitman, Sharkey, Sunflower, Tallahatchie, Warren, Washington and Yazoo Counties, MS, to points in AZ; CA; KS; NH; NM; points in Alfalfa, Beckham, Blaine, Caddo, Comanche, Cotton, Custer, Dewey, Ellis, Greer, Harmon, Harper, Jackson, Kiowa, Major, Roger Mills, Tillman, Washita, Woods, Woodward, Adair, Cherokee, Craig, Delaware, McIntosh, Mayes, Muskogee, Nowata, Okmulgee, Osage, Ottawa, Rogers, Sequoyah, Tulsa, Wagoner, Washington, Beaver, Cimarron and Texas Counties, OK; points in Armstrong, Bailey, Briscoe, Carson, Castro, Childress, Cochran, Collingsworth, Cottle, Dallam, Deaf Smith, Donley, Floyd, Foard, Gray, Hale, Hall, Hansford, Hardeman, Hartley, Hemphill, Hockley, Hutchinson, Lamb, Lipscomb, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, Wichita, Wilbarger, Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Loving, Pecos, Presidio, Reeves, Terrell, Ward and Winkler Counties, TX; points in Arlington, Caroline, Culpeper, Essex, Fairfax, Fauquier, King George, Orange,

Prince William, Spotsylvania, Stafford and Westmoreland Counties and Independent Cities of: Alexandria, Fairfax, Falls Church and Fredericksburg; Albemarle, Amelia, Brunswick, Buckingham, Charles City, Chesterfield, Cumberland, Dinwiddie, Fluvanna, Goochland, Hanover, Henrico, James City, King and Queen, King William, Louisa, Lunenburg, Mecklenburg, New Kent, Nottoway, Powhatan, Prince Edward and Prince George Counties and Independent Cities of: Charlottesville, Colonial Heights, Hopewell, Petersburg, Richmond and Waynesboro, Clarke, Frederick, Greene, Loudoun, Madison, Page, Rappahannock, Rockingham, Shenandoah and Warren Counties and Independent Cities of: Harrisonburg and Winchester, VA. (3) From points in Covington, Forrest, George, Greene, Hancock, Harrison, Jackson, Jones, Lamar, Pearl River, Perry, Stone and Wayne Counties, MS, to points in Apache, Coconino, Mohave, Navajo, Yavapai and Yuma Counties, AZ; points in Benton, Boone, Carroll, Crawford, Franklin, Johnson, Logan, Madison, Marion, Newton, Pope, Searcy, Sebastian, Van Buren and Washington Counties, AR; points in CA; points in KS: points in Coos, Cheshire, Hillsboro, Sullivan, Carroll and Grafton Counties, NH; McKinley, Rio Arriba, San Juan, Colfax, Harding, Mora, Taos and Union Counties, NM; Adair, Cherokee, Craig, Delaware, McIntosh, Mayes, Muskogee, Nowata, Okmulgee, Osage, Ottawa, Rogers, Sequoyah, Tulsa, Wagoner, Washington, Beaver, Cimarron and Texas Counties, OK. (4) From points in Attala, Clairborne, Clarke, Copiah, Hinds, Jasper, Kemper, Lauderdale, Leake, Madison, Neshoba, Newton, Noxubee, Rankin, Scott, Simpson, Smith and Winston Counties, MS, to points in Apache, Coconino, Mohave, Navajo, and Yavapai Counties, AZ; points in CA; KS; NH; points in McKinley, Rio Arriba and San Juan Counties, NM; Adair, Cherokee, Craig, Delaware, McIntosh, Mayes, Muskogee, Nowata, Okmulgee, Osage, Ottawa, Rogers, Sequoyah, Tulsa, Wagoner, Washington, Beaver, Cimarron and Texas Counties, OK. (5) From points in Adams, Amite, Franklin, Jefferson, Jefferson Davis, Lawrence, Lincoln, Marion, Pike, Walthall and Wilkinson Counties, MS, to points in Butte, Lassen, Modoc, Nevada, Plumas, Shasta, Sierra, Siskiyou, Yuba, Inyo, Fresno, Kings, Tulare, Glenn, Humboldt, Lake, Mendocino, Tehama, Trinity, Kern, Los Angeles, Orange, San Luis Obispo, Santa Barbara, Ventura, San Bernardino, Alameda, Alpine, Amador, Calaveras, Colusa, Contra Costa, Eldorado, Madera, Marin, Mariposa, Merced, Mono, Monterey, Napa, Placer, San Benito, Sacramento, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Stanislaus, Sutter, Tuolumne and Yolo Counties, CA; points in Atchison, Brown, Doniphan, Douglas, Franklin, Jackson, Jefferson, Johnson, Leavenworth, Marshall, Miami, Nemaha, Osage, Pottawatomie, Shawnee, Wabaunsee, Wyandotte, Cheyenne, Decatur, Ellis, Graham, Greeley, Gove, Lane, Logan, Ness, Norton, Phillips, Rawlins, Rooks, Rush, Scott, Sheridan, Sherman, Thomas, Trego, Wallace, Wichita, Allen, Anderson, Bourbon, Butler, Chautauqua, Cherokee, Coffey, Cowley, Crawford, Elk, Greenwood, Labette, Linn, Lyon, Montgomery, Neosho, Wilson, Woodson, Barber, Barton, Chase, Clay, Cloud, Dickinson, Ellsworth, Geary, Harper, Harvey, Jewell, Kingman, Lincoln, Marion, McPherson, Mitchell, Morris, Osborne, Ottawa, Pratt, Reno, Republic, Rice, Riley, Russell, Saline, Sedgwick, Smith, Stafford, Sumner and Washington Counties, KS; points in Bath, Boone, Bourbon, Boyd, Bracken, Campbell, Carroll, Carter, Clark, Elliott, Fleming, Franklin, Gallatin, Grant, Greenup, Harrison, Johnson, Kenton, Lawrence, Lewis, Magoffin, Martin, Mason, Menifee, Montgomery, Morgan, Nicholas, Owen, Pendleton, Powell, Robertson, Rowan, Scott and Wolfe Counties, KY; points in NH; points in Adair, Cherokee, Craig, Delaware, McIntosh, Mayes, Muskogee, Nowata, Okmulgee, Osage, Ottawa, Rogers, Sequoyah, Tulsa, Wagoner and Washington Counties, OK. (6) From points in Alcorn, Benton, Calhoun, Chickasaw, Choctaw, Clay, Desoto, Itawamba, Lafayette, Lee, Lowndes, Marshall, Monroe, Oktibbeha, Panola, Pontotoc, Prentiss, Tate, Tippah, Tishomingo, Tunila, Union, Webster and Yalobusha Counties, MS, to points in AZ; points in Benton, Boone, Carroll, Crawford, Franklin, Johnson, Logan, Madison, Marion, Newton, Pope, Searcy, Sebastian, Van Buren and Washington Counties, AR; points in CA; KS; NH; NM; OK; points in Andrews, Archer, Baylor, Blanco, Borden, Bosque, Brown, Burnet, Callahan, Clay, Coke, Coleman, Comanche, Concho, Cooke, Coryell, Crane, Crockett, Crosby, Dawson, Denton, Dickens, Eastland, Ector, Edwards, Erath, Fisher, Gaines, Garza, Gillespie, Glasscock, Hamilton, Haskell, Hill, Hood, Howard, Irion, Jack, Johnson, Jones, Kendall, Kent, Kerr, Kimble, King, Knox, Lampasas, Llamo, Lubbock, Lynn, McCulloch, McLennan, Martin, Mason, Menard, Midland, Mills, Mitchell, Montague, Nolan, Palo Pinto, Parker, Reagan, Runnels, San Saba, Schleicher, Scurry, Shackelford, Somervell, Stephens, Sterling, Stonewall, Sutton, Tarrant, Taylor, Terry, Throckmorton, Tom Green, Upton, Val Verde, Wise, Yoakum, Young, Armstrong, Bailey, Briscoe, Carson, Castro, Childress, Cochran, Collingsworth, Cottle, Dallam, Deaf Smith, Donley, Floyd, Foard, Gray, Hale, Hall, Hansford, Hardeman, Hartley, Hemphill, Hockley, Hutchinson, Lamb, Lipscomb, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, Wichita, Wilbarger, Aransas, Atascosa, Bandera, Bee, Bexar, Brooks, Cameron, Dimmit, Duval, Frio, Goliad, Hidalgo, Jim Hogg, Jim Wells, Kaines, Kenedy, Kinney, Kleberg, LaSalle, Live Oak, McMullen, Maverick, Medina, Nueces, Real, Refugio, San Patricio, Starr, Uvalde, Webb, Willacy, Wilson, Zapata, Zavala, Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Loving, Pecos, Presidio, Reeves, Terrell, Ward and Winkler Counties, TX. (Gateways eliminated: points of Greene County, AR.)

MC 107012 (Sub-E415), filed May 13, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop and Gary M. Crist (same as above). *New Furniture, Crated,* (1) From points in MT, to points in AL, FL, GA, LA, MS, NC, SC, and TN (points in Greene County), (2) From points in MT, to points in KY and VA (*Burlington, IA). (3) From points in Beaverhead, Broadwater, Deerlodge, Gallatin, Granite, Jefferson, Madison, Park, Ravalli, Silver Bow, Stillwater Sweet Grass, Blaine, Cascade, Chouteau, Fergus, Golden Valley, Hill, Judith Basin, Lewis and Clark, Liberty, Meagher, Petroleum, Pondera, Teton, Toole, Wheatland, Bighorn, Carbon, Carter, Custer, Fallon, Musselshell, Powder River, Prairie, Rosebud, Treasure, Wibaux and Yellowstone Counties, MT, to points in Clark, Hempstead, Howard, Lafayette, Little River, Miller, Montgomery, Nevada, Pike, Polk, Scott, Sevier, Yell, Ashley, Bradley, Calhoun, Chicot, Cleveland, Columbia, Dallas, Desha, Drew, Lincoln, Quachita, Union, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR (points in Greene County, AR) points, Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello and Washington Counties, IA (*Burlington, IA) points in Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Collin, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt and Wood Counties, TX

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(points in Greene County, AR). (4) From points in Daniels, Dawson, Garfield, McCone, Phillips, Richland, Roosevelt, Sheridan, Valley, Flathead, Glacier, Lake, Lincoln, Mineral, Missoula, Powell and Sanders Counties, MT, to points in Clark, Hempstead, Howard, Lafayette, Little River, Miller, Montgomery, Nevada, Pike, Polk, Scott, Sevier, Yell, Ashley, Bradley, Calhoun, Chicot, Cleveland, Columbia, Dallas, Desha, Drew, Lincoln, Quachita, Union, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Priaire, Pulaski, Saline and White Counties, AR (points in Greene County, AR); points in Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello and Washington Counties, IA (*Burlington, IA), points in Austin, Bastrop, Bell, Brazoria, Brazos, Burleson, Caldwell, Calhoun, Chambers, Colorado, Comal, DeWitt, Falls, Fayette, Fort Bend, Galveston, Gonzales, Grimes, Guadalupe, Hardin, Harris, Hays, Houston, Jackson, Jasper, Jefferson, Lavaca, Lee, Leon, Liberty, Limestone, Madison, Matagorda, Milam, Montgomery, Newton, Orange, Polk, Robertson, San Jacinto, Travis, Trinity, Tyler, Victoria, Walker, Waller, Washington, Wharton, Williamson, Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Collin, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt and Wood Counties, TX (points in Greene County, AR). (Gateways eliminated: indicated by asterisk above.)

MC 107012 (Sub-E416), filed May 13, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop and Gary M. Crist (same as above). *New Furniture, Crated* (1) From points in NV, to points in AL, FL, GA, KY, MS, NC, SC, TN and VA (points in Greene County, AR). (2) From points in Clark, Lincoln, Esmeralda, Eureka, Lander and Nye Counties, NV, to points in Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR (points in Greene County, AR), points in Allamakee, Black Hawk, Bremer, Buchanan, Butler, Cerro Gordo, Chickasaw, Clayton, Delaware, Fayette, Floyd, Franklin, Hancock, Howard, Mitchell, Winnebago, Winneshiek, Worth, Wright, Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello and Washington Counties, IA (*Burlington, IA); points in Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Saint Bernard, Saint Charles, Saint Helena, Saint James, Saint John the Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge and West Feliciana Parishes, LA (points in Greene County, AR); points in Anoka, Blue Earth, Carver, Chisago, Dakota, Dodge, Faribault, Fillmore, Freeborn, Good Hue, Hennepin, Houston, Isanti, Kanabec, LeSueur, McLeod, Mille Lacs, Mower, Nicollet, Olmstead, Pine, Ramsey, Rice, Scott, Sherburne, Sibley, Steele, Wabasha, Wasela, Washington, Winona and Wright Counties, MN (*Burlington, IA). (3) From points in Elko and Whitepine Counties, NV, to points in Ashley, Bradley, Calhoun, Chicot, Cleveland, Columbia, Dallas, Desha, Drew, Lincoln, Ouachita, Union, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR (points in Greene County, AR), points in Allamakee, Black Hawk, Bremer, Buchanan, Butler, Cerro Gordo, Chickasaw, Clayton, Delaware, Fayette, Floyd, Franklin, Hancock, Howard, Mitchell, Winnebago, Winneshiek, Worth, Wright, Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello and Washington Counties, IA (*Burlington, IA); points in Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Saint Bernard, Saint Charles, Saint Helena, Saint James, Saint John the Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge, West Feliciana, Bienville, Bossier, Caddo, Claiborne, DeSota, Natchitoches, Reo River, Sabine and Webster Parishes, LA (points in Green County, AR); points in Anoka, Blue Earth, Carver, Chisago, Dakota, Dodge, Faribault, Fillmore, Freeborn, Good Hue, Hennepin, Houston, Isanti, Kanabec, LeSueur, McLeod, Mille Lacs, Mower, Nicollet, Olmstead, Pine, Ramsey, Rice, Scott, Sherburne, Sibley, Steele, Wabasha, Wasela, Washington, Winona and Wright Counties, MN (*Burlington, IA). (4) From points in Churchill, Douglas, Humboldt, Lyon, Mineral, Ormsby, Pershing, Storey and Washoe Counties, NV, to points in Ashley, Bradley, Calhoun, Chicot, Cleveland, Columbia, Dallas, Desha, Drew, Lincoln, Ouachita, Union, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR (points in Greene County, AR); points in Allamakee, Black Hawk, Bremer, Buchanan, Butler, Cerro Gordo, Chickasaw, Clayton, Delaware, Fayette, Floyd, Franklin, Hancock, Howard, Mitchell, Winnebago, Winneshiek, Worth, Wright, Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello and Washington Counties, IA (*Burlington, IA); points in Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Rapids, Saint Landry, Vernon, Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Saint Bernard, Saint Charles, Saint Helena, Saint James, Saint John the Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge, West Feliciana, Bienville, Bossier, Caddo, Claiborne, DeSota, Natchitoches, Reo River, Sabine and Webster Parishes, LA (points in Green County, AR); points in Anoka, Blue Earth, Carver, Chisago, Dakota, Dodge, Faribault, Fillmore, Freeborn, Good Hue, Hennepin, Houston, Isanti, Kanabec, LeSueur, McLeod, Mille Lacs, Mower, Nicollet, Olmstead, Pine, Ramsey, Rice, Scott, Sherburne, Sibley, Steele, Wabasha, Wasela, Washington, Winona and Wright Counties, MN (*Burlington, IA); points in Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Collin, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt and Wood counties, TX (points in Greene County, AR). (Gateways eliminated: indicated by asterisks above.)

MC 107012 (Sub-E421), filed May 13, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *New Household Furniture, Crated:* (1) From points in

Broome, Cayuga, Chemung, Chenango, Courtland, Delaware, Madison, Onondaga, Ontario, Otsego, Schoharie, Schuyler, Seneca, Tioga, Tompkins, Wayne and Yates Counties, NY, to points in Braxton, Clay, Fayette, Kanawha, Nicholas, Webster, Calhoun, Gilmer, Jackson, Mason, Pleasants, Ritchie, Roane, Wirt, Wood, Boone, Cabell, Lincoln, Logan, Mingo, Putnam and Wayne Counties, WV; (2) From points in Allegany, Cattaraugus, Chatauqua, Erie, Genesee, Livingston, Monroe, Niagara, Orleans, Steuben and Wyoming Counties, NY, to points in Greenbrier, McDowell, Mercer, Monroe, Pocahontas, Raleigh, Summers, Wyoming, Braxton, Clay, Fayette, Kanawha, Nicholas, Webster, Calhoun, Gilmer, Jackson, Mason, Pleasants, Ritchie, Roane, Wirt, Wood, Boone, Cabell, Lincoln Logan, Mingo, Putnam and Wayne Counties, WV; (3) From points in Herkimer, Jefferson, Lewis, Oneida, Oswego, St. Lawrence, Clinton, Essex, Franklin, Fulton, Hamilton, Montgomery, Saratoga, Schenectady, Warren and Washington Counties, NY, to points in Greenbrier, McDowell, Mercer, Monroe, Pocahontas, Raleigh, Summers, Wyoming, Braxton, Clay, Fayette, Kanawha, Nicholas, Webster, Calhoun, Gilmer, Jackson, Mason, Pleasants, Ritchie, Roane, Wirt, Wood, Brooke, Hancock, Marshall, Ohio, Boone, Cabell, Lincoln, Logan, Mingo, Putnam and Wayne Counties, WV. (Gateways eliminated: Points of Cleveland, OH.)

MC 107012 (Sub-E422), filed May 13, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *New Furniture, Crated:* (1) From points in NC, to points in AZ and TX (*Camden, AR). (2) From points in NC, to points in CA, CO, ID, KS, MT, NV, OK, OR, UT, WA and WY (points in Greene County, AR). (3) From points in NC, to points in NM (*Little Rock, AR). (4) From points in Buncombe, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison, Mitchell, Polk, Rutherford, Swain, Transylvania and Yancey Counties, NC, to points in Adair, Adams, Audubon, Cass, Fremont, Guthrie, Harrison, Mills, Montgomery, Page, Pottawattamie, Ringgold, Shelby, Taylor, Union, Buena Vista, Calhoun, Carroll, Cherokee, Clay, Crawford, Dickinson, Emmet, Humboldt, Ida, Kossuth, Lyon, Monona, O'Brien, Osceola, Palo Alto, Plymouth, Pocahontas, Sac, Sioux and Woodbury Counties, IA (points in Greene County, AR); Points in Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Rapids, Saint Landry, Vernon, Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, Lafayette, Vermilion, Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Reo River, Sabine and Webster Parishes LA (*Camden, AR); Points in SD (points in Greene County, AR). (5) From points in Beaufort, Bertie, Camden, Chowan, Currituck, Dare, Edgecombe, Gates, Halifax, Hertford, Hyde, Martin, Nash, Northampton, Pamlico, Pasquotank, Per Quimans, Pitt, Tyrrell, Washington and Wilson Counties, NC, to points in Adair, Adams, Audubon, Cass, Fremont, Guthrie, Harrison, Mills, Montgomery, Page, Pottawattamie, Ringgold, Shelby, Taylor, Union, Buena Vista, Calhoun, Carroll, Cherokee, Clay, Crawford, Dickinson, Emmet, Humboldt, Ida, Kossuth, Lyon, Monona, O'Brien, Osceola, Palo Alto, Plymouth, Pocahontas, Sac, Sioux and Woodbury Counties, IA (points in Greene County, AR); Points in Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Rapids, Saint Landry, Vernon, Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, Lafayette, Vermilion, Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Reo River, Sabine and Webster Parishes LA (*Camden, AR); Points in Bennett, Butte, Custer, Fall River, Haakon, Jackson, Lawrence, Meade, Pennington, Shannon, Washabaugh, Ziebach, Campbell, Corson, Dewey, Edmunda, Faulk, Harding, McPherson, Perkins, Potter, Walworth, Brule, Buffalo, Hand Hughes, Hyde, Jones, Lyman, Mellette, Stanley, Sully, Todd, Tripp, Aurora, Bon Homme, Charles Mix, Clay, Davison, Douglas, Gregory, Hanson, Hutchinson, Jerauld, Lake, Lincoln, McCook, Miner, Minnehaha, Moody, Sanborn, Turner, Union and Yankton Counties, SD (points in Greene County, AR); Points in Chester, Crockett, Dyer, Fayette, Gibson, Hardeman, Haywood, Lake, Lauderdale, McNairy, Madison, Obion, Shelby and Tipton Counties, TN (*points in Greene County, AR). (6) From points in Alexander, Alleghany, Ashe, Avery, Burke, Caldwell, Catawba, Cleveland, Gaston, Iredell, Lincoln, Mecklenburg, Surry, Watauga, Wilkes and Yadkin Counties, NC, to points in Adair, Adams, Audubon, Cass, Fremont, Guthrie, Harrison, Mills, Montgomery, Page, Pottawattamie, Ringgold, Shelby, Taylor, Union, Buena Vista, Calhoun, Carroll, Cherokee, Clay, Crawford, Dickinson, Emmet, Hunboldt; Ida, Kossuth, Lyon, Monona, O'Brien, Osceola, Palo Alto, Plymouth, Pocahontas, Sac, Sioux and Woodbury Counties, IA (*points in Greene County, AR); Points in Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Rapids, Saint Landry, Vernon, Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, Lafayette, Vermilion, Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Reo River, Sabine and Webster Parishes LA (*Camden, AR); Points in Brown, Cottonwood, Jackson, Lincoln, Lyon, Martin, Murray, Nobles, Pipestone, Redwood, Rock and Watonwan Counties, MN (Points in Greene County, AR); Points in Adams, Billings, Bowman, Burleigh, Dunn, Emmons, Golden Valley, Grant, Hettinger, Mercer, Morton, Oliver, Sioux, Slope, Stark, Bottineau, Burke, McHenry, McLean, Mountrail, Renville, Ward, Divide, McKenzie and Williams Counties, ND (*Greene County, AR); Points in SD (Points in Greene County, AR). (7) From points in Bladen, Brunswick, Carteret, Columbus, Craven, Cumberland, Duplin, Greene, Harnett, Hoke, Johnston, Jones, Lenoir, New Hanover, Onslow, Pender, Robeson, Sampson, Scotland and Wayne Counties, NC, to points in Appanoose, Boone, Clarke, Dallas, Decatur, Greene, Grundy, Hamilton, Hardin, Jasper, Lucas, Madison, Mahaska, Marion, Marshall, Monroe, Polk, Poweshiek, Story, Tama, Warren, Wayne, Webster, Adair, Adams, Audubon, Cass, Fremont, Guthrie, Harrison, Mills, Montgomery, Page, Pottawattamie, Ringgold, Shelby, Taylor, Union, Buena Vista, Calhoun, Carroll, Cherokee, Clay, Crawford, Dickinson, Emmet, Humboldt, Ida, Kossuth, Lyon, Monona, O'Brien, Osceola, Palo Alto, Plymouth, Pocahontas, Sac, Sioux and Woodbury Counties, IA (Points in Greene County, AR); Points in Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Rapids, Saint Landry, Vernon, Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, Lafayette, Vermilion, Caldwell, East Carroll, Franklin, Jack-

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son, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Reo River, Sabine and Webster Parishes LA (*Camden, AR); Points in Brown, Cottonwood, Jackson, Lincoln, Lyon, Martin, Murray, Nobles, Pipestone, Redwood, Rock and Watonwan Counties, MN (Points in Greene County, AR); Points in Adams, Billings, Bowman, Burleigh, Dunn, Emmons, Golden Valley, Grant, Hettinger, Mercer, Morton, Oliver, Sioux, Slope, Stark, Benson, Cavalier, Pembina, Pierce, Ramsey, Rolette, Sheridan, Towner, Walsh, Wells, Bottineau, Burke, McHenry, McLean, Mountrail, Renville, Ward, Divide, McKenzie and Williams Counties, ND (Points in Greene County, AR); Points in SD (Points in Greene County, AR). (8) From points in Allamance, Anson, Cabarrus, Caswell, Chatham, Davidson, Davie, Durham, Forsyth, Franklin, Granville, Guilford, Lee, Montgomery, Moore, Orange, Person, Randolph, Richmond, Rockingham, Rowan, Stanly, Stokes, Union, Vance, Wake and Warren Counties, NC, to points in Adair, Adams, Audubon, Cass, Fremont, Guthrie, Harrison, Mills, Montgomery, Page, Pottawattamie, Ringgold, Shelby, Taylor, Union, Buena vista, Calhoun, Carroll, Cherokee, Clay, Crawford, Dickinson, Emmet, Humboldt, Ida, Kossuth, Lyon, Monona, O'Brien, Osceola, Palo Alto, Plymouth, Pocahontas, Sac, Sioux and Woodbury Counties, IA (*Greene County, AR); Points in Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Rapids, Saint Landry, Vernon, Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, Lafayette, Vermilion, Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Reo River, Sabine and Webster Parishes LA (*Camden, AR); Points in Adams, Billings, Bowman, Burleigh, Dunn, Emmons, Golden Valley, Grant, Hettinger, mercer, Morton, Oliver, Sioux, Slope, Stark, Divide, McKenzie and Williams Counties, ND (Points in Greene County, AR); Points in Bennett, Butte, Custer, Fall River, Haakon, Jackson, Lawrence, Meade, Pennington, Shannon, Washabaugh, Ziebach, Campbell, Corson, Dewey, Edmunda, Faulk, Harding, McPherson, Perkins, Potter, Walworth, Brule, Buffalo, Hand, Hughes, Hyde, Jones, Lyman, Mellette, Stanley, Sully, Todd, Tripp, Aurora, Bon Homme, Charles Mix, Clay, Davison, Douglas, Gregory, Hanson, Hutchinson, Jerauld, Lake, Lincoln, McCook, Miner, Minnehaha, Moody, Sanborn, Turner, Union and Yankton Counties, SD (Points in Greene County, AR). (Gateways eliminated: Indicated by asterisks above.)

MC 107012 (Sub-E123), filed May 13, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop and Gary M. Crist (same as above). *New Furniture, Crated,* (1) From points in ND, to points in AL, FL, GA, KY, NC, SC, TN, and VA (*Burlington, IA). (2) From points in ND, to points in LA and MS (points in Greene County, AR). (3) From points in Adams, Billings, Bowman, Burleigh, Dunn, Emmons, Golden Valley, Grant, Hettinger, Mercer, Morton, Oliver, Sioux, Slope and Stark Counties, ND, to points in Ashley, Bradley, Calhoun, Chicot, Cleveland, Columbia, Dallas, Desha, Drew, Lincoln, Quachita, Union, Baxter, Clay, Craighead, Greene, Crittendon, Cross, Fulton, Independence, Izard, Jackson, Lawrence, Mississippi, Poinsett, Randolph, Saint Francis, Sharp, Stone, Woodruff, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline, and White Counties, AR (*Burlington, IA); points in Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello and Washington Counties, IA (*Burlington, IA); points in Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Collin, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt, and Wood Counties, TX (points in Greene County, AR). (4) From points in Barnes, Cass, Dickey, Kidder, LaMoure, Logan, McIntosh, Ranson, Richland, Sargent and Stutsman Counties, ND, to points in Ashley, Bradley, Calhoun, Chicot, Cleveland, Columbia, Dallas, Desha, Drew, Lincoln, Quachita, Union, Baxter, Clay, Craighead, Greene, Crittendon, Cross, Fulton, Independence, Izard, Jackson, Lawrence, Mississippi, Poinsett, Randolph, Saint Francis, Sharp, Stone, Woodruff, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline, and White Counties, AR (*Burlington, IA); points in Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Lina, Louisa, Muscatine, Scott, Van Buren, Wapello, and Washington Counties, IA (*Burlington, IA); points in Aransas, Atascosa, Bandera, Bee, Bexar, Brooks, Cameron, Dimmit, Duval, Frio, Goliad, Hidalgo, Jim Hogg, Jim Wells, Kaines, Kenedy, Kinney, Kleberg, LaSalle, Live Oak, McMullen, Maverick, Medina, Nueces, Real, Refugio, San Patricio, Starr, Uvalde, Webb, Willacy, Wilson, Zapata, Zavala, Austin, Bastrop, Bell, Brazoria, Brazos, Burleson, Caldwell, Calhoun, Chambers, Colorado, Comal, DeWitt, Falls, Fayette, Fort Bend, Galveston, Gonzales, Grimes, Guadalupe, Hardin, Harris, Hays, Houston, Jackson, Jasper, Jefferson, Lavaca, Lee, Leon, Liberty, Limestone, Madison, Matagorda, Milam, Montgomery, Newton, Orange, Polk, Robertson, San Jacinto, Travis, Trinity, Tyler, Victoria, Walker, Waller, Washington, Wharton, Williamson, Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Collin, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt and Wood Counties, TX (points in Greene County, AR). (5) From points in Eddy, Foster, Grand Forks, Griggs, Nelson, Steele and Traill Counties, ND, to points in Clark, Hempstead, Howard, Lafayette, Little River, Miller, Montgomery, Nevada, Pike, Polk, Scott, Sevier, Yell, Ashley, Bradley, Calhoun, Chicot, Cleveland, Columbia, Dallas, Desha, Drew, Lincoln, Quachita, Union, Baxter, Clay, Craighead, Greene, Crittendon, Cross, Fulton, Independence, Izard, Jackson, Lawrence, Mississippi, Poinsett, Randolph, Saint Francis, Sharp, Stone, Woodruff, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline, and White Counties, AR (*Burlington, IA); points in Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello and Washington Counties, IA (*Burlington, IA); points in Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Collin, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt, and Wood Counties, TX (points in Greene County, AR). (4) From points in Barnes, Cass, Dickey, Kidder, LaMoure, Logan, McIntosh, Ranson, Richland, Sargent and Stutsman Counties, ND, to points in Ashley, Bradley, Calhoun, Chicot, Cleveland, Columbia, Dallas, Desha, Drew, Lincoln, Quachita, Union, Baxter, Clay, Craighead, Greene, Crittendon, Cross, Fulton, Independence, Izard, Jackson, Lawrence, Mississippi, Poinsett, Randolph, Saint Francis, Sharp, Stone, Woodruff, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline, and White Counties, AR (*Burlington, IA); Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello, and Washington Counties, IA (*Burlington, IA) points in Aransas, Atascosa, Bandera, Bee, Bexar, Brooks, Cameron, Dimmit, Duval, Frio, Goliad, Hidalgo, Jim Hogg, Jim Wells, Kaines, Kenedy, Kinney, Kleberg, LaSalle, Live Oak, McMullen, Maverick, Medina, Nueces, Real, Refugio, San Patricio, Starr, Uvalde, Webb, Willacy, Wilson, Zapata, Zavala, Austin, Bastrop, Bell, Brazoria, Brazos, Burleson, Caldwell, Calhoun, Chambers, Colorado, Comal, DeWitt, Falls, Fayette, Fort Bend, Galveston, Gonzales, Grimes, Guadalupe, Hardin, Harris, Hays, Houston, Jackson, Jasper, Jefferson, Lavaca, Lee, Leon, Liberty, Limestone, Madison, Matagorda, Milam, Montgomery, Newton, Orange, Polk, Robertson, San Jacinto, Travis, Trinity, Tyler, Victo-

ria, Walker, Waller, Washington, Wharton, Williamson, Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Collin, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt and Wood Counties, TX (points in Greene County, AR). (6) From points in Benson, Cavalier, Pembina, Pierce, Ramsey, Rolette, Sheridan, Towner, Walsh, and Wells Counties, ND, to points in AR (*Burlington, IA); points in Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello and Washington Counties, IA (*Burlington, IA); points in Aransas, Atascosa, Bandera, Bee, Bexar, Brooks, Cameron, Dimmit, Duval, Frio, Goliad, Hidalgo, Jim Hogg, Jim Wells, Kaines, Kenedy, Kinney, Kleberg, LaSalle, Live Oak, McMullen, Maverick, Medina, Nueces, Real, Refugio, San Patricio, Starr, Uvalde, Webb, Willacy, Wilson, Zapata, and Zavala Counties, TX (*Burlington, IA); points in Austin, Bastrop, Bell, Brazoria, Brazos, Burleson, Caldwell, Calhoun, Chambers, Colorado, Comal, DeWitt, Falls, Fayette, Fort Bend, Galveston, Gonzales, Grimes, Guadalupe, Hardin, Harris, Hays, Houston, Jackson, Jasper, Jefferson, Lavaca, Lee, Leon, Liberty, Limestone, Madison, Matagorda, Milam, Montgomery, Newton, Orange, Polk, Robertson, San Jacinto, Travis, Trinity, Tyler, Victoria, Walker, Waller, Washington, Wharton, Williamson, Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Collin, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt and Wood Counties, TX (points in Greene County, AR). (7) From points in Bottineau, Burke, McHenry, McLean, Mountrail, Renville and Ward Counties, ND, to points in Clark, Hempstead, Howard, Lafayette, Little River, Miller, Montgomery, Nevada, Pike, Polk, Scott, Sevier, Yell, Ashley, Bradley, Calhoun, Chicot, Cleveland Columbia, Dallas, Desha, Drew, Lincoln, Quachita, Union, Baxter, Clay, Craighead, Greene, Crittendon, Cross, Fulton, Independence, Izard, Jackson, Lawrence, Mississippi, Poinsett, Randolph, Saint Francis, Sharp, Stone, Woodruff, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline, and White Counties, AR (*Burlington, IA); points in Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello and Washington Counties, IA (*Burlington, IA); points in Austin, Bastrop, Bell, Brazoria, Brazo, Burleson, Caldwell, Calhoun, Chambers, Colorado, Comal, DeWitt, Falls, Fayette, Fort Bend, Galveston, Gonzales, Grimes, Guadalupe, Hardin, Harris, Hays, Houston, Jackson, Jasper, Jefferson, Lavaca, Lee, Leon, Liberty, Limestone, Madison, Matagorda, Milam, Montgomery, Newton, Orange, Polk, Robertson, San Jacinto, Travis, Trinity, Tyler, Victoria, Walker, Waller, Washington, Wharton, Williamson, Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Collin, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt, and Wood Counties, TX (points in Greene County, AR). (8) From points in Divide, McKenzie and Williams Counties, ND, to points in AR (*Burlington IA); points in Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello and Washington Counties, IA (*Burlington, IA); points in Austin, Bastrop, Bell, Brazoria, Brazo, Burleson, Caldwell, Calhoun, Chambers, Colorado, Comal, DeWitt, Falls, Fayette, Fort Bend, Galveston, Gonzales, Grimes, Guadalupe, Hardin, Harris, Hays, Houston, Jackson, Jasper, Jefferson, Lavaca, Lee, Leon, Liberty, Limestone, Madison, Matagorda, Milam, Montgomery, Newton, Orange, Polk, Robertson, San Jacinto, Travis, Trinity, Tyler, Victoria, Walker, Waller, Washington, Wharton, Williamson, Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Collin, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt and Wood Counties, TX (points in Greene County, AR). (Gateways eliminated indicated by asterisk above.)

MC 107012 (Sub-E424), filed May 13, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same address as above). *New Furniture, Crated,* 1.) From points in OK, to points in GA, KY, NC, SC and VA (points in Greene County, AR).

2.) From points in OK, to points in AL and MS (points in Greene County, AR) or Camden, AR).

3.) From points in OK, to points in FL (*Camden, AR).

4.) From points in OK, to points in TN (*Little Rock, AR).

5.) From points in Alfalfa, Beckham, Blaine, Caddo, Comanche, Cotton, Custer, Dewey, Ellis, Greer, Harmon, Harper, Jackson, Kiowa, Major, Roger Mills, Tillman, Washita, Woods and Woodward Counties, OK, to points in Allamakee, Black Hawk, Bremer, Buchanan, Butler, Cerro Gordo, Chickasaw, Clayton, Delaware, Fayette, Floyd, Franklin, Hancock, Howard, Mitchell, Winnebago, Winneshiek, Worth, Wright, Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello and Washington Counties, IA (*Burlington, IA); points in Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Rapids, Saint Landry, Vernon, Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Saint Bernard, Saint Charles, Saint Helena, Saint James, Saint John the Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge and West Feliciana Parishes, LA (*Camden, AR); points in Aitkin, Carlton, Cook, Lake, Saint Louis, Tasca, Anoka, Blue Earth, Carver, Chisago, Dakota, Dodge, Faribault, Fillmore, Freeborn, Good Hue, Hennepin, Houston, Isanti, Kanabec, LeSueur, McLeod, Mille Lacs, Mower, Nicollet, Olmstead, Pine, Ramsey, Rice, Scott, Sherburne, Sibley, Steele, Wabasha, Wasela, Washington, Winona and Wright Counties, MN (*Burlington, IA).

6.) From points in Adair, Cherokee, Craig, Delaware, McIntosh, Mayes, Muskogee, Nowata, Okmulgee, Osage, Ottawa, Rogers, Sequoyah, Tulsa, Wagoner and Washington Counties, OK, to points in Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello and Washington Counties, IA (*Burlington, IA); points in Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Rapids, Saint Landry, Vernon, Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, Lafayette, Vermilion, Caldwell, East Carroll, Franklin, Jackson, Lincoln,

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Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Saint Bernard, Saint Charles, Saint Helena, Saint James, Saint John the Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge and West Feliciana Parishes, LA (*Camden, AR); points in Aransas, Atascosa, Bandera, Bee, Bexar, Brooks, Cameron, Dimmit, Duval, Frio, Goliad, Hidalgo, Jim Hogg, Jim Wells, Kaines, Kenedy, Kinney, Kleberg, LaSalle, Live Oak, McMullen, Maverick, Medina, Nueces, Real Refugio, San Patricio, Starr, Uvalde, Webb, Willacy, Wilson, Zapata, Zavala, Austin, Bastrop, Bell, Brazoria, Brazos, Burleson, Caldwell, Calhoun, Chambers, Colorado, Comal, DeWitt, Falls, Fayette, Fort Bend, Galveston, Gonzales, Grimes, Guadalupe, Hardin, Harris, Hays, Houston, Jackson, Jasper, Jefferson, Lavaca, Lee, Leon, Liberty, Limestone, Madison, Matagorda, Milam, Montgomery, Newton, Orange, Polk, Robertson, San Jacinto, Travis, Trinity, Tyler, Victoria, Walker, Waller, Washington, Wharton, Williamson, Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Collin, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt and Wood Counties, TX (*Fort Smith, AR).

7.) From points in Beaver, Cimarron and Texas Counties, OK, to points in Allamakee, Black Hawk, Bremer, Buchanan, Butler, Cerro Gordo, Chickasaw, Clayton, Delaware, Fayette, Floyd, Franklin, Hancock, Howard, Mitchell, Winnebago, Winneshiek, Worth, Wright, Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello and Washington Counties, IA (*Burlington, IA); points in LA (*Camden, AR); points in Anoka, Blue Earth, Carver, Chisago, Dakota, Dodge, Faribault, Fillmore, Freeborn, Good Hue, Hennepin, Houston, Isanti, Kanabec, LeSueur, McLeod, Mille Lacs, Mower, Nicollet, Olmstead, Pine, Ramsey, Rice, Scott, Sherburne, Sibley, Steele, Wabasha, Wasela, Washington, Winona and Wright Counties, MN (*Burlington, IA) points in Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Collin, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt and Wood Counties, TX (*Fort Smith, AR 61A + 25A).

8). From points in Atoka, Bryan, Choctaw, Coal, Haskell, Latimer, LeFlore, McCurtain, Pittsburg and Pushmataha Counties, OK, to points in Butte, Lassen, Modoc, Nevada, Plumas, Shasta, Sierra, Siskiyou, Yuba, Glenn, Humboldt, Lake, Mendicino, Tehama and Trinity Counties, Ca (*Camden, AR); points in Garfield, Mesa, Moffat, Rio Blanco, Routt, Adams, Arapahoe, Boulder, Cedar Creek, Chaffee, Denver, Douglas, Eagle, Elbert, El Paso, Fremont, Gilpin, Grand, Jackson, Jefferson, Lake, Larimer, Park, Pitkin, Summit, Teller, Alamosa, Archuleta, Conejos, Delta, Dolores, Gunnison, Hinsdale, La Plata, Mineral, Montezuma, Montrose, Quray, Rio Grande, Saguache, San. Juan, San Miguel, Kit Carson, Logan, Morgan, Phillips, Sedgwick, Washington, Weld and Yuma Counties, CO (*Fort Smith, AR); points in Allamakee, Black Hawk, Bremer, Buchanan, Butler, Cerro Gordo, Chickasaw, Clayton, Delaware, Fayette, Floyd, Franklin, Hancock, Howard, Mitchell, Winnebago, Winneshiek, Worth, Wright, Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello and Washington Counties, IA (*Burlington, IA); points in Atchison, Brown, Doniphan, Douglas, Franklin, Jackson, Jefferson, Johnson, Leavenworth, Marshall, Miami, Nemaha, Osage, Pottawatomie, Shawnee, Wabaunsee, Wyandotte, Allen, Anderson, Bourbon, Butler, Chautauqua, Cherokee, Coffey, Cowley, Crawford, Elk, Greenwood, Labette, Linn, Lyon, Montgomery, Neosho, Wilson and Woodson Counties, KS (*Fort Smith, AR); points in Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Rapids, Saint Landry, Vernon, Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Saint Bernard, Saint Charles, Saint Helena, Saint James, Saint John the Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge and West Feliciana Parishes, LA (*Camden, AR); points in Aitkin, Carlton, Cook, Lake, Saint Louis, Tasca, Beltrami, Clearwater, Kittson, Koochiching, Lake of the Woods, Mahnomen, Marshall, Norman, Pennington, Polk, Red Lake, Roseau, Anoka, Blue Earth, Carver, Chisago, Dakota, Dodge, Faribault, Fillmore, Freeborn, Good Hue, Hennepin, Houston, Isanti, Kanabec, LeSueur, McLeod, Mille Lacs, Mower, Nicollet, Olmstead, Pine, Ramsey, Rice, Scott, Sherburne, Sibley, Steele, Wabasha, Wasela, Washington, Winona and Wright Counties, MN (*Burlington, IA); points in MT (*Fort Smith, AR); points in ND (*Fort Smith, AR); points in Benton, Clackamas, Clatsop, Columbia, Lane, Lincoln, Linn, Marion, Multnomah, Polk, Tillamook, Washington, Yamhill, Coos, Curry, Douglas, Jackson and Josephine Counties, OR (*Camden, AR); points in Clark, Cowlitz, Klickitat, Lewis, Pacific, Pierce, Skamania, Thurston, Wahkiakum, Yakima, Clallam, Grays Harbor, Jefferson, Kitsap, Mason, San Juan, Chelan, Douglas, Grant, Island, King, Kittitas, Skagit, Snohomish and Whatcom Counties, WA (*Camden, AR); points in WY (*Fort Smith, AR).

9.) From points in Canadian, Carter, Cleveland, Creek, Garfield, Grady, Grant, Hughes, Jefferson, Johnston, Kay, Kingfisher, Lincoln, Logan, Love, McClain, Marshall, Murray, Noble, Okfuskee, Oklahoma, Osage, Pawnee, Payne, Pontotoc, Pottawatomie, Seminole and Stephens Counties, OK, to points in Allamakee, Black Hawk, Bremer, Buchanan, Butler, Cerro Gordo, Chickasaw, Clayton, Delaware, Fayette, Floyd, Franklin, Hancock, Howard, Mitchell, Winnebago, Winneshiek, Worth, Wright, Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello and Washington Counties, IA (*Burlington, IA); points in Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Rapids, Saint Landry, Vernon, Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Saint Bernard, Saint Charles, Saint Helena, Saint James, Saint John the Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge and West Feliciana Parishes, LA (*Camden, AR).

MC 107012 (Sub-E425), filed May 16, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same address as above). *New Furniture, Crated,* (1) From points in OR, to points in AL, FL, GA, KY, LA, MS, NC, SC, TN and VA (points in Greene County, AR).

(2) From points in Benton, Clackamas, Clatsop, Columbia, Lane, Lincoln, Linn, Marion, Multnomah, Polk, Tillamook, Washington and Yamhill Counties, OR, to points in AR (points in Greene County, AR); points in Allamakee, Black Hawk, Bremer, Buchanan, Butler, Cerro Gordo, Chickasaw, Clayton, Delaware, Fayette, Floyd, Franklin, Hancock, Howard, Mitchell, Winnebago, Winneshiek, Worth, Wright, Appanoose, Boone, Clarke, Dallas, Decatur, Greene, Grundy, Hamilton, Hardin, Jasper, Lucas, Madison, Mahaska, Marion, Marshall, Monroe, Polk, Poweshiek, Story, Tama, Warren, Wayne, Webster, Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello and Washington Counties, IA (*Burlington, IA); points in Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Collin, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt and Wood Counties, TX (points in Greene County, AR).

(3) From points in Crook, DeSchutes, Gilliam, Hood River, Jefferson, Sherman, Wasco, Wheeler, Harney, Klamath, Lake and Malheur Counties, OR, to points in Clark, Hempstead, Howard, Lafayette, Little River, Miller, Montgomery, Nevada, Pike, Polk, Scott, Sevier, Yell, Ashley, Bradley, Calhoun, Chicot, Cleveland, Columbia, Dallas, Desha, Drew, Lincoln, Ouachita, Union, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR (points in Greene County, AR); points in Allamakee, Black Hawk, Bremer, Buchanan, Butler, Cerro Gordo, Chickasaw, Clayton, Delaware, Fayette, Floyd, Franklin, Hancock, Howard, Mitchell, Winnebago, Winneshiek, Worth, Wright, Appanoose, Boone, Clarke, Dallas, Decatur, Greene, Grundy, Hamilton, Hardin, Jasper, Lucas, Madison, Mahaska, Marion, Marshall, Monroe, Polk, Poweshiek, Story, Tama, Warrne, Wayne, Webster, Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello and Washington Counties, IA (*Burlington, IA); points in Anoka, Blue Earth, Carver, Chisago, Dakota, Dodge, Faribult, Fillmore, Freeborn, Good Hue, Hennepin, Houston, Isanti, Kanabec, LeSueur, McLeod, Mille Lacs, Mower, Nicollet, Olmstead, Pine, Ramsey, Rice, Scott, Sherburne, Sibley, Steele, Wabasha, Wasela, Washington, Winona and Wright Counties, MN (*Burlington, IA); points in Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Collin, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt and Wood Counties, TX (points in Greene County, AR).

(4) From points in Coos, Curry, Douglas, Jackson and Josephine Counties, OR, to points in AR (points in Greene County, AR); points in Allamakee, Black Hawk, Bremer, Buchanan, Butler, Cerro Gordo, Chickasaw, Clayton, Delaware, Fayette, Floyd, Franklin, Hancock, Howard, Mitchell, Winnebago, Winneshiek, Worth, Wright, Appanoose, Boone, Clarke, Dallas, Decatur, Greene, Grundy, Hamilton, Hardin, Jasper, Lucas, Madison, Mahaska, Marion, Marshall, Monroe, Polk, Poweshiek, Story, Tama, Warren, Wayne, Webster, Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello and Washington Counties, IA (*Burlington, IA); points in Anoka, Blue Earth, Carver, Chisago, Dakota, Dodge, Faribault, Fillmore, Freeborn, Good Hue, Hennepin, Houston, Isanti, Kanabec, LeSueur, McLeod, Mille Lacs, Mower, Nicollet, Olmstead, Pine, Ramsey, Rice, Scott, Sherburne, Sibley, Steele, Wabasha, Wasela, Washington, Winona and Wright Counties, MN (*Burlington, IA); points in Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Collin, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt and Wood Counties, TX (points in Greene County, AR). (Gateways eliminated indicated by asterisks above.)

MC 107012 (Sub-E426), filed May 16, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same address as above). *New Furniture, Crated,* (1) From points in PA, to points in AL, FL, and GA (*points in TN). (2) From points in Cameron, Clarion, Crawford, Elk, Erie, Forest, Jefferson, McKean, Mercer, Potter, Venango and Warren Counties, PA, to points in Suffolk County, NY (*Newton Falls, OH); points in Buncombe, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison, Mitchell, Polk, Rutherford, Swain, Transylvania, Yancey, Alexander, Alleghany, Ashe, Avery, Burke, Caldwell, Catawba, Cleveland, Gaston, Iredell, Lincoln, Mecklenburg, Surry, Watauga, Wilkes and Yadkin Counties, NC (*points in TN); points in SC (*points in TN).

(3) From points in Adams, Bedford, Blair, Cambria, Centre, Clearfield, Clinton, Cumberland, Dauphin, Franklin, Fulton, Huntingdon, Juniata, Lycoming, Mifflin, Montour, Northumberland, Perry, Snyder, Tioga and Union Counties, PA, to points in Buncombe, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison, Mitchell, Polk, Rutherford, Swain, Transylvania and Yancey Counties, NC (*points in TN); points in Aiken, Calhoun, Chesterfield, Darlington, Fairfield, Keeshaw, Lancaster, Lee, Lexington, Marlboro, Richland, Sumter, Abbeville, Anderson, Greenville, Ocomee, Pickens, Cherokee, Chester, Edgefield, Greenwood, Lamens, McCormick, Newberry, Saluda, Spartanburg, Union, and York Counties, SC (*points in TN).

(4) From points in Berks, Bucks, Chester, Delaware, Lancaster, Lebanon, Lehigh, Montgomery, Northampton, Philadelphia, Schuylkill and York Counties, PA, to points in Buncombe,

Cherokee, Clay, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison, Mitchell, Polk, Rutherford, Swain, Transylvania and Yancey Counties, NC (*points in TN); points in Abbeville, Anderson, Greenville, Ocomee, Pickens, Cherokee, Chester, Edgefield, Greenwood, Lamens, McCormick, Newberry, Saluda, Spartanburg, Union and York Counties, SC (*points in TN).

(5) From points in Bradford, Carbon, Columbia, Lackawanna, Luzerne, Monroe, Pike, Sullivan, Susquehanna, Wayne and Wyoming Counties, PA to points in Buncombe, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison, Mitchell, Polk, Rutherford, Swain, Transylvania, Yancey, Alexander, Alleghany, Ashe, Avery, Burke, Caldwell, Catawba, Cleveland, Gaston, Iredell, Lincoln, Mecklenburg, Surry, Watauga, Wilkes and Yadkin Counties, NC (*points in TN); points in Aiken, Calhoun, Chesterfield, Darlington, Fairfield, Keeshaw, Lancaster, Lee, Lexington, Marlboro, Richland, Sumter, Abbeville, Anderson, Greenville, Ocomee, Pickens, Cherokee, Chester, Edgefield, Greenwood, Lamens, McCormick, Newberry, Saluda, Spartanburg, Union, and York Counties, SC (*points in TN).

(6) From points in Allegheny, Armstrong, Beaver, Butler, Fayette, Greene, Indiana, Lawrence, Somerset, Washington and Westmoreland Counties, PA, to points in Allegany, Cattaraugus, Chatauqua, Erie, Genesee, Livingston, Monroe, Niagara, Orleans, Steuben, Wyoming, Herkimer, Jefferson, Lewis, Oneida, Oswego, St. Lawrence, Clinton, Essex, Franklin, Fulton, Hamilton, Montgomery, Saratoga, Schenectady, Warren and Washington Counties, NY (*Newton Falls, OH); points in Buncombe, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison, Mitchell, Polk, Rutherford, Swain, Transylvania and Yancey Counties, NC (*points in TN); points in Allendale, Bamberg, Barnwell, Beaufort, Berkely, Charleston, Colleton, Dorchester, Hampton, Jasper, Orangeburg, Aiken, Calhoun, Chesterfield, Darlington, Fairfield, Keeshaw, Lancaster, Lee, Lexington, Marlboro, Richland, Sumter, Abbeville, Anderson, Greenville, Ocomee, Pickens, Cherokee, Chester, Edgefield, Greenwood, Lamens, McCormick, Newberry, Saluda, Spartanburg, Union, and York Counties, SC (*points in TN). (Gateways eliminated indicated by asterisks above.)

MC 107012 (Sub-E427), filed May 13, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop and Gary M. Crist (same address as above). *New Household Furniture, Crated,* From points in Cameron, Clarion, Crawford, Elk, Erie, Forest, Jefferson, McKean, Mercer, Potter, Venango and Warren Counties, PA to points in Greenbrier, McDowell, Mercer, Monroe, Pocahontas, Raleigh, Summers, Wyoming, Braxton, Clay, Fayette, Kanawha, Nicholas, Webster, Calhoun, Gilmer, Jackson, Mason, Pleasants, Ritchie, Roane, Wirt, Wood, Boone, Cabell, Lincoln, Logan, Mingo, Putnam and Wayne Counties, WV. (Gateways eliminated: points of Cleveland, OH.)

MC 107012 (Sub-E428), filed May 18, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same address as above). *New Furniture, Crated,* (1) From points in RI, to points in MS; (2) From points in RI, to points in Bay, Calhoun, Escambia, Gulf, Holmes, Jackson, Okaloosa, Santa Rosa, Walton and Washington Counties, FL; points in Bartow, Chattooga, Carroll, Catoosa, Dade, Douglas, Floyd, Gordon, Haralson, Heard, Murray, Paulding, Polk, Walker and Whitfield, GA; points in Bedford, Bledsoe, Bradley, Coffee, Cumberland, Fentress, Franklin, Grundy, Hamilton, Lincoln, Loudon, McMinn, Marion, Marshall, Meigs, Monroe, Moore, Morgan, Polk, Rhea, Roane, Sequatchie, Van Buren, Warren, White, Chester, Crockett, Dyer, Fayette, Gibson, Hardeman, Haywood, Lake, Lauderdale, McNairy, Madison, Obion, Shelby, Tipton, Cannon, Cheatham, Clay, Davidson, DeKalb, Dickson, Jackson, Macon, Montgomery, Overton, Pickett, Putnam, Robertson, Rutherford, Smith, Sumner, Trousdale, Williamson, Wilson, Benton, Carroll, Decatur, Giles, Hardin, Henderson, Henry, Hickman, Houston, Humphreys, Lawrence, Lewis, Maury, Perry, Stewart, Wayne and Weakley Counties, TN. (Gateways eliminated: points in KY.)

By the Commission.

H. G. Homme, Jr.,
Secretary.

[FR Doc. 79-376 Filed 1-3-79; 8:45 am]

[7035-01-M]

WESTERN TRUNK LINE COMMITTEE

Released Rates Carload Commodity Rates

AGENCY: Interstate Commerce Commission.

ACTION: Notice. Released Rates Application No. 1933.

SUMMARY: Western Trunk Line Committee wants to publish released carload commodity rates on *molybdenum concentrates.* The movements proposed are from Climax and Kremmling, Colorado to Ft. Madison, Iowa and Burgettstown, Pennsylvania. The net effect desired is to establish and maintain released carload commodity rates.

ADDRESSES: William J. Hardin, Tariff Publishing Officer, Western Trunk Line Committee, Agent, Room 300, 300 West Adams Street, Chicago, Illinois 60606.

FOR FURTHER INFORMATION CONTACT:

Max Pieper, Unit Supervisor, Informal Rate Cases Branch, Bureau of Traffic, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7553.

SUPPLEMENTARY INFORMATION: The relief sought is from Part 10730 of subtitle IV of title 49, United States Code, "Transportation" formerly part 20(11) of the Interstate Commerce Act. It is for and on behalf of carriers parties to joint tariff WTL 433-F, ICC A-5058, and TCFB 6-F, ICC 1944, to the extent of their operating authority.

Nancy L. Wilson,
Acting Secretary.

[FR Doc. 79-369 Filed 1-3-79; 8:45 am]

[7035-01-M]

[No. 36437]

DEPARTMENT OF DEFENSE

Petition for Declaratory Order Establishing Effective Date of 3 Percent Increase

Decided: *December 21, 1978.*

This proceeding began with the filing of a petition for a declaratory order to resolve an uncertainty as to the effective date of a 3-percent general increase in the rates and charges governing interstate and foreign transportation of household goods. In a report dated October 5, 1977, the Commission, Division 2, found that the assessment of the 3-percent increase prior to the effective date of a valid tariff constituted an overcharge within the meaning of 49 U.S.C. 11705 (§ 204(a)6 of the Interstate Commerce Act (I.C.A.)), and violated 49 U.S.C. 10761 (§ 217 I.C.A.). Subsequently, the Household Goods Carriers' Bureau, Inc. (HGCB), sought administrative review of the October 5, 1977, report, and the Administrator of General Services Administration (GSA) sought intervention and certain specific relief.

On April 26, 1978, the Commission, Division 1, entered a decision denying the HGCB request for review and essentially granting the relief sought by GSA. The decision required each motor carrier member of the HGCB to (1) identify each shipper who paid charges pursuant to a "conversion chart" applied in lieu of certain suspended tariff supplements, (2) notify each shipper of the difference between the amount paid and the charges computed on the basis of tariffs in effect on May 14, 1976, and (3) provide each shipper with instructions and forms for filing claims. Carriers were to comply with the requirements within 90 days from publication of the decision in the Federal Register. By a petition filed June 5, 1978, the HGCB appeals the decision. GSA, the Department of Defense (DOD), Reynolds Metals Company (Reynolds), and the National Industrial Traffic League (NITL) have replied to the appeal.

The HGCB contends that the Commission lacks the power to promulgate an order which in effect requires carriers to make refunds for claimed overcharges. It maintains that the requirement of "affirmative action" of notifying shippers contravenes the limits on Commission authority respecting motor carrier overcharges, and that shippers must always discover and submit claims without aid. If the Commission's advisory decision on the effective date of the increase is ultimately found in error, the HGCB argues, carriers would have been put to much trouble and expense.

In response, GSA states that without the notification requirement carriers would be unjustly enriched since affected shippers might never realize that they were overcharged. DOD points out that only the members of the bureau know the identities of and how much was paid by shipper customers. Reynolds avers that the Commission clearly did not order the refunding of overcharges, and urges that there is no requirement that shippers discover claims. NITL asserts that the assailed decision was a proper ancillary to clear statutory authority, particularly where many of the shippers are unsophisticated in the intricacies of tariffs and transportation regulation.

We affirm the finding by Division 1 that the mandate and responsibilities imposed by the national transportation policy and 49 U.S.C. 10321 (§ 204(a)(6) I.C.A.), 49 U.S.C. 11706 (§ 204a·(2) I.C.A.), and 49 U.S.C. 10761 (§ 217 (b) I.C.A.) authorize the Commission to direct motor carriers to identify and notify shippers whom we have found were subjected to overcharges. Recently we determined that our jurisdiction and authority extend to the prescription of regulations for the expeditious processing of overcharges, duplicate payments, and overcharge claims. *Overcharge, Dup. Payment, or overcollection Claims,* 358 I.C.C. 114(1978).

Our notice requirement does not have the intention or effect of forcing carrier refunds; it simply aids shippers in the discovery of claims. Notwithstanding our lack of statutory authority to settle or adjudicate overcharge claims, we clearly have authority to prescribe, by order and by rule, procedures for their expeditious handling. See *Overcharge,* 358 I.C.C. at 117, and 49 U.S.C. 10321 (§ 204 (a)(6) I.C.A.) of the Act.

Moreover, an important facet of this proceeding renders the notification requirements particularly appropriate: the proposed recipients of notice were shippers of household goods. The Commission has long recognized that individuals who use the services of household goods carriers are in a much more vulnerable position than commercial shippers. While shippers of other freight often use the services of motor common carriers on a daily basis, a householder typically moves relatively infrequently. As a result, the householder has little opportunity to develop an adequate knowledge of respective rights and duties, and misunderstandings between householder and carrier commonly occur. Further, the entire transaction may be charged with emotion owing to any unexpected increases in costs, personal inconvenience resulting from changes in shipping dates, and possible damage to or loss of a family's most prized possessions. *Practices of Motor Common Carriers of Household Goods,* 111 M.C.C. 427, 430 (1970). For these reasons the Commission has adopted special regulations governing the interstate transportation of household goods, regulations designed in major part to protect the household goods shipper. 49 CFR Part 1056 (1977).

The notification requirements imposed in the April 26, 1978, decision were intended to aid unsophisticated household goods shippers, not to force payment from the carrier, but to permit the discovery of claims. We are concerned about the interests of individuals who must move at their own expense and in reliance on their own resources, and we believe that the notification requirements are a reasonable accomodation to that concern.

It is ordered:

The petition for administrative review is denied.

By the Commission. Chairman O'Neal, Vice Chairman Christian, Commissioners Brown, Stafford, Gresham and Clapp. Commissioner Stafford dissenting. Commissioner Brown absent and not participating.

Nancy L. Wilson,
Acting Secretary.

Commissioner Stafford, dissenting in part:

I agree with the majority that the Commission has the authority to establish procedures governing the expeditious handling of overcharge claims. However, in this case I would at least wait for the result of the Court action before requiring the carriers to undertake the notification action.

[FR Doc. 79-370 Filed 1-3-79; 8:45 am]

[7035-01-M]

[Exception No. 10 under section (a), paragraph (1), part (v) Second Revised Service Order No. 1332]

SOUTHERN PACIFIC TRANSPORTATION CO.

Decided December 22, 1978.

To: Southern Pacific Transportation Company: Because of a major derailment at Ocala, Nevada, caused by a collision between a freight train and a motor truck through train operations over the line of the Southern Pacific Transportation Company (SP), between Sparks, Nevada, and Ogden, Utah, were necessarily suspended for twenty-four (24) hours. As a result of this disruption of its services and the consequent accumulation of traffic awaiting passage over this line the SP is temporarily unable to forward all cars within sixty (60) hours as required by Section (a)(4)(i) of Second Revised Service Order No. 1332.

It is ordered, Pursuant to the authority vested in the Railroad Service Board by Section (a)(1)(v) of Second Revised Service Order No. 1332, the SP is required to forward loaded cars or empty foreign or private cars from the points in the territory named below within seventy-two (72) hours.

Sparks, Nevada, and Ogden, Utah, inclusive

Effective December 22, 1978.
Expires 11:59 p.m., December 31, 1978.

Robert S. Turkington,
Acting Chairman,
Railroad Service Board.[1]

[FR Doc. 79-371 Filed 1-3-79; 8:45 am]

[7035-01-M]

[Exemption Under Provision of Rule 19 of the Mandatory Car Service Rules Ordered in ex Parte No. 241; Thirteenth Revised Exemption No. 128]

CAR SERVICE RULES

To: the Atchison, Topeka and Santa Fe Railroad Company,
*Boston and Maine Corporation,
Chicago, Milwaukee, St. Paul and Pacific Railroad Company,
Chicago, Rock Island and Pacific Railroad Company,
Consolidated Rail Corporation,
*Delaware and Hudson Railway Company,
Illinois Central Gulf Railroad Company,
Louisville and Nashville Railroad Company,

[1] Members Joel E. Burns, Robert S. Turkington and John R. Michael.

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Missouri-Illinois Railroad Company,
Missouri Pacific Railroad Company, and
Seaboard Coast Line Railroad Company.

It appearing, That the railroads have mutually agreed to the use of each other's empty plain cars having mechanical designations "XM", "XMI", "XMIH", "FM"-less than 200,000 lbs., "GA", "GB", "GD", "GH", and "GS" and bearing reporting marks assigned to such carriers.

It further appearing, That these railroads have mutually agreed to participate in an Expanded Clearinghouse Project in which each road will treat the cars of the other roads as system cars, with the Car Service Division of the AAR acting as agent.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, empty plain cars described in the Official Railway Register, I.C.C.-R.E.R. No. 409, issued by W.J. Trezise, or successive issues thereof, as having mechanical designations "XM", "XMI", "XMIH", "FM"-less than 200,000 lbs., "GA", "GB", "GD", "GH", and "GS" and bearing the following reporting marks are exempt from the provisions of Car Service Rules 1 and 2, while on the lines of any of the railroads named below. *Any clearinghouse ownership car bearing one of the applicable mechanical designations may be loaded out via a non-clearinghouse railroad if the car is placed empty by a clearinghouse road at a point open to reciprocal switching.

The Atchison, Topeka and Sante Fe Railroad Company—Reporting Marks: ATSF Effective August 22, 1976.

*Boston and Maine Corporation—Reporting Marks: BM Effective January 1, 1979.

Chicago, Milwaukee, St. Paul and Pacific Railroad Company—Reporting Marks: MILW Effective July 15, 1976.

Chicago, Rock Island and Pacific Railroad Company—Reporting Marks: RI-ROCK Effective September 12, 1976.

Consolidated Rail Corporation—Reporting Marks: BCK-CNJ-CR-DL&W-EL-ERIE-LV-NH-NYC-PAE-PC-PRR-RDG-TOC Effective November 6, 1977.

*Delaware and Hudson Railway Company—Reporting Marks: DH Effective January 1, 1979.

Illinois Central Gulf Railroad Company—Reporting Marks: ICG-GM&O-IC Effective August 22, 1976.

Louisville and Nashville Railroad Company—Reporting Marks: L&N-CIL-MON-NC Effective August 15, 1976.

Missouri-Illinois Railroad Company—Reporting Marks: MI Effective July 15, 1976.

Missouri Pacific Railway Company—Reporting Marks: MP-C&EI-KO&G-T&P Effective July 15, 1976.

Seaboard Coast Line Railroad Company—Reporting Marks: SCL-ACL-C&WC-SAL Effective August 15, 1976.

It is further ordered, That this order will become effective for specific ownerships on dates to be set by the Car Service Division as each road is phased into the Project participants, and to advise the undersigned.

Effective 12:01 a.m., January 1, 1979, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., December 20, 1978.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc. 79-375 Filed 1-3-79; 8:45 am]

* Addition.

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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[6320-01-M]

1

[M-187; Dec. 28, 1978]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., January 4, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of items adopted by notation.

2. Docket 33348—Disclosure by foreign air carriers of denied boarding compensation rules (OGC).

3. Docket 29044—Part 252 of the Board's Economic Regulations—(1) Final rule on seating segregation; (2) Proposed rules on further amendments (memo 7323-E, OGC).

4. Report of the Senate Special Committee on Aging; request for summary of Board action in 1978 and planned actions in 1979 (OGC).

5. Docket 29058—*Norfolk-Atlanta Subpart M Proceeding (memo 8076-A, OGC).*

6. Docket 28778—*Additional Dallas/Fort Worth-Kansas City Nonstop Service Case*—draft tentative decision (memo 7778-B, OGC).

7. Dockets 32126, 32216, 32760, 30614, 31927, 32200, and 31278, *Twin Cities-Kansas City-Oklahoma-Texas Route Proceeding* (OGC).

8. Docket 31727, Reeve's motion for show-cause or other expedited procedures on its application for amendment of its certificate to add a new segment between Seattle, Wash., on the one hand, and Cold Bay, Alaska, on the other (memo 8395, BPDA).

9. Docket 32755; Application of Pacific Southwest Airlines for a certificate to perform supplemental air transporation west of the Mississippi River (memo 8384, BPDA).

10. Docket 33552—Exemption application filed by Frontier and the Shreveport Parties for nonstop Shreveport-Oklahoma City authority for 5 years (memo 8397, BPDA).

11. Dockets 33223, 33462, 33548, and 33948—Federal Express petition for an order to show cause on its certificate application for Midway-Cleveland/Detroit/Kansas City/Minneapolis/Pittsburgh/St. Louis nonstop authority; Wright's petition for an order to show cause on its certificate amendment application for Midway-Cleveland/Detroit nonstop authority; Frontier's and Ozark's application for Midway-Cleveland/Detroit/Kansas City/Minneapolis/Pittsburgh/St. Louis nonstop authority and their motions to consolidate with Federal Express' application; American's answer requesting some of the same authority (BPDA).

12. Docket 32319—Finalization of Show-Cause Order 78-10-93, tentatively adding a new segment consisting of the terminal point Tampa/St. Petersburg/Clearwater, Florida and the coterminal points Greensboro/High Point, North Carolina, Charlotte, North Carolina, and Columbia, South Carolina to Piedmont's system (memo 8223-A, BPDA).

13. Docket 32662; Show-Cause proceeding (Order 78-9-190) tentatively granting Eastern authority to provide nonstop service between Atlanta, Georgia, and Columbus, Ohio (memo 8147-A, BPDA).

14. Dockets 32315, 32722, 32728, 32734, 32938 and 33540—Subpart M Application of Texas International for Dallas/Ft. Worth-New Orleans Nonstop Authority and New Orleans-Albuquerque One-Stop Authority, and Applications and Motions to Consolidate of Frontier, American, Southwest, Continental, and Northwest (memo 7915-A, BPDA).

15. Dockets 33359 and 33695, Midland/Odessa/Amarillo/ Lubbock-Los Angeles Subpart M Proceeding (memo 8188-A, BPDA).

16. Dockets 33048, 33235, 33614 and 34075—Trans World's motion for hearing on its certificate application for Colorado Springs-Chicago Nonstop Authority; American's Northwest's and Ozark's applications, respectively, requesting similar authority between Colorado Springs-Chicago/St., Louis/ Dallas/Ft. Worth/Denver and Motions to Consolidate (memo 8398, BPDA).

17. Docket 34065; Continental's notice of intent to suspend its single-plane service between Wichita, on the one hand, and Tampa and Miami, on the other hand, in 60 days (BPDA).

18. Publication of list of eligible points as defined by the Airline Deregulation Act of 1978 (BPDA).

19. Docket 33712, Tiger International-Seaboard Acquisition Case (enforcement issues, BCP).

20. Release of information obtained during Part 305 nonpublic investigations (BCP, OGC memo 8382).

21. Docket 31333; agreement among the members of the Air Traffic Conference of America (ATC) relating to a Personal Guarantee of Performance of Air Traffic Conference Sales Agency Agreement (BPDA).

22. Air carrier rules pertaining to transportation of pregnant women (memo 8387, BPDA).

23. Docket 30332—Motion of our animal wards to file an unauthorized document (memo 7344-D, BPDA).

24. Dockets 23080-2 and 26487, amendment of certificates of all charter air carriers to include the authority to transport mail and establishment of temporary and/or final mail rates for certificate air carriers and air taxi operators who perform charter air services, all-cargo air services, air services over routes previously unused, and air services provided under the automatic market entry program (memo 4395-I, BPDA).

25. Docket 32484, Statement of Provisional Findings and Conclusions regarding the subsidy levels to be established effective July 1, 1978, under new class rate (class rate IX) and Order to Show Cause why temporary rates based on the "Statement" should not be set pending finalization of Class Rate IX (memo 7916-D, BPDA, OC, OGC).

26. Docket 24353, motion of Eastern Air Lines to modify the final order in the Mainland U.S.-Puerto Rico/Virgin Islands Fares case to broaden the application of night coach fares for travelers between the U.S. West Coast and San Juan (memo 4511-J, BPDA).

27. Dockets 34022, 34207 and 34239, exemption requests of PSA, Air California and Air Florida (memo 8396, BPDA).

28. Docket 33340, tariff limits for filing overcharge claims of certain carriers. Northwest Traffic Associates, a traffic consultant, complains that 180-day time limits for filing overcharge claims is too short (memo 8392, BPDA).

29. Docket 33406, petition for advisory opinion requested by Traffic Consultants and Matsushita Electric on legal status of claim for recovery of duplicate payments now pending in court (memo 8379, EPDA, OGC).

30. Part 288—Rulemaking proposed by BPDA and OGC to amend Part 288 and Related Provisions of the Economic Regulations to Eliminate the Establishment of Minimum Rates for all Charter and Scheduled Service Performed by Air Carriers Pursuant to Contracts with the Department of Defense (BPDA, OGC).

31. Docket 33937, specific commodity rates on military documents from Washington, D.C., to Middle East points proposed by DHL. Calico complains that proposed level is unlawful (BPDA).

32. Docket 33829, British Airways revision to its contract cargo rates tariff providing rate reductions to shippers exceeding the specified annual minimum rate requirement (BPDA).

33. Docket 30332, IATA agreements proposing new South Pacific and TC3 cargo rate structures (memo 8389, (BPDA).

34. Release of investigation materials in enforcement cases (memo 8383, BCP, OGC).

35. Docket 33083, Air Florida petition for reconsideration of Order 78-10-49, to relax long-haul restriction on its flights serving Miami/Fort Lauderdale-Nassau (BIA, OGC).

36. Docket 33012, application of Thomson Travel, Ltd., for indirect foreign air carrier permit (memo 8376, BIA).

37. Docket 33895, application of Fast Air Carrier Ltda. for exemption to perform 16 nonscheduled cargo flights between Chile and Miami pending final action on its 402 permit application (BIA).

38. Dockets 32333 and 33100, application of American Airlines, Inc., to amend its certificate for Route 134 to add Manzanillo and Zihuatanejo, Mexico, and to amend condition (5) to reflect the added routes; application of American Airlines, Inc., to amend its certificate for Route 134 only to amend Condition 5 of that route (memo 8381, BIA, OGC).

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, 202-673-5068.

[S-1-79 Filed 1-2-79; 11:19 am]

[6770-01-M]

2

[F.C.S.C. Meeting Notice No. 28-77]

FOREIGN CLAIMS SETTLEMENT COMMISSION.

ANNOUNCEMENT IN REGARD TO COMMISSION MEETINGS AND HEARINGS

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings for the transaction of Commission business and other matters specified, as follows:

Date, time, and subject matter

Wednesday, January 3, 1979, at 10:30 a.m.—Consideration of decisions involving claims of American Citizens against the German Democratic Republic.

Wednesday, January 10, 1979, at 10:30 a.m.—Consideration of decisions involving claims of American Citizens against the German Democratic Republic.

Wednesday, January 17, 1979, at 10:30 a.m.—Consideration of decisions involving claims of American Citizens against the German Democratic Republic.

Wednesday, January 24, 1979, at 10:30 a.m.—Consideration of decisions involving claims of American Citizens against the German Democratic Republic.

Wednesday, January 31, 1979, at 10:30 a.m.—Consideration of decisions involving claims of American Citizens against the German Democratic Republic.

Subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

All meetings are held at the Foreign Claims Settlement Commission, 1111 20th Street NW., Washington, D.C. Requests for information, or advance notices of intention to observe a meeting, may be directed to: Executive Director, Foreign Claims Settlement Commission, 1111 20th Street NW., Washington, D.C. 20579. Telephone: 202-653-6156.

Dated at Washington, D.C., on December 19, 1978.

FRANCIS T. MASTERSON,
Executive Director.

[S-4-79 Filed 1-2-79; 3:40 pm]

[7035-01-M]

3

INTERSTATE COMMERCE COMMISSION.

TIME AND DATE: 9:30 a.m., Tuesday, January 9, 1979.

PLACE: Hearing Room C, Interstate Commerce Commission Building, 12th and Constitution Avenue NW., Washington, D.C. 20423.

STATUS: Open special conference.

MATTER TO BE CONSIDERED: Amtrak—Adequacy Regulations and Other Policy Considerations.

CONTACT PERSON FOR MORE INFORMATION:

Douglas Baldwin, Director, Office of Communications, telephone: 202-275-7252.

The Commission's professional staff will be available to brief news media representatives on conference issues at the conslusion of the meeting.

JANUARY 2, 1979.

[S-5-79 Filed 1-2-79; 3:48 pm]

[4910-58-M]

4

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 9 a.m., Thursday, January 11, 1979 [NM-79-1].

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue SW., Washington, D.C. 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. *Aircraft Incident Report*—E.S.M. Group, Inc., Cessna Citation, N51MW, North Central Airlines, Inc., DC-9-30, N957N, LaGuardia Airport, Flushing, N.Y., June 21, 1978.

2. *Marine Accident Report*—USS *L. Y. Spear* collision with Liberian Motor Tankship *Zephyros*, Lower Mississippi River, February 22, 1978.

3. *Letter* to Federal Aviation Administration re recommendation A-75-28, overboard leakage of fluids subject to freezing.

CONTACT PERSON FOR MORE INFORMATION:

Sharon Flemming, 202-472-6022.

[S-3-79 Filed 1-2-79; 2:49 pm]

[7090-01-M]

5

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: January 3, 1979.

PLACE: Chairman's Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE CONSIDERED: Wednesday, January 3, 9:30 a.m.

1. Discussion of personnel matter (approximately 1½ hours, closed—exemption 6).

2. Briefing on fiscal year 1979 operating plans—Decision Unit Tracking (continued from Dec. 14, 1978, approximately 1 hour), (public meeting).

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

WALTER MAGEE,
Office of the Secretary.

DECEMBER 29, 1978.

[S-2-79 Filed 1-2-79; 2:38 pm]

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THURSDAY, JANUARY 4, 1979
PART II



DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

PROPOSED "CONTROLLED VISUAL AND FLIGHT" RULES

federal register

V 4 4 / 3 J A 4 7 9 UMI

[4910-13-M]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Parts 1, 71, 91, 105]

[Docket No. 18605; Notice No. 78-19]

"CONTROLLED VISUAL FLIGHT" RULES

Proposed Rulemaking

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: The FAA announces an extensive program designed to provide increased air traffic control (ATC) separation protection for air carrier, commuter airlines, and general aviation passengers. This program would include lowering the "floor" of the continental positive control area (PCA) from 18,000 feet to 10,000 feet east of the Mississippi River and over a portion of the State of California, and 12,500 feet west of the Mississippi River and over the remaining portion of California. This would require VFR pilots operating between this lowered "floor" and 18,000 feet to file flight plans, comply with ATC instructions, and have the equipment now required for operation in a Group I TCA, including transponder. When fully implemented, the controlled visual flight program would make ATC separation protection available to approximately 97% of scheduled air carrier passengers, and over 62% of commuter airline passenger enplanements in the terminal airspace environment. The same protection would also benefit general aviation passengers in this environment. Later actions will include proposals to raise the "ceilings" of 21 existing TCAs to the lowered PCA "floor" and establish 44 new Group II TCAs. The current Group III TCA concept would be deleted as unnecessary. Nonregulatory terminal radar service areas (TRSAs) would also be established, on a high priority basis, at 80 additional airports. Parachuting in the lowered PCA, and in the underlying terminal control areas (TCAs) would require ATC authorization. The present exclusion for gliders would be continued but notification of ATC would be required. The goal is the greatest possible increase in safety at the lowest achievable cost to all airspace users and, particularly, the highest feasible level of safety for passengers in public air transportation.

DATES: Comments must be received on or before: March 5, 1979.

ADDRESSES: Send comments on the proposal in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-24), Docket No. 18605, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

William E. Broadwater, Airspace and Air Traffic Rules Division (AAT-200), Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3731.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number, and be submitted in duplicate to the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket AGC-24, 800 Independence Avenue, SW., Washington, D.C. 20591. Communications should be received on or before March 5, 1979 to assure proper consideration. All comments submitted will be available in the Rules Docket, both before and after the closing date for comment, for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerned with this rule making will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this notice of proposed rule making (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The "Highest Degree" of Air Transportation Safety

The Air Traffic Control (ATC) system, through the evolution of equipment and the high levels of skill of pilots, controllers, and others, has evolved into a system in which the probability of a collision is extremely remote. For example, in 1978 there were approximately 95 million operations recorded by FAA facilities in the continental United States, including approximately 70 million terminal operations and 25 million enroute operations. Approximately 2 near midair collisions (NMACs) were reported per million operations in TCAs, 4 NMACs were reported per million operations in TRSAs, and less than 1 NMAC was reported for each million operations reported in enroute airspace. The present high level of public confidence in this system is well justified. It is a system that can properly be taken for granted by the travelling public. However, while the likelihood of a collision is diminishing, the importance of continued examination of the ATC system remains, for these statistics can not measure the social costs of an accident. With this in mind, the FAA is embarked upon a major new initiative to improve still further the collision avoidance protection of the existing ATC system while developing new system capabilities through extensive research and development involving ground based and airborne equipment. Like other systems, the ATC system can be improved. This requires the constant support of all users of the system to assure an accurate assessment of the critical elements essential to the safe and efficient flow of air traffic. This is particularly true where the safety of passengers carried by air carriers is concerned.

The congressional mandate is clear with respect to the high levels of safety intended for passengers in air transportation. Section 601 of the Federal Aviation Act of 1958 requires that the FAA give full consideration to the duty resting on air carriers to perform their services with the "highest possible degree of safety in the public interest * * *" This Congressional concern for air transportation, as a distinct class to be protected, was most recently restated in the Airline Deregulation Act of 1978 (Pub. L. 95-504, October 24, 1978) which amended section 102 of the Federal Aviation Act of 1958 to emphasize the "dedication of the Congress to the furtherance of the highest degree of safety in air transportation and air commerce, and the maintenance of the safety vigilance that has evolved within air transportation and air commerce and has come to be expected by the traveling and shipping public" (49 U.S.C. 1302(a)). The Airline Deregulation Act of 1978 also directs the Secretary of Transportation ("Secretary"), by July 1, 1979, to complete a thorough review of the safety regulations applicable to air carriers in order to ensure that "all classes of air carriers are providing the highest possible level of safe, reliable air transportation to all the communities served by those air carriers." The Administrator is directed to respond to the Secretary's review by promulgating regulations that may be needed to "maintain the highest standard of safe, reliable air transportation in the United States." The "high standard of safety in air transportation" is also stressed in relation to annual reports to be submitted to the Congress by the Secretary beginning not later than January 31, 1980 (New section 107 of the Federal Aviation Act of 1958, as amended by the Airline Deregulation Act of 1978). The orderly and extensive expansion of positive controlled airspace, beginning with the proposals in this notice, would assure that the system-wide capability of the FAA to assure separation protection for air carrier passengers remains consistent with the encouragement and growth of a vigorous, safe and efficient air transportation system, as comtemplated by the new Act.

The support of all airspace users is critical to the success of the controlled visual flight program. In view of the widespread use of ATC services by pilots even when not required (see analysis of pilot participation in TRSAs, below), the FAA believes that the CVF concept can be highly effective.

Background: Enroute Airspace

While the existing ATC system has been extraordinarily successful in moving large volumes of aircraft safely a small risk of collision remains. For enroute operations, this risk has been identified in the airspace between 10,000 and 18,000 feet where uncontrolled VFR aircraft "mix" with air carriers and other ATC controlled aircraft. For altitudes above 18,000 feet, where positive controlled airspace has already been implemented, the incidence of NMACs has all but disappeared, with approximately 10 per year being reported throughout the entire upper airspace structure.

Altitudes Below 18,000 Feet

Between January, 1976, and September, 1978, for operations below 18,000 feet within the 48 contiguous States, 1,006 near midair collisions (NMACs) were reported to FAA. (Unless otherwise stated, all references to altitudes in this Notice are to Mean Sea Level (MSL)). Of these reports, 95% (948) involved an aircraft operating under visual flight rules, and 26% (257) involved an air carrier aircraft. Eighty-three percent of the incidents (212) involving an air carrier aircraft also involved a VFR aircraft. Between the altitudes of 17,900 and 13,000 feet, 35 NMACs were reported, of which 91% (32) involved VFR aircraft and 46% (16) involved air carrier flights. Ninety-three percent (15) of the incidents involving air carriers involved a VFR aircraft.

12,900 to 10,000 Feet

For altitudes between 12,900 feet and 10,000 feet, 79 NMACs were reported, of which 91% (72) involved VFR aircraft and 57% (45) involved air carrier flights. Of the incidents involving air carriers, 87% (39) involved VFR aircraft.

With respect to the NMACs in which an air carrier aircraft encountered a VFR aircraft, 62% (24) occurred in enroute airspace, while 38% (15) occurred within a 30-mile radius of an airport at which at least one of the two aircraft involved had departed or was arriving prior to landing.

Below 10,000 Feet

For altitudes at and below 9,900 feet, 892 NMACs were reported, of which 94% (844) involved VFR aircraft, while 22% (196) involved air carrier aircraft. Of the incidents involving air carrier aircraft, 86% (168) involved VFR aircraft. Thirty-nine of the incidents (23%) involving an air carrier aircraft and a VFR aircraft occurred in the enroute environment, while 129 (77%) occurred within 30 miles of an airport at which at least one of the aircraft was either departing or arriving for the purpose of landing.

Near midair collision data has also been recorded in the airspace for which the FAA is proposing to establish either a terminal control area (TCA) or terminal radar service area (TRSA). In this airspace, 327 NMACs were reported between January 1, 1976 and September, 1978. Of these incidents, 94% (306) involved a VFR aircraft and 32% (106) involved an air carrier aircraft. Of these air carrier incidents, 87% (92) involved an encounter with a VFR aircraft.

Regulatory Conclusion

The FAA views this kind of information not as an absolute indicator of numbers of incidents, but rather, as a means of understanding the potential for a catastrophic event and the factors that may be controllable in reducing that potential. In this context, the above near midair collision data point to two conclusions: (1) A small but clear potential for midair collision exists, for certain enroute and terminal airspace; and (2) a recurring factor in this potential is the presence, in that airspace, of VFR aircraft that are not under full ATC control. This factor can be almost completely eliminated, within that airspace, by regulation.

FAA believes that this near midair collision data supports the extension of positive controlled airspace into the region between the current ceilings of the TCAs (prescribed at various altitudes between 7,000 feet and 12,500 feet) and the floor of the continental positive control area (generally at 18,000 feet). The absence of positive control in this layer of airspace deprives arriving and departing IFR aircraft in this airspace of the full benefits of air traffic control while they are transitioning between terminal and enroute operations. This means that during descent or climb-out, IFR aircraft in some cases pass through a band of airspace in which VFR aircraft are not separated from IFR aircraft by ATC, even though that service is provided before entering that airspace and immediately upon leaving it. Implementation of CVF appears to offer one possible solution which would eliminate the "mix" of uncontrolled VFR aircraft and controlled IFR aircraft, while avoiding the more restrictive approach of requiring all aircraft to be under IFR, as is now the case for operations in the positive control area above 18,000 feet.

This notice initiates the CVF program by concentrating on the enroute environment. Since the concepts in this notice have matured to the point that detailed regulatory language can be offered for public comment, this document is issued as a notice of proposed rule making, rather than as an Advance Notice of Proposed Rule Making (ANPRM) as has been previously discussed with the public. This procedure will accelerate the development of necessary rules in the high speed, enroute environment.

The near midair collision data described above, for the enroute environment, indicates that the FAA should act as soon as possible to assure full separation to aircraft at and above 12,500 feet, and, in the two heaviest air traffic areas, at and above 10,000 feet.

As part of this process, the FAA has identified two areas in which the full protection of air carrier passengers and other airspace users requires ATC separation of all aircraft at and above 10,000 feet (rather than at and above 12,500 feet only) because of the sustained heavy traffic in these two area.

The "Western Step"

One of these areas, referred to as the "Western Step," encompasses approximately one-third of the State of California. It takes in airspace from approximately 80 miles north of San Francisco to the Mexican border, and extends from the coast eastward to the west slope of the Sierras, where the terrain rises sharply. It constitutes a topographically well defined corridor encompassing all the major city-pairs in California. The airspace in the Western Step generates one of the highest NMAC counts in the United States.

The "Eastern Step"

The other area for which a 10,000-foot PCA floor is proposed encompasses all of the airspace east of the Mississippi River. State-by-State analysis of NMAC data for the 10,000-12,500-foot strata indicates that NMACs are considerably more likely in this airspace than in the airspace west of the Mississippi River. From

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the Florida panhandle to slightly west of Chicago, the implementation of the CVF concept could have a significant beneficial effect. The Mississippi River itself is a clearly discernible landmark for VFR pilots.

PUBLIC COMMENT INVITED

In discussion below concerning the impact of the 10,000-foot PCA floor on VFR operations, public comment is requested concerning the precise effects of the Eastern and Western Steps on aircraft usage. If analysis of these comments indicates that the desired improvement of the ATC system can be accomplished with less airspace in the 10,000-foot areas, the Eastern Step or Western Step may be adopted in smaller form. However, if adopted as proposed, the lowered floor of the continental positive control area would be structured as shown in Figure 1 (the precise description of the proposed boundaries of this airspace is furnished in the amendatory language below).

Proposed Continental Positive Control Area

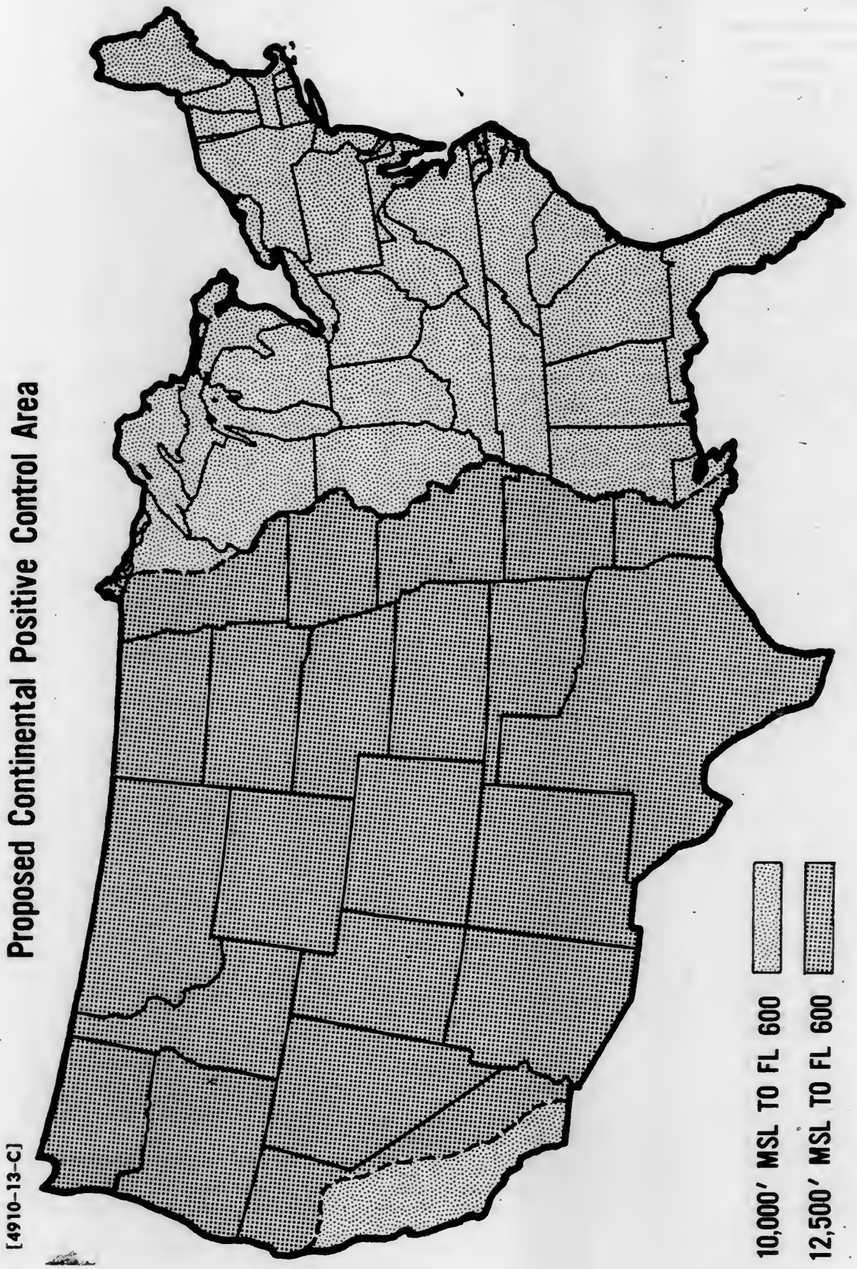


FIGURE 1

[4910-13-C]

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Terminal Airspace

Concurrent with the issuance of this notice concerning enroute airspace, the FAA is developing additional proposals to reduce the probability of hazardous traffic conflicts involving the mix of controlled and uncontrolled aircraft in the terminal environment. These supplementary proposals will build on the controlled visual flight concepts proposed herein, and would raise the ceilings of the existing terminal control areas to 12,500 feet (and, in the two heavy air traffic areas mentioned above, 10,000 feet).

This would be a logical extension of many years of pilot participation in terminal radar separation programs. In 1962, such a program was initiated at Atlanta to solve communications workload problems and assist in aircraft sequencing. This was followed by a similar program at Merced Air Force Base, California, in 1965. This service was gradually extended until 1970, when the National Terminal Radar Program initiated a major expansion of ATC separation service following the 1968 Near Midair Collision Report (discussed below). Beginning with the TRSA at Nashville, a total of 86 TRSAs covering 105 airports were established under that program, the last being the Peoria TRSA in 1978. The 1970 National Radar Program also initiated the TCA concept involving mandatory ATC control of VFR (and IFR) aircraft. Beginning with the Atlanta TCA in 1970 and ending with the Kansas City TCA in 1975, 21 TCAs covering 23 airports have been implemented by regulation. In addition, the ceiling of the Atlanta TCA was raised to 12,500 feet in 1975 to provide additional protection for arriving and departing aircraft.

The controlled visual flight program carries this history forward by expanding the terminal airspace protected by ATC separation. New Group II Terminal Control Area proposals are being developed for the following 44 airports:

Albany, N.Y.	Dayton
Albuquerque	Des Moines
Anchorage	Dulles
Baltimore	El Paso
Birmingham	Fort Lauderdale
Buffalo	Hartford-Windsor Locks
Charlotte	Honolulu
Cincinnati	Indianapolis
Columbus, Ohio	Jacksonville
Kahului	Reno
Lihue	Rochester, N.Y.
Louisville	Sacramento
Memphis	Salt Lake City
Milwaukee	San Antonio
Nashville	San Diego
Norfolk	San Juan
Oklahoma City	Spokane
Omaha	Syracuse
Orlando	Tampa
Phoenix	Tucson
Portland, Oregon	Tulsa
Raleigh-Durham	West Palm Beach

Group III TCAs Not Needed

Because of the expanded use of Group II TCAs and TRSAs, it is believed that the Group III TCAs as a class would not be needed. While there are no Group III TCAs in existence, the current rules provide for their issuance if they are needed. A proposal to delete all references to Group III TCAs was circulated in 1976 (see Notice 76-20, 41 FR 46875, October 26, 1976). However, to obtain a more current and detailed public response on this question as a part of the extensive increase in the number of Group II Terminal Control Areas, the matter of deleting all references to "Group III" TCAs is proposed again in this notice. The reason for the proposed elimination of the Group III TCA concept is that, as originally issued in 1970, the Group III TCA rules permit aircraft to either be in two-way radio communication with ATC or be equipped with a transponder and altitude encoder. This would authorize properly equipped aircraft to transit the TCA without communication with ATC. In view of the increase in aircraft operations to date in terminal airspace, and those expected in the future, the FAA believes that adequate ATC control of the "mix" of controlled and uncontrolled aircraft requires, as a minimum, that each aircraft in the TCA receive and comply with ATC instructions. This capability would be assured in the 44 new Group II TCAs that are proposed. If those new TCAs are established, it appears that additional TCAs in which a pilot may elect not to communicate, if altitude reporting equipment is used, (e.g. the Group III concept), would serve no useful purpose.

The Terminal Airspace Collision Potential

In addition to the experience in enroute airspace, the FAA experience since the establishment of mandatory TCAs and voluntary Terminal Radar Service Areas (TRSAs) indicates that, in terminal airspace as well, the absence of ATC control of VFR aircraft interferes with the ability of the ATC system to assure separation for all airspace users. A comparison of periods before and after the establishment of terminal control areas and terminal radar service areas is instructive. In 1968, the FAA conducted an extensive study of the near midair collision hazard in U.S. airspace. The results of this study were published in the "Near Midair Collision Report of 1968," July, 1968. A major portion of the report was devoted to the collision potential in terminal airspace. For the year 1968 (which preceded the establishment of terminal control areas), the report concluded that, for the airports now served by terminal control areas, there were 271 incidents reported as "hazardous" to flight. In response to that study, since 1970, 21 terminal control areas were established. For the fiscal years 1975, 1976, and 1977, there were a total of 64 reported near midair collisions in these terminal control areas. For comparison purposes, this translates into an average of approximately 20 reported incidents per year, under the TCA requirements, in contrast with 271 incidents for the year 1968. Here again, it should be noted that these figures are not conclusive indicators of the absolute numbers of incidents, but are viewed as pointing toward the critical relationship between the absence of positive control of all aircraft and the likelihood of hazardous traffic conflicts in terminal airspace.

Regulatory Conclusion

Where the mass transport of passengers by air carriers is involved, and considered in relation to the "highest possible" safety level intended for air carriers, the FAA believes that the presence of controlled and uncontrolled aircraft, in the same airspace, must be limited by regulation at the 44 additional airport locations referred to above, and in the airspace between the ceilings of existing TCAs and the lowered floor of the continental positive control area. The detailed, localized impacts and scope of each new TCA, and of the raising of the current TCA ceilings, will be addressed in later rule-making actions involving each location. However, based on the experience concerning the existing TCAs, the FAA concludes that extension of positive control to the additional locations would provide an effective means of further reducing the risk of midair collision.

Summary of Safety Benefits

For several years the FAA has been considering means of extending ATC services to VFR pilots without unduly limiting VFR operation. During this period, the factors involved in near midair collisions have received intensive review. The conclusions of this review all point in one direction: an orderly, equitable, and extensive expansion of positive controlled airspace is necessary to achieve a significant reduction of the midair collision potential in the enroute and terminal environments and to assure that ATC services grow with the projected growth of air commerce. Implementation of CVF as proposed in this notice would significantly expand the benefits of the collision avoidance capability that already exists in ground based and airborne equipment, and would provide a much broader basis for incorporating improved collision avoidance equipment at a later date.

Air Carrier Passenger Benefits

Scheduled air carrier passenger enplanements reached the 280 million mark in 1978. The establishment of Terminal Control Areas at the 44 additional airports listed above would raise, to 87%, the percentage of all enplaned scheduled air carrier passengers, in the United States, that receive the full benefits of mandatory positive control in terminal airspace. This is in contrast with the current figure, for the 21 existing TCAs, which is 62%. The FAA also plans to supplement this action with the establishment of 80 new terminal radar service areas (TRSAs). A TRSA is a designated area, around an airport, in which participating VFR aircraft are, if they request, provided separation from IFR aircraft and other participating VFR aircraft. Some of the existing TRSAs would be converted to TCAs. At the conclusion of this expansion of TCA and TRSA airspace, the total percentage of enplaned air carrier passengers receiving either mandatory (TCA) or voluntary (TRSA) separation protection will be approximately 97% as compared with 98% (which includes 62% in TCAs and 27% in TRSAs) in the current ATC system.

These figures mark a major shift in emphasis toward TCAs (up from 62% to 87% of enplaned scheduled air carrier passengers) and away from TRSAs (down from 27% to 10% of enplaned passengers). This should further increase the overall safety furnished by the CVF program. Considering the statutory mandate to seek the "highest degree of safety" for passengers in public air transportation, this expansion of terminal and enroute airspace would be an important factor in assuring that the ATC system continues to keep pace with the projected growth in air carrier passenger enplanements. For the years 1977-1989, these enplanements are forecast to increase by 80% (from 232.1 to 418.4 million) (The source of the forecasts in this notice is a study entitled *FAA Aviation Forecasts: Fiscal Years 1978-1989*, September, 1977. This study is in the rules docket).

Commuter-Airline Passenger Benefits

In addition to the substantial increase in terminal airspace protection for air carrier passengers that would be afforded by the planned TCAs and TRSAs, major safety benefits would also result for commuter airline passengers. Using 1977 figures (which is the last set of complete commuter traffic data), the addition of the 44 new TCAs and 80 new TRSAs (and the conversion of some of the existing TRSAs to TCAs) would raise the number of enplaned commuter passengers protected by ATC separation capability from 3,619,550 (in the existing TCAs and TRSAs) to 4,332,637 (after the proposed TCAs and TRSAs come into effect). Within this total increase of 19.7%, the number of enplaned commuter airline passengers protected by the mandatory TCA requirements would be increased from 2,667,992 to 3,446,147. This means that, based only on 1977 commuter data, the planned TCA actions would result in a 29.2% increase in the number of enplaned commuter airline passengers protected by TCA separation procedures. In relation to the total number of enplaned commuter airline passengers in the contiguous 48 States (6,937,649), this achieves an increase, in protected passengers, from 38.5% to 49.7%. When combined with the new TRSA actions, this figure rises to 62.5% of all commuter enplanements. It should be noted that these figures appear to be quite conservative for two reasons. First, they are based on 1977 data, whereas the projected growth of commuter airline operation is expected to place many more passengers in the protected airspace. (The September, 1977, FAA Forecast, discussed above, indicates that, between 1970 and 1977, commuter passenger enplanements increased from 4 million to 7 million, which is an average of more than 8% each year. Commuter enplanements are expected to reach 14.5 million by 1989, which is an increase of 123% from 1977.) In addition, the cited figures are generally for the primary airports only, and do not show enplanements at certain airports, included in TCAs and TRSAs, that are not the primary airport around which the TCA or TRSA is designed. The proposals in this notice could, in summary, be instrumental in increasing the volume of commuter airline passengers that receive the full benefits of the ATC system in terminal airspace.

General Aviation Benefits

The proposed terminal and enroute proposals in this notice would benefit the general aviation passenger in a manner closely paralleling the benefits accruing to air carrier and commuter passengers. It is impossible to precisely predict the airport use pattern of business, private, and sport aircraft because they are not tied to any schedule and have as a primary value great flexibility of operation. However, many general aviation aircraft use the airports that are used by air carriers and commuters. These aircraft often serve as an important link between the airlines and their ultimate market. The FAA supports this "bridge" function of general aviation within the total public air transportation system and has also considered, in these proposals, the large and vital role of general aviation outside of public air transportation.

General aviation aircraft comprise 98.7% of the total number of aircraft in the U.S. civil aircraft fleet. During 1977, approximately 185,000 active aircraft (out of a total general aviation fleet of 212,735 aircraft) operated approximately 35.8 million hours of flight time. This constituted a 5.6% increase over the total flight hours for 1976 (33.9 million). The 1977 FAA Forecast indicates a growth rate of 5.6% per year through 1982, with a slower growth maintained through 1989. This is expected to result in a 63% increase in numbers of general aviation aircraft from 1977 to 1989 (up to 294,000 aircraft). The hours flown by this expanding general aviation aircraft fleet are forecast to grow 64% between 1977 and 1989. The composition of this fleet is expected to shift toward more fully well equipped single engine airplanes, multiengine airplanes, and turbine powered aircraft as the sophistication of general aviation increases. For example, by 1989, multiengine aircraft—which are already generally well equipped with avionics—are expected to comprise 18.5% of the general aviation fleet compared with 14.4% in 1977. These aircraft will be able to benefit directly from the expanded ATC service contemplated under the CVF concept. In the 44 additional TCAs, 80 additional TRSAs, and lowered positive control area, the proposals in this notice would substantially increase the ability of the ATC system to offer full separation protection to an expanding general aviation community that is already investing heavily in airborne avionics in order to tap into this system.

Regulatory Conclusion

In summary, the raising of TCA ceilings to a lowered PCA floor of 12,500 feet (10,000 feet in the Western Step and Eastern Step) will assure that sep-

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aration protection is available, to millions of passengers, in the terminal and enroute phases of flight. This benefit will be significant for air carrier, commuter airline, and general aviation operations. The FAA concludes that this constitutes a needed and substantial increase in the ability of ATC and aircraft operators, working together, to further reduce the remaining risk of midair collision. However, the FAA intends to achieve this benefit in a manner that is responsive to, and accounts for, the potential costs and related impacts of the CVF program on the aviation community. The general aviation segment of that community—particularly the class of personally owned light aircraft—is the most cost sensitive user group. This is discussed below.

Costs and Other Impacts: Request for Public Comments

While the FAA is committed to the improvement of the ATC system wherver possible, it is also concerned with the impacts of it regulations on all airspace users, and will assess the need for expanded air traffic control against the regulatory impacts of "shrinking" the airspace in which aircraft that are not subject to air traffic control may operate freely in a "mix" with aircraft that are subject to air traffic control. Full public participation in the development of FAA regulations concerning this "mix" of controlled and uncontrolled air traffic is essential to solutions that are both effective and equitable. With respect to the enroute CVF proposals in this notice, public comment is requested herein. With respect to the forthcoming TCA proposals, as already noted, comments concerning the impacts of those actions will be invited for each location.

Some questions have been received from the public concerning whether the vigorous pursuit of safety objectives might result in the exclusion of aircraft from certain airspace merely because the aircraft are "small" or classified by purpose of use, such as "general aviation." Such exclusionary classification has no part in the controlled visual flight concept proposed here. While the safety objectives discussed above reflect an FAA commitment and Congressional mandate, the intent is to minimize the costs on all users, wherever possible, consistent with the safety objectives. All segments of aviation are viewed as integral and mutually supporting elements of a healthy and growing national aviation system. The imposition of a cost is intended to be related solely to the need to continue to assure the mandated levels of safety. It is not related to any intent to exclude or burden a particular aircraft class because of its mission. In particular, in dealing with a fleet comprised of 98.7% general aviation aircraft and 1.3% air carrier aircraft, much attention has been directed to the impacts of the CVF concept on the general aviation fleet.

The FAA recognizes the impacts of these proposals, particularly in the new terminal control areas. For example, a May, 1976, study entitled "*Analysis of the Impact of Terminal Control Area (TCA) implementation on General Aviation Activity,*" which investigated the probable effect of selected TCA development on general aviation operations, concludes that—

> The presence of a TCA at a large hub airport is accompanied by a marked shift in the type of general aviation aircraft using the primary TCA airport. This shift is towards the more sophisticated, more expensive, primarily business oriented aircraft.

On the other hand, that study also contained conclusions suggesting that certain other categories of impact may be held to a low level. It states that the establishment of a TCA "does not appear to dramatically affect the total number of airport operations attributable to general aviation aircraft," and that "expanding a TCA either upward or horizontally would have little effect on general aviation if reasonable VFR alternatives are retained." This study is in the docket for public review.

An Evolutionary Process

In order to ensure that the 44 proposed new TCAs, and the raised ceilings of the existing TCAs, are accomplished in a manner responsive to the problems raised at each location, the public will be invited to participate in the development of each of the new TCA actions. The configuration of a TCA can have impacts on the airports, other than the primary TCA airport, that may underlie the TCA or be included in it. Therefore, the concerns of airport operators, as well as those of aircraft operators, will be fully considered in each TCA action. It is believed that, with the same close participation of the aviation community that characterized the development of the existing TCAs following the 1968 Near Midair Collision Report, the projected addition of the new TCAs, some of which would be outgrowths of existing TRSAs, can be accomplished as a logical, equitable evolution of the earlier program.

Pilot Participation

It is encouraging to note that, in the 80 existing TRSAs, which are completely voluntary, approximately 92% of all VFR arrivals and approximately 84% of all VFR departures elected to participate, that is, stay in communication with the appropriate ATC facility and use "Stage III" radar service. (Stage III radar service involves radar sequencing and separation service, to provide separation between participating VFR aircraft and all IFR aircraft operating in the TRSA.) This high participation rate reinforces FAA's broader experience indicating that a high professional concern exists, within all segments of the aviation community, that available safety aids be used whenever possible. The expansion of TCA and TRSA airspace under the CVF program is expected to involve a high degree of pilot support similar to that indicated by the large percentage of VFR pilots who now voluntarily participate in Stage III radar service.

In addition to the question of pilot acceptance, the FAA requests public comment on the economic impacts of the overall CVF concept in terms of equipment required. The lowered floor of the continental positive control area would, as discussed above, require the same equipment as a Group I TCA for all operations at and above 12,500 feet (10,000 feet in the areas described as the "Eastern Step" and "Western Step"). This requires an operable VOR or TACAN receiver, two-way radio capable of communicating on the TCA frequencies, a 4096 Code Transponder, and Mode C altitude reporting equipment. These equipment requirements would be applicable, except for the Mode C capability and (in the limited case specified in § 91.90(b)(2)(iii)) transponder, in the new Group II TCAs.

With respect to aircraft that are now operating above 12,500 feet, the CVF concept should not have additional equipment cost impacts, since § 91.24 already requires those aircraft to have transponders and Mode C altitude reporting equipment, and aircraft having that relatively sophisticated equipment may be expected to have the less sophisticated equipment (VOR/TACAN and two-way radio) proposed under the CVF concept.

With respect to aircraft operations in the band between 10,000 feet and 12,500 feet, probable equipment cost impacts are more difficult to assess, primarily because the FAA, to minimize unnecessary rule making, is reluctant to require VFR pilots or aircraft owners to periodically submit reports on aircraft usage or installed equipment.

However, in 1977, under an extensive but voluntary reporting program, a substantial number of reports were submitted. Because of the limitations of any sampling process, the results must be considered to be approximate. The study is, nevertheless, conservative on the low side and is useful in that it does not underestimate the portion of the general aviation fleet that remains to be equipped with full avionics (and that could, therefore, be most heavily impacted by the CVF

concept). The report indicated that, for the least sophisticated aircraft, that is, single engine airplanes with fewer than 4 seats, 39.5% (29,403 airplanes) had no communications capability whatsoever. Of the airplanes having some communications equipment, 55.2% (41,126) had 360 channel communications capability, and 39.8% (29,650) had at least 100 channel VOR capability (the least sophisticated VOR equipment surveyed). Transponders and encoders were far more scarce, however, with approximately 10.6% of the airplanes (2,877) having transponders and 1.0% having encoders. In this class, therefore, only 1% of the airplanes, out of those sampled would be able to operate above the 10,000-foot portion of the lowered PCA floor, if the CVF concept is adopted as proposed, and 10.6% could operate in the new Group II TCAs. For this least expensive class of aircraft, it appears that an extensive fleet wide investment in avionics may be needed for these airplanes to participate in the new TCAs. It is less clear how the 10,000-foot PCA floor, defining the Eastern Step and Western Step, would affect these aircraft. The critical factor is the importance of operations above 10,000 feet to the operators of these aircraft. The FAA requests public input concerning the extent to which this class of aircraft uses the airspace above 10,000 feet. While nearly all of these aircraft have the theoretical performance capability of doing so, it may be that the long climb periods involved for these relatively low performance aircraft, as compared with the fuel range of these aircraft, and their usage (such as flight instruction, agricultural operation, etc.), effectively keep the aircraft out of the higher altitudes in any case.

The next increment in aircraft cost and complexity (i.e. the jump to the single engine airplane with 4 or more seats) appears, from this 1977 voluntary data, to also involve a major leap in avionics investment. Nearly 70% of the aircraft in this group (67,719 aircraft) were reported as having 360 channel communications equipment, 47.45% (46,565) has at least 100 channel VOR capability, and 70.2% (68,976) were transponder equipped. This class was also much more widely equipped with encoders, with 20.5% (20,128) being so equipped. As aircraft complexity and expense increased beyond this point into the multiengine piston, turboprop, and turbojet classes, the incidence of sophisticated avionics rose markedly, according to the study. For example, 98.3% of the twin engine turboprop airplanes with 12 seats or less (2,255 airplanes) were equipped with both transponder and encoder. For these more sophisticated aircraft classes, the additional equipment costs of the proposals in this notice should be minimal.

Manufacturing Trends

It also appears that normal aircraft production and marketing patterns will gradually reduce the proportion of the general aviation fleet that is most sensitive to avionics costs. For example, in 1977, single engine piston aircraft accounted for 81% of the general aviation fleet. By 1989, this percentage is forecast to drop to 77.5%, while multiengine aircraft are forecast to represent 14% of the fleet in 1989, compared with 11.9% in 1977. The 1977 figures for general aviation shipments (discussed above) confirm that, while total shipments increased from 13,749 in 1968 to 16,624 in 1977, the shipments of single engine airplanes with less than 4 seats declined from 4,507 (1968) to 3,379 (1977). During this period, the shipment of larger single engine airplanes increased from 6,972 to 10,478 and multiengine airplane shipments increased from 2,270 to 2,767. These figures suggest that time is on the side of a relatively problem-free transition to CVF by the expanding general aviation fleet.

However, the FAA recognizes that these overall fleet figures do not answer the concern of the private aircraft owner who has not invested in avionics, and for whom the costs of personal aircraft ownership are already a substantial burden. With regard to the forthcoming terminal airspace proposals, comments from this owner/operator group will be invited. With respect to the en route proposals in this notice, these operators are requested to submit, to the rules docket, their responses to the following questions:

1. If the aircraft is operated above 10,000 feet, what is the aircraft type, how much time is spent above 10,000 feet, and what is the purpose of this high altitude operation?

2. What is the general geographic area of the operation above 10,000 feet? Specific comment on the effect of the boundaries of the Eastern and Western 10,000-foot Steps is requested.

Environmental Considerations

With respect to the lowering of the floor of the continental positive control area to 12,500 feet generally, and 10,000 feet in the Eastern Step and Western Step, and the raising of the existing TCA ceilings to meet this lowered PCA floor, the FAA has determined that the noise, aircraft emissions, and fuel consumption effects would not involve a significant impact on the quality of the human environment. This is true since none of these proposed rule changes would significantly alter the flight paths or operational characteristics of aircraft at the lower altitude at which noise could be a factor (such as the 2,500-foot "buffer" between the PCA floor and high, mountainous terrain), and no change is contemplated that would affect, in any significant way, the emissions characteristics or the total emissions generated by, aircraft operating in the en route or terminal airspace. While the total flight time of certain nonparticipating aircraft may be increased by circumnavigating the TCAs, this factor can be kept to a minimum through the use of minimum-distance bypass airways and VFR routes, and ATC accommodation of aircraft, in the TCA, workload permits. This is also true of the flight rules proposed in § 91.111 since the are not intended to materially affect the basis operation characteristics or flight paths of aircraft. The proposed relaxation of the speed restriction in § 91.70 would permit departing turbojet aircraft, under certain conditions, to leave a noise sensitive airport environment more quickly, in compliance with noise abatement procedures, and at airspeeds that are more efficient from a fuel conservation standpoint. Certain fuel conservation increases may be expected to result from the joining of the TCA ceilings with the lowered floor of the continental positive control area. These impacts and related costs would occur because nonparticipating VFR aircraft would be required to circumnavigate the TCA and could no longer overfly it. However, as was stated above regarding emissions impacts, the FAA has determined that these increases can be kept to a nonsignificant level through the use of fuel-efficient bypass airways, VFR routes permitting the shortest possible distance around the TCA, and ATC accommodation of aircraft where workload permits and where authorized by § 91.24. The individual environmental impacts of the 44 new TCAs that are planned will be addressed in the rule-making process for each of the affected airport areas.

Outline of Proposals

The extensive expansion of positive controlled airspace, as discussed in detail below, is proposed in order to ensure all airspace users the utmost in safe, uneventful air transportation. In order to assist commenters in responding to the request for views, data, and arguments on the application of the controlled visual flight concept, the following outline of the proposed rules is furnished. However, a full understanding of these proposals requires a close reading of the draft regulatory language furnished below. Unless otherwise stated, all altitude reference are Mean Sea Level (MSL).

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DEFINITIONS—FAR PART 1

To ensure consistency between the basic regulatory definitions in Part 1 and the concept of controlled visual flight, and to correct deficiencies in that part, the following amendments are proposed (see §1.1):

1. The definition of "controlled airspace" would be broadened to specifically include "positive control areas." This corrects a long standing omission in this definition.

2. A new definition, describing "Controlled Visual Flight" would be added. This states that CVF is the operation of an aircraft under VFR "in designated positive control airspace." Note that CVR is not a third kind of flight other than VFR or IFR. It is not a hybrid. Rather, it would be defined as VFR in designated airspace having all aircraft separated by ATC. Therefore, all of the VFR provisions of the Federal Aviation Regulations would apply, in addition to any special rules applicable in the designated airspace.

3. Also correcting an omission, a definition of "positive controlled airspace" would be added making it clear that all airspace in which "positive control" (as now defined in § 1.1) is exercised by ATC is "positive controlled airspace." Together with the new definition of "controlled visual flight" (see above), this makes it clear that ATC separation of each aircraft from all other aircraft, VFR and IFR, is inherent in the CVF concept. This is in addition to the pilot's duty to see and avoid other aircraft specified in § 91.67, and the pilot's primary responsibility for flight safety stated in § 91.3(a).

AIRSPACE PROPOSALS—PART 71

As stated above, "controlled visual flight" would be defined as VFR operations in "designated positive controlled airspace." The proposed amendments to Part 71 would define the areas of positive controlled airspace within which compliance with the CVF rules would be required. Related amendments would also be made to preserve a consistent airspace structure. These proposals are as follows:

1. The major changes would be the amendment of § 71.193 to lower the continental positive control area (PCA) floor from 18,000 feet to 12,500 feet (10,000 feet in the Eastern Step and Western Step), and the amendment of Subpart K raising TCA airspace to meet the lowered PCA floor. This revision of Subpart K would, as in the past, be accomplished by additional airspace actions tailoring the raised airspace of each TCA to the conditions at each location. As stated above, public comment will be sought to minimize the adverse impacts on participating and nonparticipating aircraft. Section 71.12 would also be amended to reflect this revision of Subpart K. In addition, 44 new TCAs, at locations listed above, would be added following notice and public procedure involving Subpart K. With this action, there would be no need for "Group III TCAs," and that category would be removed from § 71.12. These changes, when combined with the lowering of the PCA floor, would provide for a continuous protective envelope of airspace, free of unknown VFR traffic, for climbing, cruising, and descending high performance aircraft. When combined with the operating rule proposals in Part 91 (discussed below), these airspace changes would assure the availability of positive control for all traffic, VFR and IFR, from takeoff to landing between locations served by TCAs. The lowering of the PCA floor, as proposed, would not apply to the Alaskan postive control area. The factors affecting aircraft operations in Alaska are not addressed in this notice.

2. Under the current rules, the continental control area extends upward indefinitely from 14,500 feet and the positive control areas terminate at 60,000 feet. There is no need for the airspace of the continental control area to be superimposed on the airspace of the continental positive control area. To eliminate this redundancy in the interest of a simpler airspace structure, § 71.9 would be amended (except in Alaska) to raise the floor of the continental control area to coincide with the ceiling of the continental positive control area, which is 60,000 feet (flight level 600).

3. Control zones, under § 71.11, now extend upward to the base of the continental control area. However, as stated above, the base of the continental control area would be moved up from 14,500 feet to flight level 600 (see above). There is no need to extend control zones up through the PCA airspace. For this reason, and to further simplify the airspace structure, § 71.11 would be amended to provide that control zones terminate at 10,000 feet MSL, (or 3,000 feet above the elevation of the airport, whichever is higher).

OPERATING AND EQUIPMENT RULES—PART 91

The purpose of the operating and equipment proposals in this notice is to provide the conditions under which the "Controlled Visual Flight" concept can be effectively and jointly implemented by ATC and by pilots. These proposals are as follows:

The major equipment and operating rules implementing the CVF concept would be contained in a new § 91.111. These rules, which would apply in addition to all other VFR provisions, have one goal in common: The effective and continuous furnishing of ATC services to FVR operations at and above the floor of the continental positive control area. These proposals, which are believed to be the minimum needed to fully realize the benefits of an ATC controlled environment for VFR-trained pilots, are relaxed versions of the rules applicable to IFR operations in the positive control area. They have been designed with the responsibilities of VFR pilots in mind, and include the following:

(1) Either a VFR or IFR flight plan would be required before entering the positive controlled airspace (that is, before climbing to or above the floor of the continental positive control area). As discussed below, this would not change the flight plan requirements applicable to IFR aircraft but would permit cancellation of the IFR flight plan at any time before or after entering the PCA below 18,000 feet, if the CVF rules in § 91.111 are complied with and the aircraft is operated in compliance with visual flight rules.

(2) VFR pilots would be prohibited from entering the PCA without ATC authorization and without at least the equipment required for Group I TCAs. This includes transponders and Mode C encoders as well as the navigational and communications capabilities required in § 91.90. Consistent with this equipment requirement, § 91.24(b)(4) would be amended to apply the en route transponder and Mode C requirement to aircraft "above the floor of the continental positive control area."

(3) To ensure the continued separation capabilities of ATC while a VFR aircraft is under ATC control, new § 91.111 would require that VFR aircraft (a) comply with ATC clearances and instructions, (b) advise ATC if visual flight rules cannot be maintained, (c) maintain a continuous radio watch, and (d) report to ATC the loss of navigational capability. A simple rule for departing from the positive control area following two-way radio failure is also proposed. The intent of these proposals is to tailor the new requirements to the skill level of VFR pilots who now work effectively with ATC in terminal control areas. These skills would include the ability to (i) make altitude changes and fly any radar vectors assigned by the controller to maintain positive separation; (ii) file a flight plan defining the route of flight using VOR airways or point-to-point navigation with reference to navigational aids; and (iii) if so cleared by ATC, fly the flight plan route as filed. Experience with VFR pilots now participating in TCAs and TRSAs indicates that these pilots have the skills to comply with these proposals. The FAA emphasized that the provisions of § 91.111 would not change, in any way, the duty of pilots, under VFR, to plan and execute their flights in full compliance with all visual flight rules. This includes the pilots' responsibility to avoid situations (such as "VFR-over-the-top" operations in which a noninstrument rated pilot finds himself or herself over a cloud layer) resulting in deteriorating weather that may preclude continued VFR flight or safe descent at the destination. In these cases, ATC's role and responsibility, under the CVF concept, would be limited to the issuance of clearances and instructions requested by the VFR pilot, and separation of that aircraft from other VFR and IFR aircraft.

(4) Current § 91.75(a) provides that a pilot who has obtained an ATC clearance may cancel an IFR flight plan if operating in VFR weather conditions "except in positive control airspace." There is no intent to prohibit cancellation of an IFR flight plan for IFR aircraft operating in the same airspace as CVF operations. An IFR aircraft should be permitted to cancel its flight plan and proceed in the same manner as CVF aircraft in the positive control area below 18,000 feet. Accordingly, § 91.75(a) would be amended to permit cancellation of an IFR flight plan "except in positive control airspace at and above 18,000 feet." It should be noted that this would not change other rules that may limit the authority of air carriers or other operators to cancel IFR flight plans. Nor would this proposal affect in any way the duty of operators who change from IFR to VFR after entering the positive control area to comply with ATC clearances and instructions, even after an IFR flight plan is cancelled. The CVF rules would apply to these aircraft as well as to the other VFR aircraft in that airspace.

(5) Based on experience in furnishing ATC services to high performance aircraft that are departing from airports served by TCAs, the FAA has determined that the current 250-knot speed limit in § 91.70(a), that now applies below 10,000 feet, can be safely relaxed for certain departing aircraft that are climbing within a TCA. Specifically, once a high performance aircraft has departed from the close-in terminal environment and has reached an altitude of 5,000 feet, the FAA proposes to permit speeds greater than 250 knots, which would reduce the time in which the aircraft is held back in a mix with low altitude traffic, and would achieve improved efficiency in terms of passengers moved and fuel saved. Two alternative concepts are proposed for public comment. Under one proposal, the 250-knot speed limit would simply be eliminated for these climbing aircraft. Under the other alternative, a specific speed limit between 300 and 350 knots would be adopted. Under either concept, ATC would retain full flexibility to restrict the speed of aircraft where necessary for safety. This proposal does not include arriving aircraft since they present a far different traffic management and separation problem by converging, from the high speed en route structure, into the limited low altitude terminal airspace (rather than diverging into the en route environment). For these aircraft, excessive speed must be checked uniformly, by regulation, to assist in safe sequencing, efficient air traffic flow, sector-to-sector hand offs, effective low altitude vectoring, and other ATC tasks that are associated with the approach phase of flight involving the wide ranging mix of different aircraft performances present in the low altitude terminal environment.

(6) Current § 91.97(a) requires all aircraft in positive control areas to comply with specified IFR requirements, including the need for an instrument rating. An exception for aircraft operating under the CVF provisions of § 91.111 is proposed. This would achieve consistency between § 91.97 and the new § 91.111.

(7) In order to avoid unnecessary penalties on a class of sport aviation that has already achieved a high level of safety in operations up to the current floor of the positive control areas (18,000 feet), these proposals would exclude glider operations, although a prior notification of ATC (by radio or telephone) would be required. The modern competition sailplanes that operate in these higher altitudes are highly maneuverable aircraft with excellent cockpit visibility. Their operation frequently involves almost continuous circling flight, which exposes the entire horizon to pilot vision. Because of the necessarily random mode of operation of soaring operations, the CVF requirements proposed herein are virtually incompatible with soaring operations in the high altitudes. The imposition of this kind of impact has not been justified in view of the high safety record established for high altitude glider operations. The equipment and operating rule proposed in §§ 91.111 and 91.24(b) as amended, would contain exceptions for gliders operating between the floor of continental positive control area (10,000 feet or 12,500 feet, as appropriate) and 18,000 feet. It is believed that a requirement for prior notification would provide ATC with an adequate basis for routing other aircraft around the glider operations.

(8) In view of the proposal to add 44 new TCAs, as discussed above, there would be no need for Group III TCAs as an additional airspace category. Accordingly, the references to "Group III" TCAs would be removed from §§ 91.24 and 91.90.

PARACHUTE JUMPS—PART 105

As noted above, the CVF concept is intended to ensure that ATC is aware of, and can separate, all traffic in designated airspace. The FAA has become concerned that the presence of unknown jump aircraft, and the random dropping of parachutists, may prevent full attainment of existing aircraft separation capabilities in positive controlled airspace. Experience indicates that the vertical trajectory, near invisibility, and lack of maneuverability of free falling jumpers make it extremely difficult for pilots to see and avoid them. For this reason, this proposal, when combined with the lowered PCA floor, would affect parachutists in three ways. First, the requirements in proposed § 91.111 would apply to the jump aircraft itself. Secondly, by lowering the floor of the continental positive control area to 12,500 feet (10,000 feet in the Western Step and Eastern Step), the current provisions of § 105.21, including the requirement for an ATC authorization, and the information provisions of § 105.25, would apply to jumps at and above that lowered floor. Finally, § 105.21 would be amended to extend these requirements downward into terminal control areas. Comments from the sport parachuting community are requested to assist the FAA in minimizing the impact of this proposal on jump operations.

THE PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend Parts 1, 71, 91, and 105 of the Federal Aviation Regulations (14 CFR Parts 1, 71, 91, and 105) as follows:

PART 1—DEFINITIONS

§ 1.1 [Amended]

1. By amending § 1.1 by revising the definition of "controlled airspace" by adding the words "positive control area," between the words "control area," and the words "control zone."

2. By amending § 1.1 to add the following new definition following the definition of "controlled airspace": "'Controlled visual flight' means the operation of an aircraft under VFR in designated positive controlled airspace."

3. By amending § 1.1 to add the following definition following the definition of "positive control": "'Positive controlled airspace' means designated airspace in which positive control is exercised."

PART 71—AIRSPACE PROPOSALS

4. By amending § 71.9 to read as follows:

§ 71.9 Continental Control Area.

The Continental Control Area consists of the airspace of the 48 contiguous States and the District of Columbia above flight level 600, and Alaska above 14,500 feet MSL, except—

(a) The Alaska Peninsula west of longitude 160°00'00" W.;

(b) The airspace less than 1,500 feet above the surface of the earth; and

(c) Prohibited and restricted areas, other than restricted areas prescribed under Subpart D of this part.

5. By amending the first two sentences of § 71.11 to read as follows:

§ 71.11 Control zones.

The control zones listed in Subpart F of this part consist of controlled airspace which extends upward from the surface of the earth. Unless otherwise prescribed by the Administrator in Subpart F, control zones terminate at 10,000 feet MSL, or 3,000 feet above the airport elevation, whichever is higher.

* * * * *

§ 71.12 [Amended]

6. By amending § 71.12 by adding the following new second sentence after the words "of this chapter": "Each terminal control area underlying the continental positive control area listed in Subpart H of this part contains airspace terminating at the base of the continental positive control area, unless otherwise specified in subpart K." The reference to Group III Terminal Control Areas would be removed.

NOTE: The 21 Terminal Control Areas defined in Subpart K would be individually amended, in later airspace actions, to raise their ceilings to the lowered floor of the continental positive control area. This would also be true of the 44 new TCAs that are proposed. Those actions are not included in this notice but would be taken later under Subpart K. Subpart K is not published in the Code of Federal Regulations, but is found in the FEDERAL REGISTER at 43 FR 647, January 3, 1978.

7. By amending § 71.193 by revising the description of the continental positive control area to read as follows:

§ 71.193 Designation of Positive Control Areas.

* * * * *

CONTINENTAL POSITIVE CONTROL AREA

That airspace at and above 12,500 feet MSL (excluding that airspace at and below 2,500 feet AGL), up to and including flight level 600, within the 48 contiguous States and the District of Columbia, excluding the Santa Barbara Island, Farallon Island, and the airspace south of Lat. 25°04'00" N; and the airspace at and above 10,000 feet MSL (excluding that airspace at and below 2,500 feet AGL), but below 12,500 feet MSL, in the following areas:

(1) Western Step. Within lines extending from Lat. 39°15'00"N., Long. 123°51'00"W., via Lat. 39°15'00"N., Long. 121°00'00"W., Lat. 37°03'00"N., Long. 119°29'00"W., Lat. 36°33'00"N., Long. 119°14'00"W., Lat. 35°14'00"N., Long. 118°42'00"W., Lat. 34°56'00"N., Long. 118°21'00"W., Lat. 34°51'00"N., Long. 118°14'00"W., Lat. 34°48'00"N., Long. 118°05'45"W., Lat. 34°46'00"N., Long. 118°00'00"W., Lat. 33°56'00"N., Long. 116°22'00"W., Lat. 33°28'30"N., Long. 115°42'10"W., Lat. 33°23'40"N., Long. 115°33'20"W., Lat. 32°51'00"N., Long. 115°26'00"W., intersection of the United States/Mexican border with Long. 115°23'00"W., thence via the United States/Mexican border to Lat. 32°31'30"N., Long. 117°11'00"W., thence via a line three miles from and parallel to the coastline to the point of beginning excluding that airspace below 2,500 feet AGL.

(2) Eastern Step. East of the Mississippi River and east of a line extending from Lat. 46°16'30"N., Long. 94°20'30"W., via the 94°20'30"W., line of longitude to the United States/Canadian border.

NOTE.—Section 71.193 is found in the FEDERAL REGISTER only (43 FR 630, January 3, 1978). It is not published in the Code of Federal Regulations.

PART 91—OPERATIONS AND EQUIPMENT

§ 91.24 [Amended]

8. By amending § 91.24(b) to—

(i) Provide an exception from the ATC Transponder and Mode C altitude reporting equipment requirement, for persons operating gliders above the floor of the Continental Positive Control Area "up to, but not including, 18,000 feet MSL" rather than "below the floor of the positive control area" as stated in the current rule; and remove the reference to Group III TCAs in § 91.24(b)(3); and

(ii) Delete the words "above 12,500 feet * * * below 2500 feet AGL" in § 91.24(b)(4) and insert the words "above the floor of the continental positive control area" in place thereof.

9. By amending § 91.70 by revising the flush paragraph following paragraph (b) to read as follows:

§ 91.70 Aircraft Speed.

* * * * * *

(b) * * *

Paragraph (b) of this section does not apply to any operations within a Terminal Control Area. Such operations shall comply with paragraph (a) of this section except that, in Terminal Control Areas contacting the base of a positive control area, climbing aircraft over 5,000 feet above the airport elevation, that are cleared for altitudes above 10,000 feet MSL within the TCA, may exceed 250 knots (288 M.P.H.) unless otherwise instructed by ATC. (In the alternative, the FAA proposes to specify a single speed limit, selected from between 300 and 350 knots, for these climbing aircraft.]

§ 91.75 [Amended]

10. By amending § 91.75(a) by deleting the second sentence and substituting for it the words "However, except in positive controlled airspace at and above 18,000 feet MSL, this paragraph does not prohibit the pilot from cancelling an IFR flight plan if the aircraft is operated in BFR weather conditions in compliance with the visual flight rules in this part, including the controlled visual flight provisions of § 91.111.

§ 91.90 [Amended]

11. By deleting § 91.90(c), *Group III Terminal Control Areas.*

§ 91.97 [Amended]

12. By amending § 91.97(a) by revising the introductory clause ("Except * * * section,") to read as follows: "Except as provided in paragraph (b) of this section and in § 91.111,* * *"

13. By adding the new subject heading "CONTROLLED VISUAL FLIGHT" immediately following § 91.109.

14. By adding the following new § 91.111 immediately after the new subject heading "CONTROLLED VISUAL FLIGHT" and immediately before the subject heading "INSTRUMENT FLIGHT RULES":

§ 91.111 Controlled Visual Flights.

(a) Each person who operates an aircraft (other than a glider) under VFR in the continental positive control area designated in Part 71 of this chapter, at below 18,000 feet MSL, shall comply with this section in addition to the other visual flight rules of this part.

(b) Each person who operates a glider in the continental positive control area at and below 18,000 feet MSL shall notify ATC prior to entering that airspace and furnish any information requested by ATC to assure safe separation.

(c) No pilot may operate an aircraft entering the continental positive control area under VFR unless—

(1) A VFR or IFR flight plan is filed in accordance with § 91.83 before entering that airspace;

(2) ATC authorizes the pilot to enter that airspace; and

(3) The aircraft is equipped as required for Group I Terminal Control Areas in § 91.90(a).

(d) Each pilot operating an aircraft in the continental positive control area under VFR shall—

(1) Comply with ATC clearances and instructions in accordance with § 91.75;

(2) Advise ATC if compliance with an ATC clearance or instruction may cause the pilot to violate the visual flight rules of this part;

(4) In the event of two-way radio failure, use the transponder code designated for such failure, continue to comply with visual flight rules, and leave the continental positive control area as soon as possible; and

(5) Report immediately to ATC the loss of VOR or other navigational capability.

* * * * *

PART 105—PARACHUTE JUMPING

15. By amending § 105.21 by amending the section heading and paragraph (a) to read as follows:

§ 105.21 Jumps in or into positive control areas or terminal control areas.

(a) No person may make a parachute jump, and no pilot in command of an aircraft may allow a parachute jump to be made from that aircraft, in or into a positive control area or terminal control area without, or in violation of, an authorization issued under this section.

* * * * *

(Secs. 305, 306, 307, 313(a), 601, and 1110, Federal Aviation Act of 1958, as amended (49 U.S.C. 1346, 1347, 1348, 1354(a), 1421 and 1522); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.45 and 11.65).

NOTE.—The Federal Aviation Administration has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Washington, D.C., on December 27, 1978.

FRANKLIN L. CUNNINGHAM,
Acting Director,
Air Traffic Service.

[FR Doc. 78-36467 Filed 12-28-78; 11:38 am]

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THURSDAY, JANUARY 4, 1979
PART III



DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

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MUTUAL MORTGAGE INSURANCE AND INSURED HOME IMPROVEMENT LOANS

Eligibility Criteria

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[4210-01-M]

Title 24—Housing and Urban Development

CHAPTER II—OFFICE OF ASSISTANT SECRETARY FOR HOUSING—FEDERAL HOUSING COMMISSIONER, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-78-606]

PART 203—MUTUAL MORTGAGE INSURANCE AND INSURED HOME IMPROVEMENT LOANS

Eligibility Criteria

AGENCY: Department of Housing and Urban Development.

ACTION: Interim Rule.

SUMMARY: This interim rule amends sections of Subpart C relating to assignment of home mortgages to HUD. The revised regulations clarify criteria to be used in determining whether a mortgage is eligible for assignment and specify conditions under which the Secretary may waive certain eligibility criteria. It is the intent of the Department that no mortgagee commence foreclosure or acquisition of a property until the requirements of the assignment program have been met.

EFFECTIVE DATE: January 4, 1979. Comments due: February 5, 1979.

ADDRESS: Interested persons may participate in this rulemaking by submitting written comments, suggestions or data to the Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Each person submitting comments should indicate his or her name and address and should refer to the date of publication of this interim rule and give the docket number that appears in the heading. Reasons should be given for the commenter's opinion. Copies of all written comments will be available for examination and copying by interested persons in the Office of the Rules Docket Clerk at the address to which comments are submitted. After public participation has concluded, the Secretary will issue a final rule in this proceding, adopting the subpart with such changes as may be appropriate in light of the public rulemaking.

FOR FURHTER INFORMATION CONTACT:

Julius Williams, Director, Single-Family Loan Servicing Division, Office of Single-Family Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Phone number 202-755-5752.

SUPPLEMENTARY INFORMATION: This interim rule will modify 24 CFR 203.606 and 203.650 through 203.659 so as to effect the following changes in the administration of the Home Mortgage Assignment Program.

(1) *Section 203.606* clarifies when a mortgagee may initiate foreclosure without sending the mortgagor the assignment notices discussed in §§ 203.651 and 652. Recognizing that unnecessary delay in commencement of foreclosure action on vacant properties can result in damage to the property and contribute to neighborhood deterioration, the Department has qualified previous regulations by inserting the phrase "for more than 60 days" in paragraph (b)(1). The revised paragraph (b)(3) permits mortgagees to consider bypassing the assignment program only when the mortgagor owns two or more rental properties; previous regulations placed no restriction upon the number of rental properties. As now written, paragraph (b)(3) will enable mortgagees to bypass the assignment program when equity skimming is indicated but will still require that, for example, a mortgagor, who owns one rental property and uses cash flow from that property to meet living expenses, receive the assignment notices.

(2) *Section 203.650(a)* permits the Secretary to waive both criterion (3) regarding principal residence and criterion (4) regarding ownership of other HUD-insured or HUD-held properties and specifies conditions under which the Field Office should consider waiving the criteria. Previously, Field Offices were permitted to waive only criterion (4). In addition, paragraph (5) of § 203.650(a) now permits the Secretary to extend the term of the mortgage by up to ten years, regardless of the age of the mortgage. Previously, such extension was permitted only if the mortgage was at least ten years old on the date the mortgage was assigned to the Secretary.

(3) *Sections 203.651 and 203.652* have been revised to acknowledge the exceptions provided for in § 203.606(b).

(4) *Section 203.654(c)* has been revised to provide that both the mortgagee and the mortgagor receive copies of HUD's preliminary decision letters.

(5) *Section 203.656* has been revised to delete the 200 mile limitation that previously appeared in the last sentence. The Department recognizes that mortgagors may experience difficulty in traveling distances less than 200 miles. The Department intends that the conference be held at a time and location which does not place a hardship upon the mortgagor. The Field Office may consider alternate sites (i.e., office of a HUD-approved counseling agency, a closer HUD office in another State, etc.) even if the mortgagor lives within 200 miles of the local Field Office.

(6) *Section 203.659* has been revised to acknowledge the exceptions provided for in § 203.606(b).

HUD field staff and others involved with the Home Mortgage Assignment Program (i.e., Mortgage Bankers Association, Legal Services, etc.) have reviewed drafts of handbooks that will be used to administer the assignment program in accordance with these revised regulations; hence, these groups have reviewed the substance of these revised regulations. Immediate publication of these revisions is needed to insure that financially troubled mortgagors are given adequate consideration for assignment and to permit mortgagees to promptly initiate foreclosure when equity skimming is apparent. Given the above, the Department finds it impractical and unnecessary to provide for public comment in advance of the effective date of this revision and good cause exists for making this rule effective upon publication.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours in the office of the Rules Docket Clerk at the address listed above.

Accordingly, the Secretary of Housing and Urban Development amends Part 203 of 24 CFR as follows:

1. In § 203.606 paragraph (b) is revised to read as follows:

§ 203.606 Pre-foreclosure review.

(a) • • •

(b) If the mortgagee determines that any of the following conditions have been met, the mortgagee may initiate foreclosure without sending the assignment notices required by §§ 203.651 and 203.652.

(1) The mortgaged property has been abandoned or vacant for more than 60 days.

(2) The mortgagor, after being clearly advised of the options available for relief, has clearly stated in writing that he/she has no intention of honoring his/her mortgage obligation.

(3) The mortgagor owns two or more properties occupied by tenants who are paying rent, and the rental income from the property under review is not being applied to the mortgage on that property.

2. Section 203.650 is amended by revising (a) (2), (3), (4), (5), and (6), and (b) (1) and (4) to read as follows:

§ 203.650 Assignment of Mortgages.

(a) • • •

(1) • • •

(2) At least three full monthly installments due on the mortgage are unpaid after application of any partial payments which may have been accepted but not yet applied to the mortgage account.

(3) The property is the mortgagor's principal place of residence. This criterion may be waived by the Secretary if the property has been leased or rented and the rental income has been applied to the mortgage delinquency or to effect repairs necessary to maintain the property in a safe and habitable condition or if such waiver is determined to be in the best interests of the Department.

(4) The mortgagor does not own other property subject to a mortgage insured or held by the Secretary. This criterion may be waived by the Secretary if the income from such other property is the mortgagor's principal source of income.

(5) The mortgagor's default has been caused by circumstances beyond the mortgagor's control which render the mortgagor unable to correct the delinquency within a reasonable time or make full mortgage payments.

(6) There is a reasonable prospect that the mortgagor will be able to resume full mortgage payments after a period of reduced or suspended payments not exceeding 36 months and will be able to pay the mortgage in full by its maturity date extended, if necessary, by up to ten years.

(b) • • •

(1) The mortgaged property has been abandoned or vacant for more than 60 days.

(2) • • •

(3) • • •

(4) The mortgagor owns two or more properties occupied by tenants who are paying rent, and the rental income from the property under review is not being applied to the mortgage on that property.

3. Section 203.651 is revised to read as follows:

§ 203.651 Preliminary notice to mortgagors.

In all cases, except as provided in § 203.606(b), prior to initiating any action required by law to foreclose the mortgage but not before three full monthly payments are due and unpaid, the mortgagee shall notify the mortgagor in a form approved by the Secretary that the mortgagor is in default, the mortgagee intends to foreclose unless the mortgagor cures the default, and the mortgagee is considering whether or not to request the Secretary to accept assignment of the mortgage.

4. Section 203.652 is amended to read as follows:

§ 203.652 Determination by mortgagee.

(a) • • •

(b) Except as provided in § 203.606(b), in any case which the mortgagee determines that all of the conditions of § 203.650(a) are not met, it will advise the mortgagor that the mortgagor may, by letter or telephone, ask the Secretary to accept assignment of the mortgage. Such request must be received by the Secretary within 15 days after the mortgagee's notice that it will not request acceptance of assignment. The mortgagee will delay initiation of foreclosure upon notice from the Secretary.

(c) • • •

5. In § 203.654, paragraph (c) is revised to read as follows:

§ 203.654 Preliminary review and determination by Secretary.

(a) • • •

(b) • • •

(c) If after preliminary review of the documents, the Secretary determines that assignment should not be accepted, the Secretary will notify the mortgagee and the mortgagor of the reasons for the determination and will advise the mortgagor that he/she may request further consideration. The mortgagor may present additional information or argument by mail or by telephone within 15 days of the notice or, alternatively, the mortgagor shall be entitled to present such information or argument in person at a conference which must be held in accordance with § 203.656 within 25 days of the notice.

§ 203.656 [Amended]

6. In § 203.656, the last sentence is revised to read "The conference shall be held at the HUD office or at a mutually convenient place."

7. In § 203.659, paragraphs (a) and (c)(1) are revised to read as follows:

§ 203.659 Foreclosure.

(a) Except as provided in § 203.606(b), the mortgagee shall not initiate foreclosure before the mortgagor has had an opportunity to request the Secretary to accept assignment of the mortgage and to support its request as provided in § 203.650 through § 203.662.

(b) • • •

(c) • • •

(1) The conditions of § 203.606(b) are met.

(2) • • •

(3) • • •

(4) • • •

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued at Washington, D.C., November 21, 1978.

LAWRENCE B. SIMONS,
Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 79-346 Filed 1-3-79; 8:45 am]

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THURSDAY, JANUARY 4, 1979
PART IV



DEPARTMENT OF THE INTERIOR

Bureau of Land Management

CONVEYANCE OF FEDERALLY-OWNED MINERAL INTERESTS

Procedures; Final Rules

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[4310-84-M]

Title 43—Public Lands: Interior

CHAPTER II—BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

[Circular No. 2439]

SUBCHAPTER B—LAND RESOURCES MANAGEMENT

[Group 2700—Disposition; Sales]

PART 2720—CONVEYANCE OF FEDERALLY-OWNED MINERAL INTERESTS

Procedures

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking establishes the procedure under which the Secretary of the Interior will exercise the authority granted him by the Congress to convey Federally-owned mineral interests. Section 209 of the Federal Land Policy and Management Act of 1976 authorizes the Secretary of the Interior to convey mineral interests owned by the United States when the surface is or will be in non-Federal ownership if certain conditions are met.

EFFECTIVE DATE: January 5, 1979.

ADDRESS: Director (210), Bureau of Land Management, 18th and C Streets, N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Robert C. Bruce, 202-343-8735.

SUPPLEMENTARY INFORMATION: The text of a proposed rulemaking on conveyancing of Federally-owned mineral interests was published on pages 57862 through 57864 of the FEDERAL REGISTER of November 4, 1977. That proposed rulemaking outlined the procedures that would be followed by the Secretary of the Interior in carrying out the authority granted him by section 209 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1719). Section 209 gives the Secretary of the Interior authority to convey mineral interests owned by the United States under certain limited circumstances. The conveyance of Federally-owned mineral interests may be made when the surface is or will be in non-Federal ownership but is restricted to those instances where there are no known mineral values in the land or where the continued reservation of the mineral interests by the United States interferes with or precludes appropriate non-mineral development of the land and such development would be a more beneficial use of the land than its mineral development.

The procedure outlined in the rulemaking is an application procedure. Under the rulemaking, anyone who owns or will own the surface of land, in which the United States owns or reserves the mineral interests, may file an application to purchase the interests of the United States. The rulemaking provides that the mineral interests of the United States can be conveyed when there are no known mineral values in the land or when the mineral ownership or reservation is interfering with or precluding development of the surface and the planned surface development is more beneficial than the mineral development.

Included in the rulemaking is the procedure to be followed in determining the fair market value of the reserved mineral interests as well as the method under which the actual conveyance will be made.

The principal author of this rulemaking is Robert C. Bruce of the Division of Legislation and Regulatory Management, assisted by the Division of Mineral Resources and the Division of Lands and Realty, all of the Bureau of Land Management, as well as the staff of the Office of the Solicitor and the U.S. Geological Survey.

The 60 day comment period was extended to March 1, 1978, in response to a request of the land officials of the Western States to enable them to consider the proposed rulemaking at a meeting of their group. During the comment period, 42 comments on the proposed rulemaking were received. Twenty eight of the comments were made by States, eight came from organizations, four from individuals and two from other Federal agencies. All of the comments were given careful consideration and a number of the suggested changes were incorporated in the final rulemaking.

GENERAL COMMENTS

Most of the comments expressed the opinion that the proposed rulemaking carried out the intent of Congress and established a procedure that was acceptable. There was also general agreement that the authority granted by section 209 of the Federal Land Policy and Management Act that was reflected in the proposed rulemaking was very limited and would have very limited application. Even with limited application of the rulemaking, most of the comments indicated that the purpose of the section of the law and implementing regulations was beneficial and would allow an easier method of combining the surface and sub-surface estate than now exists.

One of the comments called for an economic impact analysis on the rulemaking. As was stated in the preamble to the proposed rulemaking, no economic impact analysis is needed because the economic impact of this rulemaking does not fall within the guidelines established pursuant to Executive Order 11821 and OMB Circular A-107. An economic impact analysis of this rulemaking has not, therefore, been prepared.

The matter of beneficial use drew a sizable number of comments. In considering the question of beneficial use, it is important to remember that the need to determine whether the use contemplated for the land is more beneficial than mineral development will arise only in those instances where there is a termination that the land contains valuable mineral interests and there is a contemplated use that will cover payment of the costs of an exploratory program and for the minerals found. As one of the comments pointed out "Only projects such as commercial or industrial development could warrant the cost of conducting studies and exploratory programs which may be necessary to determine the fair market value of said minerals." The vast majority of applications filed under this rulemaking will probably be situations where there are no mineral values in the land and the application can be acted on without ever having to decide the question of beneficial use.

Each situation where determination as to beneficial use will be required, will be different from all others and will have to be judged on its individual merits. Thus it is impractical to include in the rulemaking a rigid set of procedures for making the determination. The authorized officer will be given a set of guidelines in the Bureau of Land Management Manual that will be issued to accompany this rulemaking. In any event, the basis of a determination by the authorized officer on the question of beneficial use will be included in the report on which that determination is based and will be available to those who wish to see it.

Another major concern of those commenting on the proposed rulemaking was the question of what protection, if any, might be available to prevent the location of a mining claim on land covered by an application. Section 209 does not provide any separate withdrawal authority for those lands under application and the only other authority available for withdrawal is section 204 of the Federal Land Policy and Management Act. Under the authority granted in section 204, it is possible for the authorized officer to recommend a withdrawal if he deems it in the public interest to do so on lands covered by an application to purchase the Federally-owned mineral interest. However, it would be up to the

Secretary to make a decision as to whether to make the withdrawal or not. The Bureau of Land Management Manual relating to this rulemaking will contain guidelines for withdrawal consideration by the authorized officer.

Comments were also directed at the question of what action will be taken with regard to mining claims located on the land covered by an application to purchase the Federally-owned mineral interests. Outstanding mining claims could be handled by either conveying the interest subject to the claim and allowing the owner to work out problems with the claimant or by a process of having the Federal Government challenge the mining claim as part of the process of approving the application. A mining claim challenge is a long and expensive process and would prolong the approval process and increase the administrative costs. There is no easy solution to the handling of this problem and it will have to be worked out on a case by case basis after discussions between the applicant and the authorized officer.

Several comments raised the question of what will be done about setting a value on minerals that now have little or no value but are later found to be economically important. All evaluations will be based on present technology with the value being based on what is known at the time the appraisal is made, not on speculation as to the future.

One comment stated that the rulemaking did not make it clear that the conveyancing was by sale. The inclusion of this rulemaking in Group 2700 which is entitled "Disposition; Sales" makes it clear that this is a rulemaking covering the sale of mineral interests.

Several comments questioned whether this procedure was confined to those instances where the United States owned the entire mineral estate or was applicable to those instances where the United States owned only a partial mineral interest. The rulemaking is not confined to those instances where the United States owns the entire mineral interests in the land. The application can be filed for whatever interest the United States owns, whether it be the entire mineral estate, only one mineral or a percentage of the mineral estate.

Finally, a number of general comments discussed the general area of deposits and charges for actions in connection with the rulemaking. Section 209 of the Federal Land Policy and Management Act of 1976 requires that all administrative costs and fair market value for the interests being conveyed be collected before the conveyance is made. Therefore, there is no alternative but to collect the costs and fair market value from all applicants. This provision also forecloses refunding of any money collected that is needed to cover administrative costs. The $50 fee required with all applications is what was determined to be the minimum amount needed to cover normal administrative costs in connection with the processing of an application.

SPECIFIC COMMENTS

Many of the comments were directed at specific sections of the rulemaking. These are discussed on a section-by-section basis and the action taken indicated on each one.

One comment dealt with section 2720.0-5, the definitions section. The question was raised as to whether the definition of "prospective record owner" covered States. In recognition of the fact that the word "private" as it refers to ownership in the definition is too narrow, the word "non-Federal" was substituted. This is the language in the statute. It makes clear that any non-Federal land is covered by the definition. The word "private" is again used in § 2720.1-2(d)(3) in connection with the word "ownership" and to be consistent the word "non-Federal" was substituted for "private" in that section.

As a result of the review of the definition of "prospective record owner" it was decided that the definition should include conveyances authorized by other statutes and the change has been made.

Another comment with regard to the definitions was that the term "authorized officer" needed to be defined. Some persons asserted that defining the term would clear up any ambiguity as to exactly who the authorized officer is and whom he works for. A definition of "authorized officer" has been added as new section (c). A question came from an Eastern State as to where an application should be filed because there is no State BLM Office in many Eastern States. Section 2720.1-2(a) does not clearly answer that question. The section has been amended to bring it into line with the provisions of § 1821.2-1(d) of Title 43 of the Code of Federal Regulations.

A number of comments were made on § 2720.1-2(d). Many of the comments suggested changes that would make the section clearer and more easily understood. Many were adopted. As an example, in § 2720.1-2(d)(2) the word "or" as it appears in that section was changed to "and" because as one comment pointed out, the additional information is needed from a prospective purchaser. The amendment makes it clear that additional information from the prospective purchaser is needed to complete the information obtained from the owner.

In paragraph (3) of § 2720.1-2, the words "to the applicant" have been inserted just prior to the word "and" at the end of the paragraph. This makes it clear that the information requested is in reference to the applicant. Likewise, in paragraph (4) the words "nature of" have been inserted after the word "the" in the beginning of part (i) of the paragraph. This makes it clear that the application shall contain as complete a description as possible of the extent of the Federal interests in the land covered by the application. This change resolves the question as to whether an application can be made where the United States owns less than the entire mineral estate. In part (i), the word "explanatory" has been substituted for the word "substantiating" in order to make the language clearer. Several other language changes have been made in § 2720.1-2 to clarify it.

Section 2720.1-3 drew a number of comments about the time frames set forth in the section. After studying the question of time frames, two changes were made in response to the comments. The first change extends the time of the authorized officer to set the amount of the required deposit from 60 to 90 days. This extension should allow sufficient time to take care of office staff work. The second time change was the addition of words allowing an extension of time for the applicant to respond to the notice from the authorized officer as to the conduct of an exploratory program. Also § 2720.1-3(e), has been changed to make it clear that the authorized officer is the person who obtains the approval of the Geological Survey to the plan of operations for an exploratory program. This change was made in response to a number of comments that expressed some confusion on this point. Another change made in this section was to extend to 90 days the time the authorized officer has to give his consent to the conducting of an exploratory program by the applicant.

A final change in this section came about as part of our review of the section. Section 2720.1-3 did not make it clear that the applicant who conducted the mineral survey required by the rulemaking would have to make a deposit to cover administrative cost, the cost of analyzing the data submitted and the cost of preparing the conveyance. The section has been amended to clarify this point.

One of the areas of greatest concerns on the part of those commenting on the proposed rulemaking was the language in § 2720.3 that included the cost of removal of the mineral reservation as part of the fair market value of the mineral interests of the United States. The comments ranged from the view that this cost was not pro-

vided for in the language of section 209 of a question of how this value would be determined. This question has been restudied and the phrase "the administrative costs involved in development of and issuance of conveyance documents," has been substituted for the phrase "the value of removal of mineral reservation." Also the words "or other" have been deleted from the last line of § 2720.3(b).

Editorial and language changes needed to clarify the rulemaking have been made.

Under the authority of sections 209 and 310 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) Subchapter B, Chapter II, Title 43 of the Code of Federal Regulations is amended by adding Part 2720 as set forth below.

GUY R. MARTIN,
Assistant Secretary of the Interior.

DECEMBER 29, 1978.

PART 2720—CONVEYANCE OF FEDERALLY-OWNED MINERAL INTERESTS

Subpart 2720—Conveyance of Federally-Owned Mineral Interests

Sec.

2720.0-1 Purpose.
2720.0-2 Objectives.
2720.0-3 Authority.
2720.0-5 Definitions.
2720.1 Application to purchase Federally-owned mineral interests.
2720.1-1 Filing of applications.
2720.1-2 Form of applications.
2720.1-3 Action on application.
2720.2 Determination that an exploratory program is not required.
2720.3 Action upon determination of the value of the Federally-owned mineral interests.
2720.4 Issuance of document of conveyance.
2720.5 Appeals.

AUTHORITY: Sections 209 and 310 of Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

Subpart 2720—Conveyance of Federally-Owned Mineral Interests

§ 2720.0-1 Purpose.

The purpose of these regulations is to establish procedures under section 209 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1719, for conveyance of mineral interests owned by the United States where the surface is or will be in non-Federal ownership.

§ 2720.0-2 Objectives.

The objective is to allow consolidation of surface and subsurface or mineral ownership where there are no known mineral values or in those instances where the reservation interferes with or precludes appropriate non-mineral development and such development is a more beneficial use of the land than the mineral development.

§ 2720.0-3 Authority.

(a) Section 209(b) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1719(b), authorizes the Secretary of the Interior to convey mineral interests owned by the United States where the surface is or will be in non-Federal ownership, if certain specific conditions are met.

(b) Section 310 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1740, authorizes the Secretary of the Interior to promulgate rules and regulations to carry out the purposes of the Act.

§ 2720.0-5 Definitions.

As used in this subpart, the term:

(a) "Prospective record owner" means a person who has a contract or other agreement to purchase a tract of land that is in non-Federal ownership with a reservation of minerals in the United States, or a person who is purchasing a tract of land under the provisions of the Federal Land Policy and Management Act of 1976 or other laws authorizing the conveyance of Federal lands subject to the reservation of a mineral interest.

(b) "Known mineral values" means mineral values in lands with underlying geologic formations which are valuable for prospecting for, developing or producing natural mineral deposits. The presence of such mineral deposits in the lands may be known, or geologic conditions may be such as to make the lands prospectively valuable for mineral occurrence.

(c) "Authorized officer" means any employee of the Bureau of Land Management to whom has been delegated the authority to perform the duties described in this part.

§ 2720.1 Application to purchase Federally-owned mineral interests.

§ 2720.1-1 Filing of application.

Any existing or prospective record owner of the surface of land in which mineral interests are reserved or otherwise owned by the United States may file an application to purchase such mineral interests if (a) He has reason to believe that there are no known mineral values in the land, or (b) The reservation of ownership of the mineral interests in the United States interferes with or precludes appropriate non-mineral development of the land and such development would be a more beneficial use of the land than its mineral development.

§ 2720.1-2 Form of application.

(a) An application shall be filed with the proper BLM Office as listed in § 1821.2-1(d) of this Title.

(b) No specific form is required.

(c) A non-refundable fee of $50 shall accompany the application.

(d) Each application shall include:

(1) The name, legal mailing address, and telephone number of the existing or prospective record owner of the land included in the application;

(2) Proof of ownership of the land included in the application, and in the case of a prospective record owner, a copy of the contract of conveyance or a statement describing the method by which he will become the owner of record;

(3) In the case of non-Federal ownership of the surface, a certified copy of any patent or other instrument conveying the land included in the application to the applicant; and

(4) As complete a statement as possible concerning (i) the nature of Federally-reserved or owned mineral values in the land, including explanatory information, (ii) the existing and proposed uses of the land, (iii) why the reservation of the mineral interests in the United States is interfering with or precluding appropriate non-mineral development of the land covered by the application (iv) how and why such development would be a more beneficial use of the land than its mineral development, and (v) a showing that the proposed use complies or will comply with State and local zoning and/or planning requirements.

§ 2720.1-3 Action on application.

(a) Within 90 days of receipt of an application to purchase Federally-owned mineral interests, the authorized officer shall, if the application meets the requirements for further processing, determine the amount of deposit required and so inform the applicant.

(b) No application filed under this subpart shall be processed until the applicant has either (1) Deposited with the authorized officer an amount of money that the authorized officer estimates is needed to cover administrative costs of processing, including, but not limited to, costs of conducting an exploratory program, if one is required, to determine the character of the mineral deposits in the land, evaluating the existing data [or the data obtained under an approved exploratory program] to aid in determining the fair market value of the mineral interests to be conveyed, and preparing and issuing the documents of conveyance, or (2) has obtained the consent of the authorized officer to conduct an exploratory program, such program to be conducted only under a plan of operations approved by the authorized officer after he has obtained the approval of the U.S. Geological Survey and deposited with the authorized officer an amount of money the authorized officer estimates is needed to cover administrative costs of processing, including, but not limited to, costs of evaluating existing data and data submitted from an approved exploratory program to determine the fair market value of the mineral interests to be conveyed and preparing and issuing the documents of conveyance. The authorized officer in reaching a determination as to whether that are any known mineral values in the land and, if so, the estimated costs of an exploratory program, if one is needed, shall rely upon reports on locatable and saleable minerals prepared by the Bureau of Land Management and mineral resource evaluation reports on leasable minerals prepared by the U.S. Geological Survey.

(c) The authorized officer shall inform the applicant of his determination as to the need for an exploratory program, and where appropriate, the estimated cost of such a program. The applicant may request that the exploratory program be arranged by the authorized officer or request the consent of the authorized officer to accomplish any required exploratory program by other means, at his own expense, under a plan of operations approved by the authorized officer after having obtained the approval of the U.S. Geological Survey and to provide the results to the authorized officer for his use and approval. The applicant shall, within 60 days of receipt of such notice, or any extension thereof, respond to the authorized officer's notice, stating whether he wishes to have the authorized officer arrange to have conducted the required exploratory program or requests the consent of the authorized officer to accomplish any required exploratory program by other means. Failure to respond to said notice shall void the application.

(d) If the applicant requests that any required exploratory program be arranged by the authorized officer, he shall submit the sum of money required under paragraph (b) of this section and the authorized officer shall, with the approval of the U.S. Geological Survey, have the exploratory program accomplished so as to aid in determining the fair market value of the Federal mineral interests covered by the application.

(e) If the applicant requests the consent of the authorized officer to accomplish any required exploratory program by other means, at his own expense, he shall at the time of making his request for such consent, file a plan of operations to carry out any required exploratory program for approval by the authorized officer, after the authorized officer has obtained the approval of the U.S. Geological Survey. Such plan of operations shall be sufficient to provide the resource and economic data needed to aid in determining the fair market value of the Federal mineral interests to be conveyed. Said resource and economic data shall include, where appropriate, but not be limited to, geologic maps, geologic cross-sections, tables and descriptive information encompassing lithologic, geochemical, and geophysical data, assays of samples, drill logs and outcrop sections, which aid in establishing the location, nature, quantity, and grade, and which aid in determining the fair market value of the Federal mineral interests in the land covered by the application. The plan of operations shall conform to the laws, regulations and ordinances of all governmental bodies having jurisdiction over the lands covered by the application. The authorized officer shall decide within 90 days of receipt of said request whether he shall or shall not give his consent. The authorized officer shall not give his consent if he determines that the plan of operations is not adequate to supply the resource and economic data needed to aid him in determining the fair market value of the Federal mineral interests to be conveyed. If the authorized officer, in his discretion, and with the approval of the plan of operations by the U.S. Geological Survey, approves the applicant's plan of operations, the applicant may proceed to execute the plan of operations, subject to the supervision of the authorized officer and the U.S. Geological Survey. If the authorized officer does not give his consent to the applicant's request, the applicant may, within 60 days of such refusal, avail himself of the provisions of paragraph (d) of this section. Failure to deposit the required sum within the 60 day period shall void the application. All resource and economic data obtained from the approved exploratory program shall be supplied the authorized officer. The authorized officer shall supply that data needed for determination of the economic value of leasable mineral resources to the U.S. Geological Survey and that needed for determination of the economic value of locatable and saleable mineral resources to the Bureau of Land Management. The authorized officer relying upon those determinations shall determine the fair market value of the Federal mineral interests in the land covered by the application. If the authorized officer determines that the resource and economic data supplied from an approved exploratory program is not adequate to aid in determining the fair market value of the Federal mineral interests to be conveyed, he shall so notify the applicant and state what additional data is needed.

(f) Notwithstanding the provisions of the preceding paragraphs of this section, an application may be rejected without the applicant meeting the requirements of paragraph (b) of this section if the authorized officer determines from an examination of the application or of data readily available to him relating to the land concerned that the application does not meet the requirements of the Act.

§ 2720.2 Determination that an exploratory program is not required.

(a) In instances where available data indicate that there are no known mineral values in the land covered by the application, an exploratory program shall not be required.

(b) An exploratory program shall not be required to prove the presence or absence of mineral values where the lands covered by the application are classified prospectively valuable, but such value is found to be only nominal.

§ 2720.3 Action upon determination of the fair market value of the mineral interests.

(a) Upon the authorized officer's determination that all of the requirements of the Act for conveyance of mineral interests have been met by the applicant and all actions necessary to determine the fair market value of the Federal mineral interests in land covered by the application have been completed, the authorized officer shall notify the applicant in writing of the fair market value of the Federal mineral interests, including the administrative costs involved in development of and issuance of conveyance documents, and give a full and complete statement of the costs incurred in reaching such determination including any sum due the United States or that may be unexpended from the deposit made by the applicant. If the administrative costs of determining the fair market value of the Federal mineral interests exceed the amount of the deposit required of the applicant under this subpart, he will be informed that he is required to pay the difference between the actual costs and the deposit. If the deposit exceeds the administrative costs of determining the fair market value of the Federal mineral interests, the applicant will be informed that he is entitled to a credit for or a refund of the excess. The notice shall also require that payment be made within 90 days from the date of mailing of the notice. Failure to pay the required amount within the allotted time shall constitute a withdrawal

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of the application and the application will be dismissed and the case closed.

(b) Mineral rights on lands for which an exploratory program is not required under this subpart shall be conveyed upon payment of fair market value for those mineral interests and all administrative costs.

§ 2720.4 Issuance of document of conveyance.

Upon receipt of the payment required by § 2720.3 of this subpart, if any is required, the authorized officer shall issue the necessary document conveying to the applicant the mineral interests of the United States in the land covered by the application.

§ 2720.5 Appeals.

An applicant adversely affected by a decision of the authorized officer made pursuant to the provisions of this subpart shall have a right of appeal pursuant to Part 4 of this Title. Decisions of the authorized officer under this subpart shall be subject to reversal only if found to be arbitrary, capricious, and abuse of discretion or otherwise not in accordance with law.

[FR Doc. 79-341 Filed 1-3-79; 8:45 am]

federal register

THURSDAY, JANUARY 4, 1979
PART V



COUNCIL ON WAGE AND PRICE STABILITY

■

VOLUNTARY PAY AND PRICE STANDARDS

Interim Final Rules; Request for Comments

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[3175-01-M]

Title 6—Economic Stabilization

CHAPTER VII—COUNCIL ON WAGE AND PRICE STABILITY

PART 706—SPECIAL PROCEDURAL RULES

Adoption of Interim Final Procedural Rules Relating to Voluntary Pay/Price Standards and Request for Public Comment

AGENCY: Council on Wage and Price Stability.

ACTION: Adoption of Interim Final Procedural Rules.

SUMMARY: On December 13, 1978, the Council on Wage and Price Stability issued voluntary standards for compliance with the President's anti-inflation program as an appendix to Part 705 of title 6 of the Code of Federal Regulations. These were further clarified in certain minor particulars and published in the FEDERAL REGISTER on December 28 (43 FR 60772). The procedural rules issued today, codified at Part 706, establish procedures to be used in proceedings before the Council relating to matters arising under the voluntary standards.

EFFECTIVE DATE: January 4, 1979.

FOR FURTHER INFORMATION CONTACT:

Peter H. Lowry, General Counsel, Council on Wage and Price Stability, 726 Jackson Place NW., Washington, D.C. 20506, (202) 456-6210.

SUPPLEMENTARY INFORMATION: These procedures are to be used in proceedings before the Council on matters pertaining to the voluntary pay and price standards in Part 705 (43 FR 60772). These procedural rules are specifically authorized by Executive Order 12092 (43 FR 51375).

The rules are in seven subparts. Subpart A contains definitions and general procedural rules. Subpart B concerns the general submission of reports and notifications to the Council. There is no periodic reporting requirement, but some companies are requested to indicate their company organization for purposes of compliance as well as certain historical data.

Subpart C provides procedures for approval of requests for exceptions. Requests for exceptions may be based upon the grounds for exceptions specified in Part 705, which also form the basis for defenses to Notices of Probable Noncompliance under Subpart E. In addition, the Council will accept comments and suggestions as to additional categories of exceptions where application of the price deceleration or 7-percent pay standards in certain generic situations would cause undue hardship or gross inequity. Proposals from any person, company, or organization regarding any such exception should be accompanied by a description of how the exception would apply in its specific case.

Subpart D contains procedures for special investigations relating to the standards, and describes the Council's principal means of monitoring compliance with the standards. Subpart E provides procedures by which the Council will determine whether a particular company is in compliance with the standards. It provides for notice and an opportunity to reply. Where noncompliance is found, the Council will include the name of the company on a public list of noncomplying companies.

Subpart F contains rules for removing a company's name from the list of noncomplying companies. Finally, Subpart G provides procedures for reconsideration of initial actions of the Council under Subparts C, E and F, which include, where appropriate, a hearing.

These procedural rules ensure fairness and due process regarding the publication of names of companies that are not in compliance with the standards and provide guidance as to associated Council procedures.

The Council is adopting these rules effective immediately, without opportunity for advance public comment or the customary 30 days' notice, since, in order to avoid confusion or unfairness, it is necessary that procedures relating to matters arising under Part 705 be available at once. The Council will, however, accept public comments on these regulations, and will, on the basis of such comments, revise Part 706 as may be appropriate.

Three copies of all comments should be sent to the General Counsel at the address given above and should be received no later than January 23, 1979.

Accordingly, a new Part 706 is added to the regulations of the Council on Wage and Price Stability at Chapter VII of Title 6 of the Code of Federal Regulations.

Issued in Washington, D.C., December 30, 1978.

BARRY BOSWORTH,
Director, Council on Wage and Price Stability.

PART 706—SPECIAL PROCEDURAL RULES

Subpart A—General Provisions

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Subpart F—Removal From List of Noncomplying Companies

706.60 Requests for removal from list of noncomplying companies.
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Subpart G—Requests for Reconsideration

706.70 General.
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AUTHORITY: Council on Wage and Price Stability Act, Pub. L. 93-387, as amended (12 U.S.C. 1904 note); E.O. 12092.

Subpart A—General Provisions

§ 706.01 Purpose and scope.

This part establishes procedures to be used in proceedings before the Council relating to matters under the anti-inflation standards set out in the appendix to Part 705 of this chapter.

(a) Subpart A contains definitions and general procedural rules.

(b) Subpart B contains rules applicable to the submission of reports and notifications.

(c) Subpart C contains rules applicable to requests for approval of exceptions to the standards.

(d) Subpart D contains rules concerning special investigations regarding the standards.

(e) Subpart E contains rules concerning the preliminary notification by the Council of apparent cases of noncompliance, the response by companies to such notification, and the actions the Council may take if it determines that noncompliance has occurred.

(f) Subpart F contains rules for removing a company's name from the list of noncomplying companies.

(g) Subpart G contains rules applicable to requests for reconsideration.

§ 706.02 Definitions.

As used in this Part, the term:

(a) "Council" means the Council on Wage and Price Stability.

(b) "Company" has the same meaning as in the Appendix to Part 705 of his chapter.

(c) "Hearing Officer" means a person designated by the Council to conduct a hearing.

(d) "Notice of Probable Noncompliance" means a written statement issued by the Council alleging failure to adhere to the standards.

(e) "Request" means a written inquiry to the Council.

(f) "Net Sales or Revenues" is as defined in 705A-6(a)(2)(ii).

(g) "Standards" means voluntary pay/price standards set out in the appendix to Part 705 of this Chapter.

§ 706.03 Appearances before the Council.

A person may take any action permitted by this Part on his or her own behalf, or may be represented by any person whom he or she designates.

§ 706.04 Actions by the Council.

The Chairman of the Council, or his designee, is authorized to take actions for the Council under this Part.

§ 706.05 Filing of documents.

(a) Filings should be submitted in three (3) copies to the Council on Wage and Price Stability, 726 Jackson Place, N.W., Washington, D.C., unless otherwise provided in this Part. They are considered to be filed when received by the Council during regular business hours. Each submission should be plainly marked at the top of the document as to whether it is a "Report", "Request for Exception Approval—[Pay] or [Prices]," "Response to Notice of Probable Noncompliance", "Request for Reconsideration", or "Request for Removal from Noncompliance List."

(b) Filings should be signed by the Chief Executive Officer of a company, union, or other organization or by his or her designee.

§ 706.06 Computation of time.

A period of time under these standards is counted in business days (all days other than Saturdays, Sundays, and Federal Holidays), starting the first day after the Council either serves or receives a document.

§ 706.07 Service of documents.

(a) All documents served under this part are to be served personally or by U.S. mail on the person specified in these regulations or his or her designated representative.

§ 706.08 Extension of time.

If an action is required to be taken within a prescribed period of time under this Part, an extension of time will be granted only upon a showing of good cause. Requests for extension should be made in writing to the Office of the General Counsel of the Council.

§ 706.09 Consolidations.

The Council may consolidate separate matters if the consolidation will expedite the proceedings or otherwise assist the Council in carrying out its functions.

§ 706.10 Confidential material.

Confidential material submitted under these rules should be submitted in accordance with Parts 702 and 704 of this Chapter and will be afforded the confidential treatment provided therein.

Subpart B—Reports and Notifications

§ 706.20 Purpose and scope.

This part contains rules applicable to reports and notifications that are requested to be filed with the Council. There are no formal periodic reporting requirements.

§ 706.21 Company organization for purposes of compliance.

(a) Companies that had, or are part of a consolidated company that had, net sales or revenues of $250 million or more in their most recently completed fiscal year, are requested to notify the Council before February 15, 1979, of their company organizational structure for purposes of compliances during the program year (see the definition of company in Subpart 705D). That is, if an entity desires to treat individual units as separate companies for purposes of complying with the standards, the entity must identify those units. If a company is part of a consolidated company with sales in excess of $250 million, the latter is asked to provide such notification.

(b) Notification should indicate revenues of major lines of business of each separately treated company at the four-digit level of the Standard Industrial Classification System.

(c) Each consolidated company's notification of its company organizational structure should include a statement signed by the Chief Executive Officer of the consolidated company that the submission to the Council meets the specific requirements (1) thru (4) for separate company reporting, as provided in the definition of "company" in Subpart 705D. This statement should also indicate that the organizational structure reported for the consolidated company had been followed prior to October 2, 1978.

(d) Notification should include the names, addresses, and telephone numbers of the person(s) at the consolidated company and at the separate, single companies whom the Council may contact regarding compliance with the standards and regarding questions on materials submitted to the Council.

§ 706.22 Price or margin data.

(a) This section is applicable only to companies with or companies that belong to consolidated companies with, net sales or revenues of $500 million or more in their most recently completed fiscal year.

(b) Each company that is, or is part of a consolidated company that is, required to file Form 10-K reports with the Securities and Exchange Commission is requested to file copies of these reports with the Council for each of the last three fiscal years. The companies are also requested to file with the Council a copy of the Form 10-K report filed with the SEC for the fiscal year ending during the program year.

(c) Each company that is eligible for the use of one of the gross margin standards specified in Section 705C-2 and that plans to adopt this option is requested to file with the Council by February 15, 1979, the following information:

(1) for companies in food manufacturing and food processing, the base-quarter gross margin, as defined in Sections 705C-2(b) and 705C-2(d);

(2) for companies in wholesale and/or retail trade (SIC 50 thru 59), the gross margin trend and the percentage gross margin for the base year, as defined in Sections 705C-2(b) and 705C-2(c); and

(3) a brief description of the actions that the company plans to take to assure that the standards will be met as the program year progresses.

(d) Each company that is not eligible for the gross margin standard or that chooses not to adopt this option is requested to file with the Council by February 15, 1979, the base-period rate of price change and supporting documentation, including,

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(1) total revenues and revenues excluded under Section 705A-3(a)–(d) and (separately) under Section 705A-3(f)–(i), in each year of the base period or (if more convenient) in the period used to calculate revenues shares for the base-period rate of price change;

(2) the revenue accounted for by products not excluded under paragraph (1), but not included in the calculation of the base-period rate of price change, in each year of the base period or (if more convenient) in the period used to calculate revenue shares for the base-period rate of price change; and

(3) a brief description of the method of calculation, including summary data on revenue and price changes for major product lines or divisions.

(e) In cases in which base-period rates of price change (or gross margin changes) cannot be calculated, the reasons should be identified.

§ 706.23 Profit margin data.

Companies included under § 706.22(a) should submit weighted profit margin data as defined in Section 705A-6(2) for the best two out of three fiscal years ended prior to October 2, 1978.

§ 706.24 Method of pay calculation.

Companies with 5,000 or more employees during any calendar quarter of the most recently completed fiscal year are requested to file with the Council by February 15, 1979, a description of the method of computation under Section 705B-4 to be used for determining pay-rate changes during the program year, for each company identified separately for purposes of compliance.

Subpart C—Requests for Approval of Exceptions

§ 706.30 Purpose and scope.

This Subpart establishes procedures by which a company or employee unit may request the Council's determination that a pay or price action is excepted from the price deceleration or the seven-percent pay standard, in accordance with Part 705.

§ 706.31 Who should request approval.

(a) Any company or employee unit that intends to apply one or more of the exceptions specified in § 706.32, to avoid appearing to the Council that it is out of compliance, must seek a determination from the Council if:

(1) It had, or is part of a consolidated company that had, net sales or revenues in excess of $500 million in its last fiscal year; or

(2) An exception to the pay standard would affect an employee unit in a company with 1,000 or more employees, or a collective-bargaining agreement covering 1,000 or more workers.

(b) The Council will accept requests for a determination that a pay or price action is consistent with the exceptions listed in § 706.32 and § 706.33 if:

(1) The company reasonably anticipates receiving a Federal government contract or contract amendment for which it must certify compliance with the standards; or

(2) The company reaches a labor settlement contingent on the Council's determination that the settlement is consistent with the exceptions to the standards.

(c) The Council may, in its discretion, undertake to make a determination in critical situations not covered by paragraphs (a) and (b) of this section.

(d) If any pay or price actions are the subject of a Notice of Probable Noncompliance in accordance with Subpart E, the affected company may assert in its defense that the exceptions in § 706.52(b)(2) are applicable.

§ 706.32 Grounds for approval for defined exceptions.

The Council will issue a determination of whether or not a specific pay or price action is consistent with the standards in those situations in which:

(a) With respect to pay—

(1) A pay-rate increase in excess of the standard is authorized by Section 705B-9 (Tandem Pay-Rate Changes);

(2) A company seeks to deduct a portion of the pay-rate change from the total pay-rate change in accordance with Section 705B-10 (Pay-Rate Increases Traded for Productivity-Improving Work-Rule Changes); or

(3) A pay-rate increase in excess of the standard is authorized by Section 705B-11 (Pay-Rate Increases Attributable to Acute Labor Shortages).

(b) With respect to prices—

(1) Compliance with the six-month limit for price increases under Section 705A-4 (Six-month Standard for Price Increases) is not required by that section; or

(2) The profit-margin limitation in Section 705A-6(a) is applicable.

§ 706.33 Determination of undue hardship or gross inequity.

(a) The Council will provide a determination that application of the standards to a *specific* situation would constitute an undue hardship or gross inequity only in those situations covered by § 706.31(b) or as part of a noncompliance proceeding under Subpart E.

(b) For purposes of this section:

(1) An undue hardship is a situation that seriously threatens the financial viability of a company, and

(2) a gross inequity is any situation that, in the Council's judgment, is manifestly unfair.

§ 706.34 Contents of the request.

(a) All requests should include:

(1) The name and address of the company or employee unit making the request, including the name(s), title(s), and phone number(s) of person(s) whom the Council may contact concerning the request, and the name and address of the consolidated company of which it is a part, if there is one;

(2) If the request involves a collective-bargaining situation, names, addresses, and phone numbers of union representatives, or names, addresses and phone numbers of relevant company officials if a request is made by an employee unit;

(3) The particular provisions of the standards that are the subject of the request;

(4) A description of the specific exceptions requested, including the pay and/or price behavior that the entity making the request proposes to adopt;

(5) Relevant supporting data as appropriate to the following exceptions:

(i) Tandem Pay-Rate Changes:

(A) Documentation of a clear leader-follower relationship between employee units, and

(B) Documentation of the value and timing of past pay-rate increases of the two employee units over the prior six years;

(ii) Pay-Rate Increases Traded for Productivity Improving Work-Rule Changes:

(A) An explanation of the productivity improving work-rule change(s), and

(B) An analysis of how the cost reduction will be generated by the work-rule change(s);

(iii) Pay-Rate Increases Attributable to Acute Labor Shortages:

(A) Documentation that vacancies, and the time required to fill them, for particular job categories have increased relative to the prior two years, and that pay rates for entry-level employees in those job categories have substantially increased over the past two years;

(B) A statement that the applicant has sought the assistance of the local Employment Service Agency to obtain employees (The Council will consult with the Employment Service to certify the validity of the claimed shortages); and

(C) Documentation as to the proportion of the company work force that would be affected (The Council will give priority consideration to those requests pertaining to job categories affecting more than 15 percent of a company's work force);

(iv) Six-month Standard for Price Increases:

(A) A desecription of the seasonal pattern of price increases extending over the five years prior to the program year; or

(B) A description of the unusual business conditions that are alleged to be responsible for not complying with the Six-month Standard; and

(C) Projected data for the program year of net revenues and profits, or other means of ensuring that the pricing actions are consistent with adherence to the profit-margin limitation, as defined in Section 705A-6(a), for the program year.

(v) Profit-Margin Limitation:

(A) If a company is unable to achieve price deceleration, documentation of the extent of its price increases since the base quarter, and an explanation of the reasons that price deceleration is not achievable; and

(B) In cases in which the base-period or program-year rate of price change cannot be computed, the reasons therefore;

(vi) Undue Hardship or Gross Inequity:

(A) A description of the precise hardship or inequity that would be created;

(B) An explanation of how the requested exception would mitigate the hardship or inequity;

(C) An estimate of the effect that the exception would have on the company's prices or pay rates, as appropriate.

(b) The applicant may request a conference regarding the determination. If the Council determines that a conference is appropriate, it will contact the applicant to arrange a suitable time and location. At its discretion, the Council may also invite other interested persons to attend the conference if confidential material is not to be discussed.

(c) In the event that the information provided by the applicant is insufficient, the Council shall request from the applicant additional information. If such information is not furnished within 10 days, the request for an exception shall be denied. The Council will acknowledge receipt of all requests, and notify the applicant when the request is considered complete or has been denied for lack of information.

(d) The material included in the request pursuant to paragraph (a)(1)–(5) of this section shall not exceed ten typewritten pages, exclusive of supporting documents.

(e) Requests for approvals should be filed 20 or more days prior to the date on which the requested exception may become effective. If the pendency of the request for 20 days would itself cause hardship to the applicant, the nature of this hardship should be explained.

§ 706.35 Notice to interested parties of exception requests.

(a) The company (or employee unit) making a request for an exception to the pay standard should send a copy of the request and any subsequent amendments (or a copy from which confidential information has been deleted, provided that it is appropriately summarized) to the appropriate employee units (or company) together with the statement that the Council will accept comments regarding the request from such persons within 10 days of the Council's receipt of the request. The request filed with the Council should identify the persons and organizations served in accordance with this paragraph.

(b) The Council may serve notice on any person or organization, readily identifiable by the Council as one who could be significantly affected by granting the request, that written comments regarding the request will be accepted if filed within 10 days of service of such notice. Provision of comments to the Council does not make the person or organization providing the comments a party to the proceeding.

(c) Any such person or organization submitting written comments to the Council with respect to a request filed under this Subpart should send a copy of the comments, or a copy from which confidential information has been deleted and appropriately summarized, to the company or other entity making the request. The person or organization should certify to the Council that the requirements of this paragraph have been met. The Council may notify other persons or organizations participating in the proceedings of such comments and provide an opportunity for them to respond.

§ 706.36 Decision.

(a) Whenever feasible, the Council will issue a determination granting or denying the request within 20 days of the receipt of all information necessary to permit a determination. If more time is required for the consideration of a request, the Council will so advise the applicant and other interested parties.

(b) Determinations will be in writing, signed by the Chairman or his designee and will be served on the company or employee unit making the request, with copies to the interested parties. The Council's determinations will be published and available for public inspection and copying at the Offices of the Public Information Division.

Subpart D—Special Investigations

§ 706.40 Purpose and scope.

This Part contains rules applicable to special investigations by the Council related to the standards.

§ 706.41 Investigational policy.

(a) The Council may at its discretion conduct special investigations to examine significant price and pay increases and compliance with the standards by companies. Such investigations shall be in addition to the procedures set forth in Part 704 and in Subpart E of this Part.

(b) A special investigation may be initiated when the Council's examination of publicly available price or pay indices (e.g., the Consumer Price Index and the Wholesale Price Index) or the receipt of other information indicates the possibility of price or pay increases in excess of the respective standard for a company or in a sector of the economy.

§ 706.42 Requests for information.

The Council may request information relating to a company's specific price actions, its average price increases, and/or its pay programs, or any other information relating to compliance with the standards.

Subpart E—Determination of Noncompliance

§ 706.50 Purpose and scope.

This Subpart establishes the procedures by which the Council will determine whether companies are in compliance with the standards, as well as procedures for publicly identifying noncomplying companies.

§ 706.51 General.

When the Council has cause to believe that a company may not be in compliance with the standards, the Council may conduct proceedings to determine the nature and extent of the noncompliance.

§ 706.52 Notice and reply.

(a) The Council commences proceedings by serving a Notice of Probable Noncompliance on the company. The company should, immediately upon receipt of the notice, serve a copy on the affected unions or employee units if the alleged noncompliance relates to the pay standard, stating that such unions or employee units may file written comments with the Director within the 10-day period following the issuance of the Council's notice. In its written reply, the company is requested to identify the unions and employee units on whom it has served a copy of the notice.

(b)(1) Within 10 days of receipt of a Notice of Probable Noncompliance,

the company to which the notice is issued may file a written reply disputing information in that notice, and/or raising any of the defenses specified in subparagraph (2) below. The reply may also request a conference. This request should indicate whether any confidential data may be discussed. If the Council determines that a conference is appropriate, it shall arrange one at a suitable time and location.

(2) There shall be available as a defense to any Notice of Probable Noncompliance that an increase in pay or prices in excess of the price-deceleration or the 7-percent pay standard is justified:

(i) Under Sections 705A-4, 705A-6(a), 705B-9, 705B-10, or 705B-11, or

(ii) because of undue hardship or gross inequity, as defined in § 706.33(b).

(c) If a company does not reply to a Notice of Probable Noncompliance within ten days, the company will be considered noncompliant.

(d) The Council may request comments from any person or organization concerning the notice, but the provision of such comments shall not make the person or organization a party to the proceeding.

§ 706.53 Decision.

After considering the record, which shall consist of relevant data developed by the Council and material submitted to the Council, the Council will inform the company and interested parties of its decision as to whether it has found the company to be out of compliance with the standards and of its reasons for that finding.

§ 706.54 Listing of noncomplying companies.

If the Council finds a company to be out of compliance, it shall, eleven days after its decision, place the company's name on a list of noncomplying companies. This list will be made public.

§ 706.55 Settlement.

Whenever the Council has determined that a company is out of compliance, it may consider any corrective action offered by the company which would bring the company into compliance. If the Council is satisfied that appropriate corrective action will be initiated promptly, the Council will not place the company's name on the list specified in § 706.54. Any such offer should be made no later than five days after the Council has served notice on the company of its decision under § 706.53.

Subpart F—Removal From List of Noncomplying Companies

§ 706.60 Requests for removal from list of noncomplying companies.

Any company that has been placed on a list of noncomplying companies may request the Council to remove it from the list on grounds that the company has come into compliance with the standards. Any such request should be filed with the Director. It should state the corrective action that the company has taken, and explain how that action brings the company into compliance.

§ 706.61 Decision.

The Council will advise the company within 10 days after receipt of such request, if possible, as to whether the request has been granted or denied. If granted, the removal shall be effective immediately, and a notice to that effect will be published promptly in the same manner as the publication of the list of noncomplying companies. If denied, the company may seek reconsideration in accordance with Subpart G.

Subpart G—Requests for Reconsideration

§ 706.70 General.

(a) This Subpart establishes the procedures governing reconsideration of initial actions taken under Subparts C, E, or F of this Part.

(b) A company or other entity that has participated or could have participated in a matter arising under Subparts C, E, or F of this Part, will not have exhausted its administrative remedies until it has filed a request for reconsideration under this Subpart and final action on that request has been taken by the Council.

(c) A company or other entity may request only one reconsideration with respect to any action of the Council.

(d) Any company seeking removal from the list of noncomplying companies should not file a request under this Subpart until it has first filed and the Council has ruled upon its request for removal under Subpart F of this Part.

§ 706.71 Who may request reconsideration.

(a) Any company or other entity that has or could have participated under Subparts C, E, or F of this Part may request reconsideration of the Council's action.

(b) Such a company or other entity may submit views and evidence regarding a request for reconsideration.

§ 706.72 Contents for request.

A request for reconsideration should:

(a) Contain a concise statement of the requested relief and the grounds for reconsideration; and

(b) If the request concerns a collective bargaining situation, be served upon all affected unions and employee units if filed by a company, or be served upon all relevant company officials if filed by a union or employee unit. The entity filing the request should identify the persons who have been served in accordance with this paragraph.

§ 706.73 Reconsideration.

(a) The Council will grant reconsideration of an initial action taken under Subparts C, E, or F of this Part where the request for reconsideration tends to demonstrate that:

(1) The Council's initial action was erronerous in fact or in law; or

(2) Changes in circumstances since the date of the initial action render the decision grossly unfair or inadequate.

(b) The Council will notify the parties as to whether it will reconsider the initial action.

(c) In conducting its reconsideration, the Council may consider any additional evidence that it deems relevant.

§ 706.74 Hearing on reconsideration.

(a) If the Council, in its discretion, deems that a hearing is advisable, it will, as expeditiously as possible after receiving the request for reconsideration, direct that a hearing be held before a Hearing Officer.

(b) When a hearing has been authorized, it will be conducted promptly at such time and place as the Council may direct after written notice has been served on the person or organization requesting reconsideration and the persons and organizations specified in § 706.72(b).

(c) A hearing conducted in accordance with this section may include the submission of such additional evidence and argument as the Hearing Officer permits.

(d) Within 20 days after the close of the hearing, the Hearing Officer shall submit to the Council a report and any recommendation he or she deems appropriate with respect to disposition of the request for reconsideration.

§ 706.75 Decision.

(a) Within 20 days of receipt of a request for reconsideration, or within 20 days after receipt of a Hearing Officer's report if a hearing is held, the Council shall issue a written opinion setting forth the reasons for its decision.

(b) The Council will, in whole or in part, modify an initial action under Subparts, C, E, and F where the company or other entity making the request demonstrates the items specified in § 706.73(a) (1) or (2) to the Council's satisfaction.

§ 706.76 Stays pending reconsideration.

A request for reconsideration within 10 days of the Council's initial finding of noncompliance will stay the placing of a company's name on a list of noncomplying companies pending the disposition of the request.

[FR Doc. 79-395 Filed 1-3-79; 12 m]

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THURSDAY, JANUARY 4, 1979

PART VI



DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

■

SURFACE COAL MINING

Reclamation and Enforcement Operations

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[4310-05-M]

U.S. DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

[30 CFR Chapter VII]

SURFACE COAL MINING AND RECLAMATION OPERATIONS PERMANENT REGULATORY PROGRAM

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior, Washington, D.C. 20240.

ACTION: Notice that OSM is reopening the administrative record for the national permanent program regulations.

SUMMARY: A catalogue of all oral and written contacts between the Council of Economic Advisors (CEA), and parties outside the Executive Office of the President is being inserted in the administrative record in order that the Secretary and OSM may consult with CEA regarding the proposed rules. OSM is requesting comments on such contacts.

DATES: Comments must be received by January 22, 1979, at the addresses below by no later than 5 P.M.

ADDRESSES: Written comments must be mailed to: Office of Surface Mining, U.S. Department of the Interior, P.O. Box 7267, Benjamin Franklin Station, Washington, D.C. 20044; or be hand delivered to: Office of Surface Mining, Room 120, U.S. Department of the Interior, South Building, 1951 Constitution Avenue, N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Ron Drake, Special Assistant to the Director, Office of Surface Mining, U.S. Department of the Interior, Washington, D.C. 20240, (202) 343-5371.

SUPPLEMENTARY INFORMATION: On September 18, 1978, OSM proposed rules to implement a nationwide permanent program for the regulation of surface and underground coal mining operations by the states and the Federal Government as required by the Surface Mining Control and Reclamation Act of 1977 (SMCRA). 43 FR 41661-41940. After receiving extensive comments, including comments from CEA, as a member of the Regulatory Analysis Review Group, the administrative record was closed on November 27, 1978.

As part of the process for review of the proposed regulations and CEA's comments thereon, the Secretary, pursuant to Executive Order 12044 and after consultation with the Executive Office of the President, and the Department of Justice, Office of Legal Counsel, has decided to consult with CEA prior to promulgation of final regulations. This will assure that the final rules now under consideration will strike the proper balance between protection of the environment and agricultural productivity and the Nation's need for coal as an essential source of energy. *See:* Section 102(f) of SMCRA.

To allow the public to participate in the informal rulemaking proceeding at this stage, OSM is reopening its administrative record to solicit and receive comments related to the nature and substance of contacts which have occurred between CEA and any parties outside the Executive Office of the President, subsequent to publication of the proposed OSM regulations on September 18, 1978. 43 FR 41661-41940. In this regard, the CEA catalogue of those contacts on the proposed rules, is available for public inspection and comment between 8:00 A.M. and 4:30 P.M. on all days during the comment period at:

Office of Surface Mining, Room 120, U.S. Department of the Interior, South Building, 1951 Constitution Avenue, N.W., Washington, D.C. 20240.

The CEA catalogue of contacts on the proposed rules is also available for public inspection between 8:00 A.M. and 4:30 P.M. on normal business days at the following Regional Offices:

OSM Region I, First Floor, Thomas Hill Building, 950 Kanawha Boulevard, East, Charleston, W. Va. 25301, (304) 342-8125.

OSM Region II, 530 Gay Street, S.W., Suite 500, Knoxville, Tenn. 37902, (615) 637-8060.

OSM Region III, Federal Building, U.S. Courthouse, 46 East Ohio Street, Indianapolis, Ind. 46204, (317) 269-2609.

OSM Region IV, 601 East 12th Street, Room 1768, Kansas City, Mo. 64116, (816) 374-5162.

OSM Region V, Post Office Building 1832, Stout Street, Denver, Colo. 80205, (303) 837-5511.

Written comments on such contacts must be received by 5 p.m. on January 22, 1979. Comments received after that hour will not be considered or included in the administrative record for this rulemaking. Portions of the catalogue duplicate information in the administrative record or present information in the administrative record in a different format. Public comments may be addressed to the substance of the information contained in the catalogue, and the relationship of the catalogue to the proposed regulations and CEA's comments received on November 27, 1978, on OSM's proposed regulations.

A meeting has been scheduled between the Department and CEA for January 5, 1979, to discuss CEA's comments in relation to the final rules contemplated by the Department. In addition, other meetings and contacts may be scheduled with CEA, as appropriate.

Dated; January 3, 1979.

JOAN DAVENPORT,
Assistant Secretary,
Energy and Minerals.

[FR Doc. 79-600 Filed 1-3-79; 3:12 pm]

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highlights

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR notice 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
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	LABOR			LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

***NOTE: As of January 1, 1979, the Merit Systems Protection Board (MSPB) and the Office of Personnel Management (OPM) will publish on the Tuesday/Friday schedule. (MSPB and OPM are successor agencies to the Civil Service Commission.)**

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NOTE: There were no items eligible for inclusion in the list of RULES GOING INTO EFFECT TODAY.

List of Public Laws

NOTE: A complete listing of all public laws from the second session of the 95th Congress was published as Part II of the issue of December 4, 1978. (Price: 75 cents. Order by stock number 022-003-00960-4 from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402, Telephone 202-275-3030.)

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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[6110-01-M]

Title 1—General Provisions

CHAPTER III—ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

PART 305—RECOMMENDATIONS OF THE ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Miscellaneous Amendments

AGENCY: Administrative Conference of the United States.

ACTION: Recommendation.

SUMMARY: The Administrative Conference of the United States was established by the Administrative Conference Act, 5 U.S.C. 571-576, to study the efficiency, adequacy, and fairness of the administrative procedure used by administrative agencies in carrying out administrative programs, and to make recommendations for improvement to administrative agencies, collectively or individually, to the President, Congress, and the Judicial Conference of the United States (5 U.S.C. 574 (1)). The Administrative Conference of the United States at its Eighteenth Plenary Session, held December 14-15, 1978, adopted one recommendation. Recommendation 78-4 calls upon agencies which have authority to issue mandatory health or safety regulations to draw on the knowledge and information available in private organizations that develop voluntary consensus standards. Agencies are urged to coordinate their standards-development activity with such organizations where they exist. Agencies should also consider the use of existing relevant voluntary consensus standards in developing mandatory standards, but with due caution and on a case-by-case basis.

DATES: This recommendation was adopted December 14-15, 1978, and issued December 29, 1978.

FOR FURTHER INFORMATION CONTACT:

Richard K. Berg, Executive Secretary, 202-254-7065.

1. The table of contents to Part 305 of Title 1, Chapter III, CFR is amended to add the following section:

Sec.
305.78-4 Federal agency interaction with private standard-setting organizations in health and safety regulation (recommendation No. 78-4).

2. Section 305.78-4 is added to Part 305 to read as follows:

§ 305.78-4 Federal agency interaction with private standard-setting organizations in health and safety regulation (recommendation No. 78-4).

(a) Many federal agencies have authority to issue mandatory health or safety regulations relating to products, materials, processes, practices or services that may be the subjects of voluntary standards prepared by non-governmental organizations. Non-governmental standards, though not legally enforceable, have in fact gained wide acceptance and a high degree of observance. Many voluntary standards are developed, reviewed, and periodically revised by technical committees of such non-governmental organizations that follow open and regular procedures, including a process for considering and attempting to resolve negative comments. Membership on technical committees may be broadly based and "balanced" in an effort to assure representation of varying points of view and avoidance of domination by a single interest. Some standards-developing organizations provide a review mechanism to assure compliance with prescribed procedures and an appropriately balanced membership. Standards developed by private organizations that generally observe such procedures, or under the Department of Commerce voluntary standards program, are frequently referred to as "voluntary consensus standards," and are the subject of this recommendation. This recommendation is directed toward the manner in which agencies should interact with non-governmental organizations that develop voluntary consensus standards and the manner in which agencies should utilize such standards for health and safety regulation.

(b) Not all voluntary standards are developed through the consensus process just outlined. Other kinds of voluntary standards—for example, those developed by trade associations or other organizations through nonconsensus procedures—may be valuable for regulatory use by federal agencies, but are not treated by this recommendation. Also, the recommendation does not address the development of international standards.

(c) Members of technical committees that develop voluntary consensus standards often have a wealth of technical knowledge and expertise that agency staffs do not possess. Agency participation in or cooperation with those technical committees may result in the development of standards that adequately address considerations of health or safety more efficiently and effectively than if the agency seeks independently to formulate standards. The fact that a standard has been developed by an organization that uses consensus processes, however, does not of itself assure that it is appropriate for regulatory use. For example, some standards were developed at a time when less open procedures were followed, or when the state of relevant knowledge was less advanced, than at present. Some standards were developed without relevant accident and injury information. Some organizations and committees preparing voluntary consensus standards may not always have an adequate representation of varying interests; in particular, there are problems in obtaining effective representation of and participation by certain significant interests, especially consumers, employees, small business, and certain noneconomic interests that agencies may be charged with protecting.[1] Moreover, the process of seeking consensus followed by some standards-developing organizations often may create standards that are acceptable for business interests but may not be suitable for regulatory use.

(d) Consequently, the appropriateness of particular voluntary consensus standards for use by an agency in the development of mandatory health or safety regulations should be determined on a case-by-case basis. Of course, before adopting any mandatory standard, the agency should identify a need for doing so.

[1]The Conference is aware that the concept of representing identified "interests" in private standards-developing organizations is a complex one, involving considerations such as what may be identifiable as an interest, its relevancy, its internal homogeneity, its capacity to be represented by knowledgeable spokesmen, and its political strength.

(e) Questions have been raised as to the possible applicability of the Federal Advisory Committee Act to technical committees and standards-developing organizations. The FACA should not apply to the technical committees and standards-developing organizations contemplated by this recommendation, which ordinarily are privately organized and operated primarily for purposes independent of advising the federal government. It would be injurious to the operation of such organizations, and to their willingness to cooperate with federal agencies, to apply to them certain provisions of the FACA which assume federal sponsorship and control of committees subject to the Act. Examples include the vesting of authority in federal employees to approve and terminate meetings and to approve the agenda of meetings, and of authority in the General Services Administration to conduct annual reviews which can result in recommendations to restructure or even abolish committees. The recommendation calls upon Congress to amend the FACA to make explicit that it does not govern the technical committees and standards-developing organizations here addressed. Of course, several principles reflected in the FACA—such as balanced membership and open decisionmaking—represent important criteria for agencies to take into account when considering the use of standards developed by such organizations (see paragraph 6(c)).

(f) The recommendation that follows is limited to agency interaction with standards-developing organizations and use of voluntary consensus standards in the context of regulation of health or safety.[1] The recommendation may nevertheless be significant in relation to setting standards for other purposes: For example, in conservation of energy and resources, environmental issues, and formulation of test methods and definitions. Agencies that use voluntary consensus standards in contexts other than health or safety regulation are urged to consider the recommended measures set forth below and to follow them to the extent appropriate. However, the recommendation is not intended to have application to the use of voluntary standards in government procurement, as to which less elaborate procedures may be appropriate in many cases.

[1]The concept of "regulation of health or safety" for purposes of this recommendation is not intended to encompass all agency functions aimed at health and safety concerns. For example, the recommendation does not deal with requirements relating directly to the qualifications or conduct of individuals engaged in the performance of professional services in areas of health or safety, or regulations that impose preconditions on eligibility for federal funding programs.

RECOMMENDATION

COORDINATION AND COOPERATION WITH STANDARDS-DEVELOPING ORGANIZATIONS

1. An agency having authority to issue mandatory health or safety regulations should draw on the knowledge and information available in active technical committees that develop relevant voluntary consensus standards, and should interact in accordance with this recommendation with technical committees that follow procedures that are substantially in accord with the criteria of paragraph 6(c).

(a) To the extent that staff resources permit, the agency should arrange for an appropriately qualified employee to serve on each technical committee in which the agency has a significant interest. An employee so serving should serve as a representative of the agency rather than in an individual capacity or as a representative of some other designated "interest." [2] Where separate representatives of several agencies may result in an imbalance on the committee, the agencies should seek to agree on a common representative or on the attendance of some agency personnel as observers. The representative's function should be to act as liaison to the committee, to monitor and participate in its standards-writing activities, and to provide information and communicate the views of the agency relative to the standards being developed and the procedures followed by the technical committee. The representative should have no authority to vote or to bind the agency to any specific proposal. An agency employee who has participated in a technical committee's development of a standard may thereafter participate in the agency's decisionmaking process by providing information and advice, but should not otherwise participate in making the agency's decision on whether to adopt or to revise that standard unless the agency has no other personnel with the requisite knowledge and expertise.

(b) When considering whether to modify an existing mandatory health or safety standard or to develop a new mandatory standard, the agency should normally ask an appropriate technical committee, if an active one exists, to consider the matter and the data bearing on the possible need for a modification or a new standard. This should be done before the agency independently publishes a modification or new standard as a proposed regulation. The agency should announce the referral in an advance notice of proposed rulemaking which describes the interaction between the agency and the technical committee and explains how the views of the interested public may be communicated to the committee. If the technical committee promptly takes steps to develop an appropriate new voluntary consensus standard or to modify a relevant voluntary consensus standard in a manner acceptable to the agency, or presents an appropriate existing standard, the agency may incorporate the standard into its regulations, or may determine that governmental action is not needed (see paragraph 7). If, however, the committee does not respond promptly or adequately and the agency determines that regulatory action is needed, the agency should proceed independently to develop a mandatory standard. In determining whether to request the assistance of a technical committee or to defer development of a regulation pending action by a technical committee, the agency should take into account the need for prompt development of the standard and whether committee consideration may be obtained promptly.

(c) The relationship between the agency and the technical committee should be a cooperative one, and the agency should not seek to dominate the committee.

(d) In their published rulemaking notices relating to voluntary consensus standards, agencies should describe their interactions with the technical committees involved.

(e) Congress should amend the Federal Advisory Committee Act to state explicitly that the technical committees and standards-developing organizations of the sort addressed by this recommendation, which are privately organized and operated primarily for purposes independent of advising federal agencies, are not within the definition of "advisory committee" for purposes of that Act.

2. In appropriate cases the agency should provide its available technical information, data on health or safety concerns, and other relevant material and information to the technical committee. The agency may also provide financial and other support for the committee when such action is legally permissible and is in furtherance of the agency's mission and responsibility.

3. If an active relevant technical committee exists, an agency undertaking to develop standards "in-house" should coordinate its efforts with the committee as outlined in paragraphs 1 and 2, unless the agency has strong reasons to believe the committee can make no useful or timely contribution to the development of an adequate standard.

4. Each agency should, as a matter of general policy, regularly review standards or revisions proposed by technical committees active in the areas of regulatory concern of the agency, and should advise such committees on a regular and informal basis whether the proposed standards and revisions appear to be consonant with the agency's regulatory responsibilities.

5. Agencies should adopt and publish regulations or policy statements implementing the procedures outlined in paragraphs 1 through 4 and describing the manner in which agency representatives are to be designated and the authority they are to possess.

USE OF EXISTING VOLUNTARY CONSENSUS STANDARDS IN REGULATION

6. Agencies with authority to issue health or safety regulations should consider the use of existing relevant voluntary consensus standards in developing mandatory standards. Voluntary consensus standards should be considered with due caution and on a case-by-case basis. Ordinarily, standards which embody judgmental factors should receive greater scrutiny when being considered by agencies for adoption into regulations than standards which specify nomenclature, basic reference units, or methods of measurement or testing, and which are primarily empirical in their formulation. In evaluating a voluntary consensus standard each agency should consider the following factors:

(a) The apparent suitability of the voluntary consensus standard for use as a mandatory standard, including:

(i) The problems addressed by the standard and changes in the state of knowledge since the standard was prepared or last revised;

(ii) The extent to which the standard has been complied with, and the reasons for any noncompliance;

(iii) The extent of injury, accident, or illness known to have resulted from products, materials, processes, practices or services that have conformed with the standard;

(iv) The clarity and detail of the standard's language;[3]

(v) The extent to which the standard establishes performance rather than design criteria, where feasible;

(vi) The extent to which a newly developed standard, under which little experience exists, appears adequately to address the hazards considered by the developers of the standard or known to the agency; and

(vii) The enforceability of the standard.

(b) The nature of the agency's statutory mandate to develop health or safety regulations and the consistency of the provisions of the voluntary consensus standard with that mandate.

(c) The adequacy of the procedures followed by the organization preparing the standard to assure that:

(i) The membership of the technical committee represents a broadly based and balanced array of relevant interests, including, where appropriate, representatives of consumers, labor, small business, and other affected groups, and no single interest has a dominating influence on the committee;

(ii) Reasonable notice that a proposed standard is being considered is given to interested persons and groups;

(iii) Interested persons and groups have an opportunity to participate in the deliberations and discussions relating to the standard;

(iv) Prompt and careful consideration is given to minority points of view and objections to the standard;

(v) Standards are approved by considerably more than a simple majority vote of the technical committee, although unanimity is not necessarily required;

(vi) An adequate opportunity for review is afforded to assure that fairness is protected and that dissenting views are given full consideration;

(vii) Adequate records are maintained to document that the established procedures were actually followed and that the views presented were duly considered in accordance with those procedures; and

(viii) The entire process is open to public scrutiny and review.

(d) The availability of documentation adequately describing the costs and benefits, the rationale for and method of arriving at the critical requirements of the standard, and other factors actually considered by the technical committee in developing or revising the voluntary consensus standard.

(e) The number of negative voters and the interests they represent.

(f) Possible anti-competitive effects that may arise from the use of the voluntary consensus standard.

7. Subject to the procedural requirements of 5 U.S.C. 553 or other relevant statutes, a voluntary consensus standard that appears to be partially or wholly suitable for use as a regulation may be adopted by an agency in various ways:

(a) If the voluntary consensus standard adequately addresses the questions of health or safety and is being substantially complied with by the affected industry, the agency may decide to take no further regulatory steps, or, alternatively, to adopt the standard into its regulations (see paragraph (f) below), and direct its primary regulatory efforts elsewhere. If, under these circumstances, the agency decides to take no further regulatory steps, it should publish that decision and the reasons therefor in the FEDERAL REGISTER. The agency should thereafter review periodically the continued adequacy of the standard and the extent of compliance with it by the affected industry.

(b) If the voluntary consensus standard adequately addresses the questions of health or safety, but there has not been substantial compliance with the standard by the affected industry, or if the industry is so scattered and diffuse that it is difficult to ascertain compliance, then the agency should adopt the standard into its regulations. Where the standard is new, the agency may defer a decision for a reasonable period to observe the effects of the standard.

(c) If the voluntary consensus standard adequately addresses the questions of health or safety but the language of the standard lacks the clarity or detail appropriate for a regulatory standard, then the agency should accept the substantive provisions of the voluntary consensus standard and seek to develop the needed clarity or detail by working with the technical committee. Only if this is unsuccessful or impractical should the agency alone reformulate the standard. In evaluating whether a voluntary consensus standard is appropriately detailed, the agency should consider the extent to which other regulatory authorities have adopted the standard and have then succeeded in enforcing it.

(d) If the voluntary consensus standard does not adequately address the pertinent questions of health or safety, the agency should seek to develop an adequate standard with the assistance of the relevant technical committee by following the procedures described in paragraph 1(b).

(e) Agencies should consider the "regulatory guide" approach as a means of effectively making use of voluntary consensus standards. A "regulatory guide" is a formal declaration by the agency that compliance with designated portions, or all, or a voluntary consensus standard will be considered an acceptable method of compliance with a general mandatory standard appearing in either the governing statute or the agency's regulations. When taking this approach, the agency should suitably publicize its decision and reasons therefor.

(f) The agency may adopt a voluntary standard into its regulations either by placing the text of the standard in the regulations, or, preferably, by incorporating the standard by reference pursuant to 1 CFR Part 51.

8. Each regulatory agency must take special care to avoid needless inconsistencies between voluntary and mandatory standards, as well as to remain abreast of technological change. An agency that has adopted a voluntary consensus standard into its regulations must therefore be aware of and must promptly review all late revisions initiated by the technical committees. If a revision is consistent with the agency's regulatory responsibilities, the agency should promptly proceed under its rulemaking authority to amend its prior standard by adopting the latest revision. Such procedures should provide for coordinated consideration by all agencies that have adopted the standard.

REFERENCE OF STANDARDS THAT HAVE BEEN INCORPORATED BY REFERENCE BY MORE THAN ONE AGENCY

9. Where a voluntary consensus standard has been incorporated by reference by two or more agencies, the Office of the Federal Register should develop, and implement in the form of a regulation, a procedure by which such agencies may elect in advance to have all proposed changes in such voluntary consensus standard reviewed pursuant to the following procedure:

(a) A notice of proposed rulemaking, prepared by or under the direction of the Office of the Federal Register, should be published under the name of each electing agency in accordance with the notice and comment requirements of 5 U.S.C. 553, so that each agency's standard can be revised promptly in accord with revisions subsequently approved by the promulgating organizations. The notice should also direct that all comments on the proposed revision be sent to each electing agency as well as to the promulgating organization. The Office of the Federal Register should coordinate the distribution of comments if the number of electing agencies is large.

(b) Each electing agency should promptly review each proposed revision to the referenced standard in the light of the comments received, and should then determine whether or not to adopt the revision when it has been finally approved by the promulgating organization. Adoption of the revised standard should be formally announced and should be officially published, without further public opportunity to comment.

10. In order to implement paragraph 9, the Office of the Federal Register should promptly ascertain all incorporations by reference of voluntary standards that have been made in the Code of Federal Regulations and are currently in effect.

Dated: December 29, 1978.

RICHARD K. BERG,
Executive Secretary.

[FR Doc. 79-423 Filed 1-4-79; 8:45 am]

[2]This paragraph should not be construed as indicating disapproval of the common present practice of permitting agency employees serving with the consent of their agencies on technical committees in their individual capacities or as representatives of some other designated "interest" rather than as agency representatives.

[3]The wording of a standard may contain too much detail as well as too little.

[6325-01-M]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The Civil Service Commission as listed below: (1) Excepts under Schedule C certain positions because they are confidential in nature. Appointments may be made to these

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positions without examination by the Civil Service Commission. (2) Changes the title of certain positions to reflect the current duties of the position, the current title of the superior or an organizational redesignation and (3) revokes certain positions because they have been vacant for more than 60 days.

EFFECTIVE DATES: Executive Office of the President, 213.3303(a)(2), (21)—December 27, 1978.

Department of State, 213.3304(a)(5), (16), (28)—December 5, 1978, (a)(29)—December 8, 1978, (a)(34)—December 22, 1978.

Department of the Interior, 213.3312(h)(7), and (8)—November 21, 1978, (h)(9)—December 22, 1978, (h)(10)—December 29, 1978, (n)(3)—December 8, 1978.

Department of Agriculture, 213.3313(n)(5)—December 27, 1978.

Department of Commerce, 213.3314(a)(34)—November 29, 1978, (n)(1)—December 8, 1978, (w)(4)—December 5, 1978.

Department of Labor, 213.3315(a)(48) and (63)—December 1, 1978.

Department of Health, Education, and Welfare, 213.3316(c)(23)—December 4, 1978.

Overseas Private Investment Corporation, 213.3317(f)—November 20, 1978.

Department of Energy, 213.3331(a)(8)—December 29, 1978, (f)(2)—November 29, 1978.

General Services Administration, 213.3337(b)(2)—December 23, 1978.

International Trade Commission, 213.3339(e)—November 20, 1978.

National Aeronautics and Space Administration, 213.3348(w)—December 19, 1978.

Federal Mine Safety and Health Review Commission, 213.3351(c), (d)—November 21, 1978.

ACTION, 213.3359(dd)—November 24, 1978, (ee)—December 4, 1978.

Administrative Office of the U.S. Courts, 213.3372(b)—December 5, 1978.

Community Services Administration, 213.3373(m)(2)—November 21, 1978.

National Foundation on the Arts and the Humanities, 213.3382(e), (o), and (z)—December 13, 1978.

Department of Housing and Urban Development, 213.3384(b)(20), (21)—December 6, 1978, (o)(1)—November 24, 1978.

Department of Transportation, 213.3394(a)(26)—November 21, 1978, and December 27, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213 is amended by: (1) revising the following: 213.3303(a)(2), 213.3304(a)(5), (16), (28), (29), 213.3312(h)(7), 213.3314(a)(34), (n)(1), 213.3315(a)(48), (63), 213.3331(a)(8), (f)(2), 213.3337(b)(2), 213.3339(e), 213.3384(b)(20), and 213.3394(a)(26);

(2) Adding the following: 213.3303(a)(21), 213.3304(a)(34), 213.3312(h)(8), (9), (10), (n)(3), 213.3313(n)(5), 213.3314(w)(4), 213.3316(c)(23), 213.3317(f), 213.3348(w), 213.3351(c)(d), 213.3359(dd), (ee), 213.3372 (b), 213.3373(m)(2), 213.3382(z) and 213.3384(o);

(3) Revoking the following: 213.3392(e)(o), and 213.3384(b)(21).

§ 213.3303 Executive Office of the President.

(a) *Office of Management and Budget.* • • •

(2) One Special Assistant to the Deputy Director. • • •

(21) One Deputy Assistant Director for Congressional Relations.

• • • • •

§ 213.3304 Department of State.

(a) *Office of the Secretary.* • • •

(5) One Special Assistant to the Under Secretary for Management. • • •

(16) One Secretary (Steno) to the Under Secretary for Management. • • •

(28) Two Staff Assistants to the Under Secretary for Management.

(29) Five Members of the Policy Planning Staff. • • •

(34) One Special Advisor to the Assistant Secretary for Inter-American Affairs.

• • • • •

§ 213.3312 Department of Interior.

• • • • •

(h) *National Park Service.* • • •

(7) One Special Assistant to the Deputy Director.

(8) One Staff Assistant to the Director.

(9) Director, Heritage Conservation and Recreation Service.

(10) Chief, Office of Legislation.

• • • • •

(n) *Bureau of Reclamation.* • • •

(3) One Public Information Officer to the Commissioner.

• • • • •

§ 213.3313 Department of Agriculture.

• • • • •

(n) *Agricultural Economics.* • • •

(5) One Private Secretary to the Deputy Director.

• • • • •

§ 213.3314 Department of Commerce.

(a) *Office of the Secretary.* • • •

(34) One Deputy Director, one Special Assistant and one Special Assistant for Field Activities, Office of Public Affairs.

• • • • •

(n) *Office of the Assistant Secretary for Science and Technology.*

(1) Three Special Assistants to the Assistant Secretary for Science and Technology.

• • • • •

(w) *Industry and Trade Administration.* • • •

(4) One Confidential Assistant to the Deputy Assistant Secretary for East-West Trade.

• • • • •

§ 213.3315 Department of Labor.

(a) *Office of the Secretary.* • • •

(48) One Executive Assistant and one Special Assistant to the Assistant Secretary for Employment Standards. • • •

(63) One Special Assistant to the Deputy Assistant Secretary for Employment Standards.

• • • • •

§ 213.3316 Department of Health, Education, and Welfare.

• • • • •

(c) *Office of Education.* • • •

(23) One Assistant Commissioner for Comprehensive School Health.

• • • • •

§ 213.3317 Overseas Private Investment Corporation.

• • • • •

(f) One Assistant to the Vice President for Public and Congressional Affairs.

• • • • •

§ 213.3331 Department of Energy.

(a) *Office of the Secretary.* • • •

(8) One Confidential Assistant (Secretary) and one Executive Assistant to the Deputy Under Secretary.

• • • • •

(f) *Office of the Inspector General.* • • •

(2) One Confidential Assistant (Secretary) to the Deputy Inspector General.

• • • • •

§ 213.3337 General Services Administration.

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(b) *Public Buildings Service.* • • •

(2) Four Confidential Assistants to the Commissioner.

• • • • •

§ 213.3339 International Trade Commission.

• • • • •

(e) One Professional Assistant (Legal), one Confidential Assistant, two Staff Assistants, and one Secretary (Typing) to a Commissioner.

• • • • •

§ 213.3348 National Aeronautics and Space Administration.

• • • • •

(w) One Secretary (Steno) to the Inspector General.

• • • • •

§ 213.3351 Federal Mine Safety and Health Review Commission.

• • • • •

(c) One Confidential Secretary to the Executive Director.

(d) One Confidential Secretary to the General Counsel.

• • • • •

§ 213.3359 ACTION.

• • • • •

(dd) One Special Assistant to the Assistant Director, Office of Recruitment and Communications.

(ee) One Deputy Assistant Director of the Office of Legislation and Governmental Affairs.

§ 213.3372 Administrative Office of the United States Courts.

• • • • •

(b) *Office of the Deputy Director.*

(1) One Chief, Division of Management Review.

§ 213.3373 Community Services Administration.

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(m) *Office of Management.* • • •

(2) One Confidential Staff Assistant to the Assistant Director for Management.

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§ 213.3382 National Foundation on the Arts and the Humanities.

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(e) (Revoked)

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(o) (Revoked)

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(z) One Congressional Liaison Specialist.

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§ 213.3384 Department of Housing and Urban Development.

• • • • •

(b) *Office of the Assistant Secretary for Housing—Federal Housing Commissioner.* • • •

(20) *Five Special Assistants to the Assistant Secretary—Commissioner.* • • •

(21) (Revoked)

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(o) *Federal Insurance Administration.*

(1) One Secretary to the Administrator.

• • • • •

§ 213.3394 Department of Transportation.

(a) *Office of the Secretary.* • • •

(26) One Public Information Assistant and one Secretary (Steno) to the Director, Office of Public and Consumer Affairs.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 79-455 Filed 1-4-79; 8:45 am]

[6325-01-M]

PART 213—EXCEPTED SERVICE

Department of Commerce

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: Up to 3,000 temporary positions of data transcribers involved in prelist operations for the 1980 decennial census at Laguna Niguel, California, and New Orleans, Louisiana, are excepted under Schedule A because it is impracticable to examine for them. Employment in these positions may not exceed 1 year.

EFFECTIVE DATE: December 29, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3114(d)(3) is added as set out below:

§ 213.3114 Department of Commerce.

• • • • •

(d) *Bureau of the Census* • • •

(3) Not to exceed 3,000 positions of data transcribers involved in prelist operations for the 1980 decennial census, to be located in processing centers at Laguna Niguel, California, and New Orleans, Louisiana. Employment under this authority may not exceed 1 year.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 79-457 Filed 1-4-79; 8:45 am]

[6325-01-M]

PART 213—EXCEPTED SERVICE

Department of Commerce

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: Five additional professional positions at grades GS-13 through GS-15 in the National Telecommunications and Information Administration are excepted under Schedule A because it is impracticable to examine for them.

EFFECTIVE DATE: December 29, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

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Accordingly, 5 CFR 3114 (1)(1) is amended as set out below:

§ 213.3114 Department of Commerce.

• • • • •

(1) *National Telecommunications and Information Administration*

(1) Seventeen professional positions in grades GS–13 through GS–15.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 79–458 Filed 1–4–79; 8:45 am]

[6325–01–M]

PART 213—EXCEPTED SERVICE

Merit Systems Protection Board, Office of Personnel Management

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: One purpose of this amendment is to reflect the establishment of the Merit Systems Protection Board and the assumption of all of the seven Schedule C positions currently existing at its predecessor agency, the Civil Service Commission. Another purpose of this amendment is to reflect the establishment of the Office of Personnel Management and the concurrent exception under Schedule C of five of its positions on the basis that all are confidential in nature. At a later date each of the aforegoing positions at the two new agencies will be individually listed in the FEDERAL REGISTER when their permanent roles in the new organizations are more sharply delineated.

EFFECTIVE DATE: January 1, 1979.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3370 is revoked and §§ 213.3390 and 213.3391 are added as set out below:

§ 213.3370 Civil Service Commission. [Revoked]

• • • • •

§ 213.3390 Merit Systems Protection Board.

• • • • •

§ 213.3391 Office of Personnel Management.

(5 U.S.C. 3301, 3302, EO 10577, 3 CFR 1954–1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 79–454 Filed 1–4–79; 8:45 am]

[6325–01–M]

PART 213—EXCEPTED SERVICE

Department of the Treasury

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: Exception of 25 positions on the staff of the Office of New York Finance under Schedule A is continued through June 30, 1982, because the office's responsibilities have been extended by law through that date. Schedule A exception is still appropriate because it is still impracticable to examine for the positions.

EFFECTIVE DATE: December 19, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3105(h)(1) is amended as set out below:

§ 213.3105 Department of the Treasury.

• • • • •

(h) *Office of New York Finance.*

(1) Not to exceed 25 positions. Employment under this authority may not exceed June 30, 1982.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 79–456 Filed 1–4–79; 8:45 am]

[3410–30–M]

Title 7—Agriculture

SUBTITLE A—OFFICE OF THE SECRETARY OF AGRICULTURE

PART 15—NONDISCRIMINATION

Subpart B—Nondiscrimination—Direct USDA Programs and Activities

PROHIBITION OF AGE DISCRIMINATION; CORRECTION

DECEMBER 22, 1978.

AGENCY: Department of Agriculture.

ACTION: Final rule; correction.

SUMMARY: In FR Doc. 78–21825 appearing at page 34755 in the FEDERAL REGISTER of August 7, 1978, the citation of authority to issue the rule was erroneously omitted. The citation of authority should have read (5 U.S.C. 301).

FOR FURTHER INFORMATION CONTACT:

William C. Payne, Jr., Civil rights Division, Office of Equal Opportunity, Washington, D.C. 20250 (Phone: 447–4806).

(5 U.S.C. 301.)

Dated: December 22, 1978.

BOB BERGLAND,
Secretary.

[FR Doc. 79–418 Filed 1–4–79; 8:45 am]

CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

[Amendment 29]

PART 210—NATIONAL SCHOOL LUNCH PROGRAM

Differential in Earning Factor

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This rule amends Part 210 to change the differential in the earning factor for reduced price lunches from 10 to 20 cents less than the factor for free lunches, with additional adjustments for States charging a maximum price of less than 20 cents for a reduced price lunch.

EFFECTIVE DATE: January 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Margaret O'K. Glavin, Director, School Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 447–8130.

SUPPLEMENTARY INFORMATION: Section 4 of Public Law 95–627 amends Section 11(a) of the National School Lunch Act by changing the differential between the earning factor for free lunches and that for reduced price lunches from 10 to 20 cents.

Prior to 1975, schools were not required by law to offer reduced price lunches. States earned for a reduced price lunch 10 cents less than the amount they earned for a free lunch, and generally passed this money through to their schools. Therefore, schools were reimbursed for a reduced price lunch 10 cents less than what they were reimbursed for a free lunch and were allowed to charge 20 cents for a reduced price lunch. In effect, this "extra dime" incentive provision allowed schools charging the maximum price to receive 10 cents in revenue over their costs on each reduced price lunch served. Since Public Law 94–105 makes the service of reduced price lunches mandatory, an incentive provision is no longer appropriate. This rule amends Part 210 to adjust the earning factor so that revenues cover, but do not exceed, cost.

For a State that establishes a statewide uniform price for reduced price lunches which is less than 20 cents, the law allows that State's reduced price earning factor to be adjusted by that uniform price, up to 10 cents less than the free factor. To keep from penalizing students whose schools are able to charge the student less than any uniform price which a State may set, the Department has interpreted the law to allow the State to set a maximum price of less than 20 cents which no school may exceed. It is this maximum charge which will determine a State's earning factor.

To illustrate how the earning factor is adjusted, for example, if a State does not establish a statewide maximum price for reduced price lunches, its earning factor for a reduced price lunch will be 20 cents less than the earning factor for a free lunch, regardless of what prices its schools charge. If a State establishes a statewide maximum price of 15 cents for a reduced price lunch, its earning factor for a reduced price lunch will be 15 cents less than the earning factor for a free lunch. If a State establishes a statewide maximum price of 10 cents, or less than 10 cents, the earning factor for a free lunch will be adjusted by the maximum differential, 10 cents, making its earning factor for a reduced price lunch 10 cents less than the free lunch factor. The following table illustrates this example for a period when the free earning factor is 71.50 cents per free lunch.

Statewide maximum charge	Earning differential	Earning factor for reduced price lunch
15 cents	15 cents	56.50 cents
10 cents	10 cents	61.50 cents
5 cents	10 cents	61.50 cents

This rule also removes the obsolete language in Part 210.4(B), governing the earning factors for 1974.

A related amendment to Part 245, scheduled to be effective July 1, 1979 will require States to formally establish a maximum price in their annual State prototype free and reduced price policy statement, if they wish to obtain the adjusted reduced price earning factor. For the current school year, States which have not established a maximum reduced price lunch charge of less than 20 cents may do so through the following procedure: (1) notifying the appropriate FNS Regional Office in writing what maximum price the State has established, preferably by an amendment to the State's prototype free and reduced price policy guidance, (2) notifying School Food Authorities who are not already in compliance with the Statewide policy of the new maximum price which they may not exceed, (3) requiring School Food Authorities, in turn, to notify parents of reduced price meal recipients in writing of the change in price, and (4) encouraging School Food Authorities which are adjusting their reduced price charge to notify all parents through newsletters or other means that the price has changed and that they may apply for free and reduced price meals at any time during the year.

The Department is issuing this rulemaking as a final rule because it is mandated by Public Law 95–627 and is nondiscretionary. Public comment would therefore serve no purpose. In addition, Public Law 95–627 requires that the new earning factors for reduced price lunches take effect on January 1, 1979 and cover reduced price lunches served on or after that date.

Accordingly, Part 210 is amended as follows:

The third sentence of section 210.4(b) is deleted and the second sentence is amended.

§ 210.4 Payment of funds to States and FNSRO's.

• • • • •

(b) • • • Beginning with the fiscal year ending June 30, 1974, the national average factor for payment prescribed for free lunches shall be not less than 45 cents and beginning January 1, 1979, the national average factor for payment prescribed for reduced price lunches shall be 20 cents less than the national average factor for free lunches, unless a State establishes for all its schools as prescribed in § 245.11(a) a maximum price for reduced price lunches which is less than 20 cents. If a State establishes such a price, the national average factor for reduced price lunches for that State shall be the lesser of — (a) the national average factor for free lunches minus the price charged for reduced price lunches or (b) the national average factor for free lunches minus 10 cents.

• • • • •

(Catalogue of Federal Domestic Assistance No. 10.555.)

In accordance with Executive Order 12044, a copy of the detailed impact statement for this proposal is on file at the Office of the Director, School Programs Division, USDA–FNS, Washington, D.C. 20250 during regular business hours (8:30 a.m. to 5:00 p.m. Monday through Friday).

AUTHORITY: (Section 4, Public Law 95–627, 92 Stat. 3619 (42 U.S.C. 1759a)).

Dated: December 29, 1978.

CAROL TUCKER FOREMAN,
Assistant Secretary for Food and Consumer Services.

[FR Doc.79–429 Filed 1–4–79; 8:45 am]

[3410–30–M]

[Amendment 12]

PART 245—DETERMINING ELIGIBILITY FOR FREE AND REDUCED PRICE MEALS AND FREE MILK IN SCHOOLS

State Prototype Free and Reduced Price Policy

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This rule requires a State wishing to take advantage of the adjusted reduced price earning factor provided for by Section 4 of Public Law 95–627 and prescribed in § 210.4(b) of the National School Lunch Program regulations to establish its maximum reduced price charge in its State prototype free and reduced price policy. It makes the State prototype policy statement an explicit regulatory requirement and removes redundant language.

EFFECTIVE DATE: July 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Margaret O'K. Glavin, Director, School Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 447–8130.

SUPPLEMENTARY INFORMATION: Section 4 of Public Law 95–627 amends Section 11(a) of the National School Lunch Act by changing the differential between the earning factor for free lunches and that for reduced price lunches from 10 to 20 cents. However, the law allows that if a State chooses to establish a statewide maxi-

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mum price for reduced price lunches which is less than 20 cents, that State's reduced price earning factor will be adjusted by that maximum price, up to 10 cents less than the free factor.

This rule requires a State which wishes to have its reduced price factor adjusted to formally establish a statewide maximum price in its State prototype free and reduced price policy statement.

This rule also removes the redundant language in Part 245.11(a) which reiterates the maximum allowable price levels for reduced price lunches and breakfasts. It makes the prevailing practice of issuing statewide prototype free and reduced price policy guidance an explicit regulatory requirement.

The Department is issuing this as a final rule because it is necessary to implement a provision mandated by Public Law 95-627 and is a clarification of present regulatory requirements. Accordingly, the first sentence of § 245.11(a) is amended to read as follows:

§ 245.11 Action by State agencies and FNSRO's.

(a) Each State agency, or FNSRO where applicable, shall, for schools under its jurisdiction: (1) Issue an annual prototype free and reduced price policy statement and any other instructions necessary to assure that School Food Authorities are fully informed of the provisions of this part. If the State elects to establish for all schools a maximum price for reduced price lunches that is less than 20 cents, the State shall establish such price in its prototype policy. Such State shall then receive the adjusted national average factor provided for in 210.4(b);

(2) prescribe • • •

• • • • • •

(Catalog of Federal Domestic Assistance No. 10.555.)

In accordance with Executive Order 12044, a copy of the detailed impact statement for this proposal is on file at the Office of the Director, School Programs Division, USDA-FNS, Washington, D.C. 20250 during regular business hours (8:30 a.m. to 5:00 p.m. Monday through Friday).

AUTHORITY: (Sec. 4, Public Law 95-627, 92 Stat. 3619 (42 U.S.C. 1759a)).

Dated: December 29, 1978.

CAROL TUCKER FOREMAN,
Assistant Secretary for Food and Consumer Services.

[FR Doc. 79-428 Filed 1-4-79; 8:45 am]

[3410-34-M]

CHAPTER III—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

PART 354—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

Commuted Traveltime Allowances

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends administrative instructions prescribing commuted traveltime. These amendments establish commuted traveltime periods as nearly as may be practicable to cover the time necessarily spent in reporting to and returning from the place at which an employee of the Plant Protection and Quarantine Programs performs overtime or holiday duty when such travel is performed solely on account of such overtime or holiday duty. Such establishment depends upon facts within the knowledge of the Animal and Plant Health Inspection Service.

EFFECTIVE DATE: Friday, January 5, 1979.

FOR FURTHER INFORMATION CONTACT:

H. V. Autry, Regulatory Support Staff, Animal and Plant Health Inspection Service, Plant Protection and Quarantine Programs, U.S. Department of Agriculture, Hyattsville, MD 20782 (301-436-8247).

Therefore, pursuant to the authority conferred upon the Deputy Administrator, Plant Protection and Quarantine Programs, by 7 CFR 354.1 of the regulations concerning overtime services relating to imports and exports, the administrative instructions appearing at 7 CFR 354.2, as amended, March 24, 1978 (43 FR 12301), and August 4, 1978 (43 FR 34429), prescribing the commuted traveltime that shall be included in each period of overtime or holiday duty are further amended by adding (in appropriate alphabetical sequence) or deleting the information as shown below:

§ 354.2 Administrative instructions prescribing commuted traveltime.

• • • • • •

COMMUTED TRAVELTIME ALLOWANCES

[In hours]

Location covered	Served from	Metropolitan area: Within	Metropolitan area: Outside
Delete:			
• • • • • • •			
California:			
Gillespie Field	San Diego		1
Imperial Beach NAS	San Diego		1
North Island	San Diego		1
• • • • • • •			
Add:			
• • • • • • •			
Arkansas:			
Dardanelle	Conway		3
Fort Smith	Conway		5
Little Rock	Conway		2
Little Rock AFB	Conway		2
Osceola	Blytheville		2
Pine Bluff	Conway		4
Undesignated Ports	Conway		4
• • • • • • •			

(64 Stat. 561; (7 U.S.C. 2260))

It is to the benefit of the public that this instruction be made effective at the earliest practicable date. Accordingly, it is found upon good cause, under the administrative procedure provisions of 5 U.S.C. 553, that notice and other public procedure with respect to the foregoing amendment are unnecessary and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 29th day of December 1978.

THOMAS G. DARLING,
Acting Deputy Administrator, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service.

[FR Doc. 79-478 Filed 1-3-79; 4:03 pm]

[3410-08-M]

CHAPTER IV—FEDERAL CROP INSURANCE CORPORATION, DEPARTMENT OF AGRICULTURE

PART 412—PUBLIC INFORMATION

Freedom of Information

AGENCY: Federal Crop Insurance Corporation.

ACTION: Final rule.

SUMMARY: This rule is a revision of the procedures to be followed by the general public in requesting documents under the Freedom of Information Act (FOIA) from the offices of the Federal Crop Insurance Corporation (FCIC). This rule will make it easier to submit FOIA requests and changes the title of Field Director to Regional Director, and the location of the Corporation's Records Management Officer to conform with agency reorganization.

EFFECTIVE DATE: January 5, 1979.

FOR FURTHER INFORMATION CONTACT:

Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, 202-447-3325.

SUPPLEMENTARY INFORMATION: Under the former procedure, members of the public were directed to send requests for documents under the Freedom of Information Act to Field Directors whose addresses were to be found in other Corporation documents published elsewhere in the FEDERAL REGISTER (36 FR 23325, as amended, 40 FR 23489). Because the FEDERAL REGISTER publications are not always readily available, the revision designates the Office of the Manager, FCIC, as the main contact point for obtaining the addresses of the regional offices. When a request for documents is received in the Office of the Manager, FCIC, Washington, D.C. and the requested documents are in a regional office, the request will be forwarded to the regional office and the requester will be notified of the correct office which will answer that request.

In addition, the title of Field Director has now been changed to Regional Director in the revision. Also changed is the address for the Corporation's Records Management Officer.

Since the revision includes changes in matters relating to agency management and personnel, the provisions of 5 U.S.C. 553 concerning notice of proposed rulemaking, public procedure and 30 day effective date and the 60 day comment period required by Executive Order 12044 do not apply. Therefore, this revised Part 412 Public Information (7 CFR Part 412) is hereby issued without compliance with those procedures.

FINAL RULE

Accordingly, under the authority contained in the Federal Crop Insurance Act, as amended, the Federal Crop Insurance Corporation hereby revises and reissues 7 CFR Part 412, Public Information, to read as follows:

PART 412—PUBLIC INFORMATION

Freedom of Information

Sec.
412.1 General statement.
412.2 Public inspection and copying.
412.3 Index.
412.4 Requests for records.
412.5 Appeals.

AUTHORITY: 5 U.S.C. 301, 552; 7 CFR 1.1-1.16.

FREEDOM OF INFORMATION

§ 412.1 General statement.

This part is issued in accordance with the regulations of the Secretary of Agriculture at 7 CFR 1.1-1.16, and Appendix A, implementing the Freedom of Information Act (5 U.S.C. 552).

The Secretary's regulations, as implemented by the regulations in this part, govern availability of records of the Federal Crop Insurance Corporation (FCIC) to the public.

§ 412.2 Public inspection and copying.

5 U.S.C. 552(a)(2) requires that certain materials be made available for public inspection and copying. Members of the public may request access to such materials maintained by the FCIC at the Office of the Assistant Manager, Administration, FCIC, Washington, D.C. 20250, from 8:15 a.m. to 4:45 p.m., Monday through Friday, or the office of any FCIC Regional Director during the regular operating hours of that office. To obtain the addresses of Regional Offices, either call or write the Manager, FCIC, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-6795. When the information desired is not available at a given FCIC location, the FCIC office where the request is received will assist the requester by directing the request to another FCIC office where the information may be obtained. The requester will be informed that his request has been forwarded to the appropriate FCIC office.

Except for such information as is generally available to the public, requests should be made in writing and submitted in accordance with 7 CFR 1.3 and 412.4 of this part.

§ 412.3 Index.

5 U.S.C. 552(a)(2) requires that each agency publish, or otherwise make available, a current index of all materials required to be made available for public inspection and copying. The FCIC will maintain a current index providing identifying information for the public as to any material issued, adopted, or promulgated by the Corporation since July 4, 1967, and required by section 552(a)(2). Pursuant to the Freedom of Information Act provisions, the FCIC has determined that in view of the small number of public requests for such index, publication of such an index would be unnecessary and impracticable. Copies of the index will be available upon request in person or by mail to the Records Management Officer, FCIC, Room 4634, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

§ 412.4 Requests for records.

The Assistant Manager, Administration, FCIC, located in Washington, D.C., and all Regional Directors are authorized to receive requests for records submitted in accordance with 7 CFR 1.3(a), and to make determinations regarding whether to grant or deny these requests, and other determinations in accordance with 7 CFR 1.4(c).

§ 412.5 Appeals.

Any person whose request under § 412.4 above is denied shall have the right to appeal such denial. This appeal shall be submitted in accordance with 7 CFR 1.3(c), and addressed to the Manager, FCIC, U.S. Department of Agriculture, Washington, D.C. 20250.

Effective date: This revision shall be effective December 20, 1978.

Approved by the Board of Directors of the Federal Crop Insurance Corporation on December 20, 1978.

Dated: December 20, 1978.

PETER F. COLE,
Secretary, Federal Crop Insurance Corporation.

Approved by:

JAMES D. DEAL,
Manager, Federal Crop Insurance Corporation.

Dated: December 27, 1978.

[FR Doc. 79-399 Filed 1-4-79; 8:45 am]

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[3410-02-M]

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULUTURE

[Lemon Regulation 180, Lemon Regulation 179, Amendment 1]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of California-Arizona lemons that may be shipped to the fresh market during the period January 7–13, 1979, and increases the quantity of such lemons that may be so shipped during the period Dec. 31–Jan. 6. Such action is needed to provide for orderly marketing of fresh lemons for the periods specified due to the marketing situation confronting the lemon industry.

DATES: The regulation becomes effective Janury 7, 1979, and the amendment is effective for the period December 31–January 6.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, (202) 447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under this marketing order, and upon other information, it is found that the limitation of handling of lemons, as hereafter provided, will tend to effectuate the declared policy of the act. This regulation has not been determined significant under the USDA criteria for implementing Executive Order 12044.

The committee met on December 29, 1978, to consider supply and market conditions and other factors affecting the need for regulation, and recommended quantities of lemons deemed advisable to be handled during the specified weeks. The committee reports the demand for lemons is increasing.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of lemons. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

1. § 910.480 Lemon Regulation 180.

Order. (a) The quantity of lemons grown in California and Arizona which may be handled during the period January 7, 1979, through January 13, 1979, is established at 200,000 cartons.

(b) As used in this section, "handled" and "carton(s)" mean the same as defined in the marketing order.

2. Paragraph (a) of § 910.479 Lemon Regulation 179 (44 FR 30 is amended to read as follows: "The quantity of lemons grown in California and Arizona which may be handled during the period December 31, 1978, through January 6, 1979, is established at 200,000 cartons."

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: January 4, 1979.

CHARLES R. BRADER,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-679 Filed 1-4-79; 11:11 am]

[3410-15-M]

CHAPTER XVII—RURAL ELECTRIFICATION ADMINISTRATION

PART 1701—PUBLIC INFORMATION

Appendix A—REA Bulletins

AGENCY: Rural Electrification Administration, USDA.

ACTION: Final rule.

SUMMARY: This includes revisions since August 11, 1978, to the listing and summary descriptions of REA bulletins and supplements thereto that provide the program policies and requirements of the Rural Electrification Administration. This revision reflects both new and revised REA bulletins issued after publication in the FEDERAL REGISTER under proposed rulemaking procedures to secure public comment and participation.

EFFECTIVE DATES: REA bulletins become effective on the date of final issuance, unless otherwise set forth therein (see Appendix A below for each REA bulletin and its issuance date).

FOR FURTHER INFORMATION CONTACT:

Mr. Blaine D. Stockton, Jr., Director, Management Services Division, Rural Electrification Administration, Room 4024-S, U.S. Department of Agriculture, Washington, D.C. 20250, telephone number 202-447-4512.

SUPPLEMENTARY INFORMATION: REA regulations are issued pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.). Public comments were received on one revised bulletin and one bulletin supplement during this period: REA Bulletin 385-4, Special Equipment Contracts and Specifications, and a supplement to REA Bulletin 20-14, Supplemental Financing for Loans Considered Under Section 4 of the Rural Electrification Act. Public comments were not received on any other revisions of REA bulletins issued during this period and included in this update of Appendix A.

Three comments were received on the proposed supplement to REA Bulletin 20-14, one favorable and two unfavorable. The two respondents submitting the unfavorable comments had the same concern, in that they both felt the proposed revision of the method of calculating the breakdown of loan funds between REA and supplemental lenders would require more funds from supplemental lenders and in turn cost the borrowers more interest.

Comments were received from four sources on the proposed revisions of REA Bulletin 385-4, REA Form 397, Special Equipment Contract, and REA Form 525, Central Office Equipment Contract. The comments were as follows:

1. *Contract price will increase to cover potential loss due to liquidated damages or a decision will be made not to submit a bid.* With proper planning and control on the part of the bidder and with an extension of time being provided for delays beyond the control of the bidder there should be few instances where the right to liquidated damages would be exercised. The savings to the purchasers resulting from installation commitments being met should more than offset any increase in price due to a liquidated damages clause. It is REA's opinion that a liquidated damages clause will require improved planning and control so as to meet installation commitments and will achieve overall savings for the purchasers.

2. *Administration cost will increase to properly account for changes and time extensions.* It is expected that administration costs will increase as a result of accounting for changes and time extensions. REA feels that these costs are necessary for proper planning and control which will result in overall savings to the bidder and purchaser.

3. *Contract is one sided against the bidder.* The liquidated damages clause applies only against the bidder and not against the purchaser for failure to complete the installation on schedule. However, any delay caused by the purchaser would be cause for an extension of time on the part of the bidder. REA believes that if the purchaser is unable to receive the equipment on schedule, then the bidder's financial loss would be limited to cost of money and storage charges related to the equipment.

4. *The test of reasonableness which must be satisfied is questionable.* It is intended that the amount of liquidated damages be specified on an individual basis to reflect the anticipated financial harm. The following language will be included in REA Bulletins 384-3 and 385-4 which will announce the issuance of the addenda to REA Forms 525 and 397, respectively: "The rate of liquidated damages stipulated must be reasonable in relation to anticipated damages, considered on a case-by-case basis, since liquidated damages fixed without any reasonable reference to probable damages may be held to be not compensation for anticipated damages caused by delay, but a penalty and therefore unenforceable."

REA's position is that there are difficulties in ascertaining the actual loss due to factors covering revenues and expenses as follows: Connecting company commitments, directories, toll usage, vertical services, good will, etc. Experience has shown that it is very difficult to ascertain the amount of these damages.

5. *Unreasonably large liquidated damages would be made void as a penalty.* As mentioned previously, REA's position is that the amount of liquidated damages is to be specified on an individual basis to reflect the anticipated financial harm so as not to be construed as a penalty.

6. *The time allowed for submitting a written request for an extension of time should be 20 days after knowledge of an event that would result in a delay.* With respect to the clause which requires the bidder to request an extension of time in writing within 20 days after the happening of an event which would result in a delay, it is the REA interpretation that the 20 days begins when the bidder "knew or should have known of the happening" of the event relied on for the extension of time request.

7. *There should be a cap on the total amount of liquidated damages.* There would be no cap on the damages suffered by a purchaser for continued failure to complete the installation and correspondingly there should be no cap on the total amount of liquidated damages. The bidder has control over his ability to perform so as to keep liquidated damages to a minimum. Purchasers would have an obligation to minimize their damages. Where a long delay is caused beyond the bidder's control then there is a provision for requesting an extension of time for performance. This interpretation is covered in the bulletin.

8. *The contracts permit the cumulation of remedies, thereby implying that it is not inconvenient or unfeasible to obtain remedies other than liquidated damages. This provision contained in the addenda to the contract forms likely will be held unenforceable in a court of law.* REA is reconsidering this provision and will announce a decision in the near future.

The following listings of revised REA bulletins and summary descriptions of bulletins add to or replace existing listings in Appendix A to Part 1701 (40 FR 16074).

APPENDIX A—REA BULLETINS

REA Bulletin Number, Issuance Date, and Description of Content

JOINT RURAL ELECTRIFICATION AND TELEPHONE PROGRAM BULLETINS

20-9:320—12; October 1976 (Supplement)—A supplement dated July 3, 1978, providing the procedure for requesting approval for extensions and prepayments by FFB (REA) borrowers under the REA Guaranteed Loan Program.

20-19:320-19; July 1978 (Replacing June 1974)—REA policy and procedure to assure nondiscrimination among beneficiaries of REA programs.

40-2:340-5; April 1978 (Supplement)—A supplement dated September 7, 1978, reducing REA requirements concerning borrowers' contractors bonds by raising from $25,000 to $50,000 the minimum amount of construction contracts which require a bond.

44-5:345-2; June 1978 (Supplement cancellation)—Supplement dated August 3, 1978, canceled.

RURAL ELECTRIFICATION PROGRAM BULLETINS

20-2; June 1977 (Supplement)—A supplement dated July 5, 1978, consisting of revised pages which announce changes in the types of applications requiring a power supply survey and reports to Congress.

20-14; February 1971 (Supplement)—A supplement dated August 1, 1978, simplifying the calculation of the amounts to be provided by the supplemental lender, including any required investments in the supplemental lender.

43-5; July 1978 (Supplement)—Supplement 1 dated October 1978, updating the basic list of materials acceptable for use on systems of REA electric borrowers.

44-1; October 1978—REA specifications and standards for material and equipment used by electric borrowers.

61-6; May 1978 (Replacing June 1970)—REA specifications for the design of crossings of electric distribution lines over communications lines.

62-1; September 1972 (Supplement)—A supplement dated July 24, 1978, revising clearance requirements, and the conditions under which they apply, for REA-financed transmission lines.

85-1; August 1978 (Replacing February 1978)—REA procedures for closing out projects involving contract construction of electric borrowers' generation facilities.

RURAL TELEPHONE PROGRAM BULLETINS

344-2; January 1977 (Supplement)—Supplement 5 dated September 1978, updating the basic list of materials acceptable for use on systems of REA telephone borrowers.

345-13; June 1978 (Supplement)—A supplement dated September 20, 1978, to correct the omission of symbols in a formula for near-end crosstalk in the June 1978 revision of the bulletin.

345-14; July 1978 (Replacing July 1971)—REA specification for telephone cables for direct burial by telephone borrowers.

345-22; October 1978 (Replacing August 1971)—REA specification for 66 MH voice frequency loading coils on telephone borrowers' systems.

345-74; July 1978 (Replacing February 1977)—REA specification for Type A telephone sets.

345-80; July 1978 (New)—REA specification for flat oval telephone cords.

345-81; August 1978 (New)—REA specification for modular telephone set hardware.

360-1; October 1978 (Replacing February 1972)—REA requirements for the use by telephone borrowers of REA Form 567, Checklist for Review of an Area Coverage Design.

384-3; August 1978 (Replacing November 1977)—REA procedure for the use of central office equipment contracts and specifications by telephone borrowers.

385-4; August 1978 (Replacing June 1978)—Special equipment contracts and specifications approved by REA for the use of telephone borrowers.

Dated: December 29, 1978.

ROBERT W. FERAGEN,
Administrator.

[FR Doc. 79-491 Filed 1-4-79; 8:45 am]

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[3410-34-M]

Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 73—SCABIES IN CATTLE

Area Quarantined

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this amendment is to quarantine a portion of Custer County in Idaho because of the existence of cattle scabies. Psoroptic cattle scabies was confirmed by Veterinary Services Laboratories in Ames, Iowa. Therefore, in order to prevent the dissemination of cattle scabies it is necessary to quarantine the infested area.

EFFECTIVE DATE: December 27, 1978.

FOR FURTHER INFORMATION CONTACT:

Dr. Glen O. Schubert, Chief Staff Veterinarian, Sheep, Goat, Equine, and Ectoparasites Staff, USDA, APHIS, VS, Federal Building, Room 737, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8322.

SUPPLEMENTARY INFORMATION: This amendment quarantines a portion of Custer County in Idaho because of the existence of cattle scabies. The restrictions pertaining to the interstate movement of cattle from quarantined areas as contained in 9 CFR Part 73, as amended, will apply to the area quarantined.

Accordingly, Part 73, Title 9, Code of Federal Regulations, as amended, restricting the interstate movement of cattle because of scabies, is hereby amended as follows:

In § 73.1a, a new paragraph (e) relating to the State of Idaho is added to read:

§ 73.1a Notice of quarantine.

* * * * *

(e) Notice is hereby given that cattle in a certain portion of the State of Idaho are affected with scabies, a contagious, infectious, and communicable disease; and, therefore, the following area in such State is hereby quarantined because of said disease:

That portion of Custer County beginning at a point at the intersection of State Highway 93A and Trail Creek Road; thence, west on Trail Creek Road to the intersection of Old Chilly Road; thence, south on Old Chilly Road to Big Lost River; thence, southwestward following Big Lost River to intersection of 5th Guide Meridian East; thence, north on 5th Meridian to intersection of Highway 93A; thence, southeastward on 93A to intersection of Trail Creek Road, the point of beginning.

(Secs. 4-7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791-792, as amended; secs. 1-4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132 (21 U.S.C. 111-113, 115, 117, 120, 121, 123-126, 134b, 134f); 37 FR 28464, 28477; 38 FR 19141.)

The amendment imposes certain further restrictions necessary to prevent the interstate spread of cattle scabies and must be made effective immediately to accomplish its purpose in the public interest. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and contrary to the public interest, and good cause is found for making the amendment effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 27th day of December 1978.

NOTE.—This final rulemaking is being published under emergency procedures as authorized by E.O. 12044. It has been determined by Dr. J. K. Atwell, Assistant Deputy Administrator, Animal Health Programs, APHIS, VS, USDA, that the possibility of the spread of cattle scabies into other States or Territories of the United States is severe enough to warrant the publication of this quarantine without waiting for public comment. An impact analysis statement is being prepared and will be available from Program Services Staff, Room 870, Federal Building, 6505 Belcrest Road, Hyattsville, Maryland 20782, 301-436-8695. In addition, this amendment to the regulations covering cattle scabies will be scheduled for review under provisions of E.O. 12044.

M. T. GOFF,
Acting Deputy Administrator, Veterinary Services.

[FR Doc. 79-285 Filed 1-4-79; 8:45 am]

[3410-34-M]

PART 79—SCRAPIE IN SHEEP

Release of Area Quarantined

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this amendment is to release from quarantine that portion of La Salle County in Illinois which was quarantined because of scrapie in sheep. The source flock has been slaughtered, removing the source of scrapie infection in La Salle County. No areas in the State of Illinois remain under quarantine.

EFFECTIVE DATE: December 27, 1978.

FOR FURTHER INFORMATION CONTACT:

Dr. A. L. Klingsporn, Sheep, Goats, Equine, and Ectoparasites Staff, USDA, APHIS, VS, Room 739, Federal Building, Hyattsville, MD 20782, (301) 436-8231.

SUPPLEMENTARY INFORMATION: This amendment releases from quarantine that portion of La Salle County in Illinois which was quarantined because of scrapie in sheep. Therefore, the restrictions pertaining to the interstate movement of sheep from quarantined areas contained in 9 CFR Part 79, as amended, will not apply to the released area, but the restrictions pertaining to the interstate movement of sheep from nonquarantined areas contained in said Part 79 will apply to the released area.

Accordingly, § 79.2 of Part 79, Title 9, Code of Federal Regulations, as amended, restricting the interstate movement of sheep because of scrapie, is hereby amended in the following respect:

In § 79.2, paragraph (1), relating to the Sherwood R. Jackson flock located in Miller Township, which is in La Salle County, Illinois, is deleted.

(Secs. 4-7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791-792, as amended; secs. 1-4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111-113, 115, 117, 120, 121, 123-126, 134b, 134f; 37 FR 28464, 28477; 38 FR 19141.)

The amendment relieves certain restrictions no longer deemed necessary to prevent the spread of scrapie in sheep, and must be made effective immediately to be of maximum benefit to affected persons. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and unnecessary, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 27th day of December 1978.

This final rulemaking is being published under emergency procedures as authorized by E.O. 12044. Dr. J. K. Atwell, Assistant Deputy Administrator, Animal Health Programs, APHIS, VS, USDA, has determined that maintaining a quarantine on this county for an additional 60-day period would create an economic situation severe enough to warrant the publication of this amendment without waiting for public comment. An impact analysis statement is being prepared and will be available from Program Services Staff, Room 870, Federal Building, 6505 Belcrest Road, Hyattsville, Maryland 20782. 301-436-8695. In addition, this amendment to the regulations covering Scrapie in Sheep will be scheduled for review under provisions of E.O. 12044.

M. T. GOFF,
Acting Deputy Administrator, Veterinary Services.

[FR Doc. 79-284 Filed 1-4-79; 8:45 am]

[8025-01-M]

Title 13—Business Credit and Assistance

CHAPTER I—SMALL BUSINESS ADMINISTRATION

PART 130—SMALL BUSINESS ENERGY LOANS

Small Business Energy Loan Program

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: This part is established by the SBA to provide the rules and regulations for the Small Business Energy Loan Program. This action is necessary since Public Law 95-315 signed on July 4, 1978 directed the SBA to implement an energy loan assistance program designed to provide loans and loan guarantees as a means for small businesses to establish or expand energy related businesses. The intent of this rule is to implement the Small Business Energy Loan Program after giving due consideration to public comments and reaction. It provides for eligibility, credit requirements, and loan terms to be utilized in the program.

EFFECTIVE DATE: January 4, 1979.

FOR FURTHER INFORMATION CONTACT:

Evelyn Cherry, Chief, Special Projects Division, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416, (202) 653-6096.

SUPPLEMENTARY INFORMATION.

INTRODUCTION: On September 5, 1978, proposed rules and regulations were published in the FEDERAL REGISTER (43 FR 39394) for the implementation of Pub. L. 95-315, 92 Stat. 377, the "Small Business Energy Loan Act," which established the small business energy loan program as section 7(1) under the Small Business Act ("Act") in the Small Business Administration. The legislation required SBA to consult with the Department of Energy (DOE), other appropriate Federal departments and agencies, and to solicit and consider comments from interested small businesses in developing final regulations, which has been done.

SBA received comments in the following areas.

Program Objectives—130.2.
Eligible Energy Measures—130.3.
Use of Proceeds—130.6.
Loan Criteria—130.7.
Other Financing—130.8.
Loan Maturity and Repayment Terms—130.11.

All comments were generally supportive of the establishment of the loan program. Several comments were beyond the scope of the legislation, and could not be incorporated into this regulation.

PROGRAM OBJECTIVES—130.2:

The Department of Energy expressed concern that the scope of the objectives appeared to be too narrow. Section 130.3(c), however, provides the Administrator discretion to expand the range of eligibility based on an applicant's submitting documentation of projected or actual energy savings, thus broadening the interpretation of the objectives.

There was a question as to whether a "startup" should be a business that has been *in operation* for less than two years or one that has been *fully operational* for less than two years. The *in operation* approach was viewed as being more restrictive than the *fully operational* one. The program is not limited solely to startups but is available to established firms. Further, the duration of a startup was not intended to have any restrictive implications or effects on prospective borrowers. The SBA believes, therefore, that defining "startup" as "a small firm, which together with any predecessor or related concern, has been *in existence* for less than two years" will not be restrictive.

ELIGIBLE ENERGY MEASURES—130.3:

Several commenters suggested specific types of products or processes which should be specifically enumerated in the regulations as being eligible. Upon consideration of these comments and after consultation with DOE, SBA further defined Parts 130.3(a) through 130.3(h), through the use of examples. Additionally, the language of Part 130.3(c) was sufficiently broadened to permit SBA to consider any worthwhile energy-saving process or product so long as these savings can be satisfactorily documented. Further, SBA will also consult with DOE on an as-needed basis in order to determine the eligibility of a particular product or service.

USE OF PROCEEDS—130.6

SBA received a number of comments relating to the use of loan proceeds for working capital and the amount which would be appropriate for such use. While Section 7(1) does not mention working capital as an eligible use of proceeds, SBA has determined that in some situations it may be necessary and appropriate to allow the use of a limited portion, not to exceed 25% of loan proceeds for working capital in order to further the purposes of Section 7(1). Moreover, research and development may require working capital. In such cases the research and development portion of a loan may be as high as 30%, but the combination of working capital for research and development and for other purposes may not exceed 30%. Section 130.6 has been modified to reflect this interpretation.

Acknowledging that there may be the assumption of "greater risk" and consistent with the requirements for reasonable assurance of loan repayment, evaluation in each loan request will include such credit factors as adequacy of net worth or available equity funds, past earnings or reliance on probability of attaining projected earnings, along with favorable product acceptance or evaluation, technical competence and experience, demonstrable production costs and market acceptance.

LOAN CRITERIA—130.7

A commenter suggested a priority scheme to allocate funds on the basis of "time criticalness"; that is, the faster the payback, the higher the priority. SBA believes that all eligible applicants should be given equal priority and no particular product or service should be given preference. Loan applications will be considered in the order they are received in SBA field offices.

OTHER FINANCING—130.8

A suggestion was received that energy loans be made only to those who are unable to qualify for a regular business loan in order to assure that the liberal loan guidelines in 130.7 are utilized by the intended beneficiaries of such guidelines. The Act does not require SBA to deviate from its "reasonable assurance of repayment ability" test, but acknowledges that greater risk may be associated with such loans and requires that technical fac-

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tors be incorporated into the credit decision. The legislative history contemplated credit allocations of direct and guaranteed funds to the particular economic sectors enumerated in Part 130.3(a)-(h). Every applicant will be given equal treatment but there must be reasonable assurance of repayment ability in every case. SBA loans are made only when other non-Federal financing is not available on reasonable terms. Further, credit risk is not evaluated so much between different loan programs, as between the types of instruments (direct and guarantee) within these programs. Given this framework for analysis, SBA foresees little likelihood that the intended beneficiaries of the 7(1) program will be adversely affected by allowing all energy type loans to be classified as 7(1).

In addition, Section 10(b) of the Act now requires reports of projected and actual energy savings and jobs created. This reporting requirement will best be met by combining all energy loans under 7(1). Applicants will be required to document projected energy savings, and loan recipients will be required to document actual energy savings.

LOAN MATURITY AND REPAYMENT TERMS—130.11

Suggestions were received that the regulations specifically provide for grace periods for payment of principal. SBA believes that this is a useful suggestion and Section 130.11 has therefore been modified to incorporate this recommendation.

Pursuant to the authority of Section 7(l) of the Small Business Act, 15 U.S.C. 636, a new Part 130 of Chapter I, Title 13 of the Code of Federal Regulations is hereby adopted as set forth below:

PART 130—SMALL BUSINESS ENERGY LOANS

Sec.

130.1 Statutory provisions.
130.2 Program objectives.
130.3 Eligible energy measures.
130.4 Eligible applicants.
130.5 Eligible participants.
130.6 Use of proceeds.
130.7 Loan criteria.
130.8 Other financing.
130.9 Loan amount.
130.10 Interest rate.
130.11 Loan maturity and repayment terms.
130.12 Applicability of other SBA regulations.
130.13 SBA seminars.
130.14 Training grants.
130.15 Measurement of energy savings.

AUTHORITY: 5 U.S.C. 636.

§ 130.1 Statutory provisions.

The statutory provisions will be found at 5 U.S.C. 636.

§ 130.2 Program objectives.

The objectives of this program are to provide a means for small business concerns to enter (startup), continue, or expand in the fields of manufacturing, selling, installing, servicing, and developing specific energy measures, through loans and loan guarantees, seminars, and training grants. Startup, for this purpose, means a small firm which, together with any predecessor or related concern, has been in existence for less than two years.

§ 130.3 Eligible energy measures.

Only the energy measures cited in the Act are eligible for assistance under this program. These measures (and definitions) are as follows:

(a) Solar thermal energy equipment which is either of the active type based upon mechanically forced energy transfer; or of the passive type based on convective, conductive, or radiant energy transfer or some combination of these types.

Active systems generally use mechanical power (e.g., pumps or fans) to store and distribute energy. Conversely, passive systems use natural energy flows (conduction, convection, and radiation) and buildings themselves to trap, store, and transport thermal energy within the structure. Frequently, designs combine aspects of both types of systems, resulting in a hybrid system.

(b) Photovoltaic cells and related equipment. Such devices produce electricity when exposed to radiant energy, especially light. Several devices have been developed to utilize photovoltaic solar cells. One example is photovoltaic powered solar irrigation pumps.

(c) A product or service the primary purpose of which is conservation of energy through devices or techniques which can be demonstrated to increase the energy efficiency of existing equipment, methods of operation, or systems which use fossil fuels, and which is on the Energy Conservation Measures List of the Secretary of Energy (see Table 1) or which the Administrator determines to be consistent with the intent of Subsection 7(1) of the Act. For purposes of this paragraph (except for those measures on the Energy Conservation Measures List) the applicant must furnish written evidence satisfactory to SBA demonstrating projected or actual energy savings.

(d) Equipment the primary purpose of which is production of energy from wood, biological waste, grain, or other biomass source of energy. This refers to energy developed by the burning of combustible biological materials and/or the conversion to solid, liquid or gaseous fuels. The burning of wood and other forms of biomass is the oldest form of biomass use.

Examples of converted fuels are: (1) *methanol*—wood alcohol derived from wood or municipal wastes and (2) *ethanol*—grain alcohol produced by fermentation from agricultural products.

(e) Equipment the primary purpose of which is industrial cogeneration of energy, district heating, or production of energy from industrial waste. Industrial cogeneration is defined as the production of power (electrical or mechanical) and useful thermal energy from the same primary power source. An example would be using thermal energy to produce power and using the rejected heat in a thermal process. District heating is defined as the use of central sources of heat to supply heat to a number of buildings (residential or commercial) in a community. An example could be using a steam or hot water boiler, or waste heat from an industrial process to provide a source of heat for several buildings. Production of energy from industrial waste is defined as the burning of combustible industrial scrap such as cardboard, waste lubricating oils or by-products from industrial processes to produce energy either directly or by conversion to another fuel.

(f) Hydroelectric power equipment is defined as generating electricity by conversion of the energy of flowing water. Water driven turbines producing electricity are examples.

(g) Wind energy conversion equipment is defined as the production of power (electrical or mechanical) by conversion of the energy of wind. Electricity generated by windmills and devices for storing energy generated by the wind are examples of this type of equipment.

(h) Engineering, architectural, consulting, or other professional services which are necessary or appropriate to aid citizens in using any of the measures described in subparagraphs (a) through (g) of this Section. This is defined as any of the professional services associated with the utilization of alternative energy sources or energy conservation devices and techniques. An example would be a firm which specializes in providing expertise on ways to improve the energy efficiency of existing plant facilities.

§ 130.4 Eligible applicants.

All applicants for these loans must be small business concerns as defined in § 121.3-10.

§ 130.5 Eligible participants.

Participating lenders must meet the definition of an eligible loan participant in § 120.4.

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§ 130.6 Use of proceeds.

Loan funds can be used for vacant land immediately necessary for the construction of a plant, and for buildings, machinery, equipment, furniture, fixtures, facilities, supplies, or materials for an eligible loan measure. Where SBA considers it necessary and appropriate to further the purposes of Section 7(1) it may allow the use of a limited portion of loan proceeds for cash working capital, not to exceed 25%. It is the general policy that loan funds will not be used for research and development, which should be completed before the loan application. Where, however, development of a product or service may be completed under a business plan that provides reasonable assurance of repayment, or where the further development of a product or service already on the market is involved, a portion of the loan proceeds not to exceed 30% may be used for such purposes; *Provided, however,* That in no event may the combined working capital and research and development portion of a loan exceed 30%.

§ 130.7 Loan criteria.

The Act provides that all loans made under this authority shall be of such sound value as reasonably to assure repayment, recognizing that greater risk may be associated with loans made to business concerns in this field, provided, that factors in determining sound value shall include, but not be limited to, quality of the product or service; technical qualifications of the applicant or his employees; sales projections, and the financial status of the business concern, and provided further, that such status need not be as sound as that required for loans under Section 7(a) of the Small Business Act.

§ 130.8 Other financing.

No loan shall be made under this program unless the financial assistance is not otherwise available on reasonable terms from non-Federal sources. Also, an immediate participation will not be approved unless a guaranty (deferred) participation is not available, and a direct loan will not be approved unless an immediate participation is not available. The requirements of § 120.2(a) (1) and (2) except § 120.2(a)(2)(iv), relating to documentation of efforts to find other financing, shall apply to loans under this program. Any "energy" loan will be made under Section 7(l) regardless of whether it might have qualified under Section 7(a) of the Small Business Act.

§ 130.9 Loan amount.

The maximum combined loan exposure of SBA to any one small business concern, together with all its affiliates, under this program, the regular business program, Economic Opportunity Program, Handicapped Assistance Program, but excluding any disaster program authorized by Section 7(b) or 7(g) of the Small Business Act, is $350,000 for SBA's direct and immediate participation exposure, and $500,000 for SBA's guaranty (deferred) exposure.

SBA's share of an immediate participation shall not exceed 75% and SBA's share of a guaranty (deferred) participation shall not exceed 90% of the outstanding balance of an approved loan. The exception to SBA's share of an immediate participation in § 120.2(b)(2), also applies to this program.

§ 130.10 Interest rate.

The interest charged or permitted by SBA for these loans is the same as for regular loans, as described in § 120.3(b)(2).

§ 130.11 Loan maturity and repayment terms.

The maturity of a small business energy loan will be established on the basis of the borrower's ability to repay, up to the maximum maturity of fifteen (15) years. Loans under this program will normally require level, monthly payments of principal and interest. When deemed necessary, grace periods for payment of principal may be provided, but in no event may the loan maturity extend beyond 15 years. Interest payments must be made as soon after the loan is disbursed as possible and will be required during any grace period.

§ 130.12 Applicability of other SBA regulations.

All applicable provisions of Parts 120 and 122 of this chapter shall apply to energy loans except where other provision is made in this part.

§ 130.13 SBA seminars.

Under new Section 7(d)(2) of the Act, SBA is authorized to hold seminars in order to inform potential applicants for small business energy loans of the policies and procedures relating to such loans, as well as other related government energy programs. SBA, together with representatives of the Department of Energy, will develop the agendas for such seminars to meet the needs of the audiences in the various parts of the country, and will issue appropriate public notice of such seminars.

§ 130.14 Training grants.

SBA is also authorized to make grants to qualified organizations to conduct seminars for small business in order to train them in practical and easily implemented methods of design, manufacture, installation, and servicing of equipment identified in § 130.3. Such grants may also be used for services to recipients of grants provided for in Section 7(d)(1) of the Small Business Act. Grant recipients are limited to those organizations that have not received loans under the Small Business Energy Loan Program. (This portion of the legislation will be implemented at such time as funds are appropriated for this purpose.)

§ 130.15 Measurement of energy savings.

Under Sec. 10(b) of the Act, SBA must report projected and actual energy savings, and numbers of jobs created, by recipients of 7(l) loans. Applicants and borrowers will therefore be required to furnish such information on forms specified by SBA.

(Catalogue of Federal Domestic Assistance Program No. 59.030)

A. VERNON WEAVER,
Administrator.

TABLE 1

ELIGIBLE ENERGY MEASURES

Subject to the requirements and limitations set forth in Title 10, Chapter 11, § 450.32, an energy conservation measure shall be—

(a) Ceiling insulation in a residential or commercial building which is a material which is installed on the surface of the ceiling facing the building interior or between the heated top level living area and the unheated attic space and which resists heat flow through the ceiling;

(b) Wall insulation in a residential or commercial building or industrial plant, which is a material which is installed on the surface facing the building interior or in the cavity, of an exterior wall and which functions to resist heat flow through the wall;

(c) Floor insulation in a residential or commercial building, which is a material which resists heat flow through the floor between the first level heated space and the unheated space beneath it, including a basement or crawl space;

(d) Insulation for hot bare pipes in a residential or commercial building or industrial plant, which is a material which resists heat flow from the pipes to the surrounding space;

(e)(1) Caulks and sealants in a residential or commercial building or industrial plant, which are nonrigid materials placed in joints of buildings to prevent the passage of heat, air and moisture;

(2) Weatherstripping in a residential or commercial building or industrial plant, which consists of narrow strips of flexible material placed over or in movable joints of windows and doors

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to reduce the passage of air and moisture;

(f) Roof insulation in a commercial building or industrial plant which is insulation placed on the surface of the roof facing the building interior or between a roof deck and its water repellent roof surface;

(g) Clock thermostat in a residential building, which is a temperature control device for interior spaces incorporating more than one temperature control point and a clock for switching from one control point to another;

(h) Exterior insulation for a hot water heater in a residential or commercial building or industrial plant, which is a material placed around the tank which resists the heat flow from the hot water heater to its surrounding space;

(i) Insulation for forced air ducts in a residential or commercial building or industrial plant, which is a material which resists heat flow from the duct to its surrounding space;

(j) Storm window in a residential or commercial building which is an extra window, normally installed to the exterior, but which may be installed to the interior, of the primary or ordinary window, to increase resistance to heat flow and to decrease air infiltration;

(k) Efficient lighting fixture or lamp in a residential or commercial building or industrial plant, which is one which—

(1) Replaces an incandescent fixture or lamp with a type of lighting system including fluorescent, mercury vapor, metal halide, and high pressure sodium or ellipsoidal reflector lamps; or

(2) Replaces a mercury vapor fixture or lamp with a high pressure sodium lighting system.

(l) Mixing valve for a hot water supply line in a residential or commercial building or industrial plant, which is a type of valve mounted in the hot water supply line, close to the water heater, which mixes cold water with hot, reducing the temperature of the water in the hot water distribution system;

(m) Flow restrictor for hot water lines in a residential or commercial building or industrial plant, which is a device that limits the rate of flow of hot water from shower heads and faucets;

(n) Burner for oil fired heating equipment in a residential building, which is a device which atomizes the fuel oil, mixes it with air and ignites the fuel-air mixture, and is an integral part of an oil fired furnace or boiler, including the combustion chamber;

(o) Individual meters to replace a master meter for gas, electricity and hot water in a commercial building, which are meters that measure the consumption of gas, electricity or centrally distributed hot water for individual users, instead of the total consumption which is measured by a master meter;

(p)(1) New oil burner in a commercial building or industrial plant, which is a device that meters, atomizes, ignites and mixes the oil with air for the combustion process of a boiler; or

(2) New boiler controls in a commercial building or industrial plant, which are devices that sense the need for reducing or increasing the firing rate and change the combustion air and oil flow rate accordingly;

(q) Controls for lighting in a residential or commercial building or industrial plant which are manual or automatic cut off switches for lighting systems that allow cut off of all lighting or a portion of the lighting systems when lighting is not required;

(r) Automatic HVAC control system in a commercial building or industrial plant, which is a device which adjusts the supply of heating or cooling to meet space conditioning requirements;

(s) High efficiency electric motor or motor controls in a commercial building or industrial plant, which replace an existing motor or motor controls, resulting in not less than a specified increase in efficiency at a specified level of use, as determined by FEA; and

(t) Whole house ventilation fan in a residential building, which is a fan which removes air from the inside of a residential building to the outside.

[FR Doc. 79-558 Filed 1-4-79; 8:45 am]

[4810-22-M]

Title 19—Customs Duties

CHAPTER I—UNITED STATES CUSTOMS SERVICE, TREASURY DEPARTMENT

[T.D. 79-07]

PART 159—LIQUIDATION OF DUTIES

Certain Fish From Canada—Final Countervailing Duty Determination

AGENCY: Customs Service, Treasury.

ACTION: Final countervailing duty determination.

SUMMARY: This notice is to inform the public that a countervailing duty investigation has resulted in a determination that the Government of Canada has given benefits which constitute bounties or grants under the countervailing duty law on the manufacture, production, or exportation of certain fish. Both dutiable and duty-free fish are included in this determination. However, countervailing duties on the dutiable fish originating in the Atlantic regions of Canada will be waived, based upon actions of the Government of Canada to reduce significantly the bounty or grant and the other criteria for waiver in the law. The case involving duty-free fish originating in the Atlantic regions of Canada is being referred to the International Trade Commission for an injury determination. Fish originating in the rest of Canada have been determined to receive benefits that are *de minimis*.

EFFECTIVE DATE: December 29, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles F. Goldsmith, Economist, Office of Tariff Affairs, Department of the Treasury, 15th Street and Pennsylvania Avenue NW., Washington, D.C. 20220, telephone 202-566-2323.

SUPPLEMENTARY INFORMATION: On July 10, 1978, a notice of "Initiation of Countervailing Duty Investigation and Preliminary Determination" was published in the FEDERAL REGISTER (43 FR 29637). The notice stated that it had been preliminarily determined that benefits had been received by Canadian fishermen and processors which may constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303) (referred to in this notice as "the Act").

Fish imports covered by this investigation are classifiable under items 110.3552, 110.5070, 110.1593, 110.1597, 110.4730, 110.4755, 110.4760, 110.4765, 114.4520, and 114.4537, Tariff Schedules of the United States Annotated (TSUSA).

The fish imports from Canada which are classifiable under items 110.1593, 110.1597, 110.4730, 110.4755, 110.4760, 110.4765, 114.4520, and 114.4537 TSUSA are free of duty.

The notice stated that the programs under which these benefits were conferred included: (1) direct payments to fishermen and fish processors by the Federal Government under the Groundfish Temporary Assistance Program (GTAP); (2) assistance to fishermen for financing of vessel construction; (3) grants provided to the Newfoundland fishing industry by the Department of Regional Economic Expansion (DREE); and (4) other assistance in the form of loans at preferential rates.

The notice offered interested parties an opportunity to submit any relevant data, views, or arguments in writing with respect to the preliminary determination on or before July 25, 1978.

After consideration of all information received, it is determined that exports of certain fish from Canada covered by this investigation are subject

to bounties or grants within the meaning of section 303 of the Act. The bounties or grants are:

(1) Cash payments to fishermen for the financing of vessel construction of up to 35 percent of the approved capital cost of vessels between 35 and 75 feet in length. Assistance is available from a different source for vessels over 75 feet in length for up to 20 percent of the approved capital cost of the vessel. This type of aid is treated as a bounty or grant under the law in view of the fact that a preponderance of Canadian fish is exported.

Ninety percent of the funds of the former program benefit fishermen of all species of fish who are located in the Atlantic regions of Canada (i.e., Newfoundland, Prince Edward Island, Nova Scotia, New Brunswick, and Quebec); the remaining ten percent benefit fishermen of all species who are located in the rest of Canada. Benefits from the latter program are received by all Canadian fishermen of all species.

(2) Grants provided by DREE to the Province of Newfoundland whereby DREE and the Provincial Authorities share the capital cost for: (a) the augmentation of water supply systems to several coastal communities in Newfoundland, and (b) the construction of wharfs, service center buildings, storage areas, supply and installation of travelift and synchrolift equipment at Marine Service Centers. These benefits are received by Atlantic fishermen of all species.

In addition, DREE has provided funds for the construction and improvement of groundfish processing plants in the Atlantic regions of Canada. Only those grants which pertained exclusively to the groundfish under investigation were considered as countervailable. These funds benefited only the Atlantic fishermen of groundfish.

Since the benefits of these forms of capital improvements are used almost exclusively by fishermen and fish processors, and as previously noted, a preponderance of the fish produced in Canada is exported, the regional aids described above are considered bounties or grants.

(3) Assistance in the form of low-cost loans by the Nova Scotia Fishermen's Loan Board and the New Brunswick Fishermen's Loan Board. Benefits from these programs were received by Atlantic fishermen of all species.

It has been determined that the Groundfish Temporary Assistance Program (GTAP) no longer constitutes a bounty or grant. Payments under this program, which at its outset provided fishermen and processors of groundfish with cash payments, ceased as of October 1, 1978.

It has been determined that certain other programs of the Canadian Government do not constitute a bounty or grant. These are:

(1) Loans by the Prince Edward Island Fishermen's Loan Board. These loans were made at commercial rates of interest.

(2) Loans and loan guarantees by the New Brunswick Development Corporation. These loans were made at commercial rates of interest and a charge is levied for the guarantee.

(3) Loans by the Nova Scotia Industrial Estates Limited. These loans were made at commercial rates.

(4) Loan guarantees under the Fisheries Improvement Loan Act. These loans were made at commercial rates and a charge is levied for the guarantee.

In accordance with section 303 of the Act and until further notice, the net amount of bounties or grants has been determined to be, in terms of the f.o.b. price for export to the United States: 1.17 percent for groundfish originating in the Atlantic regions of Canada (i.e., Newfoundland, Prince Edward Island, Nova Scotia, New Brunswick, and Quebec); 0.38 percent for groundfish originating in the rest of Canada; 1.08 percent for shellfish originating in the Atlantic regions of Canada; and 0.38 percent for shellfish originating in the rest of Canada.

It has been determined that the shellfish and groundfish originating in the rest of Canada receive benefits that are legally *de minimis;* therefore, no countervailing duties will be assessed on imports of these products.

Accordingly, notice is hereby given that the dutiable fish originating in the Atlantic regions of Canada which are the subject of this investigation, imported directly or indirectly from the Atlantic regions of Canada, if entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the FEDERAL REGISTER, will be subject to payment of countervailing duties equal to the net amount of any bounty or grant determined or estimated to have been paid or bestowed.

Effective on or after the date of publication of this notice in the FEDERAL REGISTER and until further notice, upon the entry for consumption or withdrawal from warehouse for consumption of the dutiable fish from Canada, which benefit from these bounties or grants, there shall be collected, in addition to any other duties estimated or determined to be due, countervailing duties in the amount estimated in accordance with the above declaration. To the extent that it can be established to the satisfaction of the Commissioner of Customs that imports of certain dutiable fish from Canada are subject to a bounty or grant smaller than the amount which otherwise would be applicable under the above declaration, the smaller amount so established shall be assessed and collected.

Any merchandise subject to the terms of this order shall be deemed to have benefited from a bounty or grant if such bounty or grant has been or will be credited or bestowed, directly or indirectly, upon the manufacture, production or exportation.

Notwithstanding the above, a "Notice of Waiver of Countervailing Duties" is being published concurrently with this order which covers the dutiable fish originating in the Atlantic regions of Canada subject to this investigation in accordance with section 303(d) of the Act. At such time as the waiver ceases to be effective, in whole or in part, a notice will be published setting forth the deposit of estimated countervailing duties which will be required at the time of entry, or withdrawal from warehouse, for consumption of each product then subject to the payment of countervailing duties.

The duty-free fish subject to this investigation are included in the above finding of payments of bounties or grants as defined in the Act. In accordance with section 303(a)(2) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(2)), countervailing duties may not be imposed upon any article or merchandise which is free of duty in the absence of a determination by the International Trade Commission that an industry in the United States is being, or is likely to be, injured, or is prevented from being established, by reason of the importation of such article or merchandise into the United States.

Accordingly, the International Trade Commission is being advised of this determination and the liquidation of entries, or withdrawals from warehouse, for consumption of the duty-free fish in question will be suspended pending the determination of the Commission.

Should the determination of the Commission be affirmative, the Treasury would also consider it appropriate to waive countervailing duties under section 303(d) of the Act, should it then or subsequently have the authority to do so and the preconditions then extant for such a waiver are met.

The table in section 159.47(f) of the Customs Regulations (19 CFR 159.47(f)) is amended by inserting after the last entry from Canada and under the commodity heading "Fish" the number of this Treasury Decision in the column so headed, and the words "Bounty Declared-Rate" in the column headed "Action".

(R.S. 251, as amended, secs. 303, 624; 46 Stat. 687, 759, as amended, 88 Stat. 2051, 2052 (19 U.S.C. 66, 1303), as amended, 1624).

JAN 5 1979 UMI

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order 190 (Revision 15), March 16, 1978, the provisions of Treasury Department Order No. 165, Revised, November 2, 1954, and section 159.47 of the Customs Regulations (19 CFR 159.47), insofar as they pertain to the issuance of a final countervailing duty determination by the Commissioner of Customs, are hereby waived.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

DECEMBER 29, 1978.

[FR Doc. 79-525 Filed 1-4-79; 8:45 am]

[4110-03-M]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER D—DRUGS FOR HUMAN USE

[Docket No. 78N-0394]

PART 436—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

PART 455—CERTAIN OTHER ANTIBIOTIC DRUGS

Vidarabine Monohydrate for Infusion

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the antibiotic drug regulations to provide for the certification of vidarabine monohydrate for infusion. The manufacturer has supplied sufficient data and information to establish the safety and efficacy of vidarabine monohydrate for infusion for human use.

DATES: Effective January 5, 1979; comments by February 5, 1979.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Joan Eckert, Bureau of Drugs (HFD-140), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4290.

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drugs has evaluated data submitted in accordance with regulations promulgated under section 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357), as amended, with respect to providing for the certificaton of vidarabine monohydrate for infusion. The Commissioner concludes that the data supplied by the manufacturer on vidarabine monohydrate are adequate to establish its safety and efficacy when used as directed in the labeling and that the regulations should be amended in Parts 436 and 455 (21 CFR Parts 436 and 455) to provide for certification of vidarabine monohydrate for infusion.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357)) and under authority delegated to the Commissioner (21 CFR 5.1), Parts 436 and 455 are amended as follows:

PART 436—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

1. Part 436 is amended in § 436.35(c) by alphabetically inserting the following new item in the table, as follows:

§ 436.35 Histamine test.

• • • • •

(c) • • •

Antibiotic	Diluent (diluent number as listed in Sec. 436.31(b))	Concentration of test solution (milligrams of activity per milliliter)	Volume of test solution to be injected (milliliters per kilogram of body weight)
• •	•	•	•
Vidarabine monohydrate [1].....	4	1.0	1.0
• •	•	•	•

[1] To prepare the test solution, proceed as directed in the individual section of the antibiotic drug regulation in this chapter for the antibiotic to be tested.

• • • • • • •

PART 455—CERTAIN OTHER ANTIBIOTIC DRUGS

2. Part 455 is amended by adding new § 455.290 to read as follows:

§ 455.290 Vidarabine monohydrate for infusion.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Vidarabine monohydrate for infusion contains in each milliliter vidarabine monohydrate equivalent to 187.4 milligrams of vidarabine in an aqueous suspension containing suitable and harmless buffers and preservatives. Its potency is satisfactory if it is not less than 90 percent and not more than 120 percent of the number of milligrams of vidarabine that it is represented to contain. It is sterile. It is nonpyrogenic. It contains no histamine or histamine-like substances. Its pH is not less than 5.0 and not more than 6.2. The vidarabine monohydrate used conforms to the standards prescribed by § 455.90a (a)(1).

(2) *Labeling.* In addition to the labeling requirements prescribed by § 432.5 of this chapter, this drug shall be labeled "vidarabine for infusion".

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The vidarabine monohydrate used in making the batch for vidarabine content, safety, loss on drying, specific rotation, and identity.

(*b*) The batch for vidarabine content, sterility, pyrogens, histamine, and pH.

(ii) Samples required:

(*a*) The vidarabine monohydrate used in making the batch: 10 packages, each containing approximately 500 milligrams.

(*b*) The batch:

(*1*) For all tests except sterility: A minimum of 16 immediate containers.

(*2*) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.

(b) *Tests and methods of assay*—(1) *Vidarabine content.* Proceed as directed in § 455.90a(b)(1), except prepare the sample solution and calculate the vidarabine content as follows:

(i) *Sample solution.* Using a suitable needle and syringe, remove an accurately measured representative portion from each container and dissolve and dilute the sample with warmed distilled water to give a concentration of 0.3 milligram of vidarabine per milliliter.

(ii) *Calculations.* Calculate the vidarabine content as follows:

$$\text{Milligrams of vidarabine per milliliter} = \frac{\frac{A_1}{A_2} \times \text{weight of standard in milligrams} \times \text{potency of standard in micrograms per milligram} \times f}{100{,}000}$$

where:

f = Dilution factor for the sample;
A_1 = Absorbance of the eluted sample solution at 255 nm;
A_2 = Absorbance of the eluted working standard solution at 255 nm.

(2) *Sterility.* Proceed as directed in § 436.20 of this chapter, using the method described in paragraph (e)(2) of that section.

(3) *Pyrogens.* Proceed as directed in § 436.32(a) of this chapter, using a solution containing 10 milligrams of vidarabine per milliliter.

(4) *Histamine.* Proceed as directed in § 436.35 of this chapter. Apply sufficient heat to dissolve the vidarabine.

(5) *pH.* Proceed as directed in § 436.202 of this chapter, using the undiluted suspension.

Because the conditions prerequisite for certification of this drug have been met, and because the matter is noncontroversial, the Commissioner finds that prior notice and public procedure are impracticable and unnecessary and that the amendment may become effective upon the day of publication.

Interested persons may, on or before February 5, 1979 file with the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments, in four copies and identified with the docket number found in brackets in the heading of this document. Comments received may be seen in the office of the Hearing Clerk between 9 a.m. and 4 p.m., Monday through Friday. Any changes in this regulation justified by such comments will be the subject of a further amendment.

Effective date. This regulation shall be effective January 5, 1979.

(Sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357).)

Dated: December 27, 1978.

PHILIP L. PAQUIN,
Acting Assistant Director for Regulatory Affairs.

[FR Doc. 79-225 Filed 1-4-79; 8:45 am]

[4110-03-M]

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Fenbendazole Granules

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The animal drug regulations are amended to reflect approval of a new animal drug application (NADA) filed by Hoechst-Roussel Pharmaceuticals, Inc., providing for safe and effective use of anthelmintic granules on the grain ration of horses.

EFFECTIVE DATE: January 5, 1979.

FOR FURTHER INFORMATION CONTACT:

Donald A. Gable, Bureau of Veterinary Medicine (HFV-114), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3420.

SUPPLEMENTARY INFORMATION: Hoechst-Roussel Pharmaceuticals, Inc., Route 202-206 North, Somerville, NJ 08876, filed an NADA (111-278V) providing for use of fenbendazole granules as a top dressing on the usual grain ration of horses for control of large strongyles, small strongyles, pinworms, and ascarids. The firm holds approval for use of fenbendazole suspension in horses either orally or by stomach tube for the same indications and at the same dosage level.

In accordance with the freedom of information regulations and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii) of the animal drug regulations, a summary of safety and effectiveness data and information submitted to support approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))), under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), Part 520 is amended by redesignating existing § 520.905 as § 520.905a and by adding new §§ 520.905 and 520.905b to read as follows:

§ 520.905 Fenbendazole oral dosage forms.

§ 520.905a Fenbendazole suspension.

• • • • •

§ 520.905b Fenbendazole granules.

(a) *Specification.* The drug is in granular form containing 22 percent (222 milligrams per gram) fenbendazole.

(b) *Sponsor.* See No. 000039 in § 510.600(c) of this chapter.

(c) *Conditions of use.* (1) *Amount.* 5 milligrams per kilogram (2.3 milligrams per pound) for the control of large strongyles, small strongyles, and pinworms; 10 milligrams per kilogram for the control of ascarids.

(2) *Indications for use.* For the control of large strongyles (*Strongylus edentatus, S. equinus, S. vulgaris*), small strongyles (*Cyanthostomum* spp., *Cylicocyclus* spp., *Cylicostephanus* spp., *Triodontophorus* spp.), pinworms (*Oxyuris equi*), and ascarids (*Parascaris equorum*) in horses.

(3) *Limitations.* Sprinkle the appropriate amount of drug on a small amount of usual grain ration. Prepare for each horse individually. Withholding of feed or water not necessary. Do not use in horses intended for food. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date. This regulation is effective January 5, 1979.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)).)

Dated: December 27, 1978.

TERENCE HARVEY,
Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 79-226 Filed 1-4-79; 8:45 am]

[4830-01-M]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

V 4 4 / 4

SUBCHAPTER A—INCOME TAX
[T.D. 7587]

PART 1—INCOME TAX: TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Distributions of Property to Foreign Corporate Shareholders.

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to distributions of property to foreign corporate shareholders. Changes to the applicable tax law were made by the Revenue Act of 1971. These regulations provide necessary guidance to the public for compliance with the law, and affect all foreign corporate shareholders which receive distributions of property from domestic corporations.

EFFECTIVE DATE: The regulations are applicable to distributions after November 8, 1971.

FOR FURTHER INFORMATION CONTACT:

David Dolan of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224. Attention: CC:LR:T, 202-566-3803 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

BACKGROUND

On May 7, 1976, the FEDERAL REGISTER published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 301 of the Internal Revenue Code of 1954 (41 FR 18859). The amendments were proposed to conform the regulations to section 312 of the Revenue Act of 1971 (85 Stat. 526). After consideration of all comments regarding the proposed amendment, these amendments are adopted as revised by this Treasury decision.

IMPLEMENTATION OF THE REVENUE ACT OF 1971

Section 312 (a) of the Revenue Act of 1971 amended section 301 of the Internal Revenue Code of 1954 to provide that the amount of a corporate distribution of property other than cash made after November 8, 1971, to a foreign corporate shareholder and the distributee's basis in the distributed property equal the fair market value of the property. Under prior law, the amount of the distribution and the distributee's basis equaled the lesser of the property's fair market value or its adjusted basis in the hands of the distributing corporation increased by gain required to be recognized by the distributing corporation. The amendments to the regulations provided in this document are adopted in order to conform § 1.301-1 of the regulations to the changes made to section 301 by the Revenue Act of 1971.

First, paragraph (d) of § 1.301-1 of the Income Tax Regulations is amended to provide that the amount of a corporate distribution of property other than cash to a foreign corporate shareholder after November 8, 1971, equals the fair market value of the property if the distribution is not effectively connected for the taxable year with the conduct of trade or business in the United States by the shareholder. Paragraph (d), as amended, is also reorganized for the purpose of clarification.

Second, paragraph (h) of § 1.301-1, as amended, provides that the basis of the distributed property in the hands of the foreign corporate shareholder equals its fair market value.

Third, paragraph (j) of § 1.301-1 is amended to provide that, with respect to a transfer of property after November 8, 1971, to a foreign corporate shareholder for less than its fair market value, the difference between the fair market value and the transfer price of the property is considered a distribution subject to section 301 if the amount received is not effectively connected with the conduct of a trade or business in the United States by the shareholder.

PUBLIC COMMENTS

No significant public comments were received with respect to the proposed regulations.

DRAFTING INFORMATION

The principal author of this regulation was Jason R. Felton of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, on matters of both substance and style.

Adoption of amendments to the regulations: After consideration of all relevant matters presented by interested persons regarding the proposed amendments to the regulations under section 301, the amendments as proposed are hereby adopted subject to the following changes:

PARAGRAPH 1. Paragraph 1 of the appendix to the notice of proposed rulemaking is amended to read as follows:

PARAGRAPH 1. § 1.301 is deleted.

PAR. 2. Paragraph (d)(3) of § 1.301-1, as set forth in paragraph 2 of the appendix to the notice of proposed rulemaking, is revised to read as follows:

§ 1.301-1 Rules applicable with respect to distributions of money and other property.

* * * * *

(d) *Distributions to corporate shareholders.* * * *

(3) Notwithstanding paragraph (d)(1)(iii), if a distribution of property described in such paragraph is made after December 31, 1962, by a foreign corporation to a shareholder which is a corporation, the amount of the distribution to be taken into account under section 301 (c) shall be determined under section 301(b)(1)(C) and paragraph (n) of this section.

* * * * *

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

JEROME KURTZ,
Commissioner of Internal Revenue.

Approved: December 27, 1978.

DANIEL I. HALPERIN,
Acting Assistant Secretary of the Treasury.

§ 1.301 [Deleted]

PARAGRAPH 1. Section 1.301 is deleted.

PAR. 2. Section 1.301-1 is amended by revising paragraph (d), by revising that part of paragraph (h)(2) which follows subdivision (i) thereof, by revising that part of paragraph (j) which follows subparagraph (2) thereof, and by revising paragraph (n)(1), as follows:

§ 1.301-1 Rules applicable with respect to distributions of money and other property.

* * * * *

(d) *Distributions to corporate shareholders.* (1) If the shareholder is a corporation, the amount of any distribution to be taken into account under section 301(c) shall be:

(i) The amount of money distributed,

(ii) An amount equal to the fair market value of any property distributed which consists of any obligations of the distributing corporation, stock of the distributing corporation treated as property under section 305(b), or rights to acquire such stock treated as property under section 305(b), plus

(iii) In the case of a distribution not described in subdivision (iv) of this subparagraph, an amount equal to (*a*) the fair market value of any other property distributed or, if lesser, (*b*) the adjusted basis of such other property in the hands of the distributing corporation (determined immediately before the distribution and increased for any gain recognized to the distributing corporation under section 311 (b), (c), or (d), or under section 341(f), 617(d), 1245(a), 1250(a), 1251(c), or 1252(a)), or

(iv) In the case of a distribution made after November 8, 1971, to a shareholder which is a foreign corporation, an amount equal to the fair market value of any other property distributed, but only if the distribution received by such shareholder is not effectively connected for the taxable year with the conduct of a trade or business in the United States by such shareholder.

(2) In the case of a distribution the amount of which is determined by reference to the adjusted basis described in subparagraph (1)(iii)(*b*) of this paragraph:

(i) That portion of the distribution which is a dividend under section 301(c)(1) may not exceed such adjusted basis, or

(ii) If the distribution is not out of earnings and profits, the amount of the reduction in basis of the shareholder's stock, and the amount of any gain resulting from such distribution, are to be determined by reference to such adjusted basis of the property which is distributed.

(3) Notwithstanding paragraph (d)(1)(iii), if a distribution of property described in such paragraph is made after December 31, 1962, by a foreign corporation to a shareholder which is a corporation, the amount of the distribution to be taken into account under section 301(c) shall be determined under section 301(b)(1)(C) and paragraph (n) of this section.

* * * * *

(h) *Basis.* * * *

(2) * * *

(ii) In the case of the distribution of any other property, except as provided in subdivision (iii) (relating to certain distributions by a foreign corporation) or subdivision (iv) (relating to certain distributions to foreign corporate distributees) of this subparagraph, whichever of the following is the lesser—

(*a*) The fair market value of such property; or

(*b*) The adjusted basis (in the hands of the distributing corporation immediately before the distribution) of such property increased in the amount of gain to the distributing corporation which is recognized under section 311(b) (relating to distributions of LIFO inventory), section 311(c) (relating to distributions of property subject to liabilities in excess of basis), section 311(d) (relating to appreciated property used to redeem stock), section 341(f) (relating to certain sales of stock of consenting corporations), section 617(d) (relating to gain from dispositions of certain mining property), section 1245(a) or 1250(a) (relating to gain from dispositions of certain depreciable property), section 1251(c) (relating to gain from disposition of farm recapture property), or section 1252(a) (relating to gain from disposition of farm land);

(iii) In the case of the distribution by a foreign corporation of any other property after December 31, 1962, in a distribution not described in subdivision (iv) of this subparagraph, the amount determined under paragraph (n) of this section;

(iv) In the case of the distribution of any other property made after November 8, 1971, to a shareholder which is a foreign corporation, the fair market value of such property, but only if the distribution received by such shareholder is not effectively connected for the taxable year with the conduct of a trade or business in the United States by such shareholder.

* * * * *

(j) *Transfers for less than fair market value.* * * *

Flush material

If property is transferred in a sale or exchange after December 31, 1962, by a foreign corporation to a shareholder which is a corporation for an amount less than the amount which would have been computed under paragraph (n) of this section if such property had been received in a distribution to which section 301 applied, such shareholder shall be treated as having received a distribution to which section 301 applies, and the amount of the distribution shall be the excess of the amount which would have been computed under paragraph (n) of this section with respect to such property over the amount paid for the property. Notwithstanding the preceding provisions of this paragraph, if property is transferred in a sale or exchange after November 8, 1971, by a corporation to a shareholder which is a foreign corporation, for an amount less than its fair market value, and if paragraph (d)(1)(iv) of this section would apply if such property were received in a distribution to which section 301 applies, such shareholder shall be treated as having received a distribution to which section 301 applies and the amount of the distribution shall be the difference between the amount paid for the property and its fair market value. In all cases, the earnings and profits of the distributing corporation shall be decreased by the excess of the basis of the property in the hands of the distributing corporation over the amount received therefor. In computing gain or loss from the subsequent sale of such property, its basis shall be the amount paid for the property increased by the amount of the distribution.

* * * * *

(n) *Distributions of certain property by foreign corporations to corporate shareholders.* (1) If a foreign corporation distributes property (other than money, the obligations of the distributing corporation, stock of the distributing corporation treated as property under section 305(b), or rights to acquire such stock treated as property under section 305(b)) after December 31, 1962, to a shareholder which is a corporation in a distribution not described in paragraph (d)(1)(iv) of this section, then, except as provided in subparagraph (2) of this paragraph the fair market value of the property shall be taken into account under section 301(c).

* * * * *

[FR Doc. 79-387 Filed 1-4-79; 8:45 am]

[6560-01-M]

Title 40—Protection of the Environment

CHAPTER 1—ENVIRONMENTAL PROTECTION AGENCY

[FRL 1012-8]

PART 65—DELAYED COMPLIANCE ORDERS

Approval of a Delayed Compliance Order issued by Iowa Department of Environmental Quality to Interstate Power Co., Kapp Station, Clinton, Iowa

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Administrator of EPA hereby approves a Delayed Compliance Order issued by Iowa Department of Environmental Quality to the Interstate Power Company, Kapp Station. The Order requires the company to bring air emissions from its Unit No. 2 at Clinton, Iowa into compliance with certain regulations contained in the federally-approved Iowa State Implementation Plan (SIP). Because of the Administrator's approval, Interstate Power Company's compliance with the Order will preclude suits under the federal enforcement and citizen suit provisions of the Clean Air Act for violation(s) of the SIP regulations covered by the Order during the period the Order is in effect.

DATES: This rule takes effect on January 5, 1979.

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FOR FURTHER INFORMATION CONTACT:

Peter J. Culver or Henry F. Rompage, EPA, Region VII, 1735 Baltimore, Kansas City, Missouri 64108, telephone 816-374-2576.

ADDRESS: A copy of the Delayed Compliance Order, any supporting material, and any comments received in response to a prior FEDERAL REGISTER notice proposing approval of the Order are available for public inspection and copying during normal business hours at; EPA Region VII, Enforcement Division, 1735 Baltimore, Kansas City, Missouri 64108.

SUPPLEMENTARY INFORMATION: On September 29, 1978, the Regional Administrator of EPA's Region VII Office published in the FEDERAL REGISTER, 43 FR 44867, a notice proposing approval of a delayed compliance order issued by Iowa Department of Environmental Quality to the Interstate Power Company, Kapp Station. The notice asked for public comments by October 30, 1978, on EPA's proposed approval of the Order. No public comments were received in response to the proposal notice.

Therefore, the delayed compliance order issued to Interstate Power Company, Kapp Station is approved by the Administrator of EPA pursuant to the authority of Section 113(d)(2) of the Clean Air Act, 42 U.S.C. 7413(d)(2). The Order places Interstate Power Company, Kapp Station on a schedule to bring its Unit No. 2 at Clinton, Iowa into compliance as expeditiously as practicable with subrule 400—43(2)b Iowa Administrative Code, Combustion for indirect hearing, a part of the federally-approved Iowa State Implementation Plan. The Order also imposes interim requirements which meet Sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the Order are met, it will permit Interstate Power Company, Kapp Station to delay compliance with the SIP regulations covered by the Order until June 29, 1979. The preamble of the notice of proposal to approve the Delayed Compliance Order published in the FEDERAL REGISTER on September 29, 1978, listed the final compliance date as September 29, 1979, rather than the correct date of June 29, 1979. However, since the order was also printed in full containing the correct date and since the correct date is actually earlier than the incorrect date, it has been determined unnecessary to repropose the approval of the Order. The company is unable to immediately comply with these regulations.

EPA has determined that its approval of the Order shall be effective upon publication of this notice because of the need to immediately place Interstate Power Company, Kapp Station on a schedule which is effective under the Clean Air Act for compliance with the applicable requirement(s) of the Iowa State Implementation Plan.

(Authority: 42 U.S.C. 7413(d), 7601)

Dated: December 21, 1978.

DOUGLAS M. COSTLE,
Administrator.

In consideration of the foregoing, Chapter 1 of Title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

1. By adding the following entry to the table in § 65.200 Federal delayed compliance orders issued under Section 113(d) (1), (3), and (4) of the Act.

. . . . . .

Source	Location	Order No.	Date of FR proposal	SIP regulation involved	Final compliance date
.	.	.	.	.	.
Interstate Power Co. Kapp Station.	Clinton, Iowa	VII-78-DCO-11 ..	Sept. 29, 1978	subrule 400—43(2)b.	June 29, 1979

[FR Doc. 79-392 Filed 1-4-79; 8:45 am]

[6820-24-M]

Title 41—Public Contracts and Property Management

CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

SUBCHAPTER A—GENERAL

[FPMR Temp. Reg. A-11, Supp. 6]

APPENDIX—TEMPORARY REGULATIONS

Changes to Federal Travel Regulations

AGENCY: Federal Supply Service, General Services Administration.

ACTION: Temporary regulation.

SUMMARY: This supplement extends the expiration date of FPMR Temporary Regulation A-11, Changes to Federal Travel Regulations, and Supplements 4 and 5 thereto. It is necessary that the provisions contained in the supplements remain in effect until superseded by a forthcoming revised edition of FPMR 101-7, Federal Travel Regulations.

DATES: Effective date: January 1, 1979. Expiration date: April 30, 1979.

FOR FURTHER INFORMATION CONTACT:

John I. Tait, Director, Regulations and Management Control Division (703-557-1914).

(5 U.S.C. 5707.)

NOTE.—The General Services Administration has determined that this document contains only a nonsubstantive change to a significant regulation and is not subject to sections 2 or 3 of Executive Order 12044.

In 41 CFR Chapter 101, the following temporary regulation is listed in the appendix at the end of Subchapter A.

[Federal Property Management Regs., Temporary Reg. A-11, Supplement 6]

CHANGES TO FEDERAL TRAVEL REGULATIONS

1. *Purpose.* This supplement extends the expiration date of FPMR Temporary Regulation A-11 and Supplements 4 and 5 thereto.

2. *Effective date.* This regulation is effective January 1, 1979.

3. *Expiration date.* This regulation expires April 30, 1979.

4. *Explanation of change.* The expiration date for FPMR Temporary Regulation A-11 and Supplements 4 and 5 thereto, which appears in paragraph 3 of Supplement 5, is extended to April 30, 1979. Supplements 4 and 5 contain current provisions of the travel regulations which must remain in effect until superseded by a forthcoming revised edition of FPMR 101-7, Federal Travel Regulations. Promulgation of the revised edition is anticipated in the near future.

December 20, 1978.

PAUL E. GOULDING,
Acting Administrator of General Services.

[FR Doc. 79-425 Filed 1-4-79; 8:45 am]

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proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[3410-30-M]

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

[7 CFR Part 210]

NATIONAL SCHOOL LUNCH PROGRAM

State Advisory Councils

AGENCY: Food and Nutrition Service.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the National School Lunch Program regulations by implementing an amendment of Section 14 of the National School Lunch Act. Section 6(e) of P.L. 95-166 amends section 14 by requiring that each State educational agency receiving food assistance payments for any school year shall establish for such year an advisory council, which shall be composed of representatives of schools in the State that participate in the National School Lunch Program. The council shall advise the State agency with respect to the needs of such schools concerning the manner of selection and distribution of commodity assistance for the National School Lunch Program.

DATES: To be assured of consideration comments must be received by March 6, 1979.

ADDRESS: Comments should be sent to: Margaret O'K. Glavin, Director, School Programs Division, FNS, USDA, Washington, D.C. 20250 (202-447-8130). Comments in response to this notice may be inspected at 500 12th Street, S.W., Room 610, Washington, D.C. during normal business hours (8:30 A.M. to 5:00 P.M.).

FOR FURTHER INFORMATION CONTACT:

Margaret O'K. Glavin, Director, School Programs Division, FNS, USDA, Washington, D.C. 20250 (202-447-8130).

SUPPLEMENTARY INFORMATION: Section 6 of the National School Lunch Act as amended (42 U.S.C. 1755) requires the Secretary of Agriculture to make available a national average value of food commodities, of not less than ten cents per lunch served, to States for distribution to schools conducting nonprofit lunch programs pursuant to the National School Lunch Act. Where applicable, cash in lieu of commodities must be made available to States. The ten cents amount is subject to adjustments each year to reflect changes in the Price Index for Foods used in Schools and Institutions published by the Bureau of Labor Statistics of the Department of Labor. Section 6 of P.L. 95-166, enacted November 10, 1977, amends section 14 of the Act by requiring State educational agencies to establish an advisory council to advise such State agency with respect to the needs of schools concerning the manner of selection and distribution of commodity assistance for the school lunch program. This proposed amendment to the regulations would require each State educational agency to establish an advisory council which shall be composed of representatives of schools in the State that participate in the program. It would be the responsibility of the council to notify its State educational agency no later than April 1 of each year of its preferred selection and distribution of commodity assistance for the following school year. This amendment would also propose that the State educational agency notify FNS of the advisory council's findings no later than April 15 of each year. Advisory councils may be funded by State Administrative Expense funds. Where the State educational agency is also the State commodity distributing agency, funding may then also be used from the State food distribution assessment fund.

Interested persons are invited to submit written comments on the proposed amendments to the above address. To be assured of consideration, such comments must be received by January 15, 1979.

Accordingly, Part 210 would be amended as follows:

1. Section 210.2 is amended by adding a new paragraph (u) to read as follows:

§ 210.2 Definitions.

. . . . . .

(u) "State Advisory Council" means a group of not less than ten representatives of schools participating in the lunch program in the State that meet and advise the State agency with respect to the needs of schools concerning the manner of selection and distribution of commodity assistance for the school lunch program.

. . . . . .

2. A new § 210.21 would be added to read as follows:

§ 210.21 State Advisory Councils.

(a) Each State agency shall establish an advisory council to be composed of representatives of schools in the State that participate in the program. The State advisory council shall meet at least once each year and report to the State agency no later than April 1 of each year its recommendations concerning the manner of selection and distribution of commodity assistance for the next school year. The State agency shall inform FNS of the advisory council's recommendations no later than April 15 of each year.

(b) The structure of the advisory council shall be as follows:

(1) The Chairman of the advisory council shall be the Chief State school officer or his designee.

(2) The Vice Chairman of the advisory council shall be the Chief Officer of the State distributing agency which distributes USDA-donated foods to schools within the State unless the State educational agency and the State distributing agency are the same entity within the State in which case the Vice Chairman of the Advisory Council shall be the Chief Food Distribution Officer of the State educational agency.

(3) Other representatives shall include but are not limited to:

(i) A representative from a large urban school.

(ii) A representative from a small rural school.

(iii) A representative from the Parent Teachers Association.

(iv) A student of high school grade or under.

(v) A representative from a private school.

(c) Representatives to the advisory council shall be appointed for not more than three years. To promote continuity within the advisory council, initial appointments shall be selected for 1, 2, and 3-year terms.

(d) The responsibilities of the State advisory council shall be to provide the State agency, no later than April 1 of each year, the following information:

(1) The most desired foods.

(2) The least desired foods.

(3) Recommendations for new products. In addition the council should advise the State agency on such matters as:

(i) The amounts of each USDA food item desired.

(ii) Types of packaging and package sizes.

(iii) Shipping schedules.

(iv) Recommendations for changes in specifications.

(e) The State agency may make payments of any costs incurred for or by the council from State Administrative Expense funds: Provided, however, That State agencies which are the same entity as the State distributing agency may also use food distribution assessment funds.

NOTE.—The Food and Nutrition Service has determined that this document does not contain a major porposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

(Catalog of Federal Domestic Assistance Program No. 10.550, National Archives Reference Services.)

Dated: December 29, 1978.

CAROL TUCKER FOREMAN,
Assistant Secretary.

[FR Doc. 79-484 Filed 1-4-79; 8:45 am]

[3410-05-M]

Commodity Credit Corporation

[7 CFR Parts 1421, 1446]

1979 PEANUT PROGRAM

Proposed Determination Regarding a Loan and Purchase Program

AGENCY: Commodity Credit Corporation, U.S. Department of Agriculture.

ACTION: Proposed rule.

SUMMARY: The Secretary of Agriculture proposes to make determinations and issue regulations concerning a loan and purchase program, sales policy, and other related matters, for the 1979 crop of peanuts. The loan and purchase program is authorized by the Agricultural Act of 1949, as amended (hereinafter referred to as the "Act").

The program is intended to stabilize market prices and to protect producers, handlers, processors and consumers. This notice invites comments on these proposed determinations.

DATES: Written comments must be received on or before February 5, 1979, in order to be sure of consideration.

ADDRESSES: Send comments to Acting Director, Price Support and Loan Division, ASCS, U.S. Department of Agriculture, Room 3741-South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

Thomas A. VonGarlem, ASCS, 202-447-7954.

SUPPLEMENTARY INFORMATION: The following determinations are required to be made by the Secretary in accordance with the provisions of subsection 108(a) of the Agricultural Act of 1949, as added by the Food and Agriculture Act of 1977:

1. *The national level of support for 1979 crop quota peanuts.* The Act provides that the Secretary shall make price support available to producers through loans, purchases, or other operations on quota peanuts at such levels as he finds appropriate, but not less than $420 per ton. In determining price support levels, subsection 108(a) of the Act directs the Secretary to take into consideration: (a) Any change in the index of prices paid by farmers for production items, interest, taxes, and wage rates during the period January 1 through December 1, 1978, inclusive, and (b) the eight factors specified in section 401(b) of the Act, namely, the supply of the commodity in relation to the demand therefor, the levels at which other commodities are being supported, the availability of funds, the perishability of the commodity, the importance of the commodity to agriculture and the national economy, the ability to dispose of stocks acquired through a support operation, the need for offsetting temporary losses of export markets, and the ability and willingness of producers to keep supplies in line with demand.

2. *The national level of support for 1979 crop additional peanuts.* The Act provides that the Secretary shall make price support available to producers through loans, purchases, or other operations on "additional peanuts," which are defined as any peanuts which are marketed from a farm and which are in excess of the marketings of quota peanuts from such farm for the marketing year but not in excess of the actual production from the farm acreage allotment. This subsection requires that the loan rate for 1979 crop additional peanuts shall be announced not later than February 15, 1979, and that in determining this rate the Secretary shall take into consideration the demand for peanut oil and peanut meal, expected prices of other vegetable oils and protein meals, and the demand for peanuts in foreign markets.

Sales policy. The Department also invites comments on a sales policy for additional loan peanuts acquired under the 1979 program and sold for export for edible use.

Section 359(j) of the Agricultural Adjustment Act of 1938, contained in the Food and Agriculture Act of 1977, provides that additional peanuts received under loan may be sold for domestic edible use at not less than all cost incurred with respect to the peanuts sold, plus: (1) 100 percent of the quota loan value if sold and paid for during the harvest season and upon delivery by the producer, or (2) 105 percent of the quota loan value if sold after delivery but before December 31 of the marketing year, or (3) 107 percent of the quota loan value if sold later than December 31 of the marketing year.

PROPOSED RULE

The Secretary of Agriculture proposes to make determinations and issue regulations with regard to the following for 1979-crop peanuts:

(a) The national level of support for quota peanuts.

(b) The national level of support for additional peanuts.

(c) Sales policy for additional peanuts received under loan or acquired by the Commodity Credit Corporation under the 1979 program, and sold for export for edible use.

Before making any determinations, consideration will be given to any relevant data, views, recommendations, or alternative proposals which are submitted in writing to the Acting Director of the Price Support and Loan Division, ASCS-USDA. All written submissions made pursuant to this notice will be made available for inspection from 8:15 a.m. to 4:45 p.m., Monday through Friday, in Room 3741, South Building.

NOTE: A draft impact analysis statement is available from Thomas A. VonGarlem (ASCS), 202-447-7954.

NOTE: Based on an assessment of the environmental impacts of the proposed action, it has been determined that an Environmental Impact Statement need not be prepared since the proposals will have no significant effect on the quality of the human environment.

Executive Order 12044 (43 FR 12661, March 24, 1978) requires at least a 60-day public comment period on any proposed significant regulations except where the agency determines that this is not possible or in the best interest of the producers. Section 108(b) of the Food and Agriculture Act of 1977 mandates that the level of price support for 1979-crop additional peanuts be announced by February 15, 1979. Accordingly, I have determined that compliance with provisions of Executive Order 12044 is impossible and contrary to the public interest. Therefore, comments must be received by February 5, 1979, in order to be assured of consideration.

Signed at Washington, D.C., on December 29, 1978.

STEWART N. SMITH,
Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 79-416 Filed 1-4-79; 8:45 am]

[3410-15-M]

Rural Electrification Administration

[7 CFR Part 1701]

SPECIFICATIONS FOR ELECTRICAL EQUIPMENT ENCLOSURES (5-35 kV) AND SECONDARY PEDESTALS (600 VOLTS AND BELOW)

AGENCY: Rural Electrification Administration, USDA.

ACTION: Revision to Existing Specifications.

SUMMARY: The Rural Electrification Administration (REA) proposes to revise REA Specifications U-4, U-6 and U-7. REA Specification U-4, presently entitled, "Sectionalizing and Single-Phase Transformer Enclosures," will become, "Electrical Equipment Enclosures (5-35 kV)," and will include the requirements of U-7, presently entitled, "Enclosures Containing Protective Equipment with Exposed Energized Parts." Specification U-7 will be eliminated. REA Specification U-6, presently entitled, "Secondary Pedestals," will become, "Secondary Pedestals (600 Volts and Below)."

These revisions are being made to reflect changes in manufacturing techniques and materials and provide REA borrowers with specifications which clearly define the dead-front equipment requirements.

DATE: Public comments must be received by REA no later than March 6, 1979.

ADDRESS: Interested persons may obtain copies of Specifications U-4 and U-6 from Mr. Rowland C. Hand, Sr., Director, Power Supply and Engineering Standards Division, Rural Electrification Administration, Room 3304, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone Number (202) 447-4413. All data, views, or comments should be also be directed to Mr. Hand.

All written submissions made pursuant to this notice will be made available for public inspection in the Office of the Director, Power Supply and Engineering Standards Division, during regular business hours.

Dated: December 27, 1978.

RICHARD F. RICHTER,
Assistant Administrator—Electric.

[FR Doc. 79-492 Filed 1-4-79; 8:45 am]

[6320-01-M]

CIVIL AERONAUTICS BOARD

[EDR-366A; PDR-58A; PSDR-52A; Docket 33836; Dated January 2, 1979]

[14 CFR Parts 221, 302, 399]

U.S. MAINLAND—PUERTO RICO/VIRGIN ISLANDS RATEMAKING ENTITY

Change in Tariff Justification; Revision of Complaint Procedures; Statements of General Policy

SUPPLEMENTAL NOTICE OF PROPOSED RULEMAKING

AGENCY: Civil Aeronautics Board.

ACTION: Supplementary notice of proposed rulemaking.

SUMMARY: This action extends for 10 days the filing date for comments in a rulemaking proceeding proposing to allow carriers to experiment with the price and quality of service options determined by the particular needs of the market being served.

DATE: Comments by January 12, 1979.

ADDRESS: Comments should be sent to Docket 33836.

FOR FURTHER INFORMATION CONTACT:

Steven McKinney, Trial Attorney, Bureau of Pricing and Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202-673-5273.

SUPPLEMENTARY INFORMATION: By Notice of Proposed Rulemaking EDR-366/PDR-58/PSDR-52 (43 FR 51641, November 6, 1978) the Board proposed to extend the policies developed for the *Domestic Passenger Fare Rulemaking* to the U.S. mainland—Puerto Rico/Virgin Islands ratemaking entity. The policies allow carriers to experiment with price/quality of service options tailored to their individual costs and the requirements of the individual markets. Under the new policies, ceiling fares are established as a base from which carriers are permitted to set fares upward and downward within specified zones. Fares within the zones ordinarily would not be suspended on grounds that they might be unreasonable. The zones would permit fair competition, while the maximums would protect against unwarranted fares where competition is an insufficient check.

Delta Airlines has requested a 10-day extension to January 12, 1979. The basis of this request was that as of December 21, Delta had not received copies of comments that were due by December 18, and needs more time to adequately prepare a reply comment.

There have been no previous extensions requested in this proceeding, no specific target date has been set, and the granting of this extension would not interfere unduly with the rights of any parties or with the procedures of the Board.

Upon consideration of the above, the undersigned finds good cause to grant the request for an extension of time for the preparation of views on the proposed rule.

Accordingly, pursuant to authority delegated in § 385.20 of the Board's Organization Regulations (14 CFR 385.20(d)), the time for filing reply comments is extended to January 12, 1979.

(Sec. 204(a) of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 49 U.S.C. 1324.)

RICHARD B. DYSON,
Associate General Counsel, Rules and Legislation.

[FR Doc. 79-482 Filed 1-4-79; 8:45 am]

[4110-03-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Parts 522 and 556]

[Docket No. 78N-0435]

ESTRADIOL BENZOATE, PROGESTERONE, TESTOSTERONE PROPIONATE, AND ESTRADIOL MONOPALMITATE FOR USE IN FOOD-PRODUCING ANIMALS

Proposed Revocation of Provisions

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: This proposal would amend the regulations by revoking provisions that provide for the use in food-producing animals of certain endogenous compounds that are subject to a notice of opportunity for hearing proposing their withdrawal.

DATE: Written comments by February 5, 1979.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857

FOR FURTHER INFORMATION CONTACT:

Woodrow M. Knight, Bureau of Veterinary Medicine (HFV-123), Food and Drug Administration, Department of Health, Education, and Wel-

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fare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3134.

SUPPLEMENTARY INFORMATION: Elsewhere in this issue of the FEDERAL REGISTER, under Docket No. 78N-0434, the Director of the Bureau of Veterinary Medicine is issuing a notice of opportunity for hearing on a proposal to withdraw approval of new animal drug applications (NADA's) for products containing either estradiol benzoate and progesterone, estradiol benzoate and testosterone propionate, or estradiol monopalmitate. The ground for the proposed withdrawal is that new evidence not available when the applications were approved, evaluated together with the evidence available at the time of approval, shows that these drugs are not shown to be safe for use under the conditions of use prescribed in the labeling.

Consistent with this action, the Director is hereby proposing to amend the regulations by revoking the provisions that provide for the use of these drugs.

The Director has carefully considered the environmental effects of this action, and because it will not significantly affect the quality of the human environment, has concluded that an environmental impact statement is not required. A copy of the environmental impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343-351 (21 U.S.C. 360b)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.84), it is proposed that Parts 522 and 556 be amended as follows:

§§ 522.842, 522.844, 522.1940 [Revoked]

1. In Part 522 by revoking §§ 522.842 *Estradiol benzoate and testosterone propionate in combination*, 522.844 *Estradiol monopalmitate*, and 522.1940 *Progesterone and estradiol benzoate in combination.*

§§ 556.240, 556.250, 556.540, 556.710 [Revoked]

2. In Part 556 by revoking §§ 556.240 *Estradiol benzoate*, 556.250 *Estradiol monopalmitate*, 556.540 *Progesterone*, and 556.710 *Testosterone propionate.*

Interested persons may, on or before Feburary 5, 1979 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Hearing Clerk, Food and Drug Administration.

Dated: December 29, 1978.

TERENCE HARVEY,
Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 79-422 Filed 1-2-79; 3:12 pm]

[4210-01-M]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Part 1917]

[Docket No. FI-4827]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Town of Cherokee, Colbert County, Ala.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Cherokee, Colbert County, Alabama. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Town Hall, Cherokee, Alabama. Send comments to: Mayor Jimmy Brown, Town Hall, Cherokee, Alabama 35616, or Mr. Danny Killeen, Muscle Shoals Council of Local Governments, P.O. Box 2358, Muscle Shoals, Alabama 35660.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Cherokee, Colbert County, Alabama, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Cherokee Branch..	Approximately 250 feet downstream of Pike Rd. S.W.	482
	Just upstream of Pike Rd. S.W.	485
Brotherton Branch.	Approximately 520 feet upstream of the confluence with North Fork of Cherokee Branch.	491
North Fork Cherokee Branch.	Approximately 780 feet upstream of the confluence with Cherokee Branch.	486

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-124 Filed 1-4-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4828]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of East Brewton, Escambia County, Ala.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of East Brewton, Escambia County, Alabama.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Clerk's Office, City Hall, 615 Forrest Avenue, East Brewton, Alabama.

Send comments to: Mayor Malcolm Edwards or Ms. Karen Harold, City Clerk, City Hall, P.O. Box 2010, East Brewton, Alabama 36426.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of East Brewton, Escambia County, Alabama, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Conecuh River.....	Southern Corporate Limits, just downstream of State Highway 41.	81
Murder Creek	Just downstream of US Highway 29.	85
	Northeast Corporate Limits.	91
Mantle Branch	Just downstream of Dixon St.	90

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-125 Filed 1-4-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4829]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Hamilton, Marion County, Ala.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Hamilton, Marion County, Alabama. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Hamilton, Alabama 35570.Send comments to: Mayor E. T. Sims, P. O. Box 188, Hamilton, Alabama 35570 or Mr. Danny Killeen, Muscle Shoals Council of Local Governments, P.O. Box 2358, Muscle Shoals, Alabama 35660.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Hamilton, Marion County, Alabama, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second

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layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Buttahatchee River.	Approximately 1000 feet upstream of County Road 35.	385
	Just upstream of U.S. Highways 278, 78 and 43.	394
	Just upstream of County Road 42.	405
	Approximately 300 feet upstream of U.S. Highway 278.	410
Williams Creek.....	Just upstream of old U.S. Highway 43.	412
Ragsdale Creek	U.S. Highway 278.....	412
	Just upstream of 7th Ave. North.	431
Key Branch.....	Just downstream of U.S. Highways 43, 78, 278.	414
	Just upstream of U.S. Highways 43, 78, 278.	421
	Just downstream of 6th Ave. South.	451
	Just upstream of 6th Ave. South.	458

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-126 Filed 1-4-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4830]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the unincorporated areas of Chicot County, Ark.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the unincorporated areas of Chicot County, Arkansas. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the County Judge's Office, Chicot County Courthouse, Lake village, Arkansas. Send comments to: Judge James Burchfield, Chicot County Judge, or Mr. M. R. Avery, Assistant to County Judge, Chicot County Courthouse, Lake Village, Arkansas 71653.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the unincorporated areas of Chicot County, Arkansas, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Caney Bayou—Main Channel.	Just upstream Arkansas State Highway 8.	120
	Just downstream Carroll Hill Rd.	121
Hensley Ditch.....	Just upstream of the confluence with Caney Bayou.	120
Little Lake Bayou.	Just downstream State Highway 82.	119
	Just upstream Arkansas State Highway 65.	122
Macon Bayou.....	Just upstream Missouri Pacific Railroad.	108
Big Bayou Slough.	Just upstream Arkansas State Highway 35.	137
Main Ditch 6.....	Just upstream of the confluence with Macon Bayou.	112
	Just downstream Old Arkansas State Highway 65.	117
Mississippi River...	Just upstream East Carroll Parish Louisiana Boundary.	128
	Just downstream Desha County Boundary.	148

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 7, 1978

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-127 Filed 1-4-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4831]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Brea, Orange County, Calif.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Brea, Orange County, California. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, 401 South Brea Boulevard, Brea, California. Send comments to: Mr. Wayne Wedin, City Manager, City of Brea, City Hall, 401 South Brea Boulevard, Brea, California 92621.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Brea, California, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Carbon Canyon Channel.	Soquel Canyon Rd.—50 feet*.	600
	State Highway 142 (Carbon Canyon Rd.) (downstream crossing)— 20 feet*.	672
	State Highway 142 (Carbon Canyon Rd.) (upstream crossing)— 100 feet**.	786
	State Highway 142 (Carbon Canyon Rd.) (upstream crossing)— 60 feet*.	802
Brea Canyon Channel.	Arovista Park Bridge—50 feet**.	314
	Arovista Park Bridge—50 upstream*.	319
	Pacific Electric Railway—60 feet**.	336
	Pacific Electric Railway—50 feet*.	348
	Central Ave.—70 feet**	366
	Central Ave.—50 feet*	378
Loftus Diversion Channel.	Greenbriar Lane—at centerline.	313
	Associated Rd.—at centerline.	328
Memory Garden Storm Channel.	Stone Bridge Dr.—20 feet*.	483
	Northwood Ave.—at centerline.	535

* Upstream of centerline.
** Downstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-128 Filed 1-4-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4655]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Oakdale, Stanislaus County, Calif.; Correction

AGENCY: Federal Insurance Administration, HUD.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 47568 of the FEDERAL REGISTER of October 16, 1978.

EFFECTIVE DATE: October 16, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755-5581 or Toll Free Line (800) 424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410

The following correction is made:

Wherever Alameda is stated as the name of the county, it should be corrected to read Stanislaus.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719).

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued December 7, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-129 Filed 1-4-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4832]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Placentia, Orange County, Calif.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Placentia, Orange County, Calif. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

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ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Civic Center, 401 East Chapman Avenue, Placentia, California. Send comments to: Mr. Edwin Powell, City Administrator, City of Placentia, Civic Center, 401 East Chapman Avenue, Placentia, California 92670.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Placeritia, California, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Carbon Creek Channel.	Orange Freeway—200 feet*.	198
	Orange Freeway—150 feet**.	205
Carbon Canyon Channel.	Chapman Ave.—50 Feet*.	240
	Chapman Ave.—120 feet**.	245
	Palm Dr.—40 feet**	261
Atwood Channel	Atchison, Topeka & Santa Fe Railway—100 feet**.	244
	Lakeview Ave.—10 feet**	256
Atwood Channel	Lee Ana St.—at centerline.	1

*Downstream of centerline.
**Upstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-130 Filed 1-4-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4833]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Villa Park, Orange County, Calif.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Villa Park, Orange County, California. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, 17855 San Diego Boulevard, Villa Park, California. Send comments to: Mr. Thomas Scott, City Administrator, City of Villa Park, City Hall, 17855 San Diego Boulevard, Villa Park, California 92667.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Villa Park, California, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Santiago Creek	Villa Park Rd.—at centerline.	

Source of Flooding	Location	7308 Depth, feet above ground
Villa Park Storm Drain.	Intersection of Serrano Ave. and Center Dr.	2
	Intersection of Santiago Blvd. and Center Dr.	2
	Southwest corner of the intersection of Santiago Blvd. and Wanda Rd.	2

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-131 Filed 1-4-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4834]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Town of Bridgewater, Litchfield County, Conn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Bridgewater, Litchfield County, Connecticut.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Hall, Bridgewater, Connecticut. Send comments to: The Honorable Henry Becker, First Selectman, Town of Bridgewater, Town Hall, Bridgewater, Connecticut 06752.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Bridgewater, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, (national geodetic vertical datum)
Wewaka Brook	Confluence with Lake Lillinonah.	195
	1,000 feet upstream of confluence with Lake Lillinonah.	195
	1,770 feet upstream of confluence with Lake Lillinonah.	203
	50 feet downstream of Wooden Bridge.	299
	65 feet downstream of Dam upstream of Wooden Bridge.	316
	Upstream side of Dam upstream of Wooden Bridge.	337
	At confluence with Wewaka Brook Tributary.	342
	Upstream side of Wewaka Brook Rd.	358
	Upstream side of first driveway above Wewaka Brook Rd.	364
	60 feet downstream of second driveway above Wewaka Brook Rd.	366
	Downstream side of second pass under Wewaka Brook Rd.	376
	870 feet upstream of second pass under Wewaka Brook Rd.	406
	800 feet downstream of third pass under Wewaka Brook Rd.	450
	Downstream side of third pass under Wewaka Brook Rd.	472
	Downstream side of first driveway above third pass under Wewaka Brook Rd.	484
	Downstream side of fourth pass under Wewaka Brook Rd.	510
	Downstream side of Treat Rd.	529
	95 feet upstream of Treat Rd.	533
	920 feet upstream of Treat Rd.	544
Wewaka Brook Tributary.	At confluence with Wewaka Brook.	342
	20 feet upstream of Wewaka Brook Rd.	342
	25 feet downstream of Route 133.	365
	1,700 feet upstream of Route 133.	410
	1,700 feet downstream of second pass under Route 133.	465
	Upstream of second pass under Route 133.	510
	70 feet downstream of Stuart Rd.	559
	60 feet upstream of Stuart Rd.	567
	20 feet upstream of first driveway above Stuart Rd.	579
	200 feet upstream of first driveway above Stuart Rd.	583
	620 feet upstream of Stuart Rd.	587
	1,920 feet upstream of Stuart Rd.	630
	1,745 feet downstream of Sara Sanford Rd.	652
	85 feet downstream of Sara Sanford Rd.	679
	65 feet upstream of Sara Sanford Rd.	687
	370 feet upstream of Sara Sanford Rd.	688
	400 feet upstream of Sara Sanford Rd.	690
	1,300 feet upstream of Sara Sanford Rd.	700
Clapboard Oak Brook.	At confluence with Lake Lillinonah.	195
	300 feet upstream of confluence with Lake Lillinonah.	199
	910 feet upstream of confluence with Lake Lillinonah.	215
	Upstream of Hemlock Rd. No. 1.	389
	Downstream of Hemlock Rd. No. 2.	461
	Upstream of Hemlock Rd. No. 2.	467
	Upstream of Curtis Rd.	519
	1,120 feet upstream of Curtis Rd.	565
	2,120 feet upstream of Curtis Rd.	596
	3,300 feet upstream of Curtis Rd.	613
	4,300 feet upstream of Curtis Rd.	653

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been

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granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-132 Filed 1-4-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4835]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Unincorporated Areas of Catoosa County, Ga.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the unincorporated areas on Catoosa County, Georgia. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the County Commissioner's Office, County Courthouse, 206 West Nashville Street, Ringo, Georgia 30736. Send comments to: Mr. James Moreland, County Commissioner or Mr. Bobby Plemons, Administrative Assistant to County Commissioner, Catoosa County Courthouse, 206 West Nashville Street, Ringo, Georgia 30736.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the unincorporated areas of Catoosa County, Georgia, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
South Chickamauga Creek.	Approximately 500 feet upstream of Graysville Rd..	698
South Chickamauga Creek.	Just downstream of U.S. Highway 41 & 76 (Dixie Highway).	755
	Just upstream of State Highway 2 (Cleveland St.).	761
Peavine Creek.....	Just downstream of Interstate Highway 75.	694
	Just upstream of Boynton Dr..	722
	Approximately 1000 feet upstream of Poplar Springs Rd..	742
	Just downstream ot Three Notch Rd..	752
East Chickamauga Creek.	Just upstream of Interstate Highway 75.	782
	Just upstream of Orr Rd..	797
Spring Creek.....	Just upstream of the Tennessee-Georgia State Line.	682
	Just downstream of the confluence of Black Branch.	684
Black Branch.....	Just downstream of Lakeview Dr..	687
	Just downstream of Cloud Springs Rd..	698
Little Chickamauga Creek.	Just downstream of Interstate Highway 75.	761
	Just downstream of Georgia Highway 151.	792
West Chickamauga Creek.	Just upstream of Cloud Springs Rd..	682
	Just downstream of Boynton Dr..	691

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-133 Filed 1-4-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4836]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Clayton, Contra Costa County, Calif.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Clayton, Contra Costa County, California. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Clayton, California. Send comments to: Mr. Peter Archuleta, City Administrator, City of Clayton, P.O. Box 380, Clayton, California 94517.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Clayton, California, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Mt. Diablo Creek ..	North Lydia Lane—at centerline.	332
	Black Diamond Way—15 feet*.	394
	Regency Dr.—80 feet**...	505
	Regency Dr.—100 feet*...	511
Mitchell Creek.....	Clayton Rd.—60 feet*	390
	Private Rd.—15 feet* (located 1950 feet above mouth).	414
Donner Creek	Marsh Creek Rd.—60 feet**.	431
	Marsh Creek Rd.—60 feet*.	436
	Private Drive—30 feet** (located 3555 feet above mouth).	482
	Private Drive—30 feet* (located 3555 feet above mouth).	488

* Upstream of centerline.
** Downstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-134 Filed 1-4-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4837]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Fairburn, Fulton County, Ga.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Fairburn, Fulton County, Georgia. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Clerk's Office, City Hall, Fairburn, Georgia. Send comments to: Mayor A. J. Green or Mr. Howell, City Administrator, City Hall, P.O. Box 145, Fairburn, Georgia 30213.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Fairburn, Fulton County, Georgia, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Line Creek.....	Sir Charles Dr. (extended).	917
	Intersection of Blue Flag Lane and Tall Deer Dr.	923
	Approximately 150 feet downstream of Rivertown Rd.	939

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTICE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-135 Filed 1-4-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4838]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Palmetto, Coweta and Fulton Counties, Ga.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations

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listed below for selected locations in the City of Palmetto, Coweta and Fulton Counties, Georgia. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Superintendent of Utilities Office, City Hall, 512 Locke Street, Palmetto, Georgia 30268. Send comments to: Mayor L. B. Bradley or Mr. W. H. Winslett, Superintendent of Utilities, City Hall, 512 Locke Street, Palmetto, Georgia 30268.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Palmetto, Coweta and Fulton Counties, Georgia in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Little Bear Creek ..	Just downstream of Carlton Rd.	930
	Just downstream of Toombs Rd.	963

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued December 7, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-136 Filed 1-4-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4839]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Rossville, Walker County, Ga.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Rossville, Walker County, Georgia. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Clerk's Office, City Hall, 500 McFarland Avenue, Rossville, Georgia 30741. Send comments to: Mayor Charles Sherrill or Ms. Joyce Wall, City Clerk, City Hall, 500 McFarland Avenue, Rossville, Georgia 30741.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Rossville, Walker County, Georgia, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Tributary to Chattanooga Creek.	Just upstream of Clark St.	664
	Just upstream of Hicks Ave.	716
Tributary along Carden Avenue.	Just downstream of Maple St.	665
Tributary along Williams Street.	Just upstream of Williams St.	670
	Just downstream of Glenn Ave.	696
Tributary along Andrews Street.	Just upstream of Rock Dam.	698
Dry Creek.....	Just upstream of Maple St.	659
Tributary No. 1 North-Dry Creek.	Just upstream of Indiana Ave.	671
	Just upstream of Lee St.	676
Tributary No. 2 South-Dry Creek.	Just upstream of Indiana Ave.	671
	Just downstream of McFarland Ave.	685
Tributary No. 4 West-Dry Creek.	Shear Dr. (extended).....	671

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued December 7, 1978.

GLORIA M. JIMINEZ,
Federal Insurance Administrator.

[FR Doc. 79-137 Filed 1-4-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4840]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Trenton, Dade County, Ga.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Trenton, Dade County, Georgia. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, P.O. Box 518, Trenton, Georgia 30752. Send comments to: Mayor R. D. Moore, or Mr. Gene Carter, City Recorder, City Hall, P.O. Box 518, Trenton, Georgia 30752.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Trenton, Dade County, Georgia, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation, in feet, national geodetic vertical datum
Lookout Creek.....	Glenview Drive extended.	711
	Confluence of Town Creek.	702
Town Creek.....	Just upstream of Main Avenue (U.S. Highway 11).	726
	Just downstream of Railroad St.	715

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-138 Filed 1-4-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4841]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Town of Trion, Chattooga County, Ga.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Trion, Chattooga County, Georgia.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Mayor's Office, Town Hall, Park Avenue, Trion, Georgia.

Send comments to: Mayor J. C. Woods or Mr. Tom Grubbs, Building Inspector, Town Hall, Park Avenue, Trion, Georgia 30753.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Trion, Chattooga County, Georgia, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968

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(Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Chattooga River	Just downstream of U.S. Highway 27.	659
	Just upstream of Riegel Dam.	674
	Confluence of Cane Creek.	681
Spring Branch	Approximately 200 feet upstream of Central Ave.	669
Trion Branch	Approximately 200 feet upstream of Aligood Street.	664
	Approximately 200 feet downstream of Tavern Lane.	665

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-139 Filed 1-4-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4842]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Union City, Fulton County, Ga.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Union City, Fulton County, Georgia. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Clerk's Office, City Hall, 5047 Union Street, Union City, Georgia 30291. Send comments to: Mayor B. D. Adams, or Mr. James Mallett, City Engineer, City Hall, 5047 Union Street, Union City, Georgia 30291.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Union city, Fulton County, Georgia, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Deep Creek	Just upstream of High Point Rd.	840
	Ward Road Extended	901
Highpoint Creek	Approximately 700 feet upstream of the confluence with Deep Creek.	841
	Just downstream of Highpoint Rd.	853
Shannon Creek	Eastern Corporate Limits.	905
	Northern Corporate Limits.	942
Windham Creek	Eastern Corporate Limits.	904
Whitewater Creek	Southern Corporate Limits.	924
	Just downstream of Jonesboro Rd.	948

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-140 Filed 1-4-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4843]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Village of Brooklyn, St. Clair County Ill.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Village of Brooklyn, St. Clair County, Illinois. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Brooklyn Village Hall, 310 South Fifth Street, Lovejoy, Illinois. Send comments to: The Honorable Marcelus West, Mayor, Village of Brooklyn, Village Hall, 310 South Fifth Street, Lovejoy, Illinois 62059.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Village of Brooklyn, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Rainfall Ponding Within The Community.	At the intersection of the Eastern and Northern corporate limit.	409
	Corner of Monroe St. and Fifth St.	411
	400 feet North of the crossing of the Norfolk & Western Railway and the Illinois Terminal Railroad.	411
	400 feet North and 400 feet East of the levee at the Southern corporate limit.	420

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-141 Filed 1-4-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4844]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Village of Frankfort, Will County, Ill.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Village of Frankfort, Will County, Illinois. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Village Administrator's Office, Frankfort, Illinois. Send comments to: The Honorable Gleen Warning, Village President, Village of Frankfort, Village Administrator's Office, 123 West Kansas Street, Frankfort, Illinois 60423.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Village of Frankfort, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.4(a)).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, nation geodetic vertical datum
Tributary 1 of Hickory Creek.	1,250 feet downstream from Indiana Court at western corporate limit.	690
	Just downstream of Indiana Court.	695
	Just upstream of Indiana Court.	701
	At Birchwood Rd.	701
	100 feet upstream from Box Elder.	702
	100 feet downstream from Locust St.	704

Source of flooding	Location	Elevation in feet, nation geodetic vertical datum
	Just downstream from Chelsea School Rd.	706
	400 feet downstream from confluence of Tributary A of Hickory Creek.	711
	100 feet upstream confluence of Tributary A of Hickory Creek.	712
	500 feet downstream from Frankfort St.	714
	At Frankfort St	715
	300 feet upstream from Frankfort St.	716
	1,300 feet upstream from Frankfort St. at eastern corporate limit.	719

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-142 Filed 1-4-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4371]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Woodstock, McHenry County, Ill.; Correction

AGENCY: Federal Insurance Administration, HUD.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 43 FR 35500 of the FEDERAL REGISTER of August 10, 1978.

EFFECTIVE DATE: August 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

The following:

Source of Flooding	Location	Elevation in feet, national geodetic vertical datum
Silver Creek	Seminary Avenue	881

Should be corrected to read:

Silver Creek	900 feet Upstream of Seminary Avenue.	881

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and the Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719).

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-144 Filed 1-4-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4802]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Humboldt, Humboldt County, Iowa

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Humboldt, Humboldt County, Iowa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, Humboldt, Iowa. Send comments to: The Honorable LeRoy Jorgensen, Mayor, City of Humboldt, 29 South 5th Street, Humboldt, Iowa 50548.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Humboldt, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
West Des Moines River.	Southern Corporate Limits.	1,062
	3900 feet downstream from Lewis Street.	1,066
	Upstream side of Lewis St.	1,071
	Upstream side of Sumner Ave.	1,073
	500 feet upstream of U.S. Highway 169.	1,076
	Upstream side of dam 2250 feet above U.S. Highway 169.	1,082
	Western Corporate Limits.	1,084
Tributary A	At confluence with West Des Moines River.	1,064
	Downstream side of 5th St.	1,066
	Upstream side of 5th St.	1,068
	Downstream side of 3rd Ave. South.	1,070

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued December 7, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-145 Filed 1-4-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4803]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Princeton, Scott County, Iowa

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Princeton, Scott County, Iowa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, Princeton, Iowa. Send comments to: The Honorable Chuck L. Brockman, Mayor, City of Princeton, City Hall, Princeton, Iowa 52768.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Princeton, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Mississippi River	Downstream corporate limit.	582
	Upstream corporate limit.	583

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Depatment of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-146 Filed 1-4-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4026]

NATIONAL FLOOD INSURANCE PROGRAM

Revision of Proposed Flood Elevation Determination for the City of Newton, Harvey County, Kans.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Newton, Harvey County, Kansas. Due to recent engineering analysis, this proposed rule revised the proposed determinations of base (100-year) flood elevations published in 43 FR 24700 on June 7, 1978, and in the *Newton Kansan* published on April 19, 1978 and April 20, 1978, and hence supersedes those previously published rules.

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, Newton, Kansas. Send comments to: The Honorable Gilbert Buller, Mayor, City of Newton, City Hall, Newton, Kansas 67114.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in the City of Newton, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Sand Creek	Just Upstream of County Rd. 576	1402

Source of flooding	Location	Elevation, in feet, national geodetic vertical datum
	(extraterritorial).	
	Just Upstream of Atchison, Topeka & Santa Fe Railway (extraterritorial).	1408
	Just Downstream of S.W. 14th St. (extraterritorial).	1413
	Just Downstream of Dam at Downstream Corporate Limits.	1417
	Just Downstream of West 10th St.	1422
	Just Upstream of Missouri Pacific Railroad (extraterritorial).	1425
Slate Creek	Just Upstream of Confluence with Sand Creek.	1415
	Just Upstream of Atchison, Topeka & Santa Fe Railway.	1416
	Just Upstream of South Plum St.	1422
	Just Upstream of Washington Rd.	1430
	Just Upstream of S.E. 4th St.	1437
	Just Upstream of South Kansas St.	1439
	Just Upstream of East 1st St.	1444
	Just Upstream of East 4th St.	1451
	Just Upstream of Interstate 135 West.	1465
	Just Upstream of Spencer Ave.	1473
South Branch Slate Creek.	Just Upstream of Confluence with Slate Creek.	1433
	Just Upstream of South Kansas St.	1443
	Just Upstream of Missouri Pacific Railroad.	1450
	Just Upstream of Rolling Hills Dr.	1454
	Just Upstream of Interstate 135.	1463
	Just Upstream of Spencer Ave.	1468
Country Club Branch Slate Creek.	Just Upstream of Confluence with South Branch Slate Creek.	1444
	Just Downstream of Dam, 0.42 Miles Upstream of Confluence with South Branch Slate Creek.	1451
Mud Creek	Just Upstream of U.S. Route 50 (extraterritorial).	1421
	Just Upstream of West 1st St (extraterritorial).	1431
	Just Upstream of West 12th St.	1440
	Just Upstream of West 24th St (extraterritorial).	1450
	Just Downstream of U.S. Route 81 (extraterritorial).	1455

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-147 Filed 1-4-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4804]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Tonganoxie, Leavenworth County, Kans.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Tonganoxie, Leavenworth County, Kansas. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Clerk's home, Tonganoxie, Kansas. Send comments to: The Honorable Lee Mark, Mayor, City of Tonganoxie, City Hall, 321 South Delaware, Tonganoxie, Kansas 66086.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Tonganoxie, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Tonganoxie Creek	Southeast corporate limit.	843
	Confluence of Tributary 1, south of 4th St.	849
	Just upstream of 4th St.	851
	Just upstream of 1st St.	855
	Northern corporate limit.	859

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-148 Filed 1-4-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4805]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Ludlow, Kenton County, Ky.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Ludlow, Kenton County, Kentucky. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Building, Ludlow, Kentucky. Send comments to: Mayor Harold Klosterman or Mr. Paul Owhadi, City Manager, City Building, Ludlow, Kentucky 41016.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Ludlow, Kenton County, Kentucky, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Ohio River	Deverill Street extended	496
	Just downstream of Southern Railway Bridge.	497
Pleasant Run Creek.	Just upstream of Oak St	496
Pleasant Run Creek Tributary.	Approximately 100 feet downstream of Southern Railway bridge.	497
	Just downstream of corporate limits.	511

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-149 Filed 1-4-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4806]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Lexington—Fayette Urban County Government, Ky.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Lexington—Fayette Urban County Government, Kentucky. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, 136 Walnut Street, Lexington, Kentucky 40507. Send comments to: Mayor James Amato or Mr. Chris King, Planning Director, City Hall, 136 Walnut Street, Lexington, Kentucky 40507.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Lexington—Fayette Urban County Government, Kentucky, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second

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layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation, in feet, national geodetic vertical datum
South Elkhorn Creek.	Just upstream of Bosworth Lane.	836
	Just upstream of US Highway 68.	894
	Just upstream of Clays Mill Rd.	920
	Just downstream of Monticello Blvd.	966
	Just upstream of Monticello Blvd.	969
Steeles Run	Just upstream of Redd Rd.	820
	Just downstream of Elk Chester Rd.	850
	Just upstream of Elk Chester Rd.	853
IBM Tributary	Approximately 100-feet downstream IBM Rd. to Russell Cave Rd.	931
	Approximately 50-feet upstream IBM Rd. to Russell Cave Rd.	940
North Elkhorn Creek.	Just upstream Louisville & Nashville Railroad.	904
Hume Rd. Tributary.	City of Lexington Northeastern Corporate Limits (extended).	942
	Just downstream Hume Rd.	955
I-75 Tributary	Just upstream I-75	924
	Just upstream US 60	930
Eastland Park Tributary.	Just upstream of City of Lexington southwestern Corporate Limits.	942
	Just downstream of Kilkenny Dr.	963
Kentucky River	Just upstream Jessamine and Fayette Counties Boundary.	581
	Just downstream Fayette and Clark Counties Boundary.	590
Cave Creek	Just upstream Bowmans Mill Rd.	888
	Confluence of Dogwood Tributary.	938
Parkers Mill Tributary.	Just upstream Parkers Mill Rd.	876
Dogwood Tributary.	Huffman Rd (Extended)	951
Stonewall Estates Tributary.	Just upstream Higbee Mill Rd.	906
	Just upstream Clays Mill Rd.	961
Indian Hills Tributary.	Wellington Way	951
West Hickman Creek.	Just upstream Tates Creek Rd.	907
	Just upstream Armstrong Mill Rd.	914
	Just upstream New Circle Rd. (State Highway 4).	930
	Just downstream Mount Tabor Rd.	941
	Just upstream Lexington Mall Entrance.	978
Melody Village Tributary.	Just downstream Tates Creek Rd.	911
	Just upstream Tates Creek Rd.	916
Wilson Downing Rd. Tributary.	Just downstream Camelot Dr.	934
	Just upstream Camelot Dr.	938
	Just downstream Medlock Rd.	970
	Just upstream Medlock Rd.	972
Tates Creek Rd. Tributary.	Just downstream Tates Creek Rd.	924
	Just downstream Kirk Levington South Dr.	928
	Just upstream Kirk Levington South Dr.	931
	Just upstream of New Circle Ramp (North of New Circle Rd.	941
	Just downstream Mount Tabor Rd.	974
	Just upstream Mount Tabor Rd.	979
Lansdowne Dr. Tributary.	Braemar Dr	955
	Zandale Dr	962
Shadeland Tributary.	Confluence with Tates Creek Rd. Tributary.	981
Idle Hour Tributary.	Lexington Mall Access Rd.	977
	Confluence with West Hickman Creek.	977
Town Branch	Just downstream of Yarnallton Rd.	834
	Just upstream of Yarnallton Rd.	837
	Danada Farm Rd	862
	Just downstream Bizzell Dr.	881
	Just upstream of Bizzell Dr.	887
	Old Frankfort Pike	907
	Just downstream Jefferson St. (culvert).	933
Bracktown Branch.	Just upstream L & N Railroad.	849
	Just downstream Greendale Rd.	905
	Just upstream Greendale Rd.	907
Greendale Rd. Tributary.	Approximately 250 feet upstream of confluence with Bracktown Branch.	909
Wolf Run	Just downstream Old Frankfort Pike.	870
	Just upstream Old Frankfort Pike.	872
	Just downstream of Cambridge Ave.	887
	Just upstream of Cambridge Ave.	889
	Just downstream Versailles Rd.	900
	Just upstream Versailles Rd.	903
	Just downstream Beacon Hill Rd.	920
	Just upstream of Beacon Hill Rd.	922
	Clays Mill Rd	949
Vaughns Branch	Just downstream Chantilly St.	893
	Just upstream Chantilly St.	895
	Just downstream of Oxford Circle.	898
	Just upstream Oxford Circle.	900
	Pine Meadow Rd	916
	Just downstream Gibson Ave.	942
Big Elm Tributary	Mason Headley Rd	930
	Just downstream Bob-O-Link Dr.	964
Parkers Mill Rd. Tributary.	Devonport Dr	898
	Just upstream of Lane Allen Rd.	950
Colonial Dr. Tributary.	Confluence with Parkers Mill Rd. Tributary.	906
Beacon Hill Tributary.	Approximately 260 feet upstream of confluence with Wolf Run.	925
Turfland Mall Tributary.	Lane Allen Rd	942
East Hickman Creek.	Just upstream Tates Creek Rd.	896
	Just downstream US Highway 25 & 421.	969
Cadentown Branch.	Just downstream Todds Rd.	1,015
	Just upstream Todds Rd	1,017
Brighton Fork	Just downstream of Bryant Rd.	1,008
	Just upstream of Bryant Rd.	1,013
Richmond Road Tributary.	Just upstream Squires Rd.	971
	Just downstream New Rd.	1,000
	Just upstream New Rd	1,007
Reservoir Tributary.	Just downstream Squires Rd.	971
	Just upstream Squires Rd.	974
Squires Rd. Tributary.	Just downstream Squires Rd.	955
	Just upstream Squires Rd.	962
Delong Rd. Tributary.	Just upstream Delong Rd.	929
	Just downstream Farm Pond.	960
	Just upstream of Farm Pond.	963
Armstrong Mill Rd. Tributary.	Just downstream Squires Rd.	974
	Just upstream Squires Rd.	978
Cane Run	Just downstream Berea Rd.	857
	Just downstream Newton Rd.	912
	Just upstream Newton Rd.	918
	Just downstream Park Bridge.	923
	Just downstream Russell Cave Rd.	938
	Just upstream Russell Cave Rd.	940
	Just downstream North Broadway.	952
UK Agriculture Station Branch.	Just downstream of State Route 922.	894
	Approximately 100 feet upstream of Pierson Dr.	939
	Just upstream of Allen Dr.	942
IBM Tributary	Just downstream New Circle Rd.	928
	Just upstream New Circle Rd.	930
	Approximately 100 feet downstream IBM Rd. to Russell Cave Rd.	
	Approximately 50 feet upstream IBM Rd. to Russell Cave Rd.	940
North Elkhorn Creek.	Just upstream Louisville & Nashville Railroad.	904
Hume Rd. Tributary.	City of Lexington Northeastern Corporate Limits (extended).	942
	Just downstream Hume Rd.	955
I-75 Tributary	Just upstream I-75	924
	Just upstream US 60	930
Eastland Park Tributary.	Just upstream of City of Lexington southwestern Corporate Limits.	942
	Just downstream of Kilkenny Dr.	963
Kentucky River	Just upstream Jessamine and Fayette Counties Boundary.	581
	Just downstream Fayette and Clark Counties Boundary.	590

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-150 Filed 1-4-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4807]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Groveland, Essex County, Mass.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Groveland, Essex County, Massachusetts. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Town Clerk's Office, Town Hall, Groveland, Massachusetts.Send comments to: Mr. Hobart B. Esty, Chairman, Board of Selectmen, Town of Groveland, Town Hall, Groveland, Massachusetts 01834.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Groveland, Massachusetts, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Merrimack River	Bates Bridge—50 feet*	20
Argilla Brook	Main St.—150 feet*	23
	Center St.—50 feet**	49
Johnson Creek	Main St.—200 feet*	23
	Gravel Road Over Dam—100 feet**.	26
	Gravel Road Over Dam—50 feet*.	36
	Center St.—50 feet*	40
	Salem St.—150 feet**	65
	Salem St.—50 feet*	76
	Uptack Rd.—50*	77
	Washington St.—50 feet**.	77

* Upstream from centerline
** Downstream from centerline

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-151 Filed 1-4-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4808]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Southampton, Hampshire County, Mass.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Southampton, Hampshire County, Massachusetts. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Planning Board Office, Town Hall, Southampton, Massachusetts. Send comments to: The Honorable Eugene Miller, Chairman, Board of Selectmen, Town of Southampton, Town Hall, Southampton, Massachusetts 01073.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Southampton, in

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accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Broad Brook	South Corporate Limits.	219
	0.50 mile above South Corporate Limit.	219
	Just downstream of Farm Bridge.	223
	Just upstream of Farm Bridge.	224
Manhan River	North Corporate Limit...	142
	Just downstream of South Main St.	149
	Just downstream of Gunn Rd.	154
	0.1 mile upstream of Gunn Rd.	156
	Confluence with Tripple Brook.	163
	Confluence with Potash Brook.	167
	Just upstream of East St.	170
	Just downstream of Conrail.	178
	Just upstream of a dam 200 feet upstream from Conrail.	190
	1.2 miles upstream of Route 10 Bridge.	198
	Just upstream of Gilbert Rd.	200
	South Central Corporate Limits.	206
	South West Corporate Limits.	236
	Confluence with Sacket Brook.	249
	Just downstream of Russellville Rd.	259
	Just upstream of Russellville Rd.	259
	0.25 mile upstream of Russellville Rd.	273
North Branch Manhan River.	Confluence with South Branch Manhan River.	142
	Just upstream of Pomeroy Meadow Rd.	143
	0.6 miles upstream of Pomeroy Meadow Rd.	144
	1.1 miles upstream of Pomeroy Meadow Rd.	159
	Just downstream Glendale Rd.	163

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and the Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-152 Filed 1-4-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4445]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Bridgman, Berrien County, Mich.; Correction

AGENCY: Federal Insurance Administration, HUD.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 38719 of the FEDERAL REGISTER of August 30, 1978.

EFFECTIVE DATE: August 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll free line 800-424-8872.

The following correction is made:

Source of Flooding	Location	Elevation in feet, national geodetic vertical datum
Tanner Creek-William and Esseg Drain.	Confluence with Lake Michigan.	584

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128; and the Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-153 Filed 1-4-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4348]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Rockwood, Wayne County, Mich.; Correction

AGENCY: Federal Insurance Administration, HUD.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 43 FR 35062 of the FEDERAL REGISTER of August 8, 1978.

EFFECTIVE DATE: August 8, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410, 202-755-5581 or Toll Free Line 800-424-8872,

The following:

Source of Flooding	Location	Elevation in feet, national geodetic vertical datum
Huron River	250 feet upstream of Conrail (at Fort Street).	585

Should be corrected to read:

Huron River	Just upstream of Conrail (at Fort Street).	585

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and the Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719).

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued December 7, 1978.

GLORIA M. JIMINEZ,
Federal Insurance Administrator.

[FR Doc. 79-154 Filed 1-4-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4370]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Wheaton, Du Page County, Ill.; Correction

AGENCY: Federal Insurance Administration, HUD.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 43 FR 35499 of the FEDERAL REGISTER of August 10, 1978.

EFFECTIVE DATE: August 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

The following:

Source of Flooding	Location	Elevation in feet, national geodetic vertical datum
Winfield Creek	50 feet Downstream of Main St.	733
	160 feet Upstream of Main St.	734

Should be corrected to read:

Winfield Creek	50 feet Downstream of Main.	732
	160 feet Upstream of Main St.	733

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and the Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719).

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued December 7, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-143 Filed 1-4-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4809]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Swartz Creek, Genesee County, Mich.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Swartz Creek, Genesee County, Michigan.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, Swartz Creek, Michigan. Send comments to: Mr. Thomas Huntley, City Manager, City of Swartz Creek, 5037 First Street, Swartz Creek, Michigan 48473.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Swartz Creek, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
West Branch Swartz Creek.	Eastern corporate limits	756
	Just downstream from Grand Trunk Western railroad.	759
	Just downstream from Elms Rd.	764
	Just upstream from Morrish Rd.	769
	Western corporate limits.	772
Alger Creek	Just upstream of mouth at West Branch Swartz Creek.	771
	Southern corporate limits.	771

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTICE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of congressional review requirements in order to permit publication at this time for public comment.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-155 Filed 1-4-79; 8:45 am]

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[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4810]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Columbia, Marion County, Miss.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Columbia, Marion County, Mississippi. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Columbia, Mississippi. Send comments to: Mayor Robert Borne or Mr. Don Crawley, City Clerk, City Hall, Columbia, Mississippi 39429.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Columbia, Marion County, Mississippi, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Pearl River	Intersection of Old Foxworth Rd. and High School Ave.	145
	Approximately 200 feet east of intersection of Mississippi Hwy. 35 and Washington St.	153
Balls Mill Creek Tributary.	Just upstream of Lumberton Rd.	147
	Just downstream of Park Ave.	147
Dry Creek	Just upstream of Main St.	150
	Just downstream of High School Ave.	154
	Approximately 150 feet upstream of West Ave.	160
	Approximately 100 feet upstream of Park Ave.	167
Webb Creek	Just upstream of Mississippi State Highway 13.	150
	Approximately 150 feet upstream of Marion Ave.	151
	Just upstream of Owens St.	153
	Approximately 150 feet downstream of West Ave.	159
Jones Creek	Approximately 100 feet upstream of North Main St.	150
	Approximately 100 feet upstream of Evergreen St.	156
	Just downstream of Mississippi State Highway 13.	165

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-156 Filed 1-4-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4811]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Crenshaw, Panola and Quitman Counties, Miss.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Crenshaw, Panola and Quitman Counties, Mississippi. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Crenshaw, Mississippi. Send comments to: Mayor Joe George or Mr. H. D. Goodnight, Alderman, P.O. Box 190, Crensaw, Mississippi 38621.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Crenshaw, Panola and Quitman Counties, Mississippi, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Fowler Creek	Approximately 300 feet downstream of the Illinois Central Gulf Railroad.	190
	Intersection of Moon Ave. and McDade St.	192
	Intersection of South Ave. and McDade St.	192

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Depatment of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-157 Filed 1-4-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4812]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Jonestone, Coahoma County, Miss.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Jonestown, Coahoma County, Mississippi. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Town Hall, Jonestown, Mississippi. Send comments to: Mayor James Shanks or Ms. Ruby Armstrong, Town Bookkeeper, Town Hall, P.O. Box 110, Jonestown, Mississippi 38639.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Jonestown, Coahoma County, Mississippi, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Moore Bayou	Washington Ave. (extended).	171
	Mosley St. (extended)	171

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued December 7, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-158 Filed 1-4-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4813]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Unincorporated Areas of Marion County, Miss.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the unincorporated areas of Marion County, Mississippi. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Marion County Courthouse, Columbia, Mississippi. Send comments to: Mr. Frank Fortenberry, President, Marion County Board of Supervisors, or Mr. John Anderson, County Engineer, P.O. Box 294, Columbia, Mississippi 39429.

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FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the unincorporated areas of Marion County, Mississippi, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation, in feet, national geodetic vertical datum
Pearl River	Just downstream of U.S. Highway 98.	144
	Just downstream of Illinois Central Gulf Railroad.	145
Pearl River	Approximately 200 feet upstream of Mississippi State Highway 35.	150
Upper Little Creek	Approximately 200 feet upstream of Mississippi State Highway 13.	144
Balls Mill Creek	Approximately 200 feet downstream of Mississippi State Highway 13.	144
	Approximately 200 feet upstream of southernmost crossing of U.S. Highway 98.	169
Silver Creek	Approximately 200 feet upstream of Illinois Central Gulf Railroad.	157
	Approxmiately 200 feet upstream of Mississippi State Highway 58.	163

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued December 7, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-159 Filed 1-4-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4814]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Satartia, Yazoo County, Miss.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Satartia, Yazoo County, Mississippi. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Hall, Satartia, Mississippi 39162. Send comments to: Mayor Beverly Ragland, Town Hall, Satartia, Mississippi 39162.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Satartia, Yazoo County, Mississippi, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic verical datum
Yazoo River	Just downstream of Mississippi Highway 433.	106
	Confluence of Satartia Creek.	106

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 7, 1978.

GLORIA M. JIMENEZ
Federal Insurance Administrator.

[FR Doc. 79-160 Filed 1-4-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4815]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Unincorporated Areas of Yazoo County, Miss.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the unincorporated areas of Yazoo County, Mississippi. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Flood Inspector's Office, Yazoo County Courthouse, 211 East Broadway, Yazoo City, Mississippi 39194. Send comments to: Mr. Sam Fisher, President, Yazoo County Board of Supervisors, or Mr. Griffin Norquist, County Attorney, Yazoo County Courthouse, 211 East Broadway, Yazoo City, Mississippi 39194.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the unincorporated areas of Yazoo County, Mississippi, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Piney Creek	Confluence of Piney Creek Tributary.	113
	Just upstream of U.S. Highway 49E Bridge.	121
Piney Creek	Just upstream of U.S. Highway 49E Bridge.	115

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-161 Filed 1-4-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4816]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Greenfield, Hillsborough County, N.H.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Greenfield, Hillborough County, New Hampshire. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Town Office, Greenfield, New Hampshire. Send comments to: Mr. Scott Carbee, Chairman, Board of Selectmen, Town of Greenfield, Box 224, Greenfield, New Hampshire 03047.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Greenfield, New Hampshire, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Contoocook River	Boston and Maine Railroad Bridge—50 feet*.	685
	Forest Road Bridge—30 feet*.	685
	Cavender Road Bridge—30 feet*.	689
Otter Brook	Slip Road Culvert—20 feet*.	813
	Boston and Maine Railroad—20 feet**.	814
Stony Brook	Small Dam—50 feet*	826
	School House Rd. Bridge—20 feet*.	834
	Boston & Maine Railroad Culvert—20 feet**.	835
	Boston & Maine Railroad Culvert—20 feet*.	840
	Russel Station Rd. Culvert—40 feet*.	840
	Boston & Maine Railroad—20 feet**.	840

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Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Otter Lake Brook..	State Route 136 Culvert—20 feet*.	801
	Swamp Rd. Culvert—20 feet*.	802
	Forest Rd. Culvert—20 feet.*	806
	Footbridge approximately 0.26 mile upstream from Forest Rd.—20 feet*.	807
Tributary B.....	Forest Road Culvert—40 feet*.	821
	Miner Road Bridge—30 feet*.	861

* Upstream of centerline
** Downstream of centerline

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-162 Filed 1-4-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4817]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Pine Knoll Shores, Carteret County, N.C.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Pine Knoll Shores, Carteret County, North Carolina. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Town Hall, Pine Knoll Boulevard, Pine Knoll Shores, North Carolina. Send comments to: Mayor H. K. Haller or Commissioner Arthur Browne, P.O. Box 757, Atlantic Beach, North Carolina 28512.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Pine Knoll Shores, Carteret County, North Carolina, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Atlantic Ocean	Pine Knoll Blvd. (Extended).	11
	Juniper Rd. (Extended).	11
Bogue Sound.....	Arborvitae Court (Extended).	7
	Juniper Rd. (Extended).	7
	West of Mimosa Blvd. Bridge.	7
	Intersection of Sycamore Dr. and Beechwood Dr.	7

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued December 7, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-163 Filed 1-4-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4818]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Boynton, Muskogee County, Okla.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Boynton, Muskogee County, Oklahoma. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Town Hall, P.O. Box 266, Boynton, Oklahoma 74422. Send comments to: Mayor Glen Myers or Ms. Clara Walker, Town Clerk, Town Hall, P.O. Box 266, Boynton, Oklahoma 74422.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Boynton, Muskogee County, Oklahoma, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Mosquito Creek.....	Just downstream of Sixth St.	607
	Just upstream of Kenefick Ave.	612
	Just upstream of Buckner Ave.	614

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-164 Filed 1-4-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4819]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Haskell, Muskogee County, Okla.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Haskell, Muskogee County, Oklahoma.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, P.O. Box 425, Haskell, Oklahoma.

Send comments to: Mayor William Polk or Mr. Dean Beene, Town Superintendent, City Hall, P.O. Box 425, Haskell, Oklahoma 74436.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Haskell, Muskogee County, Oklahoma, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Haskell Creek	Just upstream of Osage Ave.	564
	Just upstream of Elm St	570

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-165 Filed 1-4-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4129]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Township of Birmingham, Delaware County, Pa.; Correction

AGENCY: Federal Insurance Administration, HUD.

ACTION: Correction of proposed rule.

SUMMARY: The notice published on May 25, 1978, at 43 FR 22401 in the FEDERAL REGISTER, and in the *Delaware County Daily Times* on March 1 and 2, 1978, describing Heyburn Road listed under Harvey Run in Birmingham as being 211 feet downstream,

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should be corrected to read 211 feet upstream.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755-5581 or Toll Free Line (800) 424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719).

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued December 7, 1978.

GLORIA M. JIMINEZ,
Federal Insurance Administrator.

[FR Doc. 79-168 Filed 1-4-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4820]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Borough of Catasauqua, Lehigh County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of Catasauqua, Lehigh County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Borough Hall, Catasauqua, Pennsylvania. Send comments to: Honorable Richard E. Dormblaster, Mayor of Catasauqua, 118 Bridge Street, Catasauqua, Pennsylvania 18032.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Borough of Catasauqua, Lehigh County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lehigh River	Confluence of Catasauqua Creek.	271
	Race St	271
	Abandoned Railroad	275
	Pine St	276
Catasauqua Creek.	Confluence with Lehigh River.	271
	Conrail Bridge	272
	Lehigh River Canal	276
	Confluence of Tributary No. 1 to Catasauqua Creek.	288
	Wood St	293
	Church St	295
	Walnut St	303

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued December 7, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-167 Filed 1-4-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4821]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Borough of Jonestown, Lebanon County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of Jonestown, Lebanon County, Pennsylvania.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the lobby of the Jonestown Bank, Market Street, Jonestown, Pennsylvania. Send comments to: Honorable David Heilman, Mayor of Jonestown, 237 West Market Street, Jonestown, Pennsylvania 17038.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Borough of Jonestown, Lebanon County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Swatara Creek	Upstream Corporate Limits.	413
	Market St. (Upstream)	412
	Downstream Corporate Limits.	410
Little Swatara Creek.	Upstream Corporate Limits.	412
	South Lancaster St. (Upstream).	412
	Confluence with Swatara Creek.	410

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-168 Filed 1-4-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4822]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Township of Union, Lebanon County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of Union, Lebanon County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Township Building, Lickdale, Pennsylvania. Send comments to: Mr. Leroy W. Adams, Chairman of the Board of Union, R.D. 2, Box 324, Jonestown, Pennsylvania 17038.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Township of Union, Lebanon County, Pennsylvania, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Swatara Creek	Market St. (Upstream)	412
	U.S. Route 22 (Upstream).	413
	Confluence of Forge Creek.	425
	State Route 343 (Upstream).	426
	Legislative Route 38049 (Upstream).	436

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-169 Filed 1-4-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4823]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of South Congaree, Lexington County, S.C.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of South Congaree, Lexington County, South Carolina. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is

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required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the South Congaree Town Hall, 1633 Verry Road, West Columbia, South Carolina 29169. Send comments to: Mayor Millard Murrah or Councilman Dan Gensamer, South Congaree Town Hall, 1633 Verry Road, West Columbia, South Carolina 29169.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of South Congaree, Lexington County, South Carolina, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Congaree Creek.....	Just downstream of Pine St. (Route 168).	160
	Approximately 100 feet downstream of Main St. (Route 215).	157
First Creek.....	Approximately 300 feet upstream of Southern Railroad.	166
	Approximately 100 feet upstream of Ramblin Rd.	164
	Approximately 100 feet downstream of Ramblin Rd.	159

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-170 Filed 1-4-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4824]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Ganado, Jackson County, Tex.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Ganado, Jackson County, Texas. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, 208 West Putnam Street, Ganado, Texas 77962. Send comments to: Mayor Frances Strauss, City Hall, 208 West Putnam Street, P.O. Box 264, Ganado, Texas 77962.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Ganado, Jackson County, Texas, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Devers Creek.....	Approximately 100 feet downstream of Sutherland St.	53
	Approximately 150 feet downstream of Menefee St.	55
Devers Creek Tributary No.1.	Approximately 200 feet downstream of Fifth St.	54
Mustang Creek Tributary No. 9.	Just downstream of Southern Pacific Railroad.	63
	Approximately 200 feet upstream of U.S. Highway 59.	64

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-171 Filed 1-4-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4825]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of San Leanna, Travis County, Tex.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of San Leanna, Travis County, Texas. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Secretary's Office, P.O. Box 86, Manchaca, Texas 78648. Send comments to: Mayor Don Rauschuber, Route 5, Box 132V, Austin, Texas 78704 or Mr. Jack Wilson, City Secretary, P.O. Box 86, Manchaca, Texas 78648.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of San Leanna, Travis County, Texas, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Slaughter Creek....	Eastern Corporate Limits.	621
	Western Corporate Limits.	640

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-172 Filed 1-4-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4826]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Sunnyvale, Dallas County, Tex.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Sunnyvale, Dallas County, Texas. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Hall, Long Creek Road, Sunnyvale, Texas 75182. Send comments to: Mayor Robert Vineyard or Ms. Doris Padgett, City Secretary, Town Hall, Long Creek Road, Sunnyvale, Texas 75182.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Sunnyvale, Dallas County, Texas, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change

any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
North Mesquite Creek.	Just upstream of the Texas & Pacific Railroad.	440
Stream 2Ml	Just upstream of I-20	420
Long Creek	Approximately 200 feet upstream of Long Creek Rd.	428
	Just upstream of Collins Rd.	448
	Just upstream of Jobson Rd.	492
Duck Creek	Just upstream of East Fork Rd.	414
	Just upstream of Town East Blvd.	425

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-173 Filed 1-4-79; 8:45 am]

[4830-01-M]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

[LR-233-78]

INDUSTRIAL DEVELOPMENT BONDS; DEFINITION OF AN AIRPORT

Notice of Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to industrial development bonds. The regulations are intended to clarify the treatment of bonds issued to finance certain facilities related to an airport. They affect purchasers and governmental issuers of tax-exempt bonds.

DATES: Written comments and requests for a public hearing must be delivered or mailed by March 7, 1979. The proposed regulations apply to bonds sold after 5:00 p.m. EST on December 29, 1978.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

John Coulter of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T, 202-566-4473, not a toll-free call.

SUPPLEMENTARY INFORMATION:

BACKGROUND

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 103 of the Internal Revenue Code of 1954. These amendments are proposed to clarify the regulations and are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

INDUSTRIAL DEVELOPMENT BONDS FOR AIRPORTS

Section 103(a)(1) provides that gross income does not include interest on obligations of a State or local government. Under section 103(b), however, the general rule of section 103(a)(1) does not apply to interest on an issue of industrial development bonds unless the proceeds of such an issue are used to provide airports or for other purposes specified in section 103 (b) (4), (5), and (6) and certain other requirements are satisfied.

Section 1.103-8(e)(2)(i) of the regulations defines the term airport for purposes of determining whether the proceeds of an issue are used to provide an airport. The proposed regulations would modify the definition of an airport. Among other things, they would specify that with respect to bonds sold after 5:00 p.m. EST on December 29, 1978, an airport does not include office space of a computer facility which relates generally to the needs of an airline and not solely to the functions of the airline at the particular airport where the office space or computer facility is located.

COMMENTS AND REQUESTS FOR A PUBLIC HEARING

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the FEDERAL REGISTER.

DRAFTING INFORMATION

The principal author of these proposed regulations is David Dolan of the Legislation and Regulations Division of the Office of Chief Counsel, Internation Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, on matters of both substance and style.

Proposed amendments to the regulations

The proposed amendments to 26 CFR Part 1 are as follows:

Paragraph (e)(2) of § 1.103-8 is amended by revising the first sentence of subdivision (i), by redesignating subdivisions (ii) and (iii) as subdivisions (iii) and (iv), respectively, and by adding a new subdivision (ii). Subdivisions (i) and (ii) as amended read as follows:

§ 1.103-8 Interest on bonds to finance certain exempt facilities.

* * * * *

(e) *Certain transportation facilities.* * * *

(2) *Definitions.* * * *

(i) With respect to bonds sold at or before 5:00 p.m. EST on December 29, 1978, an airport includes service accommodations for the public such as terminals, retail stores in such terminals, runways, hangars, loading facilities, repair shops, parking areas, and facilities which, under paragraph (a)(3) of this section, are functionally related and subordinate to the airport, such as facilities for the preparation of in-flight meals, restaurants and accommodations for temporary or overnight use by passengers, and other facilities functionally related to the needs or convenience of passengers, shipping companies, and airlines. * * *

(ii) With respect to bonds sold after 5:00 p.m. EST on December 29, 1978—

(A) An airport includes facilities which are directly related and essential to—

(*1*) Servicing aircraft or enabling aircraft to take off and land, or

(*2*) Transferring passengers or cargo to or from aircraft.

A facility does not satisfy either of the foregoing requirements if the facility need not be located where aircraft take off and land in order to serve its function. Examples of facilities which satisfy those requirements are terminals, runways, hangars, loading facilities, repair shops, and parking areas.

(B) Under paragraph (a)(3) of this section, an airport includes facilities other than those described in paragraph (e)(2)(ii)(A) only if they are functionally related and subordinate to an airport as defined in paragraph (e)(2)(ii)(A). A facility (or part thereof) is not functionally related and subordinate to an airport if the facility (or part thereof)—

(*1*) Is not needed for the public convenience and necessity at the airport,

(*2*) Is not of a character and size commensurate with the character and size of the airport where the facility is located,

(*3*) Need not be located at, or adjacent to, that airport in order for the facility to serve its function, or

(*4*) Is functionally related to more than one airport.

Examples of facilities which are functionally related and subordinate to an airport are facilities for the preparation of in-flight meals, restaurants, retail stores located in terminals, and accommodations for temporary or overnight use by passengers.

(C) As an illustration of the rules of paragraph (e)(2)(ii) (A) and (B), an office building (or office space within a building) or a computer facility, either of which serves a systemwide or regional function of an airline, is not considered part of an airport, since that facility is not described in either paragraph (e)(2)(ii) (A) or (B). However, a maintenance and overhaul facility which services aircraft is considered part of an airport under paragraph (e)(2)(ii)(A) since that facility is directly related and essential to servicing aircraft and must be located where aircraft take off and land in order to serve its function.

(D) The term "airport" does not include a landing strip which, by reason of a formal or informal agreement, or by reason of geographic location, will not be available for general public use.

* * * * *

JEROME KURTZ,
Commissioner of Internal Revenue.

DECEMBER 29, 1978.

§ 1.103-8 Interest on bonds to finance certain exempt facilities.

* * * * *

(e) *Certain transportation facilities*—(1) *General rule.* * * *

(2) *Definitions.* For purposes of section 103(c)(4)(D) and this paragraph—

(i) With respect to bonds sold at or before 5:00 p.m. EST on December 29, 1978, an airport includes service accommodations for the public such as terminals, retail stores in such terminals, runways, hangars, loading facilities, repair shops, parking areas, and facilities which, under paragraph (a)(3) of this section, are functionally related and subordinate to the airport, such as facilities for the preparation of in-flight meals, restaurants and accommodations for temporary or overnight use by passengers, and other facilities functionally related to the needs or convenience of passengers, shipping companies, and airlines. The term "airport" does not include a landing strip which, by reason of a formal or informal agreement, or by reason of geographic location, will not be available for general public use.

(ii) With respect to bonds sold after 5:00 p.m. EST on December 29, 1978—

(A) An airport includes facilities which are directly related and essential to—

(*1*) Servicing aircraft or enabling aircraft to take off and land, or

(*2*) Transferring passengers or cargo to or from aircraft. A facility does not satisfy either of the foregoing requirements if the facility need not be located where aircraft take off and land in order to serve its function. Examples of facilities which satisfy those requirements are terminals, runways, hangars, loading facilities, repair shops, and parking areas.

(B) Under paragraph (a) (3) of this section, an airport includes facilities other than those described in paragraph (e) (2) (ii) (A) only if they are functionally related and subordinate to an airport as defined in paragraph (e) (2) (ii) (A). A facility (or part thereof) is not functionally related and subordinate to an airport if the facility (or part thereof)—

(*1*) Is not needed for the public convenience and necessity at the airport,

(*2*) Is not of a character and size commensurate with the character and size of the airport where the facility is located,

(*3*) Need not be located at, or adjacent to, that airport in order for the facility to serve its function, or

(*4*) Is functionally related to more than one airport.

Examples of facilities which are functionally related and subordinate to an airport are facilities for the preparation of in-flight meals, restaurants, retail stores located in terminals, and accommodations for temporary or overnight use by passengers.

(C) As an illustration of the rules of paragraph (e)(2)(ii) (A) and (B), an office building (or office space within a building) or a computer facility, either of which serves a systemwide or regional function of an airline, is not considered part of an airport, since that facility is not described in either paragraph (e)(2)(ii) (A) or (B). However, a maintenance and overhaul facility which services aircraft is considered part of an airport under paragraph (e)(2)(ii)(A) since that facility is directly related and essential to servicing aircraft and must be located where aircraft take off and land in order to serve its function.

(D) The term "airport" does not include a landing strip which, by reason of a formal or informal agreement, or by reason of geographic location, will not be available for general public use.

(iii) A dock or wharf includes property which, under paragraph (a)(3) of this section, is functionally related and subordinate to a dock or wharf such as the structure alongside which a vessel docks, the equipment needed to receive and to discharge cargo and passengers from the vessel, such as cranes and conveyors, related storage, handling, office, and passenger areas, and similar facilities.

(iv) A mass commuting facility includes real property together with improvements and personal property used therein, such as machinery, equipment, and furniture, serving the general public commuting on a day-to-day basis by bus, subway, rail, ferry, or other conveyance which moves over prescribed routes. Such property also includes terminals and facilities which, under paragraph (a)(3) of this section, are functionally related and subordinate to the mass commuting facility, such as parking garages, car barns, and repair shops. Use of mass commuting facilities by noncommuters in common with commuters is immaterial. Thus, a terminal leased to a common carrier bus line which serves both commuters and long distance travelers would qualify as an exempt facility.

* * * * *

[FR Doc. 78-36487 Filed 12-29-78; 4:24 p.m.]

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[4810-25-M]

Office of the Secretary

[31 CFR Part 1]

PRIVACY ACT 1974

Proposed Notice Exempting a System of Records From Certain Requirements of the Privacy Act of 1974

AGENCY: Office of the Secretary, Treasury.

ACTION: Notice of proposed exemption.

SUMMARY: The Office of the Inspector General of the Office of the Secretary of the Treasury Department proposes to exempt the system of records entitled "General Allegations and Investigative Records System"[1] in accordance with sections (j) and (k) of the Privacy Act of 1974, 5 U.S.C. 552a. The purpose of the exemptions is to maintain confidentiality of data obtained from various sources that may become criminal or non-criminal investigative material for law enforcement use or for use in integrity investigations.

DATES: Comments must be received on or before February 5, 1979.

ADDRESSES: Office of the Inspector General, Main Treasury Building, Washington, D.C. 20220.

FOR FURTHER INFORMATION CONTACT:

Mrs. Carol Jolliffe, Office of the Inspector General, Main Treasury Building, Washington, D.C. 20220, 202-566-6900.

It is proposed to amend § 1.36 of Title 31 of the CFR by adding the following material immediately preceding the heading "Director of Practice":

• • • • •

OFFICE OF THE INSPECTOR GENERAL

Notice exempting a system of records from the disclosure requirements of the Privacy Act of 1974

(a) *In general.* The Office of the Inspector General, Department of the Treasury exempts the system of records entitled, "General Allegations and Investigative Records" from certain provisions of the Privacy Act of 1974. The purpose of the exemption is to maintain confidentiality of data obtained from various sources that may ultimately accomplish a statutory or executively ordered purpose.

(b) *Authority:* The authority to issue exemptions is vested in the Office of the Inspector General, as a constituent unit of the Treasury Department by 31 CFR 1.20.

(c) *Exemptions under 5 U.S.C. 552a(j)(2):* (1) Under 5 U.S.C. 552a(j)(2), the head of any agency may exempt any system of records within the agency from certain provisions of the Privacy Act of 1974, if the agency or component that maintains the system performs as its principal function any activities pertaining to the enforcement of criminal laws. The Office of the Inspector General is authorized under Treasury Department Order No. 256 to initiate, organize, direct, and control investigations of any allegations of illegal acts, violations, and any other misconduct concerning any official or employee of any Treasury Office or Bureau.

(2) To the extent that the exemption under 5 U.S.C. 552a(j)(2) does not apply to the above named system of records, then the exemption under 5 U.S.C. 552a(k)(2) relating to investigatory material compiled for law enforcement purposes is claimed for this system.

(3) The provisions of the Privacy Act of 1974 from which exemptions are claimed under 5 U.S.C. 552a(j)(2) are as follows:

5 U.S.C. 552a(c)(3) and (4)
5 U.S.C. 552a(d)(1), (2), (3), (4)
5 U.S.C. 552a(e)(1)(2) and (3)
5 U.S.C. 552a(e)(4)(G), (H), and (I)
5 U.S.C. 552a(e)(5) and (8)
5 U.S.C. 552a(f)
5 U.S.C. 552a(g)

(d) *Exemptions under 5 U.S.C. 552a(k)(2):* (1) Under 5 U.S.C. 552a(k)(2), the head of any agency may exempt any system of records within the agency from certain provisions of the Privacy Act of 1974 if the system is investigatory material compiled for law enforcement purposes.

(2) to the extent that information contained in the above named system has as its principal purpose the enforcement of criminal laws, the exemption for such information under 5 U.S.C. 552a(j)(2) is claimed.

(3) Provisions of the Privacy Act of 1974 from which exemptions are claimed under 5 U.S.C. 552a(k)(2) are as follows:

5 U.S.C. 552a(c)(3)
5 U.S.C. 552a(d)(1), (2), (3), and (4)
5 U.S.C. 552a(e)(1)
5 U.S.C. 552a(e)(4)(G), (H), and (I)
5 U.S.C. 552a(f)

(e) *Reasons for exemptions under 5 U.S.C. 552a(j)(2) and (k)(2):* (1) 5 U.S.C. 552a(c)(3) requires that an agency make accountings of disclosures of records available to individuals named in the records at their request. These accountings must state the date, nature and purpose of each disclosure of the record and the name and address of the recipient. The application of this provision would alert subjects of an investigation to the existence of the investigation and that such persons are subjects of that investigation. Since release of such information to subjects of an investigation would provide the subjects with significant information concerning the nature of the investigation, it could result in the altering or destruction of documentary evidence, improper influencing of witnesses, and other activities that could impede or compromise the investigation.

(2) 5 U.S.C. 552a(c)(4), (d)(1), (2), (3), and (4), (e)(4)(G) and (H), (f) and (g) relate to an individual's right to be notified of the existence of records pertaining to such individual; requirements for identifying an individual who requests access to records; the agency procedures relating to access to records and the contest of information contained in such records; and the civil remedies available to the individual in the event of adverse determinations by an agency concerning access to or amendment of information contained in record systems. This system is exempt from the foregoing provisions for the following reasons: To notify an individual at the individual's request of the existence of records in an investigative file pertaining to such individual or to grant access to an investigative file could interfere with investigative and enforcement proceedings; co-defendants of a right to a fair trial; constitute an unwarranted invasion of the personal privacy of others; disclose the identity of confidential sources and reveal confidential information supplied by these sources; and disclose investigative techniques and procedures.

(3) 5 U.S.C. 552a(e)(4)(I) requires the publication of the categories of sources of records in each system of records. The application of this provision could disclose investigative techniques and procedures and cause sources to refrain from giving such information because of fear of reprisal, or fear of breach of promises of anonymity and confidentiality. This would compromise the ability to conduct investigations, and to identify, detect, and apprehend violators.

(4) 5 U.S.C. 552a(e)(1) requires each agency to maintain in its records only such information about an individual that is relevant and necessary to accomplish a purpose of the agency required by statute or Executive Order. An exemption from the foregoing is needed:

(A) Because it is not possible to detect relevance or necessity of specific information in the early stages of a criminal or other investigation.

(B) Relevance and necessity are questions of judgment and timing. What appears relevant and necessary when collected may ultimately be determined to be unnecessary. It is only after the information is evaluated that the relevance and necessity of such information can be established.

(C) In any investigation the Inspector General may obtain information concerning the violations of laws other than those within the scope of his jurisdiction. In the interest of effective law enforcement, the Inspector General should retain this information as it may aid in establishing patterns of criminal activity, and provide leads for those law enforcement agencies charged with enforcing other segments of criminal or civil law.

(D) In interviewing persons, or obtaining other forms of evidence during an investigation, information may be supplied to the investigator which relate to matters incidental to the main purpose of the investigation but which may relate to matters under the investigative jurisdiction of another agency. Such information cannot readily be segregated.

(5) 5 U.S.C. 552a(e)(2) requires an agency to collect information to the greatest extent practicable directly from the subject individual when the information may result in adverse determinations about an individual's rights, benefits, and privilege under Federal programs. The application of the provision would impair investigations of illegal acts, violations of the rules of conduct, merit system and any other misconduct for the following reasons:

(A) In certain instances the subject of an investigation cannot be required to supply information to investigators. In those instances, information relating to a subject's illegal acts, violations of rules of conduct, or any other misconduct, etc., must be obtained from other sources;

(B) Most information collected about an individual under investigation is obtained from third parties such as witnesses and informers. It is not feasible to rely upon the subject of the investigation as a source for information regarding his activities.

(C) The subject of an investigation will be alerted to the existence of an investigation if an attempt is made to obtain information from the subject. This would afford the individual the opportunity to conceal any criminal activities to avoid apprehension.

(D) In any investigation it is necessary to obtain evidence from a variety of sources other than the subject of the investigation in order to verify the evidence necessary for successful litigation.

(6) 5 U.S.C. 552a(e)(3) requires that an agency must inform the subject of an investigation who is asked to supply information of:

(A) the authority under which the information is sought and whether disclosure of the information is mandatory or voluntary,

(B) the purposes for which the information is intended to be used,

(C) the routine uses which may be made of the information, and

(D) the effects on the subject, if any of not providing the requested information. The reasons for exempting this system of records from the foregoing provision are as follows:

(i) The disclosure to the subject of the investigation as stated in (B) above would provide the subject with substantial information relating to the nature of the investigation and could impede or compromise the investigation.

(ii) If the subject were informed of the information required by this provision, it could seriously interfere with undercover activities by requiring disclosure of undercover agents identity and impairing their safety, as well as impairing the successful conclusion of the investigation.

(iii) Individuals may be contacted during preliminary information gathering in investigations authorized by Treasury Department Order No. 256 before any individual is indentified as the subject of an investigation. Informing the individual of the matters required by this provision would hinder or adversely affect any present or subsequent investigations.

(7) 5 U.S.C. 552a(e)(5) requires that records be maintained with such accuracy, relevance, timeliness, and completeness as is reasonable necessary to assure fairness to the individual in making any determination about an individual. Since the law defines "maintain" to include the collection of information, complying with this provision would prevent the collection of any data not shown to be accurate, relevant, timely, and complete at the moment of its collection. In gathering information during the course of an investigation it is not possible to determine this prior to collection of the information. Facts are first gathered and then placed into a logical order which objectively proves or disproves criminal behavior on the part of the suspect. Material which may seem unrelated, irrelevant, incomplete, untimely, etc., may take on added meaning as an investigation progresses. The restrictions in this provision could interfere with the preparation of a complete investigative report.

(8) 5 U.S.C. 552a(e)(8) requires an agency to make reasonable efforts to serve notice on an individual when any record on such individual is made available to any person under compulsory legal process when such process becomes a matter of public record. The notice requirement of this provision could prematurely reveal an ongoing criminal investigation to the subject of the investigation.

(f) *Exempt information included in another system.* Any information from a system of records for which an exemption is claimed under 5 U.S.C. 552a(j) or (k) which also is included in another system of records retains the same exempt status as in the system for which an exemption is claimed.

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Dated: December 26, 1978.

W. J. McDONALD,
Acting Assistant Secretary (Administration).

[FR Doc. 79-639 Filed 1-4-79; 8:45 am]

[1] See the "Notices" section of this issue of the FEDERAL REGISTER for the text of the system.

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 65]

[Docket No. DCO-78-17 FRL 1034-8]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Proposed Delayed Compliance Order for Fiberfine of Memphis, Memphis, Tenn.

AGENCY: Environmental Protection Agency.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: The purpose of this notice is to withdraw a prior FEDERAL REGISTER notice proposing a Delayed Compliance Order for Fiberfine of Memphis at Memphis, Tennessee. This action is being taken because Fiberfine of Memphis has not met the provisions of the proposed order.

DATE: This withdrawal is effective December 27, 1978.

FOR FURTHER INFORMATION CONTACT:

Bert Cole, Air Enforcement Branch, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30308. Phone: 404/881-4298.

SUPPLEMENTARY INFORMATION: A FEDERAL REGISTER notice published at 33259 FR Volume 43, Number 147, July 31, 1978, solicited public comments and offered the opportunity to request a public hearing on a proposed Delayed Compliance Order to be issued by EPA to Fiberfine of Memphis at Memphis, Tennessee. Fiberfine of Memphis has subsequently violated the final compliance date contained in the Order.

In consideration of the foregoing, the proposal published in the FEDERAL REGISTER 33259 FR Volume 43,

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Number 147 on July 31, 1978, entitled "Proposed Delayed Compliance Order for Fiberfine of Memphis, Memphis, Tennessee," is hereby withdrawn.

Dated: December 27, 1978.

ASA B. FOSTER,
Acting Regional Administrator, Region IV.

[FR Doc. 79-393 Filed 1-4-79; 8:45 am]

[6560-01-M]

[40 CFR Part 65]

[Amendment to FRL 1034-2]

DELAYED COMPLIANCE ORDERS

Proposed Approval of Five Administrative Orders Issued by the State of Washington, Department of Ecology to Boise Cascade Corp. (2), Nanome Aggregates, Inc., Vaagen Brothers Lumber Co., Matney Lumber Co.

AGENCY: Environmental Protection Agency.

ACTION: Amendment to proposed rule.

SUMMARY: Four Orders were inadvertently left off the publication of FRL 1020-8 in the Wednesday, December 6, 1978 issue at pages 57162-57163. The Orders for Boise Cascade (2), Nanome Aggregates, Inc. and Vaagen Brothers Lumber Company will follow.

DATE: The comment period is extended to February 5, 1979.

Dated: December 22, 1978.

DONALD P. DUBOIS,
Regional Administrator, Region 10.

DEPARTMENT OF ECOLOGY

In the matter of the compliance by Boise Cascade Corp. (Kettle Falls Plywood Plant) with Chapter 70.94 RCW and the Rules and Regulations of the Department of Ecology.

Delayed Compliance Order; Docket No. DE 78-459.

To: Mr. J. Garrett Andrew, Environmental Engineer, Boise Cascade Corp., P.O. Box 310, Kettle Falls, WA 99141.

Boise Cascade Corp. operates a hog fuel boiler and veneer drier at their plywood plant at Kettle Falls, Washington. Emissions from the boiler and veneer drier do not comply with provisions of the Washington State Air Quality Implementation Plan (S.I.P.).

The Department of Ecology has reviewed plans and schedules submitted by Boise Cascade Corp. for the correction of this problem. Boise Cascade Corp. will install a new fluid bed combuster and derate the existing boiler. They will also eliminate the use of their Energex system.

In accordance with the provisions of 173-400-150 WAC and as provided in Section 113(d) of the Federal Clean Air Act, as amended, and after public notice, the Department of Ecology makes the following findings and issues the following Order:

FINDINGS

1. The present hog fuel boiler is capable of complying with emission standards, Washington Administrative Code (WAC) 18-04-040 recodified as 173-400-040 (part of S.I.P.), but is currently not in compliance because it is being used to incinerate fuel to balance mill supply.

2. The present veneer drier is unable to comply with emission standards, Washington Administrative Code WAC 18-04-040 recodified as 173-400-040.

3. Immediate derating of the boiler, to bring it into compliance, would create a tremendous wood waste disposal problem. Land disposal could result in spontaneous combustion and/or water pollution problems.

4. The proposed equipment is the best practicable and will provide for continuous compliance, WAC 18-04-040 recodified as 173-400-040.

5. The proposed schedule is as expeditious as practicable.

6. The proposed interim requirements are reasonable and practicable. The methods of control will provide the best practicable system for emission reduction and will prevent imminent and substantial endangerment to the health of persons.

ORDER

Therefore, it is ordered that the methods and equipment as described in submitted plans, specifications, schedules, and other correspondence be installed according to the following instructions:

1. Complete engineering and begin construction by August 31, 1978.

2. Complete construction by June 30, 1979.

3. Derate boiler to bring it into compliance by July 1, 1979.

4. The boiler and fluid bed combuster shall be in compliance by July 1, 1979.

Boise Cascade Corporation shall comply with the following interim requirements to reduce present emissions:

1. Maintain and operate boiler to balance present fuel supply. No increase in production that will result in an increase of fuel will occur.

2. No open burning will be allowed at mill site except with the use of a certified alternate.

3. All precautions should be taken to reduce fugitive dust emissions. This includes, but is not limited to:

a. Proper disposition of ash from boiler.

b. Reduced traffic speed at sawmill and in log yard.

c. Road pallative should be used under extreme dry conditions.

Boise Cascade Corp. shall comply with the following reporting requirements:

1. No later than five (5) working days after the completion of each step in the schedule, the Department of Ecology, Eastern Regional Office, will be notified in writing by Boise Cascade Corp.

2. All notification or reports will be submitted to: Department of Ecology, Eastern Regional Office, E. 103 Indiana Avenue, Spokane, WA 99207. Attn: Carl J. Nuechterlein.

3. Source test will be completed as required by Notice of Construction on new source. Interim monitoring is not required. A source test will also occur after the present boiler is derated to assure compliance.

Boise Cascade Corporation is hereby notified that failure to achieve final compliance by July 1, 1979 may result in a requirement to pay non-compliance penalties as provided for in RCW 70.94.431 and as stated in Sec. 120 of the Federal Clean Air Act.

Nothing in this order is to be construed in any way as to prevent enforcement and/or abatement action for any violation of any applicable law, rule, or regulation.

Dated ast Olympia, Washington this 24th day of October 1978.

BRUCE A. CAMERON,
Assistant Director, Department of Ecology, State of Washington.

DEPARTMENT OF ECOLOGY

In the matter of the compliance by Boise Cascade Corp. (Kettle Falls Lumber Company) with Chapter 70.94 RCW and the Rules and Regulations of the Department of Ecology.

Delayed Compliance Order; Docket No. DE 78-452.

To: Mr. J. Garrett Andrew, Environmental Engineer, Boise Cascade Corp., P.O. Box 310, Kettle Falls, WA 99141.

Boise Cascade Corp. operates a wigwam burner at their sawmill at Kettle Falls, Washington. Emissions from the burner do not comply with provisions of the Washington State Air Quality Implementation Plan (S.I.P.).

The Department of Ecology has reviewed plans and schedules submitted by Boise Cascade Corp. for the correction of this problem. Boise Cascade Corp. will install a new wood fired boiler and eliminate the use of the wigwam burner.

In accordance with provisions of Section 113(d) of the Federal Clean Air Act, as amended, and after public notice, the Department of Ecology makes the following findings and issues the following order:

FINDINGS

1. The present wigwam burner is unable to comply with emission standards, Washington Administrative Code (WAC) 18-04-040 recodified as 173-400-040 (part of S.I.P.).

2. The proposed equipment is the best practicable and will provide for continuous compliance with WAC 18-04-040 recodified as 173-400-040.

3. The proposed schedule is as expeditious as practicable.

4. The proposed interim requirements are reasonable and practicable. The methods of control will provide the best practicable system for emission reduction and will prevent imminent and substantial endangerment to the health of persons.

RCW 70.94.332 reads in part: Whenever the department has reason to believe that any provision of this chapter or any rule or regulation adopted thereunder relating to the control or prevention of air pollution has been violated it may cause written notice to be served upon the alleged violator or violators and may include an order that necessary corrective action be taken within a reasonable time.

In view of the foregoing and in accordance with the provisions of RCW 70.94.332:

It is ordered that Boise Cascade Corp. (Kettle Falls Lumber Company) shall, upon receipt of this Order, take appropriate action in accordance with the following instructions:

The methods and equipment as described in submitted plans, specifications, schedules, and other correspondence be installed according to the following schedule:

1. Complete engineering and begin construction by August 31, 1978.

2. Complete construction by June 30, 1979.

3. Discontinue use of wigwam burner by July 1, 1979.

4. Source in compliance by July 1, 1979.

Boise Cascade Corp. shall comply with the following interim requirements to reduce present emissions:

1. Maintain and operate wigwam burner with recognized good practice. This includes regular cleaning and repair of underfire grates. Underfire air blowers should be checked for proper operation weekly. Overfire air vents should be maintained in operating condition. Shell condition should be checked weekly and leaks fixed when found.

2. All precautions should be taken to reduce fugitive dust emissions. This includes, but is not limited to:

a. Proper disposition of ash from burner;

b. Reduced traffic speed at sawmill and in log yard;

c. Road pallative should be used under extreme dry conditions.

Boise Cascade Corp. shall comply with the following reporting requirements:

1. No later than five (5) working days after the completion of each step in the schedule, the Department of Ecology, Eastern Regional Office, will be notified in writing by Boise Cascade Corp.

2. All notification or reports will be submitted to: Department of Ecology, Eastern Regional Office, E. 103 Indiana Avenue, Spokane, WA 99207. Attn: Carl J. Nuechterlein.

3. Source test will be completed as required by Notice of Construction on new source. Interim monitoring is not required.

Boise Cascade Corp. is hereby notified that failure to achieve final compliance by July 1, 1979 may result in a requirement to pay noncompliance penalties as stated in Sec. 120 of the Federal Clean Air Act.

Nothing in this order is to be construed in any way as to prevent enforcement and/or abatement action for any violation of any applicable law, rule, or regulation.

Dated at Olympia, Washington this 29th day of September 1978.

BRUCE A. CAMERON,
Assistant Director, Department of Ecology, State of Washington.

DEPARTMENT OF ECOLOGY

In the matter of the compliance by Nanome Aggregates, Inc. with Chapter 70.94 RCW and the Rules and Regulations of the Department of Ecology

Delayed Compliance Order; Docket No. DE 78-442.

To: Mr. Warren Martin, Manager-Owner, Nanome Aggregates, Inc., P.O. Box 296, Valley, WA 99181.

Nanome Aggregates, Inc. operates a limestone crushing and sacking operation in Valley, Washington. Emissions from this facility do not comply with provisions of the Washington State Air Quality Implementation Plan (S.I.P.).

The Department of Ecology has reviewed plans and schedules submitted by Nanome Aggregates, Inc. for the control of visible emissions from their crushing operation by the installation of a new baghouse, repair of duct work, and the addition of new collection points and hooding.

In accordance with provisions of Section 113(d) of the Federal Clean Air Act, as amended, and after public notice, the Department of Ecology makes the following findings and issues the following order:

FINDINGS

1. The present crushing facility is unable to comply with emission standards, Washington Administrative Code (WAC) 18-04-040 recodified as 173-400-040 (part of S.I.P.).

2. The proposed equipment and repairs are the best practicable and will provide for continuous compliance with WAC 18-04-040 recodified as 173-400-040.

3. The proposed schedule is as expeditious as practicable.

4. The proposed interim requirements are reasonable and practicable. The methods of control will provide the best practicable system for emission reduction and will prevent imminent and substantial endangerment to the health of persons.

RCW 70.94.332 reads in part: Whenever the department has reason to believe that any provision of this chapter or any rule or regulation adopted thereunder relating to the control or prevention of air pollution has been violated it may cause written notice to be served upon the alleged violator or violators and may include an order that necessary corrective action be taken within a reasonable time.

In view of the foregoing and in accordance with the provisions of RCW 70.94.332:

It is ordered That Nanome Aggregates, Inc. shall, upon receipt of this Order, take appropriate action in accordance with the following instructions:

The methods and equipment as described in submitted plans, specifications, schedules, and other correspondence be installed according to the following schedule:

1. Construction of new baghouse by September 15, 1978.

2. Install and connect new baghouse by October 1, 1978.

3. Repair presently installed duct work by January 1, 1979.

4. Connection of additional collection points at:

a. Discharge from roller crusher by February 15, 1979;

b. Top of storage bin by February 15, 1979.

5. Install collection point and hooding at junction of return conveyor and primary conveyor by April 1, 1979.

6. Install additional hooding as required by June 1, 1979.

7. Source in compliance by July 1, 1979.

Nanome Aggregates, Inc. shall comply with the following interim requirements to reduce present emissions:

1. Maintain and operate the present baghouse and collection system with recognized good practice. This includes daily cleaning of baghouse and periodic inspection of collection points and duct work.

2. All precautions should be taken to reduce fugitive dust emissions from the plant location. This includes, but is not limited to:

a. Immediate cleanup of spills;

b. Reduced traffic speed in yard;

c. Road pallative should be used under extreme dry conditions.

Nanome Aggregates, Inc. shall comply with the following reporting requirements:

1. No latter than five (5) working days after the completion of each step in the schedule, the Department of Ecology, Eastern Regional Office, will be notified in writing by Nanome Aggregates, Inc.

2. All notification or reports will be submitted to: Department of Ecology, Eastern Regional Office, E. 103 Indiana Avenue, Spokane, WA 99207. Attn: Carl J. Nuechterlein.

3. Source test will be completed as required by Notice of Construction on new source. Interim monitoring is not required.

Nanome Aggregates, Inc. is hereby notified that failure to achieve final compliance by July 1, 1979 may result in a requirement to pay noncompliance penalties as stated in Sec. 120 of the Federal Clean Air Act.

Nothing in this order is to be construed in any way as to prevent enforcement and/or abatement action for any violation of any applicable law, rule, or regulation.

Dated at Olympia, Washington this 21st day of September 1978.

BRUCE A. CAMERON,
Assistant Director, Department of Ecology, State of Washington.

DEPARTMENT OF ECOLOGY

In the matter of the compliance by Vaagen Brothers Lumber Company with Chapter 70.94 RCW and the Rules and Regulations of the Department of Ecology.

Delayed Compliance Order; Docket No. DE 78-440.

To: Mr. Duane Vaagen, Vaagen Brothers Lumber Co., P.O. Box 266, Colville, WA 99114.

Vaagen Brothers Lumber Co. operates a wigwam burner at their sawmill in Colville, Washington. Emissions from the burner do not comply with provisions of the Washington State Air Quality Implementation Plan (S.I.P.).

The Department of Ecology has reviewed plans and schedules submitted by Vaagen Brothers Lumber Co. for the correction of this problem. Vaagen Brothers Lumber Co. will install a new wood fired boiler and eliminate the use of the wigwam burner.

In accordance with provisions of Section 113(d) of the Federal Clean Air Act, as amended, and after public notice, the Department of Ecology makes the following findings and issues the following order:

FINDINGS

1. The present wigwam burner is unable to comply with emission standards, Washington Administrative Code (WAC) 18-04-040 recodified as 173-400-040 (part of S.I.P.).

2. The proposed equipment is the best practicable and will provide for continuous compliance, WAC 18-04-040 recodified as 173-400-040.

3. The proposed schedule is as expeditious as practicable.

4. The proposed interim requirements are reasonable and practicable. The methods of control will provide the best practicable system for emission reduction and will prevent imminent and substantial endangerment to the health of persons.

RCW 70.94.332 reads in part: Whenever the department has reason to believe that any provision of this chapter or any rule or regulation adopted thereunder relating to the control or prevention of air pollution has been violated it may cause written

notice to be served upon the alleged violator or violators and may include an order that necessary corrective action be taken within a reasonable time.

In view of the foregoing and in accordance with the provisions of RCW 70.94.332:

It is ordered that Vaagen Brothers Lumber Co. shall, upon receipt of this Order, take appropriate action in accordance with the following instructions:

The methods and equipment as described in submitted plans, specifications, schedules, and other correspondence be installed according to the following schedule:

1. Complete engineering and begin construction by August 1, 1978.

2. Complete construction of boiler by June 30, 1979.

3. Discontinue use of wigwam burner by July 1, 1979.

4. Source in compliance by July 1, 1979.

Vaagen Brothers Lumber Co. shall comply with the following interim requirements to reduce present emissions:

1. Maintain and operate wigwam burner with recognized good practice. This includes regular cleaning and repair of underfire grates. Underfire air blowers should be checked for proper operation weekly. Overfire air vents should be maintained in operating condition. Shell condition should be checked weekly and leaks fixed when found.

2. All precautions should be taken to reduce fugitive dust emissions. This includes, but is not limited to:

a. Proper disposition of ash from burner;

b. Reduced traffic speed at sawmill and in log yard;

c. Road pallative should be used under extreme dry conditions.

Vaagen Brothers Lumber Co. shall comply with the following reporting requirements:

1. No later than five (5) working days after the completion of each step in the schedule, the Department of Ecology, Eastern Regional Office, will be notified in writing by Vaagen Brothers Lumber Co.

2. All notification or reports will be submitted to: Department of Ecology, Eastern Regional Office, E. 103 Indiana Avenue, Spokane, WA 99207. Attn: Carl J. Nuechterlein.

3. Source test will be completed as required by Notice of Construction on new source. Interim monitoring is not required.

Vaagen Brothers Lumber Co. is hereby notified that failure to achieve final compliance by July 1, 1979 may result in a requirement to pay noncompliance penalties as stated in Section 120 of the Federal Clean Air Act.

Nothing in this order is to be construed in any way as to prevent enforcement and/or abatement action for any violation of any applicable law, rule, or regulation.

Dated at Olympia, Washington this 21st day of September 1978.

BRUCE A. CAMERON,
Assistant Director, Department of Ecology, State of Washington.

[FR Doc. 79-305 Filed 1-4-79; 8:45 am]

{6730-01-M}

FEDERAL MARITIME COMMISSION

[46 CFR Part 510]

[Docket No. 78-53]

INDEPENDENT OCEAN FREIGHT FORWARDER BIDS ON GOVERNMENT SHIPMENTS AT UNITED STATES PORTS

Extension of Time To File Comments

AGENCY: Federal Maritime Commission.

ACTION: Enlargement of Time To File Comments.

SUMMARY: Time for filing comments on the notice of proposed rulemaking in this proceeding (43 FR 58098; December 12, 1978) is enlarged to and including January 19, 1979.

DATES: Comments on or before January 19, 1979.

ADDRESSES: Comments to: Secretary, Federal Maritime Commission, Room 11101, 1100 L Street, NW., Washington, D.C. 20573.

SUPPLEMENTARY INFORMATION: Counsel for General Services Administration (GSA) and National Customs Brokers and Forwarders Association of America, Inc. (Association) have requested enlargements of time of 21 and 30 days, respectively, to file comments in response to the notice of proposed rulemaking in this proceeding. GSA states that this proceeding directly affects its procurement practices. The Association cites the need to solicit the views of affiliated local associations which is hampered by the holidays. Both counsel cite the fact that the problems which the rule proposes to address are of many years standing.

The problems are long standing. It is for this reason that the Commission wishes to resolve them as speedily as possible. Nonetheless, a limited extension will be granted on the basis of the intervening holidays. Comments therefore, may be filed on or before January 19, 1979.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 79-431 Filed 1-4-79; 8:45 am]

[6730-01-M]

[46 CFR Part 531]

[Docket No. 79-1]

PUBLISHING, FILING AND POSTING OF TARIFFS IN DOMESTIC OFFSHORE COMMERCE

Modification of Requirements

AGENCY: Federal Maritime Commission.

ACTION: Proposed rule.

SUMMARY: Part 531 of Title 46 CFR which contains the regulations governing the form and manner of filing tariffs by common carriers by water in the domestic commerce of the United States is proposed to be revised. The proposed changes are necessary in order to incorporate the provisions of Public Law 95-475, which amends the Intercoastal Shipping Act of 1933. The amendments will serve to bring Part 531 of Title 46 CFR into conformity with the newly amended provisions of the Intercoastal Shipping Act.

DATES: Comments due January 26, 1979.

ADDRESSES: Comments (original and fifteen copies) to: Secretary, Federal Maritime Commission, Room 11101, 1100 L Street, NW., Washington, D.C. 20573.

FOR FURTHER INFORMATION CONTACT:

Francis C. Hurney, Secretary, Federal Maritime Commission, Room 11101, 1100 L Street, NW., Washington, D. C. 20573, (202) 523-5725.

Notice is hereby given that the Federal Maritime Commission is considering the revision of Part 531 of Title 46 CFR, which contains the regulations governing the form and manner of filing tariffs by common carriers by water in the domestic commerce of the United States, in order to incorporate the provisions of Public Law 95-475. Part 531 implements the requirements of the Intercoastal Shipping Act, 1933, as amended.

On October 18, 1978, the Public Law 95-475 (H.R. 6503) amended the Intercoastal Shipping Act of 1933. The primary purposes of the amendment was to expedite the process by which the Commission reviews and takes final action on general rate increases or decreases in domestic offshore commerce.

The Commission has recognized the necessity of further revising Part 531 of Title 46 CFR to bring it into conformity with the newly amended provisions of the Intercoastal Shipping Act. Accordingly, the proposed changes and additions to be made are set forth below.

§ 531.2 (Amended).

The reference in § 531.2(c) which reads "(see § 531.2(u))" is proposed to be amended to read "(see § 531.2(w))."

The definitions in § 531.2 presently designated as paragraph (j) through (x), inclusive, are proposed to be redesignated paragraphs (l) through (z), inclusive.

Section 531.2 is proposed to be amended by incorporating the following definitions to be designated paragraphs (j) (k):

* * * * *

(j) *General Decrease:* any change in rates, fares or charges which will (1) result in a decrease in not less than 50 percent of the total rate, fare, or charge items in the tariffs per trade of any carrier; and (2) directly result in a decrease in gross revenues of such carrier for the particular trade of not less than 3 percent.

(k) *General Increase:* any change rates, fares, or charges which will (1) result in an increase in not less than 50 percent of the total rate, fare, or charge items in the tariffs per trade of any carrier; and (2) directly result in an increase in gross revenues of such carrier for the particular trade of not less than 3 percent.

* * * * *

§ 531.6 (Amended).

The reference in § 531.6(m)(1) which reads "§ 531.1(o)" is proposed to be amended to read "§ 531.2(q)."

§ 531.10 (Amended).

Section 531.10 is proposed to be amended by:

(1) Revising the introductory sentence of paragraph (b) to read as follows:

* * * * *

(b) Amendments establishing new or initial rates, or changing rates, fares, charges, rules or other tariff provisions, which do not constitute a general increase or decrease in rates shall be filed and posted at least 30 days prior to their effective date; Provided that: * * *.

(2) Inserting the following new paragraph (c):

* * * * *

(c) Amendments changing rates, fares, charges, rules or other tariff provisions which constitute a general increase or decrease in rates, shall be filed and posted at least 60 days prior to their effective date. The following data shall be submitted simultaneously with the filing of general increases or decreases:

(1) Financial and operating data as required by Part 512 of the Commission's Rules; and

(2) All exhibits, workpapers, and statements of direct testimony as required by § 502.67 of the Commission's Rules.

* * * * *

(3) Redesignating paragraphs (c), (d), (e), and (f) as paragraphs (d), (e), (f), and (g).

§ 531.11 (Amended).

Section 531.11(g)(3) is proposed to be amended to read as follows:

(g) * * *

(3) Publish, in the upper right-hand corner, an effective date which conforms with § 531.10 (b) and (c) of this part.

§ 531.13 (Amended).

Section 531.13(a) is proposed to be amended to read as follows:

(a) The Commission may suspend from use any rate, fare, charge, classification, regulation or practice for a period of up to 180 days beyond the time it would otherwise have lawfully taken effect;

* * * * *

The reference in § 531.13(c)(1) which reads "(see §§ 531.10(c) and 531.11(h)(iii))" is proposed to be amended to read "(see §§ 531.10(d) and 531.11(g)(2) (iii) and (iv))."

Therefore, it is ordered, That interested persons may participate in this rule making proceeding by filing with the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before January 26, 1979 an original and 15 copies of their views or arguments pertaining to the proposed amended rules. All suggestions for changes in the text as set out above should be accompanied by drafts of the language thought necessary to accomplish the desired change and by statements and arguments in support thereof. Inasmuch as the statutory amendments will become effective with January 16, 1979, hearings on this proposal are not anticipated.

By Order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 79-483 Filed 1-4-79; 8:45 am]

[4910-06-M]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[49 CFR Part 215]

[Docket No. RSFC-6, Notice No. 1]

FREIGHT CAR SAFETY STANDARDS

Miscellaneous Proposed Revisions

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the rules containing Railroad Freight Car Safety Standards. The proposed amendments would update, consolidate, and clarify existing rules and would eliminate certain rules no longer considered necessary for safety. This action is taken by FRA in an effort to improve its safety regulatory program.

DATES: (1) Written Comments: Written comments must be received before March 14, 1979. Comments received after that date will be considered so far as possible without incurring additional expense or delay.

(2) Public Hearing: A public hearing will be held at 10:00 a.m. on March 7, 1979. Any person who desires to make an oral statement at the hearing should notify the Docket Clerk before March 2, 1978, by phone or by mail.

ADDRESSES: (1) Written Comments: Written comments should identify the docket number and the notice number and must be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration (Trans Point Building), 2100 Second Street, SW., Washington D.C. 20590. Written comments will be available for examination, both before and after the closing date for written comments, during regular business hours in room 4406 of the Trans Point Building at the above address.

(2) Public Hearing: A public hearing will be held in room 3201 of the Trans Point Building. Persons desiring to make oral statements at the hearing should notify the docket clerk by telephone (202-426-8836) or by writing to: Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, Trans Point Building, at the above address.

FOR FURTHER INFORMATION CONTACT:

Principal Authors—Principal Program Person: Rolf Mowatt-Larssen, Office of Standards and Procedures, Federal Railroad Administration, Washington, D.C. 20590. Phone 202-426-0924. Principal Attorney: Danvers E. Long, Office of the Chief Counsel, Federal Railroad Administration, Washington, D.C. 20590. Phone 202-426-8836.

SUPPLEMENTARY INFORMATION:

BACKGROUND

REGULATORY REFORM

On March 23, 1978, the President issued Executive Order 12044. In that Order, he directed all Executive Agencies to adopt procedures to improve existing and future regulations. As a matter of policy, the Order requires that regulations be as simple and clear as possible, achieve legislative goals effectively and efficiently, and not impose unnecessary burdens. To achieve this policy objective, the order requires Agencies to address the fol-

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lowing considerations, among others, when developing regulations: (1) The need for and purposes of the regulation must be clearly established; (2) An opportunity must be provided for early participation and comment by other Federal Agencies, State and local governments, businesses, organizations, and individual members of the public; (3) Meaningful alternatives must be considered and analyzed before the regulation is issued; and (4) Compliance costs, paperwork, and other burdens on the public must be minimized.

In response to the policies set forth in Executive Order 12044, FRA initiated a General Safety Inquiry for the purpose of evaluating and improving its safety regulatory program. This inquiry was announced in the May 8, 1978, issue of the FEDERAL REGISTER (43 FR 19696).

That notice also announced that FRA would conduct a series of two-day public hearings. The notice stated that the purpose of the hearings would be to obtain information from the public that would help FRA to determine whether many of its existing regulations should be expanded in scope, revised, or revoked.

The notice indicated that the first general area to be considered would be rolling equipment which would include locomotives, freight cars, safety appliances, and power brakes. Track and related structures, appliances, and devices was the second general area identified in the notice. The third and final general area defined includes signal and communications systems.

To date, FRA has conducted four two-day hearings. These hearings have dealt with the following subjects: (1) Locomotives (June 14 and 15, 1978), (2) freight cars and safety appliances (July 12 and 13, 1978), (3) power brakes (September 13 and 14, 1978), and (4) track and related structures, appliances, and devices (November 15 and 16, 1978). The final two-day hearing, which will focus on signal and communications systems, has been rescheduled for February 21 and 22, 1979.

HEARING ON FREIGHT CARS

Since this notice contains proposed revisions to the current Freight Car Safety Standards set forth in Part 215 (49 CFR Part 215), the following discussion will focus on the matters receiving most emphasis at the hearing on those standards. At that hearing, extensive testimony was presented in response to the twenty-one issues set forth in the hearing notice (43 F.R. 26337). All of this testimony, and the related written comments submitted by those interested persons unable to appear at the hearing, have been fully considered. The testimony and comments are the subject of a written summary which has been placed in Docket No. RSSI-78-5. Interested persons may examine that summary during regular business hours in room 4406 of the Trans Point Building, 2100 Second Street, S.W., Washington, D.C. 20590.

MAINTENANCE AND INSPECTION STANDARDS

At the hearing, the Association of American Railroads (AAR) and the individual railroads asserted that many FRA standards, and particularly those prescribing periodic inspections, wear limits for wheels, and the lubrication of bearings were, in effect, maintenance or "good practice" standards rather than safety standards. Also cited as maintenance items were standards prohibiting operation of a car with one broken truck spring, cracked center plates, improper side bearing adapters, absence of free oil in a journal box at the end of a trip, wear limits for couplers and gears, missing truck side frame keys, and others.

Several commenters noted that many of the standards were, in reality, AAR Interchange Rules that had been previously adopted by FRA. In this regard, these commenters emphasized that the Interchange Rules were never intended to be safety standards. Rather, those rules were initially adopted by AAR as maintenance practices.

With regard to the FRA standards regarded as maintenance items, AAR and a number of railroads recommended revocation or, at the very least, a substantial extension of the current deadlines. As a possible remedy, several of these commenters also suggested a "range of tolerances" between maintenance limits set forth in the AAR Interchange Rules and safety limits specified by FRA. In effect, this suggestion would establish a grace period.

On the other hand, other commenters, including the Railway Labor Executives Association (RLEA), contended that current maintenance standards are essential for safety. According to those commenters, problems with freight cars are caused not by the design of the car, but rather by the way and manner in which the car is maintained. Accordingly, they recommended compliance with existing maintenance standards.

KNOWLEDGE REQUIREMENTS

Commenting on whether knowledge of defective conditions should be required for liability, one commenter took the position that it would be unfair to penalize the railroads for defective cars on the basis of strict liability. In this regard, that commenter explained that cars can be abused at times when the railroads have no knowledge of that abuse or opportunity to prevent it.

However, RLEA stated that knowledge of defects should not have to be shown in order to fine a railroad for violating Freight Car Safety Standards. With regard to this issue, RLEA asserted that strict liability would provide the railroads with a strong incentive to discover and correct defects. Without a "lack of knowledge" defense for using defective cars, the railroads would be encouraged to conduct thorough investigations and make efforts to effectively repair those cars.

RESEARCH

All commenters agreed that further research is needed to improve safety and performance. In this regard, RLEA noted with approval ongoing research and development of new technological systems for inspecting trains and for monitoring defects which may occur during operations. Specifically, it noted that FRA has conducted research and testing of certain devices for detecting hidden defects in wheels. As soon as one of these devices is identified as reliable, RLEA suggested that its use should be made mandatory.

AAR stated that the completion of research projects already initiated by FRA is of utmost importance. In this connection, AAR cited the Facility for Accelerated Service Testing (FAST) test, the Vertical Test Unit (VTU), and the Roller Dynamics Unit (RDU) programs. In addition, AAR recommended further financial assistance be considered to permit acceleration of projects under the Track Train Dynamics program of the AAR Research Center. These projects, which have been delayed due to shortages of funds or manpower, include an impact test series on box cars to verify recently adopted interim end strength specifications, and a parametric study of freight car roll tendencies.

FINES

Numerous commenters focused attention on the nature and extent of fines levied for violations of the Freight Car Safety Standards. In general, the railroads argued that fines levied for violations of the standards are excessive and should be lowered. One railroad complained that FRA places emphasis on citing a carrier for violations rather than on correction of defects. In this regard, it recommended that FRA inspectors noting car defects should not await the departure of the car before bringing the defect to the attention of a railroad supervisor. That commender asserted that safety would be better served if immediate notification of the defect were given to the supervisor on the scene.

On the other hand, RLEA asserted that fines should be increased to provide the railroads with additional incentive to comply with existing standards. In addition, RLEA recommended that a separate fine should be assessed for each violation and that the current practice of consolidaing numerous violations for negotiation purposes and settling for an overall amount should be abandoned.

REDUCTION OF REGULATORY BURDEN

According to one commenter, existing Freight Car Safety Standards can be either eliminated or simplified without sacrificing safety. According to that commenter, this approach would be consistent with the President's and the Secretary's stated concern for fewer regulations, issued in a simple, more comprehensive, and less burdensome form.

Also with regard to reducing existing burdens, other commenters contended that existing recordkeeping and other paperwork requirements, such as those required for the movement of defective cars, are burdensome and result in little benefit. Accordingly, they recommended deletion of those requirements.

OBJECTIVES OF FRA SAFETY REGULATORY PROGRAM

The primary goal of the Freight Car Safety Standards is to eliminate the more serious, prevalent and discernable hazardous conditions on freight cars. These standards are not intended to serve as a comprehensive listing of all potentially hazardous conditions. The railroads remain directly responsible for finding and correcting all hazardous equipment conditions. However, these standards do provide a yardstick to be used by FRA in monitoring and causing railroads to improve their safety performance.

FRA has undertaken a complete review of its Freight Car Safety Standards with the objective of clarifying and strengthening those that promote safety and revoking those that are burdensome and not essential for safety. In addition to relieving unnecessary burdens, this approach could enhance safety by encouraging the railroads to concentrate their limited resources in areas that require more attention and are critical to safety.

As part of its effort to identify essential regulations, FRA has examined all available accident data for the years 1975 through 1977. According to that data, there were 6,400 reportable accidents or incidents caused by defective freight cars during the years 1975 through 1977. These resulted in two fatalities and 204 injuries, or an annual average of 0.68 fatalities and 68 injuries.

A further examination of that data suggests that, from a safety standpoint, the most critical freight car components are located in the suspension and draft systems. In this connection, it should be noted that 50 percent of all equipment-related accidents reported, or approximately one thousand accidents each year, are caused by defects in freight car suspension systems. This includes failures involving wheels, bearings, and truck components. Another major problem area involves the draft system. This system, which includes the center sill, draft gear, couplers, and body bolsters, is responsible for nearly 25 percent of all equipment related accidents.

The present Freight Car Safety Standards contain some maintenance and inspection requirements that are costly, disruptive, and wasteful in that they divert the limited resources of the railroads away from areas of critical safety concern. To illustrate, a requirement to repack or lubricate bearings within specific time intervals focuses attention on whether or not the compliance date has been met. However, this requirement diverts attention away from the factor that is essential from a safety standpoint, namely, the condition of the bearings.

The current maintenance and inspection requirements have also had a considerable impact on FRA inspection activities. Instead of concentrating on critical car components, FRA inspectors now spend considerable time checking dates stenciled on cars and minor maintenance items. A review of alleged violations during the years 1976 and 1977 illustrates this point. During those years, 35.5 percent of all alleged violations (2,926 out of a total of 8,251) were assessed for failure to repack or lubricate journal bearings within specified time intervals.

Deletion of the pre-departure inspection requirement would also afford the railroads increased flexibility. Each railroad would have the opportunity to tailor an inspection program more suited for its particular operating environment. In some cases, a railroad may use means other than a pre-departure inspection to assure safety. In these instances, inspection intervals could be lengthened and savings realized.

Further flexibility would be provided if FRA's proposed periodic inspection intervals are adopted. After the initial periodic inspection is performed, rigid time intervals would no longer have to be observed. Subsequent inspections could be scheduled on a basis of time or mileage. By affording the railroads flexibility in the scheduling of periodic inspections, disruptions in service should be reduced.

The elimination of maintenance and inspection requirements and certain revised wear limits that are being proposed, if adopted, should result in substantial savings. FRA estimates that these savings should amount to more than 100 million dollars annually.

These savings could be used to eliminate serious safety defects. For example, resources that have been spent in the past to meet rigid lubrication, repacking, and pre-departure inspection requirements could be expended to maintain and improve suspension and draft components that have been a major cause of accidents.

If pre-departure inspections and the performance of minor maintenance tasks are no longer required by Federal regulation, the railroads would be allowed more flexibility to manage their day-to-day operations. FRA's resources would be directed to assuring that railroads are keeping critical car components, such as wheels and bearings, in safe operating condition. However, it should be emphasized that each railroad would be responsible for eliminating unsafe conditions. FRA inspectors would strictly enforce the revised standards. This is especially true in the case of revised wear limits.

The amount of a fine assessed would relate directly to the gravity of the violation. To illustrate, if cars with defective components are released from repair shops, or placed in outbound trains, these violations would be considered particularly serious and would warrant larger fines than similar defects under other circumstances. The amount of fines assessed would also vary according to the degree that prescribed wear limits are exceeded. FRA will include in the amendment based on this proposal a revised penalty schedule equating the amount of penalties to be assessed with the nature and degree of violations.

In addition, it should be noted that fines would be assessed for critical defects irrespective of whether the railroad had actual knowledge of the defect. In view of the greatly reduced number of defective conditions listed in the revised Standards, and in light of the substantial savings and flexibility the railroads would realize, the task of maintaining critical car components in proper condition should not be unduly burdensome.

In reviewing the Freight Car Safety Standards, FRA attempted to determine whether the standards had been useful in enhancing safety. For the most part, the Standards are patterned after industry practices with respect to wear, damage, inspection and maintenance of cars and components. They do not deal with the design of cars and components. The Federal role has been essentially one of a policeman. In that role, FRA can inspect only a minute portion of the approximately 1.7 million freight cars in service at the present time.

It has been extremely difficult to determine whether FRA's monitoring

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role has improved the safety of cars to any meaningful extent. FRA inspections have prevented numerous cars from moving with defects which might have caused accidents. Also, operations at many railroad locations have been improved. It is not known, however, whether the existence and enforcement of the Standards have resulted in more funds being made available for safety overall, and in available funds being used more effectively. FRA welcomes comments on these issues.

On the basis of available information, FRA proposes to retain a reduced set of safety requirements relating to critical car components—which, like the lengthier current set, are not intended to be comprehensive—and to require a thorough periodic inspection and repair program. More than 50 current requirements would be either eliminated or limited to the periodic inspection.

Presently, the railroad industry does not have a requirement for periodic inspections of freight cars. Generally, cars receive only "walk-by" inspections in yards, primarily to discover easily discernible running gear and brake defects. Also, due to the limited capacity of repair facilities, only critical defects are generally corrected on repair-tracks. Thus, because of the lack of a comprehensive inspection and repair program, cars may develop critical component defects that are not discovered and repaired prior to complete failure during train operations. FRA believes that a comprehensive periodic inspection and repair program should be required to detect and remove from service these critical components prior to failure.

FRA estimates that the well over $100 million in potential annual savings resulting from the proposed changes could far more effectively be used to enhance safety if reallocated to critical areas.

Future Actions Relating to Railroad Freight Cars

In addition to the proposed minimum freight car safety standards set forth in this notice, FRA is currently considering other safety standards to improve the performance of railroad freight cars and to protect the public and railroad employees. These standards, which are summarized below, will address in detail other critical safety concerns.

CRASHWORTHINESS AND ENVIRONMENTAL STANDARDS FOR CABOOSES

Most of the serious and fatal injuries suffered by freight train occupants occur in the caboose car. These injuries and fatalities frequently are caused by slack actions and rear end collisions. In an effort to reduce injuries and fatalities caused by rear end collisions, FRA is considering crashworthiness standards aimed at upgrading the structural integrity of new caboose cars. To lessen the impact of slack actions, it is considering a requirement that cars be equipped with adequate cushioning systems and that certain environmental controls be observed. Among the controls being considered are those that would require the securing of detached objects and the removal of certain gas containers from the interior of the car.

CAR DYNAMICS

Many derailments in recent years have been caused by rock-and-roll problems and other vehicle/track interaction. These generate excessive vertical and lateral forces on cars and track during operations. To help remedy this problem, FRA is considering minimum performance requirements for freight cars including maximum permissible vertical and lateral force levels.

TRAIN DYNAMICS

Derailments are often caused by the development of transient longitudinal train forces which can lead to broken couplers, automatic emergency brake applications, and jackknifed or derailed cars. Factors affecting the development of excessive train forces include: the number and placement of locomotive power units, train length, the application of power and braking in relation to the terrain, variations in individual car braking, the mix and placement of empty and loaded cars, the weight and length of freight cars, and the type of draft gear or cushioning devices on the cars. FRA is considering the feasibility of formulating performance limits to ensure safe train action.

POWER BRAKES

The power brake requirements set forth in Part 231 (49 CFR Part 231) have not been revised since 1958. FRA is currently reviewing those requirements with the objective of removing antiquated and redundant provisions and deleting unnecessary maintenance and inspection requirements.

Discussion of Proposal

The following is a discussion of the substantive proposed revisions to the current safety standards applicable to freight cars. Since these proposed revisions are extensive in nature, they are discussed below under separate subject headings.

APPLICATION

Part 215 (Railroad Freight Car Safety Standards) prescribes standards for most railroad freight cars operating on standard gauge track that is part of the general railroad system of transportation. This part does not apply to freight cars used solely on track inside an installation that is not part of that system or to those used exclusively in dedicated service.

Like the cars excepted from compliance with Part 215, maintenance of way vehicles used exclusively in work train service are operated at slow speeds and are not used in interchange service. In light of these factors, FRA believes that freight cars used exclusively in work train service should be excepted from the requirements contained in Part 215. This exception is reflected in proposed § 215.3(c)(3). However, to guard against use of those cars in other service, the cars would have to be stenciled to indicate that they are to be used in work train service only.

DEFINITIONS

Current § 215.5(f) contains the definition of the term "dedicated service." Under paragraph (f)(2) of that section, a car used in dedicated service is defined as one that does not travel for more than 30 miles while operating over track that is part of the general railroad system of transportation.

This definition has been the subject of considerable confusion. Although FRA has issued several interpretations pertaining to this provision, it apparently remains unclear as to whether a car used in dedicated service may be operated on a round-trip that exceeds 30 miles.

It is proposed to amend § 215.5(f)(2) to provide that a car used in dedicated service may not be operated for more than 30 miles in one direction, but may be operated on a round trip not to exceed a total of 60 miles. This provision, if adopted, should clarify this provision and eliminate the need for further interpretations.

PROHIBITED ACTS

Section 215.7 (Responsibility for defective cars) would be revised to permit the assessment of fines for failure to comply with the revised standards with respect to any car which is "in service" as defined in proposed § 215.5. The only defective cars that would not be subject to civil penalties are those that are not "in service". A car would be considered out of service only if it is on a repair track or tagged with a "bad order" tag for movement to a repair track.

In place of the current § 215.7 (Responsibility For Defective Cars), FRA proposes to issue a simple statement of prohibited acts. While the current regulation creates civil penalty liability only where it is shown that the railroad knows or should know of a defect, the proposed rule would establish absolute liability similar to that which exists under the Safety Appliance Acts and other railroad safety statutes which have been authoritatively construed by the courts since the early years of this century. The Federal Railroad Safety Act of 1970 does not itself contain any scienter (knowledge) element and also reads in terms of absolute liability.

FRA believes that the safety considerations attendant to the proposed standards are of a gravity equivalent to those of the older safety laws. The retention of a scienter requirement together with the deletion of presently required train or "daily" inspections (§ 215.23) would create a disincentive to inspect properly. Accordingly, railroads should be held to a strict duty to discover and correct defective conditions.

MOVEMENT OF DEFECTIVE CARS FOR REPAIR

Under current § 215.9, a railroad freight car having a defective component may be moved for repair if certain conditions are met. Among these conditions is one requiring that a "bad order" or "home shop for repairs" tag or card be securely attached to the side of the car.

FRA is concerned that cars tagged for repair may be moved considerable distances before needed repairs are made. Since under this proposed revision all tagged cars will have defective critical components, FRA believes their movement should strictly be limited.

To eliminate excessive movement of defective cars, it is proposed to require that defective cars discovered outside a yard be repaired at the nearest repair point or the nearest forward repair point. This proposal is set forth in § 215.9 of this notice.

Cars found defective in a yard could not be moved beyond the yard, unless repairs could not be made at that point. In such a case, those cars would be subject to the same restrictions that apply to defective cars found outside a yard. If repairs can be made in the yard, these cars would be subject to certain restrictions to assure that they are safely moved and withdrawn from service.

STENCILING

This notice proposes the deletion of the periodic repack and lubrication requirements set forth in current § 215.97 and § 215.99. In view of these proposed deletions the current stenciling requirements pertaining to periodic lubrications would no longer be necessary. Therefore, these requirements would be revoked under this proposal.

Current § 215.11, which pertains to stenciling, would also be revoked, and all pertinent provisions would be included within a new Subpart E. This subpart also contains the symbols that would have to be used if required periodic inspections are performed in accordance with the new proposed options set forth in this notice. These new options, which are explained in detail below, would permit required periodic inspections to be performed on the basis of mileage records, odometer mileage, or extensions approved by the Administrator. In addition, the new subpart sets forth the stenciling symbols that would have to be applied to a car that is used exclusively in work train service.

Finally, the information that currently must be stenciled on a car receiving a periodic inspection has been modified somewhat to indicate more clearly when the next required inspection is due. In this connection, it should be noted that the deadline for completing the initial periodic inspection was recently extended from December 31, 1978, to December 31, 1979 (43 FR 59072). As a result, the reference in current § 215.11 to the former compliance date has been deleted.

DESIGNATION OF QUALIFIED PERSONS

Current § 215.15 requires that the railroads designate qualified persons to inspect railroad freight cars for defects. This section also requires the railroads to maintain records of the basis for each designation.

As previously noted, day-to-day management concerns as to the most efficient means to comply with these standards and otherwise achieve safety would be left to the railroads if the proposals set forth in this notice are adopted. In view of this, FRA believes that this section, and the record-keeping requirements it prescribes, can no longer be justified. Moreover, this provision has not been effective, nor can it reasonably be made effective without the institution of a major program for the Federal licensing of railroad inspectors. Accordingly, it is proposed to revoke § 125.15 in its entirety.

WAIVERS AND CIVIL PENALTIES

Current § 215.17 and 215.19 set forth, respectively, the procedure for filing a waiver petition and the maximum and minimum civil penalties that are assessed for violations. These sections are redundant since the waiver procedure already is described in Part 211 (49 CFR Part 211), and since Subpart D contains a detailed schedule of civil penalties which, as previously noted, will be further expanded and updated at the time the amendment based on this proposal is adopted. Therefore, FRA proposes to revoke §§ 215.17 and 215.19.

PRE-DEPARTURE AND PERIODIC INSPECTIONS

The current pre-departure inspection requirements set forth in Subpart B of Part 215 would be revoked for reasons already discussed. However, the periodic inspection requirement would be retained and would include the defective conditions referenced in current Subparts C through I that are difficult, if not impossible, to discern in a yard. These defects can be readily detected and corrected during a periodic inspection when the cars are detrucked and trucks are partially disassembled, as proposed in this notice.

FRA realizes that many of the defects that the periodic inspection is specifically designed to detect might otherwise be detected during the three or four occasions each year that the average car is on a shop or repair track. These defects should be corrected before the car is returned to service. Nevertheless, FRA believes the periodic inspection is essential to assure that each freight car in the national fleet is thoroughly examined at reasonable intervals for safety defects that are difficult to discern and correct in the railroad operating environment. Although this proposal would only require railroads to inspect for and correct these defects as part of a periodic inspection, the railroads are responsible for maintaining freight cars in safe operating condition; and it is in their best interest to make every reasonable effort to find and correct these defects whenever a car is on a shop or repair track.

All of the proposed new periodic inspection requirements are set forth in detail in Subpart C of this proposal. As a result, the railroads no longer would be required to submit periodic inspection programs for approval of the Administrator as currently required by § 215.29. Nor would safety inspection instructions be used in connection with pre-departure inspections have to be submitted for approval under that section. Therefore, § 215.29 would be revoked by this proposal.

Under this proposal, a railroad could elect to perform required periodic inspections in accordance with the time intervals currently in effect; or, after performing the initial inspection, it could elect to schedule subsequent inspections based on mileage intervals.

With respect to mileage intervals, it should be noted that new or reconditioned cars could be operated for 200,000 miles before a periodic inspection would be required. Other cars could be operated for 100,000 miles before being inspected.

In order to inspect its cars on the basis of mileage intervals, a railroad would have to install a tamper proof reliable odometer or would have to

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maintain accurate mileage records for the cars.

The FRA estimates that use of the proposed mileage interval, rather than the time interval currently required, would result in a 20 percent reduction each year in the number of required periodic inspections. This reduction, when considered in light of the 450,000 cars due for periodic inspection each year and an average cost of $640 to perform each inspection, would result in an annual savings of $57,600,000.

In recognition of the fact that some railroads may have a superior maintenance program, or may wish to establish such a program, it is proposed to permit these railroads to petition the Administrator for an extension of the proposed periodic inspection intervals. These petitions would have to be accompanied by appropriate supporting information and would only be approved if justified on the basis of high quality maintenance and components, and outstanding safety performance. Moreover, requests for extension would be limited to high utilization cars, since such cars must otherwise be inspected at intervals as short as 12 months.

Many of the car components that would be examined during periodic inspections are located in the suspension and draft systems. Since these components have been the major cause of accidents, it is essential that they be repaired or replaced if found to be defective. Accordingly, under this proposal, defective components would have to be repaired or replaced before cars are returned to service.

Finally, FRA proposes to identify those car repair facilities which are authorized to perform periodic inspections. Paragraph (a) of proposed § 215.69 would provide that periodic inspections may only be conducted by a railroad. Equipment essential to detrucking of the car and disassembly of components would have to be provided at the railroad's facility.

FRA recognizes that, as a practical matter, a large number of private car shops perform periodic inspections and other work required to keep freight cars free from defects. These shops conduct railroad operations related to movement of cars and, for such purposes, are small railroads. The requirements of existing regulations that connecting railroads vouch for the periodic inspections conducted by these shops affixing the connecting railroad's stencil has placed those railroads in the difficult position of attesting to the quality of work not performed under their day-to-day supervision. Moreover, negotiations between car shops and connecting railroads over the conditions under which a railroad stencil will be affixed have not proceeded satisfactorily in some instances, thereby materially impeding the completion of required inspections.

Therefore, FRA proposes to include within the proposed definition of "railroad" (§ 215.5(h)) any entity which engages in railroad operations in connection with the construction, repair or inspection of freight cars subject to Part 215, provided that the entity elects to become subject to that part. As a result, any private car company or contract shop that wishes to conduct periodic inspections as a part of its business would be required to file a statement of election with FRA, assuming responsibilities commensurate with the benefits which it wishes to enjoy.

Defective Cars

Current Subparts C through I set forth minimum safety requirements for railroad freight cars. Those subparts specify condemning limits for freight car components and describe defective conditions. The components covered are wheels (Subpart C), axles (Subpart D), journal bearings (Subpart E), other truck components (Subpart F), car bodies (Subpart G), couplers (Subpart H), and draft systems (Subpart I).

In response to many comments regarding condemning limits and defective car components, FRA has carefully reviewed current Subparts C through I. As a result of that review, a number of revisions to those subparts are being proposed. These revisions are discussed below.

WHEELS

The current wear limits pertaining to flange thickness and rim thickness have been in effect for a considerable period of time. Since the adoption of these limits, the quality of wheels has substantially improved due to the introduction of new materials and the use of more advanced manufacturing practices. For example, cast iron wheels have been replaced by steel wheels. In addition, the quality of steel used to manufacture wheels has been upgraded as a result of factors such as improved heat control and forging techniques.

In light of these advancements, it is proposed to revise current Subpart C to permit additional wear on wheels before they are considered safety defects. FRA expects that the present AAR interchange rule wear limits for wheels will not be revised to reflect FRA's proposed new wear limits. As a result, railroads would, in effect, have their requested "grace period" between the wear point when a railroad *may* be reimbursed for replacing a wheel on another railroad's car and the point at which the Freight Car Safety Standards *require* that wheel to be replaced. The duration of this "grace period" would vary widely according to mileage traveled and type of service. Specifically, an additional 1/16 of an inch of wear on wheel flanges and rims would be permitted. A recent study prepared for FRA indicates that this additional wear should result in a savings to the railroads of about 25 million dollars per year. The present 1½ inche wear limit for high flanges has not been increased because a wheel worn beyond this point would not clear the flangeway on frongs in classes 2 through 6 track (49 CFR 213.137(a)).

Section 215.43(e) currently provides that a wheel is defective if it has a cracked or broken rim, flange, plate, or hub. Under this proposal, this provision would be revised to provide that only radial cracks are considered safety defects. Unlike other cracks, radial cracks tend to propagate rapidly and undermine the structural integrity of the wheel. Therefore, whenever they are detected in a wheel rim, flange, plate, or hub, the wheel should be removed from service.

Paragraph (g) of that section provides that a wheel is defective if it has a contiguous (adjoining) pieces of metal shelled out of the circumference of the tread. This proposal provides that if a wheel is shelled, or has a spall one inch in diameter or more, the wheel is defective. Spalling is deep pitting caused by a hot spot in a localized area. When a spall is one inch in diameter or more, it is considered sufficient to undermine the structural integrity of the wheel and to require its removal.

Section 215.43(n) currently provides that a wheel is defective if overheated. That paragraph also provides that overheating evidenced by a reddish brown discoloration from heat on the front and back face of the rim and plate that extends into the plate one-half of the distance from the tread surface to the axle with decreasing intensity.

Based on its reevaluation of this provision, FRA believes that a wheel should be considered defective before the discoloration extends one-half of the distance from the tread surface to the axle. Once discoloration on the front or back faces of the rim extends more than four inches into the plate area, the metal structure of the wheel is considered distorted to a degree that could cause wheel failure. This standard has been inserted in the new proposed regulations.

Finally, current § 215.45 (Defective Wheels Sets) provides that a wheel set is defective if the wheels are out of gage so that the distance between the inside faces of the wheel rims is less than 52 15/16 inches or more than 53⅜ inches. FRA believes that this defect cannot be reasonably discovered during the conduct of routine inspections in a yard. However, the defect can readily be detected and corrected during a periodic inspection. Therefore, this proposal would require that cars be inspected for this defect during periodic inspections.

AXLES

As explained in the discussion regarding wheels, a radial crack is considered a defect sufficient to require removal of the wheel from service. Likewise, an axle having a radial crack is considered defective. Accordingly, current § 215.53 (defective axles) would be amended to provide that a car may not be continued in service if it has an axle with a radial crack.

Under this proposal, an axle with a plain bearing would be considered defective if that axle has an end collar which is broken or cracked. The end collar is the portion of the axle which restricts the lateral movement of the bearing. If the collar is cracked or broken, it could damage the lubricating pad. This, in turn, could lead to failure of the axle and a derailment. Accordingly, under this proposal, a car having this defect would have to be withdrawn from service.

In addition, this notice provides that a journal is defective if it is overheated, as evidenced by a pronounced blue-black discoloration. This condition is indicative of severe metallurgical damage to the steel and the possible presence of stress cracks. These factors can cause the axle to fail and break off. As in the case of an axle with an end collar that is broken or cracked, a car having this condition could not be continued in service.

Under current § 215.53(d), an axle is defective if it has a bend which provides a runout of more than three-eights of an inch at the center of the axle. As in the case of wheels that are out of gage (current § 215.45), this defect cannot be reasonably seen or measured in the yard. Therefore, an axle would have to be inspected for this defect, and repaired if necessary, during periodic inspections.

Finally, current § 215.53(e) provides that, in the case of journals on plain bearing axles, the journal is defective if worn beyond certain limits which are set forth in a chart displayed in that section. After reviewing this provision and other available data, FRA believes that these journals should be required to be inspected and replaced, if necessary, during periodic inspections.

JOURNAL BEARINGS

Current § 215.83 (Defective Plain Bearing Boxes) provides that a plain bearing box is defective if the box lid is missing, broken, or otherwise not preventing contaminants from entering the box. This provision would be retained. In addition, the box would be defective if it contains any foreign matter that could damage the bearing or have a deterimental effect on the lubricant.

Paragraph (d) of this section provides that a plain bearing box is defective if it is cracked or has holes that permit leakage. Some boxes are designed with holes in the back. Leakage of oil through these holes is not in itself detrimental from the standpoint of safety. Of greater importance is the need to assure that the box contains free oil. Accordingly, current § 215.83(d) is not believed necessary and would be revoked.

A number of defects listed in current Subpart E, like others previously mentioned, are considered too intricate to be reasonably detected in the yard. These defects, which pertain to plain bearings, plain bearing wedges, and roller bearing adapters, are as follows:

1. Wear at either end of a plain bearing that reduces its length more than one-fourth inch (§ 215.89(c)).

2. Combined wear on a plain bearing that reduces its length more than three-eighths inch (§ 215.89(e)).

3. A lug in a plain bearing that is worn more than one-eighth inch (§ 215.89(e)).

4. Combined wear on both sides of the lug extension more than one-fourth inch (§ 215.89(f)).

5. Lining of a plain bearing worn through to brass more than three-eighths inch above the lower edge of the brass sidewall (§ 215.89(h)).

6. Wear on a plain bearing wedge, measured at the contact surfaces, which reduces its overall length more than three-sixteenths inch (§ 215.91(b)).

7. A bottom surface unevenness, on a plain bearing wedge, of more than one sixty-fourth inch (§ 215.91(c)).

8. Wear on the top of a plain bearing wedge as described in Figure 7 (§ 215.91(d)).

9. Wear on the crown of a roller bearing adapter to the extent that the frame bears on the relief portion of the adapter, as shown in Figure 8 (§ 215.95(c)).

10. Wear on the thrust shoulder of narrow adapters more than .025 inch on either side, as measured by gage No. 8, Figure 9 (§ 215.95(d)).

Under this proposal, inspection for these defects would have to be made during required periodic inspections. If these defects are discovered at that time, they would have to be repaired before a car is returned to service.

Section 215.93(a) currently provides that a roller bearing that has been involved in a derailment, or submerged in water, may not be used until it is inspected and repaired if necessary. Although this provision requires an inspection of those bearings, it does not specify the manner in which that inspection must be conducted.

Under this proposal, those bearings would have to be disassembled from the axle for inspection, unless each of the following can be demonstrated: (1) The bearing was involved in a derailment at a speed of less than ten miles per hour; (2) The bearing was dragged on the ground for a distance of less than 200 feet; (3) The bearing shows no external signs of damage; and (4) The bearing makes no unusual noise when the wheel set is spun freely. With this one limited exception, FRA believes that disassembly of the bearing is necessary since, in the case of most derailed bearings and those submerged in water, damage can only be detected by internal inspection of the bearing.

Section 215.93(b)(1) currently provides that a roller bearing is defective if heated in excess of 250 degrees Fahrenheit. This provision is virtually unenforceable since it is difficult to determine whether a bearing has been subjected to that degree of heat. FRA believes that discoloration of a bearing is a better indicator of overheating than the standard currently in effect. Accordingly, this proposal defines overheating by discoloration rather than by the current standard.

Under current § 215.93(b)(4), a roller bearing is considered defective if it has a missing (unless by design) truck side frame key, pedestal bolt, or stop block. Since the primary function of these components is to facilitate rerailing of derailed cars, FRA believes that this provision is not essential from a safety standpoint. Accordingly, it would be deleted by this proposal.

Current § 215.97 provides that a plain bearing box is defective if it is not repacked within the time intervals prescribed by paragraph (a) of that section, unless the car was reconditioned or originally constructed within those time intervals. Paragraph (b) of that section sets forth the procedure which must be followed when those boxes are repacked.

In light of the proposed sections that would require sufficient free oil in plain bearing boxes, a lubricating pad in proper condition, and a box free of foreign matter that could damage the bearing, FRA believes that § 215.97 is no longer necessary and should be revoked. Thus, the interval and method for repacking plain bearing boxes would no longer be prescribed by FRA. However, a plain bearing box containing a defect described by this paragraph would result in a fine as prescribed by Part 215.

Current § 215.99 would also be revoked under this proposal. That sec-

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tion sets forth lubrication requirements applicable to oil lubricated roller bearings and grease lubricated roller bearings.

FRA believes that this action is appropriate in part due to the introduction of NFL (no field lubrication) bearings. Those bearings are designed to operate during their entire useful life without re-lubrication. Moreover, NFL bearings have the benefit of improved seals and lubricants. Also the present lubrication requirements may result in over lubrication. Roller bearings and that are over lubricated register higher bearing temperatures on hot box detectors and result in many cars being unnecessarily removed from trains.

In addition, it should be noted that this proposal would prohibit the use of defective roller bearings, such as those that have been overheated or those having a loose or missing cap screw. Thus, FRA believes that it is appropriate to revoke current § 215.99.

FRA estimates that deletion of the current journal bearing lubrication requirements should result in substantial savings. To illustrate, the industry has indicated that, absent a Federal regulation, the lubrication cycle for roller bearings will be increased from four to eight years. As a result of this increase, the industry would lubricate 125,000 fewer roller bearing equipped cars each year. At an estimated cost of $110 per car, the annual savings in this area would amount to $13,750,000.

The railroad industry would be able to adjust the repack interval for plain bearing boxes so that it coincides with other inspection intervals. If this is done, FRA estimates that 200,000 fewer cars that are equipped with plain bearing boxes would be repacked each year. At an estimated cost of $180 per car, this would result in a savings of $36,000,000 annually. Thus, the total savings realized from the deletion of journal bearing repack and lubrication requirements would amount to approximately $49,750,000 annually.

OTHER TRUCK COMPONENTS

Subpart F of Part 215 (Other Truck Components) currently prescribes minimum safety requirements for truck side frames, bolsters, side bearings, spring assemblies, and spring planks on railroad freight cars. Under § 215.123(a)(1), a car truck is defective if it has a side frame or bolster that is broken, patched, cracked, or reinforced with plate, including a break or crack in a bolster gib.

For reasons previously discussed in connection with wheels and axles, this notice would revise the current rule to provide that a side frame or bolster is defective if it has a transverse crack or is broken.

The notice would add a provision indicating that a car truck is defective if it is equipped with snubbing units, attachments, or wear plates worn to the extent that the snubbing is ineffective or the snubbing units are broken. These components play a vital role in countering rock-and-roll and other dynamic forces generated by heavy and high center of gravity cars that now make up a substantial and ever increasing portion of the national freight car fleet. This proposal is believed essential for safety because if these components are defective, a derailment could result.

Current § 215.123(d) provides that a car truck is defective if it has a spring assembly with a broken or missing snubber or outer spring, which does not maintain travel or load or which is weakened so as to be compressed solid. Upon further consideration of this provision, FRA believes that a car truck should not be considered defective if it has only one missing outer spring. However, it is believed that if more than one outer spring is broken or missing, the car would not be adequately supported and a derailment could result. Therefore, this notice provides that a car truck is defective if it has more than one outer spring that is missing or broken.

Finally, § 215.123(e) provides that a car truck is defective if its design includes spring planks and a plank is missing, broken, worn, or corroded through more than 25 percent of its cross section. Since these defects can reasonably be detected during a periodic inspection but not in a yard, this provision would be included within proposed Subpart C (Periodic Inspection).

CAR BODIES

Subpart G of Part 215 prescribes minimum safety requirements for certain conditions on railroad freight car bodies. Two of the conditions listed as defects in that subpart can be reasonably detected only during a periodic inspection. These are as follows:

1. A male portion of a standard cylindrical type center plate extends less than 1 inch into the female portion of the center plate (§ 215.153(b)).

2. A center pin is missing, unless by design (215.153(h)). These provisions have been transferred to proposed Subpart C (Periodic Inspection).

In addition, this notice provides that a box car is defective if it has a side door which does not have safety hangers or the equivalent. Safety hangers are designed to prevent doors from falling off cars. This provision is considered necessary since, in the past three years, three persons have been killed by doors that have separated from box cars. In addition, doors that fall from a car onto the right of way could pose a serious threat of derailments.

COUPLERS

Current Subpart H prescribes minimum safety requirements for couplers. For reasons already detailed, the following paragraphs in the current subpart have been incorporated without substantive change into the new subpart containing periodic inspection requirements.

1. The shank on a Type E coupler is bent out of alinement with the head more than nine-sixteenths inch (§ 215.173(a)(1)).

2. The shank on a Type E coupler is worn more than seven-sixteenths inch (§ 215.173(a)(2)).

3. The shank on a Type F coupler is worn more than seven-sixteenths of an inch (§ 215.173(b)(1)).

4. A coupling device is defective if, in the case of a bottom operated coupler, the lever does not have at least one-fourth inch clearance between the operating rod eye and the locklift lever when the coupler is centered and the knuckle is fully closed and locked (§ 215.177(b)).

5. Section 215.173(a)(3) which provides that a Type E coupler is defective if the distance between the guard arm and the knuckle nose is more than 5¼₆ inches.

Furthermore, a number of items in the current subpart would be deleted under this proposal on grounds that they are not considered essential for safety. These items are as follows:

1. Section 215.173(b)(2) which provides that a Type F coupler is defective if the distance between the front face and the knuckle nose is more than 3¹³⁄₁₆ inches.

2. Section 215.175(a) which provides that a Type E knuckle is defective if it is worn in excess of the limits indicated by Gauge No. 5, as depicted in that section.

3. Section 215.175(b) which provides that a Type F knuckle is defective if it is worn or stretched in excess of the limits indicated by Gauge No. 6, as depicted in that section.

4. All of current § 215.179 which describes certain defective interlocking features on couplers.

Finally, a new proposed rule pertaining to couplers would be added by this proposal. Under this proposed rule, a railroad could not operate a car if a shank on a coupler were bent out of alignment to the extent that the coupler could not automatically couple with an adjacent car. This proposal is intended to eliminate the need for workers to go between cars in order to align defective couplers. FRA believes that this practice involves an unacceptably high risk of injury and should be avoided.

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REVISIONS TO APPENDICES

Several revisions to the appendices in current Part 215 are necessary in view of the proposed revisions which have been discussed. In this connection, the diagrams in Appendix A depicting Gauges Nos. 4, 6, 7A, and 7B, would be deleted. These gauges are used to detect defective type F couplers. However, under this proposal, the defects which the gauges are designed to detect are no longer considered safety defects. As a result, the diagrams referenced above serve no useful purpose.

In view of the proposed deletion of lubrication and repack intervals for plain bearings and roller bearings, the stenciling examples for those intervals are no longer necessary. Therefore, they would be deleted from the chart included within Example 1 of current Appendix C. Also, if the proposed stenciling requirements set forth in Subpart E of this notice are adopted, Appendix C will be revised for consistency with the new requirements.

Appendix B would be amended to include a reference to 70T U–1 wheels within the list of prohibited components described in that appendix. This proposal is consistent with Emergency Order No. 7 (43 F.R. 12691), which requires that those wheels be removed from service before January 1, 1979.

In addition, it is proposed to revise the penalty schedule set forth in current Appendix D. The revised schedule contains a wide range of penalties. The effect of the new schedule would be to ensure that the amount of a penalty more accurately reflects the seriousness of the violation for which it is assessed.

Finally, Appendix E would be revised, as necessary, to reflect the new wear limits proposed in this notice. All of these proposed revisions to the current appendices will be made, as necessary, at the time the amendment based on this proposal is adopted.

ECONOMIC IMPACT

FRA has determined that this notice does not contain a significant regulatory proposal. Therefore, a Regulatory Analysis under Executive Order 12044 is not required (E.O. 12044, 43 FR 12661, March 24, 1978).

In addition, FRA has evaluated this proposal in accordance with DOT's existing and proposed policies for the evaluation of regulatory impacts. Since the proposed regulations would, on balance, reduce the number of regulatory requirements currently in effect, and reduce existing regulatory burdens, FRA concludes that a detailed evaluation is not warranted (Policies and Procedures for Simplification, Analysis, and Review of Regulations, 43 FR 9582, March 8, 1978; Proposed Regulatory Policies and Procedures, 43 FR 23925, June 1, 1978).

WRITTEN COMMENTS AND HEARING

Interested persons are invited to participate in this proceeding by submitting written data, views, or comments. Communications should identify the regulatory docket number and the notice number, and must be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, 2100 Second Street SW., Washington, D.C. 20590. Communications received before March 14, 1979, will be considered before final action is taken on the proposed rules. All comments received will be available for examination by interested persons at any time during regular working hours in Room 4406, Trans Point Building, 2100 Second Street SW., Washington, D.C. 20590.

In addition, FRA will conduct a public hearing on March 7, 1979, in Room 3201, 2100 Second Street SW., Washington, D.C. at 10 a.m. The hearing will be informal, and not a judicial or evidentiary hearing. There will be no cross examination of persons making statements. A staff member of FRA will make an opening statement outlining the matter set for hearing. Interested persons will then have the opportunity to present their oral statements.

At the completion of all initial oral statements, those persons who wish to make rebuttal statements will be given the opportunity to do so in the same order in which they made their initial statements. Additional procedures for conducting the hearing will be announced at the hearing.

Interested persons may present oral or written statements at the hearing. All statement will be made a part of the record of the hearing and will be a matter of public record. Any person who wishes to make an oral statement at the hearing should notify the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, 2100 Second Street SW., Washington, D.C. 20590 (Phone 202-426-8836), before March 2, 1979, stating the amount of time required for the initial statement.

The proposals contained in this notice may be changed in light of the oral statements made at the public hearing, or the written comments submitted in response to this notice.

THE PROPOSED RULE

In consideration of the foregoing, FRA proposes to revise Part 215 (49 Part 215) to read as follows: Part 215—Railroad Freight Car Safety Standards

Subpart A—General

Sec.
215.1 Scope of Part.
215.3 Application.
215.5 Definitions.
215.7 Prohibited Acts.
215.9 Movement of Defective Cars for Repair.

Subpart B—Freight Car Components

215.21 Scope.

SUSPENSION SYSTEM

215.23 Defective Wheel.
215.25 Defective Axle.
215.27 Defective Plain Bearing Box: General.
215.29 Journal Lubrication System.
215.31 Defective Plain Bearing.
215.33 Defective Plain Bearing Wedge.
215.35 Defective Roller Bearing.
215.37 Defective Roller Bearing Adapter.
215.39 Defective Freight Car Truck.

CAR BODIES

215.41 Defective Car Body.

DRAFT SYSTEM

215.43 Defective Couplers.
215.45 Defective Coupling Device.
215.47 Defective Draft Arrangement.

Subpart C—Periodic Inspection

215.51 Scope.
215.53 Periodic Inspection: General.
215.55 Periodic Inspection Based on Odometer Mileage.
215.57 Periodic Inspections Based on Mileage Records.
215.59 Periodic Inspections Based on Time Intervals.
215.61 Extension of Periodic Inspection Intervals.
215.63 Scope of Periodic Inspection.
215.65 Detrucking of Cars.
215.67 Repair or Replacement of Defective Components.
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APPENDICES

Appendix A—Defect Detection Gages.
Appendix B—Railroad Freight Car Components.
Appendix C—Stenciling Examples.
Appendix D—Schedule of Civil Penalties.

AUTHORITY: Secs. 202, 208, 209, Federal Railroad Safety Act of 1970, as amended (45 U.S.C. 431, 437, and 438); Sec. 1.49(a), Regulations of the Office of Transportation (49 CFR 1.49(n)).

Subpart A—General

§ 215.1 Scope of part.

This part prescribes minimum Federal safety standards for railroad freight cars.

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§ 215.3 Application.

(a) After December 31, 1979, and except as provided in paragraphs (b) and (c) of this section, this part applies to any railroad freight car on standard gauge track that is part of the general railroad system of transportation.

(b) Sections 215.51 through 215.71, and 215.93 through 215.97, do not apply to any car—

(1) Owned by a Canadian or Mexican Railroad; and

(2) Having a Canadian or Mexican reporting mark and car number.

(c) This part does not apply to a railroad freight car that is—

(1) On track inside an installation that is not part of the general railroad system of transportation;

(2) used exclusively in dedicated service as defined in § 215.5(d) of this part; or

(3) Maintenance of way equipment, or self-propelled maintenance of way equipment, if that equipment is—

(i) Used exclusively in work train service; and

(ii) Stenciled in accordance with Subpart E of this part for use exclusively in work train service.

§ 215.5 Definitions.

As used in this part—

(a) "Break" means a fracture or separation resulting in a loss of structural integrity so that the component involved can no longer perform the function for which it was designed;

(b) "Cracked" means broken or fractured without complete separation into parts, except that castings with shrinkage cracks or hot tears that do not significantly diminish the strength of the member are not considered to be "cracked;"

(c) "Railroad freight car" means a car designed to carry freight, or railroad personnel, by rail and includes a—

(1) Box car;
(2) Refrigerator car;
(3) Ventilator car;
(4) Stock car;
(5) Gondola car;
(6) Hopper car;
(7) Flat car;
(8) Special car;
(9) Caboose car;
(10) Tank car;
(11) Yard car; and
(12) Maintenance of way car not used exclusively in work train service;

(d) "Dedicated Service" means the exclusive assignment of cars to the transportation of freight between specified points under the following conditions:

(1) The cars are operated—

(i) Primarily on track which is inside an installation that is not part of the general railroad system of transportation; and

(ii) Occasionally over track that is part of the general railroad system of transportation;

(2) The cars are not operated—

(i) At speeds of more than 15 miles per hour; and

(ii) Over track that is part of the general railroad system of transportation—

(A) For more than 30 miles in one direction; or

(B) On a round trip of more than 60 miles;

(3) The cars are not freely interchanged for movement in the general railroad system of transportation;

(4) The words "Dedicated Service" are stenciled, or otherwise displayed, in clearly legible letters on each side of the car body;

(5) The cars have been examined and found safe to operate in dedicated service;

(6) The railroad must—

(i) Notify the FRA in writing that the cars are to be operated in dedicated service;

(ii) Identify in that notice—

(A) The railroads affected;

(B) The number and type of cars involved;

(C) The commodities being carried; and

(D) The territorial and speed limits within which the cars will be operated; and

(iii) File the notice required by this paragraph not less than 30 days before the cars operate in dedicated service;

(e) "High utilization car" means a car—

(1) Specifically equipped to carry trucks, automobiles, containers, trailers, or removable trailer bodies for the transportation of freight; or

(2) Assigned to a train that operates in a continuous round trip cycle between the same two points;

(f) (1) Except as provided in paragraph (f) (2) of this section, "in service", when used in connection with a railroad freight car, means that the car is

(i) On the property of a railroad; or

(ii) Within the control of a railroad.

(2) For purposes of this part a car is not considered "in service" if—

(i) A "bad order" tag is attached to the car and it is handled in accordance with § 215.9 of this part;

(ii) The car is in a shop; or

(iii) The car is on a repair track;

(g) "Railroad" means—

(1) Any entity which performs rail transportation services over standard gauge track which is a part of the general railroad system of transportation; and

(2) Any entity which—

(i) Operates or contracts for the operation of freight cars on trackage connected to the general railroad system of transportation;

(ii) Constructs, repairs, inspects, or otherwise maintains freight cars subject to this part; and

(iii) Elects to become subject to this part by written notification to FRA in accordance with § 215.69; and

(h) "State inspector" means an inspector who is participating in investigative and surveillance activities under section 206 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 435).

§ 215.7 Prohibited acts.

A railroad is subject to a penalty, as provided in Appendix D of this part, if it fails to comply with any provision of this part.

§ 215.9 Movement of defective cars for repair.

(a) If a car located within a yard has a defective component described in §§ 215.23 through 215.47, that car may only be moved as follows:

(1) A "bad order" tag describing each defect must be applied to each side of the car.

(2) The car may only be moved to a repair track, or storage track.

(3) The car may not be moved at speeds of more than 10 miles per hour.

(4) Except as provided in paragraph (b) of this section, the car may not be moved beyond the yard in which it is found to be defective.

(b) A car described in paragraph (a) of this section may be moved beyond the yard in which it is found to be defective if—

(1) It cannot be repaired in that yard; and

(2) It is moved in accordance with paragraph (c) of this section.

(c) If a car located outside a yard has a defective component described by §§ 215.23 through 215.47, that car may only be moved as follows:

(1) The car must be moved to the nearest point, or the nearest forward repair point, where the repairs can be made.

(2) The car may not be moved until the following is determined by the railroad:

(i) that it is safe to move the car.

(ii) The maximum speed, and any other restrictions, necessary for safely moving the car.

(3) The car may not be moved until the person in charge of the train in which the car is located—

(i) Is notified in writing that the car will be moved; and

(ii) Notifies all other crew members of—

(A) The presence of the defective car; and

(B) The maximum speed and other restrictions determined under paragraph (c)(2)(ii) of this section.

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(4) A "bad order" tag containing the following information must be securely attached to each side of the car:

(i) The reporting mark and car number.

(ii) The name of the inspecting railroad.

(iii) The inspection location and date.

(iv) The nature of the defect and movement restrictions.

(v) The destination for shopping or repair.

(vi) The signature of the person who made the determinations required by paragraph (c)(2) of this section.

(d) If a "bad order" tag is used—

(1) The person who removes the tag must—

(i) Note on the tag the date, location, and reason for its removal; and

(ii) Sign the tag; and

(2) The railroad must—

(i) Maintain for 90 days a record or copy of each tag attached to, or removed from, a car; and

(ii) Make available to an FRA inspector, or State inspector, upon request, each record or copy it maintains under paragraph (d)(2)(i) of this section.

Subpart B—Freight Car Components

§ 215.21 Scope

This subpart contains safety requirements prohibiting a railroad from placing or continuing in service a freight car that has certain defective components.

Suspension System

§ 215.23 Defective wheel.

A railroad may not place or continue in service a car, if—

(a) A wheel flange on the car is worn to a thickness of ⅞ of an inch, or less, at a point ⅝ of an inch above the tread of the wheel;

(b) The height of a wheel flange on the car, from the tread to the top of the flange, is 1½ inches, or more;

(c) The thickness of a rim of a wheel on the car is $1\frac{31}{32}$ of an inch, or less;

(d) A wheel rim, flange, plate, or hub area on the car has a radial crack or break;

(e) A wheel on the car has a chip in the flange that is 1½ inches in length and ½ inch in width, or more;

(f) A wheel on the car has a shell or spall that is one inch in diameter, or more, in any area;

(g) A wheel on the car has—

(1) A slid flat spot that is more than 2½ inches in length; or

(2) Two adjoining flat spots each of which is more than two inches in length;

(h) A wheel on the car shows evidence of being loose as indicated by oil seepage on the back hub, or back plate; or

(i) A wheel on the car shows signs of having been overheated as evidenced by a reddish brown discoloration, on the front or back face of the rim, that extends more than four inches into the plate area.

§ 215.25 Defective axle.

A railroad may not place or continue in service a car, if—

(a) An axle on the car has a radial crack or is broken;

(b) An axle on the car has a gouge in the surface that is—

(1) Between the wheel seats; and

(2) More than one eighth inch in depth;

(c) An axle on the car, used in conjunction with a plain bearing, has an end collar that is broken or cracked;

(d) A journal on the car shows evidence of overheating, as evidenced by a pronounced blue black discoloration; or

(e) The surface of the plain bearing journal on the axle, or the fillet on the axle, has—

(1) A ridge;
(2) A depression;
(3) A circumferential score;
(4) Corrugation;
(5) A scratch;
(6) A continuous streak;
(7) Pitting;
(8) Rust; or
(9) Etching.

§ 215.27 Defective plain bearing box: General.

A railroad may not place or continue in service a car, if the car has—

(a) A plain bearing box that does not contain visible freeoil; or

(b) The box lid is missing, broken, or otherwise not preventing contaminants from entering the box; or

(c) A plain bearing box containing foreign matter, such as dirt, sand, or coal dust, that can reasonably be expected to—

(1) Damage the bearing; or

(2) Have a deterimental effect on the lubricant in the box.

§ 215.29 Defective plain bearing box: Journal lubrication system.

A railroad may not place or continue in service a car, if the car has a plain bearing box with a lubricating pad that—

(a) Has a tear extending half the length or width of the pad, or more;

(b) Shows evidence of having been scorched, burned, or glazed;

(c) Contains any decaying or deteriorated fabric that impairs proper lubrication of the pad;

(d) Has—

(1) An exposed center core; or

(2) Metal parts contacting the journal; or

(e) Is—

(1) Missing; or

(2) Damaged to the extent that it is not in contact with the journal.

§ 215.31 Defective plain bearing.

A railroad may not place or continue in service a car, if the car has a plain bearing—

(a) That is missing, cracked, or broken;

(b) On which the bearing liner is—

(1) Loose; or

(2) Broken out; or

(c) That shows signs of having been overheated, as evidenced by—

(1) Melted babbit;

(2) Smoke from hot oil; or

(3) Journal surface damage.

§ 215.33 Defective plain bearing wedge.

A railroad may not place or continue in service a car, if a plain bearing wedge is—

(a) Missing;

(b) Cracked; or

(c) Broken.

§ 215.35 Defective roller bearing.

(a) A railroad may not place or continue in service a car, if the car has—

(1) A roller bearing that shows signs of having been overheated as evidenced by—

(i) Discoloration; or

(ii) Other tell-tale signs of overheating such as damage to the seal or distortion of any bearing component;

(2) A roller bearing with a—

(i) Loose or missing cap screw; or

(ii) Broken, missing, or improperly applied cap screw lock;

(3) A roller bearing with a loose, damaged, or non-functioning seal that permits loss of lubricant.

(b)(1) A railroad may not continue a car in service, if the car has a roller bearing that has been involved in a derailment, or submerged in water, unless that bearing has been inspected in accordance with paragraph (b)(2) of this section, and repaired if found to be defective.

(2) Each roller bearing that has been submerged in water, and each roller bearing involved in a derailment, must be disassembled from the axle for inspection unless the bearing—

(i) Was involved in a derailment at speeds of less than 10 miles per hour;

(ii) Was dragged on the ground for a distance of less than 200 feet;

(iii) Shows no external signs of damage; and

(iv) Makes no unusual bearing noise when wheel set is spun freely.

§ 215.37 Defective roller bearing adapter.

A railroad may not place or continue in service a car, if the car has—

(a) A roller bearing adapter that is cracked or broken; or

(b) A roller bearing adapter that is worn to the extent that the adapter is marking the seal assembly.

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§ 215.39 Defective freight car truck.

A railroad may not continue in service a car, if the car has—

(a) A side frame or bolster that—

(1) Is broken; or

(2) Has a crack of one-fourth of an inch or more in the transverse direction on a tension member;

(b) A truck equipped with snubbing units, attachments, or wear plates that are worn to the extent that the snubbing—

(1) Is ineffective; or

(2) Contains snubbing units that are broken;

(c) Side bearings in any of the following conditions:

(1) A car truck side bearing assembly is missing or broken;

(2) The bearings at one end of the car, on both sides, are in contact with the body bolster, except by design;

(3) The bearings at one end of the car have a total clearance from the body bolster of more than three-fourths of an inch; or

(4) At diagonally opposite sides of the car, the bearings have a total clearance from the body bolsters of more than three-fourths of an inch.

(d) Truck springs—

(1) That do not maintain travel or load;

(2) That are compressed solid; or

(3) More than one outer spring of which is broken, or missing in the spring cluster;

(e) Interference between the truck bolster and the center plate that prevents proper truck rotations;

(f) Brake beam shelf support worn so excessively that it does not support the brake beam; or

(g) Less than 2½ inches clearance above the top of rail.

CAR BODIES

§ 215.41 Defective car body.

A railroad may not place or continue in service a loaded or empty car, if—

(a) Any portion of the car body has less than a 2½ inch clearance from the top of rail;

(b) The car center sill is—

(1) Broken;

(2) Cracked; or

(3) Permanently bent or buckled more than 2½ inches in any six foot length;

(c) The car has a type F coupler carrier that is—

(1) Broken; or

(2) Missing;

(d) The car is a box car, the side doors of which are not equipped with operative safety hangers, or the equivalent, to prevent the doors from becoming disengaged; or

(e) The car has a center plate that is not properly secured, or any portion of which is missing.

DRAFT SYSTEM

§ 215.43 Defective couplers.

A railroad may not place or continue in service a car, if—

(a) The car is equipped with a coupler shank that is bent out of alignment to the extent that the coupler will not couple automatically with the adjacent car;

(b) The car has a coupler that has a crack in the highly stressed junction area of the shank and head as shown in Figure 11 of the current part 215.

(c) The car has a coupler knuckle that is—

(1) Cracked; or

(2) Broken;

(d) The car has a knuckle pin or knuckle thrower that is—

(1) Missing; or

(2) Inoperative; or

(e) The car has a coupler retainer pin lock that is—

(1) Missing; or

(2) Broken.

§ 215.45 Defective coupling device.

A railroad may not place or continue in service a car, if the car has an uncoupling device without sufficient vertical and lateral clea. ance to prevent—

(a) Fouling on curves; or

(b) Unintentional uncouplings.

§ 215.47 Defective draft arrangement.

A railroad may not place or continue in service a car, if—

(a) The car has a draft gear that—

(1) Has more than one inch of free slack; or

(2) Is inoperative;

(b) The car has a broken yoke.

(c) The car has a sliding sill that is inoperative;

(d) An end of car cushioning unit is—

(1) Leaking; or

(2) Inoperative;

(e) A vertical coupler pin retainer plate—

(1) Is missing (unless by design); or

(2) Has a missing fastener; or

(f) The car has a draft key, or draft key retainer, that is—

(1) Inoperative; or

(2) Missing.

Subpart C—Periodic Inspection

§ 215.51 Scope.

This subpart contains requirements applicable to the periodic inspection of railroad freight cars.

§ 215.53 Periodic inspection: General.

(a) A railroad may not place or continue in service any railroad freight car that has not been given a periodic inspection required by this subpart.

(b) Notwithstanding any other provision of this subpart, the following conditions must be observed:

(1) Each initial periodic inspection must be performed in accordance with § 215.59.

(2) After the initial periodic inspection is performed, a railroad may elect to perform any subsequent periodic inspection on the basis of odometer mileage, mileage records, or time intervals, but that election may only be made at the time a required periodic inspection is completed.

§ 215.55 Periodic inspection based on odometer mileage.

(a) Except as provided in § 215.53(b) the periodic inspection required by this subpart may be based on odometer mileage if—

(1) The car is equipped with an odometer to record the total accumulated mileage;

(2) The odometer can—

(i) Record mileage within a margin of error of three percent; and

(ii) Record accumulated mileage with the car operating in either direction;

(3) The odometer is tamper proof; and

(4) The odometer remains in the car and is maintained in effective operating condition throughout the service life of the car.

(b) A periodic inspection based on odometer mileage must be performed as follows:

(1) Except as provided in paragraph (b)(2) of this section, a car may not be operated for more than 100,000 miles without receiving a periodic inspection.

(2) A new car, or a reconditioned car, may not be operated for more than 200,000 miles without receiving periodic inspection.

§ 215.57 Periodic inspections based on mileage records.

(a) Except as provided in § 215.53(b), the periodic inspection required by this subpart may be based on mileage records if those records—

(1) Are accurately and currently maintained; and

(2) Reflect the total actual miles the car travels in assigned services.

(b) Periodic inspections based on mileage records shall be given in accordance with the mileage intervals specified in § 215.55(b).

§ 215.59 Periodic inspections based on time intervals.

(a) The periodic inspection required by this subpart may be based on the time intervals set forth in paragraphs (b) through (d) of this section.

(b) A car other than "high utilization" car must have been—

(1) Inspected within there preceding 48 months; or

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(2) Originally constructed or reconditioned within the preceding 96 months.

(c) Except as provided in paragraph (d) of this section, a "high utilization" car must have been—

(1) Inspected within the preceding 12 months; or

(2) Originally constructed or reconditioned within the preceding 24 months.

(d) A "high utilization" car for which a railroad maintains and makes available to the Federal Railroad Administration a mileage record sufficient to show that the car traveled less than 25,000 miles during the preceding 12 months may be operated if that car—

(1) Meets the inspection requirements of paragraph (b) of this section; and

(2). Is stenciled in accordance with Subpart E of this part.

§ 215.61 Extension of periodic inspection intervals.

(a) A railroad may petition the Administrator for an extension of the periodic inspection intervals prescribed by § 215.55 through § 215.59.

(b) A petition submitted under paragraph (a) of this section must include, with respect to the cars for which the extension is sought—

(1) A description of the components used in the cars;

(2) A description of the maintenance performed on the cars;

(3) A history of the service performance of the cars, including—

(i) Wear rates of components;

(ii) Critical component failures;

(iii) Any accidents in which the cars were involved;

(iv) Any other pertinent "in service" information; and

(v) A proposed schedule for inspecting the items listed in § 215.63(b) through (l).

(c) The Administrator grants a request for extension if satisfied that the extension is justified based on the high quality of—

(1) Components used;

(2) Maintenance performed; and

(3) Performance of the cars.

(d) A request for extension will not be granted if the cars for which the request is made are—

(1) More than 20 years old; or

(2) Other than high utilization cars.

§ 215.63 Scope of periodic inspection.

(a) The periodic inspection required by this subpart must include an inspection of the items listed in paragraphs (b) through (l) of this section.

(b) Plain bearings must be inspected for the following defects:

(1) Wear at either end of the bearing that reduces the length of the bearing by more than one-fourth of an inch.

(2) Combined wear that reduces the length of the bearing by more than ⅜ of an inch.

(3) More than ⅛ inch of wear on a bearing lug.

(4) Combined wear on both sides of a bearing lug extension of more than ¼ of an inch.

(5) Wear on the bearing lining through the brass, more than ⅜ of an inch above the lower edge of the brass sidewall, as shown in Figure 6 of the current Part 215.

(c) Journals on plain bearing axles must be inspected for the defects due to wear beyond the limit set forth in Figure 6 of the current Part 215.

(d) Plain bearing wedges must be inspected for the following defects:

(1) Wear at the contact surfaces of the bearing wedge that has reduced the length of the wedge by more than 5/16 of an inch.

(2) A bearing wedge bottom surface unevenness of more than 1/64 of an inch.

(3) Wear on the top of a bearing wedge beyond the following limits:

Nominal journal size inches:	*Wear limit flat lengthwise inches*[1]
4¼ by 8	3¼
5 by 9	4
5½ by 10	4⅛
6 by 11	5
6½ by 12	5⅛

[1] Dimension C in Fig. 7 of the current Part 215.

(e) Plain bearing boxes must be inspected for defects in the—

(1) Journal

(2) Journal bearing;

(3) Wedge;

(4) Journal stop; and

(5) Box lid seal.

(f) Roller bearing adapters must be inspected for the following defects:

(1) Wear on the crown of the adapter to the extent that the frame bears on the relief portion of the adapter, as shown in Figure 8 of the current Part 215.

(2) Wear on the thrust shoulder of narrow adapters more than .025 inch on either side, as measured by Gage No. 8 in the Figure 9 of the current Part 215.

(g)(1) Car trucks must be inspected for wear on corrosion through more than 25 percent of the cross section.

(2) Surfaces in friction snubber pockets, gibs, column guides and cast integral brake beam supports, that have been worn or corroded through not more than 40 percent of the cross section may be restored to the original cross section by welding without the necessity for heat treatment, but all friction surface welds must be smooth and free of slag.

(h) Car bodies must be inspected for the following defects:

(1) Any crack in the center plate.

(2) Wear in the center plate to the extent that the clearance between the center plate and the truck bolster bowl exceeds ¼ of an inch.

(3) A break or crack in a sidesill, crossbearer, or body bolster that has caused a loss of structural integrity.

(i) Couplers must be inspected for the following defects:

(1) A coupler shank is bent out of alignment with the head by more than 5/16 of an inch.

(2) A coupler shank is worn more than 5/16 of an inch.

(3) A vertical coupler pin retainer plate is worn more than 25 percent.

(4) The distance between the coupler guard arm and the knuckle nose is more than 5 5/16 inches.

(5) A coupler lacks anticreep protection.

(6) Spring support carriers—

(i) Are not operative;

(ii) Have one or more broken springs; or

(iii) Do not maintain sufficient spring capacity to support the coupler at a height of between 31½ inches and 34½ inches.

(j) Uncoupling devices must be inspected for a defective lever, on a bottom operated coupler, having a clearance of less than ¼ of an inch between the operating rod eye and the locklift lever when—

(1) The coupler is centered; and

(2) The knuckle is fully closed and locked.

(k) Draft arrangements must be inspected for the following defects:

(1) A transverse crack in a corner of a yoke strap.

(2) A yoke strap worn through more than 25 percent of its cross section area.

(3) A missing (except by design) or broken—

(i) Follower plate;

(ii) Draft lug; or

(iii) Fastener.

(4) A draft key worn more than 25 percent.

(5) A draft gear that—

(i) Is worn to the extent that it is inoperative; or

(ii) Has a support plate that is worn through more than one half of its cross section area.

(l) Cushioning units must be inspected for the following defects:

(1) An end of car unit with support plates is worn more than 25 percent.

(2) A key retainer is missing.

(3) A restraining mechanism is inoperative.

(4) A sliding sill is bent to the extent that it will not slide freely on a guide.

(5) A sliding sill restoring arrangement is inoperative.

(6) A hydraulic cushioning unit—

(i) Is leaking oil; or

(ii) Has a friction unit that is worn to the extent that the unit is ineffective or inoperative.

§ 215.65 Detrucking of cars.

During the periodic inspection required by this subpart—

(a) Each car must be detrucked; and

(b) Each truck must be disassembled to the extent necessary to fully examine each component described by this subpart.

§ 215.67 Repair or replacement of defective components.

If a component described in §§ 215.23 through 215.47, or in § 215.63, is discovered to be defective during a periodic inspection required by this subpart, that component must be repaired or replaced before the car is returned to service.

§ 215.69 Facilities where periodic inspections may be conducted.

(a) The periodic inspection required by this subpart must be conducted by a railroad at a facility which has the equipment needed to perform the inspection.

(b) The stenciled information required by § 215.95 relating to the periodic inspection may be affixed only—

(1) By the railroad which conducted the inspection;

(2) At the facility where the inspection was conducted; and

(3) After completion of the inspection.

(c) (1) A railroad described in subparagraph (2) of § 215.5(g) which conducts any periodic inspection must have on file with the Associate Administrator for Safety, FRA, a current statement of election to become subject to this part.

(2) The statement of election must be submitted to the Associate Administrator for Safety (RRS-25), FRA, Washington, D.C. 20590. Filing of a statement of election is complete or acknowledgement by FRA that the statement has been received and contains the information required.

(3) When FRA acknowledges receipt of a properly executed statement of election, FRA assigns an identifying stencil code which must be used as the railroad identification for purposes of Subpart E of the part.

(4) A statement of election may be withdrawn by written request submitted to the Associate Administrator for Safety by registered or certified mail.

§ 215.71 Reconditioned cars.

(a) For the purpose of this subpart, a car is considered "reconditioned" if it—

(1) Is equipped with roller bearings;

(2) Is less than 20 years old, as measured from the date it was originally built; and

(3) Complies with the requirements set forth in paragraph (b) of this section.

(b) A car is not considered "reconditioned" unless it meets the following requirements:

(1) The wheels on the car shall—

(i) Be in compliance with § 215.23; and

(ii) Have not less than 50 percent of useful tread wear remainig.

(2) All truck side frames shall be free of cracks described as defects under § 215.39.

(3) All truck bolsters shall be free of cracks described as defects in § 215.39.

(4) There shall be sufficient vertical clearance between the center plate and body bolster to ensure that no binding will occur.

(5) Welds or fasteners used to attach the center plate to the body bolster shall comply with the following, as applicable:

(i) Welds shall be free of cracks.

(ii) Fasteners shall be securely fastened.

(6) Snubbing units shall have—

(i) Available friction material; or

(ii) Not less than 75 percent of their usable service metal.

(7) Hydraulic snubbing units, used in conjunction with truck springs, shall be—

(i) Operative; and

(ii) Free of defects, including leakage of hydraulic fluid

(8) Draft gears shall—

(i) Be operative; and

(ii) Have friction metal surfaces with sufficient material to ensure that the gears will function at their rated capacities.

(9) Cushioning units shall—

(i) Be operative; and

(ii) Have no evidence of—

(A) Excessive wear on supporting surfaces; or

(B) Leakage of hydraulic fluid used in the cushioning system.

(10) Couplers shall be free of cracks described as defects in § 215.43.

(11) The components in the car body underframe, in critical structural areas, shall be free of cracks.

(12) Each door on the side of the car shall be equipped with safety attachments to prevent the door from disengaging from the car.

(13) The following car components must be new or the equivalent in quality:

(i) Truck side frame wear surfaces, including wear plates.

(ii) Center plate bowls.

(iii) Side bearings

(iv) The center plate attachment to the underframe.

(v) Bolster gibs.

(vi) Truck springs.

(vii) Draft gears, pockets, and attachments.

(viii) Couplers, including wear surfaces, which must be restored to their original dimensions.

(ix) Door attachments, including tracks.

(c) A car may be classified as "reconditioned" only at the time it is given a periodic inspection.

Subpart D—Prohibited and Restricted Equipment

§ 215.81 Scope.

This subpart contains requirements prohibiting or restricting the use of certain railroad freight cars.

§ 215.83 Prohibited cars.

A railroad may not place or continue in service a railroad freight car equipped with any design or component described in Section I of Appendix B to this part.

§ 215.85 Restricted cars.

(a) This section restricts the operation of any railroad freight car that is—

(1) More than 50 years old, measured from the date of original construction;

(2) Equipped with any design or type component listed in section II of Appendix B to this part; or

(3) Equipped with a Duryea underframe constructed before April 1, 1950, except for a caboose which is operated as the last car in a train.

(b) A railroad may not continue in service a railroad freight car described in paragraph (a) of this section, except under conditions approved by the Federal Railroad Administrator.

(c)(1) A railroad may petition the Administrator to continue in service a car described in paragraph (a) of this section.

(c)(2) Petitions must—

(i) Be submitted not less than 90 days before the car is to be operated;

(ii) Be submitted in triplicate; and

(iii) State or describe the following:

(A) The name and principal business address of the petitioning railroad.

(B) The name and address of the entity that controls the operation and maintenance of the car involved.

(C) The number, type, capacity, reporting marks, and car numbers of the cars, their condition, status, and age measured from the date of original construction.

(D) The design, type component, or other item that causes the car to be restricted.

(E) The maximum load the cars would carry.

(F) The maximum speed at which the cars would be operated.

(G) That each car has been examined and found to be safe to operate under the conditions set forth in the petition.

(d) Petitions submitted under paragraph (c) of this section are subject to the following:

(1) Within 45 days after receipt of the petition, the Administrator notifies the railroad of a decision.

(2) The railroad may petition the Administrator to reconsider the decision.

(3) A petition for reconsideration shall be filed within 30 days after the railroad receives notice of the decision.

(e) The Administrator does not grant a petition to continue in service a car described in paragraph (a) of this section, if—

(1) The car is used in interchange service; or

(2) The car is—

(i) Used to transport commodities identified by the Hazardous Materials Regulations in Parts 170-189 of this title; and

(ii) Required to be placarded under Subpart C of Part 174 of this title.

Subpart E—Stenciling

§ 215.91 General.

The railroad or private car owner reporting mark, the car number, and built date shall be stenciled, or otherwise displayed, in clearly legible letters and numbers not less than seven inches high except those of built date which shall not be less than one inch high—

(a) On each side of each railroad freight car body; and

(b) In the case of a tank car, in any location that is visible to a person walking at track level along side the car.

§ 216.93 Stenciling of restricted cars.

(a) Each restricted railroad freight car that is described in § 215.85(a) of this part shall be stenciled, or marked—

(1) In clearly legible letters; and

(2) In accordance with paragraphs (b) and (c) of this section.

(b) The letter "R" shall be—

(1) Placed immediately below or to the right of the car number;

(2) The same color as the reporting mark; and

(3) The same size as the reporting mark.

(c) The following terms, to the extent needed to completely indicate the basis for the restricted operation of the car, shall be placed on the car following the symbol "R" in letters not less than one inch high:

(1) Age.
(2) Coupler.
(3) Draft.
(4) Bearings.
(5) Truck.
(6) Underframe.
(7) Wheels.
(8) Yoke.

§ 215.95 Stenciling of cars receiving a periodic inspection.

(a) The following information shall be stenciled on each car that has received a periodic inspection under § 215.55, based on odometer mileage:

(1) If the car has been reconditioned—

(i) The date the car was last reconditioned; and

(ii) The location where the car was last reconditioned.

(2) The date of the last periodic inspection.

(3) The mileage at the time the last periodic inspection was performed.

(4) The location at which the last periodic inspection was performed.

(5) The name or assigned stencil code of the railroad that performed the last periodic inspection.

(6) The mileage indicating when the next periodic inspection is required.

(b) The following information shall be stenciled on each car that has received a periodic inspection, under § 215.57, based on mileage records:

(1) If the car has been reconditioned,

(i) The date the car was last reconditioned; and

(ii) The location where the car was last reconditioned.

(2) The date of the last periodic inspection.

(3) The name or assigned stencil code of the railroad that performed the last periodic inspection.

(4) The estimated date on which the next inspection will be required.

(c) The following information shall be stenciled on each car that has received a periodic inspection, under § 215.59, based on time intervals:

(1) If the car has been reconditioned—

(i) The date the car was last reconditioned; and

(ii) The location where the car was last reconditioned.

(2) The date of the last periodic inspection.

(3) The location at which the last periodic inspection was performed.

(4) The name or assigned stencil code of the railroad that performed the last periodic inspection.

(d) The following information must be stenciled on each car that has received a periodic inspection under § 215.61, based on an approved extension of a periodic inspection interval:

(1) If the car has been reconditioned—

(i) The date the car was last reconditioned; and

(ii) The location where the car was last reconditioned.

(2) The date of the last periodic inspection.

(3) The name or assigned stencil code of the railroad that reconditioned the car.

(4) The estimated date on which the next inspection will be required, if the inspection will be based on mileage records, or the mileage indicating when the next periodic inspection will be due, if the inspection will be based on odometer mileage.

§ 215.97 Periodic inspection: Type of stenciling required.

The information required by § 215.95 shall be applied to the car as follows:

(a) It shall be stenciled, or otherwise displayed, in a tabular form as described in Appendix C of this part.

(b) It shall be stenciled, or otherwise displayed, in clearly legible letters and numbers not less than one inch high.

(c) It shall be stenciled, or otherwise displayed, near either end on each side of each railroad freight car body.

§ 215.99 Stenciling of cars used in work train service.

(a) Each car used exclusively in work train service shall be stenciled, or marked—

(1) In clearly legible letters; and

(2) In accordance with paragraphs (b) and (c) of this section.

(b) The letters "MW" must be—

(1) Placed adjacent to the car number on each side of the car; and

(2) The same size as the reporting mark.

(c) The words "FRA EXEMPT" must be—

(1) Placed on the car immediately following the letters "MW"; and

(2) Not less than three inches high.

(Secs. 202, 208, and 209, Federal Railroad Safety Act of 1970, as amended (45 U.S.C. 431, 437, and 438); Sec. 1.49(n), Regulations of the Office of the Secretary of Transportation (49 CFR 1.49(n)).)

Issued in Washington, D.C., on December 29, 1978.

JOHN M. SULLIVAN,
Administrator.

[FR Doc. 79-432 Filed 1-4-79; 8:45 am]

[4310-55-M]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Port 26]

RUBY LAKE NATIONAL WILDLIFE REFUGE, NEV.

Public Entry and Use; Proposed Special Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed special regulations.

SUMMARY: This rule proposes special regulations governing boating use at the Ruby Lake National Wildlife Refuge. The intent is to establish

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boating regulations consistent with the primary purposes for which the refuge was established by setting opening dates and horsepower limitations for boats.

DATES: Comments must be received on or before February 5, 1979. The proposed effective period of these special regulations will be (30 days from the date of publication of the final rule) to December 31, 1979.

ADDRESS: Send comments to: Area Manager, U.S. Fish and Wildlife Service, 2800 Cottage Way, Room E-2740, Sacramento, California 95825.

FOR FURTHER INFORMATION CONTACT:

Patrick L. O'Halloran, Area Office, U.S. Fish and Wildlife Service, 2800 Cottage Way, Room E-2740, Sacramento, California 95825, telephone: 916-484-4664.

SUPPLEMENTARY INFORMATION: The primary author of this document is Lawrence G. Kline.

BACKGROUND

Final regulations for 1978 were published in the FEDERAL REGISTER on April 21, 1978 (43 FR 16981). On June 29, 1978, a lawsuit was filed in the United States District Court, Washington, D.C., against the Secretary of the Interior, the Assistant Secretary for Fish and Wildlife and Parks, and the Director, Fish and Wildlife Service, by the Defenders of Wildlife, et al., (Civil Action No. 78-1210). Following two days of trial on the matter, the District Court on July 11 declared the April 21 regulations invalid because the Secretary failed to make a finding that the permitted recreational use would not be inconsistent with the primary purposes for which the refuge was established.

Revised regulations for 1978 were published in the FEDERAL REGISTER on July 25, 1978 (43 FR 32133). These regulations were also challenged in an action brought by the Defenders of Wildlife (Civil Action No. 78-1332), and on August 18 were declared invalid by the District Court. The Secretary was then ordered to issue new regulations within 15 days "which permit secondary uses of Ruby Lake only insofar as such usages are not inconsistent with the primary purposes for which the refuge was established." Such regulations were issued on September 7, 1978 (43 FR 39798).

The Ruby Lake Migratory Waterfowl Refuge (now known as Ruby Lake National Wildlife Refuge) was established by Executive Order No. 7923, dated July 2, 1938, "for the use of the Department of Agriculture as a refuge and breeding ground for migratory birds and other wildlife." The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires that before any area of the refuge system is used for forms of recreation not directly related to the primary purposes and functions of the area, the Secretary must find that: (1) such recreational use will not interfere with the primary purposes for which the area was established; and (2) funds are available for the development, operation, and maintenance of the permitted forms of recreation.

DISCUSSION

The recreational use authorized by these regulations will not interfere with the primary purposes for which the Ruby Lake National Wildlife Refuge was established. This determination is based upon consideration of, among other things, the Service's Environmental Impact Assessment published in June 1976, public comment received on earlier proposed rules, public comment on the assessment, and the evidence presented during litigation of the court cases cited herein. Funds are available for the administration of the recreational activities permitted by these regulations.

As provided by 50 CFR 26.33, the Service hereby issues the following proposed regulations:

§ 26.34 Special regulations concerning public access, use and recreation for Ruby Lake National Wildlife Refuge, Nevada.

Beginning on June 15, 1979, and continuing until December 31, 1979, motorless boats and boats with electric motors will be permitted only on that portion of the Ruby Lake National Wildlife Refuge known as the South Sump. Beginning on August 1, 1979, and continuing until December 31, 1979, boats with a single motor rated 10 horsepower or less will also be permitted on the South Sump of the refuge. Water skiing or the use of jet skis will not be permitted. Boats may be launched only from landings approved and designated by the Refuge Manager.

Maps depicting the South Sump are available from the Refuge Manager and are posted at the boat landings. Copies of the maps can also be obtained from: (1) the Regional Director, U.S. Fish and Wildlife Service, Lloyd 500 Building, Suite 1692, 500 Northeast Multnomah Street, Portland, Oregon 97232; and (2) the Area Manager, U.S. Fish and Wildlife Service, 2800 Cottage Way, Room E-2830, Sacramento, California 95825.

NOTE.—The Department has determined that this document is not a significant rule and does not require the preparation of a regulatory analysis under Executive Order 12044.

Dated: December 4, 1978.

WILLIAM D. SWEENEY,
Area Manager, California-Nevada, U.S. Fish and Wildlife Service.

[FR Doc. 79-461 Filed 1-4-79; 8:45 am]

[3510-22-M]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Part 662]

PROPOSED AMENDMENT TO EIS/FMP FOR NORTHERN ANCHOVY FISHERY MANAGEMENT PLAN

Correction to Notice of Public Hearing

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Amendment to notice of public hearing.

SUMMARY: The Pacific Fishery Management Council will conduct a public hearing at its January meeting to receive input on a proposed amendment to the Environmental Impact Statement/Fishery Management Plan for Northern Anchovy for the 1979-80 fishing season. The following information was omitted from the notice (43 FR 60970): In addition the proposed amendment would specify information to be collected from domestic anchvoy processors and revise the formula for annual determination of the total allowable level of foreign fishing.

FOR FURTHER INFORMATION CONTACT:

Mr. Lorry Nakatsu, Executive Director, Pacific Fishery Management Council, 526 S. W. Mill Street, Second Floor, Portland, Oregon 97201, Telephone: (503) 221-6352.

Signed in Washington, D.C., this 28th day of December, 1978.

WINFRED H. MEIBOHM,
Acting Executive Director, National Marine Fisheries Service.

[FR Doc. 79-435 Filed 1-4-79; 8:45 am]

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-34-M]

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

CONTAGIOUS EQUINE METRITIS (CEM)

Meeting

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of public meeting.

SUMMARY: The purpose of this document is to give notice of an informal public meeting concerning the possibility of establishing conditions for the importation of stallions and other male equidae into the United States from countries infected with contagious equine metritis (CEM) following certain procedures heretofore not recognized by the United States Department of Agriculture.

PLACE, DATE AND TIME OF MEETING: Room 2096, South Building, Department of Agriculture, 14th Street and Independence Avenue SW., Washington, D.C., January 12, 1979, at 1:30 p.m. to 3:30 p.m.

SUPPLEMENTAL INFORMATION: This meeting is sponsored by the Department of Agriculture for the purpose of exchanging views and information relating to the feasibility of establishing conditions for the importation of stallions and other male equidae from countries infected with CEM following procedures heretofore not recognized by the United States Department of Agriculture. The scrubbing and packing procedures outlined in the Kentucky Code of Practice for CEM will serve as the basis for this discussion. An APHIS representative will serve as chairman at this informal public meeting, and an agenda will be prepared to outline background information. Certain presentations by Agency personnel will be scheduled at this meeting to provide resource information.

This meeting is open to the public. Written statements concerning this matter may be filed with the Department of Agriculture on or before January 12, 1979.

All written submissions made pursuant to this notice will be made available for public inspection at the Federal Building, 6505 Belcrest Road, Room 739, Hyattsville, MD, during regular hours of business (8 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

Further information may be obtained from the written statements may be submitted to Dr. R. C. Knowles, Chief, Staff Veterinarian, Sheep, Goat, Equine, and Ectoparasites Staff, Veterinary Services, APHIS, USDA, Room 739, Federal Building, Hyattsville, MD 20782, 301-436-8434.

Dated: January 3, 1979.

M. T. GOFF,
Acting Deputy Administrator, Veterinary Services.

[FR Doc. 79-586 Filed 1-4-79; 8:45 am]

[3410-30-M]

Food and Nutrition Service

SCHOOL BREAKFAST PROGRAM

National Average Payment for the Period January 1 to June 30, 1979

Pursuant to Section 11 of the National School Lunch Act (42 U.S.C. 1759a) and § 220.4 and § 220.9 of the regulations governing the School Breakfast Program (7 CFR Part 220), notice is hereby given that the national average payment factors for breakfasts served during the six-month period January 1-June 30, 1979, to children participating in the School Breakfast Program shall be: (a) 12.75 cents for all breakfasts; (b) an additional 23.75 cents for each reduced price breakfast, and (c) an additional 31.75 cents for each free breakfast. The total amount of breakfast assistance payments to be made to each State agency from the sums appropriated therefor, shall be based upon such national average factors: *Provided, however,* That additional payments shall be made in such amounts as are needed to finance reimbursement rates assigned for especially needy schools under § 220.9

The above factors represents a 4.82 percent increase in the factors prescribed for the period July 1-December 31, 1978. This represents the percent of increase during the six-month period May-December 1978 (from 215.6 in May to 226.0 in November) in the series for food away from home of the Revised Wage Earners and Clerical Workers Price Index, published by the Bureau of Labor Statistics of the Department of Labor.

For non-especially needy schools, the maximum rates of reimbursement for paid breakfasts, for reduced price breakfasts, and for free breakfasts shall be equal to the respective factors set out above.

For especially needy schools, the maximum rates of reimbursement are established pursuant to Section 4(b) of the Child Nutrition Act of 1966 as amended by Public Law 95-166, the National School Lunch Act and Child Nutrition Amendments of 1977. This law requires that these rates be computed using two methods and that the method yielding the higher rates be used. Accordingly, for especially needy schools, the maximum rate of reimbursement for paid breakfasts shall be equal to the national average factor for all breakfasts, and the maximum rate of reimbursement for reduced price and free breakfasts shall be 49.50 and 54.50 cents, respectively.

Definitions. The terms used in this notice shall have the meanings ascribed to them in the regulations governing the School Breakfast Program (7 CFR Part 220) and the regulations for Determining Eligibility for Free and Reduced Price Meals and Free Milk in Schools (7 CFR Part 245).

(Catalog of Federal Domestic Assistance Program No. 10.553)

Effective date: This notice shall be effective as of January 1, 1979.

AUTHORITY: Pub. L. 93-150; 87 Stat. 561; 42 U.S.C. 1760a.

Dated: December 29, 1978.

CAROL TUCKER FOREMAN,
Assistant Secretary for Food and Consumer Services.

[FR Doc. 79-367 Filed 1-4-79; 8:45 am]

[3410-30-M]

NATIONAL SCHOOL LUNCH PROGRAM

National Average Payment for the Period January 1 to June 30, 1979

Pursuant to Section 11 of the National School Lunch Act (42 U.S.C. 1759a) and § 210.4 and § 210.11 of the regulations governing the National School Lunch Program (7 CFR Part 210), notice is hereby given of adjustments in the national average factors

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for payment for lunches and the maximum rates of reimbursements. The national average factors for payment for lunches served during the six-month period January 1–June 30, 1979, to children participating in the National School Lunch Program are as follows: (a) 15.75 cents from general cash-for-food assistance funds for each lunch; (b) an additional 51.50 cents from special cash assistance funds for each reduced price lunch, and (c) an additional 71.50 cents from special cash assistance funds for each free lunch. If in any State a maximum charge to students of less than 20 cents is established for reduced price lunches, the special assistance factor prescribed for reduced price lunches in such State shall be the lesser of (a) the special assistance factor for free lunches minus the maximum reduced price charge established by the State, or (b) the special assistance factor for free lunches minus 10 cents.

The total amount of general cash-for-food assistance payments and special cash assistance payments to be made to each State agency from the sums appropriated therefor, shall be based upon such national average factors.

The above factors represent a 4.82 percent increase in the factors prescribed for the period July–December 1978. This represents the percent of increase during the six-month period May–November 1978 (from 215.6 in May 1978 to 226.0 in November 1978) in the series for food away from home of the Revised Wage Earners and Clerical Workers Price Index, published by the Bureau of Labor Statistics of the Department of Labor.

For the six-month period January 1–June 30, 1979, (a) the maximum rate of reimbursement from general cash-for-food assistance funds shall be 21.75 cents per lunch served; (b) the maximum per lunch reimbursement (from a combination of general cash-for-food assistance and special cash assistance funds) shall be 102.25 cents for a free lunch and 82.25 cents for a reduced price lunch. If in any State a maximum charge to students of less than 20 cents is established for reduced price lunches, the maximum per lunch reimbursement prescribed for reduced price lunches in such State shall be the lesser of (a) maximum per lunch reimbursement for free lunches minus the maximum reduced price charge established by the State, or (b) the maximum per lunch reimbursement for free lunches minus 10 cents.

Definitions. The terms used in this notice shall have the meanings ascribed to them in the regulations governing the National School Lunch Program (7 CFR Part 210) and the regulations for Determining Eligibility for Free and Reduced Price Meals and Free Milk in Schools (7 CFR Part 245).

(Catalog of Federal Domestic Assistance Program No. 10.555.)

Effective date: This notice shall be effective as of January 1, 1979.

AUTHORITY: Pub. L. 93-150; 87 Stat. 561; 42 U.S.C. 1760a.

Dated: December 29, 1978.

CAROL TUCKER FOREMAN,
Assistant Secretary for Food and Consumer Services.

[FR Doc. 79-366 Filed 1-4-79; 8:45 am]

[3410-11-M]

Forest Service

SPECIAL SALVAGE TIMBER SALE PROGRAM

Forest Service Policy

AGENCY: Forest Service, USDA.

ACTION: Final Policy.

SUMMARY: This document sets forth policy and procedures for administering a set-aside program of preferential awards to small business firms bidding on designated special salvage timber sales. The program is to be based on a special size standard for loggers and other small forest products firms promulgated by the Small Business Administration. The policy will become part of the Forest Service Manual.

EFFECTIVE DATE: January 5, 1979.

FOR FURTHER INFORMATION CONTACT:

Jim Beavers or George Leonard, Timber Management Staff, Forest Service, Department of Agriculture, P.O. Box 2417, Washington, D.C. 20013, 202-447-4051.

SUPPLEMENTARY INFORMATION: On October 20, 1978, the Acting Chief, USDA Forest Service, published a proposed policy (43 FR 49028) which set forth operating procedures for administering a program of preferential awards to small business firms bidding on designated Special Salvage Timber Sales (SSTS). The adopted policy, set forth below, is essentially the same as that proposed.

The Forest Service and the Small Business Administration (SBA) have agreed to pilot-test the SSTS program on the following National Forests: Gallatin—Montana; Panhandle—Idaho; Mt. Baker-Snoqualmie—Washington; Willamette, Rogue, Deschutes, and Mt. Hood—Oregon; Stanislaus, Shasta-Trinity, and Plumas—California. Adjustments of Forests included in the pilot-test may be made if necessitated by program changes.

SUMMARY OF COMMENTS: Most comments received supported the proposed SSTS program There were concerns expressed, however, about several aspects of the proposal. Application of the 30/70 manufacturing requirement was questioned by several respondents. This requirement, that no more than 30 percent of the sale volume can be sold to firms with more than 500 employees, was a major area of concern at public meetings held prior to publication of the proposal. Fears were expressed by small business manufacturers that failure to include the 30/70 requirement would jeopardize their opportunity to purchase needed timber supplies. On the other hand, loggers and some manufacturers stressed the importance of market flexibility. The adopted policy provides for general application of the 30/70 requirement except in areas where it is determined that the purchaser of the SSTS sale would not have a competitive market for the logs if the requirement were applied. The Forest Service and SBA expect to monitor application of the 30/70 requirement closely during the pilot-test period to determine its impact on both firms qualified under the SSTS program and other firms.

Several respondents objected to including sales set aside under the SSTS program in the 6-month analyses for the 500-employee small business set-aside program. Volumes purchased by nonmanufacturers have historically been credited in the 6-month analyses for the 500-employee program. No change in this procedure is contemplated. Consideration was given to excluding volumes offered under the SSTS program. However, when it was decided that the 30/70 manufacturing requirement would generally apply, it was necessary to continue to credit these sales in the 6-month analysis in order to be equitable to all sizes of business.

Concern was also expressed that there was no assurance that the SSTS program would result in the harvest of additional volumes of salvage material. Consideration was given to establishing historic salvage levels for each Forest and then making only volumes in excess of this level eligible for the SSTS program. However, the levels of salvage programs tend to fluctuate rather widely in response to weather conditions, insect activity, market conditions, and levels of financing. It appeared that using such a formula approach could lead to uncertainty over the level of the program which could be maintained. This uncertainty would make it especially difficult for the small operators to plan their operations. The decision was, therefore, made to tie the SSTS program to the salvage fund provided by the National

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Forest Management Act of 1976 (NFMA). This is a new source of funding, over and above that available under regular appropriations. This source of funding, which really becomes available in significant amounts for the first time this year, is providing an increase in the overall level of salvage sales. Thus, by setting aside some of the sales funded by the NFMA salvage fund for the SSTS program, there is assurance that the program will operate on volumes in excess of what has previously been available.

The following will be added to the Forest Service Manual:

2438—Special Salvage Timber Sale Program. The Special Salvage Timber Sale Program (SSTS) is a joint program administered by the Forest Service and the Small Business Administration (SBA). It provides for preferential award of certain salvage sales, funded under Section 14(h) of the National Forest Management Act of 1976, to loggers and forest products concerns qualified under size standards promulgated by the SBA. Initially, the program will be tested on a limited number of Forests. Following an evaluation period, it is anticipated that the program will be expanded nationwide. The two Agencies plan to monitor it closely in order to be sure that it meets its objectives and does not adversely affect volumes available to small or large munufacturing concerns. Sawtimber in sales with an advertised value of $2,000 or more which are set aside under the SSTS program will be included in establishing shares and in 6-month analyses as provided in the 1971 USDA/SBA Agreement. However, sawtimber volume in SSTS sales over $2,000 awarded to nonmanufacturing concerns will be credited to the size of concern purchasing the volume for manufacture.

2438.1—Authority—The Small Business Act (15 U.S.C. 631) provides authority for the use of set-aside sales to ensure that a fair proportion of the total sales of government property be made to small business firms. SBA, acting under authority of the Small Business Act, has established a small business size standard which defines firms eligible for preferential award on salvage sales. The program operates under the general framework of the USDA/SBA Agreement of December 1971.

2438.2—Objective—In order to promote the optimum use of wood material, the National Forest Management Act authorized the establishment of a revolving fund to cover the cost of preparing and administering sales of insect-infested, dead, damaged or down timber. The intent of this fund was to provide for increasing the sales of such timber. The Special Salvage Timber Sale Program will operate on a portion of the additional Volume of timber funded under this authority.

2438.3—Eligible Firms—For the purposes of the Special Salvage Timber Sale Program, the SBA defines a small business as a concern that:

1. Is primarily engaged in the logging or forest products industry.
2. Is independently owned and operated.
3. Is not dominant in its field of operation.
4. Together with its affiliates, its number of employees has not exceeded 25 persons during any pay period for the past 12 months.

2438.4—Eligible Sales—Sales meeting all of the following criteria may be set-aside for preferential bidding by small business:

1. Sale preparation financed with salvage sale funds or with funds intended as "seed money' for the salvage sale fund. Where a mix of appropriated and salvage sale funds has been used, more than 50 percent of the estimated preparation cost shall have been paid with salvage sale funds.
2. Sale period no more than 1 year.
3. Sale involves only minor road construction or reconstruction.
4. Sale does not involve catastrophic damage, such as fire or windstorm.

Generally, salvage sales meeting the above criteria will be set-aside, unless experience demonstrates that competitive bidding by small loggers and small forest products firms cannot be expected. Relatively small sales are preferred. However, there is no size limit on the sale, provided it can be completed by loggers of average capability in the area. Larger sales suitable for logging by only one or two operators in the area should be avoided so as to prevent allocation to individual firms.

When fire, windstorm, or other catastrophic losses occur, the total capacity of the tributary industry is often needed to salvage the timber in a timely manner. Therefore, such sales are not eligible to be set-aside under this program. A catastrophic loss is a loss resulting from a single, identifiable event which affects volume of more than 10 percent of the volume planned for sale on the affected District within any 6-month period or 1 million board feet, whichever is less. As a general rule, the size of the program in any locality should be geared to the existing capability of the local qualifying firms.

2438.41—Selection Process—Forest Supervisors administering salvage sale programs will, after considering such advice as the SBA representative may offer, select sales to be set-aside for preferential bidding by concerns with less than 25 employees and notify the SBA field representative using SBA Form 441 to document the selection process. Each sale selected will be specifically defined as to whether the 30-70 log distribution requirement is or is not required on sawlog volume from that sale (see 2438.5). The SBA field representative will sign and return a copy of form 441 to indicate its concurrence in the selection.

In the event the SBA field representative disagrees on whether or not a proposed sale should be set-aside or whether 30–70 manufacturing requirements shall apply, the matter shall be promptly referred to the Regional Forester for review. Because of the need for prompt action on salvage sales, failure of the Agencies' representatives to agree should not result in delay of the sale. Lacking agreement, the sale should be advertised as an open sale. However, if the SBA field representative or the Regional Forester believes that policy issues relating to the operation of the program are involved, either may seek review of the policy issues, without delay of the particular sale, by higher authorities within the Agencies. It is the intent of the Agencies that the program be a joint program and Forest Supervisors will make every effort to work cooperatively with SBA field representatives.

If a set-aside is agreed upon and the Forest Supervisor determines that it is no longer advisable, or if a new sale is proposed after agreement on the 6-month program, the Forest Supervisor will consult with the SBA representative following the same procedures as outlined above.

2438.5—Contract Conditions—The Forest Service and SBA expect to make annual reviews during the first 3 years of the Special Salvage Timber Sale Program, so that adjustments can be made as necessary to insure that the program objectives are met. In order to facilitate this review, contracts for set-aside salvage sales shall require the purchaser to provide the Forest Service with an accounting of log deliveries by 6-month periods. Data to be furnished shall include volume and species delivered, the point of delivery, and the name and affiliation of the party to whom the logs were sold. The contract shall also require the purchaser to make his records, including payroll records, available to the Forest Service and SBA to verify his eligibility for participation in the program.

Timber sold under the special salvage timber sale program will generally be offered subject to 30–70 manufacturing requirements (see FSM 2431.19) unless the Forest Supervisor determines the purchaser of the sale will not have a competitive market for logs available from qualified small business firms. A competitive market would involve two or more qualified manufacturing firms which have demonstrated interest in the types (spe-

cies, size, condition) of logs to be produced on the salvage sale. The firms should have the capacity to handle the volumes involved and be located within the normal log haul distance from the proposed sale. The Forest Supervisor will consult with the SBA field representative in determining whether sales shall be subject to the 30/70 manufacturing requirement.

2438.6—Size Protests—Instructions set forth in FSM 2431.19 govern procedures for responding to size protests. It is important to notify SBA of the nature of the sale so that appropriate priority can be assigned to resolving the protest.

Dated: December 26, 1978.

JOHN R. MCGUIRE,
Chief, Forest Service.

[FR Doc. 79-424 Filed 1-4-79; 8:45 am]

[3410-16-M]

Soil Conservation Service

CROWDABOUT CREEK WATERSHED PROJECT, ALABAMA

Intent Not To File an Environmental Impact Statement for Deauthorization of Funding of the Crowdabout Creek Watershed

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for deauthorization of funding of the Crowdabout Creek Watershed project, Morgan, Lawrence, and Cullman Counties, Alabama.

The environmental assessment of this action indicates that deauthorization of funding of the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. William B. Lingle, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this action.

The project plan provided for accelerated technical assistance for application of land treatment measures, installation of eight floodwater retarding structures, and 150,900 linear feet of channel improvement.

The notice of intent to not prepare an environmental impact statement has been forwarded to the Environmental Protection Agency.

Crowdabout Creek Watershed Project, Alabama, Notice of Intent Not to File an Environmental Impact Statement for Deauthorization of Funding

The basic data developed during the environmental assessment is on file and may be reviewed by interested parties by contacting Mr. William B. Lingle, State Conservationist, P.O. Box 311, 138 South Gay Street, Auburn, Alabama 36830, 205-821-8070. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal is available to fill single copy requests at the above address.

No administrative action on the proposal will be taken until March 6, 1979.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Public Law 83-566, 16 U.S.C. 1001-1008.)

Dated: December 22, 1978.

EDWARD E. THOMAS,
Assistant Administrator for Land Resources.

[FR Doc. 79-401 Filed 1-4-79; 8:45 am]

[3410-16-M]

DARRS CREEK WATERSHED, TEXAS

Deauthorization of Federal Funding

Pursuant to the Watershed Protection and Flood Prevention Act, Public Law 83-566, and the Soil Conservation Service Guidelines (7 CFR Part 622), the Soil Conservation Service gives notice of the deauthorization of Federal funding for the Darrs Creek Watershed project, Bell County, Texas, effective on December 5, 1978.

The notice of intent not to file an environmental impact statement for deauthorization of Federal funding was published on October 5, 1978. Appropriate committees of Congress and concerned local, State, and Federal agencies were notified of the proposed deauthorization at least 60 days prior to the effective date. No objections to deauthorization or expressions of support to complete the project have been made known to the soil Conservation Service.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Public Law 83-566, 16 U.S.C. 1001-1008.)

Dated: December 21, 1978.

EDWARD E. THOMAS,
Assistant Administrator for Land Resources, Soil Conservation Service.

[FR Doc. 79-400 Filed 1-4-79; 8:45 am]

[3410-15-M]

Rural Electrification Administration

PLAINS ELECTRIC GENERATION & TRANSMISSION COOPERATIVE, INC.

Draft Environmental Impact Statement

Notice is hereby given that the Rural Electrification Administration has prepared a Draft Environmental Impact Statement in accordance with Section 102(2)(c) of the National Environmental Policy Act of 1969, in connection with possible financing assistance for Plains Electric Generation and Transmission Cooperative, Inc., 2401 Aztec Road, N.E., Albuquerque, New Mexico 87107.

The anticipated financing assistance would provide Plains with the financing required for the construction of a 38 mile 345 kV transmission line between Plains' Taos substation, located in Taos County, New Mexico, located and the Ojo substation of the Public Service Company of New Mexico, located in Rio Arriba County, New Mexico. This proposed project will provide additional transmission capacity to meet the projected future growth in peak electric demand of three of Plains' member distribution cooperatives located in the northern portion of Plains' service area.

Additional information may be obtained from Mr. Richard F. Richter, Assistant Administrator—Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Comments are invited from the public and particularly from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact from which comments have not been requested specifically.

Copies of the REA Draft Environmental Impact Statement have been sent to various Federal, State, and local agencies, as outlined in the Council on Environmental Quality Guidelines. Limited supplies of this document are available for mailing upon request. The Draft Environmental Impact Statement may be examined during regular business hours at the offices of REA in the South Agriculture Building, 12th Street and Independence Avenue, S.W., Washington, D.C., Room 4314 or at the headquarters of Plains Electric Generation and Transmission Cooperative, Inc., whose address is given above.

Comments concerning the environmental impact of the construction proposed should be addressed to Mr. Richter at the address given above. Comments must be received within 60 days of the date of publication of this notice to be considered in connection with the proposed financing assistance.

Any financing assistance by REA pursuant to this proposed project will be subject to, and release of funds thereunder will be contingent upon REA's reaching satisfactory conclusions with respect to environmental effects and final action will be taken only after compliance with Environmental Statement procedure required by the National Environmental Policy Act of 1969, and procedures required by other environmentally related statutes, regulations, and Executive Orders.

Dated at Washington, D.C., this 29th day of December, 1978.

ROBERT W. FERAGEN,
Administrator, Rural Electrification Administration.

[FR Doc. 79-495 Filed 1-4-79; 8:45 am]

[6335-01-M]

COMMISSION ON CIVIL RIGHTS

COLORADO ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Colorado Advisory Committee (SAC) of the Commission will convene at 9:30 a.m. and will end at 12:00 p.m. on January 20, 1979, 1405 Curtis Street, Room 1708, Executive Tower, Denver, Colorado 80202.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Rocky Mountain Regional Office of the Commission, 1405 Curtis Street, Suite 1700, Executive Tower Inn, Denver, Colorado 80202.

The purpose of this meeting is to discuss and plan for next Colorado SAC project-Energy Handbook.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., January 3, 1979.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 79-590 Filed 1-4-79; 8:45 am]

[6335-01-M]

ILLINOIS ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Illinois Advisory Committee (SAC) of the Commission will convene at 10:00 am and will end at 3:00 pm on January 22, 1979, 230 South Dearborn Street, Room 3280, Chicago, Illinois 60604.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Midwestern Regional Office of the Commission, 230 South Dearborn Street, 32nd floor, Chicago, Illinois 60604.

The purpose of this meeting is to report from Regional SAC Chairpersons Conference (12/15/78), Up-date on Insurance-Redlining Follow-up, Chicago Desegregation Report, and Special Education Report.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 2, 1979.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 79-486 Filed 1-4-79; 8:45 am]

[6335-01-M]

OHIO ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Ohio Advisory Committee (SAC) of the Commission will convene at 10:00 am and will end at 3:00 pm on January 27, 1979, Netherland Hilton, 5th and Race Streets, Cincinnati, Ohio 45201.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Midwestern Regional Office of the Commission, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604.

The purpose of this meeting is to discuss Report from Regional SAC Chairperson Conference, Report on Administration of Justice/Police Project Interviews, and discussion of project proposal.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 2, 1979.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 79-487 Filed 1-4-79; 8:45 am]

[6335-01-M]

PHILADELPHIA HEARING

Notice is hereby given pursuant to the provisions of the Civil Rights Act of 1957, 71 Stat. 634, as amended, that public hearings of the U.S. Commission on Civil Rights will commence on February 6, 1979 in Room 3306 of the Green Federal Building at Sixth and Arch Streets, Philadelphia, Pennsylvania and on February 20, 1979 at the Federal Building, 300 Spring Garden Street, Philadelphia, Pennsylvania. An executive session, if appropriate, may be convened at any time before or during the hearings.

The purpose of the hearing is to collect information concerning legal developments constituting discrimination or a denial of equal protection of the laws under the Constitution because of race, color, religion, sex, age, handicap, or national origin, or in the administration of justice, particularly concerning police practices; to appraise the laws and policies of the Federal Government with respect to discrimination or denials of equal protection of the laws under the Constitution because of race, color, religion, sex, age, handicap, or national origin, or in the administration of justice, particularly concerning police practices; and to disseminate information with respect to discrimination or denials of equal protection of the laws under the Constitution because of race, color, religion, sex, age, handicap, or national origin, or in the administration of justice, particularly concerning police practices.

Dated at Washington, D.C., January 2, 1979.

ARTHUR S. FLEMMING,
Chairman.

[FR Doc. 79-485 Filed 1-4-79; 8:45 am]

[6325-01-M]

CIVIL SERVICE COMMISSION

GENERAL SERVICES ADMINISTRATION

Title Change in Noncareer Executive Assignment

By notice of August 5, 1977, FR Doc. 77-23587, the Civil Service Commission authorized General Services Administration to fill by noncareer executive assignment in the excepted service the position of Director of Administration, Office of Administration. This is notice that the title of this position is now being changed to Controller-Director of Administration, Office of Controller-Administration.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 79-384 Filed 1-4-79; 8:45 am]

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[3510-24-M]

DEPARTMENT OF COMMERCE

Economic Development Administration

ESI, INC. ET. AL.

Petitions by Five Producing Firms for Determinations of Eligibility To Apply for Trade Adjustment Assistance

Petitions have been accepted for filing from five firms: (1) ESI, Inc., 395 Walnut Avenue, Cranford, New Jersey 07016, a producer of citizens ban radio accessories (accepted December 21, 1978); (2) Acme Leather Sportswear, Inc., 335 South Park Street, Elizabeth, New Jersey 07208, a producer of men's leather and cloth coats (accepted December 21, 1978); (3) Morgan Hill Greenhouses, 13875 Murphy Avenue, San Martin, California 95046, a grower of carnations (accepted December 21, 1978); (4) Adrian Pearl Manufacturing Company, Inc., 49 West 37th Street, New York, New York 10018, a producer of costume jewelry (accepted December 27, 1978); and (5) Mildrum Manufacturing Company, 230 Berlin Street, East Berlin, Connecticut 06023, a producer of fishing rod components (accepted December 28, 1978). The petitions were submitted pursuant to section 251 of the Trade Act of 1974 (Pub. L. 93-618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315).

Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

JACK W. OSBURN, Jr.,
Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc. 79-449 Filed 1-4-79; 8:45 am]

[3510-20-M]

Industry and Trade Administration

[Case No. 576]

PEDRO NOBLE-MENHINICK

Violations of Export Administration Regulations

By letter of September 11, 1978, the Compliance Division charged that Pedro Noble-Menhinick, Doctor Roux, 38 Barcelona, Spain, violated the U.S. Export Administration Regulations, 15 CFR Part 368 *et seq.* It alleged that respondent reexported and diverted controlled U.S. origin analyzer systems in the approximate value of $237,000 to a proscribed destination without authorization of the U.S. Government, all in violation of 15 CFR 374.1.

Respondent failed to answer the charging letter. After due consideration of the evidence of record submitted to him, the Hearing Commissioner found that respondent knowingly diverted the controlled equipment as alleged in the charging letter, that such diversion from Spain to Vienna was accomplished by the use of forged documents, and ultimately to an east European destination. He stated that the evidence is conclusive that the commodities were delivered and are now in eastern Europe. The Commissioner recommended that respondent be denied all U.S. export privileges for a period of ten years.

In accordance with the evidence outlined by the Hearing Commissioner and his recommendations, I find that respondent knowingly violated the Export Administration Regulations as alleged in the charging letter of September 11, 1978. I find that an order denying export privileges to the respondent for a period ending May 31, 1989, is reasonably necessary to protect the public interest and achieve effective enforcement of the Export Administration Regulations.

Therefore, pursuant to the authority delegated to me, 15 CFR 388, it is

ORDERED

I. All outstanding export licenses in which respondent appears or participates in any manner or capacity, are hereby revoked and shall be returned forthwith to the Department of Commerce, Industry and Trade Administration.

II. The respondent is denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported or to be exported from the United States, in whole or in part. Without limitation of the generality of the foregoing, participation prohibited in any such transaction, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (a) As a party or as a representative of a party to any export license application; (b) in the preparation or filing of any export license application or reexportation authorization, or any document to be submitted therewith; (c) in the obtaining or using of any validated or general export license or other export control documents (d) in the carrying on of negotiations with respect to, or in the receiving, ordering, buying, selling, delivering, storing, using, or disposing of any commodities, or technical data, in whole or in part, exported or to be exported from the United States: and (e) in the financing, forwarding, transporting, or other servicing of such commodities or technical data.

III. Such denial of export privileges shall extend not only to the respondent but also to its agents, employees, representatives, and partners and to any other person, firm, corporation, or business organization with which the respondent now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of trade or services connected therewith.

IV. No person, firm, corporation, partnership or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Industry and Trade Administration, shall do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with the respondent or any related party, or whereby the respondent or any related party may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly: (a) Apply for, obtain, transfer or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any exportation, reexportation, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States, by, to, or for said respondent or related party denied export privileges; or (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance or otherwise service or participate in any exportation, reexportation, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States.

V. This order shall remain in effect until May 31, 1989, except insofar as this order may be amended or modified hereafter in accordance with the Export Control Regulations.

VI. In accordance with the provisions of section 388.15 of the Export Control Regulations, the respondent may move at any time to vacate or modify this Denial Order by filing with the Hearing Commissioner, Industry and Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, an apropriate motion for relief, supported by substantial evidence, and may also request an oral hearing thereon, which if requested shall be held before the Hearing Commissioner at the earliest convenient date.

This order shall become effective immediately.

Dated: December 21, 1978.

RAUER H. MEYER,
Director, Office of Export Administration.

[FR Doc. 79-402 Filed 1-4-79; 8:45 am]

[3510-22-M]

National Oceanic and Atmospheric Administration

MARINE MAMMALS

Receipt of Applications for General Permits

Notice is hereby given that the following applications have been received to take marine mammals incidental to the course of commercial fishing operations as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407) and the regulations thereunder.

Japan Deep Sea Trawlers Association, Daito Building, 6/F, Ogawa-cho, 3-6 Kanda, Chiyodaku, Tokyo, Japan, has applied for a Category 1: "Towed Or Dragged Gear" general permit;

The National Federation of Medium Trawlers, Showa Kaikan, 3-2, Kasumigaseki 3, Chiyoda-ku, Tokyo, Japan, has applied for a Category 1: "Towed Or Dragged Gear" general permit; and

The North Pacific Longline-Gillnet Association, Zenkeiren Building, 2-7-2, Hirakawa-cho, Chiyoda-ku, Tokyo, Japan, has applied for a Category 5: "Other Gear" general permit.

The applications are available for review in the office of the Assistant Administrator for Fisheries, National Marine Fisheries Service, Washington, D.C. 20235.

Interested parties may submit written views on this application within 30 days of the date of this notice to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235.

Dated: December 29, 1978.

WINFRED H. MEIBOHM,
Acting Executive Director, National Marine Fisheries Service.

[FR Doc. 79-436 Filed 1-4-79; 8:45 am]

[3510-22-M]

NORTH PACIFIC FISHERY MANAGEMENT COUNCIL SCIENTIFIC AND STATISTICAL COMMITTEE AND ADVISORY PANEL

Public Meeting With Partially Closed Session

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App., (1976), notice is hereby given of a joint meeting of the North Pacific Fishery Management Council, established by Section 302(g) of the Fishery Conservation and Management Act of 1976 (Public Law 94-265) and its Scientific and Statistical Committee (SSC), and Advisory Panel (AP) both established under Section 302(g) of the Act; and (2) separate meetings of the SSC and AP.

DATES: The North Pacific Fishery Management Council will meet on January 25 and 26, 1979. The SSC will meet on January 22, 23, 24, 1979, convening at 1:00 p.m., and adjourning at approximately 5:00 p.m. on all three days. The AP meeting will convene on January 24, 1979, at 9:00 a.m. and adjourn at approximately 5:00 p.m. The Council and its SSC and AP will meet jointly on January 25-26, 1979, convening at 8:30 a.m. and adjourning at approximately 5:00 p.m. on both days. The meetings may be extended or shortened depending upon progress on the agenda.

ADDRESS: The SSC will meet in the Council offices, Suite 32, 333 West 4th Avenue, Post Office Mall Building, Anchorage, Alaska. The AP will meet in Windsor Room II, at the Sheffield House Hotel, 5th and G Streets, Anchorage, Alaska.

FOR FURTHER INFORMATION CONTACT:

Jim H. Branson, Executive Director, North Pacific Fishery Management Council, P.O. Box 3136DT, Anchorge, Alaska 99510, Telephone: (907) 274-4563.

SUPPLEMENTARY INFORMATION: For information on seating arrangements, changes to the agenda, and/or written comments, contact the Executive Director.

PROPOSED AGENDA

January 22, 23, 24, 1979

The SSC will review progress on fishery management plans and prepare reports to the Council.

January 24, 1979

The AP will review progress on fishery management plans and prepare reports to the Council.

The Council agenda is as follows:

January 25, 1979

(1) Executive Director's Report and other Council Administrative business; (2) Reports from scientific and Statistical Committee and Advisory Panel; (3) Progress Report and update from the Councils Drafting Management Planning Teams; (4) Closed Session to discuss U.S. State Department Policy on allocations to foreign nations; (5) Period for public comment; and (6) Review of foreign fishing activities.

January 26, 1979

(1) Discussion of management plans: High Seas Salmon Fishery off the Coast of Alaska East of 175° East Longitude; Bering Sea Clam Fishery; Tanner Crab Off Alaska 1979; King Crab of the Eastern Bering Sea; Groundfish fishery of the Bering Sea/Aleutian Islands Area; Halibut off the Coast of Alaska; Herring of the Eastern Bering Sea; Bering Sea Surf Clam, Gulf of Alaska Groundfish Fishery During 1979; and (2) Other Council business.

The SSC and AP meetings will be open to the public, as will the Council meeting except for the session planned for the early afternoon of the first day, January 25, 1979, from 1:30 p.m. to 3:00 p.m. This session will be closed to the Public to hear and discuss U.S. State Department policy on allocations to foreign nations. Only those Council members and staff having security clearances will be allowed to attend this closed session.

The Assistant Secretary for Administration of the Department of Commerce, with the Concurrence of its General Counsel, formally determined on December 28, 1978, pursuant to Section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. App., that this session of the January 25, 1979 meeting may be closed to the public in accordance with Section 552b(c) (1) and (6) of Title 5, United States Code, to protect Security Classified information and to insure the free discussion thereof, since this session is likely to "disclose matters that are (a) specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy and (b) in fact properly classified pursuant to such Executive Order; and to disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy." (A copy of the determination is available for public inspection and copying in the Public Reading Room, Central Reference and Record Inspection Facility, Room 5317, Department of Commerce.

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Dated: January 2, 1979.

WINFRED H. MEIBOHM,
Acting Executive Director,
National Marine Fisheries Service.

[FR Doc. 79-443 Filed 1-4-79; 8:45 am]

[3510-20-M]

Office of the Secretary

ELECTROMAGNETIC RADIATION MANAGEMENT ADVISORY COUNCIL

Renewal

In accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. (1976) and Office of Management and Budget Circular A-63 of March 1974, and after consultation with OMB, the Secretary of Commerce has determined that the renewal of the Electromagnetic Radiation Management Advisory Council, ERMAC, is in the public interest in connection with the performance of duties imposed on the Department by law.

The Council was originally established on December 11, 1968 to advise the Director of the Office of Telecommunications Management on matters dealing with the side effects and the adequacy of control of electromagnetic radiation arising from telecommunications activities. Subsequently, the Council advised the Director of Telecommunications Policy and, since the 1978 reorganization, the Secretary of Commerce on such matters through the Assistant Secretary for Communications and Information.

Following a comprehensive review of the subject, the Council, in 1971, recommended Government action to assess the biological effects of nonionizing radiation and developed guidelines for such an undertaking. The multiagency program being coordinated by this Office is a direct result of those activities. In the course of its activities, the Council is a source of expert advice and guidance not only to this office but to other Federal agencies with activities in this area.

Copies of the Council's revised charter will be filed with appropriate committees of the Congress and with the Library of Congress.

Inquiries or comments may be addressed to the Committee Control Officer, Mr. Robert A. Frazier, Office of the Chief Scientist, NTIA, Department of Commerce, Room 704B, 1800 G Street, NW., Washington, D.C. 20504, telephone 202-395-3102.

Dated: December 29, 1978.

GUY W. CHAMBERLIN, Jr.,
Assistant Secretary for
Administration.

[FR Doc. 79-494 Filed 1-4-79; 8:45 am]

[3510-20-M]

FREQUENCY MANAGEMENT ADVISORY COUNCIL

Renewal

In accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. (1976) and Office of Management and Budget Circular A-63 of March 1974, and after consultation with GSA, the Secretary of Commerce has determined that the renewal of the Frequency Management Advisory Council is in the public interest in connection with the performance of duties imposed on the Department by law.

The Council was first established on July 19, 1965, and was to terminate on December 31, 1978. It provided advice to the Director of the Office of Telecommunications Policy (OTP), Executive Office of the president, until that office was merged by Executive Order 12046 of March 27, 1978, into the Department of Commerce, National Telecommunications and Information Administration.

In renewing the Council, the Secretary has reaffirmed its original purpose of providing advice on radio frequency spectrum allocation and assignment matters and means by which the effectiveness of Federal Government frequency management may be enhanced. Research indicates that the Council's function cannot be accomplished by any organizational element or other committee of the Department.

The Council shall continue with a balanced representation of 11 members, chaired by the Director, Office of Spectrum Plans and Policies, National Telecommunications and Information Administration, and will operate in compliance with the provisions of the Federal Advisory Committee Act.

Copies of the Council's revised charter will be filed with appropriate committees of Congress and with the Library of Congress.

Inquiries or comments may be addressed to the Committee Control Officer, Mr. Charles L. Hutchison, National Telecommunications and Information Administration, Room 298, 1325 "G" Street, N.W., Washington, D.C. 20005, telephone: 202-724-3307.

Dated: December 29, 1978.

GUY W. CHAMBERLIN, Jr.,
Assistant Secretary for
Administration.

[FR Doc. 79-493 Filed 1-4-79; 8:45 am]

[6330-01-M]

THE COMMISSION OF FINE ARTS

MEETING

The Commission of Fine Arts will meet in open session on Tuesday, January 23, 1979, at 10:00 a.m. in the Commission's offices at 708 Jackson Place, NW., Washington, D.C. 20006 to discuss various projects affecting the appearance of Washington, D.C.

The monthly schedule of open meetings for the remainder of calendar year 1979 reads as follows: Wednesday, February 21, 1979; Tuesday, March 27, 1979; Tuesday, April 24, 1979; Tuesday, May 22, 1979; Tuesday, June 26, 1979; Tuesday, July 24, 1979; Tuesday, August 28, 1979; Tuesday, September 25, 1979, Tuesday, October 23, 1979; Tuesday, November 27, 1979; Tuesday, December 18, 1979. The meetings listed above will convene at 10:00 a.m. at the Commission of Fine Arts offices unless announced differently at a later date.

Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Mr. Charles H. Atherton, Secretary, Commission of Fine Arts, at the above address.

Dated in Washington, D.C., December 22, 1978.

CHARLES H. ATHERTON,
Secretary.

[FR Doc. 79-467 Filed 1-4-79; 8:45 am]

[6820-33-M]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1979

Proposed Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Addition to Procurement List.

SUMMARY: The Committee has received a proposal to add to Procurement List 1979 a commodity to be produced by workshops for the blind and other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: February 7, 1979.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, 703-557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77.

If the Committee approves the proposed addition, all entities of the Federal Government will be required to procure the commodity listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodity to Procurement List 1979, November 15, 1978 (43 FR 53151):

CLASS: NONE

Pocket, Leather, Detachable
Postal Service Item No. D1200D

C. W. FLETCHER,
Executive Director.

[FR Doc. 79-433 Filed 1-4-79; 8:45 am]

[3125-01-M]

COUNCIL ON ENVIRONMENTAL QUALITY

IMPROVING GOVERNMENT REGULATIONS

Semi-Annual Agenda

AGENCY: Council on Environmental Quality.

ACTION: Information.

SUMMARY: This semi-annual agenda contains a report on the status of the two regulations for which the Council has responsibility: the National Environmental Policy Act (NEPA) regulations, and the National Oil and Hazardous Substances Pollution Contingency Plan regulations.

FOR FURTHER INFORMATION: Questions should be addressed to: Nicholas C. Yost, General Counsel, Council on Environmental Quality, 722 Jackson Place, NW., Washington, D.C. 20006, 202-633-7032.

SEMI-ANNUAL AGENDA OF REGULATIONS

A. *National Environmental Policy Act regulations*

The Council's final regulations implementing the procedural requirements of the National Environmental Policy Act were published in Volume 43 FEDERAL REGISTER page 55990, on November 29, 1978. The Council's NEPA regulations will be published in Volume 40 Code of Federal Regulations beginning with Section 1500.

No revisions or amendments to these final regulations are under preparation or consideration by the Council.

B. *National Oil and Hazardous Substances Pollution Contingency Plan regulations*

1. Need For Amendments

The National Response Team's Committee on Revision has determined that the current National Contingency Plan regulations need to be revised to conform to legislative amendments to the Clean Water Act, to provide scientific support planning and other revisions. The Committee on Revision has drafted proposed amendments to the regulations and has submitted them to the Council for action.

2. Legal Basis

Section 311(c)(2) of the Federal Water Pollution Control Act (33 U.S.C. 1321) requires the President to prepare and publish a National Contingency Plan. In Executive Order 11735 (August 3, 1973) the President designated the Council on Environmental Quality to carry out this responsibility.

3. Status of National Contingency Plan regulations

On December 1, 1978 the Council staff circulated for informal interagency review and comment proposed amendments to the National Contingency Plan regulations. These proposed amendments are largely based on recommendations by the National Response Team's Committee on Revision of the National Contingency Plan.

During January or February, 1979 the Council intends to publish proposed amendments to the National Contingency Plan regulations in the FEDERAL REGISTER for a 60 day public review and comment period. After consideration of public and agency comments, the Council will promulgate the amendments to the regulations.

The National Contingency Plan regulations in their current form are published in Volume 40 Code of Federal Regulations beginning with Section 1510.

NICHOLAS C. YOST,
General Counsel.

DECEMBER 29, 1978.

[FR Doc. 79-3-36 Filed 1-4-79; 8:45 am]

[6450-01-M]

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[Docket No. ERA-R-78-28]

MAJOR FULE BURNING INSTALLATIONS

Procedures by Which ESECA Prohibition Order Recipients May Elect To Be Covered by the Provisions of the Powerplant and Industrial Fuel Use Act of 1978

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice.

SUMMARY: This notice is to inform the owners and operators of Major Fuel Burning Installations which have received Prohibition Orders under the Energy Supply and Environmental Coordination Act of 1974 (ESECA), Public Law 93-319, as amended, 15 U.S.C. 791 *et. seq.*, of the procedures they may use to elect to be covered under Title II or III of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), Public Law 95-620, rather than Section 2(a) of ESECA.

EFFECTIVE DATE: January 5, 1979.

COMMENTS: Written comments are invited with respect to the procedures set forth in this Notice. Comments should be submitted to Public Hearing Management, Docket No. ERA-R-78-28, Department of Energy, Room 2313, 2000 M Street N.W. Washington, D.C. 20461. We will consider all comments received by 4:30 p.m. January 26, 1979.

FOR FURTHER INFORMATION CONTACT:

Barton House, (Fuels Regulation—Program Office), Economic Regulatory Administration, Department of Energy, Room 6128, 2000 M Street, N.W., Washington, D.C. 20461, (202) 254-3905.

SUPPLEMENTARY INFORMATION: *Background:* Section 762(a) of FUA provides that if you own or operate a Major Fuel Burning Installation, as defined in Section 103(a) of FUA, issued a Prohibition Order under Section 2(a) of ESECA which has not yet been made effective by the issuance of a Notice of Effectiveness you may elect to be covered by Title II or III, as appropriate, of FUA rather than Section 2 of ESECA. Any election made under this notice is irrevocable.

Any requests to modify the procedure set forth below shall be filed within thirty (30) days at the address stated below. A copy of this notice shall be mailed to each eligible Prohibition Order recipient.

PROCEDURE: *What to file:* If you own or operate a facility described above and you want to elect to be covered by FUA you must give ERA notice by filing a written "Election for Coverage under FUA" signed by your Chief Executive Officer. Your election must be clearly labeled as such both on the election and on the outside of the envelope in which it is sent.

You should specify in your election the name, docket number, owner, unit and location of the facility as it appeared in the related ESECA Prohibition Order. You should also include the date the order was issued. Your election may be for a single unit or for multiple units at a single site.

Where to file: You must file your election with the Assistant Administrator for Fuels Regulation, Room 6128, 2000 M Street, N.W., Washington, D.C. 20461.

When to file: You must file your election not later than 60 days after this notice is published. If ERA has not received your election at the expiration of this period, it will be as-

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sumed that you have declined to elect to be covered by FUA and instead wish to covered under the provisions of ESECA.

Notice: ERA will notify you in writing that your election is recognized not later than 30 days after receipt of the election.

(Department of Energy Organization Act, Public Law 95-91; Powerplant and Industrial Fuel Use Act of 1978, Public Law 95-620.)

Issued in Washington, D.C., December 28, 1978.

DAVID J. BARDIN,
Administrator, Economic Regulatory Administration.

[FR Doc. 79-413 Filed 1-2-79; 12:55 pm]

[6450-01-M]

CUMBERLAND BASIN PROJECTS, SOUTHEASTERN POWER ADMINISTRATION

Order Denying Proposed Rates

Notice is hereby given that the Acting Assistant Administrator for Utility Systems, Economic Regulatory Administration, has issued the Order published below disapproving a proposed rate increase for the Cumberland Basin Projects, Southeastern Power Administration.

[ERA Docket No. SEPA 78-2]

CUMBERLAND BASIN PROJECTS, SOUTHEASTERN POWER ADMINISTRATION

In the matter of: Cumberland Basin Projects, Southeastern Power Administration, *ex rel.* Resource Applications, ERA Docket No. SEPA 78-2.

ORDER DISAPPROVING PROPOSED RATES

Pursuant to Section 301(b) of the Department of Energy Organization Act (the Act), 42 U.S.C. 7101 *et seq.*, the function to confirm and approve rates in accordance with Section 5 of the flood control Act of 1944, 16 U.S.C. 825s, for power marketed by, *inter alia*, the Southeastern Power Administration was transferred to and vested in the Secretary of Energy. By Delegation Order No. 0204-4, effective October 1, 1977, 42 FR 60725-27 (November 29, 1977), the Secretary of Energy delegated confirmation and approval authority to the Administrator of the Economic Regulatory Administration (ERA or the Administrator). The Administrator has delegated this authority to the Assistant Administrator for Utility Systems, Economic Regulatory Administration.

BACKGROUND

The Southeastern Power Administration (SEPA), by contract, sells the capacity and energy from eight hydroelectric projects, collectively known as the Cumberland Basin Projects (Cumberland Projects), to the Tennessee Valley Authority (TVA) and four electric cooperatives: Big Rivers Electric Corporation; Indiana Statewide Rural Electric Cooperative, Incorporated, Hoosier Energy Division; Southern Illinois Power Cooperative; and East Kentucky Power Cooperative (the Cooperatives). The contracts provide that the rates may be adjusted at 5-year intervals. The current rates were approved by the Federal Power Commission (now the Federal Energy Regulatory Commission) by Order issued June 29, 1973, for the period July 1, 1973, through June 30, 1978. the contract between SEPA and TVA provides that the total net capacity and energy output of the Cumberland Projects, not required in connection with the operation of the Projects, may be purchased by TVA except that up to 100,000 kilowatts of standby capacity and associated energy may be retained by SEPA for sale to the Cooperatives.

On June 2, 1978, the assistant Secretary for Resource Applications (Assistant Secretary), on behalf of SEPA, filed a request with the Administrator of ERA to confirm and approve an increase in rates for power and energy generated at the Cumberland Basin Projects for the period July 1, 1978, through June 30, 1983. In support of its request, SEPA submitted, along with other exhibits a Repayment Study, dated March 1978, which states that the proposed rates will produce revenues sufficient to repay the Federal investment allocated to power for the Cumberland Basin Projects within a fifty year repayment period, as required by part 730, Chapter 4 of the Department of the Interior Manual.*

The rates contained in proposed Wholesale Power Rate Schedule CR-1-D will increase TVA's annual payment to SEPA by an average of $2.3 million. The rates in proposed Wholesale Power Rate Schedule CR-2-D will raise approximately $200,000 in revenues from the Cooperatives annually. The combined average annual revenue increase during the next five years will be approximately $2,538,000 which is equivalent to a 15.8% increase over the present revenue level.

DISCUSSION

On June 28, 1978, ERA afforded interested persons the opportunity to file written comments on the proposed rates and to request a public hearing, 43 FR 29026 (July 5, 1978). No written comments were received in response to the Notice and no requests for a public hearing were filed.

The repayment study which accompanied the rate filing provides for total power repayment in 45 years, which will create a projected surplus of $39,335,000 by the end of the 50 year repayment period. By memorandum dated July 25, 1978, ERA questioned SEPA's plan to repay the power investment in 45 years, since this early repayment schedule will, in effect, require wholesale power rates to be higher than the minimum necessary to ensure the recovery of the costs allocated to power.

In a memorandum dated September 7, 1978, SEPA stated that the minimum annual revenues necessary to repay the Cumberland Projects in 50 years without creating a surplus in revenues, as determined utilizing the repayment criteria specified in Part 730, Chapter 4 of the Department of the Interior Manual, are only $300,000 less than the annual revenues anticipated under the rate schedules submitted for approval by the Assistant Secretary. SEPA maintains that the proposed rates will create an annual contingency fund of only 1.6%.

Section 5 of the Flood Control Act of 1944, 16 U.S.C. 825s requires the government to sell electric power and energy from Federal hydroelectric projects including the Cumberland Basin Projects "in such manner as to encourage the most widespread use thereof at the lowest possible rates to consumers consistent with sound business principles." ERA concludes that the rates contained in the proposed wholesale power rate schedules will produce revenues in excess of those necessary to repay project costs allocated to power, in violation of the Flood Control Act of 1944. Therefore, ERA is not approving the Assistant Secretary's June 2, 1978, request, made on behalf of SEPA, for higher rates for power and energy marketed from the Cumberland Basin Projects.

ORDER

Pursuant to the authorities set forth above, the Acting Assistant Administrator for Utility Systems, Economic Regulatory Administration Orders:

1. The proposed rates contained in Wholesale Power Rate Schedule CR-1-D and Wholesale Pqwer Rate Schedule CR-2-D filed by the Assistant Secretary for Resource Applications on June 2, 1978, are hereby disapproved on the ground that such rates are higher than necessary to recover the cost of producing and transmitting power and energy generated at the Cumberland Basin Projects over a fifty year repayment period; and

2. A copy of this Order shall be published with FEDERAL REGISTER.

* Part 730, Chapter 4 of the Department of the Interior manual, which sets forth the financial reporting and repayment requirements of the power marketing administrations, is effective until rescinded, amended or superseded by the Department of Energy.

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Issued in Washington, D.C., this 29th day of December 1978.

CHARLES A. FALCONE,
Acting Assistant Administrator for Utility Systems, Economic Regulatory Administration, Department of Energy.

[FR Doc. 79-420 Filed 1-4-79; 8:45 am]

[6450-01-M]

LAUREL PROJECT, SOUTHEASTERN POWER ADMINISTRATION

Order Extending Confirmation and Approval of Short-Term Power Rates

Notice is hereby given that the Acting Assistant Administrator for Utility Systems, Economic Regulatory Administration, has issued the Order published below extending through March 31, 1979, confirmation and approval of short-term power rates for the Laurel Project, Southeastern Power Administration.

[ERA Docket No. SEPA 78-1, Supplement No. 3]

LAUREL PROJECT, SOUTHEASTERN POWER ADMINISTRATION

In the matter of: Laurel Project, Southeastern Power Administration, *ex rel.* Resource Applications, ERA Docket No. SEPA 78-1, Supplement No. 3.

ORDER EXTENDING CONFIRMATION AND APPROVAL OF SHORT-TERM RATES

Pursuant to Section 301(b) of the Department of Energy Organization Act (the Act), 42 U.S.C. 7101 *et seq.*, the function to confirm and approve rates in accordance with Section 5 of the Flood Control Act of 1944, 16 U.S.C. 825s, for power marketed by, *inter alia*, the Southeastern Power Administration was transferred to and vested in the Secretary of Energy. By Delegation Order No. 0204-4, effective October 1, 1977, 42 FR 60725-27 (November 29, 1977), the Secretary of Energy delegated confirmation and approval authority to the Administrator of the Economic Regulatory Administration (ERA or the Administrator). The Administrator has further delegated this authority to the Assistant Administrator for Utility Systems, Economic Regulatory Administration.

BACKGROUND

The Laurel Project began commercial operation as a hydroelectric generating facility on October 25, 1977. It was Southeastern Power Administration's (SEPA) original intention to sell one-half of the project output to East Kentucky Power Cooperative, Inc. (East Kentucky) and to sell the other half to eight municipal customers in Kentucky. The power sold to these municipal customers was to be transmitted through the facilities of East Kentucky and Kentucky Utilities Company (Kentucky Utilities). However, SEPA and Kentucky Utilities did not complete a contract for the transmission of this power to the eight municipal customers. Therefore, SEPA entered into a contract (Contract No. 89-00-1501-564) for the sale of the entire output from the Laurel Project to East Kentucky for the period beginning November 1, 1977, and ending January 31, 1978, at the following rate:

$56,000 per calendar month for capacity, plus 10.0 mills per kilowatt hour for energy declared and made available.

The schedule of rates and charges in the SEPA contract were to apply to the period during which negotiations between SEPA and Kentucky Utilities for the transmission of power to the municipal customers were to be concluded. The SEPA contract was extended on January 26, 1978, for an additional 3-month period through April 30, 1978.

The Assistant Secretary for Resource Applications (Assistant Secretary), on behalf of SEPA, requested the Administrator of ERA to confirm and approve the short-term rates of the Laurel Project through April 30, 1978. On April 21, 1978, the Administrator of ERA, after notice and comment, issued an order confirming and approving the short-term rates contained in the contract through April 30, 1978, 43 FR 17857 (April 26, 1978). Upon request of the Assistant Secretary on May 5, 1978, and after notice and an opportunity for comment, ERA confirmed and approved an extention of the short-term rates on September 20, 1978, through September 30, 1978, 43 FR 43547 (September 26, 1978).

On October 10, 1978, the Assistant Secretary, on behalf of SEPA, requested the Administrator of ERA to extend confirmation and approval of the existing short-term rates of the Laurel Project through March 31, 1979, since the transmission arrangements with Kentucky Utilities had still not been completed.

DISCUSSION

On October 30, 1978, ERA afforded interested persons the opportunity to file written comments on the proposed extension and to request a public hearing. No requests for a public hearing were filed. The cities of Barbourville, Corbin, and Falmouth, Kentucky and the Frankfort Electric and Water Plant Board (Kentucky Municipals), four of the eight potential municipal customers, filed joint written comments on December 13, 1978, in response to the Notice. No other written comments were filed.

In their written comments, the Kentucky Municipals renewed a request previously made in comments filed on July 18, 1978, that ERA's approval of the short-term rates be conditioned upon the establishment of a banking or pay-back provision that would permit the Kentucky Municipals to withdraw, at a mutually agreeable time upon completion of transmission arrangements with Kentucky Utilities, up to one half of the 70 MW of Laurel Project power that is currently being sold to East Kentucky. The Kentucky Municipals contend that "[s]uch a condition would reduce (Kentucky Utility's) incentive to continue its strategy of delay in negotiating a transmission arrangement with SEPA, since delay would no longer serve to reduce Kentucky Municipals' total energy purchases from SEPA over the long run." The Kentucky Municipals further state that they are not seeking to take power away from East Kentucky, but only to obtain their allocated share of the Laurel power.

ERA is cognizant of the issues raised by the Kentucky Municipals. However, only the proposed extension of the short-term rates is at issue in this proceeding. As stated in ERA's order issued September 20, 1978, granting an earlier request for an extension of the Laurel Project rates, the responsibility to make the necessary arrangements for the marketing of power and energy generated at the Laurel Project lies with SEPA and the Assistant Secretary. SEPA's marketing policies for the Laurel Project are not relevant to a determination of whether the proposed extension of short-term rates complies with the statutory requirements.

In view of the foregoing, ERA has determined that it is appropriate to extend confirmation and approval of the short-term rates for power sold to East Kentucky from the Laurel Project through March 31, 1979, as requested by the Assistant Secretary.

ORDER

Pursuant to the delegation of authority set forth above, the Acting Assistant Administrator for Utility Systems, Economic Regulatory Administration, Orders:

1. Confirmation and approval of the short-term rates for the sale of power and energy generated at the Laurel Project, Southeastern Power Administration, to the East Kentucky Power Cooperative, Inc., is hereby extended through March 31, 1979; and,

2. The Assistant Secretary for Resource Applications shall cause a copy of this order to be distributed to all appropriate parties on the service list.

Issued in Washington, D.C., this 29th day of December, 1978.

CHARLES A. FALCONE,
Acting Assistant Administrator for Utility Systems, Economic Regulatory Administration, Department of Energy.

[FR Doc. 79-421 Filed 1-4-79; 8:45 am]

[6450-01-M]

JIM WOODRUFF PROJECT, SOUTHEASTERN POWER ADMINISTRATION

Order Disapproving Proposed Rates

Notice is hereby given that the Acting Assistant Administrator for Utility Systems, Economic Regulatory Administration, has issued the Order published below disapproving proposed rates for the Jim Woodruff Project, Southeastern Power Administration.

[ERA Docket No. SEPA 78-3 (Formerly FPC Docket No. E-6957]

JIM WOODRUFF PROJECT, SOUTHEASTERN POWER ADMINISTRATION

ORDER DISAPPROVING PROPOSED RATES

In the matter of: Jim Woodruff Project, Southeastern Power Administration, *ex rel.* Resource Applications, ERA Docket No. SEPA 78-3, (Formerly FPC Docket No. E-6957).

Pursuant to Section 301(b) of the Department of Energy Organization Act (the Act), 42 U.S.C. 7101 *et seq.*, the function to confirm and approve rates in accordance with Section 5 of the Flood Control Act of 1944, 16 U.S.C. 825s for power marketed by, *inter alia*, the Southeastern Power Administration was transferred to and vested in the Secretary of Energy. By Delegation Order No. 0204-4, effective October 1, 1977, 42 FR 60725-27 (November 29, 1977), the Secretary of Energy delegated confirmation and approval authority to the Administrator of the Economic Regulatory Administration (ERA or the Administrator). The Administrator has delegated this authority to the Assistant Administrator for Utility Systems, Economic Regulatory Administration.

BACKGROUND

On July 11, 1977, the Department of the Interior (Interior), on behalf of the Southeastern Power Administration (SEPA), filed a request with the Federal Power Commission (FPC) for an extension of confirmation and approval of SEPA's wholesale power rate schedule JW-1 (Revised) and for confirmation and approval of SEPA's proposed wholesale power rate schedule JW-2-A for the sale of electric power and energy generated at the Jim Woodruff project for a period of five years beginning August 20, 1977, and ending August 19, 1982. Schedule JW-1 (Revised) was originally confirmed and approved by the FPC on August 8, 1967. Schedule JW-2-A supersedes and is identical to Schedule JW-2 (Revised), approved by the FPC on April 15, 1966, except that the fuel adjustment clause has been revised. In support of its request, Interior submitted, along with other exhibits, a repayment study, dated April 1977, which states that the proposed rates will produce revenues sufficient to repay the Federal investment allocated to power for the Jim Woodruff Project within a fifty year repayment period, as required by Part 730, Chapter 4 of the Department of the Interior Manual.*

The Jim Woodruff Project is located on the Apalachicola River near Chattahoochee, Florida. It is operated by the United States Army Corps of Engineers. The entire output of the project is now being sold to six preference customers and to Florida Power Corporation. Florida Power Corporation purchases all Project energy in excess of the requirements of the preference customers.

Rate Schedule JW-1, which is applicable to power and energy sold to the preference customers, includes a monthly demand charge of $1.50 per kilowatt of billing demand and an energy charge of 4.5 mills per kilowatt-hour. Proposed rate schedule JW-2-A, which is applicable to electric energy sold to Florida Power Corporation, includes a charge of 4.0 mills per kilowatt-hour for on-peak energy and a charge of 2.5 mills per kilowatt-hour for off-peak energy, subject to a fuel adjustment charge based upon the Florida Power Corporation's cost of fuel per kilowatt-hour. The fuel adjustment clause contained in the existing rate schedule (JW-2 (Revised)), has been changed in the proposed rate schedule (JW-2-A) to conform with the FPC's method of computing fuel adjustments and to raise the base from which fuel adjustments will be made.

DISCUSSION

On July 22, 1977, the FPC afforded interested persons the opportunity to file written comments relative to Interior's request, 42 FR 38938 (August 1, 1977). No written comments were received in response to the Notice.

In a letter to Interior dated September 2, 1977, the FPC noted several deficiencies in the accounting procedures used in the repayment study which accompanied the rate filing and requested an informal conference with SEPA to discuss the accounting deficiencies. At a conference, held on September 15, 1977, the FPC noted that:

1. The method of estimating future replacement costs appeared to be arbitrarily high;

2. Replacements made near the end of the project repayment period were shown to be repaid in full in the year of installation; and

3. The repayment schedule for the project indicated that total power repayment will be accomplished three years early so that a surplus of $1,882,000 will be earned by the end of the fifty year repayment period. The FPC observed that each of these deficiencies would cause the wholesale power rates to be higher than necessary to pay back project costs allocated to power over a period of fifty years.

Review of this matter passed to ERA on October 1, 1977, by the terms of the Secretary's Delegation Order No. 0204-4. A second informal conference was held on January 30, 1978, attended by representatives from SEPA, ERA, and FERC (formerly the FPC). ERA reiterated the concern that SEPA's accounting practices will, in effect, require wholesale power rates to be higher than the minimum necessary to ensure the recovery of the cost of producing the electricity sold. At the January 30, 1978, conference, SEPA conceded that its accounting procedures will produce a surplus in revenue over the fifty year repayment period. SEPA stated that the surplus in revenue provides a necessary contingency fund to offset unstable or low water conditions and other operating uncertainties.

Section 5 of the Flood Control Act of 1944, 16 U.S.C. 825s requires the government to sell electric power and energy from Federal Hydroelectric projects including the Jim Woodruff Project "in such manner as to encourage the most widespread use thereof at the lowest possible rates to consumers consistent with sound business principles." ERA concludes that the rates contained in the proposed wholesale power rate schedules will produce revenues in excess of those necessary to repay project costs allocated to power, in violation of the Flood Control Act of 1944. Therefore, ERA is not approving Interior's request, made on behalf of SEPA, as filed with the FPC on July 11, 1977.

ORDER

Pursuant to the authorities set for the above, the Acting Assistant Administrator for Utility Systems, Economic Regulatory Administration Orders:

1. The proposed extension of the rates contained in Wholesale Power Rate Schedule JW-1 (Revised) and the proposed rates contained in the Wholesale Power Rate Schedule JW-2-A filed by the Department of the Interior with the Federal Power Commission on July 11, 1977, are hereby disapproved on the ground that such rates are higher than necessary to recover the cost of producing and transmitting the energy and power sold by the Jim Woodruff Project over a fifty year repayment period; and

2. A copy of this Order shall be published in the FEDERAL REGISTER.

Issued in Washington, D.C., this 29th day of December, 1978.

CHARLES A. FALCONE,
Acting Assistant Administrator for Utility Systems, Economic Regulatory Administration, Department of Energy.

[FR Doc. 79-419 Filed 1-4-79; 8:45 am]

*Part 730, Chapter 4 of the Department of the Interior Manual, which sets forth the financial reporting and repayment requirements of the power marketing administrations, is effective until rescinded, amended or superseded by the Department of Energy.

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1035-1]

APPLICATION FOR METHYL TERTIARY BUTYL ETHER (MTBE)

Decision of the Administrator

I. *Introduction.* Section 211(f) of the Clean Air Act (Act), 42 U.S.C. 7545(f) (1977), contains prohibitions and limitations on the use of controlled fuels and fuel additives.[1] Section 211(f)(1) prohibits, after March 31, 1978, any manufacturer from first introducing into commerce or increasing the concentration in use of any controlled fuel or fuel additive. Section 211(f)(3) prohibits any manufacturer which first introduced into commerce or increased the concentration in use of any controlled fuels or fuel additives between January 1, 1974 and March 31, 1977, from distributing such fuels and fuel additives in commerce after September 15, 1978.

Waivers may be obtained for any of the section 211(f) prohibitions or limitations. Section 211(f)(4) provides that the Administrator of the Environmental Protection Agency (EPA), upon application of any manufacturer of a fuel or fuel additive, may grant a waiver if he determines that the applicant [2] has established that the fuel or fuel additive will not cause or contribute to the failure of any emission control device or system (over the useful life of any vehicle in which such device or system is used) to achieve compliance by the vehicle with the emission standards with respect to which it has been certified pursuant to section 206 of the Act. If the Administrator does not act to grant or deny an application within 180 days of its receipt, the waiver is granted by operation of the Act.

I have received an application for a section 211(f)(4) waiver for methyl tertiary butyl ether (MTBE). The application for MTBE, for a concentration range of 5 to 15 volume percent, was received on June 30, 1978, from Petro-Tex Chemical Corporation (Petro-Tex). The 180-day review period for the Petro-Tex application expires December 27, 1978.[3]

Although not required, a public hearing [4] on this application was held on September 6, 1978, in Washington, D.C., and the thirty day comment period following the hearing ended on October 6, 1978.

II. *Summary of the Decision.* I have determined that Petro-Tex has not met its burden under section 211(f)(4) of making the requisite showing to obtain a waiver for MTBE in the concentration range of 5 to 15 volume percent.

Petro-Tex and other interested parties have submitted data for MTBE concentrations of 5, 7, 10, and 15 volume percent from which Petro-Tex concludes that MTBE will not cause or contribute to the failure of any emission control device or system.

I find, however, that the data presented on MTBE in the volumetric concentration range of 5-15 volume percent are not sufficient to establish that MTBE will not cause or contribute to the failure of any emission control device or system such that any vehicle would fail to meet its certified emission standards.[5] This decision on MTBE is not made on the basis of a finding that MTBE will cause or contribute to a failure of any emission control device or system over the useful life of any vehicle, but on the basis that insufficient data exist to conclude that the applicant has met its statutory burden under section 211(f)(4).[6] Any conslusions as to the effect of MTBE on emission control devices and systems relevant to a vehicle's failure to meet emission standards must await further data. I, therefore, deny the waiver request for MTBE in the concentration range of 5 to 15 volume percent. All section 211(f) prohibitions pertaining to MTBE in this concentration range remain in effect.

III. *Method of Review.* The Act prohibits the distribution into commerce of certain fuels and fuel additives pursuant to sections 211(f)(1) and (3). The Administrator may waive these prohibitions pursuant to section 211(f)(4), if he determines that an applicant has established that such fuel or fuel additive will not cause or contribute to the failure of any emission control device or system (over the useful life of any vehicle in which such device or system is used) to achieve compliance by the vehicle with the emission standards with respect to which it has been certified pursuant to section 206 of the Act.

This burden, which Congress has imposed on the applicant, if interpreted

[1] Section 211(f)(1) makes it unlawful upon March 31, 1977 "for any manufacturer of any [new] fuel or fuel additive to first introduce into commerce, or to increase the concentration in use of, any fuel or fuel additive for general use in light duty motor vehicles manufactured after model year 1974 which is not substantially similar to any fuel or fuel additive utilized in the certification of any model year 1975, or subsequent model year, vehicle or engine under section 206 (of the Act)."

[2] In determining whether an applicant has established his burden, the Administrator will look at all of the available data including data provided by persons other than the applicant.

[3] Another application for MTBE, for a concentration range of 0 to 7 volume percent, was received on August 28, 1978, from Atlantic Richfield Company (ARCO). The 180-day review period for the ARCO application expires February 24, 1979. This waiver request will be treated separately. To the extent data supporting the ARCO application were submitted within sufficient time to be considered for this decision, they were incorporated.

[4] See, "Gasohol and MTBE Waiver Request: Public Hearing," 43 FR 36,686 (1978). The Public Docket (Docket No. MSED-211(f)-MTBE) is available for public inspection in the Public Information Reference Unit, Environmental Protection Agency, Room 2922, 401 M Street SW., Washington, D.C. 20460. This docket contains all the information considered in this proceeding, including the MTBE applications submitted by ARCO, and other submittals to the record.

[5] The applicable emission standards pursuant to section 206 of the Act are set forth in 40 CFR 85.075-1, 85.076-1, 86.077-8, and 86.078-8. The 1978 exhaust emission standards are: hydracarbons (HC), 1.5 grams per vehicle mile, carbon monoxide (CO), 15 grams per vehicle mile, oxides of nitrogen (NO_x), 2.0 grams per vehicle mile. The fuel evaporative standard is 6 grams per test as determined by the SHED test method, 40 CFR 86.107-78. Aldehyde emissions have been widely discussed in connection with the use of oxygenated fuels. Although emissions of aldehyde, and other unregulated pollutants are of continuing interest to EPA due to their potential adverse effect on health, they have no bearing on this waiver decision. The waiver provision, section 211(f)(4), is solely concerned with the emission standards which apply to tailpipe emissions of HC, CO, and NO_x and evaporative HC emissions. Notwithstanding section 211(f), EPA retains authority to regulate any fuel or fuel additive under section 211(c) of the Act.

[6] The principal problem is the limited amount of exhaust and evaporative emissions data as measured according to the Federal Test Procedure. *See* 40 CFR 86.12F-78 through 145-78 (1977). (For model year 1978 and subsequent vehicles, EPA adopted a SHED testing procedure. *See* 40 CFR 86.107-78 (1977).) or a discussion of the applicant's 211(f)(4) burden necessary to obtain a waiver *see* "IN Re Application for MMT Waiver, Decision of the Administrator," 43 FR 41,425 (1978) and section III, *infra*.

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literally, is virtually impossible to meet as it requires the proof of a negative proposition, i.e., that no vehicle will fail to meet the emission standards with respect to which it has been certified. Taken literally, it would require the testing of every vehicle. Recognizing that Congress contemplated a workable waiver provision some mitigation of this stringent burden was deemed necessary. For purposes of the waiver provision, it is recognized that reliable statistical sampling and fleet testing protocols could safely be used to demonstrate that the fuel or fuel additive under consideration would not cause or contribute to failures of emission standards by automobiles in the national fleet.[7]

An affirmative grant of a waiver presumes sufficent data exist to determine with certainty that the fuel or fuel additive will not cause or contribute to the failure of any emission control device or system (over the useful life of any vehicle in which such device or system is used) to achieve compliance by the vehicle with the emission standards with respect to which it has been certified pursuant to section 206 of the Act. Data submitted with respect to a waiver request are analyzed by appropriate statistical methods. Three statistical tests have been applied to the emission data provided in support of this MTBE waiver request: a Paired Difference Test, Sign of Difference Test, and a test which compares the deteriorated emissions with the emissions standards (hereafter, Deteriorated Emissions Test). A description of these test and their application to the data is found in the Characterization Report.[8]

IV. *Nature of the Test Data.* The varying nature of fuels or fuel additives may alter the type of testing required to determine whether such fuels or fuel additives cause or contribute to the failure of vehicles to comply with emission standards. A fuel or fuel additive which is expected to affect the performance of emission control devices or systems adversely over a period of time and mileage may require testing to determine whether such effects exist. This could be done by actually testing vehicles over time or mileage, or both. (This is commonly known as durability testing.)

On the other hand, a fuel or fuel additive which is expected to have only an instantaneous emission effect on a vehicle could be judged by comparing back-to-back emission tests[9] on the same vehicle. Failure would then be determined by whether the change in the instantaneous emission levels would cause or contribute to that vehicle's failing to meet applicable emission standards.

It is possible that a fuel or fuel additive may operate to cause both an instantaneous increase and an increased deterioration of emission control systems or devices. If so, then both long term emissions data and instantaneous emissions data may be required.

Only data relating to an instantaneous emissions effect of MTBE have been submitted.[10]

Upon examination of the available data on material compatibility, EPA has concluded that 50,000 mile durability testing data are not essential to this waiver decision.[11] Therefore, a reasonable estimate of a test vehicle's emissions performance can be obtained using certification data in lieu of requiring the applicant to perform 50,000 mile durability testing.

V. *Analysis.* The following is a summary of the exhaust emissions data received in support of the application for 5–15 volume percent of MTBE.[12]

At 5% MTBE there were exhaust emission data submitted for only one vehicle. At 7%, exhaust emission data were provided for eight vehicles. At 10%, exhaust emissions data were provided for sixteen vehicles. At 15%, exhaust emission data from four vehicles were submitted.

No data were obtained for evaporative emissions at 5% MTBE. Evaporative emissions date were received for only one vehicle per concentration for 7%, 10%, and 15% MTBE.

With regard to the application of the Paired Difference Test and Sign of Difference Test for exhaust emissions at the different concentration levels, the insufficient number of vehicles coupled with the considerable data variability precluded any definitive conslusion as to whether MTBE caused or contributed to the failure of vehicles to meet emissions standards. Applying the Deteriorated Emissions Test to the exhaust emissions data is not possible since a minimum sample size of 10 vehicles is needed with each vehicle sufficiently identified to determine the appropriate deterioration factors to be applied. While exhaust emission data from over 10 vehicles were submitted at the 10% MTBE concentration level, only 9 vehicles were sufficiently identified so as to permit the application of the deteriorated emission test to the data. None of these statistical tests could be applied to evaporative emissions data due to the insufficient quantity of data at every concentration level.

B. *Technical Analysis—Materials Compatibility.*

The issue of materials compatibility has been raised by several interested parties.[13] Data submitted by ARCO and Suntech, Inc.[14] indicated that MTBE at concentrations of 10% and below did not produce significant materials compatibility problems. Suntech, Inc. reported that samples of metals stored in a 15% MTBE fuel for six months revealed no visual changes.[15] Suntech, Inc. concluded that there are no compatibility problems with 10% MTBE. Texaco also concluded that after four weeks of submersion of metallic and nonmetallic fuel system parts in a 10% MTBE fuel, no significant problems were found.[16] Texaco also discovered that no problems with non-metallic parts arose during their 20,000 miles mileage accumulation test on six vehicles.[17] Based on this data, the chemistry of MTBE, and our technical judgment, I have concluded that MTBE does not present a significant material compatibility problem.

VI. *Findings and Conclusions.* I have determined that Petro-Tex has not established that MTBE or the emission products thereof will not cause or contribute to a failure of any emission control device or system (over the useful life of any vehicle in which such device or system is used) to achieve compliance by the vehicle with the emission standards with respect to which it has been certified pursuant to section 206 of the Clean Air Act. The applicant, or any other manufacturer, may and is encouraged to reapply for a waiver for MTBE in the event that additional relevant data become available.

Accordingly, the Petro-Tex Chemical Corporation's request for a waiver for MTBE is denied.

Dated: December 26, 1978.

DOUGLAS M. COSTLE,
Administrator.

CHARACTERIZATION REPORT

SUMMARY

This paper presents a summarization and analysis of the data presented in support of the request from Petro-Tex Chemical Corporation for a waiver of the limitation and prohibition from use of methyl tertiary-butyl ether (MTBE) in a 5-15% concentration in unleaded fuel. Included are a description of the sources of test data, the statistical analysis of the data, and a discussion of the conclusions drawn.

SOURCES OF DATA

EPA has received back-to-back FTP exhaust emissions data [18] on seventeen oxidation catalyst vehicles, ten three-way catalyst vehicles and one dual bed catalyst vehicle from the following sources: Atlantic Richfield Company (ARCO), General Motors Corporation, the Ford Motor Company, Texaco Incorporated, and Shell Oil Company. A description of each vehicle tested in each program is contained in Table 1.

Atlantic Richfield, in support of its waiver request for the use of up to 7% MTBE has submitted back-to-back FTP data on eight 1976 or later model vehicles. Of these, five vehicles were equipped with oxidation catalysts and three were equipped with three-way catalysts. The base fuel for these tests was unleaded ARCO fuel. These vehicles were tested on the base fuel and the base fuel blended with 7% MTBE. Four of these vehicles were also tested on the base fuel blended with 3% MTBE.[19]

In addition, one 1978 oxidation catalyst vehicle was tested for evaporative emissions on a low volatility base fuel and 7% MTBE blended to produce a low volatility fuel, and a high volatility base fuel and 7% MTBE blended to produce a high volatility fuel.

General Motors has submitted data on five 1978 vehicles: two equipped with oxidation catalysts, two equipped with three-way catalysts, and one equipped with a dual bed catalyst. The base fuel was indolene. Test data were reported for MTBE concentrations of 5%, 10%, and 15% added to indolene from one vehicle and 15% for three other vehicles. In addition, evaporative results were provided on two vehicles.

Texaco submitted data on three 1977 and 1978 oxidation catalyst vehicles comparing FTP emissions on an unleaded Texaco base fuel versus the same base fuel with 10% MTBE blended.

Ford Motor Company tested eight 1978 or later vehicles on indolene and indolene with 10% MTBE added. Four test vehicles were equipped with three-way catalysts; of these, three were developmental vehicles, and one was a production vehicle. The four remaining production vehicles were equipped with oxidation catalysts.

Shell Oil Company has submitted data on four 1977 or later vehicles, two equipped with oxidation catalysts and two with three-way catalysts. The fuels used were an unleaded Shell fuel and the fuel with 10% MTBE added.

ANALYTIC PROCEDURES

This section reviews several procedures designed to examine the effects of fuels blended with MTBE. They are:

(1) Paired difference test
(2) Sign of difference test
(3) Comparison of deteriorated emissions with standards

Each test was applied to data for a specific catalyst technology type and MTBE concentration. Preliminary data review suggested that for HC and NOx there was no clear pattern of emissions effects as a function of MTBE concentration. However, the data seemed to indicate a decrease in CO with increasing concentrations of MTBE. Because there was no clear pattern, each concentration was considered individually in this characterization.

(1) *Paired difference test.* For each vehicle tested on a base gasoline and an MTBE containing fuel, the differences between the MTBE emissions and the base emissions were calculated. A 90% confidence interval was constructed for each of these differences.

This method of establishing 90% confidence intervals on the mean difference implicitly assumes emissions follow a normal distribution. While this requirement may not be exactly met, the method is robust enough to withstand some deviations from the normality assumption. This interval can be interpreted as: In approximately 90 experiments out of 100, one is confident that the interval so constructed would include the true value of the mean emission difference (i.e., MTBE effect). If the resulting entire interval is below zero it is indicative of no adverse effect from MTBE; if the entire interval is above zero, it is indicative of an adverse effect from MTBE.

If the interval contains zero, there is arguably no difference between the base fuel and MTBE fuel emission levels provided this interval is reasonably small. Since the length of the confidence interval can be large in the case of a small sample size, any interval containing zero must be sufficiently small that its upper limit does not exceed 10% of the applicable emission standard to reasonably contend that no effect exists.

In order to assure that these intervals covering zero are small enough, sufficient samples must be taken. Since the interval length varies inversely with the sample size, an increase in sample size would decrease the interval length. If the interval length were sufficiently small, one of three possible results could occur:

(i) The entire interval would lie below zero;
(ii) The interval would include zero and the upper limit would be lower than 10% of the applicable emission standard; or
(iii) The entire interval would lie above zero.

In general, the result is dependent on the location of the sample mean. Any of the three results would permit a definitive conclusion to be drawn. Hereafter, the situation in which a confidence interval includes zero, but has an upper limit above 10% of the standard will be referred to as having "insufficient data to reach a definitive conclusion".

Therefore, this procedure considers an adverse effect from MTBE to exist when this confidence interval lies entirely above zero. A lack of adverse effect is said to exist if the confidence

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[7] The quantity of testing required to meet the statistical requirements for fleet testing may not be necessary where technical judgment is convincingly validated by confirmatory testing.

[8] Three different statistical procedures appropriate for small sample analysis were used. The sample size at any MTBE concentration was not sufficiently large to draw definite conclusions using any of the three tests. The Characterization Report is an analysis of the data considered in this waiver application. *See,* Characterization Report at p. 4.

[9] Back-to-back testing involves measuring, sequentially, the emissions from a particular vehicle, first operated on a base fuel not containing the waiver request fuel or fuel additive and then on a base fuel containing the additive.

[10] *See,* Characterization Report at Table 1 for description of test vehicles. Texaco performed a limited durability test program using six 1978 Chevrolet Chevelles and six different fuel combinations. Texaco ran these vehicles for 20,000 miles on a Road Simulator Test (designed to simulate the average consumer driving environment). Texaco concluded that 10% MTBE versus three non-MTBE fuels did not reduce the catalytic activity of the catalytic converter. *See,* MSED-211(f)-MTBE-3. ARCO also performed a limited durability test on four vehicles. ARCO accumulated 4,000 miles and projected the emissions at 50,000 miles using the EPA certification deterioration factor. The mileage was accumulated using a fuel containing 5% MTBE. ARCO reported that the projected 50,000 emissions were below the applicable standards. However, ARCO used the deterioration factor (DF) for the vehicles determined during certification. These DF's were determined on a mileage accumulation fuel not containing MTBE. *See,* MSED-211(f)-MTBE-6.

[11] This conclusion is reached from an examination of the available material compatibility information, *see,* section V (B)(1), *infra,* and our technical judgment of the physical and chemical properties of MTBE. The combustion of MTBE results in no metallic components which may deposit on and deactivate the catalyst. Therefore, the emissions effect should be of an instantaneous, not a deterorative nature.

[12] Data from four vehicles was received from ARCO on 3% MTBE. Although the data were analyzed and included in the Characterization Report, they are not applicable to this waiver request decision for 5–15%.

[13] *See,* Transcript of Proceedings at 69(ARCO); 119(FORD); and 189(GM). *See, also,* MSED-211(f)-MTBE-5, Section 5 (Texaco), MSED-211(f)-MSED-35, Attachment 3 and Attachment 6-Reference 4.

[14] *See,* MSED-211(f)-MTBE-6 at 35 and MSED-211(f)-MTBE-30 at Section III.

[15] *See,* MSED-211(f)-MTBE-30 at Section III.

[16] *See,* MSED-211(f)—MTBE-5 at Section 5 and 6(c).

[17] *See, id.*

[18] Back-to-back testing involves measuring, sequentially, the emissions from a particular vehicle, first operated on a base fuel not containing the waiver request fuel or fuel additive and then on the base fuel containing the additive.

[19] Data from four vehicles were received from ARCO on 3% MTBE. Although it was analyzed and included in this report, it is not applicable to this waiver request for 5-15%.

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interval is entirely below zero or if it contains zero while the upper limit does not exceed 10% of the applicable standard.

For the purposes of this procedure, replicate tests on any one vehicle and fuel were averaged; and each vehicle carried an equal weight in the determination of the confidence interval.

The results of this procedure are shown in Table 2. Where a dash appears, there was insufficient information (either no observations or only one observation) to construct an interval. At any concentration level, there were not enough data to make definitive conclusions about all pollutants.

For oxidation catalysts, the results are summarized by:

(a) 3% MTBE—HC emissions decreased; insufficient data to reach a definitive conclusion for CO and NOx; no evaporative data.

(b) 5% MTBE—only one vehicle, insufficient data to construct any interval.

(c) 7% MTBE—HC, CO, and NOx did not increase, there were insufficient data to reach a definitive conclusion for evaporative emissions.

(d) 10% MTBE—HC, and CO emissions decreased, NOx did not increase, and there were no data to create a confidence interval for evaporative emissions.

(e) 15% MTBE—CO emissions did not increase, there were insufficient data to reach a conclusion for HC, NOx and evaporative emissions.

For three-way catalysts, the results are summarized by:

(a) 3% MTBE—not enough data to construct any interval

(b) 5% MTBE—no data at all

(c) 7% MTBE—HC emissions did not increase; insufficient data to reach a definitive conclusion for CO and NOx; no evaporative data

(d) 10% MTBA—CO and NOx emissions did not increase, there was insufficient data to reach a definitive conclusion for HC; and evaporative emissions.

(e) 15% MTBE—insufficient data to reach a definitive conclusion for HC, CO, and NOx; no evaporative data.

Thus, there was no concentration and technology class for which sufficient data existed from which conclusions could be drawn for all regulated pollutants.

(2) *Sign of difference tests.* For each vehicle tested with a base gasoline and an MTBE containing fuel, the sign of the emission difference between MTBE emissions and base fuel emissions was ascertained. The sign of these differences was considered. This non-parametric test was designed to determine whether the number of cars demonstrating an increase (+) in emissions with MTBE significantly (at a 90% confidence level) exceeded those showing a decrease (—) in emissions with MTBE.

In each test for each pollutant, the null hypothesis was that the median emission level for that pollutant was the same for both the base and the MTBE blend fuel. The alternative hypothesis for both HC and CO was that the median emissions level for MTBE was lower than that of the base fuel. For NOx and evaporative emissions, the alternative hypothesis was that the median level was higher for the MTBE fuel than that of the base fuel. The number of vehicles for which an increase in emissions was observed was calculated for each concentration and technology combination. If there were no real differences in emission levels attributable to MTBE, the expected proportion of instances in which an increase between fuels would occur for any pollutant would be .5. Thus a large proportion of observed increases in emission levels for a pollutant would indicate an adverse effect of MTBE. Similarly, a small proportion of increases in emission levels would indicate a positive effect of MTBE.

To be able to recognize large and small proportion increases (compared with .5) with confidence a sufficient sample size is required.

Table 3 shows the results of this procedure. Only in the case of HC and CO for oxidation catalysts were the sample sizes sufficient to indicate a decrease in the emission levels for these pollutants with high certainty when MTBE was added to the fuel. The rest of the cases all had insufficient data to conclude significant effects.

(3) *Comparison of deteriorated emissions with standards.* In order to determine whether the applicant had demonstrated that MTBE would not cause or contribute to the failure of any vehicle to meet emission standards during its useful life, a one-sided sign test to evaluate compliance using projected 50,000 mile emission levels was performed. This statistical procedure assumes that the difference in emission levels between the base and MTBE blend fuel for a particular vehicle either remains constant or becomes larger over the useful life of the vehicle.

Projected 50,000 mile emission levels for each nondevelopmental test vehicle (on which EPA had received sufficient vehicle identification information) were obtained by using average Federal Test Procedure (FTP) results and 50,000 mile certification data.

The test was designed such that the risk of failing would be at least 90% if 20% or more of the represented fleet failed to meet Federal emission standards for the particular MTBE blend considered.

The risk of failing this procedure is high for small sample sizes but decreases when the sample size is increased. Under this procedure, the critical number (the smallest number of projected test failures for a given sample size which would constitute a failure of the criterion) for a sample size of 10 would be one. For sample sizes less than 10, this procedure with a non-zero critical value could not be designed. That is, a sample of less than 10 would be insufficient information to apply the procedure.

Thus for samples of size 10, if one vehicle failed to meet emissions standards with its projected 50,000 mile value, the review criterion was a failure.

This procedure was evaluated for each MTBE concentration for each catalyst technology. It was applied as follows: For each nondevelopmental vehicle for which there existed sufficient vehicle information, the 50,000 mile emissions levels were obtained from the certification test results for its configuration. The difference between average emission levels for the MTBE concentration and base were added to these levels to obtain projected 50,000 mile levels. These projected levels were then compared to emissions standards to which the vehicle was certified. A failure was recorded when a projected level exceeded the appropriate standard. Table 4 displays the results of this procedure.

This comparison resulted in a failure on HC for 7% MTBE concentration for oxidation catalyst vehicles. In all other categories there were no failing vehicles. However, the number of vehicles tested in any concentration/technology classes was not sufficient to allow passing of this criterion.

Conclusions. Use of MTBE in concentration of 7% or greater appears to reduce HC and CO emissions in both oxidation and three-way catalyst vehicles. However insufficient test data were available to apply the review criteria and obtain conclusive results for the four regulated pollutants at any MTBE concentration. Thus, the applicant has failed to demonstrate that the use of MTBE in concentration of 5-15% will not cause or contribute to the failure of any vehicle to meet its certified emissions standards over its useful life.

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Table 1

Test Vehicle Description

Source	Model Year	Make/Model	California/Federal Configuration	Catalyst
ARCO	1976	Chevrolet Impala	Federal	Oxidation
ARCO	1977	Volvo 244 DL	California	Three-way
ARCO	1977	Ford Mustang	California	Oxidation
ARCO	1977	Ford Pinto	California	Oxidation
ARCO	1978	Chevrolet Impala	Federal	Oxidation
ARCO	1978	Ford Pinto	California	Three-way
ARCO	1978	Pontiac Sunbird	California	Three-way
ARCO	1978	Buick Lesabre	Federal	Oxidation
Ford	1978	Ford Bobcat	California	Three-way
Ford	1978	Ford Fairmont	Federal	Oxidation
Ford	1978	Ford Granada	California	Oxidation
Ford	1978	Ford Developmental	Developmental	Three-way
Ford	1978	Ford Developmental	Developmental	Three-way
Ford	1978	Ford Fairmont	Federal	Oxidation
Ford	1978	Ford Light Duty Truck	Federal	Oxidation
Ford	1979	Ford Thunderbird	Developmental	Three-way
GM	1978	Pontiac Lemans	California	Oxidation
GM	1978	Pontiac Sunbird	California	Three-way
Texaco	1977	Ford LTD II	Federal	Oxidation
Texaco	1978	Chevrolet Caprice	Federal	Oxidation
Texaco	1978	Chrysler Lebaron	Federal	Oxidation
Shell	1977	Chevrolet Nova	Federal	Oxidation
Shell	1978	Oldsmobile Delta 88	Federal	Oxidation
Shell	1978	Buick Skylark	Federal	Oxidation
Shell	1978	Ford Pinto	California	Three-way
GM	1978	Oldsmobile	Federal	Oxidation
GM	-	Developmental	Developmental	Dual-bed
GM	-	Developmental	Developmental	Three-way
ARCO	1978	Chevrolet Malibu	Federal	Oxidation

Table 2

90% Confidence Interval for Mean Emission Differences

	Sample Size	HC (grams/mile)	CO (grams/mile)	NOx (grams/mile)	EVAP. (grams/test)
Oxidation Catalyst					
Base Fuel + 3% MTBE	3	(-.16,-.00)*	(-.88,2.51)	(-.59,.47)	-
Base Fuel + 5% MTBE	1	-	-	-	-
Base Fuel + 7% MTBE	5	(-.16,.03)	(-3.20,0.76)	(-.04,.15)	-
	1	-	-	-	-
Base Fuel + 10% MTBE	11	(-.23,-.02)	(-3.73,-.73)	(-.12,.09)	-
Base Fuel + 15% MTBE	2	(-.41,.27)	(-4.19,.50)	(-1.86,1.63)	-
Three-Way Catalyst					
Base Fuel + 3% MTBE	1	-	-	-	-
Base Fuel + 7% MTBE	3	(-.06,.01)	(-3.12,1.47)	(-.14,.30)	-
Base Fuel + 10% MTBE	5	(-.12,.20)	(-1.03,.31)	(-.01,.10)	-
Base Fuel + 15% MTBE	2	(-.50,.40)	(-9.06,6.96)	(-.38,.34)	-

*For each, the first number represents the lower bound of the 90% confidence interval and the second number represents the upper bound of the 90% confidence interval.

Table 3

Sign Test Statistics and Confidence Levels For Comparison of Median Emission Levels Between Base Fuel and Various MTBE Concentrations

Oxidation Catalyst	HC	CO	NOx	EVAP
MTBE Concentration				
3% Increases/Observations	0/3	3/3	2/3	-
Confidence Level (%)	87.5 (D)	0 (D)	50.0 (I)	-
5% Increases/Observations	1/1	0/1	1/1	-
Confidence Level (%)	- (D)	- (D)	- (I)	-
7% Increases/Observations	1/5	1/5	3/5	0/1
Confidence Level (%)	81.25 (D)	81.25 (D)	50.0 (I)	- (I)
10% Increases/Observations	0/10	1/11	4/11	-
Confidence Level (%)	99.9 (D)	99.4 (D)	11.3 (I)	-
15% Increases/Observations	0/2	0/2	1/2	1/1
Confidence Level (%)	75.0 (D)	75.0 (D)	25.0 (I)	- (I)

Table 3 (continued)

Sign Test Statistics and Confidence Levels For Comparison of Median Emission Levels Between Base Fuel and Various MTBE Concentrations

Three-Way Catalyst	HC	CO	NOx	EVAP
MTBE Concentration				
3% Increases/Observations	1/1	1/1	1/1	-
Confidence Level (%)	- (D)	- (D)	- (I)	-
5% Increases/Observations	-	-	-	-
Confidence Level (%)				
7% Increases/Observations	0/2	1/3	2/2	-
Confidence Level (%)	75.0 (D)	50.0 (D)	75.0 (I)	-
10% Increases/Observations	2/5	2/5	4/5	1/1
Confidence Level (%)	50.0 (D)	50.0 (D)	81.3 (I)	- (I)
15% Increases/Observations	1/2	1/2	1/2	-
Confidence Level (%)	25.0 (D)	25.0 (D)	25.0 (I)	-

Table 4

Deteriorated Emission Comparison with Standards (#failures/total#)

Oxidation Catalyst	HC	CO	NOx
3% MTBE	0/3	0/3	0/3
5% MTBE	0/1	0/1	0/1
7% MTBE	1/5	0/5	0/5
10% MTBE	0/7	0/7	0/7
15% MTBE	0/2	0/2	0/2
Three-way Catalyst			
3% MTBE	0/1	0/1	0/1
7% MTBE	0/3	0/3	0/3
10% MTBE	0/2	0/2	0/2
15% MTBE	0/1	0/1	0/1

[FR Doc. 79-391 Filed 1-4-79; 8:45 am]

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[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1033-7]

EMPLOYER MASS TRANSIT AND CARPOOL INCENTIVE PROGRAM IN THE STATE OF TEXAS

Enforcement Policy

On July 21, 1977, the Administrator of the Environmental Protection Agency promulgated regulations designed to reduce hydrocarbon emissions and thereby to assist in attainment of the national ambient air quality standard for photochemical oxidants in several areas in Texas. One of these regulations requires employment facilities with 250 or more employees working, at minimum, the same six core hours at a single location and educational facilities of college level or of vocational training above secondary level with 1,000 or more commuters at a single location to implement and maintain an incentive program to encourage and increase use of mass transit and carpools by employees and students. 40 CFR 52.2297 (42 FR 37384). The counties in the State of Texas that are affected are Collin, Dallas, Denton, Ellis, Hood, Johnson, Kaufman, Parker, Rockwall, Tarrant, and Wise Counties in the Metropolitan Dallas-Fort Worth Intrastate Air Quality Control Region; Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Matagorda, Montgomery, and Waller Counties in the Metropolitan Houston-Galveston Intrastate Air Quality Control Region; Bexar, Comal, and Guadalupe Counties in the Metropolitan San Antonio Intrastate Air Quality Control Region.

The regulation establishes compliance dates and reporting dates based on the facility type and size. Employment facilities with 1,000 or more employees and educational facilities with 5,000 or more commuters had a compliance date of October 1, 1978, and a reporting date of November 1, 1978. Employment facilities with 500 to 999 employees and educational facilities with 1,000 to 4,999 commuters had a compliance date of November 1, 1978, and a reporting date of December 1, 1978. Employment facilities with 250 to 499 employees have a compliance date of December 1, 1978, and a reporting date of January 1, 1979. The reports are to be submitted to the Regional Administrator, Attention: Carpool and Mass Transit Program, Environmental Protection Agency, 1201 Elm Street, Dallas, Texas 75270.

Information is being received that a substantial number of employers will not have complied with the regulation by the applicable date. EPA has flexibility and discretion in the manner in which it chooses to enforce the regulation. In an exercise of that discretion the Agency has determined that the following enforcement policy will be used. Following the applicable reporting date, EPA will send a letter to each facility believed to be subject to the regulation that has not submitted a report stating that the report must be submitted within thirty (30) days or a demonstration submitted that the facility is not subject to the regulation. If an adequate response is not received, a notice of violation will be issued to the facility. If the violation extends beyond the thirtieth day after the notification an order will be issued requiring within thirty days. If compliance is not achieved as required by the order, a civil suit will be initiated.

Because we believe that there are a substantial number of employers who do not realize that they are subject to the regulation, we recommend that any employer or educational facility which is uncertain as to the applicability of the regulation to a facility contact us.

Any questions should be directed to the Chief, Air Compliance Branch, Carpool and Mass Transit Program, Enforcement Division, Environmental Protection Agency, Region 6, 1201 Elm Street, Dallas, Texas 75270. Telephone calls should be directed to Ms. Joan Brown, (214) 767-2755.

Dated: November 20, 1978.

ADLENE HARRISON
Regional Administrator.

[FR Doc. 79-303 Filed 1-4-79; 8:45 am]

[6560-01-M]

[FRL 1034-7; OPP-00084]

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT, SCIENTIFIC ADVISORY PANEL

Open Meeting

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Notice of open meeting.

SUMMARY: There will be a two-day meeting of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel from 9:30 a.m. to 4:30 p.m. daily on Thursday and Friday, January 25, and 26, 1979. The meeting will be held in Room 1112A, Crystal Mall, Building No. 2, 1921 Jefferson Davis Highway, Arlington, VA., and will be open to the public.

FOR FURTHER INFORMATION CONTACT:

Dr. H. Wade Fowler, Jr., Executive Secretary, FIFRA Scientific Advisory Panel, Office of Pesticide Programs (TS-766), Room 803, Crystal Mall, Building No. 2, at the above address (telephone 703/557-7560).

SUPPLEMENTARY INFORMATION: In accordance with section 25(d) of the amended FIFRA, the Scientific Advisory Panel will comment on the impact on health and the environment of regulatory actions under section 6(b) and 25(a) prior to implementation. The purpose of this meeting is to discuss the following topics:

1. Preliminary review of the following draft Subparts of the Guidelines for Registration of Pesticides in the United States: Subpart H—Label Development; Subpart I—Experimental Use Permits. (These subparts are in preparation for proposal in the FEDERAL REGISTER);

2. Final review of FIFRA Section 3(c)(7) interim-final regulations for conditional registration of pesticides;

3. Review of draft final regulations implementing Section 5(f) of the amended FIFRA for State Experimental Use Permits; and

4. In addition, the Agency may present status reports on other ongoing programs of the Office of Pesticide Programs.

Any member of the public wishing to attend or submit a paper should contact Dr. H. Wade Fowler, Jr., at the address or phone listed above to be sure that the meeting is still scheduled and to confirm that the Panel will review all of the agenda items. Interested persons are permitted to file written statements before or after the meeting, and may upon advance notice to the Executive Secretary, present oral statements to the extent that time permits. Written or oral statements will be taken into consideration by the Panel in formulating comments or in deciding to waive comments. Persons desirous of making oral statements must notify the Executive Secretary and submit the required number of copies of a summary no later than January 19, 1979.

Individuals who wish to file written statements are advised to contact the Executive Secretary in a timely manner to be instructed on the format and the number of copies to submit to ensure appropriate consideration by the Panel.

The tentative date for the next Scientific Advisory Panel meeting is February 21, 22, and 23, 1979.

(Sec. 25(d) of FIFRA, as amended in 1972, 1975, and 1978 (92 Stat. 819; and sec. 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 86 Stat. 770)).)

Dated: December 28, 1978.

JAMES M. CONLON,
Acting Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-390 Filed 1-4-79; 8:45 am]

[6560-01-M]

[FRL 994-8]

FLOODPLAIN MANAGEMENT AND WETLANDS PROTECTION

Statement of Procedures

AGENCY: Environmental Protection Agency.

ACTION: Statement of procedures.

SUMMARY: On May 24, 1977, President Carter signed Executive Order 11988 pertaining to "Floodplain Management" and Executive Order 11990 pertaining to "Protection of Wetlands." These Executive Orders will be implemented through this Statement of Procedures which sets forth general policy, criteria, and requirements to be carried out within the Agency. Specific program implementation will be effected through agency regulations and guidance.

DATE: Written comments will be received with respect to this Statement of Procedures. Comments must be received on or before March 6, 1979.

ADDRESS: The mailing address for all comments is the Office of Federal Activities (A-104), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460; Attention: Thomas Sheckells.

FOR FURTHER INFORMATION CONTACT:

Thomas Sheckells, Office of Federal Activities, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460; telephone 202-755-0790.

SUPPLEMENTARY INFORMATION: Executive Orders 11988 and 11990 establish Federal policy to avoid adverse impact on wetlands and floodplains, to minimize destruction, loss, or degradation of wetlands, to preserve and enhance the natural and beneficial values of wetlands, to reduce the risk of flood loss, to minimize the impact of floods on human safety, health, and welfare, and to restore the natural and beneficial value served by floodplains. Federal agencies are required to implement these Executive Orders with regard to acquiring, managing and disposing of Federal property, providing Federally undertaken, financed, or assisted construction, and conducting Federal activities and programs affecting land use. Federal agencies are prohibited from directly or indirectly supporting floodplain development, or otherwise adversely affecting floodplain areas unless it can be demonstrated that there are no practical alternatives to such actions. Federal agencies shall exercise leadership to assure that the intent of these Executive Orders are understood and incorporated into State, Federal and local programs affecting floodplains/wetlands wherever possible.

Dated: December 20, 1978.

DOUGLAS M. COSTLE,
Administrator.

STATEMENT OF PROCEDURES

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Section 1—General.
Section 2—Purpose.
Section 3—Policy.
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Section 6—Requirements.
Section 7—Implementation.

SECTION 1—*General.* a. Executive Order 11988 entitled "Floodplain Management" dated May 24, 1977, requires Federal agencies to evaluate the potential effects of actions it may take in a floodplain to avoid adversely impacting floodplain wherever possible, to ensure that its planning programs and budget requests reflects consideration of flood hazards and floodplain management, including the restoration and preservation of such land areas as natural undeveloped floodplains, and to prescribe procedures to implement the policies and procedures of this Executive Order. Guidance for implementation of the Executive Order has been provided by the U.S. Water Resources Council in its Floodplain Management Guidelines dated February 10, 1978 (see 40 FR 6030).

b. Executive Order 11990 entitled "Protection of Wetlands", dated May 24, 1977, requires Federal agencies to take action to avoid adversely impacting wetlands wherever possible, to minimize wetlands destruction and to preseve the values of wetlands, and to prescribe procedures to implement the policies and procedures of this Executive Order.

c. It is the intent of these Executive Order that, wherever possible, Federal agencies implement the floodplain/wetlands requirements through existing procedures, such as those internal procedures established to implement the Nationsl Environmental Policy Act (NEPA) and OMB A-95 review procedures. In those instances where the environmental impacts of a proposed action are not significant enough to require an environmental impact statement (EIS) pursuant to Section 102(2)(C) of NEPA, or where programs are not subject to the requirements of NEPA, alternative but equivalent floodplain/wetlands evaluation and notice procedures must be established.

SECTION 2—*Purpose.* a. The purpose of this Statement of Procedures is to set forth Agency policy and guidance for carrying out the provisions of Executive Orders 11988 and 11990.

b. EPA program offices shall amend existing regulations and procedures to incorporate the policies and procedures set forth in this Statement of Procedures.

c. To the extent possible, EPA shall accommodate the requirements of Executive Orders 11988 and 11990 through the Agency NEPA procedures contained in 40 CFR Part 6.

SECTION 3.—*Policy.* a. The Agency shall avoid wherever possible the long and short term impacts associated with the destruction of wetlands and the occupancy and modification of floodplains and wetlands, and avoid direct and indirect support of floodplain and wetlands development wherever there is a practicable alternative.

b. The Agency shall incorporate floodplain management goals and wetlands protection considerations into its planning, regulatory, and decisionmaking processes. It shall also promote the preservation and restoration of floodplains so that their natural and beneficial values can be realized. To the extent possible EPA shall:

(1) Reduce the hazard and risk of flood loss and wherever it is possible to avoid direct or indirect adverse impact on floodplains;

(2) Where there is no practical alternative to locating in a floodplain, minimize the impact of floods on human safety, health, and welfare, as well as the natural environment;

(3) Restore and preserve natural and beneficial values served by floodplains;

(4) Require the construction of EPA structures and facilities to be in accordance with the standards and criteria, of the regulations promulgated pursuant to the National Flood Insurance Program;

(5) Identify floodplains which require restoration and preservation and recommend management programs necessary to protect these floodplains and to include such considerations as part of on-going planning programs; and

(6) Provide the public with early and continuing information concerning floodplain management and with opportunities for participating in decision making including the (evaluation of) tradeoffs among competing alternatives.

c. The Agency shall incorporate wetlands protection considerations into its planning, regulatory, and decisionmaking processes. It shall minimize the destruction, loss, or degradation of wetlands and preserve and enhance the natural and beneficial values of wetlands. Agency activities shall continue to be carried out consistent with the Administrator's Decision Statement No. 4 dated February 21, 1973 entitled

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"EPA Policy to Protect the Nation's Wetlands."

SECTION 4—*Definitions.* a. "Base Flood" means that flood which has a one percent chance of occurrence in any given year (also known as a 100-year flood). This term is used in the National Flood Insurance Program (NFIP) to indicate the minimum level of flooding to be used by a community in its floodplain management regulations.

b. "Based Floodplain" means the 100-year floodplain (one percent chance floodplain). Also see definition of floodplain.

c. "Flood or Flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland and/or tidal waters, and/or the unusual and rapid accumulation or runoff of surface waters from any source, or flooding from any other source.

d. "Floodplain" means the lowland and relatively flat areas adjoining inland and coastal waters and other floodprone areas such as offshore islands, including at a minimum, that area subject to a one percent or greater chance of flooding in any given year. The base floodplain shall be used to designate the 100-year floodplain (one percent chance floodplain). The critical action floodplain is defined as the 500-year floodplain (0.2 percent chance floodplain).

e. "Floodproofing" means modification of individual structures and facilities, their sites, and their contents to protect against structural failure, to keep water out or to reduce effects of water entry.

f. "Minimize" means to reduce to the smallest possible amount or degree.

g. "Practicable" means capable of being done within existing constraints. The test of what is practicable depends upon the situation and includes consideration of the pertinent factors such as environment, community welfare, cost, or technology.

h. "Preserve" means to prevent modification to the natural floodplain environment or to maintain it as closely as possible to its natural state.

i. "Restore" means to re-establish a setting or environment in which the natural functions of the floodplain can again operate.

j. "Wetlands" means those areas that are inundated by surface or ground water with a frequency sufficient to support and under normal circumstances does or would support a prevalence of vegetative or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction. Wetlands generally include swamps, marshes, bogs, and similar areas such as sloughs, potholes, wet meadows, river overflows, mud flats, and natural ponds.

SECTION 5—*Applicability.* a. The Executive Orders apply to activities of Federal agencies pertaining to (1) acquiring, managing, and disposing of Federal lands and facilities, (2) providing Federally undertaken, financed, or assisted construction and improvements, and (3) conducting Federal activities and programs affecting land use, including but not limited to water and related land resources planning, regulating, and licensing activities.

b. These Procedures shall apply to EPA's programs as follows:

(1) All Agency actions involving construction of facilities or management of lands or property. This will require amendment of the EPA Facilities Management Manual (October 1973 and revisions thereafter).

(2) All Agency actions where the NEPA process applies. This would include the programs under sections 306/402 of the Clean Water Act pertaining to new source permitting and section 201 of the Clean Water Act pertaining to wastewater treatment construction grants.

(3) All agency actions where there is sufficient independent statutory authority to carry out the floodplain/wetlands procedures.

(4) In program areas where there is no EIS requirement nor clear statutory authority for EPA to require procedural implementation, EPA shall continue to provide leadership and offer guidance so that the value of floodplain management and wetlands protection can be understood and carried out to the maximum extent practicable in these programs.

c. These procedures shall not apply to any permitting or source review programs of EPA once such authority has been transferred or delegated to a State. However, EPA shall, to the extent possible, encourage States to provide equivalent effort to assure support for the objectives of these procedures as part of the State assumption process.

SECTION 6—*Requirements*—a. *Floodplain/Wetlands review of proposed Agency actions.*—(1) *Floodplain/Wetlands Determination*—Before undertaking an Agency action, each program office must determine whether or not the action will be located in or affect a floodplain or wetlands. The Agency shall utilize maps prepared by the Federal Insurance Administration (Flood Insurance Rate Maps or Flood Hazard Boundary Maps), Fish and Wildlife Service (National Wetlands Inventory Maps), and other appropriate agencies to determine whether a proposed action is located in or will likely affect a floodplain or wetlands. If there is no adverse floodplain/wetlands impact identified, the action may proceed without further consideration of the remaining procedures set forth below.

(2) *Early Public Notice*—When it is apparent that a proposed or potential agency action is likely to impact a floodplain or wetlands, the public should be informed through appropriate public notice procedures.

(3) *Floodplain/Wetlands Assessment*—If the Agency determines a proposed action is located in or affects a floodplain or wetlands, a floodplain/wetlands assessment shall be undertaken. For those actions where an environmental assessment (EA) or environmental impact statement (EIS) is prepared pursuant to 40 CFR Part 6, the floodplain/wetlands assessment shall be prepared concurrently with these analyses and shall be included in the EA or EIS. In all other cases, a "floodplain/wetlands assessment" shall be prepared. Assessments shall consist of a description of the proposed action, a discussion of its effect on the floodplain/wetlands, and shall also describe the alternatives considered.

(4) *Public Review of Assessments*—For proposed actions impacting floodplain/wetlands where an EA or EIS is prepared, the opportunity for public review will be provided through the EIS provisions contained in 40 CFR Parts 6, 25, or 35, where appropriate. In other cases, an equivalent public notice of the floodplain/wetlands assessment shall be made consistent with the public involvement requirements of the applicable program.

(5) *Minimize, Restore or Preserve*—If there is no practicable alternative to locating in or affecting the floodplain/wetlands, the Agency shall act to minimize potential harm to the floodplain or wetlands. The Agency shall also act to restore and preserve the natural and beneficial values of floodplains and wetlands as part of the analysis of all alternatives under consideration.

(6) *Agency Decision*—After consideration of alternative actions, as they have been modified in the preceding analysis, the Agency shall select the desired alternative. For all Agency actions proposed to be in or affecting a floodplain/wetlands, the Agency shall provide further public notice announcing this decision. This decision shall be accompanied by a Statement of Findings, not to exceed three pages. This Statement shall include: (i) The reasons why the proposed action must be located in or affect the floodplain or wetlands; (ii) a description of significant facts considered in making the decision to locate in or affect the floodplain or wetlands including alternative sites and actions; (iii) a statement indicating whether the proposed action conforms to applicable State or local floodplain protection standards; (iv) a description of the steps taken to design or modify the proposed action to minimize potential harm to or within the floodplain or wetlands; and (v) a statement indicating how the proposed action affects the natural or beneficial values of the floodplain or wetlands. If the provisions of 40 CFR Part 6 apply, the Statement of Findings may be incorporated in the final EIS or in the environmental impact appraisal. In other cases, notice should be placed in the FEDERAL REGISTER or other local medium and copies sent to Federal, State, and local agencies and other entities which submitted comments or are otherwise concerned about the Statement of Findings. For floodplain actions subject to Office of Management and Budget (OMB) Circular A-95, the Agency shall send the Statement of Findings to State and areawide A-95 clearinghouses in the geographic area affected. At least 15 working days shall be allowed for public and interagency review of the Statement of Findings.

(7) *Authorizations/Appropriations*—Any requests for new authorizations or appropriations transmitted to OMB shall include, a floodplain/wetlands assessment and, for floodplain impacting actions, a Statement of Findings, if a proposed action will be located in a floodplain or wetlands.

b. *Lead agency concept.* To the maximum extent possible, the Agency shall rely on the lead agency concept to carry out the provisions set forth in section 6.a. above. Therefore, when EPA and another Federal agency have related actions, EPA shall work with the other agency to identify which agency shall take the lead in satisfying these procedural requirements and thereby avoid duplication of efforts.

c. *Additional floodplain management provisions relating to Federal property and facilities.*—(1) *Construction Activities*—EPA controlled structures and facilities must be constructed in accordance with existing criteria and standards set forth under the NFIP and must include mitigation of adverse impacts wherever feasible. Deviation from these requirements may occur only to the extent NFIP standards are demonstrated as inappropriate for a given structure or facility.

(2) *Flood Protection Measures*—If newly constructed structures or facilities are to be located in a floodplain, accepted floodproofing and other flood protection measures shall be undertaken. To achieve flood protection, EPA shall, wherever practicable, elevate structures above the base flood level rather than filling land.

(3) *Restoration and Preservation*—As part of any EPA plan or action, the potential for restoring and preserving floodplains and wetlands so that their natural and beneficial values can be realized must be considered and incorporated into the plan or action wherever feasible.

(4) *Property Used by Public*—If property used by the public has suffered damage or is located in an identified flood hazard area, EPA shall provide on structures, and other places where appropriate, conspicuous indicators of past and probable flood height to enhance public knowledge of flood hazards.

(5) *Transfer of EPA Property*—When property in floodplains is proposed for lease, easement, right-of-way, or disposal to non-Federal public or private parties, EPA shall reference in the conveyance those uses that are restricted under Federal, State and local floodplain regulations and attach other restrictions to uses of the property as may be deemed appropriate. Notwithstanding, EPA shall consider withholding such properties from conveyance.

SECTION 7—*Implementation.* a. Pursuant to section 2, the EPA program offices shall amend existing regulations, procedures, and guidance, as appropriate, to incorporate the policies and procedures set forth in this Statement of Procedures. Such amendments shall be made within six months of the date of these Procedures.

b. The Office of Federal Activities (OFA) is responsible for the oversight of the implementation of this statement of Procedures and shall be given advanced opportunity to review amendments to regulations, procedures, and guidance. OFA shall coordinate efforts with the program offices to develop necessary manuals and more specialized supplementary guidance to carry out this Statement of Procedures.

[FR Doc. 79-389 Filed 1-4-79; 8:45 am]

[6712-01-M]

FEDERAL COMMUNICATIONS COMMISSION

PRIVACY ACT OF 1974

Revision of an Existing System of Records

AGENCY: Federal Communicatons Commission.

ACTION: Notification of Revision of Systems of Records No. OED-14, records of money received, refunded, and returned and personal checks destroyed.

SUMMARY: The Federal Communications Commission proposes to revise an existing system of records that was previously published in the FEDERAL REGISTER, April 27, 1978 (Vol. 43, No. 82—Page 18019) as System No. OED-14. This proposed revision is being published for public comment.

DATES: This revison will become effective on February 5, 1979, unless comments are received on or before that date that would result in a contrary determination.

ADDRESS: Comments should be addressed to the Privacy Act Liaison Officer, Records Management Division, Room A-102, Federal Communications Commission, Washington, D.C. 20554. Any comments received may be inspected in Room A-102, 1229—20th Street, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Rex Marshall, Privacy Act Liaison Officer, Room A-102, 1229—20th Street, N.W., Washington, D.C. or call 202-632-7533.

SUPPLEMENTARY INFORMATION: This revision proposes to expand on and clarify the system name and make minor technical changes as indicated in the following system of records notice.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

FCC/OED-14

System name:

Records of: (1) Cash, Commercial Money Orders, Postal Money Orders, Bank Checks, Bank Cashiers Checks and Personal Checks received as fees for applications for licenses, tariffs, permits, type acceptances of equipment, approvals to operate, etc.; for collections of international maritime radiogram accounts; for forfeitures assessed; for fees for Freedom of Information Act materials or services furnished; for collections for grass, agricultural and other leases; for sales of surplus property; for collection of costs of commercial telephone calls made by employees on official telephones; for collections of bad checks from the public and for other miscellaneous monies received by the FCC. (2) refunds for cash fees transmitted to the FCC during the period when fee collections are suspended; for overpayment by American Shipowners international maritime radiogram accounts; for overpayment of fees for applications for licenses, tariffs, permits, type acceptances of equipment, approvals to operate, etc.; for refunds made under the mandate of a court-of-law; and for overpayment of fees for materials and services furnished under the Freedom of Information Act. (3) return of commercial money orders, postal money orders, bank checks and bank cashiers checks received as fees for applications for licenses, tariffs, type acceptances of equipment, approvals to operate, etc. during the period

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of time that collection of fees was suspended by the FCC, and under any fee collection procedures approved by the FCC.

System location:

1919 M Street, N.W., Washington, D.C. 20554; 334 York Street, Gettysburg, Pa. 17325; and Room 207, Post Office Building, Gettysburg, Pa. 17325, and various other temporary locations.

Categories of individuals covered by the system:

Individuals and companies making payments to cover goods acquired, forfeitures assessed, and services rendered; refunds for incorrect payments or overpayments; billing and collection of bad checks; and miscellaneous monies received by the Commission.

Categories of records in the system:

Names of individuals or companies; addresses of individuals or companies; goods acquired or services rendered; forfeitures assessed and collected; amounts; dates; check numbers; locations; bank deposit information; transaction type information; United States Treasury deposit numbers; ship name and call sign; and information substantiating a refund issued to applicant.

Authority for maintenance of the system:

Budget and Accounting Act of 1921; Budget and Accounting Procedures Act of 1950; and 31 U.S.C. 525.

Routine uses of records maintained in the system, including categories of users and the purpose of such uses:

Accounting for all monies received by the Commission from the Public, refunded to the Public, returned to the public, and release of the information to Federal, State, or local Government agencies performing a tax, investigative, or regulatory function.

Policies and practices for storing, retrieving, accessing, retaining and disposing of records in the system:

Storage: Paper copy, computer copy, microfilm, microfiche, magnetic disc, and magnetic tape.

Retrievability:

By name and/or type of transaction; call sign; processing number, employer identification number, soundex number, or sequential number.

Safeguards:

Records are located in lockable metal file cabinets, metal vaults, and in metal file cabinets in secured rooms or secured premises, with access limited to those individuals whose official duties require access.

Retention and disposal:

Retained for one year following the end of the fiscal year; then transferred to Federal Archives Records Center in accordance with Commission's Record Management System.

System manager(s) and address:

Executive Director, Office of Executive Director, 1919 M Street, N.W. Washington, D.C. 20554

Notification procedure:

Same as above.

Record access procedure:

Same as above.

Contesting record procedures:

Same as above.

Record source categories:

Subject individual and/or company; Federal Reserve Bank; Agent of Subject or company; or Attorney-At-Law.

[FR Doc. 79-641 Filed 1-4-79; 8:45 am]

[6712-01-M]

FEDERAL COMMUNICATIONS COMMISSION

[SS Docket Nos. 78-387; 78-388; File Nos. 127-M-L-107; 120-M-L-38]

VEGAS INSTANT PAGE ET AL.

Order; Designating Applications for Consolidated Hearing on Stated Issues

Adopted: December 19, 1978.

Released: December 27, 1978.

1. The above-captioned applications are for authority to operate Class III-B Public Coast Stations to serve Lake Mead in Nevada. The applicants propose to use the same frequency to serve the same area; therefore, the applications are mutually exclusive by operation of the rule limiting duplication of service (Section 81.303). Accordingly, it is necessary to designate the applications for hearing to determine which, if any, application should be granted. Except for the issues specified herein, the applicants are otherwise qualified.

2. Lake Mead was previously served by Public Coast Class III-B station KLU 743 under license to The Telephone Company, Inc. (TTC). After extensive investigation of a number of licenses held by TTC and the man who controls TTC, Arthur W. Brothers, the Commission revoked TTC's Lake Mead license. *The Telephone Co., Inc., et al.*, 65 FCC 2d 605 (1977). Because the Commission's decision was appealed to the U.S. Court of Appeals, the revocation order did not become effective until May 21, 1978. TTC was permitted by the Commission's decision to operate KLU-743 for 180 days after the effective revocation date. Inasmuch as this time has expired, it is our intention to proceed as expeditiously as possible in order that this valuable service at Lake Mead may be continued.

3. The applications properly before us now are the applications of Vegas Instant Page of Las Vegas, Nevada and Nancy L. May of Zephyr Cove, Nevada[1] (file numbers as appearing in the caption).

4. A person named Nancy L. May formerly worked with Arthur W. Brothers and was at one time president and major shareholder of The Telephone Co., Inc. See Initial Decision, FCC 75D-41 released August 7,1975, *The Telephone Company, Inc., et al.*, 66 FCC 2d 855, 861, 871 (1977). In this proceeding, it must be determined whether TTC's Nancy L. May is the same person as the applicant Nancy L. May and if so, it must be determined what relationship exists between Nancy May and Arthur W. Brothers with respect to the application of Nancy L. May and whether Nancy May has the character qualifications necessary to be a Commission licensee in light of her involvement in The Telephone Company case cited *supra*.

5. In view of the foregoing, IT IS ORDERED, pursuant to the provisions of Section 309(e) of the Communications Act of 1934, as amended, That the above-captioned applications are hereby designated for a hearing in a consolidated proceeding at a time and place to be specified in a subsequent Order on the following issues:

(a) To determine if Nancy L. May, the applicant is the same person as Nancy L. May, former officer of The Telephone Company, Inc. and if so, to determine (1) any relationship that may exist between Nancy L. May and Arthur W. Brothers with respect to her subject application; and (2) the suitability of Nancy L. May to be a licensee of the Commission;

(b) To determine which applicant would provide the public with better public coast station service based on the following considerations:

(1) Coverage area and its relationship to the greatest number of potential users;

(2) Hours of operation;

(3) Rates and charges;

(4) Ability to participate actively in the safety system;

(5) Personnel available to operate the station and their experience in marine communications; and

(6) Interconnection with landline facilities.

(c) To determine, in light of the evidence adduced on the foregoing issue, whether the public interest, convenience and necessity will be served by a grant of one of the subject applications.

6. IT IS FURTHER ORDERED, That the burden of proceeding with the introduction of evidence and the burden of proof on issue (a) is on Nancy L. May; and on all other issues, the burdens are on each applicant with respect to the application, except issue (c) which is conclusory.

7. IT IS FURTHER ORDERED, That to avail themselves of an opportunity to be heard, Vegas Instant Page and Nancy L. May, pursuant to Section 1.221(c) of the Commssion's rules, in person or by attorney, shall within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date set for hearing and present evidence on the issues specified in this Order. Failure to file a written appearance within the time specified may result in dismissal of the application with prejudice.

FEDERAL COMMUNICATIONS COMMISSION,
CARLOS V. ROBERTS,
Chief, Safety and Special Radio Services Bureau.

[FR Doc. 79-459 Filed 1-4-79; 8:45 am]

[6730-01-M]

FEDERAL MARITIME COMMISSION

[Docket No. 78-58]

CONDITIONAL APPROVAL OF AGREEMENT NO. 5600-36

Order To Show Cause

Agreement No. 5600-36 would amend the existing organic agreement of the Philippines North America Conference and its member lines (PNAC) by establishing a neutral body self-policing system to replace PNAC's existing self-policing system.[1] By Order dated April 26, 1978, the Commission conditioned its approval of Agreement No. 5600-36 by requiring that: (1) PNAC agree to keep on file with the Commission a current copy of its contract with the neutral body plus a statement of the neutral body's qualifications; and (2) the Agreement be modified to provide that nothing in it shall prohibit the release of confidential information by the neutral body to the Commission pursuant to an order or subpoena.[2] On May 30, 1978, PNAC filed a Petition for Reconsideration of the Commission's April 26, 1978 Order. On September 28, 1978, the Commission issued on Order on Reconsideration wherein it denied PNAC's Petition for Reconsideration, affirmed its April 26, 1978 Order, and notified PNAC that Agreement No. 5600-36 would be disapproved unless PNAC either conformed its Agreement to the conditions set forth in the April 26, 1978 Order, or conformed it to Part 528 of the Commission's Rules, or submitted an unequivocal request for a hearing within sixty days. PNAC has requested such a hearing.[3]

Therefore, it is ordered, That pursuant to section 15 of the Shipping Act, 1916 (46 U.S.C. 814), and in accordance with section 502.66 of the Commission's Rules (46 C.F.R. 502.66), the Phillippines North America Conference is order to show cause why Agreement No. 5600-36 should not be disapproved on the grounds that it contains inadequate provisions for self-policing,

It is further ordered, That this proceeding is limited to the submission of relevant affidavits of fact and memoranda of law. Should the Phillippines North America Conference believe that an evidentiary hearing is required, it must accompany any request for such hearing with a statement setting forth in detail the facts to be proven, their relevance to the issues in this proceeding, a description of the evidence which would be adduced to prove those facts, any why such proof cannot be submitted through affidavit. A request for hearing shall be filed no later than February 16, 1979; and

It is further ordered, That the Bureau of Hearing Counsel be a party to this proceeding; and

It is further ordered, That the affidavits and memorandum of law of the Philippines North America Conference be filed no later than January 23, 1979 and that a reply memorandum of law and any supporting affidavits be filed by the Bureau of Hearing Counsel no later than February 9, 1979; and

It is further ordered, That all documents submitted in this proceeding be filed with the Secretary, Federal Maritime Commission, 1100 L Street, N.W., Washington, D.C. 20573, in an original and 15 copies, and otherwise conform to the Commission's Rules of Practice and Procedure. 46 C.F.R. Part 502; and

It is further ordered, That notice of this Show Cause Order be published in the FEDERAL REGISTER and that a copy thereof be served upon the Philippines North America Conference and its member lines; and

It is further ordered, That nothing contained in this Order shall operate to exempt the Philippines North America Conference from any requirement imposed by Part 528 of the Commission's Rules, as revised.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 79-496 Filed 1-4-79; 8:45 am]

[6730-01-M]

EXEMPTION NO. 24

Exemption—Puget Sound Tug & Barge Co. Carriage of Miscellaneous Cargoes Between Ports in the Contiguous Continental United States (Except Ports in the Mississippi River System Above Baton Rouge, La.) and Prudhoe Bay on the Arctic Coast of Alaska

An Application for extension of the currently existing exemption from the Intercoastal Shipping Act, 1933, and the Shipping Act, 1916, and regulations applicable thereto, for miscella-

[1] In addition to the two applications designated for hearing here, three other applications were timely filed with the Commission. Two applications (File Nos. 86-M-L-107 and 56-M-L-38) filed by Arthur W. Brothers were dismissed by the Safety and Special Radio Services Bureau Chief on June 20, 1978, citing Section 1.916 of the Commission's rules. An Application for Review of this dismissal was denied by The Commission by Memorandum Opinion and Order, released December 14, 1978. In addition, the application of Phillips Wyman, File No. 7-M-L-97, was dismissed without prejudice by the Commission on October 23, 1978, at the applicant's request.

[1] Agreement No. 5600-36 also would replace Article 18 of the existing agreement, entitled "Faithful Performance", with a new, revised "Faithful Performance" clause, and would renumber various articles without altering their content.

[2] This modification would make Agreement No. 5600-36 consistent with PNAC's existing, approved organic agreement, paragraph 16(I) of which provides, in part, that: [T]he prohibition on releasing Conference Documents to non-members shall not be construed to prohibit the release of such documents to the appropriate governmental agency pursuant to an order of that agency or one of its administrative law judges, including orders relating to discovery and production of documents.

Paragraph 18(F) of the Agreement No. 5600-36 as submitted by PNAC provides for the handling of confidential self-policing information by the neutral body as follows:

F. *Confidential Information.* (1) The Neutral Body will under no circumstances disclose the name of the complainant to the respondent or anyone else, including the Neutral Body's agents, unless specifically authorized to do so by the complainant.

(2) The Neutral Body will treat all information received during investigations regardless of the sources, as confidential and will not divulge any such information to anyone, except in reporting breaches found and damages assessed to the Chairman and then only to the extent that the Neutral Body itself deems appropriate. Similarly, the Chairman, Conference employees and members who received information in accordance with the provisions of this Article will treat such information as confidential and will not divulge such information to anyone.

PNAC apparently would interpret this paragraph as *requiring* the neutral body to *defy* a lawful order or subpoena from the Commission.

[3] On November 27, 1978, PNAC filed the "Petition for Reconsideration and, Alternatively, for Hearing" (Petition). To the extent that the Petition sought reconsideration of the Commission's September 28, 1978 Order on Reconsideration, it was denied. *See Conditional Approval of Agreement No. 5600-36—Order,* served simultaneously herewith.

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neous cargoes transported between all ports in the contiguous Continental United States (except ports in the Mississippi River System above Baton Rouge, Louisiana) on the one hand and on the other, the Arctic Coast of Alaska between Beechey Point, Tigvariak Island (Prudhoe Bay) via the Gulf of Alaska, the Bering Sea and the Arctic Ocean, was filed by Puget Sound Tug & Barge Company (PSTB). Notice of the application appeared in the FEDERAL REGISTER on April 3, 1978.

The applicant requests that its present exemption be extended indefinitely or at least for a period of six years beyond 1978. The effect of such an exemption would be a continuation of authority to provide transportation by barge to the area involved with freedom from tariff filing requirements and regulation with respect to the reasonableness of rates.

PSTB states that the continuation of the exemption for an indefinite period or at least six years is due, in part, to the proposed construction of the natural gas pipeline from Alaska's Prudhoe Bay through Canada to the United States by Northwest Alaskan Pipeline Company which is estimated to be under construction by 1980, with completion set for 1983. Continuation of the exemption is also necessary, according to PSTB, to permit the movement of cargoes to further develop the oil fields. Between the years of 1970, and 1978, the Commission has granted the applicant and its predecessors, yearly and three-year exemptions from tariff filings and regulatory rate requirements of the Shipping Act, 1916, and the Intercoastal Shipping Act, 1933. The last of these exemptions is due to expire with December 31, 1978.

PSTB's petition for extension was intially protested by Sea-Land Service, Inc., which later withdrew its opposition. Statements in support of the application were received from the major shippers using the service: Atlantic Richfield Company, Northwest Alaskan Pipeline Company, Sohio Petroleum Company and Exxon Company, U.S.A. Each of the supporting statements indicates a continuing need for the service to both fully develop the Prudhoe Bay oil fields and to develop the new natural gas pipeline.

Upon review of the application, the Commission finds that the conditions under which the exemptions were intially granted and subsequently renewed have not substantially changed. The Commission, therefore, will approve a three-year extenstion in lieu of the requested six years beyond 1978. The continuation of the requested exemption by Purget Sound Tug & Barge, would not substantially impair effective regulation by the Federal Maritime Commission, be unjustly discrimatory or be detrimental to commerce.

The Commission further reviewed the reports submitted pursuant to predecessor extensions of their exemptions (Exemption No. 12 and thereafter). In light of the contents of the reports, and a desire to reduce paperwork burdens whenever and wherever possible, it has determined that the reporting requirement should be discontinued. The termination of the reporting requirement is made without prejudice to the Commission's right to seek the information and data pursuant to section 21 of the Shipping Act, 1916.

Therefore, pursuant to section 4 of the Administrative Procedure Act, 5 U.S.C. 553 and sections 35 and 43 of the Shipping Act, 1916, 46 U.S.C. 833(a) and 841(a):

It is ordered, that the tariff filing requirements of the Intercoastal Shipping Act, 1933, the Shipping Act, 1916, as amended, and previous report filing requirements that are applicable through December 31, 1978 (41 Fed. Reg. 6070), shall not apply to direct transportation by water between ports in the contiguous continental United States (excluding ports in the Mississippi River system above Baton Rouge, Louisiana) and Purdhoe Bay, Alaska of miscellaneous cargoes (including liquid in bulk) provided by Puget Sound Tug & Barge Company for a period commencing with the publication of this exemption in the FEDERAL REGISTER and ending with December 31, 1981.

This exemption granted herein supersedes and takes the place of the currently effective exemption and shall become effective January 5, 1979.

By Order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 79-415 Filed 1-4-79; 8:45 am]

[6730-01-M]

[Independent Ocean Freight Forwarder License No. 60]

MID-AMERICA SHIPPING SERVICE, JOSEPH C. SCHREIBER D.B.A.

Order of Revocation

The bond issued in favor of Mid-America Shipping Service, Joseph C. Schreiber d/b/a, 327 S. LaSalle Street, Chicago, Illinois 60604, FMC No. 60, was cancelled effective November 25, 1978.

By letter dated November 3, 1978, Mid-America Shipping Service, Joseph C. Schreiber d/b/a was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 60 would be automatically revoked or suspended unless a valid surety bond was filed with the Commission.

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4, further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

Mid-America Shipping Service, Joseph C. Schreiber d/b/a has failed to furnish a valid surety bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised) section 5.01(d) dated August 8, 1977;

It is ordered, that Independent Ocean Freight Forwarder License No. 60 be and is hereby revoked effective November 25, 1978.

It is further ordered, that Independent Ocean Freight Forwarder License No. 60 issued to Mid-America Shipping Service, Joseph C. Schreiber d/b/a be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the FEDERAL REGISTER and served upon Mid-America Shipping Service, Joseph C. Schreiber d/b/a.

ROBERT G. DREW,
Director, Bureau of Certification and Licensing.

[FR Doc. 79-414 Filed 1-4-79; 8:45 am]

[6210-01-M]

FEDERAL RESERVE SYSTEM

FEDERAL OPEN MARKET COMMITTEE

Authorization for Foreign Currency Operations

In accordance with § 271.5 of its Rules Regarding Availability of Information, there is set forth below paragraph 1a of the Committee's Authorization for Foreign Currency Operations as amended on December 14, 1978.

1. The Federal Open Market Committee authorizes and directs the Federal Reserve Bank of New York, for System Open Market Account, to the extent necessary to carry out the Committee's foreign currency directive and express authorizations by the Committee pursuant thereto, and in conformity with such procedural instructions as the Committee may issue from time to time:

A. To purchase and sell the following foreign currencies in the form of cable transfers through spot or forward transactions on the open market at home and abroad including transactions with the U.S. Treasury, with the U.S. Exchange Stabilization Fund established by Section 10 of the Gold Reserve Act of 1934, with foreign monetary authorities, with the Bank for International Settlements, and with other financial institutions:

Austrian schillings
Belgian francs
Canadian dollars
Danish kroner
Pounds sterling
French francs
German marks
Italian lire
Japanese yen
Mexican pesos
Netherlands guilders
Norwegian kroner
Swedish kroner
Swiss francs

By order of the Federal Open Market Committee, December 28, 1978.

MURRAY ALTMANN,
Secretary.

[FR Doc. 79-412 Filed 1-4-79; 8:45 am]

[6210-01-M]

MY ANNS CORP.

Formation of Bank Holding Co.

My Anns Corporation, Piqua, Kansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Piqua State Bank, Piqua, Kansas. The factors that are considered in acting on the applicaton are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than January 22, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 29, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 79-499 Filed 1-4-79; 8:45 am]

[6210-01-M]

NEISEN BANCSHARES, INC.

Formation of Bank Holding Company

Neisen Bancshares, Inc., Watkins, Minnesota, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 83.6 percent or more of the voting shares of Farmers State Bank of Watkins, Watkins, Minnesota. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than January 19, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 28, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 79-411 Filed 1-4-79; 8:45 am]

[6820-38-M]

GENERAL SERVICES ADMINISTRATION

[Temporary Regulation F-479]

FEDERAL PROPERTY MANAGEMENT REGULATIONS

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the secretary of defense to represent the interests of the executive agencies of the Federal Government in a telephone rate proceeding.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.*

a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the Arkansas Public Service Commission involving the application of the General Telephone Company of the Southwest for an increase in rates.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

PAUL E. GOULDING,
Acting Administrator of General Services.

DECEMBER 20, 1978.

[FR Doc. 79-468 Filed 1-4-79; 8:45 am]

[6820-38-M]

[Temporary Regulation F-478]

FEDERAL PROPERTY MANAGEMENT REGULATIONS

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Defense in conjunction with the Administtator of General Services to represent the interests of the executive agencies of the Federal Government in a ratemaking proceeding before the Montana Public Service Commission involving the Montana Power Company.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.*

a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense in conjunction with the Administrator of General Services to represent the consumer interests of the executive agencies of the Federal Government before the Montana Public Service Commission involving the application of the Montana Power Company for an increase in natural gas rates.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

PAUL E. GOULDING,
Acting Administrator of General Services.

DECEMBER 19, 1978.

[FR Doc. 79-469 Filed 1-4-79; 8:45 am]

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[6820-38-M]

[Temporary Regulation F-477]

FEDERAL PROPERTY MANAGEMENT REGULATIONS

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Defense in conjunction with the Administrator of General Services to represent the interests of the executive agencies of the Federal Government in a rate revision proceeding before the Maryland Public Service Commission involving the Baltimore Gas and Electric Company.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.*

a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense in conjunction with the Administrator of General Services to represent the consumer interests of the executive agencies of the Federal Government before the Maryland Public Service Commission involving the application of the Baltimore Gas and Electric Company for revisions in gas, electric, and steam rates.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

PAUL E. GOULDING,
Acting Administrator of General Services.

DECEMBER 19, 1978.

[FR Doc. 79-470 Filed 1-4-79; 8:45 am]

[6820-38-M]

[Intervention Notice 77]

PACIFIC GAS & ELECTRIC CO., CALIFORNIA PUBLIC UTILITIES COMMISSION

The Administrator of General Services seeks to intervene in a proceeding before the California Public Utilities Commission involving an application of Pacific Gas and Electric Company for an increase in revenues from its gas and electric operations. The Administrator of General Services represents the interests of the executive agencies of the United States Government as users of utility services.

Persons desiring to make inquiries of GSA concerning this case should submit them, in writing, to Mr. Spence W. Perry, Assistant General Counsel, Regulatory Law Division, General Services Administration, 18th & F Streets, NW., Washington, D.C. 20405, telephone 202-566-0726, on or before February 5, 1979, and refer to this notice number.

Persons making inquiries are put on notice that the making of an inquiry shall not serve to make any persons parties of record in the proceeding.

(Section 201(a)(4), Federal Property and Administrative Services Act, 40 U.S.C. 481(a)(4).)

Dated: December 20, 1978.

PAUL E. GOULDING,
Acting Administrator of General Services.

[FR Doc. 79-471 Filed 1-4-79; 8:45 am]

[4110-03-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 78N-0436]

IVY-REED CO., INC.

Steer-oid; Opportunity for Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The agency announces an opportunity for hearing on its proposed refusal to approve a new animal drug application submitted by Ivy-Reed Co., Inc. for the use of estradiol benzoate in combination with progesterone in food-producing animals on ground that the drug is not shown to be safe.

DATES: A written appearance requesting hearing must be submitted by February 5, 1979; data and analysis upon which the request for hearing relies must be submitted by March 6, 1979.

ADDRESS: Written appearances and data and analyses to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Woodrow M. Knight, Bureau of Veterinary Medicine (HFV-123), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3134

SUPPLEMENTARY INFORMATION: The Director of the Bureau of Veterinary Medicine of the Food and Drug Administration (FDA) is issuing a notice of opportunity for hearing on a proposed refusal to appprove new animal drug application (NADA) No. 110-315 submitted by Ivy-Reed Co., Inc., 433 Commercial Ave., Palisades Park, NJ 07650, for Steer-oid, a product containing 20 milligrams (mg) of estradiol benzoate in combination with 200 mg of progesterone per dose implanted subcutaneously in the ear of cattle for growth promotion and feed efficiency, in accordance with section 512(d)(1) (A), (B), and (D) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(d)(1) (A), (B), and (D)) on grounds that:

(A) The investigations, reports of which are required to be submitted to the Secretary pursuant to subsection (B) [of section 512 of the act], do not include adequate tests by all methods reasonably applicable to show whether or not such drug is safe for use under the conditions prescribed, recommended, or suggested in the proposed labeling thereof;

(B) the results of such tests [as have been submitted] * * * do not show that such drug is safe for use under such conditions; [and]

* * * * *

(D) upon the basis of the information submitted * * * as part of the application, [and other information before the agency] with respect to such drug, [the Director] has insufficient information to determine whether such drug is safe for use under such conditions.

Elsewhere in this issue of the FEDERAL REGISTER, under Docket No. 78N-0434, the Director is issuing a notice of opportunity for hearing on the proposal to withdraw approval of approved NADA 9-576 for a product (Synovex S, the generic equivalent of Steer-oid) containing estradiol benzoate in combination with progesterone for use in food-producing animals.

Ivy-Reed Co., Inc. submitted its NADA for Steer-oid on June 3, 1977. Thereafter, it submitted amendments on August 9, August 13, September 1, October 11, and October 26, 1977. The date of submission of the last amendment constitutes the filing date of the application under § 514.6 of the animal drug regulations (21 CFR 514.6). The data submitted by Ivy-Reed demonstrate that its product, Steer-oid, is the generic equivalent of Synovex S, a product marketed by Syntex Laboratories, Inc. under approved NADA 9-576. Ivy-Reed did not submit any data to demonstrate that use of the drug will not result in unsafe residues in human food. Accordingly, its NADA for Steer-oid was found incomplete under § 514.100(g) of the regulations (21 CFR 514.100(g)), and the firm was so notified by letters dated February 1, and May 18, 1976. Ivy-Reed never requested the issuance of a notice of opportunity for hearing, as permitted by § 514.100(g), but instead sought FDA permission to market Steer-oid, pending the development of data either by Syntex or Ivy-Reed to demonstrate that use of the drug will not result in unsafe residues in human food. By letters dated June 27, and August 21, 1978, the Deputy Commissioner of Food and Drugs rejected Ivy-Reed's proposal and announced the agency's intention to issue notices of opportunity for hearing proposing to refuse to approve Ivy-Reed's NADA for Steer-oid and to withdraw approval of Syntex's NADA for Synovex S and NADA's for all products containing estradiol benzoate in combination with progesterone, estradiol benzoate in combination with testosterone propionate, and estradiol monopalmitate for use in food-producing animals. Thereafter, Ivy-Reed brought suit in the United States District Court for the District of New Jersey (*Ivy-Reed Co., Inc.* v. *FDA*, Civ. A. No. 78-2658) seeking an order directing FDA to approve its NADA for Steer-oid. On December 7, 1978, the Court refused to issue the order requested by Ivy-Reed and ordered FDA to issue the notice required by section 512(c) of the act either approving the application or giving the applicant notice of opportunity for a hearing.

The Director acknowledges that Steer-oid is the generic equivalent of Synovex S. However, neither Ivy-Reed nor Syntex Laboratories has submitted data to demonstrate that the use of this drug in food-producing animals will not result in unsafe residues in human food. Without such information, Ivy-Reed's NADA is not approvable. The Director is incorporating by reference into this notice Sections II through V of the companion notice published elsewhere in this issue of the FEDERAL REGISTER under Docket No. 78N-0434 concerning Syntex Laboratories' NADA 9-576 for Synovex S as the basis for refusing to approve Ivy-Reed's NADA 110-315 for Steer-oid.

Therefore, notice is given to Ivy-Reed Co., Inc., and to any other interested persons who may be adversely affected, that the Director is giving an opportunity for a hearing under section 512(c)(2) of the act on a proposal to issue an order under section 512(d)(1) (A) (B), and (D) of the act refusing to approve NADA 110-315 for a product containing estradiol benzoate in combination with progesterone for use in food-producing animals.

Ivy-Reed, being the holder of filed NADA 110-315, or any other interested person who elects to exercise the right to an opportunity for hearing under section 512(c) of the act and § 514.200 of the regulations (21 CFR 514.200) must file with the Hearing Clerk (address given above) a written appearance requesting a hearing and giving the reason why the application should be approved.

The failure of the applicant to file a timely written appearance and a request for hearing as required by § 512.200 constitutes an election not to take advantage of the opportunity for hearing, and the Director will summarily enter a final order refusing approval of the application.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the information and factual analyses in the request for hearing that there is no genuine and substantial issue of fact that precludes the refusal to approve the application, or when a request is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person who requests a hearing, making findings and conclusions, denying a hearing.

If a hearing is requested and is justified by the applicant's response to this notice of opportunity for hearing, the issues will be defined, an administrative law judge will be assigned, and a written notice of the time and place at which the hearing will begin will be issued as soon as practicable.

Individuals requesting a hearing must, on or before February 5, 1979, submit a written appearance requesting a hearing to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857; data and analysis upon which the request relies must be submitted by March 6, 1979. Four copies of all submissions under this notice must be filed, identified with the Hearing Clerk docket number found in brackets in the heading of this documents. Except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, responses to this notice and copies of published literature included by reference in this notice may be seen in the office of the Hearing Clerk between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (Sec. 512, 82 Stat. 343-351 (21 U.S.C. 360b)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.84).

Dated: December 29, 1978.

TERENCE HARVEY,
Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 79-409 Filed 1-2-79; 12:55 pm]

[4110-03-M]

[Docket No. 78N-0434]

SYNTEX LABORATORIES, INC., AND MATTOX & MOORE, INC.

Synovex-S, Synovex-H, and Esmopal; Opportunity for Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The agency is announcing an opportunity for hearing on a proposed withdrawal of approved new animal drug applications (NADA's) providing for the use of products containing estradiol benzoate in combination with progesterone, estradiol benzoate in combination with testosterone propionate, and estradiol monopalmitate for use in food-producing animals on ground that the products are not shown to be safe.

DATES: A written appearance requesting hearing must be submitted February 5, 1979. Data and analysis upon which a request for hearing relies must be submitted by March 6, 1979.

ADDRESS: Written appearances and data and analyses to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Woodrow M. Knight, Bureau of Veterinary Medicine (HFV-123), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3134.

SUPPLEMENTARY INFORMATION: The Director of the Bureau of Veterinary Medicine of the Food and Drug Administration (FDA) is issuing a notice of opportunity for hearing on a proposal to withdraw approval of the following approved NADA's for products containing estradiol benzoate in combination with progesterone, estradiol benzoate in combination with testosterone propionate, and estradiol monopalmitate for use in food-producing animals in accordance with section 512(e)(1)(B) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(e)(1)(B)) on the ground that new evidence not available when the applications were approved, evaluated together with the evidence available at the time of approval, shows that these drugs are not shown to be safe under the conditions of use prescribed in the labeling:

(1) NADA's 9-576 and 11-427, Syntex Laboratories, Inc., 3401 Hillview Dr., Palo Alto, CA 94304; and

(2) NADA 13-187, Mattox & Moore, Inc., 1503 East Riverside Dr., Indianapolis, IN 46207.

Elsewhere in this issue of the FEDERAL REGISTER, under Docket No. 78N-0435, the Director is proposing to revoke the appropriate sections providing for the use of the products affected by the proposed withdrawal. Also in this issue of the FEDERAL REGISTER, under Docket No. 78N-0436, the Director is issuing a notice of opportunity for hearing on the proposal to refuse to approve NADA 110-315 for a product (Steer-oid, the generic equivalent of NADA 9-576) containing estradiol benzoate in combination with progesterone for use in food-producing animals.

I. THE DRUGS

Synovex-S (21 CFR 522.1940), NADA 9-576, is a combination of 200 milligrams (mg) of progesterone and 20 mg of estradiol benzoate per dose implanted subcutaneously in the ear of cattle for growth promotion and feed efficiency. Synovex-H (21 CFR 522.842), NADA 11-427, is a combination of 200 mg of testosterone propionate and 20 mg of estradiol benzoate per dose implanted subcutaneously in the ear of heifers for growth promotion and feed efficiency. Both products are not to be used within 60 days of slaughter. Esmopal (21 CFR 522.844), NADA 13-187, contains 10 mg of estradiol monopalmitate injected into roasting chickens to produce more uniform fat distribution and improve finish. The drug is not to be used within 6 weeks of slaughter.

Synovex-S was first approved in 1956; Synovex-H, in 1958; and Esmopal, in 1964. At that time, the available methods of analysis were deemed adequate to ensure that no unsafe residues of these drugs would be present in food as a result of use of the drugs. Subsequently, new data became available leading the Director to conclude that more sensitive assays were necessary to ensure the safe use of these products. The sponsors of the NADA's were asked to provide more adequate methods. They have failed to do so. Accordingly, the Director is issuing this notice of opportunity for hearing on the proposed withdrawal of approval of these NADA's.

II. REQUIREMENTS FOR SAFE USE OF DRUGS IN FOOD-PRODUCING ANIMALS

A. GENERAL REQUIREMENTS

Section 512(b) of the act requires that the use of a drug in food-producing animals be safe for the animal and that the edible portions of the animal (tissue, milk, eggs) be safe for human consumption. To demonstrate human safety, an application must be supported by adequate data demonstrating, among other things, that use of the drug will not result in unsafe residues in human food. Residues as defined in section 512(b) of the act include both the parent drug and metabolites, i.e., any substance formed in or on food as a result of the drug's use.

The following three components are required to demonstrate human safety for exogenous compounds administered to food-producing animals; these three components may also be used to demonstrate human safety for endogenous compounds:

(1) The level of residues in human food that can be considered safe must be demonstrated by appropriate toxicological feeding studies in test animals;

(2) The level of residues present in the edible tissues of food-producing animals treated with the drug and their rates of depletion must be demonstrated by appropriate methods of analysis to establish conditions of safe use of the drug; and

(3) If a drug is shown to be safe only under certain conditions of use, an appropriate regulatory method of analysis must be provided for monitoring compliance with the conditions of safe use.

The limit of reliable measurement of the analytical methods described in (2) and (3) above must be low enough to detect and measure residue levels at and above those shown to be safe by the available toxicity data. The limit of measurement of an assay is the level or concentration of residues below which the assay yields no interpretable result. All assays have such a limit of measurement, and this limit can be objectively established by experimentation for any given assay. Knowledge of the limit of measurement of a proposed assay is critical to an evaluation of the assay's acceptability since its represents the level of residue that will go undetected when edible animal products are examined after animals are treated with a compound having the potential to contaminate these products with toxic residues.

B. REQUIREMENTS FOR ENDOGENOUS COMPOUNDS

In making food safety decisions, the act requires evaluation of all substances formed in or on food by the administration of a compound to food-producing animals. It is well known that several compunds naturally present in (i.e., endogenous to) animals used for food are known to exhibit toxic properties, including carcinogenicity (Ref. 1). It is not know whether exposure to the normal, background levels of of such endogenous substances constitutes a health hazard to humans. Accordingly, the Director views any substance that can increase these normal background levels as having the potential for increasing the risk of toxicity, including carcinogenesis, to humans. Such substances can be use in food-producing animals only if, under the prescribed conditions of use, the levels of affected endogenous substances of toxic concern are shown to satisfy the food safety requirements of section 512 of the act and, if necessary, an assay is provided that is capable of reliably determining compliance with the established conditions of use.

In the case of administered compounds having the potential to increase normal background levels of endogenous substances of toxic concern, the safety requirement can be operationally demonstrated in either of two ways:

(1) The normal background levels of affected endogenous substances of toxic concern must be shown to be restored before treated animals are taken for slaughter; or

(2) Levels of the affected endogenous substance of concern must be at or below a prescribed level above the normal background levels. The prescribed level is any concentration of residues above that level that was demonstrated safe by available toxicological data.

To accomplish (1) above, the normal background levels ("norms") of the potentially affected endogenous substances of concern must be established in untreated animals. Effects of the administered drug on these norms must be established. This approach is based on analysis for the endogenous substances of concern and requires no toxicity testing. The safety requirements are operationally satisfied when the norm is restored. This approach to an operational definition of safety differs conceptually from that in effect for exogenous drugs because the residues of concern are naturally present in treated animals and cannot be controlled in the same way as residues resulting from exogenous drugs.

To accomplish (2) above, the levels of the endogenous substances of concern that are shown, using appropriate safety factors, to be safe must be established on the basis of the available toxicity data. An increment above the norm is permitted, as long as the increment does not exceed the level corresponding to the established safe level.

C. RESIDUE LEVELS OF NO TOXICOLOGICAL CONCERN

Historically, FDA has used no-effect levels observed in feeding studies in several test animal species, multiplied by an appropriate safety factor, to establish a safe level of drug residues in human food. No-effect levels from 90-day feeding studies are multiplied by a safety factor of 0.0005 and an experimental animal-to-man conversion factor to arrive at a safe level in human food. When residues are present primarily in organ tissues or fat, a larger factor may be applied, based upon the lower frequency of consumption of these tissues compared to muscle tissue. Irrespective of the calculated levels, an upper limit of 0.1 part per million (ppm) is placed on a tolerance for muscle derived from 90-day feeding studies. No-effect levels from chronic feeding studies in appropriate species are multiplied by a safety factor of 0.01. Animal drugs that are demonstrated or suspected carcinogens must be tested in chronic feeding studies in two rodent species. Certain drugs that are intended to be widely used or that incur high levels of residues in edible tissues of food-producing animals may also be required to undergo carcinogenicity testing. Maximum permitted levels of residues of a carcinogen are those corresponding to a lifetime risk of cancer no greater than one in one million in humans, calculated using the linear extrapolation described by Gross et al. (1970) and by Hoel et al. (1975) (Refs. 2 and 3). Certain hormonally active agents may be regulated on the basis of an observed no-effect level using a sensitive parameter of their hormonal activity. Generally, a safety factor of 0.0005 is used to establish a safe level of residues from these studies.

D. ENDOGENOUS COMPOUNDS OF TOXICOLOGICAL CONCERN

Treatment of a food-producing animal with an endogenous compound can be expected, through metabolic transformation, feedback mechanisms, etc., to have a significant effect on the levels of many related compounds in the edible tissues of treated animals in addition to the obvious effect on the levels of the administered drug itself (Refs. 4, 5, and 6). Before the sponsor of an endogenous drug can begin to satisfy the food safety requirements of section 512 of the act by one of the procedures discussed above, FDA will attempt to define which of the other affected endogenous compounds, in addition to the administered drug, are of toxicological/carcinogenic concern. The agency will attempt to make this decision for each drug after the sponsor has provided information available in its files, as well as an outline of data available in the published literature, on the identity and toxicity of all endogenous compounds whose levels are known to be affected by administration of its drug. However, the sponsor may be required to develop additional data if the available information is inadequate.

The background levels of endogenous substances of toxicological/carcinogenic concern may vary widely within a given breed or species and are affected by such factors as age, sex, state of estrus, pregnancy, and geographic location. The norm is not, therefore, a single level but rather a distribution of levels obtained from a sampling of animals. Accordingly, it must be determined whether a shift in the norm occurs. The requirement for the assay's limit of measurement is, in the case of such endogenous substances, defined according to a criterion based on the norm. This point is elaborated in the detailed requirements in section IV of this document.

III. DATA AVAILABLE ON THE TOXICITY OF SYNOVEX-S, SYNOVEX-H, AND ESMOPAL AND THE SAFETY OF THEIR REGULATED CONDITIONS OF USE

The active ingredients in Synovex-S are estradiol benzoate, a compound prepared by the chemical combination of estradiol-17-beta with benzoic acid, and progesterone. The active ingredients in Synovex-H are estradiol benzoate and testosterone propionate, a compound prepared by the chemical combination of testosterone and propionic acid. The active ingredient in Esmopal is estradiol monopalmitate, a compound prepared by the chemical combination of estradiol-17-beta and palmitic acid. Estradiol-17-beta, progesterone, and testosterone are major steroidal sex hormones produced primarily in the gonads of mammals, and there is evidence that the derivatives of estradiol-17-beta and testosterone in the approved products are rapidly transformed into the parent, naturally occurring hormones by enzyme systems in the treated animals (Ref. 6). Therefore, the Director presumes that the residues of concern in assessing risks to human health incurred by the use of Synovex-S, Synovex-H, and Esmopal are those associated with the endogenous hormones and their biotransformation products. (The quantitative aspects of the hydrolysis to parent hormones is an issue that the sponsors must address to demonstrate the conditions of safe use of their products.) In any case, information relating to the toxicity and carcinogenicity of estradiol-17-beta, progesterone, and testosterone, as well as their metabolites of concern, is directly relevant to an assessment of the three drugs that are the subject of this notice.

A. SYNOVEX-S

The original submission for Synovex-S provided for a dose of 1,250 mg of progesterone and 50 mg of estradiol-17-beta, intended for use in steers and heifers. Residue data in the original submission were rejected because they were developed in cattle that had been implanted with other hormone-containing pellets.

Thereafter, new tissue-residue data were provided from steers implanted with 1,500 mg of progesterone and 50 mg of estradiol-17-beta 87 days before slaughter. No residues were found in any edible tissue using a chemical method for each hormone with a claimed sensitivity of 10 parts per billion (ppb). Using a bioassay sensitive to about 250 ppb, no progesterone was found in any tissue. A bioassay for estrogenic activity detected about ppb of residues in liver tissue from treated animals. The sponsor then changed its formulation to contain 1,000 mg of progesterone and 20 mg of estradiol-17-beta. In 1956, the application was approved.

Subsequently, Syntex submitted a supplemental application to replace the 20 mg of estradiol-17-beta with 20 mg of estradiol benzoate. In 1958, the sponsor again supplemented its application requesting that the amount of progesterone in the implant be reduced from 1,000 to 200 mg. Both supplemental applications contained residue studies for estrogenic activity using a bioassay whose claimed sensitivity of 5 ppb was rejected by FDA mainly because the standard curve was not properly prepared. No residues were found using this method. Finally, in 1962 the firm submitted additional residue data. By means of the same bioassay of questionable sensitivity described above, no estrogenic activity was found in muscle, liver, kidney, or fat or steers implanted with 1, 5, and 10 times the recommended dose.

B. SYNOVEX-H

The original submission for synovex-H provided for an implant for heifers containing 200 mg of testosterone propionate and 20 mg of estradiol benzoate. A chick comb assay for testosterone propionate residues sensitive to 1 ppm and the mouse uterine assay for estrogenic activity sensitive to 2 ppb were used to demonstrate no measurable residues in the edible tissues of heifers sacrificed 89 days following implantation. The drug was approved in 1958. In 1962, residue studies were performed in heifers that were dosed with 10 times the recommended amounts of drugs and sacrificed after 32 days. No residues were found using these methods.

C. ESMOPAL

The original submission for Esmopal provded for an implant for roasting chickens containing 10 mg of estradiol monopalmitate. Mattox & Moore submitted the results of three residue depletion studies in chickens treated with Esmopal using a modification of the mouse uterine assay developed by Umberger et al. (Ref. 7). No significant increase in estrogenic activity was observed at any time in the livers of

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birds treated with the label-recommended dose. Slightly elevated levels of estrogen were observed in the livers of birds treated at twice the approved use level of the drug at 3 weeks but not at 6 weeks following injection.

Although there was experimental evidence as early as 1916 that estrogens can be potent carcinogens, this evidence was generally discounted by the scientific community, including scientists in the agency at thme time of these approvals, because of a prevalent assumption that humans should be able to ingest endogenous compounds at the low levels believed to be present in treated food-producing animals without experiencing toxic effects.

In the succeeding years, FDA has acquired data from other sources relating to the potential toxicity of endogenous hormones. Information on the physiology and pharmacology of endogenous hormones has accumulated in the scientific literature as a result of active research programs at many industrial and academic laboratories. As the potent biological properties of hormones have become more clearly defined, concern about their potential pathogenic effects as residues in human food as grown accordingly.

For example, the accumulated evidence supporting a prominent role for endogenous hormones in the etiology of certain types of cancer, including human cancer, is now sufficient to be convincing to most scientists with expertise in this field (Ref. 8). In the case of human breast cancer, the evidence includes the infrequent incidence of breast cancer prior to puberty; protection against breast cancer by castration at young ages; the favorable clinical response of many breast cancers to ablation of ovaries or adrenals or to treatment with androgens; and the induction of carcinomas in males on estrogen therapy, with Klinefelter's syndrome, or with high urinary estrogen concentration (Ref. 9).

Once a role for the endogenous hormones in the etiology of certain types of cancer is accepted, the results of experiments in animals demonstrating a relationship between the incidence of tumors and exogenously administered hormones acquire much greater significance. Evidence to demonstrate this relationship up to 1974 has been summarized by the International Agency for Research on Cancer in a monograph evaluating the carcinogenic risk of sex hormones to man. The authors discuss more than a dozen reported studies with progesterone, estradiol, and estrone (a major metabolite of estradiol), and more than six experiments with testosterone (Ref. 10). These studies demonstrate the carcinogenicity of estradiol and estrone, and the cocarcinogenicity associated with progesterone and testosterone. There have been additional experiments since 1974 supporting these basic results (Ref. 11).

Concern about the safety of residues resulting from the use of hormones in food-producing animals is not limited to a consideration of their potential for increasing the risk of cancer in humans. Specific biological activities of hormones include the well-known ability of progesterone to interfere with reproduction via a number of mechanisms, including suppression of ovulation (Ref. 6); the masculinization effects of testosterone, especially on the fetus; and the broad spectrum of effects of estradiol on bone, coagulation factors, cardiovascular disease, and libido in the male (Ref. 6).

As the evidence accumulated implicating exogenously administered endogenous hormones as potentially toxic substances, there has been a corresponding increase in concern at FDA about the adequacy of the safety information supporting use of these hormones in food-producing animals. As a result, the agency undertook a number of investigations on hormones, including feeding studies with hormones and hormonomimetic agents in C,H/HEJ mice at the National Center for Toxicological Research (NCTR) at Jefferson, AK. Incomplete results of a preliminary study with orally administered estradiol-17-beta in this species demonstrate a significant, dose-related relationship between administered estradiol-17-beta and the number of malignant mammary tumors in the mice. Furthermore, the number of malignant lesions in the reproductive organs of the high-dose group of animals was increased over controls (Ref. 12). When a final report of the results of this preliminary study has been completed, it will be made available to all interested parties.

In addition to the feeding studies at NCTR, FDA contracted for outside studies on the metabolism of estradiol-17-beta-3 benzoate in steers and heifers. These studies were conducted by Dr. Gordon D. Niswender of Colorado State University and Drs. P. N. Rao and J. W. Goldzieher of the Southwest Foundation for Research and Education (Refs. 13 and 14). The results of the Colorado study indicate that estradiol-17-beta is the major residue in muscle and fat. However, the Southwest study indicates that 17-alpha estradiol-17-beta-D-glucopyranoside is the major estrogen residue in liver.

FDA also established a policy for the regulation of endogenous compounds used as drugs in food-producing animals. The broad outline of the "endogenous policy" is presented in section II of this document. Details are discussed in the following section as part of a critique of the available safety data supporting the use of the three animal drugs that are the subject of this notice.

In addition, FDA issued a formal requirement to the sponsors of these drugs to upgrade the safety data supporting the regulated uses of their products. In a letter sent to Syntex on September 22, 1972, FDA required the firm to provide residue data obtained using more sensitive analytical methodology than the current official assays, in vivo dissolution data for implanted pellets, a practical regulatory assay suitable for monitoring the prescribed conditions of safe use of the drugs, and data establishing a safe withholding period during which implanted animals could not be slaughtered for human food. In May 1974, scientists from the agency and the firm met to discuss progress made by the sponsor in developing these data. There was general agreement that the firm was making satisfactory progress. At a second meeting in November 1975, agency scientists asked the sponsor to hold in abeyance any ongoing metabolism studies with radioactive drugs, except in specific instances where metabolic clearance data for compounds and their metabolites may require such tracer studies. The firm was told to concentrate its efforts instead on developing radioimmunoassays (RIA) for hormone residues in the edible tissues of treated animals.

On September 2, 1976, because of the lack of reported data development, FDA sent another letter to Syntex requesting a written progress report within 30 days and additional detailed reports at 6-month intervals thereafter. The first three progress reports, dated November 23, 1976, May 18, 1977, and December 13, 1977, described attempts at developing residue RIA's that fell short of the agency's criteria for acceptability of this type of analytical methodology and appeared to be inferior to similar methodology being reported from other laboratories.

On June 21, 1978, the firm was informed that FDA was considering preparation of a notice of opportunity for a hearing on a proposal to withdraw approval of NADA's for the use of Synovex-S and Synovex-H. On June 28, 1978, the firm submitted a fourth progress report describing improved RIA methodology for estradiol-17-beta, estrone, and progesterone in bovine tissues. Information was also provided on the levels of these hormones in the edible tissues of untreated steers and in animals that had been implanted with Synovex-S. The residue data provided in the June 28 submission were apparently not obtained using the new methods. A total of 20 control- and 20 Synovex-S-treated steers were used. Five animals from

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each group were slaughtered at 30, 60, 90, and 120 days post implantation and the four major edible tissues were analysed for estradiol-17-beta and estrone. Progesterone was measured only in fat tissue. The results indicate that levels of estradiol-17-beta are significantly elevated in fat of treated steers for at least 90 days following implantation. Levels of estrone are significantly elevated above the controls in fat for 120 days after implantation. Progesterone was significantly elevated above its control level in fat 60 days following implantation. Thus, preliminary residue information in the June 28, 1978 submission demonstrates that the levels of estradiol-17-beta, estrone, and progesterone are significantly raised above their norms in treated animals at the label recommended time of slaughter. The increased levels of these endogenous agents have not been shown to be safe.

Validation data, although incomplete, were provided for the new methods and indicated that they may be sensitive and reliable enough to establish normal levels of the three hormones in cattle. However, they do not meet the agency's current criteria for regulatory assays because of a lack of a confirmatory procedure and incomplete validation data in certain tissues. The methods were also considered to be impractical for regulatory work because of the time required to perform an assay. Accordingly, the firm's request in the June 28 letter to accept the methods for method validation trials in government laboratories, a necessary prerequisite for approval as a regulatory method, is denied.

In a letter sent to Mattox & Moore dated August 18, 1972, FDA required the firm to provide residue data obtained using analytical methodology that was more sensitive than the current official assay for estrogenic activity. Several meetings were held between representatives of Mattox & Moore and FDA at which the firm agreed to develop the required data and a more sensitive analytical method. Several protocols for experiments were submitted and evaluated and, in November 1973, the firm provided FDA with the incomplete results of a metabolism study obtained by feeding tritiated estradiol-17-beta monopalmitate to chickens. Mattox & Moore submitted a residue study in chickens treated with parent drug labeled with ^{3}H in the C_6 and C_7 positions of the estradiol ring. Radioactivity in liver tissues of birds treated with the label recommended doses of ^{3}H-Esmopal was divided into three fractions—free estrogens, neutral lipids including Esmopal, and conjugated estrogens—constituting 11, 51, and 38, respectively, of the recovered radioactivity. Estrone, estradiol, 16-ketoestrone, 16-ketoestradiol, and estriol were tentatively identified in the free and conjugated fractions. Because metabolite identification was not sufficiently rigorous and a number of radioactive compounds were not identified, this study may be useful only as an indication that metabolites of estradiol are present in the livers of Esmopal-treated chickens. Other edible tissues of chickens would have to be examined to complete this phase of the safety data requirements for the drug. The more sensitive analytical methods for residues that were requested in August 1972 have still not been provided to FDA by Mattox & Moore.

In addition to the data developed by the firms, a number of studies have appeared in the scientific literature that demonstrate the levels of residues that might be expected following treatment of steers and heifers with Synovex-S and Synovex-H, respectively. Only the most pertinent experiments, i.e., those in which RIA's were used to measure tissue levels of estradiol-17-beta, estrone, progesterone, and/or testosterone in untreated cattle, as well as animals implanted with these hormones, are cited here. It should be emphasized that none of the published reports used assays that have been shown to meet the criteria outlined below for acceptability as an assay to define a norm, or to serve as a regulatory method.

In 1976, Hoffmann et al. and Hoffmann and Karg reported the following results from tissue assays on six male calves implanted with 200 mg of progesterone and 20 mg of estradiol-17-beta and slaughtered 72 days later (Refs. 15 and 16):

AVERAGE TISSUE LEVEL AND STANDARD DEVIATION OF MALE CALVES

Hormone	Tissue	Control (n=6) (ng/g)	Treated (n=6) (ng/g)
Estrone	Muscle	0.075±0.038	0.084±0.065
	Liver	0.204±0.088	0.271±0.144
	Kidney	0.047±0.038	0.081±0.081
	Fat	0.275±0.064	0.252±0.183
Estradiol-17-beta	Muscle	0.133±0.143	0.177±0.149
	Liver	0.073±0.136	0.108±0.071
	Kidney	0.011±0.010	0.029±0.087
	Fat	0.129±0.057	0.104±0.087
Progesterone	Muscle	0.247±0.087	0.515±0.364
	Liver	0.269±0.110	0.325±0.057
	Kidney	0.456±0.211	0.819±0.154

In 1977, Hoffmann et al. used RIA to measure testosterone levels in female calves implanted with 200 mg of testosterone and 20 mg of estradiol-17-beta and sacrificed 71 days later (Ref. 16). The reported results are as follows:

AVERAGE TESTOSTERONE LEVELS AND STANDARD DEVIATION OF HEIFER CALVES

Tissue	Control (n=5) (pg/g)	Treated (n=5) (pg/g)
Muscle	16±13	70±43
Liver	98±18	47±12
Kidney	256±110	685±54
Fat	176±118	340±265

The Director concludes that data available in the literature are consistent with those provided by Syntex in its June, 1978 submission in that they both indicate tat Synovex-S and Synovex-H cause an increase in the norms of endogenous hormones of toxicological concern under the approved conditions of use.

IV. CRITIQUE OF THE AVAILABLE DATA RELATED TO THE CONDITIONS OF SAFE USE OF SYNOVEX-S, SYNOVEX-H, AND ESMOPAL

A. TOXICITY DATA

The experiments cited in section III of this document, in which endogenous hormones were administered to animals, demonstrate that administered estradiol-17-beta, progesterone, and testosterone have the potential to cause toxic, including carcinogenic (estradiol-17-beta, estrone) and co-carcinogenic (progesterone, testosterone), effects in the exposed animals. Furthermore, as discussed above, there is evidence supporting the relevance to humans of the studies conducted in animals. The Director realizes that almost all of the experiments with endogenous hormones were conducted using relatively large doses administered parenterally. The Department also knows that estradiol-17-beta, progesterone, and testosterone are many times less potent upon oral administration than when given parenterally (Ref. 6). However, the data available do not demonstrate the safety of these compounds present as residues. For

example, with the possible exception of the feeding study conducted with estradiol-17-beta at NCTR, none of the available studies on carcinogenicity provide data on which an extrapolation to a one-in-one-million lifetime risk of cancer in humans can be based. Furthermore, none of the information that has come to the attention of the Director is adequate to identify a no-effect level for orally administered estradiol-17-beta, progesterone, or testosterone that could be used to establish tolerances for residues of these drugs. In summary, the available information raises serious questions concerning human safety.

B. RESIDUE STUDIES

Sponsors of animal drugs must show, in addition to toxicity studies to demonstrate a safe or acceptable risk level of residues, that their products can be used in such a way that incurred residues are at or below those levels shown to be safe at the time of slaughter. One way to do this for endogenous compounds is to establish normal background levels of the compounds of concern and then determine the perturbation of these levels incurred by using the drug. A four-step data collection process is requied: (1) establishment of normal background levels ("norms") of the endogenous compounds of carcinogenic or toxicological concern in the treated animals; (2) determination of the effects, if any, of the sponsored compound on the norms; (3) establishment of safe conditions of use of the sponsored compound by demonstrating how the compound can be used in a way that ensures that the norm is restored in the treated animals before slaughter, or, alternatively, if safe levels have been established by toxicity studies, by demonstrating that the residues in treated animals have been restored to a safe increment above the norm; and (4) development and validation of a practical assay to measure the marker endogenous compound(s) levels determined to represent a restored norm. A norm must be specific for the untreated animals and for the intended conditions of animal husbandry. The norm should be provided in the form of a cumulative frequency distribution of the observed levels of the endogenous compound. This curve should also include the upper 99-percent confidence bounds.

The median and shape of the frequency distribution must be known so that shifts in the norm can be measured. Tor this reason, the assay used to determine a norm must yield values for the endogenous compound different from zero for at least two-thirds of the untreated animals. This latter requirement is a compromise between the need to determine the frequency distribution with a high degree of reliability and, at the same time, to recognize the difficulties that may be encountered in reliably measuring the levels at the lower end of the distribution.

The sponsor should then determine the effects of the sponsored compound on the norm, and provide the data on the return to back ground of any observed increases in the norm. To determine characteristics of the distribution of the individual values that constitute the norm with a high degree of confidence (99 percent), a large number of target animals, both treated and untreated, is ordinarily required. The Director estimates that 450 to 500 animals will be required for (1) 99-percent confidence that the 99th percentile of the norm is less than the largest observed value; and (2) 99-percent confidence that the cumulative frequency distribution of the untreated animals and cumulative frequency distribution of the treated animals do not differ by more than 0.10 at any specific point on the cumulative frequency distributions. The information developed in (1) will be used to monitor compliance; the information developed in (2), to evaluate restoration of the norm. The Kolmogorov-Smirnov two-sample test is particularly well suited to test whether the norm for the sample of untreated animals and the values for the sample of treated animals came from the same population (i.e., there was no effect due to treatment with the drug) (Ref. 18). This test is concerned with the agreement between two cumulative distributions. This test is sensitive to any type of difference in the distributions from which the two samples (treated and untreated) were taken (e.g., differences on location (mean, median, etc.), differences in variation, differences in skewness, etc.). The only assumptions are that the samples are random; are mutually independent; and are from a continuous population.

If the norm of an endogenous substance of carcinogenic concern can be increased by the administration of a drug, the endogenous substance can become an endogenous marker residue, i.e., its presence above certain levels can be considered an indicator of potentially carcinogenic or toxic residues in food. Approval of the use of such a drug is contingent upon the sponsor's furnishing data demonstrating that the norms are restored in the target animals before slaughter (as described above) and, if it is shown to be necessary, the availability of a practical assay that can measure the endogenous marker residue in target animals. Such a regulatory assay must be capable of measuring the marker residue at an above the level corresponding to the 33d percentile of its norm. This level is the required limit of measurement of the regulatory assay.

The edible tissue in which the norm of the marker residue requires the longest time for restoration becomes the target tissue. The regulatory assay must be shown capable of reliably measuring the marker residue in the target tissue at the above-described limit of measurement and at levels above this limit.

C. FAILURE OF THE OFFICIAL ANALYTICAL METHODS TO MEET CURRENT CRITERIA OF ACCEPTABILITY FOR REGULATORY ASSAYS

It is premature to discuss the required level of measurement of a regulatory method of analysis for an endogenous drug in the absence of a demonstrated safe or acceptable risk level of residues or in the absence of data defining the norms of residues of toxicological concern. Nevertheless, it is necessary to point out that if the use of any one of these three drugs is shown to require a regulatory assay, the currently approved methods for estrogenic, progestational, and androgenic activity in edible tissues are inadequate. The inadequacies are discussed for each of these drugs as follows:

1. *Estradiol benzoate and estradiol palmitate.* The official method of examination prescribed for the quantitative determination of estradiol benzoate (21 CFR 556.240) and estradiol monopalmitate (21 CFR 556.250) is the biological assay of E. J. Umberger et al. published in "Endocrinology," Volume 63, page 806 (1958), popularly known as the mouse uterine assay (MUA). This assay involves the feeding of tissue to be assayed (the test tissue), which has been fortified with known quantities of estradiol, to immature mice and comparing the increase in uterine weight to that of mice fed a control tissue (tissue from animals known not to have been exposed to an exogenous source of estradiol) fortified with known quantities of estradiol.

One problem with the MUA is that it is not specific for estradiol. Because the assay measures estrogenic activity, any estrogen present in the test tissue will give a response. Furthermore, the limit of measurement with the MUA is about 2 ppb. Based on limited information, sensitivity to 2 ppb is not low enough to monitor the tissue levels of estradiol in animals that are at or near two standard deviations above the mean background level (Ref. 19). In addition, the MUA is affected by factors such as the amount of fat in the diet. In fact, this problem is so difficult to control that it is desirable to obtain test and control animals from groups fed identical diets except for the test substance. One cannot casually select the control tissue (Ref. 20). Finally, the MUA is very time consuming. Preparation of the diet is difficult and must be performed with exacting care. Contamination of cages and feed cups must be prevented. Dissection of the uteri is tedious and difficult. The time required for completion of a tissue analysis is about 20 days, if a preliminary range-finding assay and a confirmatory assay are conducted. It is not practical to wait 20 days before a residue analysis report on a carcass can be completed. For these reasons, the Commissioner of Food and Drugs stated in the FEDERAL REGISTER of January 12, 1976 (41 FR 1804) that the MUA was unacceptable as a regulatory method for DES and stated the intention to revoke the method at the conclusion of the DES hearing.

2. *Progesterone.* The official method of examination presented for the quantitative determination of progesterone (21 CFR 556.540) is that of Hooker and Forbes published in "Endocrinology," volume 41, page 158 (1947). The method involves extraction of progesterone from edible tissues and injection of the extract into uterine horns of ovariectomized mice. The intra-uterine test for progesterone in the mouse has disadvantages that seriously restrict its usefulness. Perhaps the greatest of these are the time and labor required. The total time needed for the injection of both uterine horns is rarely less than 15 minutes even for experienced analysts. Preparing 20 mice thus becomes a full day's work. Although the intensity of the response increases as the amount of injected progesterone increases, it has not thus far been possible to grade the response. The result is that the reaction has had to be treated on an all-or-none basis that necessitates the identification of the minimal effective amount in a series of dilutions of the same material. A first approximation is possible if only one uterine horn is injected. In this situation, a bilateral response indicates that more than 0.004 micrograms (μg) of progesterone has been given. If the response is given only by the treated segment, the amount injected is not less than 0.0002 μg or more than 0.0005 μg of pregesterone. Depending on the size of tissue sample extracted, this will correspond to a sensitivity of approximately 10 ppb for residues of progesterone.

Another disadvantage of this method is the care needed to assess the sections of the test segment. It is essential that the observer differentiate the stromal nuclei from the glandular nuclei in both the untreated and treated ovariectomized mice. It has proved helpful, and sometimes necessary, for the observer to refresh his or her memory by reviewing known preparations of both types immediately before attempting to evaluate a test preparation.

3. *Testosterone propionate.* The official method of examination prescribed in the quantitative determination of testosterone propionate (21 CFR 556.710) is published in "Methods in Hormone Research," New York Academic Press, Volume II, Page 286 (1962). Residues are extracted from edible tissues with ethyl alcohol, and the extract is applied to the comb of day-old chicks daily for 7 days. The response is expressed as the ratio of comb weight to body weight following sacrifice of the chicks 24 hours after the last dose. This method has the same deficiencies noted above for the Hooker-Forbes method for progesterone. The sensitivity of the assay is claimed to be about 10 ppb in the hands of an experienced analyst. This method is difficult and tedious to carry out, even by properly trained personnel.

Furthermore, no U.S. Department of Agriculture (USDA) residue monitoring laboratory is now equipped to conduct these bioassays for steroid hormones. They are therefore considered to be impracticable for regulatory work.

D. REQUIREMENTS FOR REGULATORY ASSAYS

A regulatory assay is evaluated and validated using data collected from three types of samples:

(1) Samples containing various known concentrations of marker residue (the marker residue in this case being the endogenous substance(s) that can be used to monitor the return to norm or the established safe level above the norm of all endogenous substances of toxicological concern whose levels are changed by the administered compound) added to the target tissue, i.e., the fortified tissue samples.

(2) Samples containing various levels of the marker residue obtained from target tissue at appropriate time intervals after the sponsored compound is administered in accordance with the label directions, i.e., "dosed" tissue samples.

(3) Samples obtained from untreated animals, i.e., "control" tissues samples.

The petition for approval of the proposed regulatory assay shall contain a complete description of the assay; a list of all necessary equipment and reagents; a standard curve prepared from samples of the marker residue of known purity; an analytical curve of the observed assay response versus the tissue concentrations of the marker residue in fortified target tissue. The curve shall include the 99-percent confidence bounds of a single assay response; all raw data and worksheets from the analysis used in preparing the standard curve, including spectrograms, chromatograms, counting data, etc.; and a discussion of the data generated in the assay development process pertinent to the evaluation criteria set forth in the following paragraphs and an explanation of how the data show that the proposed assay conforms to those criteria.

A regulatory assay must be dependable, practicable, specific, accurate, and sensitive. It shall be considered dependable if it does not result in an unreasonable number of failures due to unknown, uncontrollable, or random factors. Evaluation of the data to support the dependability criterion is based on the total number of assay runs that are started to provide data points for the analytical curve described above.

The assay shall be considered practicable only if it is suitable for routine use in a government regulatory laboratory. The time required to complete the assay must be consistent with regulatory objectives of monitoring and compliance activities. All supplies, equipment, reagents, standards, and other materials necessary to conduct the assay must be commerically available, although reference standards may be supplied by the petitioner if they are not commercially available. The Director will withdraw approval of any assay an initiate regulatory action against a new animal drug if the sponsor breaches such a condition of its approval.

The assay shall be considered specific if the observed response is a smooth and continuously decreasing or increasing function of the concentration of the marker residue and that compound only. The regulatory assay must be comprised of a sufficient number of independent measurements based on different biological, biochemical, or physiochemical principles to ensure that the identity of the marker residue is confirmed.

The assay shall be considered accurate if the measurements of yields are normally no less than 60 percent nor greater than 110 percent of the marker residue's true concentration in the spiked target tissues.

A regulatory assay to be used for monitoring restoration of the norm for an endogenous compound must measure reliably the 33d percentile of the norm.

The Director will review and evaluate the data submitted by the sponsor in accordance with the requirements outlined above. If the Director concludes that the assay satisfies these criteria, the Director will then have it subjected to an interlaboratory validation study. Two FDA laboratories and one USDA laboratory will independently run a number of assays to ascertain whether the regulatory assay

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method conforms to the criteria set forth in preceding paragraphs.

The sponsor shall supply the validating laboratories with the number and amount of doses and control tissue samples required by the Director, and reagents, standards, supplies, and equipment not readily available to the validating laboratories, as requested by the Director.

The Director will evaluate the data gathered by the interlaboratory validation study described above. The assay shall be approved if it meets the criteria set forth above in each of the three validating laboratories.

V. SPECIFIC REQUIREMENTS TO DEMONSTRATE CONDITIONS OF SAFE USE OF SYNOVEX-S, SYNOVEX-H, AND ESMOPAL

The following specific steps of data collection illustrate the nature of the missing information that must be provided in order to demonstrate the conditions of safe use of Synovex-S, Synovex-H, and Esmopal. Alternative approaches to developing the information required will be acceptable only if there will be no loss of reliability in the final demonstration of safety.

The steps of data collection in the approximate order they should be undertaken are as follows:

A. LITERATURE SEARCH

Section 510.300 of the animal drug regulations (21 CFR 510.300) requires the sponsor of any drug to be cognizant of reports in the published scientific literature describing the physiological, pharmacological, toxicological, and chemical effects of administering the sponsored compounds to animals and inform FDA of any such report that bears on the safety or efficacy of its NADA. Therefore, Syntex, Inc., should undertake a search of the scientific literature on the following topics:

(1) The metabolism of estradiol-17-beta, progesterone, and testosterone in cattle and of estradiol-17-alpha in humans;

(2) Hormonal no-effect levels in laboratory animals and humans of orally administered estradiol-17-beta, progesterone, and testosterone and of the major metabolites of these hormones that occur in edible bovine tissues;

(3) The results of studies relevant to the potential carcinogenicity and cocarcinogenicity of estradiol-17-beta, estrone, progesterone, and testosterone; and

(4) Other information bearing on the safety of the administered hormones and other endogenous compounds whose levels are known to be altered by use of the administered compound.

Likewise, Mattox & Moore should undertake a search of the scientific literature on the following topics:

(1) The metabolism of estradiol-17-beta and estradiol-17-beta-monopalmitate in roasting chickens;

(2) Hormonal no-effect levels in laboratory animals and humans of orally administered estradiol-17-beta and estradiol-monopalmitate and of the major metabolites of these hormones that occur in edible roasting chicken tissue;

(3) The results of studies relevant to the potential carcinogenicity of estradiol-17-beta, estrone, and estradiol-monopalmitate; and

(4) Other information bearing on the safety of estradiol-monopalmitate and other endogenous compounds whose levels are known to be altered by the use of estradiol-monopalmitate.

Any new information that becomes available as a result of the literature searches may change FDA's current requirements for demonstrating the conditions of safe use of Synovex-S, Synovex-H, and Esmopal. However, based on the information currently available, the Director considers residues of the following endogenous compounds to be of toxicological concern:

(1) Estradiol-17-beta, estrone, and progesterone in the edible tissues of steers following use of Synovex-S;

(2) Estradiol-17-beta, estrone, and testosterone in the edible tissues of heifers following use of Synovex-H; and

(3) Estradiol-17-beta and estrone in the edible tissues of chickens following use of Esmopal.

In addition, if ingested estradiol-17-alpha is shown to be metabolized to estrone by humans, the safety of residues of this endogenous compound in Synovex-S-treated heifers must be evaluated. Finally, the persistence of testosterone propionate and estradiol monopalmitate as residues in the edible tissues of treated animals should be determined by their sponsor. (These data are available for estradiol benzoate.)

After completing the literature search discussed above, sponsors should proceed with the data collection steps under B or C below, depending on the manner in which they elect to demonstrate the safety of their products.

B. DATA REQUIRED TO DEMONSTRATE RESTORATION OF NORMS

(1) Development of analytical methodology for compounds of toxicological concern that meet the criteria outlined above for methods to define norms of endogenous compounds;

(2) Using the methods developed in (1), demonstration of the norms for compounds of toxicological concern;

(3) Using the same analytical methods developed in (1), demonstration of the time following treatment with drug when the norms of compounds of toxicological concern are restored; and

(4) If necessary, upgrading or development of an analytical method to meet the more stringent (e.g. practicality) criteria required of regulatory methods.

C. DATA REQUIRED TO DEMONSTRATE LEVELS OF RESIDUES ABOVE THE NORMS THAT ARE SAFE

(1) Experimental determination, using suitable parameters in appropriate test animals, of hormonal no-effect levels for each endogenous compound of toxicological concern for which adequate information is not available in the literature;

(2) FDA intends to use the data developed from lifetime feeding studies conducted with estradiol-17-beta at NCTR to extrapolate to a level of this hormone associated with a one-in-one-million lifetime risk of cancer in humans. However, if for some reason the available data are inadequate to serve as the basis for the planned extrapolation, the burden of providing data to assess the carcinogenic risk associated with residues of estradiol-17-beta will fall on the sponsors of these drugs; and

(3) Analytical methods to establish the time following treatment with drug when residue levels of endogenous compounds of concern are at or below their demonstrated safe levels must be developed. Any necessary withholding period following treatment must be established. Finally, one or more of these methods must be developed as an acceptable regulatory method.

Until results of the studies listed above have been submitted and evaluated, the Director is unable to establish "safe" levels of residues, or to specify practical conditions of use to ensure that there are no unsafe residues attributable to the use of these drugs, as the Director is required to do under the act.

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(14) Rao, P. W. and J. W. Goldzeiher, Southwest Foundation for Research and Education, FDA Contract No. 223-76-7027.

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CONCLUSION

Therefore, notice is given to the firms listed above and to any other interested persons who may be adversely affected that the Director is giving an opportunity for a hearing on a proposal to issue an order under section 512(e)(1)(B) of the act withdrawing approval of NADA's for products containing estradiol benezoate in combination with progesterone, estradiol benzoate in combination with testosterone propionate, and estrodial monopalmitate for use in food-producing animals.

Any holder of an approved application or any other interested person who elects to exercise the right to an opportunity for hearing under section 512(e)(1) of the act and § 514.200 of the regulations (21 CFR 514.200) must file with the Hearing Clerk (address given above) a written appearance requesting a hearing and giving the reason why the application(s) should not be withdrawn.

The failure of the applicant(s) to file a timely written appearance and a request for hearing as required by § 514.200 constitutes an election not to take advantage of the opportunity for hearing, and the Director will summarily enter a final order withdrawing approval of the application(s).

A request for hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the information and factual analyses in the request for hearing that there is no genuine and substantial issue of fact that precludes the withdrawal of approval of the application(s), or when a request is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person who requests a hearing, making findings and conclusions, denying a hearing.

If a hearing is requested and is justified by the applicant's response to this notice of opportunity for hearing, the issues will be defined, an administrative law judge will be assigned, and a written notice of the time and place at which the hearing will begin will be issued as soon as practicable.

Individuals requesting a hearing must, on or before February 5, 1979, submit a written appearance requesting a hearing to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857; data and analysis upon which the request relies must be submitted by March 6, 1979. Four copies of all submissions under this notice must be filed, identified with the Hearing Clerk docket number found in brackets in the heading of this document. Except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, responses to this notice and copies of each reference cited in this notice not appearing in journals designated by §§ 310.9 and 510.95 (21 CFR 310.9 and 510.95) are on file with the Hearing Clerk and may be seen between 9 a.m. and 4 p.m., Monday through Friday.

The Director has carefully considered the environmental effects of this action and, because it will not significantly affect the quality of the human environment, has concluded that an environmental impact statement is not required for this notice. A copy of the environmental impact assessment is on file with the Hearing Clerk.

In accordance with Executive Order 12044, the economic effects of this action have been carefully analyzed, and it has been determined that this action does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Hearing Clerk.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343-351 (21 U.S.C. 360b)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.84).

Dated: December 29, 1978.

TERENCE HARVEY,
Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 79-410 Filed 1-2-79; 12:55 pm]

[4110-84-M]

Health Services Administration

MATERNAL AND CHILD HEALTH RESEARCH GRANTS REVIEW COMMITTEE

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of February 1979:

Name: Maternal and Child Health Research Grants Review Committee.

Date and Time: February 7-9, 1979, 9 a.m.

Place: Conference Room M, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Open February 7, 9-10 a.m.; closed for remainder of meeting.

Purpose: The Committee is charged with the review of all research grant applications in the program areas of maternal and child health administered by the Bureau of Community Health Services.

Agenda: The Committee will be performing the review of grant applications for Federal assistance. This meeting will be open to the public from 9-10 a.m., February 7 for the Opening Remarks. The remainder of the meeting will be closed to the public for the review of grant applications, in accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code and the Determination by the Administrator, Health Services Administration, pursuant to Public Law 92-463.

Anyone wishing to obtain a roster of the members, minutes of meetings, or other relevant information should contact Gontran Lamberty, Dr. P. H., Bureau of Community Health Services, Room 7-15, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443-2190.

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Agenda items are subject to change as priorities dictate.

WILLIAM H. ASPDEN, Jr.,
Associate Administrator for Management.

[FR Doc. 79-472 Filed 1-4-79; 8:45 am]

[4110-12-M]

Office of Assistant Secretary for Health

PRESIDENT'S COUNCIL ON PHYSICAL FITNESS AND SPORTS

Meeting

The President's Council on Physical Fitness and Sports will hold its quarterly meeting on January 25, 1979. The meeting will be held from 10:00 a.m. to 4:00 p.m., Thursday, January 25, 1979, in the New Executive Office Building, 17th and Pennsylvania Aveune, N.W., Washington, D.C.

The purpose of the meeting is to discuss future directions of the PCPFS and to report on special projects.

A list of Council members and the Executive Order dated September 25, 1970, amended October 25, 1976, establishing their responsibilities, may be obtained from: C. Carson Conrad, Executive Director, President's Council on Physical Fitness and Sports, Washington, D.C. 20201, Telephone: 202/755-7947.

The meeting will be open to the public.

Dated: January 2, 1979.

V. L. NICHOLSON,
Acting Executive Director, President's Council on Physical Fitness and Sports.

[FR Doc. 79-498 Filed 1-4-79; 8:45 am]

[4110-02-M]

Office of Education

NATIONAL ADVISORY COUNCIL ON THE EDUCATION OF DISADVANTAGED CHILDREN

Meeting Change, Amendment

Notice is hereby given pursuant to Pub. L. 92-463, that the meeting of the Editing Committee of the National Adivsory Council on the Education of Disadvantaged Children scheduled to be held on January 5, 1979 has been rescheduled to January 29 and 30, 1979. The meeting will be held both days from 9:30 a.m.—4:30 p.m., at 425-13th Street, N.W., Suite 1012, Washington, D.C.

The National Advisory Council on the Education of Disadvantaged Children is established under section 148 of the Elementary and Secondary Act (20 U.S.C. 2411) to advise the President and the Congress on the effectiveness of compensatory education to improve the educational attainment of disadvantaged children.

Signed at Washington, D.C. on January 3, 1979.

GLORIA B. STRICKLAND,
Acting Executive Director.

[FR Doc. 79-618 Filed 1-4-79; 8:45 am]

[4110-02-M]

NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION

Meeting

AGENCY: National Advisory Council on Indian Education.

ACTION: Notice.

SUMMARY: The notice sets forth the schedule and proposed agenda of the forthcoming meeting of the National Advisory Council on Indian Education. It also describes the functions of the Council. Notice of these meetings is required under the Federal Advisory Committee Act (5 U.S.C. Appendix I, Section 10(a)(2)). This document is intended to notify the general public of their opportunity to attend.

DATES: Full Council Meeting: January 18, 1979, 9:00 a.m. to 5:00 p.m. and January 19, 1979, 9:00 a.m. to 5:00 p.m. and January 20, 1979, 9:00 a.m. to 12:00 p.m. Committee Meeting: To be announced.

ADDRESS: Suite 326, 425 13th Street, N.W., Washington, D.C. 20004.

FOR FURTHER INFORMATION CONTACT:

Stuart A. Tonemah, Executive Director, National Advisory Council on Indian Education, Suite 326, 425 13th Street, N.W., Washington, D.C. 20004 (202) 376-8882.

The National Advisory Council on Indian Education is established under Section 442 of the Indian Education Act, Title IV of P. L. 92-318, (20 U.S.C. 1221g).

The Council is directed to:

(1) Submit to the Comissioner of Education a list of nominees for the position of Deputy Commissioner of the Office of Indian Education/OE;

(2) Advise the Commissioner of Education with respect to the administration (including the development of regulations and of administrative practices and policies) of any program in which Indian children or adults participate from which they can benefit, including Title III of the Act of September 30, 1950 (P.L. 81-874) and Section 810, Title VIII of the Elementary and Secondary Education Act of 1965 (as added by Title IV of P.L. 92-318 and amended by P.L. 93-380), and with respect to adequate funding thereof;

(3) review applications for assistance under Title III of the Act of September 30, 1950 (P.L. 81-874), Section 810 of Title VIII of the Elementary and Secondary Education Act of 1965 as amended and Section 314 of the Adult Education Act (as added by Title IV of P.L. 92-318), and make recommendations to the Commissioner with respect to their approval;

(4) evaluate programs and projects carried out under any program of the Department of Health, Education, and Welfare in which Indian children or adults can participate or from which they can benefit, and disseminate the results of such evaluations;

(5) provide technical assistance to local educational agencies and to Indian educational agencies, institutions, and organizations to assist them in improving the education of Indian children;

(6) assist the Commissioner of Education in developing criteria and regulations for the administration and evaluation of grants made under Section 303(b) of the Act of September 30, 1950 (P.L. 81-874) as added by Title IV, Part A, of P.L. 92-318;

(7) submit to Congress not later than June 30 of each year a report on its activities, which shall include any recommendations it may deem necessary for the improvement of Federal education programs in which Indian children and adults participate, or from which they can benefit, which report shall include a statement of the Council's recommendations to the Commissioner with respect to the funding of any such program; and

(8) be consulted by the Commissioner of Education regarding the definition of the term "Indian," as follows:

Sec. 453 [Title IV, P.L. 92-318]. For the purposes of this title, the term "Indian" means any individual who (1) is a member of a tribe, band, or other organized group of Indians, including those tribes, bands, or groups terminated since 1940 and those recognized now or in the future by the State in which they reside, or who is a descendant, in the first or second degree, of any such member, or (2) is considered by the Secretary of the Interior to be an Indian for any purpose, or (3) is an Eskimo or Aleut or other Alaska Native, or (4) Is determined to be an Indian under regulations promulgated by the Commissioner, after consultation with the National Advisory Council on Indian Education which regulations shall further define the term "Indian."

The meeting on January 18-20, 1979, will be open to the public. This meeting will be held at Suite 326, 425 13th Street, N.W., Washington, D.C.

The proposed agenda includes:

(1) Action on previous meeting minutes
(2) Executive Director's Report
(3) Update on pending legislation
(4) Committee discussions and reports
(5) Review of NACIE FY'79 Budget
(6) Plans for future NACIE activities
(7) Regular Council Business

Records shall be kept of all Council proceedings and shall be available for public inspection at the Office of the National Advisory Council on Indian Education located at 425 13th Street, N.W., Suite 326, Washington, D.C. 20004.

For further information call Stuart A. Tonemah, Executive Director, National Advisory Council on Indian Education, (202) 376-8882.

Dated: December 14, 1978. Signed at Washington, D.C.

STUART A. TONEMAH,
Executive Director, National Advisory Council on Indian Education.

[FR Doc. 79-404 Filed 1-4-79; 8:45 am]

[4110-12-M]

Office of the Secretary

REDELEGATION OF AUTHORITY TO CERTIFY TRUE COPIES

NOTE.—This document is republished with corrections, from the issue of Monday, December 18, 1978, page 58871.

Under the authority vested in me by the Secretary:

1. I hereby redelegate to the following the authority to certify true copies of any books, records, papers, or other documents on file within the Department, or extracts from such, to certify that true copies are true copies of the entire file of the Department, to certify the complete original record, or to certify the nonexistence of records on file within the Department, and to cause the Seal of the Department to be affixed to such certifications.

These same officials are authorized to cause the Seal to be Affixed to agreements, awards, citations, diplomas, and similar documents.

To whom delegated	*Area of authority*
General Counsel	Department
Director, Office of Management Services, Office of the Secretary.	Office of the Secretary
Administrator, Health Care Financing Administration.	Health Care Financing Administration
Assistant Secretary for Education.	Education Division
Commissioner of Social Security.	Social Security Administration
Assistant Secretary for Human Development Services.	Office of Human Development Services
Assistant Secretary for Health.	Public Health Service
Director, Office of Child Support Enforcement.	Office of Child Support Enforcement

This authority may be redelegated.

2. I also redelegate to the Civil Rights Hearing Clerk, Office of the Assistant Secretary or Personnel Administration, the authority as official custodian of the files in all matters pertaining to compliance proceedings under Title VI of the Civil Rights Act and as such custodian the authority to certify true copies of any books, records, papers, or other documents of the Department pertaining to such matters and to certify extracts from any such books, records, papers, or other documents on file within the Department as true extracts and to certify that true copies are true copies of the entire file of the Department in any such matters, and to cause the Seal of the Department to be affixed to such certifications. This authority may not be redelegated.

3. The above redelegations supersede the redelegations made under previous authority (34 FR 18049-50 dated 11/7/69 and 35 FR 16384, dated 10/20/70). Further redelegations made under the aforementioned redelegation of authority shall remain in effect until appropriate new redelegations are made.

Dated: December 9, 1978.

FREDERICK M. BOHEN,
Assistant Secretary for Management and Budget.

[FR Doc. 78-35077 Filed 12-15-78; 8:45 am]

[4110-84-M]

Public Health Service

HEALTH SERVICES ADMINISTRATION

Statement of Organization, Functions and Delegations of Authority

Part H, Chapter HS, Health Services Administration, of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare (39 FR 10463, March 20, 1974, as amended in pertinent part, by 42 FR 14930, March 17, 1977) is amended to reflect the following changes within the Bureau of Community Health Services: (1) the abolishment of the Division of Clinical Services; and (2) the transfer of all the functions of the Division of Clinical Services to the Program Office for Maternal and Child Health.

Section HS-B, Organization and Functions, is amended as follows:

Under the heading entitled Bureau of Community Health Services (HSP) make the following changes:

(1) Delete the functional statements for the *Division of Clinical Services (HSPH)* in its entirety.

(2) Delete the title *Program Office for Maternal and Child Health (HSP15)* from the *Bureau of Community Health Services' Program Offices (HSP14-HSP19)* functional statement. The functional statement for the remaining Program Offices is unchanged.

(3) After the statement for the Program Offices' (HSP14-HSP19) add the following statement:

Program Office for Maternal and Child Health (HSP15). Under the direction of the Bureau Director: (1) carries out the Bureau of Community Health services (BCHS) nationwide role to improve the organization and delivery of health services for mothers and children; (2) plans, directs, administers and coordinates clinical services in support of all of the Bureau's programs and related professional health care activities at both the national and international levels; (3) provides leadership and direction for legislative activities in programs related to mothers and children, including both the development of proposals and plans and the interpretation of legislation and reports; (4) within broad Department of Health, Education, and Welfare and Public Health Service policies and guidelines, participates with the Division of Policy development in developing and establishing policies and long- and short-range goals and objectives for programs related to mothers and children; (5) administers programs for: (a) demonstration programs of regional and national significance, (b) applied research in maternal and child health and crippled children's services, (c) comprehensive multidisciplinary training programs through University Affiliated Center Programs and Pediatric Pulmonary Centers for special categories of training based on service programs for mentally retarded children and children with multiple handicaps and children with chronic pulmonary disease, and (d) areas of special concern such as mental retardation, hemophilia, genetic diseases, sudden infant death syndrome, metabolic disorders, habilitation of handicapped children, lead poisoning, etc.; (6) relative to maternal and child health activities, provides coordination with other programs providing health services, including voluntary, official, and other community agencies; establishes and provides liaison in program matters with other programs within BCHS and the Health Services Administration, within the Public Health Service, within the Department, and with other Federal agencies; consumer groups and national organizations concerned with health matters, and through the regional offices, with State and local governments; (7) plans, develops and implements assistance programs to: (a) improve the quality and effectiveness of patient care delivery systems, and (b) improve the quality of staffing, and knowledge of specific service delivery programs for maternal and child health; (8) administers programs to provide improved clinical health care services to mothers, children, adolescents and adults, including such disciplines as medicine, dentistry, nursing and other health-related specialties; (9) determines national goals, objectives and priorities for the maternal and child health program, selects conditions and services to be recommended for departmental emphasis and provides technical assistance in the development of specialized programs; (10) is accountable for the

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administration of funds and other resources for grants, contracts, and technical assistance, utilizing the full resources of the Bureau in fulfilling the Maternal and Child Health programs' missions and responsibilities; and (11) tracks BCHS and regional office maternal and child health activities to ensure that delegated responsibilities are being carried out, including direct and indirect communications, regional office conferences and field visits as warranted.

Dated: December 22, 1978.

FREDERICK M. BOHEN,
Assistant Secretary for Management and Budget.

[FR Doc. 79-497 Filed 1-4-79; 8:45 am]

[4310-84-M]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM 35631, 35632, 35633, 35641, 35642, 35644, 35645]

NEW MEXICO

Application

DECEMBER 29, 1978.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for seven 4½-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDAN, NEW MEXICO

T. 32 N., R. 6 W.,
Sec. 21, SE¼SW¼.
T. 27 N., R. 7 W.,
Sec. 12, NE¼SE¼;
Sec. 13, lot 2.
T. 30 N., R. 10 W.,
Sec. 5, lots 7, 8 and 14.
T. 31 N., R. 10 W.,
Sec. 27, lots 11 and 14.
T. 31 N., R. 11 W.,
Sec. 25, NW¼SE¼.

These pipelines will convey natural gas across 0.809 of a mile of public lands in Rio Arriba and San Juan Counties, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

RAUL E. MARTINEZ.
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-476 Filed 1-4-79; 8:45 am]

[4310-84-M]

[NM 35507, 35508, 35509, 35510, 35511, 35619, 35622]

NEW MEXICO

Applications

DECEMBER 27, 1978.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for seven 4½-inch natural gas pipeline and related facilities rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 29 N., R. 5 W.,
Sec. 26, SW¼SE¼;
Sec. 35, W½NE¼.
T. 28 N., R. 6 W.,
Sec. 18, NW¼SE¼.
T. 28 N., R. 7 W.,
Sec. 14, NW¼SE¼.
T. 31 N., R. 10 W.,
Sec. 12, lots 12 and 13;
Sec. 13, lot 5;
Sec. 22, lot 11.

These pipelines will convey natural gas across 0.397 of a mile of public lands in Rio Arriba and San Juan Counties, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-477 Filed 1-4-79; 8:45 am]

[4310-84-M]

[NM 35477]

NEW MEXICO

Application

DECEMBER 28, 1978.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Amoco Production Company has applied for a crude oil storage site right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 18 S., R. 27 E.,
Sec. 3, SE¼NW¼.

The site will be used in connection with oil production operations and will occupy 0.923 of an acre of land in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

RAUL E. MARTINEZ,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-480 Filed 1-4-79; 8:45 am]

[4310-84-M]

SALT LAKE DISTRICT GRAZING ADVISORY BOARD

Meeting

Notice is hereby given in accordance with Public Law 92-463 that a Meeting of the Salt Lake District Grazing Advisory Board will be held on February 3, 1979.

The meeting will begin at 9:00 a.m. in the conference room of the Bureau of Land management, 2370 South 2300 West, Salt Lake City, Utah.

The agenda for the meeting will include:

I. Organization of the Board
A. Election
B. Board Organization
II. Introduce the Board to:
A. Salt Lake District
B. The Federal Advisory Committee Act
C. The Federal Land Management and Policy Act
D. The Taylor Grazing Act
E. The Range Lands Improvement Act
III. Present Range Programs
1. Range Program, Overall
2. Range Improvements (Range Betterment Funds)
3. District Maintenance Policy
4. Allotment Management Plans
5. Randolph Planning
6. Input into tooele Environmental Statement Pre-Planning Analysis
IV. Subcommittees
A. Subcommittees—General
B. Subcommittee—Tours—Agenda
V. Public Comments
VI. Next Meeting—August Agenda

The meeting is open to the public. Interested persons may make oral statement between 1:00 to 2:00 p.m. on February the 13th or file written statements for the board's consideration. Anyone wishing to make oral statements must notify the District Manager, 2370 South 2300 West, Salt Lake City, Utah 84119, by February 7, 1979. Depending on the number of persons wishing to make a statement, a per person time limit may be established by the District Manager.

Summary minutes of the board will be maintained at the District Office and be available for public inspection and reproduction (during business hours) within 30 days following the meeting.

Dated: December 27, 1978.

DAVID S. WATSON,
Acting District Manager.

[FR Doc. 79-403 Filed 1-4-79; 8:45 am]

[4310-84-M]

[UT-910]

UTAH

Wilderness Inventory Program

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Bureau of Land Management formally started on December 1, 1978 an expanded statewide wilderness inventory of roadless areas managed by the BLM in Utah.

The expanded wilderness inventory is being done under mandate of the Federal Land Policy and Management Act (FLPMA) of 1976, which directed BLM to conduct a wilderness review of those roadless areas of 5,000 acres or more and roadless islands of the public lands identified during the inventory that have wilderness characteristics described in the Wilderness Act of 1964.

The inventory will be accomplished in accordance with evaluation and review procedures published by the Bureau. These procedures are available to the public at any BLM office in Utah.

Date signed: December 28, 1978.

PAUL L. HOWARD,
State Director.

[FR Doc. 79-473 Filed 1-4-79; 8:45 am]

[4310-84-M]

VALE DISTRICT GRAZING ADVISORY BOARD

Meeting

Notice is hereby given in accordance with Public Law 92-463 that a meeting of the Vale District Grazing Advisory Board will be held on February 8, 1979.

The meeting will begin at 9:00 a.m. in the Conference Room of the Bureau of Land Management at 365 "A" Street West, Vale, Oregon 97918.

The agenda for the meeting will include: (1) A review of the new grazing regulations as related to allotment management plans and range improvements; (2) expenditure of range betterment and advisory board funds for range improvements; (3) A review of the following as they relate to Allotment Management Plans:

(a) Wilderness inventory progress
(b) Wild Horse Management Progess
(c) The findings of the 1978 Utilization Studies and Status of land use planning in preparation for the Ironside Environmental Statement.

The meeting is open to the public. Interested persons may make oral statements to the board after 3:00 p.m. on February 8, 1979, or may file written statements for the boards consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 365 "A" Street West, Vale, Oregon 97918, by February 6, 1979. Depending on the number of persons wishing to make oral statements a per person time limit may be established by the District Manager.

Summary minutes of the board meeting will be maintained in the District Office and be available during regular business hours for public inspection and reproduction within 30 days following the meeting.

W. R. PAPWORTH,
Acting District Manager.

DECEMBER 22, 1978.

[FR Doc. 79-405 Filed 1-4-79; 8:45 am]

[4310-09-M]

Bureau of Reclamation

CONTRACT NEGOTIATIONS WITH FARWELL IRRIGATION DISTRICT, FARWELL UNIT, NEBRASKA, PICK-SLOAN MISSOURI BASIN PROGRAM

Intent To Negotiate a Contract for Repayment of Construction Costs for Additional Drainage Works and Public Meeting

Although the Department of the Interior has not formally adopted procedures for public participation in contract negotiations, we believe that it is in the interests of the Department to advise the public that a contract is being considered.

The Department of the Interior, through the Bureau of Reclamation intends to negotiate a contract with the Farwell Irrigation District pursuant to the Reclamation Project Act of 1939 (53 Stat. 1187), the Flood Control Act of 1944 (58 Stat. 887), the Act of August 3, 1956 (70 Stat. 975), and the Act of August 10, 1972 (86 Stat. 525), for repayment of the cost of constructing certain drainage works within the district. Installation of drains in the Farwell Irrigation District is a continuing program; however, certain areas of the Farwell Irrigation District have serious groundwater problems which must be corrected immediately. The contract will provide for repayment of the $1 million needed to accomplish this construction program.

The public is invited to observe the negotiating sessions and to submit written comments on the form of proposed contract not later than 30 days after the completed contract draft is declared to be available to the public.

A meeting has been scheduled for January 9, 1979, at 2:00 p.m., in the conference room of the headquarters building of the Farwell Irrigation District in Farwell, Nebraska.

For further information on scheduled negotiations and copies of the proposed contract form, please contact Mr. Robert Kutz, Project Manager, Kansas River Projects, Bureau of Reclamation, McCook, Nebraska 69001.

Dated: January 2, 1979.

R. KEITH HIGGINSON,
Commissioner.

[FR Doc. 79-463 Filed 1-4-79; 8:45 am]

[1505-01-M]

DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

Correction

In FR Doc. 78-34648 appearing at page 58716 in the Issue for Friday, December 15, 1978, the first page of Modifications (appearing on the left side of page 58717) was not printed clearly. It should have appeared as follows:

[1505-01-C]

MODIFICATIONS P. 1

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. CA78-5006 - Mod. #2 (43 FR 3859 - January 27, 1978) San Diego County, California					
Change:					
Brick, Block and Stonemasons' Tenders	$10.62	.77	2.05		
Glaziers	12.10	.95	1.30		
Plumbers, Steamfitters	13.12	10%	16%	13%	2%
DECISION NO. CA78-5007 - Mod. #2 (43 FR 3863 - January 27, 1978) San Diego County, California					
Change:					
Brick, Block and Stonemasons' Tenders	$10.62	.77	2.05		
Glaziers	12.10	.95	1.30		
Plumbers; Steamfitters	13.12	10%	16%	13%	2%
DECISION NO. CA78-5122 - Mod.#3 (43 FR 35835 - August 11, 1978) Imperial, Kern, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties, California					
Change:					
Plumbers; Steamfitters: Imperial, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties	$13.12	10%	16%	13%	2%
DECISION NO. CA78-5123 - Mod. #3 (43 FR 36839 - August 18, 1978) Imperial, Kern, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties, California					
Change:					
Plumbers; Steamfitters: Imperial, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties	$13.12	10%	16%	13%	2%

[4510-29-M]
[4830-01-M]

DEPARTMENT OF LABOR

Pension and Welfare Benefit Programs

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Application No. D-182]

ARKANSAS, INC., PROFIT SHARING AND RETIREMENT PLANS

Proposed Exemption for Certain Transactions Involving Construction Machinery

AGENCIES: Department of Labor, Department of the Treasury/Internal Revenue Service.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor and the Internal Revenue Service (the Agencies) of a proposed exemption from the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the sale of a parcel of real property by the Construction Machinery of Arkansas, Inc. Profit Sharing Plan (the Profit Sharing Plan) and the Construction Machinery of Arkansas, Inc. Retirement Plan (the Retirement Plan) (collectively the Plans) to Construction Machinery of Arkansas, Inc. (the Employer). The proposed exemption, if granted, would affect participants and beneficiaries of the Plans, the Employer, and other persons participating in the proposed transaction.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before February 5, 1979.

ADDRESSES: Written comments and requests for a public hearing (at least six copies) should be addressed to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D-182. The application for exemption and the comments received will be available for public inspection at the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216, and at the Internal Revenue Service National Office Reading Room, 1111 Constitution Avenue, N.W., Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

Mary O. Lin of the Department of Labor, (202) 523-9141. This is not a toll free number.

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Agencies of an application for exemption from the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and from the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed by the Employer pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975) and Rev. Proc. 75-26, 1975-1 C.B. 722.

SUMMARY OF FACTS AND REPRESENTATIONS

The application contains facts and representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Agencies for the complete representations of the applicant.

The Plans own a two acre parcel of unimproved real property located in the Otter Creek Industrial Park, Little Rock, Arkansas. The property was jointly purchased by the Plans on January 24, 1974 at a purchase price of $29,959.43. The Profit Sharing Plan acquired an undivided 40 percent interest in the property and the Retirement Plan acquired an undivided 60 percent interest. The property was purchased by the Plans with the intent of holding it for future appreciation.

The Employer seeks to purchase the property which is located directly adjacent to the principal offices of the Employer. The Employer proposes to purchase the parcel for $38,000.00 cash, with the Retirement Plan to receive $22,800.00 and the Profit Sharing Plan to receive $15,200.00. The Employer will pay the cost of any selling expenses. Two independent appraisers, Circle Realty Co. and Barnes, Quinn, Flake & Anderson, Inc., appraised the property and stated that in their opinion the fair market value was $19,000.00 per acre, or a total of $38,000.00 for the parcel.[1]

In May, 1977 the firm of Barnes, Quinn, Flake & Anderson, Inc., was instructed by The First National Bank in Little Rock (the trustee) to endeavor to solicit and locate an unrelated third party who would be interested in acquiring the property. Its efforts to obtain an unrelated third party to purchase the property were unsuccessful. Mr. Quinn of the firm states that most companies who are interested in the Otter Creek Industrial Park are interested in acquiring a tract of land substantially larger than the Plans' parcel and gave his opinion that the Employer is the only suitable purchaser for the property at the present time.

The applicant represents that the sale of the parcel to the Employer is in the interest of and protective of participants and beneficiaries of the Plans because it would allow the Plans to dispose of a non-income producing asset which represents a substantial portion of the Plans' assets. As of January 24, 1978, the Retirement Plan's interest in the parcel comprised approximately 30 percent of its assests and the Profit Sharing Plan's interest comprised approximately 98 percent of its assets. The payment of taxes and other carrying costs on the property have caused liquidity problems for the Plans, especially the Profit Sharing Plan. The sale of the parcel to the Employer therefore will provide the Plans with needed funds which will allow them to diversify their portfolios.

The trustee of the Plans was appointed by and may be removed by the Board of Directors of the Employer.

NOTICE TO INTERESTED PERSONS

Notice of the proposed exemption as published in the FEDERAL REGISTER will be mailed to each of the Plans' participants and any individual receiving benefits under the Plans within 10 days of the date the notice of the proposed exemption is published in the FEDERAL REGISTER.

GENERAL INFORMATION

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act which require, among other things, that a fiduciary discharge his duties respecting the plan solely in the interests of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the

[1] The price of $38,000 is based upon the independent appraisals referred to above. However, in view of the length of time which has passed since that appraisal was made, the proposed exemption provides that the Employer must pay the greater of either $38,000 or the fair market value at the time of the sale.

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plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Agencies must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(5) This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury directive appearing in the FEDERAL REGISTER for Wednesday, May 24, 1978 (43 FR 22319).

WRITTEN COMMENTS AND HEARING REQUEST

All interested persons are invited to submit written comments or requests for a hearing on the proposed exemption to the address and within the time period set forth above. All comments will be made part of the record. Comments and requests for a hearing should state the reason for the writer's interest in the proposed exemption. Comments received will be available for public inspection with the application for exemption at the addresses set forth above.

PROPOSED EXEMPTION

Based on the facts and representations set forth in the application, the Agencies are considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with procedures set forth in ERISA Procedure 75-1 and Rev. Proc. 75-26. If the exemption is granted, the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale by the Profit Sharing Plan and the Retirement Plan to the Employer of the parcel of real property located in the Otter Creek Industrial Park, Little Rock, Arkansas, for the greater of $38,000.00 cash or the fair market value of the property at the time of the sale. The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 26th day of December, 1978.

IAN D. LANOFF,
Administrator for Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

FRED J. OCHS,
Director, Employee Plans Division, Internal Revenue Service.

[FR Doc. 78-36465 Filed 12-28-78; 11:08 am]

[4510-29-M]
[4830-01-M]

Pension and Welfare Benefit Programs

[Prohibited Transaction Exemption 78-20]

BARRY, BARRY, ANGELIDES & HINDS, M.D.'s, P.A. EMPLOYEES PENSION TRUST

Grant of Individual Exemption

AGENCIES: Department of the Treasury/Internal Revenue Service, Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption enables the Barry, Barry, Angelides & Hinds, M.D.'s, P.A. Employees Pension Trust (the Trust) to sell certain trust assets to Barry, Barry, Angelides & Hinds, M.D.'s, P.A. (the Employer).

FOR FURTHER INFORMATION CONTACT:

Ivan Strasfeld of the Prohibited Transactions Staff of the Employee Plans Division, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC 20224 (Attention E:EP:PT:2), 202-566-3045. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On July 7, 1978, notice was published in the FEDERAL REGISTER (43 FR 29391) of the pendency before the Internal Revenue Service and the Department of Labor (the Agencies) of an exemption from the taxes imposed by section 4975(a) and (b) of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1)(A) through (E) of the Code and from the provisions of sections 406(a) and 406(b)(1) and 406(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act), for a transaction described in an application submitted by the Employer. The notice set forth a summary of the facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Agencies, in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Internal Revenue Service (the Service). In addition, the notice stated that any interested person might submit a written request that a hearing be held relating to this exemption. No public comments and no requests for a hearing were received by the Service.

TAX CONSEQUENCES OF TRANSACTION

The purchase of a plan asset by the employer for an amount in excess of its fair market value will constitute a contribution to the plan to the extent of such excess. The deductibility of such a contribution by the employer must be determined in accordance with generally applicable Federal income tax rules.

GENERAL INFORMATION

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 4975(c)(2) of the Code and section 408(a) of the Act does not relieve a fiduciary or party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Code and Act. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which, among other things, require a fiduciary to discharge his duties respecting the plan solely in the interests of the participants and beneficiaries of the plan and in a prudent fashion in accordance with subsection (a)(1)(B) of section 404 of the Act, nor does the fact that the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 4975(c)(1)(F) of the Code and section 406(b)(3) of the Act.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Code and the Act, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is in fact a prohibited transaction.

(4) This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury directive appearing in the FEDERAL REGISTER for Wednesday, May 24, 1978 (43 FR 22319).

EXEMPTION

In accordance with section 4975(c)(2) of the Code and section 408(a) of the Act and the procedures set forth in Rev. Proc. 75-26, 1975-1 C.B. 722, and ERISA Proc. 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Agencies make the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the plan and of the participants and beneficiaries; and

(c) It is protective of the rights of participants and beneficiaries of the plan.

Accordingly, the following exemption is hereby granted under the authority of section 4975(c)(2) of the Code and section 408(a) of the Act and in accordance with the procedures set forth in Rev. Proc. 75-26 and ERISA Proc. 75-1.

The taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1)(A) through (E) of the Code and the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act shall not apply to a transaction involving the sale of two IBM mag card typewriters and console units by the Trust to the Employer for $14,196 cash, the original cost to the Trust of the equipment.

The availability of this exemption is subject to the express conditions that the material facts and representations contained in the application are true and complete and that the application accurately describes all material terms of the transaction consummated pursuant to the exemption.

Signed at Washington, D.C. this 26 day of December, 1978.

IAN D. LANOFF,
Administrator for Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

FRED J. OCHS,
Director, Employee Plans Division, Internal Revenue Service.

[FR Doc. 78-36464 Filed 12-28-78; 11:08 am]

[4510-29-M]
[4830-01-M]

EMPLOYEE BENEFIT PLANS

Amendment of Prohibited Transaction Exemption 77-9

AGENCIES: Department of the Treasury/ Internal Revenue Service, Department of Labor.

ACTION: Amendment of Prohibited Transaction Exemption 77-9.

SUMMARY: This document contains amendments by the Internal Revenue Service (Service) and the Department of Labor (Department) collectively referred to as the Agencies) to Prohibited Transaction Exemption 77-9, the class exemption relating to certain transactions commonly engaged in by employee benefit plans with insurance agents and brokers, pension consultants, insurance companies, investment companies and investment company principal underwriters. The amendments will affect participants and beneficiaries of employee benefit plans, sponsors of such plans and persons engaging in the transactions to which the exemption applies.

FOR FURTHER INFORMATION CONTACT:

Bernard Colter, Room C4526, Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, 202-523-6958, Kathleen Bauer, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202-566-6761. (These are not toll free numbers.)

SUPPLEMENTARY INFORMATION: The Agencies are hereby amending Prohibited Transaction Exemption 77-9, a class exemption which permits certain transactions which might otherwise be prohibited by the Employee Retirement Income Security Act of 1974 (the Act) and be subject to excise taxes imposed by the Internal Revenue Code of 1954 (the Code) as amended by the Act. The exemption relates to various common transactions engaged in by insurance agents and brokers, pension consultants, insurance companies, investment companies and investment company principal underwriters in connection with the sale to employee benefit plans of insurance and annuity contracts and securities issued by investment companies.

The exemption was granted by the Agencies on June 24, 1977 (42 FR 32395). On November 1, 1977, the Agencies postponed the effective date of certain conditions of the exemption until May 1, 1978 (42 FR 57184). Subsequently, on April 28, 1978, the Agencies further delayed the effective date until January 1, 1979 (43 FR 18359). Also, on April 28, 1978 (43 FR 18354) the Agencies proposed amendments to the exemption which would delete the "named fiduciary" exclusion and the "soley test" of section V(a), eliminate the acknowledgement requirements of section V(b) as they pertain to investment company principal underwriters, and modify the disclosure requirements as they pertain to insurance companies. On the same day that the exemption was originally granted, June 24, 1977, the Agencies proposed additional conditions to be added to the exemption (42 FR 32399). The proposed conditions would have limited the availability of the exemption to transactions entered into on behalf of employee benefit plans with less than 100 active participants, and would have required the disclosure of additional information with respect to transactions covered by the exemption.

Both the amendments and the additional conditions were proposed in accordance with the procedures set forth in ERISA procedure 75-1 (40 FR 18471, April 28, 1975) and Rev. Proc. 75-26, 1975-1 C.B. 722. Interested persons were inviterd to submit comments on the proposed additional conditions and on the amendments, and the Agencies held a public hearing on both matters on July 20, 1978.

The Agencies have considered the many written and oral comments received, and have determined to modify the exemption. In the interests of clarity, the Agencies have changed the format of the exemption somewhat and are, therefore, publishing the entire exemption, rather than just the modifications.

I. Additional Conditions. A. The Agencies proposed to limit the availability of the exemption to transactions engaged in with employee benefit plans covering less than 100 active participants. all comments received on this proposal were opposed to its adoption, although one comment suggested that this proposal be modified to preclude use of the exemption to sell individual insurance contracts to employee benefit plans with more than 50 participants. After reviewing the comments, the Agencies have been persuaded that the proposed limitation with respect to plans with 100 or more participants would be seriously disruptive of common current practices and may occasion substantial additional costs to such plans purchasing insurance in instances where the transactions may not be abusive. Additionally

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the proposed limitation based upon numbers of participants would be very difficult to administer in light of normal fluctuations in such numbers. Consequently, the Agencies have decided not to adopt this proposal.

B. The Agencies proposed to require disclosure of any charges, fees, discounts, penalties or adjustments in connection with the purchase, holding, exchange, termination or sale of insurance contracts or investment company securities. The Agencies received very little comment on this proposal and have decided to adopt it as proposed. However, it should be noted that sales commissions or other amounts which are disclosed pursuant to other conditions in the exemption need not be disclosed again to comply with this condition.

C. The Agencies proposed two additional types of disclosure regarding the cost of and/or the rate or return on a recommended insurance or annuity contract. They received numerous comments regarding these proposals, virtually all of which were opposed to their adoption. The commentators urged that both proposals made by the Agencies would be misleading to plan fiduciaries in that they emphasize only the investment yield of an insurance contract while ignoring other aspects of insurance. Three commentators suggested alternative methods of disclosing the rate of return or cost of insurance contracts. After carefully considering all the comments and investigating the alternative disclosure methods suggested, the Agencies have concluded that at the present time no methodology suitable for inclusion in this exemption exists. Because there appears to be no method for such disclosure which is generally recognized as fair, complete and accurate for determining rates of return for insurance contracts, the Agencies have decided to withdraw their proposals to require disclosure regarding cost of or rate of return on an insurance contract at this time.[1] However at such time as a suitable methodology is developed, the Agencies will reconsider this issue and may propose such disclosure.

II. Amendments. A. The proposals which the Agencies made to delete the "solely test" and the "named fiduciary" exclusion from section V(a) of the exemption received no adverse comments, and the Agencies have decided to adopt those proposals. The Agencies' proposal to add to section V(a), as a category of persons excluded from using the exemption after December 31, 1978, the employer of employees covered by the plan generally received few adverse comments. However, most of the commentators pointed out that this exclusion would prevent insurance agents and brokers from selling insurance products to their own employee benefit plans and receiving commissions thereon, and urged that the Agencies not adopt this exclusion until they grant a class exemption covering the sale of insurance to such "in-house" plans. The Agencies note, however, that a notice of a proposal to grant an exemption for the sale of insurance contracts to "in-house" plans which would provide for retroactive application, is expected to be published in the FEDERAL REGISTER in the near future. Consequently, the Agencies believe that the proposal to preclude the availability of Exemption 77-9 to employers of employees covered by the plan should be adopted without any postponement in its proposed effective date.

Section V(a) also excludes from exemptive relief insurance agents or brokers, pension consultants, insurance companies, investment companies or principal underwriters if either they or their affiliates, as defined in section VI of the exemption, are fiduciaries expressly authorized in writing to manage, acquire or dispose of the assets of the plan in question on a discretionary basis. Several commentators requested amendment of the exemption to clarify that this exclusion applies only to the extent that the fiduciary has any authority, control or responsibility on behalf of the plan with respect to the assets involved in the transaction which is the subject of the exemption. The Agencies believe that such an amendment is not necessary, especially in view of their previous confirmation of this interpretation of the applicability of the exclusion.[2]

One comment requested the Agencies to modify the "authorized fiduciary" exclusion to permit the use of the exemption in a situation in which, for example, an officer of an insurance company is a member of the board of directors of an employer, which board has some express written authority regarding investments under the employer's benefit plan, if the officer abstains from any participation in transactions involving the insurance company. The Agencies have not made the suggested change because they believe that such a question generally should be resolved on a case by case basis, after considering all the relevant facts and circumstances.

Several commentators pointed out that the term "partner," as used in the definition of "affiliate" in section VI(c)(2) is ambiguous and requested clarification. The Agencies have amended section VI(c)(2) to make it clear that the term "affiliate" includes a person who is a partner in the person seeking to use the exemption but does not include a partner with such person. For example, Ms. X owns a 20 percent partnership interest in ABC Insurance Agency. Ms. X is an affiliate of ABC for purposes of this exemption. ABC Insurance Company is in partnership with D Bank in a business venture. D Bank is not an affiliate of its partner, ABC, for purposes of section VI(c)(2). However, if D controls, is controlled by, or is under common control with ABC, it would be an affiliate of ABC for purposes of this exemption under section VI(c)(1).

In order to clarify the applicability of section V(a) of the exemption and its interaction with the definition of "affiliate" contained in section VI, the Agencies offer again the following examples, which were originally set out in the preamble to the Notice of Proposed Amendment (43 FR 18354, April 28, 1978):

1. An insurance agent seeking to avail himself of the relief provided by the exemption has a sister who is the plan administrator. The exemption is not available to the agent because an affiliate of the agent, the sister (see section VI(c)(2)), is the plan administrator.

2. An insurance agency has an employee-insurance agent who is the plan administrator. The exemption is not available to the employee-agent because such agent is the plan administrator. Further, the exemption is not available to the insurance agency because one of its affiliates, the employee-agent (see section VI (c)(2)), is the plan administrator.

3. An insurance company seeking to avail itself of the relief provided by the exemption has on its board of directors a person who is also on the board of directors of the corporate employer sponsoring the plan. Under section VI(c), the director is an affiliate of the insurance company but the commonality of directors does not make the corporate employer an affiliate of the insurance company. Accordingly, the insurance company could engage in a transaction described in section III of the exemption if it satisfies all of the conditions of the exemption.

4. An insurance agent is an employee of an insurance company. The agent is also the president of the corporate employer maintaining the plan. Effective for transactions entered into after December 31, 1978, the agent could not avail himself of the relief provided by the exemption because an affiliate of the agent (see section VI(c)(3) of the exemption) is the employer of employees covered by the plan.

With respect to the availability of the exemption to the insurance company after December 31, 1978, the Agencies note the following. The agent, as an employee of the insurance company, is an affiliate of the insurance company by reason of section VI(c)(2), and, as noted above, the corporate employer is an affiliate of the agent by reason of section VI(c)(3). This relationship, however, of the corporate employer's officer to the insurance company does not make the employer an affiliate of the insurance company. Under section VI(b), the term "insurance company" includes the insurance company and its affiliates, i.e., the employee-agent, but does not include affiliates of such affiliates, i.e., the corporate employer. Accordingly, the insurance company could act through another agent to effect the sale of insurance to the plan if such other agent and the company otherwise satisfy all of the conditions of the exemption.

5. Assume the same facts as in example 4. With respect to section V(b) and (c) of the exemption requiring approval by a plan fiduciary of transactions described in section III(a) through (d) of the exemption, the agencies emphasize the following:

Section V(b) and (c) state that the approving fiduciary described therein may not be the insurance agent or broker, pension consultant, insurance company, or investment company principal underwriter involved in the transaction for the sale of insurance or mutual fund products to the plan, or any affiliate of such agent, broker, consultant, insurance company, or underwriter. With respect to example 4, the president of the employer, as an employee of the insurance company, is an affiliate of such company (see section VI(c)(2)). Thus, the president of the employer would not be an appropriate approving fiduciary within the meaning of section V(b) and (c) to use his authority, control, or responsibility to cause the approval of a transaction for the sale of insurance to the plan by the insurance company of which the president was an employee even though some other employee of the company were to be the agent effecting the sale.

B. In response to the comments received, the Agencies have modified their proposal to delete the requirement that investment companies and their principal underwriters obtain from an independent fiduciary of the plans purchasing securities issued by the investment company written acknowledgement of receipt of the disclosures required under former section V(c), (d) and (e) of the exemption. Because of the method by which securities issued by investment companies may be purchased, such acknowledgement requirement would create extraordinary difficulties for investment companies and principal underwriters and might effectively make the exemption unavailable to such persons. Therefore, the Agencies have decided to delete such requirement for investment companies and their principal underwriters. In addition, the comments on this issue also requested either deletion or modification of the requirement in this exemption that the independent fiduciary approve the transaction on behalf of the plan after receipt of the disclosure information and prior to the execution of the transaction. The commentators pointed out that, since under the exemption principal underwriters would no longer have to secure an acknowledgement of the disclosure information, they would have no mechanism for insuring that the independent fiduciary has approved the proposed transaction, and they would, therefore, be unable to ascertain that they had satisfied all the conditions of the exemption. The Agencies believe that there is merit in this argument. Consequently, in order to avoid reimposing the hardship which the deletion of the acknowledgement requirement was designed to alleviate, the Agencies have modified the approval requirement so that investment companies and their principal underwriters may generally presume from the failure of the independent fiduciary to discontinue the purchase of the securities issued by the investment company, after the independent fiduciary has been furnished the disclosure information, that such fiduciary has approved the transaction on behalf of the plan.

One commentator requested that the exemption be further amended to provide that an investment company prospectus which meets the requirements of the federal securities laws and which is distributed by an investment company and/or its principal underwriter will automatically meet the requirement that the disclosures called for by this exemption be made in a manner calculated to be understood by a plan fiduciary with no special expertise in investment or insurance matters. The Agencies believe that if the prospectus is delivered when required under the exemption and it contains all the information required by section V(c) and the information is presented in terms understandable by a person with no special expertise and in a manner calculated to ensure that the information will come to the fiduciary's attention, such prospectus will satisfy the disclosure requirements of this exemption.

At the time that the deletion of the acknowledgement requirement as it pertains to investment companies and investment company principal underwriters was proposed, the Agencies invited comments as to whether similar relief should be extended to insurance agents and brokers, pension consultants and insurance companies (43 FR 18357, April 28, 1978). Only one commentator requested such relief. Since the comment contained insufficient information to support the extension of such relief, the Agencies are not modifying the acknowledgement requirement in the exemption applicable to the sale of insurance or annuity contracts.

C. The Agencies received no adverse comment regarding their proposal to delete the requirement that an insurance company engaging in a transaction described in section III(d) of the exemption make the disclosure described in former section V(c), (d) or (e) of the exemption, and are adopting this proposal. Since insurance companies will not be required to make these disclosures in the case of transactions covered by section III(d) of the exemption, the Agencies have also deleted former section V(g) which required insured insurance companies to maintain records regarding disclosure information for a period of six years from the date of the transaction. The Agencies also wish to correct a statement made in the preamble to the notice of proposal of amendments to the exemption (43 FR 18357, April 28, 1978) to the effect that insurance companies, among others, would still be required to obtain from the independent fiduciary an acknowledgement of receipt of the disclosure information. Since insurance companies will not be required to make disclosure, they will not be subject to the acknowledgement requirement.

However, the Agencies emphasize again that all insurance agents and brokers and pension consultants, including those employed by an insurance company, seeking to avail themselves of the relief provided by the exemption to engage in transactions described in section III(a) or (c) are required to make the appropriate disclosures. In addition, an insurance company is not prevented from making disclosure or developing or distributing disclosure documents on behalf of its agents, nor from maintaining the appropriate records relating to such disclosure on behalf of its agents.

D. Several comments requested various modifications of section III(f) of the exemption. Three commentators requested that section III(f) be amended to permit the purchase of securities issued by an investment company with plan assets from, or the sale of such securities to, an investment company

[1] While the Agencies at this time are not imposing as a condition to the availability of this exemption the disclosure requirements discussed above, the Agencies recognize that a fiduciary responsible for making investment decisions for a plan must in discharging this duty, seek such information concerning specific potential plan investments, beyond that required in this exemption, as may be necessary to satisfy his duties to the plan.

[2] Letter dated October 31, 1977 from the Agencies to John Cardon, et al.

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or its principal underwriter when such investment company, principal underwriter or the investment company's investment adviser is a fiduciary or service provider (or both) with respect to the plan solely by reason of the sponsorship of a master or prototype plan. The commentators represent that an investment company is usually managed by its investment adviser which performs many of the administrative functions of the investment company, and that it is becoming a common practice in many mutual fund complexes for the investment adviser, rather than the investment company itself or its principal underwriter to sponsor a master or prototype plan. They also point out that investment advisers are regulated by the Securities and Exchange Commission under the Investment Advisers Act of 1940. They urge that there is no public policy reason for limiting the availability of the exemption to situations in which the master or prototype plan in question is sponsored by the investment company or its principal underwriter. The Agencies believe that there is merit in this contention and consequently have amended section III(f) to cover transactions described therein when the investment company's investment adviser is a fiduciary or service provider (or both) with respect to the plan solely by reason of the sponsorship of a master or prototype plan.

Section III(F) permits the purchase of securities from or the sale to an investment company or its principal underwriter only when the relationship of the investment company or principal underwriter to the plan arises solely from the sponsorship of a master or prototype plan by that investment company, its principal underwriter or now, its investment adviser. Commentators requested that the Agencies amend section III(F) to permit an investment company, its principal underwriter or its investment adviser also to provide non-discretionary trust or custodial services to plans which adopt its master or prototype plan, without violating the "solely test" of that section. The commentators represent that it is becoming a common practice for an investment company complex to offer internal non-bank trust or custodial services to its customers in order to provide a higher degree of administrative capability and to reduce overhead expenses. They also point out that in most instances the entity within the investment company complex which would provide such services would be the investment company's transfer agent and that such non-bank transfer agents are subject to registration with and regulation by the Securities and Exchange commission pursuant to the Securities Acts Amendments of 1975.

The Agencies have determined to modify the exemption to permit transactions to come within the purview of section III(f) if an entity affiliated with an investment company provides non-discretionary trust or custodial services to plans which adopt a master or prototype plan sponsored by the investment company, its principal underwriter or its investment adviser. The Agencies are taking this action because they believe that the provision of such services by an entity whose only other relationship to an employee benefit plan arises out of its affiliation with the sponsor of a master or prototype plan which the employee benefit plan has adopted contains minimal potential for abuse of the plan.

Another commentator requested that the Agencies amend section V(a) to permit a trustee not having any discretionary authority over the acquisition or disposition of plan assets to avail itself of the relief offered by the exemption. The Agencies believe that such a substantive modification of section V(a), which has much broader application than does section III(f), should be based on a showing, at least, that the present conditions of section V(a) place an undue burden upon common and customary business practices and that, if section V(a) were amended as requested, sufficient safeguards would still be present in the exemption to protect the interests of plan participants and beneficiaries. Since the Agencies do not believe that such a showing has been made, they have determined not to make the requested modification of section V(a).

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary of a plan to which the exemption is applicable from certain other provisions of the Act, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act which, among other things, require a fiduciary to discharge his duties with respect to the plan solely in the interest of the plan's participants and beneficiaries and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act.

(2) The exemption set forth herein is supplemental to, and not in derogation of, any other provisions of the Act, including statutory exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemtion is not dispositive of whether the transaction is in fact a prohibited transaction.

(3) The class exemption is applicable to a particular transaction only if the transaction satisfies the conditions specified in the class exemption.

(4) In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code, and based upon the entire record, including the written comments submitted in response to the notices of June 24, 1977 and April 28, 1978, and the hearing held on July 20, 1978, the Agencies make the following determinations:

(i) The class exemption set forth herein is administratively feasible;

(ii) It is in the interests of plans and of their participants and beneficiaries; and

(iii) It is protective of the rights of participants and beneficiaries of the plans.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury directive appearing in the Federal Register for Wednesday, May 24, 1978 (43 FR 22319).

Exemption

Accordingly, the following exemption is hereby granted under the authority of section 408(a) of the Employee Retirement Income Security Act of 1974 (the Act) and section 4975(c)(2) of the Internal Revenue Code of 1954 (the Code), and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975) and Rev. Proc. 75-26, 1975-1 C.B. 722.

Section I—Retroactive Application. The restrictions of section 406(a)(1)(A) through (D) and 406(b) of the Act and the taxes imposed by section 4975 of the Code do not apply to any of the transactions described in section III of this exemption in connection with purchases made before November 1, 1977, if the conditions set forth in section IV are met.

Section II—Prospective Application. The restrictions of section 406(a)(1)(A) through (D) and 406(b) of the Act and the taxes imposed by section 4975 of the Code do not apply to any of the transactions described in section III of this exemption in connection with purchases made after October 31, 1977, if the conditions set forth in section IV and V are met.

Section III—Transactions. (a) The receipt, directly or indirectly, by an insurance agent or broker or a pension consultant of a sales commission from an insurance company in connection with the purchase, with plan assets, of an insurance or annuity contract.

(b) The receipt of a sales commission by a principal underwriter for an investment company registered under the Investment Company Act of 1940 (hereinafter referred to as an investment company) in connection with the purchase, with plan assets, of securities issued by an investment company.

(c) The effecting by an insurance agent or broker, pension consultant or investment company principal underwriter of a transaction for the purchase, with plan assets, of an insurance or annuity contract or securities issued by an investment company.

(d) The purchase, with plan assets, of an insurance or annuity contract from an insurance company.

(e) The purchase, with plan assets, of an insurance or annuity contract from an insurance company which is a fiduciary or a service provider (or both) with respect to the plan solely by reason of the sponsorship of a master or prototype plan.

(f) The purchase, with plan assets, of securities issued by an investment company from, or the sale of such securities to, an investment company or an investment company principal underwriter, when such investment company, principal underwriter, or the investment company investment adviser is a fiduciary or a service provider (or both) with respect to the plan solely by reason of the sponsorship of a master or prototype plan including the provision in connection therewith of non-discretionary trust or custodial services, if any, with respect to the plan.

Section IV—Conditions with Respect to Transactions Described in Section III. (a) The transaction is effected by the insurance agent or broker, pension consultant, insurance company or investment company principal underwriter in the ordinary course of its business as such a person.

(b) The transaction is on terms at least as favorable to the plan as an arm's-length transaction with an unrelated party would be.

(c) The combined total of all fees, commissions and other consideration received by the insurance agent or broker, pension consultant, insurance company, or investment company principal underwriter:

(1) For the provision of services to the plan; and

(2) In connection with the purchase of insurance or annuity contracts or securities issued by an investment company

is not in excess of "reasonable compensation" within the contemplation of section 408(b)(2) and 408(c)(2) of the Act and sections 4975(d)(2) and 4975(d)(10) of the Code. If such total is in excess of "reasonable compensation," the "amount involved" for purposes of the civil penalties of section 502(i) of the Act and the excise taxes imposed by section 4975 (a) and (b) of the Code is the amount of compensation in excess of "reasonable compensation."

Section V—Conditions for Transactions Described in Section III(a) through (d). The following conditions apply solely to a transaction described in paragraphs (a), (b), (c) or (d) of section III:

(a) The insurance agent or broker, pension consultant, insurance company, or investment company principal underwriter is not (1) a trustee of the plan, (2) a plan administrator (within the meaning of section 3(16)(A) of the Act and section 414(g) of the Code), (3) a fiduciary who is expressly authorized in writing to manage, acquire or dispose of the assets of the plan on a discretionary basis, or (4) for transactions described in section III (a) through (d) entered into after December 31, 1978, an employer any of whose employees are covered by the plan.

(b) (1) With respect to a transaction involving the purchase with plan assets of an insurance or annuity contract or the receipt of a sales commission thereon, the insurance agent or broker or pension consultant provides to an independent fiduciary with respect to the plan prior to the execution of the transaction the following information in writing and in a form calculated to be understood by a plan fiduciary who has no special expertise in insurance or investment matters:

(A) If the agent, broker, or consultant is an affiliate of the insurance company whose contract is being recommended, or if the ability of such agent, broker or consultant to recommend insurance or annuity contracts is limited by any agreement with such insurance company, the nature of such affiliation, limitation, or relationship;

(B) The sales commission, expressed as a percentage of gross annual premium payments for the first year and for each of the succeeding renewal years, that will be paid by the insurance company to the agent, broker or consultant in connection with the purchase of the recommended contract; and

(C) For purchases made after December 31, 1978, a description of any charges, fees, discounts, penalties or adjustments which may be imposed under the recommended contract in connection with the purchase, holding, exchange, termination or sale of such contract.

(2) Following the receipt of the information required to be disclosed in paragraph (b)(1), and prior to the execution of the transaction, the independent fiduciary acknowledges in writing receipt of such information and approves the transaction on behalf of the plan. Such fiduciary may be an employer of employees covered by the plan, but may not be an insurance agent or broker, pension consultant or insurance company involved in the transaction. Such fiduciary may not receive, directly or indirectly (e.g. through an affiliate), any compensation or other consideration for his or her own personal account from any party dealing with the plan in connection with the transaction.

(c) (1) With respect to a transaction involving the purchase with plan assets of securities issued by an investment company or the receipt of a sales commission thereon by an investment company principal underwriter, the investment company principal underwriter provides to an independent fiduciary with respect to the plan, prior to the execution of the transaction, the following information in writing and in a form calculated to be understood by a plan fiduciary who has no special expertise in insurance or investment matters:

(A) If the person recommending securities issued by an investment company is the principal underwriter of the investment company whose securities are being recommended, the nature of such relationship and of any limitation it places upon the principal underwriter's ability to recommend investment company securities;

(B) The sales commission, expressed as a percentage of the dollar amount of the plan's gross payment and of the amount actually invested, that will be received by the principal underwriter in connection with the purchase of the recommended securities issued by the investment company; and

(C) For purchases made after December 31, 1978, a description of any charges, fees, discounts, penalties, or adjustments which may be imposed under the recommended securities in connection with the purchase, holding, exchange, termination or sale of such securities.

(2) Following the receipt of the information required to be disclosed in paragraph (c)(1), and prior to the execution of the transaction, the independent fiduciary approves the transaction on behalf of the plan. Unless facts or circumstances would indicate the contrary, such approval may be presumed if the fiduciary permits the transaction to proceed after receipt of the written disclosure. Such fiduciary may be an employer of employees covered by the plan, but may not be a principal underwriter involved in the transaction. Such fiduciary may not receive, directly or indirectly (e.g. through an affiliate), any compensation or other consideration for his or her own personal account from any party dealing with the plan in connection with the transaction.

(d) With respect to additional purchases of insurance or annuity contracts or securities issued by an investment company, the written disclosure required under paragraphs (b) and (c) of this section V need not be repeated, unless—

(1) More than three years have passed since such disclosure was made with respect to the same kind of contract or security, or

(2) The contract or security being recommended for purchase or the commission with respect thereto is materially different

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from that for which the approval described in paragraphs (b) and (c) of this section was obtained.

(e) (1) In the case of any transaction described in paragraphs (a), (b), or (c) of section III, the insurance agent or broker (or the insurance company whose contract is being described if designated by the agent or broker), pension consultant or investment company principal underwriter shall retain or cause to be retained for a period of six years from the date of such transaction, the following:

(A) The information disclosed pursuant to paragraphs (b), (c), and (d) of this section V;

(B) Any additional information or documents provided to the fiduciary described in paragraphs (b) and (c) of this section V with respect to such transaction; and

(c) The written acknowledgement described in paragraph (b) of this section.

(2) A prohibited transaction will not be deemed to have occurred if, due to circumstances beyond the control of the insurance agent or broker, pension consultant, or principal underwriter, such records are lost or destroyed prior to the end of such six-year period.

(3) Notwithstanding anything to the contrary in sections 504(a)(2) and (b) of the Act, such records are unconditionally available for examination during normal business hours by duly authorized employees or representatives of the Department of Labor, the Internal Revenue Service, plan participants and beneficiaries, any employer of plan participants and beneficiaries, and any employee organization any of whose members are covered by the plan.

Section VI—Definitions. For purposes of this exemption:

(a) The term "principal underwriter" is defined in the same manner as that term is defined in section 2(a)(29) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(29)).

(b) The terms "insurance agent or broker," "pension consultant," "insurance company," "investment company," and "principal underwriter" mean such persons and any affiliates thereof.

(c) The term "affiliate" of a person means:

(1) Any person directly or indirectly controlling, controlled by, or under common control with such person;

(2) Any officer, director, employee (including, in the case of a principal underwriter, any registered representative thereof, whether or not such person is a common law employee of such principal underwriter), or relative of any such person, or any partner in such person; or

(3) Any corporation or partnership of which such person is an officer, director, or employee, or in which such person is a partner.

(d) The term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(e) The term "relative" means a "relative" as that term is defined in section 3(15) of the Act (or a "member of the family" as that term is defined in section 4975(e)(6) of the Code), or a brother, a sister, or a spouse of a brother or a sister.

(f) The term "master or prototype plan" means a plan which is approved by the Service under Rev. Proc. 72-7, 1972-1 C.B. 715, or Rev. Proc. 72-8, 1972-1 C.B. 716, or their successors.

Signed at Washington, D.C., this 28th day of December, 1978.

TED R. KERN,
Deputy Assistant Commissioner (Employee Plans and Exempt Organizations), Internal Revenue Service.

IAN D. LANOFF,
Administrator, Pension and Welfare Benefit Programs, U.S. Department of Labor.

[FR Doc. 78-36475 Filed 12-29-78; 8:45 am]

[4510-28-M]

DEPARTMENT OF LABOR

Office of the Secretary

[TA-W-3813]

AIRCO, INC., AIRCO ALLOYS AND CARBIDE DIVISION, CALVERT CITY, KY.

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3813: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on June 7, 1978 in response to a worker petition received on June 2, 1978 which was filed by the United Automobile, Aerospace, and Agricultural Implement Workers of America on behalf of workers and former workers producing chrome, silicon, ferrosilicon and manganese at the Calvert City, Kentucky plant of Airco Alloys and Carbide, a division of Airco, Inc. Investigation revealed that the plant produced primarily ferrosilicon, silicomanganese, and medium carbon ferromanganese.

The Notice of Investigation was published in the FEDERAL REGISTER on June 20, 1978 (43 FR 26499). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Airco, Inc., its customers, the U.S. Department of the Interior, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. With respect to workers producing ferrosilicon, it is concluded that all of the requirements have been met.

Imports of ferrosilicon increased from 98,775 short tons in 1976 to 114,788 short tons in 1977. Imports increased from 50,630 short tons in the first six months of 1977 to 62,552 short tons in the same period of 1978.

Some customers of Airco, Inc. were surveyed by the Department. Customers of ferrosilicon who indicated that they had decreased purchases from Airco increased purchases of imported ferrosilicon in 1977 and in the first six months of 1978.

With respect to workers producing silicomanganese and ferromanganese, without regard to whether any of the other criteria have been met, the following criteria has not been met:

That sales or production, or both, of the firm or subdivision have decreased absolutely.

Production at the Calvert City plant is based upon orders received. Production of each product, silicomanganese and ferromanganese, increased in the fourth quarter of 1977 and in the first two quarters of 1978 compared with the same quarter of the previous year. Production of each product increased in the first six months of 1978 compared with the same period of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ferrosilicon produced at the Calvert City, Kentucky plant of Airco Alloys and Carbide Division, Airco, Inc. contributed importantly to the decline in sales or production and to the total or partial separation of workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers engaged in employment related to the production of ferrosilicon of the Calvert City, Kentucky plant of Airco Alloys and Carbide Division, Airco, Inc. who become totally or partially separated from employment on or after May 31, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

I further determine that all workers at the Calvert City, Kentucky plant of Airco Alloys and Carbide Division, Airco, Inc. engaged in employment related to the production of silicomanganese and ferromanganese are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 13th day of December, 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 79-500 Filed 1-4-79; 8:45 am]

[4510-28-M]

ALLIED CHEMICAL CORP., SPECIALTY CHEMICAL DIV., ET AL.

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 19, 1979.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the Address shown below, not later than January 19, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 28th day of December, 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (Union/workers or former workers of:)	Location	Date Received	Date of Petition	Petition Number	Articles Produced
Allied Chemical Corporation, Specialty Chemical Division (USWA).	South Point, Ohio	12/22/78	12/20/78	TA-W-4,553	chemical ammonia, urea, formaldehyde & urea formaldehyde concentrate
Apex Handbags (ILGP&NWU)	Weehawken, New Jersey	12/26/78	12/18/78	TA-W-4,554	ladies' handbags
Duchess Footwear Corporation (workers).	Salem, Mass	12/26/78	12/13/78	TA-W-4,555	stitching of shoe uppers for women's shoes
E.I. DuPont De Nemours & Company.	Old Hickory, Tenn	12/20/78	12/14/78	TA-W-4,556	polyester & dacron yarn & staple
Gaylor Manufacturing Company (company).	Ashland, Virginia	12/26/78	12/21/78	TA-W-4,557	men's & women's shirts
Gibson, Incorporated (USWA)	Kalamazoo, Michigan	12/22/78	12/20/78	TA-W-4,558	acoustical & electric guitars, mandolins & banjos
International Shoe Company (workers).	West Plains, Missouri	12/26/78	12/21/78	TA-W-4,559	men's dress & casual shoes
Roth LeCover (ILGWU)	Los Angeles, California	12/26/78	12/20/78	TA-W-4,560	suits & dresses for women
Mister Herbert of California, Inc. (ILGWU).	Los Angeles, California	12/20/78	12/18/78	TA-W-4,561	women's coats
Parisi Sportswear Co., Inc. (company).	Newark, New Jersey	12/26/78	12/14/78	TA-W-4,562	contractor of men's tennis shorts
P/V Sailor's Choice (workers)	Gloucester, Mass	12/22/78	12/9/78	TA-W-4,563	catching & selling of fish

[FR Doc. 79-524 Filed 1-4-79; 8:45 am]

[4510-28-M]

[TA-W-4437]

ALUMINUM CO. OF AMERICA, ROCKDALE, TEX.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4437: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 29, 1978 in response to a worker petition received on November 20, 1978 which was filed by the United Steelworkers of America on behalf of workers and former workers producing primary aluminum in the form of ingots, aluminum powder and redraw rods at the Rockdale, Texas facility of the Aluminum Company of America.

The Notice of Investigation was published in the FEDERAL REGISTER on December 5, 1978 (43 FR 56953). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of the Aluminum Company of America, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that sales or production, or both, of the firm or subdivision have decreased absolutely.

The Department's investigation revealed that production of primary aluminum at the Rockdale, Texas facility of the Aluminum Company of America

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increased in quantity from 1976 to 1977 and in the first ten months of 1978 compared to the same period in 1977. Production has increased in the last seven quarters when compared to the same quarters of the previous year. Virtually all aluminum produced at the plant when finished is transported elsewhere in the Alcoa system so that sales approximates production.

CONCLUSION

After careful review, I determine that all workers of the Rockdale, Texas facility of the Aluminum Company of America are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 27th day of December, 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 79-501 Filed 1-4-79; 8:45 am]

[4510-28-M]

[TA-W-4275]

BETHLEHEM STEEL CORP., CORPORATE SERVICES, BETHLEHEM, PA., AND NEW YORK, N.Y.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4275: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 20, 1978 in response to a worker petition received on October 13, 1978 which was filed on behalf of workers and former workers providing air condition and heat unit service, janitor service and escort service for the Bethlehem Steel Corporation, Bethlehem, Pennsylvania.

The Notice of Investigation was published in the FEDERAL REGISTER on October 31, 1978 (43 FR 50758-9). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Bethlehem Steel Corporation, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

The Corporate Services Division of Bethlehem Steel Corporation provides a variety of support services integral to the production of all steel products manufactured by Bethlehem Steel. These services include the following areas:

custodial
horticultural (ground maintenance, greenhouse)
craft maintenance (carpenters, plumbers, etc.)
escort services
office services (clerical, etc.)
restaurant
stationary engineering (power plant, boiler rooms)

Workers in Corporate Services are employed at Bethlehem Steel's Corporate Headquarters, Martin Towers, Bethlehem, Pennsylvania; Research Department and General Sales Offices, Bethlehem, Pennsylvania; and New York General Offices, 1 State Street Plaza, New York, New York.

The Department has previously certified workers who became totally or partially separated from employment at eight Bethlehem Steel facilities (see TA-W- 1234, 1498, 1500, 1534, 2236, 2308, 2316, 2556, 2726, 924, 3729, 3730 and 3731). The certified products produced at these plants collectively represent a significant proportion of the company's total sales in 1976. The impact dates for these certifications vary from May 15, 1975 to April 12, 1977. Expiration dates for these certifications vary between February 13, 1979 and October 16, 1980 depending upon the date of issuance for individual certifications.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with various steel products produced at Bethlehem Steel Corporation contributed importantly to the decline in sales or production and to the total or partial separation of workers of the Corporate Service Division of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the Corporate Services Division of Bethlehem Steel Corporation, Bethlehem, Pennsylvania and New York, New York who became totally or partially separated from employment on or after October 10, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of December, 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 79-502 Filed 1-4-79; 8:45 am]

[4510-28-M]

[TA-W-4317]

CENTER GARMENT CO., INC., FALL RIVER, MASS.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4317: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 31, 1978 in response to a worker petition received on October 30, 1978 which was filed on behalf of workers and former workers producing ladies' better dresses at Center Garment Company, Incorporated in Fall River, Massachusetts.

The Notice of Investigation was published in the FEDERAL REGISTER on November 7, 1978 (43 FR 51865). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Center Garment Company, Incorporated, its manufacturer, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibiltiy to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with article produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

A Departmental survey conducted with the sole manufactureer that contracted work with Center Garment Company revealed that the manufacturer did not employ any foreign contractors nor did the manufacturer import any dresses during the period of 1976 through September 1978.

CONCLUSION

After careful review, I determine that all workers of Center Garment Company, Incorporated in Fall River, Massachussetts are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

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Signed at Washington, D.C. this 28th day of December, 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 79-503 Filed 1-4-79; 8:45 am]

[4510-28-M]

[TA-W-4229]

CENTRAL FURNACES, UNITED STATES STEEL CORP., CLEVELAND, OHIO

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4229: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on September 29, 1978 in response to a worker petition received on September 28, 1978 which was filed by the United Steelworkers of America on behalf of workers and former workers producing pig iron at the Cleveland, Ohio Central Furnaces of the U.S. Steel Corporation.

The Notice of Investigation was published in the FEDERAL REGISTER on October 17, 1978 (43 FR 44795-6). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of the U.S. Steel Corporation, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of merchant pig iron decreased slightly from 415 thousand tons in 1976 to 373 thousand tons in 1977. In the first three quarters of 1978, however, imports increased to 492 thousand tons compared to 218 thousand tons for the same period in 1977. The ratio of imports to domestic shipments decreased from 41.5 percent in 1976 to 38.8 percent in 1977 and increased to 80.8 percent in the first three quarters of 1978 compared to 29.8 percent for the same 1977 period.

The Department conducted a survey of some of the customers purchasing pig iron from the Central Furnaces of U.S. Steel Corporation in Cleveland, Ohio. The survey revealed that several of the customers reduced purchases from U.S Steel and increased purchases from foreign sources from 1976 to 1977 and in the first ten months of 1978 compared to the same 1977 period.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitives with pig iron produced at the Cleveland, Ohio Central Furnaces of the U.S. Steel Corporation contributed importantly to the decline in sales or production and to the total or partial separation of workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers of the Cleveland, Ohio Central Furnaces of the U.S. Steel Corporation who became totally or partially separated from employment on or after September 1, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 26th day of December, 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 79-504 Filed 1-4-79; 8:45 am]

[4510-28-M]

[TA-W-4127]

DYNACO, INC., BLACKWOOD, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4127: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on August 31, 1978 in response to a worker petition received on August 29, 1978 which was filed on behalf of workers and former workers producing tuners, preamplifiers, power amplifiers, integrated amplifiers, and loudspeakers. The investigation revealed that equalizers and energy storage units were also produced at the plant.

The Notice of Investigation was published in the FEDERAL REGISTER on September 12, 1978 (43 FR 40576). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Dynaco, Incorporated, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

United States imports of amplifiers and tuners have increased both absolutely and relative to domestic production from 1976 to 1977 and in the first six months of 1978 compared to the same period of 1977.

U.S. imports of loudspeakers have increased relative to domestic production from 1976 to 1977 and in the first six months of 1978 compared to the same period of 1977.

Several of Dynaco's customers who were surveyed indicated that their total purchasers from Dynaco decreased while their purchased from foreign sources increased. Several customers stated that the vast majority of tuners and amplifiers they purchased were manufactured overseas.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with tuners, preamplifiers, power amplifiers, integrated amplifiers, equalizers, and energy storage units produced at Dynaco, Incorporated, Blackwood, New Jersey contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Dynaco, Incorporated, Blackwood, New Jersey who became totally or partially separated from employment on or after August 11, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 26th day of December 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 79-505 Filed 1-4-79; 8:45 am]

[4510-28-M]

[TA-W-3960]

ELLEN KATE CLOTHING CO., NEWBURGH, N.Y.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3960: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on July 11, 1978 in response to a worker petition received on July 5, 1978 which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing rainwear at the Ellen Kate Clothing

Company, Newburgh, New York. The investigation revealed that the plant produces ladies' raincoats, all-weather coats and car coats.

The Notice of Investigation was published in the FEDERAL REGISTER on July 25, 1978 (43 FR 32199). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Ellen Kate Clothing Company, its manufacturers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The average number of workers increased from 1976 to 1977. Employment declined in the first quarter of 1978 when layoffs typical to the industry occurred. Employment declines in the first half of 1978 compared to the same period of 1977 were insignificant.

CONCLUSION

After careful review, I determine that all workers of Ellen Kate Clothing Company, Newburgh, New York are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 27th day of December, 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 79-506 Filed 1-4-79; 8:45 am]

[4510-28-M]

[TA-W-4406]

FAMOUS MAID BRASSIERE CO., NEW YORK, N.Y.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4406: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 21, 1978 in response to a worker petition received on November 13, 1978 which was filed by the International Ladies Garment Workers' Union on behalf of workers and former workers producing brassieres at the Famous Maid Brassiere Company, New York, New York.

The Notice of Investigation was published in the FEDERAL REGISTER on December 5, 1978 (43 FR 56951-52). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of the Famous Maid Brassiere Company, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that sales or production, or both, of the firm or subdivision have decreased absolutely.

Famous Maid markets brassieres produced in its New York, New York plant, imported brassieres and girdles purchased from apparel jobbers. Evidence developed during the course of the investigation indicated that Famous Maid's total sales and production of brassieres and girdles and Famous Maid's production and sales of brassieres produced at the company's New York, New York plant increased in the first eleven months of 1978 compared to the first eleven months of 1977. Declines in sales, production and employment in 1977 compared to 1976 were covered under an earlier certification of workers producing brassieres at Famous Maid in TA-W-1146 (the certification expired on December 13, 1978).

CONCLUSION

After careful review, I determine that all workers of the Famous Maid Brassiere Company, New York, New York are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 26th day of December, 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 79-507 Filed 1-4-79; 8:45 am]

[4510-28-M]

[TA-W-4293]

FREELAND MANUFACTURING CO., FREELAND, PA.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4293: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 25, 1978 in response to a worker petition received on October 24, 1978 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing down jackets and jeans for men, women, and children at the Freeland Manufacturing Company, Freeland, Pennsylvania.

The Notice of Investigation was published in the FEDERAL REGISTER on November 3, 1978 (43 FR 51475). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Freeland Manufacturing Company, its customers, the National Cotton Council of America, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

Imports of men's and boys' non-tailored outer jackets and women's, misses', and children's coats and jackets increased in 1977 compared to 1976.

At the end of 1977, Freeland's customer for down jackets and vests stopped purchases from Freeland Manufacturing and started to purchase imports.

Imports of men's and boys' work trousers and women's, misses', and children's slacks and shorts increased in 1977 compared to 1976 and in January-September 1978 compared to the same period of 1977.

A customer of Freeland for jeans increased purchases from foreign sources and decreased purchases from Freeland Manufacturing.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's, women's, and children's jeans and down jackets and vests produced at Freeland Manufacturing Company, Freeland, Pennsylvania contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Freeland Manufacturing Company, Freeland, Pennsylvania, who became totally or partially separated from employment on or after October 23, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 or the Trade Act of 1974.

Signed at Washington, D.C., this 27th day of December 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 79-508 Filed 1-4-79; 8:45 am]

[4510-28-M]

[TA-W-3829]

G. R. LARSON CONSTRUCTION CO., SAFFORD, ARIZ.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3829: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on June 12, 1978 in response to a worker petition received on June 7, 1978 which was filed on behalf of workers and former workers of G. R. Larson Construction Company who operated a copper leach extraction facility at the Safford, Arizona mine site of Kennecott Copper Corporation. The Department's investigation revealed that the "workers' firm" is Kennecott Copper Corporation.

The Notice of Investigation was published in the FEDERAL REGISTER on June 27, 1978 (43 FR 27925). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of G. R. Larson Construction Company, Kennecott Copper Corporation, *American Metal Market*, the American Bureau of Metal Statistics, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

Evidence developed during the Department's investigation revealed that the leach extraction facility operated by G. R. Larson Construction Company was an experimental project directed by Ledgemont Laboratory, a Kennecott Copper Corporation division which specializes in research and development. The small amount of copper produced was not refined and was never intended to be marketed. This research and development function is separate from the integrated copper production process engaged in by Kennecott, whose final product is refined copper.

Since the function provided by G. R. Larson is not integrated into Kennecott's production of refined copper, it has been determined that G. R. Larson is not an "appropriate subdivision" of Kennecott Copper Corporation within the meaning of Section 222 of the Trade Act of 1974. Furthermore, the research and development activities performed by G. R. Larson were directed at developing a more efficient production process and are not considered the production of "articles" and the Department of Labor has previously determined that the performance of services is not included within the term "articles" as used in Section 222(3) of the Act.

CONCLUSION

After careful review, I determine that G. R. Larson Construction Company, Safford, Arizona, is not an "appropriate subdivision" of Kennecott Copper Corporation within the meaning of Section 222 of the Trade Act of 1974. Moreover, the activities performed by the workers of G. R. Larson are not "articles" within the meaning of Section 222(3) of the Trade Act.

Signed at Washington, D.C. this 28th day of December, 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 79-509 Filed 1-4-79; 8:45 am]

[4510-28-M]

[TA-W-3305]

GENERAL MOTORS CORP., DELCO-REMY DIVISION, MUNCIE, IND.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3305: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 7, 1977 in response to a worker petition received on February 27, 1978 which was filed on behalf of workers and former workers producing automobile storage batteries at the Muncie, Indiana plant of the Delco-Remy Divsion of General Motors Corporation.

The Notice of Investigation was published in the FEDERAL REGISTER on March 17, 1978 (43 FR 11277). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of General Motors Corporation, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Imports of storage batteries have been negligible—less than two percent of domestic production—in recent years. Furthermore, most of the storage battery imports consist of motorcyle batteries. The Muncie plant produces only automobiles storage batteries. General Motors Corporation, the major user of batteries produced by the Muncie plant, does not purchase imported storage batteries for use in its domestically produced automobiles.

Recent technological innovations including the development of a maintenance free, lifetime use battery have became paramount in the storage battery industry. These innovations have drastically altered consumer demand and manufacturers' production patterns, especially for the battery replacement market.

CONCLUSION

After careful review, I determine that all workers of the Muncie, Indiana plant of the Delco-Remy Division of General Motors Corporation are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 27th day of December, 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 79-510 Filed 1-4-79; 8:45 am]

[4510-28-M]

[TA-W-4423]

GERALYN BLOUSE CO., INC., NEW YORK, N.Y.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4423: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 27, 1978 in response to a worker petition received on November 16, 1978 which was filed by the International Ladies Garment Workers Union, Locals 23-25 on behalf of workers and former workers producing women's and children's knit pullovers, blouses, and shirts at Geralyn Blouse Company, Incorporated, New York, New York. The investigation revealed that the plant produces women's and misses' blouses and shirts but does not produce such articles for children.

The Notice of Investigation was published in the FEDERAL REGISTER on December 5, 1978 (43 FR 56952). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Geralyn Blouse Company, Incorporated, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of women's and misses' and children's blouses and shirts increased from 26,113 thousand dozen in 1975 to 30,273 thousand dozen in 1976, and to 30,849 thousand dozen in 1977. U.S. imports increased from 24,036 thousand dozen in the first three quarters of 1977 to 28,505 thousand dozen during the same period in 1978.

In the course of a prior investigation, the U.S. Department of Commerce contacted Geralyn Blouse Company's leading customer concerning its purchases from domestic and foreign sources. This customer, which represented a substantial proportion of Geralyn's total sales in FY 1976* and FY 1977, indicated that it had reduced its contract work with the subject firm in FY 1977 compared to FY 1976 while increasing imports of women's and misses' blouses and shirts. The customer redirected a large share of its business to foreign sources in the first quarter of FY 1978, and had not contracted with Geralyn Blouse Company, Incorporated since that time.

On June 22, 1978, the U.S. Department of Commerce certified Geralyn Blouse Company, Incorporated as eligible to apply for firm adjustment assistance.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's and misses' blouses and shirts produced at Geralyn Blouse Company, Incorporated, New York, New York, contributed importantly to the decline in sales or production and to the total or partical separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Geralyn Blouse Company, Incorporated, New York, New York who became totally or partially separated from employment on or after November 9, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 26th day of December, 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 79-511 Filed 1-4-79; 8:45 am]

[4510-28-M]

[TA-W-4294]

INTERNATIONAL HAT CO., LUTESVILLE, MO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4294: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 25, 1978 in response to a worker petition received on October 23, 1978 which was filed on behalf of workers and former workers producing men's wool hats and caps and men's hats and caps of cotton and polyester at International Hat Company, Lutesville, Missouri.

The Notice of Investigation was published in the FEDERAL REGISTER on November 3, 1978 (43 FR 51475). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of International Hat Company, its customers, Headwear Institute of America, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

A customer survey revealed that most surveyed customers who reduced purchases of hats from International Hat did not increase purchases of imported hats. One customer who did purchase imports represented an insignificant portion of sales by International Hat.

CONCLUSION

After careful review, I determine that all workers of International Hat Company, Lutesville, Missouri are denied eligibility tp apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 22nd day of December 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 79-512 Filed 1-4-79; 8:45 am]

[4510-28-M]

[TA-W-4307]

JATON CORP., BOSTON, MASS.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4307: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 30, 1978 in response to a worker petition received on October 26, 1978 which was filed on behalf of workers and former workers producing women's sportswear at the Jaton Corporation, Boston, Massachusetts.

The investigation revealed that the plant primarily produces women's skirts.

The Notice of Investigation was published in the FEDERAL REGISTER on November 7, 1978 (43 FR 51866). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Jaton Corporation, the National Cotton Council of America, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that sales or production, or both, of the firm or subdivision have decreased absolutely.

Sales of women's skirts at the Jaton Corporation increased in 1977 compared to 1976 and in the first three quarters of 1978 compared to the same period in 1977. As a contractor, sales and production at the Jaton Corporation are the same.

CONCLUSION

After careful review, I determine that all workers of Jaton Corporation, Boston, Massachusetts are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 27th day of December, 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 79-513 Filed 1-4-79; 8:45 am]

[4510-28-M]

[TA-W-3955 and 3955A]

KREISLER MANUFACTURING CORP., ST. PETERSBURG, FLA., CLEARWATER, FLA.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3955 and 3955A: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on July 6, 1978 in response to a worker petition received on July 5, 1978 which was filed on behalf of workers and former workers producing leather watch straps, lighters and desk sets at Kreisler Manufacturing Corporation, St. Petersburg, Florida. the investigation was expanded to include workers producing metal watch bands at the Clearwater, Florida plant of Kreisler Manufacturing Corporation.

The Notice of Investigation was published in the FEDERAL REGISTER on July 18, 1978 (43 FR 30927). No public hearing was requested and none was held.

On April 21, 1977, the Department of Commerce certified Kreisler Manufacturing Corporation as eligible to apply for firm adjustment assistance.

The determination was based upon information obtained principally from officials of Kreisler Manufacturing Corporation, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

Imports of watchbands increased from 30,630,000 dollars in 1976 to 34,019,000 dollars in 1977, and from 15,539,000 dollars in the first half of 1977 to 23,823,000 dollars in the first half of 1978. The ratio of imports to domestic production increased from 103 percent in 1976 to 108 percent in 1977, and from 102 percent in the first half of 1977 to 149 percent in the first half of 1978.

Imports of refillable lighters increased from 31.5 million units in 1976 to 34.1 million units in 1977, and the ratio of imports to domestic production increased from 93 percent to 100 percent in this period.

The Department surveyed several of Kreisler's major customers. All of the respondents who purchased watch bands from Kreisler also purchased imported watch bands. Several of these customers increased their purchases of imports.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with watchbands produced at Kreisler Manufacturing Corporation, St. Petersburg and Clearwater, Florida contributed importantly to the decline in sales or production and to the total or partial separation of workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers of Kreisler Manufacturing Corporation, St. Petersburg and Clearwater, Florida who became totally or partially separated from employment on or after October 1, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 26th day of December, 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 79-514 Filed 1-4-79; 8:45 am]

[4510-28-M]

[TA-W-3964]

LISA MARIE SPORTSWEAR, INC., PHILLIPSBURG, N.J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3964: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on July 11, 1978 in response to a worker petition received on July 5, 1978 which was filed on behalf of workers and former workers producing ladies' lined and unlined blazers at Lisa Marie Sportswear, Inc., Phillipsburg, New Jersey. The Department's investigation revealed that the company also produced ladies' blouses, slacks and vests.

The Notice of Investigation was published in the FEDERAL REGISTER on July 25, 1978 (43 FR 32199). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Lisa Marie Sportswear, its manufacturers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Department surveyed the major manufacturers for whom Lisa Marie worked in 1977. The survey revealed that manufacturers which imported increased purchases from Lisa Marie in 1977 compared to 1976. Lisa Marie closed in November 1977, then reopened in August 1978.

*The company's fiscal year begins in July and ends in June of the named year.

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CONCLUSION

After careful review, I determine that all workers of Lisa Marie Sportswear, Inc., Phillipsburg, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of December 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 79-515 Filed 1-4-79; 8:45 am]

[4510-28-M]

[TA-W-3922]

M. H. LAZARUS, DIVISION OF U.S. INDUSTRIES, INC., NEW YORK, N.Y.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3922: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on June 29, 1978 in response to a worker petition received on June 28, 1978 which was filed by the Distributive Workers of America on behalf of workers and former workers producing cotton goods, upholstery, plastic and fiberglass material at the M. H. Lazarus Division of U.S. Industries, Inc., New York, New York. During the course of the investigation, it was determined that the New York, New York location of the M. H. Lazarus Division is a converter of greige goods and served as a warehouse for material purchased from the mills.

The Notice of Investigation was published in the FEDERAL REGISTER on July 11, 1978 (43 FR 29851). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of M. H. Lazarus, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The New York warehouse of M. H. Lazarus stored greige goods prior to their shipment to printers and dyers. Separations from the warehouse occurred in August 1977 when the firm consolidated the warehouse operations into a Lazarus plant in North Carolina. Inventories at the North Carolina plant increased with the transfer of inventories from the New York warehouse.

CONCLUSION

After careful review, I determined that all workers of M. H. Lazarus Division of U.S. Industries, Inc., New York, New York are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 26th day of December, 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 79-516 Filed 1-4-79; 8:45 am]

[4510-26-M]

[TA-W-2909]

NORSTAN INDUSTRIES, INC., NEW YORK, N.Y., ATLANTA, GA.

Revised Certification of Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor issued a certification of eligibility to apply for adjustment assistance on November 3, 1978, applicable to all workers at Norstan Industries, Inc., New York, New York, who became totally or partially separated from employment on or after December 16, 1977, and all workers at the Atlanta, Georgia, facility of Norstan Industries Inc., who became totally or partially separated from employment on or after July 1, 1977. The Notice of Investigation was published in the FEDERAL REGISTER on November 13, 1978 (43 FR 52562).

At the request of a state employment security agency official, a further investigation was made by the Director of the Office of Trade Adjustment Assistance. A review of the case revealed that about four layoffs occurred shortly before the impact date originally set in the Department's certification of the New York facility. These layoffs were not covered by the original impact date.

The intent of the certification is to cover all workers at Norstan Industries, Inc., who were adversely affected by the decline in the production of sportswear related to import competition. The certification, therefore, is revised providing a new impact date of December 1, 1977, for the New York facility but leaving unchanged the impact date for the Atlanta plant.

The revised certification applicable to TA-W-2909 is hereby issued as follows:

All workers at the New York facility of Norstan Industries, Inc., who became totally or partially separated from employment on or after December 1, 1977, and all workers at the Atlanta, Georgia, facility of Norstan Industries, Inc., who became totally or partially separated from employment on or after July 1, 1977, are eligible to apply for adjustment assistance under Title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of December, 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 79-517 Filed 1-4-79; 8:45 am]

[4510-28-M]

[TA-W-4053]

PRODUCERS MINERALS CORP., SAFFORD, ARIZ.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4053: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on August 10, 1978 in response to a worker petition received on August 7, 1978 which was filed on behalf of workers formerly producing cement copper at the Safford, Arizona mine of Producers Minerals Corporation.

The Notice of Investigation was published in the FEDERAL REGISTER on August 29, 1978 (43 FR 38634). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Producers Minerals Corporation, its customers, *American Metal Market*, the American Bureau of Metal Statistics, the U.S. Department of the Interior, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of refined copper increased from 147 thousand short tons in 1975 to 384 thousand short tons in 1976 and to 391 thousand short tons in 1977. Imports increased from 164 thousand short tons in the first six months of 1977 to 327 thousand short tons in the first six months of 1978.

The ratio of imported refined copper to domestic production increased from 8.6 percent in 1975 to 21.0 percent in 1976 and to 22.2 percent in 1977. The ratio increased from 15.0 percent in the first six months of 1977 to 35.9 percent in the first six months of 1978.

The Department's investigation revealed that the price paid for the cement copper produced by Producers Minerals Corporation was determined directly from the prevailing domestic price of copper precipitate. The company closed the Safford facility because it had been losing money due to the depressed price of copper.

The level of imports of copper is affected by the differential between the domestic producers price for copper and the price established by the LME (London Metal Exchange). When the LME price drops more that the estimated transportation cost of 5 cents per pound below the domestic producers price, the demand for imported copper increases. During the last nine months of 1977 and the first six months of 1978, the average LME price had fallen almost 8 cents per pound below the average domestic producers price.

The major factor contributing to depressed prices has been an oversupply of imported and domestic copper, as evidenced by U.S. inventory levels of refined copper. U.S. inventories of refined copper were higher in every month of 1977, except December, when compared to the same month in 1976. Inventories in December 1977 were less than one percent below December 1976 levels. In the first six months of 1978, inventories surpassed levels in the same months of 1977, with the exception of March which was only marginally below the same month in the previous year. The abundant supply of copper stocks in the forseeable future provides no reason for domestic consumers of copper to maintain ties with domestic producers for purposes of a guarantee against copper shortages. Consequently, in 1977 and in the first half of 1978, when many domestic copper producers curtailed production because of the depressed market price for copper, imports of refined copper increased. Copper imports increased slightly in 1977 compared to 1976 and then doubled in the first half of 1978 compared to the same period in 1977.

Price pressure from imported copper has reduced the ability of domestic producers to profitably mine domestic ore and convert it to copper concentrate and refined copper. The current price of copper precipitate prevents Producers Minerals Corporation from continuing to profitably produce cement copper.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with cement copper produced at Producers Minerals Corporation, Safford, Arizona contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Producers Minerals Corporation, Safford, Arizona, who became totally or partially separated from employment on or after August 2, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 13th day of December 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 79-518 Filed 1-4-79; 8:45 am]

[4510-28-M]

[TA-W-4161]

REIDER SHOE MANUFACTURING CO., INC., SCHUYLKILL HAVEN, PA.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4161: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on September 14, 1978 in response to a worker petition received on September 8, 1978 which was filed on behalf of workers and former workers producing men's, women's and young girls' shoes at Reider Shoe Manufacturing Company, Incorporated, Schuylkill Haven, Pennsylvania. The investigation revealed that the plant produces men's, women's, and children's nonrubber shoes.

The Notice of Investigation was published in the FEDERAL REGISTER on September 26, 1978 (43 FR 43587). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Reider Shoe Manufacturing Company, Incorporated, Schuylkill Haven, Pennsylvania, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of nonrubber footwear (aggregate) decreased from 368.2 million pairs in 1976 to 366.7 million pairs in 1977 and decreased to 184.4 million pairs in the first half of 1978 compared with 193.9 million pairs in the first half of 1977. The ratio of imports to domestic production increased from 87.6 percent in 1976 to 94.4 percent in 1977. The ratio of imports to domestic production decreased to 90.6 percent in the first half of 1978 compared with 96.0 percent in the first half of 1977.

On December 12, 1977, the U.S. Department of Commerce certified Reider Shoe Mfg. Co., Inc. eligible to apply for trade adjustment assistance. The Department of Commerce found that customers who had increased purchases of imports while decreasing purchases from Reider Shoe had contributed significantly to Reider Shoe's loss of sales and production.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the men's, women's and children's nonrubber shoes produced at Reider Shoe Manufacturing Company, Incorporated, Schuylkill Haven, Pennsylvania contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Reider Shoe Manufacturing Company, Incorporated, Schuylkill Haven, Pennsylvania who became totally or partially separated from employment on or after September 1, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 27th day of December, 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 79-519 Filed 1-4-79; 8:45 am]

[4510-28-M]

[TA-W-3869]

STOUT SPORTSWEAR CO., LONG ISLAND CITY, N.Y.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3869: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

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The investigation was initiated on June 19, 1978 in response to a worker petition received on June 12, 1978 which was filed on behalf of workers and former workers producing women's sportswear at Stout Sportswear, Long Island City, New York. The investigation revealed that the plant primarily produces women's large-size sportswear.

The Notice of Investigation was published in the FEDERAL REGISTER on June 30, 1978 (43 FR 28581). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Stout Sportswear Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

Imports of women's, misses', and children's blouses and shirts and slacks and shorts increased absolutely from 1976 to 1977 and in the first half of 1978 compared to the same period of 1977.

Imports of women's, misses' and children's skirts and dresses decreased absolutely from 1976 to 1977 and increased absolutely in the first half of 1978 compared to the same period of 1977. The ratio of imports to the domestic production of skirts increased from 1976 to 1977. The ratio of imports to the domestic production of dresses decreased from 1976 to 1977.

Stout Sportswear imports women's large-size sportswear. Imports represented a significant proportion of total company sales in 1978.

The Department conducted a survey of some of the customers of Stout Sportswear. The survey indicated customers increased purchases of imported women's larger size sportswear and decreased purchases from Stout Sportswear.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the women's sportswear produced at Stout Sportswear Company, Long Island City, New York contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Stout Sportswear Company, Long Island City, New York who became totally or partially separated from employment on or after March 18, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 26th day of December, 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 79-520 Filed 1-4-79; 8:45 am]

[4510-28-M]

[TA-W-4401]

SURREY KNITTING MILLS, INC., PHILADELPHIA, PA.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4401: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 16, 1978 in response to a worker petition received on November 14, 1978 which was filed by the Knitgoods Union, International Ladies' Garment Workers' Union on behalf of workers and former workers producing men's sweaters at Surrey Knitting Mills, Incorporated in Philadelphia, Pennsylvania. The investigation revealed that the plant also produces some women's sweaters.

The Notice of Investigation was published in the FEDERAL REGISTER on November 24, 1978 (43 FR 55011-55012). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Surrey Knitting Mills, Incorporated, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

An order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that sales or production, or both, of the firm or subdivision have decreased absolutely.

Sales of men's and women's sweaters, in both quantity and value, increased at Surrey Knitting Mills, Incorporated in 1977 compared with 1976 and in January through November period of 1978 compared with the same period in 1977. Sales and production are equal at Surrey Knitting Mills, Incorporated.

CONCLUSION

After careful review, I determine that all workers of Surrey Knitting Mills, Incorporated, in Philadelphia, Pennsylvania are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 27th day of December 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 79-521 Filed 1-4-79; 8:45 am]

[4510-28-M]

[TA-W- 4356 and 4356A]

VOYAGER SPORTSWEAR, INC., NEW BEDFORD, MASS., NEW YORK, N.Y.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4356 and 4356A: investigations regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 7, 1978 in response to a worker petition received on November 6, 1978 which was filed on behalf of workers and former workers producing children's sportswear at Voyager Sportswear, Incorporated in New Bedford, Massachusetts. Voyager Sportswear produces children's slacks, blouses, skirts, jumpers and jackets. The investigation was expanded to include the New York, New York sales office of Voyager Sportswear, Incorporated.

The Notice of Investigation was published in the FEDERAL REGISTER on November 17, 1978 (43 FR 53852-53). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Voyager Sportswear, Incorporated, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations,

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or threat thereof, and to the absolute decline in sales or production.

Evidence developed during the course of the investigation revealed that employment declines that occurred in December, 1977 at Voyager Sportswear, Incorporated are consistent with the normal seasonal pattern found within the apparel industry.

Voyager Sportswear began manufacturing operations in June of 1977. Average monthly employment remained fairly constant from July through Novermber, 1977. The firm closed at the end of November and during the month of December, 1977 due to decline in orders. From January through November, 1978 monthly employment was steady, returning to the levels established prior to the December shutdown.

Voyager Sportswear is faced with another decline in orders of its product line in December of 1978 and has accepted contract work in order to avoid a shutdown.

CONCLUSION

After careful review, I determine that all workers of the New Bedford, Massachusetts plant and the New York, New York sales offiee of Voyager Sportswear, Incorporated are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 27th day of December, 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 79-522 Filed 1-4-79; 8:45 am]

[4510-28-M]

[TA-W-3756]

WESTERN PUBLISHING CO., ST. LOUIS, MO.

Negative Determination Regarding Application for Reconsideration

On November 2, 1978, the petitioner requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of workers and former workers of the St. Louis, Missouri, plant of the Western Publishing Company, Racine, Wisconsin. The determination was published in the FEDERAL REGIATER on October 20, 1978, (43 FR 49079).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) if it appears, on the basis of facts not previously considered, that the determination complained of was erroneous;

(2) if it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) if, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

The petitioner makes the claim that imports of printed materials including those that are lithographed was the cause for the closing of the St. Louis, Missouri, plant in May, 1978.

The Department reviewed the investigative file for the worker petition on the St. Louis, Missouri, plant, TA-W-3756, and performed additional investigative functions. The Department learned that the St. Louis plant closed because of a management decision to economize and consolidate. That decision had nothing to do with import competition. New technology and the high cost of paper affected the lithographic work at the St. Louis plant. Also bearing on the management's decision to close the St. Louis plant was the plant's location and the existence of duplicate equipment at the corporation's other plants in Racine, Wisconsin, Cambridge, Maryland, and Poughkeepsie, New York. The printing work formerly performed at the St. Louis plant has been transferred to these other plants.

The Department's denial was based on the fact that imports of posters, highway billboards and pamphlets are negligible. Printed matter for advertising purposes is imported into the U.S. under six TSUSA numbers which include other items such as photographs, engravings, etchings, lithographs and woodcuts. The ratio of imports to domestic production is only about 0.1 percent.

CONCLUSION

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of fact or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C., this 28th day of December, 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 79-523 Filed 1-4-79; 8:45 am]

[7510-01-M]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 79-2]

RICHARD C. HENRY

Certification

Pursuant to the provision contained in section 207 of Title 18 U.S.C. (P.L. 87-849, 76 Stat. 1124), having found that Dr. Richard C. Henry, formerly Deputy Director, Astrophysics Division, Office of Space Science, Headquarters, National Aeronautics and Space Administration (NASA), and presently an employee of Johns Hopkins University, Baltimore, Maryland, possesses outstanding scientific qualifications, I certify that the national interest would be served by the said Dr. Richard C. Henry acting as agent for or appearing personally before NASA on behalf of Johns Hopkins University in connection with the negotiation and administration of contracts or grants by the University with NASA, and the performance of work under such University contracts or grants with NASA, for research in space astronomy and astrophysics, on matters in which he participated personally and substantially as an employee of NASA or which were under his official responsibility as a NASA employee.

This certification is directed to be published in the FEDERAL REGISTER.

Dated: December 21, 1978.

ROBERT A. FROSCH,
Administrator.

[FR Doc. 79-450 Filed 1-4-79; 8:45 am]

[7590-01-M]

Nuclear Regulatory Commission

[Docket No. 50-344]

PORTLAND GENERAL ELECTRIC CO., THE CITY OF EUGENE, OREG., PACIFIC POWER & LIGHT CO.

Notice of Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has, pursuant to the Partial Initial Decision of its Atomic Safety and Licensing Board (ASLB) dated December 21, 1978, issued Amendment No. 35 to Facility Operating License No. NPF-1, issued to Portland General Electric Company, the City of Eugene, Oregon, and Pacific Power and Light Company (the licensee), which revised the license and appended Technical Specifications for operation of the Trojan Nuclear Plant (the facility), located in Columbia County, Oregon. The amendment is effective as of its date of issuance.

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The amendment consists of the addition of operating restrictions to the license and a waiver of those portions of Appendix A Technical Specification 5.7.1 and the Final Safety Analysis Report criteria referenced therein which describe the seismic capacity of the Trojan Control Building and which are not complied with because of design deficiencies in the Control Building shear walls originally identified in the licensee's letter dated May 5, 1978. The operating restrictions to the license prohibit modifications which may reduce the strength of the Control Building shear walls unless approved by the NRC, and require that in the event of an earthquake having greater than 0.08g peak ground acceleration the facility be brought to cold shutdown and inspected for any effects of the earthquake. Finally, the amendment requires that the on-going seismic qualification program with respect to certain piping systems be completed prior to resumption of reactor operation. The operation of Trojan will be subject to further Order of the Atomic Safety and Licensing Board with respect to the scope and timeliness of structural modifications to the Control Building.

The Partial Initial Decision is subject to review by an Atomic Safety and Licensing Appeal Board prior to its becoming final. Any decision or action taken by an Atomic Safety and Licensing Appeal Board in connection with the Initial Decision may be reviewed by the Commission.

The amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

On May 26, 1978, the NRC's Director of Nuclear Reactor Regulation issued an Order for Modification of License that set forth findings that design errors in the Control Building shear walls had reduced the seismic capability of the Control Building; that the originally intended seismic capability should be substantially restored by modifications to that structure; and that operation of the facility with the Control Building in its as-built condition would violate the existing facility license. Based on the related safety evaluation by the NRC staff, however, the Order stated that the Control Building nevertheless had adequate structural capacity to resist the licensed Safe Shutdown Earthquake and that the facility operating license should be modified to permit operation, with conditions, in the interim period prior to approval and completion of modifications required by the Order.

The Order also provided opportunity for hearing and was published in the FEDERAL REGISTER on June 1, 1978 (43 FR 23768). Requests for hearing were to be filed by June 26, 1978, and, in the event that a hearing was ordered, the terms of the Order would not become effective until a hearing was held.

Numerous requests for a hearing were received. The requests filed by: Columbia Environmental Council; Eugene Rosolie, acting on his own behalf and as representative of the Coalition for Safe Power; Stephen M. Willingham; David B. McCoy; C. Gail Parson; Nina Bell; and the Bonneville Power Administration were granted. In addition, the State of Oregon was granted leave to participate as an interested State.

The hearing was held October 23 through November 3, and December 11-14, 1978, in Salem and Portland, Oregon. The above-referenced Partial Initial Decision was subsequently issued on December 21, 1978.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) letters from the licensee dated May 5, 24, and 26; June 30; August 19, and 21; September 1, 12 and 20; October 4, 6, 10, 13, 17, and 27; November 2, 22 and 24, 1978; (2) Amendment No. 35 to License No. NPF-1; (3) Order for Modification of License dated May 26, 1978 and related Safety Evaluation; and (4) the Partial Initial Decision of the Atomic Safety and Licensing Board dated December 21, 1978.

All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555, and at the Columbia County Courthouse, Law Library, Circuit Court Room, St. Helens, Oregon 97051. A single copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 22nd day of December, 1978.

For the Nuclear Regulatory Commission.

CHARLES M. TRAMMELL,
Acting Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc. 79-438 Filed 1-4-79; 8:45 am]

[7590-01-M]

[Docket Nos. 50-443, 50-444]

PUBLIC SERVICE COM. OF NEW HAMPSHIRE, ET AL. (SEABROOK STATION, UNITS 1 AND 2)

Hearing

DECEMBER 27, 1978.

An alternative site issue is still pending in this proceeding. Its significance at this late date stems from two factors: (1) the possibility that the proposed Seabrook facility will eventually be required to use large towers to recirculate its cooling water rather than, as the Environmental Protection Agency has ruled, being allowed to return the heated water directly to the ocean;[1] and (2) the absence of a valid decision by this agency on whether, if cooling towers were required at Seabrook, a nuclear facility at that site would remain environmentally acceptable when compared to other sites.[2]

The NRC staff has now come to the conclusion, supported by a lengthy analysis, that the Seabrook facility remains acceptable even with cooling towers added. The Seacoast Anti-Pollution League, which opposes the facility, wishes to challenge that conclusion. The applicant utility companies are in essential agreement with the staff, except that they believe that Seabrook compares even more favorably to one of the alternatives (Phillips Cove) than the staff recognizes. No party having sought to have the matter disposed of under the Commission's summary disposition procedures, a hearing is necessary to resolve these disputes.

In accordance with our prior orders, notice is hereby given that an evidentiary hearing, *limited to the cooling tower/alternatives site issue described above*, will commence at 9:30 a.m. on Monday, January 15, 1979, in the Courtroom of the Superior Court, Hillsborough County Courthouse, 19 Temple Street, Nashua, New Hampshire. The hearing will continue through that week unless concluded earlier. Because there have been prior opportunities for members of the public to make limited appearance statements on this issue at Licensing Board hearings, we will not be entertaining limited appearances at this hearing.

For the Appeal Board.

ROMAYNE M. SKRUTSKI,
Secretary to the Appeal Board.

[FR Doc. 79-439 Filed 1-4-79; 8:45 am]

[1] The EPA decision is presently being challenged in the courts.

[2] This Board earlier held that prior analyses of this subject had been inadequate.

[7590-01-M]

[Docket Nos. 50-443 and 50-444]

PUBLIC SERVICE CO. OF NEW HAMPSHIRE, ET AL.

Issuance of Amendment to Construction Permits

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 1 to Construction Permit No. CPPR-135 and Amendment No. 1 to Construction Permit No. CPPR-136 issued to the Public Service Company of New Hampshire, The United Illuminating Company, Central Maine Power Company, Central Vermont Public Service Corporation, The Connecticut Light and Power Company, Fitchburg Gas and Electric Light Company, Montaup Electric Company, New Bedford Gas & Edision Light Company, New England Power Company, Green Mountain Power Corporation, and Vermont Electric Power Company, Inc. The amendments reflect changes in ownership and transfer of shares of the Seabrook Station, Units 1 and 2 (the facility), located in Rockingham County, New Hampshire. The amendments are effective as of their date of issuance.

These amendments provide for the deletion of the Green Mountain Power Corportation, Inc., and the addition of Town of Hudson, Massachusetts, Light and Power Department; Vermont Electric Cooperative, Inc.; Bangor Hydro-Electric Company; and Taunton Municipal Lighting Plant as applicants for all licenses previously requested, and the transfer of partial ownership shares as noted in the construction permit amendments for these applicants and for eight other continuing applicants.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the amendments.

For further details with respect to this action, see (1) the application for amendments contained in Public Service Company of New Hampshire's letters, dated May 15, 1978, and October 16, 1978; (2) Amendment No. 1 to Construction Permit No. CPPR-135; (3) Amendment No. 1 to Construction Permit No. CPPR-136; and (4) the Commission's letter to Public Service Company of New Hampshire and the related Safety Evaluation attached thereto. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, DC and at the Exeter Public Library, Front Street, Exeter, New Hampshire 03833.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Project Management.

Dated at Bethesda, Maryland this 27th day of December 1978.

For the Nuclear Regulatory Commission.

STEVEN A. VARGA,
Chief, Light Water Reactors Branch 4, Division of Project Management.

[FR Doc. 79-440 Filed 1-4-79; 8:45 am]

[7590-01-M]

[NUREG-75/087]

REVISION TO THE STANDARD REVIEW PLAN

Notice of Issuance and Availability

As a part of the continual maintenance of the Standard Review Plan (SRP), the Nuclear Regulatory Commission's (NRC's) Office of Nuclear Reactor Regulation has published Revision No. 1 to the Table of Contents for the NRC staff's Standard Review Plan for applications to build and operate light-water-cooled nuclear power reactors. The purpose of the plan is to improve both the quality and uniformity of the NRC staff's review of applications to build new nuclear power plants, and to make information about regulatory matters widely available, including the improvement of communication and understanding of the staff review process by interested members of the public and the nuclear power industry. The purpose of the updating program is to revise sections of the SRP for which changes in the review plan have been developed since the original issuance in September 1975 to reflect current practice.

Copies of the Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants, which has been identified as NUREG-75/087, are available from the National Technical Information Service, Springfield, Virginia 22161. The domestic price is $70.00 including first-year supplements. Annual subscriptions for supplements alone are $30.00. Individual sections are available at current prices. The domestic price for Revision No. 1 to the Table of Contents is $4.00. Foreign price information is available from NTIS. A copy of the Standard Review Plan including all revisions published to date is available for public inspection at the NRC's Public Document Room at 1717 H Street, N.W., Washington, D.C. 20555 (5 U.S.C. 552(a)).

Dated at Bethesda this 20 day of December, 1978.

For the U.S. Nuclear Regulatory Commission.

ROGER J. MATTSON,
Director, Division of Systems Safety, Office of Nuclear Reactor Regulation.

[FR Doc. 79-442 Filed 1-4-79; 8:45 am]

[7590-01-M]

[Docket Nos. 50-390 and 50-391]

TENNESSEE VALLEY AUTHORITY

Notice of Availability of Final Environmental Statement for the Watts Bar Nuclear Plant, Units 1 and 2

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in 10 CFR Part 51, notice is hereby given that the Final Environmental Statement prepared by the Commission's Office of Nuclear Reactor Regulation, related to the proposed operation of the Watts Bar Nuclear Plant located in Rhea County, Tennessee, is available for inspection by the public in the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C., and in the Chattanooga-Hamilton County Bicentennial Library, 1001 Broad Street, Chattanooga, Tennessee. The Final Environmental Statement is also being made available at the State Planning Office, Grants Review Section, 660 Capital Hill Building, Nashville, Tennessee, and at the Chattanooga Area Regional Council of Governments/SETDD, 413 James Building, 735 Broad Street, Chattanooga, Tennessee.

The notice of availability of the Draft Environmental Statement for the Watts Bar Nuclear Plant, Units 1 and 2, and requests for comments from interested persons was published in the FEDERAL REGISTER on June 9, 1978 (43 FR 25210). The comments received from Federal, State, and local agencies and interested members of the public have been included as appendices to the Final Environmental Statement.

Copies of the Final Environmental Statement (Document No. NUREG 0498) may be purchased, at $9.50 for printed copies and $3.00 for micro-

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fiche, from the National Technical Information Service, Springfield, Virginia 22161.

Dated at Bethesda, Maryland, this 28th day of December 1978.

For the Nuclear Regulatory Commission.

WM. H. REGAN, JR.,
Chief, Environmental Projects Branch 2, Division of Site Safety and Environmental Analysis.

[FR Doc. 79-441 Filed 1-4-79; 8:45 am]

[4910-58-M]

NATIONAL TRANSPORTATION SAFETY BOARD

[Docket No. DCA-79-AR-013]

RAILROAD ACCIDENT—ELMA, VA.

Accident Investigation Hearing

Notice is hereby given that the National Transportation Safety Board will convene an accident investigation hearing at 9:00 a.m. (local time) January 30, 1979, in Conference Room 9 A-B-C of Federal Office Building 10A, 800 Independence Avenue, SW., Washington, D.C. 20594.

The public hearing will be held in connection with the Safety Board's investigation of an accident involving the derailment of Southern Railway Company Passenger train No. 2, The Crescent, which occurred December 3, 1978, at Elma, Nelson County, Va.

ELMER GARNER,
Hearing Officer.

JANUARY 2, 1979.

[FR Doc. 79-464 Filed 1-4-79; 8:45 am]

[3110-01-M]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on 12/26/78 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes:

The name of the agency sponsoring the proposed collection of information;

The title of each request received;

The agency form number(s), if applicable;

The frequency with which the information is proposed to be collected;

An indication of who will be the respondents to the proposed collection;

The estimated number of responses;

The estimated burden in reporting hours; and

The name of the reviewer or reviewing division or office.

Requests for extension which appear to raise no significant issues are to be approved after brief notice thru this release.

Further information about the items on this daily list may be obtained from the clearance office, Office of Management and Budget, Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

NEW FORMS

PENSION BENEFIT GUARANTY CORPORATION

Audit Verification Questionnaire
Annually
100 plan participants
100 responses; 10 hours
Strasser, A., 395-6132

VETERANS ADMINISTRATION

Application for Reimbursement of Headstone or Marker Expenses
21-8834
On occasion
10,000 dependents
10,000 responses; 1,667 hours
Caywood, D. P., 395-6140

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education
Basic Educational Opportunity Grant Quality
OE-628
Single-time
4,200 Financial Aid Officers; BEOG grantees and parents
4,200 responses; 3,725 hours
Laverne V. Collins, 395-3214

National Institute of Education
Study of In-School ALternatives to Suspension
NIE 197 A-F
Single-time
164 students, parents, teachers and school administrators
164 responses; 82 hours
Laverne V. Collins, 395-3214

Health Care Financing Administration (Medicaid)
Sterilizations and Hysterectomies
HCFA/OHDS 80
Quarterly
432 title XIX and title XX agencies
432 responses; 2,808 hours
Richard Eisinger, 395-3214

DEPARTMENT OF LABOR

Employment and Training Administration
Continuous Wage and Benefit History (CWBH)
Supplemental Questionnaire Evaluation
ETA-18
Single-time
3,000 unemployment insurance claimants
3,000 responses; 750 hours
Strasser, A., 395-6132

REVISIONS

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service
Sugar Market News Reports
FV-63, 70, 71, 72, and 74
Monthly
896 sugar refiners and processors
896 responses; 655 hours
Office of Federal Statistical Policy and Standard, 673-7956

DEPARTMENT OF COMMERCE

Bureau of Census
Steel Power Boilers
MA-34G
Annually
Manufacturers of steel power boilers
30 responses; 15 hours
C. Louis Kincannon, 395-3211

Bureau of Census
Pulp, Paper, and Board (Production, Consumption, and Inventories)
M-26A
Monthly
Paper and Paperboard Mills
7,200 responses; 3,600 hours
Office of Federal Statistical Policy and Standard, 673-7956

Bureau of Census
Pulp, Paper, and Board—annual Report
MA-26C
Annually
Paper and Paperboard Mills
700 responses, 700 hours
Office of Federal Statistical Policy and Standard, 673-7956

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration
Study of Eligibility and Participation Under SSI
SSA-3899
Single-time
Low-income aged people eligible/receiving SSI benefits
2,000 responses; 1,833 hours
Reese, B. F., 395-3211

DEPARTMENT OF LABOR

Employment Standards Administration
Coal Mine Employment Statements
CM-913, CM-918, and CM-1093
On occasion
Coal miners and survivors
55,000 responses; 17,500 hours
Strasser, A., 395-6132

EXTENSIONS

NATIONAL CREDIT UNION ADMINISTRATION

Monthly Sample (Federal) Monthly Sample (State)
NCUA 5301, NCUA 5303
Monthly
Federal and State credit unions
12,000 responses; 2,000 hours
Geiger, Susan B., 395-5867

DEPARTMENT OF AGRICULTURE

Forest Service
Application for Permits Non-Federal Commercial Use of Roads Restricted by Order
7700-40
On occasion
Non-Federal commercial haulers
2,000 responses; 500 hours
Ellett, C. A., 395-6132

DEPARTMENT OF LABOR

Bureau of Labor Statistics
Characteristics of the Insured Unemployed
ES-203
Monthly
Local and Central Office Rec. for unemploy. insurance claim.
624 responses; 57,400 hours
Off. of Federal Statistical Policy and Standard, 673-7956

DEPARTMENT OF STATE

Department of State (excl. aid and action)
Statement Regarding Actions on Behalf of Foreign Principals
DSP-80
On occasion
Applicants for Employment
10,000 responses; 2,500 hours
Marsha Traynham, 395-6140

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration
Application for an Airman Certificate and/or Rating
FAA 8400-3
On occasion
Airmen
8,000 responses; 800 hours
Geiger, Susan B., 395-5867

DAVID R. LEUTHOLD,
Budget and Management Officer.

[FR Doc. 79-444 Filed 1-4-79; 8:45 am]

[3110-01-M]

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on 12/27/78 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes:

The name of the agency sponsoring the proposed collection of information;

The title of each request received;

The agency form number(s), if applicable;

The frequency with which the information is proposed to be collected;

An indication of who will be the respondents to the proposed collection;

The estimated number of responses;

The estimated burden in reporting hours; and

The name of the reviewer or reviewing division or office.

Requests for extension which appear to raise no significant issues are to be approved after brief notice thru this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, (202-395-4529), or from the reviewer listed.

NEW FORMS

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration
External Youth Opportunity Program
FHWA-1469
Annually
State highway agencies
52 responses; 26 hours
Geiger, Susan B., 395-5867

REVISIONS

DEPARTMENT OF LABOR

Labor Management and Service Administration
Labor Organization Reports
LM-1, LA, 2, 3, LMSA-20
On occasion
Labor Unions
81,200 responses; 74,141 hours
Strasser, A., 395-6132

Labor Management and Service Administration
Employer Activity Reports
LM-10, 20, 21
On occasion
Employers involved finan. w/labor unions & labor consul.
390 responses; 160 hours
Strasser, A., 395-6132

Labor Management and Service Administration
Trusteeship Reports
LM-6, 16, 15, 15A
On occasion
Labor unions
950 responses; 712 hours
Strasser, A., 395-6132

Bureau of International Labor Affairs
Standard Questionnaire for Manufacturing Firms
ILAB-235 A/B
On occasion
Manufacturers
1,000 responses; 10,000 hours
Strasser, A., 395-6132

DEPARTMENT OF THE INTERIOR

U.S. Fish and Wildlife Service
Application for fur trapping permit
FWS No. 3-2001
Annually
Individual fur trappers
2,000 responses; 1,000 hours
Ellett, C. A., 395-6132

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration
Airport Aid Program—FAR Part 152
FAA 5100-30, 100, 101, 60, 61, 62, 63
On occasion
State and local governments
13,944 responses; 184,960 hours
Geiger, Susan B., 395-5867

Federal Aviation Administration
Airport Activity Survey (by selected air carriers)
1800-31
Semi-annually
Air taxi operators
1,690 responses; 423 hours
Geiger, Susan B., 395-5867

National Highway Traffic Safety Administration
Motorist Sanction Severity Survey
Single-time
Licensed drivers
3,000 responses; 750 hours
Geiger, Susan B., 395-5867

EXTENSIONS

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Community Planning and Development
Request for Verification of Deposit—Rehabilitation Loan and Grant Programs
HUD-6234
On occasion
Financial institutions
11,000 responses; 2,750 hours
Strasser, A., 395-6132

Community Planning and Development
Request for Rehabilitation Loan Check—Rehabilitation Loan Progam
HUD-6236
On occasion
Owners/occupants applying for sec. 312 rehab. loan
11,000 responses; 5,500 hours
Strasser, A., 395-6132

Community Planning and Development
Personal Financial Statement
HUD-6243A
On occasion
Investor in Sole Proprietorship in Resi. or Mixed Use Prop.

V 4 4 / 4 J A 5 7 9 UMI

5,500 responses; 5,500 hours
Strasser, A., 395-6132

Community Planning and Development
Preliminary Eligibility Determination Inquiry
HUD-6500
On occasion
Property owners unable to obtain insur. under fair
100 responses; 50 hours
Strasser, A., 395-6132

Community Planning and Development
Request for Verification of Employment—Rehabilitation Loan Program
HUD-6233
On occasion
Employ. of applicants for sec. 312 rehabilitation loans
11,000 responses; 5,500 hours
Strasser, A., 395-6132

Community Planning and Development
Application for Rehabilitation Loan-Owner-Occupied Property Containing one-to-four Dwelling Units
HUD-6230
On occasion
Owner-occupants of one to four-dwelling units
5,500 responses; 5,500 hours
Strasser, A., 395-6132

Community Planning and Development
Application for Rehabilitation Loan—Investor Owned Residential Property or Mixed-Use Loan
HUD-6243
On occasion
Investors owning residential or mixed use properties
5,500 responses; 33,000 hours
Strasser, A., 395-6132

Community Planning and Development
Request for Verification of Mortgage or Deed of Trust
HUD-6239
On occasion
Mortgage-holding institutions
11,000 responses; 2,750 hours
Strasser, A., 395-6132

DEPARTMENT OF LABOR

Employment and Training Administration
Office of Federal Contract Compliance Order No. 4—Guidelines for Developing & Evaluating Affirmative Action Program
On occasion
Guidelines for Affirmative Action Programs;
Strasser, A., 395-6132

Employment and Training Administration
Apple Harvest Recruitment
ETA 7-158
Annually
Growers who antici. a need for temp. agri. workers
160 responses; 320 hours
Strasser, A., 395-6132

DAVID R. LEUTHOLD,
Budget and Management Officer.

[FR Doc. 79-446 Filed 1-4-79; 8:45 am]

[3110-01-M]

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on December 28, 1978 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes:

The name of the agency sponsoring the proposed collection of information;

The title of each request received;

The agency form number(s), if applicable;

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An indication of who will be the respondents to the proposed collection;

The estimated number of responses;

The estimated burden in reporting hours; and

The name of the reviewer or reviewing division or office.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

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NEW FORMS

DEPARTMENT OF COMMERCE

Bureau of Census
Conventional Address Register—1980 Decennial Census
D-104, D-104A, D-104B
Single-time
6,000,000 house. and spec. places in the conventional area
6,000,000 responses; 300,000 hours
Office of Federal Statistical Policy and Standard, 673-7956

National Oceanic and Atmospheric Administration
Cape Cod Visitor Questionnaire
Single-time
2,000 individuals and housholds who visited Cape Cod
2,000 responses; 200 hours
C. Louis Kincannon, 395-3211

Bureau of Economic Analysis
Report on a Foreign Person's Establishment, Acquisition, or Purchase of the Operating Assets of a U.S. Business Enterprise, Including Real Estate
BE-13
On occasion
400 U.S. business enterprises newly acquired by foreigners
400 responses; 800 hours
Office of Federal Statistical Policy and Standard, 673-7956.

Bureau of Census
Manhattan Housing Unit Coverage Listing Book
D-817(XN)
Single-time
5,800 households in lower Manhattan (N.Y.) dress rehearsal area
5,800 responses; 121 hours
Office of Federal Statistical Policy and Standard, 673-7956

Bureau of Census
Precanvass Address Register—1980 Decennial Census
D-103, D-103A, D-103B
Single-time
27,000,000 households in tape address register areas
27,000,000 responses; 900,000 hours
Office of Federal Statistical Policy and Standard, 673-7956

DEPARTMENT OF TREASURY

Bureau of Customs
Drawback entry covering rejected merchandise
7,539
On occasion
2,100 manufacturers and producers
2,100 responses; 420 hours
Geiger, Susan B., 395-5867

REVISIONS

DEPARTMENT OF COMMERCE

Economic Development Administration
LPW Project Performance Report
ED-113A
Quarterly
Recipients of round I and round II LPW grants
38,684 responses; 32,108 hours
C. Louis Kincannon, 395-3211

Bureau of Census
Report on shipments to Federal Government agencies
MA-175
Annually
Industrial plants in industries shipping to Federal Government
7,000 responses; 7,000 hours
Office of Federal Statistical Policy and Standard, 673-7956

Bureau of Census
Annual Demographic Survey—March 1979
CPS-665, CPS-670
On occasion
61,000 households in 1979 CPS and 2,500 Hispanic households in 1978
63,500 responses; 26,450 hours
Office of Federal Statistical Policy and Standard, 673-7956.

Bureau of Census
Commercial steel forgings
MA-34C
Annually
Manufacturers of steel forgings for sale
240 responses; 160 hours
Off. of Federal Statistical Policy & Standard, 673-7956

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration
Application for disability insurance benefits
SSA-16 F6
On occasion
Persons filing for soc sec. ben. as disabled person
1,000,000 responses; 146,666 hours
Reese B. F. 395-3211

EXTENSIONS

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Production and Mortgage Credit
Health authority approval—individual water supply and sewage disposal system
FHA-2573
On occasion
Local health authority
4,000 responses; 4,000 hours
Strasser, A. 395-6132

Housing Production and Mortgage Credit
Request for final endorsement of credit instruments
FHA 2023
On occasion
Project mortagagees/mortagagors
465 responses; 465 hours
Strasser, A., 395-6132

Community Planning and Development
Project Expenditures Budget (Urban renewal program)
HUD-6220
On occasion
Local public agencies with urban renewal projects
100 responses; 50 hours
Budget Review Division, 395-4775

DEPARTMENT OF TREASURY

Bureau of Customs
Warehouse withdrawal—conditionally free of duty, and permit
CF 7506
On occasion
Importers
92,500 responses; 9,250 hours
Geiger, Susan B., 395-5867

Bureau of Customs
Transportation entry and manifest of goods subject to Customs Inspection and "United States—Canada Transit Mnaifiest"
CF 7512, 7512A, 7512B
On occasion
Brokers, carriers
1,300,000 responses; 130,000 hours
Geiger, Susan B., 395-5867

DAVID R. LEUTHOLD,
Budget and Management Officer.

[FR Doc. 79-447 Filed 1-4-79; 8:45 am]

[3110-01-M]

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the office of management and budget on December 29, 1978 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes—

The name of the agency sponsoring the proposed collection of information;

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An indication of who will be the respondents to the proposed collection;

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The estimated burden in reporting hours; and

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NEW FORMS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary
Pension Equity Measurement Questionnaire
OS-14-78
Single-time
750 purposive sample in chicago area
750 responses; 750 hours
Office of Federal Statistical Policy and Standard, 673-7956

REVISIONS

VETERANS ADMINISTRATION

Claim for monthly payments (USGLI)
29-4125K
On occasion
Beneficiary
12,000 responses; 3,000 hours
Caywood, D. P., 395-6140

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration
Vocational Survey Form
HA-625
On occasion
Claimants
120 responses; 240 hours
Reese B. F., 395-211

EXTENSIONS

DEPARTMENT OF DEFENSE

Departmental and other
MIL-P-9024G (USAF) "Packaging, Handling, and Transportability in System/Equipment Acquisition"
On occassion
Aerospace, Electronic/Missile Contractor
450 responses; 7,650 hours
Caywood, D. P., 395-6140

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration
Road-User and Property Taxes on selected motor vehicles
FHWA-1501A-N
Other (See SF-83)
50 State and D.C. Highway Agencies
51 responses; 408 hours
Geiger, Susan B., 395-5867

Federal Highway Administration
Federal-Aid Highway Construction Contractor's Semiannual Training Report
FHWA-1409
Quarterly
Highway construction contractors
12,000 responses; 6,000 hours
Geiger, Susan B., 395-5867

DAVID R. LEUTHOLD,
Budget and Management Officer.

[FR Doc. 79-448 Filed 1-4-79; 8:45 am]

[6325-01-M]

OFFICE OF PERSONNEL MANAGEMENT

ESTABLISHMENT

Establishment, Location, Organization and Functions, Regional Offices, and Internal Administrative Instructions

Reorganization Plan No. 2 of 1978 and Pub. L. 95-454 (5 U.S.C. 1103) created the Office of Personnel Management vesting in it most of the functions of the U.S. Civil Service Commission, with some changes and additions.

Notice is hereby given that:

1. The Office of Personnel Management (OPM) will be located at 1900 E Street, N.W., Washington, D.C. 20415, Phone, 202-655-4000.

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2. The OPM will have the organization and functions shown in the accompanying chart.

3. The OPM will have the following regional offices (areas included within each region are the standard federal regions shown in Appendix D, U.S. Government Manual):

Atlanta Region, 1340 Spring Street, NW, Atlanta, GA 30309.
Boston Region, John W. McCormack Post Office & Courthouse Bldg., Boston, MA 02109.
Chicago Region, John C. Kluczynski Federal Bldg., 29th Floor, 230 South Dearborn Street, Chicago, IL 60604.
Dallas Region, 1100 Commerce Street, Dallas, TX 75242.
Denver Region, Bldg. 20, Denver Federal Ctr., Denver, CO 80225.
New York Region, New Federal Building, 26 Federal Plaza, New York, NY 10007.
Philadelphia Region, William J. Green, Jr., Federal Building, 600 Arch St., Philadelphia, PA 19106.
St. Louis Region, 1256 Federal Building, 1520 Market Street, St. Louis, MO 63103.
San Francisco Region, 525 Market Street, San Francisco, CA 94105.
Seattle Region, Federal Building, 26th Floor, 915 Second Avenue, Seattle, WA 98174.

4. Effective January 1, 1979, the OPM hereby adopts and ratifies, until modified or otherwise abrogated, the former U.S. Civil Service Commission's internal operating instructions and procedures. These will be in effect until OPM publishes new directives of its own, and include the: Administrative Manual; Personnel Manual; regulations on employee codes of conduct; regulations on control of funds; designations of contracting, certifying and appointing officers, and of persons authorized to administer oaths; and all other published internal operating instructions which govern and guide daily business transactions.

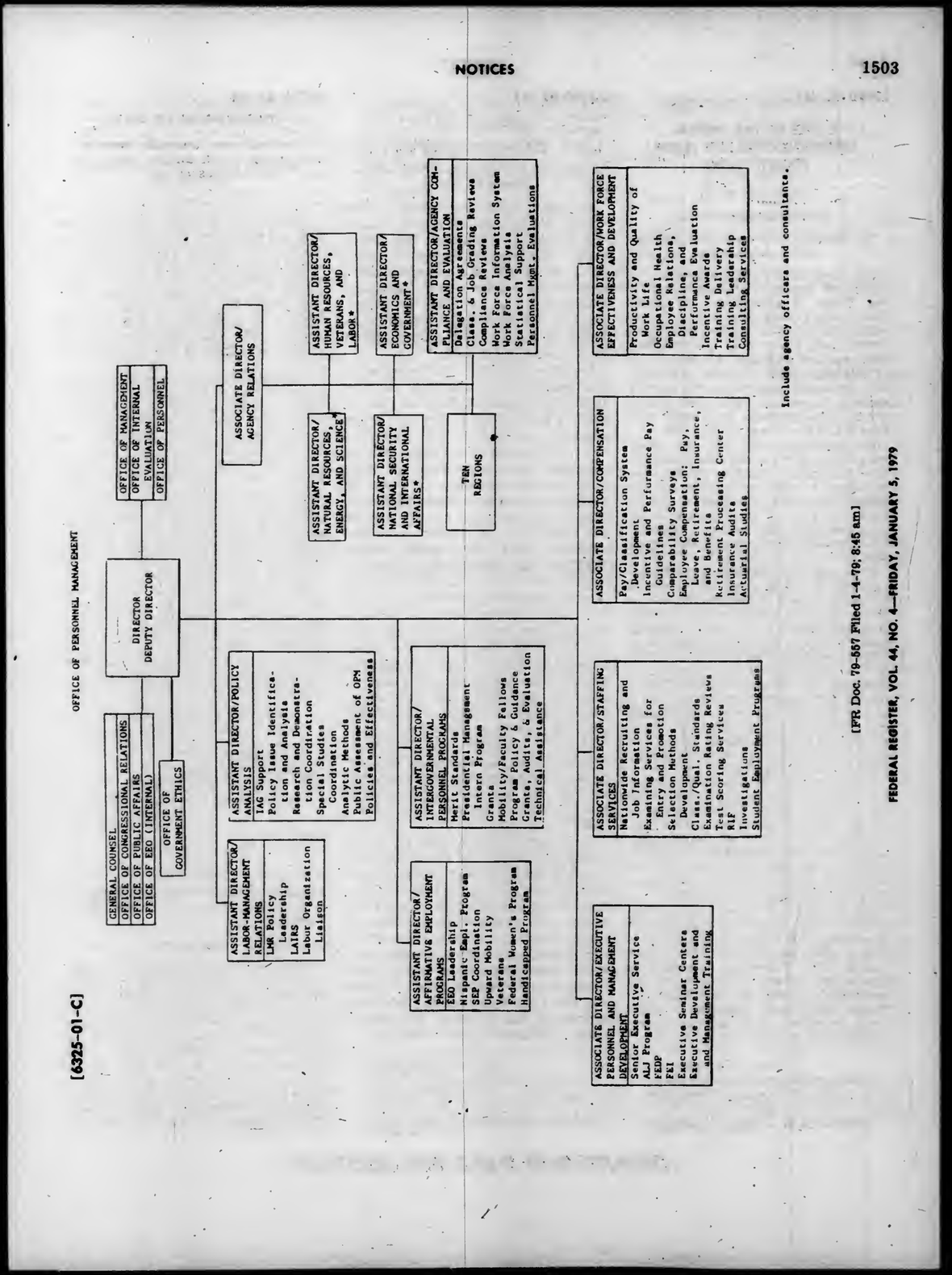
5. All contracts in force and previously administered by the U.S. Civil Service Commission will, effective January 1, 1979, be administered by the Office of Personnel Management.

FOR FURTHER INFORMATION CONTACT:

Joseph P. Reid, 202-632-4596.

OFFICE OF PERSONNEL MANAGEMENT,
JAMES C. SPRY,
Special Assistant to the Director.

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[6325-01-C]

[FR Doc. 79-567 Filed 1-4-79; 8:45 am]

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[3190-01-M]

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

[Docket No. 301-4]

EUROPEAN COMMUNITIES

Termination of Review of Petition Alleging Unfair Trade Practices

Pursuant to the regulations of the Office of the Special Representative for Trade Negotiations, the Trade Policy Staff Committee hereby terminates the review of a petition alleging unfair trade practices by the European Communities through the imposition of minimum import prices on tomato concentrates and a system of import licensing for certain designated canned fruits and vegetables, filed under Section 301 of the Trade Act of 1974.

On September 22, 1975, the chairman of the Section 301 Committee received from the National Canners Association a petition alleging unfair trade practices with respect to certain import policies of the European Communities (EC). The petition requested relief under Section 301 of the Trade Act.

Following a public hearing and presentation of public views by interested parties pursuant to Section 301 of the Trade Act, the Office of the Special Representative for Trade Negotiations, through the Section 301 Committee, conducted an extensive review of the allegations in the petition. In addition, the United States filed a formal complaint under Article XXIII of the General Agreement on Tariffs and Trade (GATT) alleging that these practices of the European Communities were in violation of the obligations of the EC under the GATT.

In mid-1978 the European Communities abolished the system of minimum import prices on tomato concentrates. In the fall of 1978 the GATT Contracting Parties adopted a report supporting the U.S. contention that the minimum import price, as used on tomato concentrate, is a violation of EC obligations under the GATT.

On the basis of these actions the Trade Policy Staff Committee has concluded that action is no longer required under Section 301 of the Trade Act of 1974. Therefore, pursuant to regulations governing procedures for complaints under Section 301, the Trade Policy Staff Committee terminates the review of the petition underlying Docket number 301-4.

DORIS WHITNACK,
Acting Chairman, Trade Policy Staff Committee.

[FR Doc. 79-451 Filed 1-3-79; 8:45 am]

[3190-01-M]

[Docket No. 301-8]

EUROPEAN COMMUNITIES

Trade Policy Staff Committee, Termination of Section 301 Review

Pursuant to the regulations of the Office of the Special Representative for Trade Negotiations, the Trade Policy Staff Committee hereby terminates the review of a petition alleging unfair trade practices by the European Communities in the form of restrictions on the American soybean trade, under Section 301 of the Trade Act of 1974 (Docket No. 301-8).

On March 30, 1976, the Chairman of the Section 301 Committee received from the National Soybean Association a petition alleging unfair trade practices by the European Communities with respect to restrictions on American soybeans. Hearings were held on this complaint on June 22, 1976, and a thorough review of the petition was conducted by the Section 301 Committee. In addition, a formal complaint was filed under Article XXIII of the General Agreements on Tariffs and Trade (GATT) after bilateral discussions were held on this issue. Although the European Communities system was terminated in October of 1976 the United States proceeded with its GATT petition in order to get a ruling on the complained of practices. In mid-1978, the Contracting Parties adopted a report of the GATT panel on this issue which substantiated the U.S. position that practices of the European Communities with respect to certain requirements associated with the importation of soybeans constituted violations of certain GATT obligations.

The practices complained of are no longer in effect in the European Communities and the GATT procedure has been completed. On the basis of these actions the Trade Policy Staff Committee has concluded that action is no longer required under Section 301 of the Trade Act of 1974. Therefore, pursuant to regulations governing procedures for complaints under Section 301, the Trade Policy Staff Committee terminates the review of the petition underlying Docket number 301-8.

DORIS WHITNACK,
Acting Chairman, Trade Policy Staff Committee.

[FR Doc. 79-452 Filed 1-3-79; 8:45 am]

[4710-02-M]

DEPARTMENT OF STATE

Agency for International Development

ADVISORY COMMITTEE ON VOLUNTARY FOREIGN AID

Meeting

Pursuant to Executive Order 11769 and the provisions of Section 10(a)(2), Public Law 92-463, Federal Advisory Committee Act, notice is hereby given of the meeting of the Advisory Committee on Voluntary Foreign Aid which will be held on February 9, 1979, from 9:30 a.m. to 5:00 p.m., in Room 1107, New State Building, C Street at 22nd, N.W., Washington, D.C.

The purpose of the meeting is to address the role of the Committee, to develop its agenda for 1979, and to consider such other matters related to voluntarism in foreign assistance as may be appropriate.

The meeting will be open to the public. Any interested person may attend, appear before, or file statements with the Committee in accordance with procedures established by the Committee and to the extent time available for the meeting permits. Written statements may be filed before or after the meeting.

Mr. John A. Ulinski, Jr. will be the A.I.D. representative at the meeting. Information concerning the meeting may be obtained from him at AC 202-632-9421. Persons desiring to attend the meeting should enter the New State Building through the Diplomatic Entrance, C Street, at 22nd, N.W.

ANTHONY M. SCHWARZWALDER,
Acting Assistant Administrator, for Private and Development Cooperation.

DECEMBER 26, 1978.

[FR Doc. 79-406 Filed 1-4-79; 8:45 am]

[4710-07-M]

[CM-8/143]

ADVISORY COMMITTEE ON INTERNATIONAL INVESTMENT, TECHNOLOGY, AND DEVELOPMENT

Meeting

The Department of State will hold meetings on January 23 for two of the Working Groups of the Advisory Committee on International Investment, Technology, and Development (formerly the Advisory Committee on Transnational Enterprises). The Working Group on the Transfer of Technology will meet from 9:30 a.m. to 12:30 p.m. on this date in room 1406 of the State Department, 2201 C Street NW., Washington, D.C. The Working Group on UN/OECD Investment Undertakings will meet from 2:00 p.m. to 5:00 p.m. in the same room. The meetings will be open to the public and all persons planning to attend should enter the State Department through its "C" street entrance.

The Working Group on Transfer of Technology will consider a report on the results of the October/November Negotiating Conference in Geneva on an International Code of Conduct on the Transfer of Technology. These negotiations are to be resumed in February, 1979. The Working Group on the UN/OECD Investment Undertakings will be discussing the 1979 Review of the OECD Declaration on International Investment and Multinational Enterprises. The Group will also hear a report on the January meeting of the U.N. Intergovernmental Working Group on a Code of Conduct Relating to Transnational Corporations and consider draft formulations for a code recently prepared by the U.N. Intergovernmental Group's Chairman, Sten Niklasson of Sweden.

Requests for further information on the meetings should be directed to Richard Kauzlarich, Department of State, Office of Investment Affairs, Washington, D.C. 20520. He may be reached by telephone on (area code 202) 632-2728.

Members of the public wishing to attend the meetings must contact Mr. Kauzlarich's office in order to arrange entrance to the State Department building.

The Chairman of each working group will, as time permits, entertain oral comments from members of the public attending the meetings.

Dated: December 28, 1978.

RICHARD D. KAUZLARICH,
Executive Secretary.

[FR Doc. 79-474 Filed 1-4-79; 8:45 am]

[4710-07-M]

[CM-8/144]

ADVISORY COMMITTEE ON INTERNATIONAL INVESTMENT, TECHNOLOGY, AND DEVELOPMENT

Meeting

The Department of State will hold a meeting on January 29 of the Working Group on Transborder Data Flows of the Advisory Committee on International Investment, Technology and Development (formerly the Advisory Committee on Transnational Enterprises). The Working Group will meet from 9:30 a.m. to 12:30 p.m. in room 1207 of the State Department, 2201 C Street, NW., Washington, D.C. The meeting will be open to the public.

The meeting will be held to consider a proposal made in the OECD to begin the drafting of international guidelines on flows of data across national borders. This drafting exercise is scheduled to begin at the OECD in March 1979. The Working Group will also be reporting on the results of a previous OECD meeting on transborder data flows in December.

Requests for further information on the meeting should be directed to Richard Kauzlarich, Department of State, Office of Investment Affairs, Washington, D.C. 20520. He may be reached by telephone on (area code 202) 632-2728.

Members of the public wishing to attend the meeting must contact Mr. Kauzlarich's office in order to arrange entrance to the State Department building.

The Chairman of the working group will, as time permits, entertain oral comments from members of the public attending the meeting.

Dated: December 29, 1978.

RICHARD D. KAUZLARICH,
Executive Secretary.

[FR Doc. 79-475 Filed 1-4-79; 8:45 am]

[4810-25-M]

DEPARTMENT OF THE TREASURY

Office of the Secretary

PRIVACY ACT OF 1974

Proposed New System of Records

AGENCY: Office of the Secretary, Department of Treasury.

ACTION: Proposed New System of Records.

SUMMARY: Pursuant to the requirements of the Privacy Act of 1974 (5 U.S.C. 552a), the Office of the Inspector General, the Treasury Department gives notice of the proposed new system of records entitled, "General Allegations and Investigative Records System", (Treasury/OS 00.190).

A new system report was filed with the Office of Management and Budget, the Speaker of the House and the President of the Senate. The Office of Management and Budget has been asked to waive the advance notice requirement.

DATES: Comments must be received on or before the proposed effective date of February 5, 1979.

ADDRESSES: Office of the Inspector General, Main Treasury Building, Washington, D.C. 20220.

FOR FURTHER INFORMATION CONTACT:

Mrs. Carol Jolliffe, Office of the Inspector General, Main Treasury Building, Washington, D.C. 20220, 202-566-6900.

Dated: December 26, 1978.

W. J. MCDONALD,
Acting Assistant Secretary (Administration).

TREASURY/OS 00.190[1]

System name:

General Allegations and Investigative Records System—Treasury/OS

System location:

Office of the Inspector General, Main Treasury Building, Washington, D.C. 20220

Categories of individuals covered by the system:

A) Current and former employees of the Department of Treasury and such other persons whose association with current and former employees relate to the alleged violations of the Department's rules of conduct, the Civil Service merit system, or any other criminal or civil misconduct, which affects the integrity or facilities of the Department of Treasury. The names of individuals and the files in their names may be:

1) received by referral; or

2) initiated at the discretion of the Office of the Inspector General in the conduct of assigned duties.

B) Individuals who are: witnessses; complainants; confidential or non-confidential informants; suspects; defendants; parties who have been identified by the Office of the Inspector General or by other agencies; constituent units of the Department of Treasury and members of the general public in connection with the authorized functions of the Inspector General.

C) Current and former senior Treasury and bureau officials who are the subject of investigations initiated and conducted by the Office of the Inspector General.

Category of records in the system:

Letters, memoranda, and other documents citing complaints of alleged criminal or administrative misconduct. Investigative files which include: reports of investigations to resolve allegations of misconduct or violations of law with related exhibits, statements, affidavits or records obtained during investigations; transcripts and documentation concerning requests and approval for consensual (telephone and consensual non-telephone) monitoring; reports from or to other law enforcement bodies; prior criminal or non-criminal records of individuals as it relates to the investigations; reports of actions taken by management person-

[1] For proposed regulations regarding exemption of this system from certain requirements of the Privacy Act of 1974, see the proposed rules section of this issue of the FEDERAL REGISTER.

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nel regarding misconduct and reports of legal actions resulting from violations of statutes referred to the Department of Justice for prosecution.

Authority for maintenance of the system:

Reorganization Plan No. 26 of 1950 and Treasury Department Order No. 256, dated July 18, 1978.

Routine uses:

Routine disclosure of information contained in this system may be made to the Secretary and Deputy Secretary of the Treasury Department, to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation and to the Office of the General Counsel in connection with requests for legal advice; and to authorized investigative offices of the Treasury Deparment, constituent units or other Federal Agencies. Disclosure may be made during judicial processes. Routine disclosure may be made to the extent provided by law or regulation and as necessary to report apparent violations of law to appropriate law enforcement agencies. Routine disclosure may be made to authorized investigative offices of other Federal Agencies in connection with security procedures. Disclosures to those officers and employees of the Department of Treasury who have a need for the records such as those disclosures required for the administration of the Freedom of Information Act (5 U.S.C. 552) as amended. For additional routine uses see the Appendix entitled "Department of the Treasury Appendix Additional Routine Uses".

Policies and practices for storing, retrieving, accessing, retaining and disposing of records in the system:

Storage:

Paper records in file jackets maintained in locked safes.

Retrievability:

By name and case number. Access to the physical files containing records is by case number obtained from alphabetized card indices.

Safeguards:

Records are maintained in locked safes and all access doors are locked when office is vacant. The records are available to personnel in the Office of the Inspector General on a need-to-know basis, each of whom have appropriate security clearances.

Retention and disposal:

Investigative files are stored on-site for 3 years and indices to those files are stored on-site for 5 years. Upon expiration of their respective retention periods the investigative files and their indices are transferred to the Federal Records Center for retention and in most instances destroyed by burning, maceration, or pulping when 20 years old.

System manager and address:

Inspector General, Main Treasury Building, Washington, D.C. 20220.

Notification procedure:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

Records access procedures:

This system of records may not be accessed under the Privacy Act for purposes of inspection or for the contest of content of records.

Contesting record procedures:

See access above.

Records source categories:

This system contains investigatory material whose sources need not be reported.

[FR Doc. 79-640 Filed 1-4-79; 8:45 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

[Notice No. 1]

ASSIGNMENT OF HEARINGS

JANUARY 2, 1979.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

No. MC 144640 (Sub-No. 2F), Agricultural Services Association, Inc., now assigned January 18, 1979, at Louisville, Kentucky is postponed indefinitely.

No. MC 144640F, Agricultural Services Association, Inc., now assigned January 9, 1979, at New York, N.Y. is postponed indefinitely.

No. MC 66746 (Sub-No. 21F), Shippers Express, Inc., now assigned January 16, 1979, at Jackson, Mississippi is postponed indefinitely.

No. MC 114969 (Sub-No. 77F), Propane Transport, Inc., now assigned January 11, 1979, at Columbus, Ohio is postponed indefinitely.

No. MC 20783 (Sub-No. 111F), Tompkins Motor Lines Inc., now assigned January 9, 1979, at Tampa, Florida is canceled and reassigned for January 9, 1979, (4 days), at Orlando, Florida at the Holiday Inn, 6515 International Drive.

No. MC 116077 (Sub-No. 395F), DSI Transports, Inc., now assigned February 14, 1979, at New Orleans, La. is canceled and reassigned for Houston, Texas, at the Holiday Inn—Down—801 Calhoun Street, February 14, 1979 (3 days).

No. MC 1977 (Sub-No. 28F), Northwest Transport Service, Inc., now assigned January 9, 1979, at Denver, Colorado is canceled and reassigned to January 9, 1979 (4 days), at the Little America, 500 South Main Street, Salt Lake, Utah, continued to January 15, 1979 (1 day), at the Rodeway Inn, 29th and Chinden Boulevard, Boise Idaho and January 16, 1979 (4 days), at the Holiday Inn, 1350 Blue Lakes Boulevard North, Twin Falls, Idaho.

No. MC 108119 (Sub-No. 106F), E. L. Murphy Trucking Company now being assigned January 11, 1979 (2 days), at St. Paul, Minnesota, in Court Room No. 984, Federal Building, 316 North Robert St.

No. MC 114457 (Sub-No. 445), Dart Transit Company, now being assigned January 15, 1979 (5 days), at St. Paul, Minnesota, Court Room No. 984, Federal Building, 316 North Robert St.

No. MC 109397 (Sub-No. 405F), Tri-State Motor Transit Co., a Corporation, now assigned for hearing on January 25, 1979, at Atlanta, Georgia and will be held in Conference Room 102E, Peachtree Seventh Building.

No. MC 138157 (Sub-No. 65F), Southwest Equipment Rental, Inc., DBA Southwest Motor Freight, now assigned for hearing on January 24, 1979, at Atlanta, Georgia and will be held in Room 556, Federal Building.

No. MC 135078 (Sub-No. 23F), American Transport, Inc., now assigned for hearing on January 23, 1979, at Atlanta, Georgia and will be held in Room 556, Federal Building.

No. MC 114457 (Sub-No. 381F), Dart Transit Company, a Corporation, now assigned for hearing on January 10, 1979, at Chicago, Illinois and will be held in Room 3855A.

No. MC-129704 (Sub-No. 2F), Clarence B. Blankenship, DBA Troy, Cab Co., now being assigned for hearing on January 16, 1979, (3 days), at Detroit, Michigan and will be held in Pontchartrain, Hotel, Plaza B&C, 2 Washington Boulevard.

No. MC-115495 (Sub-No. 37F), United Parcel Service, Inc., now being assigned for Prehearing Conference on January 17, 1979, at the Office of Interstate Commerce Commission, Washington, DC.

No. MC 143884 (Sub-No. 2), Personilized Agent Service, Inc., now assigned for hearing on January 29, 1979, at Atlanta, GA., and will be held in Conference Room 102E, Peachtree Seventh Bldg.

No. MC-144506F, Koller Petroleum Products, Inc., now assigned for hearing on January 10, 1979, at Madison Wisconsin, and will be held in C.I. Conference Room 125, North Walnut Street.

No. MC-107012 (Sub-No. 274F), North American Van Lines, Inc., now being assigned for hearing on February 7, 1979, at the Offices of the Interstate Commerce Commission, Washington, DC.

No. MC-78228 (Sub-No. 88F), J. Miller Express, Inc., now being assigned for hearing on February 8, 1979, at the Offices of the Interstate Commerce Commission, Washington, DC.

No. MC-118159 (Sub-No. 280F), National Refrigerated Transport, Inc., now being assigned for hearing on February 9, 1979, at the Offices of the Interstate Commerce Commission, Washington, DC.

H.G. HOME, Jr.,
Secretary.

[FR Doc. 79-488 Filed 1-4-79; 8:45 am]

[7035-01-M]

[Docket No. AB-36 (Sub-No. 9F)]

OREGON SHORT LINE RAILROAD CO.

Abandonment and Discontinuance of Service by Union Pacific Railroad Co. Near Rubicon and New Meadows in Adams County, ID; Notice of Findings

Notice is hereby given pursuant to Section 1a of the Interstate Commerce Act (49 U.S.C. 1a) that by a Certificate and Decision decided December 18, 1978, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.—Abandonment Goshen*, 354 I.C.C. 584 (1978), the present and future public convenience and necessity permit the physical abandonment by the Oregon Short Line Railroad Company and discontinuance of service by the Union Pacific Company over a portion of the New Meadows Branch extending from railroad milepost 84.52 near Rubicon, ID, to the end of the line at railroad milepost 89.91 at New Meadows, ID, a distance of 5.39 miles in Adams County, ID. A certificate of public convenience and necessity permitting abandonment and discontinuance of service was issued to the Oregon Short Line Railroad Company and the Union Pacific Railroad Company. Since no investigation was instituted, the requirement of Section 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the FEDERAL REGISTER be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (§ 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than 15 days after publication of this Notice. The offer, as filed, shall contain information required pursuant to Section 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective February 20, 1979.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 79-490 Filed 1-4-79; 8:45 am]

[7035-01-M]

SOUTHERN CRESCENT

Notice Regarding Possible Discontinuance of Operations by Southern Railway Co.

AGENCY: Interstate Commerce Commission.

ACTION: Notice to the Public.

SUMMARY: This notice seeks comments on whether and on what conditions, if any, the Commission should enter an order permitting Southern Railway Company to discontinue its operations of the "Southern Crescent" upon Amtrak's assuming responsibilities for continuing the service.

EFFECTIVE DATE: January 22, 1979.

FOR FURTHER INFORMATION CONTACT:

G. Marvin Bober, Acting Deputy Director, Section of Finance, I.C.C.—Room 5417, Washington, D.C. 20423, 202-275-7564.

SUPPLEMENTARY INFORMATION: Southern filed a petition seeking reopening and reconsideration of our earlier decision in Finance Docket No. 28697, *Southern Railway Company—Discontinuance of trains Nos. 1 and 2 the "Southern Crescent" Between Washington, D.C. and New Orleans, La.*, printed at 354 I.C.C. 630 (1978) which denied its application to discontinue operation of the above-described passenger trains. Petitioner states that on December 13, 1978, the Board of Directors of the National Railroad Passenger Corporation (Amtrak) approved an agreement with Southern for Amtrak to take over operation of the "Southern Crescent". The agreement provides for Amtrak to institute the service on February 1, 1979, or the day after Southern is authorized to discontinue the service, whichever is later.

All parties wishing to comment on whether and on what conditions, if any, the Commission should enter an order permitting Southern to discontinue its operation of the "Southern Crescent" should do so by January 22, 1979.

An original and 10 copies should be mailed to the Commission at the aforementioned address.

A copy should also be filed on Southern Railway Company, P.O. Box 1808, Washington, D.C. 20013, and its counsel, Frederick G. Berner, Jr., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006, William Erkelenz, National Railroad Passenger Corp., 400 North Capitol Street NW., Washington, D.C. 20001, John Heffner, Suite 1212, 425 13th Street NW., Washington, D.C. 20004, John O'B. Clarke, Jr., Suite 210, 1050 17th Street NW., Washington, D.C. 20036, and all other parties of record.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-489 Filed 1-4-79; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contoins notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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[6355-01-M]

1

CONSUMER PRODUCT SAFETY COMMISSION.

DATE AND TIME: January 10, 1979, 10 a.m.

LOCATION: Room 456 Westwood Towers Building, 5401 Westbard Ave., Bethesda, Maryland.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

AGENDA

Closed to the public

1. *Briefing on cellulose insulation (515c) enforcement.* The staff will brief the Commission on issues related to enforcement of the Cellulose Insulation (515c) Regulation.

2. *Briefing on TRIS.* The staff will discuss the status of enforcement activities related to TRIS-treated garments.

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon D. Butts, Assistant Secretary, Office of the Secretary, Consumer Product Safety Commission, Suite 300, 1111 18th Street NW., Washington, D.C. 20207.

[S-16-79 Filed 1-3-79; 2:51 pm]

[6355-01-M]

2

CONSUMER PRODUCT SAFETY COMMISSION.

DATE AND TIME: January 11, 1979, 9:30 a.m.

LOCATION: Third floor hearing room, 1111 18th Street NW., Washington, D.C. 20207.

STATUS: Open.

MATTERS TO BE CONSIDERED:

AGENDA

Open to the public

1. *Recommendation to accept corrective action plan: Carrier Corp., air conditioner, ID 78-101.* The staff has recommended that the Commission accept and monitor the corrective action plan which Carrier has implemented to address a possible defect in certain 6,000 BTU size room air conditioners.

2. *Recommendation to accept corrective action plans: Market Research Imports (ID 78-36), LeGran Imports (ID 78-43), Beck Electric (ID 78-61), Hayashi International Corp. (ID 78-70)—Christmas light bulbs.* The staff has recommended that the Commission accept and monitor the corrective action plans which each of the subject companies have implemented to address a possible defect in certain imported Christmas light bulbs.

3. *Recommendation to accept corrective action plan: Bombardier Limited, Snowmobile, ID 78-84.* The staff recommended that the Commission accept and monitor the corrective action plan which Bombardier has implemented to address a possible substantial product defect in its 1978 Citation brand Ski-Doo snowmobiles.

4. *Special labeling concerning the cardiotoxicity of methylene chloride (Petition HP 76-8).* On January 5, 1978 the Commission voted to grant a petition (HP 76-8) from the Empire State Consumer Association requesting special labeling under the FHSA for paint stripers containing methylene chloride. Staff now raises the issue of whether the Commission should reconsider this decision in light of the lack of direct evidence of the alleged risk of injury.

5. *Petition HP 78-6 to amend fireworks regulation.* The Commission will consider a petition from the American Pyrotechnics Association to make seven amendments to the Commission's regulation on firework devices. The amendments concern fuse side ignition, chlorate fuse, side ignition of smoke devices, fuse burning time, base to height ratio, aerial items, and external flame on smoke devices.

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon D. Butts, Assistant Secretary, Office of Secretary, Consumer Product Safety Commission, Suite 300, 1111 18th Street NW., Washington, D.C. 20207.

[S-17-79 Filed 1-3-79; 2:51 pm]

[6570-06-M]

3

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m. (eastern time), Tuesday, January 9, 1979.

PLACE: Commission Conference Room, No. 5240, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

Open to the public:

1. Technical amendments to Affirmative Action Guidelines.
2. Report on Commission operations by the Executive Director.

Closed to the public:

Litigation Authorization; General Counsel Recommendations: Matters closed to the public under the Commission's regulations at 29 CFR 1612.13.

NOTE.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat, at 202-634-6748.

This notice issued January 2, 1979.

[S-12-79 Filed 1-3-79; 11:33 am]

[6714-01-M]

4

FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 10 a.m. on Wednesday, January 10, 1979.

PLACE: Board Room, 6th floor, FDIC Building, 550 17th Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Disposition of minutes of previous meetings.
Recommendations with respect to payment for legal services rendered and expenses incurred in connection with receivership and liquidation activities:

Strasburger & Price, Dallas, Texas, in connection with the receivership of United States National Bank, San Diego, California.

Casey, Lane & Mittendoff, New York, New York, in connection with the liquidation of Franklin National Bank, New York, New York.

Taback & Hyams, Jericho, New York, in connection with the liquidation of Franklin National Bank, New York, New York.

Meredith, Donnell & Edmonds, Corpus Christi, Texas, in connection with the liquidation of Northeast Bank of Houston, Houston, Texas.

Recommendations with respect to the amendment of Corporation rules and regulations:

Memorandum and resolution proposing the final adoption of amendments to Part 304 of the Corporation's rules and regulations, entitled "Forms, Instructions, and Reports," with respect to applications for insurance by "phantom" banks.

Acquisition of additional space for the Division of Bank Supervision Training Center.

Reports of committees and officers:

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.

Report of the Executive Secretary regarding his transmittal of "no significant effect" competitive factor reports.

Reports of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Report of the Director of the Division of Liquidation detailing all disbursements in excess of $10,000 and all sales of real estate properties, during the period October 16, 1978-December 16, 1978, in connection with the liquidation of The Hamilton National Bank of Chattanooga, Chattanooga, Tennessee.

Reports of security transactions authorized by the Acting Chairman.

CONTACT PERSON FOR MORE INFORMATION:

Alan R. Miller, Executive Secretary, 202-389-4446.

[S-18-79 Filed 1-3-79; 2:51 pm]

[6714-01-M]

5

FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 10:30 a.m. on Wednesday, January 10, 1979.

PLACE: Board Room, 6th floor, FDIC Building, 550 17th Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Applications for Federal deposit insurance:

Maya Bank, a proposed new bank to be located on the southwest corner of the intersection of Palomar Street and Industrial Boulevard, Chula Vista, California, for Federal deposit insurance.

Landmark Bank, a proposed new bank to be located at 441 West Whittier Boulevard, La Habra, California, for Federal deposit insurance.

Bank of Palm Springs, a proposed new bank to be located at the intersection of Taquitz-MaCallum and Alverado Streets, Palm Springs, California, for Federal deposit insurance.

Citizens Fidelity Bank, a proposed new bank to be located at 1000 Volunteer Parkway, Bristol, Tennessee, for Federal deposit insurance.

Equitable Bank, a proposed new bank to be located at the intersection of Preston Road and Campbell Road, Dallas, Texas, for Federal deposit insurance.

Mercantile Bank of Fort Worth, a proposed new bank to be located at 2550 Mecham Boulevard, Fort Worth, Texas, for Federal deposit insurance.

Wasatch Bank of Lehi, a proposed new bank to be located at 620 East Main Street, Lehi, Utah, for Federal deposit insurance.

Application for consent to establish a branch:

The Greater New York Savings Bank, New York, New York, for consent to establish a branch at 1330-1332 First Avenue, New York, New York.

Request pursuant to section 19 of the Federal Deposit Insurance Act for consent to service of a person convicted of an offense involving dishonesty or a breach of trust as a director, officer, or employee of an insured bank:

Name of person and of bank authorized to be exempt from disclosure pursuant to the provisions of subsection (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6)).

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 43,726-SR—Sharpstown State Bank, Houston, Texas.

Case No. 43,745-L—International City Bank & Trust Company, New Orleans, Louisiana

Case No. 43,747-L—Northeast Bank of Houston, Houston, Texas.

Case No. 43,750-L—Interntional City Bank & Trust Company, New Orleans, Louisiana.

Case No. 43,756-L—Franklin National Bank, New York, New York.

Case No. 43,757-L—Banco Credito y Adhorro Ponceno, Ponce, Puerto Rico.

Case No. 43,759-L—Franklin National Bank, New York, New York.

Case No. 43,760-L—American City Bank & Trust Company, National Association, Milwaukee, Wisconsin.

Case No. 43,761-L—American Bank & Trust, Orangeburg, South Carolina.

Case No. 43,762-SR—Citizens State Bank, Carrizo Springs, Texas.

Case No. 43,764-L—The Hamilton Bank & Trust Company, Atlanta, Georgia.

Case No. 43,769-L—Wilcox County Bank, Camden, Alabama.

Memorandum re: American Bank & Trust Company, New York, New York.

Recommendations with respect to the initiation or termination of cease-and-desist proceedings, termination-of-insurance proceedings, or suspension or removal proceedings against certain insured banks or officers or directors thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

Grievance Officers' reports and recommendations with respect to the formal grievances of Corporation employees.

CONTACT PERSON FOR MORE INFORMATION:

Alan R. Miller, Executive Secretary, 202-389-4446.

[S-19-79 Filed 1-3-79; 2:51 pm]

[6715-01-M]

6

FEDERAL ELECTION COMMISSION.

DATE AND TIME: Wednesday, January 10, 1979 at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Audits and Audit Policy. Compliance. Personnel.

DATE AND TIME: Thursday, January 11, 1979 at 10 a.m.

STATUS: Portions of this meeting will be open to the public and portions will be closed.

MATTERS TO BE CONSIDERED:

Portions open to the public:

Setting of dates for future meetings.
Correction and approval of minutes.
Advisory Opinions: AO 1978-89, AO 1978-97, AO 1978-98, AO 1978-99, and AO 1978-100.
Draft regulations for Presidential primary matching fund, TITLE 11, Code of Federal Regulations, Subchapter C.
Budget Execution Report.
Appropriations and budget.
Pending litigation.
Liaison with other Federal agencies.
Classification actions.
Routine administrative matters.

Portions of the meeting closed to the public:

Any matters not concluded on January 10, 1979.

PERSONS TO CONTACT FOR INFORMATION:

Mr. Fred S. Eiland, Public Information Officer, telephone 202-523-4065.

LENA L. STAFFORD,
Acting Secretary to the Commission.

[S-20-79 Filed 1-3-79; 3:34 pm]

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[6730-01-M]

7

FEDERAL MARITIME COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: December 29, 1978; 43 FR 61083.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., January 4, 1979.

CHANGES IN THE MEETING: Addition of the following items to the closed session:

3. Internal procedures for drafting and approving Commission reports and orders.
4. Letter of Sea-Land Service, Inc., dated December 28, 1978, concerning settlement agreement.

[S-13-79 Filed 1-3-79; 11:41 am]

[6730-01-M]

8

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 10 a.m., January 11, 1979.

PLACE: Room 12126, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Agreement No. 10285: Rate agreement between the Straits/New York Conference and four mini-landbridge carriers—Request for hearing.
2. (1) Proposed SS *United States* Escrow Agreement and (2) Proposed "Mariners Club Letter" and "Mariner Questionnaire" of United States Cruises, Inc.

CONTACT PERSON FOR MORE INFORMATION:

Francis C. Hurney, Secretary, 202-523-5725.

[S-14-79 Filed 1-3-79; 11:41 am]

[6735-01-M]

9

JANUARY 2, 1979.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 10 a.m., January 9, 1979.

PLACE: Room 600, 1730 K Street NW., Washington, D.C. 20006.

STATUS: This meeting will be open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following proceedings:

1. Staff briefing on issue of independent reviewability of citations.
2. *Peabody Coal Co.*, Docket No. BARB 77-245-P (civil penalty proceeding).

CONTACT PERSON FOR MORE INFORMATION:

Donald Terry, 202-653-5644.

[S-6-79 Filed 1-3-79; 11:33 am]

[6735-01-M]

10

JANUARY 2, 1979.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 10 a.m., January 4, 1979.

PLACE: Room 600, 1730 K Street NW., Washington, D.C. 20006.

STATUS: This meeting will be open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following agenda item:

1. *MSHA* v. *Kenny Richardson*, Docket No. BARB 78-600-P. It was determined by unanimous vote of all Commissioners that Commission business required that a meeting be held on this item and that no earlier announcement of the meeting was possible.

CONTACT PERSON FOR MORE INFORMATION:

Donald Terry, 202-653-5644.

[S-15-79 Filed 1-3-79; 2:51 pm]

[6210-01-M]

11

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

TIME AND DATE: 10 a.m., Wednesday, January 10, 1979.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Proposed Statement of Customers' Rights to implement a section of Title XI of the Financial Institutions Regulatory and Interest Rate Control Act.
2. Proposal to implement Executive Order 12044, relating to Improving Government Regulations.
3. Board's regulatory improvement program: review of Regulation S (Bank Service Arrangements).
4. Proposed report to the Congress on remote disbursement practices of commercial banks and a related proposed public statement.
5. Any agenda items carried forward from a previously announced meeting.

NOTE.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling 202-452-3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

THEODORE E. ALLISON.

JANUARY 3, 1979.

[S-11-79 Filed 1-3-79; 11:33 am]

[7020-02-M]

12

[USITC SE-79-1]

UNITED STATES INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Thursday, January 11, 1979.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints (if necessary): a. Finished precision resistors (Docket No. 550). b. Bicycle tires and tubes from the Republic of Korea (Docket No. 551).
5. Centrifugal trash pumps (Inv. 337-TA-43)—Vote.
6. Tantalum electrolytic fixed capacitors from Japan (Inv. AA1921-159)—Consideration of staff memorandum GC-H-366.
8. Any items left over from previous agenda.
9. Consideration of the report in Investigation 332-87 (U.S. Western Steel Market).

Portions closed to the public:

7. Status report on Investigation 332-101 (MTN Study), if necessary.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S-21-79 Filed 1-3-79; 3:57 pm]

[7555-01-M]

13

NATIONAL SCIENCE BOARD.

DATE AND TIME: January 18, 1979, 1 p.m., open session. January 19, 1979, 9 a.m., closed session.

PLACE: Room 540, 1800 G Street NW., Washington, D.C.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED AT THE OPEN SESSION:

1. Program Review—Science Education.
2. Minutes—Open Session—202nd Meeting.
3. Chairman's Report.
4. Director's Report:
a. Report on Grant & Contract Activity—11/16/78-1/17/79.
b. Organizational and Staff Changes.
c. Congressional and Legislative Matters (including Antarctic Conservation Act of 1978).
d. NSF Budget for Fiscal Years 1979 and 1980.
e. Regional Instrumentation Facility Program.
f. Advisory Council Task Groups.
5. Board Committees—Reports on Meetings:
a. Executive Committee.
b. Planning and Policy Committee.
c. Programs Committee.
d. Committee on Budget.
e. Committee on Eleventh NSB Report.
f. Committee on Minorities and Women in Science.
g. Committee on Role of NSF in Basic Research.
h. Committee on Science and Society.
i. Ad Hoc Committee on Deep Sea and Ocean Margin Drilling Programs.
6. NSF Advisory Groups and Annual Review:
a. Reports on Meetings.
b. Board Representation at Future Events.
7. Grants, Contracts, and Programs.
8. Proposed Changes in "Criteria" Document—Guidelines for Selection of Projects.
9. Proposed Materials Science Study.
10. Other Business.
11. Next Meetings:
a. National Science Board—February 15-16, 1979.
b. NSB Committees.
c. Program Review.

MATTERS TO BE CONSIDERED AT THE CLOSED SESSION:

A. Minutes—Closed Session—202nd Meeting.
B. Grants, Contracts, and Programs.
C. NSF Budgets for Fiscal Year 1980 and Subsequent Years.
D. NSB Annual Reports.
E. Report on NSB Nominees.
F. Appointment of members to Alan T. Waterman Award Committee.

CONTACT PERSON FOR MORE INFORMATION:

Miss Vernice Anderson, Executive Secretary, 202-632-5840.

[S-8-79 Filed 1-3-79; 11:33 am]

[7600-01-M]

14

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 1 p.m., January 11, 1979.

PLACE: Room 1101, 1825 K Street NW., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION:

Ms. Patricia Bausell, 202-634-4015.

Dated: January 2, 1979.

[S-7-79 Filed 1-3-79; 11:33 am]

[7910-01-M]

15

THE RENEGOTIATION BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 61084, December 29, 1978.

PREVIOUSLY ANNOUNCED DATE AND TIME OF MEETING: Wednesday, January 3, 1979.

CHANGE IN MEETING: Meeting is cancelled.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

Dated: January 2, 1979.

HARRY R. VAN CLEVE,
Acting Chairman.

[S-9-79 Filed 1-3-79; 11:33 am]

[7910-01-M]

16

THE RENEGOTIATION BOARD.

DATE AND TIME: Tuesday, January 9, 1979; 10 a.m.

PLACE: Conference Room, 4th floor, 2000 M Street NW., Washington, D.C. 20446.

STATUS: Matters 1 and 2 are open to public observation. Matter 3 is closed to public observations. Matter 4 and 5 are not applicable for status.

MATTERS TO BE CONSIDERED:

1. Approval of minutes of meeting held December 19, 1979; and other Board meetings, if any.
2. Report on partial year filings and applications for commercial exemption.
3. Proposed Opinion: Stelma Inc., successor-in-interest to a 1960 Delaware Corporation of the same name, fiscal years ended March 31, 1968 and 1969 and May 8, 1969.
4. Approval of agenda for meeting to be held January 23, 1979.
5. Approval of agenda for other meetings, if any.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

Dated: January 2, 1979.

HARRY R. VAN CLEVE,
Acting Chairman.

[S-10-79 Filed 1-3-79; 11:33 am]

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federal register

FRIDAY, JANUARY 5, 1979
PART II



DEPARTMENT OF LABOR

Mine Safety and Health Administration

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MINE RESCUE TEAMS

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[4510-43-M]

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[30 CFR Part 49]

MINE RESCUE TEAMS

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Proposed rule.

SUMMARY: The Federal Mine Safety and Health Act of 1977 (Act), Section 115(e), requires the Secretary of Labor to publish proposed regulations which provide that mine rescue teams shall be available for rescue and recovery work to each underground coal or other mine in the event of an emergency. The Act provides that the costs of making advance arrangements for such teams shall be borne by the operator. The proposed rule requires the operator of each underground mine to have available at least two mine rescue teams and establishes the requirements for such teams. Interested persons may participate by submitting written comments, suggestions and objections to the address provided below.

DATES: Comments must be received on or before March 5, 1979.

ADDRESSES: Send comments to the Department of Labor, Mine Safety and Health Administration, Office of Standards, Regulations and Variances, Room 631, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT:

Frank A. White, (703) 235-1910.

SUPPLEMENTARY INFORMATION:

I. Background

The Federal Mine Safety and Health Amendments Act of 1977, Pub. L. 95-164, amended the Federal Coal Mine Health and Safety Act of 1969 (Coal Act), Pub. L. 91-173, and repealed the Metal and Nonmetallic Mine Safety Act, Pub. L. 89-577. The Federal Mine Safety and Health Act of 1977 (Act), Pub. L. 91-173 as amended by Pub. L. 95-164, applies to coal, metal and nonmetal mines.

Section 115(e) of the Act provides: "Within 180 days after the effective date of the Federal Mine Safety and Health Amendments Act of 1977, the Secretary shall publish proposed regulations which shall provide that mine rescue teams shall be available for rescue and recovery work to each underground coal or other mine in the event of an emergency. The costs of making advance arrangements for such teams shall be borne by the operator of each such mine."

In accordance with Executive Order 12044 concerning improvement of government regulations and Department of Labor proposed guidelines implementing the Executive Order (43 FR 22915), persons known to be interested were contacted and given an opportunity to submit informal comments on a draft of the proposed rule prior to its publication in the Federal Register. The comments received have been given full consideration. As a whole, the comments reflect a desire for flexibility in the proposed rule particularly with respect to the equipment and training requirements, and several of the comments raised questions which merit further consideration. The most significant comments received are referred to in the following discussion of the proposed rule, together with considerations which prompted the proposed requirements. However, pending the benefit of full public comment, no changes in the basic approach of the MSHA draft have been made in the proposed rule.

II. Discussion of Proposed Rule

Under the proposed rule, each operator of an underground mine would be required to have available for each mine at least two mine rescue teams composed of five members and two alternates, unless an alternate mine rescue plan is approved by the Mine Safety and Health Administration (MSHA) District Manager.

One of the informal comments submitted suggested that one rescue team for each mine would be sufficient while another commenter considered three rescue teams appropriate in some circumstances. The proposed rule has retained the requirement that each operator establish or secure the services of at least two mine rescue teams so that a backup rescue team will be available in the event additional rescue assistance is needed. For instance, under severe mine rescue conditions or in the event prolonged rescue and recovery operations are required, alternating mine rescue teams would be necessary. The immediate services of two mine rescue teams would also be needed in the event of a major mine disaster. The proposed requirement also recognizes that a mine rescue team may already be involved in rescue operations or other activities which would jeopardize timely response by the team. This risk is significantly reduced by the proposed requirement of two mine rescue teams. However, at this point in the rulemaking process, MSHA is not convinced, based upon its experience, that it is necessary to require the availability of three mine rescue teams at any mine.

Notwithstanding the increased effectiveness and reliability of mine rescue capability provided by the proposed two team requirement, MSHA recognizes that under some circumstances meeting the two team requirement would be impracticable. One of the comments received provided an example, indicating that within a 60 minute area around the mine there was not a sufficient number of qualified persons to establish two mine rescue teams. Under these and similar circumstances, the proposed rule would require that the operator submit a detailed alternate mine rescue plan to the District Manager for approval. As part of such alternate plan for ensuring mine rescue capability it would be necessary for the operator to state the reasons why mine rescue teams could not be made available in accordance with the proposed rule, together with the number of miners employed at the mine, the distance from the mine of established mine rescue teams and stations and the availability of State mine rescue teams.

Under the proposed rule, an alternative plan may only be considered if "the mine is small and in a remote location." Several comments suggested that the criteria should be expanded to include other conditions or situations which might merit the use of an alternative to the mine rescue team requirements of these proposed rules. MSHA will be considering the appropriateness of this suggestion during the rulemaking process and encourages comments in this regard.

To make mine rescue teams available to each underground mine, the proposed rule would require each operator to establish and equip its own rescue teams or to enter into a written contractual or cooperative agreement which ensures the availability of mine rescue teams, unless an alternate mine rescue plan is approved by the District Manager. In any event, each operator would be required to give the MSHA District Manager in the district where the mine is located written notice of how the operator is securing availability of mine rescue teams. Where applicable, the operator would be required to submit a copy of any contractual or cooperative agreement for the services of a mine rescue team.

Several comments received emphasized the tradition and importance of voluntary mine rescue and recovery work and questioned whether rescue team members could be required to respond to an emergency. Under the proposed rule, an operator electing to have mine rescue teams available by written contractual or cooperative agreement is required only to enter into a contract or cooperative agreement for the availability of such teams. The proposed rule would not bind mine rescue team members or alternates to respond. However, it is expected that if the lives of miners or other persons were threatened, any mine rescue team available would respond without hesitation.

Proposed § 49.3 prescribes minimum equipment requirements for mine rescue teams. These equipment requirements are based on MSHA's experience in mine safety and rescue and include equipment commonly used by established mine rescue teams. MSHA considers the proposed requirements to be the minimum rescue equipment necessary for effective mine rescue teams. The proposed equipment requirements for each mine rescue team are breathing apparatus, permissible cap lamps, self rescuers, a portable stretcher and blanket, a first aid kit and a tool bag. The proposed rule would also establish minimum equipment requirements for mine rescue stations. The proposed rule would require mine rescue stations to be equipped with one oxygen pump, suitable for use with the type of breathing apparatus used by the rescue teams; a portable supply of air, oxygen or chemicals, as applicable to the breathing apparatus used; a supply of spare parts for such breathing apparatus; a portable communication system and one self-contained oxygen resuscitator. Each rescue station would also be required to be equipped with two gas detectors for each of five potentially hazardous gases identified in the regulation. This proposed requirement would be satisfied by two individual detectors for each of the five gases or two multifunction detectors able to detect each of the five gases. In addition, it is proposed that rescue stations be equipped with one methane detector able to measure methane in any concentration up to 100 percent and two oxygen indicators or flame safety lamps. The proposed rule would also require that readily available conventional ground transportation be maintained for mine rescue teams. The proposed rule would not preclude the use of other faster means of transportation when responding to an emergency, however, the required ground transportation must be maintained available.

The proposed mine rescue team equipment requirements are slightly changed from the draft of the proposed rule. No changes in the equipment proposed have been made. However, the comments received indicated that unnecessary duplication of equipment could result.

For the proposed rule to effectively ensure availability of mine rescue teams to all underground mines, it is necessary that each mine rescue team be independently able to respond to a mine emergency. To accomplish this purpose, it is proposed that each rescue team be provided its own breathing apparatus, cap lamps and other equipment essential to independent effective mine rescue and recovery work. However, the ability to independently respond to an emergency is not contingent upon each mine rescue team being provided, for example, its own oxygen pump, or spare breathing apparatus parts or other equipment and accessories which reasonably may be shared between two rescue teams at a single mine rescue station. Accordingly, under the proposed rule each mine rescue team would be provided certain essential rescue equipment, while other equipment and accessories would be required to be available to rescue teams at the mine rescue station. Equipment and accessories shared between rescue teams must also be made available to both teams for training.

Commenters also asked whether mine rescue teams could be maintained and trained by the operator in accordance with the draft proposal, but equipment for such teams be provided by contractual arrangement with a mine rescue station. The proposed rule is intended to be sufficiently flexible to meet varying needs and would not prohibit such a method of providing rescue teams with the necessary equipment, so long as the availability of the rescue teams would not be hindered. Another comment addressing rescue team equipment questioned whether the proposed rule made allowance for use of improved and new equipment. The proposed rule only establishes the minimum equipment to be provided rescue teams. Improved equipment and alternate new equipment is anticipated and accounted for in the proposed rule.

The proposed rule would also govern the maintenance of mine rescue equipment. Proposed § 49.4 would require inspection and testing of breathing apparatus at intervals not exceeding 30 days by a person trained in the use and care of the breathing apparatus in accordance with manufacturer's recommendations to ensure reliability. A record of such inspections would be required to be maintained at the mine rescue station for a period of two years.

Under the proposed rule, mine rescue team members and alternates would be required to meet minimum experience, physical and training requirements. MSHA considers the proposed requirements to be essential for the protection of mine rescue team members, alternates and miners during rescue and recovery work.

To be eligible to serve on a mine rescue team, a total of one year or more underground mining experience within the preceding three years would be required. Miners stationed on the surface, but whose duties have required regular underground work would be considered employed in an underground mine.

The proposed physical requirements would be met by each team member and alternate annually passing a physical examination and obtaining the examining physician's certification that the member or alternate is in excellent physical condition and fit to perform mine rescue and recovery work for extended periods under strenuous conditions, including use of a self-contained oxygen breathing mine rescue apparatus. It is proposed that MSHA provide a physician's examination form to be completed by the examining physician and that a record of such completed form be maintained for at least two years at the mine rescue station.

The proposed physician's examination form would require the examining physician to conduct a careful review of medical history, rigorous physical examination and prescribed laboratory tests. The proposed laboratory test requirements would include a complete blood count, urinalysis, EKG and spirometry which provides forced vital capacity, 1 second forced expiratory volume and the maximum voluntary ventilation.

The proposed rule also identifies certain physical conditions which would disqualify a candidate from mine rescue team service. The conditions identified are those which could make mine rescue and recovery work unduly dangerous for the individual to undertake and could expose others to added risk under emergency conditions.

The proposed minumum standards for visual acuity and hearing would each be required to be met without the assistance of glasses or contact lenses, or a hearing aid. In addition, MSHA is considering whether the use of these devices by rescue team members and alternates presents potential hazards and should therefore be prohibited during rescue and recovery operations.

At this time, MSHA believes that wearing glasses together with approved breathing apparatus does not present a hazard. However, there is evidence that contact lenses may become lodged above the eye due to pressure in the facepiece of approved breathing apparatus. This could be harmful to the wearer and also pose a hazard to other persons under emergency conditions. Hearing aids may also present potential hazards. Hearing aids are battery operated and may therefore be dangerous in certain atmospheres. A hearing aid may also be dislodged under emergency conditions, creating hazards for the wearer and others. MSHA is soliciting comments concerning potential hazards with the use of glasses, contact lenses and hear-

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ing aids by rescue team members and alternates.

Prior to serving on a mine rescue team, each rescue team member and alternate would also be required by the proposed rule to complete several courses of training approved by the Office of Education and Training, MSHA. The proposed training requirements include a 20-hour initial course of instruction in the use, care and maintenance of the type of breathing apparatus to be used by the rescue team. If auxiliary breathing equipment is provided, an additional 10-hour course of instruction in the use, care and capabilities of the auxiliary equipment would be required. If the type of breathing apparatus is changed, an additional four hours of training with the different breathing apparatus would be required. Upon completion of initial training, each team member and alternate would be required to complete a 20-hour course of instruction in advanced mine rescue procedures. It is also proposed that each team member and alternate receive basic training approved by the Office of Education and Training, MSHA, in first aid and cardiopulmonary resuscitation, complemented by approved annual refresher courses. In addition, each team member and alternate would be required to be trained and completely familiar with the ventilation, escape routes and refuge chambers of each mine served by the rescue team.

Commenters raised questions concerning the amount and type of instruction required under the proposed rule. The proposed requirements reflect the importance of complete knowledge of mine rescue equipment and procedures under emergency conditions. In view of the hazardous and diverse nature of mine rescue and recovery work, no changes in the amount of instruction have been made in the proposed rule. Although it may be possible to permit a more flexible approach, the comments on the draft proposal do not provide a sufficient basis for making a change in the proposed rule and additional comments and data are solicited.

Commenters also questioned the need for training in cardiopulmonary resuscitation (CPR). Basic knowledge of CPR together with training in first aid are required under the proposed rule so that mine rescue team members and alternates are prepared to respond to the unforeseeable as well as foreseeable circumstances which may arise under emergency mine rescue conditions. Although CPR techniques must be administered quickly after the need arises, and under some circumstances may even be dangerous to administer, MSHA believes it would be a distinct advantage if mine rescue team members had the ability to render this life-saving assistance.

Together with training through courses of instruction, the proposed rule would require rescue team members and alternates to receive practical training with the rescue equipment to be used by the team at least four hours each month or eight hours bimonthly. All team members and alternates would be required to annually complete at least 40 hours of such training to remain eligible to serve on the rescue team. Under the proposed rule, the required training sessions would include wearing and use of the breathing apparatus provided the rescue team for at least two hours bimonthly while under oxygen and training in the use of auxiliary equipment, if provided. The required practical training sessions would be held underground at least once each four months and the location of such sessions rotated among the mines served by the team.

Several commenters suggested that fewer practical training sessions by mine rescue teams would be adequate. The proposed monthly or bimonthly training session requirement is based on MSHA's experience in mine rescue and recovery work and reflect MSHA's experience that failure of mine rescue teams in the past most often has been due to insufficient training with rescue equipment and in rescue and recovery procedures. Accordingly, monthly or bimonthly training sessions are retained as a proposed requirement of mine rescue teams.

The proposed rule would also require MSHA approval of instructors to teach the proposed training course requirements to ensure uniform competency and procedures in mine rescue and recovery operations. Instructors would be approved by the MSHA Office of Education and Training. The proposed rule does not contain experience requirements for instructors, however MSHA is soliciting comments regarding whether previous mining or mine rescue experience should be part of instructor approval. An instructor's approval could be revoked by the MSHA Training Center Chief for good cause, which under the proposed rule may include not teaching a training course at least once every 24 months. The proposed rule would provide appeal procedures for approval revocation.

Under the proposed rule, the person in charge of each mine rescue team would be required to notify the Training Center Chief in the area where the mine rescue station is located of the training sessions scheduled, including the location, times and length of each session. In addition, a record of all practical training sessions and training courses completed by each team member and alternate would be required to be maintained at the mine rescue station for a period of two years.

The proposed rule would also establish basic requirements for mine rescue stations. It is proposed that mine rescue stations be adequate in size to conduct classes, unless other classrooms are readily available, and that the stations be provided with hot and cold running water, illumination, heat and a commercial telephone. It is also proposed that mine rescue stations be located no greater than 60 minutes travel time by conventional ground transportation from the mine or mines served. Greater distances, however, may be approved by the District Manager where mines are remotely located.

To ensure prompt response by mine rescue teams in the event of an emergency, the proposed rule would also require each mine to have a mine rescue notification plan. Such notification plan would be on a form supplied by MSHA and would outline procedures to be followed in notifying the mine rescue team when their services were required. It is proposed that a copy of the mine rescue notification plan and, where applicable, a copy of the written cooperative or contractual agreement for rescue team services be posted at the mine rescue station and the office of the mine served by the rescue team.

The proposed rule would also require a mine map of each mine served by a rescue team be posted at the mine rescue station. This proposed requirement is intended to assist mine rescue teams in being familiar with the ventilation, escape routes and refuge chambers of mines served. To adequately serve this purpose without imposing undue burden upon the operator, it is proposed that mine maps provided to mine rescue stations be updated no less than every six months, or whenever significant changes are made affecting ventilation, escape routes or refuge chambers.

Under the proposed rule each operator would also be required to provide representatives of miners information concerning mine rescue teams. MSHA believes the operator's method of ensuring availability of mine rescue teams is of great interest and concern to miners. In addition, the proposed requirement is responsive to Congress' clear intention to engender greater miner involvement in achieving purposes of the Act.

In addition to comments concerning specific proposed requirements, one commenter raised the issue of whether independent construction contractors would be required to comply with the proposed rule. This question arises from the definition of "operator" in

Section 3(d) of the Act. The Act defines the operator of a mine as "any owner, lessee, or other person who operates, controls, or supervises a coal or other mine or any independent contractor performing services or construction at such mine."

The effectiveness of the proposed rule is premised upon continuous availability of mine rescue team services to each underground coal or other mine. To achieve the necessary continuity in availability of mine rescue teams, the "operator" who is an owner, lessee, or other person who operates, controls, or supervises a coal or other mine would be held responsible for compliance with the proposed rule. An "operator" meeting this definition is in the best position to provide and maintain continuously available mine rescue capability. If independent contractors were required to provide for availability of mine rescue teams while performing contruction or services at a mine, it would be necessary to shift responsibility for maintaining the availability of rescue teams. After an independent contractor completed its work at a mine site, responsibility for maintaining availability of mine rescue teams would have to shift to the operator who is the owner, lessee, or other person who operates, controls or supervises the mine. Such shifting of responsibility would unnecessarily jeopardize continuous mine rescue capability. Therefore, compliance with the proposed rule would be the responsibility of the "operator" who is an owner, lessee, or other person who operates, controls or supervises a coal or other mine.

III. Executive Order 12044

After review of available information, it has been determined that this document does not contain a major proposal requiring the preparation of a regulatory analysis under Executive Order 12044 and the Department of Labor's proposed guidelines for implementing the Executive Order (43 FR 22915, May 26, 1978). Based upon a projected need for approximately 800 new mine rescue teams and 350 new mine rescue stations in the coal mining industry and 90 new teams and 50 new stations in the metal and nonmetal mining industries, at a cost of approximately 33 thousand dollars per team and 39 thousand dollars per station, the total first year cost of this proposed rule would be approximately 45 million dollars.

Drafting Information

The principal persons responsible for preparation of this proposed rule are: John S. Curtis, Education and Training, Mine Safety and Health Administration and Edward C. Hugler, Attorney Advisor, Division of Mine Safety and Health, Office of the Solicitor, Department of Labor.

Dated: December 27, 1978.

Robert B. Lagather,
Assistant Secretary for Mine Safety and Health.

1. It is proposed to add a new part 49 to Subchapter H, Chapter I, Title 30, Code of Federal Regulations as set forth below:

PART 49—MINE RESCUE TEAMS

Sec.
49.1 Scope and purpose.
49.2 Availability of mine rescue teams.
49.3 Equipment for mine rescue teams and stations.
49.4 Maintenance of mine rescue apparatus and equipment.
49.5 Physical requirements for team members and alternates.
49.6 Requirements for team members and alternates.
49.7 Requirements for training of mine rescue teams; instructors; records of training.
49.8 Mine rescue station.
49.9 Mine emergency notification plan and mine map.
49.10 Representatives of miners.

Authority: The provisions of this Part 49 are issued pursuant to Sections 101, 103(h), 115(e) and 508 of the Federal Mine Safety and Health Act of 1977 (Pub. L. 91-173, as amended by Pub. L. 95-164).

§ 49.1 Scope and purpose.

This Part 49 implements the requirements of Section 115(e) of the Federal Mine Safety and Health Act of 1977 under which each operator of an underground coal or other mine shall provide for mine rescue teams to be available for rescue and recovery work at each such mine in the event of an emergency. This Part 49 applies to each operator of an underground coal or other mine.

§ 49.2 Availability of mine rescue teams.

(a) Within 6 months after the effective date, or prior to the opening of a new mine thereafter, the operator of each underground mine shall have at least two mine rescue teams available for rescue and recovery work. Except as provided in paragraph (b)(3) of this section, each mine rescue team shall consist of at least five members and two alternates, who shall be trained and qualified in accordance with the provisions of §§ 49.5, 49.6, and 49.7 of this part, and equipped in accordance with the provisions of § 49.3 of this part.

(b) The operator of an underground mine shall provide for the availability of mine rescue teams by:

(1) Establishing and equipping mine rescue teams which are available at all times when miners are underground; or

(2) Entering into a written contractual or cooperative agreement which insures the availability of mine rescue teams at all times when miners are underground; or

(3) Establishing an alternate mine rescue plan approved by the District Manager, if the mine is small and in a remote location. Such alternate plan shall be submitted to the District Manager in the district where the mine is located and state:

(i) The number of miners employed at the mine,

(ii) The distances from an established mine rescue team and station,

(iii) The availability of State mine rescue teams and stations,

(iv) The reasons why rescue teams which fully meet the requirements of paragraph (a) of this section cannot be made available,

(v) The operator's alternate method for enduring that mine rescue capability is provided at all times when miners are underground.

(c) The District Manager for the district where the mine is located shall be notified in writing by the operator as to how the requirements of paragraph (a) of this section will be met. The operator shall also provide the District Manager a copy of any contractual or cooperative agreement for the services of mine rescue teams.

§ 49.3 Equipment for mine rescue teams and stations.

(a) Each mine rescue team shall be provided with at least the following apparatus, equipment, and accessories which shall be stored in a mine rescue station:

(1) At least six self-contained oxygen breathing apparatus with a minimum of 2 hours capacity each, approved under Subpart H of Part 11 of this title, and the necessary equipment for testing such breathing apparatus;

(2) One extra oxygen bottle for each self-contained compressed oxygen breathing apparatus;

(3) Seven approved self-rescuers available for team members;

(4) Seven permissible cap lamps and charging rack;

(5) One portable stretcher;

(6) One blanket;

(7) One emergency first aid kit; and

(8) One tool bag containing:

(i) one brass hammer and brass nails if the rescue team is intended to render service to mines with explosive or potentially explosive atmospheres, or

(ii) one hammer and nails for nonexplosive atmospheres, and

(iii) accessories necessary for taking notes and marking locations underground.

(b) Each mine rescue station shall be equipped with at least the following apparatus, equipment and accessories:

(1) Two gas detectors for:

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(i) Methane (CH_4) in concentrations of 0–5 percent or 0–10 percent,
(ii) Hydrogen sulfide (H_2S),
(iii) Carbon monoxide (CO),
(iv) Carbon dioxide (CO_2), and
(v) Oxides of nitrogen (NO);

(2) One methane (CH_4) detector—100 percent;

(3) Two oxygen indicators or two flame safety lamps;

(4) One oxygen pump, suitable to the type of breathing apparatus used by the rescue teams;

(5) A portable supply of liquid air, liquid oxygen, pressurized oxygen, or chemicals, as applicable to the breathing apparatus used by the mine rescue team(s), sufficient to sustain each team for 6 hours while using the breathing apparatus during rescue operations;

(6) A supply of spare parts for repairing the breathing apparatus used by the rescue team(s);

(7) One portable mine rescue communications systems, approved under Part 23 of this title, with spare parts, or a sound-powered communication system, with spare parts. The wires or cable to the communication system shall be of sufficient tensile strength so that the wires or cable may be used as a manual communication system. These communication systems shall be at least 1,000 feet in length;

(8) One self-contained oxygen resuscitator.

(c) Each operator shall establish, in advance, transportation for rescue teams and equipment by conventional ground transportation from the rescue station to the mine or mines serviced. Faster means of transportation may be used in the event of an emergency.

§ 49.4 Maintenance of mine rescue apparatus and equipment.

Mine rescue apparatus and equipment shall be stored and maintained in a manner that will insure readiness for immediate use. Breathing apparatus shall be inspected and tested, and where applicable, cylinder pressure maintained, by a person trained in the use and care of breathing apparatus in accordance with manufacturer's recommendations at intervals not exceeding 30 days. A record of inspections and tests, initialed by the person making the inspections and tests, shall be maintained at the mine rescue station for a period of two years.

§ 49.5 Physical requirements for team members and alternates.

(a) Each member of a mine rescue team and alternates shall annually be examined by a physician who shall certify that each member and alternate is physically fit to perform mine rescue and recovery work for prolonged periods under strenuous conditions, including use of a self-contained oxygen breathing apparatus. The first such physical examination shall be completed within 30 days prior to scheduled initial training.

(b) The operator shall have MSHA Form 5000-3 filled out and signed by a physician for each member of a mine rescue team and alternates. Such forms shall be kept on file at the mine rescue station for a period of two years.

(c) The following conditions shall disqualify a miner from mine rescue team service:

(1) Seizure disorder;
(2) Perforated eardrum;
(3) Hearing loss without a hearing aid greater than 40 decibels at 500, 1,000 and 2,000 Hz, using the ISO or ANSI scale;
(4) Repeated blood pressure (controlled or uncontrolled by medication) reading which exceeds 160 systolic, or 100 diastolic, or which is less than 105 systolic, or 60 diastolic;
(5) Distant visual acuity without glasses less than 20/50, snellen, in one eye and 20/70 in the other;
(6) Heart disease;
(7) Hernia;
(8) Major back surgery within the preceding year;
(9) Absence of a limb or hand.
(10) Any other condition which the examining physician determines renders the miner physically unfit for rescue team service.

§ 49.6 Requirements for team members and alternates.

Each member of a mine rescue team and alternates shall have been employed in an underground mine for a total of one year or more within the three preceding years prior to becoming a team member. Miners whose duties have required regular underground work prior to becoming a team member, even though they are stationed on the surface, shall be considered employed in an underground mine.

§ 49.7 Requirements for training of mine rescue teams; instructors; records of training.

(a) Each member of a mine rescue team and alternates shall complete a 20-hour initial course of instruction, as prescribed by the Office of Education and Training, MSHA, in the use, care, and maintenance of the type of breathing apparatus that will be utilized by the mine rescue team.

(b) Each member of a mine rescue team shall complete a 10-hour course of instruction, as prescribed by the Office of Education and Training, MSHA, in the use, care, capabilities and limitations of auxiliary mine rescue equipment where such teams are provided with auxiliary equipment.

(c) Each member of a mine rescue team and alternates shall complete a 20-hour course of instruction, as prescribed by the Office of Education and Training, MSHA, in advanced mine rescue procedures upon completion of the initial training.

(d) If the type of breathing apparatus is changed, the mine rescue team members and alternates shall have, as soon as is practicable, an additional 4 hours of training using the different breathing apparatus after the change is made.

(e) Each member of a mine rescue team and alternates shall receive first aid training and training in cardiopulmonary resuscitation which are approved by the Office of Education and Training, MSHA.

(f) Each member of a mine rescue team and alternates shall have current mine map training and be completely familiar with the mine ventilation, escape routes, and refuge chambers for each mine served by the rescue team.

(g) Prior to serving on a mine resuce team, each person shall have completed the training as prescribed in paragraphs (a), (b), (c), (d), (e) and (f) of this section.

(h) Thereafter, each member of a mine rescue team and alternates shall annually complete refresher training courses in first aid and cardiopulmonary resuscitation which are approved by the Office of Education and Training, MSHA.

(i) Each mine rescue team and alternates shall train at least 4 hours each month or 8 hours bimonthly. Training shall include the wearing and use of the breathing apparatus by the team members and alternates for a period of at least 2 hours while under oxygen bimonthly. A team member or alternate will be ineligible to serve on a team if more than 8 hours of training is missed during one year, unless additional training is received to make up for the time over 8 hours of training missed. All team members and alternates shall receive at leat 40 hours of trailing a year.

(j) Each mine rescue team shall train in the use of auxiliary mine rescue equipment where such equipment is provided. Training shall include the wearing and use of auxiliary breathing apparatus for a perod of at least two hours every six months. This training will be a part of the 40 hours of training as required each year by paragraph (i) of this section.

(k) The required training session shall be held underground at least once each 4 months, and the location of such underground training shall be rotated among the mines served by the teams.

(l) The training courses required by this section shall be conducted by instructors who have been approved by MSHA in any of the following ways:

(1) Instructors may satisfactorily complete a program of instruction approved by the office of Education and Training, MSHA, in the subject matter to be taught and either:

(i) take the instructor's training course conducted by the Office of Education and Training, MSHA, or

(ii) be designated by the Office of Education and Training, MSHA, to give such instruction;

(2) Instructors may be designated by the Office of Education and Training, MSHA, as approved instructors to teach specific courses based on their qualifications and teaching experience;

(3) Cooperative instructors who have been designated by the Office of Education and Training, MSHA, to teach MSHA-approved courses prior to the effective date of this part and who have taught such courses within the 24 months prior to the effective date of this part shall be considered approved instructors for such courses.

(m) The Chief of the Training Center may revoke an instructor's approval for good cause, which may include not teaching a course at least once every 24 months. A written statement revoking the approval together with reasons for revocation shall be provided the instructor. The affected instructor may appeal the decision of the Training Center Chief by writing to the Director of Education and Training, MSHA, 4015 Wilson Boulevard, Arlington, Va. 22203, within 30 days of notification of the Training Center Chief's decision. The Director of Education and Training shall render a decision on the appeal within 30 days after receipt of the appeal.

(n) The person who is in charge of the mine rescue team shall notify the Chief of the Training Center in the area where the mine rescue station is located of the schedule of training sessions which shall include the locations, times, and length of each session.

(o) A record of training of each team member and alternate as required in paragraphs (a), (b), (c), (d), (e), (f), (h), (i), (j), (k) and (l) of this section shall be on file at the mine rescue station for a period of two years.

§ 49.8 Mine rescue station.

(a) A mine rescue station, designated by a conspicuous sign, shall be adequate in size to conduct classes, unless other classroom facilities are readily available, and shall be provided with hot and cold running water, illumination, heating devices and a commercial telephone.

(b) Mine rescue stations shall be located no more than 60 minutes travel time by conventional ground transportation from the mine or mines to be served. In areas where mines are remotely located, greater distances may be approved by the District Manager based on information received under paragraph (b)(3) of § 49.2

(c) Mine rescue stations at mine sites shall be located on the surface and offset from any mine openings so as to protect the rescue station from forces coming out of the mine should an explosion occur.

(d) Authorized representatives of the Secretary shall have the right of entry to inspect any designated mine rescue station.

§ 49.9 Mine emergency notification plan and mine map.

(a) Each mine shall have a mine rescue notification plan outlining the procedures to follow in notifying the mine rescue team when there is an emergency that requires their services.

(b) A copy of the mine rescue notification plan and any cooperative or contractual agreement for the services of mine rescue teams shall be posted in the mine rescue station and in the mine office of the mine served by the rescue teams.

(c) The mine rescue notification plan shall be on a form supplied by MSHA.

(d) A copy of a current map of each mine served by the mine rescue station, updated no less than every six months or whenever significant changes are made such as changes affecting ventilation, escape routes or refuge chambers, shall be posted in the mine rescue station.

§ 49.10 Representatives of miners.

Each operator shall provide representatives of miners designated in accordance with Part 40 of this title a copy of (a) any notice submitted to the District Manager in accordance with § 49.2(c) of this Part regarding how the operator is ensuring mine rescue teams are available to the mine; (b) any cooperative or contractual agreement for the services of mine rescue teams; and (c) the current mine rescue notification plan.

[FR Doc. 79-198 Filed 1-4-79; 8:45 am]

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FRIDAY, JANUARY 5, 1979
PART III



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

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LICENSING AND GENERAL BIOLOGICAL PRODUCTS STANDARDS

Bacterial Vaccines and Bacterial Antigens with "No U.S. Standard of Potency"

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[4110-03-M]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER F—BIOLOGICS

[Docket No. 77N-0091]

PART 601—LICENSING

PART 610—GENERAL BIOLOGICAL PRODUCTS STANDARDS

Bacterial Vaccines and Bacterial Antigens with "No U.S. Standard of Potency"

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) issues a final rule concerning the recommendations of the Panel on Review of Bacterial Vaccines and Bacterial Antigens with "No U.S. Standard of Potency." This rule contains labeling and informed-consent requirements as well as provisions for the presence of group A streptococcus in these products.

DATES: Effective January 5, 1979; requirements for labeling are effective July 5, 1979.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Joe Holloway, Bureau of Biologics (HFB-620), Food and Drug Administration, Department of Health, Education, and Welfare, 8800 Rockville Pike, Bethesda, MD 20014, 301-443-1306.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of November 8, 1977 (42 FR 58266), the Commissioner of Food and Drugs published a proposal containing findings of the Panel on Review of Bacterial Vaccines and Bacterial Antigens with "No U.S. Standard of Potency." The Panel evaluated the safety and effectiveness of 32 bacterial vaccine and bacterial antigen products and recommended that: (a) no products be placed in Category I (those biological products determined to be safe, effective, and not misbranded); (b) three products be placed in Category II (those biological products determined to be unsafe, ineffective or misbranded); (c) seven products be placed in Category IIIA (those biological products for which available data are insufficient to classify their safety and effectiveness but which may remain in the interstate commerce pending completion of testing and conformance with the recommendations of the Panel); and (d) twenty-two products be placed in Category IIIB (those biological products for which available data are insufficient to classify their safety and effectiveness and which should not continue in interstate commerce).

The Commissioner agreed with the Panel's recommendations concerning the classification of these products. Accordingly, the Commissioner announced his intention to publish a notice of opportunity for hearing to revoke the licenses for those products placed in Categories II and IIIB. The Notice of Opportunity for Hearing was published in the FEDERAL REGISTER of December 9, 1977 (42 FR 62162). Interested persons were advised that they could submit additional data in response to the revocation notices; for products placed in Category IIIA, comments or additional data concerning the classification were also invited.

In addition, the November 1977 proposal contained the Commissioner's responses to other panel recommendations concerning the testing, content, and labeling of bacterial vaccines and antigens. In view of these recommendations, the Commissioner proposed two amendments to the biologics regulations: (1) in § 601.25(h) (21 CFR 601.25(h)), to require that the labeling for Category IIIA bacterial vaccines and antigens contain a prominent boxed statement referencing the Panel's findings of insufficient data on safety and effectiveness, that written informed consent be obtained from participants in the additional studies performed pursuant to § 601.25(h), and that a patient information insert be included with category IIIA products continued in interstate commerce; and (2) in § 610.19 (21 CFR 610.19), to eliminate group A streptococcal microorganisms and their derivatives from bacterial vaccines and antigens. Comments on these proposals were also solicited by the Commissioner in the November 1977 proposal.

Because manufacturers of those licensed products placed in Categories II and IIIB either did not request a hearing, requested a hearing but submitted no additional data, submitted additional data which resulted in reclassification of products, or requested that the licenses be revoked, the Commissioner published in the FEDERAL REGISTER of October 27, 1978 (43 FR 50247), a notice that these licenses have been revoked. Nevertheless, the Commissioner has considered the comments submitted by patients and physicians concerning the classification of these products, as well as the comments on the proposed amendments to the biologics regulations. Interested persons were given until January 9, 1978 to file comments with the Hearing Clerk. Three hundred and twelve letters were received, many of which contained more than one comment. A summary of the comments and the Commissioner's responses are as follows:

1. Many comments supported two products which were classified in Category IIIB. These products are V-677 Streptococcus Vaccine and Entoral, both manufactured by Eli Lilly and Co. Two hundred and ninety-five comments requested reclassification of V-677 and public hearings to provide a forum for expression of the commentor's views. One hundred and five letters consisted of or included a form containing information in support of the safety and effectiveness of V-677. All of the comments contained testimonials in support of the product. The comments expressed the belief that V-677 is more effective for the treatment of arthritis than other drugs on the market and that, if V-677 is removed from the market, patients will be forced to accept the painful effects of arthritis or take drugs with dangerous side effects. In addition, the comments alleged that physicians may be subject to malpractice suits for not treating patients with the most effective drug, which, in the commentors' view is V-677. Many of the comments suggested that the costs for studies required to establish the safety and effectiveness of V-677 should be borne by the Federal government. An additional 300 comments were submitted by patients in support of the safety and effectiveness of Entoral, a cold preparation. These comments also contained reports of Entoral's value in individual cases.

The biologics safety and efficacy review procedures were first proposed in the FEDERAL REGISTER of August 18, 1972 (37 FR 16679). As stated in that proposal, because all biological products are also drugs within the meaning of the Federal Food, Drug, and Cosmetic Act, the requirements for demonstrating the effectiveness of drugs and prohibitions against their being misbranded apply to products which are also subject to the licensing provisions of section 351 of the Public Health Service Act. Although biological products have been reviewed for safety in the past, new criteria for safety, like the contemporary standards for demonstrating effectiveness, have developed in recent years.

After reviewing the comments on the proposal, the Commissioner issued a final order establishing the procedures for review of the safety, effectiveness, and labeling of biological products in the FEDERAL REGISTER of February 13, 1973 (38 FR 4319). The preamble to that final order discussed the requirements that biological drugs be shown to be both safe and effective for all their intended uses.

Section 601.25 governing the review of biological products contains standards for safety and effectiveness. Section 601.25 provides that "proof of effectiveness shall consist of controlled clinical investigations," unless this requirement is waived on the basis of a showing that it is not reasonably applicable to the biological product or essential to the validity of the investigation. Alternate methods of investigation are appropriate only if they are "adequate to substantiate effectiveness." Although the regulations provide that partially controlled or uncontrolled studies, as well as significant human experience, may be used to corroborate controlled clinical studies, isolated case reports, random experience, and reports lacking the details which permit scientific evaluation will not be considered in support of the effectiveness of the drug. (See § 601.25(d)(2).) Section 601.25(d)(3) authorizes the panels to consider the benefit-to-risk ratio in determining safety and effectiveness.

Since promulgation of the regulations governing the review of the safety, effectiveness, and labeling of all biological products, the Supreme Court has reaffirmed that controlled clinical investigations constitute the contemporary standard and represent the well-established principles of scientific investigation. (See *Weinberger v. Hynson, Westcott and Dunning, Inc.*, 412 U.S. 609 (1973).) Based upon the regulations and the law, the Commissioner finds that the testimonials submitted in support of V-677 and Entoral are not an acceptable alternative to scientifically valid proof of the safety or effectiveness of these products. As the Supreme Court noted, anecdotal reports about drug safety and effectiveness are, unfortunately, "treacherous." "The Panel concluded that the effectiveness and safety of treatment with a product for a given disease can be judged properly by adequate and well-controlled studies on populations of patients having the most well-defined disease states and carefully selected to be as homogenous as possible." (See the November 1977 proposal at 42 FR 58270 under "Areas of Panel Concern.") The Panel did, however, attempt to identify information that would corroborate the testimonial evidence and unconfirmed and uncontrolled clinical impressions that it received from both producers and individuals. Alternative methods for adequate and well-controlled studies were considered. None of these alternatives was considered to be sufficient to establish definitive effectiveness, for reasons articulated in the evaluation of each product. About safety, the Panel noted that safety claims "were based primarily upon the manufacturer's reports of adverse reactions. This might have been satisfactory had there been some evidence of systematic followup by physicians for the late, and perhaps subtle, adverse effects that might be associated with repeated inoculations. In view of what is known from laboratory studies about the potential risks associated with repeated inoculations of foreign substances, the Panel was left with reservations about the long-term safety of the subject products." (See the November 1977 proposal at 42 FR 58270-58271 under "Safety.") The Panel concluded that it "could not recommend waiver of these requirements [21 CFR 601.25(d)] on the basis of claims that a controlled clinical trial is not feasible because of lack of funding, lack of interest, or difficulty in obtaining a sufficient number of patients." (See the November 1977 proposal at 42 FR 58271 under "Panel Specific Product Reports and Reviews.")

The Panel's report reflects the careful consideration that the Panel gave to physician and patient reports submitted in support of licensed products. The Panel issued a position statement which was "prompted in large part by the expressed fears of many practicing physicians that Panel members will make arbitrary decisions and that the findings of doctors who had used these biologicals for many years will be discounted without careful consideration. This is not the intent of the Panel • • •." (See the November 1977 proposal at 42 FR 58272 under "Extent to Which Prior Use of These Products Can Be Used To Satisfy Present Standards of Safety and Effectiveness.") This statement makes clear that the views of those persons who have submitted comments on the Commissioner's proposal have already been thoughtfully considered. In discussing its evaluation of safety, the Panel identified exactly those problems which establish the need for scientifically valid and controlled studies: the lack of an effective mandatory system for reporting adverse reactions, that a practicing physician sees only a limited number of patients and therefore will identify only adverse reactions that occur at a very high rate, that patients with severe reactions may not return to the same treatment situation, and that a causal relationship is difficult to discern due to the time and other events between the administration of a drug and the onset of the adverse reaction. The Panel's summary clearly shows that every effort was made to give all reasonable credit to significant human experience during marketing. (See the November 1977 proposal at 42 FR 58272 under "Summary.")

The Commissioner notes that nondeliberative portions of all meetings of the Panel were open to the public. Announcements of the meetings were published in the FEDERAL REGISTER before each meeting, and interested persons were given an opportunity to make presentations to the Panel. No person who requested an opportunity to appear and make a presentation was denied that request. In addition, as part of the process of nominating qualified experts to serve on the Panel, the Commissioner issued letters to approximately 35 medical and scientific associations and consumer groups advising them of the review of bacterial vaccines and bacterial antigen products. Ample opportunity was given for public participation in the proceedings, and manufacturers had adequate time and opportunity to present additional data in support of continued licensure for their products. For these reasons, the request that additional public hearings be provided to present a forum for those disagreeing with the Panel's recommendations and the Commissioner's conclusions is denied.

The Panel reviewed and evaluated the reports submitted in support of the safety and effectiveness of V-677. As to effectiveness, the Panel found that the only "controlled" study was inadequate, that its result was inconclusive and that it "does not provide the data required for a positive judgment of the safety or effectiveness of V-677." (See the November 1977 proposal at 42 FR 58290 under b. *Effectiveness.*) The Panel concluded that the study had "deficiencies which seriously impair current usefulness." As to safety, the Panel concluded that the available data supporting the presumed safety of the product "may be more apparent than real" and that reported observations "posed questions of safety with regard to the chronic injection of such material into humans." (See 42 FR 58290 under a. *Safety.*) The Panel placed V-677 in Category IIIB because there is no substantial evidence of safety or effectiveness nor is there even evidence presumptive of safety.

The Panel reviewed the data submitted in support of Entoral's effectiveness and concluded that although the labeling for the product was cautiously worded, "the statement on use of the vaccine does imply effectiveness, but the implication is not supported by the evidence." (See the November 1977 proposal at 42 FR 58286 under c. *Labeling.*) The Panel found that "the vaccine has long since been put to the test of controlled clinical studies and found wanting." (See 42 FR 58286 under a. *Critique.*) None of the studies

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reviewed by the Panel demonstrated claims for effectiveness. The Panel concluded that there was neither substantial nor presumptive evidence of effectiveness of Entoral.

The Commissioner adopted the Panel's recommendations on V-677 and Entoral and proposed that they be placed in Category IIIB. A notice of opportunity for hearing on the revocation of the license of Entoral was not published since the license for Entoral was revoked at the request of Eli Lilly and Co. on April 11, 1977.

In response to the notice of opportunity for hearing concerning V-677, Eli Lilly and Co. did not request a hearing or submit any data. Accordingly, their license was revoked. (See the October 27, 1978 Notice.)

The Commissioner advises that an opportunity for a hearing is directed to the manufacturer of a product whose license is the subject of the proposed revocation. If a hearing is requested by a manufacturer and granted, all interested parties may present evidence regarding the proposed revocation (21 CFR 12.45). However, in view of the failure by Eli Lilly and Co. to request a hearing, no further proceeding is available.

The Commissioner notes that there are numerous drugs other than V-677 which are marketed for the treatment of arthritis. For this reason, the Commissioner rejects the suggestion that revocation of the V-677 license will cause substantial adverse effects for current users of V-677 who must now select other arthritis drugs. Drugs recommended for treatment of arthritic conditions, like every other drug, have the potential for causing some side effects in some individuals. Generally, it is the responsibility of the physician prescribing these drugs to weigh the benefits against the risks involved in treatment of each individual patient and to ensure that the patient gains the maximum benefits with the least possible risks.

The Commissioner also notes that the classification of a product into Category IIIB does not preclude further studies. It requires only that the product not be marketed commercially while controlled studies are conducted in accordance with the IND provisions of the law. Those persons being treated with V-677 may serve as test subjects for the IND clinical trials. This mechanism provides for continued availability of a drug but only as part of a plan to study its safety and effectiveness. This mechanism also provides maximum protection to the test subjects. Thus, although the Eli Lilly and Co. licenses for both Entoral and V-677 have been revoked, the law does not prohibit investigational new drug use of either drug.

2. Thirteen comments, primarily from practicing physicians, asserted that Hoffman Laboratories' Respiratory Bacterial Antigen Complex (BAC), and Pooled Skin BAC are effective for upper respiratory and skin infections and cause no known side effects. These comments requested that these products be reclassified.

The Panel recommended that the Respiratory BAC be placed in Category IIIA on the condition that it not contain group A streptococcus strains and that the labeling state in standard medical terminology the specific indications for use. (See the November 1977 proposal at 42 FR 58296.) The Panel recommended that the Pooled Skin BAC be placed in Category IIIB. For both products, the Panel concluded that there was no substantial evidence of safety and effectiveness. The Panel found some presumptive evidence of safety for the respiratory BAC products but no presumptive evidence of safety for the pooled skin products. These conclusions were based on an extensive review of the data submitted in support of these products and, as specifically noted by the Panel, upon the consideration of numerous "letters, depositions, and reports from physicians and patients supporting the efficacy of respiratory BAC products." (See the November 1977 proposal at 42 FR 58295.) The Panel noted that the support for the effectiveness of these preparations in humans in "based entirely on uncontrolled studies, case reports, letters, and depositions from physicians and their patients." (See 42 FR 58295 under (2) *Effectiveness.*) The Panel found that the indications for use in the labeling "are extremely broad," and that the "present state of knowledge neither proves nor disproves the possibility that bacterial antigens or vaccines in general or these products in particular induce either of the [claimed] effects." The Panel also felt that the package insert "is totally inadequate" in guiding the physician user's selection among the four products marketed. "Published articles supplied by the manufacturer, at the specific request of the physician, failed to provide adequate guidance." (See the November 1977 proposal at 42 FR 58296 under (4) *Labeling*). Hoffman Laboratories requested the revocation of their licenses for the manufacture of all of their licensed biological products. The comments recommending that these products be upgraded are rejected.

3. The Panel recommended that the Federal government sponsor some of the studies required to establish the safety and effectiveness of bacterial vaccines and bacterial antigen products. In response to that recommendation, the Commissioner noted that the regulations provided for such studies in § 601.25(h)(1) and acknowledged that such studies may be desirable and beneficial. Accordingly, the Commissioner solicited comments on the proposal by the Panel for the expenditure of Federal funds to study these products.

In response to that invitation, seven comments were received, all of which supported the expenditure of Federal funds for additional studies of products in category IIIA. The comments suggested that Federal support was necessary because the cost for the required studies would be prohibitive for small manufacturers. In view of the Panel's recommendation and the responses submitted, the Director, Bureau of Biologics, will notify the appropriate Federal agencies so that such studies may be considered and priorities assigned. The FDA budget does not provide for developmental research in support of marketed products because the law places this burden upon the proponent or manufacturer.

4. Two comments suggested that the Commissioner permit ineffective bacterial vaccines to remain on the market as placebos for psychological effects.

Ineffective drugs may not be lawfully sold or distributed in interstate commerce. Such drugs are misbranded and are new drugs within the meaning of the Federal Food, Drug, and Cosmetic Act. Unlike true placebos, ineffective drugs may cause physiological or pharmacological effects in addition to the psychological (placebo) effects. Therefore, the use of ineffective drugs as placebos is inconsistent with sound medical practice. Accordingly, the comments are rejected.

5. Two comments objected to the statement in item 1b. of the proposal's preamble at 42 FR 58315, that "safety and effectiveness of the products rest largely upon information, in the form of anecdotes and results of informal studies, which were collected during the long years of use of the products." The comments state that the statement is not true for some products placed in Category IIIA by the Panel. However, the comments did not identify any specific product or provide data to support their objection.

The Commissioner advises that the Panel's conclusions were based on data the manufacturers submitted in support of the products, other medical literature, and oral presentations by interested persons and manufacturers at the Panel's meetings. The statement in item 1b. of the proposal's preamble applies to all products placed in Category IIIA. Therefore, the comments are rejected.

6. One comment noted that *Staphylococcus albus* and *Staphylococcus aureus* were incorrectly listed as components of the Hollister-Stier products classified as Category IIIB by the Panel. The organisms should have been listed as components of the Hollister-Stier products that were classified as Category IIIA by the Panel.

The Commissioner agrees with this comment. Therefore, the organism listing of *Staphylococcus albus* and *aureus* is corrected on the official agency copy of the proposal. This correction was also made in a notice published in the FEDERAL REGISTER of October 27, 1978.

7. One comment suggested that the Commissioner require in vivo studies in humans before a drug is marketed because treatment is usually given to a patient with a complicated disease process and in vitro results do not necessarily forecast the actual effects of the drug when used in humans.

The Commissioner advises that the requirements in §§ 601.21 and 601.25 already preclude the marketing of a drug in interstate commerce until there is substantial evidence of effectiveness derived from adequate and well-controlled investigations, including clinical investigations. Such studies include use in susceptible persons and should be sufficient to establish the pharmacological effects of the drug when used in the manner and by the mode of administration suggested in the manufacturer's labeling. Accordingly, the Commissioner believes there is no apparent need to change this requirement and the comment is rejected.

8. In conjunction with the proposal to place certain products in Category IIIA and in view of the Panel's conclusions concerning the effectiveness of Category IIIA drugs, the Commissioner proposed that (1) the circular and promotional material for these drugs must have a prominent boxed statement referencing the need for further data to fully establish effectiveness; (2) written informed consent be obtained from participants in the requisite additional studies, an explanation of the product and the purpose of the study be given to such participants, and a clear opportunity be provided to them to refuse to participate in the study; and (3) a printed patient insert be included with all Category IIIA Bacterial Vaccines and Bacterial Antigens which have been designated as having "No U.S. Standard of Potency" continued in interstate commerce. The requirements for the boxed warning and informed consent were the same as those proposed by the Commissioner in the FEDERAL REGISTER of September 30, 1977, in the proposal concerning the implementation of the report of the Panel on Review of Skin Test Antigens.

One comment was received in response to the proposed labeling. It stated that the requirement for a prominent boxed warning will cause a marked reduction in the use of the products identified with this notice.

As the Commissioner noted in the proposal, the conclusion by an expert panel that the data in support of the products' safety and effectiveness are currently insufficient is a material fact within the meaning of section 201(n) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(n)) and the failure to disclose this fact is misleading, resulting in the products being misbranded. Moreover, the Commissioner believes that it is essential that patients and physicians be aware of the lack of controlled studies in support of a product. In addition, the Commissioner notes that a boxed warning concerning the results of expert panel reviews has been used for many years in conjunction with drugs which were the subject of the efficacy review panels in the 1960's. (See § 201.200 (21 CFR 201.200).) Accordingly, the comment is rejected.

However, the Commissioner has decided that the adoption of the boxed warning and written informed consent for participants in studies conducted on Category IIIA products (§ 601.25(h)(4) and (5)) should be promulgated upon specific notice to those persons affected by the review of each category of biological products. Accordingly, this final order imposes these requirements for Bacterial Vaccines and Bacterial Antigens with "No U.S. Standard of Potency" only. When the final order is published for skin test antigens, the Commissioner will consider the application of these requirements to those particular products.

9. Three comments from manufacturers and manufacturer associations stated that § 610.25(h)(6) should not be amended to require a printed patient insert because the presence of a printed patient insert may result in the patient's refusal to take medications bearing such labeling. One comment stated that FDA has no legal authority to require such patient labeling.

FDA is charged with assuring that licensed biologics are safe and effective for their intended uses and that essential information concerning contraindications and warnings is fully disclosed to physicians. Accordingly, the Commissioner has reviewed the recommendations of the Panel regarding Category IIIA products, taking into account the following factors. The Panel stated:

> Justification for placing products in Category IIIA is presumptive evidence of effectiveness and safety. Although not clearly stated, the implication is that such suggestive evidence can be largely derived from the fact that many of the products have been widely used for many years and that although systematic rigorous trials may not have been done, the lack of reported dangerous side effects over a period of many years indicates in itself at least a certain degree of safety. Effectiveness can be looked at in the same way.

The Panel also noted that:

> Claims for safety were based primarily upon the manufacturers' reliance on long marketing experience and infrequent physicians' reports of adverse reactions. This might have been satisfactory had there been some evidence of systematic followup by physicians for the late, and perhaps subtle, adverse effects that might be associated with repeated inoculations. In view of what is known from laboratory studies about the potential risks associated with repeated inoculations of foreign substances, the Panel was left with reservations about the long-term safety of the subject products.

> These products are administered repeatedly and over long periods of time. The medical profession generally recognizes that other therapies are available for the conditions for which these products are used. There is no present assurance that persons treated with these products are being made aware of the potential for risk or of the availability of alternative modes of treatment.

It was for these reasons that the Panel explicitly stated:

> Vaccines and antigens that have been recommended for Category IIIA, i.e., licensure permitted to continue for a limited time while further studies are done, require separate considerations on labeling.
>
> • • • Useful information about safety and effectiveness should be provided directly to patients who receive products continued in use. The package insert or circular used to satisfy the need for consumer information should contain the updated information provided to the prescribing physician. The package insert or circular given to the patient and physician should also state in boldface, at the beginning, that this product is under review by FDA for a limited time since safety and effectiveness have not been substantially established. In particular, it should be noted that adequately controlled human trials have not been done.

Accordingly, the Panel recommended that the labeling "include a patient information insert."

In view of the foregoing, the Commissioner concludes that it is in the public interest to provide users of these particular Category IIIA products with notice of those factors that concerned the Panel.

Therefore, the Commissioner also concludes that a procedure must be developed for providing this information to prospective users of these products. A proposed procedure is now being developed by the agency and will be published in the FEDERAL REGISTER as soon as possible.

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The Commissioner notes, and concurs with the Panel's finding regarding, the specific characteristics of these products which distinguish them from other licensed biologics and from other drugs, and which therefore make it necessary, in the judgment of the Panel and the Commisssioner, to provide information to prospective users. In this respect the Panel stated:

> While all licensed biologics are undergoing reviews for safety, effectiveness, and appropriateness of labeling at this time, the products assigned to this Panel have several characteristics that distinguish them from other categories of vaccines and antigens.

This finding resulted from problems summarized by the Panel as follows:

1. The etiologies and pathogeneses of many conditions treated with "bacterial vaccines and antigens" and the way in which they might prevent or alleviate the pathologic state are not well understood.
2. The causal relationships of the species or strains of vaccine organisms (or derivatives) to the diseases for which they are prescribed are generally unclear.
3. Standards of potency are needed, including precise indentification of the contents of the finished products.
4. Patients treated for many of the recommended conditions represent highly heterogeneous subgroups whose conditions and symptoms are noticeably labile and difficult to characterize objectively. These subpopulations should be defined and identified.
5. Data on the rate and significance of spontaneous remissions in the chronic disorders for which these products are used are not available.
6. The rationale by which the selection of bacterial strains for incorporation in a given product often was either not clear or not stated.
7. The need to include different bacterial strains (and species) into one vehicle was not documented.

It should be noted that the policy to require labeling directed to the patient for certain prescription products as required by specific circumstances is already established and being followed by the agency. (See § 310.501, as amended in the FEDERAL REGISTER of January 31, 1978 (43 FR 4214) for oral contraceptives; § 310.515 (21 CFR 310.515), promulgated by final order published in the FEDERAL REGISTER of July 22, 1977 (42 FR 37636) for estrogenic drugs; and § 310.516 (21 CFR 310.516), promulgated by final order published in the FEDERAL REGISTER of October 13, 1978 (43 FR 47178) for progestational drugs.) The authority to promulgate patient package insert information for drugs, including biological drugs subject to section 351 of the Public Health Service Act, is stated in the preambles of these final orders, as well as in the general labeling proposal published in the FEDERAL REGISTER of April 7, 1975 (40 FR 15392). This authority has been preliminarily upheld by the one court that has reviewed the issue (*Pharmaceutical Manufacturers Association* v. *FDA*, Civ. No. 77-291 (D. Del., October 5, 1977) (order denying preliminary injunction)). For a general explanation of FDA's rulemaking authority, see *National Nutritional Foods Association* v. *Weinberger*, 512 F.2d 688, 695-698 (2d Cir. 1975).

10. Two comments on proposed § 610.19 suggested that the regulation should be redrafted because it now appears to prohibit the use of group A streptococcus organisms under all circumstances.

The Commissioner advises that § 610.19 (21 CFR 610.19) prohibits the interstate marketing of any Bacterial Vaccines and Bacterial Antigens with "No U.S. Standard of Potency" which contain group A streptococcus organisms and their derivatives. However, the regulation does not prohibit the presence of these organisms in bacterial products subject to investigation under the investigational new drug provisions of the law and consistent with 21 CFR Part 312. the Commissioner finds the currently drafted regulation clear and rejects the comment.

The Commissioner considered the comments and other relevant information and concludes that the proposal on the Panel's recommendations concerning the Classification of products into Categories I, II, IIIA, and IIIB should be and is hereby adopted, with changes, as set forth below.

a. Category I—*Biological products determined to be safe and effective and not misbranded that should continue in interstate commerce.* None of the Bacterial Vaccines and Bacterial Antigens with "No U.S. Standard of Potency" was placed into this category.

b. Category II—*Biological products determined to be unsafe or ineffective or to be misbranded that should not continue in interstate commerce.* Product licenses for Category II products were revoked as announced in the FEDERAL REGISTER notice of revocation and reclassification on October 27, 1978 (43 FR 50247).

c. Category IIIA—*Biological products for which available data are insufficient to classify their safety and effectiveness but which may remain in interstate commerce.* Respiratory UBA (UBA-32) manufactured by Eli Lilly and Co., licensed No. 56; Respiratory B.A.C. manufactured by Hoffmann Laboratories, Inc., license No. 283; Staphylococcal B.A.C. manufactured by Hoffmann Laboratories, Inc., license No. 283; Bacterial Vaccines Mixed Respiratory (MRV or MRVI) manufactured by Hollister-Stier, Division of Cutter Laboratories, license No. 8; Bacterial Vaccines for Treatment, Special Mixtures containing only the following organisms—*Staphylococcus* (*aureus* and *albus*), *Streptococcus* (*viridans* and nonhemolytic) *Diplococcus pneumoniae, Neisseria catarrhalis, Klebsiella pneumoniae, Haemophilus influenzae* manufactured by Hollister-Stier, Division of Cutter Laboratories, license No. 8; Staphylococcus Toxoid Sclavo manufactured by Istituto Sieroterapico Vaccinogeno Toscano "Sclavo," license No. 238; Staphylococcus Toxoid; Formalinized: Dilution No. 1, Dilution No. 2; Digest-Modified manufactured by Lederle Laboratories Division, license No. 17; and Staphage Lysate (SPL) Type I and Types I and III combined manufactured by Delmont Labs, Inc., license No. 299. Licenses remain in effect for these products pending conformance with the Panel's recommendations and completion of testing (except that, at the request of Hoffmann Laboratories, Inc., their license to manufacture Respiratory B.A.C. and Staphylococcal B.A.C. was revoked as announced in the October 27, 1978 FEDERAL REGISTER notice of revocation and reclassification).

For products now herein classified in Category IIIA for which license revocations have not been issued at the request of the licensee, manufacturers shall submit, within 30 days following publication of this order, a written statement of those studies which the licensee proposes to undertake to resolve the questions raised about the products. If no such commitment is made or adequate or appropriate studies are not undertaken, the Commissioner shall institute procedings to revoke the license (21 CFR 601.25(h)(1)). Licenses for Category IIIA products will remain in effect pending the conduct of studies as recommended by the Panel and adopted by the Commissioner. Labeling changes recommended by the Panel and now adopted by the Commissioner shall become effective on July 5, 1979. Because data submitted by Delmont Laboratories, Inc., have been found to be adequate to reclassify its staphage lysate types I and II combined, license No. 299, from Category IIIB to IIIA, the requirements concerning completion of testing and labeling apply to these products.

Additional background data and information on which the Commissioner relies in promulgating these regulations are on public display in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201, 502, 505, 701, 52 Stat. 1040-1042 as amended, 1050-1053 as amended, 1055-1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321, 352, 355, 371)), the Public Health Service Act (sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262)), and the Administrative Procedure Act (secs. 4, 10, 60 Stat. 238 and 243 as amended (5 U.S.C. 553, 702, 703, 704)), and under authority delegated to the Commissioner (21 CFR 5.1), Parts 601 and 610 are amended as follows:

1. In Part 601, § 601.25 is amended by revising the heading of paragraph (h) and adding new paragraph (h) (4) and (5) to read as follows:

§ 601.25 Review procedures to determine that licensed biological products are safe, effective, and not misbranded under the prescribed, recommended, or suggested conditions of use.

* * * * *

(h) *Additional studies and labeling.*

* * *

(4) Labeling and promotional material for Bacterial Vaccines and Bacterial Antigens with "No U.S. Standard of Potency" requiring additional studies shall bear a box statement in the following format:

> Based on a review by the Panel on Review of (insert name of appropriate panel) and other information, the Food and Drug Administration has directed that further investigation be conducted before this product is determined to be fully effective for labeled indication(s).

(5) A written informed consent shall be obtained from participants in the requisite additional studies for Bacterial Vaccines and Bacterial Antigens with "No U.S. Standard of Potency" explaining the nature of the product and the investigation. The explanation shall consist of such disclosure and be so made that intelligent and informed consent be given, and that a clear opportunity to refuse is presented.

* * * * *

2. In Part 610, new § 610.19 is added to Subpart B to read as follows:

§ 610.19 Status of specific products; Group A streptococcus.

The presence of Group A streptococcus organisms and derivatives of Group A streptococcus in Bacterial Vaccines and Bacterial Antigens with "No U.S. Standard of Potency" may induce dangerous tissue reactions in humans. Available data demonstrate that they are unsafe as ingredients in products for human use. Group A streptococcus organisms and derivatives of Group A streptococcus are prohibited from Bacterial Vaccines and Bacterial Antigens with "No U.S. Standard of Potency." Any Bacterial Vaccine or Bacterial Antigen with "No U.S. Standard of Potency" containing Group A streptococcus organisms or derivatives of Group A streptococcus in interstate commerce is in violation of section 351 of the Public Health Service Act (42 U.S.C. 262).

* * * * *

EFFECTIVE DATE. This regulation becomes effective January 5, 1979, except that the labeling requirements become effective July 5, 1979.

(Secs. 201, 502, 505, 701, 52 Stat. 1040-1042 as amended, 1050-1053 as amended, 1055-1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321, 352, 355, 371); sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262); secs. 4, 10, 60 Stat. 238 and 242 as amended (5 U.S.C. 553, 702, 703, 704).)

Dated: December 22, 1978.

DONALD KENNEDY,
Commissioner of Food and Drugs.

[FR Doc. 79-227 Filed 1-4-79; 8:45 am]

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FRIDAY, JANUARY 5, 1979
PART IV



DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

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IMPORTATION OF PET BIRDS

Proposed Restrictions

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[3410-34-M]

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[9 CFR Part 92]

PROPOSED RESTRICTIONS ON IMPORTATION OF PET BIRDS

AGENCY: Animal and Plant Inspection Health Service, USDA.

ACTION: Proposed Rule.

SUMMARY: This document proposes to amend the regulations concerning the importation of pet birds into the United States and gives notice requiring importers to reimburse Veterinary Services for all costs incurred which are associated with the importation of such birds. The present regulations are very difficult to administer and certain deficiencies have been found that should be corrected to adequately protect poultry in the United States from the introduction and spread of exotic Newcastle disease. Additionally, the need exists for Veterinary Services to recover costs associated with providing services required by this activity. The intended effect of the proposal would be to revise the manner in which pet birds are imported into the United States sufficient to prevent the undue risk of spread of disease, and to provide for the recovery of costs incurred by Veterinary Services in providing services required by the importer which are associated with the importation of such birds.

DATE: Comments on or before March 6, 1979.

ADDRESS: Written comments to Deputy Administrator, USDA, APHIS, VS, Room 817, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

FOR FURTHER INFORMATION CONTACT:

Dr. George P. Pierson, USDA, APHIS, VS, Import-Export Staff, Room 817, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8170.

SUPPLEMENTARY INFORMATION: Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553, that, pursuant to section 2 of the Act of February 2, 1903, as amended; and sections 2, 3, 4, and 11, of the Act of July 2, 1962 (21 U.S.C. 101-105, 111, 134a, 134b, 134c, and 134f), the Animal and Plant Health Inspection Service is considering amending Part 92, Title 9, Code of Federal Regulations.

In accordance with the provisions of 9 CFR Part 92, pet birds, intended for the personal pleasure of their individual owner and not for resale, can enter the United States upon inspection at specified ports of entry, where a determination of freedom from poultry diseases is made. Further, the pet birds must be accompanied by a declaration signed by the owner that the bird or birds were in his possession for a minimum of 90 days preceding importation and were not in contact with poultry or other birds during that period. In addition, at the time of entry, the owner is required to sign an agreement stating that the birds will be maintained in confinement in his or her personal possession separate and apart from all poultry and other birds for a minimum period of 30 days following importation at a place approved by the Deputy Administrator; that such birds will be made available for health inspection and testing by Department inspectors upon request until released at the end of such period; and that appropriate Federal officials in the State of destination will be immediately notified if any of the birds die or signs of disease are noted in any of the birds during that period.

Procedures as outlined have been most difficult to administer and certain deficiencies have been noted which should be corrected in order to protect poultry of the United States against the threat of the introduction and spread of exotic Newcastle disease via this source.

Chief among these deficiencies are the inability to adequately control the time and place of arrival of these birds in the United States, and the lack of adequate control over such birds once they have been released to the owner under the agreement for completion of the 30-day confinement and health inspection period. Since an import permit is not required for pet birds, the Department is not notified of the importation until the birds have arrived at a port of entry for inspection. Therefore, Department personnel may not be available to handle such shipments at the time the birds are presented for entry. Further, the owner may be inconvenienced by having to return at a later date to complete the entry procedure for his birds. These problems would be solved in this proposal by requiring advance reservation for quarantine space for importation of such birds with the owner providing the anticipated time and place of arrival with the request for space. This should facilitate the efficient inspection and handling of such shipments.

The lack of adequate control over such birds following their inspection and release at the port of entry under agreement creates a serious and potentially dangerous problem. Certain of the agreements have been falsely executed, containing fictitious names and addresses of owners. Further, other importers have sold the birds during the 30-day inspection and testing period and have reported their accidental escape when requested to present them for health inspection by Department inspectors. Still others have reported that the birds died during the holding period, but only after having been contacted by State or Federal officials and not on their own accord as the agreement intended.

During fiscal year 1976, more than 800 birds were refused entry, and a majority were subsequently destroyed. For fiscal year 1977 this figure increased to more than 2,000 birds which were refused entry. Most of these birds were refused entry because of their failure to qualify as personally owned pet birds. It should also be noted that, unlike birds classified as poultry, pet birds are not required to undergo a 30-day quarantine period, but are only required to be held on the premises of destination for 30 days following entry.

The proposed requirement for an advanced reservation for space at a quarantine facility should decrease the number of birds required to be destroyed by making importers more aware of entry requirements and insuring that certain pre-entry requirements can be met before such birds are presented for entry in to the United States. By requiring pet birds to be quarantined and inspected or 30 days before release, it would appear that the chance of introducing disease through this source would be further diminished. Also, transporting airlines would be advised of requirements for entry and encouraged not to accept birds for shipment in the country of origin which do not meet the requirement for entry into the United States.

The quarantine facilities would be operated by the U.S. Department of Agriculture, as the privately owned and operated facilities handle their own commercial shipments of birds. The private facilities are operated on an "all-in", "all-out" basis to prevent the release of any bird exposed to exotic Newcastle disease. This makes it difficult, if not impossible, to handle multiple shipments, especially when the shipments consist of one or two birds. By using isolation units developed by the U.S. Department of Agriculture, small, multiple shipments of birds could be handled other than on an "all-in", "all-out" basis without risking the spread of disease from one group of birds to another.

Cloacal samples from live birds and tissue samples from dead birds would be collected during the quarantine and submitted to the National Veterinary Services Laboratories for virus isolation studies to ascertain that the birds are free of exotic Newcastle disease. However, test specimens may be taken to determine the presence of any other communicable disease, if the

Deputy Administrator or his delegatee determines that there is reason to believe that the bird may have any other communicable disease.

The importer would pay for services rendered at the USDA-operated quarantine facilities. A fee schedule for such services would be established and would be obtainable from the Deputy Administrator, USDA, Veterinary Services, APHIS, Federal Building, Room 817, 6505 Belcrest Road, Hyattsville, Maryland 20782.

The charge for services would involve costs for initial entry service, required inspection service, services for feed, care and handling during quarantine, shipping charges for forwarding diagnostic specimen collected to the laboratory for examination, and laboratory costs incurred by the Department. The initial entry service costs would include travel to and from port and/or quarantine station, meeting birds at the port of entry, escorting birds to the quarantine facility, and inspecting birds upon arrival.

Required inspection service costs would include inspection of birds for evidence of disease, swabbing of live birds, the post mortem examination of dead birds, sample preparation, preparation of reports and supervision of cleaning and disinfection of the isolation unit after the release of birds. The charge would be made on a per-bird basis and to cover the entire quarantine and inspection period, including the cost of care, feed, and handling.

It was necessary to project certain costs to arrive at a fee schedule since actual costs for this type activity are not available. Some information was extracted from the present bird import program and was combined with appropriate projections to arrive at a reasonable and equitable fee schedule.

These projections were based on the assumption that the average rate of occupancy in quarantine facilities would be 80 percent, and that 3,700 lots consisting of 5,550 birds would be handled annually.

Hourly employee costs were calculated using the average hourly costs for each category of employee, i.e., veterinary medical officer, animal health technician, and bioaid. Using this average, the projected cost for labor at each facility would be $21,019 annually.

The cost estimate for processing laboratory samples was based on data taken from the actual cost of operating the section of the National Veterinary Services Laboratories concerned with tests for VVND. The total cost of testing specimens for VVND was averaged by the number of specimens tested during Fiscal Year 1977. Cost of shipping specimens is included in the total cost. The average laboratory cost for each facility was projected to be $10,290 annually.

The average annual cost of utilities at each facility was projected to be $2,454 and the average estimated cost of supplies was projected to be $1,168 each year.

Feed cost for each bird will vary but was projected to average at least $5.00 per bird for the entire quarantine period. The average annual cost for feed at each facility is projected to be $2,380.

Using all the above data, a total annual cost of $336,000 would be required for the operation of pet bird quarantine facilities. By assuming that one-half of the lots imported will be comprised of one bird and the other one-half of the lots will contain two birds, an average cost of $80.67 for one bird and $101.40 for two birds when housed together was calculated. Because all costs were estimated, the rates were rounded to $80 for one bird and $100 for two birds when housed together.

The above cost projections include an overhead factor of 16.85 percent, the percentage of Animal and Plant Health Inspection Service's Fiscal Year 1977 funds used for overhead. The overhead includes all administration costs such as regional and area offices, headquarters staff, Office of the Deputy Administrator and Administrator and all support functions such as budget and personnel operations.

In addition to the projected charge for services of $80 for one bird or $100 for two birds, for which the importer would reimburse Veterinary Services, the importer may have other expense at the time of entry. Such expense will vary from port to port, depending upon the distance the birds must be transported from the port to the quarantine facility, the availability of the importer at the time of entry and release of the bird or birds, and the ability of the importer to make an informal customs entry. Such costs are estimated to be an average of $50 for trucking and brokerage service respectively.

The proposed regulations would also specify the ports at which pet birds may be imported into the United States.

In Fiscal Year 1977, more than 49 percent of all lots of pet birds were offered for entry at the three ports of entry (New York, New York; Miami, Florida; and Honolulu, Hawaii) where the Department operates quarantine facilities. An additional 22 percent of the lots was offered for entry at ports where proposed USDA-operated facilities would be available. Therefore, approximately 71 percent of all pet birds offered for entry in fiscal year 1977 would have been offered at ports designated as quarantine stations under § 92.3(e) of the regulations as proposed herein. The remaining approximate 29 percent not offered at the designated ports would have to be refused entry or transported to ports with such facilities. Section 92.3(3)(iii) would provide that pet birds may be transported at the owner's expense to a port of entry designated in § 92.3 if available quarantine space exists, if the $40 reservation fee is paid by the importer and if shipments are made under conditions deemed sufficient by the Deputy Administrator to prevent the spread of communicable diseases of poultry.

It is proposed that a new § 92.2(c)(1) be added to allow pet birds from Canada and pet birds which have not been out of the United States for longer than 60 days to be permitted entry at any port specified in § 92.3. As explained subsequently in this supplementary information, it is proposed that such pet birds will not be required to be quarantined. Therefore, the entry of such pet birds would not have to be restricted to ports where pet bird quarantine facilities are maintained.

Adoption of this proposal should result in conservation of personpower and funds since the necessity for field inspection would be eliminated. A conservative estimate of personpower saved would be four person-years.

We believe that requiring an advance reservation for space prior to shipment of all pet birds from the country of origin, together with a health certificate issued by a national government veterinarian of the country of export and the subsequent 30-day quarantine will make importers more aware of the requirements for entry of pet birds and will result in improved compliance with entry requirements and a reduced likelihood of the introduction or dissemination of animal disease into the United States.

The information required on the health certificate should help insure that the bird is not diseased and that it is eligible for entry into the United States. The certifying official would also certify that the bird is being exported in accordance with the laws and regulations of the country of export. Such information should help insure that the Department is not assisting an importer in violating the laws of the country of export. Further, this should aid the Department of Interior in enforcing the Endangered Species Act and the Convention on International Trade in Endangered Species of Wild Fauna and Flora. Such action would also appear consistent with the provisions of § 7 of the Endangered Species Act.

The regulations would also provide that no more than two pet birds per family can be imported pursuant to the pet bird provisions, except for non-

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psittacine pet birds from Canada. This is proposed in order to bring the Department's regulations into correlation with the U.S. Public Health Service's regulation which has a similar limitation on the number of psittacine birds which may be imported into the United States. Those individuals who have more than two birds to offer for entry per calendar year may follow the provisions in the regulations for importing a commercial shipment of birds.

Since Public Health Service's regulations only restrict the entry of psittacine birds, the proposed regulations would authorize the Deputy Administrator to permit a family to import more than two non-psittacine pet birds from Canada when he determines that such importation does not constitute an undue risk of introducing or disseminating any communicable disease of poultry. Canada has adopted effective animal disease eradication and control programs similar to the United States and therefore, it appears that more than two non-psittacine pet birds should be able to be imported into the United States without undue risk of the introduction of disease.

The regulations would also be amended to provide that health certificates be translated into English at the importer's expense. English documents are needed to facilitate the importation of the birds and since generally the United States taxpayer does not derive a benefit from the importation, the importer, who derives a benefit, should be responsible for the translation of foreign certificates into English.

An advance reservation fee would be required to provide a means for the importers of such birds to guarantee themselves space for handling their birds. Since there are a limited number of available quarantine spaces, those persons with reservations will be accommodated first. In those cases where the importer has no reservation the regulations provide that his shipment may be handled if space is available and the reservation fee is paid at that time. A $40 reservation fee would be required because this represents the minimum fee for a 30-day quarantine period at a quarantine facility operated by the Department.

As noted previously, a lot consisting of no more than two pet birds which originated in the United States and have not been outside of the country for more than 60 days and pet birds from Canada would be the only pet birds allowed entry under the provisions of the proposed regulations without quarantine. As stated above, Canada has adopted effective animal disease eradication and control programs similar to the United States and, therefore, additional requirements for pet birds from Canada should not be necessary.

Further, pet birds which have not been out of the United States for an extended period of time should constitute a less significant threat to spread disease upon return to the United States because a presumption exists that the birds were not diseased when they left the United States. In view of the short time they are out of the country, it appears reasonable to believe that there is less likelihood that the birds came in contact with diseased birds while outside the country. Pet birds generally do not come in contact with other avian species while outside the United States. A 60-day time period is proposed because this should provide the pet bird owner the ability to travel abroad and return to the United States without too many restrictions and yet afford sufficient protection to the United States to prevent the introduction of communicable diseases. However, in order to insure that the birds have not been out of the United States for a period exceeding 60 days, the returning birds would be accompanied by the United States veterinary health certificate issued prior to departure of the birds from the United States. The certificate would show the tattoo number or leg band number affixed to the bird in order to help insure that the birds covered by the certificate are the birds being offered for re-entry.

This proposed rulemaking would also revise § 92.4(b) of the regulations to extend the time during which permits are valid for the importation of commerical, zoological and research birds from 14 to 30 days and performing or theatrical birds from 14 to 90 days. These changes were previously published on August 11, 1975 (40 FR 33649). However, in subsequent amendments to § 92.4(b) these changes were inadvertently omitted from the amended section. The extension of time for performing or theatrical bird permits was made in order to allow flexibility which is required and is justified by the manner in which birds and poultry of this type are handled and maintained. The extension of time was made for permits issued for commercial, zoological and research birds to allow importers greater flexibility in meeting international shipping schedules and restrictions.

Further, the proposed regulations would also amend § 92.2(a) to authorize the Deputy Administrator upon request in specific cases to permit birds to be brought into or through the United States under such conditions as he may prescribe, when he determines in the specific case that such action will not endanger the livestock or poultry of the United States. Situations have arisen, particularly with respect to pet birds, where birds presented for entry into the United States have not strictly complied with all the requirements for importation, for example, where the bird becomes separated from the documents required to accompany the bird. Under the present regulations such birds must be refused entry. The proposed amendment would provide some relief to the importer, especially a tourist who may not be familiar with the Department's regulations. Such entry, however, will only be granted if the Deputy Administrator determines that conditions adequate to prevent the introduction of communicable disease can be established.

Accordingly, Part 92, Title 9, Code of Federal Regulations, would be amended in the following respects:

1. In § 92.2, that portion of paragraph (a) following the colon would be amended to read:

Provided, That, the Deputy Administrator may upon request in specific cases permit animals or products or birds to be brought into or through the United States under such conditions as he may prescribe, when he determines in the specific case that such action will not endanger the livestock or poultry of the United States.

2. In § 92.2, the phrase "or pet birds" would be added after the phrase "research birds" in the first sentence of paragraph (f) and paragraph (c) would be amended to read:

§ 92.2 General prohibitions; exceptions.

* * * * *

(c)(1) A lot consisting of no more than two pet birds per family offered for entry from Canada and which are not known to be affected with or exposed to any communicable disease of poultry, which are caged (prior to release from the port of entry) and which are personal pets, may be imported by the owner thereof at any port of entry designated § 92.3: *Provided, That*, such birds are found upon port of entry veterinary inspection under § 92.8 to be free of poultry diseases and at the time of entry the owner signs and furnishes to the Deputy Administrator, Veterinary Services, a statement stating that the bird or birds have been in his possession for a minimum of 90 days preceding the date of importation and that during such time such birds have not been in contact with poultry or other birds (for example, association with other avian species at exhibitions or in aviaries). *And provided further*, That the Deputy Administrator, Veterinary Services, may upon request in specific cases, permit the importation in accordance with the conditions prescribed in this paragraph of more than two non-psittacine birds that are personal pets, when he determines in the specific case that such importation will not involve a risk of introduction or spread of any communicable disease of poultry.

(2) A lot consisting of no more than two pet birds per family which originated in the United States and have not been outside the country for more than 60 days may be offered for entry under the provisions of § 92.2(c)(1): *Provided*, that, such birds are also accompanied by a United States veterinary health certificate issued prior to the departure of the birds from the United States and the certificate shows the leg band or tattoo number affixed to the birds prior to departure, and *Provided further*, That during port of entry veterinary inspection, it is determined that the leg band or tattoo on the bird is the same as the one listed on the health certificate. Lots of pet birds of United States origin which have been outside the United States for more than 60 days or which do not otherwise meet the requirements of paragraphs (c)(1) or (c)(2) of this section may be offered for entry under the provisions of paragraph (c)(3) of this section.

(3) A lot consisting of no more than two pet birds which are not known to be affected with or exposed to communicable diseases of poultry may be offered for entry at one of the ports of entry designated in § 92.3(e) under the following conditions:

(i) No more than two such birds per family per year are offered for entry under this pet bird exception.

(ii) The pet birds shall be accompanied by a veterinary health certificate issued by a national government veterinary officer of the country of export stating that he personally inspected the birds listed on the health certificate and found them to be free of evidence of Newcastle disease, ornithosis, and other communicable diseases of poultry, and that the birds were being exported in compliance with the laws and regulations of the country of export. Certificates in a foreign language must be translated into English at the expense of the importer.

(iii) An advanced reservation fee as required by § 92.4(a)(4) and a request for space which has been confirmed in writing, at a USDA-operated quarantine facility shall be made with the port veterinarian[3] at the port where the birds are to be held for a minimum 30-day isolation in a biological secure unit separate and apart from all other avian species, except, that birds arriving without an advanced reservation may be handled if an isolation unit is available, provided the reservation fee as required in § 92.4(a)(4) is paid.

Pet birds offered for entry at a port of entry that has not been designated as provided, in § 92.3, or pet birds arriving without an advanced reservation at a port of entry designated in § 92.3 but at which isolation units are not available, shall be refused entry at such port. However, such pet birds may be transported at the owner's expense to another port of entry designated in § 92.3 if available quarantine space exists, if the $40 reservation fee is paid by the importer and the birds shipped are to such other port under conditions deemed sufficient by the Deputy Administrator to prevent the spread of communicable diseases of poultry.

(iv) During the isolation period, the birds shall be subjected to such tests and procedures as required by the Deputy Administrator to determine whether the birds are free from communicable diseases of poultry.

(v) Following the isolation period, if the birds are found to be free of communicable disease of poultry, the port veterinarian shall issue an agriculture release for entry through U.S. Customs. If the birds are found during port of entry inspection or during quarantine to be infected with or exposed to a communicable disease of poultry, such birds shall be refused entry and handled in accordance with § 92.11(e) of this part.

(vi) The owner of the birds is responsible for all costs which result from these procedures and shall reimburse Veterinary Services for governmental expenses in accordance with § 92.12(b) and (c) of this part.

* * * * *

3. In § 92.3, paragraphs (e) and (f) would be relettered (f) and (g) respectively, and a new paragraph (e) would be added to read:

§ 92.3 Ports designated for the importation of animals.

* * * * *

(e) *Special ports for pet birds.* New York, New York; Miami, Florida; Brownsville, Laredo, and El Paso, Texas; Nogales, Arizona; San Ysidro and Los Angeles, California; and Honolulu, Hawaii, are designated as ports of entry for pet birds imported under the provisions of § 92.2(c)(3).

4. In § 92.4, the section heading, the first sentence of paragraph (a)(1), that portion of paragraph (a)(3) preceding the colon, the first sentence of paragraph (a)(4), and the third and fourth sentences of paragraph (b) would be amended to read:

§ 92.4 Import permits for ruminants, swine, horses from countries affected with CEM, poultry, poultry semen, animal semen, birds, and for animal specimens for diagnostic purposes, and special permits for cattle entering Harry S. Truman Animal Import Center.

(a) *Application for permit; reservation required.* (1) For ruminants, swine, horses from countries listed in § 92.2(i)(1) of the regulations, poultry, poultry semen, animal semen, pet birds, commercial birds, research birds, zoological birds, and performing or theatrical birds and animal test specimens for diagnostic screening purposes, intended for importation from any part of the world, except as otherwise provided for in §§ 92.2(b) and (c), 92.19, 92.27, and 92.31, the importer shall first apply for and obtain from Veterinary Services an import permit. * * *

* * * * *

(3) An application for permit to import ruminants, swine, horses from countries listed in § 92.2(i)(1) of the regulations, poultry, poultry semen, animal semen, pet birds, commercial birds, research birds, zoological birds, and performing or theatrical birds, may also be denied because of: * * *

* * * * *

(4) For each lot of poultry or birds which are to be quarantined in facilities maintained by Veterinary Services, a reservation fee of $40 shall be paid by the importer or his agent at the time the permit or reservation for quarantine space is applied for. * * *

(b) *Permit.* * * * Animals and animal semen and animal test specimens for diagnostic screening purposes for animals intended for importation into the United States for which a permit has been issued, will be received at the specified port of entry within the time prescribed in the permit which shall not exceed 14 days from the first day that the permit is effective for all permits, except that the time prescribed in permits for the importation of pet birds, commercial birds, zoological birds, poultry, or research birds, shall not exceed 30 days, and for performing or theatrical birds or poultry shall not exceed 90 days.

Ruminants, swine, horses from countries listed in § 92.2(i)(1) of the regulations, poultry, poultry semen, animal semen, animal test specimens, and birds for which a permit is required by these regulations will not be eligible for entry if a permit has not been issued; if unaccompanied by such a permit; if shipment is from any port other then the one designated in the permit; if arrival in the United States is at any port other than the one des-

[3] The names and addresses of the port veterinarians, as well as a fee schedule for quarantine charges, are available from the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Hyattsville, Maryland 20782.

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ignated in the permit; if the animals (including poultry and birds) or animal semen, or animal test specimens offered for entry differ from those described in the permit; if the animals or animal semen, or animal test specimens are not handled as outlined in the application for the permit and as specified in the permit issued; or in the case of ruminants and swine, if ruminants or swine other than those covered by import permits are aboard the transporting carrier.

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§ 92.5 [Amended]

5. In § 92.5, the section heading would be amended to insert, "pet birds," between poultry and commercial birds, and the first sentence of paragraph (c) would be amended to add "pet birds, except as provided for in paragraphs 92.2 (b) and (c)", between the words All and commercial.

6. In § 92.8, a new paragraph (c) would be added to read:

§ 92.8 Inspection at the port of entry.

• • • • •

(c) All pet birds imported from any part of the world, except pet birds from Canada and pet birds meeting the provisions of § 92.2(c)(2), shall be subjected to inspection at the Customs port of entry by a veterinary inspector of Veterinary Services and such birds shall be permitted entry only at the ports listed in § 92.3(e). Pet birds of Canadian origin and those birds meeting the provisions of § 92.2(c)(2) shall be subject to veterinary inspection at any of the ports of entry listed in § 92.3.

§ 92.11 [Amended]

7. In § 92.11, in paragraph (e) the phrase "pet birds, except as provided in § 92.2(c)," would be inserted before the words "commercial birds,".

All written submissions made pursuant to this notice will be made available for public inspection at the Federal Building, Room 821, 6505 Belcrest Road, Hyattsville, Maryland during regular hours of business (8:00 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

Comments submitted should bear a reference to the date and page number of this issue in the FEDERAL REGISTER.

Done at Washington, D.C., this 28th day of December 1978.

NOTE.—This proposal has been reviewed under the USDA criteria established to implement E.O. 12044, "Improving Government Regulations." While this action has not been designated "significant" under those criteria, an approved Draft Impact Analysis Statement has been prepared and is available from the Program Services Staff, Room 870, Federal Building, 6505 Belcrest Road, Hyattsville, Maryland 20782. 301-436-8695.

M. T. GOFF,
Acting Deputy Administrator,
Veterinary Services.

[FR Doc. 79-286 Filed 1-4-79; 8:45 am]

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federal register

FRIDAY, JANUARY 5, 1979
PART V



DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

HORSE PROTECTION REGULATIONS

Definition of Terms and Certification and Licensing of Designated Qualified Persons

[3410-34-M]

Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER A—ANIMAL WELFARE

PART 11—HORSE PROTECTION

Definition of Terms and Certification and Licensing of Designated Qualified Persons

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final Rule.

SUMMARY: The Horse Protection Act of 1970 was amended on July 13, 1976. Pursuant to the amended Act, this document amends the "Definitions" section of the regulations promulgated under the Act of 1970, and adds a new section to the regulations entitled "Certification and Licensing of Designated Qualified Persons (DQP's)." Additional amendments to the regulations will be published in the very near future. This partial amendment is being published while the balance of the new regulations are still being prepared so that the regulated industry may have sufficient time to prepare for the next show season which starts in February 1979.

DATE: Effective date January 5, 1979.

FOR FURTHER INFORMATION CONTACT:

Dr. Dale F. Schwindaman, Senior Staff Veterinarian, Animal Care Staff, Veterinary Services, Animal and Plant Health Inspection Service, United States Department of Agriculture, Room 703, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8271.

SUPPLEMENTARY INFORMATION: On April 28, 1978, this Department published a notice of proposed rulemaking containing changes and additions to Part 11 of Subchapter A, Chapter I, Title 9 of the Code of Federal Regulations (43 FR 18514-18531). The proposed rulemaking included, among other things, provisions that: (1) certain prohibitions be established concerning the sale of horses at horse sales or auctions in addition to current prohibitions concerning the showing and exhibiting of horses; (2) procedures be established for the detention and inspection of horses; (3) procedures and requirements be established for Designated Qualified Persons (DQP's) to inspect horses for compliance with the Act; (4) procedures be established for the certification of horse industry DQP programs; and (5) requirements be established regarding space and facilities for inspection of horses required to be supplied by management of horse shows or exhibitions and horse sales or auctions. Proposals for new and revised definitions and other pertinent revisions relative to recordkeeping and other requirements also appeared in the notice of proposed rulemaking.

A total of 47 comments were received within the comment period in response to the proposed rulemaking. Although this is a relatively small number, many of the comments were from horse industry organizations and associations which represent several million individual members and constitutent organizations such as the American Horse Council, the United Professional Horseman's Association, Inc., the American Quarter Horse Association, the American Paint Horse Association, the American Horse Shows Association, Inc., the Appaloosa Horse Club, Inc., the American Saddle Horse Breeders Association, the Tri-State Horsemen's Association, Inc., the Tennessee Walking Horse National Celebration, the Tennessee Walking Horse Breeders and Exhibitors Association, the Walking Horse Owners of America Association, and the Walking Horse Trainers Association, Inc.

Comments were also received from private citizens, Department employees, and from humane agencies, such as the Humane Society of the United States, the Society for Animal Protective Legislation, and the American Horse Protection Association, Inc.

Many of the comments raised questions or made suggestions which, because of their validity, warranted some changes of the proposed standards. Certain editorial changes were also made for purposes of clarification. Because of the lengthy amount of time that will be required to incorporate suggested changes and comments into the proposed regulations for final rulemaking, the Department has decided to publish Sections 11.1 and 11.7 of the proposed regulations ("Definitions" and "Certification and Licensing of Designated Qualified Persons (DQP's)") as final rulemaking at this time. The remaining parts of the proposed regulations will be published as final rulemaking at a later date. The decision to publish Sections 11.1 and 11.7 as final rulemaking at this time was made so that the horse industry organizations and associations concerned would have sufficient time to study the requirements and to establish their DQP programs in time for the next horse show season. If final rulemaking were delayed until all comments received were considered, it is very likely that there would be insufficient time in which to establish such programs for certification by the Department before the next horse show season begins in February 1979.

Discussion of Comments

DEFINITIONS

The proposed rulemaking contained a definition for the "Area Veterinarian in Charge," which is specifically limited to a veterinarian assigned to supervise Veterinary Services programs in a specific State or States which have been designated as an "Area." In order to create greater flexibility in the event of possible future redesignations and changes within the Veterinary Services organization, the Department has decided to eliminate the word "Area" from the definition and to define the term "Veterinarian in Charge" instead (see § 11.1(g)).

Several comments were critical of the definition of "Horse Show" and "Horse Exhibition" for excepting such events as rodeos, parades, trail rides and races, or similar events, where speed is the prime factor. The intent of the Department in defining these terms was to separate those events where the primary purpose is to show or exhibit a horse or horses from those events where speed and endurance of a horse over a measured distance is the primary purpose. Furthermore, the Department finds that any practice which alters the gait of a horse for the purposes of enhancing its ability to compete in a show or exhibition would have the opposite effect in events where speed and endurance determines the winner. Therefore, the Department finds no basis to include rodeos, parades, trail rides, or races in § 11.1(m) or § 11.1(n).

The American Horse Council suggested that the use of the term "animated gaits" be included to restrict the kind of horses affected by the definition of "Horse," "Horse Show," "Horse Exhibition," "Horse Sale," or "Horse Auction." Since the proposed regulations did not include a definition for "animated gaits," the Department is of the opinion that the inclusion of such a restrictive term in this final rulemaking without having first given all interested persons an opportunity to comment would not satisfy the intent or the provisions of Administrative Procedure Act regarding public participation in rulemaking. The Department believes that the inclusion of the term "animated gaits" in the definitions would be of such significance to the kinds and numbers of persons affected and regulated that it would be necessary to publish such inclusion as a proposal in order to elicit responses and comments prior to final rulemaking. The Department also needs additional time to evaluate this suggestion. Therefore, the possible incorporation of the term "animated gaits" in the regulations is being taken

under consideration by the Department and may be incorporated in future rulemaking.

The Department proposed a definition for "Action Device," to mean "any boot, collar, chain, roller, or other device which encircles or is placed upon the lower extremity of the leg of a horse." Several comments criticized this definition since it could include fixed protective devices such as heel boots, skid or sliding boots, hinged quarter boots, and other similar fixed devices. The Department recognizes the validity of such comments, since devices which are fixed are not considered capable of a rotating or sliding action resulting in friction or impact on the hoof, coronet band, or pastern area of the horse. Therefore, a qualifying statement regarding fixed protective devices has been included in the definition of "Action Device."

Several comments expressed concern that Department employees, during the procedure of inspecting horses at horse shows or exhibitions and horse sales or auctions, would be authorized to require the removal of shoes and pads from horses and cited the possible problems associated with the removal of the shoes and pads and the subsequent required reshoeing. The Department would point out that the authority to require the removal of shoes, pads, or any other equipment has been a part of the Horse Protection regulations since their inception and that Department employees have utilized this authority with discretion and for good reasons. The Department believes that there will continue to be situations wherein removal of shoes and pads will be the most appropriate inspection method to determine if a horse is sore. Therefore, the reference to removal of shoes and pads found in the definition of the term "Inspection" will remain. The comments further indicated that the Department should allow the owner or custodian of the horse, which is to have its shoes and pads removed, to select the person who removes such shoes and pads. Other comments also indicated a need to have an 8-hour holding period following the determination to remove shoes and pads before actual removal could be initiated. Long delays, intended or unintended, could result if the horse's owner or custodian demanded that the services of a person located miles away be utilized to perform the required removal of shoes, pads, and other equipment. The Department believes that persons who are qualified to perform the removal of shoes and pads are readily available during horse shows or exhibitions and horse sales or auctions. Therefore, the Department will not incorporate language in the regulations concerning the selection of persons who are to remove shoes or pads. The Department also finds no basis to delay the removal of shoes, pads, or other equipment from a horse for 8 hours before an inspection can be completed since the purpose of the inspection is to determine if a horse is sore at a point in time relative to either its impending exhibition or sale or to its having completed exhibition or sale. It is determined that such delays would place undue restrictions on the Department's inspection procedures which could be used to vitiate the purpose of the Horse Protection Act, and are therefore not warranted.

One horse industry association indicated that the Department should pay for the removal of shoes, pads, and other equipment which Department inspectors may require to be removed and should pay for the replacement of such equipment. This cannot be done since the Department finds that the law makes no specific provision for the government to bear the expense incurred by any owner when presenting an animal to Department personnel for inspection to determine compliance with the requirements of the law.

The Department proposed that the definition for "Sponsoring Organization" shall mean "any person under whose auspices a horse show, horse exhibition, horse sale or horse auction is conducted." Several comments indicated that the proposed definition is vague and too broad in its scope, particularly since it could include horse industry organizations or associations which affiliate with certain horse shows and exhibitions or horse sales and auctions. In order to clarify this definition, and to limit it in its scope, the Department is redefining "Sponsoring Organization" to mean any person under whose immediate auspices and responsibility a horse show, horse exhibition, horse sale or horse auction is conducted.

Some comments expressed concern over the all-encompassing definition of the term "Exhibitor." There was particular concern over the possible legal liabilities of parties involved in lease-purchase agreements. The Department feels that such definition is necessary to properly identify the responsible parties involved in the showing or selling of a horse.

Several of the comments also objected to the use of the wording "• • • to inspect horses to detect and diagnose soring • • •," in proposed §§ 11.1(v) and 11.7(a), with reference to DQP's who are not Doctors of Veterinary Medicine and should, therefore, not be medically qualified to diagnose a sore horse. However, it is the Department's opinion that a non-veterinarian DQP who is properly certified in accordance with § 11.7 of the regulations should be fully qualified to detect and determine whether a horse is sore, as that term is defined by the Act. As for the particular language of the proposed regulations which was objected to, it was taken directly from the Act.

As proposed, the definition of "Horse Industry Organization or Association" means an organized group of people engaged in any way with the showing, exhibiting, sale, auction, registry, or promotion of horses. One comment criticized this proposed definition as vague and nonspecific in its meaning. One common dictionary definition of association is "an organization of people with a common purpose and having a formal structure." The Department meant to cover this type of organization when promulgating the regulations. Therefore, for the sake of clarity, the term "formal structure" will be added to the proposed definition, and the resulting meaning of "Horse Industry Organization or Association" should be sufficient for the purposes of these regulations.

Horse industry representatives were critical of the proposed definitions of "Lubricant" which restricts the substances that are indicated as lubricants, i.e., "mineral oil, glycerine or petrolatum, or mixtures exclusively thereof." These industry representatives desired that the definition of the term "lubricant" be expanded to include other lubricating substances as well as therapeutic agents or cosmetic grooming aids. It is recognized however, that dyes and other grooming aids would aid in camouflaging signs of scarring or even soring. These substances, as well as lubricants, can act as vehicles for soring agents. The Department is thus limiting the permitted kinds of lubricating agents to those which are clear and transparent; are relatively inexpensive, and readily available; and are controlled by management. Such limitations provide a fair and equitable method for the use of lubricants by all entries in a horse show or exhibition and horse sale or auction. To allow additional substances to be used for lubricating purposes would create problems of control and would consequently enhance the opportunity for unscrupulous persons to utilize soring chemicals. However, the Department has provided in the proposed regulations that other chemicals or substances may be applied, injected, or otherwise used in the therapeutic treatment of a horse by or under the supervisions of a person licensed to practice veterinary medicine in the State in which such treatment is administered.

With respect to the definition of "sore" when used to describe a horse, there were several comments objecting to the term "can reasonably be expected to suffer, physical pain or distress, inflamation, or lameness when walk-

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ing, trotting, or otherwise moving" as being vague. Further, one comment desired to delete the word "trotting" from the definition of "sore." The Department has adopted the language used in the Horse Protection Act Amendments of 1976 to define "sore" when used to describe a horse and is of the opinion that, within the context of its usage in the regulations, the term is sufficiently clear so as to be understandable and enforceable.

DESIGNATED QUALIFED PERSONS

Section 4 of the Horse Protection Act as amended (15 U.S.C. 1823) states that the Secretary shall prescribe by regulation requirements for the appointment by the management of any horse show, horse exhibition, or horse sale or auction of persons qualified to detect and diagnose a horse which is sore or to otherwise inspect horses for the purposes of enforcing the Act. The intent of Congress and the purpose of this provision is to encourage horse industry self-regulatory activity and to allow the management of any horse show, horse exhibition, horse sale, or horse auction to have the benefit of certain limits upon its liability under the Act if it employs any such qualified persons, hereinafter referred to as designated qualified persons or DQP's, to detect and diagnose soring and to otherwise inspect horses for the purpose of enforcing the Act.

Many of the comments received objected to the DQP's being appointed by the management of horse shows, horse exhibitions, horse sales, and horse auctions, and stated that such DQP's should be appointed by the licensing organization or association. This appears to be a reasonable and sensible suggestion. However, Section 4(c) of the Act states that, "The Secretary shall prescribe by regulation requirements for the appointment *by the management* * * *." The Department must therefore abide by the wording of the Act. Such wording does not prevent any licensing organization or association from establishing a policy of appointing DQP's when the services of such DQP's are requested by the management of any horse show, horse exhibition, horse sale, or horse auction. The Department anticipates that horse industry organizations or associations with a certified DQP program may initiate such a policy under these regulations.

One comment indicated that the status of Doctors of Veterinary Medicine who wish to become licensed DQP's was not clear in the proposed regulations, especially in the area of licensing and accountability. Clarification has been made in this regard. Doctors of Veterinary Medicine who meet the qualifying criteria will be exempted from the formal training requirements indicated in § 11.7(b), but will still be licensed through, and responsible to, a licensing horse industry organization or association.

Several other comments indicated that the proposed DQP requirements were not adequate to assure that an applicant for a DQP appointment was sufficiently experienced in horses and horsemanship. It should be pointed out that the proposed regulations, as well as this final rulemaking, contain a provision which requires that an association's or organization's formal request for DQP program certification, which must be submitted to the Department, must contain, among other things, the criteria to be used to select DQP candidates. This leaves to the Department the final decision regarding the adequacy of such criteria and should constitute an adequate safeguard regarding athe ability of applicants for DQP programs.

Concern about the proposed training period for DQP's was expressed in such comments as, "the training was too long"; "the training was too short"; "the training requirements were vague and should be more specific"; "too much leeway is allowed for the individual qualifying programs"; "training should be limited to one day"; and "training time should be doubled." The Department is of the opinion that all of these comments have some merit. However, establishing a uniform program with minimum requirements and sufficient flexibility, so as to not be overly restrictive, remains the basic problem. The Department has, therefore, left the proposed training requirements essentially intact, but has added two additional requirements. These are 1 hour of classroom instruction on recordkeeping and reporting requirements and procedures, and the requirement that a DQP applicant must satisfactorily work two horse shows, exhibitions, sales or auctions, as an apprentice, before being licensed as a DQP. A change has also been made in the continuing education requirement for DQP's (§ 11.7(b)(5)) to require that such program shall consist of not less than 4 hours of instruction per year.

Three comments suggested that the DQP program should be operated by the Department and the applicants should by trained and licensed directly by the Department. The Department has neither the personnel nor the funds to carry out such an extensive undertaking and feels that the DQP program should remain in the realm of industry self-regulation.

Another comment suggested that licensed DQP's should not be limited to working for one association or organization, but should be able to be approved by any authorizing organization they desire. Nothing in the proposed or final regulations prevents this type of operation or cooperation by licensing organizations or associations. The Department is of the opinion that this is logical and desirable, but will leave the responsibility for such operation and cooperation to the licensing organizations and associations.

Four of the comments were opposed to the entire concept of DQP's and stated that the program was unworkable, unnecessary, expensive, and should be dropped. Section 4 of the Act directs the Secretary to establish regulations and requirements for the appointment of persons qualified to inspect horses for soring. Without a program to assure that such persons are in fact qualified to perform this function, the intent and purpose of the Act would not be satisfied. Additionally, the Department believes that the establishment and proper operation of a DQP program will be a valuable tool to the horse industry in its self-regulating efforts to stop soring.

Two comments received were concerned with the performance and conduct of DQP's and the methods of removing DQP's who do not properly carry out their duties and functions. The Department feels that methods of monitoring supervision, and disciplinary procedures are primarily the responsibility of the licensing organizations or associations and should be properly established and maintained by them. Should the licensing organization or association fail to establish or properly carry out such monitoring, supervision, or disciplinary procedures, the Department may revoke certification of the DQP program of that organization or association. Such revocation will also result in the expiration of the DQP license issued under the program unless they are transferred to another program which is certified. Furthermore, the Act makes provision for disqualification by the Secretary, after notice and opportunity for a hearing, of persons to make detection, diagnosis, or inspection for compliance with the Act. The Act also provides that any person who is so disqualified shall be prohibited, by regulation, from being appointed to make such detection, diagnosis, or inspection.

Six comments received from the Walking Horse industry objected to the wording used in § 11.7(d)(vii) which required, "A detailed description of all the DQP's findings and the nature or other reason for disqualifying or excusing or recommending the horse be excused or disqualified, including said DQP's opinion as to what caused the condition upon which the decision to disqualify or excuse or recommend disqualifying or excusing said horse was based." The comments indicated that most DQP's would be "lay persons" and not veterinarians and, therefore, could not give valid opinions as to what caused the condition which resulted in disqualification of the horse. Further concern was that such wording would make the DQP an agent of the Department and result in the DQP's being used to testify against members of the organization or association which he represents. The Act authorizes the Secretary to subpoena the attendance and testimony of witnesses regarding violations of the Act or regulations. Therefore, at proceedings regarding violations of the Act or regulations, such DQP's could be required to testify with regard to their inspections. For the sake of clarity, the wording of § 11.7(d)(1)(vii) is changed to read "A detailed description of all of the DQP's findings and the nature of the alleged violation, or other reason for disqualifying or excusing the horse, including said DQP's statement regarding the evidence or facts upon which the decision to disqualify or excuse said horse was based."

Three of the comments received indicated that the recordkeeping and reporting requirements of proposed § 11.7(d)(1)(ix) required a dual reporting procedure, whereby the DQP must submit identical information to the Department and to the licensing organization or association, which then must submit the same information to the Department on a monthly basis. The Department agrees that such a dual reporting system appears to be unnecessary and burdensome at this time. Therefore, § 11.7(d)(1)(ix) is changed to require the DQP to report the required information to the licensing organization or association only, which will then transmit this information to the Department on a monthly basis.

One comment received stated that the Department should not allow the licensing as a DQP, of anyone that has been convicted of any violation of the Act, or assessed any civil penalty, since the Horse Protection Act was originally passed in 1970. The Department can understand and sympathize with such feelings. However, the Department, also believes that people do not remain static, but change due to their experiences and changing circumstances. To deny these people the opportunity to become a licensed DQP because of a past mistake, would not only be unwarranted, but would be vindictive. It would also deprive the industry of the services of some very valuable people. For this reason, the Department will not penalize those persons found in violation of the Act of 1970. However, persons found in violation of the Act, as amended in 1976, should, in the Department's opinion, be treated differently. This is reflected in § 11.7(c)(4) of these regulations wherein such persons shall not be allowed to be licensed as DQP's for a period of at least 2 years following the first violation, and for a period of at least 5 years following the second violation, or any subsequent violation.

One comment received suggested that DQP's should be prohibited from inspecting any shows or sales which involve any animals owned or exhibited by their family or employers, or any horse that they have trained. The Department concurs in part with this suggestion in regard to family members and employers, but feels that to include horses that may have been trained by such DQP's would not only be unduly restrictive, but would be impossible to enforce. Therefore, the Department has added to § 11.7(d)(7) a statement that DQP's may not inspect any horse show, exhibition, sale or auction in which a horse owned by a member of his family or his employer are in competition, or are being sold.

The majority of the comments objected to requiring the use of DQP's at all types of shows or sales and for all breeds of horses, and indicated that DQP's should be used only for those shows or sales which include Tennessee Walking Horses, the breed which is customarily sored. The Horse Protection Act applies to all breeds of horses and to all types of horse shows, exhibitions, sales and auctions, and the Department has the authority to inspect any horse at any horse show, exhibition, sale or auction. The Department has inspected many breeds of horses and many types of shows and sales in the past, and will continue to inspect many types of shows and sales, and many breeds of horses in the future. However, the comments regarding restricting the use of DQP's to those sales and shows involving Tennessee Walking Horses are basically valid. Historically, the Department has found the practices of soring to alter a horse's gait to be limited to Tennessee Walking Horses and to a much lesser extent, racking horses. However, the proposed regulations did not place any restrictions as to the type of horse show or exhibition and horse sale or auction, or the kinds of horses to be inspected by licensed DQP's. Therefore, the Department feels that the inclusion of such restrictions in the final rulemaking without having first given all interested persons an opportunity to comment would not satisfy the intent or the provisions of the Administrative Procedures Act. This is because the inclusion of such restrictions would be of such significance to the kinds and numbers of persons affected and regulated as to be cause for publication as a proposal in order to elicit responses and comments from the public before promulgating final rulemaking. The Department will therefore take the comments under consideration with the possibility of incorporating them into the regulations at a later date.

Accordingly, Part 11 of Subchapter A, Chapter I, Title 9 of the Code of Federal Regulations, is amended in the following respects:

1. The Table of Contents cited in Part 11—Horse Protection Regulations is amended to read as follows:

PART 11—HORSE PROTECTION REGULATIONS

Sec.
11.1 Definitions.
11.2 Prohibitions concerning exhibitors.
11.3 Scar rule.
11.4 Inspection and detention of horses.
11.5 Access to premises and records.
11.6 Inspection space and facility requirements.
11.7 Certification and licensing of designated qualified persons (DQP's).
11.20 Responsibilities and liabilities of managment.
11.21 Records required, and disposition thereof.
11.22 Inspection of records.
11.24 Reporting by management.
11.40 Prohibitions and requirements concerning persons involved in transportation of certain horses.
11.41 Reporting required of horse industry organizations and associations.

2. § 11.1 (9 CFR 11.1) is amended to read as follows:

§ 11.1 Definitions.

For the purpose of this part, unless the context otherwise requires, the following terms shall have the meanings assigned to them in this section. The singular form shall also impart the plural and the masculine form shall also impart the feminine. Words of art undefined in the following paragraphs shall have the meaning attributed to them by trade usage or general usage as reflected by definition in a standard dictionary, such as "Webster's."

(a) "Act" means the Horse Protection Act of 1970 (Public Law 91-540) as amended by the Horse Protection Act Amendments of 1976 (Public Law 94-360), 15 U.S.C. 1821 *et seq.*, and any legislation amendatory thereof.

(b) "Department" means the United States Department of Agriculture.

(c) "Secretary" means the Secretary of Agriculture or anyone who has heretofore or may hereafter be delegated authority to act in his stead.

(d) "Administrator" means the Administrator of the Animal and Plant Health Inspection Service or any other official of the Department to whom authority has heretofore been delegated or to whom authority may hereafter be delegated to act in his stead.

(e) "Deputy Administrator" means the Deputy Administrator for Veterinary Services or any other official of

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Veterinary Services to whom authority has heretofore been delegated or to whom authority may hereafter be delegated, to act in his stead.

(f) "Veterinary Services" means the office of the Animal and Plant Health Inspection Service to which responsibility is assigned for the administration of the Act.

(g) "Veterinarian in Charge" means the Veterinary Services veterinarian who is assigned by the Deputy Administrator to supervise and perform official duties of Veterinary Services under the Act in a specified State or States.[1]

(h) "Veterinary Services Show Veterinarian" means the Veterinary Services Doctor of Veterinary Medicine, responsible for the immediate supervision and conduct of the Department's activities under the Act at any horse show, horse exhibition, horse sale or horse auction.

(i) "Veterinary Services representative" means any employee of Veterinary Services, or any officer or employee of any State agency who is authorized by the Deputy Administrator to perform inspections or any other functions authorized by the Act, including the inspection of the records of any horse show, horse exhibition, horse sale or horse auction.

(j) "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, or the Trust Territory of the Pacific Islands.

(k) "Person" means any individual, corporation, company, association, firm, partnership, society, organization, joint stock company, or other legal entity.

(l) "Horse" means any member of the species *Equus caballus*.

(m) "Horse Show" means a public display of any horses, in competition, except events where speed is the prime factor, rodeo events, parades, or trail rides.

(n) "Horse Exhibition" means a public display of any horses, singly or in groups, but not in competition, except events where speed is the prime factor, rodeo events, parades, or trail rides.

(o) "Horse Sale or Horse Auction" means any event, public or private, at which horses are sold or auctioned, regardless of whether or not said horses are exhibited prior to or during the sale or auction.

(p) "Action Device" means any boot, collar, chain, roller, or other device which encircles or is placed upon the lower extremity of the leg of a horse in such a manner that it can either rotate around the leg, or slide up and down the leg so as to cause friction, or which can strike the hoof, coronet band or fetlock joint.

(q) "Inspection" means the examination of any horse and any records pertaining to any horse by use of whatever means are deemed appropriate and necessary for the purpose of determining compliance with the Act and regulations. Such inspection may include, but is not limited to, visual examination of a horse and records, actual physical examination of a horse including touching, rubbing, palpating and observation of vital signs, and the use of any diagnostic device or instrument, and may require the removal of any shoe, pad, action device, or any other equipment, substance or paraphernalia from the horse when deemed necessary by the person conducting such inspection.

(r) "Sponsoring Organization" means any person under whose immediate auspices and responsibility a horse show, horse exhibition, horse sale, or horse auction is conducted.

(s) "Show Manager" means the person who has been delegated primary authority by a sponsoring organization for managing a horse show, horse exhibition, horse sale or horse auction.

(t) "Management" means any person or persons who organize, exercise control over, or administer or are responsible for organizing, directing, or administering any horse show, horse exhibition, horse sale or horse auction and specifically includes, but is not limited to, the sponsoring organization and show manager.

(u) "Exhibitor" means (1) any person who enters any horse, any person who allows his horse to be entered, or any person who directs or allows any horse in his custody or under his direction, control or supervision to be entered in any horse show or horse exhibition; (2) any person who shows or exhibits any horse, any person who allows his horse to be shown or exhibited, or any person who directs or allows any horse in his custody or under his direction, control, or supervision to be shown or exhibited in any horse show or horse exhibition; (3) any person who enters or presents any horse for sale or auction, any person who allows his horse to be entered or presented for sale or auction, or any person who allows any horse in his custody or under his direction, control, or supervision to be entered or presented for sale or auction in any horse sale or horse auction; or (4) any person who sells or auctions any horse, any person who allows his horse to be sold or auctioned, or any person who directs or allows any horse in his custody or under his direction, control, or supervision to be sold or auctioned.

(v) "Designated Qualified Person" or "DQP" means a person meeting the requirements specified in § 11.7 of this part who has been licensed as a DQP by a horse industry organization or association having a DQP program certified by the Department and who may be appointed and delegated authority by the management of any horse show, horse exhibition, horse sale or horse auction under Section 4 of the Act to detect or diagnose horses which are sore or to otherwise inspect horses and any records pertaining to such horses for the purposes of enforcing the Act.

(w) "Horse Industry Organization or Association" means an organized group of people, having a formal structure, who are engaged in the promotion of horses through the showing, exhibiting, sale, auction, registry, or any activity which contributes to the advancement of the horse.

(x) "Lubricant" means mineral oil, glycerine or petrolatum, or mixtures exclusively thereof, that is applied to the limbs of a horse solely for protective and lubricating purposes while the horse is being shown or exhibited at a horse show, horse exhibition, horse sale or horse auction.

(y) "Sore" when used to describe a horse means:

(1) an irritating or blistering agent has been applied, internally or externally by a person to any limb of a horse,

(2) any burn, cut, or laceration has been inflicted by a person on any limb of a horse,

(3) any tack, nail, screw, or chemical agent has been injected by a person into or used by a person on any limb of a horse, or

(4) any other substance or device has been used by a person on any limb of a horse or a person has engaged in a practice involving a horse, and, as a result of such application, infliction, injection, use, or practice, such horse suffers, or can reasonably be expected to suffer, physical pain or distress, inflammation, or lameness when walking, trotting, or otherwise moving, except that such term does not include such an application, infliction, injection, use, or practice in connection with the therapeutic treatment of a horse by or under the supervision of a person licensed to practice veterinary medicine in the State in which such treatment was given.

3. The heading for § 11.2 will remain unchanged.

4. A new heading for § 11.3 (9 CFR 11.3) is added to read as follows:

§ 11.3 Scar rule.

5. The heading of § 11.4 (9 CFR 11.4) is amended to read as follows:

[1] Information as to the name and address of the Veterinarian in Charge for the State or States concerned can be obtained by writing to the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Hyattsville, MD 20782.

§ 11.4 Inspection and detention of horses.

6. The heading of § 11.5 (9 CFR 11.5) is amended to read as follows:

§ 11.5 Access to premises and records.

7. A new heading for § 11.6 (9 CFR 11.6) is added to read as follows:

§ 11.6 Inspection space and facility requirements.

8. A new § 11.7 (9 CFR 11.7) is added to read as follows:

§ 11.7 Certification and licensing of designated qualified persons (DQP's).

(a) *Basic qualifications of DQP applicants.* DQP's holding a valid, current DQP license issued in accordance with this Part may be appointed by the management of any horse show, horse exhibition, horse sale, or horse auction, as qualified persons in accordance with section 4(c) of the Act, to inspect horses to detect or diagnose soring and to otherwise inspect horses, or any records pertaining to any horse for the purpose of enforcing the Act. Individuals who may be licensed as DQP's under this part shall be:

(1) Doctors of Veterinary Medicine who are accredited in any State by the United States Department of Agriculture under Part 161 of Chapter I, Title 9 of the Code of Federal Regulations, and who are:

(i) members of the American Association of Equine Practitioners, or

(ii) large animal practitioners with substantial equine experience, or

(iii) knowledgeable in the area of equine lameness as related to soring and soring practices (such as Doctors of Veterinary Medicine with a small animal practice who own, train, judge, or show horses, or Doctors of Veterinary Medicine who teach equine related subjects in an accredited college or school of veterinary medicine). Accredited Doctors of Veterinary Medicine who meet these criteria may be licensed as DQP's by a horse industry organization or association whose DQP program has been certified by the Department under this part without undergoing the formal training requirements set forth in this section.

(2) Farriers, horse trainers, and other knowledgeable horsemen whose past experience and training would qualify them for positions as horse industry organization or association stewards or judges (or their equivalent) and who have been formally trained and licensed as DQP's by a horse industry organization or association whose DQP program has been certified by the Department in accordance with this section.

(b) *Certification requirements for DQP programs.* The Department will not license DQP's on an individual basis. Licensing of DQP's will be accomplished only through DQP programs certified by the Department and initiated and maintained by horse industry organizations or associations. Any horse industry organization or association desiring Department certification to train and license DQP's under the Act shall submit to the Deputy Administrator[2] a formal request in writing for certification of its DQP program and a detailed outline of such program for Department approval. Such outline shall include the organizational structure of such organization or association and the names of the officers or persons charged with the management of the organization or association. The outline shall also contain at least the following:

(1) The criteria to be used in selecting DQP candidates and the minimum qualifications and knowledge regarding horses each candidate must have in order to be admitted to the program.

(2) A copy of the formal training program, classroom and practical, required to be completed by each DQP candidate before being licensed by such horse industry organization or association, including the minimum number of hours, classroom and practical, and the subject matter of the training program. Such training program must meet the following minimum standards in order to be certified by the Department under the Act.

(i) Two hours of classroom instruction on the anatomy and physiology of the limbs of a horse. The instructor teaching the course must be specified, and a resume of said instructor's background, experience, and qualifications to teach such course shall be provided to the Deputy Administrator.[2]

(ii) Two hours of classroom instruction on the Horse Protection Act and regulations and their interpretation. Instructors for this course must be furnished or recommended by the Department. Requests for instructors to be furnished or recommended must be made to the Deputy Administrator [2] in writing at least 30 days prior to such course.

(iii) Four hours of classroom instruction on the history of soring, the physical examination procedures necessary to detect soring, the detection and diagnosis of soring, and related subjects. The instructor teaching the course must be specified and a summary of said instructor's background, experience, and qualifications to teach such course must be provided to the Deputy Administrator.[2]

(iv) Four hours of practical instruction in clinics and seminars utilizing live horses with actual application of the knowledge gained in the classroom subjects covered in (i), (ii), and (iii). Methods and procedures required to perform a thorough and uniform examination of a horse shall be included. The names of the instructors and a resume of their background, academic and practical experience, and qualifications to present such instruction shall be provided to the Deputy Administrator.[2] Notification of the actual date, time, duration, subject matter, and geographic location of such clinics or seminars must be sent to the Deputy Administrator [2] at least 10 days prior to each such clinic or seminar.

(v) One hour of classroom instruction regarding the DQP standards of conduct promulgated by the licensing organization or association pursuant to paragraph (d)(7) of this section.

(vi) One hour of classroom instruction on recordkeeping and reporting requirements and procedures.

(3) A sample of a written examination which must be passed by DQP candidates for successful completion of the program along with sample answers and the scoring thereof, and proposed passing and failing standards.

(4) The criteria to be used to determine the qualifications and performance abilities of DQP candidates selected for the training program and the criteria used to indicate successful completion of the training program, in addition to the written examination required in paragraph (b)(3) of this section.

(5) The criteria and schedule for a continuing education program and the criteria and methods of monitoring and appraising performance for continued licensing of DQP's by such organization or association. A continuing education program for DQP's shall consist of not less than 4 hours of instruction per year.

(6) The methods to be used to insure uniform interpretation and enforcement of the Horse Protection Act and regulations by DQP's and uniform procedures for inspecting horses for compliance with the Act and regulations; and,

(7) Standards of conduct for DQP's promulgated by the organization or association in accordance with paragraph (d)(7) of this section.

(8) A formal request for Department certification of the DQP program.

The horse industry organizations or associations that have formally requested Department certification of their DQP training, enforcement, and maintenance program will receive a

[2] Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, United States Department of Agriculture, 6505 Belcrest Road, Room 703, Hyattsville, MD 20782.

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formal notice of certification from the Department, or the reasons, in writing, why certification of such program cannot be approved. A current list of certified DQP programs and licensed DQP's will be published in the FEDERAL REGISTER at least once each year, and as may be further required for the purpose of deleting programs and names of DQP's that are no longer certified or licensed, and of adding the names of programs and DQP's that have been certified or licensed subsequent to the publication of the previous list.

(c) *Licensing of DQP's.* Each horse industry organization or association receiving Department certification for the training and licensing of DQP's under the Act shall:

(1) Issue each DQP licensed by such horse industry organization or association a numbered identification card bearing the name and personal signature of the DQP, a picture of the DQP, and the name and address, including the street address or post office box and zip code, of the licensing organization or association;

(2) Submit a list to the Deputy Administrator [2] of names and addresses including street address or post office box and zip code, of all DQP's that have successfully completed the certified DQP program and have been licensed under the Act and regulations by such horse industry organization or association;

(3) Notify the Department of any additions or deletions of names of licensed DQP's from the licensed DQP list submitted to the Department or of any change in the address of any licensed DQP or any warnings and license revocations issued to any DQP licensed by such horse industry organization or association within 10 days of such change;

(4) Not license any person as a DQP if such person has been convicted of any violation of the Act or regulations occurring after July 13, 1976, or paid any fine or civil penalty in settlement of any proceeding regarding a violation of the Act or regulations occurring after July 13, 1976, for a period of at least 2 years following the first such violation, and for a period of at least 5 years following the second such violation and any subsequent violation;

(5) Not license any person as a DQP until such person has attended and worked two recognized or affiliated horse shows, horse exhibitions, horse sales, or horse auctions as an apprentice DQP and has demonstrated the ability, qualifications, knowledge and integrity required to satisfactorily execute the duties and responsibilities of a DQP;

(6) Not license any person as a DQP if such person has been disqualified by the Secretary from making detection, diagnosis, or inspection for the purpose of enforcing the Act, or if such person's DQP license is canceled by another horse industry organization or association.

(d) *Requirements to be met by DQP's and Licensing Organizations or Associations.* (1) Any licensed DQP appointed by the management of any horse show, horse exhibition, horse sale, or horse auction to inspect horses for the purpose of detecting and determining or diagnosing horses which are sore and to otherwise inspect horses for the purpose of enforcing the Act and regulations, shall keep and maintain the following information and records concerning any horse which said DQP recommends be disqualified or excused for any reason at such horse show, horse exhibition, horse sale, or horse auction, in a uniform format required by the horse industry organization or association that has licensed said DQP:

(i) The name and address, including street address or post office box and zip code, of the show and the show manager.

(ii) The name and address, including street address or post office box and zip code, of the horse owner.

(iii) The name and address, including street address or post office box and zip code, of the horse trainer.

(iv) The name and address, including street address or post office box and zip code, of the horse exhibitor.

(v) The exhibitors number and class number, or the sale or auction tag number of said horse.

(vi) The date and time of the inspection.

(vii) A detailed description of all of the DQP's findings and the nature of the alleged violation, or other reason for disqualifying or excusing the horse, including said DQP's statement regarding the evidence or facts upon which the decision to disqualify or excuse said horse was based.

(viii) The name, age, sex, color, and markings of the horse; and

(ix) The name or names of the show manager or other management representative notified by the DQP that such horse was or should be excused or disqualified and whether or not such manager or management representative excused or disqualified such horse.

Copies of the above records shall be submitted by the involved DQP to the horse industry organization or association that has licensed said DQP within 72 hours after the horse show, horse exhibition, horse sale, or horse auction is over.

(2) The DQP shall inform the custodian of each horse allegedly found in violation of the Act or its regulations, or disqualified or excused for any other reason, of such action and the specific reasons for such action.

(3) Each horse industry organization or association having a Department certified DQP program shall submit a report to the Department containing the following information, from records required in paragraph (d)(1) of this section and other available sources, to the Department on a monthly basis:

(i) The identity of all horse shows, horse exhibitions, horse sales, or horse auctions that have retained the services of DQP's licensed by said organization or association during the month covered by the report. Information concerning the identity of such horse shows, horse exhibitions, horse sales, or horse auctions shall include:

(A) The name and location of the show, exhibition, sale, or auction.

(B) The name and address of the manager.

(C) The date or dates of the show, exhibition, sale, or auction.

(ii) The identity of all horses at each horse show, horse exhibition, horse sale, or horse auction that the licensed DQP recommended be disqualified or excused for any reason. The information concerning the identity of such horses shall include:

(A) The registered name of each horse.

(B) The name and address of the owner, trainer, exhibitor, or other person having custody of or responsibility for the care of each such horse disqualified or excused by the DQP.

(4) Each horse industry organization or association having a Department certified DQP program shall provide, by certified mail if personal service is not possible, to the trainer and owner of each horse allegedly found in violation of the Act or its regulations or otherwise disqualified or excused for any reason by one of said organization or association DQP's at any horse show, horse exhibition, horse sale, or horse auction, the following information;

(i) The name and date of the show, exhibition, sale, or auction.

(ii) The name of the horse and the reason why said horse was excused, disqualified, or alleged to be in violation of the Act or its regulations.

(5) Each horse industry organization or association having a Department certified DQP program shall provide each of its licensed DQP's with a current list of all persons that have been disqualified by order of the Secretary from showing or exhibiting any horse, or judging or managing any horse show, horse exhibition, horse sale, or horse auction. The Department will make such list available, on a current basis, to organizations and associations maintaining a certified DQP program.

(6) Each horse industry organization or association having a Department certified DQP program shall develop and provide a continuing education program for licensed DQP's which provides not less than 4 hours of instruction per year to each licensed DQP.

(7) Each horse industry organization or association having a Department certified DQP program shall promulgate standards of conduct for its DQP's, and shall provide administrative procedures within the organization or association for initiating, maintaining, and enforcing such standards. The procedures shall include the causes for and methods to be utilized for canceling the license of any DQP who fails to properly and adequately carry out his duties. Minimum standards of conduct for DQP's shall include the following;

(i) A DQP shall not exhibit any horse at any horse show or horse exhibition, or sell, auction, or pruchase any horse sold at a horse sale or horse auction at which he or she has been appointed to inspect horses;

(ii) A DQP shall not inspect horses at any horse show, horse exhibition, horse sale or horse auction in which a horse or horses owned by a member of the DQP's immediate family or the DQP's employer are competing or are being offered for sale;

(iii) A DQP shall follow the uniform inspection procedures of his certified organization or association when inspecting horses; and

(iv) A DQP shall disqualify from competition or sale any horse found in his opinion, to be in violation of the Horse Protection Act or regulations.

(e) *Prohibition of appointment of certain persons to perform duties under the Act.* The management of any horse show, horse exhibition, horse sale, or horse auction shall not appoint any person to detect and diagnose horses which are sore or to otherwise inspect horses for the purpose of enforcing the Act, if that person:

(1) Does not hold a valid, current DQP license issued by a horse industry organization or association having a DQP program certified by the Department.

(2) Has had his DQP license canceled by the licensing organization or association.

(3) Is disqualified by the Secretary from performing diagnosis, detection, and inspection under the Act, after notice and opportunity for a hearing,[3] when the Secretary finds that such person is unfit to perform such diagnosis, detection, or inspection because he has failed to perform his duties in accordance with the Act or regulations, or because he has been convicted of a violation of any provision of the Act or regulations occurring after July 13, 1976, or has paid any fine or civil penalty in settlement of any proceeding regarding a violation of the Act or regulations occurring after July 13, 1976.

(f) *Cancellation of DQP license.* Each horse industry organization or association having a DQP program certified by the Department shall issue a written warning to any DQP whom it has licensed who violates the rules, regulations, by-laws, or standards of conduct promulgated by such horse industry organization or association pursuant to this section, or who carries out his duties and responsibilities in a less than satisfactory manner, and shall cancel the license of any DQP after a second violation. Upon cancellation of his DQP license, the DQP may, within 30 days thereafter, request a hearing before a review committee of not less than three persons appointed by the licensing horse industry organization or association. If the review committee sustains the cancellation of the license, the DQP may appeal the decision of such committee to the Deputy Administrator within 30 days from the date of such decision, and the Deputy Administrator shall make a final determination in the matter. If the Deputy Administrator finds, after providing the DQP whose license has been canceled with a notice and an opportunity for a hearing,[3] that there is sufficient cause for the committee's determination regarding license cancellation, he shall issue a decision sustaining such determination. If he does not find that there was sufficient cause to cancel the license, the licensing organization or association shall reinstate the license.

(2) Each horse industry organization or association having a Department certified DQP program shall cancel the license of any DQP licensed under its program who has been convicted of any violation of the Act or regulations or of any DQP who has paid a fine or civil penalty in settlement of any alleged violation of the Act or regulations if such alleged violation occurred after July 13, 1976.

(g) *Revocation of DQP program certification of horse industry organizations or associations.* Any horse industry organization or association having a Department certified DQP program which fails to comply with the requirements contained in this section may have such certification of its DQP program revoked unless, upon written notification from the Department of such failure to comply with the requirements in this section, such organization or association takes immediate action to rectify such failure and takes appropriate steps to prevent a recurrence of such non-compliance within the time period specified in the Department notification, or otherwise adequately explains such failure to comply. Any horse industry organization or association whose DQP program certification has been revoked may appeal such revocation to the Deputy Administrator[3] in writing within 30 days after the date of such revocation and, if requested, shall be afforded an opportunity for a hearing.[3] All DQP licenses issued by a horse industry organization or association whose DQP program certification has been revoked shall expire 30 days after the date of such revocation, or 15 days after the date the revocation becomes final after appeal, unless they are transferred to a horse industry organization or association having a program currently certified by the Department.

9. The heading of § 11.20 (9 CFR 11.20) is amended to read as follows:

§ 11.20 Responsibilities and liabilities of management.

10. The heading for § 11.21 will remain unchanged.

11. The heading for § 11.22 will remain unchanged.

12 § 11.23 (9 CFR 11.23) is deleted.

13. The heading of § 11.24 (9 CFR 11.24) is amended to read as follows:

§ 11.24 Reporting by management.

14. The heading of § 11.40 (9 CFR 11.40) is amended to read as follows:

§ 11.40 Prohibitions and requirements concerning persons involved in transportation of certain horses.

15. The heading of § 11.41 (9 CFR 11.41) is amended to read as follows:

§ 11.41 Reporting required for horse industry organizations or associations.

(Secs. 4, 6, and 9; 84 Stat. 1404; 90 Stat. 916 and 918; (15 U.S.C. 1823, 1825, and 1828); 29 FR 16210, 36 FR 20707.)

It is to the benefit of the public and the regulated industries that these amendments to the regulations be made effective at the earliest practicable date. The changes effected by these regulations will require that horse industry organizations and associations initiate and complete certain programs for Department certification in time for the next horse show season. In view of the foregoing, it is hereby found and determined that good cause exists for making these regulations effective on the date of publication in the FEDERAL REGISTER, and that it would be contrary to the public interest to delay the effective

[2] Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, United States Department of Agriculture, 6505 Belcrest Road, Room 703, Hyatttsville, MD 20782.

[3] Hearing would be in accordance with the Uniform Rules of Practice for the Department of Agriculture in Subpart H of Part 1, Subtitle A, Title 7, Code of Federal Regulations (7 CFR 1.130 *et seq.*)

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date of these amendments for 30 days after their publication. (Section 553(d), Administrative Procedures Act, 5 U.S.C. 551-559.)

Done at Washington, D.C., this 27th day of December, 1978.

NOTE.—This rule has been reviewed under the USDA criteria established to implement E.O. 12044, "Improving Government Regulations", and has been designated "significant". An approved Final Impact Analysis Statement has been prepared and is available from the Animal Care Staff, Room 703, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, telephone Area Code (301) 436-8271.

M. T. GOFF,
Acting Deputy Administrator,
Veterinary Services.

[FR Doc. 79-287 Filed 1-4-79; 8:45 am]

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FRIDAY, JANUARY 5, 1979
PART VI



DEPARTMENT OF ENERGY

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FEDERAL LOAN GUARANTEES FOR GEOTHERMAL ENERGY UTILIZATION

Proposed Rulemaking: Public Hearing

[6450-01-M]

DEPARTMENT OF ENERGY

[10 CFR Part 790]

FEDERAL LOAN GUARANTEES FOR GEOTHERMAL ENERGY UTILIZATION

Proposed Rulemaking: Public Hearing

AGENCY: Department of Energy.

ACTION: Notice of proposed rulemaking and public hearing.

SUMMARY: This proposed regulation revises 10 CFR 790 published on May 26, 1976, to conform with provisions in Title V of the "Department of Energy Act of 1978-Civilian Applications," Pub. L. 95-238 enacted February 25, 1978. Title V contains amendments to the "Geothermal Energy Research, Development, and Demonstration Act of 1974," Pub. L. 93-410, which authorized the establishment of the Geothermal Loan Guaranty Program that had been implemented by the Energy Research and Development Administration (ERDA). On October 1, 1977, the Department of Energy (DOE) pursuant to the Department of Energy Organization Act, Pub. L. 95-91 assumed the functions and the authority of ERDA to execute the Geothermal Loan Guaranty Program. Therefore this proposed regulation implements the transfer to the Secretary of Energy of responsibilities and authorities of ERDA's Administrator pertaining to the Geothermal Loan Guaranty Program. Additionally, this proposed regulation contains other revisions and amendments to the previously published regulations for the Geothermal Loan Guaranty Program that clarify DOE financial policy and remove certain ambiguities identified during the past two years of operating experience. Amendments and revisions to 10 CFR Part 790 are not effective at this time. DOE will accept and process guaranty applications for loans of less than $50,000,000 based on authority contained in Section 508(l) of Pub. L. 95-238 but their approval may be delayed until publication of a modification of the existing regulation which removes the limit specified in Pub. L. 93-410 prior to its amendment by Pub. L. 95-238. Guaranty applications for loans in excess of $50,000,000 will not be accepted until DOE publishes final regulations implementing the Community Impact Assistance provisions authorized in Sec. 205 of Pub. L. 93-410 as amended.

Written comments will be received and public hearings will be held with respect to this proposed rulemaking.

DATES: Written comments must be received on or before March 6, 1979; requests to speak, on or before January 29, 1979; hearing testimony, on or before February 8, 1979; public hearing dates, February 13 and February 21, 1979.

ADDRESSES: Written comments and requests to speak to Department of Energy, Public Hearing Management, Room 2313, Box TX, 2000 M Street, N.W., Washington, D.C. 20461. The hearings will be held on February 13, 1979, at the U.S. Courthouse, Main Post Office Building, 7th and Mission Streets, Courtroom 15, San Francisco, CA, and on February 21, 1979 at the Department of Energy, 2626 West Mockingbird Lane, Dallas, TX.

FOR FURTHER INFORMATION CONTACT:

Lawrence Falick, Department of Energy, Washington, DC 20461 (202) 633-8903.

SUPPLEMENTARY INFORMATION:

I. Background
II. Comment Procedures
III. Additional Information

I. Background

On May 26, 1976, ERDA published in the Federal Register (41 FR 21433) a final regulation containing policies, filing procedures and other instructions under which lenders may obtain a Federal guaranty on loans to qualified borrowers related to the commercial development of practicable means to produce, with environmentally acceptable processes, useful energy from geothermal resources. That regulation became effective on June 25, 1976 thereby permitting applications for guarantees on loans for geothermal projects to be submitted to ERDA.

This proposed regulation incorporates many of the changes to the Geothermal Loan Guaranty Program contained in Pub. L. 95-238. The amendments to Pub. L. 95-238, in summary, provide: That the full faith and credit of the United States is pledged to the payment of these guarantees; that DOE can borrow funds from the Department of the Treasury if balances in the Geothermal Resources Development Fund are insufficient to enable DOE to carry out its guaranty and other responsibilities; the authority to assist the borrower in making payment on loan principal; that DOE may complete and operate a plant acquired through default; for loan limitations of $50 million per project and of $200 million per qualified borrower; for clarification on the scope of projects utilizing geothermal energy in direct heat processes; a limitation of 1% on a guaranty fee to be imposed annually on the outstanding guaranteed debt and permits fee collection to be deposited in the Geothermal Resources Development Fund; and, that DOE can reimburse to qualified public agencies and Indian tribes a portion of the interest when a holder of their debt guaranteed under this regulation is required to include that income under Chapter 1 of the Internal Revenue Code.

This proposed regulation contains other revisions and amendments to the previously published regulations for the Geothermal Loan Guaranty Program that clarify DOE financial policy and remove certain ambiguities identified during two years of operating experience. Section 790.36 has been revised to clarify provisions dealing with termination, withdrawal and reduction of a guaranty. Section 790.37, "Default and Demand," has been expanded to provide that holders as well as lenders may make demand for payment in the event of default. Section 790.13, "Deviations" has been added to increase flexibility during program execution. Section 790.12 sets forth the conditions under which loans may be placed through the Federal Financing Bank. Section 790.37(g) provides that in certain situations a joint agreement between DOE and the lender may allow for the lender to liquidate project assets. Comments and opinions on these sections are specifically solicited.

Sec. 509 of Pub. L. 95-238 provides the authority for DOE to make interest differential payments to qualified public organizations. This Section contains an ambiguity by referring to "any guaranty which is issued after the enactment of this subsection, by, or in behalf of, any State, political subdivision, or Indian Tribe...". The word "guaranty" has been used instead of the more usual term "obligation" in referring to the note issued by a qualified public organization as evidence of its debt. The proposed regulation implements this provision in Subsection 790.4(d). Parties having a view on this Subpart as an implementation of Section 509 are specifically requested to provide DOE with comments.

II. Comment Procedures

A. Written Comments

Interested persons are invited to submit written comments with respect to the proposed regulations to Department of Energy, Box TX, Public Hearing Management, Room, 2313, 2000 M Street N.W., Washington, D.C. 20461. The outside of the envelope and documents submitted to DOE should be identified with the designation "Federal Loan Guarantees for Geothermal Energy Utilization." Fifteen copies of all written comments and related information should be submitted in time to be received by DOE by March 6, 1979 in order to insure consideration.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. Any material not accompanied by a statement of confidentiality will be considered to be nonconfidential. DOE reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

B. Public Hearing

1. *Participation Procedures.* Public hearings on the proposed regulations will be held at 9:30 a.m. on February 13, 1979 at the U.S. Courthouse, Main Post Office Building, 7th and Mission Streets, Courtroom 15, San Francisco, CA, and at 9:30 a.m. on February 21, 1979, at the Department of Energy, 2626 West Mockingbird Lane, Dallas, TX. Any person who has an interest in the proposed regulations or who is a representative of a group or class of persons which has an interest in them may make a written request for an opportunity to make oral presentation. The request should be addressed to Public Hearing Management, Department of Energy, Box TX, Room 2313, 2000 M Street, NW., Washington, D.C. 20461, on or before January 29, 1979. Persons making a request to speak should describe their interest in the proceeding, provide a concise summary of the proposed oral presentation and a phone number where they may be reached. Each person who, in DOE's judgment, proposes to present relevant and material information will be notified by DOE of their participation to be heard before 4:30 p.m., February 2, 1979, and shall be expected to submit 15 copies of the proposed statement to Public Hearing Management, Department of Energy, Box TX, Room 2313, 2000 M Street, NW., Washington, D.C. 20461, on or before February 9, 1979.

2. *Conduct of Hearing.* DOE reserves the right to arrange the schedule of presentations to be heard and to establish procedures governing the conduct of hearings. The length of each presentation may be limited, based on the number of persons requesting to be heard. A DOE official will be designated as presiding officer to chair the hearing. This will not be a judicial or evidentiary-type hearing. Questions may be asked only by those conducting the hearing and there will be no cross-examination of persons presenting statements.

Any participant who wishes to ask a question at the hearing may submit the question, in writing, to the presiding officer who will determine whether the question is relevant and material, and whether time limitations permit it to be presented for answer.

Any other procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by DOE and made available for inspection at the DOE Freedom of Information Office, Room 2107, 1200 Pennsylvania Avenue, NW., Washington, D.C. 20461, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

III. Additional Information

In accordance with its proposed plan for improving Government Regulations (43 FR 18634, May 1, 1978), DOE has determined that this proposed regulation is significant because Congress regards the accelerated development of geothermal energy to be of widespread concern. Further, geothermal energy development is a significant part of the National Energy Plan for expansion of nonconventional sources of energy. This proposed regulation modifies an existing program, as called for by Pub. L. 95-238, and increases the amount of guarantees which may be made to an individual or for a specific project. However, the total dollar loan guaranty authorization of $300,000,000 for this program was not increased by this legislation and therefore the changes contained herein are not expected to have a major impact on the availability of geothermal energy over the program already in existence. DOE has, therefore, determined that the enhanced program as implemented by this proposed regulation will to have a major economic impact over the existing program and that the preparation of the economic regulatory analysis, called for by DOE's procedure on Improving Energy Regulations, is not necessary.

This proposed regulation which amends and revises existing program regulations has been reviewed in accordance with existing DOE policy that implements the National Environmental Policy Act of 1969 and has been determined not to be of a nature that requires the preparation of an Environmental Impact Statement pursuant to the requirements of the National Environmental Policy Act of 1969.

10 CFR Part 790 is proposed to be revised to read as follows:

Part 790—The Geothermal Loan Guaranty Program

Subpart A—General Provisions

Sec.
790.1 Purpose.
790.2 Objectives.
790.3 Effective date. [Reserved]
790.4 Eligible loans and priorities.
790.5 Definitions.
790.6 Loan guaranty criteria.
790.7 Interest and principal assistance.
790.8 [Reserved]
790.9 Period of guarantees and assistance contracts.
790.10 Information for States and Indian Tribes.
790.11 Full faith and credit and incontestability.
790.12 Use of Federal Financing Bank.
790.13 Deviations.

Subpart B—Applications

790.20 Filing.
790.21 Supporting information.
790.22 Project cost illustrations.
790.23 Environmental Considerations.
790.24 Mandatory purchase of flood insurance.

Subpart C—Servicing and Closing

790.30 Loan servicing by lender.
790.31 Guaranty fee.
790.32 Geothermal resources development fund.
790.33 Project monitoring.
790.34 Loan disbursements by lender.
790.35 Satisfactory documentary evidence.
790.36 Reduction or withdrawal of guaranty.
790.37 Default, demand, payment and collateral liquidation.
790.38 Perfection of liens and preservation of collateral.
790.39 Treatment of payments.
790.40 Assignment and participation.
790.41 Survival of guaranty agreement.
790.42 Modifications to existing guaranty agreements.
790.43 Other Federal assistance.
790.44 Inventions and other intellectual property.
790.45 Closing.
790.46 Suspension, termination, or cancellation of operations or production on Federal land administered by the Secretary of the Interior.
790.47 Appeals.

Authority: Title II of the Geothermal Energy Research, Development, and Demonstration Act of 1974, Pub. L. 93-410; Department of Energy Organization Act, Pub. L. 95-91; Title V of the Department of Energy Act of 1978—Civilian Applications, Pub. L. 95-238.

Subpart A General Provisions

§ 790.1 Purpose.

The purpose of this regulation is to set forth policies and procedures under which the Department of Energy (DOE) will issue a Federal guaranty on loans related to the commercial development of practicable means to produce, in an environmentally acceptable manner, energy from geothermal resources.

§ 790.2 Objectives.

The objectives of the Federal geothermal loan guaranty program are: (a) To encourage and assist the private and public sectors to accelrate development of geothermal resources with environmentally acceptable processes by enabling the Secretary of the Department of Energy in the exercise of reasonable judgment, to minimize a lender's financial risk that is associated with the development of new geo-

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thermal resources and technology; (b) to develop normal borrower-lender relationships which will in time encourage the flow of credit for the utilization of geothermal resources without the need for Federal assistance; and (c) to enhance competition and to encourage new entrants into the geothermal market.

§ 790.3 Effective date. [Reserved]

§ 790.4 Eligible loans and priorities.

(a) The Secretary may approve agreements to guaranty, and commitments to guaranty, lenders against the loss of principal and accured interest on loans made by such lenders to qualified borrowers. Any such agreements shall be made subject to the application of priorities and preferrential considerations for guarantees as set forth in paragraph (b) of this section and subject to criteria in § 790.6. Such agreements may be entered into only for the purposes of:

(1) Determination and evaluation of the commercial potential of geothermal resources;

(2) Research and development with respect to geothermal extraction and utilization technologies, including but not limited to the mitigation of adverse environmental effects;

(3) Acquisition of rights in geothermal resources;

(4) Development, construction, and operation of facilities for the demonstration or commercial production of energy through the use of geothermal resources; or,

(5) Construction and operation of a new commercial, agricultural, or industrial structure or facility or modification and operation of an existing commercial, agricultural, or industrial structure or facility, when geothermal hot water or steam is to be used within or by such structure or facility, or modification thereto, for the purposes of space heating or cooling, industrial or agricultural processes, onsite generation of electricity for use other than for sale or resale in commerce, other commercial applications, or combinations of applications separately eligible for loan guaranty assistance under this regulation.

(b) In complying with the objectives of the Geothermal Loan Guaranty Program, the Secretary will give first priority consideration to those applications for projects having a plan of operations which shows substantial promise of the prompt development of useful energy from geothermal resources. Second priority consideration will be given to those applications for projects designed to demonstrate or utilize new technological advances. Third priority will be given to projects that will demonstrate or exploit the commercial potential of new geothermal resource areas. The Secretary will give lower priority consideration to applications involving projects that initially propose geological and geophysical exploration, or the acquisition of land or leases. Within each category of priority as described herein, preferential consideration will be given to (1) applications in which the lender is providing a portion of the loan for which a guaranty is not requested, (2) projects to be carried out by small public and private utilities and small businesses, and (3) projects from which the Federal Government will receive royalty payments.

(c) Not less than ten percent of the amount available for loan guarantees during a fiscal year will be allocated to guarantees on loans to small public and private utilities and small businesses, as defined in § 790.5. The Secretary, at his discretion, may adjust the allocation reserved for such concerns. To the extent that guarantees on loans to such concerns are not issued within six months following the beginning of each fiscal year, the uncommitted allocation of loan guarantees for such concerns, at the discretion of the Secretary, may become available on an unrestricted basis.

(d) A loan application which, in the Secretary's view, should meet usual loan standards of lenders without a Federal guaranty will be regarded by the Secretary as not eligible for a loan guaranty under this regulation. In addition, an application for a loan for a portion of the project, or an application which does not present an acceptable plan to repay the proposed guaranteed debt, or for projects which are devoted exclusively to the extraction or production of geothermal byproducts as defined in § 790.5(b), or projects devoted exclusively to the desalination of geothermal brines will not be eligible for a Federal loan guaranty under this regulation.

(e) No loan shall be guaranteed if the income from such loan is excluded from gross income for purposes of Chapter I of the Internal Revenue Code of 1954, referred to in this section as Tax Exempt Securities. However, a guaranty may be issued in accordance with this regulation on a debt issued by, or on behalf of, a State, political subdivision, or Indian Tribe (which would normally issue Tax Exempt Securities) if the income received by a purchaser of that debt is included as gross income for purposes of Chapter I of the Internal Revenuue Code of 1954, as amended. For such transactions, the Secretary shall pay to the issuer of the debt that portion of the interest which is found to be appropriate after consultation with the Secretary of the Treasury, regarding current market yields on other obligations of the issuer or other obligations which have similar terms and conditions. Payments under this subsection by the Secretary shall be made to the issuer in accordance with terms and conditions in the guaranty agreement.

§ 790.5 Definitions.

For purposes of this regulation:

(a) "Geothermal resources" means (1) all products of geothermal processes, embracing indigenous steam, geopressured fluids, hot water, and brines, (2) steam and other gases, hot water and hot brines resulting from water, gas, or other fluids artificially introduced into geothermal formations, and (3) any byproduct derived from them;

(b) "Byproduct" means any mineral or minerals or gases which are found in solution or in association with geothermal or geopressured resources and which have a value of less than 75 percent of the value of the geothermal steam and associated geothermal resources or are not, because of quantity, quality, or technical difficulties in extraction and production, of sufficient value to warrant extraction and production by themselves;

(c) "Secretary" means the Secretary of the Department of Energy or a representative authorized by the Secretary;

(d) "Manager" means the Manager of the Department of Energy's San Francisco Operations Office, 1333 Broadway, Oakland, California 94612, or a duly authorized representative of the Manager;

(e) "Lender" means any person engaged in the business of lending money and having the capability of servicing the loan, or the Federal Financing Bank.

(f) "Qualified Borrower" (after this referred to as the borrower) means any public or private agency, institution, joint venture, limited partnership, association, cooperative, partnership, corporation, individual, political subdivision, or other legal entity having authority to enter into a loan agreement and who meet the criteria of this regulation.

(g) A "loan" is an obligation involving a borrower and a lender, evidenced in writing, making available to the borrower money at a specified rate of interest for a limited period of time. The loan instrument may not provide for conversion into an equity relationship with the borrower;

(h) "Project" means an undertaking to develop geothermal resources at a specific site which when completed will result in an identifiable product, system, or resource for which a market potentially exists. Examples of a project include, but are not limited to, exploration and full-field development well drilling, power plant construction, equipment manufacturing,

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research and development, construction of transmission lines from a geothermal power plant, and other ventures to utilize geothermal energy to serve as an energy source for direct heat applications, such as crop drying and greenhousing;

(i) A "small public or private electric utility, including its affiliates," is a business concern primarily engaged in the generation, transmission and/or distribution of electric energy for sale whose total electric output for its preceding fiscal year did not exceed four million megawatt-hours;

(j) A "small business, including its affiliates," is a concern which is independently owned and operated, is not dominant in its field of operation, and which does not have assets exceeding $9 million, or a net worth in excess of $4 million, and does not have an average net income, after Federal income taxes, for the preceding two years in excess of $400,000 (average net income to be computed without benefit of any carryover loss);

(k) "Default" means only the actual failure by the borrower to make payment of interest or principal in accordance with a schedule in the loan agreement, or to meet other requirements specified as a default condition in the guaranty agreement;

(l) "Estimated aggregate cost of the project" means those reasonable and customary costs incurred or to be paid by the borrowers which are directly connected with the project, including construction and start-up costs but excluding costs specified in § 790.22(c).

(m) "Holder" means the entity that lawfully holds all or any part of the guaranteed loan; and,

(n) "Guaranty fee" means a charge made by DOE for its administrative cost in processing and monitoring guaranteed loans and for probable guaranteed loan losses.

(o) "Federal Finance Bank" means the agency operating within the United States Department of the Treasury which has the authority to purchase Federally guaranteed debt.

§ 790.6 Loan guaranty criteria.

In addition to meeting the requirements for eligibility set forth in § 790.4(a), a guaranty or commitment to guaranty may be made only if the following conditions are met as determined by the Secretary on the written recommendation by the Manager: (Criteria applicable to the lender may not pertain to guarantees in which the Federal Financing Bank is the lender).

(a) The application form is signed by an authorized official of the lender and the borrower;

(b) The lender has demonstrated a willingness and capability of servicing the loan in an acceptable manner;

(c) The lender has set forth reasons acceptable to the Secretary why the loan would not be made to the borrower without a Federal loan guaranty;

(d) There is satisfactory evidence demonstrating that the lender is competent to administer loan terms and conditions, and is competent to administer terms and conditions in the guaranty agreement that are applicable to the lender;

(e) The guaranty shall apply only to the amount of the loan that does not exceed 75 percent of the estimated aggregate cost of the project.

(f) When the amount of the guaranty requested is equal to 100% of the loan made by the lender, the lender must set forth reasons satisfactory to the Secretary fully establishing why it is unwilling to undertake a loan having less than the maximum guaranty;

(g) The loan bears interest at a rate not to exceed an annual percent on the principal obligation outstanding as the Secretary determines, in consultation with the Secretary of the Treasury, to be reasonable, taking into account the range of interest rates for similar loans and risks which are Federally guaranteed.

(h) The term of the loan requires, as determined by the Secretary, the lesser of (1) full repayment over a period of no more than 30 years, (2) no longer than the expected average useful life of major physical assets essential to the project, or (3) the borrower's ability to repay the loan based on the project's cash flow projection.

(i) The amount of the loan together with other funds available to the borrower will be sufficient to carry out the project;

(j) There is reasonable assurance of repayment of the guaranteed portion of the loan by the borrower, and assurance that loan repayment is not dependent on interest or principal assistance;

(k) The amount of a guaranty for any loan for a project does not exceed $50,000,000.

(l) The total dollar amount of guarantees made under this regulation for any combination of outstanding loans to any single borrower does not exceed $200,000,000, unless the Secretary determines in writing that a guaranty in excess of these amounts is in the national interest and does not adversely impact competition. Such determinations shall be submitted to the Speaker of the House and the Chairman of the Committee on Science and Technology of the House of Representatives, and to the President of the Senate and the Chairman of the Committee on Energy and Natural Resources of the Senate, accompanied by a full and complete report on the proposed project and guaranty. The proposed guaranty or commitment to guarantee will not be finalized prior to the expiration of 30 calendar days (not including any date on which either House of Congress is not in session) from the date on which the report is received by the Speaker of the House and the President of the Senate.

(m) The project is to be performed in the United States, its territories or possessions, or on property owned or leased by the United States outside the United States, its territories or possessions;

(n) The project is technically feasible;

(o) There is acceptable evidence that the borrower will initiate and complete the project in a timely and efficient manner;

(p) There is a sufficiency of encouraging geophysical, geological, hydrological and geochemical data;

(q) The borrower agrees to make available to the Secretary on a timely basis adequate technical or economic information as specified in the guaranty agreement, and, subject to provisions in § 790.20(b)(2), and further agrees to the public dissemination of specified project information.

(r) There is satisfactory evidence of the borrower's interest in geothermal resources;

(s) There is satisfactory evidence that the project will be carried out by the use of environmentally acceptable processes in such a manner as to mitigate any adverse environmental impact to the maximum extent practicable, and to comply with any applicable environmental protection and pollution control requirements.

(t) The environmental risks of the project have been evaluated in accordance with § 790.23;

(u) The terms and conditions set forth in the loan agreement are acceptable;

(v) The borrower and any non-guaranteed lender agree in writing that the terms and conditions set forth in a non-guaranteed loan agreement relating to the project must be acceptable to the Secretary before such agreement is effective;

(w) The Secretary of the Treasury has insured the Secretary of Energy to the maximum extent feasible that the timing, interest rate, and terms and conditions of any guaranty exceeding $25,000,000 will have the minimum possible impact on the capital market of the United States taking into account other Federal direct and indirect commercial securities activities; and

(x) There are no significant adverse competitive impacts from cumulative guarantees in excess of $50,000,000 to any single borrower.

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§ 790.7 Interest and principal assistance.

(a) Whenever the borrower is unable to pay required interest or principal, the Manager, upon approval by the Secretary, may enter into interest or principal assistance contracts with the borrower to pay the lender for and on behalf of the borrower the interest charges or principal payments which become due and payable if the Secretary finds that:

(1) The borrower is unable to meet such payments and is not in default;

(2) That it is in the public interest to permit the borrower to continue to pursue the purposes of the project; and,

(3) That the probable net cost to the Federal Government in paying such amounts will be less than that which would result in the event of a default.

(b) The amounts which the Manager is authorized to pay under an interest or principal asistance agreement shall be no greatyer than the amount of interest or principal which the borrower is obligated to pay under the loan agreement; and

(c) The principal or interest assistance agreement shall provide that the borrower repay the amounts received on terms and conditions, including interest, which are satisfactory to the Secretary.

§ 790.8 [Reserved]

§ 790.9 Period of guarantees and assistance contracts.

No loan guaranty agreements or commitments to guaranty will be made or interest or principal assistance contracts entered into after September 3, 1984. Guaranty agreements in effect at that time will continue until the term of the loan is completed or until the guaranteed portion of the loan is repaid in full with accrued interest, whichever occurs first. Similarly, interest or principal assistance contracts in effect on September 3, 1984, will remain in effect until the contract term expires or is otherwise terminated.

§ 790.10 Information for States and Indian Tribes.

The Secretary, the Manager, or a Regional Representative of the Secretary will, as appropriate, meet with Governors of directly affected States, regional associations of Governors, heads of State agencies and commissions responsible for energy or environmental matters, and Indian Tribes for the purpose of:

(a) Discussing the status of projects guaranteeed under this regulation;

(b) Identifying means to remove or mitigate legal and regulatory barriers to the accelerated use of goethermal resources;

(c) Evaluating plans to encourage growth in the geothermal industry;

(d) Discussing community impacts which may result from projects receiving a loan guaranty under this regulation; or

(e) Other areas deemed appropriate.

§ 790.11 Full faith and credit and incontestability.

The full faith and credit of the United States is pledged to the payment of all guarantees issued in accordance with these regulations, and such guarantees shall be valid and incontestable by the Government, except for fraud or misrepresentation by the holder of the guaranteed obligation. A guaranty agreement entered into in accordance with these regulations shall be conclusive evidence that the guaranty and the underlying loan are in compliance with applicable laws and these regulations, and that such loan has been approved.

§ 790.12 Use of Federal Financing Bank.

(a) Loans guaranteed in accordance with these regulations may be funded through the Federal Financing Bank whenever the Secretary has made each of the following determinations:

(1) The loan is 100% guaranteed;

(2) Private funding of the debt is not available at acceptable terms, rate or fees acceptable to the Secretary; and

(3) Federal Financing Bank funding will not have a material adverse affect on the objectives of the program.

(b) Whenever a loan is funded through the Federal Financing Bank, the loan shall be serviced in accordance with the loan servicing requirements of these regulations by parties acceptable to the Manager. The servicing cost shall be paid by the borrower in addition to any guaranty fee charged by the lender to the borrower, and may be included in the estimated aggregate cost of the project.

§ 790.13 Deviations.

To the extent that such requirements are not specified by Pub. L. 93-410 as amended or other applicable statutes, DOE's Assistant Secretary for Resource Applications may authorize deviations on an individual application basis from the requirements of this regulation (except § 790.23) upon a finding that such deviation is essential to program objectives and the special circumstances in the application submitted by the borrower and lender make such deviation clearly in the best interest of the Government. Recommendation for any deviation shall be submitted in writing by the Manager to the Assistant Secretary for Resource Applications. Such recommendations should include a supporting statement, which indicates briefly the nature of the deviation requested and the reasons therefore. This deviation authority may not be redelegated.

Subpart B—Applications

§ 790.20 Filing.

(a) A completed application for a loan guaranty under this regulation must be on a form provided by the Manager and be signed by the prospective borrower and submitted to the Manager who is responsible for processing the application. If the application involves a private lender, the form shall be signed by the lender. Application forms and information regarding the filing of applications may be obtained from the Director, Geothermal Loan Guaranty Program Office, San Francisco Operations Office, Department of Energy, 1333 Broadway, Oakland, California 94612. Telephone (415) 273-7151.

(b)(1) Prior to receipt of an application, the Manager is authorized to conduct preliminary discussions with prospective lenders or borrowers wishing to obtain information or advice regarding eligibility for a loan guaranty and compliance with filing requirements.

(2) Subject to requirements of law and applicable regulations, information such as trade secrets, commerical and financial information, geological, geophysical and geographical information and data (including maps) concerning wells which the borrower or lender submits to DOE during the preliminary discussion or at any other time throughout the duration of the project on a privileged or confidential basis, will not be publically disclosed by DOE without prior notification to the submitter. Information asserted by the borrower or lender to be priviledged or confidential shall be appropriately identified and marked. The guaranty agreement shall identify those items of information which the borrower will make available to the Manager for public dissemination.

(c) Supporting information and cost data submitted by the applicants shall be updated and furnished to the Manager whenever changes occur during the pendancy of the guaranty application.

§ 790.21 Supporting information.

(a) The lender and borrower shall provide information, as prescribed by the Manager, to supplement the application. The following items are provided to illustrate the range of supporting information which may be required to enable the Manager to prepare a recommendation with respect to any pending application.

(1) Full description of the scope, nature, extent, milestones and location of the proposed project;

(2) A detailed budget-type breakdown of both the estimated aggregate cost of the project and the amount to be borrowed;

(3) Evidence showing that the amount of the loan together with equity or other financing will be sufficient to complete the project;

(4) The borrower's plan to repay the loan, including cash flow projections, assumptions regarding marketability of the project's results or product, descriptions of the project's technical and economic feasibility, and environmental acceptability;

(5) The aggregate outstanding amount of guaranty commitments or guaranteed loans made to the borrower under the provisions of these regulations;

(6) Where relevant to the purpose of the loan guaranty, a copy of the borrower's title or lease agreement to the property on which the project is to be carried out, supported by title opinion or other acceptable evidence of the borrower's ownership interest;

(7) Subject to § 790.20(b)(2), technical information and reports, geophysical data, well logs and core data, financial statements, milestone schedules, and maps and charts;

(8) Information covering the management experience of each officer or key person in the borrower's organization who is to be associated with the project and a description of salaries (and other financial remuneration including profit sharing and stock options) to be paid to officers and employees of the borrower that are, or will be, directly associated with the project;

(9) A description of the borrower's management concept, and business plan or plan of operations, to be employed in carrying out the project;

(10) A description of the intended sources and amount of capital and its form (equity, loans from principals, loans from the lender, outside financing, or factoring) together with evidence of a commitment from these sources and a copy of each such agreement, and evidence of the financial ability of each source to honor its commitment;

(11) A listing of assets associated or to be associated with the project, including appropriate data as to value and useful life of major assets essential to the project, and a description of any other security;

(12) A listing of all permits or authorizations required by Federal, State and local government agencies to conduct the project and a copy of each application for approval of such permits or authorizations when issued or a statement of planned filing dates and expected date of approval;

(13) A description of the borrower's organization and, as applicable, a copy of the business certificate, partnership agreement or corporate charter, bylaws, and appropriate authorizing resolutions;

(14) The lender's written assessment of all aspects of the borrower's loan application in such detail as would be expected by prudent lenders considering a loan without a guaranty, together with copies of the proposed loan agreement, the borrower's financial statements, investigations from credit bureaus, references, bank inquiries, and professional organizations;

(15) A copy of all existing loan agreements and written assurance from any existing lenders of project funds that the loan amounts as well as terms and conditions imposed by lenders on such loans will not be altered in any significant respect without the prior approval of the Secretary;

(16) Evidence of consultation conducted by the borrower with appropriate agencies of any affected State regarding the proposed project, and a description of any adverse social or economic impacts which may occur in the community in which the project will be located;

(17) A disclosure by the lender of (i) whether any of its officers, directors, major stockholders or other major owners have a financial interest in the borrower and (ii) whether any of the borrower's officers, directors, major stockholders or other major owners have a financial interest in the lender; and,

(18) Any other information required by the Manager to fully evaluate the guaranty application.

(b) In addition to supporting information illustrated in paragraph (a) of this section, the Manager may independently obtain or may require the lender to include with the guaranty application information regarding the lender as deemed necessary by the Manager, including but not limited to:

(1) Description of the lender's organization and a copy of the business certificate, partnership agreement or corporate charter, bylaws, and appropriate authorizing resolutions;

(2) Copies of investigation reports obtained from credit bureaus, reference and bank inquiries, and professional associations;

(3) A description of the management experience of each officer or key person in the lender's organization who will be servicing the loan;

(4) A description of the management techniques to be employed by the lender in surveillance of the loan;

(5) When appropriate to the project, evidence of the lender's experience in surveying the financial aspects of complex technological projects; and

(6) A copy of the lenders' conditional loan commitment document, if any, issued to the borrower.

(c) The Manager shall consider the application and other relevant information and shall be responsible for: (1) Determining whether the application is in compliance with these regulations; (2) assessing and evaluating the financial, technical, environmental, legal, management, and marketing aspects of the project; (3) assessing the availability of the project's financing, other than that provided by the proposed guaranty for the project, and assessing whether such financing is adequately committed; and, (4) recommending to the Secretary approval or nonapproval of the application. The Manager shall include with a recommendation for approval a proposed guaranty agreement containing appropriate terms and conditions pertinent to the project, previously discussed and negotiated by the Manager with the lender and borrower. When not approved by the Secretary, the Manager will provide the borrower and lender with a written statement setting forth the basis for the non-approval of the guaranty application.

§ 790.22 Project cost illustrations.

(a) The cost elements set forth in paragraphs (b) and (c), of this section are only for the purpose of illustrating the manner by which the estimated aggregate cost for construction and initial startup of the project can be determined. It is expected that these project costs will be recorded in accordance with generally accepted accounting principles and practices which are consistently applied.

(b) Except as set forth in paragraph (c) of this section, reasonable and customary costs for construction and initial startup paid or to be paid by the borrower or the applicants for a guaranty that are directly connected to the project are generally permitted in computing the estimated aggregate project cost. These costs include, but are not limited to the following:

(1) Employees' salaries and wages, consultant fees and other outside assistance;

(2) Land purchase or lease payments, including reasonable real estate commissions;

(3) Engineering fees, surveys, plates, title insurance, recording fees and legal fees incurred in connection with land acquisition;

(4) Site improvements, site restoration and abandonment costs, access roads and fencing;

(5) Drilling of exploration wells, shallow heat-flow wells, and test, production and reinjection wells;

(6) Buildings, transmission lines, powerplant equipment, and machinery;

(7) Taxes (including tax advances associated with community impact planning) to be paid to Federal, State and

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local government agencies and other taxing authorities;

(8) Insurance, including flood insurance, and bonds of all types;

(9) Engineering, geological, and architectural fees paid in connection with drilling, machinery selection, design, acquisition and installation;

(10) Research, exploration or development necessary to complete the project;

(11) Professional services and fees necessary to obtain licenses and permits and to prepare environmental reports and data;

(12) Interest costs charged by the lender;

(13) Interest payments to other lenders;

(14) Costs incurred for the benefit of the project prior to approval of the guaranty agreement that are directly connected with the project;

(15) Technical and socio-economic information dissemination costs, and community impact assistance costs;

(16) Costs to provide safety and environmental protection equipment, facilities and services;

(17) Travel and transportation costs;

(18) Bond financing costs and trustee fees;

(19) Fees for royalties and licenses;

(20) Costs associated with acquiring geophysical and other technical data;

(21) Financial and legal services costs;

(22) Costs to comply with terms and conditions specified in the guaranty agreement or with applicable laws, rules and regulations.

(23) Expenses associated with initial period of starting operations; and

(24) A contingency reserve.

(c) Costs which are not considered as part of the estimated aggregate cost of the project and are not a project cost are illustrated below:

(1) Company organizational expenses;

(2) Parent corporation general and administrative expenses and other parent corporation assessments;

(3) Dividends and profit sharing to stockholders, employees and officers;

(4) Goodwill, franchises, or trade or brand name costs;

(5) Except as provided in § 790.31, fees and commissions charged to the borrower for obtaining loans and Federal assistance;

(6) Loan commitment fees charged by lenders, except as specifically approved by the Secretary, and finders' fees;

(7) Operation expenses (including interest costs) incurred after an initial period of start-up; and,

(8) Costs that are excessive or are not directly required to carry out the project.

(d) Independently, or at the direction of the Secretary, the Manager may cause to be performed a review of any or all cost elements included by the applicant in the estimated aggregate project cost. The applicant shall make available records and other data necessary to permit the Manager to carry out such review. In carrying out this responsibility, the Manager may utilize employees of Federal agencies or may direct the applicant to submit to a review performed by an independent public accountant or other competent authority.

(e) When costs incurred prior to the approval of the guaranty agreement, as provided in § 790.22(b)(14), are included in the estimated aggregate project cost, the applicant, if requested by the Manager, shall make available to auditors selected by the Manager financial and other records necessary to complete an audit of such costs if requested by the Manager.

(f) In the case of a guaranty for the purposes specified in § 790.4(a)(5), the aggregate cost of the project can be that portion of the total cost of construction and start-up operations which is directly related to the utilization of geothermal energy within the structure or facility, except that the aggregate cost of the project may include construction and start-up operations when the facility or structure is to be located near a geothermal energy resource predominantly for the purpose of utilizing geothermal energy, or as determined by the Secretary the economic viability of the project is substantially dependent on the performance of the geothermal reservoir.

§ 790.23 Environmental considerations.

(a) The issuance of a Federal guarantee for a loan under these regulations is subject to the provisions of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 et seq. Pub. L. 91-190) and applicable regulations, rules and guidelines implementing NEPA. NEPA requires the identification and environmental review of "major Federal actions significantly affecting the quality of the human environment." DOE shall follow its general regulation governing its procedures and policies implementing NEPA.

(b) In addition to generally applicable criteria used to determine the proper scope of environmental review to be accorded individual applications, DOE shall review and consider the environmental impacts associated with the commercial operation of the project throughout its useful life. Such considerations shall be carried out even where the proposed guaranty may be limited to only a small or preliminary segment of the entire commercial project. (For example, if the guaranty is for a project to complete a steam supply system for a future powerplant, the environment impacts of construction and operation of the powerplant and related transmission lines over the useful life of the plant would be evaluated along with the impacts associated with drilling and surface gathering construction.) Any specific action under a guaranty, such as approval of a disbursement, shall not be made unless the applicable requirements of the NEPA and the DOE implementing NEPA regulations have been met.

(d) The issuance of a loan guaranty under this regulation is subject to the provisions of Executive Order 11988—Floodplain Management, and 11990—Protection of Wetlands. Borrowers applying for loan gurantees under this regulation should familiarize themselves with these Orders and with the DOE regulations implementing them (proposed 10 CFR Part 1022, published at 43 FR 31108, July 19, 1978).

§ 790.24 Mandatory purchase of flood insurance.

The Flood Disaster Protection Act of 1973 (Pub. L. 92-234) may require purchase by the borrower of flood insurance as a condition of receiving a guaranty on loans for acquisitions or construction purposes in an identified flood plain area having special flood hazards. Questions emanating from borrowers or lenders regarding compliance with provisions of the Flood Disaster Protection Act and guidelines of the Federal Insurance Administration will be referred to the Manager.

Subpart C—Servicing and Closing

§ 790.30 Loan servicing by lender.

Except when the loan is placed through the Federal Financing Bank, guaranty agreements approved in accordance with these regulations shall provide that:

(a) Loan servicing is a responsibility of the lender who shall exercise such care and diligence in the disbursement, servicing, and repayment of the loan as would be exercised by a reasonable and prudent lender in dealing with a loan without guaranty;

(b) The loan agreement shall provide specific dates for the payment of principal and interest and shall provide a period of grace of not less than 30 days for the making of any payment. The lender shall not grant the borrower any further extension of time over and above any grace period without the prior written consent of the Manager;

(c) The lender shall notify the Manager in writing without delay:

(1) That disbursement for the first project milestone is ready to be made, together with evidence from the borrower that the project has commenced or is about to commence;

(2) Of the date and amount of disbursement for each subsequent project milestone under the loan;

(3) If, excluding any grace period, the lender has not received payment within 10 days after the date specified for payment in the loan agreement, together with evidence of appropriate notifications made by the lender to the borrower;

(4) Of any failure, known to the lender, by an intended source of capital to honor its commitment;

(5) Of any failure by the borrower, known to the lender, to comply with terms and conditions as set forth in the loan agreement and any failure by the borrower to comply with guaranty terms and conditions that the lender has agreed to monitor;

(6) If the lender has information that the borrower may be approaching any of the default conditions set forth in the loan agreement or that the borrower may not be able to meet any future scheduled payment of principal or interest; or

(7) Of all material changes from the cash flow projections in effect at the time the loan guaranty application is approved.

(d) The lender agrees not to demand accelerated repayment unless the borrower has defaulted in the payment of principal or interest or in other cases if such demand has been approved in writing by the Manager.

(e) The loan agreement may defer the repayment of principal for a period of time as agreed to by the Secretary.

(f) The guaranty agreement shall require the lenders to submit to the Manager periodic financial reports on the status and condition of the guaranteed loan. The guaranty agreement shall prescribe the frequency, format and content of these reports. However, such report shall, as a minimum, be required annually. Reports shall be furnished to the Manager until such time as the guaranteed portion of the loan and interest or principal assistance is repaid.

§ 790.31 Guaranty fee.

(a) A guaranty fee of not more than one percent shall be paid annually by the lender at a rate specified in the guaranty agreement. Fees collected by the Manager shall be deposited in the Geothermal Resource Development Fund. The fee shall be imposed on the average amount of the guaranteed portion of the loan outstanding during the year. The fee requirement may be passed to the borrower by the lender and in such instances may be included in the estimated aggregate cost of the project. When the Federal Financing Bank is the lender, the borrower shall pay the guaranty fee directly to the Manager.

(b) At the time the guaranty agreement is concluded, as set forth in § 790.45(d), the lender shall present to the Manager payment of the first year's guaranty fee. Subsequent payments of the fee shall be made yearly by the lender on the anniversary date of closing. If an interest or principal assistance contract is in effect, payments of this fee, if passed by the lender to the borrower, may be deferred by the Secretary for an appropriate time.

(c) The Secretary shall periodically determine whether the guaranty fee being imposed is sufficient to cover anticipated administrative, probable default, and when appropriate, establish a revised fee rate, not to exceed one percent, to be applied to new guaranty agreements.

§ 790.32 Geothermal resources development fund.

(a) As provided in Sec. 204(a) of Pub. L. 93-410, there is established in the Treasury of the United States a Geothermal Resources Development Fund, which is available to the Secretary in carrying out any loan guaranty, interest or principal assistance, and interest differential payments. Balances in the Fund are available for necessary administrative expenses incurred by or on behalf of DOE in carrying out the provisions of this regulation.

(b) Appropriations to the Geothermal Resource Development Fund that are made available through legislation, or repayments made by borrowers in accordance with terms and conditions in interest or principal assistance contracts, or amounts returned through recoveries by the U.S. Attorney General, or amounts collected as guaranty fees shall be deposited in the Fund.

(c) If at any time Geothermal Resource Development Fund balances are insufficient to enable the Secretary to discharge DOE's obligations and responsibilities under this regulation, the Secretary, subject to provisions in appropriations acts, may borrow funds from the secretary of the Treasury upon the issuance of notes or other obligation instruments containing terms and conditions prescribed by the Secretary of the Treasury.

§ 790.33 Project monitoring.

The guaranty agreement shall provide that employees and representatives of DOE shall, with the Manager's approval, have access at reasonable times and under reasonable circumstances to the project site. The lender, to the extent lawful and within its control, and borrower will assure availability of information related to the project as is necessary to permit the Manager to determine technical progress, soundness of financial condition, management stability, compliance with environmental protection requirements, and other matters pertinent to the guaranty.

§ 790.34 Loan disbursements by lender.

(a) Unless otherwise provided in the guaranty agreement, the lender shall not provide the borrower with any funds under the loan agreement until the lender has:

(1) Provided the notification set forth in § 790.30(c) (1) and (2) and has received written notice from the Manager that disbursement for the applicable milestone is approved; and,

(2) Received from the borrower satisfactory documentary evidence, as provided in § 790.35, that loan drawdowns requested will be used to pay allowable project costs incurred or to be incurred by the borrower.

(b) When the loan is fully guaranteed, the guaranty agreement shall provide that the lender will withhold loan drawdowns from the borrower only upon written notification from the Manager.

§ 790.35 Satisfactory documentary evidence.

The loan agreement shall provide that the borrower furnish to the lender a written statement in support of each request by the borrower for loan drawdowns. This statement shall set forth in such detail as the lender or Manager may require the purposes for which drawdown is requested and an attestation that such disbursements will be used only for such purposes. Each such request shall be signed by a person authorized to order the expenditure of the borrower's funds.

§ 790.36 Reduction or withdrawal of guaranty.

The Secretary, may, upon the written recommendation of the Manager, reduce or withdraw any guaranty by written notice to the lender and the borrower if he determines that:

(a) Initiation of the project has not occurred within the period of time set forth in the guaranty agreement. Within 60 days after the guaranty is withdrawn under this circumstance, the Manager shall reimburse the lender for the full amount of the guaranty fee paid by the lender if the fee has not been passed to the borrower;

(b) The borrower has failed to acquire capital from intended or alternate sources, or has failed to comply with material terms and conditions as set forth in the loan or guaranty agreement. The Manager shall, if appropriate, notify the borrower and the

lender that the guaranty shall be reduced to the amount that has been received by the borrower as of the date of the notice. Drawdowns permitted by the lender after such notification is received will not be covered by the guaranty; or

(c) The lender has failed to comply with any material term or condition set forth in the guaranty or loan agreement. The guaranty may be reduced to the amount that has been received by the borrower as of the date the Manager's notice of reduction of the guaranty. Notice of the Manager's finding that a material term has not been complied with by the lender shall be sent by the Manager to the borrower and the lender. Following notification, the borrower will be allowed reasonable time to acquire a substitute lender that is capable of complying with provisions in the loan and guaranty agreements. If the borrower obtains a substitute lender satisfactory to the Secretary, a new guaranty agreement will be executed. Upon execution of the guaranty agreement by the substitute lender and DOE, the Secretary may provide that the original lender shall be reimbursed by the borrower for unpaid principal outstanding and accrued interest.

(d) In the event the Secretary, in his descretion determines, upon recommendation by the Manager of discussions with the borrower and lender, that the project's economic success or environmental acceptability is no longer achievable. Written notice shall be given to the borrower and lender of this determination and the guaranty shall then be reduced to amounts which have been received by the borrower as of the date that the notice is received by the lender.

§ 790.37 Default, demand, payment and collateral liquidation.

(a) In the event that the borrower has defaulted in the making of required payments of principal or interest on any portion of a loan guaranteed in accordance with these regulations, and such default has not been cured within the period of grace provided in the loan agreement, the lender, or any other holder, or nominee or trustee empowered to act for the lender or holder (referred to in this section collectively as "holder"), may make written demand upon the Manager for payment pursuant to the guaranty agreement.

(b) In the event that the borrower is in default as a result of a breach of one or more of terms and conditions of the guaranty agreement, note, loan agreement, or other contractual obligation related to the transaction, other than the borrower's obligation to pay principal or interest, as provided in § 790.37(a) the holder shall not automatically be entitled to make demand for payment pursuant to the guaranty, unless the Secretary agrees in writing that such default has materially effected the rights of the parties, and finds that the holder should be entitled to receive payment of the outstanding guaranteed debt.

(c) No provision of these regulations shall be construed to preclude forbearance by the holder and the Secretary for the benefit of the borrower.

(d) Upon the making of demand for payment as provided in § 790.37 (a) or (b), the holder shall provide, in conjunction with such demand or immediately thereafter, at the request of the Manager, such supporting documentation as may be reasonably required to justify such demand.

(e) Payment of the guaranteed debt shall be made 60 days after receipt by the Manager of written demand for payment: *Provided*, The demand is in compliance with terms of the guaranty agreement, applicable law, and these regulations. The guaranty agreement will provide that interest shall accrue during that period at the rate stated in the loan agreement.

(f) Upon payment of the guaranteed debt pursuant to these regulations, the holder shall transfer and assign to the Manager all rights held by the holder in the guaranteed portion of the debt which was guaranteed. Such assignment shall include the guaranteed portion of the loan and related security and collateral rights. Through such payments and assignment, the Secretary shall be subrogated to the rights of the recipient of the payment and shall have superior rights in and to the property acquired from the recipient of the payment.

(g) Where the guaranty agreement so provides, the lender and the Manager may jointly agree to a plan of liquidation of the collateral pledged to secure the guaranteed debt, and thereafter the lender may undertake such liquidation and make application of the proceeds derived thereby in accordance with the terms and conditions of the loan and guaranty agreements and the written plan of liquidation.

(h) Where payment of the guaranteed debt has been made and the lender has not undertaken a plan of liquidation, the Secretary, in accordance with the rights received through subrogation and acting through the U.S. Attorney General, shall seek to foreclose on the collateral assets and take such other legal action as necessary for the protection of the Government.

(i) If the Secretary is awarded title to collateral assets pursuant to a foreclosure proceeding, the Secretary may take action to complete, maintain, operate, or lease the project facilities, or take any other necessary action which the Secretary deems appropriate, in order that the original goals and objectives of the project will, to the extent possible, be realized.

(j) In addition to foreclosure and sale of collateral pursuant thereto, the U.S. Attorney General shall take appropriate action in accordance with rights contained in the guaranty agreement to recover costs incurred by the Government as a result of the defaulted loan. Any recovery so received by the U.S. Attorney General on behalf of the Government shall be applied in the following manner: First to the expenses incurred by the U.S. Attorney General and DOE in effecting such recovery; second to reimbursement of any amounts paid by DOE as a result of the loan guaranty; third to any amounts owed to DOE under related principal and interest assistance contracts; and fourth to any other lawful claims held by the Government on such proceeds. Any sums remaining after full payment of the above shall be available for the benefit of other parties lawfully entitled to claim them.

§ 790.38 Perfection of liens and preservation of collateral.

(a) The guaranty agreement shall provide that: (1) The lender will take those actions necessary to perfect and maintain liens, as applicable, on assets which are pledged collateral for the guaranteed portion of the loan; and, (2) upon default by the borrower, the holder of pledged collateral shall take actions such as the Manager may reasonably require to provide for the care, preservation, protection and maintenance of such collateral so as to enable the United States to achieve maximum recovery upon default of the loan. The Manager shall reimburse the holder of collateral for reasonable and appropriate expenses incurred in taking actions required by the Manager. Except as provided in § 790.37, the lender shall not waive or relinquish, without the consent of the Manager, any collateral for the loan to which the United States would be subrogated upon payments under the guaranty agreement.

(b) In the event of a default, the Manager may enter into contracts as required to preserve the collateral for the loan and to complete unfulfilled environmental requirements. The cost of such contracts may be charged to the Geothermal Resource Development Fund.

§ 790.39 Treatment of payments.

When the lender holds a guaranteed and non-guaranteed portion of the same loan, payments of principal under the loan agreement made by the borrower shall be applied by the lender to reduce the guaranteed and non-guaranteed portions of the loan on a proportionate basis.

§ 790.40 Assignment and participation.

(a) The lender may not assign to another lender those loan servicing functions required by the guaranty agreement unless prior written approval is obtained from the Manager.

(b) The lender may sell all or part of the guaranteed loan or provide other parties with participating shares in the guaranteed loan without the prior consent of the Secretary. However, the original lender shall continue to be responsible for and perform the duties and obligations of the lender as set forth in the guaranty agreement, unless the Secretary approves a substitute lender in accordance with § 790.36.(c)..

(c) If participating shares in the guaranteed loan are sold by a lender, written notice thereof shall be given by the lender to the Manager and the borrower in the manner prescribed in the guaranty agreement.

§ 790.41 Survival of guaranty agreement.

Any guaranty agreement shall be binding upon the lender, the borrower and the Secretary and upon their successors and assigns. No delay or failure of the Secretary or the Manager in the exercise of any right or remedy and no single or partial exercise of any right or remedy shall preclude the exercise of any further rights; and no action taken or omitted by the Secretary or the Manager shall be deemed a waiver of any right or remedy of the United States. Each guaranty agreement shall contain provisions setting forth these conditions.

§ 790.42 Modifications to existing guaranty agreements.

The Manager may approve modifications to terms and conditions in existing loan and guaranty agreements only upon determining that such modifications will not (a) substantially change the project's scope, cost and purpose; (b) deviate from provisions in this regulation; or (c) compromise the loan agreement schedule for loan repayment. When the Manager finds that a substantive modification to existing terms and conditions is desirable or necessary, or is requested in writing by the borrower and lender, a written recommendation shall be forwarded for determination by DOE's Assistant Secretary for Resource Applications.

§ 790.43 Other Federal assistance.

(a) Nothing in these regulations shall be interpreted to deny or limit the borrower's right to seek and obtain other Federal financial assistance (e.g., contracts, grants, cooperative agreements, direct loans or guaranteed loans). For purposes of this section, other financial assistance does not include revenue sharing funds or any tax benefits. However, the total amount of Federal financial assistance, including guarantees made under these regulations, obtained by the borrower for the benefit of the project, shall not exceed 75 percent of the estimated aggregate cost of the project to be undertaken by the borrower.

(b) After concluding a loan guaranty agreement hereunder, the borrower shall not undertake any work in connection with the project for a Federal agency without the Manager's written approval.

§ 790.44 Inventions and other intellectual property.

(a) Inventions and other intellectual property accruing to the borrower and resulting from the project will remain with the borrower. In the case of default, such property shall be treated as project assets in accordance with terms and conditions in the guaranty agreement.

(b) The guaranty agreement may provide that inventions or other intellectual property utilized in or resulting from the project, which are owned or controlled by the borrower, shall be made available for use within the United States upon reasonable terms and conditions including provisions, if necessary, which protect the confidentiality thereof, if such action is determined by the Secretary to be in the public interest. This requirement will normally not be included where the principal purpose of the loan to be guaranteed is to utilize generally available technology to determine and evaluate a new geothermal resource base, or the acquisition of rights in geothermal resources.

(c) Where the principal purpose of the loan is for research and development with respect to extraction and utilization technologies, or for the development or demonstration of new and unique facilities or equipment, a requirement to make inventions and other intellectual property available to other domestic parties shall be included in the guaranty agreement unless the Secretary determines, upon the recommendation of the Manager, that such a requirement would either seriously impair the borrower's ability to conduct the project or the borrower's comeptitive position, or be inconsistent with the borrower's pre-existing contractual obligations. The Secretary's determination on this matter shall include consideration of whether attainment of the objectives of the geothermal loan guaranty program, as set forth in § 790.2, will be adversely affected by this requirement.

§ 790.45 Closing.

(a) When an application for a loan guaranty has been approved by the Secretary, the Manager shall notify the lender and the borrower and provide them with a copy of the guaranty agreement or commitment to guaranty approved by the Secretary;

(b) A preclosing conference will be arranged by the Manager, if the lender or borrower requests one, to discuss the terms and conditions contained in the approved guaranty agreement;

(c) Requests by the lender or borrower for substantive modification of the terms and conditions set forth in the guaranty agreement shall be submitted by the Manager for the Secretary's consideration, supported by such documentation and facts as would justify the requests; and,

(d) Immediately after approval of all terms and conditions by the parties, the Manager shall arrange with the lender and the borrower for the preparation and review of necessary documents and agree upon a date for execution of the guaranty agreement and payment of the guaranty fee.

§ 790.46 Suspension, termination or cancellation of operations or production on Federal land administered by the Secretary of the Interior.

(a) The Manager shall inform the Supervisor (as defined in 30 CFR 270.2 (c)) when a loan guaranty is approved involving a Federal lease, so as to provide for future coordination of the loan guaranty program and lease administration.

(b) Under regulations issued by the Department of Interior, a leaseholder may, as provided in 43 CFR 3205.3–8 and 30 CFR 270.17, apply for suspension of operations or production, or both, under a producing geothermal lease (or for relief from any drilling or producing requirements of such a lease). When a loan guaranty has been issued under this regulation for a project to be conducted by a qualified borrower who is a lessee under the above cited regulation, the borrower shall submit a copy of any suspension application to the Manager, together with a statement setting forth complete information showing the effect of such suspension on the borrower's ability to comply with terms and conditions set forth in the loan and guaranty agreements. The Manager shall notify the borrower and the Secretary in those situations when approval of any such application might cause default by the borrower. Except in cases where potential environmental safety or reservoir damage is imminent, the borrower shall obtain the Manager's approval prior to submitting a suspension application to the Supervisor.

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(c) 43 CFR 3204.3 requires that each geothermal lease issued by the Department of the Interior provide for the readjustment of terms and conditions at not less than 10-year intervals beginning 10 years after the date geothermal steam is produced. When a guaranty under this regulation has been issued for a loan on a project to be conducted by a borrower who is a lessee, and the borrower files an objection to any proposed readjustment with the Authorized Officer (as defined in 43 CFR 3000.0-5(f)) a copy of the objection shall be submitted without delay by the borrower to the Manager. The Manager shall forward a copy of the objection to the Secretary and to those lenders concerned, and shall consult with the Authorized Officer regarding any final action by the Authorized Officer which might terminate the lease. The Manager shall prepare an assessment on the effect of the proposed readjustment of lease terms and conditions that would substantially limit the borrower's ability to comply with the terms and conditions set forth in the loan agreement. The Manager shall forward his assessment in writing to the Secretary, the Authorized Officer and the supervisor.

(d) Upon receipt by the lessee of notice of a proposed cancellation of a lease by the Authorized Officer, the lessee with a loan guaranteed under this regulation will provide the Manager and the lender with notice of such proposed action. Upon receipt of such notice the Manager will consult with the Supervisor and Authorized Officer for the purpose of determining whether the public interest can best be served by an acceptable alternative arrangement, such as obtaining assignments for a party qualified to hold geothermal leases who is a qualified borrower and who is willing to assume the original lessee's loan agreement and related undertaking, so that operation and production can continue.

§ 790.47 Appeals.

Any guaranty agreement shall include a provision that specifies that any dispute concerning a question of fact arising under a guaranty agreement shall be decided in writing by the Manager. The borrower or lender, as appropriate, may within seven days after receipt of any such decision request reconsideration by the Manager. If not satisfied with the final written decision, the borrower or lender, may appeal the decision within 30 days, in writing, to the Chairman, Board of Contract Appeals (BCA), Department of Energy, Washington, D.C. 20545. That Board when functioning to resolve such loan guaranty disputes, shall proceed in the same general manner as when it presides over appeals involving contract disputes. The decision of the Board with respect to such appeals shall be the final decision of the Department.

Signed at Washington, D.C., this 29th day of December, 1978.

STANLEY I. WEISS,
Deputy Assistant Secretary, Utility and Industrial Energy Applications, Resource Applications.

[FR Doc. 79-398 Filed 1-2-79; 3:12 pm]

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federal register

FRIDAY, JANUARY 5, 1979
PART VII

THE NATIONAL ARCHIVES OF THE UNITED STATES
1934

DEPARTMENT OF ENERGY

GRANT PROGRAMS FOR CONDUCTING TECHNICAL ASSISTANCE PROGRAMS AND ADOPTION OF ENERGY CONSERVATION MEASURES FOR SCHOOLS, HOSPITALS, UNITS OF LOCAL GOVERNMENT AND PUBLIC CARE INSTITUTIONS

Proposed Rulemaking and Announcement of Public Hearings

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[6450-01-M]

DEPARTMENT OF ENERGY

[10 CFR Part 455]

[Docket No. CAS-RM-78-503]

GRANT PROGRAMS FOR SCHOOLS AND HOSPITALS AND BUILDINGS OWNED BY UNITS OF LOCAL GOVERNMENT AND PUBLIC CARE INSTITUTIONS

Proposed Rulemaking and Public Hearing

AGENCY: Department of Energy.

ACTION: Notice of proposed rulemaking and public hearings.

SUMMARY: The Department of Energy (DOE) proposes to implement cost sharing grant programs for conducting technical assistance programs and adoption of energy conservation measures for schools, hospitals, units of local government and public care institutions pursuant to Title III of the National Energy Conservation Policy Act (NECPA), Pub. L. 95-619, 92 Stat. 3206. Technical assistance programs will identify and evaluate attainable energy conservation objectives. Energy conservation measures will include the acquisition and installation of specific conservation systems or fixtures to reduce energy use and anticipated energy costs in school and hospital buildings. Participation in the programs is voluntary. The Secretary will make grants to States, schools, hospitals, units of local government and public care institutions for technical assistance programs, and to States, schools and hospitals for energy conservation measures.

DOE will be responsible for general program oversight. However, program management, including financial auditing, monitoring and evaluation of activities in a given State, will be the responsibility of that State. Grant applications will be reviewed by responsible State agencies for conformance with previously approved State Plans and forwarded at specified times to DOE. States will be eligible to receive grants to defray administrative and other expenses on a cost-sharing basis.

DATES: Written comments must be received by February 3, 1979, 4:30 p.m., e.s.t.

Hearings will be held on January 22-24, 1979, in Seattle, Wash., and Chicago, Ill., beginning at 9:30 a.m., local time; and on January 23, 1979, in Washington, D.C., beginning at 9:30 a.m., e.s.t.

Requests to speak at the hearings must be directed to DOE at the address given below for the appropriate city and must be received before 4:30 p.m., local time, on January 17, 1979.

ADDRESSES: Send written comments to: Office of State Specific Programs, Department of Energy, Room 6456, 12th and Pennsylvania Ave., NW., Washington, D.C. 20461.

See "XII. Comment Procedures" under Supplementary Information below.

Hearings:

City	Hearing date	Submit requests to testify to—	Hearing location
Seattle, Wash	Jan. 22, 1979 through Jan. 24, 1979.	Gilbert Haselberger, DOE, 1923 Federal Bldg., Seattle, Wash. 98174.	Hilton Hotel Downtown, 6th and University, Seattle, Wash.
Chicago, Ill	do	Ken Johnson, DOE, 175 West Jackson, 3d floor, Chicago, Ill. 60604.	Pick Congress Hotel, 520 South Michigan Ave., Chicago, Ill.
Washington, D.C	Jan. 23, 1979 through Jan. 25, 1979.	Margaret Sibley, Office of State Specific Programs, DOE, room 6456, 12th and Pennsylvania Ave. NW., Washington, D.C. 20461.	Department of Energy, room 3000A, 12th and Pennsylvania Ave. NW., Washington, D.C.

See "XII. Comment Procedures" under Supplementary Information below.

FOR FURTHER INFORMATION CONTACT:

Michael Willingham, Director, State Specific Programs, Office of Conservation and Solar Applications, Room 6456, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461, (202) 633-8640.

SUPPLEMENTARY INFORMATION:

I. Introduction.
II. Technical Assistance Programs.
III. Energy Conservation Measures.
IV. Allocation of Funds.
V. State Plans.
VI. Applications.
VII. State Evaluation and Ranking of Applications.
VIII. Program Reports.
IX. Grant Awards.
X. Reporting Requirements.
XI. Nondiscrimination.
XII. Comment Procedures.
XIII. Consultation With Other Federal Agencies, Environmental and Urban Reviews and Regulatory Analysis.

I. Introduction.

The Department of Energy proposes to amend Chapter II of Title 10 CFR by adding Subparts C through I to a previously proposed new Part 455 (see Notice of Proposed Rulemaking, 43 FR 58158 *et seq.*, dated December 12, 1978). This proposed regulation will fulfill the requirements of Title III of NECPA, which amends Title III of the Energy Policy and Conservation Act (Act), Pub. L. 94-163, 89 Stat. 871, by adding Parts G and H. Part G of the Act establishes cost-sharing energy conservation grant programs for States and public and nonprofit schools and hospitals to assist in the conduct of preliminary energy audits and energy audits, identification of cost-effective energy conservation maintenance and operating procedures and in the evaluation, acquisition and installation of energy conservation measures to reduce the energy use and anticipated energy costs of schools and hospitals.

Part H of the Act establishes cost-sharing energy conservation grant programs for States, units of local government and public care institutions to assist in the conduct of preliminary energy audits and energy audits, identification of cost-effective energy conservation maintenance and operating procedures and in the evaluation of energy conservation measures to reduce energy use and anticipated energy costs of buildings owned by units of local government and public care institutions.

DOE has already published proposed regulations for providing financial assistance to States for the conduct of preliminary energy audits and energy audits (43 FR 58158 *et seq.*, dated December 12, 1978). This proposed regulation prescribes criteria and procedures (1) for development of State Plans and approval thereof by DOE, (2) for implementation of energy conservation measures in schools and hospitals and (3) for implementation of technical assistance programs for schools, hospitals, units of local government and public care institutions. Upon DOE approval of a State Plan, a State energy agency may accept and review applications for financial assistance from eligible institutions. If applications are approved by a State as being in conformance with its approved State Plan and this regulation, the State will forward the applications once during a grant program cycle to DOE. Subject to approval by DOE, grants may then be awarded. For purposes of this regulation, a "grant program cycle" is a period of time to be specified by DOE, which is related to the fiscal year for which grant funds are appropriated during which one complete cycle of grant activity occurs, including DOE allocation of appropriations to the States, application review and approval, and grant award.

Funds available to DOE for grant awards to a State or eligible institutions thereof will be limited to sums allocated to a given State based upon a formula which includes population, climate and fuel cost factors. Neither schools nor hospitals may receive more than 70 percent of the total amount allocated to a State for schools and hospitals programs. Except in the case of severe hardship for schools and hospitals, Federal funds available for grants for technical assistance programs and energy conservation measures must be matched with at least an equal share of non-Federal funds. Moneys for the non-Federal portion of any program or measure must come from State, local or private sources and cannot, for example, be derived from revenue sharing or any other Federal source.

Grants to a State for administrative expenses may also be made for up to 50 percent of such costs. However, a grant for this purpose will not exceed 5 percent of the total granted to all institutions in a given State for a grant program cycle. DOE is particularly interested in receiving comments on this aspect of the grants program. DOE proposes to utilize funds appropriated pursuant to section 397(b) of the Act for energy conservation project grants and section 400G(b) of the Act for technical assistant grants, to fund grants to States for the purpose of helping to defray the State's administrative expenses of evaluating, financial auditing, monitoring and other activities in connection with the various energy conservation programs for schools, hospitals, units of local government and public care institutions. The funds available for this purpose, while limited by this regulation to 5 percent of the amounts actually awarded in a given State in a particular year, would draw upon the entire amount appropriated for energy conservation projects in the case of schools and hospitals, and the entire sum appropriated for technical assistance programs in the case of units of local government and public care institutions. A limit on grants for State administrative expenses appears consistent with sections 398(a), 398(d) and 400F(d) of the Act. A 5 percent grant ceiling on such expenses is believed reasonable and generally consistent with administrative expense limitations of other Federal grant programs.

This proposed regulation is designed to assure consistency with related State programs so as to maximize the energy conservation goals of NECPA. It is anticipated that the grant programs established by DOE under the new Part 455 will effectively encourage the implementation of programs and measures which will promote energy conservation in facilities owned by schools, hospitals, public care institutions and units of local government in accordance with the Congressional purpose as stated in NECPA.

II. Technical Assistance Programs

For these grant programs to realize their full potential, it is important that all no-cost and low-cost energy saving operating and maintenance procedures be undertaken as early as possible. Therefore, to be eligible for technical assistance program grants, all institutions must have instituted cost-effective energy conservation operation and maintenance procedures identified as a result of an energy audit. Operations and maintenance procedures are actions which require no significant investment in equipment or materials and which clearly reduce the energy use of the building, with no adverse effect on the quality or amount of services provided. They include procedures such as adjusting thermostats, improving furnace maintencnce or reducing air-change rates. Under these proposed regulations, a "cost-effective" procedure is an action which can be reasonably expected to result in energy cost-savings which exceed the costs, such as increased labor requirements associated with implementing the procedure. A significant portion of the energy savings potential of a facility can be realized through the implementation of sound operations and maintenance procedures.

For purposes of this regulation, the term "technical assistance" means a program or activity for (1) the conduct of specialized studies to identify and specify energy savings and related cost savings that are likely to be realized as a result of either modifying operation and maintenance procedures in a building, or acquiring and installing one or more energy conservation measures in a building, or both and (2) the planning or administration of such specialized studies. In addition, for States, schools and hospitals, which are eligible to receive grants to carry out energy conservation measures, the term "technical assistance" also means the planning or administration of specific remodeling, renovation, repair, replacement, or insulation projects related to the installation of energy conservation measures in a building.

A technical assistance program will include a detailed engineering analysis of a building to determine its cost-effective potential for conserving energy and using solar or other alternative energy resources. Under this proposed regulation such an audit will be conducted only by a "technical assistance auditor" qualified as such in accordance with applicable State standards or criteria. At a minimum, a technical assistance auditor must have experience in energy conservation matters and be a registered professional engineer, or an architect-engineer team. Grants for a technical assistance program will be available for buildings owned by units of local government, public care institutions, schools and hospitals.

Technical assistance auditors will not be permitted to have significant financial interests in the building for which technical assistance is to be performed, nor in the materials and equipment that are expected to be used. The individual(s) performing technical assistance audits will be required to provide to the grantee institution a statement certifying (1) as to the absence of any significant financial interest in the program and (2) as to their qualifications under State standards and DOE regulations to serve as a technical assistance auditor.

III. Energy Conservation Measures

The grant program for schools and hospitals will offer financial assistance for the acquisition and installation of energy conservation measures after the completion of a technical assistance program, or its equivalent. The measures listed and defined in § 455.42 of the proposed regulation are not all-inclusive. Measures recommended by technical assistance auditors, but not listed in this regulation, may still be eligible for funding if shown to have the potential for saving a substantial amount of energy. Support for detailed designs, specifications and installation plans for the energy conservation measures proposed for funding will also be provided.

Although it appears that energy conservation measures have applicability to all regions of the Nation, the practicality of using a particular measure will be determined by calculation of the simple payback of that measure. DOE proposes that energy conservation measures having a simple payback period greater than 15 years will not be eligible for grants under this program. This limitation has been selected to permit consideration of a wide range of available technologies, while precluding the expenditure of limited funding to analyze very high cost energy conservation measures

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having a long payback period. DOE solicits comments regarding the 15-year simple payback period limitation.

IV. Allocation of Funds

From the funds appropriated for use in each grant program cycle DOE will offer financial assistance to conduct technical assistance programs and acquire and install energy conservation measures. NECPA requires that DOE allocate funds among the States on the basis of such factors as population, climate, fuel availability and fuel cost. The formula developed by DOE to allocate funds among the States presently contains population, climate and fuel cost factors. DOE solicits comments on methods for acquiring fuel availability data and on the feasibility of utilizing a fuel availability factor in the allocation formula. At such time as reliable fuel availability data is acquired, DOE may modify the allocation formula for subsequent grant program cycles.

Initially, funds will be allocated among the States on the basis of a three-part formula. Eighty-three percent of the funds appropriated for each fiscal year will be allocated on the basis of population and climate (heating and cooling degree days) factors. Seven percent of the funds will be allocated on an equal share basis. The latter percentage is utilized to insure that no State, not including the territories or the District of Columbia, is allocated less than 0.5 percent of the total amount available in any grant program cycle, as required by NECPA. Ten percent of the amounts appropriated will be allocated based upon a forecast of the average cost per million Btu's of energy consumed within a national region. Population figures for each State and the District of Columbia are based upon 1976 Bureau of Census estimates. Population figures for the territories were taken from the 1973 Bureau of Census estimates, the latest available for those areas. Population totals for both States and territories are set forth in Table 1. Fuel costs are based upon DOE projections to 1985 as published in the Administrator's Annual Report 1978, Energy Information Administration, and are set forth in Table 2. Climate information is taken from the National Oceanic and Atmospheric Administration State heating and cooling degree tables, reflecting the annual average by State for 30 years, 1941 through 1970. Table 3 presents this data.

Combining these factors as indicated by the proposed formula produces a State allocation factor as shown in Table 4.

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TABLE 1

STATE	POPULATION (IN THOUSANDS)	STATE SHARE OF NATIONAL POP.
ALABAMA	3665	0.0168
ALASKA	382	0.0018
ARIZONA	2270	0.0104
ARKANSAS	2109	0.0097
CALIFORNIA	21520	0.0988
COLORADO	2583	0.0119
CONNECTICUT	3117	0.0143
DELAWARE	582	0.0027
DIST. OF COL.	702	0.0032
FLORIDA	8421	0.0387
GEORGIA	4970	0.0228
HAWAII	887	0.0041
IDAHO	831	0.0038
ILLINOIS	11229	0.0516
INDIANA	5302	0.0243
IOWA	2870	0.0132
KANSAS	2310	0.0106
KENTUCKY	3428	0.0157
LOUISIANA	3841	0.0176
MAINE	1070	0.0049
MARYLAND	4144	0.0190
MASSACHUSETTS	5809	0.0267
MICHIGAN	9104	0.0418
MINNESOTA	3965	0.0182
MISSISSIPPI	2354	0.0108
MISSOURI	4778	0.0219
MONTANA	753	0.0035
NEBRASKA	1553	0.0071
NEVADA	610	0.0028
NEW HAMPSHIRE	822	0.0038
NEW JERSEY	7336	0.0337
NEW MEXICO	1168	0.0054
NEW YORK	18084	0.0830
NORTH CAROLINA	5469	0.0251
NORTH DAKOTA	643	0.0030
OHIO	10690	0.0491
OKLAHOMA	2766	0.0127
OREGON	2329	0.0107
PENNSYLVANNIA	11862	0.0545
RHODE ISLAND	927	0.0043
SOUTH CAROLINA	2848	0.0131
SOUTH DAKOTA	686	0.0031
TENNESSEE	4214	0.0193
TEXAS	12487	0.0573
UTAH	1228	0.0056
VERMONT	476	0.0022
VIRGINIA	5032	0.0231
WASHINGTON	3612	0.0166
WEST VIRGINIA	1821	0.0084
WISCONSIN	4609	0.0212
WYOMING	390	0.0018
AMERICAN SAMOA	28	0.0001
GUAM	100	0.0005
PUERTO RICO	2951	0.0135
VIRGIN ISLANDS	83	0.0004
U.S. TOTAL	217820	1.0000

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TABLE 2

OIL IMPORT PRICE 15.32

AVERAGE RETAIL PRICE SUMMARY IN 1978 $/MILLION BTUS

SECTOR(FUEL)	DEMAND REGION AVERAGE RETAIL PRICE SUMMARY IN 1978 $/MILLION BTUS					
	NEW ENG.	NY/NJ	MID-ATL	S.-EAST	CENTRAL	WEST	N.-WEST	TOTAL
RESIDENTIAL	5.11	5.66	5.20	4.41	4.10	5.59	4.82	5.39
(ELECT.)	13.31	15.91	13.89	12.70	9.65	12.66	5.65	11.71
(DIST.)	3.49	3.97	4.16	3.69	3.87	3.85	3.85	3.93
(LG)	4.96	4.01	4.32	3.91	4.07	3.94	3.94	4.04
(COAL)	2.07	1.95	1.84	1.84	1.87	1.75	1.76	1.86
(NG)	4.53	4.13	3.56	2.11	2.26	3.35	3.65	3.09
COMMERCIAL	4.76	6.45	6.05	6.02	6.05	5.26	6.85	4.22	5.85
(ELECT.)	13.22	17.69	13.31	12.43	6.80	11.71	5.81	12.01
(DIST.)	3.64	3.71	4.76	3.51	3.64	3.56	3.56	3.66
(RESID.)	2.87	2.96	2.97	3.10	3.01	2.92	2.85	2.99
(LG)	3.27	3.27	3.27	3.46	3.47	3.27	3.27	3.30
(COAL)	2.07	1.95	1.84	1.68	1.37	1.75	1.76	1.82
(ASPHALT)	3.18	3.18	3.20	3.13	3.15	3.19	3.07	3.15
(NG)	3.46	3.53	3.11	3.46	3.13	2.83	3.05	2.94
RAW MATERIAL*	3.43	3.35	3.18	3.28	3.20	4.08	2.92	3.22
(LG)	3.61	3.61	3.61	3.54	3.56	3.44	5.44	3.54
(OIL)	3.16	3.18	3.18	3.15	3.19	3.07	3.07	3.15
(NG)	3.29	2.83	2.69	2.16	2.65	2.44	2.37	2.33
INDUSTRIAL***	4.86	4.54	3.82	2.98	4.79	3.16	3.85	3.28	3.79
(ELECT.)	10.97	4.47	10.47	9.57	10.55	7.30	9.96	3.86	9.24
(DIST.)	5.64	3.69	3.96	3.65	3.50	3.66	3.58	3.56	3.67
(RESID.)	6.92	5.06	5.19	3.10	3.07	2.96	2.92	2.97	2.99
(LG)	3.66	3.74	3.95	3.82	3.70	3.76	3.85	3.69	3.79
(COAL)	2.07	1.95	1.84	1.63	1.66	4.37	1.75	1.76	1.76
(MET COAL**)	2.18	2.07	2.18	2.02	2.12	1.95	2.21	2.59	2.70	2.03
(NAPHTHA)	3.61	3.61	3.61	3.59	3.54	3.52	3.56	3.44	3.44	3.56
(NG)	5.24	4.83	2.69	2.44	2.16	3.10	2.65	2.44	2.37	2.31
TRANSPORTATION	5.74	5.79	5.67	5.64	5.67	5.22	5.52	5.49	5.30	5.46	5.55
(ELECT.)	12.44	14.25	12.35	10.33	10.61	10.64	11.74	8.59	11.37	4.96	13.22
(DIST.)	4.74	4.84	5.00	4.99	4.75	4.77	4.65	4.82	4.71	4.71	4.82
(RESID.)	2.92	3.06	3.19	2.87	3.10	2.96	3.07	2.96	2.92	2.97	2.99
(LG)	3.27	3.27	3.27	3.27	3.49	3.27	3.46	3.47	3.27	3.27	3.31
(GASOLINE)	6.05	6.27	6.03	5.94	5.96	5.73	5.83	5.87	6.01	6.02	5.96
(JET FUEL)	4.12	4.23	4.49	4.54	4.05	4.16	3.93	4.16	4.10	4.10	4.22
AVERAGE PRICE	5.16	5.62	5.08	5.76	4.67	3.83	5.01	4.40	5.11	4.46	4.82

*LIQUID GAS IS THE RAW MATERIAL SECTOR INCLUDES LIQUID GAS FEEDSTOCK.
**MET COAL INCLUDES 70% PREMIUM COAL AND 30% BITUMINOUS LOW SULFUR COAL.
***INDUSTRIAL SECTOR HERE DOES NOT INCLUDE REFINERIES.

TABLE 3

STATE	HEATING DEGREE DAYS	COOLING DEGREE DAYS	STATE SHARE HDD + CDD
ALABAMA	2695	1999	0.0134
ALASKA	12012	8	0.0344
ARIZONA	2298	2624	0.0141
ARKANSAS	3214	1892	0.0146
CALIFORNIA	2728	669	0.0097
COLORADO	7004	336	0.0210
CONNECTICUT	6130	507	0.0190
DELAWARE	4780	1021	0.0166
DIST. OF COL.	4750	1015	0.0165
FLORIDA	704	3368	0.0117
GEORGIA	2684	1859	0.0130
HAWAII	1	3528	0.0101
IDAHO	6917	415	0.0210
ILLINOIS	6058	950	0.0201
INDIANA	5713	952	0.0191
IOWA	6834	876	0.0221
KANSAS	4900	1543	0.0184
KENTUCKY	4414	1254	0.0162
LOUISIANA	1701	2636	0.0124
MAINE	8002	222	0.0235
MARYLAND	4782	1015	0.0166
MASSACHUSETTS	6232	467	0.0192
MICHIGAN	6739	593	0.0210
MINNESOTA	8729	473	0.0263
MISSISSIPPI	2411	2223	0.0133
MISSOURI	5024	1332	0.0182
MONTANA	8292	239	0.0244
NEBRASKA	6347	1099	0.0213
NEVADA	4370	1500	0.0168
NEW HAMPSHIRE	7535	297	0.0224
NEW JERSEY	5470	877	0.0182
NEW MEXICO	4766	972	0.0164
NEW YORK	5899	677	0.0188
NORTH CAROLINA	3392	1454	0.0139
NORTH DAKOTA	9484	421	0.0284
OHIO	5779	797	0.0188
OKLAHOMA	3508	2003	0.0158
OREGON	5254	193	0.0156
PENNSYLVANNIA	5755	723	0.0185
RHODE ISLAND	5924	445	0.0182
SOUTH CAROLINA	2697	1885	0.0131
SOUTH DAKOTA	7681	801	0.0243
TENNESSEE	3801	1458	0.0151
TEXAS	2015	2669	0.0134
UTAH	6580	630	0.0206
VERMONT	7873	293	0.0234
VIRGINIA	4286	1113	0.0155
WASHINGTON	5752	171	0.0170
WEST VIRGINIA	5108	849	0.0171
WISCONSIN	7531	541	0.0231
WYOMING	7895	326	0.0235
AMERICAN SAMOA	1	5325	0.0152
GUAM	1	5520	0.0158
PUERTO RICO	704	4907	0.0161
VIRGIN ISLANDS	704	5427	0.0176
::			
U.S. TOTAL	271860	77389	0.9655

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TABLE 4

STATE	.07*1/N+.1*SF/NF+.83*SPC/NPC=			ALLOCATION FACTOR
ALABAMA	.0013	.0021	.0112	.0146
ALASKA	.0013	.0016	.0030	.0059
ARIZONA	.0013	.0019	.0073	.0104
ARKANSAS	.0013	.0014	.0070	.0097
CALIFORNIA	.0013	.0019	.0475	.0507
COLORADO	.0013	.0016	.0123	.0152
CONNECTICUT	.0013	.0019	.0134	.0166
DELAWARE	.0013	.0019	.0022	.0053
DIST. OF COL.	.0013	.0019	.0026	.0058
FLORIDA	.0013	.0021	.0223	.0257
GEORGIA	.0013	.0021	.0147	.0181
HAWAII	.0013	.0019	.0020	.0052
IDAHO	.0013	.0016	.0040	.0069
ILLINOIS	.0013	.0017	.0511	.0541
INDIANA	.0013	.0017	.0230	.0260
IOWA	.0013	.0018	.0144	.0175
KANSAS	.0013	.0018	.0097	.0128
KENTUCKY	.0013	.0021	.0126	.0160
LOUISIANA	.0013	.0014	.0108	.0135
MAINE	.0013	.0019	.0057	.0089
MARYLAND	.0013	.0019	.0156	.0188
MASSACHUSETTS	.0013	.0019	.0253	.0285
MICHIGAN	.0013	.0017	.0434	.0464
MINNESOTA	.0013	.0017	.0237	.0267
MISSISSIPPI	.0013	.0021	.0071	.0105
MISSOURI	.0013	.0018	.0197	.0228
MONTANA	.0013	.0016	.0042	.0071
NEBRASKA	.0013	.0018	.0075	.0106
NEVADA	.0013	.0019	.0023	.0055
NEW HAMPSHIRE	.0013	.0019	.0042	.0074
NEW JERSEY	.0013	.0021	.0303	.0336
NEW MEXICO	.0013	.0014	.0044	.0070
NEW YORK	.0013	.0021	.0773	.0806
NORTH CAROLINA	.0013	.0021	.0172	.0206
NORTH DAKOTA	.0013	.0016	.0041	.0070
OHIO	.0013	.0017	.0457	.0487
OKLAHOMA	.0013	.0014	.0099	.0126
OREGON	.0013	.0016	.0082	.0111
PENNSYLVANNIA	.0013	.0019	.0499	.0531
RHODE ISLAND	.0013	.0019	.0038	.0070
SOUTH CAROLINA	.0013	.0021	.0085	.0119
SOUTH DAKOTA	.0013	.0016	.0038	.0067
TENNESSEE	.0013	.0021	.0144	.0178
TEXAS	.0013	.0014	.0380	.0407
UTAH	.0013	.0016	.0058	.0086
VERMONT	.0013	.0019	.0025	.0057
VIRGINIA	.0013	.0019	.0177	.0208
WASHINGTON	.0013	.0016	.0139	.0168
WEST VIRGINIA	.0013	.0019	.0070	.0102
WISCONSIN	.0013	.0017	.0242	.0272
WYOMING	.0013	.0016	.0021	.0050
AMERICAN SAMOA	.0013	.0019	.0001	.0032
GUAM	.0013	.0019	.0004	.0035
PUERTO RICO	.0013	.0021	.0108	.0141
VIRGIN ISLANDS	.0013	.0021	.0003	.0037
U.S. TOTAL	.0700	.1000	.8300	1.0000

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NECPA requires that, except for schools and hospitals in a class of severe hardship, The Federal share of the costs for any program or measure may not exceed 50 percent and the remainder of the costs of any technical assistance program or energy conservation measure must be provided from non-Federal sources. DOE proposes that in-kind contributions may be considered as part or all of the non-Federal share. In-kind contributions are subject to the limitations established in Subpart E of the proposed regulation and must be directly related to the program or measure to be approved. The inclusion of a school or hospital in the severe hardship category for up to 90 percent funding of a program or measure will be determined, among other factors, by the applicant's inability to match the 50 percent Federal share, by climatalogical conditions and by fuel costs or availability. DOE solicits comments on the criteria to be used in determining which schools and hospitals are in a class of severe hardship and the method for determining the maximum Federal share for any institution in a class of severe hardship.

Appropriations for support of this grant program will be made to DOE annually, one appropriation for programs and measures for schools and hospitals, another appropriation for technical assistant programs for units of local government and public care institutions. Separate allocations, using the formula described above, will be made to each State for each appropriation. DOE will inform each State of all allocation (and reallocation) actions.

Once a grant is made to a State or institution thereof, DOE anticipates that the funds will be obligated and expended in accordance with milestones established in the grant application. In the event a State does not forward a sufficient number of grant applications to DOE to award all funds allocated for use within that State in a given grant program cycle, DOE will reallocate such funds among all the States for the succeeding grant program cycle.

V. State Plans

A State Plan is the planning document for organizing and managing technical assistance programs and energy conservation measures within the State for the duration of the entire grant program. States participating in the program will be responsible for preparing and implementing a DOE approved State Plan. A State's review, ranking and recommendation to DOE regarding applications received from prospective grantees will also be governed by the State Plan.

Each State will be responsible for direct oversight, monitoring and financial auditing of the programs and measures for which grants are awarded in that State to ensure compliance with program requirements. States will be responsible for notifying DOE promptly of any indication of noncompliance or misuse of grant funds. State Plans shall contain a description of the policies and procedures the State proposes to use in order to fulfill these responsibilities.

Basic data gathered about buildings as a result of the preliminary energy audits should be summarized in the State Plan, and estimates should also be made of possible energy savings, energy conservation needs and the number and types of buildings that may qualify for further financial assistance.

Key elements in the State Plan are the criteria and the procedures to be used in evaluating and ranking applications for financial assistance. Each State may establish in its State Plan any requirements, additional to those set forth in this regulation, which it considers necessary for planning and administering technical assistance programs and energy conservation measures in the State. States should, however, avoid placing undue administrative burdens on any applicants. State Plans must assure that equitable consideration is given to all eligible institutions.

The views of eligible institutions or Statewide organizations representing such institutions, or both, should be solicited and considered during the development of the State Plan. State Plans should also be reviewed by State school facilities agencies and State hospital facilities agencies, where such exist within a given State.

Until a State Plan, approved by DOE, for a given State is in effect, no financial assistance for technical assistance programs or energy conservation measures will be made available to institutions within that State.

State Plans must also set forth the extent to which, and by which methods, the State will encourage utilization of solar space heating, cooling and electric systems and solar water heating systems.

DOE recognizes that some States and municipalities have retained some regulations or building codes which may have the effect of impeding the introduction of energy-saving devices and equipment, particularly in the case of solar energy systems. Therefore, early review of applicable State regulations and local codes is encouraged to identify any restrictions on or barriers to achievement of energy conservation goals which must be taken into account in formulating and implementing State Plans.

VI. Applications

Applications for technical assistance program grants and energy conservation measures grants will be forwarded by the applicant to the State for its review, evaluation and ranking in priority according to criteria contained in the State Plan. Applicants must include all of the information required by Subpart E of the proposed regulation and any additional information required by the State. Applications which are consistent with the State Plan and applicable regulations should, at the time specified by DOE, be transmitted by the State to DOE for final approval and grant award. State applications for grants, including grants to defray administrative expenses, should be transmitted to DOE at the same time. Comments are requested concerning the scope and clarity of the requirements set forth in Subpart E of the proposed regulation and the ability of applicants to comply with those provisions.

VII. State Evaluation and Ranking of Applications

States will be responsible for reviewing and evaluating each application received for consistency with the State Plan, this regulation, and other applicable State, local and Federal laws and regulations. As an additional means for assuring that the programs and measures proposed for funding are coordinated with other State and Federal programs, as required by NECPA, States must forward applications received from schools and hospitals to the applicable State school facilities agency or State hospital facilities agency for review and certification as to compliance with State programs for educational facilities and State health plans.

States shall rank each building for which funding applications have been submitted. Such ranking must be based upon the energy conservation potential of the building as determined through an energy audit. States must also give preference to those applicants that have completed an energy audit without the use of Federal funds. States shall be responsible for developing any further specific ranking procedures and criteria for inclusion in a State Plan.

Simple payback periods will be the main criteria used to rank buildings covered by grant applications for energy conservation measures. Life-cycle costing, discounted payback and simple payback methodologies were considered for use as criteria for ranking applications. The simple payback methodology was chosen because it offers an opportunity to standardize payback calculations and thereby ease administration, and because it directly reflects the energy cost savings accru-

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ing from an energy conservation measure.

For applications for financial assistance to implement energy conservation measures, Subpart F of the proposed regulation specifies the criteria which will be evaluated by the State. Each State will assign a specific weight, as justified by the conditions within the State, to each criterion set forth in the regulation and listed in order of descending priority. Thus, the projected payback period criterion must be given the greatest weight, conversion to renewable energy sources the next greatest weight, etc.

VIII. Program Reports.

It is important that the energy and cost savings achieved by participating institutions through this grants program be documented, not only to allow better monitoring of the operation of the grants program, but also to demonstrate what has been accomplished by the various energy conservation programs for schools, hospitals, units of local government and public care institutions. To this end, DOE proposes that each grantee submit an interim report to the State semi-annually until the program or measure is completed. This interim report should summarize progress and accomplishments, problems encountered, and other relevant information. Each State in turn will submit a semi-annual report to DOE summarizing the information received from the grantees. At the end of the program or measure, each grantee will also submit a final technical report to the State describing the work accomplished and the results achieved. A summary of that technical report must be forwarded to DOE simultaneously with the transmittal of the basic report to the State.

IX. Grant Awards

Under Title III of NECPA, DOE may make grants of up to 50 percent of the cost of a technical assistance program to States, schools, hospitals, public care institutions and units of local governments, and up to 50 percent of the cost of an energy conservation measure to States, schools and hospitals.

As part of any grant award for technical assistance or energy conservation measures, DOE may concurrently grant up to 5 percent of the total of all grants made to institutions in a given State in a grant program cycle directly to that State to help defray its expenses of administration. The award of such grants on a cost-sharing basis should assure sufficient funds to the State to carry out its planning and administrative responsibilities under the program.

The total of all grant awards to schools and hospitals for funding technical assistance programs may not exceed 30 percent of the amounts appropriated to DOE for energy conservation project grants (pursuant to section 397(b) of the Act for the fiscal year ending September 30, 1978; 15 percent of such appropriations for the fiscal year ending September 30, 1979; and 5 percent of such appropriations for the fiscal year ending September 30, 1980.

X. Reporting Requirements

U.S. Government standard forms for grant-in-aid programs will be used insofar as possible. If there are any exceptions to this policy, they will be examined and justified element by element. At this time, the only modifications to the standard reporting requirements are to be included in the "Remarks" section of Standard Form 424. The proposed items are:

1. Certification of applicant eligibility,
2. Specific building identification,
3. Energy use and savings data,
4. Statement regarding implementation of cost-effective recommendations,
5. Detailed schedule of project activities,
6. Reports of other prerequisite actions taken in conjunction with this program,
7. Assurances regarding potential conflicts of interest,
8. Statements regarding the qualifications of technical assistance auditors, and
9. Statements regarding compliance with provisions of the Davis-Bacon Act and other Federal, State and local laws and regulations.

XI. Nondiscrimination

DOE has published a proposed rulemaking in the Federal Register entitled, "Nondiscrimination in Federally Assisted Programs", 43 FR 53658 *et seq.*, November 16, 1978. Where applicable, grantees will be responsible for compliance with the provisions of that rulemaking upon publication of that final rulemaking.

XII. Comment Procedures

(1) Written comments

Interested persons are invited to submit written comments with respect to the proposed regulation to the Office of State Specific Programs, Department of Energy, Room 6456, 12th and Pennsylvania Ave., NW., Washington, D.C. 20461. Comments should be identified on the outside of the envelope and on the document with the designation "TA/ECP". Fifteen (15) copies should be submitted. All comments received will be available for public inspection in the DOE Reading Room, Room GA-152, Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., e.s.t., Monday through Friday. All comments and related information must be received by January 28, 1979, before 4:30 p.m., e.s.t., in order to insure consideration.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. Any material not accompanied by a statement of confidentiality will not be treated as confidential. DOE reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

(2) Public Hearings

DOE has determined that, in addition to the hearing in Washington, D.C., it will hold hearings in Chicago, Illinois and Seattle, Washington to receive oral presentations from interested persons.

The Washington, D.C. hearing will be held at 9:30 a.m., e.s.t., on January 23, 24, and 25, 1979, Room 3000A, 12th and Pennsylvania Ave., N.W., Washington, D.C.

Any person who has an interest in the proposed regulation or who is a representative of a group or class of persons which has an interest in it may make a written request for an opportunity to make an oral presentation. Such a request should be directed to Margaret Sibley, Office of State Specific Programs, Department of Energy, Room 6456, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461, and must be submitted on or before January 17, 1979, by 4:30 p.m., e.s.t. The person making the request should describe his or her interest in the proceeding and provide a concise summary of the proposed oral presentation and a phone number where he or she may be reached. Each person who, in DOE's judgment, proposes to present relevant material and information shall be selected to be heard and shall be notified by DOE of his or her participation before 4:30 p.m., e.s.t., January 19, 1979, and shall submit 15 copies of their proposed statement to Margaret Sibley, Office of State Specific Programs, Department of Energy, Room 6456, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461 by 9 a.m., e.s.t., January 23, 1979.

The hearings in Chicago, Illinois and Seattle, Washington will be held beginning at 9:30 a.m., local time, on the dates and at the locations specified below.

Any person who has an interest in this proceeding or is the representative of a group or class of persons which has an interest in it may make a written request for an opportunity to make an oral presentation. Such a request should be directed to DOE, at the address given below for the appropriate city and must be received before 4:30 p.m., local time on January 17, 1979. Procedures for notification shall be the same as in the case of the Washington, D.C. hearing.

DOE also received comments and assistance from its Regional Offices.

In accordance with DOE's obligation under the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*, DOE is undertaking an environmental assessment of all programs under Title III of the NECPA.

City	Hearing date	Submit requests to testify to—	Hearing location
Seattle, WA	Jan. 22, 1979 through Jan. 24, 1979.	Gilbert Haselberger, DOE, 1923 Federal Building, Seattle, WA 98174.	Hilton Hotel Downtown, 6th and University, Seattle, WA
Chicago, IL	Jan. 22, 1979 through Jan. 24, 1979.	Ken Johnson, DOE, 175 W. Jackson, Third Floor, Chicago, IL 60604.	Pick Congress Hotel, 520 South Michigan Ave., Chicago, IL

C. Conduct of Hearings

DOE reserves the right to arrange the schedule of presentations to be heard and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

A DOE official will be designated as presiding officer to chair the hearing. Questions may be asked only by those conducting the hearing, and there will be no cross-examination of persons presenting statements.

Any participant who wishes to ask a question at the hearing may submit the question, in writing, to the presiding officer. The presiding officer will determine whether the question is relevant and material, and whether the time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by DOE and made available for inspection at the DOE Freedom of Information Reading Room, Room GA 152, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, between the hours of 8:00 a.m. and 4:30 p.m., e.s.t., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

XIII. Consultation With Other Federal Agencies, Environmental and Urban Reviews and Regulatory Analysis

In preparing this proposed regulation, issues and options were reviewed by representatives of the Secretary of the Department of Health, Education, and Welfare, and the Administrator of the Environmental Protection Agency. This assessment and any additional NEPA review will be completed prior to the promulgation of the final rulemaking. NECPA also requires DOE to issue a final rule for these grant programs within a specified period after enactment. DOE seeks to afford members of the public at least 30 days to comment on this notice of proposed rulemaking. Consequently, DOE is unable to complete an environmental assessment to accompany this notice of proposed rulemaking.

This proposed regulation has been reviewed in accordance with Executive Order 12044, 43 FR 12661, and DOE's proposed directive implementing the Order published at 43 FR 18634 and, pursuant thereto, it has been determined to be a "significant regulation" likely to have a "major impact". A regulatory analysis is being prepared by DOE and will be made available to the public before issuance of a final regulation. Notwithstanding the determination that this proposed regulation is significant, which would usually require a 60 day comment period, the Deputy Secretary has approved a shorter comment period so that, consonant with the requirements of NEPCA, the final rule may be issued at the earliest practicable date.

This proposed regulation has also been reviewed in accordance with OMB Circular A-116 to assess the impacts on urban centers and communities. DOE has determined that the proposed regulation is a major policy and program initiative which requires formal urban and community impact analysis. Such analysis is being prepared by DOE for incorporation into the regulatory analysis required under Executive Order 12044.

DOE has been advised by the Office of Management and Budget (OMB) that this program is exempted from the requirements of OMB Circular A-95.

As required by section 7(c)(2) of the Federal Energy Administration Act of 1974, Pub. L. 93-275, a copy of this notice has been submitted to the Administrator of the Environmental Protection Agency (EPA) for comments concerning the impact of this proposal on the quality of the environment. The Administrator had no comments.

In consideration of the foregoing, the Department of Energy proposes to amend Chapter II, Title 10 of the Code of Federal Regulations by adding new Subparts C through I to Part 455 as set forth below.

Issued in Washington, D.C., December 29, 1978.

Omi Walden,
Assistant Secretary, Conservation and Solar Applications, Department of Energy.

10 CFR Part 455 is amended by establishing new Subparts C, D, E, F, G, H and I as follows:

Table of Contents

Subpart C—Technical Assistance Programs for Schools, Hospitals, Units of Local Government and Public Care Institutions

Sec.
455.40 Purpose and Scope.
455.41 Eligibility.
455.42 Contents of Program.

Subpart D—Energy Conservation Measures for Schools and Hospitals

455.50 Purpose and Scope.
455.51 Eligibility.
455.52 Contents of Program.

Subpart E—Applicant Responsibilities

455.60 Grant Application Submittals.
455.61 Applicant Certifications.
455.62 Grant Applications for State Administrative Expenses.
455.63 Grantee Records and Reports.

Subpart F—State Responsibilities

455.70 State Evaluation of Grant Applications.
455.71 State Ranking of Grant Applications.
455.72 Forwarding of Applications.
455.73 State Duties.

Subpart G—Grant Awards

455.80 Approval of Grant Applications.
455.81 Grant Awards for Units of Local Government and Public Care Institutions.
455.82 Grant Awards for Schools and Hospitals.
455.83 Grant Awards for State Administrative Expenses.

Subpart H—State Plan Development and Approval.

455.90 Contents of State Plan.
455.91 Submission and Approval of State Plans.
455.92 State Plans Developed by the Secretary.

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Subpart I—Allocation of Appropriations Among the States

455.100 Allocation of Funds.
455.101 Allocation Formulas
455.102 Reallocation of Funds.
455.103 Reallocation of Preliminary Energy Audit/Energy Audit Funds.

AUTHORITY: Parts 1 and 2 of Title III of the National Energy Conservation Policy Act, Pub. L. 95-619, 92 Stat. 3206 *et seq.*, which establishes Parts G and H, respectively, of Title III of the Energy Policy and Conservation Act, Pub. L. 94-163, 42 U.S.C. 6321 *et seq.*; Section 365(e)(2), 42 U.S.C. 6325 (e)(2), of the Energy Conservation and Production Act, Pub. L. 94-385, 42 U.S.C. 6801 *et seq.*; Department of Energy Organization Act, Pub. L. 95091, 42 U.S.C. 7101 *et seq.*; Federal Grant and Cooperative Agreement Act of 1977, Pub. L. 95-224, 41 U.S.C. 501 *et seq.*; E.O. 12009, 42 FR 46267; E.O. 12044, 43 FR 12661.

Subpart C—Technical Assistance Programs for Schools, Hospitals, Units of Local Government and Public Care Institutions

§ 456.40 Purpose and scope.

This subpart sets forth the contents of technical assistance programs that may receive financial assistance under this part and determines the eligibility of States, as well as schools, hospitals, units of local government and public care institutions located in States that have an approved State Plan to receive grants for technical assistance to be performed in buildings owned by such institutions.

§ 455.41 Eligibility.

To be eligible to receive financial assistance for a technical assistance program, an applicant must——

(a) Be a State, school, hospital, unit of local government or public care institution as defined in § 455.2;

(b) Be a State having, or be located in a State which has, an approved State Plan as described in Subpart H of this part;

(c) Subsequent to the most recent construction, configuration or utilization change to the building, have conducted an energy audit or its equivalent, as determined by the State, for the building or buildings for which financial assistance is to be requested;

(d) Assure that it has implemented all cost-effective operations and maintenance procedures which are identified as a result of the energy audit;

(e) Have no plan or intention at the time of application to close such building or buildings for which financial assistance is to be requested within the simple payback period of any measure proposed for the building; and

(f) Submit an application in accordance with the provisions of this part and the approved State Plan.

§ 455.42 Contents of program.

(a) A technical assistance program shall include a detailed engineering analysis of a building by a technical assistance auditor to identify energy and cost savings likely to be realized as a result of implementing all cost-effective operation and maintenance procedures (in addition to those identified in an energy audit) and also, one or more energy conservation measures, including measures for conversion to solar or other alternative renewable energy sources.

(b) At the conclusion of a technical assistance program, the technical assistance auditor shall prepare a final report which shall include—

(1) A description of building characteristics and energy data including—

(i) Name and address of the building and its owner;

(ii) Weather and climate data including building orientation, shading, solar radiation, etc.;

(iii) Function of and use patterns for the building frequency and normal occurrence of energy consumption peaks;

(iv) Mechanical details for the heating, ventilation and air conditioning (HVAC) systems;

(v) Operating characteristics of other energy using systems, such as domestic hot water, lighting, and control systems;

(vi) Age and remaining useful life of the building; and

(vii) Any other relevant information developed during an energy audit of the building;

(2) An analysis of the estimated energy consumption of the building, in Btu's, at peak efficiency (assuming implementation of all cost-effective operations and maintenance procedures);

(3) An analysis of the building's potential for solar conversion, particularly for water heating systems;

(4) A description and analysis of all recommendations, if any, for acquisition and installation of energy conservation measures (including potential solar conversion) setting forth—

(i) A description of each recommended energy conservation measure;

(ii) An estimate of the cost of each such energy conservation measure;

(iii) An estimate of the energy cost savings expected from acquisition and installation of each energy conservation measure. In calculating the potential energy cost savings of each energy conservation measure, technical assistance auditors shall—

(A) Assume that all energy savings obtained from cost-effective operation and maintenance procedures identified by an energy audit or by the technical assistance program have been realized; and

(B) Calculate the total energy and energy cost savings expected to result from the acquisition and installation of all recommended energy conservation measures, taking into account the interaction among the various measures; and

(C) Calculate that portion of the total energy and energy cost savings as determined in (B) above, attributable to each individual energy conservation measure;

(iv) The simple payback period of each such energy conservation measure. The simple payback period is calculated by dividing the estimated cost of the measure by the estimated annual cost saving accruing from the measure. For the purposes of ranking applications, the simple payback period must be calculated using the cost saving resulting from energy savings only. Other economic analyses, such as life cycle costing, which consider all costs and cost savings, such as maintenance costs and/or savings, resulting from an energy conservation measure, may be provided as additional information for use by the institution in its decision-making process.

Subpart D—Energy Conservation Measures for Schools and Hospitals

§ 455.50 Purpose and scope.

This subpart specifies what constitutes an energy conservation measure that may receive financial assistance under this part and sets forth the eligibility criteria for States, schools and hospitals located in States, which have an approved State Plan, to receive grants for energy conservation measures, including measures for conversion to solar, other renewable sources, or alternative energy resources.

§ 455.51 Eligibility.

(a) To be eligible to receive financial assistance for an energy conservation measure, an applicant must—

(1) Be a State, school, or hospital and otherwise meet the requirements contained in § 455.2;

(2) Be a State having, or be located in a State which has, an approved State Plan as described in Subpart H of this part;

(3) Subsequent to the most recent construction, configuration or utilization change to the building, have completed a technical assistance program or its equivalent, as determined by the State, for the building or buildings for which financial assistance is to be requested;

(4) Have implemented all cost-effective operation and maintenance procedures which are identified as the result of an energy audit and a technical assistance program;

(5) Have no plan or intention at the time of application to close such building or buildings for which financial assistance is to be requested within the simple payback period of any energy conservation measure within each building for which financial assistance is requested; and

(6) Submit an application in accordance with the provisions of this part and the approved State Plan.

(b) To be eligible for financial assistance, the simple payback period of each energy conservation measure for which financial assistance is requested within each building shall not be greater than 15 years.

§ 455.52 Contents of program.

The program to be funded under this Subpart will be energy conservation measures acquired and installed to reduce energy consumption or allow the use of alternative energy sources for schools and hospitals. Such measures may include but not necessarily be limited to—

(a) Insulation for bare pipes, water heaters, hot water storage tanks, chilled water piping, ductwork and other uninsulated mechanical equipment carrying an above or below ambient temperature fluid, which resists heat transfer from the mechanical systems to the surrounding space;

(b) Roof insulation, using new or additional material (applied, sprayed or rigid) which resists heat transfer through the roof;

(c) Ceiling insulation, installed either above or below the ceiling to resist heat transfer through the ceiling;

(d) Wall insulation, using a rigid or sprayed material, installed to resist heat transfer through the wall;

(e) Floor insulation, using a material which resists heat transfer through the floor between the first level heated space and the unheated space beneath it;

(f) Storm windows, which are an additional window, normally installed to the exterior, but which may be installed to the interior of the primary or ordinary window, to increase resistance to heat transfer, and to decrease air infiltration through the window assembly;

(g) Storm doors, which are an extra door installed to the exterior of an exterior door, but also may be installed as part of the entrance vestibule, to decrease heat transfer and air infiltration through the building entrance ways;

(h) Multiglazed window or door systems, which are a single glass unit consisting of multiple layers of glass separated by hermetically sealed air spaces, which provide greater resistance to heat transfer;

(i) Reduction in glass area through use of bricking, insulated paneling, etc., which decreases heat transfer and air infiltration;

(j) Heat absorbing or heat reflective glazed and coated window and door systems, which are specially treated, coated or laminated glazing systems to absorb or reflect solar heat;

(k) Caulking, which is nonrigid material placed in joints of buildings or window or door systems to prevent the passage of air and moisture through the building envelope;

(l) Weatherstripping, which consists of strips of flexible material placed over, under, or in movable joints of windows and doors to reduce the passage of air and moisture;

(m) Automatic energy control systems, such as mixed air temperature reset devices; cooling coil discharge temperature reset devices; hot deck temperature reset devices; economizer controls; enthalpy controls; night setback thermostats; time clocks to start/stop selected HVAC systems, refrigeration equipment, boilers, chillers, hot water generators, plus associated pumps and fans, thermostatic radiator valves, and central computer control systems, which adjust the supply of heating, cooling, and ventilation to meet space conditioning requirements;

(n) Equipment required to operate or convert to variable energy supply, including—

(1) Hydraulic ventilating systems which are adjusted by the automatic energy control systems to turnoff or vary the consumption of energy systems to deliver no more energy than required at any operating point;

(2) Constant volume air distribution systems altered to variable air flow systems by the addition of variable air flow boxes, fan volume control dampers and related climatic controls; or

(3) Water spray coils for adiabatic cooling during optimum weather conditions;

(o) Passive solar systems (those using gravity, heat absorption or reflection, evaporation, etc.) which collect and transfer energy (including south facing windows, trombe walls, and awnings) without the use of mechanical devices;

(p) Solar space heating or cooling systems, which consist of solar collectors, and associated thermal storage, heat exchangers, pumps/fans, controls and piping/ducting;

(q) Solar electric generating systems, which consist of photovoltaic solar collectors and associated electric storage and controls, or concentrating solar collectors and generating equipment, or wind energy conversion systems;

(r) Solar domestic hot water heating systems, which consist of solar collectors, and associated thermal storage, heat exchangers, pumps, controls, and piping for thermal demand, such as domestic hot water, laundry, kitchen, and boiler water makeup;

(s) Furnace or utility plant modifications, which consist of the installation of equipment to achieve reduction in fuel consumption, or to convert to renewable energy sources or coal, including—

(1) Replacement burners, furnaces, boilers, or any combination thereof, which are designed to substantially reduce the amount of fuel consumed as a result of increased combustion efficiency;

(2) Electrical or mechanical furnace ignition systems which eliminate continuous energy use;

(3) Devices for modifying flue openings, such as dampers and heat exchangers, which increase the efficiency of the total heating systems;

(4) Automatic combustion control systems, which improve burner operating performance to reduce consumption of fuel during full and part load operation;

(5) Devices, such as turbulators and flow restrictors, for modifying boiler capacity and hot water units to reduce oversized equipment to a proper size (after the other building modifications), which increase the full and part load efficiency of the primary equipment; and

(6) Equipment required to convert existing oil- and gas-fired boiler installations to alternative energy sources, including coal;

(t) Lighting fixtures modifications and associated rewiring, which reduce the watts per square foot level of illumination through use of such measures as high frequency ballasts, phantom tubes, lamp sources of higher efficiency, improved luminaires, use of non-uniform task/ambient lighting design, while maintaining lighting levels for task perfomance. Lighting fixtures modifications that increase the general illumination level of a facility shall not be eligible for funding unless the increase is necessary to conform to any applicable State or local building code or unless such increase is approved by the Secretary;

(u) Energy recovery systems which reduce energy used in heating and cooling systems by—

(1) Direct recycling of uncontaminated air, which has been conditioned, to an adjacent area for heating, cooling or ventilation makeup;

(2) Exhaust air heat recovery to preheat outside air supply with heat recovery devices such as rotary air wheels, plate heat exchangers, non-regenerative heat-pipe devices, and runaround loop systems; or

(3) Purifying with charcoal or other mediums and recycling exhaust air from toilet areas, dining rooms, and lounges, and other building areas;

(v) Cogeneration systems which produce steam, heat, or other forms of energy as well as electricity for use

primarily within a building or complex of buildings and which meet such fuel efficiency requirements as may be prescribed or approved by DOE and which may be new heat recovery equipment added to existing electrical generation systems;

(w) Any other measures as a grant applicant shows will save a substantial amount of energy or as are identified in an energy audit prescribed pursuant to section 365(e)(2) of the Energy Policy and Conservation Act. Such measures must be specifically identified in any grant application, including a complete description of the measure together with calculations and other technical data supporting the projected cost and energy savings.

Subpart E—Applicant Responsibilities

§ 455.60 Grant application submittals.

(a) Each eligible State, school, hospital, unit of local government and public care institution desiring to receive financial assistance for costs of technical assistance programs, or, in the case of an eligible State, school or hospital, for costs of energy conservation measures, relating to a building of buildings owned by such entity shall file an application in accordance with the provisions of this Subpart and the approved State Plan of the State in which such building is located. The application, which may be amended in accordance with applicable State procedure at any time to the State's final determination thereon, shall be filed with the State energy agency designated in the applicable approved State Plan.

(b) An application for financial assistance for costs of technical assistance programs shall include—

(1) The applicant's name and address;

(2) A written statement certifying that the applicant is eligible under § 455.41;

(3) Identification of each building for which financial assistance is requested, to include information required by 10 CFR in § 455.42(a)(1) through (5);

(4) A statement of current energy use by building (Btu/sq.ft./yr.);

(5) Estimate of energy savings, by building (Btu/sq.ft./yr.), resulting from implementation of operations and maintenance procedures identified in the energy audit;

(6) A project budget, by building, which identifies the sources and amounts of non-Federal funds, including in-kind contributions (limited to the goods and services described in OMB Circular A-102, "Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments", which are directly related to the project and do not include funds derived from revenue sharing or other Federal sources), to be used to meet the costsharing requirements described in Subpart G; and

(7) A brief description, by building, of the proposed technical assistance program, scheduling and milestone dates for achieving the overall technical assistance program objective and associated estimated costs;

(8) Schedules and milestone dates for the conduct and completion of technical assistance programs for each building.

(c) Applications from a State, school or hospital for financial assistance for costs of energy conservation measures shall include—

(1) The applicant's name and address;

(2) A written statement certifying that the applicant is eligible under § 455.51;

(3) Identification of each building for which financial assistance is requested, to include information required by 10 CFR 450.42(a) (1) through (5);

(4) A written statement that cost effective operation and maintenance procedures identified as a result of a technical assistance program have been implemented in each building by the applicant;

(5) A project budget, by building, which shall include identification of the sources and amounts of non-Federal funds to be used to meet the costsharing requirements described in Subpart G of this part;

(6) A statement of the applicant's ability to provide required matching non-Federal funds, including in-kind contributions (limited to the goods and services described in OMB Circular A-102, "Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments", which are directly related to the project and do not include funds derived from revenue sharing or other Federal sources), and the proposed sources and method of financing;

(7) Schedules and milestone dates for the completion of the acquisition and installation of energy conservation measures for each building;

(8) A listing, by building, of the specific energy conservation measures proposed for funding, indicating the cost of each measure, the estimated energy saving of each measure, the projected simple payback period for each measure, computed in accordance with the methodology described in § 455.42(b)(4) (iii) and (iv), and the average simple payback period of all measures proposed for the building. The average simple payback period shall be determined by dividing the total cost of all measures proposed by the total projected saving (from energy savings only) accruing from all measures proposed;

(9) A technical assistance program report for each building, the program for which was conducted subsequent to the most recent construction, configuration or utilization change to the building;

(10) If the application covers any of the measures set forth in § 455.52 (p), (q), (r), (s), (u), and (v) above, sufficient data for DOE to evaluate the environmental impacts of those measures. For any other measure set forth in § 455.52 if the applicant is aware of any adverse impacts which may arise from the adoption of such measures, the applicant shall provide an analysis of such impacts with the application.

(d) Financial assistance for units of local government and public care institutions will be provided only for buildings which are owned and primarily occupied by offices or agencies of a unit of local government or public care institution and which are not intended for seasonal use and not utilized primarily as a school or hospital.

(e) Financial assistance provided to a school which is a local education agency as defined in § 455.2 must not be used for acquisition or installation of any energy conservation measure in any building of such agency which is used principally for administration, or technical assistance in connection with any such undertaking for such a building.

(f) Financial assistance will not be provided for technical assistance programs or energy conservation measures commenced prior to November 9, 1978.

§ 455.61 Applicant certifications.

(a) Applications for financial assistance for technical assistance programs and energy conservation measures shall include a signed statement that the applicant—

(1) Has satisfied the requirements set forth in § 455.60;

(2) Will expend granted funds for the purposes stated in the application and in compliance with the requirements of this Part and the applicable approved State Plan;

(3) Has implemented all cost-effective operation and maintenance procedures recommended as a result of the energy audit and, for applications for energy conservation measures, those recommended in the report obtained under a technical assistance program;

(4) Will obtain from the technical assistance auditor, before the auditor performs any work in connection with a technical assistance program or energy conservation measure, a signed statement certifying that the technical assistance auditor has no conflicting financial interests and is otherwise qualified to perform the duties of a technical assistance auditor in accordance with the standards and criteria

established in the approved State Plan; and

(5) Will not enter into any contract relating to an energy conservation measure (except technical assistance), which requires or may require expenditure of more than $5,000 (excluding technical assistance costs), that does not conform to the provisions of the Davis-Bacon Act (40 U.S.C. 276a to 276a-5) pertaining to minimum wages for construction in the applicant's locality.

§ 455.62 Grant applications for State administrative expenses.

(a) Each State desiring to receive a grant for State administrative expenses shall file an application therefor in accordance with the provisions of this section. The application shall be submitted to DOE at the time the State forwards approved grant applications for technical assistance programs and energy conservation measures.

(b) Applications for financial assistance for State administrative expenses shall include—

(1) The name and address of the person designated by the State to be responsible for the State's functions under this Part;

(2) A projected itemized budget for State administrative expenses listed in § 455.83(b) and limited thereunder;

(3) A statement of the State's ability to provide required matching non-Federal funds, including in-kind contributions (limited to the goods and services described in OMB Circular A-102 which are directly related to the project and do not include funds derived from revenue sharing or other Federal sources), and the proposed method of financing.

§ 455.63 Grantee records and reports.

(a) Each State, school, hospital, unit of local government and public care institution which receives a grant for technical assistance programs, energy conservation measures or State administrative expenses shall keep all the records required by § 455.4.

(b) In January and June of each year each grantee shall, unitl the grantee's program has been concluded, submit a report to the State which shall detail and discuss—

(1) Activities accomplished, those not accomplished, status of in-progress activities, problems encountered, and remedial actions, if any, planned;

(2) Cost-effective operation and maintenance procedures and energy conservation measures studied, recommended, or installed, with accompanying projected or actual costs, energy and cost savings, payback periods and specifying any material variances from those projected in the original applications; and

(3) Financial status reports completed in accordance with OMB circulars listed in § 455.3. Financial status reports must be submitted simultaneously to both the State and DOE.

(c) Within 90 days following conclusion of a technical assistance program or completion of an energy conservation measure by a grantee, the grantee shall submit a final report to the State and a summary thereof to DOE which shall detail and discuss, as applicable—

(1) A summary of all work accomplished;

(2) Problems encountered and recommended solutions;

(3) Results achieved under the program;

(4) Final financial reports completed in accordance with OMB circulars listed in § 455.3;

(5) For a completed technical assistance program—

(i) A complete inventory and description of major energy-using equipment and systems;

(ii) Calculated energy consumption for the building (assuming the implementation of all cost-effective operations and maintenance procedures);

(iii) Differences between the calculated energy consumption and the actual energy consumption of the building;

(iv) Recommended changes in operation and maintenance procedures indicating the energy and cost savings anticipated;

(v) Recommended energy conservation measures indicating the energy cost savings anticipated, and the cost of acquiring and installing the measures (with simple payback periods) in order of ascending payback period, that is, ranked in order with the lowest payback first; and

(vi) A recommended implementation plan, grouped into categories of energy saving operation and maintenance procedures, and energy conservation measures. Energy conservation measures will be presented in order of ascending payback period;

(6) For completed energy conservation measures, (1) through (4) above, and

(i) A complete inventory and description of major energy-using equipment and systems;

(ii) A complete inventory and description of modifications to and construction and installation of major energy-using equipment and systems;

(iii) A final projected simple payback period, computed in accordance with § 455.42(b)(4)(iv), for each building specifying and utilizing the actual costs for each measure and all the measures, taken as a whole; and

(iv) Certification by the technical assistance auditor that the modifications (material, equipment and installation) made conform in all respects to the report on the technical assistance program and the approved application.

Subpart F—State Responsibilities

§ 455.70 State evaluation of grant applications.

(a) Each application received by a State shall be reviewed and evaluated to determine whether it complies with Subparts C, D and E of this part, any additional requirements of the approved State Plan State environmental laws, and other applicable laws and regulations.

(b) The State will forward each application for a school or hospital to the State school facilities agency or the State hospital facilities agency, as the case may be, for review and certification that such application is consistent with related State programs for educational facilities, and State health plans under sections 1524(c)(2) and 1603 of the Public Health Service Act, and has been coordinated through the review mechanisms under section 1523 of the Public Health Service Act and section 1122 of the Social Security Act. No application from a school or hospital shall be approved until such certification has been issued.

§ 455.71 State ranking of grant applications.

(a) All applications received by the State will be ranked by the State on an individual building by building basis. In the case of energy conservation measures, a complex may be ranked as a single building if the application proposes a single energy conservation measure which directly involves all of the buildings in the complex. States shall rank buildings in descending priority, based upon the following factors—

(1) The average simple payback period of all energy conservation measures proposed for the building;

(2) The type(s) of energy source to which conversion is proposed (with weighting adjustments directly proportional to the ratio of the cost of the conversion measure to the total cost of all measures proposed for a given building, including in descending priority)—

(i) Renewable;

(ii) Coal;

(iii) Electricity (as primary, baseload fuel)—

(A) Nuclear fired;

(B) Coal fired;

(3) The type(s) of primary energy to be saved (with weighting adjustments directly proportional to the ratio of the cost of the energy saving measure to the total cost of the energy saving measure to the total cost of all measures proposed for a given building), including in descending priority—

(i) Natural gas;

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(ii) Oil;
(iii) Electricity (as primary, baseload fuel)—
(A) Natural gas fired;
(B) Oil fired;
(C) Coal fired;
(D) Nuclear fired;
(4) Remaining useful life of building;
(5) Climate within the State;
(6) Fuel prices or fuel availability within the State;
(7) Other factors as determined by the State.

(b) Each State shall develop separate groupings for ranking all buildings covered by applications, in compliance with the State Plan, for—
(1) Technical assistance programs for units of local government and public care institutions;
(2) Technical assistance programs for schools and hospitals; and
(3) Energy conservation measures for schools and hospitals.

(c) Within each grouping, a State shall set forth the ranking of each building, the amount of financial assistance requested for each such building. A State shall also indicate which of the buildings in the ranking are approved by the State for financial assistance, and which of those approved, the State recommends for funding, within the limits of the State's allocations.

(d) Within each grouping of ranked of buildings, a State shall assure that—
(1) Schools receive not more than 70 percent of the total funds allocated for schools and hospitals to the State in the grant program cycle for schools and hospitals;
(2) Hospitals receive not more than 70 percent of the total funds allocated for schools and hospitals to the State in the grant program cycle for schools and hospitals; and
(3) School and hospital applicants for Federal funding in excess of 50 percent on the basis of severe hardship under § 455.71 receive in the aggregate no more than 10 percent of the funds allocated to the State in the grant program cycle for schools and hospitals.

(e) To the extent provided in § 455.82 (c), additional financial assistance with be available for schools and hospitals experiencing severe hardship as determined in accordance with this part, and funding therefor will be taken from the funds reserved for grants up to 90 percent of the total costs of the technical assistance program and/or energy conservation measures.

(f) Applications for Federal funding in excess of 50 percent based on claims of severe hardships shall be given an additional evaluation and ranking, and identified within groupings of building rankings. The amount of the proposed Federal share in excess of 50 percent for each building shall be specified within each grouping, and the sum of the all the grants in excess of the 50 percent requested for buildings covered by severe hardship grant applications shall be provided separately.

(g) The criteria for the evaluation and ranking of severe hardship applications are list below in the descending order in which weights for each factor are to be applied by the State—
(1) Inability to provide the 50 percent non-Federal program costs;
(2) Fule costs and availability which differ significantly from the average within the State; and
(3) Climatological conditions which differ significantly from the average conditions within the State.

(h) In determining the maximum Federal share for an institution in a given locality that is in a class of severe hardship, States shall use the U.S. Department of Commerce publication, *Qualified Areas Under the Public Works and Economic Development Act of 1965, as amended.* Institutions in those locations listed in the publication may be eligible for Federal funding for this program at the "Maximum Grant Rate" assigned to that location in such publication, plus 10 percent.

§ 455.72 Forwarding of applications.

Each State shall, once each grant program cycle, within the period specified by DOE and published in the FEDERAL REGISTER, forward to DOE those applications that the State recommends for financial assistance, ranked pursuant to the provisions of § 455.71.

§ 455.73 State Duties.

(a) Each State shall be responsible for—
(1) Notifying each applicant, within 60 days following receipt by the State of the application or the last amendment thereof whether its application has been approved and recomended for funding;
(2) Direct program oversight, monitoring and financial auditing of the activities for which grants are awarded to its institutions to insure compliance with all legal requirements. States shall immediately notify the Secretary of any non-compliance or indication thereof.

(b) Each State shall submit a report to DOE—
(1) By the close of the sixth month following State Plan approval by DOE, and in each March thereafter for the duration of the grant program, describing generally—
(i) The operations of the program;
(ii) Problems encountered and recommended solutions;
(iii) Program related financial expenditures by the grantees and the State;
(2) By the close of the twelfth month following State Plan approval by DOE and in each August thereafter for the duration of the grant program, giving—
(i) A narrative on the program, including objectives accomplished, problems encountered and recommended solutions;
(ii) A detailed report on program related financial expenditures by all grantees and by the State; and
(iii) A summary of the most recent reports received by the State pursuant to § 455.63.

Subpart G—Grant Awards

§ 455.80 Approval of grant applications

(a) The Secretary shall review and approve applications submitted by a State in accordance with § 455.72 and in accordance with the State's ranking of buildings contained in such applications if the Secretary determines that the applications meet the objectives of the Act, and comply with the applicable State Plan and the requirements of this Part. The Secretary may disapprove all or any portion of an application to the extent that funds are not available to carry out a program or project (or portions thereof) contained in the application, or for such other reasons as the Secretary may deem appropriate.

(b) The Secretary shall notify a State and the applicant of the final approval or disapproval of an application at the earliest practicable date after the Secretary's receipt of the application, and, in the event of disapproval, shall include a statement of the reasons therefor. An application which has been disapproved may be amended and resubmitted within the same grant program cycle with the consent of the Secretary.

(c) The Secretary may also, after reasonable notice and hearing, terminate financial assistance under a previously approved application if the Secretary determines the applicant has failed to comply substantially with the terms and conditions set forth in the application and this subpart.

§ 455.81 Grant Awards For Units Of Local Government and Public Care Institutions.

(a) The Secretary may make grants to States, units of local governments and public care institutions of up to 50 percent of the costs of performing technical assistance programs for buildings covered by an application approved in accordance with § 455.80.

(b) Total grant awards within any State to units of local government and public care institutions are limited to the funds allocated to each State in accordance with Subpart I of this part.

(c) No grant awarded under this section for a technical assistance program shall include funding for the purchase of an item of equipment having an acquisition cost in excess of $500.

§ 455.82 Grant Awards For Schools and Hospitals.

(a) The Secretary may make grants to States, schools and hospitals of up to 50 percent of the costs of performing technical assistance programs for buildings covered by an application approved in accordance with § 455.80, subject to the following—
(1) Total grant awards within any State to schools and hospitals are limited to the funds allocated to each State in accordance with Subpart I of this part;
(2) Grant awards for technical assistance programs in any State within any grant program cycle shall not exceed—
(i) 30 percent of the amount allocated to a given State from the 1978 fiscal year appropriation for technical assistance programs and energy conservation measures for schools and hospitals;
(ii) 15 percent of the amount allocated to a given State from the 1979 fiscal year appropriation for technical assistance programs and energy conservation measures for schools and hospitals; or
(iii) 5 percent of the 1980 fiscal year appropriation for technical assistance programs and energy conservation measures for schools and hospitals.

(b) The Secretary may make grants to States, schools and hospitals of up to 50 percent of the costs of acquiring and installing energy conservation measures for buildings covered by an application approved in accordance with § 455.80. Total grant awards within any State are limited to the funds allocated to each State in accordance with Subpart I of this part.

(c) The Secretary may award up to 10 percent of the total amount allocated to a State for technical assistance programs and energy conservation measures, in a given grant program cycle, to cover more than 50 percent but not to exceed 90 percent of the cost of a technical assistance program or an energy conservation measure for applicants in a class of severe hardship, as ascertained in accordance with the State Plan.

(d) The Secretary shall not award more than 70 percent of the total amount allocated to a State for technical assistance programs and energy conservation measures in a given grant program cycle to either schools or hospitals in that State.

(e) No grant awarded under this section for a technical assistance program shall include funding for the purchase of an item of equipment having an acquisition cost in excess of $500.

§ 455.83 Grant Awards For State Administrative Expenses.

(a) Concurrently with grant awards for approved applications for institutions in a given State, the Secretary may make a grant to that State in an amount not exceeding 5 percent of the total amount of such awards for the purpose of defraying State expenses in the administration of technical assistance programs and energy conservation measures within that State. Grants for such purposes may be made for up to 50 percent of a State's projected administrative expenses, as approved by the Secretary.

(b) A State's administrative expenses shall be limited to those directly related to administration of technical assistance programs and energy conservation measures, including costs associated with—
(i) Personnel, whose time is expended directly in support of such administration;
(ii) Supplies, expended directly in support of such administration;
(iii) Equipment purchased or acquired solely for, and utilized directly in support of such administration, provided that no items of equipment costing more than $200 shall be acquired without the express consent of DOE;
(iv) Printing, directly in support of such administration; and
(v) Travel, directly related to such administration.

Subpart H—State Plan Development and Approval

§ 455.90 Contents of State Plan.

Each State shall develop a State plan for technical assistance programs and energy conservation measures. The State Plan shall be reviewed and approved by the Governor of the State or the State energy agency and shall include—

(a) A statement setting forth the procedures by which the views of eligible institutions or State-wide organizations representing such institutions, or both, were solicited and considered during development of the State Plan;

(b) A description of the preliminary energy audit results (described in Subpart B of this part) which have been conducted in the Sate including, but not limited to—
(1) In the case of a State which has completed preliminary energy audits of all potentially eligible buildings, a summary of the data gathered pursuant to § 450.42 for all such buildings;
(2) In the case of a State which has completed preliminary energy audits of a sample of all potentially eligible buildings within the State—
(i) Reasonably accurate estimates of the preliminary energy audit data required by § 450.42 for all potentially eligible buildings within the State; and
(ii) A plan which describes further actions to be taken in order to obtain the required information for all potentially eligible buildings;

(3) Estimates of the energy savings, by class of building, expected to result from modification of maintenance and operating procedures and installation of energy conservation measures in such buildings;

(4) Recommendations as to the number and estimated cost of technical assistance programs and types and estimated costs of energy conservation measures for each grant program cycle;

(c) A description of the policies and procedures to be used by the State for evaluating grant applications;

(d) A description of the policies and procedures that the State will follow to insure that funds will be allocated equitably among eligible applicants within the State, including procedures to insure that funds will not be allocated on the basis of size or type of institution but rather on the basis of relative need taking into account such factors as cost, energy consumption and energy savings. Such policies and procedures shall be in accordance with § 455.71;

(e) A description of the policies and procedures that the States will follow in the identification, ranking and allocation of funds to severe hardship applicants which are eligible to receive financial assistance in excess of the otherwise applicable 50 percent limit. Such policies and procedures shall be in accordance with § 455.71(g);

(f) A Statement setting forth the extent to which, and by which methods, the State will encourage utilization of solar space heating, cooling and electric systems and solar water heating systems;

(g) A description of the policies and procedures to assure that all financial assistance under this part will be expended in compliance with the requirements of the State Plan, in compliance with the requirements of this part, and in coordination with all other State and Federal energy conservation programs;

(h) A description of the policies and procedures to insure implementation of cost-effective energy conserving maintenance and operating procedures in those buildings for which financial assistance is awarded under this part;

(i) A description of the policies and procedures designed to insure that financial assistance under this part will be used to supplement, and not to supplant, State, local or other funds;

(j) A description of the policies and procedures for establishment of, and

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adherence to, milestones for accomplishment of technical assistance programs and energy conservation measures receiving financial assistance under this part;

(k) A description of the policies and procedures for State management, financial audit and evaluation of technical assistance programs and energy conservation measures receiving financial assistance under this part;

(l) A description of the program of the State for establishing and insuring compliance with qualifications for technical assistance auditors. Such policies shall require at a minimum that a technical assistance auditor have experience in energy conservation and be a registered professional engineer licensed under the regulatory authority of the State, or be an architect-engineer team the members of which are licensed under the regulatory authority of the State, and that a technical assistance auditor be free from financial interests which may conflict with the proper performance of his or her duties;

(m) A description of the policies and procedures for apportionment of funds among eligible institutions within the State. As a minimum such policies and procedures shall assure a separate priority ranking for each building pursuant to the provisions of § 455.71 covered by an application approved pursuant to the provisions of § 455.70 for—

(1) Technical assistance programs for units of local government and public care institutions;

(2) Technical assistance programs for schools and hospitals; and

(3) Energy conservation measures for schools and hospitals.

§ 455.91 Submission and Approval of State Plans.

(a) Proposed State Plans shall be submitted to the Secretary within 90 days of the effective date of this Subpart unless the Secretary, upon request and for good cause shown, grants an extension of time.

(b) The Secretary shall, within 60 days of receipt of a proposed State Plan, review each Plan and, if it is found to conform to the requirements of this part, approve the State Plan. If the Secretary does not disapprove a State Plan within the 60-day period, the Secretary will be deemed to have approved the State Plan.

(c) If the Secretary determines that a proposed State Plans fails to comply with the requirments of this part, the Secretary shall return the Plan to the State with a statement setting forth the reasons for disapproval. With the consent of the Secretary, the State may submit a new or amended Plan at any time.

§ 455.92 State Plans Developed by the Secretary.

(a) If a State Plan has not been approved by February 7, 1981, or within 90 days after completion of the preliminary energy audits, whichever is later, the Secretary may develop and implement a State Plan on behalf of the schools and hospitals in the State.

(b) Subsequent to the development of a State Plan by the Secretary, the State may submit its own State Plan and the Secretary shall approve or disapprove such plan within 60 days after receipt by the Secretary. If the proposed plan meets the requirements of this part, and is not inconsistent with any plan developed and implemented by the Secretary, the Secretary shall approve the State Plan which shall automatically replace the Plan developed by the Secretary.

Supbart I—Allocation of Appropriations Among the States.

§ 455.100 Allocation of Funds.

The Secretary will allocate available funds for the purpose of awarding grants to States, schools, hospitals, units of local government and public care institutions to implement grant programs for schools and hospitals and buildings owned by local government and public care institutions in accordance with this subpart.

§ 455.101 Allocation Formulas.

(a) Financial assistance for conducting technical assistance programs for units of local government and public care institutions shall be allocated among the States by multiplying the sum available by the allocation factor set forth in paragraph (c) of this section.

(b) Financial assistance for conducting technical assistance programs and acquring and installing energy conservation measures for schools and hospitals shall be allocated among the States by multiplying the sum available by the allocation factor set forth in paragraph (c) of this section.

(c) The allocation factor (K) shall be determined by the formula—

$$K = \frac{0.07}{n} + 0.1\,\frac{(Sfc)}{(Nfc)} + 0.83\,\frac{(SP)\ (SC)}{(NP)\ (NC)}$$

where, as determined by DOE—

(1) S_{fc} is the average retail cost per million Btu's of energy consumed within the region in which the State is located, as reflected in the 1985, Series C projections contained in DOE's Energy Information Administration Administrator's Annual Report, 1978;

(2) N_{fc} is the national average retail cost per million Btu's of energy consumed, as reflected in the 1985, Series C projections contained in DOE's Energy Information Administration Administrator's Annual Report 1978;

(3) n is the total number of eligible States;

(4) SP is the population of the State, as determined from 1976 census estimates, "Current Population Reports", Series P-25, number 603;

(5) NP is 217,820,000, the total population of all eligible States;

(6) SC is the sum of the State's heating and cooling degree days, as determined from National Oceanic and Atmospheric Administration data for the thirty year period, 1941 through 1970;

(7) NC is 349,249, the sum of all eligible States' heating and cooling degree days.

(d) Except for the District of Columbia, Puerto Rico, Guam, American Samoa and the Virgin Islands, no allocation available to any State may be less than 0.5 percent nor more than 10 percent of the total amount appropriated.

(e) Ten percent of each State's allocation each year for schools and hospitals shall be apportioned by the State for additional financial assistance, in excess of the 50 percent Federal share, up to 90 percent of the costs of technical assistance programs and energy conservation measures for those schools and hospitals determined to be in a class of severe hardship. Such determinations shall be made in accordance with § 455.71(g).

(f) By notice published in the FEDERAL REGISTER, the Secretary shall notify each State of the total amount allocated for grants within the State for any grant program cycle. For purposes of this regulation, grant "program cycle" is a period of time to be specified by DOE, which is related to the fiscal year for which grant funds are appropriated during which one complete cycle of grant activity occurs, including DOE allocation of appropriations to the States, application review and approval, and grant award.

(g) By notice published in the FEDERAL REGISTER, the Secretary will notify each State of the period for which funds allocated for a grant program cycle will be reserved for grants within the State.

§ 455.102 Reallocation of Funds.

(a) If a State Plan has not been approved and implemented by any State by the close of the period for which allocated funds are available as set forth in the notice(s) issued by the Secretary pursuant to § 455.101(g) funds allocated to that State for technical assistance and energy conservation measures will be reallocated among all States for the next grant program cycle, if applicable.

(b) If a State Plan has not been approved by February 7, 1981, or within ninety days after completion of the preliminary energy audits, whichever is later, the Secretary may develop and implement a State Plan on behalf of the schools and hospitals within the State. If the Secretary does not develop a State Plan for a State, the funds reserved for that grant program cycle for schools and hospitals in that State will be reallocated for the next grant program cycle among all States for schools and hospitals.

(c) If a State does not forward a sufficient number of grant applications, which are approved by the Secretary, to award all the funds allocated for the State in that grant program cycle, the Secretary shall reallocate the remaining funds among all States for the next grant program cycle.

(d) If a State does not forward a sufficient number of grant applications, which are approved by the Secretary under the severe hardship provisions set forth in § 455.71(g), to award all of the funds allocated to the State for that purpose in that grant program cycle, the Secretary shall reallocate the remaining hardship funds among all States for the next grant program cycle.

§ 455.103 Reallocation of Preliminary Energy Audit/Energy Audit Funds.

(a) If a State has utilized Federal assistance to cover in excess of 50 percent of the costs for conducting preliminary energy audits and energy audits, the amount of such excess over 50 percent shall be subtracted from that State's allocation for technical assistance and energy conservation projects and reallocated among all other States for the next grant program cycle according to the formula set forth in § 455.101.

(b) To the extent that funds allocated to a State for preliminary energy audits and energy audits are not needed because all potentially eligible buildings have had an energy audit or its equivalent conducted, such funds may be made available for technical assistance or energy conservation measures. DOE shall, upon request by the State, redistribute funds not needed for preliminary energy audits and energy audits to the State allocation for technical assistance or energy conservation measures, as appropriate and such funds shall be in addition to those which would otherwise be available for such purposes.

[FR Doc. 79-407 Filed 1-2-79; 3:12 pm]

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FRIDAY, JANUARY 5, 1979
PART VIII



DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commission

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PUBLIC HOUSING AGENCIES—OWNED OR LEASED PROJECTS—MAINTENANCE AND OPERATION

Utility Allowances; Uniform Procedures

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[4210-01-M]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

[24 CFR Part 865]

[Docket No. R-78-607]

PHA-OWNED PROJECTS—PROJECT MANAGEMENT

Utility Allowances

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of proposed rulemaking.

SUMMARY: The proposed rule will establish a uniform procedure for determining the amount of utility allowances, surcharges and energy savings credits to tenants of dwelling units owned or leased by Public Housing Agencies (PHA's) and assisted under the United States Housing Act of 1937, as amended. Utility allowances are established presently in accordance with HUD guidelines last revised in 1963. The proposed rule will alleviate the confusion arising under the 1963 Guide and will be consistent with national and Departmental energy conservation goals. The proposed rule will not be applicable to the Section 8 Housing Assistance Payments Program or to the Mutual Help Homeownership Program.

COMMENTS DUE: February 20, 1979. Comments received before February 20, 1979, will be considered before adoption of a final rule in this matter.

ADDRESSES: Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. (202) 755-5603.

FOR FURTHER INFORMATION CONTACT:

Richard M. Ulf, Chief, Maintenance and Utility Branch, Office of Public Housing, Housing—Federal Housing Commissioner, Department of Housing and Urban Development, Washington, D.C. 20410 (202-755-5840).

SUPPLEMENTARY INFORMATION: The Department proposes to amend Title 24 by changing "Part 865—PHA-Owned Projects—Project Management" to read "Part 865—PHA-Owned or Leased Projects—Maintenance and Operation"; by renumbering §§ 865.401 through 986.410 as §§ 865.450 through 865.459; and by adding new §§ 865.470 through 865.476, "Tenant Allowances for Utilities".

Under 24 CFR 860.403 the cost of reasonable amounts of utilities is included in the tenant's rent; consequently, there is a need for PHAs to establish utility allowances which define and are based on "reasonable" consumption. For tenants who purchase their utilities directly from the utility supplier, the allowance is set in the form of monetary credits against their gross rents. For tenants whose units are served by a checkmetered, mastermetered system, the utility allowances will be stated in units of energy consumed (e.g., kilowatt-hours of electricity), and the cost of consumption not exceeding the allowance will be included in the rent. (This proposed rule does not alter the provisions of 24 CFR 866.4(b)(2) which specifies that "imposition of charges for consumption of excess utilities is permissible only if such charges are determined by an individual checkmeter servicing the leased unit or result from the use of major tenant-supplied appliances).

After consideration of all feasible methods, including the use of national or local consumption norms, the Department now proposes to base allowances on the actual consumption data for each project. This would most accurately reflect the many variables affecting utility usage (e.g., building type and age, construction materials, climatic conditions).

The proposed rule, in addition, provides that all utility allowances will be calculated on the basis of the average consumption levels of the various sized dwelling units within each individual project as adjusted to reflect consumption trends or other projected changes in utility usage. For PHA checkmetered utilities it specifies that no surcharges shall be imposed for consumption which exceeds the allowance by less than 15 percent and that tenants shall receive "energy savings credits" to be applied to rents if their consumption is more than 15 percent below the established allowance. Surcharges and credits are limited to one-third of a tenant's gross rent for the period covered. Allowances are required to be reexamined annually and adjusted, as necessary, to reflect changes, either increases or decreases, in consumption patterns or in utility rates.

During the draft of this proposed regulation, several alternative methods of determining the allowances were discussed. One proposal was to make the guidelines of 1963 mandatory by setting allowances for PHA metered projects at 20 percent above average use. This approach would be consistent with past HUD policy but would now be mandatory; thus, it would require those PHAs which have not yet set allowances on this basis to do so.

Another approach, which would minimize the number of tenants affected by surcharges, would establish allowances at the average consumption level plus 50 percent and provide for credits if consumption level is 50 percent or more below the average. This method, it has been estimated, would result in surcharges for approximately 15 percent of the tenants residing in checkmetered projects and provide credits to a comparable number of families.

HUD, after considering these alternatives, has decided to propose an allowance set at the average consumption for each project with provisions for charges and credits as described above. In view of national concerns about energy conservation, HUD believes that this approach will encourage more tenants to use energy responsibly and would generally be a more effective energy conservation measure. Tenant welfare concerns are given cognizance through the provisions limiting surcharges to one-third of rents which are established at an amount no more than 25 percent of family income.

In arriving at this conclusion HUD is relying heavily upon experience, supported by utility company data, indicating that projects with tenant-furnishing utilities consume up to 10 percent of less than similar projects with checkmetered, project-furnished utilities. Further, actual projects that have been changed to retail service from mastermetering have registered up to 35 percent reductions in electrical consumption. The results of a study by the Federal Energy Administration, "Energy Conservation Implication of Mastermetering," October 1975, also support the concept that significant energy conservation is achieved when all tenants are directly affected. The idea of granting energy savings credits as an inherent part of the allowance system is an added effort to assure that a sizable proportion of tenants will have tangible conservation incentives.

The use of average consumption for project-furnished utilities also is consistent with the specified level of allowances set by HUD for tenant-furnished utilities (i.e., direct retail service). This level of allowances for tenant-furnished utilities is necessary in order to avoid providing larger aggregate allowances for utilities than the amounts tenants in projects with tenant-furnished utilities are paying to utility companies. Equity as to gross rents paid under the two utility supply situations is a goal in setting these rates, and HUD believes that goal should be attained through extension of the allowance level applicable in tenant-supplied projects to those which are checkmetered. At this time there are approximately twice as many public housing units with tenant-furnished utilities as there are units in checkmetered projects.

Although HUD recognizes that administrative costs will be increased because of the surcharge-rebate system, it believes the resulting reduction in energy consumption will off-set the additional costs of billing or crediting amounts to approximately fifty (50) percent of the tenants. This figure is based on the difference between the number of tenants affected under the proposed regulation (80 percent) and the number (30 percent) that would be affected if the allowance were set at fifty (50 percent) above/below average consumption.

The argument has been made that, because of skewed distribution patterns, surcharges for a smaller percentage of tenants will result in a smaller reduction of housing authority income than when allowances are established as proposed. This idea has not been considered to be pertinent, even if true, because HUD's objective is to reduce energy consumption overall, and not to derive additional income from possible aberrations in the consumption patterns of certain projects. By specifying allowances based on average consumption, surcharges and credits should be approximately equal over a period of time, thereby balancing the outlays and collections for the Authority.

The argument has been made that unless weatherization of units precedes conversion to individual metering, the utility allowance, as proposed, should be considerably more lenient. It has been tentatively decided that each activity shall proceed separately, and that energy conservation activity including both conversion to individual metering and weatherization efforts, will be made a high priority under the Modernization Program. In any event, since individual project data is used in establishing allowances, weatherization improvements (or the lack thereof) have a minimal impact on charges.

In summary, HUD has relied heavily on the experience of past years in utilizing allowances for tenant-furnished utilities at the average consumption level. HUD considers establishment of allowances for project-furnished utilities at a level comparable to allowances for tenant-furnished utilities to be of prime importance in assuring equal treatment of residents and appropriate attention to energy conservation as a vital national objective, HUD, however, specifically solicits comments on the above or on any other proposals as to the levels of allowances that will best meet national energy conservation objectives and provide fair and equal treatments to all public housing tenants. HUD is particularly interested in receiving factual analyses related to the most appropriate methods for determining utility allowances, the level of those allowances, the cost to tenants for surcharges under alternative methods of establishing allowances and administrative costs to be anticipated.

Interested persons are invited to participate in the making of this rule by furnishing such written comments, data and suggestions as they may desire. All such materials should refer to Docket No. R-78-607 and should be filed with the Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Copies of all written comments received will be available for public inspection at the above address during regular business hours, both before and after the close of comment period.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of the Finding of Applicability will be available for public inspection during regular business hours at the above address.

It is hereby certified that the economic and inflationary impacts of the Proposed Rule have been carefully evaluated in accordance with Executive Order No. 11821.

Accordingly, it is proposed to amend Title 24 by changing "Part 865—PHA-Owned Projects—Project Management" to read "Part 865—PHA-Owned or Leased Projects—Maintenance and Operation," by renumbering §§ 865.401 through 865.410 as §§ 865.450 through 865.459 and by adding new §§ 865.470 through 865.476 "Tenant Allowances for Utilities," to read as follows:

PART 865—PHA-OWNED OR LEASED PROJECTS—MAINTENANCE AND OPERATION

• • • • • •

Subpart D—Utilities

INDIVIDUAL METERING OF UTILITIES FOR EXISTING PHA-OWNED PROJECTS

Sec.
865.450 Purpose.
865.451 Definitions.
865.452 Individually metered service.
865.453 Benefit/Cost Analysis.
865.454 Funding.
865.455 Order of conversion.
865.456 Actions affecting tenants.
865.457 Compliance schedule.
865.458 Waivers for similar projects.
865.459 Reevaluation of mastermeter system.

TENANT ALLOWANCES FOR UTILITIES

865.470 Purpose.
865.471 Applicability.
865.472 Definitions.
865.473 Establishment of allowances for PHA-furnished utilities.
865.474 Establishment of Surcharges.
865.475 Establishment of Energy Savings Credits.
865.476 Establishment of allowances for tenant-furnished utilities.

AUTHORITY: Sec. 6(a)(4) United States Housing Act of 1937 (42 U.S.C. 1437d); sec. 7(d) Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Tenant Allowances for Utilities

§ 865.470 Purpose.

The purpose of §§ 865.470 through 865.476 is to establish uniform procedures to be used by PHA's in establishing tenant allowances for utilities. Tenant "rent" includes the cost of a reasonable amount of utilities. Utility allowances are necessary to reimburse or credit tenants who pay a utility supplier directly for their utilities; to serve as a basis for Surcharges to tenants with excessive utility consumption; and to determine Energy Saving Credits for tenants who consume less than their allowance.

§ 865.471 Applicability.

The provisions of § 865.470 through 865.476 are applicable to all dwelling units assisted under the United States Housing Act of 1937 in projects owned by or leased to PHA's and leased or subleased by PHA's to tenants, except the Section 8 Housing Assistant Payments Program and the Mutual Help Homeownership Opportunities Program.

§ 865.472 Definitions.

(a) "Allowances for PHA-furnished Utilities" means reasonable amounts of utilities (e.g., kilowatt-hours of electricity) that are to be supplied by the PHA to tenants. These amounts are included in the tenant's Contract Rent and shall be measured with Checkmeters. Separate allowances shall be established for dwelling units of various sizes (i.e., number of bedrooms), or various types of construction (i.e., detached, rowhouse, etc.) and for each Utility service that is checkmetered, and shall be appropriately adjusted to reflect seasonal variations in the use of utilities. PHA's shall to the extent feasible also consider pysical characteristics of dwellings (i.e., top floor units, exterior walls, etc.).

(b) "Allowances for Tenant-Furnished Utilities" means the dollar amounts that are to be credited to the Gross Rents of tenants who obtain part or all of their utilities under Retail Service. Separate allowances shall be established for each Utility Service paid by the tenant, for units of various sizes (i.e., number of bedrooms), for various types of construction (i.e., detached, rowhouse, etc.), and shall be appropriately adjusted for seasonal variations. PHA's shall to the extent feasible also consider physi-

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cal characteristics of dwellings (i.e., top floor units, exterior walls, etc.).

(c) "Checkmeter" means a device for measuring Utility consumption within each individual dwelling unit where the Utility Service is supplied to the PHA through a Mastermeter. The PHA then ascertains from its reading of the Checkmeter the amount of tenant usage.

(d) "Contract Rent" means the rent charged a tenant for the use of the dwelling accommodation and equipment (such as ranges and refrigerators, but not including furniture), services, and reasonable amount of Utilities determined in accordance with the PHA's schedule of Allowances for Utilities supplied by the project. Contract Rent does not include charges for utility consumption in excess of a PHA's schedule of allowances for utilities, or other miscellaneous charges. The definintions of Contract Rent is not the same as contract rent for purposes of Parts 880 to 889 of Title 24.

(e) "Energy Savings Credits" means credits or rebates to tenants for using less of a Utility Service than the Allowance for PHA-Furnished Utilities included in Contract Rent. The amount of savings is determined by use of a Checkmeter.

(f) "Gross Rent" means Contract Rent plus the PHA's estimate of the cost to the tenant of reasonable amounts of Utilities determined in accordance with the PHA's schedule of allowances for such Utilities, where such Utilities are purchased by the tenant and not included in the Contract Rent. This definition of Gross Rent is not the same as gross rent for the purposes of Part 880 to 889 of Title 24.

(g) "Mastermeter System" means a Utility distribution system in which a PHA is supplied Utility Service by a Utility supplier through a meter or meters and the PHA then distributes the Utility service to its tenants.

(h) "Rental Service" means the purchase of a Utility Service by PHA tenant directly from the Utility supplier.

(i) "Surcharges" means the amount charged to tenants for consumption of Utilities in excess of the Allowance for PHA-Furnished Utilities included in Contract Rent. The amount of consumption is determined by use of a Checkmeter.

(j) "Utilities or Utility Service" means water, electricity, gas, heating fuel, trash and garbage collection and sewerage service. Telephone service is not included as a Utility.

§ 865.473 Establishment of Allowances for PHA-Furnished Utilities.

(a) *Establishment of Allowances.* PHA's shall establish Schedules of Allowances for PHA-Furnished Utilities which shall be incorporated into their rent schedules and approved by the HUD Field Office. Such Allowances shall be established at the average consumption level of the project for each Checkmetered Utility as adjusted to reflect consumption trends or other projected changes in utility usage that will take place prior to or during the periods for which allowances are being established.

SAMPLE SCHEDULE OF ALLOWANCES FOR QUARTERLY READING OF CHECKMETERS

Electricity purchased by PHA for lighting, refrigeration and small appliances.
Natural gas purchased by PHA for cooking, domestic hot water and space heating.
Water purchased by PHA.

Utility and Period	1-BR Unit	2-BR Unit	3-BR Unit	4-BR Unit
		Kilowatthours		
Electricity:				
Jan., Feb., Mar.	423	655	681	705
April, May, June	346	463	533	577
July, Aug., Sept	353	472	544	568
Oct., Nov., Dec	463	619	712	770
		Therms		
Gas:				
Jan., Feb., Mar.	317	418	516	611
April, May, June	96	125	156	185
July, Aug., Sept	66	87	109	128
Oct., Nov., Dec	325	426	527	624
Water	6,600 gallons per dwelling unit per month.			

(b) *Allowances for Projects with Utility Records.* The allowances for PHA-Furnished Utilities shall be established by analyzing, for each checkmetered Utility, the consumption records for the most current three-year period. If records are not available for a three-year period, the PHA shall use consumption records for the most current two-year period or, if such records are unavailable, for the most current one-year period. Allowances based on records for only one year may be adjusted for abnormal weather conditions that prevailed during the one-year period. Seasonal variation in the use of the utilities is the reason for requiring consecutive twelve-month periods.

(c) *Allowances for Project Without Utility Records.* For a new project or an existing project for which consumption records are not available, Allowances for Project-Furnished Utilities shall be based on Utilities consumption records for the most comparable PHA project in the area as to construction, types and sizes of units, Utility combinations, climatic conditions and type of equipment. Utilities consumption data for comparable projects shall be obtained from the records of PHAs, local utility companies, or the HUD Field Office. Within a period of from one (1) to two (2) years after such initial Allowances have been established, the PHA shall analyze the Utilities consumption records for such project and shall adjust the Allowances to the average consumption levels of the project for the period analyzed.

(d) *Periodic Review of Allowances.* Allowances shall be reviewed and adjusted, if necessary, at least once every year.

§ 865.474 Surcharges Schedules.

PHAs shall include schedules or Surcharges for excess consumption of Checkmetered Utilities in their rent schedules. Surcharges shall be computed on a monthly or quarterly basis. Such schedules of Surcharges shall be established for specific blocks of excess consumption rather than on a straight per-utility-unit basis and shall be in dollar amounts necessary to recover the cost of such excess consumption. PHAs shall not charge for excess consumption that does not exceed the appropriate Utilities Allowance by less than fifteen (15) percent. Surcharges shall not exceed one-third of a tenant's gross rent for the period covered by the surcharges.

Example: Assume that an Allowance for PHA-Furnished Electricity for a 2-BR Unit in a project is 400 kwh per quarter. A schedule of Surcharges might be as follows:

Less than 60 kwh per quarter above allowance	No Charge
Each addition 60 kwh, of fraction thereof, above allowance	$1.15

§ 865.475 Energy Savings Credits Schedules.

PHAs shall include schedules of Energy Savings Credits in their rents schedules for Utilities consumption below that established by the appropriate Allowances for PHA-Furnished Utilities. Credits shall be computed on a monthly or quarterly basis. Such schedules of Energy Savings Credits shall be established for specified blocks of utility savings rather than on a straight per-utility-unit basis and shall be in the dollar amounts necessary to reward the tenants for the value of the saving. PHAs shall not grant Energy Savings Credits for utility savings of less than fifteen (15) percent of the appropriate Utilities Allowance. Energy Savings Credits shall not be granted in an amount that exceeds one-third of the amount of a tenant's gross rent for the period covered by the Credit.

Example: Assume that the Allowance for Project-Furnished Electricity for a 2-BR Unit in a project is 400 kwh per quarter. Schedule of Energy Savings Credits might be as follows:

Less than 60 kwh per quarter below allowance	No Credit
Each additional 60 kwh, or fraction thereof, below allowance	$1.15

§ 865.476 Establishment of Allowances for Tenant-Furnished Utilities.

(a) *Establishment of Allowances.* PHA's shall establish schedules of Allowances for Tenant-Furnished Utilities which shall be incorporated into their rent schedules. Such Allowances shall be established for each Utility purchased by project tenants through Retail Service and shall be in a dollar amount equal to the cost of obtaining the average tenant consumption level for each such Utility as adjusted to reflect consumption trends or other projected charges in utility usage that will take place prior to or during the period for which allowances are being established. The dollar amounts shall be credited to the Gross Rent of those tenants who obtain part or all of their Utilities through Retail Service.

(b) *Allowances for Project With Utility Records.* The Allowances for Tenant-Furnished Utilities shall be established by analyzing, for each utility purchased by tenants, the consumption and cost records for the most current three-year period. If records are not available for a three-year period, then the PHA shall use records for the most current two-year period or if such records are unavailable, the most current one-year period. Allowances based on records for only one year may be adjusted for abnormal weather conditions that prevailed during the one-year period. Seasonal variations in the use of utilities is the reason for requiring consecutive twelve-month periods.

(c) *Allowances for Projects Without Utility Records.* For a new project or an existing project for which consumption records are not available, Allowances for Tenant-Furnished Utilities shall be based on Utilities consumption records for the most comparable PHA project in the area as to construction type and types of units, Utility combinations, climatic conditions and type of equipment. Utilities consumption data for comparable projects shall be obtained from the records of PHAs, local utility companies, or the HUD Field Office. Within a period of from one (1) to two (2) years after such initial Allowances have been established, the PHA shall analyze the Utilities consumption records for such project and shall adjust the Allowances to the average consumption level of the project for the period analyzed. Allowances for Tenant-Furnished trash and garbage collection shall be based on actual charges for the service(s) in the community.

(d) *Periodic Review of Allowances.* Allowances shall be adjusted, if necessary, at least once every year. Such reexamination shall be based on a review of tenant Utility consumption costs taken from tenant buildings, Utility supplier records and/or PHA reading of meters, utilizing an adequate sample of project tenants.

(e) *Adjustment for Cost Increases.* Whenever Utility rates, including fuel adjustment charges, cumulatively increase or decrease by more than 10 percent, the PHA shall immediately adjust the dollar amount of such Allowances to reflect the change in Utility rate. Such adjustment shall be subject to subsequent upward or downward revision based on a review of the Allowance pursuant to paragraph (d) of this section.

§ 865.477 Compliance Schedule.

PHAs shall review the utility allowance schedules for all existing projects and establish schedules of Allowances according to the provisions of the final rule within eighteen (18) months after the effective date of the final rule.

In accordance with section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued at Washington, D.C., December 6, 1978.

LAWRENCE B. SIMONS,
Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 79-427 Filed 1-4-79; 8:45 am]

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FRIDAY, JANUARY 5, 1979
PART IX



DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

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IMPROVING GOVERNMENT REGULATIONS

Public Participating in Rulemaking; Policy and Procedures

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[4210-01-M]

Title 24—Housing and Urban Development

SUBTITLE A—OFFICE OF THE SECRETARY, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. N-79-608]

PART 10—RULEMAKING: POLICY AND PROCEDURES

AGENCY: Department of Housing and Urban Development.

ACTION: Final rule.

SUMMARY: The Secretary is amending the Department's rulemaking policy and procedures. The changes have been adopted in response to the recent Executive Order on Improving Government Regulations, and, among other things, provide for enhanced public participation in rulemaking.

EFFECTIVE DATE: February 19, 1979.

FOR FURTHER INFORMATION CONTACT:

Burton Bloomberg, Director, Office of Regulations, Room 5218, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC. 20410.

SUPPLEMENTARY INFORMATION: On March 23, 1978, the President issued Executive Order 12044 (43 FR 12661) prescribing new standards for agencies to follow in formulating rules and regulations. One requirement of these standards is an effective method for involving interested members of the public throughout the rulemaking process. In response to this Executive policy, the Secretary has developed new procedures described in the "Final Report on Implementation of Executive Order 12044, Improving Government Regulations," being published in the General Notices section concurrently with this amendment. The changes being made in 24 CFR Part 10 (Part 10) describe in some detail the scope of the Advance Notice of Proposed Rulemaking (ANPR), provide that comments received in response to an ANPR will be discussed briefly in the subsequent Notice of Proposed Rulemaking and clarify the definition of "rulemaking".

These changes are prompted by explicit requirements of the Executive Order and reflect provisions contained in the Department's report. Both the Executive Order and the Report have been published for public comment and further opportunity for public participation would afford little additional information and delay needed improvements in the rulemaking process. Therefore, the Secretary has determined that comment and public procedures are unnecessary. Moreover, because these changes impose no new restrictions or requirements, good cause exists for making them effective upon publication.

Accordingly, 24 CFR Part 10 is amended to read as follows:

PART 10—RULEMAKING: POLICY AND PROCEDURES

Subpart A—General

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10.16 Adoption of Final rule.
10.18 Petitions for Reconsideration.
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AUTHORITY: Sec. 7(d) of the Department of Housing and Urban Development Act, 79 Stat. 670 (42 U.S.C. 3535(d)); E.O. 12044, 43 FR 12661, March 24, 1978.

Subpart A—General

§ 10.1 Policy.

It is the policy of the Department of Housing and Urban Development to provide for public participation in rulemaking with respect to all HUD programs and functions, including matters that relate to public property, loans, grants, benefits, or contracts even though such matters would not otherwise be subject to rulemaking by law or Executive policy. The Department therefore publishes notices of proposed rulemaking in the FEDERAL REGISTER and gives interested persons an opportunity to participate in the rulemaking through submission of written data, views, and arguments with or without opportunity for oral presentation. It is the policy of the Department that its notices of proposed rulemaking are to afford the public not less than sixty days for submission of comments. For some rules the Secretary will employ additional methods of inviting public participation. These methods include, but are not limited to, publishing Advance Notices of Proposed Rulemaking (ANPR), conducting public surveys, and convening public forums or panels. An ANPR will be used to solicit public comment early in the rulemaking process for significant rules unless the Secretary grants an exception based upon legitimate and pressing time constraints. Unless required by statute, notice and public procedure will be omitted if the Department determines in a particular case or class of cases that notice and public procedure are impracticable, unnecessary or contrary to the public interest. In a particular case, the reasons for the determination shall be stated in the rulemaking document. Notice and public procedure may also be omitted with respect to statements of policy, interpretative rules, rules governing the Department's organization or its own internal practices or procedures, or if a statute expressly so authorizes. A final substantive rule will be published not less than 30 days before its effective date, unless it grants or recognizes an exemption or relieves a restriction or unless the rule itself states good cause for taking effect upon publication or less than 30 days thereafter. Statements of policy and interpretative rules will usually be made effective on the date of publication. The Department's Final Report on Improving Government Regulations provides information about the development and issuance of HUD rules. This report is published in Part IX of today's issue of the FEDERAL REGISTER immediately following this document.

§ 10.2 Definitions.

(a) "Rule" or "Regulation" means all or part of any Departmental statement of general or particular applicability and future effect designed to (1) implement, interpret, or prescribe law or policy, or (2) describe the Department's organization, or its procedure or practice requirements. The term "regulation" is sometimes applied to a rule which has been published in the Code of Federal Regulations.

(b) "Rulemaking" means the Departmental process for considering and formulating the issuance, modification, or repeal of a rule.

(c) "Secretary" means the Secretary or the Under Secretary of Housing and Urban Development, or an official to whom the Secretary has expressly delegated authority to issue rules.

§ 10.3 Applicability.

(a) This part prescribes general rulemaking procedures for the issuance, amendment, or repeal of rules in which participation by interested persons is required by 5 U.S.C. or by Department policy.

(b) The authority to issue rules, delegated by the Secretary, may not be redelegated unless expressly permitted.

§ 10.4 Rules Docket.

(a) All documents relating to rulemaking procedures including but not limited to advance notices of proposed rulemaking, notices of proposed rulemaking, written comments received in response to notices, withdrawals or terminations of proposed rulemaking, petitions for rulemaking, requests for oral argument in public participation cases, requests for extension of time, grants or denials of petitions or requests, transcripts or minutes of informal hearings, final rules and general notices are maintained in the Rules Docket Room (Room 5218), Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410. All public rulemaking comments should refer to the docket number which appears in the heading of the rule and should be addressed to the Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410.

(b) Documents relating to rulemaking proceedings are public records. After a docket is established, any person may examine docketed material at any time during regular business hours, and may obtain a copy of any docketed material upon payment of the prescribed fee. (See Part 15 of this subtitle).

Subpart B—Procedures

§ 10.6 Initiation of Rulemaking.

Rulemaking proceedings may be initiated on the Secretary's motion, or on the recommendation of a Federal, State, or local government or government agency, or on the petition of any interested person.

§ 10.7 Advance Notice of Proposed Rulemaking.

An Advance Notice of Proposed Rulemaking issued in accordance with § 10.1 of this part is published in the FEDERAL REGISTER and briefly outlines—

(a) The proposed new program or program changes, and why they are needed;

(b) The major policy issues involved;

(c) A request for comments, both specific and general, as to the need for the proposed rule and the provisions that the rule might include;

(d) If appropriate, a list of questions about the proposal that will elicit detailed comments;

(e) If known, an estimate of the reporting or recordkeeping requirements, if any, that the rule would impose; and

(f) Where comments should be addressed and the time within which they must be submitted.

§ 10.8 Notice of Proposed Rulemaking.

Each notice of proposed rulemaking required by statute or by § 10.1 is published in the FEDERAL REGISTER and includes—

(a) The substance or terms of the proposed rule or a description of the subject matter and issues involved;

(b) A statement of how and to what extent interested persons may participate in the proceeding;

(c) Where participation is limited to written comments, a statement of the time within which such comments must be submitted;

(d) A reference to the legal authority under which the proposal is issued; and

(e) In a proceeding which has provided Advance Notice of Proposed Rulemaking, an analysis of the principal issues and recommendations raised by the comments, and the manner in which they have been addressed in the proposed rulemaking.

§ 10.10 Participation by interested persons.

(a) Unless the notice otherwise provides, any interested person may participate in rulemaking proceedings by submitting written data, views or arguments within the comment time stated in the notice. In addition, the Secretary may permit the filing of comments in response to original comments.

(b) In appropriate cases, the Secretary may provide for oral presentation of views in additional proceedings described in § 10.12.

§ 10.12 Additional rulemaking proceedings.

The Secretary may invite interested persons to present oral arguments, appear at informal hearings, or participate in any other procedure affording opportunity for oral presentation of views. The transcript or minutes of such meetings, as appropriate, will be kept and filed in the Rules Docket.

§ 10.14 Hearings.

(a) The provisions of 5 U.S.C. 556 and 557, which govern formal hearings in adjudicatory proceedings, do not apply to informal rule making proceedings described in this part. When opportunity is afforded for oral presentation, such informal "hearing" is a nonadversary, fact-finding proceeding. Any rule issued in a proceeding under this part in which a hearing is held is not based exclusively on the record of such hearing.

(b) When a hearing is provided, the Secretary will designate a representative to conduct the hearing, and if the presence of a legal officer is desirable, the General Counsel will designate a staff attorney to serve as the officer.

§ 10.16 Adoption of a final rule.

All timely comments are considered in taking final action on a proposed rule. Each preamble to a final rule will contain a short analysis and evaluation of the relevant significant issues set forth in the comments submitted, and a clear concise statement of the basis and purpose of the rule.

§ 10.18 Petitions for reconsideration.

Petitions for reconsideration of a final rule will not be considered. Such petitions, if filed, will be treated as petions for rulemaking in accordance with § 10.20.

§ 10.20 Petition for rulemaking.

(a) Any interested person may petition the Secretary for the issuance, amendment, or repeal of a rule. Each petition shall—

(1) Be submitted to the Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, Washington, D.C. 20410;

(2) Set forth the text of substance of the rule or amendment proposed or specify the rule sought to be repealed;

(3) Explain the interest of the petitioner in the action sought; and

(4) Set forth all data and arguments available to the petitioner in support of the action sought.

(b) No public procedures will be held directly on the petition before its disposition. If the Secretary finds that the petition contains adequate justification, a rulemaking proceeding will be initiated or a final rule will be issued as appropriate. If the Secretary finds that the petition does not contain adequate justification, the petition will be denied by letter or other notice, with a brief statement of the ground for denial. The Secretary may consider new evidence at any time; however, repetitious petitions for rulemaking will not be considered.

Issued at Washington, D.C., January 2, 1979.

PATRICIA ROBERTS HARRIS,
Secretary, Department of Housing and Urban Development.

[FR Doc. 79-465 Filed 1-3-79; 8:45 am]

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[4210-01-M]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N-79-875]

FINAL REPORT ON IMPLEMENTATION OF EXECUTIVE ORDER 12044, IMPROVING GOVERNMENT REGULATIONS

AGENCY: Department of Housing and Urban Development.

ACTION: Final report.

SUMMARY: This Final Report outlines the Department's implementation of Executive Order 12044, "Improving Government Regulations." The report contains:

1. A brief description of the Department's current process for developing regulations and the changes to be made in compliance with the Executive Order;
2. Criteria for defining significant regulations;
3. Criteria for identifying regulations requiring regulatory analysis;
4. Criteria for selecting existing regulations to be revised and an initial list of regulations for revision; and
5. Public participation requirements for the development of regulations.

EFFECTIVE DATE: January 5, 1979.

FOR FURTHER INFORMATION CONTACT:

Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street, S.W., Room 5218, Washington, D.C. 20410 (202) 755-6207.

SUPPLEMENTARY INFORMATION: On March 24, 1978, at 43 FR 12661, the FEDERAL REGISTER published Executive Order 12044 (The Order), entitled "Improving Government Regulations." The Order required each Executive Agency to revise its procedures for the development of regulations. In their summary and analysis of public comments, the drafters of the Order summarized its requirements as follows:

"The order contains both specific requirements, such as the publication of a semiannual agenda of regulations, and general policy guidance, such as the need to expand the opportunities for public comment. The order attempts to balance the need for clear instructions and common procedures with the flexibility agencies require to design their own procedures and avoid delays and paperwork."

The Order gave each Executive Agency 60 days to publish for public comment a draft report of its proposed procedures for implementing the Order. The Department of Housing and Urban Development (HUD) published its draft report on May 25, 1978 (43 FR 22598). Comments were invited until July 24, 1978.

A total of 31 comments was received. Each comment was carefully considered. The following is a summary of the comments received, and the changes made to the draft report.

DISCUSSION OF MAJOR COMMENTS

HUD MAILING LIST

The largest number of comments were in the form of requests to receive HUD rulemaking documents, such as advance notices of proposed rulemaking (ANPRs) or proposed rules. HUD wishes its rulemaking documents to enjoy the widest possible circulation and recognizes that not all potential commenters may have access to issues of the FEDERAL REGISTER. HUD currently maintains a mailing list of interested individuals and groups to whom it sends certain selected rulemaking documents thought to be of interest to the mailing list in general. HUD will include any individual or group on that mailing list that sends a name, address and zip code number to: Director, Consumer Liaison Division, Room 4212, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

POLICY ISSUES

One commenter noted that the draft report called for the Secretary/Under Secretary to resolve policy issues while approving a work plan. Since work plan approval will occur before the public has a chance to participate in the rulemaking, the commenter objected to policy issues being decided without the benefit of public participation. This was not the intent, and the final report has been revised to eliminate all misleading passages. What is intended is a continual process of consideration of policy issues, which will be aided by more and more information as the rulemaking process proceeds through publication of the semiannual regulations agenda, an ANPR, a proposed rule, and other methods of obtaining public participation, such as hearings or surveys. The language of the final report is intended to convey that intent.

DISTINCTION BETWEEN SIGNIFICANT AND ROUTINE RULES

Several commenters disapproved of the distinction between significant and routine rules. Other commenters approved of the distinction and generally agreed with the Department's proposed criteria for determining significance. Still other commenters requested that the criteria for determining significance be broadened. One commenter suggested that quantitative standards be established for determining significance, such as impact on percentage of population.

It should be noted that the distinction between the two classes of rules was made because the Order applies most of its requirements to "significant" regulations. The Order also sets forth guidelines by which agencies are to establish criteria for determining significance, and this Department's criteria follow those of the Order. Therefore, HUD will continue to distinguish between significant and routine rules in implementing the requirements of the Order.

In the final report, the Department has somewhat refined its criteria for determining rule significance. Informal application of the proposed criteria published on May 25 to a sampling of recently published HUD rules indicated that the proposed criteria failed to separate effectively rules which were truly significant in the context of the Department's operations and programs from rules which were not particularly significant. The refined criteria set forth in this final report will generally classify rules which are major and novel as significant, and will usually classify rules which are repetitive and technical in nature as routine. The revised criteria do not use quantitative standards or thresholds since it is believed that the use of these standards or thresholds would prove unduly restrictive. The revised criteria are intended to avoid excessive paperwork and delay in the issuance of HUD regulations. However, the Department intends where appropriate to apply voluntarily to routine rules many of the mandatory procedures applicable to significant rules, including the requirements pertaining to ANPRs and 60 day comment periods on notices of proposed rulemaking.

SPECIAL RULES

A new category of rules called "special" rules, has been added (See Part III D of Report). In general, special rules are those which Section 6 of the Order exempts from its coverage. Most special rules will be processed as routine rules. However, emergency rules and rules responsive to short term statutory or judicial deadlines will be processed as appropriate in the light of the applicable emergency or deadline.

ISSUES PAPER

The draft report provided that if, for pressing and legitimate reasons, there was not sufficient time to issue an ANPR for a significant rule, an issues paper was to be prepared by the drafting office and sent to a representative sampling of affected consumers and/or to appropriate consumer organizations or representatives. The intent of

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this provision was to permit some advance comment in a case where HUD was committed to publish a significant rule in the near future. Upon reconsideration, the provision has been deleted because it is believed that there will be sufficient time to issue ANPRs for all significant HUD rules. Moreover, true emergency or deadline situations are adequately accommodated by the procedures and requirements pertaining to special rules.

CONSULTATION WITH ORGANIZATIONS REPRESENTING STATE AND LOCAL GOVERNMENT

One commenter pointed out that the procedures in the draft report did not reflect President Carter's March 23 Memorandum for Heads of Executive Departments and Agencies, which required agencies developing regulations to consult with general purpose state and local governments and national organizations representing general purpose state and local governments. We agree with this comment and have added provisions to the final report which accommodate the requirement.

SEMIANNUAL REGULATIONS AGENDA

Two commenters objected to the Department's proposal to publish a regulations agenda only twice each year. In part, the objections were based upon the mistaken beliefs that HUD could consider for promulgation only those significant rules listed in an agenda, and that infrequent issuance of agendas would unduly restrict HUD rulemaking. It should be noted that the Department is by no means limited to considering only those significant rules included in an agenda. Each agenda may be supplemented at any time to reflect subsequent decisions to consider new rules. Thus, the final report does not change the proposed procedures and requirements in regard to the timing of agenda issuance.

A commenter suggested including all rules, routine as well as significant, in the agenda. This suggestion was not adopted since the Department believes that its use of ANPRs and 60 day notices of proposed rulemaking will adequately involve the public and interested groups and organizations in the formulation of routine rules.

REGULATORY ANALYSIS

One commenter requested that the Department require preparation of a regulatory analysis for any significant rule which results in an annual increase in costs and prices totalling $10 million for an individual industry, level of government or geographic region, instead of the $50 million threshold which was proposed. The Order requires preparation of a regulatory analysis for any significant rule causing a "major increase in costs or prices for individual industries, levels of government or geographic regions." The suggestion was not adopted because it would result in preparation of regulatory analyses for virtually all HUD regulations. This would negate the effectiveness of the analyses in directing public attention to the most important proposed rules in terms of economic impact. It would also create excessive paperwork and administrative costs.

COMPENSATION

Several commenters requested that the Department compensate participants in rulemaking for their expenses, citing examples of other federal agencies which have initiated compensation programs. HUD believes that its new procedures will widen public participation in HUD rulemaking and is not prepared to initiate a compensation program at this time. However, in the future, HUD will consider the feasibility of a compensation program.

MISCELLANEOUS COMMENTS

(1) One commenter requested that the Department hold hearings outside Washington, D.C. HUD has held, and will continue to hold, hearings throughout the country when appropriate. Indeed, it recently held such hearings on its proposed regulations on Nondiscrimination Based on Handicap.

(2) A commenter requested that the Department state the number of protesting comments received for each regulation, as a measure of controversy. We agree that the number of comments received concerning a rule is of interest, and will henceforth state that number in the preamble to any final HUD rule which follows the publication of a notice of proposed rulemaking. It is often impossible to break down comments point by point into pros and cons. Therefore, the Department will not classify comments on that basis. However, we will continue our practice of discussing major comments in final rule preambles.

(3) A commenter wondered whether the Department could print changes in bold type which are included within the body of otherwise unchanged provisions. The FEDERAL REGISTER prefers that bold type be reserved for information in the heading of a rule. However, for proposed rules the FEDERAL REGISTER can indicate addition and deletion of material by the use of brackets and arrows. In appropriate cases, the Department will experiment with this technique.

(4) A commenter suggested that the list of rules to be revised, which is published in the semiannual regulations agenda, include the specific portions of the rule to be reviewed if the Department does not propose to revise an entire rule. The Department will include this information if known, but the more likely prospect is that it will not know which portions of a rule are to be revised until after review is completed.

(5) A commenter suggested that following Congressional adoption of program legislation which will require preparation of significant regulations, the Department include in its next semiannual regulations agenda the date on which the program will become operational. This suggestion was not adopted because it is often impossible to predict a firm program start-up date at that time.

(6) A commenter suggested that the plan for evaluating the effectiveness of a rule should be published for comment. HUD considers such publication for comment unnecessary since all significant rule revisions resulting from an evaluation will be subject to the same public participation requirements as new significant rules.

(7) A commenter requested that the Department establish a threshold for selecting rules for revision, based upon the number of comments received about the rule. While HUD will certainly consider public response in determining which rules to review, basing review decisions on thresholds might unduly restrict the Department from considering rules badly in need of review, but not controversial.

(8) A commenter suggested that one procedure for obtaining public comment be used by the entire Department. The suggestion was not adopted because it is believed that such an approach to obtaining public participation in rulemaking would be unduly restrictive.

COMMENTS BEYOND SCOPE

A number of comments were received which did not relate to the subject matter of the draft report. They include:

(1) Adding a provision requiring the Department to maintain records of documents given to members of the public or Congress.

(2) Adding a provision that any member of the public is entitled, upon request, to inspect or obtain a document that has been given to any other member of the public.

(3) Adding a provision requiring publication for comment of proposals to revise existing legislation, or adopt new legislation.

(4) Adding provisions requiring application of the rulemaking procedures to HUD's internal handbooks, notices and circulars.

Accordingly, the following final report implementing Executive Order 12044 is adopted as follows:

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IMPLEMENTATION OF EXECUTIVE ORDER 12044 BY DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

I. SUMMARY OF PRESENT PROCEDURES FOR DEVELOPING REGULATIONS

A. *HUD Rulemaking Policy*—The Department of Housing and Urban Development ("HUD") complies with the rulemaking provisions of the "Administrative Procedure Act", 5 U.S.C. 553, in developing rules for all HUD programs. This rulemaking policy is stated in detail at Title 24 of the Code of Federal Regulations, Section 10.1 (24 CFR Sec. 10.1).

B. *Summary of Present Procedures*—For purposes of this report, "Primary Organization Head" ("POH") means an Assistant Secretary or other head of a major organizational unit in HUD headquarters. Each draft of a proposed or a final rule must be prepared by the Primary Organization Head with responsibility for the subject matter of the rule (the "drafting office"). Prior to publication, each draft rule must be reviewed by other interested Primary Organization Heads, interested HUD field office heads, and approved by the Secretary or Under Secretary.

To meet these internal clearance requirements, the drafting office will usually seek to resolve objections one at a time with each reviewer. However, a rule which is important and urgent is submitted to a "Clearance Committee" consisting of representatives of the drafting office and all interested Primary Organization Heads. In the Committee, HUD field office heads are represented by the Deputy Under Secretary for Field Coordination or his/her designee. This Committee seeks to resolve objections simultaneously. Under both procedures, the Secretary/Under Secretary decides any issues which cannot be resolved at a lower level before the rule is published.

II. CHANGES IN PRESENT PROCEDURES TO COMPLY WITH EXECUTIVE ORDER 12044

A. *Major Objectives*—HUD is modifying its present rulemaking procedures to promote the following objectives:

1. Better oversight and control of rulemaking by the Secretary/Under Secretary including tentative resolution of major policy issues presented by proposed significant rules early in the rule development process.

2. Improved analysis of the economic impact of all rules.

3. Increased opportunities for public and interest group participation in significant rule formulation.

4. Preparation of rules in plain English.

5. Improved consideration of the urban and community impacts of all rules.

B. *Semiannual Regulations Agenda—Rule Classification*—Rule development will commence with the preparation and publication twice each year of an agenda of significant regulations pursuant to Section 2(a) of Executive Order 12044. Each agenda will describe all significant regulations under consideration and the status of regulations listed on previous agendas. For each significant regulation, the agenda will state: (i) the need and legal basis for the action being taken; (ii) the name and telephone number of a knowledgeable HUD official; and (iii) when possible, whether a regulatory analysis will be required. The agenda will also contain a paragraph advising general purpose State and local governments, and national organizations representing general purpose State and local governments that they have the right to notify the Department of regulations in which they have a particular interest in order to insure that their views are solicited in accordance with the Federal Advisory Committee Act, in the development of the regulation.

The procedures for developing semiannual regulations agendas and classifying regulations are as follows: Approximately six weeks before the publication date of the next agenda, each Primary Organization Head will submit a list, covering the next six month period, of: (i) all new rules to be developed by his/her office; (ii) all existing rules to be reviewed by his/her office; (iii) all new rules that should be developed by other HUD offices; (iv) all existing rules that should be reviewed by other HUD offices; and (v) the status of each rule previously listed as under development or review by his/her office. For each new rule to be developed (categories (i) and (iii) in the preceding sentence), the proposing office will indicate whether it regards the rule as "significant", "routine", or "special" and explain why. (See Part III of this report)

A proposed agenda of significant rules and a proposed list of routine and special rules, accompanied in each case by a justification, will be prepared, sent to all Primary Organization Heads for review and submitted, with any review comments, to the Secretary/Under Secretary for approval. The agenda of significant rules, as approved by the Secretary/Under Secretary, will be published in the FEDERAL REGISTER. All rules will be subsequently processed according to their classification, as approved by the Secretary/Under Secretary.

C. *Routine Regulations*—Drafts of rules determined by the Secretary/Under Secretary to be "routine" will be processed for publication using the existing procedures outlined in Part I.B of this report. However, the Clearance Committee will not be convened to consider these rules. If necessary, processing of routine rules will be expedited by strictly limiting the length of time permitted for internal HUD review.

D. *Special Regulations*—Drafts of rules determined by the Secretary/Under Secretary to be "special" will be processed for publication in accordance with the same procedures as routine regulations, except that special regulations issued in response to an emergency, or which are governed by a short term statutory or judicial deadline will be processed as appropriate considering the deadline. In the case of regulations that are issued in response to an emergency or which are governed by a short term statutory or judicial deadline, HUD will publish in the FEDERAL REGISTER a statement why it is impracticable or contrary to the public interest for HUD to follow the procedures of Executive Order 12044, along with the name of the public official responsible for this determination.

E. *Significant Regulations*—1. *Work Plan*—Before drafting any rule determined by the Secretary/Under Secretary to be "significant", the drafting office will prepare a "work plan" which will: (i) state why the proposed rule is needed; (ii) discuss the alternatives to be considered; (iii) cite the legal authority for the proposed rule; (iv) recommend for or against the preparation of a regulatory analysis which includes an assessment of economic and urban and community impacts, with supporting justification (see Part IV of this report); (v) if preparation of a regulatory analysis is not recommended, recommend for or against the preparation of a separate urban and community impact analysis, with supporting justification (See Part VII of this report); (vi) outline a plan for obtaining public participation in the development of the proposed rule (see Part VI of this report); (vii) identify each step in the rule's development with tentative deadlines for completion; (viii) name a project manager to oversee the rulemaking process; (ix) if appropriate, request that the Clearance Committee consider the rule, supporting the request with a showing of urgency; (x) describe the major policy issues and the relevant options associated with the rule proposal; and (xi) to the extent known, indicate whether and explain why the rule proposal may be of particular concern to affected groups.

Each work plan will be reviewed simultaneously by all other interested Primary Organization Heads. Normally, this review will be completed within five (5) working days. The work plan, and the comments of reviewing offices, will then be sent to the Secretary/Under Secretary with a summary of all major issues.

The Secretary/Under Secretary will review the work plan, modify it if necessary, and make initial determinations on each of its points. Preparation of a significant rule shall not commence until the Secretary/Under Secretary approves the related work plan. To facilitate approval, the Secretary/Under Secretary may meet with representatives of the drafting office, Primary Organization Heads, and/or HUD field office heads. The Secretary/Under Secretary may also direct the Office of Policy Development and Research or the drafting office to prepare policy options and/or urban impact analyses.

2. *Increased Public Participation in Rulemaking*—Present rulemaking procedures generally provide for public participation only after a Notice of Proposed Rulemaking is published in the FEDERAL REGISTER. Consequently, interested parties do not participate in the early development of the rule as intended by Executive Order 12044.

Under the modified procedures, the drafting office will be required to develop a public participation plan for each proposed significant rule. The plan will specifically detail how public participation will be obtained in the development of the rule. An advance notice of proposed rulemaking (ANPR) will be published for each significant regulation unless the Secretary/Under Secretary grants an exception based upon legitimate and pressing time constraints. The plan may also include solicitation of views through such mechanisms as consumer surveys, consumer panels, conferences, or public hearings. Each plan will be commented on by other interested Primary Organization Heads and approved by the Secretary/Under Secretary.

A complete discussion of plan requirements appears in Part VI of this report.

A computerized data bank will be used to identify groups interested in particular rules. HUD's Office of Neighborhoods, Voluntary Associations, and Consumer Protection ("NVACP"), will also hold consumer forums on a regular basis in HUD Area and Regional Offices as well as in Washington, D.C. These forums will provide opportunities for discussion of programs, policies and proposals between HUD staff, individuals, consumer groups and other interested groups. Also, HUD will increase the public comment period for virtually all its published rules, regardless of classification, from the usual 30 days to 60 days. In the few instances where HUD determines that a 60 day comment period is not possible, the rule will be accompanied by a brief statement of the reasons for a shorter comment period.

3. *Improved Economic Analysis*—HUD's policies, procedures and requirements for Economic Impact Statements under former Executive Order 11821 substantially satisfy the regulatory analysis requirements of Executive Order 12044. Consequently, only minor modifications are being made, but with much greater emphasis on monitoring compliance with HUD standards. The modified procedures will require that the Secretary/Under Secretary decide before preparation of a draft rule whether a regulatory analysis is to be prepared for rules which ordinarily would not require such analysis because their impact does not exceed the dollar thresholds established in Paragraph IV of this report. If it is determined that a rule requires a regulatory analysis, preparation of the analysis and of the rule shall proceed simultaneously. Also, the rule and the analysis will be reviewed and approved together.

Under Executive Order 12044, each regulatory analysis will contain a succinct statement of the problem addressed, a description of major alternative ways of dealing with the problem that were considered, an analysis of the economic impact of each alternative, and a detailed explanation of the reasons for choosing one alternative over the other. In addition, as required by OMB Circular A-116 implementing Executive Order 12074, the urban and community impact analysis will be incorporated into the regulatory analysis of regulations required under Executive Order 12044.

4. *Improved Urban and Community Impact Analysis*—[Reserved.]

5. *Writing Rules in Plain English*—HUD's present procedures include no specific provision for reviewing rules to ensure that they are simple, clear and understandable. Yet, understandable rules are essential to protecting the rights of the regulated, and are a cornerstone for meaningful public participation in rule formulation. Thus, it is essential that the drafting office write regulations in clear and concise language and in an understandable form.

The modified procedures will provide that any major plain English concern about the language of a proposed rule shall be considered in the same way as are major policy objections. Any major plain English concern which is unresolved during clearance will be reported to the Secretary/Under Secretary for consideration in the decision whether to approve the proposed rule for publication.

NVACP has provided guidelines for plain English for the Department. Additionally, HUD will evaluate its existing rules from a number of standpoints including clarity and understandability. This evaluation project is discussed in Part V of this report.

5. *Approval by the Secretary/Under Secretary*—Each significant final rule proposed for the Secretary's/Under Secretary's approval will be supported by:

(1) a summary of all comments received as a consequence of the public and interest group participation process and how they are addressed in the rulemaking;

(2) any related regulatory analysis;

(3) any related urban and impact analysis;

(4) estimates of the rule's impact on staff resources;

(5) summary flow charts of any new procedures required by the rule;

(6) analyses of all recordkeeping and reporting requirements imposed by the rule;

(7) summaries of the need for the rule, its direct and indirect consequences, and alternative approaches considered; and

(8) a final plan for evaluating the effect of the rule after its issuance.

The Secretary/Under Secretary will approve the final rule for publication only if he/she first finds:

(1) that the rule is needed;

(2) that the direct and indirect effects of the rule have been adequately considered;

(3) that alternative approaches have been considered and the least burdensome of the acceptable alternatives has been chosen;

(4) that public comments have been considered and an adequate response has been prepared;

(5) that the rule is written in plain English and is understandable to those who must comply with it;

(6) that an estimate has been made of the new reporting burdens or recordkeeping requirements necessary for compliance with the rule;

(7) that the name, address and a telephone number of a knowledgeable HUD official is included in the publication; and

(8) that a plan for evaluating the rule after its issuance has been developed.

The Secretary/Under Secretary may direct the Office of Policy Development and Research or the drafting office to assist him/her in making these findings by preparing updated policy options and urban impact analyses. The Secretary/Under Secretary may also consult with representatives of the drafting office, Primary Organization Heads and HUD Field Office Heads before deciding whether to approve publication of a significant rule.

6. *Highlights of Modified Procedures for Significant Regulations*—Each significant rule will be formulated in accordance with the approved work plan,

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including the public participation portion of the work plan. After the rule is formulated and drafted, it will be reviewed and approved for publication under procedures closely paralleling the existing HUD procedures described in Part I.B of this report. Any draft regulatory analysis prepared for the rule will be made available for public inspection when the proposed rule is published for comment, and any final regulatory analysis prepared for the rule will be made available for public inspection when the final rule is published. Before any final significant rule is published, the Secretary/Under Secretary will make all findings required by Section 2(d) of Executive Order 12044.

F. *Changes in HUD Rulemaking Regulations and Handbook*—Following publication of this final report, HUD will adopt all necessary changes to its rulemaking policy, 24 CFR Part 10, and to its Regulations Processing Handbook. The modified policy and Handbook will fully comply with Executive Order 12044. The modified Handbook will be available for public examination and review.

III. CRITERIA FOR CLASSIFYING RULES

A. *Regulations Categories*—Rules will be classified as "significant", "routine", or "special".

B. *Significant Rule Criteria*—Significant rules will be those which:

1. Implement a new program or activity;

2. Alter an existing program or activity, for example, by substantially increasing or reducing the number of type of program participants, recipients or beneficiaries;

3. Impose substantial new requirements or standards for program compliance, participation, or receipt of program benefits (including new reporting or recordkeeping requirements);

4. Are likely to be of particular concern in the Congress and among national organizations; local interest groups; groups of program participants, recipients, or beneficiaries; industries; businesses; State, county, or municipal governments; or other Federal Departments or Agencies;

5. Substantially affect the programs or activities of another Federal Department of Agency; or

6. Appreciably alter the competitive structure in any market by substantially reducing competition, limiting market entry, restraining market information, or increasing market concentration.

C. *Routine Rule*—A rule which does not meet any of the criteria set forth in Parts III. B and D of this report will be considered as "routine". Generally, a rule will be treated as routine if it is (1) recurring or repetitive in nature, and (2) technical in the sense of dealing with such matters as mortgage or debenture interest rates, Section 8 fair market rents or adjustment factors or housing prototype costs, architectural standards or building specifications (including structural, mechanical, materials or engineering specifications).

D. *Special Rule*—A rule will be classified as "special" if it (1) is issued in accordance with the formal rulemaking provisions of the Administrative Procedure Act (5 U.S.C. § 556, 557); (2) relates to agency management and personnel; (3) relates to procurement; or (4) is issued in response to an emergency or is governed by a short term statutory or judicial deadline.

IV. CRITERIA FOR DETERMINING RULES REQUIRING REGULATORY ANALYSIS

Regulatory Analysis—HUD will require preparation of draft and final regulatory analyses for any rule which:

1. Is likely to result in an increase or decrease in Federal Government spending of $100 million or more in any calendar year.

2. Is likely to result in an annual increase in costs or prices totalling $50 million for any individual industry, level of government or geographic region.

3. Is likely to result in an annual increase in costs or prices totalling $100 million or more on a nationwide basis.

4. Is determined by the Secretary/Under Secretary to require such an analysis for any reason.

V. CRITERIA FOR SELECTING EXISTING RULES TO BE REVISED AND INITIAL LIST OF RULES FOR REVISION

A. *Criteria*—Existing HUD rules will be selected for review by the Secretary/Under Secretary on the basis of the following criteria:

1. The burden which the rule imposes on the public.

2. The extent to which the rule repeats or overlaps other regulatory provisions.

3. Whether changes in authorizing legislation require revision of the rule.

4. Whether the language of the rule should be simplified or clarified.

5. Whether public complaints or petitions for rulemaking have been filed, and the nature of those complaints or petitions.

6. The age of the rule and the length of time since it was last reviewed and revised.

B. *Initial List of Rules to be Reviewed*—

1. Parts 880, 881, 882, 883, Low and Moderate Income Housing program provisions under Section 8 of the Housing and Community Development Act of 1974.

2. Part 16, Privacy Act.

C. *Project to Evaluate all HUD Rules*—

1. *Simplification and Recodification*—HUD is considering proposing revision and simplification of the entire body of authorizing legislation for HUD programs. If this is done, HUD will then revise Title 24 of the Code of Federal Regulations to delete unnecessary materials, and clarify existing rules.

2. *Methodology*—Initially, the review will be conducted as a "pilot" project by a team in the Office of General Counsel ("OGC"). Using the procedures discussed earlier in this report, the team will review, evaluate and if appropriate, revise an initial group of rules. The OGC team will work closely with each program office in an effort to develop program office teams trained to simplify regulations. These teams will, in turn, train and assist other HUD personnel in a Department-wide rule improvement effort. After all teams have been fully trained, the pilot program will be phased out and gradually replaced by simplification programs conducted by the various HUD program offices.

VI. PUBLIC PARTICIPATION IN THE DEVELOPMENT OF REGULATIONS

The drafting office must in its work plan outline a plan for obtaining public participation in the development of each significant regulation. The first step in developing the plan is to identify who should be invited to comment on the regulation. Participants should include:

A. Those persons and groups to whom the benefits or obligations of the regulation are directed. If the persons are numerous, they may be identified in the aggregate.

B. Those persons or groups that assist HUD in providing services, such as counseling agencies, public housing agencies, organizations representing tenants, developers of HUD insured or assisted housing, mortgage bankers and investment bankers, banks, savings and loan institutions, credit unions and other investment and lending institutions.

C. Interest groups, such as civil rights or consumer organizations or trade associations.

D. General purpose State and local governments and national organizations representing general purpose State and local governments which notified the Department of their interest in the regulation following publication of the Semi-annual Regulations Agenda.

The drafting office will list the participants in the public participation portion of its work plan. If a participating group is large, the drafting office will identify the method by which it will obtain a representative sample of the group. In their review of the work plan, Primary Organization Heads may recommend additional participants.

The principal means of encouraging public participation at the early, predrafting stage of rule development is to publish an Advance Notice of Proposed Rulemaking (ANPR) in the FEDERAL REGISTER. The ANPR will contain:

A. A brief outline of the proposed new program or proposed changes, and why they are needed;

B. A summary of the major policy issues involved;

C. A request for comments, both specific and general, as to the need for the proposed rule and the provisions that the rule might include;

D. If appropriate, a list of questions about the proposal that will elicit detailed comments;

E. If known, an estimate of the reporting and recordkeeping requirements likely to be necessitated by the proposal; and

F. Advice as to where comments shall be addressed and the time within which they must be submitted.

The drafting office shall attach the ANPR to the work plan, so that the two documents may be reviewed at the same time. After the Secretary/Under Secretary approves the ANPR, it will be forwarded to the FEDERAL REGISTER for publication. In addition, the drafting office will mail copies of the ANPR to the participants identified in the work plan. If a notice of proposed rulemaking is subsequently published, the drafting office will mail copies of that notice to the same participants who received the ANPR.

An ANPR will be published for each significant regulation, unless the Secretary/Under Secretary grants an exception based upon legitimate and pressing time constraints.

In addition to publishing an ANPR and a proposed regulation, the drafting office may provide for futher public participation by one or more of the following methods:

A. Random or media based surveys;

B. Panels, conferences, or forums; and

C. Public hearings.

VII. PROPOSED CRITERIA FOR DETERMINING RULES REQUIRING URBAN AND COMMUNITY IMPACT ANALYSIS (WHICH DO NOT OTHERWISE MEET THE CRITERIA FOR REGULATORY ANALYSIS) [RESERVED]

(Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d); Executive Order 12044)

Issued in Washington, D.C., on January 2, 1979.

PATRICIA ROBERTS HARRIS,
Secretary, Department of Housing and Urban Development.

[FR Doc. 79-466 Filed 1-4-79; 8:45 am]

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FRIDAY, JANUARY 5, 1979
PART X



DEPARTMENT OF LABOR

Employment Standards Administration

GENERAL WAGE DETERMINATION DECISIONS

Minimum Wages for Federal and Federally Assisted Construction

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[4510-27]

DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

MODIFICATIONS AND SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

MODIFICATIONS TO GENERAL WAGE DETERMINATION DECISONS

The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State.

Alabama:	
AL76-5990	Oct. 8, 1976.
AL77-1063; AL77-1064; AL77-1066	May 13, 1977.
AL77-1071	June 3, 1977.
AL78-1045	May 5, 1978.
Arizona:	
AZ78-5114	Aug. 11, 1978.
AZ78-5116	July 28, 1978.
Arkansas:	
AL76-5090	Oct. 8, 1976.
AR77-4072	Apr. 1, 1977
Florida:	
AL76-5090	Oct. 8, 1976.
Georgia:	
AQ-4108	Apr. 26, 1974.
GA-76-1015	Jan. 23, 1976.
GA76-1035	Mar. 5, 1976.
GA77-1111	Aug. 26, 1977.
GA78-1088; GA78-1089	Oct. 13, 1978.
Hawaii:	
HI76-5130	Nov. 24, 1978.
Illinois:	
IL78-2093; IL78-2094; IL78-2106; IL78-2109; IL78-2111; IL78-2122	Oct. 20, 1978.
IL78-2125	Oct. 27, 1978.
IL78-2113	Nov. 13, 1978.
IL78-2117	Nov. 3, 1978.
IL78-2139	Dec. 1, 1978.
IL78-2144	Feb. 11, 1977.
Indiana:	
IN77-2012; IN77-2013; IN77-2015	Feb. 18, 1977.
IN77-2022	Oct. 8, 1976.
Kentucky:	
AL76-5090	Sept. 3, 1976.
KY76-1093	Sept. 10, 1976.
KY76-1097	Oct. 15, 1976.
KY76-1118	Dec. 3, 1976.
KY76-1136	Oct. 8, 1976.
Louisiana:	
AL76-5090	Feb. 18, 1977.
LA77-4031	Mar. 4, 1977.
Maryland:	
MD77-3036	Aug. 5, 1977.
MD77-3086	Mar. 3, 1978.
MD78-3002	Mar. 25, 1977.
Michigan:	
MI77-2041	Oct. 8, 1976.
Mississippi:	
AL76-5090	July 16, 1976.
MS76-1078	May 6, 1977.
MS77-1055; MS77-1056; MS77-1057	May 20, 1977.
MS77-1069	June 17, 1977.
MS77-1078	Mar. 3, 1978.
MS78-1018; MS78-1019; MS78-1020; MS78-1021	Oct. 8, 1976.
Missouri:	
AL76-5090	Mar. 17, 1978.
Nevada:	
NV78-5018	Sept. 15, 1978.
NV78-5124	Apr. 21, 1978.
New Jersey:	
NJ78-3009	Feb. 24, 1978.
Pennsylvania:	
PA78-3005	Apr. 28, 1978.
PA78-3012	Oct. 8, 1976.
Tennessee:	
AL76-5090	July 7, 1978.
TN78-1058	Oct. 20, 1978.
TN78-1091	

Texas:	
AL76-5090	Oct. 8, 1976.
TX78-4039	Apr. 14, 1978.
TX78-4081	Aug. 18, 1978.
TX78-4086	Aug. 25, 1978.
TX78-4089; TX78-4090; TX78-4091; TX78-4092	Sept. 15, 1978.
TX78-4094; TX78-4095	Sept. 22, 1978.
TX78-4114	Oct. 20, 1978.
TX78-4115	Dec. 1, 1978.
West Virginia	
WV77-3083	Sept. 30, 1977.

SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being superseded and their dates of publication in the FEDERAL REGISTER are listed with each State. Supersedeas Decision numbers are in parentheses following the numbers of the decisions being superseded.

Georgia:	
GA75-1113 (GA79-1012)	Dec. 12, 1975.
GA78-1077 (GA79-1014)	Sept. 8, 1978.
GA78-1092 (GA79-1013)	Oct. 27, 1978.
Louisiana:	
LA78-4099 (LA79-4001)	Oct. 6, 1978.
LA78-4113 (LA79-4002)	Oct. 13, 1978.
New Mexico:	
NM78-4076 (NM79-4021)	Aug. 11, 1978.
Oklahoma:	
OK77-4038 (OK79-4019)	Feb. 18, 1977.
OK77-4060 (OK79-4017)	Mar. 11, 1977.
OK78-4066 (OK79-4020)	June 16, 1978.
Tennessee:	
TN75-1098 (TN79-1006)	Sept. 26, 1975.
TN78-1057 (TN79-1007)	May 14, 1978.
TN76-1140 (TN79-1005)	Dec. 28, 1976.
TN77-1087 (TN79-1011); TN77-1114 (TN79-1010); TN77-1121 (TN79-1008)	Sept. 30, 1977.
TN77-1131 (TN79-1009)	Oct. 14, 1977.
Texas:	
TX78-4039 (TX79-4014)	Feb. 13, 1976.
TX77-4026 (TX79-4012); TX77-4029 (TX79-4015)	Feb. 18, 1977.
TX77-4172 (TX79-4013)	Aug. 5, 1977.
TX78-4017 (TX79-4008)	Mar. 10, 1978.
TX78-4034 (TX79-4009)	Apr. 14, 1978.
TX78-4079 (TX79-4005)	Aug. 11, 1978.
TX78-4082 (TX79-4003); TX78-4083 (TX79-4004); TX78-4084 (TX79-4011); TX78-4087 (TX79-4007); TX78-4088 (TX79-4010)	Aug. 25, 1978.
TX78-4096 (TX79-4006)	Sept. 22, 1978.

CANCELLATION OF GENERAL WAGE DETERMINATION

General Wage Determination Number AR-4037, Charlton, Pierce, and Ware Counties, Georgia, is hereby cancelled. Agencies with residential construction projects contemplated in the counties should utilized the project determination procedure by submitting form SF-308 (see 29 CFR Part 1, Section 1.5). Contracts for which bids have been opened shall not be affected by this notice. Consistent with 29 CFR Part 1, Section 1.7(b)(2), inlcusion of the above decision in contracts for which the bid opening is within ten (10) days of this notice need not be affected.

Signed at Washington, D.C., this 29th day of December 1978.

DOROTHY P. COME,
Assistant Administrator,
Wage and Hour Division.

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MODIFICATIONS P. 1

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #AL76-5090-Mod. #3 (41 FR 44609- October 8,1976) Alabama, Arkansas, Florida, (west of the Aucilla River), Kentucky, Louisiana, Mississippi, Missouri, Tennessee, and Texas.					
Change:					
Cook Helper- Mess Boy	$2.90				
Janitor- Cabin Boy	2.90				

MODIFICATIONS P. 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision # AL77-1063 - Mod. # 2 (42 FR-24553 - May 13, 1977) Autauga, Barbour, Bibb, Bullock, Butler, Chambers, Chilton, Coffee, Coosa, Covington, Crenshaw, Dale, Dallas, Elmore, Geneva, Hale, Henry, Houston, Lee, Lowndes, Macon, Montgomery, Perry, Pike, Russell, Tallapoosa, Counties, Alabama					
Change:					
Laborers:					
Laborers	2.90				
Truck Drivers	2.90				
Decision # AL77-1064 - Mod. # 2 (42 FR-24553 - May 13, 1977) Autauga, Barbour, Bibb, Bullock, Butler, Chambers, Chilton, Coffee, Coosa, Covington, Crenshaw, Dale, Dallas, Elmore, Geneva, Hale, Henry, Houston, Lee, Lowndes, Macon, Montgomery, Perry, Pike, Russell, and Tallapoosa Counties, Alabama					
Change:					
Truck Drivers	2.90				
Decision # AL77-1066 - Mod. # 2 (42 FR-24554 - May 13, 1977) Blount, Cherokee, Clay, Cleburne, Colbert, Cullman, DeKalb, Fayette, Franklin, Jackson, Lamar, Lauderdale, Lawrence, Limestone, Madison, Marion, Marshall, Morgan, Randolph, Winston Counties, Alabama					
Change:					
Laborers	2.90				

MODIFICATIONS P. 3

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision # AL77-1071 - Mod. # 1 (42 FR-28728 June 3, 1978) Calhoun, Etowah, Greene, Jefferson, Pickens, St. Clair, Shelby, Sumter, Talladega, Tuscaloosa, Walker Counties, Alabama.					
Change:					
Laborers:					
Laborers	2.90				
Decision # AL78-1045 - Mod. # 1 (43 FR-19541 - May 5, 1978) Barbour, Coffee, Covington, Dale, Geneva, Henry, Houston, and Russell Counties, Alabama					
Change:					
Laborers	2.90				
DECISION #AZ78-5114 - Mod. #8 (43 FR 35828 - August 11, 1978) Statewide, Arizona					
Change:					
Boilermakers	$14.36	$1.075	$1.00	$1.00	.03
Roofers:					
Tucson Area:					
Asbestos; Shinglers, Tile and Waterproofing:					
Zone A: 0 to 44 miles from Tucson	9.77	.845	.20		.03
Zone B: Over 44 miles from Tucson	11.52	.845	.20		.03
DECISION #AZ78-5116 - Mod. #6 (43 FR 33014 - July 28, 1978) Pima County, Arizona					
Change:					
Boilermakers	$14.36	$1.075	$1.00	$1.00	.03
Roofers:					
Zone A: 0 to 44 miles from Tucson	9.77	.845	.20		.03
Zone B: Over 44 miles from Tucson	11.52	.845	.20		.03

MODIFICATIONS P. 4

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. AR77-4072 - Mod. #2 (42 FR 17754 - April 1, 1977) Statewide, Arkansas					
CHANGE:					
LABORERS:					
Laborer	$2.90				
DECISION #AG-4108 - Mod. #2 (39 FR 14841 - April 26, 1974) Barrow, Clarke, Elbert, Greene, Hart, Jackson, Madison, Morgan, Newton, Oconee, Oglethorpe, & Walton Counties, Georgia					
CHANGE:					
Laborers	$ 2.90				
Truck drivers	2.90				
Power Equipment Operators:					
Asphalt roller	2.90				
Asphalt spreader	2.90				
DECISION #GA76-1015 - Mod. #2 (41 FR 3590 - January 23, 1976) Burke, Columbia, Glascock, Hancock, Jefferson, Jenkins, Lincoln, McDuffie, Richmond, Taliaferro, Warren, Washington, & Wilkes Counties, Georgia					
CHANGE:					
Laborers	2.90				
DECISION #GA76-1035 - Mod. #3 (41 FR 9758 - March 5, 1976) Chattahoochee, Harris, Macon, Marion, Meriwether, Muscogee, Schley, Stewart, Sumter, Talbot, Taylor, Troup, & Webster Counties, Georgia					
CHANGE:					
Glaziers	2.90				
Laborers:					
Laborers	2.90				
Mortar mixers	2.90				
Truck drivers	2.90				
POWER EQUIPMENT OPERATORS:					
Fork lift	2.90				
Motor grader	2.90				

DECISION #GA77-1111 - Mod. #2 (42 FR 43323 - August 26, 1977)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Appling, Atkinson, Bacon, Baker, Baldwin, Ben Hill, Berrien, Bibb, Bleckley, Brantley, Brooks, Bryan, Bulloch, Burke, Butts, Calhoun, Camden, Candler, Carroll, Charlton, Chattahoochee, Clarke, Clay, Clayton, Clinch, Coffee, Colquitt, Columbia, Cook, Coweta, Crawford, Crisp, Decatur, Dodge, Dooly, Dougherty, Early, Echols, Effingham, Emanuel, Evans, Fayette, Glascock, Glynn, Grady, Greene, Hancock, Harris, Heard, Henry, Houston, Irwin, Jasper, Jeff Davis, Jefferson, Jenkins, Johnson, Jones, Lamar, Lanier, Laurens, Lee, Liberty, Lincoln, Long, Lowndes, Macon, Marion, McDuffie, McIntosh, Meriwether, Miller, Mitchell, Monroe, Montgomery, Morgan, Muscogee, Newton, Oconee, Oglethorpe, Peach, Pierce, Pike, Pulaski, Putnam, Quitman, Randolph, Richmond, Rockdale, Schley, Screven, Seminole, Spalding, Stewart, Sumter, Talbot, Taliaferro, Tattnall, Taylor, Telfair, Terrell, Thomas, Tift, Toombs, Treutlen, Troop, Turner, Twiggs, Upson, Walton, Ware, Warren, Washington, Wayne, Webster, Wheeler, Wilcox, Wilkes, Wilkinson, Worth Counties, Georgia					
CHANGE:					
Laborers	$ 2.90				

DECISION #GA78-1088 - Mod. #2 (43 FR 47426 - October 13, 1978) Chatham County, Georgia	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Carpenters & Soft Floor Layers	$ 9.40	.50			
Cement Masons	8.00				
Laborers:					
General laborers, traffic flagmen, track spotters;	5.32	.15	.13		.10
Operators of jackhammer, tamp, paving breaker, chipping hammer, spade, chainsaw, vibrator, motorized buggy, mason tender, terrazzo helper, railroad or track laborers, walk behind compactor or roller plasterer, and carpenter tenders;	5.47	.15	.13		.10
Mortar mixers (hand or machine), pipelayers, (harner, potman, etc.), flagman, (cranes, derricks, etc.);	5.57	.15	.13		.10
Burner (torch) on demolition work, track or wagon drills used in blasting;	5.82	.15	.13		.10
Powderman or blaster	6.32	.15	.13		.10
Millwrights	10.00	.50			
Painters:					
Brush & roller;	8.35				
Paperhangers, drywall tapers, & paint burners;	8.60				
Window jacks, steel brush, & steel roller;	8.85				
Sandblasting, paint spraying, paint mitts & gloves, & power tools (no roller larger than 9")	9.10				
Piledrivermen	9.65	.50			
Plumbers & Pipefitters:					
Contracts $15,000.00 or less	10.30	.45	.60		.05
Contracts over $15,000.00	10.95	.45	.60		.05
DECISION #GA78-1089 - Mod. #2 (43 FR 47427 - October 13, 1978) Richmond County, Georgia					
CHANGE:					
Plumbers & Pipefitters	10.98	.60	.55		.05

DECISION #HI78-5130 - Mod. #1 (43 FR 55143 - November 24, 1978) Statewide, Hawaii	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Laborers:					
Group 1	$8.11	.84	$1.21	.48	.08
Group 1-a	8.16	.84	1.21	.48	.08
Group 1-b	8.51	.84	1.21	.48	.08
Group 1-c	8.71	.84	1.21	.48	.08
Group 1-d	8.61	.84	1.21	.48	.08
Group 1-e	8.81	.84	1.21	.48	.08
Group 1-f	8.86	.84	1.21	.48	.08
Group 1-g	9.06	.84	1.21	.48	.08
Group 1-h	6.00	.64	.10	.38	
Group 2	8.36	.84	1.21	.48	.08
Group 3	8.56	.84	1.21	.48	.08
Marble Setters	10.78	1.30	1.70		.15
Terrazzo Workers and Tile Setters:					
Ceramic Tile Finisher	8.18	1.30	1.70		.15
Terrazzo Base Finisher	9.35	1.30	1.70		.15
Terrazzo Floor Grinder and Finisher	8.18	1.30	1.70		.15
Terrazzo Workers and Tile Setters	10.78	1.30	1.70		.15
Decision #IL78-2093 - Mod. #1 43 FR 49157 - October 20,1978 Champaign & Vermilion Counties, Illinois					
Change:					
POWER EQUIPMENT OPERATORS:					
CLASS I	$12.40	.55	.75		.08
CLASS II	12.30	.55	.75		.08
CLASS III	12.10	.55	.75		.08
CLASS IV	8.00	.55	.75		.08
DECISION #IL78-2094 - MOD #2 (43 FR 49159 - October 20, 1978) DuPage, Grundy, Kane, Kendall, Lake, McHenry and Will Counties, Illinois					
CHANGE: MOD #2 Dated 12-8-78 to read MOD #1. ELECTRICIANS: Kendall Co. & Southern half of Kane County	$13.80	.52	117		1/4 of 1%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #IL78-2106 - MOD #2 (43 FR 49167 - October 20, 1978) Fulton, Hancock, McDonough & Schuyler Counties, Illinois					
CHANGE: ELECTRICIANS: Remainder of Fulton County	$12.32	.50	3%+.75		3/4 of 1%
DECISION #IL78-2109 - MOD #1 (43 FR 49175 - October 20, 1978) Bureau, Lasalle, Livingston, Marshall, Putnam and Woodford Counties, Illinois					
CHANGE: ELECTRICIANS: Area west of Bell Plain and Roberts Townships in Marshall County; area west to but not including Linn, Kansas, Palestone, Roanoke, Cazenovia, and Metamona Twps. in Woodford County	$12.32	.50	3%+.75		3/4 of 1%
Northern half and Central part of Lasalle Co. Walnut, Ohio, Lamille, Clarion, Bureau, Dover, Berlin and Westville Twps. in Bureau County	13.93	.88	3%+.70		.2 of 1%
DECISION #IL78-2111 - MOD #1 (43 FR 49179 - October 20, 1978) Logan, Mason and Menard Counties, Illinois					
CHANGE: ELECTRICIANS: Remainder of Mason County	$12.32	.50	3%+.75		3/4 of 1%

MODIFICATIONS P. 9

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #IL78-2113 - MOD #2 (43 FR 50303 - October 27, 1978) Christian, DeWitt, Macon, Macoupin, Moultrie, Piatt, and Shelby Counties, Illinois					
CHANGE:					
CARPENTERS:					
Christian County					
Carpenters & Soft Floor Layers	$11.45	.55	.55		.06
Millwrights & Piledrivermen	12.95	.55	.55		.06
DECISION #IL78-2117 - MOD #2 (43 FR 52638 - November 13, 1978) Madison and St. Clair Counties, Illinois					
CHANGE:					
LABORERS:					
Collinsville					
Common	$10.50	.60	.75		.035
Mason & Plasterer Tenders	11.00	.60	.75		.035
Dynamite Men	11.80	.60	.75		.035
Bellville & Vicinity					
Laborers	10.55	.50	.80		.035
Dynamite Men & Power Men	12.05	.50	.80		.035
Hod Carriers & Plasterer Tenders	11.05	.50	.80		.035
Freeburg & Vivinity					
Laborers	10.75	.50	.60		.035
Dynamite Men	11.60	.50	.60		.035
Man on the bottom of sewer	11.00	.50	.60		.035
O'Fallon, Maslouths, Scott AFB, Shilo & Lebannon & Vicinity					
Laborers	10.75	.50	.60		.035
Bottom men on sewer work	11.00	.50	.60		.035
Dynamite Men	11.60	.50	.60		.035
Freehury & Vicinity					
Laborers	10.55	.50	.80		.035
Dynamite Men	12.05	.50	.80		.035
Hod Carrier	11.05	.50	.80		.035

MODIFICATIONS P. 10

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #IL78-2122 - MOD #1 (43 FR 49186 - October 20, 1978) Peoria and Tazewell Counties, Illinois					
CHANGE:					
ELECTRICIANS	$12.32	.50	3%+.75		3/4 of 1%
LABORERS:					
Peoria County & the city of East Peoria (Tazewell County)					
Class 5	11.025	.50	.60		.035
DECISION #IL78-2125 - MOD #2 (43 FR 49192 - October 20, 1978) Alexander, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jefferson, Johnson, Marion, Massac, Perry, Pope, Pulaski, Saline, Union, White and Williamson Counties, Illinois					
CHANGE:					
PAINTERS:					
Gallatin, Hardin, Pope, Saline Counties:					
Brush	$ 8.50				
Stru., Steel & Drywall	8.75				
Spray	9.25				
DECISION #IL78-2139 - MOD #3 (43 FR 51573 - November 3, 1978 Bureau, Carroll, Ogle, Rock Island, Stephenson, Whiteside, and Winnebago Counties, Illinois					
Change:					
CARPENTERS:					
Carroll, Stephenson and JnDaviess Counties	$11.65	.55	.75		
Whiteside County	11.65	.55	.75		
Lee County	11.425	.55	1.00		
Rock Island and Henry Counties: Oregon and south thereof in Ogle County	11.435	.60	.90		.04
ELECTRICIANS:					
Bureau County; Twps. of Walnut, Ohio, Lamoille, Clarion, Bureau, Dover, Berlin and Westfield	$11.93	.88	3%+.70		.2 of 1%

MODIFICATIONS P. 11

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #IL78-2144 - MOD #1 (43 FR 56379 - December 1, 1978) Alexander, Franklin, Gallatin Hardin, Jackson, Johnson, Massac Perry, Pope, Pulaski, Randolph, Saline, Union and Williamson Counties, Illinois					
ADD:					
PLUMBERS & STEAMFITTERS: Alexander, Hardin, Massac, Jackson, Johnson, Perry, Pope, Pulaski & Union Counties	$12.70	.80	.90		.08
DECISION NO. IN77-2012 - Mod. #3 (42 FR 8913 - February 11, 1977) Jackson County, Indiana					
Change: Laborers	$2.90				
DECISION NO. IN77-2013 - Mod. #2 (42 FR 8913 - February 11, 1977) Jefferson County, Indiana					
Change: Laborers	$2.90				
DECISION NO. IN77-2015 - Mod. #1 (42 FR 8914 - February 11, 1977) Washington County, Indiana					
Change: Laborers	$2.90				
DECISION NO. IN77-2022 - Mod. #1 (42 FR 10197 - February 18, 1977) DuBois County, Indiana					
Change: Laborers	$2.90				

MODIFICATIONS P. 12

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #KY76-1093 - Mod. #2 (41 FR 37472 - September 3, 1976) Adair, Cumberland, Green, Hart, Larue, Metcalfe, Monroe, & Taylor Counties, Kentucky					
CHANGE:					
Laborers	$ 2.90				
DECISION #KY76-1097 - Mod. #2 (41 FR 38707 - September 10, 1976) Clay, Estill, Jackson, Lee, Owsley, Powell, & Wolfe Counties, Kentucky					
CHANGE:					
Laborers	2.90				
DECISION #KY76-1118 - Mod. #1 (41 FR 45801 - October 15, 1976) Caldwell, Christian, Crittenden, Livingston, Logan, Lyon, Todd, & Trigg Counties, Kentucky					
CHANGE:					
Laborers	2.90				
DECISION #KY76-1136 - Mod. #2 (41 FR 53260 - December 3, 1976) Daviess, Hancock, Henderson, Hopkins, McLean, Muhlenberg, Union, & Webster Counties, Kentucky					
CHANGE:					
Laborers	2.90				

MODIFICATIONS P. 13

DECISION #LA77-4031 - Mod. #2 (42 FR 10237 - February 18, 1977) Ouachita Parish, Louisiana	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Laborers	$ 2.90				
Truck drivers	2.90				
DECISION #MD77-3036 - Mod. #2 (42 FR 12613 - March 4, 1977) Wicomico County, Maryland					
Change:					
Laborers:					
Mortar Mixers	2.90				
Unskilled	2.90				
Truck Drivers	2.90				
DECISION #MD77-3086 - Mod. #10 (42 FR 39880 - August 5, 1977) Alleghany & Garrett Counties, Maryland					
Change:					
Carpenters	10.97	.50	.60		.02
Cement Masons	11.41	.50			
Electricians:					
Alleghany County	10.90	.80	3%+.60		1%
Garrett County	11.30	.80	3%+.60		1%
Linemen - Alleghany County					
Linemen	10.90	.80	3%+.60		
Equipment Operators	10.36	.80	3%+.60		
Truck Driver	7.09	.80	3%+.60		
Groundmen	7.09	.80	3%+.60		
Linemen - Garrett County					
Linemen	11.30	.80	3%+.60		
Equipment Operator	10.76	.80	3%+.60		
Truck Driver	7.49	.80	3%+.60		
Groundmen	7.49	.80	3%+.60		
Millwrights	11.33	.50	.60		.02
Painters:					
Brush, rollers, wall covering hangers and installation of seamless type floors	7.95		.50		
Spray, sandblasting, and use of flame burning and power tools	8.95		.50		
Toxic materials - Brush & Roller	8.45		.50		
Toxic materials - Spray	9.45		.50		
Pilodrivermen	11.27	.50	.60		.02
Plasterers	11.41	.50			

MODIFICATIONS P. 14

DECISION #MD78-3002 - Mod. #4
(42 FR 9076 - March 3, 1978)
Alleghany & Garrett Counties, Maryland

Change:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Carpenters	10.86	.50	.60		.02
Cement Masons	11.17	.50			
Electricians:					
Alleghany County	10.90	.80	3%+.60		1%
Garrett County	11.30	.80	3%+.60		1%
Piledrivermen	11.15	.50	.60		.02

MODIFICATIONS P. 15

DECISION #MA77-2041 - Mod. #2 (42 FR 16355 - March 25, 1977 Branch, Cass, Kalamazoo & St. Joseph Counties, Michigan	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Under Laborers:					
Landscape Laborers	$2.90				
Decision # MS78-1018 Mod. # 2 (43 FR-9079 March 3, 1978)					
Area IV Counties:					
Attala, Clarke, Jasper, Kemper, Lauderdale, Leake, Neshoba, Newton, Noxubee, Scott, Smith, and Winston Counties, Mississippi					
Change:					
Laborers:					
Unskilled	2.90				
Truck Drivers	2.90				
Power Equipment Operators:					
Mixer operator (all type)	2.90				
Mulche Operator	2.90				
Scales (all types)	2.90				
Tractor operator (trash type)	2.90				
Tractor Operator (wheel type)	2.90				
Decision # MS78-1019 - Mod. # 2 (43 FR-9080 - March 3, 1978)					
Area I Counties:					
Alcorn, Benton, Calhoun, Chickasaw, Choctaw, Clay, Itawamba, Lafayette, Lee, Lowndes, Marshall, Monroe, Oktibbeha, Pontotoc, Prentiss, Tippah, Tishomingo, Union, and Webster Counties, Mississippi.					
Change:					
Laborers:					
Unskilled	2.90				
Power Equipment Operators:					
Tractor Operator Wheel type	2.90				

MODIFICATIONS P. 16

Decision # MS78-1020 - Mod. # 2 (43 FR-9081 - March 3, 1978)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Area II Counties:					
Bolivar, Carroll, Coahoma, DeSoto, Grenada, LeFlore, Montgomery, Panola, Quitman, Sunflower, Tallahatchie, Tate, Tunica, Washington and Yalobusha Counties, Mississippi					
Change:					
Laborers:					
Unskilled	2.90				
Asphalt raker	2.90				
Truck Driver	2.90				
Power Equipment Operators:					
Air compressor operator	2.90				
Joint filler	2.90				
Mulcher operator	2.90				
Roller operator (self propelled)	2.90				
Tractor Operator (wheel type)	2.90				
Concrete breaker & hydro-hammer operator	2.90				
Decision # MS78-1021 - Mod. # 3 (43 FR 9082 - dated March 3, 1978)					
Area V Counties:					
Adams, Amite, Covington, Forrest, Franklin, Greene, Jefferson, Jefferson Davis, Jones, Lamar, Lawrence, Lincoln, Marion, Perry, Pike, Walthall, Wayne, and Wilkinson Counties, Mississippi					
Change:					
Laborers:					
Unskilled	2.90				
Power Equipment Operators					
Tractor Operator (Wheel Type)	2.90				

MODIFICATIONS P. 17

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision # MS77-1055 - Mod. # 2 (42 FR-23265 - May 6, 1977) LeFlore County, Mississippi.					
Change:					
Laborers:					
Laborers	2.90				
Mortar mixers	2.90				
Decision # MS77-1056 - Mod. #2 (42 FR-23266 - May 6, 1977) Yalobusha County, Mississippi					
Change:					
Laborers	2.90				
Power Equipment Operators:					
Backhoe	2.90				
Decision MS77-1057 - Mod. 2 (42 FR-23266 - May 6, 1977) Noxubee County, Mississippi					
Change:					
Laborers:					
Laborers	2.90				
Decision # MS77-1069 - Mod. # 2 (42 FR-26094 - May 20, 1977) Bolivar County, Mississippi.					
Change:					
Ironworkers, reinforcing	2.90				
Laborers:					
Laborers	2.90				
Mortar mixers	2.90				
Plasterers' tenders	2.90				
Truck Drivers	2.90				
Decision # MS76-1076 - Mod. # 2 (41 FR-29651 - July 16, 1976) Issaquena, Sharkey, Sunflower, and Washington Counties, Mississippi					
Change:					
Laborers:					
Laborers	2.90				
Pipelayers	2.90				
Truck Drivers	2.90				

MODIFICATIONS P. 18

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision # MS77-1078 - Mod. #4 (42 FR-31044 - June 17, 1977) Lowndes County (excluding Columbia Lock and Dam and Tennessee Tombigbee Project Mississippi					
Change:					
Laborers	2.90				
DECISION #NV78-5018 - Mod. #7 (43 FR 11447 - March 17, 1978) Clark County (does not include the Nevada Test Site), Nevada					
Change:					
Boilermakers	$14.36	$1.075	$1.00	$1.00	.03
Power Equipment Operators: (Except Piledriving and Steel Erection):					
Group 1	11.10	1.10	2.30	.70	.14
Group 2	11.38	1.10	2.30	.70	.14
Group 3	11.67	1.10	2.30	.70	.14
Group 4	11.81	1.10	2.30	.70	.14
Group 5	12.03	1.10	2.30	.70	.14
Group 6	12.14	1.10	2.30	.70	.14
Group 7	12.26	1.10	2.30	.70	.14
Group 8	12.43	1.10	2.30	.70	.14
Group 9	12.56	1.10	2.30	.70	.14
Sheet Metal Workers	14.71	1.14	1.61		.17

MODIFICATIONS P. 19

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #NV78-5124 - Mod. #4 (43 FR 41351 - September 15, 1978) Statewide (does not include the Nevada Test Site and Tonopah Test Range, and highway construction in Douglas County), Nevada					
Change:					
Boilermakers	$14.36	$1.075	$1.00	$1.00	.03
Carpenters:					
Nye County (north of Hwy. #6, excluding City of Tonopah) and all Remaining Counties:					
Carpenters	11.20	.85	1.41	1.00	.10
Floor layers; Patent Scaffold Erectors; Power Saw Operators; Shingler	11.35	.85	1.41	1.00	.10
Piledrivermen	11.45	.85	1.41	1.00	.10
Millwrights	11.80	.85	1.41	1.00	.10
Drywall Installers:					
Statewide except the Counties of Clark, Esmeralda County (south of Hwy. #6), Lincoln Nye County (south of Hwy. #6)	11.45	.85	1.41	1.00	.10
Power Equipment Operators: (Except Piledriving and Steel Erection):					
Clark, Esmeralda, Lincoln Nye Counties:					
Group 1	11.10	1.10	2.30	.70	.14
Group 2	11.38	1.10	2.30	.70	.14
Group 3	11.67	1.10	2.30	.70	.14
Group 4	11.81	1.10	2.30	.70	.14
Group 5	12.03	1.10	2.30	.70	.14
Group 6	12.14	1.10	2.30	.70	.14
Group 7	12.26	1.10	2.30	.70	.14
Group 8	12.43	1.10	2.30	.70	.14
Group 9	12.56	1.10	2.30	.70	.14

MODIFICATIONS P. 20

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #NJ78-3009 - Mod. #7 (43 FR 17223 - April 21, 1978) Bergen, Essex, Hudson, Hunterdon, Middlesex, Morris, Passaic, Somerset, Sussex, Union, and Warren Counties, New Jersey					
Change:					
Areas Covered by Laborers, Building Construction Zone:					
Zone 1 - Bergen (Garfield, Passaic, and Wallington Twps., Lodi, Athenia, Allwood, Dellawanna, and Clifton (to Piaget Ave.)) and Passaic Counties					
Electricians & Cable Splicers: Zone 4	13.40	7%	3%+.70		
Laborers, Building Construction:					
Zone 1:					
Laborers, Air Tool Ops. (jackhammers and vibrators), Mason Tenders, Mortar Mixers, Pipelayers (concrete and clay) and Plasterers Tenders	8.00	.85	.85		.07
Zone 17:					
Common Laborers, Hod Carriers, Power Tool Ops.; & Plasterer Tenders	8.45	.60	.45		.07
Line Construction:					
Zone 4					
Lineman, Cable Splicers, Line Equipment Operators, & Groundmen	13.40	7%	6%+.75		3/4%
Zone 5					
Linemen, Cable Splicers, Line Equipment Operators, & Groundmen	13.40	7%	3%+.90		3/4%
Zone 6					
Linemen, Cable Splicers, Line Equipment Operators, & Groundmen	13.40	7%	3%+.70		3/4%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #PA78-3005 - Mod. # 5 (43 FR 7923 - February 24, 1978) Butler, Cambria, Erie, Fayette, Mercer, Washington, Westmoreland, Lawrence, Somerset, Allegheny, Beaver, Armstrong, Blair, Cameron, Centre, Clarion, Clearfield, Crawford, Forest, Greene, Indiana, McKean, Venango, Warren, Bedford, Jefferson, Clinton, Elk, Franklin, Fulton, Huntingdon, Mifflin and Potter Counties, Pennsylvania					
Change:					
Ironworkers:					
Reinforcing					
Zone 1	$8.60	.785	1.215		.01
DECISION #PA78-3012 - Mod. # 9 (43 FR 18476 - April 28, 1978) Clinton, Centre, Huntingdon, Fulton, & Mifflin Counties, Pennsylvania					
Change:					
Painters:					
Zone 2					
Commercial					
Brush & Roller	$10.39	.75	.45		.02
Spray	10.44	.75	.45		.02
Industrial					
Brush & Steel	10.94	.75	.45		.02
Spray	11.64	.75	.45		.02
Roofers					
Zone 2					
Composition & Kettlemen	10.15	.90	.85		
Sheet metal workers					
Zone 1	11.09	.65	.71		.02

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #TN78-1058 - Mod. #5 (43 FR 29464 - July 7, 1978) Hamilton, Marion, Polk, and Rhea Counties, Tennessee					
CHANGE:					
Bricklayers, Stone Masons, Cement Masons, & Plasterers: Polk County Only	$ 9.20				
Carpenters, Carpet Layers, & Floor Layers	9.58	.55	.60		.08
Ironworkers	9.76	.70	.65		1%
Millwrights	10.03	.55	.60		.08
Piledrivermen	9.705	.55	.60		.08
DECISION #TN78-1091 - Mod. #2 (43 FR 49207 - October 20, 1978) Shelby County, Tennessee					
CHANGE:					
Bricklayers & Stone Masons	11.40	.63	.30		.10
Sheet Metal Workers	11.71	1.04	.25		.04

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #TX78-4039 - Mod. #2 (43 FR 16130 - April 14, 1978) Howard County, Texas					
Change:					
Ironworkers, structural & ornamental	$ 9.40	.55	1.00		.10
Truck drivers	2.90				
DECISION #TX78-4081 - Mod. #6 (43 FR 36851 - August 18, 1978) Bexar County, Texas					
Change:					
Marble setters	9.29	.45	.30	.25	
Terrazzo workers	9.29	.45	.30	.25	
Tile setters	9.29	.45	.30	.25	
DECISION #TX78-4086 - Mod. #2 (43 FR 38285 - August 25, 1978) Tom Green County, Texas					
Change:					
Carpenters	9.25				.02
Ironworkers:					
Ironworkers	9.40	.55	1.00		.10
On jobs 30 miles or more from the city of San Angelo	9.525	.55	1.00		.10
Laborers	2.90				
Truck drivers	2.90				
DECISION #TX78-4089 - Mod. #1 (43 FR 41363 - September 15, 1978) Bee, Kleberg, Nueces & San Patricio Counties, Texas					
Change:					
Laborers:					
Laborers	2.90				
DECISION #TX78-4090 - Mod. #4 (43 FR 31364 - September 15, 1978) Bowie County, Texas					
Change:					
Carpenters: Carpenters	9.00				.01
Millwrights	11.20				.04
Piledrivermen	9.70				.01
Ironworkers	11.05	.45	.90		.06
Plumbers & pipefitters	11.70	.50	.65		.05

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #TX78-4091 - Mod. #4 (43 FR 41365 - September 15, 1978) Gregg County, Texas					
Change:					
Bricklayers	$10.80		.45		.05
Carpenters: Carpenters	8.75				.015
Millwrights	11.00				.015
Piledrivermen	9.25				.015
DECISION #TX78-4092 - Mod. #1 (43 FR 41365 - September 15, 1978) Smith County, Texas					
Change:					
Carpenters	8.65				
Truck drivers	2.90				
DECISION #TX78-4094 - Mod. #2 (43 FR 43233 - September 22, 1978) Statewide Texas					
Change:					
Zone 4:					
Asphalt shoveler	2.90				
Batterboard setter	2.90				
Form liner (paving & curb)	2.90				
Laborer, common	2.90				
Zone 6:					
Air tool man	2.90				
Form setter helper (paving & curb)	2.90				
Laborer, common	2.90				
Pipelayer helper	2.90				
Tractor (crawler type) 150 HP and less	2.90				
DECISION #TX78-4095 - Mod. #4 (43 FR 43241 - September 22, 1978) Ector & Midland Cos., Texas					
Change:					
Asbestos workers	10.50	.80	.95		.07
Carpenters	9.70				.05
Ironworkers:					
Structural; Ornamental; Reinforcing	9.40	.55	1.00		.10
All ironworkers on jobs 30 miles or more from Terminal (midway Odessa-Midland)	9.525	.55	1.00		.10

MODIFICATIONS P. 25

DECISION #TX78-4114 - Mod. #4
(43 FR 49208 - October 20, 1978)
Lubbock County, Texas

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Asbestos workers	$10.50	.80	.95		.07
Carpenters	9.50	.48	.50		.01
Ironworkers:					
Structural; Ornamental; Reinforcing	9.40	.55	1.00		.10
All ironworkers on jobs 30 miles or more from the city of Lubbock	9.525	.55	1.00		.10
Power Equipment Operators:					
Group 1	8.175	.40	.625		.10
Group 2	9.075	.40	.625		.10
Group 3	9.475	.40	.625		.10

DECISION #TX78-4115 - Mod. #3
(43 FR 56408 - December 1, 1978)
Collin, Dallas, Denton, Ellis, Grayson, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Cos., Texas

Change:					
Bricklayers & stonemasons:					
Zone 1	10.10				
Carpenters:					
Zone 1 - Carpenters	10.43	.55	.40		.005
Millwrights	10.83	.55	.40		.005
Piledrivermen	10.93	.55	.40		.005
Sheet metal workers - Zone 2	10.88				.07

MODIFICATIONS P. 26

DECISION #WV77-3083 - Mod. #7
(42 FR 53172 - September 30, 1977)
Statewide, West Virginia

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Bricklayers & Stonemasons:					
Area 2	11.53	.55	.50	a	.03
Area 3	11.09	.65	.62		.02
Area 6	11.25	.60			
Electricians:					
Area 1					
Wiremen	13.00	.50	3%+.27		.04
Cable Splicers	14.30	.50	3%+.27		.04
Area 3					
Wiremen	10.05	.50	3%+.52	2.02	.03
Cable Splicers	11.055	.50	3%+.52	2.02	.03
Area 6					
Contracts under $12,000:					
Wiremen	6.05	.50	3%+1.02	1.52	.02
Contracts over $12,000:					
Wiremen	10.45	.50	3%+1.02	1.52	.02
Cable Splicers	10.60	.50	3%+1.02	1.52	.02
Area 7					
Wiremen	11.10	.50	3%+1.27	1.27	.04
Cable Splicers	11.35	.50	3%+1.27	1.27	.04
Area 8					
Wiremen	11.82	.50	3%+.82	1.02	.04
Cable Splicers	12.41	.50	3%+.82	1.02	.04
Area 9					
Wiremen	12.27	.50	3%+.82	1.02	.04
Cable Splicers	12.88	.50	3%+.82	1.02	.04
Area 10					
Wiremen	12.02	.50	3%+.82	1.02	.04
Cable Splicers	12.62	.50	3%+.82	1.02	.04
Area 11					
Wiremen	10.90	.80	3%+.60		1%
Area 12					
Wiremen	10.90	.80	3%+.60		1%
Area 13					
Wiremen	11.50	.80	3%+.60		1%
Ironworkers:					
Area 3	11.17	.90	1.20		.01
Area 6	10.05	.70	.75		.03
Line Construction:					
Area 3					
Linemen & Equipment Operators	11.00	.60	3%+1.27	1.27	½%
Cable Splicers	12.10	.60	3%+1.27	1.27	½%
Groundmen	8.80	.60	3%+1.27	1.27	½%

MODIFICATIONS P. 27

DECISION #WV77-3083 - Mod. #7

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Line Construction: (Cont'd)					
Area 4					
Linemen & Equipment Operators	10.05	.50	3%+.52	2.02	½%
Cable Splicers	11.055	.50	3%+.52	2.02	½%
Groundmen	8.04	.50	3%+.52	2.02	½%
Area 7					
Linemen & Equipment Operators	10.45	.50	3%+1.02	1.52	½%
Cable Splicers	11.495	.50	3%+ 1.02	1.52	½%
Groundmen & Truck Drivers	8.36	.50	3%+1.02	1.52	½%

SUPERSEDEAS DECISION

STATE: GEORGIA COUNTY: WARE
DECISION NUMBER: GA79-1012 DATE: DATE OF PUBLICATION
Supersedes Decision Number GA75-1113, dated December 12, 1975, in 40 FR 58034.
DESCRIPTION OF WORK: BUILDING CONSTRUCTION (does not include single family homes and garden type apartments up to and including four stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS	$ 7.20				
CARPENTERS	5.50				
CEMENT MASONS	5.00				
ELECTRICIANS	5.50				
GLAZIERS	3.48				
IRONWORKERS	4.43				
LABORERS:					
Unskilled	2.90				
Plasterer tenders	3.00				
Mortar mixers	3.25				
PAINTERS	3.50				
PLASTERERS	6.00				
PLUMBERS & PIPEFITTERS	5.00				
ROOFERS	4.50				
SHEET METAL WORKERS	5.25				
TRUCK DRIVERS	4.20				
WELDERS - Rate for craft.					
POWER EQUIPMENT OPERATORS:					
Backhoe	3.25				
Bulldozer	4.00				
Crane, derrick, dragline	4.00				
Motor grader	3.00				
Pump	3.25				
Scraper	2.90				

SUPERSEDEAS DECISION

STATE: GEORGIA — COUNTIES: DEKALB & FULTON
DECISION NUMBER: GA79-1013 — DATE: DATE OF PUBLICATION
Supersedes Decision Number GA78-1092, dated October 27, 1978, in 43 FR 50302.
DESCRIPTION OF WORK: HEAVY CONSTRUCTION (does not include Sewer & Water Lines Construction).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICK MASONS	$ 9.85	.55	.50		.05
CARPENTERS	9.85	.50	.45		.02
CEMENT MASONS/FINISHERS	9.20	.40	.55		
ELECTRICIANS	11.15	9%	11%		½ of 1%
IRONWORKERS	9.95	.70	.67		.07
LABORERS:					
Unskilled	6.55	.25	.33		.05
Air tool operatore (air, electric or gas powered, such as jackhammer, paving breaker, tamper, vibrator, spade, chipping hammer, & barco tamp), & pipelayers	6.77	.25	.33		.05
PAINTERS:					
Brush & Roller	9.65	.55	.75		.05
Spray	10.65	.55	.75		.05
PILEDRIVERMEN	10.00	.50	.45		.02
PLUMBERS & PIPEFITTERS	11.15	.65	.50		.11
SHEET METAL WORKERS	10.60	.50	.81		.07
TRUCK DRIVERS	6.13				
WATERPROOFERS (ROOFERS)	7.45	.30	.20		
WELDERS: Receive rate prescribed for craft performing operation to which welding ie incidental.					
POWER EQUIPMENT OPERATORS:					
Backhoe	9.30	.55	.75		.07
Bulldozer	8.95	.55	.75		.07
Crane	9.30	.55	.75		.07
Front end loader	8.95	.55	.75		.07
Mechanic	9.30	.55	.75		.07
Motor grader	8.95	.55	.75		.07
Pump	6.73	.55	.75		.07

SUPERSEDEAS DECISION

STATE: GEORGIA — COUNTIES: CLAYTON, DEKALB, & FULTON
DECISION NO.: GA79-1014 — DATE: DATE OF PUBLICATION
Supersedes Decision Number GA78-1077, dated September 8, 1978, in 43 FR 40174.
DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.40	.55	.75		.10
BOILERMAKERS	10.70	1.05	1.10		.02
BRICKLAYERS & STONE MASONS	9.85	.55	.50		.05
CARPENTERS, DRYWALL HANGERS, & RESILIENT FLOOR LAYERS	9.85	.50	.45		.02
CARPET LAYERS	7.90	.50	.45		.02
CEMENT MASONS	9.20	.40	.55		
ELECTRICIANS:					
Wiremen	11.15	9%	11%		½ of 1%
Cable splicers	12.05	9%	11%		½ of 1%
ELEVATOR CONSTRUCTORS:					
Mechanics	9.595	.745	.56	1&%+a+b	.025
Helpers	6.72	.745	.56	1&%+a+b	.025
GLAZIERS	9.20	.70	.43	.75	.11
IRONWORKERS - Structural, Reinforcing, & Ornamental	9.95	.70	.67		.07
LATHERS	9.60	.40	.35		.05
LEAD BURNERS	10.75	.40	.25	o	.01
MARBLE MASONS, TILE SETTERS, & TERRAZZO WORKERS	9.70	.55	.50		
MARBLE, TILE, & TERRAZZO FINISHERS	6.65				
MILLWRIGHTS	10.15	.45	.50		.05
PAINTERS:					
Brush, roller, & drywall finishers	9.65	.55	.75		.05
Paperhangers	9.90	.55	.75		.05
Drywall taping (where pressurized tools are used), boatswain chair & window-jack work, all steel above 25' (where no scaffold is erected), & any scaffold above 25' (where not floored solid)	10.15	.55	.75		.05
Spray, steamcleaning, waterblasting, sandblasting, steeplejack work, gold leafing, otencil designing, & graining, marbolizing	10.65	.55	.75		.05

DECISION NO. GA79-1014

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PILEDRIVERMEN	$10.00	.50	.45		.02
PLASTERERS	9.67	.40	.55		
PLUMBERS & PIPEFITTERS	11.15	.65	.50		.11
ROOFERS	7.45	.30	.20		
SHEET METAL WORKERS	10.60	.50	.81		.07
SPRINKLER FITTERS	10.80	.75	1.05		.08
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTES:

a. Seven Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; Christmas Day.

b. Employer contributes 4% of the basic hourly rate of employees with 5 years or more of service, or 2% of the basic hourly rate of employees with 6 months to 5 years of service as Vacation Pay Credit.

c. Nine Paid Holidays: New Year's Day, Washington's Birthday, Good Friday, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Eve, and Christmas Day, provided the employee has worked 30 full days during the 90 calendar days prior to the holiday and the regular scheduled work days immediately preceding and following the holiday.

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Group 1	$ 6.55	.25	.33		.05
Group 2	6.77	.25	.33		.05
Group 3	7.05	.25	.33		.05
Group 4	7.30	.25	.33		.05
Group 5	7.62	.25	.33		.05
Group 6 (25¢ above rate for classification under which employed)					

Group 1 - Batch plant man; buggy rollers (Ga.); cleaners, brick or lumber; clearing of right-of-way & building site (hand tools); concrete curer-sealer and liquid hardner; conveyor operator, used in tending plasterers & bricklayers; electricians laborer; excavator, backfiller, grader, hand; forklift operator, walk-type mech. used in tending plasterers and bricklayers; form oilers; form stripper; metal pan handler; plumber laborer; pipe doper; precast slab layer (floor, roofs, walks, curbs); puddlers, concrete; rail porter; railroad track laborer; reinforcing steel handler; scaffolds and staging for masons & plasterers, erecting & removing; scarifyer, concrete, mech. or hand; sheeting and shoring laborers; steam jennies, used in cleaning equipment; tenders (all crafts); tool room man; truck-spotter dumper; water boy; winch handler (manual); wrecking buildings & miscellaneous structures.

Group 2 - All tool operators: air, electric or gas powered, such as jackhamer, paving breaker, tampers, vibrator, spade, chipping hammer, & barco tamp.; bucket dump man, concrete; burner demolition work; chain saw operator; flagman; form setter, steel; mixer, mortar, cement grout clay, etc. (hand machine oper.); mortar mixer used in connection with hose for gypsum roofs, plastering, asbestos, fiber, soundproofing, etc.; mortorized post hole digger; power saw operator, concrete, outside building; steam cleaning machine operator; sewer pipe layer, yarner, wiper & pot man; slip form raiser, steel or wood, jack or screw type; wheelbarrow operator, motorized.

Group 3 - Powderman helper; wagon drill operator, track or wheel type and other equipment used in drilling for blasting.

Group 4 - Caisson work, hole man; tunnel laborer.

Group 5 - Nozzleman, concrete pneu.; powderman.

Group 6 - Chimneys or stacks, isolated.

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POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	$ 9.30	.55	.75		.07
GROUP B	8.95	.55	.75		.07
GROUP C	7.28	.55	.75		.07
GROUP D	7.63	.55	.75		.07
GROUP E	6.73	.55	.75		.07
GROUP F	7.08	.55	.75		.07
GROUP G	6.06	.55	.75		.07

GROUP A: Backhoe operators, clamshell operator, conc. mix operator, cent. mix plant, conc. pump operator-Ridley or similar type, crane operator (truck, tower, crawler, or locomotive), derrick operator, dragline operator, drill operator-caisson foundation type, elevating grader operator, forklift operator that comes within the jurisdiction of the Operating Engineers hoisting engine operator, locomotive operator, mechanics-heavy duty, oilers on cranes with earth boring drill attached with a separate power source, concrete paving mixer operator, pile driver operator, rock crusher operator, shovel operator, trenching machine operator over 6 ft. depth capacity, well point system operator (including the operation of all pumps on project operated by the contractor) generator operator-75 K. VA. and over, tugger hoist operator, winch truck operator, hoisting material, air compressor operator, 365 C.F.M. and over furnishing air simultaneously for more than one contractor.

GROUP B: Bulldozer operator, dozer shovel operator, drill operator-Quarry master type, firemen-stationary or portable, motor grader operator, motor scraper operator (pans), pusher dozer operator, self-propelled compactor operator with blade, tractor operator with special equipment, trenching machine operator up to and including 6 ft. depth capacity.

GROUP C: Air compressor operator 600 cu. ft. and over, air compressor operator batt. of two, 300 cu. ft. and over, hydrohammer operator, concrete batch plant operator.

GROUP D: Oiler-grease truck, truck or locomotive crane.

GROUP E: Oiler-unspecified, pump operator over 4" up to batteries of 4, welding machine operator, batteries of 4 or more, portable, gasoline or diesel driven.

GROUP F: Concrete mixer operator skip types except paving mixers, concrete finishing machine operator, concrete paving machine operator, roller operator, well drill operator

GROUP G: Air compressor operator up to and including 300 cu. ft. or one machine over 300 but less than 600 cu. ft. conveyor operator, belt type, sand blasting machine operator, water pump operator 4" or less. water pump operator over 4" (one only)

SUPERSEDEAS DECISION

STATE: Louisiana PARISH: Statewide
DECISION NO.: LA79-4001 DATE: Date of Publication
Supersedeas Decision No. LA78-4099 dated October 6, 1978, in 43 FR 46449.
DESCRIPTION OF WORK: Building Construction (does not include single family homes & garden type apartments up to & including 4 stories) & Construction of Highways, Roads, Streets (does not include building strucuter in rest area projects) & Parking Area (except those let with a building contract). Building Construction includes construction of sheltered enclosures with walk-in access for the purpose of housing persons, machinery, equipment or supplies. It includes all construction of such structures, the installation of utilities & the installation of equipment, both above & below ground level, as well as excavation & foundation, includes site preparation & incidental paving & utilities outside the building.

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS - ZONE 1	$11.47	.525	.90		.04
ZONE 2	10.83	.50	.76		.03
ZONE 3	10.00	.55	1.20		.05
ZONE 4	9.82	.45	.50		

ZONE 1 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Evangeline, Jefferson Davis, Rapides, Vermilion & Vernon Parishes
ZONE 2 - Bienville, Bossier, Caddo, Caldwell, Claiborne, DeSoto, Grant, Jackson, Lincoln, Natchitoches, Ouachita, Red River, Sabine, Union, Webster & Winn Parishes
ZONE 3 - Ascension, Assumption, Avoyelles, Catahoula, Concordia, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafayette, Lafourche, LaSalle, Livingston, Orleans, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge & West Feliciana Parishes
ZONE 4 - East Carroll, Franklin, Madison, Morehouse, Richland, Tensas & West Carroll Pars.

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
BOILERMAKERS	11.05	.80	1.00		.02
BRICKLAYERS & STONEMASONS					
ZONE 1	11.05	.80	.75		.31
ZONE 2	9.90	.53			
ZONE 3	11.45	.53	.60		.05
ZONE 4	11.00	.50	.35		.035
ZONE 5	10.25				
ZONE 6	10.25	.40	.45		
ZONE 7	8.95		.30		
ZONE 8	10.85		.25		
ZONE 9	11.00				

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ZONE 1 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, St. Helena, Tangipahoa, West Baton Rouge & West Feliciana Parishes
ZONE 2 - Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Pointe Coupee, Rapides & St. Landry Parishes
ZONE 3 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 4 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Tammany (extending northward to that part of St. Tammany Par. from the Tangipahoa Par. Line on the west along U.S. Hwy. 190 through the lower limits of Covington, along State Hwy. 58, through the lower limits of Abita Springs & Talisheek & on a line due east from Talisheek to the Mississippi State Line) & Terrebonne Parishes
ZONE 5 - St. Tammany (north half including Covington north of Hwy. 190) & Washington Parishes
ZONE 6 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 7 - Natchitoches & Sabine Parishes
ZONE 8 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes
ZONE 9 - Iberia, Lafayette, St. Martin, St. Mary & Vermilion Parishes

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS (BUILDING CONSTRUCTION)					
ZONE 1 - Carpenters	9.35	.50			
Millwrights	10.07	.50			
Piledrivermen	10.25	.50			
ZONE 2 - Carpenters, piledrivermen & soft floor layers	10.35	.60	.33		.07
Millwrights	12.05				.07
ZONE 3 - Carpenters	10.30	.55	.40		
Millwrights	11.75	.55	.40		
Piledrivermen	10.60	.55	.40		
ZONE 4 - Carpenters & piledrivermen	11.00	.50	.60		.05
Millwrights	12.425				.08
ZONE 5 - Carpenters & soft floor layers	10.62	.55	.40		.04
Millwrights	11.01	.55	.40		.04
Piledrivermen	10.72	.55	.40		.04
ZONE 6 - Carpenters & soft floor layers	10.455	.55	.40		.04
Millwrights	11.01	.55	.40		.04
Piledrivermen	10.72	.55	.40		.04
ZONE 7 - Carpenters & soft floor layers	10.00				
Millwrights	10.75				
Piledrivermen	10.50				
ZONE 8 - Carpenters & soft floor layers	9.85	.45	.35		.04
Millwrights	10.60	.45	.35		.04
Piledrivermen	10.10	.45	.35		.04

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	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 9 - Carpenters & soft floor layers	$ 9.90				
Millwrights	10.65				
Piledrivermen	10.40				
ZONE 10 - Carpenters & soft floor layers	9.60	.55	.35		.05
Millwrights	10.50	.55	.35		.05
Piledrivermen	10.10	.55	.35		.05

ZONE 1 - All of Acadia, Evangeline, Lafayette, St. Landry & Vermilion Pars.; Parts of Iberia, St. Martin & St. Mary Pars. (west of the Atchafalaya River)
ZONE 2 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 3 - Parts of St. Tammany & Tangipahoa (north of I-12 from the Mississippi State Line to the western boundary of Tangipahoa Par.) & Washington Parishes
ZONE 4 - Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. James (north of the Miss. River), West Baton Rouge & West Feliciana Pars.
ZONE 5 - All of Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles & St. John the Baptist Pars. Parts of St. Tammany & Tangipahoa (south of I-12 from the Miss. State Line to the western boundary of Tangipahoa Par.) Parishes
ZONE 6 - Assumption, Iberia (east of the Atchafalaya River), Lafourche, St. James (south of the Miss. River), St. Martin (eastern segment of the Atchafalaya River), St. Mary (east of the Atchafalaya River) & Terrebonne Parishes
ZONE 7 - Avoyelles, Grant, LaSalle & Rapides Parishes
ZONE 8 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 9 - Natchitoches & Sabine Parishes
ZONE 10 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS & PILEDRIVERMEN (HIGHWAY CONSTRUCTION):					
ZONE 1	10.36				
ZONE 2	11.36				
ZONE 3	11.47				
ZONE 4	10.775				
ZONE 5	9.47				
ZONE 6	9.25				
ZONE 7	8.70				

ZONE 1 - Bossier & Caddo Parishes
ZONE 2 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Parishes
ZONE 3 - East Baton Rouge Parish
ZONE 4 - Calcasieu Parish
ZONE 5 - Lafayette, Ouachita & Rapides Parishes
ZONE 6 - Acadia, Ascension, Bienville, Cameron, DeSoto, Iberia, Iberville, Jefferson Davis, Livingston, Red River, Richland, St. James, St. John the Baptist, St. Landry, St. Martin, St. Tammany, Tangipahoa, Vermilion, Washington, Webster & West Baton Rouge
ZONE 7 - Allen, Assumption, Avoyelles, Beauregard, Caldwell, Catahoula, Claiborne, Concordia, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Jackson, Lafourche LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Pointe Coupee, Sabine, St. Helena, St. Mary, Tensas, Terrebonne, Union, Vernon, West Carroll, West Feliciana & Winn Pars.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS (BUILDING CONSTRUCTION):					
ZONE 1	$10.11				
ZONE 2	9.45				
ZONE 3	9.25	.50	.50		.05
ZONE 4	10.445	.45	.40		.04
ZONE 5	9.35				
ZONE 6	7.25				
ZONE 7	9.30	.35			
ZONE 8	9.57		.25		
ZONE 9	7.30		.30		

ZONE 1 - Ascension, Assumption, East Baton Rouge, East Felicians, Iberville, Livingston, Pointe Coupee, St. Helena, St. James, Tangipahoa, West Baton Rouge & West Feliciana Par
ZONE 2 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 3 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary & Vermilion Pars.
ZONE 4 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany (north to Interstate Hwy. 12) & Terrebonne Parishes
ZONE 5 - St. Tammany (northern half including Covington north of Hwy. 190) & Washington
ZONE 6 - Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle & Rapides Parishes
ZONE 7 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 8 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachit Richland, Tensas, Union, West Carroll & Winn Parishes
ZONE 9 - Natchitoches & Sabine Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS (HIGHWAY CONSTRUCTION)					
ZONE 1	9.50	.45	.40		
ZONE 2	6.45				
ZONE 3	9.35	.35			
ZONE 4	9.70				
ZONE 5	9.20				
ZONE 6	8.70				
ZONE 7	9.20				
On concrete lined ditches	9.25	.50	.50		.05
ZONE 8	8.70				
On concrete lined ditches	9.25	.50	.50		.05
ZONE 9	6.30				
ZONE 10	5.72				

ZONE 1 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Parishes
ZONE 2 - Ascension, East Baton Rouge, U. S. Hwy. 61 in East Feliciana & West Feliciana Pars.
ZONE 3 - Bossier & Caddo Parishes
ZONE 4 - Calcasieu Parish
ZONE 5 - Cameron & Jefferson Davis Parishes
ZONE 6 - Allen & Beauregard Parishes
ZONE 7 - Acadia, Iberia, Lafayette, St. Landry, St. Martin & Vermilion Parishes
ZONE 8 - St. Mary Parish
ZONE 9 - Assumption, Avoyelles, Bienville, Claiborne, DeSoto, East Feliciana (excluding U.S. Hwy. 61), Evangeline, Iberville, Lafourche, Lincoln, Livingston, Madison, Natchitoches, Ouachita, Pointe Coupee, Rapides, Red River, Richland, St. Helena, St. James, St. John the Baptist, St. Tammany, Tangipahoa, Terrebonne, Vernon, Webster & West Baton Rouge Parishes
ZONE 10 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Grant, Jackson, LaSalle, Morehouse, Sabine, Tensas, Union, Washington, West Carroll & Winn Pars.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:					
ZONE 1 - Electricians	$13.04	5%	8%		3/10%
Cable splicers	13.29	5%	8%		3/10%
ZONE 2 - Electricians	11.35	.35	3%		.02
Cable splicers	12.05	.35	3%		.02
ZONE 3 - Electricians	13.05	.35	3%+.40		1/10%
Cable splicers	13.30	.35	3%+.40		1/10%
ZONE 4 - Electricians	12.30	.35	3%		2/10%
Cable splicers	12.55	.35	3%		2/10%
ZONE 5 - Electricians	11.90	.35	3%+.40		.03
Cable splicers	11.90	.35	3%+.40		.03
ZONE 6 - Electricians	11.55	.75	3%		1/2%
Cable splicers	12.05	.75	3%		1/2%
ZONE 7 - Electricians	12.05	1.15	3%		1%
Cable splicers	12.55	1.15	3%		1%
ZONE 8 - Electricians	11.15		3%	.30	1/2%
Cable splicers	11.40		3%	.30	1/2%

ZONE 1 - Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. Landry, West Baton Rouge, & West Feliciana Pars.
ZONE 2 - St. Tammany, Tangipahoa & Washington Parishes
ZONE 3 - Allen, Beauregard, Calcasieu, Cameron & Jefferson Davis Parishes
ZONE 4 - Acadia, Iberia, Lafayette, St. Martin (northern segment), St. Mary (that portion southwest of the Atchafalaya River) & Vermilion Parishes
ZONE 5 - Assumption, Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Martin (southern segment), St. Mary (that portion northeast of the Atchafalaya River) & Terrebonne Parishes
ZONE 6 - Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Natchitoches (that portion southwest of the Red River), Rapides, Sabine, Vernon & Winn Pars.
ZONE 7 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches (that portion northeast of the Red River), Red River & Webster Parishes
ZONE 8 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS					
ZONE 1 - Mechanics	9.76	.545	.35	4%+a+b	.02
Helpers	70%JR	.545	.35	4%+a+b	.02
Helpers (Probationary)	50%JR				
ZONE 2 - Mechanics	9.595	.745	.35	4%+a+b	.02
Helpers	70%JR	.745	.35	4%+a+b	.02
Helpers (Probationary)	50%JR				

FOOTNOTES FOR ELEVATOR CONSTRUCTORS
a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 2%; over 5 yrs. - 4% of basic hourly rate
b - Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; the Friday after Thanksgiving Day; Christmas Day
ZONE 1 - Acadia, Allen, Ascension, Assumption, Beauregard, Calcasieu, Cameron, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermilion, Washington, West Baton Rouge & West Feliciana Pars.
ZONE 2 - Avoyelles, Bienville, Bossier, Caddo, Caldwell, Catahoula, Claiborne, Concordia, DeSoto, East Carroll, Franklin, Grant, Jackson, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Ouachita, Rapides, Red River, Richland, Sabine, Tensas, Union, Vernon, Webster, West Carroll & Winn Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GLAZIERS - ZONE 1	10.15				.02
ZONE 2	8.15				.01
ZONE 3	10.225	.17	.30		.01
ZONE 4	8.68		.30		.04
ZONE 5	6.80				
ZONE 6	8.10				

ZONE 1 - Allen (except northeast corner), Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 2 - Acadia, Ascension (north of Hwy. 22), Assumption (north of Hwy. 22), East Baton Rouge, East Feliciana, Iberia, Iberville, Lafayette, Livingston (north of Hwy. 22), Pointe Coupee, St. Helena, St. Landry (south half), St. Martin, St. Mary (except Morgan City Area), Tangipahoa (west of Hwy. 51), Vermilion, West Baton Rouge & West Feliciana Pars.
ZONE 3 - Ascension (south of Hwy. 22), Assumption (south of Hwy. 22), Jefferson, Lafourche, Livingston (south of Hwy 22), Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Mary (Morgan City Area), St. Tammany (southern portion) & Terrebonne Parishes
ZONE 4 - Bienville (western half), Bossier, Caddo, Claiborne, DeSoto, Natchitoches (to city of Natchitoches), Red River, Sabine & Webster Parishes
ZONE 5 - Bienville (eastern portion, everything east of Rt. 9 inclusive), Caldwell, Concordia, East Carroll (western 2/3, everything west of Rt. 65 inclusive), Franklin, Jackson, Lincoln, Madison (western half, everything west of Rt. 65 inclusive), Morehouse, Ouachita, Richland, Tensas (west 3/4 everything west of Rt. 65), Union, West Carroll & Winn (northern half, everything north of a line running east & west through Winfield, excluding Winfield) Parishes
ZONE 6 - St. Tammany (northern 2/3, everything north of a straight line running east & west from Pearl River to Mandeville), Tangipahoa (everything east of Route 51 & everything north of a straight line running east & west from Madisonville through Ponchatoula) & Washington Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
IRONWORKERS (BUILDING CONSTRUCTION)					
ZONE 1	$11.06	.63	.35		.04
ZONE 2	11.14	.45	.75		.04
ZONE 3	11.05	.45	.90		.06
ZONE 4	11.00	.45	1.15		.06
ZONE 5	10.00	.45	.85		.04
ZONE 6	11.10	.35	.60		.05

ZONE 1 - All of Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist & St. Tammany Pars.; Parts of Lafourche, Livingston, St. James, Tangipahoa, Terrebonne & Washington Pars. (west of a straight line drawn from the La.-Miss. border, east of the city limits of Warrenton, southwest through Hammond to the Gulf of Mexico)
ZONE 2 - All of Ascension, Assumption, Avoyelles, East Baton Rouge, East Feliciana, Iberia, Iberville, Pointe Coupee, St. Helena, St. Martin, St. Mary, West Baton Rouge & West Feliciana Pars., Parts of Acadia, Evangeline, Lafayette, St. Landry, & Vermilion Pars. (east of a line drawn from the meeting point of the boundaries of the Pars. of Rapides, Avoyelles & Evangeline, southeast along the western city limits of Abbeville to the Gulf of Mexico); Parts of Lafourche, Livingston, St. James, Tangipahoa, Terrebonne & Washington Pars. (west of a straight line drawn from the La.-Miss. border, west of the city limits of Warrenton, southwest through Hammond to the Gulf of Mexico); Parts of Catahoula, Concordia & LaSalle Pars. (south of a line drawn from Natchez through the city of Carter Point to the Rapides Par. Line, then west along the southern border of Rapides Par.)
ZONE 3 - All of Bossier, Caddo, DeSoto, Red River & Webster Pars.; Parts of Bienville, Claiborne, Natchitoches & Winn Pars. (west of a line drawn directly south from the Ark.-La. border through the cities of Arcadia & Cloutierville); Part of Sabine Par. (north of a line drawn from the Natchitoches Par. boundary west through the city of Pesson to the Tex.-La. border)

ZONE 4 - All of Caldwell, East Carroll, Franklin, Grant, Jackson, Lincoln, Morehouse, Ouachita, Rapides, Richland, Tensas, Union & West Carroll Pars.; Parts of Bienville, Claiborne, Natchitoches & Winn Pars. (east of a line drawn directly south from the Ark.-La. border through the cities of Arcadia & Cloutierville); Part of Madison Par. (except the cities of Mound, Delta & adjacent areas); Parts of Catahoula, Concordia & LaSalle Pars. (north of a line drawn from Natchez through the city of Carter Point to the Rapides Par. Line)
ZONE 5 - That part of Madison Par. (including the cities of Mound, Delta & adjacent areas)
ZONE 6 - All of Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Pars.; Parts of Acadia, Evangeline, Lafayette, St. Landry & Vermilion Pars. (southwest of Rapides Par. & west of a line south of the western most border between Rapides & Evangeline Pars.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
IRONWORKERS (HIGHWAY CONSTRUCTION)					
ZONE 1	$11.52				
ZONE 2	8.70				
ZONE 3	11.10				
ZONE 4	10.96				
ZONE 5	9.25				
ZONE 6	8.70				
ZONE 7	6.99				
ZONE 8	6.45				
ZONE 9	5.84				

ZONE 1 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Pars.
ZONE 2 - East Baton Rouge Parish
ZONE 3 - Calcasieu Parish
ZONE 4 - Bossier & Caddo Parishes
ZONE 5 - Cameron & Jefferson Davis Parishes
ZONE 6 - Allen & Beauregard Parishes
ZONE 7 - Lafayette, Ouachita & Rapides Parishes
ZONE 8 - Acadia, Ascension, Bienville, DeSoto, Iberia, Iberville, Livingston, Red River, Richland, St. James, St. John the Baptist, St. Landry, St. Martin (that portion north of Iberia Par.), St. Tammany, Tangipahoa, Vermilion, Washington, Webster & West Baton Rouge Pars.
ZONE 9 - Assumption, Avoyelles, Caldwell, Catahoula, Claiborne, Concordia, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Jackson, Lafourche, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Pointe Coupee, Sabine, St. Helena, St. Martin (that portion south of Iberia Par.), St. Mary, Tensas, Terrebonne, Union, Vernon, West Carroll, West Feliciana & Winn Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (BUILDING CONSTRUCTION):					
ZONE 1 - Group 1	$ 6.45	.15			
Group 2	6.60	.15			
Group 3	6.70	.15			
ZONE 2 - Group 1	6.47	.25	.15		.05
Group 2	6.67	.25	.15		.05
ZONE 3 - Group 1	7.95	.25	.15		.05
Group 2	8.05	.25	.15		.05
Group 3	8.10	.25	.15		.05
Group 4	8.91	.25	.15		.05
Group 5	8.47	.25	.15		.05
Group 6	8.31	.25	.15		.05
Group 7	8.00	.25	.15		.05
Group 8	8.20	.25	.15		.05
ZONE 4 - Group 1	7.22	.25	.27		.05
Group 2	7.32	.25	.27		.05
Group 3	7.37	.25	.27		.05
ZONE 5 - Group 1	6.82	.25	.27		.05
Group 2	6.92	.25	.27		.05
Group 3	6.97	.25	.27		.05
ZONE 6 - Group 1	7.90	.25	.27		.05
Group 2	8.00	.25	.27		.05
Group 3	8.15	.25	.27		.05
Group 4	8.06	.25	.27		.05
Group 5	8.16	.25	.27		.05
ZONE 7 - Group 1	7.575	.25	.27		.05
Group 2	7.723	.25	.27		.05
Group 3	7.775	.25	.27		.05
ZONE 8 - Group 1	6.06	.25	.15		.05
Group 2	6.26	.25	.15		.05
Group 3	6.31	.25	.15		.05
Group 4	6.36	.25	.15		.05
Group 5	6.71	.25	.15		.05
ZONE 9 - Group 1	6.65	.25	.15		.05
Group 2	6.75	.25	.15		.05
Group 3	6.80	.25	.15		.05
Group 4	6.85	.25	.15		.05
ZONE 10 - Group 1	6.40	.25	.15		.05
Group 2	6.50	.25	.15		.05
Group 3	6.65	.25	.15		.05

LABORERS - ZONE 1 (CLASSIFICATION DEFINITIONS)
GROUP 1 - Building and labor construction
GROUP 2 - Stone mason helpers; mechanical tool operators; sewermen (bottom men, caulkers, tenders, joint wipers, hot pot, grade carriers, layers & ditchers 4 ft. or over); tender of all crafts; sandblaster (nozzlemen); sandblaster (pot tender); laying non-metallic pipe over 4 ft. deep, including sewer, drain & underground tile; septic tank diggers & installers, over 4 ft. deep; gas & oil pipeline labrarers & wrappers
GROUP 3 - Gunite tool operators
LABORERS - ZONE 2
GROUP 1 - Building laborer; rotary drill laborers; foundation drill crewman
GROUP 2 - Mason mixer; plaster mixer; mechanical tool op.; sandblaster; laying concrete, clay, plastic, asbestos cement, casing & corrugated metal pipe, as sewer, drain & underground tile (caulkers, joint wrappers, hot pot & pipe layers); gas & oil pipeline laborers wrappers & dopers
LABORERS - ZONE 3
GROUP 1 - Building & general laborer; tenders (carpenter, plaster, cement finisher, mason); tank & vessel cleaners
GROUP 2 - Air tool op. (except jackhammer); interior of clased tanks & vassels power equipped
GROUP 3 - Mortar mixers
GROUP 4 - Blasterers
GROUP 5 - Blaster helpers; concrete cutters behind paving machine & puddlers; form setters & liner asphalt worker
GROUP 6 - Wiping joints, laying pipe & tile from purperete
GROUP 7 - Interior of closed tanks & vessels manually
GROUP 8 - Jackhammer operators
LABORERS - ZONES 4 & 5
GROUP 1 - Building and general laborers, carpenter tenders
GROUP 2 - Power tool ops. (hammer men, tamper, vibrators, power buggies, concrete chippers or cutters, chain saw ops., etc); pipelayers (non-metallic)
GROUP 3 - Mason tenders, plaster tenders, cement mix (wet or dry) tenders, hod carrier tender; mortar mixers & cement mixers (wet or dry)
LABORERS - ZONE 6
GROUP 1 - Building laborers
GROUP 2 - Laborers handling steel pans, stone masons helpers, mechanical tool ops., sewermen (bottom men, caulkers, tenders, joint wipers, hot pot, grade carriers, layers & ditchers 4 ft. & over), sandblaster (nozzlemen & pot tender); laying non-metallic pipe over 4 ft. deep, septic diggers & installers over 4 ft. deep, gas & oil pipeline laborers & wrappers
GROUP 3 - Gunite tool operators
GROUP 4 - Bricklayers tenders and mason tenders
GROUP 5 - Hod carriers using prime mover to serve a bricklayer; mortar mixers
LABORERS - ZONE 7
GROUP 1 - Common laborers
GROUP 2 - Jackhammermen, sewermen, mason tenders, plasterer tenders, stone masons helners, vibratormen
GROUP 3 - Mortar mixers
LABORERS - ZONE 8
GROUP 1 - Common laborers; carpenter helpers; mason tenders (other than cement); plasterers tenders; stone masons helpers; concrete workers; scaffold builders
GROUP 2 - Air tool ops. (jackhammer, vibrator & tamper); sewer pipe joiners & setters; concrete cutters; hod carriers; creosote materials handler; acid worker; mason tenders (cement); Mortar mixer (wet or dry); motorized buggy op.; water proofers (mastic); form setters (steel paving forms)
GROUP 3 - Chain saw operator
GROUP 4 - Asphalt raker, tamper, smoother & shovelers; sewer pipelayers; blaster helpers

GROUP 5 - Powderman
LABORERS - ZONE 9
GROUP 1 - Building laborers
GROUP 2 - Mason tenders, plaster tenders; asphalt rakers, asphalt smoothers
GROUP 3 - Mortar mixers
GROUP 4 - Air jack op., vibrator ops.; sewer pipelayers, sewer pipe wrappers
LABORERS - ZONE 10
GROUP 1 - Laborers, tenders (brickmasons, stonemasons, cement masons, carpenters, plasterers, stripping & dismantling; concrete form work; loading,unloading, carrying & handling steel & steel mesh; assisting to the setting of cut stone, granite or artifical stone; building scaffolds; shoring
GROUP 2 - Mechanical tool op. (air, electric, motor, engine, etc.); sewer pipelayers; mortar mixers (hand or machine); gunite op.; tile, terrazzo & marble setters helpers
GROUP 3 - Pipe dopers & burners

ZONE 1 - St. Tammany (as far south as Bayou Lacombe & east to the Miss. State Line at Pearlington), Tangipahoa (all but southwestern corner) & Washington Parishes
ZONE 2 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary (excluding that part of Parish to the Calumet Locks west) & Vermilion Parishes
ZONE 3 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 4 - All of Ascension, East Baton Rouge, East Feliciana, Iberville, Pointe Coupee, West Baton Rouge & West Feliciana Pars.;Parts of Assumption, St. James, St. John the Baptist Pars. (north of a line drawn from the southern limits of the town of St. James in St. James Par. to the northern limits of the town of Napoleonville in Assumption Par. & then directly west to the Par. line, all of St. James Par. except that part which is east of a line drawn from Lutcher to U. S. Hwy 61 (Airline Hwy). then west on U. S. 61 to Blind River & on a direct line to Manchac)
ZONE 5 - Livingston, St. Helena & Tangipahoa (south & west of a line running from the western Par. line to a point directly east which touches the northern limits of the town of Independence, then directly south to Lake Pontchartrain) Parishes
ZONE 6 - Jefferson (except Grand Isle), Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist (on the west bank of the Miss. River & the portion of St. John the Baptist on the east bank of the Miss. River as far as the Sycamore Inn at Lutcher & north to Blind River & Manchac & St. Tammany (north as far as Bayou Lacombe, east to th Miss. State Line at Pearlington) Parishes
ZONE 7 - Assumption (north of Napoleonville), Jefferson (Grand Isle), Lafourche, St. James (on the west bank & including the town of Vacherie), St. Mary (that part of Parish to the Calumet Locks west) & Terrebonne Parishes
ZONE 8 - Avoyelles, Evangeline, Grant, LaSalle,Natchitoches, Rapides & Winn Parishes
ZONE 9 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River, Sabine & Webster Pars.
ZONE 10 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Pars.

		Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (HIGHWAY CONSTRUCTION)						
GROUP 1 -	Zone 1	$ 6.58	.25	.27		.05
	Zone 2	4.80	.15	.10		.05
	Zone 3	5.94	.25	.21		.05
	Zone 4	6.64	.25	.21		.05
	Zone 5	5.74	.25	.21		.05
	Zone 6	5.54	.25	.21		.05
	Zone 7	4.10	.15	.10		.05
	Zone 8	3.85	.15	.10		.05
	Zone 9	3.75	.15	.10		.05
GROUP 2 -	Zone 1	6.68	.25	.27		.05
	Zone 2	4.90	.15	.10		.05
	Zone 3	6.04	.25	.21		.05
	Zone 4	6.74	.25	.21		.05
	Zone 5	5.84	.25	.21		.05
	Zone 6	5.64	.25	.21		.05
	Zone 7	4.20	.15	.10		.05
	Zone 8	3.95	.15	.10		.05
	Zone 9	3.85	.15	.10		.05
GROUP 3 -	Zone 1	7.13	.25	.27		.05
	Zone 2	5.35	.15	.10		.05
	Zone 3	6.49	.25	.21		.05
	Zone 4	7.19	.25	.21		.05
	Zone 5	6.29	.25	.21		.05
	Zone 6	6.09	.25	.21		.05
	Zone 7	4.65	.15	.10		.05
	Zone 8	4.40	.15	.10		.05
	Zone 9	4.30	.15	.10		.05
GROUP 4 -	Zone 1	7.38	.25	.27		.05
	Zone 2	5.60	.15	.10		.05
	Zone 3	6.74	.25	.21		.05
	Zone 4	7.44	.25	.21		.05
	Zone 5	6.49	.25	.21		.05
	Zone 6	6.29	.25	.21		.05
	Zone 7	4.85	.15	.10		.05
	Zone 8	4.60	.15	.10		.05
	Zone 9	4.50	.15	.10		.05

GROUP 1 - Laborers, including but not limited to signalman, foundation driller & demolishing & dismantling man
GROUP 2 - Raker, concrete spreader, carpenter helpers, distributor man, finisher helpers, formsetter helpers, jackhammer op.; jetting laborer, painter helpers, pit man, pipelayer or tile layer, power monkey helper, tamper, tree pruner, stone mason helpers, stoker, asphalt raker, concrete shovelers, power tool op. & motorized buggy op.
GROUP 3 - Formsetter, head or master--high type pavement
GROUP 4 - Powderman
ZONE 1 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Parishes
ZONE 2 - East Baton Rouge Parish
ZONE 3 - Bossier & Caddo Parishes
ZONE 4 - Calcasieu Parish
ZONE 5 - Cameron & Jefferson Davis Parishes

ZONE 6 - Allen & Beauregard Parishes
ZONE 7 - Lafayette, Ouachita & Rapides Parishes
ZONE 8 - Acadia, Ascension, Bienville, DeSoto, Iberia, Iberville, Livingston, Red River, Richland, St. James, St. John the Baptist, St. Landry, St. Martin (that portion north of Iberia Par), St. Tammany, Tangipahoa, Vermilion, Washington, Webster & West Baton Rouge Parishes
ZONE 9 - Assumption, Avoyelles, Caldwell, Catahoula, Claiborne, Concordia, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Jackson, Lafourche, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Pointe Coupee, Sabine, St Helena, St. Martin (that portion south of Iberia Par.), St. Mary, Tensas, Terrebonne, Union, Vernon, West Carroll, West Feliciana & Winn Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS					
ZONE 1	$ 9.68	.20	.30		.05
ZONE 2	9.83	.20	.30		.05
ZONE 3	10.08	.20	.30		.05
ZONE 4	10.43	.20	.30		.05
ZONE 5	10.57				.01
ZONE 6	9.80				.01
ZONE 7	10.585	.30			.01
ZONE 8	11.35				
ZONE 9	9.05				.01

ZONE 1 - That part of Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Pars. which are 12.5 miles from center of New Orleans
ZONE 2 - That part of Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Pars. which are within a 22.5 mile radius of New Orleans center.
ZONE 3 - That part of Jefferson, Lafourche (except that area southeast of Raceland to Bayou Lafourche), Livingston, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany & Tangipahos Pars..which are within a 32.5 mile radius of New Orleans center
ZONE 4 - That part of Jefferson, Lafourche (including that area southeast of Raceland to Bayou Lafourche), Livingston (westward to Rt. 22 including towns of Maurepas, Killian & Springfield), Plaquemines, St. Bernard, St. James (including towns of Gramercy, Lutcher & Paulina), St. Tammany, Tangipahoa (northward to Rt. 16 including towns of Amite & Holton), Terrebonne (westward to Rts. 24 & 315 including city of Houma) & Washington (only northward to Rt. 10 to southern limits of towns of Bogalusa, Sheridan & Franklinton) Pars. outside 32.5 mile radius New Orleans Center

ZONE 5 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, (except lower Grand River), Livingston (western part), Pointe Coupee, St. Helena, St. James (only towns of Union, Hymel, Convent & Lutcher), St. Martin (only lower separted section), St. Mary (only Morgan City), Tangipahoa (north of Rt. 16 & west of Rt. 51 including Amite, Hammond & Ponchatoula), Washington (only north of Rt. 16 & west of Rt. 25), West Baton Rouge & West Feliciana Pars.
ZONE 6 - Acadia, Evangeline (northward to Rt. 10 including Ville Platte and Mamou), Iberville (eastward to lower Grand River), Lafayette, St. Landcy, St. Martin (excluding lower separated section), St. Mary (east to Berwick) & Vermilion Pars
ZONE 7 - Allen, Beauregard, Calcasieu, Cameron, Evangeline (excluding Ville Platte & Mamou), Jefferson Davis & Vernon (west of Rt. 117 & north of Rt. 8) Pars.
ZONE 8 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Lincoln, Natchitoches, Red River & Webster Pars.
ZONE 9 - Avoyelles, Caldwell, Catahoula, Concordia, Franklin, Grant, LaSalle, Morehouse, Ouachita, Rapides, Richland, Vernon (except west of Rt. 117 & north of Rt. 8) & Winn Parishes

		Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION						
ZONE 1 -	GROUP 1	$11.90	.35	3%+.40		.03
	GROUP 2	75%JR	.35	3%+.40		.03
	GROUP 3	65%JR	.35	3%+.40		.03
	GROUP 4	45%JR	.35	3%+.40		.03
	GROUP 5	30%JR	.35	3%+.40		.03

GROUP 1 - Linemen
GROUP 2 - Op. hole digging equip.; op. tractor with winch & derrick; op. line truck with winch & derrick working hot lines
GROUP 3 - Op. using hole truck & trailer or pole hauling & setting truck (not in energized lines)
GROUP 4 - Op. using truck without winch; Groundmen (starting rate to 1½ yrs. service)
GROUP 5 - Groundmen (1½ yrs. service or over)

		Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 2						
Linemen, line equipment & line truck ops.		13.04	5%	8%		3/10%
Cable splicers		13.29	5%	8%		3/10%
ZONE 3 -	Linemen, equipment ops.	13.05	.35	3%+.40		1/10%
	Cable splicers	13.30	.35	3%+.40		1/10%
	Groundmen	11.05	.35	3%+.40		1/10%
ZONE 4 -	Linemen, equip ops.	12.30	.35	3%		
	Cable splicers	12.55	.35	3%		
	Groundmen	50%JR	.35	3%		
ZONE 5 -	Linemen & equip., ops.	11.15		3%	.30	1/2%
	Cable splicers	11.40		3%	.30	1/2%
	Groundmen	50%JR		3%	.30	1/2%
ZONE 6 -	Linemen & equip., ops.	11.55	.75	3%		1/2%
	Cable splicers	12.05	.75	3%		1/2%
	Groundman, 1st 6 months	3.00	.75	3%		1/2%
	Groundman, 2nd 6 months	3.70	.75	3%		1/2%
	Groundmen, after 1 year	3.93	.75	3%		1/2%

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 7 - Linemen; Operators	$12.05	1.15	3%		1%
Cable splicers	12.55	1.15	3%		1%
Groundmen	10.15	1.15	3%		1%

ZONE 1 - Assumption, Jafferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Martin (southern segment), St. Mary (that portion northeast of the Atchafalaya River) & Terrebonne Pars.
ZONE 2 - Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. Landry, West Baton Rouge & West Feliciana Pars.
ZONE 3 - Allen, Beauregard, Calcasieu, Cameron & Jefferson Davis Parishes
ZONE 4 - Acadia, Iberia, Lafayette, St. Martin (northern segment), St. Mary (that portion southwest of the Atchafalaya River) & Vermilion Parishes
ZONE 5 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Parishes
ZONE 6 - Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Natchitoches (that portion southwest of the Red River), Rapides, Sabine, Vernon & Winn Pars.
ZONE 7 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches (that portion northeast of the Red River), Red River & Webster Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE, TILE & TERRAZZO WORKERS & FINISHERS					
ZONE 1 - Marble setters	11.00	.50	.35		.035
Tile & terrazzo workers	11.00	.50	.35		.035
Marble, tile & terrazzo finishers	6.75	.25			
ZONE 2 - Marble & terrazzo workers	11.45	.53	.60		.05
Tile setters	8.50	.48	.60		.02
ZONE 3 - Marble setters	11.00				
Terrazzo workers	9.25				
ZONE 4 - Marble, tile & terrazzo workers	9.82		.25		
ZONE 5 - Marble, tile & terrazzo workers	9.15	.30			
ZONE 6 - Marble, tile & terrazzo workers	12.00				
Marble, tile & terrazzo finishers	6.75	.25			
ZONE 7 - Tile setters	10.25				
Tile finishers	6.75	.25			

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ZONE 1 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Tammany (extending northward to that part of St. Tammany Par. from the Tangipahoa Par. Line on the west along U.S. Hwy. 190 through the lower limits of Covington, along State Hwy. 58 through the lower limits of Abita Springs & Talishuek & on a line due east from Talisheek to the Miss. State Line) & Terrebonne Parishes
ZONE 2 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 3 - Iberia, Lafayette, St. Martin, St. Mary & Vermilion Parishes

ZONE 4 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes
ZONE 5 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Pars.
ZONE 6 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, St. Helena, Tangipahoa, West Baton Rouge & West Feliciana Pars.
ZONE 7 - St. Tammany (northern half including Covington north of Hwy 190) & Washington Pars.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS					
ZONE 1 - GROUP 1	$10.985		.20		
GROUP 2	11.185		.20		
GROUP 3	11.33		.20		
GROUP 4	12.775		.20		
ZONE 2 - GROUP 1	9.35		.25		.05
GROUP 2	10.32		.25		.05
ZONE 3 - GROUP 1	8.965	.425	.40		.06
GROUP 2	9.34	.425	.40		.06
GROUP 3	10.215	.425	.40		.06
ZONE 4 - GROUP 1	8.10				
GROUP 2	8.40				
GROUP 3	8.15				
GROUP 4	9.00				
GROUP 5	9.25				
GROUP 6	8.55				
GROUP 7	8.40				
ZONE 5 - GROUP 1	9.00				
GROUP 2	9.50				
GROUP 3	10.00				
ZONE 6 - Painters, taps & float, vinyl & paperhangers	9.55	.40	.30		.05
ZONE 7 - GROUP 1	7.55				
GROUP 2	8.55				
GROUP 3	8.05				

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ZONE 1 - GROUP 1 - Painters brush, roller & buffer
GROUP 2 - Paperhanging, taping & floating
GROUP 3 - Spray, sandblasting, hydroblasting, spider op., rubberizing, & pyroflexing, steam jennies, taping & floating machines
GROUP 4 - Bridge work, water towers, radio & TV towers
ZONE 2 - GROUP 1 - Brush; taping; floating & texture
GROUP 2 - Sandblasting, industrial & steel
ZONE 3 - GROUP 1 - Painters, paperhangers & sheetrock tapers & floaters
GROUP 2 - Structural steel painters of new buildings under construction; the following overall of 30 ft.; tanks, airconditioning, towers, smoke stacks sprinkler systems, wharves & structural steel in old buildings; spray painters, swing stage painter
GROUP 3 - Industrial
ZONE 4 - GROUP 1 - Brush
GROUP 2 - Brush swing stage
GROUP 3 - Brush industrial
GROUP 4 - Spray; spray steel; sandblasting
GROUP 5 - Spray swing stage
GROUP 6 - Paperhanger
GROUP 7 - Sheetrock finishers

ZONE 5 - GROUP 1 - Painters, paperhangers, tapers, floaters; commercial steel, such as churches or any commercial building with closed roof deck or walls
GROUP 2 - Other commercial work brush spray, stage, window jacks, flagpoles & steeple work
GROUP 3 - All industrial work including sandblasting or power tools of any kind

ZONE 7 - GROUP 1 - Painters, paperhangers, tapers, floaters
GROUP 2 - Stage, window jacks, bosun chairs, structural steel, rollers, equipment painting; sandblasting, spray, stack, sign, tank painting, steeple jack
GROUP 3 - Structural steel brush
ZONE 1 - Allen (except northeast corner), Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 2 - Acadia, Ascension (north of Hwy. 22), Assumption (north of Hwy. 22) East Baton Rouge, East Feliciana, Iberia, Iberville, Lafayette, Livingston (north of Hwy. 22), Pointe Coupee, St. Helena, St. Landry (south half), St. Martin, St. Mary (except Morgan City Area), Tangipahoa (west of Hwy. 51), Vermilion, West Baton Rouge & West Feliciana Pars.
ZONE 3 - Ascension (south of Hwy 22), Assumption (south of Hwy. 22), Lafourche, Livingston (south of Hwy. 22), Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Mary (Morgan City Area), St. Tammany (southern portion) & Terrebonne Parishes
ZONE 4 - St. Tammany (northern 2/3, everything north of a straight line running east & west from Pearl River to Mandeville), Tangipahoa (everything east of Rt. 51 & everything north of a straight line running east & west from Madisonville through Ponchatoula) & Washington Parishes

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ZONE 5 - Allen (northeastern most corner, north of Rt. 10), Avoyelles, Catahoula, Evangeline, Grant, LaSalle, Natchitoches (southern half, everything south of Rt. 6 including City of Natchitoches), Rapides, St. Landry (northern portion) & Winn (southern half from a line running east & west through the intersection of Rts. 84 & 71, including the town of Winnfield at that intersection) Parishes
ZONE 6 - Bienville (western half), Bossier, Caddo, Claiborne, DeSoto, Natchitoches (to City of Natchitoches), Red River, Sabine & Webster Parishes
ZONE 7 - Bienville (eastern portion, everything east of Rt. 9 inclusive), Caldwell, Concordia, East Carroll (western 2/3, everything west of Rt. 65 inclusive), Franklin, Jackson, Lincoln, Madison (western half, everything west of Rt. 65 inclusive), Morehouse, Ouachita, Richland, Tensas (west 3/4, everything west of Rt. 65), Union, West Carroll & Winn (northern half, everything north of a line running east & west through Winfield, excluding Winfield) Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS - ZONE 1	9.70				
ZONE 2	9.30				.01
ZONE 3	10.07				
ZONE 4	10.36				.01
ZONE 5	7.05	.30	.20		.03
ZONE 6	7.25				.01
ZONE 7	9.75			1.00	
ZONE 8	10.85		.25		
ZONE 9	8.95		.30		

ZONE 1 - St. Tammany (northern half including Covington north of Hwy. 190) & Washington Pars.
ZONE 2 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary & Vermilion Pars.
ZONE 3 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 4 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. James, St. Helena, Tangipahoa, West Baton Rouge & West Feliciana Pars.
ZONE 5 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany (par. line on the west along U.S. Hwy. 190 through the lower limits of Covington & Abita Springs along State Hwy 435 to Talisheck & on a line due east from Talisheek to the Miss. State Line) & Terrebonne Parishes
ZONE 6 - Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle & Rapides Pars.
ZONE 7 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Pars.
ZONE 8 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Pars.
ZONE 9 - Natchitoches & Sabine Parishes

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		Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS & PIPEFITTERS -	ZONE 1	$11.25	.50	.75		.08
	ZONE 2	11.00	.64	.875		.06
	ZONE 3	10.80	.80	.80		.10
	ZONE 4	10.94	.50	.60	.95	.09
	ZONE 5	11.97	.67	.72		.08

ZONE 1 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James (northern 2/3 of Par.), St. John the Baptist, St. Tammany, Tangipahoa, Terrebonne & Washington Pars.

ZONE 2 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia (eastern ½ of Par), Iberville, Livingston, Pointe Coupee, St. Helena, St. James (western 1/3 of Par), St. Martin (southern part of eastern ½ of Par), St. Mary, West Baton Rouge & West Feliciana Pars.

ZONE 3 - Avoyelles, Caldwell, Catahoula, Concordia, East Carroll, Evangeline, Franklin, Grant, Jackson, LaSalle, Lincoln, Madison, Morehouse, Natchitoches (south of Hwys. 84 & 86 from Winnfield to Natchitoches & southeast from Natchitoches to Anacoco through Bellwood), Ouachita, Rapides, Richland, Tensas, Union, Vernon (northeast of Hwy. 10), West Carroll & Winn Parishes

ZONE 4 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River, Sabine & Webster Pars.; Parts of Natchitoches & Vernon Pars. (northwest from a line drawn from Natchitoches to Anacoco through Bellwood & north of Hwy. 111 between Anacoco & Haddens)

ZONE 5 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Iberia (western ½ of Par.) Jefferson Davis, Lafayette, St. Landry, St. Martin (west of Hwy. 31) & Vermilion Pars.

		Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS (BUILDING CONSTRUCTION)						
ZONE 1 -	GROUP 1	7.69	.65	.63		.05
	GROUP 2	8.05	.65	.63		.05
	GROUP 3	8.38	.65	.63		.05
	GROUP 4	8.47	.65	.63		.05
	GROUP 5	8.79	.65	.63		.05
	GROUP 6	10.27	.65	.63		.05
ZONES 2, 3 & 4 -	GROUP 1	7.97	.65	.48		.05
	GROUP 2	8.34	.65	.48		.05
	GROUP 3	8.73	.65	.48		.05
	GROUP 4	8.79	.65	.48		.05
	GROUP 5	9.16	.65	.48		.05
	GROUP 6	10.77	.65	.48		.05

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		Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 5 -	GROUP 1	$ 7.98	.65	.75		.05
	GROUP 2	7.66	.65	.75		.05
	GROUP 3	7.45	.65	.75		.05
	GROUP 4	8.26	.65	.75		.05
	GROUP 5	10.65	.65	.75		.05
	GROUP 6	8.67	.65	.75		.05
	GROUP 7	9.35	.65	.75		.05
ZONE 6 -	GROUP 1	8.20	.65	.75		.05
	GROUP 2	7.57	.65	.75		.05
	GROUP 3	7.35	.65	.75		.05
	GROUP 4	7.89	.65	.75		.05
	GROUP 5	8.66	.65	.75		.05
	GROUP 6	9.89	.65	.75		.05
	GROUP 7	11.06	.65	.75		.05
	GROUP 8	11.31	.65	.75		.05
	GROUP 9	11.56	.65	.75		.05
	GROUP 10	11.81	.65	.75		.05
ZONE 7 -	GROUP 1	10.53	.65	.75		.05
	GROUP 2	10.78	.65	.75		.05
	GROUP 3	7.65	.65	.75		.05
	GROUP 4	8.04	.65	.75		.05
	GROUP 5	8.85	.65	.75		.05
	GROUP 6	10.28	.65	.75		.05

POWER EQUIPMENT OPERATORS - ZONES 1, 2, 3 & 4 (CLASSIFICATION DEFINITIONS)

GROUP 1 - Oiler

GROUP 2 - Mechanic helper

GROUP 3 - Oiler-Driver

GROUP 4 - Scaleman

GROUP 5 - Air compressor; asphalt plant; bulldozers, D-4 & equivalent & under; bullfloats; concrete spreader; finishing machines; concrete mixer (16-s or less); concrete saw; distributors (bitum surface); dowell bar machine; farm-type tractor (with all attachments except backhoe); fireman; fork lifts (other than setting steel, machinery or pipe); hoist, 1 drum less than 4 stories; kolum buff machine; pull cats; pump (3" & over); pump, concrete (under 6"); rollers, except on asphalt or brick; straddle buggies; sweepers on streets & roads (motorized); winch truck, A-frame (other than handling steel or pipe)

GROUP 6 - Asphalt spreader; backhoe; bulldozer, over D-4 & equivalent; cableways; concrete mixer, over 16-s; cranes; derricks; ditching or trenching machines; draglines; fork lifts (setting steel, machinery or pipe); front end loaders (except farm-type tractors); grease serviceman; hoist, 1 drum, 4 stories or more or 40 ft. (on structures other than buildings), hoist, 2 drums & over; hydrolifts; heavy duty mechanic; motor patrols; piledrivers; pump, concrete (6" & over); road pavers; rollers on asphalt or brick; scoopmobiles; scrapers; sideboom cats; shovels; tractorvators; welder, journeyman; well point system; winch cats (hoisting); winch truck, A-frame (handling steel or pipe)

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POWER EQUIPMENT OPERATORS - ZONE 5

GROUP 1 - Scale op.; oiler-driver on motor crane; batch plant

GROUP 2 - Pumps under 3 inch suction; mechanic helper

GROUP 3 - Oiler

GROUP 4 - Fireman

GROUP 5 - Combination oiler-compressor; combination oiler-fireman; asphalt spreaders; backhoe (all types); bulldozers; cableways; cherry pickers (all types); concrete mixers (over 1 sack); cranes; deck winch (2 drums or over); derricks; ditching or trenching machines (riding type); draglines; dredges; fork lifts (other than farm type); outside warehouses; foundation drill; front end loaders (except farm type); grease serviceman; hoist-1 drum (4 stories or more on buildings); hoist-1 drum (over 40 ft. on structures other than buildings); hoist (2 drums or over); locomotives (all types); mechanic; mixer plant-central mix; motor patrols; piledrivers; pull cat; pump crete-6" & over discharge; push cat; road pavers; rollers (plant mix asphalt); scrapers; shovels; sidebooms; unit op.; welder, journeyman; well point system; whirleys; winch cats (Cat D-4 & over); winch truck with A-frame (5 ton & over); work boats-requiring licensed op.

GROUP 6 - Bush hog; compressor; concrete pump-under 6" discharge; concrete saw; deck winch (1 drum); distributors; ditching or trenching machines (non-riding type); dowel bar machine; farm-type tractors (when used to pull discs, grass-cutters, etc.); hoist-1 drum (under 4 stories on building); hoist-1 drum (40 ft. or under on structures other than buildings); Kolum buff machines; mixers (1 sack & under); motorized street sweepers self-propelled; pump (3" & over); test pump-internal combustion engine powered; water blast pumps

GROUP 7 - Asphalt plant; boom trucks; bullfloats; concrete spreader; farm-type front end loaders; finishing machines (roadway, riding type); roller (other than plant mix asphalt); straddle buggies; winch truck with A-frame (under 5 tons); workboat-not requiring licensed operator

POWER EQUIPMENT OPERATORS - ZONE 6

GROUP 1 - Snatch cat; pumps, 3 inch suction or more

GROUP 2 - Mechanic helper

GROUP 3 - Oiler

GROUP 4 - Batch plant operator

GROUP 5 - Air compressor; asphalt plant engineer; blade grader; distributor (bitum surface); finishing machine (concrete, paving); hoist-1 drum, less than 4 stories; concrete mixer under 16S; Oiler driver; pump crete; street & road sweeper; roller (except on asphalt or brick); roller, asphalt or brick (under 5 tons); post-hole digger; tractor operated bush hog & similar grass or bush cutting equipment

GROUP 6 - A-frame truck; crew boat op.; fireman; fork lift; straddle buggy; traxcavator; scoopmobile & similar front-end loading equipment with scoop or bucket under 1 cu. yd. capacity; locomotive; well point system; unit op.; hoist-1 drum, 4 stories or over

GROUP 7 - Backhoe; cableway; concrete mixer, 16S & up; derrick; crane; dragline; dredge; equipment maintenance mechanic; hoist-2 drums; locomotive crane; paving mixer; piledriver; road paver; roller on asphalt or brick (5 tons or over); shovel; sideboom cats; bulldozer; motor patrol; scraper; hydrolift crane, hydrolift truck, yard crane, cherry picker, etc.; foundation, boring & reaming machine; cement stabilizer; trenching machine; asphalt spreader; traxcavator & similar front end loading equipment with scoop or bucket of 1 cu. yd. or more capacity; tug boat op.; turnapull, euclid, DW-10 & other similar self-loading earth moving equipment; concrete pump (not pump crete)

GROUP 8 - Crane, 60 tons & over; crane, boom 100 ft. & over; piledriver, leads 100 ft. & over

GROUP 9 - Crane, 100 tons & over; crane, boom 150 ft. & over; piledriver leads 150 ft. & over

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GROUP 10 - Crane, boom 250 ft. & over; piledriver, leads over 250 ft.

POWER EQUIPMENT OPERATORS - ZONE 7

GROUP 1 - Assistant master mechanic

GROUP 2 - Master mechanic

GROUP 3 - Oilers

GROUP 4 - Batch plant op.; mechanic helpers; oilers (drivers)

GROUP 5 - A-frame truck, except when working with ironworkers or pipefitters; air compressors, asphalt plant engineers; asphalt finisher, screed men; blade graders; boat op.; bullfloats, concrete joining machines; concrete mixers, 16s & under; concrete spreader; crushers; deck winch (1); distributors, asphalt "Ditch Witch" & similar equipment; electric elevators (inside); finishing machine; fireman; form grader; fork lifts; hoist, 1 drum, under 4 stories; power subgrader; pug mill; pull tractors; pump, pump crete; rollers, except on brick & asphalt; rubber tired front end loaders (with or without blade attachments) less than 1 cu. yd. capacity; scale op.; scoopmobile; snatch cats; spray machines; stabilizers, less than 3 drums; straddle buggy; track mahines & equivalent machines; tractors or bulldozers smaller than D-6

GROUP 6 - A-frame truck, when working with ironworkers & pipefitters; bulldozers D-6 & larger; cableways; concrete mixers, over 16-s paving machines; cranes, derricks; draglines & clam shells; deck winches (2); gradealls; hi-ho & similar type equipment; hoist, 1 drum, 4 stories & over; hoist, 2 drums or more, hydro cranes; mechanic; motor patrols; piledrivers; rollers on brick & asphalt; rubber tired front end loader, with or without attachments, 1 cu. yd. capacity or more; scrapers; shovels; backhoes (all types); sideboom cats; stabilizers, 3 drums or more; traxcavators; trenching machines; unit op.; welder, journeymen; well point systems (gas, diesel, electric, etc.); concrete pump-boom combinations

ZONE 1 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes

ZONE 2 - Avoyelles, Evangeline, Grant, LaSalle, Natchitoches, Rapides, Sabine & St. Landry & Winn Parishes

ZONE 3 - All of Acadia, Lafayette & Vermilion Pars.; Parts of Iberia, St. Martin & St. Mary Pars. (west of a line drawn from the city of Berwick to the Junction of Iberville-St. Landry Pars. border)

ZONE 4 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Parishes

ZONE 5 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Pars

ZONE 6 - All of Ascension, East Baton Rouge, East Feliciana, Iberville, Pointe Coupee, St. Helena, West Baton Rouge & West Feliciana Pars.; Parts of Asaumption & St. James Pars. (northwest of a straight line drawn from the city of Berwick to the city of Lutcher); Parts of Iberia & southern & northern St. Martin Pars. (east & west of a line from the city of Berwick north to the eastern boundary of the city of Krotz Springs); Parts of Livingston, Tangipahoa & Washington Pars. (west of a line drawn north from the city of Lutcher to the east side of the city of Hammond to the La.-Miss. border)

ZONE 7 - All of Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany & Torrebonne Pars.; Parts of Assumption, Livingston, St. James, St. Martin, St. Mary, Tangipahoa & Washington Pars. (that portion of southeastern La. bounded on the north by the State of Miss., on the east by the State of Miss. & the Miss. Sound, on the south by the Gulf of Mexico & on the west by a line drawn as follows: beginning at a point on the La.-Miss. boundary in Washington Par., due north of the town of Hackley, thence southwesterly in a straight line to a point on the east bank of the Miss. River at the southernmost point of Lutcher (including Grameicy in the area), thence in a more southwesterly direction in a straight line to midstream of the Atchafalaya River at Morgan City-Berwick (including Morgan City in this area), thence southerly on a line following midstream of the Atchafalaya River to Atchafalaya Bay & in a line due south to the Gulf of Mexico)

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS (HIGHWAY CONSTRUCTION)					
GROUP 1 - ZONE 1	10.16	.65	.75		.05
ZONE 2	8.31	.25	.39		.05
ZONE 3	9.63	.65	.75		.05
ZONE 4	9.81	.65	.75		.05
ZONE 5	7.85	.65	.75		.05
ZONE 6	7.35	.65	.75		.05
ZONE 7	6.69	.25	.30		.05
ZONE 8	6.14	.25	.30		.05
ZONE 9	5.53	.25	.30		.05
GROUP 2 - ZONE 1	10.41	.65	.75		.05
ZONE 2	8.56	.25	.39		.05
ZONE 3	9.88	.65	.75		.05
ZONE 4	10.06	.65	.75		.05
ZONE 5	8.10	.65	.75		.05
ZONE 6	7.60	.65	.75		.05
ZONE 7	6.94	.25	.30		.05
ZONE 8	6.39	.25	.30		.05
ZONE 9	5.78	.25	.30		.05
GROUP 3 - ZONE 1	9.91	.65	.75		.05
ZONE 2	8.06	.25	.39		.05
ZONE 3	9.38	.65	.75		.05
ZONE 4	9.56	.65	.75		.05
ZONE 5	7.60	.65	.75		.05
ZONE 6	7.10	.65	.75		.05
ZONE 7	6.44	.25	.30		.05
ZONE 8	5.89	.25	.30		.05
ZONE 9	5.28	.25	.30		.05
GROUP 4 - ZONE 1	8.66	.65	.75		.05
ZONE 2	7.13	.25	.39		.05
ZONE 3	8.33	.65	.75		.05
ZONE 4	8.34	.65	.75		.05
ZONE 5	6.63	.65	.75		.05
ZONE 6	6.13	.65	.75		.05
ZONE 7	5.58	.25	.30		.05
ZONE 8	5.02	.25	.30		.05
ZONE 9	4.46	.25	.30		.05
GROUP 5 - ZONE 1	8.31	.65	.75		.05
ZONE 2	6.39	.25	.39		.05
ZONE 3	7.74	.65	.75		.05
ZONE 4	7.73	.65	.75		.05
ZONE 5	6.11	.65	.75		.05
ZONE 6	5.61	.65	.75		.05
ZONE 7	5.02	.25	.30		.05
ZONE 8	4.48	.25	.30		.05
ZONE 9	3.97	.25	.30		.05

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 6 - ZONE 1	$7.41	.65	.75		.05
ZONE 2	5.75	.25	.39		.05
ZONE 3	6.83	.65	.75		.05
ZONE 4	6.83	.65	.75		.05
ZONE 5	5.28	.65	.75		.05
ZONE 6	4.78	.65	.75		.05
ZONE 7	4.86	.25	.30		.05
ZONE 8	4.31	.25	.30		.05
ZONE 9	3.81	.25	.30		.05
GROUP 7 - ZONE 1	7.10	.65	.75		.05
ZONE 2	5.46	.25	.39		.05
ZONE 3	6.49	.65	.75		.05
ZONE 4	6.49	.65	.75		.05
ZONE 5	4.99	.65	.75		.05
ZONE 6	4.49	.65	.75		.05
ZONE 7	4.86	.25	.30		.05
ZONE 8	4.31	.25	.30		.05
ZONE 9	3.81	.25	.30		.05
GROUP 8 - ZONE 1	8.46	.65	.75		.05
ZONE 2	7.13	.25	.39		.05
ZONE 3	8.13	.65	.75		.05
ZONE 4	8.14	.65	.75		.05
ZONE 5	6.48	.65	.75		.05
ZONE 6	5.98	.65	.75		.05
ZONE 7	5.58	.25	.30		.05
ZONE 8	5.02	.25	.30		.05
ZONE 9	4.46	.25	.30		.05
GROUP 9 - ZONE 1	8.71	.65	.75		.05
ZONE 2	7.38	.25	.39		.05
ZONE 3	8.38	.65	.75		.05
ZONE 4	8.39	.65	.75		.05
ZONE 5	6.73	.65	.75		.05
ZONE 6	6.23	.65	.75		.05
ZONE 7	5.83	.25	.30		.05
ZONE 8	5.27	.25	.30		.05
ZONE 9	4.71	.25	.30		.05

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 10 - ZONE 1	$ 7.35	.65	.75		.05
ZONE 2	5.71	.25	.39		.05
ZONE 3	6.74	.65	.75		.05
ZONE 4	6.74	.65	.75		.05
ZONE 5	5.24	.65	.75		.05
ZONE 6	4.74	.65	.75		.05
ZONE 7	5.11	.25	.30		.05
ZONE 8	4.56	.25	.30		.05
ZONE 9	4.06	.25	.30		.05

GROUP 1 - 60 ton crane & over; crane with 125' boom
GROUP 2 - Crane with 175' boom
GROUP 3 - Crane all types; deck winches (2); hi-ho & similar type equipment; 3 drums (or more) stabilizers; pulls all types; concrete mixer 1 yd. & over; all pavers; ditching or trenching machines (track type); mechanics & equipment welders; well point systems; hoist, 2 drums or more; hoist, 1 drum, 40 vertical ft. or more; scrapers, bulldozers, rubber-tired or track other than farm-type; scoopmobiles; motor patrol; gradall; rollers on hot mix; asphalt paving machines; front end loaders, other than farm-type, 1 cu. yd. or over; shovels & backhoes, all types,& equivalent equipment; piledrivers; sideboom cats; a-frame trucks when handling steel or pipe; work boats requiring licensed ops.; tugboats; fork, lifts over 10 ton capacity; foundation drilling machines
GROUP 4 - 2 drums stabilizers; front end loaders under 1 cu. yd.; A-frame truck except when handling steel or pipe; finishing machines (concrete); power subgraders; tow tractor (crawler type); 1 drum hoist under 40 vertical ft.; fireman; concrete spreader; pugmill; bituminous distributor on surface treatment & equivalent; bullfloats & equivalent; job grease man; unit op.; work boats not requiring licensed ops.; inboard motored crew boats
GROUP 5 - Single drum stabilizers; concrete mixer under 1 yd.; spray curing machines; rollers on subgrade; 1 air compressor over 125 cu. ft.; form graders; asphalt finisher screed man; pump over 4"; scale op.; crusher ops.; concrete jointing machines; concrete saw; tack machines & equivalent equipment; pump crete; electric elavator (inside); oiler-driver; farm-type; rubber-tired tractor, with attachments, except backhoes; kolum buff & similar equipment; fork lifts, 10 ton capacity & under; outboard crew boats
GROUP 6 - Mechanic helper; batch plant operator
GROUP 7 - Oiler
GROUP 8 - Fireman
GROUP 9 - Fireman operating steam valve
GROUP 10 - Oiler on crane using air to drive piles
ZONE 1 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Parishes
ZONE 2 - Ascension, East Baton Rouge, Iberville & West Baton Rouge Parishes
ZONE 3 - Bossier & Caddo Parishes
ZONE 4 - Calcasieu Parish
ZONE 5 - Cameron, Jefferson Davis & Red River Parishes
ZONE 6 - Allen & Beauregard Parishes
ZONE 7 - Lafayette, Ouachita & Rapides
ZONE 8 - Acadia, Bienville, DeSoto, Iberia, Livingston, Richland, St. James, St. John the Baptist, St. Landry, St. Martin (north of Iberia Par.), St. Tammany, Tangipahoa, Vermilion, Washington & Webster Parishes
ZONE 9 - Assumption, Avoyelles, Caldwell, Catahoula, Claiborne, Concordia, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Jackson, Lafourche, LaSalle,Lincoln, Madison, Morehouse, Natchitoches, Pointe Coupee, Sabine, St. Helena, St. Martin, (south of Iberia Par.), St. Mary, Tensas, Terrebonne, Union, Vernon, West Carroll, West Feliciana, & Winn Parishes

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS					
ZONE 1 - Roofers	$ 10.38		.20		
ZONE 2 - Roofers	8.06	.70	.75	.28	.70
ZONE 3 - Roofers	9.06	.35	.60		.04
ZONE 4 - Roofers	8.70		.20		
Kettlemen	7.55		.20		
ZONE 5 - Roofers	9.60		.20		.04
Kettlemen	6.65		.20		.04

ZONE 1 - Allen, Beauregard, Calcasieu, Cameron, Evangeline, Jefferson Davis, Vermilion & Vernon Parishes
ZONE 2 - Assumption, Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, South St. Martin, St. Mary, St. Tammany, Terrebonne & Washington Parishes
ZONE 3 - Acadia, Ascension, East Baton Rouge, East Feliciana, Iberia, Iberville, Lafayette, Livingston, Pointe Coupee, St. Helena, St. Landry, North St. Martin, Tangipahoa, West Baton Rouge & West Feliciana Parishes
ZONE 4 - Avoyelles, Caldwell, Catahoula, Concordia, East Carroll, Franklin, Grant, Jackson, LaSalle, Lincoln, Madison, Morehouse, Ouachita, Rapides, Richland, Tensas, Union, West Carroll & Winn Parishes
ZONE 5 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Red River, Sabine & Webster Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SHEET METAL WORKERS - ZONE 1	11.47	.45	.55		.13
ZONE 2	11.00	3%+.60	.91		.14
ZONE 3	11.70	.50	.80		.12
ZONE 4	10.34	3%+.55	.40		.16

ZONE 1 - Calcasieu Parish
ZONE 2 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Tammany, Terrebonne & Washington Parishes
ZONE 3 - Acadia, Allen, Ascension, Assumption, Beauregard, Cameron, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson Davis, Lafayette, Livingston, Pointe Coupee, St. Helena, St. Landry, St. Martin, St. Mary, Tangipahoa, Vermilion, West Baton Rouge & West Feliciana Parishes
ZONE 4 - Avoyelles, Bienville, Bossier, Caddo, Caldwell, Catahoula, Claiborne, Concordia, DeSoto, East Carroll, Franklin, Grant, Jackson, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Ouachita, Rapides, Red River, Richland, Sabine, Tensas, Union, Vernon, Webster, West Carroll & Winn Parishes

DECISION NO. LA79-4001

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SPRINKLER FITTERS	10.80	.75	1.05		.08
TRUCK DRIVERS (BUILDING CONSTRUCTION)					
ZONE 1 - GROUP 1	4.91				
GROUP 2	5.34				
GROUP 3	5.55				
GROUP 4	5.35				
GROUP 5	5.45				
GROUP 6	5.37				
GROUP 7	5.76				
ZONE 2 - GROUP 1	6.70				
GROUP 2	6.95				
GROUP 3	7.50				
GROUP 4	7.35				
GROUP 5	7.80				
GROUP 6	7.90				
GROUP 7	8.20				
GROUP 8	8.35				
ZONE 3 - GROUP 1	5.47				
GROUP 2	5.55				
GROUP 3	5.80				
GROUP 4	5.95				
GROUP 5	6.10				
GROUP 6	6.30				
GROUP 7	6.65				
ZONE 4 - GROUP 1	8.00				
GROUP 2	8.30				
GROUP 3	8.45				
GROUP 4	8.65				
GROUP 5	8.80				
GROUP 6	8.60				

ZONE 1 - GROUP 1 - Teamsters, Pick-up drivers & chauffeurs
GROUP 2 - Stake bodies (all sizes)
GROUP 3 - Trucks trailer & dumps over 8 yds.; mixers on trucks over 3 yds.; Miss. wagons & Koehring dumpsters & similar dirt moving equipment (up to & incl. 8 yds.)
GROUP 4 - Mixers on trucks up to including 3 yds.
GROUP 5 - Winch trucks
GROUP 6 - Trucks, dump
GROUP 7 - Miss. wagons & Koehring dumpsters & similar dirt moving equip. over 8 yds

ZONE 2 - GROUP 1 - Teamsters, pick-up drivers
GROUP 2 - Stake bodies (all sizes); platform dump
GROUP 3 - Truck & trailer; dump
GROUP 4 - Mixers on trucks, up to and including 3 yds
GROUP 5 - Mixers over 3 yds.
GROUP 6 - Winch trucks
GROUP 7 - Miss. wagons & Koehring dumpsters, tandem dumps & similar dirt moving equipment, up to and including 8 yds.
GROUP 8 - Miss. wagons, Koehring dumpsters, tandem dumps & similar dirt moving equipment, over 8 yds.

ZONE 3 -GROUP 1 - Pick-up drivers, spotters & dumpers of dirt, gravel, asphalt & rock
GROUP 2 - Stake bodies; flat beds (all sizes)
GROUP 3 - Single axle dumps & water trucks; transit mix, up to & including 3 yds.
GROUP 4 - Tandem axle dump, batch & water trucks over 3 tons, pickups with trailer
GROUP 5 - Miss. wagons, floats, tractor trailers; rubber tired tractors & wobble wheels
GROUP 6 - Euclids, lowboys, dempsey dumpsters, Koehring-dumps, 5 axle trucks, transit mix over 3 yds., fuel truck
GROUP 7 - Fork lift

ZONE 4 -GROUP 1 - Pick-ups
GROUP 2 - Over 1 ton, up to but not including 3 tons
GROUP 3 - 3 tons up to but not including 5 tons
GROUP 4 - 5 tons & over including but not limited to: winch, dempsey dumpster, lowboy, semi-trailer, euclid, tournapull & similar equipment when used for transporting material
GROUP 5 - Larger trucks carrying capacity rear axles 50,000 lbs. & over
GROUP 6 - Winch truck with A-frame when used for transporting material

ZONE 1 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Pars.
ZONE 2 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary & Vermilion Pars.
ZONE 3 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 4 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. James, Tangipahoa, Washington, West Baton Rouge & West Feliciana Parishes

DECISION NO. LA79-4001

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS (HIGHWAY CONSTRUCTION)					
GROUP 1 - ZONE 1	$ 6.88	.45			
ZONE 2	5.49				
ZONE 3	7.06				
ZONE 4	7.49				
ZONE 5	6.17				
ZONE 6	6.27				
ZONE 7	4.45				
ZONE 8	4.35				
ZONE 9	4.25				
GROUP 2 - ZONE 1	7.01	.45			
ZONE 2	5.61				
ZONE 3	7.16				
ZONE 4	7.62				
ZONE 5	6.30				
ZONE 6	6.40				
ZONE 7	4.56				
ZONE 8	4.46				
ZONE 9	4.36				
GROUP 3 - ZONE 1	7.07	.45			
ZONE 2	5.66				
ZONE 3	7.39				
ZONE 4	7.68				
ZONE 5	6.36				
ZONE 6	6.46				
ZONE 7	4.61				
ZONE 8	4.51				
ZONE 9	4.41				
GROUP 4 - ZONE 1	7.15	.45			
ZONE 2	5.73				
ZONE 3	7.60				
ZONE 4	7.75				
ZONE 5	6.43				
ZONE 6	6.53				
ZONE 7	4.67				
ZONE 8	4.57				
ZONE 9	4.47				
GROUP 5 - ZONE 1	7.34	.45			
ZONE 2	5.89				
ZONE 3	8.02				
ZONE 4	7.94				
ZONE 5	6.63				
ZONE 6	6.72				
ZONE 7	4.83				
ZONE 8	4.73				
ZONE 9	4.63				

GROUP 1 - 1 ton & under; warehouseman, material checker, receiving clerk, spotter & dumper
GROUP 2 - 1½ tons to & including 2 tons (exclusive of dump trucks), truck mechanic helper
GROUP 3 - Single axle dump trucks, single axle water trucks
GROUP 4 - Heavy equipment, tandem axle dump & tandem axle water trucks, winch lift, transit mix, floats, pole trailers, 4 axle trailers & truck mechanic
GROUP 5 - Special equipment, euclids & 5 axle moving equipment

ZONE 1 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Parishes
ZONE 2 - East Baton Rouge Parish
ZONE 3 - Bossier & Caddo Parishes
ZONE 4 - Calcasieu Parish
ZONE 5 - Allen & Beauregard Parishes
ZONE 6 - Cameron & Jefferson Davis Parishes
ZONE 7 - Lafayette, Ouachita & Rapides Parishes
ZONE 8 - Acadia, Ascension, Bienville, DeSoto, Iberia, Iberville, Livingston, Red River, Richland, St. James, St. John the Baptist, St. Landry, St. Martin, (north of Iberia Par.), St. Tammany, Tangipahoa, Vermilion, Washington, Webster & West Baton Rouge Parishes
ZONE 9 - Assumption, Avoyelles, Caldwell, Catahoula, Claiborne, Concordia, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Jackson, Lafourche, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Pointe Coupee, Sabine, St. Helena, St. Martin (south of Iberia Par.), St. Mary, Tensas, Terrebonne, Union, Vernon, West Carroll, West Feliciana & Winn Parishes

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

SUPERSEDEAS DECISION

STATE: Louisiana
DECISION NO.: LA79-4002
PARISHES: Bossier, Caddo & Calcasieu
DATE: Date of Publication
Supersedes Decision No. LA78-4113 dated October 13, 1978, in 43 FR 47429.
DESCRIPTION OF WORK: Residential construction consisting of single family homes & garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Bossier & Caddo Parishes	$10.83	.50	.76		.03
Calcasieu Parish	11.47	.525	.90		.04
BOILERMAKERS	11.05	.80	1.00		.02
BRICKLAYERS & STONEMASONS:					
Bossier & Caddo Parishes	10.25	.40	.45		
Calcasieu Parish	11.45	.53	.60		.05
CARPENTERS:					
Bossier & Caddo Parishes:					
Carpenters	9.85	.45	.35		.04
Millwrights	10.60	.45	.35		.04
Piledrivermen	10.10	.45	.35		.04
Calcasieu Parish:					
Carpenters & piledrivermen	10.35	.60	.33		.07
Millwrights	12.05				.07
CEMENT MASONS:					
Bossier & Caddo Parishes	9.30	.35			
Calcasieu Parish	9.45				
ELECTRICIANS:					
Bossier & Caddo Parishes:					
Electricians	12.05	1.15	3%		1%
Cable splicers	12.55	1.15	3%		1%
Calcasieu Parish:					
New & old single or multiple family residences & apartment complexes, not to exceed 12 units, 2 story walk-up	6.25	.35	3%+.20		3/10%
Other work:					
Electricians	13.05	.35	3%+.40		1/10%
Cable splicers	13.30	.35	3%+.40		1/10%
ELEVATOR CONSTRUCTORS:					
Bossier & Caddo Parishes:					
Mechanics	9.595	.745	.35	4%+a+b	.02
Helpers	70%JR	.745	.35	4%+a+b	.02
Helpers (Probationary)	50%JR				
Calcasieu Parish:					
Mechanics	9.76	.545	.35	4%+a+b	.02
Helpers	70%JR	.545	.35	4%+a+b	.02
Helpers (Probationary)	50%JR				
GLAZIERS:					
Bossier & Caddo Parishes	8.68		.30		.04
Calcasieu Parish	10.15				.02
IRONWORKERS:					
Bossier & Caddo Parishes	11.05	.45	.90		.06
Calcasieu Parish	11.10	.35	.60		.05

DECISION NO. LA79-4002

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Bossier & Caddo Parishes:					
GROUP 1 - Building laborers	$ 6.65	.25	.15		.05
GROUP 2 - Mason tenders, plasterer tenders; asphalt rakers, asphalt smoothers	6.75	.25	.15		.05
GROUP 3 - Mortar mixers	6.80	.25	.15		.05
GROUP 4 - Air jacks, vibrators; sewer pipe layers & wipers	6.85	.25	.15		.05
Calcasieu Parish:					
GROUP 1 - Building & general laborer; tenders (carpenter, plaster, cement finisher, mason); tank & vessel cleaners	7.95	.25	.15		.05
GROUP 2 - Air tool op. (except jackhammer); interior of closed tanks & vessels power equipment	8.05	.25	.15		.05
GROUP 3 - Mortar mixers	8.10	.25	.15		.05
GROUP 4 - Jackhammer operator	8.20	.25	.15		.05
GROUP 5 - Blasterers	8.91	.25	.15		.05
GROUP 6 - Blaster helpers; concrete cutters behind paving machines & puddlers; form setters & lines asphalt worker	8.47	.25	.15		.05
GROUP 7 - Wire joints, laying pipe & tile from pumpcrete	8.31	.25	.15		.05
GROUP 8 - Interior or closed tanks & vessels manually	8.00	.25	.15		.05
LATHERS:					
Bossier & Caddo Parishes	11.35				
Calcasieu Parish	10.585	.30			.01
MARBLE SETTERS:					
Bossier & Caddo Parishes	9.15	.30			
Calcasieu Parish	11.45	.53	.60		.05
PAINTERS:					
Bossier & Caddo Parishes:					
Painters, tape & float, vinyl & paperhangers	9.55	.40	.30		.05
Calcasieu Parish:					
GROUP 1 - Brush, roller, buffer	10.985		.20		
GROUP 2 - Paperhangers, taping & floating	11.185		.20		
GROUP 3 - Spray, sandblasting	11.33		.20		
PLASTERERS:					
Bossier & Caddo Parishes	9.75			1.00	
Calcasieu Parish	10.07				
PLUMBERS & PIPEFITTERS:					
Bossier & Caddo Parishes	10.94	.50	.60	.95	.09
Calcasieu Parish	11.97	.67	.72		.08
ROOFERS:					
Bossier & Caddo Parishes:					
Roofers	9.60		.20		.04
Kettlemen	6.65		.20		.04

DECISION NO. LA79-4002

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS (CONT'D):					
Calcasieu Parish:					
Roofers	$10.38		.20		
SHEET METAL WORKERS:					
Bossier & Caddo Parishes	6.59	3%+.40			.12
Calcasieu Parish	11.47	.45	.55		.13
SOFT FLOOR LAYERS:					
Bossier & Caddo Parishes	9.85	.45	.35		.04
Calcasieu Parish	10.35	.60	.33		.07
SPRINKLER FITTERS	10.80	.75	1.05		.08
TERRAZZO WORKERS:					
Bossier & Caddo Parishes	9.15	.30			
Calcasieu Parish	11.45	.53	.60		.05
TILE SETTERS:					
Bossier & Caddo Parishes	9.15	.30			
Calcasieu Parish	8.50	.48	.60		.02
TRUCK DRIVERS:					
Bossier & Caddo Parishes:					
GROUP 1 - Pick-ups, spotters & dumpers	5.47				
GROUP 2 - Stake bodies; flat beds (all sizes)	5.55				
GROUP 3 - Single axle dumps & water trucks; transit mix up to & including 3 yds.	5.80				
GROUP 4 - Tandem axle, dump, batch & water trucks over 3 tons, pick-ups with trailer	5.95				
GROUP 5 - Mississippi wagons, floats, tractor trailers; rubber tired tractors & wobble wheels	6.10				
GROUP 6 - Euclids, lowboys, Dempsey dumpsters, Koehring dumps, 5 axle trucks, transit mix over 3 yds.	6.30				
Calcasieu Parish:					
GROUP 1 - Pick-ups	4.91				
GROUP 2 - Stake bodies(all sizes)	5.34				
GROUP 3 - Trucks trailer & dump over 8 yds.; Mixers on trucks over 3 yds.; Mississippi wagon & Koehring dumpsters & similar dirt moving equipment (up to & including 8 yds.)	5.55				
GROUP 4 - Mixers on trucks up to & including 3 yds.	5.35				
GROUP 5 - Winch trucks	5.45				
GROUP 6 - Dump trucks	5.37				
GROUP 7 - Mississippi wagons & Koehring; dumpsters & similar dirt moving equipment over 8 yds.	5.76				

DECISION NO. LA79-4002

FOOTNOTES FOR ELEVATOR CONSTRUCTORS:
a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 2%; over 5 yrs. - 4% of basic hourly rate
b - Paid Holidays - A thru G.

PAID HOLIDAYS FOR ELEVATOR CONSTRUCTORS:
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-the Friday after Thanksgiving Day; G-Christmas Day

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
Calcasieu Parish:					
GROUP 1	$ 7.98	.65	.75		.05
GROUP 2	7.66	.65	.75		.05
GROUP 3	7.45	.65	.75		.05
GROUP 4	8.26	.65	.75		.05
GROUP 5	10.65	.65	.75		.05
GROUP 6	8.67	.65	.75		.05
GROUP 7	9.35	.65	.75		.05

GROUP 1 - Scale Operator; Oiler-Driver on Motor Crane; Batch Plant Operator
GROUP 2 - Pumps under 3 inch suction; Mechanic Helper
GROUP 3 - Oiler
GROUP 4 - Fireman
GROUP 5 - Combination Oiler-Compressor; Combination Oiler-Fireman; Asphalt Spreaders; Backhoe (all types); Bulldozers; Cableways; Cherry Pickers (all types); Concrete Mixers (over 1 sack); Cranes; Deck Winch (2 drums or over); Derricks; Ditching or trenching machines (riding type); Draglines; Dredges; Fork Lifts (other than farm type) outside warehouses; Foundation Drill; Front End Loaders (except farm type); Grease Serviceman; Hoist-1 drum (4 stories or more on buildings); Hoist-1 drum (over 40 ft. on structures other than buildings); Hoist (2 drum or over); Locomotive (all types); Mechanic; Mixer Plant Operator-Central Mix; Motor Patrols; Pile-drivers; Pull Cat; Pump Crete-6" and over discharge; Push Cat; Road Pavers; Rollers (Plant Mix Asphalt); Scrapers; Shovels; Slideboom; Unit Operator; Welder, Journeyman; Well Point System; Whirleys; Winch Cats (Cat D-4 & over); Winch Truck with A-Frame (5 ton & over); Work Boats-requiring licensed operator
GROUP 6 - Bush Hog; Compressor; Concrete pump-under 6" discharge; Concrete Saw; Deck Winch (1 drum); Distributors; Ditching or trenching machines (non-riding type); Dowel Bar Machine; Farm-type tractors (2on used to pull discs, grass cutters, etc.); Hoist-1drum (under 4 stories on buildings); Hoist-1 drum (40 feet or under on structures other than buildings); Kolm Buff Machines; Mixers (1 sack & under); Motorized street sweepers self-propelled; Pump (3" & over); Test Pump-Internal combustion engine powered; Water Blast Pump
GROUP 7 - Asphalt Plant Operator; Boom Trucks; Skull Floats; Concrete Spreader; Farm Type Front End loaders; Finishing Machines (Roadway, riding types); Roller (other than plant mix asphalt); Straddle Buggies; Winch Truck with A-Frame (under 5 tons); Work Boats-not requiring licensed operator

SUPERSEDEAS DECISION

STATE: New Mexico COUNTY: Statewide
DECISION NO.: NM79-4021 DATE: Date of Publication
Supersedeas Decision No. NM78-4076 dated August 11, 1978 in 43 FR 35853
DESCRIPTION OF WORK: BUILDING AND HEAVY CONSTRUCTION (also including RESIDENTIAL CONSTRUCTION in Santa Fe, Bernalillo, Rio Arriba, Taos, Sandoval and Valencia Counties).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BUILDING & HEAVY CONSTRUCTION					
ASBESTOS WORKERS:					
(Statewide, except Union, Lea, Harding, Curry, Roosevelt and Quay Counties)	$12.36	.50	1.37a		.06
Union, Harding, Lea, Roosevelt, Curry and Quay Counties	10.00	.65	.55		.07
BOILERMAKERS	10.165	1.075	1.00	.50	.02
BRICKLAYERS-STONEMASONS:					
Zone I-A	10.56	.67	.40		.10
Zone I-B	11.81	.67	.40		.10
Zone I-C	12.56	.67	.40		.10
Zone II	10.61	.67	.50		.10
Zone III	11.61	.67	.50		.10
Zone IV	10.76	.67	.50		.10
Zone V	11.76	.67	.50		.10
Zone VI	10.01	.67	.40		.10
Zone VII	10.76	.67	.40		.10
Zone VIII	11.44	.67	.30		.10
Zone IX	10.19	.67	.30		.10

BRICKLAYERS' ZONE DEFINITIONS

ZONE I - Union, Harding, Santa Fe, Valencia, Torrence, Taos, Socorro, Mora, McKinley, Colfax, Catron, San Miguel, San Juan, Sandoval, Rio Arriba, Bernalillo and Los Alamos Counties
From basing point of Albuquerque Main Post Office:
Zone I-A - 0 to 25 road miles
Zone I-B - 25 to 50 road miles
Zone I-C - Over 50 road miles
ZONE II - Curry, and Roosevelt Counties
ZONE III - DeBaca, Guadalupe and Quay Counties
ZONE IV - Chaves County
ZONE V - Lincoln County
ZONE VI - Lee and Eddy Counties
ZONE VII - Otero Counties
ZONE VIII - Luna and Grant Counties, communities of Silver City, Bayard, Central, Hurley and new town site of Tyrone; Hidalgo and Sierra Counties
ZONE IX - Dona Ana County

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BUILDING AND HEAVY CONSTRUCTION					
CARPENTERS:					
Dwelling houses & apartments not to exceed two stories in height:					
Zone I-A	7.50	1.00	1.10	.65	.20
Zone I-B	8.75	1.00	1.10	.65	.20
Zone I-C	9.50	1.00	1.10	.65	.20
General Building, Heavy and Residential Construction (Dwelling houses and apartments over two stories in height):					
Zone 2-A	10.45	1.00	1.05		.20
Zone 2-B	11.95	1.00	1.05		.20
Zone 2-C	12.45	1.00	1.05		.20

CARPENTERS' ZONE DEFINITIONS

CARPENTERS (STATEWIDE) - From nearest basing points of the following cities of Towns: Alamogordo, Albuquerque, Artesia, Bayard, Belen, Carlsbad, Clovis, Deming, Espanola, Eunice, Farmington, Gallup, Grants, Hobbs, Las Cruces, Las Vegas, Lordsburg, Lovington, Portales, Raton, Roswell, Ruidoso, Santa Fe, Santa Rosa, Silver City, Socorro, Taos, and Tucumcari:
ZONE I - Dwelling houses & apartments not to exceed two stories in height:
Zone I-A - 0 - 15 road miles from nearest basing point
Zone I-B - 15 to 35 road miles from nearest basing point
Zone I-C - Over 35 road miles from nearest basing point
ZONE II - General Building & Heavy Construction and Residential Construction (Dwelling Houses and Apartments over two stories in height):
Zone 2-A - 0 - 15 road miles from nearest basing point
Zone 2-B - 15 to 35 road miles from nearest basing point
Zone 2-C - Over 35 road miles from nearest basing point

MILLWRIGHTS & PILEDRIVERMEN:					
Zone 1	11.20	1.00	1.05		.20
Zone 2	12.45	1.00	1.05		.20
Zone 3	13.20	1.00	1.05		.20

MILLWRIGHTS & PILEDRIVERMEN ZONE DEFINITIONS

BASING POINT - FROM ALBUQUERQUE CITY LIMITS:
Zone 1 - 0 to 15 road miles from basing point
Zone 2 - 15 to 35 road miles from basing point
Zone 3 - Over 35 road miles from basing point

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS:					
Area I	8.77	.57	.50		
Area II					
Zone 1	8.77	.57	.50		
Zone 2	8.77	.57	.50		
Zone 3	9.02	.57	.50		
Cement masons (Residential)	5.35	.57	.50		
Cement masons (Heavy)	9.22	.67	.55		.20
CEMENT MASONS:					
Composition & Machine Operators					
Area I	9.02	.57	.50		
Area II					
Zone 1	9.02	.57	.50		
Zone 2	8.92	.57	.45		
Zone 3	9.27	.57	.45		

CEMENT MASONS AREA DEFINITIONS

AREA I - Statewide except Farmington, San Juan County

AREA II - Farmington, San Juan County
Zone I - 0 - 15 miles from Farmington City Hall
Zone II - 15-35 miles from Farmington City Hall
Zone III - 35 miles and over from Farmington City Hall

ELECTRICIANS:					
Zone I					
1-A	11.35	.60	3%+.70		½%
1-B	12.14	.60	3%+.70		½%
1-C	12.83	.60	3%+.70		½%
1-D	13.62	.60	3%+.70		½%
Zone II	12.83	.60	3%+.70		½%
Zone III					
3-A	9.60	.30	3%		1/10%
3-B	11.05	.30	3%		1/10%
Zone IV					
4-A	10.95	.60	3%		.01
4-B	11.30	.60	3%		.01
4-C	11.45	.60	3%		.01
4-D	11.70	.60	3%		.01
Zone V	5.80	.30	1%		4%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CABLE SPLICERS:					
Zone I					
1-A	11.99	.60	3%+.70		½%
1-B	12.75	.60	3%+.70		½%
1-C	13.41	.60	3%+.70		½%
1-D	14.17	.60	3%+.70		½%
Zone II	13.97	.60	3%+.70		½%
Zone III					
3-A	9.85	.30	3%		1/10%
3-B	11.30	.30	3%		1/10%
Zone IV					
4-A	11.30	.60	3%		.01
4-B	11.65	.60	3%		.01
4-C	11.80	.60	3%		.01
4-D	12.05	.60	3%		.01

ELECTRICIANS-CABLE SPLICERS ZONE DEFINITIONS

ZONE I
Area 1 - Bernalillo, Santa Fe, Torrance, DeBaca, Guadalupe, Quay, San Miguel, Mora, Harding, Union, Colfax, Taos, Rio Arriba, Grant, Sandoval, Valencia, Socorro, Catron, McKinley, Sierra, San Juan, Chaves, Curry, Lincoln and Roosevelt Counties
Area 1-A - From nearest basing point cities, towns and mileage from main post office in the following towns:
Albuquerque - 15 miles from main post office
Santa Fe - 15 miles from main post office
Las Vegas - 8 miles from main post office
Farmington - 8 miles from main post office
Raton - 6 miles from main post office
Tucumari - 6 miles from main post office
Aztec - 6 miles from main post office
Roswell - 12 miles from main post office
Ruidoso - 12 miles from main post office
Portales - 12 miles from main post office
Carrizozo - 12 miles from main post office
Clovis - 12 miles from main post office
Gallup - 10 miles from main post office
*Pojoaque - 2 miles from main post office
*All areas adjacent to Pojoaque that are over two (2) miles distant from the main post office in that town will be zoned out of Santa Fe.

ELECTRICIANS-CABLE SPLICERS ZONE DEFINITIONS CONTD:

ZONE I CONTD:
Area 1-B - extending up to 20 miles beyond Area 1-A

Area 1-C - extending uo to 30 miles from Area 1-A

Area 1-D - anything beyond 30 miles from Area 1-A
ZONE II - Los Alamos County
ZONE III - Dona Ana, Otero, Luna, Hidalgo Counties
Zone 3-A - Within 10 miles radius from the post office in Las Cruces and within a 5 mile radius from the post office in Alamogordo.
Zone 3-B - Dona Ana, Otero, Luna, and Hidalgo Counties (except that area specified in Zone 3-A)
ZONE IV - Eddy and Lea Counties - the following zones shall be designated from the main post office in Artesia, Carlsbad, Hobbs and Lovington:
Zone 4-A - 0 - 12 miles from main post office
Zone 4-B - 12 - 22 miles from main post office
Zone 4-C - 22 - 40 miles beyond main post office
Zone 4-D - 40 miles and beyond main post office
ZONE V - Single or multiple, family dwelling or apartments up to and including 26 units under one roof not exceeding two stories - Bernalillo, Santa Fe, Taos, Rio Arriba, Sandoval, Valencia and San Juan Counties, but not on the Navajo Indian Reservation

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS:					
Bernalillo, Catron, Colfax, Curry, DeBaca, Guadalupe, Harding, Lincoln, Los Alamos, McKinley, Mora, Quay, Rio Arriba, Roosevelt, Sandoval, San Juan, San Miguel, Santa Fe, Socorro, Taos, Torrance, Union and Valencia Counties:					
Elevator constructors	10.96	.545	.35	3%+b+c	.02
Elevator constructors helpers	70%JR	.545	.35	3%+b+c	.02
Elevator constructors, prob.	50%JR				
Chaves, Midalgo, Dona Ana, Eddy, Grant, Lea, Luna, Otero and Sierra Counties:					
Elevator constructors	8.57	.745	.35	4%+b+c	.02
Elevator constructors helper	70%JR	.745	.35	4%+b+c	.02
Elevator constructors, prob.	50%JR				
GLAZIERS:					
Zone I	7.29	.30	.10		.02
Zone II	9.39	.50	.20		.04

GLAZIERS' ZONE DEFINITIONS

GLAZIERS
ZONE I - Dona Ana, Luna, Otero Counties
Zone II - Statewide, except Dona Ana, Luna and Otero Counties

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
IRONWORKERS:					
ZONE I - Area I	11.15	.65	1.25		.18
ZONE I - Area II					
Zone 1	11.15	.65	1.25		.18
Zone 2	12.40	.65	1.25		.18
Zone 3	13.15	.65	1.25		.18
Zone 4	13.40	.65	1.25		.18
ZONE II	10.30	.55	1.15		.15
ZONE III	11.30	.55	1.15		.15

IRONWORKERS ZONE DEFINITIONS

ZONE I
AREA I - Bernalillo, Catron, Colfax, DeBaca, Guadalupe, Lincoln, Los Alamos, McKinley, Mora, Rio Arriba, Sandoval, Santa Fe, Socorro, Taos, Torrance, and Valencia Counties

ZONE I
AREA II - Farmington, San Juan County
Zone 1 - Shall extend a distance of 6 road miles inclusive beyond the City Hall
Zone 2 - Shall extend a distance of 8 road miles inclusive beyond the outer perimeter of zone 1
Zone 3 - Shall extend a distance of 10 road miles inclusive beyond the outer limits of zone 2
Zone 4 - Shall extend a distance of 27 road miles inclusive beyond the outer limits of zone 3
All areas not within Zones 1, 2, 3, and 4 shall revert to the $15.00 per day subsistence rate.

ZONE II - Dona Ana, county with the exception of that portion of the county that lies within the White Sands Missile Range; Chaves County, Eddy County except that Potash Basin and defined as the area 10 road miles on Highway 62 and Highway 180, east of Carlsbad.

ZONE III - Curry, Harding, Quay, Union, Hidalgo, Grant, Lea, Luna, Otero and Sierra Counties; also Potash Basin, White Sands and McGregor Missile Ranges.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: BUILDING					
Group I	6.61	.53	.67		.05
Group II	6.91	.53	.67		.05
Group III	6.91	.53	.67		.05
Group IV	7.21	.53	.67		.05
Group V	7.36	.53	.67		.05

BUILDING LABORERS CLASSIFICATION DEFINITIONS

GROUP I - Unskilled; building and common laborers, carpenter tenders, concrete workers, chainmen - stakedrivers, concrete buggy operators
GROUP II - Semi-skilled; air and power tool operator, asphalt rakers, demolition, gunite, rebound men, fog machine operator, power buggy operators, rodmen; sand blasterers (pot men), window washers, wagon, core and diamond drillers tenders; outside scaler, grade setter
GROUP III - Wagon core, diamond drillers
GROUP IV - Concrete burner, cement mason tenders, hod carriers, mortar mixers, plaster spreader operators, plaster tenders, gunite nozzlemen, pipelayers, pumpcrete nozzlemen
GROUP V - Powdermen and blasterers

LABORERS (HEAVY CONSTRUCTION & SITE PREPARATION & DIRT WORK)
ZONE I - Statewide including 15 miles from Farmington Hall
ZONE II - 15 to 35 miles from Farmington Hall
ZONE III - 35 miles and over from Farmington Hall

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (HEAVY CONSTRUCTION & SITE PREPARATION & DIRT WORK					
ZONE I					
Group 1	7.11	.53	.77		.05
Group 2	7.41	.53	.77		.05
Group 3	7.51	.53	.77		.05
Group 4	7.71	.53	.77		.05
Group 5	7.86	.53	.77		.05
ZONE II					
Group 1	7.36	.53	.77		.05
Group 2	7.71	.53	.77		.05
Group 3	7.76	.53	.77		.05
Group 4	7.96	.53	.77		.05
Group 5	8.11	.53	.77		.05
ZONE III					
Group 1	7.86	.53	.77		.05
Group 2	8.16	.53	.77		.05
Group 3	8.26	.53	.77		.05
Group 4	8.46	.53	.77		.05
Group 5	8.61	.53	.77		.05

LABORERS (HEAVY CONSTRUCTION, SITE PREPARATION AND DIRT WORK) CLASSIFICATION DEFINITIONS

GROUP I - Unskilled - Construction and general laborers, carpenter tenders, concrete workers, stakedrivers, concrete buggy operators
GROUP II - Semi-skilled - Air and power tool operators, asphalt rakers, cutting torch operators, demolition, gunite rebound men, rod and chainmen, grade setters, power buggy operators, sand blasters (pot men), nozzlemen, wagon core and diamond drillers' tenders, outside scalers, fog machine operators
GROUP III - Wagon core, diamond drillers
GROUP IV - Miscellaneous - Concrete burner, cement mason tenders, hod carriers, mortar mixers, plaster spreader operators, plaster tenders, gunite nozzlemen, pipelayers, pumpcrete nozzlemen
GROUP V - Powdermen and blasters

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS RESIDENTIAL CONSTRUCTION					
Group I	5.02	.53	.67		.05
Group II	5.32	.53	.67		.05
Group III	5.42	.53	.67		.05
Group IV	5.62	.53	.67		.05

RESIDENTIAL LABORERS' CLASSIFICATION DEFINITIONS

GROUP I - Unskilled - Building and common laborers, carpenter tenders, concrete workers, chainmen - stakedrivers, concrete buggy operators, hand
GROUP II - Semi-skilled - air and power tool operator, asphalt rakers, demolition, gunnite rebound men, fog machine operator, power buggy operator, rodmen, sand blasterers (pot men), window washers, wagon, core and diamond drillers, tender outside
GROUP III - Wagon core, diamond drillers
GROUP IV - Concrete burner, cement mason tenders, hod carriers, mortar mixers, plaster spreader operators, plaster tenders, gunnite nozzlemen, pipelayer, pumpcrete nozzlemen

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS:					
Zone I	10.84	.67			.06
Zone II	11.66	.67			.01
Zone III	8.98				.01

LATHERS' ZONE DEFINITIONS

ZONE I - Catron, Grant, Bernalillo, Roosevelt, Union, Sandoval, San Juan, Socorro, Torrance and Valencia Counties
ZONE II - Colfax, Los Alamos, Mora, Rio Arriba, San Miguel, Santa Fe and Taos Counties
ZONE III - Dona Ana and Otero Counties

COMMERCIAL AND INDUSTRIAL LINE WORK

Bernalillo, Colfax, Catron, Chaves, Curry, DeBaca, Grant, Guadalupe, Harding, Lincoln, Los Alamos, McKinley, Mora, Quay, Rio Arriba, Roosevelt, Sandoval, San Juan, San Miguel, Santa Fe, Sierra, Socorro, Taos, Torrance, Union, Valencia and White Sands Missile Range and that portion of Fort Bliss in New Mexico.

ZONE I
Cities and Towns Basing Points - Miles from Main Post Offices

Albuquerque - 15 miles
Santa Fe - 10 miles
Las Vegas - 8 miles
Farmington - 6 miles
Raton - 6 miles
Tucumcari - 6 miles
Aztec - 6 miles
Roswell - 12 miles
Ruidoso - 12 miles
Portales - 12 miles
Carrisoso - 12 miles
Clovis - 12 miles
Gallup - 12 miles
*Pojoaque - 2 miles

*All areas adjacent to Pojoaqus that are over two miles distant from the main post office in that town will be zoned out of Santa Fe.

ZONE II - Extending up to 20 miles beyond zone 1

ZONE III - Extending up to 30 miles beyond zone 1

ZONE IV - Anything beyond 30 miles from zone 1

COMMERCIAL & INDUSTRIAL	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE WORK					
ZONE I					
Linemen - Technicians	11.75	.60	3%+.70		½%
Cable splicers	12.93	.60	3%+.70		½%
Equipment Operator (includes Helicopter op.)	11.16	.60	3%+.70		½%
Equipment Mechanic (includes Helicopter mechanic)	10.22	.60	3%+.70		½%
Powderman	10.22	.60	3%+.70		½%
Groundman & Jackhammer Oprs:					
1st 6 months	6.35	.60	3%+.70		½%
2nd 6 months	7.05	.60	3%+.70		½%
Experienced	8.34	.60	3%+.70		½%

COMMERCIAL & INDUSTRIAL WORK CONT'D:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE II					
Linemen - Technicians	12.57	.60	3%+.70		½%
Cable splicers	13.75	.60	3%+.70		½%
Equipment Operator (includes Helicopter Op.)	11.98	.60	3%+.70		½%
Equipment Mechanic (includes Helicopter mechanic)	11.04	.60	3%+.70		½%
Powderman	11.04	.60	3%+.70		½%
Groundman & Jackhammer Oprs:					
1st 6 months	7.17	.60	3%+.70		½%
2nd 6 months	7.87	.60	3%+.70		½%
Experienced	9.16	.60	3%+.70		½%
ZONE III					
Linemen - Technicians	13.28	.60	3%+.70		½%
Cable splicers	14.46	.60	3%+.70		½%
Equipment Operator (includes helicopter op.)	12.69	.60	3%+.70		½%
Equipment mechanic (includes helicopter mechanic)	11.75	.60	3%+.70		½%
Powderman	11.75	.60	3%+.70		½%
Groupdman & Jackhammer Oprs:					
1st 6 months	7.88	.60	3%+.70		½%
2nd 6 months	8.58	.60	3%+.70		½%
Experienced	9.87	.60	3%+.70		½%
ZONE IV					
Linemen - Technicians	14.10	.60	3%+.70		½%
Cable splicers	15.28	.60	3%+.70		½%
Equipment Operator (includes helicopter op.)	13.51	.60	3%+.70		½%
Equipment Mechanic (includes helicopter mechanic)	12.57	.60	3%+.70		½%
Powderman	12.57	.60	3%+.70		½%
Groundman & Jackhammer Oprs:					
1st 6 months	8.70	.60	3%+.70		½%
2nd 6 months	9.40	.60	3%+.70		½%
Experienced	10.69	.60	3%+.70		½%

Los Alamos County - Use Zone III Rates

COMMERCIAL AND INDUSTRIAL LINE WORK
Applies to switching stations and substations adjacent to power plants in Zone 1 and zone 2 in Luna, Dona Ana, Otero and Hidalgo Counties, exclusive of White Sands Missile Range and that portion of Fort Bliss in New Mexico.

ZONE I
The area within 25 miles radius from the downtown Post Office of El Paso, Texas. Fort Bliss and Biggs Field; the area within a five mile radius of any city, town or municipality within which an employer establishes or maintains his place of business; the area with a ten mile radius from the post office in Las Cruces, New Mexico, and within a five mile radius from the post office in Alamogordo, New Mexico.

ZONE II
All other areas of the jurisdiction except those specified in zone 1

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE I					
Linemen - technicians	9.60	.30	3%		½%
Cable splicers	9.85	.30	3%		½%
Equipment operator (includes helicopter opr.)	9.12	.30	3%		½%
Equipment mechanic (includes helicopter mechanic)	8.40	.30	3%		½%
Powderman	8.40	.30	3%		½%
Groundman & Jackhammer Oprs:					
1st 6 months	5.18	.30	3%		½%
2nd 6 months	5.86	.30	3%		½%
Experienced	6.82	.30	3%		½%
ZONE II					
Linemen - technicians	11.05	.30	3%		½%
Cable splicers	11.30	.30	3%		½%
Equipment operator (includes helicopter opr.)	10.50	.30	3%		½%
Equipment mechanic (includes helicopter mechanic	9.67	.30	3%		½%
Powderman	9.67	.30	3%		½%
Groundman & Jackhammer Oprs:					
1st 6 months	5.97	.30	3%		½%
2nd 6 months	6.74	.30	3%		½%
Experienced	7.85	.30	3%		½%

COMMERCIAL AND INDUSTRIAL LINE WORK
Applies to switching stations adjacent to power plants in Eddy and Lea Counties; the following zones listed shall be designated from main Post Office of Artesia, Carlsbad, Hobbs and Lovington.
Zone A - 0 - 12 miles
Zone B - 12 - 22 miles
Zone C - 22 to 40 miles
Zone D - 40 miles and beyond

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE A					
Linemen - technician	10.95	.60	3%		½%
Cable splicers	11.30	.60	3%		½%
Equipment operator (includes helicopter opr.)	10.36	.60	3%		½%
Eqiuipment mechanic (includes helicopter mechanic)	9.58	.60	3%		½%
Powderman	9.58	.60	3%		½%
Groundman & Jackhammer Oprs:					
1st 6 months	5.91	.60	3%		½%
2nd 6 months	6.68	.60	3%		½%
Experienced	7.77	.60	3%		½%
ZONE B					
Linemen - technician	11.30	.60	3%		½%
Cable splicers	11.65	.60	3%		½%
Equipment operator (includes helicopter opr.)	10.71	.60	3%		½%
Equipment mechanic (includes heliocpter mechanic)	9.93	.60	3%		½%
Powderman	9.93	.60	3%		½%
Groundman & Jackhammer Oprs:					
1st 6 months	6.26	.60	3%		½%
2nd 6 months	7.03	.60	3%		½%
Experienced	8.12	.60	3%		½%
ZONE C					
Linemen - technician	11.45	.60	3%		½%
Cable splicers	11.80	.60	3%		½%
Equipment operator (includes helicopter opr.)	10.86	.60	3%		½%
Equipment mechanic (includes helicopter mechanic)	10.08	.60	3%		½%
Powderman	10.08	.60	3%		½%
Groundman & Jackhammer Oprs:					
1st 6 months	6.41	.60	3%		½%
2nd 6 months	7.18	.60	3%		½%
Experienced	8.27	.60	3%		½%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE D					
Linemen - technician	11.70	.60	3%		4%
Cable splicers	12.05	.60	3%		4%
Equipment operator (includes helicopter opr.)	11.11	.60	3%		4%
Equipment mechanic (includes helicopter mechanic)	10.33	.60	3%		4%
Powderman	10.33	.60	3%		4%
Groundman & Jackhammer Oprs:					
1st 6 months	6.66	.60	3%		4%
2nd 6 months	7.43	.60	3%		4%
Experienced	8.52	.60	3%		4%
MARBLE, TILE & TERRAZZO WORKERS	8.65	.67			
MARBLE, TILE & TERRAZZO FINISHERS	7.08	.67			
PAINTERS: ZONE I					
Zone 1-A	8.97	.50	.20		.05
Zone 1-B	9.47	.50	.20		.05
Zone 1-C	9.22	.50	.20		.05
Zone 1-D	9.55	.50	.20		.05
Zone 1-E	9.30	.50	.20		.05
PAINTERS (INDUSTRIAL WORK):					
Brush, roller, sandblast and grinder operators	10.27	.50	.20		.05
Spray	10.77	.50	.20		.05
Pot Tender	10.27	.50	.20		.05
ZONE II:					
2-A	8.30	.50	.30		.05
2-B	8.52	.50	.30		.05
2-C	8.95	.50	.30		.05
2-D	8.40	.50	.30		.05
2-E	9.05	.50	.30		.05
2-F	8.30	.50	.30		.05
2-G	8.80	.50	.30		.05
PAINTERS (INCUSTRIAL WORK):					
Brush, roller, sandblast and grinder operator	10.17	.50	.30		.05
Spray	10.67	.50	.30		.05
ZONE II (RESIDENTIAL)					
Brush and rollers	8.30	.50	.30		.05
Spray & Sandblast	8.95	.50	.30		.05
Paperhangers	8.52	.50	.30		.05
Vinyl hangers	8.40	.50	.30		.05

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS' CONTD:					
ZONE III					
Zone 3-A	8.01	.30			.02
Zone 3-B	8.43	.30			.02
Zone 3-C	8.155	.30			.02
Zone 3-D	8.43	.30			.02
Zone 3-E	8.86	.30			.02
Zone 3-F - 12½¢ above scale		.30			.02
Zone 3-G - 25¢ above scale		.30			.02
Zone 3-H - 50¢ above scale		.30			.02
Zone 3-I - 75¢ above scale		.30			.02
Zone 3-J - $1.00 above scale		.30			.02
PAINTERS: ZONE IV					
Zone 4-A	7.12	.35	.20		.05
Zone 4-B	7.62	.35	.20		.05
Zone 4-C	7.37	.35	.20		.05
Zone 4-D	7.22	.35	.20		.05
Zone 4-E	7.70	.35	.20		.05
Zone 4-F	7.45	.35	.20		.05

PAINTERS' ZONE AND CLASSIFICATION DEFINITIONS

ZONE I - San Juan, McKinley, Bernalillo, Torrance, Guadalupe, Quay, Catron Socorro, Lincoln, DeBaca, Roosevelt, Chabes, Valencia, Sierra, Grant, Hidalgo, Curry, Lea and Eddy Counties, New Mexico.
- Zone 1-A - Painters, roller and hand textures
- Zone 1-B - Painters, spray, sandblasting, painter on steel bridges, tanks towers, pipe and structural
- Zone 1-C - Paperhanger
- Zone 1-D - Drywall finisher; ames tool operator
- Zone 1-E - Hand finisher machine texture

ZONE II - Colfax, Hardin, Los Alamos, Mora, Sandoval, San Miguel, Rio Arriba, Taos, Union and Santa Fe Counties
- Zone 2-A - Painters and roller
- Zone 2-B - Paperhangers
- Zone 2-C - Spray, sandblast, steel, special coating applicator
- Zope 2-D - Vinyl hangers
- Zone 2-E - Drywall finisher tool and machine texture
- Zone 2-F - Hand texture
- Zone 2-G - Hand finisher

PAINTERS' ZONE AND CLASSIFICATION DEFINITIONS CONTD:

ZONE III - Luna, Otero and Dona Ana Counties
- Zone 3-A - Brush, Tapers and rollers
- Zone 3-B - Spray, sandblasting
- Zone 3-C - Ames tool and steel brush after erection
- Zone 3-D - Stripping machine
- Zone 3-E - Radio towers, water tanks smoke stack
- Zone 3-F - Radio towers, water tanks, smoke stacks 50 to 75 feet
- Zone 3-G - Radio towers, water tansk smoke stacks 75 to 100 feet
- Zone 3-H - Radio towers, water tanks, smoke stacks 100 to 200 feet
- Zone 3-I - Radio towers, water tanks, smoke stacks 200 to 300 ft.
- Zone 3-J - Radio towers, water tanks, smoke stacks 300 to 400 ft.

ZONE IV - Residential Construction in Santa Fe, Sandoval, Rio Arriba & Taos Cos.
- Zone 4-A - Brush and roller
- Zone 4-B - Spray, parking lot stripping
- Zone 4-C - Paperhangers
- Zone 4-D - Vinyl hangers
- Zone 4-E - Drywall finishers - ames tool op., machine texture
- Zone 4-F - Drywall finishers - hand finisher

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS:					
Statewide, except Otero, Grant, Sierra, Dona Ane, Luna, and Hidalgo Counties	8.00	.48	.30		.01
Otero, Grant, Sierra, Dona Ana. Luna and Hidalgo Counties	8.31	.67			.01
PLUMBERS-PIPEFITTERS:					
Area I	12.10	.68	1.42		.16
Area II	12.60	.68	1.42		.16
Area III	13.85	.68	1.42		.16
Specific area	12.73	.68	1.42		.16
Residential	7.40	.68	.25		.16

PLUMBERS - PIPEFITTERS' ZONES DEFINITIONS

BASING POINT CITIES OR TOWNS:
Albuquerque, Alamogordo, Anthony, Artesia, Belen, Carlsbad, Clovis, Deming, Espanola, Farmington, Gallup, Grants, Hobbs, Las Cruces, Las Vegas, Lordsburg, Lovington, Portales, Raton, Roswell, Ruidoso, Santa Fe, Silver City, Santa Rosa, Taos, Tucumcari, Truth of Consequence and Socorro, New Mexico.

Area I - Shall include a distance of seven road miles inclusive beyond the city or town limits.

Area II - Shall extend a distance of four road miles inclusive beyond the outer perimeter of area I.

Area III - Shall apply to all areas not within area 1 or 2, or not within the specific area.

Specific Area - Los Alamos, White Rock, South Mesa, McGregor Range, White Sands Missile Range and/or Proving Grounds, Atlas Missile Complex Sites in Chaves and Lincoln Counties, and the Oro Grande Range Camp and Dona Ana and Otero Counties.

POWER EQUIPMENT OPERATORS AREA DEFINITIONS:
AREA I - Farmington, San Juan County
- Zone I - 0 - 15 miles from Farmington City Hall
- Zone II - 15 - 35 miles from Farmington City Hall
- Zone III - 35-50 miles from Farmington City Hall

AREA II - Statewide, except San Juan County

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AREA I (RESIDENTIAL & BUILDING CONSTRUCTION)					
ZONE I					
Group 1	8.48	.60	.60		.15
Group 2	9.27	.60	.60		.15
Group 3	9.35	.60	.60		.15
Group 4	9.41	.60	.60		.15
Group 5	9.47	.60	.60		.15
Group 6	9.57	.60	.60		.15
Group 7	9.67	.60	.60		.15
Group 8	10.20	.60	.60		.15
ZONE II					
Group 1	10.23	.60	.60		.15
Group 2	11.02	.60	.60		.15
Group 3	11.10	.60	.60		.15
Group 4	11.16	.60	.60		.16
Group 5	11.22	.60	.60		.15
Group 6	11.32	.60	.60		.15
Group 7	11.42	.60	.60		.15
Group 8	11.95	.60	.60		.15
ZONE III					
Group 1	10.48	.60	.60		.15
Group 2	11.27	.60	.60		.15
Group 3	11.35	.60	.60		.15
Group 4	11.41	.60	.60		.15
Group 5	11.47	.60	.60		.15
Group 6	11.57	.60	.60		.15
Group 7	11.67	.60	.60		.15
Group 8	12.20	.60	.60		.15
AREA II (RESIDENTIAL AND GENERAL BUILDING CONSTRUCTION)					
Group 1	8.48	.60	.60		.15
Group 2	9.27	.60	.60		.15
Group 3	9.35	.60	.60		.15
Group 4	9.41	.60	.60		.15
Group 5	9.47	.60	.60		.15
Group 6	9.57	.60	.60		.15
Group 7	9.67	.60	.60		.15
Group 8	10.20	.60	.60		.15

HEAVY CONSTRUCTION (POWER EQUIPMENT OPERATORS AREA DEFINITIONS)

AREA I - Statewide, except San Juan County
Basing points for zone pay shall be determined from the Center of the following cities - Albuquerque, Carlsbad, Gallup, Raton and Las Cruces.
Zone I - 0 - 50 miles
Zone II - Over 50 miles

AREA II - Farmington, San Juan County
Zone I - 0 - 15 miles from Farmington City Hall
Zone II - 15 to 35 miles from Farmington City Hall
Zone III - Over 35 miles from Farmington City Hall

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
HEAVY CONSTRUCTION (AREA I):					
GROUP I					
Zone 1	8.33	.65	.60		.15
Zone 2	9.33	.65	.60		.15
GROUP II					
Zone 1	9.07	.65	.60		.15
Zone 2	10.07	.65	.60		.15
GROUP III					
Zone 1	9.15	.65	.60		.15
Zone 2	10.15	.65	.60		.15
GROUP IV					
Zone 1	9.21	.65	.60		.15
Zone 2	10.21	.65	.60		.15
GROUP V					
Zone 1	9.27	.65	.60		.15
Zone 2	10.27	.65	.60		.15
GROUP VI					
Zone 1	9.37	.65	.60		.15
Zone 2	10.37	.65	.60		.15
GROUP VII					
Zone 1	9.47	.65	.60		.15
Zone 2	10.47	.65	.60		.15
GROUP VIII					
Zone 1	9.95	.65	.60		.15
Zone 2	10.95	.65	.60		.15
(HEAVY CONSTRUCTION) POWER EQUIPMENT OPERATORS HEAVY CONSTRUCTION (AREA II)					
GROUP I					
Zone 1	8.33	.65	.60		.15
Zone 2	9.13	.65	.60		.15
Zone 3	9.58	.65	.60		.15
GROUP II					
Zone 1	9.07	.65	.60		.15
Zone 2	9.77	.65	.60		.15
Zone 3	10.32	.65	.60		.15
GROUP III					
Zone 1	9.15	.65	.60		.15
Zone 2	9.85	.65	.60		.15
Zone 3	10.40	.65	.60		.15

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
HEAVY CONSTRUCTION AREA II CONTD:					
GROUP IV					
Zone 1	9.21	.65	.60		.15
Zone 2	9.91	.65	.60		.15
Zone 3	10.46	.65	.60		.15
GROUP V					
Zone 1	9.27	.65	.60		.15
Zone 2	9.97	.65	.60		.15
Zone 3	10.52	.65	.60		.15
GROUP VI					
Zone 1	9.37	.65	.60		.15
Zone 2	10.07	.65	.60		.15
Zone 3	10.62	.65	.60		.15
GROUP VII					
Zone 1	9.47	.65	.60		.15
Zone 2	10.17	.65	.60		.15
Zone 3	10.72	.65	.60		.15
GROUP VIII					
Zone 1	9.95	.65	.60		.15
Zone 2	10.45	.65	.60		.15
Zone 3	11.20	.65	.60		.15

POWER EQUIPMENT OPERATORS AREA DEFINITIONS
AREA I - Farmington, San Juan County
Zone I - 0 - 15 miles from Farmington City Hall
Zone II - 15-35 miles from Farmington City Hall
Zone III - 35-50 miles from Farmington City Hall
AREA II - Statewide, except San Juan County

AREA I (SITE PREPARATION & DIRT WORK)					
ZONE I					
Group 1	8.48	.65	.60		.15
Group 2	9.27	.65	.60		.15
Group 3	9.35	.65	.60		.15
Group 4	9.41	.65	.60		.15
Group 5	9.47	.65	.60		.15
Group 6	9.57	.65	.60		.15
Group 7	9.67	.65	.60		.15
Group 8	10.20	.65	.60		.15

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AREA I (SITE PREPARATION & DIRT WORK CONTD:)					
ZONE II					
Group 1	10.23	.65	.60		.15
Group 2	11.02	.65	.60		.15
Group 3	11.10	.65	.60		.15
Group 4	11.16	.65	.60		.15
Group 5	11.22	.65	.60		.15
Group 6	11.32	.65	.60		.15
Group 7	11.42	.65	.60		.15
Group 8	11.95	.65	.60		.15
ZONE III					
Group 1	10.48	.65	.60		.15
Group 2	11.27	.65	.60		.15
Group 3	11.35	.65	.60		.15
Group 4	11.41	.65	.60		.15
Group 5	11.47	.65	.60		.15
Group 6	11.57	.65	.60		.15
Group 7	11.67	.65	.60		.15
Group 8	12.50	.65	.60		.15
AREA II (SITE PREPARATION & DIRT WORK)					
Group 1	8.48	.65	.60		.15
Group 2	9.27	.65	.60		.15
Group 3	9.35	.65	.60		.15
Group 4	9.41	.65	.60		.15
Group 5	9.47	.65	.60		.15
Group 6	9.57	.65	.60		.15
Group 7	9.67	.65	.60		.15
Group 8	10.20	.65	.60		.15

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS
BUILDING, RESIDENTIAL, HEAVY CONSTRUCTION & SITE PREPARATION & DIRT WORK

GROUP I - Fireman, oiler, screedman, scale operator such as bin-a-batch, rubber tired farm type tractor, tractors under 50 HP without attachments, breakman, concrete paving curing machine (bridge-type), helpers: (mechanic, welder, grease truck)

GROUP II - Rollers, sheepsfoot or pneumatic self propelled w/o dozer, concrete conveyor, service truck operator (head oiler), air compressor (300 CFM & over), pumps (6" and over), screening plants, concrete mixers (under 1 CY), concrete saw or grinder-span type, 1 drum hoist, air tugger, elevating belt type loaders, forklift, lumber stacker, tractor farm type (under 50 HP with attachments) motorman and industrial locomotive operator, winch truck, front end loaders, (under 2 CY), power plants which generate over 15 KW, welding machines

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS CONTD:
BUILDING, RESIDENTIAL, HEAVY CONSTRUCTION& SITE PREPARATION & DIRT WORK

GROUP III - Bituminous distributors, boilers, retort and hot oil heaters, concrete mixers (1 CY and over), concrete paver-single drum, drilling equipment, motor grades (rough), shaft and tunnel equipment; (Refrigeration, slusher, jumbo forms), trenching machines (all types), pump crete and gunite machines, slipform paver, mechanical bullfloats, concrete slab spreading machine, concrete slab finishing machine, asphalt plants, bituminous finishing machines, crushing plants

GROUP IV - Front end loaders (2 thru 10 CY), rollers steel wheeled-all types, bulldozers, scrapers (motor or towed), elevating graders, concrete batching plants, self-propelled rollers — equipped with dozer, twin-bowl scrapers and quad 8 or 9 pushers (35¢ over basic rate, three bowl scraper (60¢ over basic rate)

GROUP V - Hydraulic cranes-with less than 50 feet of boom (20 tons and under), concrete paver-double drum, cat cranes, hysters, side and swingboom cats, 2 drum hoists, auto fine grader

GROUP VI - Mucking machines - all types, motor grader (finish) mechanic - welder

GROUP VII - Steam engineers, loader (front end over 10 CY), concrete pump (snorkel type)

GROUP VIII - All shovel type equipment: cranes, draglines, backhoes, derricks, guy & stiff leg, pipemobile (No. 2 operator), piledriver, jydraulic cranes (20 tons and over), mine hoist, belt loader ("C.M.I." Type), booms & jibs 150 ft. through 199 ft. - 25¢ per hour above base pay. 200 ft. and over - 50¢ per hour above base pay. Shovel (wheel type), boring machine (tunnel or shaft mole), pipe mobile

OPERATORS OF EQUIPMENT NOT LISTED SHALL BE PAID A RATE COMPARABLE TO MACHINE LISTED.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS (BLDG. CONST)	8.30	.35			
ROOFERS (RESIDENTIAL CONST)	7.10	.35			
SHEET METAL WORKERS:					
Zone 1	10.87	.53	1.00		.12
Zone 2	9.62	3%+.51	.385		.04
Zone 3	8.35	.20			.05
Zone 4	11.87	.53	1.00		.12

SHEET METAL WORKERS ZONE DEFINITIONS

Zone 1 - Bernalillo, Catron, Chaves, Colfax, Curry, DeBaca, Guadalupe, Harding, Lincoln, McKinley, Mora, Quay, Rio Arriba, Roosevelt, Sandoval, San Miguel, Santa Fe, Socorro, Union, Taos, Torrance, Valencia, San Juan Counties, Kirtland Air Force Base.
Zone 2 - Dona Ana, Eddy, Grant, Hidalgo, Lea, Luna, Sierra and Otero Counties
Zone 3 - Holloman Air Force Base, White Sands and McGregor Ranges
Zone 4 - Los Alamos County

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SPRINKLER FITTERS	11.71	.75	1.05		.08
SOFT FLOOR LAYERS:					
Zone 1	8.80	.50	.50		.04
Zone 2	8.25	.35	.40		.02

SOFT FLOOR LAYERS' ZONE DEFINITIONS

Zone 1 - Dona Ana, Luna and Otero Counties
Zone 2 - Statewide (excluding Dona Ana, Luna and Otero Counties)

SOUND INSTALLERS:					
SOUNDMAN					
Zone 1	10.10	.60	3%		3%
Zone 2	11.36	.60	3%		3%
Zone 4	13.89	.60	3%		3%
TECHNICIANS					
Zone 1	8.08	.60	3%		3%
Zone 2	9.34	.60	3%		3%
Zone 3	11.87	.60	3%		3%
SOUND INSTALLERS					
Zone 1	6.57	.60	3%		3%
Zone 2	7.83	.60	3%		3%
Zone 3	10.36	.60	3%		3%

SOUND INSTALLERS ZONE DEFINITIONS

ZONE I - Thirty mile radius of main post office of Albuquerque
ZONE II - Remainder of Valencia, Sandoval, Santa Fe, Torrance, and Socorro Counties, the hourly rates of pay shall be increased to twelve and one-half (12½) percent of journeyman rate of pay for Zone I.
ZONE III - Chaves, Curry, Roosevelt, Lincoln, Guadalupe, DeBaca, Quay, San Miguel, Mora, Harding, Union, Colfax, Taos, Rio Arriba, Catron, Sierra, Grant Los Alamos, San Juan, McKinley Counties, the hourly rates of pay shall be increased by thirty-seven and one-half (37.5) percent of the journeyman rate of pay for Zone I

GENERAL BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS:					
Group 1	6.91	.57	.50		
Group 2	7.03	.57	.50		
Group 3	7.11	.57	.50		
Group 4	7.23	.57	.50		
Group 5	7.28	.57	.50		
Group 6	7.38	.57	.50		
Group 7	7.48	.57	.50		
Group 8	7.62	.57	.50		
Group 9	7.77	.57	.50		
TRUCK DRIVERS (RESIDENTIAL CONST.					
Group 1	6.61	.57	.50		
Group 2	6.73	.57	.50		
Group 3	6.81	.57	.50		
Group 4	6.93	.57	.50		
Group 5	6.98	.57	.50		
Group 6	7.08	.57	.50		
Group 7	7.18	.57	.50		
Group 8	7.32	.57	.50		
Group 9	7.47	.57	.50		
TRUCK DRIVERS (HEAVY CONST.)					
Group 1	8.26	.67	.55		
Group 2	8.38	.67	.55		
Group 3	8.46	.67	.55		
Group 4	8.58	.67	.55		
Group 5	8.63	.67	.55		
Group 6	8.73	.67	.55		
Group 7	8.83	.67	.55		
Group 8	8.97	.67	.55		
Group 9	9.12	.67	.55		

TRUCK DRIVERS CLASSIFICATION DEFINITIONS (BUILDING, RESIDENTIAL CONSTRUCTION)

GROUP I - Pickup 3/4 ton and under, service station, including lubrication, light tire repair and washer, swamper or riding helper, 2 or 4 up

GROUP II - Bus or taxi driver, dump or batch truck under 8 C.W.L.C.; flat bed (bobtail) 2 ton and under; mechanic and welder helper; fork lift under 5 tons MRC.

GROUP III - Dump trucks (including all highway and off highway) 8 up to 16 C.Y.W.L.C.; water, fuel or oil trucks less than 3,000 gal., flat bed (bobtail) over 2 tons

TRUCK DRIVERS CLASSIFICATION DEFINITIONS (BUILDING, RESIDENTIAL CONSTRUCTION CONTD:)

GROUP IV - Distributor driver; heavy tire repairman; lumber carrier driver; young buggy or similar equipment, transit mix or agitator 2 or 3 axle bobtail driver (flat-bed or vansingle axle); forklifts 5 ton and over MRC: field equipment servicemen

GROUP V - Dumpsters and dumpcrete driver; water, fuel or oil truck 3,000 to 6,000 gal; lowboys and light equipment driver; euclid type tank wagon under 6,000 gal.

GROUP VI - Vacuum truck; dump trucks (including all highway and off-highway 16 up to 22 C.Y.W.L.C.

GROUP VII - Transit mix or agitator semi or 4 axle equipment driver; flaherty truck type spreader box driver; slurry truck driver; bulk cement driver; semi-doubles; 4 axle bobtail; winch truck and "A" frame; dump truck (including all highway and off-highway) 22 CY up to 35 C.Y.W.L.C.: head field equipment service-ment

GROUP VIII - Euclid diesel power turnarocker; terra coba-DW20-LeTourneau Pulls and similar diesel powered equipment when used to haul materials and assigned to a teamster-lowboy heavy equipment driver; water, fuel or oil trucks 6,000 gal. and over including tank wagon drivers, semi-trailer driver (flat-bed or van tandems); light equipment mechanic; dump trucks (including all highway and off-highway) 35 C.Y.W.L.C. and over; truck and trailer or semi-trailer (flatbed); eject all

GROUP IX - Warehousemen including material checker; cardex man; lowboy (heavy equipment double gooseneck); heavy equipment mechanic; welder (body and fender men)

TEAMSTERS classifications not listed shall be paid a rate comparable to classifications listed.

HEAVY CONSTRUCTION TRUCK DRIVERS CLASSIFICATION DEFINITIONS

GROUP I - Pickup 3.4 to and under, service station, lubrication, light tire repair or washer, swamper or riding helper, teamster 2 or 4 up

GROUP II - Bus or taxi driver, dump or batch truck, under 8 C.Y.W.L.C. flatbed (bobtail) 2 ton and under, warehouseman including material checker, cardex man, expeditor, mechanic and welder helper, forklift under 5 ton M.R.C.

GROUP III - Dump trucks (including all highway & off-highway) 8 up to 16 C.Y.W.L.C., wate, fuel or oil trucks less than 3,000 gals., flatbed (bobtail) over 2 tons

GROUP IV - Distributor driver, heavy tire repair, lumber carrier driver, young buggy or similar equipment, transit mix or agitator 2 or 3 axle bobtail equipment, scissor truck, bulk cement bobtail 2 or 3 axles, semi-trailer flatbed or van single axle, forklift 5 ton and over M.R.C., field equipment servicement

HEAVY CONSTRUCTION TRUCK DRIVERS CLASSIFICATION DEFINITIONS CONTD:

GROUP V - Dumpster and dumpcrete driver, water, fuel or oil truck, 3,000 to 6,000 gals., capacity, lowboy, light equipment driver, euclid type tank wagon under 6,000 gallons

GROUP VI - Vacuum truck, dump trucks (including all highway & off-highway) 16 up to 22 C.Y.W.L.C.

GROUP VII - Transit mix or agitator semi or 4 axle equipment driver, flaherty truck type spreader box driver, slurry truck driver, bulk cement driver, semi-doubles, 4 axle bobtail, winch truck & "A" frame, dump trucks (including all highway and off-highway) 22 C.Y. up to 35 C.Y.W.L.C. head field equipment servicemen

GROUP VIII - Euclid diesel powered turnarocker, terra cobra, DW 10, DW 20, LeTourneau pulls and similar diesel powered equipment when used to haul materials and assigned to a teamster, lowboy heavy equipment driver, water, fuel or oil trucks 6,000 gallons and over (including tank wagon drivers), semi-trailer driver (flatbed or van tandems)light equipment mechanic, dump trucks (including all highway and off-highway) 35 C.Y.W.L.C. and over, truck and trailer or semi-trailer (flatbed), Ejectall

GROUP IX - Lowboy (heavy equipment, double gooseneck), heavy equipment mechanic, welder (body and fender man)

TEAMSTER CLASSIFICATION NOT LISTED SHALL BE PAID A RATE COMPARABLE TO CLASSIFICATIONS LISTED

LEAD BURNERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AREA I	11.70	.63	1.42		.16
AREA II	12.20	.63	1.42		.16
AREA III	13.45	.63	1.42		.16
AREA IV	12.33	.63	1.42		.16

LEAD BURNERS BASING POINT & AREA DEFINITIONS

BASING POINT CITIES OR TOWNS:
Albuquerque, Alamorgordo, Anthony, Artesia, Belen, Casrlsbad, Clovis Deming, Espanola, Farmington, Gallup, Grants, Hobbs, Las Cruces, Las Begas, Lovington, Portales, Raton, Socorro, Roswell, Ruidoso, Santa Fe, Silver City, Santa Rosa, Taos, Tucumcari and Truth of Consequence.
AREA I - Shall include a distance of seven road miles inclusive beyond the city or town limits.
AREA II - Shall extend a distance of 4 road miles invlusive beyond the outer perimeter of area I.
AREA III - Shall apply to all areas not within 1 or 2, or not within the specific areas.
AREA IV (SPECIFIC AREA) - Los Alamos, White Rock, South Mesa, McGregor Range, White Sands Missile Range, and/or Proving Grounds.
WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

FOOTNOTES:
a - includes $0.07 contribution tothe Occupational Health Fund
b - 1st 6 months - none; 6 months to 5 years, 6%; over 5 years, 8%; of basic hourly rate.
c - Paid Holidays: A through F
PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

SUPERSEDEAS DECISION

STATE: Oklahoma COUNTY: Comanche
DECISION NO. OK79-4017 DATE: Date of Publication
Supersedes Decision No. OK77-4060 dated March 11, 1977 in 42 FR 13786
DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS	$6.65				
CARPENTERS	5.85				
CEMENT MASONS	7.00				
ELECTRICIANS	8.45	.20	1%		1/4%
LABORERS:					
Laborers	3.00				
Mason tenders	3.55				
PAINTERS, BRUSH	5.00				
PLUMBERS & PIPEFITTERS	6.16				
ROOFERS	5.15				
SHEET METAL WORKERS	5.52				
TILE SETTERS	5.60				
TRUCK DRIVERS	2.90				
POWER EQUIPMENT OPERATORS:					
Front end loaders	3.25				
Motor graders	3.50				
Scrapers	3.00				

SUPERSEDES DECISION

STATE: Oklahoma COUNTY: Oklahoma, Cleveland, Canadian, Lincoln and Pottawatomie
DECISION NO. OK79-4019 DATE: Date of Publication
Supersedes Decision No. OK77-4038 dated February 18, 1977 in 42 FR 10262
DESCRIPTION OF WORK: Residential construction, single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS	$4.85				
CEMENT MASONS	5.03				
ELECTRICIANS	4.65				
LABORERS:					
Laborers	3.00				
Mason tenders	3.00				
PAINTERS, BRUSH	4.02				
PAINTERS, SPRAY	5.50				
PLUMBERS & PIPEFITTERS	5.50				
ROOFERS	4.17				
SHEET METAL WORKERS	5.27				
SOFT FLOOR LAYERS	4.10				
TILE SETTERS	3.73				
TILE SETTERS FINISHERS	2.90				
PLASTERERS	4.98				
WELDERS - Rate for Craft					
POWER EQUIPMENT OPERATORS:					
Bulldozers	3.25				
Blade graders	3.50				
Backhoes	4.00				
Scrapers	3.50				
Shovels	4.00				

SUPERSEDEAS DECISION

STATE: Oklahoma COUNTY: Statewide (except heavy construction within the city of Muskogee)
DECISION NO. OK79-4020 DATE: Date of Publication
SUPERSEDEAS DECISION NO. OK78-4066 dated June 16, 1978 in 43 FR 26267
DESCRIPTION OF WORK: Construction, alteration, and/or repair of streets, highways, runways, erosion control structures, well drilling, and water and sewer utilities (but does not include building structures on highway rest areas).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air tool man	$ 4.70				
Asphalt heaterman	5.30				
Asphalt raker	5.40				
Asphalt shoveler	4.55				
Carpenter	6.25				
Carpenter helper	5.30				
Concrete finisher	6.40				
Concrete finisher helper	5.25				
Concrete rubber	5.40				
Electricians	10.60				
Electricians helper	7.40				
Fireman	5.30				
Form builder	5.90				
Form builder helper	5.10				
Form setter	5.90				
Form setter helper	5.10				
Laborer, common	4.10				
Manhole builder	5.75				
Mechanic	6.50				
Mechanic helper	5.30				
Oiler	5.65				
Painter	5.65				
Painter helper	4.70				
Piledrivermen	5.30				
Powderman	5.55				
Powderman helper	4.80				
Reinforcing steel setter (pvg.)	5.30				
Reinforcing steel setter (strs.)	5.30				
Reinforcing steel setter (helper)	4.45				
Steel worker (strs.)	6.00				
Steel worker helper (strs.)	5.15				
Spreader box man	4.70				
Vibrator (hand type)	4.45				
Weighman (truckscales)	4.25				
Welder	6.00				
Welder helper	5.10				
Pipelayer	5.90				
TRUCK DRIVERS:					
Over 2 tons	5.05				
2 tons and under	4.55				
Tandem axel & semi-trailer	5.30				
Lowboy	5.40				
Transit mix & winch	5.30				

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr
POWER EQUIPMENT OPERATORS:					
Asphalt distributor	$5.65				
Asphalt paving machine	6.50				
Bulldozer	6.50				
Cement unloading & machine op.	4.70				
Concrete paving machine	6.25				
Concrete finishing machine	5.90				
Concrete saw operator	5.65				
Concrete batching plant	6.25				
Crane, clamshell, backhoe, derrickk, dragline, shovel	6.50				
Crusher & screening plant op.	5.90				
Front end loader (1 cy & less)	5.65				
Front end loader (over 1 cy)	6.25				
Hoist	5.65				
Mixer (over 16 C.F.)	5.75				
Mixer (16 C.F. & less)	5.35				
Mixer (concrete paving)	5.90				
Motor grader operator	6.50				
Pug mill operator	5.85				
Pump crete	5.30				
Roller (steel wheel)	5.90				
Roller (pneumatic)	5.45				
Scrapers	6.25				
Tractors (crl.) 80 HP & less	5.55				
Tractors (crl.) over 80 HP	5.90				
Tractors (pneu.) 80 HP & less	4.70				
Tractors (pneu.) over 80 HP	5.05				
Traveling plant	5.70				
Trenching machine	5.80				
Wagon drill	5.45				
Power broom operator	5.25				
Pavement profiler operator	6.50				
WELL DRILLING					
ZONE A					
Well drillers	4.00				
Well driller helpers	3.00				
ZONE B					
Well drillers	3.00				
Well drillers helper	2.90				

AREA COVERED BY VARIOUS ZONES

WELL DRILLING:

ZONE A -- ADAIR, ATOKA, BECKHAM, BLAINE, CADDO, CANADIAN, CHEROKEE, CHOCTAW, CRAIG, CUSTER, DELAWARE, DEWEY, HASKELL, KINGFISHER, LATIMER, LEFLORE, McCURTAIN, McINTOSH, MAYES, MUSKOGEE, NOWATA, OKMULGEE, OTTAWA, PUSHMATAHA, ROGER MILLS, ROGERS, SEQUOYAH, TULSA, WAGONER, WASHINGTON, AND WASHITA COUNTIES.

ZONE B -- ALFALFA, BEAVER, BRYAN, CARTER, CIMMARRON, CLEVELAND, COAL, COMANCHE, COTTON, CREEK, ELLIS, GARFIELD, GARVIN, GRADY, GRANT, GREER, HARMON, HARPER, HUGHES, JACKSON, JEFFERSON, JOHNSTON, KAY, KIOWA, LINCOLN, LOGAN, LOVE, McCLAIN, MAJOR, MARSHALL, MURRAY, NOBLE, OKFUSKEE, OKLAHOMA, OSAGE, PAWNEE, PAYNE, PITTSBURG, PONTOTOC, PONTOTOC, POTTAWATOMIE, SEMINOLE, STEPHENS, TEXAS, TILLMAN, WOODS, AND WOODWARD COUNTIES.

SUPERSEDEAS DECISION

STATE: TENNESSEE

COUNTIES: DYER, GIBSON, LAKE, LAUDERDALE, OBION, & WEAKLEY

DECISION NUMBER: TN79-1005

DATE: DATE OF PUBLICATION

Supersedes Decision Number TN76-[illegible], dated December 28, 1976, in 41 FR 56593.

DESCRIPTION OF WORK: Residential construction - consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air conditioning & Heating mechanics	$ 5.10				
Bricklayers	4.92				
Carpenters	4.09				
Cement masons	4.11				
Drywall finishers	4.46				
Drywall hangers	4.34				
Electricians	5.10				
Insulation installers	3.50				
Ironworkers - Structural & Ornamental	3.50				
Laborers:					
Unskilled	2.90				
Mason tenders	3.28				
Painters - brush	4.44				
Plumbers & Pipefitters	6.00				
Roofers	4.51				
Sheet metal workers	6.00				
Soft floor layers	7.00				
Tile setters	5.00				
Truck drivers	2.90				
Welders - Rate for craft.					
POWER EQUIPMENT OPERATORS:					
Backhoes	6.00				
Bulldozers	8.00				
Motor graders	3.75				
Pavers	3.75				
Rollers	3.50				
Tractors	4.00				

SUPERSEDEAS DECISION

STATE: TENNESSEE

COUNTIES: CARTER & SULLIVAN

DECISION NUMBER: TN79-1006

DATE: DATE OF PUBLICATION

Supersedes Decision Number TN75-1098, dated September 26, 1975, in 40 FR 44476.

DESCRIPTION OF WORK: RESIDENTIAL CONSTRUCTION - consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Accoustical tile mechanics	$ 3.50				
Air conditioning mechanics	3.00				
Bricklayers	6.00				
Carpenters	4.07				
Cement masons	4.25				
Drywall finishers	4.50				
Drywall hangers	4.50				
Electricians	4.76				
Insulation installers	3.20				
Ironworkers - reinforcing	4.70				
Laborers:					
Unskilled	2.90				
Pipelayers	3.00				
Lathers	5.15				
Painters- brush	3.00				
Plasterers	4.75				
Plumbers & Pipefitters	4.04				
Roofers	3.00				
Sheet metal workers	3.00				
Soft floor layers	3.30				
Tile setters	3.00				
Truck drivers	2.90				
Welders - Rate for craft.					
POWER EQUIPMENT OPERATORS:					
Air compressor	3.55				
Backhoe	3.50				
Bulldozer	3.50				
Front end loader	3.75				
High lift	3.62				
Motor grader	3.55				
Shovel	3.00				

SUPERSEDEAS DECISION

STATE: TENNESSEE COUNTY: SHELBY
DECISION NUMBER: TN79-1007 DATE: DATE OF PUBLICATION
Supersedes Decision Number TN76-1057, dated May 14, 1976, in 41 FR 20148.
DESCRIPTION OF WORK: RESIDENTIAL CONSTRUCTION - consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air conditioning mechanics	$ 4.00				
Bricklayers	5.00				
Carpenters	4.21				
Cement masons	3.75				
Drywall nailer	3.95				
Drywall finishers	3.95				
Electricians	5.08				
Ironworkers - ornamental	3.12				
Laborers:					
Unskilled	2.90				
Mortar mixers	2.93				
Pipelayers	3.00				
Marble setters	4.68				
Painters - brush	4.67				
Plumbers & Pipefitters	6.23				
Roofers	5.00				
Sheet metal workers	4.34				
Soft floor layers	3.75				
Truck drivers	2.90				
Welders - Rate for craft.					
POWER EQUIPMENT OPERATORS:					
Air compressor	4.15				
Bulldozer	4.62				
Crane	5.77				
Concrete finishing machine	4.00				
Front end loader	4.70				
Motor grader	4.70				
Scraper	4.70				
Tractor	3.75				

SUPERSEDEAS DECISION

STATE: TENNESSEE COUNTY: BRADLEY
DECISION NUMBER: TN79-1008 DATE: DATE OF PUBLICATION
Supersedes Decision Number TN77-1121, dated September 30, 1977, in 42 FR 52881
DESCRIPTION OF WORK: BUILDING CONSTRUCTION (does not include single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayers	$ 7.50				
Carpenters	5.50				
Cement masons	5.50				
Electricians	9.05	.60	1% + .30		1%
Glaziers	8.14			1%	
Ironworkers:					
Structural	6.70				
Reinforcing	5.50				
Laborers	4.00				
Lathers	8.70				
Painters	5.00				
Plumbers & Pipefitters	7.55				
Roofers	4.00				
Sheet metal workers	4.50				
Sprinkler fitters	7.08	.10	.36		
Terrazzo workers	6.70				
Tile setters	7.63				
Truck drivers	4.35				
Welders - Rate for craft.					
POWER EQUIPMENT OPERATORS:					
Bulldozer	5.50				
Crane	5.50				
Motor grader	5.125				

NOTICES

SUPERSEDEAS DECISION

STATE: TENNESSEE COUNTY: MADISON
DECISION NUMBER: TN79-1009 DATE: DATE OF PUBLICATION
Supersedes Decision Number TN77-1131, dated October 14, 1977, in 42 FR 55411.
DESCRIPTION OF WORK: BUILDING CONSTRUCTION (does not include single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS	$ 7.25	.30			
CARPENTERS	7.35				
CEMENT MASONS	7.00				
ELECTRICIANS	6.50				
GLAZIERS	9.00				
IRONWORKERS - Structural & Ornamental	7.49				
LABORERS:					
Unskilled	4.00				
Mason tenders	4.75				
PAINTERS - Brush	6.20				
PLUMBERS & PIPEFITTERS	8.70		.50		.03
ROOFERS & WATERPROOFERS	9.40	.25			.03
SHEET METAL WORKERS	6.43				
TILE SETTERS	6.15	.30			
TRUCK DRIVERS	4.00				
WELDERS - Rate for craft.					
POWER EQUIPMENT OPERATORS:					
Backhoe	5.00				
Crane	5.00				
Front end loader	4.86				

SUPERSEDEAS DECISION

STATE: TENNESSEE COUNTY: RUTHERFORD
DECISION NUMBER: TN79-1010 DATE: DATE OF PUBLICATION
Supersedes Decision Number TN77-1114, dated September 30, 1977, in 42 FR 53117.
DESCRIPTION OF WORK: BUILDING CONSTRUCTION (does not include single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.25	.45	.35		
BRICKLAYERS	7.34				
CARPENTERS	5.55				
CEMENT MASONS	5.40				
ELECTRICIANS	5.50				
ELEVATOR CONSTRUCTORS:					
Mechanics	8.945	.745	.56	a + b	.025
Helpers	6.26	.745	.56	a + b	.025
GLAZIERS	8.05	.50	.50		
IRONWORKERS:					
Structural	5.15				
Reinforcing	5.96				
LABORERS:					
Unskilled	3.42				
Air tool operators, mason tenders, & mortar mixers	3.50				
LATHERS	8.30		.20	.40	.08
PAINTERS	5.67				
PLASTERERS	7.90	.40	.20	.10	.07
PLUMBERS	6.65				
ROOFERS	4.90				
SHEET METAL WORKERS	5.65				
SOFT FLOOR LAYERS	5.15				
SPRINKLER FITTERS	10.80	.75	1.05		.08
STEAM FITTERS	8.84	.45	.45	.25	.05
TILE SETTERS	5.25				
TILE GRINDERS	4.30				
TRUCK DRIVERS	4.75				
WELDERS - Rate for craft.					
POWER EQUIPMENT OPERATORS:					
Air compressors	4.20				
Asphalt pavers	3.62				
Backhoes	4.75				
Bulldozers	4.20				
Cranes	6.00				
Motor graders	4.20				
Rollers	5.00				
Tractors	5.45				
Trenchers	4.20				

NOTICES

DECISION NO. TN79-1010

FOOTNOTES:

a. Seven Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; Christams Day.

b. Employer contributes 8% of the basic hourly rate for employees with 5 years or more of service, or 6% of the basic hourly rate for employees with 6 months to 5 years of service as Vacation Pay Credit.

Basic Hourly Rates	Fringe Benefits Payments			
	H & W	Pensions	Vacation	Education and/or Appr. Tr.

SUPERSEDEAS DECISION

STATE: TENNESSEE COUNTIES: CARTER, HAWKINS, JOHNSON, SULLIVAN, & WASHINGTON

DECISION NUMBER: TN79-1011 DATE: DATE OF PUBLICATION

Supersedes Decision Number TN77-1087, dated September 30, 1977, in 42 FR 53116.

DESCRIPTION OF WORK: BUILDING CONSTRUCTION (does not include single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	$ 5.75	.37		.01	
Bricklayers	7.15				
Carpenters	6.40				
Cement masons	5.80				
Electricians	8.20	.40	3%		½ of 1%
Ironworkers:					
Structural & Ornamental	8.34	.50	.50		.02
Reinforcing	8.20	.50	.50		.02
Laborers:					
Unskilled	2.90				
Mason tenders	3.35				
Pipe layers	4.00				
Lathers	5.00				
Millwrights	6.30				
Painters	4.48				
Plasterers	5.50				
Plumbers & Steam fitters	8.80	.45	.45		.02
Roofers	5.40				
Sheet metal workers	5.24				
Tile setters	4.00				
Truck drivers	3.25				
WELDERS - Rate for craft.					
POWER EQUIPMENT OPERATORS:					
GROUP A	8.19	.30	.30		.05
GROUP B	7.61	.30	.30		.05
GROUP C	6.36	.30	.30		.05
GROUP D	5.84	.30	.30		.05

DECISION NO. TN79-1011

CLASSIFICATIONS DEFINITIONS

POWER EQUIPMENT OPERATORS

GROUP A - Backhoes; cableways; ross carriers; olamshells; cranes; derricks; draglines; turnapulls; pans; scrapers; scoops; head tower machines; end-loaders; locomotives (over 20 tons); shovels; dozers; fork-lifts (over 8' lift); core drills; foundation drills; graders; mechanics; welders; winch trucks with A-frame; skimmer scoops; locomotive cranes; overhead cranes; skid rigs; piledrivers; side boom tractors; euclid loaders; derrick boats; dredge boats; hoist (any size handling steel or stone); engines used in connection with hoists material; mucking-machines; cherry pickers; tower cranes; skylift; gradall.

GROUP B - Tractors; farm type tractors (with attachments); central compressor plants; elevators (used for hoisting building materials); central mixing plants; hoists (not handling steel or stone); pump-crete machine; concrete pumps; backfillers (other than cranes); trac-mobile; crushing plant; elevating graders; earth augers; fork lifts (8' lift or under); paving machines (blacktop/concrete); boat operators or engineers (30 tons or over); blacktop rollers; switchman; locomotive (Under 20 tons); maintainers.

GROUP C - Asphalt plants; barber-green type loader; engine tenders (other than steam); mixers (over 2 bags, not to include central plants); pumps (not more than 3); scarifiers; spreader box (bituminous); asphalt mixers; portable compressors (not more than 3); roller; sub-grader machines; tractors (farm type without attachments); cable head tower engineman; dredge booster pump; boat operators or engineers (under 30 tons); finishing machines; fireman & oiler (Combination); motor crane oiler & driver; welding machines (not more than 3); heaters (stationary or portable, not more than 5); compressors (portable, not more than 3); greaser or fuel truck.

GROUP D - Air compressor (1 portable); fireman; portable crushers; welding machine (one); conveyors; pump (one); oilers; heater (one).

SUPERSEDEAS DECISION

STATE: Texas COUNTY: Brazos

DECISION NO.: TX79-4003 DATE: Date of Publication

Supersedes Decision No. TX78-4082 dated August 25, 1978, in 43 FR 38278.

DESCRIPTION OF WORK: Building Construction (does not include single family homes & garden type apartments up to & including 4 stories). (See current heavy & Highway general wage determination for Paving & Utilities Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.75	.90	.90		.05
BOILERMAKERS	11.05	.80	1.00		.02
BRICKLAYERS	11.36	.63	.60		.06
CARPENTERS	9.95				
CEMENT MASONS	10.60	.52	.58		.08
ELECTRICIANS	12.25	.55	10%		.06
ELEVATOR CONSTRUCTORS:					
Mechanics	10.35	.745	.35	4%+a+b	.02
Helpers	70%JR	.745	.35	4%+a+b	.02
Helpers (probationary)	50%JR				
GLAZIERS	11.17	.60	.425		.01
IRONWORKERS	10.96	.55	1.15		.10
LABORERS:					
GROUP 1	5.03	.38	.27		.02
GROUP 2	5.13	.38	.27		.02
GROUP 3	5.23	.38	.27		.02
GROUP 4	5.18	.38	.27		.02
GROUP 5	5.28	.38	.27		.02
GROUP 6	5.43	.38	.27		.02

LABORERS CLASSIFICATION DEFINITIONS

GROUP 1 - Construction labor, including excavation, concrete work, reinforcing, mason handler and wheeler (stock pile), asphalt ironer and raker, water proofing tender, pipe layer (non-metallic), pump crete pipe (handling and laying) and all building construction labor excepting that hereinafter classified; window washer, carpenters tender, cement mason tender, vibrator operator, other mechanic tender (except as otherwise classified); Dumper & spotter

GROUP 2 - Air tool operator

GROUP 3 - Well driller

GROUP 4 - Cutting torch man; mason tender; mason handler & wheelers handling material from first stock pile; concrete pipe (handling and laying); Sand blaster; Power buggy operator; plasterer tender & hod carrier; lather tender; well driller tender

GROUP 5 - Tool room tender; mortar mixer (hoe and otherwise); Blaster, powder man; gunnite worker

GROUP 6 - Gunnite nozzleman

DECISION NO. TX79-4003

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION:					
Lineman & cable splicer	$12.30	.60	3%		1/2%
Groundman (1st 6 months)	4.31	.60	3%		1/2%
Groundman (2nd 6 months)	5.17	.60	3%		1/2%
Groundman	7.13	.60	3%		1/2%
MARBLE MASONS	10.49	.63	.20		
PAINTERS:					
GROUP 1 - All brush painting, hand roller, steam cleaning, all pneumatic tools	10.595	.565	.45	.40	.04
GROUP 2 - All spray painting, sandblasting, waterblasting	10.97	.565	.45	.40	.04
GROUP 3 - Tape, float & drywall	10.72	.565	.45	.40	.04
GROUP 4 - Steeple jack work, hot materials	11.22	.565	.45	.40	.04
PIPEFITTERS	11.85	.50	.70		.045
PLASTERERS	11.30	.87	.30		.02
PLUMBERS	12.37	.75	.75		.12
SHEET METAL WORKERS	11.41	.375	.695	.42	.06
SOFT FLOOR LAYERS	10.53	.50	.45		.14
TERRAZZO WORKERS	10.49	.63	.20		
TILE SETTERS	10.49	.63	.20		
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTES FOR ELEVATOR CONSTRUCTORS:
a - 1st 6 months - none; 6 months to 5 years - 2%; over 5 years - 4% of basic hourly rate
b - Paid Holidays A thru G

PAID HOLIDAYS FOR ELEVATOR CONSTRUCTORS
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-the Friday after Thanksgiving Day; G-Christmas Day

DECISION NO. TX79-4003

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	$10.94	.70	.85		.07
GROUP 2	9.24	.70	.85		.07
GROUP 3	8.66	.70	.85		.07
GROUP 4	8.47	.70	.85		.07

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Heavy Duty Mechanic; Blade Grader, Self-propelled; Bull Clam; Back Filler; Derrick-power operated (all types); Clam shell; Draglines; Push Cat Operator; Bull Dozer & all types Cat Tractors; Cable-Way; Backhoe; Shovel, power operated; Crane, power operated (all types); Elevating Grader, Self-propelled; Hoist, Motor-Driven, Two Drums or more; Mix Mobile; Water Wall Drilling Machines, used on construction; Building Elevator, used on construction; Tug Boat Operator, assigned to construction; Winch Truck; Locomotive Crane; Concrete Mixer, 14 cubic feet or more; Paving Mixer (all types); Pile Driver; Scraper, heavy type, over 3 cubic yards; Trenching Machine (all sizes); Gradall; High-Lift; Foundation Boring Machine; Gasoline or Diesel-Driven Welding Machines, 7 or more; Pumpcrete Machine Operator; Turnapulls; DW-13 Caterpillar, 9-18 Euclid and similar tractors; Asphalt Plant Mixer Operator on job; Crusher Operator on job; Scoopmobiles; Forklift used on construction (not including warehousing); Well Point Pump; Concrete Batch Plant Operator; Pneumatic Rollers, self-propelled; All other equipment of similar nature coming under the Heavy Equipment Class, when power operated
GROUP 2 - Air Compressors; Blade Grader, Towed; Flex Plane; Form Grader; Concrete Mixer, less than 14 cubic feet; Pumps; Pulsometer; Truck Crane Driver; Gasoline or diesel driven welding machines (on 3 or more, up to 6 machines); Hoist, Single Drum; Scraper, 3 cubic yards or less; Wagon Drill Operator; Conveyor; Generator, Gasoline or diesel driven, over 1500 watts; Rubber Tired Farm Tractor with attachments; A light equipment operator may run 1 or 2 105 cfm compressors; All other equipment of similar nature coming under the Light Equipment Class, when power operated
GROUP 3 - Fireman
GROUP 4 - Oiler

SUPERSEDEAS DECISION

STATE: Texas COUNTY: El Paso
DECISION NO.: TX79-4004 DATE: Date of Publication
Supersedes Decision No. TX78-4083 dated August 25, 1978 in 43 FR 38279
DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to & including 4 stories). (See current highway general wage determination for Paving Incidental to Building Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 8.61	.57	1.30		.03
BOILERMAKERS	11.05	.80	1.00		.02
BRICKLAYERS; BLOCKLAYERS; ROCK MASONS; STONEMASONS	7.70	.67	.20		.05
CARPENTERS:					
Carpenters	8.17	.67			.02
Millwrights	8.68	.67			.02
Stationary radial arm power saw operator	8.34	.67			.02
Floor layers	8.17	.67			.02
CEMENT MASONS	7.12	.67			.03
DRYWALL:					
GROUP 1 - Tapers	7.70	.38			.02
GROUP 2 - Ames tools	7.92	.38			.02
GROUP 3 - Texture spray	8.40	.38			.02
ELECTRICIANS:					
Electricians	9.60	.30	3%		1/10%
Cable splicers	9.85	.30	3%		1/10%
ELEVATOR CONSTRUCTORS:					
Mechanics	8.57	.745	.35	4%+a+b	.02
Mechanic Helpers	70%JR	.745	.35	4%+a+b	.02
Mechanic Helpers (Probationary)	50%JR				
IRONWORKERS	9.15	.55	1.15		.15
LABORERS:					
GROUP 1 - Powderman or blaster	6.31	.53	.45		
GROUP 2 - Outside wagon drill; wagon drill tenders; miner	6.06	.53	.45		
GROUP 3 - Cement gun or gunite; mason tender; mortar mixer; machine man; track man; chuck tender	5.81	.53	.45		
GROUP 4 - Pipelayer, main sewer and drainage	5.69	.53	.45		
GROUP 5 - Jackhammer operator, asphalt raker; kettlemen; asphalt or pot man	5.56	.53	.45		
GROUP 6 - Common, flag man	5.41	.53	.45		
LATHERS	8.98				.01

DECISION NO. TX79-4004

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION:					
Lineman-Technician; Equipment operators	$ 9.60	.30	3%		1/10%
Cable splicers	9.85	.30	3%		1/10%
Groundman	75%JR	.30	3%		1/10%
Groundman (less than 6 months)	50%JR	.30	3%		1/10%
MARBLE MASONS	6.98		.20		.04
PAINTERS:					
GROUP 1 - Brush & roller, paper-hanger; tapers	7.70	.38			.02
GROUP 2 - Steel after erection, steam cleaning, power driven tools	8.11	.38			.02
GROUP 3 - Spray, sandblasting, waterblasting & swing stage, stripping machine	8.415	.38			.02
GROUP 4 - Ames tools	7.92	.38			.02
GROUP 5 - Water tanks, smoke stacks, tower from 70 - 100 ft	9.06	.38			.02
PLASTERERS	8.25	.67			.01
PLUMBERS & STEAMFITTERS	9.09	.59	.44		.05
SHEET METAL WORKERS	9.97	3%+.51	.385		.04
SOFT FLOOR LAYERS	7.45	.38	.10		.02
SPRINKLER FITTERS	11.60	.75	1.05		.08
TERRAZZO WORKERS	6.98		.20		.04
TERRAZZO WORKERS' FINISHERS	4.40		.20		
TILE SETTERS	6.98		.20		.04
TILE SETTERS' FINISHERS	4.40		.20		
TRUCK DRIVERS:					
GROUP 1 - Up to and including 2 tons	3.50	.26			
GROUP 2 - Flat bed dump trucks, mechanically	3.60	.26			
GROUP 3 - Tank trucks, up to 2500 gallons	3.50	.26			

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS (CONT'D):					
GROUP 4 - Standard dump trucks, up to and including 4 cu. yds.	$ 3.60	.26			
GROUP 5 - Dump trucks, over 4 cu. yds.; trucks over 4 tons including transit mix, all semitruck, etc.; Lowboy	3.75	.26			
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTES FOR ELEVATOR CONSTRUCTORS:
a - 1st 6 months - none; 6 months to 5 years - 2%; over 5 years - 4% of basic hourly rate.
b - Paid Holidays - A thru G

PAID HOLIDAYS FOR ELEVATOR CONSTRUCTORS:
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-the Friday after Thanksgiving Day; G-Christmas Day

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	$ 7.44	.60	.60		.15
GROUP 2	8.02	.60	.60		.15
GROUP 3	8.11	.60	.60		.15
GROUP 4	8.46	.60	.60		.15
GROUP 5	8.54	.60	.60		.15
GROUP 6	8.98	.60	.60		.15
GROUP 7	9.14	.60	.60		.15
GROUP 8	8.61	.60	.60		.15
GROUP 9	8.84	.60	.60		.15
GROUP 10	9.14	.60	.60		.15

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Fireman, Oiler; Mechanic, Grease truck and welder's helpers; screedman, pneumatic roller towed by farm type tractor or truck; scale operator and such as bin-a-batch; rubber-tired farm type tractors and tractors under 35 HP without attachments
GROUP 2 - Air compressors, power plants, pumps and welding machines; concrete mixers, under 1 yd. & concrete batch plants, under 1 yd., gunnite & pumperete machine, mechanical bull floats, spreading & finishing machines. Screening plants. Drilling machines, diamond, torary, core & cable drilling; well under 6". Hoists scoopmobiles, A-frame air tugger; hydrolift, hydrocranes, winch truck. Loaders; elevating, belt type loader, front end loader (under 2 yds.) & over head loaders; forklift & lumber staker on construction job site. Motor man & Industrial locomotive. Tractors under 35 HP with attachments.
GROUP 3 - Concrete mixers 1 yd. & over and batch plants 1 yd. & over, single drum paving machines, crushing plant, drilling machine, 6" & over; front end loaders, 2 yds. & over; Paving: Asphalt plants, boiler or retort heater, distributor, lay down machine, pug mill, breakdown & tandem rollers. Steam Engineer. Trenching machines. Patrol, rough, not required to blue top or finish.
GROUP 4 - Tractor Equipment: Athey & Barber Green Loader, Bulldozer, DW10, DW20, DW21, Dumor, Elevating Grader; Euclid, Highlander, Scraper, Traxcavator, Turnapull, Turnarocker & Tractors 35 HP & up & farm type tractors with backhoe & shovel type attachments
GROUP 5 - Concrete paving machines, double drum. Catcranes, Hysters, Cherry Pickers, Attachments cranes, side & swing boom tractors; Mechanic, welder, patrol, finish; grease truck operator (head oiler). Building hoist, 1 drum. Concrete Pump (Snorkle Type Trailer Mounted)
GROUP 6 - Shovel, Backhoe, clam & dragline 3/4 yds. & under; Cranes 25 tons & under; Building Hoist, 2 drums & up. Concrete pump (Snorkle Type Truck Mounted)
GROUP 7 - Guy & stiff leg derrick, Piledrivers; Crawler or skid rig, shovel, backhoe, clam & dragline over 3/4 yds.; crane over 25 tons. Pecco type cranes
GROUP 8 - Refrigeration, slusher, Jumbo form operators
GROUP 9 - Mucking machines
GROUP 10 - Mine hoists

SUPERSEDEAS DECISION

STATE: Texas COUNTIES: Bee, Kleberg & Nueces
DECISION NO.: TX79-4005 DATE: Date of Publication
Supersedes Decision No. TX78-4079 dated August 11, 1978, in 43 FR 35884
DESCRIPTION OF WORK: Building Construction (does not include single family homes & garden type apartments up to & including 4 stories). (See current heavy & highway general wage determination for Paving & Utilities Incidenal to Building Construction.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.74	.55	.60		
BOILERMAKERS	11.05	.80	1.00		.02
BRICKLAYERS:					
Bee County	5.50				
Kleberg & Nueces Counties	9.31	.28	.30		.05
CARPENTERS:					
Carpenters	8.19	.51	.35		.05
Millwrights	10.30				1%
CEMENT MASONS	9.00				
ELECTRICIANS:					
Electricians	10.90	.60	3%		3/4%
Cable splicers	11.025	.60	3%		3/4%
GLAZIERS (excluding Kleberg Co.)	7.35		.20		
IRONWORKERS	8.52	.55	1.15		.07
LABORERS:					
GROUP 1 - General laborer (any work not specifically defined herein)	4.80	.28	.10		
GROUP 2 - Craft tenders: Bricklayers, plasterers, tile setters, concrete & mortar mixers, pipelayers, lathers, finish carpenters, slip form ops., scaffolding, water proofers, cement finishers; Power tool ops. includes paving buster, jackhammer, chipping gun, air tamper, barie tamper, electric vibrator, air or gasoline driven vibrator or drills, sump pumps & any & all power driven equipment operated by laborers	5.00	.28	.10		
GROUP 3 - Pipe wrappers & dopers	5.15	.28	.10		
GROUP 4 - Gunnite nozzlemen; Powderman or blaster	5.25	.28	.10		
LATHERS	7.75	.30	.20	1.00	.01
LINE CONSTRUCTION:					
Linemen	10.93	.60	3%		1/2%
Cable splicers	11.055	.60	3%		1/2%
Groundmen (1st year)	5.47	.60	3%		1/2%
Groundmen	6.01	.60	3%		1/2%
MARBLE, TILE & TERRAZZO WORKERS	8.68				.02
MARBLE, TILE & TERRAZZO FINISHERS:					
Marble, tile & terrazzo finisher	6.37				
Terrazzo floor machine operator	6.57				
Terrazzo base machine operator	6.77				
PAINTERS:					
Brush	8.10	.55	.25		2/10%
Sign	8.35	.55	.25		2/10%
Spray	8.50	.55	.25		2/10%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS	$10.45				.01
PLUMBERS & STEAMFITTERS	8.565	.335	.35		.035
ROOFERS:					
Roofers; Kettleman; Waterproofers;					
Deckmen	7.225		.25		
SHEET METAL WORKERS	8.67	.23	.275		.01
SOFT FLOOR LAYERS	8.19	.51	.35		.05
SPRINKLER FITTERS	11.60	.75	1.05		.08
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

DECISION NO. TX79-4005

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$ 8.60	.32	.75		
GROUP 2	7.475	.32	.75		
GROUP 3	6.675	.32	.75		
GROUP 4	6.825	.32	.75		

GROUP 1 - Air Compressor over 125 CFM, gasoline or diesel powered; Asphalt Plant Mixer; Back Filler; Backhoe; Batch Plant (concrete); Blade Grader; Boring Machine (foundation, horizontal or waterwell); Bull Clam; Bulldozer; Cableway; Clamshell; Crane, power operated (all types); Crusher; Derrick, power operated (all types); Dragline; Elevating Grader; Elevator, outside the building; Euclids and similar type machines; Forklift (on construction except in warehouses); Grade-All; Hi-Lift; Hoist (2 drums or more); Locomotive and Switch Engines; Mixer (paving); Mixer (concrete); Pile Driver; Pumps (2) over 3 inches; Pumpcrete Machine; Push Cat or Pull Cat; Roller (pneumatic, flatwheel); Scraper (all types); Shovel (power); Scoopmobile; Trench Machine; Tugboat (on construction); Turn-a-pulls and similar machines; Welding Machines (7 to 13) other than electric; Wellpoint; Winch Truck; Mechanic; Lubrication Engineer (required on grease racks and service trucks); All other equipment of similar nature coming within the Heavy Equipment Class when power operated

GROUP 2 - Air Compressor (1 or 2) 125 CFM or less, gasoline or diesel powered; Blade Grader (towed); Conveyor; Elevator, inside the building, permanent type; Fireman (required on any boiler, steam locomotive, steam crane, etc.); Flexplane; Form Grader; Generator (gas, diesel over 1500 watts); Hoist (1 drum); Mixer (less than 14 cu. ft.); Pulsometer; Pumps (1) over 3 inches; Pumps (1 or 2) 3 inches or under; Roller (towed); Tractor (wheel type); Driver-oiler (required on tractor or truck cranes on which controls of crane and those of tractor or truck are operated from different seats or stations, mobile type grade all, etc.); Wagon Drill; Welding Machine (3 to 6) other than electric; All other equipment of similar nature coming within the Light Equipment Class when power operated

GROUP 3 - Oilers, 1st year

GROUP 4 - Oilers, 2nd year

SUPERSEDEAS DECISION

STATE: Texas COUNTIES: Bell, Bosque, Coryell, Falls, Hill & McLennan

DECISION NO.: TX79-4006 DATE: Date of Publication

Supersedes Decision No. TX78-4096 dated September 22, 1978 in 43 FR 43242

DESCRIPTION OF WORK: Building Construction (does not include single family homes & garden type apartments up to & including 4 stories). (See current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction in Bosque, Falls, Hill & McLennan Counties).

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
ZONE 1 - Bell Coryell & Falls	$11.05	.60	.60		.08
ZONE 2 - Bosque, Hill & McLennan	10.83	.50	.76		.03
BOILERMAKERS	11.05	.80	1.00		.02
BRICKLAYERS	10.60		.55		.03
CARPENTERS:					
ZONE 1 - Bell & Coryell Cos.					
Carpenters	9.25				
Millwrights	9.50				
ZONE 2 - Bosque, Falls, Hill & McLennan:					
Carpenters	9.58				
Millwrights	10.10				
CEMENT MASONS	9.34	.60	.55		
ELECTRICIANS:					
ZONE 1 - Bell (that part which is nearer to Waco than Austin but excluding that part of Ft. Hood, the boundary which presently is located approx. 2 miles inside the Bell Co. line & the City of Killeen), Bosque, Coryell (except that part of Ft. Hood south of Cowhouse Creek), Falls, Hill & McLennan Cos.	10.00	.60	3%		1/4%
ZONE 2 - Bell (that part which is nearer to Austin than Waco & not to exceed more than 2 miles into Bell Co. from the southeast boundary line of Coryell Co., Gray Field & the City of Killeen) & Coryeall (that part south of Cowhouse Creek) Counties	11.50		8%		.8%
ELEVATOR CONSTRUCTORS:					
Mechanics	9.91	.745	.35	4%+a+b	.02
Helpers	70%JR	.745	.35	4%+a+b	.02
Helpers (Probationary)	50%JR				
GLAZIERS	7.20				
IRONWORKERS	10.05	.55	1.00		.12
LABORERS:					
Unskilled	2.97				
Mason tenders & mortar mixers	3.55				
LATHERS	9.30			.80	.05
LINE CONSTRUCTION:					
Linemen; Linemen operators	12.15		3%		1/2%
Cable splicers	13.37		3%		1/2%
Groundman, 1st 6 months	7.29		3%		1/2%
Groundman, 2nd 6 months	7.90		3%		1/2%
Groundman, 1 year & over	8.51		3%		1/2%
PAINTERS:					
GROUP 1 - Brush	8.15				.04
GROUP 2 - Boiler pipe & steel, structural steel, window jacks, roofs, stage work, smoke stack, water towers, boatswain chair	8.65				.04

DECISION NO. TX79-4006

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 3 - Ames tools for dry wall	$ 8.75				.04
GROUP 4 - Spray work & self-feeding rollers	8.90				.04
GROUP 5 - Steam cleaning, sandblasting & hazardous work	9.25				.04
PLASTERERS	9.99	.60	.55		.01
PLUMBERS & PIPEFITTERS:					
ZONE 1 - Area within a 35 mile radius of Waco including Temple, Marlin, Clifton, Hillsboro & Belton	9.50	.30	.33		.03
ZONE 2 - All other areas	9.90	.30	.33		.03
ROOFERS:					
GROUP 1 - Slate, tile, asbestos, roofing & siding	6.95				.03
GROUP 2 - Composition, built-up, dams & waterproofing	6.80				.03
GROUP 3 - Kettlemen	5.10				.03
SHEET METAL WORKERS:					
ZONE 1 - Within a radius of 20 miles from the McLennan Co. Court House, Waco	9.19	.45	.44		.07
ZONE 2 - Over 20 miles but less than 45 miles including the towns of Hillsboro, Temple, Marlin, Gatesville & Clifton	9.69	.45	.44		.07
ZONE 3 - Over 45 miles	10.19	.45	.44		.07
SPRINKLER FITTERS	11.60	.75	1.05		.08
TRUCK DRIVERS	2.90				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTES FOR ELEVATOR CONSTRUCTORS:

a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 2%; over 5 yrs. - 4% of basic hourly rate

b - Paid Holidays A thru G

PAID HOLIDAYS FOR ELEVATOR CONSTRUCTORS:

A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-the Friday after Thanksgiving Day; G-Christmas Day

DECISION NO. TX79-4006

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	$10.44		.40		
GROUP 2	9.37		.40		
GROUP 3	8.15		.40		
GROUP 4	8.04		.40		

GROUP 1 - Heavy Duty Mechanic; Blade Grader - Self-propelled; Bull Clam; Back Filler; Derricks, power operated (all types); Dragline; Push Cat Operator; Euclid Operator; Bull Dozer and all types of Cat Tractors; Cable-Way; Back Hoe; Crane, Power Operated (all types); Elevating Grader, self-propelled; Hoist, Motor-Driven, two drums or more; Mix Mobile; High-Lifts & Loaders, over 1/3 cu. yd. capacity; Winch Truck; Locomotive; Mixer, 14 cu. ft. or over; Paving Mixer (all sizes); Scraper; Trenching Machine (all sizes); Gradall; Foundation Boring Machine; Scoopmobile; Shovel, power operated; Pump Crete Machines; Clam Shell Operator; Rock Crusher Operated on Job; Welding Machine, 6 to 12; Two 125 cu. ft. Compressors; Well points, including installations

GROUP 2 - Blade Grader, Towed; Flex Plane; Form Grader; Mixer, less than 14 cu. ft.; Pulsometer; Truck Crane Driver & Oiler, Combination man; Gasoline or Diesel Driven Welding Machine, 3 on 6; Hoist, Single Drum; Purp, 2½ in. or larger; Pneumatic Roller; High-Lifts & Loaders, 1/3 cu. yd. or less; Forklift, 1500 lbs. capacity or less; Air Compressors, anytime there are two or more attachments operating on a 125 cu. ft. compressor, a light equipment operator shall be employed. One 125 cu. ft. air compressor and one welding machine requires no operator. One 125 cu. ft. compressor and two welding machines or any 2 air compressors equivalent to a 125 cu. ft. air compressor requires a light equipment operator

GROUP 3 - Fireman

GROUP 4 - Oiler

INCIDENTAL PAVING & UTILITIES (BELL & CORYELL COUNTIES)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air Tool Man	$ 3.25				
Asphalt Heaterman	3.75				
Asphalt Raker	4.30				
Asphalt Shoveler	4.25				
Batching Plant Scaleman	4.85				
Carpenter	4.50				
Carpenter Helper	3.50				
Concrete Finisher (Paving)	4.75				
Concrete Finisher Helper (Paving)	3.50				
Concrete Finisher (Structures)	4.75				
Concrete Finisher Helper (Structures)	4.00				
Concrete Rubber	4.00				
Electrician	7.00				
Electrician Helper	4.00				
Form Builder (Structures)	4.00				
Form Builder Helper (Structures)	3.25				
Form Setter (Paving & Curb)	4.50				
Form Setter Helper (Paving & Curb)	3.75				
Form Setter (Structures)	4.50				
Form Setter Helper (Structures)	3.75				
Laborer, Common	3.00				
Laborer, Utility Man	3.00				
Mechanic	4.50				
Mechanic Helper	4.10				
Oiler	3.75				
Serviceman	3.50				
Painter (Structures)	3.50				
Piledrivermen	4.00				
Pipelayer (Concrete & Clay)	4.05				
Pipelayer Helper(Concrete & Clay)	3.50				
Plumbers:					
Zone 1 - 35 miles from Waco including towns of Temple & Salton	9.50	.30	.33		.03
Zone 2 - all area not included in Zone 1	9.90	.30	.33		.03
Powderman	4.75				
Reinforcing Steel Setter (Structures)	4.90				
Reinforcing Steel Setter Helper	3.25				
Sign Erector	4.65				
Sign Erector Helper	3.10				
Spreader Box Man	4.00				
Stamper	4.00				
Power Equipment Operators:					
Asphalt Distributor	4.30				
Asphalt Paving Machine	4.25				
Broom or Sweeper Operator	3.70				
Bulldozer, 150 HP and Less	4.00				
Bulldozer, over 150 HP	4.50				
Concrete Paving Curing Machine	3.70				

INCIDENTAL PAVING & UTILITIES (BEE & CORYELL COUNTIES)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators (Cont'd):					
Concrete Paving Saw	$ 4.75				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ CY)	4.50				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY and Over)	4.95				
Crusher or Screening Plant Op.	4.20				
Foundation Drill Op. (Truck Mounted)	4.50				
Foundation Drill Op. Helper	4.25				
Front End Loader (2½ CY & Less)	4.00				
Front End Loader (Over 2½ CY)	4.70				
Motor Grader Op., Fine Grade	5.00				
Motor Grader Operator	4.35				
Roller, Steel Wheel (Plant-Mix Pavements)	4.00				
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	3.70				
Roller, Pneumatic (Self-Propelled)	3.45				
Scrapers (17 CY and Less)	4.00				
Scrapers (Over 17 CY)	4.50				
Tractor (Crawler Type) 150 HP & Less	3.10				
Tractor (Crawler Type) over 150 HP	4.25				
Tractor (Pneumatic) 80 HP & Less	3.25				
Tractor (Pneumatic) over 80 HP	3.75				
Traveling Mixer	4.15				
Trenching Machine, Light	4.00				
Trenching Machine, Heavy	4.45				
Wagon Drill, Boring Machine or Post Hole Driller Operator	3.80				
Truck Drivers:					
Single Axle, Light	3.50				
Single Axle, Heavy	3.50				
Tandem Axle or Semitrailer	3.50				
Weighman (Truck Scales)	3.00				
Welder	4.50				
Welder Helper	3.25				

SUPERSEDEAS DECISION

STATE: Texas

COUNTIES: Armstrong, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler

DECISION NO.: TX79-4007 DATE: Date of Publication

Supersedes Decision No. TX78-4087 dated August 25, 1978 in 43 FR 38285

DESCRIPTION OF WORK: Building Construction (does not include single family homes & garden type apartments up to & including 4 stories). (See current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.50	.80	.95		.07
BOILERMAKERS	11.05	.80	1.00		.02
BRICKLAYERS & STONEMASONS	10.70		.40		
CARPENTERS:					
ZONE 1 - Armstrong, Carson, Castro, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Counties:					
Carpenters	10.30		.40		.01
Millwrights	10.65		.40		.01
ZONE 2 - Childress County:					
Carpenters	9.87	.48	.50		.07
Millwrights	10.37	.48	.50		.07
CEMENT MASONS	8.30				
ELECTRICIANS:					
ZONE 1 - Armstrong, Carson, Castro, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Counties:					
Electricians	11.08	.60	3%+.25		1/2%
Cable splicers	12.19	.60	3%+.25		1/2%
ZONE 2 - Childress County:					
Electricians	10.50	.50	3%		1/10%
Cable splicers	10.75	.50	3%		1/10%
GLAZIERS	7.90				
IRONWORKERS:					
ZONE 1 - Armstrong, Carson, Castro, Childress (excluding southeastern 1/4), Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Cos.	9.95	.55	1.15		.10
ZONE 2 - Childress Co. (southeastern 1/4):	9.525	.55	1.00		.10
LABORERS:					
GROUP 1 - Construction laborers, including excavation, pouring concrete, carpenter tenders, reinforcing, shoring, digging, loading & unloading materials, wrecking buildings & all structures & all unskilled laborers	5.16	.53	.27		
GROUP 2 - Air tool operator (jackhammer, tamper, brush hammer, chipping hammer air or electric), sand blasterer, power buggy man, pipelayer (concrete & clay & all non-metallic pipe) & pipewrappers; mortar mixers, mason tenders, plasterer tenders, cement finisher tenders, lather tenders, asphalt rakers, tampers, well drillers, bell hole men, dumpers, spotters, signal men	5.32	.53	.27		

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS	$10.85				.01
LINE CONSTRUCTION:					
ZONE 1 - Childress County:					
Lineman; Operator	10.50		3%		1/2%
Cable splicers	10.75		3%		1/2%
Groundman - 1st 6 months	50%JR		3%		1/2%
Groundman - 2nd 6 months	60%JR		3%		1/2%
Groundman - 1 year & over	70%JR		3%		1/2%
ZONE 2 - Armstrong, Carson, Castro, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Counties:					
Lineman	11.08	.60	3%+.25		1/2%
Cable splicers	12.19	.60	3%+.25		1/2%
Groundman:					
More than 1 year experience	7.29	.60	3%+.25		1/2%
Less than 1 year experience	6.39	.60	3%+.25		1/2%
Operator-hole digger, line truck	8.48	.60	3%+.75		1/2%
Flat bed truck driver	6.39	.60	3%+.25		1/2%
MARBLE MASONS (EXTERIOR)	10.70		.40		
PAINTERS:					
GROUP 1 - Brush & roller; paper hangers; perfa-tapers	9.30		.50		
GROUP 2 - Structural steel; swinging stage or chair below 50 ft.	9.42		.50		
GROUP 3 - Spray & sandblasters	10.05		.50		
GROUP 4 - Perfa-tape machine op.	9.55		.50		
PLASTERERS	10.85				.01
PLUMBERS & PIPEFITTERS:					
ZONE 1 - shall extend a distance of 25 road miles from the police station in either Amarillo or Borger	10.37	.45	.65	.60	
ZONE 2 - shall extend a distance of 25 to 50 road miles from either Amarillo or Borger	10.62	.45	.65	.60	
ZONE 3 - shall extend a distance of 50 road miles & over from either Amarillo or Borger	10.87	.45	.65	.60	
ROOFERS	4.50				
SHEET METAL WORKERS	10.49	.50	.55		.11
SPRINKLER FITTERS	11.60	.75	1.05		.08
TRUCK DRIVERS:					
1/2 ton to 3 tons; Ready mix concrete to 3 yds.	2.90				
3 to 5 tons; Ready mix concrete over 3 yds.	3.13				
5 tons and over	3.38				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTE FOR GLAZIERS:
a - Paid Holidays A thru F

PAID HOLIDAYS FOR GLAZIERS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

DECISION NO.: TX79-4007

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	$ 8.75	.40	.50		.10
GROUP 2	8.25	.40	.50		.10
GROUP 3	6.30	.40	.50		.10

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Blade Grader, self-propelled; Clam Shells; Cable Ways; Cranes, power operated (all types); Air Compressors, Pumps, Welding Machines & Light Plants (7 to 12 machines); Derricks, power operated (all types); Draglines; Elevating Graders, self-propelled; Hoist, 2 drum or more; Locomotive; Mixermobiles; Paving Mixers, all types; Pile Drivers; Scrapers; Bulldozers; Side Boom; Cherry Pickers-12½ ton & over; Shovels; Heavy Duty Mechanics; All Welders; All tractors with power attachments; Ditching Machines - crawler type; Farm type Tractor (Loader, 1 yd. & over) with Backhoe; All other equipment of similar nature coming within to Heavy Equipment Classification when power operated

GROUP 2 - Air Compressors, Pumps, Welding Machines, Throttle Valves, Light Plants (3 to 6 machines); Cherry Pickers - under 12½ tons; Ditch Witch - J30 and under; Farm type Tractor (Loader under 1 yd.) with Backhoe; Go-Devil; Mixers, 14 cu. ft. or over; Rollers over 10 tons; Air Compressor and one Tugger; Boilers, 2 or more; Winch Trucks; Front End Scoopmobile, Loader, Payloader; Blade Grader, towed; Elevators, Building; Fork Lifts; Hoist, single drum or 1 line hoisting (1 tugger); Mixers less than 15 cu. ft.; Rollers; Screening Plants; Crushing Plants; Tractors-Wheel type except when hauling material; All other equipment of similar nature coming within the Light Equipment Classification when power operated

GROUP 3 - Oiler-Fireman-Greaser

SUPERSEDEAS DECISION

STATE: Texas
COUNTY: Taylor
DECISION NO.: TX79-4008
DATE: Date of Publication
Supersedes Decision No. TX78-4017 dated March 10, 1978 in 43 FR 10272
DESCRIPTION OF WORK: Building Construction (does not include single family homes & garden type apartments up to 6 including 4 stories.) (See current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AIR CONDITIONING MECHANICS	$ 4.00				
ASBESTOS WORKERS	10.83	.50	.76		.025
BOILERMAKERS	11.05	.80	1.00		.02
BRICKLAYERS	7.20				
CARPENTERS	6.00	.25	.30		
CEMENT MASONS	5.41				
ELECTRICIANS:					
Electricians	9.80	.60	3%		1/4%
Cable splicers	10.05	.60	3%		1/4%
GLAZIERS	4.50				
IRONWORKERS	6.65	.55	.50		.10
LABORERS:					
Laborers	3.20				
Mason tenders	3.80				
LINE CONSTRUCTION:					
Lineman	9.80	.60	3%		1/4%
Cable splicers	10.05	.60	3%		1/4%
Groundman (over 1 year of experience)	7.35	.60	3%		1/4%
Groundman (under 1 year of experience)	5.88	.60	3%		1/4%
Equipment operator	8.04	.60	3%		1/4%
Flat bed truck driver	6.08	.60	3%		1/4%
PAINTERS:					
Brush, tape & bedding, paperhanger	8.00		.35		
Spray	8.875		.35		
PLASTERERS	6.60				
PLUMBERS & PIPEFITTERS	9.38	.30	.65		.05
POWER EQUIPMENT OPERATORS:					
Backhoes	4.75				
Cranes, derricks, draglines	5.575				
Drilling	5.575				
Oilers	4.65				
ROOFERS	3.94				
SHEET METAL WORKERS	6.26				
SOFT FLOOR LAYERS	3.75				
TILE SETTERS	4.00				
TRUCK DRIVERS	3.00				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

SUPERSEDEAS DECISION

STATE: Texas
COUNTIES: Cameron, Hidalgo, Starr & Willacy
DECISION NO.: TX79-4009
DATE: Date of Publication
Supersedes Decision No. TX78-4034 dated April 14, 1978 in 43 FR 16121
DESCRIPTION OF WORK: Building Construction (does not include single family homes & garden type apartments up to 6 including 4 stories). (See current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.74	.55	.60		
BOILERMAKERS	11.05	.80	1.00		.02
BRICKLAYERS	6.00				
CARPENTERS	5.11				
CEMENT MASONS	3.50				
ELECTRICIANS	6.425				
GLAZIERS	3.55				
IRONWORKERS:					
Structural & ornamental	3.50				
Reinforcing	4.02				
LABORERS:					
Common laborers	2.90				
Air tool operators	2.90				
Mason tenders	2.90				
Mortar mixers	2.90				
Plasterers' tenders	2.90				
PAINTERS	4.19				
PLASTERERS	7.00				
PLUMBERS & PIPEFITTERS	8.55	.55	.20		.05
ROOFERS:					
Roofers	4.06				
Kettlemen	4.40				
SHEET METAL WORKERS	4.23				
SPRINKLER FITTERS	11.60	.75	1.05		.08
TILE SETTERS	3.75				
TRUCK DRIVERS	2.90				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

SUPERSEDEAS DECISION

STATE: Texas
COUNTY: Wichita
DECISION NO.: TX79-4010
DATE: Date of Publication
Supersedes Decision No. TX78-4088 dated August 25, 1978 in 43 FR 38287
DESCRIPTION OF WORK: Building Construction (does not include single family homes & garden type apartments up to 6 including 4 stories). (See current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.83	.50	.76		.03
BOILERMAKERS	11.05	.80	1.00		.02
BRICKLAYERS & STONEMASONS	10.14		.60		.05
CARPENTERS:					
Carpenters	9.87	.48	.50		.07
Millwrights	10.37	.48	.50		.07
CEMENT MASONS	9.12				
ELECTRICIANS:					
Electricians	10.50	.50	3%		1/10%
Cable splicers	10.75	.50	3%		1/10%
ELEVATOR CONSTRUCTORS:					
Mechanics	9.91	.745	.35	4%+a+b	.02
Helpers	70%JR	.745	.35	4%+a+b	.02
Helpers (Probationary)	50%JR				
GLAZIERS	4.97				
IRONWORKERS:					
Structural; Ornamental; Reinforcing	9.40	.55	1.00		.10
Ironworkers on jobs 30 miles or more from the city of Wichita Falls	9.525	.55	1.00		.10
LABORERS:					
GROUP 1 - General laborers	5.145	.275	.27		
GROUP 2 - Pipelayer (concrete & clay); Power buggy operator; Gunite mixer; Cement work mixer; Power tool operator; Bell hole man (piers)	5.27	.275	.27		
GROUP 3 - Mason tender; Mason mortar mixer; Plasterer tender; Hod carrier; Plasterer mortar mixer; Gunite over 1½" thick; Nozzleman & machine operator	5.395	.275	.27		
GROUP 4 - Powderman, blaster	5.645	.275	.27		
LATHERS	7.65				.01
LINE CONSTRUCTION:					
Lineman; Lineman operator	10.50		3%		1/2%
Cable splicer	10.75		3%		1/2%
Groundman, 1st 6 months	50%JR		3%		1/2%
Groundman, 2nd 6 months	60%JR		3%		1/2%
Groundman, 1 year & over	70%JR		3%		1/2%

DECISION NO. TX79-4010

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE SETTERS	$ 8.61				
PAINTERS:					
Brush	7.50				
Spray	8.50				
PLASTERERS	10.50				.01
PLUMBERS & PIPEFITTERS:					
ZONE 1 - Within 25 miles of Wichita Falls City limits	10.30	.45	.65		.02
ZONE 2 - Over 25 miles of Wichita Falls City limits	10.80	.45	.65		.02
ROOFERS	5.42				
SHEET METAL WORKERS	10.88				.07
SOFT FLOOR LAYERS	5.50				
TERRAZZO WORKERS	7.50				
TILE SETTERS	6.50				
TRUCK DRIVERS	2.90				
WELDERS - receive rate prescribed for craft peforming operation to which welding is incidental.					

FOOTNOTES FOR ELEVATOR CONSTRUCTORS:
a - 1st 6 months - none; 6 months to 5 years - 2%; over 5 years - 4% of basic hourly rate
b - Paid Holidays A thru G

PAID HOLIDAYS FOR ELEVATOR CONSTRUCTORS
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-the Friday after Thanksgiving Day; G-Christmas Day

DECISION NO. TX79-4010

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	$ 8.175	.40	.625		.10
GROUP 2	9.075	.40	.625		.10
GROUP 3	9.475	.40	.625		.10

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Oiler-Fireman
GROUP 2 - Air Compressors, Pumps, Welding Machines, Throttle Valves, Light Plants (3 to 6 machines); Conveyor; Wagon Drill; Elevators Building; Form Graders; Hoist, Single Drum; Ford Tractor including blade and mower on rear; Mixers less than 14 cubic feet; Screening Plants; Crushing Plants; Fork Lifts (short, under 25 feet); Concrete Pumps (all types); Bobcat type equipment; Ford tractor or like with any attachments (except blade and mower on rear); All other equipment of similar nature coming under the Light Equipment Class, when power operated
GROUP 3 - Backhoe; Drilling Machines (all types); Scoopmobiles; Hoists, two drums or more; Fork Lifts (over 25 feet); Winch Truck; Six Wheel Truck, when used continuously for 5 days; Mixermobile; Locomotives; Mixers, 14 cubic feet or over; Blade Graders, self-propelled; Cableways; Cranes-power operated (to 100 feet of boom); Derricks, power operated (all types); Gradall; Hy-Ho; Hop-To; Paving Mixer (all types); Pile Drivers; Mobile Concrete Mixers over 14 cu. ft.; Bulldozers, Loaders, Tractovators; Scrapers and Pulls; Welders; Trenching Machines; Roller, ten tons or over; Air Compressors, Pumps, Welding Machines and Light Plants (7 to 12 Machines); Air Compressor & Air Tugger; Boilers, two or more fired by one man; Heavy Duty Mechanic; All other equipment of similar nature coming under the Heavy Equipment Class, when power operated

SUPERSEDEAS DECISION

STATE: Texas
COUNTIES: Galveston & Harris
DECISION NO.: TX79-4011
DATE: Date of Publication
Supersedeas Decision No TX78-4084 dated August 25, 1978 in 43 FR 38281
DESCRIPTION OF WORK: Building Construction (does not include single family homes & garden type apartments up to & including 4 stories). (See current highway general wage determination for Paving & Utilities Incidental to Building Construction.)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.75	.90	.90		.05
BOILERMAKERS	11.05	.80	1.00		.02
BRICKLAYERS & STONEMASONS	11.36	.63	.60		.06
CARPENTERS:					
Carpenters & piledrivermen	10.60	.85	.80		.07
Millwrights	10.985	.85	.80		.07
CEMENT MASONS:					
Galveston County	10.60	.52	.58		
Harris County	10.60	.52	.58		.08
ELECTRICIANS:					
Galveston County	12.29	.50	3%+$1.40		.06
Harris County	12.25	.55	10%		.06
ELEVATOR CONSTRUCTORS:					
Mechanics	10.35	.745	.35	4%+a+b	.02
Helpers	70%JR	.745	.35	4%+a+b	.02
Helpers (Probationary)	50%JR				
GLAZIERS	11.17	.60	.425		.01
IRONWORKERS	10.96	.55	1.15		.10
LABORERS:					
GROUP 1 - Common	7.84	.45	.60		.02
GROUP 2 - Air tool operator (jackhammer-vibrator); Mason tenders; Pipelayers (concrete & clay); Sandblasters; Power buggy operator	8.025	.45	.60		.02
GROUP 3 - Lather tender; Mortar mixers; Plaster tenders & hod carriers	8.135	.45	.60		.02
GROUP 4 - Well driller	8.43	.45	.60		.02
GROUP 5 - Well driller tender	7.975	.45	.60		.02
GROUP 6 - Blaster, powderman	8.295	.45	.60		.02
LATHERS (Harris County only)	11.42	.70	.35		.02
LINE CONSTRUCTION:					
Lineman & cable splicer	12.30	.60	3%		1/2%
Groundmen (1st 6 mos.)	4.31	.60	3%		1/2%
Groundmen (2nd 6 mos.)	5.17	.60	3%		1/2%
Groundmen	7.13	.60	3%		1/2%
MARBLE MASONS:					
Galveston County	10.21				
Harris County	10.49	.63	.20		
MARBLE MASONS' FINISHERS	8.45				

DECISION NO. TX79-4011

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
East Harris County:					
GROUP 1 - All brush painting, hand rolling and all other work other than that below	$12.13				
GROUP 2 - All pneumatic and electric tools & steam cleaning	12.485				
GROUP 3 - All tape and float on drywall	12.225				
GROUP 4 - All paper & vinyl hanging	12.38				
GROUP 5 - All spray painting, sandblasting & waterblasting	12.525				
GROUP 6 - Steeple jack work, hot materials	12.79				
Remainder of Harris County:					
GROUP 1 - All brush painting, hand roller, steam cleaning, all pneumatic tools	10.595	.565	.45	.40	.04
GROUP 2 - All spray painting, sandblasting, waterblasting	10.97	.565	.45	.40	.04
GROUP 3 - Tape, float & drywall	10.72	.565	.45	.40	.04
GROUP 4 - Steeple jack work, hot materials	11.22	.565	.45	.40	.04
Galveston County:					
GROUP 1 - Painters on new work	10.31	.60	.50	.85	.035
GROUP 2 - Painters on swinging stage work or using materials injurious to the skin	10.56	.60	.50	.85	.035
GROUP 3 - Painters on rework & repaint	9.555	.60	.50	.85	.035
PIPEFITTERS:					
That part of Galveston County east of the Trinity River	12.235	.645	.70		.11
That part of Galveston County west of the Trinity River & all of Harris County	11.85	.50	.70		.045
PLASTERERS	11.30	.87	.30		.02
PLUMBERS:					
Galveston County	12.235	.645	.70		.11
Harris County	12.37	.75	.75		.12
ROOFERS	9.61	.42	.35	.25	.06
SHEET METAL WORKERS:					
Galveston County	10.82	.80	.50	.50	.10
Harris County	11.41	.375	.695	.42	.06
SOFT FLOOR LAYERS	10.53	.50	.45		.14
SPRINKLER FITTERS	11.60	.75	1.05		.08
TERRAZZO WORKERS:					
Galveston County	10.21				
Harris County	10.49	.63	.20		
TERRAZZO WORKERS' FINISHERS:					
Terrazzo workers' finishers	8.45				
Terrazzo floor machinemen	8.60				
Terrazzo base machinemen	8.75				

DECISION NO. TX79-4011

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TILE SETTERS:					
Galveston County	$10.21				
Harris County	10.49	.63	.20		
TILE SETTERS' FINISHERS	8.45				
TRUCK DRIVERS:					
GROUP 1 - Under 1½ tons; wash, grease, fireman, fuel pump operator when used on construction jobs	7.84				
GROUP 2 - 1½ thru 2½ tons; dump truck less than 7 yds.	8.23				
GROUP 3 - Over 2½ tons; farm tractors; fork lifts, floats	8.45				
GROUP 4 - Euclids (not self-loading)	8.61				
GROUP 5 - Warehousemen	8.10				
GROUP 6 - Material checkers; pick-up drivers	9.14				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTES FOR ELEVATOR CONSTRUCTORS:
a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 2%; over 5 yrs. - 4% of basic hourly rates
b - Paid Holidays A thru G

PAID HOLIDAYS FOR ELEVATOR CONSTRUCTORS:
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; G-the Friday after Thanksgiving Day; F-Christmas Day

DECISION NO. TX79-4011

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	$10.94	.70	.85		.07
GROUP 2	9.24	.70	.85		.07
GROUP 3	8.66	.70	.85		.07
GROUP 4	8.47	.70	.85		.07

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Heavy Duty Mechanic; Blade Grader, Self-propelled; Bull Clam; Rack Filler; Derrick - power operated (all types); Clam Shell; Draglines; Push Cat Operator; Bull Dozer & all types Cat Tractors; Cable-Way; Backhoe; Shovel, power operated; Crane, power operated (all types); Elevating Grader, Self-propelled; Hoist, Motor-Driven, Two Drums or more, Mix Mobile; Water Well Drilling Machines, Used on Construction; Building Elevator, used on Construction; Tug Boat Operator, Assigned to Construction; Winch Truck; Locomotive Crane; Concrete Mixer, 14 cu. ft. or more; Paving Mixer (all types); Pile Driver; Scraper, Heavy Type, over 3 cu. yds.; Trenching Machines (all sizes); Gradall; High-Lift; Foundation Boring Machine; Gasoline or Diesel Driven Welding Machines, 7 or more; Pumpcrete Machine Operator; Turnapulls; DW-10 Caterpiller, S-18 Euclid and similar Tractors; Asphalt Plant Mixer Operator on job; Crusher Operator on job; Scoopmobiles; Forklift used on construction (not including warehousing); Well Point Pump; Concrete Batch Plant Operator; Pneumatic Rollers, Self-propelled; All other equipment of similar nature coming under the Heavy Equipment Class, when power operated
GROUP 2 - Air Compressors; Blade Grader, Towed; Flex Plane; Form Greder, Concrete Mixer, less than 14 cu. ft.; Pumps; Pulsometer; Truck Crane Driver; Gasoline or diesel Driven Welding Machines (on 3 or more, up to 6 machines); Hoist, Single Drum; Scraper, 3 cu. yds. or less; Wagon Drill Operator; Conveyor; Generator, Gasoline or Diesel-driven, over 1500 watts; Rubber Tired Farm Tractor with attachments; A Light Equipment Operator may run 1 or 2 105 cfm compressors; All other equipment of similar nature coming under the Light Equipment Class, when power operated
GROUP 3 - Fireman
GROUP 4 - Oiler

SUPERSEDEAS DECISION

STATE: Texas
COUNTIES: Bastrop, Blanco, Caldwell, Fayette, Hays, Lee, Travis & Williamson
DECISION NO.: TX79-4012
DATE: Date of Publication
Supersedes Decision No. TX77-4026, dated February 18, 1977, in 42 FR 10270
DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AIR CONDITIONING & HEATING MECHANICS	$ 3.65				
BRICKLAYERS	5.88				
CARPENTERS	4.43				
CEMENT MASONS	4.81				
ELECTRICIANS	5.82		1%		.8%
FIBERGLASS DUCT INSTALLERS	3.16				
FORM SETTERS	4.07				
INSULATION INSTALLERS	3.00				
IRONWORKERS, REINFORCING	2.90				
LABORERS	2.90				
PAINTERS:					
Brush	4.16				
Spray	4.81				
PLUMBERS & PIPEFITTERS	5.50				
ROOFERS:					
Roofers	3.50				
Kettlemen	3.00				
SHEET METAL WORKERS	3.75				
SOFT FLOOR LAYERS	4.00				
TILE SETTERS	4.81				
TILE SETTERS' FINISHERS	3.10				
TRUCK DRIVERS	2.90				
POWER EQUIPMENT OPERATORS:					
Asphalt paving machines	3.50				
Bulldozers	3.75				
Front end loaders	3.31				
Motor graders	4.00				
Rollers	2.90				
Scrapers	3.50				

SUPERSEDEAS DECISION

STATE: Texas
COUNTY: Bexar
DECISION NO.: TX79-4013
DATE: Date of Publication
Supersedes Decision No. TX77-4172, dated August 5, 1977, in 42 FR 39883.
DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AIR CONDITIONING INSTALLERS	$ 3.50				
BRICKLAYERS	7.27	.30	.30		.05
CARPENTERS	4.89				
CEMENT MASONS	4.00				
DUCT INSTALLERS	4.60				
ELECTRICIANS:					
Single or multiple family dwellings or apartments up to and including 8 units not exceeding 2 stories	6.35	.30	1%		1/2%
Over 8 units or over 2 stories	9.23	.30	1%		1/2%
FORM SETTERS	4.50				
GLAZIERS	5.60				
INSULATION INSTALLERS	4.50				
LABORERS	2.90				
LATHERS	7.955				
PAINTERS	4.63				
PLASTERERS	6.65				
PLUMBERS & PIPEFITTERS	7.70				
ROOFERS	4.53				
SHEETROCK INSTALLERS	5.00				
SOFT FLOOR LAYERS	5.00				
TAPERS	4.00				
TILE SETTERS	4.73				
TRUCK DRIVERS	3.00				
POWER EQUIPMENT OPERATORS:					
Foundation drill operator (crawler mounted)	3.25				
Front end loader	3.60				
Tractor	3.75				

SUPERSEDEAS DECISION

STATE: Texas
COUNTIES: Dimmit, Jim Hogg, LaSalle, Maverick, Webb, Zapata & Zavala
DECISION NO.: TX79-4014
DATE: Date of Publication
Superseded Decision No. TX76-4039, dated February 13, 1976, in 41 FR 7014
DESCRIPTION OF WORK: Building (including Residential) Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AIR CONDITIONING MECHANIC	$ 4.45				
BRICKLAYERS	4.85				
CARPENTERS	3.70				
CEMENT MASONS	3.20				
ELECTRICIANS	4.20				
GLAZIERS	3.14				
IRONWORKERS	2.90				
LABORERS:					
Laborers	2.90				
Asphalt rakers	2.90				
Mason tenders	2.90				
PAINTERS, BRUSH	4.30				
PLUMBERS & PIPEFITTERS	4.35				
ROOFERS:					
Roofers	4.00				
Kettlemen	2.90				
SHEET METAL WORKERS	4.33				
SOFT FLOOR LAYERS	4.30				
TRUCK DRIVERS	2.90				
POWER EQUIPMENT OPERATORS:					
Asphalt finishers	2.90				
Backhoes	2.90				
Bulldozers	2.90				
Cranes	2.90				
Front end loaders	2.90				
Motor graders	2.90				
Rollers	2.90				
Scrapers	3.00				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

SUPERSEDEAS DECISION

STATE: Texas
COUNTY: Tarrant
DECISION NO.: TX79-4015
DATE: Date of Publication
Supersedes Decision No. TX77-4029, dated February 18, 1977, in 42 FR 10271.
DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AIR CONDITIONING & HEATING MECHANICS	$ 4.68				
BRICKLAYERS	6.00				
CARPENTERS	4.50				
CEMENT MASONS	4.50				
ELECTRICIANS	4.50				
IRONWORKERS, REINFORCING	3.00				
LABORERS:					
Laborers	2.90				
Mason tenders	4.13				
Plasterers' tenders	5.30				
LATHERS	8.06	.25			.04
PAINTERS, BRUSH	4.68				.01
PLASTERERS	8.335				
PLUMBERS & PIPEFITTERS	4.75				
ROOFERS	3.50				
SHEET METAL WORKERS	3.00				
SOFT FLOOR LAYERS	4.50				
TILE SETTERS	5.00				
TILE SETTERS' FINISHERS	3.50				
TRUCK DRIVERS	2.90				
POWER EQUIPMENT OPERATORS:					
Backhoes	3.50				
Forklifts	3.50				
Loaders	3.66				
Motor graders	3.60				

[FR Doc. 79-355 Filed 1-4-79; 8:45 am]

federal register

FRIDAY, JANUARY 5, 1979
PART XI

THE NATIONAL ARCHIVES OF THE UNITED STATES 1934

DEPARTMENT OF LABOR

Employment and Training Administration

CLASSIFYING LABOR SURPLUS AREAS

Preference in Federal Procurement

[4510-30-M]

Title 20—Employees' Benefits

CHAPTER V—EMPLOYMENT AND TRAINING ADMINISTRATION, DEPARTMENT OF LABOR

PART 651—GENERAL PROVISIONS GOVERNING THE FEDERAL-STATE EMPLOYMENT SERVICE SYSTEM

PART 654—SPECIAL RESPONSIBILITIES OF THE EMPLOYMENT SERVICE SYSTEM

Preference in Federal Procurement Under Defense Manpower Policy DMP-4A and Executive Orders 12073 and 10582

MODIFICATION OF RULES FOR CLASSIFYING LABOR SURPLUS AREAS

NOTE.—This document originally appeared in the FEDERAL REGISTER for January 3, 1979. It is reprinted in this issue to meet requirements for publication on the Tuesday/Friday schedule assigned to the Labor Department. (See OFR notice 41 FR 32914, August 6, 1976.)

AGENCY: Employment and Training Administration, Labor.

ACTION: Final rule.

SUMMARY: The Department of Labor is modifying its rules for classifying labor surplus areas under Defense Manpower Policy DMP-4A and Executive Order 10582 to reflect the promulgation of Executive Order 12073 and changes being made as a result of comments received.

EFFECTIVE DATE: January 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Davis A. Portner, Office of Policy Evaluation and Research, 601 "D" Street, N.W., Room 9420, Washington, D.C. 20213, (202) 376-6274.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Defense Manpower Policy No. 4A (DMP-4A), 32A CFR Part 134, became effective November 3, 1977. The purpose of DMP-4A is to encourage the purchase of goods and services by the Federal Government and the placement of Federal facilities in areas of labor surplus. Under DMP-4A the Secretary of Labor is required to classify labor surplus areas and disseminate this information for the use of all Federal agencies in directing procurement activity and locating new plants or facilities. Firms which agree to perform most of the work in labor surplus areas are eligible for preference in the award of procurement contracts and grants and the execution of agreements.

On March 3, 1978, the Department of Labor published in the FEDERAL REGISTER final regulations for classifying labor surplus areas under Defense Manpower Policy DMP-4A and Executive Order 10582. In order to implement DMP-4A as rapidly as possible, the Department shortened the period for comment on the proposed regulations and accepted comment during the 60 day period subsequent to the publication date of the final regulations.

On August 16, 1978 the President signed Executive Order 12073—Federal Procurement in Labor Surplus Areas. This executive order strengthened DMP-4A and provided additional authority for the Department's implementing regulations in 20 CFR Part 654.

At this time the Department is making revisions and corrections to these regulations primarily as a result of the comments which were received and the promulgation of the executive order. The changes also reflect the Department's experience under these regulations.

SUMMARY OF CHANGES

The primary objective of these changes is to more effectively accomplish the purpose of DMP-4A to target Federal procurement to areas of greatest need. Effective targeting is a goal of the strengthened procedures in E.O. 12073 and a central concern of the comments received on the Department's regulations.

A review of operating data indicates that the present criteria used for classifying labor surplus areas are too broad for the effective targeting of Federal funds. Based on comments received and internal analysis, the Department of Labor has concluded that the criteria for classifying labor surplus areas should be focused more sharply on communities with problems of chronically high unemployment which have the greatest need of the labor surplus set aside program. To accomplish this objective the following changes are being made in the system for defining program eligibility.

1. In order to focus programs more sharply on the community level, labor surplus will no longer be defined in terms of broad geographic areas in which there is a concentration of economic activity or labor demand and in which workers can generally change jobs without changing their residences. Instead, the conditions for defining labor surplus will be in terms of discrete civil jurisdictions, i.e., counties, county equivalents, and cities with a population of at least 50,000. In this way, funds will be directed to specific localities with high unemployment rather than to all jurisdictions in any given metropolitan area, not all of which suffer from the same degree of unemployment.

2. In order to target procurement contracts to localities with the greatest degree of unemployment, eligibility will be limited to those jurisdictions which have an average unemployment rate which is 120 percent of the national unemployment rate or higher during the reference period.

3. The reference period used in making the classifications will be an average of the previous two calendar years. By using an average of 24 months of unemployment data in place of the present 12 months, it should be possible to target contracts into communities experiencing high structural unemployment.

4. Eligibility status will be determined annually (rather than quarterly) effective each May 1. The purpose of this change is to provide more stability in the contracting process.

5. In classifying labor surplus areas for those jurisdictions in standard metropolitan statistical areas for which the current population surveys (CPS) were used to determine the annual unemployment data prior to January 1, 1978, the Assistant Secretary shall make determinations of the average unemployment rates in such jurisdictions. The purpose of this change is to prevent these areas from being penalized by the change in the unemployment estimating procedures involving the discontinuation of separate CPS estimates for these areas.

Since these regulations involve a matter relating to "public property, loans, grants, benefits, or contracts" they are exempt from the rulemaking requirements of the Administrative Procedure Act. (5 U.S.C. § 553(a)(2)). Moreover, the Secretary of Labor has determined that it is in the public interest to publish these regulations in final form so that program implementation may move more rapidly without disruption of the Federal procurement process. This finding constitutes a waiver of the Department's regulation in 29 CFR 2.7. These rules will therefore become effective January 1, 1979.

Accordingly, Parts 651 and 654, Chapter V, Title 20 of the Code of Federal Regulations are amended as follows:

PART 651—GENERAL PROVISIONS GOVERNING THE FEDERAL-STATE EMPLOYMENT SERVICE SYSTEM

1. The table of contents for Part 654—Special Responsibilities of the Employment Service System is amended to read as follows:

* * * * *

§ 651.6 Consolidated table of contents for Parts 651-658.

SUBPART A—RESPONSIBILITIES UNDER DEFENSE MANPOWER POLICY NO. 4A (32A CFR PART 134) AND EXECUTIVE ORDER 12073

654.1 Purpose of subpart.
654.2 Description of DMP-4A.
654.3 Description of Executive Order 12073.
654.4 Definitions.
654.5 Classification of labor surplus areas.
654.6 Termination of classification.
654.7 Publication of area classifications.
654.8 Services to firms and individuals in labor surplus areas.
654.9 Filing of employment service-related complaints.

SUBPART B—RESPONSIBILITIES UNDER EXECUTIVE ORDER 10582

654.11 Purpose of subpart.
654.12 Description of Executive Order 10582.
654.13 Determination of areas of substantial unemployment.
654.14 Filing of employment service-related complaints.

SUBPART C—TRANSITION PROVISIONS

654.21 Interim classifications.

PART 654—SPECIAL RESPONSIBILITIES OF THE EMPLOYMENT SERVICE SYSTEM

2. Part 654, in its entirety, is amended to read as follows:

SUBPART A—RESPONSIBILITIES UNDER DEFENSE MANPOWER POLICY NO. 4A (32A CFR PART 134) AND EXECUTIVE ORDER 12073

654.1 Purpose of subpart.
654.2 Description of DMP-4A.
654.3 Description of Executive Order 12073.
654.4 Definitions.
654.5 Classification of labor surplus areas.
654.6 Termination of classification.
654.7 Publication of area classifications.
654.8 Services to firms and individuals in labor surplus areas.
654.9 Filing of employment service-related complaints.

SUBPART B—RESPONSIBILITIES UNDER EXECUTIVE ORDER 10582

654.11 Purpose of subpart.
654.12 Description of Executive Order 10582.
654.13 Determination of areas of substantial unemployment.
654.14 Filing of employment service-related complaints.

SUBPART C—TRANSITION PROVISIONS

654.21 Interim classifications.

AUTHORITY: Pub. L. 95-89; 50 U.S.C. App. 2061, et seq.; 41 U.S.C. 10a et seq.; 29 U.S.C. 49 et seq., E.O. 12073; E.O. 11725; E.O. 11051, as amended; E.O. 10582; E.O. 10480; 32A CFR Part 134.

Subpart A—Responsibilities Under Defense Manpower Policy No. 4A (32A CFR Part 134) and Executive Order 12073

§ 654.1 Purpose of subpart.

This subpart implements the responsibilities of the Secretary of Labor in classifying labor surplus areas in accordance with Defense Manpower Policy No. 4A of the Federal Preparedness Agency, General Services Administration (32A CFR Part 134—Preservation of the Mobilization Base Through the Placement of Procurement and Facilities in Labor Surplus Areas (DMP-4A)), and Executive Order 12073 (Federal Procurement in Labor Surplus Areas). The Secretary of Labor has delegated responsibilites to the Assistant Secretary, Employment and Training Administration.

§ 654.2 Description of DMP-4A.

(a) Defense Manpower Policy No. 4A (DMP-4A) consists of the Federal regulations at 32A CFR Part 134—Preservation of the Mobilization Base Through the Placement of Procurement and Facilities in Labor Surplus Areas.

(b) The DMP-4A regulations were issued pursuant to Pub. L. 95-89; Executive Order 10480; Executive Order 11051, as amended; and Executive Order 11725. Implementation of the regulations is the responsibility of the Federal Preparedness Agency of the General Services Administration.

(c) The purpose of DMP-4A is to encourage the purchase of goods and services by the Federal Government and the placement of Federal facilities in areas of labor surplus.

(d) Under DMP-4A, the Secretary of Labor is required to:

(1) Classify labor surplus areas and disseminate this information on a timely basis to Federal departments and agencies.

(2) In cooperation with State and local authorities and the Secretary of Commerce, provide labor-market data and related economic information in efforts to assist in the initiation of industrial expansion programs in labor surplus areas.

(3) Identify occupations and skills which are in surplus supply within labor surplus areas and make this information available to firms requiring such occupations and skills and interested in establishing new plants and facilities.

(4) Identify occupations and skills for which labor will be needed by new or expanding industries and industries that expand during a mobilization; and, in collaboration with other Government agencies, make assistance available to labor surplus area institutions and users in developing on-the-job, apprentice, or other training programs for developing skills of the work force.

(5) Through the affiliated State employment services, receive job openings on a voluntary basis and/or under the mandatory listing program provided for by section 2012 of Title 38 of the United States Code and by Executive Order 11701, and refer qualified unemployed workers to concerns in labor surplus areas.

(e) Under DMP-4A, all Federal agencies are required to:

(1) Use their best efforts to award all procurement contracts and grants, and execute agreements, greater than $2,500 to concerns that will perform a substantial proportion of the manufacturing, production, or appropriate services on those contracts within labor surplus areas, to the extent that procurement objectives will permit.

(2) Ensure that firms in labor surplus areas that are on appropriate bidders mailing lists are given the opportunity to submit offers on all procurements for which they are qualified. Whenever the number of firms on a bidders mailing list is excessive in relation to size and type of procurement, a representative number of firms from labor surplus areas shall be given the opportunity to submit offers.

(3) Establish programs to encourage prime contractors to award subcontracts to firms that agree to perform a substantial proportion of the production, manufacturing or appropriate services on those subcontracts in labor surplus areas.

(4) Cooperate with other Federal departments and agencies in achieving the objectives of this policy.

(f) Under DMP-4A, the Secretary of Commerce is required to:

(1) In cooperation with State economic development agencies, the Secretary of the Defense, the Administrator of General Services, and the Administrator of the Small Business Administration, assist concerns which have agreed to perform contracts in labor surplus areas in obtaining Government procurement business by: (A) Providing such concerns with timely information on proposed Government procurements; and (B) maintaining current information on the manufacturing capabilities of such concerns with respect to Governement procurement and disseminating such information to Federal departments and agencies.

(2) Urge concerns planning new production facilities to consider the advantages of locating in labor surplus areas.

(3) Provide technical advice and counsel to groups and organizations in labor surplus areas on planned industrial parks, industrial development organizations, expanding tourist business, and available Federal aids.

(g) Under DMP-4A, the Administrator of the Small Business Administration is required to make available to small business concerns in labor surplus areas all of its services, endeavor to ensure opportunity for maximum participation by such concerns in Government procurement, and give consideration to the needs of these concerns in the making of joint small business set-asides with Government procurement agencies.

(h) Under DMP-4A, there is continued in operation within the Federal Preparedness Agency the Surplus Manpower Committee. The Committee is chaired by the Director of the Federal Preparedness Agency or the Director's designee. The Committee

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includes representation from the Office of Federal Procurement Policy; Department of Defense; Department of Commerce; Department of Labor; General Services Administration; Small Business Administration; Department of Health, Education, and Welfare; Department of Housing and Urban Development; Department of Energy; and other interested departments and agencies. The Committee advises the Director, Federal Preparedness Agency, on policies, procedures, and activities in existence or needed to carry out the purpose of DMP-4A.

(i) When an entire industry that sells a significant portion of its production to the Government is generally depressed or has a significant proportion of its production units located in a labor surplus area, the Committee may make appropriate recommendations relative to that industry in lieu of recommendations relative to specific geographical areas. In such cases, after notice and hearing of interested parties, the Director, Federal Preparedness Agency, gives consideration to appropriate measures applicable to the entire industry.

(j) Under DMP-4A, all Federal agencies are required to give consideration to labor surplus areas in the selection of sites for Government-financed facilities, including expansion, to the extent that such selection is consistent with existing law and essential economic and strategic factors that must also be taken into account.

§ 654.3 Description of Executive Order 12073.

Executive Order 12073 also requires executive agencies to emphasize procurement set-asides in labor surplus areas. The Secretary of Labor is responsible under this order for classifying and designating labor surplus areas.

§ 654.4 Definitions.

(a) "Assistant Secretary" shall mean Assistant Secretary for Employment and Training, U.S. Department of Labor.

(b) "Civil jurisdiction" shall mean:

(1) Cities of 50,000 or more population on the basis of the most recently available Bureau of the Census estimates; or

(2) Towns and townships in the States of New Jersey, New York, Michigan, and Pennsylvania of 50,000 or more population and which possess powers and functions similar to cities; or

(3) All counties, except those counties which contain any of the types of political jurisdictions defined in (1) and (2) above.

(4) All other counties are defined as "balance of county" (i.e., total county less component cities and townships identified in (1) and (2) above).

(5) County equivalents which are towns in the States of Massachusetts, Rhode Island and Connecticut.

(c) "Labor surplus area" shall mean a civil jurisdiction that, in accordance with the criteria specified in § 654.5, has been classified as a labor surplus area for purposes of Defense Manpower Policy No. 4A.

(d) "Reference period" shall mean the two year period ending December 31 of the year prior to the May 1 annual date of eligibility determination.

§ 654.5 Classification of labor surplus areas.

(a) *Basic criteria.* The Assistant Secretary shall classify a civil jurisdiction as a labor surplus area whenever, as determined by the Bureau of Labor Statistics, the average unemployment rate for the civilian labor force in the civil jurisdiction for the reference period is (1) 120 percent of the national average unemployment rate or higher for the reference period as determined by the Bureau of Labor Statistics, or (2) 10 percent or higher: *Provided, however,* That no civil jurisdiction shall be classified as a labor surplus area if the average unemployment rate for the reference period is less than 6.0 percent.

(b) In classifying civil jurisdictions within those standard metropolitan statistical areas and for central cities for which current population surveys (CPS) were used to determine annual unemployment data prior to January 1, 1978, the Assistant Secretary shall, until the end of Fiscal Year 1981, make determinations of the average unemployment rates in such jurisdictions so as to assure that eligibility is not denied by the termination of the use of such surveys.

(c) *Criteria for exceptional circumstances.* The Assistant Secretary, upon petition submitted by the appropriate State employment security agency, may classify a civil jurisdiction as a labor surplus area without regard to the reference period, whenever the civil jurisdiction meets or is expected to meet the unemployment tests established under § 654.5 (a) or (b) as a result of exceptional circumstances. For purposes of this paragraph, "exceptional circumstances" shall mean catastrophic events such as natural disasters, plant closings, and contract cancellations expected to have a long-term impact on labor market area conditions, discounting temporary or seasonal factors.

§ 654.6 Termination of classification.

(a) *Basic procedure.* The Assistant Secretary shall terminate the classification of a civil jurisdiction as a labor surplus area after any year in which the Assistant Secretary determines that the criteria established under § 654.5 (a) and (b) are no longer met.

(b) *Procedure for exceptional circumstances.* The Assistant Secretary shall terminate the classification of a civil jurisdiction classified as a labor surplus area pursuant to the provisions of § 654.5(c) after any year in which the Assistant Secretary determines that the exceptional circumstances criteria of that paragraph are no longer met.

§ 654.7 Publication of area classifications.

The Assistant Secretary shall publish annually a list of labor surplus areas together with geographic descriptions thereof.

§ 654.8 Services to firms and individuals in labor surplus areas.

To carry out the purposes and policy objectives of Defense Manpower Policy No. 4A and Executive Order 10582, the Assistant Secretary shall cooperate with and assist the State employment service agencies and the Secretary of Commerce, as appropriate to:

(a) Provide relevant labor market data and related economic information to assist in the initiation of industrial expansion programs in labor surplus areas;

(b) Identify upon request the skills and numbers of unemployed persons available for work in labor surplus areas, providing such information to firms interested in establishing new plants and facilities or expanding existing plants and facilities in such areas;

(c) Identify the occupational composition and skill requirements of industries contemplating locating in labor surplus areas and make such information available to training and apprenticeship agencies and resources in the community for purposes of appropriate training and skill development;

(d) Identify unemployed individuals in need of, and having the potential for, training in occupations and skills required by new or expanding industries and refer such individuals to appropriate training opportunities;

(e) Receive job openings on a voluntary basis and/or under the mandatory listing program provided by 38 U.S.C. 2012 and Executive Order 11701 and refer qualified unemployed workers to such openings, making appropriate efforts to refer to such openings qualified individuals who reside in the labor surplus area.

§ 654.9 Filing of employment service-related complaints.

Employment service-related complaints arising under Subpart A of this Part may be filed directly with the appropriate Department of Labor regional office in accordance with the provisions at 20 CFR § 658.420–423. For purpose of § 658.421, a complainant filing a complaint under this subsection shall be deemed to have exhausted the State agency administrative remedies set forth at 20 CFR § 658.410–416.

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Subpart B—Responsibilities Under Executive Order 10582

§ 654.11 Purpose of subpart.

This subpart implements the responsibilities of the Secretary of Labor in determining areas of substantial unemployment in accordance with Executive Order 10582 issued pursuant to the Buy American Act, 41 U.S.C. 10a et seq.

§ 654.12 Description of Executive Order 10582.

(a) Under the Buy American Act, heads of executive agencies are required to determine, as a condition precedent to the purchase by their agencies of materials of foreign origin for public use within the United States, (1) that the price of like materials of domestic origin is unreasonable, or (2) that the purchase of like materials of domestic origin is inconsistent with the public interest.

(b) Section 3(c) of Executive Order 10582 issued pursuant to the Buy American Act permits executive agencies to reject a bid or offer to furnish materials of foreign origin in any situation in which the domestic supplier, offering the lowest price for furnishing the desired materials, undertakes to produce substantially all of the materials in areas of substantial unemployment, as determined by the Secretary of Labor.

§ 654.13 Determination of areas of substantial unemployment.

An area of substantial unemployment, for purposes of Executive Order 10582, shall be any area classified as a labor surplus area at § 654.5 of this Part pursuant to the procedures set forth at Subpart A of this Part.

§ 654.14 Filing of employment service-related complaints.

Employment service-related complaints arising under Subpart B of this Part may be filed directly with the appropriate Department of Labor regional office in accordance with the provisions at 20 CFR § 658.420–423. For purposes of §658.421, a complainant filing a complaint under this subsection shall be deemed to have exhausted the State agency administrative remedies set forth at 20 CFR § 658.410–416.

Subpart C—Transition Provisions

§ 654.21 Interim classifications

The transition from the quarterly classification of the March 3, 1978 regulations to the new annual classification system will not be fully accomplished until May 1, 1979. During the interim period, from January 1, 1979 through April 30, 1979, the list of labor surplus areas will be derived as follows:

(a) the list of labor surplus areas under the March 3, 1978 regulations for the quarter ending December 31, 1978 will remain in effect;

(b) the list will be supplemented by any additional labor surplus areas which would have qualified under the March 3, 1978 regulations for the first quarter of calendar year 1979; and

(c) upon petition submitted by the appropriate State employment security agency the Assistant Secretary may classify any civil jurisdiction which meets the basic provisions of § 654.5, as amended, based on the most recent satisfactory 12 months unemployment data.

Signed at Washington, D.C. on 29 December, 1978.

RAY MARSHALL,
Secretary of Labor.

[FR Doc. 79-397 Filed 1-2-79; 9:23 am]

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FRIDAY, JANUARY 5, 1979
PART XII



DEPARTMENT OF ENERGY

Economic Regulatory Administration

SPECIAL RULE FOR TEMPORARY PUBLIC INTEREST

Proposed Exemption for use of Natural Gas by Existing Powerplants under the Powerplant and Industrial Fuel Use Act of 1978

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[6450-01-M]

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[10 CFR Part 508]

[Docket No. ERA-R-79-1]

PROPOSED SPECIAL RULE FOR TEMPORARY PUBLIC INTEREST

Exemption for Use of Natural Gas by Existing Powerplants Under the Powerplant and Industrial Fuel Use Act of 1978

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of proposed rulemaking and public hearing.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is proposing this special rule under the authority of the Powerplant and Industrial Fuel Use Act of 1978 ("FUA" or "the Act"). In general, FUA will become effective on May 8, 1979 (180 days after the date of enactment). This special rule proposes criteria and expedited procedures for owners and operators of existing powerplants to petition for a temporary public interest exemption from the prohibitions against the use of natural gas contained in Section 301(a)(2) and (3) of the FUA.

DATES: Comments by: March 9, 1979. Request to speak by: January 19, 1979. Hearing date: January 26, 1979, 9:30 a.m.

ADDRESSES: Send comments and requests to speak to: Department of Energy, Public Hearing Management, Docket No. ERA-R-79-1, Room 2313, 2000 M Street, N.W., Washington, D.C. 20461.

Hearing location: Department of Energy, Room 2105, 2000 M Street, N.W., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

William L. Webb (Office of Public Information), Economic Regulatory Administration, Department of Energy, Room B-110, 2000 M Street, N.W., Washington, D.C. 20461, (202) 634-2170;

Stephen M. Stern (Regulations and Emergency Planning), Economic Regulatory Administration, Department of Energy, Room 2130, 2000 M Street, N.W., Washington, D.C. 20461, (202) 632-9630;

Barton R. House (Fuels Regulation—Program Office), Economic Regulatory Administration, Department of Energy, Room 6128I, 2000 M Street, N.W., Washington, D.C. 20401, (202) 254-3905;

James H. Heffernan (Office of General Counsel), Department of Energy, Room 6144, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461, (202) 633-9296.

SUPPLEMENTARY INFORMATION:

I. Background
II. Policy
III. Proposed Special Rule
IV. Comment and Public Hearing Procedures

I. Background

After May 8, 1979, Section 301(a) of the Fuel Use Act (Pub. L. 95-620) will prohibit an existing powerplant from using natural gas* as its primary energy source on and after January 1, 1990. Between May 8, 1979, and January 1, 1990, an existing powerplant may only use natural gas if it used that fuel as a primary energy source in calendar year 1977 and then in no greater proportion than the average quantities used in the base years 1974-1976.

Currently, additional supplies of natural gas are available to many gas systems in the U.S. as compared to those available in the past several years. Propane supplies also appear abundant at this time. Although the availability of natural gas supplies varies among systems, the new national energy legislation, particularly the Natural Gas Policy Act of 1978, Pub. L. 95-621 (NGPA) enchances the prospect for continued near-term improvement of the domestic natural gas supply. The expansion of domestic natural gas supply also reflects the increased rate of gas well drilling, conservation practices by natural gas consumers, and the switching of curtailed gas customers to other fuels, predominantly fuel oils. Switching to oil has tended to increase dependence on foreign crude oil and petroleum products.

The NGPA unifies interstate and intrastate markets for natural gas sales, provides for higher prices, and relaxes the impediments to moving natural gas from the intrastate to the interstate market in four new and important respects. First, section 311(a) of the NGPA allows for the transportation of intrastate gas by interstate pipelines. Second, section 311(b) allows for the sale of natural gas by intrastate pipe-lines to interstate pipelines or their distribution company customers. Third, section 312 allows intrastate pipelines to assign their right to receive surplus natural gas to interstate pipelines or distribution companies. In each of these cases, the intrastate pipelines would remain free of regulation under the Natural Gas Act (15 U.S.C. Section 711 *et seq.*). Fourth, section 314 declares unenforceable any contract provision for the first sale of natural gas which prohibits the comingling of natural gas covered by the NGPA with that subject to the Federal Energy Regulatory Commission's (FERC) jurisdiction under the Natural Gas Act. The FERC published a rule December 1, 1978 (43 FR 56537) implementing section 311(a) and 312. On November 15, 1978 (43 FR 53270) the FERC published a proposed rule in regard to section 311(b), and on December 1, 1978 (43 FR 56521, 56529) indicated its intent to issue a final section 311(b) rule by March 1, 1979.

For the interim period prior to March 1, 1979, the FERC revised on December 1, 1978 (43 FR 56537) its 60-day emergency purchase regulations to permit easier access to intrastate emergency natural gas supplies by interstate pipelines and their customers.

Due in a large part to the curtailment of natural gas supplies in recent years, many lower priority natural gas customers, especially industrial firms and electric utilities, have been using middle distillate and other fuel oils to replace or supplement their natural gas supplies. New demand has increased competition for the available supply of middle distillates.

II. Policy

The near-term use of additional natural gas and propane instead of middle distillate and other fuel oils will tend to reduce oil imports. Such shifts can also improve air quality, particularly in urban areas, ease the pressure on middle distillate supplies and increase inter-fuel competition.

In these circumstances the Department of Energy encourages natural gas users who have switched from natural gas to petroleum, particularly middle distillates, as well as other industrial users of middle distillates, to switch to natural gas or propane where practicable and allowed by State or other governing laws and regulations.

The DOE also urges natural gas systems, subject to the necessary State or other regulatory approvals, to make natural gas supplies available to end-use customers wishing to switch from middle distillates. However, DOE does not intend that gas acquired from SNG plants using naphtha as a feedstock be used for this purpose.

Individual gas systems which would serve customers contemplating the switch from oil to natural gas should continue to ensure that natural gas supplies are sufficient to protect deliveries to higher priority customers (e.g., residential, agricultural, commercial, industrial process, and feedstock use) before providing natural gas to customers switching from oil. This protection should include the maintenance of sufficient natural gas storage supplies to meet the requirements of higher priority customers if colder than normal winter weather occurs and to meet contingencies related to loss of scheduled natural gas supplies. Customers switching to natural gas should retain their capability to use another fuel.

DOE seeks immediate reduction of the use of middle distillates (including kerosene-base jet fuel) in existing facilities, including electric utility gas turbines. To the extent even more natural gas is or becomes available than is necessary to replace middle distillates, national energy policy favors its use to replace heavy fuel oil imports.

DOE continues to prefer that industrial facilities and electric utilities use coal or other alternate fuels rather than either oil or natural gas. Such increased use of coal, uranium, renewables and other alternate fuels will make more natural gas available for existing facilities and thereby further decrease petroleum consumption.

*As used in FUA, the term "natural gas" includes propane and other forms of liquid petroleum gas.

III. Proposed Special Rule

In general, FUA is not effective until May 8, 1979. Before that date, the prohibitions under Section 301(a) (2) or (3) against the use of natural gas or the increased use of natural gas consumption by existing powerplants above that allowed by FUA do not apply. FUA contains no comparable statutory prohibition against natural gas use by major fuel-burning installations.

This proposed special rule pertains to the temporary public interest exemption authorized by Section 311(e) of FUA and provides an expedited mechanism for powerplants which will be prohibited after May 8, 1979, under Section 301(a) (2) or (3), from using natural gas or increasing their natural gas consumption above that allowed by FUA, to continue or increase such natural gas consumption in order to displace consumption of middle distillates. FUA authorizes a temporary public interest exemption for a maximum period of up to five years. Generally, ERA expects to grant, and extend, 1 year exemptions from year-to-year.

ERA is also considering such an expedited exemptions mechanism to encourage the displacement of additional petroleum products. We invite your comments as to the appropriate scope of this special rule, in particular whether it should be used only to displace middle distillates, or, in the alternative, to displace all petroleum products.

ERA anticipates receiving petitions under the provisions of this special rule at any time after publication of the final rule. ERA intends to complete its consideration of such petitions as expeditiously as possible. To facilitate such expeditious consideration ERA intends to publish notice of such petitions in the Federal Register as required by Section 701(c) of FUA, together with a proposed order to grant or deny the petition. During the required public comment period of 45 days following publication, interested persons will be able to submit to ERA comments addressed to both the request contained in the petition and ERA's proposed action contained in the proposed order. After evaluation of the information developed through such administrative process and modification, if any, of its proposed order, ERA will publish its final order. Such final orders, if published prior to the effective date of FUA (May 8, 1979), will not take effect until May 8, 1979.

ERA is proposing not to require submission of a Fuels Decision Report along with a petition for a temporary public interest exemption under this special rule since an alternate fuels analysis is not necessary. Since ERA's review and evaluation of a petition for exemption under this special rule will not create a significant administrative burden, ERA also proposes not to require filing fees.

IV. Comments and Public Hearing Procedures

A. *Written comments.* ERA invites you to participate in this rulemaking by submitting data, views or arguments with respect to the issues set forth in this Notice. Comments should be submitted to the address indicated in the "ADDRESSES" section of this preamble and should be identified on the outside envelope and on documents submitted with the designation "Special Rule Under FUA, Docket No. ERA-R-79-1." You should submit fifteen copies. All comments received will be available for public inspection in the DOE Reading Room GA-152, James Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. We will consider all comments received by March 9, 1979.

You should identify separately any information or data you consider to be confidential and submit them in writing, one copy only. We reserve the right to determine the confidential status of the information or data and to treat it according to our determination.

B. *Public hearing.* 1. *Request procedure.* The time and place for the hearing is indicated in the "DATES" and "ADDRESSES" section of this preamble. If necessary to present all testimony, the hearing will be continued at 9:30 a.m. of the next business day following the first day of the hearing.

You may write to request an opportunity to speak at the hearing. You should provide a phone number where we may contact you through the day before the hearing.

We will notify each person selected to be heard before 4:30 p.m., January 24, 1979.

2. *Conduct of the hearing.* We reserve the right to select the persons to be heard at this hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. We may limit the time allotted each speaker, based on the number of persons who ask to be heard.

We will designate a DOE official to preside at the hearing, which will not be judicial or evidentiary-type in nature. Only those conducting the hearing may ask questions. DOE will base its decisions on all of the information available at the time of the hearing. At the conclusion of all initial oral statements, each speaker will be given an opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations. You may submit questions to be asked of any speaker. Such questions should be submitted three days before the hearing. If you wish to ask a question at the hearing, you may submit it, in writing, to the presiding officer. We will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer. The presiding officer will announce any further procedural rules needed for the proper conduct of the hearing. We will have a transcript of the hearing made and will retain the entire record of the hearing, including the transcript, and make it available for inspection at the DOE Freedom of Information Office, Room GA-152, James Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. You may purchase a copy of the transcript from the reporter.

A draft regulatory analysis of the proposed regulations under FUA, as contemplated by Executive Order No. 12044, was published as an appendix to the Proposed Rules to Implement the Powerplant and Industrial Fuel Use Act in the Federal Register, 43 FR 53974 (November 17, 1978). In addition, a draft Environmental Impact Statement (EIS) has been prepared pursuant to the National Environmental Policy Act (NEPA). Both documents are available for review in Room B-110, 2000 M Street, N.W., Washington, D.C.

(Department of Energy Organization Act, Pub. L. 95-91; Powerplant and Industrial Fuel Use Act, Pub. L. 95-620).

In consideration of the foregoing it is proposed that a Part 508 be added

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to Subchapter E of Chapter II, Title 10 of the Code of Federal Regulations, which is titled "Alternate Fuels."

Issued in Washington, D.C., on January 3, 1979.

DAVID J. BARDIN,
Administrator,
Economic Regulatory Administration.

The proposed new Part 508 amends Subchapter E, Chapter II, Title 10, CFR as set forth below:

§ 508.1 Policy.

It is the intention of ERA to issue temporary public interest exemptions to existing powerplants which are subject to the prohibitions of Section 301(a)(2) or (3) of FUA and which would otherwise burn middle distillates as a primary energy source. The granting by ERA of a special temporary exemption under this Part would not relieve an existing powerplant from compliance with any pertinent rules of regulations concerning the acquisition or distribution of natural gas that are administered by the Federal Energy Regulatory Commission (FERC) or any pertinent State regulatory agency or from any public utility obligations to pertinent categories of customers. This Part pertains exclusively to a special temporary exemption from the provisions of FUA.

§ 508.2 Eligibility.

Section 311(e) of the Act provides for discretionary temporary public interest exemptions. To qualify under this special rule for a temporary public interest exemption to burn natural gas, you would be eligible under the following criteria:

(a) your existing powerplant would be:

(1) prohibited on May 8, 1979, from using natural gas as a primary energy source by Section 301(a)(2), or

(2) prohibited from using natural gas in excess of the average base year quantities allowed in Section 301(a)(3);

(b) your proposed use of natural gas as a primary energy source, to the extent that such natural gas use would be prohibited by Section 301(a)(2) or (3) of the Act, will displace middle distillate as defined in section 508.4 of this Part; and

(c) you must show that such use of natural gas would not displace coal or another alternate fuel.

§ 508.3 Duration.

ERA intends to grant, and may extend, 1 year temporary exemptions from year-to-year. In no case may such a temporary public interest exemption, as extended, exceed the maximum five year period authorized by the Act.

§ 508.4 Definitions.

(a) This subpart defines certain terms which are unique to this Part 508. Other pertinent definitions are contained in Part 500.2, which was published in the form of proposed rules in the FEDERAL REGISTER, 43 FR 53974 (November 17, 1978).

(b) Throughout this Part, the "Act" or "FUA" means the Powerplant and Industrial Fuel Use Act of 1978 (Pub. L. 95-620, November 9, 1978).

(c) For purposes of this Part, the term "middle distillate" means:

Any derivatives of petroleum including kerosene, home heating oil, range oil, stove oil, diesel fuel, and Type A (kerosene-base) aviation turbine fuel which have a fifty percent boiling point in the ASTM D86 standard distillation test falling between 371° and 700°F. Products specifically excluded from this definition are Type B (naptha-base) aviation turbine fuel, heavy fuel oils as defined in VV-F-815C or ASTM D396, grades Nos. 3, 4 and 6, intermediate fuel oils (which are blended containing No. 6 oil) and all specialty items which are solvents, lubricants, waxes and process oil.

§ 508.5 Terms and conditions; enforcement.

(a) *Terms and conditions generally.* You must comply with the terms and conditions of an exemption granted under the Act by the ERA.

(b) *Enforcement.* An exemption is subject to termination upon the violation of any of the terms and conditions of an exemption.

§ 508.6 Evidence.

To submit an adequate petition for review by ERA, you must certify to ERA that the powerplant for which the temporary exemption is requested meets the eligibility criteria set forth above in Section 508.2 of this Part. If you are requesting a temporary exemption for more than one year you must demonstrate why it would be in the public interest for ERA to grant your petition for more than 1 year.

§ 508.7 Administrative provisions.

(a) This section establishes general procedures which are unique to this special rule (Part 508). Other procedures which are applicable to this special rule are provided in Part 501, which was published in the form of proposed rules in the FEDERAL REGISTER, 43 FR 53974, (November 17, 1978), except that Subpart B of Part 501 in regard to filing fees does not apply to this special rule.

(b) *Where to submit.* You must submit your petition to the Assistant Administrator for Fuels Regulation, Economic Regulatory Administration, 2000 M Street, N.W., Washington, D.C. 20461.

(c) *When to submit.* You may submit your petition at any time after final publication of this rule.

(d) *Labeling.* You should clearly label any petition or document that you file with ERA under this Part as "Petition for Special Exemption (Natural Gas)" both on the document and on the outside of the envelope in which the document is transmitted.

[FR Doc. 79-693 Filed 1-4-79; 12:39 pm]

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Monday	Tuesday	Wednesday	Thursday	Friday
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DOT/OHMO	USDA//FSQS		DOT/OHMO	USDA/FSQS
DOT/OPSO	USDA/REA		DOT/OPSO	USDA/REA
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Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

***NOTE: As of January 1, 1979, the Merit Systems Protection Board (MSPB) and the Office of Personnel Management (OPM) will publish on the Tuesday/Friday schedule. (MSPB and OPM are successor agencies to the Civil Service Commission.)**

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[3195-01-M]

Title 3—The President

Proclamation 4632 • **January 4, 1979**

Temporary Duty Increase on the Importation into the United States of Certain Bolts, Nuts and Screws of Iron or Steel

By the President of the United States of America

A Proclamation

1. Pursuant to section 201(d)(1) of the Trade Act of 1974 (the Trade Act) (19 U.S.C. 2251(d)(1)), the United States International Trade Commission, hereinafter referred to as the USITC, on November 3, 1978, reported to the President (USITC Report 201-37) the results of its investigation under section 201(b) of the Trade Act (19 U.S.C. 2251(b)). The USITC determined that certain bolts, nuts and screws of iron or steel provided for in items 646.49, 646.54, 646.56, and 646.63 of the Tariff Schedules of the United States (TSUS) are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing articles like or directly competitive with the imported articles. The USITC recommended the imposition of additional duties on imports of the above specified articles.

2. On December 22, 1978, pursuant to section 202(b)(1) of the Trade Act (19 U.S.C. 2252(b)(1)), and after taking into account the considerations specified in section 202(c) of the Trade Act (19 U.S.C. 2252(c)), I determined to prevent or remedy the injury or threat thereof found to exist by the USITC through the proclamation of a temporary duty increase different from that recommended by the USITC. On December 22, 1978, in accordance with section 203(b)(1) of the Trade Act (19 U.S.C. 2253(b)(1)), I transmitted a report to the Congress setting forth my determination and intention to proclaim a temporary duty increase and stating the reasons why my decision differed from the action recommended by the USITC.

3. The bolts and nuts provided for in items 646.54 and 646.56 of the TSUS are currently eligible for duty-free treatment under the Generalized System of Preferences (GSP), and section 503(c)(2) of the Trade Act (19 U.S.C. 2463(c)(2)) provides that no article shall be eligible for purposes of the GSP for any period during which such article is the subject of any action proclaimed pursuant to section 203 of the Trade Act (19 U.S.C. 2253).

4. Section 203(e)(1) of the Trade Act (19 U.S.C. 2253(e)(1)) requires that import relief be proclaimed and take effect within 15 days after the import relief determination date.

5. Pursuant to sections 203(a)(1), 203(e)(1), and 503(c)(2) of the Trade Act (19 U.S.C. 2253(a)(1), 2253(e)(1), and 2463(c)(2)), I am providing import relief, as hereinafter proclaimed, through the temporary increase of import duty on, and, where applicable, the removal from eligibility for duty-free entry under the GSP, of the bolts, nuts and screws of iron or steel covered by the affirmative finding of the USITC.

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NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, acting under the authority vested in me by the Constitution and the statutes of the United States, including General Headnote 4 of the TSUS (19 U.S.C. 1202), sections 203, 503 and 604 of the Trade Act (19 U.S.C. 2253, 2463, and 2483), and in accordance with Articles I and XIX of the General Agreement on Tariffs and Trade (GATT) (61 Stat. (pt. 5) A12 and 61 Stat. (pt. 5) A58; 8 UST (pt. 2) 1786), do proclaim that—

(1) Part I of Schedule XX to the GATT is modified to conform to the action taken in the Annex to this proclamation.

(2) Subpart A, part 2 of the Appendix to the TSUS is modified as set forth in the Annex to this proclamation.

(3) GSP eligibility is removed for the bolts and nuts covered by items 923.51 and 923.52 of the Annex to this proclamation.

(4) This proclamation shall be effective as to articles entered, or withdrawn from warehouse, for consumption on or after January 6, 1979, and before the close of January 5, 1982, unless the period of its effectiveness is earlier expressly modified or terminated.

IN WITNESS WHEREOF, I have hereunto set my hand this fourth day of January, in the year of our Lord nineteen hundred and seventy-nine, and of the Independence of the United States of America the two hundred and third.

Jimmy Carter

ANNEX

Subpart A, part 2 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is modified—

(a) by adding the following new headnote 4:

"4. *United States International Trade Commission (USITC) surveys on certain bolts, nuts and screws of iron or steel.*—The USITC shall conduct surveys with respect to products of the types subject to temporary duty increases under items 923.50 to 923.53, inclusive, as follows:

(a) *Quarterly.*—Surveys by calendar quarter to obtain monthly data on U.S. production, U.S. producers' shipments, imports for consumption, U.S. exports, apparent U.S. consumption, employment, man-hours and prices. The initial survey shall cover the third and fourth quarters of 1978 and the first quarter of 1979; the last such survey shall cover the quarter which ends not less than 60 days prior to the termination of the import relief. The results of these surveys shall be published within 60 days of the end of the quarter.

(b) *Annually.*—Annual surveys to obtain from domestic producers data by calendar quarter on profits, unfilled orders, and inventories, and annual data on capital expenditures and capacity; and to obtain from importers data by calendar quarter on prices, unfilled orders and inventories. The initial survey shall cover calendar year 1978, and the results of this and subsequent surveys shall be published by the end of the first quarter of each year thereafter so long as the import relief is in effect."

(b) by inserting in numerical sequence the following new provisions:

"Item	Articles	Rates of duty 1	Rates of duty 2	Effective Period
923.50	Lag screws or bolts, of iron or steel, provided for in item 646.49	15% ad val.	No change	On or before 1/5/82
923.51	Bolts (except mine-roof bolts) and such bolts and their nuts imported in the same shipment, of iron or steel, provided for in item 646.54	0.2¢ per lb. + 15% ad val.	0.2¢ per lb. + 15% ad val.	On or before 1/5/82
923.52	Nuts, of iron or steel, provided for in item 646.56	0.1¢ per lb. + 15% ad val.	0.1¢ per lb + 15% ad val.	On or before 1/5/82
923.53	Screws, of iron or steel, having shanks or threads over 0.24 inch in diameter, provided for in item 646.63	15% ad val.	No change	On or before 1/5/82"

[FR Doc. 79-712 Filed 1-4-79; 12:56 pm]

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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[3410-07-M]

Title 7—Agriculture

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

INSURED EMERGENCY LOANS

Redesignation and Revision

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations pertaining to insured Emergency loans. The intended effect of this action is to redesignate regulations for insured Emergency loans and to revise these regulations in accordance with recently enacted legislation. This action results from recent legislation and a general administrative restructuring of program regulations.

EFFECTIVE DATE: January 8, 1979.

FOR FURTHER INFORMATION CONTACT:
Jesse Joyner, (202) 447-6257.

SUPPLEMENTARY INFORMATION: FmHA amends its regulations by establishing a new Subpart B of Part 1945 of Chapter XVIII, Title 7, Code of Federal Regulations. Subpart C of Part 1904, Chapter XVIII, Title 7, Code of Federal Regulations is hereby deleted and reserved. Sections 1804.3(f)(1)(ii)(c) and 1804.4(b) of Subpart A of Part 1804, 1809.1(b) of Subpart A of Part 1809, 1822.63(a) of Subpart C of Part 1822, 1822.203(a) and 1822.213 of Subpart E of Part 1822, 1822.267(h) of Subpart G of Part 1822, 1861.2(b) of Subpart A of Part 1861, 1872.4(f) and 1872.18(b)(14) of subpart A of Part 1872, and 1980.154 of Subpart B of Part 1980 of Chapter XVIII are amended to change cross references to the deleted Subpart C of Part 1904. Section 1980.170 Administrative has been amended to change the Emergency loan reporting requirements for FmHA County Offices.

The major changes in the Emergency loan program which are reflected in Subpart B of Part 1945 are as follows:

1. Section 1945.54 allows individual feed and cash crops to qualify as "single enterprises." In addition, "qualifying production loss" is defined and the procedure for qualifying for production losses is established. Also, "basic security" is re-defined to eliminate making time consuming calculations.

2. Section 1945.62 prohibits joint operators from receiving EM loan assistance unless they reorganize their operation to form a cooperative, corporation, or partnership.

3. Section 1945.63 revises the process for determining qualifying losses, eligibility for loss loan(s) and maximum loss loan. The most significant revisions provide for (1) a less burdensome disaster loss certification process and (2) the maximum *production* loss loan to be limited to the abnormal actual production loss sustained by the total farming operation.

4. Section 1945.66 is revised to conform as close as possible with those loan purposes authorized and set forth in Subpart A of Part 1941 and Subpart A of Part 1943 of this Chapter.

5. Section 1945.68(c) provides procedures for the consolidation, rescheduling, reamortizing, and deferral of EM loans. The administrative changes will enable EM loan accounts to be serviced more efficiently.

6. Section 1945.69 is revised for clarity and to eliminate certain unnecessary restrictive requirements.

7. Section 1945.80 is revised to reflect some minor procedural changes in the County Committee Certification of EM loan eligibility.

It is the policy of this Department that rules relating to public property, loans, grants, benefits or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. These amendments, however, are not published for proposed rulemaking since the purpose of the change is to restructure existing insured emergency loan regulations and incorporate provisions of the Agricultural Credit Act of 1978. The only major substantive changes are those authorized by the Agricultural Credit Act of 1978 and those found in the aforementioned §§ 1945.63 and 1945.68(c). Also, due to the demand for loans and the financial condition of farmers, any delay in issuing the regulations would be contrary to the public interest. Therefore, publication for proposed rulemaking is unnecessary. The official making this determination is James E. Lee, Assistant Administrator, Farmer Programs, Farmers Home Administration, Room 5019, Washington, D.C. 20250.

Accordingly, Subpart C of Part 1904 is hereby deleted and reserved. Also, various sections of Chapter XVIII, Title 7, Code of Federal Regulations are amended and a new Subpart B of Part 1945 is added as follows:

SUBCHAPTER A—GENERAL REGULATIONS

PART 1804—PLANNING AND PERFORMING DEVELOPMENT WORK

Subpart A—Planning and Performing Development Work

§ 1804.3 [Amended]

1. In § 1804.3, paragraph (f) (1) (ii) (c), change the reference from "Subpart C of Part 1904" to "Subpart B of Part 1943."

§ 1804.4 [Amended]

2. In § 1804.4(b) change the reference from "Subpart C of Part 1904" to "Subparts A, B, and C of Part 1943."

PART 1809—APPRAISALS

Subpart A—Appraisal of Farms and Leasehold Interests

§ 1809.1 [Amended]

3. In § 1809.1(b) change the reference from "Subpart C of Part 1904" to Subpart A of Part 1941, Subparts A, B, and C of Part 1943, and Subpart B of Part 1945 and delete the words "for loans of $5,000 or less"

SUBCHAPTER B—LOANS AND GRANTS PRIMARILY FOR REAL ESTATE PURPOSES

PART 1822—RURAL HOUSING LOANS AND GRANTS

Subpart C—Farm Labor Housing Loan Policies, Procedures and Authorizations

§ 1822.63 [Amended]

4. In § 1822.63(a) change the reference from "Subpart C of Part 1904" to "Subpart B of Part 1945."

Subpart E—Farm Labor Housing Grant Policies, Procedures and Authorizations

§ 1822.203 [Amended]

5. In § 1822.203(a) change the reference from "Subpart C of Part 1904" to "Subpart B of Part 1945."

§ 822.213 [Amended]

6. In § 1822.213 change the reference from "Subpart C of Part 1904" to "Subpart A of Part 1943."

Subpart G—Rural Housing Site Loan Policies, Procedures and Authorizations

§ 1822.267 [Amended]

7. In § 1822.267(h) change the reference from "Subpart C of Part 1904" to "Subpart A of Part 1943."

SUBCHAPTER E—ACCOUNT SERVICING

PART 1861—ROUTINE

Subpart A—Account Servicing Policies

§ 1861.2 [Amended]

8. In § 1861.2(b) change the reference from "Subpart C of Part 1904" to "Subpart A of Part 1941 and Subparts A, B, and C of Part 1943."

SUBCHAPTER F—SECURITY SERVICING AND LIQUIDATIONS

PART 1872—REAL ESTATE SECURITY

Subpart A—Servicing and Liquidation of Real Estate Security for Loans to Individuals and Certain Note-Only Cases

§ 1872.4 [Amended]

9. In § 1872.4(f) change the reference from "Subpart C of Part 1904" to "Subparts A, B, and C of Part 1943."

§ 1872.18 [Amended]

10. In § 1872.18 (b)(14) change the reference from "Subpart C of Part 1904" to "§ 1943.16 (a)(3) of Subpart A of Part 1943."

SUBCHAPTER L—LOAN AND GRANT MAKING

PART 1945—EMERGENCY

11. A new Subpart B is established in part 1945 and reads as follows:

Subpart B—Emergency Loan Policies, Procedures, and Authorizations

Sec.

1945.51 Introduction.
1945.52 Program objectives.
1945.53 [Reserved]
1945.54 Definitions and abbreviations.
1945.55 Relationship between FmHA and other Federal agencies.
1945.56 Credit elsewhere.
1945.57-1945.60 [Reserved].
1945.61 Receiving and processing applications.
1945.62 Eligibility requirements.
1945.63 Determining qualifying losses, eligibility for loss loan(s) and the maximum amount of a loss loan(s).
1945.64-1945.65 [Reserved].
1945.66 Loan purposes.
1945.67 Loan limitations and special provisions.
1945.68 Rates and terms.
1945.69 Security requirements.
1945.70-1945.72 [Reserved].
1945.73 General provisions—compliance requirements.
1945.74 [Reserved].
1945.75 Options, planning and appraisals.
1945.76-1945.79 [Reserved].
1945.80 County Committee certification.
1945.81 [Reserved].
1945.82 Loan docket preparation.
1945.83 Loan approval or rejection.
1945.84 [Reserved].
1945.85 Actions after loan approval.
1945.86-1945.87 [Reserved].
1945.88 Chattel lien search.
1945.89 Loan closing.
1945.90 Revision of the use of EM loan funds.
1945.91 [Reserved].
1945.92 Loan servicing.
1945.93-1945.100 [Reserved].
Exhibit A—Processing Guide—Insured Emergency (EM) Loans.
Exhibit B—Memorandum of Understanding between Small Business Administration and the United States Department of Agriculture—Farmers Home Administration pertaining to disaster type loan assistance.
Exhibit C—Memorandum of Understanding and coordination between the Agriculture Stabilization and Conservation Service (ASCS) and the Farmers Home Administration (FmHA) pertaining to disaster type assistance.

AUTHORITY: 7 U.S.C. 1989; 5 U.S.C. 301; Sec. 10, Pub. L. 93-347, 88 Stat. 392; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70.

Subpart B—Emergency Loan Policies, Procedures and Authorizations

§ 1945.51 Introduction.

(a) *Policy.* This Subpart prescribes the policies, procedures and authorizations of the Farmers Home Administration (FmHA) for making Insured Emergency (EM) Loans to farmers, ranchers and aquaculture operators (hereinafter referred to as farmers). It is the policy of FmHA to make loans to any otherwise qualified applicant without regard to race, color, religion, sex, national origin, marital status, age or physical/mental handicap (providing the applicant can execute a legal contract). These regulations apply to borrowers and FmHA personnel involved in making EM loans. See Exhibit A of Subpart A of Part 1943 for making EM loans to entrymen on unpatented public lands.

(b) *Program administration.* The County Supervisor is the local contact person for processing and servicing activities.

§ 1945.52 Program objectives.

The basic objective of EM loans is to provide financial assistance to eligible farmers to cover losses, make major adjustments, pay operating expenses and provide for other essential needs so that they may maintain sound farming operations after they have sustained severe losses as a result of an authorized disaster. Another objective is to assist the disaster victims in sustaining and rehabilitating their normal operations until such time as they are able to return to local sources of credit. Annual production loans may be made, but in no event for more than six full calendar years after the disaster. These objectives will be accomplished through the extension of credit and such supervisory assistance as is determined necessary to achieve the objectives of the loan and protect the Government's interest. Supervisory assistance will be given in accordance with the provisions of Subpart B of Part 1924 of this Chapter.

§ 1945.53 [Reserved]

§ 1945.54 Definitions and abbreviations.

(a) *Definitions.*—(1) *Applicant.* The person or entity carrying on the farming operation at the time of the disaster and desiring EM loan assistance from FmHA.

(2) *Approval official.* A field official who has been delegated loan and grant approval authorities within applicable loan programs, subject to the dollar limitations contained in tables available in any FmHA Office.

(3) *Aquaculture.* The husbandry of aquatic organisms in a controlled or selected environment. An aquatic organism is any fish (the term "fish" includes any aquatic gilled animal commonly known as "fish", as well as mollusks, crustaceans or other invertebrates produced under controlled conditions—that is feeding, tending, harvesting and such other activities as are necessary to properly raise and market the products—in ponds, lakes, streams or similar holding areas), amphibian, reptile, or acquatic plant. An aquaculture operation is considered to be a farm only if it is conducted on grounds which the applicant owns, leases, or has an exclusive right to use. An exclusive right to use must be evidenced by a permit issued to the applicant and the permit must specifically identify the waters available to be used by the applicant only.

(4) *Borrower.* All parties liable for the loan or any part thereof.

(5) *Calendar year.* The 12 month period beginning January 1 and ending December 31.

(6) *Consolidate.* To combine and reschedule the rates and terms of two or more EM loans made for operating purposes. This also may include a new EM loan made for operating purposes.

(7) *Cooperative.* An entity which has farming as its purpose and whose members have agreed to share the profits of the farming enterprise. The entity must be recognized as a farm cooperative by the laws of the State(s) in which the entity will operate a farm(s).

(8) *Corporation.* For the purpose of this Subpart, a private domestic corporation created and organized under the laws of the State(s) in which the entity will operate a farm(s).

(9) *Deferment.* To postpone the payment of interest in part and/or principal in whole or in part.

(10) *Eligible area.* A county or similar political subdivision in which EM loans are made available.

(11) *Established farmer.* A farmer who was participating in the operation and management of the farm at the time of the disaster, spends a substantial portion of time in carrying out the farming operation and is recognized in the area as a farmer.

(12) *Farm.* A tract or tracts of land, improvements, and other appurtenances considered to be farm property which is used or will be used in the production of crops or livestock. This includes aquaculture operations which meet the requirements set forth in paragraph (a)(3) of this section and includes nonfarm operators which meet the requirements set forth in paragraph (a)(21) of this section. It will also include a residence which, although physically separate from the farm acreage, is ordinarily treated as a part of the farm in the local community.

(13) *Farmer.* One who conducts a farming or ranching enterprise. One who actively manages an aquatic operation or performs such duties as are necessary to properly raise and market the products of an aquatic operation. A farmer can be individual, a cooperative, a corporation or a partnership.

(14) *Farming, ranching or aquaculture enterprise.* The business of producing crops, livestock, livestock products and aquatic organisms through the utilization and management of land, water, labor, capital and basic raw materials including seed, feed, fertilizer and fuel.

(i) *Single enterprise.* An operation which constitutes a part of an applicant's total farming operation. The following are examples of single enterprises:

(A) Individual cash crops; low acreages of several cash crops may be combined to constitute a single enterprise.

(B) Individual feed crops to be fed to, or pasture to be grazed by, livestock owned by the applicant.

(C) Individual types of livestock operations, such as beef, dairy, hog, poultry and aquaculture operations.

(ii) *Basic part of a farming operation.* Any single enterprise which normally generates sufficient income to be considered essential to the success of the total farming operation.

(15) *Fixture.* Generally, an item attached to a building or other structure or to land in such a way that it cannot be removed without defacing or dismantling the structure, or substantially damaging the item itself.

(16) *Hazard insurance.* Includes coverage against losses due to fire, windstorm, lightning, hail, explosion, business interruption, riot, civil commotion, aircraft, vehicles, marine, smoke, builder's risk, public liability, property damage, flood or mudslide, workmen's compensation, or any similar insurance that is available and needed to protect the security, or that which is required by law.

(17) *Incidence period.* The specific date or dates during which a disaster occurred.

(18) *Insured loan.* An EM loan made directly by FmHA as lender from the Agricultural Credit Insurance Fund, and serviced by FmHA personnel.

(19) *Majority interest.* Any individual or a combination of individuals owning more than a 50 percent interest in a cooperative, corporation, or partnership.

(20) *Market value.* The amount which a willing buyer would pay a willing but not forced seller in a completely voluntary sale.

(21) *Nonfarm enterprise.* Any business enterprise, including a recreational enterprise, which provides income to supplement farm income. It must provide goods or services for which there is a need and a reasonably reliable market.

(22) *Normal year's production.* The yield per acre or production per animal which is established by eliminating the poorest year of the 5 year production history taken from actual farm records, ASCS records for the county, or State averages, immediately preceding the disaster year and averaging the remaining 4 years' production. The applicant may select the year to be eliminated. The year selected to be eliminated must be the same year for all enterprises and for all crops, livestock and livestock products that constitute a part of the applicant's farming operation in that year. Average yield or production records used will be provided by the State Crop and Livestock Reporting Service, State Office of the Statistical Reporting Service (SRS) or similar State or Federal body. For flue-cured tobacco under acreage-poundage control the normal year's production will be the pounds per acre as authorized by ASCS for the disaster year. When this information is published by county, county averages will be used. If published only by State, the State average will be used throughout the State.

(i) In those States where neither a county nor State average is published, the State Director, with the advice of representatives of other Federal and State Agricultural agencies, will establish county or State averages and advise county offices of these averages in a State supplement. State Directors and Farmer Program Chiefs in adjoining States should consult with each other before releasing the figures.

(ii) If an applicant presents actual reliable records for at least 4 of the 5 years immediately preceding the disaster which verify a higher normal production than that established in accordance with paragraph (a) (22) (i) of this section, the higher normal years' production may be used in calculating the loss.

(23) *Partnership.* An entity consisting of the individuals who have agreed to operate a farm. The entity must be recognized as a partnership by the laws of the State(s) in which the entity will operate a farm and must be authorized to own both real and personal property and to incur debts in its own name.

(24) *Physical loss.* Damage to or destruction of physical property including farmland (except sheet erosion); structures on the land such as buildings, fences, dams, etc.; machinery, equipment and tools; livestock; harvested crops and supplies.

(25) *Production loss.* The reduction from normal production, directly attributable to the natural disaster, of yield per acre and/or quality of crops produced, of quantity and/or quality of livestock products produced per animal unit, and of weight gain and/or natural increase in numbers of livestock units.

(26) *Qualifying disaster.* A major disaster, Presidential Emergency, or natural disaster as defined in Subpart A of Part 1945 of this Chapter.

(27) *Qualifying production loss.* The production loss an applicant must have sustained to qualify for EM loan assistance. In order to qualify for EM loan assistance, such loss must be equivalent to at least a 20 percent loss of normal per acre or per animal production as a result of the disaster in one basic part of the farming operation. Losses of livestock increases (i.e. calves, pigs, etc.) are considered production losses except when living animals are destroyed, which is consid-

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ered a physical loss. Reductions in the production of livestock, livestock products or reductions in weight gains of animals due to homegrown feed crop losses will not be considered production losses when replacement feed is available to purchase, regardless of the cost of that feed. When the disaster has severely disrupted the usual feeding schedule of a livestock enterprise because of extended utility failure or inaccessibility to the livestock, losses in production of milk, eggs, weight losses, etc., may be considered as production losses. Such production losses will be calculated based on the reduction from normal which occurs during the disruption period and the period needed to bring production back up to the normal level. If no livestock production losses are sustained, the normal year and the disaster year gross income will be the same.

(28) *Reamortize.* To rearrange the payments of an EM loan made for real estate purposes within either the remaining years of the original repayment period, or, when the repayment period has been extended to the maximum statutory repayment limit, within those years.

(29) *Reschedule.* To rewrite the rates and/or terms of EM loans made for operating purposes.

(30) *Security.* Property of any kind subject to a real or personal property lien. Any reference to collateral or security property shall be considered a reference to the term "security".

(i) *Basic security.* All real estate and fixtures and personal property such as foundation herds, flocks, aquatic animals and plant organisms, machinery, equipment, general intangibles, accounts, and contract rights serving as security and crops when crops are the only security.

(ii) *Normal income security.* All security planned to be marketed in the regular course of business unless liquidation is approved. If liquidation is approved, such security becomes basic security.

(iii) *Additional security.* All security not covered by subparagraphs (30) (i) or (ii) of this paragraph.

(31) *State or United States.* The United States itself, each of the several States, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(32) *Subsequent loans.* Any EM loans processed by the Finance Office after it processes an initial EM loan for a borrower. The disaster designation number has no effect in determining whether an EM loan is a subsequent loan.

(33) *Termination dates.* The dates specified in a disaster authorization which establishes the final dates after which EM loan applications may no longer be received. However, applications will be accepted for EM loans after the termination dates have passed if the applicant filed an application for disaster assistance with the Small Business Administration (SBA) during the period SBA would accept applications and not more than 6 months has elapsed since the FmHA's termination date.

(b) *Abbreviations.* The following abbreviations are used in this Subpart.

(1) *ASCS*—Agricultural Stabilization and Conservation Service.

(2) *ECM*—Emergency Conservation Measures.

(3) *EM*—Emergency loans.

(4) *FmHA*—Farmers Home Administration.

(5) *FMI*—Forms Manual Insert.

(6) *LFP*—Emergency Livestock Feed Program.

(7) *OGC*—Office of the General Counsel

(8) *SBA*—Small Business Administration.

(9) *UCC*—Uniform Commercial Code.

(10) *USDA*—United States Department of Agriculture.

§ 1945.55 Relationship between FmHA and other federal agencies.

(a) *SBA and FmHA.* A Memorandum of Understanding between the SBA and USDA-FmHA pertaining to Disaster Loan Assistance is attached as Exhibit B.

(b) *ASCS and FmHA.* A Memorandum of Understanding between the ASCS and FmHA is attached as Exhibit C.

§ 1945.56 Credit elsewhere.

(a) *Test for credit for individuals and entities.* The applicant must be unable to obtain sufficient credit elsewhere to finance actual needs at reasonable rates and terms taking into consideration prevailing private and cooperative rates and terms in the community in or near which the applicant resides for loans for similar purposes and periods of time. The applicant's equity in real estate, chattels and other assets will be considered in determining ability to obtain such credit from other sources. Cooperatives, corporations and partnerships and the principal members, principal stockholders and prncipal partners, both individually and collectively, must be unable to obtain the required funds with their own resources or with credit obtained from other sources. Any member, stockholder, or partner owning or controlling a 20 percent interest in a cooperative, corporation or partnership is considered a principal member, stockholder or partner. If no member, stockholder or partner owns or controls at least a 20 percent interest, all members, partners or stockholders will be considered principal members, partners or stockholders. The facts concerning the findings in either case must be documented and recorded in the running record.

(b) *Test for credit certification requirements.* The applicant shall certify in writing on the appropriate form and the County Supervisor shall determine that adequate credit elsewhere is not available to finance the applicant's actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near where the applicant resides for loans for similar purpose and periods of time.

(1) The review of the application must indicate that, based on the County Supervisor's knowledge of other lender programs, there is no possibility for the applicant to obtain the credit needed from other lenders. This conclusion and the basis for it will be recorded in the running record and further checks will not be necessary.

(2) If the County Supervisor questions whether the applicant is unable to obtain the credit needed from other agricultural lenders in the area such lenders will be contacted and the findings recorded in the running record.

(3) If the County Supervisor receives letters or other written evidence from a lender(s) indicating that the applicant is unable to obtain satisfactory credit, this will be included in the loan docket. Such evidence will not preclude the County Supervisor from contacting other farm lenders in the area and making an independent determination of the applicant's ability to obtain credit elsewhere.

§§ 1945.57–1945.60 [Reserved]

§ 1945.61 Receiving and processing applications.

(a) *Application forms.* Applications for EM loans will be received as outlined in Subpart A of Part 1801 of this chapter (FmHA Instruction 410.1) only in areas where EM loans are made available and only during the period authorized. Form FmHA 410-1, "Application for FmHA Services," will be used for this purpose.

(b) *Statement of losses.* The applicant's statement of loss or damage will be obtained in support of the application on Form FmHA 1945-22, "Certification of Disaster Losses."

(1) Production losses will be shown on Form FmHA 1945-22, by listing the estimated or actual crop yields or livestock production for the disaster year; the 4 out of 5-year history of crop yields and animal units produced for all farm enterprises and information stating when and how the authorized disaster caused the production losses will be included on this form.

(2) Physical losses will also be shown on Form FmHA 1945-22.

(c) *Evidence of operation.* If the applicant is a cooperative, corporation or partnership, it will provide evidence that it was operating as a qualifying farming enterprise at the time the loss occurred and the following information will be obtained and included in the loan docket.

(1) A complete list of members, stockholders, or partners showing the address, citizenship, principal occupation, and the number of shares and percentage of ownership, stock held in the cooperative or corporation by each, or the percentage of interest held in the partnership by each.

(2) A current personal financial statement (not over 60 days old at the time of filing) from each of the principal members of a cooperative, partners of a partnership or stockholders of a corporation. For this purpose, a principal is one owning or controlling as much as 20 percent of the ownership, stock or interest of a cooperative, corporation, or partnership. If no member, partner, or stockholder owns or controls as much as 20 percent, each member, partner, or stockholder is considered a principal. Any other member, partner, or stockholder whose financial statement, in the judgment of the loan approval official, is pertinent to consideration of the financial strength of the cooperative, corporation, or partnership will also be required to provide personal financial statments.

(3) A current financial statement (not over 90 days old at the time of filing) from the cooperative, corporation, or partnership itself.

(4) A copy of the cooperative's or corporation's charter, or the partnership agreement, any articles of incorporation and by-laws, any certificate or evidence of current registration (good standing), and a resolution(s) adopted by the Board of Directors or members or stockholders authorizing specified officers of the cooperative, corporation, or partnership to apply for and obtain the desired loan and execute required debt, security, and other instruments and agreements.

(5) A copy of any written lease, contract, or agreement entered into by the cooperative, corporation, or partnership which may be pertinent to a consideration of its application.

§ 1945.62 Eligibility requirements.

To be eligible for an EM loan, an applicant must possess the following characteristics:

(a) *Test for credit.* An applicant must meet the "credit elsewhere" requirement set out in § 1945.56.

(b) *Citizenship.* (1) An individual applicant must be a citizen of the United States (see § 1945.54 (a) (31) for the definition of "United States").

(2) A cooperative, corporation, or partnership which applies for an EM loan must meet the requirements set out in §§ 1945.54(a)(7), (a)(8) or (a)(23). In addition, more than a 50 percent interest in the cooperative, corporation or partnership must be owned by United States citizens (see § 1945.54 (a) (31) for the definition of "United States"). The member, stockholder or partner who manages the farming operation must be a United States citizen. Also, the entity must be authorized to conduct the farming operation(s) in the State(s) in which the farming operation is conducted.

(c) *Established farmer.* An applicant must be an established farmer (as defined in § 1945.54 (a)(11)) doing business either as an owner-operator or tenant-operator. An individual applicant must manage the farming operation. If the applicant is an entity, at least one member, stockholder or partner must manage the farming operation. One who does not devote full time to the farming operation may be considered the manager provided the person visits the farm at sufficiently frequent intervals to exercise control over the farming operation, give directions as to how it should be run, and see that the operation is being carried on properly. Any operation that involves an outside full-time hired manager or management service does not qualify regardless of the number of visits made.

(1) An applicant conducting a farming operation in different counties or locations will be considered for only one application and will file the application in the county in which the farm headquarters is located unless determined otherwise by the State Director. When the operation is located in more than one State, the State Directors involved will determine which State will process the application and service the loan(s).

(2) An estate or trust; a corporation owned primarily by an estate, trust, another corporation, or a partnership; an individual partnership composed primarily of an estate, trust, or corporation is not considered to be a farmer for EM loan purposes.

(3) An individual engaged in a joint farming operation and/or owning an undivided interest in the property of such an operation is not considered to be an eligible farmer for EM loan purposes. However, if the individuals engaged in the joint operation decide on their own to reorganize their operation to form a cooperative, corporation or partnership, an application from the entity for an EM loan may then be accepted and considered by FmHA in accordance with this subpart.

(d) *Operate in a disaster area.* An applicant must operate in an area in which the availability of EM loans for actual losses has been determined in accordance with Subpart A of § 1945 of this chapter.

(e) *Losses.* An applicant must have suffered qualifying production losses to property in which the applicant has an ownership interest or interest in which a security interest may be obtained. An applicant must have suffered qualifying physical losses to property in which the applicant has an ownership interest. See § 1945.63 of this Subpart for the explanation of calculating losses.

(f) *Legal capacity.* An applicant must possess the legal capacity to contract for the loan.

(g) *Miscellaneous.* (1) An applicant must possess the training and/or experience, character, managerial competence, ability and industry necessary to carry out the proposed farming operations to assure a reasonable prospect of success with the assistance of the loan, and honestly endeavor to carry out the undertakings and obligations required of the applicant in connection with the loan.

(2) An applicant must show an intent to continue the operation after the disaster. Those applicants who were required to stop temporarily because of the disaster loss or damage to their operations but intend to continue farming with EM loan assistance meet this requirement.

(3) When an EM loan is made to a cooperative, corporation, or partnership, only one initial EM loan can be made to the entity constituting the farming operation to cover the losses. If the members of a partnership change after the disaster occurs but before a loan is made, the new partnership may be considered for a loan, provided the new partnership consists of members of the original partnership or heirs of members of the original partnership. An individual member, stockholder, or partner may obtain a separate EM loan to cover losses to a *separate* farming operation which the applicant conducts as an individual on a different farm tract.

§ 1945.63 Determining qualifying losses, eligibility for loss loan(s) and the maximum amount of a loss loan(s).

Disaster losses will be reported by applicants on Form FmHA 1945-22, "Certification of Disaster Losses," which indicates physical and production losses suffered as the result of the authorized disaster. This form will be completed and submitted to the County Office with the application, as soon as the losses and/or damages can be accurately assessed. The informa-

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tion provided by applicants on Form FmHA 1945-22 will be the primary basis for FmHA's calculation of qualifying losses, eligibility for EM loss loan(s) based on production losses, and an applicant's maximum amount of loss loan. Therefore, applicants are required to certify, subject to penalties of law, that the accuracy and completeness of the information provided on Form FmHA 1945-22 can be supported by written records. Applicants will be asked to identify on that form one or more farming enterprises they consider basic to the success of their total farming operation and in which they have suffered losses.

(a) *Production losses.* (1) Applicants have three methods by which their production losses may be reported and calculated.

(i) They may elect to accept previously established County average yields per acre for crops and county average production per animal unit for livestock and livestock products. Such county averages will then be used to determine the applicant's "normal year's production" (see definition in § 1945.54) per acre for each crop (cash and feed) grown in the disaster year and the "normal year's production" per animal unit produced by each livestock enterprise conducted in the disaster year. When this option is selected, applicants need provide only the number of acres and the yield per acre for each crop grown in the disaster year; and the number of animal units maintained at the time of the disaster, and production per animal unit produced in the disaster year.

(ii) They may elect to provide their own accurate records or the farm's records or the farm's ASCS records of acres and yields for all crops grown in the disaster year and the 5 years immediately preceding the disaster year; and numbers of all animal units and production per unit for all livestock being maintained at the time of the disaster and the production history for the 5 years immediately preceding the disaster year. This information will be used in establishing the individual applicant's normal year's production. This option is more advantageous for those applicants who are consistently above average producers and who maintain accurate production records.

(iii) When neither of the options listed in paragraphs (a)(1)(i) and (a)(1)(ii) of this section can be used, applicants may be permitted to use combinations of their own records, the farm's records and ASCS records provided:

(A) The applicant has been farming for fewer than 6 production years, or

(B) The applicant operated a different farm or conducted farming enterprises different from those conducted in the disaster year for one or more of the 5 years before the disaster year.

When this option is used, applicants must provide complete production information for those years in which they conducted farming operations.

(iv) Under all three options, paragraphs (a)(1) (i), (ii) and (iii) of this section, the same established unit prices will be used for the disaster year and the normal year in computing the dollar value of each enterprise.

(2) FmHA loan official(s) will complete Form FmHA 1945-26, "County Supervisor's Calculations and Verifications of Qualifying Losses."

(i) Disaster year and normal year production information for only those enterprises in which a loss occurred will be transposed from Form FmHA 1945-22, "Certification of Disaster Losses," for each crop grown in the disaster year and each livestock enterprise maintained at the time of the disaster, to the appropriate places on Form FmHA 1945-26. The FmHA official completing Form FmHA 1945-26 is responsible for verifying loss information provided by the applicant when there is any question concerning the accuracy of such information.

(ii) The gross dollar amount of production losses will be computed for each basic part of the farming operation by calculating the value of the disaster year's production and subtracting that amount from the calculated production value in the normal year. Unit prices for agricultural commodities and country average yields per acre and production per animal unit to be used in these calculations will be established by the FmHA State Director for the calendar year immediately preceding the disaster year and distributed to all County Offices affected by the disaster. Those prices will be determined by averaging the market price for each commodity, for the calendar year immediately preceding the disaster, on a countywide basis, if available, or on a Statewide basis. If Statewide figures are not available, the State Director will consult with other agricultural agency representatives and agricultural leaders in the local area before establishing commodity prices. State Directors and Farmer Program Chiefs in adjoining States should consult each other before releasing the figures. These prices will be based on information provided by the State Crop and Livestock Reporting Service, the State Office of the Statistical Reporting Service, USDA, or a similar State or Federal agency or body.

(iii) The actual or net dollar amount of production losses sustained in each basic part of the farming operation will be determined by subtracting all compensatory disaster payments received or to be received, *i.e.*, crop insurance claims settlements, ASCS disaster program payments or any other compensation for that enterprise which does not have to be repaid by the applicant, from the gross dollar amount of production losses (calculated in paragraph (a)(2)(ii) of this section).

(iv) The actual dollar loss in production for each basic part of the farming operation will be divided by the previously calculated normal year's gross income for that enterprise. This establishes the percentage reduction in production from normal for that enterprise. If the percentage loss in *any* basic part of the farming operation equals or exceeds 20 percent, the applicant is eligible for EM loan assistance.

(v) Once eligibility is established, the total production loss sustained by the applicant and directly attributable to the disaster is computed by adding together the actual dollar amount of production losses of all single enterprises, whether or not they constitute a basic part of the farming operation.

(vi) The maximum production loss loan(s) is limited to the amount of the total production loss sustained by the applicant. Eligibility for production losses to a livestock enterprise(s) will usually be based on loss of feed crops to be fed and pasture to be grazed, and they should be calculated as crop losses rather than livestock losses. A livestock enterprise must be a basic part of the farming operation for losses to feed crops to qualify as production losses.

(b) *Physical losses.* (1) Physical losses as reported by applicants on Form FmHA 1945-22, "Certification of Disaster Losses" will be verified through on-site inspections by FmHA personnel when practicable.

(2) The claimed value of all physical losses due to disaster damage or destruction must be supported by written estimates for the necessary repair or replacement requested. The value of the actual losses will be based on the market value at the time of the disaster for those losses claimed.

(3) Physical loss loan funds can be used to pay for only contracted or hired labor and materials and supplies purchased. Labor, machinery, equipment, and materials contributed by the applicant or borrower will not be chargeable to the cost of necessary repair and replacement.

(4) Damage to or destruction of nonessential buildings, structures or other items will not be repaired or replaced with EM physical loss loan funds. Any insurance compensation received or to be received for such losses will be considered as compensation for losses to essential farm buildings, structures and other items which need to be repaired or replaced.

(5) The maximum physical loss loan(s) will be determined by subtracting all insurance claims and any other compensation received or to be received for physical disaster losses from the value of all actual physical losses caused by the disaster.

(6) If, in addition to the maximum physical loss loan made under this subpart, an additional loan must be made to repair, restore or replace damaged or destroyed essential farm property, it will be processed as a major adjustment loan under Subtitle A or Subtitle B of the Consolidated Farm and Rural Development Act, as appropriate.

(c) *Maximum loss loan.* This amount will be the sum of the maximum production loss loan(s) (paragraph (a)(2)(vi) of this section) and the maximum physical loss loan(s) (paragraph (b)(5) of this section).

§§ 1945.64-1945.65 [Reserved]

§ 1945.66 Loan purposes.

EM loans may be made for the following purposes:

(a) *Loans for actual losses.* (1) Loans may be made to applicants for the amount of actual loss as determined in § 1945.63 and to pay expenses connected with disaster damaged or destroyed farm property, or production enterprises or both, resulting from the disaster. Actual loss loan funds must be used for an authorized EM loan purpose; however, any funds not needed to carry out the farm and home plan will be released to the borrower. Applications for actual losses must be processed within one calendar year after they are filed.

(2) EM loans will not be made to flood and mudslide victims to repair or replace damaged or destroyed farm dwellings or farm service buildings and their contents in areas where "National Flood Insurance" is available, except as authorized in Subpart B of Part 1806 of this chapter (FmHA Instruction 426.2).

(3) When an applicant has *only housing* losses and is eligible for an SBA physical loss loan in an area where SBA physical loss loans are available, only SBA will make the loans for restoration or replacement of farm housing.

(4) Loans may be made to pay reasonable expenses customarily paid when obtaining, planning, and closing an actual loss loan, such as fees for legal, architectural and other technical services which are required to be paid by the borrower, and which cannot be paid from other funds. Loan funds also may be used to pay the borrower's share of social security taxes for labor hired by the borrower in connection with land and building development.

(b) *Annual operating purposes.* After an initial EM loan is made for annual operating purposes, subsequent EM loans may be made for annual operating purposes, provided no more than five (5) annual subsequent EM loans are made per disaster and provided they are made within six (6) full calendar years after the disaster, to permit the borrower to return to normal credit sources. When more than one loan for annual operating purposes is made during the same production year, the loans will be treated as one loan. Borrowers who have paid their EM loans in full before the sixth (6th) annual operating loan period has expired, and who cannot obtain sufficient credit elsewhere, may obtain an EM loan for annual operating purposes to satisfy their operating credit needs: *Provided,* The loan is made within the six (6) year period after the disaster. Annual loans for operating purposes may be made for:

(1) Payment of annual operating expenses.

(2) Payment of family living expenses.

(3) Refinancing a small amount of debt.

(4) Any other loan purpose authorized under § 1945.66 (c)(2).

(c) *Major adjustments to the operation.* An EM loan may be made for the following purposes to sustain the operation and to overcome the financial difficulties caused by the disaster. The resulting operation must be one which does not substantially increase the overall size of the pre-disaster operation, does not realize a net farm income (gross income less annual farm operating expenses) substantially greater than that of the normal operation conducted before the disaster, and is financially sound. Applications for loans may not be received for such purposes later than one full calendar year after the declaration or authorization date.

(1) Real estate purposes (Subtitle A). The following are authorized real estate purposes, and EM loan funds may be used to:

(i) Purchase real estate necessary to (these funds may be used in conjunction with loss funds):

(A) Replace land that cannot be restored due to the disaster;

(B) Establish a site for farm dwellings and service buildings so that the applicant can relocate outside of a flood or mudslide prone area; and

(C) Replace land necessary to restore an effective operation which was liquidated as a result of the disaster before an EM loan could be made.

(ii) Construct, buy, or improve buildings and facilities needed on the applicant's farm, including:

(A) The construction of an essential farm dwelling and service buildings of modest design and cost, including facilities and structures for nonfarm enterprise uses or fish farming such as docks, fish hatcheries, shooting blinds, refreshment or marketing stands, processing or assembly plants, sales buildings, repair shops, lodging facilities, trailer parks, picnic areas, target ranges, tennis courts, shuffleboard courts, golf driving ranges, campsites and modest rental housing.

(B) The improvement, alteration, repair, replacement, relocation, or purchase and transfer of such essential dwellings and service buildings, facilities, structures and fixtures that become part of the real estate or customarily pass with the farm when it is sold. This includes pollution control and energy saving devices.

(C) The purchase and/or installation of water and sewage systems and other equipment, including pollution control and energy saving devices necessary to operate a farm and/or a nonfarm enterprise: *Provided,* The items upon installation become part of the real estate, or customarily pass with the farm when it is sold.

(iii) Provide land and water development, pollution control and energy saving measures, acquire water supplies and rights, and promote the use and conservation essential to the operation of the farm and any nonfarm enterprise facilities. This includes providing fencing, drainage and irrigation facilities, basic applications of lime and fertilizer, and facilities for land clearing. This also includes establishing approved forestry practices, fish ponds, trails and lakes, improving orchards, and establishing and improving permanent hay or pasture. Sources of water may be located outside the land owned provided appropriate rights or easements are obtained to ensure that the water and rights will pass with the farm when it is sold. The funds for land and water development may include the costs of machinery and equipment needed to do the development only when the total cost of the development and machinery or equipment would not exceed the cost of contracting the work or hiring the labor and machinery needed to do it. Loan funds may be used to pay that part of the cost of facilities, improvements, and "practices" which will be paid for in connection with participation in such programs as the Agricultural Conservation or Great Plains programs only when such costs cannot be covered by purchase orders or assignments to material suppliers or contractors. If loan funds are advanced and the portion of the payment for which the funds were advanced is likely to exceed $1,000 the applicant will assign the payment to FmHA.

(A) Funds may be used for development costs on land owned with defec-

tive title or on land in which the applicant owns an undivided interest and the situation differs from the one covered by § 1945.62 (c)(3) providing:

(*1*) There is adequate security for the loan, and

(*2*) The tract with defective title is not included in the appraisal report.

(B) Funds may be used for the development cost of land leased by the applicant if the following conditions are met:

(*1*) The terms of the lease are such that there is reasonable assurance the applicant will have use of the improvement over its useful life;

(*2*) A written lease provides for payment, to the tenant or assignee, for any unexhausted value of the improvement if the lease is terminated; and

(*3*) There is adequate security for the loan.

(iv) Refinance secured and unsecured debts, including FmHA debts, when:

(A) The applicant's present creditors will not furnish credit at rates and terms the applicant can meet; and

(B) The County Supervisor, by contracting the appropriate lender, verifies and documents either in the running record or by letter from the lender, the need to refinance all secured debts and major unsecured debts. The unpaid balance of the debts to be refinanced will also be verified.

(v) Pay reasonable expenses customarily paid when obtaining, planning, making and closing a loan made for real estate purposes, such as fees for legal, architectural and other technical services, which are required to be paid by the borrower, and which cannot be paid from other funds. Loan funds also may be used to pay the borrower's share of Social Security taxes for labor hired by the borrower in connection with land and building development.

(vi) Finance a nonfarm enterprise when it will provide another source of necessary income even though the owned acreage for such enterprise is not physically located on the farmland.

(vii) Pay the first year premium for required insurance on buildings on the property which are to serve as security for the loan. Buildings will be insured in accordance with Subpart A of Part 1806 of this chapter (FmHA Instruction 426.1), except when the appraisal report shows that the land alone adequately secures the loan. However, the applicant will be encouraged to take property insurance on essential buildings to protect the applicant's own interest. Borrowers eligible for insurance under the National Flood Insurance Act of 1968 will be advised of its availability in accordance with Subpart B of Part 1806 of this chapter (FmHA Instruction 426.2).

(viii) Finance real estate improvements or repairs when an EM loan is made to a tenant provided:

(A) The loan approval official determines that the applicant has reasonably secure tenure for a long enough period to enable the tenant to realize adequate benefits to justify the expenditures.

(B) A written lease provides for payment, to the tenant and the tenant's assignees, for any unexhausted value of the improvement upon termination of the lease.

(C) Not more than $50,000 is loaned to a tenant for real estate improvement, repairs, or for refinancing unsecured debts clearly incurred for such purposes.

(D) The County Supervisor makes the following determinations before a loan is made to a tenant for real estate improvements:

(*1*) EM loans will not be needed year after year to make substantial real estate improvements.

(*2*) The applicant is likely to continue to operate the farm for a sufficient period of time and under such terms as will yield a reasonable return on the investment.

(2) Operating purposes (Subtitle B). The following are authorized operating purposes and EM loan funds may be used to:

(i) Purchase machinery and equipment, livestock, poultry, fur bearing and other farm animals, aquatic organisms, worms, birds, tools, bees, and supplies or to purchase an individual's or entity's undivided interest in such items, and pay costs incidental to reorganizing the farming system for a sound operation.

(ii) Purchase and repair essential home equipment and furnishings, and pay for family living expenses and home equipment repairs required by the applicant family to sustain itself in a reasonably satisfactory manner.

(iii) Refinance secured and unsecured debts, including FmHA debts.

(iv) Purchase milk base, either with or without cows, when such action is necessary to assure the borrower a satisfactory market for dairy production.

(v) Purchase grazing licenses, permits, or rights which can be validly sold and transferred.

(vi) Augment and improve existing water supplies in order to alleviate the adverse effects of drought and other natural disasters.

(vii) Purchase membership and stock in a farm purchasing, marketing, or service-type cooperative associations, including grazing associations.

(viii) Pay a creditor in any one year an amount not to exceed 20 percent of the appraised market value of the essential farm and nonfarm equipment under prior lien to that creditor, or 20 percent of the amount owed to such creditor, whichever is less.

(ix) Purchase a franchise, contract, or privilege when necessary to the operation of the planned enterprise.

(x) Make a partial payment on crop storage and drying facilities when the Commodity Credit Corporation, through the ASCS, is providing the rest of the credit under the Commodity Credit Corporation Farm Storage and Drying Equipment Loan Program.

(xi) Pay reasonable expenses customarily paid when obtaining, planning and closing a loan made for operating purposes, such as fees for legal, architectural and the technical services which are required to be paid by the borrower and which cannot be paid from other funds. Loan funds also may be used to pay the borrower's share of Social Security taxes for the labor hired by the borrower in connection with land and building development.

§ 1945.67 Loan limitations and special provisions.

(a) *Insured and guaranteed loan making.* An insured EM loan will not be made simultaneously with a guaranteed EM loan or vice versa.

(b) *Refinancing guaranteed loans.* An insured loan will not be made to refinance a guaranteed loan, except when the following conditions are met:

(1) The circumstances causing the need to refinance were beyond the borrower's control.

(2) Refinancing is in the best interest of the Government.

(c) *Subsequent EM loans.* Subsequent EM loans may be made for the same purposes and under the same conditions as an initial EM loan under the following conditions.

(1) When the applicant did not obtain a loan for the amount of the maximum loss loan authorized as reflected by the loss statement filed, the applicant may be considered for a subsequent loan within one year after the statement is filed, based on the initial application, for all or a portion of the loss balance not requested initially.

(2) Subsequent loans for reorganization of the farming operation made under § 1945.66(c) may only be made within one full calendar year after the declaration or authorization date.

(3) New appraisal of real estate reports are not required if the appraisal report in the file is not over two years old, unless the approval official requests a new appraisal report or unless significant changes in the market value of real estate have occurred in an area within the two year period. Any changes in the value of real estate or chattel security will be recorded, dated and initialed by the authorized

appraiser on the appropriate appraisal reports in the file.

§ 1945.68 Rates and terms.

(a) *Interest rates.* Interest on the initial advance will accrue from the date of the promissory note. Interest on other advances will accrue from the date of the loan check for each such advance. Interest rates are specified in Subpart A of Part 1810 of this chapter (FmHA Instruction 440.1 Exhibit B, a copy of which is available at any FmHA office).

(b) *Terms of loans.* Loans will be scheduled for repayment at such time as the FmHA approval official may determine, consistent with the purpose of and need for the loan, and in accordance with the useful life of the security and the repayment ability of the applicant as reflected in the completed Form FmHA 431-2, "Farm and Home Plan." There must be at least an annual installment unless a deferment of principal and/or interest is authorized in accordance with paragraph (c)(4) of this section.

(1) *Operating purposes.* (i) Loan terms for items financed under § 1945.66(b) or § 1945.66(c)(2) of this Subpart will be for a period not to exceed 7 years. Loans may be scheduled for a longer repayment period if the FmHA approval official determines that the needs of the applicant justify a longer repayment period. Such period may be approved as warranted but cannot exceed 20 years. Generally, real estate will be needed as security when the longer repayment period is authorized. When the longer period is used, rescheduling is *not authorized* to extend beyond 20 years from the date of the original note.

(ii) Advances for annual recurring operating expenses, or for paying bills incurred for such purposes for the operating or crop year being financed will be scheduled for payment when the principal income from the year's operations is normally received.

(iii) Advances to purchase or produce feed for productive livestock or livestock to be fed for the market, or to pay bills incurred for such purposes for the crop year being financed will be scheduled for repayment when the principal income from the sale of such livestock or livestock products can be expected.

(iv) When conditions warrant, installments may vary in amount. However, the final installment will not be larger than the amount which can then be financed with other agricultural lenders or be repaid within a rescheduled period of not to exceed 7 years. The applicant must be advised before the loan is closed that FmHA will review each case at the end of the initial loan term to determine if rescheduling is warranted. There is no obligation for FmHA to continue with the borrower after the expiration of the initial loan term.

(2) *Real estate purposes.* Loans made to pay for actual losses to real estate and loans made for the purposes set out in § 1945.66(c)(1) will be scheduled for repayment in not to exceed 40 years.

(c) *Consolidation, rescheduling, reamortizing and deferral.*—(1) *General requirements.* All borrowers are expected to repay their EM loans according to the planned repayment schedule. However, circumstances may arise which will not permit borrowers to pay as scheduled or to refinance their loans. Loan approval officials are authorized to consolidate, reschedule, reamortize or defer loans, up to the limitation on their approval authority set out in Subpart A of Part 1901 of this chapter. When the loan approval official determines that consolidation, rescheduling, reamortization, or deferral will assist in the orderly collection of an EM loan, the loan approval official may take such action: *Provided:*

(i) The borrower meets the eligibility and security requirements for an initial loan as set forth in § 1945.62 and § 1945.89;

(ii) Such action is not used in lieu of or to delay liquidation;

(iii) Such action is not taken just to remove a delinquency;

(iv) Such action is not taken to circumvent FmHA's graduation requirements;

(v) The borrower's account is not being serviced by the Office of the General Counsel (OGC) or the U.S. Attorney, and there are no plans to have the account serviced by either of these offices in the near future;

(vi) The County Supervisor determines that the borrower is making satisfactory progress; and

(vii) The borrower is cooperating in servicing the account and is maintaining the security.

(2) *Consolidation and rescheduling.* EM loans made for operating purposes may be consolidated or rescheduled subject to the following conditions:

(i) An EM actual loss loan will *not* be consolidated with other EM loans.

(ii) EM loans will be consolidated only with other EM loans. All outstanding EM loans may be consolidated so that only one note has to be serviced.

(iii) Any EM loan made for an operating purpose (annual operating and major adjustment loans for operating Subtitle B purposes) in existence at the time another loan is made for the same purpose may be consolidated and rescheduled when it is in the best interests of the borrower and the Government.

(iv) An EM loan scheduled to be repaid in more than 7 years will *not* be consolidated with other EM loans.

(v) An EM loan may also just be rescheduled when it is in the best interests of the borrower and the Government.

(3) *Reamortization.* EM loans made for real estate purposes may be reamortized subject to the following conditions:

(i) Reamortization will enable the borrower to continue farming.

(ii) The borrower is unable to pay on schedule for reasons beyond the borrower's control or the borrower has made and implemented a plan to correct any deficiencies in the farming operation and improvements have been documented by the County Supervisor.

(iii) A Farm and Home Plan shows that the reamortized installments can be repaid.

(4) *Deferral.* Installments on EM loans, including loans which are consolidated, rescheduled or reamortized, may be deferred.

(i) General requirements. Deferred payments may be authorized if the following conditions exist:

(A) A Farm and Home Plan and, if appropriate, a Business Analysis-Nonagricultural Enterprise, show loan installments cannot be repaid according to schedule.

(B) The County Supervisor determines that deferral will enable the borrower to remain on the farm and continue farming.

(C) A typical Farm and Home Plan and if appropriate, a Business Analysis-Nonagricultural Enterprise, for a full calendar year following the deferral period indicate that full installments can be paid if normal conditions exist.

(D) If appropriate, a Long-time Farm and Home Plan is prepared.

(E) If appropriate, development and improvements have been provided for on Form FmHA 424-1, "Development Plan."

(ii) Scheduling and repaying deferred installments.

(A) Up to three installments may be deferred, but in no case will the deferral extend beyond the final due date of the note. Full payments will be scheduled at the earliest date the Farm and Home Plan indicates they can be paid.

(B) Borrowers will be advised that they are expected to repay all interest due on their loans. Some interest will be paid each year during the deferral period.

(C) Borrowers will be advised that they are expected to make payments as soon as they have repayment ability, even though the deferral period has not expired.

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(D) In all cases Form FmHA 1940-17, "Promissory Note," will be executed by the borrower(s) indicating annual payments to be made during the deferral period. Annual payments of at least a partial payment of interest will be scheduled and payments will be determined in accordance with repayment ability as indicated on Table K of Form FmHA 431-2, "Farm and Home Plan." Deferred interest will not be capitalized. See the FMI for instructions on calculating installments to be paid after the deferred period.

(5) *Terms*—(i) *Consolidation.* All EM loans made for operating purposes will be repaid over a period consistent with the borrower's repayment ability, but not in excess of 7 years from the date of the consolidation.

(ii) *Rescheduling.* Outstanding EM loans made for operating purposes may be rescheduled for payment over a period not in excess of 7 years from the date of the rescheduling except in special cases authorized in § 1945.68 (b)(1), where a longer term is needed, initial EM loans for operating purposes may be rescheduled for up to 20 years from the date of the original note.

(iii) *Reamortization.* For EM loans made for real estate purposes and secured by real estate, the unpaid balance may be reamortized for up to 40 years from the date of the original note, provided the useful life of the security is adequate to protect FmHA's interests. When the original repayment terms are altered, it may be necessary to obtain a new mortgage from the borrower(s) to continue FmHA's lien priority. The advice of OGC will be obtained on a State-by-State basis and implemented through State supplements to provide for such new mortgages where required, and to further provide instructions on whether the original mortgage should be released.

(6) *Interest rate.* The interest rate for consolidated, rescheduled, or reamortized loans is the current loan rate in effect at the time of consolidation, rescheduling, or reamortization.

(7) *Processing consolidation, rescheduling, reamortization and/or deferment.* These functions will be performed in accordance with the FMI to Form FmHA 1940-17. If the County Office does not have possession of the original note or assumption agreement, the County Supervisor will ask the Finance Office to return the original form so it is in the County Office *before* Form FmHA 1940-17 is processed.

(8) *Disposition of promissory notes.* The original and County Office copy of all notes that are consolidated, rescheduled, reamortized or deferred will be stamped "CONSOLIDATED," "RESCHEDULED," "REAMORTIZED," or "DEFERRED," as appropriate, by the County Office. The original note will be filed with Form FmHA 452-1 or Form FmHA 452-2 and the copy filed in the borrower's case file. When consolidated, rescheduled, reamortized or deferred note(s) have been paid in full or otherwise satisfied, the note will be handled in accordance with the provisions of Parts 1861 and 1864 of this Chapter (FmHA Instructions 451.1 and 456.1, respectively).

(d) *Graduation.* Borrowers are expected to graduate when they are able to obtain their needed credit from conventional sources. All borrowers will be advised that their loans will be reviewed for graduation by FmHA. Loans for operating purposes will be reviewed five years after they are made and every other year thereafter. Loans for real estate purposes will be reviewed ten years after they are made and every other year thereafter. Borrowers will also be advised that they will be required to refinance if other satisfactory credit is available to them even though their loans have not fully matured.

§ 1945.69 Security requirements.

(a) *Security.* (1) The County Supervisor is responsible for seeing that the proper security is given and maintained and the security instruments have been properly recorded to protect the interest of the Government.

(2) Except for the modifications contained in paragraph (c) (1) of this section, security must be of such a nature that repayment of the loan is reasonably assured considering the applicant's integrity and management ability, soundness of the applicant's operation, and the applicant's prospective earnings. Security may include, but is not limited to the following: Land, buildings, machinery, equipment, furniture, fixtures, inventories, accounts receivable, cash or special cash collateral accounts, personal and corporate guarantees, marketable securities, cash surrender value of life insurance and assignments of leases or leasehold interests, revenues, patents and copyrights. In unusual cases, the loan approval official may require a co-signer or a pledge of security. Generally a pledge of security in lieu of a co-signer is preferable.

(3) A lien will not be taken on property that cannot be made subject to a valid lien, nor will a lien be taken on subsistence livestock, household goods, and small tools and small equipment such as handtools, power lawn mowers and other items of like type not needed for security purposes. A lien on feed crops does not have to be taken if the crops produced by the borrower are used to feed livestock, other than livestock being fed for market, and the loan is otherwise well secured.

(b) *Personal and corporate guarantees.* (1) Personal guarantees from members of cooperatives, stockholders of corporations, or partners or partnerships usually will be required. Guarantees from principals of parent, subsidiary, or affiliated companies may also be required. Guarantees will be required in an amount which reasonably assures repayment of the loan and provides sufficient security.

(2) An exception to the requirement for personal guarantees or entity guarantees may be granted by FmHA if the proposed guarantors provide written evidence that they cannot provide such guarantees due to other existing contractual obligations or legal restrictions. For those applicants providing documented evidence of successful operations for the past three years, guarantees will be obtained as determined by FmHA.

(3) If a review of all credit factors indicates the need for additional security, FmHA may require personal and corporate guarantees in addition to those listed in paragraph (b)(1) of this section. FmHA also may require that such guarantees be secured. Any security referred to in paragraph (a) (2) of this section may be used to secure the guarantees.

(4) Guarantors of applicants will:

(i) In the case of personal guarantees, provide current financial statements (not over 60 days old at time of filing), signed by the guarantors and disclosing community or homestead property.

(ii) In the case of corporate guarantees, provide current financial statements (not over 90 days old at time of filing), certified by an officer of the corporation.

(c) *Additional requirements.* If the present market value of the security is not at least equal to the amount of the loan, the applicant's repayment ability may be considered by the loan approval official in determining whether the loan should be made. When the applicant's repayment ability is so considered and indicates the loan should be made, the following conditions must be met:

(1) The value of the security has declined due to temporary economic conditions.

(2) The applicant's typical year operating plan indicates an ability to repay the loan in full within the proposed repayment period.

(3) The applicant will give a lien on all available security.

(4) Life insurance will be provided for the individual borrower or for the principals and key employees of an entity borrower and will be assigned or pledged to FmHA. This life insurance may be decreasing term insurance. A schedule of life insurance available as security for the loan will be included as part of the application.

(d) *Operating purposes.* (1) Annual operating loans will be secured by a first lien on the crop or livestock or both, being financed with EM loan funds plus enough other security, including personal property, real estate and crop insurance, to assure that the Government's financial interest will be protected. When the applicant can provide no security other than a first lien on the crop or livestock or both, the amount of the loan will be limited to the greater of $100,000 or one-half of the estimated gross farm income planned as shown on Form FmHA 431-2, "Farm and Home Plan," or as shown on another acceptable plan of operation based on normal production and prices authorized by the State Director for developing annual farm plans within the State. When an EM borrower who is indebted for an annual operating loan needs a subsequent EM loan for annual operating purposes during the current calendar year to complete that year's farming operation and protect the Government's financial interest which is secured only by a first lien on the crop or livestock or both, the $100,000 or fifty (50) percent gross income requirement will not apply, provided the loan is otherwise sound and proper.

(2) Loans, including annual operating loans, made for the purposes authorized in §§ 1945.66(b) or 1945.66(c) (2) of this Subpart will be secured by a lien on sufficient equity in livestock, crops, equipment and machinery (including essential trucks and automobiles) and, if necessary, other personal property to protect the Government's interest. A lien on part or all of the real estate owned by the applicant may be taken as additional security, if the lien is needed to protect the interest of the Government. When the applicant can provide no security other than a first lien on crops or livestock or both, the policy outlined in § 1945.69(d)(1) will apply. If the applicant has enough equity in real estate to secure the entire amount of the loan, no additional security is needed. A second crop lien may be taken when deemed necessary to assure repayment of the loan.

(3) Loans only for the acquisition of memberships or the purchase of stock in cooperative associations may be made on the basis of the borrower's promissory note without taking security except as follows:

(i) An assignment, pledge, or other security interest in stock or other evidence of membership will be obtained provided it has security value. A security interest also may be taken on significant amounts of dividends to be received from stock, memberships, or patronage, or on undivided profits and other holdings. The security interest will be in the form of an assignment, pledge, or other instrument and will be taken on forms and in the manner approved by OGC. Stock certificates and similar security will be kept in the County Office. A notation will be made on Form FmHA 405-1, "Management System Card-Individual," showing that such security has been retained.

(ii) In individual cases, loan approval officials may require a lien on crops or chattels as security for a loan made for the acquisition of a membership or stock if they determine that such action is necessary to protect the FmHA interest.

(4) The advice of OGC will be obtained as to how to perfect a security interest when milk base and grazing permits are financed or taken as security.

(5) General intangibles, accounts, or contract rights may be taken as security for production loss loans made to contract feeders, tenants with share-lease arrangements, or other farmers with similar arrangements; National Office approval should be obtained before taking such things as security for a loan.

(e) *Real estate purposes.* Loans for the purposes authorized in § 1945.66(c)(1) will be secured by a lien on real estate. However, if the applicant does not have sufficient equity in the real estate to secure the entire amount of the loan, a lien also will be taken on personal property, plus, if necessary, a second lien on crops or livestock. An EM loan made to a tenant with a long-term lease will be secured by a lien on a transferable leasehold.

(f) *Abbreviated appraisals.* An abbreviated appraisal is one which is completed in accordance with subparagraph (2)(i) of this paragraph. See § 1945.75 for instructions on complete appraisals. Loans may be approved when an abbreviated appraisal is made of the property being taken as security for the loan provided:

(1) The loan approval official determines that the applicant's equity in the security property will fully secure the EM loan.

(2) When abbreviated appraisals are prepared:

(i) For real estate, the following portions of Form FmHA 422-1, "Appraisal Report—Farm Tract," will be completed: The heading of the report, Item A of Part 1, Part 2, Part 3, Part 6, Part 7, and Part 8. The report will be signed and dated by an FmHA authorized appraiser.

(ii) For chattel property, Form FmHA 440-21, "Appraisal of Chattel Property," will list and identify and show the value of each chattel item and items A through E will be completed.

(g) *Combination of real estate and chattel security.* When an EM loan is to be secured by a lien on real estate or a combination of real estate and chattels, the security will be considered "basic security." However, notwithstanding the definition in § 1945.54 (a) (30), when chattels are primarily relied upon as security and real estate is taken only as additional security to better protect the Government's interest in instances in which the amount of the loan does not exceed the value of the primary chattel security by more than $10,000, the additional real estate security will not be considered basic security. For all loans *over $25,000* when real estate is taken as basic security, title clearance is required. For loans of *$25,000* or *less,* and for loans for which real estate is taken as additional security, only a certification of ownership and verification of equity in real estate is required. Certification of ownership may be accepted in the form of a notarized affidavit from the applicant stating who is the owner of record of the real estate in question and acknowledging all known debts, with balances owed, against the real estate. Whenever the County Supervisor is uncertain of the ownership of or debts against the real estate security, and in all cases where loans are made to cooperatives, corporations or partnerships, a title search is required.

(h) *Purchase contracts.* If the real estate offered as security is held under a purchase contract, the following conditions must exist:

(1) The applicant must be able to provide mortgageable interest in the real estate.

(2) The applicant and the purchase contract holder must agree in writing that any insurance proceeds received for real estate losses will be used only to replace or repair the damaged real estate improvements which are essential to the farming operation, used for other essential real estate improvements or paid on the EM loan or on any prior real estate indebtedness including the purchase contract. If necessary, the applicant will negotiate with the purchase contract holder to arrive at a new contract without any provisions objectionable to FmHA.

(3) If a satisfactory contract of sale cannot be negotiated or the purchase contract holder refuses to enter into the agreement described in paragraph (h)(2) of this section, the applicant will make every effort to refinance the existing purchase contract. If the applicant cannot obtain refinancing from another source, an EM loan will be considered to include funds to pay off the contract and improve the property.

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(4) If the conditions set out in paragraphs (h) (1), (2) and (3) of this section exist and an EM loan is approved, it can be closed: *Provided*, The FmHA escrow agent or designated attorney determines that:

(i) The purchase contract is not subject to summary cancellation on default and does not contain any other provisions which might jeopardize either the Government's security position or the borrower's ability to repay the loan.

(ii) The contract holder must agree, in writing to give FmHA notice of any breach by the purchaser, and must also agree to give FmHA the option to rectify the conditions which amount to a breach within thirty days. The thirty days begin to run on the day FmHA receives written notice of the breach.

(i) *Prior liens which may jeopardize the Government's security position.* If any prior liens against real estate offered as security contain future advance provisions or other provisions which might jeopardize the security position of the Government or the applicant's ability to meet the obligations of these prior liens and to pay the EM loan, the prior lienholders involved must agree in writing, before the loan is closed, to modify, waive, or subordinate such objectionable provisions to the interest of the Government. However, the Government's lien may be subject to the lien of another creditor for amounts advanced or to be advanced for annual operating and family living expenses for the operating or calendar year. The County Supervisor will determine if the creditor will be required to execute Form FmHA 441-13, "Division of Income and Nondisturbance Agreement," or a similar form approved by the Office of the General Counsel (OGC).

(j) *Circumstances under which advance notice of foreclosure or assignment is required.* When a junior lien on real estate is to be taken as security for a loan in States where a prior lienholder may foreclose the security instrument under power of sale or otherwise and extinguish junior liens of private parties without giving junior lienholders actual notice of the foreclosure proceedings, the prior lienholder must agree in writing to give FmHA advance notice of foreclosure or assignment of the mortgage.

(k) *Insurance.* If essential insurable buildings are located on the property, or if new buildings are to be erected or major improvements are to be made to existing buildings, the applicant will provide adequate property insurance coverage at the time of the loan closing or as of the date materials are delivered to the property, whichever is appropriate. However, when the real estate appraisal report shows that the present market value of the land after deducting the value of buildings shown on the report exceeds the amount of the debt (including the EM loan) and the owner has equity equal to or exceeding the amount of the debt (including the EM loan), real property insurance will not be required. However, the applicant will be encouraged to obtain such insurance if the applicant does not already have it to protect the applicant's interest. If insurance claims for loss or damage to buildings to be replaced or repaired with loan funds are outstanding at the time the loan is approved, the applicant will be required to agree in writing that when settlement is made the proceeds of such claims will be used for replacement or repair of buildings, application on debts secured by prior liens, or application on the EM loan.

(l) *Hazard insurance.* Hazard insurance with a standard mortgage clause naming FmHA as beneficiary is required for every loan made. The minimum amount of insurance required is the lesser of the replacement cost of the property being insured or the amount of the loan.

(m) *Special security requirements where personal possessions or home furnishings are involved.* Loan amounts borrowed for repair or replacement of personal possessions and home equipment or furnishings will be secured by a lien(s) on crops, aquatic organisms, livestock, farm machinery, essential trucks or automobiles, and/or farm real estate.

(n) *Crop insurance.* Loan approval officials may require the borrower to carry Federal or other types of crop insurance with an assignment to FmHA during the repayment period of the EM loan if such insurance is available in the county. This decision should be based on the amount and type of security, other than crops, that the borrower can provide. *However, when only a crop lien is taken as security for an EM loan, the borrower will be required to carry Federal or other type of crop insurance during the repayment period of such loan if such insurance is available.* An assignment of Federal Crop Insurance proceeds will be prepared on Form FCI-20, "Collateral Assignment," furnished by the local representative of the Federal Crop Insurance Program. The assignment must be approved by the Federal Crop Insurance Corporation. An assignment of crop insurance proceeds is not required when the crop insurance policy contains a standard mortgage clause naming FmHA as mortgagee or secured party.

(o) *Indian trust lands.* EM loans which are secured by trust or restricted land will be handled as follows: The United States Department of Agriculture (USDA) and the Department of the Interior have agreed that FmHA loans which are to be secured by real estate liens may be made to Indians holding land in severalty under trust patents or deeds containing restrictions against alienation, subject to statutes under which they may, with the approval of the Secretary of the Interior, give valid and enforceable mortgages on their land. These statutes include, but are not limited to, the Act of March 29, 1956 (70 Stat. 62). When a lien is to be taken on trust or restricted property in connection with a loan to be made or insured by FmHA, the local representatives of the Bureau of Indian Affairs (BIA) will furnish requested advice and information with respect to the property and each applicant. The FmHA State Director should arrange with the Area Director or other appropriate local official of the BIA as to the manner in which the information will be requested and furnished. A State supplement will be issued to prescribe the actions to be taken by FmHA personnel to implement the making of loans under these conditions.

(p) *Taking security instruments.* The taking and filing of security instruments will be in accordance with Subpart B of Part 1941 of this Chapter (chattels and crops) and with §§ 1945.69 (e), (g) and (h) and § 1945.89 (a) (real estate). The borrower must have marketable title to the property which secures the loan and FmHA must ascertain that when the security instruments are filed, no suits are pending or threatened which would adversely affect the interest of the borrower.

(q) *Exceptions to security requirements.* The loan approval official may make an exception to the security requirements if *all* of the following conditions are met:

(1) Adequate security is not available because of the disaster.

(2) The applicant offers all available security the value of some or all of which may have been lessened due to the disaster.

(3) The security is adequate, in view of the applicant's repayment ability as assessed by the loan approval official, to secure the loan.

(r) *Signatures of members, shareholders and partners of cooperatives, corporations and partnerships.* (1) When the applicant is a farm cooperative, the promissory note will be executed so as to evidence the liability of the cooperative as well as each member as an individual. This will be accomplished by typing the name of the cooperative above the space provided for signatures and having the note executed by each member of the cooperative both as a member and as an individual. To evidence the liability of the cooperative, the words "As Members" will by typed immediately beneath the name of the cooperative and each member will sign thereunder. To evidence the members' liability as individuals, the words "As Individuals" will be typed at the top of the blank space to the left of the lines for signatures, and each member will sign thereunder.

(2) When the applicant is a corporation, the promissory note will be executed by the corporation acting through its authorized officials. To evidence the principal stockholders' liability as individuals, each principal stockholder will sign the note except in unusual circumstances including legal disability or absence from the country.

(3) When the applicant is a partnership, the promissory note will be executed so as to evidence the liability of the partnership as well as each partner as an individual. This will be accomplished by typing the name of the partnership above the space provided for signatures and having the note executed by each member of the partnership both as a partner and as an individual. To evidence the liability of the partnership, the words "As Partners" will be typed immediately beneath the name of the partnership and each partner will sign thereunder. To evidence the partners' liability as individuals, the words "As Individuals" will be typed at the top of the blank space to the left of the lines for signatures and each partner will sign thereunder.

(s) *Assignments and consents.* (1) Federal Land Bank (FLB) Association stock is required to be purchased by FLB Association borrowers and has value. It must be assigned to FmHA when it is relied upon as security for a loan. The loan approval official will record the determination of the market value of the security in such a case in the comments section of Form FmHA 422-1, "Appraisal Report—Farm Tract."

(2) An assignment of all or part of the applicant's share of income is required when title to a livestock or crop enterprise is held by a contractor under a written contract or when the enterprise is to be managed by the applicant under a share lease or share agreement. The contract, share lease or share agreement will be described specifically as "Contract Rights" or "Contract Rights in Livestock or Crops," (or as "Accounts" or "Accounts in Livestock or Crops," if required by a State supplement) and so forth, in paragraph (1)(b) of the financing statement. A form approved by OGC will be used to obtain the assignment.

(3) An assignment of income can also be taken when the County Supervisor determines it is necessary to protect FmHA's interests.

(i) Form FmHA 443-16, "Assignment of Income from Real Estate Security," will be used for assignments of real estate security income unless that form is legally inadequate in a particular State, in which case it may be adapted with the approval of OGC.

(ii) Form FmHA 441-8, "Assignment of Proceeds from the Sale of Agricultural Products," will be used for products or income in which FmHA does not have a security interest under the UCC. Other forms approved by OGC may be used when this form is not adequate.

(iii) Form FmHA 441-25, "Assignment of Proceeds from the Sale of Dairy Products and Release of Security Interest," will be used for dairy products in which FmHA has a security interest under the UCC.

(iv) Form FmHA 441-18, "Consent to Payment of Proceeds from Sale of Farm Products," will be used for products or income, except dairy products, in which FmHA has a security interest under the UCC.

(v) Forms provided by ASCS will be used for assignments of incentive and other agricultural program payments.

(4) In UCC States, an assignment of income constitutes a security agreement and should be treated accordingly.

§§ 1945.70–1945.72 [Reserved]

§ 1945.73 General Provisions—compliance requirements.

(a) *Scope of operation to be financed.* No ceiling has been established on the size of operations that may be financed with EM loans or on the size of loans that may be made. Therefore, subject to the eligibility requirements, repayment ability, need, available security and other provisions of this Subpart, loans may be made to finance farming operations of *any size.*

(b) *Flood or mudslide hazard areas.* Flood or mudslide hazards will be evaluated whenever the farm to be financed is located in special flood or mudslide prone areas as designated by the Federal Insurance Administration (FIA). Subpart B of Part 1806 of this Chapter (FmHA Instruction 426.2) will be complied with when loan funds are used to construct or improve buildings located in such areas. This will not prevent making loans on farms if the farmstead is located in a flood or mudslide prone area and funds are not included for building improvements. The flood or mudslide hazard will be recognized in the appraisal report. When land development or improvements such as dikes, terraces, fences, and intake structures are planned to be located in special flood or mudslide prone areas, loan funds may be used subject to the following:

(1) The Corps of Engineers or the Soil Conservation Service (SCS) will be consulted concerning:

(i) Likelihood of flooding.

(ii) Probability of flood damage.

(iii) Recommendations on special design and specifications needed to minimize flood and mudslide hazards.

(2) FmHA representatives will evaluate the proposal and record the decision in the loan docket.

(c) *Civil rights.* The provisions of Subpart E of Part 1901 of this Chapter will be complied with on all loans made which involve:

(1) Funds used to finance nonfarm enterprises and recreation enterprises. Applicants will sign Form FmHA 400-4, "Nondiscrimination Agreement," in these cases.

(2) Any development financed by FmHA that will be performed by a contract or subcontract of more than $10,000.

(d) *Protection of historical and archaeological properties.* If there is any evidence to indicate the property to be financed has historical or archaeological value, the provisions of Subpart F of Part 1901 of this Chapter apply.

(e) *Environmental impact statements.* If EM loans are used in populated areas to finance an operation which has relatively large feedlots or holding facilities for livestock or aquatic organisms or smaller feedlots or holding facilities which are likely to have an effect on the environment, the applicant will be requested to complete Form FmHA 449-10, "Applicant's Environmental Impact Evaluation."

(1) The County Supervisor will complete Form FmHA 440-46, "Environmental Impact Assessment," from information provided by the applicant in Form FmHA 449-10.

(2) The County Supervisor will forward a copy of the loan application, completed FmHA Forms 449-10 and 440-46, and any other information and docket material relevant to environmental considerations to the State Director. The State Director will determine whether an environmental impact statement should be prepared based on this submittal and any other available information.

(3) The provisions of Subpart G of Part 1901 of this Chapter will be followed to the extent applicable for EM loans in making decisions on operations that may have significant impact on the environment.

(f) *Truth in Lending—Real Estate Procedures Act.* Subpart I of Part 1901 of this Chapter applies as follows:

(1) The provisions in § 1901.401 concerning Truth in Lending apply to any EM loan made to individuals if the amount of the loan is less than $25,000

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and involves credit transactions primarily for agricultural purposes including real property transactions.

(2) The provisions of the Real Estate Procedures Act outlined in § 1901.406 apply when EM funds are used involving tracts of less than 25 acres, if:

(i) Any part of the loan is used to purchase all or part of the land to be mortgaged, and

(ii) The loan is secured by a first lien on the property where a dwelling is located.

(g) *Equal Credit Opportunity Act.* In accordance with Title V of PL 93-495, the Equal Credit Opportunity Act, the FmHA will not discriminate against any applicant on the basis of sex or marital status with respect to any aspect of a credit transaction.

(h) *Compliance with special laws and regulations.* (1) Applicants will be required to comply with Federal, State and local laws and regulations governing building construction; diverting, appropriating, and using water including use for domestic or nonfarm enterprise purposes; installing facilities for draining land; and making changes in the use of land affected by zoning regulations.

(2) State Directors and Farmer Programs Staff members will consult with SCS, U.S. Geological Survey, State Geologist or Engineer, or any board having official functions relating to water use or farm drainage requirements and restrictions for water and drainage development. State supplements will be issued to provide guidelines which:

(i) State all requirements to be met, including the acquisition of water rights.

(ii) Define areas where development of ground water for irrigation is not recommended.

(iii) Define areas where land drainage is restricted.

(3) Applicants will comply with all local laws and regulations, and obtain any special licenses or permits needed for nonfarm, recreation, specialized or aquaculture farming enterprises.

§ 1945.74 [Reserved]

§ 1945.75 Options, planning and appraisals.

See Subpart A of Part 1804 and Subpart A of Part 1809 of this chapter (FmHA Instruction 424.1 and 422.1, respectively) for the appropriate instructions dealing with planning and appraisals. The provisions of Subpart E of Part 1901 of this chapter apply in connection with loans involving recreational enterprises and the construction of buildings. Adequate development to place the farm and any nonfarm enterprise in condition for a successful operation will be provided at the outset. An applicant is responsible for obtaining options on purchased real property in accordance with the provisions contained in § 1943.25 of Subpart A of Part 1943.

(a) When real estate is taken as additional security (for loans in which the primary security is subject to rapid depreciation or is of a high risk nature, such as crops) no appraisal report will be required for the additional security. For loans of not more than $25,000 or for loans made only for actual losses, an appraisal report will not be required. In both instances the County Supervisor will determine that security is adequate and record the estimate of value in the running case record; showing the date the property was inspected and certifying that in the County Supervisor's opinion the estimates are correct based on knowledge of the value of comparable properties in the area. For actual loss loans over $25,000 an appraisal is required if the value shown on the applicant's financial statement is not in keeping with comparable values in the community.

(b) A chattel appraisal will be required when chattels are taken as security.

(c) Form FmHA 431-2, "Farm and Home Plan," and Form FmHA 431-4, "Business Analysis—Nonagricultural Enterprise," if applicable, will be prepared in accordance with the FMI. This planning process with the applicant is essential to making sound loans and, therefore, must receive careful attention in development of the loan docket. However, when the EM loan will not be for more than $25,000, Tables A, D, and E of Form FmHA 431-2 may be left blank and only the totals shown on Tables G and J should be shown, provided Form FmHA 410-1 is completed and is believed to accurately reflect the applicant's circumstances and no supervision is planned.

(d) See § 1945.69(f) for instruction on using abbreviated appraisals.

§§ 1945.76-1945.79 [Reserved]

§ 1945.80 County Committee certification.

The County Committee will review the application and determine whether or not the applicant meets EM loan eligibility requirements.

(a) *Certification.* If the County Committee find the applicant eligible, it will prepare Form FmHA 440-2, "County Committee Certification or Recommendation." This form will be retained in the County Office file. The County Committee will comply with Part 1801 of this chapter (FmHA Instruction 410.1).

(b) *Rejection.* If the County Committee rejects the application, the County Supervisor will inform the applicant in writing of the reasons for rejection. Reasons for unfavorable action will be given in the space provided on Form FmHA 440-2 above the space for signatures. The County Committee will comply with Part 1801 of this chapter (FmHA Instruction 410.1).

(c) *Amount of actual loss.* The County Committee will establish the maximum amount of credit that may be extended under the certification to meet the applicant's actual needs during the calendar year. The applicant will not be notified of the maximum credit as certified by the County Committee for the calendar year.

(d) *Recertification.* If it is found, after an applicant is certified as eligible, that there has been a change in the amount of EM loan assistance needed it will be necessary for the County Committee to again certify the applicant as eligible on the basis of the changed circumstances if a larger loan is to be made. When the County Committee has agreed to certify an increase over the original amount certified, a new Form FmHA 440-2 will be prepared and executed by inserting the following statement on the form: "We, the undersigned members of the County Committee, have again reviewed the applicant's situation and credit needs for the calendar year and find those needs are as indicated above rather than the amount shown on Form FmHA 440-2 dated _____." The Form FmHA 440-2 previously executed will be retained in the case files.

§ 1945.81 [Reserved]

§ 1945.82 Loan docket preparation.

(a) *Processing guide.* See Exhibit A of this Subpart for Insured Emergency Loan Processing Guide.

(b) *Form FmHA 440-1, "Request for Obligation of Funds."* A separate Form FmHA 440-1 will be prepared for amounts of the total loan which have different interest rates or repayment periods as established in accordance with § 1945.68 (a) and (b). Also, on Form FmHA 440-1, for EM loans approved for borrowers presently indebted for an EM loan but having NEW qualifying losses from a different authorized disaster, the new appropriate disaster authorization number will be shown. This number will be used for all subsequent EM loans approved, unless the borrower has new qualifying losses from a different disaster for which another disaster authorization number has been assigned.

(c) *Promissory note.* A separate promissory note will be prepared for each Form FmHA 440-1 used in obligating the total amount of the loan. Each scheduled installment will include interest in addition to principal unless deferral of principal is authorized in accordance with § 1945.68(c).

(d) *Lease agreements.* Generally, a copy of the lease agreement between tenant applicants and their landlords will be obtained and made a part of the loan docket. When that is not obtainable a statement setting forth the terms and conditions of the agreement which are not clearly reflected in Form FmHA 431-2 will be prepared and made a part of the loan docket.

§ 1945.83 Loan approval or rejection.

Loans will be approved in accordance with the authorities and provisions contained in this Subpart and the loan approval conditions and authorities contained in Subpart A of Part 1901 of this chapter.

(a) *Approval after termination date for receiving actual loss loan applications.* Applications for EM actual loss loans may be approved after expiration of the period for receiving such applications, provided they were filed in the County Office before the termination date for receiving applications had expired.

(b) *Administrative determination and responsibilities.* When the County Committee certification has been made, the loan approval official will determine administratively whether:

(1) The applicant is eligible, likely to be successful in the proposed operations and likely to achieve the objectives of the loan.

(2) The applicant has satisfactory tenure arrangements on the farm to be operated.

(3) The proposed farm and home operations of the applicant are reasonably sound.

(4) The loan is proper and can be repaid from farm or other income as scheduled.

(5) The security requirements can be met.

(6) The certification required of the applicant and County Committee have been made and are a part of the loan docket.

(7) The loan meets all other FmHA requirements.

(c) *Loan approval.* The loan approval official will date, sign and distribute Form FmHA 440-1 in accordance with the FMI and set forth any special conditions of approval, including any special security requirements in the appropriate section on Form FmHA 440-1.

(d) *Rejection of loans.* If a loan is rejected, the loan approval official will indicate the reasons for the rejection in the running case record. The County Supervisor will notify the applicant by letter of the reason(s) for rejection and will make sure that the requirements set out in Subpart B of Part 1900 of this chapter are met. In areas where EM loans are being made under a *major disaster declaration,* and where FDAA has advised the State Director that Section 408 grants are available, a list of applicants with physical losses who do not qualify for EM loans will be prepared and sent to FDAA by County Supervisors as of the close of business each week. The names of applicants who do not qualify because they are able to obtain credit elsewhere will be marked by an asterisk (*) before each name. Those applicants who are not eligible for a loan because they are not farmers as defined in § 1945.54 will be screened and disqualified immediately. The State Director will be advised by FDAA where to send the list and the State Director will so advise the County Supervisors. The list will be prepared in the following format:

UNITED STATES DEPARTMENT OF AGRICULTURE

FARMERS HOME ADMINISTRATION

To: _____

_____

The following is a list of applicants not qualifying for Farmers Home Administration's Emergency loans in _____ County during the week ending _____, 19—. Applicants who do not qualify because they are able to obtain credit from other sources are indicated by an "*" before their names.

Name _____
Address _____
County Supervisor _____

§ 1945.84 [Reserved]

§ 1945.85 Actions after loan approval.

(a) *Cancellation of loan check and/or obligation.* The County Supervisor will notify the State and Finance Offices of loan cancellation by using Form FmHA 440-10, "Cancellation of Loan or Grant Check and/or Obligation," and the appropriate FMI. If a check received in the County Office is to be cancelled, the check will be returned to the Disbursing Center, U.S. Treasury Department, Post Office Box 3329, Kansas City, Kansas 66103, with a copy of Form FmHA 440-10 (see FmHA Instruction 102.1, a copy of which is available in any FmHA Office).

(b) *Cancellation of advances.* When an advance is to be cancelled the County Supervisor must take the following actions:

(1) Complete and distribute Form FmHA 440-10.

(2) When necessary, obtain a substitute promissory note reflecting the revised total of the loan and revised repayment schedule. When it is not necessary to obtain a substitute promissory note, the County Supervisor will show on Form FmHA 440-10 the revised amount of the loan and the revised repayment schedule.

(c) *Increase or decrease in loan amount.* If it becomes necessary to increase or decrease the amount of the loan before closing, the County Supervisor will request that all distributed docket forms be returned to the County Office for reprocessing, unless the change is minor and replacement forms can be readily completed and submitted. In the latter case, a memorandum to that effect will be attached to the revised forms for referral to the Finance Office.

§ 1945.86-1945.87 [Reserved]

§ 1945.88 Chattel lien search.

See § 1941.63 of this chapter for regulations concerning lien searches covering chattels.

§ 1945.89 Loan closing.

(a) *Closing loans secured by real estate.*—(1) *General.* Loans secured by real estate are considered closed on the date the mortgage is filed for record. Such loans will be closed in accordance with the applicable provisions of Part 1807 of this chapter (FmHA Instruction 427.1).

(2) *Security instruments.* Security instruments referred to in this section are real estate mortgages or deeds of trust.

(i) FmHA real estate mortgage or deed of trust Form FmHA 427-1 (State), "Real Estate Mortgage for ——," will be used in *all* cases where real estate is taken as security.

(ii) Promissory note(s) will be prepared and completed at the time of loan closing in accordance with the FMI. If insured Rural Housing (RH) funds are advanced simultaneously with EM funds the RH loan will be evidenced by a separate note on the proper form as provided in Subpart A of Part 1822 of this chapter (FmHA Instruction 444.1). However, all notes will be described on the same security instruments. When a loan is closed between December 1 and January 1, the first installment will be collected at the time of loan closing unless deferment is approved.

(iii) When subsequent loans are made, a new security instrument is required only when the existing instruments do not cover all required security or do not secure the subsequent loan.

(iv) A subsequent loan for any authorized purpose may be made without taking new security instruments when the existing security instruments cover all the property required to serve as security for the subsequent loan, the State law and the language of the existing security instruments will permit the future loan advance to be secured by the existing security instruments, and the existing security instruments will provide the same lien priority for the subsequent loan as for the initial loan. A new security instru-

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ment will be taken if one of these requirements is not met.

(3) *Leaseholds.* Security instruments for loans secured by leaseholds will describe security property in accordance with Part 1807 of this chapter (FmHA Instruction 427.1), and the following provisions will also apply:

(i) The following language, or similar language which in the opinion of the OGC is legally adequate, will be inserted just before the legal description of the real estate:

"All Borrower's right, title, and interest in and to the leasehold estate for a term of —— years beginning on ————, 19——, created and established by a certain lease dated————, 19——, executed by ————, as lessor(s), recorded on ———— , 19——, in Book ————, page —— of the —— Records of said County and State, and any renewals and extensions thereof, and all Borrower's right, title, and interest in and to said Lease, covering the following real estate:"

(ii) An additional covenant will be inserted in the mortgage to read as follows:

Borrower will pay when due all rents and any and all other charges required by said Lease, will comply with all other requirements of said Lease, and will not surrender or relinquish, without the Government's written consent, any of the Borrower's right, title, or interest in or to said leasehold estate or under said Lease while this instrument remains in effect.

(iii) A copy of the lease will be made part of the loan docket.

(4) *Filing or recording security instruments.* The following appropriate actions will be taken after loan closing:

(i) If the original security instrument is returned by the recording official, it will be retained in the borrower's case folder. If the original is retained by the recording official, a conformed copy, showing the date and place of recordation and the book and page number, will be prepared and filed in the borrower's case folder. A conformed copy of the security instrument will be sent to a prior lienholder if a substantial interest is held by that lienholder, or if it is required by a working agreement provision with that lender.

(ii) The original deed of conveyance, if any, and a copy of the security instrument will be delivered to the borrower.

(5) *Abstracts of title.* Any abstract of title will be delivered to the borrower for safekeeping, and Form FmHA 140-4, "Transmittal of Documents," will be prepared and a receipt obtained in accordance with the FMI. However, when an abstract is obtained from a third party with the understanding it will be returned, such abstract will be sent directly to the third party and a memorandum receipt will be obtained.

(6) *Requesting title service.* When the loan is approved, the County Supervisor will see that title service is requested in accordance with Part 1807 of this chapter (FmHA Instruction 427.1), if this has not already been done. Agreements will be in writing and cover such subjects as disposition of growing crops, rentals, payment of maintenance cost and other pertinent points.

(7) *Fees.* The borrower will pay all filing, recording, notary and lien search fees incident to loan transactions from personal or loan funds. When FmHA employees accept cash for these purposes Form FmHA 440-12, "Acknowledgment of Payment for Recording, Lien Search, and Releasing Fees," will be executed. FmHA employees will make it clear to the borrower that any fee so accepted is only for paying fees on behalf of the borrower, and is not accepted as partial payment on a loan.

(8) *Supervised bank accounts.* If a supervised bank account is required, loan funds usually will be deposited following loan closing. Supervised bank accounts will be established in accordance with Part 1803 of this chapter (FmHA Instruction 402.1).

(b) *Closing loans secured by chattels and crops.* See Subpart B of Part 1941 of this chapter.

§ 1945.90 Revision of the use of EM loan funds.

(a) *Requirements.* Loan approval officials or their delegates are authorized to approve changes in the purposes for which loan funds are to be used provided:

(1) The loan, as changed, is within the respective loan approval official's authority.

(2) Such a change is for an authorized purpose and within applicable limitations.

(3) Such change will not adversely affect either the feasibility of the operation or the Government's interest.

(b) *Additional authority.* The State Director may delegate additional authority to approval officials to approve certain kinds of changes in the use of loan funds by issuing a State supplement describing such changes, provided prior approval is obtained from the National Office.

(c) *Revisions.* When changes are made in the use of loan funds, no revision will be made in the repayment schedule on the promissory note. Appropriate changes with respect to the repayment will be made in Table K of Form FmHA 431-2 and will be initialed by the borrower. The County Supervisor will also make appropriate notations in the "Supervisory and Servicing Actions" section of the Management System Card-Individual."

§ 1945.91 [Reserved]

§ 1945.92 Loan Servicing.

Loans will be serviced in accordance with Subpart A of Part 1806, Part 1863 and Subpart A of Part 1872 of this chapter (FmHA Instructions 426.1, 425.1 and 465.1, respectively) and Subpart A of Part 1930 of this chapter.

§§ 1945.93-1945.100 [Reserved]

EXHIBIT A

PROCESSING GUIDE

Insured Emergency (EM) Loans

This Exhibit outlines the basic steps involved in processing a loan application and identifies the FmHA forms which should be considered for use at each step as appropriate for EM loans.

Consult the appropriate Forms Manual Insert (FMI) for instructions for completion, distribution, and procedural reference for each form.

APPLICATION PROCESSING

A. Application Interview.

—Review applicant's proposed plan of operation in relation to FmHA farm program loan purposes and limitations.
—Begin running case record.
—Provide applicant with FmHA forms to be completed and returned which are needed to determine eligibility.
—Advise applicant of other information which must be obtained and provided to FmHA.
—Have applicant contact other creditors as possible credit sources for financing, or participating in the financing, of the proposed operation.

The following FmHA forms will be made available to the applicant, or used by the County Supervisor. Forms designated with an "x" are required and those designated with an "•" are used when applicable.

Form No.	Name	EM
410-1	Application for FmHA Services	x
410-5	Request for Verification of Employment	•
410-8	Applicant Reference Letter	•
410-10	Privacy Act Statement to References	•
431-1	Long-Time Farm and Home Plan	•
431-2	Farm and Home Plan	x
431-4	Business Analysis—Nonagricultural Enterprise	•
440-32	Request for Statement of Debts and Collateral	•
440-34	Option to Purchase Real Property	•
440-50	Crop-Share-Cash Farm Lease	•
440-51	Crop-Share-Cash Farm Lease (with Subordination Agreement)	•
440-52	Cash Farm Lease	•
440-53	Cash Farm Lease (with Subordination Agreement)	•
440-54	Livestock-Share Farm Lease	•
440-55	Livestock-Share Farm Lease (with Subordination Agreement)	•
440-56	Annual Supplement to Farm Lease	•
440-58	Estimate of Settlement Costs "Settlement Costs" Booklet.	•
441-29	ASCS Verification of Farm Production History and Payment	•
443-2	Option for Purchase of Farm—Land to be Subdivided	•
443-3	Assignment of Interest in Option (Land to be Subdivided)	•
449-10	Applicant's Environmental Impact Evaluation	•
1945-22	Certification of disaster losses	x

B. Field Visit.

—Notify applicant of planned visit and its purpose.
—Verification of disaster losses.
—Evaluate the resources available to the applicant and their adequacy in fulfilling the requirements of the proposed plan of operation, taking into consideration development work planned.
—Obtain information needed to complete required appraisals (chattel and real estate).
—If development is planned, discuss plans, specifications, and estimates.
—Hold landlord-tenant meeting, if necessary, to reach an agreement on the terms of the lease, resolve any problems, etc.; record in running case record.
—Determine security requirements and record in running case record.

The following FmHA forms will be used as appropriate.

Form No.	Name	EM
422-1	Appraisal Report—Farm Tract	•
422-2	Supplemental Report—Irrigation, Drainage, Levee and Minerals	•
422-3	Map of Property	•
422-10	Appraiser's Worksheet—Farm Tracts for Study of Comparable Properties	•
424-1	Development Plan	•
424-2	Description of Materials	•
440-13	Report of Lien Search	•
440-21	Appraisal of Chattel Property	•
1945-26	County Supervisor's Calculations and Verification of Qualifying Production Losses	•

C. Eligibility Determination.

—Obtain all needed application forms and other information from the applicant. Assist the applicant in completing these forms and/or in obtaining needed information, as necessary.
—Request deed or other evidence of title.
—Schedule meeting for County Committee, review application and determine eligibility.
—Inform applicant of the results of committee action.

The following FmHA forms will be used as appropriate in accomplishing the above actions:

Form No.	Name	EM
403-1	Debt Adjustment Agreement	•
440-2	County Committee Certification or Recommendation	x

DOCKET PREPARATION

—Obtain all information from the applicant, prior lienholder(s) landlord(s), etc., needed for the loan docket to be prepared.
—Check to assure all security requirements have been or will be met by loan closing.
—Prepare a loan narrative and enter it into the running case record.

The following FmHA forms will be completed and utilized as necessary in preparing the loan docket for approval:

Form No.	Name	EM
400-4	Nondiscrimination Agreement	•
427-8	Agreement with Prior Lienholder	•
440-1	Request for Obligation of Funds	x
440-4	Security Agreement (Chattels and Crops)	•
440-4A	Security Agreement (Crops)	•
440-6	Severance Agreement	•
440-15	Security Agreement (Insured Loans to Individuals)	•
440-25	Financing Statement	•
440-A25	Financing Statement (Carbon-Interleaved)	•
440-26	Consent and Subordination Agreement	•
440-41	Disclosure Statement for Loans Secured by Real Estate	•
440-41A	Disclosure Statement for Loans Not Secured by Real Estate	•
440-43	Notice of Right to Rescind	x
440-46	Environmental Impact Assessment	•
441-5	Subordination Agreement	•
441-8	Assignment of Proceeds from the Sale of Agricultural Products	•
441-10	Nondisturbance Agreement	•
441-12	Agreement for Disposition of Jointly Owned Property	•
441-13	Division of Income and Nondisturbance Agreement	•
441-17	Certification of Obligation to Landlord	•
441-18	Consent to Payment of Proceeds from Sale of Farm Products	•
441-25	Assignment of Proceeds from the Sale of Dairy Products and Release of Security Interest	•
443-17	Agreement to Sell Nonessential Real Estate	•
140-4	Transmittal of Documents	•
400-1	Equal Opportunity Agreement	•
400-3	Notice to Contractors and Applicants	•
400-6	Compliance Statement	•
402-1	Deposit Agreement	•
402-2	Statement of Deposits and Withdrawals	•
402-5	Deposit Agreement (Non FmHA Funds)	•
426-2	Property Insurance Mortgage Clause (Without Contribution)	•
427-1	Real Estate Mortgage or Deed of Trust for ——	•
427-4	Transmittal of Title Information	•
427-5	Affidavit of Borrowers (or transferees)	•
427-6	Affidavit of Sellers (or Transferors)	•
427-9	Preliminary Title Opinion	•
427-11	Warranty Deed	•
440-45	Nondiscrimination Certificate (Individual Housing)	•
440-59	Settlement Statement	•
1940-17	Promissory Note	x

LOAN APPROVAL AND CLOSING

A. Loan Approval.

—For chattel loan—file financing statement or chattel mortgage, and obtain a lien search.
—For real estate loan—request preliminary title opinion.
—Establish loan closing conditions and enter them in the running case record.
—Execute and distribute all forms necessary for loan approval.

B. Loan Closing.

—Request needed legal services.
—Arrange for loan closing by escrow agent, designated attorney, or other authorized loan closing agent; furnish loan closing agent with appropriate instructions, forms, and other needed information for loan closing.

The following FmHA forms will be provided to and used by the appropriate loan closing agent, in addition to those forms listed under docket preparation which must be executed by the borrower or other party:

EXHIBIT B

MEMORANDUM OF UNDERSTANDING BETWEEN SMALL BUSINESS ADMINISTRATION AND THE UNITED STATES DEPARTMENT OF AGRICULTURE—FARMERS HOME ADMINISTRATION PERTAINING TO DISASTER TYPE LOAN ASSISTANCE

I. PREAMBLE

Pub. L. 94-305, which amended the Small Business Act, authorized the Small Business Administration (SBA) to assist small business engaged in farming and related activities under all of its programs including its physical and economic injury loan programs. This legislation did not create any new SBA loan programs but merely included the agricultural industries among the small businesses eligible for assistance under existing SBA programs. Neither did the legislation diminish, in any way, the responsibility of the Farmers Home Administration (FmHA) to meet the financial and other needs of farmers.

This joint memorandum reaffirms the mutual desire of SBA and FmHA to cooperate in the use of their respective loan making authorities to complement the activities of each other, and, to the extent possible, to improve and expand the delivery of financial assistance to the agricultural segment of the country; all with the least possible degree of overlapping, confusing or duplicating activities.

II. DEFINITIONS

1. *Farming* is defined as the business of producing crops, livestock, livestock products, and aquatic organisms through the management of land, water, labor, capital and basic raw materials, e.g., seed, feed, fertilizer and fuel.

2. *Natural Disaster* (As declared by the Secretary of Agriculture) is caused by such natural phenomena as hurricanes, tornadoes, cyclones, excessive rainfall, floods, earthquakes, blizzards, freezes, electrical storms, snowstorms, drought, excessively high temperatures, and hail; insects where abnormal weather contributed substantially to the spreading and flourishing of such insects; fire resulting from lighting, and fires of other origins which could not be con-

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trolled because of abnormal weather; and plant and animal diseases where abnormal weather contributed substantially to such diseases spreading into epidemic stages.

3. *Physical Disaster* (As declared by the Administrator of SBA) may be caused by a flood, riot, civil disorder, hurricane, tornado, storm, high water, wind-driven water, tidal wave, snowstorm, drought, fire, explosion or other catastrophic event.

4. *Major Disaster* (As declared by the President) may be caused by any catastrophic event of sufficient magnitude to warrant major disaster assistance by the Federal Government, under the Disaster Relief Act of 1974.

5. *Housing* losses refer to any real estate damage to the farm owner's home, tenant housing or farm labor housing and the contents and other personal property contained therein.

III. GENERAL GUIDELINES

1. The FmHA administers its financial assistance programs through its State, District and County offices.

The SBA administers its financial assistance programs through its Regional, District and Branch offices.

2. The FmHA National Office and SBA Central Office will immediately notify each other of areas where disaster financial assistance is made available.

3. FmHA State Directors and SBA District Directors will exchange addresses of their offices and identify the geographical area served by each. This information will be available in all field offices of both agencies so applicants can be referred to the appropriate offices. The FmHA will use local county offices to administer disaster programs. SBA will either establish special local offices for disaster assistance, or utilize permanent SBA offices, as appropriate.

IV. HOW LOANS ARE MADE AVAILABLE

1. How FmHA emergency (EM) loans are made available. EM loans will be made available in counties named by FDAA as eligible for Federal assistance under a major disaster or emergency declaration by the President; in counties where a natural disaster is designated by the Secretary of Agriculture; and in counties authorized by the State Director because of a natural disaster.

2. How SBA Disaster Loans are made available. SBA physical and economic injury disaster loans will, as determined to be necessary and appropriate, be made available in counties named by FDAA under the authority for a major disaster declaration by the President or a physical disaster declaration by the Administrator of SBA. An SBA declaration also includes adjacent counties. Also, Economic Injury Disaster loans are available to small business concerns in those counties named in a Natural Disaster declaration by Secretary of Agriculture.

3. FmHA and SBA will establish a liaison at both the State Director/District Director level and the National level and periodically coordinate their activities to: (a) Exchange detailed information concerning the disaster loan program, (b) define areas of cooperation between the two agencies, (c) assures that their programs are servicing the intended recipients, (d) establish new methods to serve the public more expeditiously, and (e) achieve maximum utilization of their respective resources.

4. The SBA and FmHA agree that the interests of agricultural industries will be best served and that each agency will achieve better utilization of available resources through the following operating guidelines in areas where both agencies offer disaster assistance.

a. In order to avoid a duplication of effort, potential applicants may contact either agency for an interview but may file an application with only one agency at a time except as provided in "h" below. However, SBA will encourage those potential applicants that have been or are borrowing through the FmHA to continue their relationship with that agency.

b. FmHA personnel will, at the time of initial interview, refer those disaster victims that are not eligible for FmHA assistance (such as corporations and partnerships not directly engaged in farming, subsistence farmers or aliens) to SBA if they appear to be eligible for SBA assistance.

c. Potential applicants are not to be referred back and forth between FmHA and SBA. Representatives of each agency must be reasonably certain that the disaster victim is eligible for assistance from the other agency before a referral is made.

d. Disaster victims filing for financial assistance from either agency will give written permission for FmHA and SBA to exchange whatever prior or current loan application and loan experience information, including appraisals, either may have in its file. The format for this permission must be developed to comply with the Privacy Act.

e. Applicants who are denied SBA or FmHA assistance for losses for any reason, including lack of funds, may contact the other Agency for assistance.

f. Applicants filing for financial assistance from either agency must use the forms and procedures of the agency being requested to provide the assistance. An applicant who is denied assistance by either agency must use a new application to file with the other in accordance with that agency's forms and procedures. However, the earliest date of filing applications for losses with either agency will constitute the filing date with regard to termination dates for receiving applications, for either agency, provided that not more than six months have elapsed since the termination date of the second agency contacted when that agency is requested to process an application.

g. Applications should not have to apply to two Federal agencies to borrow funds for a single purpose. Therefore, if either FmHA or SBA can make the entire loan, the applicant should not be referred to the other agency for part of the funds needed. If either FmHA or SBA cannot make the entire loan, the applicant should be referred to the other agency for the full amount. Joint funding of a single loan with collateral shared between the agencies is not encouraged and should be used only as a last resort. However, SBA and FmHA will cooperate in making their respective loan, collateral requirements, repayment terms, etc. when necessary to assure that the disaster victim receives all appropriate assistance.

h. When an applicant has only housing losses in areas where SBA's physical loss loans are available, only the SBA will make loans for the restoration or replacement of housing losses as defined above. When a farmer has suffered production and farm losses, as well as housing losses, FmHA or SBA may make the loans for the housing losses and for nonhousing losses.

V. DESCRIPTION OF LENDING POLICIES

The FmHA makes guaranteed loans and insured emergency loans. Guaranteed emergency loans are loans where the lending institution advances the entire loan from its account and the FmHA guarantees repayment of a certain percentage of principal and interest. Insured emergency loans are those made from an FmHA insurance fund.

The SBA makes direct, immediate participation and guaranteed loans. Direct loans are made with SBA funds only. In immediate participation loans SBA agrees to purchase an agreed percentage of a loan from a lender immediately after disbursement. Guaranteed loans are made by a conventional lender from its own funds and SBA guarantees a percentage of the unpaid balance.

VI. LOAN PROGRAMS

The emergency and disaster loan programs of FmHA and SBA are outlined in Table I.

VII. ADMINISTRATIVE GUIDELINES

1. The services of FmHA and SBA to lenders and applicants are by mutual agreement services that each agency would provide any eligible applicant in the normal course of business, and there will be no reimbursement by either agency to the other for such services.

2. The National Office of FmHA and the Central Office of SBA will cooperate in counseling their field offices and in resolving problems in specific cases.

3. This Memorandum of Understanding in no way alters or supersedes the existing Memorandums between the two agencies covering FmHA regular farmer loan authorities and Business and Industrial Loan Program and all of SBA's regular loan programs. However, this memorandum does supersede and replace the previous agreement on disaster type loan assistance.

4. This agreement may be amended at any time by written agreement of both parties.

5. This agreement shall take effect upon the date of execution thereof.

GORDON CAVANAUGH,
Administrator FmHA.

Date: August 25, 1977.

A. VERNON WEAVER,
Administrator, SBA.

Date: July 21, 1977.

TABLE 1.—*SBA/FmHA Memorandum of Understanding*

Farmers Home Administration	Small Business Administration
Eligibility	*Eligibility*
1. An applicant must be a citizen of the United States, if an individual. If the applicant is a partnership, the individual partners must be citizens. If the applicant is a corporation it must be incorporated under the laws of the United States or any State thereof and the principal stockholders must be citizens.	1. Citizenship is not required. However use of disaster loan proceeds outside the United States or its possessions and territories is not permitted.

TABLE 1.—*SBA/FmHA Memorandum of Understanding*—Continued

Farmers Home Administration	Small Business Administration
Eligibility	*Eligibility*
2. The applicant must be unable to obtain the necessary credit from other sources, exclusive of an SBA disaster loan.	2. Physical disaster loans are made without regard to the availability of other financing or resources. Also, the age of an applicant shall not be a consideration in making the loan provided the disaster victim is of legal age to contract. 3. Most home owners, businesses and nonprofit institutions are eligible for physical disaster assistance.
3. The applicant must be an estalbished farm, ranch or aquaculture operator, either tenant or owner-operator, who manages the operations. If the applicant is a partnership or corporation it must be primarily engaged in farming operations and the operation(s) must be managed by one or more of the partners or stockholders. 4. The applicant must operate in a county or counties where EM loans have been authorized.	4. The applicant's physical loss must be within the disaster area as defined by the disaster declarations.
5. The applicant must have suffered qualifying property damage or production losses.	5. The applicant must have suffered real or personal property damage as a direct result of the disaster.
6. The applicant must be of good character and have necessary experience, ambition, and managerial ability to carry out the proposed operation.	6. The applicant must be able to provide reasonable assurance of ability to repay the loan.
Loan Purposes	*Loan Purposes*
1. Cover actual losses and expenses for damaged or destroyed nonhousing farm property and production.	1. The purpose of these physical disaster loans is to restore the victim's home or business property, real or personal, as nearly as possible to predisaster condition. No upgrading is permitted.
2. Housing losses—only when SBA's physical disaster assistance is *not* available.	2. Housing losses—SBA will make all loans when the only losses are housing losses whether on farm housing, rural housing or urban housing.
3. Annual operating loans. 4. Major adjustment loans.	3. Economic Injury Loans are similar. 4. No comparable disaster loan programs.
Terms	*Terms*
1. Actual loss loans—5% interest for disasters occurring prior to July 1, 1976, disasters occurring on or after July 1, 1976, and prior to October 1, 1978—primary residence and personal property related to the residence 1% on the first $10,000, 3% on the balance not to exceed $40,000, and 5% on the amount over $40,000; and for all other actual loss loans, 3% on the first $250,000 and 5% on the amount over $250,000—for crop and livestock production and chattel losses up to 7 years with a 5 year renewal, in some cases up to 20 years and for real estate losses or damages up to 40 years.	1. Interest rate based on a statutory formula. Maturity based on the victim's ability to repay but cannot exceed 30 years.
2. Annual operating—at prevailing current market rate—paid when principal income from year's operation is received.	2. No comparable terms.
3. Major Adjustment Loans at prevailing current market rate—chattels up to 7 years with a 5 year renewal, and for real estate up to 40 years.	3. No comparable disaster loan program.
Loan Limits	*Loan Limits*
No statutory dollar limit; determined by amount of loss and credit factors.	No statutory dollar limit. However, administrative ceilings have been established as follows: a. Home Loans: $50,000 for real estate, $10,000 for personal property, $55,000 for combined purposes. b. Business Loans: $500,000; exception by the Administrator authorized to avoid substantial hardship.
Graduation Policy	*Graduation Policy*
Reviewed to determine ability to receive credit from other credit sources after 5 years for operating type purposes and after 10 years for real estate purposes and every other year thereafter, if necessary. Refinancing when able is mandatory.	No such policy.
Economic Injury Loans	*Economic Injury Loans*
Emergency Loans for annual operating purposes are similar.	SBA is authorized to make Economic Injury Disaster loans to small business concerns that have suffered a cash flow problem that is related to the disaster. These loans are for working capital only and do not allow for any expansion. See paragraph IV, 2.

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EXHIBIT C

MEMORANDUM OF UNDERSTANDING AND COORDINATION BETWEEN THE AGRICULTURE STABILIZATION AND CONSERVATION SERVICE (ASCS) AND THE FARMERS HOME ADMINISTRATION (FMHA) PERTAINING TO DISASTER TYPE ASSISTANCE

I. *General:* Federal Agencies that provide financial assistance to farmers suffering losses as a result of natural disasters are required to ensure that there is no duplication of benefits under other programs. Also, the USDA through the State and County Emergency Boards and the member agencies is responsible for providing leadership to insure that the Department's emergency programs are implemented as needed in the field.

II. *USDA STATE (SEB) AND COUNTY (CEB) EMERGENCY BOARDS:*

A. *Membership on Emergency Boards:*

1. SEB—There has been established in every state a SEB. The Board is composed of representatives of seven USDA agencies having emergency responsibilities in the field. The Chairman of the SEB is the ASCS State Executive Director. FmHA State Directors are members of the SEB's. In an emergency, SEB's and member agencies provide leadership for USDA emergency programs at the state level.

2. CEB—There has been established in nearly every county a CEB. Membership consists of representatives of each USDA agency having available personnel at the county level. The Chairman, in most cases, of the CEB is the ASCS County Executive Director. FmHA County Supervisors are members of the CEB's. In an emergency, CEB's and member agencies provide leadership for USDA emergency programs at the county level.

B. *Responsibility for Reporting Disasters.* USDA SEB's and CEB's and the member agencies are best qualified to accomplish assessment of rural and agricultural damages. Therefore, in accordance with "USDA State Emergency Memorandum No. 54," they are given the responsibility for reporting the occurence of disasters. SEB and CEB chairmen shall call a meeting of their respective boards to prepare necessary reports as soon as possible after a disaster occurs which has significantly affected rural areas in their state or county. The FmHA State Director and County Supervisors shall cooperate with the chairmen of SEB's and CEB's.

C. Federal Disaster Assistance Administration (FDAA). "Natural Disaster Assistance Centers" Where a major disaster has been declared by the President and the FDAA establishes such center or centers in the local disaster areas, the SEB chairman is responsible for the following:

1. Selecting a qualified USDA person to represent USDA at each center. He will consult with other board members in making the selection. FmHA State Directors will cooperate with the SEB chairmen in seeing that the centers are properly manned.

2. Orienting the selected person(s) on all current USDA disaster programs. FmHA State Directors will cooperate in this orientation to insure that the USDA representative at the center is familiar with FmHA Emergency loans and other loans of FmHA that could be of assistance to the disaster victims.

3. Informing FDAA that a USDA representative is available to help at each of the assistance centers.

D. *ASCS and FmHA Coordination on Emergency Activities to Farmers and Ranchers:*

1. AFFECTED ASCS PROGRAMS: FmHA Instruction 441.2 provides that ASCS disaster type program benefits are to be considered in determining a farmer's eligibility and the maximum amount of his Emergency (EM) loan. Therefore, the amount of any benefits received from ASCS disaster type programs, disaster payments (prevented planting low yield) for wheat, feed grain, and upland cotton, cost-sharing payments under Emergency Conservation Measures (ECM), sugar abandonment or deficiency payments, and livestock feed programs (LFP) will be considered as compensation for losses.

2. FmHA ACTION: In counties where Emergency Loans are authorized and ASCS disaster type programs are available, FmHA County Supervisors will:

a. Furnish the ASCS county offices with a listing of names and addresses of farmers and ranchers who have had an EM loan approved.

b. Request from the ASCS county offices, by name and address of each EM loan applicant, the following information: payments or benefits (disaster), ECM, sugar abandonment or deficiency payments, and (LFP) made or to be made by ASCS to such applicant. ASCS records of acreages on the applicant's farm or farms, and established yields on crops used by ASCS. Form FmHA 441-29, "ASCS Verification of Farm Production History and Payments," will be used for this purpose.

3. ASCS ACTION: The ASCS county offices will:

a. Furnish the County Supervisor with the request information.

b. In counties where EM borrowers have received EM loans and have:

(1) *Received Disaster Payments or ECM Assistance Concerning the Same Loss.* Issue such sight drafts to show the borrower and FmHA as joint payees and the drafts will be forwarded to the FmHA County Office.

(2) *Applied for LFP Benefits Because of the Same Loss.* Limit LFP benefits to the difference, if any, in the amount a producer actually borrowed from FmHA and the maximum amount he could have borrowed. In cases where a producer has obtained the maximum loan, he must first repay FmHA to the extent of any benefits he may wish to obtain under the LFP (the difference between the LFP sales price and the market price).

(3) *Received Sugar Abandonment or Deficiency Payments.* Will advise the FmHA County Office of the date and amount of such payments.

This Memorandum of Understanding and Coordination may be received from time to time by written mutual consent of the agencies involved.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

Date: April 18, 1975.

KENNETH E. FRICK,
Administrator, Agricultural Stabilization and Conservation Service.

Date: April 23, 1975.

NOTE: USDA Emergency Memorandum No. 54 which is referred to in paragraph II B of this Exhibit has been replaced by the USDA Emergency Operations Handbook.

NOTE: FmHA Instruction 441.2 which is referred to in paragraph II D 1 of this Exhibit has been replaced by FmHA Instruction 1904-C.

SUBCHAPTER P—GUARANTEED LOANS

PART 1980—GENERAL

Subpart B—Farmer Program Loans

12. Section 1980.154 is amended as follows:

§ 1980.154 Memoranda of Understanding or other items.

* * * * *

5. FmHA and Farm Credit Administration (Subpart R of Part 2000 and Subparts A, B, and C of Part 1943 of this Chapter).

6. FmHA and SBA (Exhibit B to Subpart B of Part 1945 of this Chapter, and Subpart O of Part 2000 of this Chapter).

7. FmHA and ASCS (Exhibit C to Subpart B of Part 1945 of this Chapter).

* * * * *

13. The *ADMINISTRATIVE* section at the end of § 1980.170 is amended to read as follows:

§ 1980.170 Emergency loans. * * *

* * * * *

ADMINISTRATIVE:

A. Where security will be taken under the conditions of § 1980.170(f)(2)(iv), the FmHA official will determine whether an insured loan will be made to the applicant instead of a guaranteed loan.

B. The County Supervisor will give written notice to eligible lenders in the County Supervisor's service area when FmHA will guarantee loans.

This notification will specify the type of disaster, the designated county or counties, the termination date for receiving EM loan applications, the incidence period for the disaster, and the Disaster Designation Number.

This regulation has not been determined significant under the USDA criteria implementing Executive Order 12044. A copy of the Impact Statement prepared according to these criteria is available from the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6316, Washington, D.C. 20250.

This document has been reviewed in accordance with FmHA Instruction 1901-G, "Environmental Impact Statements." It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy of 1969, Pub. L. 91-190, and Environmental Impact Statement is not required.

(7 U.S.C. 1989; 5 U.S.C. 301; Sec. 10 Pub. L. 93-347, 88 Stat. 392; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70.)

Dated: December 22, 1978.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc. 79-635 Filed 1-5-79; 8:45 am]

[3410-07-M]

SUBCHAPTER W—BUSINESS SERVICES

PART 2024—PROPERTY AND SUPPLY

Subpart A—Procurement, Sales, and Leasing Authority

DELEGATION OF PURCHASING AUTHORITY (SMALL PURCHASES)

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration amends its regulations regarding purchasing authority. This document provides purchasing authority for small purchases to the Administrative Officer of the State Office staff of FmHA to assist in providing additional services and assistance in the making and servicing of emergency loans.

EFFECTIVE DATE: January 8, 1979.

FOR FURTHER INFORMATION CONTACT:

Albert J. Geiger. Phone 202-447-5777.

SUPPLEMENTARY INFORMATION: The Farmers Home Administration amends its regulations by deleting and reserving Subchapter R, "Business Services", by establishing a new Subchapter W, titled "Business Services", by transferring the regulations in Parts 2018 and 2024 to the new Subchapter W, and by amending Exhibit A of Subpart A of Part 2024 of the new Subchapter W, Chapter XVIII, title 7 in the Code of Federal Regulations. It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for public comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules unless good cause is found that such public procedure would be impracticable or unnecessary. This amendment is not published for advanced comment since the purpose is entirely administrative in nature and it is beneficial to the public.

Therefore, various miscellaneous amendments are made to Chapter XVIII as follows:

SUBCHAPTER R—BUSINESS SERVICES

1. Subchapter R is hereby deleted and reserved.

SUBCHAPTER W—BUSINESS SERVICES

2. A new Subchapter W is hereby established and Parts 2018 and 2024 and regulations contained therein are hereby transferred to the new Subchapter W.

3. Part 2024, Subpart A and Exhibit A are revised to read as follows:

PART 2024—PROPERTY AND SUPPLY

Subpart A—Procurement, Sales, and Leasing Authority

Sec.

2024.1 General.
2024.2 Policy.
2024.3 Delegations of authority.
2024.4 2024.5 (Reserved)
2024.6 Small purchases.
2024.7 (Reserved)
2024.8 Procurement contracting.
2024.9 2024.11 (Reserved)
2024.12 Sales.
2024.13 (Reserved)
2024.14 Leasing, space acquisition, and assignment.
2024.15 2024.20 (Reserved)
2024.21 Authority of acting and supervisory officials.
2024.22 2024.50 (Reserved)
Exhibit A—Delegation of Purchasing Authority (Small Purchases)

§ 2024.1 General.

This Subpart shows the delegations of authority for procurement contracting, purchasing, sales, and space acquisition and assignment. Exhibits A, B, C, and D show the people who have the authority to sign and administer contracts, purchase agreements, sales agreements, and leases. Authority to request the services covered and approve the propriety of program need for spending is *not* given.

§ 2024.2 Policy.

Field offices do business in this Subpart through the Business Services Branch of the Finance Office in St. Louis. The National Office does business through the Business Services Division in Washington, D.C. (Revised)

§ 2024.3 Delegations of authority.

(a) For:

(1) Small purchases, see Exhibit A.

(2) Procurement contracting, see Exhibit B.

(3) Sales, see Exhibit C.

(4) Lease of space, see Exhibit D.

(b) Special delegations of authority. Requests not listed in the Exhibits can be sent to the Administrator for approval.

NOTE: A number of other FmHA Instructions authorize field personnel to approve acquisition of goods or services. These allow expenditure of funds only, and do not grant delegation of authority to enter into purchase or contract transactions. The only contracting and purchasing authority delegated is that prescribed in this Subpart. (Revised)

§§ 2024.4-2024.5 [Reserved]

§ 2024.6 Small purchases.

Supplies and services that are not personal can be purchased in amounts less than $10,000 at one time. See Exhibit A. Small purchase authority will not be used for construction contracts of more than $2,000.

(a) Purchases can be negotiated without formal advertising for amounts under $10,000.

(b) To get the aggregate amount involved in any one transaction, all items are to be grouped together in one purchase.

(c) Oral solicitations can be made for purchases under $5,000. *Exceptions:* Suppliers outside the local area, where specifications are needed, or where a large number of items are included in a single purchase, or where getting oral quotations is not efficient. Use Standard Form 18, "Request for Quotations," for written solicitation. Use Form FmHA 120-10, "Solicitation, Quotation, Purchase Order, Inspection, and Invoice," for procurement of services for program and acquired property. (Revised)

§ 2024.7 [Reserved]

§ 2024.8 Procurement contracting.

This authority is used for purchasing supplies and services from private business, in amounts of more than $10,000 for each purchase. See Exhibit B for amounts allowed to each position. This authority is used in FmHA by Business Services employees in the National and Finance Offices and the Property Management Staff in the National Office. OGC provides review services for solicitations, contracts,

and changes. Use Federal and Departmental regulations for procurement contracting. (Revised)

§ 2024.9–2024.11 [Reserved]

§ 2024.12 Sales.

See Exhibit C for delegations of authority and amounts of sales. The General Services Administration (GSA) is responsible for the disposal of surplus property. GSA regional offices can authorize agencies to sell these items. These sales will be made only by persons designated in Exhibit C and using Federal Property Management Regulations (FPMR) 101-45.304, and Agriculture Property Management Regulations (AGPMR) 10-45.302. for sales to Government employees.

§ 2024.13 [Reserved]

§ 2024.14 Leasing, space acquisition, and assignment.

See Exhibit D for delegation of authority and amounts for leasing. Leasing authority includes soliciting, and accepting bids, signing leasing documents and, contracting with field offices of GSA to use both leased and Federal space. This includes Post Office facilities, and space leased by FmHA. Use FPMR 101-18.104, 101-18.107, and AGPMR 104-18.104, 104-18.107 when leasing. Acquisitions also use Federal Procurement Regulations, AGPR Subpart 4-4.54 and FmHA guidelines.

§ 2024.15–2024.20 [Reserved]

§ 2024.21 Authority of acting and supervisory officials.

Employees who are designated to act in place of a person with a position having delegated authority, can also use the authority. *Exceptions:* Contracting authority. The Employee must be qualified, see in FmHA regulations. Exercise of delegated authority by officials is not to be based on their supervisory capacity only.

Attachments: Exhibits A, B, C, and D.

EXHIBIT A.—*Delegation of Purchasing Authority (Small Purchases)*

In accordance with Agriculture Procurement Regulations 4-3.602-50, the authority to purchase with redelegation power is delegated to these positions:

National Office		Amount not to exceed—
Deputy Administrator, Financial and Administrative Operations		$10,000
Director, Business Services Division		10,000
Deputy Director, Business Services Division		10,000
Authority to purchase *without power to redelegate* is delegated to:		
1. *National Office:*		
Chief, Property & Procurement Mgmt. Br.		10,000
Property & Space Mgmt. Specialist		10,000
Contracting Specialist		10,000
Procurement & Supply Specialist		10,000
Director, Property Management Staff		10,000
Purchasing Agent		5,000
2. *Finance Office:*		
Chief, Business Services Branch		10,000
Assistant Chief, Business Services Br.		10,000
Head, Space Management Section		10,000
Head, Property Management Section		10,000
General Supply Specialist		10,000
3. *State Office—Puerto Rico:*		
State Director		2,500
Administrative Officer		2,500
4. *Training Centers:*		
Resident Manager—For emergency supplies and services for ongoing training		200
For Transportation Service		250
5. State Director	Allowances for supplies and equipment for information programs.	(1)
6. State Director Administrative Officer, District Director, County Supervisor.	For emergency supplies and services not available through St. Louis, Missouri, Finance Office.	25
7. District Director, County Supervisor	Services for maintenance, management, or repair of "real" or "acquired" property.	2,000
	Repair and replacement of parts and cleaning of electric typewriters and offices machines.	[2]60
8. Property Management Specialist, Chief, Prop. Mgmt., Administrative Officer.	For services relating to the making and servicing of Emergency, Livestock and Economic Emergency loans and other program operations when identified. Services for maintenance management, repair, and sale of acquired real property.	[3]10,000

[1]Yearly $100 plus $2.50 for each fulltime County Office.

[2]Maximum depending on age. (See guidelines available in any FmHA office for limitations on age of equipment.)

[3]Only for employees who have completed the prescribed procurement contracting course and procedures.

This delegation replaces all others and is valid until changed or canceled.

People in these positions, or those acting for them, can use this authority.

Use *Federal Procurement Regulations, Subpart 1-3.6; Agriculture Procurement Regulations, Subpart 4-3.6;* and Agency regulations that apply to using this authority.

Authority to purchase will not be used for contracting of construction except for Items 7 and 8 above.

(5 U.S.C. 301)

Dated: December 28, 1978.

JAMES E. THORNTON,
Associate Administrator
Farmers Home Administration.

[FR 79-574 Filed 1-5-79; 8:45 am]

[7590-01-M]

Title 10—Energy

CHAPTER I—NUCLEAR REGULATORY COMMISSION

PART 35—HUMAN USES OF BYPRODUCT MATERIAL

Calibration of Teletherapy Units

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations to require medical licensees to (1) calibrate each teletherapy unit annually and (2) perform monthly spot checks on those calibrations. The annual full calibrations must be performed by a qualified expert. The monthly spot checks need not be performed by a qualified expert but the results of the spot checks must be reviewed by a qualified expert on a timely basis.

The amendments will help ensure that a patient receives the prescribed radiation dose by requiring that teletherapy units are properly calibrated.

EFFECTIVE DATE: The amendments become effective on July 9, 1979. Any full calibrations performed in accordance with the procedures in this amendment during the 365 days prior to the effective date of this amendment will count as the first full calibration.

NOTE—The Nuclear Regulatory Commission has submitted this rule to the Comptroller General for review under the Federal Reports Act, as amended, 44 U.S.C. 3512. The date on which the rule becomes effective, unless advised to the contrary, accordingly reflects inclusion of the 45-day period which that statute allows for this review (44 U.S.C. 3512(c)(2)).

FOR FURTHER INFORMATION CONTACT:

Mrs. Patricia C. Vacca, Division of Fuel Cycle and Material Safety, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 (301-427-4232).

SUPPLEMENTARY INFORMATION: On May 19, 1977, the NRC published in the FEDERAL REGISTER (42 FR 25743) proposed amendments to its regulations pertaining to the human uses of byproduct materials including teletherapy units. The proposed amendments to § 35.13 would have required teletherapy licensees to:

1. Have a qualified expert perform full calibration measurements at least once each year;

2. Perform spot-check measurements on their teletherapy units at least monthly; and

3. Report to NRC if these measurements indicate that patients treated by teletherapy units received a radiation dose differing from the prescribed dose by more than 10 percent.

The public was invited to submit written comments and suggestions on the proposed amendments. The comment period, originally set to close on July 5, 1977, was extended to July 29, 1977.

I. COMMENTS ON PROPOSED RULE

Fifty-nine comments were received. Copies of the comments and a detailed analysis of the comments may be examined in the NRC Public Document Room at 1717 H Street, NW., Washington, D.C. Approximately one-half of the commenters supported the proposed rule. Of the remainder, approximately one-half disapproved of the proposed rule and the other half were non committal. Virtually all of the commenters offered helpful suggestions, most of which were accommodated as detailed in Section II below, *"Summary of Major Changes in the Final Rule"*.

Most of the commenters who disapproved of the proposed rule questioned either the need for a rule or whether NRC was the appropriate federal agency to require calibrations of teletherapy units.

The Commission agrees with those commenters who pointed out that the Riverside Hospital incident involving 400 patients was an isolated case and that NRC's efforts to alert other licensees and check on their calibrations were successful. However, the Commission believes that the Riverside incident evidences the magnitude of the harm which could be caused by a single uncalibrated teletherapy unit. The purpose of this rule is to ensure that teletherapy units remain properly calibrated throughout their useful lives.

Those commenters who questioned whether NRC was the appropriate agency to require calibration of teletherapy units, pointed to potential conflicts with the Food and Drug Administration's (FDA) new authority under the Medical Device Amendments of 1976. Through the Atomic Energy Act of 1954, as amended, and the Energy Reorganization Act of 1974, as amended, NRC has direct regulatory control over the human use of byproduct material in teletherapy units. NRC is the only Federal Agency with *direct* regulatory control over the *use* of byproduct material and, as such, is certainly an appropriate agency to require calibration of NRC regulated teletherapy units. NRC is aware that its responsibilities and those of FDA do overlap in the area of medical devices. NRC and FDA staff members have met on several occasions to coordinate the responsibilities of the two agencies. It appears that it will be some time before the FDA has standards or guidelines in place for teletherapy calibration. As they are developed, NRC will work closely with FDA to minimize overlapping regulation by the two agencies.

One commenter suggested that licensees be required to participate in calibration check programs such as those sponsored by FDA or the National Bureau of Standards. The Commission encourages teletherapy licensees to participate in voluntary calibration check programs but will not require it.

Several commenters did not understand that a qualified expert need not actually perform the spot-check measurements. The final rule states clearly that the qualified expert need not actually perform the spot check, but the results of the measurements must be reviewed by a qualified expert within 15 days.

There were numerous comments on the section of the proposed rule that would have required reporting to NRC, and to the patient's referring physician, certain misadministrations involving teletherapy units. The misadministration reporting requirement in the proposed teletherapy calibration rule has been deleted from the final rule. All comments received on this subject will be considered as comments on the more comprehensive proposed misadministration reporting requirement that was published in the FEDERAL REGISTER on July 7, 1978 (43 FR 29297), for public comment.

II. SUMMARY OF MAJOR CHANGES IN THE FINAL RULE

NRC has decided to issue the final rule by adding §§ 35.21–35.25, inclusive, to 10 CFR Part 35, rather than by amending § 35.13 as proposed. This change will make the final rule easier to read and understand. It will also be clear that the rule pertains only to teletherapy units and not to other sealed sources.

As discussed in Section I above, the misadministration reporting requirement of the proposed rule has been deleted.

Section 35.21 on full calibration has been expanded to require full calibration following any repair of the teletherapy unit that includes removal of the source or major repair of the components associated with the source exposure assembly and prior to treating humans. In § 35.21 the term "significant change," which related to the spot-check measurement and will trigger a recalibration, now reads "output differs by more than 5 percent." Section 35.21 now includes a performance standard of "to an accuracy within ± 3 percent" for the calibration of teletherapy output. Finally, § 35.21 now includes a requirement to correct the calibration of teletherapy output for physical decay at intervals not to exceed one month.

Under the effective rule, the licensee generally will not have to submit the training and experience of the qualified expert to NRC for evaluation. Rather, § 35.24 requires the licensee to determine, pursuant to the provisions of that section, if a person is an expert qualified by training and experience to calibrate teletherapy units. The licensee will then keep records of that evaluation of the expert's training and experience for inspection by NRC.

A new requirement has been added to ensure that dosimetry systems used to calibrate the teletherapy units are also properly calibrated. Section 35.23 requires that the dosimetry system used for full calibrations has itself been calibrated by the National Bureau of Standards (NBS) or by one of three Regional Calibration Laboratories (RCL), who in their turn are directly "traceable" to NBS. Alternatively, a dosimetry system used solely for spot-check measurements may be calibrated by direct intercomparison with a system calibrated by NBS or one of the RCLs.

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III. FINAL RULE

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and Sections 552 and 553 of Title 5 of the United States Code, the following amendments to Title 10, Chapter I, Code of Federal Regulations, Part 35, are published as a document subject to codification.

10 CFR Part 35 is amended by adding a new center heading and new §§ 35.21-35.25, as follows:

SPECIAL REQUIREMENTS FOR TELETHERAPY LICENSEES

§ 35.21 Requirement to perform full calibration measurements of teletherapy units.

(a) Any licensee authorized under § 35.13 to use teletherapy units for treating humans shall cause full calibration measurements to be performed on each teletherapy unit:

(1) Prior to the first use of the unit for treating humans;

(2) Prior to treating humans:

(i) Whenever spot-check measurements indicate that the output value differs by more than 5 percent from the value obtained at the last full calibration corrected mathematically for physical decay;

(ii) Following replacement of the radiation source or following reinstallation of the teletherapy unit in a new location;

(iii) Following any repair of the teletherapy unit that includes removal of the source or major repair of the components associated with the source exposure assembly; and

(3) At intervals not exceeding one year.

(b) Full calibration measurements required by paragraph (a) of this section shall include determination of:

(1) The exposure rate or dose rate to an accuracy within ±3 percent for the range of field sizes and for the range of distances (or for the axis distance) used in radiation therapy;

(2) The congruence between the radiation field and the field indicated by the light beam localizing device;

(3) The uniformity of the radiation field and its dependence upon the orientation of the useful beam;

(4) Timer accuracy; and

(5) The accuracy of all distance measuring devices used for treating humans.

(c) Full calibration measurements shall be made in accordance with the procedures recommended by the Scientific Committee on Radiation Dosimetry of the American Association of Physicists in Medicine (*Physics in Medicine and Biology*, Vol. 16, No. 3, 1971, pp. 379-396).[1]

(d) The exposure rate or dose rate values determined in paragraph (b)(1) of this section shall be corrected mathematically for physical decay for intervals not exceeding one month.

(e) Full calibration measurements required by paragraph (a) of this section and physical decay corrections required by paragraph (d) of this section shall be performed by an expert qualified by training and experience in accordance with § 35.24.

§ 35.22 Requirement to perform periodic spot-check measurements of teletherapy units.

(a) Any licensee authorized under § 35.13 to use teletherapy units for treating humans shall cause spot-check measurements to be performed on each teletherapy unit at intervals not exceeding one month.

(b) Spot-check measurements required by paragraph (a) of this section shall include determination of:

(1) Timer accuracy;

(2) The congruence between the radiation field and the field indicated by the light beam localizing device;

(3) The accuracy of all distance measuring devices used for treating humans;

(4) The exposure rate, dose rate, or a quantity related in a known manner to these rates for one typical set of operating conditions; and

(5) The difference between the measurement made in paragraph (b)(4) of this section and the anticipated output, expressed as a percentage of the anticipated output (i.e., the value obtained at last full calibration corrected mathematically for physical decay).

(c) Spot-check measurements required by paragraph (a) of this section shall be performed in accordance with procedures established by an expert qualified by training and experience in accordance with § 35.24. (A qualified expert need not actually perform the spot-check measurements.) If a qualified expert does not perform the spot-check measurements, the results of the spot-check measurements shall be reviewed by a qualified expert within 15 days.

§ 35.23 Requirement to calibrate instruments used for full calibration and spot-check measurements.

(a) Full calibration measurements required by § 35.21 shall be performed using a dosimetry system that has been calibrated by the National Bureau of Standards or by a Regional Calibration Laboratory accredited by the American Association of Physicists in Medicine. The dosimetry system shall have been calibrated within the previous two years and after any servicing that may have affected system calibration.

(b) Spot-check measurements required by § 35.22 shall be performed using a dosimetry system that has been calibrated in accordance with paragraph (a) of this section. Alternatively, a dosimetry system used solely for spot-check measurements may be calibrated by direct intercomparison with a system that has been calibrated in accordance with paragraph (a) of this section. This alternative calibration method shall have been performed within the previous one year and after each servicing that may have affected system calibration. Dosimetry systems calibrated by this alternative method shall not be used for full calibration measurements.

§ 35.24 Qualified expert.

The licensee shall determine if a person is an expert qualified by training and experience to calibrate a teletherapy unit and establish procedures for (and review the results of) spot-check measurements. The licensee shall determine that the qualified expert:

(a) Is certified by the American Board of Radiology in Therapeutic Radiological Physics, Radiological Physics, Roentgen-Ray and Gamma-Ray Physics, or X-ray and Radium Physics; or

(b) Has the following[2] minimum training and experience:

(1) A Master's or Doctor's degree in physics, biophysics, radiological physics or health physics;

(2) One year of full-time training in therapeutic radiological physics; and

(3) One year of full-time experience in a radiotherapy facility including personal calibration and spot check of at least one teletherapy unit.

[1]This incorporation by reference provision was approved by the Acting Director of the Federal Register on August 6, 1976. Copies are available for inspection or may be obtained from U.S. Nuclear Regulatory Commission, Public Document Room, 1717 H Street, NW., Washington, D.C. 20555.

[2]Licensees that have their teletherapy units calibrated by persons who do not meet these criteria for minimum training and experience may request a license amendment excepting them from the requirements of § 35.24. The request, accompanied by the appropriate amendment fee (§ 170.31 of 10 CFR Part 170), should include the name of the proposed qualified expert, a description of his training and experience including information similar to that specified in § 35.24(b), reports of at least one calibration and spot-check program based on measurements personally made by the proposed expert within the last 10 years, and written endorsement of the technical qualifications of the proposed expert from personal knowledge by a physicist certified by the American Board of Radiology in one of the specialities listed in § 35.24(a). The individual's qualifications will be evaluated by NRC's consultants in medical physics. The amendment request should be addressed to: License Management Branch, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

§ 35.25 Records.

The licensee shall maintain, for inspection by the Commission, records of the measurements, tests, corrective actions, and instrument calibrations made under §§ 35.21-35.23 and records of the licensee's evaluation of the qualified expert's training and experience made under § 35.24.

(a) Records of (1) full calibration measurements under § 35.21 and (2) calibration of the instruments used to make these measurements under § 35.23, shall be preserved for five years after completion of the full calibration.

(b) Records of (1) spot-check measurements and corrective actions under § 35.22 and (2) calibration of instruments used to make spot-check measurements under § 35.23, shall be preserved for two years after completion of the spot-check measurements and corrective actions.

(c) Records of the licensee's evaluation of the qualified expert's training and experience under § 35.24 shall be preserved for five years after the qualified expert's last performance of a full calibration on the licensee's teletherapy unit.

(Sec. 161, Pub. L. 83-703, 68 Stat. 948 (42 U.S.C. 2201); sec. 201, Pub. L. 93-438, 88 Stat. 1243 (42 U.S.C. 5841))

Dated at Washington, D.C., this 29th day of December, 1978.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc. 79-532 Filed 1-5-79; 8:45 am]

[6210-01-M]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

PART 265—RULES REGARDING DELEGATION OF AUTHORITY

Delegation to Federal Reserve Banks

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule; correction.

SUMMARY: This document corrects a previous FEDERAL REGISTER document (FR Doc. 78-35937, filed December 26, 1978) beginning at page 60261 of the issue for Wednesday, December 27, 1978. On page 60262 in the third column, the introductory phrase of paragraph (f) (12 CFR 265.2(f)) should read as follows:

(f) Each Federal Reserve Bank is authorized, as to member banks or other indicated organizations headquartered in its district or under subparagraph (25) of this paragraph as to its officers or under paragraph (f)(34) as to its own facilities:

• • • • • •

Board of Governors of the Federal Reserve System, January 2, 1979.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 79-615 Filed 1-5-79; 8:45 am]

[8025-01-M]

Title 13—Business Credit and Assistance

CHAPTER I—SMALL BUSINESS ADMINISTRATION

[Rev. 13, Amdt. 26]

PART 121—SMALL BUSINESS SIZE STANDARDS

Definition of Small Business for the Purpose of SBA Loan Guarantees—Women's and Children's Nightwear Manufacturing

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: This final rule continues a temporary loan size standard for firms primarily engaged in manufacturing products in SIC-23413 (Women's and Children's Nightwear, made from woven or purchased knit fabrics). It is necessary because the market structure of this segment of the women's and children's underwear and nightwear industry is significantly different from its 4-digit industry group (SIC 2341) and the special hardship imposed on this segment of the industry due to the Government's ban on the use of the chemical TRIS in children's nightwear. Also, the President has requested that the Small Business Administration continue to provide assistance to additional eligible firms under existing loan programs in light of his veto of S. 1503, a bill which authorized Government idemnification for businesses that have sustained losses due to the ban on the chemical TRIS.

EFFECTIVE DATE: January 8, 1979.

FOR FURTHER INFORMATION CONTACT:

Robert N. Ray, Jr., (202) 653-6373.

SUPPLEMENTARY INFORMATION: On May 24, 1978, the FEDERAL REGISTER published a final rule to adopt a temporary 500-employee loan size standard for firms primarily engaged in SIC-23413. This rule had the effect of increasing the coverage of firms from 70 to 75 percent and the coverage of sales from 24 to 30 percent of those companies primarily engaged in manufacturing nightwear. The rule expired on November 24, 1978. This rulemaking extends the temporary size standard for an additional 6-month period. The rationale for this higher size standard is set forth in the May 24, 1978, FEDERAL REGISTER (43 FR 22172).

Since that time, the SBA has received no additional comment on this rule. Accordingly, and in light of the President's request for continued assistance to additional eligible firms, these regulations are not issued for proposed rulemaking because such delay would be contrary to the public interest. Interested persons, however, continue to be invited to submit comments regarding these regulations. Material thus submitted will be appraised and acted upon as if this document were a proposal. Accordingly, pursuant to authority contained in Section 5(b) 6 of the Small Business Act, as amended, 15 U.S.C. 634, et seq., 13 CFR Part 121.3-10(b) is amended by replacing subparagraph (4) with a new subparagraph (4), to read as follows:

§ 121.3-10 Definition of small business for SBA loans.

• • • • • •

(b) • • •

(4) As small if it is primarily engaged in manufacturing products in SIC Code 23413 (Women's and Children's Nightwear, made from woven or purchased knit fabrics) has suffered substantial economic injury which makes it eligible for assistance under section 7(b)(5) of the Small Business Act, files an application for such assistance by May 24, 1979, and has an average number of employees not to exceed 500.

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Dated: January 2, 1979.

A. VERNON WEAVER,
Administrator.

[FR Doc. 79-589 Filed 1-5-79; 8:45 am]

[4910-13-M]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 78-WE-12-AD; Amdt. 39-3389]

PART 39—AIRWORTHINESS DIRECTIVES

AiResearch Model TPE331-1, -2, -3, -5, -6 and TSE331-3 Series Engines

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This amendment amends an existing airworthiness directive (AD) by extending the initial compliance date and by requiring compliance with a revised service bulletin, which better defines the required modification. This amendment is needed to minimize the burden on operators and overhaul/repair facilities.

DATE: Effective January 8, 1979. Compliance schedule—As prescribed in the body of the AD.

ADDRESSES: The applicable service information may be obtained from: AiResearch Manufacturing Company of Arizona, P.O. Box 5217, Phoenix, Arizona 85010, Telephone: (602) 267-3011.

Also, a copy of the service information may be reviewed at, or a copy obtained from:

Rules Docket in Room 916, FAA, 800 Independence Avenue, S.W., Washington, D.C. 20591, or

Rules Docket in Room 6W14, FAA, Western Region, 15000 Aviation Boulevard, Hawthorne, California 90261.

FOR FURTHER INFORMATION CONTACT:

Kyle L. Olsen, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009. Telephone: (213) 536-6351.

SUPPLEMENTARY INFORMATION: This amendment amends Amendment 39-3367 (43 FR 58806) AD 78-25-08 which requires a modification to the engine fuel control drive gear train and the main reduction gear box of the AiResearch TSE331-3 and TPF331-1, -2, -3, -5, and -6 series engines. After issuing Amendment 39-3367 the AiResearch Manufacturing Company of Arizona presented to the FAA additional data that justifies extension of the initial compliance date to July 1, 1979 and extension of the maximum compliance time to December 31, 1985. The FAA has determined that this extension is necessary to minimize any undue burden on the public. Also, AiResearch has revised Service Bulletin TPE331-72-0061 to be more specific in the definition of the required modifications.

Since this amendment relieves a restriction and clarifies the required action and imposes no additional burden on any person, notice of public procedure hereon are unnecessary and good cause exists for making this amendment effective in less than thirty days.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me from the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by amending Amendment 39-3367 paragraph (a) as follows:

. . . . . .

(a) Within the next 3100 hours' time in service after July 1, 1979, or at the next overhaul after July 1, 1979, or prior to December 31, 1985, whichever comes first, unless already accomplished, incorporate the modified engine fuel control drive gear train in the main reduction gear box of the TSE331-3 and TPE331-1, -2, -3, -5 and -6 series engines in accordance with AiResearch Service Bulletin TPE331-72-0061, revision 1, dated December 18, 1978.

. . . . . .

This amendment becomes effective January 8, 1979.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89.)

Issued in Los Angeles, Calif., on December 27, 1978.

FRANK HAPPY,
Acting Director,
FAA Western Region.

[FR Doc. 79-578 Filed 1-5-79; 8:45 am]

[1505-01-M]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 18603; SFAR No. 39]

PART 47—AIRCRAFT REGISTRATION

Special Federal Aviation Regulation, Registration of Aircraft Owned by a Foreign Corporation

Correction

In FR Doc. 78-36374, appearing at page 38 in the FEDERAL REGISTER of Tuesday, January 2, 1979, make the following correction:

On page 39, first column, under the heading "Adoption of the Amendment", in the third line after the word "effective" insert "January 2, 1979".

[4910-13-M]

[Airspace Docket No. 78-WE-24]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Napa, Calif., VORTAC: Name Change

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment changes the name of the Napa VORTAC to Scaggs Island VORTAC wherever it is used in the description of VOR Federal Airways V-87 and V-108. This action eliminates the confusion and potential hazard caused by using the name Napa to terminate instrument flights without specifying either the airport or the VORTAC (an air navigation aid).

EFFECTIVE DATE: February 22, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-3715.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to change the name Napa to Scaggs Island wherever it is used in defining V-87 and V-108 airways. Confusion in communications and a potential hazard of misdirected operations is hereby eliminated by not having the same name for two locations only 4.4 miles apart. Because this action merely renames an existing navigation aid without changing its location, the designation of any airspace or its use, it is a minor matter and one in which the public would have no particular interest; therefore, notice and public procedure thereon are unnecessary.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (44 FR 307) is amended, effective 0901 G.M.T., February 22, 1979, as follows:

Under V-87 "Napa, Ca., 182° radials; Napa;" is deleted and "Scaggs Island, Calif., 182° radials; Scaggs Island;" is substituted therefor.

Under V-108 "Napa, Calif.; INT Napa 131°" is deleted and "Scaggs Island, Calif.; INT Scaggs Island 131°" is substituted therefor.

(Secs. 307(a), 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

NOTE.—The FAA has determined that this document involves a regulation which is not significant under the procedures and criteria prescribed by Executive Order 12044 and implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Washington, D.C., on December 29, 1978.

WRAY R. MCCLURY,
Acting Chief, Airspace and
Air Traffic Rules Division.

[FR Doc. 79-576 Filed 1-5-79; 8:45 am]

[8010-01-M]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33-6009, 34-15445, AS-259]

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

Quarterly Reporting Requirements for Life Insurance Companies

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Commission is further deferring, until 1980, the effective date of the quarterly reporting requirements for life insurance companies whose shares are not actively traded. Such additional delay is necessary to allow sufficient time for the Commission to consider the views expressed at public hearings this year concerning the problems of small companies generally.

EFFECTIVE DATE: Deferred from fiscal years ending after December 25, 1979 to years ending after December 25, 1980.

FOR FURTHER INFORMATION CONTACT:

Lawrence J. Bloch, Office of the Chief Accountant, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 (202-472-3782).

SUPPLEMENTARY INFORMATION: On September 20, 1976, the Commission issued Accounting Series Release No. 197 [41 FR 42645][1] to require quarterly financial reporting, on Form 10-Q, by life insurance companies and holding companies having only life insurance subsidiaries. In that release the Commission stated:

Recognizing that some life insurers do not presently prepare quarterly financial information, the Commission believes that the quarterly reporting responsibilities imposed by these amendments should first be applied to those life insurance companies whose activities are most closely followed by analysts and investors. At the same time and taking into account the lead time and start-up requirements for those companies not currently preparing quarterly financial information on a generally accepted accounting principles (GAAP) basis, the Commission has decided to defer the effective date of these amendments until 1978 for life insurance companies whose shares are not actively traded. In addition, the Commission notes that its Advisory Committee on Corporate Disclosure is reviewing the overall question of the reporting responsibilities of smaller companies. The results of their work are anticipated in mid-1977 and could possibly impact the filing requirements of many smaller companies, including small public life insurance companies. Accordingly, the Commission will give notice no later than September 30, 1977, as to whether or not there will be any further delay of the effective date of these amendments or any change in these amendments with respect to those life insurance companies whose shares are not actively traded.

In Accounting Series Release No. 228 [42 FR 54531], October 7, 1977, the Commission deferred through 1978 the effective date of the quarterly reporting requirements for life insurance companies whose shares are not actively traded. Subsequently on November 3, 1977 the Commission's Advisory Committee on Corporate Disclosure issued its report which included the following recommendations concerning the problems of small companies:

The Commission should hold public hearings to determine: (1) whether and to what extent, the Commission should attempt to define a category of "small companies" for the purpose of requiring less burdensome reporting; (2) how such a classification, if desirable and possible, should be defined; and (3) if definition is possible, what reductions of reporting requirements are possible, consistent with the purposes of the Federal securities laws.

Earlier this year the Commission staff conducted a series of public hearings in several parts of the country at which the problems of small companies were discussed. The views expressed at these hearings are now being reviewed by the Commission and the staff to ascertain future policies relating to small companies generally. Accordingly, the Commission has decided to further defer until 1980 the effective date of the quarterly reporting requirements for life insurance companies whose shares are not actively traded.

COMMISSION ACTION: The Commission hereby amends paragraphs (c)(1) of §§ 240.13a-13 and 15d-13 of 17 CFR Part 240, to defer the effective date specified therein as given below.

§ 240.13a-13 Quarterly reports on Form 10-Q (§ 249.308a of this chapter).

. . . . . .

(c) * * *

(1) Life insurance companies and holding companies having only life insurance subsidiaries for quarters in fiscal years ending on or before December 25, 1980, if they do not meet the tests specified in paragraph (t)(1)(i) of § 210.3-16; or

. . . . . .

§ 240.15d-13 Quarterly reports on Form 10-Q (§ 249.308a of this chapter).

. . . . . .

(c) * * *

(1) Life insurance companies and holding companies having only life insurance subsidiaries for quarters in fiscal years ending on or before December 25, 1980, if they do not meet the tests specified in paragraph (t)(1)(i) of § 210.3-16; or

. . . . . .

These amendments are adopted pursuant to authority in Sections 12, 13, 15(d) and 23(a) [15 U.S.C. 78*l*, 78m, 78o(d) and 78w] of the Securities Exchange Act of 1934.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

DECEMBER 28, 1978.

[FR Doc. 79-613 Filed 1-5-79; 8:45 am]

[1] Certain corrections were made in Accounting Series Release No. 218 [42 FR 27879], May 23, 1977.

V 4 4 / 5 JA 8 7 9 UMI

V 4 4 / 5 J A 8 7 9 UMI

[4810-22-M]

Title 19—Customs Duties

CHAPTER I—U.S. CUSTOMS SERVICE, TREASURY DEPARTMENT

[T.D. 79-08]

PART 159—LIQUIDATION OF DUTIES

Certain Fish From Canada—Waiver of Countervailing Duties

AGENCY: Department of the Treasury.

ACTION: Waiver of Countervailing Duties.

SUMMARY: This notice is to inform the public that a determination has been made to waive countervailing duties that would otherwise be required by Section 303 of the Tariff Act of 1930 on imports of dutiable fish from Canada. The waiver is being issued based on actions by the Canadian Government to eliminate the cash assistance program for the fishing industry and the other statutory criteria for granting a waiver.

EFFECTIVE DATE: December 29, 1978.

FOR FURTHER INFORMATION CONTACT:

Richard B. Self, Director, Office of Tariff Affairs, U.S. Treasury Department, 15th & Pennsylvania Avenue, N.W., Washington, D.C. 20220, (202) 566-8585.

SUPPLEMENTARY INFORMATION: In T.D. 79-07 published concurrently, it has been determined that bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended, (19 U.S.C. 1303), are being paid or bestowed directly or indirectly upon the manufacture, production, or exportation of certain fish from Canada.

Section 303(d) of the Tariff Act of 1930, as amended by the Trade Act of 1974 (Pub. L. 93-618, January 3, 1975), authorizes the Secretary of the Treasury to waive the imposition of countervailing duties during the four-year period beginning on the date of enactment of the Trade Act of 1974 if he determines that:

(1) adequate steps have been taken to reduce substantially or eliminate during such period the adverse effect of a bounty or grant which he has determined is being paid or bestowed with respect to any article or merchandise;

(2) there is a reasonable prospect that under section 102 of the Trade Act of 1974, successful trade agreements will be entered into with foreign countries or instrumentalities providing for the reduction or elimination of barriers to or other distortions of international trade; and

(3) the imposition of the additional duty under the section with respect to such article or merchandise would be likely to seriously jeopardize the satisfactory completion of such negotiations.

Based upon analysis of all the relevant factors and after consultations with interested agencies and parties with direct interest in this proceeding, I have concluded that steps have been taken to reduce substantially the adverse effects of the bounty or grant. Specifically, the Government of Canada has acted to dismantle the Groundfish Temporary Assistance Program that provided direct payments to fishermen and fish processors in Canada. The subsidy for processors, which was approximately 8% *ad valorem*, was discontinued with respect to claims for payments presented after January 1, 1978. Cash subsidies to "offshore" landings from large vessels, which were approximately 4% *ad valorem* on about 55% of the catch, were discontinued for any claims after March 31, 1978. Finally, the 4% *ad valorem* subsidy to "onshore" vessels of a smaller size, accounting for 45% of the catch, was terminated with respect to claims for payments presented after October 1, 1978. Thus, by October 1, 1978, the effective bounty was almost entirely eliminated on groundfish exports to the United States.

After consulting with appropriate agencies, including the Department of State, the Department of Commerce, and the Office of the Special Representative for Trade Negotiations, I have concluded:

(1) that there is a reasonable prospect that, under section 102 of the Trade Act of 1974, successful trade agreements will be entered into with foreign countries or instrumentalities providing for the reduction or elimination of barrier to or other distortions of international trade; and

(2) the imposition of countervailing duties on dutiable groundfish from Canada would be likely seriously to jeopardize the satisfactory completion of such negotiations.

Accordingly, pursuant to Section 303(d) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(d)), I hereby waive the imposition of countervailing duties on certain dutiable fish imports from Canada.

This determination may be revoked, in whole or in part, at any time and shall be revoked whenever the basis supporting the determination no longer exists. Unless sooner revoked or made subject to a resolution of disapproval adopted by either House of the Congress of the United States pursuant to Section 303(e) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(e)), this waiver of countervailing duties will, in any event by statute, cease to have force and effect on January 3, 1979.

On or after the date of publication in the FEDERAL REGISTER of a notice revoking this determination, in whole or in part, the day after the date of adoption by either House of Congress of a resolution disapproving this "Waiver of Countervailing Duties," or January 3, 1979, whichever occurs first, countervailing duties will be assessable on certain groundfish imported directly or indirectly from Canada in accordance with T.D. 79-07 published concurrently with this determination.

The table in Section 159.47(f) of the Customs Regulations (19 CFR 159.47(f)) is amended by inserting after the last entry from Canada under the commodity heading "Fish", the number of this Treasury Decision in the column heading "Treasury Decision", and the words "Imposition of Countervailing Duties Waived" in the column headed "Action".

(R.S. 251, as amended, secs. 303, 624; 46 Stat. 687, 759, as amended, 88 Stat. 2051, 2052 (19 U.S.C. 66, 1303), as amended, 1624).

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

DECEMBER 29, 1978.

[FR Doc. 79-533 Filed 1-5-79; 8:45 am]

[4810-22-M]

CHAPTER I—UNITED STATES CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY

[T.D. 79-09]

PART 159—LIQUIDATION OF DUTIES

Manufacture, Production or Exportation of Certain Optic Liquid Level Sensing Systems From Canada

COUNTERVAILING DUTIES

AGENCY: U.S. Customs Service, Treasury Department.

ACTION: Final Countervailing Duty Determination and Suspension of Liquidation.

SUMMARY: This notice is to inform the public that it has been determined that the Government of Canada has granted benefits which constitute bounties or grants within the meaning of the countervailing duty law on the manufacture and exportation of optic liquid level sensing systems from Canada manufactured by Honeywell Limited. Countervailing duties in the amount of these benefits will be collected in addition to duties normally due on shipments of this merchandise.

EFFECTIVE DATE: January 8, 1979.

FOR FURTHER INFORMATION CONTACT:

Michael Ready, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229 (202-566-5492).

SUPPLEMENTARY INFORMATION: A petition was received in satisfactory form on November 14, 1977, alleging that payments or bestowals conferred by the Government of Canada upon the manufacture, production or exportation of optic liquid level sensing systems constitute a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303) (the "Act"). A "Notice of Receipt of Countervailing Duty Petition and Initiation of Investigation" was published in the FEDERAL REGISTER on January 25, 1978 (43 FR 3453). A notice of "Preliminary Countervailing Duty Determination" was published in the FEDERAL REGISTER on June 13, 1978 (43 FR 25512 (1978)). The notice stated that it had been preliminarily determined that benefits had been received by Honeywell Limited, a Canadian manufacturer/exporter of optic liquid level sensing systems, under the Canadian Government's Program for the Advancement of Industrial Technology (PAIT), which may constitute bounties or grants within the meaning of the Act.

The optic liquid level sensing systems (OLLS) under consideration are produced in Canada by Honeywell Ltd. and are used primarily to prevent the overfilling of tank trucks and storage tanks in the petroleum industry. The basic concept of such devices was known before Honeywell applied for the PAIT grant at issue; in fact, it had filed for a patent embodying the principal elements of the device in 1973, some 2 years before submitting its application.

The PAIT funds received by Honeywell were used to defray certain costs incurred in the commercial introduction of two types of OLLS based on its patented concepts. The size of the grant was specifically limited to 50 percent of the costs which Honeywell estimated it would incur in bringing the OLLS to full commercial production including commercial feasibility studies, prototype production, the adaptation of prototype production to full scale commercial production and other activities which contributed to Honeywell's ability to introduce the product on the market. To the extent the recipient of the funds developed a salable device and in the course of its efforts discovered patentable inventions, it was permitted to retain both the total profits earned and exclusive control over the patents. Nevertheless, the contract provided that for 10 years the recipient of the funds would not produce the product being developed outside of Canada without the express permission of the Canadian authorities.

The Government of Canada did not make its grant of the funds involved in this case contingent upon the successful marketing of a commercial device, much less on the subsequent ability of Honeywell to export the product. It has, however, been a consistent Treasury practice under the law, in determining whether or not a program of assistance to the production of a product is considered a bounty or grant, to take into account both the extent to which the product produced with the benefits of such assistance is exported and the *ad valorem* value of the assists. Evidence developed during the investigation indicates that during 1977 and for the period January-August 1978 the preponderance of Honeywell's production of OLLS's have been exported. It has further been determined that based upon actual and projected 1978 production, the *ad valorem* value of the grant was an amount clearly not insignificant for the purposes of the statute. The *ad valorem* value of the grant was calculated by taking the portion of the total grant applicable to the development of the device that was eventually marketed, amortizing it over the 10-year period provided in the PAIT grant itself as an estimation of the useful life the technology developed, and dividing by the value of estimated total production in 1978, both domestic and foreign.

The notice announcing the preliminary determination offered interested persons an opportunity to submit any relevant data, views or arguments in writing with respect to the preliminary determination on or before July 13, 1978.

The Canadians and Honeywell have challenged the view that PAIT grants fall within the purview of the U.S. Countervailing Duty Law. They assert that grants for "research and development" can and should be distinguished from grants for the construction of a plant or the purchase of capital equipment. They contend research and development expenditures are so far removed from "production" or "manufacture," and so general in scope, that such assistance cannot be regarded a part of the ultimate cost or price of a particular final product.

Properly viewed, this case does *not* involve a determination whether "R&D" subsidies are always "bounties or grants" within the meaning of the Countervailing Duty Law. "R&D" is a term which applies to activities from pure research into theoretical questions to the production of prototype models and the adaptation of prototypes to full scale commercial manufacture. Given the great diversity of activities which the term "R&D" encompasses, a determination of whether a bounty or grant has been bestowed requires an examination of the particular uses to which the funds were put. The mere fact that those activities might fall under the generally accepted conception of "R&D," as defined in tax laws, accounting manuals or otherwise, is not controlling.

Honeywell has supplied copies of the application it filed in 1975 upon which the grant was based and which detailed the various tasks to which the funds were to be applied. The company applied for funding to defray expenses incurred during the period October 1, 1975, through July 1, 1977, in developing a fail-safe high limit switch to prevent the overfilling of tank trucks and distribution tanks through the use of light. In fact, Honeywell had been working on such a device since 1971 and had filed for a patent for an "Optical Self Checking Level Detector" in 1973, a full 2 years before the application for the PAIT grant was filed. Thus, the technology and principal elements of the device were well known to Honeywell before it applied for the grants at issue.

A review of the tasks to which the PAIT funds were applied also are indicative of the practical, production orientation of the project. Major tasks included commercial feasibility and market studies, prototype production, the adaptation of prototype production to full scale commercial production and the appropriate packaging for the various components of the system. All of these activities can reasonably be construed as contributing directly to Honeywell's ability to introduce a commercially successful product on the market. The question of whether a more general program supporting "R&D" would be a "bounty" or "grant" is not presented here.

After consideration of all the information received, it is hereby determined that exports of optic liquid level sensing systems from Canada and manufactured by Honeywell Ltd. benefit from bounties or grants within the meaning of section 303 of the Act.

Accordingly, notice is hereby given that the merchandise which is the subject of this determination, imported directly or indirectly from Canada, if entered, or withdrawn from warehouse, for consumption on or after January 8, 1979 will be subject to payment of countervailing duties equal to the net amount of any bounty or grant determined or estimated to have been paid or bestowed.

In accordance with section 303 of the Act, and until further notice, the net amount of such bounties or grants has been estimated and declared to be

V 4 4 / 5

9 percent of the invoice price for export to the United States of the merchandise covered by this notice.

The liquidation of all entries, or withdrawals from warehouse, for consumption of optic liquid level sensing systems manufactured by Honeywell Ltd., imported directly or indirectly from Canada, which benefit from such bounties or grants, shall be suspended effective as of January 8, 1979. A deposit of the estimated countervailing duty shall be required at the time of entry, or withdrawal from warehouse, for consumption.

Effective on January 8, 1979 and until further notice, upon the entry, or withdrawal from warehouse for consumption of this merchandise imported directly or indirectly from Canada, which benefits from these bounties or grants, there shall be deposited, in addition to any other duties estimated or determined to be due, countervailing duties in the amount estimated in accordance with the above declaration. To the extent that it can be established to the satisfaction of the Commissioner of Customs that imports of the merchandise covered by this determination are benefiting from a bounty or grant smaller than the amount which otherwise would be applicable under the above declaration, the smaller amount so established shall be deposited.

Any merchandise subject to the terms of this order shall be deemed to have benefited from a bounty or grant if such bounty or grant has been or will be credited or bestowed, directly or indirectly, upon the manufacture, production or exportation of optic liquid level sensing systems from Canada manufactured by Honeywell Ltd.

The table in § 159.47(f) of the Customs Regulations (19 CFR 159.47(f)) is amended by inserting after the last entry for "Canada", under the column headed "Commodity", the words "Optic Liquid Level Sensing Systems manufactured by Honeywell Ltd.", inserting under the column "Treasury Decision" the number of this Treasury Decision, and inserting under the column headed "Action" the words "Bounty Declared-Rate".

(R.S. 251, secs 303, as amended 624; 46 Stat. 687, as amended, 759 (19 U.S.C. 66, 1303, 1624)).

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order 190, Revision 15, March 16, 1978, the provisions of Treasury Department Order No. 165, Revised, November 2, 1954, and § 159.47(d) of the Customs Regulations (19 CFR 159.47(d)), insofar as they pertain to the issuance of a countervailing duty order by the Commissioner of Customs, are hereby waived.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

DECEMBER 15, 1978.

[FR Doc. 79-629 Filed 1-5-79; 8:45 am]

[4710-06-M]

Title 22—Foreign Relations

CHAPTER I—DEPARTMENT OF STATE

[Dept. Reg. 108.764]

PART 42 VISAS—DOCUMENTATION OF IMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED

Numerical Controls

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: The Department of State has reconsidered its original interpretation of Section 203(e) of the Immigration and Nationality Act, as amended by Pub. L. 94-571, governing the provisions to Title 22 CFR 42.65, and it has concluded that the exact language of the statute as amended called for application of those provisions only in connection with the actual scheduling of an alien's appointment for final action (visa issuance or refusal), and that the original interpretation under which those provisions were also applied to the earlier steps in the administrative process leading to final action, was not required for conformity with the requirements of the statute and has proven administratively unworkable in practice.

This regulation, therefore, amends paragraph (a) of Title 22 CFR 42.65 to show that an alien's registration for an immigrant visa will be terminated only if the applicant does not apply for a visa within one year following the scheduling of an appointment for final interview.

In addition, paragraphs (c) and (d) of the same section are editorially amended for greater clarity.

EFFECTIVE DATE: January 8, 1979.

FOR FURTHER INFORMATION CONTACT:

Cornelius D. Scully, III, Visa Office, Bureau of Consular Affairs, Department of State, Washington, D.C. 20520, 202-632-1900.

SUPPLEMENTARY INFORMATION: Section 203(e) of the Immigration and Nationality Act, as amended, was amended by Pub. L. 94-571 (the Act of October 20, 1976) to require that an alien's immigrant visa registration be terminated if the alien fails to apply for an immigrant visa within one year following notification "of the availability of such visa." In such a case, the alien is allowed one additional year during which the registration may be reinstated if the alien can establish that his failure to apply for an immigrant visa was due to circumstances beyond his control. At the expiration of the second year, the alien's registration is definitively cancelled and any visa petition which may have been approved in the alien's behalf is revoked.

Initially, the Department interpreted this provisions of law to apply not only to the actual notification to the alien that an appointment for final action (visa issuance or refusal) had been scheduled for a specified date and time (the so-called "Packet 4" letter), but also to the notification to the alien, at an earlier point in the administrative processing, to prepare for final action (the so-called "Packet 3" letter).

A "Packet 3" letter is sent to an alien who has become entitled to an immigrant classification when it appears that it is, or will likely soon be, possible to schedule the appointment for final action. The timing of the mailing of Packet 3 letters to aliens is based upon estimates made by the Visa Office arrived at by comparing the number of applicants who have become entitled to an immigrant status and the amount of immigrant visa numbers available under the annual and quarterly numerical limitations on immigration. In the case of an applicant not subject to the numerical limitations on immigration, a Packet 3 letter is sent as soon as the consular officer is notified that the alien has become entitled to an immigrant classification.

Since January 1, 1977, the effective date of Pub. L. 94-571, there have been substantial changes in patterns of demand for immigration to the United States. These changes have resulted, in part, from the significant changes in the system of numerical limitations and immigrant selection criteria brought about by other amendments contained in Pub. L. 94-571 and by further amendments contained in Pub. L. 95-412 (the Act of October 5, 1978). As a result, it has become much more difficult to estimate accurately how soon an immigrant visa may become available for an individual applicant.

Under the administrative processing system in effect since 1965, it is not possible to assert that an immigrant visa is available for an applicant at the time the Packet 3 letter is sent to him. Only after the administrative processing associated with and resulting from the sending of the Packet 3 letter has been concluded is it possible to determine whether an immigrant visa is available to the alien. The Packet 4 letter setting the actual date and time of the appointment for final action in the case is the formal notification to the alien that an immigrant visa is available to him.

Because these amendments relieve a restriction currently imposed upon immigrant visa applicants, compliance with section 553 of Title 5 of the United States Code as to notice of proposed rulemaking and delayed effective date is unnecessary in this instance.

In Section 42.65 paragraphs (b) and (e) remain unchanged. Paragraphs (a), (c) and (d) read as follows:

§ 42.65 Termination of Registration.

(a) *Grounds of termination.* An alien's registration for an immigrant visa shall be terminated if the applicant shall have failed to apply for an immigrant visa within one year following the scheduling of an appointment for final interview.

* * * * *

(c) *Notice of termination.* Upon the termination of registration provided for in paragraph (a) or (b) of this section, the consular officer at the post where the alien is registered shall notify the alien of the termination and shall inform the alien of his right to have the registration reinstated if the alien shall, before the end of the second year after the missed appointment date if paragraph (a) applies, and before the end of the second year after the 221(g) refusal if paragraph (b) applies, establish to the satisfaction of the consular officer that his failure to apply for an immigrant visa or to present evidence purporting to overcome the ineligibility under section 221(g) was due to circumstances beyond his control.

(d) *Reinstatement of registration.* If an alien, as provided for in paragraph (c) of this section, establishes to the satisfaction of a consular officer that failure to apply as scheduled for an immigrant visa or to present evidence purporting to overcome ineligibility under section 221(g) was due to circumstances beyond the applicant's control, the consular officer shall reinstate the alien's registration for an immigrant visa. Any petition approved pursuant to section 204(b) which had been automatically revoked as a result of the termination of registration shall be considered to be automatically reinstated.

* * * * *

(Sec. 101, 84 Stat. 116; 8 U.S.C. 1101)

Dated: December 21, 1978.

BARBARA M. WATSON,
Assistant Secretary for Consular Affairs.

[FR Doc. 79-535 Filed 1-5-79; 8:45 am]

[1505-01-M]

Title 24—Housing and Urban Development

CHAPTER VIII—LOW INCOME HOUSING, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-78-598]

PART 886—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—SPECIAL ALLOCATIONS

Subpart A—Additional Assistance Program for Projects With HUD-Insured and HUD-Held Mortgages Maintenance, Operation, and Inspections

Correction

In FR Doc. 78-35861 appearing at page 60157 in the issue for Tuesday, December 26, 1978, in the "DATES" paragraph, the effective date should be corrected to read "December 26, 1978."

[3710-08-M]

Title 35—Panama Canal

CHAPTER I—CANAL ZONE REGULATIONS

PART 253—REGULATIONS OF THE SECRETARY OF THE ARMY

Overseas Differential

AGENCY: Canal Zone Government and Panama Canal Company.

ACTION: Final Rule.

SUMMARY: The Secretary of the Army amends portions of the Canal Zone Regulations (35 CFR Part 253) relating to the overseas (tropical) differential. The purpose of this amendment is to preserve eligibility for the overseas (tropical) differential in the case of the employee who has served in the Canal Zone continuously since July 3, 1976, and who, due to the employee's minority or the fact that the employee's spouse was receiving the differential or a housing or living quarters allowance, was not receiving the differential on July 3, 1976. Payment of the differential to employees presently made eligible by this amendment would be authorized only on a prospective basis.

EFFECTIVE DATE: January 1, 1979.

FOR FURTHER INFORMATION, CONTACT:

Colonel Michael Rhode, Jr., Military Assistant to the Assistant Secretary of the Army (Civil Works), Room 2E569, The Pentagon, Washington, D.C. 20310, Tel. (202) 695-7126.

35 CFR Part 253 is amended by revising § 253.135(c) to read as follows:

§ 253.135 Tropical differential.

* * * * *

(c) The rule set forth in paragraph (b)(1) of this section shall not disqualify the employee who has been continuously employed since July 3, 1976, and who on that date was (i) receiving a differential, (ii) not receiving a differential because the employee's spouse was receiving a differential or a housing or living quarters allowance, (iii) not receiving a differential because the employee was under 21, unmarried, and the child or stepchild of a resident of the Canal Zone or the Republic of Panama, or (iv) not receiving a differential solely because such payment, when combined with his or her aggregate compensation established under §§ 253.131 and 253.134 would have exceeded the current rate of step 5, GS-17, of the General Schedule set out in 5 U.S.C. 5332(a).

(2 C.Z.C. 142(b), 146(2), 155, 76A Stat. 16, 17, 19; 35 CFR 251.2.)

Dated: December 29, 1978.

By Authority of the Secretary of the Army:

ROME D. SMYTH,
Colonel, U.S. Army, Director, Administrative Management, TAGCEN.

[FR Doc. 79-536 Filed 1-5-79; 8:45 am

[6560-01-M]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 1022A-5]

PART 65—DELAYED COMPLIANCE ORDERS

Delayed Compliance Order for Industrial Fuel and Asphalt Co. of Indiana, Hammond, Ind.

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final Rule.

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SUMMARY: By this rule, the Administator of U.S. EPA approves a Delayed Compliance Order to Industrial Fuel and Asphalt Co. of Indiana. The Order requires the Company to bring air emissions from its crude oil and gasoline storage vessels at Hammond, Indiana, into compliance with certain regulations contained in the federally approved Indiana State Implementation Plan (SIP). Industrial Fuel and Asphalt Co. of Indiana's compliance with the Order will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act (the Act) for violations of the SIP regulations covered in the Order.

DATES: This rule takes effect January 8, 1979.

FOR FURTHER INFORMATION CONTACT:

Anne Swofford, Attorney, United States Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604. Telephone: (312) 353-2082.

SUPPLEMENTARY INFORMATION: On August 25, 1978, the Acting Regional Administrator of U.S. EPA's Region V Office published in the FEDERAL REGISTER (43 FR 38054) a notice setting out the provisions of a proposed State Delayed Compliance Order for Industrial Fuel and Asphalt Co. of Indiana. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed Order.

No public comments and no request for a public hearing were received in response to the notice.

Therefore, a Delayed Compliance Order effective this date is approved to Industrial Fuel and Asphalt Co. of Indiana by the Administrator of U.S. EPA pursuant to the authority of Section 113(d)(2) of the Clean Air Act, 42 U.S.C. 7413(d)(2). The Order places the Company on a schedule to bring its crude oil and gasoline storage vessels at Hammond, Indiana, into compliance as expeditiously as practicable with Regulation APC-15, a part of the federally approved Indiana State Implementation Plan. Industrial Fuel and Asphalt Co. of Indiana is unable to immediately comply with these regulations. The Order also imposes interim requirements which meet Sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the Order are met, it will permit Industrial Fuel and Asphalt Co. of Indiana to delay compliance with the SIP regulations covered by the Order until May 15, 1979.

Compliance with the Order by Industrial Fuel and Asphalt Co. of Indiana will preclude Federal enforcement action under Section 113 of the Act for violations of the SIP regulations covered by the Order. Citizen suits under Section 304 of the Act to enforce against the source are similarly precluded. Enforcement may be initiated, however, for violations of the terms of the Order, and for violations of the regulation covered by the Order which occurred before the Order was issued by U.S. EPA or after the Order is terminated. If the Administrator determines that Industrial Fuel and Asphalt Co. of Indiana is in violation of a requirement contained in the Order, one or more of the actions required by Section 113(d)(9) of the Act will be initiated. Publication of this notice of final rulemaking constitutes final Agency action for the purposes of judicial review under Section 307(b) of the Act.

U.S. EPA has determined that the Order shall be effective January 8, 1979, because of the need to immediately place Industrial Fuel and Asphalt Co. of Indiana on schedule for compliance with the Indiana State Implementation Plan.

(42 U.S.C. 7413(d), 7601.)

Dated: December 21, 1978.

DOUGLAS M. COSTLE,
Administrator.

In consideration of the foregoing, Chapter I of Title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

1. By adding an entry to the table in § 65.191 to read as follows:

§ 65.191 U.S. EPA Approval of State Delayed Compliance Orders issued to major stationary sources.

The State Order Identified below has been approved by the Administrator in accordance with Section 113(d)(2) of the Act and with this part. With regard to this Order, the Administrator has made all the determinations and findings which are necessary for approval of the Order under Section 113(d) of the Act.

Source	Location	Date of FR Proposal	SIP regulation involved	Final Compliance Date
Industrial Fuel and Asphalt Co. Of Indiana	Hammond, Indiana.	Aug. 25, 1978.	APC-15	May 15, 1979

[FR Doc. 79-531 Filed 1-5-79; 8:45 am]

[6560-01-M]

[FRL 1028-4]

PART 65—DELAYED COMPLIANCE ORDER

Delayed Compliance Order for the City of Akron, Ohio

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: By this rule, the Administrator of U.S. EPA approves a Delayed Compliance Order to the City of Akron. The Order requires the City of Akron to bring air emissions from its sludge incinerator in Akron, Ohio, into compliance with certain regulations contained in the federally approved Ohio State Implementation Plan (SIP). The City of Akron's compliance with the Order will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act for violations of the SIP regulations covered in the Order.

DATES: This rule takes effect January 8, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. Roger Grimes, Attorney, United States Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604. Telephone (312) 353-2082.

SUPPLEMENTARY INFORMATION: On August 25, 1978, the Acting Regional Administrator of U.S. EPA's Region V Office published in the FEDERAL REGISTER (43 FR 38056) a notice setting out the provisions of a proposed State Delayed Compliance Order for the City of Akron. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed Order. No public comments and no request for a public hearing were received in response to the proposed notice.

Therefore, a Delayed Compliance Order effective this date is approved to the City of Akron by the Administrator of U.S. EPA pursuant to the authority of Section 113(d)(2) of the Clean Air Act, 42 U.S.C. 7413(d)(2). The Order places the City of Akron on a schedule to bring its sludge incinerator at Akron, Ohio, into compliance as expeditiously as practicable with OAC 3745-17-09 and OAC 3745-17-07, a part of the federally approved Ohio State Implementation Plan. The Order also imposes interim requirements which meet Sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the Order are met, it will permit the City of Akron to delay compliance with the SIP regulations covered by the Order until July 1, 1979.

Compliance with the Order by the City of Akron will preclude Federal enforcement action under Section 113 of the Act for violations of the SIP regulations covered by the Order. Citizens suits under Section 304 of the Act to enforce against the source are similarly precluded. Enforcement may be initiated, however, for violations of the terms of the Order, and for violation of the regulations covered by the Order which occurred before the Order was issued by U.S. EPA or after the Order is terminated. If the Administrator determines that the City of Akron is in violation of a requirement contained in the Order, one or more of the actions required by Section 113(d)(9) of the Act will be initiated. Publication of this notice of final rulemaking constitutes final Agency action for the purposes of judicial review under Section 307(b) of the Act.

U.S. EPA has determined that the Order shall be effective upon publication of this notice because of the need to immediately place the City of Akron on a schedule for compliance with the Ohio State Implementation Plan.

(42 U.S.C. 7413(d), 7601)

Dated: December 21, 1978.

DOUGLAS M. COSTLE,
Administrator.

In consideration of the foregoing, Chapter I of Title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDER

1. By adding an entry to the table in § 65.401 to read as follows:

§ 65.401 U.S. EPA Approval of State Delayed Compliance Orders issued to major stationary sources.

The State Order identified below has been approved by the Administrator in accordance with Section 113(d)(2) of the Act and with this Part. With regard to this Order, the Administrator has made all the determinations and findings which are necessary for approval of the Order under Section 113(d) of the Act.

Source	Location	Date of FR Proposal	SIP regulation involved	Final Compliance Date
City of Akron	Akron, Ohio..	Aug. 25, 1978.	OAC 3745-17-07, OAC 3745-17-09.	July 1, 1979

[FR Doc. 79-530 Filed 1-5-79; 8:45 am]

[6712-01-M]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20817; FCC 78-871]

PART 13—COMMERCIAL RADIO OPERATORS

PART 73—RADIO BROADCAST SERVICES

Radio Operator Licensing Program

PREAMBLE

AGENCY: Federal Communications Commission.

ACTION: Report and Order.

SUMMARY: This action authorizes the routine operation of all FM broadcast stations and all AM broadcast stations, except those employing critical directional antenna systems by persons holding any class of commercial operator license or permit, including a Restricted Radiotelephone Operator Permit. Broadcasters, especially in small market areas located at some distance from FCC examination points, complained of difficulty in obtaining properly licensed operators. This action permits persons to obtain the necessary operator permit by mail, without examination.

EFFECTIVE DATE: February 7, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Vernon P. Wilson, Field Operations Bureau, (202) 632-7240.

SUPPLEMENTARY INFORMATION:

Adopted: December 21, 1978.

Released: January 5, 1979.

First Report and Order. In the Matter of an Inquiry Relating to the Commission's Radio Operator Licensing Program, Docket No. 20817.

1. The Commission has before it for consideration the Notice of Proposed Rule Making in the above captioned matter, released August 4, 1977, FCC-77-528, 42 FR 40939. Comments were due October 1, 1977 and reply comments October 31, 1977. In response to a petition filed by the National Association of Broadcasters, these dates were extended to January 3, 1978 and January 31, 1978, respectively. Approximately 100 comments and one reply comment were received, as listed in Appendix A.

2. The Notice of Proposed Rule Making concerned the following subjects:

A. Operator licensing requirements for the routine operation of AM and FM broadcast stations.

B. Operator licensing requirements for the technical maintenance of broadcast and non-broadcast stations.

C. The term of operator licenses.

D. Operator responsibility.

E. Special endorsement on First Class Radiotelephone license for television station operation.

3. In November 1977 the Commission contracted with the Georgia Institute of Technology (GIT) for a study of current Broadcast Service regulatory programs to evaluate their interrelationship and effectiveness. The five areas to be studied were:

A. Field Enforcement.

B. Licensing.

C. Transmitting System Operation Regulation.

D. Non-Compliance Sanctions in the Broadcast Service.

E. Equipment Authorization.

The draft final report of this study, received in late November 1978, recommends that the current program of licensing operators in the broadcast services by examination be eliminated and a "registration" program be substituted. It alternatively suggested that the Commission might want to consider requiring a "relevant and meaningful" examination for persons who maintain or repair broadcast transmitting equipment to determine their ability. The report continues, "The general trend of Docket 20817 to relax operator requirements in the broadcast service is consistent with our findings."

4. As the GIT study raises questions which were not considered in the Notice of Proposed Rule Making, the Commission believes that further review and evaluation of the report is needed before final action is taken.

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However, there appears to be no reason to delay the reduction of the qualification standards for persons who perform routine operating duties at broadcast stations. Therefore, this FIRST REPORT AND ORDER will be restricted to that particular proposal. Other matters contained in the Docket will be considered in the near future by means of Further Notice of Inquiry, Further Notice of Proposed Rule Making, or Report and Order, as may be appropriate.

5. Comments received in both the Notice of Proposed Rule Making and the Notice of Inquiry [1] generally endorsed the proposal to permit the routine operation of all FM and all AM broadcast stations, except those employing critical directional antenna systems, by persons holding any class of operator license, including a Restricted Radiotelephone Operator Permit.[2] Under the present rules these persons must hold at least a Third Class Radiotelephone Operator Permit, Endorsed for Broadcast Operation, which can be obtained only after passing a Commission examination.

6. Station licensees, managers, and broadcasters associations, in general, strongly supported the proposal to permit the routine operation of broadcast transmitters, except where the rules require the operator to hold a higher class of license, by persons holding a Restricted Radiotelephone Operator Permit. It was their contention that a license, obtained through examination, served no useful purpose and in many cases created a hardship for stations located at some distance from a Commission examination point. They pointed out that modern transmitting systems require little attention during normal operation and that, as the Commission has always held the broadcast station licensee responsible for the operation of the station, they should be permitted to employ and train persons who have not been examined by the Commission and be responsible for their performance.

7. On the other hand, a large number of the comments strongly opposed the routine operation of broadcast transmitters by persons who had not demonstrated their familiarity with basic rules and operational procedures by examination. Some station managers, a number of chief operators, and many individuals who currently hold operator's certificates, were of the opinion that elimination of the third class operator requirement would have an adverse impact on the technical integrity of the broadcast system. Most were of the opinion that persons who operate broadcast transmitters should possess at least the basic knowledge required to obtain the Third Class Permit, with Broadcast endorsement.

8. After reviewing these comments, the Commission is of the opinion that stability of modern transmission systems does not require that routine operators qualify by examination. It believes that such operations can be carried out by persons holding a minimal class of license obtained without examination and that such operators can be trained by station licensees who would be responsible for their performance. As pointed out in the Notice of Proposed Rule Making in this proceeding, for more than 10 years holders of Provisional Radio Operator Certificates for the Third Class Radiotelephone Operator's Permit, endorsed for Broadcast operation, which could be obtained without examination, [3] have been permitted to perform routine operating duties for periods of up to one year. There is no evidence to indicate that their performance has been less satisfactory than that of operators who qualified for the Third Class Radiotelephone Operator Permit, with Broadcast endorsement by examination.

9. Therefore, the pertinent sections of Parts 13, and 73 of the rules are being modified [4] to authorize the routine operation of most AM and FM broadcast stations by persons holding a Restricted Radiotelephone Operator's Permit in lieu of the presently required Third Class Radiotelephone Operator's Permit endorsed for Broadcast operation. After the effective date of the rules, the Commission will no longer issue Provisional Certificates for the Radiotelephone Third Class Operator Permit, endorsed for Broadcast operation, or examine applicants for the Broadcast Endorsement. Third Class Radiotelephone Operator Permits endorsed for Broadcast operation will be renewed, upon application, without the Broadcast Endorsement.

10. The Commission wishes to emphasize that the relaxation of the examination requirement for routine operators of broadcast stations does not lessen the burden of responsibility of either the operator or the broadcast station licensee for strict compliance with the Commission's Rules. Although the Commission will continue to hold the licensee of the station ultimately responsible for its operation, operators will also be held responsible for their own performance. The Commission has long had the authority to suspend the certificates of operators who violate the provisions of International Treaties, the Communications Act, or the Commission's Rules and Regulations and to assess forfeitures against broadcast station licensees. Now, under the authority of Public Law 95-234,[5] which became effective on March 23, 1978, the Commission has authority to assess a forfeiture against "any person" found in violation of the Communications Act or the Commission's Rules. Operators at broadcast stations should note that they are personally subject to this forfeiture provision and may be fined along with, or in lieu of, the station licensee.

11. Further information concerning the matters contained in this REPORT AND ORDER can be obtained from Vernon P. Wilson, FCC, Washington, D.C. 20554, telephone (202) 632-7240.

12. In view of the foregoing, IT IS ORDERED that effective February 7, 1979, pursuant to the authority contained in Sections 4(i) 303(1) and 303(r) of the Communications Act of 1934, as amended, Parts 13, and 73 of the Commission's Rules ARE AMENDED as set forth in the attached Appendices.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.)

FEDERAL COMMUNICATIONS COMMISSION.
WILLIAM J. TRICARICO,
Secretary.

Attachment: Appendices.

APPENDIX A

Comments and reply comments were received from the following:

Albert K. Nielsen—WDNX.
Robert Dean Seaver.
Adlai C. Ferguson, Jr.—WPRS/WACF.
Boyce J. Hanna—WADT.
John J. Davis.
Paul H. Lee.
Charles W. Sepmeier—WFSU/WTAL.
Raphael Solfer.
George H. Baskos—KCDC.
Robert Yeates.
William H. Wilson.
Hudson C. Millar—WIRA.
John E. Shepler—WROK/WZOK.
Chris Nevil.
Jesse L. Sprouse.
Peter B. Orlik—WMHW-FM.
Charles B. Field,
Daryl E. Harris, Sr.
Michael W. Moran—WLKE.
J. F. Curado—Hawaiian Airlines.
Rowland Medler.
David R. Santee—KBRL.
Bruce L. Mackey—WKRT.
Frank J. Maynard.
Louise Keltner—WPTN.
Frederick E. Wells—WNDA.
Mark Robinson—WWCU-FM.
Robert W. Sassaman—WNWR.
Walter L. Johnson, Jr.
Bruce R. Glazer.
Gregg S. Warren.
Andy K. Hughes.
Thomas M. Neilson.
Donald L. Schesser.
T. E. Shireman.
Michael Hemeon.
George T. Wade.
Robert Kares.
Forest Industries Telecommunications.
H. David Harrell.
Boris Pastuch.
John G. Murray—KCMW-FM.
Alfred Pastuch.
Constantino E. Bernardez—KTCU-FM.
John Pastuch.
Stephen A. Bloomfield—WAUP-FM.
Kenneth L. Welch.
National Marine Electronics Association.
Bill Harrell.
Robert L. Bingham.
Gulf Radiotelephone and Electronics.
Ernest O. Sutton.
California Mobile Radio Association.
Cleveland Institute of Electronics.
California State Communications Division.
John Furr—KITE/KITE-FM.
Ernest R. Skinner, Jr.
Greg VanAcker.
Patrick Fisher.
Raymond H. Basemore.
Gerhard J. Straub.
Mike Henderson—KENN.
Herbert M. Schulkind—WCVB-TV.
Daniel J. Reilly, Jr.
Joel E. Wharton.
James M. Greenwood.
James T. Bittle, James E. Hatson, and James C. Martin (Joint Comment).
William G. Wheeler.
C. Curtis Sigmon—WYCL.
Associated Public—Safety Communications Officers, Inc. (APCO).
Roland Closson.
Hartley Peterson.
Michael Donovan—WGLS.
Kermit L. Richardson—KBOK.
Martin Dekkenga—KDCR.
Wisconsin Chapter Associated Public—Safety Communications Officers, Inc.
William J. Oliver.
Edwin H. Ryland—KSWH-FM.
Donald Karr.
RCA Corporation.
Tamalpais Broadcast Advertising.
Command Productions.
J. G. Rountree.
National Broadcasting Company, Inc.
Motorola, Inc.
Aeronautical Radio, Inc.
G.T.E. Service Corp.
Aloysius B. McCabe—WGN.
American Broadcasting Companies, Inc.
National Association of Broadcasters.
National Association of Business and Educational Radio, Inc. (NABER).
Utilities Telecommunications Council.
William F. Duhamel—Duhamel Broadcasting Enterprises.
Greater Media, Inc.—WCTC/WMGO-FM, ET AL.
McKenna, Wilkinson, and Kittner, Representing 29 Broadcast Station Licensees.
National Radio Broadcasters Association.
Merrill T. See.
The Radio Shack.
Robert E. Krueger—KTVB, Inc. (Reply Comments).

APPENDIX B

Part 13 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

1) In Section 13.2, paragraph (d)(4) is deleted and marked "Reserved".

§ 13.2 Classification of operator licenses and endorsements.

* * * * *

(d) * * *

(4) [Reserved]

2) Section 13.3 is amended to read as follows:

§ 13.3 Dual Holding of Licenses.

(a) U.S. citizens, citizens of American Samoa, and Trust Territory citizens may not hold more than one radiotelephone license and one radiotelegraph license at the same time.

(b) Aliens may hold two Restricted Radiotelephone Operator Permits at the same time as each one may convey partial operating authority.

3) In Section 13.5, paragraph (c)(2) is amended to read as follows:

§ 13.5 Eligibility for New License.

* * * * *

(c) * * *

(2) If an applicant afflicted with blindness is afforded a waiver of the written examination requirement and is found qualified for a radiotelephone first class operator license, radiotelephone second class operator license, or radiotelephone third class operator permit, the applicant may be issued the license or permit: Provided that the license or permit so received shall bear an endorsement as follows:

"This license is not valid for the operation of any station licensed by the Commission unless the station has been adapted for operation by a blind person and the equipment to be used in such station for that purpose is capable of providing for operation in compliance with the Commission's Rules."

* * * * *

4) In Section 13.8, paragraphs (b) and (c) are amended to read as follows, and paragraph (d) is deleted and marked "Reserved".

§ 13.8 Provisional Radio Operator Certificate.

* * * * *

(b) If the Commission finds that the public interest will be served, it may issue such certificates for a period not to exceed 6 months with such additional limitations as may be indicated.

(c) A Provisional Radio Operator Certificate will not be issued if the applicant has not fulfilled the examination requirements for the license applied for.

(d) [Reserved]

5) In Section 13.11, paragraph (e) is amended to read as follows:

§ 13.11 Procedure.

* * * * *

(e) Blind applicant. A blind person seeking an examination for radiotelephone first class operator license, radiotelephone second class operator license, or radiotelephone third class operator license shall make a request in writing to the appropriate field office for a time and date to appear for such examination. The examination shall be administered only at the field office. Requests for examinations shall be made at least 2 weeks prior to the date on which the examination is desired.

6) Section 13.21, paragraph (a) is amended to read as follows:

§ 13.21 Examination elements.

(a) Written examinations will comprise questions from one or more of the following examination elements.

(1) Basic law. Provisions of laws, treaties and regulations with which every operator should be familiar.

(2) Basic operating practice. Radio operating procedures and practices generally followed or required in communicating by means of radiotelephone stations.

(3) Basic radiotelephone. Technical, legal and other matters applicable to the operation of radiotelephone stations other than broadcast.

(4) Advanced radiotelephone. Advanced technical, legal and other matters particularly applicable to the operation of the various classes of broadcast stations.

(5) Radiotelegraph operating practice. Radio operating procedures and

[1] Notice of Inquiry, Docket 20817, adopted May 25, 1976, released June 7, 1976, FCC-76-476, 41 FR 22981.

[2] No oral or written examination is required for this permit. In lieu thereof, applicants will be required to certify in writing to a declaration which states that the applicant has need for the requested permit; can receive and transmit spoken messages in English; can keep at least a rough written log in English or in some other language in general use that can be readily translated into English; is familiar with the provisions of treaties, laws, and rules and regulations governing the authority granted under the requested permit; and understands that it is his/her responsibility to keep currently familiar with all such provisions. [47 USC 13.22(h)]

[3] To obtain the certificate, the applicant submitted a certification by the holder of a First Class Radiotelephone Operator's License who was responsible for the technical maintenance of a radio broadcast station, that the applicant had been instructed in the operation of a broadcast station and was believed to be capable of performing the duties expected of a person holding a Radiotelephone Third Class Operator Permit with Broadcast station operation endorsement. The certificate was valid for one year; was non-renewable; and could be issued to a person only once. During the term of the Provisional Certificate the holder was expected to qualify by examination for the Third Class Radiotelephone Operator's Permit with Broadcast endorsement.

[4] Conforming modifications to the pertinent Sections of Part 13 are listed in Appendix B and to Part 73 in Appendix C.

[5] Public Law 95-234 amended Section 503(b) of the Communications Act of 1934, as amended [U.S.C. 503(b)].

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practices generally followed or required in communicating by means of radiotelegraph stations primarily other than in the maritime mobile services of public correspondence.

(6) Advanced radiotelegraph. Technical, legal and other matters applicable to the operation of all classes of radiotelegraph stations, including operating procedures and practices in the maritime mobile services of public correspondence, and associated matters such as radio navigational aids, message traffic routing and accounting, etc.

(7) Aircraft radiotelegraph. Basic theory and practice in the operation of radio communications and radio navigational systems in general use on aircraft.

(8) Ship radar techniques. Specialized theory and practice applicable to the proper installation, servicing and maintenance of ship radar equipment in general use for marine navigational purposes.

• • • • •

(7) Section 13.26 is amended to read as follows:

§ 13.26 Canceling and issuing new licenses.

If the holder of a license qualifies for a higher class in the same group, the license held will be canceled upon the issuance of the new license. Similarly, if the holder of a restricted operator permit qualifies for any other class or type of license or permit, the Restricted Radiotelephone Operator Permit will be canceled upon issuance of the new authorization, except as provided in section 13.3.

(8) In Section 13.62, paragraph (c) is amended to read as follows, and paragraph (d) is deleted and marked "Reserved".

§ 13.62 Special Privileges.

• • • • •

(c) The holder of any class of commercial operator license may operate AM, FM, or educational FM broadcast stations, except AM stations using directional antenna systems which are required by the station authorizations to maintain ratios of the currents in the elements of the systems within a tolerance which is less than five percent or relative phases within tolerances which are less than three degrees, under the following conditions:

(1) That adjustments of transmitting equipment by such operators, except when under the immediate supervision of a radiotelephone first class operator (radiotelephone second class operator for educational FM stations with transmitter output power of 1000 watts or less) shall be limited to the following:

(i) • • •
(ii) • • •
(iii) • • •
(iv) • • •
(v) • • •

(2) The emissions of the station shall be terminated immediately whenever the transmitting system is observed operating beyond the upper and lower limiting values of parameters required to be observed and logged or in any manner inconsistent with the rules or the station authorization, and the above adjustments are ineffective in correcting the condition of improper operation, and a first class radiotelephone operator is not present (radiotelephone second class operator for educational FM stations with transmitter output power of 1000 watts or less).

(3) • • •

(d) [Reserved]

• • • • •

APPENDIX C

1. In § 73.93, paragraphs (c), (d), (e) and (f) are amended to read as follows:

§ 73.93 Operator Requirements.

• • • • •

(c) A station using a non-directional antenna with a nominal power of 10 kW or less may employ persons holding any class of commercial radio operator license or permit for routine operation of the transmitting system if the station has at least one first class radiotelephone operator readily available at all times. This operator may be in full-time employment or, as an alternative, the licensee may contract in writing for the services, on a part-time basis, of one or more such operators. Signed contracts with part-time operators may be kept in the files of the station and must be made available for inspection upon request by an authorized representative of the FCC.

(d) A station using a non-directional antenna during periods of operation with an authorized power in excess of 10 kW may employ operators holding any class of commercial radio operator license or permit for routine operation of the transmitting system if the station has in full-time employment at least one first class radiotelephone operator.

(e) A station using a directional antenna system, which is required by the station authorization to maintain the ratio of the currents in the elements of the system within a tolerance which is less than 5% or the relative phases of those currents within a tolerance which is less that 3° shall, without exemption, employ first class radiotelephone operators who must be on duty and in actual charge of the transmitting system as specified in paragraph (a) of this Section during hours of operation with a directional radiation pattern. A station whose authorization does not specifically require therein the maintenance of phase and current relationships within closer tolerances than above specified must employ first class radiotelephone operators for routine operation of the transmitting system during periods of directional operation. However, persons holding any class of commercial radio operator license or permit may be employed for routine operation of the transmitting system, if the following conditions are met:

(1) • • •

• • • • •

(f) Subject to the conditions in paragraphs (c), (d), and (e) of this Section, operators not holding first class radiotelephone operator licenses may make adjustments only of external controls, as follows:

(1) • • •

• • • • •

2. In § 73.265, paragraphs (c), (d), and (e) are amended to read as follows:

§ 73.265 Operator Requirements.

• • • • •

(c) A station with authorized transmitter output power of 25 kilowatts or less may employ persons holding any class of commercial radio operator license or permit for routine operation of the transmitting system if the station has at least one first class radiotelephone operator readily available at all times. This operator may be in full-time employment or, as an alternative, the licensee may contract in writing for the services on a part-time basis, of one or more operators. Signed contracts with part-time operators must be kept in the files of the station and must be made available for inspection upon request by an authorized representative of the FCC.

(d) A station with authorized total transmitter output power in excess of 25 kilowatts may employ persons holding any class of commercial radio operator license or permit for routine operation of the transmitting system, if the station has in full-time employment at least one first class radiotelephone operator, or as an alternative, the licensee may contract in writing for the services, on a part-time basis, of one or more such operators. Signed contracts with part-time operators must be kept in the files of the station and must be made available for inspection upon request by an authorized representative of the FCC. The licensee must comply with the following:

(1) • • •

• • • • •

(e) [Reserved]

(f) Subject to the conditions in paragraphs (c) and (d) of this Section, operators not holding first class radiotelephone operator licenses (second class licenses for stations operating with 1 kW or less transmitter power) may make adjustments only of external controls, as follows:

(1) • • •

• • • • •

(e) Subject to the conditions in paragraphs (c) and (d) of this Section, operators not holding first class radiotelephone operator licenses may make adjustments only of external controls, as follows:

(1) • • •

• • • • •

3. In Section 73.565, paragraphs (c), (d), (e), and (f) are amended to read as follows:

§ 73.565 Operator Requirements.

• • • • •

(c) A noncommercial educational FM station with authorized transmitter output power not in excess of 25 kilowatts may employ persons holding any class of commercial radio operator license or permit for the routine operation of the transmitting system, if the station has at least one operator of a class specified for this station's power category in paragraph (b) of this Section, readily available at all times. This operator may be in full-time employment or, as an alternative, the licensee may contract in writing for the services, on a part-time basis, of one or more such operators. Signed contracts with part-time operators must be kept in the files of the station and must be made available for inspection upon request by an authroized representative of the FCC.

(d) A noncommmercial educational FM station with authorized total transmitter output power in excess of 25 kilowatts may employ persons holding any class of commercial radio operator license or permit for routine operation of the transmitting system if the station has in full-time employment at least one first class radiotelephone operator or, as an alternative, the licensee may contract in writing for the services, on a part-time basis, of one or more such operators. Signed contracts with part-time operators must be kept in the files of the station and must be made available for inspection upon request by an authorized representative of the FCC. The licensee must comply with the following:

(1) • • •

• • • • •

(e) [Reserved]

(f) Subject to the conditions in paragraphs (c) and (d) of this Section, operators not holding first class radiotelephone operator licenses (second class licenses for stations operating with 1 kW or less transmitter power) may make adjustments only of external controls, as follows:

(1) • • •

• • • • •

[FR Doc. 79-537 Filed 1-5-79; 8:45 am]

[6712-01-M]

[BC Docket No. 78-186; RM-2986]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Station in Aberdeen, Wash.

CHANGES MADE IN TABLE OF ASSIGNMENTS

AGENCY: Federal Communications Commission.

ACTION: Report and Order.

SUMMARY: Action taken herein assigns a Class A FM channel to Aberdeen, Washington, in response to a petition filed by Quincy Valley Broadcasters, Inc. The proposed assignment would provide for a station which could bring a second local FM broadcast service to Aberdeen.

EFFECTIVE DATE: February 5, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, (202-632-7792).

SUPPLEMENTARY INFORMATION: In the matter of amendment of Section 73.202(b), Table of Assignments, FM Broadcast Stations. (Aberdeen, Washington); Report and Order (Proceeding Terminated).

Adopted: December 20, 1978.

Released: December 28, 1978.

By the Chief, Broadcast Bureau:

1. The Commission has before it the *Notice of Proposed Rule Making*, adopted June 23, 1978, 43 Fed. Reg. 29018, proposing the assignment of Channel 257A to Aberdeen, Washington, as its second assignment. The proceeding was instituted on the basis of a petition filed by Quincy Valley Broadcasters, Inc. ("petitioner"). Supporting comments were filed by petitioner reaffirming its intention to file an application for the channel, if assigned.

2. Aberdeen (pop. 18,489), in Grays Harbor County (pop. 59,553), [1] is located approximately 129 kilometers (80 miles) southwest of Seattle, Washington and 177 kilometers (109 miles) northwest of Portland, Oregon. It presently receives local service from two full-time AM stations (KBKW and KXRO). It also has a Class C FM station operating on Channel 284 (KDUX-FM).

3. Petitioner states that the Washington Census Board projects an increase in population for Grays Harbor County to 74,374 by 1985. Petitioner has submitted detailed information with respect to the need for an additional FM assignment to Aberdeen, Washington.

4. As a result of the proposed Channel 257A assignment to Aberdeen, preclusion would occur only on the proposed channel, involving a small area which includes the sizable community of Hoquiam. However, this is not an impediment since Hoquiam has a Class A FM station in operation.

5. While the proposed assignment would contravene the usual policy of avoiding intermixture of a Class A with a Class C channel in a particular community, we have deviated from this policy when there is no Class C channel available for assignment, there is a demand for a Class A channel and there is a willingness to compete under such circumstances. *Yakima, Washington*, 42 F.C.C. 2d 548, 550 (1973); *Key West, Florida*, 45 F.C.C. 2d 142, 145 (1974). There is no Class C channel which could be assigned to Aberdeen, and petitioner has expressed a desire to apply for Channel 257A at Aberdeen in spite of the intermixture situation. We believe it is in the public interest to make the assignment which would provide for a needed second local FM service to the community.

6. The Canadian Government has given its concurrence to the assignment of Channel 257A to Aberdeen, Washington.

7. Authority for the adoption of the amendment contained herein appears in Section 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules.

8. In view of the foregoing, *it is ordered*, that effective February 5, 1979, Section 73.202(b) of the Commission's Rules, the FM Table of Assignments, is amended to read as follows for the community listed below:

City	Channel No.
Aberdeen, Washington	257A, 284

9. *It is further ordered*, that this proceeding is terminated.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; 47 U.S.C. 154, 155, 303.)

FEDERAL COMMUNICATIONS COMMISSION.

WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc. 79-654 Filed 1-5-79; 8:45 am]

[1] Population figures are taken from the 1970 U.S. Census, unless otherwise indicated.

[6712-01-M]

PART 73—RADIO BROADCAST SERVICES

Reregulation of Radio and TV Broadcasting

Correction

AGENCY: Federal Communications Commission.

ACTION: Correction—Final Rules.

SUMMARY: Erratum issued to insert words "in each mode of operation" which were inadvertently omitted in Broadcast Station Operating Log rules adopted on September 22, 1978, and published in the FEDERAL REGISTER on October 4, 1978, at 43 FR 45842.

EFFECTIVE DATE: November 1, 1978.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

John W. Reiser, Broadcast Bureau, 202-632-9660.

SUPPLEMENTARY INFORMATION:

In the matter of reregulation of Radio and TV Broadcasting; erratum.

Released: December 27, 1978.

In the above-captioned Order, FCC 78-681, adopted September 22, 1978, and published in the FEDERAL REGISTER October 4, 1978, at 43 FR 45842, certain words were inadvertently omitted from § 73.1820(a)(2)(i), in Appendix A, Instruction 97, which should read as follows:

(i) An entry at the beginning of operations in each mode of operation, and thereafter at intervals not exceeding 3 hours, of the following (actual readings observed prior to making any adjustments to the equipment and an indication of any corrections to restore parameters to normal operating values);

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 79-652 Filed 1-5-79; 8:45 am]

[6712-01-M]

[BC Docket No. 78-166; RM-3015]

PART 73—RADIO BROADCAST SERVICES

Television Broadcast Station in Alexandria, Louisiana

CHANGES MADE IN TABLE OF ASSIGNMENTS

AGENCY: Federal Communications Commission.

ACTION: Report and Order.

SUMMARY: Action taken herein reserves television Channel 25 for educational use at Alexandria, Louisiana, and deletes the reservation of Channel 41 there for educational use. This action, taken in response to a petition filed by the Louisiana Educational Television Authority, would make possible economies of operation that would enhance LETA's ability to provide a state-wide educational television service.

EFFECTIVE DATE: February 5, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations. (Alexandria, Louisiana); Report and Order (Proceeding Terminated).

Adopted: December 20, 1978.

Released: December 27, 1978.

By the Chief, Broadcast Bureau:

1. The Commission here considers the Notice of Proposed Rule Making, 43 FR 26083, inviting comments on a petition filed by Louisiana Educational Television Authority ("LETA"), licensee of Station KLTM, Channel 13, Monroe; Station WLPB-TV, Channel 27, Baton Rouge; permittee of Station KLTS, Channel 24, Shreveport, and applicant for Channel 18 (BPET-566), Lake Charles and Channel 24 (BPET-539), Lafayette. At LETA's request the Notice proposed changing the channel reserved for noncommercial educational use at Alexandria, Louisiana, from Channel 41 to Channel 25. Both channels are presently assigned to Alexandria and are unoccupied. LETA has filed and has accepted an application for Channel 25 (BPCT-5168).

2. Alexandria (pop. 41,557), in Rapides Parish (pop. 118,078),[1] is located aproximately 177 kilometers (110 miles) southeast of Shreveport, Louisiana. Alexandria is currently assigned Channels 5, 25, 31 and *41. Channel 5 is occupied by Station KALB-TV and Channel 25, 31 and *41 are unoccupied.

3. Petitioner asserts that, except for the assignment at Alexandria, all of the present and proposed LETA UHF transmitters will operate below Channel 29 so that the same type tube may be employed at each transmitter location. It notes that this standardization would permit an interchange of klystron tubes between transmitters and reduce inventory requirements. Petitioner claims that reservation of Channel 25 in Alexandria as a noncommercial educational channel would result in economies to LETA which would enhance its ability to operate a statewide educational network for the benefit of the people of Louisiana. Since LETA has an application pending for Channel 25, this will be viewed as an expression of continuing interest for the use of this channel.

4. Upon careful consideration of the proposal herein, the Commission believes it would be in the public interest to exchange the channel reservation for educational usage. In view of the LETA application for the use of Channel 25, the reservation would make the assignments in § 73.606 of our Rules more accurately reflect the nature of operations in Alexandria. In addition, it would make possible economies of operation that would enhance LETA's ability to provide a statewide educational television service. Even with the change, there would still be two available television channels which could be used to bring additional commercial television service to Alexandria, should a demand arise.

5. Accordingly, pursuant to authority contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules, *it is ordered*, that effective February 5, 1979, the Television Table of Assignments, § 73.606(b) of the Commission's Rules, is amended as it pertains to the community listed below:

City	Channel No.
Alexandria, Louisiana	5, *25+, 31+, 41+

6. *It is further ordered*, that this proceeding is terminated.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; 47 U.S.C. 154, 155, 303.)

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc. 79-653 Filed 1-5-79; 8:45 am]

[1] Population figures are taken from the 1970 U.S. Census.

[1505-01-M]

Title 49—Transportation

CHAPTER I—MATERIALS TRANSPORTATION BUREAU, DEPARTMENT OF TRANSPORTATION

[Docket No. HM-136; Amdt. No. 178-52]

PART 178—SHIPPING CONTAINER SPECIFICATIONS

Location of Manhole Assemblies and Certification Plates on Cargo Tanks

Correction

In FR Doc. 78-34950 appearing at page 58818 in the issue for Monday, December 18, 1978, the effective date given in the first column of page 58819 now reading "December 15, 1978" should have read "December 18, 1978".

[7035-01-M]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Fifteenth Rev. Ser. Or. No. 1234]

PART 1033—CAR SERVICE

Distribution of Freight Cars

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order; Fifteenth Revised Service Order No. 1234.

SUMMARY: There are serious shortages of freight cars of the sizes and numbers required to comply with certain tariff provisions. Service Order No. 1234 authorizes the carriers to substitute sufficient smaller cars for the larger cars required for shipments of specified commodities in order to meet minimum volume requirements but without limitations as to the number of cars to be used by each shipment. Fifteenth Revised Service Order No. 1234 adds alfalfa pellets and beet pulp to the list of commodities for which smaller cars may be substituted for the larger cars customarily used.

DATES: Effective 11:59 p.m., January 2, 1979. Expires 11:59 p.m., June 30, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, telex 89-2742.

SUPPLEMENTARY INFORMATION:

The Order is printed in full below.

Decided January 2, 1979.

There is an acute shortage of high capacity freight cars for transporting shipments of *alfalfa pellets, barium sulphate (crude barite, ground or not ground), beet pellets, *beet pulp, citrus pellets, citrus pulp, clay, coal, cottonseed hulls, electrode binder pitch, fertilizer, fish meal, grain, grain products, gypsum, gypsum rock, peanuts, peanut hulls, pencil pitch, perlite, phosphate (dried or ground, treated or untreated), salt, soybeans, soybean hulls, soybean products or sunflower seeds, caused by certain tariff provisions specifying the minimum quantities that must be loaded into cars offered to the carriers for transport. At the same time smaller cars, suitable except as to capacity, are available for transporting these products. The inability of the carriers and shippers to utilize the smaller capacity cars in place of the larger cars required by tariff provisions is resulting in great economic loss to both shippers and carriers. In the opinion of the Commission, an emergency exists requiring immediate action to modify existing rules, regulations and practices with respect to car service to secure maximum utilization of the available supply of freight cars and to alleviate shortages of cars. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

§ 1033, 1234 Fifteenth Revised Service Order No. 1234.

(a) *Distribution of freight cars.* Subject to the concurrence of the shipper, carriers may substitute a sufficient number of smaller cars for larger cars ordered to transport shipments of *alfalfa pellets, barium sulphate (crude barite, ground or not ground), beet pellets, *beet pulp, citrus pellets, citrus pulp, clay, coal, cottonseed hulls, electrode binder pitch, fertilizer, fish meal, grain, grain products, gypsum, gypsum rock, peanuts, peanut hulls, pencil pitch, perlite, phosphate (dried or ground, treated or untreated), salt, soybeans, soybean hulls, soybean products or sunflower seeds regardless of tariff requirements specifying minimum cubic or weight carrying capacity. (See exceptions (b) and (c).)

(b) *Exception.* This order shall not apply to shipments subject to tariff provisions requiring the use of twenty-five or more cars per shipment.

(c) *Exception.* This order shall not apply to shipments subject to tariff provisions which require that cars be furnished by the shipper.

*Addition.

(d) *Rates and Minimum Weights Applicable.* The rates to be applied and the minimum weights applicable to shipments for which cars smaller than those ordered have been furnished and loaded as authorized by Section (a) of this order shall be the rates and minimum weights applicable to the larger cars ordered.

(e) *Billing to be Endorsed.* The carrier substituting smaller cars for larger cars as authorized by Section (a) of this order shall place the following endorsement on the bill of lading and on the waybills authorizing movement of the car:

"Car of ( ) cu. ft. and of ( ) lbs. or greater capacity ordered. Smaller cars furnished authority Fifteenth Revised ICC Service Order No. 1234.

(f) *Concurrence of Shipper Required.* Smaller cars shall not be furnished in lieu of cars of greater capacity without the consent of the shipper.

(g) *Exceptions.* Exceptions to this order may be authorized to railroads by the Railroad Service Board, Washington, D.C., 20423. Requests for such exception must be submitted in writing, or confirmed in writing, and must clearly state the points at which such exceptions are requested and the reason therefor.

(h) *Rules and Regulations Suspended.* The operation of all rules, regulations, or tariff provisions is suspended insofar as they conflict with the provisions of this order.

(i) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign commerce.

(j) *Effective date.* This order shall become effective at 11:59 p.m., January 2, 1979.

(k) *Expiration date.* This order shall expire at 11:59 p.m., June 30, 1979, unless otherwise modified, changed, or suspended by order of this Commission.

(49 U.S.C. (10304-10305 and 11121-11126))

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Mi-

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chael. Member Robert S. Turkington not participating.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-661 Filed 1-5-79; 8:45 am]

[7035-01-M]

SUBCHAPTER C—ACCOUNTS, REPORTS, AND RECORDS

[No. 36840]

PART 1249—REPORTS OF MOTOR CARRIERS

Elimination of Annual Report M-4 for Motor Carrier Holding Companies

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: The Commission has decided to eliminate Annual Report Form M-4 for motor carrier holding companies. The disclosures required in Form M-4 are now required in Form M. By eliminating Form M-4, motor carrier holding companies will no longer be subjected to duplicate reporting.

DATES: Effective for the reporting year beginning January 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Bryan Brown, Jr., Chief, Section of Accounting, Tel. (202) 275-7448.

SUPPLEMENTARY INFORMATION: The Commission presently requires all motor carriers of property, including motor carrier holding companies, to file Annual Report Form M (Form M). Among other reporting requirements, Form M requires respondents to submit consolidated financial data as supplementary information. Filing consolidated financial data in Form M was not required until January 1, 1977.

Motor carrier holding companies are required to file Annual Report Form M-4. Form M-4 is a supplemental annual report which only requires consolidated financial data on the holding company and its subsidiaries. Because Form M requires all respondents to file consolidated financial data, Form M-4 is no longer needed. Therefore, we have decided to eliminate Form M-4 effective January 1, 1978.

The Commission has concluded, on the basis of sections 553(b) (A) and (B) of the Administrative Procedure Act (5 U.S.C. 553), that this revision does not require a rulemaking proceeding. The rule involved is procedural in nature and the revision lessens the reporting requirements for motor carrier holding companies. Furthermore, notice and comment are not required because the change involved is minor, with little impact on the industry or the public.

However, in keeping with our belief that any rule can benefit from public scrutiny, we are requesting that the public study the rules and report, within 45 days, any changes which need to be made. Persons who desire to study the affected reporting forms may obtain copies from the Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

If the Commission concludes, after reviewing the comments, that it is necessary to change the revised rule, a further notice will be published in the FEDERAL REGISTER identifying the changes made.

This Decision does not significantly affect the quality of the human environment.

Accordingly, § 1249.3, Part 1249 of Title 49 of the Code of Federal Regulations is revised by deleting paragraph (b).

These rules are issued under the authority of 49 U.S.C. 220.

Decided December 5, 1978.

By the Commission, Chairman O'Neal, Vice Chairman Christian, Commissioners Brown, Stafford, Gresham & Clapp. Commissioner Clapp absent and not participating.

NANCY L. WILSON,
Acting Secretary.

[FR Doc. 79-662 Filed 1-5-79; 8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[3410-02-M]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 1062]

[Docket No. A0-10-A53]

MILK IN THE ST. LOUIS-OZARKS MARKETING AREA

Partial Decision on Proposed Amendments to Marketing Agreement and to Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This final decision provides for changes in the present order provisions based on industry proposals which were considered at a public hearing held June 21-22, 1978. The amendments provide that a distributing plant which meets the pooling standards of the St. Louis-Ozarks milk order and one or more other Federal milk orders shall continue to be regulated under the St. Louis-Ozarks order until the third consecutive month in which it has more than 50 percent of its Class I sales in another Federal order marketing area. This change would apply only to plants that had been regulated under the St. Louis-Ozarks order for at least the previous 13 months. The current pooling standards would continue to apply for those plants regulated under the order less than that time. Another major change would increase the funding rate for the Advertising and Promotion program and also tie such rate to the level of the blend price to producers. The amendments are necessary to reflect current marketing conditions and to insure orderly marketing in the area.

FOR FURTHER INFORMATION CONTACT:

Robert F. Groene, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-4824.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of hearing: Issued May 31, 1978, published June 6, 1978 (43 FR 24540). Recommended decision: Issued November 17, 1978, published November 22, 1978 (43 FR 54642).

Extension of Time for Filing Exceptions: Issued December 7, 1978, published December 13, 1978 (43 FR 58193).

A public hearing was held upon proposed amendments to the marketing agreement and the order regulating the handling of milk in the St. Louis-Ozarks marketing area. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice (7 CFR Part 900), at Bridgeton, Mo., on June 21-22, 1978, pursuant to notice thereof issued on May 31, 1978 (43 FR 24540).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Marketing Program Operations, on November 17, 1978 (43 FR 54642), filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

With the exception of issue 2, the material issues, findings and conclusions, rulings, and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein, subject to the following modifications:

1. Under the heading "1. Regulation of a distributing plant that qualifies as a pool plant under more than one order," two new paragraphs are added at the end of the discussion of such issue.

2. Under the heading "5. Funding rate for the Advertising and Promotion program," three paragraphs are added at the end of the discussion of such issue.

The material issues on the record of the hearing relate to:

1. Regulation of a distributing plant that qualifies as a pool plant under more than one order.

2. Pooling standards for supply plants.

3. Limitations on the diversion of producer milk.

4. Pricing of diverted milk.

5. Funding rate for the Advertising and Promotion program.

6. Assessment for order administration.

This partial decision deals only with issues 1, 3, 4, 5 and 6. Issue 2 is reserved for a later decision.

FINDINGS AND CONCLUSIONS

The following findings and conclusions on issues 1, 3, 4, 5 and 6 are based on evidence presented at the hearing and the record thereof:

1. *Regulation of a distributing plant that qualifies as a pool plant under more than one order.* The order should be amended to provide that a distributing plant which meets the pooling standards of the St. Louis-Ozarks order and one or more other Federal orders and has been regulated under the St. Louis-Ozarks order for the preceding 13 months shall remain regulated under the St. Louis-Ozarks order until the third consecutive month in which it has more than 50 percent of its route disposition, excluding filled milk, in another market unless, nevertheless; the plant is regulated under another order. In the case of a plant that has not been regulated under the St. Louis-Ozarks order for the entire preceding 13-month period, the current pooling standards should continue to apply.

Presently, when a distributing plant qualifies for pooling under the St. Louis-Ozarks order (Order 62) and another order, it is regulated under the order that covers the marketing area in which it has the most Class I sales. To prevent month-to-month changes in the order regulating such plant, the order provides that a plant which has been regulated under Order 62 shall continue to be regulated by such order until the third consecutive month in which it has greater sales in the other market.

Mid-American Dairymen, Inc. (Mid-Am), a cooperative association representing about 90 percent of the producers on the St. Louis-Ozarks market, proposed the order change which is adopted herein. Its spokesman testified that the cooperative is the principal supplier of a large distributing plant at Hazelwood, Missouri (a suburb of St. Louis), that is operated by the Kroger Company. He was concerned that this plant, which has been fully regulated under the St. Louis-Ozarks order for a long period of time, might become regulated under either the Nashville order (Order 98) or the Southern Illinois order (Order 32) due to steadily increasing sales by Kroger in the marketing areas of these two orders. The spokesman indicated that such a shift in the plant's regulation would lower the prices received by those producers who are supplying the

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plant either by direct shipments from the farm or through supply plants located at Effingham, Illinois, and Lebanon, Missouri, that transfer milk to Kroger's St. Louis plant. In his opinion, the blend prices which would be applicable at Kroger's distributing plant and the Effingham and Lebanon plants in the event such plants were pooled under the Nashville order would not be high enough to attract a supply of milk to the bottling plant or the supply plants involved. The cooperative's spokesman held that regulation under the Southern Illinois order would also have an adverse effect on producer returns. In order to insure that the blend prices would not be reduced as the result of a slight increase in plant sales in either the Nashville or Southern Illinois marketing area relative to the plant's sales in the St. Louis-Ozarks marketing area, the cooperative proposed that the order be amended to keep the Kroger plant regulated under the St. Louis order until the third consecutive month in which the plant has more than 50 percent of its Class I sales in the marketing area of another order.

A spokesman for Kroger supported Mid-Am's proposal, emphasizing that his company is interested in stability of regulation and equity in milk costs with competing handlers. The company was primarily concerned that a shift in regulation of the plant to another order could reduce the blend price to producers to the point that they would not be willing to supply the total milk requirements of the plant.

Dairymen, Inc., a cooperative association representing the majority of producers on the Nashville market, offered testimony in opposition to Mid-Am's proposal. Its representative held that a plant should be regulated in the Federal order area in which it has the most sales. It was his position that producers in the market in which the plant has most of its sales have a right to share in the Class I sales associated with that plant. The witness acknowledged the uniqueness of the Kroger problem and conceded that milk of the cooperative's members would not be available to Kroger at the blend prices applicable under the Nashville order of the plant were to become regulated in that market. He offered several alternative solutions to keep the Kroger plant regulated under Order 62. One solution was to expand the St. Louis-Ozarks marketing area by taking in unregulated territory in which Kroger has Class I sales. Another suggestion was to merge the St. Louis-Ozarks order with another order, possibly Southern Illinois. Both of these suggestions, however, are beyond the scope of this proceeding.

The Kroger plant has been regulated by the St. Louis-Ozarks order since 1968. Its principal supplier is Mid-America Dairymen, Inc. The milk supply for this plant comes from producers located in Iowa, Illinois and Missouri. The plant receives milk directly from the farms of producers and from supply plants operated by the cooperative at Effingham, Illinois and Lebanon, Missouri.

The Kroger plant distributes fluid milk products in 14 Federal order markets and in unregulated areas as well. Most of its sales are concentrated in three markets: the St. Louis-Ozarks market, the Southern Illinois market, and the Nashville market. Data introduced into the record show that in May 1978 the Kroger plant had 19.3 percent of its Class I sales in the St. Louis-Ozarks market, 18.7 percent in the Southern Illinois market, 16.2 percent in the Nashville market, and 45.8 percent in all other areas.

The sales pattern of the Kroger plant is such that the plant could easily become pooled under either the Southern Illinois or Nashville milk order instead of the St. Louis-Ozarks order with only a slight shift in the plant's sales among the 3 markets. Such shift, of course, would not occur on a month-to-month basis since the provisions of the St. Louis-Ozarks order provide that a plant which has been regulated by such order shall continue to be regulated under that order until the third consecutive month in which it has greater sales in the other market. However, the existence of such provision in the St. Louis-Ozarks order and similar provisions in both the Southern Illinois and Nashville orders does not preclude the possibility that regulation of the Kroger plant might shift periodically among the 3 markets.

As previously noted, the regulation of the Kroger plant is most likely to shift from the St. Louis-Ozarks order to the Southern Illinois or Nashville order. In the event such a shift were to occur, the Class I price applicable to milk received by such handler at the Hazelwood location would be lower than the Class I price under Order 62 at such plant location. For example, if the Kroger plant has been regulated under the Nashville or Southern Illinois orders during April 1978, the Class I price applicable at the Hazelwood location would have been $10.375 per hundredweight under Order 98 and $10.53 under Order 32. (See Table 1) By comparison, the Class I price at Hazelwood under Order 62 was $10.60.

TABLE 1: *Class I Price Comparisons—April 1978*

Location	Order 62	Order 98	Order 32
Base Zone (No location adjustment)	$10.60	$10.85	$10.53
Hazelwood, Mo	10.60	10.375	10.53
Effingham, Ill	[1]0.45	10.45	10.53
Lebanon, Mo	[1]10.33	10.21	$10.275

[1]Minimum Class I price applicable to milk received at a supply plant at that location.

Kroger's representative pointed out that while his company would normally welcome the opportunity to obtain milk at a lesser cost it was far more interested in being assured that an adequate supply of milk would be made available to the plant. Both the Kroger and Mid-Am representatives were primarily concerned that producer pay prices at the Kroger plant would decline significantly if the plant were to become regulated under either the Southern Illinois or Nashville order. They indicated that the resulting reduction in pay prices to producers supplying the Kroger plant might cause such producers to seek alternative outlets for their milk.

In order to determine whether a supply of producer milk could be expected to be made available to the plant if the plant were to become regulated under either the Nashville order or the Southern Illinois order, consideration must be given to the extent to which the producers' pay prices currently applicable at the location of the Kroger plant and at the supply plants which transfer milk to the Kroger plant would change under such circumstance. It is concluded for the reasons set forth below that the change in producer pay prices that would result from a shift in regulation can best be assessed by looking only at how the pay prices to producers would change as a result of the location pricing that would apply at the plants affected. Data submitted by proponent to illustrate the extent to which the producer blend prices would change do not take into account how the Class I utilizations of the markets affected would change if the plant were to become regulated under another order. In that regard, questions directed to proponent at the hearing elicited no factual data upon which to estimate the extent to which the weighted average prices would change in such circumstances.

A further deficiency in proponent's data for April 1978 is that the Nashville weighted average price apparently is understated relative to the normal situation. The weighted average price for the Nashville order at the base zone location for the month of April 1978 was shown as 11 cents less than the weighted average price

for the St. Louis-Ozarks and Southern Illinois base zone location (prior to the 5-cent deduction for advertising and promotion which is currently applicable under the St. Louis-Ozarks order.) Although proponent alleged that the weighted average prices for the month of April for the three markets were representative of the prices in these markets in other months, a review of the Nashville weighted average price computation reveals that the weighted average price for that month was adjusted downward approximately 11 cents per hundredweight due to some special circumstance.[1] Such reduction in the weighted average price resulted when one-half of the producer-settlement fund was added to the computations in determining the weighted average price. Normally, such addition would have resulted in a 3- to 4-cent increase in the weighted average price. In this instance, however, such computation for the month of April 1978 resulted in a 7- to 8-cent decrease in the weighted average price computations. Such a reduction could be the result of an audit adjustment.

On the basis of available information, it appears that most of the variation in the pay prices for producers supplying the Kroger plant would occur as the result of the location pricing provisions of the three orders. The following analysis details the extent to which location adjustments would affect the prices that producers would receive if the Kroger plant were to shift from regulation under the St. Louis-Ozarks order to either the Nashville or Southern Illinois order. It is thus assumed for this purpose that the announced blend prices under the three orders in April 1978 would have been the same. As an aid in illustrating how producer pay prices would vary at specific plant locations when identical uniform prices apply at plants in the base zones under each of the three orders, a table (See Table 2) detailing such information is set forth below.

TABLE 2: *Hypothetical Example Showing the Level of Producer Prices That Would Have Been Applicable at Specified Plants for April 1978 if Identical Uniform Prices ($10.10 is used in this example) Applied at Plants Located in the Base Zones of the St. Louis-Ozarks, Nashville and Southern Illinois Orders*

Location	Order 62	Order 98	Order 32
Base Zone (No location adjustment)	$10.10	$10.10	$10.10
Hazelwood, Mo	10.10	9.825	10.10
Effingham, Ill	9.95	9.70	10.10
Lebanon, Mo	10.10	9.46	9.845

[1]Official notice is taken of the Nashville market administrator's announcement of the uniform price computation for that market for the month of April 1978.

As indicated in Table 2, the uniform price payable at the Kroger plant under Order 98 would have been 47.5 cents below the price that producers would have received under Order 62. Mid-Am, the present supplier of Kroger, noted for the record that its milk would not have been available to the Kroger plant at such lower pricing level. As previously noted, a representative of Dairymen, Inc., conceded that milk of the cooperative's members would not be available to Kroger at the blend prices applicable under the Nashville order if the plant were to become regulated in that market.

Under the assumptions previously made, i.e., the uniform prices under Order 32 and Order 62 at the Kroger plant's location are identical, the plant would have no problem in retaining a milk supply from producers whose milk can be delivered directly from the farm to the plant irrespective of whether the plant is regulated under Order 62 or Order 32. However, such supply represents only a portion of the milk required by the plant. As noted later in the discussion, the milk that the plant currently obtains from the pool supply plant at Effingham might not be available to the Kroger plant if its plant and the supply plant were to become regulated under Order 32.

If the Kroger plant were to become regulated under either the Nashville or Southern Illinois order, the resulting Class I prices applicable at the pool supply plants (See Table 1) which have been furnishing much of the milk supply for the Kroger plant might cause such supply plants to withdraw their current supplies from the Kroger plant. For example, a reduction in the transportation allowance at the Lebanon, Missouri, plant would occur if the plant were regulated under Order 98. Under the St. Louis-Ozarks order, the plant now has a minus 27-cent location adjustment to move milk from Lebanon to Hazelwood. Under Order 98, the transportation allowance for moving milk between these two locations would be 16.5 cents, a reduction of 10.5 cents per hundredweight.

If the Lebanon plant had been pooled under Order 32, the Class I price at such plant would have been 5.5 cents below the Order 62 Class I price at such plant ($10.275 compared to $10.33). As a consequence of such a Class I price change, the Lebanon plant would have a transportation allowance of 25.5 cents per hundredweight to move milk to Hazelwood. Under the St. Louis-Ozarks order, the Lebanon plant has a transportation allowance of 27 cents to move milk to Hazelwood.

If the Effingham plant were regulated under Order 98, it would not be practical under order pricing to move milk from Effingham to Hazelwood. Under Order 98, the Effingham Class I price would be 7.5 cents more than the Class I price at Hazelwood. The St. Louis-Ozarks order provides for a minus 15-cent location adjustment at the Effingham plant as a transportation allowance towards the cost of moving milk from Effingham to Hazelwood.

If the Effingham plant were regulated under Order 32, no transportation allowance would be available under the order to move milk from the Effingham plant to Hazelwood, since the Class I price would be the same at both plants. Under Order 62, the Effingham plant has a transportation allowance of 15 cents per hundredweight to move milk to Hazelwood.

Serious disruptions in the producer pay prices would result at the Lebanon and Effingham plants if the Kroger plant and the two supply plants were to become pooled under either the Nashville or Southern Illinois order (See Table 2). Under the assumptions previously noted in this regard the uniform price to producers at the Effingham plant would have been reduced 25 cents per hundredweight if the plant had been regulated under Order 98 during April 1978. The uniform price at the Lebanon plant would have been reduced 64 cents per hundredweight if the plant likewise had been pooled under Order 98 during April 1978.

Under Order 32, the disruption in uniform prices to producers supplying the Effingham and Lebanon plants would be somewhat less severe than if such plants were regulated under Order 98. At Effingham, the uniform price would have been increased 15 cents if the plant had been regulated by Order 32 during April 1978. However, at Lebanon, the uniform price would have been reduced 25.5 cents below the Order 62 uniform price if the plant likewise had been regulated by Order 32 during April 1978.

It is recognized that it has been the practice in most Federal orders to regulate a plant according to where it has the most Class I sales. In this regard, official notice was requested at the hearing by Dairymen, Inc., of a decision issued August 17, 1976, and published August 20, 1976 (41 FR 35194), pertaining to a situation similar to the one under consideration in this proceeding. In the prior proceeding, the Kroger plant at Indianapolis had virtually equal sales in the Indiana market and the Ohio Valley market. The plant was regulated under the Indiana order but was on the verge of shifting regulation to the Ohio Valley order. Under the provisions of the Ohio Valley order, the plant would not have been regulated under that order

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until the second consecutive month in which the plant had greater sales in the Ohio Valley market. Proponents, however, did not want the plant to become regulated under the Ohio Valley order until the third consecutive month in which the plant had more sales in the Ohio Valley market.

The issue under consideration in the present proceeding again raises the question of where a plant should be regulated when it qualifies for pooling under more than one order. The traditional position on this point is that a plant should be pooled under the order regulating the market in which such plant had its greater sales during the month to insure that all handlers having their principal sales in a market are subject to the same prices and other regulatory provisions as their main competitors.

The pricing problems previously noted, however, make it necessary that special consideration be given to the pooling provisions for large distributing plants such as the Kroger plant which has Class I sales in excess of 20 million pounds per month. The potential problems that could occur if the Kroger plant were to shift to the Nashville or Southern Illinois market are severe enough to override the customary pooling requirements. As noted in testimony in the current proceedings, it is questionable whether the plant at Hazelwood, Mo., would be able to procure an adequate milk supply if the plant were to become regulated under either the Nashville or Southern Illinois order as the result of having greater sales in the market. Under such circumstances, consideration must be given to regulating the plant in a market in which there is reasonable assurance that it will have available an adequate supply of producer milk. The record evidence indicates that the Kroger plant can be reasonably assured of an adequate supply if it continues to be regulated by the St. Louis-Ozarks order. Accordingly, the order should be amended to keep the Kroger plant, or any other pool distributing plant in a similar situation, pooled under the order until the third consecutive month in which it has more than 50 percent of its Class I sales in another Federal order marketing area.

It is appropriate that the application of this type of lock-in provisions be limited only to those distributing plants that have had an extended association with the St. Louis-Ozarks market. Otherwise, a plant which has had greater sales in another Federal order market for a period of years could become pooled for an indefinite period under the St. Louis-Ozarks order as a result of having greater sales in the St. Louis-Ozarks market for only 1 month. The proposed 13-month association is an appropriate requirement since it would preclude the continued pooling of a plant which becomes newly regulated as a result of being awarded a contract to supply milk for a period as long as 1 year to schools, military bases, hospitals, or other institutions located in the St. Louis-Ozarks marketing area.

The proposed requirement will also permit a plant that previously was pooled under another order and then becomes pooled under the St. Louis-Ozarks order due to a temporary increase in sales in the St. Louis-Ozarks marketing area to again be pooled under the other order (at the end of the current 2-month lock-in period) is such increased sales are subsequently lost in the next month or two. This will assure that a plant which is primarily associated with another market does not become locked into being pooled under the St. Louis-Ozarks order and thereby run the same potential risk that the Kroger plant operator wants to guard against, i.e., the possibility that a supply of producer milk may not be available to it in the market in which it is newly regulated because of a major change in the pricing situation.

In its exceptions to the recommended decision, Dairymen, Inc., objected to the adoption of special pooling provisions for large distributing plants. The cooperative argued that a plant should be regulated under the Federal order in which it has the most Class I route sales. As an alternative to the pooling provisions provided herein, the cooperative favored an expansion of the St. Louis-Ozarks marketing area and/or price alignment within and between Federal order markets.

The exceptions are a reiteration of the views expressed by the cooperative at the hearing and in its brief. Such views were considered in arriving at a recommended decision in this matter. No basis exists for changing the Department's initial recommendations on this issue.

3. *Limitations on the diversion of producer milk.* The provisions relating to the diversion of producer milk from pool plants to other plants should be modified. During the months of September through February, a cooperative association should be allowed to divert to nonpool plants that are not producer-handler plants a quantity of milk not in excess of 50 percent of the quantity of producer milk that the association causes to be delivered to or diverted from pool plants during the month. The operator of a pool plant (other than a cooperative association) should be allowed to divert to nonpool plants that are not producer-handler plants any milk that is not under the control of a cooperative association that is likewise diverting milk to nonpool plants during the month. The quantity of milk that the operator of a proprietary plant may divert for his account during the months of September through February should not exceed 50 percent of the milk received at or diverted from such pool plant that is eligible to be diverted by the plant operator. The order should also provide that at least 1 day's production of a producer must be physically received at a pool plant during each of the months of September-February in order for the milk of such producer to be eligible for diversion to a nonpool plant during such months as producer milk. The order should continue to permit handlers to divert milk from pool plants to nonpool plants without limit during the months of March through August. Also, the order should no longer place a limit on diversions between pool plants.

Presently, diversions from a pool plant to another pool plant during any month are limited with respect to each producer to "not more days of production of producer milk than is physically received at the pool plant from which diverted." A similar limit also applies to milk diverted to nonpool plants during the months of September through February. During March through August no limits apply on diversions to nonpool plants.

Kraft, Inc., proposed several modifications of the diversion rules. Under its proposal, a cooperative or the operator of a proprietary plant would be permitted to divert to nonpool plants up to 50 percent of the total producer milk which it delivers to or diverts from pool plants during each of the months of September through February. Kraft proposed that the diversion limits be defined in terms of the aggregate producer milk of a handler rather than with respect to each producer in order to achieve efficiencies in the handling of milk. Its representative noted that some producers are located closer to plants in which their milk could be manufactured than to pool plants with which their milk is normally associated for pooling purposes. He held, therefore, that if there is a need to divert reserve milk supplies to nonpool plants for manufacturing, a handler should have the opportunity to move the milk in the most efficient manner without jeopardizing the producer's status under the order. He claimed that under the proposal the milk of a producer could be diverted to the plant nearest his farm, thereby minimizing the producer's cost of delivering his milk to available outlets.

The proposal to permit unlimited diversions of milk between pool plants is adopted.

There appears to be no valid reason to limit such diversions. The only effect of a limit would be that milk which is overdiverted would be considered as a receipt of producer milk at the pool plant where it is physically received instead of as a diversion from the diverting pool plant. For that reason, the quantity of milk pooled would be unchanged whether diversions between pool plants are limited or unlimited.

Mid-America Dairymen, Inc., testified in opposition to Kraft's proposal on diversions to nonpool plants. The cooperative contended that adoption of Kraft's proposal would "lessen the pressure needed to move needed supplies of milk into the fluid market." In its posthearing brief, Mid-Am stated that Kraft's proposal "is designed to augment the available supplies of milk for Kraft's cheese plants." The cooperative's witness suggested that it would be more realistic if diversions to nonpool plants were limited to one day's production for each two days that milk was delivered to pool plants during September through February. He proposed that at all other times that one day of diversion be allowed for each day of delivery to pool plants.

Limitations on diversions to nonpool plants should be based on a percentage of the aggregate quantity of producer milk for which the handler is accountable rather than on the quantity of milk received at a pool plant from each producer. This change will provide greater flexibility to handlers in moving excess milk supplies to nonpool plants. For example, it will enable a handler to divert more often the milk of those producers whose farms are most distant from his plant than those located closest to his plant. Such change will benefit producers by reducing their cost of hauling.

The diversion of producer milk by a handler to nonpool plants during the months of September through February should be limited to not more than 50 percent of the quantity of producer milk of the handler that is physically received at pool plants or diverted therefrom to other plants. This limit on the total quantity of milk that may be diverted is essentially the same as the one that is presently provided under the order.

During the months of March through August, no limit should apply to milk diverted from a pool plant to a nonpool plant. In that regard, this represents no change from the current order provisions.

There is no apparent need on the basis of this record to limit diversions to nonpool plants to the extent proposed by Mid-Am. There was no demonstration by proponent that the current limit on the amount of milk that may be diverted to nonpool plants is causing in any way disruptive marketing conditions. Although the cooperative implied that the change in the diversion provisions would tend to result in more milk being diverted for manufacturing, it is again noted that the total amount of milk that could be diverted to nonpool plants would remain essentially unchanged.

Kraft proposed that if milk is diverted in excess of the limits provided the diverting handler may designate the dairy farmers whose milk would not be producer milk, otherwise the milk last diverted during such month—in lots of an entire day's production—would be excluded first in determining which milk should not be producer milk. A provision of this type is necessary when handlers are permitted to divert milk on the basis of aggregate producer receipts. Under the current order in which diversion limits are placed on the individual producers, it is readily apparent which producer's milk has been over-diverted. This would not be the case under the revised method of establishing diversion limits. The proposal by Kraft provides a positive means of identifying those individuals whose milk would not be considered as producer milk in the event a handler were to divert in excess of the specified limits.

Kraft proposed that during each of the months of September through February at least one day's production of milk of a dairy farmer must by physically received at a pool plant before such dairy farmer's milk would be eligible for diversion as producer milk. The delivery of one day's production during such month will provide assurance that the milk of such dairy farmer represents a supply of milk that is readily available to pool plants in this market. Furthermore, the months of September through February are months in which producer milk supplies relative to fluid milk needs are usually the shortest. Under such circumstances, it is expected that the proposed shipment of one day's production would be easily met by all producers on the market during such months. Accordingly, the proposed limit should be adopted.

4. *Pricing of diverted milk.* No change should be made in the order regarding the pricing of diverted milk.

Presently, milk that is diverted from one pool plant to another pool plant is priced at the location of the plant to which diverted. Similarly, milk diverted to a nonpool plant located more than 120 miles from the nearer of the city halls in St. Louis or Springfield, Mo., is priced at the plant to which diverted. However, in the case of milk diverted to a nonpool plant located within 120 miles of St. Louis or Springfield, the milk is priced at the pool plant from which diverted.

Kraft, Inc., proposed that the present order provisions be modified to provide that milk diverted to a nonpool plant within the marketing area or within Carroll County, Arkansas, be priced at the location of the plant to which diverted rather than at the plant from which diverted, as is now the case. As part of this proposal, Kraft also proposed that the location adjustment for plants in Carroll County, Arkansas, be changed from minus 10.5 cents to plus 17 cents, a change of 27.5 cents. Such change would establish the location adjustment at plants in Carroll County at the same level as that applicable in Zone III of the marketing area, which borders Carroll County. The location adjustment in Zone III is plus 17 cents.

A spokesman for Kraft testified that his company operates nonpool manufacturing plants at Bentonville, in Benton County, Arkansas, and at Berryville, in Carroll County, Arkansas. The witness stated that Kraft plans to divert milk from its pool supply plant at Springfield, Mo., to its nonpool plants at Bentonville, Berryville, and Springfield beginning in the fall months of 1978. Under the present order provision, milk diverted to Bentonville and Berryville from Springfield would be priced at Springfield because these two locations are within 120 miles of Springfield. Because Bentonville is in Zone III of the marketing area and Berryville is adjacent to Zone III, Kraft proposed that milk diverted to these locations be priced at the Zone III price, which is 17 cents higher than the price at Springfield, a Zone I location.

Kraft held that because milk which is produced in northwestern Arkansas and which Kraft plans to deliver to the pool distributing plant at Fayetteville, Arkansas, in Washington County would be priced at the Zone III price, other milk for which it is the handler that is also produced in the northwestern section of Arkansas and is available to supply the Fayetteville plant likewise shold be priced at the same level. Kraft proposed, therefore, that milk which is diverted to its nonpool plants at Bentonville and Berryville in northwestern Arkansas be priced at the same level as milk delivered to the pool distributing plant at Fayetteville.

Mid-Am opposed changing the pricing point on milk diverted to a nonpool plant located within the marketing area. The cooperative's spokesman testified that Mid-Am supplies milk to the pool distributing plant located at Fayetteville from farms of its member producers located in the general vicinity of Fayetteville. Milk that is not needed by the Fayetteville plant is diverted to a nonpool plant operated by Mid-Am at Monett, Missouri, which is within the marketing area. The witness indicated that the milk diverted to Monett is priced at the plant from

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which diverted, which in this case is the Fayetteville plant. Accordingly, this diverted milk receives the Zone III uniform price. Mid-Am noted that under Kraft's proposal this milk would be priced at Monett and would receive the Zone I uniform price, which is 17 cents below the price its producers are now receiving.

No change should be made in the pricing of diverted milk. Although proponent took the position that all milk produced in northwestern Arkansas should be priced at the same level, its proposal to implement such pricing fails to accomplish that purpose. For example, milk produced in Washington County, Arkansas that is diverted to Monett, Missouri, which is just north of the Missouri-Arkansas border, would be priced 17 cents less than milk diverted to either Bentonville or Berryville, Arkansas.

A further reason for denying proponent's proposal is that it would price milk at the nonpool plants of Bentonville and Berryville at a higher level than if it were received at the Springfield pool supply plant from which diverted. Under such circumstances, the order would be structured to provide an incentive for milk associated with the supply plant to be delivered to plants for manufacturing uses rather than to the pool supply plant whose usual function would be to make such milk available for Class I uses.

One of proponent's concerns was that milk which is diverted to its plants at Bentonville and Berryville be priced at the same level. The present provisions provide that milk diverted to nonpool plants within 120 miles of Springfield or St. Louis shall be priced at the plant from which diverted. Since the Bentonville and Berryville plants are within 120 miles of Springfield, any milk diverted by Kraft from the Springfield plant to such location will receive the same price.

5. *Funding rate for the Advertising and Promotion program.* The funding rate for the Advertising and Promotion program should be modified by changing the present 5-cent rate to a rate determined yearly by multiplying the simple average of the monthly "weighted average prices" [2] applicable during the last quarter of the preceding calendar year by 0.75 percent.

Under the revised funding formula, a simple average of the "weighted average prices" for the last quarter of the calendar year would be computed by the market administrator as soon as possible after the end of the preceding calendar year. This average price would be multiplied by 0.0075 and rounded to the nearest whole cent to determine the actual rate of assessment to be effective on April 1. As soon as possible after the rate of withholding is computed, the market administrator would notify in writing all producers currently on the market and any new producer that subsequently enters the market of the new withholding rate. This notification would be repeated annually thereafter only if there was any change in the rate from the previous period. Beginning March 1, producers would have the opportunity to request a refund of the money withheld just as they do presently. The current practice of requiring producers to submit such requests to the market administrator within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively, would be continued.

The advertising and promotion program was established under the St. Louis-Ozarks order in April 1973. The program has been funded since its inception through a monthly 5-cent per hundredweight assessment on milk delivered during the month by participating producers. The money is deducted by the market administrator in the computation of the blend price and is turned over to an agency composed of producer representatives. Certain reserves are withheld by the market administrator to cover refunds to producers and administrative costs.

The advertising and promotion agency is responsible for the development and implementation of programs and projects approved by the Secretary and designed to carry out the purposes of the Act. The scope of the agency's activities may include the establishment of research and development projects, advertising on a nonbrand basis, sales promotion, and educational and other programs designed to improve or promote the domestic marketing and consumption of milk and its products. the advertising and promotion program is a voluntary program. Accordingly, each producer, on a quarterly basis, is given an opportunity to request a refund of the money withheld from him.

An increase in the funding rate was proposed by Mid-Am, whose members comprise about 90 percent of the producers supplying the market. The cooperative's representative testified that the costs of operating the agency had escalated since the program was initiated while revenue to support the program had not kept pace. He indicated that it was for this reason that the cooperative proposed that the revenue for funding the program be fixed as a percentage of the producer's income in order to keep pace with the inflationary trend in the Nation's economy.

At the request of the cooperative, a representative of the United Dairy Industry Association presented data in support of the cooperative's position that additional funds are needed by the agency. The data indicated that the cost of advertising by the various medias in the St. Louis area since 1972 has increased by at least 50 percent. In some instances, advertising costs have increased by 250 percent.

A spokesman for Prairie Farms Dairy, Inc., a cooperative that operates a pool distributing plant on this market, also testified in support of the proposed new assessment rate. He expressed concern about the continuing decline in per capita consumption of fluid milk. He indicated that an aggressive program of nonbrand advertising and promotion of milk and milk products is needed to combat declining milk consumption.

A spokesman for the Kroger Company questioned the need to expand the Advertising and Promotion program, claiming that the market does not have sufficient supplies of milk to meet the fluid needs of handlers. He stressed that while he was not opposed to advertising and promotion he felt that the higher assessment to producers would be passed on to Kroger through the price that producers charge Kroger for milk. Kroger, in turn, would pass such costs on to consumers. The resulting higher costs to consumers, he reasoned, would encourage them to purchase less milk rather than more milk.

The proposed increase in the funding rate for the advertising and promotion program is warranted in view of the increased costs for advertising that have occurred since the program was established under the order. The greatest increase in the cost of advertising has occurred in local television. In terms of a dollar's worth of advertising in 1972, television advertising currently costs $2.57. The cost of newspaper and radio advertising also has increased but not to the same extent as television advertising. One dollar's worth of radio time in 1972 now costs $1.49 while the previous one dollar's worth of newspaper advertising now costs $1.58.

Based upon the increased cost for radio advertising, the funding rate would need to be increased by 2½ cents to enable the agency to purchase the same quantity of advertising as when the program was initiated. To purchase the same quantity of newspaper advertising, a 3-cent increase would be necessary. The funding rate adopted herein is in line with these cost increases for newspaper and radio advertising.

If the proposed funding rate were now in effect, the assessment for the period from April 1978 through March 1979 would be 7 cents per hundredweight. This is based on an average weighted average price of $9.84 for the last quarter of 1977. On the basis of the upward trend in weighted average prices for the months of January through September of 1978,[3] it appears likely that the funding rate for the period from April 1979 through March 1980 would be 8 cents per hundredweight. (The weighted average price for September 1978, the month immediately preceding the last quarter of 1978, was $10.64 per hundredweight, whereas a weighted average price in excess of $10.00 during the last quarter of 1978 would assure an 8-cent rate.)

The proposed rate as a percent of the weighted average price is in line with the rate at which producers originally funded the program. In 1973, when the Advertising and Promotion program was adopted in the St. Louis-Ozarks order, the 5-cent rate was equal to 0.72 percent of the weighted average price for the year. By 1977, the 5-cent rate represented only 0.52 percent of the annual weighted average price. The reason for this decline, of course, is that the annual weighted average price increased from $6.96 in 1973 to $9.53 in 1977, while the 5-cent funding rate has remained constant. As mentioned previously, the revised funding rate adopted herein would have provided an assessment rate during 1977 of 7 cents per hundredweight, which is equal to 0.73 percent of the annual weighted average price (approximately the same percentage rate that was in effect during 1973).

A minor change should be made in the refund procedure with respect to producers who have transferred to the St. Louis-Ozarks market from another Federal order market with an Advertising and Promotion program. Presently, a producer who is participating in an Advertising and Promotion program under and other order and then transfers to the St. Louis-Ozarks order at any time other than the refund notification period (the first 15 days of December, March, June, or September) is required to participate in the Advertising and Promotion program under Order 62. This should be changed to give all new producers on this market the opportunity to request a refund of their money withheld for the Advertising and Promotion program, regardless of whether they were participating in a similar program under some other order.

Previously, it was presumed that a producer who was participating in an Advertising and Promotion program under one order would be willing to participate in a similar program under any other order since the rate of withholding was the same. However, since the rate of withholding under Order 62 would be somewhat higher than the rate now applicable under several other Federal orders, a producer should be given an opportunity upon coming onto the market to decide if he wants to participate in the program under this order at the higher rate.

Conforming changes have been made in the order to recognize that the current references in several sections to "weighted average price plus 5 cents" will no longer be appropriate. In implementing the revised funding rate for the Advertising and Promotion program, the order has been modified so that the weighted average price would be computed without deducting the amount of money to be withheld for such program. Thus, the current references to "weighted average price plus 5 cents" are changed to read "weighted average price." Under the adopted changes, the uniform price computation will continue, however, to reflect the deduction applicable for funding the Advertising and Promotion program.

The changes adopted herein that relate to the Advertising and Promotion program should be implemented in two steps. It is preferable from an operational standpoint that the change in the funding rate become effective at the beginning of a calendar quarter. At this stage of the proceeding, it appears that the rate change could be made effective on April 1, 1979. The order provides, however, that producers who desire not to participate in the program during the April–June period must submit their refund requests during the period of March 1 through March 15. Therefore, the provisions directing the market administrator to compute the funding rate and to notify producers of the new rate should be made effective prior to March 1, 1979. In this way, producers would be aware of the forthcoming rate change when deciding whether or not they want to participate in the program during the following calendar quarter.

In his exceptions to the recommended decision, a producer objected to the current order provisions that require a producer to submit a request for a refund if he does not wish to participate in the Advertising and Promotion program. The producer argued that funds for the program should not be withheld even temporarily unless the producer agrees to such action.

The procedure being questioned by this producer was not an issue at the hearing and is outside the scope of the proposals set forth in the notice of hearing. Accordingly, the change desired by the producer cannot be dealt with in this proceeding.

6. *Assessment for order administration.* The maximum assessment rate for the administration of the order should be increased from 2.5 cents to 4 cents per hundredweight.

Funds for the operation of the market administrator's office except for marketing services are obtained through an assessment paid by handlers. The amount of each handler's monthly assessment is dependent upon the quantity of milk that he receives and the assessment rate effective for such month.

A maximum is specified in the order to provide an upper limit on the rate that the market administrator may establish for the assessment. The assessment rate is determined by the market administrator, subject to the approval of the Secretary, according to his projections of the level of monthly producer receipts and the costs of operating his office. The actual assessment rate in 1977 was 2 cents per hundredweight.

The market administrator of the order testified in support of an increase in the assessment rate. He stated that in view of increasing office expenses and declining producer receipts on which income for administration of the order is dependent, the present limit of 2.5 cents would not provide sufficient funds during the next several years to administer the order effectively. He indicated that the need to increase the maximum assessment rate became early in 1978. Up until that time, producer receipts had been increasing from year to year. However, producer receipts began declining during the early part of 1978 and, as a consequence, the revenue available to operate his office also declined. The market administrator pointed out that the present rate has been in effect since 1946 and is among the lowest in all Federal orders. He testified further that the maximum rate under the three other orders that he administers is twice that of the St. Louis-Ozarks order.

The record evidence provides no assurance that the present maximum assessment rate of 2.5 cents per hundredweight will yield sufficient funds for the market administrator to administer the order effectively during the next several years. The extent to which future producer receipts may decline cannot be ascertained from this record. Also, it is not possible to

[2] For the purpose of computing this assessment, the "weighted average price" rather than the "uniform price" should be used because the latter includes an adjustment reflecting the order's seasonal incentive production plan (Louisville plan). Because of this plan, the uniform price during each of the months of March through July is lower than it would otherwise be, while during the months of September through December it is higher than it would normally be. In view of this, it is more appropriate to use the average "weighted average price" for the months of October through December in determining the assessment rate for the following April–March period.

[3] Official notice is taken of the monthly "Computation of Uniform Price" for the St. Louis-Ozarks order for the period of January through September 1978.

project with certainty the extent to which the costs of operating the market administrator's office may increase during the coming years.

It is concluded, therefore, that the proposed 4-cent rate should be adopted in order to assure that the market administrator has sufficient resources at his disposal to administer the order effectively. In the absence of such resources, there would be no means of ascertaining with certainty that handlers had paid the minimum class prices established under the order. Furthermore, the adoption of a higher maximum rate at this time will avoid the necessity of holding a hearing at a later date solely for the purpose of adjusting the rate upward in order to obtain sufficient revenue to operate the market administrator's office effectively.

No opposition to increasing the assessment rate was expressed at the hearing or in the post-hearing briefs which were filed.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions, and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations set forth below are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the St. Louis-Ozarks order and of the previously issued amendments to it. All of the previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Rulings on Exceptions

In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjuction with the record evidence. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

Marketing Agreement and Order

Annexed hereto and made a part hereof are two documents, a MARKETING AGREEMENT regulating the handling of milk, and an ORDER amending the order regulating the handling of milk in the St. Louis-Ozarks marketing area which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which is published with this decision.

Determination of Producer Approval of the Order; Determination of Producer Approval of the Advertising and Promotion Program; and Determination of Representative Period

October 1978 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the order, as amended and as hereby proposed to be amended (except for the proposed Advertising and Promotion Program) regulating the handling of milk in the St. Louis-Ozarks marketing area is approved or favored by producers, as defined under the terms of the order, as amended and as hereby proposed to be amended, who during such representative period were engaged in the production of milk for sale within the aforesaid marketing area. October 1978 is hereby further determined to be the representative period for the purpose of ascertaining whether the proposed order provisions constituting the Advertising and Promotion Program in the order, and as hereby proposed to be amended, regulating the handling of milk in the St. Louis-Ozarks marketing area are separately approved or favored by producers, as defined under the terms of the order, as amended and as hereby proposed to be amended, who during such representative period were engaged in the production of milk for sale within the aforesaid marketing area.

(This decision constitutes the Department's final Impact Analysis Statement for this proceeding.)

Signed at Washington, D.C., on January 3, 1979.

JERRY C. HILL,
Deputy Assistant Secretary.

Order [1] amending the order, regulating the handling of milk in the St. Louis-Ozarks marketing area

Findings and Determinations

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the St. Louis-Ozarks marketing area. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held; and

(4) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, 4 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to milk specified in § 1062.85.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the St. Louis-Ozarks marketing area shall be in conformity to and in compliance with the terms and conditions of the order, as amended, and as hereby amended, as follows:

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Deputy Administrator, Marketing Program Operations, on November 17, 1978, and published in the FEDERAL REGISTER on November 22, 1978 (43 FR 54642), shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein, subject to the following nonsubstantive modifications:

1. Under change 3, paragraphs (f) and (k) in § 1062.61 are revised.

2. Under change 8, § 1062.120(c) is revised.

3. In change 9, a reference is revised.

4. Changes 10 and 11 are combined and § 1062.121 is revised.

Changes 1, 2 and 7 set forth below relate to amendments to provisions of the order other than those relating to the Advertising and Promotion Program. Changes 3, 4, 5, 6, 8, 9 and 10 relate to provisions of the Advertising and Promotion Program.

1. In § 1062.7, paragraph (d) is revised to read as follows:

§ 1062.7 Pool plant.

* * * * *

(d) The term "pool plant" shall not apply to:

(1) A producer-handler plant or governmental agency plant;

(2) A distributing plant that meets the requirements specified in paragraph (a) of this section and also meets the pooling requirements of another Federal order and has greater route disposition, except filled milk, during the month in such other Federal order marketing area than in this marketing area unless one of the following conditions applies:

(i) If the plant was a pool plant under this order in each of the immediately preceding 13 months, it shall continue to be a pool plant under this order until the third consecutive month in which more than 50 percent of such route disposition is made in such other marketing area unless, notwithstanding the provisions of this paragraph, it is regulated under such other order; or

(ii) Except as provided in paragraph (d)(2)(i) of this section, if the plant was a pool plant under this order in the immediately preceding month, it shall continue to be a pool plant under this order until the third consecutive month in which a greater proportion of such route disposition is made in such other marketing area unless, notwithstanding the provisions of this paragraph, it is regulated under such other order;

(3) A distributing plant which meets the pooling requirements of another Federal order and from which route disposition, except filled milk, during the month in this marketing area is greater than in such other Federal order marketing area but which plant is, nevertheless, fully regulated under such other Federal order; and

(4) A supply plant meeting the requirements of paragraph (b) of this section which also meets the pooling requirements of another Federal order and from which greater qualifying shipments are made during the month to plants regulated under such other order than are made to plants regulated under this part, except during the month of March through August if such plant retains automatic pooling status under this part.

2. Section 1062.13 is revised to read as follows:

§ 1062.13 Producer milk.

"Producer milk" means the skim milk and butterfat in milk of a producer which is:

(a) Received at a pool plant directly from such producer by the operator of the plant;

(b) Received by a handler described in § 1062.9(c); or

(c) Diverted from a pool plant for the account of the handler operating such plant to another pool plant or diverted from a pool plant to a nonpool plant (other than a producer-handler plant) for the account of the handler operating such pool plant or for the account of a handler described in § 1062.9(b), subject to the following conditions:

(1) Milk from a dairy farmer shall not be eligible for diversion during any of the months of September through February unless at least one day's production is physically received during the month at a pool plant;

(2) The total quantity of milk diverted by a cooperative association to nonpool plants during each of the months of September through February may not exceed 50 percent of the quantity of producer milk that the cooperative association causes to be delivered to or diverted from pool plants during the month;

(3) The total quantity of milk diverted by the operator of a pool plant (other than a cooperative association) to nonpool plants during each of the months of September through February may not exceed 50 percent of the quantity of milk received at or diverted from such pool plant during the month that is not under the control of a cooperative association that diverts milk pursuant to paragraph (c)(2) of this section;

(4) Any milk diverted to nonpool plants in excess of the limits prescribed in paragraph (c)(2) and (3) of this section shall not be producer milk. The diverting handler may designate the dairy farmers whose diverted milk will not be producer milk, otherwise the milk last diverted—in lots of an entire day's production—shall be excluded first in determining which milk should not be producer milk; and

(5) For pricing purposes, milk diverted from one pool plant to another pool plant or milk diverted to a nonpool plant that is located more than 120 miles from the nearer of the city halls in St. Louis and Springfield, Mo., (by the shortest highway distance as determined by the market administrator using the most current issue of the Household Carriers Guide), shall be priced at the location of the plant to which diverted. Milk diverted to a nonpool plant located less than 120 miles from the city hall in St. Louis or Springfield shall be priced at the location of the plant from which diverted.

3. Section 1062.61 is revised to read as follows:

§ 1062.61 Computation of uniform price (including weighted average price).

For each month the market administrator shall compute the uniform price per hundredweight of milk of 3.5 percent butterfat content received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1062.60 for all handlers who filed the reports prescribed by § 1062.30 for the month and who made the payments pursuant to §§ 1062.71 and 1062.73 for the preceding month;

(b) Deduct the amount of the plus adjustments and add the amount of

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the minus adjustments which are applicable pursuant to § 1062.75;

(c) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(d) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) the total hundredweight for which a value is computed pursuant to § 1062.60 (f) and (g); and

(e) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "weighted average price".

(f) For the months of January, February, and August, subtract from the weighted average price computed in paragraph (e) of this section the withholding rate for the Advertising and Promotion program as computed in § 1062.121(e). The result shall be the uniform price for the applicable month.

(g) For the months specified in paragraphs (h) and (i) of this section, subtract from the amount resulting from the computations pursuant to paragraphs (a) through (c) of this section an amount computed by multiplying the hundredweight of milk specified in paragraph (d)(2) of this section by the weighted average price;

(h) From the remaining amount in paragraph (g) of this section subtract for each of the months of March and July an amount equal to 15 cents per hundredweight, and for each of the months of April, May, and June an amount equal to 25 cents per hundredweight, of the total amount of producer milk included in these computations for each respective month. This amount shall be retained in the producer-settlement fund and disbursed according to the provisions of paragraph (i) of this section;

(i) To the remaining amount in paragraph (g) of this section add for each of the months of September and December an amount equal to 20 percent, and for each of the months of October and November an amount equal to 30 percent, of the total amount subtracted pursuant to paragraph (h) of this section;

(j) Divide the resulting sum by the total hundredweight of producer milk included in these computations;

(k) Subtract the withholding rate for the Advertising and Promotion program as computed in § 1062.121(e); and

(l) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" for milk received from producers for the applicable month.

§ 1062.71 [Amended]

4. In § 1062.71(a)(2)(ii), the words "plus 5 cents" are deleted.

§ 1062.75 [Amended]

5. In § 1062.75(b), the words "plus 5 cents" are deleted.

§ 1062.76 [Amended]

6. In § 1062.76(a)(4), the words "plus 5 cents" are deleted.

§ 1062.85 [Amended]

7. In the preamble of § 1062.85, the number "2.5" is changed to read "4".

8. In § 1062.120, paragraph (c) is revised to read as follows:

§ 1062.120 Procedure for requesting refunds.

* * * * *

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the end of the ensuing calendar quarter may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such calendar quarter pursuant to § 1062.121(b).

* * * * *

§ 1062.120 [Amended]

9. In § 1062.120(d), the reference "§ 1062.61(d)" is changed to read "§ 1062.121(b)."

In § 1062.121, the introductory text of paragraph (b) and paragraph (b) (2) and (3) are revised and new paragraphs (e) and (f) are added to read as follows:

§ 1062.121 Duties of the market administrator.

* * * * *

(b) Each month set aside into an advertising and promotion fund, separately accounted for, an amount equal to the withholding rate for the month as set forth in paragraph (e) of this section times the amount of producer milk included in the uniform price computation for such month. The amount set aside shall be disbursed as follows:

* * * * *

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed the rate per hundredweight determined pursuant to paragraph (e) of this section on the volume of milk pooled by any such producer for which deductions were made pursuant to this paragraph.

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1062.120. Such refund shall be computed by multiplying the rate specified in paragraph (e) of this section by the hundredweight of such producer's milk pooled for which deductions were made pursuant to this paragraph for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to paragraph (b)(2) of this section.

* * * * *

(e) As soon as possible after the beginning of each year, compute the rate of withholding by multiplying the simple average of the monthly "weighted average prices" for the last quarter of the preceding year by 0.75 percent and rounding to the nearest whole cent. This rate shall apply during the 12-month period beginning with April of the current year.

(f) As soon as possible after the rate of withholding is computed, notify in writing each producer currently on the market and any new producer that subsequently enters the market of the withholding rate. This notification shall be repeated annually thereafter only if there is any change in the rate from the previous period.

[FR Doc. 79-636 Filed 1-5-79; 8:45 am]

[1505-01-M]

[7 CFR Ch. IX]

[Docket No. AO-382]

MELONS GROWN IN SOUTH TEXAS

Hearing on Proposed Marketing Agreement and Order

Correction

In FR Doc. 78-30729 appearing at page 50685 in the issue for Tuesday, October 31, 1978, make the following corrections:

(1) On page 50689, in the first column, under the heading, "REGULATIONS," after § .50 *Marketing policy.* insert the following:

§ .51 Recommendations for regulations.

Upon complying with the requirements of § .50, the committee may recommend regulations to the Secretary when it finds that such regulations as are authorized in this order will tend to effectuate the declared policy of the act.

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(2) On page 50689, in the first column, under the heading, "REGULATIONS," "§ .51 **Issuance of regulations.**" should read, "§ .52 **Issuance of regulations.**"

[7590-01-M]

NUCLEAR REGULATORY COMMISSION

[10 CFR Part 140]

FINANCIAL PROTECTION REQUIREMENTS AND INDEMNITY AGREEMENTS

Indemnification of Spent Reactor Fuel Stored at a Reactor Site Different Than the One Where It Was Generated

AGENCY: Nuclear Regulatory Commission.

ACTION: Request for public comment on Commission's decision.

SUMMARY: The Nuclear Regulatory Commission has decided to exercise its discretionary statutory authority under the Price-Anderson Act and extend Government indemnity to spent reactor fuel stored at a reactor site different than the one where it was generated in two specific situations.* The Commission seeks public comment on this decision and on the general policy question raised by such an extension. Absent this action by the Commission, this spent reactor fuel would not have been covered by Government indemnity in the event of a nuclear incident at the site where this spent fuel was stored.

DATES: The public comment period expires February 7, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. Ira Dinitz, Antitrust and Indemnity Group, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555; 301-492-8336.

SUPPLEMENTARY INFORMATION: Most operating reactor licensees have increased, or are planning to increase, the capacity of their onsite spent fuel storage pools. In some instances where the capacity of the storage pools at the reactor site cannot be increased sufficiently to meet the licensees' needs, fuel storage may be sought at another location. One method of storing spent fuel away from the reactor from which it is discharged is to store it in the spent fuel pool at a reactor at another site.

The Commission has received two requests, one from Duke Power Company and the other from Commonwealth Edison Company, to authorize and indemnify this type of fuel storage. The Duke Power request is for Commission authorization permitting Duke to store spent fuel discharged from its Oconee Units 1, 2 and 3 at its McGuire Unit 1. The second request, by Commonwealth Edison, seeks authority to transfer and store spent fuel among Dresden Units 2 and 3 and Quad-Cities Units 1 and 2. Both licensees are seeking Price-Anderson indemnity protection for all such storage of spent fuel at the distant reactor locations. The Commission considered a similar request by Carolina Power and Light Company in August 1977. (See notices in the September 6, 1977 daily edition of the FEDERAL REGISTER at 42 FR 44615-44617.)

Because the issue of receipt and storage of Oconee spent fuel at McGuire is before the Atomic Safety and Licensing Board, the Commission is not proposing either approval or disapproval of the requests for the described fuel storage at this time. In this notice, the Commission is seeking public comment on both the specific requests for indemnification described above and also the generic issue of indemnification of spent fuel generated at one reactor but stored at another. If indemnification were to be approved as requested by Commonwealth Edison and Duke, it would only be when and if the requested fuel storage were approved pursuant to Commission licensing procedures.

Under the Price-Anderson Act (§ 170 of the Atomic Energy Act of 1954, as amended, (the Act)), financial protection and government indemnity are *mandatory* for production and utilization facilities, such as reactors, licensed under § 103 and § 104 of the Act. This financial protection and indemnity covers the "licensed activity" which encompasses not only possession and operation of the reactor facility itself but also certain ancillary activities including (1) possession of the new fuel (containing special nuclear material) being stored on-site for use in the reactor and (2) on-site storage of spent fuel following irradiation at that reactor.

Possession of spent fuel away from the facility where it is generated, i.e., at a location where it is not used in connection with the operation of the facility, is not a part of the ancillary activity of possession and operation of the facility. Hence, possession of such spent fuel must be licensed under other provisions of the Act which authorize licenses for possession and use of the special nuclear and byproduct material. After being transferred from the reactor site where it was generated to some other site, this spent fuel would not be subject to the mandatory indemnity requirements of the Act providing that the Commission require financial protection of and indemnify reactor (and other production and utilization facility licensees. Accordingly, no indemnity protection automatically would be afforded spent fuel stored away from the facility where it is produced or used. To indemnify this spent fuel, the Commission must require such licensees to maintain financial protection and to be indemnified by exercising its *discretionary* authority under § 170 of the Act. This exercise of discretionary authority would result in treating spent fuel produced at one reactor site but stored at a different site the same as spent fuel stored at the site of the reactor where it was produced. Thus, irradiated fuel generated by a reactor at one site whether stored by itself in the spent fuel pool of a reactor at a different site or commingled with the second reactor's irradiated fuel in that reactor's spent fuel pool would be covered by financial protection and indemnity.

Duke Power Company has requested Commission authorization to store spent fuel generated by Oconee reactor Units 1, 2, and 3 at McGuire Unit 1. Pursuant to this request, on July 28, 1978 (43 FR 32905), the NRC published a notice of opportunity for public participation with respect to the application for amendment to Materials License No. SNM-1773 (issued pursuant to 10 CFR Part 70) to authorize the receipt and storage of Oconee spent fuel at McGuire. Petitions to intervene and requests for hearing were received.

According to Duke's current projection of the predicted fuel burnup rates at Oconee, the first shipment of spent fuel to McGuire must occur in March 1979 if Duke is to maintain its desired full core discharge capability at the Oconee station. An operating license decision, however, is expected to be made before that date. In view of these considerations, if indemnification of the storage of Oconee spent fuel at McGuire were to be authorized, it would only be when and if an operating license is issued by the NRC for McGuire Unit 1.

The second request, from Commonwealth Edison Company, seeks amendment of the operating licenses and indemnity agreements for Dresden Units 2 and 3 and Quad-Cities Units 1 and 2 to permit spent fuel transfer and storage between the two sites. This interstation fuel transfer and storage is stated by Commonwealth to be necessary both to postpone the loss of full core discharge capability at the Dresden site from 1979 to 1981 and to allow expansion of the Dresden fuel storage pool for the storage of Dresden spent fuel and possibly Quad-Cities spent fuel at a later date.

Both proposals to modify operating licenses and indemnity agreements are

*Duke Power Company, Docket Nos. 50-269, 50-270, 50-287, and 50-369; Commonwealth Edison Company, Docket Nos. 50-237, 50-249, 50-254, and 50-265.

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similar in that the spent fuel proposed to be stored at certain reactors will not have been produced at those reactors. The NRC staff believes that it would not be desirable to have a situation where spent fuel generated by one reactor and stored in the spent fuel pools of a second reactor at a different site would be unindemnified while the spent fuel produced by the second reactor and stored at the same site would be indemnified. If indemnity coverage were not extended to the spent fuel generated by the first reactor but stored at the site of a second reactor and if an accident occurred involving the fuel storage pool it would be virtually impossible to determine whether indemnified or unindemnified spent fuel caused the damages.

The Commission's decision to exercise, or not to exercise, its discretionary authority (pursuant to section 170 of the Act) to require financial protection and government indemnity to be maintained by Duke Power Company and Commonwealth Edison Company in the situations discussed in this notice involves a policy question. The Commission desires public comment on its proposed action to extend indemnity protection in the two situations discussed in this notice.

In addition, the Commission desires public comment on whether it should exercise its authority on a generic basis to extend indemnity coverage to spent fuel generated at one reactor but stored at the site of a second operating reactor upon the request of reactor licensees. The Commission believes that such a decision would be consistent with the specific actions requested by Duke and Commonwealth. Having established such a policy, the Commission would delegate authority for making such decisions except when such decisions warrant Commission action because of special circumstances.

Should the Commission decide to exercise its discretionary authority and grant either or both requests for indemnification, it will, pursuant to 10 CFR 140.9, publish a notice in the FEDERAL REGISTER of its intent to modify the indemnity agreements for the facilities involved. (See e.g., 42 FR 44617, September 6, 1977.) In response to a notice published pursuant to 10 CFR 140.9, the Commission will only consider comments pertaining to the implementation of the Commission's policy decision through the language proposed to modify the indemnity agreement(s). Comments addressing the policy issue set forth in this notice will not be entertained. Additionally, should the Commission propose to exercise its statutory authority in this area on a generic basis, it will publish a Notice of Proposed Rule Making in the FEDERAL REGISTER.

Comments on this notice should be sent to the Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, ATTN: Chief, Antitrust and Indemnity Group. The comment period expires February 7, 1979. Copies of all comments received will be available for examination in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

(5 U.S.C. 552; Pub. L. 83-703, 68 Stat. 919, as amended by Pub. L. 85-256, 71 Stat. 576, as amended (42 U.S.C. 2210).

Dated at Washington, D.C., this 29th day of December 1978.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc. 79-684 Filed 1-5-79; 8:45 am]

[4910-13-M]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 78-NW-26-AD]

AIRWORTHINESS DIRECTIVES

Boeing Model 737 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: It is proposed to adopt an Airworthiness Directive (AD) which would require that thrust lever actuated switches, which operate the takeoff warning system, auto-speedbrake, and auto-wheelbrake inhibit circuits for the Boeing Model 737 series airplanes, be set to provide positive operation down to −65°F temperature. This AD is being proposed because at low temperatures, in combination with reduced thrust and/or engine derate, it is possible to set the thrust levers for takeoff power at a position insufficient to actuate the thrust lever switches. The result is that the auto-speedbrake or auto-wheelbrakes could be actuated during the takeoff roll or go-around, causing an unsafe condition.

DATES: Comments must be received on or before February 1, 1979.

ADDRESSES: Send comments on the proposal in duplicate to: Federal Aviation Administration, Northwest Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket, Docket No. 78-NW-26-AD, 9010 East Marginal Way South, Seattle, Washington 98108.

FOR FURTHER INFORMATION, CONTACT:

Mr. Mark I. Quam, Systems and Equipment Section, ANW-213, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108, telephone: (206) 767-2500.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communication should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

AVAILABILITY OF NPRMS

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Northwest Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket, Docket No. 78-NW-26-AD, 9010 East Marginal Way South, Seattle, Washington 98108.

DISCUSSION OF THE PROPOSED RULE

Prior to 1969, variations existed in the Boeing 737 equipped with Pratt and Whitney JT8D-7 and -9 engine throttle switch settings. The systems affected were the takeoff warning system and the auto-speedbrake system which did not function down to −65°F. Airworthiness Directive 70-WE-10-AD was issued by the FAA on February 26, 1970, (Amendment 39-952, 35 FR 4395 (1970)), that required that these systems be functional down to −65°F, as implemented by Boeing Service Bulletin 27-1031. Subsequent to this AD, Pratt and Whitney JT8D-15 and -17 engines and auto-wheelbrakes have been approved for use on the Model 737 airplane. The use of derated thrust, expansion of the use of reduced thrust takeoffs, and the use of engine intermix have also been approved. While operating with these variations of airplane and engine operational configurations, the thrust lever advance for a cold-day takeoff thrust level may be insufficient to actuate the throttle mounted switches that actuate the inhibit circuits for the auto-speedbrake and auto-wheelbrake systems. Inadvertent speedbrake extension or wheelbrake application during takeoff or go-around would create an unsafe condition.

The proposed AD would require that adjustment to the throttle switches be made to provide actuation down to a minimum temperature of −65°F for all Model 737's with any engine configuration and operated at any engine rating. Adherence to the temperature limitations of Appendix 39 of the FAA approved Airplane Flight Manual will provide for safe operation of the aircraft until the switch adjustments required by this rulemaking have been made.

THE PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

BOEING: Applies to all Model 737 series airplanes except airplanes with the Engine Pressure Ratio (EPR) activiated takeoff warning system.

Compliance required as indicated.

Within 1,000 hours time in service or 6 months after the effective date of this AD, whichever comes first, unless already accomplished, set the thrust lever operated switches, S283 and S133, to provide actuation down to and including −65°F in accordance with the applicable part of Boeing Service Bulletin 737-31-1026 or an equivalent method approved by the Chief, Engineering and Manufacturing Branch, FAA, Northwest Region.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); and 14 CFR 11.85)

NOTE.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Seattle, Wash., on December 26, 1978.

J. H. TANNER,
Acting Director,
Northwest Region.

[FR Doc. 79-575 Filed 1-5-79; 8:45 am]

[6750-01-M]

FEDERAL TRADE COMMISSION

[16 CFR Part 1]

ADVISORY OPINIONS

Proposed Rule Amendment

AGENCY: Federal Trade Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed amendment of the agency's advisory opinion procedures seeks to expedite advice and guidance to the public, especially small businesses, about enforcement of the laws and regulations administered by the Commission. The change is intended to clarify Sections 1.1 through 1.4 of the Rules of Practice so as to indicate the circumstances in which Commission or staff advice will be issued. Commission opinions will be issued where the question involves a substantial or novel question, or a proposed merger. In other cases, the Commission's staff will respond, with advice or with a statement reflecting present staff enforcement intentions. Such staff advice would be rendered without prejudice to the right of the Commission later to rescind it. The proposed changes also delete the present provision under which advisory opinions may not be rendered with respect to ongoing courses of action.

DATE: Comments must be received on or before March 9, 1979.

ADDRESS: Any person who wishes to submit written comments concerning the proposed rule change may do so by filing them, in duplicate, with the Secretary, Federal Trade Commission, 6th and Pennsylvania Avenue, NW., Washington, D.C. 20580. Comments will be available for public inspection in Room 130 at the above address.

FOR FURTHER INFORMATION CONTACT:

Barry R. Rubin, Assistant General Counsel, Federal Trade Commission, Washington, D.C. 20580, (202) 523-3520.

SUPPLEMENTARY INFORMATION: Since 1962, the Commission has rendered formal advisory opinions about the legality of proposed courses of action. See 16 CFR § 1.1 *et seq.*; 16 CFR § 15.1 *et seq.*

Under the proposed amendment, the Commission would continue to issue formal opinions where the matter involves a substantial or novel question and there is no clear precedent; where a proposed merger or acquisition is involved; or where the subject matter is of significant public interest. Advice would be given on *both* proposed and current courses of action. The Commission would also continue to advise whether proposed conduct will violate an outstanding cease and desist order under Section 3.61 of the Rules of Practice.

In other circumstances, the staff would be expressly authorized to render advice. The vast majority of requests from the public are already handled informally by the staff of the Office of General Counsel or the bureaus. In the recent past, the Commission has averaged only about 16 formal opinions per year, about half of these involving compliance with trade regulation rules, other Commission rules, or outstanding cease and desist orders. Not only is informal advice provided by General Counsel staff letters, the bureaus constantly are answering mail and telephone inquiries. Small businesses and others tend to receive the quickest and most helpful advice in this manner. Thus, the proposal reduces to writing what is already routine present practice.

A reference in proposed § 1.4 is left blank. The Commission's confidentiality rules are awaiting final action. This section makes clear that a request for confidential treatment of information must be made in whatever form the final confidentiality rule requires.

For these reasons, the Commission proposes to amend its rules of practice as follows:

PART 1—GENERAL PROCEDURES

Subpart A—Industry Guidance

ADVISORY OPINIONS

§ 1.1 Policy.

Any person, partnership, or corporation may request advice from the Commission with respect to a course of action which the requesting party proposes to pursue. The Commission will consider such requests for advice and inform the requesting party of the Commission's views, where practicable, under the following circumstances:

(1) The matter involves a substantial or novel question of fact or law and there is no clear Commission or court precedent;

(2) A proposed corporate merger or acquisition is involved; or

(3) The subject matter of the request and consequent publication of Commission advice is of significant public interest.

The Commission has authorized its staff to consider all requests for advice and to render advice, where practicable, in those circumstances in which a Commission opinion would not be warranted. Hypothetical questions will not be answered, and a request for advice will ordinarily be considered inappropriate where (a) the same or substantially the same course of action is under investigation or is or has been the subject of a current proceeding involving the Commission or another governmental agency, or (b) an informed opinion cannot be made or could be made only after extensive investigation, clinical study, testing, or collateral inquiry.

§ 1.2 Procedure.

(a) Application. The request for advice or interpretation should be submitted in writing (one original and two copies) to the Secretary of the Com-

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mission and should (i) state clearly the question(s) that the applicant wishes resolved; (ii) cite the provision of law under which the question arises; and (iii) state all facts which the applicant believes to be material. In addition, the identity of the companies and other persons involved should be disclosed. Letters relating to unnamed companies or persons may not be answered. Submittal of additional facts may be requested prior to the rendering of any advice.

(b) Compliance matters. If the request is for advice as to whether the proposed course of action may violate an outstanding order to cease and desist issued by the Comission, such request will be considered as provided for in § 3.61 of these Rules.

§ 1.3 Advice.

(a) On the basis of the materials submitted, as well as any other information available, and if practicable, the Commission or its staff will inform the requesting party of its views.

(b) Any advice given by the Commission is without prejudice to the right of the Commission to reconsider the questions involved and, where the public interest requires, to rescind or revoke the action. Notice of such rescission or revocation will be given to the requesting party so that he may discontinue the course of action taken pursuant to the Commission's advice. The Commission will not proceed against the requesting party with respect to any action taken in good faith reliance upon the Commission's advice under this section, where all relevant facts were fully, completely, and accurately presented to the Commission and where such action was promptly discontinued upon notification of rescission or revocation of the Commission's approval.

Advice rendered by the staff is without prejudice to the right of the Commission later to rescind the advice and, where appropriate, to commence an enforcement proceeding.

§ 1.4 Public Disclosure.

Written advice rendered pursuant to this Section and requests therefor, including names and details, will be placed in the Commission's public record immediately after the requesting party has received the advice, subject to any limitations on public disclosure arising from statutory restrictions, the Commission's rules, and the public interest. A request for confidential treatment or date of information submitted in connection with the questions should be made separately and should comply with section —— of the Commission's Rules of Practice, 16 CFR § —— [new confidentiality rules].

By Direction of the Commission December 20, 1978.

CAROL M. THOMAS,
Secretary.

[FR Doc. 79-614 Filed 1-5-79; 8:45 am]

[8010-01-M]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 240]

[Release No. 34-15426; File No. S7-766]

NET CAPITAL REQUIREMENTS FOR BROKERS AND DEALERS

AGENCY: Securities and Exchange Commission.

ACTION: Proposed amendment to rule.

SUMMARY: The Commission is proposing to amend the uniform net capital rule and Appendix B and D thereto and the report to be made by brokers and dealers that are also futures commission merchants registered with the Commodity Futures Trading Commission ("CFTC"). The proposed amendments are intended to be substantially the same as comparable rules of the CFTC, thereby eliminating the need to make duplicate computations and reports for registered brokers and dealers that are also futures commission merchants.

DATE: Comments must be received on or before February 1, 1979.

ADDRESSES: All comments should be directed in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Comments should refer to File No. S7-766 and will be available for public inspection at the Commission's Public Reference Room 1100 L Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Nelson S. Kibler, Assistant Director, Division of Market Regulations, Securities and Exchange Commission, Washington, D.C. 20549 (202) 376-8131.

SUPPLEMENTARY INFORMATION: The Commission today announced proposed amendments to the uniform net capital rule, and Appendixes B and D to 17 CFR 240.15c3-1. The amendments are designed to allevaite the need to make duplicate computations of the capital requirements established by the Commission and the CFTC by registered brokers and dealers who are also futures commission merchants. The rule changes proposed herein are intended to be identical to comparable rules of the CFTC pertaining to transactions in commodities, commodity futures and similar instruments. It is also proposed to amend § 240.17a-5 to include the definition of customer as found in the general regulations under the Commodity Exchange Act.

DISCUSSION

Rule 15c3-1, the uniform net capital rule (17 CFR 240.15c3-1), in general requires a broker or dealer to maintain a certain specified minimum "net capital" depending on the nature of its securities business and its circumstances.[1] The amount of net capital required under a given set of circumstances would depend upon the "aggregate indebtedness" of a broker or dealer.[2] Paragraph (c)(2) of the rule defines net capital as the net worth of a broker or dealer adjusted by certain described items. Paragraph (c)(1) of the Rule defines "aggregate indebtedness" as the total money liabilities of a broker or dealer in connection with any securities transaction with limited exclusions. The rule requires brokers or dealers to have sufficient cash or liquid assets to protect the cash or securities positions carried in their customers' accounts. The thrust of the rule is to insure that a broker or dealer has sufficient liquid assets to cover current indebtedness.

On September 8, 1978 the Commodity Futures Trading Commission (the "CFTC") amended its rules pertaining to the minimum financial and related reporting requirements imposed upon futures commission merchants.[3] Although the CFTC amendments apply only to futures commission merchants, about half of all commodity customer business in the futures industry is done by futures commission merchants that are also registered with the Commission as brokers or dealers and are, therefore, subject to the uniform net capital rule. The amendments proposed herein are designed to provide uniformity and avoid duplicative requirements as well as additional reporting for futures commission merchants which are also brokers or dealers. The Commission believes it is important to achieve uniformity in this area in the interest of fair and equitable regulation consistent with its regulatory responsibility.

The most significant of the proposed amendments would be the adoption of the CFTC's so-called safety factors on futures. The amendments, if adopted as proposed, will substitute the CFTC's safety factors on futures for the haircut deductions currently required by Appendix B to 17 CFR 240.15c3-1.

Next for those brokers or dealers which have elected to operate under the alternative net capital requirement, the amendments would require securities brokers or dealers which are also futures commission merchants to maintain 4 percent of the funds required to be segregated pursuant to the general regulations under the Commodity Exchange Act[4] if such amount is greater than the financial requirements for brokers or dealers doing a securities business exclusively.

Under the proposed amendments the length of time margin calls would be allowed to remain outstanding for under-margined customer futures accounts would be scaled down to 3 business days by December 31, 1982. Margin could remain uncollected for up to 5 business days until December 31, 1980, 4 business days until December 31, 1982 and 3 business days thereafter before a charge is made to net capital. The 5 business day period for securities will remain unchanged.

Another significant time differential from the way commodities are now treated involves deficits or debit ledger balances in unsecured customers', non-customers' and proprietary accounts related to commodities transactions, which are the subject of calls for margin or other required deposits. Under the proposals, such accounts could be included in current assets for 1 day. For brokers or dealers, deficits in customer and non-customer accounts are treated as unsecured receivables and are deducted in computing net capital. In addition, the length of time margin calls pertaining to commodity transactions would be allowed to remain outstanding for under-margined non-customer and omnibus commodity futures accounts would be reduced from 5 business days to 2 business days.

The proposed amendments would clearly specify that receivables from a foreign clearing organization resulting from commodities transactions as well as stock held in a clearing organization may be treated as current assets. Under the current Commission rule such items would generally be treated as assets not readily convertible into cash and would have to be deducted from current assets.

Finally, the proposed amendments would provide that where a commodity-related asset or liability is defined in the CFTC's regulations and is not specifically defined in the Commission's regulations the inclusion or exclusion of all or part of such asset or liability from the net capital computation shall be in accordance with the CFTC's regulation.

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[1] Rule 15c3-1(a).

[2] Brokers or dealers operating under paragraph (f) of Rule 15c3-1 would determine their net capital requirement upon the "aggregate debit" items computed pursuant to the "Formula for Determination Reserve Requirements of Brokers and Dealers" as set forth at Rule 15c3-3a.

[3] 43 FR 39956 (September 8, 1978).

[4] 43 FR 39956 (September 8, 1978).

If adopted as proposed the amendments would also expand the definition of customer in Rules 15c3-1 and 17a-5 to include customer commodity accounts.

STATUTORY BASIS AND COMPETITIVE CONSIDERATIONS

Pursuant to the Securities Exchange Act of 1934 and particularly Sections 15(c)(3) and 23(a) thereof, 15 U.S.C. §§ 78o(c)(3), 78w(a), the Commission proposes to amend Part 240 of Chapter II of Title 17 of the Code of Federal Regulations in the manner set forth below. The Commission believes that any burden imposed upon competition by the proposed amendments is necessary and appropriate in furtherance of the purposes of the Act, and particularly to implement the Commission's continuing mandate under Section 15(c)(3) thereof, 15 U.S.C. § 78o(c)(3), to provide minimum safeguards with respect to the financial responsibility of brokers and dealers.

REQUEST FOR COMMENTS

All interested persons are invited to submit, in triplicate, their written views and comments concerning the amendments proposed herein. All communications should be addressed to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, no later than February 1, 1979. All comments received will be available for public inspection.

ATTENTION

The text of the following proposed amendments uses ► ◄ to indicate additions.

It is proposed to amend 15c3-1 and 17a-5 and revise 15c3-1b and 15c3-1d as follows:

§ 240.15c3-1 Net capital requirements for brokers or dealers.

(a) No broker or dealer shall permit his aggregate indebtedness to all other persons to exceed 1,500 percentum of his net capital, except as otherwise limited by the provisions of paragraph (a)(1), or, in the case of as broker or dealer electing to operate pursuant to paragraph (f) of this section, no brcker or dealer shall permit his net capital to be less than 4 percent of aggregate debit items as computed in accordance with § 240.15c3-3a of this chapter, ►or, for brokers or dealers which are also futures commission merchants, 4 percent of the funds required to be segregated pursuant to the general regulations of the Commodity Exchange Act, whichever is greater,◄ except as otherwise limited by paragraph (f) of this section, and every broker or dealer shall have the net capital necessary to comply with the following coriditions, except as otherwise provided for in paragraph (f) of this section.

• • • • •

(c) • • •

(6) The term "customer" shall mean any person from whom, or on whose behalf, a broker or dealer has received, acquired or holds funds or securities for the account of such person, but shall not include a broker or dealer of a registered municipal securities dealer, or a general, special or limited partner or director or officer of the broker or dealer, or any person to the extent that such person has a claim for property of funds which by contract, agreement, or understanding, or by operation of law, is part of the capital of the broker of dealer. *Provided, however,* That the term "customer" shall also include a broker or dealer, but only insofar as such broker or dealer maintains a special omnibus account carried with another broker or dealer in compliance with 12 CFR 220.4(b) of Regulation T under the Securities Exchange Act of 1934. ►*Provided further,* That with respect to commodities transactions the term "customer" shall mean customer as defined in 17 CFR 1.7(b)(2) of the general regulations under the Commodity Exchange Act.◄

NON-CUSTOMER

(7) The term "non-customer" means a broker or dealer, registered municipal securities dealer, general partner, limited partner, officer, director and persons to the extent their claims are subordinated to the claims of creditors of the broker or dealer. ►*Provided further,* That with respect to commodities transactions the term "non-customer" shall mean a proprietary account as defined in 17 CFR 1.17(b)(3) and an account as defined in 17 CFR 1.17(b)(4) of the general regulations under the Commodity Exchange Act.◄

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(e) *Limitation on Withdrawal of Equity Capital*

No equity capital of the broker or dealer or a subsidiary or affiliate consolidated pursuant to Appendix (C), 17 CFR 240.15c3-1c, whether in the form of capital contributions by partners (excluding securities in the securities accounts of partners and balances in limited partners' capital accounts in excess of their stated capital contributions), par or stated value of capital stock, paid-in capital in excess of par, retained earnings or other capital ac-

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counts, may be withdrawn by action of a stockbroker or partner, or by redemption or repurchase of shares of stock by any of the consolidated entities or through the payment of dividends or any similar distribution, nor may any unsecured advance or loan be made to a stockholder, partner, sole proprietor or employee if, after giving effect thereto and to any other such withdrawals, advances or loans and any Payments of Payment Obligations (as defined in Appendix (D), 17 CFR 240.15c3-1d) under satisfactory subordination agreements which are scheduled to occur within six months following such withdrawal, advance or loan, either aggregate indebtedness of any of the consolidated entities exceeds 100 percentum of its net capital or its net capital would fail to equal 120 percentum of the minimum dollar amount required thereby or would be less than 7 percent of aggregate debit items computed in accordance with 17 CFR 240.15c3-3a ►or, for a broker or dealer which is also a futures commission merchant 7 percent of the funds required to be segregated pursuant to the general regulations under the Commodity Exchange Act, whichever is greater◄ or in the case of any broker or dealer included within such consolidation if the total outstanding principal amount of satisfactory subordination agreements of the broker or dealer (other than such agreements which qualify as equity under paragraph (d) of this section) would exceed 70 percent of the debt-equity total as defined in paragraph (d). Provided, that this provision shall not preclude a broker or dealer from making required tax payments or preclude the payment to partners of reasonable compensation.

(f) *Alternative Net Capital Requirement.*

(1)(i) A broker or dealer who is not exempt from the provisions of 17 CFR 240.15c3-3 under the Securities Exchange Act of 1934 pursuant to paragraph (k)(1) or (k)(2)(i) may elect not to be subject to the limitations of paragraph (a) of this section respecting aggregate indebtedness as defined in paragraph (c)(1) of this section and certain deductions provided for in paragraph (c)(2) of this section. Provided, that in order to qualify to operate under this paragraph (f), such broker or dealer shall at all times maintain net capital equal to $100,000 ($25,000 in the case of a broker or dealer effecting transactions solely in municipal securities) or 4 percent of aggregate debit items computed in accordance with the Formula for Determination of Reserve Requirements for Brokers and Dealers (Exhibit A to Rule 15c3-3, 17 CFR 240.15c3-3a), ► or, for brokers or dealers which are also futures commission merchants 4 percent of the funds required to be segregated pursuant to the general regulations under the Commodity Exchange Act, whichever is greater,◄ and shall notify the Examining Authority for such broker or dealer and the Regional Office of the Commission in which the broker or dealer has its principal place of business, in writing, of its election to operate under this provision. Once a broker or dealer has determined to operate pursuant to the provisions of this paragraph (f), he shall continue to do so unless a change is approved upon application to the Commission.

(2) In the case of a broker or dealer who has consolidated a subsidiary pursuant to Appendix C (17 CFR 240.15c3-1c), such broker's or dealer's minimum net capital requirements shall be $100,000 or 4 percent of the parent broker's or dealer's aggregate debit items computed in accordance with 17 CFR 240.15c3-3a, ►or, in the case of a parent that also acts as a futures commission merchant 4 percent of the funds required to be segregated pursuant to the general regulations under the Commodity Exchange Act, whichever is greater◄ and the total of each consolidated broker or dealer subsidiary's minimum net capital requirements. The minimum net capital requirements of a subsidiary electing to operate pursuant to paragraph (f) of this section shall be $100,000 or 4 percent of its aggregate debit items computed in accordance with 17 CFR 240.15c3-3a, ►or 4 percent of the funds segregated by the subsidiary pursuant to the general regulations under the Commodity Exchange Act, whichever is greater.◄ Where the subsidiary which has been consolidated has not elected to operate pursuant to paragraph (f), its minimum net capital requirement is the greater of its requirements under paragraph (a) of this section of 6⅔ percent of its aggregate indebtedness.

* * * * *

§ 240.15c3-1b Deductions from net worth for certain commodities transactions (Appendix B to 17 CFR 240.15c3-1).

(a) Every broker or dealer in computing net capital pursuant to 17 CFR 240.15c3-1 shall comply with the following:

(1) Where a broker or dealer has an asset or liability which is defined in paragraph (c) of Rule 15c3-1, the inclusion or exclusion of all or part of such asset or liability for the computation of aggregate indebtedness and net capital shall be in accordance with paragraph (c) of this rule except as specifically stated otherwise in this Appendix B. *Provided further,* where a commodity related asset or liability is treated or defined in the CFTC's regulations and is not specifically treated or defined in Rule 15c3-1, the inclusion or exclusion of all or part of such asset or liability from the net capital computation shall be in accordance with the CFTC's regulations.

(2) The term "aggregate indebtedness" shall be defined as in paragraph (c)(1) of this Rule excluding with respect to commodity related transactions:

(i) Indebtedness arising in connection with an advance to a non-proprietary account when such indebtedness is adequately collateralized by spot commodities eligible for delivery on a contract market and when such spot commodities are "covered" as defined in 17 CFR 1.17(j) of the generald regulations under the Commodity Exchange Act.

(ii) Advances received by the broker or dealer against bills of lading issued in connection with the shipment of commodities sold by the broker or dealer; and

(iii) Long-term debt adequately collateralized by assets acquired for use in the ordinary course of the trade or business of a broker or dealer but no other long-term debt adequately collateralized by assets of the broker or dealer shall be excluded unless the sole recourse of the creditor for nonpayment of such liability is to such asset;

(3) In computing net capital as defined in paragraph (c)(2) of this rule, the net worth of a broker or dealer, shall be adjusted as follows:

(i) *Unrealized Profit or Loss For Certain Commodities Transactions.*

(A) Unrealized profits shall be added and unrealized losses shall be deducted in the commodities accounts of the broker or dealer, including unrealized profits and losses on fixed price commitments and forward contracts; and

(B) The value attributed to any non-transferable commodity option shall be the difference between the option's striking price and the market value for the actual commodity or futures contract which is the subject of the option. In the case of a long call commodity option, if the market value for the actual commodity or futures contract which is the subject of the option is less than the striking price of the option, it shall be given no value. In the case of a long put commodity option, if the market value for the actuald commodity or futures contract which is the subject of the option is more than the striking price of the option, it shall be given no value.

(ii) *Assets Not Readily Convertible Into Cash.*

Deduct any unsecured commodity futures or option account containing a ledger balance and open trades and all other unsecured accounts relating to commodity trades the combination of which liquidates to a deficit or containing a debit ledger balance only, *provided however,* the following are not required to be deducted from net worth.

(A) Deficits or debit ledger balances in unsecured customers', non-customers' and proprietary accounts which are the subject of calls for margin or other required deposits which are outstanding one business day or less.

(B) Management fees receivable from commodity pools provided such receivables are outstanding no longer than thirty (30) days from the date they arise.

(C) Receivables from foreign clearing organizations.

(D) Receivables from registered futures commission merchants or commodity brokers, resulting from commodity futures or option transactions.

(iii) *Inventories.*

(A) Deduct all inventories except for:

(*1*) Readily marketable spot commodities or spot commodities which "adequately collateralize" indebtedness under paragraph (c)(7) of 17 CFR 1.17; and

(*2*) Securities which are considered "readily marketable" (as defined in 17 CFR 240.15c3-1(c)(11)), or which "adequately collateralize" indebtedness under paragraph (c)(5) of this section;

(iv) *Other Adjustments.*

(A) (*1*) Guarantee deposits with clearing organizations are not required to be deducted; and

(*2*) Stock in commodities clearing organizations to the extent of its margin value is not required to be deducted from net worth.

(B) Deduct the amount by which any advances paid by the broker or dealer on cash commodity contracts and used in computing net capital exceeds 95 percent of the market value of the commodities covered by such contracts.

(v) *Other Deductions.*

(A) Deduct the percentages or amounts specified in this paragraph A. In the case of all inventory, fixed price commitments and forward contracts, except for inventory and forward contracts in the inter-bank market in those foreign currencies which are purchased or sold for future delivery on or subject to the rules of a contract market and covered by an open futures contract for which there will be no charge, the applicable percentage of the net position specified below:

(*1*) Inventory which is currently registered as deliverable on contract market and covered by an open futures contract. No charge.

(*2*) Inventory which is covered by an open futures contract or commodity option. 5% of the market value.

(*3*) Inventory which is not covered. 20% of the market value.

(*4*) Fixed price commitments (open purchases and sales) and forward contracts which are covered by an open futures contract or commodity option. 10% of the market value.

(*5*) Fixed price commitments (open purchases and sales) and forward contracts which are not covered by an open futures contract or commodity option. 20% of the market value.

(*6*) Reserved.

(*7*) Reserved.

(B) Deduct for undermargined customer commodity futures accounts the amount of funds required in each such account to meet maintenance margin requirements of the applicable board of trade or, if there are no such maintenance margin requirements, clearing organization margin requirements applicable to such positions after application of calls for margin, or other required deposits which are outstanding five business days or less until December 31, 1980, four business days or less until December 31, 1982, and three business days or less thereafter. If there are no such maintenance margin requirements or clearing organization margin requirements on such accounts, then deduct the amount of funds required to provide margin equal to the amount necessary after application of calls for margin, or other required deposits outstanding five days or less until December 31, 1980, four days or less until December 31, 1982, and three days or less thereafter to restore original margin when the initial margin has been depleted by 50 percent or more. *Provided,* to the extent a deficit is excluded from current assets in accordance with paragraph (a)(3)(ii)(A) of this appendix, such amount shall not also be deducted under this paragraph (a)(3)(v)(B).

(C) Deduct for undermargined noncustomer and omnibus commodity futures accounts the amount of funds required in each such account to meet maintenance margin requirements of the applicable board of trade or, if there are no such maintenance margin requirements, clearing organization margin requirements applicable to such positions after application of calls for margin, or other required deposits which are outstanding two business days or less. If there are no such maintenance margin requirements or clearing organization margin requirements, then deduct the amount of funds required to provide margin equal to the amount necessary after application of calls for margin, or other required deposits outstanding two days or less to restore original margin when the initial margin has been depleted by 50 percent or more. *Provided,* to the extent a deficit is excluded from current assets in accordance with paragraph (a)(3)(ii)(A) of this section such amount shall not also be deducted under this paragraph (a)(3)(v)(C);

(D) In the case of open futures contracts held in proprietary accounts carried by the broker or dealer which are not covered by a position held by the applicant or registrant or which are not the result of a "changer trade" made in accordance with the rules of a contract market deduct:

(*1*) For a broker or dealer which is a clearing member of a contract market for the positions on such contract market cleared by such member, the applicable margin requirement of the applicable clearing organization;

(*2*) For a broker or dealer which is a member of a contract market, 150% of the applicable maintenance margin requirement of the applicable board of trade or clearing organization, whichever is greater;

(*3*) For all other brokers or dealers, 200% of the applicable maintenance margin requirement of the applicable board of trade or clearing organization, whichever is greater; or

(*4*) For open contracts and commodity options for which there is no applicable maintenance margin requirement, 200% of the applicable initial margin requirement.

Provided, the equity in any such proprietary account shall reduce the deduction required by this paragraph (a)(3)(v)(D) if such equity is not otherwise includable in net capital.

(E) *Options.* In the case of a broker or dealer which is a taker of a commodity option, the deduction shall be the amount of any commodity option premium which has been used to increase net capital (however, in the case of an applicant or registrant which is a grantor of a commodity option, the deduction may be reduced by the amount of any commodity options premium which has not been previously recognized as income); and

(F) In the case of a commodity option which is carried long by the broker or dealer as a taker of a commodity option which has value and such value is used to increase net capital, the deduction should be ten percent of the market value of the commodity which is the subject of such option, but in no event shall the deduction be greater than the value attributed to such option.

(G) Deduct five percent of all unsecured receivables includable under paragraph (a)(3)(ii)(D) of this Appendix used by the broker or dealer in computing "net capital" and which are not receivable from (*1*) a registered futures commission merchant, or (*2*) a broker or dealer which is registered as such with the Securities and Exchange Commission.

* * * * *

§ 240.15c3-1d Satisfactory Subordination Agreements (Appendix D to 17 CFR 240.15c3-1).

. . . . . .

(b) • • •
(6) • • •
(iii) The secured demand note agreement may also provide that, in lieu of the procedures specified in the provisions required by paragraph (b)(6)(ii) of this section, the lender with the prior written consent of the broker or dealer and the Examining Authority for the broker or dealer may reduce the unpaid principal amount of the secured demand note. Provided, that after giving effect to such reduction the aggregate indebtedness of the broker or dealer would not exceed 1000 per centum of its net capital or, in the case of a broker or dealer operating pursuant to paragraph (f) of 17 CFR 240.15c3-1, net capital would not be less than 7% of aggregate debit items computed in accordance with 17 CFR 240.15c3-3a or, ► for brokers or dealers which are also futures commission merchants 7% of the funds required to be segregated pursuant to the general regulations under the Commodity Exchange Act, whichever is greater. ◄ Provided, further, that no single secured demand note shall be permitted to be reduced by more than 15 percent of its original principal amount and after such reduction no excess collateral may be withdrawn. No Examining Authority shall consent to a reduction of the principal amount of a secured demand note if, after giving effect to such reduction net capital would be less that 120 percent of the minimum dollar amount required by 17 CFR 240.15c3-1.

(7) *Permissive Prepayments.* A broker or dealer at its option but not at the option of the lender, may, if the subordination agreement so provides, make a Payment of all or any portion of the Payment Obligation thereunder prior to the scheduled maturity date of such Payment Obligation (hereinafter referred to as a "Prepayment"), but in no event may any Prepayment be made before the expiration of one year from the date such subordination agreement became effective; provided, however, that the foregoing restriction shall not apply to temporary subordination agreements which comply with the provisions of paragraph (c)(5) of this Appendix D. No Prepayment shall be made, if, after giving effect thereto (and to all Payments of Payment Obligations under any other subordinated agreements then outstanding the maturity or accelerated maturities of which are scheduled to fall due within six months after the date such Prepayment is to occur pursuant to this provision or on or prior to the date on which the Payment Obligation in respect of such Prepayment is scheduled to mature disregarding this provision, whichever date is earlier) without reference to any projected profit or loss of the broker of dealer, either aggregate indebtedness of the broker or dealer would exceed 1000 per centum of its net capital or its net capital would be less than 120 per centum of the minimum dollar amount required by 17 CFR 240.15c3-1 or, in the case of a broker or dealer operating pursuant to paragraph (f) of 17 CFR 240.15c3-1, its net capital would be less than 7% of its aggregate debit items computed in accordance with 17 CFR 240.15c3-3a or, ◄ for brokers or dealers which are also futures commision merchants 7% of the funds required to be segregated pursuant to general regulations under the Commodity Exchange Act, whichever is greater, ◄ or its net capital would be less than 120% of the minimum dollar amount required by paragraph (f) of 17 CFR 240.15c3-1.◄ Notwithstanding the above, no Prepayment shall occur without the prior written approval of the Examining Authority for such broker or dealer.

(8) *Suspended Repayment.* (i) The Payment Obligation of the broker or dealer in respect of any subordination agreement shall be suspended and shall not mature if, after giving effect to Payment of such Payment Obligation (and to all Payments of Payment Obligations of such broker or dealer under any other subordination agreement(s) then outstanding which are scheduled to mature on or before such Payment Obligation) either (A) the aggregate indebtedness of the broker or dealer would exceed 1200 per centum of its net capital or, in the case of a broker or dealer operating pursuant to paragraph (f) of 17 CFR 240.15c3-1, its net capital would be less than 6 percent of aggregate debit items computed in accordance with 17 CFR 240.15c3-3a or, ◄ for brokers or dealers which are also futures commission merchants 6% of the funds required to be segregated pursuant to the general regulations under the Commodity Exchange Act, whichever is greater, ◄ or (B) its net capital would be less than 120 percent of the minimum dollar amount required by 17 CFR 240.15c3-1 including paragraph (f), if applicable. Provided, that the subordination agreement may provide that if the Payment Obligation of the broker or dealer thereunder does not mature and is suspended as a result of the requirement of this paragraph (b)(8) for a period of not less than six months, the broker or dealer shall thereupon commence the rapid and orderly liquidation of its business but the right of the lender to receive Payment, together with accrued interest or compensation, shall remain subordinate as required by the provisions of 17 CFR 240.15c3-1 and 240.15c3-1d.

. . . . . .

(10) • • •
(ii) • • •
(B) The aggregate indebtedness of the broker or dealer exceeding 1500 per centum of its net capital or, in the case of a broker or dealer which has elected to operate under paragraph (f) of 17 CFR 240.15c3-1, its net capital computed in accordance therewith is less than 4% of its aggregate debit items computed in accordance with 17 CFR 240.15c3-3a or, ► for brokers or dealers which are also futures commission merchants 4% of the funds required to be segregated pursuant to the general regulations under the Commodity Exchange Act, whichever is greater ◄, throughout a period of 15 consecutive business days, commencing on the day the broker or dealer first determines and notifies the Examining Authority of the broker or dealer, or the Examining Authority or the Commission first determines and notifies the broker or dealer of such fact;

. . . . . .

(c) • • •
(2) *Notice of Maturity or Accelerated Maturity.* Every broker or dealer shall immediately notify the Examining Authority for such broker or dealer if, after giving effect to all Payments of Payment Obligations under subordination agreements then outstanding which are then due or mature within the following six months without reference to any projected profit or loss of the broker or dealer, either the aggregate indebtedness of the broker or dealer would exceed 1200 percentum of its net capital or its net capital would be less than 120 percent of the minimum dollar amount required by 17 CFR 240.15c3-1, or, in the case of a broker or dealer who is operating pursuant to paragraph (f) of 17 CFR 240.15c3-1, its net capital would be less than 6 percent of aggregate debit items computed in accordance with 17 CFR 240.15c3-31 or, ► for brokers or dealers which are also futures commission merchants 6% of the funds required to be segregated pursuant to the general regulations under the Commodity Exchange Act, whichever is greater ◄ or less than 120% of the minimum dollar amount required by paragraph (f) of 17 CFR 240.15c3-1.

. . . . . .

(5) *Temporary Subordinations.* For the purpose of enabling a broker or dealer to participate as an underwriter of securities or other extraordinary activities in compliance with the net capital requirements of 17 CFR 240.15c3-1, a broker or dealer shall be permitted, on no more than three occasions in any 12 month period, to enter into a subordination agreement on a temporary basis which has a stated term of no more than 45 days from the date such subordination agreement became effective. Provided, that this temporary relief shall not apply to a broker or dealer if, at such time, it is subject to any of the reporting provisions of 17 CFR 240.17a-11 under the Securities Exchange Act of 1934, irrespective of its compliance with such provisions or if immediately prior to entering into such subordination agreement either (i) the aggregate indebtedness of the broker or dealer exceeds 1000 per centum of its net capital or its net capital is less than 120% of the minimum dollar amount required by 17 CFR 240.15c3-1, or (ii) in the case of a broker or dealer operating pursuant to paragraph (f) of 17 CFR 240.15c3-1, its net capital is less than 7 percent of aggregate debits computed in accordance with 17 CFR 240.15c3-3a or ►, for brokers or dealers which are also futures commission merchants 7% of the funds required to be segregated pursuant to the general regulations under the Commodity Exchange Act, whichever is greater ◄ or less than 120% of the minimum dollar amount required by paragraph (f) of this section, or (iii) the amount of its then outstanding subordination agreements exceeds the limits specified in paragraph (d) of 17 CFR 240.15c3-1. Such temporary subordination agreement shall be subject to all the other provisions of this Appendix.

. . . . . .

§ 240.17a-5 Reports to be made by certain brokers and dealers.

. . . . . .

(c) • • •
(4) *Definition of "customer."* For purposes of this paragraph (c), the term "customer" includes any person other than: (i) another broker or dealer who is exempted by paragraph (c)(1) of this section, (ii) a general, special or limited partner or director or officer of a broker or dealer; or (iii) any person to the extent that such person has a claim for property or funds which by contract, agreement or understanding, or by operation of law, is part of the capital of the broker or dealer or is subordinated to the claims of creditors of the broker or dealer, for or with whom a broker or dealer has effected a securities transaction in a particular month, which month shall be either the month preceding the balance sheet date or the month following the balance sheet date in which the statement is sent. The term "customer" also includes any person for whom the broker or dealer holds securities for safekeeping or as collateral or for whom the broker or dealer carries a free credit balance in the month in which customers are determined for purposes of this paragraph (c). ►*Provided further,* That with respect to commodities transactions the term customer shall mean customer as defined in 17 CFR 1.17(b)(2) of the Commodity Exchange Act.◄

. . . . . .

By the Commission.

SHIRLEY E. HOLLIS,
Assistant Secretary.

DECEMBER 21, 1978.

[FR Doc. 79-611 Filed 1-5-79; 8:45 am]

[8010-01-M]

[Release No. 34-15436, File No. S7-767]

[17 CFR Part 240]

FOCUS REPORTING SYSTEM

Requirements for Financial Reporting

AGENCY: Securities and Exchange Commission.

ACTION: Proposed amendment to form.

SUMMARY: The Commission proposes to adopt the Schedule of Segregation Requirements and Funds on Deposit in Segregation currently being used by the Commodity Futures Trading Commission. This schedule would apply only to those brokers or dealers that are also futures commission merchants.

DATE: Comments must be received on or before February 1, 1979.

ADDRESSES: All comments should be directed in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Comments should refer to File No. S7-767 and will be available for public inspection at the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Nelson S. Kibler, Assistant Director, Division of Market Regulation, Securities and Exchange Commission, Washington, D.C. 20549, (202) 376-8131.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today announced proposed amendments to Part II and Part IIA of Form X-17A-5, a financial and operational combined uniform single report under the Securities Exchange Act of 1934. The proposed amendments are intended to revise the form so as to incorporate the Schedule of Segregation Requirements and Funds on Deposit in Segregation currently being used by the Commodity Futures Trading Commission.

DISCUSSION

On December 17, 1975, the Commission adopted Form X-17A-5 (§ 249.617), the Financial and Operational Combined Uniform Single ("FOCUS") Report to become effective on January 1, 1976.[1] Part II of Form X-17A-5 is a general purpose financial and operational report designed to obtain essential regulatory information on a quarterly basis and to develop financial statements in a format consistent with generally accepted accounting principles. Part IIA is an abbreviated version of Part II which is filed on a quarterly basis by brokers and dealers which neither clear transactions nor carry customer accounts.

On September 1, 1978, the Commodity Futures Trading Commission (the "CFTC") amended its rules pertaining to the minimum financial and related reporting requirements imposed upon futures commission merchants.[2] Although the CFTC amendments apply only to futures commission merchants, about half of all commodity customer business in the futures industry is done by futures commission merchants that are also registered with the Commission as securities broker-dealers and are therefore subject to the FOCUS reporting requirements. Accordingly, the amendments proposed herein are designed to incorporate the Schedule of Segregation Requirements and Funds on Deposit in Segregation[3] currently being used by the CFTC. The adoption of the proposed amendments would enable brokers and dealers that are also futures commission merchants to satisfy the CFTC's reporting requirements by filing the amended Part II or IIA[4] of the FOCUS Report on a quarterly basis, thereby eliminating the need to make burdensome duplicate reports.

STATUTORY BASIS AND COMPETITIVE CONSIDERATIONS

Pursuant to the Securities Exchange Act of 1934 and particularly Sections

[1] Securities Exchange Act Release No. 11935, December 17, 1975; 40 FR 59706, December 30, 1976.

[2] 43 FR 39956 (September 8, 1978).

[3] The text of the proposed Schedule appears later in this release.

[4] If adopted as proposed the new Schedule would become page 10 of Part II and page 6 of Part IIA. The current page 10, which lists the Ownership Equity and Subordinated Liabilities maturing or proposed to be withdrawn within the next six months and accruals, which have not been deducted in the computation of Net Capital, would become page 11 of Part II. Page 6 of Part IIA, the Statement of changes in ownership equity and changes in liabilities subordinated to claims of general creditors, will become page 7 of Part IIA.

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15(c)(3), 17 and 23 thereof, 15 U.S.C. §§ 78o(c)(3), 78q and 78w, the Commission proposes to amend 17 CFR § 249.617 of Chapter II of Title 17 of the Code of Federal Regulations in the manner set forth below. The Commission believes that any burden imposed upon competition by the proposed amendments is necessary and appropriate in furtherance of the purposes of the Act, and particularly to implement the Commission's continuing mandate under Section 15(c)(3) thereof, 15 U.S.C. § 78o(c)(3), to provide minimum safeguards with respect to the financial responsibility of brokers and dealers.

TEXT OF PROPOSED SCHEDULE

The Commission proposes to amend Part II and Part IIA of Form X-17A-5, a financial and operational combined uniform single report under the Securities Exchange Act of 1934, by adding the following schedule.

[8010-01-C]

FINANCIAL AND OPERATIONAL COMBINED UNIFORM SINGLE REPORT

BROKER OR DEALER _____ as of _____

SCHEDULE OF SEGREGATION REQUIREMENTS AND FUNDS IN SEGREGATION

CUSTOMERS' REGULATED COMMODITY FUTURES ACCOUNTS

SEGREGATION REQUIREMENTS

1. Net ledger balance
   a. Cash . . . . . $ _____
   b. Securities (at face) . . . . . _____
2. Net unrealized profit (loss) in futures contracts. . _____
3. Net equity (Total of 1 - plus or minus 2). . . . . _____
4. Add: accounts liquidating to a deficit and accounts with debit balances with no open trades. . _____
5. Amount required to be segregated (Total of 3 & 4). . $ _____

FUNDS ON DEPOSIT IN SEGREGATION

6. Deposited in segregated funds bank accounts:
   a. Cash . . . . . _____
   b. Securities representing investments of customers' funds (at market). . . . . _____
   c. Securities held for customers in lieu of cash margins (at face) . . . . . _____
7. Margins on deposit with clearing organizations of contract markets:
   a. Cash . . . . . _____
   b. Securities representing investments of customers' funds (at market) . . . . . _____
   c. Securities held for customers in lieu of cash margins (at face) . . . . . _____
8. Due from (to) contract market clearing organization. _____
9. Net equities with other FCMs . . . . . _____
10. Segregated funds on hand:
    a. Cash . . . . . _____
    b. Securities representing investments of customers' funds (at market). . . . . _____
    c. Securities held for customers in lieu of cash margins (at face) . . . . . _____
11. Total amount in segregation (Total of 6 through 10). $ _____
12. Excess funds in segregation . . . . . $ _____

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REQUESTS FOR COMMENTS

All interested persons are invited to submit, in triplicate, their written views and comments concerning the amendments to § 249.617 proposed herein. All communications should be addressed to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, no later than February 1, 1979. All comments received will be available for public inspection.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

DECEMBER 27, 1978.

[FR Doc. 79-612 Filed 1-5-79; 8:45 am]

[7600-01-M]

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

[29 CFR Parts 2200 and 2201]

RULES OF PROCEDURE

Informal Hearing on Proposed Rulemaking

AGENCY: Occupational Safety and Health Review Commission.

ACTION: Notice of informal hearing on proposed rules of procedure.

SUMMARY: The Occupational Safety and Health review Commission will hold a second informal hearing on its proposal, published on August 18, 1978 (43 FR 36854), to amend certain of its present Rules of Procedure, as well as the adoption of certain additional rules.

DATE: Public hearing: February 8, 1979. Persons who wish to present testimony at the informal hearing must notify the Commission in writing by February 2, 1979. The notice should indicate an estimate of the amount of time needed for the testimony presentation, as well as the witness' business telephone number.

ADDRESS: The hearing will be conducted in the hearing room of the National Labor Relations Board, Room 640, 1717 Pennsylvania Avenue, NW., Washington, D.C., beginning at 9:30 a.m. on February 8, 1979. All communications should be addressed to: Robert C. Gombar, General Counsel, Occupational Safety and Health Review Commission, 1825 K Street, NW., Washington, D.C. 20006.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gombar, General Counsel, 202-634-4015.

SUPPLEMENTARY INFORMATION: ON August 18, 1978, the Occupational Safety and Health review Commission proposed the amendment of several of its Rules of Procedure as well as the adoption of certain additional Rules of Procedure (43 FR 36854). One of the more significant proposals was a new set of rules of simplified proceedings, designed to reduce both paperwork and expense to the parties as well as to make Commission adjudications less complex and time consuming. The Commission also proposed a new rule on interlocutory appeals, the elimination of the 20-day reconsideration period between the mailing of the judge's initial decision to the parties and the filing of his report with the Commission, the reinstitution of a 25-day deadline for the filing of petitions for discretionary review, a new rule on briefs, and a rule on settlements designed to give better notice of settlement proposals to affected employees.

The Commission considers it desirable to encourage public debate on these proposals and to hear oral comments of interested persons. Thus, the Commission asked for written comments on its rulemaking proposal and also held an informal public hearing on the proposal in Chicago, Illinois, on October 30, 1978. At the request of the Committee on Occupational Safety and Health of the American Bar Association, a second informal hearing has been scheduled to be held in Washington, D.C. on Thursday, February 8, 1979. All interested persons are invited to attend. Any person who wishes to present testimony at the hearing must notify the Commission in writing by February 2, 1979. This notice must state the witness' business telephone number as well as the amount of time the testimony is expected to consume. The Commission will contact each witness concerning the schedule of testimony. Timothy F. Cleary, Chairman of the Commission, will preside at the hearing.

Signed at Washington, D.C., this 2nd day of January 1979.

ROBERT C. GOMBAR,
General Counsel.

[FR Doc. 79-534 Filed 1-5-79; 8:45 am]

[1505-01-M]

POSTAL SERVICE

[39 CFR Parts 310 and 320]

RESTRICTIONS ON PRIVATE CARRIAGE OF LETTERS

Proposed Revisions in Comprehensive Standards for Permissable Private Carriage of Letters

Correction

In FR Doc. 78-36217 appearing at page 60615 in the issue for Thursday, December 28, 1978, make the following correction: On page 60623, in the first column, in § 320.4, in the first full paragraph, in the first line, insert "(c)" before "For".

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 65]

[FRL 1030-7; Docket No. VII-78-DCO-19]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Proposed Approval of an Administrative Order Issued by Missouri Department of Natural Resources to Mississippi Lime Co., Ste. Genevieve, Mo.

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUUMARY: EPA proposes to approve an administrative order issued by the Missouri Department of Natural Resources to Mississippi Lime Company. The order requires the company to bring air emissions from its three Kritzer Hydrators in Ste. Genevieve into compliance with certain regulations contained in the federally-approved Missouri State Implementation Plan (SIP) by February 28, 1979. Because the order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the Act). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the Federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the Order. The purpose of this notice is to invite public comment on EPA's proposed approval of the order as a delayed compliance order.

DATE: Written comments must be received on or before February 7, 1979.

ADDRESSES: Comments should be submitted to Director, Enforcement Division, EPA, Region VII, 1735 Baltimore, Kansas City, Missouri 64108. The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Peter J. Culver or Henry F. Rampage, Environmental Protection Agency, Region VII, Enforcement Division, 1735 Baltimore, Kansas City, Missouri 64108, telephone 816-374-2576.

SUPPLEMENTARY INFORMATION: Mississippi Lime Company operates a lime production plant at Ste. Genevieve, Missouri. The order under consideration addresses emissions from the three Kritzer Hydrators at the facility, which are subject to Regulation S-V (10 C.S.R. 10-3.050) Restriction of Emission of Particulate Matter from Industrial Processes, for the Outstate Missouri Area (Regulation S-V). The regulation limits the emissions of particulates, and is part of the federally approved Missouri State Implementation Plan. The order requires final compliance with the regulation by February 28, 1979 through installation of a venturi scrubber on each hydrator. The source has consented to the terms of the order. The source has satisfied increments a, b, and c contained in the order.

Because this order has been issued to a major source of particulate emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before it becomes effective as a delayed compliance order under Section 113(d) of the Clean Air Act (the Act). EPA may approve the order only if it satisfies the appropriate requirements of this subsection.

If the order is approved by EPA, source compliance with its terms would preclude Federal enforcement action under Section 113 of the Act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provision of the Act (Section 304) would be similarly precluded. If approved, the order would also constitute an addition to the Missouri SIP.

All interested persons are invited to submit written comments on the proposed order. Written comments received by the date specified above will be considered in determining whether EPA may approve the order. After the public comment period, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR Part 65.

(42 U.S.C. 7413, 7601)

Dated: December 11, 1978.

DAVID R. ALEXANDER,
Acting Regional Administrator,
Region VII.

JUNE 21, 1978.

Before the Missouri Air Conservation Commission, Department of Natural Resources.

VARIANCE ORDER

(To Be Submitted to the US EPA Pursuant to 113(d) of the Clean Air Act, 42 U.S.C.A. 7413(d))

This Commission is in receipt of a request submitted by Mississippi Lime Company for a variance to operate certain equipment at its Ste. Genevieve, Missouri facility beyond the limitations prescribed by Regulation 10 C.S.R. 10-3.050, Restriction of Emission of Particulate Matter From Industrial Processes, for the Outstate Missouri Area, which the applicant is presently violating. The request is contained in an application dated February 22, 1978, and is signed by Roger W. Caputo, Vice President, Missouri Operations. The original application, presented on the Commission's standard Form 10, is descriptive of the proposed program and the limitations which Mississippi Lime Company agrees to comply with in operating its ste. Genevieve facility. Mississippi Lime Company has withdrawn its application for a variance for the four calcium carbonate mills and is now asking for a variance only for its three Kritzer Hydrators.

The Director, Department of Natural Resources, has recommended that the variance be granted. Because the Commission desires to submit this variance to the United States Environmental Protection Agency as an order issued pursuant to section 113(d) of the Clean Air Act, 42 U.S.C.A. 7413(d), notice was given to the public and the Administration of the US EPA, and opportunity for public hearing afforded to any interested person. There being no petition for a hearing by any person aggrieved by the granting of the variance, the Commission, without holding a § 203.110 hearing, makes the following findings and issues the following order:

FINDINGS

Three Kritzer Hydrators at Mississippi Lime Company's Ste. Genevieve, Missouri plant have been shown to be out of compliance with Regulation 10 C.S.R. 10-3.050, Restriction of Emission of Particulate Matter From Industrial Processes. One of the hydrators is on the Rotary Plant, and two are on the Vertical Plant. The Commission finds that Mississippi Lime Company is unable to comply with 10 C.S.R. 10-3.050 at the three above-identified sources, and that the compliance schedule set out hereafter will require compliance with 10 C.S.R. 10-3.050 as expeditiously as practicable. No imminent and substantial endangerment to the health of persons will be caused or contributed to by the interim operation of the sources for which the variance is sought. It is not appropriate to require installation of opacity monitors on the hydrators, because water droplets may be present in the in-stack plume. Until the expiration of this variance, particulate emissions should be limited to the present emission rate of 149 pounds per hour from each hydrator. Compliance with this emission limitation shall be verified by stack testing, when requested in writing by the Staff Director. No other emission monitoring or reporting is practical. There is no practicable system of emission reduction which can be applied in the interim.

ORDER

Therefore, under the authority of § 203.110, RSMo Supp. 1975, and subject to the terms and conditions set out below, this Commission grants a variance to Mississippi Lime Company for its Ste. Genevieve, Missouri facility, to operate three Kritzer Hydrators beyond the limitations prescribed in 10 C.S.R. 10-5.030. This variance shall be in effect until February 28, 1979, with full and final compliance with 10 C.S.R. 10-5.030 to be achieved on or before February 28, 1979.

TERMS AND CONDITIONS

1. All dates, terms, designs, specifications and operating conditions specified in the application for variance prepared by Mississippi Lime Company, dated February 22, 1978, shall be governing in the construction, modification and mode of operation of the air pollution control system for the three Kritzer Hydrators at the Ste. Genevieve, Missouri facility of Mississippi Lime Company, except where the dates specified herein are inconsistent with the dates specified in the application, the dates herein shall govern. No alteration of the proposed facility may be made without the approval of the Director, Department of Natural Resources.

2. The following required abatement actions are prescribed as conditions of the variance for the installation of control equipment on the three Kritzer Hydrators:

(a) Final control plan was submitted by May 15, 1978;

(b) Contracts for emission control systems or process modifications were awarded, and orders were issued for the purchase of component parts to accomplish emission control or process modification by May 30, 1978;

(c) On-site construction or installation of emission control equipment or process change shall be initiated by September 15, 1978;

(d) On-site construction or installation of emission control equipment or process modification shall be completed by February 28, 1979;

(e) Final compliance with Regulation 10 C.S.R. 10-3.050 shall be achieved by February 28, 1979.

3. During the term of this variance, Mississippi Lime Company shall limit particulate emissions from each of the three Kritzer Hydrators at its Ste. Genevieve facility to 149 pounds per hour. Compliance with this emission limitation shall be determined by stack testing, performed according to 10 C.S.R. 10-6.030(5), if requested in writing by the Staff Director. Results of any stack test shall be reported to the Staff Director within thirty days after testing is completed.

4. This variance shall not be construed to permit a health hazard during the term of the variance, nor to relieve the Company from any liability imposed by other law for the commission or maintenance of a nuisance. In the event that equipment and/or processes which emit pollutants, and which are included in this variance, shall be found to be responsible for a health hazard, action will be taken to revoke or modify the pertinent portions of this variance.

Mississippi Lime Company is hereby notified that in the event it fails to achieve compliance with Regulation 10 C.S.R. 10-3.050 at its Kritzer Hydrators by July 1, 1979, it will be subject to assessment of noncompliance penalties under 42 U.S.C.A. 7420, after issuance of a notice of violation, unless exempted under 42 U.S.C.A. 7420(a)(2) (B) or (C).

MISSOURI AIR CONSERVATION COMMISSION,
JOHN G. LEVIS,
Chairman.
JAMES P. TOWNLEY.
JESS GARNETT.
CHARLES O. FUCHS.
JAMES L. ROBINETT, Jr.

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WAIVER

Mississippi Lime Company, by the duly authorized undersigned, hereby waives any and all rights under any provision of law to challenge this Order.

Dated: July 19, 1978.

ROGER W. CAPUTO,
President, Missouri Operations.

[FR Doc. 79-529 Filed 1-5-79; 8:45 am]

[6560-01-M]

[40 CFR Part 65]

[FRL 1035-3]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Proposed Approval of an Administrative Order Issued by the Connecticut Department of Environmental Protection to Hain Brothers, Inc.

AGENCY: Environmental Protection Agency.

ACTION: Proposed Rule.

SUMMARY: EPA proposes to approve an administrative order issued by the Connecticut Department of Environmental Protection to Hain Borthers, Inc. The order requires the company to bring air emissions from its asphalt batching plant in Windham, Conn. into compliance with certain regulations contained in the federally-approved Connecticut State Implementation Plan (SIP) by May 1, 1979. Because the order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the Act). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the Federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the Order. The purpose of this notice is to invite public comment on EPA's proposed approval of the order as a delayed compliance order.

DATE: Written comments must be received on or before February 7, 1979.

ADDRESSES: Comments should be submitted to Director, Enforcement Division, EPA, Region I, Rm. 2103, JFK Federal Building, Boston, MA 02203. The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Attorney Michael Gurchin at 617/223-5061 or engineer Steven Fradkoff at 617/223-5610, both at the following address: U.S. Environmental Protection Agency, JFK Federal Building, Boston, MA 02203.

SUPPLEMENTARY INFORMATION: Hain Brothers, Inc. operates an asphalt batching plant at Windham, Conn. The order under consideration addresses emissions from asphalt batching equipment with State registration numbers 0043 and 0044, which are subject to Section 19-508-5(e) of the Connecticut Regulations for the abatement of air pollution. The regulation governs the testing of emissions from all sources, and is part of the federally approved Connecticut State Implementation Plan. The order requires final compliance with the regulation by May 1, 1979 through installation of a baghouse and subsequent emission testing by procedures approved by the Connecticut Department of Environmental Protection.

Because this order has been issued to a major source of particulate emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before it becomes effective as a delayed compliance order under Section 113(d) of the Clean Air Act (the Act). EPA may approve the order only if it satisfies the appropriate requirements of this subsection.

If the order is approved by EPA, source compliance with its terms would preclude Federal enforcement action under Section 113 of the Act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provision of the Act (Section 304) would be similarly precluded. If approved, the order would also constitute an addition to the Connecticut SIP.

All interested persons are invited to submit written comments on the proposed order. Written comments received by the date specified above will be considered in determining whether EPA may approve the order. After the public comment period, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR Part 65.

(Authority: 42 U.S.C. 7413, 7601.)

Dated: December 15, 1978.

REBECCA W. HAMMER,
Acting Regional Administrator, Region I.

[FR Doc. 79-528 Filed 1-5-79; 8:45 am]

[1505-01-M]

[40 CFR Part 180]

[FRL 1030-2; PP 7F1913/P1041]

TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Proposed Tolerances for the Pesticide Chemical Metolachlor

Correction

In FR Doc. 78-36024 appearing at page 60624 in the issue for Thursday, December 28, 1978, make the following corrections:

(1) On page 60624, in the third column, under the heading "DATE", the sentence given should read "Comments must be received on or before January 29, 1979."

(2) On page 60625, in the second column, in the third full paragraph, in the 7th line, the date given should be "January 29, 1979,".

[6712-01-M]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 63 and 64]

[CC Docket No. 78-219]

REVISION OF PROCESSING POLICIES FOR WAIVERS OF THE TELEPHONE COMPANY-CABLE TELEVISION "CROSS-OWNERSHIP RULES"

Order Extending Time for Filing Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Extension of time to file reply comments.

SUMMARY: FCC extends the time for filing reply comments in CC Docket No. 78-219, regarding "Revision of the Processing Policies for waivers of the Telephone Company-Cable Television "Cross-Ownership Rules" from January 5, 1979 to January 19, 1979. This extension is based on a petition for extension of time.

DATES: Reply Comments must be received on or before January 19, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Richard O. Pullen, Common Carrier Bureau, 202-632-6440.

SUPPLEMENTARY INFORMATION:

Adopted: December 22, 1978.
Released: December 28, 1978.

Order. In the matter of revision of the processing policies for waivers of the telephone company-cable television "cross-ownership rules," §§ 63.54 and 64.601 of the Commission's rules and regulations, CC Docket No. 78-219.[1]

1. The Commission, by the Chief of the Common Carrier Bureau acting pursuant to delegated authority, has before it a Petition for Extension of Time filed December 22, 1978 by the Organization for the Protection and Advancement of Small Telephone Companies (OPASTCO). The Petition requests that the time for filing Reply Comments in this proceeding be extended two weeks from January 5, 1979 to January 19, 1979. The request is unopposed.

2. OPASTCO contends that the additional time is required because: (1) the Commission's December 18 special meeting effectively precluded the parties from developing reply comments prior to that time; and (2) the subsequent intervening Christmas/New Year holiday period has made it impossible for a special OPASTCO committee to develop, review, and author ize their reply comments. OPASTCO states that, of the five members on its special committee, one member is out of the country, one member is on vacation, and one member is recovering from surgery.

3. Although the Commission does not routinely grant extension of time requests, we believe that good cause has been shown for a reasonable extension of time. In addition to permitting the parties to better focus their reply comments as intended by our December 18 meeting, the extension would permit an important participant to submit well developed reply comments.

4. Accordingly, pursuant to the delegated authority of rule § 0.303(c): *It is ordered,* That OPASTCO's Petition for a two-week extension of time is granted, and that reply comments will be due on or before January 19, 1979.

LARRY F. DARBY,
Acting Chief, Common Carrier Bureau.

[FR Doc. 79-556 Filed 1-5-79; 8:45 am]

[1] See 43 FR 56070, November 30, 1978.

[6712-01-M]

[47 CFR—Part 73]

[Docket No. 21313; RM-2646; RM-2717; RM-3038; RM-3039; RM-3040]

AM STEREOPHONIC BROADCASTING; ORDER EXTENDING TIME FOR FILING COMMENTS AND REPLY COMMENTS

Preamble

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: Action taken herein extends the time for filing comments and reply comments in a proceeding concerning AM stereophonic broadcasting. Petitioners, Harris Corporation and Motorola, Inc., state the additional time is needed so that they can prepare substantive and detailed comments.

DATES: Comments must be filed on or before February 27, 1979, and reply comments on or before March 30, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Wilson LaFollette, Broadcast Bureau (202-632-9660).

SUPPLEMENTARY INFORMATION:

Adopted: December 22, 1978.

Released: December 27, 1978.

Order extending time for filing comments and reply comments. In the Matter of AM Stereophonic Broadcasting; Docket No. 21313, RM-2646, RM-3039, RM-2717, RM-3040, RM-3038.

1. The Commission has before it two timely-filed motions requesting extension of time for filing comments and reply comments regarding the *Notice of Proposed Rulemaking,* 43 Fed. Reg. 48669, in the above-entitled proceeding. The dates for filing comments and reply comments are presently December 29, 1978, and January 31, 1979, respectively.

2. The requests were filed by Harris Corporation ("Harris") and Motorola, Inc. ("Motorola"), in which they ask that the date for filing comments be extended sixty days and for reply comments thirty days.

3. Harris states that the Commissioner's *Notice* suggested additional field testing of five proposed systems. Harris asserts that it and other proponents need the additional time so that the field testing can be completed, data analyzed and comments prepared for filing. Motorola states that it has undertaken laboratory studies directly related to matters raised by the Commission in the *Notice* which concern basic issues regarding AM stereo. It notes that these matters warrant substantive and detailed comments which it intends to provide.

4. Harris states that counsel for Belar Electronics has authorized it to report its support of the requested extension. Harris also notes that Hazeltine Corporation has authorized it to report that while Hazeltine believes a thirty-day extension would be sufficient, it interposes no objection to Harris' request for sixty days.

5. We are of the view that the additional time requested is warranted to assure development of a sound and comprehensive record on which to base a final decision in this proceeding. Accordingly, IT IS ORDERED, that the requests for extension of time filed by Harris Corporation and Motorola, Inc., ARE GRANTED and the dates for filing comments and reply comments ARE EXTENDED to and including February 27, and March 30, 1979, respectively.

6. This action is taken pursuant to Sections 4(i), 5(d)(1) and 303(r) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules.

FEDERAL COMMUNICATIONS COMMISSION
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc. 79-538 Filed 1-5-79; 8:45 am]

[4910-62-M]

DEPARTMENT OF TRANSPORATION

Office of the Secretary

[49 CFR Part 29]

[OST Docket No. 62 Notice 79-1]

PART 29—CONSOLIDATION OF GRANTS TO UNITED STATES INSULAR AREAS

Proposed Regulations

AGENCY: Department of Transportation (DOT), Office of the Secretary.

ACTION: Notice of proposed rulemaking.

SUMMARY: DOT proposes to consolidate six grant programs which currently provide financial assistance to United States insular areas. This would implement Title V of Public Law 95-134. Public comment is invited. Consolidation of these grant programs is intended to minimize application, reporting, and fund matching requirements.

DATES: Comment closing date: February 22, 1979. Proposed effective date:

V 4 4 / 5 J A 8 7 9 UMI

March 31, 1979, except as to programs approved prior to that date, which would continue to be administered, until the approved funds are expended, under the guidelines applicable at the time of approval.

ADDRESSES: Send comments to Docket Clerk, OST Docket No. 62, Office of the General Counsel, Department of Transportation, Washington, D.C. 20590. Comments are available for public inspection and copying in the Office of the Assistant General Counsel for Regulation and Enforcement, room 10421 Department of Transportation Headquarters (Nassif) Building, 400 Seventh Street, S.W., Washington, D.C. (202-426-4723), from 9:00 a.m. to 5:30 p.m. eastern time, Monday through Friday except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Gregory Dahlberg, Office of Programs and Evaluation (B-10), 202-426-9605.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Section 501 of Pub. L. 95-134 permits Federal agencies to revise existing application and reporting procedures for certain grant-in-aid programs available to the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Government of the Northern Mariana Islands (hereinafter referred to as "U.S. insular areas"). Specifically, that section permits:

(a) Agencies to consolidate any or all grants to each of these insular areas and to waive requirements for matching funds, applications, and reports with respect to the consolidated grants, and

(b) Each insular area to use the consolidated grant funds for any purpose or program authorized for any of the consolidated grants.

Currently, Micronesia is part of the Trust Territory of the Pacific Islands and therefore, in that capacity, is covered by section 501; it has, however, announced its intention to establish a new relationship with the United States. When this trusteeship ends, Micronesia will no longer be covered by the statute and proposed regulation.

AFFECTED DOT PROGRAMS

The proposed regulation would consolidate six DOT grant-in-aid programs providing funding to U.S. insular areas. These programs are:

(a) State and Community Highway Safety Program, administered jointly by Federal Highway Administration (FHWA) and the National Highway Traffic Safety Administration;

(b) Territorial Highway Program, administered by FHWA;

(c) State Boating Safety Assistance Program, administered by the Coast Guard;

(d) Airport Development Aid Program, administered by the Federal Aviation Administration;

(e) Rural and Small Urban Public Transportation Program administered jointly by FHWA and Urban Mass Transportation Administration; and

(f) Hazard Elimination Program administered by FHWA.

EFFECT ON U.S. INSULAR AREAS

Consolidation of these grant programs is intended to minimize application, reporting, and fund matching requirements. This would be accomplished by waiver of whatever individual grant application each insular area requests, and by designating a lead DOT agency—FHWA—to administer and coordinate a single, consolidated grant program which is based solely on formula allocation. Requirements for reports on funds apportioned under consolidated programs would be waived upon request by an insular area except for reports required for accounting of, auditing, evaluating, or reviewing such programs.

This approach would also afford local decision-makers greater flexibility in the use of Federal funds available to them. This is desirable for U.S. insular areas which face problems which considerably differ from those faced by States.

ECONOMIC IMPACT

Consolidation of DOT grant programs and elimination of all application and most reporting requirements would improve the efficiency of grant-making procedures at the Federal and local levels. This would be especially apparent with the insular areas since they have small staff resources which have been strained to fulfill the existing application and reporting requirements of the affected programs. These problems have been exacerbated by the length of time and general difficulty involved in communicating over thousands of miles.

DRAFTING INFORMATION

The principal authors of this document are Gregory Dahlberg, Office of Programs and Evaluation, and Robert I. Ross, Office of the General Counsel.

Public comment is invited on this proposal. Comments should be submitted to the address indicated. All comments submitted by the comment closing date will be considered in development of the final regulation; those submitted after that date will be considered to the extent feasible.

In consideration of the foregoing, DOT proposes to add a new Part 29 to Title 49, Code of Federal Regulations, to read as appears below.

Issued in Washington, D.C. on December 19, 1978.

BROCK ADAMS,
Secretary of Transportation.

PART 29—CONSOLIDATION OF GRANTS TO UNITED STATES INSULAR AREAS

Sec.
29.1 Purpose.
29.3 Scope.
29.5 Administration.
29.7 Definitions.
29.9 Grant Structure.
29.11 Grant Requirements: Matching Funds.
29.13 Grant Requirements: Applications.
29.15 Grant Requirements: Reports.
29.17 Grant Requirements: Duration of Waivers.

AUTHORITY: Title V, Pub. L. 95-134; section 9, Department of Transportation Act, 49 U.S.C. 1657.

PART 29—CONSOLIDATION OF GRANTS TO UNITED STATES INSULAR AREAS

§ 29.1 Purpose.

The purpose of this part is to implement Title 5 of Public Law 95-134, which—

(a) authorizes agencies to—

(1) consolidate grants to certain United States insular areas, and

(2) waive requirements for applications, reports, and matching funds; and

(b) authorizes such insular areas to use the consolidated grant funds for any purpose or program authorized for any of the consolidated grants.

§ 29.3 Scope.

This part applies to grants to United States insular areas made by the Department of Transportation under the following programs:

(a) State and community Highway Safety Program, authorized by the Highway Safety Acts of 1966, 1970, 1973, and 1976 (23 U.S.C. 120, 402) and administered jointly by the Federal Highway Administration (FHWA) and the National Highway Traffic Safety Administration;

(b) Territorial Highway Program, authorized by the Federal-aid Highway Acts of 1973 and 1976 and the Federal-aid Highway Amendments of 1974 (23 U.S.C. 215) and administered by FHWA;

(c) State Boating Safety Assistance Program, authorized by the Federal Boat Safety Act of 1971, as amended (46 U.S.C. 1451 *et seq.*), and administered by the Coast Guard;

(d) Airport Development Aid Program, authorized by the Airport and Airway Development Act of 1970 (49 U.S.C. 1701 *et seq.*) and administered by the Federal Aviation Administration;

(e) Rural and Small Urban Public Transportation Program authorized by the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1617) and administered jointly by FHWA and Urban Mass Transportation Administration; and

(f) Hazard Elimination Program, authorized by the Federal-Aid Highway Act of 1978 (23 U.S.C. 152 *et seq.*) and administered by FHWA.

§ 29.5 Administration.

(a) Except as provided in paragraph (c) of this section, grants consolidated under this part are administered by the Federal Highway Administration (FHWA) with the program support of the individual Department of Transportation agencies listed with the programs identified in § 29.3.

(b) FHWA is responsible for the following aspects of each grant consolidated under this part—

(1) Notification to U.S. insular areas of the extent of funding available each fiscal year;

(2) Consolidation and standardization (where practicable) of program approval requirements;

(3) Arranging for provision of technical assistance;

(4) Resolution of program funding and timing problems;

(5) Consolidation of all Department of Transportation review actions;

(6) Arranging for project/program approval or disapproval; and

(7) The following aspects of project management:

(i) Establishment of consolidated management fund and appropriate funding mechanisms;

(ii) Arranging for overall project monitoring;

(iii) Uniform progress reports;

(iv) Uniform fiscal management reports;

(v) Arranging for project closeout actions; and

(vi) Consolidated audit actions.

(c) Conflicts among Department of Transportation agencies listed with the programs identified in § 29.3 which cannot be resolved by FHWA are referred to the Assistant Secretary for Budget and Programs for resolution.

§ 29.7 Definitions.

As used herein—

"United States insular area" means the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, or the Government of the Northern Mariana Islands.

§ 29.9 Grant Structure.

(a) A United States insular area may elect to use funds apportioned in any fiscal year under any one of the programs listed in § 29.3 for any purpose or program for which funds may be used under any of the programs listed in that section.

(b) Regardless of the program under which the funds are apportioned, funds expended for any program listed in § 29.3 are subject to the statutory and administrative requirements and procedures applicable to that program, except as provided in § 29.11, § 29.13, and § 29.15.

§ 29.11 Grant Requirements: Matching Funds.

The requirement under any program listed in § 29.3 for a match of funds by the recipient is waived upon application by the U.S. insular area for such a waiver which is received by FHWA not less than ninety days prior to the beginning of the fiscal year for which funds are sought.

§ 29.13 Grant Requirements: Applications.

The requirement under any program listed in § 29.3 for an application for funds is waived upon application by the U.S. insular area for such a waiver which is received by FHWA not less than ninety days prior to the beginning of the fiscal year for which funds are sought.

§ 29.15 Grant Requirements: Reports.

The requirement under any program listed in § 29.3 for a report on the funds apportioned under such program, except as may be required by the administering agency in the interest of accounting, auditing, evaluating, or reviewing such program, is waived upon application by the U.S. insular area for such a waiver which is received by FHWA not less than ninety days prior to the beginning of the fiscal year for which funds are sought.

§ 29.17 Grant Requirements: Duration of Waivers.

(a) A waiver granted under § 29.11, § 29.13, or § 29.15 for any fiscal year applies to each succeeding fiscal year unless the recipient applies to FHWA for revocation of the waiver not less than ninety days prior to the beginning of the fiscal year for which such revocation is sought.

(b) A revocation granted under paragraph (a) of this section makes applicable again whichever of § 29.11, § 29.13, or § 29.15 was originally waived.

[FR Doc. 79-643 Filed 1-5-79; 8:45 am]

[1505-01-M]

Materials Transportation Bureau

[49 CFR Parts 172, 173, 178]

[Docket No. HM-139A Notice No. 78-14]

INDIVIDUAL EXEMPTIONS, CONVERSION TO REGULATIONS OF GENERAL APPLICABILITY

Correction

In FR Doc. 78-34951 appearing at page 58834 in the issue for Monday, December 18, 1978, in the second table on page 58835, the last three paragraphs under "Nature of Proposed Amendment" (labeled (2), (3), and (i)) should be transferred to the table on page 58836, under "Nature of Proposed Amendment", directly *above* the line reading "To add paragraph (a)(15) to read:"

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[6050-01-M]

ACTION

FOSTER GRANDPARENT AND SENIOR COMPANION PROGRAMS

Income Eligibility Levels

This notice revises the schedule of income eligibility levels for individuals and families for the Foster Grandparent Program and the Senior Companion Program published in the FEDERAL REGISTER of June 5, 1978 (43 FR 24341). The revised schedule is based on the Community Services Administration (CSA) Income Proverty Guidelines effective May 5, 1978 and by the addition, through the Comprehensive Older Americans Act Amendments of 1978, of a new subsection (f) to Section 211 of the Domestic Volunteer Service Act of 1973 to extend the eligibility for participation in the Foster Grandparent/Senior Companion Programs to individuals with an income not greater than 125% of the poverty level. Income eligibility levels are further increased in certain states in the amounts by which individual states have supplemented the Federal Supplemental Security Income (SSI) Summary dated October 1, 1978. Addition of the State SSI supplement to the CSA Poverty Income Guideline prevents ineligibility of low income applicants to serve as Foster Grandparents or Senior Companions because they receive State SSI supplemental payments.

These ACTION programs are authorized pursuant to Section 211 of the Domestic Volunteer Service Act of 1973, Pub. L. 93-113, 87 Stat. 402. Pursuant to Section 421(4) of Pub. L. 93-113, 87 Stat. 414, the income eligibility levels are determined by the currently applicable guidelines published by CSA pursuant to Section 625 of the Economic Opportunity Act of 1974, as amended (42 U.S.C. 2971(a)), and increased by the amounts individual states supplement the Federal Supplemental Security Income, permitting ACTION, in accordance with Section 421(4) of Pub. L. 93-113, to take into consideration existing poverty guidelines as appropriate to local situations. Section 625 permits the CSA poverty guidelines to be adjusted for cost-of-living changes.

The income eligibility levels will be reviewed at least once a year, and similar schedules will be prepared to reflect any changes required as a result of that review.

Pursuant to Section 420 of Pub. L. 93-113, this policy will become effective on January 8, 1979.

ACTION Schedule of Income Eligibility Levels for Foster Grandparents or Senior Companions

State	Individual	Family Of Two	Family Of Three
Alabama	$3,925	$5,415	$6,690
Alaska	6,315	8,515	10,100
Arizona	3,925	5,200	6,475
Arkansas	3,925	5,200	6,475
California	5,345	8,630	9,905
Colorado	4,405	7,290	8,565
Connecticut	5,205	7,755	9,030
Delaware	3,925	5,200	6,475
District of Columbia	3,925	5,200	6,475
Florida	3,925	5,200	6,475
Georgia	3,925	5,200	6,475
Hawaii	4,705	6,280	7,740
Idaho	4,810	6,160	7,435
Illinois	3,925	5,200	6,475
Indiana	3,925	5,200	6,475
Iowa	3,925	5,200	6,475
Kansas	3,925	5,200	6,475
Kentucky	3,925	5,200	6,475
Louisiana	3,925	5,200	6,475
Maine	4,045	5,380	6,655
Maryland	3,925	5,200	6,475
Massachusetts	5,440	7,560	8,835
Michigan	4,310	5,780	7,055
Minnesota	4,185	5,525	6,800
Mississippi	3,925	5,200	6,475
Missouri	3,925	5,200	6,475
Montana	3,925	5,200	6,475
Nebraska	4,990	6,325	7,600
Nevada	4,405	6,125	7,400
New Hampshire	4,400	5,655	6,930
New Jersey	4,135	5,305	6,580
New Mexico	3,925	5,200	6,475
New York	4,655	6,110	7,385
North Carolina	3,925	5,200	6,475
North Dakota	3,925	5,200	6,475
Ohio	3,925	5,200	6,475
Oklahoma	4,430	6,150	7,425
Oregon	4,070	5,320	6,595
Pennsylvania	4,315	5,785	7,060
Rhode Island	4,325	5,960	7,235
South Carolina	3,925	5,200	6,475
South Dakota	4,105	5,380	6,655
Tennessee	3,925	5,200	6,475
Texas	3,925	5,200	6,475
Utah	4,045	5,320	6,595
Vermont:			
Area 1	4,365	5,765	7,040
Area 2	4,365	6,015	7,290
Virginia	3,925	5,200	6,475
Washington:			
Area 1	4,415	5,735	7,010
Area 2	4,200	5,345	6,620
West Virginia	3,925	5,200	6,475
Wisconsin	4,960	6,870	8,145
Wyoming	4,165	5,680	6,955
Guam	3,925	5,200	6,475
Puerto Rico	3,925	5,200	6,475
Virgin Islands	3,925	5,200	6,475

For families of more than three persons in the household, add the appropriate supplement for each member over three as follows:

In the 48 continguous states—$960 per person.
Alaska—$1,200 per person.
Hawaii—$1,100 per person.

Revision based on Community Services Administration Income Poverty Guidelines effective May 5, 1978, increased by the DHEW Supplemental Security Income Summary dated October 1, 1978.

SAM BROWN,
Director.

[FR Doc. 79-573 Filed 1-5-79; 8:45 am]

[4310-10-M]

ADVISORY COUNCIL ON HISTORIC PRESERVATION

PUBLIC INFORMATION MEETING

Notice is hereby given in accordance with Section 800.5(c) of the Council's "Procedures for the Protection of Historic and Cultural Properties" (36 CFR Part 800) that on January 18, 1979, at 7:00 p.m. a public information meeting will be held in the Las Vois Room, 3rd floor, City Hall, 150 N. Capitol Boulevard, Boise, Idaho. The purpose of this meeting is to provide an opportunity for representatives of national, State, and local units of government, representative of public and private organizations, and interested citizens to receive information and express their views on the proposed redevelopment of an 8 block area in the Boise Central Business District, an undertaking of Boise City, with assistance from the Community Development Block Grant program of the Department of Housing and Urban Development, that will adversely affect the Eastman Building, 8th and Main Streets, Boise, Idaho, a property included in the National Register of Historic Places.

The following is a summary of the agenda of the public information meeting:

I. An explanation of the procedures and purpose of the meeting by a representative of the Executive Director of the Council.

II. A description of the undertaking and an evaluation of its effects on the property by the Boise Redevelopment Agency.

III. A statement by the Idaho State Historic Preservation Officer.

IV. Statements from local officials, private organizations, and the public on the effects of the undertaking on the property.

V. A general question period.

Speakers should limit their statements to 10 minutes. Written statements in furtherance of oral remarks will be accepted by the Council at the time of the meeting. Additional information regarding the meeting is available from the Executive Director, Advisory Council on Historic Preservation, P.O. Box 25085, Denver, Colorado, 80225.

ROBERT M. UTLEY,
Deputy Executive Director.

[FR Doc. 79-659 Filed 1-5-79; 8:45 am]

[3510-25-M]

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 1-79]

PROPOSED FOREIGN-TRADE ZONE—NEWARK/ELIZABETH, N.J.

Application Filed

Notice is hereby given that an application has been submitted to the Foreign-Trade Zones Board (the Board) by the Port Authority of New York and New Jersey (the Port Authority), a public agency of the States of New York and New Jersey, requesting authority to establish a general-purpose foreign-trade zone within the Newark/Elizabeth Port Authority Marine Terminal seaport complex, located in the cities of Newark and Elizabeth, New Jersey, within the New York City Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act of 1934, as amended (19 U.S.C. section 81a-81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on January 2, 1979. The applicant is authorized to make this proposal under Section 12:13-1 of the New Jersey Statutes Annotated.

The zone would consist of two separate buildings within the seaport complex which covers over 2,000 acres on Newark Bay, some eight miles from the Narrows entrance to New York Harbor, and adjacent to the Newark International Airport on the New Jersey Turnpike. Because the complex is located in two municipalities, the Port Authority decided to operate a separate facility in each city. Building 200 is on Mohawk Street, within the Newark part of the complex, and Building 2280, a mile distant, is situated at the intersection of Formosa Street and Bay Avenue in Elizabeth. Both are improved steel frame warehouse type structures with facilities for the direct handling of truck and rail shipments, each building covering approximately 104,000 square feet in area.

The Elizabeth site is owned by the Port Authority, while the Newark site is under a long-term lease with the City of Newark. The availability of zone procedures is seen by the Port Authority as a Customs facilitation service to help in its economic development efforts. The zone would be located within one of the nation's and world's largest marine port complexes.

The application contains economic data and information concerning the need for zone facilities in the Newark/Elizabeth area. Several firms have indicated their interest in using the proposed zone for warehousing, assembly, processing, distribution, and light manufacturing activities on a wide range of products including pharmaceuticals, cosmetics, chemicals, water treatment equipment, textiles, and food products.

In accordance with the Board's regulations, an Examiners Committee has been appointed to investigate the application and report thereon to the Board. The committee consists of: Hugh J. Dolan (Chairman), Office of the Secretary, U.S. Department of Commerce, Washington, D.C. 20230; John Clinton, Chief, Inspection and Control Division, U.S. Customs Service, Newark Area, Newark International Plaza, Newark, New Jersey 07114; and Colonel Clark H. Benn, District Engineer, U.S. Army Engineer District New York, 26 Federal Plaza, New York, New York 10007.

Comments on the proposed zone are invited in writing from interested persons and organizations. They should be addressed to the Board's Executive Secretary at the address below and be postmarked on or before February 9, 1979.

A copy of the Port Authority's application is available for public inspection at each of the following locations:

Office of the Director, U.S. Department of Commerce District Office, Suite 402, Gateway Building No. 1, Market Street and Penn Plaza, Newark, New Jersey 07102.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 6886-B, 14th and E Street, NW., Washington D.C. 20230.

Dated: January 2, 1979.

JOHN J. DA PONTE, JR.,
Executive Secretary.

[FR Doc. 79-437 Filed 1-5-79; 8:45 am]

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[1505-01-M]

Industry and Trade Administration

APPLICATIONS FOR DUTY FREE ENTRY OF SCIENTIFIC ARTICLES

Correction

In FR Doc. 78-34623 appearing at page 58217 in the issue for Wednesday, December 13, 1978, make the following corrections:

(1) In the first column of page 58218, in the fourth line under Docket Number 79-00055, ". . . Ultrotome III . . ." should have read ". . . Ultrotome IV . . .".

(2) In the first column of page 58219, in the fourth line under Docket Number 79-00062, ". . . Diaphanocope." should have read ". . . Diaphanoscope."

(3) In the third column of page 58219, in the fifth line under Docket Number 79-00067, ". . . 400 HBG . . ." should have read ". . . 400 HMG . . .".

[3910-01-M]

DEPARTMENT OF DEFENSE

Department of the Air Force

M-X; MILESTONE II

Supplement to Final Environmental Impact Statement

JANUARY 9, 1979.

The Air Force plans to publish a supplement to the Final Environmental Impact Statement (EIS) entitled M-X Milestone II which was published on Oct. 6, 1978. This supplement will provide Department of the Air Force and Department of Defense officials additional data on M-X full scale engineering development and basing mode selection. The Air Force has already analyzed four basing modes in the M-X Milestone II Final EIS: Hybrid trench, vertical shelter, horizontal shelter, and pool. The supplement will analyze a fifth basing mode called air mobile. With an air mobile basing mode, intercontinental ballistic missiles would be loaded in cargo type aircraft.

Further information regarding air mobile concepts, publication of the EIS supplement, and the period for public comment will appear in the FEDERAL REGISTER in two to three weeks.

Any comments or questions should be directed to the Deputy for Environment and Safety, Office of the Secretary of the Air Force, Room 4C885, the Pentagon, Washington, D.C. 20330, telephone, 202-697-9297.

CAROL M. ROSE,
Air Force Federal Register Liaison Officer.

[FR Doc. 79-620 Filed 1-5-79; 8:45 am]

[3610-05-M]

NATIONAL COMMUNICATIONS SYSTEM

Availability of Draft Federal Telecommunication Standards on Technical Requirements Associated With use of the Data Encryption Standard

The purpose of this notice is to announce the availability of two draft Federal standards: Draft Federal Standard 1026, Telecommunications: Compatibility Requirements for use of the Data Encryption Standard, and draft Federal Standard 1027, Telecommunications: Security Requirements for use of the Data Encryption Standard. These documents describe technical requirements associated with use of the Data Encryption Standard (Federal Information Processing Standards Publication 46) in some telecommunication applications. Both draft standards are presently under study and are subject to change. This statement of availability does not replace the formal solicitation of public and industry comments. A formal solicitation of comments will be made later in the standards development process. Copies of both draft standards can be obtained, upon request, from the Office of Technology and Standards, National Communications System, Washington, D.C. 20305. Telephone requests may be directed to Mr. Robert M. Fenichel, telephone (202) 692-2124.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington, Headquarters Services, Department of Defense.

JANUARY 3, 1979.

[FR Doc. 79-588 Filed 1-5-79; 8:45 am]

[3810-70-M]

Office of the Secretary

DEFENSE INTELLIGENCE AGENCY ADVISORY COMMITTEE

Closed Meeting

Pursuant to the provisions of Subsection (d) of Section 10 of Pub. L. 92-463, as amended by Section 5 of Pub. L. 94-409, notice is hereby given that a closed meeting of a Panel of the DIA Advisory Committee will be held as follows:

Monday & Tuesday, 5-6 February 1979, NISC, Suitland, Maryland

The entire meeting, commencing at 0900 hours, each day, is devoted to the discussion of classified information as defined in Section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be used in a study on the growth and the potential implications of Soviet technology.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

JANUARY 3, 1979.

[FR Doc. 79-587 Filed 1-5-79; 8:45 am]

[6450-01-M]

DEPARTMENT OF ENERGY

NATIONAL PETROLEUM COUNCIL

Renewal

This notice is published in accordance with the provisions of Section 7 of the Office of Management and Budget Circular A-63, as amended. Pursuant to Section 14(a) (2) (A) of the Federal Advisory Committee Act, and following consultation with the Committee Management Secretariat, General Services Administration, notice is hereby given that the National Petroleum Council has been renewed for a 12-month period ending on December 31, 1979.

The renewal of the National Petroleum Council has been determined necessary and in the public interest. The Council will operate in accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92-463), the Department of Energy Organization Act (Pub. L. 95-91), OMB Circular A-63 (Revised), and other directives and instructions issued in implementation of those Acts.

Further information regarding this Council may be obtained from the Department of Energy Advisory Committee Management Office (202-252-5187).

Issued at Washington, D.C. on January 2, 1979.

TINA C. HOBSON,
Advisory Committee Management Officer.

[FR Doc. 79-585 Filed 1-5-79; 8:45 am]

[6450-01-M]

INDUSTRIAL ENERGY CONSERVATION PROGRAM

Requirement for Certain Corporations To File Information on Energy Consumption for Identification

AGENCY: Department of Energy.

ACTION: Notice of Information Filing Requirement.

SUMMARY: The Department of Energy (DOE) is hereby requiring certain manufacturing corporations to file information on energy consumption in calendar year 1977. DOE will use this information to identify both those corporations which must participate in the expanded industrial energy reporting program and those corporations required to be notified of the requirements the recovered materials reporting program, as required by amendments to the Energy Policy and Conservation Act enacted in the National Energy Conservation Policy Act.

DATE: Any corporation covered by this filing requirement must report the required information to DOE no later than January 29, 1979.

ADDRESS: The required information should be sent to: Office of the Assistant Secretary, Conservation and Solar Applications, Office of Industrial Applications and Commercialization, U.S. Department of Energy, 666 11th Street NW., Suite 735, Washington, D.C. 20545.

FOR FURTHER INFORMATION CONTACT:

On Industrial Energy Reporting:

Robert G. Massey or Theodore C. Collins, Office of Industrial Applications and Commercialization, Department of Energy, 666 11th Street NW., Suite 735, Washington, D.C. 20001, 202-724-3461.

On Recovered Materials Reporting:

Lewis S. Newman, Office of Industrial Applications and Commercialization, Department of Energy, 20 Massachusetts Avenue NW., Room 5114, Washington, D.C. 20545, 202-376-1757.

SUPPLEMENTARY INFORMATION:

I. BACKGROUND

On November 9, 1978, President Carter signed the National Energy Conservation Policy Act (Pub. L. 95-619) (NECPA). Sections 461 and 601 of the NECPA amend Part D of Title III of the Energy Policy and Conservation Act (42 U.S.C. 6341-6346) (EPCA), pursuant to which the Federal Energy Administration (FEA) and its successor, the Department of Energy (DOE), had implemented the Industrial Energy Conservation Program. This notice first describes the Industrial Energy Conservation Program, as developed in response to the EPCA and the Changes mandated by the recent enactment of the NECPA, and then sets forth the requirement that certain corporations file information on energy consumption in calendar year 1977 with DOE.

A. *The Industrial Energy Conservation Program under the EPCA.* In enacting the EPCA in December 1975, Congress directed the FEA, in section 372 of Part D of Title III, to establish a program "(1) to promote increased energy efficiency by American industry, and (2) to establish voluntary energy efficiency improvement targets for at least the ten most energy-consumptive major energy-consuming industries." In response, FEA issued requirements for the Industrial Energy Conservation Program (the program) through a series of notices published in the FEDERAL REGISTER.

First, FEA identified and ranked 20 major energy-consuming industries in the United States in accordance with the provisions of Section 373 of the EPCA (41 FR 7992, Febraury 23, 1976; 41 FR 12766, March 26, 1976). Subsequently, FEA requested information from certain corporations on energy consumption in calendar year 1975 (41 FR 36838, September 1, 1976; 41 FR 47285, October 28, 1976; 42 FR 62422, December 12, 1977) and used this information to identify, pursuant to section 373, the 50 most energy-consumptive corporations in each of the ten most energy-consumptive industries for which industrial energy efficiency improvement targets (targets) were to be estalbished (41 FR 54977, December 16, 1976). The ten targets were developed as required by section 374(a) (41 FR 48169, November 2, 1976; 42 FR 29642, June 9, 1977). As part of the implementation of the requirement of section 375 that the 50 most energy-consumptive corporations in each of the ten industries report on improving energy efficiency, FEA developed and issued Form FEA U524-P-O (42 FR 22581, May 4, 1977; 42 FR 29642, June 9, 1977) for use by those corporations, which report directly. Further as required by section 376(g), FEA established criteria for adequate voluntary reporting programs (41 FR 38819, September 13, 1976; 41 FR 51866, November 24, 1976) and exempted certain corporations pursuant to those criteria from the direct reporting requirement (42 FR 15731, March 23, 1977; 42 FR 23538, May 9, 1977).

With the publication of the reporting form, the procedures for monitoring industrial energy conservation efforts, as required by the EPCA, were complete. Identified corporations began submitting semiannual reports to FEA on progress in improving energy efficiency and achieving the targets, either on Form FEA U524-P-O or through the reports of adequate voluntary reporting programs. The Department of Energy Organization Act (Pub. L. 95-91) transferred the responsibilities for the program to DOE. As required by section 375(c) of the EPCA, DOE submitted an annual report to Congress in June 1978, based on data received from corporations on energy consumption in 1976 and the first half of 1977.

B. *The NECPA Amendments to the Program.* In enacting the NECPA in October 1978, Congress has mandated several changes and additions to DOE's responsibilities for industrial energy conservation. Section 441 of the NECPA redesignates sections 371-376 of the EPCA as Part E of Title III. All subsequent references in this notice will use the new reference.

Section 601 of the NECPA, among other things, amends Part E by striking a portion of section 373, redesignating the remaining part of that section as 373(a) and adding a new subsection (b). Section 373(b) requires DOE to identify "each corporation which consumes at least one trillion British thermal units of energy per year and which is within a major energy-consuming industry identified under subsection (a)." FEA, as mentioned above, identified (and ranked) 20 major energy-consuming industries. FEA then identified each corporation within only the ten most energy-consumptive industries, since section 375(a), before it was amended, required reports only from corporations in industries for which energy efficency improvement targets had been established. To implement the amendments to section 373 and 375(a) enacted in the NECPA, DOE is today requiring information in order to identify corporations which consume at least one trillion British thermal units (Btu's) in any of the 20 major energy-consuming industries.

In addition to identifying corporations under the expanded program, DOE intends to issue revised exemption criteria for adequate voluntary reporting programs and to grant exemptions under those criteria pursuant to section 376(g) of the EPCA. When revised reporting requirements are established, corporations identified under the expanded program will be required to report to DOE either directly or through an adequate voluntary reporting program. However, until further notice, corporations which have been previously identified and are participating in the current reporting aspects of the program, and only those corporations, will continue to file reports with DOE or an adequate voluntary reporting program, as appropriate.

Section 461 of the NECPA adds a new section 374A to the EPCA. This new section establishes a reporting program for monitoring the progress of certain corporations in four industries—metals and metal products, paper and allied products, textile mill products, and rubber—towards targets to be established for the increased use of "recovered materials," as defined in that section.

DOE has determined that for purpose of the initial notification of corporations required to inform DOE on their current and anticipated future use of recovered materials, the follow-

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ing two-digit SIC codes include the industries listed in section 374A:

Metals and metal products	SIC 33
Paper and allied products	SIC 26
Textile mill products	SIC 22
Rubber	SIC 30

The information required by this notice will be used, in part, to notify corporations identified under section 373 and also subject to section 374A, of the requirements of section 374A. At a later time, DOE will inform the notified corporations of the time and format of the reports which they are required to file with DOE, pursuant to section 374A. The first such report will include a statement of the volume of energy-saving recovered materials the corporation is using in each of its manufacturing operations located in the United States and what plans, if any, the corporation has to increase the utilization of such materials in those operations in each of the next ten years. DOE recognizes that the use of the four two-digit SIC codes listed above may result in the filing of a first report by corporations which have no operations and no plans to establish operations utilizing any of the materials which are defined as recovered materials in section 374A. The requirement to file semiannual reports on progress towards increased utilization of recovered materials will be examined in light of information contained in the initial corporate report described above.

II. Reporting Requirements

A. *Corporations Which Must File A Report.* A report shall be filed by any corporation which, in accordance with directions given below, computes a total energy consumption of at least one trillion Btu's of energy in calendar year 1977 in the United States within any one of the following major industries:

Industry and SIC	
Food and kindred products	20
Tobacco products	21
Textile mill products	22
Apparel and other textile products	23
Lumber and wood products	24
Furniture and fixtures	25
Paper and allied products	26
Printing and publishing	27
Chemicals and allied products	28
Petroleum and coal products	29
Rubber, misc. plastics products	30
Leather and leather products	31
Stone, clay and glass products	32
Primary metal industries	33
Fabricated metal products	34
Machinery, except electrical	35
Electric, electronic equipment	36
Transportation equipment	37
Instruments and related products	38
Miscellaneous manufacturing industries	39

Corporations identified under the EPCA, before the passage of the NECPA, and currently participating in the program are *not* exempt from the requirements of this notice.

B. *Definitions.* For purposes of this filing requirement;

"Corporation" means a person as defined in Section 3(2) of the EPCA, (any corporation, company, association, firm, partnership, society, trust, joint venture or joint stock company) and includes any person which controls, is controlled by, or is under common control with such person.

"Total energy consumption" means the sum of the Btu content of all energy sources consumed in manufacturing within the United States in calendar year 1977 in a major energy-consuming industry, as determined in accordance with the instructions provided in II.D.1 of this notice. This should include all purchased electricity and fuels as well as fuels obtained from sources owned by a corporation.

"Control" for purposes of this notice means the ability to direct or cause the direction of the management and policies of the corporation. Whether control is present involves a question of fact to be determined from such criteria as degree of ownership (especially of voting shares), contractual arrangements, and other means of influence, such as the ability to appoint a majority of a company's board of directors, whether by sufficient stock ownership or other means.

"United States" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

C. *Information To Be Filed.* Corporations which must file a report with DOE shall submit the following information to the address specified in this notice certified by the Chief Executive Officer or such other officer as may be responsible for energy matters:

(1) The name, title, address and phone number of the individual responsible for reporting energy data for the corporation and of the energy conservation coordinator, if any;

(2) The Internal Revenue Service "Employer Identification Number" (EIN) for the corporation; and

(3) A statement as follows and the date of submission:

.....
(name of corporation)

consumed at least one trillion Btu's of energy in calendar year 1977 in SIC(s)————, as determined according to instructions contained in "Requirement for Certain Corporations to File Information on Energy Consumption for Identification," (43 FR————),

.....
(date of publication)

Excluding petroleum, natural gas and their derivatives used as feedstocks.

.....
(name of corporation)

consumed at least one trillion Btu's of energy in calendar year 1977 in SIC(s)————. I certify that all the information in this report is true and accurate to the best of my knowledge.

Section 1001 of Title 18, U.S. Code, makes it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious, or fraudulent statements or representations as to any matter within its jurisdiction.

D. *Instructions.*—1. *Determining Total Energy Consumption. Include* energy used for:

(a). Direct manufacturing operations.

(b). Thermal self-generation of electricity.

(c). Heating, ventilating and air conditioning of manufacturing buildings and plant offices plus manufacturing services such as shops, cafeteria, other plant personnel services, and plant chemical and analytical laboratories.

(d). In-plant transportation, such as lifttrucks, conveyors, cranes, and railroads.

(e). Transportation to manufacturing facilities from mining operations owned by the manufacturer. (The transportation could be by conveyors, trucks or by rail. Mineral preparation such as crushing, screening and concentrating of ores is *not* to be included, per SIC definitions.)

(f). Raw material storage.

(g). Services for finished product warehouses within a plant fence if directly related to manufacturing operations.

(h). Petroleum, natural gas and their derivatives used as feedstocks.

Exclude energy used for the following where such use is metered separately or can otherwise be identified:

(a). All uses of electricity self-generated by thermal.

(b). Services for corporate and divisional offices.

(c). Services for basic research.

(d). Services for regional distribution centers.

(e). Fuel for corporate aircraft, salesmen's cars and over-the-highway trucks.

(f). By-product fuels sold and shipped or stored for sale.

(g). Facility start-up energy (to point of commercial-quality production).

(h). Waste used as fuel.

(i). Transport of intermediate product to another producer for finishing within the same two-digit industry.

(j). Fuels received for storage for later disposition.

To avoid double-counting in the case of thermally self-generated electricity, a corporation's electricity consumption should be comprised only of purchased electricity and self-generated hydropower. For example, where a corporation consumes coal in its own thermal generation of electricity, the Btu's of the coal, but not the Btu's of the electricity when used, should be counted.

Where a corporation consumes energy in one major energy-consuming industry for purposes of manufacturing an end product in another major energy-consuming industry, the corporation must separately compute total energy consumption in each major energy-consuming industry. For example, where a corporation produces steel for use in manufacturing transportation equipment, it should include the energy consumed in producing the steel in its total energy consumption in SIC 33, rather than in its total energy consumption in SIC 37. These instructions apply to all corporations filing pursuant to this notice, notwithstanding any instructions for computing total energy consumption for purposes of current industrial reporting.

2. *Conversion Factors.* Where an energy source was purchased according to, or with knowledge of, its actual Btu content, and such Btu content can be documented, compute energy consumption by reference to the actual Btu content. Where the energy source was not purchased according to, or with knowledge of, its actual Btu content and in the case of electricity, use the following conversion factors:

Energy source	*Conversion factor (Btu's/energy unit)*
Electricity	3,412/Kwh.
Natural gas	1,021/cu. ft.
Bituminous coal	22,565,000/short ton.
Anthracite	25,400,000/short ton.
Coke	26,000,000/short ton.
Ethane	3,082,380/bbl.
Propane	3,847,800/bbl.
LPG	4,011,000/bbl.
Natural gasoline	4,620,000/bbl.
Gasoline (including aviation)	5,248,000/bbl.
Special naphtha	5,248,000/bbl.
Kerosene	5,670,000/bbl.
Distillate fuel oil (including diesel).	555,825,000/bbl.
Still gas	6,000,000/bbl.
Petrolum coke	6,024,000/bbl.
Residual fuel oil	6,287,000/bbl.
Crude oil	5,800,000/bbl.
Other energy types	(to be determined by carlorimetric measurement or engineering standard as appropriate consuming corporations.)

3. *Treatment of Joint Ventures.* Where a corporation controls, is controlled by or a is under common control with another corporation, the corportion which is required to file is the ultimate parent corporation Control of a corporation means the ability to direct or cause the direction of the management and policies of the corporation. The indentification of a controlling or ultimate parent corporation is a question of fact to be determined from such criteria as degree of ownership (especially of voting shares), contractual arrangements, and other means of influence. Facts establishing the ability to appoint a majority of a company's board of directors, whether by sufficient stock ownership or other means, are especially important to the determination of control.

In the case of a joint venture, there is no single parent corporation. However, where one of the corporations which owns the joint venture exercise control, as determined by the criteria listed above, that corporation alone is the ultimate parent corporation and is responsible for reporting the entire amount of energy consumed by the joint venture. Only where an examination of the facts by DOE indicates that more than one parent actually exercises control will control be considered to be vested in more than one ultimate parent. In this single case, each joint venturer should include an equal percentage of the energy consumed by the joint venture in its energy consumption report. Any corporation which determines, based on the definition of "corporation" given above, to include less than the entire amount of energy consumed by a joint venture should indicate that fact in its report to DOE by providing the names of any joint ventures whose energy consumption is included in the report and listing the names of the other joint ventureres to each joint venture, and should be prepared to supply to DOE the following documentation:

(1) A copy of the provisions of the joint venture agreement pertinent to the direction and management of the joint venture, as well as a copy of all other material pertinent to the direction and management of the joint venture, accompanied by a certification by a duly authorized officer of the corporation that the same are true and correct copies and were in full force and effect during 1977 and are in full force and effect at the date of certification, and

(2) A certification by the chief executive officer or person submitting informaion pursuant to this notice (see II.C) for the corporation that the corporation does not possess, directly, or indirectly, the power to direct or cause the direction of the management and policies of the joint venture whether through the ownership of voting shares, by contract or otherwise.

4. *Retention of Data.* All data used in determining total energy consumption in 1977 for the requirements of this filing requirement should be retained by the corporation for at least two years, even if such consumption is determined to be less than one trillion Btu's. This will facilitate any verification of the accuracy of the data by DOE.

5. *Confidential Information.* A corporation which believes (1) that any information provided to DOE in its response is a trade secret or commercial or financial information that is privileged or confidential within the meaning of the Freedom of Information Act (FOIA) exemption in 5 U.S.C. 552(b)(4), and (2) that disclosure of this information would cause significant competitive damage to it must so inform DOE. Each corporation making such a claim should submit with its report a detailed item-by-item explanation of whether the information is customarily treated as confidential by the corporation and industry and a detailed explanation of the anticipated competitive damage which would result from public disclosure. This detailed statement, rather then general statements that an item is confidential, is needed by DOE to determine whether the item may be exempt from release under the FOIA. DOE retains the right to make its own determination regarding any claim of confidentiality. Prior to disclosing any information contained in the response which the DOE determines is not information described in 5 U.S.C. 552(b)(4), DOE will notify any corporation which provided information and which has claimed that the information is privileged or confidential under 5 U.S.C. 552(b)(4) of its determination to release such information, at least five days prior to the proposed release of the information.

6. *Filing Address and Date.* All reports must be received by DOE by January 29, 1979 at the following address:

Office of Industrial Applications and Commercialization, Office of the Assistant Secretary, Conservation and Solar Applications, U.S. Department of Energy, 666 11th Street, N.W., Suite 735, Washington, D.C. 20545.

Authority To Collect Data

The requirement for corporations to provide the information requested in this filing requirement is based on Section 373 of the EPCA, as amended by Section 601 of the NECPA; Section 376(b) of the EPCA, as amended by Section 461 of the NECPA, Section 5(b)(7) and 13(b) of the Federal Energy Administration Act of 1974, as amended (15 U.S.C. 772); and Section 461 of the NECPA.

(Energy Policy and Conservation Act (Pub. L. 94-163), as amended by the National Energy Conservation Policy Act (Pub. L. 95-619); Federal Energy Administration Act of 1974 (Pub. L. 93-275), as amended; E.O. 11790 (39 F.R. 23185); The Department of Energy Organization Act (Pub. L. 95-91); E.O. 12009 (42 F.R. 46267).

Issued in Washington, D.C., January 4, 1979.

OMI WALDEN,
Assistant Secretary,
Conservation and Solar Applications.

[FR Doc. 79-713 Filed 1-4-79; 1:54 pm]

[6740-02-M]

Federal Energy Regulatory Commission

[Docket No. RA79-4]

ARIZONA FUELS CORP.

Filing of Petition for Review Under 42 U.S.C. 7194

DECEMBER 26, 1978.

Take notice that Arizona Fuels Corporation (Arizona) on November 27, 1978 filed a Petition for Review under 42 U.S.C. § 7194(b) (1977 Supp.) from an order of Secretary of Energy, issued on October 26, 1978, denying in part, Arizona's application for exception relief.

Copies of the petition for review have been served on the Secretary, Department of Energy, and all participants in prior proceedings before the Secretary.

Any person desiring to be heard with reference to such filing should on or before January 8, 1979 file a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Commission's rules of practice and procedure (18 CFR 1.8). Any person wishing to become a party or to participate as a party must file a petition to intervene. Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., N.E., Washington, D.C. 20426.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-606 Filed 1-5-79; 8:45 am]

[6740-02-M]

[Docket No. RI76-129]

BYRON OIL INDUSTRIES, INC.

Order Accepting Settlement Agreement and Granting Special Relief

DECEMBER 29, 1978.

On May 26, 1976 Byron Oil Industries, Inc. (Byron) filed a petition for special relief in the above-captioned docket pursuant to Section 1.7 of the Commission's Rules of Practice and Procedure and Section 2.56a(g) of the Commission's General Policy and Interpretations [1] for the sale of natural gas from the Wattenberg Field, Adams and Weld Counties, Colorado to Northern Natural Gas Company (Northern) which is being resold and delivered to Panhandle Eastern Pipeline Company (Panhandle). Byron, a small producer, is selling this gas pursuant to a certificate granted in Docket No. CS76-49.

PROCEDURAL HISTORY

Byron's special relief petition was noticed on June 8, 1976 and on June 17, 1976, Northern filed a Petition to intervene requesting that a formal hearing be held on the matter. An untimely petition to intervene was filed by Panhandle on June 28, 1978. Both Northern and Panhandle were permitted to intervene.

An order setting the matter for hearing and granting interventions was issued on December 27, 1976; direct evidence was filed by both Byron and Staff, and the hearing was held on September 29, 1977. Supplemental evidence was filed by both Byron and Staff; the hearing was reconvened on December 14, 1977, and concluded on December 15, 1977.

Following extensive settlement negotiations, a settlement agreement was certified to the Commission on February 1, 1978 by Presiding Administrative Law Judge Ellis. A notice of certification of settlement agreement was issued by the Commission on February 8, 1978. comments in support of the proposed settlement agreement were filed by Byron on February 21, 1978 and by Commission Staff on February 23, 1978.

SETTLEMENT PROPOSAL

The settlement proposal set a rate of $2.10 per Mcf for the sale of gas to Northern. This rate is based on Byron's out-of-pocket costs and would apply to all gas sold from all existing wells, and from any and all future wells which may be drilled on acreage or gas producing formations which now or hereafter may be dedicated to the gas sales contract dated June 25, 1975 bewteen Byron and Northern.

STAFF ANALYSIS

Based upon a thorough out-of-pocket cost study, Staff concluded that a fixed rate of $2.10 per Mcf at 14.73 psia was just and reasonable under the Natural Gas Act.[2]

Staff is of the opinon that the rate of $2.10 per Mcf at 14.73 psia is cost supported, and that it is in the public interest to grant this special relief petition.

Upon consideration of the data submitted and Staff's analysis thereof, we conclude that the settlement should be accepted.

The Commission finds: The proposal settlement rate is just and reasonable under the Natural Gas Act and therefore the collection thereof by Byron is permissible pursuant to Section 104(b)(2) of the Natural Gas Policy Act of 1978.

By the Commission.

KENNETH F. PLUMB,
Secretary.

APPENDIX A.—*Staff Analysis, Byron Oil Industries, Inc., Docket No. RI76-129, Out-of-Pocket Costs*

Line No. and Item (a)	Amount Gross (b)	Amount Net [1] (c)
Out-of-Pocket Cost of Production Based on 14 Representative Wells Without Rework		
1. Remaining Recoverable Reserves		
2. Gas (Mcf)	138,110	99,439
3. Cost of Production		
4. Out-of-pocket operating expense	$435,764	$200,451
5. Regulatory expense		100
6. Total Cost of Production		$200,551
7. Unit Cost (¢/Mcf) [3]		201.68
Average Cost of Rework Over Project Reserves		
8. Total Estimated Recoverable Reserves		
9. 14 Representative Wells (Mcf)	138,110	99,439
10. 15 Reworks	[4]285,000	205,200
11. 23 Other Existing Wells Currently Producing	[5]803,246	578,337
12. 139 Proposed New Wells.	[6]6,472,535	4,660,225
13. Total Reserves (Mcf)		5,543,201
14. Estimated Rework Cost	$975,000	$448,500
15. Unit Cost (¢/Mcf) [4]		8.09
16. Total Unit Cost (¢/Mcf) [7]		209.77

[1] Column (b) times 72% net working interest for reserves or 46% allocated to gas for costs, based on a modified Btu method of allocation.
[2] Line 6 divided by line 2.
[3] Based on 19,000 Mcf/rework.
[4] Based on 46,565 Mcf/well less 25% depletion for past production.
[5] Based on 46,565 Mcf/well.
[6] Line 14 divided by line 13.
[7] Line 7 plus line 15.

[FR Doc. 79-591 Filed 1-5-79; 8:45 am]

[1] This proceeding was commenced before the FPC. By the joint regulation of October 1, 1977 (10 CFR 100.1), it was transferred to the FERC. The term "Commission", when used in the context of action taken prior to October 1, 1977, refers to the FPC; when used otherwise, the reference is to the FERC.

[2] See attached Appendix A.

[6740-02-M]

[Docket No. ER79-106]

CENTRAL MAINE POWER CO.

Proposed Tariff Change

DECEMBER 28, 1978.

Take notice that on December 14, 1978 Central Maine Power Company (Central Maine) tendered for filing an initial rate schedule which provides for certain limited transmission services associated with the receipt of joint ownership entitlements in the William F. Wyman Unit No. 4, a steam electric generating unit located at a site on Cousins Island in the Town of Yarmouth, Cumberland County, Maine.

Central Maine requests waiver of the Commission's notice requirements to allow an effective date of December 1, 1978.

Copies of the filing, according to Central Maine have been served upon:

Bangor Hydro-Electric Company
Maine Public Service Company
Boston Edison Company
Fitchburg Gas and Electric Light Co.
Montaup Electric Company
New England Power Company
New Bedford Gas and Edison Light Co.
Newport Electric Corporation
Public Service Company of New Hampshire
Central Vermont Public Service Corp.
Green Mountain Power Corp.
Massachusetts Municipal Wholesale Electric Co.
Village of Lyndonville Electric Department
Maine Public Utilities Commission

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 4, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-598 Filed 1-5-79; 8:45 am]

[6740-02-M]

[Docket No. RP72-134]

EASTERN SHORE NATURAL GAS CO.

Purchased Gas Cost Adjustment to Rates and Charges

DECEMBER 27, 1978.

Take notice that Eastern Shore Natural Gas Company (Eastern Shore) on December 15, 1978, tendered for filing the following revised tariff sheets:

To Be Effective, March 3, 1977

Revised Substitute Forty-First Revised Sheet No. 3A

To Be Effective, May 1, 1977

Second Revised Substitute Forty-First Revised Sheet No. 3A

To Be Effective, June 1, 1977

Third Revised Substitute Forty-First Revised Sheet No. 3A

To Be Effective, July 1, 1977

Fourth Revised Substitute Forty-First Revised Sheet No. 3A

To Be Effective, September 1, 1977

Fifth Revised Substitute Forty-First Revised Sheet No. 3A

To Be Effective, September 2, 1977

Sixth Revised Substitute Forty-First Revised Sheet No. 3A

To Be Effective, December 1, 1977

Seventh Revised Substitute Forty-First Revised Sheet No. 3A

The revised tariff sheets track a similar filing by Eastern Shore's sole supplier, Transcontinental Gas Pipe Line Corporation. Eastern Shore states that a copy of this filing has been served upon its customers and the appropriate state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 5, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-592 Filed 1-5-79; 8:45 am]

[6740-02-M]

[Docket No. RP79-12]

EL PASO NATURAL GAS CO.

Order Accepting for Filing and Suspending Proposed Tariff Sheet, Granting Waiver, and Establishing Procedures

DECEMBER 28, 1978.

On November 30, 1978, El Paso Natural Gas Company (El Paso) tendered for filing revised tariff sheets [1] proposed to be effective January 1, 1979, which would increase its annual jurisdictional revenues by $167,875,256 or about 13% above its presently effective base tariff rates.

Public notice of El Paso's filing was issued on December 7, 1978, providing for protests or petitions to intervene to be filed on or before December 22, 1978.

El Paso proposes an 11.64 percent overall rate of return, and states that the increased rates are necessary to recover increased costs in virtually all aspects of El Paso's pipeline system operations. The filed rates also reflect increases in gas well royalty and production tax expenses which El Paso expects to incur as a result of an increase in estimated volumes of produced gas and an increase in natural gas prices resulting from enactment of the Natural Gas Policy Act of 1978.

El Paso requests waiver of Section 154.63(e)(2)(ii), of the Commission's Regulations to permit the inclusion in its proposed rates of costs and gas volumes associated with uncertificated facilities. In addition, El Paso requests waiver of Section 154.63(e)(2)(i) of the Commission's Regulations to permit the inclusion of costs resulting from a contractual increase in overriding royalty payments which will occur on June 1, 1979, one day past the prescribed adjustment period.

Based upon a review of El Paso's filing, the Commission finds that the proposed general rate increase has not been shown to be just and reasonable, and may be unjust, unreasonable and unduly discriminatory, or otherwise unlawful. Accordingly, the Commission shall accept El Paso's revised tariff sheets for filing, suspend their use for five months until June 1, 1979, subject to refund and the conditions set forth below, and set the matter for hearing.

El Paso's cost of service includes costs associated with facilities which

[1] Twenty-fourth Revised Sheet No. 3-B, First Substitute Sixth Revised Sheet No. 63-C.6, Third Revised Sheet No. 67-B to Original Volume No. 1, and Fourteenth Revised Sheet No. 1-D, Seventh Revised Sheet No. 1-D.2, First Substitute Sixteenth Revised Sheet No. 1-C, Twelfth Revised Sheet No. 1-D and First Substitute Sixth Revised Sheet No. 7-MM.6 to Original Volume No. 2A of El Paso's FERC Gas Tariff.

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are uncertificated and not in service. Although El Paso anticipates that these facilities will be certificated and placed in service by the end of the test period, Section 154.63(e)(2)(ii) of the Commission's Regulations provides that test period adjustments for new facilities may be made only for those facilities that have been certificated by the filing date and will be in service by the end of the test period. The Commission shall grant waiver of this regulation and accept El Paso's filing, upon condition that on or before May 31, 1979 El Paso file revised tariff sheets reflecting elimination of costs associated with all facilities which have not been placed in service on that date. El Paso shall also reflect in those revised tariff sheets the actual balance of advance payments in Account 166 at the end of the test period, provided that the inclusion of a higher advance payments balance shall not be permitted to increase the level of the original suspended rates. In addition, El Paso shall reflect the effective GRI Funding Unit on the effective date of the increased rates and any resulting reduction in Research, Development and Demonstration costs required by Opinion No. 30. Waiver of Section 154.63(e)(2)(ii) is granted upon condition that El Paso shall not be permitted to make offsetting adjustments to the suspended rates prior to hearing, except for those adjustments made pursuant to commission approved tracking provisions, those adjustments required by this order, and those required by other Commission orders.

El Paso's filing also reflects costs associated with a contractual increase in special overriding royalty payments, effective June 1, 1979. The effective date of this increase is one day past the nine month adjustment period prescribed by Section 154.63(e)(2)(i) of the Commission's Regulations. However, we shall grant waiver of this regulation to permit El Paso to include these costs in its filing subject to the condition that El Paso file revised tariff sheets reflecting the actual level of production taxes and royalty costs being incurred as of June 1, 1979, provided that El Paso shall not be permitted to increase the level of its originally suspended rates as a result of El Paso reflecting a higher level of production taxes and royalty costs in its rates. The waiver is also granted upon condition that El Paso not be permitted to make offsetting adjustments, as discussed earlier in the order with respect to uncertificated facilities.

On June 3, 1977, the Commission instituted a show cause proceeding in Docket Nos. CP74-314, *et al.*, to determine the question of the Commission's jurisdiction over the owners of the special overriding royalty interests. The outcome of this proceeding may directly affect the level of payments which El Paso is required to make to the special overriding royalty interest owners. Accordingly the inclusion of special overriding royalty costs in El Paso's filing shall also be conditioned on the final resolution of the proceedings in Docket Nos. CP74-314, *et al.*

El Paso has also submitted with the instant filing pro forma tariff sheets which set forth certain permanent modifications to the Purchased Gas Cost Adjustment Provision of its Tariff.[2] The question of permitting these tariff sheets to become effective prospectively shall be an issue in this proceeding.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 8, and 15 thereof, and the Commission's rules and regulations, a public hearing shall be held concerning the lawfulness of the increased rates proposed by El Paso.

(B) Pending hearing and decision, and subject to the conditions of Ordering Paragraphs (C), (E), and (F) below, El Paso's proposed tariff sheets are accepted for filing and suspended for five months until June 1, 1979, when they may become effective subject to refund, in the manner prescribed by the Natural Gas Act.

(C) El Paso shall file substitute revised tariff sheets to become effective subject to refund as of June 1, 1979, reflecting (1) the elimination of costs associated with facilities which are not in service by May 31, 1979, pursuant to the requirements of 18 C.F.R. 154.63(e)(2)(ii) and subject to condition that El Paso shall not be permitted to make offsetting adjustments to the suspended rates prior to hearing, except for those adjustments made pursuant to Commission approved tracking provisions, those adjustments required by this order, and those required by other Commission orders; (2) the actual balance of advance payments in Account 166 outstanding as of May 31, 1979, and subject to condition that inclusion of a higher overall advance payments balance shall not be permitted to increase the level of the original suspended rates; (3) the actual production tax and royalty costs as of June 1, 1979, provided that, El Paso shall not be permitted to increase the level of its original suspended rates as a result of El Paso reflecting a higher level of production tax and royalty costs in its rates and provided further that El Paso may not make offsetting adjustments except those described in condition (1) above in Ordering Paragraph (C); and (4) the effective GRI Funding Unit as of June 1, 1979 and any resulting reduction in Research, Development and Demonstration costs required by Order Nos. 30 and 30-A.

(D) Waiver of Section 154.63(e)(2)(i) and Section 154.63(e)(2)(ii) is granted to the extent necessary to effectuate the conditions contained in Ordering Paragraph (C) above.

(E) The portion of the rate increase associated with special overriding royalty costs shall be made effective subject to the final resolution of the show cause proceedings in Docket Nos. CP74-314, *et al.*

(F) The question of allowing prospective effect to Third Revised Sheet No. 67-B to Original Volume No. 1 of El Paso's tariff shall be an issue in this proceeding.

(G) The Commission Staff shall prepare and serve top sheets on all parties on or before April 2, 1979.

(H) A Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge for that purpose (18 C.F.R. 3.5(d)), shall convene a settlement conference in this proceeding to be held within 10 days after the service of top sheets by the Staff, in a hearing or conference room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The Presiding Administrative Law Judge is authorized to establish such further procedural dates as may be necessary, and to rule upon all motions (except motions to consolidate, sever, or dismiss), as provided for in the rules of practice and procedure.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-599 Filed 1-5-79; 8:45 am]

[1] Third Revised Sheet No. 67-B to Original Volume No. 1 of El Paso's FERC Gas Tariff. El Paso requests that this sheet not be made effective until after a Commission order approving the sheet.

[6740-02-M]

[Docket No. RP76-148 (PGA79-1)]

GAS GATHERING CORP.

Filing of Corrected Rate Increase Under Purchased Gas Adjustment Provision

DECEMBER 27, 1978.

Take notice that Gas Gathering Corporation (GGC), on December 15, 1978, tendered for filing a further correction to the proposed rate increase under the purchased gas cost adjustment (PGA) provision in GGC's F.E.R.C. Gas Tariff. This proposed rate increase was tendered for filing on November 9, 1978 and corrected by a filing made on November 28, 1978. The further correction consists of Second Substitute Third Revised Sheet No. 8 of 8, Supplement No. 24 to Rate Schedule No. 2 of GGC's F.E.R.C. Gas Tariff and a revised supporting exhibit. GGC states that the purpose of this filing is to include in its current cost adjustment actual cost increases as of January 1, 1979 authorized by the Natural Gas Policy Act of 1978. GGC further requests that waiver of the Commission's regulations and the notice provision of GGC's PGA tariff be granted to permit the corrected tariff sheet to be made effective on January 1, 1979 in substitution for the corresponding sheet tendered on November 9, 1978.

GGC states that a copy of the filing has been served upon Transco.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 5, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-593 Filed 1-5-79; 8:45 am]

[1] Seventh Revised Sheet No. 4 and Thirtieth Revised Sheet No. 57 to First Revised Volume No. 1; Thirteenth Revised sheet No. 53, Fourth Revised Sheet No. 77; Eighth Revised Sheet No. 77, and Eighth revised Sheet No. 151 to Original Volume No. 2.

[6740-02-M]

[Docket Nos. RP79-10 and RP79-13]

GREAT LAKES GAS TRANSMISSION

Order Accepting for Filing and Suspending Rate Increase Subject to Conditions and Rejecting Interim Rate Proposal

DECEMBER 28, 1978.

On November 30, 1978 Great lakes Gas Transmission Company (Great Lakes) filed revised tariff sheets [1] in Docket No. RP79-10, which reflect an annual revenue increase of $17,108,254. The increased rates are based upon actual costs for the twelve months ending July 31, 1978, as adjusted for known and measurable changes in costs which are expected to be incurred by April 30, 1979, which is the end of the test period. Great Lakes proposes January 1, 1979 as the date upon which these rates are to become effective.

This proposed rate increase is based upon estimated jurisdictional sales and transportation volumes of 461,116,000 Mcf, which would provide an increase of 5.43% over the revenues generated at the underlying rates. Great Lakes contends that the increase in rates is necessary to recover increased costs resulting from increased operating expenses, depreciation expenses and taxes, and further claims an increased rate of return of 11.01%.

Great Lakes also filed in docket No. RP79-13 a revised tariff sheet [2] reflecting an increased rate for the transportation service for Michigan Wisconsin Pipe Line Company (Michigan-Wisconsin) under Great Lakes' T-6 Rate Schedule. This revised tariff sheet which was filed November 30, 1978 proposes an effective date of December 1, 1978 for an interim period, to terminate on the effective date of the proposed rate for this transportation service proposed in Docket No. RP79-10. Great Lakes proposes this December 1, 1978 effective date to operate immediately and without suspension, in the event the filing in Docket No. RP79-10 is accepted and suspended.

Great lakes has filed an incremental cost of service in support of the interim rate proposed in Docket No. RP79-13, which applies solely to the additional facilities to be constructed and operated pursuant to the certificatee granted by the Commission at Docket No. CP74-317. These transportation-related facilities are intended to affect only the T-6 Rate Schedule. However, Great Lakes' system is fully integrated and operates as a total unit. The reliability and usefulness of any study purporting to identify specific facilities within this system for specific services has not been demonstrated by Great Lakes. Additionally, the cost of service study submitted by Great Lakes is similar to that set forth in a prior rate filing at Docket No. RP78-92 made pursuant to Section 4(d) of the Natural Gas Act, which was rejected for failure to comply with Section 154.63 of the Regulations.[3]

In the alternative, the filing by Great Lakes in Docket No. RP79-13, can be viewed as essentially a request by Great Lakes for a shortened suspension period for that portion of its rate increase application filed in Docket No. RP79-10 related to the transportation service for Michigan-Wisconsin.

Based upon a review of Great Lakes' filing in Docket No. RP79-13, the Commission finds that the proposed interim rate made specifically applicable to the T-6 Rate Schedule for transportation service to Michigan-Wisconsin, is not supported by appropriate cost and revenue data as required by Section 154.63 of the Regulations. Furthermore, if this filing is viewed as a request to grant a shortened suspension period for that portion of the filing in Docket No. RP79-10 governing the T-6 service, we find good cause has not been shown to grant such request. Accordingly, the Seventh Revised Sheet No. 151 filed in Docket No. RP79-13 shall be rejected.

This Commission further determines that the revised tariff sheets filed by Great Lakes in Docket No. RP79-10 have not been shown to be just and reasonable, and may be unjust, unreasonable, and unduly discriminatory, or otherwise unlawful. Accordingly, the Commission shall accept Great Lakes' proposed rate increase for filing, suspend its use for five months until June 1, 1979, subject to refund and condition, and set the matter for hearing.

Great Lakes' filing in Docket No. RP79-10 includes costs for facilities which were certificated in Docket No. CP74-317, which certificate was in effect on November 30 1978. These facilities have not, however, been placed in service. Therefore, in compliance with § 154.63(e)(2)(ii) of the Regulations, Great Lakes will be required to file revised tariff sheets as of April 30, 1979 reflecting the elimination of costs associated with facilities not in service on April 30, 1979, the end of the test period, as hereinafter conditioned.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 8 and 15 thereof, and the Commission's rules and regulations, a public hearing shall be held concerning the lawfulness of the increased rates proposed by Great Lakes.

(B) Pending hearing and decision, and subject to the conditions of Ordering Paragraph (C) below, Great Lakes' proposed Seventh Revised Sheet No. 4 and Thirtieth Revised Sheet No. 57 to First Revised Volume No. 1, and its proposed Thirteenth Revised Sheet No. 53, Fourth Revised Sheet No. 77, Eighth Revised Sheet No. 151 to Original Volume No. 2 are accepted for filing and suspended for five months until June 1, 1979, when they may become effective subject to refund, in the manner prescribed by the Natural Gas Act.

(C) Great Lakes shall file substitute revised tariff sheets as of April 30, 1979, to become effective June 1, 1979, subject to refund, reflecting the elimination of costs associated with facilities which are not in service by April 30, 1979, pursuant to the requirements of 18 CFR 154.63(e)(2)(ii) and subject to condition that Great Lakes shall not be permitted to make offsetting adjustments to the suspended rates

[2] Seventh Revised Sheet No. 151 to FERC Gas Tariff, Original Volume No. 2.

[3] Rejection was by the Director of the Office of Pipeline and Producer Regulation pursuant to delegation of authority set forth in the FERC order issued on August 14, 1978, in Docket No. RM78-19.

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prior to hearing, except for those adjustments made pursuant to Commission approved tracking provisions, those adjustments required by this order, and those required by other Commission orders.

(D) Great Lakes' proposed Seventh Revised Sheet No. 151 to its FERC Gas Tariff, Original Volume No. 2 filed in Docket No. RP79-13 shall be rejected.

(E) The Commission Staff shall prepare and serve top sheets on all parties on or before April 6, 1979.

(F) A Presiding Administrative Law Judge for that purpose (18 CFR 3.5(d)), shall convene a settlement conference in this proceeding to be held within 10 days after the service of top sheets by the Staff, in a hearing or conference room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The Presiding Administrative Law Judge is authorized to establish such further procedural dates as may be necessary, and to rule upon all motions (except motions to consolidate, sever, or dismiss), as provided for in the rules of practice and procedure.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-600 Filed 1-5-79; 8:45 am]

[6740-02-M]

[Docket No. RP78-86]

KASKASKIA GAS CO., ET AL., COMPLAINANT PETITIONERS V. TRUNKLINE GAS CO., RESPONDENT

Amended Complaint and Petition for Relief

DECEMBER 29, 1978.

Take notice that on November 20, 1978, Kaskaskia Gas Company, the Villages of Cisne, Louisville, and Wayne City, Illinois, and the Cities of Fairfield, McLeansboro, and Vienna, Illinois, complainant petitioners (petitioners) filed in Docket No. RP78-86 an amendment to their petition filed, pursuant to the provisions of the Natural Gas Act, on August 30, 1978, in said docket.

The amended petition provides for a change in a portion of the relief requested by petitioners. It is requested that Trunkline be directed to amend Section 17.5(b)(2)(i) of its tariff to read "(i) In the case of a Small General Service Buyer which did not exceed its Contract Demand if such Buyer certifies that (a) it did not subsequent to January 1, 1975 attach or supply any new gas usage within Opinion No. 467-B for Priorities 2 through 9 and (b) it did not subsequent to November 1, 1976 supply during the billing month any gas for boiler fuel to a customer using 50 Mcf or more per day or for electric power generation."

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 23, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-607 Filed 1-5-79; 8:45 am]

[6740-02-M]

[Docket No. EL79-1]

METLAKATLA INDIAN COMMUNITY

Petition for Declaratory Order

DECEMBER 28, 1978.

Public notice is given that a petition for declaratory order was filed on October 30, 1978, pursuant to Section 1.7(c) of the Commission's Regulations, 18 CFR 1.7(c) (1977), by the Metlakatla Indian Community (Community) of the Annette Islands Reserve, Alaska. Correspondence concerning the application should be addressed to: Carol Herdon Israel, Esq., Fried, Frank, Harris, Shriver & Kempelman, 600 New Hampshire Avenue, N.W., Washington, D.C. 20036.

The Community requested that the Commission determine its jurisdiction over the hydroelectric facilities that the Community proposes to construct at Chester Lake on tribal lands within the Annette Islands Reserve, which was established by Congress in 1891. The Community also owns and operates a hydroelectric facility at Purple Lake also located on tribal lands. The Community stated that no electricity would be sold in interstate or foreign commerce. The Community also stated that neither the lakes nor the stream where the project would be located has been or could be used for the transportation of goods in interstate or foreign commerce.

Anyone desiring to be heard or to make any protest about the petition should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1977). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any protest or petition to intervene must be filed on or before February 5, 1979. The Commission's address is: 825 N. Capitol Street, N.E., Washington, D.C. 20426.

The petition is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-601 Filed 1-5-79; 8:45 am]

[6740-02-M]

[Docket No. CP76-448]

NATIONAL FUEL GAS DISTRIBUTION CORP.

Findings, Declaration of Exemption, and Order Requiring Application

DECEMBER 27, 1978.

On July 19, 1976,[1] National Fuel Gas Distribution Corporation (Applicant) filed in Docket No. CP76-448 an application, as amended December 1, 1977, pursuant to Section 1(c) of the Natural Gas Act for exemption of certain of its facilities in New York and Pennsylvania from the provisions of the Natural Gas Act, all as more fully set forth in the application.

Applicant's distribution system, which is made up of unconnected subsystems, services approximately 11,800 square miles in New York, Pennsylvania and Ohio. All of the natural gas Applicant sells in Ohio is distributed through a subsystem which crosses the Ohio-Pennsylvania line in or near Sharon, Ohio, and Sharon, Pennsylvania (the Sharon area). As with Applicant's other subsystems, the Sharon area subsystem is not physically connected with Applicant's other facilities. The Sharon area subsystem is the only portion of Applicant's system that crosses a state line.

All the gas sold by Applicant in New York is received by Applicant in New York, and all of the gas sold by Applicant in Pennsylvania is received by Applicant in Pennsylvania.

However, the gas sold in Ohio is received by Applicant in Pennsylvania. Since not all the gas received in Pennsylvania is consumed within that state, it is evident that Applicant's entire system does not meet the requirements for an exemption from Commission jurisdiction under Section 1(c) of the Natural Gas Act.

Applicant only seeks an exemption for its New York and Pennsylvania facilities; it does not seek an exemption under Section 1(c) for that portion of its distribution system located in the Sharon area. Without such an exemption, it is clear that the Sharon area subsystem must either be operated under a certificate of public convenience and necessity issued pursuant to Section 7(c) of the Natural Gas Act, or within a service area determined pursuant to Section 7(f) of the Act.[2] A Section 7(f) service area determination would allow Applicant, without further Commission approval, to enlarge or expand its facilities.

After due notice by publication in the FEDERAL REGISTER on August 11, 1976 (41 FR 33947), and due notice of the amendment of December 1, 1977, to the application by publication in the FEDERAL REGISTER on December 23, 1977, (42 FR 624419), a notice of intervention was filed by the Public Service Commission of the State of New York on August 24, 1976. No further petition to intervene, notice of intervention, or protest to the granting of this application has been filed.

The Commission finds: (1) Applicant, a wholly owned subsidiary of National Fuel Gas Company, is a New York corporation authorized to do business in New York, Pennsylvania and Ohio.

(2) The New York Public Service Commission and the Pennsylvania Public Utilities Commission have certified that they have and are exercising authority over the rates, services, and facilities of Applicant in their respective jurisdictions.

(3) Applicant's New York and Pennsylvania distribution system, except for that portion serving the Sharon area, qualifies for an exemption from the provisions of the Natural Gas Act, pursuant to Section 1(c) thereof, because Applicant's non-Sharon area facilities and service involve natural gas acquired and consumed within the state in which that gas is distributed.

(4) The physical remoteness of the Sharon area distribution system from the remainder of Applicant's facilities allows an exemption to apply only to the non-Sharon area system.

(5) The facilities in the Sharon area are operated for the transportation of natural gas in interstate commerce within the meaning of the Natural Gas Act.

The Commission declares: National Fuel Gas Distribution Corporation, with the exception of that portion of its distribution system located in the Sharon area, is exempt from the provisions of the Natural Gas Act, and the orders, rates, and regulations of the Commission issued thereupon.

The Commission orders: Within 60 days from the date of this order, National Fuel Gas Distribution Corporation must, for that portion of its distribution system located in the Sharon area, apply for a certificate of public convenience and necessity pursuant to Section 7(c) of the Natural Gas Act, or in the alternative, apply for a service area determination pursuant to Section 7(f) of the Natural Gas Act.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-594 Filed 1-5-79; 8:45 am]

[6740-02-M]

[Project No. 2645]

NIAGARA MOHAWK POWER CORP.

Order on Reconsideration

DECEMBER 28, 1978.

On July 3, 1978, we issued a major license to Niagara Mohawk Power Corporation ("NMPC") for its constructed Beaver River Project (FERC Project No. 2645.)[1] The project consists of eight developments on the Beaver River in Herkimer and Lewis counties, New York. On August 2, 1978, NMPC filed a request for "an additional time period of thirty days within which to either accept the license terms and conditions fully or to petition for rehearing and reconsideration." On August 21, 1978, NMPC filed an application "for rehearing and/or reconsideration in connection with" the order issuing license.

Section 313(a) of the Federal Power Act ("Act")[2] provides that a person aggrieved by a Commission order who wishes to obtain a rehearing on the order and to preserve the right to seek review in a United States court of appeals must file an application for rehearing within thirty days of the date of issuance of that order. The pertinent period following our order of July 3 therefore expired, by operation of law, on August 2, 1978.

In both its August 2 and August 21 filings, NMPC stated that it was not filing its application for rehearing within the statutory thirty day period because: (1) the order issuing license, although issued on July 3, was not received by NMPC until July 19, and (2) several key members of NMPC's hydro project staff were on vacation when the order was received. These factors do not obviate section 313(a)'s command that applications for rehearing be filed within thirty days of issuance of the order. That time period, which runs from the date of *issuance* rather than the date of receipt, is a statutory bar to late-filed applications for rehearing.[3] The Commission cannot extend that statutory period, even if the party files a request for an extension of time within the thirty days.[4]

Although we are foreclosed from discussing our prior order in the context of a rehearing, we find that a reconsideration of that order in light of the arguments posed by NMPC is desirable. Accordingly, we shall treat NMPC's application as a motion for reconsideration.

NMPC objects to Articles 31 and 31 of the license. We shall address the objections to each article in order.

Article 31—Minimum Flow Releases Study

Article 31 provides:

> Licensee shall consult and cooperate with the New York Department of Environmental Conservation, the U.S. Fish and Wildlife Service of the Department of the Interior, and other appropriate federal, state and local agencies in conducting a study to determine the need, if any, for minimum flow releases from the project developments into the Beaver River for the protection and enhancement of the downstream fishery resources. Within two years from the date of issuance of this order the Licensee shall file with the Commission a copy of the report of the study and, for Commission approval, a schedule of minimum flow releases.

NMPC objects to this article on three grounds:

(1) NMPC states that Article 31 is internally contradictory because it requires NMPC to conduct a study to determine what minimum flows, if any, are necessary, and then goes on to require NMPC to file a schedule of minimum flow releases—even though the study may not demonstrate a need for any minimum flow releases. NMPC's construction of this provision does not seem reasonable, in context, nor is it what we intended. But to eliminate any possible ambiguity, we will revise Article 31 to make clear that a minimum flow release schedule need be filed only if the study shows minimum releases to be necessary or desirable.[5]

(2) NMPC next objects to our requirement for any study at all, apparently because we found, in the order issuing license (*mimeo.* at 6), "that ap-

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[1] This proceeding was commenced before the FPC. By the joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the FERC.

[2] In *Washington Gas Light Company*, Docket No. CP62-205, 28 FPC (1962), it was found that Washington Gas Light, a local distribution company that crossed state lines, was a natural gas company subject to the provisions of the Natural Gas Act. In that case the FPC stated:

> Section 1(b) of the Act • • • specifically places the local distribution of a gas beyond the jurisdiction of the Commission. • • • [A local distribution] company only becomes subject to the Commission's jurisdiction if its system crosses state lines. 28 FPC 755.

[1] "Order Issuing License (Major)."

[2] 16 U.S.C. § 825*l*(a) (1970).

[3] *Appalachian Power Co.*, 52 F.P.C. 317, 319-321 (1974).

[4] *Northern Natural Gas Co.*, 7 F.P.C. 638 (1948).

[5] Under Article 12 of the license, of course, we may prescribe releases other than what NMPC may propose.

proval of the application for license would not constitute a major federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA) 42 U.S.C. § 4332(2)(C) (1970)." This is a *non sequitur*. The standards governing when an environmental impact statement must be prepared and the standards governing our responsibilities for watershed development, recreation, safety, fisheries, and power production [6] are created by two independent statutes, enacted half a century apart. The standards are not coextensive. The fact that the two statutory schemes address certain common subjects does not eliminate the separate existence of each. Our finding that the licensing of this project is not a "major federal action significantly affecting the quality of the human environment" does not preclude us from directing NMPC to investigate the need for minimum flow releases any more than it precludes us from directing NMPC to investigate the safety of the dams or adequacy of the project's recreation facilities. Moreover, one of the reasons we were able to make that finding is that we specifically conditioned our approval action upon study of the need for minimum flow releases and submission of a schedule of releases that may be necessary to avoid any significant adverse environmental impact.

(3) Finally, NMPC states that if it is required to conduct the minimum flows study, it will need more than the two years provided by Article 31. NMPC does not provide any facts or arguments supporting its assertion that it cannot conduct the study in two years. This time period is commonly included in license articles governing minimum flow release studies. Absent a specific showing of good cause, supported by more than a bare assertion of insufficient time, we shall not treat NMPC differently from other licensees. Of course, if extraordinary circumstances do exist or should arise, NMPC is free to apply for an extension of time in which to conduct the study—citing and detailing those circumstances.

Article 32—Primary Transmission Lines

Article 32 provides:

Licensee shall, within one year from the date of issuance of this order, file: (1) a revised Exhibit M for Commission approval to show and describe project transmission lines identified as Moshier-Taylorville (No. 7), Effley-Taylorville (No. 24) and Belfort-Taylorville (No. 25), and appurtenant facilities; and (2) a revised Exhibit F and, for Commission approval, a revised Exhibit K to include within the project boundary the above transmission facilities and any lands or facilities which the Licensee proposes to retain for recreational use at the project.

NMPC objects to the inclusion of these transmission lines and appurtenant facilities in the project. NMPC states that: (1) the lines are "part of [its] interconnected electric system serving existing residential, commercial and seasonal customers;" and (2) the facilities "are an essential part of [its] transmission and distribution systems in its service territory to the communities in the vicinity of the developments which are the subject matter of the instant license." NMPC objects that "if the transmission lines are made a part of the license and thereafter recaptured, Niagara Mohawk would be required to construct substantial additional new facilities to accommodate its existing and future electrical loads in this area."

We have reviewed Article 32, and we reaffirm our determination that the subject lines and facilities are "primary lines" within the meaning of section 3(11) of the Act [7] and, therefore, must be included in the license. As we have emphasized in recent opinions,[8] section 3(11) of the Act clearly states that primary lines are those necessary to ensure the "viability" of the project in the event of federal takeover. If a line "is used solely to transmit power from [Commission] licensed projects to load centers," and if, without it "there would be no way to market the full capacity of the project," then that line is primary to the project." • • • • [T]he legislative concern [behind section 3(11)] was that the Government should be able to acquire a useable facility with the means of transmitting power and at the same time not be saddled with the potentially astronomical cost of acquiring the licensee's interconnected primary transmission system.[10] These criteria are clearly applicable to the transmission lines and appurtenant facilities that are the subject of Article 32.

The three lines in question—the 115 kV Moshier-Taylorville line (No. 7), the 23 kV Effley-Taylorville line (No. 24), and the 23 kV Belfort-Taylorville line (No. 25)—transmit power generated by six of Project No. 2645's developments (Moshier, Eagle, Soft Maple, Effley, Elmer, and Belfort) to points of junction with NMPC's interconnected primary transmission system, *i.e.*, the 115 kV and 23 kV Taylorville buses. These lines are the only outlets to market for three of the developments (Eagle, Soft Maple, and Elmer). Three of the developments (Moshier, Effley, and Belfort) are also served by distribution lines; however, none of these distribution lines is adequate to transmit the full capacity of the development it serves. Therefore, these developments as well must rely on the transmission lines in question to transmit their full capacities to market. All three transmission lines transmit only hydroelectric energy generated by Project No. 2645. These lines must be licensed as part of the project so that if it is taken over it will be viable, *i.e.*, it will include adequate lines to transmit its full capacity to market."

Conclusion

Except as noted above, NMPC's motion for reconsideration presents no facts or legal arguments requiring any change in our July 3, 1978, order.

The Commission orders; (A) Article 31 of the license for the Beaver River Project (FERC Project No. 2645) is amended to read:

Licensee shall consult and cooperate with the New York Department of Environmental Conservation, the U.S. Fish and Wildlife Service of the Department of the Interior, and other appropriate federal, state, and local agencies in conducting a study to determine the need, if any, for minimum flow releases from the project developments into the Beaver River for the protection and enhancement of the downstream fishery resources. Within two years from the date of issuance of this order the Licensee shall file with the Commission a copy of the report of the study and, for Commission approval, a schedule of any minimum flow releases that the study indicates may be necessary or desirable.

(B) Except as noted in ordering paragraph (A), the relief requested by Niagara Mohawk Power Corporation in its August 21, 1978 motion, for reconsideration is denied.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-602 Filed 1-5-79; 8:45 am]

[6740-02-M]

[Docket Nos. RP71-107; RP72-127]

NORTHERN NATURAL GAS CO.

Purchased Gas Cost Adjustment Rate Change

DECEMBER 28, 1978

Take notice that on December 11, 1978, Northern Natural Gas Company (Northern) tendered for filing, as part of Northern's F.E.R.C. Gas Tariff, Third Revised Volume No. 1 and Original Volume No. 2, the following tariff sheets:

Third Revised Volume No. 1
Substitute Seventeenth Revised Sheet No. 4a
Original Volume No. 2
Substitute Seventeenth Revised Sheet No. 1c

Substitute Seventeenth Revised Sheet No. 4a is filed pursuant to Northern's Purchased Gas Adjustment provision of its F.E.R.C. Gas Tariff, Third Revised Volume No. 1. Substitute Seventeenth Revised Sheet No. 1c is filed pursuant to Northern's Purchased Gas Adjustment Clause applicable to Volume No. 2 sales. This change in Northern's rates reflects an amendment to the pending PGA79-1 current rate adjustment (filed on October 26, 1978 to be effective on December 27, 1978) pursuant to FERC Order No. 18, issued December 1, 1978, which permits pipeline companies to amend their current rate adjustment to reflect certain changes is purchased gas costs due to the implementation of the Natural Gas Policy Act of 1978. Accoardingly, the additional gas purchase costs for December, 1978 and the year 1979, which are attributable to the Natural Gas Policy Act of 1978, are reflected in this increase. The underlying rates on the above tariff sheets have also been adjusted to reflect the settlement agreed to by all parties on December 6, 1978 in Docket No. RP78-56.

The Company states that copies of the filing have been mailed to each of the Gas Utility customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.W., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 5, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-603 Filed 1-5-79; 8:45 am]

[6740-02-M]

[Docket No. RP79-14]

NORTHWEST PIPELINE CORP.

Order Rejecting Proposed Rate Increase Filing, Accepting Tariff Sheet, Rejecting Alternate Tariff Sheet, and Denying Declaratory Order

DECEMBER 28, 1978.

On November 30, 1978 Northwest Pipeline Corporation (Northwest) filed a notice of change in rates to its jurisdictional customers served under Original Volume No. 1 of its FERC Gas Tariff, and tendered for filing proposed changes in its tariff. Northwest seeks the revision in its tariff and the increased rates in order to compensate for (1) an increased Gas Research Institute (GRI) assessment to be effective January 1, 1979; (2) an increase in certain landowner royalty and production tax payments occasioned by a ruling of the United States Geological Survey (USGS);[1] and (3) increases in royalty and production tax payments caused by the implementation of the Natural Gas Policy Act of 1978 (NGPA). In the alternative, Northwest seeks permission to institute certain deferred collection procedures, discussed more fully below. Northwest estimates that its proposed increase will generate additional revenues in the amount of $7,138,251 per year. In addition, Northwest seeks a declaratory order stating that, for purposes of calculating royalty payments, the maximum lawful price for stripper wells specified in Section 108 of the NGPA should apply only to specific wells which are determined to be stripper wells.

Public notice of Northwest's filing was issued on December 7, 1978.

GRI SURCHARGE INCREASE

In its notice of change in rates,[2] Northwest proposes to increase its GRI surcharge by 2.0 mills per Mcf (from 1.5 to 3.5)[3] effective January 1, 1979, as authorized by Opinion No. 30.[4] We believe that Northwest's proposed GRI surcharge is appropriate. For reasons discussed below, however, we are rejecting Northwest's Twenty-first Revised Sheet No. 10 which contains this GRI surcharge. Such rejection is without prejudice to Northwest's filing separately for the increases attributable to the GRI Surcharge Increase.[5]

GRI CLAUSE REVISION

In addition to seeking authorization to collect for the increased GRI surcharge, Northwest has filed two alternate GRI clause revisions. The first[6] eliminates certain references to carrying charges in Northwest's GRI deferred account, and is in compliance with the Commission's letter order of October 2, 1978. In the October 2 order, the Commission accepted proposed tariff sheets effective October 1, 1978, subject to certain conditions. These conditions were (1) the elimination of all references to carrying charges contained in the tariff; and (2) the filing of revisions to the tariff establishing concurrent tracking of all future GRI assessments beginning January 1, 1979. Northwest's proposed tariff sheet satisfies those conditions. Northwest's proposed tariff sheet provides for an effective date of June 1, 1978, rather than the October 1 effective date specified in the Commission's order of October 2, 1978. Accordingly, Northwest seeks a modification of the October 2 order. Inasmuch as the June 1, 1978 date is concurrent with the date GRI funding began, the Commission believes there is good cause to grant Northwest's request for modification of the October 2 order. Thus, we will accept Northwest's First Substitute Original Sheet No. 62 effective June 1, 1978.

Northwest proposed an alternate proposed revision.[7] This alternate would permit continued deferred accounting treatment of GRI assessments, and would synchronize the tracking of GRI assessments with PGA rate increases. In addition, the alternate tariff sheet would permit the application of carrying charges to the GRI deferred account. The Commission has consistently held that it would not permit the assessment of carrying charges on Northwest's GRI deferred account.[8] Accordingly, we reject Northwest's alternate GRI clause revision.

INCREASES ATTRIBUTABLE TO CERTAIN INCREASED ROYALTY AND PRODUCTION TAX COSTS

In its proposed Twenty-first Revised Sheet No. 10, Northwest proposes to collect for certain increased costs in addition to the increased GRI assessments discussed above. Among these other costs are certain increases in landowner royalty and production tax payments attributable to pipeline pro-

[6] *California* v. *F.P.C.* 345 F.2d 917, 923-924 (9th Cir. 1965).

[7] 16 U.S.C. § 796(11) (1970).

[8] See, *e.g.*, *Montana Power Co.*, Project No. 5, Order Modifying Initial Decision and Amending Project License (Nov. 29, 1976); *Southern California Edison Co.*, Project No. 120, Order Modifying Initial Decision and Amending Project License (Feb. 4, 1977).

[9] *Southern California Edison Co.*, *id.* (mimeo at 7, 8).

[10] *Id.*, p. 6.

[11] Primary lines are included to insure the viability of the project. The determination of what lines are primary is not governed by whether or not the lines are useful to the licensee's other operations.

[1] NTL-5, issued May 7, 1977 (42 Fed. Reg. 22610).

[2] Twenty-first Revised Sheet No. 10 to F.E.R.C. Gas Tariff, Original Volume No. 1.

[3] Northwest has converted the 3.5 mills per Mcf to a therm rate. The .033 cents per therm reflected in the proposed tariff represents an increase of .022 cents per therm above Northwest's current GRI adjustment.

[4] Order issued September 21, 1978 in Docket No. RP78-76, mimeo at 32.

[5] See Order issued June 1, 1978 in Docket No. RM77-14; *See also* letter order issued October 2, 1978 in Docket No. RP78-50, *et al.*

[6] First Substitute Original Sheet No. 62 to FERC Gas Tariff, Original Volume No. 1.

[7] First Revised Sheet No. 62 to F.E.R.C. Gas Tariff, Original Volume No. 1.

[8] Order issued June 1, 1978 in Docket No. RM77-14; Letter order issued October 2, 1978 in Docket No. RP78-50, *et al.*

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duction. These costs were increased after the USGS issued a final notice establishing procedures for determining, for royalty purposes, the value of natural gas produced on Federal and/or Indian lands. This notice, NTL-5, was issued on May 4, 1977, and Northwest refers to these increased costs as NTL-5 costs. The additional costs for which Northwest seeks compensation, $2,025,273, were incurred during the period beginning June 1, 1977 and ending September 30, 1978. Northwest proposes two alternate mechanisms whereby it would collect for these increases. Initially, Northwest suggests a 9-month surcharge of .079 cents per therm effective January 1, 1979. In the alternative, Northwest would impose a special 6-month surcharge to become effective April 1, 1979 concurrent with Northwest's next PGA rate filing.

Furthermore, Northwest states that, as a result of implementation of the NGPA, it will be susceptible to increased royalty and production tax paymehts for its leasehold production which is included in its rates on a cost of service basis. According to Northwest, its royalties for this type of production are calculated on a "value concept," and thus reflect the highest rate applicable to the particular vintage of gas produced. Northwest states that most of its production will be subject to Section 104 of the NGPA, and will therefore be adjusted for inflation on a monthly basis.[9] The remainder of its production will, Northwest suggests, be priced under Section 108 of the NGPA, which prescribes a maximum lawful price for stripper wells. The price for gas produced from stripper wells is also subject to inflation adjustment.[10] Northwest states that as a result of the higher wellhead price ceilings, it will be exposed to higher royalty and tax payments beginning December 1, 1978.

Accordingly, Northwest proposes to adjust its base rates to reflect these increased costs. It estimates that the increased costs will be $3,556,321. Northwest arrived at this figure by calculating an average rate, and arrived at an estimated increase above the current base rates of .097 cents per therm. This increase is reflected in the base rates in Northwest's proposed Twenty-first Revised Sheet No. 10. This increase in the base rate was arrived at by using estimated sales volumes as well as a calcuation of an average annual rate.

Northwest also suggests an alternate method for collecting its increased royalty and tax payments attributable to increased NGPA prices. It proposes to institute a deferred accounting procedure relating to such costs. More particularly, it would establish and maintain a discrete sub-account under Account 191. The balance of this account would be recovered by a surcharge to be included in Northwest's April 1, 1979 PGA filing. This procedure would be continued in subsequent PGA filings until all increased royalty and production tax costs attributable to the period from December 1, 1978 to the effective date of Northwest's next general rate increase are recovered.

The mechanisms proposed for collecting these increased royalty and production tax costs do not conform to Commission policy. Unless supported by a full-section 4 rate filing conforming to § 154.63, the Commission does not permit rate adjustments for one item of cost unless the Regulations specifically permit,[11] or unless effectuated pursuant to a rate case settlement agreement. There is no regulation or settlement agreement provision which would permit this type of cost increase. If Northwest desires compensation for these particular increases, they should seek authorization in a formal rate case filing made pursuant to and in conformance with § 154.63 of the Regulations.

Accordingly, we reject Northwest's proposals for recovery of increased royalty and production taxes. Such rejection is without prejudice to Northwest's seeking compensation for increased costs of this nature in a general section 4 rate case.

Declaratory Order

As noted above, Northwest seeks a declaratory order stating that, for purposes of calculating royalty payments, the stripper well price provided in Section 108 of the NGPA shall serve as the basis for calculating royalties only as to those wells which have been determined to be stripper wells under Section 108. Rather than address this issue in the context of an order concerning rate increase filings, we will issue a separate declaratory order.

The Commission orders: (A) Northwest's proposed Twenty-first Revised Sheet No. 10 to FERC Gas Tariff, Original Volume No. 1 is hereby rejected without prejudice to Northwest's filing a general section 4 rate case pursuant to and in conformance with § 154.63 of the Regulation as discussed in the body of this order.

(B) Northwest's First Substitute Original Sheet No. 62 to FERC Gas Tariff, Original Volume No. 1 is accepted to become effective June 1, 1978.

(C) Northwest's proposed First Revised Sheet No. 62 to FERC Gas Tariff, Original Volume No. 1 is rejected.

(D) The Secretary shall cause prompt publication of this order in the Federal Register.

By the Commission.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-608 Filed 1-5-79; 8:45 am]

[9] See 18 CFR § 271.402

[10] See 18 CFR § 271.802

[11] 18 CFR § 154.38(d)(3).

[6740-02-M]

[Docket Nos. E-7796 and E-7777 (Phase II)]

PACIFIC GAS & ELECTRIC CO.

Order Affirming Presiding Judge on Certified Questions, Granting Motion for Consolidation, and Granting Motion To Compel Filing

December 28, 1978.

This order deals with three motions and a certification of questions relating to the above-referenced dockets. The three motions consist of (1) a "Motion for Commission Order Compelling Southern California Edison Company to File Jurisdictional Rate Schedules" [1]; (2) a motion to consolidate the above-captioned dockets [2]; and (3) a motion for clarification of the scope of the proceeding in Docket No. E-7777 (Phase II).[3] The certification concerns the ruling by the Presiding Judge in Docket No. E-7777 (Phase II) as to the scope of that proceeding.

Before we analyze the legal arguments contained in the voluminous pleadings of all parties that support or oppose the various motions and certification ruling, we shall set forth the pertinent procedural history of these two dockets in order to put in perspective the issues which we are deciding in this order.

I. History

a. *Docket No. E-7796.* On July 3, 1972, Pacific Power & Light Company filed a "Seven Party Agreement" on behalf of itself and Portland General Electric Company, Puget Sound Power and Light Company, The Washington Water Power Company (Northwest Companies) and Pacific Gas & Electric Company, San Diego Gas & Electric Company and Southern California Edison Company (California Companies) in Docket No. E-7796. The agreement provides for the sale of surplus energy between the Northwest Companies and the California Companies over the Pacific Intertie transmission system.

After a Petition to Intervene by the City of Santa Clara, California, which the Commission [4] treated as a complaint, the Commission issued an Order Instituting Investigation and

[1] Filed by the Cities of Anaheim, Riverside, Colton, and Azusa, California.

[2] Filed by the Northern California Power Agency and the Cities of Anaheim, riverside, Colton and Azusa.

[3] Filed by Staff Counsel.

[4] The "Commission" when used in the context of an action taken prior to October 1, 1977, refers to the FPC; when used otherwise, the reference is to the FERC.

Hearing in the docket on November 20, 1972. Later, untimely petitions to intervene were granted for the Northern California Power Agency (NCPA), the Cities of Alameda, Healdsburg, Lodi, Lompoc and Ukiah, California (Northern Cities), and the Cities of Anaheim, Riverside, Colton and Azusa, California (Southern Cities). The petitions to intervene of NCPA and the Northern Cities requested, *inter alia*, that the Commission condition acceptance of the Seven Party Agreement on the making of revisions to:

(1) eliminate its allegedly anticompetitive restrictions;

(2) open it to membership by other California electric utilities;

(3) cure its indefinite pricing provisions; and

(4) require PG&E and other parties to the agreement to transmit energy purchased or sold by NCPA and Northern Cities under the Seven Party Agreement.

Southern Cities' petition [5] claimed that the Seven Party Agreement would prevent them from sharing in the excess energy of the Northwest Companies and hinder their ability to market to the Northwest Companies any excess energy the Southern Cities possessed. Southern Cities requested modification of the Seven Party Agreement to allow their participation on a nondiscriminatory basis.

b. *Docket No. E-7777.* Docket No. E-7777 began with a filing by the Pacific Gas & Electric Company (PG&E) of a wholesale rate increase on September 29, 1972. NCPA and Northern Cities petitioned to intervene and an order was issued suspending the rates, granting interventions and providing for a hearing on November 27, 1972. The petitions to intervene of both NCPA and Northern Cities alleged that PG&E was engaging in anticompetitive behavior.

On September 28, 1973, the Presiding Judge granted Staff's motion to "dismiss and remove from this proceeding all matters dealing with the issue of anticompetitive activities as they have been set forth by the intervenors." NCPA and the Cities filed a Motion for Extraordinary Relief with the Commission after the Presiding Judge denied their request for certification. On March 14, 1974, the Commission granted the Motion for Extraordinary Relief.

The March 14 order noted that NCPA and Cities had alleged, *inter alia*, "that PG&E had entered into various contracts [footnote omitted] which, through their alleged restrictive and anticompetitive nature, have strengthened a purported monopoly over generation and transmission facilities in northern and central California to the detriment of Cities and NCPA." These contracts, four in number, are PG&E's agreements with (1) other California Companies and the Northwest Companies (Seven Party Agreement); (2) U.S. Bureau of Reclamation (Reclamation Agreements); (3) Sacramento Municipal Utility District (SMUD Agreement); and (4) San Diego Gas & Electric Company and Southern California Edison Company (California Power Pool).

The Commission found that the relief requested by NCPA and Cities was unrelated to the just and reasonable rate determination and therefore instituted Phase II of this docket, E-7777, to permit a separate investigation to deal with the anticompetitive allegations. The Commission made the following statement in instituting the investigation:

> We view with deep seriousness and concern the charges made by Cities and PG&E and beleive they warrant a full and complete investigation. The Section 206 proceeding herein ordered will allow for such investigation and provide the appropriate forum for the presentation and development of a complete evidentiary record concerning the alleged anticompetitive activity and conduct of PG&E. If, for example, after hearing and decision PG&E is found by virtue of contract provisions subject to FPC jurisdiction, to have restricted the ability of its customers to develop their own generation, or limited customers access to alternate supply sources, this Commission will not hesitate to order contract reform or other measures as are necessary to eliminate such practices. (Slip op. pp. 5-6).

In June of 1974, Southern Cities filed a Petition to Intervene in Docket No. E-7777 that was later granted.

c. *The Interrelationship of E-7777 and E-7796.* By order issued July 8, 1974, the Commission granted Staff's Motion "to sever from Docket No. E-7777 (Phase II) the issues of law and fact relating to the justness and reasonableness of the Seven Party Agreement and to consolidate those issues for the purposes of hearing and decision with Docket No. E-7796." In other words, the issues relating to the justness and reasonableness of the Seven Party Agreement that were common to the two dockets were removed from Docket No. E-7777 (Phase II).

However, the Commission did note that the seven Party Agreement might continue to be relevant in Docket No. E-7777 (Phase III) "to the question of whether the four contracts under investigation therein are part of a plan or pattern of anticometitive conduct of Pacific Gas & Electric Company" and that the other three contracts "would conceivably be relevant in Docket No. E-7796 to the justness and reasonableness of the Seven Party Agreement."

In addition, the Commission declared that:

> • • • we are not precluding further realignment of these proceedings if it should develop that the alignment ordered herein is prejudicing any party in developing and presenting its case.

II. Certification

On August 9, 1978, the Staff counsel filed a motion for clarification of the scope of the Docket No. E-7777 (Phase II) proceeding with the Presiding Judge.[6] The motion requested clarification of two questions, both of which the Presiding Judge answered in the affirmative in the following manner in his certification order issued September 25, 1978: [6a]

> The Staff motion presents two specific requests for clarification. The first is: "(1) Does the Presiding Judge consider allegations of anticompetitive transmission practices by the California Power Pool members to be within the scope of the investigation ordered by the Commission." The body of Staff's motion makes clear that Staff does not refer to all anticompetitive transmission practices by members of the California Power Pool, but to practices and arrangements of the members with respect to the Pacific Intertie. As so limited, the answer to Staff's first question is "Yes."
>
> The second Staff question is: "(2) Does the Presiding Judge consider that 'measures' other than revision of the contract terms of the contracts under review are appropriate for consideration if the anti-competitive practices alleged are found to exist?" The answer is "Yes". The order of March 14, 1974 which instituted the Section 206 investigation in this proceeding, specifically stated "If • • • PG&E is found, by virtue of contract provisions subject to FPC jurisdiction, to have restricted the ability of its customers (sic) access to alternate supply sources, this Commission will not hesitate to order contract reform or *other measures as are necessary to eliminate such practices.*" (p. 6. emphasis supplied). I find nothing elsewhere in the order, or in later orders, restricting the quoted language.

In his certification order the Presiding Judge permitted all parties to file comments on the certified questions and replies to those comments. Comments were filed by NCPA,[7] Southern Cities, Southern California Edison Company (Edison), PG&E,[8] and Staff. Responses to these comments were filed by NCPA, Southern Cities, Edison, PG&E, and Staff.[9] Although

[5] The petition filed requested permission to intervene in Docket Nos. E-7796 and E-7777 (Phase II).

[6] As previously noted, Staff counsel also filed a Motion for clarification with the Commission in the same proceeding on August 25, 1978.

[6a] Sec. 1.27(8) of the Commission's Rules of Practice and Procedure permits the Presiding Judge, in his discretion, to certify any question to the Commission for its consideration and disposition.

[7] NCPA also filed a final page separately at a later date.

[8] PG&E also filed a page correction at a later date.

[9] Staff also filed a sheet of corrections at a later date.

not provided in the Judge's procedural schedule. PG&E filed a "Rebuttal to NCPA's and Southern Cities' Response to Comments" on October 31, 1978.

a. *Comments in Support of Judge's Ruling.* Staff states that the Judge's allegedly expanded view of the scope of the proceeding will not prejudice Edison or PG&E or unduly delay the proceeding. Staff notes that NCPA and Southern Cities are expected to file testimony in October, 1978 [10] and that Staff will file its testimony in December, 1978.[11] While noting that the Commission is already undertaking an investigation of PG&E's alleged anticompetitive practices in Project 2735 and 1988 (the *Helms* case), Staff contends that "the focus of that proceeding and possible remedies appear primarily directed at PG&E's unilateral business actions and not at joint activities.

NCPA and Southern Cities filed Comments jointly. The Comments stress the interrelationship of the Pacific Intertie and the California Power Pool Agreement, the Reclamation Agreement, the SMUD Agreement, and the Seven Party Agreement. They also request action on the previously filed Motion to Consolidate Proceedings and Motion to Compel Edison to file Jurisdictional Rate Schedules. In addition, they request that a number of other unfiled contracts under the "Pacific Intertie Criteria" label be ordered to be filed because they are jurisdictional contracts. Finally, they ask the Commission to clarify the Judge's ruling by stating that "all anticompetitive practices of the California Power Pool Companies are included in the scope of issues."

b. *Comments in Opposition to Judge's Ruling.* Edison claims that the Judge's ruling has expanded the scope of this proceeding beyond that set forth in prior Commission orders. According to Edison, the scope is limited to an examination of the four identified contracts.[12] Edison contends that neither the FPC's prior orders nor any Intervenor's pleading in the past contained any reference to "Intertie" contracts. Edison requests that, in the event that the Commission upholds the Judge's rulings, the date set for hearing in this docket, March 1979, be continued for a reasonable period and that all parties making allegations of anticompetitive practices be required to specify those practices, those parts of the agreements under investigation that those parties contend should be reformed, and the nature of the reformation sought.

PG&E raises substantially similar arguments in support of its view that the Judge's rulings enlarge the scope of the proceeding beyond that which the Commission intended in prior orders. However, PG&E raises additional grounds for its position:

(1) Staff's motion is "impermissibly tardy" since it was filed over four years after the case was set for hearing, after discovery had been completed, and after the dates for submission of testimony and for the hearing had been established.

(2) The existence of the Helms Pumped Storage Project Proceeding, Project Nos. 2735 and 1988 (Helms), which was selected by the Commission for consideration of NCPA's broad antitrust allegations against PG&E, "demonstrates the inappropriateness of broadening the scope of this docket."

(3) To include the Pacific Intertie Agreement at this point, "with the hearing date virtually upon us, is burdensome, unfair and a violation of due process." The inclusion would also necessitate lengthy delays in the proceeding.

(4) If the Commission upholds the Judge's rulings, PG&E requests a stay in the proceedings "in order to permit PG&E reasonable time in which to seek judicial review."

c. *Responses to the Comments.* PG&E contends that the Comments of Southern Cities and NCPA are misleading because they attempt "to demonstrate some factual nexus between the four contracts into which this Commission did order an investigtion and some 60 odd other contracts between various utilities, governmental agencies and other entities in conjunction of the Intertie between the Pacific Northwest and the Southwest." According to PG&E the issue on certification is whether the Commission ordered an investigation into four contracts only, and the question of whether other contracts exist that relate to the four contracts under investigation is not pertinent to this inquiry.

Edison, in replying to the comments, generally restates the position of PG&E on reply that the investigation is limited to four contracts, rather than those four plus an additional "58 contracts referred to by Intervenors as the 'Pacific Intertie Arrangements.'" Edison further criticizes Staff's comments in two areas:

(1) Although Staff indicated that it does not expect to pursue additional discovery materials, Staff did not speak for the Intervenors, who may request further discovery. Moreover, Edison states that the expanded proceeding will require additional discovery on its part;

(2) Edison claims that there is no support for Staff's view that possible remedies in this docket can be distinguished from possible remedies in the *Helms* case.[13]

Staff responds to the Comments of PG&E and Edison by declaring, first, that its Motion For Clarification was not untimely. Staff asserts that it had assumed that transmission over the Pacific Intertie "would be the subject to examination in Docket No. E-7796 (The Seven Party Agreement)." When the Presiding Judge granted a Motion to Strike testimony related to the intertie in that docket, Staff states, Staff filed the Motion for Clarification in Docket No. E-7777 (Phase II) to determine if the Presiding Judge held a similar view in this proceeding.[14]

In support of the Judge's September 25 ruling, Staff asserts that:

Sections 205 and 206 of the Federal Power Act, together with implementing regulations 18 CFR 35.1 and 35.2, quite logically deal not only with filed rate schedules, but with contracts and practices *affecting* or *relating to* such rate schedules. Without the right to examine and correct practices or contracts relating to or affecting jurisdictional electric service, administrative law judges would often be powerless to correct serious abuses.

In addition, Staff repeats arguments raised in its Comments that this proceeding can be distinguished from the *Helms* case because the possible remedies will differ and that there will be no undue prejudice or delay to PG&E and Edison.

NCPA and Southern Cities (Intervenors) respond to the comments of PG&E and Edison that the Commission did not contemplate an investigation beyond the four contracts. NCPA and Southern Cities cite the Commission order of March 14, 1974, in this docket that states that the Commission would order "contract reform or other measures as are necessary to eliminate such [anticompetitive] practices" if PG&E were found, after hearing, to have engaged in certain anticompetitive activities.

Intervenors further contend that a reading of the transcript volume of the first prehearing conference in Docket No. E—7796 reveals that all parties were aware of the relevance of Pacific Intertie issues. Moreover, Intervenors point out that a recent Edison prospectus, dated October 17, 1978, notes that its resale customers are alleging in FERC proceedings that Edison "has engaged in anticompetitive conduct by restricting access to the Intertie transmission facilities * * *."

Finally, Intervenors support Staff's contention that its motion is timely on the ground that it was precipitated by the ruling of July 13, 1978, by the Presiding Judge in Docket No. E-7796 concerning the scope of that proceeding.

PG&E filed a Rebuttal to the Response to Comments of NCPA and Southern Cities on October 31, 1978. The Rebuttal points out that all quotations relied upon by NCPA and Southern Cities come from Docket No. E-7796, not Docket No. E—7777 (Phase II) and, further, that NCPA's use of the quotations in Docket No. E-7796 proved to be of no avail in influencing the Presiding Judge's ruling on the scope of that docket.

d. *Discussion.* 1. *Timeliness of Motion.* There is no question that it would have been preferable for Staff or any other party to have requested clarification of the scope of this proceeding at an earlier stage of this investigation. Over four years have passed, much testimony has been filed, and a scheduled hearing date approaches.

However, we cannot conclude that Staff's motion is untimely. In our opinion, it was reasonable for Staff, upon the Presiding Judge's adverse ruling on the scope of Docket No. E-7796, to request clarification of Docket No. E-7777 (Phase II). We believe that Staff acted in good faith in assuming that the scope of the proceeding encompassed the Pacific Intertie and that remedies could exceed modification of the four identified contracts. In fact, the Presiding Judge's ruling, in affirming Staff's view, has provided validity to Staff's assumptions concerning scope.

2. *Relationship to the Helms case.* Staff's claim that the finding of anticompetitive practices by PG&E would lead to different remedial consequences in this proceeding than in the *Helms* case is not persuasive. The Commission has not expressed the view in either docket that remedies will be limited to joint activities or unilateral activities. In fact, in the order providing for hearing in the *Helms* case, the Commission deliberately left open the question of the appropriate relief in the event the Commission determines that "PG&E maintains such control over generation and transmission of electric power in northern and central California as to create a situation or situations inconsistent with the antitrust laws or the policies clearly underlying these laws." [15]

Nonetheless, we believe that this proceeding will not duplicate the efforts of the parties in the *Helms* case. The Commission expressly noted the existence of other proceedings involving PG&E when it set the *Helms* case for hearing in 1976, stating:

Because NCPA and PG&E are currently involved in other proceedings involving antitrust matters before this Commission, the Presiding Administrative Law Judge should take care to avoid duplication, and take advantage of the record developed or findings made in such other proceedings, to the extent practicable. (Footnote omitted).[16]

As can be seen from the above language, the Commission's purpose in the *Helms* order was to avoid duplication of effort in the *Helms* proceeding with already ongoing proceedings involving PG&E. The Commission did not intend in any way to circumscribe in the *Helms* order the scope of inquiry that had been established for those ongoing proceedings.

3. *Scope of Investigation.* We believe that the Presiding Judge was correct in his rulings of September 25, 1978, concerning the scope of the investigation. Although prior Commission orders do refer to four contracts as the subject of inquiry, the Commission's March 14, 1974 order makes clear that transmission access was found to be a relevant issue and that remedies that go beyond contract reformation were contemplated:

If, for example, after hearing and decision PG&E is found by virtue of contract provisions subject to FPC jurisdiction, to have restricted the ability of its customers to develop their own generation, or *limited customers access to alternate supply sources*, this Commission will not hesitate to order contract reform or *other measures as are necessary to eliminate such practices.*[17] (*Emphasis added.*)

Thus, the terms of the Pacific Intertie Agreement, which concerns access to a transmission system which could be used to transmit power from "alternate supply sources" to NCPA, Southern Cities, and other customers, are an appropriate subject of inquiry for this proceeding.

NCPA and Southern Cities claim that the Pacific Intertie cannot be viewed as a single agreement, but rather must be seen as one in a package of agreements, most of which are not currently filed with this Commission. NCPA, Southern Cities, and Staff (by implication) contend that these additional agreements are relevant to the proceeding and that they are jurisdictional rate schedules which must be filed with the Commission.

Section 205(c) of the Federal Power Act reads:

(c) Under such rules and regulations as the Commission may prescribe, every public utility shall file with the Commission, within such time and in such form as the Commission may designate, and shall keep open in convenient form and place for public inspection schedules showing all rates and charges for any transmission or sale subject to the jurisdiction of the Commission, and the classification, practices, and regulations affecting such rates and charges, together with all contracts which in any manner affect or relate to such rates, charges, classifications, and services.

Section 35.2(b)(3) of the Commission's Regulations gives the following definition of rate schedule:

All classifications, practices, rules, regulations or contracts which in any manner affect or relate to the aforementioned service, rates and charges.

The Pacific Intertie Agreement has been filed with this Commission.[18] Any other contract which in any manner affects or relates to that agreement must be filed with this Commission. Because the Pacific Intertie Agreement is a subject of this proceeding, so must those contracts that affect or relate to that agreement be subject to this proceeding. We shall hereinafter order the signatories of the Pacific Intertie Agreement, all public utilties, to file (jointly or individually) with the Commission in this docket all classifications, practices, rules, regulations or contracts which in any manner affect or relate to the Pacific Intertie Agreement.[19]

4. *Claim of Undue Prejudice.* We do not believe that this view of the permissible scope of the proceeding is unduly prejudicial or is a denial of due process to PG&E or to Edison. First, PG&E and Edison shall be afforded a reasonable time to examine the testimony of the Intervenors and Staff prior to the date of hearing. Second, since the Intervenors and Staff have contended that they had always assumed that the scope of the proceeding is as we have pronounced it to be in this order, we shall not permit further discovery requests by Intervenors and Staff in this proceeding. Third, if PG&E or Edison feels that additional discovery from Intervenors or Staff is necessary due to the clarification of the scope of the proceeding, it is free to file an appropriate motion for discovery with the Presiding Judge, who will rule on further requests for information.

PG&E requests a stay in the proceedings if the Commission decides to uphold the Presiding Judge's ruling so that it can seek judicial review of the Commission order. We do not perceive any reason to grant a stay at this point in the proceeding. PG&E has not demonstrated any irreparable harm that might befall it if the proceeding continues, nor do we believe that the public interest would be served by an interruption in the progress of this docket. Therefore, we shall deny PG&E's request for a stay.

III. Motion To Consolidate

On August 16, 1978, the Northern California Power Agency and its

[10] NCPA's and Southern Cities' testimony have now been filed.

[11] Staff testimony has now been filed.

[12] One of them, the Seven Party Agreement, is now the subject of Docket No. E-7796, it having been severed from this proceeding as discussed, *supra.*

[13] As a basis for this distinction Staff has asserted that this docket concerns possible remedies for illegal joint activities whereas *Helms* is concerned with remedies for PG&E's "unilateral" anticompetitive practices.

[14] The Presiding Judge is the same in both dockets.

[15] Pacific Gas & Electric Co., Project Nos. 2735 and 1988, Order Granting Intervention and Providing For Hearing, issued April 1, 1976 (Slip op. p. 18).

[16] *Id.*

[17] Slip Op. p. 6.

[18] PG&E Rate Schedule Designation FPC No. 38.

[19] We cannot accept at face value the assertion by NCPA and Southern Cities that there are 58 contracts to be filed. There may be more or fewer.

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member intervenors (NCPA) and the Cities of Anaheim, Riverside, Colton and Azusa, California (Southern Cities) filed a motion with the Secretary of the Commission to consolidate docket numbers E-7796 and E-7777 (Phase II). Staff filed an answer in support of consolidation on August 25, 1978. In addition, Staff concurrently filed (with the Commission) a Motion for Clarification, or, in the Alternative, Request for Investigation and Consolidation in Docket No. E-7777 (Phase II).[20] On August 31, 1978, Responses to the Motion to Consolidate were filed by Edison, San Diego Gas & Electric Co. (SDG&E) and PG&E.

The Motion to Consolidate of NCPA and Southern Cities provides a number of reasons in support of consolidation:

(1) The FPC, by order issued July 8, 1974, granted a Staff motion to sever issues in E-7777 (Phase II) relating to the Seven Party Agreement and to consolidate it with Docket No. E-7796. The FPC left room for further realignment in the order if the ordered alignment prejudices any party in the presentation of its case.

(2) NCPA and Southern Cities claim that the present alignment is "seriously prejudicing" their respective cases:

(a) Portions of NCPA's testimony have been stricken by the Presiding Judge in E-7796 on the ground that they are beyond the scope of that proceeding although he had indicated that they may be within the scope of E-7777 (Phase II). Southern Cities' testimony is presently subject to motions to strike on similar grounds in E-7796. NCPA and Southern Cities contend the controversy currently in existence in both dockets over the scope of the issues would be resolved or simplified through consolidation.

(b) Staff's assumption in 1974 that realignment would expedite hearing and decision in E-7796 has been proved incorrect; in fact, the reverse has occurred.

(c) There is an outstanding Motion to Terminate in Docket No. E-7796. If the motion is granted, it is not clear which issues will be terminated and which will be left in E-7777. Consolidation, it is alleged, will avoid further confusion and delay in the trial of the remaining issues.

(3) Consolidation would maintain and possible increase the Presiding Judge's flexibility in scheduling testimony and hearing dates.

(4) No party will be prejudiced by the consolidation "since the scope of the combined proceedings will be neither broader nor narrower than the scope of the two proceedings take[n] separately."

Staff's answer in support of consolidation states that a number of issues, particularly those relating to transmission access for California cities, are relevant to both dockets, E-7796 and E-7777. Staff further states that consolidation will prevent undue delay and uncertainty in the event that the Presiding Judge recommends termination of E-7796, since Staff and Intervenor Cities have filed testimony on issues in E-7796 which they would then have to resubmit in E-7777 (Phase II).

The Responses in opposition to the Motion for Consolidation filed by Edison, SDG&E and PG&E, cite a number of grounds for their position:

(1) Consolidation of these dockets would disrupt the proceeding underway in Docket No. E-7796 in which a Motion for Initial Decision is under consideration. The Motion concerns the issues of whether the Seven Party Agreement is still effective and whether the docket should be terminated. (Edison Response, p. 2 PG&E Response pp. 5-6; SDG&E Response, p. 1).

(2) The Motion to Consolidate is untimely since more than four years have elapsed since the Commission severed the Seven Party Agreement from Docket No. E-7777 and consolidated it with Docket No. E-7796. (SDG&E Answer, p. 1).

(3) Consolidation would force parties who are presently only involved in Docket No. E-7796 into Docket No. E-7777 (Phase II) as well, and would prejudice their positions (SDG&E Answer p. 2).

(4) There are no common questions of law or fact between the Dockets. (PG&E Response, pp. 4-5).

(5) The Cities' Motion to Consolidate did not establish that consolidation is desirable from the standpoint of convenience and economy in administration (PG&E Response pp. 4-6).

(6) Consolidation may amount to a violation of PG&E's due process rights since PG&E has been preparing to engage in separate hearings in each docket in the development of its case presentations. Other parties may also have relied, to their detriment, on the expectation of separate proceedings. (PG&E Response, p. 7).

a. *Discussion.* Upon review of the various arguments contained in the pleadings, it appears that consolidation of these dockets is now appropriate. The Commission, in its order of July 8, 1974,[21] expressly stated:

• • • We are not precluding further realignment of these proceedings if it should develop that the alignment ordered herein is prejudicing any party in developing and presenting its case.

NCPA and Southern Cities have contended that their cases have been prejudiced. The Presiding Judge granted a Motion to Strike Portions of NCPA's testimony in Docket No. E-7796 on the ground that it exceeded the scope of that proceeding, although the same judge ruled in favor of Staff in Docket No. E-7777 with the effect that the E-7777 docket has a scope broader than that of E-7796. We believe that the separate procedural development of the two dockets has created confusion which can be remedied through consolidation.

Consolidation of these dockets shall not disrupt the proceeding in Docket No. E-7796. The Presiding Judge is the same in both dockets. Nothing prevents him from making a decision on the question of whether the Seven Party Agreement is still effective in Docket No. E-7796.

Despite the claim of PG&E that there are no common questions of law or fact between the two dockets, the Commission has previously spoken to the contrary:

As the Northern Cities point out, some of the issues in Docket No. E-7777 (Phase II), after severance, may continue to overlap issues in Docket No. E-7796, after consolidation. For example, the Seven Party Agreement would seem to be relevant in Docket No. E-7777 (Phase II) to the question of whether the four contracts under investigation are part of a plan or pattern of anti-competitive conduct of Pacific Gas & Electric Company, as the Northern Cities claim; and similarly, the other three contracts under investigation in Docket No. E-7777 (Phase II) or some of them, could conceivably be relevant in Docket No. E-7796 to the justness and reasonableness of the Seven Party Agreement. (Order issued July 8, 1974, Slip op. p. 4)

We disagree with the assertion of SDG&E that consolidation will force parties presently involved only in Docket No. E—7796 into Docket No. E-7777 (Phase II). Consolidation of dockets does not create standing for a party on all issues in both dockets if it was previously a party only in a single docket. There is no support for the claim that parties to only one docket would be unduly prejudiced by consolidation. Moreover, if the parties who are participants in both dockets are prepared to proceed in each docket, we do not believe that they would be unduly prejudiced in the presentation of their cases as a result of consolidation of the dockets.

b. *Staff Motion for Clarification.* We need not rule on Staff's motion for clarification which was combined with its response in support of the Motion for Consolidation of NCPA and Southern Cities. Staff's motion is substantially identical to that filed with the Presiding Judge, granted by him, and affirmed by the Commission in this order.

IV. Motion To Compel Filing of Agreements

On June 8, 1978,[22] Southern Cities filed a "Motion for Commission Order Compelling Southern California Edison Company to File Jurisdictional Rate Schedules" in Docket Nos. E-7777 (Phase II) and E-7796.

Cities claim that two agreements to which Edison is a party relate to other

[20] Staff filed a similar motion with the presiding judge on August 9, 1978.

[21] Order Granting Motion to Sever Issues and to Consolidate Severed Issues with Alternate Proceeding.

[22] Section 1.12 of the Commission's Rules of Practice and Procedure states that unless a motion is acted upon by the Commission within thirty (30) days, it is deemed denied. However, the Commission may, in its discretion, waive its rules and regulations and chooses to do so here. This applies as well to the Motion for Consolidation and Motion for Clarification previously discussed.

agreements which are the subject of both dockets and that Edison should be required to file those agreements as rate schedules under Section 205 of the Federal Power Act.

On June 23, 1978, Edison filed an Answer and Objection to Cities' Motion, claiming that the two agreements are beyond the scope of the proceedings in the above-captioned dockets and that the agreements are not rate schedules under Section 205 of the Act.

Cities filed a response to Edison on July 21, 1978, providing further support for their motion as well as a further assertion that the agreements must be filed with the Commission even if we find that they are not relevant to the issues in the above-captioned dockets.

The two agreements in question have the same two signatories: Edison and the Department of Water and Power of the City of Los Angeles ("DWP"); and were executed on the same day: March 31, 1966. One is entitled "City-Edison Pacific Intertie D-C Transmission Facilities Agreement" ("D.C. Intertie"); the other is called "City-Edison Sylmar Interconnection Agreement" ("Sylmar").

D.C. Intertie. According to Edison's Answer, and unchallenged by Cities in their response:

This agreement pertains to the ownership, construction, operation and maintenance by the Department of Water and Power of the City of Los Angeles (DWP) and Edison of a 750 kV d-c transmission line ("DC Line") from Los Angeles to the Oregon-Nevada border.

Sylmar. Edison, again unchallenged by Cities, gives the following description of the Sylmar agreement:

Simply stated, this agreement provides for the construction on a shared basis of a new interconnection between the electric systems of DWP and Edison at DWP's Sylmar switching station. It provides for the attachment of transmission lines from Edison's 230 kV transmission system at terminal structures at Sylmar switching station (Art. 1). The agreement covers various aspects of the construction, installation, operation and maintenance of facilities of Edison and DWP at the Sylmar switching station. Significantly, Recital E of the Agreement provides that transactions involving the interchange of energy and capacity between the two electric systems of Edison and DWP shall be provided for and governed by the City-Edison 1951 Interchange Agreement dated January 25, 1951, as supplemented by letter agreement dated January 22, 1964 (Rate Schedule No. 25) • • •

a. *Cities position.* Cities contend that the D.C. Intertie Agreement places a "75 year restriction on providing interstate electric services" and "clearly 'affects or relates to' rates, charges, and services and is required by Section 205(c) of the Federal Power Act to be filed with the Commission." Cities also contend that the D.C. Intertie agreement and the Sylmar agreement are "an integral part of the subject matter of Docket No. E-7796" and may need to be reformed as part of the overall relief ultimately to be ordered in this proceeding.

b. *Edison's position.* Edison contends that these agreements are not rate schedules, but are merely ownership agreements. The Company further claims that these agreements are outside the scope of Docket Nos. E-7796 and E-7777 and that Cities' attempt to broaden the scope of the proceedings will interrupt the procedural schedule already underway. Finally, Edison asserts that an interpretation of the Federal Power Act and its regulations which would require it to file agreements of this kind with the Commission would be "unreasonable, impractical and unrealistic."

c. *Discussion.* Both Edison and Cities cite different provisions of the agreements in support of their respective positions. Our review of the subject agreements in light of the pertinent sections of the Federal Power Act and the Commission's Regulations requires us to hold that the agreements constitute contracts affecting rate schedules and that, therefore, they must be filed with this Commission. We have previously cited Section 205(c) of the Federal Power Act as well as Section 35.2 of the Commission's Regulations for the proposition that contracts which "in any manner affect or relate to" rate schedules on file with the Commission must also be filed here.

The agreements in question are clearly "contracts which in any manner affect or relate to such rates, charges, classifications and services." Section 205(c). The transmission system involved in the subject agreements is utilized to transmit electric energy in interstate commerce. Moreover, Edison itself notes that the agreements relate to other agreements among utilities which are on file with the Commission.[23] Edison, nonetheless, asserts that "the determination of what agreements 'affect or relate to' electric service within the purview of Section 35.2(b) must be judged by the rule of reason."

We agree with Edison's assertion. However, it is apparent that the two agreements which are the subject of this motion are closely related to other electric service agreements which are already on file with this Commission, including the Pacific Intertie Agreement. The utilization of the D-C transmission line pursuant to the terms of these agreements may well affect the jurisdictional electric service now provided by Edison, whose rates for that service are on file with this Commission, We shall, therefore, direct Edison to file these agreements in accordance with § 205(c) of the Federal Power Act.

It appears that these agreements are relevant to both Docket Nos. E-7796 and E-7777 (Phase II). However, we shall permit the Presiding Judge to determine whether the agreements should be the subject of one or both dockets.

The Commission orders: (1) The Presiding Judge's Rulings in his Certification of Questions With Request For Immediate Decison are hereby Affirmed.

(2) The Motion For Consolidation of NCPA and Southern Cities of Docket Nos. E-7796 and E-7777 (Phase II) is hereby granted.

(3) The Motion to Compel Filing of Jurisdictional Agreements by Southern Cities is hereby granted.

(4) Staff's Motion For Clarification is hereby declared to be moot.

(5) Within 30 days of the issuance of this order, Edison is hereby directed to file the D.C. Intertie Agreement and the Sylmar Agreement in the consolidated dockets in accordance with the foregoing discussion.

(6) Within 30 days of the issuance of this order, all signatories of the Pacific Intertie Agreement, who are public utilities, shall file, jointly or individually, all classifications, practices, rules, regulations or contracts that in any manner affect or relate to the Pacific Intertie agreement with the Commission in Docket No. E-7777.

(7) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-597 Filed 1-5-79; 8:45 am]

[23] See Edison's Response, pages 6, 7, & 8. Edison refers to Rate Schedules 25, 40, and 43 in its explanation of various clauses of the subject agreements.

[6740-02-M]

[Docket No. CI75-602]

ROY M. HUFFINGTON, INC.

Filing

DECEMBER 27, 1978.

Take notice that on December 22, 1978, the Commission Staff filed with the Federal Energy Regulatory Commission a document entitled *Report of the Commission Staff* which computes what the Staff believes to be a cost justified special relief rate for Roy M. Huffington, Inc. for natural gas from the Lawson Field, Acadia Parish, Louisiana. The report states it is based upon responses to Staff interrogatories served upon Huffington pursuant to our order of August 2, 1978.

The Commission will provide for the filing of comments on Report of the Commission Staff. Any person desiring to be heard or to protest the report should file commnets on or before January 19, 1979, with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. The Commission specifically solicits the comments of Roy M. Huffington, Inc. in this matter.

All protests and comments will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make pro testants parties to the proceeding. Any party wishing to become a party must file a petition to intervene in accordance with the Commission's Rules; provided, however, that persons that have previously filed a notice or petition for intervention in this proceeding need not file additional notices or petitions to become parties with respect to the instant filing. Copies of the Report of the Commission Staff are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-595 Filed 1-5-79; 8:45 am]

[6740-02-M]

[Docket No. CP79-112]

TEXAS GAS TRANSMISSION CORP.

Application

DECEMBER 27, 1978.

Take notice that on December 11, 1978, Texas Gas Transmission Corporation (Applicant), P.O. Box 1160, Owensboro, Kentucky 42301, filed in Docket No. CP79-112 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation, on an interruptible basis, up to 550 Mcf of natural gas per day for Indiana Gas Company, Inc. (Indiana Gas), an existing resale customer of Applicant, all as more fully set forth in the application on file with the Commission and open to public inspection.

The application states that Indiana Gas is presently purchasing volumes of refinery gas from the Rock Island Refinery in Indianapolis, Indiana, and that pursuant to a transportation agreement dated September 22, 1978, Applicant has agreed to transport the gas, by displacement, to Texas Eastern Transmission Corporation (Texas Eastern) for ultimate delivery to Indiana Gas's Greenburg, Indiana, service area.[1]

It is stated that the proposed transportation service would be effected by Applicant's backing off its deliveries to Indiana Gas in Applicant's Zone 3 by up to 550 Mcf per day and delivering such volumes to Texas Eastern for the account of Indiana Gas at an existing meter station owned by Applicant near Lebanon, Ohio. The volumes of gas transported and delivered by Applicant to Texas Eastern would not be lost to that portion of the Indiana Gas system served by Applicant in that Indiana Gas would make available to such system volumes of refinery gas equivalent to those volumes being transported, it is stated.

Applicant indicates that it would retain a volume of gas equal to 1.66 percent above the delivered volumes as makeup for compressor fuel and line loss, which percentage was calculated on an incremental basis. Applicant further indicates that it would collect an initial charge of 15.09 cents for each MCF (at 14.73 psia) delivered to Texas Eastern for the account of Indiana Gas.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 15, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-596 Filed 1-5-79; 8:45 am]

[6740-02-M]

[Docket No. RP79-11]

TEXAS GAS PIPE LINE CORP.

Order Accepting for Filing and Suspending Proposed Rate Increase, Granting Waiver and Establishing Procedures

DECEMBER 28, 1978.

On November 30, 1978, Texas Gas Pipe Line Corporation (TGPLC) filed revised tariff sheets,[1] which propose to increase its annual jurisdictional revenues by $135,282, or by approximately 5.5 percent. TGPLC requests an effective date of January 1, 1979.

TGPLC's submitted cost of service in support of the filing is based on actual costs for the twelve months ended August 31, 1978, as adjusted for known and measurable changes which are expected to be incurred within the test period. The proposed rate would increase by 60.27 cents per Mcf the commodity portion of its CD-1 rate charged to Transcontinental Gas Pipe Line Corporation.[2] Additionally, the proposed rate would increase by 66.35 cents per Mcf the single part rate under Rate Schedule G-1 charged to Texas Eastern Transmission Corporation.

TGPLC states the proposed increase in rates is required to recover increased operating expenses and increased expenses for transmission and compression of gas by others. Further, the company states that it needs to increase its revenues to the requested level so as to provide for an overall rate of return of 13 percent. Finally, TGPLC requests the Commission to waive its regulations regarding major rate increase filings. TGPLC requests the Commission to treat the filing as a minor rate increase under Section 154.63(a)(3) and (b)(4) requiring only the filing of Statements L, M, and N. Also TGPLC has informed the Commission by letter dated December 1, 1978, that it has not submitted an opinion of an independent public accountant as required by Section 154.63(e)(6). However TGPLC indicates that they would be filing that opinion in the near future. For good cause shown, we shall grant waiver of Section 154.63(b)(3) of the Regulations to permit TGPLC's filing to be treated as a minor rate increase pursuant to Section 154.63(a)(3) and (b)(4) of the Regulations. However, we shall require TGPLC to supply the required independent public accountant's opinion within 30 days of the issuance of this order.

Public notice of TGPLC's November 30, 1978, filing was issued on December 13, 1978. Protests and petitions to intervene in the above captioned docket are due to be filed on or before December 27, 1978.

After a review of TGPLC's filing in this docket, the Commission finds that the company has not shown that the proposed increase is just and reasonable as required by the Natural Gas Act and Commission Regulations; and that the requested increase may be unjust, unreasonable, unduly discriminatory or otherwise unlawful. Accordingly, the Commission accepts TGPLC's proposed rate increase for filing, suspends its use for five months or until June 1, 1979, subject to refund, and the conditions set forth below, and sets the matter for hearing.

The Commission finds: It is necessary and proper in the public interest and in carrying out the provisions of the Natural Gas Act that the Commission conduct a hearing regarding the lawfulness of the rates proposed by TGPLC and that the same be accepted for filing and suspended as hereinafter ordered.

The Commission orders: (A) Pursuant to the authority of the Natural Gas Act, particularly Sections 4, 5, 8, and 15 thereof, 15 U.S.C. §§ 717(c), 717(d), 717(g), and 717(m), and the Commission's rules and regulations, a public hearing shall be held concerning the lawfulness of the increased rates proposed by TGPLC.

(B) Pending hearing and decision, and subject to the condition of Ordering Paragraph C below, TGPLC's First Revised Volume No. 1, Second Revised Sheet Nos. 5 and 8 are accepted for filing and suspended for five (5) months until June 1, 1979, when they shall be permitted to become effective subject to refund, upon motion filed by TGPLC consistent with the provisions of the Natural Gas Act.

(C) Within 30 days of the issuance of this order, TGPLC shall file with the Commission in this docket an independent accountant's opinion as required by Section 154.63(e)(6) of the Commission's Regulations.

(D) TGPLC's request for a waiver of Section 154.63(b)(3) of the Commission's Regulations is granted.

(E) The Commission Staff shall prepare and serve top sheets on all parties on or before April 6, 1979.

(F) A Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge pursuant to 18 CFR 3.5(d), shall convene a prehearing conference in this proceeding within thirty days, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, for the purposes of establishing procedures for the investigation and hearing to be held pursuant to this order. The Presiding Judge shall be authorized to modify all procedural dates and to establish further procedures as may in his judgment be required for purposes of the investigation and hearing pursuant to this order. The Presiding Judge shall also be authorized to rule upon all motions except motions to consolidate, sever, or dismiss, as provided for in the rules of practice and procedure.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-604 Filed 1-5-79; 8:45 am]

[6740-02-M]

[Docket No. RP72-133; (PGA79-1)]

UNITED GAS PIPE LINE CO.

Order Accepting for Filing and Suspending Proposed PGA Rate Increase, Subject to Conditions; Initiating Hearing; and Establishing Procedures

DECEMBER 28, 1978.

On November 15, 1978, United Gas Pipeline Company (United) filed revised tariff sheets [1] proposed to become effective January 1, 1979, which reflect rate adjustments pursuant to the Company's PGA clause. These adjustments include an increase of 19.10¢ per Mcf in average purchased gas costs; or an increase of approximately $146 million per year; a decrease from 9.47¢ to 1.91¢ per Mcf in the surcharge to recover a deferred account balance of $6.5 million; and a GRI charge pursuant to Opinion No. 30 of 3.5 mills per Mcf.

United states that the 19.10¢ per Mcf increase reflects supplier rate changes, particularly a Sea Robin Pipeline Company (Sea Robin) rate increase, price escalations by producer suppliers pursuant to Sections 104 and 108 of the NGPA and other producer supplier increases. United states further that the surcharge adjustment reflects a refund of $28.5 million from Sea Robin in Docket Nos. RP73-47, RP76-39, RP77-6.

Notice of the proposed adjustments was issued November 20, 1978, with petitions to intervene due on or before December 8, 1978.

Based on a review of United's filing, the Commission finds that the proposed rates have not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory or otherwise unlawful. Accordingly, the Commission shall accept for filing United's filing subject to conditions; grant waiver of the 30-day notice requirements and suspend its effectiveness such that it shall be come effective, subject to refund, as of January 1, 1979. In addition, we shall set the issue of the prudency of the emergency purchases for hearing.

Our review indicates that the subject filing includes emergency purchase costs in excess of those prescribed by Opinion No. 770-A. In addition, United has been making these purchases year round, including the summer months. United has not shown that this purchase program is consistent with the prudent pipeline standard. Accordingly, we shall set this matter for hearing.

In its systemwide average cost of gas, United has reflected anticipated increased costs for purchases from producers not presently selling under certificates issued pursuant to Section 7 of the Natural Gas Act. Whether these sales should be certificated is at issue in a pending show cause proceeding.[2] Determination of whether these sales are committed or dedicated to the interstate market will affect the determination of the appropriate sale prices. Inclusion of these anticipated costs is hereby made subject to the outcome of the show cause proceeding in CP76-238. As the costs are merely anticipated, and not yet incurred, United should file actual cost data as of January 1, 1979 to demonstrate that the anticipated costs did occur.

In addition, United has reflected other costs from producer and pipeline suppliers in its current adjustment which are anticipated to become effective on or before January 1, 1979. Accordingly, we shall require United to file a revised tariff sheet reflecting elimination of costs from producer and pipeline suppliers which those suppliers are not authorized to charge United on or before January 1, 1979, pursuant to applicable Commission orders, the Natural Gas Act and the Regulations thereunder, and the Natural Gas Policy Act of 1978 and the Regulations thereunder. Upon receipt of a revised tariff sheet which conforms to the conditions of this order, the Commission shall make it effective January 1, 1979, subject to refund, but shall limit the refund obligation to the costs reflected in the filing attributable to emergency purchases and those purchases at issue in Docket No. CP76-238.

The Commission orders: (A) Subject to the conditions of Ordering Paragraphs (B), (C), (D) below, United's proposed Forty-Seventh Revised Sheet

[1] Forty-Seventh Revised Sheet No. 4 to FERC Gas Tariff, First Revised Volume No. 1.

[2] In the matter of United Gas Pipe Line Company and Certain Producer Respondents, Docket No. CP76-238.

[1] The Indiana Gas system served by Applicant is not connected to the Indiana Gas system served by Texas Eastern.

[1] Second Revised Tariff Sheets Nos. 5 and 8, FERC Gas Tariff, First Revised Volume No. 1.

[2] Second Revised Sheet No. 5.

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No. 4 to FERC Gas Tariff, First Revised Volume No. 1, is accepted for filing, suspended, waiver of notice requirements is granted such that the filing shall become effective on January 1, 1979, subject to refund.

(B) United shall file a revised tariff sheet to become effective subject to refund on January 1, 1979, reflecting elimination of costs from producer and pipeline suppliers which those suppliers are not authorized to charge United on or before January 1, 1979, pursuant to applicable Commission orders, the Natural Gas Act and the Regulations thereunder, and the Natural Gas Policy Act of 1978 and the Regulations thereunder.

(C) United may include anticipated increased costs for purchases from producers presently making uncertificated sales, provided that the company files actual cost data as of January 1, 1979, to demonstrate that the anticipated costs did in fact materialize, and provided further, that the inclusion of these rates in costs shall be dependent on the outcome of proceedings in Docket No. CP76-238, to determine whether the sales are jurisdictional and what costs for such sales should be reflected in United's rates.

(D) Waiver of Section 154.63(e)(2)(i) is granted to the extent necessary to effectuate the conditions contained in Ordering Paragraphs (C) and (D) above.

(E) Pursuant to the authority of the Natural Gas Act, Sections 4, 5, 8, and 15, and the Commission's rules and regulations, a public hearing shall be held concerning the prudency of the emergency purchases made by United.

(F) The Commission Staff shall prepare and serve top sheets in the emergency purchase proceeding on all parties on or before March 9, 1979.

(G) A Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge for that purpose (18 CFR 3.5(d)), shall convene a settlement conference in this proceeding to be held within 10 days after the service of top sheets by the Staff in the consolidated emergency purchase proceeding in a hearing or conference room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. The Presiding Administrative Law Judge is authorized to establish such further procedural dates as may be necessary, and to rule upon all motions (except motions to consolidate, sever, or dismiss), as provided for in the rules of practice and procedure.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-605 Filed 1-5-79; 8:45 am]

[6740-02-M]

[Docket No. RP78-85]

VILLAGE OF PAWNEE, ILL., ET AL., COMPLAINT PETITIONERS, V. PANHANDLE EASTERN PIPE LINE CO., RESPONDENT

Amended Complaint and Petition for Relief

DECEMBER 29, 1978.

Take notice that on November 20, 1978 the Villages of Pawnee, Divernon, Pleasant Hill, and Riverton, Illinois, the Cities of Auburn, Bushnell, Pittsfield, and Montgomery, Illinois, and the Town Gas Company, complainant petitioners (petitioners), filed in Docket No. RP78-85 and amendment to their petition filed, pursuant to the provisions of the Natural Gas Act, on August 30, 1978, in said docket.

The amended petition provides for a change in a portion of the relief requested by petitioners. It is requested that Panhandle Eastern be directed to amend the latter portion of Section 16.5(c)(4) of its tariff to read "and (b) it did not attach or supply any new gas usage on its system within Opinion No. 754 for Priorities 2 through 5 after February 1, 1974."

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the commissions Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 23, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-609 Filed 1-5-79; 8:45 am]

[6740-02-M]

[Docket No. CI75-45 et al.]

ASHLAND OIL, INC. ET AL.

Order Establishing Additional Proceeding Pursuant to Court Order

NOVEMBER 20, 1978.

In the matter of Tenneco Oil Company, CI75-45; Placid Oil Company, CI75-59; Hunt Petroleum Corporation, CI75-66; Hunt Industries, CI75-67; Hunt Oil Company, CI75-68; Kewanee Oil Company, CI75-69; Tenneco Oil Company, CI75-105; Shell Oil Company, CI75-684, CI75-107; Ashland Oil, Inc., CI75-122; TransOcean Oil, Inc., CI75-138; Tennessee Gas Pipeline Company, a Division of Tenneco Inc., CP73-339; Trunkline Gas Company, CP75-330, CP75-19; Tennessee Gas Pipeline Company, CP75-23, CP75-119, CP75-120; Trunkline Gas Company, CP75-149; Southern Natural Gas Company, CP75-316, CP75-151; Southern Natural Gas Company, CP75-153, United Gas Pipe Line Company and Florida Gas Transmission Company, CP75-153; Southern Natural Gas Company, CP75-163; Tennessee Gas Pipeline Company, A Division of Tenneco Inc., and Tenneco Chemicals, Inc., CP75-258; Highland Resources, CI75-733.

On March 20, 1978, the Commission issued Opinion No. 10 modifying FPC Opinion No. 789.[1] In Opinion No. 10, the Commission, among other things, denied requests by a number of interstate pipelines for authorization to transport natural gas produced in the offshore Federal domain to various gas consuming facilities onshore and found that the public interest is no longer served by the policy of producer reservations known as the Chandeleur incentive.[2] In Opinion No. 10-A, issued on June 21, 1978, the Commission denied applications for rehearing of Opinion No. 10.

Petitions for review of Opinion Nos. 10 and 10-A were filed in the Fifth Circuit and the District of Columbia Circuit at approximately the same time.[3] Tenneco Oil Company alleges that it filed in the Fifth Circuit at 3:02:03 p.m. EDT; the Public Service Commission of the State of New York alleges that it filed in the District of Columbia Circuit at 3:02:10 p.m. EDT.

On October 30, 1978, the Court of Appeals for the Fifth Circuit entered an order,[4] under Fifth Circuit Rule 24(f),[5] referring to the Commission for

[1] The term "Commission", when used in the context of action taken prior to October 1, 1977, refers to the FPC; when used otherwise, the reference is to the FERC.

[2] The Chandeleur incentive was the policy of allowing producers to reserve gas from the offshore federal domain for their own use to provide an incentive for exploration and development.

[3] In the Fifth Circuit, the appeals are docketed as *Air Products and Chemicals, Inc.* v. *FERC*, Nos. 78-2011, *et al.* The D.C. Circuit is considering *Public Service Commission of the State of New York* v. *FERC*, No. 78-1572, and *Associated Gas Distributors* v. *FERC, No. 78-1573.*

[4] A copy of the order is attached as Appendix A.

[5] Rule 24(f) provides: Any party who raises an issue as to venue shall immediately move for resolution of that issue and serve a supporting memorandum therewith. Within 10 days of service, opposing parties may serve an opposing memorandum. The Court will expedite its decision on this issue. Any dis-

Footnotes continued on next page

findings of fact the question of which petition for review of Commission Opinion Nos. 10 and 10-A was first filed.[6] Accordingly, the Commission will direct that a proceeding be conducted by an administrative law judge for purposes of ascertaining the facts pertinent to the filing of various petitions for review of Opinion Nos. 10 and 10-A.

Neither the court's order nor Rule 24(f) states whether the Commission must find which petition was filed first or whether it should simply make findings *regarding* the filing of various petitions. The Commission believes, however, that the ultimate finding of which petition was filed first is a question that must ultimately be resolved by the courts of appeals. Accordingly, the Commission will direct the administrative law judge to conduct such procedures as he considers necessary, to prepare a report concerning the filing of petitions for review of Opinion Nos. 10 and 10-A, and to certify that report to the Commission.[7] The Commission will then make the findings of fact called for by the Fifth Circuit's order, but will leave the question of which petition was filed first for definitive resolution by the courts.

The Commission orders:

(A) Pursuant to the authority contained in and subject to the jurisdiction conferred on the Commission by the Natural Gas Act, the Department of Energy Reorganization Act, and the Commission's Rules of Practice and Procedure, and in accordance with the order of the United States Court of Appeals for the Fifth Circuit in *Air Products & Chemicals, Inc.* v. *FERC*, No. 78-2011, a public proceeding shall be held in a hearing room of the Commission for purposes of ascertaining the facts pertinent to the filing of petitions for review of Opinion Nos. 10 and 10-A, as described in the body of this order.

(B) An administrative law judge, to be designated by the Chief Administrative Law Judge for that purpose pursuant to section 3.5(d) of the Commission's General Rules (18 CFR 3.5(d)), shall conduct such proceedings as he deems necessary and appropriate and prepare a report as described in the body of this order, and to certify that report to the Commission. Unless otherwise ordered by the Commission, the parties shall not be permitted to file exceptions to the administrative law judge's report.

(C) The presiding administrative law judge designated in accordance with ordering paragraph (B) above shall have authority to establish and change all procedural dates and to rule on all motions with the exception of petitions and motions to consolidate and sever and motions to dismiss, as provided in the Commission's Rules of Practice and Procedure.

(D) The proceeding described in ordering paragraph (B) above shall be conducted as soon as possible following issuance of this order.

(E) The Secretary shall cause this order to be published promptly in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

APPENDIX A—IN THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

[No. 78-2011]

Air Products & Chemical, Inc., Et Al., Petitioners, v. *Federal Energy Regulatory Commission*, Respondent.

ORDER

OCTOBER 30, 1978.

Before BROWN, Chief Judge, COLEMAN and TJOFLAT, Circuit Judges. PER CURIAM:

Several appeals are pending in this Court and in the District of Columbia Circuit Court of Appeals,[1] all seeking review of certain opinions of the Federal Energy Regulatory Commission (FERC).[2] Although appeals were filed in both courts at approximately the same time, it is uncertain which forum first received notice. The Public Service Commission of New York has, therefore, filed a motion pursuant to Fifth Circuit Rule 24(f),[3] requesting that this Court refer the venue issue to FERC for findings of fact. Agreeing that FERC is a more appropriate body to tackle the task than is a Court of Appeals, we hereby refer the issue to the Commission.

APPENDIX B—IN THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

[No. 78-1572]

Public Service Commission of New York v. *Federal Energy, Regulatory Commission* and consolidated case No. 78-1573.

NOVEMBER 8, 1978.

BEFORE: Fahy, Senior Circuit Judge; Wilkey, Circuit Judge.

ORDER

On consideration of intervenors' motion to dismiss or in the alternative to transfer venue, and the responses thereto, it is ORDERED by the Court that the motion to dismiss is denied. It is FURTHER ORDERED by the Court that the motion to transfer venue is held in abeyance pending action by the Federal Energy Regulatory Commission with respect to the reference to it by the Fifth Circuit under its Rule 24(f).

Per Curiam.

[FR Doc. 79-617 Filed 1-5-79; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1035-7]

RECEIPT OF ENVIRONMENTAL IMPACT STATEMENTS

President Carter's Reorganization Plan No. 1 (see President's Message of July 15, 1977) transferred certain functions from the Council on Environmental Quality (CEQ) to the Environmental Protection Agency (EPA). Some of these functions relate to operational duties associated with the administrative aspects of the environmental impact statement (EIS) process. In Memorandum of Agreement No. 1 entered into between CEQ and EPA, dated March 29, 1978, it was agreed that EPA would be the official recipient of EIS's and would publish the availability of each EIS received on a weekly basis. This is the duty formerly carried out by CEQ pursuant to Section 1500.11(c) of the CEQ Guidelines.

Review periods for draft and final EIS will be computed as follows: the 45 day review period for draft EIS's will be computed from the Friday following the week which is being reported; the 30 day wait period for final EIS's will be computed from the date of receipt of the EIS by EPA and commenting parties.

The following is a list of environmental impact statements received by the Environmental Protection Agency from December 26, 1978 through December 29, 1978; the date of submis-

Footnotes continued from last page

pute as to priority of institution of proceedings in two or more Courts of Appeal will be referred to the Commission for findings of fact.

[6] On November 8, 1978, in *Public Service Commission of the State of New York* v. *Federal Energy Regulatory Commission*, No. 78-1572, the District of Columbia Circuit entered an order denying Tenneco Oil Company's motion to dismiss the petition for review and held in abeyance Tenneco's "motion to transfer venue • • • pending action by the • • • Commission with respect to the reference to it by the Fifth Circuit under its Rule 24(f)." A copy of this order is attached as Appendix B.

[7] Unless otherwise ordered by the Commission, the parties shall not be permitted to file exceptions to the administrative law judge's report.

[1] Appeals pending in this Court are filed under the style Air Products and Chemical, Inc. v. FERC, Nos. 78-2011, *et al.* The District of Columbia Circuit is considering Public Service Commission of the State of New York v. FERC, No. 78-1572 and Associated Gas Distributors v. FERC, No. 78-1573.

[2] All parties are seeking review of FERC's opinion 10 of March 20, 1978, and its opinion 10A of June 21, 1978.

[3] 24(f) Venue. Any party who raises an issue as to venue shall immediately move for resolution of that issue and serve a supporting memorandum therewith. Within 10 days of service, opposing parties may serve an opposing memorandum. The Court will expedite its decision of this issue. Any dispute as to priority of institution of proceedings in two or more Courts of Appeal will be referred to the Commission for findings of fact.

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sion of comments on draft EIS's as computed from January 5, 1979 is February 19, 1979.

Copies of individual statements are available for review from the originating agency. Back copies are also available at 10 cents per page from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

PETER L. COOK,
Acting Director,
Office of Federal Activities.

Dated: January 3, 1979.

DEPARTMENT OF AGRICULTURE

Contact: Mr. Barry Flamm, Coordinator, Environmental Quality Activities, U.S. Department of Agriculture, Room 359A, Washington, D.C. 20250, (202) 447-3965.

FOREST SERVICE

Draft

Sullivan-Salmo unit plan, Colville National Forest, Pend Oreille, Washington, and Boundary Counties in Idaho, December 27: The proposed action is the development of a land management plan for the Sullivan-Salmo planning unit of the Colville National Forest located in Pend Oreille County, Wash. and Boundary County, Idaho. The major issues identified include: (1) Determination of the planning units contribution toward renewable resource targets, (2) relationship of unit mangement and local industrial and domestic water uses, (3) recreational experiences associated with Sullivan Lake, (4) timber yield and economic stability, (5) maintenance of winter habitat, and (6) protection of scientific, educational, or recreational values. (USDA-FS-06-21-79-07). (EIS order No. 81375.)

Presidential unit plan, White Mountain National Forest, Coos and Carroll Counties, N.H., December 27: The proposed action is to implement a land management plan for the 100,000-acre Presidential unit of the White Mountain National Forest located in Coos and Carroll Counties, N.H. The plan includes building new and expanding existing recreational facilities such as picnic areas, primitive overnight facilities and ski and hiking trails. Reduction and removal of existing emergency shelters and winter off-road area is proposed. Also proposed is the establishment of managment direction for forest trails, roads, information services, timber, access roads, and protection of unique plant/insect species/endangered wildlife species. (USDA-FS-R9-DES-ADM-79-01). (EIS order No. 81374.)

Snake River, Bridger-Teton National Forest, Wild-Scenic River, Teton and Lincoln Counties, Wyo., December 27: This project concerns the classification of the Snake River as a wild and scenic river. This proposal concerns that portion of the river which is located in the Bridger-Teton National Forest, Teton and Lincoln Counties, Wyo. This study specifically addresses the Snake River and immediate environment from the south boundary of Grand Teton National Park to the headwaters of Palisades Reservoir, which includes 50 miles of river. It is established that the river is eligible for designation by Congress as a wild and scenic river and there are several alternatives varying in scenic river miles and recreation river miles. (USDA-FS-DES(LEG)79-02). (EIS order No. 81374.)

The review period for the above statement will be 90 days.

RURAL ELECTRIFICATION ADMINISTRATION

Draft

Ojo-Taos 345 kV transmission and related facilities, Taos and Rio Arriba Counties, N. Mex., December 12: The proposed action concerns the use of REA insured loan funds to finance the construction of the Ojo-Taos 345 kV transmission line and related terminal facilities located in Taos and Rio Arriba Counties, N. Mex. The 38-mile transmission line will be built between the Taos substation of Plains Electric Generation and Transmission Cooperative, Inc. and the Ojo Substation of the Public Service Co. of New Mexico. Both substations will be modified to accomodate the terminal facilities for the transmission line. (USDA-REA-EIS-ADM-78-13). (EIS order No. 81386.)

SOIL CONSERVATION SERVICE

Draft

Pine Creek Watershed, Lamar County, Tex., December 28: The proposed Pine Creek Watershed project is located in Lamar County, Tex. The project contains provisions for technical assistance for the application of needed land treatment measures on the watershed lands and installing 15 floodwater retarding structures, one multipurpose structure, and 10.28 miles of channel work remain to be installed for project completion. (USDA-SCS-EIS-WS-ADM-78-3-D-TX). (EIS order No. 81383.)

U.S. ARMY CORPS OF ENGINEERS

Contact: Dr. C. Grant Ash, Office of Environmental Policy, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps or Engineers, 1000 Independence Avenue, S.W., Washington, D.C. 20314, (202) 693-6795.

Draft

Delta Pumping Plant, Operation, Contra Costa and Alameda Counties, Calif., December 27: The California Department of Water Resources has applied for permits from the corps for the existence and operation of the Delta Pumping station, Intake channel, Clifton Court forebay and appurtenant facilities. The plant is located at the head of the California Aqueduct northwest of Tracy, California near the Contra Costa and Alameda County line. The proposed facilities will divert water to service areas in the south San Francisco Bay, San Joaquin Valley and southern California (Sacramento District). (EIS Order No. 81382).

Draft Supplement

Seattle Harbor navigation, operation and maintenance, King's County, Wash., December 28: This proposal supplements a final EIS filed with CEQ in August 1975. The action is continued maintenance dredging of the Seattle Harbor navigation project located in King County, Washington. Project plans call for the clamshell dredging of the upstream reaches from station 235+00 to the "Head of Navigation" on an annual basis. The amount of material dredged upstream will average approximately 135,000 cy per year. Dredging downstream of station 235+00 is anticipated every 4 to 7 years, requiring the removal of 60,000 to 300,000 cy of sediments (Seattle District) (EIS Order No. 81381).

DEPARTMENT OF DEFENSE, NAVY

Contact: Mr. Ed Johnson, Head, Environmental Impact Statement/ROT&E Branch, Office of the Chief of Naval Operations, Department of the Navy, Washington, D.C. 20350, (202) 697-3689.

Draft

Long Beach Naval Station, Reestablishment, Los angeles County, Calif., December 26: The proposed project involves the reopening of the Long Beach Naval Station as an active homeport. The naval station is located in Los Angeles County, California. Approximately 9,000 military and civilian personnel, plus dependents and 27 ships are involved in this proposal. The initial ship arrivals are scheduled to coincide with the regular overhaul program and the other ships scheduled for arrival will be newly constructed and will assume their homeport station upon the successful completion of the shakedown cruises. The homeport ships will be cold ironed while in port (EIS Order No. 81370).

ENVIRONMENTAL PROTECTION AGENCY

Contact: Mr. Wallace Stickney, Region I, Environmental Protection Agency, John F. Kennedy Federal Building, Boston, Mass. 02203, (617) 223-4635.

Final

Lakes region water quality management plan, several counties, N.H., December 29: This action involves the technical and management alternatives which have been considered to deal with water quality problems of the lakes region from now through the next 20 years. The lakes region is located in central New Hampshire and consists of four counties. Each community within the 208 planning area should seriously consider the various alternatives and solutions to the water quality problems and work towards developing a final recommendation. Each community may need to make financial commitments and land use decisions which will affect future growth and types of development and management decisions important in implementing water quality recommendations. Comments made by: EPA, FAA, USDA, DOI, State and local agencies, individuals (EIS Order No. 81385).

Contact: Mr. William Geise, Region VIII, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colo. 80203, (303) 837-4831.

Final

Boulder wastewater treatment facilities, Boulder County, Colo, December 26: Proposed are the design and construction of additional wastewater treatment facilities for the city of Boulder, Colorado. This statement identifies alternatives for providing Boulder with improved wastewater facilities to meet the needs of its residents. The projected service area contains approximately 140 square miles and is bounded by the foothills to the west, Davison mesa to the South, and Gunbarrel Hill to the north. The population of the planning area is projected to be 129,000 (Region VIII) (EPA-908/5-78-003). Comments made by: HUD, DOI, COE, State and local agencies, groups and individuals, (EIS Order No. 81373).

FEDERAL ENERGY REGULATORY COMMISSION

Contact: Dr. Jack M. Heinemann, Advisor on Environmental Quality, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426. (202) 275-4150.

Final

Potter Valley project No. 77, Lake and Mendocino Counties, Calif., December 27: Consideration is being given to the application of Pacific Gas and Electric Company for relicense to continue operation of project No. 77. This is located in Lake and Mendocino Counties, of California along the Rivers Eel and the East Fork Russian. It consists of 2,386 acres of land which encompass dams, reservoirs, a diversion system, power plants, fish passage facilities and a fish screen. The purpose of the project is recreational usage, energy production, and the provision of water for municipal, agricultural and industrial purposes (FERC/EIS-0007). Comments made by: AHP, USDA, USA, COE, DOC, NOAA, DOI, EPA, State and local agencies, groups, individuals and businesses (EIS Order No. 81378).

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410, (202) 755-6308.

Draft

Village Creek West Subdivision, Harris County, Tex., December 26: The proposed action is for the HUD to accept for HUD-FHA mortgage insurance purposes the 628 acre Village Creek West Subdivision located in western Harris County, Texas, roughly 7 miles north of the small municipality of Katy. When completed, the subdivision will contain approximately 2,200 single-family homes plus some shopping and recreational facilities (HUD-R06-EIS-78-53 D) (EIS Order No. 81372).

INTERSTATE COMMERCE COMMISSION

Contact: Mr. Richard I. Chais, Chief, Section of Energy and Environment, room 3373, 12th and Constitution Ave., N.W., Washington, D.C. 20423, (202) 275-7692.

Draft

Control-Merger, Burlington Northern and St. Louis-San Francisco, Several, December 28: The proposal concerns two railroad companies, Burlington Northern, Inc. and the St. Louis-San Francisco Railway Company, which propose to merge their operations into one system. This end-to-end merger would create a company with lines extending from the Northwestern United States to the gulf coast. A certain amount of traffic will be diverted from other railroads to routes of the merged system, creating additional traffic over some routes and through some terminals. (Finance Docket No. 28583 Sub No. 1F) (EIS Order No. 81384).

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590, (202) 426-4357.

FEDERAL HIGHWAY ADMINISTRATION

Draft

TN-22, Union City to Dresden; Obion and Weakley Counties, Tenn., December 27: The proposed highway project involves the improvement of TN-22, from the end of the four lane section near Union City to Old State Route 22 near Dresden, in Obion and Weakley Counties, Tennessee. This proposed section is classified as a principal arterial route on the Tennessee State wide plan and would directly serve Union City, Martin and Dresden. The proposed cross section consists of four 12 foot traffic lanes with 48-foot median on a minimum right-of-way of 250 feet except through Gardiner, Midway and near Union City. Two alternative alignments were considered. (FHWA-TN-EIS-78-09) (EIS Order No. 81376).

VA-199, Williamsburg bypass, VA-5 to I-64, James City and York Counties, Va., December 27: The proposed Williamsburg bypass involves the construction of a four-lane, divided, limited access highway within the counties of James City and York, Virginia. The proposed southern terminus is at the intersection of completed VA-199 and VA-5 and the northeastern project terminus is at the existing I-64 interchange with VA-646. Alternatives being considered in this evaluation include the no-build option and two construction alternatives. (FHWA-VA-EIS-78-03-D) (EIS Order No. 81377).

Final

F.A. I-265 Interchange, I-265 and State Street, Floyd County, Ind., December 26: Proposed is the construction of a complete 4-way interchange on I-265 at State Street (Old U.S. 150) in New Albany, Indiana. The facility will be designed in line with current standards to include single-lane, separated access and ingress ramps, medians, and traffic control installations in two quadrants of the intersection with left-turns permitted at grade on State Street. Speed change lanes will be provided alongside traffic lanes at I-265. The proposed interchange will require the acquisition of some wooded land and wildlife habitat, and the relocation of some family residences (Region 5) (FHWA-IND-EIS-76-08-F). Comments made by: USDA DOI, HUD, EPA, FAA, DOT, State and local agencies (EIS Order No. 81371).

Notice of Official Correction

The following final EIS was published in November 6, 1978, FEDERAL REGISTER incorrectly as being received October 13, 1978. The official filing date was October 23, 1978.

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410, (202) 755-6308.

Final

Belle Terre Development, St. John the Baptist County, La., October 23: The proposed action is the securing of home mortgage insurance for a total of 1,600 housing units located between U.S. Highway 61 (Airline Highway) and Interstate 10 in Laplace, St. John the Baptist Parish, Louisiana. Approximately 15 miles west of New Orleans. The units are to be built over the next 7 years; they will utilize a 900-acre site, and will consist of single family residences and an 18-hole golf course with club house, swimming pools, and tennis courts. Increased population of the area will have a long-term adverse impact on air quality and will increase noise and traffic levels. (HUD-R06-EIS-78-30F). Comments made by: AHP, USDA, HEW, DOE, DOI, DOT, EPA, VA, State Agencies, Businesses (EPA Order No. 81152).

Official Retraction

The Federal Highway Administration, Region 9, has notified the EPA by letter dated December 20, 1978 of the delay in distribution of the final EIS listed below. The EPA published availability in the FEDERAL REGISTER dated December 4, 1978. EPA will republish the availability upon notification of distribution.

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590, (202) 426-4357.

FEDERAL HIGHWAY ADMINISTRATION

Final

Death Valley Road, CA- 168 to Death Valley National Monument, Inyo County, Calif., November 21: Proposed is the improvement of Death Valley Road, RS-W658, which extends about 62.4 miles from S.R. 168 near big Pine to the northerly boundary of Death Valley National Monument near Ubehebe Crater in Inyo County, California. Plans call for the pavement of portions which are now gravel, realignment of isolated sections, and upgrading of the roadway to increase safety. The project will displace 44 acres of Vegetation and wildlife, and will increase noise, litter, and secondary air pollution. (FHWA-CA-EIS-77-03-F) Comments made by: DOI, COE, USDA, State agencies, groups (EIS Order No. 81243).

[FR Doc. 79-656 Filed 1-5-79; 8:45 am]

[6712-01-M]

FEDERAL COMMUNICATIONS COMMISSION

FM BROADCAST APPLICATION READY AND AVAILABLE FOR PROCESSING

Adopted: January 2, 1979.

Released: January 3, 1979.

Cut-Off Date: February 8, 1979.

Notice is hereby given, pursuant to § 1.573(d) of the Commission's rules, that on February 9, 1979, the FM broadcast application listed below will be considered as ready and available for processing. This application was timely filed and mutually exclusive with the appliction of Salinas Union High School for renewal of the license of Station KAUG(FM), Salinas, California. However, the license of KAUG was cancelled November 29, 1978 by request of the licensee.

Pursuant to §§ 1.227(b)(1) and 1.591(b) of the Commission's rules, an application must be substantially complete and tendered for filing at the offices of the Commission in Washing-

ton, D.C., by the close of business on February 8, 1979, in order to be considered with the listed application (or with any other application on file by February 8, 1979 which involves a conflict necessitating a hearing with the listed application).

Any party in interest desiring to file a petition to deny the listed application, pursuant to Section 309(d)(1) of the Communications Act of 1934, as amended, should consult § 1.580(i) of the Commission's Rules for provisions governing the time for filing.

BPED-2356—NEW, Chualar, California, Central Coast Counties, Development Corporation, Req: 90.9 MHz, Channel 215, 3 kW (H&V), 60 feet.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 79-623 Filed 1-5-79; 8:45 am]

[6712-01-M]

[SS Docket No. 78-379]

GARY T. GORNIAK

Designation Order

Adopted: December 15, 1978.

Released: December 21, 1978.

In the matter of application of Gary T. Gorniak, 14 Canterbury Drive, Louisville, Kentucky 40220, for amateur advanced class operator license and amateur radio station license, SS Docket No. 78-379.

The Chief, Safety and Special Radio Services Bureau, has under consideration the application for an Amateur Advanced Class operator license and Amateur Radio Station license, filed by Gary T. Gorniak.

1. Gary T. Gorniak previously held Amateur General Class operator and station licenses with the call sign WB4REN, granted on June 20, 1972 for a five year term. An Order to Show Cause why his Amateur Station license should not be revoked was released on September 8, 1976, and on the same day the Commission released an Order suspending Gorniak's General Class Amateur Operator license for the remainder of the license term. The Order of suspension was to become effective in fifteen days unles Gorniak requested a hearing.

2. A hearing was held on January 27, 1977 in Nashville, Tennessee. In an Initial Decision released on April 8, 1977 (FCC 77D-16, Dockets 20972, 20973), it was concluded that on July 5, 1975, Gorniak appeared at the Commission's offices in Atlanta, Georgia and, representing himself as Garnett A. McDowell, took a General Class Amateur examination in order to fraudulently obtain a license for McDowell. The Initial Decision concluded that Gorniak willfully violated § 97.129 of the Commission's Rules. The Initial Decision further concluded that Gorniak operated transmitting equipment in willful violation of the term of a six month Order of Suspension of his Amateur operator license, released by the Commission on July 1, 1975.

3. The Initial Decision also concluded that Gorniak violated §§ 97.7, 97.61(a) and 97.87(a) of the Commission's rules. It was concluded that, as a result, Gorniak lacked the qualifications to remain a Commission licensee. His radio station license was revoked, effective May 31, 1977. His Amateur operator license was also suspended for the remainder of the license term.[1] No exceptions to the Initial Decision were filed, and it became effective on May 31, 1977 (Notice released June 8, 1977, Number 85062, Dockets 20972, 20973).

4. Subsequent to the effective date of the revocation and suspension of his radio licenses, Gorniak again operated radio transmitting equipment. As a result of that conduct, Gorniak was convicted on October 25, 1977 in the U.S. District Court, Western District of Kentucky, of violation of Section 301 of the Communications Act of 1934, as amended. He was fined $2,000 and placed on one year's probation.

5. In view of Gorniak's operation of radio equipment in disregard of his suspensions and revocation, his past conduct in obtaining an Amateur license for another by fraud, and his violations of Commission rules, it cannot be determined that a grant of his application would serve the public interest, convenience and necessity. Therefore, the Commission must designate the appliction for hearing.

Accordingly, it is ordered, Pursuant to Section 309(e) of the Communications Act of 1934, as amended, and §§ 0.331 and 1.973(b) of the Commission's rules, that the captioned application is designated for hearing at a time and place to be specified by subsequent Order, upon the following issues:

(1) To determine the effect of Gorniak's criminal conviction of October 25, 1977, on his qualifications to become a licensee of the Commission.

(2) To determine the effect of the Initial Decision of April 8, 1977 (FCC 77D-16; Dockets 20972, 20973) revoking Gorniak's Station license and suspending his operator license, upon his qualifications to become a licensee of the Commission.

(3) Whether in light of the evidence adduced pursuant to Issues (1) and (2), Gary T. Gorniak possesses the requisite qualifications to become a Commission licensee.

(4) Whether, in light of the evidence adduced under the above Issues, the public interest, convenience and necessity would be served by the grant of an Amateur Advanced Class license to Gary T. Gorniak.

The burden of proof under these issues shall be on the applicant.

6. *It is further ordered,* That to obtain a hearing on the application, Gorniak in person or by attorney shall within 20 days of the mailing of this Order file with the Commission a written appearance stating an intent to appear on a date fixed for hearing to present evidence on the Issues specified in the foregoing paragraph. Failure to file a written appearance within the time specified will result in the dismissal of the appliction with prejudice.

7. *It is further ordered,* That a copy of this Order shall be sent by regular United States Mail to Gary T. Gorniak at his address as shown in the caption.

CHIEF, SAFETY AND SPECIAL RADIO SERVICES BUREAU,
GERALD M. ZUCKERMAN,
Chief, Legal, Advisory and Enforcement Division.

[FR Doc. 79-624 Filed 1-5-79; 8:45 am]

[6712-01-M]

[BC Docket Nos. 78-381-78-383; File Nos. BPH-9,960; FCC 78-861]

JAMES A. STRONG, JR., ET AL.

Designating Applications for Consolidated Hearing on Stated Issues; Memorandum Opinion and Order

Adopted: December 12, 1978.

Released: January 3, 1979.

In re applications of James A. Strong, Jr., Nelson A. Meringola, Margery D. Burns, Daysman A. Morris, Lloyd C. Kalin and Daniel L. Tucker, d/b/a North Fork Broadcasting Company, Southold, New York, Req: 101.7 MHz, Channel No. 269A 3kW (H&V), 300 feet, BC Docket No. 78-381, File No. BPH-9,960; Peconic Bay Broadcasting Corp., Southold, New York, Req: 101.7 MHz, Channel No. 269A 3 kW (H&V), 300 feet, BC Docket No. 78-382, File No. BPH-10,070; Twin Forks Broadcasting, Inc., Greenport, New York, Req: 101.7 MHz, Channel No. 269A 3 kW (H&V), 300 feet, BC Docket No. 78-383, File No. BPH-10,350; for construction permit.

1. The Commission has before it for consideration: (i) The above-captioned mutually exclusive applications for new commercial FM broadcast stations; (ii) a Petition to Make Application of North Fork Broadcasting Company More Definite and Certain, filed by Twin Forks Broadcasting, Inc.; (iii) a Petition to Designate for Hearing on Specific Issues filed by Twin Forks against Peconic Bay Broadcasting Corp.; and (iv) related pleadings.

2. Although Channel 269A is assigned to Southold, New York in the Table of Assignments (§ 73.202 of the Commission's rules), Twin Forks has specified Greenport, New York as its proposed community of license. This is permissible because § 73.203(b) of the rules provides, in pertinent part, that a Class A channel assigned to a community in the Table of Assignments may be available upon application to an unlisted community within ten miles of the listed community.

3. The Petition to Make Application of North Fork Broadcasting Company More Definite and Certain, filed pursuant to § 1.514(b) of the rules, alleges that North Fork's equipment supplier has not found it to be an acceptable credit risk, that North Fork's commitment letters from its lenders are not current, that the lenders are unaware of the entire borrowing proposal, and that North Fork has not identified how its principals will work at the station without compensation as proposed. However, North Fork has submitted a new equipment letter which specifically offers it credit. Moreover, its bank commitment letters are current, and Twin Forks has not demonstrated that the lenders have placed other demands or limitations upon North Fork. Finally, Twin Forks fails to support its allegation that the principals of North Fork will be unable to work at the new station without compensation. Accordingly, the petition will be denied.

4. We now turn to Twin Fork's Petition to Designate for Hearing on specific Issues, filed against Peconic. Since Peconic tendered its application before the effective date of the new procedural rules, this proceeding is governed by the Commission's former processing rules.[1] Thus petitions to specify issues do not lie against this application, and Twin Forks filed its pleading much too late for it to be considered as a valid petition to deny.[2] It must therefore be considered only as an informal request for Commission action under § 1.41 of the rules, or informal objection under § 1.587.

5. Twin Forks' petition attempts to raise trafficking and financial questions concerning the Peconic application. It points out that Peconic's majority shareholder, Joseph Sullivan, paid only $51.61 per share for his stock in the applicant while other shareholders acquired their stock at rates as high as $400 per share.[3] Citing *Merrimack Valley Communications, Inc.*, 20 FCC 2d 161, 17 RR 2d 603 (1969) and *Boca Broadcasters, Inc.*, 7 FCC 2d 198, 9 RR 2d 809 (1967), Twin Forks contends that such conduct constitutes trafficking in broadcast applications and warrants an inquiry at hearing. Although Commission policy, embodied in § 1.597 of our rules, proscribes trafficking in broadcast *authorizations,* the Commission normally does not inquire into the circumstances surrounding sales of stock in an applicant. There is no need to apply § 1.597 to applications because a transfer of control of an applicant, under the Rules, results in the assignment of a new file number to the application. Thus trafficking in applications is usually prevented by existing regulations. On the other hand, one does violence to no principle or Commission Rule simply by selling minority interests in an applicant at somewhat different prices.

6. In contrast, the *Merrimack Valley* case involved public sales of stock after the construction permit had been granted, but before any construction had been undertaken. Three principals, whose 70% share in the permittee had been acquired for only $4500, sold the remaining 30% for $300,000—or 155 times per share what they paid. We found that these circumstances violated the spirit, if not the letter, of the trafficking rule, though we refrained from ordering a hearing on that issue. No comparable speculative intent is present here. In *Boca Broadcasters, Inc.,* the applicant had survived a comparative hearing and received an Initial Decision in its favor affirmed by the Review Board. An advertisement for the sale of Boca's AM station (which it had only operated for 18 months[4] also stated "FM available." The Commission held that these facts raised a serious question whether Boca actually intended to build and operate the FM station. Even if Boca sold only the AM station, its FM proposal (which involved duplication of the AM station) would have been substantially altered. Thus the application was set for hearing on a § 1.65 issue, with a further issue to determine whether Boca Broadcasters or its principals had "trafficked or attempted to traffic in broadcast authorizations." The allegations before us, however, fail to warrant an inquiry at hearing. Twin Forks has not alleged that Sullivan lacks the necessary commitment to build and operate the proposed station in Southold, or that he misled the minority shareholders. nothing more is involved here than private transactions in stock in an applicant, at prices agreed on by the parties. See *Mesabi Communications Systems, Inc.,* 57 FCC 2d 832, 835, 36 RR 2d 31, 35 (Rev. Bd. 1976). Twin Forks' request for a trafficking issue must therefore be rejected.

7. Further, Twin Forks' bold demand for an inquiry into Peconic's financial qualifications lacks any support whatever, and may be dismissed without discussion. The Commission has, however, undertaken a detailed review of Peconic's financial proposal, and finds the applicant financially qualified.

8. The respective proposals, although for different communities, would serve substantial areas in common. In fact, the service area of the Peconic proposal, one of the two applicants specifying Southold as its community of license, would be almost identical to that proposed by Twin Forks, the applicant for Greenport. Consequently, in addition to determining, pursuant to Section 307(b) of the Communications Act of 1934, as amended, whether the Greenport proposal or the Southold proposals would better provide a fair, efficient and equitable distribution of radio service, a contingent comparative issue will also be specified.

9. Finally, there is a significant difference between the area and population that would receive service from the North Fork proposal, on the one hand, and those to be served by the remaining proposals, on the other hand. Accordingly, for the purpose of comparison, the areas and populations which would receive FM service of 1.0 mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the contingent comparative issue, for the purpose of determining whether a comparative preference should accrue to any of the applicants.

10. The applicants are all qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

11. *Accordingly, it is ordered,* That, pursuant to Section 309(e) of the Com-

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[1] Individual Amateur licensees must hold an operator license and a station license (§§ 97.3(d), 97.37 and 97.40(b) of the Rules). The station license may be revoked but the operator license may only be suspended. Sections 312(c) and 303(m) of the Communications Act of 1934, as amended; §§ 1.91 and 1.65 of the rules.

[1] *Report and Order on Adjudicatory Reregulation Proposals,* 58 FCC 2d 865, 36 RR 2d 1203 (1976).

[2] The cut-off date of Peconic's application was December 1, 1976. See §§ 1.584, 1.573 and 1.580(i) of the Commission's rules.

[3] These figures include stock subscribed but not yet paid for. Peconic has not shown whether Sullivan contributed services to the corporation, as well as money, which might account for the low price per share of his stock.

[4] Section 1.597 prohibits, with certain exceptions, transfer of licenses and construction permits held less than three years. Of course, the time period is not dispositive of trafficking questions. The essence of trafficking is that a station is sought for the primary purpose of sale rather operation. *Harriman Broadcasting Co. (XXL),* 9 FCC 2d 731, 733, 10 RR 2d 981, 983 (1967), *aff'd sub nom. Crowder v. FCC,* 130 U.S. App. D.C. 198, 399 F. 2d 569, 13 RR 2d 2073 (1968), *cert. den.* 393 U.S. 962 (1968).

munications Act of 1934, as amended, the above applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order upon the following issues:

1. To determine the areas and populations which would receive primary service (1 mV/m or greater) from the proposals, and the availability of other primary aural service to such areas and populations.

2. To determine, in light of Secton 307(b) of the Communications Act of 1934, as amended, whether the proposal for Greenport, New York, or the proposals for Southold, New York would better provide a fair, efficient and equitable distribution of radio service.

3. To determine, in the event it is concluded that a choice among applicants should not be based solely on considerations relating to Section 307(b), which of the proposals would, on a comparative basis, best serve the public interest.

4. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

12. *It is further ordered,* That to avail themselves of the opportunity to be heard, the applicants herein, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall, within twenty days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

13. *It is further ordered,* That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing (either individually or, if feasible and consistent with the rules, jointly) within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

14. *It is further ordered,* That the petitions filed by Twin Forks Broadcasting, Inc. are denied.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 79-626 Filed 1-5-79; 8:45 am]

[6712-01-M]

[CC Docket Nos. 78-397-78-398; File Nos. 1930-C2-P-70. 5292-C2-P-(2)-70]

SOUTHWESTERN BELL TELEPHONE CO. AND MOBILE RADIO COMMUNICATIONS, INC.

Designating Applications for Consolidated Hearing on Stated Issues; Memorandum Opinion and Order

Adopted December 11, 1978.

Released: December 29, 1978.

In re applications of Southwestern Bell Telephone Company, for a construction permit to establish new air-ground facilities in the domestic Public Land Mobile Radio Service at Kansas City, Missouri, CC Docket No. 78-397, File No. 1930-C-2-P-70; Mobile Radio Communications, Inc., for a construction permit to establish new air-ground facilities in the Domestic Public Land Mobile Radio Service at Kansas City, Missouri, CC Docket No. 78-398, File No. 5292-C2-P(2)-70.

1. The Commission, by the Chief of the Common Carrier Bureau acting pursuant to delegated authority, has before it an application filed on October 14, 1969,[1] by Southwestern Bell Telephone Company (Southwestern Bell), File No. 1930-C2-P-70, and an application filed on March 18, 1970, by Mobile Radio Communications, Inc. (Mobile Radio), File No. 5292-C2-P-(2)-70. each application is for a construction permit to establish new air-ground facilities in the Domestic Public Land Mobile Radio Service (DPLMRS) at Kansas City, Missouri. Amendments to the applications presently under consideration were requested and received during the processing period.

2. Since the above-referenced applications request authority to serve the same location,[2] a comparative hearing must be held to determine which applicant would best serve the public interest. *Ashbacker Radio Corp.* v. *FCC,* 326 U.S. 327 (1945). In this regard, except to the extent indicated in the following issues, we find the applicants to be legally, financially, technically and otherwise qualified to construct and operate the proposed facilities.[3]

3. In view of the foregoing: *It is ordered,* Pursuant to Section 309(e) of the Communications Act of 1934, as amended, that the application of Southwestern Bell Telephone Company, File No. 1930-C2-P-70, and the application of Mobile Radio Communications, Inc., File No. 5292-C2-P-(2)-70, are designated for hearing in a consolidated proceeding upon the following issues:

(a) To determine on a comparative basis, the nature and extent of service proposed by each applicant, including the maintenance, personnel, and facilities pertaining thereto; and

(b) To determine, in light of the evidence adduced pursuant to the above issue, what disposition of the above-referenced applications would best serve the public interest, convenience, and necessity.

4. *It is further ordered,* That any grant of authority which may be made to Southwestern Bell Telephone Company in this proceeding is without prejudice to whatever action, if any, the Commission may deem appropriate in light of the findings reached in our Inquiry into alleged Improper Activities by Southern Bell Telephone and Telegraph Company and Southwestern Bell Telephone Company, Order FCC 78-567, released August 7, 1978.

5. *It is further ordered,* That the hearing shall be held at the Commission's offices in Washington, D.C., at a time and place and before an Administrative Law Judge to be specified in a subsequent order.

6. *It is further ordered,* That the Chief, Common Carrier Bureau, is made a party to the proceeding.

7. *It is further ordered,* That the applicants may avail themselves of an opportunity to be heard by filing with the Commission pursuant to § 1.221(c) of the rules within 20 days of the release date hereof, a written notice stating an intention to appear on the date for the hearing and present evidence on the issues specified in this Memorandum Opinion and Order.

LARRY F. DARBY,
Acting Chief,
Common Carrier Bureau.

[FR Doc. 79-625 Filed 1-5-79; 8:45 am]

[1] This application originally appeared on Public Notice on October 20, 1969, as a developmental application. It reappeared on Public Notice on February 24, 1970, subsequent to the release of Docket No. 16073, 22 FCC 2d 716 (1969), which established air-ground communications as a regular service.

[2] In docket No. 16073, the Commission decided that no more than one licensee may be authorized to operate at any given location. 22 FCC 2d at 720. Both applicants have applied for the frequency pair 454.900 and 459.900 MHz. the Mobile Radio application also requests frequency pair 454.775 and 459.775 MHz. Mobile Radio's proposed use of this second frequency pair will be one of the factors considered in the comparative evaluation of the two applications.

[3] The Commission has initiated an inquiry into certain alleged improper activities by Southwestern Bell. *See* Inquiry into Alleged Improper Activities by Southern Bell Telephone and Telegraph Company and Southwestern Bell Telephone Company, Order FCC 78-567, released August 7, 1978 (CC Docket No. 78-242). We do not find it necessary to postpone action on the instant Southwestern Bell application in the meantime. We will, however, condition any grant made to Southwestern Bell in this proceeding on the outcome of that inquiry. (See para. 4 below.)

[6712-01-M]

[CC Docket No. 78-218]

SPANISH INTERNATIONAL NETWORK

Partial Reconsideration Regarding Request for Authorized User Status Under the Communications Satellite Act of 1962

In the matter of Spanish International Network, request for authorized user status under the Communications Satellite Act of 1962, CC Docket No. 78-218.

A petition for Partial Reconsideration has been filed of the *Report and Order,* FCC 78-714, released November 16, 1978 (43 FR 56227), in the proceeding captioned above. The petition, filed by Visions, Ltd., requests reconsideration of the *Report and Order* because it did not address use of the Canadian ANIK satellite system. Pursuant to § 1.429 of the Commission's rules oppositions may be filed within 15 days of the Commission's rules oppositions may be filed within 15 days after publication of this notice in the FEDERAL REGISTER. Replies may be filed 10 days thereafter.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 79-622 Filed 1-5-79; 8:45 am]

[6730-01-M]

FEDERAL MARITIME COMMISSION

AGREEMENTS FILED

The Federal Maritime Commission hereby gives notices that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10218; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before January 30, 1979. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

AGREEMENT NO.: T-3753.
FILING PARTY: W. Gregory Halpin, Port Administrator, Maryland Port Administration, World Trade Center Baltimore, Baltimore, Maryland 21202.
SUMMARY: Agreement No. T-3753, between the Maryland Port Administration (Port) and Atlantic and Gulf Stevedores, Inc., (A&G), provides for the Port's five-year lease (with renewal options) to A&G of the South Locust Point Marine Terminal, Baltimore, Maryland, to be operated as a waterborne cargo terminal and marshalling area. As compensation, A&G shall pay Port a first year base rent of $1,872,000 plus an additional rent at the rate of $3.00 per ton for each ton of cargo in excess of 500,000 tons moving over the premises per annum. For all succeeding years, the rent shall be adjusted in the same proportion that changes in dockage, wharfage and/or crane rental charges are effected in the then-current Port's tariff compared with charges in effect in the Port's tariff dated October 1, 1978. A&G shall pay all taxes on improvements placed on the premises by A&G; and A&G shall pay all other taxes, assessments, or other public charges arising out of A&G's use of the premises. A&G shall bill and collect all dockage, wharfage and container and gantry crane rental charges in accordance with the Port's tariff and A&G shall retain all such charges. The Port shall bill and collect all charges for rental of the heavy lift crane and shall retain all such charges.

AGREEMENT NO.: T-3757.
FILING PARTY: E. F. Brimo, Treasurer, Global Terminal & Container Services, Inc., P.O. Box 273, Jersey City, New Jersey 07303.
SUMMARY: Agreement No. T-3757, between Global Terminal & Container Services, Inc. (Global) and Nedlloyd Lijnen B. V. (Nedlloyd), is a Terminal Stevedore and LCL Service Agreement whereby Global agrees to provide and perform, at its terminal facility at the Port of New York, stevedoring, LCL cargo handling and terminal services for containers, trailers, and self-propelled vehicles, to be loaded onto or discharged from combination roll on/off container and multi-purpose vessels, owned, operated, chartered or controlled by Nedlloyd in the trade between the Middle East/Mediterranean and the Port of New York. Nedlloyd agrees to utilize exclusively Global's terminal services and facilities at the Port of New York. Nedlloyd shall compensate Global at rates listed in the agreement, said rates being based on the rates of pay and working conditions contained in the Labor Agreements with the ILA in existence on October 1, 1978, subject to further modifications. Global shall bill and collect demurrage and loading and unloading charges for its services according to rates set forth in its Terminal Tariff No. 1, filed with the Commission.

AGREEMENT NO. 9982-13.
FILING PARTY: Howard A. Levy, Esquire, Suite 727, 17 Battery Place, New York, New York 10004.
SUMMARY: Agreement No. 9982-13 states that the conference shall appoint a resident representative in the United States who may be the chairman or other offical of the North Atlantic Baltic Freight Conference. The resident representative shall perform functions delegated to him by the chairman such as attending and/or chairing meetings and implementing shippers' requests and complaints procedures adopted in the United States.

By Order of the Federal Maritime Commission.

Dated: January 3, 1979.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 79-621 Filed 1-5-79; 8:45 am]

[1610-01-M]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on December 29, 1978. See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the Agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed CAB request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before January 26, 1979, and should be addressed to Mr. John M. Lovelady, assistant director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street, NW, Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

CIVIL AERONAUTICS BOARD

The Civil Aeronautics Board (CAB) is requesting clearance of new application and protective notice requirements governing the procedures under the Automatic Market Entry Program

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contained in Part 322 of the Board's Procedural Regulations which implements section 401 (d)(7)(A), (B), and (C) of the Airline Deregulation Act of 1978 (Pub. L. 95-504). CAB estimates that 40 carriers will file first-round applications for automatic entry to new routes each year (14 CFR 322.2) and that 20 carriers will file applications for alternative routes in a second round (14 CFR 322.3). In addition, CAB estimates that each year 40 carriers will file notices protecting one of their certificated routes (14 CFR 322.6). CAB estimates that each of these three reporting requirements will require 30 minutes to prepare.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc. 79-580 Filed 1-5-79; 8:45 am]

[4110-02-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

ADVISORY COUNCIL ON FINANCIAL AID TO STUDENTS SUBCOMMITTEE ON FEDERAL AND STATE INSURED PROGRAMS

Public Meeting

Notice is hereby given, pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 463), that the next meeting of the Advisory Council on Financial Aid to Students Subcommittee on Federal and State Insured Programs will be held in the Commissioner's Conference Room (Room 4003) of Federal Office Building Number 6, 400 Maryland Avenue SW., Washington, D.C. from 9 a.m. to 5 p.m. on Wednesday, January 24, 1979.

The Advisory Council on Financial Aid to Students is established under Section 499(a) of the Higher Education Act of 1965, as amended (20 U.S.C. 1089). The Committee shall advise the Commissioner on matters of general policy arising in the administration by the Commissioner of programs relating to financial assistance to students and on the evaluation of the effectiveness of these programs.

All meetings shall be open to the public. The agenda of this Subcommittee meeting shall include formulation of a set of recommendations concerning (a) existing student loan programs and (b) factors within the aid application process which must be preserved in the interests of efficient program administration.

Records shall be kept of all Council proceedings and will be available for public inspection at the Council's Office, located in Room 3661, Regional Office Building No. 3, 7th and D Streets SW., Washington, D.C. 20202.

Signed in Washington, D.C. on December 20, 1978.

WARREN T. TROUTMAN,
Delegate, U.S. Office of Education.

[FR Doc. 79-555 Filed 1-5-79; 8:45 am]

[4110-02-M]

NATIONAL ADVISORY COUNCIL ON WOMEN'S EDUCATIONAL PROGRAMS

Meeting

AGENCY: Office of Education, National Advisory Council on women's Educational programs.

ACTION: Notice of Meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory Council on Women's Educational Programs and its Executive; Federal Policy, Practices and Programs; Civil Rights; WEEA Program; and Public Information Committees. It also describes the functions of the Council. Notice of the meeting is required pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92-463). This document is intended to notify the general public of their opportunity to attend.

DATE: January 30, 1979, 7:30 p.m. to 10:00 p.m.; January 31-February 1, 8:30 a.m. to 5:30 p.m.; February 2, 8:30 a.m. to 12:00 noon.

ADDRESS: U.S. Grant Hotel, 326 Broadway, San Diego, California.

FOR FURTHER INFORMATION CONTACT:

Kathleen Dauito, National Advisory Council on Women's Educational Programs, 1832 M Street, NW., #821, Washington, D.C. 20036, 202-653-5846.

The National Advisory Council on Women's Educational Programs is established pursuant to Pub. L. 93-380, Section 408(f)(1). The Council is mandated to (a) advise the Commissioner with respect to general policy matters relating to the administration of the Women's Educational Equity Act of 1974; (b) advise and make recommendations to the Assistant Secretary for Education concerning the improvement of educational equity for women; (c) make recommendations to the Commissioner with respect to the allocation of any funds pursuant to Section 408 of Public Law 93-380, including criteria developed to insure an appropriate distribution of approved programs and projects throughout the Nation; (d) make such reports to the President and the Congress on the activities of the Council as it determines appropriate; (e) develop criteria for the establishment of program priorities; and (f) disseminate information concerning its activities under Section 408 of Pub. L. 93-380.

The meeting of the Executive Committee will take place on January 30, 1979 from 7:30 p.m. to 10:00 p.m. The agenda will include plans for the Council meeting.

The meetings of the Federal Policy, Practices and Program Committee, the Civil Rights Committee, the WEEA Program Committee, and the Public Information Committee will take place on January 31, 1979 from 8:30 a.m. to 5:00 p.m.

The agenda for the Federal Policy, Practices and Program Committee will include development of philosophical and policy positions on vocational education.

The agenda for the Civil Rights Committee will include discussion of matters concerning Title IX of the 1972 Educational Amendments and Title IV of the 1964 Civil Rights Act.

The agenda for the Public Information Committee will include review of the annual report.

The agenda for the Program Committee will include plans for site visits to WEEA projects.

The meeting of the National Advisory Council on Women's Educational Programs will take place from 8:30 a.m. to 12:00 p.m. on February 1 and February 2. The agenda will include reports of the Executive Director and the Women's Program Staff and recommendations of standing Committees. A public hearing on sex equity in vocational education will be held from 1:30 p.m. to 5:30 p.m. February 1.

The meetings of the Council and the committees will be open to the public. Records will be kept of the proceedings and will be available for public inspection at the Council offices at 1832 M Street, N.W., Suite 821, Washington, D.C.

Signed at Washington, D.C., on January 2, 1979.

JOY R. SIMONSON,
Executive Director.

[FR Doc. 79-637 Filed 1-5-79; 8:45 am]

[4110-35-M]

Health Care Financing Administration

NATIONAL PROFESSIONAL STANDARDS REVIEW COUNCIL

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Council meeting:

Name: National Professional Standards Review Council.

Date and Time: January 29, 1979 (10 a.m. to 5 p.m.), January 30, 1979 (9 a.m. to 1 p.m.).

Place: Auditorium (first floor), HEW North Building, 330 Independence Avenue, SW., Washington, D.C.

Purpose of Meeting: The Council was established to advise the Secretary of Health, Education, and Welfare on the administration of Professional Standards Review (Title XI, Part B, Social Security Act). Professional Standards Review is the procedure to assure that the services for which payment may be made under the Social Security Act are medically necessary and conform to appropriate professional standards for the provision of quality health care. The Council's agenda will include discussion of a variety of issues relevant to the implementation of the PSRO program. On January 19, 1979, a tentative agenda will be available to the public.

Meeting of the Council is open to the public. Public attendance is limited to space available.

Any member of the public may file a written statement with the Council before, during, or after the meeting. To the extent that time permits, the Council Chairman will allow public presentation of oral statements at the meeting.

All communications regarding this Council should be addressed to Margaret VanAmringe, Staff Director, National Professional Standards Review Council, Health Standards and Quality Bureau, Room 5127-S, Switzer Building, 330 "C" Street, Washington, D.C. 20201, 202-472-5536.

Dated: December 29, 1978.

MARGARET VANAMRINGE,
Staff Director, National Professional Standards Review Council.

[FR Doc. 79-572 Filed 1-5-79; 8:45 am]

[4110-83-M]

Health Resources Administration

NATIONAL ADVISORY COUNCILS ON NURSE TRAINING AND HEALTH PROFESSIONS EDUCATION

Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory bodies scheduled to meet during the month of January 1979:

NAME: National Advisory Council on Nurse Training.

DATE AND TIME: January 23-25, 1979, 10:30 a.m.

PLACE: Conference Room 529A, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, D.C. 20201.

OPEN: January 23, 1979, 10:30 a.m.-12:15 p.m.

CLOSED: Remainder of meeting.

Purpose. The Council advises the Secretary and Administrator, Health Resources Administration, concerning general regulations and policy matters arising in the administration of the Nurse Training Act of 1975. The Council also performs final review of grant applications for Federal assistance, and makes recommendations to the Administrator, HRA.

Agenda. Agenda items for the open portion of the meeting include announcements; consideration of minutes of previous meeting; discussion of future meeting dates; and administrative and staff reports. The remainder of the meeting will be devoted to the review of grant applications for Federal assistance, and will therefore be closed to the public in accordance with provisions set forth in section 552b(c)(6), Title 5 U.S. Code, and the Determination by the Acting Administrator, Health Resources Administration, pursuant to Pub. L. 92-463.

Anyone wishing to obtain a roster of members, minutes of meeting, or other relevant information should contact Dr. Mary S. Hill, Bureau of Health Manpower, Room 3-50, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, Telephone (301) 436-6681.

NAME: National Advisory Council on Health Professions Education.

DATE AND TIME: January 29-31, 1979, 8:30 a.m.

PLACE: Conference Room 7-32, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782.

OPEN: January 29, 1979, 8:30 a.m. to 12:30 p.m. (10:30 a.m.-12:30 p.m. will be structured study for Council members.)

CLOSED: Remainder of meeting.

Purpose. The Council advises the Secretary concerning the programs authorized by the Health Professions Educational Assistance Act of 1976, including recommendations on contracts, grant applications for construction, capitation, special projects, and financial need. These and other programs are designed to enable the health professions education institutions to meet the Nation's health manpower requirements.

Agenda. Agenda items for the open portion of the meeting will include Bureau Update, Update on 1979 Budget, Update on Shortage Areas, discussion on "Report to the President and Congress on the Status of Health Professions Personnel in the United States," consideration of minutes of previous meeting, and discussion of future meeting dates. The remainder of the meeting will be closed to the public for the review of applications for Financial Distress, Start-Up, and General Dental Practice Residencies. The closing is in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S. Code, and the Determination by the Acting Administrator, Health Resources Administration, pursuant to Pub. L. 92-463.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should contact Mr. Robert L. Belsley, Bureau of Health Manpower, Room 4-27, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, Telephone (301) 436-6564.

Agenda items are subject to change as priorities dictate.

Dated: December 28, 1978.

JAMES A. WALSH,
Associate Administrator for Operations and Management.

[FR Doc. 79-633 Filed 1-5-79; 8:45 am]

[1505-01-M]

Office of Human Development Services

FEDERAL ALLOTMENT OF STATUS FOR SOCIAL SERVICES EXPENDITURES PURSUANT TO TITLE XX OF THE SOCIAL SECURITY ACT

Promulgation for Fiscal Year 1980—Revised

Correction

In FR Doc. 35583 appearing at page 59909, in the issue of Friday, December 22, 1978, the following corrections should be made:

1. In the second column the tenth line in the table should read "Nevada . . . . . 7,315,000."

2. The file line was inadvertently omitted and should read "[FR Doc. 78-35583 Filed 12-21-78; 8:45 am]."

[4110-08-M]

National Institutes of Health

ARTIFICIAL KIDNEY-CHRONIC UREMIA ADVISORY COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the Artificial Kidney-Chronic Uremia Advisory Committee, on February 21, 1979, at the National Institutes of Health, Building 31, Conference Room 8, Bethesda, Maryland. The meeting will open to the public from 8:30 to 9:30 a.m., to discuss administrative reports. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and

552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from 9:30 a.m. to 5:00 p.m. for the review, discussion and evaluation of individual contract proposals. The proposals and the discussions could reveal trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the proposals.

Further information concerning the meeting may be obtained from Dr. Richard A. Pledger, Executive Secretary, Artificial Kidney-Chronic Uremia Advisory Committee, National Institute of Arthritis, Metabolism, and Digestive Diseases, NIH, Westwood Building, Room 417, Bethesda, Maryland 20014, (301) 496-7306.

Mr. James N. Fordham, Office of Scientific and Technical Reports, NIAMDD, National Institutes of Health, Building 31, Room 9A04, Bethesda, Maryland, (301) 496-3583, will provide summaries of the meeting and rosters of the committee members.

(Catalog of Federal Domestic Assistant Program No. 13.849, National Institutes of Health.)

Dated: December 28, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer,
NIH.

[FR Doc. 79-550 Filed 1-5-79; 8:45 am]

[4110-08-M]

BIOMETRY AND EPIDEMIOLOGY CONTRACT REVIEW COMMITTEE

Change in Meeting Date and Time

Notice is hereby given of a change in meeting date and time of the Biometry and Epidemiology Contract Review Committee, National Cancer Institute, January 22-23, 1979, which was published in the FEDERAL REGISTER on December 20, 1978 (43 FR 59441).

The meeting will be held one day only on January 22, 1979, starting at 8:30 a.m., Landow Building, Conference Room A, 7910 Woodmont Avenue, Bethesda, Maryland 20014. The meeting will be open to the public from 8:30 a.m.-9 a.m. Attendance will be limited to space available.

For further information, please contact Dr. Wilna Woods, Westwood Building, Room 821, National Institutes of Health, Bethesda, Maryland 20014 (301/496-7153).

Dated: December 28, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer,
NIH.

[FR Doc. 79-548 Filed 1-5-79; 8:45 am]

[4110-08-M]

CLINICAL CANCER EDUCATION COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Clinical Cancer Education Committee, National Cancer Institute, February 21-22, 1979, Building 31C, Conference Room 10, National Institutes of Health, Bethesda, Maryland 20014. The meeting will be open to the public on February 21, 1979, from 8:30 a.m. to 9:30 a.m. to review administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Section 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on February 21, 1979, from 9:30 a.m. to 5:00 p.m., and on February 22, 1979 from 8:30 a.m. until adjournment, for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal personal information concerning individuals associated with the applications.

Mrs. Marjorie F. Early, Committee Management Officer, National Cancer Institute, Building 31, Room 4B43, National Institutes of Health, Bethesda, Maryland 20014 (301/496-5708) will provide summaries of the meeting and a roster of committee members, upon request.

Dr. Margaret H. Edwards, Executive Secretary, National Cancer Institute, Westwood Building, Room 10A18, National Institutes of Health, Bethesda, Maryland 20014 (301/496-7761) will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.398, National Institutes of Health.)

Dated: December 28, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc. 79-549 Filed 1-5-79; 8:45 am]

[4110-08-M]

NATIONAL INSTITUTE OF NEUROLOGICAL AND COMMUNICATIVE DISORDERS AND STROKE

Meeting of the Neurological Disorders Program-Project Review B Committee

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Neurological Disorders Program-Project Review B Committee, National Institutes of Health, February 15-17, 1979, in the Holiday Inn, 8777 Georgia Avenue, Silver Spring, MD 20910.

The meeting will be open to the public from 8:00 p.m. until 10:00 p.m. on February 15th, to discuss program planning and program accomplishments. Attendance by the public will be limited to space available. In accordance with the provisions set forth in Section 552b(c)(4), and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on February 16th from 8:30 a.m. to adjournment on February 17th, for the review, discussion and evaluation of individual grant applications. The applications and the discussion could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications.

Sylvia Shaffer, Chief, Office of Scientific and Health Reports, Building 31, Room 8A03, NIH, NINCDS, Bethesda, MD 20014, telephone 301/496-5751, will furnish summaries of the meeting and rosters of committee members.

Dr. Herbert Yellin, Executive Secretary, Federal Building, Room 9C10B, Bethesda, MD 20014, telephone 301/496-9223, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.852, National Institutes of Health.)

Dated: December 28, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer,
NIH.

[FR Doc. 79-552 Filed 1-5-79; 8:45 am]

[4110-08-M]

NATIONAL INSTITUTE OF NEUROLOGICAL AND COMMUNICATIVE DISORDERS AND STROKE

Meeting of the Neurological Disorders Program—Project Review A Committee

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Neurological Disorders Program—Project Review A Committee, National Institutes of Health, February 10-12, 1979, in the Holiday Inn Central, 2247 E. Van Buren Street, Phoenix, AZ 85006.

The meeting will be open to the public from 8:00 p.m. until 10:00 p.m. on February 10th, to discuss program planning and program accomplishments. Attendance by the public will be limited to space available. In accordance with the provisions set forth in Section 552b(c)(4), and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on February 11th from 8:30 a.m. to adjournment on February 12th, for the review, discussion and evaluation of individual grant applications. The applications and the discussion could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications.

Sylvia Shaffer, Chief, Office of Scientific and Health Reports, Building 31, Room 8A03, NIH, NINCDS, Bethesda, MD 20014, telephone 301/496-5751, will furnish summaries of the meeting and rosters of committee members.

Dr. Leon J. Greenbaum, Jr., Executive Secretary, Federal Building, Room 9C14B, Bethesda, MD 20014, telephone 301/496-9223, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.852, National Institutes of Health.)

Dated: December 28, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer,
NIH.

[FR Doc. 79-551 Filed 1-5-79; 8:45 am]

[4410-18-M]

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

NATIONAL INSTITUTE OF LAW ENFORCEMENT AND CRIMINAL JUSTICE

Solicitation

The National Institute of Law Enforcement and Criminal Justice announces a competitive research grant aimed at increasing the understanding and knowledge of critical organizational, policy and administrative elements that may account for the use of deadly force by law enforcement officers. The ultimate objective of this research is to reduce the number of citizens killed by police officers without further jeopardizing the officers by examining organizational elements, administrative strategies, and the effect of different types of police policies and administrative sanctions and determining how they impact upon the problem.

The solicitation asks for the submission of concept papers rather than full proposals. Full proposals will be requested from several of the concept paper authors following reviews of the concept papers. In order to be considered, a concept paper must be received by the National Institute no later than February 16, 1979. One grant, between $250,000-$275,000 will be awarded for an 18 month project.

Additional information and copies of the solicitation can be obtained by contacting Shirley S. Melnicoe, Police Division, NILECJ, 633 Indiana Avenue, NW., Washington, D.C. 20531, (301) 492-9110.

BLAIR G. EWING,
Acting Director,
NILECJ.

[FR Doc. 79-581 Filed 1-5-79; 8:45 am]

[4410-01-M]

NATIONAL MINORITY ADVISORY COUNCIL ON CRIMINAL JUSTICE

Reestablishment

The Law Enforcement Assistance Administration (LEAA) hereby determines that the reestablishment of the National Minority Advisory Council on Criminal Justice (NMACCJ) is in the public interest and necessary, appropriate and consistent with the purposes of the Federal Advisory Committee Act, Pub. L. 92-463, LEAA Instruction I 2100.1, and Office of Management and Budget Circular A-63.

1. *Designation.* The Committee shall be known as the National Minority Advisory Committee on Criminal Justice (NMAC).

2. *Purpose.* To advise LEAA on the needs and views of the Nation's minority communities as they relate to LEAA's priorities and policies relating to the improvement of law enforcement and criminal justice.

3. *Reestablishment date and termination date.* The Committee will remain in existence for twelve months from the date of its reestablishment, from December 31, 1978 through December 31, 1979, or until superceded by federal legislation prior to that date.

4. *Meetings.* The Committee will meet quarterly, or more frequently as required to carry out its purposes and fulfill its duties.

5. *Membership.* Membership of the Council and its committees will be drawn from concerned Federal agencies, public law enforcement agencies, private businesses, social agencies, institutions and representatives from the minority groups designated by 28 CFR 42.301 subpart E.

6. *Authority.* The Council will operate pursuant to the provisions of the Federal Advisory Committee Act, Pub. L. 92-463, OMB Circular No. A-63, LEAA Instruction I 2100.1, and any additional orders and directives issued in implementation of the act.

HENRY S. DOGIN,
Deputy Administrator
for Policy Development.

[FR Doc. 79-634 Filed 1-5-79; 8:45 am]

[3510-12-M]

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

MEETING

Pursuant to Sec. 10(a)(2), of the Federal Advisory Committee Act, 5 U.S.C. (App. 1976), notice is hereby given that the National Advisory Committee on Oceans and Atmosphere (NACOA) will hold a 2-day meeting on Thursday and Friday, January 18-19, 1979. The session will be open to the public and will be held in Room 418, Page Building No. 1, 2001 Wisconsin Avenue, NW., Washington, D.C. The session on Thursday will begin at 9:00 a.m.; the Friday session at 8:00 a.m.

The Committee, consisting of 17 non-Federal members, appointed by the President from State and local government, industry, science, and other appropriate areas, was established by the Congress by Pub. L. 95-63, on July 5, 1977. Its duties are to: (1) Undertake a continuing review, on a selective basis, of national ocean policy, coastal zone management, and the status of the marine and atmospheric science and service programs of the United States; (2) advise the Secretary of Commerce with respect to the carrying out of the programs of the National Oceanic and Atmospheric Administration; and (3) submit an annual report to the President and to the Congress setting forth an assessment, on a selective basis, of the status of the Nation's marine and atmospheric activities, and submit such other reports as may from time to time be requested by the President or the Congress.

The tentative meeting schedule follows:

THURSDAY, JANUARY 18, 1979

9:00 a.m.-12:00 p.m.—
Plenary Session (Room 418, Page Bldg. 1)
Opening Remarks.
Meeting Plans.
NACOA Reorganization Proposal
Status Report, Mr. M. Dubs (chairman)
CZM Act Amendments
Status Report, Dr. E. Murphy (chairman)
Working Group Sessions
Ocean Use Panel
Weather and Climate Panel
1:00 p.m.-5:00 p.m.—
Working Group Sessions (continued)

FRIDAY, JANUARY 19, 1979

8:00 a.m.-12:00 p.m.
Plenary Session
Opening Remarks
Panel Reports
Provisional Regional Observation and Forecasting System (PROFS)
Introduction, Dr. G. Benton (chairman)
PROFS Review, Dr. G. Little (chairman)
1:00 p.m.-3:00 p.m.—
Future Plans (continued)

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Persons desiring to attend will be admitted to the extent seating is available. Persons wishing to make formal statements should notify the chairman in advance of the meeting. The Chairman retains the perogative to impose limits on the duration of oral statements and discussions. Written statements may be submitted before or after each session.

Additional information concerning this meeting may be obtained through the Committee's Acting Executive Director, Mr. John W. Connolly, whose mailing address is: National Advisory Committee on Oceans and Atmosphere, 3300 Whitehaven Street, NW. (Room 434, Page Building 1), Washington, D.C. 20235. The telephone number is (202) 254-8412.

SAMUEL H. WALINSKY,
Acting Executive Director.

[FR Doc. 79-627 Filed 1-5-79; 8:45 am]

[7510-01-M]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (79-3)]

NASA ADVISORY COUNCIL (NAC) SPACE AND TERRESTRIAL APPLICATIONS ADVISORY COMMITTEE (STAAC)

Meeting

The *Ad Hoc* Informal Advisory Subcommittee on Materials Processing in Space (MPS) of the NAC Space and Terrestrial Applications Advisory Committee will meet on January 26, 1979 from 10:00 am to 3:00 pm at NASA Headquarters, Room 226B, Federal Office Building 10B, 600 Independence Avenue, S.W., Washington, D.C. 20546. The Subcommittee will recommend candidates for membership on an ad hoc peer review panel to perform scientific evaluations of technical proposals received by the MPS program in 1979, taking account of the discipline areas covered in the program's plans, the areas of expertise of the candidates considered, and the need to avoid conflicts of interest on the part of investigators who are known to be preparing proposals. Public discussion of the professional qualifications of candidates for membership in the panel would invade the privacy of these scientists and other individuals associated with their research. Since the Subcommitttee meeting will be concerned throughout with matters listed in 5 U.S.C. 552b(c)(6) as described above, it has been determined that the meeting should be closed to the public.

For further information, contact Dr. James H. Bredt, Executive Secretary of the Subcommittee, Code EM-7, NASA Headquarters, Washington, DC 20546, Telephone 202/755-8573.

FRANK J. SIMOKAITIS,
Acting Associate Administrator for External Relations.

DECEMBER 29, 1978.

[FR Doc. 79-579 Filed 1-5-79; 8:45 am]

[6820-36-M]

NATIONAL TRANSPORTATION POLICY STUDY COMMISSION

OPEN MEETING

In accordance with Subsection 10(a) of the Federal Advisory Committee Act, Pub. L. 92-463, the National Transportation Policy Study Commission announces the following meeting:

NAME: Meeting of the Commission.
DATE: January 24 and 25, 1979.
TIME: 9:00 AM to 5:00 PM.
PLACE: 2167 Rayburn House Office Building, Washington, D.C. 20515.
TYPE OF MEETING: Open.
CONTACT PERSON: Joseph LaSala, National Transportation Policy Study Commission, 2000 M St., NW, Suite 3000, Washington, D.C. 20036, 202-254-7453.

Purpose of the Commission: The National Transportation Policy Study Commission was established under Section 154 of the Federal Aid Highway Act of 1976 (Pub. L. 94-280) to report findings and recommendations with respect to the Nation's transportation needs, both national and regional, through the year 2000.

Tentative Agenda: Review of Draft Chapters, Review of Special Reports, Review of Staff Working Papers.

Dated: January 3, 1979.

EDWARD R. HAMBERGER,
General Counsel.

[FR Doc. 79-610 Filed 1-5-79; 8:45 am]

[6820-27-M]

ADMINISTRATIVE COMMITTEE OF THE FEDERAL REGISTER

IMPROVING GOVERNMENT REGULATIONS

Semiannual Agenda

AGENCY: Administrative Committee of the Federal Register.

ACTION: Agenda

SUMMARY: In response to President Carter's Executive order on improving government regulations, the Administrative Committee of the Federal Register plans to review its existing regulations. The purpose of this review is to evaluate FEDERAL REGISTER publications and services so that the Committee can assist agencies in presenting their regulations in the most clear and useful way.

FOR FURTHER INFORMATION CONTACT:

Martha Girard, Office of the Federal Register, National Archives and Records Service, Washington, DC 20408, 202-523-5240.

SUPPLEMENTARY INFORMATION: The regulations issued by the Administrative Committee of the Federal Register governing the FEDERAL REGISTER publications are contained in Title 1 of the Code of Federal Regulations (CFR).

The primary areas the Committee will review over the next year are the regulations and procedures of the Office of the Federal Register which have been affected by new developments and requirements in the regulatory process. The Committee will also consider additional services for users of FEDERAL REGISTER publications.

A major issue underlying the review of these regulations is the question of what material in 1 CFR is actually regulatory and what material is instructional or describes internal procedures.

PRINTING TECHNOLOGY

The FEDERAL REGISTER and Code of Federal Regulations are now produced by an electronic composition system. Some procedures and requirements that were developed in the era of linotype composition are no longer appropriate and must be amended to reflect this change. In addition, new services may be made available to our users as the production methods become more sophisticated.

Authority. A specific regulation scheduled for early review by the Committee is 1 CFR 21.43, on preparing an authority citation for documents. This amendment will clarify the proper form and placement of the authority citation as well as the procedure for amending a citation. The amendment will also permit greater ease and accuracy in computer management of this material.

Full text amendment. The Committee is considering whether amendments should be published only in complete paragraphs and not by printing single word changes. If amendments were published in at least full paragraphs, the editing and publication of the CFR would be more efficient and accurate. Agencies preparing documents for the FEDERAL REGISTER would examine the CFR and make a determination as to the clarity and readability of the appropriate Part, Section or Paragraph, as the full text amendment was prepared. This would provide agency staff and those who sign regulations an opportunity to "clean up" outdated or unclear regulations while expediting the CFR editing process. This would make it easier for the FEDERAL REGISTER reader to see the significance of each change or proposed change in context.

Regulations that need to be examined with regard to present and anticipated production procedures include:

1 CFR 15.16—Use of standing type.
1 CFR Part 17—Publication schedules.
1 CFR Part 18—Preparation and transmittal of documents.
1 CFR Part 21—Preparation of documents subject to codification.

PUBLIC PARTICIPATION

Executive Order 12044, Improving Government Regulations, which encourages agencies to involve the public as early as possible in the rulemaking process, has increased the number of documents which are issued before the actual notice of proposed rulemaking required by the Administrative Procedure Act (5 U.S.C. 553). While the Committee encourages and supports this openness by agencies in communicating with the public, certain provisions of 1 CFR did not anticipate and do not accommodate this range of "pre-rulemaking" document. Regulations affected by public participation requirements include:

1 CFR Part 5—General.
1 CFR Part 21—Preparation of documents subject to codification.
1 CFR Part 22—Preparation of notices and rulemaking proposals.

FEDERAL REGISTER FORMAT

The FEDERAL REGISTER of December 20, 1978, contained the report of the Committee required by the Executive order on improving government regulations. This document announced a program to improve the format and usefulness of the FEDERAL REGISTER by grouping documents primarily by issuing agency rather than by the Rule, Proposed Rule, and Notice classification currently used to separate documents. The public has responded favorably to this proposal. The Committee will soon issue specific proposed rulemaking to make this change.

INCORPORATION BY REFERENCE

Due to the increase in volume of regulations, the Committee has noticed an increase in the number of requests by agencies to incorporate material by reference rather than publishing it in the FEDERAL REGISTER and in the CFR. The Committee will request the Director of the Federal Register to consider changes in the procedures for incorporation by reference. These changes should improve the public's access to material incorporated by reference. Under consideration is the inclusion of an appendix to CFR Chapters and Parts listing materials incorporated by reference and other materials relevant to the public's understanding of that set of regulations. Regulations on incorporation by reference are contained in 1 CFR Part 51.

FILING DOCUMENTS FOR PUBLIC INSPECTION

The process of filing documents with the Office of the Federal Register has become a significant element in the rulemaking process in a few agencies. Current regulations do not specify Federal Register filing procedures in sufficient detail to be useful to agencies filing documents or to members of the public awaiting the filing of documents. Regulations to be considered include:

1 CFR 3.2—Public inspection of documents.
1 CFR 18.13—Withdrawal of filed documents.
1 CFR 18.14—Correction of error in documents.

COORDINATED CFR REVIEW

As part of its effort to improve government regulations the Federal Register staff will increasingly focus its attention on existing regulations within the CFR. Since Executive agencies are also required to review existing regulations uder Sec. 4 of EO 12044, a combined effort between CFR editors and specialists and those assigned within the agencies with implementing Sec. 4 regulations review is needed. The Committee will consider amending its regulations to require agency staff members who have program expertise to be designated as Code of Federal Regulations liaison officers. These liaison officers would be responsible for working closely with their counterparts at the Federal Register.

Regulations to be considered include 1 CFR Part 16, Agency Representatives.

FINDING AIDS

Both the daily FEDERAL REGISTER and the CFR require indexes. Because of the increase in the number and pages of regulations issued each year, these indexes are important for citizens to assess those regulations which directly affect them. The Committee will consider requesting agencies to assist the Federal Register staff in developing subject indexes for documents issued by the agency, and subject indexes for individual volumes of the CFR. The Committee has also proposed expanding the Table of Contents of the daily FEDERAL REGISTER to include subject entries for each document. The Committee will soon issue a Notice of Proposed Rulemaking on this subject. Regulations to be considered include:

1 CFR Part 6—Indexes and ancillaries.
1 CFR 8.4, 8.5—Code of Federal Regulations; indexes.

PRESIDENTIAL PAPERS

The volume of issuances of Presidential material published by the Office of the Federal Register as well as public interest in this material has grown considerably since these regulations were promulgated. To accommodate this growth the scope of the Public Papers of the Presidents series has been expanded, beginning with the administration of President Jimmy Carter. The Committee will examine current regulations in 1 CFR Part 10, Presidential Papers, to insure that they accurately reflect current procedures and publication needs.

FRED J. EMERY,
Secretary, Administrative Committee of the Federal Register.

[FR Doc. 79-732 Filed 1-5-79; 8:45 am]

[3190-01-M]

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

TRADE POLICY STAFF COMMITTEE

Solicitation of Public Views

Pursuant to section 201 of the Trade Act of 1974, on December 12, 1978, the President received a report from the United States International Trade Commission (USITC) on the case of Clothespins (Investigation No. TA-201-36). The Commission submitted a report containing an affirmative determination that clothespins provided for in items 790.05, 790.07, and 790.08 of the Tariff Schedules for the United States (TSUS), are being imported into the United States in such increased quantities as to be a substantial cause of serious injury to the domestic industry producing articles like or directly competitive with the imported articles.

The Commission finds and recommends that, in order to remedy the serious injury to the domestic industry, it is necessary to impose a quota on U.S. imports of wood and plastic spring clothespins with a dutiable value not over $2.10 per gross that are provided for under item 790.05 of the TSUS.

The quota that the Commission finds necessary is of 5 years' duration and should be administered on a yearly basis, to become effective January 1, 1979. The quota amount for each of the 5 yearly quota periods should be established at 3,200,000 gross and should be allocated on a global basis as follows:

	Yearly quota allocation (gross)
Category:	
Valued not over 80 cents per gross....	200,000
Valued over 80 cents per gross but not over $1.35 per gross.	400,000
Valued over $1.35 per gross but not over $1.70 per gross.	600,000
Valued over $1.70 per gross but not over $2.10 per gross.	2,000,000
Total	3,200,000

Within 60 days of receiving a report from the Commission containing an affirmative determination, the President must determine what method and amount of import relief he will provide or determine that the provision of relief is not in the national economic interest, and whether he will direct expeditious consideration of ajustement assistance petitions.

In determining whether to provide import relief and what method and amount of import relief he will provide, the President must take into account, in addition to other considerations he may deem relevant, the following factors:

(1) The probable effectiveness of the import relief as a means to promote ajustment, the efforts being made or to be implemented by the industry concerned to adjust to import competition, and other considerations relevant to the position of the industry in the nation's economy;

(2) The effect of import relief on consumers and on competition in the domestic markets for such articles;

(3) The effect of import relief on the international economic interest of the United States;

(4) The impact on United States industries and firms as a consequence of any possible modification of duties or other import restrictions which may result from international obligations with respect to compensation;

(5) The geographic concentration of imported products marketed in the United States;

(6) The extent to which the United States market is a focal point for exports of such articles by reason of restraints on exports of such articles to, or on imports of such articles into, third country markets; and

(7) The economic and social costs which would be incurred by taxpayers, communities and workers if import relief were or were not provided.

The Office of the Special Representative for Trade Negotiations chairs the interagency Trade Policy Committee structure that makes recommendations to the President as to what action, if any, he should take on reports submitted by the USITC under section 201(d). In order to assist the Trade Policy Staff Committee in developing recommendations to the President as to what action to take under sections 202 and 203 of the Trade Act of 1974, the Committee welcomes briefs from interested parties on the above listed subjects. (Additional information on this case is available in USITC report 201-36).

Briefs should be submitted in twenty (20) copies to Secretary, Trade Policy Staff Committee, Room 728, Office of the Special Representative for Trade Negotiations, 1800 G Street, NW., Washington, D.C. 20506.

To be considered by the Trade Policy Staff Committee, submissions should be received in the Office of the Special Representative for Trade Negotiations no later than the close of business Monday, January 22, 1979.

WILLIAM B. KELLY, Jr.,
Chairman,
Trade Policy Staff Committee.

[FR Doc. 79-616 Filed 1-4-79; 8:45 am]

[7710-12-M]

POSTAL SERVICE

BOARD OF GOVERNORS

Amended Notice of Meeting

With reference to "Notice of Meeting" filed on December 26, 1978 (43 FR 60720), Item 8, "Recommended Decision of the Postal Rate Commission on a Proposed Change in the Domestic Mail Classification Schedule", is hereby deleted.

ROGER P. CRAIG,
Assistant Secretary.

[FR Doc. 79-657 Filed 1-5-79; 8:45 am]

[7710-12-M]

BOARD OF GOVERNORS

Cancellation of Committee Meeting

With reference to "Notice of Committee Meeting," filed on December 26, 1978 (43 FR 60721), stating that the Committee on Postal Rates would meet to discuss the "Recommended Decision of December 7, 1978, to Reject a Proposal by Dow Jones and Company to Restructure Second-Class Rates," the meeting is hereby cancelled.

ROGER P. CRAIG,
Assistant Secretary.

[FR Doc. 79-658 Filed 1-5-79; 8:45 am]

[8010-01-M]

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 20842; 70-6242]

JERSEY CENTRAL POWER & LIGHT CO.

Proposed Issuance of Mortgage Bonds by Subsidiary to on Industrial Development Authority To Finance Pollution Control Facilities

DECEMBER 26, 1978.

Notice is hereby given that Jersey Central Power and Light Company ("JCP&L"), P.O. Box 1279R, Morristown, N.J. 07960, an electric utility subsidiary of General Public Utilities Corporation, a registered holding company, has filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 designating Sections 6, 7, 9(a), 10, and 12(d) of the Act and Rules 44 and 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transaction.

JCP&L proposes to issue an aggregate of up to $7,000,000 principal amount of its first mortgage bonds (the "New Bonds") to the Dauphen County Industrial Development Authority (the "Authority"). The Authority has been created under the Pennsylvania Industrial and Commercial Development Authority Law. The New Bonds are to be issued under the Indenture, dated as of March 1, 1946, of JCP&L to Citibank, N. A., Trustee as heretofore supplemented and amended and as to be further amended and supplemented by a Thirty-Third Supplemental Indenture to be dated as of January 1, 1979, creating the New Bonds. The New Bonds are to be due 30 years after their date of issuance.

The New Bonds will be delivered to the Authority by JCP&L in satisfaction of its obligation to pay the purchase price of certain pollution control facilities, as described below (the "Facilities"), constructed and/or presently being constructed in connection with its undivided ownership interest in the Three Mile Island nuclear generating station ("TNI"). The Facilities are in compliance with requirements of the Pennsylvania Department of Environmental Resources.

The interest rate(s) on, maturity date(s) of, and the redemption or prepayment provisions with respect to the New Bonds will correspond to the interest rate(s) on, the maturity date(s) of, and the redemption or prepayment provisions with respect to, the related pollution control revenue bonds (the "Authority Bonds") to be issued by the Authority to finance

construction of the Facilities. It is anticipated that interest on the Authority Bonds will be exempt from federal income taxation under Section 103 of the Internal Revenue Code, and, on this basis, JCP&L states that the interest rate on the bonds will be substantially less than the interest rate on funded indebtedness that JCP&L would otherwise sell to investors to finance construction of the Facilities.

It is estimated that the aggregate cost of the Facilities will not exceed $7,000,000. As of the date hereof, JCP&L states that substantially all of the estimated aggregate costs of the Facilities has been expended in connection with this construction. JCP&L proposes to transfer to the Authority, subject to the lien of its first mortgage bond indenture, its interest in the Facilities, and to reacquire such interest in the Facilities, from time to time, as they are completed in consideration for the contemporaneous or prior delivery to the Authority of the New Bonds.

The maximum principal amount of Authority Bonds is intended to approximate the cost of the Facilities. The Authority Bonds will be issued pursuant to a Pollution Control Facilities Agreement (the "Agreement") and under a separate trust indenture (the "Indenture") between the Authority and Manufactures Hanover Trust Company as trustee. The Authority Bonds are expected to be sold to underwriters at competitive bidding. JCP&L will not be a party to the underwriting arrangements although the Agreement will provide that the terms of the Authority Bonds shall be approved by JCP&L. The proceeds from the sale of the Authority Bonds will be deposited in a construction fund as provided by the Agreement and the Indenture, and such proceeds will be applied, from time to time, to pay the cost of the Facilities. The principal and interest on the Authority Bonds will be payable solely from payments made by JCP&L on the New Bonds, and the credit of the Authority will not be pledged to the payment of principal and interest on such Authority Bonds. The terms of the Authority Bonds and of the New Bonds will include a mandatory redemption provision designed to retire, from time to time, beginning after the fifteenth year following the date of original issuance, prior to maturity, not less than 25% of the aggregate principal amount of such bonds originally issued.

JCP&L requests an exemption from the competitive bidding requirements of Rule 50 under the Act for the sale of the New Bonds pursuant to paragraphs (a)(5) of that Rule.

The fees and expenses to be incurred in connection with the proposed transaction is approximately $125,000, including $37,000 in legal fees. It is stated that the New Jersey Board of Public Utilities has jurisdiction with respect to the proposed transaction, and that no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than January 16, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant-declarant at the above-stated address and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-560 Filed 1-5-79; 8:45 am]

[8010-01-M]

[Release No. 10534; 812-4398]

L. F. ROTHSCHILD, UNTERBERG, TOWBIN ET AL.

Filing of Application Pursuant to Section 6(c) of the Act for an Order of Exemption From Section 30(f) of the Act

DECEMBER 22, 1978.

Notice is hereby given that L. F. Rothschild, Unterberg, Towbin; Warburg Paribas Becker Incorporated; J. C. Bradford & Co., and Piper, Jaffray & Hopwood Incorporated, c/o L. F. Rothschild, Unterberg, Towbin, 55 Water Street, New York, NY 10041, ("Applicants") have filed an application on November 28, 1978, pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act") for an order of the Commission in connection with a proposed offering of common stock of Nautilus Fund, Inc. ("Company"), a registered, closed-end diversified management investment company, from Section 30(f) of the Act, which incorporates Section 16 of the Securities Exchange Act of 1934 ("Exchange Act"), to exempt certain transactions incidental to the distribution of the Company's shares. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants are the prospective representatives ("Representatives") of a group of underwriters ("Underwriters") being formed in connection with the proposed public offering.

Common Shares of the Company are to be purchased by the Underwriters pursuant to a purchase agreement ("Purchase Agreement") to be entered into between the Company, Vance, Sanders & Company, Inc., the Company's investment adviser ("Adviser"), and the Underwriters, represented by the Representatives. It is also contemplated that one or more dealers will offer and sell shares of the Company's common stock. Although the registration statement on Form S-4 under the Securities Act of 1933 cover 1,650,000 shares of common stock (including 150,000 shares which may be purchased at the option of the Underwriters to cover over-allotments), the number may be increased or decreased in the registration statement as amended at the time it becomes effective, depending upon market conditions and other factors to be considered by the Representatives and the Company at that time.

The underwriting commitment of any one or more of the Underwriters, including the Applicants, may exceed 10% of the aggregate number of common shares of the Company to be outstanding upon the completion of the initial public offering. In addition to purchases from the Company and sales of common shares, there may be other transactions of purchases or sales incident to a distribution, such as stabilizing purchases, purchases to cover over-allotments, and sales of common shares purchased in stabilization. Since Section 30(f) of the Act subjects every person who is directly or indirectly the beneficial owner of more than 10% of any class of outstanding securities of a registered investment company to the same duties and liabilities as those imposed by Section 16 of the Exchange Act, any Underwriter or Underwriters owning more than 10% of the Common Shares of the Company may become subject to the filing requirements of Section

16(a) of the Exchange Act and, upon sale of the shares purchased by them, subject to the liabilities imposed by Section 16(b) of the Exchange Act.

Rule 16b-2 under the Exchange Act exempts certain transactions in connection with a distribution of securities from the operation of Section 16(b) of the Exchange Act. The Underwriters may fail to meet the requirement for exemption from Section 16(b) stated in Rule 16b-2(a)(3), i.e., that the aggregate participation of persons not within the purview of Section 16(b) of the Exchange Act must be at least equal to the participation of persons receiving the exemption under Rule 16b-2, because one or more of the Underwriters who, pursuant to the Purchase Agreement, may be obligated to purchase more than 10% of the shares of the Company, may distribute more than 50% of the shares of the Company being offered. Moreover, one or more Underwriters, including the Representatives, even though they are initially obligated under the Purchase Agreement to purchase 10% or less of the aggregate number of shares of the common stock to be outstanding upon completion of the public offering, may, as a consequence of defaults by other Underwriters, become obligated to purchase more than 10% of the aggregate number of shares of common stock to be outstanding, and such Underwriters may distribute more than 50% of the shares of common stock being offered.

Applicants submit there is no inside information in existence since the Company, prior to the initial distribution of shares of common stock, will have no assets (other than cash) or business of any sort, and all material facts with respect to the Company will be set forth in the prospectus pursuant to which the shares of common stock will be offered and sold. No partner, director or officer of the Representatives is a director or officer of the Company or the Adviser, and it is not anticipated that any partner, director or officer of any other Underwriter will be a director or officer of the Company or the Adviser.

Section 6(c) of the Act provides, in part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities or transactions from any provision or provisions of the Act or any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than January 12, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant(s) at the address(es) stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-561 Filed 1-5-79; 8:45 am]

[8010-01-M]

[Release No. 15427; SR-MSRB-78-13]

MUNICIPAL SECURITIES RULEMAKING BOARD

Order Approving Proposed Rule Change

DECEMBER 22, 1978.

On November 1, 1978, the Municipal Securities Rulemaking Board (the "MSRB"), Suite 507, 1150 Connecticut Avenue NW., Washington, D.C. 20036, filed with the Commission, pursuant to Section 19(b) of the Securities Exchange Act of 1934 (the "Act"), and Rule 19b-4 thereunder, copies of a proposed rule change. The propose rule change would amend the MSRB's interdealer uniform practice rule, MSRB rule G-12, to expand the availability of the seller's close-out by permitting the seller to give notice of close-out at any time not later than the close of business on the fifth business day following receipt by the seller of the notice of rejection. As altered by the proposed rule change, MSRB rule G-12 also would provide that in the event a transaction for which the seller has issued a close-out notice is completed, rather than being closed out, the seller may recover from the purchaser the actual and necessary expenses incurred by reason of the purchaser's rejection.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 15318, (November 9, 1978)) and by publication in the FEDERAL REGISTER (43 FR 54313 (1978)). No comments with respect to the proposed rule change were received by the Commission.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the MSRB, and in particular, the requirements of Section 15B and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-562 Filed 1-5-79; 8:45 am]

[8010-01-M]

[Release No. 15428; SR-MSRB-78-14]

MUNICIPAL SECURITIES RULEMAKING BOARD

Order Approving Proposed Rule Change

DECEMBER 22, 1978.

On November 2, 1978, the Municipal Securities Rulemaking Board (the "MSRB"), Suite 507, 1150 Connecticut Avenue, N.W., Washington, D.C. 20036, filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and rule 19b-4 thereunder, copies of a proposed rule change to modify existing MSRB rule G-12 on uniform practice to permit syndicate members to accelerate the settlement date for "when, as and if issued" transactions with non-member dealers, in the event of early delivery by the issuer, only upon agreement by the non-member dealer to such accelerated delivery. The rule at present allows acceleration at the option of the syndicate member.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 15321, November 13, 1978) and by publication in the FEDERAL REGISTER (43 FR 54312, November 21, 1978). No comments with respect to the proposed rule change have been received by the Commission.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the MSRB, and in particular, the requirements of Section 15B and the rules and regulations thereunder

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-563 Filed 1-5-79; 8:45 am]

[8010-01-M]

[Release No. 15438; SR-PSE-78-18]

PACIFIC STOCK EXCHANGE, INC.

Order Approving Proposed Rule Change

DECEMBER 27, 1978.

On November 3, 1978, the Pacific Stock Exchange, Incorporated, 618 South Spring Street, Los Angeles, California 90014, filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and Rule 19b-4 thereunder, copies of a proposed rule change which lists the procedures and fees charged applicants acquiring or transferring memberships on the PSE.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 34-15331, November 15, 1978) and by publication in the FEDERAL REGISTER (43 FR 55296, November 27, 1978). All written statements with respect to the proposed rule change which were filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. §552) were made available to the public at the Commission's Public Reference Room.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section, 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-564 Filed 1-5-79; 8:45 am]

[8010-01-M]

[Release No. 15430; File No. SR-Phlx-78-16]

PHILADELPHIA STOCK EXCHANGE, INC.

Order Approving Proposed Rule Change

DECEMBER 22, 1978.

On August 3, 1978, the Philadelphia Stock Exchange, Inc. ("PHLX"), 17th Street and Stock Exchange, Philadelphia, Pa. 19103, filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and Rule 19b-4 thereunder, copies of a proposed rule change which require each PHLX member and member organization to file with the PHLX certain periodic financial and operation reports, and to impose, unless a specific extension has been granted, a $10 fee on each member organization for each day a report is delinquent.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 34-15055, August 10, 1978) and by publication in the FEDERAL REGISTER (43 FR 36722, August 18, 1978). All written statements with respect to the proposed rule change which were filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. §552) were made available to the public at the Commission's Public Reference Room.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a securities exchange, and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-565 Filed 1-5-79; 8:45 am]

[8010-01-M]

[Release No. 34-15383; File No. SR-Amex-78-26]

SELF-REGULATORY ORGANIZATION

Proposed Rule Change by American Stock Exchange, Inc.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), as amended by Pub. L. 94-29, 16 (June 4, 1975), notice is hereby given that on November 24, 1978 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

TEXT OF THE PROPOSED RULE CHANGE

The American Stock Exchange, Inc. proposes to amend section 152 of the Amex Company Guide as set forth below. (*Italics* indicate words to be added.)

SECTION 152. CONTINUING ANNUAL FEE

(a) Stock Issues—$2,500 for the first one million shares (or fraction thereof) issued and outstanding; plus $500 for each additional one million shares (or fraction thereof) up to a total, including the first one million shares, of ten million shares issued and outstanding; plus $1,000 for the next one million shares (or fraction thereof) up to a total, including the first ten million shares, of eleven million shares issued and outstanding; plus $1,000 for any shares issued and outstanding in excess thereof, with a maximum fee of $9,000.

For purposes of this Section, treasury shares shall be deemed issued and outstanding.

This fee is based on the total number of outstanding shares of all classes of stock listed on the Exchange on June 30 of each year, payable in July of each year. *The continuing annual fee for the calendar year in which a company first lists will be prorated to reflect the portion of the year the issue has been admitted to dealings during such year and will be based on the total number of outstanding shares of all classes of stock listed on the Exchange at the time of listing, payable in December of such year.*

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STATEMENT OF BASIS AND PURPOSE

Amex states that the basis and purpose of the foregoing proposed rule change is as follows:

The Exchange imposes fees on listed companies to cover the costs of regulatory programs and various services provided by the Exchange for the benefit of listed companies. In addition to the fees imposed on listed companies when securities are first listed, the Exchange charges a continuing annual fee based on a company's outstanding shares on June 30, of each year. At the present time, companies do not pay an annual fee for the first calendar year in which they list. However, since the Exchange provides regulatory and other services from the time a company first lists, the Exchange proposes to make its annual fee applicable to newly-listed companies, pro-rated from the date of listing.

The proposed amendment to section 152 of the Amex Company Guide is intended to assure the equitable allocation of reasonable dues, fees, and other charges among the Exchange's members, issuers and others using its facilities, as required by Section 6(b)(4) of the Act.

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS, OR OTHERS ON PROPOSED RULE CHANGE

Amex states that no comments were solicited or received with respect to the proposed rule change.

BURDEN ON COMPETITION

The Amex has determined that no burden on competition will be imposed by the proposed rule change.

Within thirty-five days of the January 8, 1979, publication of this notice in the FEDERAL REGISTER (February 12, 1979), or within such longer period (i) as the Commission may designate up to 90 days of such date (April 9, 1979) if it finds such longer periods to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submission will be available for inspection and copying in the Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and coping at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before January 29, 1979.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

DECEMBER 5, 1978.

[FR Doc. 79-567 Filed 1-5-79; 8:45 am]

[8010-01-M]

[Release No. 34-15429; File No. SR-CBOE-78-31]

SELF-REGULATORY ORGANIZATIONS

Proposed Rule Change by Chicago Board Options Exchange, Inc.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. 94-29, 16 (June 4, 1975) (the "Act"), notice is hereby given that on December 4, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The Chicago Board Options Exchange, Incorporated ("CBOE"), proposes to establish the following schedule of charges to be imposed on its members for contract executions through an Order Book Official ("OBO")*:

Price (1)	1-10 Contracts (2)	11 and Above (2)
Under ½	$.50	$.40
½-1	.75	.65
1-2	.90	.75
2-4	1.10	.90
4-8	1.50	1.30
8-14	2.00	1.50
14-20	2.50	1.85
20 & above	3.00	2.30

(1) Lower bound inclusive.

(2) No charge for executions of market orders placed with the OBO prior to the opening.

*On July 28, 1978, CBOE filed with the Commission a proposed rule change to establish an OBO system (File No. SR-CBOE-78-23). This proposed schedule of charges is being made effective upon filing pursuant to the provisions of Section 19(b)(3)(A) of the Act, but will not be implemented until approval by the Commission of the proposed OBO system. The proposed schedule of charges will apply to each trading post on the floor upon the designation of OBO's for that post pursuant to the rules of CBOE, as so amended.

STATEMENT OF BASIS AND PURPOSE

The proposed schedule of charges established by this filing is designed to permit CBOE to earn sufficient revenues to offset its estimated costs in providing OBO services, including the operating expenses of its new Order Support System ("OSS"). The proposed schedule varies the per contract charge in accordance with the price of the contract and provides a discount when more then ten contracts are executed in the same order. No charge will be made for executions of market orders placed with the OBO prior to the opening. CBOE's authority for levying such charges is CBOE Rule 2.22, as is made clear by Interpretation .01 to Rule 2.22, proposed in File No. SR-CBOE-78-23.

The statutory authority for the proposed schedule of charges is Section 6(b)(4) of the Act, which permits an exchange's rules to provide for the equitable allocation of reasonable charges among its members. CBOE has adopted the policy that the schedules of charges it establishes from time to time will not provide a separate profit center for CBOE, but will, to the extent practicable, be designed to recover its estimated costs in operating its OBO and OSS systems.[1] The schedule of charges filed herewith is reasonable in amount because it is expected to generate the revenues needed by CBOE to recover its estimated costs of operating OSS and the OBO system. The schedule of charges provides for equitable allocation because the operating costs of the OSS and OBO systems will be paid by the users of those systems in a manner consistent with competitive requirements.

CBOE's objective is to reduce book execution charges over time to the fullest extent consistent with maintaining a sound basis for generating revenues sufficient to recover OBO and OSS expenses. The data to be derived from actual experience with an OBO system and OSS are both desirable in reaching a determination as to the extent of such a charge reduction. Thus, CBOE intends to monitor closely its revenues and expenses under actual experience with the OBO and OSS systems, as well as on-going competitive developments, with a view to reducing the book charge structure as soon as circumstances warrant.

One step which has been taken at this time, which will make CBOE more competitive, has been the elimination in the schedule filed herein of any charge for executions of market

[1] CBOE may, in the event it should deem it advisable for competitive reasons, lower its charges for particular classes of options. Further, competitive developments may place a practical ceiling on the general level of such charges.

orders placed with the OBO prior to the opening. This step will bring the practice on CBOE into line with the practices on several other securities exchanges.

CBOE did not solicit and has not received comments on its proposed schedule of charges.

CBOE does not believe that the proposed schedule of charges would impose any burdens on competition.

The foregoing rule change has become effective pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934, but will not be implemented until approval by the Commission of the OBO system proposed in File No. SR-CBOE-78-23. At any time within sixty days of the filing of this proposed rule change, the Commission may summarily abrogate this rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the captions above and should be submitted on or before February 7, 1979.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

DECEMBER 22, 1978.

[FR Doc. 79-568 Filed 1-5-79; 8:45 am]

[8010-01-M]

[Release No. 34-15432; File No. SR-CBOE-78-33]

SELF-REGULATORY ORGANIZATIONS

Proposed Rule Change by Chicago Board Options Exchange, Inc. ("CBOE")

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) as amended by Pub. L. 94-29, 16 (June 4, 1975), notice is hereby given that on December 14, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

This rule filing involves proposed amendments to three rules of the CBOE. First, Rule 3.15(c) would be amended to expand the scope of claims by members that can be satisfied out of the proceeds of the sale of a membership by the CBOE pursuant to Rule 3.15(b). Second, Rule 16.3 would be amended to provide that the time during which a suspended member may seek reinstatement by vote of the Membership Committee is six months in the case of a suspension due to operating difficulty, and thirty days in the case of a suspension due to financial difficulty. A right of appeal in accordance with the provisions of Chapter XIX of the CBOE rules is given to suspended members who fail to receive the affirmative vote of the Committee. Finally, certain minor technical amendments would be made to Rule 16.4 to conform such rule to the proposed changes in Rule 16.3.

EXCHANGE'S STATEMENT OF BASIS AND PURPOSE

Rule 3.15(c) is being modified to expand the basis upon which claims can be made against proceeds from the sale of a CBOE membership.

The purpose of the proposed amendment to Rule 16.3 is to make it easier for the Exchange to sell the CBOE memberships of members who have been summarily suspended due to financial difficulty and who have failed to make arrangements with their creditors. The Exchange may sell the CBOE membership of a summarily suspended member only if that member fails to obtain reinstatement as provided in Rule 16.3. Rule 16.3 presently provides that any member who has been summarily suspended has six months to obtain reinstatement. The proposed rule change would require that a member summarily suspended due to financial difficulty demonstrate within thirty (30) days of such summary suspension that he has made arrangements to satisfy his creditors. Otherwise, said member's CBOE membership may be sold by the Exchange provided that the suspended member has been afforded an opportunity for a hearing respecting the appropriateness of the summary suspension.

The basis under the Act for the proposed change to Rule 3.15(c) is Section 6(b)(5) in that such change will serve to protect persons who advance funds to members and promote just and equitable principles of trade. The basis under the Act for the proposed change to Rule 16.3 is Section 6(d)(3) which provides for summary suspension of a member in financial difficulty where such member cannot be permitted to continue in business with safety to investors, creditors, members or the exchange.

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS OR OTHERS ON PROPOSED RULE CHANGE

The proposed change to Rule 3.15(c) was submitted for comment to a number of CBOE member firms whose business consists largely of his clearance of transactions by CBOE Market-Makers. No written comments were received. Oral comments were generally favorable.

BURDEN ON COMPETITION

The CBOE does not believe that the proposed rule change will impose any burden on competition.

Within 35 days of the date of the January 8, 1979, publication of this notice in the FEDERAL REGISTER (February 12, 1979), or within such longer period (i) as the Commission may designate up to 90 days of such date (April 9, 1979) if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, 500 North Capitol Street, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and all written submission will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before January 29, 1979.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

DECEMBER 22, 1978.

[FR Doc. 79-569 Filed 1-5-79; 8:45 am]

[8010-01-M]

[Release No. 34-15433; File No. SR-CBOE-78-32]

SELF-REGULATORY ORGANIZATIONS

Proposed Rule Change by Chicago Board Options Exchange, Inc. ("CBOE")

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) as amended by Pub. L. 94-29, 16 (June 4, 1975), notice is hereby given that on December 14, 1978, the above-mentioned self-regulatory organization filed with the securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

CBOE Rule 3.16(d)(ii) would be amended to provide that the lease of a membership or the reversion of a previously leased membership would not be effective until the deposit with the CBOE of a cash amount, computed with reference to past membership sales, or a letter of guarantee from a clearing member. Previously a lease or reversion thereof would not be effective until the expiration of a twenty day period for asserting claims against the previous holder. Additionally, Rules 6.72 and 8.5 would be amended to provide that a clearing member who issues a Letter of Authorization for a floor broker or a Letter of Guarantee for a market maker, would be entitled to priority over all subsequent issuers of such letters against the proceeds from the sale of a membership by the entity covered by such letter.

CBOE'S STATEMENT OF BASIS AND PURPOSE

Rule 6.72(a) (Letters of Authorization) is being amended to provide a system of priorities in situations where members obtain letters of authorization from more than one Clearing Member and to facilitate the sharing of information between the CBOE and Clearing Members respecting outstanding Letters of authorization. Parallel amendments to rule 8.5 (Letters of Guarantee) are being proposed for the same purpose.

Rule 3.16(d) is being amended to expedite transfer of interests in leased memberships from one lessee to another (and reversions to lessors) by eliminating the requirement that all claims against the prior lessee must be satisfied out of the funds deposited with the CBOE before the transfer (or reversion) becomes effective. By eliminating the requirement that all claims must be satisfied prior to making the transfer (or reversion) effective, such transactions need not await expiration of the 20-day period for asserting claims against the previous lessee.

The basis under the Act for the proposed rule change is Sections 6(b)(5). The CBOE believes these changes will serve to prevent fraudulent practices, foster cooperation and coordination among persons engaged in clearing and settling securites transactions, and promote just and equitable principles of trade.

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS OR OTHERS ON PROPOSED RULE CHANGE

The proposed rule change was submitted for comment to a number of CBOE member firms whose business consists largely of the clearance of transactions by CBOE Market-Makers. No written comments were received. Oral comments were generally favorable.

BURDEN ON COMPETITION

The CBOE does not believe that the proposed rules change will impose any burden on competition.

The foregoing rule change has become effective, pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and all written submission will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before January 29, 1979.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

DECEMBER 22, 1978.

[FR Doc. 79-570 Filed 1-5-79; 8:45 am]

[8010-01-M]

[Release No. 34-15431; File No. SR-CSE-78-3]

SELF-REGULATORY ORGANIZATIONS

Proposed Rule Change by the Cincinnati Stock Exchange

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. 94-29, 16 (June 4, 1975), notice is hereby given that on October 31, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

THE CINCINNATI STOCK EXCHANGE'S STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The Board of Trustees of The Cincinnati Stock Exchange has revised the Multiple Dealer Trading System (CIN/NMS) fee schedule effective November 1, 1978, as follows:

MULTIPLE DEALER TRADING SYSTEM (CIN/NMS) FEES

(a) 2 cents per share will be charged non-members when acting as principal.

(b) 1½ cents per share will be charged members when acting as principal.

(c) ½ cents per share will be charged both members and non-members on public agency transactions.

THE CINCINNATI STOCK EXCHANGE'S STATEMENT OF BASIS AND PURPOSE

After a recent review of Multiple Dealer Trading, the Board of Trustees deemed it advisable to revise fees charged for access to the System as it is of the opinion that a change in fees will bring additional revenue into the System to help defray expenses.

Section 6(b)(4) of the Act is the basis for these fees since specified charges are reasonable and equitably allocated to those who avail themselves of such Exchange services.

No comments were solicited from Members nor were any received.

Fees as set forth impose no burden on competition.

The foregoing rule change has become effective, pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before January 29, 1979.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

DECEMBER 22, 1978.

[FR Doc. 79-571 Filed 1-5-79; 8:45 am]

[8010-01-M]

[Rel. No. 20851; 70-6239]

SOUTHWESTERN ELECTRIC POWER CO.

Proposed Sale of Transmission Lines by Subsidiary to an Unaffiliated Electric Utility

DECEMBER 28, 1978.

Notice is hereby given that Southwestern Electric Power Company ("SWEPCO"), P.O. Box 21106, Shreveport, Louisiana 71156, an electric utility subsidiary of Central and South West Corporation ("CSW"), a registered holding company, has filed a declaration and an amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Section 12(d) of the Act and Rule 44 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

SWEPCO is the owner of 21.9 miles of 34.5 kv transmission lines located in Benton and Carroll Counties, Arkansas (the "34.5 kv line"). SWEPCO had used the line to serve the Eureka Springs, Arkansas area, and three substations of the Carroll Electric Cooperative Corporation ("Carroll Cooperative").

SWEPCO has constructed 161 kv lines to service the Eureka Springs area. Therefore SWEPCO no longer has any need for the limited capacity 34.5 kv linc.

Carroll Cooperative is an Arkansas Corporation organized under the "Arkansas Electric Cooperative Corporation Act" and is an electric utility with no affiliation to CSW or its subsidiaries and affiliates. Carroll Cooperative serves Benton, Boone and Carroll Counties, Arkansas. Because Carroll Cooperative wants to increase the capacity of its Garfield substation, it has offered to purchase the 34.5 kv line for a purchase price of $120,000. This price was established by Carroll's engineers as the present value of the line to Carroll. The current depreciated book value of the line is $154,200.15. However, SWEPCO states that since the line has no value to itself, and, in fact, would cost $109,500 for removal, of which $12,500 would be salvage value, SWEPCO believes that this offer is in its best interest.

SWEPCO also believes such a sale would be beneficial to its customers, since the proceeds of such a sale will be used to secure a release of the 34.5 kv line mortgage indenture, now held on trust at the Continental Illinois National Bank and Trust Company of Chicago.

The fees and expenses to be incurred in connection with the proposed transaction is approximately $3,600, including $1,500 in legal fees. It is stated that no state commission, and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than January 22, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration as amended which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated address and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as amended or as it may be further amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-566 Filed 1-5-79; 8:45 am]

[8025-01-M]

SMALL BUSINESS ADMINISTRATION

[License No. 05/05-5135]

DEARBORN CAPITAL CORP.

Issuance of License To Operate as a Small Business Investment Company

On October 31, 1978, a notice was published in the FEDERAL REGISTER (43 FR 50768), stating that Dearborn Capital Corporation, located at The American Road, Dearborn, Michigan 48121, had filed an application with the Small Business Adminsitration (SBA), pursuant to 13 CFR 107.102 (1978); for a license to operate as a small business investment company under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended.

Interested parties were given until the close of business November 15, 1978, to submit their comments to SBA. No comments were received.

Notice is hereby given that having considered the application and all other pertinent information, SBA issued License No. 05/05-5135 to Dearborn Capital Corporation, on December 14, 1978, to operate as a small business investment company, pursuant to Section 301(d) of the Act.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: January 2, 1979.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 79-648 Filed 1-5-79; 8:45 am]

[8025-01-M]

[License No. 04/05-0011]

VICKSBURG SBIC

Notice is hereby given that Vicksburg Small Business Investment Company (Vicksburg), P.O. Box 852, 302 First National Bank Building, Vicksburg, Mississippi 39180, a Federal Licensee under the Small Business Investment Act of 1958 (Act), as amended, (15 U.S.C. 661 et seq.), has filed an application with the Small Business Administration pursuant to Section 107.701 of the SBA's Regulations governing Small Business Investment Companies (SBICs), (13 CFR 107.701 (1978)), for approval of change in con-

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trol of the Licensee falling within the scope of the above Section.

The proposed change of control is brought within the purview of Section 107.701 since 603 (or 18 percent) shares of Vicksburg held by Mr. Edward H. Russell (502½ shares) and Mrs. Edward H. Russell (100½ shares), is being sold to the following group of persons acting in concert.

Martha Ann May (wife of David L. May, who is the Secretary, Treasurer and a Director of Vicksburg) 201 shares as Custodian for David Johnston May making a combined ownership of 525 shares or 15 percent of Vicksburg.

Raymond B. May, 201 shares, making a combined ownership of 537½ shares or 12 percent of Vicksburg.

Walter T. May, Director of Vicksburg, 201 shares as Custodian for Sharon Y. May (151 shares) and David R. May (50 shares), making a combined ownership of 481½ shares or 11 percent owner of Vicksburg.

The total shares of Vicksburg stock to be held by the May families will be 1,544 shares or 45 percent of the outstanding shares. Since this constitutes the largest block of outstanding stock, the SBA considers this a transfer of control of Vicksburg.

Notice is hereby given that any interested person may, not later than January 18, 1979 submit written comments on the proposed transaction to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this Notice shall be published in a newspaper of general circulation in the Vicksburg, Mississippi area.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: January 2, 1979.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 79-649 Filed 1-5-79; 8:45 am]

[8025-01-M]

[License No. 02/02-0267]

15 BROAD STREET RESOURCES CORP.

Surrender of License

Notice is hereby given that, pursuant to Section 107.105 of the Small Business Administration's Rules and Regulations governing Small Business Investment Companies (CFR 107.105 (1978)), 15 Broad Street, Resources Corporation (15 Broad Street). 15 Broad Street, New York, New York 10015, incorporated under the laws of the State of New York has surrendered its license No. 02/02-0267 issued by the SBA on December 22, 1967.

15 Broad Street has complied with all conditions set forth by SBA for surrender of its license. Therefore, under the authority vested by the Small Business Investment Act of 1958, as amended, and pursuant to the above cited regulation, the license of 15 Broad Street is hereby accepted and it is no longer licensed to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies).

Dated: January 2, 1979.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 79-650 Filed 1-5-79; 8:45 am]

[8025-01-M]

[Declaration of Disaster Loan Area No. 1555]

ARIZONA

Declaration of Disaster Loan Area

As a result of the President's major disaster declaration, I find that Gila, Graham, Greenlee, Maricopa, Navajo, Pima and adjacent counties within the State of Arizona, constitute a disaster area because of damage resulting from severe storms and flooding beginning about December 17, 1978. Applications will be processed under provisions of Pub. L. 94-305. Interest rate is 7⅜ percent. Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of business on February 21, 1979, and for economic injury until the close of business on September 21, 1979, at: Small Business Administration, District Office, 3030 North Central Avenue, Suite 1201, Phoenix, Arizona 85012, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: JANUARY 2, 1979.

A. VERNON WEAVER,
Administrator.

[FR Doc. 79-651 Filed 1-5-79; 8:45 am]

[8025-01-M]

REGION III ADVISORY COUNCIL MEETING

Public Meeting

The Small Business Administration Region III Baltimore Advisory Council, will hold a public meeting at 9:30 a.m., until 4:30 p.m., Friday, January 19, 1979, at the SBA Office, 630 Oxford Building, 8600 La Salle Road, Towson, Maryland 21204, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present.

For further information write or call L. C. Aaronson, Acting District Director, U.S. Small Business Administration, 630 Oxford Building, 8600 La Salle Road, Towson, Maryland 21204, (301)922-2150.

K. DREW,
Deputy Advocate for Advisory Councils.

[FR Doc. 79-553 Filed 1-5-79; 8:45 am]

[8025-01-M]

REGION VI ADVISORY COUNCIL EXECUTIVE BOARD MEETING

Public Meeting

The Small Business Administration Region VI Advisory Council, located in the geographical area of Dallas, Texas, will hold a public meeting on Monday, January 22, 1979, from 1:00 p.m. to 4:00 p.m., in the Quality Inn in the El Dorado Room, 2015 North Industrial, Dallas, Texas, to discuss such business as may be presented by members, staff of the Small Business Administration or others present.

For further information, write or call Alicia R. Chacon, Regional Director, U.S. Small Business Administration, 1720 Regal Row, Dallas, Texas 75235, 214-749-2706.

K. DREW,
Deputy Advocate for Advisory Councils.

[FR Doc. 79-554 Filed 1-5-79; 8:45 am]

[4910-59-M]

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

BIOMECHANICS ADVISORY COMMITTEE

Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C. App. I), notice is hereby given of a meeting of the Biomechanics Advisory Committee to be held on January 23 and 24, 1979, in room 6200 of the DOT Headquarters Building, 400 Seventh Street SW., Washington, D.C.

The Biomechanics Advisory Committee is composed of seven members; three from the Federal Government and four from the private sector. The members are: Dr. Kennerly H. Diggs, Director, Passenger Vehicle Research Office, National Highway Traffic Safety Administration. Dr. Diggs is the Chairman of the Committee. Mr. Philip R. Hertz, Attorney, National Highway Traffic Safety Administration; Mr. Ralph Hitchcock, Chief, Crashworthiness Division, National Highway Traffic Safety Administration; Dr. Thomas E. Morgan, Association of American Medical Colleges, Washington, D.C.; Professor Joseph Fletcher, Visiting Scholar, Biomedical Ethics, University of Virginia, Charlottesville, Virginia; Dr. Daniel L. Weiss, Executive Secretary, Division of Medical Sciences, National Research Council, Washington, D.C.; and Dr. Chris J. Zarafonetis, Professor of Internal Medicine, University of Michigan Medical School, Ann Arbor, Michigan. These members have been appointed to serve for two years.

The Committee will meet starting at 9:00 a.m. on January 23 and 24 to conduct an initial review of NHTSA's projects and procedures involving humans in research and development.

Attendance is open to the interested public, but limited to the space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Any member of the public may present a written statement to the Committee at any time.

This meeting is subject to the approval of the appropriate DOT officials. Additional information may be obtained from the NHTSA Executive Secretary, Room 5215, 400 Seventh Street SW., Washington, D.C. 20590, telephone 202-426-2872.

Issued in Washington, D.C., on January 3, 1979.

WM. H. MARSH,
Executive Secretary.

[FR Doc. 79-631 Filed 1-5-79; 8:45 am]

[4910-59-M]

CALENDAR OF MEETINGS OPEN TO THE PUBLIC

Below is a list of NHTSA-sponsored meetings which are planned for the next 2 years and in which public interest or participation is expected. The list, which will be revised and republished periodically, is for planning information. Meeting dates and places, particularly those scheduled for the second year, are subject to change.

JANUARY 9-11, 1979

NATIONAL HIGHWAY SAFETY ADVISORY COMMITTEE MEETING

Washington, D.C.
Purpose: Progress reports of the Committee's task forces will be heard. Reports and recommendations for the Secretary, Department of Transportation may be prepared.
Coordinator: Robert Doherty, Executive Secretariat (NOA-10), 202-426-2872.

FEBRUARY 21, 1979

NHTSA-INDUSTRY TECHNICAL MEETING

Rackham Auditorium
University of Michigan Campus
Ann Arbor, Michigan
Purpose: Written questions submitted to NHTSA from the public and industry on the agency's safety, bumper, and consumer information programs will be answered.
Coordinator: William H. Marsh, Executive Secretariat (NOA-10), 202-426-2872.

MARCH 1979

"WRECKER" WORKSHOP

Washington, D.C.
Purpose: Research results from validation and application of the WRECKER program used in analyzing vehicle side structures will be presented. WRECKER is a computer program to do finite element analysis of automobile structures under crash loadings. The word is a nickname, not an acronym.
Coordinator: William T. Hollowell, Office of Research and Development (NRD-12), 202-426-4862.

SPRING 1979

EVALUATION OF FEASIBILITY OF A SINGLE BEAM HEADLIGHT SYSTEM; FINAL CONTRACTOR BRIEFING

Trans Point Building
Washington, D.C.
Purpose: To report results of a research study designed to determine the parameters of beam patterns for improved low beam headlamps.
Coordinator: Michael Perel, Office of Research and Development (NRD-41), 202-755-8753.

MARCH-JUNE 1979

REGIONAL CHILD RESTRAINT WORKSHOPS

(City Locations Below)
Purpose: To assist interested organizations to inform parents of the importance of using restraint systems when their children are riding in automobiles. Ten meetings are scheduled as follows: March 22-23 Atlanta; April 23-24 Philadelphia; April 26-27 New York; May 3-4 Boston; May 14-15 Chicago; May 17-18 San Antonio; June 4-5 Kansas City, Missouri; June 7-8 Denver; June 21-22 Seattle; June 25-26 San Francisco.
Coordinator: W. Burleigh Seaver, Office of Traffic Safety Programs (NTS-14), 202-426-2180.

APRIL 1979

SYMPOSIUM ON COMMERCIAL TRUCK EXPOSURE ESTIMATES

Washington, D.C.
Purpose: New and old techniques and methodologies used in estimating the type and quantity of travel of commercial trucks will be discussed by persons directly involved. Through the exchange of ideas and review of the state-of-the-art, a basis for a national cooperative program to yield improved estimates is expected to emerge.
Coordinator: Ezio Cerrelli, Office of Research and Development (NRD-31), 202-426-1503.

MAY 1979

PUBLIC HEARING ON THE PROPOSED LIGHT TRUCK AVERAGE FUEL ECONOMY STANDARD FOR MODEL YEARS 1982-1984

Washington, D.C.
Purpose: Public comments on the proposed fuel economy standard for light trucks and vans for model years 1982-1984 will be received.
Coordinator: Frank Turpin, Office of Rulemaking (NRM-21), 202-472-6902.

JUNE 5-8, 1979

SEVENTH INTERNATIONAL TECHNICAL CONFERENCE ON EXPERIMENTAL SAFETY VEHICLES, PARIS, FRANCE

Purpose: Technical information on the development of experimental safety vehicles will be exchanged. Note: This meeting will be hosted by the French Government and French Automotive Industry. The United States is the lead country for the International Program. By agreement with the U.S., the governments of France, Great Britain, West Germany, Italy, Sweden, and Japan develop experimental safety vehicles and related equipment and exchange the resulting technical information.
Coordinator: James C. Shively, Office of Research and Development (NRD-10), 202-426-1551.

JUNE 1979

SYMPOSIUM ON RECONSTRUCTION OF VEHICLE DYNAMICS DURING CRASHES

(Location to be announced)
Purpose: To inform other Federal agencies, industry and private sector on what NHTSA is doing in this field and to exchange views and ideas on improving the state-of-the-art.
Coordinator: Dr. Russell A. Smith, Office of Research and Development (NRD-32), 202-426-4820.

JUNE 12-14, 1979

NATIONAL HIGHWAY SAFETY ADVISORY COMMITTEE MEETING

Washington, D.C.
Purpose: Progress reports of the Committee's task forces will be heard. Reports and recommendations for the Secretary, Department of Transportation, may be prepared.
Coordinator: Robert Doherty, Executive Secretariat (NOA-10), 202-426-2872.

FALL 1979

NATIONAL CONFERENCE ON CHILD RESTRAINT USAGE

Washington, D.C.
Purpose: Specialists in the field of highway safety and child development will meet to exchange information on ways to increase the use of child restraints designed for motor vehicles.
Coordinator: Elaine Weinstein, Office of Traffic Safety Programs (NTS-14), 202-426-2180.

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NOVEMBER 1979

INTERNATIONAL CONFERENCE ON AUTOMOTIVE FUEL ECONOMY RESEARCH

Washington, D.C., (Sheraton-National Hotel, Arlington, Va.)
Purpose: Automotive fuel economy research and technology will be exchanged.
Coordinator: James C. Shively, Office of Research and Development (NRD-10), 202-426-1551.

APRIL 1980

SYMPOSIUM ON VEHICLE AGGRESSIVITY AND COMPATIBILITY

Washington, D.C.
Purpose: Research on vehicle aggressivity and improved compatibility will be presented. Techniques for testing compliance with vehicle compatibility requirements will be discussed.
Coordinator: James R. Hackney, Office of Research and Development (NRD-12), 202-426-4862.

NOVEMBER 1980

SYMPOSIUM ON MOTOR VEHICLE FUEL ECONOMY RESEARCH: CONTRACTORS' COORDINATION MEETING

Washington, D.C.
Purpose: Progress reports on the contracts which have been funded through the Automotive Fuel Economy Research Program will be given. How individual tasks fit into the research and rulemaking program and the thrust of the Automotive Fuel Eonomy Research Program will be explained.
Coordinator: Charles Gauthier, Office of Research and Development (NRD-13), 202-426-2957.

Persons desiring additional information on a particular meeting may write or phone the coordinator indicated above.

Address for Meeting Coordinators:

Office of Plans and Programs; Office of Rulemaking; the Executive Secretariat; and, the Office of Traffic Safety Programs are located at:

National Highway Traffic Safety Administration
DOT Headquarters Building
400 Seventh Street, S.W.
Washington, D.C. 20590

Office of Research and Development is located at:

National Highway Traffic Safety Administration
Trans Point Building
2100 Second Street, S.W.
Washington, D.C. 20590

Issued in Washington, D.C., on January 3, 1979.

WM H. MARSH,
Executive Secretary.

[FR Doc. 79-632 Filed 1-5-79; 8:45 am]

[4910-59-M]

[Docket No. 25; Notice 30]

CONSUMER INFORMATION REGULATIONS

Uniform Tire Quality Grading

AGENCY: National Highway Traffic Safety Administration (NHTSA).

ACTION: Requst for Public Comment.

SUMMARY: This notice request comment on a petition for rulemaking seeking amendment of the Uniform Tire Quality Grading (UTQG) Standards to modify the design of tread labels used to convey tire grading information to consumers. The petition, submitted by Armstrong Rubber Company, contends that modification of labeling requirements would aid tire manufactures in assuring that tires are labeled with the correct UTQG grades. Comments on the proposal will assist NHTSA in its disposition.

DATES: Comments must be received on or before February 7, 1979.

ADDRESSES: Comments should refer to the docket number and be submitted to: Room 5108, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Dr. F. Cecil Brenner, Office of Automotive Ratings, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590, 202-426-1740.

SUPPLEMENTARY INFORMATION: The UTQG Standards (49 CFR 575.104) establish a system for grading passenger car tires, other than snow tires or temporary use spare tires, in the areas of treadwear, traction, and temperature resistance, and for making this information available to consumers to aid in purchasing decisions.

In addition to supplying UTQG information to purchasers through sidewall molding (49 CFR 575.104(d)(1)(i)(A)) and point of sale (49 CFR 575.104(d)(1)(ii) and (iii)) requirements, the regulation provides that the UTQG grades applicable to a particular replacement tire appear on a label attached to the tire tread, along with a discussion of the grades' meaning (49 CFR 575.104(d)(1)(i)(B)). The wording and format of the required label is set forth in Figure 2 of the regulation.

The treadwear grade applicable to particular tire must be imprinted or indelibly stamped on the label adjacent to the description of the treadwear grade. The applicable traction and temperature grades must be indelibly circled in a display of all possible grades.

A manufacturer may, if he chooses, place the required UTQG information on a label which also conveys standard tire identification information such as brand name and size. The applicable UTQG grades must, however, appear on the same label as the general UTQG explanatory information.

On October 19, 1978, the Armstrong Rubber Company petitioned NHTSA to modify the requirements of Part 575.104(d)(i)(B) to permit use of an alternative two-part format for tread labeling. A subsequent request for interpretation form Atlas Supply Company similarly pointed out the perceived utility of a two-part labeling format. Although the Armstrong submission did not meet all the requirements for a rulemaking petition to NHTSA, as specified in the applicable regulations (49 CFR 552.4), NHTSA has decided to treat the proposal as a petition for rulemaking.

Armstrong and Atlas argued that the amount of information required in Figure 2 of the regulation, and the inherent, practical limitations on the length of tire tread labels make it difficult to include standard tire identification information on the same label with the required UTQG explanatory information. Conversely, they suggested, placing the applicable UTQG grades on a separate label from the standard tire indentification information creates the possibility that mislabeling of UTQG grades may occur.

To resolve this difficulty, both Armstrong and Atlas proposed including the applicable UTQG grades on a standard tire identification label which identifies the tire by brand name, type and size, and also contains mounting and inflation instructions. The general explanatory information set forth in Figure 2 of the regulation would be furnished on a separate adjacent label. In the Armstrong proposal, the text of the explanatory label would be oriented along the tread circumference instead of across it. Armstrong's petition also suggested marking traction and temperature resistance grades by printing only the grades applicable to the particular tire on the standard tire identification label, rather than circling the applicable grades in a display of all possible grades.

In order to assist NHTSA in responding to Armstrong's petition, the agency invites public comment on the efficacy of a two-part tread label as a means of conveying UTQG information. NHTSA is especially interested in obtaining information relating to the following questions:

1. Would use of a two-part tread label in fact reduce the possibility that tires may be inadvertantly labeled with incorrect UTQG grades?

2. Would a change in the tread labeling format subsequent to the March 1, 1979 effective date of the standard for bias-ply tires lead to consume confusion in attempting to ascertain applicable tire grades?

3. If NHTSA decides to permit use of a two-part label, should manufacturers be allowed the option of placing the applicable UTQG grades and the general explanatory information on the same label?

4. Should NHTSA specify a maximum distance (*e.g.*, ½-inch) by which the applicable grades and the general explanatory information may be separated? If some separation of the applicable grades from the general explanatory material were permitted by NHTSA, should a statement adjacent to the grades be required, referring the reader to the explanatory information?

5. Would orientation of the tread label text along the tread circumference, as proposed by Armstrong, make access to the information provided more difficult, since tires are typically displayed standing upright in racks?

6. Does circling of traction and temperature grades in a display of all possible grades (as is presently required) more forcefully call the purchaser's attention to the relative quality of the tire than printing only the grades applicable to the specific tire on the label?

In an unrelated matter, interested parties should note an inadvertant error in NHTSA's FEDERAL REGISTER notice published July 17, 1978 (43 FR 30542), announcing effective dates for the UTQG regulation. In that notice, the first sentence of the third section of Figure 2, following the heading "TEMPERATURE A B C", should correctly have read:

"The temperature grades are A (the highest), B, and C, representing the tire's resistance to the generation of heat and its ability to dissipate heat when tested under controlled conditions on a specified indoor laboratory test wheel."

NHTSA intends to correct this error through a future amendment in the FEDERAL REGISTER.

Interested persons are invited to submit comments on the Armstrong and Atlas proposals and on NHTSA's questions concerning the proposals. It is requested but not required that 10 copies be submitted.

All comments must be limited not to exceed 15 pages in length. Necessary attachments may be appended to these submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a succinct and concise fashion.

In the case of comments that contain materials for which confidential treatment is requested, those materials should be deleted from the copies submitted to the docket. A copy of the complete comments should be submitted to the Office of Chief Counsel at the above address, with an indication of which portions of th comments are the subject of the request for confidentiality.

In order to allow NHTSA to grant or deny Armstrong's request within the 120-day period for responding to rulemaking petitions prescribed by 49 CFR 552.8, the comment period for this notice is limited to 30 days.

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, action on the petition may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available to the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

The principal authors of this proposal are Dr. F. Cecil Brenner of the Office of Automotive Ratings and Richare Hipolit of the Office of Chief Counsel.

(Sec. 103, 112, 119, 201, 203; Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1401, 1407, 1421, 1423); delegations of authority at 49 CFR 1.50 and 501.8).

Issued on: January 2, 1979.

MICHAEL M. FINKELSTEIN,
Associate Administrator for Rulemaking.

[FR Doc. 79-481 Filed 1-5-79; 8:45 am]

[4910-59-M]

NATIONAL HIGHWAY SAFETY ADVISORY COMMITTEE

Charter Renewal

On January 5, 1979, the renewal charter for the National Highway Safety Advisory Committee was filed with the Senate Committee on Commerce, Science and Transportation; the Senate Committee on Environment and Public Works; the House Committee on Interstate and Foreign Affairs; and with the Library of Congress. This charter is valid for a two year period, ending January 5, 1981.

The National Highway Safety Advisory Committee advises, consults with and makes recommendations to the Secretary of Transportation on matters relating to the activities and functions of the Department in the field of highway safety.

A copy of the charter is available from the Advisory Groups Staff, Executive Secretariat, NHTSA, 400 Seventh Street, SW., Washington, D.C. 20590, telephone 202-426-2872.

Issued in Washington, D.C. on January 2, 1979.

WM. H. MARSH,
Executive Secretary.

[FR Doc. 79-460 Filed 1-5-79; 8:45 am]

[4810-22-M]

DEPARTMENT OF THE TREASURY

Customs Service

BICYCLE TIRES AND TUBES FROM THE REPUBLIC OF CHINA

Final Countervailing Duty Determination

AGENCY: United States Customs Service, Treasury Department.

ACTION: Final Countervailing Duty Determination.

SUMMARY: This notice is to advise the public that a countervailing duty investigation has resulted in a final determination that the Government of the Republic of China (Taiwan) has not given benefits which are considered to be bounties or grants on the manufacture, production or exportation of bicycle tires and tubes.

EFFECTIVE DATE: January 8, 1979.

FOR FURTHER INFORMATION CONTACT:

Leon McNeill, Operations Officer, U.S. Customs Service, Office of Operations, Duty Assessment Division, Technical Branch, 1301 Constitution Avenue, NW, Washington, D.C. 20229, telephone (202) 566-5492.

SUPPLEMENTARY INFORMATION: On July 28, 1978, a "Preliminary Countervailing Duty Determination" was published in the FEDERAL REGISTER (43 FR 32912). The notice stated that it had been determined preliminarily that benefits had been bestowed by the Government of the Republic of China on the manufacture, production or exportation of bicycles tires and tubes which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1920, as amended (19 U.S.C. 1303) referred to in this notice as "the Act").

For the purposes of this notice the term "bicycle tires and tubes" means pneumatic bicycle tires and tubes, of rubber or plastics, whether such tires and tubes are sold together as units or separately. Bicycle tires and tubes are covered under Items 772.48 and 772.57.

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respectively, of the Tariff Schedules of the United States (TSUS).

Preliminarily, four programs of the Government of the Republic of China (Taiwan) were determined to constitute bounties or grants as they related to bicycle tires and tubes. That determination was based upon incomplete or non-existent information. Since that determination, further information has been developed with respect to each of the four programs, which is set forth below:

1. *Income Tax Ceiling.* Under the Statute for the Encouragement of Investment, firms whose establishment or expansion was approved before December 31, 1973, qualify for a tax ceiling equivalent to 25 percent of the firms taxable income. The usual tax rate is 35 percent of taxable income. Five of the 11 Taiwanese producers of bicycle tires and tubes benefited from this program. The weighted-average benefit for all producers was 0.27 percent *ad valorem.*

2. *Preferential Export Financing.* Several firms exporting bicycle tires and tubes received advantageous loan rates, in connection with an export loan program, for the purchase of raw materials. The preferential loan rate is 6.5 percent (per annum) for a term not to exceed six months. The regular commercial loan rate varies between 10.5 to 10.75 percent for loans for similar terms. No firm received a benefit greater than 0.03 percent *ad valorem* and the weighted-average benefit for all manufacturers/exporters was only 0.005 percent.

3. *Deferred Payment of Duties on Imported Machinery and Equipment.* The bicycle tire and tube industry qualified for installment payment of customs duties on imported machinery and equipment. Because this practice represents the interest-free use of money, it is conceptually a bounty or grant. Information received since the preliminary decision shows that only one firm received benefits under this program. However, that benefit amounted to only 0.002 percent *ad valorem.*

4. *Government Assumption of Quality Control Expenses.* Petitioner provided information which showed the possibility that the Taiwanese Government assumes all or a part of the cost of production quality control measures. If the Government actually assumes the costs of meeting quality control standards, that service could be viewed as conferring a bounty or grant. However, information submitted by the Government of Taiwan since the preliminary determination indicates that all quality control is performed and paid for by the individual manufacturers. Therefore, no bounty or grant has been bestowed with respect to quality control expenses.

The aggregate weighted-average benefit received by the industry during the period investigated was 0.28 percent *ad valorem,* with no single firm receiving more than 0.44 percent. The weighted-average benefit received by the industry is considered *de minimis.* The aggregate benefit of 0.44 percent received by the one firm, Nan Kang, is also regarded as *de minimis* in light of the fact that Nan Kang accounts for only six percent of Taiwan's total exports, and only 10 percent of the country's exports to the United States.

The preliminary determination indicated that several practices alleged either do not on their face constitute bounties or grants or were not utilized by, or not available to, manufacturers/exporters of bicycle tires and tubes. With respect to one of the programs determined not to have been utilized by the industry, namely, preferential railway freight rates, it was conceded no reduction in railway freight rates, was granted to bicycle tires and tubes for export. Subsequent information submitted by the Government showed that not only is no subsidy provided for the operation of railroads, but, more importantly, no firms used the railroads in transporting bicycle tires and tubes for export during the period investigated.

Further, the preliminary determination, cited above, inadvertently omitted item "8" under the category of programs determined conceptually to constitute bounties or grants but which were not utilized by or were not available to, manufacturers or exporters of bicycle tires and tubes. That item was "training programs." Information submitted by the Government indicated that none of the firms received any financial or other benefits from the Government in connection with training programs.

On the basis of information supplied subsequent to the preliminary determination, it is hereby determined that benefits have been paid by the Government of the Republic of China on the manufacture/exportation of bicycle tires and tubes, but that the benefits involve an aggregate amount considered to be *de minimis* in size, and that therefore no bounty or grant is being paid or bestowed, directly or indirectly, within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303) upon the manufacture, production or exportation of bicycle tires and tubes from the Republic of China.

This notice is published pursuant to section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303).

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order 190 (Revision 15), March 16, 1978, the provisions of Treasury Department Order No. 165, Revised November 2, 1954, and § 159.47 of the Customs Regulations (19 CFR 159.47), insofar as they pertain to the issuance of a final countervailing duty determination by the Commissioner of Customs, are hereby waived.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

DECEMBER 19, 1978.

[FR Doc. 79-630 Filed 1-5-79; 8:45 am]

[8320-01-M]

VETERANS ADMINISTRATION

CENTRAL OFFICE EDUCATION AND TRAINING REVIEW PANEL

Renewal

This is to give notice in accordance with the Federal Advisory Committee Act (Pub. L. 92-463) of October 6, 1972, that the Central Office Education and Training Review Panel has been renewed by the Administrator of Veterans Affairs for a two-year period beginning December 31, 1978 through December 31, 1980.

Dated: January 2, 1979.

By direction of the Administrator.

RUFUS H. WILSON,
Deputy Administrator.

[FR Doc. 79-628 Filed 1-5-79; 8:45 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

JANUARY 2, 1979.

These applications for long-and-short-haul or aggregate-of-intermediates relief have been filed with the I.C.C.

Protests are due at the I.C.C. on or before January 23, 1979.

LONG-AND-SHORT-HAUL

FSA No. 43649, Trans-Continental Freight Bureau, Agent's No. 531, rates on iron or steel articles, from Minnequa, Colo., to stations in Idaho, Oregon and Washington. Rates to be published in its Tariff 1, ICC 1967. Grounds for relief—motor carrier competition.

AGGREGATE-OF-INTERMEDIATES

FSA No. 43648, Trans-Continental Freight Bureau, Agent's No. 530, rates on iron or steel articles, from Minnequa, Colo., to stations in Idaho, Oregon and Washington. Rates to be published in its Tariff 1, ICC 1967. Grounds for relief—maintenance of depressed rates published to meet motor carrier competition without use of such rates as factors in constructing combination rates.

By the Commission.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-644 Filed 1-5-79; 8:45 am]

[7035-01-M]

FOURTH SECTION APPLICATION FOR RELIEF

JANUARY 3, 1979.

This application for long-and-short-haul relief has been filed with the I.C.C.

Protests are due at the I.C.C. within 15 days from the date of publication of this notice.

FSA No. 43651, Southwestern Freight Bureau, Agent's No. B-792, rates on coke, coke breeze, coke dust, and coke screenings from Painsville, Ohio to stations in Southwestern Territory, in supplement 49 to its Tariff 36-V, ICC 5169, effective January 29, 1979. Grounds for relief—market competition, short-line distance formula and grouping.

By the Commission.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-646 Filed 1-5-79; 8:45 am]

[7035-01-M]

[Rule 19, Ex Parte 241; 54th Rev. Exemption No. 90]

EXEMPTION UNDER PROVISION OF MANDATORY CAR SERVICE RULE

It appearing, That certain of the railroads named below own numerous 50-ft. plain boxcars; that under present conditions, there are substantial surpluses of these cars on their lines; that return of these cars to the owners would result in their being stored idle; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of these cars, resulting in unnecessary loss of utilization of such cars.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, 50-ft. plain boxcars described in the Official Railway Equipment Register, I.C.C.-R.E.R. No. 409, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM", and bearing reporting marks assigned to the railroads named below, shall be exempt from provisions of Car Service Rules 1, 2(a), and 2(b).

Abardeen and Rockfish Railroad Company
Reporting Marks: AR
*The Arcata and Mad River Railroad Company
Reporting Marks: AMR
Atlanta & Saint Andrews Bay Railway Company
Reporting Marks: ASAB
Camino, Placerville & Lake Tahoe Railroad Company
Reporting Marks: CPLT
City of Prineville
Reporting Marks: COP
The Clarendon and Pittsford Railroad Company
Reporting Marks: CLP
Duluth, Missabe and Iron Range Railroad Company
Reporting Marks: DMIR
East Camden & Highland Railroad Company
Reporting Marks: EACH
Genessee and Wyoming Railroad Company
Reporting Marks: GNWR
Greenville and Northern Railway Company
Reporting Marks: GRN
Lake Superior & Ishpeming Railroad Company
Reporting Marks: LSI
Lenawee County Railroad Company, Inc.
Reporting Marks: LCRC
Louisiana Midland Railway Company
Reporting Marks: LOAM
Louisville and Wadley Railway Company
Reporting Marks: LW
Louisville, New Albany & Corydon Railroad Company
Reporting Marks: LNAC
Manufacturers Railway Company
Reporting Marks: MRS
Middletown and New Jersey Railway Company, Inc.
Reporting Marks: MNJ
Missouri-Kansas-Texas Railroad Company
Reporting Marks: BKTY-MKT
New Orleans Public Belt Railroad
Reporting Marks: NOPB
Oregon & Northwestern Railroad Co.
Reporting Marks: ONW
Oregon, Pacific and Eastern Railway Company
Reporting Marks: OPE
Pearl River Valley Railroad Company
Reporting Marks: PRV
Peninsula Terminal Company
Reporting Marks: PT
Providence And Worcester Company
Reporting Marks: PW
Raritan River Railroad Company
Reporting Marks: RR
Sacramento Northern Railway
Reporting Marks: SN
St. Lawrence Railroad
Reporting Marks: NSL
Sierra Railroad Company
Reporting Marks: SERA
Terminal Railway, Alabama State Docks
Reporting Marks: TASD
The Texas Mexican Railway Company
Reporting Marks: TM
Tidewater Southern Railway Company
Reporting Marks: TS
Toledo, Peoria & Western Railroad Company
Reporting Marks: TPW
Vermont Railway, Inc.
Reporting Marks: VTR
WCTU Railway Company
Reporting Marks: WCTR
Youngstown & Southern Railway Company
Reporting Marks: YS
Yreka Western Railroad Company
Reporting Marks: YW

*Addition.

Effective December 15, 1978, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., December 13, 1978.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc. 79-647 Filed 1-5-79; 8:45 am]

[7035-01-M]

[Notice No. 240]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

DECEMBER 28, 1978.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

NOTE.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

MOTOR CARRIERS OF PROPERTY

MC 531 (Sub-367TA), filed November 20, 1978. Applicant: YOUNGER

BROTHERS, INC., 4904 Griggs Road, Houston, TX 77021. Representative: Wray E. Hughes (same as above). *Alcoholic Liquors*, in bulk, in tank vehicles, from the U.S. Mexican Border at Laredo, TX to Detroit, MI and Scobeyville, NJ, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Hiram Walker & Sons, P.O. Box 479, Peoria, IL 61651. SEND PROTESTS TO: John F. Mensing, ICC, 8610 Federal Building, 515 Rusk Avenue, Houston, TX 77002.

MC 1977 (Sub-31TA), filed November 17, 1978. Applicant: NORTHWEST TRANSPORT SERVICE, INC., 5231 Monroe Street, Denver, CO 80216. Representative: Leslie R. Kehl, 1660 Lincoln Street, Suite 1600, Denver, CO 80264. *General commodities* (except household goods, commodities in bulk, and commodities, which because of size or weight, require special handling or the use of special equipment), (1) Between Salt Lake City, UT, and Idaho Falls, ID, serving the intermediate points of Blackfoot, ID, Pocatello, ID, and all intermediate points between Salt Lake City and Brigham City, UT, including Brigham City, from Salt Lake City over Highway I-15 to Idaho Falls and return, (2) between Salt Lake City, UT, and Boise, ID, serving all intermediate points between Salt Lake City and Brigham City, including Brigham City, from Salt Lake City over Highway I-15 to Junction Highway I-80 north, then over Highway I-80 north to Boise and return, (3) between Boise, ID, and Pocatello, ID, serving no intermediate points and serving Pocatello for joinder only, from Pocatello over Highway I-15 west to Junction I-80 north, then over I-80 north to Boise and return, (4) serving points within a 50 mile radius of Salt Lake City, UT, (excluding points on Highway I-15 between Salt Lake City and Brigham City, UT, including Brigham City) as off-route points in connection with the carrier's authorized routes to and from Salt Lake City. Tacking and interlining sought at Boise, Pocatello and Idaho Falls, ID, and Salt Lake City, UT, for 180 days. SEND PROTESTS TO: Roger Buchanan, I.C.C., 492 U.S. Customs House, Denver, CO 80202.

MC 25798 (Sub-343TA), filed November 20, 1978. Applicant: CLAY HYDER TRUCKING LINES, INC., Post Office Box 1186, Auburndale, FL 33823. Representative: Tony G. Russell (same as above). *Meat, meat products, meat by-products and articles distributed by meat packinghouses as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766* (except hides and commodities in bulk), from the facilities of John Morrell & Co., at Montgomery, AL to points in the United States in and east of TX, OK, KS, NE, SD, and ND (except AL), for 180 days. There is no environmental impact involved in this application. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): John Morrell & Co., 208 S. LaSalle Street, Chicago, IL 60604. SEND PROTESTS TO: Donna M. Jones, ICC, Monterey Building, Suite 101, 8410 NW. 53rd Terrace, Miami, FL 33166.

MC 59367 (Sub-132TA), filed November 20, 1978. Applicant: DECKER TRUCK LINE, INC., P.O. Box 915, Fort Dodge, IA 50501. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. *Meat, meat products, meat by-products and articles distributed by meat packinghouses as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766* (except hides and commodities in bulk) from the facilities utilized by John Morrell & Co., at Estherville and Sioux City, IA and Worthington, MN, to points in CA, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): John Morrell & Co., 208 S. LaSalle Street, Chicago, IL 60604. SEND PROTESTS TO: Herbert W. Allen, ICC, 518 Federal Building, Des Moines, IA 50309.

MC 61825 (Sub-86TA), filed October 24, 1978, and published in the FEDERAL REGISTER issue of December 1, 1978, and republished as corrected this issue. Applicant: ROY STONE TRANSFER CORP., V. C. Drive, P.O. Box 385, Collinsville, VA 24078. Representative: John D. Stone (same as above). *Glass*, from Ottawa, IL to points in the states of AL, CT, DE, DC, FL, GA, MD, MA, NC, PA, RI, SC, VA, WV, NJ, NY and OH, for 180 days. SUPPORTING SHIPPER(S): Libbey-Owens-Ford Company, 811 Madison Avenue, Toledo, OH 43635. SEND PROTESTS TO: Paul D. Collins, ICC, Room 10-502 Federal Building, 400 N. 8th Street, Richmond, VA 23240. The purpose of this republication is to add the District of Columbia (DC) as a destination point.

MC 63417 (Sub-181TA), filed November 17, 1978. Applicant: BLUE RIDGE TRANSFER CO., INC., P.O. Box 13447, Roanoke, VA 24034. Representative: William E. Bain (same as above). *Grain handling equipment* (except commodities the transportation of which because of size or weight requires special equipment), from Salina, KS to points in the United States in and east of WI, IL, MO, OK and TX, for 180 days. SUPPORTING SHIPPER(S): Wyatt Mfg., Co., Inc., P.O. Box 1227, Salina, KS 67401. SEND PROTESTS TO: Paul D. Collins, Room 10-502 Federal Building, 400 North 8th Street, Richmond, VA 23240.

MC 64808 (Sub-37TA), filed November 17, 1978. Applicant: W. S. THOMAS TRANSFER, INC., 1854 Morgantown Avenue, Fairmont, WV 26554. Representative: Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, PA 15219. *Malt beverages*, from the facilities of G. Heileman Brewing Company, Inc., at Newport, KY and to points in MD, PA and WV, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): G. Heileman Brewing Company, Inc., 925 S. Third Street, LaCrosse, WI 54601. SEND PROTESTS TO: J. A. Niggemyer, ICC, 416 Old Post Office Building, Wheeling, WV 26003.

MC 72423 (Sub-6TA), filed November 24, 1978. Applicant: PLATTE VALLEY FREIGHTWAYS, INC., 111 East Chestnut St., Sterling, CO 80751. Representative: Raymond M. Kelley, 450 Capitol Life Center, Denver, CO 80203. *General commodities (except Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment)*, between Denver, CO and North Platte, NE, from Denver, CO over U.S. Hwy 6 and Interstate Hwy 76 to Sterling, CO and over U.S. Hwy 138, U.S. Hwy 30, Interstate Hwy. 76 and Interstate Hwy 80 from Sterling, CO to North Platte, NE and return over the same route serving all intermediate points from and including Fort Morgan, CO to and including North Platte, NE, for 180 days. SEND PROTESTS TO: Roger L. Buchanan, I.C.C., 492 Customs House, 721 19th St., Denver, CO 80202.

MC 78728 (Sub-3TA), filed November 17, 1978. Applicant: EVERETT EXPRESS, INC., P.O. Box 428, Tarboro, NC 27886. Representative: James D. Dorn, 3201 S. Military Highway, P.O. Box 6274, Chesapeake, VA 23323. *Building materials*, between Morehead City, NC and all points and places located in the state of VA, for 180 days. SUPPORTING SHIPPER(S): Trumbull Asphalt, P.O. Box 37, Morehead City, NC 28557. SEND PROTESTS TO: Archie W. Andrews, I.C.C., P.O. Box 26896, Raleigh, NC 27611.

MC 95920 (Sub-49TA), filed November 17, 1978. Applicant: SANTRY TRUCKING CO., 11552 S.W., Pacific Highway, Portland, OR 97211. Representative: George R. LaBissoniere, 1100 Norton Building, Seattle, WA 98104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic moulding compound and transformers*, from Waukesha, WI to points in CA, under a continuing contract or contracts with RTE Corporation, for 180 days. SUPPORTING SHIPPER(S): RTE Corporation, 1900 East North Street, Waukesha, WI 53186. SEND PROTESTS TO: A. E. Odoms, ICC, 114 Pioneer Courthouse, 555 S. W. Yamhill Street, Portland, OR 97204.

MC 101563 (Sub-1TA), filed November 28, 1978. Applicant: DOM, FRANK, AND GREGORY CATRAMBONE, d.b.a. C & S CARTAGE, 7611 Lincoln, Summit, IL 60501. Representative: Bernard J. Kompare, 10 South LaSalle Street, Suite No. 1600, Chicago, IL 60603. *Acoustical suspension systems, metal studs, metal floor and ceiling track, and steel products*, from the facilities of Chicago Metallic Corporation at Chicago, IL and Chicago, IL and Chicago Finished Metals at Bridgeview, IL, to points in WI. RESTRICTION: Restricted to transportation of traffic originating at the named origins, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Chicago Metallic Corporation, 4849 South Austin Avenue, Chicago, IL 60638. SEND PROTESTS TO: Lois Stahl, Trans. Asst., I.C.C., 219 South Dearborn, Rm. 1386, Chicago, IL 60604.

MC 104210 (Sub-71TA), filed November 20, 1978. Applicant: THE TRANSPORT CO., INC., 5505 Agnes (P.O. Box 4726), Corpus Christi, TX 78408. Representative: Mike Cotten, P.O. Box 1148, Austin, TX 78767. *Roofing, pitch*, in bulk, in tank vehicles, from the plantsite of Koppers Company, Inc., at the Houston, TX I.C.C. Commercial Zone to LaFayette and Shreveport, LA, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Koppers Company, Inc., 850 Koppers Building, Pittsburgh, PA 15219. SEND PROTESTS TO: Richard H. Dawkins, ICC, Room B-400, Federal Building, San Antonio, TX 78206.

MC 106674 (Sub-353TA), filed November 17, 1978. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, U.S. Hwy. 24 West, Remington, IN 47977. Representative: Jerry L. Johnson (same as above). *Glass containers*, from Thatcher Glass Manufacturing Company at Lawrenceburg, IN to Anheuser Busch at St. Louis, MO, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Thatcher Glass Manufacturing Co., Division of Dart Industries, Inc., P.O. Box 265, Elmira, NY 14902. SEND PROTESTS TO: J. H. Gray, ICC, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

MC 111045 (Sub-158TA), filed November 20, 1978. Applicant: REDWING CARRIERS, INC., 8515 Palm River Road (P.O. Box 426), Tampa, FL 33601. Representative: L. W. Fincher (same as above). *Salt and salt products*, from the facilities of Cargill, Inc., at or near Florence, AL, to points in AL, GA, MS, and TN, for 180 days. There is no environmental impact involved in this application. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Cargill, Inc., Salt Division Department No. 21, P.O. Box 9300, Minneapolis, MN 55440. SEND PROTESTS TO: Donna M. Jones, ICC, Monterey Building, Suite 101, 8410 N.W. 53rd Terrace, Miami, FL 33166.

MC 111427 (Sub-7TA), filed November 17, 1978. Applicant: ROBERT CURTIS, d.b.a. BOB CURTIS TRUCKING, INC., 930 West 1st, Street, Winner, SD 57580. Representative: Don A. Bierle, P.O. Box 38, 322 Walnut Street, Yankton, SD 57078. *Dry fertilizer*, from St. Paul, MN to Winner, SD, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Farmers CO-OP Association, Fertilizer Department, Box 529, Winner, SD 57580. SEND PROTESTS TO: J. L. Hammond, ICC, Room 455, Federal Building, Pierre, SD 57501.

MC 114604 (Sub-61TA), filed November 29, 1978. Applicant: CAUDELL TRANSPORT, INC., P.O. Drawer I, Forest Park, GA 30050. Representative: Frank D. Hall, Suite 713, 3384 Peachtree Road, Northeast, Atlanta, GA 30326. *Food and foodstuffs, and materials, equipment and supplies used, sold or dealt in by food processors (except commodities in bulk), when moving in mechanically refrigerated equipment*, Between the facilities of Morton Frozen Foods, Division of ITT Contintental Baking Co., Inc., at or near Crozet, VA and Russellville and Searcy, AR, on the one hand, and, on the other, points in VA, WV, TN, NC, SC, AL, FL, GA, MS and LA, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Morton Frozen Foods Division, ITT Continental Baking Co., Inc., P.O. Box 7547, One Morton Drive, Charlottesville, VA. SEND PROTESTS TO: Sara K. Davis, I.C.C., 1252 W. Peachtree Street Northwest, Room 300, Atlanta, GA 30309.

MC 115495 (Sub-38TA), filed October 13, 1978, and published in the FEDERAL REGISTER issue of November 22, 1978, and republished as corrected this issue. Applicant: UNITED PARCEL SERVICE, INC., 300 North 2nd Street, St. Charles, IL 60174. Representative: Everett Hutchinson, 1150 Connecticut Avenue, Northwest, Suite 400, Washington, DC 20036. Irving R. Segal, 1719 Packard Building, Philadelphia, PA 19102. *General commodities* (except the unusual exceptions), between points in AL, AZ, AR, CA, CO, FL, GA, ID, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, MT, NE, NV, NM, NC, ND, OH, OK, OR, SC, SD, TN, TX, UT, WA, WI and WY and points in PA, WV and VA, within ten miles of the PA-OH, the WV-OH, the WV-KY, the VA-KY, the VA-TN and the VA-NC state lines, for 180 days. (Application to permit applicant to continue tacking between applicant's MC-115495, Subs 4, 14, 16, 20, and 22 certificates). RESTRICTIONS: (1) No service shall be rendered in the transportation of any package or article weighing more than 50 pounds or exceeding 108 inches in length and girth combined and each package or article shall be considered as a separate and distinct shipment; and (2) No service shall be provided in the transportation of packages or articles weighing in the aggregate more than 100 pounds from one consignor at one location to one consignee at one location on any one day. Applicant presently holds emergency temporary authority identical to the authority herein requested. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): There are approximately (120) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: Lois M. Stahl, ICC, 219 S. Dearborn Street, Room 1386, Chicago, IL 60604. The purpose of this republication is to show the restrictions as previously omitted.

MC 115730 (Sub-59TA), filed November 13, 1978. Applicant: THE MICKOW CORP., 531 Southwest Sixth Street, P.O. Box 1774, Des Moines, IA 50306. Representative: Cecil L. Goettsch, 1100 Des Moines Building, Des Moines, IA 50309. *Iron and steel articles* from Alton and Granite City, IL to the plantsite of John Deere Des Moines Works in Ankeny, IA, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): John Deere Des Moines Works, P.O. Box 1595, Des Moines, IA 50306. SEND PROTESTS TO: Herbert W. Allen, I.C.C., 518 Federal Building, Des Moines, IA 50309.

MC 115730 (Sub-60TA), filed November 20, 1978. Applicant: THE MICKOW CORP., 531 Southwest Sixth Street, Des Moines, IA 50306. Representative: Cecil L. Goettsch, 1100 Des Moines Building, Des Moines, IA 50309. (1) *Fabricated metal products and iron and steel articles*, between Shenandoah, IA; Corsicana, TX; Dublin, GA; Wooster, OH; and Chicago, IL; and (2) *Fabricated metal products*, from points named in Part (1) above, to points in the United States in and east of MT, WY, CO, and MN, for 180 days. RESTRIC-

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TION: Restricted to traffic originating at or destined to the plantsites of Farmaster Division of Wickes Corp., and further restricted against the transportation of shipments originating at Shenandoah, IA and destined to Chicago, IL. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Farmaster Division of Wickes Corporation, P.O. Box 220, Shenandoah, IA 51601. SEND PROTESTS TO: Herbert W. Allen, ICC, 518 Federal Building, Des Moines, IA 50309.

MC 116073 (Sub-371TA), filed November 20, 1978. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., 1825 Main Avenue, P.O. Box 919, Moorhead, MN 56560. Representative: John C. Barrett (same as above). *Travel trailers and 5th wheel travel trailers*, from the plantsite of Skyline Corporation at or near Dewey, OK, to points and places in the states of AR, CO, IA, KS, MO, OK, NE and SD, for 180 days. SUPPORTING SHIPPER(S): Skyline Corporation, 2520 By-Pass Road, P.O. Box 743, Elkhart, IN 46514. SEND PROTESTS TO: Ronald R. Mau, ICC, Room 268 Federal Building and U.S. Post Office, 657 2nd Avenue North, Fargo, ND 58102.

MC 117815 (Sub-300TA), filed November 17, 1978. Applicant: PULLEY FREIGHT LINES, INC., 405 Southeast 20th Street, Des Moines, IA 50317. Representative: Michael L. Carter (same as above). *Foodstuffs* (except commodities in bulk), from the Kansas City, MO commercial zone to points in IL, IN, IA, MI, MN, NE, OH and WI, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Commercial Distribution Center, Inc., 165000 E. Truman Road, P.O. Box 477, Independence, MO 64051. Presto Foods, Inc., 1602 Forest, Kansas City, MO 64108. Southeastern Public Service Company, P.O. Box 356, Bonner Springs, KS 66012. Inland Storage Distribution Center, P.O. Box 2249, Kansas City, MO 66110. SEND PROTESTS TO: Herbert W. Allen, ICC, 518 Federal Building, Des Moines, IA 50309.

MC 118959 (Sub-185TA), filed November 18, 1978. Applicant: JERRY LIPPS, INC., 130 South Frederick Street, Cape Girardeau, MO 63701. Representative: Edward G. Bazelon, 39 South LaSalle Street, Chicago, IL 60603. *Glass containers and parts and accessories thereof*, from Gas City and Indianapolis, IN to Paducah, KY, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Glass Containers Corporation, 535 N. Gilbert, Fullerton, CA 92634. SEND PROTESTS TO: P. E. Binder, ICC, Room 1465, 210 N. 12th Street, St. Louis, MO 63101.

MC 119226 (Sub-109TA), filed November 22, 1978. Applicant: LIQUID TRANSPORT CORP., 3901 Madison Avenue, Indianapolis, IN 46227. Representative: Robert W. Loser, 1009 Chamber of Commerce Bldg., Indianapolis, IN 46204. *Sorbitol*, in bulk, in tank vehicles, from the facilities of Pfizer, Inc., Terre Haute, IN, to Chicago, Naperville, and Wheeling, IL; Allegan and Midland, MI; Mt. Pleasant, IA; Lincoln, NE; Columbus, OH; Memphis, TN; and Racine, WI, for 180 days. SUPPORTING SHIPPER(S): Pfizer, Inc., 235 East 42nd Street, New York, NY 10017. Send protests to Ms. Beverly Williams, I.C.C., Federal Bldg. & U.S. Courthouse, 46 East Ohio St., Rm. 429, Indianapolis, IN 46204.

MC 120427 (Sub-24TA), filed November 17, 1978. Applicant: WILLIAMS TRANSFER, INC., P.O. Box 488, Highway 30, Grand Island, NE 68801. Representative: John K. Walker (same as above). *Iron and steel articles*, from Chicago, IL and its commercial zone to Kearney, Hastings, Loup City, Henderson, York, Lincoln, Columbus and Norfolk, NE, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Western American Steel, Inc., 3209 Higgins Road, Elk Grove Village, IL 60007. SEND PROTESTS TO: Max H. Johnston, I.C.C., 285 Federal Building and Courthouse, 100 Centennial Mall North, Lincoln, NE 68508.

MC 123061 (Sub-107TA), filed November 20, 1978. Applicant: LEATHAM BROTHERS, INC., P.O. Box 16026, Salt Lake City, UT 84116. Representative: Harry D. Pugsley, 310 South Main, Salt Lake City, UT 84101. *Feed ingredients*, from Los Angeles and Fresno Counties, CA to Caldwell, Nampa, Boise, Buhl, Twin Falls, and Burley, ID, and Weber and Salt Lake Counties, UT, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): R. S. Wilson Company, P.O. Box 15423, 714 W. Olympic Boulevard, Los Angeles, CA 90015. SEND PROTESTS TO: L. D. Helfer, I.C.C., 5301 Federal Building, Salt Lake City, UT 84138.

MC 123255 (Sub-183TA), filed November 21, 1978. Applicant: B & L MOTOR FREIGHT, INC., 1984 Coffman Road, Newark, Ohio 43055. Representative: C. F. Schnee, Jr., 1984 Coffman Road, Newark, Ohio 43055. *Bakery goods* from the facilities of Interbake Foods, Inc., at or near Richmond, VA, to points in IL, IN, KY, MI, OH, WI, and those in PA on and west of U.S. Highway 15, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Interbake Foods, Inc., Vice President of Distribution, P.O. Box 27487, Richmond, VA 23261. SEND PROTESTS TO: Frank L. Calvary, I.C.C., 220 Federal Bldg. and U.S. Courthouse, 85 Marconi Blvd., Columbus, OH 43215.

MC 123255 (Sub-184TA), filed November 22, 1978. Applicant: B & L MOTOR FREIGHT, INC., 1984 Coffman Road, Newark, Ohio 43055. Representative: C. F. Schnee, Jr., 1984 Coffman Road, Newark, Ohio 43055. *Glass, flat and glass glazing units*, from the facilities of Guardian Industries Corporation at or near Carleton, Michigan, to points in AL, AR, CT, DE, FL, GA, IA, KY, LA, MA, MN, MS, MO, NJ, NY, NC, RI, SC, TN, VA, WV and WI, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Guardian Industries Corporation, 14600 Romine Road, Carleton, MI 48117. SEND PROTESTS TO: Frank L. Calvary, I.C.C., 220 Federal Bldg. & U.S. Courthouse, 85 Marconi Blvd., Columbus, OH 43215.

MC 123294 (Sub-53TA), filed November 29, 1978. Applicant: WARSAW TRUCKING CO., INC., 1102 West Winona, Warsaw, IN 46580. Representative: H. E. Miller, Jr., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. *Paper and paper products* from the facilities of Howard Paper Mills, Inc., at Urbana, OH, to points in WI, IA, and MO (except St. Louis, MO), for 180 days. Applicant has also filed an underlying ETA seeking operating authority up to 90 days. Supporting Shipper: Howard Paper Mills, Inc., P.O. Box 151, Urbana, OH 43078. Send Protests To: Lois Stahl, Transportation Asst., I.C.C., Everett McKinley Dirksen Bldg., Room 1386, 219 S. Dearborn St., Chicago, IL 60604.

MC 123294 (Sub-54TA), filed November 29, 1978. Applicant: WARSAW TRUCKING CO., 1102 West Winona, Warsaw, IN 46580. Representative: H. E. Miller, Jr., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. *Sorbitol*, in bulk, in tank vehicles, from the facilities of Pfizer, Inc., Terre Haute, IN, to Chicago, Naperville, and Wheeling, IL; Allegan and Midland, MI; Mt. Pleasant, IA; Lincoln, NE; Columbus, OH; Memphis, TN; and Racine, WI, for 180 days. SUPPORTING SHIPPER(S): Pfizer, Inc., 235 East 42nd Street, New York, NY 10017. Send protests to Ms. Beverly Williams, I.C.C., Federal Bldg. & U.S. Courthouse, 46 East Ohio St., Rm. 429, Indianapolis, IN 46204.

MC 120427 (Sub-24TA), filed November 17, 1978. Applicant: WILLIAMS TRANSFER, INC., P.O. Box 488, Highway 30, Grand Island, NE 68801. Representative: John K. Walker (same as above). *Iron and steel articles*, from Chicago, IL and its commercial zone to Kearney, Hastings, Loup City, Henderson, York, Lincoln, Columbus and Norfolk, NE, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Western American Steel, Inc., 3209 Higgins Road, Elk Grove Village, IL 60007. SEND PROTESTS TO: Max H. Johnston, I.C.C., 285 Federal Building and Courthouse, 100 Centennial Mall North, Lincoln, NE 68508.

MC 123061 (Sub-107TA), filed November 20, 1978. Applicant: LEATHAM BROTHERS, INC., P.O. Box 16026, Salt Lake City, UT 84116. Representative: Harry D. Pugsley, 310 South Main, Salt Lake City, UT 84101. *Feed ingredients*, from Los Angeles and Fresno Counties, CA to Caldwell, Nampa, Boise, Buhl, Twin Falls, and Burley, ID, and Weber and Salt Lake Counties, UT, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): R. S. Wilson Company, P.O. Box 15423, 714 W. Olympic Boulevard, Los Angeles, CA 90015. SEND PROTESTS TO: L. D. Helfer, I.C.C., 5301 Federal Building, Salt Lake City, UT 84138.

MC 123255 (Sub-183TA), filed November 21, 1978. Applicant: B & L MOTOR FREIGHT, INC., 1984 Coffman Road, Newark, Ohio 43055. Representative: C. F. Schnee, Jr., 1984 Coffman Road, Newark, Ohio 43055. *Bakery goods* from the facilities of Interbake Foods, Inc., at or near Richmond, VA, to points in IL, IN, KY, MI, OH, WI, and those in PA on and west of U.S. Highway 15, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Interbake Foods, Inc., Vice President of Distribution, P.O. Box 27487, Richmond, VA 23261. SEND PROTESTS TO: Frank L. Calvary, I.C.C., 220 Federal Bldg. and U.S. Courthouse, 85 Marconi Blvd., Columbus, OH 43215.

MC 123255 (Sub-184TA), filed November 22, 1978. Applicant: B & L MOTOR FREIGHT, INC., 1984 Coffman Road, Newark, Ohio 43055. Representative: C. F. Schnee, Jr., 1984 Coffman Road, Newark, Ohio 43055. *Glass, flat and glass glazing units*, from the facilities of Guardian Industries Corporation at or near Carleton, Michigan, to points in AL, AR, CT, DE, FL, GA, IA, KY, LA, MA, MN, MS, MO, NJ, NY, NC, RI, SC, TN, VA, WV and WI, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Guardian Industries Corporation, 14600 Romine Road, Carleton, MI 48117. SEND PROTESTS TO: Frank L. Calvary, I.C.C., 220 Federal Bldg. & U.S. Courthouse, 85 Marconi Blvd., Columbus, OH 43215.

MC 123294 (Sub-53TA), filed November 29, 1978. Applicant: WARSAW TRUCKING CO., INC., 1102 West Winona, Warsaw, IN 46580. Representative: H. E. Miller, Jr., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. *Paper and paper products* from the facilities of Howard Paper Mills, Inc., at Urbana, OH, to points in WI, IA, and MO (except St. Louis, MO), for 180 days. Applicant has also filed an underlying ETA seeking operating authority up to 90 days. Supporting Shipper: Howard Paper Mills, Inc., P.O. Box 151, Urbana, OH 43078. Send Protests To: Lois Stahl, Transportation Asst., I.C.C., Everett McKinley Dirksen Bldg., Room 1386, 219 S. Dearborn St., Chicago, IL 60604.

MC 123294 (Sub-54TA), filed November 29, 1978. Applicant: WARSAW TRUCKING CO., 1102 West Winona, Warsaw, IN 46580. Representative: H. E. Miller, Jr., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. *Paper and paper products* from Cincinnati, Dayton and Middletown, OH, to Milwaukee, Racine and Beloit, WI, St. Louis, MO, points in that part of MI on and south of Michigan Hwy 21, that part of IL on and south of U.S. Hwy 40, and that part of IN on and north of U.S. Hwy 40, for 180 days. Applicant has also filed an underlying ETA seeking operating authority up to 90 days. Supporting shippers: Middletown Paperboard Company, 427 Vandeveer St., Middletown, OH 45042; Crystal Tissue, S. Verity Parkway, Middletown, OH 45042; Miami Paper Corp., P.O. Box 66, West Carrollton, OH 45449; Harding Jones Paper Co., P.O. Box 40, Middletown, OH 45042; Sorg Paper Company, Middletown, OH 45042; Diamond International, 407 Charles St., Middletown, OH 45042; Diamond International Corp., Fibre Products Div., 806 Central Ave., Middletown, OH 45042; West Carrollton Parchment Co., West Carrollton, OH; The C. W. Zumbiel Co., 2339 Harris Ave., Cincinnati, OH 45212; Loroco Industries, Inc., 5000 Creek Rd., Cincinnati, OH 45212; Fox Paper, Inc., P.O. Box 15099; Cincinnati, OH, 45215; The Nivisen-Weiskopf Co., 8740 Reading Rd., Cincinnati, OH 45215; Consolidated Fibers, Inc., 1781 Weber Rd., Cincinnati, OH 45215; Equitable Bag, 7600 Empire Dr., Florence, KY 41042; Container Corp. of America, 9960 Alliance Rd., Blue Ash, OH 45242; Interstate Folding Box Co., 300 S. Verity Parkway, Middletown, OH 45042. Send protests to: Lois Stahl, Transportation Asst., I.C.C., 219 S. Dearborn St., Everett McKinley Dirksen Bldg., Rm. 1386, Chicago, IL 60604.

MC 123294 (Sub-55TA), filed November 29, 1978. Applicant: WARSAW TRUCKING CO., INC., 1102 West Winona, Warsaw, IN 46580. Representative: H. E. Miller, Jr., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. *Starch* from Chicago and Decatur, IL, Roby, IN, and Oak Creek, WI, Troy and Urbana, OH, for 180 days. Applicant has also filed an underlying ETA seeking operating authority up to 90 days. Supporting shipper: Kimberly-Clark Corporation, 1414 W. Larsen Rd., Neenah, WI 45956. Send protests to: Lois Stahl, Transportation Asst., I.C.C., Everett McKinley Dirksen Bldg., Rm. 1386, 219 S. Dearborn St., Chicago, IL 60604.

MC 123294 (Sub-56TA), filed November 29, 1978. Applicant: WARSAW TRUCKING CO., INC., 1102 West Winona, Warsaw, IN 46580. Representative: H. E. Miller, Jr., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. *Starch* from Chicago, IL, to Troy and Urbana, OH, for 180 days. Applicant has also filed an underlying ETA seeking operating authority up to 90 days. Supporting shipper: Howard Paper Mills, Inc., P.O. Box 151, Urbana, OH 43078. Send protests to: Lois Stahl, Transportation Asst., I.C.C., Everett McKinley Dirksen Bldg., Rm. 1386, 219 S. Dearborn St., Chicago, IL 60604.

MC 123294 (Sub-57TA), filed November 29, 1978. Applicant: WARSAW TRUCKING CO., INC., 1102 West Winona, Warsaw, IN 46580. Representative: H. E. Miller, Jr., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. *Paper and paper products* from the facilities of Kimberly-Clark Corporation at Troy, OH, to points in WI, IA, and MO, for 180 days. Applicant has also filed an underlying ETA seeking operating authority for 90 days. Supporting shipper: Kimberly-Clark Corporation, 1414 W. Larsen Rd., Neenah, WI 54956. Send protests to: Lois Stahl, Transportation Asst., I.C.C., Everett McKinley Dirksen Bldg., Rm. 1386, 29 S. Dearborn St., Chicago, IL 60604.

MC 123294 (Sub-58TA), filed November 29, 1978. Applicant: WARSAW TRUCKING CO., INC., 1102 West Winona, Warsaw, IN 46580. Representative: H. E. Miller, Jr., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. *Starch* from Chicago, IL, and Decatur, IL, and Roby, IN, to the facilities of St. Regis Paper Company at Troy, OH, for 180 days. Applicant has also filed an underlying ETA seeking operating authority up to 90 days. Supporting shipper: St. Regis Paper Company, 421 S. Union St., Troy, OH 45373. Send protests to: Lois Stahl, Transportation Asst., I.C.C., Everett McKinley Dirksen Bldg., Room 1386, 219 S. Dearborn St., Chicago, IL 60604.

MC 123294 (Sub-59TA), filed November 30, 1978. Applicant: WARSAW TRUCKING CO., INC., 1102 West Winona, Warsaw, IN 46580. Representative: H. E. Miller, Jr., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. *Paper and paper products* from the facilities of St. Regis Paper Company at Troy, OH, to points in WI, IA, and MO (except St. Louis, MO), for 180 days. Applicant has also filed an underlying ETA seeking operating authority up to 90 days. Supporting shipper: St. Regis Paper Company, 421 S. Union St., Troy, OH 45373. Send protests to: Lois Stahl, Transportation Asst., I.C.C., Everett McKinley Dirksen Bldg., Room 1386, 219 S. Dearborn St., Chicago, IL 60604.

MC 123407 (Sub-512TA), filed November 29, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Representative: H. E. Miller, Jr. (same address as applicant). *Laminated wood products and veneer* from Marion, WI, to PA, MD, MO, and TN, for 180 days. Applicant has also filed an underlying ETA seeking operating authority up to 90 days. Supporting shipper: Marion Plywood Corporation, 222 Parkview Avenue, Marion, WI 54950. Send protests to: Lois Stahl, Transportation Asst., I.C.C., Everett McKinley Dirksen Bldg., Room 1386, 219 S. Dearborn St., Chicago, IL 60604.

MC 123987 (Sub-10TA), filed November 17, 1978. Applicant: JEWETT SCOTT TRUCK LINE, INC., Box 267, Mangum, OK 73554. Representative: Jewett Scott, Jr., (same address as above). *Ground clay in bags*, from the plantsite of American Colloid Company, Lovell, WY to all points in OK, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Atlas Mud Co., Box 12409, 2832 Pennbroke Terrace, Oklahoma City, OK 73157. SEND PROTESTS TO: Haskell E. Ballard, ICC, Box F-13206 Federal Building, Amarillo, TX 79101.

MC 124896 (Sub-77TA), filed November 17, 1978. Applicant: WILLIAMSON TRUCK LINES INC., Thorne & Ralson Streets, Wilson, NC 27893. Representative: Larry Knox, 600 Hubbell Building, Des Moines, IA 50309. *Fresh and frozen meats* (except in bulk) for Spencer Foods, Inc., from the facilites at or near Schuyler, NE to points in FL, GA, NC and SC, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Spencer Foods, Inc., P.O Box 544, Schuyler, NE 68661. SEND PROTESTS TO: Archie W. Andrews, ICC, P.O Box 26896, Raleigh, NC 27611.

MC 125293 (Sub-12TA), filed November 13, 1978. Applicant: INDUSTRIAL CONTRACT CARRIERS, INC., 14750 S.W. 72nd Avenue, Tigard, OR 97223. Representative: Philip G. Skofstad, P.O. Box 594, Gresham, OR 97030. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as dealt in by a chemical company*, including but not limited to chemicals, alcohols, acids, cleaners, solvents, thinners, plasticizers, adhesives, anodes, compounds, coatings, silicons, soaps, clays, oils (other than petroleum), blackings, wax, deoderizers, dextrose, sulphur, extracts, buffs, filters, heaters, pumps, hangers, plastic bags, gloves, laundry and dry cleaning packaging supplies, except commodities in bulk in tank vehicles, (1 Between points in CA, ID, OR, VT, WA, and WY, 2) Between points in WY, on the one hand, and on the other, Wichita, KS, and 3) From Wichita, KS, to points in ID, OR, and VT, under a continuing contract or contracts with Great Western Chemical Co., 180 days. SUPPORTING SHIPPER(S): Great Western Chemical Co., 808 S.W. Fifteenth Avenue, Portland, OR 97205. SEND PROTESTS TO: A. E. Odoms, I.C.C. 114 Pioneer Courthouse, 555 S.W. Yamhill Street, Portland, OR 97204.

MC 125293 (Sub-13TA), filed November 13, 1978. Applicant: INDUSTRIAL CONTRACT CARRIERS, INC., 14750 S.W. 72nd Avenue, Tigard, OR 97223. Representative: Philip G. Skofstad, P.O. Box 594, Gresham, OR 97030. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are dealt in by a chemical company, including but not limited to chemicals, alcohols, acids, cleaners, solvents, thinners, plasticizers, adhesives, anodes, compounds, coatings, silicons, soaps, clays, oils* (other than petroleum), blackings, wax, deoderizers, dextrose, sulphur, extracts, buffs, filters, heaters, pumps, hangers,

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plastic bags, gloves, laundry and dry cleaning packaging supplies, except commodities in bulk in tank vehicles, (1 Between points in CA, ID, OR, UT, WA, and WY, 2) Between points in WY, on the one hand, and on the other, Wichita, KS, and 3) From Wichita, KS to points in ID, OR, and UT, under a continuing contract or contracts with Great Western Chemical Co., for 180 days. SUPPORTING SHIPPER(S): Great Western Chemical Co., 808 S.W. Fifteenth Avenue, Portland, OR 97205. SEND PROTESTS TO: A. E. Odoms, I.C.C., 114 Pioneer Courthouse, 555 S.W. Yamhill Street, Portland, OR 97204.

MC 127840 (Sub-83TA), filed November 20, 1978. Applicant: MONTGOMERY TANK LINES, INC., 17550 Fritz Drive, Lansing, IL 60438. Representative: William H. Towle, 180 North LaSalle Street, Chicago, IL 60601. *Animal fats, animal oils and vegetable oils, including products and blends of said commodities* in bulk, in tank vehicles, from the facilities of Swift and Company at Bradley, IL to points in WI, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Claims & Services, Swift & Company, 115 W. Jackson Boulevard, Chicago, IL 60604. SEND PROTESTS TO: Lois M. Stahl, ICC, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 133666 (Sub-25TA), filed November 17, 1978. Applicant: JACOBSON TRANSPORT, INC., Wheaton, MN 56296. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58108. *Liquefied petroleum gas,* in bulk, in tank vehicles (a) from the facilities of Cochin Pipeline Co., located at or near Benson, MN to points in ND and SD; (b) from the facilities of Cochin Pipeline Co., at or near Mankato, MN to points in IA, SD and WI; and (c) from the facilities of Cochin Pipeline Co., at or near Carrington, ND to points in MN and SD, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Cenex Farmers Union Central Exchange, P.O. Box 43089, St. Paul, MN 55164. Land O'Lakes Agricultural Services Division, 2827 8th Avenue South, Fort Dodge, IA 50501. SEND PROTESTS TO: Delores A. Poe, ICC, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 133965 (Sub-10TA), filed November 17, 1978. Applicant: CALZONA TRANSPORTATION INC., P.O. Box 6558, Phoenix, AZ 85005. Representative: William B. O'Morrow, P.O. Box 6558, Phoenix, AZ 85005. *Tallow,* in bulk, in tank vehicles, from Albuquerque and Clovis, NM to points in AZ and Los Angeles City, CA, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Valley Rendering Co., P.O. Box 1444, Clovis, MN 88101. SEND PROTESTS TO: Andrew V. Baylor, ICC, Room 2020 Federal Building, 230 N. First Avenue, Phoenix, AZ 85025.

MC 134286 (Sub-88TA), filed November 17, 1978. Applicant: ILLINI EXPRESS, INC., P.O. Box 1564, Sioux City, IA 51102. Representative: Charles J. Kimball, Suite 350, Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. *Foodstuffs* (except commodities in bulk), from the facilities of Campbell Soup Company at or near Napoleon, OH, to points in IL (except Chicago and points in its commercial zone), IA, KS, MN, MO, NE, and WI, for 180 days. SUPPORTING SHIPPER(S): Campbell Soup Company, East Maumee Avenue, Napoleon, OH 43545. SEND PROTESTS TO: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 135399 (Sub-11TA), filed November 17, 1978. Applicant: HASKINS TRUCKING, INC., P.O. Drawer 7729, Longview, TX 75602. Representative: Paul D. Angenend, P.O. Box 2207, Austin, TX 78768. *Cleaning, scouring, washing, and buffing compounds, and such other commodities as are dealt in or distributed by manufacturer of the above commodities,* from the facilities of Rochester Germicide Co., Inc., at or near Montgomery, IL to Memphis, TN; Atlanta, GA; New Orleans, LA; Dallas, TX; Tampa, FL; San Diego, Los Angeles, and San Francisco, CA; St. Paul, MN; Des Moines, IA; St. Louis, MO; and Indianapolis, IN, for 180 days. Supporting shipper(s): Rochester Germicide Co., P.O. Box 1515, Rochester, NY 14603. Send protests to: Opal M. Jones, ICC, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 138283 (Sub-8TA), filed November 20, 1978. Applicant: DANA TRUCKING CORPORATION, Round Lake, MN 56167. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Cookies,* from the facilities of Interbake Foods, Inc., at or near Richmond, VA to points in AR, IL, IN, IA, KS, KY, MI, MN, MO, NE, ND, OH, OK, points in PA on and west of U.S. Hwy. 15, SD, TX, and WI, under a continuing contract or contracts with Interbake Foods, Inc., of Richmond, VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Interbake Foods, Inc., P.O. Box 27487, Richmond, VA 23261. Send protests to: Delores A. Poe, ICC, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 141770 (Sub-6TA), filed November 13, 1978. Applicant: TPC TRANSPORTATION COMPANY, 40 Cleveland Road East, Huron, OH 44839. Representative: Russell J. Bragg, 608 Second Ave. South, Minneapolis, MN. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Brewers wet grains,* from St. Louis, MO to all points in the states of AR, IN, IA, KY, and TN, for 90 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Pillsbury Company, 608 2nd Avenue, Minneapolis, MN 55402. Send protests to: I.C.C., 313 Federal Office Bldg., 234 Summit St., Toledo, OH 43604. Under a continuing contract or contracts with The Pillsbury Company.

MC 142669 (Sub-7TA), filed November 13, 1978. Applicant: GENE WALTERS AND CLARK WURTELE, d.b.a. M&M TRUCKING, 115 East Brewster Street, Buchanan, ND 58420. Representative: Charles E. Johnson, 418 East Rosser Avenue, P.O. Box 1982, Bismarck, ND 58501. *Fertilizer spreaders and applicators,* from Willmar, MN, to points in MT, WY, CO, UT, WA, OR and ID, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Agro Supply, A Division of G. A. Senden, Inc., P.O. Box 20256, Billings, MT 59101. Send protests to: Ronald R. Mau, I.C.C., Rm. 268 Federal Bldg. & U.S. Post Office, 657 2nd Avenue North, Fargo, ND 58102.

MC 143031 (Sub-9TA), filed November 17, 1978. Applicant: LLOYD PAUL MURPHY, JAMES EDWARD MURPHY, TIMOTHY PAUL MURPHY & ERNEST STEWART MURPHY, d.b.a. MURPHY & SONS, Route 2, Box 139, Spring City, TN 37381. Representative: H. Stan Guthrie, Suite 500, The Dome Building, Chattanooga, TN 37402. Authority sought to operate as a *contract carrier,* by motor vehicle, over regular routes, transporting: *New Furniture, furniture parts, crated & uncrated, and materials & supplies to be used in the manufacturing and selling thereof,* from the facilites of La-Z-Boy Chair Company at or near Dayton, TN to points in AZ, CO, CT, DE, KS, MA, NE, NM, OK, RI, TX and UT, under a continuing contract or contracts with La-Z-Boy Chair Company, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): La-Z-Boy Chair Company, P.O. Box 191, Walnut Grove Road, Dayton, TN 37321. Send protests to: Glenda Kuss, ICC, Suite A-422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 143061 (Sub-3TA), filed November 17, 1978. Applicant: ELECTRIC TRANSPORT, INC., P.O. Box 338, Eden, NC 27288. Representative: K. Edward Wolcott, 1200 Gas Light Tower, 235 Peachtree Street, NE., Atlanta, GA 30303. Authority sought to operate as *contract carrier,* by motor vehicle, over irregular routes, transporting: *Those commodities used by and dealt in by the General Electric Company* (except commodities in bulk, and those which because of size and weight require special equipment) (1) from Ontario, CA and Seattle, WA and their commercial zones, to points in the U.S. on and east of Interstate Hwy. 35. (2) from Brockport, NY, Allentown, PA and their commercial zones to points in the U.S. in and west of IL, MO, OK, TX, and WI (except AK and HI), under a continuing contract or contracts with General Electric Co., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): General Electric Co., Distribution Services Housewares and Audio, 1205 Boston Avenue, Bridgeport, CT 06602. SEND PROTESTS TO: Archie W. Andrews, ICC, P.O. Box 26896, Raleigh, NC 27611.

MC 143478 (Sub-5TA), filed November 20, 1978. Applicant: G. P. THOMPSON ENTERPRISES, INC., P.O. Box 146, Midway, AL 36053. Representative: Terry P. Wilson, 420 South Lawrence Street, Montgomery, AL 36104. Authority sought to operate as *contract carrier,* by motor vehicle, over irregular routes, transporting: *Communication equipment, and materials, equipment and supplies used in the manufacture, remanufacture, or installation of communication equipment,* between the facilities of Communication Equipment and Contracting Co., Inc., at or near Union Springs, AL and Yucaipa, CA on the hand, and, on the other, points in the U.S restricted to a transportation service performed under a continuing contract or contracts with Communication Equipment and Contracting Co., Inc., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Communication Equipment and Contracting Co., Inc., 1500 East Conecuh Street, Union Springs, AL 36089. SEND PROTESTS TO: Mabel E. Holston, ICC, Room 1616—2121 Building, Birmingham, AL 35203.

MC 143540 (Sub-9TA), filed November 17, 1978. Applicant: MARINE TRANSPORT CO., 2321 Burnette Boulevard, P.O. Box 2142, Wilmington, NC 28402. Representative: Jean H. Lewis, 9525 Trojan Court, Richmond, VA 23229. Authority sought to operate as *contract carrier,* by motor vehicle, over irregular routes, transporting: *Bakery ingredients,* from the facilities of Globe Products Company, Inc., at or near Clifton, NJ to points in AL, AR, MS, NC, OK, TN, and TX, under a continuing contract or contracts with Globe Products Company, Inc., for 180 days. SUPPORTING SHIPPER(S): Globe Products Company, Inc., P.O. Box 1927, Clifton, NJ 07015. SEND PROTESTS TO: Archie W. Andrews, ICC, P.O. Box 26896, Raleigh, NC 27611.

MC 144596 (Sub-2TA), filed November 17, 1978. Applicant: BEN FRAZIER, INC., 120 East Junius Street, Fergus Falls, MN 56537. Representative: Charles E. Johnson, 418 East Roser Avenue, P.O. Box 1982, Bismarck, ND 58501. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Lumber, lumber products, wood products and building materials* (except in bulk), from points in MN to points in ND and SD, for 180 days. RESTRICTION: Restricted to a transportation service to be performed under a continuing contract or contracts with Georgia Pacific Corporation. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Georgia Pacific Corporation, 204 North 18th Street, Moorhead, MN 56560. SEND PROTESTS TO: Ronald R. Mau, ICC, Room 268 Federal Building and U.S. Post Office, 657 2nd Avenue North, Fargo, ND 58102.

MC 145757 TA, filed November 13, 1978. Applicant: ERICON INTERNATIONAL CORP., 1222 Linden Avenue, Erie, PA 16505. Representative: Arthur J. Diskin, 806 Frick Building, Pittsburgh, PA 15219. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *General commodities,* (except commodities in bulk, household goods as defined by the Commission, commodities requiring special equipment, and motor vehicles), in containers or in trailers having an immediately prior or subsequent movement by water, in foreign commerce only, between points in the counties of Erie, Crawford, McKean, Butler, and Venango, PA, Chautauqua and Cattaraugus Counties, NY, on the one hand, and on the other, the ports of Erie, PA, Cleveland, OH, Buffalo, NY and Baltimore, MD, and empty used containers between the aforesaid points under a continuing contract with The Herbert C. Hosford Co. of Erie, PA, for 180 days. SUPPORTING SHIPPER(S): The Herbert C. Hosford Co., 1121 Chelsea Avenue, Erie, PA 16505. SEND PROTESTS TO: John J. England, I.C.C., 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

MC 145785 (Sub-1TA), filed November 28, 1978. Applicant: MCADAMS TRUCKING CO., 3 South Des Plaines, Joliet, IL 60431. Representative: Patrick H. Smyth, Suite 521, 19 South LaSalle Street, Chicago, IL 60603. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: (1) *Steel parts for trusses,* from the facilities of Alpine Engineered Products, Inc., at or near St. Charles, IL, to points in IN, MI, MN, ND, NJ, OH, PA, and SD, and (2) *Materials, supplies and equipment* for the commodities described in (1) above, from IN, MI, MN, ND, NJ, OH, PA, SD, and WV, to the facilities of Alphine Engineered Products, Inc., at or near St. Charles, IL and its Commercial Zone. RESTRICTION: The transportation services authorized above are restricted against the transportation of commodities in bulk, and are under a continuing contract or contracts with Alphine Engineered Products, Inc., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Alphine Engineered Products, Inc., 2440 Production Drive, St. Charles, IL 60174. SEND PROTESTS TO: Lois M. Stahl, Transportation Assistant, I.C.C., 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 145797 (Sub-1TA), filed November 20, 1978. Applicant: NANCY TRANSPORTATION, INC., 429 Stablestone Drive, Chesterfield, MO 63017. Representative: Herbert Alan Dubin, Sullivan & Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. *Drugs and citric acid* (except in bulk, in tank vehicles) from the facilities of Miles Laboratories at Elkhart, IN to Arlington-Dallas, TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Miles Laboratories, Inc., 1127 Myrtle Street, Elkhart, IN 46514. Send Protests to: P. E. Binder, I.C.C., Room 1465, 210 North 12th Street, St. Louis, MO 63101.

By the Commission.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc. 79-645 Filed 1-5-79; 8:45 am]

[7035-01-M]

[AB 37 (SDM)]

OREGON-WASHINGTON RAILROAD & NAVIGATION CO.

Amended System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.23, that the Oregon-Washington Railroad & Navigation Co., has filed with the Commission its amended color-coded system diagram map in Docket No. AB 37 (SDM). The maps reproduced here in black and white are reasonable reproductions of that amended system diagram map and the Commission on November 20,

1978, received a certificate of publication as required by said regulation which is considered the effective date on which the amended system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 37 (SDM).

H. G. HOMME, Jr.,
Secretary.

OREGON-WASHINGTON RAILROAD & NAVIGATION CO.

The system diagram maps of the Oregon-Washington Railroad & Navigation Company, are attached hereto and are submitted for publication in the FEDERAL REGISTER pursuant to the regulations of the Interstate Commerce Commission as set forth in 49 CFR 1121.22.

JOSEPH D. ANTHOFER.

[7035-01-C]

SYSTEM DIAGRAM MAP of the OREGON-WASHINGTON RAILROAD & NAVIGATION CO. AB No. 37 prepared in conjunction with I.C.C. Order Ex Parte No. 274 (Sub-No. 2) and Title 49 of the code of Federal Regulation 1121.

* L E G E N D *

Lines or portions of lines anticipated to be the subject of an abandonment or discontinuance application within three years shown ..... (1)

Lines or portions of lines potentially subject to abandonment which are under study and which may be the subject of a future abandonment application because of either anticipated operating losses or excessive rehabilitation costs, as compared to potential revenues shown .. (2)

Lines or portions of lines for which an abandonment or discontinuance application is pending before the Interstate Commerce Commission shown ..... (3)

Lines or portions of lines which are being operated under rail service continuance provisions shown ..... (4)

All other Oregon-Washington Railroad & Navigation Co. lines shown.

0 50 100
SCALE IN MILES

Standard Metropolitan Statistical Area (SMSA) shown ....

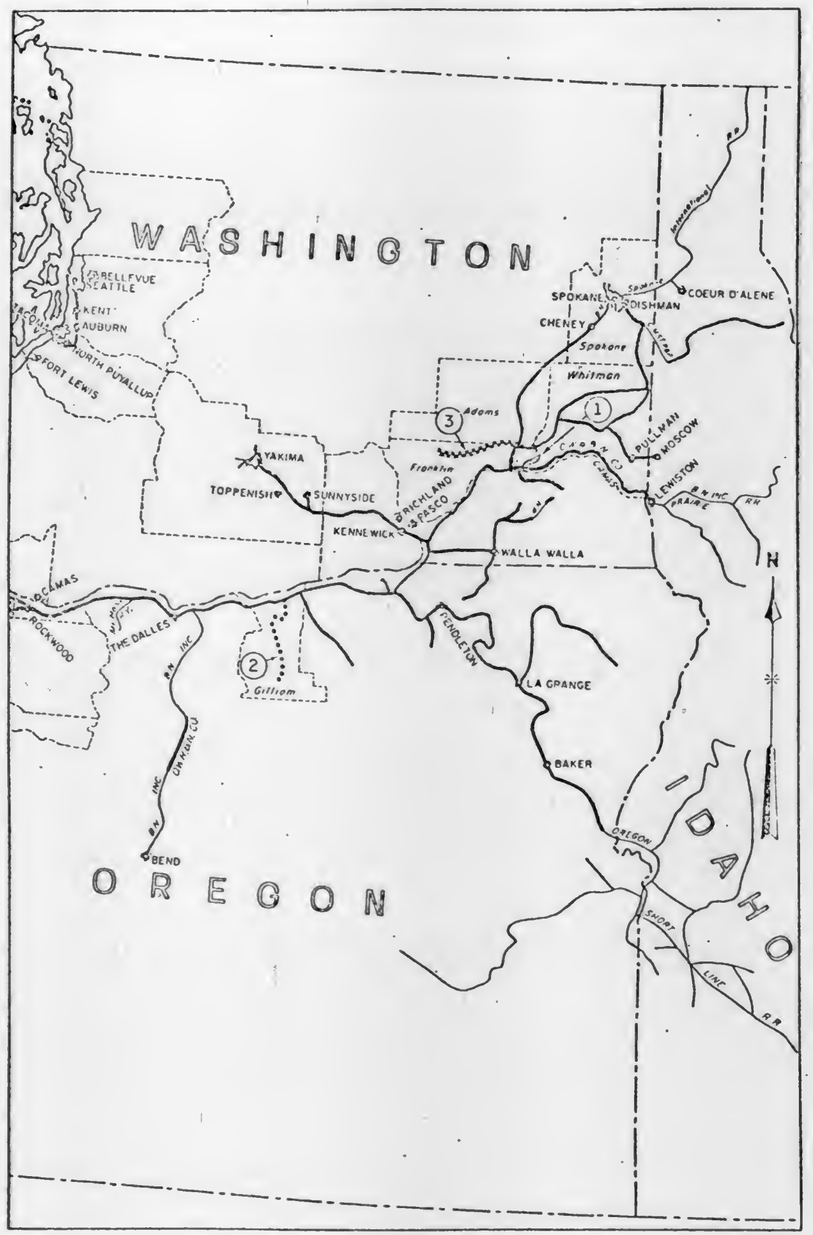
City outside of an (SMSA) with a population of 5,000 or more persons according to 1970 U.S. Census reports shown .....

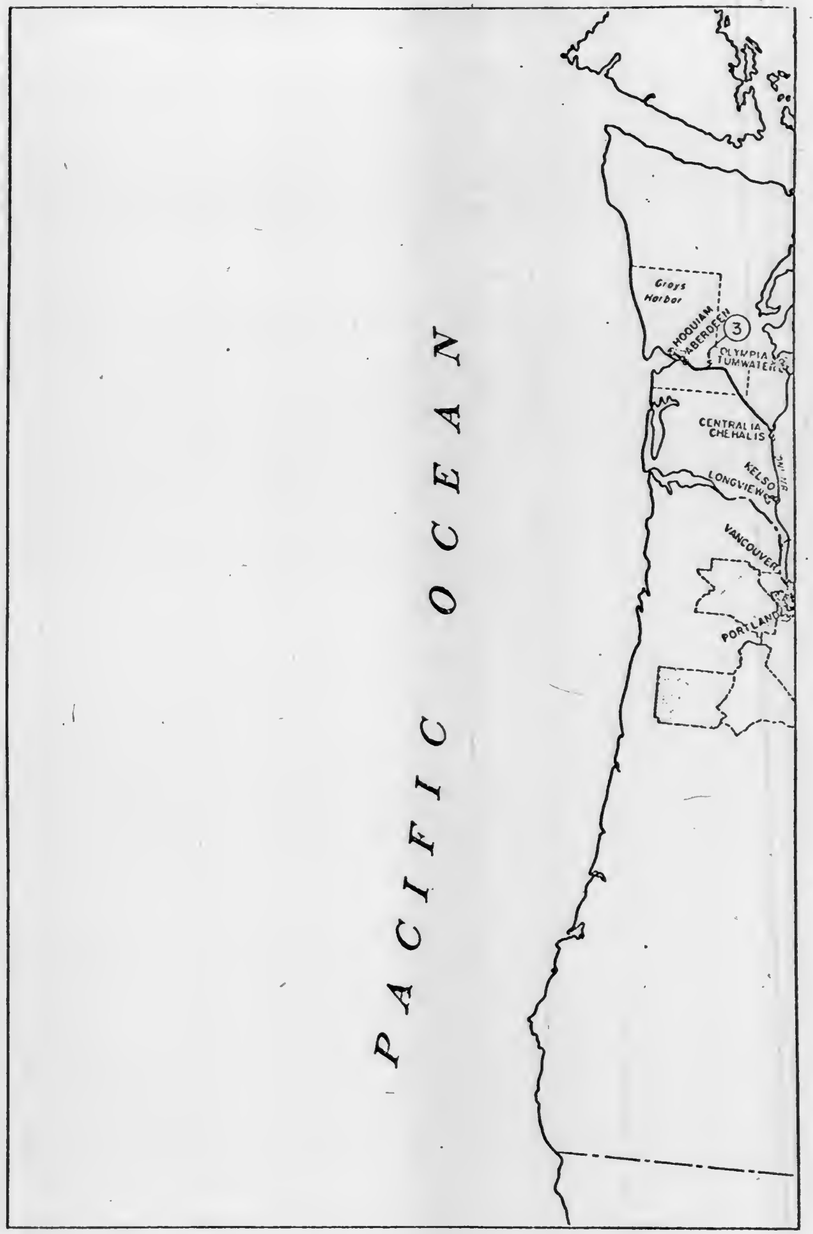
State boundaries shown .....

Boundaries of counties in which proposed abandonments are located shown ..... County

V 44/5 JA 8 79 UMI

V 44 / 5 JAN 8 79 UMI





V 4 4 / 5 JA 8 7 9 UMI

OREGON-WASHINGTON RAILROAD & NAVIGATION CO.

In accordance with 49 CFR 1121.22(a), following are the line descriptions for the lines amended in the Amended System Diagram Map:

Category 1.—Lines anticipated to be the subject of abandonment applications within three years.

Washington:

a. Designation of Line: Tekoa Branch

b. State(s) in which located: Washington

c. County(ies) in which located: Whitman

d. Milepost locations: M.P. 17.63 near Riparia to M.P. 40.86 near La-Crosse

e. There are no agency or terminal stations located on this line.

Category 3.—Applications pending before the Interstate Commerce Commission.

Washington:

a. Designation of Line: Connell Branch

b. State(s) in which located: Washington

c. County(ies) in which located: Adams and Franklin

d. Milepost locations: M.P. 15.81 near Hooper Junction to M.P. 53.06 near Connell

e. Connell at M.P. 52.94 is an agency station.

[FR Doc. 79-642 Filed 1-5-79; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3)

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[6320-01-M]

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[M-187 Amdt 3; January 1979]

CIVIL AERONAUTICS BOARD.

Notice of deletion of items from the January 4, 1979, meeting agenda.

TIME AND DATE: 10 a.m., January 4, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

11. Docket 33223, 33462, 33548, and 33948—Federal Express petition for an order to show cause on its certificate application for Midway-Cleveland/Detroit/Kansas City/Minneapolis/Pittsburgh/St. Louis nonstop authority; Wright's petition for an order to show cause on its certificate amendment application for Midway-Cleveland/Detroit nonstop authority; Frontier's and Ozark's application for Midway-Cleveland/Detroit/Kansas City/Minneapolis/Pittsburgh/St. Louis nonstop authority and their motions to consolidate with Federal Express application; American's answer requesting some of the same authority (BPDA).

21. Docket 31133; agreement among the members of the Air Traffic Conference of America (ATC) relating to a personal guarantee of performance of air traffic conference sales agency agreement (BPDA).

STATUS: Open

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: Item 11 is being deleted due to changes necessary in the revised show-cause order which could not be completed in time to allow the Board sufficient consideration of the case. Further staff analysis is required for Item 21. Accordingly, the following Members have voted that Items 11 and 21 be deleted from the January 4, 1979 agenda and that no earlier announcement of this change was possible:

Chairman Marvin S. Cohen
Member Richard J. O'Melia
Member Elizabeth E. Bailey
Member Gloria Schaffer

[S-27-79 Filed 1-4-79; 3:31 pm]

[6320-01-M]

2

[M-187 Amdt. 2; Jan. 2, 1979]

CIVIL AERONAUTICS BOARD.

Notice of addition of item to the January 4, 1979, meeting agenda.

TIME AND DATE: 10 a.m., January 4, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 17a. Dockets 33845 et al., American et al., requests for exemption in unused authority markets—Petitions of Northwest and Ozark for reconsideration of Order 78-11-126.

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: Northwest petitioned for reconsideration of Order 78-11-126 insofar as that order granted exemptions to other carriers in three "unused authority" markets where Northwest was first in line for new certificate authority, and also moved for a stay pending judicial review. Answers have been received from TWA and Orlando. Northwest has also moved the court of appeals for a judicial stay, and a hearing is set for Wednesday, January 3, 1979, but the parties have agreed to defer the hearing if the Board puts this item on its January 4 agenda. Accordingly, the following Members have voted that agency business requires the addition of Item 17a to the January 4, 1979 agenda and that no earlier announcement of this addition was possible:

Chairman Marvin S. Cohen
Member Richard J. O'Melia
Member Elizabeth E. Bailey
Member Gloria Schaffer

[S-26-79 Filed 1-4-79; 3:31 pm]

[6320-01-M]

3

[M-187 Amdt. 1; Dec. 29, 1978]

CIVIL AERONAUTICS BOARD.

Notice of addition of item to the January 4, 1979, meeting agenda.

TIME AND DATE: 10 a.m., January 4, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 34a. Dockets 32686, 33587, 33640, 33637, 34036, 34038, 34266, 34246, 34274, 34255, and 34272—BIA status report and options memo on the pending United States-Germany exemption applications (BIA).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: In Order 78-11-156 the Board deferred consideration of pending United States-Germany exemption applications and invited additional applications. Considering the alternative options now will permit the staff to submit an order expeditiously for these important international markets. Accordingly, the following Members have voted that agency business requires the addition of Item 34a to the January 4, 1979 agenda and that no earlier announcement of this addition was possible:

Chairman Marvin S. Cohen
Member Richard J. O'Melia
Member Elizabeth E. Bailey
Member Gloria Schaffer

[S-25-79 Filed 1-4-79; 3:31 pm]

[6320-01-M]

4

[M-188; Jan 2, 1979]

CIVIL AERONAUTICS BOARD.

TIME AND PLACE: 10 a.m., January 2, 1979.

PLACE: Room 1011, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: Discussion of issues related to development of Civil Aviation Relations with the People's Republic of China.

STATUS: Closed.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: Notice was received from the Department of State the afternoon of December 27, 1978, that an interagency meeting on the People's Republic of China would be held January 2, 1979, at 3:30 p.m. Accordingly, the following Board members have voted that agency business requires that the Board meet on this item on less than 7 days notice and that no earlier announcement of the meeting was possible:

Chairman Marvin S. Cohen
Member Richard J. O'Melia
Member Elizabeth E. Bailey

This meeting will concern the Board's view on possible negotiations with the People's Republic of China. Premature public disclosure of the options, plans and opinions of the Board could seriously compromise the United States' ability to successfully resolve this issue in the best interests of the United States. Accordingly, the following Members have voted that public observation of this meeting would involve matters the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action within the meaning of the exemption provided under 5 U.S.C. 552b(c)(9)(B) and 14 CFR section 310b.5(9)(B) and that the meeting will be closed:

Chairman Marvin S. Cohen
Member Richard J. O'Melia
Member Elizabeth E. Bailey

PERSONS EXPECTED TO ATTEND

Board Members: Chairman Marvin S. Cohen; Member Elizabeth E. Bailey; and Member Richard J. O'Melia.
Assistants To Board Members: Mr. David M. Kirstein; Mr. Sanford Rederer; and Mr. Stephen H. Lachter.
Office of the Managing Director: Mr. John R. Hancock.
Bureau of International Affairs: Mr. Donald A. Farmer, Jr.; Mr. Rosario J. Scibilia; Ms. Sandra W. Gerson; Mr. Richard M. Loughlin; Mr. Regis P. Miland, Jr; Mr. Edward R. Wilbur; Mr. Parlen L. McKenna; and Mr. David A. Levitt.
Office of the General Counsel: Mr. Philip J. Bakes, Jr.; Mr. Gary J. Edles; Mr. Peter B. Schwarzkopf; and Ms. Carol Light.
Bureau of Pricing and Domestic Aviation: Mr. Michael E. Levine; Mr. Herbert Aswall; and Mr. Douglas V. Leister.
Office of Economic Analysis: Mr. Robert H. Frank and Mr. Richard H. Klem.
Bureau of Consumer Protection: Mr. Reuben B. Robertson and Ms. Patricia Kennedy.
Office of the Secretary: Mrs. Phyllis T. Kaylor and Ms. Deborah A. Lee.

GENERAL COUNSEL CERTIFICATION

I certify that this meeting may be closed to the public under 5 U.S.C. 552b(c)(9)(B) and 14 CFR Section 310b.5(9)(B) and that the meeting may be closed to public observation.

PHIL BAKES,
General Counsel.

[S-28-79 Filed 1-4-79; 3:49 pm]

[6351-01-M]

5

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., January 12, 1979.

PLACE: 2033 K Street NW., Washington, D.C., eighth floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Market surveillance.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-31-79 Filed 1-4-79; 3:49 pm]

[6740-02-M]

6

FEDERAL ENERGY REGULATORY COMMISSION.

The following notice of meeting is published pursuant to section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94-409), U.S.C. 552b:

TIME AND DATE: January 10, 1979.

PLACE: 825 North Capitol Street NE., Washington, D.C. 20426, room 9300.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

NOTE.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, 202-275-4166.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda, however, all public documents may be examined in the Office of Public Information.

GAS AGENDA—214TH MEETING, JANUARY 10, 1979, REGULAR MEETING

CAG-1. Docket No. RP71-107 (phase II) et al. (PGA79-1), (R&D 79-1), Northern Natural Gas Co.
CAG-2. Docket No. RP73-23 (PGA79-1), Lawrenceberg Gas Transmission Corp.
CAG-3. Docket No. RP76-136, RP77-26, and RP77-106, Eastern Shore Natural Gas Co.
CAG-4. Docket No. RP78-77, Mississippi River Transmission Corp.
CAG-5. Docket No. RP76-148 (PGA No. 79-1b), Gas Gathering Corp.
CAG-6. Docket No. CP78-362, United Gas Pipe Line Co.
CAG-7. Docket No. RP78-56, Northern Natural Gas Co.
CAG-8. Docket No. CP76-174, Kansas-Nebraska Natural Gas Co., Inc. Docket No. CP78-216, Michigan Wisconsin Pipe Line Co.
CAG-9. Docket No. CS69-6 et al., Freeport Oil Co. (Freeport Minerals Co.), et al.
CAG-10. Docket No. CP78-446, El Paso Natural Gas Co., Michigan Wisconsin Pipe Line Co.
CAG-11. Docket No. CP76-10, Arkansas Louisiana Gas Co. and Docket No. CP76-25, Michigan Wisconsin Pipe Line Co.

GAS AGENDA—214TH MEETING, JANUARY 14, 1979, REGULAR MEETING

I. PIPELINE RATE MATTERS

RP-1. Docket No. RP79-16, Florida Gas Transmission Co.

II. PRODUCER MATTERS

CI-1. Docket No. CI64-26, Gulf Oil Corp.

III. PIPELINE CERTIFICATE MATTERS

CP-1. Docket No. CP78-16, Tenneco LNG, Inc.

MISCELLANEOUS AGENDA—214TH MEETING, JANUARY 10, 1979, REGULAR MEETING

M-1. Docket No. RM78-12, Incentive rate of return for the Alaska Natural Gas Transportation System.

POWER AGENDA—214TH MEETING, JANUARY 10, 1979, REGULAR MEETING

CAP-1. Docket Nos. ER79-55 and ER79-69, Ohio Power Co.
CAP-2. Docket Nos. ER76-90 and ER77-558, Boston Edison Co.
CAP-3. Docket Nos. ER77-5 and E-8152, Otter Tail Power Co.
CAP-4. Project Nos. 2863 and 2877, City of Holyoke, Mass.

POWER AGENDA—214TH MEETING, JANUARY 10, 1979, REGULAR MEETING

I. ELECTRIC RATE MATTERS

ER-1. Docket No. ER79-84, Southern Co. Services, Inc.
ER-2. Docket No. E-8851, Alabama Power Co.
ER-3. Docket No. E-8570, Southern California Edison Co.
ER-4. Docket Nos. ER76-304, ER76-317, and ER76-498, New England Power Co.
ER-5. Docket No. ER76-495 (phase II), Carolina Power & Light Co.
ER-6. Docket No. E-7704, *The Electric and Water Plant Board of the City of Frankfort, Ky. v. Kentucky Utilities Co.*; Docket No. E-7669, Public Service Co. of Indiana; Docket No. E-7937, Indianapolis Power & Light Co.; Docket No. E-8053, Kentucky Utilities Co.
ER-7. Docket No. EL78-32, New York State Electric & Gas Corp.

II. LICENSED PROJECT MATTERS

P-1. Project No. 2422, Brown-New Hampshire, Inc.

KENNETH F. PLUMB,
Secretary.

[S-22-79 Filed 1-4-79; 11:24 am]

[6720-01-M]

7

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 9:30 a.m., January 11, 1979.

PLACE: 1700 G Street NW., sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION:

Franklin O. Bolling, 202-377-6677.

MATTERS TO BE CONSIDERED:

Consideration of Federal Association Investment in BIAPE.

Consideration of Association request for extension of time for change of location of branch office—Cragin Federal Savings & Loan Association, Chicago, Ill.

Branch office application—Chicago Heights Federal Savings & Loan Association, Chicago Heights, Ill.

Applications for bank membership and insurance of accounts—King's Harvest Savings & Loan Association, Hanford, Calif.

Branch office application—Home Federal Savings & Loan Association, Ridgewood, N.Y.

No. 208, JANUARY 4, 1979.

[S-24-79 Filed 1-4-79; 3:23 pm]

[6720-01-M]

8

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 44, No. 1, page 151, January 2, 1979.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., January 4, 1979.

PLACE: 1700 G Street NW., sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION:

Franklin O. Bolling, 202-377-6677.

CHANGES IN THE MEETING:

THE FOLLOWING ITEM HAS BEEN ADDED TO THE AGENDA FOR THE OPEN MEETING: Application for permission to issue mortgage backed notes—City Federal Savings & Loan Association, Elizabeth, N.J.

No. 207, JANUARY 4, 1979.

[S-23-79 Filed 1-4-79; 3:23 pm]

[8010-01-M]

9

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [44 FR 151, Jan. 2, 1979].

STATUS: Open/closed meetings.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: December 27, 1978.

CHANGES IN MEETING: Additional items. The following item will be considered at the open meeting scheduled for Thursday, January 4, 1978 at 9:30 a.m.:

Consideration of whether to adopt amendments to the schedules relating to the disclosure requirements applicable to certain beneficial owners of certain classes of equity securities, i.e., Schedules 13D, 13G and 14D-1. The proposed amendments consist basically of enlarged cover pages for the three schedules on which persons filing the schedules will abstract certain data from within the schedules in order to facilitate the entering of such data into a computer system. For further information, please contact William H. Carter at (202) 376-8090.

The following additional items will be considered at the closed meeting scheduled for Thursday, January 4, 1978, immediately following the open meeting at 9:30 a.m.:

Amicus participation.
Litigation matter.
Proposed enforcement action.

Chairman Williams, Commissioners Loomis, Evans, Pollack and Karmel determined that Commission business required the above changes and that no earlier notice thereof was possible.

JANUARY 3, 1978.

[S-29-79 Filed 1-4-79 3:49 pm]

[8010-01-M]

10

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of January 8, 1979, in room 825, 500 North Capitol Street, Washington, D.C.

Closed meetings will be held on Tuesday, January 9, 1979, at 10 a.m. and after oral argument and on Wednesday, January 10, 1979, at 9 a.m. Open meetings will be held on Tuesday, January 9, 1979, at 2:30 p.m. and on Thursday, January 11, 1979 at 10 a.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meetings may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4) (8) (9) (A), and (10) and 17 CFR 200.402 (a) (8) (9) (i), and (10).

Chairman Williams and Commissioners Loomis, Evans, Pollack, and Karmel determined to hold the aforesaid meetings in closed session.

The subject matter of the closed meeting scheduled for Tuesday, January 9, 1979, at 10 a.m. and after oral argument, will be:

Access to investigative files by Federal, State or self-regulatory authorities.
Formal orders of investigation.
Freedom of Information Act appeals.
Institution of administrative proceedings of an enforcement nature.
Litigation matters.
Personnel matter.
Post oral argument discussion.
Regulatory matter bearing enforcement implications.

The subject matter of the open meeting scheduled for Tuesday, January 9, 1979, at 2:30 p.m., will be:

Oral argument by Edward F. Butler in support of his appeal from disciplinary action taken against him by the National Association of Securities Dealers, Inc.

The subject matter of the closed meeting scheduled for Wednesday, January 10, 1979, at 9:00 a.m., will be:

Legislative and Regulatory matter bearing enforcement implications.

The subject matter of the open meeting scheduled for Thursday, January 11, 1979 at 10 a.m., will be:

1. Consideration of Chicago Board Options Exchange, Inc. ("CBOE") rule filing (File No. SR-CBOE-78-23) that would authorize the CBOE to replace its board broker system with an order book official system. For further information, please contact Thomas C. Etter, Jr. at (202) 755-7915.
2. Consideration of whether to grant a request for a waiver of the Municipal Securities Rulemaking Board Financial and Operations Principal Qualification Examination requirement. For further information, please contact Katharine Emmons at (202) 755-2947.
3. Consideration of a staff proposal to distribute two voluntary surveys that are designed to obtain data on exchange members institutional money management business and on certain types of "market maker" transactions. The surveys are intended to assist the Commission in reviewing the impact of section 11(a) following that provision's full effectiveness on February 1, 1979, and, if necessary, to plan for further rulemaking or interpretive action under Section 11(a)(1). For further information, please contact Arnold Y. Dean at 202-755-4372.
4. Consideration of a request by the law firm of Gardner, Carton & Douglas, pursuant to 17 CFR 200.735-8(e), for a waiver of the imputation of disqualification rule. For

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further information, please contact Irving Picard at 202-755-1238.

5. Consideration of whether to revise any of the items in new registration statement Forms N-1 and N-2 on which submission of additional comments by the public was invited in Securities Act Release No. 5964 (Aug. 28, 1978). For further information, please contact Glen A. Payne at 202-755-1739.

FOR FURTHER INFORMATION, PLEASE CONTACT:

Beverly Rubman at 202-755-1103.

JANUARY 4, 1979.

[S-30-79 Filed 1-4-79; 3:49 pm]

Federal Register

MONDAY, JANUARY 8, 1979
PART II



DEPARTMENT OF TRANSPORTATION

Materials Transportation Bureau

■

RADIOACTIVE MATERIALS

Requirements for Transportation

[4910-60-M]

DEPARTMENT OF TRANSPORTATION

Materials Transportation Bureau

[49 CFR Parts 127, 171, 172, 173, 174, 175, 176, 177]

[Docket No. HM-169; Notice No. 79-1]

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

Requirements for Transportation of Radioactive Materials

AGENCY: Materials Transportation Bureau, DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This notice proposes to change the requirements of the Hazardous Materials Regulations concerning radioactive materials to make them campatible with the latest revised international standards for transport of radioactive materials as promulgated by the International Atomic Energy Agency (IAEA). A parallel proposal by the U.S. Nuclear Regulatory Commission (NRC), to its Title 10 CFR Part 71, "Packaging of Radioactive Materials for Transport and Transportation of Radioactive Materials Under Certain Conditions," will be published at a later date in the FEDERAL REGISTER.

DATE: Comments must be received on or before April 5, 1979.

ADDRESS COMMENTS TO: Dockets Branch, Information Services Division, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590. It is requested that five copies be submitted.

FOR FURTHER INFORMATION CONTACT:

R. R. Rawl, Office of Hazardous Materials Regulation, Materials Transportation Bureau, U.S. Department of Transportation, 2100 Second Street, SW., Washington, D.C. 20590, telephone 202-426-2311.

SUPPLEMENTARY INFORMATION:

I. *Background:* In 1959, at the request of the Economic and Social Council of the United Nations, the International Atomic Energy Agency (IAEA) undertook the development of international regulations for the safe transportation of radioactive materials. The initial regulations published by the Agency in 1961 were recommended to member states as the basis for national regulations and for application to international transportation. As a result of extensive revision in 1963 and 1964, and further effort in 1966, a version of the IAEA "Regulations for Safe Transport of Radioactive Materials, Safety Series No. 6" was published in 1967. The IAEA regulations have since been adopted generally by most of the nations of the world as a basis for their own national regulations governing the transportation of radioactive materials.

Since 1966, the U.S. Nuclear Regulatory Commission (USNRC) (formerly the Atomic Energy Commission (AEC)) has issued regulations which are substantially in conformance with IAEA standards for fissile radioactive materials and large quantities of radioactive materials. On October 4, 1968, the Hazardous Materials Regulations Board of the Department of Transportation (DOT) published amendments which were also in substantial conformance with the 1967 IAEA standards (Docket HM-2, 33 FR 14918).

In February 1969, recognizing that the international standards should be revised from time-to-time on the basis of scientific and technical advances, as well as accumulated experience in their application, the IAEA invited all of its member states to submit comments and suggested changes to the regulations. Another aim was to remove any ambiguities and to simplify the presentation of the text of the regulations.

Comments and suggested revisions to the IAEA regulations were then collected by DOT from the AEC, the American National Standards Institute (ANSI), Atomic Industrial Forum, and others. As a result of that effort a compilation of some 40 comments was then forwarded by DOT to the IAEA in July 1969. Some of these suggested changes were intended to make a more positive alignment of the U.S. regulations with the IAEA regulations possible.

In all, the IAEA received more than 300 pages of comments from the member states. During the period of February 2-13, 1970, the IAEA convened a panel of experts to review the regulations and consider the comments which had been submitted by member states. The U.S. Delegation on this review panel consisted of a three-man team, headed by the DOT representative, with one adviser from the AEC and another from private industry. At this panel, 14 countries and 10 international organizations were represented.

As a result of this review panel's efforts, a first working draft of a revision of the regulations was developed. It was circulated to the chairmen of the working groups of the review panel in April 1970. Subsequently, a second revision draft was prepared and issued in June 1970 to all of the review panel participants for their review. The second draft was also circulated by the AEC to many interested persons. On December 3, 1970, the Secretary General transmitted a third revision draft to all IAEA member states and to interested international organizations.

On January 27, 1971 (36 F.R. 1280), the Office of Hazardous Materials of the DOT published a public notice in the form of a "Request for Public Advice on Revisions of Internatonal Regulations." Interested persons were thereby informed of the issuance and availability of this third revised draft, indentified as IAEA Document No. PL-383, entitled "Regulations for the Safe Transport of Radioactive Materials, Third Revised Draft, November 1970."

In cooperation with the AEC, the DOT solicited comments on this third draft. Copies were distributed to all AEC operating contractors, as well as the Atomic Industrial Forum and ANSI Subcommittee N-14 (Transportation of Fissile and Radioactive Materials) for redistribution to their members and other interested persons. As a result of the above notice, copies were distributed to a large number of requesters.

Formal U.S. comments on the third draft were forwarded by DOT to the IAEA through the State Department in July 1971.

A final Review Panel of experts was convened by the IAEA in October 1971, to finalize the revisions. As a result of that Panel, the IAEA subsequently issued its "Safety Series No. 6, Regulations for the Safe Transport of Radioactive Materials 1973 Revised Edition," in late 1973. Since that time most major countries and international transport organizations, i.e., Inter-Governmental Maritime Consultative Organization (IMCO), International Air Transport Association (IATA), European Agreement for the Carriage of Dangerous Goods by Rail (RID); European Agreement Concerning International Carriage of Dangerous Goods by Road (ADR), have completed revising their own regulations to achieve conformity with the 1973 IAEA Standards.

With respect to efforts by the United States achieve conformity with IAEA Standards, the involvement of two agencies, DOT and NRC, makes it necessary to revise certain parts of two distinct bodies of regulations—49 CFR and 10 CFR Part 71. The publication of this Notice by the DOT has been held in abeyance until after the reissuance of the Hazardous Materials Regulations (Docket HM-103/112, "Consolidation of Title 14, Part 103, and Title 46, Part 146, in Title 49" 41 F.R. 15972, April 14, 1976, Part II as amended). As mentioned in the preamble to those amendments, the MTB was completing its first major phase of its continuing effort to improve, update, and simplify the regulations governing the shipment and transportation of hazardous materials. The next phase was therein stated to be a recodification of the entire body of hazardous materials regulations, the purpose of which would be to rearrange and revise the language of the regulations in more comprehensible and accessible form to reduce inconsistency, redundancy and obsolescence. This notice incorporates the new overall future plan of the regulations to the extent that the new Part 127 proposed herein is a redesign and editorial rearrangement of the major sections applicable to the radioactive materials classification, which previously had been located in § 173.389 through 173.399, with the rearrangements already promulgated in HM-103/112 applicable to Parts 171, 172, 173, 174, 175, 176, and 177.

Subsequent to the issuance of the 1973 Edition of IAEA Safety Series No. 6, the IAEA convened another Review Panel in December 1974. The purpose of this Panel was to consider any minor inconsistencies, omissions or errors that were being revealed in the course of national and international application to the IAEA's 1973 Revised Standards, and to recommend, among other things, any changes of detail that should be introduced into the regulations under the established procedures of the IAEA Board of Governors.

As a result of the work of the 1974 Review Panel, the IAEA developed a list of so-called "minor" drafting changes to the 1973 Revised Edition of Safety Series No. 6 (which were effective upon publications, May 1975), as well as a list of so-called substantive proposed "90-day" changes. The latter were adopted on December 16, 1977 by the IAEA. Essentially, both of the above sets of changes have been considered in preparing this Notice, as well as the basic content of 1973 Safety Series No. 6 itself.

II. *Comparison with current regulations:* The following table lists the paragraph numbers of the Part 127 changes proposed herein, indicating the existing Title 49 paragraph number, and the most applicable corresponding paragraph number of IAEA Safety Series No. 6, 1973 Edition, as revised. It should be recognized that in many cases the cross references are to paragraphs which are similar to, but not identical with current 49 CFR Sections.

Proposed Section	Now shown in 49 CFR as	Comparable Section in 1973 IAEA SS No. 6
127.1(a)	(new)	102
127.19(b)(1)	(new)	104(a)
127.1(b)(2)	175.10(a)(8)	104(b)
127.1(b)(3)	175.10(a)(8)	104(b)
127.1(c)	(new)	108
127.3	(new)	109
	(new)	110
	173.389(q)	
	173.389(m)	115
	(new)	144
	(new)	116
	(new)	144
	173.389(a)	117
	173.389(o)	119
	(new)	120
	173.389(c)	121
	173.389(n)	122
	(new)	123
	(new)	144
	(new)	124
127.3	(new)	132
	(new)	133
	173.389(e)	134
	173.389(g)	135
	(new)	136
	173.389(i)	173-140
	(new)	138
	(new)	126
	(new)	
	(new)	128
	(new)	127
	173.389(j)	130
	173.389(k)	131
	(new)	141
	(new)	142
	(new)	143(a)
	(new)	143
127.101(a)(1)	(new)	201
127.101(a)(2)	(new)	202
127.101(a)(3)	(new)	203
127.101(a)(4)	(new)	204, 205
127.101(a)(5)	(new)	206
127.101(a)(6)	(new)	208
127.103	(new)	209
127.105(a)(1)	173.393(c)	210
127.105(a)(2)	173.389(b)	211
127.105(a)(3)	(new)	212
127.105(a)(4)	(new)	213
127.105(a)(5)	(new)	215
	See 173.24(c)(4)	214
127.105(a)(6)	(new)	216, 217, 218
127.105(a)(7)	(new)	219
127.105(a)(8)	(new)	220
127.105(a)(9)	173.389(b)(2)(iii)	221
127.105(a)(10)	(new)	222
127.105(a)(11)	(new)	223
127.105(a)(12)	(new)	224
127.105(a)(13)	173.398(b)(i)-(iii)	225
127.105(a)(14)	173.393(g)	226
127.105(a)(15)	(new)	227
127.107	(new)-see 10CFR 71	228-233
127.109	(new)-see 10CFR 71	235-242
127.113(a)(1)	173.394(a)(1), 173.395	No comparable section
127.113(a)(2)	173.394(a)(2), 173.395(a)(2)	No comparable section
127.113(a)(3)	173.394(a)(3), 173.395(a)(3)	No comparable section
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maximum permissible body burden more than ten times that of the more toxic members.

The proposed amendments have no groups at all. Instead, for each radionuclide two values, A_1 and A_2, would be assigned as the maximum number of curies permitted in Type A packages in special form and normal form, respectively. The A_1 and A_2 values for various radionuclides would be listed in § 127.305. Methods by which these values were established are described in IAEA Safety Series No. 37, "Advisory Material for the Application of the IAEA Transport Regulations."

The value of A_1 for special form material is based on the possible external radiation dose to individuals if the contents of the package are released, except that an upper limit of 1000 curies is imposed. Under the proposed regulations, special form material must also be nondispersible as determined by certain stringent criteria (which differ somewhat from present criteria for special form) described in § 127.619.

The bases for the A_2 values for normal material (that is, all forms other than special form) are: (1) an accident of moderate severity might relese 0.1% of the contents, and 0.1% of the amount released might then be taken into the body of a human being in the vicinity; this intake should not exceed half the maximum permissible annual intake for workers as given in IAEA Safety Series No. 9, 1967 Edition; and (2) A_2 shall not exceed A_1. Intake values are based on International Commission on Radiological Protection (ICRP) 1966 recommended limits for radiation exposure.

The following table compares, for several radionuclides, the present special form and normal form limits with the limits that would be applicable under the proposed rule.

This change would sometimes permit a single Type A package to replace two or more present packages. Also, some of the small number of Type B packages with contents near the lower limit for Type B could be reclassified as Type A. The net effect is expected to be insignificant with respect to the number of Type A packages or the total amount of material in Type A packages.

For special form material, some limits would be increased and some would be decreased. Consequently, the changes in the number of such packages also would be small.

III. *Substantive proposed changes:* While this notice proposes an extensive revision of that portion of the regulations dealing with the transportation of radioactive materials, the majority of the changes are not substantive in nature. A discussion of the more substantive proposed changes follows:

A. Individualized Type A Quantities

The system by which radionuclides have been divided, for the purpose of specifying the number of curies permitted in Type A packages, into seven transport groups, according to their toxicity, plus a "special form" category would be eliminated. Under the present system, the allowable number of curies for each radionuclide in a group is the same as the allowable number of curies for the most restrictive member of that group. This method is unnecessarily restrictive when applied to the less toxic group members, which in some cases have a

Limit in Type A Packages, in Curies

Present group	Present		Proposed	
	Special form	Normal form	Special form	Normal form
^{241}Am I	20	0.001	8	0.005
^{14}C IV	20	20	1000	100
^{252}Cf I	2	0.001	2	0.009
^{244}Cm I	20	0.001	10	0.01
^{58}Co III	20	3	7	7
^{192}Ir III	20	3	20	20
^{99}Mo IV	20	20	100	100
^{24}Na IV	20	20	5	5
^{32}P IV	20	20	30	30
^{210}Po I	20	0.001	200	0.2
^{239}Pu I	20	0.001	2	0.002
^{90}Sr II	20	0.05	10	0.4

B. Low-Level Solid Radioactive Materials (LLS)

A new category, low level solid (LLS) has been proposed. Its definition, based on specific activity and the leachability characteristics of the material being transported, recognizes immobilization techniques now being used in waste handling operations and the degree to which the radioactive content is fixed in the non-radioactive matrix. The provisions for shipment of LLS materials as proposed herein differ from those in IAEA regulations, in that use of Type A packagings would be required, as opposed to "strong industrial packagings" meeting certain criteria of the United Nations Recommendation on "Transport of Dangerous Goods" as prescribed in § 209 of IAEA Safety Series No. 6. MTB has proposed these Type A packaging criteria because it is of the opinion that the packaging reference to the United Nations requirements has not been sufficiently described in the IAEA regulations.

C. Low Specific Activity Radioactive Materials (LSA)

Some changes are also proposed herein for LSA material, as defined in § 127.3. The specific activity limits would be related to A_2 values rather than to transport group. Articles with non-fixed surface contamination have been included within the LSA definition. Methods of concentrating the activity in transport, such as leaching and evaporation, would have to be considered. Finally, the limit for tritium oxide in aqueous solution, after consideration of the hazards due to wetting of the skin and to possible inhalation of vapors, would be increased from 5 curies/liter to 10 curies/liter. In addition, in proposed § 127.211, the existing authorization for the use of non-specified "strong tight packaging" for LSA materials in full-load shipments would be deleted, in favor of a specific requirement for Type A packages in all cases for LSA materials, whether as full-loads, or other than full-loads. This proposal is based on numerous reports received by the DOT of insufficient packagings used with the "strong tight packaging" authorization. Further, the existing provision for the shipment of bulk liquid LSA materials, as authorized in 49 CFR 173.392(d)(2) in specific highway cargo tank or rail tank cars would be deleted. This deletion appears merited in light of the newly revised definition of LSA materials wherein the method of concentrating the activity in transport, such as leaching and evaporation, must be taken into account.

In this proposal the definition for LSA has been qualified for liquid materials so as to clarify that for liquids it must be assumed that the conditions likely to be encountered which could result in increasing the activity concentration would occur during normal or accident conditions. The net effect of this clarification therefore is to remove liquids from consideration as LSA.

D. Requirements for Special Form Radioactive Materials

The qualification tests for special form radioactive material in proposed § 127.619 would modify current requirements primarily by adding a bending test, providing more detailed instructions for the immersion or leaching procedure, and changing the maximum loss by leaching to 0.05 microcurie in each of two determinations rather then the present 0.005% for a single determination. Long, slender objects are more likely to suffer bending under rough handling or accident conditions than are short or large-diameter objects. A minimum length of 10 cm and a minimum length-to-width ratio of 10 have been proposed for application of the bending test. The leaching test specified by the IAEA regulations has been proposed as suitable and should yield uniform results. An absolute amount leached is more appropriately related to the hazard than is a fixed percentage. Although 0.05 microcurie is much smaller than any of the A_1 quantities in this case it is specified as a measure of the indispersibility and is equivalent to the maximum permissible non-fixed surface contamination on 50 cm^2 of a package surface.

Existing regulations require that "special form radioactive material" have either (1) no dimension less than 0.5 mm or (2) at least one dimension greater than 5 mm. It is now proposed that special form radioactive material must have at least one dimension not less than 5 mm. The first option has been deleted because of the possible difficulty of identifying, for safe handling, an object as small as 0.5 mm in every dimension.

The new definition for "special form radioactive materials" as proposed in § 127.3 would require that an encapsulated material be so constructed that it can be opened only by destructive means. It should be noted that this criteria would eliminate from consideration any present encapsulations which meet the requirements of a DOT Specification 2R vessel (see § 178.34) and the present requirements of § 173.398(a).

E. Addition of Lead-201

In response to a petition for rulemaking by Diagnostic Isotopes, Inc. to the U.S. Nuclear Regulatory Commission, it is proposed to add lead-201 (^{201}Pb) to the table of radionuclides found in § 127.305. The daughter radionuclide resulting from the decay of ^{201}Pb is thallium-201 which is useful in nuclear medicine and clinical diagnosis. The details of the calculations for the A_1 and A_2 values for ^{201}Pb are found in Appendix B of the Environmental Impact Appraisal of Changes to Radioactive Material Packaging and Transportation Regulations, which is available for review in the Dockets Branch, Room 6500, at 2100 2nd Street, S.W., Washington, D.C. and will published by the U.S. Nuclear Regulatory Commission.

F. Metrication

The metric system, as represented by the International System of Units (SI), has been incorporated to the extent possible in the proposed regulations. Rounded-off values of equivalents for the English system are given in parentheses, except in a few cases where the coversion seems unnecessary or inappropriate.

G. DOT Specification 55

As proposed herein, the use of existing DOT Specification 55 (Spec. 55) packages would be discontinued one year after the effective date of the amendments. As a result of prior rulemaking in Docket HM-111 (39 FR 45238), published on December 31, 1974, shipment of Spec. 55 packages constructed after March 31, 1975 has not been authorized. As was stated in the preamble to the notice of proposed rulemaking in Docket HM-111 (38 FR 29483, Oct. 25, 1973), MTB announced its intention to phase out the Spec. 55 as a "limited type B" packaging at some later date. Future use of such packagings one year after the effective date of these amendments would be contingent upon the user obtaining approval and certification of the package design as Type B, pursuant to § 127.701.

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H. MARKING OF LIMITED QUANTITY AND RADIOACTIVE DEVICES PACKAGES

As proposed herein, the exemption from the marking requirements of § 172.300 (proper shipping name) for packages bearing limited quantities of radioactive materials or radioactive devices would be deleted. This is consistent with the current regulatory requirements for marking of all other classifications of hazardous materials packages in "limited quantities," as adopted in Docket HM-103/112 (41 FR 15972, April 15, 1976). In those amendments, the exemption from marking limited quantities of radioactive materials and devices was inadvertently retained.

The Department has determined under Council of Environmental Quality guidelines not to prepare an environmental impact statement for the proposed amendments herein. Concurrently with the publication of this notice of proposed rulemaking, the Department is making available in its Dockets Branch, Room 6500, at 2100 2nd Street, S.W., Washington, D.C., an "Environmental Impact Appraisal of Changes to Radioactive Material Packaging and Transportation Regulations" intended to support to a negative declaration. This assessment was prepared by the U.S. Nuclear Regulatory Commission in support of its proposed changes to Title 10 CFR 71, which will be published in a future issue of the FEDERAL REGISTER. Its analysis and conclusions are considered directly applicable to the proposals by MTB herein, in support of this negative declaration.

In consideration of the foregoing, Part 127 would be added and Parts 171, 172, 173, 174, 175, 176, and 177 of Title 49, Code of Federal Regulations would be amended as follows:

1. A new Part 127 Table of Contents would be added to read as follows:

PART 127—TRANSPORTATION OF RADIOACTIVE MATERIALS

Subpart A—Scope and Definitions

Sec.
127.1 Scope.
127.3 Definitions.

Subpart B—Packaging and Package Design Requirements

127.101 General design requirements.
127.103 [Reserved]
127.105 Additional design requirements for Type A packagings.
127.107 Requirements for Type B(U) packagings.
127.109 Requirements for Type B(M) packagings.
127.113 Authorized Type A packagings.
127.115 Authorized Type B(U) and B(M) packagings.
127.117 Authorized packaging—fissile radioactive materials.
127.119 Authorized packaging—pyrophoric radioactive materials.
127.121 Authorized packaging—oxidizing radioactive materials.

Subpart C—Exceptions for Certain Quantities and Items, Low Specific Activity Radioactive Materials and Low Level Solid Radioactive Materials

127.201 [Reserved]
127.203 Limited quantities of radioactive materials.
127.205 Exceptions for instruments and devices.
127.207 Table of activity limits—excepted quantities and devices.
127.209 Excepted articles containing natural uranium or thorium.
127.211 Transport requirements for low specific activity (LSA) radioactive materials.
127.213 Transport requirements for low level solid (LLS) radioactive materials.

Subpart D—Activity Limits for Radioactive Materials Packages

127.301 Activity limits for Type A and Type B packages.
127.303 Requirements for determination of A_1 and A_2 values for radionuelides.
127.304 Activity—mass relationships for uranium and natural thorium.
127.305 Table of A_1 and A_2 values for radionuclides.

Subpart E—Requirements for Transportation

127.401 Radiation level limitations.
127.403 Thermal limitations.
127.405 Contamination control.
127.407 Labeling requirements.
127.409 [Reserved]
127.411 Placarding requirements.
127.413 Storage incident to transportation—general requirements.
127.415 General transportation requirements.

Subpart F—Requirements for Fissile Radioactive Materials

127.501 General.
127.503 Exceptions.
127.505 Classification of fissile radioactive materials packages.
127.507 Transportation of Fissile Class III radioactive materials—specific requirements.
127.509 Mixing of fissile radioactive materials packages.

Subpart G—Test and Inspection Procedures

127.601 Compliance with required tests.
127.605 Preparation of specimens for testing.
127.607 Packaging and shielding—testing for integrity.
127.609 [Reserved]
127.611 Tests for proposed packagings designed for normal conditions of transportation.
127.613 Additional tests for Type A packagings designed for liquids and gases.
127.615 Tests for demonstrating the ability of radioactive materials packagings to withstand accident conditions in transportation.
127.617 Water in-leakage test for fissile radioactive materials packagings.
127.619 Tests for special form radioactive materials.

Subpart H—Additional Requirements for the Transportation of Radioactive Materials

127.701 Requirements for U.S. Nuclear Regulatory Commission approved packages.
127.703 Requirements for foreign-made packages.
127.705 Quality control for radioactive materials packagings.
127.707 Quality control requirements prior to each shipment of radioactive materials.
127.709 [Reserved]
127.711 Approval of special form radioactive material.
127.713 Approval for export shipments.
127.715 Notification to competent authorities for export shipments.

2. A new Part 127 would be added to read as follows:

Subpart A—Scope and Definitions

§ 127.1 Scope.

(a) This part sets forth requirements for the transportation of radioactive materials by carriers and shippers subject to this chapter. The requirements prescribed in this part are in addition to, but not in lieu of, other requirements set forth in this subchapter and in Part 71 of Title 10 of the Code of Federal Regulations for the transportation of radioactive materials.

(b) This part does not apply to—

(1) Radioactive materials produced, used, or stored in an establishment other than during the course of transportation;

(2) Radioactive materials contained in a medical device, such as a heart pacemaker, implanted in a human being or animal.

(3) Radiopharmaceuticals that have been injected into, or ingested by, human beings or animals.

(c) Explosive radioactive materials may be transported only under special arrangements approved by the Department under § 107.103 of this subchapter.

§ 127.3 Definitions.

In this part, "A_1" means the maximum activity of special form radioactive material permitted in a Type A package.

"A_2" means the maximum activity of radioactive material, other than special form radioactive material, permitted in a Type A package. These values are either listed in § 127.305 or may be derived in accordance with the procedure prescribed in §§ 127.301 and 127.303.

"Allowable number of packages" means the maximum number of Fissile Class II or Fissile Class III packages that may be grouped together in one place during transportation. When the group is made up of packages of different designs, the allowable number of packages is determined in accordance with the following formula:

$$\frac{n_1}{N_1} + \frac{n_2}{N_2} + \frac{n_3}{N_3} + \ldots \text{ may not exceed } 1.$$

In this formula, n_1, n_2, n_3 . . . are the numbers of packages present for which the corresponding allowable numbers are N_1, N_2, N_3 respectively.

"Closed transport vehicle" means a vehicle equipped with a securely attached exterior enclosure that during normal transportation restricts the access of unauthorized persons to the cargo space containing the radioactive materials. The enclosure may be either temporary or permanent, and in the case of non-dispersible materials may be of the "see-through" type, and must limit access from top, sides, and ends.

"Containment system", with respect to a radioactive materials package, means those components of the packaging, including encapsulation of the contents, where used, that have been specified by the package designer as intended to retain the radioactive contents during transportation, whether or not individual vessels in the packaging retain their integrity of containment.

"Depleted uranium" means uranium in which the uranium-235 content has been reduced to less than 0.72 percent, with the remainder essentially uranium-238.

"Design" means the description of a special form material, a package, or a packaging, that enables those items to be fully identified. The description may include specifications, engineering drawings, reports showing compliance with regulatory requirements, and other relevant documentation.

"Enriched uranium" means uranium in which the uranium-235 content has been increased to more than 0.72 percent, with the remainder essentially uranium-238.

"Fissile radioactive material" means any material containing plutonium-238, plutonium-239, plutonium-241, uranium-233 or uranium-235 but does not include unirradiated natural or depleted uranium. See § 127.503 for other exclusions. Fissile radioactive materials are classified according to the controls needed to provide nuclear criticality safety during transportation, as provided in § 127.505.

"Freight Container"—See § 171.8. For purposes of radioactive materials shipments, a "small freight container" is defined as one which has any overall outer dimension less than 1.5 m (4.9 ft) or an internal volume of not more than 3.0 m^3 (106 ft^3). All other freight containers used for radioactive materials are "large freight containers."

"Full load", "sole use", or "exclusive use" refers to any shipment—

(a) From a single consignor having the exclusive use of a transport vehicle, of a large freight container, of an aircraft, of a hold or comparment of an inland water craft or of a hold, compartment, or defined deck area of a seagoing vessel; and

(b) For which initial, intermediate, and final loading and unloading is carried out by or under the direction of the consignor or consignee, or the designated agent of one of them.

"Low level solid radioactive material" (LLS) means—

(a) Solids such as consolidated wastes or activated materials in which—

(1) The activity under normal transportation conditions is, and remains, distributed throughout a solid or a collection of solid objects, or is, and remains, uniformly distributed in a solid compact binding agent (such as concrete, bitumen, or ceramic);

(2) The activity remains insoluble so that, even under loss of packaging, the loss of radioactive material per package resulting from the effects of wind, rain, other effects of weather, or from total immersion in water is limited to less than 0.1 A_2 in a period of one week; and

(3) The estimated activity averaged throughout the material does not exceed 2×10^{-3} A_2/g; or

(b) Objects of non-radioactive material contaminated with radioactive material, where the radioactive contamination is in a non-readily dispersible form and where the level of contamination averaged over 1 m^2 (10.8 ft^2) (or the area of the surface, if it is less than 1 m^2 (10.8 ft^2)) does not exceed—

(1) 20 $\mu Ci/cm^2$ for beta and gamma emitters and the low toxicity alpha emitters (natural or depleted uranium and natural thorium); or

(2) 2 $\mu Ci/cm^2$ for other alpha emitters. "Low specific activity radioactive material" (LSA) means:

(a) Uranium or thorium ores, or physical or chemical concentrates of those ores;

(b) Unirradiated natural or depleted uranium or unirradiated natural thorium;

(c) Tritium oxide in an aqueous solution, if the concentration does not exceed 10 Ci/liter;

(d) Materials in which the activity, under normal transport conditions, is, and remains, uniformly distributed, and in which the average estimated specific activity does not exceed 10^{-4} A_2/g;

(e) Materials in which the activity is uniformly distributed, and which, if reduced to the minimum volume under conditions likely to be encountered during transportation, including dissolution in water with subsequent recrystallization, precipitation, evaporation, combustion, and abrasion would have an average estimated specific activity of not more than 10^{-4} A_2g;

(f) Objects of non-radioactive material contaminated with radioactive material, if the non-fixed surface contamination is not more than 10 times the values set forth in § 127.405 and the contaminated object or the contamination on the object, if reduced to the minimum volume under conditions likely to be encountered in transport, including dissolution in water with subsequent recrystallization, precipitation, evaporation, combustion and abrasion would have an average estimated specific activity of no more than 10^{-4} A_2/g; and

(g) Objects of non-radioactive material contaminated with radioactive material, if the radioactive contamination is in a non-readily dispersible form and the level of contamination averaged over 1 m^2 (10.8 ft^2) (or the area of the surface, if this is less than 1 m^2 (10.8 ft^2)) is not more than—

(1) 1 $\mu Ci/cm^2$ for beta and gamma emitters and the low toxicity alpha emitters (natural or depleted uranium and natural thorium) or

(2) 0.1 $\mu Ci/cm^2$ for other alpha emitters.

"Multilateral approval" means approval by both the appropriate competent authority of the country of origin and of each country through or into which the shipment is to be transported. This definition does not include approval from countries over which radioactive materials are carried in aircraft, if there is no scheduled stop in that country.

"Natural uranium" means chemically separated uranium with the naturally occurring distribution of uranium isotopes (approximately 99.28 percent uranium-238 and 0.72 percent uranium-235).

"Non-fixed radioactive contamination" means radioactive contamination that can be readily removed from a surface by wiping with a dry smear. Non-fixed (removable) radioactive contamination is not significant if it does not exceed the limits specified in § 127.405.

"Package". See § 171.8.

"Packaging". See § 171.8.

"Radioactive contents" means the radioactive material, together with any contaminated solids, liquids, or gases, within the package.

"Radiation level" means the radiation dose-equivalent rate expressed in millirem per hour. Radiation levels may be determined by appropriate instruments or by calculation. Measured or calculated neutron flux densities may be converted into radiation levels according to the following table:

NEUTRON FLUX DENSITIES TO BE REGARDED AS EQUIVALENT TO A RADIATION LEVEL OF 1 MREM/H[1]

Energy of neutron	Flux density equivalent to 1 mrem/h (n/cm²/s)
Thermal	268
5 keV	228
20 keV	112
100 keV	32
500 keV	12
1 MeV	7.2
5 MeV	7.2
10 MeV	6.8

[1]Flux densities equivalent for energies between those listed above are obtained by interpolation.

"Radioactive material" means any material, or combination of materials, having a specific activity greater than 0.002 microcuries per gram (μCi/g).

"Special form radioactive material" means either an indispersible solid radioactive material or a sealed capsule containing radioactive material that is so constructed that it can be opened only by destructive means. Special form radioactive material must—

(a) Have at least one dimension not less than 5 mm (0.20 inch), and

(b) Comply with the applicable test requirements in § 127.619.

"Specific activity", with respect to a radionuclide, means the activity of the radionuclide per unit mass of that nuclide. The specific activity of a material in which the radionuclide is essentially uniformly distributed is the activity per unit mass of the material.

"Transport index" means the number placed on the label of a package or a freight container to designate the degree of control to be excerised by the carrier during transportation. This number expresses the maximum radiation level in millirem per hour at 1 m (3.3 ft) from the external surface of the package or for Fissile Class II and Fissile Class III packages, the larger of either the number which expresses the maximum radiation level or the number obtained by dividing 50 by the allowable number of those packages. The transport index must be rounded up to the first decimal place.

"Transport index for low specific activity material or low level solid radioactive material transported as a full load, or transported by land or sea or stored in transport in a compact stack" means the number expressing the maximum radiation level at any point 1 m (3.3 ft) from the external surface of the load multiplied by the value in the following table appropriate to the cross-sectional area of the load. For uranium and thorium ores and concentrates, in the absence of actual measurements or calculations, the maximum radiation level at any point 1 m (3.3 ft) from the external surface of the load may be taken as:

(a) 40 mrem/h for ores and physical concentrates of uranium and thorium;

(b) 30 mrem/h for chemical concentrates of thorium;

(c) 2 mrem/h for chemical concentrates of uranium other than uranium hexafluorides.

RADIATION LEVEL MULTIPLICATION FACTORS

Size of full load	Multiplication factor
Measurement (Cross-sectional area measurement of the load perpendicular to the direction of interest)	
1 m² (10.8 ft²) and less	1
1 m² (10.8 ft²) to 5 m² (53.8 ft²)	3
5 m² (53.8 ft²) to 20 m² (215 ft²)	6
20 m² (215 ft²) to 100 m² (1080 ft²)	19

By multiplying the radiation level in mrem/h at 1 m (3.3 ft) from the surface of the load or stack of packages by the multiplication factor in the table, the transport index may be obtained for full load or a compact stack of packages of—

(1) Uranium of thorium ores, or physical or chemical concentrates of these ores; or

(2) Unirradiated natural or depleted uranium or unirradiated natural thorium.

The "Transport index of a freight container" means the sum of the transport indices of all packages in the freight container except that;

(a) For freight containers holding Fissile Class III packages, the transport index shall be 50 or the sum of the transport indices of the packages, whichever is greater; and

(b) For freight containers holding no Fissile Class II or III packages and in full loads only, the number expressing the maximum radiation level in mrem/h at 1 m (3.3 ft) from the surface of the freight container multiplied by the factor in the "Radiation Level Multiplication Factors" table above appropriate to the maximum cross-sectional area of the freight container.

"Type A package" means a Type A packaging together with its limited radioactive contents. A Type A package does not require competent authority approval, since its contents are limited to A_1 or A_2.

"Type B package" means a Type B packaging together with its radioactive contents.

"Type B(M) package" means a Type B packaging, together with its radioactive contents, that for international shipments requires multilateral approval of the package design, and may require approval of the conditions of shipment.

"Type B(U) package" means a Type B packaging, together with its radioactive contents, that for international shipments, requires only unilateral approval of the package design and of any stowage provisions that may be necessary for heat dissipation.

"Type A packaging" means a packaging designed to retain the integrity of containment and shielding required by this part under normal conditions of transportation as demonstrated by the tests set forth in §§ 127.611 or 127.613 as appropriate.

"Type B packaging" means a packaging designed to retain the integrity of containment and shielding required by this part when subjected to the accident test conditions set forth in § 127.615.

"Uncompressed gas" means gas at a pressure not exceeding the ambient atmospheric pressure at the time the containment system is closed.

"Unilateral approval" means approval by the competent authority of the country of origin only.

"Unirradiated throrium" means thorium containing not more than 10^{-7}g uranium-233 per g of thorium-232.

"Unirradiated uranium" means uranium containing not more than 10^{-6} g plutonium per g uranium-235 and a fission product activity of not more than 0.25 mCi of fission products per g uranium-235.

Subpart B—Packaging and Package Design Requirements

§ 127.101 General design requirements.

In addition to the applicable requirements of § 173.24 of this subchapter, each packaging used for the shipment of radioactive materials, except one that contains a limited quantity or excepted device as prescribed in Subpart C, must be designed so that—

(a) The package can be easily handled and properly secured in or on a vehicle during transport;

(b) For a package with a gross weight exceeding 10 kg (22 lbs) and up to 50 kg (110 lbs), it has a means for manual handling;

(c) For a package with a gross weight of 50 kg (110 lbs) or more, it can be safely handled by mechanical means;

(d) Each lifting attachment on the package, when used in the intended manner, does not impose an unsafe stress on the structure of the package, including appropriate safety factors to cover "abrupt" lifting. Each attachment or other feature on the outer surface of the packaging that could be used to lift the package must be removable or otherwise capable of being made inoperable for transport, or must be designed to support the weight of the package;

(e) The outer layer of packaging will avoid, as far as practicable, the collection and retention of water; and

(f) Each feature that is added to the package at the time of transport, and that is not a part of the package, will not reduce the safety of the package.

§ 127.103 [Reserved]

§ 127.105 Additional design requirements for Type A packagings.

In addition to meeting the general design requirements prescribed in § 127.101, each Type A packaging must be designed to meet the following requirements:

(a) The smallest overall dimension of the package may not be less than 10 cm (4.0 inches);

(b) The outside of the package must incorporate a feature, such as a seal, that is not readily breakable, and that, while intact, is evidence that the package has not been illicitly opened;

(c) So far as practicable, the external surfaces must be free from protrusions;

(d) It must be able to maintain its integrity and shielding during transportation and storage in a temperature range of −40° C (−40° F) to 70° C (158° F). However, special attention must be given to brittle fracture over this temperature range;

(e) It must be able to withstand the effects of any acceleration, vibration, or vibration resonance that may arise during transportation, without any deterioration of the effectiveness of closing devices or in the integrity of the package as a whole. Nuts, bolts or other securing devices must be designed so that they cannot loosen or be released unintentionally after repeated use;

(f) It must include a containment system securely closed by a positive fastening device that cannot be opened unintentionally or by pressure that may arise within the packaging. Encapsulation of the radioactive material may be considered as a component of the containment system. If a containment system forms a separate unit of the packaging, it must be able to be securely closed by a positive fastening device that is independent of any other part of the packaging;

(g) The materials of the packaging and any components or structures must be physically and chemically compatible with each other and with the contents, considering the behavior of each under irradiation;

(h) The design of each component of the containment system must take into account, where applicable, the radiolytic decomposition of liquids and other vulnerable materials and the generation of gas by chemical reaction and radiolysis;

(i) The containment system must retain its radioactive contents under the reduction of ambient pressure to 0.25 kg/cm² (3.6 lb/in²);

(j) Each valve, other than a pressure relief valve, through which the radioactive contents could otherwise escape, must be protected against unauthorized operation and must have an enclosure to retain any leakage from the valve;

(k) A radiation shield that encloses a component of the packaging specified as a part of the containment system must be able to prevent the unintentional release of that component from the shield;

(l) Each tie-down attachment on the packaging must, under both normal and accident conditions, be able to prevent the forces applied to those attachments from impairing the ability of the package to meet the requirements of this section;

(m) When subject to the tests specified in § 127.611 of this part, the package will prevent—

(1) Loss or dispersal of the radioactive contents; and

(2) An increase in the maximum radiation level recorded or calculated at the external surface for the condition before the test;

(n) Each packaging designed for liquids must—

(1) Meet the conditions prescribed in paragraph (m) of this section when subjected to the tests specified in § 127.613;

(2) For packagings in which the liquid volume does not exceed 50 cm³ (1.7 fluid ounces), have sufficient absorbent material to absorb twice the volume of the liquid contents. The absorbent material must be suitably positioned to contact the liquid in the event of leakage; and

(3) For packages in which the liquid volume is greater than 50 cm³ (1.7 fluid ounces), either:

(i) Have sufficient absorbent material as prescribed in paragraph (n)(2) of this section; or

(ii) Have a containment system composed of primary inner and secondary outer containment components designed to assure retention of the liquid contents within the secondary outer components in the event that the primary inner components leak.

(o) Each package designed for compressed or uncompressed gases must be able to prevent loss of contents when the package is subjected to the tests prescribed in § 127.613. This paragraph does not apply to any package designed for tritium or argon-37.

§ 127.107 Requirements for Type B(U) packagings.

Each Type B(U) package must be designed and constructed to meet the applicable requirements in Part 71 of Title 10 of the Code of Federal Regulations (10 CFR 71).

§ 127.109 Requirements for Type B(M) packagings.

Each Type B(M) package must be designed and constructed to meet the applicable requirements of 10 CFR 71.

§ 127.113 Authorized Type A packagings.

Each of the following packagings is authorized for shipment of quantities not exceeding A_1, or A_2 as prescribed in the Table in § 127.305:

(a) U.S. Department of Transportation (DOT) Specification 7A (§ 178.350 of this subchapter) Type A general packaging. Each shipper of a Specification 7A package must maintain on file for at least one year after the latest shipment, and must be prepared to provide to DOT, a complete documentation of tests, an engineering evaluation or comparative data showing that the construction methods, packaging design, and materials of construction comply with that specification;

(b) DOT Specification 55 metal-encased shielded packaging constructed before April 1, 1975. Construction is not authorized after March 31, 1975. Each packaging designed for liquids must also meet the requirements of § 127.105(m) and (n);

(c) Any Type B(U) or B(M) packaging pursuant to § 127.115; or

(d) Any foreign made packaging that bears the marking "Type A" and complies with the regulations of the country of origin applicable to Type A packages.

§ 127.115 Authorized Type B(U) and B(M) packagings.

Each of the following packages is authorized for shipment of quantities exceeding A_1 or A_2 as prescribed in the table in § 127.305:

(a) Specification 55 metal encased shielded packaging constructed before April 1, 1975, for domestic shipments only of 300 curies or less of special form radioactive materials. Construction is not authorized after March 31, 1975. Use of this package not authorized after (1 year from effective date of the amendment).

(b) Any Type B(U) or Type B(M) packaging that meets the applicable requirements in the regulations of the U.S. Nuclear Regulatory Commission (USNRC) (10 CFR Part 71) and that has been approved by USNRC may be shipped pursuant to § 127.701.

(c) Any Type B(U) or B(M) packaging that meets the applicable requirements of the regulations of the International Atomic Energy Agency (IAEA) in its "Regulations for the Safe Transport of Radioactive Materials—Safety Series No. 6, 1973 Revised Edition" and for which the foreign competent authority certificate has been revalidated by DOT pursuant to § 127.703. Authorized only for export and import shipments.

(d) DOT Specification 6M (§ 178.104 of this subchapter) metal packaging, only for solid or gaseous radioactive materials that will not undergo pres-

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sure generating decomposition at temperatures up to 121°C (250°F).

(e) For contents in other than special form, DOT Specification 20WC (§ 178.194 of this subchapter), wooden protective jacket, when used with a single, snug-fitting inner DOT Specification 2R (§ 178.34 of this subchapter) or DOT Specification 55 container. (Construction of DOT Specification 55 packagings is not authorized after March 31, 1975.) For liquid contents, the inner packaging requirements in § 127.105(m) and (n) must also be met.

(f) For contents in special form only, DOT Specification 20WC (§ 178.194 of this subchapter), wooden protective jacket, with a single snug-fitting inner Type A packaging that has a metal outer wall and conforms to § 178.350 of this subchapter or DOT Specification 55. (Construction of DOT Specification 55 packagings is not authorized after March 31, 1975.) Radioactive thermal decay energy may not exceed 100 watts.

(g) For contents in special form only, DOT Specification 21WC (§ 178.195 of this subchapter), wooden protective overpack, with a single inner DOT Specification 2R (§ 178.34 of this subchapter) or DOT Specification 55 container. (Construction of DOT Specification 55 packagings is not authorized after March 3, 1975.) Contents must be loaded within the inner packaging to preclude loose movement during transportation. The inner packaging must be securely positioned and centered within the overpack by solid cushioning materials so that there can be no significant displacement of the inner packagings when subjected to the 9m (30 ft) drop test described in 10 CFR Part 71.

§ 127.117 Authorized packaging—fissile radioactive materials.

(a) Fissile radioactive materials containing not more than A_1 or A_2 total radioactivity, unless exempted by § 127.503, must be packaged in one of the following packagings:

(1) DOT Specification 6L (§ 178.103 of this subchapter), metal packaging. Authorized fissile contents are set forth in paragraph (b)(1) of this section.

(2) DOT Specification 6M (§ 178.104 of this subchapter), metal packaging. Authorized fissile contents are set forth in paragraph (b)(2) of this section.

(3) Any packaging listed in § 127.113, limited to the following radioactive materials:

(i) 500 grams of uranium-235 in a single shipment as Fissile Class III or not more than 40 grams of uranium-235 per package as Fissile Class II. For Fissile Class II shipments, the transport index to be assigned to each package must be 0.4 for each gram of uranium-235 above 15 grams up to the maximum of 40 grams (transport index of 10).

(ii) 32 grams of plutomium-239 as plutonium-berryllium neutron sources in special form. Total radioactivity content may not exceed 2 curies. The transport index to be assigned to each package must be 0.5 for each 20 grams, or fraction thereof, of fissile plutonium.

(4) Any other Type A packaging for fissile radioactive materials that also meets the applicable standards for fissile materials in the regulations of the U.S. Nuclear Regulatory Commission (10 CFR Part 71), and is approved in accordance with § 127.701.

(5) Any other Type A packaging for fissile radioactive materials that also meets the applicable requirements for fissile material in Section VI of the 1973 regulations of the International Atomic Energy Agency, and for which the foreign competent authority certificate has been revalidated by DOT, in accordance with § 127.703.

(6) A DOT Specification 6J (§ 178.100 of this subchapter) or 17H (§ 178.118 of this subchapter) 55-gallon steel drum, subject to the following conditions:

(i) The quantity may not exceed 350 grams of uranium-235 (which must not be pyrophoric) enriched to any degree in the U-235 isotope.

(ii) Each drum must have a minimum 18-gauge body and bottom head and 16-gauge removable top head with one or more corrugations in the cover near the periphery.

Maximum U-235 per package (grams)	Minimum transport index per package as Fissile Class II	Maximum packages per transport vehicle as Fissile Class III
350	1.8	72
300	1.0	129
250	0.5	256
200	0.3	500
150	0.1	500
100	0.1	500
50	(1)	(1)

[1] Fissile Class I.

(iii) Closure must conform to § 178.103-5(a) of this subchapter.

(iv) At least four equally spaced 12 mm (0.5 inch) diameter vent holes on the sides of the drum near the top, each covered with weatherproof tape, or equivalent device must be provided.

(v) Appropriate primary inner containment of the contents and sufficient packaging material, such as plastic wrapping, must be provided.

(vi) Each inner container must be able to vent when subjected to the thermal test described in 10 CFR 71.

(vii) Liquid contents must be packaged in accordance with § 127.105(m) and (n).

(viii) The maximum weight of contents including internal packagings may not exceed 91 kg (200 lbs) with fissile material content limited as follows:

Maximum cylinder diameter		Cylinder volume		Maximum U-235 enrichment (weight percent)	Maximum weight per cylinder	
Inches	Centimeters	Cubic feet	Liters		Pounds UF[6]	Kilograms U-235
5	12.7	0.311	8.8	100.0	0.1	0.031
8	20.3	1.359	39	12.5	.5	.019
12	30.5	2.410	68	5.0	1.0	.015
30	76	25.64	725	5.0	25.0	.383
48	12.2	[1]108.9	3084	4.5	50.0	.690
		[2]142.7	4041			

[1] 10-ton.
[2] 14-ton.

(7) Any metal cylinder that meets the performance requirements for Specification 7A Type A packaging in §§ 127.113 and 178.350 of this subchapter may be used as a Fissile Class I package for the transport of residual "heels" of enriched solid uranium hexafluoride without a protective overpack in accordance with the following table:

(8) DOT Specification 20PF-1, 20PF-2, or 20PF-3 (§ 178.120 of this subchapter) or Specification 21PF-1 or 21PF-2 (§ 178.121 of this subchapter) phenolic-foam insulated overpack with snug fitting inner metal cylinders. (See paragraph (b)(5) of this section for authorized use.)

(b) Fissile radioactive materials with radioactive content exceeding A_1 or A_2 must be packaged in one of the following packages:

(1) DOT Specification 6L (§ 178.103 of this subchapter), metal packaging.

Authorized only for uranium-235, plutonium-239 or plutonium-241, as metal, oxide, or compounds that do not decompose at temperatures up to 149°C (300°F). Radioactive thermal decay energy output may not exceed 5 watts. Radioactive materials in normal form must be packaged in one or more sealed and leak tight metal cans or polyethylene bottles within a DOT Specification 2R (§ 178.34 of this subchapter) containment vessel. For Fissile Class II and III packages, fissile radioactive materials must be limited in accordance with the following:

Uranium-235 [2]		Plutonium [2][4]		Fissile Class II transport index	Fissile Class III maximum number of packages per transport vehicle
[5] H/X 3	3 H/X 20	H/X 10	10 H/X 20		
14------	[3] 3.6	----------		1.3	80
----------		2.5	2.4	1.8	55

[1] Quantity in kilograms.
[2] All sources of hydrogen within the inner containment vessel must be considered in determining the H/X ratio of inner containment vessel.
[3] Volume not to exceed 3.6 liters.
[4] Plutonium solutions are not authorized.
[5] H/X is the ratio of hydrogen atoms to fissile atoms.

(2) DOT Specification 6M (§ 178.104 of this subchapter), metal packaging. Authorized only for solid radioactive materials that will not decompose at temperatures up to 121°C (250°F). Radioactive thermal decay energy output may not exceed 10 watts. Radioactive materials in other than special form must be packaged in one or more sealed and leak-tight metal cans or polyethylene bottles within a DOT Specification 2R containment vessel. For fissile materials:

(i) Fissile Class I packages are limited to the following amounts of fissile radioactive materials: 1.6 kilograms or uranium-235; 0.9 kilograms of plutonium (because of the 10-watt thermal decay heat limitation, the limit for plutonium-238 is 0.02 kilograms); 0.5 kilograms of uranium-233. The maximum ratio of hydrogen to fissile material must not exceed three, including all of the sources of hydrogen within the DOT Specification 2R (§ 178.34 of this subchapter) containment vessel.

(ii) For Fissile Class II and Fissile Class III packages, quantities of fissile radioactive material are limited as shown in the following table. For a Fissile Class II package, the minimum transport index to be assigned is shown in the following table. For a Fissile Class III package, the allowable number of similar packages per transport vehicle is shown. Each Fissile Class III shipment is also subject to the requirements in § 127.507 of this part. Where a maximum ratio of hydrogen to fissile material is specified in the table, only the hydrogen interspersed with the fissile material need be considered. For a uranium-233 shipment, the maximum inside diameter of the inner containment vessel must not exceed 12 cm (4.8 inches). Where necessary, a tight fitting steel insert must be used to reduce a larger diameter inner containment vessel specified in § 178.104-3(b) of this subchapter to the 12 cm (4.8 inches) limit.

TABLE OF AUTHORIZED CONTENTS 1/

Uranium-233 5/		Plutonium 2/3/4/		Fissile class II transport index	Uranium-235 4/7/		Fissile class III maximum number of packages per transport vehicle
Metal or alloy H/X=0	Compounds H/X≤3	Metal or alloy H/X=0	Compounds H/X≤3		Metal or alloy H/X=0	Compounds H/X≤3	
		3.1	4.1	0.1			1,250
		3.4	4.5	.2			625
		4.2	4.1	.5			250
		4.5	4.5	1.0			125
				5.0			25
				10.0			12
H/X=0	H/X≤3	H/X=0	H/X≤3		H/X=0	H/X≤3	
3.6	4.4	2.9			7.2	7.6	5.3
6/4.2	5.2	3.5			8.7	9.6	6.4
6/5.2	6.8	4.5			11.2	13.9	8.3
					13.5	16.0	10.1
						26.0	16.1
						32.0	19.5

1/ Quantity in kilograms.

2/ Minimum percentage of plutonium-240 is 5 weight percent.

3/ 4.5 kg limitation of plutonium due to 10 watt decay heat limitation.

4/ For a mixture of uranium-235 and plutonium an equal amount of uranium-235 may be substituted for any portion of plutonium authorized.

5/ Maximum inside diameter not to exceed 12 cm (4.75 in) (see par. (c)(2)(ii) of this section).

6/ Granulated or powdered metal with any particle less than 8 mm (0.25 inch) in the smallest dimension is not authorized.

7/ Maximum uranium-235 enrichment is 93 percent.

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(3) Type B(U) or B(M) packaging that meets the standards for packaging of fissile radioactive materials in 10 CFR Part 71, and is approved by the U.S Nuclear Regulatory Commission in accordance with § 127.701.

(4) Type B(U) or B(M) packaging that meets the applicable requirements for fissile radioactive materials in Section VI of the 1973 regulations of the International Atomic Energy Agency, and for which the foreign competent authority certificate has been revalidated by the Department in accordance with § 127.703. Authorized only for import and export shipments.

(5) DOT Specifications 20PF-1, 20PF-2, or 20PF-3 (§ 178.120 of this subchapter) or Specifications 21PF-1 or 21PF-2 (§ 178.121 of this subchapter) phenolic-foam insulated protective overpacks, with snug-fitting inner metal cylinders meeting all of the applicable requirements of §§ 127.701, 127.105, 173.24. Handling procedures and packaging criteria must be in accordance with the most current issue of U.S. Department of Energy Report No. ORO-651 or ANSI Standard N-14.1-1971. Quantities of uranium hexafluoride are authorized as follows, with each package to be shipped as Fissile Class II, and assigned a minimum transport index as indicated in the following table:

Authorized Quantitites of Uranium Hexafluoride as Fissile Class II

Protective overpack specification No.	Maximum inner cylinder diameter		Maximum weight of UF_6 contents		Maximum U-235 enrichment (weight percent)	Fissile class II transport index
	Inches	Centimeters	Pounds	Kilograms		
20PF-1	5	12.7	55	25	100	0.1
20PF-2	8	20.3	255	116	12.5	.4
20PF-3	12	30.5	460	209	5.0	1.1
21PF-1 1/	30 2/	76	4,950	2,247	5.0	5.0
	30 3/	76	5,020	2,279	5.0	5.0
21PF-2 1/	30 2/	76	4,950	2,247	5.0	5.0
	30 3/	76	5,020	2,279	5.0	5.0

1/ For 30-in cylinders, the maximum H/U atomic ration is 0.088.

2/ Model 30A inner cylinder (Reference: ORO-651).

3/ Model 30B inner cylinder (Reference: ORO-651).

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V 4 4 / 5 J A 8 7 9 UMI

§ 127.119 Authorized packaging—pyrophoric radioactive materials.

(a) Pyrophoric (materials which are capable of spontaneous ignition) radioactive materials, as referenced in § 172.101 of this subchapter, and which are not fissile radioactive materials and not in quantities exceeding A_2 per package, must be in packages of such a design and constructed of materials that will not react with nor be decomposed by the contents. Contents must be in solid form, and:

(1) Contained in one or more sealed and corrosion resistant innermost receptacles with positive closures (friction or slip-fit covers or stoppers are not authorized);

(2) Dry of water and free of any contaminants which would increase the reactivity of the material; and

(3) Made inert to prevent self-ignition during transport by either:

(i) Mixing with large volumes of inerting materials such as graphite or sand, or other suitable inerting material, or blended into a matrix of hardened concrete; or

(ii) Filling the innermost receptacle with an appropriate inert gas.

(b) In addition to the applicable requirements of § 173.24 of this subchapter—

(1) Each innermost sealed receptacle must contain not more than 4.5 kg (10 lbs.) of materials;

(2) Each innermost receptacle must be further enclosed within an outer wooden or metal packaging with noncombustible cushioning material positioned on all sides between the inner receptacle and outer enclosure;

(3) The maximum net weight of the contents may not exceed 34 kg (75 lbs.); and

(4) The package must be capable of passing the test conditions of § 127.611 without leakage of contents.

§ 127.121 Authorized packaging—oxidizing radioactive materials.

Certain oxidizing radioactive materials, as referenced in § 172.101 of this subchapter, and which are also not fissile radioactive materials and not in quantities exceeding A_2, must be packed in suitable inside packagings of earthenware, glass, metal or compatible plastic and suitably cushioned with a material which will not react with the contents. Inner packagings and cushioning must be enclosed within an outside packaging of wood, metal, or plastic. The package must also meet the applicable test requirements of § 127.611 without leakage of contents. For shipment by air, the maximum quantity in any package may not exceed 11.3 kg (25 lbs).

Subpart C—Exceptions for Certain Quantities and Items, Low Specific Activity Radioactive Materials and Low Level Solid Radioactive Materials

§ 127.201 [Reserved]

§ 127.203 Limited quantities of radioactive materials.

Radioactive materials whose activity per package does not exceed the limits specified in § 127.207, are excepted from the labeling requirements of Part 172 of this subchapter, from specification packaging, and the requirements of this part if—

(a) The materials are packaged in strong, tight packages that will not leak any of the radioactive materials during conditions normally incident to transportation;

(b) The radiation level at any point on the external surface of the package does not exceed 0.5 mrem/h;

(c) The non-fixed (removable) radioactive surface contamination on the external surface of the package does not exceed the limits specified in § 127.405(a);

(d) The packaging bears the marking "Radioactive" in such a manner that it is visible upon opening the package;

(e) Except as provided in § 127.209, the package does not contain more than 15 grams of uranium-235; and

(f) The smallest external dimension of the package is not less than 10 cm (4.0 inches).

§ 127.205 Exceptions for instruments and devices.

Instruments and manufactured articles (including clocks, electronic tubes or apparatus) or similar devices having radioactive materials (other than liquids) in a non-dispersible form as a component part are excepted from the labeling requirements of Part 172 of this subchapter, from specification packaging, and the requirements of this part, if—

(a) The activity of the instrument or article does not exceed the relevant limit listed in the table in § 127.207;

(b) The total activity per package does not exceed the relevant limit listed in the table in § 127.207;

(c) The radiation level at 10 cm (4.0 inches) from any point on the external surface of any instrument or device does not exceed 10 mrem/h;

(d) The radiation level at any point on the external surface of a package bearing the devices or instruments does not exceed 0.5 mrem/h; except for full-load shipments, for which the limit is 2 mrem/h;

(e) The non-fixed (removable) radioactive surface contamination on the external surface of the package does not exceed the limits specified in § 127.405(a);

(f) Except as provided in § 127.209, no package contains more than 15 grams of U-235;

(g) The smallest external dimension of the package is not less than 10 cm (4.0 inches); and

(h) The instrument or device (except radioluminescent time pieces or devices) is marked "Radioactive."

§ 127.207 Table of activity limits—excepted quantities and devices.

The limits applicable to instruments, devices, and excepted quantities subject to exceptions under §§ 127.203 and 127.205 are as follows:

Nature of contents	Instruments and articles		Materials
	Item limits 1/	Package limits	Package limits
Solids			
Special forms	$10^{-2}A_1$	A_1	$10^{-3}A_1$
Other forms	$10^{-2}A_2$	A_2	$10^{-3}A_2$
Liquids			
Tritiated water			
<0.1 Ci/l	-	-	1000 Ci
between 0.1Ci/l and 1.0Ci/l	-	-	100 Ci
>1.0 Ci/l	-	-	1 Ci
Other liquids	$10^{-3}A_2$	$10^{-1}A_2$	$10^{-4}A_2$
Gases			
Tritium 2/	20 Ci	200 Ci	20 Ci
Special form	$10^{-3}A_1$	$10^{-2}A_1$	$10^{-3}A_1$
Other forms	$10^{-3}A_2$	$10^{-2}A_2$	$10^{-3}A_2$

1/ For mixture of radionuclides in items see § 127.303(b).
2/ These values also apply to tritium in activated luminous paint and tritium absorbed on solid carriers.

§ 127.209 Excepted articles containing natural uranium or thorium.

Manufactured articles in which the sole radioactive material content is natural or depleted uranium or natural thorium are excepted from the labeling requirements of Part 172 of this subchapter, from specification packaging, and from the requirements of this part if—

(a) The outer surface of the uranium or thorium is enclosed in an inactive sheath made of metal or other protective material; and

(b) The conditions specified in § 127.203(b), (c) and (d) are met.

§ 127.211 Transport requirements for low specific activity (LSA) radioactive materials.

(a) Low specific activity (LSA) radioactive materials must be packaged in accordance with §§ 127.101, 127.105(a), (e), (g) and (m), 127.611, and 173.24 of this subchapter.

(b) LSA materials when transported in other than full loads must be labeled in accordance with Part 172 of this subchapter.

(c) For shipments of LSA materials transported as full load:

(1) Packages are excepted from the labeling requirements of Part 172 of this subchapter;

(2) Packages must be stenciled or otherwise marked with the notation "RADIOACTIVE-LSA";

(3) The surface contamination limits on packages may not exceed the levels prescribed in § 127.405(c);

(4) External radiation levels may not exceed those prescribed in § 127.401(b);

(5) The transport vehicle must be placarded by the shipper with the placards prescribed in Part 172 of this subchapter, however, shipments of unconcentrated uranium or thorium ores are excepted from placarding;

(6) The activity of the "full-load" shipment may not exceed the following limits:

Nature of Material	Vehicle, Aircraft, hold, compartment or deck area of a seagoing vessel	Hold or compartment of an inland waterway craft
Solids	No Limit	100 x A_1
Tritiated water	50,000 Ci	5,000
Other liquids and gases	100 x A_1	100 x A_1

NOTE.—See also part 176 of this subchapter.

(7) Shipments must be loaded by the consignor and unloaded by the consignee from the transport vehicles in which originally loaded;

(8) Specific written instructions for maintenance of sole use shipment controls must be provided by the shipper to the carrier. Such instructions must be included with the shipping paper information; and

(9) Shipments must be loaded in accordance with § 127.415(a).

(d) Unpackaged (bulk) shipments of low specific activity materials transported in closed transport vehicles (except aircraft) designated for the sole use of the consignor must comply with the following:

(1) Authorized materials are limited to the following:

(i) Uranium or thorium ores and physical or chemical concentrates of those ores;

(ii) Uranium metal or natural thorium metal, or alloys of these materials;

(iii) Materials which, if reduced to the minimum volume under conditions likely to be encountered during transportation, including dissolution in water with subsequent recrystallization, precipitation, evaporation, combustion, and abrasion would have an average estimated specific activity of not more than $10^{-4}A_2/g$;

(iv) Objects of non-radioactive material contaminated with radioactive material, if the non-fixed surface contamination is not more than 10 times the values set forth in § 127.405 and the contaminated object or the contamination on the object, if reduced to the minimum volume under conditions likely to be encountered during transportation, including dissolution in water with subsequent recrystallization, precipitation, evaporation, combustion, and abrasion would have an average estimated specific activity of no more than $10^{-4}A_2/g$.

(2) External radiation levels must comply with § 127.401(b);

(3) The transport vehicles must be placarded with the placards prescribed in § 172.504 of this subchapter, however, shipments of unconcentrated uranium or thorium are excepted from placarding;

(4) Shipments must be loaded by the consignor, and unloaded by the consignee from the transport vehicle in which originally loaded; and

(5) Specific written instructions for maintenance of sole use shipment controls must be provided by the shipper to the carrier. Such instructions must be included with the shipping paper information.

§ 127.213 Transport requirements for low level solid (LLS) radioactive materials.

(a) Low level solid radioactive materials (LLS) must be packaged in accordance with §§ 127.101, 127.105 (a), (e), (g) and (m), 127.611, and 173.24 of this subchapter.

(b) LLS materials may be transported only as full loads, and are subject to the following requirements:

(1) Packages are excepted from the labeling requirements of Part 172 of this subchapter.

(2) Packages must be stenciled or otherwise marked with the notation "RADIOACTIVE-LLS".

(3) Surface contamination limits on packages may not exceed the levels prescribed in § 127.405(c).

(4) External radiation levels must comply with § 127.401(b).

(5) Shipments must be loaded by the consignor and unloaded by the consignee from the transport vehicle in which originally loaded.

(6) Shipments must be loaded in accordance with § 127.415(a).

(7) Specific written instructions for maintenance of sole use shipment controls must be provided by the shipper to the carrier. Such instructions must be included with the shipping paper information.

Subpart D—Activity Limits for Radioactive Materials Packages

§ 127.301 Activity limits for Type A and Type B packages.

(a) A Type A package may not contain activities greater than the following, determined in accordance with the procedures described in § 127.303, or as listed in § 127.305:

(1) For special form radioactive materials, A_1.

(2) For all other radioactive materials, A_2.

(b) The limits on activity contained in Type B(U) and Type B(M) packages are those as prescribed in their approval certificates under §§ 127.115, 127.701, and 127.703.

§ 127.303 Requirements for determination of A_1 and A_2 values for redionuclides.

(a) *Single radionuclides.* (1) For single radionuclides of known identity, the values of A_1 and A_2 are those given in the table in §127.305. The values of A_1 and A_2 are also applicable for radionuclides contained in (α,n or (δ,n) neutron sources.

(2) For any single radionuclide of known identity, which is not listed in §127.305, the values of A_1 and A_2 shall be determined in accordance with the following:

(i) If the radionuclide emits only one type of radiation, A_1 is determined in accordance with paragraphs (A), (B), (C), and (D) of this paragraph. For radionuclides emitting different kinds of radiation, A_1 if the most restrictive value of those determined for each individual radioisotope. However, in both cases, A_1 is restricted to a maximum of 1000 Ci. If a parent nuclide decays into a shorter lived daughter, of a half-life not greater than 10 days, A_1 is calculated for both the parent and the daughter, and the more limiting of the two values is assigned to the parent nuclide.

(A) For gamma emitters, A_1 is determined by the expression:

$$A_1 = \frac{9 \text{ curie}}{\Gamma}$$

where:

Γ is the gamma-ray constant, corresponding to the dose in R/h at 1 m per Ci: the number 9 results from the choice of 1 rem/h at a distance of 3 m as the reference dose-equivalent rate.

(B) For x-ray emitters, A_1 is determined by the atomic number (Z) of the nuclide: for $Z \leq 55$, $A_1 = 1000$ Ci for $Z > 55$, $A_1 = 200$ Ci.

(C) For beta emitters, A_1 is determined by the maximum beta energy (E_{max}) according to the following table:

E_{max} (MeV)	A_1 (Ci)
<0.5	1000
0.5 – <1.0	300
1.0 – <1.5	100
1.5 – <2.0	30
>2.0	10

(D) For alpha emitters, A_1 is determined by the expression:

$$A_1 = 1000\ A_2$$

where A_2 is the value listed in the following table:

Atomic number	A_2		
	Half-life less than 1000 days	Half-life 1000 days to 10 years	Half-life greater than 10 years
1 to 81	3 Ci	50 mCi	3 Ci
82 and above.	2 mCi	2 mCi	3 Ci

(ii) For assignment of A_2 values, A_2 is the more restrictive of the following values:

(A) The corresponding A_1.

(B) The value A_2 obtained from the table in subparagraph (2)(i) of this paragraph.

(3) For any single radionuclide whose identity is unknown, the value of A_1 is 2 Ci and the value of A_2 is 0.002 Ci. However, if the atomic number of the radionuclide is less than 82, the value of A_1 is 10 Ci and the value of A_2 is 0.4 Ci.

(b) *Mixture of radionuclides, including radioactive decay chains.* (1) For mixed fission products, where a detailed analysis of the mixture is not carried out, the following activity limits apply:

$A_1 = 10$ Ci

$A_2 = 0.4$ Ci

(2) A single radioactive decay chain is considered to be a single radionuclide when the radionuclides are present in their naturality occurring proportions and no daughter nuclide has a half-life either longer than 10 days or longer than that of the parent nuclide. The activity to be taken into account and the A_1 or A_2 value to be applied are those corresponding to the parent nuclide of that chain. However, in the case of radioactive decay chains in which any daughter nuclide has a half-life either longer than 10 days or greater than that of the parent nuclide, the parent and daughter nuclides are considered to be mixtures of different nuclides.

(3) In the case of a mixture of different radionuclides, where the identity and activity of each radionuclide is known, the permissible activity of each radionuclide $R_1, R_2, \ldots R_n$ must be such that $F_1 + F_2 + \ldots F_n$ is not greater than unity, when—

$$F_1 = \frac{\text{Total activity of } R_1}{A_1\ (R_1)}$$

$$F_2 = \frac{\text{Total activity of } R_2}{A_1\ (R_2)}$$

$$F_n = \frac{\text{Total activity of } R_n}{A_1\ (R_n)}$$

where $A_1\ (R_1, R_2 \ldots R_n)$ is the value of A_1 or A_2 as appropriate for the nuclide $R_1, R_2 \ldots R_n$.

(4) When the identity of each radionuclide is known but the individual activities of some of the radionuclides are not known, the formula given in subparagraph (3) of this paragraph must be applied to establish the values of A_1 or A_2 as appropriate. All the radionuclides whose individuals activities are not known (but whose total activity is known) must be classed in a single group and the most restrictive value of A_1 and A_2 applicable to any one of them shall be used as the value of A_1 or A_2 in the denominator of the fraction.

(5) Where the identity of each radionuclide is known but the individual activity of the radionuclides is not known, the most restrictive value of A_1 or A_2 applicable to any one of the radionuclides present is the applicable value.

(6) When the identity of the radionuclides is not known, the value of A_1 is 2 Ci and the value of A_2 is 0.002 Ci. However, if alpha emitters are known to be absent, the value of A_2 is 0.4 Ci.

§ 127.304 Activity-mass relationships for uranium and natural thorium.[1]

Radioactive material	Ci/g	g/Ci
Uranium (Wt% ^{235}U present)		
0.45	5.0×10^{-7}	2.0×10^{6}
0.72 (natural)	7.06×10^{-7}	1.42×10^{6}
1.0	7.6×10^{-7}	1.3×10^{6}
1.5	1.0×10^{-6}	1.0×10^{6}
5.0	2.7×10^{-6}	3.7×10^{5}
10.0	4.8×10^{-6}	2.1×10^{5}
20.00	1.0×10^{-5}	1.0×10^{5}
35.00	2.0×10^{-5}	5.0×10^{4}
50.0	2.5×10^{-5}	4.0×10^{4}
90.0	5.8×10^{-5}	1.7×10^{4}
93.0	7.0×10^{-5}	1.4×10^{4}
95.00	9.1×10^{-5}	1.1×10^{4}
Natural thorium	2.2×10^{-7}	4.6×10^{6}

[1] The figures for uranium include the activity of uranium-234 which is concentrated during the enrichment process. The activity for thorium includes the equilibrium concentration of thorium-238.

§ 127.305 Table of A_1 and A_2 values for radionuclides.

Symbol of radionuclide	Element and atomic number	A_1(Ci)	A_2(Ci)	Specific activity (Ci/g)
^{227}Ac	Actinium(89)	1000	0.003	7.2×10
^{224}Ac		10	4	2.2×10^{4}
^{105}Ag	Silver(47)	40	40	3.1×10^{4}
^{110m}Ag		7	7	4.7×10^{3}
^{111}Ag		100	1000	1.6×10^{5}
^{241}Am	Americium(95)	8	0.008	3.2
^{243}Am		8	0.008	1.9×10^{-1}
^{37}Ar(compressed or uncompressed)	Argon(18)	1000	1000	1.0×10^{5}
^{41}Ar(uncompressed)		20	20	4.3×10^{7}
^{41}Ar(compressed)		1	1	
^{72}As	Arsenic(33)	1000	400	2.4×10^{4}
^{74}As		20	20	1.0×10^{5}
^{76}As		10	10	1.6×10^{5}
^{77}As		300	300	1.1×10^{6}
^{211}At	Astatine(85)	200	7	2.1×10^{6}
^{193}Au	Gold(79)	200	200	9.3×10^{5}
^{194}Au		30	30	1.2×10^{5}
^{196}Au		40	40	2.5×10^{5}
^{199}Au		200	200	2.1×10^{5}
^{131}Ba	Barium(56)	40	40	8.7×10^{4}
^{133}Ba		40	10	4.0×10^{3}
^{140}Ba		20	20	7.3×10^{4}
^{7}Be	Beryllium(4)	300	300	3.5×10^{5}
^{206}Bi	Bismuth(83)	5	5	9.9×10^{4}
^{207}Bi		10	10	2.16×10^{5}
^{210}Bi(RaE)		100	4	1.2×10^{5}
^{213}Bi		6	6	1.5×10^{7}
^{249}Bk	Berkelium (97)	1000	1	1.8×10^{3}
^{97}Br	Bromine (35)	6	6	1.1×10^{6}
^{14}C	Carbon (6)	1000	100	4.6
^{45}Ca	Calcium (20)	1000	40	1.9×10^{4}
^{47}Ca		20	20	5.9×10^{5}
^{109}Cd	Cadmium (48)	1000	70	2.6×10^{3}
^{115m}Cd		30	30	2.6×10^{4}
^{115}Cd		80	80	5.1×10^{5}
^{139}Ce	Cerium (58)	100	100	6.5×10^{3}
^{141}Ce		300	200	2.8×10^{4}
^{143}Ce		60	60	6.6×10^{3}
^{144}Ce		10	7	3.2×10^{3}
^{249}Cf	Californium (98)	2	0.002	3.1
^{250}Cf		7	0.007	1.3×10^{3}
^{252}Cf		2	0.009	6.5×10^{3}
^{36}Cl	Chlorine (17)	300	30	3.2×10^{-2}
^{38}Cl		10	10	1.3×10^{6}
^{242}Cm	Curium (96)	200	0.2	3.3×10^{3}
^{243}Cm		9	0.009	4.2×10
^{244}Cm		10	0.01	8.2×10
^{245}Cm		8	0.006	1.0×10^{-1}
^{246}Cm		6	0.006	3.6×10^{-1}
^{56}Co	Cobalt (27)	5	5	3.0×10^{4}
^{57}Co		90	90	8.5×10^{3}
^{58m}Co		1000	1000	5.9×10^{6}
^{58}Co		20	20	3.1×10^{4}
^{60}Co		7	7	1.1×10^{3}
^{51}Cr	Chromium (24)	600	600	9.2×10^{4}
^{131}Cs	Cesium (55)	1000	1000	1.0×10^{6}
^{134m}Cs		1000	1000	7.4×10^{6}
^{134}Cs		10	10	1.2×10^{3}

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Symbol of radionuclide	Element and atomic number	A_1(Ci)	A_2(Ci)	Specific activity (Ci/g)
^{135}Cs		1000	100	8.8×10^{-4}
^{134}Cs		7	7	7.4×10^{1}
^{137}Cs		30	20	9.8×10
^{64}Cu	Copper (29)	80	80	3.8×10^{4}
^{165}Dy	Dysprosium (66)	100	100	8.2×10^{4}
^{166}Dy		1000	200	2.3×10^{3}
^{169}Er	Erbium (68)	1000	300	8.2×10^{4}
^{171}Er		50	50	2.4×10^{3}
^{152m}Eu	Europium (63)	30	30	2.2×10^{4}
^{152}Eu		20	20	1.9×10^{3}
^{154}Eu		10	5	1.5×10^{3}
^{155}Eu		400	90	1.4×10^{3}
^{18}F	Fluorine (9)	20	20	9.3×10^{7}
^{52}Fe	Iron (26)	6	6	7.3×10^{3}
^{60}Fe		1000	1000	2.2×10^{3}
^{59}Fe		10	10	4.9×10^{1}
^{72}Ga	Gallium (31)	7	7	3.1×10^{5}
^{153}Gd	Gadolinium (64)	200	100	3.6×10^{3}
^{159}Gd		300	300	1.1×10^{3}
^{71}Ge	Germanium (32)	1000	1000	1.6×10^{3}
^{3}H	Hydrogen (1) see T-Tritium.			
^{181}Hf	Hafnium (72)	30	30	1.6×10^{1}
^{197m}Hg	Mercury (80)	200	200	6.6×10^{3}
^{197}Hg		200	200	2.5×10^{3}
^{203}Hg		80	80	1.4×10^{4}
^{166}Ho	Holmium (67)	30	30	6.9×10^{3}
^{125}I	Iodine (53)	1000	70	1.7×10^{4}
^{126}I		40	10	7.8×10^{1}
^{129}I		1000	2	1.62×10^{-4}
^{131}I		40	10	1.2×10^{5}
^{132}I		7	7	1.1×10^{7}
^{133}I		30	30	1.1×10^{6}
^{134}I		8	8	2.7×10^{7}
^{135}I		10	10	3.5×10^{6}
^{113m}In	Indium (49)	60	60	1.6×10^{7}
^{114m}In		30	20	2.3×10^{4}
^{115m}In		100	100	6.1×10^{5}
^{190}Ir	Iridium (77)	10	10	6.2×10^{4}
^{192}Ir		20	20	9.1×10^{3}
^{194}Ir		10	10	8.5×10^{4}
^{42}K	Potassium (19)	10	10	6.0×10^{5}
^{85m}Kr (uncompressed)	Krypton (36)	100	100	8.4×10^{3}
^{85m}Kr (compressed)		3	3	8.0×10^{5}
^{85}Kr (uncompressed)		1000	1000	4.0×10^{3}
^{85}Kr (compressed)		5	5	4.0×10^{4}
^{87}Kr (uncompressed)		20	20	2.8×10^{7}
^{87}Kr (compressed)		0.6	0.6	
^{140}La	Lanthanum (57)	30	30	5.6×10^{4}
LLS	See § 127.3(b) and § 127.213.			
LSA	See § 127.3(c) and § 127.211.			
^{177}Lu	Lutetium (71)	300	300	1.1×10^{3}
MFP	Mixed fission products	10	0.4	
^{28}Mg	Magnesium (12)	6	6	5.2×10^{5}
^{53}Mn	Manganese (25)	5	5	4.4×10^{5}
^{54}Mn		20	20	8.3×10^{3}
^{56}Mn		5	5	2.2×10^{7}
^{99}Mo	Molybdenum (42)	100	100	4.7×10^{3}
^{22}Na	Sodium (11)	8	8	6.3×10^{3}
^{24}Na		5	5	8.7×10^{4}
^{93m}Nb	Niobium (41)	1000	1000	1.1×10^{3}
^{95}Nb		20	20	3.9×10^{4}
^{97}Nb		20	20	2.6×10^{7}
^{147}Nd	Neodymium (60)	100	100	8.0×10^{4}
^{149}Nd		30	30	1.1×10^{7}
^{59}Ni	Nickel (28)	1000	900	8.1×10^{-3}
^{63}Ni		1000	100	0.46×10^{2}
^{65}Ni		10	10	1.9×10^{7}
^{237}Np	Neptunium (93)	5	0.005	6.9×10^{-4}
^{239}Np		200	200	2.3×10^{3}
^{185}Os	Osmium (76)	20	20	7.3×10^{2}
^{191}Os		600	400	4.6×10^{4}
^{191m}Os		200	200	1.2×10^{4}
^{193}Os		100	100	5.3×10^{4}
^{32}P	Phosphorus (15)	30	30	2.9×10^{5}
^{230}Pa	Protoactinium (91)	20	0.8	3.2×10^{4}
^{231}Pa		2	0.002	4.5×10^{-3}
^{233}Pa		100	100	2.1×10^{4}
^{201}Pb	Lead	30	30	1.7×10^{4}
^{210}Pb		100	0.2	8.8×10
^{212}Pb		6	5	1.4×10^{3}
^{109}Pd	Palladium (46)	1000	700	7.5×10^{4}
^{100}Pd		100	100	2.1×10^{4}
^{147}Pm	Promethium (61)	1000	80	9.4×10^{3}
^{148}Pm		100	100	4.2×10^{4}

Symbol of radionuclide	Element and atomic number	A_1(Ci)	A_2(Ci)	Specific activity (Ci/g)
^{210}Po	Polonium (84)	200	0.2	4.5×10^{3}
^{142}Pr	Praseodymium (59)	10	10	1.2×10^{6}
^{143}Pr		300	200	6.6×10^{4}
^{191}Pt	Platinum (78)	100	100	2.3×10^{3}
^{193}Pt		200	200	
^{193m}Pt		300	300	1.2×10^{7}
^{197}Pt		300	300	8.8×10^{3}
^{238}Pu	Plutonium (94)	3	0.003	1.7×10
^{239}Pu		2	0.002	6.2×10^{-2}
^{240}Pu		2	0.002	2.3×10^{-1}
^{241}Pu		1000	0.1	1.1×10^{3}
^{242}Pu		3	0.003	3.9×10^{-3}
^{223}Ra	Radium (88)	50	0.2	6.0×10^{4}
^{224}Ra		6	0.5	1.6×10^{5}
^{225}Ra		10	0.05	1.0
^{226}Ra		10	0.05	2.3×10^{2}
^{83}Rb	Rubidium (37)	30	30	8.1×10^{4}
^{87}Rb		Unlimited	Unlimited	6.6×10^{-8}
Rb (natural)		Unlimited	Unlimited	1.8×10^{-8}
^{186}Re	Rhenium (75)	100	100	1.9×10^{3}
^{187}Re		Unlimited	Unlimited	3.8×10^{-8}
^{188}Re		10	10	1.0×10^{5}
Re (natural)		Unlimited	Unlimited	2.4×10^{-8}
^{103m}Rh	Rhodium (45)	1000	1000	3.2×10^{7}
^{105}Rh		200	200	8.2×10^{3}
^{222}Rn	Radon (86)	10	2	1.5×10^{5}
^{97}Ru	Ruthenium (44)	80	80	5.5×10^{3}
^{103}Ru		30	30	3.2×10^{4}
^{105}Ru		20	20	8.6×10^{5}
^{106}Ru		10	7	3.4×10^{3}
^{35}S	Sulphur (16)	1000	300	4.3×10^{4}
^{122}Sb	Antimony (51)	30	30	3.9×10^{5}
^{124}Sb		5	5	1.8×10^{4}
^{125}Sb		40	30	1.4×10^{3}
^{46}Sc	Scandium (21)	8	8	3.4×10^{4}
^{47}Sc		200	200	8.2×10^{3}
^{48}Sc		5	5	1.5×10^{5}
^{75}Se	Selenium (34)	40	40	1.4×10^{4}
^{31}Si	Silicon (14)	100	100	3.9×10^{7}
^{147}Sm	Samarium (62)	Unlimited	Unlimited	2.0×10^{-8}
^{131}Sm		1000	90	2.6×10
^{153}Sm		300	300	4.4×10^{3}
^{113}Sn	Tin (50)	60	60	1.0×10^{4}
^{126}Sn		10	10	1.1×10^{3}
^{89m}Sr	Strontium (38)	80	80	3.2×10^{7}
^{85}Sr		30	30	2.4×10^{4}
^{87}Sr		50	50	1.2×10^{7}
^{89}Sr		100	40	2.9×10^{4}
^{90}Sr		10	0.4	1.5×10^{3}
^{91}Sr		10	10	3.6×10^{5}
^{92}Sr		10	10	1.3×10^{7}
T (uncompressed)	Tritium (1)	1000	1000	9.7×10^{3}
T (compressed)		1000	1000	
T (activated luminous paint)		1000	1600	
T (adsorbed on solid carrier)		1000	1000	
T (tritiated water)		1000	1000	
T (other forms)		20	20	
^{182}Ta	Tantalum (73)	20	20	6.2×10^{3}
^{160}Tb	Terbium (65)	20	20	1.1×10^{4}
^{99m}Tc	Technetium (43)	1000	1000	3.6×10^{7}
^{96}Tc		6	6	3.2×10^{3}
^{97m}Tc		1000	200	1.5×10^{4}
^{97}Tc		1000	400	1.4×10^{-3}
^{99m}Tc		100	100	5.2×10^{4}
^{99}Tc		1000	82	1.7×10^{-2}
^{123m}Te	Tellurium (52)	1000	100	1.8×10^{4}
^{125m}Te		300	40	4.0×10^{4}
^{127}Te		300	300	2.6×10^{6}
^{129m}Te		30	30	2.5×10^{4}
^{129}Te		100	100	2.0×10^{7}
^{131m}Te		10	10	6.0×10^{5}
^{132}Te		7	7	3.1×10^{5}
^{227}Th	Thorium (90)	200	0.2	3.2×10^{4}
^{228}Th		6	0.008	8.3×10^{2}
^{230}Th		3	0.003	1.9×10^{-3}
^{231}Th		1000	1000	5.3×10^{5}
^{232}Th		Unlimited	Unlimited	1.1×10^{-7}
^{234}Th		10	10	2.3×10^{4}
Th (natural)		Unlimited	Unlimited (see § 127.304)	
Th (irradiated)[1]				
^{200}Tl	Thallium (81)	20	20	5.8×10^{5}
^{201}Tl		200	200	2.2×10^{5}
^{202}Tl		40	40	5.4×10^{4}
^{204}Tl		300	30	4.3×10^{2}
^{170}Tm	Thulium (69)	300	40	6.0×10^{3}
^{171}Tm		1000	100	1.1×10^{2}
^{230}U	Uranium (92)	100	0.1	2.7×10^{4}
^{233}U		30	0.03	2.1×10
^{235}U		100	0.1	9.5×10^{-3}

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Symbol of radionuclide	Element and atomic number	A_1(Ci)	A_2(Ci)	Specific activity (Ci/g)
^{234}U		100	0.1	6.2×10^{-3}
^{235}U		100	0.2	2.1×10^{-6}
^{236}U		200	0.2	6.3×10^{-6}
^{238}U		Unlimited	Unlimited	3.3×10^{-7}
U (natural)		Unlimited	Unlimited (see § 127.304)	
20%		Unlimited	Unlimited (see § 127.304)	
U (enriched) 20% or greater		100	0.1	
U (depleted)		Unlimited	Unlimited (see § 127.304)	
U (irradiated)[1]				
^{48}V	Vanadium (23)	6	6	1.7×10^{4}
^{181}W	Tungsten (74)	200	100	5.0×10^{3}
^{185}W		1000	100	9.7×10^{-2}
^{187}W		40	40	7.0×10^{3}
^{133m}Xe (compressed)	Xenon (54)	10	10	1.0×10^{4}
^{133m}Xe (uncompressed)		100	100	1.0×10^{4}
^{133}Xe (uncompressed)		1000	1000	1.9×10^{4}
^{133}Xe (compressed)		5	5	1.9×10^{4}
^{135}Xe (uncompressed)		70	70	2.5×10^{5}
^{135}Xe (compressed)		2	2	2.5×10^{4}
^{90}Y	Yttrium (39)	10	10	5.3×10^{4}
^{90m}Y		30	30	4.1×10^{7}
^{91}Y		30	30	2.5×10^{5}
^{92}Y		10	10	9.5×10^{5}
^{93}Y		10	10	3.2×10^{5}
^{175}Yb	Ytterbium (70)	400	400	1.8×10^{4}
^{65}Zn	Zinc (30)	30	30	8.0×10^{3}
^{69m}Zn		40	40	3.3×10^{5}
^{69}Zn		300	300	5.3×10^{7}
^{93}Zr	Zirconium (40)	1000	200	3.5×10^{-2}
^{95}Zr		20	20	2.1×10^{4}
^{97}Zr		20	20	2.0×10^{5}

[1] The values for A_1 and A_2 must be calculated in accordance with the procedure specified in § 127.303 taking into account the activity of the fission products and the Uranium-233, in addition to the activity of the Thorium.

[2] The values for A_1 and A_2 must be calculated in accordance with the procedure specified in § 127.303(b)(3), taking into account the activity of the fission products and plutonium isotopes in addition to that of Uranium.

Subpart E—Requirements for Transportation

§ 127.401 Radiation level limitations.

(a) Except for packages shipped as a full load, each package of radioactive materials offered for transportation must be designed and prepared for shipment so that during normal transportation conditions the radiation level does not exceed 200 millirem per hour at any point on the external surface of the package, and the transport index does not exceed 10.

(b) Except for shipments by air, a shipment which exceeds the radiation level limits specified in paragraph (a) of this section, may be transported as full load if the radiation level does not exceed any of the following at any time during transportation:

(1) 1000 millirem per hour at any point on the external surface of the package;

(2) 200 millirem per hour at any point on the external surface of the vehicle, including the upper and lower surfaces, or, in the case of an open vehicle, at any point on the vertical planes projected from the outer edges of the vehicle, on the upper surface of the load, and on the lower external surface of this vehicle;

(3) 10 millirem per hour at 2 m (6.6 feet) from the planes projected from the outer surfaces of the vehicle, or if the load is transported in an open transport vehicle, at any point 2 m (6.6 feet) from the planes projected from the outer edges of the vehicle and top of the load; and

(4) 2 mm/h in any normally occupied position in the car or vehicle, except that this provision does not apply to private motor carriers.

(c) For shipments made under the provision of § 127.401(b), the shipper must provide specific written instructions for maintenance of the full load shipment controls to the carrier. The instructions must be included with the shipping paper information.

§ 127.403 Thermal limitations.

Each package of radioactive materials must be designed, constructed, and loaded so that—

(a) The heat generated within the package because of the radioactive contents will not, at any time during transportation, affect the integrity of the package under conditions normally incident to transportation; and

(b) The temperature of the accessible external surfaces of the loaded package will not, assuming still air in the shade at an ambient temperature of 38°C (100°F) exceed either—

(1) 50°C (122°F) in other than a full load; or

(2) 82°C (180°F) in a full load.

§ 127.405 Contamination control.

(a) The non-fixed (removable) external radioactive contamination of the surface of each package offered for shipment must be kept as low as practicable, and under normal conditions of transport may not exceed the following levels when averaged over any 300 cm² area of any part of the package surface:

Removable External Radioactive Contamination Levels

Contaminant	Maximum Permissible Levels	
	uCi/cm²	dis/min/cm²
Natural or depleted uranium, natural thorium, uranium-235, uranium-238, thorium-228, thorium-230, thorium-232, radionuclides with a half-life of less than 10 days and beta and gamma emitters	10^{-4}	220
All other alpha emitting radionuclides	$^{-3}$	22

(b) In assessing the surface contamination of a package, sufficient wipe samples must be taken in the most appropriate locations to yield a representative assessment of the contamination levels. The average amount of non-fixed (removable) radioactive contamination may be determined by wiping the external surface of the package with an absorbent material, using moderate pressure, and then measuring the activity on the wiping material. If the measured activity on the wiping material (dis/min) divided by the surface area wiped (cm²) is less than 10 percent of the levels prescribed in the table in paragraph (a) of this section, it may be assumed that those levels have not been exceeded. Other methods of equal or greater efficiency may also be utilized.

(c) In the case of packages transported as full load by rail or highway only, the removable (non-fixed) radioactive contamination at any time during transport may not exceed ten times the levels prescribed in paragraph (a) of this section. The levels at the begining of transport may not exceed the levels prescribed in paragraph (a) of this section.

(d) Except as provided in paragraph (e) of this section, each transport vehicle used for transporting radioactive materials shipped as a full load must

be surveyed with appropriate radiation detection instruments after each use. A vehicle may not be returned to service until the radiation dose rate at each accessible surface is 0.5 millirem per hour or less, and there is no significant removable (non-fixed) radioactive surface contamination as computed under paragraph (a) of this section.

(e) Except in the case of aircraft, paragraph (d) of this section, does not apply to any closed transport vehicle used solely for the transportation of radioactive materials if:

(1) A survey of its interior surface shows that the radiation dose rate does not exceed 10 millirem per hour at any interior surface or 2 millirem per hour at 1 m (3.3 ft) from any interior surface;

(2) Each vehicle is stenciled with the words "For Radioactive Materials Use Only" in letters at least 76mm (3.0 inches) high in a conspicuous place on both sides of the of the exterior of the vehicle; and

(3) Each vehicle is kept closed except for loading or unloading.

§ 127.407 Labeling requirements.

Each package or freight container of radioactive materials, unless excepted by §§ 127.203, 127.211(c), or 127.213 must be labeled as required in Part 172 of this subchapter.

§ 127.409 [Reserved]

§ 127.411 Placarding requirements.

Each transport vehicle or freight container of radioactive materials, unless excepted by § 127.203 or § 127.211(c) must be placarded as required in this Part.

§ 127.413 Storage incident to transportation—general requirements.

(a) The number of packages and freight containers bearing Radioactive Yellow II or Radioactive Yellow III labels stored an any one storage area, such as a transit area, terminal building, store-room, or assembly yard, must be limited so that the sum of the transport indices in any individual group of packages or freight containers does not exceed 50. Groups of these packages and freight containers must be stored so as to maintain a spacing of at least 6 m (20 ft) from other groups of packages or freight containers containing radioactive materials.

(b) Except in the case of a Fissile Class II or Fissile Class III package, the limitations in paragraph (a) of this section do not apply to any packages marked "RADIOACTIVE LSA" which contain low specific activity material, or any packages marked "RADIOACTIVE LLS" which contain low level solid radioactive material when they are maintained in a compact stack or in freight containers.

(c) Mixing of different kinds of packages, including Fissile Class I packages with Fissile Class II packages, is authorized.

§ 127.415 General transportation requirements.

(a) Each shipment of radioactive materials must be securely stowed, in order to prevent shifting during normal transportation conditions.

(b) Except as may be specifically required by the competent authority in the applicable certificate, a package of radioactive materials may be carried among packaged general cargo without special stowage provisions, if:

(1) The average surface heat flux of the package does not exceed 15 watts/m², and

(2) The surrounding cargo is not contained in sacks or bags.

(c) Packages bearing radioactive labels may not be carried in compartments occupied by passengers, except in those compartments exclusively reserved for couriers accompanying those packages.

(d) Mixing of different kinds of packages, including Fissile Class I packages with Fissile Class II packages, is authorized.

(e) The accumulation of packages and freight containers is subject to the following conditions:

(1) Each person responsible for the loading of packages into a freight container must determine the transport index of the freight container;

(2) In the case of a full load, the sum of the transport indices of the packages in any one freight container may exceed 50 only if:

(i) No Fissile Class II or Fissile Class III radioactive materials are loaded into the freight container; and

(ii) The person loading the packages into the freight container determines by use of the appropriate monitoring equipment that the radiation levels of the loaded freight container will at no time during normal transportation conditions exceed:

(A) 200 mrem/h at any point on the exterior surface of the freight container; and

(B) 10 mrem/h at any point 2 m (6.6 ft) from the exterior surface of the freight container.

(iii) The appropriate placard required by Part 172 of this subchapter is displayed on the exterior of the four vertical walls of the freight container.

Subpart F—Requirements for Fissile Radioactive Materials

§ 127.501 General.

Except as provided in § 127.503, each package containing radioactive materials that are also fissile materials must comply with this subpart.

§ 127.503 Exceptions.

This subpart does not apply to—

(a) Any package containing a maximum of 15 g or uranium-233, uranium-235, plutonium-238, plutonium-239, plutonium-241, or any combination of these radionuclides, if the smallest external dimension of the package is 10 cm (4.0 inches) or more. When radioactive materials are transported in bulk, the quantity limitations apply to the vehicle, inland waterway vessel, or stowage area of a seagoing vessel;

(b) Any package containing only natural or depleted uranium that has been irradiated in thermal reactors.

(c) Any package containing homogeneous hydrogenous solutions or mixtures satisfying conditions listed in the following table. When the material is transported in bulk, the quantity limitations of the table apply to the vehicle, inland waterway craft, or stowage area of a seagoing vessel;

Limitations on Homogeneous Hydrogenous Solutions or Mixtures

Parameters	^{235}U only	Any other fissile material (including mixtures)
Minimum H/X[1]	5,200	5,200
Maximum concentration of fissile nuclide in g/l	5	5
Maximum mass of fissile nuclide in g/package	[2]800	500

[1] Where H/X is the ratio of the number of hydrogen atoms to the number of atoms of fissile nuclide.

[2] With a tolerance of Pu and uranium-233 of not more than 1 percent of mass of uranium-235.

(d) Any package containing uranium enriched in uranium-235 to a maximum of one percent by weight, and with a total plutonium and uranium-233 content of up to one percent of the mass of uranium-235, if the fissile materials are distributed homogeneously throughout the material. In addition, if uranium-235 is present in metallic or oxide forms, it must not be able to form a lattice arrangement within the package.

(e) Any package containing a fissile radioactive material, if it does not contain more than 5 g of fissile material in any 10 liter volume. However, the fissile radioactive material must be packed in packages that will maintain the required limitations for fissile material distribution during normal transportation conditions.

(f) Any package containing a maximum of 1 kg of total plutonium, of which not more than 20 percent of its mass consists of plutonium-239, plutonium-241, or any combination of those radionuclides.

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(g) Any package containing a liquid solution of uranyl nitrate enriched in uranium-235 to a maximum of 2 percent by weight, with a maximum tolerance for plutonium and uranium-233 of 0.1 percent of the mass of uranium-235.

§ 127.505 Classification of fissile radioactive materials packages.

(a) Except as provided in § 127.503, each package of fissile radioactive materials must be classified as follows:

(1) Fissile Class I. Packages that may be transported in unlimited number, and in any arrangement, and that require no nuclear criticality safety controls during transportation. A transport index is not assigned to Fissile Class I packages for the purposes of nuclear criticality safety control. However, the external radiation levels may require a transport index number.

(2) Fissile Class II. Packages that may be transported together in any arrangement but in numbers that do not exceed an aggregate transport index of 50. For the purposes of nuclear criticality safety control, individual packages may have a transport index number of 0.1 but not more than 10. However, the external radiation levels may require a higher transport index number, but not to exceed 10. These shipments require no nuclear criticality safety control by the shipper during transportation.

(3) Fissile Class III. Packages of fissile radioactive materials that do not meet the requirements of Fissile Class I or Fissile Class II and that are controlled in transportation as prescribed in § 127.507 by appropriate arrangements between the shipper and the carrier.

(b) The numerical values for package assignments as Fissile Class I, the transport indices for Fissile Class II packages, and the vehicle limitations for Fissile Class III packages must be determined in accordance with §§ 71.36 through 71.40 of Title 10 of the Code of Federal Regulations.

§ 127.507 Transportation of Fissile Class III radioactive materials—specific requirements.

(a) Fissile Class III radioactive materials packages must be shipped in accordance with this section. The transportation controls must provide nuclear criticality safety and must protect against loading, storing, or transporting that shipment together with any other fissile material. Fissile Class III radioactive materials must be transported:

(1) In a transport vehicle assigned for the sole use of the shipper with a specific restriction for the sole use to be provided in the appropriate arrangements between shipper and carrier and with instructions to that effect issued with the shipping papers;

(2) Except for shipments by aircraft, with an escort in a vehicle having the capability, equipment, authority, and instructions to provide administrative controls necessary to assure compliance with this section;

(3) In a transport vehicle containing no other packages of radioactive material that are required to bear one of the "Radioactive" labels described in Part 172. Specific arrangements must be made between the shipper and the carrier, with instructions to that effect issued with the shipping papers; or

(4) Under any other procedure specifically approved by MTB in accordance with Part 107 of this subchapter.

§ 127.509 Mixing of fissile radioactive materials packages.

(a) Mixing of packages of other types of radioactive materials, including Fissile Class I with Fissile Class II packages, is authorized if the total transport index in any transport vehicle or storage location does not exceed 50.

(b) For Fissile Class II packages shipped under the exclusive use provisions of § 127.401(b) to provide the packages with high radiation dose rates, the transport index number which is calculated for nuclear criticality control purposes must not exceed 10 for any single package or total of 50 for the full load, unless specifically authorized by MTB for Fissile Class III shipments. Additionally:

(1) Fissile Class II packages may be shipped with a transport index greater than 10, and combined with other packages of the same or different designs in a Fissile Class III shipment, under the conditions prescribed in paragraph (c) of this section, provided:

(i) The transport index which has been assigned in the package approval for nuclear criticality control purposes does not exceed 10 for any single package;

(ii) The total transport index for nuclear criticality control purposes does not exceed 100;

(iii) The shipment satisfies the provisions of § 127.401(b) if any package has radiation dose rates exceeding 10 millirem per hour at 1 m (3.3 feet) from any accessible external surface of the package; and

(iv) The shipment will not be transported by water.

(2) Fissile Class III packages, which have been assigned a transport index for nuclear criticality purposes in accordance with Fissile Class II criteria, may be combined with other Fissile Class III packages of the same or different design for which a transport index has been so assigned for nuclear criticality control purposes, and may be combined with Fissile Class II packages, in a Fissile Class III shipment under the conditions prescribed in paragraph (c) of this section, provided:

(i) The transport index which has been assigned in the package approval for nuclear criticality control purposes does not exceed 50 for any single package;

(ii) The total transport index for nuclear criticality control purposes for all packages in the shipment does not exceed 100;

(iii) The shipment satisfies the provisions of § 127.401(b) if any package has radiation dose rates exceeding 10 millirem per hour at 1 m (3.3 feet) from any accessible external surface of the package; and

(iv) The shipment will not be transported by water.

(c) A fissile class III shipment may be made only in accordance with subparagraph (1), (2), or (3) of this paragraph or in accordance with other procedures authorized by the MTB. The transport controls must provide nuclear criticality safety and must be carried out by the shipper or carrier, as appropriate, to protect against loading, storing, or transporting of that shipment together with any other fissile material:

(1) Transportation in a transport vehicle assigned for the sole use of the consignor, with a specific restriction for such sole use to be provided in the special arrangements, and with instructions to that effect issued with the shipping papers;

(2) Except for shipments by aircraft, transportation under escort by person in a separate vehicle, with the escort having the capability, equipment, authority, and instructions to provide administrative controls adequate to assure compliance with this paragraph; or

(3) Transportation in a transport vehicle containing no other packages of radioactive material which are required to bear one of the "Radioactive" labels described in § 172.436, 172.438 or 172.440 of this subchapter. Specific arrangements must be effected between shipper and carrier, with instructions to that effect issued with the shipping papers.

Subpart G—Test and Inspection Procedures

§ 127.601 Compliance with required tests.

(a) Compliance with the test requirements in this subpart must be shown by any of the methods prescribed in this paragraph, or by any combination of these methods:

(1) By performance of tests with prototypes of samples of the packaging as normally presented for transportation, in which case the contents of the packaging for the test must simulate as closely as practicable the expected normal radioactive contents;

(2) By reference to a previous satisfactory showing of compliance of a sufficiently similar nature;

(3) By performance of tests with models of appropriate scale incorporating those features that are significant with respect to the item under investigation, when engineering experience has shown results of those tests to be suitable for design purposes. When a scale model is used, the need for adjusting certain test parameters, such as the penetrator diameter or the compressive load, must be taken into account; or

(4) By engineering evaluation or comparative data.

(b) With respect to the initial conditions for the tests under this subpart, except for the water immersion tests, compliance must be based upon the assumption that the package is in equilibrium at an ambient temperature of 38°C (100°F). With respect to the thermal test, the effects of solar radiation can be neglected prior to and during the test, but must be taken into account in the subsequent evaluation of the test results.

§ 127.605 Preparation of specimens for testing.

(a) Each specimen must be examined before testing to identify and record faults or damage, including:

(1) Divergence from the specifications or drawings;

(2) Defects in construction;

(3) Corrosion or other deterioration; and

(4) Distortion of features.

(b) The containment system of the packaging must be clearly specified.

(c) The external features of the specimen must be clearly identified so that references may be made to any part of it.

§ 127.607 Packaging and shielding—testing for integrity.

After conducting each of the applicable tests required in § 127.611 and § 127.613, the integrity of the packaging, or of the packaging and its shielding, must be retained to the extent required by § 127.105(m) for the packaging being tested.

§ 127.609 [Reserved]

§ 127.611 Tests for proposed packagings designed for normal conditions of transportation.

Prototypes of the proposed packaging must be subjected to the tests prescribed in this paragraph. The water spray test described in subparagraph (a) of this paragraph must precede each of the other tests prescribed in this paragraph. One prototype may be used for all tests, if the requirements of § 127.601 are met.

(a) *Water spray test.* A water spray test is considered to be satisfactory if—

(1) The amount of water per unit of ground area is equivalent to a rainfall rate of 5 cm (2.0 inches) per hour;

(2) The water impinges upon the specimen at an angle of approximately 45 degrees from the horizontal;

(3) The water is uniformly distributed over the entire surface of the specimen in the direction of the spray;

(4) The spray lasts at least one hour;

(5) The package must be positioned such that the effects of the water spray tests are most severe for the features of the packaging being tested, and the packaging specimen is supported so that it does not sit in a pool of water; and

(6) The time interval between the end of the water spray test and the beginning of the next test is such that the water has soaked into the maximum extent without appreciable drying of the exterior of the specimen. In the absence of evidence to the contrary, this interval may be assumed to be two hours if the water spray is applied from four different directions simultaneously. However, no time interval may elapse if the water spray is applied from each of the four directions consecutively.

(b) *Free drop test.* The packaging specimen must fall onto the target in a manner that causes maximum damage to the safety features being tested, and:

(1) For packagings weighing 5,000 kg (11,000 lbs) or less, the distance of the fall measured from the lowest point of the packaging to the upper surface of the target must not be less than 1.2 m (4.0 ft).

(2) For packaging weighing more than 5,000 kg (11,000 lb), the distance of the fall must not be less than the distance specified in the following table, for the applicable packaging weight:

Free-Fall Distance for Packaging Weighing More than 5,000 kg

Packaging weight (kg)	Free-fall distance (ft)	(m)
5,000 to 10,000	3	0.9
10,000 to 15,000	2	0.6
More than 15,000	1	0.3

(3) For Fissile Class II Packagings, the free drop specified in paragraph (b)(1) of this Section must be preceded by a free drop from a height of 0.3 m (1.0 ft) on each corner. For cylindrical packagings, the 0.3 m (1.0 ft) drop must be onto each of the quarters of each rim;

(4) For fiberboard or wood rectangular packagings not exceeding 50 kg (110 lb) in weight, a separate specimen of the proposed packaging must be subjected to a free drop onto each corner from a height of 0.3 m (1.0 ft);

(5) For fiberboard cylindrical packagings weighing not more than 100 kg (220 lb) a separate specimen of the proposed packaging must be subjected to a free drop onto each of the quarters of each rim from a height of 0.3 m (1.0 ft);

(6) The target must have a flat, horizontal surface which will not increase in its resistance to displacement or deformation upon impact to an extent that will significantly increase the damage to the packaging specimen.

(c) *Compression test.* The packaging specimen must be subjected, for a period of at least 24 hours, to a compressive load equal to the greater of the following.

(1) Five times the weight of the actual package; or

(2) 1300 kg/m² (225 lb/ft²) multiplied by the vertically projected area of the package. The compressive load must be applied uniformly to two opposite sides of the packaging specimen, one of which must be the base on which the package would normally stand.

(d) *Penetration test.* (1) The packaging specimen must be placed on a rigid, flat, horizontal surface that will not move while the test is being performed.

(2) A bar of 3.2 cm (1.25 inches) diameter with a hemispherical end, weighing 6.0 kg (13.2 lb) must be dropped with its longitudinal axis vertical, onto the center of the weakest part of the packaging specimen, so that, if it penetrates far enough, it will hit the containment system. The bar must not be deformed by the test.

(3) The distance of the fall of the bar measured from its lower end to the upper surface of the packaging specimen must be 1 m (3.3 ft).

§ 127.613 Additional tests for Type A packaging designed for liquids and gases.

(a) Specimens of Type A packaging designed for liquids and gases must also be subjected to the following tests:

(1) *Free drop test.* The packaging specimen must fall onto the target in a manner which will cause it to suffer the maximum damage to its containment. The distance of the fall measured from the lowest part of the packaging specimen to the upper surface of the target must be 9.0 m (30 ft).

(2) *Penetration test.* The specimen must be subjected to the test specified in § 127.611(d) except that the distance of the fall must be 1.7 m (5.5 ft).

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§ 127.615 Tests for demonstrating the ability of radioactive materials packagings to withstand accident conditions in transportation.

Each Type B packaging must meet the test requirements prescribed in 10 CFR 71 for ability to withstand accident conditions in transportation.

§ 127.617 Water in-leakage test for fissile radioactive materials packagings.

Each packaging for fissile radioactive materials must meet the test requirements prescribed in 10 CFR 71 for water in-leakage.

§ 127.619 Tests for special form radioactive materials.

(a) Special form radioactive materials must meet the test requirements of paragraph (b) of this section. Each solid radioactive material or capsule specimen to be tested must be prepared as normally offered for transportation. The radioactive material must be duplicated as closely as practicable. In addition:

(1) A different specimen may be used for each of the tests;

(2) The specimen must not break or shatter when subjected to the impact, percussion, or bending tests;

(3) The specimen must not melt or disperse when subjected to the heat test; and

(4) After each test, a leaching assessment must be performed on the specimen by a method as sensitive as the procedure set forth in paragraph (c) of this section.

(b) *Test methods:* (1) *Impact test.* The specimen must fall onto the target from a height of 9 m (30 ft). The target must be as specified in § 127.611(b)(6);

(2) *Percussion test.* (i) The specimen must be placed on a sheet of lead that is supported by a smooth solid surface, and be struck by the flat face of a steel billet so as to produce an impact equivalent to that resulting from a free fall of 1.4 kg (3.1 lb) through 1 m (3.3 ft);

(ii) The flat face of the billet must be 25 mm (1 inch) in diameter with the edges rounded off to a radius of: 3 mm±0.3 mm (.12 inch ±.012 inch);

(iii) The lead must be of a hardness within 3.5 to 4.5 on the Vickers scale, and not more than 25 mm (1 inch) thick, and must cover an area greater than that covered by the specimen;

(iv) A fresh surface of lead must be used for each impact; and

(v) The billet must strike the specimen in a manner that causes maximum damage.

(3) *Bending test.* (i) This test applies only to long, slender sources with a minimum length of 10 cm (4.0 inches) and a length to minimum width ratio of not less than 10;

(ii) The specimen must be securely clamped in a horizontal position so that one half of its length protrudes from the face of the clamp;

(iii) The position of the specimen must be such that it will suffer maximum damage when its free end is struck by the flat face of a steel billet;

(iv) The billet must strike the specimen in a manner that produces an impact equivalent to that resulting from a free vertical fall of 1.4 kg (3.1 lb) through 1 m (3.3 ft);

(v) The flat face of the billet must be 25 mm (1 inch) in diameter with the edges rounded off to a radius of 3 mm ± 0.3 mm (.12 ± 0.12 inch).

(4) *Heat test.* The specimen must be heated in air to a temperature of 800°C (1472°F), held at that temperature for a period of 10 minutes, and then allowed to cool.

(c) *Leaching assessment methods.* (1) For indispersible solid material—

(i) The specimen must be immersed for seven days in water at ambient temperature. The water must have a pH of 6-8 and a maximum conductivity of 10 micromho/cm at 20°C (68°F);

(ii) The water and specimen must then be heated to a temperature of 50°C ± 5° (122°F ± 9°) and maintained at this temperature for four days;

(iii) The activity of the water must then be determined and may not exceed 0.05 μCi;

(iv) The specimen must then be stored for at least seven days in still air with humidity not less than 90 percent at 30°C (86°F);

(v) The specimen must then be immersed in water with the same pH and maximum conductivity specifications as in paragraph (c)(1)(i) of this Section. The water and specimen must be heated to 50°C ± 5° (122°F ± 9°) and maintained at that temperature for four hours;

(vi) The activity of the water must then be determined and may not exceed 0.05 μCi. (2) For encapsulated material—

(i) The specimen must be immersed in water at ambient temperature. The water must have a pH of 6-8 and a maximum conductivity of 10 micromho/cm. The water and specimen must be heated to a temperature of 50°C ± 5° (122°F ± 9°) and maintained at this temperature for four hours;

(ii) The activity of the water must then be determined and may not exceed 0.05 μCi

(iii) The specimen must then be stored for at least seven days in still air a temperature not less than 30°C (86°F);

(iv)Step (i) must be repeated; and

(v) The activity of the water must be determined and may not exceed 0.05 μCi.

Subpart H—Additional Requirements for the Transportation of Radioactive Materials

§ 127.701 Requirements for U.S. Nuclear Regulatory Commission approved packages.

In addition to the applicable requirements of the U.S. Nuclear Regulatory Commission (USNRC) approval and of this subchapter, any shipper of a package containing radioactive materials that has been approved by the USNRC in accordance with 10 CFR 71 must also comply with the following requirements:

(a) The shipper must be registered as a party to the approval, and the shipment must be made in compliance with the terms of the approval:

(b) The outside of each package must be durably and legibly marked with the package identification marking indicated in the USNRC approval;

(c) Each shipping paper related to the shipment of the package must bear the package identification marking indicated in the USNRC approval;

(d) Before the first export shipment of the package, the shipper must submit a copy of the U.S. Competent Authority Certificate applying to that package design to the national competent authority of each country into or through which the package will be transported, unless a copy has already been furnished;

(e) The designated competent authority in the United States responsible for administering the requirements of Section VIII of the IAEA "Regulations for the Safe Transport of Radioactive Materials, Safety Series No. 6, 1973 edition," is—Office of Hazardous Materials Regulation, U.S. Department of Transportation, Washington, D.C. 20590.

(f) Each request for a U.S. Competent Authority certificate as required by the IAEA regulations must be submitted in writing to the address set forth in paragraph (e) of this section. The request must be in duplicate and contain all the information required by Section VIII of the IAEA regulations. Each request will be considered in the order in which it is received. To allow sufficient consideration by the U.S. Competent Authority, requests should be submitted at least 45 days before the requested effective date;

(g) Each Fissile Class II package must be marked with the assigned transport index unless radiation levels require a higher transport index. Each vehicle limitation indicated in the USNRC approval applies if the shipment is Fissile Class III; and

(h) For a Fissile Class III shipment, the statement prescribed in § 172.203(d) of this subchapter must be included on the shipping papers.

§ 127.703 Requirements for foreign-made packages.

(a) In addition to the applicable requirements of Parts 100-189 of this subchapter, each shipper of a foreign made package containing radioactive materials, for which a foreign competent authority certificate is required must also comply with the following requirements:

(1) Prior to the first shipment of a package of radioactive materials into the U.S., the shipper must—

(i) Have the foreign competent authority certificate revalidated by the U.S. Competent Authority, unless this has been done previously. The U.S. Competent Authority is the Office of Hazardous Materials Regulation, U.S. Department of Transportation, Washington, D.C. 20590.

A copy of the foreign competent authority certificate (in English) must be submitted with the request for revalidation. To allow sufficient consideration by OHMR, requests should be submitted at least 45 days before the requested effective date;

(ii) Register his identity in writing to the U.S. Competent Authority as a shipper of the package covered by the foreign competent authority certificate and its revalidation; and

(iii) Supply to the carrier, upon request, the applicable competent authority certificates. However, the competent authority certificates are not required to accompany the packages to which they apply;

(2) The outside of each package must be durably and legibly marked with the same competent authority identification marking indicated on the competent authority certificate or revalidation;

§ 127.705 Quality control for radioactive materials packagings.

(a) Prior to the first shipment of any radioactive materials packaging, the shipper must determine, that—

(1) The packaging meets the quality of design and construction requirements as specified in this subchapter; and

(2) The effectiveness of the shielding, containment, and, when required, the heat transfer characteristics of the package, are within the limits specified for the package design.

§ 127.707 Quality control requirements prior to each shipment of radioactive materials.

Before each shipment of any radioactive materials packaging the shipper must ensure, that—

(a) The packaging is proper for the contents to be shipped;

(b) The packaging is in unimpaired physical condition, except for superficial marks;

(c) Each closure device of the package, including any required gasket, is properly installed, secured, and free of defects;

(d) For a fissile material, each moderator and neutron absorber, if required, is present and in proper condition;

(e) Each special instruction for filling, closing, and preparing the packaging for shipment has been followed;

(f) Each closure, valve, or other opening of the containment system through which the radioactive content might escape is properly closed and sealed;

(g) Each packaging containing liquid in excess of an A_2 quantity and destined for air shipment is tested to show that it will not leak under an ambient atmospheric pressure of not more than 0.25 atmosphere, absolute (0.25 kg/cm² or 3.6 psia). The test must be conducted on the entire containment system, or any receptacle or vessel within the containment system, to determine compliance with this requirement;

(h) internal pressure of the containment system will not exceed the design pressure during transportation; and

(i) External radiation and containment levels are within the allowable limits specified in this subchapter.

§ 127.709 [Reserved]

§ 127.711 Approval of special form radioactive material.

(a) Except as provided in paragraph (c) of this section, each shipper of special form radioactive material must maintain on file for at least one year after the latest shipment, and provide to MTB on request, a complete documentation of tests or a safety analysis demonstrating that the special form material meets the requirements of § 127.619 of this part.

(b) Except as provided in paragraph (c) of this section, prior to the first export shipment of a special form radioactive material from the United States, each shipper must obtain a U.S. Competent Authority certificate for the specific material. Each petition must be submitted in accordance with § 127.701(e) and (f), and must include the following additional information:

(1) A detailed description of the material or if a capsule, a detailed description of the contents. Particular reference must be made to both physical and chemical states;

(2) If a capsule is to be used, a detailed statement of its design and dimensions, including complete engineering drawings and schedules of material, and methods of construction; and

(3) A statement of the tests that have been made and their results; evidence based on calculative methods used to show that the material is able to pass the tests; or other evidence that the special form radioactive material complies with § 127.619 of this part.

(c) Paragraphs (a) and (b) of this section do not apply in those cases where A_1 equals A_2.

§ 127.713 Approval for export shipments.

(a) Each export shipment of a packaging for which an IAEA certificate of competent authority has been issued or revalidated in accordance with §§ 127.701 or § 127.703 of this subchapter, must have multilateral approval, if the shipment includes—

(1) A vented Type B (M) packaging;

(2) A Type B (M) packaging containing radioactive materials with an activity greater than 3×10^3A_1 or 3×10^3A_2, as appropriate, or 3×10^4Ci, whichever is less;

(3) A Fissile Class III package; or

(4) Transportation by special arrangements.

(b) Each application for shipment approval must contain—

(1) The period of time for which the approval is sought;

(2) A description of the contents, the expected modes of transportation, the type of vehicle to be used, and the proposed route; and

(3) How the special precautions and special administrative and operational controls referred to in the package design certificates are to be put into effect.

(c) The packaging and shipment approvals may be combined into a single approval issued in accordance with § 127.701 or § 127.703.

(d) Approval by competent authorities is not required for packagings designed for materials covered by Subpart C nor for Type A packagings designed for non-fissile radioactive materials.

§ 127.715 Notification to competent authorities for export shipments.

(a) Before the first export shipment of any packaging with contents exceeding A_1 and A_2, the shipper must ensure that copies of each applicable competent authority certificate issued in accordance with § 127.701 or 127.703 have been submitted to the competent authority of each country through or into which it is to be transported. The shipper is not required to await an acknowledgment from the competent authority prior to shipping the radioactive materials, nor is the competent authority required to acknowledge receipt of the certificate.

(b) For each of the shipments described in this paragraph, the shipper must notify the competent authority of each country through or into which the shipment is to be transported.

This notification must be received by each competent authority at least 15 days before the shipment starts:

(1) Type B (U) packagings containing radioactive materials with an activity greater than 3×10^3A_1 or 3×10^3A_2, as appropriate, or 3×10^4Ci, whichever is less;

(2) Type B(M) packagings;

(3) Fissile Class III packagings under Section VIII; or

(4) Transportation by special arrangements.

(c) The shipper notification must include—

(1) Sufficient information to enable the packaging to be identified, including all applicable certificate numbers and identification marks; and

(2) Information as to the date of shipment, the expected date of arrival, and the proposed routing.

(d) The shipper is not required to send a separate notification if the required information has been included in the application for shipment approval.

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

§ 171.8 [Amended]

3. In § 171.8 under "Full Load" § 173.389 would be changed to read "§ 127.3 of this subchapter" and under "Radioactive Materials" reference § 173.389 would be changed to "§127.3 of this subchapter."

PART 172—HAZARDOUS MATERIALS TABLE AND HAZARDOUS MATERIALS COMMUNICATIONS REGULATIONS

4. In § 172.101 the entry for "plutonium nitrate solution" would be deleted; the following entries in the table would be revised as follows:

§ 172.101 Hazardous Materials Table.

* * * * * *

[4910-60-C]

(1)	(2)	(3)	(4)	(5) Packaging		(7) Maximum net quantity in one package		(7) Water shipments		(c)
				(a)	(b)	(a)	(b)	(a)	(b)	
*/ */ A	Hazardous materials descriptions and proper shipping names	Hazard class	Labels(s) required (if not excepted)	Exception	Specific requirements	Passenger carrying aircraft or railcar	Cargo only aircraft	Cargo vessel	Passenger vessel	Other requirements
	(Change)									
	Radioactive device, n.o.s.	Radioactive material	None		127.205 127.207 127.209			1, 2	1, 2	
*	Radioactive materials, fissile, n.o.s.	Radioactive material	Radioactive	127.203 127.501	127.501			1, 2	1, 2	
*	Radioactive material, low specific activity or LSA, n.o.s.	Radioactive material	Radioactive	127.203	127.211			1, 2	1, 2	
*	Radioactive material, low level solid or LLS, n.o.s.	Radioactive material	Radioactive	127.203	127.213					
*	Radioactive material, n.o.s.	Radioactive material	Radioactive	127.203	127.113 127.115			1, 2	1, 2	
*	Radioactive material, limited quantity, n.o.s.	Radioactive material	None		127.203			1, 2	1, 2	
*	Radioactive material, special form, n.o.s.	Radioactive material	Radioactive	127.201	127.113 127.115			1, 2	1, 2	
	Thorium metal, pyrophoric	Radioactive material	Radioactive and Flammable solid	None	127.119	Forbidden	Forbidden	1, 2	1, 2	
	Thorium nitrate, solid	Radioactive material	Radioactive and Oxidizer	None	127.121	Forbidden	25 lbs	1, 2	1, 2	Separate longitudinally by a complete hold or compartment from explosives

V 4 4 / 5 JAN 8 7 9 UMI

V 44 / 5 JAN 79 UMI

(1)	(2)	(3)	(4)	(5) Packaging		(7) Maximum net quantity in one package		Water shipments		
				(a)	(b)	(a)	(b)	(a)	(b)	(c)
#/ W/ A	Hazardous materials descriptions and proper shipping names	Hazard class	Labels(s) required (if not excepted)	Exception	Specific requirements	Passenger carrying aircraft or railcar	Cargo only aircraft	Cargo vessel	Passenger vessel	Other requirement
	Uranium hexafluoride, fissile (containing more than 0.7% U-235)	Radioactive material	Radioactive and corrosive	127.203 127.503	127.117			1, 2	1, 2	
	Uranium hexafluoride, low specific activity (containing 0.7% or less U-235)	Radioactive material	Radioactive and corrosive	127.203	127.211			1, 2	1; 2	
	Uranium metal, pyrophoric	Radioactive material	Radioactive and Flammable solid	None	127.119	Forbidden	Forbidden	1, 2	1, 2	
	Uranyl nitrate hexahydrate solution	Radioactive material	Radioactive and corrosive	127.203	127.113			1, 2	1, 2	
	Uranyl nitrate, solid	Radioactive material	Radioactive and oxidizer	None	127.121	Forbidden	25 lbs	1, 2	1, 2	Separate longitudinally by an intervening hold or compartment from explosives

§ 172.203 [Amended]

5. In § 172.203(d)(1)(i) reference § 173.390 would be changed to read "§ 127.305 of this subchapter"; reference to § 173.396 in paragraph (d)(1)(vi)(A) would be changed to read "§ 127.503(a)(1) of this subchapter"; reference to § 173.393a in paragraph (d)(1)(vii) would be changed to read "§ 127.701 of this subchapter"; reference to § 173.393(a)(3) in paragraph (d)(1)(viii) would be changed to read "§ 127.703 of this subchapter."

§ 172.204 [Amended]

6. In § 172.204 paragraph (c)(4) would be amended by changing the last sentence to read as follows: • • • "Prior to May 3, 1979, this provision does not apply to materials meeting the requirements of §§ 127.203, 127.205 or 127.209 of this subchapter."

§ 172.310 [Amended]

7. In § 172.310(a)(2) reference to §§ 173.389 (j) and (k) and 173.398 (b) and (c) would be changed to read "§ 127.3 and Subpart B of Part 127"; reference to § 173.393a and 173.393b in § 172.310(a)(3) would be changed to read "127.703 of this subchapter."

8. In § 172.400 paragraph (b)(10) would be revised to read as follows:

§ 172.400 General labeling requirements.

• • • • • •

(b) • • •

(10) Package of low specific activity or low level solid radioactive material, when being transported in a transport vehicle assigned for the sole use of the consignor under §§ 127.111 or 127.113 of this subchapter.

• • • • • •

9. In § 172.403(a) reference to § 173.391 or § 173.392 would be changed to read "Subpart C, Part 127"; in paragraph (g)(1) the reference to § 173.390 would be changed to read "§ 127.305 of this subchapter" and in paragraph (g)(3) the reference to § 173.389(i) would be changed to read "§ 127.3 of this subchapter", paragraphs (b)(2) and (d)(3) would be deleted as follows:

§ 172.403 Radioactive material.

• • • • • •

(b) • • •

(2) Deleted

• • • • • •

(d) • • •

(3) Deleted.

• • • • • •

10. In § 172.436 paragraph (a) the comma following "label" would be deleted and the label would be changed to read as follows:

§ 172.436 RADIOACTIVE WHITE-I label.

(a) • • •



11. In § 172.438 paragraph (a) the comma following "label" would be deleted and the label would be revised to read as follows:

§ 172.438 RADIOACTIVE YELLOW-II label.

(a) • • •



12. In § 172.440 paragraph (a) the label would be changed to read as follows:

§ 172.440 RADIOACTIVE YELLOW-III label.

(a) • • •



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• • • • •

13. In § 172.504 paragraph (c)(2) Table 1, footnote 5 following the table would be revised to read as follows:

§ 172.504 General placarding requirements.

• • • • •

(c) • • •
(2) • • •

• • • • •

[5] Applies to full load shipments of low specific activity or low level solid radioactive material when transported pursuant to § 127.111 or 127.113 of this subchapter.

• • • • •

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

§ 173.29 [Amended]

14. In § 173.29 paragraph (d) the reference to § 173.397(a) would be changed to read "§ 127.405 of this subchapter."

§ 173.226 [Deleted]

15. § 173.226 would be deleted.

§§ 173.389–173.398 [Deleted]

16. §§ 173.389 through 173.398 would be deleted.

PART 174—CARRIAGE BY RAIL

§ 174.700 [Amended]

17. In § 174.700 paragraph (a) reference to § 173.389(c) would be changed to read "§ 127.3 of this subchapter"; reference to § 173.392 would be changed to read "§§ 127.211 and 127.213 of this subchapter." In paragraph (b) the reference to § 173.389(j) and § 173.389(o) would be changed to read "§ 127.3 of this subchapter"; reference to § 173.392 would be changed to read "§§ 127.211 and 127.213 of this subchapter"; reference to § 173.393(j) would be changed to read "§ 127.401 of this subchapter"; and § 173.396(f) would be changed to read "§ 127.415 of this subchapter." In paragraph (d) the reference to § 173.389(a)(3) and § 173.396(g) would be changed to read "§ 127.505(a)(3) of this subchapter" and "§ 127.507 of this subchapter" respectively. Paragraph (g) would be added to read as follows:

§ 174.700 Special handling requirements for radioactive materials.

• • • • •

(g) In the case of a full load of packages shipped under the provisions of § 127.401(b) of this subchapter:

(1) The vehicle must have an enclosure that during normal transportation conditions prevents the access of unauthorized person to the interior of the cargo area; and

(2) Provisions must be made to secure the packages so that their position within the vehicle remains fixed during normal transportation conditions.

§ 174.715 [Amended]

18. In § 174.715 reference to § 173.389(e) in paragraph (a) would be changed to read "§ 127.3 of this subchapter."

§ 174.750 [Amended]

19. In § 174.750 reference to § 173.397 in paragraph (a) would be changed to read "127.405 of this subchapter."

PART 175—CARRIAGE BY AIRCRAFT

20. In § 175.10 paragraph (a)(6) would be revised to read as follows:

§ 175.10 Exceptions.

(a) • • •

(6) Prior to May 3, 1979, radioactive materials which meet the requirements of § 127.203, 127.205 or 127.209 of this subchapter.

• • • • •

§ 175.700 [Amended]

21. In § 175.700 reference to § 173.397 in paragraph (c) would be changed to read "§ 127.405"; paragraph (d) would be added to read as follows:

§ 175.700 Special requirements for radioactive materials.

• • • • •

(d) Type B(M) packages may not be offered, accepted, nor transported on passenger-carrying aircraft.

§ 175.703 [Amended]

22. In § 175.703(b)(2)(iv) reference to § 173.398(b)(3)(v) would be changed to read "§ 127.611(a)(3) of this subchapter"; in paragraph (c) reference to § 173.389(a)(3) would be changed to read "§ 127.505(a)(3) of this subchapter." Paragraph (b)(2)(iii)(B) would be revised and new paragraphs (d) and (e) would be added to read as follows:

§ 175.703 Other special requirements for the acceptance and carriage of packages containing radioactive materials.

• • • • •

(b) • • •
(2) • • •
(iii) • • •

(B) Except for fissile radioactive materials, direct measurement of the maximum radiation level in millirem per hour at 1 meter (3.3. ft) from the external surface of the overpack.

• • • • •

(d) No person may offer or accept for transportation, nor transport by air:

(1) Any Type B(U) or Type B(M) package with an accessible surface temperature in excess of 50° C,

(2) Continuously vented Type B(M) packages, packages which require external cooling by an ancillary cooling system or packages subject to operational controls during transport, or

(3) Liquid pyrophoric radioactive materials.

(e) Full load shipments of packages having a surface radiation level in excess of 200 mrem/hr, otherwise authorized under § 127.401(b), may not be transported by air except by special arrangement approved by the Department.

PART 176—CARRIAGE BY VESSEL

23. § 176.700 would be revised to read as follows:

§ 176.700 General stowage requirements.

(a) Radioactive materials must not be stowed in the same hold with mail bags.

(b) A package of radioactive materials which is a significant heat source may not be overstowed with any other cargo. If the package is stowed under deck, the hold or compartment in which it is stowed must be ventilated.

(c) Each Fissile Class III shipment must be stowed in a separate hold, compartment, or defined deck area and be separated by a distance of at least 6 meters (20 feet) from all other Radioactive Category II or III-Yellow labeled packages. For a shipment of radioactive material requiring supplemental operational procedures, the shipper must furnish the master or person in charge of the vessel a copy of the necessary operational instructions.

(d) A person may not remain unnecessarily in a hold or compartment or in the immediate vicinity of any package on deck containing radioactive materials.

24. § 176.704 would be added to read as follows:

§ 176.704 Requirements relating to transport indices.

(a) The sum of the transport indices of all packages or freight containers of radioactive materials on board a vessel may not exceed 200.

(b) The sum of transport indices for packages not in a freight container may not exceed 50 in any hold, compartment, or defined deck area. Each group of packages must be separated by a distance of at least 6 meters (20 feet) at all times.

(c) The number of freight container with packages of radioactive materials contained therein must be limited so that the total sum of the transport indices for the containers in any hold or defined deck area does not exceed 200, provided:

(1) The sum of transport indices for any individual freight container, or group of freight containers, does not exceed 50.

(2) Each freight container or group of freight containers is handled and stowed in such a manner that groups are separated from each other by a distance of at least 6 meters (20 feet).

(d) The limitations specified in paragraphs (a), (b), and (c) of this section do not apply to consignments of either low specific activity materials or low-level solid radioactive materials marked on the labels as "RADIOACTIVE LSA" or "RADIOACTIVE LLS" respectively, provided that Fissile Class II of Fissile Class III radioactive materials are not included in the shipment.

(e) For full loads, the limitations specified in paragraphs (b), and (c) of this section do not apply if:

(1) For packages not in freight containers, the sum of the transport indices of Fissile Class II packages does not exceed 50 in each hold;

(2) For packages in freight containers, the radiation level does not exceed 200 mrem/h at any point on the surface and 10 mrem/h at 2 meters (6 feet) from the outside surface of the freight container and the sum of the transport indices of Fissile Class II packages does not exceed 50 in each freight container and 200 in each hold or defined deck area; and

(3) Each group of Fissile Class II packages is separated by a distance of at least 6 meters (20 feet) at all times.

(f) The limitations specified in paragraphs (a) through (e) of this section do not apply when the entire vessel is reserved or chartered for the exclusive use of a single shipper under full load conditions if the number of Fissile Class II and Fissile Class III packages of radioactive materials aboard the vessel does not exceed the amount authorized in Part 127 of this subchapter. The entire shipment operation must be approved by the Office of Hazardous Materials Regulation (OHMR) in advance.

25. § 176.708 would be added to read as follows:

§ 176.708 Segregation distance table.

(a) Table VI applies to the stowage of packages of radioactive materials on board a vessel with regard to transport index numbers which are shown on the labels of individual packages. Radioactive Category II or III-Yellow labeled packages may not be stowed any closer to living accommodations, regularly occupied working spaces and spaces that may be continually occupied by any person (except those spaces exclusively reserved for couriers specifically authorized to accompany such packages), or to undeveloped film than the distance specified in Table VI. Where only one consignment of a radioactive substance is to be loaded on board a vessel as full load, the appropriate segregation distance may be established by demonstrating that the direct measurement of the radiation level at regularly occupied working spaces and living quarters is less than 0.75 millirem per hour. More than one consignment may be loaded onboard a vessel with the appropriate segregation distance established by demonstrating that direct measurement of the radiation level at regularly occupied working spaces and living quarters is less than 0.75 millirem per hour, provided that the vessel has been chartered for the exclusive use of a competent person specialized in the carriage of radioactive substances. Stowage arrangements shall be predetermined for the entire voyage, including any radioactive substances to be loaded at ports of call enroute. The radiation level shall be measured by a responsible person skilled in the use of monitoring instruments.

[4910-60-C]

Sum of Transport Indices of the Packages	Minimum Distance in Metres from Living Accommodation or Regularly Occupied Working Space		MINIMUM DISTANCE IN METRES FROM UNDEVELOPED FILM AND PLATES																						
			1 day voyage			2 day voyage			4 day voyage			10 day voyage			20 day voyage			30 day voyage			40 day voyage			50 day voyage		
Cargo Thickness in Metres (Unit Density)	Nil	1	Nil	1	2	Nil	1	2	Nil	1	2	Nil	1	2	Nil	1	2	Nil	1	2	Nil	1	2	Nil	1	2
0.5	2	X	2	X	X	3	X	X	4	X	X	6	2	X	8	2	X	10	3	X	11	3	X	12	3	X
1	2	X	3	X	X	4	X	X	5	2	X	8	2	X	11	3	X	13	4	X	15	4	X	17	4	X
2	3	X	4	X	X	5	2	X	7	2	X	11	3	X	15	4	X	19	5	X	22	5	X	24	6	X
3	4	X	5	X	X	6	2	X	9	2	X	13	4	X	19	5	X	23	6	X	27	7	X	30	7	X
5	4	X	6	2	X	8	2	X	11	3	X	17	4	X	24	6	X	30	7	X	34	8	X	38	9	3
10	6	2	8	2	X	11	3	X	15	4	X	24	6	X	34	8	X	42	10	3	48	12	3	54	13	3
20	8	2	11	3	X	15	4	X	22	5	X	34	8	X	48	12	3	59	14	4	68	16	4	76	18	5
30	10	3	13	4	X	19	5	X	26	7	X	42	10	3	59	14	4	72	17	4	83	20	5	93	22	6
50	13	3	17	4	X	24	6	X	34	8	X	54	13	3	76	18	5	92	23	6	110	26	7	120	29	7
100	18	5	24	6	X	31	8	X	43	12	3	76	18	5	110	25	6	130	32	8	150	36	9	170	40	10
150	22	6	30	7	X	42	10	3	59	14	4	93	22	6	130	31	8	160	39	10	185	45	11	•	50	12
200	26	6	34	8	X	48	12	3	68	16	4	110	26	7	150	36	9	185	43	11	•	51	13	•	58	14
300	32	8	42	10	3	59	14	4	83	20	5	130	32	8	185	44	11	•	55	13	•	63	15	•	70	17
400	36	9	48	12	3	68	16	4	95	23	6	150	36	9	•	50	13	••	63	15	•	73	18	•	81	20

NOTE: (1) X – indicates that thickness of screening cargo is sufficient without any additional segregation distance.
(2) By using 2 metres of intervening unit density cargo for persons, and 3 metres for film and plates, no distance shielding is necessary for any length of voyage specified.
(3) Using 1 steel bulkhead or steel deck – multiply segregation distance by 0.8.
Using 2 steel bulkheads or steel decks – multiply segregation distance by 0.64.
(4) "Cargo of unity density" means cargo stowed at a density of 1 ton (metric) per m^3; where the density is less than this the depth of cargo specified must be increased in proportion.
(5) "Minimum distance" means the least in any direction whether vertical or horizontal from the outer surface of the nearest package.
(6) The total consignment on board at any time must not exceed *transport indices totalling 200* except if carried under the provisions of paragraph 5.1.8. The figures below the double line of the table should be used in such a contingency.

• Not to be carried unless screening by other cargo and bulkheads can be arranged in accordance with the other columns.

Sum of Transport Indices of the Packages	Minimum Distance in Feet from Living Accommodation or Regularly Occupied Working Space		MINIMUM DISTANCE IN FEET FROM UNDEVELOPED FILM AND PLATES																						
			1 day voyage			2 day voyage			4 day voyage			10 day voyage			20 day voyage			30 day voyage			40 day voyage			50 day voyage		
Cargo Thickness in Feet (Unit Density)	Nil	3	Nil	3	6	Nil	3	6	Nil	3	6	Nil	3	6	Nil	3	6	Nil	3	6	Nil	3	6	Nil	3	6
0.5	5	X	6	X	X	8	X	X	11	X	X	17	4	X	25	6	X	30	7	X	35	8	X	39	9	X
1	6	X	8	X	X	11	X	X	16	4	X	25	6	X	35	8	X	42	10	X	50	12	X	55	13	X
2	9	X	11	X	X	16	4	X	22	5	X	35	8	X	50	12	X	61	14	X	70	17	X	78	19	X
3	10	X	14	X	X	19	5	X	27	6	X	42	10	X	61	14	X	74	18	X	86	20	X	96	23	X
5	13	X	17	4	X	25	6	X	35	8	X	55	13	X	78	19	X	96	23	X	110	25	X	124	29	7
10	19	4	25	6	X	35	8	X	50	12	X	78	19	X	110	26	X	135	33	8	155	37	9	175	42	10
20	26	6	35	8	X	50	12	X	69	17	X	110	26	X	155	37	9	190	46	11	220	53	13	250	59	14
30	32	8	43	10	X	61	14	X	85	20	X	135	32	8	190	45	11	235	56	13	270	65	16	305	72	17
50	42	10	55	13	X	78	19	X	110	26	X	175	42	10	245	59	14	300	73	17	350	84	20	390	94	22
100	59	14	78	19	X	110	26	X	155	37	9	245	59	14	350	82	20	430	105	24	515	118	28	550	130	32
150	72	17	96	23	X	135	32	8	190	46	11	300	72	17	425	100	24	525	125	30	600	145	35	•	165	39
200	84	20	110	26	X	155	37	9	220	53	13	350	84	20	490	115	28	600	140	35	•	165	40	•	190	45
300	105	24	135	32	8	190	46	11	270	64	15	425	105	25	600	145	35	•	130	42	•	205	49	•	230	55
400	120	28	160	37	9	220	53	13	310	75	18	500	120	28	•	165	40	•	205	49	•	235	57	•	265	63

NOTE: (1) X – indicates that thickness of screening cargo is sufficient without any additional segregation distance.
(2) By using 6 feet of intervening unit density cargo for persons and 10 feet for film and plates, no distance shielding is necessary for any length of voyage specified.
(3) Using 1 steel bulkhead or steel deck – multiply segregation distance by 0.8.
Using 2 steel bulkheads or steel decks – multiply segregation distance by 0.64.
(4) "Cargo of unit density" means cargo stowed at a density of 1 ton (long) per 36 cubic feet; where the density is less than this the depth of cargo specified must be increased in proportion.
(5) "Minimum distance" means the least in any direction whether vertical or horizontal from the outer surface of the nearest package.
(6) The total consignment on board at any time must not exceed *transport indices totalling 200* except if carried under the provisions of paragraph 5.1.8. The figures below the double line of the table should be used in such a contingency.

• Not to be carried unless screening by other cargo and bulkheads can be arranged in accordance with the other columns.

26. § 176.710 would be revised to read as follows:

§ 176.710 Care following leakage or sifting of radioactive materials.

(a) In case of fire, collision, or breakage involving any shipment of radioactive materials other than materials of low specific activity, the radioactive matrials must be segregated from unnecessary contact with personnel. In case of obvious leakage, or if the inside container appears to be damaged, the stowage area (hold, compartment, or deck area) containing this cargo must be isolated as much as possible to prevent radioactive material from entering any person's body through contact, inhalation, or ingestion. No person may handle the material or remain in the vicinity unless supervised by a qualified person.

(b) A hold or compartment in which leakage of radioactive materials has occurred may not be used for other cargo until it is decontaminated in accordance with the requirements of § 176.715.

(c) For reporting requirements, see § 171.15 of this subchapter.

PART 177—CARRIAGE BY PUBLIC HIGHWAY

§ 177.842 [Amended]

27. In § 177.842 paragraph (a) reference to § 173.389(i) would be changed to read "§ 127.3" and references § 173.393(j), 173.396(f), or 173.392 would be changed to read "§§ 127.401(b), 127.415, 127.211 or 127.213" respectively; in paragraph (c) reference to § 173.391 would be changed to read "§§ 127.203, 127.205, or 127.209"; in paragraph (f) reference to § 173.389(a)(3)" and § 173.396(g) would be changed to read "§ 127.505(a)(3)" and "§ 127.507" respectively. A new paragraph (g) would be added to read as follows:

• • • • •

(g) For shipments transported as full load under the provisions of § 127.401(b) of this subchapter, the vehicle must have an enclosure that during normal transportation conditions prevents access of unauthorized persons to the interior of the cargo area.

§ 177.843 [Amended]

28. In § 177.843 paragraph (a) would be revised to read as follows:

§ 177.843 Contamination of vehicles.

(a) Each motor vehicle used for transporting radioactive materials as a full load must be surveyed with radiation detection instruments after each use. A vehicle may not be returned to service until the radiation dose rate at each accessible surface is 0.5 mrem/h or less and the removable (non-fixed) radioactive surface contamination is not greater than the levels prescribed in § 127.404(a) of this subchapter.

• • • • •

§ 177.861 [Amended]

29. In § 177.861 paragraph (a) reference to § 173.397 would be changed to read "§ 127.405."

(49 U.S.C. 1803, 1804, 1808, 49 CFR 1.53(e) and paragraph (a)(4) of App. A to Part 102).

NOTE.—The Materials Transportation Bureau has determined that this notice will not result in a major economic impact under the terms of Executive Order 12044 and DOT implementing procedures (43 FR 9583). A regulatory evaluation is available in the public docket.

Issued in Washington, D.C., on December 21, 1978.

ALAN I. ROBERTS,
Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 79-354 Filed 1-5-79; 8:45 am]

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Federal Register

MONDAY, JANUARY 8, 1979
PART III



DEPARTMENT OF ENERGY

Economic Regulatory Administration

INCENTIVE PRICES FOR NEWLY DISCOVERED CRUDE OIL

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[6450-01-M]

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[10 CFR Part 212]

[Docket No. ERA-R-78-26]

INCENTIVE PRICES FOR NEWLY DISCOVERED CRUDE OIL

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Proposed Rulemaking and Public Hearing.

SUMMARY: The Economic Regulatory Administration ("ERA") of the Department of Energy ("DOE") hereby gives notice of a proposed rulemaking and public hearing for the purpose of determining whether to adopt additional price incentives for newly discovered crude oil. The proposed rules would permit "newly discovered crude oil," defined generally in the same manner as "new natural gas" is defined under the Natural Gas Policy Act of 1978 (except that the reference date for determining whether a well, Outer Continental Shelf ("OCS") lease, or onshore reservoir is "new" would be January 1, 1979), to receive current market price levels. Determinations as to whether crude oil meets the criteria for "newly discovered crude oil" would be made by appropriate jurisdictional state or federal agencies, without review by the DOE. However, the DOE would reserve the right to disallow such treatment if obtained by misrepresentations, and it would also reserve the power to restrain any excessive future increases in real prices.

DATES: Comments by March 9, 1979, 4:30 p.m.; requests to speak by February 19, 1979, 4:30 p.m.; *Hearing Dates: Washington Hearing:* March 6, 1979, 9:30 a.m., and continued if necessary at 9:30 a.m. at the same location on the following day: *Denver Hearing:* February 27, 1979, 9:30 a.m., and continued if necessary at 9:30 a.m. at the same location on the following day.

ADDRESSES: All comments to: Public Hearing Management, Docket No. ERA-R-78-26, Department of Energy, Room 2313, 2000 M Street, NW., Washington, D.C. 20461; Requests to speak: *Washington Hearing:* Public Hearing Mangement, Docket No. ERA-R-78-26, Department of Energy, Room 2313, 2000 M Street, NW., Washington, D.C. 20461; *Denver Hearing:* Department of Energy, Attn: Dale Eriksen, P.O. Box 26247, Belmar Branch, Lakewood, Colorado 80226. Hearing Locations: *Washington Hearing:* 2000 M Street, NW., Room 2105, Washington, D.C. 20461; *Denver Hearing:* U.S. Post Office, Room 269—Auditorium, 1823 Stout Street, Denver, Colorado 80202.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Hearing Procedures), Economic Regulatory Administration, Room 2214B, 2000 M Street, NW., Washington, D.C. 20461, (202) 254-5201;

William Webb (Office of Public Information), Economic Regulatory Administration, Room B110, 2000 M Street, NW., Washington, D.C. 20461, (202) 634-2170;

William Carson (Office of Regulations and Emergency Planning), Economic Regulatory Administration, Room 2304, 2000 M Street, NW., Washington, D.C. 20461, (202) 254-7200;

Jeffrey C. Conrad (Office of General Counsel), Department of Energy, Room 7132, 12th & Pennsylvania Avenue, NW., Washington, D.C. 20461, (202) 633-8820.

SUPPLEMENTARY INFORMATION:

I. *Background and Summary.*
II. *Proposed Incentive.*
A. *Incentive Price.*
B. *Definition of "Newly Discovered Crude Oil".*
C. *State Implementation.*
D. *Relationship of Newly Discovered Crude Oil Proposal to Other Crude Oil Pricing Provisions and Incentive Proposals.*
III. *Comment Procedures.*
A. *Written Comments.*
B. *Public Hearings.*

I. Background and Summary

On April 20, 1977, the President addressed a joint session of Congress to present the outline of a National Energy Plan ("NEP"), which was later submitted to Congress on April 29, 1977. The Plan addressed the energy crisis in a comprehensive manner, recognizing, among other things, the need to provide additional price incentives for certain categories of crude oil and natural gas in order to increase domestic production and correspondingly reduce our dependence upon imports of crude oil and petroleum products. The crude oil pricing policies set forth in the Plan were designed to promote conservation and fuel efficiency, to provide all necessary incentives to optimize domestic crude production, and to establish reasonably certain and stable national crude oil pricing and production policies upon which the industry can base its investment decisions.

The NEP proposal for crude oil pricing included the following major elements:

The then current $5.25 and $11.28 average price ceilings for old and new crude oil would be allowed to rise at the rate of domestic inflation, as measured by the GNP deflator;

Stripper wells, incremental tertiary recovery from old fields, and other types of marginal domestic production would receive the world price;

"Newly discovered" crude oil would be allowed to rise (from the upper tier price) over a 3 year period to the 1977 world price, adjusted to keep pace with domestic inflation; and

A crude oil equalization tax (COET) would be imposed, over a 3-year phase-in period, on all domestic production subject to price controls; when fully implemented, the tax would be in an amount equal to the difference between the average controlled price for the tier of crude oil involved and the average price of uncontrolled crude oil.

All of the aspects of the crude oil pricing policy contained in the NEP except the COET are capable of administrative—as opposed to legislative—adoption, under authority of the Emergency Petroleum Allocation Act of 1973, as amended ("EPAA", Pub. L. 93-159), and are in various stages of implementation. Adjustments to lower tier and upper tier ceiling prices to account for inflation were resumed under Crude Oil Price Schedule No. 8 (42 FR 45284, September 9, 1977), and the policies set forth in the Notice accompanying Price Schedule No. 8 have been continued in all subsequent price schedules. Also, final regulations have been issued with respect to providing a world market price for incremental tertiary crude oil production from existing oil fields (43 FR 33679, August 1, 1978). Additional price incentives have been proposed for certain crude oil production from "marginal" or other old crude oil producing properties (43 FR 52186, November 8, 1978).

These actions are intended to carry out, to the maximum extent possible within existing statutory authority, the general design of the President's National Energy Plan to optimize domestic crude oil production. The only aspect of the President's plan regarding crude oil pricing that can be implemented administratively but heretofore has not yet been proposed is the incentive price for newly discovered crude oil.

II. Proposed Incentive

The incentive system proposed herein would establish a new category of crude oil, termed "newly discovered crude oil," to be sold without regard to ceiling prices that would otherwise be applicable to such production under the crude oil pricing provisions of DOE petroleum price regulations, 10 CFR Part 212, Subpart D (§ 212.71 *et seq.*). Thus, such "newly discovered crude oil" would be permitted to receive a market-clearing price at the time it is sold and would, therefore, have no specific dollar ceiling price. However, this crude oil would still be controlled crude oil—that is, it would not be exempted from price controls—and the ERA would reserve the power to limit excessive increases in its real price.

"Newly discovered crude oil" would consist of crude oil produced from: (1) a "new well" which is at least 2.5 miles from an existing producing well, or the completion depth of which is at least 1,000 feet below the deepest completion location of an existing producing well within 2½ miles of the new well; or (2) a "new lease" on the outer continental shelf (OCS). In addition, we are proposing to include in the definition crude oil produced from a new onshore reservoir, irrespective of the 2½ mile or 1,000 foot limitations. However, since the inclusion of such crude oil might represent a significant departure from the concept that the incentive price should be available only for exploratory drilling activity, we are specifically requesting commenters to provide justification for such inclusion, as described more fully below. The relevant date for determining whether a well, lease, or reservoir, as the case may be, is "new," would be January 1, 1979. Thus, a "new well" would be one on which surface drilling occurring at least 2½ miles from a producing well, or having a completion depth of at least 1,000 feet below the completion location of any currently producing well within 2½ miles of such well, commenced on or after January 1, 1979; a "new lease" (on OCS lands) would be one entered into on or after January 1, 1979, or, if there was a lease prior to January 1, 1979, such lease had been terminated or abandoned and was not in effect on that date; and a "new reservoir" would be a reservoir from which crude oil was not produced in commercial quantities prior to January 1, 1979 (regardless of whether there are producing wells located within 2½ miles or 1,000 feet).

The determination as to whether crude oil qualifies as "newly discovered crude oil" would be made by the appropriate State agency or, for crude oil produced from Federal lands, the United States Geological Survey (USGS) (hereinafter referred to as the "jurisdictional agencies"). The determination of the jurisdictional agency would not be subject to DOE review, nor (with the exception of Federal lands) would the DOE exercise this function in the event of the failure of the jurisdictional agency to do so. However, a determination by these agencies that crude oil qualifies as "newly discovered crude oil" may be revoked and considered void *ab initio* if there has been an error or emission of material fact on the part of the producer or if the producer has been party to a fraud in obtaining such a determination.

The particular elements of the proposed incentive system, and comments requested with respect to this proposal, are described in more detail below.

A. Incentive Price

We propose to permit "newly discovered crude oil" to receive a market-clearing price at the time that it is sold—that is, the then current market price for the crude oil in question—without regard to the specific dollar ceiling prices that would otherwise be applicable under the current crude oil price regulations.

The proposal set forth herein differs from that originally proposed in the NEP in that: (1) it permits newly discovered crude oil to receive the prevailing market prices at the time it is sold, rather than establishing ceiling prices based on the 1977 world market price adjusted for inflation; and (2) the full incentive price would be effective immediately, rather than being phased in over a three-year period. We have tentatively determined that this treatment would be appropriate, primarily because the present difference between current market prices and 1977 market prices escalated for inflation is insufficient to warrant the creation of a special fourth tier of domestic production with all of the additional administrative requirements and costs attendant thereto. We have also tentatively determined that an attempt to phase in the incentive price over a prolonged period would entail more administrative costs and uncertainties, both for DOE and producers, than would be justified. Such costs could include the necessity to establish 1977 market prices for various grades and qualities of crude oil, and to determine the specific ceiling price that would otherwise be applicable to particular newly discovered crude oil in order to phase in the additional incentives. The creation of a special fourth tier would also necessitate the separate computation of entitlements benefits for this additional tier of crude oil.

However, it is necessary to note that it is not our intention, in the event that this proposed rule is adopted, necessarily to permit domestic crude oil prices to rise to whatever level may result from future or cartel-administered price increases or other actions affecting costs of imported crude oil. Although it is our desire to provide the maximum reasonable stimulus to the discovery and development of additional domestic crude oil supplies, subsequent international events could result in unjustified price increases for this category of domestic production which might have an unacceptable impact upon the economy. Therefore, we propose reserving the power to limit real increases in newly discovered crude oil prices to the extent they are excessive.

We also request comments upon the proposal to permit prevailing market prices for newly discovered oil, and upon the alternative of phasing in an incentive that would increase prices of such crude oil to 1977 market price levels adjusted for inflation as proposed in the NEP. In particular, we wish to receive assessments of the differing production response to these alternatives and of the administrative costs and uncertainties that would be entailed under each.

B. Definition of "Newly Discovered Crude Oil"

The definition of "newly discovered crude oil" as proposed would parallel the definition of "new natural gas" in the Natural Gas Policy Act of 1978 ("NGPA", Pub. L. 95-621), except that for crude oil production purposes the relevant date for determining whether a well, reservoir, or lease is "new" would be January 1, 1979.

The recently enacted NGPA sets forth in sections 2 and 102 definitions relevant to the determination of whether natural gas is "new". The Federal Energy Regulatory Commission (FERC) has recently implemented the NGPA provisions pertaining to "new natural gas" by the adoption of a new Subpart B of 18 CFR Part 271 (18 CFR 271.201 *et seq.*). (*See* 43 FR 56448, at 56555 *et seq.*, December 1, 1978). The definitions proposed to be adopted here are intended to parallel in substance those contained in the pertinent NGPA provisions and implementing regulations, although the structure of the proposed price regulation for newly discoverd crude oil is somewhat different. Commenters are requested to scrutinize the definitions in proposed § 212.79(b), to compare and contrast them with the definitional terms contained in the pertinent NGPA provisions and FERC regulations, and to point out any problems in applying the NGPA definitions to crude oil production.

We propose to adopt a rule regarding the pricing of "newly discovered crude oil" on a prospective basis only. Thus, only sales of "newly discovered crude oil" made on or after the effective date of the final rule would qualify for market-clearing prices. Producers would not be permitted retroactively to recertify as newly discovered crude oil any crude oil that was produced or sold prior to the effective date of this rule.

Included in the definition of "new natural gas" in the NGPA is gas produced from a "new onshore reservoir". The rule proposed today similarly in-

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cludes crude oil produced from a new onshore reservoir in the definition of newly discovered oil. However, the new reservoir inclusion in both the NGPA and this proposal represents a significant departure from the NEP proposals of the President for both new natural gas and newly discovered crude oil. The NEP proposed to provide incentive prices only for those crude oil and natural gas drilling activities that are directed toward new field exploration rather than development, and which are, therefore, likely to involve a high degree of risk, as well as the possibility of significant new finds. It is such exploratory activities that the incentive price as proposed in the NEP was intended to elicit and as to which we believe the incentive price is warranted.

Therefore, we specifically request comments on whether the inclusion of crude oil produced from new reservoirs is consistent with this policy and will result in any significant increase in crude oil production. Commenters supporting the inclusion of crude oil produced from new reservoirs should provide as much data, analysis, and other supporting information as possible to indicate that such inclusion is necessary and appropriate.

We also solicit comments on whether, if we do include new reservoir production in the definition of newly discovered crude oil, it would be more appropriate to define newly discovered crude oil as that crude oil produced from a new reservoir for which drilling was commenced after January 1, 1979, rather than a reservoir from which crude oil was not produced in commercial quantities before January 1, 1979. We also specifically request comments and supporting information on whether crude oil produced from reservoirs discovered after January 1, 1979, on OCS leases entered into prior to that date should be included in the definition of newly discovered crude oil and, if so, what form the regulatory language to that effect should take.

Finally, we specifically request comments on whether other aspects of the new natural gas definition can appropriately be applied to crude oil production or whether any variations are appropriate for crude oil or crude oil with associated gas production. Although we believe that the proposed definitions are generally feasible and appropriate, we may adopt any modifications that are administratively feasible and are determined to be more responsive to our general objectives of providing incentives for high risk exploratory drilling.

C. STATE IMPLEMENTATON

We propose to delegate to each state, pursuant to section 5(b) of the EPAA, the authority to determine whether crude oil produced within the boundaries of that state is "newly discovered crude oil" as that term would be defined in our price regulations. With respect to federal lands, both onshore and offshore, we propose that such determination would be made by the USGS. These agencies are collectively referred to as "jurisdictional agencies." Accordingly, in order to be priced as "newly discovered crude oil" under ERA price regulations, crude oil produced within a particular state or federal property must be properly certified as "newly discovered crude oil," and can be so certified only after receipt of, and in accordance with, a formal determination by the jurisdictional agency that crude oil produced from a particular well, lease or reservoir is "newly discovered crude oil" within the meaning of § 212.79. These jurisdictional agency determinations would not be subject to ERA review and would be final and binding, except if it is determined that there was an error or omission of material fact on the part of the producer or if the producer were a party to fraud in obtaining such determination.

The ERA does not propose to fill the role of the relevant jurisdictional agency under these proposed regulations. That is, if a particular state does not have an agency willing and able to perform the necessary review and analysis to make the determination as to whether crude oil is "newly discovered crude oil" under ERA regulations, we do not propose to act in that capacity. It is our desire to provide for a determination by a competent governmental agency, in order to provide relative certainty on the part of producers and to reduce the audit and enforcement burden upon ERA. However, we believe that the interests of expeditious determinations would not be served by our becoming enmeshed in ongoing technical review of applications. Therefore, we propose to require that the determination be made by the pertinent state agency, and, in default of such a determination, the producer would not be entitled to certify crude oil as "newly discovered crude oil."

We request that commenters address several features of this aspect of our proposal. First, we are proceeding on the premise that the various states have established or can readily establish procedures for the expeditious review of applications by producers, applying the definitions set forth in our regulations. We request comments on whether this is a generally accurate assessment, or whether it would be necessary for us to establish a procedure within ERA to review technical submissions, or set forth guidelines which states could use. Alternatively, we request comments concerning whether producers should be permitted to certify "newly discovered crude oil" without a prior determination, subject to a subsequent audit by the appropriate state or DOE office.

Second, we request comments on whether we should reserve the option to review jurisdictional agency determinations, not for the purpose of reviewing underlying factual data but to ensure that the agency's determination sets forth the ultimate facts upon which it is based.

Third, we request comments on whether we should prescribe any additional requirements, such as production, measurement, and recordkeeping criteria, to ensure that crude oil certified as "newly discovered crude oil" is in fact produced from the qualifying well, lease, or reservoir, and whether there should be any limitations on post-qualification actions affecting prior normal production patterns.

Fourth, we request comments on whether there might be some confusion as to which State agency is the appropriate jurisdictional agency and whether we should specify the appropriate jurisdictional agency for each State. If we do, we would propose to specify those agencies that are identified in the recent FERC regulations implementing the NGPA, listed in 18 CFR 274.501 (43 FR 56448 at 56604 *et seq.*, December 1, 1978). We request comments as to whether those listed agencies are the appropriate ones for the crude oil determinations in question and whether they are willing to and capable of making such determinations.

Finally, we request comments on the proposed grounds for voiding a prior determination that crude oil qualifies as "newly discovered crude oil." It appears that these proposed grounds generally parallel, and are not more stringent than, those Congress adopted in section 503(d) of the NGPA for determinations concerning natural gas. Would more or less stringent conditions be appropriate for the crude oil determinations contemplated in this proposal?

D. RELATIONSHIP OF NEWLY DISCOVERED CRUDE OIL PROPOSED TO OTHER CRUDE OIL PRICING PROVISIONS AND INCENTIVE PROPOSALS

In determining whether and to what extent to adopt the proposal (or a variation of the proposal) for incentives concerning newly discovered crude oil, we will give appropriate consideration to the relationship of this proposal to other incentive proposals, such as incentives for production from marginal properties and possible expanded incentives for enhanced crude oil recovery as well as any other pertinent crude oil pricing actions. We will also consider the relationship to natural gas pricing policies of any effects of this proposed rule on lease revenues from condensate and natural gas liquids. We will seek to ensure that: (1) the grant of any particular form of incentive is not counterproductive to the objectives of other crude oil pricing proposals or regulations, or does not create unintended double benefits; and (2) the aggregate economic impact of existing provisions and additional production incentives is not unnecessarily high.

Addressing the first objective will necessitate a thorough review of technical matters such as the interaction of the incentives proposed herein with existing base production control level (BPCL) rules, particularly since a "new well" or "new reservoir" may not always constitute a new property under existing regulatory concepts. It will, therefore, be necessary to make such technical adjustments in BPCL rules as may be necessary to ensure that they will continue to serve their intended purposes if this incentive is adopted. It may also be necessary to adopt such additional technical provisions as will harmonize the objectives of this particular incentive with others such as the marginal property incentives proposed in November (43 FR 52186, November 8, 1978).

The attached proposed regulatory language seeks to conform certain technical provisions, such as the BPCL rules and the crude oil seller certification provisions, to this proposed incentive. Comments are requested on what additional modifications to such rules or to this proposal may be appropriate to accomplish these objectives. Comments are also requested concerning what further modifications may be necessary in the event that both this proposed incentive for newly discovered crude oil and the proposed incentive (or a variation thereof) for marginal properties are adopted.

Meeting the second objective of limiting the economic impact of production incentives may require a balancing of the costs and benefits of particular incentives, and an assessment of their separate and aggregate impacts, in order to establish the optimum mix of incentives. We will be making this assessment in determining what incentives to adopt, and in what degree.

III. COMMENT PROCEDURES

A. WRITTEN COMMENTS

You are invited to participate in this rulemaking by submitting data, views or arguments with respect to the issues set forth in this Notice. Comments should be identified on the outside envelope and on documents submitted with the designation "Incentive Prices for Newly Discovered Crude Oil," Docket No. ERA-R-78-*26*. Fifteen copies should be submitted. All comments received will be available for public inspection in the ERA Office of Public Information, Room B-110, 2000 M Street NW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. Comments should be received by March 9, 1979, 4:30 p.m. in order to be considered.

Any information or data you consider to be confidential must be so identified and submitted in writing, one copy only. We reserve the right to determine the confidential status of the information or data and to treat it according to our determination.

B. PUBLIC HEARINGS

1. *Requesting Opportunity to Participate.* The times and places for the hearings are indicated in the "DATES" and "ADDRESSES" section of this Notice. If necessary to present all testimony, hearings will be continued at 9:30 a.m. of the next business day following the first day of the hearing.

Any person may make a written request for an opportunity to make an oral presentation at the hearings. Requests should be submitted by February 19, 1979, 4:30 p.m. You should provide a phone number where you may be contacted through the day before the hearing.

If you are selected to be heard you will be so notified by the DOE before 4:30 p.m., February 22, 1979. You must submit 100 copies of your statement to the address given above for requests to speak, for the location concerned, before 4:30 p.m., on the day before the hearing.

2. *Conduct of the Hearings.* We reserve the right to select the persons to be heard at these hearings, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearings. The length of each presentation may be limited, based on the number of persons requesting to be heard.

A DOE official will be designated to preside at the hearings, which will not be judicial in nature. Questions may be asked only by those conducting the hearings. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

You may submit questions to be asked of any person making a statement at the hearings. Such questions should be submitted to the address indicated above for requests to speak, for the location concerned, before 4:30 p.m. on the day prior to the hearing. If at the hearing you decide that you would like to ask a question of a witness, you may submit the question, in writing, to the presiding officer. In either case the presiding officer will determine whether the time limitations permit it to be presented for a response.

Any further procedural rules needed for the proper conduct of the hearings will be announced by the presiding officer.

Transcripts of the hearings will be made, and the entire record of the hearings, including the transcripts, will be retained by the DOE and made available for inspection at the ERA Office of Public Information, Room B-110, 2000 M Street, NW., Washington, D.C. between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

In the event that it becomes necessary for us to cancel a hearing, we will make every effort to publish advance notice in the FEDERAL REGISTER of such cancellation. Moreover, we will give actual notice to all persons scheduled to testify at the hearings. However, it is not possible to give actual notice of cancellations or changes to persons not identified to us as participants. Accordingly, persons desiring to attend a hearing are advised to contact DOE on the last working day preceding the date of the hearing to confirm that it will be held as scheduled.

As required by section 7(c)(2) of the Federal Energy Administration Act of 1974 (Pub. L. 93-275), a copy of this Notice has been submitted to the Administrator of the Environmental Protection Agency for his comments concerning the impact of this proposal on the quality of the environment. The Administrator had no comments on this proposal.

In accordance with Order No. 12044, on Improving Government Regulations (43 FR 12661, March 24, 1978) and the DOE Interim Management Directive Procedures for the Development and Analysis of Regulations, Standards, and Guidelines (43 FR 18634, May 1, 1978), we have prepared a preliminary regulatory analysis which examines the potential economic impact of these proposed regulations. Copies of the preliminary regulatory analysis may be obtained from ERA's Office of Public Information, Room B-110, 2000 M Street, NW., Washington, D.C. You are invited to provide comments on the preliminary regulatory analysis at the same time you submit comments on the proposed rule. Such comments will be taken into account before the preparation of a final regulatory analysis on any final rule that may be adopted.

Pursuant to the requirements of section 404(a) of the Department of

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Energy Organization Act ("DOE Act" Pub. L. 95-91), this proposed rule has been referred, concurrently with the issuance hereof, to the Federal Energy Regulatory Commission for a determination as to whether the proposed rule might significantly affect a function within the Commission's jurisdiction under section 402(c) of the DOE Act. The Commission will have until March 9, 1979, the scheduled close of public comment period on the proposal, to make such determination.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-385; Energy Policy and Conservation Act, Pub. L. 94-163, as amended, Pub. L. 94-385; E.O. 11790, 39 FR 23185; Department of Energy Organization Act, Pub. L. 95-91; E.O. 12009, 42 FR 46267.)

Issued in Washington, D.C., December 29, 1978.

DAVID J. BARDIN,
Administrator, Economic Regulatory Administration.

1. Section 212.72 is revised by amending the definitions of "New crude oil," and "Old crude oil" to read as follows:

§ 212.72 Definitions.

• • • • •

"New crude oil" means, with respect to a specific property: (1) Prior to February 1, 1976, the total number of barrels of domestic crude oil produced and sold in a specific month, less (A) the base production control level for that month, and less (B) the current cumulative deficiency;

(2) Effective February 1, 1976 and prior to January 1, 1979, the total number of barrels of domestic crude oil produced and sold in a specific month, less (A) the property's base production control level for that month, and less (B) the current cumulative deficiency since February 1, 1976; and

(3) Effective January 1, 1979, the total number of barrels of domestic crude oil produced and sold in a specific month, less (A) the property's base production control level for that month, less (B) the total number of barrels of newly discovered crude oil for the property for that month, and less (C) the current cumulative deficiency since February 1, 1976; and

(4) Shall not in any period include any number of barrels not certified as new crude oil pursuant to the provisions of § 212.131(a)(2) within the consecutive two-month period immediately succeeding the month in which the crude oil is produced and sold, except where such recertification is explicitly required or permitted by DOE order, interpretation, or ruling.

• • • • •

"Old crude oil" means: (1) Prior to February 1, 1976, the total number of barrels of crude oil produced and sold from a property in a specific month, less (B) the total number of barrels of released crude oil for that property in that month;

(2) Effective February 1, 1976 and prior to January 1, 1979, the total number of barrels of crude oil produced and sold from a property in a specific month, less the total number of barrels of new crude oil for that property in that month;

(3) Effective January 1, 1979, the total number of barrels of crude oil produced and sold from a property in a specific month, less (A) the total number of barrels of new crude oil for that property in that month, and less (B) the total number of barrels of newly discovered crude oil, if any, for that property in that month.

• • • • •

2. Section 212.73 is revised to read as follows:

§ 212.73 Lower tier ceiling price rule.

(a) *Rule.* Except as provided in § 212.74 with respect to new crude oil; except as provided in § 212.75 for certain crude oil produced from unitized properties; except as provided in § 212.78 for incremental crude oil produced from qualified tertiary enhanced recovery projects; except as provided in § 212.79 with respect to newly discovered crude oil, and except as provided in Subpart C of this Part for exempt crude oil, no producer may charge a price higher than the lower tier ceiling price for any first sale of domestic crude oil.

• • • • •

3. Section 212.75 is revised in paragraph (b) to amend the definitions of "new crude oil" and "old crude oil," to add the definition of "newly discovered crude oil," to modify paragraph (d), to add a new paragraph (f), and to reletter former paragraphs (f) and (g) to paragraphs (g) and new paragraph (h), respectively, to read as follows:

§ 212.75 Crude oil produced and sold from unitized properties.

• • • • •

(b) *Definitions.* For purposes of this section—

• • • • •

"New crude oil" means, in a particular month, (i) with respect to a unitized property for which a unit base production control level was established prior to August 1, 1977, either (A) actual new crude oil, which is the total number of barrels of crude oil produced and sold in that month from all properties that constitute the unitized property, less (1) the unit base production control level, less (2) the current cumulative deficiency, and less (3) the total number of barrels of newly discovered crude oil, if any, for the unit for the particular month, or (B) imputed new crude oil, which is a number of barrels of crude oil equal to the total number of barrels of new crude oil produced and sold during the 12-month period immediately preceding the establishment of a unit base production control level for the unitized property, from all properties that constitute the unitized property, divided by the number of days in that 12-month period, and multiplied by the number of days in the particular month; whichever number is greater; (ii) with respect to a unitized property for which a unit base production control level was established on or after August 1, 1977, either (A) actual new crude oil, which is the total number of barrels of crude oil produced and sold in a specific month from all properties that constitute the unitized property, less (1) the unit base production control level, less (2) the total number of barrels of imputed stripper well crude oil, if any, for the particular month, less (3) the current unit cumulative deficiency, and less (4) the total number of barrels of newly discovered crude oil, if any, for the particular month; or (B) imputed new crude oil, which is a number of barrels of crude oil produced and sold during the 12-month period immediately preceding the establishment of a unit base production control level for the unitized property, divided by the number of days in the 12-month period immediately preceding the establishment of a unit base production control level, multiplied by the number of days in the particular month; whichever number is greater.

"Newly discovered crude oil" means newly discovered crude oil as defined in § 212.79(b).

"Old crude oil" means, in a particular month, the total number of barrels of crude oil produced and sold in that month from all properties that constitute the unitized property, less (A) the total number of barrels of new crude oil produced and sold from the unitized property in that month, less (B) the total number of barrels of imputed stripper well crude oil produced and sold from the unitized property in that month, and less (C) the total number of barrels of newly discovered crude oil produced and sold from the unitized property in that month.

• • • • •

(d) Except as provided in paragraphs (e), (f), and (g) below with respect to new crude oil, imputed stripper well crude oil, and newly discovered crude oil, no producer of crude oil from a unitized property may charge a price higher than the lower tier ceiling price (as determined pursuant to §§ 212.73 and 212.77 of this Part) for the first sale of domestic crude oil produced and sold from the unitized property.

• • • • •

(f) Notwithstanding the provisions of paragraph (d) above, a producer of crude oil from a unitized property may, in any month beginning after January 1, 1979, charge a price not to exceed the price (as determined pursuant to §§ 212.79 and 212.77 of this Part) applicable to first sales of newly discovered crude oil produced and sold from the unitized property.

(g) Notwithstanding the provisions of paragraphs (d), (e), and (f) above, the prices charged in any month by a producer of crude oil from a unitized property in first sales of imputed stripper well crude oil are exempt.

(h) The provisions of this section shall apply to each first sale of crude oil from a unitized property.

4. A new § 212.79 is added to read as follows:

§ 212.79 Newly discovered crude oil ceiling price rule.

(a) *Rule.* (1) Notwithstanding the provisions of § 212.73(a) and subject to the procedures and limiations hereafter provided in this § 212.79, first sales of newly discovered crude oil on or after [the effective date of this regulation] are not subject to the ceiling price limiations of this subpart.

(2) No domestic crude oil shall be eligible for pricing in accordance with paragraph (a)(1) of this section, unless the producer has obtained the required certification from the proper jurisdictional agency pursuant to paragraph (d) of this section.

(b) *Definitions.* For purposes of this section—

"Completion location" means the subsurface location from which crude oil is being or has been produced in commercial quantities.

"Depth" means the depth determined by reference to the vertical distance between mean sea level and the lowermost point of the completion location of any old well or by reference to the vertical distance between mean sea level and the uppermost point of the completion location of any new well.

"Jurisdiction agencies" means the State or Federal agencies that are primiarly responsible for regulating or overseeing crude oil production from properties within their respective jurisdictions.

"New lease" means a lease, entered into on or after January 1, 1979, of an area which—(A) was not leased before January 1, 1979; or (B) which was leased before such date, under a lease which terminated or was abandoned before such date and which was not in effect on such date.

"New well" means any well: (A) the surface drilling of which began on or after January 1, 1979; or (B) the depth of which was increased, by means of drilling on or after January 1, 1979, to a completion location which is located at least 1,000 feet below the depth of the deepest completion location of such well attained before December 31, 1978.

"Newly discovered crude oil" means domestic crude oil which has been certified by the state (or by the United States Geological Survey with respect to federal lands) in which the crude oil is: (A) produced from a new lease on the Outer Continental Shelf; or (B) produced (other than from the Outer Continental Shelf) from a new well the completion location of which is (i) 2.5 statute miles or more from the nearest old well; or (ii) located at a depth of at least 1,000 feet below the deepest completion location of each old well within 2.5 statute miles of such new well; or (C) produced (other than from the outer continental shelf) from a new reservoir. Newly discovered crude oil shall not include any number of barrels not certified as newly discovered crude oil pursuant to the provisions of § 212.131(a)(2) within the consecutive two-month period immediately succeeding the month in which the crude oil is produced and sold, except where such recertification is explicitly required or permitted by DOE order, interpretation, or ruling.

For purposes of determining the distance from any new well to any existing producing well, the mesurement shall be: (1) the horizontal distance from the surface location of the new well to the surface location of the producing well in any case in which the new well meets requirements for the non-directional drilling wells prescribed by the appropriate State or Federal agency having regulatory jurisdiction over the drilling of such well; or (2) the horizontal distance from the closest point of any completion location of the new well, vertically projected to the same elevation as the surface location of the nearest producing well to the surface location at such existing producing well.

"New reservoir" means any reservoir from which crude oil was not produced in commercial quantities before January 1, 1979.

"Old well" means any well other than a new well.

"Outer continental shelf" means Outer Continental Shelf as defined under section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)).

"Reservoir" means any producible natural accumulation of crude oil, natural gas, or both, confined—(A) by impermeable rock or water barriers and characterized by a single natural pressure system; or (B) by lithological or other structural barriers which prevent pressure communication.

(c) A producer desiring to price crude oil as newly discovered crude oil under this section shall obtain from the proper jurisdictional agency, within the meaning of paragraph (b) of this section, a certification that the crude oil constitutes newly discovered crude oil, within the meaning of paragraph (b) of this section, prior to charging any price in excess of the ceiling price which would otherwise be applicable to such crude oil under any other provision of this subpart.

5. Section 212.131 is revised in subparagraphs (a)(2)(i) to modify subparagraphs (C) and (D) and to add subparagraph (E), (a)(3)(i) to modify subparagraphs (D) and (E) and to add subparagraph (F).

§ 212.131 Certification of domestic crude oil sales.

(a)

• • •

(2) *Non-stripper well properties.*

• • •

(i)

• • •

(C) crude oil transported through the trans-Alaska pipeline;

(D) incremental tertiary crude oil as determined pursuant to § 212.78; and

(E) newly discovered crude oil as determined pursuant to § 212.79.

With respect to any property (except a property with respect to which any amount of crude oil is or at any time has been certified by the producer as incremental tertiary crude oil or newly discovered crude oil) which has not qualified as a stripper well property, and from which no newly discovered crude oil is produced and sold, and from which crude oil is sold only to one purchaser, the requirements of this paragraph (a)(2)(i) may be complied with by a one-time certification to the purchaser of the property's monthly base production control level determined pursuant to § 212.72, whether based upon production and sale of crude oil in 1972 or upon production and sale of old crude oil in 1975, and, if applicable, either the property's adjusted base production control level determined pursuant to § 212.76 or the information necessary to compute such adjusted base production control level pursuant to § 212.76; *provided, however,* that the producer shall certify to the purchaser the amounts and gravity of California

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lower tier crude oil and California upper tier crude oil in each sale.

* * * * *

(3) *Unitized properties.*

* * *

(i)

* * *

(D) incremental tertiary crude oil determined pursuant to § 212.78;

(E) imputed stripper well crude oil, if any, determined pursuant to § 212.75(b); and

(F) newly discovered crude oil.

With respect to any unitized property (except such a property with respect to which any amount of crude oil is or at any time has been certified by the producer as incremental tertiary crude oil or newly discovered crude oil) for which the producer has determined a unit base production control level, and from which crude oil is sold only to one purchaser, the requirements of this paragraph (a)(3)(i) may be complied with by a one-time certification to the purchaser of—

* * * * *

[FR Doc. 79-417 Filed 1-2-79; 2:08 pm]

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federal register

MONDAY, JANUARY 8, 1979
PART IV



DEPARTMENT OF ENERGY

Economic Regulatory Administration

■

OIL IMPORT ALLOCATIONS FOR 1979–1980

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[6450-01-M]

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[10 CFR Part 213]

[Docket No. ERA-R-78-27]

OIL IMPORT ALLOCATIONS FOR 1979-1980

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Proposed Rulemaking and Public Hearing.

SUMMARY: The Economic Regulatory Administration ("ERA") of the Department of Energy ("DOE") is proposing to revise the Oil Import Regulations to conform them to the allocation levels established for the next allocation year by Presidential Proclamation 3279, as amended. The Proclamation provides for an annually decreasing quantity of oil imports not subject to the license fees otherwise imposed by the Proclamation. For the next allocation period, which begins on May 1, 1979, and ends on April 30, 1980, the quantity of oil which may be imported without being subject to the fee is twenty percent of the level which was originally established in 1973.

This notice of proposed rulemaking and public hearing should not be confused with a notice published in the FEDERAL REGISTER on December 20, 1978, regarding amendments to conform the Oil Import Regulations to Presidential Proclamation No. 4629. The December 20 amendments suspended through June 30, 1979, the schedule reduction in the quantity of fee exempt imports of residual fuel oil into the East Coast, permanently changed the manner in which fee-exempt residual fuel oil licenses are distributed, and restricted the way in which customs duties can be utilized to reduce license fee obligations.

DATES:

Comments by: February 15, 1979.

Hearing: 9:30 a.m., February 14, 1979.

Request to speak by: February 5, 1979.

ADDRESSES:

Comments to: Public hearing Management, Docket No. ERA-R-78-27, Economic Regulatory Administration, 2000 M Street, NW., Room 2313, Washington, D.C. 20461.

Hearing: Department of Energy, Room 2105, 2000 M Street, NW., Washington, D.C. 20461.

Requests to speak to: Public hearing Management, Docket No. ERA-R-78-27, Economic Regulatory Administration, 2000 M Street, NW., Room 2313, Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Robert D. R. DeSugny, Office of General Counsel, Department of Energy, Room 5115, Federal Building, 12th & Pennsylvania Ave., NW., Washington, D.C. 20461, (202) 633-9380.

Robert R. Moore (Oil Imports), Economic Regulatory Administration, Department of Energy, Room 6114, 2000 M Street, NW., Washington, D.C. 20461, (202) 254-8620.

Gerald P. Emmer (Allocation Regulations), Economic Regulatory Administration, Department of Energy, Room 2304, 2000 M Street, NW., Washington, D.C. 20461, (202) 254-7200.

William Webb (Office of Public Information), Economic Regulatory Administration, Department of Energy, Room B110, 2000 M Street, NW., Washington, D.C. 20461, (202) 634-2170.

SUPPLEMENTARY INFORMATION:

Under the Mandatory Oil Import Program established pursuant to Presidential Proclamation No. 3279, as amended, the next allocation period for imports not subject to license fees under Section 3(a)(1)(i)-(ii) of the Proclamation will commence on May 1, 1979. Section 8 of the Proclamation provides that for this allocation period, the maximum levels of imports subject to allocation and license to which license fees under Section 3(a)(1)(i)-(ii) shall not be applicable shall be reduced to twenty percent (20%) of the levels established during the calendar year 1973. In accordance with Proclamation No. 3279, as amended, we are hereby issuing proposed amendments to Part 213 of Chapter II, Title 10 of the Code of Federal Regulations, to provide for the commencement of the next allocation period and to reduce in accordance with the Proclamation the levels of fee-exempt allocations

In addition to the proposed conforming amendments above, we are proposing to amend 213.10(a)(1) to reflect changes made by the Department of Commerce in its Trade Classification Schedule B (Statistical Classifications of Domestic and Foreign Commodities Exported from the United States). Furthermore, we are proposing additional language in 213.35(c)(1) to effectively exempt from the Oil Imports Program all crude oil and finished products imported for the Strategic Petroleum Reserve Program. No other substantive changes have been proposed.

COMMENT PROCEDURES:

A. WRITTEN COMMENTS

You are invited to participate in this proceeding by submitting data, views, or arguments with respect to these proposed amendments. Comments should be submitted by 4:30 p.m., e.s.t., February 15, 1979 to the address indicated in the "Addresses" section of this notice and should be identified on the outside of the envelope and on the documents submitted with the designation "Oil Import Allocations for 1979-1980." Fifteen copies should be submitted. All comments that we receive will be available for public inspection in the ERA Office of Public Information, Room B110, 2000 M Street NW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

You should identify separately any information or data you consider to be confidential and submit it in writing, one copy only. We reserve the right to determine the confidential status of the information or data and to treat it according to our determination.

The public comment period provided for this regulation in less than the 60 days prescribed in Section 2(c) of Executive Order No. 12044 on Improving Government Regulations (43 FR 12661, March 24, 1978) because this is not a "significant" proposed regulation within the meaning of the Executive Order. The principal purpose of the regulations proposed here is to update them for the allocation period beginning May 1, 1979 and to implement certain mandatory provisions of Presidential Proclamation 3279, as amended, which the DOE has no discretion not to implement. The other changes either merely conform the Oil Import Regulations to Department of Commerce regulations or clarify rather than amend the present regulations. In any event, even if these regulations were "significant" within the meaning of Executive Order No. 12044, shortening of the comment period on these relatively routine amendments from 60 to about 45 days would be justified on the ground that it would allow DOE time to adopt final regulations sufficiently in advance of commencement of the allocation period beginning May 1, 1979 to allow for the orderly processing of applications for fee-free import licenses under the new regulations.

B. PUBLIC HEARING

1. *Procedure to request participation.* The time and place for the public hearing are indicated in the "HEARING" section of this Notice. If necessary to present all testimony, the public hearing will be continued to 9:30 a.m. of the first business day following the hearing date above.

You may make a written request for an opportunity to make an oral presentation at the hearing. The request should contain a phone number where you may be contacted through the day before the hearing. We will notify each person selected to be heard before 4:30 p.m., February 7, 1979. Persons scheduled to speak at the hearing must bring 50 copies of their statement to the location of the hearing on the day testimony is presented.

2. *Conduct of the hearing.* We reserve the right to limit the number of persons to be heard at the hearing if necessary in the interests of time, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentaton may be limited, based on the number of persons requesting to be heard.

An ERA official will be designated to preside at the hearing, which will not be a judicial-type hearing. Questions may be asked only by those officials conducting the hearing. Each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

You may submit questions to be asked of any person making a statement at the hearing. Such questions may be submitted to the same address indicated above for requests to speak, three days before the hearing. In addition, if you decide at a hearing to ask a question, you may submit the question, in writing, to the presiding officer. He or she will determine whether the question is relevant and whether time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made, and we will retain the entire record of the hearing, including the transcript, which will be made available for inspection at the ERA Office of Public Information, Room B110, 2000 M Street, NW, Washington, D.C. between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. You may purchase a copy of the transcript of the hearing from the reporter.

In the event that it becomes necessary for us to cancel the hearing, we will make every effort to publish advance notice in the FEDERAL REGISTER of such cancellation. Moreover, we will notify all persons scheduled to testify at the hearing. However, it is not possible to give actual notice of cancellations or schedule changes to persons not identified to us as participants. Accordingly, persons desiring to attend the hearing are advised to contact us on the last working day preceding the date of the hearing to confirm that it will be held as scheduled.

As required by section 7(a)(1) of the Federal Energy Administration Act of 1974, as amended, a copy of this Notice was submitted to the Administrator of the Environmental Protection Agency for his comments concerning the impact of this proposal on the quality of the environment. The Administrator had no comments.

Pursuant to the requirements of Section 404 of the Department of Energy Organization Act, upon issuance a copy of this proposed rule will be forwarded to the Federal Energy Regulatory Commission for a determination by it, in its discretion, whether this proposed rule may significantly affect any function within the Commission's jurisdiction pursuant to Section 402(a)(1), (b) and (c)(1) of that Act. The Commission will have until February 15, 1979, the date the public comment period closes, to make this determination.

Executive Order No. 12044 also requires that a regulatory analysis be prepared for all significant regulations which will result in an annual effect on the economy of $100 million or more or will result in "a major increase in costs or prices for individual industries, levels of government or geographic regions." The proposed regulations are expected to have an annual impact on the economy of approximately $22 million. Inasmuch as this proposed rulemaking makes only technical changes to the existing regulations in compliance with Presidential Proclamation 3279 as amended, we have determined that none of the threshold criteria for the preparation of a regulatory analysis have been met, and therefore a regulatory analysis is not required.

(Trade Expansion Act of 1962, Pub. L. 87-794, as amended; Proclamation 3279, as amended; Department of Energy Organization Act, Pub. L. 95-91; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, E.O. 12009, 42 FR 46267; E.O. 12038, 43 FR 64849.)

In consideration of the foregoing, Part 213 of Chapter II, Title 10 of the Code of Federal Regulations, is proposed to be amended as set forth below.

Issued in Washington, D.C., December 29, 1978.

DAVID J. BARDIN,
Administrator, Economic Regulatory Administration.

PART 213—OIL IMPORT REGULATIONS

§ 213.5 [Amended]

1. Section 213.5 is amended in paragraph (a) by deleting the term "May 1, 1978 through April 30, 1979" and by substituting therefor "May 1, 1979 through April 30, 1980"; and by deleting the term "April 28, 1978" and by substituting therefor "March 2, 1979."

§ 213.9 [Amended]

2. Section 213.9 is amended in paragraphs (a) and (b) by deleting the term "May 1, 1978 through April 30, 1979" and by substituting therefor "May 1, 1979 through April 30, 1980"; and by deleting the terms "1977" and ".35" and by substituting therefor "1978" and ".20" respectively.

§ 213.10 [Amended]

3. Section 213.10 is amended in paragraph (a)(1) by deleting the Trade Classification Schedule B Table and substituting the following Trade Classification Schedule B Table:

Trade Classification Schedule B Number	Description
309-310.9	Manmade fibers.
357.8020	Cellulosic fibers for use in tires.
401-404.8	Cyclic organic chemicals; and products.
415.1500	Carbon (except carbon black, and contact, channel, and furnace blacks).
431-431.9	Acrylic organic chemical compounds.
433.1016-433.1022	Antiknock preparations.
433.1044-433.1047	Additives for fuel oils, liquid gum inhibitors.
433.1060-433.1066	Additives for lubricating oils.
433.1073	Reagents for ore recovery.
435.2500-435.2600	Enzymes.
435.3500	Steroid hormones & synthetic substitutes, N.S.P.F.
435.3900	Other hormones & synthetic substitutes.
435.6700-435.9500	Other drugs.
444-444.8	Plastic materials and synthetic resins.
446.1506-446.3000	Synthetic rubber and rubber substitutes; e.g. SBR type rubber, butyl rubber, carbon black masterbatch.
459.0900-459.1900	Unmixed aromatic & odoriferous substances.
464-464.8	Surface-active agents.
466.1800-466.4000	Synthetic detergents, synthetic organic bulk.
472.2500	Carbon black.
472.3000	Bone black and lamp black.
480.3000	Urea.
480.9500	Fertilizers.
486.0200-486.3900	Pesticides, unmixed.
487.0500	Cyclic organic chemical compounds used chiefly in photography.
487.1510-487.3080	Plasticizers and rubber-processing chemicals not artificially mixed.
487.4040	Textile assistants.
490.0500-491	Fatty substances.
492.1820-492.1840	Methyl cellulose and hydroxy ethyl cellulose and other cellulose compounds.
492.5410-492.5420	Artificial waxes.
492.6250-492.6555	Synthetic resin adhesives.
722.4500-777.5160	Rubber tires for vehicles and aircraft.

§ 213.12 [Amended]

4. Section 213.12 is amended in paragraph (a) by deleting the term "May 1, 1978 through April 30, 1979" and by

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substituting therefor "May 1, 1979 through April 30, 1980"; in paragraph (b) by deleting the terms "1977" and "365" and by substituting therefor "1978" and "366" respectively.

§ 213.13 [Amended]

5. Section 213.13 is amended in paragraph (a) by deleting the term "May 1, 1978 through April 30, 1979" and by substituting therefor "May 1, 1979 through April 30, 1980"; in paragraph (b) by deleting the terms "1977" and "365" and by substituting therefor "1978" and "366" respectively.

§ 213.16 [Amended]

6. Section 213.16 is amended in paragraph (a) by deleting the term "May 1, 1978 through April 30, 1979" and by substituting therefor "May 1, 1979 through April 30, 1980"; by deleting the terms "7,000" and "2,625" and by substituting therefor "4,000" and "1,500" respectively.

§ 213.20 [Amended]

7. Section 213.20 is amended in paragraph (a)(2) by deleting the term "May 1, 1978 through April 30, 1979" and by substituting therefor "May 1, 1979 through April 30, 1980"; and by deleting the term "79,527 bbl/d" and substituting therefor "45,444 bbl/d".

§ 213.21 [Amended]

8. Section 213.21 is amended in paragraphs (a)(2) and (b)(2) by deleting the term "May 1, 1978 through April 30, 1979" and by substituting therefor "May 1, 1979 through April 30, 1980"; in paragraph (a)(2) by deleting the term "503 bbl/d" and by substituting therefor "287 bbl/d"; and in paragraph (b)(2) by deleting the term "577 bbl/d" and by substituting therefor "330 bbl/d".

§ 213.32 [Amended]

9. Section 213.32 is amended in paragraph (d) by deleting the term "May 1, 1978 through April 30, 1979" and by substituting therefor "May 1, 1979 through April 30, 1980"; and by deleting the term "26,460 bbl/d" and by substituting therefor "15,120 bbl/d".

§ 213.33 [Amended]

10. Section 213.33 is amended in paragraph (c) by deleting the term "May 1, 1978 through April 30, 1979" and by substituting therefor "May 1, 1979 through April 30, 1980"; by deleting the term "434,000" and by substituting therefor "248,000"; in paragraph (d)(1) by deleting the term ".35" and by substituting therefor ".20"; in paragraph (d)(2) by deleting the term "May 1, 1978" and by substituting therefor "May 1, 1979"; and by deleting the term "April 30, 1979" and by substituting therefor "April 30, 1980"; in paragraph (f) by deleting the term "August 31, 1978" wherever it appears and by substituting therefor "August 31, 1979"; by deleting the term "May 1, 1977 through April 30, 1978" and by substituting therefor "May 1, 1978 through April 30, 1979"; and by deleting the term "July 1, 1978" and by substituting therefor "July 1, 1979"; and in paragraph (h) by deleting the term "April 28, 1978" and by substituting therefor "March 2, 1979".

§ 213.34 [Amended]

11. Section 213.34 is amended in paragraphs (b) and (e) by deleting the term "May 1, 1978 through April 30, 1979" and by substituting therefor "May 1, 1979 through April 30, 1980"; and by deleting the term "17,500" and by substituting therefor "10,000".

§ 213.35 [Amended]

12. Section 213.35 is amended in paragraph (c)(1) by deleting the schedule and by substituting therefor the following schedule:

	Fee, $/Barrel
Crude Oil (Other than that imported by the Department of Energy, or by another person or agency of the Federal Government acting on behalf of the Department of Energy, for the Strategic Petroleum Reserve Program)	0.21
Natural Gas Products	0.21
All other finished products and unfinished oils including crude oil to be burned directly as fuel (except ethane, propane, butanes, asphalt and finished products imported by the Department of Energy, or another person or agency of the Federal Government acting on behalf of the Department of Energy, for the Strategic Petroleum Reserve Program)	0.63

§ 213.36 [Amended]

13. Section 213.36 is amended in paragraph (c) by deleting the term "May 1, 1978 through April 30, 1979" and by substituting therefor "May 1, 1979 through April 30, 1980"; and by deleting the term "434,000" and by substituting therefor "248,000"; in paragraph (d)(1) by deleting the term ".35" and by substituting therefor ".20"; in paragraph (d)(2) by deleting the term "May 1, 1978" and by substituting therefor "May 1, 1979"; and by deleting the term "April 30, 1979" and by substituting therefor "April 30, 1980"; in paragraph (f) by deleting the term "August 31, 1978" wherever it appears and by substituting therefor "August 31, 1979"; by deleting the term "May 1, 1977 through April 30, 1978" and by substituting therefor "May 1, 1978 through April 30, 1979"; and by deleting "July 1, 1978" and by substituting therefor "July 1, 1979"; and in paragraph (h) by deleting the term "April 28, 1978" and by substituting therefor "March 2, 1979".

§ 213.37 [Amended]

14. Section 213.37 is amended in paragraphs (a) and (c) by deleting the term "May 1, 1978 through April 30, 1979" and by substituting therefor "May 1, 1979 through April 30, 1980"; and in paragraph (a) by deleting the term "11,375" and by substituting therefor "6,500".

[FR Doc. 79-430 Filed 1-2-79; 2:08 pm]

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federal register

MONDAY, JANUARY 8, 1979
PART V



OFFICE OF MANAGEMENT AND BUDGET

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PLAN FOR STUDY OF FEDERAL ASSISTANCE PROGRAMS

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[3110-01-M]

OFFICE OF MANAGEMENT AND BUDGET

PLANS FOR STUDY OF FEDERAL ASSISTANCE PROGRAMS

AGENCY: Office of Management and Budget.

ACTION: Notice of plan for the study of Federal assistance programs and practices required by the Federal Grant and Cooperative Agreement Act of 1977 (Pub. L. 95-224).

SUMMARY: The Federal Grant and Cooperative Agreement Act of 1977 requires the Director of OMB to study alternative means of implementing Federal assistance programs and to determine the feasibility of developing a comprehensive system of guidance for Federal assistance programs. A report to Congress is required not later than February 3, 1980. In conducting this study, OMB intends to consult with and, to the extent practicable, involve representatives of executive agencies, Congress, General Accounting Office, State and local governments, other recipients, and interested members of the public.

This notice is to communicate the OMB plan for conducting the study and to invite contributions and participation from interested parties. A draft plan was published in the FEDERAL REGISTER for comment on June 23, 1978. This final plan reflects many of the comments received on the earlier draft.

The Act also requires Federal agencies to take specific actions by February 3, 1979. These include use of procurement contracts for procurement transactions, and grants or cooperative agreements for certain types of assistance transactions. OMB published guidance to the Federal agencies for implementing the Act in the FEDERAL REGISTER on August 18, 1978.

FOR FURTHER INFORMATION CONTACT:

Thomas L. Hadd, Intergovernmental Affairs Division, Office of Management and Budget, Room 5217, NEOB, Washington, D.C. 20503, telephone 202-395-5156.

SUMMARY OF MAJOR COMMENTS ON THE PROPOSED STUDY PLAN AND THE OMB RESPONSE

On June 23, 1978, OMB published a proposed study plan in the FEDERAL REGISTER to invite general comments on its scope and solicit participation by interested parties. Numerous comments were received from Federal agencies and others. The majority of the comments endorsed particular parts of the plan, dealt with ways to improve its clarity, or suggested topics to make it more complete.

The proposed plan divided the scope of the study into three major tasks. These were:

A. Feasibility of a comprehensive system of guidance for Federal assistance programs.

B. Alternative means for implementing Federal assistance programs.

C. Study of specific issues.

Each of these tasks was further divided into a number of subtasks.

OMB accepted and tried to incorporate virtually all suggestions for improving the plan. A summary of the more important comments follows.

A. *Feasibility of a comprehensive system of guidance for Federal assistance programs.* 1. There were a number of comments agreeing with the need to study ways of consolidating the present body of assistance guidance into a single system. Some discussed the present array of guidance and its piecemeal development. Others commented on specific elements of existing guidance that might be improved through incorporation into a comprehensive system.

2. There were a few comments on the legal or regulatory aspects of a comprehensive system of guidance. These ranged from a proposal to develop a statutory assistance code to suggestions for the study of particular steps in the assistance process. There were comments about the total impact of regulations affecting assistance programs and the relation of this impact to the accomplishment of the primary purpose of the programs.

3. Some observers concentrated on the educational potential of a comprehensive system of guidance. They pointed out that the assistance field is becoming increasingly complex. Managers and specialists need to have better information on the full range of assistance management techniques, requirements, and alternatives available to them. It was also suggested that the educational aspect should concentrate on learning more about the basic implications of assistance policies and providing a basis for training personnel.

4. There were a number of comments about studying a comprehensive system of guidance that reflected the views of various participants in the assistance field. These included:

a. How much should the system stress standardization as opposed to flexibility?

b. How might the system relate to different classes of recipients?

c. What types of resistance can be anticipated to a comprehensive system of guidance?

B. *Alternative means for implementing Federal assistance programs.* 1. Most comments on this task stressed the importance of studying cooperative agreements. These included views that:

a. Cooperative agreements may actually be a third class of Federal/recipient relationship with elements of both procurement and assistance rather than purely assistance instruments as classified in the Act.

b. Much needs to be done to clarify the distinction between various classes of cooperative agreements and grants.

c. The needs and desires of recipients should be considered more in development of cooperative agreements than grants.

2. There were also comments on the need to study and experiment with the problem of choosing a particular form of assistance transaction from the array of alternatives. This included the need for a review of characteristics, strengths, and weaknesses of the full range of techniques available for achieving national objectives.

C. *Study of specific issues.* 1. There were a number of suggestions about studying the funding of research. These stressed the importance of finding the appropriate relationship and most effective level of Federal involvement in various types of research in order to attain the research objectives.

2. There were conflicting views on the question of basic or master agreements with recipients for meeting administrative and general Federal policy requirements. Some viewed them as more work for State government or recipients, while others asserted promise in their use.

3. The question of competition for assistance awards also drew mixed comment. A general view was that the proposed plan did not stress the issue enough. A second was that increasing competition may have negative aspects. A third opinion was that the feasibility of standards for competitive selection should be considered.

4. The issue of the eligibility of for-profit organizations drew substantial comment. Some felt that assistance awards should not be made to for-profits, while others felt the study issue should emphasize their encouragement. Some basic questions were proposed for review including:

a. The constitutionality of such awards.

b. The degree of latitude agencies should have to make such awards.

c. Special provisions that might be necessary.

5. There were a few comments in specific support of studying the concept of fixed-price or lump-sum payment assistance awards.

6. The question of cost sharing drew a few comments ranging from arguments that the practice should be eliminated to the view that a government-wide policy is not feasible.

7. There were some comments that there are classes of transactions covered by the Act which cannot be classified as either assistance or procurement.

8. Additional topics suggested for study included:

a. Non-monetary transactions including personal property and land donations.

b. Development of uniform standards and criteria for selecting recipients of formula and block grants and terminating assistance transactions by either party.

c. Relationship of the Model Procurement Code to present administrative standards on procurement.

d. Consideration of various aspects of "accountability."

e. Review of various proposals for new legislation.

f. Degree to which the Federal Government can intrude into the internal affairs of State Governments.

g. Federal controls on pass-through or sub-grants.

h. Various issues related to due process.

i. Specific terms in frequent use but with unclear definitions.

j. Relationship of Federal procedural requirements and funding cycles of various levels of government.

k. Internal agency organization theory and practice for primary assistance policy and management functions.

l. Program evaluation provisions that might be general requirements.

9. Several comments suggested that the study consider whether existing guidance contained in OMB Circulars should apply to cooperative agreements as well as to grants. We concluded that it was the intent of Congress, as expressed in Senate Report No. 93-1239, that the same guidance should apply. The report said, "A determination was made that the use of 'cooperative agreements' would not establish a class of • • • transactions that would be exempt from OMB Circular A-102 or other circulars whose authority applies to assistance transactions." This is consistent with the Administration's efforts to standardize and simplify the paperwork requirements of federally assisted programs. The study, therefore, will not address this matter. It will, however, be alert for opportunities to improve and build upon existing guidance for both grants and cooperative agreements.

In addition to the above comments on the proposed study plan, two general issues were suggested for treatment in the OMB implementation guidance, but were deferred to the study. These are:

1. Distinction between grants and subsidies.

2. Identification of types of government transactions not covered by Pub. L. 95-224.

One comment recommended that the study consider the issue of categorical grant program consolidation. While this is an important issue, OMB concluded that it is beyond the scope intended by Congress and should not be included in the study.

Finally, there were many suggestions of specific actions the government might take to resolve particular problems. Those that OMB considered to be too detailed for mention in the general study plan will be considered by the appropriate task groups during the conduct of the study.

PLAN FOR STUDY OF FEDERAL ASSISTANCE PROGRAMS

I. INTRODUCTION

Section 8 of Pub. L. 95-224 requires the Director of OMB to conduct a broad study of Federal assistance programs and related administrative practices. Section 8 says:

"The Director of the Office of Management and Budget, in cooperation with the executive agencies, shall undertake a study to develop a better understanding of alternative means of implementing Federal assistance programs, and to determine the feasibility of developing a comprehensive system of guidance for Federal assistance programs. • • • The report on the study shall include (1) detailed descriptions of the alternative means of implementing Federal assistance programs and of the circumstances in which the use of each appears to be most desirable, (2) detailed descriptions of the basic characteristics and an outline of such comprehensive system of guidance for Federal assistance programs, the development of which may be determined feasible, and (3) recommendations concerning arrangements to proceed with the full development of such comprehensive system of guidance and for such administrative or statutory changes, including changes in the provisions of sections 3 through 7 of this Act, as may be deemed appropriate on the basis of the findings of the study."

During the study, the primary attention of OMB must be on analyses that will contribute to meeting these statutory requirements. In addition, there is an extensive legislative history including recommendations on the content and conduct of the study which have been taken into consideration in this plan. Where possible, prior studies by Congress, executive branch agencies, and others will be used.

The study offers an opportunity to investigate many specific issues and problems in the Federal assistance area called to OMB's attention by State and local officials, the Congress, GAO, executive agency officials and others and to review systematically the proper Federal role in assistance activities. It is consistent with the President's objective and recent actions to simplify Federal assistance programs. A significant number of issues related to the Federal assistance system and reflected in this plan are addressed by the President's September 9, 1977, memoranda on cutting red tape; ongoing Presidential reorganization activities; and recommendations of the Commission on Government Procurement. The results of these and other reform initiatives will be integrated with the study effort as it progresses. The "comprehensive system of guidance" may prove to be an effective way to consolidate the results of these and other government activities into an integrated body of policy.

The study plan includes nine major tasks:

A. Description of existing guidance documents and processes

B. Alternatives for a comprehensive system of guidance for assistance programs

C. Alternative means for implementing Federal assistance programs

D. Analysis of Pub. L. 95-224

E. Equity, fairness, and competition in assistance transactions

F. Federal relationships in research and development

G. Recipient-related issues

H. Additional issues

I. Environment of Federal assistance

Each of these tasks will be performed as separate, but simultaneous investigation and development efforts. Core task groups composed of interested representatives from executive agencies, State and local governments, other recipients, and the public will perform substantial portions of the actual research and analysis. OMB will coordinate, review, and integrate the activities of these task groups. Parties wishing to contribute to or participate in the study are invited to contact Thomas L. Hadd, Intergovernmental Affairs Division, OMB, Room 5217, NEOB, Washington, D.C. 20503, telephone 202-395-5156 and indicate the specific task or subtask of interest. All materials submitted to OMB as a contribution to the study effort will become a part of the public record.

The study is viewed as a developmental as well as an analytical effort. Thus, during the course of the study, agreement on specific issues may be achieved or specific changes in administrative practice found to be both feasible and desirable. It is anticipated in such instances that implementation would begin immediately rather than await submission of the study report. The report would include both discussions of any actions taken and analyses and recommendations for the future.

In general, it is anticipated that draft analysis papers outlining problems, findings, and alternative solutions will be completed sometime in

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mid-summer 1979 by each of the task groups. To the extent practicable, these papers will be made available for public review and comment. After public and agency review, these analysis papers will be put in final form as appendices to the report to Congress. The report itself will draw heavily on these papers for factual background information and concentrate on OMB's recommendations for future action as required by the Act. OMB will make final determinations on the content of issue and analysis papers to be published.

The Act requires the results of the study to be reported to Congress within two years after the date of enactment or no later than February 3, 1980. While additional follow-on study may be necessary, the two-year statutory requirement is to allow Congress to give timely attention to an executive branch progress report.

II. SCOPE OF STUDY

The various issues to be included in the study are based on the statute itself; its legislative history; the experience of agencies in implementing Sections 4, 5, and 6 of the Act; and the numerous comments received in response to the draft study plan.

The terms "program requirements," "general Federal policy requirements," and "administrative requirements" are used throughout the plan. Program requirements are the terms or conditions of an assistance instrument (such as a grant) that are designed to ensure the purposes of the specific program are achieved. Program requirements are usually based on provisions of program statutes. General Federal policy requirements are developed to implement broad national statutory goals and have cross-cutting applicability to assistance programs. Examples of general Federal policy requirements include protection of the environment, historical preservation, payment of prevailing wages, provisions for the handicapped, and care for laboratory animals. Administrative requirements deal with the normal business processes of applying for, conducting, and terminating an assisted project that are common to all or a wide range of programs. Examples of administrative requirements include standards or standard processes for coordinating proposed projects, determining costs, financial reporting, developing new forms or public reporting plans, using government statistics, audit, and uniform requirements for various aspects of managing grant programs.

The study plan concentrates on issues that apply to all or broad ranges of assistance programs, such as general Federal policy requirements and administrative requirements. Except for a few specific questions, the study will not address program requirements. Nor will it consider the structure of assistance programs or how funds are allocated to them. The entire study relates to the processes of developing and conducting assistance programs and how these processes are guided.

For convenience, the study issues have been arrayed as nine major task elements. It is planned for each of the tasks to produce an apendix to the report to Congress which will summarize the general study findings. The nine tasks follow:

A. *Description of existing guidance documents and processes.* This task is to inventory and describe the existing requirements and guidance for assistance programs.

1. What are the general components of the existing body of guidance. This will include a description of:

a. Major types of statutes that influence assistance programs;

b. Powers of the President and the Executive Branch that influence assistance programs;

c. Varying roles of guidance agencies that are responsible for administering general national policies that affect assistance programs;

d. Range of guidance materials that assistance agencies must follow including statutes of general applicability with no supplementary guidance, Executive Orders, codified regulations and circulars, court rulings, Comptroller General determinations and opinions, instructional materials developed by guidance agencies, and other forms of guidance;

e. The major premises and broad concepts which serve as the basis for the existing body of guidance;

f. Methods of assistance agencies for handling guidance including assignment of responsibilities in large and small agencies, techniques used for staying aware of current guidance, and requirements on to applicants and recipients.

2. What is the full array of administrative requirements for assistance activities? This will include:

a. Inventory of statutes containing generally applicable administrative provisions;

b. Directory of guidance agencies responsible for administering specific statutes;

c. Inventory of guidance materials other than statutes prepared by guidance agencies and others;

d. Description of methods of interpreting, administering, and enforcing guidance by both guidance agencies and assistance agencies.

3. What is the full array of general Federal policy requirements for assistance activities? This will include:

a. Inventory of statutes containing generally applicable Federal policy requirements;

b. Inventory of guidance agencies responsible for administering general Federal policy statutes;

c. Inventory of guidance materials other than statutes prepared by guidance agencies and others;

d. Description of methods of interpreting, administering, and enforcing guidance by both guidance agencies and assistance agencies;

e. Analysis of the effects of common Federal policy themes stated differently in individual program statutes.

4. What is the applicability of government-wide administrative and general Federal policy requirements to various types of assistance programs and how have they been implemented? This will include analytical matrices for a sample of administrative requirements, general Federal policy requirements, and assistance programs by:

a. Types of assistance provided;

b. Various classes of recipients;

c. Types of activities assisted.

B. *Alternatives for a comprehensive system of guidance for assistance programs.* This will concentrate on what a comprehensive system of guidance might be and how it could be developed. All of the eleven questions under this task relate to the basic question of feasibility.

1. What is meant by "a comprehensive system of guidance"?

2. What values might a comprehensive system of guidance serve as seen by Congress, the Executive Office of the President, guidance agencies, assistance agencies, State and local governments, and other recipients?

3. What is the range of major purposes a comprehensive system of guidance might serve and what, if any, conflicts among such purposes may be present?

A new guidance system could:

a. Provide for consolidation of the full range of existing and future administrative and general Federal policy guidance;

b. Codify legal elements into a Federal Assistance Code;

c. Provide educational basis for all involved in assistance activities from basic program design and development to implementation and operation;

d. Assist in the choice of appropriate Federal role for each assistance relationship;

e. Lead to the clarification of Federal and recipient roles;

f. Guide the choice of techniques and legal instruments to support the appropriate Federal role;

g. Permit participation of recipients, both public and private, in determination of roles;

h. Provide policymakers with choices for increasing or decreasing Federal involvement in managing assistance programs;

i. Help define Federal and recipient accountability;

j. Reduce paperwork, uncertainty about Federal requirements, overhead costs, time delays, and red tape.

4. What are the features that might be included in a comprehensive system of guidance? Such features might include provisions for:

a. Greater uniformity of conflict resolution procedures;

b. Improved techniques for ensuring compliance by assisting agencies and recipients;

c. Increased help by guidance agencies to assistance agencies for implementing administrative and general Federal policy requirements;

d. Adaptation of selected procurement system features that might appropriately serve assistance transactions;

e. Increased elements of flexibility, standardization, or both;

f. Capacity for policy research and evaluation.

5. What are the alternatives for administering a new guidance system that assure adequate adherence to established policies?

6. What is the range of assistance activities that should be covered by a new guidance system?

7. What are the major problems of developing a new guidance system? This would include a description of such matters as:

a. Sheer size and scope of the range of subjects to be covered;

b. Varying degrees of interest that may be present for making a new guidance system work;

c. Possible special interests that would not favor a new guidance system;

d. Cost of a new guidance system;

e. Problems arising from the basic Federal Government structure and organization of assistance agencies.

8. How might a new guidance system relate to the internal systems of State and local governments, universities, other recipients?

9. What would be the major problems of implementing a new guidance system? This would consider such issues as organizational assignment of responsibilities, policy consistency and integration, timing of conversion, and cost of conversion.

10. How might a new guidance system serve in the development of new assistance programs?

11. How might a new guidance system be affected by future congressional actions and program legislation?

C. *Alternative means for implementing Federal assistance programs.* This task will examine a number of areas for which additional guidance could be developed.

1. What additional guidance is needed for transactions covered by Sections 4, 5, and 6 of the Act or indicated by agency experience in implementing these sections? This analysis will consider:

a. Meaning of "procurement;"

b. Meaning of "assistance;"

c. Monetary grants, including the concept of a "grant," descriptions of types of grants, key features of grants, normal agency involvement in the assisted activity under grants;

d. monetary cooperative agreements including the concept of a cooperative agreement, descriptions of types or classes of cooperative agreements including financial joint ventures, and opportunities presented by cooperative agreements;

e. The concept of contracts, cooperative agreements, and grants as discrete classes of transactions related to specific purposes in contrast to the concept of a continuum that reflects varying degrees of Federal risk, accountability, and control;

f. Meaning of "substantial involvement in the assisted activity." This would include analysis of involvement in program substance, administrative involvement, general Federal policy requirements that may lead to substantial involvement, substantial involvement in relation to technical assistance, forces leading to the increase or decrease of Federal involvement, relationship of Federal involvement to recipient capacity;

g. Possible criteria for choosing cooperative agreements other than substantial involvement during performance;

h. Special issues related to non-monetary grants and cooperative agreements. This would include such topics as problems of property transfers and joint ventures and undertakings;

i. Types of transactions that have caused agencies the most difficulty in implementing Sections 4, 5, and 6;

j. Distinctions between grants and subsidies;

k. Problems that have led to OMB exceptions;

l. Issues involved in applying the Act to international assistance transactions;

m. Potential of the concept of lump-sum grants;

n. Productivity issues arising from alternative assistance relationships.

2. What additional guidance is needed for types of assistance not covered by Sections 5 and 6? This can include issues related to direct payments, loans and loan guarantees, insurance or assumptions of risk, subsidies, technical assistance.

3. What alternatives to Federal assistance should be considered as possible ways for achieving national objectives? Such alternatives can include Federal regulation, direct Federal action, federally mandated State regulation, other techniques of Federal leadership.

D. *Analysis of Pub. L. 95-224.* Part of the report to Congress is to include recommendations for improving the Act. The questions included in this task are the ones identified thus far that relate to the Act itself. These are:

1. What were the agencies' early experiences in implementing Sections 4, 5, and 6?

a. What changes in agency practices occured?

b. What transactions previously managed as procurement contracts are now managed as assistance awards, and vice versa?

c. What program management issues arose as a result of the framework decisions required by the statutory framework?

d. How do the transactions of agencies and their programs aggregate?

e. What is the picture of Federal control and involvement shown?

2. What definitions need to be added or clarified in the Act including procurement, assistance, State and local government, others?

3. Are there classes of transactions that are neither procurement nor assistance?

4. Should "substantial involvement during performance" remain the sole criterion for selecting cooperative agreements?

5. What linkages to other statutes are created by the Act's definitions and classifications, and what are the effects of these linkages?

a. How does the term "assistance" relate to the various missions of Federal agencies;

b. How does the description of "grants" relate to general Federal policy requirements?

6. How should programs or transactions for which OMB has provided exceptions be handled over the long run?

7. What should be the future provisions for OMB's exception authority?

E. *Equity, fairness, and competition in assistance transactions.* This task will concentrate on the questions that have been raised about the equity, fairness, and competition related to assistance transactions. Many of the questions will deal with both legal and administrative procedural issues.

1. What should be the policy and practice for general public notification of the agency's intent to fund or provide assistance?

2. What policies should exist for competition, including:

a. General policy on competition,

b. Different types of competition that could be used,

c. Eligibility of different classes of recipients?

3. What purposes are served by competition in the award of assistance intended to stimulate or support recipi-

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ent activity? How should standards for competition in assistance and procurement activities compare?

4. What are the equity and fairness issues of recipient selection, including:

a. Different selection techniques;

b. Rights of applicants not selected?

5. What issues relate to the choice of particular assistance instruments, such as:

a. Variations of reciprocal rights by classes of relationships;

b. Problems and opportunities that arise from different relationships with recipients of the same class in a single program.

6. What should be the policies and procedures for completion and termination under different classes of assistance relationships?

7. What should be the policies for timely audit of completed transactions and resolutions of audit exceptions?

8. What should be the policies and procedures for due process, including:

a. Uniform administrative and judicial remedies for resolution of disputes at Federal, State, and local levels. Possible use of arbitration;

b. Uniform provisions for debarment and suspension?

9. What issues of equity and fairness relate to third parties?

These would include:

a. Beneficiaries of programs run by recipients;

b. Subgrantees and contractors of recipients

c. Others somehow affected by an assistance transactions but not a party to it;

d. Variations arising from different instruments or degrees of Federal involvement.

10. What equity and fairness issues are related to unanticipated costs of complying with general Federal policy requirements?

F. *Federal relationships in research and development.* The general field of expanding and applying knowledge has presented a series of important questions. These are:

1. What are the effects of using both procurement and assistance transactions to fund basic research, developmental or applied research, and demonstration of established techniques?

a. How does the choice of transaction type relate to agency mission?

b. What are the consequences for both the Federal agencies and the performers of using either a procurement contract or an assistance instrument?

c. Do inconsistencies result from the "principal purpose of the transaction" test? If so, what is the impact?

2. What issues are present and what generalizations can be made about the use of cooperative agreements and grants for basic research, developmental or applied research, Federal commercialization and technology innovation objectives, demonstration of established techniques?

3. What issues relate to varying degrees of Federal direction and control over research and development?

a. Those related to general Federal policy and administrative requirements;

b. Those related to programmatic or substantive aspects of the work to be performed;

c. Range of views on researcher autonomy vs. Federal direction and control;

d. Cost of varying degrees of Federal direction and control in relation to accomplishment of desired ends.

4. What issues arise from research done by different classes of recipients including:

a. Process of selecting recipients;

b. Degree and form of Federal control?

5. Is there a need for additional policy guidance on the support or stimulation of:

a. Development of new knowledge;

b. Application of new knowledge?

G. *Recipient-related issues.* A number of issues have been identified that are related to particular classes of recipients or recipients in general. These are:

1. What are the particular problems or issues related to the following classes of recipients:

a. For-profit organizations, including:

General eligibility for assistance transactions

Cost sharing

Payment of fees;

b. Non-profit organizations, including:

Distinguishing characteristics

Rationale for preferred treatment;

c. Volunteer service organizations;

d. State governments;

e. Local governments;

f. Indian tribes;

g. Universities;

h. Subgrantees?

2. What can be done to improve the participation of recipients in the design of programs that affect them? This would include:

a. Executive Order 12044 on Federal rulemaking;

b. Constraints imposed by the Federal Advisory Committee Act;

c. Existing patterns of relationships among functional personnel at different levels of government;

d. The Intergovernmental Cooperation Act and OMB Circular A-85 (consultation with heads of State and local governments in development of Federal regulations) experience.

3. Should there be standards for selecting recipients of formula and block grants?

4. What is the relationship of program procedural requirements to Federal, State, and local funding cycles?

5. What are the limits to the allowable degree of Federal intrusion in State affairs that should be established for:

a. Federal program statutes;

b. Agency authorities for developing program implementation requirements?

6. Should there be special cost provisions for research done by State governments?

7. How should Attachment "O" of OMB Circular A-102 relate to the American Bar Association Model Procurement Code?

8. How can basic agreements between a Federal agency and a recipient or master agreements between a number of agencies and a recipients simplify compliance with administrative and general Federal policy requirements?

9. What policy and operational considerations stem from varying levels of recipient management capacity?

H. *Additional issues.* The questions that follow are ones that do not fit into any of the preceding tasks.

1. Should there be a change in the cost reimbursement policies for technical assistance established by the Intergovernmental Cooperation Act?

2. What cost sharing policies should apply to assistance programs?

3. What is the relationship between a comprehensive system of guidance and the proposed Federal Assistance Paperwork Reduction Act and Small Communities Act?

4. Should there be a policy on Federal efforts to stimulate expanded use of technological innovations? What might it be for:

a. Interactions between Federal agencies,

b. Interactions between the Federal Government and other parties,

c. Identifying appropriate management methods and uses for cooperative agreements?

5. Should special preference and allocation provisions of the procurement system (e.g., small business, minority business, and Indian preference) be extended to assistance programs?

6. What are the degrees of applicability or suitability of existing administrative standards to different types of grants and cooperative agreements with different types of recipients?

I. *Environment of Federal assistance.* This task is to describe the environment in which a comprehensive system of guidance for assistance programs must operate. Its purpose is to make explicit the array of different and often competing values that are major influences in the development of Federal assistance programs and the means by which they are administered. It will serve as a supportive analysis for the other study tasks.

1. How do assistance programs come into being? This will include an analysis of:

a. Political process of program development;

b. Variations in perceptions of goals, objectives, and needs for the program;

c. Customary lack of total need analysis or total cost estimation for general policy requirements as well as substantive assistance programs;

d. Relatively narrow scope and purpose of most assistance programs;

e. Array of choices including direct Federal action, direct assistance to beneficiaries, or use of intermediaries;

f. Relationship of assistance to regulatory actions;

g. Frequent changes in concepts and perceptions over the life of a program.

2. What are the different concepts of Federal and recipient accountability, including fiscal or resource stewardship, program accountability (ends and results), process accountability (how achieved)?

3. What are other competing concepts of assistance system design? This will include an analysis of such basic values as:

a. General redistribution of resources by the Federal Government vs. the stimulation or support of specific objectives;

b. Pluralism or the strong participation of all parties as partners vs. Federal dominance;

c. Recipient operational autonomy vs. Federal accountability;

d. Emphasis on fairness for all parties vs. Federal convenience;

e. Desire for management flexibility vs. desire for uniformity and standardization;

f. Emphasis on response to recipient determined needs vs. federally specified goals, activities, and procedures.

VELMA N. BALDWIN,
Assistant to the Director for Administration, Office of Management and Budget.

[FR Doc. 79-619; Filed 1-5-79; 8:45 am]

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MONDAY, JANUARY 8, 1979
PART VI



DEPARTMENT OF ENERGY

■

FREEDOM OF INFORMATION

Final Rule

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[6450-01-M]

Title 10—Energy

CHAPTER II—DEPARTMENT OF ENERGY

PART 1004—FREEDOM OF INFORMATION

Final rule

AGENCY: Department of Energy.

ACTION: Final Rule.

SUMMARY: The Department of Energy (DOE) is adopting final regulations prescribing the procedures to be followed and the substantive principles to be applied by the DOE in processing requests for information under the Freedom of Information Act 5 U.S.C. 552 (FOIA). DOE published proposed regulations on September 12, 1978, 43 FR 40530, inviting interested persons to submit comments related to the proposed regulations. This notice discusses the comments received and publishes the DOE regulations as amended pursuant to certain of the comments.

EFFECTIVE DATE: January 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Milton Jordan, Office of Administrative Services, Room GB137, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-5955;

Marilyn Ross, Laura Rockwood, Office of General Counsel, Room 6146, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461, (202) 633-8653.

SUPPLEMENTARY INFORMATION:

I. Background.
II. Section concerning the handling of information of a private business, foreign government or international organization.
III. Minor revisions.
IV. Comments not adopted.

I. Background

Approximately twenty-five parties submitted comments to the DOE concerning various provisions of the proposed FOIA regulations. A significant number of comments addressed the section of the regulations which relates to the handling of information claimed to be confidential or proprietary and these comments persuaded DOE to modify substantially that portion of the proposed regulations. With respect to comments on other issues, some were adopted, resulting in a number of minor modifications to various provisions of the proposed regulations. All other comments were considered, but were not adopted because in each case DOE determined the comment to be insignificant, contrary to DOE policy, or inconsistent with DOE's experience in administering the FOIA.

II. Section Concerning the Handling of Information of a Private Business, Foreign Government or International Organization

Many comments received concerned proposed § 1004.11 of the regulations, dealing with FOIA requests for records containing information of a private business, foreign government or international organization. After consideration of the arguments presented concerning these issues, DOE substantially amended the proposed section in an effort to simplify and clarify its procedures.

The regulations as proposed contained different provisions for identifying possible confidential or proprietary information of private businesses, foreign governments or international organizations. These different provisions were based upon a distinction between regulatory data and all other data. A significant number of comments argued that having separate procedures for regulatory and non-regulatory records was both confusing and unduly complicated. The differing procedures for regulatory and non-regulatory records derived from the differing practices of the Federal Energy Administration and Energy Research Development Agency, DOE's predecessors. It was DOE's view that the differing procedures had proved satisfactory and might be continued. However, after analysis of the comments on this issue and further internal consideration, DOE has amended the proposed regulations to eliminate the distinction between regulatory and non-regulatory records for FOIA purposes.

Proposed § 1004.11 required that, with respect to regulatory documents subject to claims of exemption from mandatory disclosure, two sets of documents be submitted to the agency, one complete, and the other indicating those portions of the document the submitter alleged to be confidential together with a justification for nondisclosure. One objection to this procedure was that it was needlessly burdensome to companies submitting many kinds of information to DOE in connection with DOE regulatory programs, often on a regular basis. Moreover, it was argued that requiring preparation of a justification for nondisclosure at the time of submission of information to DOE would entail often unnecessary effort on the part of the submitters, since many documents submitted to DOE never become subject to FOIA requests.

After consideration of these comments, DOE has, in large part, eliminated the requirement for submission of double copies of regulatory documents. However, a party may still submit a justification for nondisclosure at the time documents are submitted to DOE. In addition, if a submitter's views have not already been made available to the Department, DOE will, at the time of receipt of an FOI request, solicit the views of a party who has previously submitted arguably confidential data to the agency in a document which is the subject of a pending FOIA request.

However, individual DOE offices may require that persons submitting information to these offices, at the time of submission, indicate their views with respect to the possible exempt nature of information submitted or submit copies from which claimed confidential information is deleted.

In part, this provision is necessary because documents submitted to certain offices, whether or not likely to become subject to individual Freedom of Information requests, are routinely made available in public reference facilities.

Numerous comments concerned the length of the period in which DOE will give notice of its intent to release material determined to be non-exempt but which the party who submitted the information claimed to be confidential. These comments asserted that the five-day period was inadequate and that the submitters would be unable to take appropriate action. The DOE is aware of the difficulties inherent in such a brief notification period and has amended the section so that notice will be given no less than seven days prior to DOE's intended release.

The subject matter of § 1004.11 supersedes the subject matter of 10 CFR 205.9(f) and 303.9(f), which, therefore, are repealed.

III. Minor Revisions

The following minor modifications were made in response to comments received in response to the proposed regulations:

1. Section 1004.3(a) has been amended to include the requirement that the Headquarters Freedom of Information Officer maintain a current list of all reading room facilities located in the Headquarters and field offices, such as the ERA Reading Room and the Office of Hearings and Appeals Docket Room. This is to assure that members of the public can be apprised of all DOE sources of readily available public documents.

2. Section 1004.4(c) has been amended to specifically provide that in making the determination whether a request meets the "reasonably described records" requirement the Freedom of Information Officer may take

into account the filing capabilities and practices of each particular program office possibly affected by the request. Although a particular request may be sufficiently descriptive with respect to some DOE offices, local search problems associated with filing systems or storage of documents in one or more of the specific offices to which the request is directed may require additional description of that request. DOE frequently receives requests which involve numerous program offices, where different systems may be used to index and organize the files. Accordingly, it may be necessary to obtain additional descriptive information from a requester to enable a responsible official to identify the materials requested in a particular office's files.

This amendment to the regulation will allow DOE to respond to some requests with documents from one or more program offices where possible, even though the request may be determined not to be one for "reasonably described records" with respect to other program offices.

3. Section 1004.4(f) prescribes the procedures to be followed when a request involves records or information of other agencies. Subsection 1004.4(f)(2) of the proposed regulations provided that a requester who does not object within 5 days to the referral of his request to the other agency involved would be deemed to have consented to such referral. No provision was made for those instances where a requester objects to the referral. Therefore, § 1004.4(f)(2) is amended to make it explicit that, where timely objections are made to a referral, the DOE will, in consultation with the other agency, continue to process the request.

4. Section 1004.5(b), which prescribes the procedures for processing requests for DOE records, has been modified by the addition of § 1004.5(b)(5) and (6). These subparagraphs clarify that the written response prepared by the Authorizing Official may contain, in addition to the four alternatives listed in the proposed regulations: (5) A statement that additional information is required from the requester in order to comply with the requirement imposed by § 1004.4(c)(1) that a request must reasonably describe the records sought or (6) denying the request because responsive records cannot be located or do not exist.

5. Section 1004.8(b) of the proposed regulations provided that an appeal of an initial denial be sent to the Headquarters Freedom of Information Officer, who would then forward the appeal to the Office of Hearings and Appeals for consideration. In response to a comment objecting to this two-step procedure, the DOE has decided to modify this section to require appeals to be sent directly to the Office of Hearings and Appeals. This modified procedure will be simpler and should reduce the amount of handling of such appeals and attendant delays.

IV. Comments Not Adopted

The following comments were received and considered, but were not, for one reason or another, adopted by the DOE. Generally, comments were not adopted either because they were determined to be insignificant in nature, contrary to DOE policy, or inconsistent with DOE's experience in administering the FOIA.

1. Section 1004.1 provides that "[t]o the extent permitted by other laws, the DOE will make available records which it is authorized to withhold under 5 U.S.C. 552 unless it determines that such disclosure is not in the public interest." Comments were received which questioned the propriety of DOE's discretionary release of material which DOE is authorized to withhold under the fourth exemption. For the most part, the comments relied upon 18 U.S.C. 1905, which prohibits disclosure of certain information "in any manner or to any extent not authorized by law." Exemption 4 of the FOIA (5 U.S.C. 552(b)(4)), protects from mandatory disclosure "trade secrets and commercial or financial information obtained from a person and privileged or confidential." In *Chrysler* v. *Schlesinger*, 565 F. 2d 1172 (3rd Cir. 1977), *cert. granted sub nom., Chrysler* v. *Brown*, 435 U.S. 914 (1978), the Court of Appeals held that, under the circumstances of that case, the FOIA did not prohibit discretionary disclosure of information falling within Exemption 4, even when it was of the type described in 18 U.S.C. 1905. The *Chrysler* court expressly relied upon the holding in *Westinghouse Electric Corporation* v. *Nuclear Regulatory Commission*, 555 F. 2d 82 (3rd Cir. 1977), that the broad nondisclosure provisions of 18 U.S.C. 1905 apply only to disclosures not "authorized by law" and that a validly promulgated agency regulation authorizing release could provide the requisite legal authority to make 18 U.S.C. 1905 inapplicable. While a contrary result was reached in *Westinghouse* v. *Schlesinger*, 542 F. 2d 1190 (4th Cir. 1976), *cert. denied sub nom., Brown* v. *Westinghouse*, 431 U.S. 924 (1977), the position of the United States before the Supreme Court in *Chrysler* v. *Brown, supra*, supports the *Chrysler* v. *Brown* result. The previously quoted portion of § 1004.1 is similar to the agency regulation considered in *Chrysler* v. *Brown*. While DOE has reserved the authority to make such discretionary releases, it is DOE's expectation that instances of discretionary release of Exemption 4 material will be extremely rare.

2. One comment argued that § 1004.8, which deals with appeals from initial denials, should provide for appeals from determinations by an Authorizing Official that a request is not one for reasonably described documents. Such a provision would not be necessary. A determination that a request is not one for reasonably described documents is ordinarily not considered to be a denial subject to remedy upon appeal, but in extraordinary circumstances, the appeal authority may consider an appeal to be appropriate.

Issued in Washington, D.C., on December 29, 1978.

William S. Heffelfinger,
Director of Administration.

10 CFR Chapter II is amended by adding a new Part 1004, reading as follows:

PART 1004—FREEDOM OF INFORMATION

Sec.
1004.1 Purpose and scope.
1004.2 Definitions.
1004.3 Public reading facilities.
1004.4 Elements of a request.
1004.5 Processing requests for records.
1004.6 Requests for classified records.
1004.7 Responses by authorizing officials: form and content.
1004.8 Appeals from initial denials.
1004.9 Fees for provision of records.
1004.10 Exemptions.
1004.11 Handling of proprietary information of a private business, foreign government, or an international organization.
1004.12 Computation of time.

Authority: 5 U.S.C. 552.

§ 1004.1 Purpose and scope.

This part contains the regulations of the Department of Energy (DOE) implementing 5 U.S.C. 552, Pub. L. 89-487, as amended by Pub. L. 93-502, 88 Stat. 1561 and by Pub. L. 94-409, 90 Stat. 1241. The regulations of this part provide information concerning the procedures by which records may be obtained from all offices within the DOE, excluding the Federal Energy Regulatory Commission (FERC). Records of the DOE made available pursuant to the requirements of 5 U.S.C. 522 shall be furnished to members of the public as prescribed by this part. Officers and employees of the DOE may furnish to the public informally and without compliance with procedures prescribed herein, information and records of types which were furnished customarily in the regular performance of their duties to the public by the predecessor agencies to the DOE. Persons seeking information or records of the DOE may find it useful

to consult with a DOE Freedom of Information Officer before invoking the formal procedures set out below. To the extent permitted by other laws, the DOE will make available records which it is authorized to withhold under 5 U.S.C. 552 unless it determines that such disclosure is not in the public interest.

§ 1004.2 Definitions.

As used in this part:

(a) "Appeal Authority" means the Office of Hearings and Appeals.

(b) "Authorizing or Denying Official" means that DOE officer or employee, as identified by the Directorate of Administration by separate directive, having custody of or responsibility for records requested under 5 U.S.C. 552. The term refers in DOE Headquarters to officials who report directly to a Secretarial Officer. In the Field Offices, the term refers to the head of a field location identified in § 1004.2(e) and the head of field offices to which they provide administrative support.

(c) "Department" or "Department of Energy (DOE)" means all organizational entities which are a part of the executive department created by Title II of the DOE Organization Act, Pub. L. 95-91. This specifically excludes the Federal Energy Regulatory Commission (FERC).

(d) "Freedom of Information Officer" means the person designated to administer the Freedom of Information Act at the following DOE field offices:

(1) Alaska Power Administration, P.O. Box 50, Juneau, Alaska 88801.
(2) Albuquerque Operations Office, P.O. Box 5400, Albuquerque, New Mexico 87115.
(3) Bartlesville Energy Technology Center, P.O. Box 1398, Bartlesville, Oklahoma 74003.
(4) Bonneville Power Administration, P.O. Box 3621, Portland, Oregon 97268.
(5) Chicago Operations Office, 9800 South Cass Avenue, Argonne, Illinois 60439.
(6) Grand Forks Energy Technology Center, P.O. Box 8213, University Station, Grand Forks, North Dakota 58201.
(7) Headquarters, Department of Energy, Washington, D.C. 20545.
(8) Idaho Operations Office, 550 2nd Street, Idaho Falls, Idaho 83401.
(9) Laramie Energy Technology Center, P.O. Box 3395, University Station, Laramie, Wyoming 82070.
(10) Morgantown Energy Technology Center, P.O. Box 880, Morgantown, West Virginia 26505.
(11) Nevada Operations Office, P.O. Box 14100, Las Vegas, Nevada 89114.
(12) Oak Ridge Operations Office, P.O. Box E, Oak Ridge, Tennessee 37830.
(13) Pittsburgh Energy Technology Center, 4800 Forbes Avenue, Pittsburgh, Pennsylvania 15213.
(14) Region I, Analex Building, Room 700, 150 Causeway Street, Boston, Massachusetts 02114.
(15) Region II, 26 Federal Plaza, Room 3206, New York, New York 10007.
(16) Region III, 1421 Cherry Street, 10th Floor, Philadelphia, Pennsylvania 19102.
(17) Region IV, 1655 Peachtree Street, NE, 8th Floor, Atlanta, Georgia 30309.
(18) Region V, 175 West Jackson Boulevard, Room A-333, Chicago, Illinois 60604.
(19) Region VI, P.O. Box 35228, 2626 West Mockingbird Lane, Dallas, Texas 75235.
(20) Region VII, Twelve Grand Building, 1150 Grand Avenue, Kansas City, Missouri 64106.
(21) Region VIII, P.O. Box 26247—Belmar Branch, 1075 South Yukon Street, Lakewood, Colorado 80226.
(22) Region IX, 111 Pine Street, Third Floor, San Francisco, California 94111.
(23) Region X, 1992 Federal Building, 915 Second Avenue, Seattle, Washington 98174.
(24) Richland Operations Office, P.O. Box 550, Richland, Washington 99352.
(25) San Francisco Operations Office, 1333, Broadway, Wells Fargo Building, Oakland, California 94612.
(26) Savannah River Operations Office, P.O. Box "A", Aiken, South Carolina 29801.
(27) Southeastern Power Administration, Elberton, Georgia 30635.
(28) Southwestern Power Administration, P.O. Box Drawer 619, Tulsa, Oklahoma 74101.
(29) Western Power Administration, P.O. Box 3402, Golden, Colorado 80401.

(e) "General Counsel" means the General Counsel provided for in section 202(b) of the DOE Organization Act, or any DOE attorney designated by the General Counsel as having responsibility for counseling the Department on Freedom of Information Act matters.

(f) "Headquarters" means all DOE facilities functioning within the Washington metropolitan area except FERC.

(g) "Office" means any administrative or operating unit of the DOE, including those in field offices.

(h) "Secretarial Officer" means the DOE Secretary; the Deputy Secretary; the Under Secretary; Assistant Secretaries; the Administrators of the Energy Information Administration and the Economic Regulatory Administration; the Inspector General; the General Counsel; the Director, Office of Hearings and Appeals; the Director, Office of Energy Research; the Director of Administration; the Director of Procurement and Contracts Management; and the Controller.

§ 1004.3 Public reading facilities.

(a) The DOE Headquarters will maintain, in public reading facilities, the materials which are required by 5 U.S.C. 552(a)(2) to be made available for public inspection and copying. The principal public reading facility will be located at the Freedom of Information Office, 1000 Independence Avenue, SW, Washington, D.C. A complete listing of other facilities is available from Headquarters Freedom of Information Officer.

(b) Each of the designated field offices will maintain in public reading facilities certain materials maintained in the Headquarters facility and other materials associated with the particular field offices.

(c) Each of these public reading facilities will maintain and make available for public inspection and copying current indices of the materials at that facility which are required to be indexed by 5 U.S.C. 552(a)(2).

§ 1004.4 Elements of a request.

(a) *Addressed to the Freedom of Information Officer.* A request for a record of the DOE which is not made available and which is not available in a public reading facility as described in § 1004.3 shall be addressed to the appropriate Headquarters or field Freedom of Information Officer, Department of Energy, at a location listed in § 1004.2(d) of this part and both the envelope and the letter shall be clearly marked "Freedom of Information Request." Except as provided in § 1004.9(c), a request which is so addressed and marked will be considered to be received by the DOE for purposes of 5 U.S.C. 552(a)(6) upon receipt by the Freedom of Information Officer. A request under 5 U.S.C. 552 which is not so addressed and marked also shall be considered to be received upon actual receipt by the appropriate Freedom of Information Officer. Requests delivered after regular business hours of the Freedom of Information Office are deemed received on the next regular business day.

(b) *Request should be in writing and for reasonably described records.* A request for access to records should be submitted in writing and should reasonably describe the records requested to enable DOE personnel to locate them with a reasonable amount of effort. Where possible, specific information regarding dates, titles, file designations, and other information which may help identify the records should be supplied by the requester, including the names and titles of any DOE officers or employees who have been contacted regarding the request prior to filing a written request. If the request relates to a matter in pending litigation, the court and its location should be identified to aid in locating the documents. If the records are known to be in a particular office of the DOE, the request should so state and should identify the office concerned.

(c) *Categorical requests.*—(1) *Must meet reasonably described records requirement.* A request for all records falling within a reasonably specific category shall be regarded as conforming to the statutory requirement that records be reasonably described if it can reasonably be determined which particular records are sought in the request. The request must enable the

DOE to identify and locate the records sought by a process that is not unreasonably burdensome or disruptive of DOE operations. The Freedom of Information Officer may take into consideration problems of search which are associated with the files of an individual office within the Department and determine that a request is not one for reasonably described documents as it pertains to that office.

(2) *Assistance in reformulating nonconforming request.* If it is determined that a request does not reasonably describe the records sought, as specified in subparagraph (1) of this paragraph, the response shall specify the reasons why the request failed to meet the requirements of subparagraph (1) of this paragraph and shall extend to the requester an opportunity to confer with knowledgable DOE personnel in an attempt to restate the request or reduce the request to manageable proportions by reformulation and by agreeing on an orderly procedure for the production of the records. If a response is given by DOE stating that additional information is needed from the requester to render records reasonably described, any reformulated request submitted by the requester shall be treated as an initial request for purposes of time for DOE response.

(d) *Nonexistent records.* (1) 5 U.S.C. 552 does not require the compilation or creation of a record for the purpose of satisfying a request for records. If a requested record is known to have been destroyed or otherwise disposed of, or if no such record was ever known to exist, the requester shall be so notified.

(2) 5 U.S.C 552 does not require the DOE to honor a request for a record not yet in existence, even where such a document may be expected to come into existence at a later time.

(e) *Assurance of willingness to pay fees.* A request shall include assurances to pay (i) whatever fees will be assessed in accordance with § 1004.9 or (ii) those fees not exceeding some specified dollar amount, or shall otherwise address the issue of fees in accordance with § 1004.9. No request shall be deemed to have been received until the DOE has received either a reasonable deposit or some other assurance of willingness to bear fees anticipated to be associated with the processing of the request.

(f) *Requests for records or information of other agencies.* (1) Some of the records in the files of the DOE have been obtained from other Federal agencies or contain information obtained from other Federal agencies.

(2) Where an entire document originated in another Federal agency, the Authorizing Official will refer the request to the originating agency and so inform the requester. A requester who does not object to the referral within 5 days will be deemed to have consented. When a requester objects to the referral in a timely manner, the DOE will, in consultation with the originating agency continue to process the request.

(3) Requests for DOE records containing information received from another agency, or records prepared jointly by DOE and other agencies, will be treated as requests for DOE records except that coordination will be effected by the Authorizing Official with the appropriate official of the other agency. Such coordination will be done on an expedited basis, for the purpose of determining whether the other agency official wishes to deny the request and obtaining the certification, signature, and identity of the other agency's responsible official. The notice of determination to the requester, in the event part or all of the record is recommended for denial by the other agency, shall cite the other agency denial official as well as the appropriate DOE denying official if a denial by DOE is also involved.

(4) For purposes of this section and 1004.5 of this part, the FERC shall be considered an agency other than DOE.

§ 1004.5 Processing requests for records.

(a) Freedom of Information Officers shall be responsible for processing written requests for records submitted pursuant to this part. Upon receiving such a request, the Freedom of Information Officer shall, except as provided in paragraph (c) of this section, ascertain which Authorizing Official or Officials have responsibility for, custody of, or concern with the records requested. The Freedom of Information Officer shall review the request, consulting with the Authorizing Official(s) where appropriate, to determine its compliance with § 1004.4. Where a request complies with § 1004.4, the Freedom of Information Officer shall forward the request to the Authorizing Official for action and acknowledge receipt of the request to the requester.

(b) The Authorizing Official shall promptly identify and review the records encompassed by the request (or, where the requested material consists of multiple submissions of identical items, representative samples of such items). The Authorizing Official shall prepare a written response either (1) granting the request, (2) denying the request, (3) granting it in part and denying it in part, (4) replying with a response stating that the request has been referred to another agency under § 1004.4(f) or § 1004.6(e); (5) denying the request because responsive records cannot be located or do not exist; or (6) stating that additional information is needed from the requester to meet the reasonable described records requirement of § 1004.4(c)(1).

(c) Where a request involves records which are in the custody of or the concern of more than one Authorizing Official, the Freedom of Information Officer shall identify all Authorizing Officials and send the requests to all Authorizing Officials and forward the request for action to the Authorizing Official that can reasonably be expected to have custody of most of the responsive records. This Authorizing Official shall prepare a DOE response to the request consistent with paragraph (b) of this section, which shall identify any other Authorizing Official or Officials having responsibility for the denial of records.

(d) *Time for processing requests.* (1) Action pursuant to paragraph (b) of this section shall be taken within 10 working days of receipt of a request for DOE records ("receipt" is defined in § 1004.4(a)), except that if unusual circumstances require an extension of time before a decision on a request can be reached, and the person requesting records is promptly informed in writing by the Authorizing Official, setting forth the reasons for such extension and the date on which a determination is expected to be dispatched, then the Authorizing Official may take an extension not to exceed 10 working days.

(2) For purposes of this section and § 1004.8(b), the term "unusual circumstances" means:

(i) The need to search for and collect the requested records from field facilities or other establishments that are separate from the offices processing the request;

(ii) The need to search for, collect and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(iii) The need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the department having substantial subject-matter interest therein.

(3) The requester must be promptly notified in writing of the extension, the reasons for the extension, and the date on which a determination is expected to be dispatched.

(4) If no determination has been dispatched at the end of the 10-day period, or the last extension thereof, the requester may deem his administrative remedies to have been exhausted, giving rise to a right of review in a district court of the United States as specified in 5 U.S.C. 552(a)(4). When no determination can be dispatched within the applicable time limit, the responsible Authorizing Official shall

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nevertheless continue to process the request; on expiration of the time limit he shall inform the requester of the reason for the delay, of the date on which a determination may be expected to be dispatched, and of his right to seek remedy through the courts; and he may ask the requester to forego such action until a determination is made.

(5) Nothing in this part shall preclude the Authorizing Official and a requester from agreeing to an extension of time for the initial determination on a request. Any such agreement shall be confirmed in writing and shall clearly specify the total time agreed upon for the initial determination.

§ 1004.6 Requests for classified records.

(a) All requests for classified records shall be subject to the provisions of this part with the special qualifications noted below.

(b) All requests for records made in accordance with this part, except those requests for access to classified records which are made specifically pursuant to the mandatory review provisions of Executive Order 11652 or any successor thereto, shall be automatically considered a Freedom of Information Act request under this part.

(c) Concurrence of the Director of Classification shall be required on all responses involving requests for classified records. The Director of Classification shall be informed of the request by the Freedom of Information Officer and the Authorizing Official to whom the action is assigned and shall advise the office originating the records, or having cognizance or responsibility for the records, and consult with such office or offices prior to making a determination under this section.

(d) The written notice of a determination to deny records, or portions of records, which contain both classified material and other exempt material, shall be concurred in by the Director of Classification who shall be the denying official for the classified portion of such records in accordance with § 1004.5(c) and § 1004.7(b)(2). If other DOE officials or appropriate officials of other agencies are responsible for denying any portion of the record, their names and titles or positions shall be listed in the notice of denial in accordance with § 1004.5(c) and § 1004.7(b)(2) and it shall be clearly indicated what portion or portions they were responsible for denying.

(e) Requests for DOE records containing classified information received from another agency, and requests for classified documents originating in another Federal agency, shall be coordinated with or referred to the other agency consistent with the provisions of § 1004.4(f). Coordination or referral of information or documents subject to this section shall be effected by the Director of Classification (in consultation with the Authorizing Official) with the appropriate official of the other agency.

§ 1004.7 Response by Authorizing Officials: Form and content.

(a) *Form of grant.* When a requested record has been identified and will be made available, and where applicable fees are $25 or less or where it has been determined that the payment of applicable fees should be waived, the records shall be made available promptly. Where the applicable fees are in excess of $25, the records shall not be made available until all charges are paid in full.

(b) *Form of denial.* A reply denying a request for a record shall be in writing and shall be sent certified or registered mail, return receipt requested. It shall be signed by the Authorizing Official pursuant to § 1004.5(b) or (c) and shall include:

(1) *Reason for denial.* A statement of the reason for denial, containing as applicable:

(i) *Exemption category.* A reference to the specific exemption under the Freedom of Information Act authorizing and withholding of the record, and to the extent consistent with the purposes of the exemption, a brief explanation of how the exemption applies to the record withheld, and a statement of why a discretionary release is not appropriate.

(ii) *Notification that record cannot be located or does not exist.* If a request record is known to have been destroyed or otherwise disposed of, or if no such record is known to exist, the requester shall be so notified.

(2) *Persons responsible for denial.* A statement setting forth the name and the title or position of each Denying Official and identifying the portion of the denial for which each Denying Official is responsible.

(3) *Segregation of nonexempt material.* A statement or notation addressing the issue of whether there is any segregable nonexempt material in the documents or portions thereof identified as being denied.

(4) *Administrative appeal and judicial review.* A statement that the denial may be appealed within 30 calendar days to the Office of Hearings and Appeals, and that judicial review will be thereafter available either in the district in which the requester resides or has a principal place of business or in which the records are situated or in the District of Columbia.

§ 1004.8 Appeals from initial denials.

(a) *Appeal to Office of Hearings and Appeals.* When the Authorizing Official has denied a request for records in whole or in part or has responded that there are no documents responsive to the request, consistent with § 1004.4(d)(1), or when the Freedom of Information Officer has denied a request for waiver of fees consistent with § 1004.9, the requester may, within 30 calendar days of its receipt, appeal the determination to the Office of Hearings and Appeals.

(b) *Elements of appeals.* The appeal shall be in writing, addressed to the Director, Office of Hearings and Appeals, Department of Energy, 2000 M Street, NW., Washington, D.C. 20461 and both the envelope and letter shall be clearly marked "Freedom of Information Appeal." The appeal should contain a concise statement of grounds upon which it is brought and a description of the relief sought. It should also include a discussion of all relevant authorities, including, but not limited to, DOE (and predecessor agency) rulings, regulations, interpretations and decisions on appeals and any judicial determinations being relied upon to support the appeal. A copy of the letter containing the determination which is being appealed, shall be submitted with the appeal.

(c) *Receipt of appeal.* An appeal will be considered to be received for purposes of 5 U.S.C. 552(a)(6) upon receipt by the appeal authority.

(d) *Action within 20 working days.* (1) The appeal authority shall act upon the appeal within 20 working days of its receipt, and more rapidly if practicable, except that if unusual circumstances (as defined in § 1004.5(d)(2)) require an extension of time before a decision on a request can be reached, the appeal authority may extend the time for final action for an additional 10 working days less the number of days of any statutory extension which may have been taken by the Authorizing Official during the period of initial determination.

(2) The requester must be promptly notified in writing of the extension, setting forth the reasons for the extension, and the date on which a determination is expected to be issued.

(3) If no determination on the appeal has been issued at the end of the 20-day period or the last extension thereof, the requester may deem to have exhausted his administrative remedies, giving rise to a right of review in a district court of the United States as specified in 5 U.S.C. 552(a)(4). When no determination can be issued within the applicable time limit, the appeal will nevertheless continue to be processed; on expiration of the time limit the requester shall be informed of the reason for the delay, of the date on which a determination may be expected to be issued, and of his right to seek judicial review in the United States district court in the district in which he resides or has his

principal place of business, the district in which the records are situated, or the District of Columbia. The requester may be asked to forego judicial review until determination of the appeal.

(4) Nothing in this part shall preclude the appeal authority and a requester from agreeing to an extension of time for the decision on an appeal. Any such agreement shall be confirmed in writing by the appeal authority and shall clearly specify the total time agreed upon for the appeal decision.

(e) *Form of action on appeal.* The appeal authority's action on an appeal shall be in writing, and shall set forth the reasons for the decision. It shall also contain a statement that it constitutes final agency action on the request and that judicial review will be available either in the district in which the requester resides or has a principal place of business or in which the records are situated or in the District of Columbia. Documents determined by the appeal authority to be documents subject to release shall be made promptly available to the requester upon payment of any applicable fees.

(f) *Classified records.* The Secretary of Energy or his designee will make the final determination concerning appeals involving classified records.

§ 1004.9. Fees for provision of records.

(a) *When charged.* User fees pursuant to 5 U.S.C. 552, as amended, shall be charged according to the schedule contained in paragraph (b) of this section for services rendered in responding to requests for DOE records under this subpart, unless the Freedom of Information Officer determines, in conformity with the provision of 5 U.S.C. 552, as amended, that waiver of payment of such charges, or a portion thereof, is in the public interest.

(1) Such a determination shall ordinarily not be made unless the service to be performed will be of benefit primarily to the public as opposed to the requester. In making this determination, the Freedom of Information Officer, in consultation with the Authorizing Official, may consider several factors, including, but not necessarily limited to, the following:

(i) The current public interest in subject matter to which the documents pertain.

(ii) The status of the requester as a representative of the news media.

(iii) The status of the requester as a representative of a bona fide public interest group.

(iv) The status of the requester as an indigent person.

(v) The status of the requester as an historian or academician.

(vi) Whether the requester is engaged in administrative proceedings or litigation with the Government.

(vii) Whether the requester is making the request to further purely private commercial interests.

(2) Fees shall not be charged where they would amount, in the aggregate, for a request or series of related requests, to $25 or less. Where fees in excess of $25 are to be charged, fees will be assessed for the full amount.

(3) Ordinarily, fees for search shall not be charged if the records requested are not found, or if all of the records located are withheld as exempt. However, if the time expended in processing the request is substantial, and if the requester has been notified of the estimated cost pursuant to paragraph (c) of this section and has been specifically advised that it cannot be determined in advance whether any records will be made available, fees for search may be charged.

(b) *Services charged for, and amount charged.* For the services listed below, expended in locating or making available records or copies thereof, the following charges shall be assessed:

(1) *Copies.* For copies of documents (maximum of one (1) copy of any one document will be supplied), $0.10 per copy of each page.

(2) *Certification.* For each certification of true copies, $1.

(3) *Clerical searches.* Charges will be $2.25 for each quarter hour spent by clerical personnel in searching for and producing a requested record.

(4) *Nonclerical searches.* Where a search cannot be performed by clerical personnel (for example, where the task of determining which records fall within a request and collecting them requires the time of professional or managerial personnel), charges for the search may be made at a rate in excess of the clerical rate; specifically, when higher level personnel are required, charges will be $4.50 per each one quarter hour.

(5) *Examination and related tasks in screening records.* No charge shall be made for time spent in resolving legal or policy issues affecting access to records of known contents. In addition, no charge shall be made for the time involved in examining records to determine whether they are exempt from mandatory disclosure and should be withheld as a matter of policy.

(6) *Computerized records.* Fees for services in processing requests maintained in whole or in part in computerized form shall be in accordance with this section so far as practicable. Services of personel in the nature of a search will be charged for at rates prescribed in paragraph (b)(4) of this section unless the level of personnel involved permits rates in accordance with paragraph (b)(3) of this section. A charge may be made for the computer time involved, based upon the actual cost to the Government. A charge may also be made for any substantial amounts of special supplies or materials used to contain, present, or make available the output of computers, based upon the actual cost to the Government. Nothing in this paragraph shall be construed to entitle any person, as of right, to any services in connection with computerized records, other than services to which such person may be entitled under 5 U.S.C. 552 and under the provisions, not including this paragraph (b), of this Section.

(7) *Other nonpaper records.* Fees for services in processing requests where the records are maintained on microfiche, microfilm, recording tape, or in any other nonpaper form, shall be assessed at the actual cost to the Government.

(8) *Transcripts.* Transcripts by a reporting firm under contract with DOE may be purchased directly from the reporting firm or DOE, if permitted by the reporting firm, at the cost of reproduction as provided for in the DOE contract with the reporting firm.

(9) *Copyrighted material.* Material which has been copyrighted will not be reproduced in violation of the copyright laws.

(c) *Notice of anticipated fees in excess of $25.* Unless the requester specifically states that he is willing to pay whatever fees are assessed by DOE for meeting the request, or, alternatively, specifies an amount in excess of $25 which he is willing to pay and which in fact covers the anticipated fees for meeting the request, a request that is expected to involve assessed fees in excess of $25 will not be deemed to have been received until the requester is advised of the anticipated cost, agrees to bear it, and makes any advance deposit required. Such notification shall be made by the Freedom of Information Officer consistent with § 1004.4(e).

§ 1004.10 Exemptions.

(a) 5 U.S.C. 552 exempts from all of its publication and disclosure requirements nine categories of records which are described in paragraph (b) of that section. These categories include such matters as national defense and foreign policy information; investigatory records; internal procedures and communications; materials exempted from disclosure by other statutes; confidential, commercial, and financial information; and matters involving personal privacy.

(b) Specifically, the exemptions in 5 U.S.C. 552(b) will be applied consistent with § 1004.1 of these regulations to matters that are—

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(1) Specifically authorized under criteria established by an executive order to be kept secret in the interest of the national defense or foreign policy and (ii) are in fact properly classified pursuant to such executive order.

(2) Related solely to the internal personnel rules and practices of an agency;

(3) Specifically exempted from disclosure by statute (other than 5 U.S.C. 552(b)), provided that such statute (i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld, in particular, for example Restricted Data and Formerly Restricted Data under the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.), are covered by this exemption;

(4) Trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;

(6) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(7) Investigatory records compiled for law enforcement purposes, but only to the extent that the production of such records would (i) interfere with enforcement proceedings, (ii) deprive a person of a right to a fair trial or an impartial adjudication, (iii) constitute an unwarranted invasion of personal privacy, (iv) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (v) disclose investigative techniques and procedures, or (vi) endanger the life or physical safety of law enforcement personnel;

(8) Contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or

(9) Geological and geophysical information and data, including maps, concerning wells.

(c) Any reasonably segregable nonexempt portion of a record will be provided to a requester. The DOE will delete portions which are exempt under the exceptions listed above only if it is determined that such deletions are required by law or are in the public interest.

§ 1004.11. Handling information of a private business, foreign government or international organization.

(a) Whenever a document submitted to the DOE contains information which may be exempt by law from public disclosure, it shall be handled in accordance with the procedures in this section. While the DOE is responsible for making the final determination with regard to the disclosure or nondisclosure of information contained in requested documents, DOE will consider the submitter's views (as that term is defined in this section) in making its determination. Nothing in this section shall preclude the submission of a submitter's views at the time of the submission of the document to which the views related, or at any other time.

(b) When the DOE may determine, in the course of responding to a Freedom of Information request not to release information submitted to DOE (as described in subsection (a) and contained in a requested document) without seeking any or further submitter's views, no notice will be given the submitter.

(c) When the DOE, in the course of responding to a Freedom of Information request, cannot make the determination described in paragraph (b) of this section without having for consideration the submitter's views, the submitter shall be promptly notified and provided an opportunity to submit his views on whether information contained in the requested document (1) is exempt from the mandatory public disclosure requirements of the Freedom of Information Act, (2) contains information referred to in 18 U.S.C. 1905, or (3) is otherwise exempt by law from public disclosure. The DOE shall make its own determinations as to whether any information is exempt from disclosure. Notice of a determination by DOE that a claim of exemption made pursuant to this paragraph is being denied shall be given to a person making such a claim no less than seven (7) calendar days prior to intended public disclosure of the information in question. For purposes of this section, notice is deemed to be given when mailed to the submitter at the submitter's last known address.

(d) When the DOE, in the course of responding to a Freedom of Information request, cannot make the determination described in paragraph (b) of this section and, without recourse to paragraph (c) of this section, previously has received the submitter's views, DOE shall consider such submitter's views and shall not be required to obtain additional submitter's views under the procedure described in paragraph (c) of this section. The DOE shall make its own determination with regard to any claim that information be exempted from disclosure. Notice of DOE's determination to deny a claim of exemption made pursuant to this paragraph shall be given to a person making such a claim no less than seven (7) calendar days prior to its intended public disclosure.

(e) Notwithstanding any other provision of this section, DOE Offices may require a person submitting documents containing information that may be exempt by law from mandatory disclosure to (1) submit copies of each document from which information claimed to be confidential has been deleted or (2) require that the submitter's views be otherwise made known at the time of the submission. Notice of a determination by DOE that a claim of exemption is being denied shall be given to a person making such a claim no less than seven (7) calendar days prior to intended public disclosure of the information in question. For purposes of this section, notice is deemed to be given when mailed to the submitter at the submitter's last known address.

(f) *Criteria for determining the applicability of 5 U.S.C. 552(b)(4).* Subject to subsequent decisions of the Appeal Authority, criteria to be applied in determining whether information is exempt from mandatory disclosure pursuant to Exemption 4 of the Freedom of Information Act (§ 1004.10(b)(4) of this part) include:

(1) Whether the information has been held in confidence by the person to whom it pertains;

(2) Whether the information is of a type customarily held in confidence by the person to whom it pertains and whether there is a reasonable basis therefor;

(3) Whether the information was transmitted to and received by the Department in confidence;

(4) Whether the information is available in public sources;

(5) Whether disclosure of the information is likely to impair the Government's ability to obtain similar information in the future; and

(6) Whether disclosure of the information is likely to cause substantial harm to the competitive position of the person from whom the information was obtained.

(g) When the DOE, in the course of responding to a Freedom of Information request, determines that information exempt from the mandatory public disclosure requirements of the Freedom of Information Act is to be released, in accordance with 10 CFR 1004.1, DOE shall notify the submitter of the intended discretionary release no less than seven (7) days prior to intended public disclosure of the information in question.

(h) As used in this section, the term "submitter's view" means, with regard

to a document submitted to DOE, an item-by-item indication, with accompanying explanation, addressing whether the submitter considers the information contained in the document to be exempt from the mandatory public disclosure requirements of the Freedom of Information Act, to be information referred to in 18 U.S.C. 1905, or to be otherwise exempt by law from mandatory public disclosure. The accompanying explanation should specify the justification for nondisclosure of any information under consideration. If the submitter states that the information comes within the exemption in 5 U.S.C. 552(b)(4) for trade secrets and commercial or financial information, the submitter shall include a statement specifying why such information is privileged or confidential and, where appropriate, shall address the criteria in paragraph (f) of this section. In all cases, the submitter shall address the question of whether or not discretionary disclosure would be in the public interest.

§ 1004.12 Computation of time.

Except as otherwise noted, in computing any period of time prescribed or allowed by this part, the day of the event from which the designated period of time begins to run is not to be included; the last day of the period so computed is to be included; and Saturdays, Sundays and legal public holidays are excepted.

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MONDAY, JANUARY 8, 1979
PART VII

COMMODITY FUTURES TRADING COMMISSION

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COMMODITY POOL OPERATORS AND COMMODITY TRADING ADVISORS

[6351-01-M]

Title 17—Commodity and Securities Exchanges

CHAPTER I—COMMODITY FUTURES TRADING COMMISSION

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

PART 4—COMMODITY POOL OPERATORS AND COMMODITY TRADING ADVISORS

Commodity Pool Operators and Commodity Trading Advisors; Final Rules

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rules.

SUMMARY: These rules apply to persons who operate pools that trade commodity contracts ("commodity pool operators") and to persons who are in the business of advising others concerning such contracts ("commodity trading advisors"). Generally stated, the rules require commodity pool operators and commodity trading advisors to give prospective customers a written disclosure statement containing specified information and to keep certain trading and other records; they prohibit pool operators from commingling the property of the pool they operate with their own property or the property of any other person; and they require pool operators to provide their customers with periodic account statements and an annual report. The account statement requirement will replace the current requirement that commodity brokerage firms send monthly statements to each pool participant. The rules also exempt pool operators and trading advisors from reporting their personal commodity trading to their customers, and they exempt certain pool operators and trading advisors from registering with the Commission.

EFFECTIVE DATE: April 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Richard F. Fielding, Chief Counsel, Frederick L. White, Special Counsel (202) 632-5110, or Lawrence Eisner, Attorney (202) 632-5124, Office of the Chief Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581.

SUPPLEMENTARY INFORMATION:

A. INTRODUCTION

Rules to regulate commodity pool operators[1] ("CPOs") and commodity trading advisors[2] ("CTAs") were proposed by the Commission on February 15, 1977. 42 FR 9266-76 (CPOs) and 9278-84 (CTAs). Comments were received from CPOs, CTAs and futures commission merchants ("FCMs"); participants in commodity pools and the clients and subscribers of CTAs; and the general public. The Commission obtained additional information about CPOs and CTAs by analyzing the CPO and CTA registration applications on file at the Commission and sending questionnaires to all registered CPOs and CTAs seeking further information.[3] In addition, the Commission's Advisory Committee on Commodity Futures Trading Professionals ("Advisory Committee") formulated numerous recommendations regarding the regulation of CPOs and CTAs.[4] The rules adopted today were written after considering the comments, the information derived from the applications and questionnaire responses, and the Advisory Committee's recommendations. In adopting the rules, the Commission has considered the public interest to be protected by the antitrust laws and has endeavored to take the least anticompetitive means of achieving the objectives, policies and purposes of the Act. *See* sec. 15 of the Act.

The rules are contained in a new Part 4, which is divided into three subparts. Subpart A contains definitions and exemptions for CPOs and CTAs, Subpart B establishes the requirements for CPOs and Subpart C contains the CTA requirements. Set forth below is a table giving an overview of the rules.[5]

[1] A commodity pool operator is any person engaged in a business which is of the nature of an investment trust, syndicate, or similar form of enterprise, and who, in connection therewith, solicits, accepts, or receives from others, funds, securities, or property, either directly or through capital contributions, the sale of stock or other forms of securities, or otherwise, for the purpose of trading in any commodity for future delivery on or subject to the rules of any contract market, but does not include such persons not within the intent of this definition as the Commission may specify by rule or regulation or by order. Section 2(a)(1) of the Commodity Exchange Act ("Act"), 7 U.S.C. 2. The Futures Trading Act of 1978 (Pub. L. No. 95-405, 92 Stat. 865 *et seq.*) amended the Act effective October 1, 1978.

[2] A commodity trading advisor is any person who, for compensation or profit, engages in the business of advising others, either directly or through publications or writings, as to the value of commodites or as to the advisability of trading in any commodity for future delivery on or subject to the rules of any contract market, or who for compensation or profit, and as part of a regular business, issues or promulgates analyses or reports concerning commodities; but does not include (i) any bank or trust company, (ii) any newspaper reporter, newspaper columnist, newspaper editor, lawyer, accountant, or teacher, (iii) any floor broker or futures commission merchant, (iv) the publisher of any bona fide newspaper, news magazine, or business or financial publication of general and regular circulation including their employees, (v) any contract market, and (vi) such other persons not within the intent of this definition as the Commission may specify by rule, regulation, or order: *Provided*, That the furnishing of such services by the foregoing persons is solely incidental to the conduct of their business or profession. *Id.*

[3] The information contained in the applications and the responses to the questionnaires was analyzed and made available to the public in the form of CPO and CTA "Profiles."

[4] *See Report of the Commodity Futures Trading Commission Advisory Committe on Commodity Futures Trading Professionals*, August 5, 1976 (CCH Commodity Futures Law Reports, Reports No. 29, Part II, August 20, 1976).

[5] This table should not be relied upon as a complete or precise description of the rules.

Exemptions from registration	Disclosure	Reporting generally
COMMODITY POOL OPERATORS		
The following CPOs are exempt from registration: CPOs who operate pools that are clubs or family pools; and CPOs who operate pools with assets of $50,000 or less and 15 participants or fewer.	Those CPOs who are required to register with the CFTC must furnish a disclosure document to prospective pool participants.	CPOs who are required to register with the CFTC must furnish a periodic report to pool participants, showing the pool's net asset value, *e/c*. The report must be sent monthly in the case of pools with more than $500,000 in assets and quarterly in the case of other pools.
COMMODITY TRADING ADVISORS		
The following CTAs, among others are exempt from registration: CTAs who are registered as associated persons and render commodity advice solely in the course of their employment as APs; and CTAs who are registered as CPOs and render commodity advice only to the pools they operate.	Those CTAs who are required to register with the CFTC and who manage or guide accounts must furnish a disclosure document to prospective clients.	(The Commission is not adopting a reporting rule to CTAs.)

Reporting of Commodity Market positions of "individual principals" (Sec. 4n(3)(B))	Recordkeeping	Other
All CPOs are exempted from the requirement in sec. 4n(3)(B) of the Act that they report the commodity market positions of their individual principals to their participants. All CTAs are exempted from the requirements in sec. 4n(3)(B) of the Act that they report the commodity market positions of their individual principals to their clients and subscribers.	CPOs who are required to register with the CFTC must keep certain records, including a record of their own commodity trades. CTAs who are required to register with the CFTC must keep certain records, including a record of their own commodity trades.	CPOs are generally prohibited from commingling the property of the pool they operate with their own property or the property of others.

B. DEFINITIONS AND EXEMPTIONS—§§ 4.10–4.13

1. *Disclosure of principals' futures market positions.* Section 4.11 exempts from section 4n(3)(B) of the Act those CPOs and CTAs who are registered with the Commission or exempt from registration; sec. 4n(3)(B) states that unless otherwise authorized by the CFTC, all CPOs and CTAs must disclose the futures market positions of their "individual principals" to their participants, clients and subscribers.[6]

Section 4n(3)(B) is basically intended to deter CPOs and CTAs from "trading ahead" of their customers—*i.e.*, to deter CPOs from using their advance knowledge of the pool's transactions to trade ahead of the pool and to deter CTAs from using their advance knowledge of the transactions of their clients or subscribers to trade ahead of those persons. In authorizing the Commission to exempt CPOs and CTAs from disclosing their futures market positions, however, Congress recognized that the burdens and other problems associated with this disclosure might outweigh its benefits. The Advisory Committee and many commentators felt that the exemption should be granted and the Commission concurs. Among the points raised by the commentators were that disclosure would be expensive, that it would destroy the confidentiality of their personal trades, and that it could be detrimental to the market because participants, clients and subscribers might be able to use their knowledge of a principal's positions for manipulative purposes if the principal were a large trader.[7] *See* n. 20, *infra*.

Nevertheless, there should be some opportunity to scrutinize the personal commodity trading of the individual principals of CPOs and CTAs and the rules therefore require all CPOs and CTAs to maintain a record of these trades. *See* §§ 4.23 (CPOs) and 4.32 (CTAs).[8] In view of the factors discussed above, however, the rules do not require these records to be made available to participants, clients or subscribers, although they are subject to inspection by the CFTC and the U.S. Department of Justice. In addition, the rules require all CPOs and certain CTAs to disclose to prospective participants and clients whether they or their principals trade commodity interests for their own accounts and, if so, whether participants and clients will be permitted access to the records of those trades. *See* §§ 4.21(a)(15) (CPOs) and 4.31(a)(6) (CTAs).

2. *Exemptions from registration.* Section 4.13 establishes exemptions from registration for certain CPOs and CTAs. Paragraph (a) of § 4.13 exempts from registration as a CPO those pool operators whose operation of commodity pools is limited to (i) pools that are essentially clubs or family groups (and that meet other conditions), or (ii) pools that have combined net assets of $50,000 or less and no more than 15 participants in any one pool. Paragraph (b) of § 4.13 exempts from registration as a CTA those trading advisors who (i) are registered with the CFTC as associated persons ("APs") of FCMs and whose commodity trading advice is issued solely in connection with their employment as APs, or (ii) are registered CPOs and whose commodity trading advice is directed solely to the pools they operate.

The CPO exemptions are being granted because the costs of compliance with the Part 4 rules outweigh the benefits to be gained from regulating family, club and small pools. The CTA exemptions are being granted because the Commission is currently of the view that the affirmative duties imposed by the Act and the Commission's rules upon these already registered persons are sufficient to protect their clients and subscribers. The commentators were generally in favor of the exemptions.[9]

Paragraphs (b) (1) and (2) of § 4.13 substantially duplicate § 1.71 (43 FR 32291, July 26, 1978), which is being deleted. Section 1.71 basically exempted from registration as a CTA certain persons whose commodity advice was directed to the cash markets. This exemption is being transferred to paragraphs (b) (1) and (2) of § 4.13 so that the Commission's exemption rules for CTAs are contained in a single section. While paragraphs (b) (1) and (2) are worded somewhat differently from § 1.71, this change is not intended to expand or to narrow the exemption but merely to prevent confusion between these paragraphs and the registration exemption in sec. 4m of the Act for CTAs. *See* sec. 8, Public Law 95-405 (the Futures Trading Act of 1978), 92 Stat. 870. That exemption is similar to the exemption that had been contained in § 1.71 except that (i) the statutory exemption is limited to persons whose advice relates to the commodities specifically set forth in

[6] Proposed §§ 4.5 (42 FR 9275) and 5.3 (*id.* at 9283) would have required all CPOs and certain CTAs to disclose their principals' futures market positions to their participants, clients and subscribers on a monthly basis.

[7] The Advisory Committee also stated that customers might not have the sophistication to judge when a principal was trading ahead of the customers' orders and that a disclosure requirement might inundate customers with unwanted information.

[8] The term "principal" is not defined in the Act. The proposed CPO and CTA rules defined the term as any officer, director or general partner of a CPO or CTA, or any person owning more than 10% of the "equity interest" of the CPO or CTA. *See* proposed §§ 4.1(b) (CPOs) and 5.1(b) (CTAs). Except for minor language changes and a definition of equity interest and "owner," the proposed definition is being adopted. *See* § 4.10(e). Several commentators stated that the definition was too broad and would make the provisions requiring the disclosure of principals' positions overly burdensome. *See* footnote 6, *supra*. Since the Commission is not adopting those provisions, it is unnecessary to narrow the definition.

[9] Proposed Commission rule 1.54 excluded from the CTA definition those trading advisors already registered as APs, provided their commodity advice did not materially differ from that of their employer—FCM. 40 FR 29090 (July 10, 1975). Commentators objected to this proviso, pointing out that APs frequently render advice that could be deemed different from the FCM's and that this circumstance should have no bearing on the appropriateness of an exemption. Section 4.13 does not contain the proviso.

In proposing rule 1.54—and the companion exclusion for CPOs, proposed rule 1.55—the Commission stated it would not take enforcement action, for failure to register, against any person covered by the proposed exclusions. *Ibid.* Since § 4.13 contains those elements of proposed rules 1.54 and 1.55 that the Commission considers appropriate for final adoption, this "no-action" position will no longer be in effect after April 1, 1979, the effective date of § 4.13.

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sec. 2(a)(1) of the Act (basically, the agricultural commodites) and (ii) the only nonprofit organizations that it exempts are "general farm organizations" (whereas § 1.71 exempted certain "farm or trade" associations).[10] Accordingly, the new sec. 4m exemption is, in effect, incorporated into § 4.13(b) (1) and (2).

Section 4.13 also incorporates the exemption procedure of § 1.71. As the Commission noted in adopting the section, the agency has the authority to exempt CTAs from registration as well as to exclude[11] them from the CTA definition. (The Commission of course has the same authority with respect to CPOs; *see* sec. 2(a)(1) of the Act.) The Commission used the exemption procedure in § 1.71 because it determined that the persons covered by the section should remain subject to section 4o, the principal antifraud provision of the Act applicable to CPOs and CTAs. As the Commission explained (43 FR 32292):

Whereas an exclusion from the statutory definition would render section 4o inapplicable to the persons covered by the rule, the exemption approach will not. Section 4o should remain applicable to the persons covered by the rule, because (1) their clients and subscribers are entitled to the protections of the antifraud provisions whether or not these persons remain obligated to be registered and (2) this section will impose no affirmative regulatory burden on these persons.

The same reasoning applies to the CPOs and CTAs who are being exempted by today's action. And, as in the case of § 1.71, these CPOs and CTAs will also remain subject to sec. 14 of the Act, the reparations provision.

C. COMMODITY POOL OPERATORS—§§ 4.21–4.24.

1. *Disclosure by CPOs to prospective participants.* Section 4.21 basically requires all CPOs who must register with the CFTC to provide prospective pool participants with a Disclosure Document containing specified information about the CPO, the pool, the pool's trading advisor and commodity trading. The section is designed to protect pool participants—particularly those who are unsophisticated in financial matters—by ensuring that they are informed about the material facts regarding the pool before they commit their funds. As the Commission stated in proposing the section for comment:

Commodity trading is a complex field, requiring substantial skill and knowledge. A knowledge of the background and experience of the pool operator, its individual principals and any trading advisor with which the pool maintains an advisory service contract appears essential to a meaningful evalution of the services offered by those persons. 42 FR 9267.

Under § 4.21(a)(4), the Document must disclose the performance of (a) each commodity pool that is being operated by the CPO or any principal thereof, or that was operated by any of those persons within the year preceding the date of the Document,[12] and (b) each commodity pool that is being advised by any advisor to the pool, or principal of the advisor, or that was advised by any of those persons within the year preceding the date of the Document. The Document must show each pool's performance for at least the three-year period preceding the date of the Document.[13] If a pool does not have a three-year performance record (*e.g.*, a pool did not begin trading until two years before the Document's date), the CPO must disclose the pool's record for the entire period of operation and prominently note the lack of a three-year history. If a pool has a performance history of greater than three years, general antifraud principles [14] may require the CPO—depending upon the particular circumstances—to disclose, in addition to the three-year period performance, the performance history for longer periods.[15]

The presentation of a pool's performance history must include the "annual rate of return (compounded annually)" of one pool participation unit for the entire period and a table showing the monthly (or quarterly) net asset value per unit and the monthly (or quarterly) sum of the distributions and assessments per unit, if any.

The "annual rate of return (compounded annually)" of a pool participation unit is the average annual interest rate that, when compounded annually, equates the amount invested for one unit at the start of the performance with the sum of the present values of all subsequent cash flows and of the net asset value of one unit at the end of the performance period. This interest rate is technically known as the "annual internal rate of return compounded annually." It is computed on the assumption that all distributions are reinvested (outside the pool) and all assessments are discounted at the same rate, *i.e.*, at the annual internal rate of return compounded annually, and that all distributions and assessments that are paid during a monthly time period are made at the end of the monthly time period. These assumptions are made to simplify the calculation of the rate of return.

The "annual rate of return (compounded annually)" is calculated by first computing the monthly internal rate of return compounded monthly (to the nearest hundredth of one percent) and then converting the monthly rate with monthly compounding into an annual rate with annual compounding.

The following formula should be used for calculating the monthly internal rate of return compounded monthly ("i"):

$$INV = \frac{cf}{(1+i)^1} + \frac{cf}{(1+i)^2} + \ldots + \frac{cf}{(1+i)^n} + \frac{NAV}{(1+i)^n}$$

Where:

INV = amount of the initial investment (total cost including commissions and fees to the investor for one pool participation unit),

cf = the sum of the distribution(s) (positive sign) and assessment(s) (negative sign) made per unit during each monthly time period,

NAV = net asset value (less redemption costs, if any) of one pool participation unit at the end of the performance period, and

n = the number of monthly time periods.

The following formula should be used to convert the monthly internal rate of return compounded monthly into the "annual rate of return (compounded annually)" ("R"):

$$R = (1+Mo.IRR)^{12} - 1$$

Where:

Mo.IRR = monthly internal rate of return compounded monthly expressed as a decimal.

Although the formulas may be solved by "pencil-and-paper" methods, these methods require tedious estimations of the monthly internal rate of return ("i"). Moderately-priced calculators that directly compute the internal rate of return are available, however, and may be used to calculate the monthly internal rate of return ("i").

The "annual rate of return (compounded annually)" format was chosen because it will be understandable and meaningful to prospective participants and, as a uniform format, it will enable members of the public to compare different pools and to compare pools with other financial investments.

For example, the "annual rate of return (compounded annually)" approach highlights the significant differences in the performance of the three following hypothetical pools, each of which provides a net return of $1,300 over the three-year period. In each pool the total cost to the investor for one pool participation unit is $1,000 at the start of the performance period.

In the case of pool A, no distributions or assessments are made and at the end of the three-year period the net asset value (after deducting redemption costs, if any) of one pool participation unit is $1,300. Applying the formulas:

$$1000 = \frac{1300}{(1+i)^{36}}$$

$$i = .0073$$

$$R = (1 + .0073)^{12} - 1$$

$$R = 9.1\%$$

The monthly internal rate of return compounded monthly is 0.0073, and the "annual rate of return (compounded annually)" of one pool A unit is 9.1%.

Pool B distributes $150 per unit at the end of both the first and second years, and the net asset value at the end of the three-year period is $1,000. Applying the formulas:

$$1000 = \frac{150}{(1+i)^{12}} + \frac{150}{(1+i)^{24}} + \frac{1000}{(1+i)^{36}}$$

$$i = .0083$$

$$R = (1 + .0083)^{12} - 1$$

$$R = 10.4\%$$

The monthly internal rate of return compounded monthly is 0.0083, and the "annual rate of return (compounded annually)" of one pool B unit is 10.4%.

Pool C's units are assessable; each unit holder is required to invest an additional $150 per unit at the end of both the first and second years. At the end of the three-year period the net asset value of one unit is $1,600. Applying the formulas:

$$1000 = \frac{(-150)}{(1+i)^{12}} + \frac{(-150)}{(1+i)^{24}} + \frac{1600}{(1+i)^{36}}$$

$$i = .0065$$

$$R = (1 + .0065)^{12} - 1$$

$$R = 8.1\%$$

The monthly internal rate of return compounded monthly is 0.0065, and the "annual rate of return (compounded annually)" of one Pool C unit is 8.1%.

As proposed, § 4.21 would have required the Document to show the performance of individual customer accounts that were controlled by the pool's operator or advisor, or the principals of those entities.[16] This requirement has been deleted because, among other things, this performance may not accurately reflect the CPO's and CTA's abilities. Some of the trades in the account may have been initiated by the customer against the advice of the CPO or CTA. Nevertheless, since the performance of controlled accounts could, in some cases, be important to prospective participants, § 4.21 requires the CPO to disclose (1) *whether* it or any of its principals, or the pool's CTA or any of its principals, control individual customer accounts or have done so within the year preceding the Document's date and, (2) if so, whether prospective participants may obtain the performance records of those accounts.[17]

Under § 4.21(a)(17), the Document must contain a prescribed risk disclosure statement, the language of which is similar to the risk disclosure statement that FCMs are required by § 1.55 (17 CFR 1.55) to provide to new customers but not to the individual participants in pools.

Section 4.21 does not require the disclosure of certain items of information that would have been required under the proposed rule.[18] These deletions reflect the need for brevity in the Disclosure Document, the burden on the CPO of obtaining the information and

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[10] The new exemption in sec. 4m applies to: (1) A "dealer, processor, broker, or seller" in "cash market transactions" of any commodity specifically enumerated in sec. 2(a)(1) of the Act, or the product thereof; and (2) any "non-profit, voluntary membership, general farm organization" whose commodity trading advice relates to the purchase or sale of a sec. 2(a)(1)-enumerated commodity. In order to qualify for the new sec. 4m exemption, the CTA's commodity trading advice must be "solely incidental to the conduct of that person's business," *i.e.*, the person's business as a dealer, processor, broker or seller in cash market transactions or as a non-profit, voluntary membership, general farm organization (as distinguished from transactions subject to CFTC regulation under secs. 2(a)(1), 4c or 19 of the Act). The sec. 4m exemption—like § 1.71(c) was not intended to allow CTAs whose commodity trading advice is directed to commodity futures, commodity options or leverage transactions to evade registration by presenting their advice as directed only to the underlying cash commodity. This caveat applies also to § 4.13(c).

[11] As stated in 43 FR 32292:

Rule 1.71 is being adopted pursuant to, *inter alia*, section 8a(5) of the Act, 7 U.S.C. 12a(5), which authorizes the Commission to adopt such rules as, in its judgment, are reasonably necessary to effectuate any of the Act's provisions or accomplish any of its purposes. Rule 1.71 meets this standard because it does not appear to the Commission at this time that a significant public interest would be served by requiring the persons covered by the rule to comply with the affirmative obligations imposed upon CTAs by the Act and the Commission's rules, whereas the costs of compliance could be substantial. In addition, the exemption will reduce the number of CTA applications to process, thereby enabling the Commission to devote more resources to other applicants.

In specifying certain exclusions from the broad CTA definition and in empowering the Commission to specify other persons as not within the intent of the definition, Congress recognized that no substantial public interest would be served by having all persons within the definition subject to registration and other regulatory requirements. The Commission's discretionary authority to exclude persons was intended to be exercised "to exempt from registration those persons who otherwise meet the criteria for registration • • • if, in the opinion of the Commission, there is no substantial public interest to be served by such registration." H.R. Rep. No. 93-975, 93d Cong., 2d Sess. (1974), p. 29.

[12] The mere execution of trades for a commodity pool by an FCM that did not have discretionary authority over the pool's account would not, of course, be deemed the operation of the pool.

[13] The "track record" period that would have been required under the proposed rule was one year, which commentators regarded as too short. The Commission believes a three-year record would be more meaningful to prospective participants and that it would not be unduly burdensome for CPOs to compile a record of that length.

[14] *See, e.g.*, sec. 4o of the Act.

[15] For example, if the pool performed well in 1976, 1977 and 1978 but very poorly in 1970–1975, it may be necessary for the CPO to describe the earlier performance.

[16] *See* proposed § 4.2(b) (5) and (7), 42 FR 9273. Section 1.3(j) of the Commission's regulations (17 CFR § 1.3(j)) provides that an account shall be deemed controlled by a person if the person, by power of attorney or otherwise, actually directs the trading for the account.

[17] The Commission recognizes that the CPO would not reveal the customer's identity in disclosing the performance of the account.

[18] *See* proposed § 4.2(b)(1), (b)(2)(ii)-(iii), (b)(2)(v)-(viii), (b)(2)(x)-(xi), (b)(4) and (b)(10).

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the relative importance of the information to prospective participants. Most of the deletions were recommended by commentators.

Several commentators stated that some CPOs register their pool offerings with the Securities and Exchange Commission ("SEC") and, as part of that process, furnish a written "prospectus" to prospective participants containing much of the information required by § 4.21. In those cases where a CPO chooses to provide a prospectus to prospective pool participants, the Commission will permit that prospectus to be supplemented to comply with the specific requirements of § 4.21.[19] Although there may be some differences in content between a prospectus and the Disclosure Document, the Commission does not believe that providing the additional information required by § 4.21 will unduly burden CPOs.

2. *Reporting by CPOs to pool participants.* Section 4.22 requires CPOs who must register with the CFTC to provide pool participants with Account Statements and an Annual Report. The Account Statement must be distributed at least monthly in the case of pools with net assets of more than $500,000 at the beginning of the pool's fiscal year and at least quarterly for pools having $500,000 in assets or less. The Statement must show, among other things, the pool's net asset value at the end of the reporting period and the total amount of all brokerage commissions and fees—and of all management, advisory and other expenses—incurred or accrued by the pool during the period.[20] The Account Statement requirement replaces the current requirement in 17 CFR 1.33(c)(2) that FCMs that carry accounts for pools furnish each pool participant with a copy of the monthly statement that the FCM must provide to the CPO.[21] Paragraph (c)(2) of § 1.33 is being deleted in connection with the adoption of Part 4. In addition, a technical amendment is being made in paragraph (a)(1) of § 1.33 to insert "money," before the word "securities" in clause (iii) of the paragraph. The amendment will conform the paragraph to the language in the Commission's segregation rules. *E.g.*, § 1.20, 17 CFR 1.20.

The Annual Report must contain, among other things, a statement of the pool's financial condition as of the close of its fiscal year and a statement of income for that period. The Report must be certified by an independent public accountant unless the pool had fewer than 16 participants at all times during its fiscal year or the average of the pool's net asset values required to be reported to participants during the first half of the pool's fiscal year did not exceed $50,000.[22] The Report must be sent to the participants, and a copy provided to the Commission, within 60 days of the end of the pool's fiscal year.

Section 4.22 implements sec. 4n(5) of the Act, which requires CPOs "regularly [to] furnish statements of account * * * in such form and manner as may be prescribed by the Commission * * * [containing] complete information as to the current status of all trading accounts * * *."

The furnishing of the Account Statement will ensure that participants have a reasonably current knowledge of the poll's trading performance and operating costs, and the furnishing of the Annual Report will provide participants with the information necessary to assess the overall trading performance and financial condition of the pool. Section 4.22 permits operators of the smaller pools to report quarterly rather than monthly because the costs of monthly reporting could consume an overly large proportion of the net assets of those pools. The requirement that the Account Statement show the total amount of all brokerage commissions and fees incurred or accrued during the reporting period (§ 4.22(a)(4)) is intended to assist participants in determining whether the pool is trading excessively and to apprise participants of operating costs.

The requirement that the Annual Report be certified (§ 4.22(d)) will promote greater accuracy in financial statements and provide an independent review of the pool's activities. The Annual Report of a pool whose average net asset value does not exceed $50,000 (calculated as described above) need not be certified because the cost of certification for such a pool would often outweigh the benefits of the certification. The Annual Report of a pool composed of 15 or fewer participants is not required to be certified because the protections afforded by certification do not seem necessary where the participants are likely to be closely connected with the CPO.

3. *Record-keeping by CPOs.* Section 4.23 requires all CPOs that must register with the Commission to make and keep certain books and records, *e.g.*, records of the commodity interest trades of the pool, the CPO and its principals; a record of the capital contributions from and distributions to participants; a record of the pool's financial condition. The section further provides that, except for the records relating to pool participants and the trades of the CPO and its principals, required records must be made available to the participants.[23] All of the required records are subject to inspection by the CFTC and the Justice Department.

The primary purpose of § 4.23 is to enable pool participants and the Commission to ascertain whether the CPO is dealing properly with pool funds. As the Commission stated in proposing the section (42 FR 9268):

It would be difficult for pool participants or the Commission to make this determination unless the pool operator maintains the books and records specified in the regulation * * *. [The rule] is also intended to promote sound business practices and the development of internal controls among pool operators. Additionally, proper record keeping should serve as a basis for the timely and accurate reporting of the pool's operations to participants required under * * * [the reporting requirement].

The records of the trades of the CPO and its principals must be kept for the reasons stated above in discussion of § 4.11.

As proposed, § 4.23 would have permitted CPOs to maintain records of commodity interest trades by keeping the confirmation statements received from the pool's FCM.[24] This provision has been deleted because these statements are not in the form of a permanent record. As adopted, § 4.23(a)(11) requires trading records to be kept in the form of a ledger or journal of original entry or its equivalent.

The requirement in § 4.23(a)(8) that CPOs keep a copy of all written communications distributed to pool participants implements sec. 4n(3)(A) of the Act, which states in pertinent part that:

"Upon the request of the Commission, a registered * * * commodity pool operator shall * * * submit samples or copies of all reports, letters, circulars, memorandums, publications, writings, or other literature or advice distributed to * * * participants, or prospective * * * participants."

4. *Segregation by CPOs of pool property.* Section 4.24 is intended to prevent CPOs from converting property of the pool or otherwise using that property for their personal benefit. The section essentially requires CPOs to segregate pool property.[25] *Cf., e.g.*, sec. 4d(2) of the Act.

Specifically, § 4.24 states that a CPO may not commingle the property of any pool it operates with the property of the CPO or any other person, except that a CPO who operates more than one commodity pool may combine the property of those commodity pools so long as the pools do not maintain any kind of joint commodity account with an FCM.[26] Thus, under § 4.24 a CPO may (for example) commingle the property of two commodity pools to purchase a Treasury bill that would be jointly owned by the pools,[27] but the CPO may not combine the pools' commodity trading accounts. In effect, each commodity pool must have its own separate commodity account(s).[28]

The rule is not intended to prohibit a CPO from participating in a pool he operates or from contracting with the pool to receive, as compensation for operating the pool, the interest earned by the pool on its funds or investments. Section 4.21 will, however, expressly require the CPO to disclose any arrangement of this type to prospective participants.

5. *Other regulatory measures.* In proposing the CPO rules, the Commission requested comment on whether it should adopt any of the measures that other regulatory authorities have established, or sought to establish, in the commodity pool field—*e.g.*, restrictions on management fees and the uses of pool funds, financial standards for CPOs and a requirement that the CPO invest in the pool. *See* 42 FR 9270–9271. The Commission has considered these regulatory measures and the comments thereon—which were generally opposed to the measures—and has decided not to adopt any of the measures at this time. The Commission reiterates that the exclusive jurisdiction provisions of sec. 2(a)(1) of the Act, which became effective in 1975, preempt the states from regulating the activities of CPOs except insofar as a pool's trading of securities is subject to state jurisdiction. *See* 42 FR 9270 n. 14. The recent amendment to the Act regarding the enforcement authority of the states (sec. 6(d)) does not alter this result.

D. COMMODITY TRADING ADVISORS—§§ 4.31–4.32.

1. *Disclosure by CTAs to prospective clients.* Section 4.31 establishes disclosure requirements for CTAs that seek to control clients' accounts (*e.g.*, through managed accounts) or influence clients' commodity interest trading by means of a systematic advisory program (*e.g.*, through guided accounts).[29] The section requires these CTAs to provide prospective clients with a Disclosure Document containing certain information about the CTA and prescribed language about the risks of future trading.[30]

The Document must disclose, among other things, the CTA's business background, the fees it will charge, and whether the CTA is affiliated with any FCM to which it refers clients. If the CTA or any principal thereof trades or intends to trade commodity interests for its own account, the CTA must disclose that fact and also disclose whether it will permit its clients to inspect its records of those trades. (*See* the discussion of § 4.11, *supra.*) And, if the CTA or any principal thereof controls a commodity interest account or has controlled such an account within the previous year, it must disclose that fact and also disclose whether prospective clients may obtain from the CTA the performance records of the account or accounts.

The section makes clear that performance or incentive fees must be clearly and fully described. For example, if the fee is based only upon the profits actually realized from closed positions and is not affected by losses in open positions, this should be made clear in the Document. Furthermore, if the fee is payable for a period even though the account's value at the end of that period is below its value at the end of the previous period, this should also be explained.[31]

Section 4.31 is intended to assist prospective clients—particularly those who are unfamiliar with commodity trading—in making an informed decision in selecting a trading advisor. The section will also help to make clients aware of circumstances, such as CTA-FCM affiliations, that could give rise to conflicts of interest.

The Commission is not adopting the requirement in the proposed rule (§ 5.2(b)(2)) that CTAs disclose the performance of commodity interest accounts controlled by the CTA or any principal thereof within the previous year. Commentators stated that this information would be expensive to compile and would not be meaningful because clients often countermand the CTA's trading decisions. The Commission agrees with these comments and instead is requiring CTAs to disclose whether they control accounts and whether clients may obtain information about the performance of those accounts. *See* § 4.31(a)(3).

2. *Record-keeping by commodity trading advisors.* Section 4.32 requires

[19] The Commission has not yet taken a position on what effect the grant to the Commission of "exclusive jurisdiction," set forth in section 2(a)(1) of the Act, has on the relationship of the federal securities laws to the formation of commodity pools.

[20] As proposed, § 4.22 would have required reporting of the pool's period-end commodity interest positions and a summary of the pool's commodity interest trades during the period (*e.g.*, bought two July wheat, sold one September silver). Commentators objected to this requirement on the ground that it would be burdensome, that the information would be of little interest to many participants since people often participate in pools precisely because they do not care to concern themselves with individual trades, and that reporting of the pool's positions could be harmful because it could enable traders with knowledge of the pool's positions to "shoot at the pool's stops"—*i.e.*, influence the market price so as to trigger stop-loss orders placed by the pool. For these reasons, § 4.22 does not require reporting of the pool's positions or trades. While § 4.23 does require CPOs to keep records of the pool's trades and make that record available to participants upon request, the availability of this record is less likely to lead to trading abuse than is the regular reporting to all participants of the pool's positions and trades.

[21] Section 1.33(c)(2) currently provides in pertinent part:

"With respect to any account carried for or in the name of a pool * * *, each futures commission merchant shall furnish promptly to each individual participating in such pool * * * a copy of the monthly statement provided for by paragraph (a) of this section * * *."

[22] As proposed, the rule would have exempted any pool that had fewer than 16 participants, or no more than $150,000 in net assets, at all times during the fiscal year. The net asset figure has been lowered to $50,000 because of the importance of the independent audit and the fact that, at $150,000, the rule would have exempted about 75% of the pools. In addition, the period during which the net asset test is to be applied has been changed from the pool's entire fiscal year to the first six months of that year so that pools will be able to determine, well in advance of the close of their fiscal year, whether they meet the test, thus allowing more time to arrange for a certification. The test is to be determined by the average of the net asset values required to be reported to participants, rather than by whether the pool's net assets exceeded $50,000 at any time during the first six months, so that brief fluctuations in commodity prices do not deprive basically small pools of the exemption.

[23] Under § 4.21(a)(15), however, CPOs will be required to disicose to prospective participants whether they or any of their principals trade commodity interests for their own account and, if so, whether the records of those trades will be made available to participants.

[24] *See* proposed § 4.4(a)(1)(i) and (ii), 42 FR 9274.

[25] The few comments received on the section (proposed as § 4.3, 42 FR 9274) were generally in favor of a segregation requirement for CPOs.

[26] The commingling by the pool's FCM of the pool's margin payments with the property of the FCM's other customers would not, of course, contravene § 4.24.

[27] The CPO would be required by § 4.23(a), however, to maintain a record showing the precise amount and date of each pool's contribution.

[28] Two commentators opposed this result, stating that the maintenance of joint brokerage accounts enables the CPO to negotiate lower brokerage commissions and to allocate trades to the pools in an equitable fashion. Since the maintenance of a joint brokerage account and could lead to abuses unless proper audit controls are established, the Commission has decided to ban these accounts as a general matter but to entertain specific requests for exemption under § 4.13. Exemption requests should precisely describe the controls the CPO will establish.

[29] The section does not apply to CTAs that are exempt from registration with the Commission as CTAs.

[30] The Document must also state that the CFTC has not reviewed it and has not determined whether it is accurate or complete.

[31] For example, suppose that the account was opened with $5,000 and the client agreed to pay the CTA a monthly incentive fee of 10% of the account's appreciation for each month. If the account declined to $4,000 at the end of the first month but rose to $5,000 at the end of the second month, the fee might be payable, depending on the terms of the contract, for that second month even though there was no overall increase in value. If this situation could result, the client should be apprised of the possibility in the disclosure document and not just in the contract.

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all CTAs who must register with the CFTC to make and keep certain books and records, such as records of the commodity trades of (i) the CTA, (ii) the CTA's principals and (iii) the accounts controlled by the CTA.[32] The rule is intended to implement section 4n(3)(A) of the Act [33] and to assist the Commission in monitoring compliance by CTAs with the Act and regulations.

The requirement in the proposed (§ 5.4(a)(3)) that CTAs make and keep a record of each oral commodity interest recommendation is not being adopted, nor is the Commission adopting the proposed provision (§ 5.4(b)) that would have required CTAs to make available to their clients and subscribers the records required by the Commission. As explained above, the Commission has decided that automatic inspection by clients and subscribers of the CTA's records of its principals' trades could be detrimental to the market, and the other records required by § 4.32 may contain personal information about individual clients and subscribers. *See, e.g.*, § 4.32(g), which requires CTAs to keep a record of any commodity-related written agreement with a client or subscriber.

E. EMPLOYEES AND AGENTS OF CPOS AND CTAS

As a further means of protecting pool participants and CTA advisees, the Commission may shortly propose for comment a rule requiring nonclerical employees and agents of CPOs and CTAs to register with the CFTC. The Commission is particularly concerned about persons who engage in the business of selling interests in commodity pools for or on behalf of the pool's operator, and persons who for or on behalf of a CTA engage in the business of soliciting clients for the CTA.

* * * * *

In consideration of the foregoing and pursuant to the authority in sections 2(a)(1), 4b, 4c, 4l, 4m, 4n, 4o, 8a and 19 of the Commodity Exchange Act, 7 U.S.C. 2 *et seq.*, as amended, 92 Stat. 865 *et seq.*, the Commission hereby amends Part 1 of Chapter I of Title 17 of the Code of Federal Regulations and adds a new Part 4 to that chapter, as follows:

Part 1—General Regulations Under the Commodity Exchange Act

1. Section 1.33 is revised to read as follows:

§ 1.33 Monthly and Confirmation Statements.

(a) *General requirements.* Except as provided in paragraph (b) of this section, each futures commission merchant shall promptly furnish in writing directly to each customer—

(1) as of the close of the last business day of each calendar month or as of any regular monthly date selected: (i) A statement which clearly shows the open contracts with prices at which acquired, and the ledger balance carried for the customer's account; (ii) a statement which clearly shows the net unrealized profit or loss in all open contracts figured to the market; and (iii) a statement which clearly shows any money, securities or other property which the customer has deposited with the futures commission merchant to margin, guarantee, or secure the account; and

(2) a confirmation of each commodity futures transaction caused to be executed by it for the customer. A commodity futures transaction that is caused to be executed for a commodity pool need be confirmed only to the operator of the commodity pool and not to the participants in the pool.

(b) *Exemptions.* The requirements of paragraphs (a)(1)(i), (a)(1)(ii), and (a)(2) of this section shall not apply to the following: (1) Any account carried for a person who is a member of any contract market, (2) any omnibus account carried for another futures commission merchant, and (3) any account containing only bona fide hedge positions, except that confirmations must be furnished to accounts containing only bona fide hedge position.

(c) *Controlled accounts.* With respect to any account controlled by any person other than the customer for whom such account is carried, each futures commission merchant shall clearly show on each monthly statement furnished as required by paragraph (a) of this section, or on an accompanying supplemental statement, the net profit or loss on all contracts closed since the date of the previous statement: *Provided, however,* That the provisions of this paragraph shall not apply to an account controlled by the spouse, parent or child of the customer for whom such account is carried.

(d) *Recordkeeping.* Each futures commission merchant shall retain, in accordance with § 1.31, a copy of each monthly statement and confirmation required by this § 1.33 to be sent to customers.

§ 1.71 [Deleted]

2. Section 1.71 is deleted.

PART 4—COMMODITY POOL OPERATORS AND COMMODITY TRADING ADVISORS

1. A new Part 4 is added to read as follows:

Subpart A—Definitions and Exemptions

Sec.
4.10 Definitions.
4.11 Exemption from section 4n(3)(B).
4.12 Exemption from provisions of Part 4.
4.13 Exemption from registration; continued applicability of antifraud and reparation sections.

Subpart B—Commodity Pool Operators

4.20 [Reserved].
4.21 Disclosure to prospective pool participants.
4.22 Reporting to pool participants.
4.23 Record-keeping.
4.24 Segregation of property.

Subpart C—Commodity Trading Advisors

4.30 [Reserved].
4.31 Disclosure to prospective clients.
4.32 Record-keeping.

AUTHORITY: Secs. 2(a)(1), 4b, 4c, 4l, 4m, 4n, 4o, 8a and 19 of the Commodity Exchange Act, 7 U.S.C. 2 et seq., as amended, 92 Stat. 865 et seq.

Subpart A—Definitions and Exemptions

§ 4.10 Definitions.

For purposes of this part:

(a) "Commodity interest" means—

(1) Any contract for the purchase or sale of a commodity for future delivery; and

(2) Any contract, agreement or transaction subject to Commission regulation under sections 4c or 19 of the Act.

(b) "Net asset value" means total assets minus total liabilities, with each position in a commodity interest marked to the market or accounted for at fair market value, in accord with generally accepted accounting principles.

(c) "Participant" means any person that has any direct financial interest in a pool (*e.g.*, a limited partner).

(d) "Pool" means any investment trust, syndicate or similar form of enterprise that trades commodity interests.

(e) "Principal," when referring to a person that is a principal of a particular entity, means any general partner or director or officer (or person performing similar functions) of the entity, or any owner of more than 10 percent of the equity interest of the entity. "Equity interest" means any financial interest that permits the owner thereof to exercise direct or indirect control of the entity in which the interest is held. "Owner" includes not only the holder of record of the equity interest but also any person that has control over the equity interest.

§ 4.11 Exemption from section 4n(3)(B).

The provisions of section 4n(3)(B) of the Act shall not apply to any commodity pool operator or commodity trading advisor that is registered under the Act as such or that is exempt from such registration.

§ 4.12 Exemptions from provisions of Part 4.

The Commission may exempt any person or any class or classes of persons from any provision of this part if it finds that the exemption is not contrary to the public interest and the purposes of the provision from which the exemption is sought. The Commission may grant the exemption subject to such terms and conditions as it may find appropriate.

§ 4.13 Exemption from registration; continued applicability of antifraud and reparations sections.

(a) A person is not required to register with the Commission as a commodity pool operator if—

(1) (i) It does not receive any compensation or other payment, directly or indirectly, for operating the pool, except reimbursement for the ordinary administrative expenses of operating the pool; (ii) it operates only one commodity pool at any time; (iii) it is not otherwise required to register with the Commission and has no business affiliation with any person required to register with the Commission; and (iv) neither the person nor any other person involved with the pool does any advertising in connection with the pool (for purposes of this section, advertising includes the systematic solicitation of prospective participants by the telephone or seminar presentation); or

(2) (i) The net asset value of the pool it operates (or, if it operates more than one pool, the combined net asset values of the pools it operates) does not exceed $50,000 at the beginning of the pool's fiscal year, and (ii) none of the pools operated by it has more than 15 participants (excluding the pool's operator and trading advisor(s)) at any time during the pool's fiscal year.

(b) A person is not required to register with the Commission as a commodity trading advisor if—

(1) It is a dealer, processor, broker, or seller in cash market transactions of any commodity (or product thereof) and the person's commodity trading advice is solely incidental to the conduct of its cash market business;

(2) It is a non-profit, voluntary membership, trade association or farm organization and the person's commodity trading advice is solely incidental to the conduct of its business as such association or organization;

(3) It is registered under the Act as an associated person and the person's commodity trading advice is issued solely in connection with its employment as an associated person; or

(4) It is registered under the Act as a commodity pool operator and the person's commodity trading advice is directed solely to, and for the sole use of, the pool or pools for which it has so registered.

(c) For purposes of this section, "cash market transactions" shall not include transactions involving contracts of sale of a commodity for future delivery or transactions subject to Commission regulation under sections 4c or 19 of the Act.

(d) The provisions of sections 4o and 14 of the Act shall apply to any person exempted by this section and it shall continue to be unlawful for that person to violate section 4o of the Act.

Subpart B—Commodity Pool Operators

§ 4.20 [Reserved].

§ 4.21 Disclosure to prospective participants.

(a) No commodity pool operator registered or required to be registered under the Act, may, directly or indirectly, solicit, accept or receive funds, securities or other property from any prospective pool participant unless, on or before the date it engages in that activity, the commodity pool operator delivers or causes to be delivered to the prospective participant a Disclosure Document containing the following information:

(1) The name and main business address of the pool's operator and the name of each principal thereof.

(2) The business background, for the five years preceding the date of the Document, of the pool's operator and the pool's commodity trading advisor(s) and of each principal thereof.

(3) Any actual or potential conflict of interest on the part of the operator, commodity trading advisor or futures commission merchant of the pool, or the principals of those entities, regarding any aspect of the pool.

(4) The actual performance for the preceding three years of the pool and each pool operated or advised within the twelve months preceding the date of the Document by the pool's operator, commodity trading advisor(s), or the principals thereof.

(i)(A) The presentation of actual performance must include prominent disclosure of a table showing for the entire period the monthly or quarterly net asset value of one pool participation unit and the monthly or quarterly sum of the distributions and assessments per unit, if any. If a pool is required by § 4.22(b) to issue Account Statements monthly, the table of net asset values must be on a monthly basis.

(B) The presentation of actual performance must also include prominent disclosure of the annual rate of return (compounded annually) rounded to the nearest tenth of one percent of one pool participation unit for the entire period. The annual rate of return (compounded annually) should be computed on the assumption that all distributions, if any, are reinvested (outside the pool) and all assessments, if any, are discounted at the same rate, *i.e.*, at the annual rate of return (compounded annually) and that all distributions and assessments that are paid during a monthly time period are made at the end of the monthly time period.

(C) The annual rate of return (compounded annually) is calculated by first computing the monthly internal rate of return compounded monthly to the nearest hundreth of one percent and then converting the monthly rate with monthly compounding into an annual rate with annual compounding. The following formula should be used for calculating the monthly internal rate of return compounded monthly ("i"):

$$INV = \frac{cf_{1st\ month}}{(1+i)^1} + \frac{cf_{2d\ month}}{(1+i)^2} + \ldots + \frac{cf_{nth\ month}}{(1+i)^n} + \frac{NAV}{(1+i)^n}$$

Where:

INV=amount of the initial investment (total cost including commissions and fees to the investor for one pool participation unit),

cf=the sum of the distribution(s) (positive sign) and assessment(s) (negative sign)

[32] These records must be kept in the form of a journal or equivalent record of original entry. For the reason discussed above in connection with § 4.23, the Commission has not adopted the provision in the proposed rule permitting the maintenance of these records in the form of confirmations or similar statements.

[33] The section provides:

[U]pon the request of the Commission, a registered commodity trading advisor * * * shall furnish the name and address of each client [or] subscriber * * * and submit samples or copies of all reports, letters, circulars, memorandums, publications, writings, or other literature or advice distributed to clients [or] subscribers * * * or prospective clients [or] subscribers.

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made per unit during each monthly time period.

NAV = net asset value (less redemption costs, if any) of one pool participation unit at the end of the performance period, and

n = the number of monthly time periods.

The following formula should be used to convert the monthly internal rate of return compounded monthly into the annual rate of return (compounded annually) ("R"):

$$R=(1+Mo.IRR)^{12}-1$$

Where:

Mo.IRR = monthly internal rate of return compounded monthly expressed as a decimal.

(ii) If a pool whose actual performance must be disclosed does not have a full three-year record, the actual performance for the entire period of its operation must be disclosed with a prominent statement as follows: "The Commodity Futures Trading Commission requires commodity pool operators to disclose to prospective participants the actual performance record of each of their pools for at least the previous three years. You should note that the annual rate of return (compounded annually) of —— percent for this pool's participation units is for the pool's entire operating history, a period of only —— months." If the pool for which the commodity pool operator is soliciting participants has not commenced commodity interest trading, this fact must be disclosed with a prominent statement as follows: "The Commodity Futures Trading Commission requires commodity pool operators to disclose to prospective pool participants the actual performance record of each of their pools for at least the previous three years. You should note that this pool has not begun trading and does not have any performance history."

(iii) If a pool discloses, in addition, its performance for other time periods, it must prominently present the table of net asset values and the annual rate of return (compounded annually) in accord with paragraph (a)(4)(i) of this section for each of those periods.

(5) Whether the pool's operator or commodity trading advisor(s), or the principals thereof, have controlled commodity interest accounts of customers other than pools within the twelve months preceding the date of the Document and, if so, whether the performance of those accounts will be made available to the participants. If made available, the performance of commodity interest accounts must include a presentation in the manner described in § 4.21(a)(4).

(6) The extent of any beneficial interest in the pool of the pool's operator or commodity trading advisor(s), or the principals thereof.

(7) A complete description of each kind of expense that has been and is expected to be incurred by the pool, expressed both as a dollar amount and as a percentage of average net asset value for the preceding and current fiscal years, including fees for management, trading advice, legal advice, accounting services and organizational services.

(8) The manner in which the pool will fulfill its margin requirements.

(9) The manner in which pool funds not deposited as margin will be used.

(10) Any restrictions upon the transferability or redeemability of interests in the pool.

(11) The extent to which a participant may be held liable for obligations of the pool in excess of the funds initially contributed by the participant to the pool.

(12) The pool's policies with respect to the payment of distributions from profits or capital and the federal income tax effects of such payments for participants.

(13) Any material administrative, civil or criminal action against the pool's operator, commodity trading advisor(s), or the principals thereof within the five years preceding the date of the Document.

(14) Any commission or other fee that is paid or may be paid, directly or indirectly, by the pool's operator, commodity trading advisor(s), or the principals thereof to any person in connection with the solicitation of funds, securities or other property for the pool.

(15) Whether the pool's operator, commodity trading advisor(s), or the principals thereof, trade or intend to trade commodity interests for their own accounts and, if so, whether participants will be permitted to inspect the records of those trades.

(16) A statement that the pool's operator must provide all participants with monthly or quarterly (whichever applies) statements of account and a certified or uncertified (whichever applies) annual report of financial condition.

(17) The following Risk Disclosure Statement (to be prominently displayed as the first page of the Disclosure Document):

RISK DISCLOSURE STATEMENT

You should carefully consider whether your financial condition permits you to participate in a commodity pool. You may lose a substantial portion or even all of the money you place in the pool.

In considering whether to participate in a commodity pool, you should be aware that trading commodity contracts can quickly lead to large losses as well as gains. Such trading losses can sharply reduce the net asset value of a pool and consequently the value of your interest in the pool.

Under certain market conditions, a pool may find it difficult or impossible to liquidate a position. This can occur, for example, when the market makes a "limit move." Placing contingent orders, such as a "stop-loss" or "stop-limit" order, will not necessarily limit the pool's losses to the intended amounts, since market conditions may make it impossible to execute such orders.

This brief statement cannot, of course, disclose all the risks and other significant aspects of participating in a commodity pool. You should therefore carefully study this Disclosure Document and commodity trading before you decide to participate in a commodity pool.

The Commodity Futures Trading Commission has not reviewed this Disclosure Document and has not determined whether it is accurate or complete.

(18) The following cautionary statement (to be prominently displayed on the cover page of the Document): "The Commodity Futures Trading Commission has not reviewed this Disclosure Document and has not determined whether it is accurate or complete."

(b) A copy of the Disclosure Document and all subsequent amendments must be delivered to the Commission at its Washington, D.C. office (Att.: Office of the Chief Counsel, Division of Trading and Markets, C.F.T.C., 2033 K Street, NW., Washington, D.C. 20581) within seven business days after the date it is first given to a prospective participant.

(c) If the commodity pool operator knows or has reason to know that the Disclosure Document is materially inaccurate or incomplete in any respect, it must amend the Document to correct that defect and must furnish the amendment or a corrected Document to all participants and all prospective participants within five business days of the date upon which the commodity pool operator first knows or has reason to know of the defect.

(d) This section does not relieve a commodity pool operator from any obligation under the Act or the regulations thereunder, including the obligation to disclose all material information to existing or prospective pool participants even if the information is not specifically required by this section.

§ 4.22 Reporting to pool participants.

(a) Each commodity pool operator registered or required to be registered under the Act must periodically distribute to each participant in each pool that it operate, within 30 days of the end of the reporting period, an Account Statement showing the following information as of the end of the period prescribed in § 4.22(b):

(1) The net asset value of the pool.

(2)(i) The net asset value per outstanding participation unit in the pool, or

(ii) The total value of the participant's interest or share in the pool.

(3) The total amount of all management and advisory fees and all other expenses (exclusive of the brokerage commissions and fees described in § 4.22(a)(4) below) incurred or accrued by the pool during that reporting period, expressed both as a dollar amount and as a percentage of the pool's average net asset value for the period.

(4) The total amount of all brokerage commissions and fees for commodity interest and other investment transactions incurred or accrued by the pool during that reporting period, expressed both as a dollar amount and as a percentage of the pool's average net asset value for the period.

(5) The change in paragraphs (a)(1), (2)(i) or (ii), (3) and (4) above since the end of the previous reporting period, expressed as a dollar amount and as a percentage.

(6) Any change of commodity trading advisors by the pool and any material change in the management of the pool's commodity trading advisor.

(7) Any other material business dealings between the pool, the pool's operator, the pool's commodity trading advisor(s), the pool's futures commission merchant(s), or the principals thereof.

(b) The Account Statement must be distributed at least monthly in the case of pools with net assets of more than $500,000 at the beginning of the pool's fiscal year, and otherwise at least quarterly, except that a Statement for the last reporting period of the pool's fiscal year need not be distributed if the annual report required by § 4.22(c) is sent to pool participants within 45 days after the end of the fiscal year. The first period for which an Account Statement is due shall be the first reporting period that begins on or after April 1, 1979.

(c) Each commodity pool operator registered or required to be registered under the Act must distribute an Annual Report to each participant in each commodity pool it operates, and to the Commission at its Washington, D.C. office (Att.: Office of the Chief Counsel, Division of Trading and Markets, C.F.T.C., 2033 K Street, NW., Washington, D.C. 20581), within 60 days after the end of the pool's fiscal year. The first fiscal year for which an Annual report is due shall be the first fiscal year that begins on or after January 1, 1979. The Annual Report must contain the following:

(1) The information required by §§ 4.21(a)(4) and 4.22(a) and the changes in this information from the end of the prior fiscal year expressed, where applicable, both as dollar amounts and as annualized percentages.

(2) A Statement of Financial Condition as of the close of the pool's fiscal year.

(3) Statements of Income (Loss), Changes in Financial Position, and Changes in Ownership Equity, for the period between (i) the later of: (A) The date of the most recent Statement of Financial Condition delivered to the Commission pursuant to this paragraph, (B) January 1, 1979 or (C) the date of the formation of the pool, and (ii) the close of the pool's fiscal year, together with Statements of Income (Loss), Changes in Financial Position, and Changes in Ownership Equity for the corresponding period of the previous fiscal year.

(4) Appropriate footnote disclosure and such further material information as may be necessary to make the required statements not misleading.

(d) The Annual Report must be certified by an independent public accountant unless the pool did not have more than 15 participants (excluding the pool's operator and trading advisor(s) at any time during the pool's fiscal year, or the average of the pool's net asset values that were required to be reported to participants under § 4.22(a) and § 4.22(b) did not exceed $50,000 during the first half of the pool's fiscal year. The certification must be in accordance with § 1.16, except that the following requirements of that section shall not apply:

(1) The audit objectives of § 1.16(d)(1) concerning the periodic computation of minimum capital and property in segregation.

(2) All other references in § 1.16 to the segregation requirements.

(3) Sections 1.16 (c)(5), (d)(2), (e)(2), and (f).

(e) The financial statements and computations required by this section must be presented and computed in accordance with generally accepted accounting principles consistently applied.

(f) The Statement of Income (Loss) required by this section must itemize brokerage commissions, management fees, advisory fees, incentive fees, interest income and expense, realized net gain or loss from each commodity interest, and unrealized net gain or loss on commodity interest positions open at the end of the pool's fiscal year. Gains and losses on commodity interests may be itemized by commodity (*e.g.*, wheat futures) instead of by specific delivery or expiration date (*e.g.*, July wheat).

(g) (1) A commodity pool operator may initially choose any fiscal year for a pool, but the first fiscal year may not end more than one year after the later of: (i) The pool's formation or (ii) January 1, 1979. (2) If the commodity pool operator chooses a fiscal year other than the calendar year, it must give written notice of the election to all participants and the Commission within 90 days after the later of (i) the pool's formation or (ii) April 1, 1979. If this notice is not given, the commodity pool operator will be deemed to have chosen the calendar year as the pool's fiscal year. A commodity pool operator must continue to use the chosen fiscal year for a pool unless written notice of any proposed change is given to all participants and the Commission at least 90 days before the change and the Commission does not disapprove the change within 30 days after receiving the notice.

(h) Each Account Statement and Annual Report must contain a signed oath or affirmation that, to the best of the knowledge and belief of the individual making the oath or affirmation, the information contained in the document is accurate and complete. If the commodity pool operator is a sole proprietorship, the oath or affirmation must be made by the proprietor; if a partnership, by a general partner; and if a corporation, by the chief executive officer or chief financial officer.

§ 4.23 Recordkeeping.

(a) Each commodity pool operator registered or required to be registered under the Act must make and keep for each pool it operates the following books and records, in an accurate, current and orderly manner at its main business office and in accordance with § 1.31:

(1) An itemized daily record of each commodity interest transaction of the pool, showing the date, price, quantity, commodity interest, delivery or expiration month, the futures commission merchant carrying the account, whether the interest was purchased or sold, and, if the transaction liquidated an open position, the gain or loss realized. This record must be in the form of a journal of original entry or other equivalent record.

(2) A journal of original entry or other equivalent record showing all receipts and disbursements of money, securities and other property.

(3) A subsidary ledger or other equivalent record for each participant in the pool showing the participant's name and address and all funds, securities and other property that the commodity pool operator or pool received from or distributed to the participant.

(4) Adjusting entries and any other records of original entry or their equivalent forming the basis of entries in any ledger.

(5) A general ledger or other equivalent record containing details of all asset, liability, capital, income and expense accounts.

(6) A copy of each monthly statement for the pool received from a futures commission merchant.

(7) Cancelled checks, bank statements, journals, ledgers, invoices, copies of confirmations, copies of purchase and sale statements, and all other records, data and memoranda

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that support the financial statements required by this part.

(8) The original or a copy of each report, letter, circular, memorandum, publication, writing, advertisement or other literature or advice distributed or caused to be distributed by the commodity pool operator to any existing or prospective participant or received by the commodity pool operator from any commodity trading advisor of the pool.

(9) A Statement of Financial Condition as of the close of (i) each regular monthly period if the pool had net assets of $500,000 or more at the beginning of the pool's fiscal year, or (ii) each regular quarterly period for all other pools. The Statement must be completed within 30 days after the end of that period.

(10) A Statement of Income (Loss) for the period between (i) the later of: (A) The date of the most recent Statement of Financial Condition furnished to the Commission pursuant to § 4.22(c), (B) April 1, 1979 or (C) the formation of the pool, and (ii) the date of the Statement of Financial Condition required by § 4.23(a)(9). The Statement must be completed within 30 days after the end of that period.

(11) An itemized daily record of each commodity interest transaction of the commodity pool operator and each principal thereof, showing the date, price, quantity, commodity interest, delivery or expiration month, person for whom the transaction was effected, the futures commission merchant carrying the account, and whether the interest was purchased or sold. This record must be in the form of a journal of original entry or other equivalent record.

(12) Each monthly statement furnished by a futures commission merchant to (i) the commodity pool operator relating to a personal account of the commodity pool operator and (ii) each principal thereof.

(b) All books and records required by this section except those required by paragraphs (a)(3), (a)(11) and (a)(12) of this section must be made available to participants for inspection and copying during normal business hours at the main business office of the commodity pool operator. Upon request, copies must be sent by mail to any participant within five business days if reasonable reproduction and distribution costs are paid by the pool participant.

§ 4.24 Segregation of property.

(a) Except as provided in § 4.24(b), no commodity pool operator may commingle the property of any pool it operates with the property of any other person.

(b) A commodity pool operator may commingle the property of a pool it operates with the property of any other pool(s) it operates, except that no commodity pool operator may commingle the property of separate pools in commodity interest accounts that are jointly or similarly held.

Subpart C—Commodity Trading Advisors

§ 4.30 [Reserved]

§ 4.31 Disclosure to prospective clients.

(a) No commodity trading advisor registered or required to be registered under the Act may solicit or enter into an agreement with a prospective client to control (as defined in § 4.31(e)) the client's commodity interest account unless the commodity trading advisor, at or before the time it engages in the solicitation or enters into the agreement (whichever is earlier), delivers or causes to be delivered to the prospective client a Disclosure Document containing the following information:

(1) The name and main business address of the commodity trading advisor and the name of each principal thereof.

(2) The business background, within the five years preceding the date of the Document, of the commodity trading advisor and each principal thereof.

(3) If the commodity trading advisor or principal thereof within the twelve months preceding the date of the Document has controlled any commodity interest account (including that of a commodity pool), a statement to that effect and whether the performance of the account(s) will be made available to prospective clients. If made available, the performance of commodity interest accounts must be presented in the manner described in § 4.21(a)(4).

(4) A complete description of all fees that the commodity trading advisor will charge the client, including how any performance or incentive fee will be calculated.

(5) The nature of any affiliation or business arrangement, direct or indirect, between the commodity trading advisor and any futures commission merchant, or their principals, including any arrangement whereby the commodity trading advisor or principal thereof may benefit, directly or indirectly, from the maintenance of a client's commodity interest account with any futures commission merchant.

(6) Whether the commodity trading advisor or any principal thereof trades or intends to trade commodity interests for its own account, and, if so, whether clients will be permitted to inspect the records of those trades.

(7) The following Risk Disclosure Statement (to be prominently displayed as the first page of the Disclosure Document):

RISK DISCLOSURE STATEMENT

The risk of loss in trading commodity contracts can be substantial. You should therefore carefully consider whether such trading is suitable for you in light of your financial condition. In considering whether to trade or to authorize someone else to trade for you, you should be aware of the following:

(1) You may sustain a total loss of the initial margin funds and any additional funds that you deposit with your broker to establish or maintain a position in the commodity futures market. If the market moves against your position, you may be called upon by your broker to deposit a substantial amount of additional margin funds, on short notice, in order to maintain your position. If you do not provide the required funds within the prescribed time, your position may be liquidated at a loss, and you will be liable for any resulting deficit in your account.

(2) Under certain market conditions, you may find it difficult or impossible to liquidate a position. This can occur, for example, when the market makes a "limit move."

(3) The placement of contingent orders by you or your trading advisor, such as a "stop-loss" or "stop-limit" order, will not necessarily limit your losses to the intended amounts, since market conditions may make it impossible to execute such orders.

(4) A "spread" position may not be less risky than a simple "long" or "short" position.

(5) The high degree of leverage that is often obtainable in futures trading because of the small margin requirements can work against you as well as for you. The use of leverage can lead to large losses as well as gains.

This brief statement cannot, of course, disclose all the risks and other significant aspects of the commodity futures markets. You should therefore carefully study this Disclosure Document and futures trading before you trade.

The Commodity Futures Trading Commission has not reviewed this Disclosure Document and has not determined whether it is accurate or complete.

(8) The following cautionary statement (to be prominently displayed on the cover page of the Disclosure Document): "The Commodity Futures Trading Commission has not reviewed this Disclosure Document and has not determined whether it is accurate or complete."

(b) A copy of the Disclosure Document and all subsequent amendments required by this section must be delivered to the Commission at its Washington, D.C. office (Att.: Office of the Chief Counsel, Division of Trading and Markets, C.F.T.C., 2033 K Street, NW., Washington, D.C. 20581) within seven business days of the date it is first given to a prospective client.

(c) If the commodity trading advisor knows or has reason to know that the Disclosure Document is materially inaccurate or incomplete, it must amend the Document to correct that defect and furnish the amended or a corrected Document to each client within five business days of the date upon which

the commodity trading advisor first knows or has reason to know of the defect.

(d) This section does not relieve a commodity trading advisor of any obligation under the Act or the regulations thereunder.

(e) As used in this section, the term control refers to agreements whereby the commodity trading advisor (1) is authorized to cause transactions to be effected for a client without the client's specific authorization or (2) guides the client's commodity interest trading by means of a systematic advisory program that recommends specific transactions.

§ 4.32 Recordkeeping.

Each commodity trading advisor registered or required to be registered under the Act must make and keep the following books and records in an accurate, current and orderly manner at its main business and in accordance with § 1.31:

(a) The name and address of each client and subscriber.

(b) A copy of each report, letter, circular, memorandum, publication, writing, advertisement or other literature or advisory document distributed or caused to be distributed by the commodity trading advisor to any existing or prospective client or subscriber, showing the date of distribution if not otherwise shown on the document.

(c) An itemized daily record of each commodity interest transaction of the commodity trading advisor and each principal thereof, showing the date, price, quantity, commodity interest, delivery or expiration month, person for whom the transaction was effected, the futures commission merchant carrying the account, and whether the commodity interest was purchased or sold. This record must be in the form of a journal of original entry or other equivalent record.

(d) Each monthly statement furnished to the commodity trading advisor and each principal thereof by a futures commission merchant.

(e) A list or other record of all commodity interest accounts of clients controlled by the commodity trading advisor and of all transactions effected therefor.

(f) All powers of attorney and other documents, or copies thereof, granting control over a commodity interest account to the commodity trading advisor.

(g) All written agreements, or copies thereof, entered into by the commodity trading advisor with any client or subscriber and relating to commodity interests.

Issued in Washington, D.C. on January 2, 1979 by the Commission.

GARY L. SEEVERS,
Acting Chairman, Commodity Futures Trading Commission.

[FR Doc. 79-638 Filed 1-5-79; 8:45 am]

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Federal Register

MONDAY, JANUARY 8, 1979
PART VIII



THE PRESIDENT

International Trade Agreements

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[3195-01-M]

Title 3—The President

Memorandum of January 4, 1979

International Trade Agreements

Memorandum for the Special Representative for Trade Negotiations

THE WHITE HOUSE,
Washington, January 4, 1979.

I have today sent the attached notices to the Speaker of the U.S. House of Representatives and the President of the Senate. These notices shall be published in the FEDERAL REGISTER.

Jimmy Carter

THE WHITE HOUSE,
Washington, January 4, 1979.

DEAR MR. PRESIDENT:

We have an important opportunity this year to build a new and better approach to international trade. The first important step depends on acceptance and implementation by the Congress of the agreements reached in the Tokyo Round of multilateral trade negotiations. We are now within sight of a successful conclusion to these negotiations. I am confident that the results will embody the U.S. objectives outlined by the Congress in the Trade Act of 1974 and developed in close consultation with members of the Congress, their staffs, and our private-sector advisors. Neither Bob Strauss, my Special Trade Representative, nor I will accept anything less on behalf of the United States.

The progress of the negotiations is such that I can notify the Congress at this time of our intention to enter into several international agreements dealing mainly with nontariff trade matters. These agreements, to which Congress gave a high priority in its mandate for the negotiations, are intended primarily to ensure that the international trading system is both fair and open. The agreements are listed and identified below and are described more fully in an attachment to this letter.

- An agreement on *subsidies and countervailing duties* will limit trade-distorting subsidy practices and will enunciate more clearly the right of the United States and others to counteract such practices. The agreement may provide for a number of conforming changes in the international Anti-dumping Code.
- An agreement on *safeguards* in response to a specific Congressional directive, will ensure that countries observe international trading rules when temporarily limiting imports that are injuring domestic industries.

- An agreement on *technical barriers to trade* or *standards* will require countries to use fair and open procedures in the adoption of product standards and related practices that affect international trade.
- An agreement on *government procurement* will increase opportunities for American and other exporters to bid for sales to foreign governments.
- An agreement on *licensing* will reduce the extent to which unnecessary or unduly complicated import licensing requirements impede trade.
- An agreement on *customs valuation* will encourage more uniform methods of appraising imports for the purpose of applying import duties.
- An agreement on *commercial counterfeiting* will promote cooperation and uniform approaches for this growing trade problem.
- An agreement on *aircraft* will provide a basis for fairer trade in this important U.S. export sector.
- Agreements to *improve the international trading framework* will tighten the handling of international trade disputes, respond to needs of developing countries in a fair and balanced manner, modernize the international rules applicable to trade measures taken in response to balance-of-payments emergencies, and provide a basis for examining the existing international rules on export and import restraints, while currently strengthening those rules through improvements in the dispute-settlement procedures.

Several other agreements on tariff and non-tariff matters have been negotiated in response to specific requests that were made by the United States or other countries. These agreements are described in the attachments.

In addition, members of the Administration will be consulting with the Congress about the implementation of several agreements on *agricultural trade* that we intend to enter into at about the time the Tokyo Round is concluded. These agreements will provide for a fairer international sharing of the burdens in international wheat trade, and will encourage consultations and cooperation on international trade in coarse grains, meat, and certain dairy products. The agricultural agreements are also expected to improve the application of accepted international trading rules to agricultural trade.

In accordance with procedures specified in the Trade Act, the United States will not enter into the agreements outlined above for the next 90 calendar days. After the agreements have been signed, they will be submitted for Congressional approval, together with whatever legislation and administrative actions may be needed to implement the agreements in the United States. The agreements will not take effect with respect to the United States, and will have no domestic legal force, until the Congress has specifically approved them and enacted any appropriate implementing legislation.

During Congressional consideration of these agreements, we will also supply information on the related negotiations to reduce, harmonize, or eliminate tariff barriers, and on the recent establishment of an International Steel Agreement in the Organization for Economic Cooperation and Development.

The success of the Tokyo Round and its implementation will be the product of a good working relationship among the Congress, the Administration, and the American public. Through these agreements and their domestic implementation, we can construct trade policies and institutions that advance our national interest and enhance the prosperity of our people. I look forward to our working together to complete this effort.

Sincerely,

Jimmy Carter

[This is the text of identical letters, both dated January 4, 1979, addressed to the Honorable Thomas P. O'Neill, Speaker of the House of Representatives, and to the Honorable Walter F. Mondale, President of the Senate.]

SUBSIDIES AND COUNTERVAILING DUTIES

I. *Executive Summary*

The United States has sought greater discipline over the use of foreign subsidies that confer unfair competitive advantages upon the products of the subsidizing country. An MTN agreement on subsidies and countervailing duties affords an opportunity to achieve basic U.S. objectives in a way that will permit the United States to limit foreign subsidy practices without sacrificing the ability to make effective use of the countervailing duty law. The domestic implementation of such an agreement may also create an opportunity to streamline U.S. domestic procedures for countervailing duty investigations by, for example, providing for expedited "provisional" relief speeding up normal countervailing duty investigations, or improving the operation of section 301 of the Trade Act of 1974 (pertaining to "unfair foreign trade practices") as it relates to foreign subsidies.

A draft Arrangement on Subsidies and Countervailing Duties has been developed in Geneva by major MTN participants which provides the substantive basis for a final operational document.

II. *Status of Negotiations*

With regard to discipline over foreign subsidies, the United States objectives have been (1) a tighter prohibition on the use of export subsidies on industrial products (through, *inter alia*, an updated illustrative list of prohibited export subsidies, a definition of what constitutes an "export subsidy", and elimination of the current requirement that an illegal export subsidy must result in "dual pricing" i.e., sales price abroad lower than the sales price in the home market); (2) a "clarification" of the rule on export subsidies for agricultural products that would, *inter alia*, prohibit use of such subsidies in a manner which displaces the trade of other countries in third country markets or which results in material price undercutting in such markets; and (3) guidelines with regard to the use of domestic subsidies. These have been substantially met in the attached draft.

In order to enforce obligations with regard to the use of subsidies, the draft Arrangement provides for improved notification, consultation and dispute settlement procedures and, where breach of obligation concerning the use of subsidies is found to exist, countermeasures are contemplated. In this connection, the dispute settlement process has been designed to produce results within 150 days.

In addition to the availability of such countermeasures, countries could also take traditional countervailing duty action to offset subsidies upon a showing of injury to a domestic industry. The code would set out criteria for injury determinations. Where a subsidy is granted in violation of agreed rules, a showing of threat of injury would likely flow from the nature of the subsidy. The draft Arrangement would also provide for more effective notification and consultation requirements prior to taking action.

III. *Key Code Provisions*

1. Flat prohibition of export subsidies on non-primary products as well as primary mineral products.
2. A definition of export subsidy which abolishes the existing dual pricing requirement and provides an updated illustrative list.
3. With respect to domestic subsidies, recognition that while they are often used to promote important objectives of national policy, they can also have harmful trade effects; relief (including countermeasures) available where such subsidies (a) injure domestic producers; (b) nullify or impair benefits of GATT concessions (including tariff bindings); or (c) cause serious prejudice to the interests of other signatories.
4. Recognition that where domestic subsidies are granted on non-commercial terms, trade distortions are especially likely to arise; commitment by signatories to "take into account" conditions of world trade and production (e.g., prices, capacity, etc.) in fashioning their subsidy practices.
5. Improved discipline on use of export subsidies for agriculture. Prohibition on such subsidies when used in a manner which (a) displaces the exports of others or (b) involves material price undercutting in a particular market.
6. Provision for special and differential treatment under which LDCs could not use export subsidies where such subsidies adversely affect the trade or production interests of other countries; provision for negotiated phase-outs of export subsidies by LDCs.

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7. Tight dispute settlement process (panel findings regarding rights and obligations within 120 days of complaint) to enforce discipline of code. This should provide growing body of case law.

8. Greater transparency in subsidy practices (including provision for notification to the GATT of practices of other countries).

9. For countervailing duty actions, an injury and causation test designed to afford relief where subsidized imports (whether an export or domestic subsidy is involved) impact on U.S. producers either through volume or through effect on prices.

10. Greater transparency in the administration of countervailing duty laws/regulations.

IV. *Antidumping Code*

Other countries have suggested that the injury/causality/regional market criteria and the transparency provisions (i.e., public notice requirements etc.) negotiated in the subsidy/CVD context be introduced into the Antidumping Code. While no agreement on this point has yet been reached internationally, nor any final U.S. commitment given, the U.S. has indicated that the proposal might prove desirable. There is no conceptual problem in modifying the Antidumping Code to conform with the provisions of the subsidy/countervailing duty code, since both interpret and apply GATT Article VI. The provisions of the subsidy/CVD draft which would be transposed into the Antidumping Code are noted in the draft.

Safeguards

I. *Executive Summary*

All countries occasionally find it necessary to restrict imports of particular products in order to afford domestic producers temporary relief from injurious import competition. GATT Article XIX provides an international procedure for handling such cases.

Articles XIX has not worked well, however, and only a very few countries other than the United States have made any appreciable use of its provisions. Other countries have avoided injurious import competition through measures applied under other GATT provisions or have taken action outside GATT entirely. The United States Congress therefore instructed the President (section 121(a) (2) of the Trade Act of 1974) to seek a revision of Article XIX to form a truly international safeguard procedure which takes into account all forms of import restraints countries use in response to injurious competition or threat of such competition.

The draft code on safeguards is intended to accomplish this purpose. It provides for as broad a coverage of measures as possible—including export restraints which are commonly used for safeguard purposes. It contains improved criteria to be met in taking safeguard action and a set of conditions to which individual safeguard measures must conform. If countries adhere to these criteria and conditions, the need for retaliation against safeguard actions should be reduced.

The code also contains provisions to encourage more openness and due process in other countries' domestic safeguard procedures. Improved international discipline in the use of safeguard measures would be provided by procedural reform and the establishment of a committee of signatories which would be given surveillance and dispute settlement functions.

Whereas present GATT provisions permit safeguard actions only on a non-discriminatory basis, the new code would permit some scope for selective action against imports from particular countries when these are the cause of serious injury. Selective action would, however, be subject to certain conditions.

Implementation of the Safeguards Code will provide an opportunity to review the operation of the U.S. escape-clause law, and possibly to authorize expedited escape-clause investigations in certain circumstances and to make other legislative improvements. Neither the safeguards negotiations nor the domestic implementation is expected to affect section 22 of the Agriculture Act, or the U.S. meat import program.

II. *Status of Negotiations*

The safeguard code would supplement and improve upon the provisions and procedures of GATT Article XIX. Article XIX permits a country to temporarily restrict imports of a product if, as a result of unforeseen developments and the effects of GATT obligations including tariff concessions, the product is being imported in such increased quantities and under such conditions as to cause or threaten serious injury to domestic producers of a like or directly competitive product.

A country taking action under Article XIX is required to consult with countries affected by the action (in advance unless emergency action is necessary) in order to reach agreement. The country taking action frequently obtains agreement by giving compensation to affected countries. For example, if the import duty on one product is increased, the duty on another product might be lowered to provide equivalent benefits. If agreement is not reached, the affected countries may retaliate by suspending tariff concessions or other GATT obligations to the trade of the country taking safeguard action.

A safeguard action under Article XIX can, upon request, be examined by the full GATT membership to see whether it conforms to the criteria of Article XIX. However, this is very rarely done.

The safeguard code would expand and improve these provisions and procedures. The following is a brief description of the provisions of the draft code.

General Provision. This provision establishes the obligation not to take safeguard action except through invocation of GATT Article XIX and in accordance with Code provisions. Import restrictions can be applied for other purposes under other GATT provisions (for example, for balance

of payments reasons) or under multilateral agreements and arrangements negotiated under GATT auspices (for example, the Multifiber Agreement governing trade in textiles). The code would not apply to these measures.

Chapter 1—Determination of Serious Injury. This Chapter sets forth the criteria that must be met in taking safeguard action. One suggestion for such criteria is a list of indicative factors which governments should consider in evaluating the effects of imports on domestic producers. These factors are: output, turnover, inventories, market share, profits, prices, export, performance, employment and wages, imports, capacity utilization, and investment. The list (which is indicative rather than binding) is patterned after a list of factors which the United States Trade Act requires the International Trade Commission to consider in examining requests for import relief.

Chapter 2—Conditions. This Chapter sets forth a set of conditions to which individual safeguard measures would have to conform. The conditions are (a) that the measure cover only the product or products causing the injury (b) that the measure be applied for a limited period of time (c) that once a measure is removed it should not be reapplied before the lapse of time period (d) that a measure should, to the extent feasible, be progressively liberalized during the period of its application and (e) that the measure should not reduce imports below the level of a previous representative period. These provisions are modeled on similar provisions in the United States Trade Act.

Chapter 3—Response to Safeguard Measures. As mentioned above, when a country takes safeguard action pursuant to Article XIX, it is obliged to consult with countries affected by its action in an effort to reach agreement. If agreement cannot be reached, the affected countries may retaliate by suspending tariff concessions or other GATT obligations to the trade of the country taking safeguard action. This threat of discriminatory retaliation, which evidently caused many countries to avoid Article XIX and to make use of other GATT provisions or take action outside GATT entirely, is removed in the draft Safeguards Code provided that countries adhere to the new safeguard rules.

Chapter 4—Nature of Safeguard Action. This is the most controversial part of the safeguards code. The present Article XIX requires a country taking safeguard action to restrict imports of the product concerned from all sources—that is, to take action on a most-favored-nation (MFN) basis. Some countries want the MFN requirement retained. Others insist that a country should have the right to restrict imports from the source (or a few sources) if it can be shown that imports from that source (or those sources) are the cause of serious injury.

The specific conditions on selective action and the role of the surveillance body is still unsettled in the code.

Chapter 4 bis—Use of Export Restraints. One of the ways in which countries protect domestic producers from injurious import competition without making use of Article XIX is by inducing the exporting country to curtail its exports of the product concerned. Another way is arranging for the formation of an international cartel. This issue is closely related to the selectivity issue. The extent to which such arrangements participated in or encouraged by governments are covered by the conditions and criteria of the code for other safeguard actions has not yet been determined. Language on this issue is still under discussion and has not been included in the latest formal document.

Chapter 5—Notification, Consultation. This Chapter establishes improved procedures (with time limits where appropriate) for notification of, and consultations on, individual safeguard actions. The present Article XIX does not provide for consultations when a safeguard action causes problems for third countries through trade diversion. When one major market is closed to imports of a product, trade sometimes shifts rapidly causing disruption in third markets. These third countries can take safeguard action themselves if serious injury is present or threatened. But a preferable solution would be to moderate the action of the first country imposing restrictions in order to avoid this kind of chain reaction. Paragraph 2 of Chapter 5 therefore contains a phrase (in brackets) permitting consultations when a safeguard action is likely to affect a third country's "trade interests." The issue is also addressed less directly under a formulation in Chapter 6 paragraph 6. Chapter 3 contains alternative provisions for Emergency action under Article XIX:2 Other provisions relate to notification on possible extensions of action and a proposed provision containing guidelines for consultations.

Chapter 6—Surveillance, Dispute Settlement. This Chapter establishes a Committee on Safeguard Measures, composed of representatives of all signatories of the agreement, which would have surveillance and dispute settlement functions. The Committee would meet at least once a year and would, among other things, review all safeguard measures in force. The Committee would also meet on request to consider any problem in an individual safeguard case which could not be resolved through bilateral consultations.

Chapter 7—Domestic Procedures. Very few countries have formal, public domestic procedures such as those set forth in the United States Trade Act for examining requests for safeguard action. The Code will encourage other countries to improve their domestic procedures to provide more openness and due process and to provide information on individual safeguard actions for multilateral consideration. One means of doing this would be for each code signatory to establish an officially designated government entity to review requests for safeguard action; to permit all interested parties to present their views on individual requests; and to publish a report available to all parties of each decision which would include factors considered, criteria applied, and the rationale use in arriving at conclusions.

Chapter 8—Developing Countries. This chapter is now under discussion and may include a provision that may provide special benefits for developing countries. Signatories would agree to make an effort to avoid safeguard actions on products of special interest to developing countries and, if action is taken, to limit, if feasible, its extent and duration. When safeguard actions are

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taken, signatories might permit imports from developing countries which are small suppliers or new market-entrants to continue to have market access with moderate growth on favorable terms. Developed signatories, however, are reserving the right to withdraw this favorable treatment from individual developing countries when such countries, or relevant sectors within those countries, achieve higher levels of development or become competitive. It is likely that provisions containing some or all of these elements will be included in a final package.

Chapter 9—Other Provisions. Under this Chapter, signatories would agree to terminate, within a specified period of years after entry into force of the new code, all of their existing safeguard actions taken pursuant to GATT Article XIX unless such actions were extended pursuant to the new code. Moreover, signatories would agree to notify all other safeguard measures they apply when the new code enters into force and to terminate such measures within one year unless they are in conformity with the code. The purpose of these provisions is to bring all safeguard measures currently applied by code signatories—even those measures that have been taken outside the GATT—within the discipline of the new system. Differences of view over the extent of the commitment on existing QR's are reflected in brackets.

Technical Barriers to Trade (Standards)

I. *Executive Summary*

Product standards, ranging from permissable auto exhaust emission levels to wine-labelling requirements, can be manipulated to discriminate against imports. Imports may be tested, to determine whether they conform with standards, under conditions more onerous than those applicable to domestic products. Certification systems, for indicating that products conform to standards may be closed to imports or may discriminate in other ways. Each of these devices has been used in the recent past to exclude U.S. exports from foreign markets.

The purpose of the draft Code of Conduct for Preventing Technical Barriers to Trade (known as the "Standards Code") is to discourage discriminatory manipulations of product standards, product testing, and product certification systems. The Code also would encourage the use of open procedures in the adoption of standards, such as those widely used already by the United States under the Administrative Procedure Act, and would encourage international standardization.

The Standards Code would establish international procedures by which signatories may complain of Code violations by other signatories, may secure reviews of their complaints, and may, if a valid complaint remains unsettled, ultimately take some type of retaliatory action. U.S. legislation to implement the Standards Code is expected to develop these international rights by allowing U.S. exporters to complain and secure reviews of foreign standards practices that reduce their export opportunities. The implementing legislation also will provide the occasion for a full-scale review of federal assistance and involvement in the area of standards-making and enforcement.

The possibility of creating a channel for U.S. exporters to secure reviews of *U.S.* standards that inhibit export opportunities, as well as the likelihood that U.S. importers, wholesalers, retailers, or consumers will be permitted to complain of U.S. standards practices that limit their access to imports, also could be considered as possible components of the U.S. implementation of the Standards Code. It is anticipated that the Standards Code would apply to most agricultural standards. The Standards Code requires signatories to use "all reasonable means within their power" to see that their States (or provinces, landers, etc.), local governments and private sector bodies comply with the Code. Noncompliance by such a non-federal entity may be the subject of a complaint under the Code's dispute-settlement procedures.

II. *Status of Negotiations*

The Code of Conduct for Preventing Technical Barriers to Trade (Standards Code) is designed to reduce trade obstacles that result from the preparation, adoption, and application of product standards and certification systems. Thus, the code contains specific obligations and procedures to ensure that standards and certification systems are not used as barriers to trade. The Code is not, however, intended to interfere with the right of countries to adopt appropriate standards to protect the health, safety, or environment of their citizens.

Standards (both voluntary and mandatory) and certification systems, promulgated by: (1) central governments, (2) state and local governments, and (3) private sector organizations, are subject to the code's provisions although only central governments are bound by the Code. The Code also applies to product standards of a voluntary nature. Standards prepared by a government body or private company for its own production or consumption are not subject to the Code's provisions, but are addressed in the Government Procurement Code.

The Code's provisions would apply to new and revised standards and certifications systems. Consequently, implementation of the Code will not involve any change to existing standards or certification systems. Nonetheless, if a signatory believes that an existing measure conflicts with the Code's obligations, it may raise the matter in the Committee of Signatories and use the dispute settlement mechanism to seek a mutually satisfactory solution.

A fundamental obligation of the Code is that signatories not allow standards and certification systems to be prepared, adopted or applied so as to create unnecessary obstacles to international trade. The existence of any national standard or certification system is bound to create some degree of a commercial effect, but many such measures are adopted for legitimate domestic reasons and are clearly justified to achieve the desired objective, such as the protection of public health. Nonetheless, these measures can be manipulated so as to constitute a disguised trade

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barrier, creating obstacles to commerce that are not necessary to achieve the objective of the standard or certification system. It is these practices that would be subject to the Code's discipline.

Another principal code obligation is that national and regional certification systems grant access (i.e., permit goods to be certified under the rules of the system) to foreign or non-member suppliers on the same basis as access is granted to domestic or member suppliers. Denial of such access has been and is potentially a major problem for U.S. exporters. Where certification systems are in effect, they are required to be non-discriminatory and applied on a most-favored-nation basis. Signatories are encouraged to accept certification in the country of export when they are satisfied that such certification is performed by a technically competent body. In addition, with respect to regional certification systems signatories undertake to use all reasonable means within their power to ensure that non-members of the regional system have access to such systems.

There are two types of obligations for signatory countries:

1. First level of obligation—signatories would be responsible for central government bodies complying with the code's provisions. This is accomplished by language which requires that signatories "shall ensure that" central government bodies comply with the provisions of the code. For purposes of the code, the European Economic Community is subject to the same obligations as a central government body.

2. Second level of obligation—with respect to regional, state, local and private organizations, the code would require signatories to use "all reasonable means within their power" to ensure compliance with the code. Such "reasonable means" are up to each individual signatory to determine within the context of its domestic political and legal system. If a country believes another signatory has violated an obligation of the code and has adversely affected international trade, it can raise the matter under the code's dispute settlement mechanism to seek a mutually satisfactory solution.

The code encourages the use of appropriate existing international standards when a new or revised domestic standard or technical regulations is being drafted. Whenever the use of an existing international standard is not appropriate, or when no international standard exists, open procedures must be followed during formulation of standards and certification systems. These procedures include those already undertaken in most U.S. standards-making activities, such as publishing proposed measures, affording an opportunity to make comments, and taking such comments into account.

All standards and rules of certification systems must be published. In order to ensure transparency of national standards activities and facilitate information flow, all signatories are required to establish a centralized data base containing information on specific standards and procedures, as is presently maintained, to a large extent, by the United States. Adherents to the code would have access to this data base.

Upon a specific request, code signatories are to provide technical assistance in the standards field to developing countries on mutually agreed terms and conditions. Such assistance will aid the development of competent standards methods and organizations.

As in all other areas of the code, code signatories are responsible for actions within their jurisdiction which conflict with the code's provisions. Should a matter need to be raised regarding the code's implementation in a signatory country, dispute settlement procedures are specified. The dispute settlement provisions provide a number of modes and opportunities of adherents to resolve contentious issues. In the first instance, there is an obligation to engage in bilateral consultations at the request of any adherent. If such consultations do not result in a resolution of the dispute, it can be put before the Committee of Signatories, and then subject to analysis by a a technical working group and/or to review by a panel of experts. Any action to be taken as a result of a particular dispute will be reviewed by the full Committee. Any authorization for retaliatory actions is limited to the withdrawal of benefits contained in the Standards Code.

Government Procurement

I. *Executive Summary*

The Government Procurement Code is intended to discourage discrimination against foreign suppliers when governments purchase articles for their own use. The objective is to secure greater opportunities for our products to compete for sales to foreign governments.

In some countries discrimination against foreign suppliers is achieved by clearly stated percentage preferences for domestic suppliers. In its most comprehensive form, the Code will respond to this by a provision for the elimination of such preferences. Other countries achieve their discrimination by the highly invisible use of administrative practices and procedures used in procurement. This is the much more difficult task addressed by the Code. For that reason the largest part of the Code is devoted to establishing appropriate rules, where such rules now don't exist, and the means for ensuring that they would be applied openly so that all will be aware that the procurement process is carried out in a fair and equitable manner.

The Code rules are designed to discourage discrimination at all stages of the procurement process. Thus we find that specific rules are prescribed on the drafting of the specifications for goods to be purchased, on the advertising of prospective purchases, on the time allocated for the submission of the bids, on the qualification of suppliers, on the opening and evaluation of bids, on the award of contracts, and on hearing and reviewing protests.

The code also would contain dispute settlement procedures by which the United States could complain and secure reviews and international adjudication of foreign violations of the code that adversely affected U.S. competitive opportunities.

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The question of code coverage is addressed in various sections of the draft code. The code applies to government purchases of goods but not services except those which are incidental to the purchase of goods. The code will not apply to procurements of goods involving national security considerations, nor will it apply to purchases under agricultural support programs. Purchasing entities to be embraced under the code, the choice of a level of value of contracts to which the code would apply, and conditions for departures from the code obligations are all relevant to the coverage question and must be finally resolved before the code negotiations are completed. Until these are finally resolved, one cannot predict with certainty the degree of changes which would be warranted in the existing legislation delineated in Annex 1 of this paper.

II. *Status of Negotiations*

The keystone of the Code is the elimination of discrimination against foreign suppliers when governments purchase articles for their own use. The most obvious form of such discrimination is the clearly stated preferences maintained by some countries for domestic suppliers. The code will respond to this by a provision requiring national treatment in procurements.

The much more difficult task addressed by the code is the elimination of discrimination effected by the absence of procurement rules or the invisible use of existing practices and procedures to bring about the discrimination. As might be expected, the largest part of the code is devoted to establishing appropriate rules and the means for insuring that they would be applied openly so that all will be entirely aware that the procurement process is carried out in a fair and equitable manner.

The first obligation on code signatories is that they publish their procurement laws and regulations and to have those laws and regulations reflect the rules embraced in the code.

Purchasing entities are obligated to publish all bid opportunities. They have discretion in their choice of purchasing procedures, provided they observe the requirement of providing the maximum degree of competition possible. Under the "open" procedure, all interested suppliers may bid, while the "selective" procedure allows the government to invite bids from selected suppliers, due account being taken of all those on such bidders lists which they maintain or from others who are otherwise qualified to participate in such a procurement. Use of "single tender" procedures, or going to a single supplier, is to be permitted only under certain strictly defined conditions such as when a natural disaster demands immediate procurement from the first available source and use of a competitive procedure would thwart the relief from the disaster.

Code rules are designed to discourage discrimination against foreign supplies and suppliers at all stages of the procurement process. Specific rules are prescribed on the drafting of specifications for goods to be purchased, advertising of prospective purchases (including the details for inclusion in the notice and in the tender document), time allotted for the preparation and submission of bids, aware of contracts, and hearing and reviewing of protests. Rules are provided also to cover various contingencies, such as when bid invitations are amended or reissued, bids are submitted by telephone, telex or telegram to meet bid deadlines, errors have been made in bids, or all bids received are considered unacceptable.

While the code would not prohibit the granting of an offset or the requirement that technology be licensed as a condition of award, signatories recognize that offsets and requirements for licensing of technology should be limited and used in a nondiscriminatory way.

The thrust of the code is that it will be largely self-policing. Rules and procedures are structured so as to provide the fullest opportunities for any problems which may arise during any phase of the procurement process to be resolved between the potential supplier and the procuring agency. For the expected few cases of problems not so resolved, the code provides for bilateral consultations between the procuring government and the government of the aggrieved supplier. Failing such bilateral resolution of a problem, the code provides for a multilateral dispute settlement mechanism. In essence that mechanism provides for a "good offices" effort at conciliation by a Committee of Signatories. Failing a successful conclusion by that method the complaint may be addressed to the Committee which would hear the complaint within 30 days. The Committee may, at the request of any party to the dispute, convene an impartial panel to hear the dispute, making findings of fact and report those, with its recommendations to the Committee of Signatories. If the party to which the Committee's recommendations are addressed is unable to implement them, it must provide its reasons promptly to the Committee in writing.

The question of code coverage, viewed in the broad sense, is addressed in various sections of the code. Obligations under the code will not apply to those procurements for which there are national security considerations. The code rules will also not apply to procurements under a tied-aid agreement. The code would not initially apply to government purchasing of services except those services which are incidental to the purchase of goods.

Also relevant to the code coverage question are the government purchasing entities to be embraced under the code, the value level of contracts to be subject to the code, and conditions for temporary departures from the code obligations. All of these coverage issues are still to be resolved. The hope had been that all entities under the direct or substantial control of governments would be subject to the code. It now seems quite certain that some lesser universe of entities will be subject to the code, at least initially. With regard to the value level of contracts to be covered by the code, the likelihood is that will be fixed at something in the area of $150,000.

The Code would recognize that developing countries should be considered specially with regard to the part of their procurement universe which would be subject to the Code. They would also be provided with technical assistance and enjoy the ability to petition the signatory nations for time-limited derogations from the national treatment obligation of the Code when conditions warrant.

III. *Outstanding Issues*

A. *Ex Poste Publicity (Publication of Awards)*—The U.S. has maintained that one of the most essential elements for insuring transparency in the procurement process is the guarantee that the name of the winning bidder and the amount of the award will be published for each procurement contract. The EC and others have argued that such publication is unnecessary and will also lead to collusive bidding in future procurements of the same item. Resolution of this problem is likely to be found in a commitment that the procuring agency, on request of a losing bidder, will provide to him the name of the winning bidder, the reasons why his bid was not accepted, with the possibility that in all but a few instances the amount of the winning bid will be available to him through his own government.

B. *Threshold*—Clearly no international code should address very low levels of contracts. There is just not enough international interest to warrant governments to undertake the chores attendant on such contracts being made subject to the code. It is equally clear that most U.S. procurement contracts are far larger in size than those in most other procurement markets. The U.S. has argued for a threshold of well under $150,000 while most others have argued for one much in excess of that amount. It is anticipated that final agreement can be reached on something approaching that amount.

C. *Entity Coverage*—The U.S. total procurement of civilian goods potentially subject to the code far exceeds that of any nation participating in the negotiation. Notwithstanding, we have argued that reciprocity would exist if all nations agreed to subject to the code their entire universe of government agencies directly or substantially controlled by them. It now seems clear that many industrial nations are not prepared politically to agree to that level of entity coverage. The entity offer lists put forward by a number of countries are still being analyzed and adjusted. The final offers will likely range from those countries offering the totality of their procurement universe to some who will offer considerably less. The distinct possibility exists that a final solution on coverage may require a two-tier approach with one group of countries undertaking a higher level of obligation than the other.

D. *Origin Rule*—As pointed out earlier, the code advantages will accrue only to supplies originating in signatory countries. Consequently there was an early examination as to whether a new universal rule on origin would have to be formulated or would the existing MFN customs rules for determining country of origin be sufficient for this purpose. Most of the negotiating countries favor the latter approach.

Licensing

I. *Executive Summary*

Products traded internationally are sometimes subject to needless bureaucratic delays as a result of cumbersome import licensing systems. Often procedures and documentation necessary to obtain such licenses are complicated. The red tape involved in obtaining licenses frequently means that products are not cleared through customs. This problem is particularly acute in developing countries. The basic purpose of the code of conduct for import licensing procedures that is under consideration in the MTN is to reduce these unnecessary administrative impediments to trade.

The draft code deals with the administration of import licensing procedures, rather than with the existence or extent of quantitative import restrictions. Its purpose if to simplify and harmonize to the greatest extent possible the procedures which importers must follow in obtaining an import license, so that these procedures do not themselves constitute an unnecessary obstacle to international trade.

In the negotiations on the licensing code, the U.S. negotiators have pressed for the most stringent language negotiable regarding the use of automatic import licensing systems. In addition, the U.S. negotiators have stressed the need for provisions of interest to the developing countries, especially regarding market shares for new suppliers in quota administration. The draft code is described more fully in Part II, and an overview of implementation is given in Part III.

II. *Status of Negotiations*

The section on *general provisions* states that the provisions of the code, together with the relevant provisions of the GATT, shall operate to prevent trade distortions that may arise from inappropriate operation of licensing procedures. In order to bring this about, provisions are included that provide for the publication of the rules governing procedures for submission of applications for import licenses, as well as other useful information about licensing systems, and which would simplify application and renewal procedures for obtaining a license. In this regard, the code specifies that importers would have to go to only one administrative body in order to apply for a license. A "reasonable" time period is to be allowed for applying for a license, and no application is to be refused for minor documentation errors.

The general provisions also state that licenses are not to be refused for minor variations in value, quantity, or weight of the product under license. It is also specified that the necessary foreign exchange to pay for imports is to be made available for imports subject to licensing on the same basis as it is for goods not subject to licensing. Finally, this section of the code includes a provision that encourages the settling of dispute through consultations, while also specifying that matters may be brought before the "Contracting Parties".

The section on *automatic import licensing* (defined as those under which licenses are granted freely) specifies that automatic import licensing systems should only be maintained as long as the circumstances which gave rise to their introduction prevail, or as long as their underlying adminis-

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trative purposes cannot be achieved in a more appropriate way. The code states that licenses required under this kind of system are to be made available to anyone fulfilling prescribed criteria, and that they are to be granted immediately upon request, to the extent administratively feasible, but in any case within 10 working days.

The section on *non-automatic import licensing systems* (those under which licenses are not granted automatically, including licenses required for the administration of quotas and other import restrictions) specifies that governments are to provide information concerning the number and value of licenses granted, to publish information on the administration of quotas, and to permit any person, firm or institution to apply for a license.

The provisions on non-automatic import licenses also state that the period for processing a license should be as short as possible and that the duration of a license not be short as to preclude importation from taking place. In granting licenses governments may take into account whether previously issued licenses have been utilized. In addition, governments shall not prevent importation from being affected in accordance with the issued licenses.

If possible, licenses are to be issued to new importers; however, where licenses are required to administer quotas not specifically allocated to supplying countries, license holders are free to choose the source of imports. Finally the section on non-automatic import licenses provides that where an importing country requires import licenses to administer an export restraint arrangement between an exporting and an importing country, such licenses shall be granted freely, i.e., automatically, within the restraint levels in question.

Customs Valuation

I. *Executive Summary*

The purpose of customs valuation is to establish the value of imported goods for the assessment of customs duties, which are generally levied on an *ad valorem* basis. The method of valuation which a country applies can be as important as the tariff rate itself in determining the actual amount of duty charged. As a result, depending on the structure and administration of a given system, customs valuation can restrict trade.

The current U.S. customs valuation system has nine different methods of determining customs value, including the controversial American Selling Price (ASP). The use of each method depends on the product being valued as well as the circumstances under which the product is imported. The U.S. customs valuation system has long been criticized by many of our trading partners as being a major U.S. nontariff barrier to trade. For this reason, a major objective of these countries in the multilateral trade negotiations has been to obtain changes in the U.S. customs valuation system.

While the current U.S. customs valuation system has long been criticized, the customs valuation systems of our trading partners also have controversial and protective features. A major U.S. objective in the negotiations has been to eliminate these arbitrary and protective features from foreign customs valuation systems.

It is against this background that a new set of international rules for customs valuation has been developed in the multilateral trade negotiations. An attempt has been made to ensure that these new rules are fair and simple, that they conform to commercial reality, and that they will allow traders to predict with a reasonable degree of accuracy the duty that will be assessed on their products. It is interesting to note that there are strong similarities between the proposed new international rules and Section 402 of the Tariff Act of 1930, which governs the valuation of many U.S. imports.

A description of the customs valuation agreement is set out in Part II.

II. *Description of Agreement*

The Customs Valuation Agreement sets out five methods—one primary method and four secondary methods—of determining customs value. These five methods are arranged in hierarchical fashion, that is, an order of precedence governs the application of each of the methods. The first, or primary, method is to be used in all cases unless a valid customs value cannot be found using this method. In such cases, the second method is to be used. If a valid customs value cannot be found using the second method, the third method is to be used, and so on.

The first, or primary, method specifies that customs value shall be the transaction value of the imported goods. The transaction value is the price actually paid or payable for the goods with additions for certain costs, charges, and expenses incurred with respect to the imported goods that are not included in the price actually paid or payable. These additions cover such items as selling commissions, brokerage fees, container costs, packing costs, royalties and license fees, and assists. Assists are assets that the buyer furnishes, either directly or indirectly, to the seller of the goods at no cost or at reduced cost, which thereby reduces the price at which the seller can sell the goods to the buyer. The Agreement specifies that the only assists for which additions can be made to the price are tangible assists (e.g. materials, components, dies, tools, etc.) and engineering, development, artwork, design work, and plans and sketches undertaken elsewhere than in the country of importation. Other intangible assists are not dutiable and their use will not result in rejection of the transaction value.

The Agreement specifies four sets of conditions for which the transaction value of the imported goods may be rejected as the customs value. These include: 1) where the seller places restrictions on the buyer as to the use or disposition of the goods; 2) where the sale or price of the goods is contingent on some factor for which a value cannot be determined; 3) where the seller, in partial payment for his goods receives some percentage of the proceeds from the resale

of the goods by the importer and the transaction value cannot be adjusted to reflect this amount; and 4) where the buyer and seller are related and their relationship influences the price of the imported goods.

If the primary method—that is, the transaction value of the imported goods—cannot be used to establish a valid customs value, the second method shall be used. Under this method, the customs value is found using the transaction value of identical goods for export to the same country of importation at or about the same time as the sale of the imported goods. If the sale of identical goods is at a different commercial level or in different quantities than the sale of the imported goods, adjustments are to be made to reflect these differences if such adjustments can be made on the basis of demonstrated evidence.

If the primary and the second method cannot be used to establish a valid customs value, the third method shall be used. Under this method, the customs value is found using the transaction value of similar goods for export to the same country of importation at or about the same time as the sale of the imported goods. If the sale of similar goods is at a different commercial level or in different quantities than the sale of the imported goods, adjustments are to be made to reflect these differences if such adjustment can be made on the basis of demonstrated evidence.

If the primary, the second, and the third methods cannot be used to establish a valid customs value, the importer shall have the option of having the customs value established under either the fourth or the fifth methods. If the importer does not exercise this option, the normal order of the hierarchy will prevail. Where the importer does exercise his option but it then proves impossible to determine the customs value on the basis of the fifth method, an attempt should be made to determine a customs value using the fourth method.

The fourth method bases customs value on the unit price at which the imported, or identical or similar imported goods are resold in the greatest aggregate quantity, at or about the time of the importation of the goods being valued, in the country of importation and in the same condition as imported to unrelated buyers. From this price deductions are made for profit, general expenses, the costs of transport and insurance incurred in the importing country, and certain other costs, charges, and expenses associated with the resale of the goods. Thus, this basis of value, known as "deductive value", starts with the resale price of the imported goods and subtracts from it all the elements of value that have been added to the goods after they have been imported through the time they are resold. In order to make this method a useful one, the method allows the customs value to be based not only on the resale price less deductions of the imported goods themselves but also, where appropriate, on the resale price less deductions of identical or similar imported goods. The application of the method is limited to goods that have not been further processed, except that the importer may elect, if he so desires, to have this method applied to goods that are further processed after importation but before they are resold to buyers that are unrelated to the importer.

The fifth method bases customs value on a computed value, which consists of material and manufacturing costs, profit, and general expenses. This method, similar to the constructed value method in current U.S. customs valuation statutes, relies heavily on the cooperation of the producer of the imported goods in supplying the information necessary to compute a value. In most instances, unless the producer supplies such information, it will be impossible to compute a value for the imported goods. On the other hand, given the structure and content of the rules governing the determination of customs value, as a practical matter, the "computed value" method of valuation will only be applied where an importer desires it to be applied and deals in good faith with the customs administration.

If the customs value of imported goods cannot be determined under any of the five previously described methods, the value shall be determined using reasonable means consistent with the principles and general provisions of the code and Article VII of the GATT. The Agreement sets forth a list of methods which cannot be used in this context while and interpretative note provides guidance as to how a customs value should be determined in these instances. The international set of rules in this regard is similar to Section 500 of the Tariff Act of 1930, which currently governs U.S. customs valuation practices in these situations.

The Agreement provides that parties to the Agreement may apply its provisions on either an F.O.B. or a C.I.F. basis.

There are a number of technical provisions in the Agreement. These provisions cover such areas as currency conversion, rapid clearance of goods, domestic appeal rights, and publication of laws and regulations affecting customs valuation.

The Agreement is to be administered at the political level by the GATT and at the technical level by the Customs Cooperation Council. A dispute settlement procedure is provided for.

The Agreement sets forth special and differential treatment for developing countries in three ways—through a 3-year delayed implementation of the Agreement, through a 5-year derogation for computed value, and through technical assistance.

The Agreement is to enter into force on January 1, 1981. Other final provisions to the Agreement cover such areas as accession, withdrawal, amendments, and reservations.

The Agreement contains a number of interpretative notes that form an integral part of the Agreement. Several more interpretative notes to the Agreement are in preparation and are to be completed before the Agreement is formally signed.

Other Tariff Matters

Revised Watch Nomenclature

As part of the negotiation of tariff concessions on watches and parts, the United States has presented its tariff offer in terms of simplified and modernized nomenclature. This new nomencla-

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ture greatly reduces the complexity of the watch rates and reflects the changing technology in the watch industry resulting from the introduction of electronic timepieces. In addition to the new nomenclature, approval is also needed to change the Column 2 rates to conform to the new classification.

Conforming Column 2 Changes for Rate Conversions

For all cases where the United States is converting the form of the tariff from specific and compound rates to *ad valorem* rates, approval is needed to make conforming changes in the rates in Column 2. Rate conversions are being made at the request of our private sector advisors to prevent erosion of tariff protection through inflation. It is appropriate therefore to make commensurate changes in Column 2 rates to maintain their current relationship to Column 1 rates. Rate conversions are being made on ceramic dinnerware, certain products subject to ASP valuation, and numerous other products.

End-use Classification for Agricultural Machinery and Parts

As part of our negotiations with Canada, we expect to agree to establish an end-use provision in the tariff schedules to permit duty-free entry of certain products for use on farms. Authority is needed for both the new tariff lines and for reduction of the rates to zero.

Commercial Counterfeiting

I. *Executive Summary*

Although commercial counterfeiting negotiations are at an early stage, the international response to the U.S. initiative has raised hope that agreement can be reached early in 1979. The United States seeks an international agreement that would protect against trademark and tradename piracy by requiring the forfeiture of counterfeit merchandise. This sanction is provided for in Section 211 of the Customs Procedural Reform and Simplification Act of 1978, and may, therefore, require little or no domestic implementation. However, the coverage of the Agreement is still subject to negotiation and may be expanded in a limited way if necessary to gain wider acceptance of the Agreement. The Agreement we seek would also contain procedural safeguards that would prevent the application of forfeiture sanction from becoming a nontariff barrier to legitimate trade. In addition the agreement would also provide for international surveillance and dispute settlement.

Negotiations based upon a United States proposal are now underway in Geneva. The following pages describe the negotiations in more detail, point out the outstanding issues, discuss implementation, and attach the U.S. proposal for an agreement.

II. *Status of Negotiations*

The main element of the Agreement will be the required sanction of forfeiture. Substantive matters such as for example, what trademarks are entitled to protection, are left to national law. While the U.S. proposal deals with trademarks and tradenames only, a number of suggestions have been made to expand the coverage of the agreement.

A significant number of countries favor the inclusion of designs and models. A number of U.S. companies now favor the inclusion of copyrights. These matters will be the subject of further negotiations.

The U.S. goal is to secure an Agreement that would establish a more effective discipline on international trade in counterfeit merchandise. To that end, we seek acceptance of the basic principle that the parties to a counterfeit transaction should be deprived of the economic benefits of the transaction. Thus, our proposal would require forfeiture. One country favors retaining its present authority to permit the reexportation of counterfeit merchandise. Negotiations will continue on this point to gain the widest possible acceptance of required forfeiture.

We also hope to require minimal procedural safeguards so as to prevent the application of the agreement from becoming a nontariff barrier to legitimate trade. Of course we recognize that countries now have wide latitude in dealing with counterfeit merchandise. However, we would seek to impose general requirements for fair, open, and expeditious determinations that would be subject to appeal. In addition we would have new rights to consultation and dispute settlement that would not only serve to protect legitimate exports, but would encourage the effective implementation of the Agreement.

III. *Outstanding Issues*

Agreement has not been reached on any issues at this date; however, a number of countries are sympathetic to our goals. The major issues for resolution concern:

1. The coverage of the Agreement, that is, whether the definition of "commercial counterfeiting" should be limited to trademarks and tradenames, or expanded, to include other areas such as designs, models, and copyrights.
2. The procedural safeguards to be required.
3. International surveillance and dispute settlement procedures within the Agreement.
4. The sanction to be imposed.

Aircraft Agreement

I. *Executive Summary*

Prospects for an agreement on trade in civil aircraft are encouraging despite late introduction of this issue into the MTN. Based on a U.S. proposal, the agreement would eliminate tariffs and establish meaningful reductions in non-tariff barriers between the United States and its major trading partners. Since the Bonn Summit, when serious negotiations on aircraft issues began, the U.S. has been working toward agreement on the major issues of tariffs, government-directed procurement and offsets, subsidies, quantitative restrictions, and standards with Japan, Canada, the EC, and Sweden. Negotiations will be continued in January in order to complete the text of the agreement. Recognizing that efficient production in aircraft, engines, and parts depends on a world-wide market, U.S. industry has strongly supported the U.S. objectives.

The U.S. seeks to establish an open market for trade in a broad range of aircraft products. Although details of coverage remain to be worked out, the agreement would eliminate tariffs on civil aircraft, engines, subassemblies, and fabricated components designated for use in aircraft. Although many foreign tariffs on these products are currently waived, the firm intentions of the EC, Canada, and Japan to build national aerospace industries of their own, make the binding of zero tariffs within the GATT necessary in order to discourage the use of protective tariffs in the future.

In return for elimination of the current U.S. duty of five percent on aircraft, the U.S. seeks provisions reducing non-tariff barriers which go beyond the general agreements negotiated in the MTN.

The agreement would also provide for regular international review, some method of dispute settlement and withdrawal. Subject to Congressional review, the agreement would take effect in January, 1980.

Attached is a summary of the significant issues and the status of the negotiations.

II. *Provisions of the Agreement*

Although U.S. industry presently dominates the world market for trade in civil aircraft and parts, its market share has recently been declining, due in part to the network of non-tariff barriers erected by other industrial nations and the appearance of significant new competitors on world markets. Thus in addition to elimination of tariffs, the U.S. is seeking strong commitments from signatories of the agreement to limit those actions in the following areas:

A. Standards
B. Government-directed procurement
C. Offsets
D. Quantitative Restrictions
E. Financing
F. Inducements (government incentives in connection with aircraft transactions)

In addition, the agreement will establish an international forum for regular review of the articles of the agreement and provide for withdrawal.

III. *Status of the Negotiations*

Since July, negotiations on the agreement have progressed significantly, considering the given time frame of the MTN. A single working text on all issues has been drafted. January sessions are scheduled to conclude negotiations on the basis of this text.

Although we are close to agreement on the remaining issues, details on government procurement (including offsets), subsidies, inducements, product coverage, and review remain to be worked out.

Framework (GATT Reform)

I. *Executive Summary*

The United States had had a long-standing interest in improving the rules governing international trade, and strongly supported inclusion of this objective in the Tokyo Declaration. The Trade Act directs the President to take certain steps toward the revision of GATT, "in conformity with principles promoting the development of an open, non-discriminatory and fair world economic system."

In the early stages of negotiations, the United States sought its reform objectives through work in various MTN functional groups. In November 1976, following extensive consultations on a proposal made by Brazil, the Framework Group became the last of the MTN negotiating groups to be established. A work program was developed covering the following five issues:

A. The legal framework for differential and more favorable treatment for LDCs under the trading system (enabling clause);
B. Safeguard action for balance of payments (BOP) and developmental purposes;
C. Consultation, dispute settlement and surveillance procedures under the GATT;
D. For purposes of future negotiations, the applicability of the principle of reciprocity in trade between developed and developing countries and fuller participation, with respect to both rights and obligations, of the LDCs in the trading system (reciprocity/graduation);
E. GATT rules governing the use of trade restrictions affecting exports.

The United States had specific interests in negotiations on three of the issues in the work program (BOP, dispute settlement and export restrictions). We also had an important interest in ensuring that the end results of the negotiations on the LDC issues provide a basis for a sensible and balanced approach to the LDCs under the GATT.

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A. *Enabling clause/reciprocity/graduation*

The first and fourth topics of the framework agenda have been linked in the Framework negotiations. The LDCs, led by Brazil, have sought a firmer legal basis for the Generalized System of Preferences (GSP) and other types of "special and differential" treatment through negotiation of a general "enabling clause" to be inserted in the General Agreement. In addition, they have sought recognition by developed countries that LDCs cannot be expected to make fully reciprocal concessions in future trade negotiations.

In the MTN, the U.S. and other developed countries were willing to negotiate on the subject, but conditioned support for the "enabling clause" on a commitment by developing countries to assume fuller GATT obligations in line with their development progress and recogniton that benefits of special treatment would be phased out as that economic progress is made. Certain conditions are attached to this clause limiting the types of special arrangements that are covered.

B. *Safeguard action for balance of payments and developmental purposes*

1. Safeguards for balance of payments purposes.—U.S. has sought more effective GATT rules and procedures governing the use and review of trade measures for balance of payments purposes. The agreement that has been negotiated contains a recognition that restriction of imports is generally an inappropriate means to maintain or restore balance-of-payments equilibrium and that when such action is taken it should be done in a manner so as to limit the trade-distorting effect as much as possible. The agreement also provides review procedures designed to apply to all trade actions taken for balance-of-payments purposes and includes provisions designed to make the review process more effective.

2. Use of safeguard measures by developing countries for development purposes.—Article XVIII of the GATT provides that developing countries may restrict their imports in order to promote economic development, particularly to establish a certain industry. Because of its complexity and stringency compared to other available measures, Article XVIIII was little used. The agreement that has been negotiated broadens the provisions in Article XVIII. However, notification and payment of adequate compensation continue to be required for LDCs that invoke the provisions of the agreement.

C. *Consultation, Dispute Settlement and Surveillance Procedures under the GATT*

Section 121 of the Trade Act states as a negotiating objective,

"Any revision necessary to establish procedures for regular consultation among countries and instrumentalities with respect to international trade, and procedures to adjudicate commercial disputes among such countries and instrumentalities."

The framework negotiations have produced a text which will seek to ensure an effective and objective process for resolving all GATT-related disputes. The agreement includes (1) recogniton of traditional GATT practice under which Contracting Parties have been accorded the right to have a dispute reviewed by an impartial panel; (2) provisions (target time limits, panel selection, etc.) to prevent abuses of the panel process; and (3) a reaffirmation by contracting parties of their obligation to notify trade measures that they implement as a basis for improved consultative and surveillance framework after the MTN.

D. *Use of trade restrictions affecting exports*

Negotiations of an agreement on the use of export controls have aimed at achieving a greater practical comparability between the degree of discipline applied to export controls and that applied to import controls. In the text that has been negotiated, contracting parties have recognized that existing rules in the General Agreement should be assessed on a priority basis following the close of the MTN in the context of the existing international trading system. The provisions of the dispute settlement agreement, (notification, consultation, etc.) further strengthen the existing rules and procedures in the GATT. All provisions are written in terms of "trade" measures rather than "import" measures with the implicit understanding that export as well as import restraints are covered by the agreement.

II. *Descriptions of the Agreements*

A. *Enabling Clause/Reciprocity/Graduation*

Enabling Clause. The so-called enabling clause, which combines the first and fourth agenda items of the Framework Group work program, provides a legal basis by which developed countries may extend differential and more favorable treatment to developing countries on a non-MFN basis. The agreement does *not* obligate developed countries to extend this treatment. The types of special arrangements that are covered by the agreement are limited to include (1) the Generalized System of Preferences; (2) differential treatment with respect to provisions of the General Agreement concerning non-tariff measures; (3) regional or global arrangements entered into among less-developed contracting parties; and (4) special treatment of the least developed countries. It is explicitly stated that special treatment should be provided so as to respond to countries' development needs and not to adversely affect trade flows. It is also stated that special measures should be modified as development needs of the less developed countries change.

Reciprocity. In conjuction with the fourth agenda topic of the work program, the agreement contains recognition by developed countries that they do not expect full reciprocity (that is contributions inconsistent with development needs) from LDCs for commitments made to LDCs by developed countries in future trade negotiations.

Graduation. The sixth paragraph of the agreement contains graduation provisions whereby developing countries would accept greater obligations under the GATT as their economic situations improve.

B. *Trade Measures taken for Balance of Payments Purposes*

Preamble—The preamble of this agreement contains a number of important points, including (1) recognition that trade measures are generally inefficient means of dealing with balance of payments problems, (2) recognition that price measures such as surcharges have been used for balance of payments purposes, (3) reaffirmation that such measures should not be used in order to protect a particular industry or sector, and (4) recognition that developed countries should avoid the use of trade measures for balance of payments purposes.

Use of Surcharges and Other "Price" Measures—In the agreement signatories have pledged when taking restrictive import measures to give preference to measures which have the least disruptive effects on trade.

Notification, Consultation—The agreement contains explicit mention of the obligation of contracting parties to notify their use of import measures taken for balance of payments purposes. Furthermore, all measures will be subject to consultation. Simplified consultation procedures for regular consultations with developing countries will be admissible, although a less-developed contracting party may request full consultations at any time.

C. *Safeguard Action for Development Purposes*

This agreement broadens the provisions in Article XVIII of the GATT which provides that developing countries may restrict their imports in order to promote economic development. The agreement recognizes that the use of such safeguard measures to promote development of new or modification or extension of existing production structures may be necessary for less developed countries to achieve their economic development goals. Furthermore, the agreement gives developing countries the right to take such measures on an immediate but provisional basis in emergency situations following notification of the action.

Although provisions of Article XVIII have been broadened by the agreement, there is also explicit recognition that in taking such actions, developing countries should give due regard to the objectives of the General Agreement and avoid the unnecessary disruption of trade. Furthermore, all other requirements of Article XVIII such as notification and payment of adequate compensation will remain unchanged.

D. *Dispute Settlement*

The dispute settlement text seeks to ensure an effective objective process for resolving all GATT-related disputes.

Notification—Contracting Parties have reaffirmed their commitment to existing obligations under the General Agreement regarding publication and notification. Furthermore, they have agreed to endeavor to notify imposition of trade measures in advance of implementation wherever possible and immediately after implementation when advance notification was impossible.

Consultations—In the agreement, contracting parties have agreed to respond to requests for consultations from other parties and to attempt to conclude consultations expeditiously.

Right to a Panel—If establishment of a panel is requested, the request shall be granted "in accordance with standing practice" according to the agreement. The Annex states that since 1952, the usual procedure has been establishment of panels to examine questions raised under Article XXIII:2, and, in fact, a panel request has never been denied.

Composition of a Panel—The agreement states that a panel shall consist of three or five members "depending on the case." Parties to the dispute have agreed not to oppose nomination, "except for compelling reasons."

Time Limits—Several time limits are contained in the agreement. Parties to a dispute are to respond to nominations of panel members within seven days. The Annex states that in most cases, panels should conclude proceedings within three to nine months.

Panel Findings—Panels should submit their findings in a written form, although in cases where a settlement has been reached, remarks may be confined to a brief description of the case and to reporting that a solution has been found.

E. *Understanding Regarding Export Control Measures*

Contracting parties have recognized in the agreement on export controls that existing rules in the General Agreement which apply to both export and import restraints should be assessed on a priority basis in the context of the existing international trading system in the post-MTN period. The provisions of the dispute settlement agreement, (notification, consultation, etc.) further strengthen the existing rules and procedures in the GATT relating to the use of export restraints.

NONTARIFF MEASURES NOT BEING DEALT WITH MULTILATERALLY

The following U.S. measures are presently being considered for modification in the MTN:

1. *Wine-gallon method of tax and duty assessment*

A. Issue

U.S. excise taxes and import duties on distilled spirits are assessed on the basis of proof-gallon or wine-gallon. The wine-gallon method assesses excise taxes and import duties on bottled

imported distilled spiritits of below 100 proof at the 100 proof rate. This results in a higher tax burden on bottled imported spirits than on spirits imported in bulk and on domestically-produced spirits. These spirits are assessed taxes before bottling in the United States under the proof-gallon method (i.e., taxes and duties are assessed in direct proportion to the alcoholic strength of the spirits). For many years the wind-gallon assessment method has been a major irritant in our economic relations with our major trading partners, particularly with the United Kingdom and other countries of the European Communities and Canada.

The EC, Canada, Jamaica, Trinidad and Tobago, Poland, and Bangladesh have requested the elimination of the U.S. wine-gallon assessment method in the MTN.

B. *Implementation Overview*

Changes would be required in Internal Revenue Code of 1954, as amended (26 USC 5001), and in Tariff Act of 1930 (19 USC 1001).

2. *Duty on Aircraft Equipment and Repairs*

A. Issue

The United States assesses a 50 percent *ad valorem* duty on the cost of aircraft equipment purchased abroad and on repairs made abroad on aircraft registered in the United States. The duty is not contained in the Tariff Schedules of the United States.

The United States is considering the modification of this duty in the context of an MTN agreement on international principles for free and fair trade in aerospace products. Discussions of an aerospace agreement were only recently commenced. Whether and the extent to which the United States would modify its duty depends on the negotiated provisions of such an agreement and its binding nature.

B. *Implementation Overview*

Changes might be required in Tariff Act of 1930, as amended (19 USC 1644), in the Federal Aviation Act (49 USC 1509), and in the Customs Regulation 19 CFR 6.7D.

3. *Removal of de facto U.S. Prohibition on Imports of Foreign-built Inflatable Rubber Rafts and Foreign-Hovercraft*

A. Issue

Foreign-built vessels are prohibited from engaging in U.S. coastwise trade. Foreign-built inflatable rubber rafts and hovercraft for passenger transport use are considered vessels and cannot be imported into the United States.

The European Communities and Canada have requested the removal of this import prohibition in the MTN.

B. *Implementation Overview*

Changes may be required in the Tariff Act of 1930, as amended (19 USC 1401 and 1202), and in the Jones Act and other U.S. Navigation Laws (46 USC 11, 251, 289, and 883), or in regulations under the Jones Act.

4. *Standards of Identity for Pineapple*

A. Issue

Imported Malaysian canned pineapple does not meet U.S. Food and Drug Administration (FDA) standards of identity. Malaysian sliced pineapple is excessively trimmed; cubed pineapple chunks are too large. Consequently, FDA requires that Malaysian canned pineapple sold in the United States be labeled as substandard in quality.

The Administration has offered to assist Malaysian pineapple interests in preparing a petition to amend the relevant FDA standards.

B. *Implementation Overview*

FDA Regulation 21 CFR 145.180

5. *U.S. Watch Marking Requirements*

A. Issue

Under the Tariff Act of 1930, imported watches must be marked with both arabic numerals and words so as to indicate the number of jewels they contain. Watch dials must be marked in a certain manner to show the country of origin.

Switzerland has requested the United States to liberalize these watch marking requirements.

B. *Implementation Overview*

Changes would be required in the Tariff Act of 1930, as amended, (19 USC 1202), headnotes 4(a)(iii), 4(a)(iv) and 4(e) of Subpart E, Part 2, Schedule 7 of the Tariff Schedules of the United States.

6. *Recurring Duties on Railway Rolling Stock and Per Diem Charges for Railcars*

A. Issue

The Tariff Schedules provide (in the absence of a specific provision to the contrary) that there can be no exemption from customs duties for articles that have been previously imported into the United States and cleared through U.S. Customs. Railway Rolling Stock, previously imported, is subject to recurring U.S. duties.

ICC regulations require that "per diem" charges be paid by common carrier railcar users to owning railroads for railcars used in United States commerce. "Per diem" charges paid by U.S.

users of railcars owned by Canadian railroads must be credited to a U.S. designee and may only be used to purchase U.S.-built railcars.

Canada has requested: (1) that the U.S. Tariff Schedules be amended to exempt railway rolling stock from recurring duties, and (2) that the U.S. eliminate the requirement that "per diem" funds may only be used to purchase U.S.-built railcars.

B. A change would be required in the Tariff Act of 1930, as amended, (19 USC 1202) to establish a new tariff item under Schedule 8 of the Tariff Schedules of the United States. A change would be required in ICC regulations 353 ICC 612 of March 21, 1977.

7. *Duty-free Treatment of Agricultural and Horticultural Implements, parts thereof, and accessories*

Item 666.00 of the Tariff Schedules provides duty-free treatment for agricultural and horticultural implements not specially provided for and parts of any of the foregoing. Specific articles are, however, classified under other provisions of the Tariff Schedules and are subject to duty when more specifically described in those provisions.

Canada has requested the United States to amend the Tariff Schedules to permit duty-free entry for all agricultural and horticultural implements, and any parts of the foregoing, and accessories.

B. *Implementation Overview*

Changes might be required in the Tariff Act of 1930, as amended (19 USC 1202), headnote 1, Subpart C, Part 4, Schedule 6 and in General Headnote 10(ij) of the Tariff Schedules of the United States.

The United States has also received the following MTN requests, which have not so far been the subject of active negotiations, but which may be pursued further by other countries in the negotiations:

1. Eliminate "Buy America" preferences that are tied to loans by the Rural Electrification Administration to utilities.
2. Eliminate practice whereby U.S. ships that benefit from "construction or operating differential" subsidies are required to use U.S. materials "so far as practicable."
3. Elimination of tax deferrals on export income of Domestic International Sales Corporation.
4. Elimination of duplicative antidumping and countervailing duty investigations conducted under Section 337 of the Tariff Act of 1930, as amended.
5. Establish a reasonable time period within which the U.S. Customs Service must make official rulings on valuation and classification matters.
6. Require that U.S. courts establish customs value where customs appraisement is shown to be erroneous.
7. Acceptance of commercial invoice rather than Special Customs Invoice 5515.
8. Elimination of Special Customs Invoice 5519 for textile imports.
9. Reduce excise tax on sparkling cider.
10. Eliminate customs formalities on cashmere and angora goat hair.
11. Increase number of designated ports of entry for furskins.
12. Adopt Customs Cooperation Council nomenclature as basis for U.S. tariff nomenclature system.
13. Simplify U.S. tariff nomenclature.
14. Establish precise criteria for determination of an article's "chief use" under TSUSA General Headnote 10(c).
15. Amend TSUSA so that articles previously imported and cleared through U.S. customs can be exported and reimported without payment of duty.
16. Interpret definition of "unwrought" in TSUSA headnote 3(a) of Schedule 6, part 2 to allow further processing to facilitate handling.
17. Amend TSUS Schedule 6, part 2, subpart B to permit "ductile iron" to be classified as "cast iron" rather than steel.
18. Change TSUS definition of "sponge iron" to be consistent with present technology and U.S. Customs Court decisions.
19. Publish guidelines on meaning of "ornamented" textiles so that exporter can determine in advance the proper classification of his goods.
20. Reclassify "lace or net underwear" under TSUS.
21. Provide separate TSUS classifications for fresh and for salt water fish sticks.
22. Eliminate special U.S. customs form for watches.
23. Eliminate unspecified U.S. customs administrative entry procedures.
24. Reclassify "cotton mesh horse blankets" under TSUS.
25. Reclassify "unimog tractors" under TSUS.
26. Reclassify "synthetic single crystal quartz" under TSUS.
27. Reclassify "Tagger-tails" under TSUS.
28. Reclassify "bobbins" under TSUS.
29. Reclassify "jeans" under TSUS.
30. Reclassify "industrial rubber sheeting" under TSUS.
31. Reclassify "writing ink containers" under TSUS.
32. Amend U.S. regulations to permit cancellation of bonds by payment of proper U.S. customs duty.
33. Accept Swiss pharmaceutical certification without reinspection by U.S. Public Health Service.
34. Change U.S. federal lumber standards.
35. Limit U.S. requirement for marking of country of origin to items where this information is essential to the ultimate purchaser.
36. Eliminate labeling requirements under the Fair Packaging and Labeling Act of 1966.
37. Require the Food and Drug Administration to uniformly interpret and apply its regulations.

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38. Relax U.S. sanitary regulations applied to fish, frogs, clams, crabs, oysters, and crustaceans and molluscs.
39. Liberalize FDA sanitary regulations for pepper.
40. Relax unspecified packaging, labeling, and marking requirements for gloves, knives, scissors, and spoons.
41. Remove or relax FDA regulations for registering, licensing, and testing of various imported drugs.
42. Do not apply nontariff trade barriers through regulations of the Food and Drug Administration.
43. Simplify U.S. standards on permissible lead content in various products.
44. Removal of unspecified standards and sanitary requirements on various products.
45. Eliminate embargo on importation of foreign-built ships for use in U.S. coastwise trade.
46. Permit U.S. registry of foreign-built fishing vessels for use in U.S. fisheries trade.
47. Removal of prohibition on purchase of foreign-built containers for use in U.S. coastwide trade.
48. Eliminate embargo on importation of firearms except for sporting purposes.
49. Eliminate embargo on enrichment of imported natural uranium for use in the United States.
50. Remove quotas on specialty steel.
51. Eliminate *de facto* prohibition on imports of English language books authored by a U.S. citizen or resident.
52. Eliminate prohibitions applying to imports of dangerous drugs.
53. Permit importation and sale of authentic native handicrafts and clothing made from marine mammals and certified to have been produced by native peoples of Canada.
54. Permit imports of whalebone products accompanied by certificate by an official Canadian Government archeological expert indicating that fossilized whalebone was used in making imported products.
55. Provide duty-free treatment to imported medical and scientific instruments and apparatus purchased by non-profit institutions.
56. Remove embargo on imports of chocolates containing liqueurs.
57. Cancellation of various bilateral textile trade agreements.
58. Eliminate licensing fees on imported petroleum products.
59. Acceptance by U.S. Treasury Department of Canadian Government certificate that alcohol denaturing has taken place.
60. Elimination of export licensing requirements on all products imposed for national security and short supply purposes.
61. Removal of export restraints under GATT Multi-Fiber Arrangement.
62. Terminate arrangements with other countries whereby those countries must restrain their export shipments of footwear and mushrooms to the United States.
63. Eliminate Los Angeles County personal property tax on cargo shipping containers.
64. Eliminate unspecified U.S. labor union activities that restrict trade.
65. Do not establish a Consumer Protection Agency.
66. Eliminate U.S. GATT waiver for all products subject to Section 22 of the Agricultural Marketing Act.
67. Eliminate U.S. federal excise taxes on tobacco products.
68. Eliminate state sales taxes on numerous products.
69. Remove unspecified restrictions on various agricultural products.
70. Reclassify "buffalo meat" under the TSUS.
71. Accord "generally regarded as safe" status to rapeseed oil.

AGRICULTURAL TRADE MATTERS

Wheat Trade Convention

Executive Summary

A new Wheat Trade Convention (WTC) to replace one due to expire in June 1979, remains under negotiation under UNCTAD auspices. Although a final version of a new WTC has not been produced, a consensus has been achieved on the operative economic elements of the Convention. Tentative agreement has been reached on other major issues, although some issues remain unresolved.

A major objective of this Convention is to avoid the extreme price fluctuations experienced in recent years in world wheat markets. This objective would be acheived through an equitable sharing of responsibility for reserve stocks and other adjustments to changing world market conditions.

The proposed WTC currently includes a system of nationally held reserves that would be accumulated when prices are low and released when prices are high. An indicator price mechanism would trigger reserve stock action and other measures.

The WTC draft text also includes lower and upper "critical market situation" price levels. These define a price band within which prices presumably will remain as a result of cooperative action by members. There are no obligations associated with these price levels.

8There remains a number of very difficult issues to resolve before final agreement can be reached. These include:

—the size of the total reserve and the individual country shares;
—the level of the price indicator points to trigger reserve stock and other actions; and
—special provisions for developing countries.

Another conference is scheduled for January 22 to February 9. The U.S. and the EC worked out some of their major differences during a recent bilateral. Thus the chances of concluding an agreement at the upcoming meeting have been improved.

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Status of Negotiations

The WTC has gone through several drafts in the negotiating process. Although a final draft has not been agreed, a consensus has been achieved on the basic structure of the Convention. However, several major issues remain unresolved.

The primary operative mechanism of the current draft WTC is a system of nationally held reserves which will be accumulated and released in accordance with the international guidelines established in the WTC. In addition, the draft provides for consultations to:

—review the market situation before reserve action is taken;
—agree on a program for the obligatory accumulation or release of reserves under the provision that, if no agreement can be reached within a certain period, reserve action would be taken automatically under a pre-agreed program; and
—agree on a program of actions (which may vary from country to country) to be taken in the event reserve action fails to stabalize the market (e.g., production adjustments).

These actions would be triggered by the movement of a price indicator as outlined in the schema below.

—THIRD RISING PRICE POINT: Members meet to develop a joint program of additional, shared measures to avoid further price increases.
—SECOND RISING PRICE POINT: Release of reserves.
—FIRST RISING PRICE POINT: Consultations to review market situation.

NO ACTION

—FIRST FALLING PRICE POINT: Consultations to review market situation.
—SECOND FALLING PRICE POINT: Accumulation of reserves.
—THIRD FALLING PRICE POINT: Members meet to develop a joint program of additional, shared measures to avoid further price decline.

The draft WTC text also includes lower and upper price levels. It has been agreed by several key participants in the negotiations that these prices would be benchmarks at extremely high and low levels within which prices should remain as a result of cooperative actions by members. There will be no obligations associated with these prices. Moreover, these two price points will be at levels which very likely would never be reached.

In its final form, the WTC will probably also include provisions designed to:

—limit the use of export subsidies;
—provide importers general assurances of supply availability, including a commitment to refrain from measures which restrict exports to members, except under certain extreme circumstances; and
—encourage assistance to developing countries which have reserve obligations.

Outstanding Issues

Indicator Price Levels: This is one of the most difficult issues to resolve. Substantial differences of view exist between the importers, who generally want lower prices, and exporters who generally want higher price levels. The two key indicator price levels are levels for reserve accumulation (the second falling price point) and the level for reserve release (the second rising price point).

Size of the Reserve: The United States has proposed a target reserve of 30 million metric tons conditioned upon widespread participation in the reserve program including the USSR and the developing countries.

Reserve Shares: This issue is one of the most important issues to be resolved in the Convention because it encompasses the basic obligation associated with a new arrangement. The United States and the EC have proposed significantly different allocation formulas. Governments have informally indicated their intentions. The United States has expressed its willingness to hold approximately five million tons conditioned on full participation by others.

Supply Assurances: Importers are seeking the strongest possible commitment from exporters for supply assurances to meet their commercial requirements in years of short-supply. Exporters are concerned about the problems such a commitment would create for them during a period of short-supply. They also believe that any supply assurances should be off-set by obligations on the part of importers in order to maintain a balance of rights and obligations in the Convention. An obligation to hold sizeable reserves in excess of normal working stocks would constitute such an off-setting obligation for importers. To meet some of the concerns of both the importers and exporters, the United States has proposed a provision at the third rising price point which would prohibit the use of restrictions on exports to members, except in certain extreme situations.

Limitation of Export Subsidies: The United States has proposed a general export subsidy provision which precludes an exporter from using export subsidies to increase its share of trade in the world or national export markets. The EC has said that export subsidy issue will be dealt with in the Subsidies/CVD Code negotiations in the MTN. The Community, however, has indicated a willingness to include some form of restraint on export subsidies at the third falling price point.

Relief of Obligations: Although there is a general agreement to include a provision on relief from the obligation to accumulate reserve stocks during a year in which a national production shortfall occurs, some countries have proposed that there be relief from the obligation to hold and release stocks. Other countries believe that such a general relief provision would undermine the creditability of the reserve stock mechanism.

Special Provision for Developing Countries: The developing countries have indicated a desire to hold reserves in accordance with the new WTC, provided financing is guaranteed through a stock financing fund.

The developing countries have proposed the creation of a fund to be financed by direct contributions by developed members of the WTC. The fund would be designed to channel assistance in the form of interest-free loans to developing importing members, particularly the least developed. In addition, developing countries have pressed for special consideration in other

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provisions of the convention. For example, when reserves are released at the second rising price point, developing countries believe they should be given the first opportunity to purchase the reserves before importing developed members. In addition, they want a general exemption from adjustment measures provided for at the third rising and falling price points.

Most developed countries have rejected the concept of a fund. They argue that existing multilateral and bilateral aid institutions should be relied on to finance the acquisition and maintenance of reserves, as well as the construction of storage facilities. The developed countries have, however, conceded to providing special consideration for developing countries in certain areas of the Convention. For example, it has been agreed that developing countries should be exempted from production adjustments as might be called for at the third falling price point.

Implementation

As noted above, although past wheat trade conventions have been implemented as treaties in the United States, the method of implementing the new Convention will be decided only after extensive consultations. In addition, implementing legislation may be required in order to authorize the Executive Branch to acquire and release its reserve share in accordance with the provisions of the WTC.

Coarse Grains Trade Convention

Executive Summary

Negotiation of a Coarse Grains Trade Convention has reached the stage of tentative agreement. The tentative Convention is a consultative arrangement without substantive economic provisions. Its objectives are to further international cooperation in coarse grain trade, to promote the freest possible flow of trade in coarse grains, and to contribute to stability in international grain markets. It establishes a committee structure within which information will be exchanged and consultations undertaken to assist governments in their efforts to achieve these objectives.

Description of Provisions

This Convention established a Coarse Grains Committee with membership of all parties to this Convention. The Committee will meet at least twice annually, and at other times at the call of the Chairman. All conclusions of the Committee shall be reached by unanimous agreement of all members having a direct interest in the matter under consideration.

8An Advisory Subcommittee on Market Conditions is established to monitor coarse grains markets and report to the GATT Secretariat prices, exports, and imports of coarse grains as well as freight rates and other pertinent factors which are important to freer trade in coarse grains. If the Advisory Subcommittee considers that a condition of market instability is imminent, it will report that situation to the Coarse Grains Committee which will meet within five working days to review the situation, decide on the degree of probable instability, and examine possible solutions to restore normal market conditions.

Implementation

Since the CGTC is consultative in nature, no implementing legislation will be required for the United States to meet its obligations under the Convention.

The International Dairy Products Council will serve as the focal point for information exchange and consultations. Member governments are required to provide the Council on a regular and prompt basis information on dairy production, consumption, prices, and trade. They are also required to report changes in domestic dairy policies and in measures that are likely to affect international dairy trade.

The Council will meet regularly (at least bi-annually) to evaluate the international dairy situation and outlook on the basis of the information provided by members. If the Council finds that a "serious disequilibrium" exists or is imminent, it will identify "possible solutions" or remedies for consideration by governments. The decisions of the Council pertaining to these "possible solutions" or other matters will be made by unanimous consent. If any member disagrees, no decision will be made. Furthermore, member governments are not obligated to implement "solutions" or the remedies identified by the Council to redress of a serious disequilibrium in the market.

The International Dairy Products Council will also establish management Committees to supervise the functioning of the Protocols on milk powders, milkfat, and cheese. These Committees will, like the Council, function on a consensus procedure. The Protocols on milk powders, milk fat, and cheese will form and integral part of the overall IDA.

The Arrangement also includes provisions on safeguards, export subsidies, and health and sanitary standards. These provisions will be deleted upon the satisfactory conclusion of codes of conduct in these areas in the MTN. The Arrangement will not affect the rights and obligations of participants under GATT.

The IDA will enter into force on January 1, 1980 and will remain in force for three years and can be extended for another three years unless the Council decides otherwise.

The three Annexes to the IDA establish the economic provisions for minimum prices. The Annexes follow closely the language of the GATT Skim Milk Powder Agreement, which is a

minimum price agreement established in 1970 under the GATT and of which the United States is not a member.

International Dairy Arrangement

Executive Summary

Negotiations of an International Dairy Arrangement (IDA) have essentially concluded. The Arrangement establishes an International Dairy Products Council:

(1) for the exchange of information among members on production, consumption, prices, stocks, and trade in dairy products;

(2) under which member representatives may consult regularly to review the world dairy situation and identify remedies for serious market imbalances for consideration by their governments.

The Arrangement also establishes minimum prices for milk powders, butter, milk fat, and cheese below which commercial trade is prohibited.

Through exchange of information and consultations, the potential in increased for greater cooperation among member governments in their efforts to discipline surplus dairy production. Dairy surpluses in the past have led to actions by governments which distort international trade in dairy and other agricultural products. Such actions include the granting of export subsidies on dairy products and the encouraged use of milk powder in animal feed which displaces conventional feed ingredients like protein meal.

Description of Provisions

The IDA establishes a mechanism, the International Dairy Products Council, for information exchange and consultations. The economic provisions of the Arrangement, located in the Annexes of the Arrangements, set up Protocols providing for minimum prices on milk powders, milk fat and butter, and certain cheeses.

As described in the text of the Arrangement, the primary objective of the Arrangement is "to achieve the expansion and ever greater liberalization of world trade in dairy products under conditions as stable as possible." The products covered by the Arrangement include fresh or preserved, concentrated or sweetened milk and cream, butter, cheese and curd, and casein.

Protocol Regarding Certain Milk Powders. This Protocol covers skimmed, whole and buttermilk powders. Minimum prices of $425, $725 and $425 per metric ton are set for each of the three categories of milk powders, respectively. These prices refer to three "pilot products" with specific milk fat and water content, with specific packaging characteristics, and in specific F.O.B. positions. Adjustments can be made in these minimum prices to reflect variances in milk fat content, difference in packaging costs, and modified terms of sale from those specified for the pilot products. Participants undertake not to export to commercial markets below these minimum prices with adjustments as outlined above. In addition, the minimum price levels will be reviewed annually by the management Committee for the Protocol and modified as necessary to take account of several economic factors including the world milk powder situation.

Trade in skimmed milk and buttermilk powder below the minimum prices is allowed, provided the milk powder is denatured for use exclusively in animal feed. Other derogations for commercial sales below the minimum prices can be granted by the management Committee. Non-commercial sales of milk powder, such as those for food and relief purposes, will be exempt from the minimum price provisions.

Protocol Regarding Milk Fat. This Protocol covers anhydrous milk fat and butter. Its provisions parallel almost identically those in the Protocol on milk powders. It includes minimum prices of $1,000 per metric ton for anhydrous milk fat and $925 per metric ton for butter. Under provisions similar to those in the Protocol on milk fat, these prices refer to "pilot products" with specific characteristics and can be adjusted to reflect variances from the characteristics of the pilot products. Participants undertake not to export to commercial markets below the minimum prices with adjustments as provided for in the Protocol. In addition, the minimum prices will be reviewed annually by the management Committee for the Protocol and modified to reflect changes in a number of economic factors including the world butter situation.

The derogation provisions for sales below the minimum prices to commercial and non-commercial markets parallel those in the Protocol on milk fat, with the exception of sales for animal feed. No exemption for such sales is included in this Protocol.

Protocol Regarding Certain Cheeses. This Protocol covers cheeses having a fat content in dry matter, by weight, equal to or more than 45 percent and a dry matter content, by weight, equal to a more than 50 percent. Its provisions parallel those of the other two Protocols.

A minimum price of $800 per metric ton is set for a "pilot product" of cheese with specific packaging characteristics in an F.O.B. or free-at frontier position. Adjustments can be made in this minimum price to reflect variances in the packaging and terms of sale characteristics from those specified for the pilot product.

Sales below the minimum prices can be made to non-commercial or commercial markets under derogations granted by the management Committee for the Protocol. In addition, the minimum prices would not apply to exports in exceptional circumstances of small quantities of natural unprocessed cheese which is below normal quality for export due to deterioration or production failure. Exporters must notify the GATT Secretariat of their intentions in advance of making such sales.

Implementation

Adherence to the International Dairy Arrangement might require some changes in domestic regulations or administrative procedures concerning foreign sales of dairy products by the Commodity Credit Corporation.

ARRANGEMENT REGARDING BOVINE MEAT

Executive Summary

Negotiations on the text of the Bovine Meat Arrangement are essentially complete.

Through the establishment of an International Meat Council, this arrangement provides a basis for information sharing, market monitoring, and regular consultations on international trade in bovine meat, offal and cattle. Through regular consultations, member countries may be assisted in shaping their policies and programs in ways that will avoid disruption of international markets. With greater stability in world meat markets, prospects for further trade expansion and liberalization would be improved. In the event that serious market disruption should be threatened during the life of the Arrangement, a procedure is established for consultations and recommendation of remedial measures. Any such recommendation would be by unanimous consent within the Council and would be implemented by countries on a voluntary basis. Any country may also bring before the Council any matter affecting the Arrangement including disputes between parties.

The Arrangement contains no economic obligations.

Description of Provisions

The Meat Arrangement is primarily an information/consultation mechanism with no economic provisions. The major objective is "to promote the expansion, ever greater liberalization and stability of the international meat and livestock market for the mutual benefit of both importing and exporting countries." To carry out this objective, the Arrangement establishes an International Meat Council to coordinate the exchange of information which members agree to provide in order to permit the Council to monitor the world market situation for beef. Products covered in this effort are: live bovine animals and fresh, chilled, frozen, salted in brine, dried or smoked, and otherwise prepared or preserved meat or offal of bovine animals.

The Council will meet regularly (at least semi-annually) to assess the information received from member nations. The Council will identify "possible solutions" to serious imbalances in the world beef market. Any recommendations to member governments must be by unanimous consent. In essence, consensus is possible only if all countries agree, effectively giving each member country a veto over any Council decision. Governments are not obligated to accept the Council's recommended solutions to market imbalances.

The Arrangement does not affect the rights and obligations of participants under GATT. The provisions on subsidies, safeguards, and health and sanitary standards will be deleted upon the satisfactory conclusion of negotiations for codes of conduct in these areas in the MTN. If a participant wishes to protest another participant's practices in beef trade, it would file a formal GATT complaint and would still go through the Article XXII-XXIII dispute settlement procedures.

The Arrangement will remain in force for three years, and will be extended automatically unless the Council decided otherwise. Countries could withdraw without penalty upon sixty days notice.

Legislative Changes

Adherence to the International Meat Arrangement would require no changes in U.S. statutes, regulations, or administrative procedures.

MULTILATERAL AGRICULTURAL FRAMEWORK

Executive Summary

This Framework provides a follow-up forum to the MTN within GATT where participating countries can work toward an improved level of international cooperation in their efforts to foster growth of farm incomes, stabilization of food prices, expansion of trade in agricultural products, and enhancement of world food security.

Description of Provisions

The Framework establishes an International Agriculture Committee Council for regular consultations and increased cooperation with respect to farm and food policies.

The Framework also provides oversight for international commodity arrangements and other arrangements negotiated in the MTN to ensure that they do not operate at cross purposes.

A key objective is to provide a framework for discussions that would permit the evolution of policies that allow for adjustments to underlying demand and supply conditions and improve the efficiency of the use of agricultural resources. It would also be designed to encourage the operation of internal farm policies in a way which does not distort patterns of international trade nor shift the burden of adjustment of market imbalances to other nations.

To facilitate consultations within the Council, member governments will provide: data on production and consumption, prices, stocks, and international trade of individual agricultural products, and information regarding domestic policy measures and other border measures affecting internationally traded agricultural commodities.

Implementation

No implementing legislation is required for U.S. adherence to this Framework.

[FR Doc. 79-711 Filed 1-4-79; 4:07 pm]

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR notice 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
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	LABOR			LABOR
	HEW/FDA			HEW/FDA

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***NOTE: As of January 1, 1979, the Merit Systems Protection Board (MSPB) and the Office of Personnel Management (OPM) will publish on the Tuesday/Friday schedule. (MSPB and OPM are successor agencies to the Civil Service Commission.)**

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[3195-01-M]

Title 3
The President

Executive Order 12113 of January 4, 1979

Independent Water Project Review

By the authority vested in me as President by the Constitution and laws of the United States of America, in furtherance of the Water Resources Planning Act (79 Stat. 244; 42 U.S.C. 1962 *et seq.),* and in order to ensure coordinated planning and independent review of Federal water resource programs and projects, it is hereby ordered as follows:

1–101. The Water Resources Council shall ensure that it has established a current set of principles, standards, and procedures for Federal participants in the preparation of comprehensive regional or river basin plans and for the formulation and evaluation of Federal water and related land resources projects (42 U.S.C. 1962a–2).

1–102. The Council shall ensure that an impartial technical review is performed on preauthorization reports or proposals and preconstruction plans for Federal and Federally assisted water, and related land resources, projects and programs, as they are defined in the Council's principles and standards.

1–103. The Council shall develop a planning manual for use by each agency (a) in calculating benefits and costs by using the best available techniques and (b) in applying the principles and standards in a consistent manner.

1–104. The impartial technical review shall evaluate each report, proposal, or plan for compliance with (a) the Council's principles and standards, (b) the planning manual or, pending issuance of the manual, established agency procedures, (c) other Federal laws, regulations and guidelines relevant to the planning process, and (d) the goal of wide public participation in the development of project plans, including adequate opportunity for public comment and adequate consideration of those views.

1–105. (a) Beginning April 1, 1979, all agencies shall submit, prior to their approval by the head of the agency, preauthorization reports or proposals and preconstruction plans for Federal and Federally assisted water, and related land resources, projects and programs to the Council at least 90 days prior to the scheduled time for their submission to the Office of Management and Budget in support of authorization or funding requests for those activities in fiscal year 1981 and subsequent years.

(b) An agency shall not submit to the Council more than one-third of the total reports, proposals, and plans scheduled for review in any fiscal year during any quarter of that fiscal year.

(c) Within 60 days of the submission by an agency of a report, proposal, or plan, the Chairman of the Council shall transmit the results of the impartial technical review to the appropriate agency head, including identification of any specific variations from Council approved procedures and manuals and the steps necessary to bring the plan into conformance therewith.

1–106. (a) All agency reports, proposals and plans submitted to the Council for review shall include sufficient information to allow an adequate technical review. In particular, this information shall include:

(1) Sufficient documentation to allow a technical review of the analysis by the agency of the ratio of the benefit to the cost.

(2) Evidence that an adequate evaluation has been made of reasonable alternatives, including nonstructural ones, for addressing the water-related problems of the affected regions and communities.

(3) An explanation of the relationship of the plan to any approved regional water resource management plans.

(4) A summary of the consideration given to water conservation measures and a listing of those measures incorporated into the plan.

(5) Evidence that there has been compliance with relevant environmental and other laws and requirements.

(6) Evidence that the public and State and local officials have been involved in the plan formulation process.

(b) If the documents and information necessary for the review are not initially submitted, the Chairman may extend the review period by not more than 30 days. If the documents and information submitted do not demonstrate compliance, a finding detailing the areas of noncompliance will be transmitted to the agency head.

1–107. Before any agency submits to the Congress, or to any committee or member thereof, a report relating to, or affecting in whole or in part its advance programs, or the public works and improvement projects comprising such programs, or the results of any plan preparation for such programs or projects, such report or plan shall be submitted to the Office of Management and Budget for advice as to its relationship to the program of the President. When such report or plan is thereafter submitted to the Congress, or to any committee or member thereof, it shall include a statement of the advice received from the Office of Management and Budget.

1–108. Agency submissions to the Office of Management and Budget of the reports, proposals or plans reviewed pursuant to this Order shall be accompanied by a statement of the findings transmitted to the agency head.

1–109. Executive Order No. 9384 of October 4, 1943, as amended, is revoked.

Jimmy Carter

The White House,
January 4, 1979.

[FR Doc. 79–868
Filed 1–5–79; 3:37 pm]

[3195–01–M]

Title 3
The President

Executive Order 12114 of January 4, 1979

Environmental Effects Abroad of Major Federal Actions

By virtue of the authority vested in me by the Constitution and the laws of the United States, and as President of the United States, in order to further environmental objectives consistent with the foreign policy and national security policy of the United States, it is ordered as follows:

Section 1.

1–1. *Purpose and Scope.* The purpose of this Executive Order is to enable responsible officials of Federal agencies having ultimate responsibility for authorizing and approving actions encompassed by this Order to be informed of pertinent environmental considerations and to take such considerations into account, with other pertinent considerations of national policy, in making decisions regarding such actions. While based on independent authority, this Order furthers the purpose of the National Environmental Policy Act and the Marine Protection Research and Sanctuaries Act and the Deepwater Port Act consistent with the foreign policy and national security policy of the United States, and represents the United States government's exclusive and complete determination of the procedural and other actions to be taken by Federal agencies to further the purpose of the National Environmental Policy Act, with respect to the environment outside the United States, its territories and possessions.

Sec. 2.

2–1. *Agency Procedures.* Every Federal agency taking major Federal actions encompassed hereby and not exempted herefrom having significant effects on the environment outside the geographical borders of the United States and its territories and possessions shall within eight months after the effective date of this Order have in effect procedures to implement this Order. Agencies shall consult with the Department of State and the Council on Environmental Quality concerning such procedures prior to placing them in effect.

2–2. *Information Exchange.* To assist in effectuating the foregoing purpose, the Department of State and the Council on Environmental Quality in collaboration with other interested Federal agencies and other nations shall conduct a program for exchange on a continuing basis of information concerning the environment. The objectives of this program shall be to provide information for use by decisionmakers, to heighten awareness of and interest in environmental concerns and, as appropriate, to facilitate environmental cooperation with foreign nations.

2–3. *Actions Included.* Agencies in their procedures under Section 2–1 shall establish procedures by which their officers having ultimate responsibility for authorizing and approving actions in one of the following categories encompassed by this Order, take into consideration in making decisions concerning such actions, a document described in Section 2–4(a):

(a) major Federal actions significantly affecting the environment of the global commons outside the jurisdiction of any nation (e.g., the oceans or Antarctica);

(b) major Federal actions significantly affecting the environment of a foreign nation not participating with the United States and not otherwise involved in the action;

(c) major Federal actions significantly affecting the environment of a foreign nation which provide to that nation:

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(1) a product, or physical project producing a principal product or an emission or effluent, which is prohibited or strictly regulated by Federal law in the United States because its toxic effects on the environment create a serious public health risk; or

(2) a physical project which in the United States is prohibited or strictly regulated by Federal law to protect the environment against radioactive substances.

(d) major Federal actions outside the United States, its territories and possessions which significantly affect natural or ecological resources of global importance designated for protection under this subsection by the President, or, in the case of such a resource protected by international agreement binding on the United States, by the Secretary of State. Recommendations to the President under this subsection shall be accompanied by the views of the Council on Environmental Quality and the Secretary of State.

2–4. *Applicable Procedures.* (a) There are the following types of documents to be used in connection with actions described in Section 2–3:

(i) environmental impact statements (including generic, program and specific statements);

(ii) bilateral or multilateral environmental studies, relevant or related to the proposed action, by the United States and one more foreign nations, or by an international body or organization in which the United States is a member or participant; or

(iii) concise reviews of the environmental issues involved, including environmental assessments, summary environmental analyses or other appropriate documents.

(b) Agencies shall in their procedures provide for preparation of documents described in Section 2–4(a), with respect to actions described in Section 2–3, as follows:

(i) for effects described in Section 2–3(a), an environmental impact statement described in Section 2–4(a)(i);

(ii) for effects described in Section 2–3(b), a document described in Section 2–4(a)(ii) or (iii), as determined by the agency;

(iii) for effects described in Section 2–3(c), a document described in Section 2–4(a)(ii) or (iii), as determined by the agency;

(iv) for effects described in Section 2–3(d), a document described in Section 2–4(a)(i), (ii) or (iii), as determined by the agency.

Such procedures may provide that an agency need not prepare a new document when a document described in Section 2–4(a) already exists.

(c) Nothing in this Order shall serve to invalidate any existing regulations of any agency which have been adopted pursuant to court order or pursuant to judicial settlement of any case or to prevent any agency from providing in its procedures for measures in addition to those provided for herein to further the purpose of the National Environmental Policy Act and other environmental laws, including the Marine Protection Research and Sanctuaries Act and the Deepwater Port Act, consistent with the foreign and national security policies of the United States.

(d) Except as provided in Section 2–5(b), agencies taking action encompassed by this Order shall, as soon as feasible, inform other Federal agencies with

relevant expertise of the availability of environmental documents prepared under this Order.

Agencies in their procedures under Section 2–1 shall make appropriate provision for determining when an affected nation shall be informed in accordance with Section 3–2 of this Order of the availability of environmental documents prepared pursuant to those procedures.

In order to avoid duplication of resources, agencies in their procedures shall provide for appropriate utilization of the resources of other Federal agencies with relevant environmental jurisdiction or expertise.

2–5. *Exemptions and Considerations.* (a) Notwithstanding Section 2–3, the following actions are exempt from this Order:

(i) actions not having a significant effect on the environment outside the United States as determined by the agency;

(ii) actions taken by the President;

(iii) actions taken by or pursuant to the direction of the President or Cabinet officer when the national security or interest is involved or when the action occurs in the course of an armed conflict;

(iv) intelligence activities and arms transfers;

(v) export licenses or permits or export approvals, and actions relating to nuclear activities except actions providing to a foreign nation a nuclear production or utilization facility as defined in the Atomic Energy Act of 1954, as amended, or a nuclear waste management facility;

(vi) votes and other actions in international conferences and organizations;

(vii) disaster and emergency relief action.

(b) Agency procedures under Section 2–1 implementing Section 2–4 may provide for appropriate modifications in the contents, timing and availability of documents to other affected Federal agencies and affected nations, where necessary to:

(i) enable the agency to decide and act promptly as and when required;

(ii) avoid adverse impacts on foreign relations or infringement in fact or appearance of other nations' sovereign responsibilities, or

(iii) ensure appropriate reflection of:

(1) diplomatic factors;

(2) international commercial, competitive and export promotion factors;

(3) needs for governmental or commercial confidentiality;

(4) national security considerations;

(5) difficulties of obtaining information and agency ability to analyze meaningfully environmental effects of a proposed action; and

(6) the degree to which the agency is involved in or able to affect a decision to be made.

(c) Agency procedure under Section 2–1 may provide for categorical exclusions and for such exemptions in addition to those specified in subsection (a) of this Section as may be necessary to meet emergency circumstances, situations involving exceptional foreign policy and national security sensitivities and other such special circumstances. In utilizing such additional exemp-

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tions agencies shall, as soon as feasible, consult with the Department of State and the Council on Environmental Quality.

(d) The provisions of Section 2–5 do not apply to actions described in Section 2–3(a) unless permitted by law.

Sec. 3.

3–1. *Rights of Action.* This Order is solely for the purpose of establishing internal procedures for Federal agencies to consider the significant effects of their actions on the environment outside the United States, its territories and possessions, and nothing in this Order shall be construed to create a cause of action.

3–2. *Foreign Relations.* The Department of State shall coordinate all communications by agencies with foreign governments concerning environmental agreements and other arrangements in implementation of this Order.

3–3. *Multi-Agency Actions.* Where more than one Federal agency is involved in an action or program, a lead agency, as determined by the agencies involved, shall have responsibility for implementation of this Order.

3–4. *Certain Terms.* For purposes of this Order, "environment" means the natural and physical environment and excludes social, economic and other environments; and an action significantly affects the environment if it does significant harm to the environment even though on balance the agency believes the action to be beneficial to the environment. The term "export approvals" in Section 2–5(a)(v) does not mean or include direct loans to finance exports.

3–5. *Multiple Impacts.* If a major Federal action having effects on the environment of the United States or the global commons requires preparation of an environmental impact statement, and if the action also has effects on the environment of a foreign nation, an environmental impact statement need not be prepared with respect to the effects on the environment of the foreign nation.

Jimmy Carter

The White House,
January 4, 1979.

[FR Doc. 79–869
Filed 1–5–79; 3:38 pm]

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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[6325-01-M]

Title 5—Administrative Personnel

CHAPTER I—OFFICE OF PERSONNEL MANAGEMENT

PART 213—EXCEPTED SERVICE

Temporary Boards and Commissions

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment revokes the Schedule A authority for the National Commission on the International Year of the Child because, as statutory authority (P.L. 95-561) provides for appointment of staff personnel by the commission without regard to 5 U.S.C. provisions governing classification and competitive civil service appointments, the Schedule A authority is no longer needed.

EFFECTIVE DATE: December 18, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3199(i) is revoked, as follows:

§ 213.3199 Temporary Boards and Commissions.

. . . . . .

(i) [Revoked]

(5 U.S.C. 3301, 3302; EO 10577; 3 CFR 1954-1958 Comp., p. 218)

OFFICE OF PERSONNEL MANAGEMENT,
JAMES C. SPRY,
Special Assistant to the Director.

[FR Doc. 79-680 Filed 1-8-79; 8:45 am]

[1505-01-M]

Title 6—Economic Stablization

CHAPTER VII—COUNCIL ON WAGE AND PRICE STABILITY

PART 706—SPECIAL PROCEDURAL RULES

Adoption of Interim Final Procedural Rules Relating to Voluntary Pay/Price Standards and Request for Public Comment

Correction

In FR Doc. 79-395 appearing at page 1346 in the issue for Thursday, January 4, 1979, on page 1351, the FR Doc. line at the end of the document should read as follows:

[FR Doc. 79-395 Filed 1-3-79; 12:00 pm]

[3410-08-M]

Title 7—Agriculture

CHAPTER IV—FEDERAL CROP INSURANCE CORPORATION, DEPARTMENT OF AGRICULTURE

[Amt. No. 1]

PART 402—RAISIN CROP INSURANCE

Subpart—Regulations for the 1977 and Succeeding Crop Years

COUNTIES AND CROPS DESIGNATED FOR CROP INSURANCE FOR THE 1979 CROP YEAR

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: This rule provides the complete listing of counties in which raisin crop insurance has been approved by the Board of Directors of the Federal Crop Insurance Corporation and designated under 7 CFR Part 402 for raisin crop insurance effective for the 1979 and succeeding crop years. This list is provided for the convenience and information of all interested parties as a base list. Any additions or deletions of counties or crops in this or succeeding crop years will be made by amendment to this list.

EFFECTIVE DATE: January 9, 1979.

FOR FURTHER INFORMATION CONTACT:

Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, 202-447-3325.

SUPPLEMENTARY INFORMATION: Section 402.1 of the Raisin Crop Insurance Regulations for the 1977 and Succeeding Crop Years (42 FR 31427 June 21, 1977), provides that before raisin crop insurance is offered in any county under Part 402, there shall be published by appendix to § 402.1, the names of the counties in which raisin crop insurance will be offered. In accordance with these regulations, the Federal Crop Insurance Corporation has published annually the full list of counties eligible under Part 402 for raisin crop insurance for the particular crop year, repeating the entire process each successive year.

This has been accomplished by publishing an appendix to § 402.1 of the regulations.

The Board of Directors of the Federal Crop Insurance Corporation has determined that it would be more effective administratively, less costly, and less time consuming if the full roster of counties where raisin crop insurance is offered under Part 402 were to be published as a document to remain in effect indefinitely and amended when necessary to add or delete counties and/or crops. Inasmuch as the publication of counties and crops insured by the Corporation merely provides guidance for the general public, and publication as described above will be beneficial to present and potential policyholders, it is found and determined that compliance with the procedure for notice and public participation in the proposed rulemaking process would be impracticable, unnecessary, and contrary to the public interest. Therefore, this amendment is issued without compliance with such procedure.

FINAL RULE

Under the authority contained in the Raisin Crop Insurance Regulations for the 1977 and Succeeding Crop Years (42 FR 31427, June 21, 1977), § 402.1 of such regulations as found in 7 CFR Part 402 is hereby amended effective with the 1979 and

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succeeding crop years by adding the following appendix to § 402.1 effective with the 1979 and succeeding crop years:

APPENDIX

The counties where raisin crop insurance is authorized to be offered under the provisions of 7 CFR Part 402 are as follows:

CALIFORNIA

Fresno	Merced
Kern	Stanislaus
Kings	Tulare
Madera	

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; (7 U.S.C. 1506, 1516)).

Approved by the Board of Directors on December 20, 1978.

PETER F. COLE,
Secretary, Federal Crop Insurance Corporation.

Dated: January 3, 1979.

Approved by:

BOB BERGLAND,
Secretary.

[FR Doc. 79-704 Filed 1-8-79; 8:45 am]

[3410-08-M]

[Amdt. No. 1]

PART 403—PEACH CROP INSURANCE

Subpart—Regulations for the 1976 and Succeeding Crop Years

COUNTIES AND CROPS DESIGNATED FOR CROP INSURANCE FOR THE 1979 CROP YEAR

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: This rule provides the complete listing of counties where peach crop insurance has been approved by the Board of Directors of the Federal Crop Insurance Corporation and designated under 7 CFR Part 403 for peach crop insurance effective for the 1979 and succeeding crop years. This list is provided for the convenience and information of all interested parties as a base list. Any additions or deletions of counties or crops in this or succeeding crop years will be made by amendment to this list.

EFFECTIVE DATE: January 9, 1979.

FOR FURTHER INFORMATION CONTACT:

Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-3325.

SUPPLEMENTARY INFORMATION: Section 403.40 of the Peach Crop Insurance Regulations for the 1976 and Succeeding Crop Years (40 FR 44823, September 30, 1975), provides that before peach crop insurance is offered in any county under Part 403, there shall be published by appendix to § 403.40 the names of the counties in which peach crop insurance will be offered. In accordance with these regulations, the Federal Crop Insurance Corporation has published annually the full list of counties eligible under Part 403 for peach crop insurance, repeating the entire process each successive year. This has been accomplished by publishing an appendix to § 403.40 of the regulations.

The Board of Directors of the Federal Crop Insurance Corporation has determined that it would be more effective administratively, less costly, and less time consuming if the full roster of counties where peach crop insurance is offered under Part 403 were to be published as a document to remain in effect indefinitely and amended when necessary to add or delete counties and/or crops. Inasmuch as the publication of counties and crops insured by the Corporation merely provides guidance for the general public, and publication as described above will be beneficial to present and potential policyholders, it is found and determined that compliance with the procedure for notice and public participation in the proposed rule making process would be impracticable, unnecessary, and contrary to the public interest.

Therefore, this amendment is issued without compliance with such procedure.

FINAL RULE

Under the authority contained in the Peach Crop Insurance Regulations for the 1976 and Succeeding Crop Years (40 FR 44823, September 30, 1975), § 403.40 of such regulations as found in 7 CFR Part 403 is hereby amended effective with the 1979 and succeeding crop years by adding the following appendix to § 403.40 effective with the 1979 and succeeding crop years.

APPENDIX

The counties where peach crop insurance is authorized to be offered under the provisions of 7 CFR Part 403 are as follows:

ALABAMA

Chilton

ARKANSAS

Cross	Lee
Johnson	St. Francis

GEORGIA

Houston	Upson
Peach	

SOUTH CAROLINA

Aiken	Greenville
Allendale	Lexington
Barnwell	Spartanburg
Chesterfield	York
Edgefield	

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; (7 U.S.C. 1506, 1516))

Approved by the Board of Directors on December 20, 1978.

PETER F. COLE,
Secretary, Federal Crop Insurance Corporation.

Dated: January 5, 1979.

Approved by:

BOB BERGLAND,
Secretary.

[FR Doc. 79-710 Filed 1-8-79; 8:45 am]

[3410-08-M]

[Amdt. No. 2]

PART 404—WESTERN UNITED STATES APPLE CROP INSURANCE

Subpart—Regulations for the 1977 and Succeeding Crop Years

COUNTIES AND CROPS DESIGNATED FOR CROP INSURANCE FOR THE 1979 CROP YEAR

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: This rule provides the complete listing of counties in the Western United States in which apple crop insurance has been approved by the Board of Directors of the Federal Crop Insurance Corporation and designated under 7 CFR Part 404 for apple crop insurance effective for the 1979 and succeeding crop years. This list is provided for the convenience and information of all interested parties as a base list. Any additions or deletions of counties or crops in this or succeeding crop years will be made by amendment to this list.

EFFECTIVE DATE: January 9, 1979.

FOR FURTHER INFORMATION CONTACT:

Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, 202-447-3325.

SUPPLEMENTARY INFORMATION: Section 404.20 of the Western United States Apple Crop Insurance Regulations for the 1977 and Succeeding Crop Years (41 FR 52289, November 29, 1976), provides that, before apple crop insurance is offered in any county under Part 404, there shall be published by appendix to § 404.20 the names of the counties in which apple crop insurance will be offered.

In accordance with these regulations, the Federal Crop Insurance Corporation has published annually the full list of counties eligible under Part 404 for apple crop insurance, repeating the entire process each successive year.

This has been accomplished by publishing an appendix to § 404.20 of the regulations.

The Board of Directors of the Federal Crop Insurance Corporation has determined that it would be more effective administratively, less costly, and less time consuming if the full roster of counties in the Western United States where apple crop insurance is offered under Part 404 were to be published as a document to remain in effect indefinitely and amended when necessary to add or delete counties and/or crops.

Inasmuch as the publication of counties and crops insured by the Corporation merely provides guidance for the general public, and publication as described above will be beneficial to present and potential policyholders, it is found and determined that compliance with the procedure for notice and public participation in the proposed rule making process would be impracticable, unnecessary, and contrary to the public interest. Therefore, this amendment is issued without compliance with such procedure.

FINAL RULE

Under the authority contained in the Western United States Apple Crop Insurance Regulations for the 1977 and Succeeding Crop Years (41 FR 52289, November 29, 1976), § 404.20 of such regulations as found in 7 CFR Part 404 is hereby amended effective with the 1979 and succeeding crop years by adding the following appendix to § 404.20 effective with the 1979 and succeeding crop years.

APPENDIX

The counties where apple crop insurance is authorized to be offered under the provisions of 7 CFR Part 404 are as follows:

OREGON

Umatilla

WASHINGTON

Chelan	Okanogan
Columbia	Yakima
Douglas	

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; (7 U.S.C. 1506, 1516))

Approved by the Board of Directors on December 20, 1978.

PETER F. COLE,
Secretary, Federal Crop Insurance Corporation.

Dated: January 3, 1979.

Approved by:

BOB BERGLAND,
Secretary.

[FR Doc. 79-705 Filed 1-8-79; 8:45 am]

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[3410-08-M]

[Amdt. No. 1]

PART 406—CALIFORNIA ORANGE CROP INSURANCE

Subpart—Regulations for the 1977 and Succeeding Crop Years

COUNTIES AND CROPS DESIGNATED FOR CROP INSURANCE FOR THE 1979 CROP YEAR

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: This rule provides the complete listing of California counties where orange crop insurance has been approved by the Board of Directors of the Federal Crop Insurance Corporation and designated under 7 CFR Part 406 for orange crop insurance effective for the 1979 and succeeding crop years. This list is provided for the convenience and information of all interested parties as a base list. Any additions or deletions of counties or crops in this or succeeding crop years will be made by amendment to this list.

EFFECTIVE DATE: January 9, 1979.

FOR FURTHER INFORMATION CONTACT:

Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, 202-447-3325.

SUPPLEMENTARY INFORMATION: Section 406.1 of the California Orange Crop Insurance Regulations for the 1977 and Succeeding Crop Years (42 FR 39953, August 8, 1977), provides that before orange crop insurance is offered in any county under Part 406, there shall be published by appendix to § 406.1 the names of the counties in which orange crop insurance will be offered.

In accordance with these regulations, the Federal Crop Insurance Corporation has published annually the full list of counties eligible under Part 406 for orange crop insurance, repeating the entire process each successive year.

This has been accomplished by publishing an appendix to § 406.1 of the regulations.

The Board of Directors of the Federal Crop Insurance Corporation has determined that it would be more effective administratively, less costly, and less time consuming if the full roster of counties where orange crop insurance is offered under Part 406 were to be published as a document to remain in effect indefinitely and amended when necessary to add or delete counties and/or crops. Inasmuch as the publication of counties and crops insured by the Corporation merely provides guidance for the general public, and publication as described above will be beneficial to present and potential policyholders, it is found and determined that compliance with the procedure for notice and public participation in the proposed rule making process would be impracticable, unnecessary, and contrary to the public interest. Therefore, this amendment is issued without compliance with such procedure.

FINAL RULE

Under the authority contained in the California Orange Crop Insurance Regulations of the 1977 and Succeeding Crop Years (42 FR 39953, August 8, 1977), § 406.1 of such regulations as found in 7 CFR Part 406 is hereby amended effective with the 1979 and succeeding crop years by adding the following appendix to § 406.1 effective with the 1979 and succeeding crop years.

APPENDIX

The counties where orange crop insurance is authorized to be offered under the provisions of 7 CFR Part 406 are as follows:

CALIFORNIA

Fresno	Tulare
Kern	

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; (7 U.S.C. 1506, 1516.)

Approved by the Board of Directors on December 20, 1978.

PETER F. COLE,
Secretary, Federal Crop Insurance Corporation.

Dated: January 3, 1979.

Approved by:

BOB BERGLAND,
Secretary.

[FR Doc. 79-701 Filed 1-8-79; 8:45 am]

[3410-08-M]

[Amdt. No. 1]

PART 408—EASTERN UNITED STATES APPLE CROP INSURANCE

Subpart—Regulations for the 1977 and Succeeding Crop Years

COUNTIES AND CROPS DESIGNATED FOR CROP INSURANCE FOR THE 1979 CROP YEAR

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: This rule provides the complete listing of counties in the Eastern United States where apple

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corp insurance has been approved by the Board of Directors of the Federal Crop Insurance Corporation and designated under 7 CFR Part 408 for apple crop insurance effective for the 1979 and succeeding crop years. This list is provided for the convenience and information of all interested parties as a base list. Any additions or deletions of counties or crops in this or succeeding crop years will be made by amendment to this list.

EFFECTIVE DATE: January 9, 1979.

FOR FURTHER INFORMATION CONTACT:

Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-3325.

SUPPLEMENTARY INFORMATION: Section 408.1 of the Eastern United States Apple Crop Insurance Regulations for the 1977 and Succeeding Crop Years (41 FR 53803, December 9, 1976), provides that before apple crop insurance is offered in any county under Part 408, there shall be published by appendix to § 408.1 the names of the counties in which apple crop insurance will be offered.

In accordance with these regulations, the Federal Crop Insurance Corporation has published annually the full list of counties eligible under Part 408 for apple crop insurance, repeating the entire process each successive year.

This has been accomplished by publishing an appendix to § 408.1 of the regulations.

The Board of Directors of the Federal Crop Insurance Corporation has determined that it would be more effective administratively, less costly, and less time consuming if the full roster of counties where apple crop insurance is offered under Part 408 were to be published as a document to remain in effect indefinitely and amended when necessary to add or delete counties and/or crops.

Inasmuch as the publication of counties and crops insured by the Corporation merely provides guidance for the general public, and publication as described above will be beneficial to present and potential policyholders, it is found and determined that compliance with the procedure for notice and public participation in the proposed rule making process would be impracticable, unnecessary, and contrary to the public interest. Therefore, this amendment is issued without compliance with such procedure.

FINAL RULE

Under the authority contained in the Eastern United States Apple Crop Insurance Regulations for the 1977 and Succeeding Crop Years (41 FR 53803, December 9, 1976), § 408.1 of such regulations as found in 7 CFR Part 408 is hereby amended effective with the 1979 and succeeding crop years by adding the following appendix to § 408.1 effective with the 1979 and succeeding crop years.

APPENDIX

The counties in the Eastern United States where apple crop insurance is authorized to be offered under the provisions of 7 CFR Part 408 are as follows:

NORTH CAROLINA

Alexander	Wilkes
Henderson	

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; (7 U.S.C. 1506, 1516))

Approved by the Board of Directors on December 20, 1978.

PETER F. COLE,
Secretary, Federal Crop Insurance Corporation.

Dated: January 3, 1979.

Approved by:

BOB BERGLAND,
Secretary.

[FR Doc. 79-700 Filed 1-8-79; 8:45 am]

[3410-08-M]

[Amdt. No. 1]

PART 409—ARIZONA-DESERT VALLEY CITRUS CROP INSURANCE

Subpart—Regulations for the 1977 and Succeeding Crop Years

COUNTIES AND CROPS DESIGNATED FOR CROP INSURANCE FOR THE 1979 CROP YEAR

AGENCY: Federal Crop Insurance Corporation; USDA.

ACTION: Final rule.

SUMMARY: This rule provides the complete listing of counties in the Arizona-Desert Valley where citrus crop insurance has been approved by the Board of Directors of the Federal Crop Insurance Corporation and designated under 7 CFR Part 409 for citrus crop insurance effective for the 1979 and succeeding crop years. This list is provided for the convenience and information of all interested parties as a base list. Any additions or deletions of counties or crops in this or succeeding crop years will be made by amendment to this list.

EFFECTIVE DATE: January 9, 1979.

FOR FURTHER INFORMATION CONTACT:

Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, 202-447-3325.

SUPPLEMENTARY INFORMATION: Section 409.30 of the Arizona-Desert Valley Citrus Crop Insurance Regulations for the 1977 and Succeeding Crop Years (42 FR 39956, August 8, 1977), provides that before citrus crop insurance is offered in any county under Part 409, there shall be published by appendix to § 409.30 the names of the counties in which citrus crop insurance will be offered.

In accordance with these regulations, the Federal Crop Insurance Corporation has published annually the full list of counties eligible under Part 409 for citrus crop insurance repeating the entire process each successive year. This has been accomplished by publishing an appendix to § 409.30 of the regulations.

The Board of Directors of the Federal Crop Insurance Corporation has determined that it would be more effective administratively, less costly, and less time consuming if the full roster of counties where citrus crop insurance is offered under Part 409 were to be published as a document to remain in effect indefinitely and amended when necessary to add or delete counties and/or crops.

Inasmuch as the publication of counties and crops insured by the Corporation merely provides guidance for the general public, and publication as described above will be beneficial to present and potential policyholders, it is found and determined that compliance with the procedure for notice and public participation in the proposed rule making process would be impracticable, unnecessary, and contrary to the public interest. Therefore, this amendment is issued without compliance with such procedure.

FINAL RULE

Under the authority contained in the Arizona-Desert Valley Citrus Crop Insurance Regulations for the 1977 and Succeeding Crop Years (42 FR 39956, August 8, 1977), § 409.30 of such regulations as found in 7 CFR Part 409 is hereby amended effective with the 1979 and succeeding crop years by adding the following appendix to § 409.30 effective with the 1979 and succeeding crop years.

APPENDIX

The counties where citrus crop insurance is authorized to be offered under the provisions of 7 CFR Part 409 are as follows:

ARIZONA

Maricopa

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; (7 U.S.C. 1506, 1516))

Approved by the Board of Directors on December 20, 1978.

PETER F. COLE,
Secretary, Federal Crop Insurance Corporation.

Dated: January 3, 1979.

Approved:

BOB BERGLAND,
Secretary.

[FR Doc. 79-702 Filed 1-8-79; 8:45 am]

[3410-08-M]

[Amdt. No. 2]

PART 410—FLORIDA CITRUS CROP INSURANCE

Subpart—Regulations for the 1977 and Succeeding Crop Years

COUNTIES AND CROPS DESIGNATED FOR CROP INSURANCE FOR THE 1979 CROP YEAR

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: This rule provides the complete listing of Florida counties where citrus crop insurance has been approved by the Board of Directors of the Federal Crop Insurance Corporation and designated under 7 CFR Part 410 for citrus crop insurance effective for the 1979 and succeeding crop years. This list is provided for the convenience and information of all interested parties as a base list. Any additions or deletions of counties or crops in this or succeeding crop years will be made by amendment to this list.

EFFECTIVE DATE: January 9, 1979.

FOR FURTHER INFORMATION CONTACT:

Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-3325.

SUPPLEMENTARY INFORMATION: Section 410.1 of the Florida Citrus Crop Insurance Regulations for the 1976 and Succeeding Crop Years (41 FR 5106 through 5109, February 4, 1976), provides that before citrus crop insurance is offered in any county under Part 410, there shall be published by appendix to § 410.1 the names of the counties in which citrus crop insurance will be offered.

In accordance with these regulations, the Federal Crop Insurance Corporation has published annually the full list of counties eligible under Part 410 for citrus crop insurance, repeating the entire process each successive year. This has been accomplished by publishing an appendix to § 410.1 of the regulations.

The Board of Directors of the Federal Crop Insurance Corporation has determined that it would be more effective administratively, less costly, and less time consuming if the full roster of counties where citrus crop insurance is offered under Part 410 were to be published as a document to remain in effect indefinitely and amended when necessary to add or delete counties and/or crops. Inasmuch as the publication of counties and crops insured by the Corporation merely provides guidance for the general public, and publication as described above will be beneficial to present and potential policyholders, it is found and determined that compliance with the procedure for notice and public participation in the proposed rule making process would be impracticable, unnecessary, and contrary to the public interest. Therefore, this amendment is issued without compliance with such procedure.

FINAL RULE

Under the authority contained in the Florida Citrus Crop Insurance Regulations for the 1976 and Succeeding Crop Years (41 FR 5106 through 5109, February 4, 1976), § 410.1 of such regulations as found in 7 CFR Part 410 is hereby amended effective with the 1979 and succeeding crop years by adding the following appendix to § 410.1 effective with the 1979 and succeeding crop years.

APPENDIX

The counties where citrus crop insurance is authorized under the provisions of 7 CFR Part 410 are as follows:

FLORIDA

Brevard	Marion
De Soto	Martin
Hardee	Orange
Hernando	Osceola
Highlands	Palm Beach
Hillsborough	Pasco
Indian River	Polk
Lake	St. Lucie
Manatee	Seminole

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; (7 U.S.C. 1506, 1516))

Approved by the Board of Directors on December 20, 1978.

PETER F. COLE,
Secretary, Federal Crop Insurance Corporation.

Dated: January 3, 1979.

Approved by:

BOB BERGLAND,
Secretary.

[FR Doc. 79-703 Filed 1-8-79; 8:45 am]

[3410-08-M]

[Amdt. No. 1]

PART 411—GRAPE CROP INSURANCE

Subpart—Regulations for the 1977 and Succeeding Crop Years

COUNTIES AND CROPS DESIGNATED FOR CROP INSURANCE FOR THE 1979 CROP YEAR

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: This rule provides the complete listing of counties where grape crop insurance has been approved by the Board of Directors of the Federal Crop Insurance Corporation and designated under 7 CFR Part 411 for grape crop insurance effective for the 1979 and succeeding crop years. This list is provided for the convenience and information of all interested parties as a base list. Any additions or deletions of counties or crops in this or succeeding crop years will be made by amendment to this list.

EFFECTIVE DATE: January 9, 1979.

FOR FURTHER INFORMATION CONTACT:

Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-3325.

SUPPLEMENTARY INFORMATION: Section 411.1 of the Grape Crop Insurance Regulations for the 1977 and Succeeding Crop Years (41 FR 36792 through 36795, September 1, 1976), provides that, before grape crop insurance is offered in any county under Part 411, there shall be published by appendix to § 411.1 the names of the counties in which grape crop insurance will be offered.

In accordance with these regulations, the Federal Crop Insurance Corporation has published annually the full list of counties eligible under Part 411 for grape crop insurance, repeating the entire process each successive year.

This has been accomplished by publishing an appendix to § 411.1 of the regulations.

The Board of Directors of the Federal Crop Insurance Corporation has determined that it would be more effective administratively, less costly, and less time consuming if the full roster of counties where grape crop insurance is offered under Part 411 were to be published as a document to remain in effect indefinitely and amended when necessary to add or delete counties and/or crops. Inasmuch as the publication of counties and crops insured by the Corporation merely provides guidance for the general public,

and publication as described above will be beneficial to present and potential policyholders. It is found and determined that compliance with the procedure for notice and public participation in the proposed rule making process would be impracticable, unnecessary, and contrary to the public interest. Therefore, this amendment is issued without compliance with such procedure.

FINAL RULE

Under the authority contained in the Grape Crop Insurance Regulations for the 1977 and Succeeding Crop Years (41 FR 36792 through 36795, September 1, 1976) § 411.1 of such regulations as found in 7 CFR Part 411 is hereby amended effective with the 1979 and succeeding crop years by adding the following appendix to § 411.1 effective with the 1979 and succeeding crop years.

APPENDIX

The counties where grape crop insurance is authorized to be offered under the provisions of 7 CFR Part 411 are as follows:

CALIFORNIA

Merced Stanislaus

NEW YORK

Chautauqua Seneca
Niagara Steuben
Ontario Yates
Schuyler

PENNSYLVANIA

Erie

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; (7 U.S.C. 1506, 1516))

Approved by the Board of Directors on December 20, 1978.

PETER F. COLE,
Secretary, Federal Crop Insurance Corporation.

Dated: January 3, 1979.

Approved by:

BOB BERGLAND,
Secretary.

[FR Doc. 79-706 Filed 1-8-79; 8:45 am]

[3410-08-M]

[Amdt. No. 1]

PART 413—TEXAS CITRUS CROP INSURANCE

Subpart—Regulations for the 1977 and Succeeding Crop Years

COUNTIES AND CROPS DESIGNATED FOR CROP INSURANCE FOR THE 1979 CROP YEAR

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: This rule provides the complete listing of counties in Texas where citrus crop insurance has been approved by the Board of Directors of the Federal Crop Insurance Corporation and designated under 7 CFR Part 413 for citrus crop insurance effective for the 1979 and succeeding crop years. This list is provided for the convenience and information of all interested parties as a base list. Any additions or deletions of counties or crops in this or succeeding crop years will be made by amendment to this list.

EFFECTIVE DATE: January 9, 1979.

FOR FURTHER INFORMATION CONTACT:

Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-3325.

SUPPLEMENTARY INFORMATION: Section 413.20 of the Texas Citrus Crop Insurance Regulations for the 1977 and Succeeding Crop Years (42 FR 28141, June 2, 1977), provides that before citrus Crop Insurance is offered in any county under Part 413, there shall be published by appendix to § 413.20 the names of the counties in which citrus crop insurance will be offered.

In accordance with these regulations, the Federal Crop Insurance Corporation has published annually the full list of counties eligible under Part 413 for citrus crop insurance, repeating the entire process each successive year. This has been accomplished by publishing an appendix to § 413.20 of the regulations.

The Board of Directors of the Federal Crop Insurance Corporation has determined that it would be more effective administratively, less costly, and less time consuming if the full roster of counties where citrus crop insurance is offered under Part 413 were to be published as a document to remain in effect indefinitely and amended when necessary to add or delete counties and/or crops. Inasmuch as the publication of counties and crops insured by the Corporation merely provides guidance for the general public, and publication as described above will be beneficial to present and potential policyholders, it is found and determined that compliance with the procedure for notice and public participation in the proposed rulemaking process would be impracticable, unnecessary, and contrary to the public interest. Therefore, this amendment is issued without compliance with such procedure.

FINAL RULE

Under the authority contained in the Texas Citrus Crop Insurance Regulations for the 1977 and Succeeding Crop Years (42 FR 28141, June 2, 1977), § 413.20 of such regulations as found in 7 CFR Part 413 is hereby amended effective with the 1979 and succeeding crop years by adding the following appendix to § 413.20 effective with the 1979 and succeeding crop years.

APPENDIX

The counties where citrus crop insurance is authorized to be offered under the provisions of 7 CFR Part 413 are as follows:

TEXAS

Cameron Willacy
Hidalgo

(Secs. 506, 516, 52 Stat. 73, as amended, 77 as amended; (7 U.S.C. 1506, 1516))

Approved by the Board of Directors on December 20, 1978.

PETER F. COLE,
Secretary, Federal Crop Insurance Corporation.

Dated: January 3, 1979.

Approved by:

BOB BERGLAND,
Secretary.

[FR Doc. 79-708 Filed 1-8-79; 8:45 am]

[3410-08-M]

[Amdt. No. 1]

PART 414—FORAGE SEEDING CROP INSURANCE

Subpart—Regulations for the 1978 and Succeeding Crop Years

COUNTIES AND CROPS DESIGNATED FOR CROP INSURANCE FOR THE 1979 CROP YEAR

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: This rule provides the complete listing of counties where forage seeding crop insurance has been approved by the Board of Directors of the Federal Crop Insurance Corporation and designated under 7 CFR Part 414 for forage seeding crop insurance effective for the 1979 and succeeding crop years. This list is provided for the convenience and information of all interested parties as a base list. Any additions or deletions of counties or crops in this or succeeding crop years will be made by amendment to this list.

EFFECTIVE DATE: January 9, 1979.

FOR FURTHER INFORMATION CONTACT:

Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, 202-447-3325.

SUPPLEMENTARY INFORMATION: Section 414.1 of the Forage Seeding Crop Insurance Regulations for the 1978 and Succeeding Crop Years (43 FR 16693 through 16697, April 20, 1978), provides that, before forage seeding crop insurance is offered in any county under Part 414, there shall be published by appendix to § 414.1 the names of the counties in which forage seeding crop insurance will be offered.

In accordance with these regulations, the Federal Crop Insurance Corporation has published annually the full list of counties eligible under Part 414 for forage seeding crop insurance, repeating the entire process each successive year.

This has been accomplished by publishing an appendix to § 414.1 of the regulations.

The Board of Directors of the Federal Crop Insurance Corporation has determined that it would be more effective administratively, less costly, and less time consuming if the full roster of counties where forage seeding crop insurance is offered under Part 414 were to be published as a document to remain in effect indefinitely and amended when necessary to add or delete counties and/or crops. Inasmuch as the publication of counties and crops insured by the Corporation merely provides guidance for the general public, and publication as described above will be beneficial to present and potential policyholders, it is found and determined that compliance with the procedure for notice and public participation in the proposed rule making process would be impracticable, unnecessary, and contrary to the public interest. Therefore, this amendment is issued without compliance with such procedure.

FINAL RULE

Under the authority contained in the Forage Seeding Crop Insurance Regulations for the 1978 and Succeeding Crop Years (43 FR 16693 through 16697, April 20, 1978), § 414.1 of such regulations as found in 7 CFR Part 414 is hereby amended effective with the 1979 and succeeding crop years by adding the following appendix to § 414.1 effective with the 1979 and succeeding crop years.

APPENDIX

The counties where forage seeding crop insurance is authorized to be offered under 7 CFR Part 414 are as follows:

NEW YORK

Ontario

NORTH DAKOTA

Morton

WISCONSIN

Dane

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; (7 U.S.C. 1506, 1516))

Approved by the Board of Directors on December 20, 1978.

PETER F. COLE,
Secretary, Federal Crop Insurance Corporation.

Dated: January 3, 1979.

Approved by.

BOB BERGLAND,
Secretary.

[FR Doc. 79-709 Filed 1-8-79; 8:45 am]

[3410-08-M]

[Amdt. No. 1]

PART 417—SUGARCANE CROP INSURANCE

Subpart—Regulations for the 1979 and Succeeding Crop Years

COUNTIES AND CROPS DESIGNATED FOR CROP INSURANCE FOR THE 1979 CROP YEAR

AGENCY: Federal Crop Insurance Corporation.

ACTION: Final rule.

SUMMARY: This rule provides the complete listing of counties in Florida and Texas where sugarcane crop insurance has been approved by the Board of Directors of the Federal Crop Insurance Corporation and designated under 7 CFR Part 417 for sugarcane crop insurance effective for the 1979 and succeeding crop years. This list is provided for the convenience and information of all interested parties as a base list. Any additions or deletions of counties or crops in this or succeeding crop years will be made by amendment to this list.

EFFECTIVE DATE: January 9, 1979.

FOR FURTHER INFORMATION CONTACT:

Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, 202-447-3325.

SUPPLEMENTARY INFORMATION: Section 417.1 of the Sugarcane Crop Insurance Regulations for the 1979 and Succeeding Crop Years (43 FR 36423, August 17, 1978), provides that before sugarcane crop insurance is offered in any county under Part 417, there shall be published by appendix to § 417.1 the names of the counties in which sugarcane crop insurance will be offered. In accordance with these regulations, the Federal Crop Insurance Corporation has published annually the full list of counties eligible under Part 417 for sugarcane crop insurance, repeating the entire process each successive year. This has been accomplished by publishing an appendix to § 417.1 of the regulations.

The Board of Directors of the Federal Crop Insurance Corporation has determined that it would be more effective administratively, less costly, and less time consuming if the full roster of counties where sugarcane crop insurance is offered under Part 417 were to be published as a document to remain in effect indefinitely and amended when necessary to add or delete counties and/or crops. Inasmuch as the publication of counties and crops insured by the Corporation merely provides guidance for the general public, and publication as described above will be beneficial to present and potential policyholders, it is found and determined that compliance with the procedure for notice and public participation in the proposed rule making process would be impracticable, unnecessary, and contrary to the public interest. Therefore, this amendment is issued without compliance with such procedure.

FINAL RULE

Under the authority contained in the Sugarcane Crop Insurance Regulations for the 1979 and Succeeding Crop Years (43 FR 36423, August 17, 1978), § 417.1 of such regulations as found in 7 CFR Part 417 is hereby amended effective with the 1979 and succeeding crop years by adding the following appendix to § 417.1 effective with the 1979 and succeeding crop years.

APPENDIX

The counties in Florida and Texas where sugarcane crop insurance is authorized to be offered under the provisions of 7 CFR Part 417 are as follows:

FLORIDA

Glades Palm Beach
Hendry

TEXAS

Cameron Willacy
Hidalgo

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; (7 U.S.C. 1506, 1516))

Approved by the Board of Directors on December 20, 1978.

PETER F. COLE,
Secretary, Federal Crop Insurance Corporation.

Dated: January 3, 1979.

Approved by:

BOB BERGLAND,
Secretary.

[FR Doc. 79-707 Filed 1-8-79; 8:45 am]

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[6450-01-M]

Title 10—Energy

CHAPTER II—DEPARTMENT OF ENERGY

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

Notification of Authority Citation

AGENCY: Department of Energy.

ACTION: Notification of authority citation.

SUMMARY: At page 48986 of the October 19, 1978, FEDERAL REGISTER, the Department of Energy adopted a final rule amending its test procedures for water heaters. This document adds the authority citation for that amendment, effective November 28, 1978.

FOR FURTHER INFORMATION CONTACT:

James A. Smith, Office of Conservation & Solar Applications, Department of Energy, Room 2248, 20 Massachusetts Avenue, NW., Washington, D.C. 20545, 202-376-4815.

SUPPLEMENTARY INFORMATION: In document 78-29535, published at page 48986 of the October 19, 1978, FEDERAL REGISTER, the following citation of authority is added:

(Energy Policy and Conservation Act, Pub. L. 94-163, as amended by Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended by Pub. L. 94-385; Department of Energy Organization Act., Pub. L. 95-91; E.O. 12009, 42 FR 46267.)

Issued in Washington, D.C., January 3, 1979.

OMI WALDEN,
Assistant Secretary, Conservation and Solar Applications, Department of Energy.

[FR Doc. 79-772 Filed 1-8-79; 8:45 am]

[6450-1-M]

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

Test Procedures for Unvented Home Heating Equipment; Correction

AGENCY: Department of Energy.

ACTION: Correction.

SUMMARY: This document corrects a final rule that appeared on page 20128 in the FEDERAL REGISTER of May 10, 1978.

EFFECTIVE DATE: These regulations became effective on June 15, 1978.

FOR FURTHER INFORMATION CONTACT:

James A. Smith U.S. Department of Energy Office of Conservation and Solar Applications, Room 2248, 20 Massachusetts Avenue, N.W., Washington, D.C. 20545 (202) 376-4614

SUPPLEMENTARY INFORMATION: In FR Doc. 78-12461 appearing at page 20128 in the FEDERAL REGISTER of May 10, 1978, references in amendment 1 on page 20131 in both the amendatory statement and text of Section 430.2, subparagraph "7(i)" is changed to "7".

Issued in Washington, D.C., January 3, 1979.

OMI WALDEN,
Assistant Secretary, Conservation and Solar Applications.

[FR Doc. 79-817 Filed 1-8-79; 8:45 am]

[6320-01-M]

Title 14—Aeronautics and Space

CHAPTER II—CIVIL AERONAUTICS BOARD

[Regulation ER-1073; Amdt. No. 32 to Part 241]

PART 241—UNIFORM SYSTEM OF ACCOUNTS AND REPORTS FOR CERTIFICATED AIR CARRIERS

Revision of Route Air Carrier Reporting Entities

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This final rule revises the listing of geographic reporting entities included in the Board's Economic Regulations for three route air carriers which were recently granted authority to conduct transatlantic flights.

DATES: Adopted: August 31, 1978. Effective: August 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Raymond Kurlander, Director, Bureau of Accounts and Statistics, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, 202-673-5270.

SUPPLEMENTARY INFORMATION: Section 21 of Part 241 of the Board's Economic Regulations lists the operating authority of each air carrier according to geographical area ("entity") for purposes of reporting financial and statistical data. On January 26, 1978, the Board granted transatlantic operating authority to Braniff Airways, Delta Air Lines and Northwest Airlines, Order 78-1-118. Section 21 of Part 241 is therefore amended to reflect the addition of these routes.

Because this amendment reflects a grant of authority that has already been made, the Board finds that notice and public procedure are unnecessary and that an immediate effective date is in the public interest.

Accordingly, Part 241 of the Economic Regulations (14 CFR Part 241) is amended as follows:

1. Amend Section 21, "Introduction to System of Reports," revising the list of route air carrier reporting entities contained in paragraph (i) to read in pertinent part as follows:

SECTION 21—INTRODUCTION TO SYSTEM OF REPORTS

* * * * * * *

(i) * * *

ROUTE AIR CARRIER REPORTING ENTITIES

Air Carriers	Entities
Airlift International, Inc	Domestic, Latin America
Air Micronesia, Inc	Pacific
Air Midwest, Inc	Domestic
Air New England, Inc	Domestic
Alaska Airlines, Inc	Domestic
Allegheny Airlines, Inc	Domestic
Aloha Airlines, Inc	Domestic
American Airlines, Inc	Domestic, Latin America
Aspen Airways, Inc	Domestic
Braniff Airways, Inc	Domestic, Atlantic, Latin America
Chicago Helicopter Airways, Inc	Domestic
Continental Air Lines, Inc	Domestic, Pacific
Delta Air Lines, Inc	Domestic, Atlantic, Latin America
Eastern Air Lines, Inc	Domestic, Latin America
The Flying Tiger Line, Inc	Domestic, Pacific
Frontier Airlines, Inc	Domestic
Hawaiian Airlines, Inc	Domestic
Hughes Air Corps., d/b/a Hughes Airwest	Domestic
Kodiak-Western Alaska Airlines, Inc	Domestic
Munz Northern Airlines, Inc	Domestic
National Airlines, Inc	Domestic, Atlantic, Latin America
New York Airways, Inc	Domestic
North Central Airlines, Inc	Domestic
Northwest Airlines, Inc	Domestic, Atlantic, Pacific
Ozark Air Lines, Inc	Domestic
Pan American World Airways, Inc	Domestic, Atlantic, Latin America, Pacific
Piedmont Aviation, Inc	Domestic
Reeve Aleutian Airways, Inc	Domestic
Seaboard World Airlines, Inc	Atlantic
Southern Airways, Inc	Domestic
Texas International Airlines, Inc	Domestic

ROUTE AIR CARRIER REPORTING ENTITIES—Continued

Air Carriers	Entities
Trans World Airlines, Inc	Domestic, Atlantic, Pacific
United Air Lines, Inc	Domestic
Western Air Lines, Inc	Domestic, Latin America
Wien Air Alaska, Inc	Domestic
Wright Air Lines, Inc	Domestic

* * * * * * *

(Authority: Secs. 204(a) and 407, Federal Aviation Act of 1958, as amended (72 Stat. 743, 766, as amended (49 U.S.C. 1324(a) and 1377.))

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 79-771 Filed 1-8-79; 8:45 am]

[3510-07-M]

Title 15—Commerce and Foreign Trade

CHAPTER I—BUREAU OF THE CENSUS, DEPARTMENT OF COMMERCE

PART 30—FOREIGN TRADE STATISTICS

MISCELLANEOUS AMENDMENTS

AGENCY: Bureau of the Census, Commerce.

ACTION: Notification of Authority Citation.

SUMMARY: At 43 FR 56030, November 30, 1978, the Bureau of the Census adopted a final rule incorporating miscellaneous amendments into the Foreign Trade Statistics Regulations. This document adds the authority citation under which the amendments were issued.

EFFECTIVE DATE: November 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Emanuel A. Lipscomb, Chief, Foreign Trade Division, Bureau of the Census, Washington, D.C. 20233, 301-763-5342.

SUPPLEMENTARY INFORMATION: The proper authority citation for FR Doc. 78-33481 published at 43 FR 56030 is as follows: (title 13, United States Code, section 302; and 5 U.S.C. 301; Reorganization Plan No. 5 of 1950; Department of Commerce Organization Order No. 35-2A, August 4, 1975, 40 FR 42765).

MANUEL D. PLOTKIN,
Director, Bureau of the Census.

JANUARY 4, 1979.

[FR Doc. 79-717 Filed 1-8-79; 8:45 am]

[3510-25-M]

CHAPTER III—INDUSTRY AND TRADE ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 373—SPECIAL LICENSING PROCEDURES

Revision of Distribution License Procedure and Phasing out of Foreign-Based Warehouse Procedure

AGENCY: Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

ACTION: Final rule.

SUMMARY: Two of the special licensing procedures of the Office of Export Administration (OEA), the Foreign-Based Warehouse procedure and the Distribution License procedure, have many elements in common. The major difference is that a wider range of reexports is permitted under the Warehouse procedure. As part of OEA's program of simplifying the Export Administration Regulations, the Distribution License procedure is revised to encompass the reexport provisions of the Warehouse procedure, thus permitting the latter to be phased out.

EFFECTIVE DATE: January 9, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230 (Tel. 202-377-4196).

SUPPLEMENTARY INFORMATION: The Foreign-Based Warehouse procedure was established a number of years ago to authorize a U.S. exporter (1) To stock commodities abroad at a central location for distribution to customers in the country where the stock is located or in other countries; (2) To ship commodities directly from the United States to these customers to fill an urgent need or a specialized requirement that cannot be filled from the Foreign-Based Stock; or (3) To ship directly from the United States to these customers parts or components not stocked abroad to be used to repair equipment exported by the U.S. exporter.

Subsequently, the Distribution License procedure was established to authorize exports of certain commodities under an international marketing program to consignees that have been approved in advance as foreign distributors or users. Also, the Service Supply procedure was established to enable persons or firms in the United States or abroad to provide prompt service of equipment (1) Exported from the United States, (2) Produced abroad by a subsidiary, affiliate, or branch of a U.S. firm, or (3) Produced abroad by a manufacturer who uses parts imported from the United States in the manufactured product.

The latter two procedures offered advantages to the U.S. exporter not found in the Foreign-Based Warehouse procedure, and most firms that had been using the latter switched to the Distribution and the Service Supply procedures. However, reexports under the Distribution License procedure could only be made from one approved consignee to another, whereas an approved customer under the Foreign-Based Warehouse procedure who had been assigned a sales territory encompassing several countries could be authorized to reexport to customers in those countries, even though the customers had not been approved in advance as participants in this procedure. Therefore, a few exporters elected to remain under the Foreign-Based Warehouse procedure. This revision makes foreign subsidiaries which have been assigned multinational sales territories and other foreign distributors who have entered into written agreements with U.S. exporters to distribute commodities in more than one country eligible as foreign consigneees under the Distribution License procedure. Inasmuch as there no longer exists any advantage for a U.S. exporter to use the Foreign-Based Warehouse procedure, the Export Administration Regulations can be simplified by phasing out this now-extraneous procedure. Foreign-Based Warehouse licenses and authorizations that are valid as of February 8, 1979, will remain in effect until they expire, are replaced by other licenses or authorizations or until June 30, 1979, whichever is earliest. No new licenses or authorizations will be

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issued under the Foreign-Based Warehouse procedure after February 8, 1979.

Accordingly, Part 373 of the Export Administration Regulations (15 CFR Part 373) is revised as follows:

1. Section 373.3 is amended by revising paragraphs (a) (c) (i) (ii), (d) (3) (iii) and (iv), (h) (4), and (i) (1) as follows:

§ 373.3 Distribution License.

• • • • • •

(a) *Eligible Countries*

The Distribution License procedure may authorize exports and reexports and reexports to:

(1) All countries in Country Group T; and

(2) All countries in Country Group V, except:

Algeria	Sudan
Egypt	Syria
Iraq	Yemen (Aden)
Libya	Yemen (Sanaa)

• • • • • •

(c) *Eligible Exporters and Consignees*

(1) Applicant-consignee relationship. The ultimate consignee of a Distribution License must be:

• • • • • •

(ii) An agent, representative, or any other person or firm distributing the commodities to be exported under this license pursuant to a written agreement with the U.S. exporter or its wholly-owned subsidiary that (*a*) Effectively assures compliance with U.S. Export Administration Regulations, including the provisions set forth in § 373.3(1), and (*b*) lists the country or countries in which the commodities are to be distributed, or

• • • • • •

(d) • • •

(3) • • •

(iii) *Form ITA-6052.* Unless the ultimate consignee is a foreign-government agency, other than a government-controlled institution of higher learning (university, academy, college, etc.), three copies of Form ITA-6052 shall be manually signed by the consignee or by a responsible official of the consignee who is authorized to bind the consignee to all of the terms, undertakings, and commitments set forth on the form. All copies shall be cosigned by the applicant and submitted with the application to the Office of Export Administration. If reexport authorization is sought, the specific countries of destination shall be included in Item 5 of the form. If the ultimate consignee is a foreign government agency, see § 373.3(d)(3)(ii)(c) for required notation on application.

(iv) *Comprehensive narrative statement.* A comprehensive narrative statement shall be submitted by the applicant in support of the application. This statement shall describe the applicant's marketing program pertinent to the application and shall detail the nature and duration of the business relationship existing between the applicant and each consignee. If the consignee is a subsidiary, affiliate, or branch of the U.S. exporter, the statement shall show clearly that the qualifications set forth in § 373.3(c) are met and shall show the form of ownership or other control exercised by the U.S. exporter. If the U.S. exporter has assigned a sales territory to the consignee that includes a country or countries other than the one in which the consignee is located, the statement shall list the country or countries. If the consignee is a distributor other than a subsidiary, affiliate, or branch of the U.S. exporter, the statement shall include the terms of the distributorship agreement and a copy of the portion of the written agreement assuring compliance with U.S. Export Administration Regulations as described in § 373.3(c)(1)(ii). If the written agreement assigns a sales territory to the consignee that includes a country or countries other than the one in which the consignee is located, a copy of that portion of the written agreement shall also be included. In addition, the statement shall list, for each consignee, the volume of business in the commodities involved for the preceding year, describing the commodities in the same detail as on the license application. If the government of the country where the consignee is located prohibits the inspection of records by a representative of the U.S. government, the narrative statement must be accompanied by a statement from the consignee describing in full an alternative arrangement that would permit a review of his activities adequate to determine whether or not he has complied with the U.S. export control laws and regulations, as required by § 373.3(1)(4).

• • • • • •

(h) • • •

(4) *Destination control statement.* The U.S. exporter shall enter one of the two following destination control statements on the commercial invoice and bill of lading or air waybill covering exports under the Distribution License procedure:

(i) "These commodities licensed by the United States for ultimate destination (name of country where the distributor is located). Diversion contrary to U.S. law prohibited."

(ii) "These commodities licensed by the United States for ultimate destination (name of country where the distributor is located) and for distribution or resale in (name(s) of country(ies) to which reexport has been authorized as indicated on approved Form ITA-6052). Diversion contrary to U.S. law prohibited."

Use of statement (i) does not preclude the consignee from reexporting to any of the exporter's other approved consignees or to other countries for which *specific* prior approval has been received from the Office of Export Administration. In such instances, diversion (i.e., reexport) is *not* contrary to U.S. law and, hence, is not prohibited.

• • • • • •

(i) *Reexports.* (1) *Distributor.* A distributor who is an approved consignee under a Distribution License may reexport commodities received under the Distribution License in accordance with the following rules.

(i) An approved consignee may reexport to any of the U.S. exporter's other consignees who have been approved under the Distribution License procedure.

(ii) An approved consignee who is a subsidiary, affiliate or branch of the U.S. exporter may reexport to any approved destination included in the sales territory assigned by the U.S. exporter, provided the country is an eligible country as defined in § 373.3(a).

(iii) Other approved distributors may reexport to any approved destination that is included in a formal written agreement with the U.S. exporter or its wholly-owned subsidiary, provided the country is an eligible country as defined in § 373.3(a).

(iv) An approved consignee, regardless of whether it is a subsidiary, affiliate or branch of the U.S. exporter, may reexport for use or distribution within Switzerland or Yugoslavia only if the reexport is covered by a Swiss Blue Import Certificate or a Yugoslav End-Use Certificate, as applicable. The Swiss Blue Import Certificate need *not* be submitted to the Office of Export Administration, but shall be retained in accordance with the recordkeeping provisions described in § 373.3(1)(3). The original of each Yugoslav End-Use Certificate issued, or a reproduced copy, if the original is required by the government of the country in which the distributor is located, shall be immediately forwarded by the distributor to the U.S. exporter. The original or reproduced copies received from the distributor shall be submitted by the U.S. exporter, on a monthly basis, to the Office of Export Administration (Room 1617M), U.S. Department of Commerce, Washington, D.C. 20230, with a letter identifying the distributors from which received. While an approved consignee in Switzerland, without obtaining a Swiss Blue Import Certificate, may stock commodities in Switzerland for reexport to other approved consignees in other countries, such commodities may be released for distribution or use within Switzerland only after a Swiss Blue Import certificate covering the transaction has been obtained. These documents shall be retained in accordance with the recordkeeping provision of § 373.3(1)(3).

• • • • • •

2. Section 373.4 is amended by adding a note immediately under the title to that section to read as follows:

§ 373.4 Foreign-based warehouse procedure.

NOTE.—The Distribution License procedure (§ 373.3) was revised, effective January 9, 1979, to include provisions under which distributors may be authorized to reexport commodities received under the procedure. At the time this revision was made, the Office of Export Administration announced that the Foreign-based Warehouse Procedure was being phased out. Export licenses and authorizations issued under this procedure that were valid as of February 8, 1979, will remain in effect until they expire, are replaced by other licenses or authorizations or until June 30, 1979, whichever is earliest. No new licenses or authorizations will be issued under the Foreign-based Warehouse procedure after February 8, 1979.

• • • • • •

(Sec. 4 Pub. L. 91-184, 83 Stat. 842 (50 U.S.C. App. 2403), as amended; E. O. 12002, 42 FR 35623 (1977); Department Organization Order 10-3, dated December 4, 1977, 42 FR 64721 (1977); and Industry and Trade Administration Organization and Function Order 45-1, dated December 4, 1977, 42 FR 64716 (1977).

STANLEY J. MARCUSS,
Deputy Assistant Secretary for Trade Regulation.

JANUARY 4, 1979.

[FR Doc. 79-729 Filed 1-8-79; 8:45 am]

Establishment of Supplementary Export Quota for Butane During the Fourth Quarter 1978

Correction

In FR Doc. 78-34050 appearing at page 57141 in the issue for Wednesday, December 6, 1978, in the middle column of page 57142, the amendatory language for § 377.6 now reading "A new § 377.6 (d)(1) is established to read as follows:" should have read "A new § 377.6 (d)(12) is established to read as follows:"

[8010-01-M]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-15423]

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES AND EXCHANGE ACT OF 1934

Uniform Net Capital Rule

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Commission is adopting previously proposed amendments to this uniform net capital rule, which set forth the treatment to be accorded specific receivables and undue concentration deductions relating to transactions in municipal securities.

EFFECTIVE DATE: February 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Nelson S. Kibler, Assistant Director, Division of Market Regulation, Securities and Exchange Commission, Washington, D.C. 20549 (202) 376-8131.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today announced the adoption of certain amendments to Rule 15c3-1 (17 CFR 240.15c3-1) under the Securities Exchange Act of 1934, the uniform net capital rule. The amendments [1] which become effective on February 1, 1979 are substantially the same as those contained in Securities Exchange Act Release No. 14995, July 26, 1978, 43 FR 33935 (August 2, 1978), with minor modifications to Rule 15c3-1(c)(2)(iv)(C) distinguishing secondary joint accounts from underwritings, and Rule 15c3-1(c)(2)(vi)(M) and Rule 15c3-1(f)(3)(iii) clarifying that the 20 consecutive day holding period for determining the application of the undue concentration haircut requirements begins on the date of delivery of the securities to the broker or dealer and not on the date the commitment is made by the broker or dealer to purchase municipal securities from a syndicate.

Six comment letters were received to the amendments proposed in Release No. 14995. All commentators favored the adoption of the proposed amendments with minor technical modifications. One commentator, however, expressed the opinion that municipal broker-brokers should be exempt from the undue concentration requirements. It is the view of the Commission that such an exemption is not necessary as such brokers generally do not take a position in municipal securities. However, to the extent such firms are required to take a position they should conform to the same undue concentration requirement as apply to other brokers or dealers in municipal securities.

DISCUSSION

Rule 15c3-1(c)(2)(iv)(C) originally required the deduction from net worth of good faith deposits arising in connection with an underwriting of any security and outstanding longer than eleven business days. In addition, profits derived from participation in an underwriting syndicate were treated as "unsecured receivables" which pursuant to Rule 15c3-1(c)(2)(iv)(E) were deducted from net worth. In Securities Exchange Act Release No. 11854 [2] the Commission adopted temporary amendments to Rule 15c3-1(c)(2)(iv)(C) permitting the inclusion in net worth, for ninety (90) days after settlement of the underwriting with the issuer, good faith deposits and receivables arising from participation in municipal securities underwritings. In Release No. 14995 the Commission proposed to reduce the ninety (90) day period to sixty (60) days. It was also proposed in Release No. 14995 that profits receivable from municipal securities secondary joint accounts would be includable in net worth for 60 days. Rule 15c3-1(c)(2)(iv)(C) has been adopted substantially as proposed with minor language modifications indicating that secondary joint accounts are not considered to be underwritings for purposes of that provision, and to distinguish non-municipal securities underwritings from municipal securities underwritings.

[1505-01-M]

CHAPTER III—INDUSTRY AND TRADE ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 377—SHORT SUPPLY CONTROLS

[1] Those sections amended are §§ 240.15c3-1(c)(2)(iv)(C); 240.15c3-1(c)(2)(vi)(M) and 240.15c3-1(f)(3)(iii).

[2] Securities Exchange Act Release No. 11854, November 20, 1975; 40 FR 57786 (December 12, 1975).

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Rule 15c3-1(c)(2)(vi)(M) in general provides that a deduction from net worth equal to half the appropriate haircut shall be taken against long or short positions in the securities of an issuer of a single class or series, the market value of which positions exceed ten percent of tentative net capital. A similar provision, Rule 15c3-1(f)(3)(iii), applies to computations under the alternative net capital requirement. In Release No. 11854, the Commission exempted positions in municipal securities from the undue concentration provisions of Rule 15c3-1 on a temporary basis. In Release No. 14995 the Commission proposed to amend Rule 15c3-1(c)(2)(iv)(M) and 15c3-1(f)(3)(iii) to require that the undue concentration haircut provisions apply to municipal securities if the issue has the same security provisions, date, interest rate, day, month and year of maturity and such securities have a market value in excess of $500,000 in bonds ($5,000,000 in notes) or 10% of tentative net capital, whichever is greater,[2] and are held in position longer than 20 business days.

These amendments to Rule 15c3-1(c)(2)(iv)(M) and Rule 14c3-1(f)(3)(iii) have been adopted substantially as proposed with minor language modifications clarifying that the 20 consecutive day holding period for determining the application of the undue concentration haircut requirements begins on the date of delivery of the securities to the broker or dealer and not on the date the commitment is made by a broker-dealer to purchase municipal securities from a syndicate.

STATUTORY BASIS, COMPETITIVE CONSIDERATION AND EFFECTIVE DATE

Pursuant to the Securities Exchange Act of 1934 and particularly Sections 15(c)(3) and 23(a) thereof, 15 U.S.C. 78o(c)(3) and 78w(a), the Commission amends § 240.15c3-1 in Part 240 of Chapter II of Title 17 of the Code of Federal Regulations in the manner set forth below, effective February 1, 1979. The Commission finds that any burden imposed upon competition by the amendments is necessary and appropriate in furtherance of the purposes of the Act, and particularly to implement the Commission's continuing mandate under Section 15 (c)(3) thereof, 14 U.S.C. 78o(c)(3), to provide minimum safeguards with respect to financial responsibility of brokers and dealers.

[2]This amendment is designed to exclude all but very large and older positions in municipal securities from its provisions. Also, it should be noted that the dollar limitations of these provisions apply to each serial bond installment having the same maturity and not to the entire issue which may contain many maturity dates.

TEXT OF AMENDMENTS TO § 240.15c3-1

§ 240.15c3-1 Net capital requirements for brokers or dealers.

* * * * *

(c) * * *
(2) * * *
(iv) * * *

(C) Interest receivable, floor brokerage receivable, commissions receivable from other brokers or dealers (other than syndicate profits which shall be treated as required in paragraph (c)(2)(iv)(E) of this section), mutual fund concessions receivable and management fees receivable from registered investment companies, all of which receivables are outstanding longer than thirty (30) days from the date they arise; dividends receivable outstanding longer than thirty (30) days from the payable date; good faith deposits arising in connection with a non-municipal securities underwriting, outstanding longer than eleven (11) business days from the settlement of the underwriting with the issuer; receivables due from participation in municipal securities underwriting syndicates and municipal securities joint underwriting accounts which are outstanding longer than sixty (60) days from settlement of the underwriting with the issuer and good faith deposits arising in connection with an underwriting of municipal securities, outstanding longer than sixty (60) days from settlement of the underwriting with the issuer; and receivables due from participation in municipal securities secondary trading joint accounts, which are outstanding longer than sixty (60) days from the date all securities have been delivered by the account manager to the account members.

* * * * *

In § 240.15c3-1, the last sentence of paragraphs (c)(2)(vi)(M) and (f)(3)(iii) is amended to read as follows: *Provided further,* this provision will be applied to an issue of municipal securities having the same security provisions, date of issue, interest rate, day, month and year of maturity only if such securities have a market value in excess of $500,000 in bonds ($5,000,000 in notes) or 10% of tentative net capital, whichever is greater, and are held in position longer than twenty (20) business days from the date the securities are received by the syndicate manager from the issuer.

* * * * *

Because the amendments contained in this release will not become effective until February 1, 1979 the Commission extends until January 31, 1979 the temporary provisions[4] of the net capital rule which allow good faith deposits and syndicate or joint account receivables arising in connection with municipal securities to be included in the net worth of a broker or dealer for 90 days, and which exempt municipal securities from the undue concentration requirements.

By the Commission.

SHIRLEY E. HOLLIS,
Assistant Secretary.

DECEMBER 21, 1978.

[FR Doc. 79-697 Filed 1-8-79; 8:45 am]

[4]For a more detailed discussion of the temporary provisions see Securities Exchange Act Release No. 14994, July 26, 1978; 43 FR 33906, August 2, 1978.

[8010-01-M]

[Release No. 34-15453]

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

Amendments to Conform to the Securities Investor Protection Act of 1970

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Commission is amending its Rules in conjunction with the amendments to the Securities Investor Protection Act of 1970 ("SIPA"). The Commission is deleting from its broker-dealer reserves and segregation rule the definition of specifically identifiable property for purposes of customer protection under SIPA and amending a broker-dealer reporting rule to provide that no supplemental report on either the Securities Investor Protection Corporation ("SIPC") annual general assessment reconciliation or the exclusion from membership form need be filed for any period during which the SIPC assessment is a minimum assessment as provided for in SIPA.

EFFECTIVE DATE: January 9, 1979.

FOR FURTHER INFORMATION CONTACT:

Michael A. Macchiaroli, Special Counsel, Division of Market Regulation, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 (202) 376-8127.

SUPPLEMENTARY INFORMATION: The Securities Investor Protection Act Amendments of 1978 (Pub. L. No. 95-283, 92 Stat. 249) ("SIPA") necessitate that the Commission make a technical revision to Rule 15c3-3 (17 CFR 240.15c3-3). In addition, SIPA now provides for fixed minimum membership assessments. In years where the Securities Investor Protection Corporation ("SIPC") determines to levy only the minimum assessment, it would be unnecessary to require the filing of certain financial reports by SIPC members which would verify that the assessment had been accurately computed.

Prior to amendment, Section 6(c)(2)(C)(iii) of SIPA allowed the Commission to determine by rule or regulation what property should be deemed "specifically identifiable" for purposes of customer protection under SIPA. Paragraphs 4 and 5 of Section 16 of SIPA as amended define "customer property" and "customer name securities" for purposes of customer protection. The term "specifically identifiable property" was deleted from SIPA. Paragraph (j) of Commission Rule 15c3-3 (17 CFR 240.15c3-3(j)) defining "specifically identifiable property" thus no longer has any relevance under SIPA as amended in 1978 and should be deleted.

Section 4 of SIPA before amendment required SIPC to levy an annual assessment based on gross revenues of members. In conjunction therewith, Rule 17a-5(e)(4) (17 CFR 240.17a-5(e)(4)) requires a supplemental report covering the SIPC annual general assessment reconciliation or exclusion from membership form. Section 4(d)(1)(C) of SIPA as amended allows for a minimum assessment, not based on revenue, for which it is not necessary to file the supplemental report. The Commission hereby amends the Rule to relieve a member or excluded person from the obligation of filing the supplemental report or form in years where only the minimum assessment is levied. In years during which the assessment is based on revenue, the report must be filed, but it does not have to cover any part of the year during which the assessment was only a minimum one.

The Commission finds it will be unnecessary to publish the above described action for notice and public comment. Under the Administrative Procedure Act, 5 U.S.C. Section 553, the amendments described in the Text of Amendments will be effective January 9, 1979.

STATUTORY BASIS AND COMPETITIVE CONSIDERATIONS

The Securities and Exchange Commission acting pursuant to the Securities Exchange Act of 1934, and particularly Sections 3, 15(c)(3), 17(a) and 23 thereof (15 U.S.C. 78c, 78o, 78q(a) and 78u) hereby deletes paragraph (j) of Rule 15c3-3 (17 CFR 240.15c3-3 (j)) and revises Rule 17a-5(e)(4) (17 CFR 240.17a-5(e) (4)), as set forth below.

It appears to the Commission that no burden will be imposed on competition by adoption of the above mentioned amendments. If there is any burden on competition, it is necessary and appropriate in furtherance of the Commission's obligation to adopt financial responsibility rules.

TEXT OF AMENDMENTS

1. Accordingly, 17 CFR Part 240 is amended by deleting and reserving § 240.15c3-3(j) as follows:

§ 240.15c3-3 Customer protection—reserves and custody of securities.

* * * * *

(j) [Deleted and reserved.]

* * * * *

2. Section 240.17a-5 is amended by revising paragraph (e)(4) as follows:

§ 240.17a-5 Reports to be made by certain brokers and dealers.

* * * * *

(e) * * *

(4) The broker or dealer shall file with the report a supplemental report which shall be covered by an opinion of the independent public accountant on the status of the membership of the broker or dealer in the Securities Investor Protection Corporation ("SIPC") if, pursuant to paragraph (e)(1) of this section, a report of the broker or dealer is required to be covered by an opinion of a certified public accountant or a public accountant who is in fact independent. The supplemental report shall cover the SIPC annual general assessment reconciliation or exclusion from membership forms not previously reported on under this paragraph (e)(4) which were required to be filed on or prior to the date of the report required by paragraph (d) of this section: *Provided,* That the broker or dealer need not file the supplemental report on the SIPC annual general assessment reconciliation or exclusion from membership form for any period during which the SIPC assessment is a minimum assessment as provided for in Section 4(d)(1)(c) of the Securities Investor Protection Act of 1970, as amended. The supplemental report, an original of which shall be submitted to the regional office of the Commission for the region in which the broker or dealer has its principal place of business, the Commission's principal office in Washington, the principal office of the designated examining authority for such broker or dealer and the office of SIPC, shall be bound separately, be dated and be signed manually, and shall include the following:

* * * * *

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

JANUARY 2, 1979.

[FR Doc. 79-769 Filed 1-8-79; 8:45 am]

[4110-03-M]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER A—GENERAL

PART 14—PUBLIC HEARING BEFORE A PUBLIC ADVISORY COMMITTEE

National Advisory Food and Drug Committee

AGENCY: Food and Drug Administration.

ACTION: Final Rule.

SUMMARY: The Food and Drug Administration (FDA) announces the termination of the National Advisory Food and Drug Committee and amends the regulations to delete it from the list of standing advisory committees. The agency has determined that the purposes for which the Committee was established can be accomplished through other means.

EFFECTIVE DATE: November 15, 1978.

FOR FURTHER INFORMATION CONTACT:

William V. Whitehorn, Office of Health Affairs (HFY-4), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1547.

SUPPLEMENTARY INFORMATION: The Committee's functions were to review and evaluate agency programs and advise on policy matters of national significance as they relate to the statutory mission of the Food and Drug Administration in the areas of foods, drugs, cosmetics, medical devices, biological products, and electronic products, and to review and make recommendations on applications for grants-in-aid for research projects related to the mission of the Food and Drug Administration as required by law.

Authority for the Committee expired on November 15, 1978.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 14 is amended in § 14.100

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List of standing advisory committees by deleting paragraph (a)(2) and marking it reserved.

Effective date. Because this is a technical conforming amendment to Part 14, the Commissioner finds that there is good cause for the rule to be effective immediately upon publication in the FEDERAL REGISTER, January 9, 1979.

(Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)).)

Dated: January 3, 1979.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-719 Filed 1-8-79; 8:45 am]

[4110-03-M]

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

[Docket No. 78N-0182]

PART 546—TETRACYCLINE ANTIBIOTIC DRUGS FOR ANIMAL USE

Chlortetracycline Hydrochloride-Neomycin Tablets; Revocation of Certification Provision

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Director of the Bureau of Veterinary Medicine is revoking the regulation providing for certification of chlortetracycline hydrochloride-neomycin tablets. This revocation is made because there is a lack of substantial evidence that the combination drug is effective for its labeled uses.

EFFECTIVE DATE: January 9, 1979.

FOR FURTHER INFORMATION CONTACT:

Donald A. Gable, Bureau of Veterinary Medicine (HFV-100), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3420.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of July 18, 1978 (43 FR 30895), the Director of the Bureau of Veterinary Medicine issued a notice of opportunity for hearing proposing to withdraw approval of NADA 55-055V, Calf Scour Oblets, which contain 125 milligrams (mg) chlortetracycline in combination with 125 mg neomycin base (present as sulfate) and vitamins A, D, and niacin. In the same issue of the FEDERAL REGISTER (43 FR 30808), the Director of the Bureau of Veterinary Medicine proposed to revoke § 546.110f *Chlortetracycline hydrochloride-neomycin tablets* which provides for the certification of the drug pursuant to the requirements of section 512(n) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(n)). This proposal was made because there was a lack of substantial evidence that the combination drug was effective for its labeled uses.

Elsewhere in this issue of the FEDERAL REGISTER is a notice withdrawing approval of NADA 55-055V for Calf Scour Oblets, because the sponsor did not file a timely request for hearing within the 30-day period provided.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 507, 512, 59 Stat. 463 as amended, 82 Stat. 343-351) (21 U.S.C. 357, 360b) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.84), Part 546 is amended by revoking § 546.110f *Chlortetracycline hydrochloride-neomycin tablets.*

EFFECTIVE DATE: This regulation is effective January 9, 1979.

(Secs. 507, 512, 59 Stat. 463 as amended, 82 Stat. 343-351 (21 U.S.C. 357, 360b))

Dated: December 28, 1978.

TERENCE HARVEY,
Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 79-718 Filed 1-8-79; 8:45 am]

[4210-01-M]

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-4322]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of LaCoste, Medina County, Texas

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the city of LaCoste, Medina County, Texas These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the city of LaCoste, Medina County, Texas.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of LaCoste, Medina County, Texas, are available for review at the City Office, P.O. Box 112, LaCoste, Texas 78039.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the city of LaCoste, Medina County, Texas.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Polecat Creek	Just upstream of Southern Pacific Railroad.	710
	Just upstream of D'Harris Street.	715
	Just upstream of Casiano Street..	722
South Polecat Creek.	Just upstream of Lytle LaCoste Road.	707
	Just upstream of Carle Avenue.	715
	Just upstream of Castro Avenue.	721

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE: In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: October 19, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-582 Filed 1-8-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4188]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Town of Bedford, Hillsborough County, New Hampshire

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Bedford, Hillsborough County, New Hampshire.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Town of Bedford, Hillsborough County, New Hampshire.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Bedford are available for review at the Building Inspector's Office, Bedford, New Hampshire.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for Town of Bedford, Hillsborough County, New Hampshire.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Merrimack River...	At South Corporate Limits With Merrimack.	125
	Just Upstream of Boston and Maine Railroad.	127
	Confluence of Bowman Brook.	129
	Just Downstream of North Corporate Limit with Manchester.	133
Baboosic Brook	Just Upstream of Parkhurst and Woodword Road.	218
	1625 feet Upstream of Parkhurst and Woodword Road.	219
	At South Corporate Limit with Merrimack.	223
	At Corporate Limit with Merrimack (Just Upstream of Dam).	233
	475 feet Upstream of Pulpit Brook.	233
	750 feet Upstream of Pulpit Brook.	234
	At Corporate Limit with Amherst.	235
Pointer Club Brook.	Confluence with Merrimack River.	125
	240 feet Upstream of Boston and Maine Railroad.	125
	1140 feet Upstream of Boston and Maine Railroad.	142
	Just Downstream of South River Road.	150
	Just Upstream of South River Road.	155
Tioga River	At Confluence with Merrimack River.	126
	200 feet Upstream of the Confluence with Merrimack River.	128
	570 feet Upstream of the Confluence with Merrimack River.	145
	1690 feet Upstream of the Confluence with Merrimack River.	148
	2133 feet Upstream of the Confluence with Merrimack River.	156
	Just Downstream of Dirt Road (500 feet Downstream of Everett Turnpike).	159
	Just Downstream of Everett Turnpike.	161
	Just Upstream of Everett Turnpike.	169
	1055 feet Downstream of State Route 3 Bridge.	177
	105 feet Upstream of State Route 3 Bridge.	198
	1055 feet Upstream of State Route 3 Bridge.	198
	Just Upstream of the Foot Bridge at Golf Course (1370 feet Downstream from Patten Road).	203
	Just Upstream of a Dirt Road (765 feet Downstream from Patten Road).	206
	Just Downstream of Patten Road..	206
	Just Upstream of Patten Road.	211
	Just Downstream of John Goffe Road.	211
	Just Upstream of John Goffe Road.	216
Bowman Brook.....	At Confluence with Merrimack River.	129
	475 feet Upstream of Everett Turnpike.	129
	Just Downstream of Dam, 440 feet Upstream of Covered Footbridge.	135
	Just Downstream of Sheraton Wayfarer Building.	145
	Just Upstream of South River Road.	150
	Just Upstream of Dam, Upstream of South River Road.	157
	Just Downstream of State Route 101 (South Crossing).	163

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Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	1325 feet Upstream of State Route 101 (South Crossing).	175
	Just Downstream of State Route 101 and Boynton Street Culvert.	195
	Just Upstream of State Route 101 and Boynton Street Culvert.	207
	Just Downstream of Old Bedford Road.	219
	Just Upstream of Old Bedford Road.	230
	900 feet Upstream of Old Bedford Road.	230
	105 feet Downstream of Donald Street.	235
	Just Upstream of Donald Street.	248
	Just Downstream of State Route 114.	249
	Just Upstream of State Route 114.	250
Riddle Brook	At South Corporate Limit with Merrimack.	178
	Just Downstream of Meadow Road.	183
	Just Upstream of Abandoned Railroad Bridge (Downstream of Nashua Road).	184
	1637 feet Downstream of Nashua Road.	185
	Just Downstream of Nashua Road.	202
	Just Upstream of Nashua Road.	211
	2900 feet Upstream of Nashua Road.	214
	Just Downstream of County Road West.	226
	130 feet Upstream of County Road West.	229
	Just Upstream of Bedford Center Road.	235
	Just Upstream of Wallace Road.	251
	Just Upstream of Amherst Road.	264
	2000 feet Upstream of Amherst Road.	268
McQuade Brook	At South Corporate Limit with Merrimack.	179
	800 feet Downstream of Jenkins Road.	182
	700 feet Downstream of Jenkins Road.	187
	340 feet Downstream of Jenkins Road.	189
	Just Upstream of Jenkins Road.	217
	4860 feet Upstream of Jenkins Road.	217
	1450 feet Downstream of Beal Road.	223
	975 feet Downstream of Beal Road.	241
	Just Downstream of Beal Road.	255
	Just Upstream of Beal Road.	258
	80 feet Downstream of State Route 101.	271
	Just Upstream of State Route 101.	278
	900 feet Downstream of North Amherst Road.	278
	105 feet Downstream of North Amherst Road.	281
	Just Upstream of North Amherst Road.	290
Pulpit Brook	At Confluence with Baboosic Brook.	233
	2112 feet Upstream of Confluence with Baboosic Brook.	236
	Just Downstream of State Route 101.	238
	Just Upstream of State Route 101.	244
	At West Corporate Limit.	245

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719).)

NOTE: In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: August 9, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-584 Filed 1-8-79; 8:45 am]

[4830-01-M]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER D—MISCELLANEOUS EXCISE TAX

[T.D. 7571]

PART 54—PENSION EXCISE TAX REGULATIONS

PART 141—TEMPORARY EXCISE TAX REGULATIONS UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Employee Stock Ownership Plans

AGENCY: Internal Revenue Service, Treasury.

ACTION: Publication of full text of final regulations.

SUMMARY: This document sets forth the full text of previously adopted final regulations (43 FR 53718), November 17, 1978, FR Doc. 78-32151 relating to employee stock ownership plans.

DATE: The regulations are generally effective for plan years ending after December 31, 1974.

FOR FURTHER INFORMATION CONTACT:

Thomas Rogan of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:EE), 202-566-3589, not a toll-free number.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On September 2, 1977, the FEDERAL REGISTER (42 FR 44396) published proposed amendments to the Pension Excise Tax Regulations (26 CFR Part 54). These proposed amendments were adopted as temporary regulations in a Treasury decision published in the same issue of the FEDERAL REGISTER (42 FR 44394). After consideration of all written comments received regarding the proposed amendments, those amendments were adopted, as revised, by Treasury Decision 7571, published in the FEDERAL REGISTER for November 17, 1978 (43 FR 53718). Treasury Decision 7571 also superseded the related temporary regulations.

However, Treasury Decision 7571 as published in the FEDERAL REGISTER contained only the changes to the notice of proposed rulemaking published on September 2, 1977, rather than the full text of the final regulations. This document sets forth the full text of the final regulations.

DRAFTING INFORMATION

The principal author of this regulation was Thomas Rogan of the Employee Plans and Exempt Organizations Division of the Office of the Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Accordingly, the full text of the final regulations adopted by Treasury Decision 7571 is as follows.

GEORGE H. JELLY,
Director, Employee Plans and Exempt Organizations Division.

26 CFR is amended as follows:

1. In Part 54, § 54.4975-11 is amended by—

a. Revising paragraph (a)(3), (7)(ii), (8)(iii), and (10),

b. Adding a new sentence at the end of paragraph (d)(3),

c. Revising paragraph (e)(2), and

d. Revising paragraph (f)(3).

These revised and added provisions read as follows:

§ 54.4975-11 "ESOP" requirements.

(a) In general. * * *

(3) *Continuing loan provisions under plan*—(i) *Creation of protections and rights.* The terms of an ESOP must formally provide participants with certain protections and rights with respect to plan assets acquired with the proceeds of an exempt loan. These protections and rights are those referred to in the third sentence of § 54.4975-7(b)(4), relating to put, call, or other options and to buy-sell or similar arrangements, and in § 54.4975-7(b)(10), (11), and (12), relating to put options.

(ii) *"Nonterminable" protections and rights.* The terms of an ESOP must also formally provide that these protections and rights are nonterminable. Thus, if a plan holds or has distributed securities acquired with the proceeds of an exempt loan and either the loan is repaid or the plan ceases to be an ESOP, these protections and rights must continue to exist under the terms of the plan. However, the protections and rights will not fail to be nonterminable merely because they are not exercisable under § 54.4975-7(b)(11) and (12)(ii). For example, if, after a plan ceases to be an ESOP, securities acquired with the proceeds of an exempt loan cease to be publicly traded, the 15-month period prescribed by § 54.4975-7(b)(11) includes the time when the securities are publicly traded.

(iii) *No incorporation by reference of protections and rights.* The formal requirements of paragraph (a)(3)(i) and (ii) of this section must be set forth in the plan. Mere reference to the third sentence of § 54.4975-7(b)(4) and to the provisions of § 54.4975-7(b)(10), (11), and (12) is not sufficient.

(iv) *Certain remedial amendments.* Notwithstanding the limits under paragraph (a)(4) and (10) of this section on the retroactive effect of plan amendments, a remedial plan amendment adopted before December 31, 1979, to meet the requirements of paragraph (a)(3)(i) and (ii) of this section is retroactively effective as of the later of the date on which the plan was designated as an ESOP or November 1, 1977.

* * * * *

(7) *Certain arrangements barred.* * * *

(ii) *Integrated plans.* A plan designated as an ESOP after November 1, 1977, must not be integrated directly or indirectly with contributions or benefits under title II of the Social Security Act or any other State or Federal Law. ESOP's established and integrated before such date may remain integrated. However, such plans must not be amended to increase the integration level or the integration percentage. Such plans may in operation continue to increase the level of integration if under the plan such increase is limited by reference to a criterion existing apart from the plan.

(8) *Effect of certain ESOP provisions on section 401(a) status.* * * *

(iii) *Income pass-through.* An ESOP will not fail to meet the requirements of section 401(a) merely because it provides for the current payment of income under paragraph (f)(3) of this section.

* * * * *

(10) *Additional transitional rules.* Notwithstanding paragraph (a)(9) of this section, a plan established before November 1, 1977, that otherwise satisfies the provisions of this section constitutes an ESOP if by December 31, 1977, it is amended to comply from November 1, 1977, with this section even though before such date the plan did not satisfy the following provisions of this section:

(i) Paragraph (a) (3) and (8) (iii);

(ii) The last sentence of paragraph (d)(3); and

(iii) Paragraph (f)(3).

* * * * *

(d) *Allocations to accounts of participants.* * * *

(3) *Income.* * * * Certain income may be distributed currently under paragraph (f)(3) of this section.

* * * * *

(e) *Multiple plans* * * *

(2) *Special rule for combined ESOP's.* Two or more ESOP's, one or more of which does not exist on November 1, 1977, may be considered together for purposes of applying section 401(a) (4) and (5) or section 410(b) only if the proportion of qualifying employer securities to total plan assets is substantially the same for each ESOP and—

(i) The qualifying employer securities held by all ESOP's are all of the same class; or

(ii) The ratios of each class held to all such securities held is substantially the same for each plan.

(3) *Amended coverage, contribution, or benefit structure.* For purposes of paragraph (e)(1)(i) of this section, if the coverage, contribution, or benefit structure of a plan that exists on November 1, 1977 is amended after that date, as of the effective date of the amendment, the plan is no longer considered to be a plan that exists on November 1, 1977.

(f) *Distribution.* * * *

(3) *Income.* Income paid with respect to qualifying employer securities acquired by an ESOP in taxable years beginning after December 31, 1974, may be distributed at any time after receipt by the plan to participants on whose behalf such securities have been allocated. However, under an ESOP that is a stock bonus plan, income held by the plan for a 2-year period or longer must be distributed under the general rules described in paragraph (f)(1) of this section. (See the last sentence of section 803(h), Tax Reform Act of 1976.)

* * * * *

§ 141.4975-11 [Deleted]

2. Part 141 is amended by deleting § 141.4975-11.

[FR Doc. 79-698 Filed 1-8-79; 8:45 am]

[4510-43-M]

Title 30—Mineral Resources

CHAPTER I—MINE SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

SUBCHAPTER H—EDUCATION AND TRAINING

PART 48—HEALTH AND SAFETY TRAINING AND RETRAINING OF MINERS

Final Rule; Correction

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Final rule; Correction.

SUMMARY: This document corrects errors appearing in the final regulations pertaining to health and safety training and retraining of miners, published at 43 FR 47454, October 13, 1978.Q04

EFFECTIVE DATE: January 9, 1979.

FOR FURTHER INFORMATION CONTACT:

Edward P. Clair, Counsel for Coal Mine Safety and Health, Office of the Solicitor, Room 430, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Virginia 22203, 703-235-1157.

SUPPLEMENTARY INFORMATION: In FR Doc. 78-29001 appearing at page 47454 in the FEDERAL REGISTER of October 13, 1978, the following corrections are made:

1. The fourth paragraph of section c. of the "Discussion of Major Issues" in the preamble on page 47456 is corrected in the ninth line of that paragraph by deleting the word "in" immediately before the words "a state" and immediately after the word "association" and replacing it with the word "or."

2. The last paragraph of the "Discussion of Other Significant Issues" in the preamble on page 47459 is corrected in the twelfth line of that paragraph by deleting the word/numbers "pages 14-16" immediately before the words "of the preamble" and immediately after the words "discussed on"

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and replacing it with the word/number "page 47456."

3. The authority citation appearing on page 47460 is corrected in the second line by deleting the letter/number "(a)(2)" immediately following the number "101" and immediately before the words "of the Federal Mine Safety."

4. Paragraph (f) of § 48.3 appearing on page 47461 is corrected in the second line of that paragraph by deleting the word "to" immediately before the words "the MSHA approved" and replacing it with the word "of."

5. Paragraph (a)(2)(i) of § 48.7 appearing on page 47463 is corrected in the seventh line of that paragraph by deleting the word "of" immediately after the semicolon and replacing it with the word "or."

6. Paragraph (b) of § 48.22 appearing on page 47464 is corrected in the eighth line of that paragraph by deleting the number "1" immediately before the word "months" and immediately after the words "within the preceding" and replacing this number "1" with the number "12."

Dated: January 2, 1979.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 79-871 Filed 1-9-79; 8:45 am]

[4310-84-M]

Title 43—Public Lands: Interior

CHAPTER II—BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 5655; ES-16068]

FLORIDA

Partial Revocation of Executive Order of November 12, 1838

AGENCY: Bureau of Land Management (Interior).

ACTION: Final Rule.

SUMMARY: This document will revoke the reservation of 78 acres, more or less, to the U.S. Coast Guard for lighthouse purposes, leaving 8 acres, more or less, originally reserved, under the jurisdiction of the Coast Guard, and will place the subject lands under the sole jurisdiction of the U.S. Fish and Wildlife Service, which now shares jurisdiction with the Coast Guard. The purpose of this action is to eliminate the dual management of the portion of the tract of the tract originally reserved that is no longer needed for lighthouse purposes.

EFFECTIVE DATE: January 9, 1979.

FOR FURTHER INFORMATION CONTACT:

Keith Corrigall—202-343-8731.

By virtue of the authority contained in the Federal Land Policy and Management Act of 1976 (90 Stat. 2751, 43 U.S.C. 1714), it is ordered as follows:

1. The Executive Order of November 12, 1838, which reserved the following described public land to the United States Coast Guard for lighthouse purposes, is hereby revoked, so far as it affects the following described lands:

TALLAHASSEE MERIDIAN

T. 5 S., Rs. 1 and 2 E.,
Sec. 1 (fractional), more particularly described as follows:
Beginning at a point which marks the intersection of the township line between Ts. 4 and 5 S., and the range line between Rs. 1 and 2 E., thence S. 87°13' W., 1,690 feet, thence southerly and easterly following the shoreline of Apalachee Bay to a point marking the intersection of the shoreline and the range line between Rs. 1 and 2 E., thence N. 2°47' W., 2,200 feet along the range line to the point of beginning. Containing approximately 86 acres in Wakulla County.
Excepting therefrom the following described parcel of land, including submerged areas, to be retained for Coast Guard use: Beginning at a point which marks the center of the light structure, thence due North (magnetic) a distance of 350 feet to the point of beginning; a strip of land 500 feet in width, the axial centerline of which runs from the point of beginning due South (magnetic) a distance of 700 feet, more or less, to the shoreline of Apalachee Bay, comprising 8.0 acres, more or less, as shown on plat dated January 2, 1902, by Office of L. H. Engineers, 7th and 8th District, Mobile, Alabama.

The lands form a segment of the coastal marshland on the north side of Apalachee Bay, and include open waters of the Gulf of Mexico. The marshland is primarily suitable for wildlife habitat. Much of the surrounding area is within the St. Marks National Wildlife Refuge or the State wildlife management areas. The subject tract is entirely within the wildlife refuge.

2. The land, except for the tract containing the St. Marks Lighthouse and reserved herein to the U.S. Coast Guard, will remain under the sole jurisdiction of the Fish and Wildlife Service, Department of the Interior, as the St. Marks National Wildlife Refuge by provisions of Executive Order No. 5740 of October 31, 1931.

GUY R. MARTIN,
Assistant Secretary of the Interior.

[FR Doc. 79-774 Filed 1-8-79; 8:45 am]

[3510-20-M]

Title 45—Public Welfare

CHAPTER XX—UNITED STATES FIRE ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 2012—ISSUING AND REVIEW OF USFA REGULATIONS

CROSS REFERENCE: For a document affecting 45 CFR Part 2012 see Appendix G of the Department of Commerce document appearing as Part II of this issue.

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proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[6355-01-M]

CONSUMER PRODUCT SAFETY COMMISSION

[16 CFR Parts 1608, 1610, 1611]

REASONABLE AND REPRESENTATIVE TESTS AND GUARANTIES UNDER THE FLAMMABLE FABRICS ACT

Extension of Comment Period

AGENCY: Consumer Product Safety Commission.

ACTION: Extension of time.

SUMMARY: The Commission extends by sixty days (until February 16, 1979) the period for submitting written comments on its proposed revision and amendment of the Flammable Fabrics Act regulations concerning (1) guaranties, (2) "reasonable and representative" tests for guaranties issued under the Standard for the Flammability of Clothing Textiles and the Standard for the Flammability of Vinyl Plastic Film and (3) general regulations for all products subject to a standard issued under the Flammable Fabrics Act. In the proposal, the Commission proposed eliminating class testing of fabric. The National Retail Merchants Association asked for the extension to allow time for it to plan and coordinate a program to develop a test system for classes of fabrics. The Commission granted the request since the development of a class test system with adequate criteria for defining a class would lessen the possible adverse economic impact of the proposed amendments.

DATES: Written comments must be submitted on or before February 26, 1979.

ADDRESSES: Written comments preferably in five copies, should be submitted to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT:

Phyllis Buxbaum, Directorate for Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C. 20207, (301) 492-6626.

SUPPLEMENTARY INFORMATION: On October 17, 1978, (43 FR 47952) the Commission proposed revisions and amendments of the Flammable Fabrics Act regulations concerning (1) guaranties issued by the sellers of products subject to the Act that the products conform to the applicable standard, (2) "reasonable and representative" tests to show the basis for guaranties of fabrics covered by the Standard for the Flammability of Clothing Textiles (16 CFR Part 1610) and the Standard for the Flammability of Vinyl Plastic Film (16 CFR Part 1611), and (3) general regulations applicable to all products subject to a standard issued under the Flammable Fabrics Act (16 CFR Part 1608). The comment period on the proposal was originally set to expire December 18, 1978.

The purpose of the proposed amendments is to update the regulations and to simplify and clarify them so they can be more easily understood, and so that compliance will be easier. Few substantive amendments were proposed. However, one of the proposed changes to these rules is the deletion of the references to class tests (present §§ 1608.2, 1610.37(a), and 1611.37(a)). The Commission proposed the deletion because the present rules provide no definitive criteria for what constitutes a class. The present rules refer to class tests as follows:

"Class" • • • means a category of textile fabrics having certain general constructional or finished characteristics, sometimes in association with a particular fiber, and covered by a class or type description generally recognized by the trade. In certain instances the use of class tests is restricted • • • to a particular textile fabric of the same fiber composition, construction, and finish type. The results of such class tests may be used by any person as a basis for furnishing guaranties under section 8 of the act on all textile fabrics of the same class.

On December 12, 1978, the Commission received a request from the National Retail Merchants Association (NRMA) for a sixty day extension of time for filing written comments on the proposal. The extension request states that "class testing has proved an effective and economical means of assessing the safety of many fabrics, • • • [and] could save industry (and the public) hundreds of thousands of dollars, at no loss in safety." The extension is desired to allow for the planning and coordination of a program to develop a new class test system.

Since the proposed amendments are largely for the purposes of simplification and clarification, and affect few substantive safety-related provisions, the Commission is willing to provide a reasonable period of time for the exploration of ways to devise a class test system incorporating adequate criteria for defining a class. Accordingly, the Commission extends the period for filing written data, views, and arguments concerning the proposal until February 16, 1978. Comments received after that date will be considered only to the extent practicable.

Written submissions and any accompanying data or materials should be submitted preferably in five copies, to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. Comments may be supported by a memorandum or brief.

Any comments that are received and all other material which the Commission has that is relevant to this proposal may be seen in, or copies obtained from, the Office of the Secretary, Third Floor, 1111 18th Street, N.W., Washington, D.C. 20207.

Dated: January 4, 1979.

SHELDON D. BUTTS,
Acting Secretary, Consumer Product Safety Commission.

[FR Doc. 79-757 Filed 1-8-79; 8:45 am]

[8010-01-M]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Port 240]

[Release No. 34-15452; File No. S7-765]

FINANCIAL RESPONSIBILITY RULES AND BROKER-DEALER REPORTING RULE

Amendments to Conform to the Securities Investor Protection Act of 1970

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rules.

SUMMARY: The Commission is proposing for public comment a rule designating "financial responsibility rules" to conform to the amendments to the Securities Investor Protection Act of 1970, and proposing for public comment an amendment to its broker-dealer reporting rule making clear that the report on the Securities Investor Protection Corporation assessment is an non-public document.

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DATE: Comments should be received on or before February 5, 1979.

ADDRESS: All comments should be submitted in triplicate and directed to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Comments should refer to file No. S7-768 and will be available for public inspection at the Commission's Public Reference Room, Room 6101, 1100 L Street, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Michael A. Macchiaroli, Special Counsel, Division of Market Regulation, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. (202) 376-8127.

SUPPLEMENTARY INFORMATION: The Securities Investor Protection Act Amendments of 1978 (Pub. L. No. 95-283, 92 Stat. 249) ("SIPA") necessitate that the Commission add a new rule to be designated Rule 3a40-1 (17 CFR 240.3a40-1).

Under Section 5 of SIPA, the court may enter a protective decree on behalf of customers if the court finds, among other things, that a debtor broker-dealer is not in compliance with applicable requirements under the Act or rules with respect to financial responsibility or hypothecation of customers' securities, or if the debtor broker-dealer is unable to make such computations as may be necessary to establish compliance. Section 13 of SIPA also refers to financial responsibility rules in connection with inspections of broker-dealers which are members of the Securities Investor Protection Corporation ("SIPC"). Section 16 of SIPA amended Section 3(a) of the Securities Exchange Act of 1934 (the "Exchange Act") by adding a new paragraph defining "financial responsibility rules" as "the rules and regulations of the Commission or the rules and regulations prescribed by any self-regulatory organization relating to financial responsibility and related practices which are designated by the Commission, by rule or regulation, to be financial responsibility rules."

The proposed new rule would designate as "financial responsibility rules" all rules and regulations adopted pursuant of Section 8, 15(c)(3), 17(a) and 17(e)(1)(A) of the Exchange Act, all rules and regulations relative to hypothecation or lending of customer securities, and all rules adopted by self-regulatory organizations relating to capital or margin requirements, recordkeeping requirements, hypothecathion requirements or any other rule adopted by the Commission or a self-regulatory organization relating to the protection of funds or securities.

In addition, Rule 17a-5(e)(4) (17 CFR 240.17a-5(e)(4)) requires the filing of a supplemental report covering the SIPC annual general assessent reconiliation or exclusion from membership form for periods when the SIPC assessment is not the minimum assessment as provided for in new Section 4(d)(1)(C) of SIPA. The Commission is proposing for comment an amendment to the Rule which would make clear that the report on the SIPC assessment is intended to be non-public. The amendment would be consistent with the present administrative practice of treating these reports as non-public.

STATUTORY BASIS AND COMPETITIVE CONSIDERATIONS

The Securities and Exchange Commission, acting pursuant to the Securities Exchange Act of 1934, and particularly Sections 3, 15(c)(3), 17(a) and 23 thereof (15 U.S.C. 78c, 78o, 78q(a) and 78(u), hereby proposes for public comment new Rule 3a40-1 (17 CFR 240.3a40-1 designating "financial responsibility rules" for purposes of customer protection under SIPA and amendments to Rule 17a-5(e)(4), (17 CFR 240.17a-5 (e)(4)), clarifying the non-public nature of the report on the SIPC assessment, all as set forth below.

It appears to the Commission that no burden will be imposed on competition by adoption of the above mentioned amendments. If there is any burden on competition, it is necessary and appropriate in furtherance of the purposes of the Act, particularly in furtherance of the Commission's obligation to adopt financial responsibility rules.

TEXT OF AMENDMENTS

The following amendment and new rule are hereby proposed for public comment:

ATTENTION

The text of the following amendments uses arrows [> <] to indicate additions.

1. 17 CFR 240 is amended by adding a new § 240.3a40.1 to read as follows:

§ 240.3a40-1 Designation of financial responsibility rules.

The term "financial responsibility rules" for purposes of the Securities Investor Protection Act of 1970 as amended in 1978 shall include:

(a) Any rule adopted by the Commission pursuant to Section 15(c)(3) of the Securities Exchange Act of 1934;

(b) Any rule adopted by the Commission pursuant to Section 17(a) of the Securities Exchange Act of 194;

(c) Any rule adopted by the Commission pursuant to Section 8 of the Securities Exchange Act of 1934;

(d) Any rule adopted by the Commission relating to hypothecation or lending of customer securities;

(e) Any rule adopted by the Commission pursuant to Section 17(e)(1)(A) of the Securities Exchange Act of 1934;

(f) Any rule adopted by any self-regulatory organization relating to capital or margin requirements, recordkeeping requirements, hypothecation requirements, lending requirements and any other rule relating to protection of funds or securities; and

(g) Any other rule adopted by the Commission relating to the protection of funds or securities.

2. 17 CFR 240 is amended by revising § 240.17a-5(e)(4) to read as follows:

§ 240.17a-5 Reports to be made by certain brokers and dealers.

* * * * *

(e) * * *

(4) The broker or dealer shall file with the report a supplemental report which shall be covered by an opinion of the independent public accountant on the status of the membership of the broker or dealer in the Securities Investor Protection Corporation ("SIPC") if, pursuant to paragraph (e)(1) of this section, a report of the broker or dealer is required to be covered by an opinion of a certified public accountant or a public accountant who is in fact independent. The supplemental report> (which shall be non public)< shall cover the SIPC annual general assessment reconciliation or exclusion from membership forms not previously reported on under this paragraph (4) which were required to be filed on or prior to the date of the report required by paragraph (d) of this section. The supplemental report, an original of which shall be submitted to the regional office of the Commission for the region in which the broker or dealer has its principal place of business, the Commission's principal office in Washington, the principal office of the designated examining authority for such broker or dealer and the office of SIPC, shall be bound separately, be dated and be signed manually, and shall include the following:

* * * * *

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

JANUARY 2, 1979.

[FR Doc. 79-822 Filed 1-8-79; 8:45 am]

[4110-03-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 145]

[Docket No. 78N-0138]

CANNED FRUITS

Proposed Revision of Standard of Quality for Canned Pears

AGENCY: Food and Drug Administration.

ACTION: Reopening of Comment Period on Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is reopening the comment period on a proposal to revise the standard of quality for canned pears. This action is based on two requests for additional time to respond to the proposal.

DATE: Comments by January 23, 1979.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

F. Leo Kauffman, Bureau of Foods (HFF-414), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, DC 20204, 202-245-1164.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of July 25, 1978 (43 FR 32143), FDA proposed to amend the standard of quality for canned pears (§ 145.175(b) (21 CFR 145.175(b))). Comments were to be filed by September 25, 1978.

The Commissioner of Food and Drugs later received requests from the Food Safety and Quality Committee (formerly the Standards Committee) of the Canners League of California (CLC), 1007 L Street, Sacramento, CA 95814 and the Processed Products Standards Committee of the Northwest Food Processors Assocation (NWFPA), 2828 SW. Corbett, Portland, OR 97201 for an extenstion of the comment period on the proposal. Both stated that additional time was needed to permit them to develop the information and data they consider necessary to enable them to respond properly to the proposed amendment.

The CLC stated in support of its request that the comment period coincides with the height of the packing season in California. The CLC further stated that work has started on developing information on several of the issues, that a study has commenced on the weight and diameter relationships for the uniformity of size requirement for canned pear halves and quarters styles, and that an additional 120 days will be needed for the generation of data during the packing season and later analysis and evaluation.

The NWFPA stated that the packing season in the Northwest will only have begun shortly before the original deadline for comments. In support of its request, the NWFPA later stated that the packing season would extend at least through December, and, depending on the harvest, that the canning season might extend into January 1979. It further stated that information needed on pears ripened in controlled atmospheric storage is not predictable and that this information, because it may be variable, should be collected during the entire canning season.

In the preamble to the proposal, the Commissioner stated that diameter may be a more meaningful basis than weight for determining uniformity of size as a factor of quality of canned pears, but that no data are available to show a direct relationship between diameter and uniformity of size (weight). The Commissioner repeats that any such change in the uniformity of size requirement should be the subject of a new proposal so that all interested persons may have an opportunity to comment.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner (21 CFR 5.1), the comment period on the proposal to amend the standard of quality for canned pears is reopened and extended through the canning season in the Northwest to January 23, 1979.

Interested persons may, on or before January 23, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding the proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 3, 1979.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-721 Filed 1-8-79; 8:45 am]

[4110-03-M]

[21 CFR Part 510]

[Docket No. 78N-0206]

NEW ANIMAL DRUGS

Records and Reports on New Animal Drugs and Antibiotics That Were Approved Before June 20, 1963

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to extend requirements for periodic reporting of drug experience for new animal drugs, including antibiotics and medicated feed premixes bearing or containing new animal drugs, approved before June 20, 1963. This information will provide a basis to require appropriate revisions for use of the products or revoke the authority for their use when necessary. This action will also facilitate a determination that the animal drugs subject to the proposed regulation are in compliance with the requirements of the Federal Food, Drug, and Cosmetic Act.

DATE: Comments by March 12, 1979.

ADDRESS: Comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Andrew J. Beaulieu, Bureau of Veterinary Medicine (HFV-216), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4093.

SUPPLEMENTARY INFORMATION: This proposal concerns reporting requirements for new animal drugs, including antibiotics and medicated feed premixes bearing or containing new animal drugs, approved before June 20, 1963. The records and reports requirements for such products are presently set forth in § 510.310 of the new animal drug regulations (21 CFR 510.310).

Section 510.310 was originally published as § 135.35 in the FEDERAL REGISTER of September 14, 1971 (36 FR 18375). That regulation requires sponsors of new animal drugs approved before June 20, 1963 to submit one report within 90 days of the effective date of the regulation including identification of the dosage form of the new animal drug by its established and proprietary names, the formula, route of administration, and the new animal drug application number or other identification or application number. The regulation also requires submission of information as to whether the

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product was ever marketed and whether marketed at the time of submission of the report. If the product was marketed and marketing had been discontinued, the date and reason for discontinuing marketing was required. No reports after the initial report were required.

Section 512(l) of the act (21 U.S.C. 360b(l)) requires the establishment and maintenance of records and reports of data relating to experience and other data or information received by a sponsor with respect to use of a drug or animal feeds bearing or containing animal drugs. This requirement facilitates a determination whether there are grounds for invoking section 512(e) or (m)(4) of the act. These sections provide for withdrawal of approval of applications for new animal drugs or animal feeds containing new animal drugs when experience or data indicate such action should be taken. The present single reporting requirement in 1971 for pre-June 20, 1963 drugs does not furnish adequate information to enable FDA to fully evaluate the status of approved new animal drugs.

The proposed revision of § 510.310 would modify the reporting system for pre-June 20, 1963 drugs, by establishing the following requirements:

1. Within 120 days from the effective date of a final regulation based on this proposal, or as specified, sponsors of new animal drugs, including antibiotics and medicated feed premixes bearing or containing new animal drugs, approved prior to June 20, 1963 on the basis of a new drug application, master file, antibiotic regulation, or food additive regulation, must submit information regarding marketing. If the product is still marketed, each sponsor must submit a copy of the label on the package of the drug and of the package insert or brochure bearing directions or information for use of the article. If the labeling is not identical in content to the labeling originally approved, data must be submitted supporting such changes if the data have not been previously submitted.

2. If clinical experience indicates a need for change in labeling, a supplemental application should be submitted.

3. If clinical or other experience indicates side effects or toxicity problems not previously reported, such information must be submitted.

4. Information must also be submitted with respect to distributed batches of drug products concerning any mixups or significant chemical, physical, or other changes or deterioration of the drug products, or other failure to meet specifications established in existing submissions to FDA.

5. Records must be maintained including full reports of information regarding safety and effectiveness of the product including unpublished reports conducted by the sponsor or reported to the sponsor, copies of mailing pieces and labeling, and distribution records. If the product is a prescription drug, advertising records must also be maintained.

6. After submission of the initial reports, reports must be submitted containing the information required by § 510.300 in the time frames specified in that regulation.

After the initial report as required by the proposed revision to § 510.310, the reporting requirements for all the new animal drugs subject to the proposed section will have the same reporting requirements as those approved beginning June 20, 1963. This will provide equitable treatment for all such drugs and furnish equal protection for persons using new animal drug products, whether they were approved for use before or after June 20, 1963.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 512, 701(a), 52 Stat. 1055, 82 Stat. 343-351 (21 U.S.C. 360b, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to revise § 510.310 to read as follows:

§ 510.310 Records and reports for new animal drugs approved before June 20, 1963.

(a) This section applies to new animal drugs, including antibiotics and medicated feed premixes bearing or containing new animal drugs, approved before June 20, 1963 on the basis of a new drug application, master file, antibiotic regulation, or food additive regulation.

(b) Sponsors of new animal drugs identified in paragraph (a) of this section shall submit the following information, in duplicate, for each dosage form of each such drug by (insert date 120 days after date of publication of a final regulation based on this proposal):

(1) If the new animal drug is currently marketed:

(i) A copy of the label on the package of the drug and of the package insert or brochure bearing directions or information for use of the product.

(ii) If the label, brochure, or package insert is not identical in content to the one for the new animal drug as originaly approved, the sponsor shall also report what changes have been made (other than minor changes in arrangement or printing or changes of an editorial nature) and why they were made, and shall submit data supporting such changes if the data have not previously been submitted.

(iii) If clinical experience reported to or otherwise received by the sponsor indicates the need for change in claims for effectiveness or in side effects, warnings, or contraindictions in the labeling or advertising currently in use, the sponsor shall submit a supplemental application proposing such changes in the labeling and a showing that any advertising will be appropriately revised.

(iv) If the clinical or other experience reported to or otherwise obtained by the sponsor has revealed any information concerning any side effect, injury, toxicity, or sensitivity reaction, or any unexpected incidence or severity thereof, which by kind, or incidence or severity is not fully disclosed in the labeling, whether or not determined to be attributable to the drug, this information shall be submitted. Such information shall include full reports of all available information with respect to any deaths apparently related to drug administration whether or not determined to be attributable to the drug. Any such information previously submitted need not be resubmitted.

(v) If the clinical or other experience reported to or otherwise obtained by the sponsor within the past 2 years has revealed any information with respect to a distributed batch concerning any mixup in the drug or its labeling with another article; any bacteriological or any significant chemical, physical, or other change or deterioration of the drug; or any failure of one or more distributed batches to meet specifications established in the new animal drug application or in the antibiotic regulations, this information shall be submitted. Any unresolved experience of the kinds listed in this paragraph shall be reported even though it occurred before the 2-year period.

(2) If the new animal drug is no longer marketed, but it is the subject of an approval that is still in effect:

(i) Identification of the dosage form of the new animal drug or medicated feed premix by its established and proprietary names, if any;

(ii) The formula showing quantitatively each ingredient of the drug to the extent disclosed on the label (a copy of the label will ordinarily fulfill this requirement);

(iii) The route of administration;

(iv) The new animal drug or other identification or application number;

(v) The date and reason for discontinuing its marketing.

(c) Approval of applications covering products which are no longer marketed may be withdrawn under § 514.115 of this chapter on the basis of a request for its withdrawal submitted in writing by a person holding an approved application. Such withdrawal of approval will be made on the ground that the drug subject to such application is no longer being marketed, provided information is furnished in support of this finding and provided certain other conditions exist as specified in that section. A written request for such withdrawal will be construed as a waiver of an opportunity for a hearing.

(d) Sponsors of new animal drugs identified in paragraph (a) of this section are exempt from the reporting requirements of this section if: (1) their product is no longer marketed and information has previously been submitted to the Food and Drug Administration regarding discontinuation of marketing including the date and reason for such action, and any existing approval for the product has been withdrawn; or (2) as a result of a supplemental approval granted beginning June 20, 1963, the sponsor is presently reporting under the requirements of § 510.300.

(e) After the submission of the initial reports required by paragraph (F) of this section, each sponsor shall maintain records and submit yearly reports of the kinds required by this section.

(f) All reports required by this section shall be addressed to the Division of Surveillance (HFV-210), Bureau of Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, and shall be distinctly marked "New Animal Drug (or Antibiotic) Report" together with the applicable new animal drug application number, antibiotic account number, or other identification on the envelope.

Interested persons may, on or before March 12, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Hearing Clerk, Food and Drug Administration.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

DECEMBER 22, 1978.

[FR Doc. 79-720 Filed 1-8-79; 8:45 am]

[4210-01-M]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Part T 1917]

[Docket No. FI-4405]

PROPOSED FLOOD ELEVATION DETERMINATIONS FOR THE TOWN OF NEWTOWN, FAIRFIELD COUNTY, CONN.

Correction

AGENCY: Federal Insurance Administrtion, HUD.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 43 FR 38424 of the FEDERAL REGISTER of August 28, 1978.

EFFECTIVE DATE: August 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance (202) 755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street, SW., Wahington, D.C. 20410.

The following locations:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Deep Brook	Elm Drive	396
	Boggs Hill Road	449

Should be corrected to read:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Deep Brook	50 feet upstream of Elm Drive.	396
	35 feet upstream of Boggs Hill Road.	449

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and the Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719).

NOTE: In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 19, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-583 Filed 1-8-79; 8:45 am]

[4830-01-M]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Parts 1 and 7]

[LR-165-76]

HOMEOWNERS ASSOCIATIONS

Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to homeowners associations. Changes to the applicable tax law were made by the Tax Reform Act of 1976. The regulations would provide the public with the guidance necessary to determine whether a particular organization qualifies as a homeowners association under that Act. If an organization qualifies as a homeowners association, its tax liability may be reduced as a result of the new provision under the Act.

DATES: Written comments and request for a public hearing must be delivered or mailed by march 12, 1979. The amendments are proposed to be effective for taxable years beginning after December 31, 1973.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T, LR-165-76, Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

David Jacobson of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C., 20224 (Attention: CC:LR:T) (202-566-3923).

SUPPLEMENTARY INFORMATION:

BACKGROUND

This document contains proposed amendments to the Income Tax Regu-

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lations (26 CFR Part 1) under section 528 of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to section 2101(a) of the Tax Reform Act of 1976 (90 Stat. 1897) and are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Explanation of the Regulations

For taxable years beginning after December 31, 1973, homeowners associations described in section 528 of the Code may elect to be subject to the tax imposed by section 528 and to be otherwise exempt from Fedral income taxes. To be considered a homeowners association an organization must be either a condominium management association or a residential real estate management association and must meet a number of specific additional requirements. Cooperative housing corporations are not eligible to be treated as homeowners associations.

For an organization to qualify as a homeowners association it must be organized and operated to provide for the acquisition, construction, management, maintenance, and care of association property. In addition, a homeowners association must meet both a source of income test, which generally requires that at least 60 percent of its gross income consist of membership dues, fees, or assessments from members of the association, and an expenditure test, which generally requires that at least 90% of its expenditures be in furtherance of its exempt purposes. If an association meets the required tests and makes the election under section 528, it will not be taxable on that portion of its income which consists of dues, fees and assessments from its members. To the extent that a homeowners association does have taxable income, it will be taxed (with certain modifications described in section 528 and these regulations) as a corporation taxable under section 11.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the Federal Register.

Drafting Information

The principal author of these proposed regulations is David Jacobson of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 1 and Part 7 are as follows:

Paragraph 1. The following sections are added to read as follows:

Homeowners Associations

§ 1.528-1 Homeowners associations.

(a) *In general.* Section 528 only applies to taxable years of homeowners associations beginning after December 31, 1973. To qualify as a homeowners association an organization must either be a condominum management association or a residential real estate management association. For the purposes of section 528 and the regulations under that section, the term "homeowners association" shall refer only to an organization described in section 528. Cooperative housing corporations and organizations based on a similar form of ownership are not eligible to be taxed as homeowners associations. As a general rule, membership in either a condominium management association or a residential real estate management association is confined to the developers and the owners of the units or lots. Furthermore, membership in either type of association is normally required as a condition of such ownership.

(b) *Condominium.* The term "condominium" refers to a plan of ownership under which persons directly own a portion of the building in which they reside and the land underneath it. It provides for the separate ownership of the units or apartments in the condominium development and for the common ownership of the underlying land and public or commonly used improvements.

(c) *Residential real estate management association.* Residential real estate management associations are normally composed of owners of single-family residential units located in a subdivision, development, or similar area. However, they may also include as members owners of multiple-family dwelling units located in such areas. They are commonly formed to administer and enforce covenants relating to the architecture and appearance of the real estate development as well as to perform certain maintenance duties relating to common areas.

§ 1.528-2 Organized and operated to provide for the acquisition, construction, management, maintenance and care of association property.

(a) *Organized and operated—*(1) *Organized.* To be treated as a homeowners association an organization must be organized and operated primarily for the purpose of carrying on one or more of the exempt functions of a homeowners association. For the purposes of section 528 and these regulations, the exempt functions of a homeowners association are the acquisition, construction, management, maintenance, and care of association property. In determining whether an organization is organized and operated primarily to carry on one or more exempt functions, all the facts and circumstances of each case shall be considered. For example, when an organization provides in its articles of organization that its sole purpose is to carry on one or more exempt functions, in the absence of other relevant factors it will be considered to have met the organizational test. (The term "articles of association" means the organization's corporate charter, trust instruments, articles of association or other instrument by which it is created.)

(2) *Operated.* An organization will be treated as being operated for the purpose of carrying on one or more of the exempt functions of a homeowners association if it meets the provisions of §§ 1.528-5 and 1.528-6.

(b) *Terms to be interpreted according to common meaning and usage.* As used in section 528 and these regulations, the terms acquisition, construction, management, maintenance, and care are to be interpreted according to their common meaning and usage. For example, maintenance of association property includes the painting and repairing of such property as well as the gardening and janitorial services associated with its upkeep. Similarly, the term "construction" of association property includes covenants or other rules for preserving the architectural and general appearance of the area. The term also includes regulations relating to the location, color and allowable building materials to be used in all structures. (For the definition of association property see § 1.528-3.)

§ 1.528-3 Association property.

(a) *Property owned by the organization.* "Association property" includes real and personal property owned by the organization or owned as tenants in common by the members of the organization. Such property must be available for the common benefit of all members of the organization and must be of a nature that tends to enhance the beneficial enjoyment of the private residences by their owners. Among the types of property that ordinarily will be considered association property are swimming pools and tennis courts. On the other hand, facilities or areas set aside for the use of nonmembers, or in fact used primarily by nonmembers, are not association property for the purposes of this section. For example, property owned by an organization for the purpose of leasing it to groups consisting primarily of nonmembers to be used as a meeting place or a retreat will not be considered association property.

(b) *Property normally owned by a governmental unit.* "Association property" also includes areas and facilities traditionally recognized and accepted as being of direct governmental concern in the exercise of the powers and duties entrusted to governments to regulate community health, safety and welfare. Such areas and facilities would normally include roadways, parklands, sidewalks, streetlights and firehouses. Property described in this paragraph will be considered association property regardless of whether it is owned by the organization itself, by its members as tenants in common or by a governmental unit and used for the benefit of the residents of such unit including the members of the organization.

(c) *Privately owned property.* "Association property" may also include property owned privately by members of the organization. However, to be so included the condition of such property must affect the overall appearance and structure of the residential units which make up the organization. Such property may include the exterior walls and roofs of privately owned residences as well as the lawn and shrubbery on privately owned land and any other privately owned property the appearance of which may directly affect the appearance of the entire organization. However, privately owned property will not be considered association property unless—

(1) There is a covenant relating to exterior appearance that applies on the same basis to all such property;

(2) There is a pro rata mandatory assessment (at least once a year) on all members of the association for maintaining such property; and

(3) Membership in the organization is a condition of ownership of such property.

§ 1.528-4 Substantially test.

(a) *In general.* In order for an organization to be considered a condominium management association or a residential real estate management association (and therefore in order for it to be considered a homeowners association), substantially all of its units, lots or buildings must be used by individuals for residences. For the purposes of applying paragraph (b) or (c) of this section, an organization which has attributes of both a condominium management association and a residential real estate management association shall be considered that association which, based on all the facts and circumstances, it more closely resembles. In addition, those paragraphs shall be applied based on conditions existing on the last day of the organization's taxable year.

(b) *Condominium management associations.* Substantially all of the units of a condominium management association will be considered as used by individuals for residences if at least 85% of the total square footage of all units within the project is used by individuals for residential purposes. If a completed unit has never been occupied, it will nonetheless be considered as used for residential purposes if, based on all the facts and circumstances, it appears to have been constructed for use as a residence. Similarly, a unit which is not occupied but which has been in the past will be considered as used for residential purposes if, based on all the facts and circumstances, it appears that it was constructed for use as a residence, and the last individual to occupy it did in fact use it as a residence. Units which are used for purposes auxiliary to residential use (such as laundry areas, storage rooms and areas used by maintenance personnel) shall be considered used for residential purposes.

(c) *Residential real estate management associations.* Substantially all of the lots or buildings of a residential real estate management association (including unimproved lots) will be considered as used by individuals as residences if at least 85% of the lots are zoned for residential purposes. Lots shall be treated as zoned for residential purposes even if under such zoning lots may be used for parking spaces, swimming pools, tennis courts, schools, fire stations, libraries, churches and other similar purposes which are auxiliary to residential use. However, commercial shopping areas (and their auxiliary parking areas) are not lots zoned for residential purposes.

(d) *Exception.* Notwithstanding any other provision of this section, a unit, or building will not be considered used for residential purposes, if for more than one-half the days in the association's taxable year, such unit, or building is occupied by a person or series of persons, each of whom so occupies such unit, or building for less than 30 days.

§ 1.528-5 Source of income test.

An organization cannot qualify as a homeowners association under section 528 for a taxable year unless 60 percent or more of its gross income for such taxable year is exempt function income as defined in § 1.528-9. The determination of whether an organization meets the provisions of this section shall be made after the close of the organization's taxable year.

§ 1.528-6 Expenditure test.

(a) *In general.* An organization cannot qualify as a homeowners association under section 528 for a taxable year unless 90 percent or more of its expenditures for such taxable year are qualifying expenditures as defined in paragraphs (b) and (c) of this section. The determination of whether an organization meets the provisions of this section shall be made after the close of the organization's taxable year. Investments or transfers of funds to be held to meet future costs shall not be taken into account as expenditures. For example, transfers to a sinking fund account for the replacement of a roof would not be considered an expenditure for the purposes of this section even if the roof is association property. In addition, excess assessments which are either rebated to members or applied against the members' following year's assessments will not be considered an expenditure for the purposes of this section.

(b) *Qualifying expenditures.* Qualifying expenditures are expenditures by an organization for the acquisition, construction, management, maintenance, and care of the organization's association property. They include both current operating and capital expenditures on association property. Qualifying expenditures include expenditures on association property despite the fact that such property may produce income which is not exempt function income. Thus expenditures on a swimming pool are qualifying expenditures despite the fact that fees from guests of members using the pool are not exempt function income. Where expenditures by an organization are used both for association property as well as other property, an allocation shall be made between the two uses on a reasonable basis. Only that portion of the expenditures which is properly allocable to the acqusition, construction, management, maintenance or care of association property, shall constitute qualifying expenditures.

(c) *Examples of qualifying expenditures.* Qualifying expenditures may include expenditures for—

(1) Salaries of an association manager and secretary;

(2) Paving of streets;

(3) Street signs;

(4) Security personnel;

(5) Property tax assessed on association property;

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(6) Upkeep of tennis courts;
(7) Swimming pools;
(8) Recreation rooms and halls;
(9) Replacement of common buildings, facilities, air conditioning, etc.;
(10) Improvement of private property to the extent it is association property; and
(11) Real estate and personal property taxes imposed on association property by a State or local government.

§ 1.528-7 Inurement.

An organization is not a homeowners association if any part of its net earnings inures (other than as a direct result of its engaging in one or more exempt functions) to the benefit of any private person. Thus, to the extent that members receive a benefit from the general maintenance, etc. of association property, this benefit generally would not constitute inurement. If an organization pays rebates from amounts other than exempt function income, such rebates will constitute inurement. In general, in determining whether an organization is in violation of this section, the principles used in making similar determinations under Section 501(c) will be applied.

§ 1.528-8 Election to be treated as a homeowners association.

(a) *General rule.* An organization wishing to be treated as a homeowners association under section 528 and this section for a taxable year must elect to be so treated. Except as otherwise provided in this section such election shall be made by the filing of a properly completed Form 1120-H (or such other form as the Secretary may prescribe). A separate election must be made for each taxable year.

(b) *Taxable years ending after December 30, 1976.* For taxable years ending after December 30, 1976, the election must be made not later than the time, including extensions, for filing an income tax return for the year in which the election is to apply.

(c) *Taxable years ending before December 31, 1976, for which a return was filed before January 31, 1977.* For taxable years ending before December 31, 1976, for which a return was filed before January 31, 1977, the election must be made not later than the time provided by law for filing a claim for credit or refund of overpayment of taxes for the year in which the election is to apply. Such an election shall be made by filing an amended return on Form 1120-H (or such other form as the Secretary may prescribe).

(d) *Taxable years ending before December 31, 1976, for which a return was not filed before January 31, 1977.* For taxable years ending before December 31, 1976, for which a return has not been filed before January 31, 1977, the election must be made by [insert date 6 months after the date this regulation is published as a Treasury decision in the FEDERAL REGISTER]. Instead of making such an election in the manner described in paragraph (a) of this section, such an election may be made by a statement attached to the applicable income tax return or amended return for the year in which the election is made. The statement should identify the election being made, the period for which it applies and the taxpayer's basis for making the election.

(e) *Revocation of exempt status.* If an organization is notified after the close of a taxable year that its exemption for such taxable year under section 501(a) is being revoked retroactively, it may make a timely election under section 528 for such taxable year. Notwithstanding any other provisions of this section, such an election will be considered timely if it is made within 6 months after the date of revocation. The preceding sentence shall apply to revocations made after [insert date these regulations are published in the FEDERAL REGISTER as a Treasury decision]. If the revocation was made on or before [insert date these regulations are published in the FEDERAL REGISTER as a Treasury decision], the election will be considered timely if it is made before the expiration of the period for filing a claim for credit or refund for the taxable year for which it is to apply.

(f) *Effect of election*—(1) *Revocation.* An election to be treated as an organization described in section 528 is binding on the organization for the taxable year and may not be revoked without the consent of the Commissioner.

(2) *Exception.* Notwithstanding paragraph (f)(1) of this section, an election under this section may be revoked prior to [insert 91st day after these regulations are published in the FEDERAL REGISTER as a Treasury decision]. Such a revocation shall be made by filing a statement with the director of the Internal Revenue Service Center with whom the return of the organization for the year in which the revocation is to apply was filed. The statement shall include the following information.

(i) The name of the organization.

(ii) The fact that it is revoking an election made under section 528.

(iii) The taxable year for which the revocation is to apply.

§ 1.528-9 Exempt function income.

(a) *General rule.* For the purposes of section 528 exempt function income consists solely of income which is attributable to membership dues, fees, or assessments of owners of residential units or residential lots. It is not necessary that the source of income be labeled as membership dues, fees, or assessments. What is important is that such income be derived from owners of residential units or residential lots in their capacity as owner-members rather than in some other capacity such as customers for services. Generally, for the membership dues, fees, or assessments with respect to a residential unit or lot to be exempt function income, the unit must be used for (or the unit or lot must be expected to be used) for residential purposes. However, dues, fees, or assessments paid to an organization by a developer with respect to unfinished or finished but unsold units or lots shall be exempt function income even though the developer does not use the units or lots. If an assessment is more in the nature of a fee for the provision of services in the course of a trade or business than a fee for a common activity undertaken by a collective group of owners for the purpose of enhancing or maintaining the value of their residences, the assessment will not be considered exempt function income to the organization. Furthermore, income attributable to dues, fees, or assessments will not be considered exempt function income unless each member's liability for payment arises solely from membership in the association. Dues, fees, or assessments that are based on the extent, if any, to which a member avails him or herself of a facility or facilities are not exempt function income. For the purposes of section 528, dues, fees, or assessments which are based on the assessed value or size of property will be considered as arising solely as a result of membership in the organization. Regardless of the organization's method of accounting, excess assessments during a taxable year which are either rebated to the members or applied to their future assessments are not considered gross income and therefore will not be considered exempt function income for such taxable year. Similarly, assessments for capital improvements which are not treated as income but rather as capital contributions are not exempt function income.

(b) *Examples of exempt function income.* Assessments which are considered more in the nature of a fee for common activity than for the providing of services and which will therefore generally be considered exempt function income include assessments made for the purpose of—

(1) Paying the principal and interest on debts incurred for the acquisition of association property;

(2) Paying real estate taxes on association property;

(3) Maintaining association property;

(4) Removing snow from public areas; and

(5) Removing trash.

(c) *Examples of receipts which are not exempt function income.* Exempt function income does not include—

(1) Amounts which are not includible in the organization's gross income other than by reason of section 528 (for example, tax-exempt interest);

(2) Amounts received from persons who are not members of the association;

(3) Amounts received from members for special use of the organization's facilities, the use of which is not available to all members as a result of having paid the dues, fees or assessments required to be paid by all members;

(4) Interest earned on amounts set aside in a sinking fund;

(5) Amounts received for work done on privately owned property which is not association property; or

(6) Amounts received from members in return for their transportation to or from shopping areas, work location, etc.

(d) *Special Rule.* Notwithstanding paragraphs (a) and (c)(3) of this section, amounts received from members for special use of an association's facilities will be considered exempt function income if—

(1) The amounts paid by the members are not paid more than one in any 12 month period; and

(2) The privilege obtained from the payment of such amounts lasts for the entire 12 month period or portion thereof in which the facility is commonly in use.

Thus, amounts received as the result of payments by members of a yearly fee for use of tennis courts or a swimming pool shall be considered exempt function income. However, amounts received for the use of a building for an evening, weekend, week, etc. shall not be considered exempt function income.

§ 1.528-10 Special rules for computation of homeowners association taxable income and tax.

(a) *In general.* Homeowners association taxable income shall be determined according to the provisions of section 528(d) and the rules set forth in this section.

(b) *Limitation on capital losses.* If for any taxable year a homeowners association has a net capital loss, the rules of sections 1211(a) and 1212(a) shall apply.

(c) *Allowable deductions*—(1) *In general.* To be deductible in computing the unrelated business taxable income of a homeowners association, expenses, depreciation and similar items must not only qualify as items of deduction allowed by chapter 1 of the Code but must also be directly connected with the production of gross income (excluding exempt function income). To be "directly connected with" the production of gross income (excluding exempt function income), an item of deduction must have both proximate and primary relationship to the production of such income and have been incurred in the production of such income. Items of deduction attributable solely to items of gross income (excluding exempt function income) are proximately and primarily related to such income. Whether an item of deduction is incurred in the production of gross income (excluding exempt function income) is determined on the basis of all the facts and circumstances involved in each case.

(2) *Dual use of facilities or personnel.* Where facilities are used both for exempt functions of the organization and for the production of gross income (excluding exempt function income), expenses, depreciation and similar items attributable to such facilities (for example, items of overhead) shall be allocated between the two uses on a reasonable basis. Similarly where personnel are employed both for exempt functions and for the production of gross income (excluding exempt function income), expenses and similar items attributable to such personnel (for exemple, items of salary) shall be allocated between the two activities on a reasonable basis. The portion of any such item so allocated to the production of gross income (excluding exempt function income) is directly connected with such income and shall be allowable as a deduction in computing homeowners association taxable income to the extent that it qualifies as an item of deduction allowed by chapter 1 of the Code. Thus, for example, assume that X, a homeowners association, pays its manager a salary of $10,000 a year and that it derives gross income other than exempt function income. If 10 percent of the manager's time during the year is devoted to deriving X's gross income (other than exempt function income), a deduction of $1,000 (10 percent of $10,000) would generally be allowable for purposes of computing X's homeowners association taxable income.

(d) *Investment credit.* A homeowners association is not entitled to an investment credit.

(e) *Cross reference.* For the definition of exempt function income, see § 1.528-9.

§ 7.0 [Revoked]

PAR. 2. Section 7.0 of this chapter (26 CFR Part 7), promulgated by Treasury Decision 7459, is hereby revoked to the extent it applies to elections under section 528.

JEROME KURTZ,
Commissioner of Internal Revenue.

[FR Doc. 79-699 Filed 1-8-79; 8:45 am]

[1505-01-M]

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

[30 CFR Chapter VII]

SURFACE COAL MINING AND RECLAMATION OPERATIONS PERMANENT REGULATORY PROGRAM

Correction

In FR Doc 79-660 appearing at page 1355 in the issue for Thursday, January 4, 1979, the FR doc line at the end of the document should read as follows:

"[40 FR Doc. 79-660 Filed 1-3-79; 5:05 pm]"

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 1035-6]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

New Mexico Air Quality Control Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This action proposes approval of various revisions of the New Mexico Air Quality Control Act. The Act was submitted by the Governor as a general update since the submittal on May 9, 1972. The revised act reflects the most recent law under the State implements its air pollution abatement program.

DATES: Interested persons are invited to comment on this proposed rulemaking. Comments must be received on or before February 8, 1979, to be considered by EPA in making a final approval/disapproval decision.

ADDRESSES: Written comments should be submitted to the address below: Environmental Protection Agency, Region 6, Air Program Branch, 1201 Elm Street, Dallas, Texas 75270. Copies of the State's submittal are available for inspection during normal business hours at the address above and at the following address: Environmental Protection Agency, Public Information Reference

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Unit, Room 2922, 401 M Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Jerry Stubberfield, Environmental Protection Agency, Region 6, Air Program Branch, 1201 Elm Street, Dallas, Texas 75270, (214-767-2742).

SUPPLEMENTARY INFORMATION: On November 6, 1975, after adequate notice and public hearing, the Governor of New Mexico submitted the State's Air Quality Control Act, as amended since its submittal in 1972. A detailed discussion of the various amendments is provided below.

SECTION 12-14-2 DEFINITIONS

The definition of "department" is changed to include the administrative agency of a municipal, county, or joint air quality control board within an A class county.

A definition for "director" is added as follows: "director" means the administrative head of the department.

The amendments to Section 12-14-2 are considered approvable.

SECTION 12-14-6 ADOPTION OF REGULATIONS NOTICE AND HEARING

In the currently approved Act, hearings on regulations of statewide application are required to be held in Santa Fe. The revised Section 12-14-6 states that hearings on regulations of statewide application may also be held in any area of the State substantially affected by such regulations. In addition, the revised section specifically requires that hearings on non-statewide regulations be held in any area substantially affected. Revised Section 12-14-6 is considered approvable.

SECTION 12-14-7 PERMITS

A new Subsection M is added to Section 12-14-7. The new subsection requires new or modified sources to obtain permits from the municipal, county, or joint air quality control board if the new or modified source is located within the jurisdiction of the board, and if the board has adopted a permit regulation. Subsection M is considered approvable.

SECTION 12-14-8 VARIANCES

The Air Quality Control Act, in Section 12-14-8, provides the Environmental Improvement Board with very broad powers for granting variances from requirements of the Act or the Board's regulations. The Board may grant a variance from a requirement when it "will result in an arbitrary and unreasonable taking of property or will impose an undue economic burden upon any lawful business, occupation or activity", if "the granting of the variance will not result in a condition injurious to health or safety." In most situations, the Board may grant variance for statutorily unlimited periods of time.

As a general rule, EPA may approve State variance procedures as a part of the SIP. However, for variances which extend beyond the attainment date, a demonstration must be provided which shows that such variance will not cause or contribute to a violation of standards. All variances, in accordance with 40 CFR 51.34, must be submitted to EPA for approval as a revision to the SIP. Approval of Section 12-14-8 by EPA does not imply that the State is relieved of this requirement.

SECTION 12-14-10 CONFIDENTIAL INFORMATION-LIMITATIONS ON REGULATIONS

On September 26, 1974 (40 FR 34537), EPA disapproved as a part of the SIP, Section 12-14-10 of the New Mexico Act, since it could, in some circumstances, prohibit the disclosure of emission data to the public. This deficiency has not been corrected. Therefore, Section 12-14-10 remains disapproved.

This notice of proposed rulemaking is issued under the authority of Section 110(a) of the Clean Air Act, as amended, 42 U.S.C. 7410-(a).

Dated: December 6, 1978.

EARL N. KARI,
Acting Regional Administrator.

It is proposed to amend Part 52 of Chapter I, Title 40 of the Code of Federal Regulations as follows:

Subpart GG—New Mexico

1. In § 52.1620, paragraph (c) is revised to read as follows:

§ 52.1620 **Identification of plan.**

* * * * *

(c) The Plan revisions listed below were submitted on the dates specified.

(1) The Environmental Improvement Agency submitted revisions of Air Quality Control Regulations, 506, 607, 604, 605, 606, 651, and 652 (adopted by the Board on January 10, 1972) on March 7, 1972.

(2) Additions of Sections 12-14-1 through 12-14-13 of the State's Air Quality Control Act, and Regulations 504, 602, and 603 were submitted by the Governor on May 9, 1972.

(3) Revisions of Regulations 702, 703, 704, and 705, as adopted by the Board on July 29, 1972, and revisions of Sections IV, V, VII, and VIII, were submitted by the Environmental Improvement Agency on July 31, 1972.

(4) State Attorney General's opinion on legal authority and confidentiality of source data was submitted on September 4, 1972. (Non-regulatory)

(5) Revisions of the New Source Review and Source Surveillance sections of the New Mexico Implementation Plan were submitted by the Environmental Improvement Agency on January 3, 1973. (Non-regulatory)

(6) Clarification of the State permit and source surveillance regulations was submitted by the Environmental Improvement Agency on January 18, 1973. (Non-regulatory)

(7) Regulation 705, Compliance Schedules, was submitted by the Governor on February 12, 1974.

(8) Revisions to Regulation 602, Coal Burning Equipment—Sulfur Dioxide, as adopted by the New Mexico Environmental Improvement Board on December 13, 1974, were submitted by the Governor on October 3, 1975 (see § 52.1624).

(9) Revisions to Regulation 100, Definitions, Regulation 705, Schedules of Compliance, and a new Regulation 706, Air Quality Maintenance Areas, were submitted by the Governor on November 6, 1975 (see § 52.1633).

(10) Revisions to sections 12-14-2, 12-14-6, and 12-14-7 of the New Mexico Air Quality Control Act were submitted by the Governor on November 6, 1975.

(11) Regulation 506, Non-ferrous Smelters—Particulate Matter, which was amended by the State on December 10, 1976, was submitted by the Governor on March 11, 1977 (see § 52.1625).

[FR Doc. 79-665 Filed 1-8-79; 8:45 am]

[6560-01-M]

[40 CFR Part 52]

[FRL 1035-5]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Proposed Approval of Chapter 7: Air Quality Surveillance—Oklahoma SIP

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This action proposes approval of Chapter 7: Air Quality Surveillance, of the Oklahoma State Implementation Plan (SIP). The revision to Chapter 7 was submitted by the Governor as a general update of Oklahoma's air quality surveillance network for each applicable pollutant. This revision reflects the latest information on the number of monitoring sites, their location, and their intended purpose.

DATES: Comments on this proposed rulemaking by interested persons must be received on or before February 8, 1979, in order to be considered by EPA in making a final approval/disapproval decision.

ADDRESSES: Comments on this proposed rulemaking should be submitted to the address below. Environmental Protection Agency, Region 6, Air Program Branch, 1201 Elm Street, Dallas, Texas 75270. Copies of the State's submittal are available for inspection during normal business hours at the address above and at the following address: Environmental Protection Agency, Public Information Reference Unit, Room 2922, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Jerry Stubberfield, Environmental Protection Agency, Region 6, Air Program Branch, Dallas, Texas 75270, (214-767-2742).

SUPPLEMENTARY INFORMATION: A revision to Chapter 7, Air Quality Surveillance, after adequate notice and public hearing, was submitted by the Governor of Oklahoma on July 19, 1978. The revised Chapter 7 is a general update of Oklahoma's air quality surveillance network for particulate matter, sulfur dioxide, and photochemical oxidants.

NUMBER OF MONITORS REQUIRED

Appendix K-1 of Chapter 7 lists the minimum number of monitors required by 40 CFR 51.17 for each pollutant and the monitors currently operational in the network. These requirements are met or exceeded for each applicable pollutant. Particulate monitoring requirements (hi-vols) were prorated for the Fort Smith and Texarkana-Tyler-Shreveport Interstate Air Quality Control Regions (AQCRs).

MINIMUM REQUIREMENTS

Appendix K-4 lists the sites in each AQCR and the purpose. Sites for use during emergency episode periods are required for Priority I and II AQCRs. At least one site in each AQCR is required to be in a location of estimated maximum pollutant concentration. The basis for the design of the surveillance network is provided in the narrative of Chapter 7, pages 1-3. The location of sampler sites in UTM coordinates is provided in Appendix K-4. Sampling schedules and methods of sampling are also provided in Appendix K-4. The procedures for data handling and analysis are summarized in the narrative, pages 3 and 4. Proposed additional sites are listed in Appendix K-2, and proposed start dates are shown in Appendix K-4.

CURRENT ACTION

This action proposes approval of the revision to Chapter 7 as submitted by the Governor on July 19, 1978.

This notice of proposed rulemaking is issued under the authority of Section 110(a) of the Clean Air Act, as amended, 42 U.S.C. 7410-(a).

Dated: December 11, 1978.

EARL N. KARI,
Acting Regional Administrator.

It is proposed to amend Part 52 of Chapter I, Title 40 of the Code of Federal Regulations as follows:

Subpart LL—Oklahoma

In § 52.1920, paragraph (c) is amended by adding a new paragraph (13) as follows:

§ 52.1920 **Identification of plan.**

* * * * *

(c) * * *

(13) A general update of Chapter 7, Air Quality Surveillance, was submitted by the Governor on July 19, 1978 (non-regulatory).

[FR Doc. 79-666 Filed 1-8-79; 8:45 pm]

[6560-01-]

[40 CFR Part 162]

[FRL 1004-2; OPP-30017B]

PESTICIDE USE RESTRICTIONS

AGENCY: Environmental Protection Agency, Office of Pesticide Programs.

ACTION: Proposed rule.

SUMMARY: This proposed rule amends 40 CFR 162.31 by adding uses of additional active ingredients which the Agency proposes to classify for restricted use under the procedures of 40 CFR 162.30. This proposal was initiated by the Administrator. The purpose of this notice is to solicit comments from registrants, users, and other interested parties on these proposed use restrictions.

DATE: Comments must be received by March 12, 1979

ADDRESS COMMENTS TO: Federal Register Section, Program Support Division (TS-757), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. Comments should be filed in triplicate if possible and bear the identifying notation "OPP-30017B." All written comments will be available for public inspection from 8:30 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Walter Waldrop (TS-770), Office of Pesticide Programs, Environmental Protection Agency, Room E507, 401 M Street, S.W., Washington, D.C. 20460, (202-755-7014).

SUPPLEMENTARY INFORMATION: On September 1, 1977, the Agency published final regulations establishing optional procedures for the classification of pesticide uses by regulation. At the same time, the Agency also published three related documents. One document proposed regulations establishing procedures for registrants to follow after a use is classified by regulation for restricted use. The second document was a proposed rule listing certain uses of 23 active ingredients to be classified by regulation for restricted use. The third document was an advance notice of proposed rulemaking listing 38 additional active ingredients the Agency planned to consider for purposes of classification by regulation in the immediate future. All four documents were published as a separate part in the FEDERAL REGISTER of September 1, 1977 (42 FR 44170, No. 170, Part IV).

On February 9, 1978 (43 FR 5782), the Agency published final regulations establishing procedures to be followed by registrants after a pesticide use is classified by regulation for restricted use and a final regulation classifying the uses of 23 active ingredients for restricted use.

This proposed rule lists uses of 14 of the 38 active ingredients identified in the September 1, 1977 advance notice of proposed rulemaking that the Agency now proposes to classify for restricted use pursuant to the optional procedures of 40 CFR 162.30 and to limit to use by or under the direct supervision of a certified applicator.

The optional procedures for classification of pesticide uses by regulation (40 CFR 162.30) provide that a use shall be classified for restricted use if the Administrator determines that the incremental risks of unrestricted use outweigh the incremental benefits of unrestricted use. In making this determination, the regulations direct the Administrator to apply the criteria for classification specified in 40 CFR 162.11(c) (1), (2), and (4). Those criteria, which were previously promulgated through rulemaking as part of the Agency's Registration, Reregistration and Classification Procedures (40 CFR Part 162; 40 FR 28242, July 3, 1975), establish both numerical and categorical standards for assessing the potential hazards of a pesticide in terms of its acute dermal, oral and inhalation toxicity; in terms of its subacute, chronic or delayed toxic effects on man or other nontarget organisims; or based upon such other evidence as human epidemiologic data, use history, accident data or monitoring data.

The Agency's toxicologists and environmental specialists examined available field and laboratory data relating

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to the acute toxicity of each of the active ingredients and formulations subject to this proposal to determine whether they met the criteria for general use classification as specified in § 162.11. If they did not, the Agency proceeded, in accordance with § 162.11(c)(3), to review sample label and labeling in order to assess its adequacy to prevent unreasonable adverse effects on man or the environment without further regulatory restrictions (including classification for restricted use). If the label and labeling failed to meet the criteria for adequacy, the Agency concluded that a significant risk was associated with the use of the pesticide at issue and that it was a candidate for classification for restricted use.

Finally, the Agency determined whether or not that identified risk of use would be reduced by classification for restricted use and limitation to use by or under the direct supervision of certified applicators. If so, it further determined whether or not the benefits of use would also be reduced by such a restriction. The incremental reductions were then compared, and if the incremental risks of unrestricted use (i.e., those over and above the risks of restricted use) were determined to outweigh the incremental benefits from unrestricted use (i.e., those over and above the benefits of restricted use), the use was proposed to be classified for restricted use.

For each formulation and use pattern of each active ingredient covered by the proposed rule, the Agency has identified the classification criteria of § 162.11(c) which were exceeded so as to require classification for restricted use. The Agency has also, for each active ingredient, compiled a file containing the toxicological and environmental reviews of data, the reviews of label and labeling adequacy, and the incremental risk/benefit analyses which support the proposed classification decisions. These files are available for public inspection from 8:30 a.m. to 4 p.m., Monday through Friday; interested persons should contact Walter Waldrop at the above address and telephone number to arrange and coordinate such inspections.

It is important to note that this regulation only classification uses for restricted use. If a use is not classified for restricted use by this regulation, it does not mean that it is classified for general use under Section 3 of the Federal Insecticide, Fungicide and Rodenticide Act, as amended (FIFRA); it merely means that that use has not yet been classified for either general use or restricted use. The Agency is not classifying uses for general use by regulation primarily because such a decision requires an evaluation of chronic data. Review of chronic data has not been a part of classification by regulation since much of that data has yet to be generated and submitted to the Agency.

REGULATORY ANALYSIS: The Environmental Protection Agency has determined that this document does not contain a major proposal requiring preparation of a regulatory analysis under Executive Order 12044.

EVALUATION PLAN: Section 2(d)(8) of Executive Order 12044 requires that each new significant regulation have a plan for evaluating its effectiveness. All restricted use classification decisions promulgated under final rulemaking will be reviewed by the Agency at the time of reregistration.

STATUTORY REVIEW: The U.S. Department of Agriculture has reviewed the proposed regulations in accordance with Section 25(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and concurs with its publication in the FEDERAL REGISTER. The FIFRA Scientific Advisory Panel reviewed the proposed regulations in accordance with Section 25(d) of FIFRA. The majority of the panel indicated that it believed the regulations are inconsistent in that they utilize criteria that distinguish between use situations, e.g., domestic versus nondomestic uses.

In response, the Agency notes that it bases classification decisions on criteria found in 40 CFR § 162.11 that establish different toxicity threshold levels for domestic and nondomestic uses. The Agency believes that this distinction in the Section 3 regulations is valid since the Agency must recognize and differentiate between the hazards associated with pesticide use in a domestic environment versus a nondomestic environment. The Agency believes that there must be a much larger margin of safety when pesticides are used in a domestic use situation since there is a greater chance of exposure to children and pets. A more detailed discussion of this philosophy is found in the preamble to the Section 3 regulations (July 3, 1975, 40 FR 28243).

The Panel agreed with the Agency's decision to withdraw most proposed classifications for granular formulations so that such products can be submitted as a unit. It also agreed with all of the Agency's recommendations for restriction but again noted what it considers "lack of consistency in use of triggers with several formulations." The Panel deferred action on all recommendations for unclassified status "pending receipt of detailed information on use patterns and basic data essential for proper characterization of hazards to health and the environment."

The agency will provide the Panel with information used to reach a decision to leave a particular formulation unclassified. However, as noted previously in the Supplementary Information Section if a use is not classified for restricted use by this regulation, it does not mean that it is thereby classified for general use under Section 3 of FIFRA; it merely means that the use has not yet been classified for either general use or restricted use and remains unclassified. Uses which are left unclassified will be further prioritized on the basis of potential hazard and will be classified in the future for either general or restricted use.

The Panel also recommended that a special review be held to discuss all aspects of the classification program with the primary thrust of the review aimed at development of a possible better approach to classification.

In May, the Deputy Assistant Administrator for Pesticide Programs met with the panel at a public meeting held at the University of Miami Medical School, Miami, Florida. The genesis of the Section 3 Regulations was discussed with special emphasis on how the use classification criteria in 40 CFR 162.11 were established. The Panel agreed that the Agency should continue with the classification program as it is now constituted with the understanding that when any review of the Section 3 regulations is undertaken, the classification criteria will be included. The Panel will have an opportunity to comment on any warranted changes as a result of this review.

The Scientific Advisory Panel Report is published in its entirety below.

STATUTORY AUTHORITY: Sections 3 and 25(a) of the Federal Insecticide, Fungicide and Rodenticide Act, as amended (7 U.S.C. 136 *et seq.*).

Dated: January 2, 1979.

DOUGLAS M. COSTLE,
Administrator.

It is proposed that 40 CFR 162.31 be amended by adding the following:

§ 162.31 *Pesticide Use Classification*

[The following uses of pesticide products containing the active ingredients specified below have been classified for restricted use and are limited to use by or under the direct supervision of a certified applicator]

Active Ingredient	Formulation	Use Pattern	Classification	Criteria Influencing Restriction
Carbofuran	All concentrate suspensions and wettable powders 40% and greater.	All uses	Restricted	Acute inhalation toxicity
	All granular formulations	Rice	Restricted	Effects on aquatic organisms
	All granular and fertilizer formulations	All uses except rice	Under evaluation	
Chlorfenvinphos	All concentrate solutions or emulsifiable concentrates 21% and greater.	All uses (domestic and non-domestic).	Restricted	Acute dermal toxicity
Clonitralid	All wettable powders 78% and greater	All uses	Restricted	Acute inhalation toxicity
	All granulars and wettable powders	Molluscide uses	Restricted	Effects on aquatic organisms
	Pressurized sprays 0.55% and less	Hospital antiseptics	Unclassified	
Dioxathion	All concentrate solutions or emulsifiable concentrates greater than 30%.	All uses	Restricted	Acute dermal toxicity
	Concentrate solutions or emulsifiable concentrates* 30% and less and wettable powders 25% and less.	Livestock and Agricultural uses (non-domestic uses only).	Unclassified	
	All solutions* 3% and greater*	Domestic uses	Restricted	Acute dermal toxicity
	2.5% solution* with toxaphene and malathion.	All uses	Under evaluation	
Disulfoton	All emulsifiable concentrates 65% and greater, all emulsifiable concentrates and concentrate solutions 21% and greater with fensulfothion 43% and greater, all emulsifiable concentrates 32% and greater in combination with 32% fensulfothion and greater.	All uses	Restricted	Acute dermal toxicity Acute inhalation toxicity
	Non-aqueous solution 95% and greater	Commercial seed treatment	Restricted	Acute dermal toxicity
	Granular formulations 10% and greater.	Indoor uses (greenhouse)	Restricted	Acute inhalation toxicity
	All granular and fertilizer formulations including cartridge injection.	All uses except indoor greenhouses.	Under evaluation	
Endosulfan	All emulsifiable concentrates wettable powders and dusts.	Aerial applications	Restricted	Effects on aquatic organisms
		Nondomestic outdoor applications to: orchards, citrus, nut crops, ornaments, corn, cotton, pineapples, grapes, blueberries, alfalfa 2.0 lbs./acre and greater.	Restricted	Residue effects on mammalian species
		All other uses	Unclassified	
	Emulsifiable concentrates 33% and greater.	All uses	Restricted	Acute dermal toxicity
	All formulations	Watercress	Restricted	Effects on aquatic organisms
	Emulsifiable concentrates 21% and greater, pressurized sprays 10% and greater, and smoke fumigants 15% and greater.	Indoor use (non-domestic)	Restricted	Acute dermal toxicity
	Antifouling paint 2% and less	Wooden boat surfaces	Unclassified	
	All formulations greater than 5% endosulfan.	Domestic use	Restricted	Acute dermal toxicity
	All formulations containing 5% or less endosulfan.	Domestic use	Unclassified	
	3% granular	Sugarcane	Under evaluation	
	2% granular	All uses	Under evaluation	
Ethoprop	Emulsifiable concentrates 40% and greater.	All uses	Restricted	Acute dermal toxicity
All granular and fertilizer formulations		All uses	Under evaluation	
Fenamiphos	Emulsifiable concentrates 35% and greater.	All uses	Restricted	Acute dermal toxicity
	Granular granular formulations	All uses	Underevaluation	
Fensulfothion	Concentrate solutions 63% and greater, all emulsifiable concentrates and concentrate solutions 43% and greater with disulfoton 21% and greater, all emulsifiable concentrates 32% and greater in combination with disulfoton 32% and greater.	All uses	Restricted	Acute dermal toxicity Acute inhalation toxicity
	Granular formulations 10% and greater.	Indoor uses (greenhouse)	Restricted	Acute inhalation toxicity
	All granular and fertilizer formulations	All uses except indoor greenhouses.	Under evaluation	
Fonofos	Emulsifiable concentrates 44% and greater.	All uses	Restricted	Acute dermal toxicity
	Emulsifiable concentrates 12.6% and less with pebulate 50.3% and less.	Tobacco	Unclassified	
	All granular and fertilizer formulations	All uses	Under evaluation	
Monocrotophos	Liquid formulations 19% and greater	All uses	Restricted	Residue effects on avian species Residue effects on mammalian species
	Liquid formulations 55% and greater	All uses	Restricted	Acute dermal toxicity Residue effects on avian species Residue effects on mammalian species

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§ 162.31 *Pesticide Use Classification*—Continued

[The following uses of pesticide products containing the active ingredients specified below have been classified for restricted use and are limited to use by or under the direct supervision of a certified applicator]

Active Ingredient	Formulation	Use Pattern	Classification	Criteria Influencing Restriction
Phorate	Liquid formulations 65% and greater	All uses	Restricted	Acute dermal toxicity Residue effects on avian species (applies to foliar applications only) Residue effects on mammalian species (applies to foliar applications only)
	All granular formulations	Rice	Restricted	Effects on aquatic organisms
	All granular and fertilizer formulations	All uses except rice	Under evaluation	
Phosacetim	Baits 0.1% and greater	All uses	Restricted	Hazard to non-target species Residue effects on mammalian species Residue effects on avian species
Phosphamidon	Liquid formulations 75% and greater	All uses	Restricted	Acute dermal toxicity Residue effects on mammalian species Residue effects on avian species
	Dust formulations 1.5% and greater	All uses	Restricted	Residue effects on avian species Residue effects on mammalian species

*Percentages given are the total of dioxathion plus related compounds.

[FR Doc. 79-667 Filed 1-8-79; 8:45 am]

[4110-02-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

[45 CFR Part 162]

BASIC SKILLS AND EDUCATIONAL PROFICIENCY PROGRAMS

Availability of Draft Proposed Regulations

AGENCY: Office of Education, HEW.

ACTION: General Notice of availability of preliminary draft proposed regulations.

SUMMARY: Notice is given that an initial draft of proposed regulations to implement programs regarding basic skills and educational proficiency (Title II and Part B of Title IX of the Elementary and Secondary Education Act, as amended by Public Law 95-561) is now available to the public for review. Title II and Part B of Title IX establish several programs of financial assistance relating to improving basic skills programs and to developing and improving educational proficiency standards and achievement testing. The proposed regulations are scheduled to be published in March, 1979. A public comment period will follow.

ADDRESS: Copies of these draft regulations may be obtained by writing to: Mr. Thomas Keyes, Right to Read Office, U.S. Office of Education, 400 Maryland Avenue, S.W., Donohoe Building—(Room 1150), Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT:

Mr. Thomas Keyes—Telephone (202) 245-2710.

(Catalog of Federal Domestic Assistance No. ——, Basic Skills and Educational Proficiency Program.)

Dated: January 4, 1979.

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc. 79-811 Filed 1-8-79; 8:45 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

[49 CFR Ch. X]

[No. MC-C-10251]

INTERPRETATION OF COMMODITY DESCRIPTIONS

Motor Vehicle Descriptions

JANUARY 3, 1979.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Proposed Commodity Interpretation.

SUMMARY: The purpose of this proceeding is (1) to review the commodity descriptions: "automobiles", "motor homes", and other motor vehicle descriptions used in motor carrier certificates, such as "van conversions", "minibuses", "campers", "camper coaches", and "portable shelters", and (2) to determine (a) whether the public convenience and necessity requires the development and use of some more simplified commodity description and (b) whether any existing certificates should be reissued with modified commodity descriptions.

DATES: Comments must be received on or before February 23, 1979.

ADDRESSES: Send comments to: Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423. All written submissions will be available for public inspection during regular business hours at the same address.

FOR FURTHER INFORMATION CONTACT:

Michael Erenberg, (202) 275-7292.

SUPPLEMENTARY INFORMATION: A "van conversion" is the result of alterations made to the interior of a standard van. Typical items added are dinette seats convertible to beds, a table, a non-electric ice box, storage cabinets, and interior lights. Unlike more elaborate "motor homes," they do not contain kitchens, bathrooms, power converter electrical systems, or the means for hooking up to exterior electric and water supplies.

By order dated January 4, 1978, Appellate Division 1, in No. MC-109682 (Sub-No. 34), *Whiteford Transport, Inc., Extension-Van Conversions*, concluded that a "van conversion" was simply a fancy automobile. Moreover, it was determined that carriers possessing motor home authority were unauthorized to transport van conversions. Prior to this decision, motor home authority had been found to include van conversions. Today, the entire Commission has affirmed the Appellate Division's decision in the *Whiteford* case.

The change of policy announced in the *Whiteford* decision raises a number of issues of general import that will more properly be resolved in a general policy proceeding rather than in the application case itself. Accordingly, we are instituting this proceeding and seeking comments from interested members of the public.

In reaching our decision in *Whiteford*, it became apparent that the problem posed by the commodity interpretation is not limited to van conversions alone, but that the numerous commodity descriptions used in the authorities granted to motor carriers serving the motor vehicle industry have raised a number of questions which require resolution. Over the years, the use of a large number of individual commodity descriptions has developed, and many of the descriptions are highly restrictive. "Van conversions", "minibuses", "campers", "camper coaches", and "portable shelters" are all descriptions used to identify vehicles or vehicle components ranging between "automobiles" and "motor homes". Because there are so many commodity descriptions, and because definitions of these terms are imprecise, carriers have legitimate questions regarding what their particular authorities encompass and, therefore, what they are authorized to transport.

This proceeding will involve a thorough examination of these numerous and sometimes confusing commodity descriptions. The Commission hopes to develop more precise and concise descriptions which will be utilized in the future. In reviewing this area of regulation, we will consider the type of vehicle used to transport the commodity and the method of transportation employed as well as the nature of the commodity itself.

We anticipate that there will be many questions at issue in this proceeding, including but not limited to the following:

(1) Should the Commission continue to use numerous commodity descriptions for this wide variety of products rather than one or a few comprehensive commodity groupings?

(2) Should the Commission, instead, establish one or a limited number of relatively broad commodity descriptions for the transportation of motor vehicles, and require that all future applications be framed in these terms?

(3) If the Commission decides to frame future grants only in terms of one or a few broad commodity descriptions, should it reissue outstanding certificates and permits in modified form upon the request of the holders?

(4) What impact would moving to broad commodity categories have on (a) the motor carriers serving this industry and (b) the quality and quantity of transportation services available to the shipping public?

Dated: December 5, 1978.

By the Commission, Chairman O'Neal, Vice Chairman Christian, Commissioners Brown, Stafford, Gresham, and Clapp.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-671 Filed 1-8-79; 8:45 am]

[7035-01-M]

[49 CFR Part 1201]

[Docket No. 36988]

ALTERNATIVE METHODS OF ACCOUNTING FOR RAILROAD TRACK STRUCTURES

Denial of Request to Extend Time for Comment

AGENCY: Interstate Commerce Commission.

ACTION: Extension of time request denied.

SUMMARY: The Commission denies a request for an extension of time to file comments in the proceeding concerning alternative methods of accounting for railroad track structures (43 FR 50717, October 31, 1978).

FOR FURTHER INFORMATION CONTACT:

Bryan Brown, Jr., Chief, Section of Accounting, 202-275-7448.

The Association of American Railroads (AAR) has requested an extension of the due date for receiving public comments in this proceeding. They state that the extension is necessary in order to obtain concurrence and to incorporate suggestions from their member railroads in the AAR comments.

We do not believe the AAR has provided sufficient reasons to justify an extension of time. The response period in this proceeding was set at 60 days, longer than the normal response period, in order to ensure sufficient time for comments. Moreover, an extension at this late date will cause an undue Commission processing burden and will prevent timely notice to other respondents.

It is ordered:

The request for extension by the Association of American Railroads is denied.

Decided December 28, 1978.

By the Commission, Chairman O'Neal.

NANCY L. WILSON,
Acting Secretary.

[FR Doc. 79-755 Filed 1-8-79; 8:45 am]

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[6050-01-M]

ACTION

SEMI-ANNUAL AGENDA OF SIGNIFICANT REGULATIONS

AGENCY: ACTION.

ACTION: Semi-annual Agenda of Significant Regulations.

SUMMARY: Section II. 4. of ACTION's Response to Executive Order 12044, Improving Government Regulations (43 Fed. Reg. 52506 (1978)), provided that ACTION would publish semi-annually an agenda of significant regulations under development or review. This agenda should help the public become aware of the agency's review of existing regulations and development of new regulations and allow it to more effectively contribute to that review and development.

DATES: Comments on regulations scheduled for review or development must be received before the target dates included in the agenda.

ADDRESSES: Send comments to the program office initiating the review or development of each regulation. The mailing address for each initiating office of ACTION is 806 Connecticut Avenue, N.W., Washington, DC 20525.

FOR FURTHER INFORMATION CONTACT:

For further general information about this agenda, contact: Randi J. Greenwald, Assistant General Counsel, or Harry N. MacLean, Room M-607, 806 Connecticut Avenue, N.W., Washington, DC 20525, 202-254-7974 and 254-3116. For more specific information about particular regulations listed in the agenda, contact the individual named in the agenda.

SUPPLEMENTARY INFORMATION: Explanation of Information on the Agenda.

The agenda is divided by initiating offices and sub-divided by existing regulations under review and new regulations under development.

The agenda includes the following information for each regulation: a brief description of the existing or proposed regulation; the need and/or legal basis for the action being taken; a target date for publication of a draft regulation in the FEDERAL REGISTER; the name and telephone number of an agency official familiar with the regulation.

The publication of this agenda does not impose any binding obligation on ACTION with respect to any specific item on the agenda.

Issued in Washington, DC, on January 8th, 1979.

SAM BROWN,
Director, ACTION.

ACTION SEMI-ANNUAL AGENDA OF SIGNIFICANT REGULATIONS

Regulation	Initiating Office and Need for Regulation	Target Date
Mini-Grant application guidelines.	Office of Voluntary Citizen Participation; Revision of ACTION Order 4805.5 to include new policies affecting for mini-grants [1].	03/79
Competitive National VISTA Grant Guidelines.	Office of Domestic and Anti-Poverty Operations; no comments were received on proposed guidelines published October 5, 1978 (43 Fed. Reg. 46153) [2].	[3]10/78

[1] For further information, contact: Barbara Sugarman, 202-254-7262.
[2] For further information, contact: Diana London, 202-254-5195.
[3] Target date for final guidelines: February 1979.

JOSEPH R. MANNO,
Acting ACTION Certifying Officer.

[FR Doc. 79-770 Filed 1-8-79; 8:45 am]

[3410-11-M]

DEPARTMENT OF AGRICULTURE

Forest Service

CHUGACH NATIONAL FOREST LAND MANAGEMENT PLAN, CHUGACH NATIONAL FOREST, ANCHORAGE, ALASKA

Intent To Prepare an Environmental Statement

Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969 (Public Law 91-190), Department of Agriculture Policy as expressed in proposed CFR 36:219 and Forest Service Manual Section 1950, the Forest Service, Department of Agriculture will prepare an Environmental Statement for its Chugach National Forest Land Management Plan.

The Chugach National Forest is one of ten National Forests selected to develop a Forest Plan within proposed interim planning guidelines. This planning effort will test these guidelines and the results will be used in modifying and improving the guidelines for use on other Forests.

The Forest Land Management Plan developed from this process will replace the exiting Plan issued in 1974 (USDA-FS-FES(Adm)R10-74-01).

The initial work on this plan began in September 1978 with the development of a set of issues and management concerns. Since the Forest Service had recently completed an intensive public involvement process on the Southcentral Area Guide, that information was used to formulate the list of issues and concerns. Based on an analysis of those issues, a coordinated resource inventory is currently being conducted. After completion of the inventory, alternatives will be developed to address the identified issues and management concerns.

It is anticipated that the draft environmental statement for the Chugach Land Management Plan will be filed with EPA in Decmeber 1979. After a public evaluation period, the final environmental statement will be submitted in May 1980.

John A. Sandor, Regional Forester, Alaska Region, is the responsible official. Clay Beal, Forest Supervisor, will prepare the plan, and Duane Lyon, Forest Planning Program Manager, is the person directly in charge of the project.

Comments or questions on the Notice of Intent or the planning process should be addressed to: Clay Beal, Forest Supervisor, Chugach National Forest, Pouch 6606, Anchorage, Alaska 99502 (Phone 907-272-4485).

JOHN A. SANDOR,
Regional Forester.

DECEMBER 21, 1978.

[FR Doc. 79-692 Filed 1-8-79; 8:45 am]

[3410-11-M]

CLARKS FORK OF THE YELLOWSTONE WILD AND SCENIC RIVER STUDY, SHOSHONE NATIONAL FOREST, PARK COUNTY, WYO.

Intent To Prepare an Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, will prepare an environmental statement on recommendations for future management of a 23 mile segment of the Clarks Fork of the Yellowstone River. The Wild and Scenic River Study of the Clarks Fork of the Yellowstone River is being conducted in response to Public Law 93-621, which is an amendment to the Wild and Scenic Rivers Act of 1968 (P.L. 90-542).

The need for an environmental statement is based on the following:

1. Within the study area are potential dam sites for hydroelectric power, flood control, and irrigation; habitat for the grizzly bear, a threatened species; opportunities for dispersed and developed recreation; some private lands; and pristine landscapes.

2. A recommendation for Wild and Scenic River classification would involve legislative action that could significantly affect the quality of the human environment.

3. The study and recommendations are of national significance.

John R. McGuire, Chief, Forest Service, is the responsible official, and Mark T. Story, Hydrologist, Shoshone National Forest, is the team leader for the environmental assessment and the environmental statement.

The study is being conducted at the present time. The draft environmental statement is scheduled for release in February 1979, followed by a 90-day review period. The final environmental statement will be issued in August 1979.

Comments on the Notice of Intent or the Clarks Fork of the Yellowstone Wild and Scenic River Study should be sent to Randall R. Hall, Forest Supervisor, Shoshone National Forest, P.O. Box 961, West Yellowstone Highway, Cody, Wyoming, 82414.

Dated: December 28, 1978.

ROBERT E. BUCKMAN,
Acting Chief, Forest Service.

[FR Doc. 79-695 Filed 1-8-79; 8:45 am]

[3410-11-M]

ELK WILD AND SCENIC RIVER, ROUTT NATIONAL FOREST, ROUTT COUNTY, COLO.

Intent To Prepare an Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, and Sections 5 (a) and (b) of the Wild and Scenic Rivers Act, as amended in 1975, the Forest Service, Department of Agriculture will prepare an Environmental Statement for the possible inclusion of the Elk River in the National Wild and Scenic Rivers System. The portion of the Elk River under study includes the North, Middle, and South Forks plus the main stem downstream to the County Road 129 bridge near Clark, Colorado.

Public meetings were held in June 1977 and April 1978 in both Denver and the Steamboat Springs areas. Intent of the meetings was to inform the public and invite their comments about the study. Two major issues were identified: (1) the purchase of scenic and access easements along the main stem and (2) the Hinman Park Dam and Reservoir proposed by the Public Service Company of Colorado. Additional concerns expressed at the public meetings related to expectations of increased recreation use induced by river designations and probable consequences of the increases. Consequences identified include vandalism, trespass, and the creation of safety hazards, especially with regard to motor vehicle traffic.

The two major issues involve the segment of the Elk River from the confluence of the South Fork with the main stem downstream to the County Road 129 bridge. If the segment is designated, the Hinman Park Dam and Reservoir could not be constructed. Private landowners along the river may be impacted by a taking, with just compensation, of scenic and/or access easements for wild and scenic river purposes. If the segment is not designated, the dam and reservoir could be built. Some private landowners along the river would be impacted by a taking of property by the reservoir proponent, with just compensation, if the reservoir is built. No target date has been set by the Public Service Company of Colorado for completion of the reservoir, but diligence is being performed toward perfecting their conditional water rights.

John R. McGuire, Chief, is the responsible official. Michael Retzlaff, Assistant Planner, Routt National Forest, and James Daber, Water Resource Specialist, Colorado Water Conservation Board, are team co-leaders for the enviornmental statement.

The filing of a Draft Environmental Statement is expected in March 1979. The Final Environmental Statement is scheduled for filing in August 1979. Should any segment of the Elk River be designated by Congress, preparation of a river management plan would then be initiated.

Comments on the Notice of Intent or the study should be sent to:

Michael Retzlaff, Routt National Forest, Box 1198 Steamboat Springs, CO 80477, Phone: 303-879-1722.

James Daber, Colorado Water Conservation Board, 1313 Sherman Street, Denver, CO 80203, Phone: 303-839-3441.

Dated: December 28, 1978.

ROBERT E. BUCKMAN,
Acting Chief, Forest Service.

[FR Doc. 79-694 Filed 1-8-79; 8:45 am]

[6320-01-M]

CIVIL AERONAUTICS BOARD

[Order 79-1-7; Dockets 33019, et al.]

CHICAGO-MIDWAY EXPANDED SERVICE INVESTIGATION

Applications

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 2nd day of January, 1979.

In the matter of applications of Allegheny Airlines, Inc., (Docket 33129), American Airlines, Inc. (33149), Braniff Airways, Inc. (33146), Continental Air Lines, Inc. (33138), Eastern Air Lines, Inc. (33140), Evergreen International Air Lines, Inc. (33157), Federal Express Corp. (33148), Frontier Airlines, Inc. (33118), Midway Airlines, Inc. (33123), Midway (Southwest) Airways Co. (33153), National Airlines, Inc. (33152), North Central Airlines, Inc. (33108), Northwest Airlines, Inc. (33135), Ozark Air Lines, Inc. (33117), Piedmont Aviation, Inc. (33154), Southern Airways, Inc. (33122), Texas International Airlines, Inc. (33147), Trans World Airlines, Inc. (33156), Western Air Lines, Inc. (33144), and Wien Air Alaska, Inc. (33178).

On October 6, 1978, the Board entered an Order on Reconsideration in the *Chicago-Midway Expanded Service Proceeding* ("Midway II") (Order 78-10-40). By that order we expanded the proceeding to include service from seven cities to Midway in addition to the 17 cities originally included (Order 78-7-41) and also to include one-stop as well as nonstop service between Midway and the other points at issue, subject to conditions. The conditions were (1) that all flights serve Midway Airport, (2) that only the 24 named points could be intermediates, and (3) that no one-stop could result in more than 50 percent mileage circuity. We also made a tentative determination to award permissive authority to all fit, willing and able applicants in each Midway market in which any need for additional service is shown. We afforded interested persons an opportunity to file comments on the tentative determination until October 27, 1978.[1]

Comments were filed by Midway (Southwest) Airway Co., Illinois Department of Transportation (Illinois

[1] In addition, our order consolidated applications in 21 dockets and dismissed those in another, delegated to the presiding administrative law judge authority to consolidate applications relating to the seven new cities added to the case, directed the applicants to file environmental evaluations for the seven cities, granted three motions for leave to file pleadings late, and, except to the extent granted by the above-described expansion of the proceeding, denied all petitions for reconsideration or clarification of Order 78-7-41.

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DOT), Nashville Airport Authority (Nashville) and the Massachusetts Port Authority and the Greater Boston Chamber of Commerce (Boston parties). Also, the Bureau of Pricing and Domestic Aviation (BPDA) filed a petition for clarification of our order on reconsideration which was supported in an answer filed by Midway (Southwest) and opposed by the Houston parties.[2] Four carriers moved to dismiss or withdraw their applications, namely, Continental Air Lines (Docket 33138), Eastern Air Lines (Docket 33140), Frontier Airlines (Docket 33118), and National Airlines (Docket 33152). We shall dismiss these applications.[3]

Conclusions

We have carefully considered the comments on our order on reconsideration and have concluded that none of them requires that we alter the scope of the proceeding previously fixed or convinces us that our tentative conclusion—that awards of permissive authority to all fit, willing, and able applicants in each Midway market in which a need for service is shown—should not be made final. We shall discuss the various comments below. With respect to BPDA's petition for clarification, we shall grant it to the extent of once again explicating matters which we discussed in Order 78-10-40.

Comments on "Order on Reconsideration"

Midway (Southwest) urges the Board (1) to make final its tentative determination that permissive authority will be awarded to all qualified applicants in each Midway market in which a need for service is shown; (2) to specify that no evidence other than that described in the Board's earlier orders shall be required of any applicant and that the inclusion of one-step route authority issues does not enlarge upon those evidentiary requirements; and (3) to reiterate that carrier selection evidence will neither he required nor permitted. These requests accurately state our views and we endorse them. Our position, particularly on the first request, has been fully stated in the *Oakland Service Case*, Order 78-9-96, September 21, 1978, upon which we rely here. We note, moreover, that in adopting the Airline Deregulation Act of 1978, 92 Stat. 1705, the Congress, in the Conference Report, expressly approved "the multiple permissive authority program recently established by the Board" (H. Rep. 95-1779, p. 56, October 12, 1978). The limited extent of the evidentiary materials required in this case also has its genesis in the *Oakland Service Case* and we adhere to the views stated in that case and the earlier orders in this case. We wish to make it clear, however, that the presiding administrative law judge will contiune to control the flow of evidence in this case.[4]

In Order 78-10-40 we stated that we would give special attention to any showing that particular circumstances made a specific market at issue here unsuitable for multiple permissive awards. The Boston parties' comments seek to bring themselves within that offer of special attention because of the unique environmental problems affecting them. To the extent that the Boston argument rests on the view that we will not consider environmental and energy issues in accordance with our regulations it is incorrect. We reject Boston's suggestion in effect, that we make a comparative selection among carriers for service from Midway to Boston by weighing and balancing economic and environmental factors. Such a concept would be costly and time-consuming and would destroy the overriding benefits of multiple permissive awards. *Oakland Service Case*, Order 78-9-96. In the long run, the level of service between Midway and Boston will match the demand, and there will be no significant differences in environmental impact among various aircraft types because they all will have to meet uniform national standards.[5]

Nashville urges the Board to certificate at least one carrier in the Nashville-Midway market on a mandatory basis. It says that although permissive authority has been granted to a number of carriers in a number of Nashville markets, Nashville has not received any actual service as a result of such awards. First, under the Deregulation Act we no longer have power to grant mandatory awards. *Improved Authority to Witchita Case*, Order 78-12-106, December 14, 1978. Moreover, we do not view the short run result in Nashville as conclusive. If the Nashville-Midway market (either nonstop or as part of a one-stop service) generates enough traffic to support a single round trip daily, we believe that multiple permissive licensing is the best regulatory approach to bring forth that service. *Oakland Service Case, supra;* see also *Baltimore-Detroit Nonstop Proceedings*, Order 78-5-112, where we discussed such a situation and where one of the permissively authorized carriers, North Central Airlines, instituted service. We see nothing in the Nashville situation requiring a departure from our governing precedents.

Illinois DOT's comments ask us to depart from *Midway I* (Order 78-7-40) and from our tentative multiple permissive awards by awarding "at least the largest short-haul range Midway markets which offer the greatest potential for successful high frequency-low fare commuter service to carriers whose sole responsibility in the Chicago market is to provide for service for Midway Airport" and giving them a "limited period of protection from competition in those markets." The basis for the repetition of this request is the enactment of section 3(a) of the Airline Deregulation Act of 1978 in 1978, 94 Stat. 1706.[6] We are fully cognizant of the Act's amended declaration of policy and we are sensitive to the policies of 102(a)(6) (quoted in note 5) encouraging the development of satellite airports and carriers specializing in operations from them. In fact, these considerations were in the forefront of our deliberations when we decided *Midway I*, Order 78-7-40. Now, we have them embodied into the policy statement of the Act together with other policies seeking enhanced competition, and recognition of the valuable role of the Board's program of multiple permissive awards played in furthering competition.[7] Considering the present situation as a whole, We are not prepared at this time to depart from the detailed analysis and considerations given to the problems in *Midway I*.

Petition for Clarification

After issuance of Order 78-10-40, Judge Yoder, the presiding administrative law judge, entered an order describing the Board's order, discussing

[2] The City of Houston and the Houston Chamber of Commerce. They moved for leave to late file their opposition. While "good cause" for such late filing is not clear, acceptance of the filing will not harm another party. We shall grant the motion.

[3] The administrative law judge entered an initial decision on December 19, 1978, solely to dismiss these applications. We shall take discretionary review of that decision on our own initiative and vacate it. For the future, we shall amend our regulations to empower a presiding judge to dismiss such applications.

[4] The prehearing conference was held in this case on November 8, 1978, and a report thereon by Judge Yoder was served on November 21, 1978. The formulation of specific issues and evidence requests does not appear to have presented insurmountable problems.

[5] It may be noted that Boston's evidence requests on the environmental issue was granted. (Prehearing Conf. Tr. 93-101).

[6] Section 3(a) amends 102(a) of the Act; the Declaration of Policy, to provide in Sec. 102(a) "* * * the Board shall consider * * * as being in the public interest, and in accordance with the public convenience and necessity: * * * (6) The encouragement of air service at major urban areas through secondary or satellite airports * * * and * * * encouraging such service by air carriers whose sole responsibility to any specific market is to provide service exclusively at the secondary or satellite airport, and foresting an environment which reasonably enables such carriers to establish them selves and to develop their secondary or satellite airport services."

[7] H. Rep. 95-1779, p. 56, October 12, 1978.

and fixing certain procedural dates, supplying certain data, and directing the parties to submit statements of position and supporting briefs on a series of eight questions which he propounded relating to the method of proving various issues in the case, including the "fitness," "willingness," and "ability," of the applicants to perform the transportation for which certificates were requesed and the "need" for such service.[8] BPDA apparently felt that four of the judge's questions relating to "fitness" and "need" misinterpreted Order 78-10-40 and it therefore filed a petition for clarification asking the Board "what standards of need for service willingness and ability will be applied in this case and whether these issues must be determined separately for each of the 191 markets now included in this case."

We have decided to grant this petition to make it quite clear that the "fit, willing and able" requirement is not a roadblock to Congressional and Board policies favoring a maximum reliance on actual and potential competition to assure the sound development of air transportation. We intend to take up this issue at greater length in Board cases now before us on review. Our fundamental understanding of the "fit, willing and able" test has been articulated in a number of cases, most recently in *Chicago—Midway Low-Fare Route Proceeding*, Order 78-7-40, pp. 49-51. Recently a number of novel restrictive interpretations of this test have been advanced that are inconsistent with our expressed position in those cases and, in some respects, inconsistent also with the Board's treatment of this question throughout its forty year history. We shall not allow entirely new restrictions to be imported into the "fit, willing and able" standard precisely at a time when Congress and the Board have decided to reduce regulatory barriers to entry and when those restrictions have no basis in law, precedent or policy.

We will not require applicants to show a present intent actually to begin service within a specified period in cases where the Board has decided or may decide to make multiple permissive awards for the very purpose of letting the marketplace determine the optimal number of carriers and select those that actually operate. By its very nature, such an approach contemplates that more authority will be licensed than can be used at any given time and that airlines will have the freedom to enter and leave markets on the basis of their own assessment of the economic climate and their chances of success in the competitive battle (subject, of course, to the notice and "essential air transportation" provisions of sections 401(j) and 419 of the Act). Congress, which expressly ratified the multiple permissive awards program, clearly did not intend for it to be scuttled by the reintroduction of discarded route considerations through the back door of the "fit, willing and able" test.

Even in the past, the Board never interpreted that test to require a carrier to prove an intent actually to operate newly authorized service when the new authority was discretionary, as, for example, in restriction removal or realignment cases. *Reopened Southern Route Realignment*, Order 73-2-90. As for the statutory language, an applicant must be willing to perform properly the transportation covered by its application and to conform to the Act and Board regulations. This means that it must show its compliance disposition and its willingness to perform properly under the terms of its certificate. Where the authority is (or, rather, was) mandatory, actual intent to serve may be required; but where the authority is permissive no such requirement exists because the certificate itself contemplates that the carrier will have the discretion to operate or not, reflecting the law's recognition that even potential entry serves a valuable public purpose. It also means that an applicant must be willing, whenever it chooses to exercise its permissive authority, properly to perform its obligation as a common carrier and to operate suitable and safe aircraft.[9]

Next, once a carrier has shown that it is "fit, willing and able" to perform service of a certain basic scope and character, it need not present additional evidence of its ability to operate within the scope of service in other markets.[10] (We do not refer here to the applicants' obligation to provide illustrative service proposals as part of a public convenience and necessity showing.) We view fitness, willingness and ability essentially as a measure of a carrier's qualification to provide a certain broad category of service; it does not require the Board to assess the likelihood or the circumstances in which an applicant will actually choose to exercise permissive authority in a particular market. The Board has already made it clear that it does not expect a restrictive "fit, willing and able" criterion to be applied in this case. Order 78-10-40.

Turning to the remaining questions raised by the petition, we repeat that we shall award permissive authority to all qualified applicants in each Midway market at issue that can support *some* nonstop service (or some one-stop service when the intermediate stop is one of the other points in issue and the flight involves a circuity of 50 percent or less). Whether a market can support any service will be determined on the basis of the record. This was done in the *Oakland Service Case* and reference was made to it in Order 78-7-41 instituting this case. (See pages 2-3 and Appendix A; see also Appendix B of Judge Yoder's Order of Octobver 13, 1978). No further guidance is required. An illustrative service proposal for each one-stop routing is required only if no illustrative proposal has been made for nonstop service between the same point and Midway.

Motions to Consolidate

On December 4, 1978, Judge Yoder served an Order on Motion to Consolidate Applications. Acting to the limits of the power delegated to him by the Board in Order 78-10-40, he granted the motions to consolidate the amended applications of 15 named carriers "to the extent that they conform to the scope of the investigation specified in Order 78-10-40 and they relate to the seven additional cities added by that order."[11] However, the judge pointed out that there were other amendments to applications or portions of amended applications which were within the scope of the proceeding, covered by motions to consolidate, and whose consolidation would be in the public interest, conducive to the proper dispatch of the Board's business and the ends of justice, and would not unduly delay the proceeding, but that, since he was not empowered to act upon them, they would be left for determination by the Board. We adopt Judge Yoder's findings and shall grant the motions to consolidate and consolidate the applications.

Accordingly, 1. We determine finally that as a matter of policy the public

[8] Although we have considered "willingness" separately here in response to a specific question in BPDA's petition, as a general matter we will not attempt to give separate definition to each element of the "fit, willing and able" criterion, which the Board has traditionally considered a single interrelated standard. Attempts to break this standard up into three separate pieces makes little more sense than would separate definitions of public convenience and necessity. In fact, the Act (in section 102) accords a single definition not only to public convenience and necessity but to public interest as well and makes no attempt to give separate meaning to the different language. When we have used the term "fitness" in our orders over the past year, we have intended the term to encompass the entire "fit, willing and able" criterion.

[9] Some 25 responses representing 28 parties were filed, including a response from BPDA.

[10] If, for example, a carrier were authorized to operate a very limited service in one or two short-haul markets that fact alone might not demonstrate its fitness, willingness and ability to perform transcontinental or transatlantic service.

[11] He denied Frontier's motion to consolidate because Frontier had later moved to withdraw its application.

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convenience and necessity require permissive certification of all fit, willing, and able applicants in each Midway market at issue in this proceeding in which a need for additional authority is found.

2. We acknowledge the comments filed by Midway (Southwest), the Boston Parties, Nashville, and Illinois DOT and accept or reject them to the extent and in the manner indicated herein.

3. We grant the petition of BPDA to the extent indicated herein and otherwise deny it.

4. We dismiss the applications of Continental Air Lines in Docket 33138, Eastern Air Lines in Docket 33140, Frontier Airlines in Docket 33118, and National Airlines in Docket 33152.

5. We grant the motions to consolidate and consolidate into Docket 33019 the following amendments to applications or amended applications to the extent that they fall within the scope of this proceeding as fixed by Orders 78-7-41 and 78-10-40: Allegheny Airlines, Inc. in Docket 33129, American Airlines, Inc., 33149, Braniff Airways, Inc., in Docket 33146, Evergreen International Airlines, Inc., in Docket 33157, Federal Express Corp. in Docket 33148, Midway Airlines, Inc., in Docket 33123, Midway (Southwest) Airways Co. in Docket 33153, North Central Airlines, Inc., in Docket 33108, Northwest Airlines, Inc., in Docket 33135, Ozark Air Lines, Inc., in Docket 33117, Piedmont Aviation, Inc., in Docket 33154, Southern Airways, Inc., in Docket 33122, Texas International Airlines, Inc., in Docket 33147, Trans World Airlines, Inc., in Docket 33156, Western Air Lines, Inc., in Docket 33144, and Wien Air Alaska, Inc., in Docket 33178.

6. We grant the motion of Houston for leave to file its comments on Order 78-10-40 late.

7. We deny all other requests in this proceeding addressed to the Board.

8. We take discretionary review of the initial decision of December 19, 1978, and vacate it.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board: [12]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 79-752 Filed 1-8-79; 8:45 am]

[12] All Members concurred, and Member O'Melia filed a concurrence, as a part of the original document.

[6320-01-M]

[Docket 34365; Order 79-1-6]

PAN AMERICAN WORLD AIRWAYS, INC.

Increased Excess Baggage Charges in Domestic and Overseas Transportation; Order of Suspension and Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 2nd day of January, 1979.

By tariff revisions [1] marked to become effective February 1, 1979, Pan American World Airways, Inc. (Pan American) proposes to modify and increase excess baggage charges in domestic and overseas markets for (1) personal passenger baggage and (2) courier-accompanied baggage. Currently, excess baggage charges are not differentiated on the basis of the character of the accompanying passenger.

Pan American proposes, for personal baggage, to (1) limit excess pieces acceptable at currently effective charges to four pieces, over and above the two checked pieces carried free and, (2) increase the charges for more than six checked pieces to four times the otherwise applicable charge. For courier-accompanied baggage it proposes to charge, typically, 130 percent of the applicable general commodity freight rates.

In support of its proposals the carrier asserts that: Since its previous excess baggage proposal was suspended, its baggage problems have become more severe; it has recently completed a comprehensive systemwide survey designed to measure the impact piece count baggage rules are having on standard baggage weights and, as a result, it has established new standards of 15 kilograms per bag and as much as 20 kilograms per bag in selected markets; it is experiencing greater passenger loads per flight stemming form the use of higher density seating and increased load factors; higher baggage loads have been inevitable as a result of greater loads; aggravating the problem is an airworthiness directive, published by the FAA, which instructs the carrier to reduce the baggage capacity on B-747 aircraft; the combination of increased amounts of baggage per flight and reduced belly capacity is inconveniencing both passengers and freight shippers; the revisions proposed are on a systemwide basis in the interest of efficiency and to deter any incipient baggage problem; rating of commercial shipments transported by couriers under the current baggage system serves to disadvantage those shippers who ship similar items on an unaccompanied basis as freight, rated under the freight tariffs; it intends to continue to permit courier shipments to be treated as part of the courier's baggage but assessed rates which reflect the nature of the material being shipped and the priority service being accorded the traffic; in the absence of contrary decisions from the Board, Pan American is entitled to assume that the general commodity rate approved or permitted to become effective is a reasonable predicate for other rates; it would be impractical and inconsistent with the nature of the courier business to attempt to cost-justify the proposed rates; this filing either matches or is patterned after United Air Lines, Inc's (United) current domestic baggage rule which the Board has found acceptable; and the implementation of the proposal will remove the unintended incentive currently available on many routes for passengers to check, as baggage, items which are essentially air freight.

A complaint requesting suspension pending investigation or rejection of these proposals has been filed by the DHL Corporation (DHL) an air courier service. The complainant states, among other things, that: in interstate markets, the current propsal of $24 is reasonably related to cost, but in overseas and foreign markets the excess baggage rates must be justified by costs, as the Board decided in the *Baggage Allowance Tariff Rules in Overseas and Foreign Air Transportation* case *Excess Baggage Case;* the proposed courier baggage proposal violates the principle of *res judicata* in that it contradicts previous Board precedents: Pan Amercian has again failed to demonstrate a system wide need for the proposal and, if certain markets have problems, it should establish special rates for those markets; the proposed surcharge is unreasonably high—the fact that there is a shortage of air service which is restricted by the government should not justify the supplier's making extraordinary profits; customers use the baggage service rather than the only alternative, air freight, because it is the only way one can be assured of timely receipt of many items; excess baggage charges at the current rates generally exceed average freight revenues; most current excess baggage rates are cost related and international excess baggage rates are related to cost factors established in the *Excess Baggage Case;* baggage rates should not be tied to any freight rates unless the freight rate has been shown to be cost-justified and the costs of handling baggage are the same as handling freight; Pan American's justification provides no economic rationale for its deviation from the piece system and provides no justification for limiting couriers to the 300-kilogram weight break and not the lower yields of the higher weight breaks for larger shipments; and these proposed increases exceed the zone of reasonableness authorized for interstate rates in Public Law 95-504 and by the Board.

[1] Revisions to Air Tariffs Corporation, Agent, Tariff C.A.B. 55 and to Airline Tariff Publishing Company, Agent, C.A.B. 142.

In its answer to the complaint, Pan American asserts, among other things, that the rejection notices and Board orders are not precedents precluding the effectiveness of the proposed tariffs under the principle of *res judicata,* as alleged by the complaint; the complaint presents no factual support of its allegation that the proposals would yield excess profits to Pan American; the carrier desires to accomodate courier traffic, but not with preferential treatment; and courier material is not passenger baggage, but cargo, both in fact and in law.

This is the second recent filing [2] in which Pan American proposed higher domestic surcharges for excess baggage. The first proposal was suspended by the Board chiefly on the ground that Pan American had submitted no evidence that the charges were cost-related, should be applied systemwide and the problem could not be localized, Order 78-2-70, February 13, 1978. The Board gave the carrier an opportunity to submit further justification of its proposal but found that the justification submitted was not persuasive and ordered the higher surcharges canceled, Orders 78-3-149 and 78-5-72, March 30 and May 12, 1978. Pan American's current proposal differs from its first one chiefly because it contains two levels of surcharges, one for couriers and one for other passengers apparently to meet one of the Board's objections to its first filing.

For personal baggage, as stated above, Pan American proposes a charge of $24 domestically and four times the current rates in overseas markets. The $24 charge is equal to that permitted by the Board in domestic transportation for other carriers, and we will permit it to become effective. The overseas charges are subject to the Board's decision in the *Excess Baggage Case.* There we found that an excess baggage charge of seven-tenths of one percent of the economy fare per kilogram bears a reasonable relationship to cost and that carrier proposals of higher rates must be supported by a thorough economic justification. Since Pan American's proposed levels for overseas personal baggage are in most cases less, we will permit these proposed charges to become effective as well. For courier-accompanied baggage, Pan American justified its proposed rates of 130 percent of the general commodity level on the ground that that service is similar to priority freight and the rates are equal to priority freight rates. While we do not find that argument persusive, we nevertheless have concluded that the proposed charges for its domestic markets should be permitted. We are aware that this decision is seemingly at odds with our earlier actions dealing with excess baggage charges proposed by Pan American.[3] But the recently enacted amendment to the Federal Aviation Act (Airline Deregulation Act, Public Law 95-504) mandates that we place greater reliance on the market place where possible.[4] The west coast-Hawaii market (Pan American's principal domestic market) clearly is highly competitive. We, therefore, conclude that we should not continue to insist on strict cost justification as we have in the past, but should allow the competitive market place to determine if the charges are too high. Nevertheless, we shall monitor the situation for a reasonable period to assure ourselves that competition does in fact work effectively in this area.

In overseas markets, however, excess baggage charges are governed by the *Excess Baggage Case* and Pan American's courier-accompanied proposal significantly exceeds the Board's formula, based upon the average sized bag for all traffic. Accordingly, we find that its proposed charges for courier-accompanied traffic in overseas markets may be unlawful and should be investigated. We further conclude that these charges should be suspended pending investigation.

We are, however, sympathetic to the carrier's contention that the increased costs apparently caused by the typically heavier weight courier bags must be offset. Therefore the Board will be receptive to a filing of charges for courier-accompanied baggage based on the *Excess Baggage Case* formula of .7 of 1 percent of the economy fare per kilogram applied to the average weight of courier traffic.

Accordingly, pursuant to Sections 102, 204(a), 403, 404, 801, and 1002 of the Federal Aviation Act of 1958;

It is ordered that: 1. An investigation be instituted to determine whether the provisions set forth in Appendix A [5], and rules, regulations, and practices affecting such provisions are or will be unjust; unreasonable, unjustly discriminatory, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful provisions and rules, regulations, or practices affecting such provisions;

2. Pending hearing and decision by the Board, the provisions specified in Appendix A are suspended and their use deferred to and including May 1, 1979 unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. Except to the extent granted herein, we dismiss the complaint of DHL Corporation in Docket 34197; and

4. Copies of this order will be filed with the tariffs and served on Pan American World Airways, Inc., and DHL Corporation, which are made parties to the proceeding ordered above.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:[6]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 79-753 Filed 1-8-79; 8:45 am]

[2] Pan American also filed a third proposal, which was rejected as technically deficient.

[3] Orders 78-2-70, 78-3-149 and 78-5-72.

[4] Freight rates are already deregulated (as to reasonableness) in domestic markets (P. L. 95-163).

[5] Appendix A filed with the original document.

[6] All Members concurred.

[6320-01-M]

[Docket 33217]

ST. LOUIS-LITTLE ROCK-NEW ORLEANS SERVICE INVESTIGATION

Hearing

A hearing in this proceeding will be held on January 9, 1979, at 9:30 a.m. (e.s.t.) in Room 1003, Hearing Room C, 1875 Connecticut Avenue, NW., Washington, D.C., before Administrative Law Judge Stephen J. Gross.

The issues in this proceeding are as discussed in Order 78-8-95, modified, however, by the Airline Deregulation Act of 1978, PL 95-504: see Board Notice of Applicability of Airline Deregulation Act of 1978, adopted November 16, 1978.

Dated at Washington, D.C., January 2, 1979.

STEPHEN J. GROSS,
Administrative Law Judge.

[FR Doc. 79-754 Filed 1-8-79; 8:45 am]

[6335-01-M]

CIVIL RIGHTS COMMISSION

DELAWARE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Delaware Advisory Committee (SAC) of the Commission will convene at 1:00 a.m. and will end at 5:00 p.m. on January 23, 1979, Department of Transportation Administrative Center Conference Room, Dover, Delaware.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission,

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2120 L Street, N.W., Room 510, Washington, D.C. 20037.

The purpose of this meeting is to discuss program planning.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 5, 1979.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 79-823 Filed 1-8-79; 8:45 am]

[3510-07-M]

DEPARTMENT OF COMMERCE

Bureau of the Census

SPECIAL CENSUSES

The Bureau of the Census conducts a program whereby a local or State government can contract with the Bureau to conduct a special census of population. The content of a special census is ordinarily limited to questions on household relationship, age, race, and sex, although additional items may be included at the request and expense of the sponsor. The enumeration in a special census is conducted under the same concepts which govern the decennial census.

Summary results of special censuses are published semiannually in the *Current Population Reports*—Series P-28, prepared by the Bureau of the Census. For each area which has a special census population of 50,000 or more, a separate publication showing data for that area by age, race, and sex is prepared. If the area has census tracts, these data are shown by tracts.

The data shown in the following table are the results of special censuses conducted since December 31, 1977, for which tabulations were completed between December 1, 1978 and December 31, 1978.

Dated: January 4, 1979.

MANUEL D. PLOTKIN,
Director, Bureau of the Census.

State/Place or Special Area	County	Date of Census	Population
Illinois:			
Lisle village	DuPage	September 14	11,698
Prospect Heights city	Cook	September 13	11,344
Iowa:			
Donnellson city	Lee	October 23	962
Mississippi:			
Ashland town	Benton	October 2	511
North Dakota:			
Horace city	Cass	September 20	462
Wisconsin:			
Grafton town	Ozaukee	September 19	3,377

[FR Doc. 79-687 Filed 1-8-79; 8:45 am] 06

[3510-25-M]

Industry and Trade Administration

[Case No. 575]

RONAIR, INC.

Order

In the matter of Ronair, Inc., 4 East 39th Street, New York, N.Y., 10016 (Respondent).

In a letter of September 11, 1978, the Compliance Division charged that Ronair, Inc. violated the Export Administration regulations. It alleged that the respondent had exported airplanes to Iran, Equador and Uganda without the requisite validated licenses.

Ronair, a company organized in 1975, admitted the charges for purposes of this proceeding. It averred its belief that until late 1977 foreign sales required export licenses but that licenses were not required where export was for lease purposes, ownership was maintained in the Unites States, and all Federal Aviation Administration regulations were complied with. The F.A.A., minimally, requires maintenance of domestic airplanes at specified intervals in accordance with published standards. Ronair complied with all F.A.A. requirements. It showed that the lease-sales agreement of airplanes for Iran and Equador were regularized by the issuance of validated export licenses.

The Hearing Commissioner reports that although a license to Uganda, upon proper application when the contract was negotiated, probably would have issued; however, he noted our changing policies, culminating in legislative restrictions in trade with Uganda resulting from the consistent pattern of gross violation of human rights, now bars approval of airplane export. See 15 CFR Part 385. He stated that when apprised of present federal policy, Ronair expended substantial time and monies to recover the airplane and to abrogate its lease-sale agreement. Noting that the governmental policies were not thwarted because of Ronair's success and cooperation in rectifying and regularizing its operations, he recommended acceptance of the consent as outlined below.

Based on the foregoing and the recommendations of the Hearing Commissioner, I find that respondent violated the Export Administration Regulations as alleged in the charging letter. In view of respondent's cooperation in accepting full responsibility and in taking corrective measures to regularize its export activities in conformity with law and policy, and national security not being involved, I find that the agreed penalty is fair, reasonable, consistent with penalties imposed in similar cases, and designed to achieve the purpose of the law and regulations.

Therefore, pursuant to the authority delegated to me, 15 CFR 187.1, it is

ORDERED

A period of probation ending December 31, 1980 is imposed upon respondent. The terms of probation are that respondent shall fully comply with all requirements of the Export Administration Act of 1969, as amended, and all regulations and orders issued thereunder.

Upon a finding by the Director, Office of Export Administration or such other official as may be exercising the duties now exercised by him, that the respondent has knowingly failed to comply with the requirements and conditions of the order or with any of the conditions of probation said official without notice when national security or foreign policy considerations are involved, or with notice if such considerations are not involved, by supplemental order may revoke the probation of the respondent, revoke all outstanding validated export licenses to which said respondent may be a party and deny to said respondent all export privileges for the period of the order. Such supplemental order shall not preclude the Bureau of Trade Regulation from taking such further action for any violations as it shall deem warranted. On the entry of a supplemental order revoking respondent's probation without notice, it may file objections and request for an oral hearing as provided in Section 388.16 of the United States Export Administration Regulations, but pending such further proceedings the order of revocation shall remain in effect.

This order is effective immediately.

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Dated January 2, 1979.

RAUER H. MEYER,
Director, Office of Export Administration.

[FR Doc. 79-733 Filed 1-8-79; 8:45 am]

[3510-25-M]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

CERTAIN TEXTILE PRODUCTS IMPORTED FROM INDIA

Further Amending the Visa Mechanism

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Providing for the interim use of the circular visa and elephant-shaped certification on textile products of wool and man-made fiber, exported from India on and after January 1, 1979.

SUMMARY: On December 28, 1978, the Governments of the United States and India exchanged letters amending the existing visa and certification mechanism to provide for the interim use of the circular visa and elephant-shaped certification for certain wool and man-made fiber textile products, exported from India on and after January 1, 1979, pending establishment of a new multifiber visa and certification mechanism. Representatives of the two governments will be meeting for this purpose within the next several months.

EFFECTIVE DATE: January 10, 1979.

SUPPLEMENTARY INFORMATION: On May 20, 1975, a letter was published in the FEDERAL REGISTER (40 FR 22025) announcing establishment of an export visa requirement (circular visa), intended to preclude circumvention of the licensing system for exports to the United States of certain cotton textiles and cotton textile products, produced or manufactured in India. It also established a certification procedure to exempt certain traditional and folklore textile products from the levels of restraint of the bilateral cotton textile agreement of August 6, 1974, as amended, between the Governments of the United States and India. A further letter, published in the FEDERAL REGISTER on March 22, 1976 (41 FR 11867), amended the exempt certification procedure to establish, among other things, an elephant-shaped certification for apparel products of cotton textiles, made from handloomed fabrics of the cottage industry, but not wholly by hand. In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs, effective on January 10, 1979, to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of wool and man-made fiber textile products that have not been visaed with the circular visa or the elephant-shaped certification. A further letter, also published below, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs directs that such merchandise is to be charged to the appropriate levels of restraint established for these products during the twelve-month period which began on January 1, 1979, pursuant to the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 30, 1977, as amended, between the Governments of the United States and India.

ROBERT E. SHEPHERD,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Domestic Business Development.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

JANUARY 5, 1979.

COMMISSIONER OF CUSTOMS,
DEPARTMENT OF THE TREASURY,
Washington, D.C. 20229.

DEAR MR. COMMISSIONER: This directive further amends, but does not cancel, the directive issued to your on May 13, 1975 by the Chairman of the Committee for the Implementation of Textile Agreements which directed you to prohibit entry for consumption, or withdrawal from warehouse for consumption, of certain cotton textiles and cotton textile products, produced or manufactured in India, for which the Government of India had not issued an export visa. It also amends, but does not cancel, the directive of March 16, 1976, which concerned, among other things, the use of an elephant-shaped certification for cotton apparel products made from handloomed fabrics of the cottage industry of Inda, but not wholly by hand.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 30, 1977, as amended, between the Governments of the United States and India; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed, effective on January 10, 1979, to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of textile products of wool and man-made fibers in Categories 400-469 and 600-669, produced or manufactured in India and exported to the United States after December 31, 1978, which are not accompanied by the circular export visa or by the elephant-shaped certification in acordance with procedures established in the directives of May 13, 1975 and March 16, 1976, as amended.

The actions taken with respect to the Government of India and with respect to imports of wool and man-made fiber textile products from India have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ROBERT E. SHEPHERD,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Domestic Business Development.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

JANUARY 5, 1979.

COMMISSIONER OF CUSTOMS,
DEPARTMENT OF THE TREASURY,
Washington, D.C. 20229.

DEAR MR. COMMISSIONER: This directive cancels and supersedes the directive issued to you on December 29, 1978 by the Chairman of the Committee for the Implementation of Textile Agreements which directed you to prohibit entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in certain specified categories, produced or manufactured in India and exported during the twelve-month period that began on January 1, 1979.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 30, 1977, as amended, between the Governments of the United States and India; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on January 1, 1979 and for the twelve-month period extending through December 31, 1979, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in the following categories, produced or manufactured in India, in excess of the indicated levels of restraint:

Category	Twelve-Month Level of Restraint
330-369, 431-469 and 630-669	37,881,210 square yards equivalent
335	16,949 dozen
342	39,326 dozen
359	152,174 pounds
666	256,410 pounds

However, effective on January 10, 1979, apparel products in Categories 330-359, as well as Categories 431-459 and 630-659, which are accompanied by an elephant-shaped certification, shall be permitted entry up to a level of 3 million dozen for the twelve-month period beginning on January 1, 1979 and extending through December 31,

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1979, and shall not be charged to the foregoing levels.

You are further directed to prohibit, effective on January 1, 1979 and for the twelve-month period extending through December 31, 1979, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Categories 336, 338/339/340, 341, and 347/348, produced or manufactured in India, in excess of the following levels of restraint:

Category	Twelve-Month Level of Restraint
336	179,963 dozen
338/339/340	946,932 dozen
341	1,951,754 dozen
347/348	105,086 dozen

Cotton textile products in Categories 336, 338/339/340, 341 and 347/348 are also chargeable to the level of restraint established for Categories 330-369, 431-469 and 630-669, as a group, unless accompanied by an elephant-shaped certification in which case they shall be chargeable to the level of 3 million dozen established for apparel products in Categories 330-359, 431-459 and 630-659.

In carrying out this directive, entries of cotton, wool and man-made fiber textile products in Categories 330-369, 431-469 and 630-669, as a group, and individual Categories 335, 336, 338/339/340, 341, 342, 347/348, 359 and 666, including products accompanied by the elephant-shaped certification, produced or manufactured in India and exported to the United States prior to January 1, 1979, shall, to the extent of any unfilled balances, be charged against the levels of restaint established for such goods during the twelve-month period beginning on January 1, 1978 and extending through December 31, 1978. In the event that the levels of restraint established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

With the exception of apparel products in Categories 330-359, 431-459 and 630-659, which are accompanied by the elephant-shaped certification, the levels of restraint set forth above are subject to adjustment in the future according to the provisions of the bilateral agreement of December 30, 1977, as amended, between the Governments of the United States and India which provide, in part, that: (1) within the aggregate, group limits may be exceeded by designated percentages; (2) these same levels may be increased for carryover and carryforward, and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement. Any appropriate adjustments under the provisions of the bilateral agreement referred to above will be made to you by letter.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers and factors for converting units into equivalent square yards was published in the FEDERAL REGISTER on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773) and September 5, 1978 (43 FR 39408).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of India and with respect to imports of cotton, wool and man-made fiber textile products from India have been determined by the Committee for ther Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ROBERT E. SHEPHERD,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Domestic Business Development.

[FR Doc. 79-819 Filed 1-8-79; 8:45 am]

[3810-70-M]

DEPARTMENT OF DEFENSE

Office of the Secretary

DEFENSE ADVISORY COMMITTEE ON WOMEN IN THE SERVICES (DACOWITS)

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given that a meeting of the Executive Committee of the Defense Advisory Committee on Women in the Services (DACOWITS) is scheduled to be held from 9 a.m. to 4 p.m., January 16, 1979, at the Pentagon, OSD Conference Room, 1E801 No. 4. Meeting sessions will be open to the public.

This special Executive Committee Meeting has been called by the new Chairperson (appointed Jan. 1, 1979) without the normal 30 day prior notification requirement to discuss long range objectives for DACOWITS. It will not negate the normal Executive Committee Meeting held during February or March preparatory to the formal DACOWITS Spring Meeting.

Persons desiring to make oral presentations or submit written statements for consideration at the Executive Committee Meeting must contact Lt. Col. Barbara J. Roy, Executive Secretary, DACOWITS, OASD (Manpower, Reserve Affairs and Logistics), Room 3D322, the Pentagon, Washington, D.C. 20301, telephone 202-697-5655 no later than January 15, 1979.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Service, Department of Defense.

JANUARY 3, 1979.

[FR Doc. 79-696 Filed 1-8-79; 8:45 am]

[6450-01-M]

DEPARTMENT OF ENERGY

VOLUNTARY AGREEMENT AND PLAN OF ACTION TO IMPLEMENT THE INTERNATIONAL ENERGY PROGRAM

Meeting

In accordance with Section 252 (c)(1)(A)(i) of the Energy Policy and Conservation Act (Pub. L. 94-163), notice is hereby provided of the following meeting:

A meeting of the Industry Supply Advisory Group (ISAG) of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held on January 17, 18, and 19, 1979, at the offices of Standard Oil Company of California, 575 Market Street, San Francisco, California, beginning at 9:30 a.m. on January 17. The agenda is as follows:

1. Opening remarks.
2. Discuss draft of ISAG/Secretariat Operations Manuals.
3. Discuss ISAG staff, procedures and operations and change of ISAG Manager.
4. Future work schedule.
5. Closing remarks.

As provided in section 252 (c)(1)(A)(ii) of the Energy Policy and Conservation Act, this meeting will not be open to the public.

Issued in Washington, D.C., January 3, 1979.

ROBERT C. GOODWIN, Jr.,
Assistant General Counsel, International Trade and Emergency Preparedness.

[FR Doc. 79-726 Filed 1-8-79; 8:45 am]

[6450-01-M]

Economic Regulatory Administration

IMPLEMENTATION OF POWERPLANT AND INDUSTRIAL FUEL USE ACT

Draft Environmental Impact Statement, Public Hearings and Extension of Comment Period

AGENCY: Department of Energy.

ACTION: Notice of draft environmental impact statement public hearings and extension of comment period.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) will hold public hearings on the draft programmatic environmental impact statement, which analyzes the impacts associated with the implementation of the Powerplant and Industrial Fuel Use Act of 1978 (FUA). FUA will prohibit the use of petroleum and natural gas by certain electric powerplants and industrial major fuel burning installations. FUA will become effective on May 8, 1979.

ERA invites the public to submit comments on the draft programmatic environmental impact statement and to participate in the public hearings.

DRAFT PROGRAMMATIC EIS COMMENT DATE, HEARING DATES AND LOCATIONS

DATE: Written comments for Draft Programmatic EIS to be submitted by February 9, 1979, 4:30 p.m. This is an extension of the previous notice date of January 26, 1979.

ADDRESS: Written comments to Office of Public Hearing Management, Box WA, Department of Energy, Room 2313, 2000 M Street, NW., Washington, D.C. 20461.

Charleston, West Virginia hearing: January 29 and 30, 1979, 9:00 a.m. to 5:00 p.m., Capital Complex Conference Rooms D and E, Building 7, Charleston, West Virginia. Requests to speak should be addressed to Region III, Department of Energy, 1421 Cherry Street, Philadelphia, Pennsylvania 19102, Attn: Maria Marks, by January 25, 1979. If scheduled to speak, you will be notified by January 26, 1979. Speakers should endeavor to bring seven copies of their statements to the hearing room on the day of the hearing.

Fort Worth, Texas hearing: February 1, and 2, 1979, 9:00 a.m. to 5:00 p.m.; 7:00 p.m. to 9:00 p.m., Ramada Inn Central, 2000 Beach St., Fort Worth, Texas. Requests to speak should be addressed to Region VI, Department of Energy, 2626 W. Mockingbird Lane, Dallas, Texas 75235, Attn: Mac Lacefield, by January 25, 1979. If scheduled to speak, you will be notified by January 26, 1979. Speakers should endeavor to bring seven copies of their statements to the hearing room on the day of the hearing.

FOR FURTHER INFORMATION OR COPIES OF THE EIS CONTACT:

Steven A. Frank, Division of Coal Utilization, Department of Energy, Room 7202, 2000 M Street, N.W., Washington, D.C. 20461, 202-254-6246;

Robert Stern, Division of NEPA Affairs/Environment, Department of Energy, Room 7121, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461, 202-633-9760;

Janine Landow-Esser, Office of General Counsel, Department of Energy, Room 8217, 20 Massachusetts Avenue, N.W., Washington, D.C. 20545, 202-376-4266.

SUPPLEMENTARY INFORMATION:

I. WRITTEN COMMENTS

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted (one copy only) in accordance with the procedures set forth at 10 C.F.R. 205.9(f). Any material not filed in accordance with such procedures will be considered to be non-confidential. DOE reserves the right to determine the confidential status of the information or data and to treat it according to that determination.

II. PUBLIC HEARINGS

The time and place for the hearings are indicated in the dates section of this notice. If necessary to present all testimony, hearings will be continued starting at 9:00 a.m. of the next business day following the scheduled date of the hearing.

If you have an interest in this matter or represent a group or class of persons who has an interest in this matter, you may write to request an opportunity to speak. Because of the time limitations involved in setting up the hearings, requests to speak may be telephoned until the day set forth in the dates section of this notice. Please provide a phone number where you may be contacted through the day before the hearing.

DOE reserves the right to select the persons to be heard at these hearings, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearings. The length of each presentation may be limited, based on the number of persons requesting to be heard.

An ERA official will preside at each hearing. The hearings will not be judicial or evidentiary-type hearings. Questions may be asked only by those conducting the hearings, and there will be no cross-examination. Each speaker will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statement will follow the conclusion of all initial statements, given in the order in which the initial statements were made, and will be subject to time limitations.

You may submit questions to be asked of any person making a statement at a hearing to the appropriate Regional Office at the address indicated above before 4:30 p.m., one day prior to the hearing. A tentative list of speakers will be available from the appropriate Regional office. If you wish to ask a question at the hearing, you may submit the question, in writing, to the presiding officer. The ERA or, if the question is submitted at the hearing, the presiding officer will determine whether the question is relevant and whether time limitations permit it to be presented for answer. The presiding officer will announce any further procedural rules needed for the proper conduct of each hearing.

Transcripts of the hearings will be made and the entire record of the hearings, including the transcripts, will be retained by the ERA and made available for inspection at the Freedom of Information Reading Room, Forrestal Building, Room GA-152, 1000 Independence Avenue NW., Washington, D.C. 20585, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. You may buy a copy of a transcript from the appropriate reporter at the hearing room on the day of the hearing.

After all testimony and comments have been received and analyzed, a final environmental impact statement will be prepared and issued.

Issued in Washington, D.C., January 2, 1979.

DAVID J. BARDIN,
Administrator, Economic Regulatory Administration.

[FR Doc. 79-714 Filed 1-4-79; 1:54 pm]

[6450-01]

Energy Information Administration

DETERMINATION OF ALTERNATE FUEL COST

Reporting Requirement

AGENCY: Department of Energy, Energy Information Administration.

ACTION: Notice of request for publication and submission by interested parties of FORM EIA-134, Incremental Pricing Public Comment Survey.

SUMMARY: To implement Section 204(e) of the Natural Gas Policy Act of 1978 (NGPA), the Energy Information Administration has developed Form EIA-134, Incremental Pricing Public Comment Survey. Responses to the Survey will be used by the Federal Energy Regulatory Commission to develop a Notice of Proposed Rulemaking to implement the Commission's Statutory obligations under Title II of the NGPA. Submission of Form EIA-134 is voluntary; however all interstate natural gas piplelines, natural gas companies who complete EIA Form 50, state governors' offices, state public utility commissions, state energy offices of the 48 contiguous states, Alaska, Hawaii and the District of Columbia, and consumer interest groups, are encouraged to respond to ensure that all affected groups are represented.

EFFECTIVE DATE: The form EIA-134 must be completed and returned to the mail code specified not later than January 30, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. James Tobin, Department of Energy, Energy Information Administration, Office of Energy Data, Room 4324, 12th & Pennsylvania Avenue NW., Washington, D.C. 20461 (202) 633-9029.

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Upon completion, Form EIA-134 should be sent to the following address:

Department of Energy, Code 2913, Washington, D.C. 20461.

SUPPLEMENTARY INFORMATION: I. Availability of Form. A copy of form EIA-134 is appended to this notice. You may submit the copy provided or you may request a copy of the form from Mr. James Tobin, by calling (202) 633-9029.

II. Background. The Natural Gas Policy Act of 1978 (NGPA) requires the Federal Energy Regulatory Commission (Commission) to determine the appropriate alternate fuel costs to be used in a region as the pricing ceiling for certain categories of industrial boiler fuel sales of natural gas.

Specifically, Section 204(e) provides:

(e) DETERMINATION OF ALTERNATIVE FUEL COST.—

(1) In General—Except as provided in paragraph (2), the appropriate alternative fuel cost for any region (as designated by the Commission) shall be the price, per million Btu's, for Number 2 fuel oil determined by the Commission to be paid in such region by industrial users of such fuel.

(2) Reduction of Appropriate Alternative Fuel Cost Allowed—The Commission may, by rule or order, reduce the appropriate alternative fuel cost—

(A) for any category of incrementally priced industrial facilities, subject to the rule required under Section 201 (including any amendment under Section 202 to such rule) located within any region and served by the same interstate pipeline; or

(B) for any specific incrementally priced industrial facility which is subject to such requirements and which is located in any region;

to an amount not lower than the price, per million Btu's, for Number 6 fuel oil determined by the Commission to be paid in such region by industrial users of such fuel, if and to the extent the Commission determines after an opportunity for written and oral presentation of views, data, and arguments, that such reduction is necessary to prevent increases in the rates and charges to residential, small commercial, and other high-priority users of natural gas which would result from a reallocation of costs caused by the conversion of such industrial facility or facilities from natural gas to other fuels, which conversion is likely to occur if the level of the appropriate alternative fuel costs were not so reduced.

III. Confidential Information. Any person which believes (1) that any information provided to DOE in a response is a trade secret or commercial or financial information that is privileged or confidential within the meaning of the Freedom of Information Act (FOIA) exemption in 5 U.S.C. 552(b)(4), and (2) that disclosure of this information would cause significant competitive damage to it must so inform DOE. Each person making such a claim should submit with its report a detailed item-by-item explanation of whether the information is customarily treated as confidential by the person and industry (if applicable) and a detailed explanation of the anticipated competitive damage which would result from public disclosure. Such a detailed statement, rather than a general statement that an item is confidential, is needed by DOE to determine whether the item may be exempt from release under the FOIA. DOE retains the right to make its own determination regarding any claim of confidentiality. Prior to disclosing any information contained in a response for which confidential treatment was claimed, but which the DOE determines is not information described in 5 U.S.C. 552(b)(4), DOE will notify the person who submitted the response of its determination to release such information, at least five days prior to the proposed release of the information.

Issued at Washington, D.C., January 5, 1979.

LINCOLN E. MOSES,
Administrator, Energy Information Administration.

[6450-01-C]

EIA 134

Form Approved
OMB No. 38-S78036

U.S. DEPARTMENT OF ENERGY
Energy Information Administration
Washington, D.C. 20461

INCREMENTAL PRICING
PUBLIC COMMENT SURVEY

This data is collected by the Energy Information Administration for the Federal Energy Regulatory Commission under PL 93-275

Participation is voluntary.

In accordance with Sec. 14 of the FEA Act in responding to specific requests received from members of the public, data will be held confidential only to the extent that they are determined by DOE to be within the exemption for trade secrets and confidential commercial information as specified in the Freedom of Information Act [5 USC Sec. 552 (b) (4)].

PLEASE READ BEFORE COMPLETING THIS FORM

General Instructions:

The Natural Gas Policy Act of 1978 (NGPA) requires the Federal Energy Regulatory Commission (Commission) to determine the appropriate alternate fuel costs to be used in a region as the pricing ceiling for certain categories of industrial boiler fuel sales of natural gas. In order to assist the Commission in determining the ceiling prices and the regions to which they apply, we are inviting interested parties to provide information upon which preliminary recommendations can be made.

Complete this form if you are an industrial gas user, or other interested party, and wish to provide such assistance to the Federal Energy Regulatory Commission during the initial phase of incremental price rulemaking according to Title II of the NGPA of 1978. Definitions which may be helpful in completing this form are provided below. If you have any additional remarks, please enter them in the space provided on page 4. Also enter on page 4 the name and telephone number of the person completing this form, and submit the completed form before January 30, 1979 to:

Department of Energy
Code 2913
Washington, D.C. 20461

If you have questions concerning this form, please contact Mr. James Tobin at (202) 633-9029.

Definitions for use in completing this form:

(1) Industrial fuel burning facility. A facility in which fuel is consumed in a process which creates or changes raw or unfinished materials into another form or product.

(2) Electric generation utility: Fuel consumed for the generation of electric energy, regardless of the technology employed, when such electric energy is for sale.

(3) Transportation use: Fuel consumed in providing transportation, vessel bunkering, railroad locomotive fuel, truck fuel, aviation fuel, pipeline pumping, etc.

(4) Industrial process heat: Fuel consumed for heat input to an industrial process, not including steam or hot water input or space heating of an industrial facility.

(5) Industrial process steam: Fuel consumed in an industrial boiler for the purpose of raising steam or hot water, not including space heating.

(6) Chemical use: Fuel consumption in which the fuel is used as a feedstock to a chemical reaction, or in which the fuel is used for non energy purposes.

(7) Mechanical drive: Fuel consumed in a prime mover for provision of mechanical energy—does not include boiler fuel use for eventual input to steam-driven engines, or transportation use.

(8) Direct fired makeup air heater: Fuel consumed for heating air, drawn wholly or partially from the outside and delivered into an industrial facility, for which the products of combustion are mingled with the makeup air stream.

EIA-134

EIA USE ONLY:	Control Number	County Code	City Code	State Code

1.0 What is the name of this organization?

2.0 Do you presently own or operate an industrial fuel burning facility?

(a) ☐ Yes . . . . . skip to the instruction box after 3.0

(b) ☐ No . . . . . answer question 3.0

3.0 Check the category which best describes your organization.

(a) ☐ Government
(b) ☐ Academic
(c) ☐ Industry/Trade Assoc.
(d) ☐ Professional Assoc.
(e) ☐ Consumer/Public Interest
(f) ☐ Other--specify

Instructions:

(1) If you answered yes to question 2.0, give the address of the facility in question 4.0 below.

(2) If you answered no to question 2.0, give the address of the business organization in question 4.0 below. Then skip to 12.1.

4.0 What is the address of this facility or business organization?

Street
City
State Zip Code

5.0 What is your facility's maximum fuel consumption rate per day? _____ MMBTU/Day

6.0 Check all fuels your facility is equipped to consume.

(a) ☐ Natural Gas
(b) ☐ Propane or L.P. Gas
(c) ☐ Kerosene/# 1 Heating Oil
(d) ☐ # 2 Fuel Oil
(e) ☐ # 4 Fuel Oil
(f) ☐ # 5 Residual Fuel Oil
(g) ☐ # 6 Residual Fuel Oil
(h) ☐ Other Heavy Oils (Bunker C, Crude, etc.)
(i) ☐ Coal
(j) ☐ Electricity (Purchased)
(k) ☐ Other--specify

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7.0 Enter the letters corresponding to the three major fuels actually consumed by your facility in the last two years in order of highest to lowest consumption. Use the codes from question 6.0 above.

Code
Code
Code

8.0 For what purposes are these fuels used? (Check all that apply.)

(a) ☐ Electric Generation Utility
(b) ☐ Transportation Uses
(c) ☐ Industrial Process--Heat (Direct or Indirect)
(d) ☐ Industrial Process--Steam (Boiler Use)
(e) ☐ Chemical Use (Feedstock)
(f) ☐ Mechanical Drive
(g) ☐ Direct Fired Make Up Air Heaters
(h) ☐ Space Heating
(i) ☐ Other--not listed above--specify

9.1 Does this facility currently consume any fuel oil?

(a) ☐ Yes . . . . . answer 9.2
(b) ☐ No . . . . . skip to 10.1

9.2 What is the name and address of each supplier? (If more than 2, list on a separate sheet and attach to this form.)

(a) EIA USE

Name
Street
City/Town
State Zip Code

(b) EIA USE

Name
Street
City/Town
State Zip Code

10.1 Is this facility currently an industrial natural gas consumer?

(a) ☐ Yes . . . . . answer 10.2
(b) ☐ No . . . . . skip to 11.1

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EIA 134

10.2 If you were to substitute an alternate fuel for this facility's gas requirements, which fuel(s) would you substitute? (Check all that apply.)

- (a) ☐ # 2 Fuel Oil
- (b) ☐ # 4 Fuel Oil
- (c) ☐ # 5 Residual Fuel Oil
- (d) ☐ # 6 Residual Fuel Oil
- (e) ☐ Other Heavy Oils
- (f) ☐ Coal
- (g) ☐ Electricity (Purchased)
- (h) ☐ Other--specify _____

11.1 Are there any restrictions on the sulfur content of fuel oils which may be burned in the area in which your facility is located?

- (a) ☐ Yes . . . . . answer 11.2
- (b) ☐ No . . . . . skip to 12.1
- (c) ☐ Don't Know . . . . . skip to 12.1

11.2 What are the restrictions?

- (a) ☐ .3% or less Sulfur Required
- (b) ☐ .31% -- 1.0% Sulfur Required
- (c) ☐ 1.01% or greater Sulfur Required
- (d) ☐ Don't Know Specifics

12.1 The NGPA authorizes the FERC to determine whether the price of Number 2 or Number 6 fuel oil is "the appropriate alternate fuel cost for any region." In your opinion, which fuel should the FERC select?

- (a) ☐ Number 2 Fuel Oil
- (b) ☐ Number 6 Fuel Oil
- (c) ☐ No Opinion

EIA USE

12.2 Give the SMSA, city, county, state, etc. of the region for which you believe the alternate fuel price should be applicable. We welcome any additional remarks you may have.

Enter any additional remarks concerning these determinations in this space:

Name of Person Completing This Form | Title | ( ) – Phone Number

[FR Doc. 79-937 Filed 1-8-79; 10:14 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1035-2]

COMMENTS ON ENVIRONMENTAL IMPACT STATEMENTS AND OTHER ACTIONS IMPACTING THE ENVIRONMENT

Pursuant to the requirements of section 102(2)(C) of the National Environmenal Policy Act of 1969, and section 309 of the Clean Air Act, as amended, the Environmental Protection Agency (EPA) has reviewed and commented in writing on Federal agency actions impacting the environment contained in the following appendices during the period of December 1, 1977 and December 31, 1977.

Appendix I contains a listing of draft environmental impact statements reviewed and commented upon in writing during this review period. The list includes the Federal agency responsible for the statement, the number and title of the statement, the classification of the nature of EPA's comments as defined in Appendix II, and the EPA source for copies of the comments as set forth in Appendix VI.

Appendix II contains the definitions of the classifications of EPA's comments on the draft environmental impact statements as set forth in Appendix I.

Appendix III contains a listing of final environmental impact statements reviewed and commented upon in writing during this review period. The listing includes the Federal agency responsible for the statement, the number and title of the EPA source for copies of the comments as set forth in Appendix VI.

Appendix IV contains a listing of final environmental impact statements reviewed but not commented upon by EPA during this review period. The listing includes the Federal agency responsible for the statement, the number and title of the statement, a summary of the nature of EPA's comments, and the EPA source for copies of the comments as set forth in Appendix VI.

Appendix V contains a listing of proposed Federal agency regulations, legislation proposed by Federal agencies, and any other proposed actions reviewed and commented upon in writing pursuant to section 309(a) of the Clean Air Act, as amended, during the referenced reviewing period. This listing includes the Federal agency responsible for the proposed action, the title of the action, a summary of the nature of EPA's comments, and the source for copies of the comments as set forth in the Appendix VI.

Appendix VI contains a listing of the names and addresses of the sources of EPA reviews and comments listed in Appendices I, III, IV, and V.

Copies of the EPA Manual setting forth the policies and procedures for EPA's review of agency actions may be obtained by writing the Public Information Reference Unit, Environmental Protection Agency, Room 2922, Waterside Mall SW, Washington, D.C. 20460, telephone 202/755-2808. Copies of the draft and final environmental impact statements referenced herein are available from the originating Federal department or agency.

Dated: December 20, 1978.

PETER L. COOK,
Acting Director,
Office of Federal Activities.

APPENDIX I.—*Draft Environmental Impact Statements for Which Comments Were Issued Between December 1, 1977 and December 31, 1977*

Identifying number	Title	General nature of comments	Source for copies of comments
CORPS OF ENGINEERS			
D-COE-B36015-00	Dickey-Lincoln School Lakes, Atoostook County, Maine and Quebec, Canada	ER2	B
D-COE-C35005-VI	West Indian Company, Fill Permit, St. Thomas, Virgin Islands	3	C
D-COE-F35020-MI	St. Joseph Harbor, Confined Disposal Facility Dredging and Maintenance Operation, Michigan.	LO2	F
D-COE-F35021-MI	Frankfort Harbor, Confined Disposal Facility, Dredging Structure, Repairs and Operations, Bennie County, Michigan.	LO2	F
D-COE-J36010-ND	Flood Control, Burlington Dam, Souris River, North Dakota	ER2	I
DEPARTMENT OF AGRICULTURE			
D-AFS-A82099-00	The Use of Herbicides in the Eastern Region	ER2	A
D-AFS-K65021-CA	Southern California Timber Management Plan, San Bernadino National Forest, California.	LO2	J
D-AFS-L65034-00	Timber Management Plan, Rogue River National Forest, Douglas, Jackson, Josephine and Klamath Counties, Oregon and Siskiyou County, California (USDA-FS-R6-DES (ADM) 77-14)..	LO2	K
D-REA-J07006-ND	Antelope Valley Station, Two 455 MW Units and Related Transmission Facilities, North Dakota.	ER2	I
D-SCS-E36048-KY	Stewart Creek Watershed Project, Hopkins County, Kentucky (USDA-SCS-EIS-WS (ADM)-77-D-KY).	LO1	E
D-SCS-G36058-TX	Sabanna River Watershed, Callahan, Commanche, and Eastland Counties, Texas.	LO2	G
DEPARTMENT OF COMMERCE			
D-NOA-A99141-00	State of Wisconsin Coastal Management Program	ER2	A
D-NOA-B90000-MA	Massachusetts Coastal Zone Management Plan	LO1	B
D-NOA-B91007-00	Fishery Management Plan, Atlantic Mackerel Fishery	LO1	B
D-NOA-B91008-00	Fishery Management Plan, Squid Fishery of the Northwestern Atlantic Ocean	LO1	B
D-NOA-L90013-00	Fishery Management Plan, Commercial and Recreational Salmon Fisheries, Washington, Oregon and California, 1978.	LO1	K
DEPARTMENT OF INTERIOR			
D-BOR-D61006-MD	Seneca State Park, Land Acquisition, Montgomery County, Maryland	LO1	D
D-IBR-K08004-CA	New Melones 230 KV Electrical Transmission Line, Central Valley Project, California.	LO2	J
D-NPS-E61022-00	Proposed Master Plan for Cumberland Gap National Historical Park, Kentucky, Tennessee and Virginia (DES 77-26).	LO1	E

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APPENDIX I.—*Draft Environmental Impact Statements for Which Comments Were Issued Between December 1, 1977 and December 31, 1977*—Continued

Identifying number	Title	General nature of comments	Source for copies of comments
	DEPARTMENT OF TRANSPORTATION		
D-FHW-D40057-MD	MD-404, Denton Bypass, Caroline County, Maryland	ER2	D
D-FHW-F40124-OH	OH-2, Relocation, South of Huron, Erie County, Ohio	EU2	P
D-FHW-L40057-WA	WA-3, Clear Creek Road to Poulsbo, Kitsap County, Washington (FHWA-WA-EIS-77-05-D).	ER2	K
DS-UMT-A54019-NY	East 83rd Street Line, Boroughs of Manhattan and Queens, New York (NYCTA-NY-030045).	3	C
	FEDERAL ENERGY ADMINISTRATION		
DS-FEA-A03064-00	Strategic Petroleum Reserve (FES 76-2)	ER2	A
	GENERAL SERVICES ADMINISTRATION		
D-GSA-B81003-ME	Fort Kent Border Station, Fort Kent, Aroostook County, Maine (EME78001)	LO1	B
D-GSA-D81007-DC	Restoration of Oil Post Office, Washington, DC	LO1	D
	DEPARTMENT OF HOUSING AND URRAN DEVELOPMENT		
D-HUD-C85018-PR	Venus Gardens Development, Rio Piedras, Puerto, Rico	ER2	C
D-HUD-D24001-VA	Lincoln, Lewis and Vannoy Sewerage Facilities, Fairfax County, Virginia	LO2	D
D-HUD-F85027-MN	Jonathan New Community, Chaska, Carver County, Minnesota	ER2	F
D-HUD-F85028-IL	The Knolls Development, DuPage County, Illinois	LO1	F
D-HUD-G85072-OK	Westbury Development, Oklahoma City, Canadian County, Oklahoma	LO1	G
D-HUD-G85073-TX	Meadowdale Subdivision, Dallas County, Texas	ER2	G
D-HUD-G85074-TX	Tara Subdivision, Fort Bend County, Texas	LO1	G
D-HUD-G85076-TX	Heritage Park Subdivision, Harris County, Texas	LO1	G
D-HUD-G85077-TX	Hunterwood Forest Subdivision, Harris County, Texas	LO1	G
D-HUD-G85079-TX	Glen Meadows Subdivision, Harris County, Texas	LO1	G
D-HUD-L85003-WA	Kennewick Park Community, Benton County, Washington (HUD-RIO-EIS-77-2D).	ER2	K

APPENDIX II

DEFINITIONS OF CODES FOR THE GENERAL NATURE OF EPA COMMENTS

Environmental Impact of the Action

LO—Lack of Objection

EPA has no objections to the proposed action as described in the draft impact statement; or suggests only minor changes in the proposed action.

ER—Environmental Reservations

EPA has reservations concerning the environmental effects of certain aspects of the proposed action. EPA believes that further study of suggested alternatives or modifications is required and has asked the originating Federal agency to reassess these impacts.

EU—Environmentally Unsatisfactory

EPA believes that the proposed action is unsatisfactory because of its potentially harmful effect on the environment. Furthermore, the Agency believes that the potential safeguards which might be utilized may not adequately protect the environment from hazards arising from this action. The Agency recommends that alternatives to the action be analyzed further (including the possibility of no action at all).

Adequacy of the Impact Statement

Category 1—Adequate

The draft impact statement adequately sets forth the environmental impact of the proposed project or action as well as alternatives reasonably available to the project or action.

Category 2—Insufficient Information

EPA believes that the draft impact statement does not contain sufficient information to assess fully the environmental impact of the proposed project or action. However, from the information submitted, the Agency is able to make a preliminary determination of the impact on the environment. EPA has requested that the originator provide the information that was not included in the draft statement.

Category 3—Inadequate

EPA believes that the draft impact statement does not adequately assess the environmental impact of the proposed project or action, or that the statement inadequately analyzes reasonable available alternatives. The Agency has requested more information and analysis concerning the potential environmental hazards and has asked that substantial revision be made to the impact statement.

APPENDIX III.—*Final Environmental Impact Statements for Which Comments Were Issued Between December 1, 1977 and December 31, 1977*

Identifying number	Title	General nature of comments	Source for copies of comments
	CORPS OF ENGINEERS		
FS-COE-D35003-00	Albemarle and Chesapeake Canal, Atlantic Intracoastal Waterway, Maintenance Dredging, Virginia and North Carolina.	Because of environmental concerns, EPA believes the feasibility of delaying project implementation until an acceptable upland disposal site can be utilized should be determined.	D
FS-COE-D90000-VA	Proposed Portsmouth Refinery and Terminal Hampton Roads Energy Company, Virginia.	EPA believes that the construction and operation of the crude oil refinery will significantly impact the air and water quality in the Hampton Roads area. EPA therefore recommends that the construction of the refinery complex in Portsmouth, Virginia be abandoned.	D

APPENDIX III.—*Final Environmental Impact Statements for Which Comments Were Issued Between December 1, 1977 and December 31, 1977*—Continued

Identifying number	Title	General nature of comments	Source for copies of comments
	CORPS OF ENGINEERS—Continued		
F-COE-F07004-OH	Killen Electric Generation Station, Unitl 1 and 2, Adams County, Ohio.	EPA feels that the discussion in the final EIS regarding mixing zone criteria for evaluations chlorine and other toxic pollutants ignores certain requirements in water quality standards for the Ohio River. EPA also feels that the current revised water plan does not optimize the use of water.	P
F-COE-F34002-MN	Flood Control, Twin Valley Lake, Wild Rice River, Minnesota.	This final EIS is unresponsive. Since water quality studies for this project have not yet been completed EPA is not in a position to review and comment on the final EIS. EPA has requested that the final EIS be withdrawn and a new final EIS be prepared or a supplement to the final EIS be written, when the water quality studies are completed.	F
F-COE-F36028-MN	Roseau River Flood Control Project, Roseau and Kittson Counties, Minnesota.	EPA's concerns over the future water quality of the Roseau River remain. Since the final EIS was written there have been major enhances in the project design. EPA will refrain from making comments until all additional information is provided to fully assess the impacts upon the environment.	P
	DEPARTMENT OF DEFENSE		
F-UAF-B11002 ME	Proposed Reduction of Loring Air Force Base, Limestone, Aroostock County, Maine.	EPA's comments were adequately addressed in the final EIS. However, EPA is aware of the grave impacts of reduction will have on the economic and social structures of the limestone presave area.	B
F-UAF-J11000-UT	P-16 Beddown at Hill Air Force Base, Utah	EPA's concerns were adequately addressed in the final EIS	1
	DEPARTMENT OF INTERIOR		
F-BLM-A02114-00	1978 Outer Continental Shelf (OCS) Oil and Gas Lease Sale No. 45, Offshore Gulf of Mexico.	EPA has determined that the final EIS is unresponsive to concerns raised in its review of the draft EIS regarding protection of the East Flower Garden Reef. The portion of the proposed lease tract overlaying the reef has been insufficiently described to assure the validity of measures proposed to protect the reef. Absent this information EPA believes the tract should not be leased.	A
F-NPS-C61001-NY	Fire Island National Seashore, Suffolk County, New York.	EPA's concerns were adequately addressed in the final EIS	C
	DEPARTMENT OF TRANSPORATION		
F-DoT-A41411-IA	Freeway 518 North to IA-3, Black Hawk and Bremer Counties, Iowa (FHWA-Iowa-EIS-72-04-F).	EPA's concerns were adequately addressed in the final EIS. However, EPA expressed concern that the relocation of Dry Run Creek to accommodate the freeway could change flood patterns within the Cedar Falls Waterloo, Iowa area.	H
F-FAA-C51004-NY	Steward Airport, Runway Extension, Newburgh, Orange County, New York.	EPA's concerns were adequately addressed in the final EIS	C
F-FAA-F51010-IN	Proposed Development, Shelbyville Municipal Airport, Shelby County, Indiana.	EPA's concerns were adequately addressed in the final EIS	F
F-FAA-J51000 ND	20-year Development Program, Bismarck Municipal Airport, Bismarck, Burleigh County, North Dakota.	EPA's concerns were adequately addressed in the final EIS	I
F-FHW-D40008-MD	City Boulevard, Eutaw to Russell Street and I-395, Ostend to Russell and Conway Streets, Baltimore City, Maryland.	EPA's concerns were adequately addressed in the final EIS. EPA did, however, have recommendations concerning the mitigation of noise impacts during ongoing project development.	D
F-FHW-D40009-MD	City Boulevard, Eutaw to Russell Street, and I-395, Ostend to Russell and Conway Streets, Baltimore City, Maryland.	EPA's concerns were adequately addressed in the final EIS. EPA did, however, have recommendations concerning the mitigation of noise impacts during ongoing project development.	D
F-FHW-F40038-IL	I-270, IL-3 to I-55 and I-70, Madison, Monroe and St. Clair Counties, Illinois.	EPA's concerns were adequately addressed in the final EIS	F
F-FHW-F40072-OH	I-480 and OH-252, Ohio Turnpike to OH-176, Lorain and Cuyahoga County, Ohio.	EPA's concerns were adequately addressed in the final EIS. However, EPA recommends that mitigation measures for carbon monoxide be taken in the project corridor.	F
F-FHW-F40092-OH	ADHS Corridor D, Clermont, Brown, Highland and Adams Counties, Ohio.	Although EPA believes that final EIS addressed its comments on the draft EIS, the final EIS requires additional clarifcation of four items: (1) Slope erosion, (2) sediment loading in affected receiving streams, (3) waste load allocation, and (4) flood-flow channel at Flat Run.	
	FEDERAL ENERGY ADMINISTRATION		
F-FEA-F01001-OH	Strategic Petroleum Reserve, Ironton Mine, Lawrence County, Ohio.	EPA's concerns were adequately addressed in the final EIS. However, it is extremely important that the proposed 13-mile Pipeline be designed as fail-safe as possible.	F
	DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT		
F-HUD-D85008-PA	Wimmerton Planned Unit Development, Westmoreland County, Pennsylvania.	EPA concerns were adequately addressed in the final EIS. However, EPA did note an inaccuracy in the air quality assessment methodology.	D
F-HUD-F38002-IL	Drainways and Greenways Demonstration Project, Carbondale, Jackson County, Illinois.	EPA's concerns were adequately addressed in the final EIS	F
F-HUD-F85017-MN	Shepard Park Development, St. Paul Ramsey County, Minnesota.	EPA's concerns were adequately addressed in the final EIS. EPA recommended that structural measures first be developed to minimize noise levels..	F
F-HUD-J24003 UT	Tooele City West Sewer Trunk Line, Tooele County, Utah.	EPA reiterated its assertion that the potential for ground water contamination as a justification for the project is not adequately documented.	I

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APPENDIX III.—*Final Environmental Impact Statements for Which Comments Were Issued Between December 1, 1977 and December 31, 1977*

Identifying number	Title	General nature of comments	Source for copies of comments
NATIONAL CAPITAL PLANNING COMMISSION			
F-NCP-D61005-DC	Washington Civic Center, Washington, DC.	Modifications, EPA's concerns were adequately addressed in the final EIS	D
NUCLEAR REGULATORY COMMISSION			
F-NRC-F06005-OH	William H. Zimmer Nuclear Power Station, Cincinnati Gas and Electric, Columbus and Southern Ohio Electric, Dayton Power and Light.	EPA's concerns were adequately addressed in the final EIS	F

SPECIAL NOTICE

On December 1, 1978 the Environmental Protection Agency commented on the following Final EIS.

F-FHW-L40030-WA: SR 90 Junction SR 5 to Vicinity Junction SR 405 (FHWA-WN-EIS-75-05-F)

COMMENTS

EPA's review indicated that the proposed plan (3-2TMP-3) and the alternatives designated as, 2-2T-2, rail, and no-build with safety improvements are consistent with the Washington State Implementation Plan (WSIP). The consistency finding was based on the supplemental air quality study produced by the Washington State Department of Highways which represents the current state-of-the-art in air quality impact analysis. It is EPA's position that changes in the planned lane use (such as allowing low occupancy vehicles access to the high occupancy vehicle lanes) and changes in lane speeds would require a new consistency finding relative to the WSIP, based upon new environmental impact analyses. This constitutes final agency action pursuant to the requirements of section 309 of the Clean Air Act, as amended.

APPENDIX IV.—*Final Environmental Impact Statements Which Were Reviewed and Not Commented on Between December 1, 1977 and December 31, 1977*

Identifying number	Title	Source of review
CORPS OF ENGINEERS		
F-COE-G36033-OK	Arcadia Lake, Deep Fork River, Oklahoma	G
DEPARTMENT OF AGRICULTURE		
F-AFS-E65016-MS	Timber Management Plan, Holly Springs and Tombigee National Forests, Mississippi	E
FS-AFS-J65011-CO	Timber Management Plan, Rio Grande National Forest, Colorado	I
F-SCS-D36023-PA	East Branch Brandywine Creek, Watershed Project, Pennsylvania	D
F-SCS-H36061-KS	Middle Creek Watershed Project, Linn and Miami Counties, Kansas	H
DEPARTMENT OF COMMERCE		
FA-NOA-B91001-00	Preliminary Management Plan for Atlantic Herring	B
FA-NOA-B91002-00	Other Finfish, Preliminary Management Plan	B
FA-NOA-B91003-00	Squid, Preliminary Management Plan	B
FA-NOA-B91004-00	Mackerel, Preliminary Management Plan	B
FA-NOA-B91005-00	Hake, Preliminary Management Plan	B
DEPARTMENT OF DEFENSE		
F-USA-J20006-UT	Operation of Chemical Agent Munitions Disposal System, Tooele Army Depot, Utah	I
DEPARTMENT OF TRANSPORTATION		
F-CGD-E50003-KY	Johns Creek Railway Line, Big Sandy River, Mile 83.0, Pike County, Kentucky	E
F-FHW-A42004-KY	Jefferson Freeway, KY-841, Section 9, Jefferson County, Kentucky (FHWA-KY-EIS-73-4-F)	E
F-FHW-A42246-IA	Freeway 520, Hardin and Grundy Counties, Iowa	H
F-FHW-H40003-IA	Freeway 520, Hamilton and Hardin Counties, Iowa	H
F-FHW-H40042-IA	Freeway 518, and IA-92 Relocations, Washington and Johnson Counties, Iowa	H
F-FHW-H40062-KS	U.S. 81 to KS-93, Junction to U.S. 36, Location Study, Ottawa, Cloud and Republic Counties, Kansas	H
F-FHW-H40072-MO	Lee's Summit Road, Independence, Jackson County, Missouri	H
F-FHW-L40017-WA	WA-525, Swamp Creek Interchange to WA-99, Snohomish County, Washington (FHWA-WN-EIS-75-01-F)	K
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT		
F-HUD-G24005-TX	Tarrant County Water Project, Texas	G
F-HUD-G85024-TX	Settlers Village Subdivision, Harris County, Texas	G
F-HUD-G85025-TX	Atascocita Forest Subdivision, Harris County, Texas	G
F-HUD-G85030-TX	Colony Park Subdivision, Travis County, Texas	G
F-HUD-G85036-TX	Sterling Green Subdivision, Harris County, Texas	G
F-HUD-G85041-TX	Wingate Subdivision, Harris County, Texas	G
F-HUD-G85047-LA	Beaver Bayou Storm Drainage Improvement Program, East Baton Rouge Parish, Louisiana	G
F-HUD-G85050-TX	Ranch Country Subdivision, Harris County, Texas	G
F-HUD-G85061-NM	Taylor Ranch Planned Community, Bernalillo County, New Mexico	G
F-HUD-H85000-NB	The Highlands North Subdivision in Lincoln, Lancaster County, Nebraska	H
F-HUD-L28001-WA	Proposed Water Facilities Improvements, Bremerton, North Perry and Silverdale, Kitsap County, Washington	K

APPENDIX V.—*Regulations, Legislation and other Federal Agency Actions for Which Comments Were Issued Between December 1, 1977 and December 31, 1977*

Identifying number	Title	General nature of comments	Source for copies of comments
None			

APPENDIX VI.—*Source for Copies of EPA Comments*

A. Public Information Reference Unit (PM-213), Environmental Protection Agency, Room 2922, Waterside Mall, SW., Washington, D.C. 20460.
B. Director of Public Affairs, Region 1, Environmental Protection Agency, John F. Kennedy Federal Building, Boston, Massachusetts 02203.
C. Director of Public Affairs, Region 2, Environmental Protection Agency, 26 Federal Plaza, New York, New York 10007.
D. Director of Public Affairs, Region 3, Environmental Protection Agency, Curtis Building, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106.
E. Director of Public Affairs, Region 4, Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, GA 30308.
F. Director of Public Affairs, Region 5, Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.
G. Director of Public Affairs, Region 6, Environmental Protection Agency, 1201 Elm Street, Dallas, Texas 75270.
H. Director of Public Affairs, Region 7, Environmental Protection Agency, 1735 Baltimore Street, Kansas City, Missouri 64108.
I. Director of Public Affairs, Region 8, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80203.
J. Office of External Affairs, Region 9, Environmental Protection Agency, 213 Fremont Street, San Francisco, California 94108.
K. Director of Public Affairs, Region 10, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101.

[FR Doc. 79-526 Filed 1-8-79; 8:45 am]

[6560-01-M]

[FRL 1035-4]

Science Advisory Board

CLEAN AIR SCIENTIFIC ADVISORY COMMITTEE

Open Meeting

As required by Pub. L. 92-463, notice is hereby given that a meeting of the Clean Air Scientific Advisory Committee of the Science Advisory Board will be held beginning at 9:00 a.m., January 29, 30 and 31, 1979 in Room 1112-A, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, Va. 22202. This is the second meeting of the Clean Air Scientific Advisory Committee. The agenda includes a review of the air quality criteria document for oxides of nitrogen, and a review of the air quality criteria document for carbon monoxide. The meeting is open to the public. Any member of the public wishing to attend, participate, or obtain information should contact Mr. Terry F. Yosie, or Mrs. Linda Thomson, Clean Air Scientific Advisory Committee, at (703) 557-7720 by close of business January 22, 1979.

Dated: January 5, 1979.

RICHARD M. DOWD,
Staff Director,
Science Advisory Board.

[FR Doc. 79-664 Filed 1-8-79; 8:45 am]

[6730-01-M]

FEDERAL MARITIME COMMISSION

R. Frederic Fisher

Temporary Exemption and Interim Approval of Agreement No. LM-26, as Supplemented

Notice is hereby given that on December 22, 1978, the Commission determined section 55 of Agreement No. LM-26 to be approved on an interim basis,and determined the balance of the agreement to be temporarily exempt from the filing and approval requirements of section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814), pending FEDERAL REGISTER notice, opportunity for comment, and subsequent determination by the Commission that the agreement (or any specific provision thereof) should be permanently exempt from the filing and approval requirements of section 15, Shipping Act, 1916, or should be approved, disapproved or modified under that section. This action was taken in accordance with our *Interim Policy Statement—Collective Bargaining Agreements*, served June 12, 1978. This temporary exemption is effective until April 1, 1979.

Interested parties may inspect the agreements at the Washington Office of the Federal Maritime Commission, 1100 L Street N.W., Room 10423; or at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Comments on the agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before January 31, 1979. Comments should include facts and arguments concerning the exemption, approval, modification or disapproval of the proposed agreements. Comments shall discuss with particularity allegations that the agreements are unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operate to the detriment of the commerce of the United States, or are contrary to the public interest, or are in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

AGREEMENT NO.: LM-26, as supplemented, between the Marine Staff Officers-SIUNA, Pacific District and the Pacific Maritime Association.

FILING PARTY: R. Frederic Fisher, Lillick, McHose and Charles, Two Embarcadero Center, San Francisco, California 94111.

SUMMARY: The following agreements constitute the 1978-1981 collective bargain-

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ing agreement between the Marine Staff Officers-SIUNA, Pacific District (MSO) and the Pacific Maritime Association (PMA):

LM-26: 1978-1981 MSO—PMA collective bargaining agreement;

LM-26-A: MSO—PMA Welfare Plan Agreement;

LM-26-B: MSO—PMA Welfare Fund-Declaration of Trust;

LM-26-C: Form Agreement for nonmember participation in MSO—PMA Welfare Plan;

LM-26-D: MSO—PMA Vacation Plan Agreement; and

LM-26-E: MSO—PMA Vacation Plan-Declaration of Trust.

By Order of the Federal Maritime Commission.

Dated: January 4, 1979.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 79-756 Filed 1-8-79; 8:45 am]

[6210-01-M]

FEDERAL RESERVE SYSTEM

FIRST WOMEN'S BANCORPORATION OF UTAH

Formation of Bank Holding Company

First Women's Bancorporation of Utah, Salt Lake City, Utah, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 100 percent (less directors' qualifying shares) of the voting shares of Western Home Bank, Salt Lake City, Utah. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than January 23, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 2, 1979.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 79-715 Filed 1-8-79; 8:45 am]

[6210-01-M]

PLANTERS & MERCHANTS BANCSHARES, INC.

Formation of Bank Holding Company

Planters & Merchants Bancshares, Inc., Hearne, Texas, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Planters & Merchants State Bank of Hearne, Hearne, Texas. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than January 25, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 2, 1979.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 79-716 Filed 1-8-79; 8:45 am]

[4110-03-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 78N-0183]

CHLORTETRACYCLINE-NEOMYCIN OBLONG TABLETS

Withdrawal of Approval

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document withdraws approval of a new animal drug application (NADA) for use of chlortetracycline-neomycin oblong tablets. This action is being taken because the sponsor of the NADA did not request a hearing in response to a notice of opportunity for hearing on a proposal to withdraw approval of the application.

EFFECTIVE DATE: January 9, 1979.

FOR FURTHER INFORMATION CONTACT:

Donald A. Gable, Bureau of Veterinary Medicine (HFV-100), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3420.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of July 18, 1978 (43 FR 30895), the Food and Drug Administration published a notice of opportunity for hearing on a proposal to withdraw approval of NADA 55-055V for Calf Scour Oblets held by American Cyanamid Co., P.O. Box 400, Princeton, NJ 08540. Each tablet contains 125 milligrams (mg) chlortetracycline in combination with 125 mg neomycin base (present as the sulfate) and vitamins A, D, and niacin. The product is recommended for oral administration in treating bacterial scours in calves. Grounds for the proposed withdrawal were that new information about the product, evaluated together with the evidence available at the time of its approval, showed a lack of substantial evidence that it was effective at the dosage level recommended or as a fixed combination.

The American Cyanamid Co. failed to file a timely request for hearing within the 30-day period provided in response to the notice of an opportunity for hearing according to § 514.200 *Contents of notice of opportunity for a hearing* (21 CFR 514.200). Such failure is construed as a decision by the firm not to avail itself of the opportunity for hearing and is grounds for entering a final order without further notice.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345-347 (21 U.S.C. 360b(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.84) and in accordance with § 514.115 *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that approval of NADA 55-055V and all supplements thereto is hereby withdrawn, effective January 9, 1979.

A final rule revoking § 546.110f *Chlortetracycline hydrochloride-neomycin tablets*, which provided for the use of chlortetracycline-neomycin oblong tablets, is issued elsewhere in this issue of the FEDERAL REGISTER.

Dated: December 28, 1978.

TERENCE HARVEY,
Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 79-685 Filed 1-8-79; 8:45 am]

[4110-03-M]

[Docket No. 75N-0187; DESI 10837]

PROCHLORPERAZINE MALEATE WITH ISOPROPAMIDE IODIDE

Opportunity for Hearing on Proposal To Withdraw Approval of New Drug Application; Correction

AGENCY: Food and Drug Administration.

ACTION: Correction.

SUMMARY: This document corrects a notice that was published in the FEDERAL REGISTER of Friday, September 15, 1978.

EFFECTIVE DATE: January 9, 1979.

FOR FURTHER INFORMATION CONTACT:

Nathan J. Treinish, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In FR Doc. 78-25812 appearing at page 41278 in the FEDERAL REGISTER of Friday, September 15, 1978 on page 41280, column 2, the next to last paragraph is corrected by deleting in the second line "and sustained," adding "multiple doses of the" before "immediate" and "administered at appropriate time intervals" between "entity" and "in." The correct paragraph should read "The Combid Spansule should be compared to multiple doses of the immediate release forms of each single entity administered at appropriate time intervals in a crossover design."

Dated: December 22, 1978.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc. 79-683 Filed 1-8-79; 8:45 am]

[4110-03-M]

[Docket No. 78N-0407; DESI 7358]

TRICOFURON VAGINAL POWDER AND SUPPOSITORIES

Withdrawal of Approval of New Drug Application

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice withdraws approval of the new drug application (NDA 11-065) for Tricofuron Vaginal Powder and Suppositories, containing furazolidone and nifuroxime. The basis of the withdrawal is that the drugs lack substantial evidence of effectiveness and are not shown to be safe for their labeled indications. The drug products, which have been used to treat various infections, are no longer marketed.

EFFECTIVE DATE: January 19, 1917.

ADDRESS: Requests for the opinion of the applicability of this notice to a specific product should be identified with the reference number DESI 7358 and directed to the Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Ronald L. Wilson, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice of opportunity for hearing (DESI 7358, Docket No. FDC-D-520; now Docket No. 78N-0407)) published in the FEDERAL REGISTER of March 29, 1973 (38 FR 8186), the Commissioner of Food and Drugs proposed to issue an order withdrawing approval of certain nitrofuran drug products. Among them was Tricofuron Vaginal Powder and Suppositories containing furazolidone and nifuroxime (NDA 11-065. The basis of the proposed order was that the drugs lack substantial evidence of effectiveness and are not shown to be safe for their labeled indications. Another notice was published in the FEDERAL REGISTER of May 30, 1975 (40 FR 23501), giving Norwich Pharmacal Co. an opportunity to submit additional data meeting the requirements for fixed combination drugs for humans (21 CFR 300.50). In response to the March 29, 1973 notice, Norwich Pharmacal Co. requested a hearing for Tricofuron Vaginal Powder and Suppositories but later withdrew the request, stating that marketing of the products had been discontinued. Approval of the following new drug application is now being withdrawn.

NDA 11-065; Tricofuron Vaginal Powder and Suppositories containing furazolidone and nifuroxime; Norwich Pharmacal Co., Division of Norwich Products, Inc., 13-27 Eaton Ave., Norwich, NY 13815.

The other new drug applications included in the March 29, 1973 and May 30, 1975 notices have been the subject of subsequent FEDERAL REGISTER notices and are not affected by this notice.

Any drug product that is identical, related, or similar to Tricofuron Vaginal Powder or Suppositories and is not the subject of an approved new drug application is covered by the new drug application reviewed (NDA 11-065) and is subject to this notice (21 CFR 310.6). Any person who wishes to determine whether a specific product is covered by this notice should write to the Division of Drug Labeling Compliance (address given above).

The Director of the Bureau of Drugs, under the Federal Food, Drug and Cosmetic Act (sec. 505, 52 Stat. 1052-1053, as amended (21 U.S.C. 355)), and under authority delegated to him (21 CFR 5.82), finds that, on the basis of new information before him with respect to the drug products, evaluated together with the evidence available to him when the application was approved, there is a lack of substantial evidence that the drug products will have the effects they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in the labeling and the drug products are not shown to be safe for use under the conditions of use on the basis of which the application was approved.

Therefore, pursuant to the foregoing finding, approval of new drug application 11-065, and all amendments and supplements applying thereto, is withdrawn effective January 19, 1979. Shipment in interstate commerce of the above products or of any identical, related, or similar product that is not the subject of an approved new drug application will then be unlawful.

Dated: December 29, 1978.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc. 79-686 Filed 1-8-79; 8:45 am]

[4110-03-M]

[Docket No. 78N-0227; DESI 11853]

TRIMETHOBENZAMIDE HYDROCHLORIDE INJECTION AND CAPSULES

Drugs for Human Use; Drug Efficacy Study Implementation; Followup Notice and Opportunity for Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice (1) reclassifies trimethobenzamide hydrochloride injection and capsules to effective for certain indications and to lacking substantial evidence of effectiveness for their other less-than-effective indications, (2) sets forth the marketing and labeling conditions for the drug products for the effective indications, (3) states that to obtain effective plasma levels for these drug products, a dosage of 200 milligrams intramuscularly or 400 milligrams orally is required, and that as part of the marketing conditions for the capsule dosage form, the capsules, now containing 100 milligrams or 250 milligrams must be reformulated to 200 milligrams or 400 milligrams respectively, and (4) offers an opportunity for a hearing concerning the indications lacking substantial evidence of effectiveness.

DATES: Hearing requests due on or before February 8, 1979; bioavailability supplements to approved new drug applications due on or before July 9, 1979; other supplements and data in support of hearing requests due on or before March 12, 1979.

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ADDRESSES: Communications forwarded in response to this notice should be identified with reference number DESI 11853, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Supplements to full new drug applications (identify with NDA number): Division of Neuropharmacological Drug Products (HFD-120), Rm. 10B-34, Bureau of Drugs.

Original abbreviated new drug applications and supplements thereto (identify as such): Division of Generic Drug Monographs (HFD-530), Bureau of Drugs.

Requests for Hearing (identify with Docket number appearing in the heading of this notice): Hearing Clerk, Food and Drug Administration (HFA-305), Rm. 4-65.

Requests for guidelines or information on conducting bioavailability tests: Division of Biopharmaceutics (HFD-520), Bureau of Drugs.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD-501), Bureau of Drugs.

FOR FURTHER INFORMATION CONTACT:

Herbert Gerstenzang, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice (DESI 11853) published in the FEDERAL REGISTER of February 24, 1971 (36 FR 3435), the Food and Drug Administration announced its conclusion that the drug products described below are (1) probably effective for nausea and vomiting due to radiation therapy or travel sickness and for emesis associated with operative procedures, labyrinthitis, or Meniere's syndrome; (2) lacking substantial evidence of effectiveness for the treatment of nausea and vomiting due to infections, underlying disease processes or drug administration; and (3) possibly effective for all their other labeled indications.

NDA 11-853; Tigan Injection; and

NDA 11-854; Tigan Capsules containing trimethobenzamide hydrochloride; Roche Laboratories, Division of Hoffmann-LaRoche Inc., Roche Park, Nutley, NJ 07110.

The following new drug applications were not included in the initial notice, but are affected by this notice:

NDA 17-530; Tigan Injection; and

NDA 17-531; Tigan Capsules containing trimethobenzamide hydrochloride, Beecham Laboratories; 501 Fifth St., Bristol, TN 37620.

Roche submitted clinical studies to demonstrate the effectiveness of the drug products for the following indications:

NAUSEA SECONDARY TO GASTROENTERITIS

For this indication, the sponsor submitted studies by Weiner, Gold, and Taylor and a multicenter study made up of seven studies by Hargleroad, Manzano, MacHaffie, McCleahan, and Merikanges. All the above studies except the Gold and Taylor studies provided evidence of effectiveness for the injectable form of the drug.

The Gold study, a placebo-controlled, double-blind crossover study using 200 milligrams Tigan intramuscularly in five patients, cannot be considered an adequate and well-controlled study as it did not demonstrate comparability in drug and control groups for pertinent variables such as severity and duration of symptoms (21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*iii*)).

The Taylor study was an open study without a concurrent control group, (21 CFR 314.111(a)(5)(ii)(*a*)(*4*)). In addition, details regarding methods of observation and recording of results are not provided, (21 CFR 314.111(a)(5)(ii)(*a*)(*3*)), and methods of analysis and evaluation of data are not described and do not appear to provide for separate analyses of the two dosage forms used. 21 CFR 314.111(a)(5)(ii)(*a*)(*5*).

VOMITING SECONDARY TO GASTROENTERITIS

For this indication, the Weiner and the multicenter studies were submitted. The Weiner study was a well-controlled study providing evidence of effectiveness, but in the multicenter study (made up of seven studies), only one, by Manzano, showed even a strong trend favoring Tigan. The other six did not provide any evidence of effectiveness. The sponsor agrees with this analysis and claims no significant difference between Tigan and placebo for vomiting secondary to gastroenteritis for the multicenter study. As there is only one study supporting the effectiveness of Tigan in vomiting, and this study is not supported by other well-designed studies, the indication "vomiting secondary to gastroenteritis" is reclassified to lacking substantial evidence of effectiveness.

NAUSEA AND VOMITING POSTOPERATIVELY

Six studies (by Zauder, Kinyon, Lorhan, Snow, Lynch, and Milowsky) were submitted. The Milowsky study was the only one that was not adequate and well controlled. It was deficient in that information on dosage was not given. 21 CFR 314.111(a)(5)(ii)(*a*)(*3*). In any case, the sponsor did not claim any significant difference between Tigan and placebo for this study.

Of the five adequate and well-controlled studies, those by Zauder and Kinyon provide evidence of effectiveness for nausea postoperatively, while the Zauder, Snow, and Lorhan studies provide evidence of effectiveness for vomiting postoperatively. Therefore, as there are at least two adequate and well-controlled studies providing evidence of effectiveness for Tigan, the indication "nausea and vomiting postoperatively is reclassified to effective.

NAUSEA AND VOMITING ASSOCIATED WITH RADIOTHERAPY

Two studies, both by Marty, were submitted.

The first Marty study is an adequate and well-controlled, double-blind, parallel, placebo-controlled study in 45 patients who had nausea and vomiting associated with radiation therapy of neoplasms above the diaphragm, excluding the brain. The dosage regime was a single 200-milligram intramuscular dose of Tigan, followed 2 hours later by a 250 milligram Tigan capsule daily for 3 days. All patients had a nausea rating of severe at baseline. Three patients were excluded from analysis. Results of the initial intramuscular and subsequent oral dosages were analyzed separately. The sponsor concluded that there were no significant differences between the Tigan products, injectable and capsule, and placebo for nausea or vomiting in the patient population tested.

The second Marty study is an adequate and well-controlled, randomized, double-blind, parallel, placebo-controlled study in 60 patients who had nausea and vomiting during a course of radiation therapy for neoplasm (31 patients had intra-abdominal neoplasms and 29 had extra-abdominal neoplasms). The dosage regime was 200 milligrams Tigan intramuscularly at the first episode of vomiting, followed by 250-milligram Tigan capsules four times a day for 7 days on an outpatient basis. Daily nausea and vomiting scores were obtained, and an overall 7-day average was computed separately for nausea and vomiting. The sponsor claims a significant difference between the drug and placebo ($p \leq 0.05$) for this study, and FDA agrees that it provides some evidence of effectiveness for Tigan. But as only on of the two studies provides evidence of effectiveness and there are no other studies to corroborate the findings of the second Marty study, there is a lack of substantial evidence supporting the indication "nausea and vomiting associated with radiotherapy" and the indication is therefore reclassified to lacking substantial evidence of effectiveness.

No data were submitted for any of the other probably effective or possibly effective indications and they are reclassified to lacking substantial evidence of effectiveness. No data have been submitted for the indications previously classified as lacking substantial evidence of effectiveness.

On March 9, 1977, April 15, 1977, and January 3, 1978, Beecham laboratories submitted bioavailability studies. The first study submitted March 9, 1977, compared blood levels following administration of a 200-milligram intramuscular dose, a 250-milligram oral capsule, and a 200-milligram rectal suppository. The second study submitted on January 3, 1978 compared blood levels of the drug in normal fasting human subjects following the administration of Tigan, 200-milligrams intramuscularly, two 250-milligram capsules orally, and two 200-milligram suppositories. The object of the study was to determine if the different dosage forms are bioequivalent. The relative bioavailability or extent of absorption of the capsule in the two studies was 56-62 percent of that of the intramuscular injection. As the oral route of administration produced blood levels which were approximately half of the levels produced by the intramuscular route, the oral dose *should* be approximately two times the intramuscular dose.

On May 2, 1978, Beecham supplemented its new drug application to reformulate the capsule dosage form from 100 milligrams and 250 milligrams to 200 milligrams and 400 milligrams respectively. These reformulated products are being handled through the normal supplemental new drug application procedures.

Accordingly, the February 24, 1971 notice is amended to read as follows as it pertains to trimethobenzamide hydrochloride injection and capsules. The drug in suppository dosage form is the subject of a separate notice appearing elsewhere in this issue of the FEDERAL REGISTER.

Such drugs are regarded as new drugs (21 U.S.C 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. An approved new drug application is a requirement for marketing such drug products.

In addition to the products specifically named above, this notice applies to any drug product that is not the subject of an approved new drug application and is identical to a product named above. It may also be applicable, under 21 CFR 310.6, to a similar or related drug product that is not the subject of an approved new drug application. It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product that the person manufactures or distributes. Such person may request an opinion of the applicability of this notice to a specific drug product by writing to the Division of Drug Labeling Compliance (address given above).

As stated in the FEDERAL REGISTER of August 23, 1977 (42 FR 42311), the provision of 21 CFR 320.22(c) waiving bioavailability data for certain drugs does not necessarily apply to any product first announced as effective in a DESI notice published after January 7, 1977. As this is the first notice announcing that trimethobenzamide hydrochloride is effective, the oral and injectable products have also been reviewed for actual or potential bioequivalence problems. It has been determined that trimethobenzamide capsules should be added to the list of drugs for which bioavailability data are not waived.

A. *Effectiveness classification.* The Food and Drug Administration has reviewed all available evidence and concludes that the drug is effective for the indications listed in the labeling conditions below. The drug lacks substantial evidence of effectiveness for its other labeled indications.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications and abbreviated supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* The drug product is in sterile aqueous solution form suitable for intramuscular administration or in capsule form suitable for oral administration.

2. *Labeling conditions.* a. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drug is labeled to comply with all requirements of the act and regulations, and the labeling bears adequate information for safe and effective use of the drug. The Indications are as follows:

For the treatment of postoperative nausea and vomiting and for nausea associated with gastroenteritis.

c. The following statement, or an equivalent statement, is added to the Action section:

ORAL AND PARENTERAL TRIMETHOBENZAMIDE ARE NOT BIOEQUIVALENT. AN ORAL DOSE OF 400 MILLIGRAMS OF TRIMETHOBENZAMIDE YIELDS PLASMA LEVELS APPROXIMATELY EQUIVALENT TO A 200-MILLIGRAM INTRAMUSCULAR DOSE. The systemic bioavailability of orally administered trimethobenzamide is about 60 percent of the bioavailability of intramuscularly administered drug, possibly because of slow absorption and rapid liver metabolism (first pass effect). This difference is manifested as diminished peak blood levels and a diminished area under the plasma concentration curve following oral, as compared to parenteral administration.

d. The Dosage and Administration section reads as follows:

a. For the treatment of nausea secondary to gastroenteritis: 200 mg intramuscularly or 400 mg orally.

b. For the treatment of nausea and vomiting postoperatively: 200-mg intramuscular injection, followed in 1 hour by a second 200-mg intramuscualr injection, or 400 orally.

3. *Marketing status.* a. Marketing of such drug products that are now the subject of an approved or effective new drug application may be continued provided that, on or before March 12, 1979 the holder of the application has submitted (i) a supplement for revised labeling as needed to be in accord with the labeling conditions described in this notice, and complete container labeling if current container labeling has not been submitted, and (ii) a supplement to provide updating information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD-356H (21 CFR 314.1(c)) to the extent required in abbreviated applications (21 CFR 314.1(f)).

In addition, for the capsule dosage form, on or before July 9, 1979, each holder of an application is required to submit evidence demonstrating the vivo bioavailability of the drug product by comparing the oral capsule product with Beecham's intramuscular injection, and with an oral solution.

This requirement is being imposed in order to determine whether the greatly diminished bioavailability of the oral dosage form as compared with the intramuscular dosage form is due to a "first pass" effect or to a nonoptimum formulation.

b. Approval of an abbreviated new drug application (21 CFR 314.1(f)) must be obtained prior to marketing such products. The bioavailability regulations (21 CFR 320.21) published in the FEDERAL REGISTER of January 7, 1977, require any person submitting an abbreviated new drug application after July 7, 1977, to include evidence demonstrating the in vivo bioavailability of the drug or information to permit waiver of the requirement. No waiver will be granted for trimethobenzamide hydrochloride capsules. However, the bioavailability requirement will be regarded as satisfied for the capsules by supplying the following information: (1) Evidence from in vivo studies demonstrating the bioavailability of the capsule relative to the bioavailability of a solution containing the same

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amount of drug as the capsule and to Beecham's Tigan intramuscualr 200-milligram injection. When the agency has acquired sufficient pharmacokinetic information characterize the oral dosage form to provide for appropriate labeling for the 200- and 400-milligram dosage form, this notice will be amended to remove the requirement for the oral solution. (2) Dissolution data on three consecutive lots of the product, including the lot employed in bioavailability studies, shall be collected in accordance with the methods provided for in the guidelines on conducting dissolution tests, which are available for the Division of Biopharmaceutics.

For the intramuscular dosage form the following is required: For drug products identical to Beecham's Tigan intramuscular injection in concentration of both active ingredient and inactive ingredient: provide either evidence demonstrating that the drug product is identical in both active and inactive ingredient formulation, or evidence demonstrating the in vivo bioavailability of the drug product as compared to Beecham's Tigan intramuscular injection.

For the drug products differing in concentration of active ingredient or differing in inactive ingredient formulation: provide evidence form in vivo studies demonstrating the bioavailability of the drug product as compared to an equivalent dose of Beecham's Tigan intramuscular injection.

Marketing prior to approval of a new drug application will subject such products, and the persons who caused the products to be marketed, to regulatory action.

C. Notice of opportunity for hearing. On the basis of all the data and information available to him, the Director of the Bureau of Drugs is aware of only one adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience, meeting the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 314.111(a)(5), demonstrating the effectiveness of the drugs for each of the following two indications: vomiting secondary to gastroenteritis; nausea and vomiting associated with radiotherapy. For each of these two indications a second study should have been submitted to determine whether the results of the first are replicable. The Director is unaware of any such adequate and well-controlled clinical investigations demonstrating effectiveness of the drugs for the other indications lacking substantial evidence of effectiveness referred to in paragraph A of this notice.

Notice is given to the holders of the new drug applications, and to all other interested persons, that the Director of the Bureau of Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of the new drug applications and all amendments and supplements thereto providing for the indications lacking substantial evidence of effectiveness referred to in paragraph A of this notice on the ground that new information before him with respect to the drug products, evaluated together with the evidence available to him at the time of approval of the applications, shows there is a lack of substantial evidence that the drug products will have all the effects they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in the labeling. An order withdrawing approval will not issue with respect to any applications supplemented, in accord with this notice, to delete the claims lacking substantial evidence of effectiveness.

In addition to the ground for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in 21 CFR 310.6), e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act pursuant to the exemption for products marketed prior to June 25, 1938, contained in section 201(p) of the act, or pursuant to section 107(c) of the Drug Amendments of 1962, or for any other reason.

In accordance with the provisions of section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Parts 310, 314), the applicants and all other persons who manufacture or distribute a drug product which is identical, related, or similar to a drug product named above (21 CFR 310.6), are hereby given an opportunity for a hearing to show why approval of the new drug applications providing for the claims involved should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of a drug product named above and all identical, related, or similar drug products.

An applicant or any person subject to this notice pursuant to 21 CFR 310.6 who decides to seek a hearing shall file (1) on or before February 8, 1979, a written notice of appearance and request for hearing, and (2) on or before March 12, 1979, the data, information, and analyses relied on to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this proposal to withdraw approval. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 314.200.

The failure of an applicant or any other person subject to this notice pursuant to 21 CFR 310.6 to file timely written appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by such person not to make use of the opportunity for a hearing concerning the action proposed with respect to such drug product and a waiver of any contentions concerning the legal status of such drug product. Any such drug product labeled for the indications lacking substantial evidence of effectiveness referred to in paragraph A. of this notice may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug products from the market. Any new drug product marketed without an approved NDA is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requries a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice of opportunity for hearing shall be filed in quintuplicate. Such submissions, except for data and information prohibited from public disclosure pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Hearing Clerk between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-1053, as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.82).

Dated: December 22, 1978.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc. 79-681 Filed 1-8-79; 8:45 am]

[4110-03-M]

[Docket No. 78N-0224; DESI 11853]

TRIMETHOBENZAMIDE HYDROCHLORIDE SUPPOSITORIES

Opportunity for Hearing on Proposal To Withdraw Approval of New Drug Applications

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice reclassifies trimethobenzamide hydrochloride suppositories to lacking substantial evidence of effectiveness, proposes to withdraw approval of the new drug applications, and offers an opportunity for a hearing on the proposal.

DATE: Hearing requests due on or before February 8, 1979.

ADDRESSES: Communications forwarded in response to this notice should be identified with the reference number DESI 11853 and the Docket number appearing in the heading of this notice, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Requests for Hearing: Hearing Clerk, Food and Drug Administration (HFC-20), Rm. 4-65.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs, Food and Drug Administration.

FOR FURTHER INFORMATION CONTACT:

Herber Gerstenzang, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 9301-443-3650).

SUPPLEMENTARY INFORMATION: In a notice (DESI 11853) published in the FEDERAL REGISTER of February 24, 1971 (36 FR 3435), the Food and Drug Administration announced its conclusion that the drug product described below is (1) probably effective for nausea and vomiting due to radiation therapy or travel sickness and for emesis associated with operative procedures, labyrinthitis, or Meniere's syndrome; (20 lacking substantial evidence of effectiveness for the treatment of nausea and vomiting due to infections, underlying disease processes or drug administration; and (3) possibly effective for all its other labeled indications.

NDA 11-855; Tigan Suppositories containing trimethobenzamide hydrochloride; Roche Laboratories, Division of Hoffmann-LaRoche Inc., Roche Park, Nutley, NJ 07110.

The following new drug application was not included in the initial notice, but is affected by this notice.

NDA 17-529; Tigan Suppositories; containing trimethobenzamide hydrochloride; Beecham Laboratories; 501 Fifth St., Bristol, TN 37620.

Tigan Injection and Capsules, included in the notice of February 24, 1971, are the subject of a separate notice appearing elsewhere in this issue of the FEDERAL REGISTER.

Hoffmann-LaRoche submitted three studies (Burnett, Robinson, and Taylor) concerning the suppository dosage form. The Burnette and Robinson studies were double-blind, placebo controlled studies in 20 patients who were being treated for nausea and vomiting associated with acute nonspecific gastritis and/or gastroenteritis using Tigan 200-milligram suppositories. Each patient had had at least one episode of vomiting before being admitted to the study. Baseline degree of nausea and number of emeses were recorded, and patients given one dose of Tigan 200-milligram suppository or placebo. Nausea and vomiting were rated by the observer at 15-minute intervals for the first hour, and at 30-minute intervals for the next 3 hours. Nausea was rated as none, mild, moderate, or severe, and vomiting was rated according to how many times a patient vomited during a 15-minute or 30-minute period. A global evaluation was made at the end of the observation period. The sponsor concluded that these studies did not show any significant differences between the drug and placebo.

The Taylor study was an open study of 10 patients who were being treated for nausea and vomiting associated with acute gastritis and gastroenteritis, using Tigan 200-milligram injection plus Tigan 200-milligram suppositories. The exact details of the study were not submitted and no conclusions could be reached.

The Taylor study is not considered adequate an well-controlled for the following reasons:

1. It is an open study in which patients served as their own control. This is an inappropriate control, as acute gastritis and gastroenteritis tend to resolve spontaneously. Without a concurrent control there is no way to distinguish drug effect from spontaneous improvement. 21 CFR 314.111 (a)(5)(ii)(*a*)(*4*).

2. Details regarding methods of observation and recording of results are not provided. 21 CFR 314.111(a)(5)(ii)(*a*)(*3*).

3. Methods of analysis and evaluation of data are not described and do not appear to provide for separate analyses of the two dosage forms used. 21 CFR 314.111(a)(5)(ii)(*a*)(*5*).

On March 9, 1977, April 15, 1977, and January 3, 1978, Beecham Laboratories submitted bioavailability studies, comparing blood levels of the drug in normal fasting human subjects following the administration of 200 milligrams Tigan intramuscularly, two 250-milligram capsules orally, and two 200-milligram suppositories rectally. The object of the study was to determine if the different dosage forms are bioequivalent. The study showed that the injectable form gave very reproducible results from subject to subject in terms of blood levels and pertinent pharmacokinetic parameters which the suppository form gave extremely poor results. The relative bioavailability or extent of absorption of the suppository was 32 percent of that of the intramuscular injection. The peak time of onset of drug action was also significantly later with the suppository. Therefore, as now formulated, the suppository dosage form is bioinequivalent to the injectable dosage form. The drug is not adequately released from the suppository dosage form, and therefore adequate blood levels of the drug are not obtained.

Therefore, as the studies submitted do not provide substantial evidence of effectiveness for the suppository dosage form and because of the inadequate blood levels obtained, the suppository dosage form is reclassified to lacking substantial evidence of effectiveness.

On the basis of all of the data and information available to him, the Director of the Bureau of Drugs is unaware of any adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience, meeting the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 314.111(a)(5), demonstrating the effectiveness of the drug.

Therefore, notice is given to the holders of the new drug applications and to all other interested persons that the Director of the Bureau of Drugs proposed to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of the new drug applications and all amendments and supplements thereto on the ground that new information before him with respect to the drug products, evaluated together with the evidence available to him at the time of approval of the applications, shows there is a lack of substantial evidence that the drug products will have the effect they purport or are represented

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to have under the conditions of use prescribed, recommended, or suggested in the labeling.

In addition to the holders of the new drug applications specifically named above, this notice of opportunity for hearing applies to all persons who manufacture or distribute a drug product that is identical, related, or similar to a drug product named above, as defined in 21 CFR 310.6. It is the responsibility of every drug manufacturer or distributor to review this notice of opportunity for hearing to determine whether it covers any drug product that the person manufactures or distributes. Such person may request an opinion of the applicability of this notice to a specific drug product by writing to the Division of Drug Labeling Compliance (address given above).

In addition to the grounds for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in 21 CFR 310.6) e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act pursuant to the exemption for products marketed prior to June 25, 1938, contained in section 201(p) of the act, or pursuant to section 107(c) of the Drug Amendments of 1962, or for any other reason.

In accordance with the provisions of section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Parts 310, 314), the applicants and all other persons subject to this notice pursuant to 21 CFR 310.6 are hereby given an opportunity for a hearing to show why approval of the new drug applications should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of a drug product named above and of all identical, related, or similar drug products.

An applicant or any other person subject to this notice pursuant to 21 CFR 310.6 who decides to seek a hearing, shall file (1) on or before February 8, 1979, a written notice of appearance and request for hearing, and (2) on or before March 12, 1979, the data, information, and analyses relied on to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this notice. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 314.200.

The failure of an applicant or any other person subject to this notice pursuant to 21 CFR 310.6 to file timely written appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by the person not to make use of the opportunity for a hearing concerning the action proposed with respect to the product and constitutes a waiver of any contentions concerning the legal status of any such drug product. Any such drug product may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug products from the market. Any new drug product marketed without an approved NDA is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice shall be filed in quintuplicate. Such submissions except for data and information prohibited from public disclosure pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Hearing Clerk between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-1053, as amended (21 U.S.C. 355)), and under authority delegated to the Director of the Bureau of Drugs (21 CFR 5.82).

Dated: November 30, 1978.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc. 79-682 Filed 1-8-79; 8:45 am]

[4110-84-M]

Health Services Administration

RECHARTERING AND CHANGE OF NAME OF STATUTORILY ESTABLISHED COUNCIL

Pursuant to the Federal Advisory Committee Act, Public Law 92-463, (5 U.S.C. Appendix I), the Health Services Administration announces the rechartering and change of name by the Secretary, HEW, on December 7, 1978, of the National Advisory Council on Health Manpower Shortage Areas to the National Advisory Council on the National Health Service Corps.

Dated: December 28, 1978.

WILLIAM H. ASPDEN, JR.,
Associate Administrator for Management.

[FR Doc. 79-734 Filed 1-8-79; 8:45 am]

[4110-08-M]

National Institutes of Health

GENERAL CLINICAL RESEARCH CENTERS COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the General Clinical Research Centers Committee, Division of Research Resources, on February 22-23, 1979, in the Terrace Room, Linden Hill Hotel, 5400 Pooks Hill Road, Bethesda, Maryland 20014.

The meeting will be open to the public on February 22, 1979, from 9:00 a.m. to 11:00 a.m., to discuss administrative matters. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public February 22 from 11:00 a.m. to 5:00 p.m., and on February 23 from 9:00 a.m. to adjournment for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications.

Mr. James Augustine, Information Officer, Division of Research Resources, National Institutes of Health, Room 5B13, Building 31, Bethesda, Maryland, 20014, telephone (301) 496-5545, will provide summaries of the meeting and rosters of the Committee members. Dr. Ephraim Y. Levin, Executive Secretary of the General Clinical Research Centers Committee, Room 5B51, Building 31, National Institutes of Health, Bethesda, Maryland 20014, telephone (301) 496-6595, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Programs No. 13.333, National Institutes of Health.)

Dated: December 28, 1978.

SUZANNE L. FREMEAU,
NIH Committee Management Officer.

[FR Doc. 79-544 Filed 1-8-79; 8:45 am]

[4110-08-M]

DIVISION OF RESEARCH GRANTS

Meetings

Pursuant to Pub. L. 92-463, notice is hereby given of the meetings of the following study sections for February and March 1979 and the individuals from whom summaries of meetings and rosters of committee members may be obtained.

These meetings will be open to the public to discuss administrative details relating to Study Section business for approximately one hour at the beginning of the first session of the first day of the meeting. Attendance by the public will be limited to space available. These meetings will be closed thereafter in accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications.

Mr. Richard Turlington, Chief, Grants Inquiries Office of the Division of Research Grants, Westwood Building, National Institutes of Health, Bethesda, Maryland 20014, telephone area code 301-496-7441 will furnish summaries of the meetings and rosters of committee members. Substantive program information may be obtained from each Executive Secretary whose name, room number, and telephone number are listed below each study section. Anyone planning to attend a meeting should contact the Executive Secretary to confirm the exact meeting time. All times are A.M. unless otherwise specified.

Study Section	February-March 1979 Meetings	Time	Location
Allergy & Immunology:			
Dr. Morton Reitman, Rm. 320, Tel. 301-496-7380	Feb. 16-18	8:45	Royal Inn, La Jolla, CA
Applied Physiology & Orthopedics:			
Ms. Ileen E. Stewart, Rm. 350, Tel. 301-496-7581	Feb. 16-19	8:30	Sheraton-Palace Hotel, San Francisco, CA
Bacteriology & Mycology:			
Dr. Milton Gordon, Rm. 218, Tel. 301-496-7340	Feb. 22-24	8:30	Holiday Inn, Bethesda, MD
Bioanalytical & Metallobiochemistry:			
Mr. Richard P. Bratzel, Rm. 310, Tel. 301-496-7733	Mar. 8-10	8:30	Embassy Row Hotel, Washington, DC
Biochemistry:			
Dr. Adolphus P. Toliver, Rm. 318, Tel. 301-496-7516	Feb. 21-24	9:00	Ramada Inn, Arlington, VA
Biophysics & Biophysical Chemistry A:			
Dr. Asher Hyatt, Rm. 236, Tel. 301-496-7060	Mar. 2-4	9:00	Mayflower Hotel, Washington, DC
Biophysics & Biophysical Chemistry B:			
Dr. John B. Wolff, Rm. 236, Tel. 301-496-7070	Mar. 1-3	8:30	Rm. 6, Bldg. 31C, Bethesda, MD
Bio-Phychology:			
Dr. A. Keith Murray, Rm. 220, Tel. 301-496-7058	Feb. 13-16	9:00	Shoreham Americana, Washington, DC
Cardiovascular & Pulmonary:			
Dr. Vincent J. Cairoli, Rm. 339, Tel. 301-496-7901	Mar. 6-10	8:00	Holiday Inn, Bethesda, MD
Cardiovascular & Renal:			
Dr. Rosemary S. Morris, Rm. 339, Tel. 301-496-7901	Feb. 21-24	8:00	Holiday Inn, Bethesda, MD
Cell Biology:			
Dr. Gerald Greenhouse, Rm. 2A-04, Tel. 301-496-7020	Feb. 16-18	8:30	Handlery Master Hosts Inn, San Diego, CA
Communicative Sciences:			
Dr. Michael Halasz, Rm. 321, Tel. 301-496-7550	Mar. 14-16	8:30	Room 7, Bldg. 31C, Bethesda, MD
Endocrinology:			
Mr. Morris M. Graff, Rm. 333, Tel. 301-496-7346	Feb. 5-8	7:00 p.m.	Mar Monte Hotel, Santa Barbara, CA
Epidemiology & Disease Control:			
Dr. Ann Schluederberg, Rm. 234, Tel. 301-496-7246	Feb. 21-23	8:30	Room 6, Bldg. 31C, Bethesda, MD
Experimental Therapeutics:			
Dr. Anne R. Bourke, Rm. 319, Tel. 301-496-7839	Feb. 28-Mar. 3	1:00 p.m.	Kenwood Country Club, Bethsda, MD
Experimental virology:			
Dr. Eugene Zebovitz, Rm. 206, Tel. 301-496-7474	Feb. 25-28	2:00 p.m.	Room 8, Bldg. 31C, Bethesda, MD
General Medicine A:			
Dr. Harold M. Davidson, Rm. 354, Tel. 301-496-7797	Feb. 25-28	1:00	Room 8, Bldg. 31C
General Medicine B:			
Dr. William F. Davis, Jr., Rm. 322, Tel. 301-496-7730	Mar. 7-10	8:30	Embassy Row Hotel, Washington, DC
Genetics:			
Dr. David J. Remondini, Rm. 349, Tel. 301-496-7271	Mar. 9-12	3:00 p.m.	Keystone Conference Ctr., Keystone, CO
Hematology:			
Dr. Clark K. Lum, Rm. 355, Tel. 301-496-7508	Feb. 22-24	8:30	Holiday Inn, Georgetown, DC
Human Development:			
Dr. Miriam F. Kelty, Rm. 232, Tel. 301-496-7025	Feb. 27-Mar. 2	9:00	Holiday Inn, Bethesda, MD
Human Embryology & Development:			
Dr. Arthur Hoversland, Rm. 221, Tel. 301-496-7597	Mar. 14-17	8:30	Room 9, Bldg. 31C, Bethesda, MD
Immunobiology:			
Dr. James H. Turner, Rm. 233, Tel. 301-496-7780	Feb. 28-Mar. 2	8:30	Embassy Row Hotel, Washington, DC
Immunological Sciences:			
Dr. Lottie Kornfeld, Rm. 233, Tel. 301-496-7179	Mar. 7-9	8:30	Linden Hill Hotel, Bethesda, MD
Medicinal Chemistry A:			
Dr. Ronald J. Dubois, Rm. 425, Tel. 301-496-7286	Feb. 22-25	9:00	Holiday Inn, Chevy Chase, MD
Metabolism:			
Dr. Robert M. Leonard, Rm. 334, Tel. 301-496-7091	Mar. 1-3	8:30	Room 10, Bldg. 31C, Bethesda, MD
Microbial Chemistry:			
Dr. Eileen Raizen, Rm. 357, Tel. 301-496-7130	Feb. 21-23	9:00	Room 9, Bldg. 31C, Bethesda, MD
Molecular Biology:			
Dr. Donald T. Disque, Rm. 328, Tel. 301-496-7830	Feb. 21-24	8:30	Holiday Inn, Bethesda, MD
Molecular Cytology:			
Dr. Ramesh Nayak, Rm. 222, 301-496-7149	Mar. 1-3	8:30	Room 9, Bldg. 31C, Bethesda, MD
Neurological Sciences:			
Dr. Edwin M. Bartos, Rm. 207, Tel. 301-496-7000	Mar. 1-3	8:30	Ramada Inn, Arlington, VA
Neurology A:			
Dr. William E. Morris, Rm. 326, Tel. 301-496-7095	Feb. 28-Mar. 3	9:00	Holiday Inn, Georgetown, DC

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Study Section	February-March 1979 Meetings	Time	Location
Neurology B:			
Dr. Willard L. McFarland, Rm. A-23, Tel. 301-496-7422	Feb. 21-24	8:30	Shoreham Americana, Washington, DC
Nutrition:			
Dr. John R. Schubert, Rm. 204, Tel. 301-496-7178	Feb. 28-Mar. 2	8:30	Room 7, Bldg. 31C, Bethesda, MD
Oral Biology & Medicine:			
Dr. Thomas M. Tarpley, Jr., Rm. 325, Tel. 301-496-7818	Feb. 20-23	8:00	Linden Hill Hotel, Bethesda, MD
Pathobiological Chemistry:			
Dr. Ellen G. Archer, Rm. 433, Tel. 301-496-7432	Mar. 14-17	8:30	Room 8, Bldg. 31C, Bethesda, MD
Pathology A:			
Dr. Harold Waters, Rm. 337, Tel. 301-496-7305	Feb. 27-Mar. 2	8:00	Shoreham Americana, Washington, DC
Pathology B:			
Dr. Mischa Friedman, Rm. 352, Tel. 301-496-7244	Feb. 21-23	8:30	Holiday Inn, Bethesda, MD
Pharmacology:			
Dr. Joseph A. Kaiser, Rm. 206, Tel. 301-496-7408	Feb. 27-Mar. 1	8:30	Holiday Inn, Bethesda, MD
Physiological Chemistry:			
Dr. Harry Brodie, Rm. 338, Tel. 301-496-7837	Feb. 22-24	9:00	Holiday Inn, Bethesda, MD
Physiology:			
Dr. Martin Frank, Rm. 209, Tel. 301-496-7878	Feb. 22-24	9:00	Room 4, Bldg. 31A, Bethesda, MD
Radiation:			
Dr. Robert L. Straube, Rm. 219, Tel. 301-496-7073	Mar. 5-7	9:00	Holiday Inn, Bethesda, MD
Reproductive Biology:			
Dr. Dharam S. Shindsa, Rm. 307, Tel. 301-796-7318	Feb. 20-23	8:30	Holiday Inn, Chevy Chase, MD
Social Sciences & Population:			
Miss Carol A. Campbell, Rm. 210, Tel. 301-496-7140	Mar. 1-4	9:00	Shoreham Americana, Washington, DC
Surgery, Anesthesiology & Trauma:			
Dr. Keith Kraner, Rm. 336, Tel. 301-496-7771	Feb. 22-23	8:30	Holiday Inn, Arlington, VA
Surgery & Bioengineering:			
Dr. Joe W. Atkinson, Rm. 348, Tel. 301-496-7506	Mar. 1-2	8:30	Holiday Inn, Arlington, VA
Toxicology:			
Dr. Raymond Bahor, Rm. 226, Tel. 301-496-7570	Mar. 9-11	8:30	Marriott Hotel, New Orleans, LA
Tropical Medicine & Parasitology:			
Dr. Betty June Myers, Rm. 319, Tel. 301-496-7494	Mar. 1-3	8:30	Holiday Inn, Chevy Chase, MD
Virology:			
Dr. Claire H. Winestock, Rm. 138, Tel. 301-496-7128	Mar. 8-10	8:30	Room 8, Bldg. 31C, Bethesda, MD
Visual Sciences A:			
Dr. Orvil E. A. Bolduan, Rm. 437, Tel. 301-496-7180	Mar. 7-9	9:00	Holiday Inn, Silver Spring, MD
Visual Sciences B:			
Dr. Luigi Giacometti, Rm. 325, Tel. 301-496-7251	Feb. 28-Mar. 3	9:00	Sheraton Inn, Silver Spring, MD

(Catalog of Federal Domestic Assistance Program Nos. 13.333, 13.337, 13.349, 13.393-13.396, 13.386-13.844, 13.846-13.871, 13.876, National Institutes of Health, HEW)

Dated: December 28, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc. 79-545 Filed 1-8-79; 8:45 am]

[4110-08-M]

NATIONAL ADVISORY RESEARCH RESOURCES COUNCIL

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Advisory Research Resources Council, Division of Research Resources (DRR), February 1-2, 1979, Conference Room No. 10, Bldg. 31-C, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20014.

The meeting will be open to the public from 9:00 a.m. to recess of February 1 for: The conduct of Council business, including a report by the Director, DRR; a report by the Deputy Director, DRR; a report by the Primate Research Centers Evaluation Panel; a review of the Biomedical Research Support Program and discussion of the Biomedical Research Support Program Revised Guidelines; a Program Data Report; and a general discussion by the members of the Council. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6) under Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on February 2, from 8:30 a.m. to adjournment for the review, discussion, and evaluation of individual grant applications. These applications and discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications.

Mr. James Augustine, Information Officer, Division of Research Resources, National Institutes of Health, Room 5B13, Bldg. 31, Bethesda, Maryland 20014, (301) 496-5545, will provide summaries of the meeting and rosters of the Council members. Dr. James F. O'Donnell, Deputy Director, Division of Research Resources, National Institutes of Health, Room 5B03, Bldg. 31, Bethesda, Maryland 20014, (301) 496-6023, will furnish substantive program information and will receive any comments pertaining to this announcement.

(Catalog of Federal Domestic Assistance Program Nos. 13.306; 13.333; 13.337; 13.371; 13.375; National Institutes of Health.)

Dated: December 28, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc. 79-546 Filed 1-8-79; 8:45 am]

[4110-08-M]

NATIONAL CANCER INSTITUTE

Advisory Committees Open Meetings

Pursuant to Pub. L. 92-463, notice is hereby given of the meetings of committees advisory to the National Cancer Institute.

These meetings will be entirely open to the public to discuss issues relating to committee business as indicated in the notice. Attendance by the public will be limited to space available. Meetings will be held at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20014, unless otherwise stated.

Mrs. Marjorie F. Early, Committee Management Officer, NCI, Building 31, Room 4B43, National Institutes of Health, Bethesda, Maryland 20014 (301/496-5708) will furnish summaries of the meetings and rosters of committee members upon request.

Other information pertaining to the meeting can be obtained from the Executive Secretary indicated.

Name of Committee: Breast Cancer Task Force Committee.
Dates: February 7, 1979; 8:45 a.m. to adjournment.
Place: Building 31C, Conference Room 10, National Institutes of Health.
Times: Open for the entire meeting.
Agenda: Program review.
Executive Secretary: Dr. D. Jane Taylor. Address: Landow Building, Room 4A22, National Institutes of Health. Phone: 301/496-6718.

Name of Committee: Cancer Control and Rehabilitation Advisory Committee.
Dates: February 8-9, 1979; 9:00 a.m. to adjournment.
Place: Building 31C, Conference Room 7, National Institutes of Health.
Times: Open for the entire meeting.
Agenda: To discuss current projected programs of the Division of Cancer Control and Rehabilitation.
Executive Secretary: Mr. H. C. Noyes. Address: Blair Building, Room 720, National Institutes of Health. Phone: 301/427-8053.

Dated: December 28, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer,
NIH.

[FR Doc. 79-547 Filed 1-8-79; 8:45 am]

[4110-08-M]

REPORT ON BIOASSAY OF P-PHENYLENEDIAMINE DIHYDROCHLORIDE FOR POSSIBLE CARCINOGENICITY

Availability

p-Phenylenediamine dihydrochloride (CAS 624-18-0) has been tested for cancer-causing activity with rats and mice in the Carcinogenesis Testing Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay of p-phenylene- diamine dihydrochloride for possible carcinogenicity was conducted using Fischer 344 rats and B6C3F1 mice. The chemical is a salt of p-phenylenediamine, which has applications including use as an ingredient of hair dyes. p-Phenylenediamine dihydrochloride was administered in the feed, at either of two concentrations, to groups of 50 male and 50 female animals of each species.

Under the conditions of this bioassay, there was no convincing evidence that dietary administration of p-phenylenediamine dihydrochloride was carcinogenic in Fischer 344 rats or B6C3F1 mice.

Single copies of the report, Bioassay of p-Phenylenediamine Dihydrochloride for Possible Carcinogenicity (T.R. 174), are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Maryland 20014.

(Catalogue of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research)

Dated: January 2, 1979.

DONALD S. FREDERICKSON, M.D.,
Director,
National Institutes of Health.

[FR Doc. 79-540 Filed 1-8-79; 8:45 am]

[4110-08-M]

REPORT ON BIOASSAY OF CARBROMAL FOR POSSIBLE CARCINOGENICITY

Availability

Carbromal (CAS 77-65-6) has been tested for cancer-causing activity with rats and mice in the Carcinogenesis Testing Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay for the possible carcinogenicity of carbromal was conducting using Fischer 344 rats and B6C3F1 mice. Applications of the chemical include use as a sedative drug. Carbromal was administered in the feed, at either of two concentrations, to groups of 50 male and 50 female animals of each species with the exception of 49 low dose male mice and high dose female mice.

Under the conditions of this bioassay, dietary administration of carbromal was not carcinogenic in Fischer 344 rats or B6C3F1 mice.

Single copies of the report, Bioassay of Carbromal for Possible Carcinogenicity (T.R. 173), are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Maryland 20014.

(Catalogue of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research)

Dated: January 2, 1979.

DONALD S. FREDERICKSON, M.D.,
Director,
National Institutes of Health.

[FR Doc. 79-541 Filed 1-8-79; 8:45 am]

[4110-08-M]

REPORT ON BIOASSAY OF 2-NITRO-P-PHENYLENEDIAMINE FOR POSSIBLE CARCINOGENICITY

Availability

2-Nitro-p-phenylenediamine (CAS 5307-14-2) has been tested for cancer-causing activity with rats and mice in the Carcinogenesis Testing Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay for the possible carcinogenicity of 2-Nitro-p-phenylenediamine was conducted using

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Fischer 344 rats and B6C3F1 mice. Applications of the chemical include use in hair dyes. 2-Nitro-p-phenylenediamine was administered in the feed, at either of two concentrations, to groups of 50 male and 50 female animals of each species.

Under the conditions of this bioassay, dietary administration of 2-Nitro-p-phenylenediamine was carcinogenic to female B6C3F1 mice, causing an increased incidence of hepatocellular neoplasms, primarily hepatocellular adenomas. There was no convincing evidence for the carcinogenicity of the compound in Fischer 344 rats or in male B6C3F1 mice.

Single copies of the report, Bioassay of 2-Nitro-p-phenylenediamine for Possible Carcinogenicity (T.R. 169), are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Maryland 20014.

(Catalogue of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research)

Dated: January 2, 1979.

DONALD S. FREDRICKSON, M.D.,
Director,
National Institutes of Health.

[FR Doc. 79-542 Filed 1-8-79; 8:45 am]

[4110-08-M]

REPORT ON BIOASSAY OF 3,3'-DIMETHOXYBENZIDINE-4,4'-DIISOCYANATE FOR POSSIBLE CARCINOGENICITY

Availability

3,3' - Dimethoxybenzidine - 4,4' - diisocyanate (CAS 91-93-0) has been tested for cancer-causing activity with rats and mice in the Carcinogenesis Testing Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay for the possible carcinogenicity of 3,3'-dimethoxybenzidine-4,4'-diisocyanate was conducted using Fisher 344 rats and B6C3F1 mice. The chemical is an experimental compound, with potential uses that include the manufacture of coatings, gaskets and shock absorbers. 3,3' - Dimethoxybenzidine - 4,4' - diisocyanate was administered, at either of two concentrations, to groups of 50 male and 50 female animals of each species, with the exception of 49 high dose female rats. The compound was administered in the feed with the exception of the first 22 weeks of the rat bioassay, when it was administered by gavage.

Under the conditions of this bioassay, administration of 3,3'-dimethoxybenzidine-4,4'-diisocyanate was carcinogenic to Fisher 344 rats, causing neoplasms of the skin (excluding skin of the ear) in males, endometrial stromal polyps in females, and leukemia and malignant lymphoma in both sexes. The compound was also associated with the development of a combination of squamous-cell carcinomas and sebaceous adenocarcinomas of the Zymbal's gland and skin of the ear in rats of both sexes. There was no evidence for the carcinogenicity of the compound in B6C3F1 mice.

Single copies of the report, Bioassay of 3,3'-Dimethoxybenzidine-4,4'-diisocyanate for Possible Carcinogenicity (T.R. 128), are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Maryland 20014.

(Catalogue of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research)

Dated: January 2, 1979.

DONALD S. FREDRICKSON, M.D.,
Director,
National Institute of Health.

[FR Doc. 79-543 Filed 1-8-79; 8:45 am]

[4110-89-M]

Office of the Secretary

ADVISORY COUNCIL ON EDUCATION STATISTICS

Meeting

Notice is hereby given, pursuant to Section 10, Pub. L. 92-463, that a meeting of the Advisory Council on Education Statistics will be held on February 1, 1979, from 9:00 a.m. to 5:00 p.m., in Room 3000, FOB No. 6, 400 Maryland Avenue SW., Washington, D.C. 20202. The meeting will be continued on February 2, 1979, from 9:00 a.m. to 12:30 p.m., at the same location.

The Advisory Council on Education Statistics is mandated by Section 406(c) of the General Education Provisions Act as added by Section 501(a) of the Education Amendments of 1974, Pub. L. 93-380 (20 U.S.C. 1221e-1(c)), to advise the Secretary of the Department of Health, Education, and Welfare and the Assistant Secretary for Education and the National Center for Education Statistics (NCES); and shall review general policies for the operation of the Center and shall be responsible for establishing standards to ensure that statistics and analyses disseminated by the Center are of high quality and are not subject to political influence.

The meeting agenda will include an Administrator's Report summarizing recent developments regarding budget, staff and major projects of the National Center for Education Statistics.

Other major topics will include a discussion of a review of the Center's management and the content of the Council's next annual report.

The meeting is open to the public; however, because of limited accommodations, those members of the public wishing to attend should make reservations by writing, no later than January 25, 1979 to: Executive Director, Advisory Council on Education Statistics, Room 3153-E, FOB No. 6, 400 Maryland Avenue SW., Washington, D.C. 20202.

Records shall be kept of all Council proceedings and shall be available for public inspection in the Office of the Administrator, National Center for Education Statistics, located at 400 Maryland Avenue SW., Washington, D.C. 20202.

Signed at Washington, D.C. on January 2, 1979.

MARIE D. ELDRIDGE,
Administrator, National Center for Education Statistics.

[FR Doc. 79-728 Filed 1-8-79; 8:45 am]

[4110-07-M]

Social Security Administration

ADVISORY COUNCIL ON SOCIAL SECURITY

Public Meetings

AGENCY: Advisory Council on Social Security, HEW.

ACTION: Notice is hereby given, pursuant to Pub. L. 92-463, that the Advisory Council on Social Security, established pursuant to section 706 of the Social Security Act, as amended, will meet on Friday, February 2, 1979, and Saturday, February 3, 1979, from 9 a.m. to 5 p.m. at the Holiday Inn, 2101 Wisconsin Avenue, N.W., Washington, D.C. 20007.

There will be a meeting of the Advisory Council's panel of actuaries and economists on Wednesday, February 7, 1979, from 9 a.m. to 12 p.m. in Room 507A, Hubert H. Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. The panel will continue its review of the economic and actuarial assumptions used in social security cost projections.

These meetings are open to the public.

Individuals and groups who wish to have their interest in the social security program taken into account by the Council may submit written comments, views, or suggestions to Mr. Lawrence H. Thompson.

FOR FURTHER INFORMATION CONTACT:

Mr. Lawrence H. Thompson, Executive Director of the Advisory Council on Social Security, P.O. Box 17054, Baltimore, Maryland 21235. Telephone inquiries should be directed to Mr. Edward F. Moore, telephone number 301-594-3171.

(Catalog of Federal Domestic Assistance Program Numbers 13,800-13,807 Social Security Program.)

Dated: January 3, 1979.

LAWRENCE H. THOMPSON,
Executive Director, Advisory Council on Social Security.

[FR Doc. 79-727 Filed 1-8-79; 8:45 am]

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[4310-09-M]

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

[INT DES 79-1]

SALT-GILA AQUEDUCT, CENTRAL ARIZONA PROJECT

Availability of Draft Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, the Department of the Interior has prepared a draft environmental statement for the Salt-Gila Aqueduct feature of the Central Arizona Project, Arizona-New Mexico.

This statement describes the environmental impacts resulting from the construction and operation of the Salt-Gila Aqueduct and associated electrical transmission system. The aqueduct will convey Colorado River water from the terminus of the Granite Reef Aqueduct in south-eastern Maricopa County to the beginning of the authorized Tucson Aqueduct in south-central Pinal County, Arizona. Construction of the feature is scheduled to begin in mid-1980, with project completion scheduled for 1985. Written comments may be submitted to the Regional Director with a copy to Director, Office of Environmental Affairs, (addresses below) on or before February 23, 1979.

Copies are available for inspection at the following locations:

Office of Environmental Affairs, Room 7622, Bureau of Reclamation, Department of the Interior, Washington, D.C. 20240, telephone (202) 343-4991.

Division of Management Support, General Services, Library Section, Code 950, Engineering and Research Center, Denver Federal Center, Denver, CO 80225, telephone 303-234-3019.

Office of the Regional Director, Administration Building, Bureau of Reclamation, Boulder City, NV 89005, telephone (702) 293-8464.

Arizona Projects Office, Bureau of Reclamation, Suite 2200, Valley Center, 201 North Central Avenue, Phoenix, AZ 85073, telephone (602) 261-3577.

Single copies of the draft statement may be obtained upon request to the Commissioner of Reclamation or the Regional Director. Please refer to the statement number above.

Dated: January 4, 1979.

LARRY E. MEIEROTTO,
Deputy Assistant Secretary of the Interior.

[FR Doc. 79-688 Filed 1-8-79; 8:45 am]

[4310-55-M]

Fish and Wildlife Service

MARINE MAMMALS

Issuance of Permit

On September 22, 1978, a Notice was published in the FEDERAL REGISTER (Vol 43, No. 159), that an application had been filed with the Fish and Wildlife Service by John L. Bergston, Department of Ecology and Behavioral Biology, University of Minnesota, for a permit to authorize the taking, tagging with radio transmitters and release of 15 West Indian manatees (*Trichechus manatus*) for scientific research.

Notice is hereby given that on December 19, 1978, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Endangered Species Act of 1972 (16 USC 1539), the Fish and Wildlife Service issued a permit, PRT 2-3167, to John L. Bengston subject to certain conditions set forth therein.

The permit is available for public inspection during normal business hours at the Fish and Wildlife Service's office in Room 601, 1000 N. Glebe Road, Arlington, Virginia.

Dated: December 29, 1978.

FRED L. BOLWAHNN,
Acting Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 79-722 Filed 1-8-79; 8:45 am]

[4310-55-M]

ENDANGERED SPECIES PERMIT

Receipt of Application

Applicant: Val Clear, Exotic Cagebirds, Anderson, Indiana 46012.

The applicant requests a permit to purchase in interstate commerce two (2) male and two (2) female captive-bred scarlet-chested parakeets (*Neophema splendida*) for enhancement of propagation.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service, (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-3553. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before February 8, 1979. Please refer to the file number when submitting comments.

Dated: January 4, 1979.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 79-723 Filed 1-8-79; 8:45 am]

[4310-55-M]

ENDANGERED SPECIES PERMIT

Receipt of Application

Applicant: University of Michigan, Museum of Zoology, Ann Arbor, Michigan 48109.

The applicant requests a permit to import, export, re-export in an unlimited number of transactions preserved, dried, or embedded endangered or threatened species museum specimens held at the University of Michigan's Museum of Zoology as a non-commercial loan, donation, or exchange between scientists or scientific institutions. The applicant also wishes to take (salvage) dead specimens of listed species for accession into their collection.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service, (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-3576. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before February 8, 1979. Please refer to the file number when submitting comments.

Dated: December 28, 1978.

FRED L. BOLWAHNN,
Acting Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 79-724 Filed 1-8-79; 8:45 am]

[4310-55-M]

ENDANGERED SPECIES PERMIT

Receipt of Application

Applicant: Gladys Porter Zoo, Brownsville, Texas 78520.

The applicant requests a permit to purchase and receive in interstate

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commerce two (2) male and two (2) female cheetas (*Acinonyx jubatus jubatus*) from Cheetas Unlimited, Phoenix, Arizona for enhancement of propagation.

The cheetas addressed are at the Gladys Porter Zoo on breeding loan from Cheetas Unlimited.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service, (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-3609. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address by February 8, 1979. Please refer to the file number when submitting comments.

Dated: January 4, 1979.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 79-725 Filed 1-8-79; 8:45 am]

[4310-03-M]

Heritage Conservation and Recreation Service

NATIONAL REGISTER OF HISTORIC PLACES

Notification of Pending Nominations

The list of Pending Nominations received during the week of December 25, 1978, which would normally be published on this date, will appear in the listing on January 16, 1979.

WILLIAM J. MURTAGH,
Keeper of the National Register.

[FR Doc. 79-408 Filed 1-8-79; 8:45 am]

[7020-02-M]

INTERNATIONAL TRADE COMMISSION

[332-102]

INTEGRATED CIRCUITS AND THEIR USE IN COMPUTERS

AGENCY: U.S. International Trade Commission.

ACTION: Correction of date for submission of written statements.

The date for the submission of written statements in this investigation, as published in the FEDERAL REGISTER of December 20, 1978 (43 FR 59447), was incorrectly set forth as July 2, 1977. The correct date is July 2, 1979.

Issued: January 4, 1979.

KENNETH R. MASON,
Secretary.

[FR Doc. 79-767 Filed 1-8-79; 8:45 am]

[7020-02-M]

[TA-203-5]

STAINLESS STEEL AND ALLOY TOOL STEEL

Change of Time of Prehearing Conference

Notice is hereby given that the prehearing conference in this investigation previously scheduled for February 12, 1979, will be held on Tuesday, February 13, 1979. The conference will be held in Room 117 of the U.S. International Trade Commission Building, as previously announced.

Notice of the investigation and hearing was published in the FEDERAL REGISTER of December 22, 1978 (43 FR 59914).

By order of the Commission.

Issued: January 4, 1979.

KENNETH R. MASON,
Secretary.

[FR Doc. 79-768 Filed 1-8-79; 8:45 am]

[4410-18-M]

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

D'YOUVILLE COLLEGE, N.Y.

Public Hearing

AGENCY: LEAA, Department of Justice.

ACTION: Notice of public hearing.

NOTICE: This is to give notice that the Law Enforcement Assistance Administration will conduct a public hearing in the matter of the appeal of the D'Youville College, Buffalo, New York from the denial of their Law Enforcement Education Program (LEEP) Grant Application No. 77-LP-02-0900.

DATE AND ADDRESS: The hearing will be held at 10:00 a.m. on Wednesday, January 10, 1979, at the following location: Law Enforcement Assistance Administration, 13th Floor—Small Conference Room, 633 Indiana Avenue, N.W., Washington, D.C. 20531.

FOR FURTHER INFORMATION CONTACT:

Robert Gorman, Attorney-Advisor, Law Enforcement Assistance Administration, 633 Indiana Avenue, N.W., Washington, D.C. 20531, Telephone: 202-376-3692.

CHARLES A. LAUER,
Deputy General Counsel, Office of General Counsel, Law Enforcement Assistance Administration.

[FR Doc. 79-750 Filed 1-8-79; 8:45 am]

[4410-18-M]

NATIONAL INSTITUTE OF LAW ENFORCEMENT AND CRIMINAL JUSTICE

Arson Research Grants; Solicitation

The National Institute of Law Enforcement and Criminal Justice announces a competitive research grant to study arson and antiarson efforts in a selected sample of jurisdictions in the United States. The goal is to learn how arson is defined and fought in a cross section of jurisdictions so that a start may be made in the direction of improved control.

The solicitation asks for the submission of full proposals. In order to be considered, all proposals must be postmarked no later than February 16 1979. The project is scheduled to run for twenty-one (21) months and the funding level will not be greater than $25,000.

Copies of the solicitation and additional information can be obtained by contacting: Sidney Epstein, Community Crime Prevention Division, National Institute of Law Enforcement and Criminal Justice, 633 Indiana Avenue, N.W., Washington, D.C. 20531, (301) 492-9122.

Dated: December 29, 1978.

BLAIR G. EWING,
Acting Director, National Institute of Law Enforcement and Criminal Justice.

[FR Doc. 79-748 Filed 1-8-79; 8:45 am]

[4410-18-M]

NATIONAL INSTITUTE OF LAW ENFORCEMENT AND CRIMINAL JUSTICE

White Collar Crime Research Grants; Solicitation

The National Institute of Law Enforcement and Criminal Justice announces a competitive grant program on white collar crime research.

The request for preliminary proposals reviews the current NILECJ research projects in white collar crime and solicits research proposals on a variety of issues relevant to white collar crime. Qualified researchers are encouraged to respond.

A total of $200,000 is planned to be awarded through the funding of two separate efforts of no more than $100,000 each. The duration of each project is expected to be from 15-21 months.

A copy of the request for preliminary proposals can be obtained by sending a self addressed mailing label to: WCC Research, CCP Division, NILECJ, 633 Indiana Avenue NW., Washington, D.C. 20531.

BLAIR G. EWING,
Acting Director, National Institute of Law Enforcement and Criminal Justice.

[FR Doc. 79-749 Filed 1-8-79; 8:45 am]

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[4510-28-M]

DEPARTMENT OF LABOR

Office of the Secretary

[TA-W-3461]

ALLEGHENY LUDLUM STEEL CORP., WALLINGFORD, CONN.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistant

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3461: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on April 4, 1978 in response to a worker petition received on March 24, 1978 which was filed by the United Steelworkers of America on behalf of workers and former workers producing cold rolled stainless steel strip and welded tubing at the Wallingford, Connecticut plant of Allegheny Ludlum Steel Corporation.

Workers at the Wallingford plant were previously certified eligible for adjustment assistance on May 13, 1976; that certification expired on May 13, 1978 (see TA-W-668).

The Notice of Investigation was published in the FEDERAL REGISTER on April 28, 1978 (43 FR 18360). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Allegheny Ludlum Steel Corporation, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That sales or production, or both, of the firm or subdivision have decreased absolutely.

The Wallingford plant produces stainless tubing and cold rolled stainless steel strip. Sales and production of stainless tubing produced at the Wallingford plant increased in the first nine months of 1978 compared to the first nine months of 1977.

Sales of cold rolled stainless steel strip produced by the flat Rolled Products Division of Allegheny Ludlum Steel Corporation increased in the first nine months of 1978 compared to the first nine months of 1977. The Wallingford plant rolls about 25 percent of the strip produced by the Division.

CONCLUSION

After careful review, I determine that all workers of the Wallingford, Connecticut plant of Allegheny Ludlum Steel Corporation are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 3rd day of January 1979.

C. MICHAEL AHO,
Director, Office of Foreign Economic Research.

[FR Doc. 79-776 Filed 1-8-79; 8:45 am]

[4510-28-M]

[TA-W-3474]

ALLEGHENY LUDLUM STEEL CORP.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3474: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on April 6, 1978 in response to a worker petition received on March 27, 1978 which was filed by the United Steelworkers of America on behalf of workers and former workers producing stainless steel strip and coil, tool steel and selectron steel at the W. Leechburg, Pennsylvania plant of Allegheny Ludlum Steel Corporation. The investigation revealed that the plant primarily produces stainless steel strip and silicon steel.

Workers at the West Leechburg plant were previously certified eligible for adjustment assistance on May 24, 1976; that certification expired on May 24, 1978 (see TA-W-756).

The Notice of Investigation was published in the FEDERAL REGISTER on April 25, 1978 (43 FR 17550). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Allegheny Ludlum Steel Corporation, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

The average number of production workers at the West Leechburg plant increased in the first nine months of 1978 compared to the first nine months of 1977. Average quarterly employment increased in each of the first three quarters of 1978 when compared to the like quarter in 1977. Average weekly hours worked per employee also increased during this period. There is no immediate threat of worker separations at this plant.

CONCLUSION

After careful review, I determine that all workers of the West Leechburg, Pennsylvania plant of Allegheny Ludlum Steel Corporation are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 3rd day of January 1979.

C. MICHAEL AHO,
Director, Office of Foreign Economic Research.

[FR Doc. 79-777 Filed 1-8-79; 8:45 am]

[4510-28-M]

[TA-W-4021, 4022, 4230-6]

AMIGO SMOKELESS COAL CO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4021, 4230-6: investigations regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigations were initiated on August 2, 1978 and October 4, 1978 in response to worker petitions received on July 27, 1978 and October 3, 1978 which were filed by the United Mine Workers of America on behalf of workers and former workers mining coal at the Jackpot #1 mine (TA-W-

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4021), the Wyco #236 mine (TA-W-4022) and the Jackpot #4 mine (TA-W-4230), Wyco, West Virginia, at the Amigo #2 mine (TA-W-4231) and the Amigo #3 mine (TA-W-4232), Amigo, West Virginia, cleaning coal at the Tralee Preparation Plant (TA-W-4233), Tralee, West Virginia, loading coal at the Wyco Tipple (TA-W-4234) Wyco, West Virginia and the Amigo Tipple (TA-W-4235), Amigo, West Virginia, and maintaining mining equipment at the Central Shop (TA-W-4236), Tralee, West Virginia of Amigo Smokeless Coal Company, Beckley, West Virginia, a subsidiary of The Pittston Company.

The Notices of Investigation were published in the FEDERAL REGISTER on August 11, 1978 (43 FR 35759-60) and October 20, 1978 (43 FR 49060-61). No Public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Amigo Smokeless Coal Company, The Pittston Company, their customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

All the facilities at Amigo Smokeless Coal Company, consisting of 5 mines, 2 tipples or loading stations, a coal preparation plant and a central maintenance shop, perform operations which are stages in an integrated production process. The end product of this process is cleaned low-volatile metallurgical coal, which is sold by the parent company, The Pittston Company.

Metallurgical coal mined by Amigo Smokeless Coal Company was sold by The Pittston Company. Although one important customer decreased purchases from The Pittston Company from 1976 to 1977 and increased purchases of imported coke or metallurgical coal, the imported product had different characteristics from the coal mined at Amigo Smokeless Coal Company.

None of the customers decreased purchases from the Pittston Company and increased purchases of imported coke in the first 6 to 9 months of 1978 compared to the same periods of 1977. The only railway line which hauls Amigo Smokeless Coal Company coal was on strike from July through September, 1978. Declines in sales, production and employment at Amigo Smokeless Coal Company from July through September, 1978 resulted from this strike. Any increase in purchases of imported coke by customers during this period would not be relevant to the investigation.

CONCLUSION

After careful review, I determine that all workers of the Jackpot #1, Wyco #236 and Jackpot #4 mines, Wyco, West Virginia, the Amigo #2 and Amigo #3 mines, Amigo, West Virginia, the Tralee Preparation Plant, Tralee, West Virginia, the Wyco Tipple, Wyco, West Virginia, the Amigo Tipple, Amigo, West Virginia and the Central Shop, Tralee, West Virgina of the Amigo Smokeless Coal Company are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 2nd day of January 1979.

JAMES F. TAYLOR,
Director, Office of Management Administration and Planning.

[FR Doc. 79-778 Filed 1-8-79; 8:45 am]

[4510-28-M]

[TA-W-4136]

ASARCO, INC., CENTRAL RESEARCH DEPARTMENT

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4136: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on September 6, 1978 in response to a worker petition received on September 5, 1978 which was filed on behalf of workers and former workers engaged in employment related to nonferrous and metallurgical research at the South Plainfield, New Jersey Central Research Department of ASARCO, Incorporated.

The Notice of Investigation was published in the FEDERAL REGISTER on September 29, 1978 (43 FR 44935). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of ASARCO, Incorporated, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

The Research Department performs services which are integral to the production of all metal products produced by ASARCO, Incorporated. The major proportion of the work of the Central Research Department consists of trouble shooting for products with which ASARCO and its customers have experienced difficulties.

Sales of copper, lead and zinc by ASARCO constituted a substantial proportion of total company sales in 1977. Employees at various company manufacturing facilities engaged in employment related to a significant percentage of the company's total domestic production of copper, lead and zinc who became totally or partially separated from employment have previously been certified eligible by the Department for trade adjustment assistance benefits. See Department determinations for TA-W-2410, 2411, 2490, 2894, 3484, 3517, 3518, 3705 and 4023.

Depressed prices for copper, lead and zinc attributable to import competition have negatively affected ASARCO's level of profits, prompting the company to cut spending for research and development. Reductions in the rate of discretionary spending for research and development resulted in layofffs at ASARCO's Central Research Department.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articls like or directly competitive with copper, lead and zinc produced by ASARCO, Incorporated contributed importantly to the total or partial separation of workers engaged in research related to the production of copper, lead and zinc at ASARCO's Central Research facility in South Plainfield, New Jersey. In accordance with the provisions of the Act, I make the following certification:

All workers engaged in research and development activities related to a the production of copper, lead and zinc at ASARCO, Incorporated's Central Research Department in South Plainfield, New Jersey who became totally or partially separated from employment on or after January 1, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 29th day of December 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 79-779 Filed 1-8-79; 8:45 am]

[4510-28-M]

[TA-W-4418]

BINGHAMTON STEEL & FABRICATING CO., INC.

Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on November 27, 1978 in response to a worker petition received on November 17, 1978 which was filed on behalf of workers and former workers producing fabricated structural steel at Binghamton Steel and Fabricating Company, Incorporated, Binghamton, New York.

The Notice of Investigation was published in the FEDERAL REGISTER on December 5, 1978 (43 FR 56952). No public hearing was requested and none was held.

In a letter dated December 6, 1978 the petitioner requested withdrawal of petition. On the basis of the withdrawal, continuing the investigation would serve no purpose. Consequently the investigation has been terminated.

Signed at Washington, D.C. this 3rd day of January 1979.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 79-780 Filed 1-8-79; 8:45 am]

[4510-28-M]

[TA-W-3848]

CODI CORP.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3848: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on June 15, 1978 in response to a worker petition received on June 9, 1978 which was filed on behalf of workers and former workers producing semicomponent products at Codi Corporation, Fairlawn, New Jersey. The investigation revealed that the product was diodes and that the intent of the petition was to cover only Codi Semiconductor Division, Fairlawn, New Jersey.

The Notice of Investigation was published in the FEDERAL REGISTER on June 27, 1978 (43 FR 27922). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Codi Corporation, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed in the course of the investigation indicated that the separation of workers producing diodes at the Semiconductor Division of the Fairlawn, New Jersey plant of Codi Corporation occurred as a result of a shift in diode production to the firm's Linden, New Jersey facility.

Production of diodes at the Fairlawn plant increased from 1976 to 1977 and in the first half of 1978 compared to the first half of 1977. The shift in diode production from Fairlawn to Linden began in May 1978 and was completed by the beginning of August 1978. Total company production of diodes increased in 1977 compared to 1976 and in 1978 compared to 1977.

Codi Corporation's decision to transfer diode production from Fairlawn to Linden was based primarily on the capability of the larger Linden facility to produce a greater output of diodes and the necessity to free additional space at Fairlawn to permit expansion of two other Codi subsidiaries also located at that plant.

CONCLUSION

After careful review, I determine that all workers of the Semiconductor Division of the Fairlawn, New Jersey plant of Codi Corporation are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 29th day of December 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc 79-781 Filed 1-8-79; 8:45 am]

[4510-28-M]

[TA-W-4502]

DOWNEN ZIER KNITS, INC., ROCKVILLE CENTER

Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on December 12, 1978, in response to a worker petition received on December 7, 1978, which was filed on behalf of workers and former workers producing double-knit fabrics at the Rockville Center, Long Island, New York, plant of Downen Zier Knits, Incorporated.

The Notice of Investigation was published in the FEDERAL REGISTER on December 19, 1978 (43 FR 59180-1). No public hearing was requested and none was held.

On November 6, 1978, a petition was filed on behalf of the same group of workers (TA-W-4368).

Notice of Investigation was published in the FEDERAL REGISTER on November 24, 1978 (43 FR 55012-13). No public hearing was requested and none was held.

Since the identical group of workers is the subject of the ongoing investigation TA-W-4368, a new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C., this 3rd day of January 1979.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 79-782 Filed 1-8-79; 8:45 am]

[4510-28-M]

[TA-W-4503]

DOWNEN ZIER KNITS, INC.

Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on December 12, 1978 in response to a worker petition received on December 7, 1978 which was filed on behalf of workers and former workers producing double-knit fabrics at the Elmont, New York plant of Downen Zier Knits, Incorporated.

The Notice of Investigation was published in the FEDERAL REGISTER on December 19, 1978 (43 FR 59180-1). No public hearing was requested and none was held.

On November 6, 1978, a petition was filed on behalf of the same group of workers (TA-W-4368).

Notice of Investigation was published in the FEDERAL REGISTER on November 24, 1978 (43 FR 55012-13). No public hearing was requested and none was held.

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Since the identical group of workers is the subject of the ongoing investigation TA-W-4368, a new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C., this 3rd day of January 1979.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 79-783 Filed 1-8-79; 8:45 am]

[4510-28-M]

[TA-W-4251]

F/V LINDA B, INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4251: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 10, 1978 in response to a worker petition received on October 4, 1978 which was filed on behalf of workers and former workers catching groundfish for F/V Linda B, Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on October 20, 1978 (43 FR 49061). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of F/V Linda B, Inc., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Imports of groundfish decreased from 755,538 thousand pounds in 1976 to 736,302 thousand pounds in 1977 and from 349,115 thousand pounds in the first half of 1977 to 346,559 thousand pounds in the same period of 1978.

The F/V Linda B normally has a crew of 4; employment averaged 4 persons each quarter of 1977 and the first 3 quarters of 1978. Average weekly earnings increased from 1976 to 1977 and in the first 10 months of 1978 compared with the same period of 1977.

CONCLUSION

After careful review, I determine that all workers of F/V Linda B, Inc., Gloucester, Massachusetts are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 29th day of December 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 79-784 Filed 1-8-79; 8:45 am]

[4510-28-M]

[TA-W-4144]

FORBES STEEL AND WIRE CORP.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4144: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on September 13, 1978 in response to a worker petition received on September 11, 1978 which was filed by the United Steelworkers of America on behalf of workers and former workers producing fabricated welded wire products at Forbes Steel and Wire Corporation, Wilmington, Delaware.

The Notice of Investigation was published in the FEDERAL REGISTER on September 26, 1978 (43 FR 43588). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Forbes Steel and Wire Corporation, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The labor force at the Wilmington plant is being reduced as a consequence of the introduction of automated machinery.

The Department conducted a survey of some customers of Forbes Steel and Wire. The survey revealed that respondents, in general, did not purchase imported welded wire fabric and barbed wire. Customers which increased purchases of imports represented an insignificant proportion of Forbes Steel and Wire's total sales.

CONCLUSION

After careful review, I determine that all workers of Forbes Steel and Wire Corporation, Wilmington, Delaware are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 2d day of January 1979.

JAMES F. TAYLOR,
Director, Office of Management Administration and Panning.

[FR Doc. 79-785 Filed 1-8-79; 8:45 am]

[4510-28-M]

[TA-W-4303]

J. P. STEVENS & CO., INC., ROCK HILL INDUSTRIAL PLANT

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4303: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 26, 1978 in response to a worker petition received on October 25, 1978 which was filed on behalf of workers and former workers producing denim fabric at the Rock Hill Industrial plant of J. P. Stevens and Company, Incorporated, Rock Hill, South Carolina. The investigation revealed that some white fabric production began in July 1978.

The Notice of Investigation was published in the FEDERAL REGISTER on November 3, 1978 (43 FR 51475-6). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of J. P. Stevens and Company, Incorporated, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

A Department survey indicated that the respondents, in general, did not increase purchases of imported denim fabric from 1976 to 1977 and in the first three quarters of 1978 compared to the same period in 1977.

CONCLUSION

After careful review, I determine that all workers of the Rock Hill Industrial plant of J. P. Stevens and Company, Incorporated, Rock Hill, South Carolina are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 4th day of January 1979.

C. MICHAEL AHO,
Director, Office of Foreign Economic Research.

[FR Doc. 79-786 Filed 1-8-79; 8:45 am]

[4510-20-M]

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 22, 1979.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 22, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C., this 2nd day of January 1079.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition number	Articles produced
Aileen, Incorporated, (workers)	Buckingham, Virginia	12/20/78	12/14/78	TA-W-4,564	knit spectator outer wear for ladies' & children
A.S.G. Industries (United Glass & Ceramic Workers of North America).	Jeannette, Pa	12/27/78	12/20/78	TA-W-4,565	flatt glass, known window glass—all strengths
Wiss Division of Cooper Industries (company).	Newark, New Jersey	12/27/78	12/22/78	TA-W-4,566	Newark Plant Office Administrative functions
Custom Stuffed Toys Company (workers).	New York, New York	12/20/78	12/16/78	TA-W-4,567	stuffed toys
Dickman Lumber Company (company).	Tacoma, Washington	12/27/78	12/21/78	TA-W-4,568	cutting logs into lumber for flooring railroad ties, door stock, etc.
The Youngstown Steel Products Co. (workers).	Youngstown, Ohio	12/28/78	12/24/78	TA-W-4,569	sales office
U & I, Incorporated (company)	West Jordan, Utah	12/27/78	12/15/78	TA-W-4,570	distribution & production of sugar
U & I, Incorporated (company)	Idaho Falls, ID	12/27/78	12/15/78	TA-W-4,571	refining of sugar
U & I, Incorporated (company)	Toppenish, Washington	12/27/78	12/15/78	TA-W-4,572	refining of sugar
U & I, Incorporated (company)	Moses Lake, Washington	12/27/78	12/15/78	TA-W-4,573	refining of sugar
U & I, Incorporated General Office (company).	Salt Lake City, Utah	12/27/78	12/15/78	TA-W-4,574	general office
U & I, Incorporated Research & General Lab (company).	Moses Lake, Washington	12/27/78	12/15/78	TA-W-4,575	research & general lab work of sugar uses
U & I, Incorporated (company)	Omaha, NE	12/27/78	12/15/78	TA-W-4,576	distribution of finished product to customers
U & I, Incorporated (company)	Kansas City, MO	12/27/78	12/15/78	TA-W-4,577	distribution of finished product to customers
U & I, Incorporated (company)	Seattle, Washington	12/27/78	12/15/78	TA-W-4,578	distribution of finished product to customers
U & I, Incorporated (company)	Portland, OR	12/27/78	12/15/78	TA-W-4,579	sales office
V.T.M. Dyeing & Finisheding Corporation (workers).	Paterson, New Jersey	12/26/78	12/22/78	TA-W-4,580	dyeing & finishing of fabrics

[FR Doc. 79-805 Filed 1-8-79; 8:45 am]

[4510-28-M]

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdi-

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vision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 22, 1979.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 22, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 21st day of December 1978.

HAROLD A. BRATT,
Acting Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition number	Articles produced
Capehart Corporation (workers)	City of Industry, Calif	12/20/78	12/6/78	TA-W-4,545	A.M. and F.M. stereo chassis
Cooper Sportswear (ACTWU)	Newark, New Jersey	12/14/78	12/12/78	TA-W-4,546	leather & cloth outerwear for men & boys
Copper Range Company, Coratex Division (USWA).	Painesdale, Michigan	12/18/78	12/15/78	TA-W-4,547	fabricate mining equipment, repair mining equipment & assemble underground mining equipment
Goodyear Tire & Rubber Company (URW).	North Chicago, Ill	12/18/78	12/14/78	TA-W-4,548	textile hose, wire & automotive hose
Harbison Walker Refractories, Mt. Union Plant (USWA).	Mt. Union, Pa	12/18/78	11/20/78	TA-W-4,549	silica fire brick & refractory specialty brick
Juliet Footwear, Inc. (ACTWU)	Elmwood Park, New Jersey.	12/18/78	12/14/78	TA-W-4,550	men's working, casual golf shoes
North American Refractories Co. (USWA).	Womelsdorf, Pa	12/18/78	11/20/78	TA-W-4,551	refractory bricks
S & M Leather Coat Company (ACTWU).	Trenton, New Jersey	12/14/78	12/12/78	TA-W-4,552	contractor of men's leather garments

[FR Doc 79-806 Filed 1-8-79; 8:45 am]

[4510-28-M]

[TA-W-3968]

KEYSTONE CAMERA CORP.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3968: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on July 13, 1978 in response to a worker petition received on July 10, 1978 which was filed on behalf of workers and former workers producing pocket instamatic cameras at Berkey Keystone, Division of Berkey Photo Incorporated, Clifton, New Jersey. The investigation revealed that the plant also produced instant cameras, movie cameras, movie projectors, and slide projectors and that the company is currently known as the Keystone Camera Corporation.

The Notice of Investigation was published in the FEDERAL REGISTER on July 28, 1978 (43 FR 32885-86). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Keystone Camera Corporation, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of 8mm movie cameras increased from 264.7 thousands of units in 1976 to 408.5 thousands of units in 1977. Imports increased from 152.6 thousands of units in the first half of 1977 to 235.5 thousands of units in the first half of 1978. The ratio of imports to domestic production increased from 81.7 percent in 1976 to 124.2 percent in 1977.

U.S. imports of Cameras (still, fixed focus, under $50 each) increased from 3,076 thousands of units in 1976 to 4,942 thousands of units in 1977. Imports increased from 2,157 thousands of units in the first half of 1977 to 2,164 thousands of units in the first half of 1978. The ratio of imports to domestic production increased from 71.8 percent in 1976 to 172.9 percent in 1977.

U.S. imports of 8mm Movie Projectors increased from 135.1 thousands of units in 1976 to 188.7 thousands of units in 1977. Imports declined from 94.7 thousands of units in the first half of 1977 to 67.9 thousands of units in the first half of 1978. The ratio of imports to domestic production increased from 29.6 percent in 1976 to 43.8 percent in 1977.

The Department conducted a survey of the principal customers whom Keystone supplied in 1977 and 1978. Customers that accounted for a significant portion of movie camera and projector sales in 1976 reduced purchases from Keystone in 1977 compared to 1976 and increased purchases of imported movie cameras and projectors. Customers that accounted for a significant portion of Instamatic Cameras (110) sales in 1977 and 1978 reduces purchases from Keystone in 1977 compared to 1976 and in the first six months of 1978 compared to the like period in 1977 and increased purchases of imported Instamatic Cameras (110) during the same time periods detailed above.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the movie cameras, movie projectors and Instamatic Cameras (110) produced at Keystone Camera Corporation, Clifton, New Jersey contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Keystone Camera Corporation, formerly Berkey-Keystone, Division of Berkey Photo, Inc., Clifton, New Jersey, engaged in employment related to the production of movie cameras, movie projectors and instamatic cameras who became totally or partially separated from employment on or after October 1, 1977, and before July 1, 1978, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 29th day of December 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 79-787 Filed 1-8-79; 8:45 am]

[4510-28-M]

[TA-W-4117]

L & R SPORTSWEAR CO.,

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4117: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on August 28, 1978 in response to a worker petition received on August 24, 1978 which was filed on behalf of workers and former workers producing boy's and girl's pants at L and R Sportswear Company, Inc., Paterson, New Jersey. The investigation revealed that the plant primarily produces ladies' pants, skirts, jackets, shorts and children's pants.

The Notice of Investigation was published in the FEDERAL REGISTER on September 8, 1978 (43 FR 40070). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of L and R Sportswear Company, Incorporated, its customers, (manufacturers), customers of the manufacturers, the National Cotton Council of America, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. The Department's investigation revealed that all of the requirements have been met.

U.S. imports of women's, misses', and children's slacks and shorts increased both absolutely and relative to domestic production in 1977 compared to 1976. Imports increased absolutely in the first half of 1978 compared to the like period of 1977.

U.S. imports of women's, misses', and children's skirts decreased absolutely and relative to domestic production in 1977 compared to 1976. Imports have increased absolutely in the first half of 1978 compared to the same period of 1977.

Imports of women's, misses', and children's coats and jackets increased both absolutely and relative to domestic production in 1977 compared to 1976.

The Department conducted a survey of the principal manufacturer for which L and R Sportswear worked in 1976 and 1977. This manufacturer went out of business in late 1978. A survey of this manufacturer's customers revealed that some customers reduced purchases from this manufacturer and increased purchases of imports of junior's and misses' sportswear.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the ladies' sportswear and children's pants produced at L and R Sportswear Company, Incorporated, Paterson, New Jersey contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of L and R Sportswear Company, Incorporated, Paterson, New Jersey engaged in employment related to the production of ladies' sportswear and children's pants who became totally or partially separated from employment on or after October 15, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 29th day of December 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 79-788 Filed 1-8-79; 8:45 am]

[4510-28-M]

[TA-W-4011]

LIDO INTERNATIONAL, INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4011: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on July 31, 1978 in response to a worker petition received on July 10, 1978 which was filed by the Corset and Brassiere Workers Union on behalf of workers and former workers producing bras and girdles at Mired Foundations, Inc., New York, New York. The investigation revealed that the correct name of the company was Lido International, Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on August 8, 1978 (43 FR 35130). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Lido International, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

Imports of brassieres, bralettes and bandeaux increased from 8.8 million dozen in 1976 to 9.5 million dozen in 1977 and increased in the first half of 1978 to 5.1 million dozen compared to 4.7 million dozen in the same period in 1977. Imports of corsets and girdles also increased from 231 thousand dozen in 1976 to 269 thousand dozen in 1977 and from 122 thousand dozen in the first half of 1977 to 188 thousand dozen in the same period in 1978. In 1977, imports of brassieres increased to a level equalling 47 percent of domestic consumption.

Results of a Department of Labor survey indicated that an important customer of Lido International, Inc., increased its reliance on imported brassieres and girdles in the first six months of 1978 as compared to the

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same period in 1977 while reducing its purchases from the subject firm.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the bras and girdles produced at Lido International, Inc., New York, New York, contributed importantly to the total or partial separation of the workers. In accordance with the provisions of the Act, I make the following certification:

All workers of Lido International, Inc., New York, New York, who became totally or partially separated from employment on or after February 1, 1978, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 29th day of December 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 79-789 Filed 1-8-79; 8:45 am]

[4510-28-M]

[TA-W-4410]

LOUISVILLE PANT CORP.

Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on November 21, 1978 in response to a worker petition received on November 16, 1978 which was filed on behalf of workers and former workers producing men's and boys' dress pants at the Louisville Pant Corporation, Louisville, Mississippi.

The Notice of Investigation was published in the FEDERAL REGISTER on December 5, 1978 (43 FR 56951-56952). No public hearing was requested and none was held.

During the course of the investigation, it was established that all workers of Louisville Pant Corporation were separated from employment by November 2, 1977. Section 223(b) of the Trade Act of 1974 states that no certification under this section may apply to any worker whose last total or partial separation from the firm or appropriate subdivision of the firm occurred more than one year prior to the date of the petition.

The date of the petition in this case is November 7, 1978 and, thus, workers terminated prior to November 7, 1977 are not eligible for program benefits under Title II, Chapter 2, Subchapter B of the Trade Act of 1974. The investigation is therefore terminated.

Signed at Washington, D.C. this 29th day of December 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 79-790 Filed 1-8-79; 8:45 am]

[4510-28-M]

[TA-W-4446]

MAYFLOWER KNITTING MILLS, INC.

Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on November 29, 1978 in response to a worker petition received on November 27, 1978 which was filed on behalf of workers and former workers producing sweaters and knit dresses at the Mayflower Knitting Mills, Incorporated, Brooklyn, New York.

The Notice of Investigation was published in the FEDERAL REGISTER on December 5, 1978 (43 FR 56953). No public hearing was requested and none was held.

During the course of the investigation, it was established that all workers of Mayflower Knitting Mills, Incorporated were separated from employment in October, 1977. Section 223(b) of the Trade Act of 1974 states that no certification under this section may apply to any worker whose last total or partial separation from the firm or appropriate subdivision of the firm occurred more than one year prior to the date of the petition.

The date of the petition in this case is November 17, 1978 and, thus, workers terminated prior to November 17, 1977 are not eligible for program benefits under Title II, Chapter 2, Subchapter B of the Trade Act of 1974. The investigation is therefore terminated.

Signed at Washington D.C. this 3rd day of January, 1979.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 79-791 Filed 1-8-79; 8:45 am]

[4510-28-M]

[TA-W-4267]

MILDRUM MANUFACTURING CO.

Certification Regarding Eligibility To Apply for Workers Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4267: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 17, 1978 in response to a worker petition received on October 12, 1978 which was filed on behalf of workers and former workers producing fishing rod guides and tops at Mildrum Manufacturing Company of East Berlin, Connecticut.

The Notice of Investigation was published in the FEDERAL REGISTER on October 27, 1978 (43 FR 50271). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Mildrum Manufacturing Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of fishing rod guides and top increased in 1977 compared to 1976 and decreased during the first three quarters of 1978 compared to the same period of 1977. The ratio of imports to domestic production increased from 45.8 percent in 1976 to 46.2 percent in 1977 and increased from 51.7 percent during the first three quarters of 1977 to 53.5 percent during the same period of 1978.

A survey of customers of the Mildrum Manufacturing Company indicated that some customers have decreased their purchases from the subject firm while increasing purchases of imported fishing rod guides and tops.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with fishing rod guides and tops produced at Mildrum Manufacturing Company of East Berlin, Connecticut contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the Mildrum Manufacturing Company of East Berlin, Connecticut who became totally or partially separated from employment on or after June 2, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 29th day of December 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 79-792 Filed 1-8-79; 8:45 am]

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[4510-28-M]

[TA-W-4074]

MODULUS CORP. MT. PLEASANT DIVISION

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4074: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on August 17, 1978 in response to a worker petition received on August 16, 1978 which was filed by the United Steelworkers of America on behalf of workers and former workers producing industrial steel fasteners at Modulus Corporation, Mt. Pleasant, Pennsylvania.

The Notice of Investigation was published in the FEDERAL REGISTER on September 1, 1978 (43 FR 39194). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of the Mt. Pleasant Division of Modulus Corporation, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. The Department's investigation revealed that all of the requirements have been met.

U.S. imports of industrial fasteners increased in 1976 to 704,474 thousand pounds and increased in 1977 to 716,916 thousand pounds. In the first six months of 1977, U.S. imports of industrial fasteners were 371,859 thousand pounds and increased to 421,251 thousand pounds in the first six months of 1978.

The ratio of imports to domestic production of industrial fasteners increased to 64.0 percent in 1976 and increased to 64.4 percent in 1977. In the first six months of 1977 the ratio was 62.4 percent and increased to 71.3 percent in the first six months of 1978.

The Department conducted a survey of Modulus customers accounting for a significant proportion of the subject firm's sales. The survey revealed that some customers decreased purchases of industrial fasteners from Modulus and increased import purchases in 1978 compared to 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with industrial fasteners produced at the Mt. Pleasant Division of Modulus Corporation, Mt. Pleasant, Pennsylvania contributed importantly to the decline in sales and to the separation of workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers of the Mt. Pleasant Division of Modulus Corporation, Mt. Pleasant, Pennsylvania who became totally or partially separated from employment on or after August 11, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 29th day of December 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 79-793 Filed 1-8-79; 8:45 am]

[4510-28-M]

[TA-W-4348]

NA-LOR MANUFACTURING CO., INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4348: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 6, 1978 in response to a worker petition received on November 2, 1978 which was filed by the Knitgoods Union, International Ladies' Garment Workers' Union, on behalf of workers and former workers producing men's sweaters at Na-Lor Manufacturing Company, Incorporated, Philadelphia, Pennsylvania. The investigation revealed that the plant also produces men's knit shirts.

The Notice of Investigation was published in the FEDERAL REGISTER on November 17, 1978 (43 FR 53851-52). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Na-Lor Manufacturing Company, Incorporated, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of men's and boys' sweaters, knit cardigans and pullovers increased from 20.4 million units in 1975 to 26.5 million units in 1976 and to 28.3 million units in 1977. Imports increased to 33.2 million units in the first three quarters of 1978 as compared to 22.6 million units in the first three quarters of 1977.

U.S. imports of men's and boys' knit sport and dress shirts, excluding T-shirts, increased from 66.2 million units in 1975 to 74.0 million units in 1976 and to 75.2 million units in 1977. U.S. imports increased to 82.5 million units in the first three quarters of 1978 as compared to 54.6 million units in 1977.

Na-Lor Manufacturing Company, Incorporated increased its company imports of men's sweaters and knit shirts, in quantity, by 56.1 percent from 1976 to 1977 and by 171.6 percent during the first ten months of 1978 compared to the same period of 1977. Company imports as a percent of company production also increased during this time frame. Production ceased at Na-Lor in December of 1978 and the firm will be permanently closed in January of 1979.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's sweaters and knit shirts produced at Na-Lor Manufacturing Company, Incorporated, Philadelphia, Pennsylvania contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Na-Lor Manufacturing Company, Incorporated, Philadelphia, Pennsylvania who became totally or partially separated from employment on or after October 30, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 3rd day of January 1979.

HARRY J. GILMAN,
Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-794 Filed 1-8-79; 8:45 am]

[4510-28-M]

[TA-W-3984]

NATIONAL-STANDARD CO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3984; investigation regarding certification of eligibility to apply for

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worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on July 19, 1978 in response to a worker petition received on July 13, 1978 which was filed by the United Steelworkers of America on behalf of workers and former workers producing tensil wire, bead wire and cut wire at the Columbia, Alabama plant of the National-Standard Company. The investigation revealed that the plant primarily produces bead wire and tire cord. The Columbiana plant and other company plant in Childersburg, Alabama are engaged in an integrated production process and are operated as a single unit.

The Notice of Investigation was published in the FEDERAL REGISTER on July 28, 1978 (43 FR 32885). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of National-Standard Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met.

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Department conducted a survey of some of the customers of bead wire and tire cord of the Columbiana and Childersburg, Alabama plants of the National Standard Company. None of the respondents reduced purchases of either bead wire or tire cord from National Standard in 1977 compared to 1976. Only one of the respondents reduced purchases of bead wire from National Standard in the first half of 1978 compared to the like 1977 period. This customer's marginal increase in purchases of imports did not have any impact since total sales of bead wire increased in the first half of 1978 compared to the like 1977 period. None of the customers reduced purchases of tire cord from National Standard and increased purchases of imported tire cord in the first half of 1978 compared to the like 1977 period.

CONCLUSION

After careful review, I determine that all workers of the Columbiana and Childersburg, Alabama plants of the National-Standard Company are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 29th day of December 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 79-795 Filed 1-8-79; 8:45 am]

[4510-28-M]

[TA-W-3526]

NORRISTOWN APPAREL CO.

Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3526: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on April 18, 1978 in response to a worker petition received on April 6, 1978 which was filed by the Eastern Pennsylvania Clothing Workers Joint Board on behalf of workers and former workers producing men's and women's jackets and vests at Norristown Apparel Company, Norristown, Pennsylvania. The investigation revealed that the plant primarily produces men's jackets and vests.

The Notice of Investigation was published in the FEDERAL REGISTER on May 2, 1978 (43 FR 18789). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Norristown Apparel Company, its manufacturers, a manufacturer's customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

A Department survey revealed that manufacturers whose combined contracts accounted for a substantial proportion of Norristown's sales in 1977 did not employ any foreign contractors, nor did the manufacturers import any men's vests, jackets or suits during 1976, 1977 or the first six months of 1978. One of the manufacturers experienced decreased sales in the first half of 1978. A secondary survey of that manufacturer's customers indicated that the only customer which decreased its purchases of men's coats from the manufacturer and increased its purchases of imports, imported an insignificant amount. In addition none of the respondents expressed any intention to import such articles in the near future.

CONCLUSION

After careful review, I determine that all workers of Norristown Apparel Company, Norristown, Pennsylvania are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 29th day of December 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 79-796 Filed 1-8-79; 8:45 am]

[4510-28-M]

[TA-W-4322]

RUD-SHAW MANUFACTURING CORP.

Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4322: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 31, 1978 in response to a worker petition received on October 31, 1978 which was filed on behalf of workers and former workers producing men's clothing at Rud-Shaw manufacturing Corporation, Brooklyn, New York. The investigation revealed that the plant produces men's tailored dress suit jackets.

The Notice of Investigation was published in the FEDERAL REGISTER on November 7, 1978 (43 FR 51865). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Rud-Shaw Manufacturing Corporation, its manufacturer, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The manufacturer for which Rud-Shaw performs contract work does not use foreign sources or purchase imported men's tailored dress suit jackets or suits. Sales of the manufacturer increased from 1976 to 1977 and in the first ten months of 1978 compared with the same period of 1977.

CONCLUSION

After careful review, I determine that all workers of Rud-Shaw Manufacturing Corporation, Brooklyn, New York, are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 29th day of December 1978.

JAMES F. TAYLOR,
Director, Office of Management Administration and Planning.

[FR Doc. 79-797 Filed 1-8-79; 8:45 am]

[4510-28-M]

[TA-W-3700]

SAWYER RESEARCH PRODUCTS, INC.

Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3700: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on May 11, 1978 in response to a worker petition received on May 2, 1978 which was filed on behalf of workers and former workers producing cultured crystal quartz at Sawyer Research Products, Eastlake, Ohio.

The Notice of Investigation was published in the FEDERAL REGISTER on May 30, 1978 (43 FR 23036). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Sawyer Research Products, Incorporated, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

A Departmental survey revealed that most customers who decreased purchases from Sawyer in 1977 compared to 1976 and in the first six months of 1978 compared to the same period of 1977 had decreased their purchases of synthetic quartz crystal from all sources. The one customer which decreased purchases from the subject firm and increased import purchases in 1977 compared to 1976 and in the first six months of 1978 compared to the first six months of 1977 constituted an insignificant percentage of the decline in Sawyer's sales.

Technological advances in the production of citizens band radios which now require fewer crystals, the rapid decline in demand for citizens band radios in recent years and the loss of export sales contributed to the decline in sales, production and employment at Sawyer.

CONCLUSION

After careful review, I determine that all workers of Sawyer Research Products, Incorporated, Eastlake, Ohio are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 29th day of December 1978.

JAMES F. TAYLOR,
Director, Office of Management Administration and Planning.

[FR Doc. 79-798 Filed 1-8-79; 8:45 am]

[4510-28-M]

[TA-W-4461]

SCANDIA GLASS WORKS, INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4461: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 30, 1978 in response to a worker petition received on November 27, 1978 which was filed by the American Flint Glass Workers Union on behalf of workers and former workers producing glass globes and shades handblown at Scandia Glass Works, Incorporated, Kenova, West Virginia. The investigation revealed that this type of glass is illuminating glassware used for commercial and residential lighting fixtures.

The Notice of Investigation was published in the FEDERAL REGISTER on December 8, 1978 (43 FR 57692). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Scandia Glass Works, Incorporated, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That sales or production, or both, of the firm or subdivision have decreased absolutely.

Sales of glass globes and shades by Scandia, in terms of adjusted value, increased in the first eleven months of 1978 compared to the same period in 1977. Sales in the last two months of 1977 increased compared to the same period in 1976.

Production of glass globes and shades at Scandia also increased, in terms of value, in the first eleven months of 1978 compared to the same period of 1977 and in the last two months of 1977 compared to the same period of 1976.

CONCLUSION

After careful review, I determine that all workers of Scandia Glass Works, Incorporated, Kenova, West Virginia are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 29th day of December 1978.

JAMES F. TAYLOR,
Director, Office of Management Administration and Planning.

[FR Doc. 79-799 Filed 1-8-79; 8:45 am]

[4510-28-M]

SHARON FABRICS

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4189: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

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The investigation was initiated on September 20, 1978 in response to a worker petition received on August 8, 1978 which was filed on behalf of workers and former workers selling finished fabric for men's shirtings at Sharon Fabrics (a division of Mode Fabrics, Incorporated) in New York, New York. The investigation revealed that the plant primarily produces women's printed fabric.

The Notice of Investigation was published in the FEDERAL REGISTER on October 31, 1978 (43 FR 50758). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Sharon Fabrics, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met with respect to workers engaged in the sale of women's printed fabric:

That sales or production, or both, of the firm or subdivision have decreased absolutely.

Sales of women's finished shirting fabric increased in quantity and in value at Sharon Fabrics during the June through December period of 1977 as compared to the same period of 1976. Sales of women's finished fabric increased in the first three quarters of 1978 as compared to the same period of 1977. Sales and production are equivalent at Sharon Fabrics.

With respect to workers engaged in the sale of men's printed fabric, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

A Departmental survey was conducted with customers that purchased men's shirting fabric from Sharon Fabrics. The results of the survey showed that customers which decreased purchases from Sharon Fabrics did not import men's shirting fabric from 1976 to 1977 and in the first three quarters of 1978 compared to the same period of 1977.

CONCLUSION

After careful review, I determine that all workers of Sharon Fabrics, New York, New York are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 2nd day of January 1979.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 79-800 Filed 1-8-79; 8:45 am]

[4510-28-M]

[TA-W-4068]

CAVERT WIRE COMPANY, INC., STEEL CITY DIVISION

Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4068: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on August 17, 1978 in response to a worker petition received on August 15, 1978 which was filed by Local 1886 of the United Steelworkers of America on behalf of workers and former workers producing carbon wire products including steel paper clips at the Steel City Division of the Cavert Wire Company, Incorporated. The investigation revealed that the plant primarily produces steel paper clips.

The Notice of Investigation was published in the FEDERAL REGISTER on September 1, 1978 (43 FR 39194). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of the Steel City Division of the Cavert Wire Company, Incorporated, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

United States imports of paper clips increased from 2.5 million pounds in 1976 to 3.1 million pounds in 1977.

The Department of Labor conducted a survey of some of the customers of Steel City. The results of the survey indicated that some customers decreased purchases from Steel City in 1977 and 1978 and increased their purchases of foreign produced paper clips.

CONCLUSION

After careful review of the facts obtained in the investgation, I conclude that increases of imports of articles like or directly competitive with steel paper clips produced at the Steel City Division of the Cavert Wire Company, Incorporated, Pittsburgh, Pennsylvania contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the Steel City Division of the Cavert wire Company, Incorporated, Pittsburgh, Pennsylvania who became totally or partially separated from employment on or after December 18, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 3rd day of January 1979.

C. MICHAEL AHO,
Director, Office of Foreign Economic Research.

[FR Doc. 79-801 Filed 1-8-79; 8:45 am]

[4510-28-M]

[TA-W-4481]

SUN CAL COAT CO.

Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4481: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 6, 1978 in response to a worker petition received on November 27, 1978 which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing women's coats at the Sun Cal Coat Company, Los Angeles, California.

The Notice of Investigation was published in the FEDERAL REGISTER on December 19, 1978 (43 FR 59165-6). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Sun Cal Coat Company, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certfication of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That sales or production, or both, of the firm or subdivision have decreased absolutely.

Sales increased in 1977 compared to 1976 and continued to increase in the first nine months of 1978 compared to the like period in 1977. Production increased in the first eleven months of 1978 compared to the entire output in 1977.

CONCLUSION

After careful review, I determine that all workers of Sun Cal Coat Company, Los Angeles, California are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 29th day of December 1978.

JAMES F. TAYLOR,
Director, Office of Management Administration and Planning.

[FR Doc. 79-802 Filed 1-8-79; 8:45 am]

[4510-28-M]

[TA-W-3140, TA-W-3141, and TA-W-3142]

VALLEY MANUFACTURING CO.

Revised Notice of Determination Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, the Department of Labor issued notices of determination regarding eligibility to apply for adjustment assistance on September 25, 1978, applicable to workers and former workers producing women's dresses and pantsuits at Roanoke, Virginia, TA-W-3140; Buchanan, Virginia, TA-W-3141; and Radford, Virginia TA-W-3142; plants of the Valley Manufacturing Company. The Notices of Determinations were published in the FEDERAL REGISTER on October 13, 1978, (43 FR 47319 through 47321).

Workers producing dresses were denied in the original notices of determinations. At the request of petitioners, a further investigation was made by the Director of the Office of Trade Adjustment Assistance. A review revealed that increased imports of pantsuits, as well as dresses in this case, should have been regarded as like or directly competitive with the women's dresses produced by the Valley Manufacturing Company.

The intent of the certification was to cover all workers at the Roanoke, Virginia; Buchanan, Virginia and Radford, Virginia plants of the Valley Manufacturing Company who were affected by the decline in production related to import competition. The notices of determination, therefore, are revised to include all workers at the Roanoke, Virginia, Buchanan, Virginia, and Radford, Virginia plants of the Valley Manufacturing Company.

The revised notice of determination applicable to TA-W-3140, 3141 and 3142 is hereby issued as follows:

All workers at the Roanoke, Virginia; Buchanan, Virginia and Radford, Virginia plants of the Valley Manufacturing Company, who became totally or partially separated from employment on or after January 27, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 29th day of December 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 79-803 Filed 1-8-79; 8:45 am]

[4510-28-M]

[TA-W-4462]

VICTORIA FASHIONS, INC.

Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4462: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 30, 1978 in response to a worker petition received on November 27, 1978 which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing dresses, blazers, pants and jackets at Victoria Fashions, Inc., Springfield, Massachusetts.

The Notice of Investigation was published in the FEDERAL REGISTER on December 8, 1978 (43 FR 57692-57693). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Victoria Fashions, its manufacturers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

A Department survey of all manufacturers doing business with Victoria Fashions, Incorporated between January 1976 and March 1978 revealed that none of these manufacturers has reduced contract work with the subject firm while increasing imports of ladies' apparel. All of the manufacturers indicated that they did not contract with foreign producers.

CONCLUSION

After careful review, I determine that all workers of Victoria Fashions, Inc., Springfield, Massachusetts are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 3rd day of January 1979.

C. MICHAEL AHO,
Director, Office of Foreign Economic Research.

[FR Doc. 79-804 Filed 1-8-79; 8:45 am]

[4510-28-M]

DEPARTMENT OF LABOR

Office of the Secretary

[International Labor Affairs Order No. 79-1]

WORKER ADJUSTMENT ASSISTANCE

Assignment of Responsibility and Designation of Certifying Officers

1. *Purpose.* To assign responsibility and designate one official as a certifying officer to carry out functions required under the worker adjustment assistance provisions of the Trade Act of 1974 (19 U.S.C. 2101, *et seq.*) and the implementing regulations published in 29 CFR Part 90.

2. *Directive affected.* International Labor Affairs Order No. 77-1 (42 FR 27343) is hereby amended.

3. *Background.* Persons designated as certifying officers are assigned responsibility to make determinations and issue certifications of eligibility to apply for adjustment assistance under section 223 of the Trade Act of 1974, preside at public hearings held under 29 CFR 90.13, issue subpenas under 29 CFR 90.14, issue terminations of certifications of eligibility under 29 CFR 90.17, grant or deny reconsideration and issues revised determinations concerning certifications of eligibility under 29 CFR 90.18, and make findings of fact concerning determinations, pursuant to 90 CFR 90.16 and 90.17

4. *Assignment of responsibility and designation of officials.* The following official of the Bureau of International Labor Affairs is hereby designated as a certifying officer under 29 CFR Part 90:

Harry J. Gilman, Supervisory International Economist, Office of Foreign Economic Research.

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5. *Effective date.* This order is effective January 3, 1979.

HOWARD D. SAMUEL,
Deputy Under Secretary,
International Affairs.

[FR Doc. 79-775 Filed 1-8-79; 8:45 am]

[6830-35-M]

LEGAL SERVICES CORPORATION

GRANTS AND CONTRACTS

JANUARY 3, 1979.

The Legal Service Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355 88 Stat. 378, 42 U.S.C. 2996-2996*l*, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least 30 days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly . . . such grant, contract or project."

The Legal Services Corporation hereby announces publicly that is is considering the grant application submitted by:

Idaho Legal Aid Services, Inc. in Boise, Idaho to serve Madison, Jefferson and Bingham Counties.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Service Corporation at: Legal Services Corporation, Seattle Regional Office, 506 Second Aveune, Seattle, Washington 98104.

THOMAS EHRLICH,
President,
Legal Services Corporation.

[FR Doc. 79-689 Filed 1-8-79; 8:45 am]

[6830-35-M]

GRANTS AND CONTRACTS

JANUARY 3, 1979.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355 88 Stat. 378, 42 U.S.C. 2996-2996*l*, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least 30 days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly . . . such grant, contract or project."

The Legal Services Corporation hereby announces publicly that it is considering the grant applications submitted by: Central Kentucky Legal Services, Inc. in Lexington, Kentucky to serve Harrison, Anderson, Mercer and Boyle Counties. Cumberland Trace Legal Services, Inc. in Bowling Green, Kentucky to serve Hart, Metcalfe and Taylor Counties. Legal Aid Society of Louisville in Louisville, Kentucky to serve Breckinridge, Grayson, Green, Hardin, Larue, Nelson, Shelby, Spencer, Bullitt, Henry and Washington Counties.

Interested persons are hereby invited to submit written comments or recommendations concerning the above applications to the Regional Office of the Legal Services Corporation at: Legal Services Corporation, Atlanta Regional Office, 615 Peachtree Street, N.E., 9th Floor, Atlanta, Georgia 30308.

THOMAS EHRLICH,
President,
Legal Services Corporation.

[FR Doc. 79-690 Filed 1-8-79; 8:45 am]

[6830-35-M]

GRANTS AND CONTRACTS

JANUARY 3, 1979.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355 88 Stat. 378, 42 U.S.C. 2996-2996*l*, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least 30 days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly . . . such grant, contract or project."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

Virginia Legal Aid Society in Lynchburg, Virginia to serve Amherst County.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Service Corporation at: Legal Services Corporation, Northern Virginia Regional Office, 1730 North Lynn Street, Suite 600, Arlington, Virginia 22209.

THOMAS EHRLICH,
President,
Legal Services Corporation.

[FR Doc. 79-691 Filed 1-8-79; 8:45 am]

[7510-01-M]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 79-6]

A.L.W., INC.

Intent To Grant Exclusive Patent License

Notice is hereby given that consideration is being given to the grant to A.L.W., Inc., Los Angeles, California, of a limited, exclusive, revocable license to practice the invention described in U.S. Patent No. 3,972,651 for "Solar-Powered Pump", issued on August 3, 1976, to the Administrator of the National Aeronautics and Space Administration on behalf of the United States of America. The proposed exclusive license will be for a limited number of years and will contain appropriate terms and conditions to be negotiated in accordance with the NASA Patent Licensing Regulations, 14 CFR § 1245.2, as revised April 1, 1972. NASA will negotiate the final terms and conditions and grant the exclusive license unless, within 30 days of this Notice, the Chairperson, Inventions and Contributions Board, NASA, Washington, D.C., 20546, receives in writing any of the following, together with supporting documentation: (i) a statement from any person setting forth reasons why it would not be in the best interest of the United States to grant the proposed exclusive license; or (ii) an application for a nonexclusive license under such invention, in accordance with § 1245.206(b) in which applicant states that applicant has already brought or is likely to bring the invention to practical application within a reasonable period. The Board will review all written responses to the Notice and then recommend to the Administrator whether to grant the exclusive license.

Dated: January 3, 1979.

GERALD J. MOSSINGHOFF,
Acting General Counsel.

[FR Doc. 79-674 Filed 1-8-79; 8:45 am]

[7510-01-M]

[Notice 79-4]

BENDIX CORP.

Intent To Grant Exclusive Patent License

Notice is hereby given that consideration is being given to the grant to The Bendix Corporation, Southfield, Michigan, of a limited, exclusive, revocable license to practice the inventions described in U.S. Patent Nos. 3,869,676 and 3,883,812 for "Diode-Quad Bridge Circuit", issued on March 4, 1975 and May 13, 1975, to the Administrator of the National Aeronautics and Space Administration on behalf of the United States of America. The proposed exclusive license will be for a limited number of years, will be limited to the field of use of "sensing devices for application in instrumentation and controls for vehicles", and will be subject to several existing nonexclusive licenses previously granted for these inventions. The license will contain appropriate terms and conditions to be negotiated in accordance with the NASA Patent Licensing Regulations, 14 CFR § 1245.2, as revised April 1, 1972. NASA will negotiate the final terms and conditions and grant the exclusive license unless, on or before February 8, 1979, the Chairperson, Inventions and Contributions Board, NASA, Washington, D.C., 20546, receives in writing any of the following, together with supporting documentation: (i) a statement from any person setting forth reasons why it would not be in the best interest of the United States to grant the proposed exclusive license; or (ii) an application for a nonexclusive license under such invention, in accordance with § 1245.206(b) in which applicant states that applicant has already brought or is likely to bring the invention to practical application within a reasonable period. The Board will review all written responses to the Notice and then recommend to the Administrator whether to grant the exclusive license.

Dated: January 3, 1979.

GERALD J. MOSSINGHOFF,
Acting General Counsel.

[FR Doc. 79-672 Filed 1-8-79; 8:45 am]

[7510-01-M]

[Notice 79-5]

RICHARD D. CHARNITSKI

Intent To Grant Exclusive Patent License

Notice is hereby given that consideration is being given to the grant to Richard D. Charnitski, Mission Viejo, California, of a limited, exclusive, revocable license to practice the invention described in U.S. Patent No. 3,882,846 for "Insulated Electrocardiographic Electrodes", issued on May 13, 1975, to the Administrator of the National Aeronautics and Space Administration on behalf of the United States of America. The proposed exclusive license will be for a limited number of years and will be limited to the field of use of "Portable Self-Contained Heart Rate Monitors." The license will contain appropriate terms and conditions to be negotiated in accordance with the NASA Patent Licensing Regulations, 14 CFR § 1245.2, as revised April 1, 1972. NASA will negotiate the final terms and conditions and grant the exclusive license unless, on or before February 8, 1979, the Chairperson, Inventions and Contributions Board, NASA, Washington, D.C., 20546, receives in writing any of the following, together with supporting documentation: (i) A statement from any person setting forth reasons why it would not be in the best interest of the United States to grant the proposed exclusive license; or (ii) an application for a nonexclusive license under such invention, in accordance with § 1245.206(b) in which applicant states that applicant has already brought or is likely to bring the invention to practical application within a reasonable period. The Board will review all written responses to the Notice and then recommend to the Administrator whether to grant the exclusive license.

Dated: January 3, 1979.

GERALD J. MOSSINGHOFF,
Acting General Counsel.

[FR Doc. 79-673 Filed 1-8-79; 8:45 am]

[7510-01-M]

[Notice 79-7]

SARTORIUS FILTERS, INC.

Intent To Grant Exclusive Patent License

Notice is hereby given that consideration is being given to the grant to Sartorius Filters, Inc., South San Francisco, California, of a limited, exclusive, revocable license to practice the inventions described in U.S. Patent No. 4,061,561 for "Automatic Multiple-Sample Applicator and Electrophoresis Apparatus", issued on December 6, 1977, to the Administrator of the National Aeronautics and Space Administration (NASA) on behalf of the United States of America and U.S. Patent Application Serial No. 850,507 for "Improvements in Microelectrophoretic Apparatus and Process" filed by NASA on November 10, 1977. The proposed exclusive license will be for a limited number of years and will contain appropriate terms and conditions to be negotiated in accordance with the NASA Patent Licensing Regulations, 14 CFR § 1245.2, as revised April 1, 1972. Copies of the above identified U.S. Patent and patent application can be obtained from the National Aeronautics and Space Administration, Assistant General Counsel for Patent Matters, Mail Code GP-4, Washington, DC, 20546. NASA will negotiate the final terms and conditions and grant the exclusive license unless, within 30 days of this Notice, the NASA Assistant General Counsel for Patent Matters, address above, receives in writing any of the following, together with supporting documentation: (i) a statement from any person setting forth reasons why it would not be in the best interest of the United States to grant the proposed exclusive license; or (ii) an application for a nonexclusive license under such inventions, in accordance with § 1245.206(b) in which applicant states that applicant has already brought or is likely to bring the inventions to practical application within a reasonable period. The NASA Inventions and Contributions Board will review all written responses to the Notice and then recommend to the Administrator whether to grant the exclusive license.

Dated: January 3, 1979.

GERALD J. MOSSINGHOFF,
Acting General Counsel.

[FR Doc. 79-675 Filed 1-8-79; 8:45 am]

[7510-01-M]

[Notice 79-8]

SARTORIUS GmbH

Intent To Grant Foreign Exclusive Patent License

In accordance with the NASA Foreign Licensing Regulations, 14 CFR 1245.405(e), the National Aeronautics and Space Administration announces its intention to grant to the Sartorius GmbH, Gottingen, West Germany, an exclusive patent license in Canada, France, Great Britain, Spain, Switzerland and West Germany for the NASA owned invention covered by the foreign counterparts of U.S. Patent Application Serial No. 850,507 for "Improvements in Microphoretic Apparatus and Process", filed by NASA on November 10, 1977. Copies of the above identified U.S. Patent Application can be obtained from the National Aeronautics and Space Administration, Assistant General Counsel for Patent Matters, Mail Code GP-4, Washington, DC, 20546. Interested parties should submit written inquiries or comments on or before March 12, 1979.

Dated: December 28, 1978.

GERALD J. MOSSINGHOFF,
Acting General Counsel.

[FR Doc. 79-676 Filed 1-8-79; 8:45 am]

[7510-01-MN]

[Notice 79-9]

SURFACE SCIENCE LABORATORIES, INC.

Intent To Grant Exclusive Patent License

Notice is hereby given that consideration is being given to the grant to Surface Science Laboratories, Palo Alto, California, of a limited, exclusive, revocable license to practice the invention described in U.S. Patent No. 3,965,354 for "Resistive Anode Image Converter", issued on June 22, 1976, to the Administrator of the National Aeronautics and Space Administration

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on behalf of the United States of America. The proposed exclusive license will be for a limited number of years, will be in all fields of use "except astronomy and astrophysics." The license will contain appropriate terms and conditions to be negotiated in accordance with the NASA Patent Licensing Regulations, 14 CFR § 1245.2, as revised April 1, 1972. NASA will negotiate the final terms and conditions and grant the exclusive license unless, within 30 days of this Notice, the Chairperson, Inventions and Contributions Board, NASA, Washington, D.C., 20546, receives in writing any of the following, together with supporting documentation: (i) A statement from any person setting forth reasons why it would not be in the best interest of the United States to grant the proposed exclusive license; or (ii) an application for a nonexclusive license under such invention, in accordance with § 1245.206(b) in which applicant states that applicant has already brought or is likely to bring the invention to practical application within a reasonable period. The Board will review all written responses to the Notice and then recommend to the Administrator whether to grant the exclusive license.

Dated: January 3, 1979.

GERALD J. MOSSINGHOFF,
Acting General Counsel.

[FR Doc. 79-677 Filed 1-8-79; 8:45 am]

[7555-01-M]

NATIONAL SCIENCE FOUNDATION

DOE/NSF NUCLEAR SCIENCE ADVISORY COMMITTEE

Amendment to Notice of Meeting

Please amend the announcement of the January 26-27 meeting of the DOE/NSF Nuclear Science Advisory Committee as follows:

From

LOCATION: Conference Room 8E-069, Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C.

To

Room 642, National Science Foundation, 1800 G Street, NW., Washington, D.C.

The notice appeared in FEDERAL REGISTER, Vol. 43, No. 248, (43 FR 60244) Tuesday, December 26, 1978, FR Doc. 78-35842.

M. REBECCA WINKLER,
Committee Management Coordinator.

JANUARY 2, 1979.

[FR Doc. 79-663 Filed 1-8-79; 8:45 am]

[7590-01-M]

NUCLEAR REGULATORY COMMISION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS, SUBCOMMITTEE ON THE SALEM NUCLEAR POWER STATION

Meeting

The ACRS Subcommittee on the Salem Nuclear Power Station will hold a meeting on January 24, 1979, (rescheduled from December 19, 1978) in Room 1046, 1717 H Street, N.W., Washington, DC 20555 to review the application of the Public Service Electric and Gas Company for a permit to operate Unit 2 of this station. Notice of this meeting was published on October 20, November 20, and December 20, 1978 (43 FR 49080, 54147, and 59447, respectively).

In accordance with the procedures outlined in the FEDERAL REGISTER on October 4, 1978, (43 FR 45926), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows:

Wednesday, January 24, 1979, 1:00 p.m. until the conclusion of business

The Subcommittee may meet in Executive Session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting and to formulate a report and recommendations to the full Committee.

At the conclusion of the Executive Session, the Subcommittee will hear presentations by and hold discussions with representatives of the NRC Staff, the Public Service Electric and Gas Company, and their consultants, pertinent to this review. The Subcommittee may then caucus to determine whether the matters identified in the initial session have been adequately covered and whether the project is ready for review by the full Committee.

In addition, it may be necessary for the Subcommittee to hold one or more closed sessions for the purpose of exploring matters involving proprietary information. I have determined, in accordance with Subsection 10(d) of Public Law 92-463, that, should such sessions be required, it is necessary to close these sessions to protect proprietary information (5 U.S.C. 552b(c)(4)).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the Designated Federal Employee for this meeting, Mr. Elpidio G. Igne (telephone 202/634-3314) between 8:15 a.m. and 5:00 p.m., EST.

Background information concerning items to be considered at this meeting can be found in documents on file and available for public inspection at the NRC Public Document Room, 1717 H Street, N.W., Washington, DC 20555 and at the Salem Free Public Library, 112 West Broadway, Salem, NJ 08079.

Dated: January 3, 1979.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc. 79-678 Filed 1-8-79; 8:45 am]

[7590-01-M]

[Docket Nos. 50-3, 50-247 and 50-286]

CONSOLIDATED EDISON CO. OF NEW YORK, INC., AND POWER AUTHORITY OF THE STATE OF NEW YORK

Issuance of Amendments to Operating Licenses and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued to Consolidated Edison Company of New York, Inc. (Con Ed), Amendment No. 21 to Provisional Operating License No. DPR-5 for Indian Point Nuclear Generating Unit No. 1, and Amendment No. 45 to Facility Operating License No. DPR-26 for the Indian Point Nuclear Generating Unit No. 2 and has issued to the Power Authority of the State of New York, Amendment No. 21 to Facility Operating License No. DPR-64 for Indian Point Nuclear Generating Unit No. 3. These amendments revised Technical Specifications for operation of Indian Point Unit Nos. 1, 2 and 3 located in Buchanan, Westchester County, New York. The amendments are effective as of the date of issuance.

These amendments revise the provisions in the Environmental Technical Specifications for environmental sampling stations for drinking water and submission time for the annual radiological and non-radiological reports.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has prepared an environmental impact appraisal for the revised Technical Specifications and has concluded that an environmental impact statement for this particular action is not warranted because there will be no environmental impact attributable to the action other than that which has already been predicted and described in the Commission's Final Environmental Statement for the facility.

For further details with respect to this action, see (1) the applications for amendments transmitted by letters dated July 13, 1977 and March 22, 1978, (2) Amendment No. 21 to License No. DPR-5, (3) Amendment No. 45 to DPR-26, (4) Amendment No. 21 to DPR-64, and (5) the Commission's Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the White Plains Public Library, 100 Martine Avenue, White Plains, New York. A copy of items (2) through (5) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 2nd day of January, 1979.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc. 79-758 Filed 1-8-79; 8:45 am]

[7590-01-M]

[Docket Nos. 50-3, 50-247 and 50-286]

CONSOLIDATED EDISION CO. OF NEW YORK, INC., AND POWER AUTHORITY OF THE STATE OF NEW YORK

Issuance of Amendments to Operating Licenses and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued to Consolidated Edison Company of New York Inc. (Con Ed), Amendment No. 20 to Provisional Operating License No. DPR-5 for Indian Point Nuclear Generating Unit No. 1, and Amendment No. 44 to Facility Operating License No. DPR-26 for the Indian Point Nuclear Generating Unit No. 2 and has issued to the Power Authority of the State of New York, Amendment No. 20 to Facility Operating License No. DPR-64 for Indian Point Nuclear Generating Unit No. 3. These amendments revised Technical Specifications for operation of Indian Point Unit Nos. 1, 2 and 3 located in Buchanan, Westchester County, New York. The amendments are effective as of the date of issuance.

These amendments revise the provisions in the Environmental Technical Specifications dealing with fish impingement to delete specific daily limits and to provide that the limits established by the State of New York in its Section 401 Certification, as they now exist or as they may be amended, will control. The revised Specifications also require reporting to the Commission high annual and monthly impingement levels.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has prepared an environmental impact appraisal for the revised Technical Specifications and has concluded that an environmental impact statement for this particular action is not warranted because there will be no environmental impact attributable to the action other than that which has already been predicted and described in the Commission's Final Environmental Statement for the facility.

For further details with respect to this action, see (1) the applications for amendments transmitted by letters dated April 20, 1977 and December 30, 1977, (2) Amendment No. 20 to License No. DPR-5, (3) Amendment No. 44 to DPR-26, (4) Amendment No. 20 to DPR-64, and (5) the Commission's Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the White Plains Public Library, 100 Martine Avenue, White Plains, New York. A copy of items (2) through (5) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 2nd day of January, 1979.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc. 79-759 Filed 1-8-79; 8:45 am]

[7590-01-M]

[Docket No. 50-341]

DETROIT EDISON CO., ET AL. (ENRICO FERMI ATOMIC POWER PLANT, UNIT 2)

Hearing

On May 28, 1975, the Nuclear Regulatory Commission published in the FEDERAL REGISTER, 40 FR 23122, a notice that the Commission has received an application for a facility operating license from Detroit Edison Company to possess, use and operate the Enrico Fermi Atomic Power Plant, Unit 2, a boiling water reactor located on a site in Frenchtown Township, Monroe County, Michigan. The Notice of Opportunity for Hearing was delayed until September 11, 1978, when the Commission published such notice in the FEDERAL REGISTER, 43 FR 40327, stating that the Commission will consider issuance of an operating license for the facility to the Applicants, Detroit Edison Company, Northern Michigan Electric Cooperative, Inc., and Wolverine Electric Cooperative, Inc. The notice provided that by October 10, 1978, any person whose interest may be affected by the proceeding could file a petition for leave to intervene in accordance with the Commission's Rules of Practice, 10 CFR Part 2, particularly 10 CFR 2.714.

Two petitions for leave to intervene and requests for a hearing in the proceeding were filed. An Atomic Safety and Licensing Board was established to rule upon petitions for leave to intervene. After holding a special prehearing conference pursuant to 10 CFR 2.751a, the Atomic Safety and Licensing Board designated to rule upon petitions issued an order on January 2, 1979, granting the petition for leave to intervene filed by Citizens for Employment and Energy (CEE) and admitting CEE as a party to the proceeding.

Please take notice that a hearing will be conducted in this proceeding. An Atomic Safety and Licensing Board, consisting of the same members who served on the Board designated to rule upon petitions, has been designated to preside over this proceeding. They are Dr. David R. Schink, Frederick J. Shon, and Charles Bechhoefer, who will serve as Chairman of the Board.

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During the course of the proceeding, the Board will hold one or more prehearing conferences pursuant to 10 CFR 2.752. The public is invited to attend any prehearing conferences, as well as the evidentiary hearing. During some or all of these sessions, and in accordance with 10 CFR 2.715(a), any person, not a party to the proceeding, will be permitted to make a limited appearance statement, either orally or in writing, stating his position on the issues. The number of persons making oral statements and the time allowed for each oral statement may be limited depending upon the total time available at various sessions. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section. Written statements supplementing or in lieu of oral statements may be of any length and will be accepted at any session of the proceeding or may be mailed to the Secretary of the Commission.

For further details, see the application for facility operating license and the Applicants' Environmental Report, Operating License Stage, both dated March 31, 1975, and papers filed concerning the requests for a hearing and petitions for leave to intervene, including the Prehearing Conference Order Ruling Upon Intervention Petitions, dated January 2, 1979, all of which are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161. As they become available, the following documents may be inspected at the above locations: (1) the Safety Evaluation Report prepared by the Commission's Office of Nuclear Reactor Regulation; (2) the Draft Environmental Statement; (3) the Final Environmental Statement; (4) the report of the Advisory Committee on Reactor Safeguards (ACRS) on the application for facility operating license; (5) the proposed facility operating license; and (6) the technical specifications, which will be attached to the proposed facility operating license.

The Atomic Safety and Licensing Board designated to rule on petitions for leave to intervene.

Dated at Bethesda, Maryland, this 2d day of January, 1979.

CHARLES BECHHOEFER,
Chairman.

[FR Doc. 79-760 Filed 1-8-79; 8:45 am]

[7590-01-M]

[Docket Nos. 50-369 and 50-370]

DUKE POWER CO. (WILLIAM B. McGUIRE NUCLEAR STATION, UNITS 1 AND 2)

Order Extending Construction Completion Dates

Duke Power Company is the holder of Construction Permit Nos. CPPR-83 and CPPR-84 issued by the Atomic Energy Commission[1] on February 28, 1973, for construction of the William B. McGuire Nuclear Station, Units 1 and 2 presently under construction at the Company's site on the shore of Lake Norman in Mecklenburg County, North Carolina.

In response to previous requests from Duke Power Company (the applicant), the Nuclear Regulatory Commission issued an Order on August 3, 1976 extending the latest date for completion of construction to August 1, 1978 for Unit 1 and August 1, 1979 for Unit 2. By letter dated June 29, 1978, the applicant filed a request for a second extension of the completion dates, and supplemented its request by submitting additional information on November 7, 1978. This extension was requested because construction has been delayed due to, among other things, pipe hanger problems, system changes, and preoperational testing.

This action involves no significant hazards consideration; good cause has been shown for the delay; and the requested extension is for a reasonable period, the bases for which are set forth in a staff evaluation, dated December 26, 1978.

The preparation of an environmental impact statement for this particular action is not warranted because there will be no environmental impact attributable to the action authorized by the Order other than that which has already been predicted and described in the Commission's Final Environmental Statement—Operating License Stage for the McGuire facility, published in April 1976 and the Final Environmental Statement—Construction Permit Stage published in October 1972. A Negative Declaration and an Environmental Impact Appraisal have been prepared and are available, as are the above stated documents, for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 and at the local public document room established for McGuire at the Public Library of Charlotte and Mecklenburg County, 310 North Tryon Street, Charlotte, North Carolina 28202.

[1]Effective January 20, 1975, the Atomic Energy Commission became the Nuclear Regulatory Commission and Permits in effect on that day were continued under the authority of the Nuclear Regulatory Commission.

It is hereby ordered, That the latest completion dates are extended for CPPR-83 from August 1, 1978 to April 30, 1979 and for CPPR-84 from August 1, 1979 to December 31, 1980.

Date of Issuance: December 26, 1978.

For the Nuclear Regulatory Commission.

ROGER S. BOYD,
Director, Division of Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 79-761 Filed 1-8-79; 8:45 am]

[7590-01-M]

[Docket Nos. 50-369 and 50-370]

DUKE POWER CO. (McGUIRE NUCLEAR STATION, UNITS 1 AND 2)

Negative Declaration; Supporting Extension of Construction Permit Nos. CPPR-83 and CPPR-84; Expiration Dates

The U.S. Nuclear Regulatory Commission (the Commission) has reviewed Duke Power Company's (permittee) request to extend the expiration date of the construction permit for the McGuire Nuclear Station, Units 1 and 2 (CPPR-83 and CPPR-84) which is located in Mecklenburg County, North Carolina. The permittee requested a nine month extension for the Unit 1 permit to April 30, 1979, and a seventeen month extension for the Unit 2 permit to December 21, 1980, to allow for completion of construction of the McGuire plant.

The Commission's Division of Site Safety and Environmental Analysis has prepared an environmental impact appraisal relative to this change to CPPR-83 and CPPR-84. Based on this appraisal, the Commission has concluded that an environmental impact statement for this particular action is not warranted because there will be no environmental impact attributable to the proposed action other than that which has already been described in the Commission's Final Environmental Statement related to construction of McGuire Nuclear Station, Units 1 and 2, and the Commission's Final Environmental Statement related to operation of McGuire Nuclear Station, Units 1 and 2.

The environmental impact appraisal is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Public Library of Charlotte and Mecklenburg County, 310 North Tryon Street, Charlotte, North Carolina.

Dated at Bethesda, Maryland, this 26th day of December 1978.

For the Nuclear Regulatory Commission.

WM. H. REGAN, JR.,
Chief, Environmental Projects, Branch 2, Division of Site Safety and Environmental Analysis.

[FR Doc. 79-762 Filed 1-8-79; 8:45 am]

[7590-01-M]

[Docket Nos. 50-466 and 50-467]

HOUSTON LIGHTING & POWER CO. (ALLENS CREEK NUCLEAR GENERATING STATION, UNITS 1 AND 2)

Reconstitution of Board

Mr. Glenn O. Bright was a member of the Atomic Safety and Licensing Board for the above proceeding. Because of a schedule conflict Mr. Bright is unable to continue his service on this board.

Accordingly, Mr. Gustave A. Linenberger, whose address is Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, is appointed a member of this Board. Reconstitution of the Board in this manner is in accordance with Section 2.721 of the Commission's Rules of Practice, as amended.

Dated at Bethesda, Maryland this 3rd day of January 1979.

ROBERT M. LAZO,
Acting Chairman, Atomic Safety and Licensing Board Panel.

[FR Doc. 79-763 Filed 1-8-79; 8:45 am]

[7590-01-M]

[Docket No. 50-289]

METROPOLITAN EDISON CO., ET AL.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 47 to Facility Operating License No. DPR-50, issued to Metropolitan Edison Company, Jersey Central Power and Light Company and Pennsylvania Electric Company (the licensees), which revised Technical Specifications for operation of the Three Mile Island Nuclear Station, Unit No. 1 (the facility) located in Dauphin County, Pennsylvania. The amendment is effective as of its date of issuance.

This amendment revised the Technical Specifications to add surveillance requirements for steam generator tubes.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR §51.5(d)(4) and environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the Commission's letters to the licensee dated October 17, 1974, September 14, 1976, December 14, 1976, and January 27, 1978, (2) the licensee's letter to the Commission dated November 29, 1974, the licensee's application for amendment dated November 12, 1976, as revised January 7, 1977, and supplemented by letter dated July 14, 1978, (3) Amendment No. 47 to License No. DPR-50, and (4) the Commission's related Safety Evaluation issued June 27, 1978, as supplemented December 22, 1978.

All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Government Publications Section, State Library of Pennsylvania, Box 1601 (Education Building), Harrisburg, Pennsylvania. A copy of items (1), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, division of Operating Reactors.

Dated at Bethesda, Maryland this 22nd day of December 1978.

For the Nuclear Regulatory Commission.

MORTON B. FAIRTILE,
Acting Chief, Operating Reactors Branch #4, Division of Operating Reactors.

[FR Doc 79-764 Filed 1-8-79; 8:45 am]

[7590-01-M]

[Docket No. 50-339]

VIRGINIA ELECTRIC & POWER CO. (NORTH ANNA POWER STATION UNIT 2)

Negative Declaration Regarding Extension of Construction Permit No. CPPR-78

The U.S. Nuclear Regulatory Commission (the Commission) has reviewed a request from Virginia Electric and Power Company for a 13-month extension of the construction permit for North Anna Power Station Unit 2, located in Louisa County, Virginia. The extension would permit revision of the construction completion date to December 1, 1979.

The Commission's Division of Site Safety and Environmental Analysis has prepared an environmental impact appraisal relative to the proposed extension. Based on the appraisal, the Commission has concluded that an environmental impact statement for this particular action is not warranted because there will be no significant environmental impact other than those which have been described in the Commission's Final Environmental Statement for North Anna Power Station, Unit Nos. 1, 2, 3, and 4, published in April 1973 and the Addendum to Final Environmental Statement published in November 1976, or evaluated in the environmental impact appraisal.

The environmental impact appraisal is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Board of Supervisors, Louisa County Courthouse, Louisa, Virginia 23093 and Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901. A copy may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Site Safety and Environmental Analysis.

Dated at Bethesda, Maryland, this 29th day of December, 1978.

For the Nuclear Regulatory Commission.

JAN A. NORRIS,
Acting Chief, Environmental Projects Branch 2, Division of Site Safety and Environmental Analysis.

[FR Doc. 79-766 Filed 1-8-79; 8:45 am]

[7590-01-M]

[Docket No. 50-339]

VIRGINIA ELECTRIC & AND (POWER CO. NORTH ANNA POWER STATION, UNIT NO. 2)

Order Extending Construction Completion Date

Viriginia Electric and Power Company is the holder of Construction Permit No. CPPR-78 issued by the Atomic Energy Commission* on February 19, 1971, for construction of the North Anna Power Station, Unit No. 2, presently under construction at the Company's site in Louisa County, Virginia.

*Effective January 20, 1975, the Atomic Energy Commission became the Nuclear Regulatory Commission and permits in effect on that day continued under the authority of the Nuclear Regulatory Commission.

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On September 26, 1978, the applicant filed a request for an extension of the construction completion date for Unit No. 2. Construction has been delayed due to:

(1) Testing of the low head safety injection and recirculation spray pumps;

(2) Emphasis placed on completion of Unit No. 1 of the North Anna Power Station for operation and transfer of materials to that unit;

(3) Revised schedule for completion of the Reactor Coolant System, thus delaying construction completion of Unit No. 2;

(4) Delay of completion of hanger design and final stress analysis for all Category 1 piping systems; and

(5) The Loan of North Anna Unit 2 reactor coolant pump motor to the Surry Power Station.

This action involves no significant hazards consideration; good cause has been shown for the delay; and the requested extension is for a reasonable period, the bases for which are set forth in the staff evaluation dated December 29, 1978. The preparation of an environmental impact statement for this particular action is not warranted because there will be no significant environmental impact attributable to the Order other than which has alrady been predicated and described in the Commission's Final Environmental Statement for the North Anna Power Station, Units 1 and 2, published in April 1973, and addendum thereto published in November 1976. A Negative Declaration and an Environmental Impact Appraisal have been prepared and are available, as are the above stated documents for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and at the local public document rooms established for the North Anna Power Station facility in the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901 and in the Office of the Board of Supervisors, Louisa County Courthouse, Main Street, Louisa, Virginia 23093.

It is hereby ordered, That the latest completion date for CPPR-78 be extended from November 1, 1978 to December 1, 1979.

Date of issuance: December 29, 1978.

For the Nuclear Regulatory Commission.

ROGER S. BOYD,
Director, Division of Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 79-765 Filed 1-8-79; 8:45 am]

[3110-01-M]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on January 2, 1979 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes

The name of the agency sponsoring the proposed collection of information;

The title of each request received;

The agency form number(s), if applicable;

The frequency with which the information is proposed to be collected;

An indication of who will be the respondents to the proposed collection;

The estimated number of responses;

The estimated burden in reporting hours; and

The name of the reviewer or reviewing division or office.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503. (202-395-4529), or from the reviewer listed.

NEW FORMS

DEPARTMENT OF ENERGY

Solar Energy Use: Nonresidential Buildings
EIA-C700 (SE)
Monthly
Owners of new bldg. projects using solar energy
150 responses; 75 hours
Off. of Federal Statistical Policy & Standard, 673-7956

RAILROAD RETIREMENT BOARD

Project REAP—Supplementary Information
T-10
Single-time
Unemployment benefit claimants
15,000 responses; 750 hours
Reese, B. F., 395-3211

DEPARTMENT OF COMMERCE

Economic Development Administration
Profile for Water and Sewer Assistance and Public Works Supplement to the Farmer's Home Administration
Application
ED-1105T & 1106T
On occasion
State and local governments
145 responses; 1,410 hours
Budget Review Division, 395-4773

REVISIONS

DEPARTMENT OF ENERGY

Coke and Coal Chemical Materials (Monthly Survey)
EIA-5
Monthly
Producers of coke & coal-chemical materials
768 responses, 768 hours
Hill, Jefferson B., 395-5867

Coke and Coal Chemical Materials Annual Survey
EIA-5A
Annually
Producers of coke and coal chemical materials
64 responses; 64 hours
Hill, Jefferson B., 395-5867

EXTENSIONS

DEPARTMENT OF DEFENSE

Department of the Navy
Contractor Employee Report
Monthly
Contractors
1,200 responses; 2,400 hours
Caywood, D. P. 395-6140

DEPARTMENT OF DEFENSE

Department of the Navy
First Article Inspection
Annually
Contractors
100 responses; 200 hours
Caywood, D. P., 395-6140.

DAVID R. LEUTHOLD,
Budget and Management Officer.

[FR Doc. 79-730 Filed 1-8-79; 8:45 am]

[8010-01-M]

SECURITIES AND EXCHANGE COMMISSION

NEW ENGLAND NUCLEAR CORP.

Application To Withdraw From Listing and Registration

JANUARY 2, 1979.

In the matter of New England Nuclear Corporation (Common Stock, Par Value $1.00), File No. 1-7281.

The above named issuer has filed an application with the Securities and Exchange Commission, pursuant to Section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the AMERICAN STOCK EXCHANGE, INC. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

The common stock of New England Nuclear Corporation (the "Company") has been listed for trading on the Amex since October 10, 1967. On September 9, 1978, the stock was also listed for trading on the New York Stock Exchange, Inc. ("NYSE") and concurrently therewith, such stock was suspended from trading on the Amex. In making the decision to withdraw its common stock from listing on the Amex, the Company considered the direct and indirect costs and expenses attendant on maintaining a dual listing on both exchanges. The company does not see any particular advantage in the dual trading of its stock and believes that dual listing would fragment the market for such stock.

The application relates solely to the withdrawal from listing and registration on the Amex and shall have no effect upon the continued listing of such common stock on the NYSE. The Amex has posed no objection in this matter.

Any interested person may, on or before January 31, 1979, submit by letter to the Secretary of the Securities and Exchange Commission, for the protection of investors. The Commission will, on the basis of the application and any other information submitted to it, issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-751 Filed 1-8-79; 8:45 am]

[4710-02-M]

DEPARTMENT OF STATE

Agency for International Development

[Redelegation of Authority No. 99.1.22, Amdt. No. 3]

AID REPRESENTATIVE, KOREA

Redelegation of Authority Regarding Contracting Functions

Pursuant to the authority delegated to me under Redelegation of Authority No. 99.1 (38 FR 12836) from the Assistant Administrator for Program and Management Services of the Agency for International Development, I hereby further amend Redelegation of Authority No. 99.1.22 dated September 21, 1973 (38 FR 27849), as amended on November 28, 1973 (38 FR 32825) and on June 1, 1976, as follows:

1. The first paragraph is hereby amended to reflect the following changes:

a. The last two words in the first paragraph are deleted, i.e. "and approve:".

b. Subhead 1 is revised to read as follows:

"1. U.S. Government contracts, grants (other than grants to foreign Governments or Agencies thereof), and amendments thereto provided that the aggregate amount of each individual contract or grant does not exceed $50,000 or local currency equivalent."

c. Subhead 2 is revised to read as follows:

"2. Contracts with individuals for the services of the individual alone provided that the aggregate amount of each individual contract does not exceed $100,000 or local currency equivalent."

2. The third paragraph is revised to read as follows: "The authority delegated herein is to be exercised in accordance with regulations, procedures, and policies established or modified and promulgated within AID and is not in derogation of the authority of the Director of the Office of Contract Management to exercise any of the functions herein redelegated."

Except as provided herein, the Redelegation of Authority remains unchanged and continues in full force and effect.

This amendment is effective on the date of signature.

Dated: December 18, 1978.

HUGH L. DWELLEY,
Director,
Office of Contract Management.

[FR Doc. 79-737 Filed 1-8-79; 8:45 am]

[4710-02-M]

[Redelegation of Authority No. 99.1.97]

ARTHUR BJORLYKKE

Delegation of Contracting Officer Authority

Pursuant to the authority delegated to me as Director, Office of Contract Management, under Redelegation of Authority No. 99.1 (38 FR 12836) from the Assistant Administrator for Program and Management Services, I hereby redelegate to Mr. Arthur Bjorlykke the authority to sign the following instruments, up to an amount of $500,000 (or local currency equivalent) *per transaction:*

(1) U.S. Government contracts (including contracts with individuals for services of the individual alone);

(2) U.S. Government grants, other than grants to foreign governments or agencies thereof;

(3) Inter-agency service agreements (IASAs) between A.I.D. and other U.S. Government agencies; and

(4) Modifications to the instruments specified above.

The authority delegated herein is to be exercised in accordance with A.I.D. regulations, procedures, and policies in effect at the time the authority is exercised and is not in derogation of the authority of the Director, Office of Contract Management, to exercise any of the functions herein redelegated.

The authorities herein delegated may be redelegated at your discretion, not to exceed $300,000, only to the Assistant Area Contracting Officer. The authority so delegated may not be further redelegated.

This redelegation of authority shall be effective on the date of signature.

Dated: December 21, 1978.

HUGH L. DWELLEY,
Director,
Office of Contract Management.

[FR Doc. 79-743 Filed 1-8-79; 8:45 am]

[4710-02-M]

[Redelegation of Authority No. 99.1.15, Amdt. No. 1]

MISSION DIRECTOR, USAID, THAILAND

Redelegation of Authority Regarding Contracting Functions

Pursuant to the authority delegated to me under Redelegation of Authority No. 99.1 (38 FR 12836) from the Assistant Administrator for Program and Management Services of the Agency for International Development, I hereby amend Redelegation of Authority No. 99.1.15 dated September 26, 1973 (38 FR 29238) as follows:

1. The first paragraph is hereby amended to reflect the following changes:

a. The term "USOM" is deleted and "USAID" inserted in lieu thereof.

b. The last two words in the first paragraph are deleted i.e. "or approve:".

c. Subhead 1 is revised to read as follows:

"1. U.S. Government contracts, grants (except grants to foreign governments or agencies thereof), and amendments thereto provided that the aggregate amount of each individual contract or grant does not exceed $100,000 or local currency equivalent."

d. Subhead 2 is revised to read as follows:

"2. Contracts with individuals for the services of the individual alone provided that the aggregate amount of each individual contract does not exceed $100,000 or local currency equivalent."

2. The third paragraph is revised to read as follows:

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"The authority delegated herein is to be exercised in accordance with regulations, procedures, and policies established or modified and promulgated within AID and is not in derogation of the authority of the Director of the Office of Contract Management to exercise any of the functions herein redelegated."

Except as provided herein, the Redelegation of Authority remains unchanged and continues in full force and effect.

This amendment is effective on the date of signature.

Dated: December 18, 1978.

HUGH L. DWELLEY,
Director,
Office of Contract Management.

[FR Doc. 79-736 Filed 1-8-79; 8:45 am]

[4710-02-M]

[Redelegation of Authority No. 99.1.23, Amend. No. 1]

MISSION DIRECTOR, USAID, NEPAL

Redelegation of Authority Regarding Contracting Functions

Pursuant to the authority delegated to me under Redelegation of Authority No. 99.1 (38 FR 12836) from the Assistant Administrator for Program and Management Services of the Agency for International Development, I hereby amend Redelegation of Authority No 99.1.23 dated September 28, 1973 (38 FR 29500) as follows:

1. The first paragraph is hereby amended to reflect the following changes:

a. The first two words in the first paragraph are deleted i.e. "or approve:".

b. Subhead 1 is revised to read as follows:

"1. U.S. Government contracts, grants (other than grants to foreign Governments or Agencies thereof), and amendments thereto provided that the aggregate amount of each individual contract or grant does not exceed $75.000 or local currency equivalent."

c. Subhead 2 is revised to read as follows:

"2. Contracts with individuals for the services of the individual alone provided that the aggregate amount of each individual contract does not exceed $100,000 or local currency equivalent."

2. The third paragraph is revised to read as follows: "The authority delegated herein is to be exercised in accordance with regulations, procedures, and policies established or modified and promulgated within AID and is not in derogation of the authority of the Director of the Office of Contract Management to exercise any of the functions herein redelegated."

Except as provided herein, the Redelegation of Authority remains unchanged and continues in full force and effect.

This amendment is effective on the date of signature.

Dated: December 18, 1978.

HUGH L. DWELLEY,
Director,
Office of Contract Management.

[FR Doc 79-738 Filed 1-8-79; 8:45 am]

[4710-02-M]

[Redelegation of Authority No. 99.1.65, Amdt. No. 2]

MISSION DIRECTOR, USAID, BANGLADESH

Redelegation of Authority Regarding Contracting Functions

Pursuant to the authority delegated to me under Redelegation of Authority No. 99.1 (38 FR 12836) from the assistant Administrator for Program and Management Services of the Agency for International Development, I hereby further amend Redelegation of Authority No. 99.1.65 dated January 2, 1975 (40 FR 2596) as amended on March 3, 1975 (40 FR 12296) as follows:

1. The first paragraph is hereby amended to reflect the following changes:

a. The last two words in the first paragraph are deleted i.e. "or approve:".

b. Subhead 1 is revised to read as follows:

"1. U.S. Governments contracts, grants (other than grants to foreign Governments or Agencies thereof), and amendments thereto provided that the aggregate amount of each individual contract or grant does not exceed $50,000 or local currency equivalent."

c. Subhead 2 is revised to read as follows:

"2. Contracts with individuals for the services of the individual alone provided that the aggregate amount of each individual contract does not exceed $100,000 or local currency equivalent."

d. Subhead 3 is deleted in its entirety.

2. The third paragraph is revised to read as follows:

"The authority delegated herein is to be exercised in accordance with regulations, procedures, and policies established or modified and promulgated within AID and is not in derogation of the authority of the Director of the Office of Contract Management to exercise any of the functions herein redelegated."

Except as provided herein, the Redelegation of Authority remains unchanged and continues in full force and effect.

This amendment is effective on the date of signature.

Dated: December 18, 1978.

HUGH L. DWELLEY,
Director,
Office of Contract Management.

[FR Doc. 79-739 Filed 1-8-79; 8:45 am]

[4710-02-M]

[Redelegation of Authority No. 99.1.73, Amdt. No. 2]

MISSION DIRECTOR, INDIA

Redelegation of Authority Regarding Contracting Functions

Pursuant to the authority delegated to me under Redelegation of Authority No. 99.1 (38 FR 12836) from the Assistant Administrator for Program and Management Services of the Agency for International Development, I hereby further amend Redelegation of Authority No. 99.1.51 dated September 19, 1975 (40 FR 45451) as amended on August 2, 1976 (41 FR 33312) as follows:

1. The first paragraph is hereby amended to reflect the following changes:

a. The last two words in the first paragraph are deleted, i.e., "or approve:".

b. Subhead 1 is revised to read as follows: "1. U.S. Government contracts, grants, (other than grants to foreign governments or agencies thereof), and amendments thereto provided that the aggregate amount of each individual contract or grant does not exceed $100,000 or local currency equivalent."

c. Subhead 2 is revised to read as follows: "2. Contracts with individuals for the services of the individual alone provided that the aggregate amount of each individual contract does not exceed $100,000 or local currency equivalent."

2. The third paragraph is revised to read as follows: "The authority delegated herein is to be exercised in accordance with regulations, procedures, and policies established or modified and promulgated within AID and is not in derogation of the authority of the Director of the Office of Contract Management to exercise any of the functions herein redelegated."

Except as provided herein, the Redelegation of Authority remains unchanged and continues in full force and effect.

This amendment is effective on the date of signature.

Dated: December 18, 1978.

HUGH L. DWELLEY,
Director,
Office of Contract Management.

[FR Doc. 79-740 Filed 1-8-79; 8:45 am]

[4710-02-M]

[Redelegation of Authority No. 99.1.74, Amdt. No. 1]

MISSION DIRECTOR, USAID/PHILIPPINES

Redelegation of Authority Regarding Contracting Functions

Pursuant to the authority delegated to me under Redelegation of Authority No. 99.1 (38 FR 12836) from the Assistant Administrator for Program and Management Services of the Agency for International Development, I hereby amend Redelegation of Authority No. 99.1.74 dated November 6, 1975, as follows:

1. The first paragraph is hereby amended to reflect the following changes:

a. The words "or approve" are deleted.

b. The amount "$500,000" is deleted and the amount "$300,000" substituted in lieu thereof.

c. The last two words in the first paragraph are deleted i.e. *"per transaction."*

d. Subhead (4) concerning AID grant-financed host country contracts is deleted in its entirety.

2. The second paragraph is hereby amended to reflect the following changes:

a. The amount shown under subhead (1) as "$25,000" is hereby deleted and the amount "$50,000" substituted in lieu thereof.

b. The amount shown under subhead (2) as "$25,000" is hereby deleted and the amount "$50,000" is substituted in lieu thereof.

Except as provided herein, the Redelegation of Authority remains unchanged and continues in full force and effect.

This amendment is effective on the date of signature.

Dated: December 18, 1978.

HUGH L. DWELLEY,
Director,
Office of Contract Management.

[FR Doc. 79-741 Filed 1-8-79; 8:45 am]

[4710-02-M]

[Redelegation of Contracting Authority No. 99.1.105]

MISSION DIRECTOR, USAID/INDONESIA

Redelegation of Authority Regarding Contracting Functions

Pursuant to the authority delegated to me as Director, Office of Contract Management, under Redelegation of Authority No. 99.1 (38 FR 12836) from the Assistant Administrator for Program and Management Services, I hereby redelegate to the Mission Director, USAID/Indonesia, the authority to sign the following instruments, up to an amount of $300,000 (or local currency equivalent) per transaction:

(1) U.S. Government contracts (including contracts with individuals for services of the individual alone);

(2) U.S. Government grants, other than grants to foreign governments or agencies thereof;

(3) Inter-agency service agreements (IASAs) between AID and other U.S. Government agencies; and

(4) Amendments to the instruments specified above.

The authorities herein delegated may be redelegated in writing, in whole or in part, by said Mission Director as follows:

(1) Authority up to $50,000 may be redelegated at the Mission Director's discretion;

(2) Authority over $50,000 may be redelegated with the prior concurrence of the Director, Office of Contract Management (except that such prior concurrence is not required in the case of a redelegation to the Mission Director's principal deputy).

Such redelegations shall remain in effect until revoked by the Mission Director, or upon advice from the Director, Office of Contract Management that his concurrence in a redelegation is withdrawn, whichever shall first occur. The authority so delegated by the Mission Director may not be further redelegated.

The authority delegated herein is to be exercised in accordance with regulations, procedures, and policies established or modified and promulgated within AID and is not in derogation of the authority of the Director, Office of Contract Management, to exercise any of the functions herein redelegated.

The authority herein delegated to the Mission Director may be exercised by duly authorized persons who are performing the functions of the Mission Director in an acting capacity.

Redelegation of Authority 99.1.21 (38 FR 27849) dated September 21, 1973, is hereby revoked.

Any official actions taken prior to the effective date hereof by officers duly authorized pursuant to delegations revoked hereunder are hereby continued in effect, according to their terms until modified, revoked, or superseded by action of the officer to whom I have delegated relevant authority in this delegation.

Actions within the scope of this delegation and any redelegations hereunder heretofore taken by the officials designated in such delegation or redelegations are hereby ratified and confirmed.

This redelegation of authority is effective on the date of signature.

Dated: December 18, 1978.

HUGH L. DWELLEY,
Director,
Office of Contract Management.

[FR Doc. 79-742 Filed 1-8-79; 8:45 am]

[4710-02-M]

DEPARTMENT OF STATE

Agency for International Development

[Redelegation of Authority No. 99.1.106]

REGIONAL DEVELOPMENT OFFICER, SUVA, FIJI

Redelegation of Authority Regarding Operational Program Grants

Pursuant to the authority delegated to me under Redelegation of Authority No. 99.1 (38 FR 12836), as amended, from the Assistant Administrator for Program and Management Services, I hereby redelegate to the Regional Development Officer, Suva, Fiji, authority to execute Operational Program Grants (OPG's) as defined in Appendix 7A, Chapter 7, of AID Handbook 3, *Project Assistance,* on the following basis:

(1) Such OPG's shall not exceed $500,000 for the life of the project;

(2) Each OPG shall constitute assistance;

(3) The post must be advised by AID/W, prior to signing the OPG, that Congress has been notified and funds have been allotted; and

(4) Each OPG may be signed only after concurrence from the Area Contracting Officer.

This redelegation of authority is issued to supplement Redelegation of Authority No. 99.1.95.

The authority herein delegated may not be redelegated.

This redelegation of authority is effective immediately.

Dated: December 18, 1978.

HUGH L. DWELLEY,
Director,
Office of Contract Management.

[FR Doc. 79-735 Filed 1-8-79; 8:45 am]

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[4910-22-M]

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[FHWA Docket No. 78-38]

SOLICITATION OF PROBLEM STATEMENTS FOR HIGHWAY SAFETY RESEARCH AND DEVELOPMENT

Issuance of Internal Document

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of issuance of internal document.

SUMMARY: In order to be responsive to the needs of the highway community, the Federal Highway Administration (FHWA) hereby solicits problem statements for the entire FHWA safety research and development program for fiscal years 1981 and 1982.

DATE: Comments must be received on or before February 16, 1979.

ADDRESS: Submit comments (original and 2 copies) to FHWA Docket No. 78-38, Room 4205, HCC-10, Federal Highway Administration, United States Department of Transportation, 400 7th Street, SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Mr. Harry Taylor, Office of Highway Safety (202/426-2131); or Mrs. Kathleen S. Markman, Office of the Chief Counsel (202/426-0346), Federal Highway Administration, Department of Transportation, Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. E.T., Monday through Friday.

Issued on: December 26, 1978.

L. P. LAMM,
Executive Director.

[FHWA Notice 7580.8]

SOLICITATION OF PROBLEM STATEMENTS FOR HIGHWAY SAFETY RESEARCH AND DEVELOPMENT

1. *Purpose.* To solicit problem statements for highway safety research and development for Fiscal Years 1981 and 1982.

2. *Background.*

a. Section 403 of Title 23, United States Code authorizes funds to conduct research and development related to the Highway Safety Standards for which FHWA is responsible, as well as other safety-related activities such as training for highway safety personnel. In the past 5 years, appropriations under this legislation have varied between $7 and $9 million per year. The Offices of Research and Development established Category 1 of the Federally Coordinated Program (FCP), "Improved Highway Design and Operation for Safety," as a framework for conducting research and development. Objectives for the Category 1 program have been cooperatively developed with the Office of Highway Safety and other FHWA offices. The current content of the Category 1 program has been cooperatively developed with the Office of Highway Safety and other FHWA offices. The current content of the Category 1 program is reflected in the FCP documentation which has been distributed to all FHWA offices, State highway agencies, and Governor's Highway Safety Representatives (GHSR).

b. To be responsive to the needs of the highway community, the Office of Highway Safety is soliciting problem statements for the entire FHWA safety research and development program.

c. Requests for problem statements are being made biennially. This solicitation is also intended to expand and improve on the previous annual solicitations for Project 1A, "Traffic Engineering Improvements for Safety." Project 1A is still under way and its purpose, which remains the same, is "to conduct research and development to improve traffic engineering techniques and procedures which may be implemented on a widescale basis to increase the safety and efficiency of highway operations." Therefore, the request for problem statements is intended to serve a twofold purpose:

(1) To solicit problem statements for all Category 1 research and development for Fiscal Years 1981 and 1982, and

(2) To further solicit specific problem statements for selection under Project 1A for Fiscal Years 1980 and 1981. (Because Project 1A is designed to meet immediate needs, its lead time is a year less.) Under Project 1A, problem statements will be selected for study which are related to improving traffic control devices and traffic engineering techniques which will serve immediate needs, and which have a high potential for implementation.

See Attachment 1 for the list of completed Project 1A reports.

d. Attachment 2 indicates procedures to be followed in submitting problem statements.

3. *Action.*

a. Additional copies of this Notice will be furnished to FHWA division offices (60 copies) to permit distribution to GHSR's and State highway agencies, and through these offices as appropriate to local jurisdictions.

b. State highway agencies, GHSR's local jurisdictions, Washington Headquarters, region and division offices, and other Federal agencies which have a responsibility for highways are urged to submit problem statements.

c. The GHSR's and/or State highway agencies are asked to distribute this Notice to local jurisdictions by January 10 or the week after receipt, and to assist them in submitting appropriate problem statements.

d. The FHWA Division Administrators are requested to coordinate the solicitations wth GHSR's and State highway agencies. The deadline for submitting statements to be considered for incorporation into the Fiscal Years 1981 and 1982 program is February 16, 1979.

ATTACHMENT 2—ADMINISTRATIVE PROCEDURES FOR THE OFFICE OF HIGHWAY SAFETY SOLICITATION OF PROBLEM STATEMENTS

I. PURPOSE

This establishes administrative procedures relating to the Office of Highway Safety's solicitation for highway safety research and development.

II. BACKGROUND

The Office of Highway Safety is initiating this solicitation to obtain assistance and guidance in the identification of critical subjects for long range and immediate highway safety research and the establishment of priorities for refinement of existing research.

III. ADMINISTRATIVE PROCEDURES

Problem statements for candidate research and development efforts for FY's 1981-82 are solicited from those agencies which have a direct responsibility for developing programs for highway and street facilities. Such agencies are

1. Office of the Governor's Representative for Highway Safety,
2. The State highway or transportation agencies,
3. Local political subdivisions;
4. FHWA program offices;
5. FHWA field offices; and
6. Offices of other Federal agencies having responsibility for highways.

A summary of the tentative organization of the highway research and development program for FY 1981 is attached for information purposes (Appendix A[1]). Problem statements are welcomed in the listed subject areas or in any other areas of highway safety. To obtain additional information about the Federally Coordinated Program for Research and Development in Highway Transportation (FCP), please contact the State Highway agency or the FHWA division office for access to the detailed documentation of the current projects or of the 1977 Annual Report; contact the GHSR for access to the Annual Report. The intent of this Notice is to identify highway safety problems, not encourage submission of unsolicited proposals for research. Problem statements should be solicited by FHWA field offices through normal channels from State highway or transportation agencies or GHSR. It is believed that the highway safety program corrdinators in the regions and divisions should coordinate this solicitation process. The GHSR and/or the State highway agencies should solicit problem statements from the local political subdivisions. Problem statements submitted by local political subdivisions, through their respective State offices, should then be furnished to the FHWA divisions offices, who in turn will forward them through normal channels to the Director, Office of Highway Safety (HHS-1). The problem statements must be submitted to the Director by February 16, 1979, for consideration in formulation of the FY 1981 program.

The form used for submitting problem statements should consist of a one or two page description (see Appendix B[1]) containing the following information:

1. Problem title,
2. Problem summary (concise statement of problems or needs),
3. Objectives (expected accomplishments at conclusion of study or studies),
4. Submitter (name of submitting organization—individual to represent submitter for further contact if needed),
5. Date of submission, and
6. Project designation (if appropriate).

ATTACHMENT 1—COMPLETED PROJECT 1A RESEARCH

1. Efficacy of Red And Yellow Turn Arrows in Traffic Signals—November 1975.
2. Right-Turn-On-Red, Vol. 1—Final Technical Report and—Vol. II—Executive Summary—May 1976.
3. Guidelines for Flashing Traffic Control Devices—July 1976.
4. Traffic Controls for Construction and Maintenance Worksites—Research Report—October 1976—Office and Field Functions—May 1977.
5. Safety Aspects of the National 55 M.P.H. Speed Limit—November 1976.
6. Traffic Engineering Services for Small Political Jurisdictions—January 1977.
7. Signs and Marketings for Low Volume Rural Roads—May 1977.
8. Development of Procedures for Identifying Hazardous Locations.
9. Vehicle Detector Placement for High Speed, Isolated Traffic Actuated Intersection Control.
10. Design and Operation Speed for Construction Zones.
11. Motorists Requirement for Active Grade Crossing Warning Devices.

The following studies were completed, but the final reports have not yet been published:

12. Evaluation of Speed Control Devices for School Zones and Small Towns.
13. Intersection Signal Control to Improve Traffic Operations and Reduce Accidents.
14. Safety Aspects of Vehicle Parking.
15. Safety Features of Stop Signs at Rail-Highway Grade Crossings.
16. Safety Evaluation to Priority Techniques for High Occupancy Vehicles.
17. Passing and No Passing Zones—Signs, Markings, Laws, and Warrants.
18. Safety Aspects of Traffic Signal Control on Arterial System.

[FR Doc. 79-773 Filed 1-8-79; 8:45 am]

[1] Available for inspection and copying as prescribed in 49 CFR 7, App. D.

[4810-22-M]

DEPARTMENT OF THE TREASURY

Office of the Secretary

CARBON STEEL PLATE FROM BELGIUM, FRANCE, THE FEDERAL REPUBLIC OF GERMANY, ITALY, AND THE UNITED KINGDOM

AGENCY: U.S. Treasury Department.

ACTION: Initiation of Antidumping Investigations.

SUMMARY: This notice is to advise the public that a petition in proper form has been received and antidumping investigations are being initiated for the purpose of determining whether imports of carbon steel plate from Belgium, France, the Federal Republic of Germany, Italy, and the United Kingdom are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act of 1921, as amended. Sales at less than fair value generally occur when the prices of the merchandise sold for exportation to the United States are less than the prices in the home market.

EFFECTIVE DATE: January 9, 1979.

FOR FURTHER INFORMATION CONTACT:

John R. Kugelman, Operations Officer, U.S. Customs Service, Office of Operations, Duty Assessment Division, Technical Branch, 1301 Constitution Avenue, N.W., Washington, D.C. 20220 (202) 455-5492.

SUPPLEMENTARY INFORMATION: On December 26, 1978, information was received in proper form pursuant to sections 153.26 and 153.27, Customs Regulations (19 CFE 153.26, 153.27), from counsel on behalf of Lukens Steel Company indicating the possibility that carbon steel plate from Belgium, France, The Federal Republic of Germany (FRG), Italy, and the United Kingdom is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act of 1921, as amended (19 U.S.C. 160 *et seq.*).

The carbon steel plate under consideration is provided for in item number 608.8415 of the Tariff Schedules of the United States Annotated (TSUSA).

Margins of dumping are alleged which, if based on a comparison with prices in the home markets, are approximately 13.0 percent for Belgium, 10.0 percent for France, 6 percent for the FRG, 20.0 percent for Italy and 18.0 percent for the United Kingdom. These margins have been computed using "guidance prices" as of July 1, 1978, established under the "Davignon Plan" of the European Community as home market prices. To the extent the investigation to be undertaken reveals that actual sales prices in the home markets have been at other than such established prices, the margins, if any, will be computed on the basis of such actual transactions.

There is evidence on record concerning injury or likelihood of injury to the U.S. carbon steel plate industry from the alleged less than fair value imports. Although domestic shipments increased in 1977 compared to 1976 and in the first 8 months of 1978 compared to the same period in 1977, total imports, and particularly imports from the countries covered by this petition, have increased even more sharply. The market share of all carbon steel plate imports was 18.8 percent in 1976; by July 1978, plate imports accounted for 22 percent. Data available to the Treasury Department indicates that this trend has continued with total carbon steel plate imports accounting for 26 percent of domestic consumption and imports from these five European countries accounting for 55 percent of total imports by October 1978. These five countries increased their share of total carbon steel plate imports from 17 percent in 1976 to 45 percent in the first 7 months of 1978. During the same time frame, the share of imports held by imports of carbon steel plate from Japan, already subject to a "Finding of Dumping" (43 FR 22937) has declined from 52 percent to 7 percent.

In addition to the information regarding increased import penetration by the allegedly "less than fair value" imports, evidence has been submitted showing declining employment by the petitioner and carbon steel plate sector, lost sales by the petitioner as a result of the allegedly dumped imports and significant underselling of the U.S. prices by imports from these countries.

In assessing the injury caused by the alleged sales at less than fair value from these five countries of the European Community, it has been consid-

ered appropriate to cumulate the shares of the market held by imports from each of the countries named. The product is fungible. Under such circumstances, it would be unrealistic to attempt to differentiate the alleged injury caused by imports from one country rather than another when it is the cumulative effect of all, occurring within a discrete time frame, that creates the problem.

Having conducted a summary investigation as required by § 153.29 of the Customs Regulations (19 CFR 153.29) and having determined as a result thereof that there are grounds for so doing, the United States Customs Service is instituting inquiries to verify the information submitted and to obtain the facts necessary to enable the Secretary of the Treasury to reach a determination as to the fact or likelihood of sales at less than fair value.

This notice is published pursuant to § 153.30 of the Customs Regulations (19 CFR 153.30).

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

DECEMBER 28, 1978.

[FR Doc 79-731 Filed 1-8-79; 8:45 am]

[6820-32-M]

U.S. ARMS CONTROL AND DISARMAMENT AGENCY

RENEWAL OF THE GENERAL ADVISORY COMMITTEE

Notice is hereby given in accordance with paragraph 7(a) of Office of Management and Budget Circular No. A-63 (Rev'd, March 27, 1974), as amended by Transmittal Memorandum No. 1 (July 19, 1974), that the General Advisory Committee had been renewed effective January 5, 1979.

Dated: January 2, 1979.

GEORGE M. SEIGNIOUS II,
Director, U.S. Arms Control and Disarmament Agency.

[FR Doc. 79-670 Filed 1-8-79; 8:45 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

[Notice No. 2]

ASSIGNMENT OF HEARINGS

JANUARY 4, 1979.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 95540 (Sub-1038F), Watkins Motor Lines, Inc., now being assigned for hearing on February 6, 1979, (2 days), at New York, New York, in a hearing room to be later designated.

MC 124896 (Sub-61F), Williamson Truck Lines, Inc., now being assigned for hearing February 22, 1979, (1 day), at Kansas City, Missouri in a hearing room to be later designated.

MC 116254 (Sub-21OF), Chem-Haulers, Inc., now being assigned for hearing on February 23, 1979, (1 day), at Kansas, City, Missouri in a hearing room to be later designated.

MC 98952 (Sub-54F), General Transfer Company, now being assigned for hearing on February 28, 1979, (3 days), at Chicago, Illinois in a hearing room to be later designated.

MC 69833 (Sub-131F), Associated Truck Lines, Inc., now being assigned for hearing on March 13, 1979, (9 days), at Columbus, Ohio in a hearing room to be later designated.

MC 144843 (Sub-1F), W. R. GRACE & CO. DBA Grace Distribution Service, now assigned January 15, 1979, at New York, New York is cancelled transferred to Modified Procedure.

MC 141532 (Sub-17), Pacific States Transport, Inc., now assigned January 17, 1979, at Los Angeles, California is cancelled transferred to Modified Procedure.

MC 5227 (Sub-40F), Eckley Trucking, Inc., now being assigned for hearing on March 13, 1979, (1 day), at Portland, Oregon, in a hearing room to be later designated.

MC 9325 (Sub-75F), K Lines, Inc., now being assigned for hearing on March 14, 1979, (1 day), at Portland, Oregon in a hearing room to be later designated.

MC-F 13629, Shoemaker Trucking Company—Purchase (Portion)—Herrett Trucking Co., Inc., now being assigned for hearing on March 15, 1979, (2 days), at Portland, Oregon in a hearing room to be later designated.

MC 141532 (Sub-29F), Pacific States Transport, Inc., MC 141532 (Sub-30F), Pacific States Transport, Inc., now being assigned for hearing on March 19, 1979, (5 days), at Portland, Oregon in a hearing room to be later designated.

MC 119654 (Sub-57F), Hi-Way Dispatch, Inc., now being assigned for hearing on March 20, 1979, (1 day), at Chicago, Illinois in a hearing room to be later designated.

MC 117940 (Sub-285F), Nationwide Carriers, Inc., now being assigned for hearing on March 26, 1979, (5 days), at St. Paul, Minnesota in a hearing room to be later designated.

MC 125433 (Sub-160F), F-B Truek Line Company, now being assigned for hearing on March 12, 1979, (5 days), at San Francisco, California in a hearing room to be later designated.

MC 119988 (Sub-153F), Great Western Trucking, now being assigned for hearing on March 19, 1979, (1 day), at San Francisco, California in a hearing room to be later designated.

MC 107227 (Sub-134F), Insured Transporters, Inc., now being assigned for hearing on March 20, 1979, (2 days), at San Francisco, California in a hearing room to be later designated.

MC 143546, Atlantic Marketing Cooperative Association, now being assigned for hearing on March 22, 1979, (2 days), at Fresno, California in a hearing room to be later designated.

MC 42846 (Sub-6F), Debolt-Somerset Bus Company, now being assigned for hearing on March 12, 1979, (5 days), at Greenburg, Pa., in a hearing room to be later designated.

MC 144452 (Sub-2F), Arlen Lindquist DBA Arlen E. Lindquist Trucking, now assigned for hearing on February 14, 1979, at St. Paul, Minnesota and will be held in Court Rm. 584, Federal Building.

MC 43716 (Sub-33F), Bigge Drayage Co., a Corporation now assigned for hearing on January 22, 1979, at San Francisco, California and will be held in Room 510, Fifth Floor.

MC 112989 (Sub-73F), West Coast Truck Lines, Inc., now assigned for hearing on February 5, 1979, at San Francisco, California and will be held in Room 510, Fifth Floor.

MC 139807 (Sub-3F), All West Tours, a Corporation now assigned for hearing on January 23, 1979, at San Francisco, California and will be held in Room 510, Fifth Floor.

MC 142012, Bass Transportation Co., Inc., Extension-General Commodities, now assigned for hearing on February 1, 1979, at San Francisco, California and will be held in Courtroom No. One.

MC 144504F, Delta Charter Service, Inc., now assigned for hearing on February 7, 1979, at San Francisco, California and will be held in Room 510, Fifth Floor.

MC 95876 (Sub-235F), Anderson Trucking Service, Inc., now assigned for hearing on February 6, 1979, at St. Paul Minnesota and will be held in Court Rm. 584, Federal Building.

MC 92950 (Sub-1F), Woiverton Dray Lines, Inc., now assigned for hearing on February 7, 1979, at St. Paul, Minn. and will be held in Court Rm. 584, Federal Building.

MC 134477 (Sub-243F), Schanno Transportation, Inc., now assigned for hearing on February 12, 1979, at St. Paul, Minn. and will be held in Court Room 584, Federal Building.

MC 119493 (Sub-221F), Monkem Company, Inc., now being assigned for hearing on March 20, 1979, (2 days), at Chicago, Illinois in a hearing room to be later designated.

MC 5227 (Sub-41F), Eckley Trucking, Inc.,

MC 115904 (Sub-116F), Grover Trucking Co., No. MC 123407, (Sub-482F), Sawyer Transport, Inc., now being assigned for hearing on march 22, 1979, (2 days), at Chicago, Illinois in a hearing room to be later designated.

MC 113678 (Sub-750F), Curtis, Inc., now being assigned for hearing on March 26, 1979, (5 days), at Chicago, Illinois in a hearing room to be later designated.

MC 113678 (Sub-749), Curtis, Inc., now assigned for continued hearing on March 5, 1979, at San Francisco, California and will be held in Room 510, Fifth Floor, 211 Main Street.

H. G. HOMME, Jr.
Secretary.

[FR Doc. 79-745 Filed 1-8-79; 8:45 am]

[7035-01-M]

[Notice No. 3]

ASSIGNMENT OF HEARINGS

JANUARY 4, 1979.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

CORRECTION [1]

MC 115495 (Sub-37F), United Parcel Service, Inc., now assigned for hearing on February 27, 1979, at Dallas, Texas, at the Dallas Marriott Hotel, Market Center, 2101 Stemmons Freeway.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-746 Filed 1-8-79; 8:45 am]

[7035-01-M]

[Notice No. 4]

ASSIGNMENT OF HEARINGS

JANUARY 4, 1979.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

CORRECTION [1]

MC 133937 (Sub-25F), Carolina Cartage Company, Inc., now assigned for hearing on January 23, 1979, at Atlanta, Georgia and will be held in Room 305, 1252 West Peachtree Street, NW.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-747 Filed 1-8-79; 8:45 am]

[7035-01-M]

FOURTH SECTION APPLICATION FOR RELIEF

JANUARY 4, 1979.

This application for long-and-short-haul relief has been filed with the I.C.C.

Protests are due at the I.C.C. by January 24, 1979. FSA NO. 43650, Southwestern Freight Bureau, Agent's No. B-797, rates on rice mill feed, rice bran, and rice hulls from Cleveland and Greenville, Miss., to points in Southwestern Territory, in supplement 116 to its Tariff 326-C, ICC 5155, effective February 4, 1979. Grounds for relief—market competition, modified short-line distance formula and grouping.

By the Commission.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-744 Filed 1-8-79; 8:45 am]

[1] This notice changes this proceeding from continued hearing to hearing and inserting the Location of hearing room.

[1] This notice corrects the previous publication of the hearing room location, which did not give the complete address.

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sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3)

CONTENTS

	Item
Commodity Futures Trading Commission	1, 2
Federal Deposit Insurance Corporation	3
Federal Maritime Commission	4
Federal Mine Safety and Health Review Commission	5, 6
Federal Reserve System	7
International Trade Commission	8
Tennessee Valley Authority	9

[6351-01-M]

1

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 9:30 a.m., January 12, 1979.

PLACE: 2033 K Street NW., Washington, D.C., 8th floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Presentation by the Division of Enforcement.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-39-79 Filed 1-5-79; 3:56 pm]

[6351-01-M]

2

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 2 p.m., January 12, 1979.

PLACE: 2033 K Street NW., Washington, D.C., 8th floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Personnel.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-40-79 Filed 1-5-79; 3:56 pm]

[6714-01-M]

3

FEDERAL DEPOSIT INSURANCE CORPORATION.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:05 p.m. on Thursday, January 4, 1979, the Board of Directors of the Federal Deposit Insurance Corporation met by telephone conference call to consider a recommendation regarding the settlement of certain claims arising in connection with the receivership of the United States National Bank, San Diego, California.

In calling the meeting, the Board of Directors determined, on motion of Director William M. Isaac (Appointive), seconded by Acting Chairman John G. Heimann, that Corporation business required its consideration of the recommendation on less than 7 days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the recommendation in a meeting open to public observation; and that the meeting was exempt from the open meeting requirements of the "Government in the Sunshine Act" by subsections (c)(9)(B) and (c)(10) thereof (5 U.S.C. 552b(c)(9)(B) and (c)(10)).

Dated: January 4, 1979.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[S-38-79 Filed 1-5-79; 3:42 pm]

[6730-01-M]

4

FEDERAL MARITIME COMMISSION.

TIME AND DATE: January 15, 1979, 2 p.m.

PLACE: Room 12126, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Closed.

MATTERS TO BE CONSIDERED: 1. Letter of Sea-Land Service, Inc., dated December 28, 1978, concerning settlement agreement.

CONTACT PERSON FOR MORE INFORMATION:

Francis C. Hurney, Secretary, 202-523-5725.

[S-3579 Filed 1-5-79; 2:16 pm]

[6735-01-M]

5

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

JANUARY 5, 1979.

TIME AND DATE: 9:30 a.m., January 12, 1979.

PLACE: Room 600, 1730 K Street, NW., Washington, D.C. 20006.

STATUS: Open.

MATTERS TO BE CONSIDERED:

The Commission will hold oral argument on the following:

Secretary of Labor v. *Peter White Coal Mining Corp., HOPE 78-374 etc.; Peabody Coal Co., VINC 78-386; United States Steel Corp., PITT 78-335; Monterey Coal Co., VINC 78-416; Rochester & Pittsburgh Coal Co., PITT 78-323; Helvetia Coal Co., PITT 78-322; Inselin Preparation Co., PITT 78-343, 78-344; and Energy Fuels Corp., DENV 78-410.*

These cases raise a substantial issue concerning the interpretation of the Federal Mine Safety and health Act of 1977: May the Commission review the allegation of violation in a citation if no penalty has been proposed?

CONTACT PERSON FOR MORE INFORMATION:

Donald Terry, 202-653-5644.

[S-37-79 Filed 1-5-79; 3:42 pm]

[6735-01-M]

6

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

JANUARY 5, 1979.

TIME AND DATE: 10 a.m., January 9, 1979.

PLACE: Room 600, 1730 K Street NW., Washington, D.C. 20006.

STATUS: This meeting will be open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

3. *Eastern Associated Coal Corp.*, Docket No. MORG 78-385-P (petition for discretionary review).

4. *Consolidation Coal Company*, Docket Nos. VINC 78-417, 78-25-P (petition for discretionary review).

It was determined by unanimous vote on the Commissioners that Commission business required that these matters be added to the agenda for the next regularly scheduled Commission meeting and that no earlier announcement of this action was possible.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Don Terry, 202-653-5644.

[S-36-79 Filed 1-5-79; 3:42 pm]

[6210-01-M]

7

FEDERAL RESERVE SYSTEM.

TIME AND DATE: 11 a.m., Friday, January 12, 1979.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED: 1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees. 2. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

Dated: January 4, 1979.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[S-33-79 Filed 1-5-79; 11:12 am]

[7020-02-M]

8

INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Tuesday, January 16, 1979.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints (if necessary).
5. Certain machine needles (Inv. TA-201-38)—briefing and vote on injury.
7. Any items left over from previous agenda.
8. Cobmination locks (Inv. 337-TA-45)—vote.
9. Roller units (Inv. 337-TA-44)—vote.

Portions closed to the public:

6. Status report on Investigation 332-101 (MTN Study), if necessary.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S-34-79 Filed 1-5-79; 1:49 pm]

[8120-01-M]

9

[Meeting No. 1206]

TENNESSEE VALLEY AUTHORITY.

TIME AND DATE: 10:30 a.m., Thursday, January 11, 1979.

PLACE: Conference Room B-32, West Tower, 400 Commerce Avenue, Knoxville, Tenn.

STATUS: Open.

MATTERS FOR ACTION:

Personnel actions:

1. Appointment of Kenneth E. Gray as Washington Representative, Office of the General Manager.

Purchase awards:

1. Req. No. 823589—Requirement contract for metal cable trays and fittings for Yellow Creek Nuclear Plant.
2. Req. No. 154194—Rebuild Electrostatic Precipitators at Cumberland Steam Plant.

Project authorizations:

1. No. 3396—Replace boiler platen elements at Kingston Steam Plant, units 5-9.
2. No. 3397—Raise ash disposal pond dike at Colbert Steam Plant.
3. No. 3400—Improve the reliability of power supply to the Cranberry, North Carolina, area.

Power items:

1. Agreement between the city of Chattanooga, Tenn., and TVA—Joint study concerning use of electric water heating in single family residence.
2. Lease agreement with city of Fayetteville, Tenn.—TVA's Fayetteville District Substation.
3. Lease agreement with the Bowling Green Municipal Utilities Board covering arrangements for 161-kV delivery at TVA's South Bowling Green Substation; and new power contract with Bowling Green, Ky.

Real property transactions:

1. Sale at public auction of a 20-year industrial easement affecting approximately 19.4 acres of Chickamauga Reservoir Land in Rhea County, Tenn.—Tract XCR-6741E.
2. Abandonment of easement rights affecting a 0.2-acre portion of a lot in the Prairie Peninsula Cabin Site Subdivision located on Chickamauga Reservoir—Tract XCR 59:26.

DATED: January 4, 1979.

CONTACT PERSON FOR MORE INFORMATION:

John Van Mol, Director of Information, or a member of his staff can respond to requests for information about this meeting. Call 615-632-3257, Knoxville, Tenn. Information is also available at TVA's Washington Office, 202-566-1401.

[S-32-79 Filed 1-5-79; 11:12 am]

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federal register

TUESDAY, JANUARY 9, 1979
PART II



DEPARTMENT OF COMMERCE

Office of the Secretary

■

IMPROVING GOVERNMENT REGULATIONS

Response to Executive Order 12044

V 4 4 / 6

[3510-20-M]

DEPARTMENT OF COMMERCE

IMPROVING GOVERNMENT REGULATIONS

Response to Executive Order 12044

AGENCY: U.S. Department of Commerce.

ACTION: Final Report.

SUMMARY: On Tuesday, May 30, 1978, the Department of Commerce proposal for implementing Executive Order 12044, "Improving Government Regulations" (the Executive Order) was published for public comment in the FEDERAL REGISTER (43 FR 23170). Careful consideration has been given to all comments received, and a number of appropriate revisions have been made to the Department's Draft Report. As required by the Executive Order, the revised report was submitted to the Office of Management and Budget for approval on September 15, 1978. Having obtained Office of Management and Budget approval, the Department is now publishing its procedures for implementing the Executive Order.

EFFECTIVE DATE: January 9, 1979.

SUPPLEMENTARY INFORMATION:

I. Background
II. Public Comments
III. Revisions

I. BACKGROUND

The Executive Order outlines policy for developing regulations; sets minimum procedures for developing significant regulations, including publication by agencies of a semi-annual agenda of regulations under development or review; requires close agency head oversight; calls for early and meaningful opportunities for public participation; requires careful review of the need, quality and effectiveness of regulations being proposed; requires careful economic analysis of regulations having a major economic effect; and requires periodic review of existing regulations.

Section 5 of the Executive Order required that each agency prepare and publish in the FEDERAL REGISTER for public comment, a draft report briefly describing: (1) Its process for developing regulations and changes that have been made to comply with the Executive Order, (2) its proposed criteria for defining significant regulations, (3) its proposed criteria for identifying which regulations require regulatory analysis, and (4) its proposed criteria for selecting existing regulations for review and a list of regulations that will be considered for initial review. Section 5 further required that after receiving public comments, each agency submit a revised report to OMB for approval and then publish its final report in the FEDERAL REGISTER.

As was noted in the preamble to the draft report, the Department of Commerce is a Cabinet level agency composed of the Office of the Secretary and 13 operating units. While the principal mission of the Department is to foster, promote and develop the foreign and domestic commerce of the United States, the activities of the components of the Department in furthering that mission are broad and varied in scope. Further, while some of the operating units of the Department have a limited need for developing regulations which affect the public; others have had extensive regulatory experience.

Given these great differences in mission and experience, the Department determined that considerable decentralization is necessary to effectively implement the Executive Order by encouraging operating units to tailor procedures to their individual programs. Thus, although basic Department wide standards and procedures are established, the focal point for implementation will be the head of each operating unit (usually an Assistant Secretary). This official will establish criteria called for by the Executive Order, approve the plans for developing significant regulations, approve significant regulations before final publication in the FEDERAL REGISTER and otherwise make sure that the provisions of the Executive Order and Department Administrative orders are being followed.

At the same time, it was decided that some departmental coordinating and monitoring procedure was desirable to ensure compliance with the Executive Order. The semiannual regulatory agenda process was chosen to accomplish this objective. The head of each operating unit will submit to the Assistant Secretary for Policy a semiannual agenda covering all regulations it plans to develop or review during the relevant six-month period. This procedure will serve the dual purposes of (1) keeping the Secretary informed of operating unit activities, and (2) providing a mechanism for the Secretary to monitor agency implementation of the Executive Order and call for Secretarial approval when appropriate.

Coordination and review of the operating unit agendas will be conducted by the Assistant Secretary for Policy. After any modifications resulting from this review process, the Assistant Secretary for Policy will combine the relevant portions of the operating unit agendas into a Department Agenda as required by Section 2 of the Executive Order. The Department Agenda will be approved by the Secretary and published in the FEDERAL REGISTER.

This report contains the following:

1. Department Administrative Order (DAO) 218-7, "Issuing Departmental Regulations." This DAO sets forth the basic departmental procedures and requirements that all operating units are to follow in developing regulations. It has been circulated within the Department and operating units have revised existing procedures, or have established new procedures, to conform to the DAO.

2. Amendment to DAO 205-11. This Amendment sets forth a procedure to assure that each document published in the FEDERAL REGISTER is written in clear and simple English and is understandable to those who will be affected by it.

3. Individual appendices for each operating unit of the Department. The operating units of the Department have each developed at least the report required by Section 5. Some units, however, have developed more detailed procedures to implement the Executive Order. Rather than requiring uniform submissions meeting the minimum requirements of Section 5, it was decided to publish more detailed procedures, if submitted, to give the public as complete a picture as possible of overall Departmental implementation efforts. The individual appendices attached are:

Appendix A—Assistant Secretary for Administration
Appendix B—Bureau of Census
Appendix C—Bureau of Economic Analysis
Appendix D—Economic Development Administration
Appendix E—Industry and Trade Administration
Appendix F—Maritime Administration
Appendix G—National Fire Prevention and Control Administration
Appendix H—National Oceanic and Atmospheric Administration
Appendix I—National Telecommunications and Information Administration
Appendix J—Office of Minority Business Enterprise
Appendix K—Office of Regional Economic Coordination
Appendix L—Assistant Secretary for Science and Technology (includes National Bureau of Standards, National Technical Information Service, and Patent and Trademark Office)
Appendix M—United States Travel Service

II. PUBLIC COMMENTS

A total of four comments were received on the Department's draft report, in response to the request for comments published in the FEDERAL REGISTER on May 30, 1978 (43 FR 23170). The Department has given serious consideration to these comments in revising its initial report. The comments, in summary form, are discussed below.

One commentator objected to the length and complexity of the Department's notice and singled out § 4.03 of DAO 218-7 as an example of unnecessary complexity. That commentator was particularly concerned that the notice was overlong and redundant, and suggested that the Department should have established "one general set of regulations for all components, plus any specific regulations pertaining to individual bureaus and administrations."

The problem of excessive length and redundancy was the subject of great concern in the drafting of the Department's implementation plan. However, given the great diversity in programs and regulatory activities of the various units of the Department, and given the fact that most individuals deal directly with a particular operating unit on specific matters (rather than the Department as a whole), it was decided that considerable decentralization was the most effective way to implement the Executive order. Further, it was decided that length and repetition were not necessarily undesirable if used to present interested individuals with as clear a picture as possible of the procedures of each particular unit with which they are concerned. Finally, it is noted that the Department did in fact follow the suggestion of the commentator. Thus, DAO 218-7 sets forth one general set of rules which all components of the Department must follow, and the individual appendices set forth the specific procedures and additional criteria for the individual units.

Section 4.03 of DAO 218-7 was also the subject of considerable internal debate in the drafting of the Department's implementation plan. This section provides that when the underlying legislation is so specific that no significant options for implementation are available to the agency, agency heads are authorized to determine that a proposed regulation is not significant, even if it meets the criteria established for determining whether a regulation is significant. The Department's request for public comments singled out this provision as one on which public input was particularly requested. Unfortunately, no other comments were received on this point. Upon further review it has been decided to leave this provision intact for the time being and revise it, if necessary, in light of future experience.

Another commentator suggested that at least 60 days notice be required for all proposed regulations. The Executive Order requires that 60 days notice be provided for only significant regulations, and even then allows for exceptions to be made. Current procedures do not prohibit 60 day, or even longer comment periods, and procedures also exist where, in appropriate circumstances, short initial comment periods may be extended upon request. In other circumstances, however it may be necessary for rules to become effective on considerably less than 60 days notice. The Department believes that its current procedures provide desirable flexibility which would be lacking if this suggestion were adopted.

This same commentator also suggested that once regulations are in place, changes and reinterpretation should be severely limited, arguing that Government policies should be predictable and certain. While the Department cannot disagree with this as a general principle, in practice, the formulation of a rule to such effect would unduly restrict the ability to make necessary changes to existing regulations (for example, Section 4 of the Executive Order requires that all existing regulations be periodically reviewed and, if necessary, revised).

Finally, one commentator suggested that the Department's procedures be modified to provide that the concerns of that particular special interest group be adequately considered when regulations in its area of concern were being considered. While the Department agrees that every effort should be made to be sure the concerns of all special and, indeed, general interest groups are considered when regulations are being drafted, it is anticipated that the procedures being established will result in this goal.

III. REVISIONS

In addition to a number of minor technical, editorial and grammatical corrections, the following changes have been made to the Department's implementation plan.

A. DAO 218-7

1. A new § 2.04 has been added to cover situations where two or more agencies jointly promulgate a regulation or set of regulations. The agency heads or program officials involved shall designate one agency as lead agency for the purpose of determining whose rulemaking procedures will be utilized.

2. A new § 4.03 has been added which allows agency heads to delegate authority to initially determine whether a regulation is significant. However, a determination that a regulation is not significant must be reviewed by the agency head. This change makes it absolutely clear that the final decision on the question of "significance" rests with the agency head.

3. Section 4.05 (formerly § 4.04), which lists what the agency head must review before proceeding to develop significant regulations, is revised to include a requirement that the agency head decide, at that time, whether a regulatory analysis is required. This change reinforces the existing requirement that the agency head make this decision, and clarifies when that decision must be made.

4. A new § 5.04(e) has been added to incorporate the requirements of Executive Order 12074 and OMB Circular A-116, concerning Urban and Community Impact Analyses.

5. Minor language changes have been made in Section 7 to make sure that the operating unit agendas are complete and kept current. These changes are made to ensure that the Secretary is informed, on a continuing basis, of the status of the entire regulatory process of the Department and to enable the Office of the Secretary to fulfill its central oversight function.

B. Amendment to DAO 205-11

A new last sentence has been added to § 6.02 which requires heads of operating units to provide the Director, Office of Organization and Management Systems with a list of employees they have designated to review documents prior to FEDERAL REGISTER publication, and keep that list current.

C. Minor changes have been made to a number of the operating unit appendices to reflect the above changes and otherwise to improve those submissions.

In consideration of the foregoing, the Department of Commerce hereby adopts, as its implementation plan for Executive Order 12044, the following:

ISSUING DEPARTMENTAL REGULATIONS

(Department Administrative Order 218-7)

SECTION 1. PURPOSE AND POLICY

.01 This order implements Executive Order 12044, of March 23, 1978, "Improving Government Regulations".

.02 It is the policy of the Department that regulations:

a. Be as simple and clear as possible;

b. Achieve legislative goals effectively and efficiently;

c. Not impose unnecessary burdens on the economy, individuals, public or private organizations, or State and local governments.

.03 To achieve these objectives, regulations shall be developed by following procedures which ensure that:

a. The need for and purpose of the regulation are clearly established;

b. Heads of agencies and policy officials exercise effective oversight;

c. Opportunity exists for early and meaningful participation and comment by other Federal agencies, State and local governments, businesses, organizations and individual members of the public;

d. Meaningful alternatives are considered and analyzed before the regulation is issued; and

e. Compliance costs, paperwork and other burdens on the public are minimized.

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SECTION 2. SCOPE

.01 This order applies to all regulations of the Department published in the FEDERAL REGISTER, except as provided in paragraph .02 of this section.

.02 This order *does not* apply to:

a. Regulations issued in accordance with the formal rulemaking provisions of the Adminsitrative Procedure Act (5 U.S.C. §§ 556, 557);

b. Regulations issued with respect to a military of foreign affairs function of the United States (but see section 9.06);

c. Matters related to agency management or personnel;

d. Regulations related to Federal Government procurement; or

e. Regulations that are issued in response to an emergency or which are governed by short-term (less than 91 days) statutory or judicial deadlines (but see sections 9.05 and 9.06).

.03 Sections cited in the text refer to those in this order.

.04 Whenever two or more agencies plan to jointly promulgate regulations, the agency heads or program officials involved shall designate one agency as lead agency for the purpose of determining whose rulemaking procedures will be utilized. That agency shall be responsible for compliance with, and its procedures implementing Executive Order 12044 shall apply. Regardless of who is designated as lead, each Department of Commerce agency involved in a joint rulemaking will separately comply with the requirements of Sections 7 and 8 of this order.

SECTION 3. DEFINITIONS

.01 *Agency head.* In this order, agency head means: the head of each operating unit of the Department; Secretarial Officers, the Deputy Under Secretary, and the Special Assistant to the Secretary for Regional Development, for departmental offices under their jurisdiction; or persons acting in those positions. The functions of the agency head may not be delegated.

.02 *Regulation(s).* In this order, regulation(s) means both rules and regulations issued by components of the Department including those which establish conditions for financial assistance. Closely related sets of regulations shall be treated as a single package.

SECTION 4. SIGNIFICANT REGULATIONS

.01 Agency heads shall establish criteria for identifying which regulations are significant.

.02 In establishing criteria for identifying significant regulations, agency heads shall consider, among other things:

a. The type and number of individuals, businesses, organizations, or State and local governments affected;

b. The compliance and reporting requirements likely to be involved;

c. The direct and indirect effects of the regulation, including the effect on competition;

d. The relationship of the regulation to those of other programs and agencies;

e. The relationship of the regulation to major Departmental policy issues; and

f. The degree of controversy over, or public interest in, the regulation.

.03 Agency heads may delegate authority to initially determine that a regulation is not significant. Any such determinations shall be reviewed by the agency head prior to the submission of the next agency agenda required by § 7.01 or the notification required by § 7.09, whichever occurs first.

.04 An agency head may conclude that a regulation is not significant, even if it meets the criteria established for identifying significant regulations, if the agency head determines, in writing, that the degree of discretion available to the agency is so limited by underlying legislation or executive branch directives (e.g. Executive Orders, OMB Circulars, etc.) that no significant options for implementation are available to the agency. A copy of this determination shall be sent promptly to the Assistant Secretary for Policy, and an explanation of the determination shall be included in the preamble to the notice of proposed rulemaking.

.05 Before proceeding to develop significant regulations, the agency head shall review: the issues to be considered; the alternative approaches to be explored; whether a regulatory analysis, as provided for in section 5, is required; a tentative plan for obtaining public comment; where applicable a tentative plan for consulting with State and local governments (see DAO 201-9); and target dates for completion of steps in the development of the regulation.

.06 Agency heads shall approve significant regulations before they are published in the FEDERAL REGISTER in final form. Before approving significant regulations, the agency head should be satisfied that:

a. The regulation is needed;

b. The direct and indirect effects of the regulation have been adequately considered;

c. Alternative approaches have been considered and the least burdensome of the acceptable alternatives has been chosen;

d. Public comments (including those from State or local or other public agencies) have been considered and an adequate response has been prepared;

e. The regulation is written clearly and as simply as possible and is understandable to those who must comply with it;

f. An estimate has been made of the new reporting burdens or recordkeeping requirements necessary for compliance with the regulation;

g. The name, address and telephone number of a knowledgeable official is included in the publication; and

h. A plan has been developed for evaluating the regulation after its issuance.

.07 Agency heads may, in their discretion, refer significant regulations which they believe to be of particluar importance to the Secretary for approval.

.08 Regulations which are not significant shall be accompanied by a statement to that effect in the preamble whenever published in the FEDERAL REGISTER.

SECTION 5. REGULATORY ANALYSIS

.01 A regulatory analysis shall be prepared for each significant regulation which the agency head determines to have potential major economic consequences for the general economy, for individual industries, geographic regions, levels of government, or specific elements of the population.

.02 Agency heads shall establish criteria for determining which significant regulations require regulatory analysis. Since a regulatory analysis is designed to aid decisionmakers in promulgating effective regulations, the criteria established should consider the characteristics of their specific programs. At a minimum, a regulatory analysis shall be prepared for any significant regulations which:

a. During any one year can be expected to result in an effect (direct or indirect) on the economy exceeding $50 million;

(b) During any one year can be expected to result in an effect (direct or indirect) on either consumers, industries, levels of government, or geographic regions exceeding $25 million;

c. During any one year can be expected to result in an increase in costs or prices of five percent or more for the activity, product(s) and/or service(s) affected;

d. Can be expected to reduce labor productivity by one percent or more in the economic activity or sector(s) affected;

e. Can be expected to reduce employment by five percent or more in the economic activity or sector(s) affected;

f. For the particular market(s) affected, can be expected to result directly or indirectly in a one percent or more decline in supply of materials, products or services, or a one percent or more increase in consumption of these materials, products or services; or

g. For the particular market(s) affected, can be expected to result in a distinct decline in competition.

.03 A regulatory analysis may also be prepared when:

a. In the judgment of the agency head such an analysis would improve decisionmaking; or

b. The Secretary determines, in accordance with section 7.05, that such an analysis should be performed.

.04 A regulatory analysis shall involve a careful examination of alternative approaches early in the decisionmaking process. Thus, each analysis shall include, at a minimun:

a. A succinct statement of the problem;

b. A description of the major alternative ways of dealing with the problems that were considered;

c. A comparison of the economic and other consequences of each of these alternatives.

d. A detailed explanation of the reasons for choosing one alternative over the others; and

3. The urban and community impact analysis required by Executive Order 12074, of August 16, 1978 and OMB Circular A-116 which implements that Executive Order.

.05 The analysis in section 5.04 may also include an examination of:

a. The need for specific requirements versus the benefits of allowing varying degrees of discretion by those subject to the regulation;

b. Alternaive types of compliance incentives;

c. Alternative enforcement mechanisms; and

d. Alternative governmental levels for implementation (Federal, State, or local).

.06 The notice of proposed rulemaking for each regulation for which a regulatory analysis is required shall include:

a. A succinct description of the alternatives considered;

b. An explanation of the regulatory approach that has been selected or is favored;

c. The major reasons for selecting, or favoring, a particular alternative(s); and

d. A statement of how the public may obtain a copy of the draft regulatory analysis.

.07 Public comments on the draft regulatory analysis shall be considered in preparing a final regulatory analysis, which shall be made available to the public when the final regulation is published. Significant public comments on the analysis shall be summarized and responded to in the preamble to the final regulation.

.08 These internal procedures shall apply:

a. The agency head shall inform the Chief Economist of the Department as early as possible of the nature and extent of the analysis being undertaken to assure adequate opportunity for consultation and assistance; and

b. The agency head shall transmit the draft regulatory analysis to the Chief Economist of the Department for review and comment at least 15 days prior to submission of a notice of proposed rulemaking to the FEDERAL REGISTER.

.09 Regulatory analyses are not required in rulemaking proceedings pending as of March 23, 1978, if an Economic Impact Statement has already been prepared in accordance with Executive Orders 11821 and 11949.

.10 New or accurate information may be needed from persons and businesses, in order to make informed decisions. In those instances only essential data is to be obtained in the least burdensome way.

SECTION 6. REVIEW OF EXISTING REGULATIONS

.01 Agency heads shall establish procedures to ensure that their organization's existing regulations are reviewed periodically to determine whether they are achieving the policy goals of Executive Order 12044.

.02 Agency heads shall establish criteria for selecting existing regulations to be reviewed and the order in which the review will be conducted.

.03 In developing criteria for selecting regulations to be reviewed, agency heads shall consider:

a. The continued need for the regulation;

b. The type and number of complaints or suggestions received;

c. The burdens imposed on those directly or indirectly affected by the regulation;

d. The need to simplify or clarify language;

e. The need to eliminate overlapping and duplicative regulations; and

f. The length of time since the regulation has been evaluated or the degree to which technology, economic conditions or other factors have changed.

.04 The review of existing regulations shall, at a minimum, contain the following procedural steps:

a. Inclusion of notice of the review in the semi-annual agenda as required by section 7.02, or as appropriate, supplementing the Department Agenda as called for in section 7.08, and notification to the Assistant Secretary for Policy as called for in section 7.09;

b. A determination whether the regulation meets the criteria established for identifying significant regulations, and, if so, agency head oversight as called for in section 4.04 before proceeding with review;

c. A determination whether the regulation meets the criteria established for determining if a regulatory analysis must be performed, and, if so, preparing a regulatory analysis; and

d. If the review results in a determination that a regulation should be amended or rewritten, compliance with public notice and participation requirements of this order and DAO 201-9 concerning consultation with State and local governments; and, if the regulation is determined to be significant, agency head approval before final publication, as set forth in section 4.06.

.05 Agency heads should review their organization's significant regulations not less than every four years.

SECTION 7. REGULATORY AGENDA

.01 On January 15 and July 15 of each year, each agency head shall submit a regulatory agenda to the Assistant Secretary for Policy.

.02 Each agency agenda shall include:

a. A description of each regulation covered by this order which is under development or being considered for development, including, to the extent feasible:

1. A statement whether the regulation has been determined to be a significant regulation;

2. The need and the legal basis for the action being taken;

3. A statement whether or not a regulatory analysis will be required;

4. The name and telephone number of a knowledgeable official;

5. A listing of major issues likely to be considered in developing the regulation;

6. A tentative plan for obtaining public comment and, where applicable, for consulting with State and local governments;

7. Target dates for completing steps in the development process; and

8. Information on the status (including changes to the information required by this § .02.a.) of proposed significant regulations listed in previous agendas which are not yet published as final in the FEDERAL REGISTER.

b. A list of each existing regulation scheduled to be reviewed, under section 6, during the next six months, including the name and telephone number of a knowledgeable official for each regulation;

c. Information on the status of existing regulations listed for review in previous agendas; and

d. A list, including the date and FEDERAL REGISTER citation, of all final regulations published in the FEDERAL REGISTER during the previous six months.

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.03 If there are no plans for developing or reviewing regulations, the agency head will so report to the Assistant Secretary for Policy.

04. The Assistant Secretary for Policy shall review all agendas and, after consultation with appropriate Department officials recommend to the Secretary:

a. Which regulations determined not to be significant by the agency heads should be treated as significant;

b. Which regulations being considered or developed should be approved by the Secretary prior to being published in the FEDERAL REGISTER in final form; and

c. Which regulations, in addition to those identified by the agency heads, require a regulatory analysis.

.05 After consulting, as appropriate, with concerned Department officials, the Secretary will inform the Assistant Secretary for Policy and the relevant agency head of decisions made with regard to the recommendations submitted under paragraph .04 of this section.

.06 Using the agendas of agency heads, as may be modified by the Secretary's decisions under paragraph .05 of this section, the Assistant Secretary for Policy shall prepare an overall Department Agenda. The Department Agenda, after approval by the Secretary, shall be submitted for publication in the FEDERAL REGISTER on or about February 15, 1979, and every six months thereafter.

.07 The Department Agenda shall include the following:

a. For proposed significant regulations being considered or developed:

1. A description of the regulation;

2. The need and the legal basis for the action being taken;

3. A statement as to whether or not a regulatory analysis will be required;

4. The name and telephone number of a knowledgeable official to whom comments on that planned regulation may be addressed;

5. A discussion of the issues to be considered in developing the regulation;

6. A tentative plan for obtaining public comments and, where applicable, for consulting with State and local governments; and

7. Target dates for completing steps in the development process.

b. Information on the status (including changes to the information required in § .07.a. above) of all proposed significant regulations listed in previous agendas which are not yet published as final in the FEDERAL REGISTER;

c. A list of existing regulations scheduled to be reviewed during the next six months, including the name and telephone number of a knowledgeable official for each regulation;

d. Information on the status of existing regulations previously scheduled for review; and

e. The name and telephone number of an official to whom general comments about the Department Agenda should be addressed.

.08 Agency heads shall, in order to prevent undue delay, publish supplements to the Department Agenda whenever it becomes apparent that development or review of significant regulations not listed in the previous Department Agenda will commence before publication of the next Department Agenda or development or review of a regulation listed in the previous Department Agenda will not commence as scheduled.

.09 Agency heads shall immediately notify the Assistant Secretary for Policy whenever it becomes apparent that development or review of regulations not listed in their previous agency agenda will commence before publication of the next Department Agenda, or significant changes have occurred in the status of items listed in their previous agency agenda.

.10 Comments received on items in the Department Agenda shall be considered in developing any proposed regulations and included in the public record of the relevant proposed rulemaking.

.11 The information in any agenda is only that which is reasonably expected to be known at the time.

.12 Every year, on the first Monday in October, the Assistant Secretary for Policy will publish in the FEDERAL REGISTER a schedule showing the times during the coming fiscal year when the Department Agenda will be published.

SECTION 8. SECRETARIAL APPROVAL

.01 Whenever, under sections 4.07 and 7.05, Secretarial approval of a regulations is requested or required before it is published in final form, the appropriate agency head shall, no later than 15 days before the proposed date of publication in the FEDERAL REGISTER in final form, submit the regulation to the Secretary for approval.

.02 The Secretary shall review the regulation in accordance with section 4.06, and shall either:

a. Approve the regulation; or

b. Disapprove the regulation, indicate the reasons for disapproval, and return the regulation to the appropriate agency head.

SECTION 9. PUBLIC PARTICIPATION

.01 The public, and, for regulations with significant intergovernmental impact, State and local governments, shall be given an early and meaningful opportunity to participate in the development of the regulations of the Department.

.02 Agency heads shall consider a variety of ways to provide this opportunity, including, but not limited to:

a. Publishing an advance notice of proposed rulemaking;

b. Holding open conferences or public hearings;

c. Sending notices of proposed regulations to publications likely to be read by those affected;

d. Notifying interested parties directly; and

e. Providing for more than one cycle of public comments.

.03 The preamble of any proposed rulemaking covered by this order shall contain a brief description of plans for obtaining public, and, if applicable, State and local government participation. If none of the methods listed in paragraph .02 of this section are used in a rulemaking covered by this order, the preamble accompanying the final regulation shall briefly explain the reasons and indicate what other steps were taken to assure adequate opportunity for public and State and local government participation.

.04 The public shall be given at least 60 days to comment on proposed significant regulations. Exceptions to this requirement may be granted only by the agency head and only in those few instances where it is determined that compliance is not possible. When an exception is made, the preamble to the proposed regulation shall include a brief statement of the reasons for the shorter time period.

.05 Regulations exempted by section 2.02e. (emergencies or short-term deadlines) shall, when published in the FEDERAL REGISTER, be accompanied by a statement of the reasons why it is impracticable or contrary to the public interest to follow the procedures of this order. This statement shall include the name of the policy official responsible for the determination.

.06 Regulations exempted by section 2.02b. (military or foreign affairs functions) or 2.02e. may be made effective on issuance. However, FEDERAL REGISTER publication of these regulations shall provide for a public comment period of at least 60 days after issuance and republication after public comments have been considered and appropriate modifications, if any, are made.

SECTION 10. EFFECT ON OTHER ORDERS

.01 This order supersedes Department Administrative Order 216-7 of January 17, 1972, "Interagency Coordination of Issuances on Environmental Quality, Consumer Protection, and Occupational and Public Health and Safety", and Department Administrative Order 218-6 of November 28, 1974, "Inflationary Impact of Legislation and Regulatory Proposals".

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.02 Nothing in this order shall affect the procedures set forth in Department Administrative Order 205-11 of May 12, 1971, as amended, "Publishing Documents in the FEDERAL REGISTER".

JUANITA M. KREPS,
Secretary of Commerce.

PUBLISHING DOCUMENTS IN THE FEDERAL REGISTER

[Department Administrative Order 205-11—Amendment 4]

Department Administrative Order 205-11 of May 12, 1971, is hereby further amended as shown below. The purpose of this amendment is to add a new Section 6.

1. A new Section 6. is added to read as follows:

"SECTION 6. PLAIN ENGLISH.

".01 It is the policy of the Department that all documents published in the FEDERAL REGISTER be designed to be understandable to those affected by them and be written as simply and clearly as possible.

".02 The head of each operating unit and the Director, Office of Organization and Management Systems (OOMS), for other components of the Department, shall designate an employee or employees who shall review each document to be published in the FEDERAL REGISTER to ensure that it is written clearly and simply as possible and is designed to be understandable to those affected by it. Heads of operating units will provide the Director, OOMS, with a list of employees they have designated and promptly notify the Director of changes to that list.

".03 No document will be published in the FEDERAL REGISTER until it is cleared by this designated employee.

".04 Exception to paragraph .03 of this section may be granted only by the head of the operating unit or the Assistant Secretary for Administration. Exceptions shall be in writing and explain why the exception is necessary. Copies of all exceptions will be provided to the Director, OOMS."

2. Renumber the existing Section 6., 7., and 8., as 7., 8., and 9. respectively.

Effective: October 23, 1978.

Issued: October 24, 1978.

APPENDIX A—ASSISTANT SECRETARY FOR ADMINISTRATION

MEMORANDUM FOR ALL OFFICE DIRECTORS IN ADMINISTRATION

SUBJECT: Executive Order 12044

On March 23, 1978, the President signed Executive Order 12044, "Improving Government Regulations". As part of this Executive Order, each Federal agency is required to establish: (a) a regulatory process; (b) criteria for defining significant regulations; (c) criteria for identifying regulations which require a regulatory analysis; (d) criteria for selecting existing regulations to be reviewed; and (e) a list of regulations that the agency will consider for its initial review. Overall Departmental procedures for implementing these requirements, including definitions of coverage, are prescribed in Department Administrative Order 218-7, a copy of which is attached. The purpose of this memorandum is to describe the steps which each office in Administration will follow in order to implement DAO 218-7.

SIGNIFICANT REGULATIONS

Before proceeding to develop any regulation covered by DAO 218-7, each office director shall provide me with a report containing the information described in Section 4.02 of DAO 218-7. Based on the information supplied, I will determine if the regulation is to be treated as significant. A determination of significant will be made if:

—The regulation applies to a large number of persons or organizations;

—The requirements for ensuring compliance, including data collection and reporting requirements, imposed more than a minimum burden on those affected;

—The regulation causes other Federal agencies or State and local governments to incur new responsibilities or make other than minimal changes in program operations;

—The regulation meets the criteria for preparation of a regulatory analysis; or

—The regulation can be expected to generate considerable public interest or controversy.

As soon as possible after a regulation has been determined to be significant, the appropriate office director shall submit a report containing the information necessary for me to make the review described in Section 4.04 of DAO 218.7.

Before a significant regulation is published in the FEDERAL REGISTER in final form, the appropriate office director shall submit it to me for approval. The submission shall contain all of the information necessary for me to address each point described in Section 4.05 of DAO 218.7.

REGULATORY ANALYSIS

Office directors shall prepare a regulatory analysis for any proposed regulation which meets the criteria described in Section 5.02 of DAO 218-7. In addition, based on the information supplied in the report necessary to make a determination of whether a regulation is significant, I may also determine that the regulation requires a regulatory analysis.

In preparing a regulatory analysis, office directors shall follow the procedures described in Section 5.04 through 5.07 of DAO 218-7 and, as soon as possible, shall seek the assistance of the Chief Economist in preparing the analysis. A draft regulatory analysis shall be submitted to me at least three weeks prior to the submission of a notice of proposed rulemaking to the FEDERAL REGISTER.

REVIEW OF EXISTING REGULATIONS

All existing regulations issued by an Administration Office and covered by DAO 218-7 shall be reviewed no less frequently than once every three years. In addition, an existing regulation shall be reviewed if:

—New laws, Executive Orders, etc. require changes;

—Amendments to central or coordinating agency regulations require changes; or

—I receive suggestions or complaints which indicate a need for changes.

The existing regulations which an office director proposes to review shall be identified in the office's regulatory agenda submission (discussed below). Each regulation proposed for review should be accompanied by a report containing the information described in Section 4.02 of DAO 218-7 so that I can determine if the regulation is significant or requires a regulatory analysis. If either of these determinations are positive, the appropriate office director shall follow the procedures described above.

REGULATORY AGENDA

By December 15, 1978, and every six months thereafter, each office director shall submit a regulatory agenda to me. The agenda shall include all of the information described in Section 7.02 of DAO 218-7. Negative submissions stating that an office director does not contemplate either the development of a new or the review of an existing regulation during the next six months are required. Office directors shall submit supplements to their agenda: (a) whenever it appears that the development or review of a regulation not listed in a previous agenda will begin before the next regular agenda is schedued to be submitted; or (b) whenever it appears that the development or review of a previously listed regulation will not begin as scheduled.

RESPONSIBILITIES

All of the submissions discussed in this memorandum shall be sent to me through the Director, Office of Organization and Management Systems. The Director of OOMS shall be available to assist office directors in the preparation of these submissions, shall compile the Office of Administration agenda from the material submitted by the office directors, and shall serve as the liaison with the Office of the

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General Counsel and the Assistant Secretary for Policy.

RELATED REQUIREMENTS

DAO 205-11, "Publishing Documents in the FEDERAL REGISTER", has been amended to require that all documents published in the FEDERAL REGISTER be reviewed by a designated employee to ensure that these documents are clearly written. All documents which Administration offices propose to publish in the FEDERAL REGISTER shall be reviewed by Bob Ingram, the Head of the Directives Management Staff in the Office of Organization and Management Systems. Bob is in Room 5312 and can be reached on 377-5481.

EXISTING OFFICE OF ADMINISTRATION REGULATIONS SCHEDULED FOR REVIEW DURING THE NEXT SIX MONTHS

Department of Commerce regulations under Title VI of the Civil Rights Act of 1964 will be reviewed. These regulations appear at 15 CFR 8.1-8.15, and deal with the prohibition of discrimination in many programs for which Federal financial assistance is authorized under a law administered by the Department. The review will be for the purpose of ensuring consistency with the Title VI regulations issued by the Department of Justice (28 CFR 41.401-41.415), and ensuring that the regulations are understandable to those affected. Comments on this review should be sent to Arthur E. Cizek, Office of Civil Rights, Room 4065, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. The telephone number is (202) 377-3940.

APPENDIX B—BUREAU OF THE CENSUS

The Bureau of the Census was established as a permanent Bureau by the Act of March 6, 1902 (32 Stat. 51). Laws pertaining to the Bureau's statistical program are encompassed in title 13 of the United States Code. The mission of the Census Bureau is to collect and publish basic statistics concerning the population and the economy of the Nation in order to assist the Congress, the Executive Branch, and the general public in the development and evaluation of economic and social programs. The Bureau publishes a wide variety of statistical data and provides special tabulations of statisical information for government and private users. Major Census Bureau program areas include periodic censuses, current surveys and programs and reimbursable work.

It should be noted that because of the nature if its work, the Census Bureau does little rulemaking. Those half dozen regulations that are in existence have no major impact on the economy. They relate to either administering a data collection program or data service programs. Consequently, there has been no need to formalize an extensive process for developing regulations; the process has been ad hoc in nature. To comply with the Executive Order, the Bureau is now establishing procedures in addition to the requirements provided for in Department Administrative Order 218-7 for the issuance of regulations.

1. *Existing procedures and changes that have been made to comply with Executive Order 12044.*

(a) The following procedures shall be applicable to all regulations. Prior to the promulgation of a regulation, the Director shall determine:

(1) That the need for and purpose of the regulation are clearly established and specified in the FEDERAL REGISTER preamble;

(2) That adequate provisions are made for early public participation in the development of regulations by notification of advisory committees and announcements in relevant publications and the regulatory agenda that the regulation is being considered and comments are solicited;

(3) That the issues have been thoroughly reviewed;

(4) That the feasible alternatives have been explored;

(5) That compliance costs, paperwork and other burdens on the public are minimized; and

(6) That the Program and Policy Development Office will be responsible for insuring that the regulation is written in plain English and is understandable to those who must comply with it.

(b) In addition, before approving and signing significant regulations, the Director shall determine:

(1) That the direct and indirect effects of the regulation have been adequately considered including whether a regulatory analysis, as provided in section 3, and whether an Urban and Community impact analysis as required by OMB Circular A-116 are required;

(3) That public comments, including those from State and local Governments, have been considered and an adequate response prepared;

(4) That an estimate has been made of the new reporting burden or recordkeeping requirements, if any, necessary for compliance with regulations;

(5) That the name, address, and telephone number of a knowledgeable official is included in the FEDERAL REGISTER preamble; and

(6) That a plan is developed for evaluating the effect of the regulation after its issuance. Organization and Management Systems Division shall provide a report containing the information necessary for the Director to make these determinations. This report shall be provided the Director prior to the Director's approving and signing significant regulations

(c) The Director shall submit an agency regulatory agenda to the Assistant Secretary for Policy by January 15, 1979, and every six months thereafter,

The regulatory agenda shall include,

(1) A description of each regulation under development or being considered which includes items specified in Section 7.02 of Department of Administrative Order 218-7;

(2) A list of each existing regulation scheduled to be reviewed;

(3) Information on the status of existing regulations listed for review on previous agency agendas; and

(4) A list of all final regulations promulgated during the previous six months with the date and FEDERAL REGISTER citation.

The Director shall immediately notify the Assistant Secretary for Policy whenever it becomes apparent that development or review of regulations not listed in the previous agency agenda will commence before submission of the next agency agenda to the Assistant Secretary for Policy, or review of a regulation listed in the previous agency agenda will not take place, or significant changes have been made to items in previous agency agendas. The Director shall determine at the time of notification whether or not a regulation significant. If the regulation is significant, a supplement to the Departmental agenda will be published, if necessary.

(d) A docket on each regulation will be established and maintained in the office of the legal counsel when the regulation is first put on the agency's agenda. Documents which are relevant to the regulation will be filed and available to the public, unless prohibited by law.

2. *Criteria for defining significant agency regulations.*

A regulation shall be considered significant by the Director if it meets any of the Departmental criteria as set forth in Department Administrative Order 218-7 or one or more of the following:

(a) Since a burden is placed on shippers by the regulations, a substantive change in the reporting requirements necessary for compliance with the Foreign Trade statistics regulations will be considered significant;

(b) The Regulation would affect over 25 percent of all States or local government units;

(c) The procedures or programs of another department or agency will be effected.

(d) Significant public controversy or interest is expected to result;

(e) The Secretary, the Chief Economist of the Department or the Director requests that a regulation be considered significant.

3. *Criteria for identifying which regulations require regulatory analysis.*

A regulatory analysis shall be prepared for significant regulations which meet the Departmental criteria as set forth in Department Administrative Order 218-7, or the Secretary, the Chief Economist of the Department, or the Director request that such an analysis be performed.

4. *Criteria for selecting existing regulations to be reviewed.*

All existing regulations shall be reviewed within 1 year of the date of the publication of this report. Thereafter, a regulation will be reviewed whenever:

(a) The regulation has not been reviewed for 5 years;

(b) A significant regulation has not been reviewed for 2 years;

(c) It appears to the Director that there is no further need for the regulation in the light of public comments received;

(d) It appears to the Director that the burdens imposed upon the public are increased even though no change has been made to the regulation itself;

(e) It appears to the Director that there is a need to simplify or clarify the language of the regulation;

(f) It appears to the Director that there is a need to eliminate overlapping and duplicative regulations;

(g) Technology, economic conditions or other factors have changed the effect of the regulation on the public;

(h) The Secretary, the Chief Economist of the Department or the Director requests that such review should take place.

The Bureau's regulations may be found in 15 CFR Chapter 1. We plan to complete the review of Bureau regulations within 1 year of the effective date of these procedures.

These regulations are:

15 CFR 20 relating to the Bureau of the Census official seal.

15 CFR 30 establishes reporting requirements and criteria relating to exports and imports.

15 CFR 40 which provides, through the State Department, training of foreign participants in Census procedures and general statistics.

15 CFR 50 establishes fees charged for various services provided by the Bureau to individual, State and local governments and firms.

15 CFR 60 relates to the release of information under the Freedom of Information Act.

15 CFR 70 establishes the date by which a change in a political boundary must be reported to the Bureau in order to be included in the decennial census.

15 CFR 80 establishes the procedure for obtaining data from past records of the decennial census questionnaires.

APPENDIX C—BUREAU OF ECONOMIC ANALYSIS

The Bureau of Economic Analysis (BEA) was established under Department Order No. 10, effective December 18, 1945. Department Order No. 15, as amended December 1, 1953, pursuant to authority contained in reorganization Plan No. 5 of 1959, further designated BEA as a primary operating unit of the Department. The mission of BEA is to provide a clear picture of the state of the economy through the preparation, development and interpretation of the economic accounts of the United States.

To construct the accounts, BEA uses mainly data collected by other agencies from individuals, businesses, and other respondents. About one-third of these primary data comes from the Census Bureau. Most of the rest come from the Treasury Department, the Labor Department, and the Office of Management and Budget. BEA also conducts its own surveys to collect data whenever there is a close link between the data and its analytical work, as for instance, in the case of its balance of payments work and its work on international investment.

Because of the nature of its work, the Bureau of Economic Analysis does little rulemaking. Proposed rules and regulations have been developed primarily to establish new statistical surveys and public reporting requirements, and it has not been necessary to formalize a process for developing regulations; the process has been ad hoc in nature. To comply with the Executive Order, the Bureau is now establishing procedures in addition to the requirements provided for in Department Administration Order 218-7 for the issuance of regulations.

The Bureau of Economic Analysis has received no public comments to the draft Appendix C published in the FEDERAL REGISTER (43 FR 23170) May 30, 1978. The final version of Appendix C here published takes into consideration and its consistent with recent changes to Department Order 218-7 and guidelines received from the Administrative Conference of the United States.

1. *Existing procedures and changes that have been made to comply with Executive Order 12044.*

(a) The following procedures shall be applicable to all regulations. Prior to the promulgation of a regulation, the Director shall determine:

(1) That the need for and purpose of the regulation are clearly established and specified in the FEDERAL REGISTER preamble;

(2) That adequate provisions are made for early public participation in the development of regulations by notification of advisory committees and announcements in relevant publications and the agency regulatory agenda that the regulation is being considered and comments are solicited;

(3) That the issues have been thoroughly reviewed:

(4) That the feasible alternatives; have been explored;

(5) That compliance costs, paperwork and other burdens on the public are minimized;

(6) That the regulation has been reviewed by Management Services Division to insure that it is written in plain English and is understandable to those who must comply.

(b) In addition, before approving and signing significant regulations, the Director shall consult with Management Services Division and determine:

(1) That the direct and indirect effects of the regulation have been adequately considered, including whether a regulatory analysis, as provided for in Section 3, and whether an urban and community impact analysis as required by OMB Circular A-116 are required;

(2) That the least burdensome of the acceptable alternatives has been chosen;

(3) That all public comments, including those from state and local governments have been considered and an adequate response prepared;

(4) That an estimate has been made of the new reporting burden or recordkeeping requirements, if any, necessary for compliance with the regulation;

(5) That the name, address, and telephone number of a knowledgeable official is included in the FEDERAL REGISTER preamble;

(6) That a work plan is developed for scheduling target dates for consultation and comment, the issuance process, and evaluation of the effect of the regulation after its issuance.

(c) The Director shall submit an agency regulatory agenda to the Assistant Secretary for Policy by January 15, 1979, and every 6 months thereafter. The agency regulatory agenda shall include:

(1) A description of each regulation under development or being considered which includes items specified in Section 7.02 of Department Administrative Order 218-7;

(2) A list of each existing regulation scheduled to be reviewed;

(3) Information on the status of existing regulations listed for review on previous agency agenda; and

(4) A list of all final regulations promulgated during the previous 6 months with the date and FEDERAL REGISTER citation. The Director shall

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immediately notify the Assistant Secretary for Policy and furnish supplements to the Department Agenda whenever it becomes apparent that development or review of regulations not listed in the previous agency agenda will commence before publication of the next Department Agenda, review of a regulation listed in the previous Department Agenda will not commence as scheduled, or significant changes have been made to items in previous agency agendas.

A docket will be established within the Office of the General Counsel whenever a new regulation is first proposed in draft form. The docket will be available for review by the public, at any time, unless prohibited by law.

2. *Criteria for defining significant agency regulations.*

A regulation shall be considered significant if it meets the Departmental criteria as set forth in Department Administrative Order 218-7, or one or more of the following:

(a) The regulation would affect over 25 percent of all State or local governments;

(b) The procedures or programs of another department or agency will be affected;

(c) Significant public controversy or interest will result;

(d) The Secretary, Chief Economist, or the Director determines that a regulation is significant.

3. *Criteria for identifying which regulations require regulatory analysis.*

A regulatory analysis shall be prepared for significant regulations which meet the Departmental criteria as set forth in Department Administrative Order 218-7, or the Secretary, Chief Economist of the Department, or the Director determines that such an analysis should be performed.

4. *Criteria for selecting existing regulations to be reviewed.*

All existing regulations (15 CFR Chapter VIII) shall be reviewed within 1 year of the date of the publication of this report. Thereafter, a regulation will be reviewed whenever:

(a) The regulation has not been reviewed for 5 years;

(b) A significant regulation has not been reviewed for 2 years;

(c) It appears to the Director that there is no further need for the regulation in the light of public comments received;

(d) It appears to the Director that the burdens imposed upon the public are increased even though no change has been made to the regulation itself;

(e) It appears to the Director that there is a need to simplify or clarify the language of the regulation;

(f) It appears to the Director that there is a need to eliminate overlapping and duplicative regulations;

(g) Technology, economic conditions or other factors have changed the effect of the regulation on the public;

(h) The Secretary, the Chief Economist of the Department, or the Director, requests that such review take place.

The Bureau's basic regulations may be found in 15 CFR Chapter VIII. We plan to complete the review of Bureau Regulations within 1 year of the effective date of these procedures. These regulations are: 15 CFR 802 which relates to the reporting of revenues and expenditures by carriers of imports.

15 CFR 803 which relates to the reporting of royalties and fees earned by foreign holdings of U.S. persons.

15 CFR 806 which relates to the reporting of direct investment.

15 CFR 807 which relates to the release of material under the Freedom of Information Act.

15 CFR 804 and 805 are outdated and will be deleted.

APPENDIX D—ECONOMIC DEVELOPMENT ADMINISTRATION

REPORT ON IMPROVING THE REGULATORY PROCESS

This notice sets forth the report which Executive Order 12044 on Improving Government Regulations (E.O. 12044, March 23, 1978) requires each agency to publish in the FEDERAL REGISTER for public comment.

The Economic Development Administration (ERA) administers programs to foster the economic development of the Nation. As a part of the Department of Commerce, EDA has been delegated responsibility primarily for implementing the following acts:

The Public Works and Economic Development Act of 1965, as amended (42 U.S.C. 3121), authorizing the Secretary of Commerce to provide financial assistance for public works, business development, and economic development planning which are needed to alleviate conditions of substantial and persistent unemployment and underemployment in economically distressed areas and regions;

Title II, Chapters 3 and 4 of the Trade Act of 1974 (19 U.S.C. 2101), authorizing the Secretary to provide adjustment assistance for trade impacted firms and communities in trade impacted areas;

The Local Public Works Capital Development and Investment Act of 1976, as amended (42 U.S.C. 6701), which authorized the Secretary to provide grants to State and local governments experiencing high unemployment; and

The Community Emergency Drought Relief Act of 1977 (42 U.S.C. 5184), which authorized the secretary to extend assistance in drought impacted areas.

EDA has promulgated regulations to implement these acts in Chapter III of Volume 13 of the Code of Federal Regulations. Henceforth, additions and changes to these regulations will be prepared in accordance with E.O. 12044, Department Administrative Order (D.A.O.) 218-7 and this report.

The following topics are examined in this report: (1) EDA's current process for developing significant regulations; (2) the changes EDA has made to that process to comply with E.O. 12044; (3) EDA's criteria for determining significant regulations; (4) criteria for identifying significant regulations which require regulatory analysis; (5) criteria for the selection of existing regulations to be reviewed according to the provisions of E.O. 12044; (6) a list of existing regulations which EDA will consider in its initial review; and, (7) a description of EDA's regulatory agenda.

I. CURRENT PROCESS FOR DEVELOPING REGULATIONS

EDA develops new regulations and revises existing regulations through basically the same process. There are several stages to this development: initiation, circulation within the agency, publication in the FEDERAL REGISTER, and opportunity for public comment.

(1) EDA's regulatory process starts in its Office of Chief Counsel (OCC) on its own initiative or at the request of the program offices, depending on the nature of the regulation. Regulations required by legislation originate with OCC; regulations implementing policy are proposed in program offices.

(2) Where OCC proposes a regulation, it prepares a draft of the proposal accompanied by background information on the authority for the regulation, the purpose it is intended to accomplish, and, if necessary, any policy decisions incorporated into the regulation. When a program office suggests a regulation, it supplies the background information to OCC, which drafts the proposed regulation. These drafts are circulated through the Agency for comments.

(3) After comments, if any, have been received and appropriate revisions made, the regulation is sent to the Assistant Secretary for approval. When the Assistant Secretary signs the regulation, it is published in the FEDERAL REGISTER, as a final rule. The FEDERAL REGISTER publication includes the name of an agency official whom interested persons may contact for further information and allows the public 30 days to comment on the regulation.

Up to this date, EDA pulished regulations directly in final because section 553 of the Administrative Procedure Act (5 U.S.C. 551) exempts agencies from the notice-and-comment procedure for regulations pertaining to grant and loan programs. Because of this exemption, EDA was not required to publish notices of proposed rulemaking. Upon occasion, EDA obtained comments prior to publication in the

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FEDERAL REGISTER, through formal and informal consultation with State and local governments. For instance, under the $6 billion Local Public Works Program, EDA submitted draft regulations to the Advisory Commission on Intergovernmental Relations for their comments.

II. REVISED PROCESS FOR SIGNIFICANT REGULATIONS

The following reforms have been made to EDA's procedures for significant (as defined in part III) regulations to accomodate the provisions of E.O. 12044. EDA will also comply with the procedures set forth in D.A.O. 218-7 "Issuing Departmental Regulations". EDA's process now includes the following stages: initiation, agency head oversight, regulatory analysis (where appropriate), public participation, and approval.

A. Initiation of Process

EDA will continue to initiate regulations as it did prior to E.O. 12044. As permitted under section 4.03 of D.A.O. 218-7, the Office of the Chief Counsel will examine regulations initially to determine their significance. The criteria for determining significance in regulations are discussed in part III below. If a regulation is determined significant, it will be subject to the remaining four stages. A regulation found not to be significant will be developed through similar procedures consistent with section 1 of E.O. 12044, depending on the nature of the regulation involved. When OCC determines that a regulation is not significant, the Assistant Secretary will review that determination prior to the submission of the next agency agenda or agenda supplement under section 7.01 or section 7.09 of D.A.O. 218-7, whichever occurs first.

B. Oversight by the Assistant Secretary.

Before drafting a significant regulation, OCC will inform the Assistant Secretary about the issues to be considered in the proposal and alternative approaches to achieve the proposal's purpose which should be explored. The Deputy Assistant Secretary for Policy and Planning will submit an initial determination to the Assistant Secretary regarding the necessity for preparing a regulatory analysis under parts II.C and IV below. The Assistant Secretary then will determine how the Agency will proceed with the regulation.

The Assistant Secretary also will review a tentative plan for obtaining public comment on the regulation. Where appropriate to the nature of the regulation, this plan shall include provision for consultation with State and local governments. Finally, the Assistant Secretary will establish dates for the completion of various steps in the development of the regulation.

Notice of developing a significant regulation will be given in EDA's regulatory agenda as described in part VII.

C. Regulatory Analysis

EDA will prepare a regulatory analysis for all significant regulations which may have major economic consequences, as set forth in part IV. For such regulations, EDA will scrutinize alternative approaches early in the decisionmaking process. The Office of the Deputy Assistant Secretary for Economic Development Policy and Planning will be responsible for determining the need for and for preparing regulatory analyses. In performing the regulatory analysis, EDA will:

(1) provide a succinct statement of the problem;

(2) describe the major alternative ways of dealing with the problem;

(3) analyze the economic consequences of each alternative considered;

(4) explain in detail the reasons for choosing one alternative over the others;

(5) explain in the public notice of proposed rulemaking the regulatory approach selected or favored, describe briefly other alternatives considered, and state how the public may obtain a copy of the draft regulatory analysis; and

(6) prepare a final regulatory analysis which EDA will make available when final regulations are published.

In performing the regulatory analysis, EDA will include as part of that analysis the urban and community impact analysis required by Executive Order 12074 and OMB Circular A-116, and section 5.04.e of D.A.O. 218-7.

D. Opportunity for Public Participation

EDA will give the public early and meaningful opportunity to participate in the development of significant regulations. In accordance with this goal, the Agency will publish an advance notice of proposed rulemaking after the Assistant Secretary has performed his oversight functions. EDA also will notify appropriate interested parties directly of the development of regulations.

In addition to these steps, EDA may, where appropriate and helpful, hold open conferences or public hearings on proposed rulemaking and send notice of proposed regulations to publications likely to be read by those affected by the rulemaking.

EDA will publish significant regulations as proposed rules and will allow the public sixty days to submit written comments on them. Written comments received from the public will be considered when the regulations are put into their final form.

In accordance with section 2(c) of E.O. 12044, EDA reserves the right to publish significant regulations with a shorter period for public comment or as final rules where short-term (60-90 days) statutory or judicial deadlines or other exigencies make the 60 day period impratical or contrary to the public interest. The preamble to these regulations will be accompanied by a statement of the reason for the abbreviated public participation procedures and the name of the EDA official responsible for this determination.

E. Approval of Significant Regulations

As in EDA's former process, the Assistant Secretary will approve all significant regulations prior to publication in final form in the FEDERAL REGISTER. The Assistant Secretary will make the following specific determinations as part of his approval:

(1) the proposed regulations are needed;

(2) the direct and indirect effects of the regulations have been considered;

(3) alternative approaches have been considered and the least burdensome of the acceptable alternatives has been chosen;

(4) public comments have been considered and responded to adequately;

(5) the regulations are written in plain English and are understandable to those who must comply with them;

(6) an estimate has been made of the new reporting burdens or recordkeeping requirements necessary for compliance with the regulations;

(7) the name, address and telephone number of a knowledgeable agency official is included in the publication; and

(8) a plan for evaluating the regulations after their issuance has been developed.

Pursuant to sections 4.07 and 7.05 of the D.A.O., EDA will submit significant regulations to the Secretary of Commerce for approval at least fifteen days before the proposed publication date.

III. CRITERIA FOR DETERMINING SIGNIFICANT REGULATIONS

The process for developing regulations described in part II applies only to regulations which EDA determines are significant. As noted in II.A., the Office of the Chief Counsel will initially determine significance. EDA will use the following criteria to determine the significance of regulations.

(1) EDA will consider the relationship of the regulation to major Departmental or Agency policy issues. Where an EDA regulation implements a major policy of either the Department or the Agency, rather than mandatory legislative authority or execu-

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tive branch directive (see paragraph III (4)(b) below), the regulation will be considered significant.

(2) EDA will consider the degree of controversy over or public interest in the regulation. Where a proposal for a regulation is controversial or of great public interest, that regulation will be considered significant.

(3) EDA will also consider the following factors in determining significance:

(a) the type and number of individuals, businesses, organizations, State and local governments affected;

(b) the compliance and reporting requirements likely to be involved;

(c) the direct and indirect effects of the regulation, including the effect on competition; and

(d) the relationship of the regulation to those of other programs and agencies.

(4) EDA will determine that regulations are not significant where the regulation is required by statute or other exigency (e.g. judicial deadlines) to be published quickly (i.e. 60-90 days) or where the regulation is required by statute or an executive branch directive and allows EDA no substantial discretion in developing the contents of the regulation.

(a) EDA will determine a regulation to be an emergency regulation where the statute or exigency requires publication within 91 days. In such a case, the regulation will not be significant. EDA will follow the procedures described in part II only inasfar as time will allow. EDA will publish these regulations as interim regulations and allow the public to comment for at least 60 days prior to final publication.

(b) The Assistant Secretary may conclude that a regulation is not significant, even if it meets the criteria established for identifying significant regulations, if the Assistant Secretary determines, in writing, that the degree of discretion available to EDA is so limited by underlying legislation or executive branch directives (e.g. Executive Orders, OMB Circulars, etc.) that no significant options for implementation are available to EDA. A copy of this determination shall be promptly sent to the Assistant Secretary for Policy and an explanation of the determination shall be included in the preamble to the notice of the proposed rulemaking.

IV. EDA'S PROPOSED CRITERIA FOR IDENTIFYING SIGNIFICANT REGULATIONS WHICH REQUIRE REGULATORY ANALYSIS

EDA will prepare a regulatory analysis of proposed regulations which the Agency has both (a) identified as significant under the above criteria and (b) determined may have major economic consequences.

EDA will apply the following alternative criteria to determine whether a significant regulation may have major economic consequences:

(1) *Effect on the economy as a whole.* Where the potential economic consequences of the significant regulation will affect the economy as a whole, EDA will determine those consequences to be major if such regulation can be expected, during any 12-month period it is in effect, to result in an effect, direct or indirect, on the economy of $50 million or more. If this criterion is met, EDA will perform a regulatory analysis of the proposed significant regulation.

(2) *Effect on an individual industry.* Where the potential economic consequences of the significant regulation will affect an individual industry, EDA will determine those consequences to be major:

(a) if, during any 12-month period in which it is in effect, such regulation can be expected to result in an increase of cost or price of 5 percent or more for the specific activity, product(s) or service(s) affected by the regulation; or

(b) if, during any 12-month period in which it is in effect, such regulation can be expected to result in an effect, direct or indirect, exceeding $25 million; or

(c) if the regulation can be expected to reduce labor productivity by 1 percent or more in the item which is the unit of focus in the regulation; or

(d) if such regulation can be expected, for the particular market(s) affected, to result in a 1 percent or more decline in a supply of materials, products or services or a 1 percent or more increase in consumption of these materials, products or services as a direct or indirect result of such regulation; or

(e) if such regulation can be expected to result in a decline in competition in the particular market(s) affected. Factors to be considered include limitation of market information, or other restrictive factors that impede the functioning of the market system.

If any of the criteria (a) through (e) is met, EDA will perform a regulatory analysis of the proposed significant regulation.

(3) *Effect on a level of government.* Where the potential economic consequences will affect a level of government, EDA will determine those consequences to be major if the effect, direct or indirect, is an increase in costs to that level of government which can be expected to exceed $25 million. If this criterion is met, EDA will perform a regulatory analysis of the proposed significant regulation.

(4) *Effect on a geographic area.* Where the potential economic consequences will affect a geographic area, EDA will determine those consequences to be major if, during any 12-month period in which it is in effect, the significant regulation can be expected to result in an effect, direct or indirect, exceeding $25 million. If this criterion is met, EDA will perform a regulatory analysis of the proposed significant regulation.

(5) *Effect on consumers.* Where the potential economic consequences of the significant regulation will result in an effect, direct or indirect, to consumers, EDA will determine those consequences to be major:

(a) if, during any 12-month period it is in effect, such regulation can be expected to result in an effect, direct or indirect, exceeding $25 million; or

(b) if, during any 12-month period it is in effect, such regulation can be expected to result in an increase in price of 5 percent or more for the specific activity, product(s) or service(s) affected by the proposed regulation; or

(c) if such regulation can be expected to result, for the particular market(s) affected, in a 1 percent or more decline in supply of materials, products or services or a 1 percent or more increase in consumption of these materials, products or services as a direct or indirect result of the regulation; or

(d) if, such regulation can be expected to result in a decline in competition in the particular market(s) affected. Factors to be considered include limitation of market entry, restraint of market information, or other restrictive factors that impede the functioning of the market system.

EDA will also prepare a regulatory analysis of existing regulations where the Agency has determined, pursuant to the criteria set forth in part V, that the regulations should be revised, and that the regulations as revised are both significant and will have major economic consequences under one or more of the preceding criteria.

If the Agency determines that a proposed or revised regulation is not significant or that a proposed or revised regulation is significant but will not have major economic consequences under one of the above criteria, EDA will not perform a regulatory analysis of the regulation except where:

(a) the Assistant Secretary for Economic Development determines that such an analysis would be beneficial; or

(b) the Secretary of Commerce determines, in accordance with section 7.05 of D.A.O. 218-7 that such an analysis should be performed.

V. CRITERIA FOR SELECTING REGULATIONS FOR REVIEW

In order to assure that existing regulations are achieving the policy goals of E.O. 12044, EDA will review its regulations periodically. In selecting existing regulations for review, EDA will consider the following criteria:

(1) The length of time since the regulation has been evaluated. All regulations which meet the criteria of significance will be reviewed at least once every four years. EDA will review all other regulations within six years of publication. After selecting regulations under this criterion, EDA will review the regulations in accord with the other criteria listed below.

(2) The continued need for the regulation. EDA shall examine all its regulations periodically to determine if there is a continuing need for the regulations. EDA will measure the need for each regulation on the basis of the underlying legislation, EDA policy, or other Federal agency requirements.

(3) The need to simplify or clarify language. EDA will note which of its regulations have caused misunderstandings and review them as necessary to clarify them.

(4) The need for clarifying the organization of parts or subparts due to the addition of or substantial revision of individual regulations.

(5) The need to eliminate overlapping or duplicative regulations.

(6) The need to eliminate unnecessary variations in requirements imposed on recipients of financial assistance by both EDA and other Federal agencies.

(7) The burdens imposed on those directly or indirectly affected by the regulations.

(8) The number of complaints or suggestions received.

(9) The degree to which economic conditions or other factors have changed in the area affected by the regulation.

Based upon its review of existing regulations, EDA will revise significant regulations in accord with the procedures set forth in part II above for developing new significant regulations.

VI. LIST OF EXISTING REGULATIONS WHICH EDA WILL CONSIDER FOR ITS INITIAL REVIEW

EDA will consider the following regulations for its initial review:

1. Regulations regarding the organization of Economic Development Districts. EDA will review these regulations, primarily 13 CFR 303.4, because many district organizations have requested EDA to clarify and to simplify these requirements.

2. Regulations regarding the Business Development Program, 13 CFR Part 306. EDA will review these regulations because they have not been reviewed as a whole since they were published and are in need of reorganization.

3. Regulations regarding general requirements for assistance, 13 CFR Part 309. EDA will review these regulations to eliminate those which are no longer necessary and to clarify procedural requirements.

VII. REGULATORY AGENDA

By January 15 and July 15 of each year, EDA will prepare a regulatory agenda of forthcoming regulations under review or development. EDA will submit the agenda to the Assistant Secretary of Commerce for Policy. The portions of this agenda concerning significant regulations will be published in the FEDERAL REGISTER as part of the combined Department of Commerce regulatory agenda by February 15 and August 15 of each year. The regulatory agenda for EDA will include, to the extent feasible:

(1) a description of regulations under development or being considered for development, including:

(a) a statement whether the regulation has been determined to be a significant regulation;

(b) the need for and the legal basis for the action being taken;

(c) if possible, a statement as to whether or not a regulatory analysis will be required;

(d) the name and telephone number of a knowledgeable official;

(e) a list of major issues likely to be considered in developing the regulation;

(f) a tentative plan for consulting with State and local governments;

(g) target dates for the completion of steps in the development process; and

(h) information on the status of all new regulations listed in the previous agenda, including changes to the information required by this part, until such time as these regulations are published as final in the FEDERAL REGISTER.

(2) a list of existing regulations scheduled for review during the next six months, including the name and telephone number of a knowledgeable official for each;

(3) information on the status of existing regulations previously scheduled for review; and

(4) a list of all final regulations published in the FEDERAL REGISTER during the previous six months, including the date and FEDERAL REGISTER citation.

If EDA has no regulations which it intends to review or develop, EDA will submit a report to the Assistant Secretary for Policy to that effect. If, prior to the date of the next agency agenda, it becomes necessary for EDA to develop or review regulations which were not listed on the last agency agenda, EDA will publish a supplement to the agency agenda. In addition, EDA will immediately notify the Assistant Secretary for Policy of any changes to its regulatory agenda, including any significant changes in the status of items listed on the previous agenda. EDA may also publish a supplement to the agency agenda, when appropriate, if EDA will not develop or review significant regulations as scheduled on the latest agenda.

In developing proposed regulations, EDA will consider and include as part of the public record all substantive comments which it has received concerning any item listed on the agenda.

EDA received no comments regarding the draft of this report which was published on May 30, 1978, as Appendix D to the Department of Commerce "Response to Executive Order No. 12044". Interested persons should send comments on this final report to: Assistant Secretary for Economic Development, Room 7800B, U.S. Department of Commerce, Washington, D.C. 20230.

Dated: December 8, 1978.

APPENDIX E—INDUSTRY AND TRADE ADMINISTRATION ISSUING REGULATIONS

SECTION 1. PURPOSE.

This order prescribes the procedures which shall apply in implementing Executive Order 12044 of March 23, 1978, improving Government Regulations, and Department Administrative Order 218-7.

SECTION 2. SCOPE

.01 Except as provided in paragraph .02 of this section, this order applies to all regulations of the Industry and Trade Administration published in the FEDERAL REGISTER.

.02 Unless specifically noted to the contrary, this order does not apply to regulations exempted by Executive Order 12044 and D.A.O. 218-7, specifically.

a. regulations issued in accordance with the formal rulemaking provisions of the Administrative Procedure Act (5 U.S.C. 556, 557);

b. regulations issued with respect to a military or foreign affairs function of the United States;

c. matters related to agency management or personnel;

d. regulations related to Federal Government procurement; or

e. regulations that are issued in response to an emergency or which are governed by short-term (less than 91 days) statutory or judicial deadlines.

.03 Whenever two or more agencies plan to jointly promulgate regulations, bureau heads shall designate one agency as lead agency for the purpose of determining whose rulemaking procedures will be utilized. The designated agency shall be responsible for compliance with Executive Order 12044 and its procedures implementing that Executive Order shall apply. Regardless of the designation as lead agency, each bureau head involved in a joint

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rulemaking will separately comply with the requirements of Section 7 of this Order.

.04 Even in cases where the exemptions in paragraph .02 of this section apply, regulations will be developed, to the extent practicable, in accordance with the requirements, procedures and intent of the Executive Order.

SECTION 3. DEFINITIONS

.01 *Bureau head.* As used in this order, bureau head means the head of each bureau of the Industry and Trade Administration and persons serving in those positions in an acting capacity.

.02 *Regulation(s).* As used in this order, regulation(s) means both rules and regulations issued by the Industry and Trade Administration including those which establish conditions for financial assistance. Closely related sets of regulations shall be considered together.

SECTION 4. SIGNIFICANT REGULATIONS

01. Bureau heads shall identify a regulation to be significant if:

a. a substantial number of individuals, businesses, organizations, State and local governments would be affected by the regulation:

b. the compliance and reporting requirements of the regulation are likely to be excessive and interfere with normal business practices or substantially increase paperwork requirements;

c. the regulation is likely to have a major affect directly or indirectly on competition within the marketplace;

d. the regulation would be likely to have a measurable inflationary effect;

e. the regulation would be likely to contribute substantially to unemployment;

f. the regulation would be likely to reduce U.S. exports by a substantial amount;

g. the availability of material and equipment in the marketplace would be increased or decreased in a substantial amount;

h. the regulation relates in an important way to other programs and agencies within and outside of the Industry and Trade Administration and the Department; or

i. the regulation bears an important relationship to major Industry and Trade Administration and Departmental policy issues.

.02 a. Before proceeding to develop significant new regulations the bureau head shall consult with the Assistant General Counsel for Industry and Trade and shall have reviewed the issues to be considered, the alternative approaches to be explored, whether a regulatory anaylsis, as provided for in Section 5, is required, a tentative plan for obtaining public comment where applicable, a tentative plan for consultation with State and local governments, and a target date for completion of steps in the development of the regulation.

b. The bureau head shall obtain the written approval of the Assistant Secretary for Industry and Trade of any proposal to develop significant new regulations.

.03 The Assistant Secretary for Industry and Trade shall approve significant regulations before they are published in the FEDERAL REGISTER in final form. Before approving significant regulations, the Assistant Secretary for Industry and Trade shall consult with the Assistant General Counsel for Industry and Trade and will be satisfied that:

a. the regulation is needed;

b. the direct the indirect effects of the regulation have been adequately considered;

c. alternative approaches to regulations and among various types of regulations have been considered and the least burdensome of the acceptable alternatives has been chosen;

d. public comments (including those from State and local governments) have been considered and an adequate response has been prepared;

e. the regulation is written in simple and clear English and is understandable to those who must comply with it;

f. an estimate has been made of the new reporting burdens or recordkeeping requirements necessary to carry out the regulation;

g. the cost to the Government and to the public have been assessed;

h. the name, address and telephone number of a knowledgeable official is included in the publication; and

i. a plan for periodically evaluating the effectiveness of the regulation after its issuance has been developed.

.04 The Assistant Secretary for Industry and Trade, in consultation with the Assistant General Counsel for Industry and Trade, shall review determinations that a regulation is not significant prior to the submission of the next agency agenda required by Section 7.05, or the notification required by Section 7.08, whichever occurs first.

.05 Regulations which are not significant shall be accompanied by a statement to that effect when published in the FEDERAL REGISTER.

SECTION 5. REGULATORY ANALYSIS

.01 A regulatory analysis shall be prepared for each significant regulation determined to have potential major economic consequenses for the general economy, for individual industries, geographic regions, levels of government, or specific elements of the population.

.02 Bureau heads shall determine which significant regulations require regulatory analysis. While these officials should be guided by the individual needs of their specific programs and may require an analysis for any proposed regulation, at a minimum a regulatory analysis shall be prepared for each regulation which:

a. during any one year of its existence, can be expected to result in increased cost(s) (direct or indirect) to consumers, businesses, Federal, and State and local governments exceeding $50 million;

b. during any one year of its existence, can be expected to result in increased costs (direct or indirect) to either consumers, businesses, or levels of governments exceeding $25 million;

c. during any one year of its existence, can be expected to result in an increase or decrease in costs or prices of five percent or more for the activity, product(s) and/or service(s) affected by the proposed regulation;

d. can be expected to reduce labor productivity by one percent or more in the economic activity or sector(s) affected by the regulation;

e. can be expected to reduce employment by five percent or more in the economic activity or sector(s) affected by the regulation;

f. can be expected to result in a one percent or more decline or rise in supply or consumption of materials, products or services, in the activity affected;

g. can be expected to result in a clearly identifiable decline in domestic or international competition, including such factors as limitation of market entry, restraint of market information, or other impediments to the functioning of the market system; or

h. can be expected to redirect supplies of material, equipment, products or services from one market to another by a significant amount.

.03 A regulatory analysis shall also be prepared when:

a. the Assistant Secretary for Industry and Trade determines that such an analysis should be performed; or

b. the Secretary determines that such an analysis should be performed.

.04 A regulatory analysis must involve a careful examination of alternative approaches early in the decisionmaking process. Thus, each analysis must include, at the minimum:

a. a succinct statement of the problem;

b. a description of the major alternative ways of dealing with the problems that were considered;

c. an analysis of the economic consequences of each of these alternatives and a detailed explanation of the reasons for choosing one alternative over the others; and

d. the urban and community impact analysis required by Executive Order 12047, of August 16, 1978, and OMB

Circular A-16, which implements that Executive Order.

.05 The notice of proposed rulemaking for each regulation for which a regulatory analysis is required shall include:

a. an explanation of the regulatory approach that has been selected or is favored;

b. a short description of the other alternatives considered;

c. the major reason(s) for selecting or favoring a particular alternative; and

d. a statement of how the public may obtain a copy of the draft regulatory analysis.

.06 a. The Assistant Secretary for Industry and Trade shall transmit the draft regulatory analysis along with the proposed regulation to the Chief Economist and to the Assistant General Counsel for Industry and Trade for review and comment at least 15 days prior to submission of a notice of proposed rulemaking to the FEDERAL REGISTER; and

b. The Assistant Secretary for Industry and Trade shall inform the Chief Economist as early as possible of the nature and extent of the analysis being undertaken to assure adequate opportunity for consultation and assistance.

.07 Bureau heads shall consider public comments on their regulatory analysis and prepare a final regulatory analysis to be made available when the final regulations are published. Significant public comments on the analysis shall be summarized and responded to in the preamble to the final regulation.

.08 Regulatory analyses are not required in rulemaking proceedings pending as of March 23, 1978, if an Economic Impact Statement has already been prepared in accordance with Executive Order 11821 and 11949 or it has been determined that such a statement was not needed.

SECTION 6. REVIEW OF EXISTING REGULATIONS

.01 Bureau heads shall review existing regulations administered by their organization at least every four years to determine whether they are achieving the policy goals of Executive Order 12044 and report their findings to the Assistant Secretary for Industry and Trade.

.02 Bureau heads shall consider the following criteria, among other things, in reviewing existing regulations:

a. the continued need for the regulation;

b. the availability of alternative approaches to the regulations;

c. the type or number of complaints or suggestions received;

d. the burdens imposed on those directly or indirectly affected by the regulation;

e. the cost to the Government of administration of the regulation;

f. the need to simplify or clarify the language;

g. the need to eliminate overlapping and duplicative regulations; and

h. the length of time since the regulation has been evaluated or the degree to which technology, economic conditions or other factors have changed in the area affected by the regulation.

.03 Procedures for review of existing regulations shall, at a minimum, contain the following procedural steps:

a. inclusion of notice of the review in the semi-annual agenda as required by section 7.02 of this order, or as appropriate, supplementation of the Department Agenda and notification to the Assistant Secretary for Policy as called for in section 7.08 of this order;

b. a determination of whether the regulation meets the criteria established for identifying significant regulations;

c. if the regulation is determined to be significant, approval by the Assistant Secretary for Industry and Trade as called for in section 4.02b before proceeding with the review;

d. a determination of whether the regulation meets the criteria established for determining if a regulatory analysis must be performed;

e. if applicable, the preparation of a regulatory analysis in accordance with the procedures established;

f. if the review results in a determination that a regulation should be amended or rewritten, compliance with public notice and participation requirements;

g. if applicable, Assistant Secretary for Industry and Trade approval of significant regulations before final publication in the FEDERAL REGISTER as set forth in section 4.03 of this order.

SECTION 7. REGULATORY AGENDA

.01 No later than January 3, 1979, each bureau head shall provide the Senior Deputy Assistant Secretary for Industry and Trade with the first regulatory agenda required under this section. No later than June 1, 1979, each bureau shall provide the Senior Deputy Assistant Secretary for Industry and Trade with the second regulatory agenda required under this section and shall provide such an agenda every six months thereafter.

.03 Each regulatory agenda shall include the following:

a. a description of regulations under development or being considered for development to include to the extent feasible:

1. a statement of whether the regulation has been determined to be a significant regulation;

2. the need for and the legal basis for the action being taken;

3. a statement as to whether or not a regulatory analysis will be required;

4. the name and telephone number of a knowledgeable official to whom comments on the planned regulation may be addressed;

5. a listing of the major issues likely to be considered in developing the regulation;

6. a tentative plan for obtaining public comment and where applicable, a tentative plan for consulting with State and local governments;

7. proposed dates for the completion of steps in the development process; and

8. information on the status (including changes to the information required by this Section .02.a.) of proposed significant regulations listed in previous agendas until such time as these regulations are published as final in the FEDERAL REGISTER.

b. a list of existing regulations scheduled to be reviewed, including the name and telephone number of a knowledgeable official for each such regulation;

c. information on the status of existing regulations previously scheduled for review; and

d. a list, including the date and FEDERAL REGISTER citation, of all final regulations published in the FEDERAL REGISTER during the previous six months.

.03 The Senior Deputy Assistant Secretary for Industry and Trade shall review all bureau head agendas and, after consultation with the Assistant General Counsel for Industry and Trade and such Industry and Trade Administration officials as may be deemed appropriate, recommend to the Assistant Secretary for Industry and Trade:

a. which regulations not determined to be significant by the bureau heads should be treated as significant;

b. which of the new regulations under development or being considered for development should be brought to the attention of the Secretary prior to being published in the FEDERAL REGISTER in final form; and

c. in addition to those identified by bureau heads, which new regulations under development or being considered for development require a regulatory analysis.

.04 The Senior Deputy Assistant Secretary for Industry and Trade shall advise bureau heads of the decisions made by the Assistant Secretary for Industry and Trade with respect to these recommendations.

.05 Using the bureau head agendas, as modified by the Assistant Secretary for Industry and Trade, the Senior

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Deputy Assistant Secretary for Industry and Trade shall prepare an overall Industry and Trade Administration agenda. This agenda after approval by the Assistant Secretary for Industry and Trade, shall be submitted to the Assistant Secretary for Policy by January 15, 1979, and every six months therafter.

.06 The Industry and Trade Administration agenda shall include the information required by section .02 above.

.07 Supplements to the Department Agenda may be published whenever it becomes apparent that development or review of significant regulations not listed in the previous Department Agenda will commence before the publication of the next Department Agenda; or development or review of a regulation listed in the previous Department Agenda will not commence as scheduled.

.08 Bureau heads will notify the Assistant Secretary for Policy whenever it becomes apparent that development or review of regulations not listed in the previous agency agenda will commence before publication of the next Department Agenda, development or review of a regulation listed in the previous Department Agenda will not commence as scheduled or significant changes have occured in the status of items listed in the previous agency agenda.

.09 a. A docket shall be established and maintained for each item appearing in the regulatory agenda.

b. Dockets shall be maintained by the staff of the Industry and Trade Administration Freedom of Information Records Inspection Facility and shall be available for public inspection in Room 3012, Main Building, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. The telephone number of the inspection facility is 202-377-3031.

c. Dockets shall include, but not be limited to:

1. documents of central relevance to the proceeding and any technical support documents developed or relied on prior to publication of the Notice of Proposed Rulemaking;

2. a copy of the Notice of Proposed Rulemaking;

3. all public comments received concerning the proposal;

4. all transcripts of hearings, if held, concerning the proposal;

5. all documents of central relevance that became available after the Notice of Proposed Rulemaking; and

6. a copy of the Notice of Final Rulemaking.

SECTION 8. PUBLIC PARTICIPATION

.01 The public shall be given an early and meaningful opportunity to participate in the development of the regulations of the Industry and Trade Administration.

.02 Bureau heads shall consider a variety of ways to provide this opportunity, including, but not limited to:

a. publishing an advance notice of proposed rulemaking;

b. holding open conferences or public hearings;

c. sending notices of proposed regulations to publications likely to be read by those affected;

d. notifying interested parties directly; and

e. providing for more than one cycle of public comments.

.03 If none of the methods listed in paragraph .02 of this section are used in a particular rulemaking covered by this order, the preamble accompanying the final regulation shall briefly explain the reasons and indicate what other steps were taken to assure adequate opportunity for public participation.

.04 The public shall be given at least 60 days to comment on proposed significant regulations. Exceptions to this requirement may be granted only by the Assistant Secretary for Industry and Trade and only in those few instances where it is determined that it is not possible to comply. When an exception is made the preamble to the proposed regulation shall include a brief statement of reasons for a shorter time period.

.05 In instances when regulations exempted by sections 2.02 (b) and (c) of this order do not comply with the procedures set forth in this order, their publication in the FEDERAL REGISTER shall be accompanied by a statement of the reasons why the procedures of this order could not be followed. This statement shall include the name of the policy official responsible for the determination.

.06 Regulations exempted by section 2.02 (b) or (c) of this order shall be issued in interim form only. FEDERAL REGISTER publication of these regulations will provide for a public comment period of at least 60 days and republication in final form after public comments have been considered and appropriate modifications, if any, made.

ITA is considering for initial review the following regulations:

REVIEW OF REGULATIONS

Regulation	CFR Citation	Contact Point
Export Administration Regulations Commodity Control List and Related Matters.	15 CFR 399	Rauer Meyer 202/377-4293
Defense Materials System (DMS) Order 1—Iron and Steel	32A CFR 631	John Richards 202/377-4506
Defense Materials System (DMS) Order 2—Nickel Alloys	32A CFR 632	John Richards 202/377-4506
Defense Materials System (DMS) Order 3—Aluminum	32A CFR 633	John Richards 202/377-4506
Defense Materials System (DMS) Order 4—Copper and Copper Base Alloys.	32A CFR 634	John Richards 202/377-4506
Operation of the Priorities and Allocations Systems between Canada and the United States (DPS Reg. 2).	32A CFR 652	John Richards 202/377-4506
Compliance and Enforcement Procedures (DPS Reg. 3)	32A CFR 653	John Richards 202/377-4506
Instruments and Apparatus for Educational and Scientific Institutions.	15 CFR 301	Richard Seppa 202/377-2925
China Trade Act Corporations	15 CFR 363	Harry Stringer 202/377-3647
Joint Export Associations	15 CFR 366	Samuel Cerrata 202/377-4577
Determination of Bona Fide Motor-Vehicle Manufacturers	15 CFR 315	Edward Smith 202/377-4338
Foreign-Trade Zones Board (Administrative support is provided to the Foreign-Trade Zones Board staff by ITA).	15 CFR 400	John DaPonte 202/377-2862

APPENDIX F—MARITIME ADMINISTRATION (MARAD)

PROCESS FOR DEVELOPING REGULATIONS

PRESENT PROCESS FOR DEVELOPING REGULATIONS

Marad's principal programs are promotional (grants or contracts), or related to national defense, and have not been subject to the notice of proposed rulemaking requirements of the Administrative Procedure Act (5 USC 553). As a matter or practice, Marad has published a notice of proposed rulemaking in the FEDERAL REGISTER, and has usually allowed at least 30 days for the submission of written comments by all interested parties with respect to new regulations or amendments to existing regulations which we consider to be important. An exception to this practice has occurred where observance of such notice requirements would defeat principal objectives of the new or amended regulations. However, Marad has rarely engaged in final rulemaking without prior consultation with parties who will be directly affected.

Previously, Marad has not adopted a uniform policy for the development of regulations or the review of existing regulations. With respect to regulations which implement our principal programs, development or revision of regulations has usually resulted from recognition of operational problems by Marad Offices responsible for administering these programs or from complaints received, either from participants in the programs or from others affected by such regulations. Where important new regulations or major revisions of such regulations have been drafted pursuant to direction or authorization of legislation, it has been customary to select a committee which meets regularly to consider and draft the proposed regulation. The Committee has usually included staff members involved in program administration and an attorney in the Office of General Counsel. With respect to most other efforts in developing regulations, draft proposals have been initiated by Offices concerned with program administration and submitted to the Office of General Counsel for review. The agency has exercised discretion in determining whether to solicit the views of interested persons before publication of the notice of final rulemaking in the FEDERAL REGISTER.

REVISED PROCEDURE FOR DEVELOPING REGULATIONS

Marad hereby establishes a uniform procedure for developing regulations, and will comply with the requirements of Department of Commerce Administrative Order 218-7 (DAO 218-7). Prior to considering in depth a proposal from any source for issuing a new or revised regulation, or set of regulations, the Director of the Office with a principal responsibility for administering the program to which the regulation relates shall prepare a brief memorandum to the appropriate Assistant Administrator. Copies shall be distributed to the Deputy Assistant Secretary for Maritime Affairs and to the General Counsel. This memorandum shall briefly describe the background of the proposal, the objectives of the regulation, possible alternative approaches to accomplish these objectives, an estimate of its potential economic impact, a tentative plan for obtaining public comment and target dates for completion of steps in the development of the regulation. The Assistant Administrator, with the concurrence of the Deputy Assistant Secretary and the General Counsel, shall make a preliminary determination as to whether the regulation is "significant", so as to be subject to requirements of sections 2 or 3 of Executive Order 12044 (EO 12044).

If these officials determine that the regulation is significant (using criteria described hereinafter), they shall recommend that the Assistant Secretary for Maritime Affairs or Maritime Subsidy Board (Assistant Secretary/MSB), as appropriate, designate the Offices (including the Office of General Counsel) to be represented on a committee which shall evaluate the proposal. The Committee shall draft proposed regulations where it considers such action to be necessary. Should a determination be made that the proposal does not involve a significant regulation, the staff of the Office Director initiating the action shall be responsible for developing such regulation with assistance from the Office of General Counsel.

The Assistant Secretary/MSB, prior to authorizing development of significant regulations, shall review the issues to be considered; the alternative approaches to be explored; whether a regulatory analysis (as described hereinafter) is required; a tentative plan for consulting with State and local government, where appropriate; and target dates for completion of the steps in the development of the regulation.

Significant regulations shall be published in the FEDERAL REGISTER, allowing all interested persons at least 60 days (except where circumstances to be described in the notice make a shorter period necessary) to submit written comments. With respect to all significant regulations, Marad shall consider utilizing other publications to advise interested persons of proposed rulemaking, as well as for giving advance notice of such proposed rulemaking. With respect to regulations determined not to be significant, the staff shall consider soliciting comments from interested persons through publication or other channels of communication.

The Assistant Secretary/MSB shall approve all significant regulations prior to their publication in the FEDERAL REGISTER in final form after determining that:

(1) The regulation is needed;

(2) Its direct and indirect effects have been adequately considered;

(3) Alternative approaches have been considered and the least burdensome acceptable alternative has been selected;

(4) Comments have been solicted from interested persons, where appropriate (including State or local government), and have been adequately considered and acknowledged responsively;

(5) The regulation is written in a manner that should be comprehensible to those subject to its requirements;

(6) An estimate has been made of any new reporting or recordkeeping requirements imposed by the regulation;

(7) The name, address and telephone number of a knowledgeable official, to whom inquiries and suggestions about the proposed regulation may be submitted, is included in the publication; and

(8) A plan has been developed for evaluating the regulation after its issuance.

Regulations which are not significant shall be accompanied by a statement to that effect when published in the FEDERAL REGISTER.

CRITERIA FOR SIGNIFICANT REGULATIONS.

Significant, within the scope of section 2 of Executive Order 12044, means a regulation that:

(1) Is necessary to implement new provisions of law relating to the operation of any major Marad program, including, but not limited to financial assistance for vessel construction or operations, reservation of cargo for United States vessels, vessel insurance, citizenship requirements and matters relating to the United States Merchant Marine Academy and State Maritime Academies; or would effect a substantial revision to an existing regulation relating to any such program;

(2) Is expected to have major economic consequences on the general economy or have a substantial impact on levels of production of employment, either at the national level or in any geographic area, of U.S. shipbuilders, vessel operators, port facility operators, or related industries or segments thereof;

(3) Overlaps or has a substantial effect on regulations in effect or functions of another Federal or State governmental body; or

(4) Is considered by the Assistant Secretary/MSB to involve an important matter on which there is current substantial public interest or controversy.

CRITERIA FOR REGULATORY ANALYSIS

The committee responsible for developing a significant regulation or set of regulations shall initially consider the problems, objectives and alternative approaches for administrative action. This consideration shall include an evaluation of the probable economic impact of the regulation upon the general economy, individual industries, geographical regions or levels of Government. The Committee shall utilize the expertise of the Office of Policy and Plans whenever it considers consultation to be appropriate. It shall issue an opinion, subject to the approval of the Assistant Secretary/MSB, as to

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whether the proposed regulation may have major economic consequences of any type.

A Regulatory Analysis shall be prepared if a determination is made that any of the following major economic consequences of the regulation under consideration are likely to occur:

(1) During any one year of its existence, it can be expected to result in an effect (direct or indirect) on the national economy of $50 million or more;

(2) During any one year of its existence, it can be expected to result in an effect (direct or indirect) exceeding $25 million in the economy of any State;

(3) It can be expected to produce at least a 5 percent reduction in the level of activity or employment in the U.S. shipbuilding industry, the U.S. ship operating industry, or the U.S. port industry;

(4) It can be expected to produce at least a 5 percent reduction in the level of industrial activity or employment in any local area (e.g., city, county, port authority region);

(5) It can be expected to produce at least a 10 percent reduction in the U.S. tax revenues derived from the shipbuilding, ship operating, or port industry; or

(6) During any one year of its existence, it can be expected to result in an increase of cost or price of 5 percent or more for the specific maritime service(s) affected by its provisions.

Each draft Regulatory Analysis shall include—

(1) A succinct statement of the reason for issuing the regulation;

(2) Major alternatives to the regulation that have been considered;

(3) An analysis of the respective economic consequences of the regulation and alternative approaches; and

(4) A detailed explanation of the reasons for choosing the alternative favored or selected.

(5) The urban and community impact analysis required by Executive Order 12074 (August 16, 1978) and OMB Circular A-116.

The draft Regulatory Analysis shall be made available for public inspection, and reference to it shall be included in the notice of proposed rulemaking.

REVIEW OF EXISTING REGULATIONS

Each Marad Office which has a principal function of administering programs to which existing regulations relate shall systematically review each regulation to determine its effectiveness. An initial review of all existing regulations shall be completed by the end of the calendar year 1981 (the 1979 year end deadline stated in the draft report was based on a misinterpretation of an EO 12044 provision, and would impose an unreasonable burden on the agency). There shall be a review of all significant regulations no less frequently than every four years thereafter, subject to approval by the Assistant Secretary/MSB. In determining the priorities of initial review, the criteria for principal consideration are:

(1) Whether the regulation has been reviewed within the preceding five years;

(2) If there is a substantial question of the continuing need for regulations in any area of agency activity;

(3) Receipt of complaints from other agencies, State or local governments, or the public;

(4) Recognition by program administrators of the need for simplification, clarification, consolidation with other existing regulations, or elimination of conflicts with Marad regulations or those of other governmental agencies.

REGULATORY AGENDA

Semiannually, by January 15 and July 15, Marad will prepare and submit for Department approval a regulatory agenda which describes regulations under development or being considered, which will include the information required in section 7.02 of DAO 218-7. The Assistant Secretary/MSB shall review the proposed agenda and any determination which has been made that a regulation is not significant.

Marad presently is considering an initial review or its proceeding with the development of the regulations described below:

Subject	Regulations
Temporary removal of prohibition of vessels built with construction-differential subsidy (CDS) from carrying oil from Alaska in the domestic trade	46 CFR Part 250
Conservative Dividend Policy—Restriction on the payment of dividends by vessel operators receiving operating differential subsidy (ODS)	46 CFR Part 283
ODS for bulk cargo vessels engaged in worldwide services—essential service and U.S. foreign commerce requirement	46 CFR Part 252.21
ODS for bulk cargo vessels engaged in worldwide services—principal foreign-flag competition; foreign wage costs	46 CFR Part 252.22; 252.31
Regulations governing awards of ODS—Agreements and payments of ODS	46 CFR Part 280
Standard contract forms and other regulations for administration of CDS Program	46 CFR Part 251
Total repayment of CDS—removal of trade restrictions	46 CFR Part 276
Guarantees of obligations issued to finance vessel construction—Final.	46 CFR Part 298
Regulations for U.S. Maritime Service, a voluntary organization to train U.S. citizens for service on U.S. merchant vessels	46 CFR Part 310, Subpart B

Any inquiries about the procedure described herein or the regulations proposed for review should be directed to Richard P. Knutsen, Assistant General Counsel for Legislation and Regulations, Maritime Administration, Washington, D.C. 20230, Tel. 202-377-3159.

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APPENDIX G

Title 45—Public Welfare

CHAPTER XX—UNITED STATES FIRE ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 2012—ISSUING AND REVIEW OF USFA REGULATIONS

AGENCY: United States Fire Administration (Note: The name of the National Fire Prevention and Control Administration was changed by Pub. L. 95-422 to the United States Fire Administration).

ACTION: Final rule.

SUMMARY: The Administrator of the United States Fire Administration (USFA) is authorized and directed by the Federal Fire Prevention and Control Act of 1974 (Pub. L. 93-498, 88 Stat. 1535, 15 U.S.C. 2201 *et seq.*, 278 f, 42 U.S.C. 290(a)), "the Act", to carry out certain fire prevention and control programs. Section 21(b) of the Act authorizes the Administrator to "establish such rules, regulations and procedures as are necessary to carry out the provisions of [the] Act." To carry out his responsibilities under the Act, the Administrator has found it necessary, and will likely find it necessary, to issue rules and regulations. This rule sets out the procedures by which such regulations will be issued. It further provides for the review of existing regulations, on a continuing basis.

Subpart A of the rule contains the purpose, scope and definitions. Subpart B of the rule sets out the method and the procedure for issuing regulations. Subpart C establishes the circumstances under which a regulatory analysis shall be accomplished and the procedure for such an analysis. Subpart D establishes the procedure for the review of existing regulations and for the preparation of a regulatory agenda (to include a listing of proposed regulations, and a schedule for review of existing regulations). Subpart E contains some general administrative provisions.

FOR FURTHER INFORMATION CONTACT:

David F. Snyder, Acting Chief Counsel, United States Fire Administration, U.S. Department of Commerce, P.O. Box 19518, Washington, D.C. 20036, Telephone: 202-632-9685.

SUPPLEMENTARY INFORMATION: On March 23, 1978, the President signed Executive Order 12044, "Improving Government Regulations." The policies of that Executive Order, the Department of Commerce, and this rule are: the promulgation of only those regulations which are necessary, the provision for maximum public participation in regulatory affairs, the continuous review of existing regulations, and the special analysis of significant regulations.

To comply with Section 5 of Executive Order 12044, the following information is provided:

USFA has not previously published a detailed system for issuing regulations. Nonetheless, it has followed procedures consistent with the notice and comment rulemaking requirements of the Administrative Procedure Act. In one rulemaking, a Notice of Proposed Rulemaking was published with a ninety-day comment period. Comments were reviewed and the final publication occurred several months later.

In the second, more complex rulemaking, USFA followed a distinctly different process. Extensive consultations were held with and correspondence exchanged between the Office of the Chief Counsel, USFA, the General Counsel of the Department of Commerce, the General Counsel of the Department of Treasury, and the Office of Legal Counsel, Department of Justice. After the consultation and review, a Notice of Proposed Rulemaking was published with a sixty-day comment period. Simultaneously, the draft regulations were submitted to the State Fire Marshals, the State Attorneys General, the Mayors of some of the largest cities of each state, the heads of the legal staff of many federal agencies, and safety officers within some federal agencies. During the comment period, meetings were held with fire service officials in several states, with fire service officials employed by federal agencies, and inquiries, via telephone and the mails, were responded to. The comments were reviewed and the final regulations were published in the FEDERAL REGISTER and were soon thereafter published in the agency newsletter, FIREWORD, which is distributed free of charge to over 20,000 fire service, academic, and governmental personnel.

Subpart B, which sets forth a new process for developing and reviewing regulations, was published for comments to be consistent with Executive Order 12044 and departmental regulations. Under the new process, 45 CFR Part 2010 "Reimbursement for Costs of Firefighting on Federal Property", and 45 CFR Part 2011, "Public Safety Awards to Public Safety Officers", are to be reviewed first.

During the public comment period following the Notice of Proposed Rulemaking, no substantive comments were received. Any changes to the rules are procedural and are made to comply with the Department of Commerce rules or the principles set forth in the "Guide on Agency Reports under Executive Order 12044" as issued by the Administrative Conference of the United States and published at 43 Fed. Reg. 36412-36422.

To carry out the policies of the Executive Branch as announced in Executive Order 12044, applicable regulations of the Department of Commerce and the policies of the Administrator, USFA, Title 45 of the Code of Federal Regulations is amended by establishing a new Part 2012, as follows:

Subpart A—Purpose, Scope, Definitions

Sec.
2012.01 Purpose.
2012.02 Scope.
2012.03 Definitions.

Subpart B—Issuing Regulations

2012.11 Advanced Notice of Proposed Rulemaking and Public Participation.
2012.12 Agency Head Oversight Before Developing New Regulations.
2012.13 Notice of Proposed Rulemaking.
2012.14 Agency Head Approval Before Issuing Final Regulations.

Subpart C—Regulatory Analysis of Regulations with Major Economic Consequences

2012.21 Determination of Need for Regulatory Analysis.
2012.22 Contents of Regulatory Analysis.
2012.23 Procedure for Regulatory Analysis.

Subpart D—Regulatory Agenda and Review of Existing Regulations

2012.31 Regulatory Agenda.
2012.32 Review of Existing Regulations.

Subpart E—General Administrative Provisions

2012.41 Changes to this Rule.
2012.42 Effects of Other Laws.

AUTHORITY: Section 21(b)(5), Pub. L. 93-498, 88 Stat. 1535 (15 U.S.C. 2218(b)(5)) and Executive Order 12044, "Improving Government Regulations" (March 23, 1978).

Subpart A—Purpose, Scope, Definitions

§ 2012.01 Purpose.

(a) On March 23, 1978, the President issued Executive Order 12044, "Improving Government Regulations" which requires that regulations shall not impose unnecessary burdens on the economy, on individuals, on public or private organizations or on state and local governments. The Executive Order requires that regulations shall be developed by a process that insures that:

(1) The need for and purposes of the regulation are clearly established;

(2) Heads of agencies and policy officials exercise effective oversight;

(3) Opportunity exists for early participation and comment by other Federal agencies, State and local governments, businesses, organizations and individual members of the public;

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(4) Meaningful alternatives are considered and analyzed before the regulation is issued; and

(5) Compliance costs, paperwork and other burdens on the public are minimized.

(b) It is the policy of the United States Fire Administration, as determined by the Administrator, USFA, that USFA regulations shall be imposed only where necessary and after the maximum feasible participation. It is also the purpose of these rules to establish a continuous review of existing regulations.

§ 2012.02 Scope.

This rule applies to all rulemaking pursuant to Section 1 of the Administrative Procedure Act (5 U.S.C. 553) and to regulations which establish conditions for financial assistance. This rule does not apply to regulations issued in accordance with 5 U.S.C. 556 and 557, to matters related to agency management or personnel, and to regulations that are issued in response to an emergency or which are governed by short-term statutory or judicial deadlines. In these cases, the head of the agency shall publish in the FEDERAL REGISTER a statement of the reasons why it is impracticable or contrary to the public interest for the agency to follow the procedures of these regulations. The statement shall include the name of the policy official responsible for this determination.

§ 2012.03 Definitions.

(a) The "Act" means the Federal Fire Prevention and Control Act of 1974 [Pub. L., 93-498, 88 Stat. 1535, 15 U.S.C. 2201 *et seq.*, 278f, 42 U.S.C. 290(a)].

(b) "Agency Head" means the Administrator of the United States Fire Administration.

(c) "Agenda" means the semi-annual listing of proposed regulations and existing regulations to be reviewed.

(d) "Major economic consequences" means any regulation which:

(1) During any one year of its existence, can be expected to result in an effect (direct and indirect) on the economy of $50 million or more;

(2) During any one year of its existence, can be expected to result in an effect (direct or indirect) on either consumers, industries, levels of government, or geographic regions exceeding $25 million;

(3) During any one year of its existence, can be expected to result in an increase of costs or prices of 5 percent or more for the specific acitvity, product(s) and/or service(s) affected by the proposed rule or regulation;

(4) Can be expected to reduce labor productivity by 1 percent or more in the item which is the unit of focus in the regulation;

(5) Can be expected to reduce employment by 5 percent or more in the activity which is the unit of focus in the regulation;

(6) For the particular market(s) affected, can be expected to result in a 1 percent or more decline in supply of materials, products or services, or a 1 percent or more increase in consumption of these materials, products or services as direct or indirect result of the regulation; or

(7) For the particular market(s) affected, can be expected to result in a decline in competition as a result of the regulation. Factors to be considered include limitation of market entry, restraint of market information, or other restrictive factors that impede the functioning of the market system.

(e) "Regulations" means actions of the agency which are required by the Administrative Procedure Act (5 U.S.C. 553) to be carried out pursuant to informal rulemaking and rules and regulations which establish conditions for financial assistance. Not included in this definition are regulations issued in accordance with the formal rulemaking procedures of the Administrative Procedure Act (5 U.S.C. 556 and 557), matters related to agency management or personnel, regulations related to Federal Government procurement, regulations issued in response to an emergency or which are governed by short-term statutory or judicial deadlines. Also not included in this definition are regulations which govern the administration or management of grants (except rules which establish conditions for receipt of financial assistance), cooperative agreements, leases, and other agreements entered into between the agency and any other party.

(f) "Significant Regulations" means regulations:

(1) Which would substantially affect the expenditure of the funds for one program area which are not expended for personnel and administrative purposes;

(2) Which would substantially and nationally affect fire service, State or local government fire prevention and control planning, management, or operations;

(3) Which would substantially add to the involuntary reporting and compliance burden of USFA funding recipients;

(4) Which would substantially and nationally affect competition; or

(5) Which would have a substantial negative impact on the programs of any other Federal agency.

Subpart B—Issuing Regulations

§ 2012.11 Advance Notice of Proposed Rulemaking and Public Participation.

Prior to the decision to develop a regulation, an advanced notice of proposed rulemaking shall be published in the FEDERAL REGISTER.

(a) Advanced notices of proposed rulemaking may be issued by the agency head, by an Associate Administrator, by the Superintendent of the National Academy for Fire Prevention and Control or by the Chief Counsel of the agency. In any event, all notices of proposed rulemaking must be approved by the Chief Counsel.

(b) The contents of advanced notices of proposed rulemaking shall be consistent with requirements of the FEDERAL REGISTER and shall include the following:

(1) The name of the agency, the issuing official, the official assigned to direct the project out of which the notice arises, and his address and telephone number,

(2) A solicitation of written comments from the public, with a deadline of no less than 45 days following publication of the advanced notice,

(3) A description of the problem for which the notice is issued,

(4) A description of known solutions to the problem for which the notice is issued, including solutions which have been proposed or considered and solutions which may be proposed or considered, and

(5) Information available on additional publication, conferences or meetings, which are scheduled or to be scheduled on the subject of the notice.

(c) Other devices to encourage public participation shall be used to the fullest extent feasible, including: seminars, hearings, publication, and notification of those directly interested.

§ 2012.12 Agency Head Oversight Before Developing New Regulations.

After the deadline for public comment under an advanced notice of proposed rulemaking, after any further steps to encourage public participation have been taken and before proceeding to develop new regulations, the agency head shall, based upon information provided by the Chief Counsel and the appropriate Associate Administrator:

(a) Determine whether a new regulation is to be developed,

(b) For all new regulations:

(1) Review the issues to be considered.

(2) Review the alternative approaches to be explored.

(3) Establish a plan for obtaining additional public comment.

(4) Establish target dates for the completion of steps in the development of the regulations.

(5) Determine whether the regulation is a significant regulation.

(c) For new significant regulations:

(1) Determine that the proposed regulation is needed.

(2) Determine that the direct and indirect effects of the regulation have been adequately considered.

(3) Determine that alternative approaches have been considered and the least burdensome of the acceptable alternatives have been chosen.

(4) Determine that public comments have been considered and an adequate response has been prepared.

(5) Determine that State and local government officials have been consulted, when there is significant intergovernmental impact.

(6) Determine that the regulation is written in plain English and is understandable to those who must comply with it.

(7) Determine that an estimate has been made of the new reporting burdens or recordkeeping requirements necessary for compliance with the regulation.

(8) Determine that the name, address and telephone number of a knowledgeable agency official are included in the publication.

(9) Establish a plan for evaluating the regulation after its issuance has been developed.

(10) Determine whether a regulatory analysis is required.

§ 2012.13 Notice of Proposed Rulemaking.

(a) After approval by the agency head, new regulations shall be published in the FEDERAL REGISTER as a notice of proposed rulemaking.

(b) The notice of proposed rulemaking shall include:

(1) Information in the form required by the FEDERAL REGISTER and applicable regulations,

(2) A public comment period of no less than 60 days,

(3) A draft of the proposed regulations,

(4) For regulations that are not significant regulations, a statement that they are not significant,

(5) For regulations with major economic consequences:

(i) An explanation of the regulatory approach that has been selected or is favored,

(ii) A short description of the other alternatives considered,

(iii) A statement of how the public may obtain a copy of the draft regulatory analysis, and

(6) For significant regulations or regulations with major economic consequences which may potentially have a substantial affect on State or local governments:

(i) A statement of how advice from the government was obtained,

(ii) A summary of the nature of the comments, and

(iii) A statement that consultations occurred sufficiently early in the decisionmaking process to influence the action.

(c) All feasible methods of encouraging public participation shall, in addition, be used, including conferences and public hearings, notices of proposed regulations to publications likely to be read by those affected and notification of interested parties directly.

(d) If new significant substantive issues are raised in the comments, which were not raised in the original notice of proposed rulemaking, an additional notice of proposed rulemaking shall be published.

§ 2012.14 Agency Head Approval of Final Issuance.

The agency head shall approve all final regulations before they are formally issued for publication in the FEDERAL REGISTER.

(a) The agency head shall determine whether the final regulations are significant.

(1) If they are, he shall review the determinations and actions of § 2012.12C and shall see that they are accurate.

(2) If the determination and actions of § 2012.12C were not made, he shall make them.

(b) If the regulations have major economic consequences, the final publication shall include:

(1) A notice of a final regulatory analysis, and where a copy of it may be obtained,

(2) An explanation of the regulatory method selected, and

(3) A discussion of alternative regulatory methods and why the selected method prevailed.

(c) The contents and form of the publication of final regulations shall be as required by the FEDERAL REGISTER and the Code of Federal Regulations.

(d) For regulations which are not significant, a statement to that effect shall be a part of the final publication.

Subpart C—Regulatory Analysis of Regulations with Major Economic Consequences

§ 2012.21 Determination of Need for Regulatory Analysis.

A regulatory analysis shall be conducted by the office which originated the regulations with the concurrence of the agency head, for all regulations with major economic consequences or for any regulation at the discretion of the agency head, in draft, before the notice of proposed rulemaking and, in final form, before the final issuance of the regulation.

§ 2012.22 Contents of Regulatory Analysis.

Each regulatory analysis shall contain:

(a) A succinct statement of the problem,

(b) A description of the major alternative ways of dealing with the problem that were considered by the agency,

(c) A comparison of the economic and other consequences of each of these alternatives,

(d) A detailed explanation for choosing one alternative over the others,

(e) All information required by Executive Order 12074 of August 16, 1978 and OMB Circular A-116 which implements that Executive Order, and

(f) Where there is significant intergovernmental impact, a statement of:

(1) Efforts to consult with State and local officials,

(2) The nature of State and local government comments, and

(3) How the agency dealt with the comments.

§ 2012.23 Procedure for Regulatory Analysis.

(a) The agency head shall be responsible for applying the criteria of § 2012.21 to determine if a regulatory analysis is necessary.

(b) The agency head must approve a draft regulatory analysis before new regulations with major economic consequences are published as a notice of proposed rulemaking.

(c) The agency head must approve a final regulatory analysis for all new regulations with major economic consequences prior to issuance as a final regulation.

(d) Agency head approvals shall be based on a determination that the regulatory analysis:

(1) Satisfies the requirements of the Executive Order 12044, applicable Department of Commerce regulations, and these rules, particularly § 2012.22, and

(2) Satisfies whatever additional requirements the agency head has imposed.

(e) The agency head shall submit draft regulatory analyses to the Chief Economist, at least 15 days before publication.

Subpart D—Regulatory Agenda and Review of Existing Regulations

§ 2012.31 Regulatory Agenda.

(a) By January 15, 1979, and every six months thereafter, the agency head shall submit a regulatory agenda to the Assistant Secretary for Policy.

(b) The regulatory agenda shall include the following:

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(1) A description of regulations under development or being considered for development, including, to the extent feasible:

(i) A statement of whether the regulation has been determined to be a significant regulation;

(ii) The need and the legal basis for the action being taken;

(iii) A statement on whether a regulatory analysis will be required;

(iv) The name and telephone number of a knowledgeable official;

(v) A listing of major issues likely to be considered in developing the regulation;

(vi) A tentative plan for obtaining public comment and, where applicable, for consulting with State and local governments;

(vii) Target dates for completing steps in the development process; and

(viii) Information on the status (including changes to the information required by § 2012.31(b)(1)) of all proposed significant regulations listed in previous agendas until these regulations are published as final in the FEDERAL REGISTER.

(2) A list of existing regulations scheduled to be reviewed, during the next six months, including the name and telephone number of a knowledgeable official for each such regulation;

(3) Information on the status of existing regulations previously scheduled for review; and

(4) A list, including the date and FEDERAL REGISTER citation, of all final regulations published in the FEDERAL REGISTER during the previous six months.

(c) The agency head shall notify the Assistant Secretary for Policy when regulations are developed, reviewed or significant changes have occurred in their status before the next agenda publication.

§ 2012.32 Review of Existing Regulations.

(a) The agency head shall periodically (at least semiannually) review all existing regulations to determine whether they are achieving the goals of agency policy, these regulations, and the policies of Executive Order 12044 "Improving Government Regulations" (March 23, 1978).

(b) In reviewing existing regulations, the agency head shall consider:

(1) The continued need for the regulation,

(2) The type and number of complaints or suggestions received regarding the regulation,

(3) The burdens imposed on those directly or indirectly affected by the regulations,

(4) The need to simplify or clarify language,

(5) The need to eliminate overlapping and duplicative regulations, and

(6) The length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation.

(c) When the review in (b), above, indicates that further evaluation of a regulation is warranted, the same procedural steps outlined for the development of new regulations in §§ 2012.12, 2012.13, and 2012.14 shall be followed.

Subpart E—General Administrative Provisions

§ 2012.41 Changes to this part.

The contents and procedures established by this part do not apply to amendments, modifications, or additions to this part.

§ 2012.42 Effects of Other Law.

This part is not intended to create delay in the regulatory and administrative processes or provide new grounds for judicial review. Nothing in this part shall be considered to supersede existing statutory obligations governing rulemaking.

JOSEPH A. MORELAND,
Acting Administrator, National Fire Prevention and Control Administration.

JANUARY 4, 1979.

APPENDIX H—NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

I. CHANGES IN THE EXISTING RULEMAKING PROCESS

The process for developing regulations within NOAA already incorporates many of the improvements suggested by Executive Order 12044 and Departmental Administrative Order 218-7, particularly with respect to soliciting and incorporating public participation and comment as early in the development process as practicable. For example, under the Coastal Zone Management Act, State and local governments and other interested parties affected by regulations are consulted by rulemakers at an early stage in the regulatory development process. All segments of NOAA freely use the local press to reach the public for comments involving local issues, and NOAA rulemakers liberally publish advance notice of proposed rulemakings when such a procedure is deemed justified and helpful. In addition, NOAA generally employs a comment period of at least sixty days for major regulations, and has, where desirable, utilized more than one round of comments.

On the other hand, the procedures established by Departmental Administrative Order 218-7 change the NOAA regulatory development process in significant ways. Whereas previously the Administrator has delegated substantial rulemaking authority to Assistant Administrators, he is now personally brought into the rulemaking process at a much earlier stage, at least with regard to significant regulations. Furthermore, NOAA previously has had no formalized criteria for determining the significance of regulations, or for identifying which of its existing regulations needed review. The new rulemaking procedures place much greater stress on developing alternatives to ascertain that the least burdensome alternative is chosen. We anticipate that by scrutinizing alternatives to a comtemplated regulation early in the decisionmaking process, certain regulations which otherwise would have been promulgated will be found to be unnecessary or undesirable. Finally, NOAA anticipates that Departmental Administrative Order 218-7, as supplemented herein, will provide a structural framework which provides consistency and clarity to our rulemaking procedures.

II. CRITERIA FOR DETERMINING THE SIGNIFICANCE OF REGULATIONS

A contemplated regulation shall be considered "significant" if it—

(a) Creates a major impact upon the environment of economy;

(b) Affects a large number of individuals, businesses, organizations, State or local governments;

(c) Places burdensome recordkeeping and reporting requirements on the public;

(d) Has an integral relationship either to the regulations of other programs and agencies or to major Departmental policy issues; or

(e) Is the subject of controversy or significant public interest.

III. CRITERIA FOR IDENTIFYING WHICH REGULATIONS REQUIRE REGULATORY ANALYSIS

A. *Office of Fisheries*

A regulatory analysis shall be prepared for all regulations of the Office of Fisheries which:

(a) During any one year of its existence, can be expected to result in an effect (direct and indirect) on the economy of $20 million or more;

(b) During any one year of its existence, can be expected to result in an effect (direct and indirect) on either consumers, industries, levels of government, or geographic region exceeding $10 million;

(c) During any one year of its existence, can be expected to result in an increase of cost or price of five percent or more for the specific activity, product(s) and/or service(s) affected by the proposed rule or regulation;

(d) Can be expected to reduce labor productivity by 1 percent or more in the item which is the unit of focus in the regulation;

(e) Can be expected to reduce employment by five percent of more in the sector of the fishing industry which is the unit of focus in the regulation;

(f) For the particular market(s) affected, can be expected to result in a ten percent or more decline in supply of materials, products or services, or a ten percent or more increase in consumption of these materials, products or services as direct or indirect result of the regulation; or

(g) For the particular market(s) affected, can be expected to result in a decline in competition as a result of the regulation. Factors to be considered include limitation of market entry, restraint of market information, or other restrictive factors that impede the functioning of the market system.

(h) During any one year of its existence, can be expected to result in a decrease in revenues or profits of ten percent or more in the sector of the fishing industry directly affected by the regulation.

A regulatory analysis shall also be prepared when:

(i) In the judgment of the Administrator, such an analysis would benefit the decisionmaking process and/or promote more informed public participation; or

(j) The Secretary determines, in accordance with Departmental Administrative Order 218-7, that such an analysis should be performed.

B. *All Other NOAA Elements*

A regulatory analysis shall be prepared for all regulations other than those of the Office of Fisheries which:

(a) During any one year of its existence, can be expected to result in an effect (direct or indirect) on the economy of $50 million or more;

(b) During any one year of its existence, can be expected to result in an effect (direct or indirect) on either consumers, industries, levels of government, or geographic region exceeding $25 million;

(c) During any one year of its existence, can be expected to result in an increase of cost or price of five percent or more for the specific activity, product(s) and/or service(s) affected by the proposed rule or regulation;

(d) Can be expected to reduce labor productivity by 1 percent or more in the item which is the unit of focus in the regulation;

(e) Can be expected to reduce employment by five percent or more in the activity which is the unit of focus in the regulation;

(f) For the particular market(s) affected, can be expected to result in a one percent or more decline in supply of materials, products or services, or a one percent or more increase in consumption of these materials, products or services as direct or indirect result of the regulation; or

(g) For the particluar market(s) affected, can be expected to result in a decline in competition as a result of the regulation. Factors to be considered include limitation of market entry, restraint of market information, or other restrictive factors that impede the functioning of the market system.

A regulatory analysis shall also be prepared when:

(h) In the judgment of the Administrator, such an analysis would benefit the decisionmaking process and/or promote more informed public participation; or

(i) The Secretary determines, in accordance with Departmental Administrative Order 218-7, that such an analysis should be performed.

A regulatory analysis shall be prepared in conformance with Departmental Administrative Order 218-7, section 5.04. If data is lacking or there are questions about how to determine or analyze points of interest, the problem should be noted in the draft regulatory analysis so as to help elicit the necessary information during the public comment period on the notice of proposed rulemaking.

IV. CRITERIA FOR DETERMINING THE EXISTING REGULATIONS TO BE REVIEWED

The Assistant Administrators shall be responsible for an initial selection and subsequent periodic seletions of existing regulations for review and possible revocation or revision. In selecting regulations to be reviewed and establishing priorities, the responsible Assistant Administrators shall select those regulations—

(1) For which there is no continued need;

(2) Which have been the subject of a number of complaints or suggestions;

(3) Which impose heavy burdens on those directly or indirectly affected by the regulation;

(4) Which need to be clarified or simplified;

(5) Which overlap and duplicate other regulations; or

(6) Which have not undergone evaluation for a period of four or more years.

An existing regulation selected for review shall remain in full effect until such time as it may be revised or revoked.

V. EXISTING REGULATIONS SELECTED FOR INITIAL REVIEW

The following existing regulations have been selected for initial review:

Regulation	Reasons for Selection	Contact Person
15 CFR Part 931—Coastal Energy Impact Program.	(1) Has been the subject of complaints, comments, and criticisms. (2) Need to clarify and simplify. (3) Anticipated change in statutory language by Outer Continental Shelf Lands Act Amendments.	James Robey Tel: 634-4249, Office of Coastal Zone Management, 2001 Wisconsin Ave. NW., Room 372, Page Bldg. 1, Washington, D.C.
50 CFR 620—FCMA Citations	NOAA effort to simplify and consolidate our civil penalty procedures under the six statutes authorizing such penalties.	Stan Pitkin Tel: (206) 399-0329, Building 25, Room 23, 7500 Sand Point Way NE, Seattle, Washington.
50 CFR 621—FCMA Civil Procedures	do	Do.
50 CFR 218—Subpart C—Marine Mammals—Civil Procedures.	do	Do.
50 CFR 219—Marine Mammals—Seizure and Forfeiture Penalties.	do	Do.
50 CFR 216—Subpart F—Taking and importing of Marine Mammals.	do	Do.
50 CFR 285.6—Atlantic tuna fisheries—Civil Procedures.	do	Do.
50 CFR 246—Transportation of wildlife—Civil penalties under Lacey Act.	do	Do.
15 CFR 922—Subpart D—Marine Sanctuaries—Enforcement.	do	Do.
15 CFR 903—Public Information—Implementation of the Freedom of Information Act.	Length of time until regulation issued or evaluated.	Jay Johnson Tel: (703) 443-8066, Room 627, 6100 Executive Blvd., Rockville, Md. 20852.
50 CFR Part 210—Renegotiated INPFC.	Authorizing legislation underlying international agreement has been changed or eliminatad.	Carmen J. Blondin Tel: (202) 634-7267, Asst. Director for Intl. Fisheries, Room 240, Page Bldg. 2, 3300 Whitehaven St., NW., Washington, D.C. 20235.
Part 240/241—Withdrawal from ICNAF	do	Do.
Part 295—Repeal of the Bartlett Act	do	William P. Allen Tel: (202) 634-7265, Special Agent Enforcement Division, Room 361, Page Bldg. 2, 3300 Whitehaven St., NW., Washington, D.C. 20235.
Part 201—Field Organization of the National Marine Fisheries Service.	Length of time since regulation issued or evaluated.	Robert K. Crowell Tel: (202) 634-7405, Executive Officer, Room 426A, Page Bldg. 2, 3300 Whitehaven St., NW., Washington, D.C. 20235.
Part 215—Pribilof Islands Administration of Marine Mammals.	do	Donald R. Johnson Tel: (206) 442-7575, Regional Director, Northwest Region, NMFS, 1700 West Ave., North, Seattle, Wash. 98109.
Part 216—Taking and Importing Marine Mammals (except § 216.24).	do	William F. Jensen Tel: (202) 634-7461, Marine Mammal Division, Room 410B, Page Bldg. 2, 3300 Whitehaven St., NW., Washington, D.C. 20235.

Regulation	Reasons for Selection	Contact Person
Parts 217 thru 225—Endangered Species Act and Fish and Wildlife Act—Implementation.	do	Robert B. Gorrell Tel: (202) 634-7461, Endangered Species Specialist, Room 406A, Page Bldg. 2, 3300 Whitehaven St., NW., Washington, D.C. 20235.
Part 230—Whaling Provisions (except native subsistence)—Enforcement of Whaling Convention Act.	do	Richard B. Roe Tel: (202) 634-7461, Acting Chief, Marine Mammal & Endangered Species Division, Room 410C, Page Bldg. 2, 3300 Whitehaven St., NW., Washington, D.C. 20235.
Part 245—Offshore Shrimp Fisheries Act—Implementation.	do	William H. Stevenson Tel: (813) 893-3141, Regional Director, Southeast Region, NMFS, 9450 Koger Blvd., St. Petersburg, Fla. 33702.
Part 246—Transportation of Wildlife	do	Morris M. Pallozzi Tel: (202) 634-7265, Chief, Enforcement Div., Room 361, Page Bldg. 2, 3300 Whitehaven St., NW., Washington, D.C. 20235.
Part 245 thru 259—Subchapter F—Aid to Fisheries.	do	Michael L. Grable Tel: (202) 634-7496, Chief, Financial Assistantce Division, Room 312, Page Bldg. 2, 3300 Whitehaven St., NW., Washington, D.C. 20235.
Part 260 thru 279—Subchapter G—Processed Fishery Products.	do	James R. Brooker Tel: (202) 634-7458, Food Technologist Seafood Quality & Inspection Division, Room 360, Page Bldg. 2, 3300 Whitehaven St., NW., Washington, D.C. 20235.
Part 281—Restrictions on Tuna Imports—Inter-American Tropical Tuna Convention.	do	Carmen J. Blondin Tel: (202) 634-7267, Asst. Director for Intl. Fisheries, Room 240, Page Bldg. 2, 3300 Whitehaven St., NW., Washington, D.C. 20235.
Part 290—Fishery Marketing Cooperatives Restraint of Trade.	do	Joseph W. Slavin Tel: (202) 634-7261, Asst. Director for Fisheries Development, Room 300, Page Bldg. 2, 3300 Whitehaven St., NW., Washington, D.C. 20235.
Part 301—Pacific Halibut Fisheries and the International Pacific Halibut Commission.	do	William H. MacKenzie Tel: (202) 634-7257, Foreign Affairs Officer, Room 249, Page Bldg. 2, 3300 Whitehaven St., NW., Washington, D.C. 20235.
Part 401—Anadromous Fisheries Conservation, Development and Enhancement under the Anadromous Fisheries Conservation Act.	do	Paul R. Nichols, Tel: (202) 634-7434, Fishery Administrator, Room 340, 3300 Whitehaven St., NW., Washington, D.C. 20235.

VI. DETERMINATION OF SIGNIFICANCE AND DETERMINATION OF THE NEED FOR REGULATORY ANALSYIS

The following officials shall determine initially whether a regulation is significant and whether that regulation requires a regulatory analysis:

(1) The Assistant Administrator for Fisheries

(2) The Assistant Administrator for Coastal Zone Management

(3) The Assistant Administrator for Adminstration

(4) The Assistant Administrator for Research and Development

(5) The Assistant Administrator for Oceanic and Atmospheric Services

These initial determinations by an Assistant Administrator shall be reviewed and approved by the Administrator.

VII. PREPARATION OF THE REGULATORY AGENDA

On January 15 and July 15 of each year, the Administrator shall submit the NOAA regulatory agenda to the Assistant Secretary for Policy of the Department of Commerce in order to enable examination and review of the agenda by the Office of the Secretary. Each regulatory agenda shall include:

a. a description of each regulation covered by DAO 218-7 which is under development or being considered for development, including, to the extent feasible:

(1) a statement whether the regulation has been determined to be a significant regulation;

(2) the need and the legal basis for the action being taken;

(3) a statement whether or not a regulatory analysis will be required;

(4) the name and telephone number of a knowledgeable official;

(5) a listing of major issues likely to be considered in developing the regulation;

(6) a tentative plan for obtaining public comment, and where applicable, for consulting with State and local governments;

(7) proposed dates for completing steps in the development process; and

(8) information on the status of proposed significant regulations listed in previous agendas which are not yet published as final in the FEDERAL REGISTER.

b. a list of each existing regulation scheduled to be reviewed, including the name and telephone number of a knowledgeable official for each regulation;

c. information on the status of existing regulations listed for review in previous agendas, and

d. a list, including the date and FEDERAL REGISTER citation, of all final regulations published in the FEDERAL REGISTER during the previous six months.

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If there are no plans for developing or reviewing regulation, the Administrator will so report to the Assistant Secretary for Policy.

The Administrator, inorder to prevent undue delay, shall notify the Assistant Secretary for Policy whenever it becomes apparent that:

a. development or review of significant regulations not listed in the previous Department Agenda will commence before publication of the next Department Agenda, or

b. development or review of a regulation listed in the previous Department Agenda will not commence as scheduled.

In such an event, the Administrator shall publish a supplement to the Department of Commerce agenda.

The information contained in any agenda is only that which is reasonably expected to be known at the time of its preparation.

VIII. COMMENTS

Any comment on this report should be directed in writing to: Michael A. Levitt, Office of General Counsel, National Oceanic and Atmospheric Administration, Washington, D.C. 20230 (Tel: 377-4080).

APPENDIX I—NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

I. INTRODUCTION

The National Telecommunications and Information Administration was established effective March 26, 1978. It absorbed the functions of the Office of Telecommunications Policy in the Executive Office of the President (with exceptions explained in Executive Order 12046, "Relating to the Transfer of Telecommunications Functions") and the Office of Telecommunication in the Department of Commerce.

NTIA does not have, nor did its predecessor offices have, any established procedures for issuing regulations covered by Executive Order 12044 and the Department's implementing administrative order, DAO 218-7. NTIA does have regulations governing the management of Federal agency use of radio frequencies, and procedures for issuing them. Because these regulations are related to the management of Federal agencies, Executive Order 12044 does not apply to them (see Section 6(b)(3)). Thus, NTIA has no regulations covered by the order.

NTIA establishes herein, for any future regulations covered by Executive Order 12044 and DAO 218-7, the following: (1) a process for developing them; (2) criteria for deciding which of them are significant under Section 2 of the order; and (3) criteria for identifying which of them require regulatory analysis under Section 3 of the order. Criteria for selecting existing regulations to be reviewed under Section 4 of the order will be established concurrently with NTIA's first issuance of regulations covered by the order.

The process and criteria adopted herein are substantially similar to those published in draft form at 43 Fed. Reg. 23190-13191 (1978), upon which no comments were received.

II. PROCESS FOR DEVELOPING REGULATIONS

The NTIA process requires the preparation and approval of an issue paper before the development of *any* regulation(s) covered by Executive Order 12044. The issue paper must undergo staff review and be submitted for approval to the Assistant Secretary for Communications and Information, who is also the Administrator of NTIA (hereinafter called the Administrator). The issue paper must cover (1) the need, purpose and alternatives required by Section 1 of the Executive order; (2) whether the regulation is significant under Section 2(e) of the order and NTIA criteria (Part III) of this draft report); (3) whether a regulatory analysis is required under Section 3 of the order and NTIA criteria (Part IV of this draft report); and (4) plans for compliance with all applicable requirements of the order and the Department's Administrative Orders. One of the plans must show exactly how the opportunity will be provided for early participation and comment by other Federal agencies, State and local governments, businesses, organizations, and individuals, as required by Section 1(c) of the order. In preparing this plan, consideration will be given to (1) publishing an advance notice of proposed rulemaking, (2) holding open conferences or public hearings, (3) sending notices of proposed regulations to publications likely to be read by those affected; and (4) notifying interested parties directly, and the plan will include the method(s) which are most appropriate to the regulation(s) proposed to be developed.

As NTIA begins to develop *any* regulation(s), the information from the approved issue paper, which is necessary to public understanding of the issues and process to be followed, will be made public by following the issue paper's plan for providing an early opportunity for participation and comment. Notice of development of a *significant* regulation will also be published in the Department's Semiannual Agenda of Significant Regulations, or a supplement to the agenda.

Development will proceed in compliance with the order. After appropriate analysis and consideration of public comments, a Notice of Proposed Rulemaking will be prepared for staff review and approval of the Administrator or Secretary (or Deputy Administrator if the regulation is not significant). After publication of the notice in the FEDERAL REGISTER and circulation to the appropriate media as set forth in the issue paper's plan for providing an early opportunity for participation and comment, the resulting comments will be analyzed. A notice of the final regulation (which includes a plan for subsequent evaluation) will be prepared for staff review and final approval of the officer who approved the notice of Proposed Rulemaking. Upon approval, the notice will be appropriately published and put into effect.

III. CRITERIA FOR IDENTIFYING SIGNIFICANT REGULATIONS

As noted above, NTIA has not yet issued any regulations of that type covered by the Executive order. Thus; except for the Department's minimum criteria for requiring regulatory analysis, NTIA has nothing with which to compare our proposed specific criteria, nor to judge their reasonableness.

We have prepared two economic criteria, which are based upon the Department's minimum standards. In all other respects, NTIA must use general criteria until the opportunity occurs to develop specific regulations. The following have been prepared for the area of telecommunications and information in general, and are intended to serve as an interim check list to aid in deciding whether a proposed regulation would have a significant effect on the *status quo*. The criteria are as follows:

Criteria for Identifying Significant Regulations. A regulation shall be considered significant if it appears at the time of evaluation that:

(a) During any one year of its existence, the regulation can be expected to result in an effect (direct or indirect) on the economy of $30 million or more:

(b) During any one year of its existence, the regulation can be expected to result in an effect (direct or indirect) on either consumers, industries, levels of government, or geographic regions exceeding $15 million;

(c) It will have some other economic impact which is large enough to require regulatory analysis (Part IV);

(d) It will have a substantial effect upon the availability of the radio spectrum resource, other telecommunication resources, information resources, or upon the use of any of these resources;

(e) It will have a substantial effect upon a telecommunications or information equipment or service industry, or the structure of one or more such industries, and is likely to be perceived as important to any such industry;

(f) It will have a substantial effect upon users of telecommunications or information resources, equipment or services (for example, by significantly limiting or expanding users' ability or opportunity to use them, or the range of choices available to users), or upon non-users, and is likely to be perceived as important to users or non-users; or

(g) It will require a substantial change in the existing relationships among suppliers and users of telecommunications and information goods and services, or upon their relationships with non-users.

In applying these criteria, the following factors, at least, shall be considered:

(1) The type and number of individuals, businesses, organizations, State and local governments affected;

(2) The compliance and reporting requirements likely to be required or changed;

(3) The direct and indirect effects of the regulation including the effect on competition;

(4) The relationship of the regulation to those of other programs and agencies;

(5) The relationship of the regulation to major Departmental policy issues;

(6) The degree of controversy over, or public interest in, the regulation; and

(7) The probable social impact of the regulation.

IV. CRITERIA FOR DETERMINING WHETHER REGULATORY ANALYSIS IS REQUIRED

For the reasons previously explained, NTIA has no specific basis for deciding whether its criteria for determining whether regulatory analysis is required should be more rigorous than, or otherwise different from, the minimum criteria for the Department set for in Section 5 of DAO 218-7. Thus, until NTIA does have a specific basis for issuing, and does issue, new criteria, a regulatory analysis must be prepared for all regulations which meet or exceed any of the criteria set forth in subsections .02 and .03 of section 5 of the Department Administrative Order.

V. EXISTING REGULATIONS

As was explained in the introduction to this report, NTIA has no regulations covered by Executive Order 12044. Criteria for selecting existing regulations to be reviewed under Section 4 of the order will be established concurrently with NTIA's first issuance of regulations covered by the order.

APPENDIX J—OFFICE OF MINORITY BUSINESS ENTERPRISE

The Office of Minority Business Enterprise (OMBE) coordinates Federal activities designed to assist minority business, stimulates private sector efforts in support of minority enterprise, and provides financial assistance to private and public organizations that provide management and technical assistance to minority businessmen, as authorized by Executive Order 11625.

The following report is provided as required by Section 5 of Executive Order 12044, Improving Government Regulations:

1. This agency has never issued regulations, and prior to the issuance of Executive Order 12044 no process for developing regulations had been established. Since then the Department of Commerce, to implement the order, has developed Department Administrative Order 218-7, which prescribes procedures for issuing departmental regulations. OMBE has adopted the identical process for issuing its regulations, except as provided below.

2. The Director has determined that all regulations of the agency will be considered significant.

3. If the Director determines that a regulation has potential major economic consequences, a regulatory analysis must be performed. The criteria to be used in determining when a regulation has major economic consequences, and what such an analysis must include, are found in Section 5 of Department Administrative Order 218-7. If the Director determines a regulation has no potential major economic consequences, a regulatory analysis need not be done, unless in the Director's judgment such an analysis would be beneficial.

4. Existing regulations will be reviewed not less frequently than every four years. The procedures to be followed in any review of existing regulations are described in Section 6.04 of Department Administrative Order 218-7. Since this agency has no existing regulations, an initial review cannot be done. Criteria for reviewing existing regulations will be developed when OMBE begins to issue regulations.

APPENDIX K—OFFICE OF REGIONAL DEVELOPMENT

DESCRIPTION OF PROCESS

The Special Assistant to the Secretary for Regional Development carries out the duties of the Secretary of Commerce under Title V and related provisions of the Public Works and Economic Development Act of 1965, as amended, which establishes the Regional Action Planning Commission program. The Special Assistant heads the Office of Regional Development, which assists him/her in meeting the duties under Title V. These tasks include the development of guidelines for the use of Title V funds and liaison with the Regional Commissions and with the Federal Cochairmen to the Commissions. By delegation of authority from the Secretary (DOO 15-5 dated), the Special Assistant may adopt appropriate regulations applicable to Commission activities in order to carry out the responsibility of administering Title V.

The Commissions are partnerships between the Federal Government and the States which comprise the economic development regions designated by the Secretary pursuant to 42 U.S.C. 3181. Each Commission prepares a long-range economic development plan for its Region and undertakes the funding of economic development planning activities, studies and demonstration projects and the supplemental funding of other Federal grant-in-aid programs.

The Department's regulations on Title V apply to the Regional Commissions and only indirectly affect the public. They generally relate to the administration and management of the program by the Commissions and contain limitations on the use of funds. No regulation controls how businesses or consumers conduct their economic activities, nor do any regulations direct a Commission to make expenditures in any particular program or geographic area within the applicable Region. By the terms of the legislation creating the program, each Commission has a great deal of discretion in choosing specific activities and projects to be assisted.

Because the program is limited in scope, the Special Assistant's staff is small and the regulations have no major impact on the public, there are no formal procedures for developing regulations. However, the process of development always has and will continue to have the following elements:

(a) Examination of the need for a regulation or guideline as the means to resolve a problem, to implement legislation, executive orders or judicial decisions, or to respond to public petitions or requests.

(b) Consultation with the Federal Cochairman to the Commissions and Commission principals in order to draft, review, and re-draft any proposals.

(c) Keeping the members of the Commissions informed of major developments.

(d) Publication of any proposed rule in the FEDERAL REGISTER and solicitation of comments and suggestions from the public.

(e) Consideration of comments and re-drafting of proposals as needed.

(f) Approval by the Special Assistant and publication of final regulations in the FEDERAL REGISTER.

In response to the President's Executive Order and Department of Commerce Administrative Order (DAO) 218-7, the Special Assistant and the Office of Regional Development will modify these regulation development procedures in order to—

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(1) Apply the criteria and procedures specified in the Order and in DAO 218-7 for different stages of the development process;

(2) Identify significant regulations early in the development process in order to implement requirements applicable to significant regulations, including developing a tentative plan for obtaining public comments which will provide for early and meaningful participation;

(3) Prepare a regulatory analysis for significant regulations in order to aid the Special Assistant in the decision-making process;

(4) Prepare an agency regulatory agenda for inclusion in the Department agenda;

(5) Estimate new reporting burdens and record-keeping requirements;

(6) Insure that alternatives to the regulatory approach are thoroughly considered;

(7) Submit proposals for legal review;

(8) Establish target dates for the completion of steps;

(9) Check more carefully the language and format of the rules in order to achieve understandability ("plain English"); and

(10) Develop a plan for future evaluation of the regulations.

The Office of Regional Development will attempt to involve all affected parties in the development process and plans to institute intergovernmental consultation procedures for significant regulations as required in the President's memorandum of March 23, 1978, to the heads of executive departments and agencies (concerning consultation with State and local Governments).

CRITERIA FOR DEFINING SIGNIFICANT REGULATIONS

I. The Special Assistant establishes the following criteria for determining which regulations are significant, taking into account the criteria of Executive Order 12044 and DAO 218-7:

(a) Any program regulation developed to implement a future Congressional authorization for a new Regional Commission program area.

(b) Any change in program regulations or any new regulations which will require Regional Commissions—

(1) To make major shifts of funds or major reprogrammings of funds—

(i) For the initiation of new programs or major new policies, or

(ii) For substantially increased financial activity in an existing program area or the substantial augmentation or abatement of an existing program;

(2) To undertake a major redirection of a program activity.

In addition, the Special Assistant may designate any regulation as "significant", although it may not meet the above criteria.

II. The Deputy, Office of Regional Development, shall make the initial determination of what is a significant regulation at the time the agency regulatory agenda is prepared. The Special Assistant will review this determination when the agenda is approved for submission to the Assistant Secretary for Policy or when a change is made in the agenda.

PERFORMANCE OF REGULATORY ANALYSIS

The Special Assistant will require the development and use of a regulatory analysis in accordance with DAO 218-7 for each significant regulation as defined above. In addition, the Special Assistant may require the development of a regulatory analysis for any non-significant regulation. This decision will be made at the time the agency regulatory agenda is approved.

REVIEW OF EXISTING REGULATIONS

The Special Assistant and the Office of Regional Development will review all of the Title V regulations in accordance with the policies and procedures of Executive Order 12044. The initial review over the next six months will concentrate on the following Parts of Chapter V, Title 13, Code of Federal Regulations:

—530: Review of Commission Long-Range Economic Plans
—540: Grants for Administrative Expenses of Commissions
550: Technical and Planning Assistance by the Secretary and the Commissions
—560: Supplemental Grants to Other Federal Grant-in-Aid Programs
580: Coordination under the Title V Program.

Within one year this Office will have reviewed all of the regulations in 13 CFR, Chapter V—the remainder dealing with the designation of regions, regional boundaries, commission administration, specific commission demonstration project authorities, and interagency evaluation and coordination. During the next year, each time the review of a set of regulations is completed, this Office will establish a schedule for subsequent review, at least as often as every two years.

CONTACT OFFICIAL

Ms. Frances Pappas, Program Development Officer Office of Regional Development Department of Commerce Room 2092, Main Commerce Building Washington, D.C. 20230 202/377-5174.

APPENDIX L—OFFICE OF SCIENCE AND TECHNOLOGY REVISED REPORT REQUIRED BY SECTION 5(b), E.O. 12044

This report consists of a list of regulations selected for intensive review, the name and official address of the person to be contacted for further information on this report, and the full text of a directive from the Assistant Secretary for Science and Technology implementing Executive Order 12044 within the Office of Science and Technology.

LIST OF EXISTING REGULATIONS SELECTED FOR INTENSIVE REVIEW

The regulations to be reviewed during the year following issuance of this report are as follows:

15 CFR Part 240—dealing with Barrels and Other Containers for Lime;

15 CFR Part 241—dealing with Barrels for Fruits, Vegetables and Other Dry Commodities, and for Cranberries;

37 CFR sections 1.15, 1.65, 1.107, 1.244, 1.344 and 1.345, dealing with patents; and

37 CFR sections 2.27, 2.64-2.65, 2.91-2.136, 2.141-2.142, 2.146-2.148, 2.165, 2.173 and 2.184, dealing with trademarks.

CONTACT PERSON FOR THIS REPORT

The person to be contacted for information concerning this report is: Robert B. Ellert, Assistant General Counsel for Science and Technology Room 3859, U.S. Department of Commerce, 14th & E Streets NW., Washington, D.C. 20230 Telephone 202-377-5394.

DIRECTIVE IMPLEMENTING EXECUTIVE ORDER 12044

The full text of the Assistant Secretary's directive implementing Executive Order 12044 in the Office of Science and Technology is as follows:

DIRECTIVE TO HEADS OF ORGANIZATIONS WITHIN THE OFFICE OF SCIENCE AND TECHNOLOGY; PROCEDURES FOR ISSUING REGULATIONS

Section 1. *Purpose.*

The purpose of this directive is to implement Executive Order 12044 of March 23, 1978, Improving Government Regulations, DAO 218-7, Issuing Department Regulations, and section 6 of DAO 205-11, on use of plain English, for organizations within the Office of Science and Technology.

Section 2. *Scope.*

.01 Except as provided in paragraph .02 of this section, this directive applies to all regulations issued by organization under the jurisdiction of the Assistant Secretary for Science and Technology (hereinafter, the Assistant Secretary), published in the FEDERAL REGISTER.

.02 Unless specifically noted to the contrary, this directive *does not* apply to:

a. Regulations issued in accordance with the formal rulemaking provisions of the Administrative Procedure Act (5 U.S.C. 556, 557);

b. Regulations issued with respect to a military or foreign affairs function of the United States;

c. Matters related to agency management or personnel, including matters dealing with providing the public with an agency's services;

d. Regulations related to Federal Government procurement;

e. Regulations that are issued in response to an emergency or which are governed by short-term (less than 91 days) statutory judicial deadlines; or

f. Procedures and their implementing specifications governing voluntary compliance programs and standards wherein parties in the private sector may, on their own volition, choose whether or not to participate and may withdraw at any time.

Section 3. *Definitions.*

.01 *Agency head.* As used in this directive, "agency head" means the Director, National Bureau of Standards, Commissioner, Patent and Trademark Office, the Director, National Technical Information Service, the Assistant Secretary for other organizations within the office of Science and Technology, and persons serving in those positions in an acting capacity. The functions of the agency head may not be delegated.

.02 *Regulation(s).* As used in this directive, "regulation(s)" means both rules and regulations issued by components of the Office of Science and Technology, including those which establish conditions for financial assistance. Closely related sets of regulations shall be considered together.

Section 4. *Significant Regulations.*

.01 Any regulation issued within the Office of Science and Technology shall be deemed significant for the purpose of this directive.

.02 Before proceeding to develop significant new regulations the agency head shall have reviewed the items in subsection .03 of this section and, as appropriate, any other relevant issues. Furthermore, the agency head shall have reviewed the alternative approaches to be explored; whether a regulatory analysis, as provided for in section 5, is required; a tentative plan for obtaining public comment; and, where applicable, a tentative plan for consultation with state and local governments; and the agency head shall have established a target date for completion of steps in the development of the regulations. All regulations shall be reviewed for legal sufficiency by the chief legal officer of the agency and the Assistant General Counsel for Science and Technology.

.03 Agency heads shall approve significant regulations before they are published in the FEDERAL REGISTER in final form. Before approving significant regulations, these officials should be satisfied that:

a. The regulation is needed;

b. The direct and indirect effects of the regulation have been adequately considered;

c. Alternative approaches have been considered and the least burdensome of the acceptable alternatives has been chosen;

d. Public comments (including those from state or local governments) have been considered and an adequate response has been prepared;

e. The regulation is written in plain English so that it is understandable to those who must comply with it;

f. An estimate has been made of the new reporting burdens or recordkeeping requirements necessary for compliance with the regulation;

g. The name, title, address and telephone number of a knowledgeable official is included in the publication; and

h. A plan for evaluating the regulation after its issuance has been developed.

.04 Agency heads may, except where otherwise required by law, in their discretion, refer regulations which they believe to be of particular importance to the Assistant Secretary or through the Assistant Secretary to the Secretary for approval.

Section 5. *Regulatory Analysis.*

.01 A regulatory analysis shall be prepared for each significant regulation determined to have potential major economic consequences for the general economy, for individual industries, goegraphic regions, levels of government, or specific elements of the population.

.02 Since a regulatory analysis is designed to aid decisionmakers in promulgating effective regulations, the criteria established should consider the characteristics of their specific programs. However, at a minimum, a regulatory analysis shall be prepared for all regulations which:

a. During any one year of its existence can be expected to result in an effect (direct and indirect) on the economy of $50 million or more;

b. During any one year of its existence, can be expected to result in an effect (direct or indirect) on either consumers, industries, levels of government, or geographic region exceeding $25 million;

c. During any one year of its existence, can be expected to result in an increase of cost or price of five percent or more for the specific activity, product(s) and/or service(s) affected by the proposed rule or regulation;

d. Can be expected to reduce labor productivity by one percent or more in the item which is the unit of focus in the regulation;

e. Can be expected to reduce employment by five percent or more in the activity which is the unit of focus in the regulation;

f. For the particular market(s) affected, can be expected to result in a one percent or more decline in supply of materials (including energy), products or services, or a one percent or more increase in consumption of these materials (including energy), products or services as direct or indirect result of the regulation; or

g. For the particular market(s) affected, can be expected to result in a decline in competition as a result of the regulation. Factors to be considered include limitation of market entry, restraint of market information, or other restrictive factors that impede the functioning of the market system.

.03 A regulatory analysis shall also be prepared for any regulation, when:

a. In judgment of the agency head or the Assistant Secretary such an analysis would improve the decision-making; or

b. The Secretary determines, in accordance with DAO 218-7, that such an analysis should be performed.

Section 6. *Review of Existing Regulations.*

.01 Existing regulations issued within the Office of Science and Technology shall be reviewed annually to determine whether they are achieving the policy goals of Executive Order 12044.

.02 Procedures for review of existing regulations shall, at a minimum, contain the following procedural steps:

a. Inclusion of notice of the review in the semi-annual agenda as required by section 7.02 of this directive, or as appropriate, supplementing the Department Agenda as called for in section 7.03, and notification to the assistant Secretary as called for in section 7.04 of this directive;

b. Agency head oversight as called for in section 4.02, before proceeding with the review;

c. A determination of whether the regulation meets the criteria established for determining if a regulatory analysis must be performed, and, if so, preparing a regulatory analysis in accordance with the procedures established under DAO 218-7;

d. If the review results in a determination that a regulation should be amended or rewritten, compliance with public notice and participation requirements of this directive and DAO 201-9, concerning consultation with state and local governments; and agency head approval of significant regulations before final publication, as set forth in section 4.03 of this directive; and

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e. In reviewing existing regulations under this section the agency head shall consider the following:

1. The continued need for the regulation;

2. The type and number of complaints or suggestions received;

3. The burdens imposed on those directly or indirectly affected by the regulation;

4. The need to simplify or clarify language;

5. The need to eliminate overlapping and duplicative regulations; and

6. The degree to which technology, economic conditions or other factors have changed in the area affected by the regulation.

Section 7. *Regulatory Agenda.*

.01 No later than January 8, 1979, and every six months therafter, each agency head shall submit its regulatory agenda to the Assistant Secretary. By January 15, 1979, and every six months thereafter, the Assistant Secretary shall submit the regulatory agenda for the Office of Science and Technology to the Assistant Secretary for Policy.

.02 Each regulatory agenda shall include the following:

a. A description of regulations under development or being considered for development, including, to the extent feasible:

1. The need and legal basis for the action being taken;

2. A statement as to whether or not a regulatory analysis will be required;

3. The name, title, and telephone number of knowledgeable official;

4. A listing of major issues to be considered in developing the regulation;

5. A tentative plan for obtaining public comment and, where applicable, a tentative plan for consulting with state and local governments;

6. Proposed dates for completing steps in the development process; and

7. Information on the status (including changes to the information required by this subsection .02a.) of all proposed regulations listed in previous agendas until these regulations are pulished as final in the FEDERAL REGISTER.

b. A list of existing regulations scheduled to be reviewed within the next 6 months, including the name, title, and telephone number of a knowledgeable official for each such regulation;

c. Information on the status of existing regulations previously scheduled for review; and

d. A list, including the date and FEDERAL REGISTER citation, of all final regulations published in the FEDERAL REGISTER during the previous six months.

.03 Agency heads shall publish supplements to the Department Agenda whenever it becomes apparent that development or review of significant regulations not listed in the previous Department Agenda will commence before publication of the next Department Agenda or development or review of a regulation listed in the previous Department Agenda will not commence as scheduled.

.04 Agency heads shall immediately notify the Assistant Secretary whenever it becomes aparent that development or review of regulations not listed in their previous agenda will commence before publication of the next Department Agenda, or significant changes have occurred in the status of items listed in their previous agency agenda.

Section 8 *Secretarial Approval.*

Whenever, under DAO 218-7, Issuing Departmental Regulations, Secretarial approval of a regulation is required, the agency head shall no later than 25 days prior to the proposed date for publication in the FEDERAL REGISTER in final form, submit the regulation to the Assistant Secretary for approval and transmittal to the Secretary.

Section 9. *Public Participation.*

.01 The public shall be given an early and meaningful opportunity to participate in development of all the regulations.

.02 Agency heads shall, as appropriate, consider a variety of ways to provide this opportunity, including, but not limited to:

a. Publishing an advance notice of proposed rulemaking;

b. Holding open conferences or public hearings;

c. Sending notices of proposed regulations to publications likely to be read by those affected;

d. Notifying interested parties directly; and

e. Providing for more than one cycle of public comments.

.03 If none of the methods listed in paragraph .02 of this section are used in a particular rulemaking covered by this directive, the preamble accompanying the final regulation shall briefly explain the reasons and indicate what other steps were taken to assure adequate opportunity for public participation.

.04 The public shall be given at least 60 days to comment on proposed signifcant regulations. Exceptions to this requirement may be granted only by the agency head and only in those few instances where it is determined that it is not possible to comply. When an exception is made the preamble to the proposed regulation shall include a brief statement of the reasons for the shorter time period.

.05 Regulations exempted by section 2.02(e) of this directive (emergencies or short-term deadlines) shall, when published in the FEDERAL REGISTER, be accompanied by a statement of the reasons why it is impracticable or contrary to the public interest to follow the procedures of this directive. This statement shall include the name and title of the policy official responsible for the determination.

.06 Regulations exempted by section 2.02(b) (military or foreign affairs functions) or (e) of this directive shall be issued in interim form only. FEDERAL REGISTER publication of these regulations will provide for a public comment period of at least 60 days and republication in final form after public comments have been considered and appropriate modifications, if any, made.

Section 10. *Plain English.*

Agency heads are responsible for compliance with section 6 of the DAO 205-11, subject to the following conditions:

a. All lists and notices required by section 6.02 shall be transmitted to the Director, OOMS, through the Assistant Secretary.

b. Exceptions under section 6.04 must be coordinated with the Assistant General Counsel for Science and Technology.

APPENDIX M—UNITED STATES TRAVEL SERVICE

Background: The United States Travel Service (USTS) is responsible for promoting international travel to the United States, for encouraging Americans to travel within their own country, and for reviewing applications of U.S. cities interested in hosting international expositions. The regulatory functions of the agency are limited, currently consisting only of (1) procedural regulations governing applications of states, cities and nonprofit organizations for matching grants to promote international tourism to the United States (15 C.F.R. Part 1200); and (2) procedural regulations setting forth the criteria for applications for Federal recognition of international expositions (15 C.F.R. Part 1202).

USTS does not have an established procedure for developing new regulations. As a general rule, proposed regulations are published, and interested parties are given 30 days in which to comment. Final regulations, when issued, take any comments received into account.

Regulatory agenda: By January 15, 1979, and every six months thereafter, the Assistant Secretary for Tourism will submit a regulatory agenda to the Assistant Secretary for Policy. This agenda will include a description of regulations under development or being considered for development during the next six months. To the extent possible, it will include statements concerning whether the regulation is a significant regulation; the need and legal basis for the action being taken; and whether a regulatory analysis is required. It will also provide the name and telephone number of a knowledgeable official; a listing of major issues likely to be considered in developing the regulation; a tentative plan for obtaining public comment (including consultation with State and local governments, where appropriate); proposed dates for completion of the steps in the development process; and information on the status of any proposed regulations previously listed. Finally, the regulatory agenda will include a list of existing regulations scheduled to be reviewed, including the name and telephone number of a knowledgeable official; information on the status of existing regulations previously scheduled for review; and a list of any final regulations published in the FEDERAL REGISTER during the previous six months, including the date of publication and FEDERAL REGISTER citation.

Procedure for developing regulations: USTS will comply with the procedures set forth in DAO 218-7. Thus, prior to issuing any new or amended regulation, the Assistant Secretary for Tourism will ensure that the regulation is needed and is relevant to the mission of USTS; it is written in plain English and understandable to those who must comply; alternative approaches have been considered and the least burdensome of the acceptable alternatives has been chosen; notice of any proposed regulation is sent to publications likely to be read by those affected; public comments are considered and an adequate response prepared prior to issuing any final regulation; and the name, address, and telephone number of a knowledgeable official is included.

Significant Regulations: In developing new regulations, any regulation which meets one or more of the following criteria will be deemed to be a significant regulation: (1) a regulation which has a substantial impact on the travel industry; (2) a regulation which has a substantial impact on the balance of payments; or (3) a regulation which is expected to generate substantial controversy or public interest. The existing regulations are not deemed to be significant, and it is not anticipated, given the present statutory framework of the agency, that any new regulations would meet the criteria for significant regulations.

Regulatory analysis: Should a regulation be determined to be significant, USTS will apply the minimum criteria set forth in Section 5 of DAO 218-7 to determine whether regulatory analysis is required.

Review of existing regulations: Every regulation issued by USTS will be reviewed every two years, or more frequently if the Assistant Secretary for Tourism so requires.

Regulations for initial review: USTS is currently reviewing its regulation governing applications for matching grants (15 C.F.R. Part 1200). A review of the regulation governing applications for Federal recognition of international expositions will be undertaken during CY 1979 (15 CFR Part 1202).

Contact point: Comments should be directed to: Lee J. Wells, Director, Office of Administration, United States Travel Service, 14th and Constitution Avenue, N.W., Washington, D.C. 20230. Phone: Area Code (202) 377-4096.

[FR Doc. 79-669 Filed 1-8-79; 8:45 am]

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TUESDAY, JANUARY 9, 1979
PART III



DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

SPECIAL SUPPLEMENTAL FOOD PROGRAMS FOR WOMEN, INFANTS AND CHILDREN

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DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

[7 CFR Part 246]

SPECIAL SUPPLEMENTAL FOOD PROGRAMS FOR WOMEN, INFANTS AND CHILDREN

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule.

SUMMARY: This notice proposes various changes in requirements for the Special Supplemental Food Program for Women, Infants and Children (WIC Program), in order to comply with Section 3 of Pub. L. 95-627 which amends Section 17 of the Child Nutrition Act of 1966 and extends the authorization for the WIC Program through FY 1982. The major proposals include: standards for WIC Program administration; requirements for nutrition education; sanctions for failure to comply with regulatory requirements; and income eligibility limit for participants; and an outreach requirement. The income eligibility requirement must be phased in beginning on July 1, 1979; the staffing standards are proposed to become effective October 1, 1979; the State Plan requirements must be met in the FY 1980 State Plan; and all other requirements are proposed to become effective 90 days after final publication. The proposed revisions and additions to current WIC Program regulations will increase the efficiency and effectiveness with which the Program is administered and will result in improved services to needy individuals applying for and receiving WIC Program benefits. As required by Executive Order 12044 and Department regulations, a draft Impact Analysis Statement concerning the major proposals will be available from the address listed below.

DATES: Comments should be mailed so that they are received on or before February 23, 1979.

ADDRESS: Send comments to address listed below.

FOR FURTHER INFORMATION CONTACT:

Jennifer R. Nelson, Director, Supplemental Food Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, (202) 447-8206, Washington, D.C. 20250.

SUPPLEMENTARY INFORMATION: The Department believes that public participation in policy development serves as an information source for developing and assessing program alternatives. The Department further believes that any program which it administers should reflect the needs and veiwpoints of the public served by the program. Because public participation serves as a means of improving the effectiveness of Department programs, public input is particularly important prior to the development of regulations. Consequently, prior to issuing this proposal, the Department actively sought the advice and assistance of knowledgeable individuals, groups and organizations which were willing to offe assistance and expertise toward the goal of developing regulations that would most effectively satisfy the health and nutritional needs of the eligible population. The following steps were taken in preparation for this proposal.

National Advisory Council. Public input on the WIC Program was periodically received from the National Advisory Council on Maternal, Infant and Fetal Nutrition, established by Pub. L. 94-105. The members of the Council have widely diversified backgrouds. The membership includes State and local health officials and administrators of the WIC Program from a variety of agencies, representatives of the Department of Health, Education and Welfare, two parents who participate in the WIC Program, a pediatrician, an obstetrician, and a person involved in the retail sales of food used in the Program. This advisory council has the expertise to consider all aspects of the operation of the Program and is extremely helpful in providing insight into how the operation of the WIC Program is viewed by those directly affected by it.

The Council annually submits a written report to the Congress and the President with recommendations for administrative and legislative changes. Advisory Council meetings were held in June 1977; February 1978; and June 1978. Prior to each meeting a notice was published in the FEDERAL REGISTER announcing the dates of each meeting and advising that the meetings were open to the public.

Public Hearings. In June 1977 public hearings were held in seven cities to consider comments regarding possible legislative and regulatory changes for the WIC Program. The hearings wre held to solicit public testimony concering the future structure and administration of the Program. The Washington Supplemental Food Programs Division, the Regional Administrators and their staffs, and the Information Division worked together to ensure that all interested parties were aware of the hearings and were encouraged to attend and testify. The Supplemental Food Programs Division prepared a notice for the FEDERAL REGISTER and worked with the Information Division to produce a public release, posters, and other forms of communication to bring media attention to the hearings. In addition, the Supplemental Food Programs Division sent over 750 invitation letters to individuals as well as to every Governor, the House Education and Labor Committee; the Senate Select Committee on Nutrition; all Advisory Council and Committee members; advocacy groups; grass roots organizations; industry representatives; and professional groups. Regional Administrators wrote to all State Chief Health Officers and to all State WIC Coordinators. All individuals who desired to give testimony were allowed to do so. Time was allowed at the end of each speaker's testimony for questions from the floor.

Advisory Panel Meetings. Specifically for the purpose of regulatory development, a series of advisory panel meetings were held during September and October 1978 to solicit involvement and input from the public sector, health professionals, advocacy groups, and program participants. There were four separate panels established to develop viewpoints on the issues of funding, food packages, nutrition education and performance standards. The recommendations and conclusions of the funding panel were published in the FEDERAL REGISTER on October 11, 1978. Public comments concerning the funding issue were requested in that publication.

Other Meetings. As another means of obtaining public input, the Supplemental Food Programs Division personnel attended several regional, State, and local meetings in an effort to hear and relay the opinions of the public concerning possible changes in regulations. These meetings included program participants, as well as State and local administrators.

Although all of the above mentioned steps were taken to develop this proposal, the Department considers the 45 day comment period essential to the development of complete final regulations. The Department would prefer to provide 60 days for public comment. However, Pub. L. 95-627 requires that final regulations be issued within 120 days after the enactment of that law, which was signed on November 10, 1978. Therefore, due to overall time constraints and particularly due to the Department's need for adequate time to analyze the comments received on this proposal, Mr. Gene Dickey, Deputy Administrator Special Nutrition Programs, FNS, has determined that a longer comment period is not feasible.

During the comment period, the Department's Regional offices will host meetings with State agencies to discuss operational aspects of the proposed regulations and a meeting will be held with the Advisory Council. In addition, the public is invited to submit written comments, relevant data, objections, and recommendations regarding the proposed regulations. Comments should cite the appropriate section of the regulations and specify reasons for all objections and recommendations. To be assured of consideration, all comments should be received or postmarked by the specified deadline. Copies of all written comments received pursuant to this notice will be made available for public inspection during regular business hours (8:30 AM to 5:00 PM) in Room 4405, Food and Nutrition Service, 201 14th Street, SW., Washington, D.C. 20250. All comments, objections, relevant data, and recommendations will be given careful consideration before final rules are published.

GENERAL PURPOSE AND SCOPE

Section 246.1 of the proposal states that the purpose of the Program is to serve as an adjunct to good health care during the critical times of growth and development of women, infants and children in order to improve their health status and prevent the occurrence of health problems. This section also authorizes the payment of cash grants to State agencies which administer the Program.

The language and requirements in this section are basically unchanged from the regulations currently in effect.

DEFINITIONS

Section 246.2 of the proposal sets forth the meanings of significant terms for purposes of all parts of the proposal and all contracts, guidelines, instructions, forms, or other documents which may be used in relation to operation of the Program. The section lists the terms in alphabetical order.

This proposal reflects several revisions and additions from current regulations in order to implement the provisions of Pub. L. 95-627 and in order to clarify terms in current usage.

The following changes from current regulations have been made in the proposed section on definitions. "Affirmative Action Plan" has been added because several provisions in Pub. L. 95-627 increase the significance and use of this term in the regulations.

"A-110" has been added since this Circular deals with grants to hospitals and several provisions in the proposal require State agencies to comply with the mandate of the Circular.

"Categorical ineligibility" has been added to clarify that the term means persons who do not meet the definition of pregnant women, breastfeeding women, postpartum women, or infants or children.

"Competent professional authority" has been revised to make reference to the section of the proposal prescribing, as required by Pub. L. 95-627, standard qualifications.

"Family" has been added because the term is used in the sections of the proposal which incorporate the income limitations mandated by Pub. L. 95-627. The term excludes from participation in the Program residents of an institution.

"Food instrument" has been simplified to improve clarity.

"Income Poverty Guidelines" has been added to implement the income limitations mandated by Pub. L. 95-627. The term means the annual income standards set by the Department for reduced price school meals which is 95 percent in excess of the Secretary's poverty guidelines.

"Local agency" has been slightly revised. Rather than referencing health and welfare agencies, the phrase welfare agency has been changed to service agency because the term is more descriptive of the type of non-health agencies currently operating the program.

"Nutrition education" has been added and is a direct quote from Pub. L. 95-627. This term separates nutrition education activities from other nutrition-related activities conducted under the program. The term means individual or group educational sessions and the provision of materials designed to, among other things achieve a positive change in dietary habits.

"Nutritional risk" has replaced the term nutritional need in the current regulations and has been revised to conform with Pub. L. 95-627. For the purposes of determining nutritional risk, the term provides that consideration be given to abnormal nutritional conditions, nutritionally related medical conditions, dietary deficiencies which impair or endanger health, and conditions which pre-dispose persons to inadequate nutritional patterns or nutritionally related medical conditions. Examples of allowable conditions have been included in the definition.

"SFPD" has been included to reflect, as a result of reorganization, the proper name of the division responsible for administration of the Program within FNS. The term means the Supplemental Food Programs Division. This Division is responsible for the administration of the Special Supplemental Food Program (referred to as the Program in this proposal) and the Commodity Supplemental Food Program (7 CFR Part 247).

"State" has been revised to include the Northern Marianas. Pub. L. 94-241, which established the Commonwealth of the Northern Mariana Islands, provides that the Northern Marianas are eligible to apply for all Federal grant programs for which Guam is eligible to apply. This means that the Northern Marianas are eligible to apply for participation in the Program.

ADMINISTRATION

Section 246.3 of the proposal delegates program administrative responsibilities among FNS, States and local agencies. Also, in accordance with the provision of Pub. L. 95-627 which requires the Department to set staffing standards, this section outlines the minimum staffing levels needed for efficient and effective program operations. The section contains provisions concerning delegations to State agencies, delegations to FNS, agreements and State Plans, State staffing standards, and delegations to local agencies.

The proposal retains all the provisions in this section of current regulations in an unchanged form with the following exception and the following additional new provisions on staffing standards.

A minor wording change has been made from current regulations in the paragraph concerning Federal/State agreements. Words have been added to clarify that submission of a State Plan as well as completion of a Federal/State agreement is a requirment.

The proposal sets minimum staffing standards to assure efficient administration of all program functions including nutrition education, monitoring, fiscal reporting, food delivery, and training.

The staffing standards proposed require each State to employ the equivalent of at least one full-time Program administrator if the State's Program monthly participation is over 1,500 participants. Further, for States with larger monthly participation, the proposal requires States to employ the equivalent of at least one additional full-time program specialist for each additional 5,000 participants. The responsibilities of the State staff include such functions as monitoring vendors, nutrition education, reviewing the operation of local agencies, providing training, and controlling fiscal accountability.

For program operations related to nutrition services, the proposal requires one full-time State WIC Nutrition Coordinator for participation above 500 or a minimum of a half-time professional for participation of less than 500. Educational and other recommended qualifications for the State WIC Nutrition Coordinator are listed in the proposal. The Department realizes that this staff is not adequate to fully administer a Program. There is, however, substantial difficulty in mandating more extensive Federal staffing standards. Many States receive in-kind contributions of staff, while other States have various divisions of responsibility between State and local levels. Due to the existence of factors

such as these, the Department is proposing to mandate only the basic, minimum standards set forth in the proposal. All States' performance will be measured, and all States will need sufficient staff to comply with all regulatory requirements. This will normally entail more staff than the minimums proposed here.

STATE PLAN

Section 246.4 of the proposal describes the requirements related to the State Plan of Program Operation and Administration which is the document that describes State agency's goals and action plans for efficient and effective Program operation. This section of the proposal lists the specific data to be included in a State Plan and sets forth minimum reuirements for the conducting of public hearings on each State Plan. This section of the proposal contains provisions concerning submission of the Plan to the Governor of each State. This section also establishes specific timeframes for submission and approval of the State Plan and amendments to the Plan.

Pub. L. 95-627 requires that a number of additions be made to the State Plan of Program Operation and Administration. The following are the requirements of the Law and what has been included in the proposal:

Several of the new State Plan requirements which are contained in the Law were already included in WIC Program regulations. Therefore, no changes were required in the regulations to implement these requirements. These include a description of the State agency's financial management system, a description of the methods used to determine nutritional risk, a budget for administrative funds, the State agency's staffing pattern, and a description of the food delivery system.

Pub. L. 95-627 requires that the State Plan include a copy of the procedure manual developed by the State agency. In order to ensure that State agencies comply with the intent of the Law that a comprehensive manual be developed by each State agency and be included in the State Plan, the Department is proposing that the manual include, at a minimum, all aspects of certification, recordkeeping, nutrition education, food delivery system, and expansion of services during migrant season.

Pub. L. 95-627 requires that the State agency include plans to provide Program benefits to eligible migrants and Indians. In accordance with the law's emphasis on serving migrants and Indians under the Program, the proposal requires a detailed description of the plans to provide Program benefits to eligible migrant farmworkers and Indians, including the procedures instituted by the State agency to ensure that eligible migrant farmworkers may, to the maximum extent feasible, continue to receive Program benefits when they enter the State agency's jurisdiction subsequent to original certification in another Program jurisdiction.

Pub. L. 95-627 requires that a description of the State agency's outreach program be included in the State Plan. This requirement is included in the proposal.

As mandated by Pub. L. 95-627, the proposal includes the requirement that the State agency's plans to coordinate Program operations with special counseling services be included in the regulations. The services given in the Law are the Expanded Food and Nutrition Education Program and the Food Stamp Program administered by the Department of Agriculture, family planning services, immunization, prenatal care, well-child care, alcohol and drug abuse counseling, and child abuse counseling.

Pub. L. 95-627 requires that the State Plan include nutrition education goals and action plans, including a description of the methods that will be used to meet the special nutrition education needs of migrants and Indians. In addition, the Act also requires that the State agency provide training to persons providing nutrition education and that the State agency annually evaluate the nutrition education provided, taking into consideration the views of participants. In order to monitor State agency compliance with these requirements and to ensure that high quality nutrition education is provided, the Department is proposing that the following information be included in the State Plan: a summary of resources and technical assistance available to local agencies for the purposes of developing nutrition education sessions; the plans for training persons responsible for providing nutrition education to participants, and a description of the training materials to be used, and the evaluation methods used to determine local agency compliance with nutrition education requirements and to determine the impact of nutrition education on participants.

Pub. L. 95-627 requires several changes in the Affirmative Action Plan used by State agencies in determining which area receives highest priority for WIC Program funds. The Act requires that the Affirmative Action Plan include all areas and populations within the jurisdiction of the State agency; the State agency's plans to initiate or expand operations under the Program in areas most in need of supplemental foods, including plans to inform nonparticipating local agencies of the availability and benefits of the program; and a description of how the State agency will take all reasonable actions to identify potential local agenecies and encourage such agencies to implement or expand operations under the Program within the following year in the neediest one-third of all areas unserved or partially served. These requirements are included in the proposal. In addition, the State agency shall specify which areas are currently operating a Commodity Supplemental Food Program and those areas being served by the WIC Program.

Recently questions have been raised concerning the validity of the methods used in implementing the Affirmative Action Plan requirements. The Department believes a further effort should be made to evaluate Affirmative Action Plans. In order to assist in this evaluation, the Department is proposing that State agencies submit, in addition to current requirements, the relative weights given to each criteria used and the raw statistics used in the Affirmative Action Plan. Language has been included to provide guidance in the development of Affirmative Action Plans. An important change is that the Department is proposing to specify an inclusive list of allowable statistical measures of relative need for use in the Affirmative Action Plan. State agencies would not be required to use all of these criteria, but would not be allowed to use other criteria than those listed in the proposal. This change is intended to give more uniformity in ranking of areas for Program initiation or expansion.

Migrant farmworkers must be considered in the Affirmative Action Plan. The Department has heard from migrant farmworker representatives, however, that migrant populations still have problems in receiving the benefits of WIC participation. The Department wants to emphasize that State agencies should use the best available statistical information on migrant farmworker populations in the development of their Affirmative Action Plans. In many cases, this will mean that States need to pay particular attention to pockets of populations rather than statistics by county. Commenters are asked to review the Affirmative Action Plan proposals and suggest ways to improve the process so that migrant farmworkers receive proper consideration.

Pub. L. 95-627 requires that the State agency conduct hearings to enable the general public to participate in the development of the State Plan. These hearings must be held no late than 30 days prior to the submission of the State Plan to the Governor's office for review. The Department believes that these hearings can be a useful management tool to enable

the State agency to make their Program as responsive as possible to the needs of the people they serve. In order to implement this requirement, we are proposing that the State agency send letters of invitation at least 30 days before the hearing to all local agencies, to those agencies which refer potential participants, and to other health or service oriented agencies such as Food Stamp offices, Expanded Food and Nutrition Education Programs, agencies for family planning, family counseling, and well child care; that the hearings be accessible to the public; that there should be sufficient space in the hearing room to accommodate the number of people expected to attend; that the State agency publish a notice in the media providing the time, place and subject or the hearing and inviting interested members of the public to participate; and that a description of the steps taken to comply with public hearing requirements and a summary of the public hearings be included in the State Plan.

The fact that State agencies have not required sufficient information to determine whether potential local agencies have adequate facilities and resources to administer properly the WIC Program has given rise to some concern. In order to ensure that each local agency submits sufficient information to the State agency for it to determine the local agency's capability to administer the WIC Program, the Department is proposing that the State agency have a standard application form to be used by agencies applying to administer the WIC Program. Under the proposal, a copy of this form would be submitted in the State Plan.

Various sections of the current regulations contain some requirements which affect the State Plan. We believe that it would be clearer to include all State Plan requirements in one section. Therefore, the section in the proposal on the State Plan has been expanded to include requirements formerly found in other sections of the regulations, including audits, Affirmative Action Plan and food delivery.

Pub. L. 95-627 requires that one-sixth of their State agency's administrative funds be spent on nutrition education, unless the State agency requests that it be authorized to expend a lesser amount and such request is accompanied by documentation that other funds will be used to conduct such activities. The proposal requires that the State agency submit a detailed description of the procedures used to ensure that this requirement is adhered to.

Pub. L. 95-627 requires that the State agency, in cooperation with local agencies, develop guidelines for the allocation of administrative funds. Therefore, the proposal requires that the Plan include a description of the method used to allocate operational and administrative funds to local agencies, the procedures used to develop allocation standards in cooperation with local agencies, and procedures for distributing operational and administrative funds, including start-up funds, to local agencies.

The Department believes that State agencies have not been given adequate guidance to enable them to produce a useful, comprehensive description of their food delivery system for the State Plan. The plans submitted have varied widely in the range of subjects covered and the detail provided. Therefore, the proposal lists elements of the food delivery system that the State agency would have to include in the State Plan, including the form for the agreement between the food vendor and the State or local agency, the guidance to be provided to food vendors, the system for limiting abuse of the Program by vendors and participants, a facsimile of the food instrument used, the State agency's system for the control and reconciliation of food instruments, the criteria used to approve the mailing of food instruments, and the procedures used to ensure prompt and accurate payment to food vendors.

SELECTION OF LOCAL AGENCIES

Section 246.5 of the proposal explains the procedures for State agency selection of local agencies to operate the Program. The section includes provisions on the local application process, the program initiation and expansion requirements, and the priority system for selecting local agencies.

The following changes from current regulations are included in the proposal.

Questions have arisen since the publication of current regulations concerning the need for an application from a local agency which is a subdivision of the State agency. The proposal clarifies that there is no exemption for local agencies which are subdivisions of the State agency. The Department believes that to assure efficient and effective service to participants at each local agency, a careful review should be made of each applicant agency's facilities, resources, willingness to participate, and convenience to participants. Even though a local agency is a subdivision of a State agency, a State may not have sufficient information on file to determine the appropriateness of approving program operations. The proposed requirement that applications be submitted by all potential local agencies, including local agencies considered subdivisions of the State agency, will assure that full consideration is given to all aspects of program operations and to participant convenience prior to the selection of a local agency.

In accordance with the provisions of Pub. L. 95-627, the proposal requires that State agencies shall, within 15 days of receiving an incomplete application, notify the applicant agency that further information is needed to complete the application. Further, in accordance with Pub. L. 95-627, the proposal requires that the State agency shall, within 30 days of receiving a complete application, notify the applicant agency of the approval or denial of the application. All notifications shall be in writing and notifications of denials shall include an explanation of the reasons for denial in addition to information concerning an applicant local agency's right to appeal. The proposal specifies that applications shall be denied if there are not funds available for Program operations to avoid completed applications being held pending for indefinite periods of time. However, the State agency must notify the denied agency that its application is being filed and will be reviewed again when funds become available.

The proposal clarifies that consideration of expansion in operating Program areas must be handled in accordance with the State agency's Affirmative Action Plan.

The proposal retains the provision added by Amendment No. 1 to the current regulations which requires State agencies to consider opening additional local agencies in areas which have an existing WIC Program that cannot serve all potential participants who request Program benefits. The determination concerning the extent of need to be served in an area should be based on criteria included in a State's Affirmative Action Plan.

In accordance with Pub. L. 95-627, the proposal requires State agencies to take all reasonable actions necessary to identify potential local agencies in the neediest one-third of all areas unserved or partially served. Further, in accordance with Pub. L. 95-627, the proposal requires State agencies to encourage potential local agencies in the neediest one-third of all areas to implement or expand program operations within a year. The determination of the neediest one-third of all areas should be based on the State agency's Affirmative Action Plan.

The proposal retains the local agency priority system unchanged from the current regulations except for the third priority consideration. Because of the inclusion of a national income standard in Pub. L. 95-627, it is proposed that the third priority consideration be revised. The proposal

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gives third consideration to health agencies which must enter into a written agreement with private physicians to provide health services to a specific category of participants or to participants which are not eligible for health services at the local agency due to income in excess of the local agency's income standards for health care.

Because previous legislation mandated and Pub. L. 95-627 also mandates the Program to operate as an adjunct to health care, all local agencies are and will continue to be required to make health care available to participants. Under current regulations and the proposal, therefore, health agencies which do not provide health care to a certain segment of the Program's target population must contract with another health provider to assure the availability of health care to all participants.

Since current regulations allow State or local agencies to set the income limitation for program eligibility, there is no possibility that persons would be income eligible for the Program but ineligible for health services. The establishment of a national income standard in Pub. L. 95-627 creates the possibility that local agencies may have income limitations for health services which are lower than the national income limitation for program eligibility. The proposal requires health agencies with income limitations for health services which are lower than the program income limitation to contract with a separate health provider to assure that health care services are made available to all participants. The Department is particularly concerned about this issue and would like to invite all interested persons to write specific comments on the impact of this provision. The Department is especially interested in learning whether any currently participating local agencies, or any potential local agencies, will be kept out of the Program because they cannot provide health services (either directly or through private physicians) to persons up to the new income standard.

Minor revisions in the organization of this section of the proposal have been made in comparison to current regulations. The revisions are proposed to improve clarity and readibility. Some provisions found in the current regulations under this section have been moved in the proposal to sections more related to the subject matter of the provision. For example, the provisions in the current regulations concerning the Affirmative Action Plan have been placed under the State Plan section of the proposal.

The provision in current regulations prohibiting operation of the program in the same geographic area as the Commodity Supplemental Food Program (7 CFR Part 247) has been deleted from the proposal. Pub. L. 95-627 specifically allows the operation of both programs in the same area.

AGREEMENTS WITH LOCAL AGENCIES

Section 246.6 of the proposal describes the requirements for State agency agreements with local agencies selected to operate the program. The provisions in the section include the requirement that signed written agreements be used and include a list of the specific clauses which must be in the agreement.

The proposal retains the provisions in this section of current regulations in an unchanged form with the following exceptions.

The proposal would clarify that there is no exemption from the requirement for local agency agreements for local agencies which are subdivisions of the State agency. As explained above concerning local agency applications, questions have arisen since publication of current regulations over requirements for local agencies which are subdivisions of a State agency.

Similar to the Department's position concerning local agency applications, the Department believes local agency agreements are necessary between all State agencies and local agencies, even those local agencies which are subdivisions of a State agency. The purpose of the agreement is to specify the division of Program responsibilities, to assure understanding and to establish a legal statement of agreement between the State and local agencies.

The proposal adds to current regulatory requirements a statement in the local agency agreement to the effect that nutrition education will be provided to all Program participants. This proposed statement is in accordance with the Pub. L. 95-627 requirement that nutrition education be provided to all Program participants.

CERTIFICATION

Section 246.7 of the proposed regulations provides requirements for State and local agencies in the determination of those persons eligible for the program. Specifically, this section sets requirements for income guidelines and their application, the determination of nutritional risk by a competent professional authority, the priority system for participants after reaching maximum caseload levels, processing standards for certification, prohibition against dual participation, certification forms, and participant rights, obligations and notifications.

Pub. L. 95-627 requires significant changes from current regulations on certification. One major change is a requirement for the Secretary to adopt a nationwide income limit. The new law provides that persons shall be eligible for the program only if they meet the standards for free or reduced price meals under Section 9 of the National School Lunch Act. The proposal specifies that eligibility determinations shall be made based on income levels which qualify applicants for "reduced" price school lunches. Reference to eligibility for "free" school lunches was not included in the proposal because the income standard for reduced price lunches is higher than the standard for free lunches. In other words, the maximum income limits for WIC purposes are based on the higher level which qualifies participants for reduced price lunches and which automatically includes all participants with the lower income levels which qualify them for free school lunches. The Department has decided that regulatory reference to the two separate levels may confuse the issue and may be misconstrued to mean that there are two separate income eligibility standards for WIC benefits.

When income standards were previously used, State agencies set income standards or approved income standards used by local agencies.

As required by Pub. L. 95-627, these proposed rules require all eligible WIC program participants to be members of families which have income at or below the Secretary's poverty income guidelines increased by 95 percent. The local agency is required by the proposed rules to determine an applicant's income eligibility based on the use of a clear and simple application on which applicants state their income for the income eligibility determination.

The definition of what is considered "income" for the WIC Program is the same as that for the National School Lunch Program. This follows the Congressional intent that WIC participants meet the National School Lunch Act income guidelines. Included in the definition are monetary compensations such as salaries, wages, commissions, net self-employment income, social security and public assistance benefits, unemployment compensation, retirement, pensions and annuities, alimony and child support and other gross cash income, before any deductions. Excluded income is any income exempt from consideration by legislative prohibition, such as Food Stamp benefits.

The proposed regulations also exclude from consideration that income which is used for special hardships. Families which could not reasonably anticipate or control expenditures for unusually high medical bills, shelter costs greater than 30 percent of their total income, special education expenses due to a mental or physical condition of a child or disaster or casualty losses would not have that income counted. These hardship conditions are consistent with the National School Lunch Program provisions.

This section also gives guidance on certification of foster children. If a welfare agency is responsible for the care of a child, then the payments made by the welfare agency for the care of children would be considered the child's income. For all other foster children, the income eligibility would be determined on the income of the family with whom the child resides. These proposed regulations reflect a standing Department policy. The Department believes that this method of counting the income of the foster child leads to an accurate picture of the child's income status under the new income guidelines.

Nutritional Risk. In accordance with Pub. L. 95-627, the proposed regulations require that applicants must both meet the income guidelines and be at nutritional risk to be eligible. This section of the regulations establishes specific procedures for the determination of nutritional risk.

As in previous regulations, the determination of nutritional risk must be done by a competent professional authority. The Act now requires that the Secretary specify in regulations the criteria for qualification as the competent professional authority.

The Department has considered the published advice of various professional societies in specifying what qualifications a competent professional authority must have. Based on professional advice, the Department believes that the competent professional authority must be medically trained or be trained specifically in nutrition, or be certified by a physician or health official to be enrolled in appropriate formal medical or nutrition training. Therefore, the competent professional authority must either be a physician, nutritionist (with a college degree in nutrition or emphasizing nutrition), a dietitian (registered or eligible for registration) a registered nurse, a certified physician's assistant, or a State or locally trained health official or a person certified by State or local officials to be formally enrolled in appropriate training or a person who has completed training qualifying the person as a paraprofessional.

The Department believes these standards ensure that those individuals making the determination of nutritional risk do so accurately while at the same time do not disqualify from consideration those individuals which have not yet fully completed their formal training but are qualified and are currently providing their valuable service in many local agencies.

The proposed regulations depart slightly from current regulations in regard to the determination of nutritional risk. Previously, nutritional risk was both inadequate income and nutritional need. The new definition of nutritional risk no longer includes income as a consideration, since the law now specifically sets a maximum income level for participants and the income levels are addressed elsewhere in the proposal. The nutritional need ideas are now incorporated into the term nutritional risk. These proposed regulations require the competent professional authority to determine nutritional risk by among other things, measuring the person's height or length, and weight, and performing hematological (blood) tests for anemia.

The Department has received several comments on the current blood test requirements. Bascially, there has been a concern that blood tests at every certification may be excessive, requiring too much staff time and inconveniencing the person receiving the test. The Department is concerned about these comments.

The WIC Program was conceived because various studies in the U.S. have shown a high prevalence of anemia and other nutritional deficiencies in the Program's target population. Based on expert medical advice, the hemoglobin and hematocrit blood tests were determined to be simple, fast, reliable and inexpensive methods of measuring iron nutriture. These tests, along with other certification measures, serve as means to detect existing problems as well as to screen for deficiencies.

The Department is concerned that reducing the blood work requirement could lead to inadequate assessments. Further, the blood tests should be a simple process requiring very little staff time compared to other medical tests or services provided to participants. The Department is considering whether children need a blood test at every certification as long as the result from the last test was within the normal range and the children have a blood test at least once a year.

The Department is proposing to reduce the blood test requirement in response to local agency concerns, especially to enable coordination at the local agency level among other existing health programs. Although the term "dietary deficiencies that impair or endanger health" is used now to replace "inadequate nutritional pattern" the meaning has not changed.

Priority System. The priority system of the current regulations was designed to assure that persons at greatest nutritional risk are first to receive Program benefits when local agencies reach maximum caseload levels. Only one change from current regulations is proposed. A new category is added to Priority II. The Department has added to Priority II, those infants, up to six months of age, whose mothers were at nutritional risk during pregnancy due to nutritional conditions detectable by biochemical or anthropometric measurements or other documented nutritionally related medical conditions. This category would not include infants in Priority I, since these infants exhibit overt nutritional or medical conditions which place them more in need of Program benefits.

Current regulations allow the infants of WIC participants to be eligible as Priority II cases. Commentors have urged the Department to allow also as Priority II, infants of non-WIC participants, if the mothers were at nutritional risk during pregnancy due to a documented nutritional or medical condition. The Department agrees that these infants are nutritional risks. Further, it is difficult to assess subclinical medical conditions in these infants and infants of this age would not have a "medical history" other than that of the mother during pregnancy. Moreover, these mothers did not receive the benefits of WIC participants during their high-risk pregnancy. Therefore, to prevent future problems these infants should be eligible as a high priority.

Processing Standards. The major change to processing standards is the requirement stated in Pub. L. 95-627 for the Secretary to establish shorter notification periods for categories of persons who, due to special nutritional risk conditions, need to receive benefits more expeditiously. The Department is proposing that pregnant women eligible as Priority I participants, infants under six months of age and members of migrant farmworker households planning to leave the local agency area must be notified of their eligibility or ineligibility within 10 days of application. That is also now the standard for issuance of food instruments to these persons where retail purchase systems are used. All other applicants would have to receive notification within 20 days. Where retail purchase systems are used, applicants would also have to be issued food instruments within the same 20-day period.

The Department is proposing that notification be given within ten days after application because certain applicants need to receive benefits quickly, but within the limits of local agency abilities. The Department is proposing ten days as the maximum standard but hopefully many local agencies can process special cases more expeditiously, especially for those who are very needy.

Pregnant women in Priority I and infants under six months need notification faster than other eligibles be-

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cause of their particularly vulnerable and temporary conditions. The sooner these pregnant women and small infants receive benefits, the better their chances will be for preventing problems or improving their status during the critical, short gestation or neonatal period.

Migrant farmworker households need the shorter notification period because of their unique work schedules. Clearly, if the Program is to serve migrant farmworkers better, one step toward improvement is to provide benefits to eligible family members as soon as possible before the family must move to the next work area.

Certification Periods. The Department is proposing to retain the basic requirement that persons be certified for six months, except for pregnant women who are certified for the duration of their pregnancy plus six weeks thereafter. For clarification, the Department is proposing that certification periods extend into the entire month in which a person becomes categorically ineligible. For example, when a child reaches the fifth birthday on December 15, certification would expire at the end of December. This is administratively less complex than attempting to prorate a partial month's benefits.

The Department is also proposing to have local agencies certify breastfeeding women, infants and children at six month intevals, but allow thirty days lee-way. That is, the certification could be from between 5-7 months depending upon local agency ability to schedule clinic visits and other health care services. This is proposed so that the local agencies have flexibility in scheduling for maximum benefit to participants and clinics in providing health services along with WIC benefits.

Certification Forms. The Department is proposing that State agencies provide a standard State-wide certification form. This proposal is designed to help provide more uniformity in local agency data collection so that better, more meaningful results may be tabulated and compared. Information and data collected for other health services may be used to complete this form. State agencies may also develop a single form for all certification data or States may separate income information so that applicants can easily fill out this part. The Department is proposing no other changes to the certification forms.

Transfer of Certification. Pub. L. 95-627 requires that a person's certification remain valid when the person moves from one area to another in which the Program is operating. The proposed regulations would require that each State agency issue migrant farmworker participants or other participants likely to travel a verification of certification. This verification of certification must be accepted by local agencies operating a WIC Program within each State or in other States so that the person can continue participation in the new location

Some State agencies may have local agencies with full caseloads. In those situations, the Department is proposing that any person who transfers to an area at maximum participation be put on the local agency priority waiting list ahead of all others, regardless of priority of their nutritional risk. The Department is concerned that a currently certified person be allowed to continue receiving benefits before expanding the caseload to those uncertified persons on the local agency waiting list.

Dual Participation. The Act prohibits dual participation, that is, simultaneously receiving benefits from either two local agencies serving overlapping areas or simultaneously receiving benefits from both the WIC Program and the Commodity Supplemental Food Program. To fulfill the requirements of the Act, the proposed regulations prohibit dual participation and require local agencies to exchange lists of participants' names for comparison. Anyone receiving dual benefits must be advised of all available appeal rights, given a fair hearing if requested, and ultimately terminated from one of the programs. The State agency may also disqualify dual participants from continued program participation. Such disqualification shall not exceed a 3-month period and children and infants are exempt from this penalty because they obviously should not be penalized for the actions of their parents or guardians. Additionally, disqualification of any participant shall be waived altogether if the competent professional authority determines that a serious health risk may develop from disqualification in the Program. If State agency believes fraud is involved, appropriate sanctions may be pursued. These measures are designed to assure that individuals do not abuse the Program. Applicants should be advised of the serious penalties for Program abuse (see Claims and Penalties).

Residency. Previous regulations required that eligible persons must be residents of areas or members of populations served by the local agency. The Department is proposing to eliminate the reference to residence since this has confused some agencies which believed a specific geographic boundary had to be delineated. However, the person must still be in the agency's health service area. Currently, the Department has allowed local agencies to serve populations not specifically within their jurisdiction.

Commenters are asked to pay special attention to this change to determine its effect and whether the requirement should be retained.

Supplemental Foods

The Food Package supplied by the WIC Program has always been a source of much controversy. The issue is highly complex, one that must take many diverse factors into consideration. Because of its complex nature and the Department's desire to investigate all ramifications of a Food Package, more time will be required before proposed regulations concerning the Food Package can be issued, consequently, § 246.8 is reserved.

Previous legislation specifically stated those nutrients which must be provided by the WIC Program supplemental foods. Thus, the Department was bound to provide sources of these nutrients. In 1973, the Department created a WIC Program Task Force which, with the help of outside medical and nutrition consultants, designed the original food packages. The foods chosen by the Task Force were those that could supply the greatest quality and quantity of these nutrients, be acceptable to all ethnic groups, be commercially available and be administratively manageable. Additionally, the food packages were designed to complement the use of additional foods that provide variety and other nutrients in the diet. The Department then grouped participant populations which consume the same general categories of foods with the intent that a competent professional authority at the local agency would tailor the food packages to meet the nutritional needs of individual participants, and language to that effect was included in the regulations.

The new law, Pub. L. 95-627, does not state which nutrients must be provided by the supplemental foods. Rather, it leaves this decision up to the Department. The law authorizes the Department to provide nutrients determined by nutritional research to be lacking in the diets of pregnant, breastfeeding and postpartum women, infants and children. The Department believes that before food packages can be delineated, a thorough review of all pertinent literature must be made in order to specify these necessary nutrients and consider the variety of foods which supply these nutrients. Also, the Department is considering delineating more food packages to provide packages which are more appropriate for each category of participants.

Finally, the foods must be subjected to close scrutiny as they pertain to nutritional benefits, market availability, wide participants acceptability, nutritional education message presented, and cost. In addition, the law states

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that the levels of fat, sugar and salt must be appropriate for the target population. All these factors are to be taken into consideration when the food packages are developed.

The complexity of the issue requires great care in analyzing each individual part as it relates to the whole issue. Thus, it has been decided that the portion of the regulations pertaining to the Food Package, § 246.8, will be issued in approximately a month as a proposed rule.

Nutrition Education

Section 246.9 of the proposal describes requirements for providing nutrition education to WIC Program participants. The section explains the general requirements, the broad goals, the State agency and local agency responsibilities, and requirements concerning participant contacts.

The Department strongly endorses and supports nutrition education at all levels of Program administration—local, State and Federal. Participants benefit greatly from the foods and improved nutrition they are provided through the Program. In fetuses, infants and children this nutrition is particularly critical because it provides the foundation for sound minds and bodies that will endure for a lifetime. However, the Department is acutely aware of the necessity of encouraging participants to take part in health services and in nutrition education. Teaching parents and children the importance of preventive health care and of proper nutrition will provide them with the knowledge needed to maintain good health after they leave the Program. Furthermore, it will provide them with the tools to educate extended family members and future generations who have not had or will not have the opportunity to experience the health service and nutrition benefits associated with the WIC Program.

The nutrition education provisions in the proposal have been substantially strengthened and expanded over current regulations. Since the passage of Pub. L. 94-105 and the subsequent publication of the final regulations, certain inadequacies have been discovered and the need for further clarification has become apparent. The need for more emphasis on nutrition education under the WIC Program has been continually encouraged, and numerous recommendations have been made by a variety of sources—through testimony at Congressional hearings, from reports from State and local agencies, and from the general public.

The FY 1977 Report of the National Advisory Council on Maternal, Infant and Fetal Nutrition mandated by Pub. L. 94-105 emphasized "that nutrition education efforts must be an integral part of health care."

Valuable input was received from the Advisory Panel on Nutrition Education that met in Washington, D.C., in September 1978, to explore alternatives and recommend standards for nutrition education under the new legislation, which was pending at the time. The Advisory Panel was comprised of representatives from State and local WIC agencies and several advocacy groups, and FNS staff.

Based on the volume of input from persons involved with the WIC Program at all levels as well as public interest groups, the following requirements are proposed for nutrition education.

The wording in Pub. L. 95-627 is intended to strengthen nutrition education as a benefit of the WIC Program rather than something that is secondary in the Program. The assurance that nutrition education is to be provided to participants at no cost is mandated in the new law, as well as the requirement that nutrition education bear a practical relationship to the cultural preferences of individual participants. The requirement of inclusion of information on how participants can select food for themselves and their families is a recommendation of the Advisory Panel. The Department concurs that this would be valuable, pertinent training for WIC participants.

The proposal completely revises the current regulations with respect to State agency responsibilities due to overall reorganization and incorporation of many of the Advisory Panel's recommendations. The proposals for State agency responsibilities are described below. It should be noted that State agencies may provide nutrition education using their own staff or many use other contractual arrangements to provide such training.

Pub. L. 95-627 mandates that the State agency shall provide training to persons providing nutrition education. The Advisory Panel wished to specify that in-service training and instruction techniques should be provided to local agency staffs. They felt the State agency could thereby ensure that proper training and techniques were being utilized by local staffs. Because the Department agrees, such a provision has been included in the proposal. However, this is not to include degree work at universities or colleges.

The Advisory Panel also recommended that the State agency identify or develop resource and educational materials for local agencies. The Advisory Panel felt that circumstances at times dictate such assistance to local agencies if they are unable to develop their own educational materials and modules, or do not have adequate equipment such as audio-visuals. The Department concurs with the Advisory Panel on the State agency's providing this service to the local agency when needed. In addition, the new law mandates that nutrition education is to be administered in languages other than English as cultural needs dictate.

Pub. L. 95-627 further mandates that the State agency may provide nutrition education to pregnant, postpartum, and breastfeeding women and to parents or caretakers of infants and children enrolled at local agencies operating the Program, who do not participate in the Program. The proposal contains a provision allowing States to provide nutrition education and materials to non-participants through group training sessions and to provide nutrition education materials to these persons.

The Act also mandates that each State agency annually evaluate nutrition education, and that such evaluation include the views of participants concerning the effectiveness of the nutrition education they have received. The proposal makes development of an evaluation plan a State agency responsibility.

The Advisory Panel recommended a team approach to the State agency's responsibility for monitoring local nutrition education activities. It was their intent to involve other State administrative personnel, as well as the nutritionist, in monitoring the local agency's nutrition education activities. This would provide additional input from different perspectives at the State level and result in a more thorough monitoring process. Furthermore, this would encourage all key State personnel to become more knowledgeable about, and involve themselves in, all aspects of Program operations. The Department concurs with the Advisory Panel's recommendation and has included language in the proposed regulations to encourage the use of a team approach to monitoring.

The regulations relating to the responsibilities of the local agency have also been rewritten due to overall reorganization and incorporate the Advisory Panel's recommendations. It is proposed that local agency responsibilities include the changes described below.

In accordance with Pub. L. 95-627, the local agency may provide group nutrition education sessions to pregnant, postpartum, and breastfeeding women and to parents or caretakers of infants and children participating in local agency services other than WIC even though such persons do not participate in the Program.

Another new requirement is the development of an annual local agency nutrition education plan. This is a recommendation of both the Advisory

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Panel and the Department. It is felt that the plan requirement would accomplish certain objectives. First, the local agencies would be required to analyze their particular needs and circumstances and would be able to communicate these ideas to the State agency. Second, local agencies would be responsible for and could be held accountable for, the formulation and follow-through of such designs. For inclusion in this plan, the Advisory Panel recommended a nutrition education need assessment in terms of staff, resources, and available facilities. They also recommended that the local agency draw up a nutrition education budget, as well as plans for in-service training for personnel, and describe a system for integrating the services of community resources. The Advisory Panel's local nutrition education plans recommendation also included a listing of local agency goals and action plans. The Department concurs with these recommendations concerning local agency nutrition education plans, for the reasons described above and has included implementing provisions in the proposal.

The entire portion of the nutrition education regulations dealing with the number of participant contacts represents a significant change from current regulations. Both the Advisory Panel on Nutrition Education and the Panel on Performance Standards and Sanctions, proposed that all adult participants and parents of caretakers of infant and child participants be provided at least two nutrition education contacts per certification. The contacts would be based on the nutrition education need category of each participant, ranging from least critical to most critical. The Advisory Panel on nutrition education recommended three categories of nutrition education contacts—basic, secondary, and high risk. Under the proposal, all participants would be provided the basic contact at least once per certification period, and then, either the secondary or the high-risk contact, dependent upon individual needs. The three categories of nutrition education are explained as follows:

The basic contact requirements include an explanation of the participant's nutritional risk condition and ways to achieve an adequate diet; the importance of the supplemental foods being consumed by the participant; an explanation of the Program as a supplemental rather than total food program; information on the nutritional value of the supplemental foods; and an explanation of the importance of health care.

The Advisory Panel defined a secondary contact as one administered a minimum of once per certification and aimed at the participant's particular needs as a member of a specific target group; for example, pregnant women, breastfeeding women, postpartum women, infants, and children. Nutrition education discussions during this type of contact could include the relationship of diet to health; current consumer and nutritional issues such as consumption of foods containing high levels of fat, sugar and salt; and the benefits of consuming a variety of foods including those not provided by the Program. The Advisory Panel felt that once developed, the nutrition education program for these participants could be carried out by paraprofessionals or nutrition aides, leaving the nutritionist free to concentrate on the high-risk participants.

The third type of contact defined by the Advisory Panel is nutrition education for the WIC participant at high nutritional risk. In this category, the proposal states that in addition to discussing the topics included in the secondary contact category, the nutritionist would develop as recommended by the Advisory Panel, individual care plans for the high-risk persons. The Panel also felt that individuals who are not at high nutritional risk could also be provided with an individual care plan, if they so requested.

The proposed regulations do not intend that participants be required to attend nutrition education classes or else be denied the food package. The Department believes it was not Congressional intent to deny individual participants the benefit of supplemental foods for failure to attend or to participate in nutrition education. Rather, the Department believes each State and local agency must make all reasonable efforts to provide nutrition education. The proposed regulations reflect this position.

Minor revisions have also been proposed in the organization of this section on nutrition education as compared to the section in the current regulations. These revisions have been made to improve clarity and readability.

Food Delivery System

Section 246.10 of the proposal explains the requirements for the State agency's system or systems for delivering supplemental foods to participants. The section explains the general delivery system requirements, the State agency responsibilities, and the specific requirements for retail purchase, home delivery, or direct distribution systems.

The food delivery system provisions in the proposal have not been substantially changed from current regulations although several significant revisions have been made and some points have been clarified. There has been very little public comment in regard to the current food delivery system requirements with the exception of the provision concerning providing supplemental food free of charge to participants and the provision concerning written agreements with each food vendor authorized to accept WIC food instruments. Compliance with the requirement that food delivery systems be uniform has required more time than anticipated at the time current regulations were published. However, Amendment No. 2 to the current regulations extended the time allowed for compliance and expressed the Department's intent to grant individual States extensions based on presentation of a reasonable schedule for final compliance. Therefore, the proposal retains the requirements for uniform delivery systems.

The proposal also retains the requirement that supplemental foods be provided free of charge to participants. The legislation now specifies that supplemental foods be provided at no cost.

Although there has been considerable discussion between the Department and various State agencies regarding the current regulatory requirement for written agreements with food vendors, the Fiscal Year 1979 State Plans of Program Operation and Administration indicate that all States have either complied or are in the process of complying with this provision. Therefore, because some form of agreement is necessary to provide a legal and binding contract between State agencies and food vendors and because all States are either in or near compliance with the current regulations we have retained unchanged the provision in current regulations mandating written agreements with all food vendors authorized by the State agency to accept WIC food instruments.

The following changes from current regulations have been made in the proposal concerning food delivery system.

In order to emphasize the requirement, a specific paragraph in the opening portion of the section now states that supplemental foods must be provided to participants free of charge.

In accordance with a suggestion made by the Advisory Panel on Nutrition Education, language has been included in the section indicating that food vendors should receive WIC Program nutrition education material in addition to other guidelines concerning supplemental foods and Program operations. The Department understands that some areas already provide nutrition education information to food vendors and the Department believes the provision of such information will be beneficial to program operations. Increasing the food vendor's understanding of the Program goals and the relationship of nutrition to health will increase the food vendor's support of the Program and his efforts to comply fully with Program requirements.

It has been clarified that a food vendor's disqualification from participation in any other FNS program shall be grounds for a review of that vendor's operation of the WIC Program.

In regard to procedures to control participant abuse, language has been included to assure that knowing and deliberate submission of false information to obtain benefits is considered Program abuse and subjects persons involved to appropriate sanctions.

The provision prohibiting issuance of supplemental foods for use in institutions has also been clarified specifically to prohibit use by residents of institutions.

The proposal retains provisions for the mailing of food instruments to participants under certain circumstances.

In regard to the list of items which must appear on the face of the food instrument, the proposal adds a requirement that the food instrument have a printed list of the brand names of foods authorized for purchase under the program. For purposes of compliance, this list may be on either side of the food instrument as long as the face of the food instrument indicates where the list is located. The purpose of including this list on food instruments is to facilitate identification of authorized foods for both the participant and the vendor. At least one food from each major food group, however, must be listed and, where possible, more than one brand name should be provided.

Provision has been made in the proposal to allow State agencies to reimburse food vendors for food instruments submitted after the expiration date if the total value of expired food instruments is $200 or less. It is proposed that reimbursement for expired food instruments in excess of $200 be approved by the FNS Regional Office. The Department believes this revision will eliminate some of the delays now created by restricting approval for all reimbursement of expired food instruments to FNS. The proposed $200 limit on the delegation of authority to the State agency is consistent with a similar delegation for other FNS food programs.

In addition to the current regulatory requirement that written agreements be made with more than one food vendor in each local agency service area it is proposed that State agencies be required to enter into written agreement with at least three food vendors in each clinic service area to assure participant convenience in obtaining supplemental foods.

The Department proposes that States authorize as many food vendors as necessary to assure convenience to participants in obtaining supplemental foods. The Department further proposes that, at a minimum, more than three food vendors per clinic service area be authorized to accept food instruments unless the State agency determines that lack of retail outlets prevents compliance with the minimum requirement in a local agency service area. In view of the precarious health or nutritional status of persons eligible for the Program and in view of the inherent difficulties in travelling for a pregnant or breastfeeding woman or a parent with young children, the Department believes participant convenience must be a primary consideration in determining the number of stores to be authorized to accept food instruments.

Minor revisions have been proposed in the organization of this section as compared to the section in current regulations. These revisions were made to improve clarity and readability.

Financial Management Systems

Section 246.11 of the proposal explains the requirements for the State agency's financial management system. It includes requirements for disclosure of expenditures, reporting, recording expenditures, prompt payment for costs, identification of obligated funds, resolution of audit findings, use of minority owned banks, reconciliation of food instruments, indentification of unredeemed food instruments, transfer of cash, and monitoring of local agency financial management procedures.

This section of the current regulations contains a requirement that State agencies compare current and projected funding needs and develop cost data that identify trends for future budget planning and program funds control. That requirement was deleted from this section of the proposal and was revised and relocated in § 246.4, State Agency Plan of Program Operation and Administration.

It should be noted that the requirements for reconciliation of food instruments and for identification of unredeemed food instruments have been retained in this proposal. Although these requirements have in the past been the subject of discussion between the Department and several State agencies, the State Plans for Fiscal year 1979 clearly indicate that all States have complied with or are in the process of complying with the requirements. Furthermore, the Department continues to consider both requirments essential to accurate Program accountability. Any other restructuring of this secion is strictly for purposes of clarification.

Program Costs

Section 246.12 of the proposal describes the costs allowable for reimbursement under the Program. The section is divided into a general part stating that food and operational or administrative costs are allowable and a specific part listing examples of allowable cost items.

To incorporate provisions in Pub. L. 95-627, the proposal contains some significant points which are not included in current regulations. Also, the provisions in current regulations concerning the operational and administrative funding formula based on 25 percent of food costs have been deleted from the formula since Pub. L. 95-627 no longer includes such a requirement. The Pub. L. 95-627 provisions concerning operational and administrative funds have been included in the proposal under the section concerning Distribution of Funds. The following changes from current regulations have been made to incorporate provisions in Pub. L. 95-627.

The portion of the section concerning the allowability of costs for nutrition education activities has been revised and expanded. The proposal includes the requirements of Pub. L. 95-627 mandating that at least one-sixth of the funds expended by each State agency for administrative cost be used for nutrition education. As in Pub. L. 95-627, however, the proposal allows State agencies to request to spend less than one-sixth of their administrative expenditures on nutrition education if such request documents that an equivalent amount of funds from all combined sources, including Program funds will be used.

Because of the one-sixth funding mandate in Pub. L. 95-627, it is necessary for the proposal to provide examples of costs which may be credited toward the set-aside. The proposal also states which costs may not be considered nutrition education for purposes of determining compliance with the one-sixth funding requirement. The proposal allows costs related to the specific nutrition education requirements in Pub. L. 95-627 to be considered part of the one-sixth set-aside. Such costs are costs related to: individual or group educational sessions with participants; the provision of nutrition education materials; training persons providing nutrition education; evaluations of nutrition education including the collection of participant views; mailing nutrition educatfon materials; monitoring nutrition education; the development of the nutrition education portions of the State Plan. The cost of dietary assessments for the

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purpose of certification and the costs of prescribing and issuing supplemental foods may not be considered costs related to nutrition education. Although these are certainly a part of the nutrition services of the Program, the definition of nutrition education in Pub. L. 95-627 is restrictive. To accommodate the provisions of the law, the proposal limits nutrition education to those activities which are distinct and separate efforts to help participants understand the importance of nutrition to health.

The portion of the section concerning the allowability of costs for nonexpendable medical equipment has been revised to reflect the authorizations provided in Pub. L. 95-627. As stated in the law, the costs of purchasing centrifuges, measuring boards, spectophotometers, and scales used for determining eligibility are allowable. The proposal, however, requires that anticipated purchases which exceed limits set by FNS must be submitted to FNS for approval prior to expenditure.

Since Pub. L. 95-627 allows the purchase of certain non-expendable items of medical equipment, the portion of this section in the current regulations prohibiting the allowability of cost for non-expendable medical equipment has been deleted from the proposal.

Program Income

Section 246.13 of the proposal describes the requirements for State agency handling of Program income which results from interest earned on Program funds, proceeds from the sale of property, and royalties received from copyrights and patents.

The proposal retains the provisions of the regulations currently in effect.

Distribution of Funds

Section 246.14 of the proposal prescribes the procedures for the distribution of Program funds between FNS and the State agencies and between the State agencies and local agencies. The section contains provisions describing general requirements on the use of funds, the allocation basis for funds given to State agencies and the allocation basis for funds to local agencies.

Several changes from current regulations have been made in the proposal to incorporate provisions of Pub. L. 95-627. The following changes are in the proposed regulations.

As in Pub. L. 95-627, the proposal states that FNS will allocate funds to the States on the basis of a formula determined by the Department. Copies of the Department's funding proposals may be obtained from FNS. The proposal states that, as allowed by Pub. L. 95-627, up to one-half of one percent of sums appropriated for each fiscal year, not to exceed $3,000,000, shall be used by the Department for Program evaluations and pilot projects. Guidelines for the use of these evaluations and pilot project funds will be published in the near future, and after publication copies may be received from FNS.

In regard to the distribution of funds between State agencies and local agencies, the proposal contains several specific provisions to incorporate requirements in Pub. L. 95-627. State agencies are required to forward in advance those administrative funds which a local agency may need to successfully begin Program operations. In cases where funds are advanced to a local agency, the proposal requires States to ensure the local agency has sufficient funds to cover the estimated monthly disbursement needs.

In accordance with Pub. L. 95-627, the amount of funds distributed to local agencies for administrative costs shall, under the proposal, be determined on the basis of a formula developed by the State agency in cooperation with a representative sample of local agencies. At a minimum, the proposal requires that the formula for the allocation of local agency administrative funds take into consideration factors such as: staffing needs; caseload levels; salary scales; necessary certification equipment; needs for bilingual services; special needs of members of populations; population density or a population that resides in a rural area; and, available funding sources other than the Program.

Redistribution of Funds

Section 246.15 of the proposal describes the conditions under which the Department may adjust, withhold and redistribute Program funds to State agencies.

The proposal retains the provisions in this section of current regulations and adds a paragraph to clarify the following: Upon reaching a determination that a State agency has failed, without good cause, to properly administer the Program or has failed to carry out its State Plan, FNS may withhold such amounts of the State agency's administrative funds as FNS deems appropriate.

Records and Reports

Section 246.16 of the proposal enumerates the reporting requirements State agencies must meet and specifies that all records must be retained for a minimum of three years. The proposal specifies that the reporting and retention requirements pertain to information about food delivery systems; financial operations; food instrument issuance and redemption; equipment purchases and inventory; certification procedures; nutrition education; and civil rights and fair hearing procedures. Other issues addressed in this section are the audit acceptability of reports, the certification of reports, and the Department's use of reports to monitor State compliance with goals set forth in the State Plan.

The requirements of this proposal are identical to those set forth in current regulations.

Closeout Procedures

Section 246.17 of the proposal requires State agencies to liquidate all obligations before final closure of a fiscal year grant and to submit preliminary and final closeout reports for each fiscal year. Also proposed in this section are the procedures State agencies must follow when they are terminated from participation in the Program. Such termination may occur when the State agency has failed to comply with Program requirements or when the State agency and FNS agree that continuation would not produce beneficial results commensurate with the further expenditure of funds.

There are no revisions or new requirements imposed upon State agencies in this section. All proposed requirements are currently in effect as required by the current regulations and by the amendment published in the Federal Register on June 2, 1978. (43 FR 23983). That amendment provided State agencies a time limit of 120 days past the end of the fiscal year, for the purpose of submitting a final fiscal year closeout report.

Procurement and Property Management Standards

Section 246.18 of the proposal describes the requirements State agencies must follow when using Program funds to procure food in bulk lots, supplies, equipment or services. Also set forth in this section are the responsibilities of the State agencies to settle all contractual issues arising out of procurements and to observe specific standards in utilizing or disposing of property acquired with Program funds. This proposal retains the requirements of current regulations with no revisions.

Claims and Penalties

Section 246.19 of the proposal prescribes the procedures and penalties to be invoked if FNS determines Program funds have been misused or otherwise diverted from Program purposes. The section contains provisions regarding claims against State agencies and regarding penalties such as jail sentences or fines against persons.

The portion of this section in the proposal concerning claims has been retained unchanged from current regulations.

The portion of this section in the proposal concerning penalties is a direct quote from Pub. L. 95-627 with the exception of wording changes necessary to make the law provisions apply to the proposal.

Management Evaluations and Reviews

Section 246.20 of the proposal requires the establishment of a system to assess the accomplishment of Program objectives. The section contains provisions related to FNS responsibilities and to State agency responsibilities.

In accordance with the provision of Pub. L. 95-627 which requires the Department to set standards for proper, efficient, and effective Program administration, this section of the proposal outlines specific standards to be evaluated during Program reviews. As also provided in Pub. L. 95-627, this section of the proposal sets forth a sanction procedure for non-compliance with the specified standards. The law and the proposal grants FNS authority to withhold State agency operational and administrative funds for failure to comply with Program requirements. If corrective action is taken within the fiscal year, withheld funds will be returned to the State agency.

The performance standards and sanctions set forth in this section of the proposal were developed on the basis of the recommendations made by the Advisory Panel on Program Performance Standards and Sanctions. In particular, the panel suggested that a minimum number of standards in key areas of Program operations be selected. The standards set forth certain requirements in the Program operation areas of food issuance, program accountability, financial management, certification, nutrition education, and program administration.

The following changes have been made from current regulations in the portion of the proposal concerning FNS responsibilities.

FNS is required to annually review each State agency. If non-compliance with Program standards is disclosed, FNS shall withhold State operational and administrative funds. However, prior to withholding funds, FNS is required to invoke a series of warning procedures. If compliance is achieved before the end of the fiscal year in which funds were withheld, the withheld funds shall be restored to the State. If compliance is not achieved, the funds revert to FNS.

The deficiencies listed in the proposal which will result in the implementation of the sanction procedure include: (1) payments to vendors being delayed past the 60 days specified in the Food Delivery section of the proposal; (2) reviews being conducted in less than 10 percent of the vendors in the Program; (3) late submission of more than 10 percent of the monthly and annual reports required each fiscal year in the Reports and Records section of the proposal; (4) failure to individually reconcile at least 95 percent of the food instruments issued in a three month period; (5) improper completion of more than 5 percent of participant certification records; and (6) vacancies for more than nine months in staff positions required in the Administration section of the proposal.

To measure the extent of the deficiencies FNS is required to make onsite reviews of State and local agencies.

The responsibilities of the State agencies in this section of the proposal remained unchanged from current regulations with two exceptions. In addition to the requirement for an annual review of each local agency a minimum of 20 percent of the clinics under each local agency must be annually reviewed. Also, it is specified that on-site visits must be made to at least 10 percent of the retail outlets required to be annually reviewed.

The Department believes the above stated standards are the minimum necessary to assure proper, efficient, and effective Program administration.

Audits

Section 246.21 of the proposal sets forth procedures for conducting Program audits. The provision in the section concern Federal access to information, State agency response requirements, corrective action, and State sponsored audits.

One significant change was made in this section of the proposal from current regulations. The portion of the section concerning scope and frequency of State sponsored audits has been revised to reflect a recent amendment to A-102. The proposal requires that State sponsored audits be conducted in accordance with the provisions of Attachment G of A-102. Allowance is made, however, for FNS to request a State sponsored audit of the Program, if FNS reviews of operations indicate that there are questionable financial management procedures in the State agency operation of the Program.

The references in this section of current regulations to descriptions necessary for inclusion in the State Plan have been moved to the section of the proposal concerning State Plans.

Investigations

Section 246.22 of the proposal sets forth the Department's authority to investigate any allegation of noncompliance with these regulations and FNS guidelines or instructions. The section has provisions regarding the Department's authority to investigate and assuring confidentially of the investigation records.

Nondiscrimination

Section 246.23 of the proposal sets forth the prohibition against discrimination under the Program. The section has been expanded to cite specific laws on nondiscrimination and to include prohibitions against discrimination on the basis of age or handicap. It should be noted that section also contains requirements for non-English staff or interpreters as well as for materials where necessary and the address to which complaints should be submitted.

Fair Hearing Procedures for Participants

Section 246.24 of the proposal sets forth the procedures for conducting fair hearings. The section contains provisions on participant notification of rights and on the minimum procedures which must be included in the State agency's fair hearing process.

Although the Act does not require any specific changes to the existing fair hearing regulations for participants, to clarify and improve upon the current requirements the proposal makes the following revisions or additions.

The proposed regulations establish a 90-day minimum time period in which State agencies must accept requests for fair hearings. This time period is proposed to afford aggrieved individuals an adequate amount of time to decide to file a request. A longer time period is not proposed because appeals may concern medical conditions which may well have changed after the 90-day limit. If a participant files a request within the 90-day appeal request period, benefits will be continued, or reinstated if they were terminated prior to receipt of the request. Benefits should continue until the hearing official reaches a decision which upholds the agency action.

For purposes of clarification, the proposal sets forth the circumstances under which a State agency can deny or dismiss a request for a hearing. Paragraphs are also proposed to clarify the hearing official's responsibilities and the applicant's rights during the hearing procedure.

The proposal specifies that fair hearing decisions must comply with Federal law, regulation or policy and must be factually based on the hearing record. Although this is current policy, it is not clearly stated in the current regulations. Lastly, a statement has been added to clarify that in addition to a decision being reached within 45 days, benefits must also begin or be reinstated within that time frame if the hearing is decided in favor of the appellant.

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ADMINISTRATIVE APPEAL OF STATE AGENCY DECISIONS

Section 246.25 of the proposal sets forth the requirements for State agencies to provide appeal procedures to agencies or food vendors aggrieved by State agency actions. Besides the statement of the requirement, the section specifies the minimum procedures which must be included in the State agency's appeal process.

Although only minor revisions from current regulations were made in this section, several significant points were clarified. In response to public comment received since the publication of current regulations, the proposed regulations have been expanded to clarify that the State agency shall provide hearings upon request not only when applications for participation in the Program are denied, but also when participation is teminated or when contracts are not renewed by the State agency or for any other State agency action. A sentence has also been added to require the State agency to provide advance notice of the forthcoming hearing to all parties involved, to provide them sufficient time to prepare for the hearing.

MISCELLANEOUS PROVISIONS

Section 246.26 sets forth numerous provisions indirectly related to program operations. The section has provisions on: prohibiting program benefits from being considered income in other programs; reserving FNS right to use program information; restrictions regarding use of medical records; disclosure of program information; and contacting FNS regional offices.

The proposed provisions are unchanged from current requirements with two exceptions—update the address for the FNS Mountain Plains Regional Office, and require that each State and local agency have a copy of the State Procedure Manual for public inspection.

The current WIC Program regulations will remain in full force and effect until the proposal is revised in response to comments received and final regulations are published.

The proposed structure of Part 246 reads as follows:

PART 246—SPECIAL SUPPLEMENTAL FOOD PROGRAMS FOR WOMEN, INFANTS AND CHILDREN

Sec.
246.1 General purpose and scope.
246.2 Definitions.
246.3 Administration.
246.4 State Agency Plan of Program Operation and Administration.
246.5 Selection of local agencies.
246.6 Agreements with local agencies.
246.7 Certification.
246.8 Supplemental foods [Reserved].
246.9 Nutrition education.
246.10 Food delivery system.
246.11 Financial management system.
246.12 Program costs.
246.13 Program income.
246.14 Distribution of funds.
246.15 Redistribution of funds.
246.16 Records and reports.
246.17 Closeout procedures.
246.18 Procurement and property management standards.
246.19 Claims and penalties.
246.20 Management evaluation and reviews.
246.21 Audits.
246.22 Investigations.
246.23 Nondiscrimination.
246.24 Fair hearing procedures for participants.
246.25 Administrative appeal of State agency decisions.
246.26 Miscellaneous provisions.

AUTHORITY: Child Nutrition Amendments of 1978, Pub. L. 95-627, 92 Stat. 3603 et seq.

§ 246.1 General purpose and scope.

(a) *Purpose.* This part specifies the policies and prescribes the regulations for the Special Supplemental Food Program for Women, Infants and Children (WIC or Program), carried out by the U.S. Department of Agriculture USDA) under section 17 of the Child Nutrition Act of 1966, as amended. Section 17 states in part that the Congress finds that substantial numbers of pregnent, postpartum and breastfeeding women, infants and young children from families with inadequate income are at special risk with respect to their physical and mental health by reason of inadequate nutrition or health care, or both. The purpose of the Program is to provide supplemental foods and nutrition education through local agencies to eligible persons. The Program shall serve as an adjunct to good health care, during critical times of growth and development, in order to prevent the occurence of health problems and improve the health status of these persons.

(b) *Scope.* Section 17 authorizes payment of cash grants to State agencies which administer the Program through public health or service agencies or private, nonprofit agencies of States, or Indian tribes, or IHS service units.

As set forth in this part, supplemental foods and nutrition education are provided to pregnant, pastpartum and breastfeeding women, infants and children from families with inadequate income determined by a competent professional authority to be at nutritional risk.

§ 246.2 Definitions.

For the purpose of this part and all contracts, guidelines, instructions, forms and other documents related hereto, the term:

"Affirmative Action Plan" means the State agency plan for initiation or expansion of the Program within the State's jurisdiction in accordance with Section 246.4 of the regulations.

"A-102" means Office of Management and Budget Circular No. A-102, which establishes uniform standards for the administration of grants to State and local governments.

"A-110" means Office of Management and Budget Circular A-110, which sets forth uniform administrative requirements for grants and agreements with institutions of higher education, hospitals and other nonprofit organizations.

"Breastfeeding women" means women up to one year postpartum who are breastfeeding infants.

"Categorical Ineligibility" means persons who do not meet the definition of pregnant women, breastfeeding women, postpartum women, or infants or children.

"Certification" means the use of criteria and procedures to assess and document each applicant's eligibility for the Program.

"Children" means persons who have had their first birthday but have not yet attained their fifth birthday.

"Clinic" means a facility where participant are certified.

"Competent professional authority" means physicians, nutritionists, registered nurses, dietitians, or State or local medically trained health officials, or persons designated by physicians of State or local medically trained health officials, in accordance with standards prescribed in § 246.7 of this part, as being competent professionally to evaluate nutritional risk.

"Department", U.S. Department of Agriculture.

"Dual participation" means simultaneous participation in the Program in more than one local agency, or participation in the Program and in the Commodity Supplemental Food Program (7 CFR part 247) during the same period of time.

"Family" means a group of related or nonrelated individuals who are not residents of an institution but who are living together as one economic unit.

"Fiscal year" means the period of 12 calendar months beginning October 1 of any calendar year and ending September 30 of the following calendar year.

"FMC 74-4" means Federal Management Circular 74-4 which sets forth principles and standards for determining costs applicable to grants and contracts.

"FNS" means the Food and Nutrition Service of the U.S. Department of Agriculture.

"Food costs" means the acquisition cost of the supplemental foods provided to State or local agencies or to participants, whichever receives the foods first. Food costs shall not exceed the vendor's customary price.

"Food delivery system" means the method used by State and local agencies to provide supplemental foods to participants.

"Food instrument" means a voucher, check, coupon or other document which is used by a participant to obtain supplemental foods.

"Health services" means ongoing, routine pediatric and obstetic care such as infant and child care, and prenatal and postpartum examinations.

"IHS" means the Indian Health Service of the U.S. Department of Health, Education and Welfare.

"Income poverty guidelines" means the income standards prescribed annually by the Secretary for reduced price school meals under Section 9 of the National School Lunch Act, which is 95 percent in excess of the Secretary's guidelines.

"Infants" means persons under one year of age.

"Local agency" means a public health or service agency or a private, nonprofit health or service agency which provides health services, either directly or through contract in accordance with § 246.5 of the regulations. The term shall include an IHS service unit, an Indian tribe, band, or group recognized by the Department of the Interior or an intertribal council, or group that is an authorized representative of Indian tribes, bands, or groups recognized by the Department of the Interior, which operates a health clinic or is provided health services by an IHS service unit.

"Members of populations" means persons with a common special need that do not necessarily reside in a specific geographic area, such as off-reservation Indians or migrant families.

"Nonprofit agency" means a private agency which is exempt from income tax under the Internal Revenue Code of 1954, as amended.

"Nutrition education" means individual or group educational sessions and the provision of information and materials designed to improve health status, achieve positive change in dietary habits, and emphasize relationships between nutrition and health, all in keeping with the individual's personal, cultural, and socioeconomic preferences.

"Nutritional risk" means one or more of the following:

(1) For a pregnant woman—

(i) Detrimental or abnormal nutritional conditions detectable by biochemical or anthropometric measurements such as anemia or abnormal weight gain;

(ii) Other documented nutritionally related medical conditions such as toxemia, diabetes, vitamin and mineral deficiencies, lead poisoning, hypoglycemia alcoholism or drug addiction;

(iii) Dietary deficiencies that impair or endanger health; and

(iv) Conditions which predispose persons to inadequate nutritional patterns or nutritionally related medical conditions such as a history of alcoholism and drug addiction, history of difficult pregnancy, mental retardation, chronic infections, pregnancy within two years of onset of menses of over 35 years, or conception prior to 16 months postpartum.

(2) For a breastfeeding woman—

(i) Detrimental or abnormal nutritional conditions detectable by biochemical or anthropometric measurements such as anemia, underweight, or obesity;

(ii) Other documented nutritionally related medical conditions such as diabetes, hypoglycemia, vitamin and mineral deficiencies, and alcoholism or drug abuse;

(iii) Dietary deficiencies that impair or endanger health;

(iv) Conditions which predispose persons to inadequate nutritional patterns or nutritionally related medical conditions, such as history of alcoholism and drug abuse, mental retardation or chronic infections.

(v) Breastfeeding an infant which meets the nutritional risk criteria in paragraph (4) below.

(3) For postpartum women—

(i) Detrimental or abnormal nutritional conditions detectable by biochemical or anthropometric measurements such as anemia, obesity and underweight;

(ii) Other documented nutritionally related medical conditions, such as diabetes, hypoglycemia, and vitamin and mineral deficiencies;

(iii) Dietary deficiencies that impair or endanger health; and

(iv) Conditions which predispose persons to inadequate nutritional patterns or nutritionally related medical conditions, such as a history of alcoholism and drug abuse, or chronic infections.

(4) For infants—

(i) Detrimental or abnormal nutritional conditions detectable by biochemical or anthropometric measurements such as anemia or phenylketonuria (PKU), abnormal pattern of growth including obesity or stunting or a birth weight of 2500 grams or less;

(ii) Other documented nutritionally related medical conditions, such as diabetes, hypoglycemia, vitamin and mineral deficiencies, and failure to thrive;

(iii) Dietary deficiencies that impair or endanger health;

(iv) Conditions which predispose persons to inadequate nutritional patterns or nutritionally related medical conditions, such as chronic infections, instestinal parasites, pyloric stenosis, a history of sibling failure to thirve, or infant of an alcoholic, mentally retarded or drug addicted mother; and

(v) Status as an infant (up to six months of age) of a mother who either was a participant during pregnancy or who was in nutritional risk during pregnancy because of detrimental or abnormal nutritional conditions detectable by biochemical or anthropometric measurements or other documented nutritionally related medical conditions.

(5) For a child—

(i) Detrimental or abnormal nutritional conditions detectable by biochemical or anthropometric measurements such as anemia or abnormal pattern or growth including underweight, obesity or stunting;

(ii) Other documented nutritionally related medical conditions such as diabetes, hypoglycemia, vitamin and mineral deficiencies;

(iii) Dietary deficiencies that impair or endanger health; and

(iv) Conditions which predispose persons to inadequate nutritional patterns or nutritionally related medical conditions such as chronic infections, intestinal parasites, physical anomalies which preclude proper ingestion of food, such as cerebral palsy or cleft palate.

"Operational and administrative costs" means those direct and indirect costs, exclusive of food costs, which State and local agencies determine to be necessary to support Program operations. Such costs include, but are not limited to, the cost of Program administration, monitoring, auditing, nutrition education, start-up, outreach, certification and developing and printing food instruments.

"Participants" means pregnant women, breastfeeding women, postpartum women, infants and children who are receiving supplemental foods or food instruments under the Program.

"Participation" means the number of persons for whom supplemental foods or food instruments have been issued for the reporting period.

"Plan of Program Operation and Administration (State Plan)" means the document that describes the manner in which the State agency intends to implement and operate all aspects of Program administration within its jurisdiction in accordance with § 246.4.

"Postpartum women" means women up to six months after termination of pregnancy.

"Pregnant women" means women determined to have one or more fetuses in utero.

"Program" means the Special Supplemental Food Program for Women, Infants and Children (WIC) authorized by Section 17 of the Child Nutrition Act of 1966, as amended.

"SFPD" means the Supplemental Food Programs Division of the Food

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and Nutrition Service of the U.S. Department of Agriculture.

"Secretary" means the Secretary of Agriculture.

"State" means any of the fifty States, the District of Columbia, the commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, Northern Marianas and the Trust Territory of the Pacific Islands.

"State agency" means the health department or comparable agency of each State. It can also mean an Indian tribe, band or group recognized by the Department of the Interior, or an intertribal council or group which is an authorized representative of Indian tribes, bands or groups recognized by the Department of the Interior and which has an ongoing relationship with such tribes, bands or groups for other purposes and has contracted with them to administer the Program; or the appropriate area office of the IHS.

"Supplemental foods" [Reserved]

§ 246.3 Administration.

(a) *Delegation to FNS.* Within the Department, FNS shall act on behalf of the Department in the administration of the Program. Within FNS, SFPD and the Regional Offices are responsible for Program administration. FNS will provide assistance to State and local agencies and evaluate all levels of Program operations to assure that the goals of the Program are achieved in the most effective and efficient manner possible.

(b) *Delegation to State agency.* The State agency is responsible for the effective and efficient administration of program operations within its jurisdiction and shall administer the Program in accordance with the requirements of this part, A-110, A-102, FMC 74-4, and FNS guidelines and instructions. The State agency shall provide guidanace to local agencies on all aspects of Program operations.

(c) *Agreement and State Plan.* Each State agency desiring to administer the Program shall annually submit a State Plan and enter into a written agreement with the Department for the administration of the Program in the jurisdiction of the State agency in accordance with the provisions of this part.

(d) *State staffing standards.* Each State agency shall assure that sufficient staff is available to administer an efficient and effective Program including the functions of nutrition education, certification, monitoring, fiscal reporting, food delivery, and training. Each State agency as a minimum shall, based on the previous fiscal year's particpation as of June, have the following levels:

(1) A State agency shall employ a full-time equivalent (FTE) administrator when the monthly participation level exceeds 1,500 participants.

(2) A State agency shall employ at least one full time equivalent (FTE) program specialist for each additional 5,000 participants. These program specialists should be utilized for providing technical assistance, monitoring vendors, reviewing local agencies, training, nutritional services and fiscal management.

(3) For nutrition related services, one full time nutritionist, named as State WIC Nutrition Coordinator, when the prticipation is above 500, or minimum of a half-time professional with a participation of less than 500. The State WIC Nutrition Coordinator shall meet the following qualifications:

(i) Hold a Master's degree with emphasis in Community Nutrition, Public Health Nutrition, or Nutrition Education. Request for exception may be submitted to FNS for approval.

(ii) Have at least three years progressively responsible administrative experience in education, social service, maternal and child health, public health, or clinical dietetics.

(iii) Special skills recommended include: a knowledge of nutrition; administrative experience; program development skills and evaluation skills; education background and skills in the development of educational and training resource materials; community action experience; counseling skills; and experience in participant advocacy.

(4) The State agency shall also assure for the delivery of nutrition education to participants and for sufficient qualified staff consisting of professionals and paraprofessionals.

(5) The State agency shall enforce hiring practices which comply with the nondiscrimination criteria set forth in § 246.23(a), and the hiring of minority staff is encouraged.

(e) *Delegation to local agency.* The agency shall provide Program benefits to participants in the most effective and efficient manner, and shall comply with this part, A-102, A-110, FMC 74-4 and State agency and FNS guidelines and instructions.

§ 246.4 State Agency Plan of Program Operation and Administration.

(a) *Requirements.* Each year by August 15 the State agency shall submit to FNS for approval a State Plan for the following fiscal year. FNS shall provide written approval or denial of a completed State Plan or amendment within 30 days of receipt. Within 15 days after FNS receives an incomplete Plan, FNS shall notify the State agency that additional information is needed to complete the Plan. Any disapproval shall be accompanied by a statement of the reasons for the disapproval. Approval of the Plan by FNS is a prerequisite to the payment of funds to the State agency for Program operations. The Plan and all amendments shall be signed by the Chief Health Officer of the State agency or equivalent. The State Plan shall provide the following:

(1) The names and addresses of the local agencies which are currently operating or are expected to operate during the fiscal year, the area or population served by each local agency, the number of clinics of each local agency and an estimate of the number of potentially eligible persons.

(2) A map identifying the areas and populations which will be served by each local agency.

(3) A copy of the preapplication package for local agencies which includes eligibility criteria for local agencies, sample proposals for Program operations in either an urban or rural setting, and a local agency application.

(4) A copy of the forms to be used for:

(i) A local agency application to operate a local program;

(ii) The agreement between the State agency and local agencies.

(5) A current Affirmative Action Plan which includes the following information;

(i) A list of all areas and a description of special populations within the jurisdiction of the State agency ranked according to need. Areas and special populations of highest relative need shall be those that are determined, through some method to be developed by the State agency, to contain eligible populations at greatest nutritional risk.

(ii) A comprehensive description of the method used by the State agency to determine rankings of areas and special population groups according to need. This description shall include discussion and justification of criteria used in the ranking method, discussion and justification of the relative importance assigned to ranking criteria, and the actual data used in the ranking procedure. Ranking criteria used shall be limited to infant mortality rates, neonatal mortality rates, the incidence of low birth weights, teenage pregnancies, Apgar scores, the incidence of poor prenatal care, and percentage of population below poverty levels or some other indicator of the economic conditions of the population. The selection of health-related measures used as ranking criteria and the determination of relative importance assigned to them in the ranking method used should be affected by consideration of the relative specificity of the measure to the types of nutrition and health related problems that are intended to be alleviated by the program and the statistical reliability of the data used. Measures with relatively high variability between years within an area or special population, for example, should be used with caution or means should be determined to derive statistics more indicative of normal levels. Also, consideration should be given to the statistical significance of differences in measures observed among areas of special populations. The greater the probability that observed differences in a specific measure are due to random fluctuations in values observed, the less should be the importance place on the measure in establishing rankings. Members of special populations shall be given consideration in the Affirmative Action Plan. The Affirmative Action Plan shall not be approved by FNS unless Indian and migrant farmworker populations that exist within the jurisdiction of the State agency are given consideration.

(iii) The State agency shall describe all actions it will take to identify potential local agencies in the neediest one-third of all areas unserved or partially serviced and encourage such agencies to implement or expand program operations within the following year.

(iv) The State agency shall specify which areas in the Affirmative Action Plan are currently operating a Commodity Supplemental Food Program and those areas being served by the program, including which participant priority categories in § 246.7 are being reached.

(6) A copy of the procedure manual developed by the State agency for guidance to local agencies in the implementation and operation of the Program. The manual shall include, as a minimum, all aspects of: certification, recordkeeping, nutrition education, food delivery system, and expansion of services during migrant season.

(7) A detailed description of plans to provide Program benefits to eligible migrant farmworkers and Indians, including the procedures instituted by the State agency to ensure that eligible migrant farmworkers may, to the maximum extent feasible, continue to receive program benefits when they enter the State agency's jurisdiction subsequent to original certification in another Program jurisdiction.

(8) The outreach portion of the State Plan shall include:

(i) A description of the State agency's outreach program which shall be conducted in cooperation with local agencies. A description shall be included of the actions taken to publicize the availability of program benefits, including the eligibility criteria and the location of local agencies operating the Program. Such information shall be publicly announced, in the form of press releases to all relevant media sources, at least on an annual basis. In addition, State and local agencies shall establish referral systems through which persons who are potentially eligible for the program are referred to the appropriate local agency. State and local agencies shall contact, and attempt to incorporate into this referral network, all of the following agencies, offices, and organizations that serve low income pregnant, breastfeeding and postpartum women, infants, or children residing in WIC service areas: health and medical organizations, hospitals and clinics, welfare and unemployment offices, social service agencies, farmworker organizations, Indian Tribal organizations, religious and community organizations in low income areas including community action agencies, and other agencies, offices and organizations that deal with significant numbers of potentially eligible persons.

(ii) State and local agencies shall provide all agencies, organizations and offices in the referral network with outreach materials describing the Program and containing the name, address, and phone number of local agencies. State and local agencies shall work with agencies, organizations, and offices in the referral network to assure that, to the maximum degree possible, persons contacting these agencies, organizations and offices who are potentially eligible for the Program are informed of the program and referred to the local agency. State and local agencies shall provide these agencies, organizations, and offices with any training needed to assure the referral system is effective.

(iii) State and local agencies shall arrange a referral service with agencies administering the Food Stamp Program and the Aid to Families with Dependent Children Program, through which WIC applicants who appear eligible for benefits from these programs are informed of these programs, referred to the local welfare and food stamp offices and provided the addresses and phone numbers of these local offices. Printed materials that explain the Food Stamp Program shall be supplied by food stamp offices and made available to all WIC clinics. The State Plan shall include a description of the State and local actions to establish and expand these referral networks including the efforts that will be taken to notify eligible members of racial and ethnic minority groups about the program.

(9) An estimate of participation for the next fiscal year by category of women, infants and children.

(10) A description of the methods used to certify participants which shall include a list of the specific nutritional risk criteria which cites conditions and indices to be used to determine a persons's nutritional risk.

(11) A plan for the provision of nutrition education for the fiscal year, including the procedures which shall be used to meet the special nutrition education needs of migrants and Indians. The nutrition education portion of the Plan shall include:

(i) A description of the State nutrition education goals;

(ii) A description of the action plan for achieving the goals including a summary of the resources and technical assistance available to local agencies for purposes of developing nutrition education sessions;

(iii) The plans for training persons responsible for providing nutrition education to participants and a description of the training materials to be used,

(iv) The evaluation methods to be used to determine local agency compliance and to determine the effect of the lessons on participants including a means for obtaining the views of participants concerning the effectiveness of the nutrition education they have received;

(v) A summary of the results of the nutrition education evaluations conducted in the prior fiscal year.

(12) A description in detail of the food delivery system including:

(i) A description of all food delivery systems to be used by local agencies under its jurisdiction;

(ii) The form for the written agreement between the food vendor and the State or local agency;

(iii) A description of the guidance provided to food vendors concerning the authorized supplemental foods and WIC Program requirements;

(iv) A description of the State agency's system designed to limit food vendor and participant abuses of the Program;

(v) Where food instruments are used, a facsimile of the food instrument, the system for control and reconciliation of food instruments, and the criteria used to approve the mailing of food instruments;

(vi) The procedures used to pay food vendors; and

(vii) A description of how the State agency assures that the number of food vendors serving an area is adequate.

(13) A plan for the detection and prevention of dual participation within the jurisdiction of the State agency.

(14) A description of the financial management system, including:

(i) A detailed breakdown of the proposed expenditures among the cost categories of operational and administrative costs, nutrition education costs, and food costs;

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(ii) A detailed description of procedures to ensure that one-sixth of the State agency's operational and administrative funds are expended on nutrition education, or to document that equivalent nutrition education resources are provided by other sources; and

(iii) A description of the method used to allocate operational and administrative funds among local agencies, the procedures used to develop the allocation standards in cooperation with local agencies, and procedures for distributing operational and administrative funds, including start-up funds, to local agencies.

(15) A description of the State agency monitoring procedures including the number of on-site reviews of local agencies and clinics performed in the last full four quarters prior to July 1, and the number planned for the coming fiscal year.

(16) A description of the State agency audit procedures, including:

(i) A description of the scope and frequency of audits of the State agency and local agencies and a delineation of the procedures used that assure audit examinations at reasonable frequency. State agency guidelines for selecting a sample of grant programs for audits should be included.

(ii) A description of the State agency in sufficient detail to demonstrate the independence of the audit organization.

(iii) The number of local agencies in which the WIC Program was included in the audit in the last full four quarters, the number of local agency audits planned, and the number of local agencies to be audited in the coming fiscal year which will include the WIC program in the audit.

(17) A description of the plans to coordinate Program operations with special counseling services and with other programs. Coordination shall include, but not be limited to services for family planning, alcohol and drug abuse counseling, child abuse counseling, immunization, penatal care, and well-child care. Coordination with other programs shall include Food Stamp Program (Pub. L. 95-113), and the Expanded Food and Nutrition Education Programs (Pub. L. 95-113).

(18) A description of the resources and staff available to perform State agency responsibilities and to assist local agencies in Program operations, such as any necessary supervision, reviews, training and guidance.

(19) A description of the steps taken to comply with the State Plan public hearing requirements and a summary of the public hearings.

(20) A description of the procedures used to comply with the nondiscrimination requirements of Title VI of the Civil Rights Act of 1964 including racial and ethnic participation data collection, public notification procedures and the annual civil rights compliance review process, and with 7 CFR Part 15.

(21) A description of fair hearing procedures for participants and the administrative appeal procedures for local agencies and food vendors.

(b) *Public Hearings.* Not later than May 31 of each year the State agency shall conduct public hearings to enable the general public to participate in the development of the State Plan. In the case of Indian State gencies, the public hearings shall be held one month prior to submission of the State Plan to an areawide Federal Planning office or to FNS.

(1) The hearings shall be accessible to the public, and there shall be sufficient space in the hearing room to accommodate the number of persons expected to attend; and

(2) The State agency shall publish notice in the media throughout the State which provides the time, place and subject of the hearing and invites interested members of the public to participate.

(3) The State agency shall send letters of invitation at least 30 days before the hearing to all local agencies and those parties cited in § 246.4(a)(17) and to those agencies referring potential participants.

(c) *Submission of Plan to Governor.* Annually, by June 30 all State agencies except Indian State agencies shall submit the State Plan to the Governor or delegated authority, for comment as required by Circular A-95 (38 FR 37874), issued by the Office of Management and Budget on September 13, 1973. A period of 45 days from the date the Governor receives the State Plan shall be allowed for comments prior to submission to FNS. The comments shall be submitted with the State Plan. If the Governor makes no comment, a statement to that effect shall be attached to the State Plan. Amendments to the State Plan need not be submitted to the Governor unless they include a significant change. Indian State agencies may consult areawide Federal planning offices in the development of their State Plan.

(d) *Amendments.* At any time, the State agency may amend the State Plan to reflect changes or budget increases requested. The State agency shall submit the amendments to FNS for approval.

§ 246.5 Selection of local agencies.

(a) *General.* This section sets forth the procedures the State agency shall perform in the selection of each agency which applies to operate under the Program and in Program expansion.

(b) *Preapplication package.* The State agency shall provide a preapplication package to any interested agency within 15 calendar days of a request for information concerning Program operations.

(c) *Application of local agencies.* The State agency shall require each agency which desires approval as a local agency to submit written application which contains sufficient information to enable the State agency to make a determination as to the eligibility of the local agency. Local agencies which are subdivisions of the State agency shall not be exempt from this requirement. Within 15 days after receipt of an incomplete application, the State agency shall provide written notification to the applicant agency of the additional information needed. The State agency shall notify the applicant agency in writing of the approval or denial of its application within 30 days of receipt of a completed application. The State agency shall deny applications from local agencies if there are not funds available for Program initiation or expansion. These agencies shall be advised that the State agency is filing their application and they will be reconsidered and notified when funds become available. When an application is denied, the State agency shall advise the applicant agency of the reasons for denial and of the right to appeal as set forth in § 246.25 of this part.

(d). *Program initiation and expansion.* The State agency shall meet the following requirements concerning Program initiation and expansion:

(1) The State agency shall fund local agencies serving those areas or special populations most in need first, in accordance with their order of priority as listed in the Affirmative Action Plan described in § 246.4. Expansion of existing operations shall also be done in accordance with the Affirmative Action Plan. The selection criteria cited in paragraph (e)(1) of this section shall be applied in each area or population before eliminating that area from consideration and serving the next area or population. The State agency shall consider the participant priority system in § 246.7 in determining when it is appropriate to move into additional areas in the Affirmative Action Plan.

(2) The State agency shall provide a written justification to FNS for not funding the highest priority area or population such as inability to administer the Program, lack of interest expressed for operating under the Program, or, for those areas or special populations which are under consideration for expansion of an existing operation, a determination by the State agency that there is a greater need for funding in an area or population not operating the Program. The participant priority system in § 246.7 shall be utilized in making this determination.

(3) The State agency may fund new local agencies without FNS approval as long as the requirements of this part are met. The State agency may fund more than one local agency to serve the same area or population, as long as more than one local agency is deemed necessary to serve the full extent of need in that area or population.

(4) The State agency shall take all reasonable actions to identify potential local agencies in the neediest one-third of all areas unserved or partially served and encourage such agencies to implement or expand Progarm operations within the following year.

(e) *Local agency priority system.* The State agency shall comply with the following requirements in the selection of local agencies.

(1) The State agency shall select local agencies in accordance with the following priority system which is based on the availability of health and administrative services:

(i) First consideration shall be given to a public or private nonprofit health agency which will provide health and administrative services.

(ii) Second consideration shall be given to a public or private nonprofit health or service agency which must enter into a written agreement with another such agency for either health or administrative services.

(iii) Third consideration shall be given to a public or private nonprofit health agency which must enter into a written agreement with private physicians, licensed by the State, in order to provide health services to a specific category of participant women, infants and children or to participants not eligible for health services at the local agency due to family income which exceeds the standards for health services as established by the local agency.

(iv) Fourth consideration shall be given to a public or private nonprofit service agency which must enter into a written agreement with private physicians, licensed by the State, to provide health services.

(2) The State agency shall publish a notice in the media of the area next in line according to the Affirmative Action Plan, unless the State agency has received an application from a public or nonprofit private health agency which can provide adequate health and administrative services. The notice shall include a brief explanation of the Program, a description of the local agency priority system cited in this paragraph, a description of the preapplication package that is available, and a request that potential local agencies notify the State agency of their interest within 30 days. In addition, the State agency shall contact all potential local agencies in the area to ensure that they are aware of the opportunity to apply for participation under the Program. If no agency expresses interest within 30 days, the State agency may then proceed with the selection of a local agency in the area next in line according to the Affirmative Action Plan. If sufficient funds are available a State agency shall give notice and consider applications in more than one area at the same time, but shall fund new local agencies in conformance with the sequential ranking of the Affirmative Action Plan.

§ 246.6 Agreements with Local Agencies.

(a) *Signed written agreement.* The State agency shall enter into a signed written agreement with each local agency which sets forth the local agency's responsibilities for Program operations as prescribed in this part. Local agencies which are subdivisions of the State agency shall not be exempt from this requirements. Copies of the agreement shall be kept on file at both the State and local agency for purposes of review and audit in accordance with § 246.20 and § 246.21.

(b) *Provisions of agreement.* The agreement between the State agency and each local agency shall ensure that local agencies:

(1) Comply with all the fiscal and operational requirements prescribed by the State agency pursuant to this part and FNS guidelines and instructions;

(2) Have the competent professional authority on the staff of the local agency and the facilities and equipment necessary to perform the certification procedures;

(3) Make available appropriate health services to participants; up to the income level specified for the Program;

(4) Provide nutrition education services to participants, in compliance with § 246.9 and FNS guidelines and instructions;

(5) Implement a food delivery system prescribed by the State agency pursuant to § 246.10 and approved by FNS;

(6) Provide on a timely basis to the State agency all required information regarding fiscal and program administration in accordance with this part;

(7) Maintain complete, accurate, documented and current accounting of all Program funds received and expended; and

(8) Maintain on file and have available for review, audit, and evaluation all criteria used for certification, including information on the areas served, income standards which comply with § 246.7, and a specific criteria used to determine nutritional risk.

(c) *Indian agencies.* Each Indian State agency shall assure that all local agencies under its jurisdiction serve primarily Indian populations.

(d) *Health or service agencies.* When a health and service agency comprise the local agency, both agencies shall in conjunction meet all the requirements of this part and shall enter into a written agreement which outlines all Program responsibilities of each agency. The agreement shall be approved by the State agency during the local agency application process, and shall be on file at both the State and local agency. No Program funds shall be used to reimburse the health agency for the health services provided. However, costs of certification borne by the health agency may be reimbursed.

(e) *Health or welfare service agencies and private physicians.* When a health service agency and private physicians comprise the local agency, the agency shall have a written agreement with the private physicians and shall provide guidance to the private physicians regarding their responsibilities under the Program. The agency shall advise the State agency on its application of the names and addresses of the private physicians participating and obtain State agency approval of the written agreement. A competent professional authority on the staff of the service agency shall be responsible for the certification of participants. No Program funds shall be used to reimburse the private physicians for the health services provided. However, costs of certification borne by the physician may be reimbursed.

§ 246.7 Certification.

(a) *Requirements.* To be certified as eligible for the Program, an applicant must meet the income criteria specified in paragraph (c) of this section and the nutritional risk criteria specified in paragraph (d) of this section.

(b) *State agency responsibilities.* To enable local agencies to accurately determine the eligibility of persons for supplemental foods, the State agency shall provide local agencies with the following:

(1) Guidance regarding certification procedures in accordance with this section.

(2) The income poverty guidelines and procedures to be used in income determinations. Each State agency shall by June 1 of each year announce the family size income standards to be used in making income determinations effective on July 1.

(3) A list of specific criteria for Statewide use in determining nutri-

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tional risk as defined in this part which is in accordance with the priorities listed in paragraph (c)(2)(ii) of this section.

(4) A standard certification form, meeting the requirements of paragraph (h) of this section, for Statewide use.

(c) *Income determination.* (1) Participation in the Program shall be limited to those persons whose family income is equal to or less than the Secretary's income poverty guidelines increased by 95%, which is equivalent to the standard for reduced price meals for the School Lunch Program, for the appropriate family size. This provision shall be phased in at regular certifications. No person shall be removed from the Program due to changes in income criteria during a certification period.

(2) The local agency shall determine income through the use of a clear and simple application which meets the requirements of paragraph (h) of this section. In applying the income poverty guidelines, the local agency may consider the income of the family during the past 12 months and the family's current rate of income to determine which is the better indicator of income. However, persons from families with adult members who are unemployed shall be eligible based on income during the period of unemployment if the loss of income causes the current rate of income to be less than the Secretary's income poverty guidelines increased by 95%.

(3) The local agency shall determine the income eligibility of foster children as follows:

(i) In those cases where a welfare agency is legally responsible for the child and the foster home is an extension of the welfare agency, the foster child should be considered a one-member family. Payments made by the welfare agency for the care of that foster child shall be considered the income of that one-member family.

(ii) In those cases where the welfare agency has placed a child in a permanent home and/or subsidizes the adoption of the child, the child, shall be considered a member of the family with whom the child resides and the income eligibility would be based on that family's income.

(4) The local agency shall determine the income eligibility of persons from families which would not otherwise meet the income criteria and which claim the special hardship conditions according to the definition of special hardships in paragraph (6) below.

(5) Income means gross income before deductions for income taxes, employees' social security taxes, insurance premiums, bonds, etc. Income includes the following:

(i) Monetary compensation for services, including wages, salary, commissions, or fees;

(ii) Net income from farm and nonfarm self-employment;

(iii) Social security;

(iv) Dividends or interest on savings or bonds, income from estates or trusts, or net rental income;

(v) Public assistance or welfare payments;

(vi) Unemployment compensation;

(vii) Government civilian employee or military retirement or pensions or veterans' payments;

(viii) Private pensions or annuities;

(ix) Alimony or child support payments;

(x) Regular contributions from persons not living in the household;

(xi) Net royalties; and

(xii) Other cash income. Other cash income would include cash amounts received or withdrawn from any source including savings, investments, trust accounts and other resources which are readily available to the family.

(6) Income shall not include any of the following:

(i) Income or benefits received under any Federal program which are excluded from consideration as income by any legislative prohibition, for example, income recieved by volunteers for services performed in the National Older Americans Volunteer Program as stipulated in the Domestic Volunteer Services Act of 1973, and the value of assistance to children or their families under the National School Lunch Act, the Child Nutrition Act of 1966 and the Food Stamp Act of 1977.

(ii) The value of in-kind housing or other in-kind benefit.

(iii) Income used for special hardship conditions which could not be reasonably anticipated or controlled by the household, including only the following:

(A) Unusually high medical expenses

(B) Shelter costs in excess of 30 percent of income as defined in this section

(C) Special education expenses due to the mental or physical condition of a child

(D) Disaster or casualty losses.

(d) *Nutritional risk.* To be certified as eligible for the Program, applicants who meet the Program's income eligible standard must be determined to be at nutritional risk.

(1) A competent professional auhority on the staff of the local agency shall determine if a person is at nutritional risk through a medical or nutritional assessment. This determination may be based on referral data submitted by a competent professional authority not on the staff of the local agency. The person's height or length and weight shall be measured, and hematological test for anemia such as a hemoglobin or hematocrit test shall be performed. However, such tests are not required for infants under six months of age. Also, the blood test is not required for children who were determined to be within the normal range at their last certification. However, the blood test shall be performed on such children at least once a year. A breastfeeding woman may be certified if the child she is breastfeeding is determined to be at nutritional risk and the woman meets the income eligibility criteria.

(2) *Priority System for Nutritional Risk Criteria.* The following priorities shall be applied by the competent professional authority when vacancies occur after a local agency has reached its maximum participation level, in order to assure that those persons at greatest nutritional risk receive Program benefits. State agencies may set income priority levels within these six priority levels.

(i) *Priority I.* All pregnant women who became pregnant within 2 years after the onset of menses, pregnant women, breastfeeding women and infants at nutritional risk as demonstrated by hematological or anthropometric measurements, or other documented medical conditions which demonstrate the persons' need for supplemental foods.

(ii) *Priority II.* Except those infants who qualify for Priority I, infants (up to 6 months of age) of WIC participants who participated during pregnancy, and infants born of women whose medical record document that they were at nutritional risk during pregnancy due to nutritional conditions detectable by biochemical or anthropometric measurements or other documented nutritionally related medical conditions.

(iii) *Priority III.* Children at nutritional risk as demonstrated by hematological or anthropometric measurements or other documented medical conditions which demonstrate the child's need for supplemental foods.

(iv) *Priority IV.* Pregnant women, breastfeeding women, and infants at nutritional risk because of an inadequate dietary pattern.

(v) *Priority V.* Children at nutritional risk because of an inadequate dietary pattern.

(vi) *Priority VI.* Postpartum women at nutritional risk.

(e) *Processing standards.* (1) When there are funds available to provide Program benefits, the local agency shall accept applications, arrive at eligibility determinations, notify the applicants of the decisions made and, if the applicants are eligible, issue food or food instruments. All of these actions shall be accomplished within the processing standards set forth below.

The processing standards shall begin when the applicant personally makes an oral or written request to the local agency for Program benefits during regular office hours. To ensure that accurate records are kept of the date of the first oral or written request, the local agency shall at the time of the request record on a certification form the applicant's name, address and the date. The remainder of the form shall be completed at the time of certification. The local agency shall act on applications within the following timeframes:

(i) Pregnant women eligible as Priority I participants, infants under six months of age and members of migrant farmworker households who plan to leave the jurisdiction of the local agency shall be notified of their eligibility or ineligibility within 10 days of the date of the first oral or written request for Program benefits.

(ii) All other applicants shall be notified of their eligibility, ineligibility, or placement on a waiting list within 20 days of the date of the first oral or written request for Program benefits.

(iii) Each local agency with a retail purchase system shall issue a food instrument to the participant at the same time as the notification of certification. Such food instruments shall be redeemable immediately.

(iv) Each local agency with a direct distribution or home delivery system shall issue the supplemental foods to the participants within 10 days of issuing the notification of certification.

(2) When there are no funds available to provide Program benefits, the local agency shall maintain waiting lists of individuals who contact the local agency to express interest in receiving Program benefits. These waiting lists must include the name of the applicant, the date placed on waiting list, an address or phone number of applicant and the applicant's status, i.e., pregnant, breastfeeding, age.

(f) *Certification Periods.* Program benefits may be continued until the end of the month in which categorical ineligibility begins. For example, until the end of the month in which a child reaches the fifth birthday. Pregnant women shall be certified for the duration of their pregnancy and for six weeks postpartum. Postpartum women shall be certified within six weeks postpartum. Breastfeeding women shall be certified within six weeks postpartum and shall be certified at a six-month interval thereafter plus or minus 30 days. Infants and children shall be certified at the time of their entrance into the Program and at six-month intervals thereafter plus or minus 30 days. However, if the nutritional risk determination is based on data taken before the time of entrance to the Program, the certification intervals, for participants other than pregnant women, shall be based on the date when the data was taken rather than on the date of admittance to the Program.

(g) *Regression in nutritional status.* Participants may remain in the Program as long as they are eligible according to income criteria and there is a possibility of regression in nutritional status without the supplemental foods. However, the competent professional authority determining nutritional risk may remove a participant from the Program at a certification visit if that person, in the competent professional's judgment, is no longer at nutritional risk, or if there are potential participants waiting who, according to the priority system, are at greater nutritional risk.

(h) Certification forms. All certification data for each person certified shall be recorded on a form (or forms) which are provided by the State agency. The information on the form shall include the following:

(1) The person's name and address.

(2) Date of initial visit to apply for participation.

(3) The person's family income, family size, and the hardship conditions. The certification form may include income information integrated into a single application form or may separate income information onto an attachment to the certification form for easy completion by applicants. Income and nutritional risk information and data collected for other health services may be used to complete this form. However, the applicants must be informed of the hardship conditions by citing them on the certification form.

(4) The date of certification and the date nutritional risk data was taken if different from the date of certification.

(5) The person's height or length, weight, and hematological test results.

(6) The person's specific nutritional risk which established eligibility for the supplemental foods.

Documentation should include health history when appropriate to participant's nutritional risk condition, with participant's consent.

(7) The signature and title of the competent professional authority making the nutritional risk determination, and, if different, the signature and title of the administrative personnel responsible for determining income eligibility under the Program.

(8) A statement saying, "This certification form is being made in connection with the receipt of Federal funds. Program officials may for cause verify information on this form. Deliberate misrepresentation may subject you to prosecution under applicable State and Federal statutes."

(9) After the person has been advised of the rights and obligations set forth in paragraph (i) of this section, the person or parent or caretaker shall read or be read the following statement and shall undersign on the form:

I have been advised of my rights and obligations under the Program. I certify that the information I have provided for my eligibility determination is correct, to the best of my knowledge.

(i) *Participant rights and obligations.* The following sentences shall be read by, or read to, the person or the parent or caretaker at the time of certification. Where a significant proportion of the area served by a local agency is composed of non-English or limited English speaking persons who speak the same language, the sentences shall be stated to such persons in a language they understand:

(1) Standards for participation in the Program are the same for everyone regardless of race, color, creed, or national origin.

(2) You may appeal any decision made by the local agency regarding your participation in the Program.

(3) The local agency will make health services and nutrition education available to you and you are encouraged to participate in these services.

(j) *Notification requirements.* The following responsibilities shall be performed by the State or local agency:

(1) Each Program applicant shall be informed of the right to a fair hearing as a part of each certification procedure.

(2) A person found ineligible for the Program during a certification visit shall be advised in writing of the ineligibility, of the reasons for the ineligibility and of the right to a fair hearing.

(3) A person found ineligible for the Program at any time during the certification period shall be advised in writing 15 days before termination of eligibility, of the reasons for ineligibility, and of the right to a fair hearing.

(4) Each participant shall be notified at least 15 days before the expiration of each certification period that eligibility for the Program is about to expire.

(5) Each participant shall receive an explanation of how the food delivery system in the local agency operates.

(6) Each participant shall be advised of the availability of health services.

(k) *Transfer of certification.* Each State agency shall issue verification of certification to every participant who is a menber of a family in which there is a migrant farmworker or any participant who is likely to be relocating during the certification period. The State agency shall require the local agencies under its jurisdiction, to accept verification of certification

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from participants, including migrant farmworker participants, who have been participating in the Program in another local agency within or outside of the jurisdiction of the State agency. The verification of certification is valid until the certification period expires, and shall be accepted as proof of eligibility for Program benefits. However, if the receiving local agency has waiting lists for participation, the transferring participant shall be placed on the list ahead of all other waiting applicants regardless of the priority of their nutritional risk criteria. The verification of certification shall include the name of the participant, the date the certification was performed, the nutritional risk criteria of the participant, the date the certification period expires, the signature and typed name of the local agency official in the originating jurisdiction, and the name and address of the certifying local agency.

(l) *Dual participation.* When a local agency serves the same area as a Commodity Supplemental Food Program or the same area as another local agency, the local agency shall comply with the following requirements:

(1) The local agency shall obtain a monthly copy of the list of persons participating in the CSFP Program or other local agency which serves the same area, and compare lists to determine whether there is any dual participation.

(2) If any participant is found to have committed dual participation, that person's participation in one of the Programs shall be terminated, subject to the provisions of § 246.24(b). The State agency may also disqualify dual participators from continued Program participation. Such disqualification shall not exceed a 3 month period, shall not be imposed upon infants or children, and shall be waived altogether if the competent professional authority determines that a serious health risk may result from disqualification from the Program.

(3) At certification and when issuing food or food instruments, the local agency shall check the identification of each participant.

(m) *Competent professional authority.* The competent professional authority on the staff of the local agency shall be responsible for determining nutritional risk and for prescribing supplemental foods. The following persons are the only persons authorized to serve as a competent professional authority:

(1) Physicians, nutritionists (B.S. or B.A. in nutrition, Public Health Nutrition, or Home Economics with emphasis in Nutrition or M.S. in Nutrition, Public Health Nutrition or Home Economics with emphasis in Nutrition), dieticians (Registered by the American Dietetic Association or eligible for Registration), Registered Nurses, Physicians Assistants (Certified by the National Committee on Certification of Physicians's Assistants or certified by the State medical certifying authority), or State or local medically trained health officials.

(2) Persons certified by physicians or State or local medically trained health officials to be currently enrolled in a formal course of training leading to one of the professional qualifications cited in subsection (1) above, or has completed a course of training which qualifies that person as a paraprofessional.

§ 246.8 Supplemental foods [Reserved].

§ 246.9 Nutrition education.

(a) *General.* Nutrition education shall be considered a benefit of the Program, and shall be provided at no cost. Nutrition education shall be designed to be easily understood by individual participants, and it shall bear a practical relationship to their nutritional needs, household situations, and cultural preferences including information on how to select food for themselves and their families. Nutrition education shall be thoroughly integrated into participant health care plans and the delivery of supplemental foods and other Program operations.

(b) *Goals.* Nutrition education shall be designed to achieve two broad goals:

(1) Emphasize the relationship between proper nutrition and good health, with special emphasis on the nutritional needs of pregnant, postpartum, and breast feeding women, infants and children under five years of age;

(2) Assist the individual who is at nutritional risk in achieving positive change in food habits, resulting in improved nutritional status and in the prevention of nutrition-related problems through optimal use of the supplemental foods and other nutritious foods. This is to be taught in the context of the ethnic, cultural and geographic preferences of the participants and with consideration for educational and environmental limitations experiences by the participants.

(c) *State agency responsibilities.* The following are the State agency responsibilities for nutrition education:

(1) Development and coordination of the nutrition education portion of Program operations including consideration of local agency plans and needs and the availability of nutrition education services from other sources;

(2) Provision of training and technical assistance to local agency professional and paraprofessional staffs involved in nutrition education;

(3) Identification or development of resource and educational materials for use at the local agencies including materials in languages other than English in areas in which a substantial number of persons speak a language other than English.

(4) Implementation of procedures to assure nutrition education can be provided to all adult participants and to parents or guardians of infant or child participants as well as child participants whenever possible.

(5) Design and performance of annual evaluations of nutrition education action plans including the assessment of participant views concerning the effectiveness of the nutrition education received.

(6) Monitoring of local agency activities to assure compliance with provisions set forth in paragraph (d) of this section. State agency staff involved in program operations as well as State agency staff involved in a nutrition education should monitor the local agency nutrition education activities.

(7) At least annually the State agency shall conduct a training session for all outreach workers and referral sources.

(d) *Local agency responsibilities.* Local agencies shall be responsible for:

(1) Provision of nutrition education to all adult participants, to parents or caretakers of infant and child participants, and whenever possible to child participants. In addition, the local agency may, through group educational sessions and provisions of materials designed for program participants, provide nutrition education to pregnant, postpartum, and breastfeeding women and to parents or caretakers of infants and children participating in local agency services other that the Program even though such persons do not participate in the Program.

(2) Development of an annual local agency nutrition education plan consistent with the nutrition education portion of the State Plan and in accordance with this part and FNS guidelines. The Plan shall be submitted to the State agency by a date specified by the State agency and shall include:

(i) A nutrition education needs assessment in terms of staff, resources, and facilities available at the local agency and any specific subject matter concerns of the Program participants in the local agency's service area;

(ii) A budget for the local agency's nutrition education activities with an indication of anticipated expenditures and sources of available funds;

(iii) A nutrition education in-service training program for professional and paraprofessional persons involved in providing nutrition education to participants for local agency staff persons involved in Program operations other than nutrition. If the State agency chooses to provide this training, a notation to that effect should be made in the Plan.

(iv) A system for, where possible, integrating the services of community resources such as the Expanded Food and Nutrition Service Program into the nutrition education services provided to participants; and,

(v) A list of local agency goals and action plans related to improved nutrition education processes and procedures.

(e) *Participant contacts.*

(1) During each certification period of 5 to 7 months, all adult participants and the parents or caretakers of infant and child participants shall receive a basic nutrition education contact and, depending on need as established at the local agency, either a secondary or a high-risk contact. The type of nutrition education contact provided to each participant shall be documented in each participant's certification file. For purposes of this requirement basic, secondary, and high-risk contacts are defined as follows:

(i) Basic contact means an explanation of: the participant's nutritional risk condition and ways to achieve an adequate diet; the importance of the supplemental foods being consumed by the participant for whom they are prescribed rather than the whole family; the Program as a supplemental rather than a total food program; the nutritional value of the supplemental food; and the importance of health care.

(ii) Secondary contact means an explanation of: the participant's particular needs according to the category of eligibility, for example, the needs of pregnant women, breastfeeding women, postpartum women, infants or children; the relationship of diet to health; the need for an understanding of consumer and nutritional issues such as a discussion on the importance of copper, fiber, folate, and zinc and a discussion on the consumption of foods containing high levels of fat, sugar and salt; and the benefits of consuming a variety of foods including those not provided by the Program.

(iii) High-risk contact means in addition to an explanation of the topics under the secondary contact, the development of an individual nutrition care plan which includes: a definition of the participant's specific needs; an individualized educational program for the participant; a list of objectives for participant improvement with assigned completion dates and methods of achieving the objectives; and a system for review and reassessment of the participant's condition.

(2) Participants selected to receive the basic and secondary contacts shall be provided an individual care plan, if requested.

(3) Individual participants shall not be denied supplemental foods for failure to attend or participate in nutrition education activities although local agencies are required to make all reasonable efforts to provide some form of nutrition education to each participant.

§ 246.10 Food delivery system.

(a) *General.* This section sets forth design and operational requirements for State and local agency food delivery systems.

(b) *Uniform food delivery systems.* The State agency may operate up to three types of food delivery systems: retail purchase, home delivery or direct distribution. These food delivery systems shall be uniform within the jurisdiction of the State agency. When used, food instruments shall be uniform within each type of system.

(c) Participants shall receive the Program's supplemental foods free of charge.

(d) *State agency responsibilities.* Each State agency is responsible for the fiscal management of, and accountability for, food delivery systems under its jurisdiction and shall comply with the following requirements:

(1) Using participant accessibility as a criterion, the State agency shall design all food delivery systems to be used by local agencies under its jurisdiction. FNS may, for a stated cause and by written notice, require revision of a proposed or operating food delivery system and shall allow a reasonable time for the State agency to effect such a revision.

(2) The State agency shall ensure payment to food vendors within 60 days of submission of food instruments for payment for food costs incurred by the food vendor in providing supplemental foods. Actual payment to food vendors may be made by local agencies.

(3) The State agency shall ensure that all food vendors participating in the Program enter into written agreements with the State or local agency. Copies of these agreements shall be on file at the State agency. The agreements shall require the food vendors to:

(i) Ensure that they will provide only the supplemental foods specified in this part when providing foods under the Program;

(ii) Provide supplemental foods at the current price or at less than the current price charged to customers other than participants;

(iii) When food instruments are used, submit those food instruments for payment within the allowed time limit and accept food instruments from participants only within the allowed time limit; and

(iv) Comply with the nondiscrimination requirements of Department regulations (7 CFR Part 15).

(4) The State agency shall ensure that food vendors are transmitted pertinent information and are provided guidance concerning the authorized supplemental foods including nutrition education materials and all other applicable FNS guidelines and instructions.

(5) The State agency shall assure that on-site reviews are conducted by State or local agency personnel of those food vendors accepting food instruments;

(6) The State agency shall assure that training sessions are conducted by State or local agency personnel for participating food vendors.

(7) The State agency shall implement a system of management review to limit food vendor and participant abuses of the Program. The system shall include the following:

(i) The State agency shall ensure that food vendors are suspended from participation under the Program for a reasonable period of time, not to exceed three years, upon a determination that they have committed any of the following abuses of the Program: Providing cash, unauthorized foods, or other items to participants in lieu of authorized supplemental foods; providing less food than specified on and payable with the food instruments; and charging more for supplemental foods than other customers are charged for the same food item. Other abuses by food vendors may be dealt with at the discretion of the State agency. The State agency shall provide adequate procedures for appeal from a suspension from participation under the Program as specified in § 246.25. In addition, prior to suspending vendors, State agencies shall determine if such a suspension would create undue hardships for participants. A food vendor's disqualification from participation in any other FNS program shall be grounds for a review of that vendor's operation of the WIC Program. Food vendors may be subject to the penalties outlined in § 246.19 in the case of deliberate fraud.

(ii) The State agency shall establish procedures designed to control participant abuse of the Program. Participant abuse includes, but is not limited to, knowing and deliberate misrepresentation of circumstances to obtain benefits, sale of supplemental foods or food instruments to (or exchange with) other individuals or entities, and receipt from food vendors of cash or credit toward purchase of unauthorized food or other items of value in lieu of authorized food. The State agency shall establish sanctions for

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participant abuse. Such sanctions may, at the State agency's discretion, include suspension from the Program. Warnings may be given prior to the imposition of sanctions. Before a participant is suspended from the Program for alleged abuse, that participant shall be given full opportunity to appeal a suspension as set forth in § 246.24. In addition, a suspension shall not exceed a three month period, shall not be imposed on infants or children, and shall be waived if the competent professional authority determines that a serious health risk may result from Program disqualification.

(iii) The State agency may also impose upon food vendors and participants any criminal or civil sanctions or other remedies for Program abuse that are applicable under any Federal and State statute or local ordinance.

(8) The State agency shall ensure that the food delivery system is compatible with the delivery of health and nutrition education services to the participants.

(9) The State agency shall control the receipt and issuance of supplemental foods and food instruments.

(10) The State agency shall reconcile the records of receipt, issuance and redemption of supplemental foods or food instruments in accordance with § 246.11 and identify and document expired or any unredeemed food instruments along with their value.

(11) The State agency shall ensure that supplemental foods are not issued for use in or for use by residents of institutions, such as day care centers or homes for unmarried mothers.

(12) The State agency shall ensure that participants sign upon the receipt of supplemental foods or food instruments. This requirement shall not pertain to systems which mail food instruments.

(13) The State agency shall ensure that no conflict of interest exists between any local agency and the food vendor or vendors within the local agency's jurisdiction.

(e) *Retail purchase systems.* Retail purchase food delivery systems are systems in which participants obtain supplemental foods by submitting a food instrument to local retail outlets. All retail purchase food delivery systems shall meet the following requirements:

(1) The State agency shall use uniform food instruments within its jurisdiction. The State agency is responsible for the design and printing of the uniform food instruments, and their serialization.

(2) The State agency shall develop guidelines for the mailing of food instruments to participants. Food instruments may be mailed to participants on a local agency-wide basis only if approved by the State agency. In making its determination regarding the mailing of food instruments by a local agency, the State agency shall consider participant hardships, such as seasonal inclement weather, which may be encountered by the target population of the local agency if food instruments are not mailed. In localities where participation drops significantly during certain months of the year due to the weather, State and local agencies could consider the mailing of food instruments. The State agency shall approve a local agency's request for the mailing of food instruments if accountability is ensured and if either a reasonable level of health and nutrition education services can be provided, or if the State agency determines that persons in need of the Program in rural areas will be unable to participate in the Program if food instruments are not mailed to them. Mailing food instruments on an individual participant basis shall be permitted only if:

(i) Individual participants encounter difficulties in personally obtaining food instruments for such reasons as illness, imminent childbirth, inclement weather conditions, distance to travel, high cost of travel, or inability to get to the local agency during business hours;

(ii) The reasons for mailing the food instruments are documented by the State or local agency in the participant's certification file; and

(iii) The mailing of food instruments to the participant is discontinued if the participant's initial hardship is resolved.

(3) Each food instrument shall clearly bear on the face, the following information:

(i) The first date from which the food instrument may be used by the participant to obtain supplemental foods.

(ii) The last date by which the participant may use the food instrument to obtain supplemental foods. This date shall be a minimum of 30 days from the date specified in paragraph (i) above or for the participant's first month of issuance it may be the end of the month for which the food instrument is valid.

(iii) An expiration date by which the food vendor is required to submit the food instrument for payment. This date shall be no more than 90 days from the date specified in paragraph (i) above. If the date is less than 60 days from the date specified in paragraph (ii) above, the State agency shall ensure that the food vendor is able to submit food instruments for redemption within the required time limit without undue burden.

(iv) A unique and sequential serial number.

(v) A maximum purchase value which is higher than the price of the food for which it will be used; but low enough to be a reasonable protection against potential losses as a result of theft, counterfeiting or other fraudulent activities.

(iv) The brand names of foods authorized to be provided in accordance with § 246.8.

(4) The State agency shall assure that food vendors are not reimbursed an amount in excess of the actual purchase price of the supplemental foods.

(5) With justification and documentation, State agencies may reimburse food vendors for food instruments submitted after the expiration date if the total value of the food instruments submitted after the expiration date is $200.00 or less. If the total value of the food instruments submitted exceeds $200.00, reimbursement may not be made without the approval of the FNS Regional Office.

(6) The State agency shall assure that no more than a three month supply of food instruments are issued to any participant at one time and that nutrition education and health services are frequently made available to the participant, and that nutrition education services are made available in accordance with § 246.9(e).

(7) The State agency shall assure that the State or local agency enter into written agreements with as many food vendors as necessary to assure convenience to participants in obtaining supplemental foods. At a minimum, State agencies must enter into written agreements more than with three food vendors in each clinic service area, unless the State agency determines it is impossible to enter into written agreements with more than three food vendors in the clinic service area because of a lack of retail outlets.

(f) *Home food delivery systems.* Home food delivery systems are systems in which food is delivered to the participant's home. Systems for home delivery of food shall provide for:

(1) Uniform food instruments, where applicable, which comply with the appropriate requirements set forth in paragraph (d) above;

(2) Procurement of supplemental foods in accordance with § 246.18, which may entail measures such as the purchase of food in bulk lots by the State agency and the use of discounts that are available to States; and

(3) The accountable delivery of supplemental foods to participants.

(g) *Direct distribution systems.* Direct distribution food delivery systems are systems in which participants pick up food from storage facilities operated by the State or local agency. Systems for direct distribution of food shall provide for:

(1) Uniform food instruments, where applicable, which comply with the appropriate requirements set forth under paragraph (e) of this section;

(2) Adequate storage and insurance coverage that minimizes the dangers of loss due to theft, infestation, fire, spoilage, or other causes;

(3) Adequate inventory control of food received, in stock, and issued;

(4) Procurement of supplemental foods in accordance with § 246.18, which may entail measures such as purchase of food in bulk lots by the State agency and the use of discounts that are available to States;

(5) The availability of Program benefits to participants and potential participants who live at great distances from storage facilities; and

(6) The accountable delivery of supplemental foods to participants.

§ 246.11 Financial Management System.

(a) *Disclosure of expenditures.* The State agency shall maintain a financial management system which provides accurate, current and complete disclosure of the financial status of the Program and includes an accounting for all property and other assets and all Program funds received and expended each fiscal year.

(b) *Reports.* The State agency shall maintain its financial accounts sufficient to permit the preparation of the reports required in § 246.16.

(c) *Record of expenditures.* The State agency shall maintain records which identify adequately the source and use of funds expended for Program activities. These records shall contain, but are not limited to, information pertaining to authorization, receipt of funds, obligations, unobligated balances, assets, liabilities, outlays, and income.

(d) *Payment of costs.* The State agency shall implement procedures which ensure prompt and accurate payment of allowable costs, and ensure the allowability and allocability of costs in accordance with the cost principles and standard provisions of this part, FMC 74-4 and FNS guidelines and instructions.

(e) *Identification of obligated funds.* The State agency shall implement procedures which accurately identify obligated Program funds at the time obligations are made.

(f) *Resolutions of audit findings.* The State agency shall implement procedures which ensure timely and appropriate resolution of audit findings and recommendations.

(g) *Use of minority owned banks.* The State agency shall observe the national goal of expanding the opportunities for minority business enterprises, by encouraging the use of minority owned banks.

(h) *Reconciliation of food instruments.* The State agency shall, where applicable, implement procedures to reconcile the number of food instruments issued with food instruments redeemed, and the value of individual food instruments issued with the value of individual food instruments redeemed.

(i) *Identification of unredeemed food instruments.* The State agency shall, where applicable, implement procedures to identify unredeemed, expired and unexpired, food instruments and their issuance value, and to make the appropriate adjustments to records and reports on obligations and expenditures.

(j) *Transfer of cash.* The State agency shall have controls to minimize the time elapsing between receipt of Federal funds from the U.S. Department of Treasury and the disbursements of these funds for Program costs. In the Letter of Credit system, the State agency shall make drawdowns from the U.S. Department of Treasury's Regional Disbursing Office as close as possible to the actual disbursement of funds. Advances made by the State agency to local agencies shall also conform to these same standards.

(k) *Local agency financial management.* The State agency shall ensure that all local agencies develop and implement a financial management system consistent with the requirements prescribed by the State agency pursuant to the requirements of this section.

§ 246.12 Program costs.

(a) *General.* The two categories of allowable costs under the Program are as follows:

(1) Food costs.

(2) Operational and Administrative Costs. The two types of operational and administrative costs are:

(i) Direct costs. Those direct costs which are allowable under FMC 74-4; and

(ii) Indirect costs. Those indirect costs which are allowable under FMC 74-4. Food costs may not be used as a basis for computing indirect cost rates.

(b) *Specific allowable costs.*

(1) Food costs. Food costs shall not exceed the food vendor's customary price.

(2) The cost of nutrition education provided which meets the requirements of § 246.9. At least one-sixth of the funds expended by each State agency for administrative costs shall be used for nutrition education. However, the State agency may request in its State Plan to spend less than one-sixth of its administrative expenditures on nutrition education. Such a request may be approved by FNS if the State agency can document that funds from other sources and program funds will be expended at an amount equal to one-sixth of administrative funds. Nutrition education costs are limited to activities which are distinct and separate efforts to help participants understand the importance of nutrition to health. The cost of dietary assessments for the purpose of certification and the cost of prescribing and issuing supplemental foods may not be applied to the one-sixth minimum amount required to be spent on nutrition education. The cost of the following items may be applied to the one-sixth minimum amount required to be spent on nutrition education:

(i) Salary and other costs for time spent on nutrition education consultations whether with an individual or group.

(ii) Costs of producing nutrition education materials including handouts, flip charts, filmstrips, food models or other teaching helps.

(iii) Costs of training nutrition educators including cost related to conducting training sessions and producing training materials.

(iv) Costs of conducting evaluations of nutrition education, including contractor involvement and time spent in the design of data collection forms and compilation and analysis of data.

(v) Costs of time spent developing the nutrition education portion of the State Plan.

(vi) Costs of mailing nutrition education materials.

(vii) Costs of monitoring nutrition education.

(3) The cost of certification procedures including:

(i) Laboratory fees incurred for tests conducted to determine the eligibility of persons to participate in the Program;

(ii) Expendable medical supplies necessary to determine the eligibility of persons to participate in the Program;

(iii) Centrifuges, measuring boards, spectrophotometers, and scales used for determining eligibility persons, provided that expenditures limits will be set by FNS per piece of equipment and expenditures which exceed the limits must receive prior approval by FNS Regional Office;

(iv) Salary and other costs for time spent on certification.

(4) The cost of outreach services.

(5) The cost of administering the food delivery system.

(6) The cost of capital expenditures other than those specified in paragraph (3) (iii) above, provided that capital expenditures over $2,500.00 are apprroved by the FNS Regional Office.

(7) The cost of translators for materials and interpretors.

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§ 246.13 **Program income.**

(a) *Interest.* Interest earned on Program funds at the State or local levels shall be used in accordance with Attachment E, OMB A-102.

(b) *Sale of property.* Proceeds from the sale of personal property purchased in whole or in part with Program funds shall be handled in accordance with Attachment N, OMB A-102.

(c) *Royalties.* Royalties received from copyrights and patents during the grant period shall be retained by the State agency and be added to the funds already committed to the Program. After termination or completion of the grant, the Federal share of royalties in excess of $200 received annually shall be returned to FNS.

§ 246.14 **Distribution of funds.**

(a) *General.* This section prescribes the procedures for the distribution of available funds by FNS to participating State agencies and by State agencies to local agencies. All Program funds shall be used only for Program purposes. As a prerequisite to the receipt of funds, the State agency shall have executed an agreement with the Department and shall have received approval of its Plan of Program Operation and Administration.

(b) *Distribution of Funds to State Agencies.* Funds made available to the Department for the Program in any fiscal year shall be distributed by FNS on the basis of funding formulas which allocate funds to all State agencies for food cost and operational and administrative costs. However, up to one half of one percent of the sums appropriated for each fiscal year, not to exceed $3,000,000 shall be used by the Department for the purpose of evaluating Program performance, evaluating health benefits, and the administration of pilot projects, including projects designed to meet the special needs of migrants, Indians, and rural populations. Each State agency's funds shall be provided by means of a Letter of Credit unless other funding arrangements are made with FNS. Funds shall be used by State agencies to cover those allowable and documented Program costs, as defined in § 246.12, which are incurred by the State Agency and participating local agencies within its jurisdiction.

(c) *Distribution of Funds to Local Agencies.* All funds made available by FNS to each State agency, except those funds necessary for allowable costs for State agency administration, shall be provided to local agencies. The State agency shall distribute the funds based on claims submitted monthly by the local agency. Where the State agency advances funds to local agencies, the State agency shall ensure that each local agency has funds to cover immediate disbursement needs and the State agency shall make necessary increases or decreases in the funding level once the local agency has submitted its monthly claim.

(1) To accomplish the allocation of funds to local agencies, the State agency shall:

(i) Distribute funds to cover expected food costs expenditures.

(2) Allocate funds to cover expected local agency administrative costs in a manner which takes into consideration each local agency's needs. For the allocation of administrative funds, the State agency shall:

(i) Develop an administrative funding formula, in cooperation with a representative sample of local agencies including a rural agency, an urban agency, a small agency, a large agency, a migrant agency, an Indian agency where applicable, and a potential local agency, which takes into account the varying needs of local agencies. The formula shall be comprised of factors such as: the type and ratio of staff needed to serve the estimated number of participants; the variation of salaries of personnel among local agencies; the types of equipment needed for certification; expenses the local agency may incur for providing bilingual services and material where the client population contains a significant proportion of non-English speaking persons; special services needed to reach particular members of populations such as migrants and Indians; costs related to serving areas with a high or low density of population, or a population that resides in a rural area; and financial and in-kind resources, other than Program funds, which are available to the local agency.

(ii) Forward in advance to local agencies those administrative funds necessary for the successful commencement of Program operations during the first three months of operation or until the local agency reaches its projected caseload level, whichever comes first.

§ 246.15 **Redistribution of funds.**

(a) *Conditions for redistribution of funds.* FNS may recover and redistribute funds from a State agency under any of the following conditions:

(1) If FNS determines, through a review of the State agency's reports, program or financial analysis, monitoring, audit or otherwise, that the State agency's performance is inadequate or that the State agency has failed to comply with this part or FNS guidelines and instructions.

(2) If FNS determines, based on State agency reports of expenditures and operations, that the State agency is not expending funds at a rate commensurate with the amount of funds distributed or provided for expenditure under the Program.

(b) *Withholding of funds.* If FNS determines that a State agency has failed without good cause to administer the Program in accordance with this part or to carry out the approved State Plan, FNS may withhold such amounts of the State agency's administrative funds as FNS deems appropriate. Upon correction of such a failure during the same fiscal year, these funds shall be provided to the State agency.

(c) *Adjustments in funding.* FNS shall effect such recovering of funds through adjustments in the amount of funds provided under the program.

§ 246.16 **Records and reports.**

(a) *Recordkeeping requirements.* Each State and local agency shall maintain full and complete records concerning Program operations which comply with the following requirements:

(1) Records shall include, but not be limited to, information pertaining to financial operations, food delivery systems, food instrument issuance and redemption, equipment purchases and inventory, certification procedures, nutrition education, civil rights and fair hearing procedures.

(2) All records shall be retained for three years following the date of submission of the final expenditure report for the period to which the reports pertain. However, FNS may, by written notice, require longer retention of any records deemed by it to be necessary for resolution of an audit or of any litigation. If FNS deems any of the program records to be of historical interest, it may require the State or local agency to forward such records to FNS whenever either agency is disposing of them. All records, except medical case records of individual participants (unless they are the only source of certification data), shall be available during normal business hours for representatives of the Department and of the General Accounting Office of the United States to inspect, audit, and copy. Any reports resulting from such examinations shall not divulge names of individuals.

(b) *Financial reports.* All financial data shall be submitted on a monthly basis as required by FNS.

(c) *Program reports.* All program performance data shall be submitted on a monthly basis as required by FNS.

(d) *Civil rights.* Each local agency participating under the Program shall submit a report of racial and ethnic participation data, at a frequency prescribed by FNS.

(e) *Audit acceptability of reports.* To be acceptable for audit purposes, all financial and program performance reports shall be traceable to source documentation.

(f) *Certification of reports.* Financial and program reports shall be certified as to their completeness and accuracy by the person given that responsibility by the State agency.

(g) *Use of reports.* FNS shall use State agency reports to measure progress in achieving objectives set forth in the State Plan. If it is determined, through review of State agency reports, program or financial analysis, or an audit, that a State agency is not meeting the objectives set forth in its State Plan, FNS may request additional information including, but not limited to, reasons for the failure to achieve its objectives.

§ 246.17 **Closeout procedures.**

(a) *General.* State agencies shall submit preliminary and final closeout reports for each fiscal year or part thereof. All obligations shall be liquidated before final closure of a fiscal year grant. Obligations shall be reported for the fiscal year in which they occur.

(b) *Fiscal year closeout reports.* State agencies:

(1) Shall submit to FNS, within 30 days after the end of the fiscal year, preliminary financial reports which show cumulative actual expenditures and obligations for the fiscal year, or part thereof, for which Program funds were made available.

(2) Shall submit to FNS, within 120 days after the end of the fiscal year, final fiscal year closeout reports; and

(3) May submit revised closeout reports at any time. However, FNS is not responsible for reimbursing unpaid obligations later than one year after the close of the fiscal year in which they were incurred.

(c) *Grant closeout procedures.* When grants to State agencies are terminated, the following procedures shall be performed in accordance with A-102 and A-110.

(1) Termination for cause. FNS may terminate a State agency's participation under the Program, in whole or in part, whenever FNS determines that the State agency has failed to comply with the conditions prescribed in this part, and in FNS guidelines and instructions. FNS shall promptly notify the State agency in writing of the termination, together with the effective date. A State agency shall terminate a local agency's participation under the Program by written notice whenever it is determined by FNS or the State agency that the local agency has failed to comply with the requirements of the Program. When a State agency's participation under the Program is terminated for cause, any payments made to the State agency, or any recoveries by FNS from the State agency, shall be in conformance with the legal rights and liabilities of the parties.

(2) Termination of convenience. FNS or the State agency may terminate the State agency's participation under the Program, in whole or in part, when both parties agree that continuation under the Program would not produce beneficial results commensurate with the further expenditure of funds. The State agency or the local agency may terminate the local agency's participation under the Program, in whole or in part, under the same conditions. The two parties shall agree upon the termination conditions, including the effective date thereof and, in the case of partial termination, the portion to be terminated. The State agency shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. FNS shall allow full credit to the State agency for the Federal share of the noncancellable obligations, property incurred by the State agency prior to termination.

§ 246.18 **Procurement and property management standards.**

(a) *Requirements.* State and local agencies shall comply with the requirements of A-102, A-110, and FMC 74-4 procedures for the procurement and allowability of food in bulk lots, supplies, equipment and other services with Program funds. These requirements are adopted by FNS to ensure that such materials and services are obtained for the Program in an effectiver manner and in compliance with the provisions of applicable law and executive orders.

(b) *Contractual responsibilities.* The standards contained in A-102, A-110, and FMC 74-4, do not relieve the State or local agency of the responsibilities arising under its contracts. The State agency is the responsible authority, without recourse to FNS, regarding the settlement and satisfaction of all contractual and administrative issues arising out of procurements entered into in connection with the Program. This includes, but is not limited to, disputes, claims, protests of award, source evaluation, or other matters of a contractual nature. Matters concerning violation of law are to be referred to such local, State or Federal authority as may have proper jurisdiction.

(c) *State regulations.* The State or local agency may use its own procurement regulations which reflect applicable State and local regulations, provided that procurements made with Program funds adhere to the standards set forth in A-102, A-110, and FMC 74-4.

(d) *Property acquired with Program funds.* State and local agencies shall observe the standards prescribed in A-102, Attachment N, in their utilization and disposition of property acquired in whole or in part with Program funds.

§ 246.19 **Claims and penalties.**

(a) *Claims.* If FNS determines that any Program funds provided to a State agency for food delivery or administrative purposes were, through State agency or local agency negligence or fraud, misused or otherwise diverted from Program purposes, a claim shall be made by FNS against the State agency, and the State agency shall pay promptly to FNS a sum equal to the amount of the administrative funds or the value of supplemental foods or food instruments so misused or diverted. Further, if FNS determines that any part of the money received by a State agency, or supplemental foods purchased or food instruments, were lost as a result of thefts, embezzlements, or unexplained causes, the State agency shall, on demand by FNS, pay to FNS a sum equal to the amount of the money or the value of the supplemental foods or food instruments so lost. The State agency shall have full opportunity to submit evidence, explanation or information concerning alleged instances of noncompliance or diversion before a final determination is made in such cases.

(b) *Penalties.* Whoever embezzles, willfully misapplies, steals or obtains by fraud any funds, assets or property provided under Section 17 of the Child Nutrition Act of 1966, as amended, whether received directly or indirectly from USDA, or whoever receives, conceals or retains such funds, assets or property to his or her use of gain, knowing such funds, assets or property have been embezzled, willfully misapplied, stolen or obtained by fraud shall, if such funds, assets or property are of the value of $100 or more, be fined not more than $10,000 or imprisoned not more than five years, or both, or if such funds, assets or property are of a value of less than $100, shall be fined not more than $1,000 or imprisoned for not more than one year, or both.

§ 246.20 **Management evaluation and reviews.**

(a) *General.* FNS and each State agency shall establish a management evaluation system in order to assess the accomplishment of Program objectives.

(b) *Responsibilities of FNS.* FNS shall establish evaluation procedures to determine whether State agencies carry out the purposes and provisions of this part, the State Plan, and FNS guidelines and instructions. As a part of the evaluation procedures, FNS shall review audits performed by the State agency to ensure that the Pro-

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gram at both the State and local levels, has been included in audit examinations at a reasonable frequency.

(1) These evaluations shall include an annual evaluation of each State agency including on-site reviews of the local agencies. These evaluations should measure the State agency's progress toward meeting the objectives outlined in its State Plan.

(2) If, as a result of this evaluation it is disclosed that the State agency is failing to administer the Program in a manner consistent with the legislation, this part, or the State Plan, FNS shall withhold State agency administrative funds. If the failure is corrected within the fiscal year in which the funds were withheld, the funds shall be returned to the State agency.

(3) To effectuate this requirement a graduate scale of sanctions varying from five to 20 percent of the State agency's total administrative funds shall be withheld. FNS will determine the percentage based on the number of violations and the degree of severity. However, no funds shall be withheld until the following procedures and processes have been completed:

(i) The State agency and FNS have established a corrective action plan which includes specific time frames for the correction of deficiencies and the State agency has been given sufficient time to correct the deficiencies but has failed to do so.

(ii) A followup review has been performed by FNS to determine if the noted deficiencies have been corrected.

(iii) An early warning letter has been sent to the State agency informing the State agency of the Program areas which are not in compliance with the performance standards listed in paragraph (4) below and that a formal warning will be issued if positive actions toward compliance are not taken by the dates agreed upon in the corrective action plan. This letter should also specify in detail the technical assistance available from FNS to correct the deficiency.

(iv) If positive actions are not taken by the State agency, within the time limits established in the corrective action plan, FNS will issue a formal warning to the Chief State Health Officer or his equivalent. The warning will state that sanctions will be applied within 30 days if compliance with the corrective action plan is not achieved. The formal warning will identify the amount of funds which will be withheld, the sanction and the exact steps the State agency must take to prevent the application of the sanction.

(v) If at the end of the formal warning period, the deficiencies have not been corrected, FNS will withhold administrative funds by a reduction of the State agency Letter of Credit (LOC) and inform the Chief State Health Officer.

(vi) If compliance is achieved before the end of the fiscal year the administrative funds withheld shall be restored in the State agency's LOC. If compliance is not achieved, the funds will revert to FNS.

(4) The sanction process, as set forth in § 246.20(b)(3), shall be immediately implemented if FNS determines that deficiencies exist in any of the following performance standards. Any determination that a deficiency exists shall be based on a review by FNS of a statistically valid sample of relevant program records.

(i) More than 10 percent of the sampled proper vendor claims submitted in a three-month period being delayed for payment past the 60 days specified in § 246.10.

(ii) Less than 10 percent of the vendors being reviewed annually.

(iii) More than 10 percent of the monthly and annual reports required in § 246.16 being postmarked later that the due date specified by FNS.

(iv) More than five percent of the food instruments issued in a three-month period not being individually reconciled within 90 days after the end of the three-month period.

(v) More than five percent of participant certification actions to approve or deny applications being improperly performed or records being improperly documented.

(vi) Having any of the staff positions specified in § 246.3 vacant for more than nine months.

(c) *Responsibilities of State agencies.* The State agency is responsible for meeting the following requirements:

(1) The State agency shall establish evaluation and review procedures and document the results of such procedures. The procedures shall include, but not be limited to:

(i) Monitoring of all local Program areas to evaluate management, nutrition education, civil rights compliance, accountability, and financial management systems. The operation of each local agency and a minimum of 20 percent of the clinics in each local agency shall be reviewed annually. However, more frequent reviews may be performed as the State agency deems necessary. The State agency shall provide a continuing evaluation of each local agency through on-site reviews, reviews of local agency reports, and reviews of claims of the retail outlets and home delivery vendors annually; and

(ii) Instituting the necessary followup procedures to correct identified problem areas.

(2) On its own initiative or when required by FNS, the State agency shall provide special reports on Program activities.

(3) The State agency shall require that local agencies establish Program review procedures to be used in reviewing their operations and those of subsidiaries or contractors.

§ 246.21 Audits.

(a) *Federal access to information.* The Secretary, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records (except medical case records of individuals unless that is the only source of certification data) of the State and local agencies and their contractors, for the purpose of making surveys, audits, examinations, excerpts, and transcripts.

(b) *State agency response.* The State agency may take exception to particular audit findings and recommendations. The State agency shall submit a response or statement to FNS as to the action taken or planned regarding the findings.

(c) *Corrective action.* FNS shall determine whether Program deficiencies have been adequately corrected. If additional corrective action is necessary, FNS shall schedule a follow-up review, allowing a reasonable time for such corrective action to be taken.

(d) *State sponsored audits.* (1) Each State agency shall provide for an independent audit of the financial operations of the State agency and local agencies. Audits may be conducted by State and local government audit staffs or by certified public accountants and audit firms under contract to the State or local agencies. Audits shall conform to "The Standards of Audit of Governmental Organizations, Programs, Activities and Functions", issued by the Comptroller General of the United States (1972, for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C., 20402, price 70 cents). An audit shall be used to determine whether:

(i) Financial operations are properly conducted;

(ii) The financial reports are fairly presented; and

(iii) The entity has complied with applicable laws, regulations, and administrative requirements pertaining to financial management.

(2) The State agency shall conduct audits in accordance with the provisions of A-102, Attachment G. Audits of the State agency and the local agencies under the state agency's jurisdiction must be performed in a representative sample of grant program audit examinations, but need not be completed during each audit cycle which occurs, at a minimum, every two years. However, audits of the Program shall be performed at intervals frequent enough to ensure consistency with good Program management. Provided; that if FNS in the course of Program reviews of State agency operations, finds that the efficiency and effectiveness of the State agency's financial management system is in question, FNS may request the State agency to include the Program in the sample for the next audit examination.

(3) Each State agency shall make all State or local agency sponsored audit reports of Program operations under its jurisdiction available for the Department's review upon request. The cost of these audits shall be considered a part of operational and administrative costs and funded from the State or local agency operational and administrative funds, as appropriate.

§ 246.22 Investigations.

(a) *Authority.* The Department may make an investigation of any allegation of noncompliance with this part and FNS guidelines and instructions. The investigation may include, where appropriate, a review of pertinent practices and policies of any State or local agency, the circumstances under which the possible noncompliance with this part occurred, and other factors relevant to a determination as to whether the State or local agency has failed to comply with the requirements of this part.

(b) *Confidentiality.* No State or local agency, participant, or other person shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege under this part because that person has made a complaint, formal allegation, or testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this part. The identity of every complainant shall be kept confidential except to the extent necessary to carry out the purposes of this part, including the conduct of any investigation, hearing, or judicial proceeding.

§ 246.23 Nondiscrimination.

(a) *Requirement* (1) The State agency shall not, in any aspect of Program administration or service, discriminate against any applicant or participant for reasons of age, race, color, sex, handicap, religious creed, national origin or political beliefs. Discrimination in any aspect of Program administration or service is prohibited by the Department's regulations concerning nondiscrimination (7 CFR Part 15), the Age Discrimination Act of 1975 (P.L. 94-135), the Rehabilitation Act of 1973 (P.L. 93-112, section 504) and Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000 d). Enforcement action may be brought under any applicable Federal law. Title VI complaints shall be processed in accordance with 7 CFR Part 15.

(2) The State agency shall comply with the Department's requirments for: racial and ethnic participation data collection; public notification of nondiscrimination policy; and annual reviews to assure compliance with such policy to ensure that individuals are not excluded from Program participation, denied benefits, or in any way subjected to adverse treatment as a result of discrimination for any of the above listed reasons.

(b) *Non-English materials.* Where a significant proportion of the area served by a local agency is composed on non-English or limited English speaking persons who speak the same language, the State agency shall take action to ensure that Program information, including certification forms, is provided to such persons in the appropriate language both orally and in writing. The State agency shall ensure that there are bilingual staff members available to serve these persons.

(c) *Complaints.* Complaints of discrimination filed by applicants or participants shall be referred to the Director, Supplemental Food Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250.

§ 246.24 Fair hearing procedure for participants.

(a) *Availability of hearings.* Each State agency shall provide a fair hearing to any individual aggrieved by any action of the State agency which affects the amount of Program benefits or the participation of the individual.

(b) *Notification of appeal rights.* At the time of application and at the time of denial or termination from the Program, each individual shall be informed in writing of the right to a fair hearing, of the method by which a hearing may be requested, and that any positions or arguments on behalf of the individual may be presented personally or by a representative such as a relative, friend, legal counsel or other spokesperson. Such notification is not required at the expiration of a certification period or if a person fails to reapply when terminated.

(c) *Request for hearing.* A request for a hearing is defined as any clear expression by the individual, the individual's parent, guardian or other representative that an opportunity to present its case to a higher authority is desired. The State agency shall not limit or interfere with the individual's freedom to request a hearing.

(d) *Time limit for request.* The State agency shall provide individuals a reasonable period of time to request fair hearings. Such time limit shall not be less than 90 days from the date of the State agency action to deny, reduce or terminate benefits.

(e) *Denial or dismissal of request.* The State agency shall not deny or dismiss a request for a hearing unless:

(a) The request is not received within the time limit set by the State agency in accordance with paragraph (d) of this section.

(2) The request is withdrawn in writing by the appellant or a representative.

(3) The appellant or representative fails, without good cause, to appear at the scheduled hearing.

(f) *Continuation of benefits.* Participants currently receiving Program benefits shall be given 15 days advance notice prior to termination of benefits, as required in § 246.7(j). If such participants are being terminated and they appeal the termination of benefits, they shall continue to receive Program benefits until an adverse decision is reached by the fair hearing official.

(g) *Rules of procedure.* The State agency shall process each request for a hearing under uniform rules of procedure. The uniform rules of procedure shall be available for public inspection and copying. At a minimum, the uniform rules of procedure shall include: the time limits for requesting and conducting a hearing; all advance notice requirements; the rules of conduct at the hearing; and the rights and responsibilities of the appellant.

(h) *Hearing official.* Hearings shall be conducted by an impartial official who does not have any personal stake or involvement in the decision and who was not directly involved in the initial determination of the action being contested. The hearing official shall;

(1) Administer oaths of affirmations if required by the State;

(2) Ensure that all relevant issues are considered;

(3) Request, receive and make part of the hearing record all evidence determined necessary to decide the issues being raised;

(4) Regulate the conduct and course of the hearing consistent with due process to ensure an orderly hearing;

(5) Order, where relevant and necessary, an independent medical assessment or professional evaluation from a source mutually satisfactory to the appellant and the State agency;

(6) Render a hearing decision which will resolve the dispute.

(i) *Conduct of the hearing.* The hearing shall be accessible to the appellant and shall be held within three weeks from the date the State agency shall provide the appellant with a minimum of 10 days advance written notice of the time and place of the hearing and shall enclose the procedure. The procedures shall not be unduly complex

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or legalistic and the appellant's background shall be taken into consideration. The State agency shall also provide the appellant or representative an opportunity to:

(1) Examine, prior to and during the hearing, the documents and records presented to support the decision under appeal;

(2) Be assisted or represented by an attorney or other persons;

(3) Bring witnesses;

(4) Advance arguments without undue interference;

(5) Question or refute any testimony or evidence, including an opportunity to confront and cross-examine adverse witnesses; and

(6) Submit evidence to establish all pertinent facts and circumstances in the case.

(j) *Hearing decidions.* (1) Decisions of the hearing official shall comply with Federal law, regulations or policy and shall be factually based on the hearing record. The verbatim transcript or recording of testimony and exhibits, or an official report containing the substance of what transpired at the hearing, together with all papers and requests filed in the proceeding shall constitute the exclusive record for a final decision by the hearing official. This record shall be retained in accordance with § 246.16. This record shall also be available, for copying and inspection, to the appellant or representative at any reasonable time.

(2) A decision by the hearing official shall be binding on the State agency and shall summarize the facts of the case, specify the reasons for the decision, and identify the supporting evidence and the pertinent regulations or policy. The decision shall become a part of the record.

(3) Within 45 days of the request for the hearing, the appellant or representative shall be notified in writing of the decision and the reasons for the decision in accordance with paragraph (b)(2) of this section and if the decision is in the favor of the appellant, benefits shall begin or be reinstated within this time period.

(4) All State agency hearing records and decisions shall be available for public inspection and copying, subject to the disclosure safeguards provided in § 246.26, and provided the names and addresses of participants are kept confidential.

§ 246.25 Administrative appeal of state agency decisions.

(a) *Requirement.* The State agency shall provide a hearing proccdure whereby a food vendor or local agency adversely affected by a State agency decision may appeal the decision. The right of appeal shall be granted when a local agency's or food vendor's application to participate is denied, when participation is terminated, when a contract is not renewed by the State agency or any other adverse action is taken by the State agency.

(b) *Procedure.* The State agency hearing procedure shall at a minmum provide:

(1) Adequate advance notice of the time and place of the hearing, to provide all parties involved sufficient time to prepare for the hearing;

(2) The opportunity for the aggrieved agency or food vendor or its representative to present its case;

(3) The opportunity for the agency or food vendor to confront the cross examine adverse witnesses;

(4) The opportunity for the agency or food vendor to be represented by counsel, if desired;

(5) The opportunity for the agency or food vendor to review the case file prior to the hearing;

(6) An impartial decision maker, whose conclusion as to the agency's or food vendor's eligibility shall rest solely on the evidence presented at the hearing and the statutory and regulatory provisions governing the Program. The basis for the conclusion shall be stated in writing, though it need not amount to a full opinion or contain formal findings of fact and conclusions of law;

(7) Written notification to the agency or food vendor of the decision concerning the appeal within 60 days from the date of the request for a hearing.

§ 246.26 Miscellaneous provisions.

(a) *No aid reduction.* The value of benefits or assistance available under the Program shall not be considered as income or resources of participants or their families for any purpose under Federal, State or local laws, including, but not limited to, laws relating to taxation, welfare and public assistance programs.

(b) *General information.* FNS reserves the right to use information obtained under the Program in a summary, statistical or other form which does not identify particular individuals.

(c) *Medical information.* FNS may require the State or local agencies to supply medical data and other information collected under the Program in a form that does not identify particular individuals, to enable the Secretary or the State agencies to evaluate the effect of food intervention upon individuals determined to be at nutritional risk.

(d) *Nondisclosure of information.* Each State agency shall restrict the use or disclosure of information obtained from Program applicants or participants to persons directly connected with the administration or enforcement of the Program.

(e) *Public information.* The State agency procedure manual shall be available for review at each State and local agency. Any person who wishes information, assistance, records or other public material shall request such information from the State agency, or form the FNS Regional Office serving the appropriate State as listed below:

(1) Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont: U.S. Department of Agriculture, FNS, New England Region, Northwest Park, 34 Third Avenue, Burlington, Massachusetts 01803.

(2) Delaware, District of Columbia, Maryland, New Jersey, New York, Pennsylvania, Puerto Rico, Virginia, Virgin Islands, West Virginia: U.S. Department of Agriculture, FNS, Mid-Atlantic Region, One Vahlsing Center, Robbinsville, New Jersey 08691.

(3) Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee: U.S. Department of Agriculture, FNS, Southeast Region, 1100 Spring Street, N.W., Atlanta, Georgia 30309.

(4) Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin: U.S. Department of Agriculture, FNS, Midwest Region, 536 South Clark Street, Chicago, Illinois 60605.

(5) Arkansas, Louisiana, New Mexico, Oklahoma, Texas: U.S. Department of Agriculture, FNS, Southwest Region, 1100 Commerce Street, Room 5-C-30, Dallas, Texas 75242.

(6) Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah, Wyoming: U.S. Department of Agriculture, FNS, Mountain Plains Region, 2420 West 26th Avenue, Room 430-D, Denver, Colorado 80211.

(7) Alaska, American Samoa, Arizona, California, Guam, Hawaii, Idaho, Nevada, Oregon, Trust Territory of the Pacific Islands, Washington: U.S. Department of Agriculture, FNS, Western Region, 550 Kearney Street, Room 400, San Francisco, California 94108.

(Catalog of Federal Domestic Assistance, Program No. 10.557, National Archieves Reference Service.)

Signed at Washington, D.C., on December 28, 1978.

CAROL TUCKER FOREMAN,
Assistant Secretary.

[FR Doc. 79-668 Filed 1-8-79; 8:45 am]

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federal register

TUESDAY, JANUARY 9, 1979
PART IV



SECURITIES AND EXCHANGE COMMISSION

■

FILING AND DISCLOSURE REQUIREMENTS RELATING TO BENEFICIAL OWNERSHIP

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[8010-01-M]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-15457]

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

Filing and Disclosure Requirements Relating to Beneficial Ownership

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Commission announces the adoption of amendments to the schedules relating to the disclosure requirements applicable to certain beneficial owners of certain classes of equity securities. The purpose of the amendments is to enable the Commission to satisfy its obligation under Section 13(g) of the Securities Exchange Act of 1934 ". . . to tabulate and promptly make available the information contained in any report filed pursuant to this subsection . . ." The Commission also announces certain methods for collating beneficial ownership information, through computer and other systems, to satisfy its above-mentioned Section 13(g) obligation.

EFFECTIVE DATE: Effective for Schedules 13D, 13G and 14D-1 filed on or after February 14, 1979 (reporting persons making earlier filings are encouraged to file the amended cover pages).

FOR FURTHER INFORMATION CONTACT:

William H. Carter, Office of Disclosure Policy and Proceedings, Division of Corporation Finance, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 (202-376-8090).

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today announced the adoption of amendments to Schedule 13D [17 CFR 240.13d-101], Schedule 13G [17 CFR 240.13d-102], and Schedule 14D-1 [17 CFR 240.14d-100] relating to disclosure by certain persons whose beneficial ownership of equity securities described in Section 13(d)(1) of the Securities Exchange Act of 1934 ["Exchange Act"] [15 U.S.C. 78a et seq., as amended by Pub. L. No. 94-29 (June 4, 1975) and Pub. L. No. 95-213 (December 19, 1977)] exceeds five percent. The amendments were adopted to assist in the development of a comprehensive system to tabulate and make publicly available the information contained in the schedules disclosing the beneficial ownership of certain public companies. The amendments consist basically of expanded cover pages for the three schedules on which persons filing the schedules will abstract certain data from within the schedules in order to facilitate the entering of such data into a computer system. The tabular information required on these amended cover pages would not be deemed to be "filed" for the purpose of Section 18 of the Securities Exchange Act of 1934 ("Act") or otherwise subject to the liabilities of that section of the Act (unless expressly made a part of a schedule (see below)) but shall be subject to all other provisions of the Act.

The release originally proposing the amendments for comments was issued on November 9, 1978 (Securities Exchange Act Release No. 34317 (43 FR 54256)). Four letters of comments were received and, to the extent possible, revisions in response to these letters have been made. Such revisions include making blank copies of the cover pages available for the use of filing persons, revising the format of the cover pages to accommodate computer printers, and allowing limited incorporation of cover page disclosure into the schedules themselves by means of cross references to eliminate unnecessary duplication. Other than the changes outlined immediately above, the amendments and the methods for implementing them are basically unchanged from those proposed for comments on November 9th.

Blank copies of the cover pages may be obtained from "Publications," Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, (202) 755-1600.

I. Background

The Williams Act Amendments to the Exchange Act were designed: (1) to provide adequate disclosure and other protection to stockholders in connection with takeover attempts, such as tender offers and corporate repurchases; and (2) to provide adequate disclosure to stockholders in connection with any substantial acquisition of securities within a relatively short period of time. Section 13(d) of the Exchange Act, added by the Williams Act Amendments, requires any person who acquires beneficial ownership of more than five percent of a classs of certain equity securities to file a statement with the Commission reporting that acquisition and certain other information related to such person's ownership of those securities. Section 13(d)(3) also requires disclosure from certain "groups" of persons who beneficially own five percent of a class of equity securities and act together for the purpose of acquiring, holding or disposing of the securities. Section 13(d) is not, however, an ownership reporting provision of general application. Its legislative history reveals it was intended to provide information to the public and the affected issuer about rapid accumulations of its equity securities in the hands of persons who would then have the potential to change or influence control of issuer.[1]

Because Section 13(d) attempted to deal with the more limited concern of rapid shifts in control, acquisitions unrelated to that purpose were exempted therefrom. Thus, persons who acquired not more than two percent of a class of securities within a twelve month period were exempted by Section 13(d)(6)(B) from disclosing their ownership. Also, Section 13(d) is keyed to making an "acquisition" of the requisite amount of securities. Thus persons who acquired their ownership prior to the enactment of the five percent threshold on December 22, 1970 (Pub. L. 91-567) were not subject to Section 13(d). There was also an exemption under Section 13(d)(6)(A) from reporting acquisitions of securities acquired in a stock-for-stock exchange which was registered under the Securities Act of 1933 [15 U.S.C. 77a et seq.].

In June 1975 Congress enacted Section 12(m) of the Exchange Act which directed the Commission to conduct a study and investigation of the practice of recording the ownership of securities in other than the name of the beneficial owner—"street"[2] and "nominee"[3] names—to determine whether the practice is consistent, inter alia, with the purpose of Section 13(d). In its Final Report to Congress on December 3, 1976 the Commission concluded that the practice limits the amount of information readily available to the public regarding beneficial owners of substantial amounts of an issuer's securities. In particular, the Commission noted the gaps in Section 13(d) discussed above, which permitted certain persons whose ownership exceeded five percent to avoid reporting such ownership. The Commission recommended that a comprehensive system for disclosure of ownership interests be established and requested legislation to require ownership reports from those persons owning more than five percent of an issuer's securities who were not then required to report under the Exchange Act.

[1] S. Rep. No. 550, 90th Cong., 1st Sess. 7(1967); H.R. Rep. No 1711, 90th Cong. 2d Sess. 8(1968) and Hearings on S. 510 Before the Subcomm. on Securities of the Senate Comm. on Banking and Currency, 90th Cong., 1st Sess. (1967).

[2] Street name registration, a specialized type of nominee registration, refers to the practice of a broker registering in its name, or in the name of its nominee, securities left with it by customers or held by it for its own account.

[3] Nominee name registration refers to arrangements used by institutional investors and financial intermediaries for the registration of securities held by them for their own account or for the account of their customers who are the beneficial owners of the securities.

The Commission's recommendation was implemented by the enactment of Section 13(g) of the Exchange Act on December 19, 1977.[4] Section 13(g)(1) requires any person who is directly or indirectly the beneficial owner of more than five percent of a class of equity securities specified in Section 13(d)(1) of the Exchange Act to send to the issuer and file with the Commission a Statement which sets forth, in such form and at such time as the Commission may, by rule, prescribe: such person's identity, residence, citizenship, the number and description of the shares in which such person has an interest and the nature of such interest.

The legislative history is clear that Section 13(g) was intended to "supplement the current statutory scheme by providing legislative authority for certain additional disclosure requirements that in some cases could not be imposed administratively."[5] The principal effect of Section 13(g), therefore, is to provide the authority necessary to close the gaps previously described in the disclosure requirements under Section 13(d).[6] These gaps have since been closed.[7]

Finally, and most relevant as to the amendments adopted today, the legislative history of Section 13(g) also stresses "the need to integrate and consolidate, wherever possible, the various reporting requirements of the Securities Exchange Act into a comprehensive system for gathering and disseminating information about ownership interests in public (sic) held companies."[8] Thus, Section 13(g)(5) directs the Commission to take such steps as it deems necessary or appropriate in the public interest: To achieve centralized reporting of information regarding ownership; to avoid unnecessarily duplicative reporting by and minimize the compliance burden on persons required to report; and to tabulate and promptly make available the information contained in any report filed thereunder in a manner which will, in view of the Commission, maximize the usefulness of the information.

In addition to the tabulation systems described in this release, existing disclosure requirements under Item 5 of Schedule 14A and Item 13 of Form 10-K impose an obligation on registrants to disclose certain persons' beneficial ownership of securities, including the ownership of persons beneficially owning more than five percent of certain classes of the registrant's equity securities. Copies of reports on Schedules 13D, 13G and 14D-1 are required to be sent to registrants in part to provide them with information with which to make disclosures in annual reports and proxy statements. The computer system described herein may afford registrants a means of confirming that they have received all such reports on Schedules 13D, 13G and 14D-1.

II. Synopsis of Amendments to Schedules

A. General

In order to effectuate the Congressional purpose underlying Section 13(g), as described above, the existing "cover pages" for Schedule 13D, Schedule 13G, and Schedule 14D-1[9] will be replaced by expanded cover pages and a set of instructions for the cover pages will be added. The new cover pages, with the exception of the disclosure of Social Security or I.R.S. identification numbers, do not require any additional disclosure but merely require information presently in the Schedules to be abstracted on the cover page to facilitate its insertion into a computer system. As previously mentioned, the Commission today also decided to have blank copies of the cover pages made available from the Commission's publication unit for the convenience of reporting persons. As noted above, the new cover pages would also request (on a voluntary basis) the Social Security or I.R.S. identification number of each "reporting person."

Reporting persons may comply with their cover page filing requirements by filing either completed copies of the blank forms available from the Commission, printed or typed facsimilies, or computer printed facsimiles, provided the documents filed have identical formats to the forms prescribed in the Commission's regulations and meet existing Securities Exchange Act rules as to such matters as clarity and size (Securities Exchange Act Rule 12b-12) [17 CFR 240.12b-12].

Within certain limitations (see instructions to cover pages), items of the schedules themselves may be completed by appropriate cross references to the cover page in order to prevent unnecessary duplication. However, it should be noted that such a use of a cover page item will result in the item being considered as "filed" for purposes of Section 18 of the Act.

Methods for the tabulation and public dissemination of all such data, to be instituted on a trial basis, are discussed later in this release. The public availability of this additional data will, of course, only supplement the original Schedules 13D, 13G and 14d-1, which will continue to be available to the public as soon as filed.

B. Amendment to Schedule 13D

The amended cover page for Schedule 13D and the instructions thereto appear immediately below. This cover page will entirely replace the existing one, to be followed by "Instructions for Cover Page" and "SPECIAL INSTRUCTIONS FOR SCHEDULE 13D." For purposes of clarity, the existing caption titled "Instructions" will be changed to "General Instructions."

Text of Amended Schedule

§ 240.13d-101 Schedule 13D—Information to be included in statements filed pursuant to § 240.13d-1(a) and amendments thereto filed pursuant to § 240.13d-2(a).

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

SCHEDULE 13D

Under the Securities Exchange Act of 1934

(Amendment No. ——)*

(Name of Issuer)

(Title of Class of Securities)

(CUSIP Number)

(Name, Address and Telephone Number of Person Authorized to Receive Notices and Communications)

(Date of Event Which Requires Filing of This Statement)

If the filing person has previously filed a statement on Schedule 13G to report the acquisition which is the subject of this Sched-

[4] Section 13(g) was added to the Exchange Act by the Domestic and Foreign Investment Disclosure Act of 1977 [the "Act"] [Title II of Public Law No. 95-213]. The Act also amended Section 13(d)(1) and Section 15(d) of the Exchange Act and added Section 13(h) to the Exchange Act.

[5] S. Rep. No. 114, 95th Cong. 1st Sess. 13 (1977).

[6] Id.

[7] Securities Exchange Act Release No. 15348 (November 22, 1978) [43 FR 55751].

[8] S. Rep. No. 114, 95th Cong. 1st Sess. 14 (1977).

[9] The cover page to Schedule 14D-1 is being amended along with the cover pages of Schedules 13D and 13G since Schedule 14D-1, in certain specified circumstances, may be used to satisfy the reporting requirements of Section 13(d).

ule 13D, and is filing this schedule because of Rule 13d-1(b)(3) or (4), check the following box ☐.

Check the following box if a fee is being paid with this statement ☐ (A fee is not required only if the reporting person: (1) has a previous statement on file reporting beneficial ownership of more than five percent of the class of securities described in Item 1; and (2) has filed no amendment subsequent thereto reporting beneficial ownership of five percent or less of such class. (See Rule 13d-7.)

NOTE.—Six copies of this statement, including all exhibits, should be filed with the Commission. See Rule 13d-1(a) for other parties to whom copies are to be sent.

* The remainder of this cover page shall be filled out for a reporting person's initial filing on this form with respect to the subject class of securities, and for any subsequent amendment containing information which would alter disclosures provided in a prior cover page.

The information required on the remainder of this cover page shall not be deemed to be "filed" for the purpose of Section 18 of the Securities Exchange Act of 1934 ("Act") or otherwise subject to the liabilities of that section of the Act but shall be subject to all other provisions of the Act (however, see the Notes).

[8010-01-C]

CUSIP No. _____

1) Names of Reporting Persons S.S. or I.R.S. Identification Nos. of Above Persons		
2) Check the Apppropriate Box if a Member of a Group (See Instructions)		(a) (b)
3) SEC Use Only		
4) Source of Funds (See Instructions)		
5) Check if Disclosure of Legal Proceedings is Required Pursuant to Items 2(d) or 2(e)		
6) Citizenship or Place of Organization		
Number of Shares Beneficially Owned by Each Reporting Person With	(7) Sole Voting Power	
	(8) Shared Voting Power	
	(9) Sole Dispositive Power	
	(10) Shared Dispositive Power	
11) Aggregate Amount Beneficially Owned by Each Reporting Person		
12) Check if the Aggregate Amount in Row (11) Excludes Certain Shares (See Instructions)		
13) Percent of Class Represented by Amount in Row (11)		
14) Type of Reporting Person (See Instructions)		

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Instructions for Cover Page

(1) *Names and Social Security Numbers of Reporting Persons*– Furnish the full legal name of each person for whom the report is filed—i.e., each person required to sign the schedule itself—including each member of a group. Do not include the name of a person required to be identified in the report but who is not a reporting person. Reporting persons are also requested to furnish their Social Security or I.R.S. identification numbers, although disclosure of such numbers is voluntary, not mandatory (see "SPECIAL INSTRUCTIONS FOR COMPLYING WITH SCHEDULE 13D" below).

(2) If any of the shares beneficially owned by a reporting person are held as a member of a group and such membership is expressly affirmed, please check row 2(a). If the membership in a group is disclaimed or the reporting person describes a relationship with other persons but does not affirm the existence of a group, please check row 2(b) [unless a joint filing pursuant to Rule 13d-1(e)(1) in which case it may not be necessary to check row 2(b)].

(3) The 3rd row is for SEC internal use; please leave blank.

(4) Classify the source of funds or other consideration used or to be used in making the purchases as required to be disclosed pursuant to Item 3 of Schedule 13D and insert the appropriate symbol (or symbols if more than one is necessary) in row (4):

Category of Source	*Symbol*
Subject Company (Company whose securities are being acquired)	SC
Bank	BK
Affiliate (of reporting person)	AF
Working Capital (of reporting person)	WC
Personal Funds (of reporting person)	PF
Other	OO

(5) If disclosure of legal proceedings or actions is required pursuant to either Items 2(d) or 2(e) of Schedule 13D, row 5 should be checked.

(6) *Citizenship or Place of Organization*—Furnish citizenship if the named reporting person is a natural person. Otherwise, Furnish place of organization. (See Item 2 of Schedule 13D).

(7)-(11), (13) *Aggregate Amount Beneficially Owned by Each Reporting Person, Etc.*—Rows (7) through (11), inclusive, and (13) are to be completed in accordance with the provisions of Item 5 of Schedule 13D. All percentages are to be rounded off to nearest tenth (one place after decimal point).

(12) Check if the aggregate amount reported as beneficially owned in row (11) does not include shares which the reporting person discloses in the report but as to which beneficial ownership is disclaimed pursuant to Rule 13d-4 [17 CFR 240.13d-4] under the Securities Exchange Act of 1934.

(14) *Type of Reporting Person*—Please classify each "reporting person" according to the following breakdown and place the appropriate symbol (or symbols, i.e., if more than one is applicable, insert all applicable symbols) on the form:

Category	*Symbol*
Broker Dealer	BD
Bank	BK
Insurance Company	IC
Investment Company	IV
Investment Adviser	IA
Employee Benefit Plan, Pension Fund, or Endowment Fund	EP
Parent Holding Company	HC
Corporation	CO
Partnership	PN
Individual	IN
Other	OO

NOTES—Attach as many copies of the second part of the cover page as are needed, one reporting person per page.

Filing persons may, in order to avoid unnecessary duplication, answer items on the schedules (Schedule 13D, 13G, or 14D-1) by appropriate cross references to an item or items on the cover page(s). This approach may only be used where the cover page item or items provide all the disclosure required by the schedule item. Moreover, such a use of a cover page item will result in the item becoming a part of the schedule and accordingly being considered as "filed" for purposes of Section 18 of the Securities Exchange Act or otherwise subject to the liabilities of that section of the Act.

Reporting persons may comply with their cover page filing requirements by filing either completed copies of the blank forms available from the Commission, printed or typed facsimiles, or computer printed facsimiles, provided the documents filed have identical formats to the forms prescribed in the Commission's regulations and meet existing Securities Exchange Act rules as to such matters as clarity and size (Securities Exchange Act Rule 12b-12).

SPECIAL INSTRUCTIONS FOR COMPLYING WITH SCHEDULE 13D

Under Sections 13(d) and 23 of the Securities Exchange Act of 1934 and the rules and regulations thereunder, the Commission is authorized to solicit the information required to be supplied by this schedule by certain security holders of certain issuers.

Disclosure of the information specified in this schedule is mandatory, except for Social Security or I.R.S. identification numbers, disclosure of which is voluntary. The information will be used for the primary purpose of determining and disclosing the holdings of certain beneficial owners of certain equity securities. This statement will be made a matter of public record. Therefore, any information given will be available for inspection by any member of the public.

Because of the public nature of the information, the Commission can utilize it for a variety of purposes, including referral to other governmental authorities or securities self-regulatory organizations for investigatory purposes or in connection with litigation involving the Federal securities laws or other civil, criminal or regulatory statements or provisions. Social Security or I.R.S. identification numbers, if furnished, will assist the Commission in identifying security holders and, therefore, in promptly processing statements of beneficial ownership of securities.

Failure to disclose the information requested by this schedule, except for Social Security or I.R.S. identification numbers, may result in civil or criminal action against the persons involved for violation of the Federal securities laws and rules promulgated thereunder.

C. AMENDMENT TO SCHEDULE 13G

The amended cover page for Schedule 13G and the instructions thereto appear immediately below. This cover page will entirely replace the existing one, to be followed by "Instructions for Cover Page" and "SPECIAL INSTRUCTIONS FOR COMPLYING WITH SCHEDULE 13G." For purposes of clarity the existing caption titled "INSTRUCTIONS" will be changed to "General Instructions."

TEXT OF AMENDED SCHEDULE

§ 240.13d-102 Schedule 13G—Information to be included in statements filed pursuant to § 240.13d-1(b) and amendments thereto filed pursuant to § 240.13d-2(b).

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

SCHEDULE 13G

Under the Securities Exchange Act of 1934

(Amendment No. ——)*

(Name of Issuer)

(Title of Class of Securities)

(CUSIP Number)

Check the following box if a fee is being paid with this statement ☐. (A fee is not required only if the filing person: (1) has a previous statement on file reporting beneficial ownership of more than five percent of the class of securities described in Item 1; and (2) has filed no amendment subsequent thereto reporting beneficial ownership of five percent of less of such class.) (See Rule 13d-7.)

*The remainder of this cover page shall be filled out for a reporting person's initial filing on this form with respect to the subject class of securities, and for any subsequent amendment containing information which would alter the disclosures provided in a prior cover page.

The information required in the remainder of this cover page shall not be deemed to be "filed" for the purpose of Section 18 of the Securities Exchange Act of 1934 ("Act") or otherwise subject to the liabilities of that section of the Act but shall be subject to all other provisions of the Act (however, see the Notes).

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[8010-01-C]

CUSIP No. _____

1) Names of Reporting Persons S.S. or I.R.S. Identification Nos. of Above Persons		
2) Check the Appropriate Box if a Member of a Group (See Instructions)		(a) (b)
3) SEC Use Only		
4) Citizenship or Place of Organization		
Number of Shares Beneficially Owned by Each Reporting Person With	(5) Sole Voting Power	
	(6) Shared Voting Power	
	(7) Sole Dispositive Power	
	(8) Shared Dispositive Power	
9) Aggregate Amount Beneficially Owned by Each Reporting Person		
10) Check if the Aggregate Amount in Row (9) Excludes Certain Shares (See Instructions)		
11) Percent of Class Represented by Amount in Row 9		
12) Type of Reporting Person (See Instructions)		

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Instructions for Cover Page

(1) *Names and Social Security Numbers of Reporting Persons*—Furnish the full legal name of each person for whom the report is filed—i.e., each person required to sign the schedule itself—including each member of a group. Do not include the name of a person required to be identified in the report but who is not a reporting person. Reporting persons are also requested to furnish their Social Security or I.R.S. identification numbers, although disclosure of such numbers is voluntary, not mandatory (see "SPECIAL INSTRUCTIONS FOR COMPLYING WITH SCHEDULE 13G", below).

(2) If any of the shares beneficially owned by a reporting person are held as a member of a group and such membership is expressly affirmed, please check row 2(a). If the membership in a group is disclaimed or the reporting person describes a relationship with other persons but does not affirm the existence of a group, please check row 2(b) [unless a joint filing pursuant to Rule 13d-1(f)(1) in which case it may not be necessary to check row 2(b)].

(3) The third row is for SEC internal use; please leave blank.

(4) *Citizenship or Place of Organization*—Furnish citizenship if the named reporting person is a natural person. Otherwise, furnish place of organization.

(5)-(9), (11) *Aggregated Amount Beneficially Owned By Each Reporting Person, etc.*—Rows (5) through (9) inclusive, and (11) are to be completed in accordance with the provisions of Item 4 of Schedule 13G. All percentages are to be rounded off to the nearest tenth (one place after decimal point).

(10) Check if the aggregate amount reported as beneficially owned in row (9) does not include shares as to which beneficial ownership is disclaimed pursuant to Rule 13d-4 [17 CFR 240.13d-4] under the Securities Exchange Act of 1934.

(12) *Type of Reporting Person*—Please classify each "reporting person" according to the following breakdown (see Item 3 of Schedule 13G) and place the appropriate symbol on the form:

Category	*Symbol*
Broker Dealer	BD
Bank	BK
Insurance Company	IC
Investment Company	IV
Investment Adviser	IA
Employee Benefit Plan, Pension Fund, or Endowment Fund	EP
Parent Holding Company	HC
Corporation	CO
Partnership	PN
Individual	IN
Other	OO

NOTES.—Attach as many copies of the second part of the cover page as are needed, one reporting person per page.

Filing persons may, in order to avoid unnecessary duplication, answer items on the schedules (Schedule 13D, 13G, or 14D-1) by appropriate cross references to an item or items on the cover page(s). This approach may only be used where the cover page item or items provide all the disclosure required by the schedule item. Moreover, such a use of a cover page item will result in the item becoming a part of the schedule and accordingly being considered as "filed" for purposes of Section 18 of the Securities Exchange Act or otherwise subject to the liabilities of that section of the Act.

Reporting persons may comply with their cover page filing requirements by filing either completed copies of the blank forms available from the Commission, printed or typed facsimiles, or computer printed facsimiles, provided the documents filed have identical formats to the forms prescribed in the Commission's regulations and meet existing Securities Exchange Act rules as to such matters as clarity and size (Securities Exchange Act Rule 12b-12).

SPECIAL INSTRUCTIONS FOR COMPLYING WITH SCHEDULE 13G

Under Section 13(d), 13(g) and 23 of the Securities Exchange Act of 1934 and the rules and regulations thereunder, the Commission is authorized to solicit the information required to be supplied by this schedule by certain security holders of certain issuers.

Disclosure of the information specified in this schedule is mandatory, except for Social Security or I.R.S. identification numbers, disclosure of which is voluntary. The information will be used for the primary purpose of determining and disclosing the holdings of certain beneficial owners of certain equity securities. This statement will be made a matter of public record. Therefore, any information given will be available for inspection by any member of the public.

Because of the public nature of the information, the Commission can utilize it for a variety of purposes, including referral to other governmental authorities or securities self-regulatory organizations for investigatory purposes or in connection with litigation involving the Federal securities laws or other civil, criminal or regulatory statutes or provisions. Social Security or I.R.S. identification numbers, if furnished, will assist the Commission in identifying security holders and, therefore, in promptly processing statements of beneficial ownership of securities.

Failure to disclose the information requested by this schedule, except for Social Security or I.R.S. identification numbers, may result in civil or criminal action against the persons involved for violation of the Federal securities laws and rules promulgated thereunder.

D. AMENDMENT TO SCHEDULE 14D-1

The amended cover page for Schedule 14d-1 and the instructions thereto appear immediately below. As with Schedules 13d and 13G, this cover page will entirely replace the existing one, to be followed by "Instructions for Cover Page" and "SPECIAL INSTRUCTIONS FOR COMPLYING WITH SCHEDULE 14D-1." For purposes of clarity, the existing caption titled "Instructions" will be changed to "Filing Instructions and Fees."

TEXT OF AMENDED SCHEDULE

§ 240.14d-100 Schedule 14D-1—Information to be included in statements filed pursuant to § 240.14d-1(a) and amendments thereto filed pursuant to § 240.14d-1(b).

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

SCHEDULE 14D-1

Tender Offer Statement Pursuant to Section 14(d)(1) of the Securities Exchange Act of 1934

(Amendment No. ——)*

(Name of Subject Company [Issuer]

(Bidder)

(Title of Class of Securities)

(CUSIP Number of Class of Securities)

(Name, Address, and Telephone Numbers of Person Authorized to Receive Notices and Communications on Behalf of Bidder)

NOTE.—The remainder of this cover page is only to be completed if this Schedule 14D-1 (or amendment thereto) is being filed, inter alia, to satisfy the reporting requirements of section 13(d) of the Securities Exchange Act of 1934. See General Instructions D, E and F to Schedule 14D-1.

*The remainder of this cover page shall be filled out for a reporting person's initial filing on this form with respect to the subject class of securities, and for any subsequent amendment containing information which would alter the disclosure provided in a prior cover page.

The information required in the remainder of this cover page shall not be deemed to be "filed" for the purpose of Section 18 of the Securities Exchange Act of 1934 ("Act") or otherwise subject to the liabilities of that section of the Act but shall be subject to all other provisions of the Act (however, see the Notes).

[8010-01-C]

CUSIP No. _____

1) Names of Reporting Persons S.S. or I.R.S. Identification Nos. of Above Persons	
2) Check the Appropriate Box if a Member of a Group (See Instructions)	(a) (b)
3) SEC Use Only	
4) Sources of Funds (See Instructions)	
5) Check if Disclosure of Legal Proceedings is Required Pursuant to Items 2(e) or 2(f)	
6) Citizenship or Place of Organization	
7) Aggregate Amount Beneficially Owned by Each Reporting Person	
8) Check if the Aggregate Amount in Row (7) Excludes Certain Shares (See Instructions)	
9) Percent of Class Represented by Amount in Row (7)	
10) Type of Reporting Person (See Instructions)	

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Instructions for Cover Page

(1) *Names and Social Security Numbers of Reporting Persons*—Furnish the full legal name of each person for whom the report is filed—i.e., each person required to sign the schedule itself—including each member of a group. Do not include the name of a person required to be identified in the report but who is not a reporting person. Reporting persons are also requested to furnish their Social Security or I.R.S. identification numbers, although disclosure of such numbers is voluntary, not mandatory (see "SPECIAL INSTRUCTIONS FOR COMPLYING WITH SCHEDULE 14D-1", below).

(2) If any of the shares beneficially owned by a reporting person are held as a member of a group and such membership is expressly affirmed, please check row 2(a). If the membership in a group is disclaimed or the reporting person describes a relationship with other persons but does not affirm the existence of a group, please check row 2(b) [unless a joint filing pursuant to Rule 13d-1(e)(1) in which case it may not be necessary to check row 2(b)].

(3) The third row is for SEC internal use, please leave blank.

(4) *Source of Funds*—Classify the source of funds or other consideration to be used in making purchases as required to be disclosed pursuant to Item 4 of the schedule and insert the appropriate symbol (or symbols if more than one is necessary) In row (4):

Category of Source	*Symbol*
Subject Company (company whose securities are being acquired)	SC
Bank	BK
Affiliate (of reporting person)	AF
Working Capital (of reporting person)	WC
Personal Funds (of reporting person)	PF
Other	OO

(5) If disclosure of legal proceedings or actions is required pursuant to either Items 2(e) or 2(f) of Schedule 14d-1, row 5 should be checked.

(6) *Citizenship or Place of Organization*—Furnish citizenship if the named reporting person is a natural person. Otherwise, furnish the place of organization. (See Item 2 of Schedule 14D-1.)

(7), (9) *Aggregate Amount Beneficially Owned by Each Reporting Person, etc.*—Rows (7) and (9) are to be completed in accordance with the Instructions to Item 6 of Schedule 14D-1. All percentages are to be rounded off to nearest tenth (one place after decimal point).

(8) Check if the aggregate amount reported as beneficially owned in row (7) does not include shares as to which beneficial ownership is disclaimed.

(10) *Type of Reporting Person*—Please classify each "reporting person" according to the following breakdown and place the appropriate symbol (or symbols, i.e., if more than one is applicable, insert all applicable symbols) on the form:

Category	*Symbol*
Broker Dealer	BD
Bank	BK
Insurance Company	IC
Investment Company	IV
Investment Adviser	IA
Employee Benefit Plan, Pension Fund, or Endowment Fund	EP
Parent Holding Company	HC
Group Member	GM
Corporation	CO
Partnership	PN
Individual	IN
Other	OO

NOTES.—Attach as many copies of the second part of the cover page as are needed, one reporting person per page.

Filing persons may, in order to avoid unnecessary duplication, answer items on the schedules (Schedule 13D, 13G or 14D-1) by appropriate cross references to an item or items on the cover page(s). This approach may be used only where the cover page item or items provide all the disclosure required by the schedule item. Moreover, such a use of a cover page item will result in the item becoming a part of the schedule and accordingly being considered as "filed" for purposes of Section 18 of the Securities Exchange Act or otherwise subject to the liabilities of that section of the Act.

Reporting persons may comply with their cover page filing requirements by filing either completed copies of the blank forms available from the Commission, printed or typed facsimiles, or computer printed facsimiles, provided the documents filed have identical formats to the forms prescribed in the Commission's regulations and meet existing Securities Exchange Act rules as to such matters as clarity and size (Securities Exchange Act Rule 12b-12).

SPECIAL INSTRUCTIONS FOR COMPLYING WITH SCHEDULE 14D-1

Under Section 14(d) and 23 of the Securities Exchange Act of 1934 and the rules and regulations thereunder, the Commission is authorized to solicit the information required to be supplied by this schedule by certain security holders of certain issuers.

Disclosure of the information specified in this schedule is mandatory, except for Social Security or I.R.S. identification numbers, disclosure of which is voluntary. The information will be used for the primary purpose of determining and disclosing the holdings of certain beneficial owners of certain equity securities. This statement will be made a matter of public record. Therefore, any information given will be available for inspection by any member of the public.

Because of the public nature of the information, the Commission can utilize it for a variety of purposes, including referral to other governmental authorities or securities self-regulatory organizations for investigatory purposes or in connection with litigation involving the Federal securities laws or other civil, criminal or regulatory statutes or provisions. Social Security or I.R.S. identification numbers, if furnished, will assist the Commission in identifying security holders and, therefore, in promptly processisng statements of beneficial ownership of securities.

Failure to disclose the information requested by this schedule, except for Social Security or I.R.S. identification numbers, may result in civil or criminal action against the persons involved for violation of the Federal securities laws and rules promulgated thereunder.

III. DESCRIPTION OF TABULATIONS OF BENEFICIAL OWNERSHIP DATA TO BE PUBLICLY AVAILABLE UPON IMPLEMENTATION OF THE REPORTING SYSTEM UTILIZING THE PROPOSED EXPANDED COVER PAGES

The Comission presently proposes to make available at its public reference room, on a trial basis, two basic tabulations of beneficial ownership data, both to be updated quarterly. The data on which these two tabulations will be based will be taken from Schedules 13D, 13G and 14D-1. However, no data will be included in these tabulation systems from filings pursuant to Section 13(f) or 16 of the Exchange Act. One tabulation will be classified by issuer. For each issuer there will be shown the beneficial owners who hold over five percent of the issuer's equity securities described in Section 13(d)(1), the class or classes of securities owned by each such person, the amount and percentage owned, the citizenship or place of organization of such person, and whether or not any shares are held by a group and, if so, what group. The following is a facsimile of the tabulation, as presently contemplated.

[8010-01-C]

SEC Control No. _____ CUSIP No. _____

Issuer Name _____

Title of Class of Securities Beneficially Owned _____

Name of Reporting Person _____

S.S. or I.R.S. Identification Number of Above Person _____

Group No. if a Member of a Group _____

Group Membership is Disclaimed or Otherwise not Affirmed (yes or no) _____

Citizenship or Place of Organization _____

Source of Funds _____

Disclosure of Legal Proceedings is Required Pursuant to Items 2(d) or 3(e) of Schedule 13D or Items 2(e) or 2(f) of Schedule 14D-1 (yes or no) _____

Number of Shares Beneficially Owned With	Sole Voting Power	
	Shared Voting Power	
	Sole Dispositive Power	
	Shared Dispositive Power	

Aggregate Amount Beneficially Owned _____

Row Checked if Aggregate Amount Listed Above as Beneficially Owned Does Not Include Certain Shares as to Which Beneficial Ownership is Disclaimed _____

Percent of Class Represented by Aggregate Amount Beneficially Owned _____

Form No. _____ Date Filed _____

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The second tabulation will be classified by reporting persons rather than issuers, i.e., for each reporting person it will give the companies in which such person had a reportable beneficial interest, as well as other data similar to that presented in the first-mentioned tabulation. The following is facsimile of the second tabulation, as presently contemplated.

Name of Reporting Person _____

S.S. or I.R.S. Identification No. of Above Person _____

Citizenship or Place of Organization of Above Person _____

Type of Reporting Person _____

Name of Issuer _____

Title of Class of Securities Beneficially Owned _____

CUSIP No. _____

Group No. if a Member of a Group _____

Group Membership is Disclaimed or Otherwise Not Affirmed (yes or no) _____

Number of Shares Beneficially Owned With	Sole Voting Power	
	Shared Voting Power	
	Sole Dispositive Power	
	Shared Dispositive Power	

Aggregate Amount Owned Beneficially _____

Row Checked if Aggregate Amount Listed Above as Beneficially Owned Does Not Include Certain Shares as to Which Beneficial Ownership is Disclaimed _____

Percent of Class Represented by Aggregate Amount Beneficially Owned _____

Form No. _____ Date Filed _____

Source of Funds _____

Disclosure of Legal Proceedings is Required Pursuant to Items 2(d) or 2(e) of Schedule 13D or items 2(e) or 2(f) of Schedule 14D-1 (yes or no) _____

After an appropriate trial period, the Commission will consider whether to continue offering the above two tabulations (as well as any modifications that might improve their value to the public) and whether to offer any other tabulations for which there is a significant public need. The Commission also intends to make certain special compilations of data available at cost to interested parties upon request.

Finally, the Commission foresees that the compiled data will be of benefit to its own Division of Enforcement, other government agencies, and to the United States Congress. One example of information retrieval for which the system will be used will be a tabulation of the citizenship of all reporting foreign beneficial owners of United States companies for use of the United States Congress. Every effort will be made to get the above-mentioned systems operational as soon as possible at which time appropriate public announcements will be made. Consideration is being given to "contracting out" at least a portion of the computer tabulation work to private concerns and "Requests For Proposals" will be issued in the near future.

CERTAIN FINDINGS: As required by Section 23(a)(2) of the Exchange Act, the Commission has specifically considered the impact which the amendments adopted herein would have on competition. The Commission has found that these amendments will not significantly burden competition and, in any event, has determined that any possible resulting competitive burden will be far outweighed by, and is necessary and appropriate to achieve, the benefits of this information to investors.

STATUTORY AUTHORITY: The foregoing action is taken pursuant to the authority set forth in sections 13(d), 13(g), 14(d) and 23 of the Exchange Act.

(Secs. 13(d), 13(g), 14(d), 23, 48 Stat. 894, 895, 901; sec. 8, 49 Stat. 1379; sec. 203(a), 49 Stat. 704; sec. 10, 78 Stat. 88a; secs. 2, 3, 82 Stat. 454, 455; secs. 1, 2, 3-5, 84 Stat. 1497; sec. 18, 89 Stat. 155; secs. 202, 203, 91 Stat. 1494, 1498, 1499; 15 U.S.C. 78m(d), 78m(g), 78n(d), 78w)

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

JANUARY 4, 1979.

[FR Doc. 79-810 Filed 1-8-79; 8:45 am]

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federal register

TUESDAY, JANUARY 9, 1979
PART V



DEPARTMENT OF ENERGY

RESIDENTIAL ENERGY CONSERVATION

Residential Energy Conservation Service Program

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[6450-01-M]

DEPARTMENT OF ENERGY

[10 CFR Ch. I]

[Docket No. CAS-RM-79-101]

RESIDENTIAL ENERGY CONSERVATION PROGRAM

AGENCY: Department of Energy.

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: In February 1979, the U.S. Department of Energy (DOE) expects to promulgate proposed rules to implement the Residential Conservation Service program. The purpose of this program is to facilitate and encourage the installation of energy conservation and renewable resource measures in private homes. In addition, the program is designed to ensure that, to the extent possible, the purchase and installation of such measures will be accomplished in a manner that protects the customer from unfair and unsafe practices.

In general, the program requires large gas and electric utilities and allows a home heating supplier to provide energy conservation information to their residential customers, to provide upon request energy audits of homes of their residential customers, and to arrange upon request for the purchase, installation, financing and billing of energy conservation and renewable resources measures by their customers. The purpose of this Advance Notice of Proposed Rulemaking is to advise the public of the proposed rulemaking, to indicate the major statutory requirements and certain questions which these requirements raise, and to invite public comments concerning the content of the proposed rules and the implementation of the program.

DATES: Written comments in response to this Advance Notice should be filed with DOE at the address noted below by 5:30 p.m., February 2, 1979. A schedule of dates for public hearings will be published on or before the date the proposed rules are published.

ADDRESSES: Written responses to the Advance Notice should be sent to: U.S. Department of Energy, Office of Public Hearings Management, Room 2313, Box WC, 2000 M Street NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Mr. J. Wm. Bethea, U.S. Department of Energy, Program Manager, Residential Conservation Service Program, 20 Massachusetts Avenue NW., Room 2253C, Washington, D.C. 20545, 202-376-1964.

SUPPLEMENTARY INFORMATION:

I. Introduction and General Background
II. General Summary of Statutory Requirements
III. Detailed Summary of Major Statutory Requirements and Comments
1. Content of DOE's Rule
2. Requirements for State Residential Energy Conservation Plans for Utilities
3. Plan Requirements for Nonregulated Utilities Not Subject to a State Plan
4. Plan Requirements for Home Heating Suppliers
5. Program Requirements for Utilities
6. Supply, Installation and Financing by Utilities
7. Program Requirements for Home Heating Suppliers
8. Temporary Program Exemptions
9. Federal Standby Authority
10. Preemption
11. Consultation

I. Introduction and General Background

On November 9, 1978, President Carter signed into law the National Energy Conservation Policy Act (Pub. L. 95-619). Title II of that Act concerns residential energy conservation. Part 1 of Title II (hereafter referred to as the "Act") establishes the "Residential Conservation Service Program" (the abbreviation "RCS Program" is used in this Advance Notice), described in the Act as the "Utility Program."

The Act requires DOE to publish an Advance Notice of Proposed Rulemaking regarding the content and implementation of residential energy conservation plans by December 24, 1978. Within 60 days thereafter (by March 6, 1979), DOE must publish proposed rules for this program. Thereafter, DOE will afford all interested persons, including Federal and State agencies, an opportunity to present oral and written comments on the proposed rules. DOE is planning several regional hearings and at least one national hearing to allow interested persons an opportunity to comment on the proposed rules. The final rules will be adopted after the public hearings and closing of the comment period. DOE will allow a minimum of 60 days for comments on the proposed rules.

Because of the limited time for comments and for their consideration by DOE, interested persons may wish to restrict their comments at this time to those matters which they consider the most important and fundamental. Moreover, because of the statutory deadline for promulgation of the proposed rules, DOE may not be able to address, before promulgation of the proposed rules, all comments received in response to this Advance Notice. Comments not considered before promulgation of the proposed rules will be considered prior to adoption of final rules.

As required by law, the proposed rulemaking will include summaries of DOE's Regulatory Analysis and Environmental Assessment of the program.

In order to meet the statutory deadline for promulgation of the proposed rules, DOE is focusing its resources upon a timely issuance of the proposed rules and, as noted above, is planning extensive public hearings on the proposed rules to provide all interested persons an opportunity to participate. Thus, this Advance Notice of Proposed Rulemaking is intended to serve as an informational document setting forth material elements of the RCS Program. As noted in the Summary, above, DOE may not be able to evaluate all comments before the proposed rules are promulgated. They will be evaluated after issuance of the proposed rules, however, and will be included as a part of the public record. Subsequent to the public hearings and closing of the record, DOE will publish a written response to the major comments, criticisms and alternatives offered during the rulemaking process.

Upon adoption of final rules, States, if a Governor chooses to submit a State plan, must submit their plans within 180 days. Non-regulated utilities must submit their plans directly to DOE if they are not included in the State plans. In general, DOE must approve or disapprove each plan within 90 days after submission. If a plan is disaproved, a new or amended plan must be submitted within 60 days thereafter and the 90 day review period will begin again. Finally, if a plan is not approved or if DOE determines, after notice and an opportunity for a public hearing, that a plan has not been adequately implemented, DOE is required to exercise the statutory Federal standby authority, that is, to develop and implement directly a plan for that State. For purposes of the Act, Puerto Rico, the District of Columbia, and the Tennessee Valley Authority ("TVA"), with respect to utilities subject to its ratemaking authority, are treated as States.

II. General Summary of Major Statutory Requirements

The Act assigns responsibilities for the RCS program to the Federal Government, the States, and large gas and electric utilities. Home heating suppliers may participate in the program under certain conditions. The role of the Federal Government, specifically DOE, is to promulgate rules:

1. Identifying, on the basis of the climatic region and other factors, the appropriate energy conservation and renewable resource measures to be included in the program;

2. Setting standards governing both materials and installations necessary for general safety and effectiveness of the measures;

3. Setting standards for procedures to protect consumers under the program; and

4. Setting standards to protect installers, contractors, and lenders from unfair and discriminatory practices.

Another role of DOE is to assess proposed State plans for implementing the program and to assure that such plans meet the requirements of both the Act and DOE"s regulations. DOE must also annually publish a list of the utilities which are covered by the Act. Finally, DOE is responsible, where a State plan is not in effect with respect to utilities, for directly insuring that the program is implemented by the utilities.

The role of a State, if the Governor chooses to have the State participate in the program, is to insure that the utilities subject to the State plan implement the program in accordance with the terms of the Act, DOE's regulations, and the State plan. In addition, if the State participates in the program, the State is responsible for compiling lists of qualified suppliers and contractors of energy conservation and renewable resource measures and of qualified lenders who provide loans for such measures. Finally, participating States are responsible for establishing various procedures to protect consumers. Certain responsibilities are placed directly on State regulatory authorities. Under the Act, "state regulatory authority" includes any State agency, including municipalities and agencies thereof, which has ratemaking authority with respect to the sale of gas or electricity.

The role of the utilities is critical, and their participation in the program is mandatory whether or not their State participates in the program. Pursuant to the Act, DOE's rules, and any applicable State plan, utilities must offer all of their residential customers:

1. Information concerning suggested conservation measures for residential buildings;

2. Information concerning estimated savings in energy costs resulting from installation of suggested measures in typical residential buildings;

3. Individual home energy audits; and

4. Arrangements for the installation and financing of suggested measures at fair and reasonable prices and rates of interest.

A residential customer essentially includes any customer of a covered utility who lives in a currently existing residential building with four or less dwelling units.

Where a Governor has included home heating suppliers in a State plan and a particular supplier has volunteered to participate, that supplier then generally is subject to the same requirements as the utilities. Provision is made, however, for the Governor to waive any requirement if it is too burdensome on the supplier.

Section III of this Advance Notice contains a more detailed summary of certain of the Act's major requirements together with some DOE comments intended to facilitate public discussion and to illustrate some of the issues upon which interested persons may wish to comment. DOE's primary responsibilities regarding the content and implementation of residential energy conservationn plans are set forth in Part I of Section III. The primary responsibilities of the States regarding the substantive content and implementation of State plans for utilities are detailed in Part 2, while Part 3 concerns plans by nonregulated utilities not subject to State plans, and Part 4 concerns State plans for home heating suppliers. Parts 5 and 6 address the RCS Program requirements for utilities (regulated and nonregulated), the general prohibition regarding utilities' supply, installation and financing of conservation measures, and the exceptions to this general prohibition. Part 7 details the program requirements for home heating suppliers. Part 8 outlines the requirements for temporary program exemptions (for up to 3 years). Part 9 discussess DOE's statutory duty to exercise the federal standby authority upon certain conditions. Finally, Part 10 sets forth the statutory provision regarding preemption of State law in certain circumstances, and Part 11 notes DOE's consultation responsibilities. Comments follow most Parts.

III. Detailed Summary of Major Statutory Requirements and Comments

The Act sets forth specific requirements regarding the content and implementation of the RCS Program. Many of these requirements need amplification. The following list of certain statutory requirements is set forth with the hope that interested persons will comment on those areas of interest to them.

1. Content of DOE'S Rules

The Act requires DOE to issue rules regarding the content and implementation of residential energy conservation plans. These rules must:

(1) Identify suggested residential energy conservation measures for residential buildings by climatic region and by categories determined by DOE on the basis of type of construction and any other appropriate factors.

"Residential energy conservation measures" include:

(a) Caulking and weatherstripping of doors and windows;

(b) Furnace efficiency modifications, including replacement burners, furnaces, or boilers or any combination thereof, which DOE determines substantially increase the energy efficiency of the heating system; devices for modifying flue openings which will increase the energy efficiency of the heating system; and electrical or mechanical furnace ignition systems which replace standing gas pilot lights;

(c) Clock thermostats;

(d) Ceiling, attic, wall and floor insulation;

(e) Water heater insulation;

(f) Storm windows and doors, multiglazed windows and doors, heat-absorbing or heat-reflective glazed windows and door materials;

(g) Devices associated with load management techniques;

(h) Devices to utilize solar energy or windpower to reduce the use of other forms of energy, including devices for heating of water, space heating or cooling; and

(i) Such other measures as DOE identifies by rule for the RCS Program.

None of the measures referred to above, except caulking and weatherstripping of doors and windows, may be treated as a residential energy conservation measure unless warranted by the manufacturer to meet a specified level of performance for a period of not less than three years. In determining the appropriate "suggested (residential energy conservation) measures," for a particular location and category of residential building, DOE must consider the cost of the required inspection and its effect upon the willingness of residential customers to participate in the RCS Program.

DOE's rules must also include:

(1) Standards DOE determines are necessary for the general safety and effectiveness of any residential energy conservation measure;[1]

(2) Standards DOE determines are necessary for the installation of a residential energy conservation measure;[1]

(3) Standards for procedures concerning fair and reasonable prices and rates of interest to residential customers in connection with the purchase and installation of residential energy conservation measures;

(4) Standards for procedures concerning unfair, deceptive, or anticom-

[1] A Technical Report, "Material Criteria and Installation Practices for the Retrofit Application of Insulation and Other Weatherization Materials," prepared by the Division of Buildings and Community Systems of DOE recommends material criteria and installation practices. Copies are available from Ms. Gloria Purnell, 20 Massachusetts Avenue, N.W., Room 2252C, Washington, D.C. 20545.

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petitive acts or practices to ensure that plans submitted contain adequate measures to prevent such acts or practices in the program;

(5) Standards that (a) require specified lists (of suppliers, contractors and lending institutions participating in the program) to be prepared in a fair, open and nondiscriminatory manner and (b) provide for the removal, in appropriate circumstances, of suppliers, contractors or lending institutions from the lists; and

(6) Standards assuring that any person alleging an injury resulting from a violation of the requirements regarding listing and removal shall have a right to redress under procedures established by the Governor of a State.

In addition to the above, DOE may include other requrements deemed necessary to carry out the RCS Program effectively.

Comments

Each of the statutory requirements noted above raises issues which interested persons may wish to address. For example, regarding the definition of a residential energy conservation measure, what devices should be included in connection with load management techniques? In connection with the utilization of solar energy? What other factors, if any, should DOE consider in identifying "appropriate" suggested residential energy conservation measures involving solar energy? The same issue is relevant to devices to utilize windpower for a residential energy conservation purpose. What criteria should be used to define solar energy and windpower devices that would qualify as residential energy conservation measures? Should solar energy and windpower devices be treated differently from other residential energy conservation measures? If so, how?

What other conservation measures should DOE identify? What criteria should be used to evaluate measures to be added to the list? Should cost effectiveness criteria be used for determining "appropriate" suggested measures? If so, for which ones and what should be the basis for determining cost effectiveness? What should be included as "necessary" standards for the general safety and effectiveness of residential energy conservation measures? What should be included as "necessary" installation standards?

What should be included in the standards for "procedures concerning fair and reasonable prices and rates of interest" to residential customers in connection with the purchase and installation of residential energy conservation measures? What should be included in the standards for procedures regarding "unfair, deceptive or anticompetitive acts or practices?"

What standards can help ensure that the specified lists are prepared in a "fair, open and nondiscriminatory manner?" What would constitute appropriate reasons for removal of suppliers, contractors, or lending institutions from the lists? What should be included in the standards to ensure meaningful redress procedures?

2. REQUIREMENTS FOR STATE RESIDENTIAL ENERGY CONSERVATION PLANS FOR UTILITIES

A Governor need not submit a State plan at all. If he does submit a State plan, it must cover all regulated utilities in the State and may cover nonregulated utilities, if applicable State law permits. (Neither TVA nor any utility subject to TVA's ratemaking authority may be covered by a State plan. TVA must submit its own "State" plan.)

The Act defines "regulated utilities" to mean public utilities whose rates are controlled by a State regulatory authority or the TVA. "Nonregulated utilities" are public utilities whose rates are not controlled by a State regulatory authority or TVA.

The Act does not govern all public utilities. In general, in each calendar year it covers only public utilities which either sold more than 10 billion cubic feet of natural gas or more than 750 million kilowatt-hours of electric energy during the second preceding calendar year for purposes other than resale.

DOE may not approve a proposed State residential energy conservation plan for utilities unless the plan:

(1) Requires each regulated utility and each nonregulated utility subject to the plan to implement a utility program meeting the requirements described in Part 5;

(2) Contains adequate State enforcement procedures;

(3) Provides a procedure for permitting suppliers or contractors to be included on publicly available lists compiled by the State and provided by a covered utility if the suppliers or contractors both

(a) sell or install residential energy conservation measures in the area served by the utility; and

(b) comply with DOE's listing standards;

(4) Provides a procedure to permit a bank, savings and loan association, credit union or other public or private lending institution to be included on publicly available lists compiled by the State and provided by a covered utility if the institution both

(a) offers loans for the purchase and installation of residential energy conservation measures in the areas served by such utility; and

(b) complies with DOE's listing standards;

(5) Provides adequate procedures to assure that each covered utility will charge fair and reasonable prices and rates of interest to its residential customers in connection with the sale and installation of residential energy conservation measures;

(6) Provides procedures for resolving complaints against persons selling or installing residential energy conservation measures under such program;

(7) Provides procedures for insuring effective coordination among local, State and federal energy conservation programs within and affecting such State including any energy extension service program administered by DOE;

(8) Is adopted after notice and public hearings;

(9) Complies with any other standards included in DOE's rules;

(10) Contains provisions assuring that any person alleging an injury resulting from a violation of any plan provision shall be entitled to redress under procedures established by the Governor or State agency; and

(11) Contains adequate measures to prevent unfair, deceptive or anticompetitive acts or practices affecting commerce relating to the implementation of utility programs within such State.

Specifically, these measures must include provisions assuring that the utility will not, in carrying out the inspection and arrangements requirements for utility programs (described below at Part 5), unfairly discriminate among residential customers, suppliers, and contractors participating in the program. These provisions must also assure that the utility will not unfairly discriminate among measures purchased from or installed by any person under such program.

The consumer protection measures in the State plans must also include provisions assuring that a utility will not inspect a furnace or make, install or inspect any furnace efficiency modification with respect to a furnace that uses a fuel other than that sold by that utility, unless the customer requests such inspection, installation or modification in writing.

Comments

Many of the above requirements for State plans are essentially reiterations of the statutory requirements regarding the content of DOE's rules. However, there are some additional requirements imposed regarding utilities subject to the State plan which merit public discussion: What criteria should be used to evaluate "adequate State enforcement procedures"? What considerations can help assure that regulated utilities will not unfairly discriminate among suppliers, contractors, and lenders? What kind of follow-up actions, such as post-installation inspections, should be taken to assure meaningful implementation of the required standards and measures? In addition, the State plans must address the issues raised in Parts 4-8 below.

3. PLAN REQUIREMENTS FOR NONREGULATED UTILITIES NOT SUBJECT TO A STATE PLAN

A nonregulated utility not covered by a State residential energy conservation plan must submit a plan directly to DOE which:

(1) Meets the same substantive requirements set forth for State plans for regulated utilities (described in Part 2 above); and

(2) Contains procedures whereby such nonregulated utility will submit a written report to DOE within one year after plan approval and biennially thereafter regarding implementation and compliance with the Utility Program requirements (discussed in Part 5 below) and including any other information required by DOE's rules

Comments

Important issues regarding plan requirements for nonregulated utilities include the following:

How should DOE monitor implementation and compliance? What additional information should DOE require nonregulated utilities to submit in the reports? How should the nonregulated utility plan be coordinated with the State plan for regulated utilities? Should the nonregulated utilities under their own plans participate in certain aspects of the State plans? For example, should nonregulated utilities use State-prepared lists of contractors, suppliers, and lender audit proccdures, State consumer grievance and redress procedures?

4. PLAN REQUIREMENTS FOR HOME HEATING SUPPLIERS

The Act defines home heating supplier to mean a person selling or supplying home heating fuel (including No. 2 heating oil, kerosene, butane and propane) to a residential customer for consumption in a residential building.

A State residential energy conservation plan is not required to include home heating suppliers. If it does, the plan must meet the following requirements in order to receive DOE approval:

(1) In general, it must meet the same requirements set forth regarding State plans for utilities (see Part 2 above), except that the State plan with respect to home heating suppliers cannot require home heating suppliers to participate in the program. Participation in the program is optional with home heating suppliers;

(2) It must require participating home heating suppliers to comply with the general home heating supplier program requirements (described in Part 7 below);

(3) It must contain adequate enforcement procedures regarding those requirements;

(4) It must comply with any requirements in DOE's rules applicable to home heating suppliers (see Part 7 below), and

(5) It must take into account the resources of small home heating suppliers.

Comments

The home heating supplier industry is characterized by wide disparity in firm size but with small firms predominating. Consequently, the requirements regarding home heating suppliers must be designed so as not to overburden firms with more limited resources. Nevertheless, the Act's basic standards on safety, effectiveness and consumer protection must be met. This raises many questions: What are adequate enforcement measures with regard to home heating suppliers? Should DOE's consumer protection standards be regarding the home heating supplier programs? What procedures should the Governor follow in seeking and allowing home heating suppliers to participate in the program? Should participating home heating suppliers be allowed to withdraw from the program? If so, how? How should a plan take into account the resources of small home heating suppliers?

5. PROGRAM REQUIREMENTS FOR UTILITIES

Each Utility Program must meet certain requirements. Essentially, the Act requires that public utilities (regulated and nonregulated) must establish:

(1) Procedures to inform (by specified dates) each residential building of:

(a) the suggested residential energy conservation measures for the customer's type (category) of building;

(b) the savings in energy costs likely to result from installation of the suggested measures in typical residential buildings in each category;

(c) the availability through the public utility of the State lists of supplies, contractors and lending institutions;

(d) suggested energy conservation techniques, including those developed by DOE, that residental customers can use to save energy but not requiring the installlation of energy conservation measures, including the savings in energy costs likely to result from the adoption of such suggestions; and

(e) the utility's offer described in (2) below.

(2) Procedures to offer to do the following for each residential customer owning or occupying a residential building:

(a) Inspect the building to determine and inform the customer of both the estimated cost of purchasing and installing the suggested measures and the savings in energy costs likely to result from installation of such measures. The inspection may be conducted by the utility or by inspectors under contract. A report of the inspection must be maintained for at least five years and must be made available to any subsequent owner without charge. A utility shall be required to make only one inspection of a residence unless a new owner requests a subsequent inspection;

(b) Arrange to have the suggested residential energy conservation measures installed except for prohibited furnace efficiency modifications (unless the customer requests such modifications in writing);

(c) Arrange for a lender to make a loan to such residential customer to finance the purchase and installation costs of suggested measures;

(3) Procedures to provide the State lists (of suppliers, contractors and lending institutuons) to residential customers;

(4) Accounting and cost payment procedures including:

(a) Procedures assuring that the utiltiy accounts separately for all amounts it expends or receives attributable to the RCS Program (including any penalties);

(b) Procedures assuring that all amounts it expends to provide information (see Section (1) above) are treated as current expenses of providing utiltiy service and are charged to all ratepayers in the same manner as current operating expenses of providing such utiltiy service;

(c) Procedures permitting the general administrative costs of carrying out the RCS Program and the amounts expended to carry out the inspection, arrangement, and list functions noted above to be either treated as a current operating expense or charged to the customer for whom the activity is performed. For regulated utilities, the alternative chosen shall be in the discretion of the State regulatory authority. A nonregulated utility shall make this decision for itself;

(d) Procedures assuring that the costs of labor and materials incurred by a utility for the purchase or installation of any residential energy conservation measure shall be charged to the customer for whom such activity is performed;

(e) Procedures assuring that interest and other costs of carrying out any activity as a part of an RCS Program (other than those provided in (b)-(d) above) shall be charged to the subject customer unless and to the extent that the State regulatory authority or nonregulated utility finds, after public

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notice and an opportunity for a public hearing, that treatment of such costs as current operating expenses is likely to result (through a reduction in energy demand) in lower rates to the utility's ratepayers than would occur if the utility treated such costs otherwise; and

(f) Billing procedures assuring that RCS Program costs charged to the customers for whom such activity is performed shall be stated separately from costs of providing utility service.

(5) Procedures requiring that new residential customers be provided with the same services and offers as have been made to existing customers;

(6) Procedures assuring that a utility implementing a program cannot terminate utility service to any customer because of the customer's default in making payments for energy conservation measures;

(7) Procedures assuring that, when a utility makes a loan to a residential customer under the RCS Program, the utility shall permit repayment of principal and interest as a part of the customer's periodic bills over a period of not less than three years, unless the customer elects a shorter payment period. When a loan is made by a person other than the utility, the utility shall permit repayment of the loan as part of the customer's periodic utility bill if the lender agrees. Acceleration is permitted in the event of default. Pre-payment penalties are prohibited.

Comments

The Utility Program requirements are very complex and raise many issues, including: What activities should be encompassed in the statutory term "arrange" with respect to installation of conservation measures and financing? What are the soundest "procedures" to follow regarding accounting procedures and payment of costs? What actions should be taken to ensure that such procedures are equitable and effective? Should DOE give guidance on calculation methods to ensure consistency in all audits? What training or certification should be required for auditors? What, if any, potentials for abuse are there in the relations among utilities, contractors and lenders? What regulatory steps would reduce any such potential?

6. SUPPLY, INSTALLATION AND FINANCING BY PUBLIC UTILITIES

(1) The Act prohibits utilities from supplying or installing residential energy conservation measures or making loans to residential customers for the purchase or installation of such measures. The exceptions to this general rule are:

(a) The prohibition regarding supply or installation does not apply to furnace efficiency modifications, clock thermostats or load management devices for the type of energy sold by the utility;

(b) Loans are permitted if they do not exceed the greater of either $300 or the cost of purchase and installation in the customer's residence of the items noted in (a) above;

(c) The prohibitions contained in (1) above shall not apply to the following supply, installation or financing activities:

(i) Specific residential energy conservation measures which DOE determines were being installed or financed by a utility on the date of the Act's enactment (November 9, 1978);

(ii) Such activities which DOE determines were either broadly advertised or for which substantial preparations were completed on or before the enactment date (November 9, 1978); or

(iii) Those activities which a law or regulation in effect on or before the date of enactment (November 9, 1978) either required or explicitly permitted the utility to carry out.

(2) Upon the petition of a public utility (which a Governor must support in the case of a regulated utility), DOE may waive any of the prohibitions regarding supply, installation or financing if the utility demonstrates to the satisfaction of DOE that, in carrying out such activities, the utility would charge fair and reasonable prices and rates of interest, and DOE determines (after consultation with the FTC) that such activities would not be inconsistent with the prevention of unfair methods of competition and unfair or deceptive acts or practices.

(3) The RCS Program requirements shall apply to a utility carrying out activities allowed under (1)(a), (b), or (c)(ii) above. A utility "grandfathered" under (1)(c)(i) shall comply with the RCS Program requirements for such activities within a reasonable time. Utilities carrying out activities under (1)(c)(iii) need not comply with the RCS Program's requirements for those activities.

(4) In any event, no utility shall supply, install, or make a loan regarding a residential energy conservation measure if DOE determines, after notice, an opportunity for a public hearing, and consultation with the FTC that (a) such utility is making loans or supplying or installing measures on unreasonable terms and conditions or (b) such activities cause a substantial adverse effect upon competition.

(5) A violation of a prohibition regarding supply, installation or financing activities shall be deemed a violation of a plan promulgated pursuant to the statutory standby authority, thus triggering possible civil penalties (see Part 9 below).

Comments

The most difficult questions which these prohibitions raise appear to be those concerning the applicability and scope of the exemptions. What criteria should DOE use in evaluating requests by utilities for waivers to supply, finance and install measures? What activities might constitute "broad advertising" or "substantial preparations"? What tests should be used in determining whether a utility's proposed actions are consistent with preventing unfair competition and deceptive acts or practices?

7. PROGRAM REQUIREMENTS FOR HOME HEATING SUPPLIER PROGRAMS

A Governor may include home heating suppliers in a residential energy conservation plan. A home heating supplier wishing to participate in the program must so notify the Governor. A home heating supplier program must meet the following requirements, but a Governor may waive any requirement of the program upon a satisfactory demonstration that a supplier's resources do not enable him to comply with such requirement:

(1) Procedures to inform each residential customer (owning or occupying a residential building) of each participating home heating supplier of the suggested measures for the category of buildings which includes the customer's building, the savings in energy costs likely to result from installation of the suggested measures in typical residential buildings in such category, and the availability of specified arrangements (set forth in Section (2) below);

(2) Procedures whereby such suppliers offer to each residential customer the opportunity to enter into arrangements where the supplier (directly or through inspectors) will:

(a) inspect the residential building to determine and inform the residential customer of the estimated cost of purchasing and installing suggested measures as well as the savings in energy costs likely to result from installing them;

(b) inform each interested customer of the supplier/contractor and lending institution lists;

(c) either install suggested measures or have them installed;

(d) either make a loan or arrange for another lender to make a loan to the residential customer to finance the purchase and installation costs of suggested measures; and

(e) permit the residential customer to repay, as part of his periodic bill, the principal of and interest on any loan over a period of not less than three years unless the customer elects a shorter payment period. However, the customer's failure to make any payment of principal or interest shall not be grounds for the termination of fuel deliveries to the customer. Acceleration is permitted in the event of default. Pre-payment penalties are prohibited.

Comments

The home heating supplier program elements are analogous to the utility program requirements and raise similar issues. The Governor has broad discretion to waive otherwise applicable requirements upon a showing of insufficient resources.

8. TEMPORARY PROGRAM EXEMPTIONS

A Governor, with respect to one or more utilities or a utility with the Governor's support, may seek a one-time temporary program exemption from some or all of the requirements and prohibitions of the Act described in Parts 5 and 6 above. DOE shall promulgate a rule setting forth the requirements for exemption applications. Applications must be submitted to DOE within 180 days after publication of the final RCS rules and the exemption is limited to a maximum of three years from the date it is granted.

At a minimum, to obtain an exemption, a Governor or utility (supported by a Governor) must satisfy DOE that the temporary program will be likely to result in the installation of suggested measures in at least as many residential buildings as would have had measures installed if the utility had submitted a plan complying with the RCS Program requirements and had not violated any of the otherwise applicable prohibitions concerning supply, installation and financing.

In addition, the temporary program must contain:

(a) Adequate procedures to assure that the utility, in connection with the temporary program, will charge fair and reasonable prices and rates of interest to its residential customers in connection with the purchase and installation of residential energy conservation measures; and

(b) Adequate procedures for preventing unfair, deceptive or anticompetitive acts or practices affecting commerce relating to the implementation of the program.

The statutory federal standby authority, discussed at Part 9, does not apply to utilities covered by a temporary exemption. After an exemption expires, DOE shall allow a reasonable time for the State or nonregulated utility to have DOE approve a plan applicable to such utility and to implement the plan.

Comments

The three basic statutory criteria for temporary exemptions are complex and raise many issues. For example, what considerations should be evaluated to determine "adequate procedures" under the first two statutory requirements described above? Should the criteria be as strict or stricter than the similar requirements for RCS plans regarding regulated and nonregulated utilities? What sort of showing should be required to establish that granting a temporary exemption will be "likely" to result in the installation of measures in as many residential units as would have been the case in the absence of an exemption?

9. FEDERAL STANDBY AUTHORITY

The Act vests DOE with standby authority which DOE must exercise, with respect to regulated utilities, if a State does not have a DOE-approved plan within certain time limits or if DOE determines, after notice and an opportunity for a public hearing, that an approved plan is not being adequately implemented. In either event, the Secretary of Energy must promulgate a plan meeting the requirements for regulated utilities and must require, by order, each regulated utility in the State to offer a utility program conforming to the Secretary's plan within 90 days thereafter.

With respect to nonregulated utilities not covered by an approved State plan, the Secretary shall invoke his standby authority if the nonregulated utility does not have a DOE-approved plan within certain time limits or if the Secretary determines that such nonregulated utility has failed to adequately implement an approved plan.

Orders issued pursuant to the Secretary's standby authority are enforceable in the appropriate United States District Court by injunction.

A public utility may be subject to a civil penalty if it violates any requirement of a promulgated Federal standby plan or if it fails to comply with an order issued in connection therewith within 90 days from the date of issuance. The civil penalty shall be up to $25,000 per violation. Each day that such violation continues is a separate violation. The Secretary shall assess a civil penalty by order. Before assessing a civil penalty, the affected person shall be given written notice and an opportunity to elect alternative assessment procedures.

Comments

While this section raises many questions, those involving what criteria DOE should use to determine whether a plan is being adequately implemented are the most difficult.

10. PREEMPTION

The Act provides that it does not supersede any State or local law or regulation except to the extent DOE determines, upon petition of a utility and for good cause shown, that such law or regulation either prohibits a utility from taking action required by the Act or permits or requires action otherwise prohibited by the Act.

11. CONSULTATION

In preparing the proposed rule, the Act requires DOE to consult with the Secretary of Commerce (acting through the National Bureau of Standards), the Federal Trade Commission, the Consumer Product Safety Commission and other appropriate agencies.

The Act requires DOE to consult with the Secretary of Commerce (acting through the National Bureau of Standards) regarding any product or material standard relied upon in implementing the RCS Program as a basis for judging the efficiency, energy efficiency, safety or other attributes of energy conservation materials, products or devices.

The Act also requires DOE to consult with the Federal Trade Commission to ensure that such standards do not operate to deceive consumers or unreasonably restrict consumer or producer options and that such standards, when applicable, are suitable as a basis for making truthful and reliable disclosures to consumers regarding performance and safety attributes of energy conservation products, materials and devices.

Comments

The statutory provisions raise many questions about product standards. For example, how should DOE determine that a given standard is "suitable" as a basis for making truthful and reliable disclosures to consumers? What criteria should be used to insure that given standards to not operate to deceive consumers or unreasonably restrict consumer or producer options?

Issued in Washington, D.C. on January 4, 1979.

OMI WALDEN,
Assistant Secretary, Conservation and Solar Applications.

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[3410-02-M]

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Amdt. 2]

PART 971—LETTUCE GROWN IN LOWER RIO GRANDE VALLEY IN SOUTH TEXAS

Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This emergency amendment relieves the Sunday packaging prohibition on January 7 and 14, 1979, to allow the industry additional time to pack its marketable lettuce before rainy and freezing weather in the production area adversely affects it. It will promote orderly marketing and benefit consumers by making additional lettuce available.

EFFECTIVE DATE: January 7, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Acting Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250. Telephone: (202) 447-6393.

SUPPLEMENTARY INFORMATION: Marketing Agreement No. 114 and Order No. 971 regulate the handling of lettuce grown in the Lower Rio Grande Valley in South Texas. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

The amendment is based upon recommendations made January 4 by the South Texas Lettuce Committee, which was established under the order and is responsible for its local administration. The industry needs additional time to salvage as much lettuce as possible before it is adversely affected by rainy and freezing weather in the production area. Therefore the committee requested relief on January 7 and 14, 1979, from the Sunday packaging prohibition.

EMERGENCY FINDINGS: It is hereby found that the amendment which follows will tend to effectuate the declared policy of the act. It is further found that due to the emergency it is impracticable and contrary to the public interest to provide 60 days for interested persons to file comments and that good cause exists for not postponing the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) this amendment must become effective immediately if producers and consumers are to derive any benefits from it, (2) compliance with this amendment will not require any special preparation on the part of handlers, and (3) this amendment relieves restrictions on the handling of lettuce grown in the production area.

Regulation, as amended. In § 971.319 (43 FR 53704, 58355) the last sentence in the introductory paragraph is hereby amended by adding the following to it:

§ 971.319 Handling regulation.

* * *, except that the prohibition against the packing of lettuce on Sundays shall not apply on January 7 and 14, 1979.

* * * * *

(Secs. 1-19, 48 Stat. 31, as amended (7 U.S.C. 601-674).)

Effective date. Dated January 5, 1979, to become effective January 7, 1979.

NOTE: This regulation has not been determined significant under Executive Order 12044.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-890 Filed 1-9-79; 8:45 am]

[6320-01-M]

Title 14—Aeronautics and Space

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-1090, Amdt. No. 14]

PART 250—OVERSALES

Disclosure by Foreign Air Carriers

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., January 4, 1979.

AGENCY: Civil Aeronautics Board.

ACTION: Final Rule.

SUMMARY: The denied boarding compensation rules are amended to relieve foreign air carriers from having to comply on inbound flights. If they do not comply, they are required to provide notice to that effect by ticket counter signs and by coupons included with tickets sold in the U.S.

DATES: Effective: February 5, 1979. Adopted: January 4, 1979.

FOR FURTHER INFORMATION CONTACT:

Joseph A. Brooks, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, 202-673-5442.

SUPPLEMENTARY INFORMATION: Effective September 13, 1978 (ER-1050, 43 FR 24277, June 5, 1978), new Board rules were implemented to minimize the involuntary bumping of airline passengers holding confirmed reservations. These rules required the airlines to ask for volunteers before involuntarily bumping anyone from an oversold flight, established substantially greater compensation for those bumped, encouraged carriers to experiment with other reservation and boarding practices to reduce involuntary bumping, and expanded the public disclosure of boarding priorities and passenger rights.

These rules applied to all certificated and foreign permit carriers for all scheduled flights originating or terminating in the United States on which passengers had confirmed reserved space verified in the United States.

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On September 1, 1978, in response to objections by foreign carriers and governments, the Board waived these rules as they applied to flights from a foreign point to a point in the United States, provided carriers using the waiver continued to follow the oversales regulations effective prior to amendment by ER-1050, for a period of 30 days (Order 78-9-6). One week later, the Board issued Notice of Proposed Rulemaking EDR-363 (43 FR 39806, September 7, 1978), proposing to require any carrier in foreign air transportation that does not comply with U.S. oversales rules to include in any advertisements or tickets sold in the United States a notice that they are not conforming to U.S Government rules for consumer protection on oversold flights. This rule was made final by ER-1078 (43 FR 50164, October 27, 1978). By Order 78-11-31 (43 FR 53208, November 15, 1978) and by ER-1084 (43 FR 57243, December 7, 1978), the effective date of the disclosure requirement was postponed until January 18, 1979, at the request of several foreign carriers (Air Canada, Canadian Pacific, Lufthansa, Swiss Air, and Swiss Air Transport) that have filed a petition for review in the U.S. Court of Appeals for the District of Columbia (*Air Canada, et al v. C.A.B.*, CADC Case Nos. 78-2073, 78-2143). Until the present amendment becomes effective, the status of the oversales rule is that all carriers must still comply with the new denied boarding compensation rules effective on September 3, 1978 (ER-1050) for flights originating in the United States and on October 3, 1978, for flights terminating in the United States, on which passengers had confirmed reserved space.

This amendment is prospective in nature. Cases arising against a foreign air carrier under previous or current Part 250 regulations are not affected by the changes of this amendment.

During the review of ER-1078, the Board has received a comment from the Department of State, and has received Diplomatic Notes from the governments of Canada, the Federal Republic of Germany, the United Kingdom, and Belgium. The Department of State stated that the rule as adopted by ER-1078 is arguably an unnecessary and unfair burden, and is the subject of reasonable concern by foreign governments.

The Department suggested that if some type of notice is required to warn consumers that an airline does not comply with the oversales rules, it should be limited to printed advertising and the language of the notice could be toned down. It suggested that the Board use the language proposed by the Federal Republic of Germany, to the effect that the carrier does conform to Board rules on flights departing from the United States, but that on other flights different rules may apply. The Government of Belgium made similar arguments that the Board's notice is contrary to international sovereignty, and that the wording is inaccurate and misleading. The United Kingdom and Canada joined with Germany and Belgium in opposing the application of the Board's rules to inbound flights by foreign carriers.

David B. Ortman, who represents Pacific Western Airlines, renewed the suggestion made in Docket 33031 (Hawaiian Airlines Petition for Amendment of the Overbooking Rules) that a waiver provision be included in the Board's oversales rules to allow different methods on different routes to accomplish the Board's goal of reducing overbooking. For the reasons stated in Order 78-12-81, dated December 12, 1978, denying Hawaiian's petition, the Board is denying the suggestion here. In ER-1050, the Board further explained its reasons for implementing one uniform rule, rather than permitting many different methods to be used for determining denied boarding compensation. The Board stated that the rate of oversales has shown no signs of substantial amelioration in the last several years, nor have carriers taken any sustained initiative to alleviate the arbitrary and deceptive aspects of then-existing bumping procedures. Under these circumstances, uniform regulatory action was imperative. These reasons remain valid today.

The issues before the Board are those that have remained throughout the Board's development of its overbooking rules for the past 4 years: whether consumer protection in the event of passenger overbooking should extend to passengers on inbound flights by foreign carriers for reservations made in the United States and, while the Board's jurisdiction under section 402(e) of the Act authorizes the Board to attach to foreign air carrier permits "such reasonable terms, conditions, or limitations as, in its judgment, the public interest may require," whether in the interest of international comity the Board should develop an approach other than overbooking rules for foreign carriers on their inbound flights.

In general, in answer to these issues, United States citizens, like other nationals traveling abroad, expect to be governed by the laws of the foreign country in which they are present. This expectation, however, does not appear to hold true with respect to the Board's denied boarding rules, as indicated by the hundreds of complaints received by the Board from bumped passengers. These passengers generally assume that they will be covered by the Board's rules if their reservations were confirmed by the carrier before they ever left the United States. In fiscal year 1977, an estimated 15,000 passengers were denied boarding on inbound flights on foreign carriers (based upon comparison to oversale data of U.S. carriers and to the incidence of bumping complaints involving foreign carriers). Passengers buying tickets and confirming reservations in this country deserve either to be covered by the Board's denied boarding rules or to be put on notice that their expectation of protection is unrealistic.

With respect to jurisdictional concerns, in the last four years the Board has stated in three issuances that U.S. Government jurisdiction over rules for consumer protection in the case of oversales extended to inbound flights by foreign carriers when the reservations are confirmed in the United States (ER-880, 39 FR 38087, October 29, 1974; ER-1050; ER-1078). Such regulations are designed to protect U.S. consumers from unfair practices occurring in connection with an activity that takes place within the United States, namely, the issuing of confirmed reservations to airline passengers. This is a concern of each sovereign State, and within the inherent power of its sovereignty to regulate. In general, foreign sellers wishing to do business in the market of another country must conform to the domestic laws of that country. The Board's oversales rules are intended to protect passengers from unfair practices, and are therefore certainly within this power. We thus reject any notion that the Board lacks power to impose its existing oversales regulations on foreign carriers.

Several foreign governments, however, have asked the U.S. Government to allow foreign carriers to follow only one set of rules, that of the country where the flight originates. They argue that his would eliminate the problem of carriers being subjected to different and conflicting rules, and would avoid the problem of the extraterritorial effect of the Board's rules. In view of the strong objections raised by these governments, and in the interest of maintaining good reciprocal relations within the international community, the Board has decided that foreign carriers operating inbound flights to the United States may follow the oversales rules of the country where the flight originates instead of those of the Board. Those foreign carriers wishing to continue to follow the Board's rules may do so. Those carriers not voluntarily following the Board's rules with respect to tickets sold and reservations confirmed in the U.S. must inform the passenger of their inapplicability by notices at each ticket counter and in each ticket that such is the case. In further response to the comments of the Department of State and several foreign governments, the wording of the notice is changed to state that the carrier does not offer the consumer protections on inbound flights to the United States. This amendment to our rules should not be interpreted as agreement that the Board's jurisdiction does not extend to cover the sales and services of foreign carriers doing business in the United States. It is done in recognition that international comity among nations requires some latitude in the measures used to achieve our goal of giving consumers the best information, and passengers the best protection possible under the circumstances.

Although the Board had originally adopted a disclosure rule that would have required a statement to be put in all advertising in the United States, and although this type of disclosure may be the most effective means of notifying a potential passenger of his choices, upon review it is the Board's opinion that such a requirement is not needed at this time. The ticket counter display notice, and the notice included with the ticket, should give the consumer sufficient notice before picking up his verified ticket. If, however, the Board finds in the future that these notices are not effective, it will take whatever measures are needed to ensure that consumers purchasing tickets in the United States for air transportation are not misled and are treated fairly.

The amendments to the Board's oversales rules include a change in the applicability section to make clear that Part 250, other than §§ 250.10, 250.11, and 250.12, do not apply on a mandatory basis for inbound flights to the United States by foreign air carriers.

As the Board stated in ER-1078, it is important to have this notice distributed as soon as practical to avoid the possibility of consumers relying on carrier observance of Board regulations established for their protection. The requirements adopted in this amendment to our rules have been the subject of a notice of proposed rulemaking (EDR-363) in September, and a final rule adopted in October (ER-1078). The amendment in fact is relieving a restriction in removing the advertising requirement adopted in ER-1078 and substituting a lesser requirement in its place. We find, therefore, that further notice and comment are unnecessary and not in the public interest.[1]

[1]Because ER-1078 is under review in the court of appeals, our action is taken subject to any approval deemed necessary by the court.

SCHAFFER, MEMBER, DISSENTING

One of the most important, well-received and highly publicized of the Board's recent consumer initiatives was the adoption of the expanded denied boarding rules. The changes adopted by the Board today signal a retreat from that commitment to protect airline passengers from involuntary bumping due to overbooking and to provide the public with actual notice of the protections and remedies available.

It is unnecessary to restate the need for our denied boarding rules. The problems encountered by passengers involuntarily denied boarding both on domestic and international flights and the inadequacy of previous notice requirements have been well documented in a series of rulemaking proposals and amendments going back more than ten years.

No one can deny that a consumer problem of major import exists; we have recently characterized the bumping of passengers as a "* * * persistent and serious problem for a growing number of airline travelers * * *." (ER-1050, May 30, 1978, at 1) and only last May adopted expanded rules to minimize the number of passengers involuntarily denied boarding, increase the compensation to those involuntarily bumped, and give greater public notice of boarding procedures used by carriers in the event of overbooking.

In addition, we took the opportunity to note that the problem of bumping is not limited to domestic flights. In our May rule we pointed out that "* * * the rate of oversales in international operations is in fact higher than that for domestic flights * * *" and that "* * * more recent data show a significant increase in bumping from international flights in both absolute and relative terms." (Id. at 13.)

By its action today, the Board has reversed its decision to extend the rules to passengers on inbound flights by foreign carriers. I disagree with the majority. I have not been persuaded by the arguments of some foreign carriers that our new regulations, coupled with a requirement that notice of noncompliance be contained in advertising, are too heavy-handed. I believe the rules are needed and the advertising notice essential. There is ample precedent for the continued application of the Board's rules to the inbound flights of foreign carriers and the Board has heard and rejected the very same arguments made here by the foreign airlines on at least three prior occasions. No new or persuasive legal or policy argument has been advanced at this late date to warrant a change.

However, I reluctantly would be prepared to agree to the change in the scope of the denied boarding rules if the requirement that the notice be included in the carrier's advertising was not eliminated. The advertising disclosure rule originally proposed gave the consumer adequate notice of the conditions of sale. I do not believe that a ticket counter sign and ticket insert really will put passengers on notice that their expectation of protection is unrealistic. Many people book through travel agents or by telephone and, oftentimes, avoid ticket counters entirely. Travel plans generally are made well in advance of the trip and by the time the passenger actually receives the ticket, it may well be too late, inconvenient or impossible to change one's plans particularly if the traveler is utilizing a discount or advance purchase fare.

We should also be careful to distinguish between constructive and actual notice. Few travelers read the extensive assortment of ticket notices, disclaimers and the like, and I do not believe that the notice proposed here actually would alert an air traveler to the fact that he or she will not be protected by the Board's denied boarding rules on the return portion of the trip. The notice as drafted actually obscures the meaning of the warning because it is less explicit than that proposed originally and the notice holds open the possibility that the traveler may be protected by oversale rules in the country where the flight originates. In fact, few, if any other countries have such rules or offer any consumer protections.

Under these circumstances, I would adopt the rules as originally finalized in September.

GLORIA SCHAFFER.

Accordingly, the Board amends Part 250 of the Economic Regulations (14 CFR Part 250) as follows:

1. The Table of Contents is revised by changing the title of § 250.12 to read:

~~Sec.~~

* * * * *

250.12 Disclosure by foreign air carriers on inbound flights.

2. Section 250.2 is amended by designating the first paragraph as (a) and by adding a new paragraph (b) to read:

§ 250.2 Applicability.

(a) * * *

(b) The requirements of this part, other than §§ 250.10, 250.11, and 250.12, do not apply on a mandatory basis to flights from a foreign country to the United States by foreign air carriers. For these flights, only §§ 250.10, 250.11 and 250.12 are mandatory.

3. Section 250.12 is amended to read:

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§ 250.12 Disclosure by foreign air carriers on inbound flights.

(a) Any foreign air carrier engaged in foreign air transportation that does not have on file with the Board tariffs conforming with §§ 250.3 and 250.4 of this part for inbound traffic to the United States shall include the following statement at the end of the notices required by paragraphs (a) and (b) of § 250.11:

[*Name of carrier*] does not offer these consumer protections on inbound flights to the United States.

(b) The statement required by this section shall be printed in type at least 2 points larger than that of the notices required by section 250.11, and in ink contrasting with both the stock and the section 250.11 notice.

(c) It shall be the responsibility of each such carrier to ensure that travel agents authorized to sell air transportation for that carrier comply with this section.

(Secs. 204, 402, 404, and 411 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 757, 760, and 769; (49 U.S.C. 1324, 1372, 1374, 1381.))

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 79-907 Filed 1-9-79; 8:45 am]

[6355-01-M]

Title 16—Commercial Practices

CHAPTER II—CONSUMER PRODUCT SAFETY COMMISSION

PART 1630—STANDARD FOR THE SURFACE FLAMMABILITY OF CARPETS AND RUGS (FF 1-70)

Standard for the Surface Flammability of Carpets and Rugs; Statement of Enforcement Policy

AGENCY: Consumer Product Safety Commission.

ACTION: Statement of Commission policy.

SUMMARY: On July 11, 1978 the Consumer Product Safety Commission announced that it has the authority under the Flammable Fabrics Act to order the recall of carpets and rugs that do not comply with the Standard for the Surface Flammability of Carpets and Rugs, including installed carpet. The Commission indicated that that authority would be exercised prospectively. The staff of the Commission will only seek recall of noncomplying carpet in the possession of ultimate consumers where the carpet was domestically manufactured or imported after July 11, 1978. The Commission is publishing this notice to inform the public of its enforcement policy.

EFFECTIVE DATE: Policy now in effect.

ADDRESS: All documents referred to in this notice may be seen in, and are available from, the Office of the Secretary, Third Floor, 1111 18th Street N.W., Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT:

Earl Gershenow, Attorney, Directorate for Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C. 20207, 301/492-6629.

SUPPLEMENTARY INFORMATION: Since assuming responsibility for enforcement of The Flammable Fabrics Act (FFA) as amended (15 U.S.C. 1191-1204) in May, 1973, the Consumer Product safety Commission has stated that the FFA authorizes the Commission to order the recall of any product which fails to comply with any standard issued under that Act (from all levels of distribution). This includes products in the hands of ultimate consumers. *In the Matter of Northwick Mills, Inc. et al.*, CPSC Docket No. 76-6, April 21, 1978, The Commission stated:

"To hold that this Commission lacks authority to order recall under the FFA, would stultify the Congressional purpose embodied in the Flammable Fabrics Act . . . , and would severely limit the Commission's ability to protect the public from the risks associated with flammable fabrics." (p. 12).

On three occasions the Commission has stated that the FFA authorizes the Commission to order a manufacturer to recall carpets and rugs which fail to comply with the Standard for the Surface Flammability of Carpets and Rugs (16 CFR Part 1630, Subpart A), which are in the possession of distributors and retailers, and those in the possession of the ultimate purchaser, that is, installed carpet. See *In the Matter of Northwick Mills, Inc., et al.*, supra; *In the Matter of Westland Carpet Mills, Inc., et al.*, CPSC Docket No. 75-21, July 11, 1978, and *In the Matter of Barrett Carpet Mills, Inc., et al.*, CPSC Docket No. 75-5, July 11, 1978.

However, the Commission has stated in the *Barrett* case that it would not invoke the authority to order the recall of noncomplying carpets and rugs in the possession of ultimate purchasers in certain cases. In that decision, the Commission stated:

[T]o avoid unfairness and to eliminate any uncertainty that may exist among those subject to the Carpet Standard that the Commission has authority to order a recall of installed carpet and that it may exercise that authority where the facts, including the number and pattern of pill test failures, indicate that such action is necessary and appropriate, the Commission has decided to exercise the authority to recall installed carpet *prospectively* . . . . [Emphasis added] (pp. 11-12).

In other words, although the Commission has the legal authority to order recall of any carpet which fails to comply with the Standard, including noncomplying carpet in the possession of ultimate purchasers, the Commission has stated that its will assert it authority under the FFA to order recall from ultimate purchasers only in cases involving noncomplying carpets and rugs which were shipped for distribution in commerce by domestic manufacturers, or which were imported into the United States, after July 11, 1978, the date of the *Barrett* decision.

In the *Barrett* Case, the Commission also stated that, in addition to the authority to recall contained in the FFA, sections 15 and 30 of the Consumer Product Safety Act (15 U.S.C. 2051 *et seq.*) empower the Commission to order a manufacturer of any consumer product to repurchase, repair, or replace any such product in the hands of the consumer which presents a "substantial product hazard."

Thus, while restricting the application of its authority under the FFA to order recall of noncomplying carpets and rugs in the possession of ultimate purchasers to those instances involving noncomplying carpets and rugs shipped by domestic manufacturers or imported into the United States after July 11, 1978, the Commission also stated in the *Barrett* decision that if noncomplying carpets and rugs shipped by domestic manufacturers, or imported into the United States on or before July 11, 1978, present a "substantial product hazard" within the meaning of section 15 of the Consumer Product Safety Act, the Commission could invoke the authority of the Consumer Product Safety Act to order repurchase, repair, or replacement of such carpets and rugs, including carpets and rugs in the possession of ultimate purchasers.

The Commission believes that the enforcement policy expressed in the *Northwick*, *Westland*, and *Barrett* decisions has significance for all manufacturers, distributors, retailers, and consumers of carpet subject to the Standard for the Surface Flammability of Carpets and Rugs. To articulate this policy as clearly as possible, and to make that policy as widely known as possible, the Commission has decided to publish the statement of policy set forth below. Because this is a statement of policy, notice of proposed rulemaking, opportunity for public comment, and a delayed effective date are not required by the Administrative Procedure Act (5 U.S.C. 553(b)). Therefore, the Commission hereby amends Title 16, Chapter II, Subchapter D, Part 1630, by adding a new Subpart D, as follows:

Subpart D—Interpretations and Policies

§ 1630.81 Policy on recall of noncomplying carpets and rugs.

(a) *Purpose.* The purpose of this section is to state the policy of the Commission concerning recall of carpets and rugs which are subject to and fail to comply with the Standard for the Surface Flammability of Carpets and Rugs (FF 1-70) (16 CFR Part 1630, Subpart A). In this policy statement, the Commission reaffirms that provisions of the Flammable Fabrics Act (FFA) authorize recall of any product which fails to comply with an applicable flammability standard issued under that Act. Additionally, this policy statement announces general principles which will be followed by the Commission in exercising the authority contained in the FFA to require recall of carpets and rugs from various levels of distribution, including carpets and rugs in the possession of the ultimate consumer.

(b) *Recall from distributors and retailers.* The Commission will exercise the authority contained in the FFA to order recall of carpets and rugs which fail to comply with the Standard for the Surface Flammability for Carpets and Rugs and which are in the possession of any distributor, retailer, or other person or firm in the chain of distribution, where the facts, including the number and pattern of test failures, indicate that such action is necessary and appropriate.

(c) *Recall from consumers.* (1) In cases involving carpets and rugs distributed in commerce by a domestic manufacturer, or imported into the United States, after July 11, 1978, the Commission will exercise the authority contained in the FFA to order recall of carpets and rugs which fail to comply with the Standard for the Surface Flammability of Carpets and Rugs and which are in the possession of ultimate purchasers, including installed carpet, where the facts, including the number and pattern of test failures, indicate that such action is necessary and appropriate.

(2) The Commission may exercise the authority of section 15 of the Consumer Product Safety Act (15 U.S.C. 2064) to order the repair, replacement, or repurchase of any carpets or rugs in the possession of ultimate purchasers, including installed carpet, if such carpets and rugs present a "substantial product hazard" as that term is used in the Consumer Product Safety Act in any case involving carpets or rugs which were distributed in commerce by a domestic manufacturer or imported into the United States, on or before July 11, 1978, or any time thereafter.

AUTHORITY: Sec. 5, 15 U.S.C. 1194, 67 Stat. 112, June 30, 1953; Sec. 5, 15 U.S.C. 45(b), 38 Stat. 719, Sept. 26, 1914; Sec. 15, 15 U.S.C. 2064, 86 Stat. 1221, Oct. 27, 1972.

Dated: January 2, 1979.

SADYE E. DUNN,
Secretary, Consumer Product Safety Commission.

[FR Doc. 79-824 Filed 1-9-79; 8:45 am]

[4410-09-M]

Title 21—Food and Drugs

CHAPTER II—DRUG ENFORCEMENT ADMINISTRATION, DEPARTMENT OF JUSTICE

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

Placement of Pentazocine Into Schedule IV

AGENCY: Drug Enforcement Administration.

ACTION: Final rule.

SUMMARY: This rule requires that the manufacture, distribution, dispensing; importation and exportation of pentazocine and its salts be subject to the controls provided by the Controlled Substances Act and regulations of the Drug Enforcement Administration, for substances in Schedule IV.

This rule is issued as a result of the Drug Enforcement Administration's request that the Assistant Secretary for Health, Department of Health, Education and Welfare, provide DEA with a scientific and medical evaluation of pentazocine regarding its placement into Schedule IV of the Act, the Assistant Secretary's transmittal of the requested recommendation and evaluation, publication of a Notice of Proposed Rulemaking to place pentazocine into Schedule IV in the FEDERAL REGISTER (43 FR 40884, Sept. 13, 1978), and receipt and review by DEA of comments submitted in response to the published Notice.

DATE: Effective date of schedule IV control: February 9, 1979, except as otherwise provided in Supplementary Information section of this order.

FOR FURTHER INFORMATION CONTACT:

Howard McClain, Jr., Chief, Regulatory Control Division, Office of Compliance and Regulatory Affairs, Drug Enforcement Administration, telephone 202-633-1366.

SUPPLEMENTARY INFORMATION: A notice was published in the FEDERAL REGISTER on September 13, 1978 (43 FR 40884) proposing that the drug pentazocine, and its salts, be placed into Schedule IV of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 801-966), and that Title 21, Code of Federal Regulations (CFR) Section 1308.14 [Schedule IV] be amended accordingly.

All interested persons were given until October 13, 1978, to submit their comments or objections in writing regarding this proposal.

In response to the notice, nine comments were received by DEA. Of these, five were in support of DEA's proposal to place pentazocine in Schedule IV; two, submitted by the South Carolina Bureau of Drug Control, and by the Assistant Director of Pharmacy for the Methodist Hospital, Memphis, Tennessee, advocated pentazocine for Schedule II; one, by Crouse Irving Memorial Hospital, Syracuse, New York, was informational and advisory; and one, by Sterling Drug Inc., manufacturer of Talwin brand of pentazocine, set forth comments, objections and two requests for hearings concerning Talwin Compound, which is pentazocine combined with aspirin, and butorphanol, a drug newly marketed as an analgesic and currently not a controlled substance.

All the comments thus submitted were reviewed and considered by the Drug Enforcement Administration, and especially noted are the comments, data and materials provided by the Rhode Island Department of Health, Crouse Irving Memorial Hospital, the State of Wisconsin Controlled Substances Board, and the South Carolina Bureau of Drug Control; these submissions were especially helpful in providing profiles of pentazocine abuse cases and a heightened perspective of patterns of pentazocine abuse potential. Although this information and data could well support more stringent controls for pentazocine than are established by this Order, it all is being retained by DEA for use as a basis for further control of pentazocine if, in the future, more stringent controls for the drug are warranted. As to the aforementioned letter filed with DEA by Sterling Drug Inc., it has been reviewed by the Administrator, who has determined that it fails to present reasonable grounds for the proposed rulemaking concerning pentazocine not to be finalized. Sterling Drug Inc. has been notified of this action by letter, dated December 22, 1978.

Additionally, South Carolina, in commenting on the DEA proposal, objected to that proposal and disputed the Schedule IV findings regarding po-

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tential for abuse and dependence by the Administrator as set forth therein. South Carolina provided additional information which it asserted would support the findings necessary for placing pentazocine in Schedule II, and advocated that the Administrator issue a proposed rule to that effect.

As noted above, DEA is retaining the information submitted by South Carolina in this regard for possible future use, and has notified the South Carolina Bureau of Drug Control accordingly.

Finally, of historical note, on October 5, 1971, a petition was filed with the Bureau of Narcotics and Dangerous Drugs, predecessor agency to DEA, to place injectable liquid pentazocine into Schedule III of the Act. The petition was filed by Joseph L. Fink, III, then a law student, and six other persons. In respect of the petition, a notice was published in the FEDERAL REGISTER on November 10, 1971, which advised that their petition had been accepted for filing and BNDD would conduct a review thereof to determine if the requested rulemaking proceedings should be initiated.

In view of the August 30, 1978, recommendation and evaluation received from the Assistant Secretary for Health concerning pentazocine, and the instant order issued today in respect thereof listing pentazocine in Schedule IV, the October 5, 1971, petition is hereby denied pending receipt by the Administrator of additional information from petitioners or any other interested person or persons which justifies initiating proceedings to transfer the injectable liquid form of pentazocine from Schedule IV to Schedule III.

No further comments nor objections were received, nor were there any other requests for a hearing, and in view thereof, and based upon the investigations and review of the Drug Enforcement Administration and upon the scientific and medical evaluation and recommendation of the Assistant Secretary for Health in behalf of the Secretary of Health, Education, and Welfare, received pursuant to Sections 201(a) and 201(b) of the Act (21 U.S.C. 811(a) and 811(b)), the Administrator of the Drug Enforcement Administration finds that:

1. Based on information now available, pentazocine has a low potential for abuse relative to the drugs or other substances currently listed in Schedule III.

2. Pentazocine has a currently accepted medical use in treatment in the United States.

3. Abuse of pentazocine may lead to limited physical dependence or psychological dependence relative to the drugs or other substances in Schedule III.

Therefore, under the authority vested in him by the Act and regulations of the Department of Justice, the Administrator of the Drug Enforcement Administration hereby orders that § 1308.14(f) of title 21 of the Code of Federal Regulations (CFR) be amended to read:

§ 1308.14 Schedule IV.

* * * * *

(f) *Other substances.* Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances, including its salts:

* * * * *

(2) Pentazocine 9709

EFFECTIVE DATES

1. *Registration.* Any person who manufactures, distributes, dispenses, imports or exports, pentazocine, or who proposes to engage in such activities, shall submit an application for registration to conduct such activities in accordance with Parts 1301 and 1311 of Title 21 of the Code of Federal Regulations on or before February 9, 1979.

2. *Security.* Pentazocine must be manufactured, distributed, and stored in accordance with §§ 1301.71, 1301.72(b)-(d), 1301.73, 1301.74(a)-(f), 1301.75(b)-(c), and 1301.76 of Title 21 of the Code of Federal Regulations on or before July 9, 1979. From now until the effective date of this provision, it is expected that manufacturers and distributors of pentazocine will initiate whatever preparations as may be necessary, including undertaking handling and engineering studies and constructions programs, in order to provide adequate security for pentazocine in accordance with DEA regulations so that substantial compliance with this provision can be met by (180 days after date of publication). In the event that this imposes special hardships, the Drug Enforcement Administration will entertain any justified requests for extensions of time.

3. *Labeling and packaging.* All labels on commercial containers of, and all labeling of pentazocine packaged after July 9, 1979, shall comply with the requirements of § 1302.03-1302.05 and 1302.08 of Title 21 of the Code of Federal Regulations. In the event this effective date imposes special hardships on any manufacturer, as defined in Section 102(14) of the Controlled Substances Act (21 U.S.C. 802(14)), the Drug Enforcement Administration will entertain any justified requests for an extension of time.

4. *Inventory.* Every registrant required to keep records who possesses any quantity of pentazocine shall take an inventory prusuant to § 1304.11-1304.19 of Title 21 of the Code of Federal Regulations, of all stocks of such substances on hand, February 9, 1979.

5. *Records.* All registrants required to keep records pursuant to § 1304.21-1304.27 of Title 21 of the Code of Federal Regulations shall maintain such records on pentazocine commencing on the date on which the inventory of such substances is required to be taken.

6. *Prescriptions.* All prescriptions for products containing pentazocine shall comply with §§ 1306.01-1306.06 and §§ 1306.21-1306.25 of Title 21 of the Code of Federal Regulations, beginning February 9, 1979. All prescriptions for products containing such substances issued before February 9, 1979, if authorized for refilling, shall as of that date be limited to five refills and shall not be refilled after August 8, 1979.

7. *Importation and exportation.* All importation and exportation of pentazocine shall, on or after February 9, 1979, be required to be in compliance with Part 1312 of Title 21 of the Code of Federal Regulations.

8. *Criminal liability.* The Administrator, Drug Enforcement Administration, hereby orders that any activity with respect to pentazocine not authorized by, or in violation of, the Controlled Substances Act or the Controlled Substances Import and Export Act, conducted after February 9, 1979, shall be unlawful, except that any person who is not now registered to handle this substance but who is entitled to registration under such Acts may continue to conduct normal business or professional practice with pentazocine under this authority between the date on which this Order is published and the date on which he obtains or is denied registration.

9. *Other.* In all other respects, this Order is effective February 9, 1979.

Dated: January 4, 1979.

PETER B. BENSINGER,
Administrator.

[FR Doc. 79-898 Filed 1-9-79; 8:45 am]

[4910-22-M]

Title 23—Highways

CHAPTER I—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER G—ENGINEERING AND TRAFFIC OPERATIONS

[FHWA Docket No. 78-28]

PART 637—CONSTRUCTION INSPECTION AND APPROVAL

Sampling and Testing of Materials and Construction; Revision

AGENCY: Federal Highway Administration, DOT.

ACTION: Final rule.

SUMMARY: This document simplifies the existing policy and procedures on construction inspection and approval which provides for an assessment of the quality and quantity control of materials and units of work to assure that each project is completed in reasonably close conformity with the approved plans and specifications.

DATES: Effective date: January 11, 1979. Comments must be received on or before April 10, 1979.

ADDRESS: Submit comments, preferably in triplicate, to FHWA Docket No. 78-28, Federal Highway Administration, Room 4205, HCC-10, 400 Seventh Street, SW., Washington, D.C. 20590. All comments and suggestions received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m. ET, Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Ross E. Martinez, Construction and Maintenance Division, Office of Highway Operations, 202-426-0420; or Virginia Cherwek, Office of the Chief Counsel, 202-426-0786; Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: The existing regulations were originally published at 39 FR 35649 on October 3, 1974. The revision codifies material contained in the Federal-Aid Highway Program Manual, volume 6, chapter 4, section 2, subsection 7.[1] The regulation simplifies the existing policy and procedures to conform to the recommendations of the Federal Highway Administration (FHWA) policy on minimization of redtape (43 FR 10578, March 14, 1978). This regulation does not contain significant additions to previous requirements nor substantial cost effect.

Anyone wishing to submit written comments related to this regulation is advised to submit them to FHWA Docket No. 78-28. These comments may be considered as a request for rule revision, if necessary, and will be utilized in processing future amendments to this regulation.

NOTE.—The Federal Highway Administration has determined that this document does not contain a major proposal according to the criteria established by the Department of Transportation pursuant to Executive Order 12044.

Issued on: December 26, 1978.

L. P. LAMM,
Acting Federal Highway Administrator.

Part 637, Subpart B of Chapter I, Title 23, Code of Federal Regulations, is revised to read as follows:

Subpart B—Sampling and Testing of Materials and Constuction

Sec.
637.201 Purpose.
637.203 Definitions.
637.205 Policy.
637.207 Procedure.

Appendix A—Guide letter of certification by State engineer.

AUTHORITY: 23 U.S.C. §§ 114, 204, 206, 209, 210, and 315; 49 CFR 1.48(b).

Subpart B—Sampling and Testing of Materials and Construction

§ 637.201 Purpose.

The purpose of this regulation is to prescribe policies, procedures, and guides relating to sampling and testing of materials and construction in Federal-aid highway projects, except those constructed pursuant to 23 U.S.C. section 117.

§ 637.203 Definitions.

(a) The term "acceptance samples and tests" means all of the samples and tests used for determining the quality and acceptability of the materials and workmanship which have been or are being incorporated in the project.

(b) The term "independent assurance samples and tests" means independent samples and tests or other procedure performed by State personnel who do not normally have direct responsibility for process control and acceptance sampling and testing. They are used for the purpose of making independent checks on the reliability of the results obtained in acceptance sampling and testing.

(c) The term "National Reference Laboratories" means the American Association of State Highway and Transportation Officials (AASHTO) Materials Reference Laboratory (AMRL) and the Cement and Concrete Reference Laboratory (CCRL), each operated by the National Bureau of Standards.

§ 637.205 Policy.

(a) *Sampling and Testing Program.* It is the policy of the Federal Highway Administration (FHWA) that each State highway agency shall develop a sampling and testing program which will provide adequate assurance that the materials and workmanship incorporated in each Federal-aid highway construction project are in reasonably close conformity with the requirements of the approved plans and specifications including approved changes. The program shall have provisions for acceptance and independent assurance samples and tests. The program shall be approved by FHWA.

(b) *National Reference Laboratories.* It is the policy of FHWA to encourage all State highway agencies to participate in each regular inspection tour and comparative sample testing program of the CCRL and AMRL.

§ 637.207 Procedure.

Each State's acceptance and independent assurance sampling and testing program shall provide for the following:

(a) The point in the construction process at which sampling and testing is to be done.

(b) A guide schedule for sampling and testing materials which will give general guidance to personnel responsible for the program yet give them reasonable latitude for adaption to specific project needs.

(c) A reasonable portion of the independent assurance sampling and testing be performed by personnel who have no direct responsibility for acceptance sampling and testing using test equipment other than that assigned to the project. The program may permit the remainder of the independent samples and tests to be accomplished by independent observation of the acceptance sampling and testing or with the use of project assigned equipment.

(d) A prompt comparison of acceptance test results with independent assurance test results.

(e) The preparation and submission of a material certification conforming in substance to Appendix A of this regulation to the FHWA Division Administrator for each constuction project.

APPENDIX A

(GUIDE LETTER OF CERTIFICATION BY STATE ENGINEER)

Date _____
Project No. _____
This is to certify that:

The results of the tests on acceptance samples indicate that the materials incorporated in the construction work and the construction operations controlled by sampling and testing were in reasonably close conformity with the approved plans and specifi-

[1] This document is available for inspection and copying as prescribed in 49 CFR Part 7, Appendix D.

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cations, and such results compare favorably with the results of independent assurance sampling and testing.
Exceptions to this certification are documented in the project records.

Director of Laboratory
or other
Appropriate State Official

[FR Doc. 79-872 Filed 1-9-79; 8:45 am]

[4310-84-M]

Title 43—Public Lands: Interior

CHAPTER II—BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

SUBCHAPTER D—RANGE MANAGEMENT (4000)

[Circular No. 2440]

PART 4100—GRAZING ADMINISTRATION

Authorizing Grazing Use—Payment of Fees

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking establishes the formula for computing grazing fees for public rangelands. The Public Rangelands Improvement Act of 1978 provides for a specific grazing fee formula for public rangelands. The intended effect is to adjust the grazing fee to fair market value in accordance with the statutory grazing fee formula.

DATE: Effective March 1, 1979.

ADDRESS: Director (330), Bureau of Land Management, 1800 C Street, N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Mr. Ronald J. Younger, 202-343-6011.

SUPPLEMENTAL INFORMATION: The principal author of this document is Ronald J. Younger of the Washington Office, Division of Range Management, assisted by Billy R. Templeton of the Division of Legislation and Regulatory Management.

Proposed rulemaking relating to grazing fees was published jointly by the Forest Service and the Bureau of Land Management on pages 60108 through 60110 of the FEDERAL REGISTER on November 23, 1977. Written comments were invited through February 21, 1978, and six public meetings were held in five Western States to provide an opportunity for public input. Comments received by both the Forest Service and the Bureau of Land Management have been considered. These comments are summarized as follows:

Individual comments were received by mail from 13 units of State and local government, 55 special interest groups, and 434 individuals. The comments came from 41 States and Washington, D.C.

Additionally, four petitions bearing a total of 299 names were received.

The public meetings were attended by 476 persons. There were representatives speaking for 31 special interest groups and nine units of State and local government.

SUMMARY OF GENERAL COMMENTS

Those who favored the proposed rulemaking offered the following comments:

1. The proposed grazing fee increase is a means to achieve the objectives of range improvement, wildlife habitat improvement, and range and habitat maintenance. To some, the objective is served by generation of additional moneys for improvements through the "Range Betterment Fund" provisions of the Federal Land Policy and Management Act, (43 U.S.C. 1701, 1751); to others, the objective is served by decreasing the desirability for grazing livestock through higher fees.

2. The general public is entitled to receive fair market value for the use of the public resources.

3. Unless fair market value is charged for public grazing, those who have public grazing leases and permits enjoy an unfair competitive advantage over other livestock producers.

4. The procedure used to determine fair market value is appropriate.

Those who opposed the proposed rulemaking offered the following general comments:

1. Any increase in grazing fees would add an additional financial burden to an industry already burdened at this time by a depressed market for its products and trying to recover from drought-caused financial losses.

2. Few direct objections were offered to the concept of paying fair market value for the use of public resources. However, many objected to the procedures used to determine fair market value.. Others believed that they are already paying fair market value, if all factors they consider pertinent would be considered in the determination of fair market value.

SPECIFIC COMMENTS AND RESPONSE

1. A considerable number of comments compared the "Technical Committee proposal" to the proposed regulation. Individuals and groups making these comparisons cited their estimate of the shortcomings in the proposed regulation and suggested replacement of the proposed regulation with the "Technical Committee proposal."

2. It was suggested that a two-tier grazing fee be adopted that would allow a lower fee for livestockmen who would guarantee access to public lands for recreation users.

3. It was suggested that public rangelands be open to competitive bidding to allow any interested person an equal chance to use public rangelands and to assure that fair market value is collected for livestock grazing.

4. It was suggested that the fee should be a variable fee based upon age and weight classes of animals. For example, a yearling consumes less forage than a cow with a calf and, therefore, it was suggested the fee should be lower.

5. Inclusion of permit value as a factor in determining (reducing) the grazing fee was suggested.

6. It was suggested that a variable fee be developed based upon forage production and nutritional value of forage.

7. It was suggested that fair market value be adjusted to account for differences in the cost of livestock operations on private land as compared to costs on public lands.

8. It was suggested that an allowance or credit be given to the permittees in return for permittee contributions to the construction of improvements and for maintaining improvements.

9. A schedule was suggested for a variable fee based upon the current season stocking rate and recent livestock prices. By this schedule, the fee per animal unit month would change by a fixed factor each time an increase or decrease in grazing capacity of one acre per animal unit month occurred and the fee would also change by a fixed amount each time the price per hundredweight of beef increased or decreased by one dollar.

10. It was suggested that permittees be required to post a performance bond to ensure protection of the range and rehabilitation of any damaged areas. This suggestion is not adopted. Livestock operations are generally stable, long-term operations and provisions of existing law and regulations (including cancellation of the grazing permit) are more appropriate means of reaching range improvement objectives than bonding.

The many thoughtful comments received on the proposed rulemaking are appreciated. However, a grazing fee formula was established in the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901). This final rulemaking has been prepared in accordance with that Act.

STATUTORY FEE FORMULA ADOPTED BY CONGRESS

Before final rules were adopted, a moratorium on any change in grazing fees for the 1978 grazing season was imposed by the Congress to provide additional time to study the issue. Then on October 25, 1978, the Public Rangelands Improvement Act (43 U.S.C. 1901) was signed into law. Section 6(a) of the Act adopted the fee formula known as the "Technical Committee Formula." The section 6(a) grazing fee formula may be expressed mathematically as follows:

Grazing Fee = $1.23 [FVI + (BCPI − PPI)]/100

The components of the formula are:

$1.23 = fair market value for base period 1964-1968.
FVI = Forage Value Index
BCPI = Beef Cattle Price Index
PPI = Prices Paid Index

The following data series, as suggested by the Technical Committee Report, will be used for the component values in the Congressional grazing fee formula.

The economic value of $1.23 established by the 1966 Western Livestock Grazing Survey for the base years 1964-1968 represents the difference between total cost associated with livestock grazing use of private leased grazing lands and total nonfee costs associated with livestock grazing use of allotments on Federal lands administered by the Forest Service and by the Bureau of Land Management in the Western States. The general items of cost included are: loss of animals, veterinary costs, movement of livestock to and from public or private grazing areas, herding and movement of livestock while on the grazing area., salting and feeding, travel by personnel to and from public or private grazing areas, pumping or hauling of water, horse use in movement and management of livestock, maintenance of fences and water facilities, depreciation of fences and other permanent structures, other miscellaneous costs, and costs paid through associations. In addition, payments to the landlord (the grazing lease rate) are included in the cost of using private grazing lands.

Forage Value Index (FVI) represents the annual change in private grazing lease rates from the 1964-1968 base years as collected by USDA using the June Enumerative Survey. The private lease rate value of $3.65 per animal unit month from the base period of 1964-1968 will continue to be the proper base value for the index of forage value.

Data year	Private grazing lease rate	Forage value index
1964-1968	3.65	100
1977	7.29	200
1978	7.11	195

The Beef Cattle Price Index (BCPI) represents the annual change in beef cattle prices in the 11-Western States compared with the base period (1964-1968) price of $22.04 per hundredweight. This data is collected by USDA for a calendar year of November-October and is composed of a weighted average beef cattle (excluding calves) price for the 11-Western States. The selection of the November calendar year does require a special tabulation but the basic price data are those normally published by ESCS in the *Agriculture Prices* series. The weighting by States is based on the volume (pounds liveweight) of marketings.

Data price year	Beef cattle price dol/cwt	Beef cattle price index
1964-1968	22.04	100
1969	27.00	123
1970	29.50	134
1971	29.50	134
1972	36.80	167
1973	43.00	195
1974	39.20	178
1975	35.20	160
1976	36.10	164
1977	36.00	163
1978	47.60	216

The Prices Paid Index (PPI) is developed from selected subindexes of the official USDA, ESCS index of prices paid with weights based on the Cost of Production Survey (COPS). It is an annual index on a November through October calendar year with a base period of 1964-1968 equal 100.

Date year	Prices paid index
1964-1968	100
1969	113
1970	118
1971	124
1972	130
1973	140
1974	168
1975	198
1976	215
1977	230
1978	246

The calendar year November through October was selected for the purpose of using the most recent data for determination of grazing fees. The grazing fee year starts on March 1 and a period of 4 months is needed to assess the data, compute the fee, publish the fee schedule in the FEDERAL REGISTER, compute the grazing billings, transmit the billings to the permittees, and collect the fees in advance of actual grazing use.

Utilizing the 1978 data year component values in the Congressional grazing fee formula results in an economic value grazing fee for the 1979 fee year of $2.03 per animal unit month (AUM):

$$\$1.23\ \frac{[195+(216-246)]}{100}=\$2.03/\text{AUM}$$

The 1979 grazing fee cannot exceed 25 percentum of the 1978 grazing fee; therefore, under this proposal the 1978 fee of $1.51 for BLM public domain lands is increased by 25 percentum to $1.89 per AUM for 1979. The higher grazing fees on some Bankhead-Jones lands and public lands in Western Oregon are also increased 25 percentum for 1979.

Other Federal land such as lands under the jurisdiction of the Department of Army and Veterans Administration, where livestock grazing is managed by BLM under interagency agreements, are not covered by the Public Rangelands Improvement Act of 1978. Competitive bidding will continue to be employed on these areas to establish value for livestock use of the land.

Fees for the grazing years 1979 through 1985 shall be established annually by the Secretary based on the grazing fee formula in the Public Rangelands Improvement Act of 1978. Starting in 1979, grazing fees shall be adjusted annually to the computed economic value subject only to the provision that adjustments shall be limited to not more than plus or minus 25 percentum of the previous year's fee.

Under the authority of the Taylor Grazing Act of 1934 as amended (43 U.S.C. 315); the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1751); and the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901), § 4130.5-1, Subpart 4130, Part 4100, Subchapter D, Chapter II, Title 43 of the Code of Federal Regulations is amended as set forth below.

GARY J. WICKS,
Acting Assistant Secretary of the Interior.

JANUARY 4, 1979.

1. Section 4130.5-1 is amended by adding paragraph (a) to read as follows:

§ 4130.5-1 Payment of fees.

(a) Grazing fees shall be established annually by the Secretary based upon the grazing fee formula in the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901).

$$\text{Economic Value (Grazing Fee)}=\$1.23\ \frac{[FVI+(BCPI-PPI)]}{100}$$

The components of the formula are:

$1.23 = fair market value for base period 1964–1968.
FVI = Forage Value Index
BCPI = Beef Cattle Price Index
PPI = Prices Paid Index

Grazing fees shall be adjusted annually to the computed economic value; subject only to the provision that adjustments, either increases or decreases, shall not be more than 25 percent of the previous year's grazing fee.

[FR Doc. 79-843 Filed 1-9-79; 8:45 am]

[4910-06-M]

Title 49—Transportation

CHAPTER II—FEDERAL RAILROAD ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. RSOR-3, Notice No. 18]

PART 218—RAILROAD OPERATING RULES

Blue Signal Protection of Workmen

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Amendment to final rule.

SUMMARY: Part 218 prescribes minimum requirements for certain operating rules utilized by railroads in conducting train operations. This notice amends the requirements for blue signal protection to be afforded workmen engaged in the inspection, repair, testing and servicing of railroad rolling equipment.

DATES: This amendment is effective on January 31, 1979.

FOR FURTHER INFORMATION CONTACT:

PRINCIPAL AUTHORS

Principal Program Person: John A. McNally, Office of Safety, Washington, D.C. 20590. Phone (202) 426-9179.

Principal Attorney: Lawrence I. Wagner, Office of the Chief Counsel, Washington, D.C. 20590. Phone (202) 426-8836.

SUPPLEMENTARY INFORMATION: On October 2, 1978, FRA published an NPRM proposing to revise those provisions of Part 218 that relate to the blue signal protection to be afforded workmen engaged in the inspection, repair, testing and servicing of rolling equipment (43 FR 45416). The purpose of the proposed amendment is to resolve all of the known outstanding issues associated with the existing regulation.

COMMENTERS VIEWS

FRA solicited written comments and views on the proposed changes and indicated that a public hearing would be provided if FRA received a request for such a hearing. FRA did not receive a request for a public hearing and received only four written comments in response to the NPRM. The commenters all expressed support for the proposed changes and two commenters urged rapid action by FRA to adopt the proposal as a final rule. Only one commenter, a manufacturer of derails, urged a change in the regulatory language of the NPRM. This commenter suggested that higher speeds be permitted on tracks where a derail is used to provide protection for workmen. In support of this suggestion, the commenter indicated that field testing had demonstrated the ability of some of its devices to function as intended at speeds greater than 20 miles per hour.

FRA ANALYSIS OF COMMENTS

The low operating speed proposed by FRA pertains only to those specific instances in which a derail is located approximately 50 feet from the area where the workmen are performing tasks on rolling equipment. The low speed provision in this instance is intended to assure that rolling equipment will not travel more than 50 feet after derailment. FRA is concerned that, if rolling equipment encountered a derail at greater speeds, the equipment could endanger workmen in the area beyond the prescribed 50 foot buffer zone. Similarly in those instances where the buffer zone is increased to a distance of 150 feet, this speed restriction is not applicable. Since the distance travelled after derailment, not the effectiveness of a derail, is the safety concern addressed by the speed restriction, FRA has not adopted the change suggested by the derail manufacturer.

After consideration of the comments received, FRA has decided to adopt the regulation basically as it was proposed. However, FRA has made some technical language changes in the final rule. These changes are clarifying in nature.

In the preamble to the NPRM, FRA provided a section by section analysis of the proposed regulation. In view of the limited technical changes being made that analysis is not being repeated in its entirety. However, FRA does wish to point out the changes made in adopting the final rule.

In § 218.5, FRA has added paragraphs (k), (l) and (m). These paragraphs contain definitions that are pertinent to Subpart C of Part 218. They are currently contained in paragraphs (e), (f) and (g) of § 218.5 and have merely been renumbered and restated. In § 218.29, FRA has reworded the proposed language to eliminate cross references to other sections and to make it more understandable. Finally, § 218.31 of the proposed regulation has been renumbered as § 218.30 of the final rule. In addition, clarifying and conforming changes have been made in §§ 218.3(a)(2); 218.5(d)(3) and (j); 218.23(a); 218.25(a) and (b); 218.27(b), (c) and (d); 218.29; 218.30 and Appendix A.

The revision being adopted by FRA will serve to relieve an existing group of restrictions. Therefore, in accordance with the provisions of section 553 of the Administrative Procedure Act (5 U.S.C 553), this amendment is being made effective in less than 30 days after publication.

ECONOMIC IMPACT

FRA has reviewed its prior analysis of the economic impact of this proposal in light of the comments received in this proceeding and FRA has determined that this notice does not contain a significant regulatory proposal. Therefore, a Regulatory Analysis under Executive Order 12044 is not required (E.O. 12044, 43 FR 12661, March 24, 1978).

In addition, FRA has evaluated this final rule in accordance with DOT's existing and proposed policies for the evaluation of regulatory impacts. Since the regulation being adopted will not impose any additional requirements and will permit some cost savings to the railroads, as well as providing some unquantifiable benefits by improving the safety of railroad workers, FRA concluded that the regulatory proposal contained in this notice would have no measurable regulatory impact and that a detailed evaluation is not warranted. (Policies and Procedures for Simplification, Analysis, and Review of Regulations, 43 FR 9582, March 8, 1978; Proposed Regulatory Policies and Procedures, 43 FR 23925, June 1, 1978).

In consideration of the foregoing, Part 218, of Title 49 of the Code of Federal Regulations is amended as set forth below.

1. By amending the Table of Contents at the beginning of Part 218 to read as follows:

PART 218—RAILROAD OPERATING RULES

Subpart A—General

Sec.
218.1 Purpose.
218.3 Application.
218.5 Definitions.
218.7 Waivers.
218.9 Civil penalty.
218.11 Filing, testing and instruction.

Subpart B—Blue Signal Protection of Workmen

218.21 Scope.
218.23 Blue signal display.
218.25 Workmen on a main track.
218.27 Workmen on track other than main track.
218.29 Alternate methods of protection.
218.30 Remotely controlled switches.

Subpart C—Protection of Trains and Locomotives

218.31 Scope.
218.35 Yard limits.
218.37 Flag protection.

Appendix A—Schedule of Civil Penalties

AUTHORITY: Sec. 202, 84 Stat 971 (45 U.S.C. 431); Sec. 1.49(n) of the regulation of the Office of the Secretary of Transportation, 49 CFR 1.49(n)

2. By amending Subparts A and B to read as follows:

Subpart A—General

§ 218.1 Purpose.

This part prescribes minimum requirements for railroad operating rules and practices. Each railroad may prescribe additional or more stringent requirements in its operating rules, timetables, timetable special instructions, and other special instructions.

§ 218.3 Application.

(a) Except as provided in paragraph (b) of this Section, this part applies to railroads that operate rolling equipment on standard gage track which is part of the general railroad system of transportation.

(b) This part does not apply to—

(1) A railroad that operates only on track inside an installation which is not part of the general railroad system of transportation, or

(2) A railroad that operates only on track used exclusively for rapid transit, commuter, or other short-haul passenger service in a metropolitan or suburban area.

§ 218.5 Definitions.

As used in this part—

(a) "Workman" means railroad employees assigned to inspect, test, repair, or service railroad rolling equipment, or their components including brake systems. Train and yard crews are excluded except when assigned to perform such work on railroad rolling equipment that is not part of the train or yard movement they have been called to operate.

NOTE.—"Servicing" does not include supplying cabooses, locomotives, or passenger cars with items such as ice, drinking water, tools, sanitary supplies, stationery, or flagging equipment.

"Testing" does not include visual observations made by an employee positioned inside or alongside a caboose, locomotive, or passenger car.

(b) "Rolling equipment" includes locomotives, railroad cars, and one or more locomotives coupled to one or more cars.

(c) "Blue Signal" means a clearly distinguishable blue flag or blue light by day and a blue light at night. When attached to the operating controls of a locomotive, it need not be lighted if the inside of the cab area of the locomotive is sufficiently lighted so as to make the blue signal clearly distinguishable.

(d) "Effective Locking Device" when used in relation to a manually operated switch or a derail means one which is: (1) Vandal resistant; (2) tamper resistant; and (3) capable of being locked and unlocked only by the class, craft or group of employees for whom the protection is being provided.

(e) "Car shop repair track area" means one or more tracks within an area in which the testing, servicing, repair, inspection, or rebuilding of railroad rolling equipment is under the exclusive control of mechanical department personnel.

(f) "Locomotive servicing track area" means one or more tracks, within an area in which the testing, servicing, repair, inspection, or rebuilding of locomotives is under the exclusive control of mechanical department personnel.

(g) "Main Track" means a track, other than an auxiliary track, extending through yards or between stations, upon which trains are operated by timetable or train order or both, or the use of which is governed by a signal system.

(h) "Locomotive" means a self-propelled unit of equipment designed for moving other equipment in revenue service including a self-propelled unit designed to carry freight or passenger traffic, or both, and may consist of one or more units operated from a single control.

(i) "Switch providing access" means a switch which if traversed by rolling equipment could permit that rolling equipment to couple to the equipment being protected.

(j) "Group of workmen" means two or more workmen of the same or different crafts assigned to work together as a unit under a common authority and who are in communication with each other while the work is being done.

(k) "Interlocking" means the tracks between the opposing home signals of an interlocking.

(l) "Flagman's signals" means a red flag by day and a white light at night, and a specified number of torpedoes and fusees as prescribed in the railroad's operating rules.

(m) "Absolute block" means a block in which no train is permitted to enter while it is occupied by another train.

§ 218.7 Waivers.

(a) A railroad may petition the Federal Railroad Administration for a waiver of compliance with any requirement prescribed in this part.

(b) Each petition for a waiver under this section must be filed in the manner and contain the information required by Part 211 of this chapter.

(c) If the Administrator finds that waiver of compliance is in the public interest and is consistent with railroad safety, he may grant the waiver subject to any conditions he deems necessary. Notice of each waiver granted, including a statement of the reasons, therefore, is published in the FEDERAL REGISTER.

§ 218.9 Civil penalty.

Each railroad to which this part applies that violates any requirement prescribed by this part is liable to a civil penalty of at least $250, but not more than $2,500 for each violation. Each day of each violation constitutes a separate offense.

§ 218.11 Filing, testing, and instruction.

The operating rules prescribed in this part, and any additional or more stringent requirements issued by a railroad in relation to the operating rules prescribed in this part, shall be subject to the provisions of Part 217 of this chapter, Railroad Operating Rules: Filing, Testing, and Instruction.

Subpart B—Blue Signal Protection of Workmen

§ 218.21 Scope.

This subpart prescribes minimum requirements for the protection of railroad employees engaged in the inspection, testing, repair, and servicing of rolling equipment whose activities require them to work on, under, or between such equipment and subjects them to the danger of personal injury posed by any movement of such equipment.

§ 218.23 Blue signal display.

(a) Blue Signals displayed in accordance with §§ 218.25, 218.27, or 218.29 signify that workmen are on, under, or between rolling equipment. When so displayed—

(1) The equipment may not be coupled to;

(2) The equipment may not be moved, except as provided for in § 218.29;

(3) Other rolling equipment may not be placed on the same track so as to reduce or block the view of a blue signal, except as provided for in § 218.29 (a), (b) and (c); and

(4) Rolling equipment may not pass a displayed blue signal.

(b) Blue Signals must be displayed in accordance with §§ 218.25, 218.27, or

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218.29 by each craft or group of workmen prior to their going on, under, or between rolling equipment and may only be removed by the same craft or group that displayed them.

§ 218.25 Workmen on a main track.

When workmen are on, under, or between rolling equipment on a main track:

(a) A blue signal must be displayed at each end of the rolling equipment; and

(b) If the rolling equipment to be protected includes one or more locomotives, a blue signal must be attached to the controlling locomotive at a location where it is readily visible to the engineman or operator at the controls of that locomotive.

(c) When emergency repair work is to be done on, under, or between a locomotive or one or more cars coupled to a locomotive, and blue signals are not available, the engineman or operator must be notified and effective measures must be taken to protect the railroad employees making the repairs.

§ 218.27 Workmen on track other than main track.

When workmen are on, under, or between rolling equipment on track other than main track—

(a) A blue signal must be displayed at or near each manually operated switch providing access to that track;

(b) Each manually operated switch providing access to the track on which the equipment is located must be lined against movement to that track and locked with an effective locking device; and

(c) The person in charge of the workmen must have notified the operator of any remotely controlled switch that work is to be performed and have been informed by the operator that each remotely controlled switch providing access to the track on which the equipment is located has been lined against movement to that track and locked as prescribed in § 218.30.

(d) If rolling equipment requiring blue signal protection as provided for in this section is on a track equipped with one or more crossovers, both switches of each crossover must be lined against movement through the crossover toward that rolling equipment, and the switch of each crossover that provides access to the rolling equipment must be protected in accordance with the provisions of subsections (a) and (b), or (c) of this section.

(e) If the rolling equipment to be protected includes one or more locomotives, a blue signal must be attached to the controlling locomotive at a location where it is readily visible to the engineman or operator at the controls of that locomotive.

§ 218.29 Alternate methods of protection.

Instead of providing blue signal protection for workmen in accordance with § 218.27, the following methods for blue signal protection may be used:

(a) When workmen are on, under, or between rolling equipment in a locomotive servicing track area:

(1) A blue signal must be displayed at or near each switch providing entrance to or departure from the area;
(2) Each switch providing entrance to or departure from the area must be lined against the movement to the area locked with an effective locking device; and
(3) A blue signal must attached to each controlling locomotive at a location where it is readily visible to the engineman or operator at the controls of that locomotive;
(4) If the speed within this area is restricted to not more than 5 miles per hour a derail, capable of restricting access to that portion of a track within within the area on which the rolling equipment is located, will fulfill the requirements of a manually operated switch in compliance with subparagraph (2) of this paragraph when positioned at least 50 feet from the end of the equipment to be protected by the blue signal, when locked in a derailing position with an effective locking device, and when a blue signal is displayed at the derail;
(5) A locomotive may be moved onto a locomotive servicing area track after the blue signal has been removed from the entrance switch to the area. However, the locomotive must be stopped short of coupling to another locomotive;
(6) A locomotive may be moved off of a locomotive servicing area track after the blue signal has been removed from the controlling locomotive to be moved and from the area departure switch;
(7) If operated by an authorized employee under the direction of the person in charge of the workmen, a locomotive protected by blue signals may be repositioned within this area after the blue signal has been removed from the locomotive to be repositioned and the workmen on the affected track have been notified of the movement; and
(8) Blue signal protection removed for the movement of locomotives as provided in subparagraphs (5) and (6) of this paragraph must be restored immediately after the locomotive has cleared the switch.

(b) When workmen are on, under, or between rolling equipment in a car shop repair track area:

(1) A blue signal must be displayed at or near each switch providing entrance to or departure from the area; and
(2) Each switch providing entrance to or departure from the area must be lined against movement to the area and locked with an effective locking device;
(3) If the speed within this area is restricted to not more than 5 miles per hour, a derail capable of restricting access to that portion of a track within the area on which the rolling equipment is located will fulfill the requirements of a manually operated switch in compliance with subparagraph (2) of this paragraph when positioned at least 50 feet from the end of the equipment to be protected by the blue signal, when locked in a derailing position with an effective locking device and when a blue signal is displayed at the derail;
(4) If operated by an authorized employee under the direction of the person in charge of the workemen, a car mover may be used to reposition rolling equipment within this area after workmen on the affected track have been notified of the movement.

(c) Except as provided in paragraph (a) and (b) of this section, when workmen are on, under, or between rolling equipment on any track, other than a main track:

(1) A derail capable of restricting access to that portion of the track on which such equipment is located, will fulfill the requirements of a manually operated switch when positioned no less than 150 feet from the end so such equipment; and
(2) Each derail must be locked in a derailing position with an effective locking device and a blue signal must be displayed at each derail.

(d) When emergency repair work is to be done on, under, or between a locomotive or one or more cars coupled to a locomotive, and blue signals are not available, the engineman or operator at the controls of that locomotive must be notified and effective measures must be taken to protect the workmen making the repairs.

§ 218.30 Remotely controlled switches.

(a) After the operator of the remotely controlled switches has received the notification required by § 218.27(c), he must line each remotely controlled switch against movement to that track and apply an effective locking device to the lever, button, or other device controlling the switch before he may inform the employee in charge of the workmen that protection has been provided.

(b) The operator may not remove the locking device unless he has been informed by the person in charge of the workmen that it is safe to do so.

(c) The operator must maintain for 30 days a written record of each notification which contains the following information:

(1) The date and time the operator received notification of the work to be performed;
(2) The name and craft of the employee in charge who provided the notification;
(3) The number or other designation of the track involved;
(4) The date and time the operator notified the employee in charge that protection had been provided in accordance with paragraph (a) of this section; and
(5) The date and time the operator was informed that the work had been completed, and the name and craft of the employee in charge who provided this information.

3. By amending Appendix A to read as follows:

* * * * *

218.23	Blue signal display.		
218.25	Workmen on main track	$750	$2,000
218.27	Workmen on other than main tracks	750	2,000
218.29	Alternate methods of protection	750	2,000
218.30	Remotely controlled switches:		
	(a) and (b)	750	2,000
	(c)	500	1,000

* * * * *

(Secs. 202 and 208, Federal Railroad Safety Act of 1970, as amended (45 U.S.C. 431 and 437); § 1.49(n), Regulations of the Office of the Secretary of Transportation (49 CFR 1.49(n)).)

Issued in Washington, D.C., on January 4, 1979.

JOHN M. SULLIVAN,
Administrator.

[FR Doc. 79-815 Filed 1-9-79; 8:45 am]

[7035-01-M]

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER B—PRACTICE AND PROCEDURE

[Ex Parte No. 282 (Sub-No. 1)]

PART 1111—RAILROAD ACQUISITION, CONTROL, MERGER, CONSOLIDATION PROJECT, TRACKAGE RIGHTS, AND LEASE PROCEDURES

Railroad Consolidation Procedures

AGENCY: Interstate Commerce Commission.

ACTION: Revision of regulations.

SUMMARY: The Commission has revised its regulations at 49 CFR 1111.2 in order to clarify the regulatory scheme. The revisions are designed to correct the inadvertant omission of certain carriers participating in transactions under 49 U.S.C. 11343 (formerly section 5(2) of the Interstate Commerce Act) (Act), and to require less information in applications for lease renewals. Also, the regulations are revised to be consistent with other regulations adopted subsequently to the drafting of 49 CFR.

DATES: The revisions will be effective on January 10, 1979.

FOR FURTHER INFORMATION CONTACT:

G. Marvin Bober, (202) 275-7564.

SUPPLEMENTARY INFORMATION: These regulations govern applications filed by two or more carriers seeking merger, consolidation, control, acquisition, lease or trackage rights under section 11343. See 49 CFR 1111.1.

Specifically: § 1111.2(a) is revised to include a regulation advising applicants of the new energy regulations and 1111.2 (b), (c), and (d) are renumbered accordingly; §§ 1111.2 (a), (b), (c), and (d) are revised to include lease renewals among the transactions having minimal market and competition impact; and § 1111.2(c) is revised to include Class III carriers and railroad lessors as participants in transactions covered by the regulations.

Because these modifications, as set forth in the Appendix, merely clarify the regulations and incorporate existing regulations, and because petitioners could immediately utilize these modifications in their lease renewal application, we find that notice and public procedure on these revisions are unnecessary, impracticable and contrary to the public interest within the meaning of 5 U.S.C. 553(6)(B).

H. G. HOMME, Jr.
Secretary.

APPENDIX OF REVISIONS

§ 1111.2 [Amended]

49 CFR 1111.2(a)(11)(iii) is modified as follows:

(a) * * *

(ii) * * *

(iii) * * * or in the event the proposed transaction involves trackage rights, joint use or ownership of a railroad line, a coordination project or a lease renewal, then * * *

* * * * *

49 CFR 1111.2(a) is supplemented as follows:

(a) * * *

(13) As exhibit 13, information and data with respect to energy consumption prepared in accordance with the regulations in Part 1106 of this title of the Code of Federal Regulations.

(b) * * * except for those applications involving trackage rights, joint use or joint ownership of a railroad line, a coordination project or a lease renewal:

(1) As exhibit A-14, * * *
(2) As exhibit A-15, * * *
(3) As exhibit A-16, * * *
(v) * * * under section 1111.2 (b)(3)(ii), (exhibit A-16). * * *
(4) As exhibit A-17, * * *
(5) As exhibit A-18, * * *
(6) As exhibit A-19, * * *

49 CFR 1111.2(c) is modified as follows:

* * * * *

(c) * * * the following exhibits are also requird for applications involving one or more Class II railroads, Class III railroads or railroad lessors or applications involving a Class I railroad and a Class II or Class III railroad or a railroad lessor, except for those applications involving trackage rights, joint use or joint ownership of a railroad line, a coordination project or a lease renewal:

(1) As exhibit B-14, * * *
(2) As exhibit B-15, * * *
(3) As exhibit B-16, * * *
(4) As exhibit B-17, * * *
(5) As exhibit B-18, * * *
(6) As exhibit B-19, * * *

49 CFR 1111.2(d) is modified as follows:

* * * * *

(d) * * *, the following exhibits are also required for applications involving trackage rights, joint use or joint ownership of a railroad line, a coordination project or a lease renewal:

(1) As exhibit C-14, * * *
(2) As exhibit C-15, * * *
(3) As exhibit C-16, * * *

[FR Doc. 79-899 Filed 1-9-79 8:45 am]

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proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[6720-01-M]

FEDERAL HOME LOAN BANK BOARD

[12 CFR Part 505]

[No. 79-8]

PRICE LIST FOR COPIES OF PUBLIC DATA

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed rule.

SUMMARY: This proposal would amend the Bank Board's price list for copies of financial and statistical data reported by lending institutions to the Bank Board. Such data, available to the public under the Freedom of Information Act, would be more closely priced according to the Board's estimated costs of reproduction, including equipment and manpower expenses. The proposal would also broaden the description of types of information to which the price list applies and include specific charges for copies of initial transcripts of Bank Board meetings.

The Bank Board requests that public comments be limited to the reasonableness of the proposed prices; justification for raising or lowering any price should be included in any comment letter suggesting such action.

DATE: Comments must be received on or before January 31, 1979.

ADDRESS: Office of the Secretary, Federal Home Loan Bank Board, 1700 G Street NW., Washington, D.C. 20552.

FOR FURTHER INFORMATION CONTACT:

Harry W. Quillian, Associate General Counsel. Telephone number: Area code 202-377-6440.

SUPPLEMENTARY INFORMATION: Federal Home Loan Bank Board considers it desirable to propose amendments to § 505.4(e) (12 CFR 505.4(e)) of its General Rules and Regulations for the purpose of revising the price list for preparing public copies of information made available to the public under § 505.

The Bank Board believes the proposed amendment would (1) simplify § 505.4(e) and facilitate its application to additional types of information which may be made available under the regulation and (2) bring the total charges imposed under the regulation more closely into line with the Bank Board's costs in making information available under it, while at the same time reducing charges to small users. The amendment would also specify charges for initial transcripts of Bank Board meetings.

Accordingly, the Bank Board hereby proposes to amend § 505 4 by revising subsection (e) thereof to read as follows:

§ 505.4 Access to Records.

* * * * *

(e) Fees for providing copies of records

(1) *Statistical and financial reports of individual institutions (including unpublished aggregates of these reports)*

(*a*) The charges for copies of such reports are as follows:

For printed copy: search charge of $2.00 per specific report requested (regardless of number of institutions for which data are requested) plus 30 cents a page copy charge.

For magnetic tape containing all individual institution information for a single period for specific report:

$50.00 for Format #1 (Board's internal format, 800 or 1600 BPI, odd parity, 9 track, no label or tape mark; data recorded in Sixbit imbedded Comp.)

$150.00 for Format #2 (Universal EBCDIC, 800 or 1600 BPI, odd parity, 9 track, no label or tape mark; data recorded in EBCDIC.)

(*b*) Procedure. Address all requests for statistical or financial records to: Office of Economic Research (Attention: Information Disclosure Section), Federal Home Loan Bank Board, 1700 G Street NW., Washington, D.C. 20552. Include requester's name, address, and telephone number. If requesting data for an individual institution, provide its accurate and complete name and home office address and dates for specific data requested. For geographical requests, specify county and/or state in which the institutions or offices are located as well as dates for specific data requested. Requesters will be billed for copies. No advance payment will be accepted.

(2) *Other computer or information system records*

With respect to information obtainable only by processing through an information systems program, which has been made available under paragraph (a) of this section, a person requesting such information shall pay a fee equal to the full cost of retrieval and production of the information requested and the Director, Office of Economic Research, or his designee is authorized to determine the cost of such retrieval and production upon recommendation, where appropriate, of the Director, Information Systems Division, or his designee.

(3) *Transcripts of Bank Board meetings.* The charge for initial transcripts of Bank Board meetings shall be $3.00 per page or part thereof. This charge shall apply to all meetings open pursuant to 5 U.S.C. § 552b(c) and to those portions of closed meetings which are publicly available pursuant to 5 U.S.C. § 552b(f)(2).

(4) *All other records.* A person requesting access to or copies of particular records shall pay the cost of searching or copying such records at the rate of $10 per hour for searching and 10 cents per page for copying. Unless a requester states in his initial request that he will pay all costs regardless of amount, he shall be notified as soon as possible if there is reason to believe that the cost for obtaining access to and/or copies of such records will exceed $50. If such notice is given, the time limitations contained elsewhere in this Part shall not commence until the requester agrees in writing to pay such cost. The Secretary is authorized to require an advance deposit whenever in his judgment such a deposit is necessary to insure that the Board will receive adequate reimbursement of its costs. If such a deposit is required, the time limitations contained elsewhere in this Part shall not commence until the deposit is paid.

(5) *Waiver of charges.*

The Secretary or his designee or, where appropriate, the Director, Office of Economic Research, or his designee is authorized either to waive payment of charges under this section in instances in which total charges are less than $3.00 or to waive in full or in part such charges when unnecessary hardship would be inflicted upon the requesting person or when waiver would serve the public interest.

(Pub. L. 93-502 (5 U.S.C 552); Secs. 11, 17, 47 Stat. 733, 736, as amended; secs. 5, 402, 48 Stat. 132, 1256, as amended (12 U.S.C 1431, 1437, 1464, 1725). Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR 1943-48 Comp. 1071)

Dated January 4, 1979.

By the Federal Home Loan Bank Board.

RONALD A. SNIDER,
Assistant Secretary.

[FR Doc. 79-897 Filed 1-9-79; 8:45 am]

[6320-01-M]

CIVIL AERONAUTICS BOARD

[14 CFR Parts 208, 288, 399]

[EDR-370/PSDR-53; Docket No. 34397; Dated: January 4, 1979]

MILITARY AIR TRANSPORTATION MARKET

Elimination of Minimum Rate Provision

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This proposed rulemaking would eliminate the minimum rate provisions applicable to domestic and international charter service and international individually ticketed or waybilled scheduled service pursuant to contract for the Department of Defense by air carriers. The exemption from tariff-filing requirements would be retained. The action is proposed on the Board's own initiative in response to changed circumstances in the military air transportation market and to the apparent need for reform of the Board's military ratemaking function in view of recent legislative changes and the Board's experience.

DATES: Comments by: March 12, 1979. Comments and other relevant information received after this date will be considered by the Board only to the extent practicable.

ADDRESSES: Twenty copies of comments should be sent to Docket 34397, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C., 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT:

Richard B. Hirst, Bureau of Pricing and Domestic Aviation, or Lawrence R. Myers, Office of the General Counsel, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, 202/673-5858; 673-5791.

SUPPLEMENTARY INFORMATION: 14 CFR Part 288 provides an exemption from section 403 of the Federal Aviation Act and from the related tariff-filing provisions of the Board's Economic Regulations for certain air transportation services supplied by commercial air carriers to the Department of Defense. The exemption is available only to air carriers which have contractually committed aircraft to the Civil Reserve Air Fleet (CRAF) program of the Department of Defense (DOD). It applies to the performance of domestic and international charter service and individually ticketed or waybilled transportation in international scheduled service under agreements between air carriers and DOD, acting through the Military Airlift Command (MAC).[1] The exemption provided by Part 288 is conditioned upon compliance by the carriers with minimum rates established by the Board for each category of military air service, as revised from time to time in rulemaking proceedings.

The Board has reviewed its military ratemaking function under Part 288. On the basis of this review, we proposed for three principal reasons to amend Part 288 to terminate our exercise of authority over the prices of military charter service, Category A scheduled service, and substitute service, and to rescind three related provisions of our Economic Regulations.[2] First, changes in the economic circumstances of the air charter industry appear to have eliminated any need to protect charter air carriers [3] from competition through the regulation of military rates. The protection of supplemental carriers was in large part the justification for the adoption of Part 288 in 1961. Second, our experience with Part 288 has led us to question whether the regulation of current military air transportation prices is an efficient way to supply DOD with both current air transportation and commitments to CRAF. Third, in a series of recent statutory changes, Congress has clearly signalled its intention to place the maximum possible reliance upon competitive market forces for the attainment of satisfactory service and price levels in air transportation. This new orientation was first stated and implemented in the case of domestic cargo service by Pub. L. 95-163, effective November 7, 1977, and further major changes made by Public Law 95-504, reflected in the revised policies of the Act, make it apparent that the same thrust toward less active regulation is to be pursued in the other spheres of Board regulation as well. The minimum rate regulation which is the core of Part 288 is essentially, and in some areas expressly, at odds with this new statutory mandate from Congress.

The minimum rates set forth in Part 288, first issued in 1961,[4] were designed to prevent individual price competition for MAC service from driving rates below industry average costs, on the theory that lower rates would jeopardize the health of some of the carriers and reduce the services available to DOD.[5] The competitive bidding system

[1] "Charter service" (encompassing "Category B," "Logair" and "Quicktrans" services) and "Category A transportation," as defined in § 288.1, include the carriage of both persons and property. Part 288 also covers all "substitute service, "in which one air carrier performs such DOD transportation for another air carrier on a subcontract basis.

[2] 14 CFR 208.101 (conditions the operating authority of supplemental carriers on observance of the minimum rates set forth in Part 288); 14 CFR 399.16 (relates military exemption authority to Part 288); and 14 CFR 399.38 (relates tariff-based fares for certain individually ticketed military passengers to the Category A rate of Part 288).

[3] Effective October 24, 1978, Pub. L. 95-504, the Airline Deregulation Act of 1978, eliminated the concepts of "supplemental air carrier" and "supplemental air transportation" from the Act, replacing them with the broader concepts of "charter air carrier" and "charter air transportation." See *e.g.* sections 101(14) and (15), and 401(d)(3).

[4] 26 FR 6763 (1961).

[5] See *Military Air transportation: Hearings Before a Subcommittee of the House Committee on Government Operations*, 87th Cong., 1st Sess. 83-90 (1961) (statement of Alan S. Boyd).

Supplemental Air Carrier	Military charter Revenues 1960 ($)	Transport Revenues 1960 ($)	Military Chtr. Revenues (as % of total)
American Flyers	$1,065,000	$1,355,000	76
Associated Air Transport	645,000	1,156,000	56
Capital Airways	6,493,000	12,565,000	52
Imperial Airlines	396,000	760,000	52
Modern Air Transport	369,000	1,082,000	34
Overseas Nat'l Airways	23,527,000	23,746,000	99
Saturn Airways	520,000	1,350,000	39
Southern Air Transport	911,000	1,546,000	59
Trans Int'l Airlines	1,652,000	2,868,000	58
U.S. Overseas Airlines	6,424,000	11,402,000	56
World Airways	2,766,000	4,163,000	66

Source: *Proposed Amendments to the Federal Aviation Act: Hearings on H.R. 7318, H.R. 7512, and H.R. 7679 Before a Subcommittee of the House Committee on Interstate and Foreign Commerce*, 87th Cong., 1st Sess. 19-27 (1961).

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which existed before 1961 was said to place pressure on the supplemental carriers, which were then small businesses heavily dependent on military revenues,[6] to enter bids below cost in order to avoid idle capacity. The setting of minimum rates by the Board at a level which guaranteed a return on investment to carriers operating at or near industry-wide average costs was thought necessary to eliminate the possibility that competitive pressures could cause uneconomic bidding by carriers reliant on military contracts.[7]

The economic condition of the air charter industry has changed substantially since 1961. Today the charter carriers serving the military market are no longer dependent on military business. They derive over three quarters of their system revenues from civilian sources, and are prevented by MAC procurement specifications [8] from obtaining more than 40 percent of their revenues from military sales. By contrast, in 1960 the supplementals contracting with DOD derived 70% of their revenues from military charters.[9] The supplementals' military charter revenues slightly more than doubled since 1960, from $45 million in 1960 [10] to $114.1 million in 1977.[11] During the same period their civilian charter revenues grew from $10.6 million [12] to $359.9 million.[13] In 1977, military charter sales provided only 22.6 percent of the supplementals' overall operating revenues of $516.2 million.[14]

Since the Board adopted Part 288, it has eliminated numerous regulatory restrictions on commercial charter flights. Until the Board decided the *Transatlantic Charter Investigation* in 1963,[15] supplemental carriers could obtain overseas operating authority only by exemption,[16] and were confined by Board regulations to serving a narrow market segment.[17] Under these circumstances the international civilian market remained largely inaccessible to supplemental operators.[18]

In 1964, as a result of the *Transatlantic Charter Investigation*, two supplemental carriers became the first supplementals certificated to perform overseas air transportation. In the same proceeding, the Board first authorized the use of split charters [19] and relaxed other restrictions.[20] Two years later the Board certificated six additional supplemental carriers to serve the North Atlantic market and introduced the inclusive tour charter.[21] In 1971, U.S. supplementals carried 1,136,000 passengers in the North Atlantic market, compared with 43,000 in 1961,[22] and military business accounted for only 43.5 percent of the revenues of the eight supplementals contracting with MAC.[23]

Source: *D. Hiatt, The Impact of charter Services on Scheduled North Atlantic traffic, 18 August 1973* (unpublished thesis in CAB Library).

From 1971 through 1978, the Board steadily expanded the market which commercial charter operators could legally serve by authorizing new, less restrictive charter forms: Study group charters (1971),[24] overseas military personnel charters (1972),[25] travel group charters (1972),[26] one-stop inclusive tour charters (1975),[27] advance booking charters (1976),[28] and public charters (1978).[29] During this same period, the military portion of the revenues of the supplementals doing business with MAC continued to decline.[30]

Source: Annual MAC Commercial Airlift Procurement Data Reports and Air Carrier Financial Statistics submitted to the CAB.

There are now no legal or policy barriers to the award of scheduled service authority to former supplemental air carriers. See, *e.g. World Airways, Inc. v. CAB*,[31] applications of World Airways, Inc. *et al.* in Orders 78-9-2 and 78-9-33, and section 401 of the Act, as amended by Public Law 95-504. This should foster a still closer economic integration of these air carriers into the mainstream of the air transportation

[6] The extent of the dependence of the supplemental carriers on the military charter market in 1960 is shown by the following chart:

Year	North Atlantic Supplemental Passengers
1961	43,000
1962	56,000
1963	35,000
1964	67,000
1965	107,000
1966	168,000
1967	279,000
1968	393,000
1969	768,000
1970	841,000
1971	1,136,000

[7] 14 CFR 288.7 provides that Part 288 minimum rates "shall not be uneconomically low." The Board computes the rates on a unit-per-mile basis by averaging the costs attributed by the MAC carriers to military transportation, adjusting for cost changes anticipated during the current term, and adding an after-tax return on investment (currently 10.5 percent).

[8] Information to Offerors, International Air Transportation Services (Long Range), Solicitation No. F11626-77-R-0017, Section D (May 9, 1977).

[9] Hearings on H.R. 7318, *supra*, at 19.

[10] *Id.*

[11] Annual MAC Commercial Airlift Procurement Data Reports and Air Carrier Financial Statistics submitted to the CAB.

[12] Hearings on H.R. 7318, *supra*, at 19.

[13] Annual MAC Commercial Airlift Procurement Data Reports and Air Carrier Financial Statistics submitted to the CAB.

[14] *Id.*

[15] Order E-20530 (October 8, 1963) (effective April 18, 1964).

[16] *Transatlantic Charter Investigation*, Recommended Decision of Examiner 3-5 (September 21, 1962). Until 1961 the Board required exemption applications to be filed for each charter flight. Beginning in 1961, the Board authorized application for seasonal exemptions. In 1962, the Board approved only five of ten applications for seasonal exemptions. *Id.*

[17] See 14 CFR 295.2 (1962). Under these regulations, "* * * the entire capacity of the aircraft must be engaged by a single group; the group must be a bona fide entity, no member having joined solely to participate in the flight; groups other than colleges must have less than 20,000 members; and a travel agent may not have assisted in organizing the charter flight group or administering the flight." Note, *CAB Regulation of Supplemental Air Carriers*, 76 Harv.-L. Rev 1450, 1468 (1963).

[18] The dependence of the supplemental carriers on military revenues from 1961 to 1964 is shown by the following table:

	Revenues	% Military	% Civilian Charters
1961	59,300,000	71.9	13.5
1962	75,700,000	74.3	12.2
1963	96,100,000	78.7	15.5
1964	100,400,000	71.6	25.1

Source: *Supplemental Air Service Proceeding*, Recommended Decision of examiner 17 (August 27, 1965).

[19] *I.e.*, the use of a single aircraft by two charter groups.

[20] The Board eliminated the 20,000 member limit on bona fide organizations and authorized travel agents to participate in forming groups and administering flights.

[21] *Supplemental Air Service Proceeding*, E-24237, (effective Nov. 26, 1966).

[22] The supplemental carriers's participation in the North Atlantic commercial market increased steadily after 1963, as shown by the following table:

Year	% of MAC Revenues to System Revenues
1971	43.5
1972	42.5
1973	34.2
1974	25.9
1975	32.1
1976	27.1
1977	22.6

[23] Source: Annual MAC Commercial Airlift Procurement Data Reports, and Air Carrier Financial Statistics submitted to the CAB.

[24] 14 CFR 373 (1971).

[25] 14 CFR 372 (1972).

[26] 14 CFR 372a (1972).

[27] 14 CFR 378a (1975).

[28] 14 CFR 371 (1976).

[29] 14 CFR 380 (1978). The public charter rule eliminated all advance booking, minimum stay, and minimum group size requirements.

[30] The decreasing importance of the military market to the supplemental carriers serving it is shown by a comparison of those carriers' military revenues to their system revenues:

industry by broadening still further their commercial revenue base.

The former supplemental carriers now form a mature industry segment which relies on the civilian rather than the military market. Because of the actual and potential strength of their commercial operations, the withdrawal of the CAB from military air procurement would be unlikely to result in military rates below long-run marginal cost or to impair the quality of military air service in any other way. Thus, we have tentatively concluded that continued Board regulation is unnecessary to prevent destructive bidding or to insure service quality.

While the changed economic and regulatory status of the air charter industry is one basis for this rulemaking, another is that, given the maturity of the charter carrier industry segment, we question whether our determination of the minimum price of current military air transportation is an efficient way to supply the military with either current air transportation or commitments to CRAF.

Our participation in the pricing of military transportation is subject to many of the same inefficiencies which characterize most regulatory ratemaking activities in air transportation. First, Part 288 minimum rates are set by a regulatory cost accounting methodology based on financial accounting which is not likely to reflect true economic costs. Second, because the rates are set on the basis of industry-wide average costs, they do not reflect the special circumstances of particular markets or carriers, do not fully reward the more efficient operators, and do not encourage DOD to utilize those operators. Thus, the costs incurred by the military are probably higher than they would be if compensatory rates were paid to efficient carriers. Third, because rates are set by a governmental body rather than by the contracting parties themselves, price adjustments are made less efficiently than they would be made if the parties acted directly.

Moreover, it is economically irrational to rely on current air transportation rates to solve the separate problem of obtaining an adequate CRAF. In addition to maintaining a minimum rate structure, Part 288 is intended to elicit commitments of aircraft to CRAF. Under Part 288, however, the Board recognizes for ratemaking purposes only those costs related to the provision of air transportation in the current term. The Board does not take into account the cost of providing back-up aircraft for use in a future emergency. Since Part 288 does not compensate carriers for the costs of the commitment of aircraft to CRAF, it provides no incentive independent of current transportation rates for an air carrier to acquire and commit aircraft which meet DOD's emergency back-up needs.

It appears that Board regulation of current air transportation rates has failed to secure sufficient aircraft commitments to CRAF. Evidence presented to the Board has shown that the small number of airlines eligible to carry MAC cargo domestically under Board rules has made CRAF's short-haul cargo component vulnerable to potential disruption,[32] and witnesses before Congress have repeatedly drawn attention to deficits of long-range cargo airlift in CRAF.[33]

Our preliminary view is that direct contractual arrangements between DOD and the air carriers can provide both a military transportation system *and* a CRAF more efficiently than the present system. With the amendment of Part 288 as proposed, DOD might seek to purchase both services separately at prices determined competitively. Alternatively, DOD could adopt a negotiated bid system which would take into account both strategic considerations and price considerations in making awards.[34] In either case, the operation of competitive market forces should permit DOD to obtain without regulatory intervention both its transportation needs and its emergency back-up needs from an industry which has matured significantly since 1961.

The third principal reason for the proposed rule is that Part 288 is not, in our opinion, consistent with the current intent of Congress. With respect to domestic cargo service, both the statutory language and the legislative history of Pub. L. 95-163 make it apparent that Congress intended to encourage price competition among direct air carriers, and that Congress intended its deregulation to be plenary throughout the domestic cargo market. Pub. L. 95-163 expressly removed the statutory standard underlying the minimum rate structure for Logair/Quicktrans services, without any indication whatsoever of an exception, express or implied, for DOD contract services rates. Under section 1002 of the Act as amended, the Board cannot challenge the economic reasonableness of rates for the interstate air transportation of property, and it cannot prescribe any just and reasonable rates for such services.

Moreover, the new section 418 certification procedure is aimed at encouraging entry into domestic all-cargo service while severely limiting the Board's control over both service and rates, and again there is no basis for any distinction between ordinary commercial and DOD contract services.

Finally, perhaps most persuasive of all, is the language of section 102 of the Act, as amended to set forth Congressional policy relating to all-cargo air service. In particular, sections 102(b)(1) and 102(b)(2) state that the public interest includes:

(1) The encouragement and development of an expedited all-cargo air service system, provided by private enterprise, responsive to (A) the present and future needs of shippers, (B) the commerce of the United States, and (C) the National defense.

(2) The encouragement and development of an integrated transportation system relying on competitive market forces to determine the extent, variety, quality and price of such services.

It is, of course, the "national defense" consideration which underlies Part 288. Reading the two statements of policy together, the conclusion is inescapable that Congress now believes that competitive market forces can, should and must provide that basis for fulfilling national defense as well as commercial cargo needs. Conversely, if Congress had intended to keep MAC domestic cargo operations entirely separate from the deregulated commercial sphere, it would have omitted or qualified its reference to the national defense as both a matter of basic logic and elementary statutory construction.

Informal communications have been received from several members of the House Committee on Public Works and Transportation, as well as from Trans International Airlines, Inc. (TIA), contending that the Board's authority to enforce minimum reasonable MAC rates is based not on section 1002 of the Act, but on sections 204, 403, and 416, which were not amended

[31] *DOD Contract-Eligible Certification Case*, Docket 30221.

[32] See *Hearings on the Posture of Military Airlift Before the Subcommittee on Research and Development of the House Committee on Armed Services*, 94th Cong., 1st Sess. (1975); *Proposed Amendments to the Federal Aviation Act: Hearings on S. 1821 Before the Subcommittee on Aviation of the Senate Committee on Commerce*, 92d Cong., 1st Sess. (1971). In commenting on S. 1821, the Comptroller General said: "Current military planning for total airlift requirements in time of war or grave national emergency envisions use of an organic fleet of military aircraft, principally C-5's and C-141's, augmented by the use of commercial aircraft committed to CRAF. At present, total airlift available from these sources is deemed insufficient to satisfy wartime needs, and it has been estimated that at least 85 additional aircraft of the so-called wide-bodied jet cargo types are needed in the reserve fleet to satisfy current planning for airlift in wartime or in the event of other major contingency." *Id.*, at 3.

[33] Under 10 U.S.C. 2304(a)(16), the DOD may employ a negotiated bid procurement system when it determines that "it is in the interest of the national defense to have a * * * supplier available for furnishing * * * services in case of a national emergency."

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by Pub. L. 95-163. We cannot accept that argument because Pub. L. 95-163 has specifically terminated the Board's ability to determine the reasonableness of rates for the interstate air transportation of property. This limitation applies to rates of *all* carriers of domestic cargo whether their authority to carry is governed by section 418, 401(a), or 401(o) of the Act. TIA has also contended that the Board has always lacked the power to prescribe minimum rate levels in foreign air transportation, but has maintained them through Part 288. This argument ignores the Board's legal authority under section 1002(j) to suspend rates in foreign air transportation and cancel them after finding that they are "unjust and unreasonable." Both letters will be placed in the docket, and we invite public comment on these issues as well as the others raised here.

In another informal communication, Zantop International Airlines has raised the argument that section 401(o) of the Act, adopted in 1976, restricts DOD to the use of air carriers holding certificates issued under "this section," and that therefore carriers exclusively holding section 418 certificates are ineligible for participation in MAC services. While the language does suggest a conflict, we disagree that this was the intent of Congress. A reading of section 401(o) in its entirety, coupled with reference to its legislative history, indicates that the purpose of the provision is simply the maintenance of the traditional certificated versus non-certificated carrier distinction generally accepted by DOD and the Board. There is no indication that Congress desires to prohibit the participation of newly certificated carriers in MAC business, and indeed the requirement that the Board act expeditiously on new section 401 applications directed toward MAC operations implies quite the opposite desire. In order to clarify the situation, we are considering the issuance of an exemption under section 416(b) of the Act to expressly permit section 418 carriers to participate in MAC services. Zantop's letter will be placed in the docket and we invite public comments on this subsidiary issue.

The deregulation initiated by Congress in Pub. L. 95-163 was substantially expanded by Pub. L. 95-504 to include all interstate and overseas air transportation. Indeed, the Board's control over pricing and entry is to be gradually terminated by 1985. In adopting a new Declaration of Policy for domestic air transportation in section 102 of the Act, Congress emphasized that price competition is to be encouraged and relied upon to the maximum extent possible in the attainment of other goals such as efficiency, innovation, low prices, a variety of price/service options, the needed air transportation system in general, and the ability of efficient and well managed carriers to earn reasonable profits and to attract capital. These principles form the basis of United States policy for the conduct of international air transportation negotiations.[35]

The proposed rule would continue to exempt Part 288 services from the tariff-filing requirements of the Federal Aviation Act. Tariff-filing requirements exist to provide purchasers of air transportation services with notice of the terms under which a carrier is offering service. As DOD is the only purchaser of Part 288 services, and as each contract is individually negotiated, it appears that no purpose would be served by requiring the filing of tariffs for any air transportation service obtained contractually by the DOD. In ER-1080, effective November 9, 1978, the Board has already exempted certificated air carriers from the need to file tariffs in domestic cargo transportation, which is defined to include interstate, overseas, intra-Alaska and intra-Hawaii operations. The new rule imposes only a record retention requirement for rate sheets, contracts and waybills. The Board is tentatively persuaded that such a record retention requirement would be superfluous in this instance, given the thoroughness of MAC procurement regulations, but the views of the affected parties are requested on this point.

As an ancillary matter we propose to amend the definition of Category A transportation to include the transportation in scheduled service of individually ticketed passengers or individual waybilled cargo within Alaska. Since 1972, we have granted annual exemptions from tariff-filing requirements for intra-Alaska Category A service.[36] We see no justification for continuing to distinguish between intra-Alaska Category A service and all other Category A service.

Accordingly, it is proposed that the following amendments be made to Parts 208, 288, and 399 of Title 14, Code of Federal Regulations;

1. Part 288 would be revised to read as follows:

PART 288—EXEMPTION OF AIR CARRIERS FOR MILITARY TRANSPORTATION

Sec.
288.1 Definitions.
288.2 Exemption.

AUTHORITY: Secs. 204, 403 and 416 of the Federal Aviation Act, as amended; 72 Stat. 743, 758, 771, as amended; 49 U.S.C. 1324, 1373, 1386.

§ 288.1 Definitions.

As used in this part:

"Category A transportation" means the transportation in scheduled service of individually ticketed passengers or individually waybilled cargo in foreign and overseas air transportation, in air transportation between the 48 contiguous States on the one hand and Hawaii or Alaska on the other hand, and in air transportation within Alaska, pursuant to contract with DOD.

"Charter service" means air transportation in planeload lots of persons and/or property pursuant to contracts with DOD.

"DOD" means the Department of Defense.

§ 288.2 Exemption.

Air carriers providing charter service, substitute service and Category A transportation to DOD are hereby exempted from section 403 of the Act and Part 221, § 207.4, § 208.32 of this chapter with respect to those services.

PART 208—TERMS, CONDITIONS, AND LIMITATIONS OF CERTIFICATES TO ENGAGE IN SUPPLEMENTAL AIR TRANSPORTATION

§ 208.101 [Reserved]

2. In Part 208, *Terms, Conditions, and Limitations of Certificates to Engage in Supplemental Air Transportation*, § 208.101, *Minimum rates and compensation for air transportation performed for the Department of Defense*, would be revoked and reserved.

PART 399—STATEMENTS OF GENERAL POLICY

§ 399.38 [Reserved]

3. In Part 399, *Statements of General Policy*, § 399.16, *Military exemptions*, and § 399.38, *Military tariff rates*, would be revoked and reserved.

(Secs. 204, 403, 404 and 416 of the Federal Aviation Act, as amended; 72 Stat. 743, 758, 760, 771, as amended; (49 U.S.C. 1324, 1373, 1374, 1386))

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 79-905 Filed 1-9-79; 8:45 am]

[6750-01-M]

FEDERAL TRADE COMMISSION

[16 CFR Part 13]

[File No. 781 0040]

CRANE CO., ET AL.

Consent Agreement with Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Provisional consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this provisionally accepted consent agreement, among other things, would require a New York City manufacturer and seller of various products to cause the Medusa Corporation to divest itself completely of its Dixon, Ill. cement plant together with whatever assets associated with the plant that may be necessary to maintain the facility as an effective competitor in the production and sale of portland cement. The order further prohibits the firm from acquiring the whole or part of the assets of any firm engaged in the production or sale of portland cement without prior Commission approval.

DATE: Comments must be received on or before March 5, 1979.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th St. and Pennsylvania Ave., NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

FTC/CD, Daniel C. Schwartz, Washington, D.C. 20580. (202) 523-3475.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's rules of practices (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and provisionally accepted by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's rules of practice (16 CFR 4.9(b)(14)).

[File No. 781 0040]

CRANE CO., AND THOMAS M. EVANS

AGREEMENT CONTAINING CONSENT ORDER TO DIVEST AND TO CEASE AND DESIST

The Federal Trade Commission having initiated an investigation of Crane Co.'s ("Crane") holding of forty-four (44) percent of the common stock of the Medusa Corporation ("Medusa"); its contemplated Exchange Offer for additional shares of Medusa corporation; and of Thomas M. Evans' holding of shares and managerial positions in Crane and H. K. Porter, Inc. ("Porter"); and his influence over the management of Crane, Porter and its subsidiary, Missouri Portland Cement Co.; and it now appearing that the proposed respondents are willing to enter into an agreement containing an order to divest certain of Medusa's assets and to cease and desist from certain acts:

IT IS HEREBY AGREED by and between the said proposed respondents and their attorneys, and counsel for the Federal Trade Commission that:

1. Proposed respondent Crane is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Illinois, with its principal office and place of business at 300 Park Avenue, New York, New York 10020. Proposed respondent Thomas M. Evans is an individual whose business address is the same as that of Crane Co.

2. Proposed respondents admit all the jurisdictional facts set forth in the draft complaint here attached.

3. Proposed respondents waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become a part of the official record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released; and such acceptance may be withdrawn by the Commission if comments or views submitted to the Commission disclose facts or considerations which indicate that the order contained in the agreement is inappropriate, improper, or inadequate.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondents that the law has been violated or that any of the facts are true as alleged in the draft of the complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34(b) of the Commission's rules, the Commission may, without further notice to proposed respondents, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to divest and cease and desist shall have the same force and effect and shall become final and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Mailing of the complaint and decision containing the agreed-to order to the proposed respondents' address as stated in this agreement shall constitute service. Proposed respondents waive any right they may have to any other manner of service. The complaint may be used in construing the terms or the order, but no agreement, understanding, representation, or interpretation not contained in the order, complaint, or the aforementioned agreement may be used to vary or contradict the terms of the order.

7. Proposed respondents have read the proposed complaint and order contemplated hereby, and understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order, and that they may be liable for a civil penalty as provided by law for each violation of the order after it becomes final.

ORDER

It is ordered, That respondents—Crane Co., a corporation, its successors and assigns, and its officers and directors, and Thomas M. Evans, an individual, his successors and assigns—in connection with the acquisition by Crane, a corporation engaged in commerce as "commerce" is defined in the Clayton Act, as amended, 15 U.S.C. Section 12, *et seq.*, of stock in Medusa, a corporation engaged in commerce as "commerce" is defined by the Clayton Act, as amended, 15 U.S.C. Section 12, *et seq.*, which acquisition is in or affects commerce as "commerce" is defined in the Federal Trade Commission Act, as amended 15 U.S.C. Section 41, *et seq.*:

I

Within fifteen (15) months from the date of service of the Consent Order upon respondents, and subject to the prior approval of the Federal Trade Commission, respondents shall cause Medusa to divest absolutely Medusa's cement plant located at Dixon, Illinois and such other of Medusa's assets associated with that plant as may be necessary, so that the plant may operate as a going concern and effective competitor in the production and sale of portland cement.

II

It is further ordered, That respondents shall not cause or permit the destruction, removal or impairment of any of the assets to be divested in accordance with paragraph I of the Consent Order except in the ordinary course and operation of Medusa's business and except for normal wear and tear.

III

It is further ordered, That if the divestiture of assets required by Paragraph I of the Consent Order is to be accomplished by a spin-off, then:

(a) Respondents shall cause Medusa to transfer the assets to be divested to a new corporation, whose stock is wholly-owned by Medusa, and then Medusa shall distribute that stock to Medusa's shareholders in proportion to their ownership of Medusa stock. Crane shall promptly thereafter distribute its share of the stock of the newly created corporation either to Crane's shareholders in proportion to their ownership of Crane stock or through a public offering to be completed within three months.

(b) No person who is an officer, director or executive employee of Crane or Porter or who owns or controls directly or indirectly more than one (1) percent of the stock of Crane or Porter shall be an officer, director or executive employee of the new corporation.

(c) Neither Thomas M. Evans nor any other person who is an officer, director or executive employee of Crane shall own or control, directly or indirectly, more than one (1) percent of the stock of the new corporation.

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[35] *United States Policy for the Conduct of International Air Transportation Negotiations* (August 21, 1978).

[36] See, *e.g.*, Order 72-2-57 (February 15, 1972); Order 78-9-54 (September 13, 1978).

(d) Any person who must sell or dispose of stock interest in Crane or H. K. Porter or the new corporation in order to comply with subparagraphs (b) or (c) shall do so within one hundred eighty (180) days after the date on which distribution of the stock of the new corporation is made to stockholders of Crane.

IV

It is further ordered, That for a period of five (5) years from the date of service of the Consent Order upon respondents, respondents shall cease and desist from acquiring directly or indirectly, by any device or through any corporation, subsidiary or otherwise:

(a) The whole or any part of the assets of any firm engaged in the production or sale of portland cement;

(b) Any equity securities in excess of three (3) percent of the outstanding shares of such securities of any firm engaged directly or indirectly in the production or sale of portland cement, except that respondents shall be permitted to acquire Crane, Porter or Medusa stock without restriction;

without the prior approval of the Federal Trade Commission.

V

It is further ordered, That for any company in which respondents own securities pursuant to paragraph IV of this order, respondents, their designees, agents, nominees, or representatives shall not seek or accept representation on the Board of Directors of such company.

It is further ordered, That nothing in this Consent Order shall prevent Evans & Company, a registered securities broker-dealer, from trading in the securities of any firm engaged in the production or sale of portland cement in the ordinary course of its business for:

(a) Those of its customers who are not affiliates or subsidiaries of respondents;

(b) Respondents acquiring securities pursuant to paragraph IV.

VII

A. *It is further ordered*, That respondents distribute a copy of this order to all operating divisions of said corporation.

B. *It is further ordered*, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

C. *It is further ordered*, That within sixty days and every sixty days thereafter until Medusa has divested absolutely the assets required by the Consent Order, respondents shall submit a detailed written report of their actions, plans and progress in complying with Paragraphs I, II and III of the Consent Order, and in fulfilling the objectives of these provisions.

D. *It is further ordered*, That annually on the anniversary of the service of the Consent Order, for a period of five years, respondents shall submit a detailed written report of their actions in complying with Paragraphs IV and V of the Consent Order, and in fulfilling the objectives of these provisions.

ANALYSIS OF PROPOSED CONSENT ORDER TO AID PUBLIC COMMENT 781-0040

The Federal Trade Commission has accepted an agreement to a proposed consent order from Crane Co. ("Crane") and Thomas M. Evans.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The complaint charged that Crane Co.'s acquisition of forty-four (44) percent of the common stock of Medusa Corporation ("Medusa") and its contemplated exchange offer for additional shares of Medusa and Thomas M. Evans' holding of shares and managerial positions in Crane and H. K. Porter ("Porter") violate Section 7 of the Clayton Act and Section 5 of the Federal Trade Commission Act. In particular, the complaint alleged that a wholly-owned subsidiary of Porter, Missouri Portland Cement Co. ("Missouri Portland"), and Medusa are engaged in the production and sale of portland cement and are competitors in the manufacture and sale of portland cement in various geographic markets, including the Chicago and Peoria Metropolitan Areas. The complaint further alleged that T. M. Evans holds shares and managerial positions in Crane and Porter and exercises influence over the management of Crane, Porter and its subsidiary, Missouri Portland. The complaint then alleged that the effect of Thomas M. Evans' holding such stock and managerial positions may be to substantially lessen competition in the portland cement industry or to constitute an unfair method of competition. Finally the complaint alleged that the effect of Crane's present holdings of Medusa shares and its pending exchange offer for additional shares may be to substantially lessen competition or tend to create a monopoly in the portland cement industry.

Paragraph I orders the respondents within fifteen (15) months from service of the Consent Order and subject to the prior approval of the Federal Trade Commission to cause Medusa to divest absolutely Medusa's cement plant located at Dixon, Illinois and such other of Medusa's assets associated with the plant as may be necessary so that the plant may operate as an effective competitor in the production and sale of portland cement.

Paragraph II prohibits the impairment of any of the assets to be divested in accordance with Pararaph I.

Paragraph III(a) requires that if the divestiture is to be accomplished by a spin-off then respondents shall first cause Medusa to distribute the stock to a new corporation, wholly owned by Medusa shareholders. It further requires that Crane shall promptly thereafter distribute its share of the stock in the new corporation to either Crane shareholders or through a public offering.

Paragraph II, subparagraphs (b), (c) and (d) prohibit persons who are officers, directors, or executive employees of Crane or Porter from becoming an officer, director or executive employee of the new corporation or from owning or controlling more than one percent of the stock of the new corporation. These subparagraphs also prohibit: (1) T. M. Evans from owning or controlling more than one percent of the stock of the corporation and (2) persons who own or control more than one percent of Crane or Porter stock from serving as an officer, director or executive employee of the corporation. Any person who must sell or dispose of stock to comply with these provisions has one hundred eighty (180) days from the date of distribution of the stock to Crane shareholders within which to do so.

Paragraph IV prohibits the respondents from acquiring the whole or any part of the assets of any firm engaged in the production or sale of portland cement or equity securities, except for those of Crane, Porter or Medusa, in excess of three percent of the outstanding shares of any firm engaged in the manufacture or sale of portland cement without the prior approval of the Federal Trade Commission.

Paragraph V prohibits the respondents from seeking or accepting representation on the Board of Directors of any company in which respondents acquired shares pursuant to Paragraph IV.

Paragraph VI provides that nothing in the Consent Order shall prevent Evans & Co., a registered securities broker-dealer, from trading in securities in the ordinary course of its business.

Paragraph VII requires the respondents to notify the Commission at least thirty (30) days prior to any proposed structural change in the corporate respondent which affects compliance with the Consent Order; distribute a copy of the order to its operating divisions; file a compliance report of efforts taken to accomplish divestiture every sixty (60) days until the assets are divested; and file reports annually on their compliance with Paragraphs IV and V of the Consent Order.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

JAMES A. TOBIN,
Acting Secretary.

[FR Doc. 79-889 Filed 1-9-79; 8:45 am]

[4210-01-M]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Part 1917]

[Docket No. FI-4427]

PROPOSED FLOOD ELEVATION DETERMINATIONS FOR THE TOWN OF HILLSBORO, HILLSBOROUGH COUNTY, N.H.

Correction

AGENCY: Federal Insurance Administration, HUD.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 43 FR 38858 of the FEDERAL REGISTER of August 31, 1978.

EFFECTIVE DATE: August 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, (202) 755-5581 or Toll Free Line 800-424-8872.

The following:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Sand Brook	Upstream of Bog Road...	679

Should be corrected to read:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Sand Brook	Upstream of Bog Road...	674

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and the Secretary's delegation of authority to Federal Insurance Administrator (43 FR 7719).)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-818 Filed 1-9-79; 8:45 am]

[1505-01-M]

[24 CFR Part 1917]

[Docket No. 4776]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Heath, Licking County, Ohio

Correction

In FR Doc. 78-35993, appearing on page 60605 in the issue of Thursday, December 28, 1978, the fifth line of the table in the third column, under the heading "Location", should read, "2,500 feet upstream of Blue".

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[6320-01-M]

CIVIL AERONAUTICS BOARD

[Docket No. 34226]

EASTERN AIR LINES, INC.

Application for Approval of Acquisition of Control of National Air Lines, Inc., Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter will be held on January 16, 1979, at 10:00 a.m. (local time) in Room 1003, Hearing Room D, Universal Building North, 1875 Connecticut Avenue, NW., Washington, D.C.

Dated at Washington, D.C., January 5, 1979.

RICHARD J. MURPHY,
Administrative Law Judge.

[FR Doc. 79-900 Filed 1-9-79; 8:45 am]

[1505-01-M]

[Docket No. 34189; Order No. 78-12-49]

EXEMPTION OF U.S. AND FOREIGN AIR CARRIERS FROM TARIFF OBSERVANCE REQUIREMENTS TO PERMIT RESOLUTION OF CONSUMER COMPLAINTS

Order Granting Exemption

Correction

In FR Doc. 78-34671, appearing at page 58210 in the issue of Wednesday, December 13, 1978, the order number, which was mistakenly omitted from the headings, should read as set out in brackets above.

[6320-01-M]

[Docket No. 33361]

CONNER AIR LINES, INC.

Application for Former Large Irregular Air Service Investigation; Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on January 30, 1979, at 9:30 a.m. (local time), in Hearing Room 1003B, Universal Building North, 1875 Connecticut Avenue, NW., Washington D.C., before me.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the prehearing conference report served November 9, 1978, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., January 4, 1979.

MARVIN H. MORSE,
Administrative Law Judge.

[FR Doc. 79-901 Filed 1-9-79; 8:45 am]

[6320-01-M]

LOCAL SERVICE CARRIERS

Subsidy Levels

This is an order tentatively proposing new subsidy levels for local service carriers operating under Class Rate IX.

AGENCY: Civil Aeronautics Board.

ACTION: Summary of Order 79-1-38 Adopting Statement of Provisional Findings and Conclusions regarding the subsidy levels to be established effective July 1, 1978, under new class rate (Class Rate IX) and Order 79-1-39 to show cause why temporary rates based on the "Statement" should not be set pending finalization of Class Rate IX.

SUMMARY: The board has adopted a Statement of Provisional Findings and Conclusions in the Investigation of the Local Service Class Subsidy Rate, Docket 32484. It tentatively determines the subsidy needs of individual carriers and of the local service group, which are being proposed as the rate levels for class rate purposes for the periods July 1, 1978, through October 23, 1978, and October 24, 1978, through December 31, 1978. The Board also issued two show cause orders. The first directs parties to the proceeding to show cause why the Board should not adopt the subsidy need set forth in the Statement of Provisional Findings and Conclusions. The second proposes to establish a temporary rate at the proposed levels.

DATES: Parties must file notices of objection to Order 79-1-38 within ten days of the date of service (1/11/79) and must file objections within 30 days of the date of service. Notices of objection to Order 79-1-39 must be filed within 8 days of service and objections within 15 days of service.

FOR FURTHER INFORMATION CONTACT:

John R. Hokanson or James Craun, Bureau of Pricing and Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D. C. 20428, 202-673-5132.

SUPPLEMENTARY INFORMATION: 1. For purposes of establishing Class Rate IX, the annual subsidy need of each of the local service carriers is an follows:

	Period When Annual Need Applies	
	7/1/78-10/23/78	10/24/78-12/31/78
Frontier Airlines, Inc	$7,754,000	$13,583,000
Hughes Air Corp. d/b/a/ Hughes Airwest	4,253,000	7,708,000
North Central Airlines, Inc	9,885,000	10,024,000
Ozark Air Lines, Inc	9,012,000	9,079,000
Piedmont Aviation, Inc	7,484,000	7,539,000
Southern Airways, Inc	3,301,000	3,345,000
Total	41,689,000	51,278,000

2. The total fair and reasonable annual level of subsidy to be embodied in Class Rate IX for the carriers listed in paragraph 1 is above, is $41,689,000 for the period July 1, 1978, through October 23, 1978, and $51,278,000 for the period October 24, 1978, through December 31, 1978.

The fair and reasonable temporary rate levels for the carriers listed in paragraph 1 for the periods July 1, 1978, through October 23, 1978, and October 24, 1978, until Class Rate IX is made final should be based on the annual need levels applicable to the July 1, 1978, through October 23, 1978, and October 24, 1978, through December 31, 1978, periods shown in paragraph 1.

The complete text of Orders 79-1-38 and 79-1-39 are available from our Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Orders 79-1-38 and 79-1-39 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 79-906 Filed 1-9-79; 8:45 am]

[1505-01-M]

[Docket 33216]

LOUISVILLE-KANSAS CITY NONSTOP ROUTE INVESTIGATION

Hearing

Correction

In FR Doc. 78-34980 appearing at page 58598 in the issue for Friday, December 15, 1978, the Docket number which appeared in the heading as "Docket 3216" should have read "Docket 33216" as set forth above.

[6320-01-M]

PACIFIC SOUTHWEST AIRLINES

Order to Show Cause

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause (Order 79-1-33).

SUMMARY: The Board proposes to issue to Pacific Southwest Airlines a charter certificate authorizing it to perform charter air transportation between points West of the Mississippi River, except for points in Alaska and Hawaii (Docket 32755). (The complete text of this order is available as noted below).

DATES: All interested persons having objections to the Board's issuing an order making final the tentative findings and conclusions or to the issuance of the proposed charter certificate shall file by February 9, 1979, with the Board and serve on Pacific Southwest Airlines and all U.S. certified air carriers a statement of objections together with a summary of testimony, statistical data, and other material expected to be relied upon to support the stated objections. Replies to objections may be filed no later than February 20, 1979.

ADDRESSES: Objections and replies should be filed in Docket 32755, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT:

Curtis B. Maloy, Bureau of Pricing and Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, 202-673-5088.

SUPPLEMENTARY INFORMATION: In the event no objections are filed, the Board may enter an order making final its tentative findings and conclusions.

The complete text of Order 79-1-33, is available from our Distribution Section, Room, 516, 1825 Connecticut Avenue, N.W., Washington, D.C. 20208. Persons outside the metropolitan area may send a postcard request for Order 79-1-33, to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 79-904 Filed 1-9-79; 8:45 am]

[6320-01-M]

[Docket No. 33712]

TIGER INTERNATIONAL-SEABOARD ACQUISITION CASE

Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter will be held on January 25, 1979, at 9:30 a.m. (local time), in Room 1003, Hearing Room D, Universal North Building, 1875 Connecticut Avenue, NW., Washington, D.C.

In order to facilitate the conduct of the conference, parties are instructed to submit one copy to each party and six copies to the Judge of (1) proposed statements of issues; (2) proposed stipulations; (3) proposed requests for information and for evidence; (4) statements of positions; and (5) proposed procedural dates. Each Bureau of the Civil Aeronautics Board which intends to participate in this proceeding will circulate its material on or before January 11, 1979, and the other parties on or before January 18, 1979. If more than one Bureau is participating, it is requested that they confer and make a joint submission, if possible. The submissions of the other parties, insofar as they treat points raised by the Bureaus, shall be cross-referenced to the Bureau's proposal, so as to facilitate comparison.[1]

[1] For the purpose of this Notice, the term "parties," as used herein encompasses prospective intervenors as well as those persons noted in paragraph 5 of Order 78-12-173, at p. 11.

Dated at Washington, D.C., January 4, 1979.

JOHN J. MATHIAS,
Administrative Law Judge.

[FR Doc. 79-902 Filed 1-9-79; 8:45 am]

[6335-01-M]

COMMISSION ON CIVIL RIGHTS

MICHIGAN ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Michigan Advisory Committee (SAC) of the Commission will convene at 10:30 a.m. and will end at 4:00 p.m. On February 2, 1979, Anti-Defamation League, 163 Madison, Detroit, Michigan 48226.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Midwestern Regional Office of the Commission, 230 South Dearborn, 32nd Floor, Chicago, Illinois 60604.

The purpose of this meeting is to discuss Minimum Compentency Workshop on Housing, Civil Rights Developments in Michigan.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 5, 1979.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 79-830 Filed 1-9-79; 8:45 am]

[6450-01-M]

DEPARTMENT OF ENERGY

Office of Energy Research

ENERGY RESEARCH ADVISORY BOARD

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463, 86 Stat. 770), notice is hereby given that the Energy Research Advisory Board will meet Thursday and Friday, February 1 and 2, 1979, from 9:00 a.m., to 5:00 p.m., at the National Academy of Sciences, Room, 400A, Joseph Henry Building, 2100 Pennsylvania Ave., NW, Washington, D.C.

The purpose of the Energy Research Advisory Board is to advise the Department of Energy on the overall research and development conducted in DOE and to provide long-range guidance in these areas to the Department.

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The tentative agenda is as follows:

Introduction and review of actions initiated at the first meeting; approval of minutes of last meeting.
Review of modus operandi of the Board.
Reports on issues developed by the Board members.
Discussion of recent requests for ERAB review.
Briefings by DOE on additional areas not covered in the first meeting.
Status report on Board review of Strategic Petroleum Reserve (SPR) requested Under Secretary.
Public Comment (10 minute rule).

The meeting is open to the public. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should inform Georgia Hildreth, Director, Advisory Committee Management Office, 202-252-5187, at least 5 days prior to the meeting and reasonable provision will be made to include their presentation on the agenda.

Subsequent to approval by the Committee, minutes of the meeting will be available for public review and copying at the Freedom of Information Public Reading Room, Room GA-152, Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. An Executive Summary of the meeting can be obtained by calling the Advisory Committee Management Office at the number above.

Issued at Washington, D.C. on January 5, 1979.

GEORGIA HILDRETH,
Director, Advisory Committee Management.

[FR Doc. 79-885 Filed 1-9-79; 8:45 am]

[6450-01-M]

Federal Energy Regulatory Commission

[Docket No. RM79-3]

STATE OF NEW MEXICO ENERGY AND MINERALS DEPARTMENT, ET AL.

Natural Gas Policy Act of 1978; Receipt of Report of Determination Process

JANUARY 5, 1979.

Pursuant to section 18 CFR 274.105 of the Federal Energy Regulatory Commission's Regulations, a jurisdictional agency may file a report with the Commission describing the method by which such agency will make certain determinations in accordance with sections 102, 103, 107, and 108 of the Natural Gas Policy Act of 1978.

Reports in conformance with 18 CFR 274.105 have been received by the Commission from the following jurisdictional agencies:

Agency and Date

State of New Mexico Energy and Minerals Department, Oil Conservation Division, November 29, 1978
State of Louisiana Department of Conservation, November 29, 1978
Railroad Commission of Texas, November 30, 1978
West Virginia Department of Mines, Oil and Gas Division, November 30, 1978
Alabama State Oil and Gas Board, November 30, 1978
State Oil and Gas Board of Mississippi, November 30, 1978
Kansas State Corporation Commission Conservation Division, November 30, 1978
State of Michigan, Department of Natural Resources, Geological Survey Division, December 1, 1978
State of California Department of Conservation Division of Oil and Gas, December 4, 1978
Commonwealth of Virginia Department of Labor and Industry Division of Mines and Quarries, December 4, 1978
State of Wyoming Office of Oil and Gas Conservation Commission, December 4, 1978
State of Colorado Department of Natural Resources, December 5, 1978
State of Ohio Department of Natural Resources Division of Oil and Gas, December 6, 1978
State of Arizona Oil and Gas Conservation Commission, December 14, 1978
State of Nebraska Oil and Gas Conservation Commission, December 15, 1978
State of Indiana Department of Natural Resources, December 26, 1978
State of North Dakota Geological Survey, January 4, 1978

Copies of these reports are available for public inspection in the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-875 Filed 1-9-79; 8:45 am]

[6720-01-M]

FEDERAL HOME LOAN BANK BOARD

FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

Publication of Revised Bulletin Concerning Audits of Insured Associations.

JANUARY 4, 1979.

AGENCY: Federal Home Loan Bank Board.

ACTION: Publication of revised bulletin concerning audits of insured institutions.

SUMMARY: This bulletin, classified as bulletin PA -7-1a of the Department of Examinations of the Bank Board's Office of the Federal Savings and Loan Insurance Corporation, provides guidance to FSLIC-insured institutions regarding minimally acceptable standards for audits of such institutions using electronic data processing.

EFFECTIVE DATE: January 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Allan B. Guerrina, Chief Accountant's Section, Office of the Federal Savings and Loan Insurance Corporation, 1700 G Street, NW., Washington, D.C. 20552; telephone 202-377-6529.

SUPPLEMENTARY INFORMATION: This bulletin complements Bulletin PA-7a (42 FR 29962, June 10, 1977) and supersedes Bulletin PA-7-1 (issued January 6, 1976, but not published in the FEDERAL REGISTER). These bulletins inform institutions whose accounts are insured by the Federal Savings and Loan Insurance Corporation of views of the Bank Board's examinations staff as to requirements for "satisfactory" annual audit under §§ 563.17-1 and 571.2 of the rules and regulations for Insurance of Accounts (12 CFR 563.17-1 and 571.2). This Bulletin PA-7-1a relates specifically to such audits on and after January 1, 1979, of insured institutions which make use of electronic data processing.

I. *Objectives.* Savings and loan associations increasingly rely on electronic data processing (EDP) as an integral portion of continuing operations. This use increases the complexity and magnitude of potential disaster, error and fraud within the insured institution and service corporations, if any. As a result, this set of audit and control guidelines is provided as a reference for auditors engaged in audits of insured institutions and subsidiaries thereof. The objective is to minimize the insured institution's EDP risk exposure at reasonable cost. Special concern is placed on those areas of risk that affect an association's economic viability.

The auditor must study and evaluate the existing internal control of an EDP environment as a basis for reliance. Priorities of the auditor's activities must be managed by cost effectiveness in assuring fairness and correctness of the accounting records and the detection of areas that may be unreasonably exposed to disaster or fraud. Audit programs should be designed to meet requirements of each particular situation, including the size and type of organization and the evaluation of the controls affecting the reliability of accounting records and financial statements.

Certain special skills are needed in evaluating EDP internal controls. In addition to auditing knowledge and experience, these skills may include knowledge of programming, systems analysis, computer operations, data systems security and telecommunications. An auditor should consider using a specialist to assist in those cases where required skills are not present within the auditing team.

II. *Controls.* The controls described herein are necessary for an association to produce reliable financial records, safeguard institution assets and protect against major losses. The controls are applicable to all savings and loan EDP environments including: (1) An internal EDP center; (2) an affiliated service corporation EDP center; or (3) an independent EDP service bureau. The level of presentation of these controls is made general to avoid including an extensive listing in an attempt to attain exhaustive coverage.

The following controls should be reviewed by the external auditor but should not be construed as an absolute guide for an internal control questionnaire. Controls in addition to those herein described may be necessary to fulfill particular audit requirements and to meet emerging EDP technological advances.

A. *Organization.* The EDP department should be regularly reviewed by qualified persons independent of the EDP function. It is management's responsibility to ensure that EDP employees are provided with explicit assignments and appropriate division of duties between systems analysis, computer programming, input/output checking and computer operations. One employee, even if among other duties, should have the primary responsibility for security. The establishment of an independent internal audit department or function is encouraged by Federal Home Loan Bank Board Memoranda R44 and R45. If established, the internal auditor, through periodic audits, should report to an independent audit committee on whether or not the accounting system is designed and operated to yield information which can be used to prepare financial statements that accurately represent the financial condition and results of operations of the association.

1. *Personnel*—Blanket fidelity bond coverage should be maintained for all EDP employees. Explicit documented procedures for loan and deposit accounts should exist for EDP employees transacting personal business with the association. The EDP department should obtain a documented background screening of personnel. The EDP department should provide periodic security briefings for their employees. Generally, EDP personnel should be released from sensitive duties upon termination notice. Written termination procedures should include the changing of passwords and the recovery of keys, ID's, etc.

2. *Administration*—To the extent consistent with continuing satisfactory operation, proper EDP administration should include the following:

- Authorization for access to computer facilities, programs and/or data files should be given only to those persons having direct responsibility for performing a defined job function that necessitates such access.
- Authorization for direct access to computer facilities, programs and/or data files for purposes of making modifications not be given to persons having control over other areas of the association.
- Procedures to prevent unauthorized modification of computer programs, data files or documentation.
- Predetermined and consistently used systems development standards including systems program testing, user acceptance procedures, control features and documentation standards.
- Control of documentation.
- Detailed knowledge of system by employees limited to that required to satisfactorily fulfill individual responsibilities and to the extent practical, divided among different employees.
- Management authorization for abnormal work schedules.
- Job rotation among qualified persons.
- Scheduled mandatory employee vacations.

B. *Physical Security*—1. *Destructive Forces*—Measures should be established for the appropriate prevention, detection and countering of destructive forces such as fire, flood, lightning, etc.

2. *Access Control*—Access to the essential EDP functions should be appropriately restricted with regard to movement of people, documents and materials into, within and out of a facility. This should include control over access to computer hardware, data files and programs. Access control should also include unauthorized intrusion prevention and detection.

C. *Computer Programming*—1. *Development Process*—A project team approach may be followed using well-defined procedures in development of application programs, new systems and conversions. Such procedures should usually include a feasibility review, cost analysis, written set of user specifications, written technical specifications, design, implementation, acceptance testing and documentation. Programs should be written to definitive standards making use of standard data processing techniques. Disaster recovery procedures should be considered and planned for.

2. *Program Characteristics*—Program edits should exist on the authenticity, accuracy and completeness of data being processed. The ability to enter error-correction transactions through facilities provided by the program should be included. Recovery procedures such as checkpoint restarts should usually exist for long-running programs and on line data collection programs where a system failure would disrupt the timely completion of processing.

D. *Computer Operations*—1. *Current Operations*—Established access, protection and control procedures for library materials should be written and followed. Accountability should be maintained in a secure, offsite location. Where practical and useful, the computer console log should be safeguarded.

2. *Disaster Recovery*—A written contingency plan for response to a wide variety of disasters including potentially disruptive activities in the computer room, loss of computer hardware and loss of data files should be maintained. Contingency plan and use of backup hardware should be periodically reviewed and tested where appropriate.

E. *System Controls*—1. *Input*—Physical security and access controls should be provided for input media gueues and teller terminals to preclude origination of transactions by unauthorized personnel. Verification procedures for input data including the development of independent control balancing totals to ensure completeness, authorization and accuracy of data processing should be provided. An input/output control function should monitor operations and follow up on errors to ensure proper correction. Sensitive or financially significant transactions should require supervisory authorization. Written procedure manuals should exist and include a section covering those actions necessary to preserve continuity of controls during periods of system failure.

2. *Processing*—Computer programs should provide controls to detect and correct errors in processing. These controls should include valid code tests, incomplete data tests, sequence tests, and tests of reasonableness.

3. *Output*—Formal report distribution system with prior scanning of reports and user distribution of control totals for input/output balancing to check accuracy of processing and logging of material should be enforced. A comprehensive set of exception and discrepancy reports should be provided to authorized personnel for audit and error correction purposes.

4. *User*—Users should maintain and monitor scheduled reports. Where

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practical, procedures should provide for continued statistical analysis of errors, and follow-up for attempted control violations of teller machines. Management should ensure that adequate controls are maintained during periods of system outage. User manuals should be maintained and available for those persons authorized to enter transactions into the system. These manuals should contain detailed instructions for entering normal as well as error-correction transactions. They should also contain specific procedures to be following during periods of system downtime.

F. *Service Bureau Users.* When associations use an EDP service bureau, additional controls are necessary. The association should maintain full control over the submission of information to and receipt of output from the service bureau. Also, the association should ensure that the contract provisions comply with Federal Home Loan Bank Board requirements (Memorandum #R-13a) and should specify:

- Ownership of data files and programs which are proprietary to the association;
- The manner in which continuity of service is maintained;
- Security measures to be maintained at the service bureau and upon the material in transit to and from the association;
- Insurance coverage for losses contributing to interruption of normal services;
- Provision for access to the service bureau by an independent public accountant; and
- Provision for submission of third-party auditor's report (if existent) to the District Director.

The association's independent auditor must review internal accounting and security controls (as discussed above) to determine if they exist and are followed within the service bureau. Such review may be performed entirely by the auditor or some portion may be provided by a third-party review. When a third-party review is conducted the report shall comply with PA-7-1a, Sections III and IV. In accordance with Memorandum #R-13a, the report shall be forwarded by the service center (or by the auditor performing the review) to the District Director's office for review.

III. *Audit Reporting Requirements Regarding EDP.* The independent auditor's report to management on internal control shall state that the review of internal control regarding EDP was performed in accordance with Bulletin PA-7-1a. Furthermore, this report shall contain all weaknesses found in the system of EDP internal control that in the judgement of the auditor place any portion of the association's assets at significant risk or compromise such association's fiduciary responsibility to its depositors. The report shall include recommendations for strengthening controls in the areas of such weaknesses. This applies whether the weaknesses are found at the association's in-house system or a servicing data center. Weaknesses that were detected and corrected during the audit should also be included noting the method of correction.

IV. *Third-Party Reviews*—A. *General.* Third-party reviews present a savings and loan association and their independent accountants with a practical and cost-beneficial solution to effective reviews of service centers. The process of several separate and distinct reviews by each auditory can be duplicative and costly. Auditors of insured associations may delegate to other auditors the activity of reviewing those aspects of internal control in an EDP service center that are relevant to the delegating auditor's examination. However, the association's auditor retains the responsibility for evaluating internal control as it affects the audit of an association even though the report or management letter of another auditor may be used as a source of information in performing the evaluation. An acceptable review of a service bureau must have been performed within the fiscal year of the user association's audit and be in compliance with Bulletin PA-7-1a.

The third-party auditor should be cognizant that services provided must be in accordance with applicable auditing standards as set forth in Statements on Auditing Standards as promulgated by the Auditing Standards Executive Committee of the AICPA. Further information concerning third-party reviews is set forth in *Audits of Service Center-Produced Records*, AICPA, 1974.

B. *Third-Party Review Reports.* The content of the third-party review report (or letter) must conform to the aforementioned AICPA audit guide and shall at a minimum contain the following information.

1. *Section I.* a. A statement that the review was conducted in compliance with the requirements of Bulletin PA-7-1a.

b. A statement of the scope of the review effort and the dates during which the review was conducted.

c. A general system description listing the major EDP equipment and the system and application software utilized by the service center.

d. A description of the general controls in the service center. This description must include, but is not limited to the areas of :

(1) Systems and Programming—The procedures in effect with regard to program changes, authorization from user associations and the documentation of user requests.

(2) Operations—The procedures in effect with regard to input and output document control, customer service support, computer operations, and output report distribution. Activities reviewed should also include the provisions for association's involvement in the system development and program maintenance activities and in the day-today operational concerns.

(3) Security and Backup—The procedures in effect to ensure the continued operation of the service center function in cases of intermittent or prolonged downtime. Areas reviewed should include safety and security of data files as well as system and application programs.

(4) Documentation—The procedures in effect to ensure that documentation is complete and up-to-date within the service center and that association user manuals are kept current. Backup of documentation should also be considered.

e. A summary description of the tests of compliance performed at the service center. These tests shall include:

(1) Tests of the manner in which transactions are processed through the system;

(2) Observation, on a test basis, of the service center operations;

(3) Review of the performance of the system to produce output reports for audit trial purposes, including exception reporting;

(4) Review of the internal audit program (if applicable) conducted by the service center or by an association user's group;

(5) Review of documentation, including system and program documentation, operations' manuals and user manuals; and

(6) Other appropriate review procedures performed.

2. *Section II*—The results of the review and tests of compliance.

a. Description of the system of internal accounting controls that was found to be in operation at the service center.

b. Comments on the internal accounting controls requiring the consideration of a user association's independent accountants. These comments should include:

(1) The reviewer's comments on controls found to be weak or nonexistent at the service center.

(2) The reviewer's recommendations for strengthening or establishing controls that were found to be weak or nonexistent.

Where possible, these comments should be writen in a manner that will assist the user auditor in making recommendations that if followed will lend to the development, on the part of the user associations, of compensating controls within the individual associations. Therefore, care should be taken to include all relevant information reported to service center management concerning weaknesses in the system of internal control.

3. *Section III*—Supplementary information in support of the third-party review. Information supplied here should include:

a. Sample or description of the standard contract or agreement.

b. Organization chart of the service center.

c. List of significant financial applications provided to user associations.

d. List of user associations.

This Bulletin becomes effective for insured institution audit periods beginning after December 31, 1978. Inquireies and requests for information regarding matters covered by this Bulletin should be directed to the District Director-Examinations for the Federal Home Loan Bank District in which the home office of an insured institution is located.

(Secs. 402, 403, 407, 48 stat. 1256, 1257, 1260, as amended; 12 U.S.C. 1725, 1726, 1730; Reorg. Plan No. 3 of 1947, 12 FR 4981; 3 CFR 1943-48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

RONALD A. SNIDER,
Assistant Secretary.

[FR Doc. 79-891 filed 1-9-79; 8:45 am]

[6730-01-M]

FEDERAL MARITIME COMMISSION

[Docket No. 79-2; Agreement No. 10293]

FLOTA MERCANTE GRANCOLOMBIANA, S.A. AND ANDINO CHEMICAL SHIPPING INC.

Order of Investigation and Hearing

Pursuant to section 15 of the Shipping Act, 1916, an Agreement between Flota Mercante Grancolombiania, S.A. (Flota) and Andino Chemical Shipping, Inc. (Andino) has been filed with the Commission for approved and assigned Federal Maritime Commission Number 10293. The Agreement would provide for the establishment of a space chartering arrangement for the transportation of bulk liquid cargo in the trade between United States Gulf ports and Atlantic Coast ports of Colombia, whereby Andino would provide Flota with the necessary space on vessels owned or operated by Andino.

Dow Chemical International, Inc. of Delaware (Dow) and Shell Chemical Company, a division of Shell Oil Company, protested the Agreement and requested that a hearing be held to determine whether the Agreement should be approved under section 15. General comments on the Agreement were also filed by Lykes Bros. Steamship Company, Inc., O.N.E. Shipping, Ltd. and Esso Chemical Supply Company, Inc. (Esso). Esso later advised that it supported the protestants' requests for a hearing.

Essentially, the protestants contended that the Agreement will be detrimental to the commerce of the United States because it will result in Flota and Andino having a monopoly position in the carriage of bulk liquid cargoes in this trade. In addition, Esso stated that it was dissatisfied with the quality of service offered by Flota and Andino, and both Esso and Dow expressed fear of losing their markets in Colombia should the Agreement be approved.

On July 11, 1977, the Executive Vice President of Flota's General Agent in the United States and the General Manager of Andino each submitted an affidavit in support of the Agreement. Aside from making a claim that the proposed service would assure shippers and consignees of regularly scheduled sailings at rates upon which they could rely, nothing of consequence was presented which would justify approval of the Agreement.

Upon consideration of the evidence then before the Commission, we found that the parties had failed to justify the Agreement and concluded that it was not required by a serious transportation need, necessary to secure important public benefits, in furtherance of a valid regulatory purpose of the Shipping Act, or otherwise in the public interest, and, therefore, that the Agreement could not be approved under the standards of section 15 of the Shipping Act, 1916. Consequently, on May 25, 1978, the Commission issued an Order of Conditional Disapproval of Agreement No. 10293. In that Order, we stated that the Agreement was disapproved effective July 30, 1978, unless, on or before July 29, 1978, the proponents filed with the Secretary of the Commission an unequivocal request for a further hearing. Such a request was to contain an itemization of each basic fact the proponents intend to prove at the requested hearing, a particularized description, of the evidence the proponents intend to use to prove those facts, and a separate itemization of each point of law the proponents wish to argue at the requested hearing.

On July 25, 1978, Flota and Andino filed separate requests that a full hearing be held to determine the approvability of Agreement No. 10293.

In its filing, Flota disputes the protestants' claim that approval of the Agreement will result in Flota and Andino having a monopoly position in the carriage of bulk liquid cargoes between the U.S. and Colombia. It also lists four witnesses who are prepared to testify on such controverted factual matters as the need for the Agreement in the trade, the sufficiency and quality of the proposed service, and the Agreement's impact on the protestants. Flota also lists the following issues of law which it intends to address: (1) Whether Agreement No. 10293 constitutes a "cooperative working arrangement" or other agreement subject to the jurisdiction of section 15 of the Shipping Act; (2) Whether the Agreement constitutes a *per se* violation of the antitrust laws, and (3) Whether the Agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or detrimental to the commerce of the United States, or contrary to the public interest, or in violation of the Shipping Act—that is, whether the Agreement is approvable under section 15.

Andino contended in its filing that the Commission's Order of Conditional Disapproval constituted prejudgment of the Agreement and was arbitrary and unreasonable. Like Flota, it argued that the Commission was wrong in characterizing Agreement No. 10293 as a "cooperative working arrangement," that in any event the Agreement is not *per se* illegal under the antitrust laws, and that the Agreement may be lawfully approved under section 15. With regard to adducing factual evidence in support of the Agreement, Andino confined itself to stating that "after hearing Flota's witnesses [Andino] will supplement the proof offered by Flota by whatever evidence is deemed pertinent or relevant * * *."

In view of the requests for a hearing filed by Flota and Andino, and the disputes surrounding Flota's and Andino's past services and the impact of this Agreement on the carriage of bulk liquid in this trade, it is necessary that an investigation be conducted into whether Agreement No. 10293 should be approved by the Commission. This investigation will include, as a principal matter, the anticompetitive impact of the Agreement, including a determination of the effect on the trade of certain flag restriction provisions in decrees issued by the Government of Colombia, and what effect the Agreement would have on markets in Colombia for Esso and Dow. It must also be determined whether the Agreement would benefit the trade—that is, whether there exists a transportation need which the Agreement will meet.

Now, therefore, *it is ordered*, That pursuant to section 15 (46 U.S.C. 814) and section 22 (46 U.S.C. 821) of the Shipping Act, 1916, this proceeding is hereby instituted to determine whether or not Agreement No. 10293 shall be

approved, disapproved, or modified under the provisions of section 15;

It is further ordered, That Flota Mercante Grancolombiana, S.A. and Andino Chemical Shipping Inc. are hereby made proponents in this proceeding;

It is further ordered, That Esso Chemical Supply Company, Inc.; Dow Chemical International, Inc. of Delaware, and Shell Chemical Company, a division of Shell Oil Company, are hereby made protestants in this proceeding;

It is further ordered, That a public hearing be held in this proceeding and that the matter be assigned for hearing and decision by an Administrative Law Judge of the Commission's Office of Administrative Law Judges at a date and place to be hereafter determined by the Presiding Administrative Law Judge, but no later than June 30, 1979.

The hearing shall include oral testimony and cross-examination in the discretion of the Presiding Officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matters in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record;

It is further ordered, That notice of this Order be published in the FEDERAL REGISTER, and a copy thereof be served upon proponents and protestants as listed in the Appendix hereto and the Commission's Bureau of Hearing Counsel;

It is further ordered, That any person other than proponents, protestants, and the Bureau of Hearing Counsel having an interest and desiring to participate in this proceeding shall file a petition for leave to intervene in accordance with Rule 72 (46 CFR 502.72) of the Commission's Rules of Practice and Procedure;

It is further ordered, That all future notices, orders, and/or decisions issued by or on behalf of the Commission in this proceeding including notice of the time and place of hearing or prehearing conference, shall be mailed directly to all parties of record;

It is further ordered, That all documents submitted by any party of record in this proceeding shall be filed in accordance with Rule 118 of the Commission's Rules of Practice and Procedure (46 CFR 502.118), as well as being mailed directly to all parties of record.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

APPENDIX

Proponents

Flota Mercante Grancolombiana, S.A., Grancolombiana (New York) Inc., General Agents, One World Trade Center, Suite 1667, New York, New York 10048

Renato C. Giallorenzi, Esq., Giallorenzi and Campbell, 67 Broad Street, Suite 2201, New York, New York 10004 (Attorneys for Flota Mercante Grancolombiana, S.A.)

Andino Chemical Shipping, Inc., 1200 Milam Street, Houston, Texas 77002

Zachary B. Shwal, Esq., Shwal, Thompson & Bloch, 485 Madison Avenue, New York, New York 10022 (Attorneys for Andino Chemical Shipping, Inc.)

Protestants

Esso Chemical Supply Company, Inc., P.O. Box 301, Florham Park, New Jersey 07932

Lawrence G. Cohen, Esq., Kirlin, Campbell & Keating, One Twenty Broadway, New York, New York 10005 (Attorneys for Esso Chemical Supply Company, Inc.)

T. A. Gallagher, Export Department, Shell Chemical Company, a Division of Shell Oil Company, One Shell Plaza, Houston, Texas 77002

Dow Chemical International, Inc. of Delaware, P.O. Box 400, Coral Gables, Florida 33134

Pedro A. Freyre, Esq., P.O. Box 340400, Coral Gables, Florida 33134 (Attorney for Dow Chemical International, Inc. of Delaware)

[FR Doc. 79-864 Filed 1-9-79; 8:45 am]

[6730-01-M]

[Docket No. 79-3; Agreement No. 10295]

FLOTA MERCANTE GRANCOLOMBIANA, S.A. AND MARITIMA TRANSLIGRA, S.A.

Order of Investigation and Hearing

Pursuant to section 15 of the Shipping Act, 1916, an Agreement between Flota Mercante Grancolombiana, S.A. (Flota) and Maritima Transligra, S.A. (Maritima) has been filed with the Commission for approval and assigned Federal Maritime Commission Number 10295. The Agreement would provide for the establishment of a space chartering arrangement for the transportation of bulk liquid cargo in the trade between United States Gulf ports and Pacific Coast ports of Colombia, whereby Maritima would provide Flota with the necessary space on vessels owned or operated by Maritima.

No formal protests or requests for hearing into the merits of Agreement No. 10295 have been filed, although general comments on the Agreement were filed by Dow Chemical International, Inc., Esso Chemical Supply Company, Inc. (Esso), Lykes Bros. Steamship company, Inc. and O.N.E. Shipping, Ltd. The most detailed comments came from Esso, which stated that it was dissatisfied with the quality of service offered heretofore by Flota and Maritima, and that it feared the loss of its markets in Colombia should the Agreement be approved.

On July 11, 1977, the Executive Vice President of Flota's General Agent in the United States submitted an affidavit in support of the Agreement. Aside from rebutting the comments which had been filed by Esso and the other outside parties and claiming that the proposed service would assure shippers and consignees of regularly scheduled sailings at rates upon which they could rely, the affidavit presented nothing of consequence which would justify approval of the Agreement.

Upon consideration of the evidence then before the Commission, we found that Flota and Maritima had failed to justify the Agreement and concluded that it was not required by a serious transportation need, necessary to secure important public benefits, in furtherance of a valid regulatory purpose of the Shipping Act, or otherwise in the public interest, and, therefore, that the Agreement could not be approved under the standards of section 15 of the Shipping Act, 1916. Consequently, on May 25, 1979, the Commission issued an Order of Conditional Disapproval of Agreement No. 10295. In that Order, we stated that the Agreement was disapproved effective July 30, 1978, unless, on or before July 29, 1978, the proponents filed with the Secretary of the Commission an unequivocal request for a further hearing. Such a request was to contain an itemization of each basic fact that the proponents intend to prove at the requested hearing, a particularized description of the evidence the proponents intend to use to prove those facts, and a separate itemization of each point of law the proponents wish to argue at the requested hearing.

On July 25, 1978, Flota and Maritima filed through counsel a joint request that a full hearing be held to determine the approvability of Agreement No. 10295.

In their filing, the proponents list four witnesses who are prepared to testify on such controverted factual matters as the need for the Agreement in the trade, the sufficiency and quality of the proposed service and the Agreement's impact on shippers such as Esso. They also list the following issues of law which they intend to address: (1) Whether Agreement No. 10295 constitutes a "cooperative working arrangement" or other agreement subject to the jurisdiction of section 15 of the Shipping Act; (2) Whether the Agreement constitutes a *per se* violation of the antitrust laws, and (3) Whether the Agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports or between exporters from the United States and their foreign competitors, or detrimental to the commerce of the United States, or contrary to the public interest, or in violation of the Shipping Act—that is, whether the Agreement is approvable under section 15.

In view of the requests for a hearing filed by Flota and Maritima and the disputes surrounding the proponents' past services and the impact of this Agreement on the carriage of bulk liquid in this trade, it is necessary that an investigation be conducted into whether Agreement No. 10295 should be approved by the Commission. This investigation will include, as a principal matter, the anticompetitive impact of the Agreement, including a determination of the effect on the trade of certain flag restriction provisions in decrees issued by the Government of Colombia, and what effect the Aggrement would have on markets in Colombia for shippers such as Esso. It must also be determined whether the Agreement would benefit the trade—that is, whether there exists a transportation need which the Agreement will meet.

Now, therefore, *it is ordered,* That pursuant to section 15 (46 U.S.C. 814) and section 22 (46 U.S.C. 821) of the Shipping Act, 1916, this proceeding is hereby instituted to determine whether or not Agreement No. 10295 shall be approved, disapproved, or modified under the provisions of section 15;

It is further ordered, That Flota Mercante Grancolombiana, S.A. and Maritima Transligra, S.A. are hereby made proponents in this proceeding;

It is further ordered, That a public hearing be held in this proceeding and that the matter be assigned for hearing and decision by an Administrative Law Judge of the Commission's Office of Administrative Law Judges at a date and place to be hereafter determined by the Presiding Administrative Law Judge, but no later than June 30, 1979.

The hearing shall include oral testimony and cross-examination in the discretaion of the Presiding Officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matters in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record;

It is further ordered, That notice of this order be published in the FEDERAL REGISTER, and a copy thereof be served upon proponents as listed in the Appendix hereto and the Commission's Bureau of hearing Counsel;

It is further ordered, That any person other than proponents and the Bureau of hearing Counsel having an interest and desiring to participate in this proceeding shall file a petition for leave to intervene in accordance with Rule 72 (46 CFR 502.72) of the Commission's Rules of Practice and Procedure;

It is further ordered, That all future notices, orders, and/or decisions issued by or on behalf of the Commission in this proceeding including notice of the time and place of hearing or prehearing conference, shall be mailed directly to all parties of record;

It is further ordered, That all documents submitted by any party of record in this proceeding shall be filed in accordance with Rule 118 of the Commission's Rules of Practice and Procedure (46 CFR 502.118), as well as being mailed directly to all parties of record.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

APPENDIX

PROPONENTS

Flota Mercante Grancolombiana, S.A., Grancolombiana (New York) Inc., General Agents, One World Trade Center, Suite 1667, New York, New York 10048.

Maritima Transligra, S.A., Guayaquil, Ecuador.

Renato C. Giallorenzi, Esq., Giallorenzi and Campbell, 67 Broad Street, Suite 2201, new York, New York 10004 (Attorneys for Flota Mercante Grancolombiana, S.A. and Maritima Transligra, S.A.).

[FR Doc. 79-865 Filed 1-9-79; 8:45 am]

[6730-01-M]

INDEPENDENT OCEAN FREIGHT FORWARDER LICENSES

Notice of Revocation; Correction

By Decision served July 24, 1978, in Docket No. 77-53, *Licensing of Independent Ocean Freight Forwarders,* (FEDERAL REGISTER, Vol. 43, No. 146, P. 32776, July 28, 1978), the Federal Maritime Commission amended its General Order 4 (46 CFR 510) to require all licensed independent ocean freight forwarders to file with the Commission a surety bond in the amount of $30,000. The amendment stated that if a licensee fails to file such bond on or before December 1, 1978, the license shall be revoked in accordance with Rule 510.9 of General Order 4.

The Commission published a Notice of Revocation in the FEDERAL REGISTER on January 3, 1979 (Vol. 44, No. 2, Pp. 953-955) wherein notice was given of the independent ocean freight forwarders who had failed to file with the Commission a surety bond in th e amount of $30,000 and whose licenses were revoked effective December 2, 1978. Erroneously, Merit Brokerage Co., Inc., 1748 W Katella Avenue, Orange, California 92667, was amont the licensees anmed. Merit Brokerage Co., Inc. filed the prescribed bond before December 1, 1978, hence FMC Independent Ocean Freight Forwarder License No. 1862 has not been revoked.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 79-867 Filed 1-9-79; 8:45 am]

[6730-01-M]

[Docket No. 79-4]

SOL SPITZ CO., INC. v. AMERICAN PRESIDENT LINES, LTD.

Filing of Complaint

Notice is given that a complaint filed by Sol Spitz Co., Inc. against American President Lines, Ltd. was served January 4, 1979. Complainant alleges that it has been subjected to payment of rates for transportation which are unjust and unreasonable in violation of sections 17 and 18(b) of the Shipping Act, 1916.

Hearing in this matter, if any is held, shall commence on or before July 4, 1979. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 79-866 Filed 1-9-79; 8:45 am]

[6750-01-M]

FEDERAL TRADE COMMISSION

NL INDUSTRIES, INC.

Early Termination of Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the 30-day waiting period of the premerger notification rules.

SUMMARY: NL Industries Inc. is granted early termination of the 30-day waiting period provided by law and the premerger notification rules with respect to its proposed acquisition of certain assets of Texas International Company. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by NL Industries. Neither agency

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intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: December 21, 1978.

FOR FURTHER INFORMATION CONTACT:

Malcolm R. Pfunder, Assistant Director for Evaluation, Bureau of Competition, Room 394, Federal Trade Commission, Washington, D.C. 20580, (202-523-3404).

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by sections 201 and 202 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers of acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act and § 803.11 of the rules implementing the Act permit the agencies, in individual cases, to terminate this waiting period prior to its expiration and to publish notice of this action in the FEDERAL REGISTER.

By direction of the Commission.

CAROL M. THOMAS,
Secretary.

[FR Doc. 79 886 Filed 1 9 79; 8:45 am]

6750-01-M]

QUAKER STATE OIL REFINING CORP. AND HILLMAN CO.

Early termination of Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Quaker State Oil Refining Corporation and the Hillman Company are granted early termination of the extended waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of Texstar Automotive Distribution Group, Inc., and its subsidiaries. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice sua sponte. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: December 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Malcolm R. Pfunder, Assistant Director for Evaluation, Bureau of Competition, Room 394, Federal Trade Commission, Washington, D.C. 20580, (202-523-3404).

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by sections 201 and 202 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act and § 803.11 of the rules implementing the Act permit the agencies, in individual cases, to terminate this waiting period prior to its expiration and to publish notice of this action in the FEDERAL REGISTER.

By direction of the Commission.

CAROL M. THOMAS,
Secretary.

[FR Doc. 79-887 Filed 1-9-79; 8:45 am]

[6750-01-M]

WEDGE INTERNATIONAL HOLDINGS B.V. AND GILSON BROTHERS CO.

Early Termination of Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the 30-day waiting period of the premerger notification rules.

SUMMARY: Wedge International Holdings B.V. and Gilson Brothers Co. are granted early termination of the 30-day waiting period provided by law and the premerger notification rules with respect to their proposed merger. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by Wedge International Holdings B.V. and Gilson Brothers Co. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: December 27, 1978.

FOR FURTHER INFORMATION CONTACT:

Malcolm R. Pfunder, Assistant Director for Evaluation, Bureau of Competition, Room 394, Federal Trade Commission, Washington, D.C. 20580, (202-523-3404).

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by section 201 and 202 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act and § 803.11 of the rules implementing the Act permit the agencies, in individual cases, to terminate this waiting period prior to its expiration and to publish notice of this action in the FEDERAL REGISTER.

By direction of the Commission.

CAROL M. THOMAS,
Secretary.

[FR Doc. 79-888 Filed 1-9-79; 8:45 am]

[4110-12-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

OFFICE OF HUMAN DEVELOPMENT SERVICES

Statement of Organizational Functions and Delegations of Authority

This notice amends Part D of the statement of reorganization, functions, and delegations of authority of the Department of Health, Education, and Welfare, Office of Human Development Services (HDS), published in Volume 43, Number 147, of the FEDERAL REGISTER on July 31, 1978 (pp 33327-33347). The amendments are as follows:

1. ADMINISTRATION FOR NATIVE AMERICANS

In the functional statement for the Administration for Native Americans, changes in the statement of organization (DN.10) and functions (DN 20) have been made to reflect the following: (a) Within the Office of Program Operations, the Tribal Programs Division and the Special Programs Division have been renamed the Reservation Program Division and the Special and Off-Reservation Programs Division respectively; (b) The function of providing policy direction and guidance to the HDS Regional Offices in their administration of the program for urban Indians has been transferred to the Office of the Commissioner from the Office of Program Operations, Division of Special Programs; (c) The function for training and technical assistance, previously split between the Tribal Programs Division and Special Programs Division in the Office of Program Operations, has been consolidated and transferred to the Office of Planning and Program Development, Research, Demonstration, and Evaluation Division. The amended statement for the Administration for Native Americans reads as follows:

DN.00. Mission The Administration for Native Americans (ANA) represents the concerns of American Indians, Alaskan Natives, and Native Hawaiians, hereinafter referred to as Native Americans. The Administration has primary responsibility for developing policy, legislative proposals and guidance, and for providing staff advice to the Assistant Secretary and the Secretary, on matters involving the social and economic development of Native Americans. ANA administers grant programs to eligible Indian tribes and Native American organizations in urban and rural areas with funds authorized under the Native American Programs Act, Title VIII of the Head Start, Economic Opportunity, and Community Partnership Act of 1974.

In conjunction with the Office of the ASHDS, ANA provides Departmental liaison with other Federal agencies on Native American affairs, working to address unmet needs and increase the availability of resources and services to Native American communities through other agencies.

Through its policy, liaison, and granting functions, ANA explores new program concepts and new methods for increasing the social and economic development of Native Americans, assures that information about Departmental services and benefits and eligibility criteria is conveyed to Native Americans, and fosters the opportunity for the exercise of self-determination of Native Americans and their operation of Native American programs and enterprises.

DN.10 Organization. The Administration for Native Americans is headed by a Commissioner who reports directly to the Assistant Secretary for Human Development Services and consists of:

Office of the Commissioner (DN)
- Intra-Departmental Council on Indian Affairs Staff (DN-1)

Office of Program Operations (DNB)
- Reservation Program Division (DNB1)
- Special and Off-Reservation Programs Division (DNB2)

Office of Planning and Program Development (DNP)
- Research, Demonstration, and Evaluation Division (DNP1)
- Policy, Planning, and Budget Division (DNP2)
- Administrative Services Staff (DNP3)

DN.20 Functions. A. Office of the Commissioner (DN) provides overall direction, management and legislative liaison for all components of ANA. Serves as advisor to the ASHDS, the Secretary, and the heads of DHEW agencies administering programs which have a significant impact on Native Americans. On behalf of the Department conducts liaison with and obtains advice from Indian tribes and Native American organizations. Has final approval for all ANA grant awards (except those specifically redelegated to the HDS Regional Offices). Provides policy direction and guidance to the HDS Regional Offices in administering the grant program for urban Indians. Has final approval for all ANA interagency agreements and has final approval of contracts and other expenditures. The Commissioner is also Chairman of the Intra-Departmental Council on Indian Affairs.

1. Intra-Departmental Council on Indian Affairs Staff (IDCIA) (DN-1) provides general staff support to the Council and the Commissioner of ANA in his capacity as Chairman of the Council. The Council serves as the focal point within the Department for inter-agency coordination activities relating to Indian affairs to effect cooperation and complementary utilization of the Department's resources for Indian people. Develops and promotes consistent policies on Indian affairs for the entire Department and causes the full and continuous application of these policies throughout the Department. Identifies administrative, legislative and regulatory changes or developments necessary for the application of an effective and consistent Indian policy.

B. Office of Program Operations (DNB) administers the financial assistance projects of the Administration for Native Americans. Monitors overall performance of the financial assistance program, and directs the application of consistent regulations, policies, and guidelines.

1. Reservation Program Division (DNB1) provides direct assistance to American Indian tribes and Alaskan Native organizations in developing and securing funds for local self-determination programs aimed at social and economic self-sufficiency. Reviews applications and performs on-site monitoring and evaluation of funded projects. Serves as resource to and liaison with Indian tribes and Alaskan Native organizations.

2. Special and Off-Reservation Programs Division (DNB2) provides to Native Hawaiians, other Native American groups and organizations serving Native Americans off-reservation (with the exception of urban Indians) direct assistance in developing, securing and administering services aimed at social and economic self-determination. For these grantees, reviews applications for support and performs on-site monitoring and evaluation of funded projects. Serves as a resource to and liaison with Native American groups and organizations.

C. Office of Planning and Program Development (DNP) plans, directs and coordinates planning and program development activities. Directs the development of regulations, policies and guidelines for ANA. Directs the development of program and budget plans consistent with the Department's requirements. Monitors overall performance of research, demonstration, evaluation, planning, budget and support functions.

1. Research, Demonstration, and Evaluation Division (DNP1) develops and monitors projects in social and economic development, manpower and other areas of concern to Native Americans. Determines research needs and develops the research and development plan for ANA. Conducts cross-cutting studies on program effectiveness and performs special studies and analyses on a broad range of issues and activities relating to programs for Native Americans. Contributes to evaluative efforts of other agencies relevant to Native Americans. Coordinates with OPRE/HDS. Furnishes training and technical assistance support to equip Indian tribes, Alaskan Native organizations and other Native American groups and organizations with needed technical skills in a variety of program and management areas.

2. Policy, Planning and Budget Division (DNA2) develops and recommends the implementation of policies throughout ANA. Formulates budget and legislative plans consistent with Departmental and ANA requirements. Coordinates the reporting by ANA units to the DHEW/HDS management system, including reports on short-range initiatives (e.g. MITS). Assists the Office of Program Operations in developing local program planning capability. Compiles statistics on the population served by ANA programs. In accordance with ASHDS guidelines and instructions, administers the development of budget proposals and internal ANA financial operating plans. Furnishes assistance to program specialists and grantees in financial systems development. Coordinates with appropriate HDS staff units in carrying out these functions.

3. Administrative Services Staff (DNP3) provides a wide range of administrative services in support of all ANA programs and activities. Tracks financial status of all program and S&E accounts and provides financial data to the Commissioner. Initiates and expedites the progress of all procurements and personnel actions. Serves as ANA Executive Secretariat, controlling the flow of correspondence. Coordinates with the Office of Public Affairs/HDS in developing a public information plan and specific materials for dissemination. Responsible for the receipt of Freedom of In-

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formation Requests and coordinates responses to such requests directed to ANA. Coordinates with appropriate HDS units in implementing administrative requirements and procedures.

2. REHABILITATION SERVICES ADMINISTRATION

In the functional statement for the Rehabilitation Services Administration, changes in the statement of organization (DH.10) and functions (DH.20) have been made. In the Office of Administrative Support (DH.20 Functions, D): (1) the Division of Budget and Financial Management has been deleted; (2) The function for administration of RSA internal budget procedures has been transferred to the Division of Administration and Personnel, now called the Division of Administration and Budget; (3) The function for RSA internal grants and contracts procedures and liaison with HDS staff offices on these procedures has been transferred to the overall Office of Administrative Support, and (4) the responsibility for Management Information Systems has been moved from the Office of Program Operations to the Office of Administrative Support. In addition, the following changes have been made to other portions of the functional statement: (1) responsibility for White House conference follow-up has been transferred from the Division of Agency Liaison to the Office of Advocacy and Coordination; (2) responsibility for establishing standards as to who are handicapped individuals has been moved from the Division of Advocacy and Constituent Relations to the Division of Policy Development in the Office of Policy Management; (3) a more accurate description of the functions of the Bureau for the Blind and Visually Handicapped has been added; (4) the functions of the Deafness and Communicative Disorders Office have been clarified: (5) a reference is made to the facilities establishment and improvement function of the Bureau of Vocational Rehabilitation; and (6) a statement regarding the monitoring role of the Regional Offices in relation to State Agencies has been included.

The revised statements for RSA read as follows:

DH.00 Mission. The Rehabilitation Services Administration (RSA) supports services which improve conditions for and otherwise benefit handicapped individuals, with emphasis on the severely handicapped, including the developmentally disabled. Maintains close liaison with the Architectural and Transportation Barriers Compliance Board and the President's Committee on Mental Retardation; provides administrative support for the latter organization. Advises the ASHDS on the formulation, development, implementation, and review of policies and legislation affecting handicapped individuals. Acts as an advocate to assure the rights of handicapped persons. Serves as a resource and clearinghouse of information for service providers at national, regional, state, and local levels in the development of national programs to reduce or eliminate social and environmental barriers experienced by handicapped persons. Establishes standards for determining who are handicapped individuals for purposes of RSA program eligibility and provides leadership in assuring that all categories of handicapped individuals receive equitable consideration for access to services.

DH.10 Organization. The Rehabilitation Services Administration is headed by a Commissioner who reports directly to the Assistant Secretary for Human Development Services and consists of:

- Immediate Office of the Commissioner (DH)
  - Public Affairs Staff (DHA1)
  - Regional Liaison Staff (DHA2)
- President's Committee on Mental Retardation (DHP)
- Office of Policy Management (DHL)
  - Division of Policy Development (DHL1)
  - Division of Planning (DHL2)
  - Division of Legislation, Regulations, and Congressional Relations (DHL3)
- Office of Administrative Support (DHS)
  - Division of Administration and Budget (DHS1)
  - Division of Program Data and Analysis (DSH2)
- Office of Advocacy and Coordination (DHC)
  - Division of Advocacy and Constituent Relations (DHC1)
  - Deafness and Communicative Disorders Office (DHC2)
  - Division of Agency Liaison (DHC3)
- Office of Program Operations (DHN)
  - Bureau for Blind and Visually Handicapped (DHN1)
  - Bureau of Vocational Rehabilitation Program Operations (DHN2)
  - Bureau of Developmental Disabilities Program Operations (DHN3)
- Office of Program Development (DHM)
  - Bureau of Research and Engineering (DHM1)
  - Bureau of Evaluation and Utilization (DHM2)
  - Bureau of Demonstrations and Manpower Development (DHM3)

In addition, the Office for Handicapped Individuals (DHH) coordinates with the Commissioner, RSA, in carrying out its functions.

DH.20 Functions. A. Office of the Commissioner (DH) provides executive leadership to the Rehabilitation Services Administration. Establishes goals and objectives for programs for handicapped individuals and develops standards, criteria, guidelines, and policies to provide direction in the administration of these programs and serves as advisor to the ASHDS on programs and problems affecting handicapped individuals. Advocates for the rights and needs of handicapped individuals. Responsible for internal manpower measurement reports and analyzes; develops, implements and monitors internal communications and correspondence systems; and maintains a liaison with the HDS Executive Secretariat for tracking RSA correspondence and assignments.

Conducts special analyses of support services, program operations, program development activities, and other RSA operations in central office and the regions at the request of the Commissioner to determine consistency with established policies, regulations and guidelines; provides periodic reports on problem areas in staff relationships, operations, and management; and serves as a clearinghouse for employee suggestions.

The Office of the Commissioner also contains the following organizations:

1. Public Affairs Staff (DHA1) provides leadership and direction to RSA's public affairs activities; prepares, edits, and distributes RSA publications; develops methods for increasing public awareness of the needs of people served by RSA and programs designed to help them. Develops and implements a public affairs strategy for RSA; represents RSA in activities involving print and broadcast media. Serves as liaision with the Office of Public Affairs/HDS in providing centralized publication and audio/visual services for RSA. Responsible for the receipt of Freedom of Information requests and coordinates responses to such requests directed to RSA.

2. Regional Liaison Staff (DHA2) serves as the principal staff arm in the direction and management of RSA's regional office; performs studies and reviews of regional operations; provides regional staff with support on matters requiring central office coordination; is responsible for staff support on technical management aspects of regional operations matters; develops priorities for distributing regional office manpower resources; coordinates development of annual regional operations budget plans; and maintains calendar of planned meetings involving regional staff. Coordinates with the Office of Regional and Intergovernmental Relations/HDS on regional issues.

B. The President's Committee on Mental Retardation (DHP) is supported by RSA staff members, who provide administrative support and assistance in the PCMR effort to: (1) reduce the occurrence of mental retardation, (2) enable retarded individuals in public institutions to return to the community, and (3) provide assurance of full legal and human rights for retarded individuals. This staff prepares the committee's report to the President on the adequacy of national efforts to combat mental retardation; and develops and disseminates information to increase public awareness and understanding of retardation.

C. Office of Policy Management (DHL) supervises the RSA planning process (long and short-range) and the development and formulation of RSA policy and legislation. Assures consistency of planning, policy development, and legislative functions within RSA and coordinates with appropriate HDS staff offices. Conducts an active Congressional relations program in coordination with HDS and OS legislative affairs staffs.

1. Division of Policy Development (DHL1) conducts RSA-wide policy review, policy development, formulation, and analysis; analyses policy within RSA as well as other Federal policies directly or indirectly related to the handicapped; reviews all policy issuances and interpretations and certifies consistency; in coordination with OPMC/HDS, manages a formal policy interpretation and issuance system; and assists in the development of and clears RSA regional offices policy interpretations. Conducts policy analyses at the direction of the Commissioner and incorporates research and evaluation findings into policy development. Establishes standards for determining who are handicapped individuals.

2. Division of Planning (DHL2) develops, coordinates, and maintains a comprehensive RSA planning system, coordinates the development of the RSA's goals, objectives, and implementation plans; provides leadership in the development and resolution of short range priority objectives including the Secretary's Major Initiatives Tracking System (MITS); serves as RSA contact with outside organizations on long and short range planning issues; with OPMC/HDS and OPRE/HDS, advises on all matters relating to planning, including the standards, reports, and information needed for the development and assessment of plans. Provides leadership in the areas of long- and short-range planning to State agencies and other grantees. Incorporates policy analyses into long- and short-range plans.

3. Division of Legislation, Regulations, and Congressional Relations (DHL3) develops and proposes legislation necessary to improve rehabilitation programs for disabled individuals. Reviews and comments on other proposed legislation affecting handicapped individuals. Serves as contact point for members of Congress and their staffs on issues concerning handicapped individuals. Responds to requests from Congress and public and private groups for information on proposed legislation. Coordinates and consults with HDS and the Office of the Assistant Secretary for Legislation on these issues. In corrdination with OPMC/HDS, is responsible for RSA regulations formulation, development, review, and revision; and participates on regular HDS Regulations Team. Reviews, analyses, and disseminates information on regulations issues.

D. Office of Administrative Support (DHS) provides leadership and guidance on matters relating to the overall administration and management of RSA; resolves critical issues and problems concerning executive management across RSA programs. Coordinates with OAM/HDS in carrying out these functions. Formulates internal administrative support procedures in accordance with OAM and ASHDS guidelines. Advises Commissioner on administrative matters, including EEO. With respect to grants and contract management, formulates internal procedures, in accordance with guidelines from OAM and ASHDS, coordinates provision of input to the ASHDS in development of policies and procedures, makes provisions for liaison with OAM, provides advice and recommendations to the Commissioner and provides TA to RSA units, and coordinates responses to appropriate audit reports. Responsible for development of RSA Managment Information Systems and the provision of guidance and assistance to State agencies in this area.

1. Division of Administration and Budget (DHS1) in accordance with policies and procedures issued by OAM, provides administrative support to all units of RSA. Responsible for space utilization and telephone plans within RSA. Controls personnel ceiling distribution within RSA; responsible for staff development including overall Annual Training Plan, training, equal employment matters, and development of EEO objectives of the agency. Maintains official files on delegations and organization for RSA. Responsible for preparation of regular and recurring reports for organizational manuals, personnel, records management, and expenditures for supplies and services; develops internal procedures for administrative services; responsible for records management. Provides leadership and guidance in the area of budgetary services and financial managment; coordinates the formulation and justification of the RSA administrative and program budgets; reviews budget submissions prepared by RSA components to assure conformity with legislative mandates; provides technical assistance to RSA units in the execution of the budget and the preparation of financial reports and summaries.

2. Division of Program Data and Analysis (DHS2) develops and maintains the RSA statistical reporting system; revises statistical reporting procedures as required by modification in the Act and expanding needs of management; prepares justification and supporting documentation for the Office of Management and Budget for new or revised reports; prepares special studies on various apsects of program operations; compiles annual statistical reports on client characteristics and agency caseloads; provides estimates and projection of program operations for budgetary, legislative and long and short-range purposes; trains regional staff in the use and interpretation of statistical information; performs cost/benefit analyses of agency programs.

E. Office of Advocacy and Coordination (DHC) provides leadership to RSA activities in advocating and securing the rights of handicapped individuals and coordinating programs and services; works in close cooperation with representative groups, develops and expands relationships with clients and client groups, consumer groups, private and public organizations including the National Disabilities Advisory Council (NDAC) and the President's Committee on Mental Retardation. Assumes leadership for coordination of RSA activities following implementation of the recommendations of the The White House Conference on Handicapped Individuals.

1. Division of Advocacy and Constituent Relations (DHC1) is responsible for developing and maintaining systematic ongoing interactions between RSA and appropriate constituent and client groups. Develops, implements, and maintains a consumer hot line and assumes leadership in the development of a network of information services to build an awareness of the actions necessary to address the problems of handicapped individuals; assists in the development of national educational programs to reduce social and environmental barriers experienced by handicapped individuals; maintains a clearing house of information on the needs of handicapped individuals and providers of services to this population; develops a coordinated system of information and data retrieval, utilizing existing information systems and related publications; develops, in coordination with the Division of Equal Opportunity and Civil Rights/HDC and the Office for Civil Rights/HEW, and disseminates training materials on questions related to the legal rights of the disabled; provides leadership in assuring that all categories of handicapped individuals receive equitable consideration for access to services; works with other relevant program agencies to promote

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outreach services to meet the unique problems of the handicapped aged and eligible veterans as well as handicapped ethnic and racial minorities; assures that special population groups receive equitable consideration.

2. Deafness and Communicative Disorders Office (DHC2) provides leadership in improving State vocational rehabilitation agency services to the deaf and other communicatively impaired; develops employment opportunities and new careers for the deaf and other communicatevley impaired; stimulates manpower development and special research projects for the deaf and other communicatively impaired and provides technical assistance, collaborates with Central Office, Regional, State vocational rehabilitation agency staff, and colleges in short-term, long-term, and in-service training activities for State and other professional workers on serving the communicatevely impaired and in initiating special projects that emphasize independent living for deaf persons; serves as national focal point on deafness; provides consultation to various Federal and State agencies and public and private organizations that serve the communicatively impaired.

3. Division of Agency Liaison (DHC3) coordinates liaison activities with the White House, the A&TBCB, other Federal agencies, other public and private agencies, trade associations, labor unions, and professional organizations in relation to problems of handicapped individuals. Negotiates, develops, enters into, and implements interagency agreements designed to improve programs and services to handicapped individuals; provides leadership in coordinating activities with other Federal agencies and Departments which carry on various programs and activities concerned with handicapped individuals; assesses information on programs, plans and policies of other government agencies; coordinates and cooperates with other activities of special concern to the various handicapped population groups in this country. Reports to the Commissioner on trends, problems and new directions identified through liaison and coordination activities.

F. Office of Program Operations (DHN) administers the operations aspects of RSA programs; provides leadership in the provision of quality services to various handicapped population groups; establishes operational standards, criteria and program guidelines; provides technical assistance on program operations to Regional Office staff, State agencies, and local organizations. Incorporates innovative program initiatives into program operations. Recommends areas for research, evaluation, and training to the Office of Program Development. Provides consultation on the various medical aspects of rehabilitation to all units within RSA, but especially to the regional staff and to selected State VR agencies on significant problems in this area; reviews all policies, plans, and programs of RSA to determine their consistency with established medical practices. Advises Commissioner on research, evaluation, and training projects having a medical component. Develops basic guidelines and assumptions for use by the States in developing their short and long range goals and resource requirements. Serves as contact on all audits on State Plan programs, analyzes, coordinates and substantiates all audit findings. Ensures compliance with program financial operation requirements. Evaluates overall national program performance and progress from a cost benefit and effectiveness standpoint; develops, applies and analyzes financial policies, standards, and procedures; develops and coordinates internal formula grant policy and procedures with the Department, other Federal agencies. Based on formula grants management policies and procedures approved by ASHDS, controls allocation, administrative accounting and reprogramming of formula grant funds.

1. Bureau for Blind and Visually Handicapped (DHN1) develops guidelines and regulations for Federal departments and blind licensees regarding the Randolph-Sheppard program and administers the relevant aspects of the Rehabilitation Act, as amended; provides consultation regarding the administration of the Randolph-Sheppard Act; in consultation with the HEW Office of General Counsel interprets provisions of the Act for State and Federal arbitration boards; provides leadership, guidance and consultation to public and private agencies serving the blind and partially sighted. Provides technical assistance and consultation in curriculum development for the training of specialized personnel and to State agencies to maximize program utilization. Provides technical assistance to the Office of Program Development regarding special research projects for the blind and partially sighted including international projects. In conjunction with regional staff, conducts program reviews of State Agencies serving the blind and partially sighted. Provides for liaison activities with The National Council of State Agencies for the Blind and Council of State Administrators of Vocational Rehabilitation.

2. Bureau of Vocational Rehabilitation Program Operations (DHN2) administers the program operation aspects of the Rehabilitation Act, as amended; provides leadership and guidance in the administration of RSA programs providing services to the handicapped and severely handicapped including social security disability and supplemental security income beneficiaries. Responsible for formulation, guidance and conformity review of annual State plans, policy interpretation and program operations in relationship to the law, regulations and standards governing the provision of services and the rehabilitation process; analyzes and evaluates State plan programming and performance in relation to Federal requirements. Develops and supports program approaches leading to the establishment and improvement of rehabilitation facilities. Develops and maintains RSA statistical reporting system. Defines management information and program and financial management requirements for State agencies and reviews State plans for conformance.

3. Bureau of Developmental Disabilities Program Operations (DHN3) develops, promulgates, and implements Federal policies, guidelines, and procedures concerning the Developmental Disabilities Act and delivery of services authorized by the Act. Provides leadership, coordination, and guidance for programs applicable to individuals with mental retardation and other developmental disabilities; and prepares and disseminates information to appropriate client and constituent groups on developmental disability plans and services, in conjunction with the Office of Advocacy and Coordination. Administers basic state grant program for developmentally disabled, including enforcement of Section 113 requirements.

G. Office of Program Development (DHM) provides leadership in and manages program development activities including research and program evaluation activities, rehabilitation engineering efforts, training and specialized service initiatives, and independent living demonstration projects. Plans for and implements experimental program services based on feedback from State and local organizations on program needs. Prepares research, development and evaluation plans. Develops evaluation standards and criteria; provides consultation and technical assistance to regional offices staff and assists them in the guidance of State and local organizations in program development; manages a domestic and international research effort; evaluates State and Federal program activities; manages a comprehensive effort of research, clinical evaluation, training, and service delivery in rehabilitation engineering. Promotes and directs a manpower development program to provide skilled personnel required to rehabilitate handicapped individuals with various disabilities; conducts special project activities to stress

the need for specialized services required to rehabilitate handicapped individuals, especially those with severe disabilities.

1. Bureau of Research and Engineering (DHM1) directs and manages the overall research and engineering program of the Rehabilitation Services Administration. Analyzes problems of homebound and institutionalized handicapped individuals and those people who are multiply disadvantaged because of poverty and a racial minority status in addition to a handicapping condition. Directs research efforts which address problems associated with loss of function resulting from disability and other medically oriented aspects of rehabilitation; establishes a network of domestic and international rehabilitation engineering centers to conduct research on new systems, equipment, devices, and aids to make full use of technology for resolving rehabilitation problems. Administers research grants or contracts awarded for the purpose of planning and conducting research and evaluation activities which bear directly on the development of new methods and procedures to assist in the provision of improved services to handicapped people; conducts research studies and surveys on the factors affecting rehabilitation and which expand the methodology and techniques for improved outreach and follow-up services; directs and conducts, by means of grants and contracts, a comprehensive research, development, clinical evaluation, training, and service delivery program in rehabilitation engineering designed to improve the productivity and quality of life of handicapped individuals. Coordinates with the National Academy of Science, the National Science Foundation, Food and Drug Administration, and the Federal Communications Commission and other agencies; plans and directs a research and program effort concerned with the elimination of environmental barriers; establishes demonstration projects to display various approaches which increase functional capacity and reduces or eliminates environmental barriers for various handicapping conditions.

2. Bureau of Evaluation and Utilization (DHM) directs and manages the evaluation and utilization program of the RSA; measures and evaluates the impact of RSA programs to determine their effectiveness. Develops standards for evaluation of RSA programs. Develops research utilization plans, policies, and procedures. Ensures that research results are evaluated, disseminated, and incorporated into program operations.

3. Bureau of Demonstrations and Manpower Development (DHM3) provides direction and guidance in developing, demonstrating and managing innovative program activities. Administers a comprehensive manpower development program designed to stimulate program development and enhance service delivery for handicapped individuals. Reviews project grant applications, develops evaluative criteria, and provides guidance on the review of training applications; provides guidance on the conduct of staff development programs within State vocational rehabilitation agencies; encourages the development of experimental and innovative training programs; stimulates the development of new training projects.

E. The Regional Offices for Rehabilitation Services (DD1-X2) are headed by Regional Program Directors who report directly to the Commissioner, RSA. Develops, administers, and coordinates RSA/HDS programs which provide services for handicapped individuals through a State/Federal administered program. Provides information for and contributes to the development of national policy dealing with handicapped individuals and the developmentally disabled. Based on national policy and priorities, establishes regional program goals and objectives and provides direction and consultation in the administration of mandated programs. Provides guidance and leadership to State, local, and voluntary organizations. Works in close cooperation with other governmental agencies, professional organizations, universities, and other service providers. Plans, coordinates, and administers resources in providing services for the developmentally disabled. Participates in planning and conducting research and demonstration and related activities by means of grants and contracts for the purpose of developing methods, procedures, technology, and devices which serve to promote and advance employment of handicapped individuals or improve their quality of life. Directs or promotes a training program to increase the number and quality of skilled personnel required to provide services to the target populations. Serves as the focus in each HDS Regional Office for consideration of issues regarding policies affecting target populations. Advocates for the rights of the disabled. Serves as regional contact for information on subjects relevant to problems of the disabled. Monitors and evaluates the effectiveness of the RSA programs in the regions in meeting the needs of target populations and recommends and/or takes affirmative action to promote improvement. Responsible for regional rehabilitation services operational objcetives. Coordinates with the RA/HDS on matters of an administrative or cross-cutting nature. Keeps RA/HDS routinely informed of program issues and progress.

3. OFFICE FOR HANDICAPPED INDIVIDUALS

In the functional statement for the Office for Handicapped Individuals, the statement of functions (DH.20.H) has been amended to add the last clause in the last sentence which was omitted in error. The period at the last sentence becomes a semicolon, to which is added the following language: "provides a central clearinghouse of information and resource availability for handicapped individuals."

The revised statements for OHI read as follows:

H. Office for Handicapped Individuals (D/H) reports directly to the ASHDS, encouraging coordinated and cooperative planning designed to produce maximum effectiveness, sensitivity, and continuity in the provision of services for handicapped individuals by all programs. Develops means of promoting the prompt utilization of engineering and other scientific research to assist in solving problems in education, health, employment, rehabilitation, architectural, housing and transportation barriers, and other areas to achieve full integration of all handicapped individuals into all aspects of society; provides a central clearinghouse of information and resource availability for handicapped individuals.

4. REGIONAL OFFICES FOR PUBLIC SERVICES

In the functional statement for the *Regional Offices for Public Services (DD1-X3)*, the statement of functions (DD.20.D) has been amended to add to the end of the second paragraph a sentence and a half omitted in error. The period after "other HDS" is deleted and the following language is added: "programs and on State agency issues of regional or national significance, including State administrative plans and deferrals or disallowances. Plans and implements regional APS operational objectives."

The amended statement reads as follows:

D. The Regional Offices for Public Services (DD1-X3) are headed by Regional Program Directors (RPD) who work under the supervision of the Regional Administrator, HDS. Program policy direction is provided to the Regional Office by the Commissioner, Administration for Public Services. Provides guidance and technical assistance to States in the planning, administration, evaluation and delivery of comprehensive social services under Title XX of the Social Security Act, as well as under Titles I, IV-A, X, XIV, XVI (Aid to the Aged, Blind and Disabled, AABD) in Regions II and IX. Assists States in the development and operation of Title XX training programs and the development of manpower for the Title XX program. De-

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velops and promotes linkages between Title XX and other social services programs in the States through leadership in the development, design and evaluation of Comprehensive Annual Services Plans. Maintains liaison with income maintenance and health programs to facilitate provision of social services to clientele of these programs. Approves Title XX State administrative plans and amendments and social service plans and amendments under Titles I, IV-A, X, XIV, XVI (AABD) in Regions II and IX. Reviews Comprehensive Annual Services Plans for compliance with Federal requirements and certifies their acceptability. The designated official(s) in these offices review, approve, defer, or disallow claims for Federal Financial Partiicipation (FFP) by State and local social service agencies under Title XX, as well as under Titles I, IV-A, X, XIV, XVI (AABD) in Regions II and IX.

Provides guidance and technical assistance to State and local agencies on the development and operation of financial management and reporting systems to support program goals and in the interpretation, implementation and operation of social services regulations, policies, and procedures. Assists States in the adoption of improved delivery practices and improved program, administrative, reporting and financial management practices. Stimulates and facilitates the development of appropriate R & D and evaluation projects; in collaboration with the Regional Administrators and APS headquarters staff, monitors progress of R & D grants within the region. Monitors State adherence to Title VI of the Civil Rights Act. Monitors adherence of State Title XX programs to Federal requirements and conducts program reviews of the planning, financial, training, and program delivery operations in the States. Serves as the HDS liaison with State and local CETA administrators and with the DOL Employment and Training Administration. Advises the HDS Regional Administrators of opportunities for coordination between WIN and CETA and the HEW social service programs. Works with State and local program administrators and officals of private agencies and foundations to promote social and human development services. Consults with Regional Administrators on the planning and implementation of cross-cutting initiatives which require the involvement and assistance of other HDS programs and on State agency issues of regional or national significance, including State administrative plans and deferrals or disallowances. Plans and implements regional APS operational objectives.

Dated: January 2, 1979.

FREDERICK M. BOHEN,
Assistant Secretary for Management and Budget.

[FR Doc. 79-831 Filed 1-9-79; 8:45 am]

[4310-84-M]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA-6986-A and AA-6986-C]

ALASKA NATIVE CLAIMS SELECTION

On December 12, 1974, Cape Fox Corporation, for the Native village of Saxman, filed selection application AA-6986-A; and on December 16, 1974, filed selection application AA-6986-C under the provisions of Sec. 16(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 706; 43 U.S.C. 1601, 1615 (Supp. V, 1975)), for the surface estate of lands located in the Tongass National Forest in the vicinity of Saxman and Ketchikan.

As to the lands described below, the applications, as amended, are properly filed and meet the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 16(b), aggregating approximately 2,007 acres is considered proper for acquisition by Cape Fox Corporation and is hereby approved for conveyance pursuant to Sec. 14(b) of the Alaska Native Claims Settlement Act:

COPPER RIVER MERIDIAN, ALASKA (SURVEYED)

T. 74 S., R. 90 E.
Sec. 12, S½SE¼;
Sec. 13, NE¼, SE¼NW¼.
Containing 280 acres.

T. 74 S., R. 91 E.
Sec. 7, Lots 2, 3, NE¼NE¼, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 8, N½NE¼, SW¼NE¼, W½;
Sec. 18, Lots 1, 2, 3, NE¼, E½NW¼, NE¼SW¼, N½SE¼.
Containing 1,372.32 acres.
Aggregating 1,652.32 acres.

COPPER RIVER MERIDIAN, ALASKA (UNSURVEYED)

T. 74 S., R. 90 E.
Sec. 12, NE¼SE¼;
Sec. 13, N½S½.
Containing approximately 200 acres.

T. 74 S., R. 91 E.
Sec. 18, S½S½.
Containing approximately 155 acres.
Aggregating approximately 355 acres.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. As to the lands in Sec. 13, T. 74 S., R. 90 E., and Secs. 7, 8 and 18, T. 74 S., R. 91 E., Copper River Meridian, the highway easement deed right-of-way, serial number AA-5713, granted January 31, 1969, by the Federal Highway Administration, U.S. Department of Transportation with the concurrence of the U.S. Forest Service for a Federal Aid Highway, Project FH-39-1(1), under the act of August 27, 1958, as amended, 23 U.S.C. 317; and

2. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(f) (Supp. V, 1975)); and

3. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b) (Supp. V, 1975)), the public easements, listed below, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in casefile AA-6986-EE, are reserved to the United States. All easements are subject to applicable Federal, State, or municipal corporation regulation. The following is a listing of use permitted for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail: The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsleds, animals, snowmobiles, two and three-wheel vehicles, and small all-terrain vehicles (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

60 Foot Road: The uses allowed on a sixty (60) foot wide road easement are: travel by foot, dogsled, animals, snowmobiles, two and three-wheel vehicles, small and large all-terrain vehicles, track vehicles, four-wheel drive vehicles, automobiles and trucks.

a. (EIN 14 G, C4) An easement for a proposed access trail twenty-five (25) feet in width from the existing road in Sec. 8, T. 74 S., R. 91 E., Copper River Meridian, southeasterly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

b. (EIN 24 C5, G) An easement sixty (60) feet in width for an existing road from the end of road easement deed No. 5713 in Sec. 8, T. 74 S., R. 91 E., Copper River Meridian, northeasterly to its terminus in Sec. 4, T. 74 S., R 91 E., Copper River Meridian. The uses allowed are those listed above for a sixty (60) foot wide road easement.

c. (EIN 35 L, G) An easement one hundred (100) feet in width for a proposed powerline from the selection boundary in Sec. 13, T. 74 S., R. 90 E., Copper River Meridian, northerly adjoining the existing road (highway easement deed No. 5713) to a point in Sec. 18, T. 74 S., R. 91 E., Copper River Meridian, thence easterly approximately 1.2 miles to a point in Sec. 17, T. 74 S., R. 91 E., Copper River Meridian, near the existing road right-of-way, thence southeasterly to a point near the White River in Sec. 21, T. 74 S., R. 91 E., Copper River Meridian, thence northeasterly generally following the White River to the selection boundary in Sec. 35, T. 73 S., R. 91 E., Copper River Meridian. The uses allowed are those activities associated with the construction, operation, and maintenance of the power line facility.

The grant of lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the unsurveyed lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g) (1970))), contract, permit, right-of-way or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges and benefits thereby granted to him. Pursuant to Sec. 17(b)(2) of the Act, any valid existing right recognized by the Act shall continue to have whatever right of access as is now provided for under existing law;

3. Requirements of Sec. 22(k) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 715; 43 U.S.C. 1601, 1621(k) (Supp. V, 1975)), that, until December 18, 1983, the above-described lands, located within the boundaries of a national forest, shall be managed under the principles of sustained yield and under management practices for protection and enhancement of environmental quality no less stringent than such management practices on adjacent national forest lands;

4. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 703; 43 U.S.C. 1601, 1613(c) (Supp. V, 1975)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Pursuant to Sec. 16(b) of the Alaska Native Claims Settlement Act, Cape Fox Corporation is entitled to 23,040 acres of land. The corporation recently received patent to 3,763.01 acres. Together with the lands herein approved, the total of lands conveyed or approved for conveyance is 5,415.33 acres of surveyed land and 355 acres of unsurveyed land. Patent to the surface estate of the surveyed land herein approved will be issued when this decision becomes final; interim conveyance will be issued for the unsurveyed lands and the lands requiring additional survey. Conveyance of the remaining entitlement to Cape Fox Corporation will be made at a later date. Pursuant to Sec. 14(f) of the Alaska Native Claims Settlement Act, conveyance of the subsurface estate of the lands described above shall be issued to Sealaska Corporation when the surface estate is conveyed to Cape Fox Corporation, and shall be subject to the same conditions as the surface conveyance.

There are no inland water bodies considered to be navigable within the described lands.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the FEDERAL REGISTER and once a week, for four (4) consecutive weeks, in the KETCHIKAN DAILY NEWS. Any party claiming a property interest in lands affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510 with a copy served upon both the Bureau of Land Management, 555 Cordova Street, Pouch 7-512, Anchorage, Alaska 99510 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501, also:

1. Any party receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign the return receipt shall have until 2-9-79, to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of, and requirements for, filing an appeal may be obtained from the Bureau of Land Management, 555 Cordova Street, Pouch 7-512, Anchorage, Alaska 99510.

If an appeal is taken the adverse parties to be served with a copy of the notice of appeal are:

Cape Fox Corporation, P.O. Box 8558, Ketchikan, Alaska 99901.
Sealaska Corporation, One Sealaska Plaza, Suite 400, Juneau, Alaska 99801.

JUDITH A. KAMMINS,
Chief, Division of ANCSA, Operations.

[FR Doc. 79-828 Filed 1-9-79; 8:45 am]

[4310-17-M]

COORDINATION OF FEDERAL LANDS REVIEW UNDER THE SURFACE MINING CONTROL AND RECLAMATION ACT, LAND USE PLANNING UNDER THE FEDERAL LAND POLICY AND MANAGEMENT ACT, AND THE FEDERAL COAL MANAGEMENT REVIEW UNDER THE PRESIDENT'S ENVIRONMENTAL MESSAGE OF MAY 1977

Statement of Policy; Extension of Comment Period

The comment period in the FEDERAL REGISTER Notice dated December 8, 1978, (FR 43, Vol. 242, Pages 57662-57670) has been extended from February 1, 1979, to February 13, 1979.

ROMAN H. KOENINGS,
Acting Associate Director, Bureau of Land Management.

Approved: January 4, 1979.

GARY J. WICKS:
Acting Assistant Secretary of the Interior.

[FR Doc. 79-855 Filed 1-9-79; 8:45 am]

[4310-84-M]

FEDERAL COAL MANAGEMENT PROGRAM

Application of Coal Unsuitability Criteria in Ongoing and Future Future MFPs and Land Use Analyses

In a FEDERAL REGISTER Notice dated December 8, 1978, (FR 43, Vol 242, pages 57662-57670) the Interior Department informed the public how and why the Bureau of Land Management (BLM) was preparing supplements to some of its existing management framework plans (MFP) through the application of unsuitability criteria. BLM Instruction Memorandum No. 79-76 (Appendix A of that notice) was issued to provide authorization to revise portions of existing approved MFP's. In that notice, the Department also said instructions would be issued for application of the criteria to ongoing and future MFP's or land use analyses.

This notice makes available for review Instruction Memorandum No. 78-139 dated December 15, 1978, attached as Appendix A. This memorandum provides procedural instructions for application of unsuitability criteria as part of the BLM's planning system for ongoing and future MFP's or land use analyses. Any plan prepared under both of these instruction memoranda will be subject to revision after the Department formally adopts unsuitability standards.

ROMAN H. KOENINGS,
Acting Associate Director, Bureau of Land Management.

Approved:

GARY J. WICKS,
Acting Assistant Secretary of the Interior.

JANUARY 4, 1979.

UNITED STATES DEPARTMENT OF THE INTERIOR,
Bureau of Land Management,
Washington, D.C. 20240.

DECEMBER 15, 1978.

Instruction Memorandum No. 79-139, expires 9/30/79.

To: State Directors—Colorado, Montana, New Mexico, Utah, Wyoming, and director, Eastern States Office
From: Associate Director

Subject: Application of Coal Unsuitability Criteria in Ongoing and Future MFPs and Land Use Analyses

This memorandum provides procedural in-

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struction for application of unsuitability criteria as part of ongoing and future MFPs or land use analyses. (Instruction Memorandum No. 79-76 provided guidance for use of the criteria in review of existing approved MFPs in coal related planning and transmitted the Secretarial unsuitability criteria memorandum.)

Preparation for Planning

Future planning starts must consider the data requirement implied by the unsuitability criteria in this preplanning analysis stage. Collection of any information needed should be programmed with inventories conducted in advance of planning. As early as possible in the planning process planning team members must become acquainted with the unsuitability criteria and instructions on their use.

Application of Criteria During Planning

The unsuitability criteria embody consideration of multiple use values and policy guidance the Bureau planning system is designed to accommodate in the planning process. Infusion of the criteria into a plan is readily accomplished when they are considered from the outset of planning.

Apply the criteria to ongoing and future planning as shown below. Note that in terms of the Bureau planning system, unsuitability criteria are handled in the same fashion as other resource values and policy directives.

1. *Preplanning Analyses.* Note the scope and unsuitability criteria subject matter. Determine gaps, if any, in data base. Program needed inventories in advance of planning to the extent possible.

2. *Unit Resource Analysis or Equivalent LUA Phase.* Activity specialists should follow BLM Manual Section 1605 guidance. Note in each step the specific resources and values addressed in the criteria as they occur in the planning area. Mineral specialist should analyze the coal resource and identify opportunities irrespective of unsuitability criteria considerations.

Annotate URA overlays which depict the occurrence and/or distribution of a resource value, e.g., historic sites, endangered animal species, scenic areas, etc., to show clearly those included in the unsuitability criteria.

3. *Management Framework Plan or Equivalent LUA Phase.* Existing BLM Manual Section 1608 guidance applies. The MFP Steps, including the form and procedures, fully accommodate the explicit recognition and planning treatment of resources and public land values incorporated in the unsuitability criteria.

a. MFP 1. Objective and recommendations must address the unsuitability criteria to the extent they occur in the planning area. The rationale supporting MFP 1 statements should cite appropriate criterion since it is a policy decision factor. This information is also important to subsequent MFP 2 analysis.

b. MFP 2. The Step 2 analysis should follow procedures in Manual Section 1608.4 for identification, analysis, and recordation of multiple use analysis. Use an analysis technique which identifies

(1) All areas to which criteria apply without using exceptions, then

(2) additional areas unacceptable based on multiple use allocation,

(3) areas determined not available for further consideration based on consideration of surface owner preferences and,

(4) exception areas which are acceptable for further consideration of coal development.

To avoid unnecessary work, apply exception to the unsuitability criteria after the implications of all criteria, without exceptions is known. Other multiple use allocations should be fairly well established prior to consideration of exceptions. Note that use of the exceptions is discretionary.

The above delineations, as they are determined, should be made as discreetly as possible on an MFP multiple use overlay. A composite map suitable for publication in a plan summary should also be made showing these delineations.

The stipulations and conditions that would apply to coal leasing or mining activities in each exception area must be developed during MFP 2 analysis and recorded clearly on Form 1600-21.

Consult with landowners in the area remaining acceptable for further considerations using the process prescribed in Instruction Memorandum 78-382. Landowners should be consulted after the application of the unsuitability criteria are determined and other multiple use allocations are established.

Review with the public and other Federal/State agencies the preferred tentative multiple use plan showing areas to which the criteria apply and the areas acceptable for further consideration for coal development. The form of this review is discretionary with the State Director and District Manager. Results of the public review should be used to make any appropriate modifications in the preferred multiple use plan.

c. MFP 3. Approve plan in accordance with established State Office procedures. The areas not excluded by multiple use allocation and the unsuitability criteria remain acceptable for further consideration for coal development. This decision is permissible under the Federal Land Policy and Management Act (FLPMA), and portions of such decisions are the first step in the Federal Lands Review. Formal designation will follow after the Federal Lands Program is adopted, and all steps required by SMCRA are followed.

Format and Documentation Requirements

The results of unsuitability criteria shall be recorded in a reproducible format and published in an MFP or Land Use Analysis summary. (See Instruction Memorandum 77-3 for basic guidance on MFP summaries.) The summary should include the following:

1. *Introduction.* Briefly explain that the unsuitability review has been accomplished in the plan or analysis. Such an explanation should indicate that the review is:

a. Part of the Federal lands review required by section 522(b) of SMCRA. The actual formal designation will follow approval of the plan or land use analysis.

b. To identify areas acceptable for further consideration for coal development should the Secretary decide to proceed with a coal leasing program.

c. Not to identify tracts and, in fact, to consider public coal resources in relation to other resource values and land uses.

d. Not be construed in any way as an authorization to recommend tracts for lease.

Also, if any existing Federal coal leases appear in an area otherwise considered unsuitable and no conclusion is reached for these areas, explain that the criteria will be applied when mining plans are submitted for review and approval.

The introduction should be accompanied by map(s) showing the location of the coal areas relative to the State, the counties involved, major access routes, etc. Keep in mind the fact that many people will see the plan summary who have not seen the total plan.

The introduction should also include (by reference to an appendix if necessary) a base map which can be overprinted to document the details of the unsuitability review.

2. *Record of How the Unsuitable Area Was Developed.* a. Include a separate narrative and map overprint for each criterion showing how it was applied (see 3.b.). The applications of several criteria may be shown on the same map, if this is possible without cluttering the map.

Include in the narrative summary rationale for the unsuitability determination, and the quality of data used for each criterion (see paragraphs on pages 2, 3, and 4 of the Secretarial memorandum).

b. Print and include the composite map prepared during multiple use analysis showing separately (1) the application of all criterion before exceptions are considered and (2) any additional areas excluded based on multiple use tradeoffs. This map need not distinguish between areas determined unsuitable under each criteria.

c. Print and include a map (over the composite map if the map is not too cluttered) showing all exceptions and a narrative indicating the terms or stipulations required.

d. Describe changes in the unsuitable area that you made as a result of public and State consultation.

3. *Impact of the Unsuitability Designation.* This is the statement developed in response to the Required Statement described below.

4. *Plan Summary.* This instruction modifies the contents and purpose of a published plan summary to include unsuitability criteria. The basic objective of a plan summary as established in Instruction Memorandum 77-3 remains unchanged. The contents of a plan summary should address the full range of resource management decisions resulting from the planning process. The summary of a land use analysis will obviously focus on decisions related to coal. An MFP summary will likely include many decisions not involving coal.

Required Statement

Prepare a statement at the conclusion of MFP 3 for the areas which the criteria would exclude mining based on the Department's unsuitability criteria *only*. We view this as a fairly concise and brief item (4-5 pages) including for that area (1) the potential coal resources involved; (2) the demand for such resources; and (3) the impact of such designation on the environment, the economy, and the suppply of coal. The material for this statement should be available in ongoing regional ES and in the programmatic ES.

Since an experience with the application of these criteria is limited and because these criteria are subject to change at the time the Secretary makes his decision on the coal

management review, the Director (140) should be notified immediately of any serious difficulties encountered in appplying any of the criteria. This notice should describe not only the nature of the difficulty, but also how it was adjusted for, and constructive suggestions for change.

[FR Doc. 79-851 Filed 1-9-79; 8:45 am]

[4310-84-M]

[NM 35618, 35621, 35623, 35636 and 35646]

NEW MEXICO

Applications

JANUARY 2, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for five 4½-inch natural gas pipeline and related facilities rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 28 N., R. 5 W.,
Sec. 13, NE¼SW¼.
T. 27 N., R. 6 W.,
Sec. 22, W½NW¼;
Sec. 25, NW¼NW¼.
T. 31 N., R. 9 W.,
Sec. 8, lots 10 and 15;
Sec. 15, lot 5.

These pipelines will convey natural gas across 0.614 of a mile of public lands in Rio Arriba and San Juan Counties, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-863 Filed 1-9-79; 8:45 am]

[4310-84-M]

[U-41323]

UTAH

Application

Notice is hereby given that pursuant to the Act of May 24, 1928 (49 U.S.C. 211-214) Redtail Aviation, Inc., has applied for an airport lease for the following land.

SALT LAKE MERIDIAN, UTAH

T. 11 S., R. 18 E.,
Sec. 19, SE¼SW¼, S½SE¼;
Sec. 30, NE¼, NE¼NW¼.

The purpose of this notice is to inform the public that the filing of this application segregates the described land from all other forms of use or disposal under the public land laws.

Interested persons desiring to express their views should promptly send their name and address to the Vernal District Manager, Bureau of Land Management, 170 S., 500 E., P.O. Box F, Vernal, Utah 84078.

PAUL L. HOWARD,
State Director.

[FR Doc. 79-862 Filed 1-9-79; 8:45 am]

[4310-55-M]

Fish and Wildlife Service

DRAFT MIGRATORY BIRD DISEASE CONTINGENCY PLAN

Extension of Comment Period

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: On November 15, 1978, the Service announced that availability of a draft Migratory Bird Disease Contingency Plan for public comment (43 FR 53064). This notice extends the comment period to allow the public more time to participate in formulation of the final plan.

DATE: The comment period is extended from January 12 to January 31, 1979.

ADDRESSES: Copies of the draft plan may be obtained from the Division of Wildlife Research, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240, telephone 202-343-7557.

Comments should be sent to the Associate Director-Wildlife Resources, U.S. Fish and Wildlife Service, Department of the Interior, Washington, 20240, telephone 202-343-5333.

FOR FURTHER INFORMATION CONTACT:

Dr. Charles W. Dane, Division of Wildlife Research, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240, telephone 202-343-7557.

SUPPLEMENTARY INFORMATION: The primary author of this notice is Charles W. Dane, Division of Wildlife Research. The Service has prepared a Migratory Bird Disease Contingency Plan. The purpose of this plan is to provide guidance in preventing disease problems, and to establish guidelines for responding to disease outbreaks. The plan assigns specific responsibilities and establishes notification procedures for Service personnel. The procedures and information provided are designed for use in combating major migratory bird disease problems. Since disease outbreaks may also occur on non-Service lands, the plan provides guidelines for cooperation by Service personnel with other Federal agencies, the States and the private sector in responding to disease outbreaks.

As a result of public comment already received concerning the draft plan, the Service has determined that an extension of the comment period would be in the interest of the public. Public comment on the draft plan is invited.

Dated: January 5, 1979.

LYNN A. GREENWALT,
Director.

[FR Doc. 79-873 Filed 1-9-79; 8:45 am]

[4310-31-M]

Geological Survey

[Int Des 79-2]

ENVIRONMENTAL IMPACT STATEMENT

Availability of Draft Statement Colstrip Project

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 and section 69-6504 R.C.M. 1947 of the Montana Environmental Policy Act of 1971, the Department of the Interior, in cooperation with the Bonneville Power Administration, has prepared a draft environmental impact statement (EIS) on the proposed construction and operation of the Colstrip generating units 3 and 4 in Rosebud County, Montana, and the associated coal mine and electric power transmission system (proposed Colstrip project).

Copies of the draft EIS are available for public inspection at designated Federal depositories: Forest Service, Region 1, Federal Bldg., Missoula, Mont.; Lolo National Forest, Bldg. 24, Fort Missoula, Missoula, Mont.; Helena National Forest, 616 Helena Ave., Helena, Mont.; Deerlodge National Forest, Federal Bldg., Butte, Mont.; Lewis and Clark National Forest, 215 First Ave. North, Great Falls, Mont.; Gallatin National Forest, Federal Bldg., Bozeman, Mont.; Bureau of Land Management, Montana State Office, U.S. Courthouse and Federal Bldg., 316 North 26th St., Billings, Mont.; Bureau of Land Management, Butte District Office, 220 North Alaska, Butte, Mont.; Bureau of Land Management, Miles City District Office, West of Miles City, Miles City, Mont.; Bureau of Land Management,

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Lewistown District Office, Bank Electric Building, Lewistown, Mont.; Bonneville Power Administration, Kalispell District Office, Highway 2 East, Kalispell, Mont.; Department of the Interior Library, 18th and C Streets, N.W., Washington, D.C.

Copies of the draft EIS are also available for public inspection at the following libraries in Montana: Hearst Free Library, Fourth and Main Sts., Anaconda; Billings Public Library, Billings; Eastern Montana College Library, 1500 North 30th, Billings; Paul M. Adams Memorial Library, Rocky Mountain College, Billings; Montana State University Library, Bozeman; Henry Malley Memorial Library, Broadus; Butte Free Public Library, 106 West Broadway St., Butte; Montana College of Mineral Sciences and Technology Library, Butte; Glacier County Library, 21 First Ave., S.E., Cut Bank; William K. Kohrs Memorial Library, Missouri Ave. and Fifth St., Deer Lodge; Dillon Public Library, Dillon; Rosebud County Library, 201 North Ninth Ave., Forsyth; Flathead County Free Library, 37 First St. West, Kalispell; Laurel Public Library, 111 West First St., Laurel; Carnegie Public Library, 701 West Main, Lewistown; Lincoln County Free Library, 220 West Sixth St., Libby; Northwest Federation of Libraries, Lincoln County Free Library Bldg.; 220 West Sixth St, Libby; Miles City Community College, Miles City; Miles City Public Library, 1 South Tenth St., Miles City; Missoula Public and Missoula County Free Library, Pattee St., Missoula; Environmental Library, University of Montana, 758 Eddy St., Missoula; University of Montana Library, Documents Division, Missoula; and Plains Public Library, Box 399, Plains; Glasgow City-County Library, 408 Third Ave. South, Glasgow; Glendive Public Library, Glendive; Dawson Community College Library, Glendive; Great Falls Public Library, Second Ave. North and Third St., Great Falls; College of Great Falls Library, 1301 20th St. South, Great Falls; Big Horn County Public Library, 419 North Custer, Hardin; Havre Public Library, 447 Fourth Ave., Havre; Hill County Library, 300 Fourth St., Havre; Northern Montana College Library, Northern Montana College, Havre; Library, Carroll College, Helena; Lewis and Clark Library, 120 South Last Chance Mall, Helena; Montana State Library, 930 East Lyndale Ave., Helena; Polson City Library, Polson; Ronan City Library, Ronan; Toole County Free Library, 229 Maple Ave., Shelby; Sidney Public Library, Sidney; Thompson Falls Public Library, Thompson Falls; Thompson-Hickman Free County Library, Virginia City; Whitefish Public Library, 406 Second St., Whitefish; Western Montana College Library, Dillon.

The draft EIS is being furnished to various Federal, State, and local agencies which have environmental expertise or are likely to be interested in or affected by the proposed project. Copies of the document are also being furnished to State and local clearinghouses and to other interested groups and individuals.

A limited number of single copies are available for distribution and may be requested by contacting the Colstrip EIS Manager, P.O. Box 758, Kalispell, MT 59901.

Comments on the draft EIS may be sent to Colstrip EIS Manager, P.O. Box 758, Kalispell, MT 59901, or may be presented during public meetings to be held at the following cities in Montana: Butte, Missoula, Helena, Billings, and Forsyth. Specific dates and locations of the meetings will be announced later. All comments must be received by March 17, 1979.

Dated: January 5, 1979.

LARRY E. MEIEROTTO,
Deputy Assistant Secretary of the Interior.

[FR Doc. 79-829 Filed 1-9-79; 8:45 am]

[4310-31-M]

[NTL-3A]

REPORTING OF UNDESIRABLE EVENTS

Notice to Lessees and Operators

AGENCY: U.S. Geological Survey, Interior.

ACTION: Final Revision of NTL-3.

SUMMARY: This final revision of the existing Notice to Lessees (NTL-3), to be known as NTL-3A, defines more specifically for industry those undesirable events occurring on onshore Federal and Indian oil and gas leases and on State or private land leases within federally supervised unit or communitized areas which must be reported to the Geological Survey (GS). The provisions of the existing NTL-3 require that a separate report be made in all cases, some of which have now been determined as unnecessary for the proper performance of the GS's regulatory duties. This revision will reduce the number of such separate reports by about 50 percent.

EFFECTIVE DATE: March 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. Eddie Wyatt, Conservation Division, U.S. Geological Survey, National Center (620), 12201 Sunrise Valley Drive, Reston, Virginia 22092 (703) 860-7535 (Commercial), 928-7535 (FTS).

SUPPLEMENTARY INFORMATION: The primary author of the final NTL-3A is Mr. Rudolph C. Baier, Petroleum Engineer, U.S. Geological Survey, phone (703) 860-7535.

In accordance with the regulations (30 CFR 221.7, 221.36) and the terms of the various oil and gas leases issued pursuant to the Mineral Leasing Act of February 25, 1920, as amended and supplemented (30 U.S.C. 181-287), the Mineral Leasing Act for Acquired Lands of August 7, 1947 (30 U.S.C. 351-359), the implied authority of the Executive Branch as defined in the Attorney General's Opinion of April 2, 1941 (Vol. 40 Op. Atty. Gen. 41), the Allotted Indian Lands Leasing Act of March 3, 1909, as amended (25 U.S.C. 396), and the Unallotted Indian Lands Leasing Act of May 11, 1938, as amended (25 U.S.C. 396a through 396g), the Area Oil and Gas Supervisor (Supervisor) is authorized to require such special reports as are necessary to carry out the intent of the applicable laws and regulations and to issue instructions for the filing of such reports.

The existing Notice to Lessees and Operators, NTL-3, requires operators to report certain spills, discharges, accidents, or other undesirable events by telephone within 18 hours, followed by a written report within 15 days, and to report all other undesirable events in writing within 15 days. After some 3 years of experience with the system and development of the data base associated therewith, the GS has determined that its regulatory functions may be adequately performed with less stringent reporting requirements. Therefore, the reporting requirements are modified to require: (1) a telephone report within 24 hours for those events identified in Section I of NTL-3A followed by a written report; (2) only a written report within 15 days for those events described in Section III of NTL-3A; and (3) no written or telephone report for minor events. However, all volumes of oil and gas lost, including that lost in minor events, must continue to be reported in the Monthly Report of Operations, Form 9-329.

A proposed revision of NTL-3 was published in the FEDERAL REGISTER of May 10, 1978 (Vol. 43, No. 91, pp. 20060-20061). Interested persons were invited to participate in the evaluation of the proposed revision by submitting written comments, suggestions, or objections to the Conservation Division, Geological Survey, by July 10, 1978. Comments were received from 5 of the over 2,000 onshore Federal and Indian oil and gas operators and from 2 petroleum associations. The seven respondents were: Marathon Oil Company, Sohio Petroleum Company, Exxon Company U.S.A., Phillips Petroleum Company, Shell Oil Company, Rocky Mountain Oil and Gas Association, and Petroleum Association of Wyoming.

Four of the respondents were concerned that subsection III.D., concerning injuries, as written in the proposed notice, would require a written report for very minor injuries. That was not the intent, and, therefore, NTL-3A has been revised to cover only major or life-threatening injuries.

Two respondents objected to the requirement that any spill, venting, or fire, regardless of the volume involved, which occurs on cultivated lands be reported as a major spill. The point was well taken, and subsection I.D. has been revised to eliminate the category of cultivated lands. The volume of the spill, venting, or fire on cultivated lands will determine the reporting category of the undesirable event.

Two respondents stated that Section IV, concerning contingency plans, could be interpreted to require the submittal of a contingency plan even when such a plan is not required pursuant to Title 40 CFR Part 112. This is a correct interpretation of the Section. The Supervisor has the authority to require a contingency plan under Title 30 CFR Part 221, when deemed necessary, regardless of whether one is required by the Environmental Protection Agency pursuant to Title 40 CFR Part 112. Therefore, Section IV was not changed.

One respondent offered the opinion that Section I, requiring reporting as soon as practical but within a maximum of 24 hours of the venting of 500 or more MCF of gas, and Section III, requiring a written report within 15 days of the venting of at least 50 MCF but less than 500 or more MCF of gas, is too restrictive. The GS must receive prompt notification of undesirable events which occur on lands under its jurisdiction in order to carry out its regulatory responsibilities. Accordingly, it has been decided to retain this requirement in the final NTL-3A.

In addition to the foregoing, the GS, on its own, has decided to delete from the reporting requirements the make or manufacturer, size, working and test pressure, date of installation, the type of use for each piece of equipment whose malfunction has been identified as a direct or indirect cause of an incident, and the listing of all pieces of equipment destroyed beyond repair and the approximate value thereof.

Accordingly, effective March 1, 1979, NTL-3 is hereby revised and reissued as NTL-3A to read as follows:

NOTICE OF LESSEES AND OPERATORS OF FEDERAL AND INDIAN ONSHORE OIL AND GAS LEASES (NTL-3A)

REPORTING OF UNDESIRABLE EVENTS

This Notice, which supersedes NTL-3 dated January 1, 1975, is issued pursuant to the authority prescribed in Title 30 CFR 221.5, 221.7, and 221.36. Operators of onshore Federal and Indian oil and gas leases shall report all spills, discharges, or other undesirable events in accordance with the requirements of this Notice. All such events which occur on State or private land leases within federally supervised unit or communitized areas must likewise be reported in accordance with the requirements of this Notice. However, compliance with this Notice does not relieve an operator from the obligation of complying with the applicable rules and regulations of any State or any other Federal Agencies regarding notification and reporting of undesirable events. As used in this Notice, the term District Engineer means that officer of the United States Geological Survey (GS) having supervisory jurisdiction for the geographic area in which the undesirable event occurs.

I. *Major Undesirable Events Requiring Immediate Notification*

Major undesirable events are defined as those incidents listed below in subsections A through F. These incidents, when occurring on a lease supervised by the GS, must be reported to the appropriate District Engineer *as soon as practical* but within a maximum of 24 hours:

A. Oil, saltwater, and toxic liquid spills, or any combination thereof, which result in the discharge (spilling) of 100 or more barrels of liquid; however, discharges of such magnitude, if entirely contained within the facility firewall, may be reported only in writing pursuant to Section III, of this Notice;

B. Equipment failures or other accidents which result in the venting of 500 or more MCF of gas;

C. Any fire which consumers the volumes as specified in I.A. an I.B. above;

D. Any spill, venting, or fire, regardless of the volume involved, which occurs in a sensitive area, e.g., areas such as parks, recreation sites, wildlife refuges, lakes, reservoirs, streams, and urban or suburban areas;

E. Each accident which involves a fatal injury; and

F. Every blowout (loss of control of any well) that occurs.

II. *Written Reports*

A written report shall be submitted in duplicate to the District Engineer no later than 15 days following all major undesirable events identified in Section I. When required by the District Engineer, interim reports will be submitted until final containment and cleanup operations have been accomplished. The final written report for each such event shall, as appropriate, provide:

A. The date and time of occurrence, and the date and time reported to USGS;

B. The location where the incident occurred, including surface ownership and lease number;

C. The specific nature and cause of the incident;

D. A description of the resultant damage;

E. The action taken and the length of time required for control of the incident, for containing the discharged fluids, and for subsequent cleanup;

F. The estimated volumes discharged and the volumes lost;

G. The cause of death when fatal injuries are involved;

H. Actions that have been or will be taken to prevent a recurrence of the incident;

I. Other Federal or State agencies notified of the incident; and

J. Other pertinent comments or additional information as requested by the District Engineer.

III. *Other-Than-Major Undesirable Events*

Other-than-major undesirable events, as identified below in subsections A through D, do not have to be reported orally within 24 hours; however, a written report, as required for major undesirable events in Section II of this Notice, must be provided for the following incidents:

A. Oil, saltwater, and toxic liquid spills, or any combination thereof, which result in the discharge (spilling) of at least 10 but less than 100 barrels, of liquid in nonsensitive areas, and all discharges of 100 or more barrels when the spill is entirely contained by the facility firewall;

B. Equipment failures or other accidents which result in the venting of at least 50 but less than 500 MCF of gas in nonsensitive areas;

C. Any fire which consumes volumes in the ranges specified in III.A. and III.B. above; and

D. Each accident involving a major or life-threatening injury.

Spills or discharges in nonsensitive areas involving less than 10 barrels of liquid or 50 MCF of gas do not require an oral or written report; however, the volumes discharged or vented as a result of all such minor incidents must be reported in accordance with Section V hereof.

IV. *Contingency Plans*

Upon request of the District Engineer, a copy of any Spill Prevention Control and Countermeasure Plan (SPCC Plan), required by the Environ-

mental Protection Agency (EPA) pursuant to Title 40 CFR Part 112, or other acceptable contingency plan must be submitted. All plans shall provide the names, addresses, and telephone numbers (both business and private) of at least two technically competent company or contract personnel authorized to order equipment or supplies and to expend funds necessary to control emergencies.

V. *Monthly Report of Operations/ Monthly Report of Sales and Royalty*

All volumes of oil spilled, gas vented, and all hydrocarbons consumed by fire or otherwise lost must be reported monthly on the Monthly Report of Operations (Form 9-329). The volume and value of such losses must also be reported in the Monthly Report of Sales and Royalty (Form 9-361).

VI. *Liquidated Damages*

Failure to provide the necessary notification, reports, or contingency plan (when required) as provided for by this Notice, may result in other measures being taken to secure compliance, such as those provided by Title 30 CFR 221.53 and 221.54.

DON E. KASH,
Chief, Conservation Division.

[FR Doc. 79-874 Filed 1-9-79; 8:45 am]

[7020-02-M]

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-57]

CERTAIN CATTLE WHIPS

Prehearing Conference and Hearing

Notice is hereby given that a prehearing conference will be held in this case at 9:30 a.m. on February 13, 1979, in Room 610, Bicentennial Building, 600 E Street, NW., Washington, D.C. The purpose of this prehearing conference is to review the prehearing statements submitted by the parties, to complete the exchange of exhibits, and to resolve any other necessary matters in preparation for the hearing.

Notice is also given that the hearing in this proceeding will commence at 9:30 a.m. on February 20, 1979, in Room 610, Bicentennial Building, 600 E Street, NW., Washington, D.C.

The Secretary shall publish this notice in the FEDERAL REGISTER.

Issued: January 4, 1979.

JANET D. SAXON,
Administrative Law Judge.

[FR Doc. 79-892 Filed 1-9-79; 8:45 am]

[7020-02-M]

[Investigation No. 337-TA-62]

CERTAIN ROTARY SCRAPING TOOLS

Investigation

Notice is hereby given that a complaint was filed with the United States International Trade Commission on December 5, 1978, and amended on December 21, 1978, and January 3, 1979, under section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), on behalf of the Thompson Tool Company, Inc., 17 Butler Street, Norwalk, Connecticut 06854. The complaint alleges that unfair methods of competition and unfair acts exist in the importation of certain rotary scraping tools into the United States, or in their sale, by reason of the alleged coverage of such rotary scraping tools by the claims of U.S. Letters Patent 3,958,294, and by reason of misleading packaging and/or deceptive advertising of the imported rotary scraping tools, including the simulation of complainant's trade dress.

The complaint alleges that the effect and tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure and industry, efficiently and economically operated, in the United States. Complainant requests both temporary and permanent exclusion of said imports from entry into the United States. Complainant further requests a cease and desist order prohibiting misleading packaging and/or deceptive advertising of the imported rotary scraping tools.

Having considered the complaint, the United States International Trade Commission, on January 3, 1979, ORDERED THAT—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), an investigation be instituted to determine under subsection (c) whether there is, or there is reason to believe that there is, a violation of subsection (a) of this section in the unauthorized importation of certain rotary scraping tools into the United States, or in their sale, by reason of the alleged coverage of such rotary scraping tools by the claims of U.S. Letters Patent No. 3,958,294, and by reason of misleading packaging and/or deceptive advertising of the imported rotary scraping tools, including the simulation of complainant's trade dress, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States;

(2) For the purpose of this investigation so instituted, the following are hereby named as parties:

(a) The complainant is—The Thompson Tool Company, Inc., 17 Butler Street, Norwalk, Connecticut 06854.

(b) The respondents are the following companies alleged to be involved in the unauthorized importation of such articles into the United States, or in their sale, and are parties upon which the complaint and this notice are to be served:

Dao Hung Manufacturing Co., 6th Floor, 21-1 Lane 16 Sec. 4, Chung Shiao E. Rd., Taipei, Taiwan.
Colonial Tool Company, Inc., P.O. Box 181, Hohokus, New Jersey 07432.
Fay Products, 450 Church Avenue, Brooklyn, New York 11203.
John Sturgess House, Inc., 47 Riverside Avenue Westport, Connecticut 06880.
King Imports, Ltd., Garfield, New Jersey 07026.
Marco Hardware, Newark, New Jersey 07104.
Caprice Products, New York, New York 10010.

(c) David J. Dir, U.S. International Trade Commission, 701 E Street NW, Washinton, D.C. 20436, is hereby named Commission investigative attorney, a party to this investigation; and

(3) For the investigation so instituted, Chief Administrative Law Judge Donald K. Duvall, U.S. International Trade Commission, 701 E Street NW, Washington, D.C. 20436, shall designate the presiding officer.

Responses must be submitted by the named respondents in accordance with section 210.21 of the Commission's Rules of Practice and Procedure, as amended (19 C.F.R. 210.21). Pursuant to sections 201.16(d) and 210.21(a) of the Rules, such responses will be considered by the U.S. International Trade Commission if received no later than 20 days after the date of service of the complaint. Extensions of time for submitting a response will not be granted unless good and sufficient cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and will authorize the presiding officer and the U.S. International Trade Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and in this notice and to enter both a recommended determination and a final determination containing such findings.

The complaint is available for inspection by interested persons at the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW, Washington, D.C. 20436, and in the Commission's New York City office, 6 World Trade Center, New York 10048.

By order of the Commission.

Issued: January 5, 1979.

KENNETH R. MASON,
Secretary.

[FR Doc. 79-893 Filed 1-9-79; 8:45 am]

[4410-01-M]

DEPARTMENT OF JUSTICE

UNITED STATES CIRCUIT JUDGE NOMINATING COMMISSION, NORTHERN NINTH CIRCUIT PANEL

Meeting

The Northern Ninth Circuit Panel of the United States Circuit Judge Nominating Commission will meet Tuesday, January 30, 1979, in the Conference Room of Souther, Spaulding, Kinsey, Williamson & Schwabe, Twelfth Floor, Standard Plaza, 1100 S.W. Sixth Avenue, Portland, Oregon at 9:30 a.m.

The morning session will be an orientation session for the panel and will be open to the public; the afternoon session will be devoted to a discussion of applicants and will be closed to the public pursuant to Public Law 92-463, Section 10(D) as amended. (CF. 5 U.S.C. 552b (c)(6).)

JOSEPH A. SANCHES,
Advisory Committee Management Officer.

JANUARY 4, 1979.

[FR Doc. 79-852 Filed 1-9-79; 8:45 am]

[4410-01-M]

REPUBLIC STEEL CORP.

Proposed Consent Decree in Action To Enjoin Discharge of Air and Water Pollutants

In accordance with Departmental Policy, 28 CFR § 50.7, 38 FR 19029, notice is hereby given that on December 20, 1978, a proposed consent decree in *United States of America, et al.* v. *Republic Steel Corporation,* Civil Action No. C78-1659, was lodged with the United States District Court for the Northern District of Ohio. The proposed consent decree establishes emission limitations, performance standards, and requires implementation of various testing and reporting procedures governing the operation of defendant's Warren and Youngstown, Ohio plants. The proposed consent decree also establishes a schedule of compliance for installation of equipment and for compliance with Ohio air pollution control regulations. Compliance with air pollution control regulations is required by December 31, 1982. Compliance with water pollution control requirements must be met by December 31, 1981, and must maintain performance at specified levels through July 1, 1983. If compliance is not achieved by the dates specified, the defendant is required to pay to the United States the sum of $7500 for each day that compliance is delayed, unless the delay is caused by circumstances beyond defendant's control.

The proposed consent decree may be examined at the office of the United States Attorney, U.S. Courthouse and Federal Office Building, West Market and South Main Streets, Akron, Ohio 44308; at the Region V office of the Environmental Protection Agency, Enforcement Division, 230 South Dearborn Street, Chicago, Illinois 60604; and at the Pollution Control Section, Land and Natural Resources Division of the department of Justice, Room 2645, Ninth and Pennsylvania Avenue, N.W., Washington, D.C. 20530. A copy of the proposed decree may be obtained in person or by mail from the Pollution Control Section, Land and Natural Resources Division of the Department of Justice.

The Department of Justice will receive written comments relating to the proposed consent decree for a period of thirty (30) days from the date of this notice. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States of America, et al.* v. *Republic Steel Corporation,* N.D. Ohio, Civil Action No. C78-1659, D.J. Ref. 90-5-1-1-1056.

JAMES W. MOORMAN,
Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 79-812 Filed 1-9-79; 8:45 am]

[7532-01-M]

NATIONAL COMMISSION ON NEIGHBORHOODS

MEETING

ACTION: Notice of meeting by the National Commission on Neighborhoods.

SUMMARY: This notice required under the Federal Advisory Committee Act (5 USC Appendix I) announces a public meeting.

TIME & DATE: From 9 a.m. to 3 p.m. on January 18, 1979.

PLACE: Room H 236, Capitol Building, Washington, D.C.

AGENDA: 9 a.m.—Call to order.
9 a.m. to Noon-Consideration of final report.
Noon—Adjourn.
1 p.m.—Call to order.
1 p.m. to 3 p.m.—General business meeting.
3 p.m.—Adjourn.

JOHN EADE,
Administrator.

[FR Doc. 79-820 Filed 1-5-79; 8:45 am]

[7536-01-M]

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

HUMANITIES COMMITTEE ADVISORY COMMITTEE

Meeting

DECEMBER 29, 1978.

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463, as amended), notice is hereby given that a meeting of the Humanities Panel will be held at 806 15th Street, N.W., Washington, D.C. 20506, in Room 807 from 9:00 a.m. to 5:30 p.m. on 26 January 1979.

The purpose of the meeting is to review History applications submitted to the General Research Program of the National Endowment for the Humanities, for projects beginning 1 March 1979.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street, N.W., Washington, D.C. 20506, or call area code 202-724-0367

STEPHEN J. MCCLEARY,
Advisory Committee, Management Officer.

[FR Doc. 79-894 Filed 1-9-79; 8:45 am]

[7536-01-M]

ADVISORY COMMITTEE HUMANITIES PANEL

Meeting

JANUARY 4, 1979.

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463, as amended), notice is hereby given that a meeting of the Humanities Panel will be held

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at 806 15th Street, N.W., Washington, D.C. 20506, in room 1130, from 9 a.m. to 5:30 p.m. on January 29, 1979 and January 30, 1979.

The purpose of the meeting is to review the applications submitted to the Research Tools Program of the National Endowment for the Humanities, for projects using computer technology beginning June 15, 1979.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that the meeting would fall within exceptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street, N.W., Washington, D.C. 20506, or call area code 202-724-0367.

STEPHEN J. MCCLEARY,
Advisory Committee Management Officer.

[FR Doc. 79-894 Filed 1-9-79; 8:45 am]

[7590-01-M]

NUCLEAR REGULATORY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS; SUBCOMMITTEE ON THE WILLIAM H. ZIMMER NUCLEAR POWER STATION

Meeting Postponed

The meeting of the ACRS Subcommittee on the William H. Zimmer Nuclear Power Station scheduled to be held on January 17, 1979, in Washington, D.C. has been postponed indefinitely. Notice of this meeting was published in the FEDERAL REGISTER on January 2, 1979 (44 FR 124).

Dated: January 4, 1979.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc. 79-833 Filed 1-9-79; 8:45 am]

APPLICATIONS FOR LICENSES TO EXPORT NUCLEAR FACILITIES OR MATERIALS

Pursuant to 10 CFR 110.70, "Public Notice of Receipt of an Application", please take notice that the Nuclear Regulatory Commission has received the following applications for export licenses. A copy of each application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street, N.W., Washington, D.C

Dated this day January 3, 1979, at Bethesda, Maryland.

For the Nuclear Regulatory Commission.

GERALD G. OPLINGER,
Assistant Director, Export-Import and International Safeguards, Office of International Programs.

EXPORT LICENSE APPLICATIONS SOURCE AND SPECIAL NUCLEAR MATERIAL IN KILOGRAMS

Name of Applicant, Date of Application, Date Received, Application Number	Material Type	Total Element	Total Isotope	End-Use	Country of Ultimate Destination
Transnuclear, Inc., 12/19/78, 12/19/78, USNMO 1434.	3.25 Enriched Uranium..	12,714	413.0325	Reload fuel for Kernkraftwerk Obrigheim.	W. Germany

[FR Doc. 79-842 Filed 1-9-79; 8:45 am]

[7590-01-M]

[Docket No. STN 50-470]

COMBUSTION ENGINEERING, INC. STANDARD SAFETY ANALYSIS REPORT (CESSAR SYSTEM 80 DESIGN)

Issuance of Amendment to Preliminary Design Approval

Notice is hereby given that the staff of the Nuclear Regulatory Commission (NRC staff) has issued Amendment No. 1 to Preliminary Design Approval No. PDA-2 dated December 28, 1978, for the reference system design of a nuclear steam supply system (NSSS) of a pressurized water reactor as described in the Combustion Engineering, Incorporated (C-E) CESSAR System 80 Preliminary Safety Analysis Report and amendments thereto. PDA-2 was issued by the NRC staff on December 31, 1975 for a three-year period.

Amendment No. 1 to PAD-2 extends its expiration date from December 31, 1978 to December 31, 1980. This change was made as a result of the Nuclear Regulatory Commission's August 1978 policy statement on standardization of nuclear power plants which provided for an extension to five years of the effective terms for preliminary design approvals for reference system designs issued prior to the August 1978 policy statement. Previously, PDA's for NSSS reference system designs were set to terminate three years after issuance.

The Nuclear Regulatory Commission's August 1978 policy statement identified certain matters that PDA holders would be required to address prior to the granting of PDA extensions. These matters were identified in an NRC staff letter to C-E, R. Boyd to P. L. McGill, dated October 19, 1978. By letters dated October 20, 1978, December 7, 1978 and December 20, 1978, A. E. Scherer to C. J. Heltemes, Jr., C-E submitted Appendix A to its CESSAR system 80 Final Safety Analysis Report and Amendments 1 and 2 thereto which addressed each of these matters. The NRC staff has reviewed Appendix A and the amendments thereto for completeness and has concluded that C-E has addressed each of these matters. The NRC staff considers this to be an acceptable basis for extending PDA-2 for two additional years. If the NRC staff is informed by a utility-applicant that it intends to reference the CESSAR system 80 preliminary design after December 31, 1978, it will then perform a detailed review of Appendix A and amendments thereto to assure that each of the identified matters has been acceptably resolved for the CESSAR System 80 preliminary design.

The NRC staff has implemented this procedure for extending PDA's, in consideration of the high degree of confidence it places in reference system designs for which PDA's have been issued. This procedure permits the detailed review of the identified matters to be deferred on these designs until a utility-applicant requirement for that review is identified.

Amendment No. 1 to PDA-2 is effective as of its date of issuance and shall expire on December 31, 1980, unless earlier superseded by issuance of a final design approval for the CESSAR System 80 design, or unless extended by the NRC staff. The expiration of PDA-2, as amended, should not affect use of the CESSAR System 80 design for reference in any construction permit application docketed prior to such date.

A copy of Amendment No. 1 to PDA-2 dated December 28, 1978 is available for public inspection at the Nuclear Regulatory Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. 20555.

Dated at Bethesda, Maryland this 28th day of December 1978.

For The Nuclear Regulatory Commission.

I. VILLALVA,
Acting Chief, Standardization Branch, Division of Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 79-836 Filed 1-9-79; 8:45 am]

[7590-01-M]

[Docket No. STN 50-447]

GENERAL ELECTRIC CO. STANDARD SAFETY ANALYSIS REPORT; (GESSAR-238 NUCLEAR ISLAND STANDARD DESIGN)

Issuance of Amendment to Preliminory Design Approval

Notice is hereby given that the staff of the Nuclear Regulatory Commission (NRC staff) has issued Amendment No. 2 to Preliminary Design Approval No. PDA-1, dated December 22, 1978, for the reference system design of a nuclear island portion of a boiling water reactor nuclear power plant as described in the General Electric Company GESSAR-238 Nuclear Island Standard Safety Analysis Report and amendments thereto. PDA-1 was issued by the NRC staff on December 22, 1975 for a three-year period. Amendment No. 1 to PDA-1 was issued by the NRC staff on June 13, 1977.

Amendment No. 2 to PDA-1 extends its expiration date from December 22, 1978 to December 22, 1980. This change was made as a result of the Nuclear Regulatory Commission's August 1978 policy statement on standardization of nuclear power plants which provided for an extension to five years of the effective terms for preliminary design approvals for reference system designs issued prior to the August 1978 policy statement. Previously, the preliminary design approvals for nuclear island reference system designs were set to terminate three years after issuance.

The Nuclear Regulatory Commission's August 1978 policy statement identified certain matters that PDA holders would be required to address prior to the granting of PDA extensions. These matters were identified in an NRC staff letter to C-E, R. Boyd to G. Sherwood, dated October 13, 1978. By letters dated November 30, 1978 and December 21, 1978, G. Sherwood to H. Denton, the General Electric Company submitted amendments 46 and 47 to the GESSAR-238 Nuclear Island application, which addressed each of these matters. The NRC staff has reviewed Amendments 46 and 47 for completeness and has concluded that the General Electric Company has addressed each of these matters. The NRC staff considers this to be an acceptable basis for extending PDA-1 for two additional years. If the NRC staff is informed by a utility-applicant that it intends to reference the GESSAR-238 Nuclear Island design after December 22, 1978, it will then perform a detailed review of amendments 46 and 47 to assure that each of the identified matters has been acceptably resolved for the GESSAR-238 Nuclear Island design.

The NRC staff has implemented this procedure for extending PDA's, in consideration of the high degree of confidence it places in reference system designs for which PDA's have been issued. This procedure permits the detailed review of the identified matters to be deferred on these designs until a utility-applicant requirement for that review is identified.

Amendment No. 2 to PDA-1 is effective as of its date of issuance and shall expire on December 22, 1980, unless earlier superseded by issuance of a final design approval for the GESSAR-238 Nuclear Island design, or unless extended by the NRC staff. The expiration of PDA-1, as amended, should not affect use of the GESSAR-238 Nuclear Island design for reference in any construction permit application docketed prior to such date.

A copy of Amendment No. 2 to PDA-1 dated December 22, 1978 is available for public inspection at the Nuclear Regulatory Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. 20555.

Dated at Bethesda, Maryland this 22nd day of December 1978.

For the Nuclear Regulatory Commission.

C. J. HELTEMES, Jr.,
Chief Standardization Branch, Division of Project Management Office of Nuclear Reactor Regulation.

[FR Doc. 79-837 Filed 1-9-79; 8:45 am]

[7590-01-M]

[Docket No. 70-754]

GENERAL ELECTRIC CO. (Vallecitos Nuclear Center)

Request to Suspend Activities Under License No. SNM-960 and Remove Plutonium From the General Electric Co.'s Vallecitos Nuclear Center

Notice is hereby given that by letter dated December 14, 1978, the Friends of the Earth, San Francisco, California, joined by Congressmen Ronald V. Dellums and John Burton and other residents of California, requested that the Commission suspend activities under License No. SNM-960 at the General Electric Company's Vallecitos Nuclear Center and order removal of all plutonium from the site. Prior to the return of any plutonium or resumption of licensed activities at the Vallecitos Center the Friends of the Earth request that public hearings be held concerning seismic conditions at the Center. The Friends of the Earth also request that the Commission produce and deliver to the Friends of the Earth a complete inventory of radioactive materials at the Vallecitos Nuclear Center and structural analyses of all building at the Center which contain radioactive materials.

This request is being treated under 10 CFR 2.206 of the Commission's regulations, and accordingly, action will be taken on the request within a reasonable time. A copy of the request is available for inspection in the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555, and at the local public document room for the Vallecitos Nuclear Center located at the Nuclear Regulatory Commission, Region V, Office of Inspection and Enforcement, 1990 N. California Boulevard, Suite 202, Walnut Creek, California 94596.

Dated at Silver Spring, Maryland this 2nd day of January 1979.

For the Nuclear Regulatory Commission.

WILLIAM J. DIRCKS,
Director, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 79-838 Filed 1-9-79; 8:45 am]

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[7590-01-M]

[Docket No. 40-8584]

MINERALS EXPLORATION CO.

Availability of final environmental Statement For Sweetwater Uranium Project

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in 10 CFR Part 51, notice is hereby given that the Final Environmental Statement prepared by the Commission's Office of Nuclear Material Safety and Safeguards, related to the proposed Sweetwater Uranium Mill to be located in Sweetwater County, Wyoming, is available for inspection by the public in the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. 20555.

The Final Environmental Statement is also being made available at the Wyoming State Clearinghouse, State Planning Coordinator, Office of the Governor, Capitol Building, Cheyenne, Wyoming 82001.

The notice of availability of the Draft Environmental Statement for the Sweetwater uranium project and requests for comments from interested persons was published in the FEDERAL REGISTER on December 23, 1978 (42 FR 64478). The comments received from Federal agencies, State and local officials and interested members of the public have been included as appendices to the Final Environmental Statement.

Copies of the Final Environmental Statement (Document No. NUREG-0505) may be purchased on or about January 17, 1979, from the National Technical Information Service, Springfield, Virginia 22161. (Printed copy: $11.00; Microfiche: $3.00.)

Dated at Silver Spring, Maryland, this 20th day of December, 1978.

For The Nuclear Regulatory Commission.

ROSS A. SCARANO,
Section Leader, Uranium Mill Licensing Section, Fuel Processing & Fabrication Branch, Division of Fuel Cycle and Material Safety.

[FR Doc. 79-839 Filed 1-9-79; 8:45 am]

[7590-01-M]

[Docket No. 50-336]

NORTHEAST NUCLEAR ENERGY COMPANY, ET AL.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 46 to Facility Operating License No. DPR-65, issued to Northeast Nuclear Energy Company, The Connecticut Light and Power Company, The Hartford Electric Light Company, and Western Massachusetts Electric Company, (the licensees), which revised Technical Specifications for operation of the Millstone Nuclear Power Station, Unit No. 2 (the facility) located in the Town of Waterford, Connecticut. The amendment is effective as of its date of issuance.

The amendment modifies the existing Technical Specifications by changing the acceptable Resistance Temperature Detector (RTD) response time in Reactor Protection System from less than or equal to five seconds to less than or equal to ten seconds. This change also affects the computation of the Thermal Margin/Low Pressure trip setpoint.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated October 24, 1977, as supplemented March 21, 1978, (2) Amendment No. 46 to License No. DPR-65, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 28th day of December 1978.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc. 79-840 Filed 1-9-79; 8:45 am]

[7590-01-M]

[Docket No. 50-549]

POWER AUTHORITY OF THE STATE OF NEW YORK (GREENE COUNTY NUCLEAR POWER PLANT)

Order Setting Prehearing Conference

It is ordered that a prehearing conference be held in this matter commencing January 17, 1979 at 1:00 p.m. at the offices of the Public Service Commission, Agency Building 3, the Governor Nelson A. Rockfeller Empire State Plaza, Albany, New York.

The purposes for this prehearing conference are to hear oral argument on motions for summary disposition previously filed, to discuss the future scheduling of hearings and any other matters which may be appropriate.

Dated at Bethesda, Maryland This 4th day of January 1979.

For the Atomic Safety and Licensing Board.

ANDREW C. GOODHOPE,
Chairman.

[FR Doc. 79-834 Filed 1-9-79; 8:45 am]

[7590-01-M]

[Docket No. STN 50-480]

WESTINGHOUSE ELECTRIC CORP. REFERENCE SAFETY ANALYSIS REPORT (RESAR-41 NUCLEAR STEAM SUPPLY SYSTEM STANDARD DESIGN)

Issuance of Amendment to Preliminary Design Approval

Notice is hereby given that the staff of the Nuclear Regulatory Commission (NRC staff) has issued Amendment No. 1 to Preliminary Design Approval No. PDA-3, dated December 28, 1978, for the reference system design of a nuclear steam supply system portion of a pressurized water reactor nuclear power plant as described in the Westinghouse Electric Corporation Reference Safety Analysis Report RESAR-41 and amendments thereto. PDA-3 was issued by the NRC staff on December 31, 1975 for a three-year period.

Amendment No. 1 to PDA-3 extends its expiration date from December 31, 1978 to december 31, 1980. This change was made as a result of the Nuclear Regulatory Commission's August 1978 policy statement on standardization of nuclear power plants which provided for an extension to five years of the effective terms for preliminary design approvals for reference system designs issued prior to the August 1978 policy statement. Previously, the preliminary design approvals for nuclear steam supply system reference system designs were set to terminate three years after issuance.

The Nuclear Regulatory Commission's August 1978 policy statement identified certain matters that PDA holders would be required to address prior to the granting of PDA extensions. These matters were identified in an NRC staff letter to the Westinghouse Electric Corporation, R. Boyd to T. Anderson, dated November 9, 1978. By letters dated December 15, 1978 and December 27, 1978, T. Anderson to S. Varga and T. Anderson to C. J. Heltemes, respectively, the Westinghouse Electric Corporation submitted Amendments 24 and 25 to the RESAR-41 application, which addressed each of these matters. The NRC staff has reviewed Amendments 24 and 25 for completeness and has concluded that the Westinghouse Electric Corporation has addressed each of these matters. The NRC staff considers this to be an acceptable basis for extending PDA-3 for two additional years. If the NRC staff is informed by a utility-applicant that it intends to reference the RESAR-41 Nuclear Steam Supply System design after December 31, 1978, it will then perform a detailed review of Amendments 24 and 25 to assure that each of the identified matters has been acceptably resolved for the RESAR-41 Nuclear Steam Supply System design.

The NRC staff has implemented this procedure for extending PDA's, in consideration of the high degree of confidence it places in reference system designs for which PDA's have been issued. This procedure permits the detailed review of the identified matters to be deferred on these designs until a utility-applicant requirement for that review is identified.

Amendment No. 1 to PDA-3 is effective as of its date of issuance and shall expire on December 31, 1980, unless earlier superseded by issuance of a final design approval for the RESAR-41 Nuclear Steam Supply System design, or unless extended by the NRC staff. The expiration of PDA-3, as amended, should not affect use of the RESAR-41 Nuclear Steam Supply System design for reference in any construction permit application docketed prior to such date.

A copy of Amendment No. 1 to PDA-3 dated December 28, 1978 is available for public inspection at the Nuclear Regulatory Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. 20555.

Dated at Bethesda, Maryland this 28th day of December 1978.

For the Nuclear Regulatory Commission.

IGNACIO VILLALVA, *Acting Chief, Standardization Branch, Division of Project Management, Office of Nuclear Reactor Regulation.*

[FR Doc. 79-841 Filed 1-9-79; 8:45 am]

[3110-01-M]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on 01/03/79 (44 USC 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes—

The name of the agency sponsoring the proposed collection of information;

The title of each request received;

The agency form number(s), if applicable;

The frequency with which the information is proposed to be collected;

An indication of who will be the respondents to the proposed collection;

The estimated number of responses; the estimated burden in reporting hours; and

The name of the reviewer or reviewing division or office.

Requests for extension which appear to raise no significant issues are to be approved after brief notice thru this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, (202-395-4529), or from the reviewer listed.

NEW FORMS

SMALL BUSINESS ADMINISTRATION

Small Business Development Centers Questionnaire
Single-time
Business served by Small Business Development Centers, 2,500 responses; 833 hours.
Caywood, D.P., 395-6140.

REVISIONS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health
Questionnaire for source directory annually
Suppliers of laboratory animals 50 responses; 50 hours.
Richard Eisinger, 395-3214.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Policy Development and Research
Annual housing survey-SMSA Sample Group C-2
Questionnaire and control card
AHS-51, 52, 54L1, L2, L(Spanish), 56L Other (see SF-83)
Households in 15 SMSA's, 117,000 responses; 70,200 hours.
Office of Federal Statistical Policy & Standard, 673-7956.

EXTENSIONS

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service
Regulations—U.S. Grain Standards Act, on occasion
Grain firms, 133,365 responses; 30,001 hours.
Ellett, C.A., 395-6132.

Agricultural Stabilization and Conservation Service
Contract for Cold Storage & Services—Peanuts
CCC-1030, 1030-1, & 1030-2, on occasion
Cold storage warehouses, 40 responses; 80 hours.
Ellett, C.A., 395-6132.

DAVID R. LEUTHOLD,
Budget and Management Officer.

[FR Doc. 79-809 Filed 1-9-79; 8:45 am]

[7715-01-M]

POSTAL RATE COMMISSION

[Docket No. MC79-3]

MAIL CLASSIFICATION SCHEDULE, 1978

Order Instituting Proceeding; Designating Presiding Officer, Officer of the Commission, and Other Participants; Requesting Information; Fixing Date for a Prehearing Conference; and Establishing Procedures

JANUARY 4, 1979.

The Postal Rate Commission, pursuant to 39 U.S.C. § 3623(b), hereby institutes a mail classification proceeding. The evidentiary record to be established in this proceeding will provide the basis for a recommended decision on a possible surcharge for red-tag second-class service [1] (or, equivalently, on a discount for non-red-tag second-class service).

I. BACKGROUND

On June 16, 1978, the Commission issued its recommended decision, in

[1] Red-tag service currently refers to an expeditious service which may be granted insofar as practicable to authorized second-class entry publications which are published weekly or more frequently and feature news of general public interest. This service is usually referred to as newspaper treatment. (*See* Postal Service Manual § 125.41.)

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Docket No. MC76-2, on the proposal of the Officer of the Commission to expand the availability of red-tag service and institute a surcharge for that service.[2] In that recommended decision we found that a surcharge was not required by title 39 because the evidence in that docket was not sufficient to establish that additional costs are incurred in providing red-tag service. On the other hand, the evidence in that docket did not indicate that all second-class mailers should be entitled to red-tag service upon request. The record failed to indicate what the cost consequences would be if all second-class matter were made eligible for red-tag service.[3] We therefore recommended only that a new subsection be added to the Domestic Mail Classification Schedule to incorporate therein the existing terms and conditions regarding red-tag service and the availability to qualifying second-class mailers.[4]

We made our recommendations with some reluctance, given the state of the evidentiary record of MC76-2 and subsequent evidentiary developments in Docket No. R77-1 on related matters. In Docket R77-1 we recommended that second-class rates recover certain service-related costs. the concept of service-related costs (SRC) was first explored in Docket R77-1, which began with the Postal Service filing on July 13, 1977—two months *after* the record was closed on the original red-tag surcharge proposal in MC76-2. Further, this Commission issued its tentative recommended decision on the red-tag surcharge proposal on September 16, 1977, only two months after the Service had introduced the SRC concept in Docket R77-1 and before any Postal Service witness had appeared for cross-examination. Thus a relationship between the assignment of service-related costs to second-class mail and the establishment of a surcharge for red-tag service could not be addressed during the development of a record on the issue of a red-tag surcharge in Docket No. MC76-2.

In R77-1 we determined that service-related delivery costs are caused by the existence of preferential mail standards in delivery and should therefore be assigned to subclasses requiring the preferential standards.[5] In R77-1 we also concluded that these service-related costs were not volume variable, but rather were reasonably assignable fixed costs. The concept of service-related costs and their assignment to second-class were not involved in the original red-tag proposal in Docket No. MC76-2, but it is relevant to the question of the appropriateness of a red-tag surcharge for expeditious newspaper treatment. If, in fact, a surcharge were to be established, it would also be necessary to explore the appropriateness of offering such expeditious treatment to all second-class matter. In order to fully explore these issues (as well as related issues we discuss below), we have determined to commence the instant proceeding.[6]

II. Issues To Be Addressed

In a pleading filed in MC76-2 on June 5, 1978 and following quickly upon the heels of the R77-1 recommended decision, the OOC asked that rates for second-class be reduced by an average of 1.1 cents per piece and that a surcharge of 2.8 cents per piece be placed on red-tag service.[7] This request, initially made after we had issued our tentative decision in MC76-2, posed several issues regarding the R77-1 costing method that must be resolved before arriving at any final decision concerning a surcharge or discount.

The specific implications of assigning service-related costs to second-class mail are items that were not addressed by the evidence in Docket No. MC76-2. This is the basic area that we propose to consider in the instant proceeding. We would expect to explore the propriety of placing a surcharge upon red-tag service and the rate consequences of such action assuming such service was only available to those qualifying under the current eligibility criteria. We would also expect to explore the consequences of offering red-tag service at a surcharge rate to all second-class mailers upon request. The cost consequences, rate impacts, and volume changes will have to be identified and quantified in the course of the proceeding. Other factors that will need to be considered are the impacts of a surcharge upon phased rates and phasing appropriations.

The proceeding should provide information regarding the postage impact of proposed surcharges upon typical second-class publications that use or do not use the red-tag service. We would also expect to examine the imposition of a surcharge in light of section 3622(b)(8) of title 39.

The parties might explore the possibility that high-volume red-tag mailers are voluntarily performing work sharing beyond current requirements for which they are not now compensated through presort discounts and, if so, how any cost savings that now result can be preserved. They should also investigate whether any current red-tag volume would divert to a lower-rate non-red-tag service or to private delivery systems rather than to pay a higher rate for red-tag service and the consequences of such diversions. Obviously, the amount of any diversion would depend on the size of a red-tag surcharge. It would appear that the Service's Magserv simulation model[8] might be adapted to predict such diversion.

III. Procedural Steps

Because this proceeding is essentially an outgrowth of MC76-2, all participants in that Docket are being made participants in this docket. The participants are listed in Appendix A. Other persons desiring to participate in this proceeding should file a petition to intervene or a request to be heard as a limited participator. Participants desiring to change their status should file an appropriate request. Persons listed in Appendix A who do not wish to participate in this proceeding should file a request to withdraw. Pursuant to section 30(b) of the Commission's rules of practice,[9] the Commission will conduct all pre-

[2] *See* PRC Op. MC76-2 (Opinion and Recommended Decision After Exceptions to Tentative Decision Denying Proposal by the OOC to Expand Availability of Red Tag Service and Institute a Surcharge for Expedited Service), June 16, 1978.

[3] *Id.* at 12.

[4] The Governors of the Postal Service rejected our recommended decision because the Governors considered the recommended change to be unnecessary. Gov. Dec. MC76-2, Sept. 7, 1978, p. 5.

[5] *See* PRC Op. R77-1, May 12, 1978, pp. 94-124.

[6] Both the R77-1 and MC76-2 decisions are pending on appeal under 39 U.S.C. 3628—in National Association of Greeting Card Publishers v. U.S. Postal Service, D.C. Cir. No. 78-1448 *et al.*, ("NAGCP III") and Pennington v. U.S. Postal Service; D.C. Cir. No. 78-1899, respectively. The instant proceeding deals with issues addressed directly in *Pennington* and is indirectly related to *NAGCP III*. We have considered whether the pendency of these cases in the Court of Appeals is an obstacle to our instituting this proceeding, and conclude that it is not. If we were contemplating modification of the orders issued in Dockets MC76-2 or R77-1, such a difficulty might arise because the records in those cases are now lodged with the Court and hence are outside our control. *See* 28 U.S.C. 2112. However, as our decision in Docket MC76-2 made plain, we are here instituting new proceedings aimed at the development of a new record for decision. Any materials which might be incorporated therein by reference from the earlier cases would not thereby be removed from the control of the Court (but rather, simply duplicated) and consequently their incorporation could not be an obstacle to judicial review.

We would expect the Governors, as the party respondent before the Court in *NAGCP III* and *Pennington*, to notify the Court of the institution of these proceedings. *See* the same Court's reference to the need for such notice in National Association of Greeting Card Publishers v. U.S. Postal Service, 569 F.2d 570, 578, fn. 21 (1976); *and see* Battle Creek Gas Co. v. FPC, 281 F.2d 42, 48 (D.C. Cir., 1960).

[7] *See* Answer of Officer of the Commission in Support of the Motion of Intervenor Samuel C. Pennington, Docket No. MC76-2, June 5, 1978, Appendix.

[8] *See* Postal Service Exh. T-17, Technical Appendix, Docket No. R77-1.

[9] 39 C.F.R. § 3001.30(b).

hearing conferences and hearings en banc. Simeon M. Bright, Vice-Chairman, will be the presiding officer in such proceedings.[10] Conferences and hearings will commence each day at 9:30 a.m. at the Postal Rate Commission's hearing room, suite 500, 2000 L Street, N.W., Washington, D.C. 20268, and shall be on the record and a transcript made except where the presiding officer determines otherwise.

The Officer of the Commission (OOC) designated to represent the general public[11] in this proceeding will be Stephen L. Sharfman, Assistant General Counsel, Litigation (Acting). During this proceeding, the OOC will direct the activities of Commission personnel assigned to assist him, and neither he or any such personnel will participate in or advise as to any Commission decision in the case.[12] The OOC will supply for the record, at the appropriate time, the names of all Commission personnel assigned to assist him in this case. In this proceeding the OOC shall be separately served three copies of all filings in addition to, and simultaneously with, service on the Commission of the 25 copies required by section 10(c) of the rules of practice.[13]

Since the posture of this case is somewhat different from our normal classification case—*i.e.*, although the Commission is initiating the case pursuant to 39 U.S.C. 3623(b) the central issue is an outgrowth of a proposal made by the Service in Docket No. R77-1—we are varying our usual procedural schedule. The Postal Service will have until March 15, 1979 to prepare and file a direct case which is responsive to the issues raised in this order. We believe that the Postal Service, as the repository of the relevant data, as well as the agency charged with administration of red-tag second-class service, is in the best position to take the lead in this area. Of course, other parties, including the OOC, will have an opportunity to file rebuttal, or, if the Service fails to respond to this directive, an opportunity to make the initial proposal. Therefore, we will give the other parties until June 15, 1979 to file their cases-in-chief.

A tentative schedule of proceedings is included in Appendix B. Procedural dates which are not yet firm will be set at a future date, after a prehearing conference.

The Postal Service's case-in-chief will conform to the requirements of section 64 of the rules of practice. The OOC's case-in-chief will conform, as nearly as practicable, to the requirements of section 64 of the rules of practice.

[10] 39 C.F.R. § § 3001.5(e), 3001.23.

[11] *See* 39 U.S.C. 3624(a) (1970).

[12] *See* 39 CFR 3001.8.

[13] *Id.* § 3001.10(c).

The Commission orders: (A) The United States Postal Service is joined as a party to this docketed proceeding, initiated pursuant to 39 U.S.C. 3623(b), and each of the persons identified in Appendix A to this Order is hereby made an intervenor or a limited participator in this proceeding, subject to the provisions of paragraph (b), below. If any intervenor or limited participator desires to change their status, they may file an appropriate petition or motion by January 20, 1979.

(B) The participation of the intervenors and limited participators ordered by paragraph (A), above, is subject to the rules and regulations of the Commission: *Provided, however,* that their participation shall be limited to matters affecting rights and interests specifically set forth in their initial petitions to intervene and requests to become limited participators in Docket No. MC76-2, and *Provided, further,* that the participation of such intervenors and limited participators shall not be construed as recognition by the Commission that they, or any of them, might be aggrieved because of any order or orders issued by the Commission in this proceeding.

(C) Petitions for leave to intervene by persons other than those listed in Appendix A must be filed with the Secretary, Postal Rate Commission, Washington, D.C. 20268, on or before January 20, 1979, and must be in accordance with § 20 of the Commission's rules of practice (39 CFR 3001.20). We direct specific attention to section 20(b) which provides that petitions for leave to intervene shall affirmatively state whether or not petitioner requests a hearing or, in lieu thereof, a conference; and further, whether or not the petitioner intends to participate actively in the hearing. Alternatively, these persons may seek limited participation, if they do not wish to become parties and may do so, on or before January 20, 1979, by filing a written request for leave to be heard as a "limited participator," pursuant to section 19a of the Commission's rules of practice (39 CFR 3001.19a). In addition, persons wishing to express their views informally, and not desiring to become a party or limited participant, may file comments pursuant to section 19b of the Commission's rules (39 CFR 3001.19b).

(D) The participants shall serve copies of all documents, including prepared direct evidence, upon representatives of the Postal Service, the OOC, intervenors, and limited participators. For purposes of such service, where service upon more than one representative has been requested in a petition to intervene or in a request for leave to be heard as a limited participator, including those petitions and request filed jointly and severally by two or more persons, only the first two named representatives in the petition need be served.

(E) The Commission will sit en banc, with Simeon M. Bright, Vice-Chairman, as presiding officer, in the above-captioned proceeding.

(F) Stephen L. Sharfman, Assistant General Counsel, Litigation (Acting), is hereby designated as the Officer of the Commission (OOC) to represent the general public in this proceeding. Service of documents on the Commission shall not constitute service on the OOC, who shall separately be served three copies of all documents.

(G) The Postal Service's case-in-chief shall conform to the requirements of section 64 of the rules of practice. The case-in-chief of the OOC shall conform, as nearly as practicable, to the requirements of section 64 of the rules of practice.

(H) The Postal Service shall file its direct case by March 15, 1979. If the Postal Service takes no position on the need for or amount of a red-tag surcharge (or non-red-tag discount, it shall nevertheless file testimony on data responsive to the issues raised in this Order as soon as possible but no later than March 15, 1979.

By the Commission.

David F. Harris,
Secretary.

Appendix A. Service List

Mail Classification Schedule, 1978

Name and Representative

United States Postal Service—Harold J. Hughes, Esquire, Assistant General Counsel, Office of Rate & Classification Law (Classification Division), U.S. Postal Service, 475 L'Enfant Plaza West, S.W., Washington, D.C. 20260.

Agricultural Publishers Association, Inc. (LP)—Frank R. Cawley, Esquire, Washington Representative, Agricultural Publishers Association, Inc., Post Office Box 2351, Falls Church, Virginia 22042.

American Business Press, Inc.—Robert A. Saltzstein, Esquire, Wyatt and Saltzstein, 1725 DeSales St., N.W., Washington, D.C. 20036; and Stephen M. Feldman, Esquire, Wyatt and Saltzstein, 1725 DeSales St., N.W., Washington, D.C. 20036.

American Library Association (LP)—William D. North, Esquire, Kirkland and Ellis, 200 E. Randolph Drive, Chicago, Illinois 60601; and Miss Eileen D. Cooke, The American Library Association, 110 Maryland Avenue, N.E., Washington, D.C. 20002.

American Newspaper Publishers Association—Jerry W. Friedheim, Executive Vice President, American Newspaper Publishers Association, 11600 Sunrise Valley Drive, Reston, Virginia 22091; and Richard Littell, Esquire, Dickstein, Shapiro and Morin, 10th Floor, 2101 L Street, N.W., Washington, D.C. 20037.

American Retail Federation—William Kay Daines, Esquire, American Retail Federation, 1616 H Street, N.W., Washington, D.C. 20006; and Charles A. Washer, Es-

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quire, P.O. Box 5727, Lighthouse Point, Florida 33064.
Association of American Publishers, Inc., and Book Manufacturers Institute, Inc. (LP)—Richard M. Schmidt, Jr., Esquire, Ian D. Volner, Esquire, Cohn and Marks, 1920 L Street, N.W., Washington, D.C. 20036.
Association of Second Class Mail Publications, Inc. (LP)—Richard D. Green, President, Association of Second Class Mail Publications, Inc., 1518 K Street, N.W., Washington, D.C. 20005.
Catholic Press Association (LP)—Charles Emmet Lucey, Esquire, Harrison, Lucey & Sagle, Suite 500, 1701 Pennsylvania Avenue, N.W., Washington, D.C. 20006.
Classroom Publishers Association (LP)—Stephen F. Owen, Jr., Esquire, General Counsel, Classroom Publishers Association, Henry Ashton Hart, Counsel, Loomis, Owen, Fellman & Coleman, 2020 K Street, N.W., Suite 800, Washington, D.C. 20006.
Department of Defense—Dellon E. Coker, Chief, Regulatory Law Office, Office of the Judge Advocate General, Department of the Army for The Department of Defense, Washington, D.C. 20310; and John W. Gane, Chief, Operations Division, Army Postal Directorate, Washington, D.C. 20314.
Direct Mail/Marketing Association, Inc. (LP)—Dana T. Ackerly, Esquire, Covington & Burling, 888-16th Street, N.W., Washington, D.C. 20006; and Mr. Arthur Eden, National Economic Research Associates, Inc., 1800 M Street, N.W., Washington, D.C. 20036.
Dow Jones & Company, Inc.—W. Gilbert Faulk, Jr., Esquire, Joseph D. Priory, Esquire, Dow Jones & Company, Inc., P.O. Box 300, Princeton, New Jersey 08540; and Raymond N. Shibley, Esquire, Farmer, Shibley, McGuinn & Flood, 1120 Connecticut Avenue, N.W., Washington, D.C. 20036.
Gestetner Corporation (LP)—Frederick R. Ballen, Esquire, McLaughlin & Stern, Ballen and Miller, 100 East 42nd Street, New York, New York 10017.
Macmillan, Inc. (LP)—Timothy J. May, Esquire, Patton, Boggs & Blow, 2550 M Street, N.W., Suite 800, Washington, D.C. 20037.
Magazine Publishers Association, Inc.—Chapin Carpenter, Jr., Vice President, Magazine Publishers Association, Inc., 1629 K Street, N.W., Suite 603, Washington, D.C. 20006; and John M. Burzio, Esquire, Hydeman, Mason & Goodell, 1220-19th Street, N.W., Suite 700, Washington, D.C. 20036.
Meredith Corporation (LP)—William J. Potts, Jr., Esquire, Haley, Bader & Potts, 1730 M Street, N.W., Washington, D.C. 20036; and Thomas G. Fisher, Esquire, Meredith Corporation, 1716 Locust Street, Des Moines, Iowa 50336.
The National Industrial Traffic League (LP)—E. F. Stadelman, Chairman, Postal Committee, The National Industrial Traffic League, General Traffic Manager, J. C. Penney Company, Inc., 1301 Avenue of the Americas, New York, New York 10019; and John F. Donelan, Esquire, John K. Maser III, Esquire, Donelan and Cleary, 914 Washington Building, Washington, D.C. 20005.
National Newspaper Association—Patricia Gallagher, Esquire, National Newspaper Association, 1627 K Street, N.W., Suite 400, Washington, D.C. 20006; and Richard Littell, Esquire, Dickstein, Shapiro and Morin, 10th Floor, 2101 L Street, N.W., Washington, D.C. 20037.
Pennington, Samuel C.—Samuel C. Pennington, Publisher, Maine Antique Digest, Box 358, Waldoboro, Maine 04572.
Purolator Services, Inc. (LP)—John M. Delany, Esquire, General Counsel, Purolator Services, Inc., 3333 New Hyde Park Road, New Hyde Park, New York 10040; and J. Eugene Marans, Esquire, Cleary, Gottlieb, Steen & Hamilton, 1250 Connecticut Avenue, N.W., Washington, D.C. 20036.
The Reader's Digest Association, Inc.—Timothy J. May, Esquire, Patton, Boggs & Blow, 2550 M Street, N.W., Suite 800, Washington, D.C. 20037.
Time Incorporated—Justin R. Wolf, Esquire, 1625 K Street, N.W., Washington, D.C. 20006.
Officer of the Commission, Postal Rate Commission—Stephen L. Sharfman, Esquire, Assistant General Counsel Litigation (Acting), Postal Rate Commission, 2000 L Street, N.W., Suite 500, Washington, D.C. 20268.

APPENDIX B.—TENTATIVE HEARING SCHEDULE FOR PROCEEDINGS—DOCKET NO. MC79-3

Date and Procedural Stage

March 15, 1979—Filing of the case-in-chief of the Postal Service.
June 1, 1979—Completion of all discovery directed to the Postal Service.
June 15, 1979—Filing of the case-in-chief of each participant (including that of OOC).
June 25, 1979—Beginning of hearings; Completion of evidentiary hearings as to cases-in-chief; Rebuttal evidence of the Postal Service and each participant. (No discovery to be permitted on this rebuttal evidence; only oral cross-examination.); Beginning of evidentiary hearings on rebuttal evidence; Close of evidentiary record; Initial briefs filed; Reply briefs filed; and Oral argument (if scheduled).

[FR Doc. 79-870 Filed 1-9-79; 8:45 am]

[7905-01-M]

RAILROAD RETIREMENT BOARD

IMPROVING GOVERNMENT REGULATIONS

Final Report

AGENCY: Railroad Retirement Board.

ACTION: Final report as required under Executive Order 12044.

SUMMARY: In accordance with the directive contained in Executive Order 12044 the Railroad Retirement Board has reviewed its current procedures for the development and adoption of rules and regulations and pursuant to the Executive Order hereby issues this final report.

EFFECTIVE DATE: October 11, 1978.

FOR FURTHER INFORMATION CONTACT:

R. F. Butler, Secretary, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611, 312-751-4920

The United States Railroad Retirement Board is charged with the administration of the Railroad Retirement Act of 1974 (45 U.S.C. 231, *et seq.*) and the Railroad Unemployment Insurance Act (45 U.S.C. 351, *et seq.*). The Railroad Retirement Act provides for the payment of retirement and disability benefits to retired railroad employees and their spouses and survivors. The Railroad Unemployment Insurance Act provides for the payment of unemployment and sickness benefits to qualified individuals. The primary function of the Board under these two Acts is that of paying benefits to qualified individuals. For the most part, the rules and regulations issued by the Board cover the procedures to be followed by applicants in claiming benefits and by Board employees in adjudicating claims for benefits as well as the substantive requirements for entitlement to benefits.

Under the procedure followed by the Board in the development of rules and regulations prior to this Executive Order, the various bureaus of the Board as well as the Chief Executive Officer and the three-member Board have the authority to suggest that new regulations be developed or that existing regulations be changed. The development of a proposed new or revised regulation is actually conducted by the bureau most directly concerned with the subject matter of the proposed regulation or by the bureau of law. In the development stage there generally is coordination between the developing bureau and any other bureau or bureaus that might be interested in the regulation. When a draft of the proposed regulation has been completed, a copy of the draft is distributed to the various bureaus of the Board together with a request that such bureaus review the proposed draft and submit any comments and suggestions concerning the draft to the developing bureau. Upon receipt of the comments and suggestions from the various bureaus, the developing bureau reviews the comments and makes any changes that would be advisable. The proposed regulations along with the comments received from the other bureaus are then submitted to the Board's Chief Executive Officer who reviews the documents submitted and refers the documents to the three-member Board with his or her recommendations.

The three-member Board is the only body of the Railroad Retirement Board authorized to promulgate regulations. When the Board receives proposed regulations, the Board members review the proposal individually and place the proposed regulations on the agenda of an upcoming meeting of the

Board at which the proposal will be considered.

The Railroad Retirement Board, as an agency composed of representatives of the parties to disputes before it, is exempt from the majority of the provisions of the Administrative Procedure Act, including the provisions thereof governing the procedures to be followed in rule making. *See* 5 U.S.C. 551(1)(E). Thus, except where specifically directed by statute, the Board is not required to give general notice of proposed rule making by publication of such in the FEDERAL REGISTER 30 days prior to the effective date of the regulation, nor is the Board required to give interested persons the opportunity to comment on proposed rules.

If the Board approves proposed regulations submitted to it, the regulations, as adopted, are forwarded to the FEDERAL REGISTER for publication as final rules.

Having reviewed the procedure outlined above together with the Executive Order, the Board has determined that certain changes would be required in the pre-existing procedure to bring it into compliance with the requirements of the Executive Order. The Board, however, does believe that the pre-existing procedure fulfilled, for the most part, the objectives of the Executive Order as enumerated in Section 1 thereof. By providing for coordination of the various interested bureaus of the Board in the actual development of the proposed regulation, the procedure provides a mechanism for an examination of the need for the regulation and for a review of other alternatives. Further, the makeup of the Board itself, as composed of members representing railroad labor and railroad management and the public, provides for the actual participation in rule making by all parties directly interested in the matters considered as regulations.

In accordance with the requirements of the Executive Order, the Board has amended its prior procedure for the development and adoption of regulations as explained below.

Prior to the commencement of the development of any regulation, the Board official proposing the development of a regulation must notify the Board's Chief Executive Officer as to the nature of the proposed regulation, the factors indicating a need for the regulation, and the probable scope and impact of the regulation, if adopted. The Chief Executive Officer must determine, by applying the criteria established by the Board and set out later in this report, whether the proposed regulation constitutes a "significant" regulation. The Chief Executive Officer may, in his or her discretion, classify a proposed regulation as a "significant" regulation even though it might not be a regulation requiring such classification under the criteria established by the Board.

If the Chief Executive Officer determines that the proposed regulation would not constitute a "significant" regulation, he or she will then refer the proposal back to the official who submitted it for further development and handling in accordance with the procedure described above as the pre-Executive Order procedure. If, however, the Chief Executive Officer determines that the proposed regulation constitutes a "significant" regulation, he or she must submit the proposal to the three-member Board for its review. Upon receipt of the proposal to develop a "significant" regulation, the three-member Board will review the proposal and the issues or problems to which it is addressed to determine the necessity of a regulation covering such issues or problems. The Board will review the proposal from the standpoint of alternate approaches that could be explored in resolving the issues or problems. The Board will tentatively establish a plan to be followed in providing notice of the proposed rulemaking to all interested parties through publication in industry or labor periodicals or otherwise. In addition, the Board will establish a plan for obtaining public comment and shall set target dates for completion of the various stages of the development of the regulation. Finally, the Board must review the proposed "significant" regulation to determine whether, applying the criteria established by the Board, a regulatory analysis must or should be made concerning the proposed regulation.

Upon completion of review of the proposal for development of a "significant" regulation, the Board will refer the proposal with its recommendations back to the Chief Executive Officer who will in turn refer the proposal together with all accompanying materials back to the official who submitted it or to the head of the bureau who he or she feels would be the proper person to conduct the actual development of the regulation.

The actual development and the procedure for submission to the Board of a "significant" regulation will proceed in the same manner as that described earlier in this report as the pre-Executive Order procedure, except that the head of the bureau charged with developing the regulation will provide notice as directed by the Board to the public and to any other governmental units or particular groups who would have an interest in the development of the proposed regulation and will consider and respond to any comments submitted. In addition, the bureau charged with the development of a "significant" regulation for which the Board has determined that a regulatory analysis should be conducted will conduct and prepare such an analysis.

In approving a proposed "significant" regulation the three-member Board must, at a minimum, determine that:

(1) The proposed regulation is needed;

(2) The direct and indirect effects of the regulation have been adequately considered;

(3) Alternative approaches have been considered and the least burdensome of the acceptable alternatives has been chosen;

(4) Public comments have been considered and an adequate response has been prepared;

(5) The regulation is written in plain English and is understandable to those who must comply with it;

(6) An estimate has been made of the new reporting burdens or recordkeeping requirements necessary for compliance with the regulation;

(7) The name, address, and telephone number of a knowledgeable agency official is included in the publication; and

(8) A plan for evaluating the regulation after its issuance has been developed.

Following initial approval of a "significant" regulation, the Board shall submit the regulation to the FEDERAL REGISTER for publication therein as a proposed regulation. Except where the Board determines that such would be impossible, the Board will provide the public a period of at least 60 days in which to submit comments concerning the proposed regulation prior to its effective date. Where it would be impossible for the Board to allow a 60-day comment period, the submission of the regulation to the FEDERAL REGISTER will be accompanied by a statement as to the reasons why the 60-day period would be impossible. Where a regulatory analysis was made with respect to a regulation, a brief description of the analysis will be published with the proposed regulation along with information as to the availability of the analysis to the public.

The Board's procedures for the development and adoption of regulations have also been amended to provide for the preparation and publication in the FEDERAL REGISTER at least twice a year of an agenda. This agenda will describe the "significant" regulations being developed or reviewed, the need and legal basis for same, and the status of any proposed "significant" regulations previously contained in an agenda. The Chief Executive Officer will oversee the preparation and development of the agenda and will submit it to the three-member Board for approval prior to publication.

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The agenda will be maintained in the office of the Chief Executive Officer and copies of the agenda will be available to the public upon request. The Chief Executive Officer will see that the agenda is kept current by adding to its proposals for the development or review of "significant" regulations received subsequent to submission of the agenda to the FEDERAL REGISTER for publication.

In accordance with the requirements of the Executive Order the Board has established criteria which must be reviewed, as explained previously, by the Chief Executive Officer in making his or her determination as to whether a given proposed regulation constitutes a "significant" regulation. The criteria established by the Board are as follows:

(1) The type and number of individuals, businesses, organizations, and State and local governments affected;

(2) The compliance and reporting requirements likely to be involved;

(3) Direct and indirect effects of the regulation including the effect on competition; and

(4) The relationship of the regulation to those of other programs and agencies.

The Board has also established criteria which must be applied by it at the time of the initial review of a proposal for the development of a "significant" regulation in order to determine whether a regulatory analysis must be conducted in connection therewith. A regulatory analysis must be conducted in connection with the development of a regulation where the regulation would result in:

(1) An annual effect on the economy of $100 million or more; or

(2) A major increase in the costs or prices for individual industries, levels of government or geographic regions.

The Board may in its discretion direct that a regulatory analysis be conducted with respect to any "significant" regulation.

The Executive Order directs that agencies periodically review existing regulations. Many of the regulations of the Railroad Retirement Board which currently appear in title 20 of the Code of Federal Regulations were promulgated under the Railroad Retirement Act of 1937, which was replaced effective January 1, 1975, by the Railroad Retirement Act of 1974. Thus, many of these regulations, particularly those concerning the computation of and entitlement to benefits, are not current, and are in need of revision. In view of this fact, and in accordance with the directive of the Executive Order, the Board has determined to undertake a complete review of all of its existing regulations over the next two years. In connection with this determination the Board has directed its General Counsel to prepare a report outlining the current state of the regulations with advice as to how the regulations should be revised and reorganized. This report has not been completed at this time. However, it is clear that among the parts of the Board's regulations that will be the subject of the initial review, are Part 208, "Eligibility for an annuity," and Part 225, "Computation of annuity." The review and revision of the Board's existing regulations will follow the same procedures as those followed in the development and adoption of new regulations.

Subsequent to the review of all Railroad Retirement Board regulations in accordance with the Board's determination, the Board, in accordance with the Executive Order, will periodically review the regulations which it has adopted. In selecting which regulations to review the Board will apply the following criteria:

(a) The continued need for the regulation;

(b) The type and number of complaints or suggestions received;

(c) The burdens imposed on those directly or indirectly affected by the regulation;

(d) The need to simplify or clarify language;

(e) The need to eliminate overlapping and duplicative regulations; and

(f) The length of time since the regulation has been evaluated or the degree to which technology, economic conditions or other factors have changed in the area affected by the regulations.

The Railroad Retirement Board supports the goals enumerated in the Executive Order and will work with due diligence to attain those goals.

Dated: January 2, 1979.

By Authority of the Board.

R. F. BUTLER,
Secretary.

[FR Doc. 79-844 Filed 1-9-79; 8:45 am]

[4710-07-M]

DEPARTMENT OF STATE

[Public Notice CM-8/146]

STUDY GROUP 2 OF THE U.S. ORGANIZATION FOR THE INTERNATIONAL RADIO CONSULTATIVE COMMITTEE (CCIR)

Meeting

The Department of State announces that Study Group 2 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet on January 31, 1979, in Room 521J at the National Aeronautics and Space Administration, 7th and Independence Avenue, S.W., Washington, D.C. The meeting will begin at 9:30 a.m.

Study Group 2 deals with matters relating to the communications for scientific satellites, space probes, spacecraft, exploration satellites (e.g., meteorological and geodetic), and to interference problems concerning the radioastronomy and radar astronomy services. The purpose of the meeting will be review of the results of the Special Preparatory Meeting for the 1979 World Administrative Radio Conference, and preparation of the work plan for the next CCIR Plenary cycle.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman.

Requests for further information should be directed to Mr. Gordon Huffcutt, State Department, Washington, D.C. 20520, telephone (202) 632-2592.

Dated: January 3, 1979.

GORDON L. HUFFCUTT,
Chairman,
U.S. CCIR National Committee.

[FR Doc 79-853 Filed 1-9-79; 8:45 am]

[4810-22-M]

DEPARTMENT OF THE TREASURY

Customs Service

[055507]

AMERICAN MANUFACTURER'S PETITION

Decision to Revoke Duty-Free Treatment Under the Generalized System of Preferences for Microscope Slides and Micro Cover Glasses; Notice of Petitioner's Desire to Contest This Decision

AGENCY: United States Customs Service, Department of the Treasury.

ACTION: Notice of (1) decision on American manufacturer's petition, and (2) receipt of notice of petitioner's desire to contest the decision.

SUMMARY: In response to an American manufacturer's petition to revoke duty-free treatment of microscope slides and micro cover glasses under the Generalized System of Preferences, the Customs Service advised the petitioner that such treatment had been authorized by Executive Order and was in conformity with applicable law. Upon being informed that its petition had been denied, the petitioner has filed notice of its desire to contest the Customs Service's decision;

FOR FURTHER INFORMATION CONTACT:

William E. Brooks, Special Projects and Programs branch, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229 (566-5786).

SUPPLEMENTARY INFORMATION:

BACKGROUND

On January 13, 1978, a petition was filed under section 516 of the Tariff Act of 1930, as amended (19 U.S.C. 1516), on behalf of Erie Scientific Company (a division of Sybron Corporation), an American manufacturer of microscope slides and micro cover glasses. The petition requested that the duty-free treatment accorded under the Generalized System of Preferences (GSP) to microscope slides and micro cover glasses be withdrawn. Notice of receipt of this petition was published in the Federal Register on March 10, 1978 (43 FR 9911).

The petitioner contended that microscope slides and micro cover glasses were "import sensitive" items, and not properly designated as articles eligible to receive duty-free treatment under the GSP. Title V of the Trade Act of 1974 (19 U.S.C. 2461-2465) authorizes the President to establish a Generalized System of Preferences which would permit the duty-free entry of eligible merchandise imported directly into the United States from countries determined to be "beneficiary developing countires." However, section 503(c)(1) of the Trade Act (19 U.S.C. 2463(c)(1)) provides that the President may not designate any article for duty-free GSP treatment if it is among certain enumerated import-sensitive categories, including "import-sensitive semimanufactured and manufactured glass products" (section 503(c)(1)(F)).

DECISION ON PETITION AND RECEIPT OF PETITIONER'S NOTICE OF DESIRE TO CONTEST

By letter dated July 7, 1978, the petitioner was advised that, by Executive Order No. 11888, dated November 24, 1975 (40 FR 55276), the President granted GSP status to laboratory glassware, including glass microscope slides and micro cover glasses, not containing over 95 percent silica by weight, provided for in item 547.55, Tariff Schedules of the United States. The petitioner was informed that, since the slides in question were designated as eligible for duty-free treatment under the GSP, the Customs Service will continue to accord them duty-free treatment upon their entry into the United States and compliance with GSP requirements. The Customs service believes that this treatment is in conformity with the current law and the Executive Order issued thereunder.

In response to this decision, the petitioner filed its notice of desire to contest, in accordance with section 516(c) of the Tariff Act of 1930, as amended (19 U.S.C. 1516(c)), and § 175.23 of the Customs Regulations (19 CFR 175.23). However, under section 516(e) of the Tariff act of 1930, as amended (19 U.S.C. 1526(e)), current Customs practice will continue so long as no decision of the United States Customs Court or the United States Court of Customs and Patent Appeals not in harmony with this practice is published.

AUTHORITY

This notice is being published in accordance with section 516(c) of the Tariff Act of 1930, as amended (19 U.S.C. 1516(c)), and § 175.24 of the Customs Regulations (19 CFR 175.24).

Dated: January 4, 1979.

ROBERT E. CHASEN,
Commissioner of Customs.

[FR Doc. 79-848 Filed 1-9-79; 8:45 am]

[4810-22-M]

Customs Service

[TMK-2-R:E:R]

COLT COMMUNICATIONS, INC.

Notice of Application for Recordation of Trade Name

Application has been filed pursuant to section 133.12, Customs Regulations (19 CFR 133.12), for recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124; 19 U.S.C. 1526) of the trade name COLT COMMUNICATIONS, INC. used by Colt Communications, Inc., a corporation organized under the laws of the State of Illinois located at 5424 West Touhy Avenue, Skokie, Illinois 60077.

The application states that the trade name is applied to citizens band two way radio transceivers manufactured in Japan and Korea.

The application states further that no foreign firm is authorized to use the trade name sought to be recorded. Appropriate accompanying papers were submitted with the application.

Before final action is taken on the application, consideration will be given to any relevant data, views, or arguments submitted in writing by any person in opposition to the recordation of this trade name. Any such submission should be addressed to the Commissioner of Customs, Washington, D.C. 20229, in time to be received not later than February 9, 1979.

Notice of the action taken on the application for recordation of the trade name will be published in the FEDERAL REGISTER.

Dated: January 4, 1979

DONALD W. LEWIS,
Acting Assistant Commissioner,
Regulations and Rulings.

[FR Doc. 79-849 Filed 1-9-79; 8:45 am]

[4810-22-M]

[T.D. 79-11]

FORT INCORPORATED

Recordation of Trade Name

On November 24, 1978, there was published in the FEDERAL REGISTER (43 FR 55029) a notice of application for the recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name Fort Incorporated. The notice advised that prior to final action on the application, filed pursuant to section 133.12, Customs Regulations (19 CFR 133.12), consideration would be given to relevant data, views, or arguments submitted in opposition to the recordation and received not later than February 9, 1979. No responses were received in opposition to the application.

The name "Fort Incorporated" is hereby recorded as the trade name of Fort Incorporated, a corporation organized under the laws of the State of Rhode Island, located at 54 Taylor Drive (P.O. Box 4830), E. Providence, Rhode Island 02916, when applied to jewelry, jewelry items, souvenirs and novelties, manufactured in the United States. No foreign person, partnership, association or corporation is authorized to use the trade name.

Dated: January 4, 1979.

DONALD W. LEWIS,
Acting Assistant Commissioner,
Regulations and Rulings.

[FR Doc. 79-850 Filed 1-9-79; 8:45 am]

[4810-22-M]

[T.D. 79-10; Customs Delegation Order No. 55]

ORDER OF THE COMMISSIONER OF CUSTOMS, DELEGATING CERTAIN FUNCTIONS, RIGHTS, PRIVILEGES POWERS, AND DUTIES TO SPECIFIED CUSTOMS OFFICERS

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Delegation of authority.

SUMMARY: This document delegates to certain specified Customs officers the authority to summon importers, require the production of records, and examine importers and records relating to importations. Specifically, the designated Customs officers would be given the authority to

(a) Summon, upon reasonable notice,

(1) Any person involved in the importation of merchandise,

(2) Any person who has possession, custody, or care of relevant records, or

(3) Any other person deemed proper,

(b) Require the production of records,

(c) Examine records, and

(d) Take testimony under oath

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in order to determine the correctness of an entry, the liability of any person for duties and taxes, or the amount of fines and penalties, or to ensure compliance with applicable laws and regulations administered by the Customs Service.

This delegation order is necessary to efficiently and effectively administer Customs authority to summon importers and examine records relating to importations.

EFFECTIVE DATE: January 9, 1979.

FOR FURTHER INFORMATION CONTACT:

John E. Elkins, Regulations and Legal Publications Division, Office of Regulations and Rulings, U.S. Customs Service, 1301 Constitution Ave., NW., Washington, D.C. 20229 (202-566-8237).

SUPPLEMENTARY INFORMATION: The Customs Procedural Reform and Simplification Act of 1978, Pub. L. 95-410, 92 Stat. 888, amended section 509, Tariff Act of 1930, as amended (19 U.S.C. 1509), to permit appropriate Customs officers to summon importers, require the production of records, and examine importers and records relating to importations. Specifically, authority is given to

(a) Summon, upon reasonable notice,

(1) Any person involved in the importation of merchandise,

(2) Any person who has possession, custody, or care of relevant records, or

(3) Any other person deemed proper,

(b) Require the production of records,

(c) Examine records, and

(d) Take testimony under oath

in order to determine the correctness of an entry, the liability of any person for duties and taxes, or the amount of fines and penalties, or to ensure compliance with applicable laws and regulations administered by the Customs Service.

To efficiently and effectively administer the provisions of 19 U.S.C. 1509, this delegation order gives the authority to summon importers and examine records to the Assistant Commissioner (Investigations); Regional directors of investigations; Assistant regional directors of investigations; Customs attaches; Senior Customs representatives; Special agents in charge; Regional commissioners; Assistant regional commissioners of operations; District directors; Area directors; Assistant Commissioner (Internal Affairs); Headquarters directors, Internal Security Division, Office of Internal Affairs and Regional Directors of internal affairs.

INAPPLICABILITY OF PUBLIC NOTICE AND DELAYED EFFECTIVE DATE REQUIREMENTS

Because this rule relates solely to agency organization, procedure, or practice, notice and public procedure thereon are unnecessary and good cause exists for dispensing with a delayed effective date under 5 U.S.C. 553.

Conforming amendments to sections of Part 162, Customs Regulations, that are affected by this delegation order will be published in the FEDERAL REGISTER as part of the final rule implementing the requirements of 19 U.S.C. 1509 and various other provisions of the Tariff Act of 1930, as amended by the Customs Procedural Reform and Simplification Act of 1978.

AUTHORITY

This delegation is made under the authority given to the Commissioner of Customs by Treasury Department Order No. 165, Revised (T.D. 53654, 19 FR 7241), as amended.

DRAFTING INFORMATION

The prinicipal author of this document was John E. Elkins, Regulations and Legal Publications Division, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

CUSTOMS DELEGATION ORDER NO.

By virture of the authority granted to me by Treasury Department Order No 165, Revised (T.D. 53654, 19 FR 7241), as amended, I delegate to the following specified officers of the Customs Service the functions, rights, privileges, powers, and duties under section 509, Tariff Act of 1930, as amended (19 U.S.C. 1509), to

(a) Summon, upon reasonable notice,

(1) Any person involved in the importation of merchandise,

(2) Any person who has possession, custody, or care of relevant records, or

(3) Any other person deemed proper,

(b) Require the production of records,

(c) Examine records, and

(d) Take testimony under oath

in order to determine the correctness of an entry, the liability of any person for duties and taxes, or the amount of fines and penalties, or to ensure compliance with applicable laws and regulations administered by the Customs Service:

Assistant Commissioner (Investigations)
Regional directors of investigations
Assistant regional directors of investigations
Customs attaches
Senior Customs representatives
Special agents in charge
Regional commissioners
Assistant regional commissioners of operations
District directors
Area directors
Assistant Commissioner (Internal Affairs)
Headquarter directors, Internal Security Division, Office of Internal Affairs
Regional directors of internal affairs

This order supersedes Customs Delegation Order No. 49, dated May 9, 1975 (T.D. 75-111, 40 FR 22007).

Dated: January 4, 1979.

R. E. CHASEN,
Commissioner of Customs.

[FR Doc. 79-847 Filed 1-9-79; 8:45 am]

[4810-40-M]

Office of the Secretary

[Supplement to Dept. Circular Public Debt Series—No. 31-78]

TREASURY BONDS OF 1994

Interest Rate

JANUARY 5, 1979.

The Secretary of the Treasury announced on January 4, 1979, that the interest rate on the bonds described in Department Circular—Public Debt Series—No. 31-78, dated December 28, 1978, will be 9 percent. Interest on the bonds will be payable at the rate of 9 percent per annum.

SUPPLEMENTARY STATEMENT: The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the Departmental procedures applicable to such regulations.

PAUL H. TAYLOR,
Fiscal Assistant Secretary.

[FR Doc. 79-896 Filed 1-9-79; 8:45 am]

[4810-22-M]

VISCOSE RAYON STAPLE FIBER FROM FRANCE

Antidumping: Modification of Determination of Sales at Less Than Fair Value

AGENCY: U.S. Treasury Department.

ACTION: Modification of Determination of Sales at Less Than Fair Value.

SUMMARY: This notice is to advise the public that certain revisions have been made in the calculation of the weighted average margin relating to viscose rayon staple fiber from France that it was determined is being sold at less than fair value within the Meaning of the Antidumping Act, 1921. As a result of the notice of "Withholding of Appraisement and Determination of Sales at Less Than Fair Value" published in the FEDERAL REGISTER on November 16, 1978, this case was referred to the International Trade Commission for a determination concerning possible injury to an industry in the United States. The Commission has been advised of this amended determination.

EFFECTIVE DATE: January 10, 1979.

FOR FURTHER INFORMATION CONTACT:

Michael E. Crawford, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5492).

SUPPLEMENTARY INFORMATION: On November 16, 1978, a notice of "Withholding of Appraisement and Determination of Sales at Less Than Fair Value" notice was published in the FEDERAL REGISTER (43 FR 53530) regarding viscose rayon staple fiber from France. It was stated in this notice that Rhone Poulenc S.A. had been requested to provide information on certain general and selling expenses attributable to the production and sale of viscose rayon staple fiber by Rhone Poulenc Textiles.

No additional information has been submitted by Rhone Pulenc, S.A. at this time. The amount of general and selling expenses has therefore been derived from information contained in financial statements previously submitted by Rhone Poulenc S.A. The amount for such expenses was calculated by taking the Rhone Poulenc's consolidated figure for administrative and selling expenses and dividing it by the value of total sales. The resulting percentage of sales figure was then applied to estimate the appropriate general and selling expenses for the merchandise here under investigation. This amount was then added to prior data concerning costs incurred in production to obtain a new total cost figure.

Using the resulting figure in the cost of production calculation results in several changes. First, as the figure for general expenses has been increased, the total cost to produce has been raised. As a result, only 0.82 percent of home market sales were found to be above the cost to produce. Since that number of sales is too small to serve as a basis for determining foreign market value, constructed value was used to determine home market price for comparison purposes. The general expenses calculated in accordance with the procedure described above exceeded the statute's minimum of 10 percent of the cost of materials and labor, and, accordingly, the higher figure was used.

Moreover, the statutorily mandated minimum of 8 percent of the sum of the cost of materials, labor and general expenses was also added to reflect profit.

The net result of the above-mentioned recalculation is that the weighted average margin has risen from approximately 14.6 percent to approximately 24 percent.

The United States International Trade Commission has been advised of this amended determination.

This amended determination is being published pursuant to section 201(d) of the Act (19 U.S.C. 160(d)).

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

JANUARY 4, 1979.

[FR Doc. 79-857 Filed 1-9-79; 8:45 am]

[4810-22-M]

VISCOSE RAYON STAPLE FIBER FROM FINLAND

Antidumping: Modification of Determination of Sales at Less Than Fair Value

AGENCY: U.S. Treasury Department.

ACTION: Modification of Determination of Sales at Less Than Fair Value.

SUMMARY: This notice is to advise the public that certain revisions have been made in the calculation of the weighted average margin relating to viscose rayon staple fiber from Finland that earlier was determined to be sold at less than fair value within the meaning of the Antidumping Act, 1921. As a result of the earlier "Withholding of Appraisement and Determination of Sales at Less Than Fair Value" notice, this case was referred to the International Trade Commission for a determination concerning possible injury to an industry in the United States. The Commission has been advised of this amended determination.

EFFECTIVE DATE: January 10, 1979.

FOR FURTHER INFORMATION CONTACT:

Michael E. Crawford, Operations Officer, Office of Operations, Duty Assessment Division, United States Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, telephone 202-566-5492.

SUPPLEMENTARY INFORMATION: On November 16, 1978, a "Withholding of Appraisment and Determination of Sales at Less Than Fair Value" notice was published in the FEDERAL REGISTER (43 FR 53531-32). Since the publication of that notice, a mathematical error has been found relating to the amount of selling expenses deducted from the home market price. Also, clarifying data has been submitted relating to the cost of production of the subject merchandise.

A mathematical error was made when converting the amount of commission on U.S. sales (stated in cents per pound) to an equivalent amount to compare with the home market selling expenses which were stated in Finnmarks per kilogram. The error occurred through a failure to convert the amount per pound to an equivalent amount per kilogram.

Because of clarifying data that has been submitted, a change in the calculation of the cost to produce is necessary. The new information shows that the allocation of general expenses was made among machine lines producing different types of fiber, based on machine line capacity, and that the per unit general expenses were computed by dividing the quantity of production into the amount of general expenses allocated to the particular machine line for rayon staple fiber. Originally, it was thought that the manufacturer based its allocation of expenses on plant capacity instead of actual utilization. As a result of this change, the cost for general expenses and the total cost to produce the subject merchandise is lower. Another result of this change is that now 100 percent of the home market sales are above the cost to produce, thereby permitting use of a greater number of home market sales in calculating the weighted average home market price. The result is to reduce the weighted average price against which sales to the United States were compared.

The net result of the above mentioned changes is that the weighted average margin between home market and United States sales has dropped from approximately 11.77 percent to approximately 8.7 percent.

The United States International Trade Commission has been advised of this amended determination.

This amended determination is being published pursuant to section 201(d) of the Act (19 U.S.C. 160(d)).

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

JANUARY 4, 1979.

[FR Doc. 79-858 Filed 1-9-79; 8:45 am]

[8320-01-M]

VETERANS ADMINISTRATION

120-BED NURSING HOME CARE UNIT, VAMC ATLANTA, GA.

Proposed Action

The Veterans Administration proposes to locate a 120-Bed Nursing Home Care Unit at the Veterans Administration Medical Center, Atlanta, Georgia. It has been determined that the proposed project will be located in the 100-year Floodplain of South Fork Peachtree Creek.

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The Veterans Administration has worked in close coordination with the Corps of Engineers and Dekalb County, Georgia, in defining the limits of the existing flood hazard and determining the impact of placing the proposed project on the site. Through this coordinated effort a concept of elevating the building on stilts has been developed. The Corps has studied the forecasted impact of the proposed structure as conceived and found that it will have no significant impact on the floodplain and meets the requirements of the Federal Insurance Agency Guidelines for placing construction in a flood prone area.

The Veterans Administration has solicited comments from the State and local levels and has received no negative responses. This Notice of Proposed Action completes the announcement requirements in Executive Order 11988, Floodplain Management Guidelines (February 1978). The VA is now proceeding with further project development and implementation.

Comments on this proposed action should be addressed to:

Mr. V. P. Miller, Assistant Administrator for Construction (08), Veterans Administration, 810 Vermont Avenue, Washington, D.C. 20420.

Dated: January 4, 1979.

MAURY S. CRALLE, JR.,
Assistant Deputy Administrator for Financial Management to Construction.

[FR Doc. 79-854 Filed 1-9-79; 8:45 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 241; Rule 19, 34th Revised Exemption No. 12]

ATLANTA & SAINT ANDREWS BAY RAILWAY CO., ET AL.

Exemption Under Mandatory Car Service Rules

To all railroads:

It appearing, That the railroads named herein own numerous plain boxcars; that under present conditions, there is virtually no demand for these cars on the lines of the car owners; that return of these cars to the car owners would result in their being stored idle on these lines; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of plain boxcars owned by the railroads listed herein, resulting in unnecessary loss of utilization of such cars.

It is ordered, That, pursuant to the authority vested in me by Car Service Rule 19, plain boxcars described in the Official Railway Equipment Register, I.C.C.-R.E.R. No. 409, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM" or "XMI", and bearing reporting marks assigned to the railroads named below, shall be exempt from the provisions of Car service Rules 1(a), 2(a), and 2(b).

*Atlanta & Saint Andrews Bay Railway Company
Reporting Marks: ASAB
Atlantic and Western Railway
Reporting Marks: ATW
Chicago & Illinois Midland Railway Company
Reporting Marks: CIM
Fonda, Johnstown and Gloversville Railroad Company
Reporting Marks: FJG
Hillsdale County Railway Company Inc.
Reporting Marks: HCRC
Maryland and Pennsylvania Railroad Company
Reporting Marks: MPA
Pickens Railroad Company
Reporting Marks: PICK
XXX
Wellsville, Addison & Galeton Railroad Corporation
Reporting Marks: WAG

Effective January 2, 1979, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., December 26, 1978.

INTERSTATE COMMERCE COMMISSION,
ROBERT S. TURKINGTON,
Agent.

[FR Doc. 79-879 Filed 1-9-79; 8:45 am]

[7035-01-M]

[Ex Parte No. 241; Rule 19, 23rd Revised Exemption No. 129]

CHICAGO, WEST PULLMAN & SOUTHERN RAILROAD CO., ET AL.

Exemption Under Mandatory Car Service Rules

It appearing, That the railroads named herein own numerous 40-ft. plain boxcars; that under present conditions, there is virtually no demand for these cars on the lines of the car owners; that return of these cars to the car owners would result in their being stored idle on these lines; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of plain boxcars owned by the railroads listed herein, resulting in unnecessary loss of utilization of such cars.

It is ordered, That, pursuant to the authority vested in me by Car Service Rule 19, plain boxcars described in the Official Railway Equipment Register, I.C.C.-R.E.R. No. 409, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM", with inside length 44-ft. 6-in. or less, regardless of door width and bearing reporting marks assigned to the railroads named below, shall be exempt from the provisions of Car service Rules 1(a), 2(a), and 2(b).

XXX
Chicago, West Pullman & Southern Railroad Company
Reporting Marks: CWP
Detroit and Mackinac Railway Company
Reporting Marks: D&M-DM
Illinois Terminal Railroad Company
Reporting Marks: ITC
Louisville, New Albany & Corydon Railroad Company
Reporting Marks: LNAC
Richmond, Fredericksburg and Potomac Railroad Company
Reporting Marks: RFP

Effective 12:01 a.m., January 2, 1979, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., December 26, 1978.

INTERSTATE COMMERCE COMMISSION,
ROBERT S. TURKINGTON,
Agent.

[FR Doc. 79-883 Filed 1-9-79; 8:45 am]

[7035-01-M]

[Ex Parte No. MC-64; General Temporary Order No. 14, Extension and Modification]

EMERGENCY TEMPORARY AUTHORITY

Decided: January 4, 1979.

The characteristics of the meat packing industry require modification of our normal practice in handling requests for emergency temporary authority. There is an immediate and urgent need for additional motor carrier service to supplement temporarily the transportation system of the nation.

To meet this need, the Commission issued General Temporary Order No. 14, effective October 1, 1978. That order provided a more flexible way for applicants to obtain emergency temporary authority to render the required motor carrier service. The procedures used improved motor carrier service. The procedures used improved and expedited processing techniques and permitted the meat packer industry to move its shipments during months of chronic refrigerated motor carrier shortages. This need will continue through the first 3 months of 1979.

Therefore, General Temporary Order No. 14 procedures will be extended for the period January 1 through March 31, 1979. Additionally, the order will be modified in two ways: (1) the procedures will extend to the full range of meat packer commodities, and (2) pursuant to the recent "Notice of Elimination of Notification Procedure in the Processing of Emergency Temporary Authority Applications Under 49 U.S.C. 10928," General Temporary Order No. 14 will be modified to excise such requirements.

It is ordered:

Pursuant to 49 U.S.C. 10928,[1] applications for emergency temporary authority to transport meat, meat products, meat by-products, and articles distributed by meat packinghouses, by motor vehicle shall, for a period of 90 days beginning January 1, 1979, and ending March 31, 1979, be governed by the following procedures to expedite the filing and processing of those applications:

(1) A meat packer, upon failing to find a carrier authorized to perform the needed peak service, may file a verified statement to that effect in support of an applicant for ETA to provide the service. The district supervisor receiving the application will accept the statement as evidence of the matters recited, and will make a recommendation without notifying other district offices or other carriers.

(2) These procedures are intended to result in liberal grants of authority, if shown needed. In an ETA application, where the supporting packer cannot pin-point the time or destination of the shipment(s), but can, on the basis of prior experience, show a likely time period up to 30 days and a likely destination area in designated States, the field staff and Commission, respectively, will consider that showing in making a recommendation and rendering a decision.

(3) Grants of authority made within the 90-day period shall continue in effect for the term indicated even though the term of the grant extends beyond March 31, 1979.

This expedited procedure is available upon condition that the applicant carrier complies with all applicable requirements concerning tariff publications, evidence of security for the protection of the public, and designation of agents for service of process, and that the tariff publications quote rates, fares, and charges no lower than those of existing rail, water, or motor carriers in the territory in which the operations are to be authorized.

Service performed under emergency temporary authority granted pursuant to this procedure shall in no way constitute evidence or a showing warranting future issuance of a certificate of public convenience and necessity or permit, as provided in 49 U.S.C. 10922 and 10923.

Notice of this decision shall be given to motor carriers, other parties of interest, and to the general public by depositing a copy thereof in the Office of the Secretary of the Commission, Washington, D.C., and by filing a copy thereof with the Director, Office of the Federal Register.

By the Commission: Chairman O'Neal, Vice Chairman Brown, Commissioners Stafford, Gresham, Clapp and Christian. Commissioner Clapp dissenting in part.

H. G. HOMME, JR.,
Secretary.

COMMISSIONER CLAPP (DISSENTING IN PART)

I am opposed to the elimination of the notification procedure here. This modification parallels the policy adopted by the Commission in "Notice of Elimination of Notification Procedure in the Processing of Emergency Temporary Authority Application Under 49 U.S.C. 10928," decided December 1, 1978—an action which I believe was taken by the Commission without the notice and public comment required by the Administrative Procedure Act.

[FR Doc. 79-884, Filed 1-9-79; 8:45 am]

[7035-01-M]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY

Elimination of Gateway Letter Notices

JANUARY 3, 1979.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's *Gateway Elimination Rules* (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before January 22, 1979. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will *not* operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

The following applicants seek to operate as a *common carrier,* by motor vehicles, over irregular routes.

MC 107012 (Sub-E390), filed May 13, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., PO Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop and Gary M. Crist (same as above). *New Household Furniture, Crated,* (1) From points in AL, to points in ME, NH and VT (*Milan, IN and points in KY). (2) From points in AL, to points in MA and RI (3) From points in Autauga, Bibb, Blount, Calhoun, Chambers, Cherokee, Chilton, Clay, Cleburne, Coosa, Cullman, Elmore, Etowah, Jefferson, Lee, Randolph, St. Clair, Shelby, Talladega and Tallapoosa Counties, AL, to points in CT; points in Morris, Sussex, Warren, Hunterdon, Mercer, Middlesex, Somerset, Union, Bergen, Essex, Hudson and Passaic Counties, NJ; points in Barbour, Berkley, Doddridge, Grant, Hampshire, Hardy, Harrison, Jefferson, Lewis, Marion, Mineral, Monongalia, Morgan, Pendleton, Preston, Randolph, Taylor, Tucker, Tyler, Upshur, Wetzel, Calhoun, Gilmer, Jackson, Mason, Pleasants, Ritchie, Roane, Wirt, Wood, Brooke, Hancock, Marshall and Ohio Counties, WV. (4) From points in Barbour, Bullock, Coffee, Covington, Crenshaw, Dale, Geneva, Henry, Houston, Macon, Montgomery, Pike and Russell Counties, AL, to points in Tolland and Windham Counties, CT; points in Barbour, Berkley, Doddridge Grant Hampshire, Hardy, Harrison, Jefferson, Lewis, Marion, Mineral, Monongalia, Morgan, Pendleton, Preston, Randolph, Taylor, Tucker, Tyler, Upshur, Wetzel, Calhoun, Gilmer, Jackson, Mason, Pleasants, Ritchie, Roane, Wirt, Wood, Brooke, Hancock, Marshall and Ohio Counties, WV. (5) From points in Colbert, Fayette, Franklin, Lamar, Lauderdale, Lawrence, Marion, Pickens, Tuscaloosa, Walker and Winston Counties, AL, to points in CT, DE, MD, NJ; Braxton,Clay, Fayette, Kanawha, Nicholas, Webster, Barbour, Berkley, Doddridge, Grant, Hampshire, Hardy, Harrison, Jefferson, Lewis, Marion, Mineral, Monongalia, Morgan, Pendleton, Preston, Randolph, Taylor, Tucker, Tyler, Upshur, Wetzel, Calhoun, Gilmer, Jackson, Mason, Pleasants, Ritchie, Roane, Wirt, Wood, Brooke, Hancock, Marshall and Ohio Counties, WV. (6) From points in De Kalb, Jackson, Limestone, Madison, Marshall and Morgan Counties, AL, to points in CT; Points in New Castle County, DE; Baltimore, Baltimore City, Carroll, Cecil, Frederick, Hartford, Howard, Kent, Allegany, Garrett and Washington Counties, MD; points in NJ; Points in Barbour, Berkley, Doddridge, Grant, Hampshire, Hardy, Harrison, Jefferson, Lewis, Marion, Mineral, Monongalia, Morgan, Pendleton, Preston, Randolph, Taylor, Tucker, Tyler, Upshur, Wetzel, Calhoun, Gilmer, Jackson Mason, Pleasants, Ritchie, Roane, Wirt, Wood, Brooke, Hancock, Marshall and Ohio Counties, WV. (7) From points in

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*Addition.
XXX Roscoe, Snyder and Pacific Railway Company deleted.

XXX Atlanta & Saint Andrews Bay Railway Co. deleted.

[1] Formerly Section 210a(a) of the Interstate Commerce Act.

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Baldwin, Butler, Choctaw, Clarke, Conecuh, Dallas, Escambia, Greene, Hale, Lawndes, Marengo, Mobile, Monroe, Perry, Sumter, Washington and Wilcox Counties, AL, to points in CT; points in New Castle County; DE; Points in Allegany, Garrett and Washington Counties, MD; points in NJ; points in Braxton, Clay, Fayette, Kanawha, Nicholas, Webster, Barbour, Berkley, Doddridge, Grant, Hampshire, Hardy, Harrison, Jefferson, Lewis, Marion, Mineral, Monongalia, Morgan, Pendleton, Preston, Randolph, Taylor, Tucker, Tyler, Upshur, Wetzel, Calhoun, Gilmer, Jackson, Mason, Pleasants, Ritchie, Roane, Wirt, Wood, Brooke, Hancock, Marshall and Ohio Counties, WV. (Eliminate gateway of Milan, IN unless otherwise indicated by an asterisk above.)

MC 107012 (Sub-E391), filed May 13, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., PO Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop and Gary M. Crist (same as above). *New Furniture, Crated.* (1) From points in AZ, to points in GA, KY, NC, SC, TN and VA (points in Greene County, AR)*. (2) From points in Cochise, Gila, Graham and Greenlee Counties, AZ, to points in Autauga, Bibb, Blount, Calhoun, Chambers, Cherokee, Chilton, Clay, Cleburne, Coosa, Cullman, Elmore, Etowah, Jefferson, Lee, Randolph, St. Clair, Shelby, Talladega, Tallapoosa, Barbour, Bullock, Coffee, Covington, Crenshaw, Dale, Geneva, Henry, Houston, Macon, Montgomery, Pike, Russell, Colbert, Fayette, Franklin, Lamar, Lauderdale, Lawrence, Marion, Pickens, Tuscaloosa, Walker, Winston, De Kalb, Jackson, Limestone, Madison, Marshall and Morgan Counties, AL (points in Greene County, AR)*. Charlotte, De Soto, Glades, Hardee, Hendry, Highlands, Lee, Manatee, Okeechobee, Sarasota, Alachua, Baker, Bradford, Clay, Duval, Flagler, Levy, Marion, Nassau, Putnam, Saint Johns, Union, Broward, Collier, Dade, Martin, Monroe, Palm Beach, Saint Lucie, Brevard, Citrus, Hernando, Hillsborough, Indian River, Lake, Orange, Osceola, Pasco, Pinellas, Polk, Seminole, Sumter, Volusia, Columbia, Dixie, Franklin, Gadsen, Gilchrist, Hamilton, Jefferson, Lafayette, Leon, Liberty, Madison, Suwannee, Taylor and Wakulla Counties, FL (points in Greene County, AR)*. Allamakee, Black Hawk, Bremer, Buchanan, Butler, Cerro Gordo, Chickasaw, Clayton, Delaware, Fayette, Floyd, Franklin, Hancock, Howard, Mitchell, Winnebago, Winneshiek, Worth, Wright, Appanoose, Boone, Clarke, Dallas, Decatur, Greene, Grundy, Hamilton, Hardin, Jasper, Lucas, Madison, Mahaska, Marion, Marshall, Monroe, Polk, Poweshiek, Story, Tama, Warren, Wayne, Webster, Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello and Washington Counites, IA (Burlington, IA)*; points in Atkin, Carlton, Cook, Lake, Saint Louis, Tasca, Beltrami, Clearwater, Kittson, Koochiching, Lake of the Woods, Mahnomen, Marshall, Norman, Pennington, Polk, Red Lake, Roseau, Anoka, Blue Earth, Carver, Chisago, Dakota, Dodge, Faribault, Fillmore, Freeborn, Good Hue, Hennepin, Houston, Isanti, Kanabec, LeSueur, McLeod, Mille Lacs, Mower, Nicollet, Olmstead, Pine, Ramsey, Rice, Scott, Sherburne, Sibley, Steele, Wabasha, Wasela, Washington, Winona and Wright Counties, MN (Burlington, IA)*; Bolivar, Carrol, Coahoma, Grenada, Holmes, Humphreys, Issaquena, Leflore, Montgomery, Quitman, Sharkey, Sunflower, Tallahatchie, Warren, Washington, Yazoo, Alcorn, Benton, Calhoun, Chickasaw, Choctaw, Clay, Desoto, Itawamba, Lafayette, Lee, Lowndes, Marshall, Monroe, Oktibbeha, Panola, Pontotoc, Prentiss, Tate, Tippah, Tishomingo, Tunila, Union, Webster and Yalobusha Counties, MS (points in Greene County, AR)*. (3) From points in Apache, Coconino, Mohave, Navajo and Yavapai Counties, AZ, to points in AL (points in Greene County, AR)*; points in Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillins, Prairie, Pulaski, Saline and White Counties, AR (points in Greene County, AR)*; points in FL (points in Greene County, AR)*; points in Allamakee, Black Hawk, Bremer, Buchanan, Butler, Cerro Gordo, Chickasaw, Clayton, Delaware, Fayette, Floyd, Franklin, Hancock, Howard, Mitchell, Winnebago, Winneshiek, Worth, Wright, Appanoose, Boone, clarke, Dallas, Decatur, Greene, Grundy, Hamilton, Hardin, Jasper, Lucas, Madison, Mahaska, Marion, Marshall, Monroe, Polk, Poweshiek, Story, Tama, Warren, Wayne, Webster, Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine Scott, Van Buren, Wapello and Washington Counties, IA (Burlington, IA)*; points in Aitkin, Carlton, Cook, Lake, Saint Louis, Tasca, Beltrami, Clearwater, Kittson, Koochiching, Lake of the Woods, Mahnomen, Marshall, Norman, Pennington, Polk, Red Lake, Roseau, Anoka, Blue Earth, Carver, Chisago, Dakota, Dodge, Faribault, Fillmore, Freeborn, Good Hue, Hennepin, Houston, Isanti, Kanabec, LeSueur, McLeod, Mille Lacs, Mower, Nicollet, Olmstead, Pine, Ramsey, Rice, Scott, Sherburne, Sibley, Steele, Wabasha, Wasela, Washington, Winona and Wright Counties, MN (Burlington, IA)*; points in Bolivar, Carrol, Coahoma, Grenada, Holmes, Humphreys, Issaquena, Leflore, Montgomery, Quitman, Sharkey, Sunflower, Tallahatchie, Warren, Washington, Yazoo, Covington, Forrest, George, Greene, Hancok, Harrison, Jackson, Jones, Lamar, Pearl River, Perry, Stone, Wayne, Attala, Clairborne, Clarke, Copiah, Hinds, Jasper, Kemper, Lauderdale, Leake, Madison, Neshoba, Newton, Noxubee, Rankin, Scott, Simpson, Smith, Winston, Alcorn, Benton, Calhoun, Chickasaw, Choctaw, Clay, Desoto, Itawamba, Lafayette, Lee, Lowndes, Marshall, Monroe, Oktibbeha, Panola, Pontotoc, Prentiss, Tate, Tippah, Tishomingo, Tunila, Union, Webster and Yalobusha Counties, MS (points in Greene County, AR)*., (4) From points in Maricopa, Pima, Pinal and Santa Cruz Counties, AZ, to points in AL (points in Greene County, AR); points in Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR (points in Greene County, AR); points in FL (points in Greene County, AR)*; points in Allamakee, Black Hawk, Bremer, Buchanan, Butler, Cerro Gordo, Chickasaw, Clayton, Delaware, Fayette, Floyd, Franklin, Hancock, Howard, Mitchell, Winnebago, Winneshiek, Worth, Wright, Appanoose, Boone, Clarke, Dallas, Decatur, Greene, Grundy, Hamilton, Hardin, Jasper, Lucas, Madison, Mahaska, Marion, Marshall, Monroe, Polk, Poweshiek, Story, Tama, Warren, Wayne, Webster, Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello and Washington Counties, IA (Burlington, IA)*; points in Aitkin, Carlton, Cook, Lake, Saint Louis, Tasca, Beltrami, Clearwater, Kittson, Koochiching, Lake of the Woods, Mahnomen, Marshall, Norman, Pennington, Polk, Red Lake, Roseau, Anoka, Blue Earth, Carver, Chisago, Dakota, Dodge, Faribault, Fillmore, Freeborn, Good Hue, Hennepin, Houston, Isanti, Kanabec, LeSueur, McLeod, Mille Lacs, Mower, Nicollet, Olmstead, Pine, Ramsey, Rice, Scott, Sherburne, Sibley, Steele, Wabasha, Wasela, Washington, Winona and Wright Counties, MN (Burlington, IA)*; Bolivar, Carrol, Coahoma, Grenada, Holmes, Humphreys, Issaquena, Leflore, Montgomery, Quitman, Sharkey, Sunflower, Tallahatchie, Warren, Washington, Yazoo, Alcorn, Benton, Calhoun, Chickasaw, Choctaw, Clay, Desoto, Itawamba, Lafayette, Lee, Lowndes, Marshall, Monroe, Oktibbeha, Panola, Pontotoc, Prentiss, Tate, Tippah, Tishomingo, Tunila, Union,

Webster and Yalobusha Counties, MS (points in Greene County, AR)*. (5) From Points in Yuma County, AZ, to points in AL (points in Greene County, AR)*; points in Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry Phillips, Prairie, Pulaski, Saline and White Counties, AR (points in Greene County AR)*; points in FL (points in Greene County, AR)*; points in Allamakee, Black Hawk, Bremer, Buchanan, Butler, Cerro Gordo, Chickasaw, Clayton, Delaware, Fayette, Floyd, Franklin, Hancock, Howard, Mitchell, Winnebago, Winneshiek, Worth, Wright, Appanoose, Boone, Clarke, Dallas, Decatur, Greene, Grundy, Hamilton, Hardin, Jasper, Lucas, Madison, Marshall, Monroe, Polk, Poweshiek, Story, Tama, Warren, Wayne, Webster, Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello and Washington Counties, IA (Burlington, IA)*; points in Aitkin, Carlton, Cook, Lake, Saint Louis, Tasca, Beltrami, Clearwater, Kittson, Koochiching, Lake of the Woods, Mahnomen, Marshall, Norman, Pennington, Polk, Red Lake, Roseau, Anoka, Blue Earth, Carver, Chisago, Dakota, Dodge, Faribault, Fillmore, Freeborn, Good Hue, Hennepin, Houston, Isanti, Kanabec, LeSueur, McLeod, Mille Lacs, Mower, Nicollet, Olmstead, Pine, Ramsey, Rice, Scott, Sherburne, Sibley, Steele, Wabasha, Wasela, Washington, Winona and Wright Counties, MN (Burlington, IA)*; points in Bolivar, Carrol, Coahoma, Grenada, Holmes, Humphreys, Issaquena, Leflore, Montgomery, Quitman, Sharkey, Sunflower, Tallahatchie, Warren, Washington, Yazoo, Covington, Forrest, George, Greene, Hancok, Harrison, Jackson, Jones, Lamar, Pearl River, Perry, Stone, Wayne, Alcorn, Benton, Calhoun, Chickasaw, Clay, Desoto, Itawamba, Lafayette, Lee, Lowndes, Marshall, Monroe, Oktibbeha, Panola, Pontotoc, Prentiss, Tate, Tippah, Tishomingo, Tunila, Union, Webster and Yalobusha Counties, MS (points in Greene County, AR). (Eliminate gateways indicated by asterisks above.)

MC 107012 (Sub-E-392), filed May 13, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Forth Wayne, IN 46801. Representative: David D. Bishop and Gary M. Crist (same as above). *New Furniture, Crated. 1.)* From points in AR, to points in KY, NC and VA (points in Greene County, AR) 2.) From points in Clark, Hempstead, Howard, Lafayette, Little River, Miller, Montgomery, Nevada, Pike, Polk, Scott, Sevier and Yell Counties, AR, to points in Autauga, Bibb, Blount, Calhoun, Chambers, Cherokee, Chilton, Clay, Cleburne, Coosa, Cullman, Elmore, Etowah, Jefferson, Lee, Randolph, St. Clair, Shelby, Talladega, Tallapoosa, Barbour, Bullock, Coffee, Covington, Crenshaw, Dale, Geneva, Henry, Houston, Macon, Montgomery, Pike, Russell, Colbert, Fayette, Franklin, Lamar, Lauderdale, Lawrence, Marion, Pickens, Tuscaloosa, Walker, Winston, De Kalb, Jackson, Limestone, Madison, Marshall and Morgan Counties, AL (points in Greene County, AR)* points in Glenn, Humboldt, Lake, Mendicino, Tehama and Trinity Counties, CA (points in Greene County, AR)* points in Charlotte, De Sota, Glades, Hardee, Hendry, Highlands, Lee, Manatee, Okeechobee, Sarasota, Alachua, Baker, Bradford, Clay, Duval, Flagler, Levy, Marion, Nassau, Putnam, Saint Johns, Union, Broward, Collier, Dade, Martin, Monroe, Palm Beach, Saint Lucie, Brevard, Citrus, Hernando, Hillsborough, Indian River, Lake, Orange, Osceola, Pasco, Pinellas, Polk, Seminole, Sumter, Volusia, Columbia, Dixie, Franklin, Gadsen, Gilchrist, Hamilton, Jefferson, Lafayette, Leon, Liberty, Madison, Suwannee, Taylor and Wakulla Counties, FL (points in Greene County, AR)* points in GA)*; (points in Greene County, AR)*; points in Benewah, Bonner, Boundry, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce and Shoshone Counties, ID (points in Greene County, AR)* points in Allamakee, Black Hawk, Bremer, Buchanan, Butler, Cerro Gordo, Chickasaw, Clayton, Delaware, Fayette, Floyd, Franklin, Hancock, Howard, Mitchell, Winnebago, Winneshiek, Worth, Wright, Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello and Washington Counties, IA (points in Greene County, AR)*; points in Aitkin, Carlton, Cook, Lake, Saint Louis, Tasca, Beltrami, Clearwater, Kittson, Koochiching, Lake of the Woods, Mahnomen, Marshall, Norman, Pennington, Polk, Red Lake, Roseau, Anoka, Blue Earth, Carver, Chisago, Dakota, Dodge, Faribault, Fillmore, Freeborn, Good Hue, Hennepin, Houston, Isanti, Kanabec, LeSueur, McLeod, Mille Lacs, Mower, Nicollet, Olmstead, Pine, Ramsey, Rice, Scott, Sherburne, Sibley, Steele, Wabasha, Wasela, Washington, Winona and Wright Counties, MN (Burlington, IA) points in MT (points in Greene County, AR)*; points in ND (points in Greene County, AR)*; points in OR (points in Greene County, AR)*; points in SC (points in Greene County, AR)*; points in Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union, Washington, Bedford, Bledsoe, Bradley, Coffee, Cumberland, Fentress, Franklin, Grundy, Hamilton, Lincoln, Loundon, McMinn, Marion, Marshall, Meigs, Monroe, Moore, Morgan, Polk, Rhea, Roane, Sequatchie, Van Buren, Warren, White, Cannon, Cheatham, Clay, Davidson, DeKalb, Dickson, Jackson, Macon, Montgomery, Overton, Pickett, Putnam, Robertson, Rutherford, Smith, Sumner, Trousdale, Williamson, Wilson, Benton, Carroll, Decatur, Giles, Hardin, Henderson, Henry, Hickman, Houston, Humphreys, Lawrence, Lewis, Maury, Perry, Stewart, Wayne and Weakley Counties, TN (points in Greene County, AR)*; points in WA (points in Greene County, AR)*. 3.) From points in Ashley, Bradley, Calhoun, Chicot, Cleveland, Columbia, Dallas, Desha, Drew, Lincoln, Quachita and Union Counties, AR, to points in Butte, Lassen, Modoc, Nevada, Plumas, Shasta, Sierra, Siskiyou, Yuba, Glenn, Humboldt, Lake, Mendicino, Tehama, Trinity, Alameda, Alpine, Amador, Calaveras, Colusa, Contra Costa, Eldorado, Madera, Marin, Mariposa, Merced, Mono, Monterey, Napa, Placer, San Benito, Sacramento, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Stanislaus, Sutter, Tuolumne and Yolo Counties, CA (points in Greene County, AR) points in Garfield, Mesa, Moffat, Rio Blanco, Routt, Adams, Arapahoe, Boulder, Cedar Creek, Chaffee, Denver, Douglas, Eagle, Elbert, El Paso, Fremont, Gilpin, Grand, Jackson, Jefferson, Lake, Larimer, Park, Pitkin, Summit, Teller, Kit Carson, Logan, Morgan, Phillips, Sedgwick, Washington, Weld and Yuma Counties, CO (points in Greene County, AR)*; points in ID (points in Greene County, AR); points in IA (points in Greene County, AR) points in Atchison, Brown, Doniphan, Douglas, Franklin, Jackson, Jefferson, Johnson, Leavenworth, Marshall, Miami, Nemaha, Osage, Pottawatomie, Shawnee, Wabaunsee and Wyandotte Counties, KS (points in Greene County, AR)* points in Aitkin, Carlton, Cook, Lake, Saint Louis, Tasca, Beltrami, Clearwater, Kittson, Koochiching, Lake of the Woods, Mahnomen, Marshall, Norman, Pennington, Polk, Red Lake, Roseau, Anoka, Blue Earth, Carver, Chisago, Dakota, Dodge, Faribault, Fillmore, Freeborn, Good Hue, Hennepin, Houston, Isanti, Kanabec, LeSueur, McLeod, Mille Lacs, Mower, Nicollet, Olmstead, Pine, Ramsey, Rice, Scott, Sherburne, Sibley, Steele, Wabasha, Wasela, Washington, Winona, Wright, Becker, Benton, Big Stone, Cass, Chippewa, Clay, Crow Wing, Douglas, Grant, Hubbard, Kandiyohi, Lac Qui Parle,

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Meeker, Morrison, Otter Tail, Pope, Renville, Stearns, Stevens, Swift, Todd, Traverse, Wadena, Wilkin and Yellow Medicine Counties, MN (Burlington, IA)*; points in MT (points in Greene County, AR) points in Elko, Whitepine, Churchill, Douglas, Humboldt, Lyon, Mineral, Ormsby, Pershing, Storey and Washoe Counties, NV (points in Greene County, AR)*; points in ND (points in Greene County, AR) points in OR (points in Greene County, AR); points in Allendale, Bamberg, Barnwell, Beaufort, Berkely, Charleston, Colleton, Dorchester, Hampton, Jasper, Orangeburg, Clarendon, Dillon, Florence, Georgetown, Horry, Marion and Williamsburg Counties, SC (points in Greene County, AR) points in SD (points in Greene County, AR)*; points in Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union, Washington, Cannon, Cheatham, Clay, Davidson, DeKalb, Dickson, Jackson, Macon, Montgomery, Overton, Pickett, Putnam, Robertson, Rutherford, Smith, Sumner, Trousdale, Williamson, Wilson, Benton, Carroll, Decatur, Giles, Hardin, Henderson, Henry, Hickman, Houston, Humphreys, Lawrence, Lewis, Maury, Perry, Stewart, Wayne and Weakley Counties, TN (points in Greene County, AR); points in Box Elder, Cache, Davis, Morgan, Rich, Salt Lake, Summit, Tooele, Utah Wasatch, Weber, Carbon, Daggett, Duchesme, Emery, Grand, San Juan, Uimtah, Garfield, Juab, Kane, Millard, Piute, Sanpete, Sevier and Wayne Counties, UT (points in Greene County, AR) points in WA (points in Greene County, AR); points in WY (points in Greene County, AR). 4.) From points in Benton, Boone, Carroll, Crawford, Franklin, Johnson, Logan, Madison, Marion, Newton, Pope, Scarcy, Sebastian, Van Buren and Washington Counties, AR, to points in AL (points in Greene County, AR) points in Glenn, Humboldt, Lake, Mendicino, Tehama and Trinity Counties, CA (points in Greene County, AR)*; points in FL (points in Greene County, AR); points in GA (points in Greene County, AR); points in Allamakee, Black Hawk, Bremer, Buchanan, Butler, Cerro Gordo, Chickasaw, Clayton, Delaware, Fayette, Floyd, Franklin, Hancock, Howard, Mitchell, Winnebago, Winneshiek, Worth and Wright Counties, IA (Burlington, IA)*; points in Aitkin, Carlton, Cook, Lake, Saint Louis, Tasca, Beltrami, Clearwater, Kittson, Koochiching, Lake of the Woods, Mahnomen, Marshall, Norman, Pennington, Polk, Red Lake, Roseau, Anoka, Blue Earth, Carver, Chisago, Dakota, Dodge, Faribault, Fillmore, Freeborn, Good Hue, Hennepin, Houston, Isanti, Kanabec, LeSueur, McLeod, Mille Lacs, Mower, Nicollet, Olmstead, Pine, Ramsey, Rice, Scott, Sherburne, Sibley, Steele, Wabasha, Wasela, Washington, Winona and Wright Counties, MN (*Burlington, IA), points in Covington, Forrest, George, Greene, Hancok, Harrison, Jackson, Jones, Lamar, Pearl River, Perry, Stone, Wayne, Alcorn, Benton, Calhoun, Chickasaw, Choctaw, Clay, Desoto, Itawamba, Lafayette, Lee, Lowndes, Marshall, Monroe, Oktibbeha, Panola, Pontotoc, Prentiss, Tate, Tippah, Tishomingo, Tunila, Union, Webster and Yalobusha Counties, MS (points in Greene County, AR)*; points in Benson, Cavalier, Pembina, Pierce, Ramsey, Rolette, Sheridan, Towner, Walsh, Wells, Divide, McKenzie and Williams Counties, ND (*Burlington, IA); points in Benton, Clackamas, Clatsop, Columbia, Lane, Linoln, Linn, Marion, Multnomah, Polk, Tillamook, Washington, Yamhill, Coos, Curry, Douglas, Jackson and Josephine Counties, OR (points in Greene County, AR) points in SC (points in Greene County, AR); points in TN (points in Greene County, AR) points in Clark, Cowlitz, Klickitat, Lewis, Pacific, Pierce, Skamania, Thurston, Wahkiakum, Yakima, Ferry, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Clallam, Grays Harbor, Jefferson, Kitsap, Mason, San Juan, Chelan, Douglas, Grant, Island, King, Kittitas, Skagit, Snohomish and Whatcom Counties, WA (points in Greene County, AR)*. 5.) From points in Baxter, Clay, Craighead, Greene, Crittendon, Cross, Fulton, Independence, Izard, Jackson, Lawrence, Mississippi, Poinsett, Randolph, Saint Francis, Sharp, Stone and Woodruff Counties, AR, to points in Allamakee, Black Hawk, Bremer, Buchanan, Butler, Cerro Gordo, Chickasaw, Clayton, Delaware, Fayette, Floyd, Franklin, Hancock, Howard, Mitchell, Winnebago, Winneshiek, Worth, Wright, Appanoose, Boone, Clarke, Dallas, Decatur, Greene, Grundy, Hamilton, Hardin, Jasper, Lucas, Madison, Mahaska, Marion, Marshall, Monroe, Polk, Poweshiek, Story, Tama, Warren, Wayne, Webster, Buena Vista, Calhoun, Carroll, Cherokee, Clay, Crawford, Dickinson, Emmet, Humboldt, Ida, Kossuth, Lyon, Monona, O'Brien, Osceola, Palo Alto, Plymouth, Pocahontas, Sac, Sioux and Woodbury Counties, IA (*Burlington, IA); points in MN (*Burlington, IA); points in ND (*Burlington, IA); points in SD (*Burlington, IA). 6.) From points in Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR, to points in Barbour, Bullock, Coffee, Covington, Crenshaw, Dale, Geneva, Henry, Houston, Macon, Montgomery, Pike and Russell Counties, AL (points in Greene County, AR)*; points in Apache, Coconino, Mohave, Navajo, Yavapai, Maricopa, Pima, Pinal, Santa Cruz and Yuma Counties, AZ (points in Greene County, AR)*; points in CA (points in Greene County, AR)*; points in CO (points in Greene County, AR)*; points in Charlotte, De Soto, Glades, Hardee, Hendry, Highlands, Lee, Manatee, Okeechobee, Sarasota, Alachua, Baker, Bradford, Clay, Duval, Flagler, Levy, Marion, Nassau, Putnam, Saint Johns, Union, Broward, Collier, Dade, Martin, Monroe, Palm Beach, Saint Lucie, Brevard, Citrus, Hernando, Hillsborough, Indian River, Lake, Orange, Osceola, Pasco, Pinellas, Polk, Seminole, Sumter, Volusia, Columbia, Dixie, Franklin, Gadsen, Gilchrist, Hamilton, Jefferson, Lafayette, Leon, Liberty, Madison, Suwannee, Taylor and Wakulla Counties, FL (points in Greene County, AR); points in GA (points in Greene County, AR); points in ID (points in Greene County, AR)*; points in IA (points in Greene County, AR); points in KS (points in Greene County, AR); points in Aitkin, Carlton, Cook, Lake, Saint Louis, Tasca, Beltrami, Clearwater, Kittson, Koochichin, Lake of the Woods, Mahnomen, Marshall, Norman, Pennington, Polk, Red Lake, Roseau, Anoka, Blue Earth, Carver, Chisago, Dakota, Dodge, Faribault, Fillmore, Freeborn, Good Hue, Hennepin, Houston, Isanti, Kanabec, LeSueur, McLeod, Mille Lacs, Mower, Nicollet, Olmstead, Pine, Ramsey, Rice, Scott, Sherburne, Sibley, Steele, Wabasha, Wasela, Washington, Winona, Wright, Becker, Benton, Big Stone, Cass, Chippewa, Clay, Crow Wing, Douglas, Grant, Hubbard, Kandiyohi, Lac Qui Parle, Meeker, Morrison, Otter Tail, Pope, Renville, Stearns, Stevens, Swift, Todd, Traverse, Wadena, Wilkin and Yellow Medicine Counties, MN (*Burlington, IA); points in MT (points in Greene County, AR); points in NV (points in Greene County, AR); points in ND (points in Greene County, AR); points in OR (points in Greene County, AR); points in SC (points in Greene County, AR); points in SD (points in Greene County, AR); points in Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union, Washington, Bedford, Bledsoe, Bradley, Coffee, Cumberland, Fentress, Franklin, Grundy, Hamilton, Lincoln, Loudon, McMinn, Marion, Marshall, Meigs, Monroe, Moore, Morgan, Polk, Rhea, Roane, Sequatchie, Van Buren, Warren, White, Cannon, Cheatham, Clay, Davidson, DeKalb, Dickson, Jackson,

Macon, Montgomery, Overton, Pickett, Putnam, Robertson, Rutherford, Smith, Sumner, Trousdale, Williamson, Wilson, Benton, Carroll, Decatur, Giles, Hardin, Henderson, Henry, Hickman, Houston, Humphreys, Lawrence, Lewis, Maury, Perry, Stewart, Wayne and Weakley Counties, TN (points in Greene County, AR); points in UT (points in Greene County, AR); points in WA (points in Greene County, AR); points in WY (points in Greene County, AR). (Eliminate gateways indicated by asterisks above)

MC 107012 (Sub-E417), filed May 13, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop and Gary M. Crist (same as above). *New Household Furniture, Crated,* from points in NH, to points in Braxton, Clay, Fayette, Kanawha, Nicholas, Webster, Calhoun, Gilmer, Jackson, Mason, Pleasants, Ritchie, Roane, Wirt, Wood, Brooke, Hancock, Marshall, Ohio, Boone, Cabell, Lincoln, Logan, Mingo, Putnam and Wayne Counties, WV. (Eliminate gateway of Cleveland, OH.)

MC 107012 (Sub-E418), filed May 13, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop and Gary M. Crist (same as above.) *New Furniture, Crated,* (1) From points in NH, to points in AL and MS (*points in KY). (2) From points in NH, to points in WI (*Cleveland, OH). (3) From points in Coos County, NH, to points in Charlotte, De Soto, Glades, Hardee, Hendry, Highlands, Lee, Manatee, Okeechobee, Sarasota, Broward, Collier, Dade, Martin, Monroe, Palm Beach, Saint Lucie, Brevard, Citrus, Hernando, Hillsborough, Indian River, Lake, Orange, Osceola, Pasco, Pinellas, Polk, Seminole, Sumter, Volusia, Bay, Calhoun, Escambia, Gulf, Holmes, Jackson, Okaloosa, Santa Rosa, Walton, Washington, Columbia, Dixie, Franklin, Gadsen, Gilchrist, Hamilton, Jefferson, Lafayette, Leon, Liberty, Madison, Suwannee, Taylor, Wakulla Counties, FL (*points in KY); points in Atkinson, Baker, Ben Hill, Berrien, Bibb, Bleckley, Brooks, Calhoun, Chattahoochee, Clay, Clinch, Coffee, Colquitt, Cook, Crawford, Crisp, Decatur, Dodge, Dooly, Dougherty, Early, Echols, Grady, Harris, Houston, Irwin, Jones, Lamar, Lanier, Lee, Lowndes, Macon, Marion, Meriwether, Miller, Mitchell, Monroe, Muscogee, Peach, Pike, Pulaski, Quitman, Randolph, Schley, Seminole, Stewart, Sumter, Talbot, Taylor, Telfair, Terrell, Thomas, Tift, Troup, Turner, Twiggs, Upson, Webster, Wilcox, Worth, Banks, Barrow, Butts, Cherokee, Clarke, Clayton, Cobb, Coweta, Dawson, DeKalb, Elbert, Fannin, Fayette, Forsyth, Franklin, Fulton, Gilmer, Gwinnett, Habersham, Hall, Hart, Henry, Jackson, Jasper, Lumpkin, Madison, Morgan, Newton, Oconee, Pickens, Rabun, Rockdale, Spalding, Stephens, Towns, Union, Walton, White, Bartow, Chattooga, Carroll, Catoosa, Dade, Douglas, Floyd, Gordon, Haralson, Heard, Murray, Paulding, Polk, Walker and Whitfield Counties, GA (*State of KY 38A + 48A); Allegheny, Armstrong, Beaver, Butler, Fayette, Greene, Indiana, Lawrence, Somerset, Washington and Westmoreland Counties, PA (*Newton Falls, OH); points in Bedford, Bledsoe, Bradley, Coffee, Cumberland, Fentress, Franklin, Grundy, Hamilton, Lincoln, Loudon, McMinn, Marion, Marshall, Meigs, Monroe, Moore, Morgan, Polk, Rhea, Roane, Sequatchie, Van Buren, Warren, White, Chester, Crockett, Dyer, Fayette, Gibson, Hardeman, Haywood, Lake, Lauderdale, McNairy, Madison, Obion, Shelby, Tipton, Cannon, Cheatham, Clay, Davidson, DeKalb, Dickson, Jackson, Macon, Montgomery, Overton, Pickett, Putnam, Robertson, Rutherford, Smith, Sumner, Trousdale, Williamson, Wilson, Benton, Carroll, Decatur, Giles, Hardin, Henderson, Henry, Hickman, Houston, Humphreys, Lawrence, Lewis, Maury, Perry, Stewart, Wayne and Weakley Counties, TN (*points in KY). (4) From points in Cheshire, Hillsboro and Sullivan Counties, NH, to points in Broward, Collier, Dade, Martin, Monroe, Palm Beach, Saint Lucie, Bay, Calhoun, Escambia, Gulf, Holmes, Jackson, Okaloosa, Santa Rosa, Walton and Washington Counties, FL (*points in KY); points in Bartow, Chattooga, Carroll, Catoosa, Dade, Douglas, Floyd, Gordon, Haralson, Heard, Murray, Paulding, Polk, Walker and Whitfield Counties, GA (*points in KY); points in Allegheny, Armstrong, Beaver, Butler, Fayette, Greene, Indiana, Lawrence, Somerset, Washington and Westmoreland Counties, PA (*Newton Falls, OH); points in Bedford, Bledsoe, Bradley, Coffee, Cumberland, Fentress, Franklin, Grundy, Hamilton, Lincoln, Loudon, McMinn, Marion, Marshall, Meigs, Monroe, Moore, Morgan, Polk, Rhea, Roane, Sequatchie, Van Buren, Warren, White, Chester, Crockett, Dyer, Fayette, Gibson, Hardeman, Haywood, Lake, Lauderdale, McNairy, Madison, Obion, Shelby, Tipton, Cannon, Cheatham, Clay, Davidson, DeKalb, Dickson, Jackson, Macon, Montgomery, Overton, Pickett, Putnam, Robertson, Rutherford, Smith, Sumner, Trousdale, Williamson, Wilson, Benton, Carroll, Decatur, Giles, Hardin, Henderson, Henry, Hickman, Houston, Humphreys, Lawrence, Lewis, Maury, Perry, Stewart, Wayne and Weakley Counties, TN (*points in KY). (5) From points in Carroll and Grafton Counties, NH, to points in Charlotte, De Soto, Glades, Hardee, Hendry, Highlands, Lee, Manatee, Okeechobee, Sarasota, Broward, Collier, Dade, Martin, Monroe, Palm Beach, Saint Lucie, Bay, Calhoun, Escambia, Gulf, Holmes, Jackson, Okaloosa, Santa Rosa, Walton, Washington, Columbia, Dixie, Franklin, Gadsen, Gilchrist, Hamilton, Jefferson, Lafayette, Leon, Liberty, Madison, Suwannee, Taylor and Wakulla Counties, FL (*points in KY); points in Atkinson, Baker, Ben Hill, Berrien, Bibb, Bleckley, Brooks, Calhoun, Chattahoochee, Clay, Clinch, Coffee, Colquitt, Cook, Crawford, Crisp, Decatur, Dodge, Dooly, Dougherty, Early, Echols, Grady, Harris, Houston, Irwin, Jones, Lamar, Lanier, Lee, Lowndes, Macon, Marion, Meriwether, Miller, Mitchell, Monroe, Muscogee, Peach, Pike, Pulaski, Quitman, Randolph, Schley, Seminole, Stewart, Sumter, Talbot, Taylor, Telfair, Terrell, Thomas, Tift, Troup, Turner, Twiggs, Upson, Webster, Wilcox, Worth, Banks, Barrow, Butts, Cherokee, Clarke, Clayton, Cobb, Coweta, Dawson, DeKalb, Elbert, Fannin, Fayette, Forsyth, Franklin, Fulton, Gilmer, Gwinnett, Habersham, Hall, Hart, Henry, Jackson, Jasper, Lumpkin, Madison, Morgan, Newton, Oconee, Pickens, Rabun, Rockdale, Spalding, Stephens, Towns, Union, Walton, White, Bartow, Chattooga, Carroll, Catoosa, Dade, Douglas, Floyd, Gordon, Haralson, Heard, Murray, Paulding, Polk, Walker and Whitfield Counties, GA (*points in KY); points in Allegheny, Armstrong, Beaver, Butler, Fayette, Greene, Indiana, Lawrence, Somerset, Washington and Westmoreland Counties, PA (*Newton Falls, OH); points in Bedford, Bledsoe, Bradley, Coffee, Cumberland, Fentress, Franklin, Grundy, Hamilton, Lincoln, Loudon, McMinn, Marion, Marshall, Meigs, Monroe, Moore, Morgan, Polk, Rhea, Roane, Sequatchie, Van Buren, Warren, White, Chester, Crockett, Dyer, Fayette, Gibson, Hardeman, Haywood, Lake, Lauderdale, McNairy, Madison, Obion, Shelby, Tipton, Cannon, Cheatham, Clay, Davidson, DeKalb, Dickson, Jackson, Macon, Montgomery, Overton, Pickett, Putnam, Robertson, Rutherford, Smith, Sumner, Trousdale, Williamson, Wilson, Benton, Carroll, Decatur, Giles, Hardin, Henderson, Henry, Hickman, Houston, Humphreys, Lawrence, Lewis, Maury, Perry, Stewart, Wayne and Weakley Counties, TN (*points in KY). (6) From points in Belknap, Merrimack, Rockingham and Strafford Counties, NH, to points in Charlotte, De Soto, Glades, Hardee, Hendry, Highlands, Lee, Manatee, Okeechobee, Sarasota, Broward, Collier, Dade,

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Martin, Monroe, Palm Beach, Saint Lucie, Bay, Calhoun, Escambia, Gulf, Holmes, Jackson, Okaloosa, Santa Rosa, Walton, Washington, Columbia, Dixie, Franklin, Gadsen, Gilchrist, Hamilton, Jefferson, Lafayette, Leon, Liberty, Madison, Suwannee, Taylor and Wakulla Counties, FL (*points in KY); points in Bartow, Chattooga, Carroll, Catoosa, Dade, Douglas, Floyd, Gordon, Haralson, Heard, Murray, Paulding, Polk, Walker and Whitfield Counties, GA (*points in KY); points in Allegheny, Armstrong, Beaver, Butler, Fayette, Greene, Indiana, Lawrence, Somerset, Washington and Westmoreland Counties, PA (*Newton Falls, OH); points in Bedford, Bledsoe, Bradley, Coffee, Cumberland, Fentress, Franklin, Grundy, Hamilton, Lincoln, Loudon, McMinn, Marion, Marshall, Meigs, Monroe, Moore, Morgan, Polk, Rhea, Roane, Sequatchie, Van Buren, Warren, White, Chester, Crockett, Dyer, Fayette, Gibson, Hardeman, Haywood, Lake, Lauderdale, McNairy, Madison, Obion, Shelby, Tipton, Cannon, Cheatham, Clay, Davidson, DeKalb, Dickson, Jackson, Macon, Montgomery, Overton, Pickett, Putnam, Robertson, Rutherford, Smith, Sumner, Trousdale, Williamson, Wilson, Benton, Carroll, Decatur, Giles, Hardin, Henderson, Henry, Hickman, Houston, Humphreys, Lawrence, Lewis, Maury, Perry, Stewart, Wayne and Weakley Counties, TN (*points in KY). (Gateways eliminated indicated by asterisks above).

MC 107012 (Sub-E419), filed May 13, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Biship and Gary M. Crist (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New Furniture, Crated,* (1) From points in AL, FL, GA, MS and SC (*Camden, AR) (2) From points in NM, to points in KY, NC, TN and VA (*points in Greene County, AR 61A plus 49A) (3) From points in Bernalillo, Guadalupe, Los Alamos, Sandoval, San Miguel, Santa Fe, Torrance and Valencia Counties, NM, to points in Allamakee, Black Hawk, Bremer, Buchanan, Butler, Cerro Gordo, Chickasaw, Clayton, Delaware, Fayette, Floyd, Franklin, Hancock, Howard, Mitchell, Winnebago, Winneshiek, Worth, Wright, Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello and Washington Counties, IA; (*Burlington, IA); points in LA (*Camden, AR); *points in Aitkin, Carlton, Cook, Lake, Saint Louis, Tasca, Beltrami, Clearwater, Kittson, Koochiching, Lake of the Woods, Mahnomen, Marshall, Norman, Pennington, Polk, Red Lake, Roseau, Anoka, Blue Earth, Carver, Chisago, Dakota, Dodge, Faribault, Fillmore, Freeborn, Good Hue, Hennepin, Houston, Isanti, Kanabec, LeSueur, McLeod, Millie Lacs, Mower, Nicollet, Olmstead, Pine, Ramsey, Rice, Scott, Sherburne, Sibley, Steele, Wabasha, Wasela, Washington, Winona and Wright Counties, MN (*Burlington, IA) (4) From points in McKinley, Rio Arriba and San Juan Counties, NM, to points in Allamakee, Black Hawk, Bremer, Buchanan, Butler, Cerro Gordo, Chickasaw, Clayton, Delaware, Fayette, Floyd, Franklin, Hancock, Howard, Mitchell, Winnebago, Winneshiek, Worth, Wright, Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello and Washington Counties, IA (*Burlington, IA); points in Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Rapids, Saint Landry, Vernon, Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Saint Bernard, Saint Charles, Saint Helena, Saint James, Saint John the Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge and West Feliciana Parishes, LA (*Camden, AR); points in Aitkin, Carlton, Cook, Lake, Saint Louis, Tasca, Beltrami, Clearwater, Kittson, Koochiching, Lake of the Woods, Mahnomen, Marshall, Norman, Pennington, Polk, Red Lake, Roseau, Anoka, Blue Earth, Carver, Chisago, Dakota, Dodge, Faribault, Fillmore, Freeborn, Good Hue, Hennepin, Houston, Isanti, Kanabec, LeSueur, McLeod, Millie Lacs, Mower, Nicollet, Olmstead, Pine, Ramsey, Rice, Scott, Sherburne, Sibley, Steele, Wabasha, Wasela, Washington, Winona and Wright Counties, MN (*Burlington, IA). (5) From points in Chaves, Curry, DeBaca, Eddy, Lea, Lincoln, Quay and Roosevelt Counties, NM, to points in Allamakee, Black Hawk, Bremer, Buchanan, Butler, Cerro Gordo, Chickasaw, Clayton, Delaware, Fayette, Floyd, Franklin, Hancock, Howard, Mitchell, Winnebago, Winneshiek, Worth, Wright, Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello and Washington Counties, IA (*Burlington, IA); points in Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Rapids, Saint Landry, Vernon, Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Saint Bernard, Saint Charles, Saint Helena, Saint James, Saint John the Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge and West Feliciana Parishes, LA (*Camden, AR); points in Aitkin, Carlton, Cook, Lake, Saint Louis, Tasca, Beltrami, Clearwater, Kittson, Koochiching, Lake of the Woods, Mahnomen, Marshall, Norman, Pennington, Polk, Red Lake, Roseau, Anoka, Blue Earth, Carver, Chisago, Dakota, Dodge, Faribault, Fillmore, Freeborn, Good Hue, Hennepin, Houston, Isanti, Kanabec, LeSueur, McLeod, Millie Lacs, Mower, Nicollet, Olmstead, Pine, Ramsey, Rice, Scott, Sherburne, Sibley, Steele, Wabasha, Wasela, Washington, Winona and Wright Counties, MN (*Burlington, IA). (6) From points in Caton, Dona Ana, Grant, Kidalgo, Luna, Otero, Sierra and Socorro Counties, NM, to points in Allamakee, Black Hawk, Bremer, Buchanan, Butler, Cerro Gordo, Chickasaw, Clayton, Delaware, Fayette, Floyd, Franklin, Hancock, Howard, Mitchell, Winnebago, Winneshiek, Worth, Wright, Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello and Washington Counties, IA (*Burlington, IA); points in Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Rapids, Saint Landry, Vernon, Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Saint Bernard, Saint Charles, Saint Helena, Saint James, Saint John the Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge and West Feliciana Parishes, LA (*Camden, AR); points in Aitkin, Carlton, Cook, Lake, Saint Louis, Tasca, Beltrami, Clearwater, Kittson, Koochiching, Lake of the Woods, Mahnomen, Marshall, Norman, Pennington, Polk, Red Lake, Roseau, Anoka, Blue Earth, Carver, Chisago, Dakota, Dodge, Faribault, Fillmore, Freeborn, Good Hue, Hennepin, Houston, Isanti, Kanabec, LeSueur, McLeod, Millie Lacs, Mower, Nicollet, Olmstead, Pine, Ramsey, Rice, Scott, Sherburne, Sibley, Steele, Wabasha, Wasela, Washington, Winona and Wright Counties, MN (*Burlington, IA). (7) From points in Colfax, Harding, Mora, Taos and Union Counties, NM, to points in Allamakee, Black Hawk, Bremer, Buchanan, Butler, Cerro Gordo, Chickasaw, Clayton, Delaware, Fayette, Floyd, Franklin, Hancock, Howard, Mitchell, Winnebago, Winneshiek, Worth, Wright, Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello and Washington Counties, IA (*Burlington, IA); points LA (*Camden, AR). (Eliminate gateways points indicated by asterisks).

MC-107012 (Sub-E420), filed May 13, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop and Gary M. Crist (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New Furniture, Crated,* 1.) From points in NY, to points in AL, FL, and GA (*Points in TN).

(2) From points in Broome, Cayuga, Chemung, Chenango, Courtland, Delaware, Madison, Onondaga, Ontario, Otsego, Schoharie, Schuyler, Seneca, Tioga, Tompkins, Wayne and Yates Counties, NY to points in Buncombe, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison, Mitchell, Polk, Rutherford, Swain, Transylvania, Yancey, Alexander, Alleghany, Ashe, Avery, Burke, Caldwell, Catawba, Cleveland, Gaston, Iredell, Lincoln, Mecklenburg, Surry, Watauga, Wilkes and Yadkin Counties, NC (*points in TN); points in Allendale, Bamberg, Barnwell, Beaufort, Berkely, Charleston, Colleton, Dorchester, Hampton, Jasper, Orangeburg, Aiken, Calhoun, Chesterfield, Darlington, Fairfield, Keeshaw, Lancaster, Lee, Lexington, Marlboro, Richland, Sumter, Abbeville, Anderson, Greenville, Ocomee, Pickens, Cherokee, Chester, Edgefield, Greenwood, Lamens, McCormick, Newberry, Saluda, Spartanburg, Union and York Counties, SC (*points in TN).

(3) From points in Allegany, Cattaraugus, Chatauqua, Erie, Genesee, Livingston, Monroe, Niagara, Orleans, Steuben, Wyoming, Herkimer, Jefferson, Lewis, Oneida, Oswego, St. Lawrence, Clinton, Essex, Franklin, Fulton, Hamilton, Montgomery, Saratoga, Schenectady, Warren and Washington Counties, NY, to points in Buncombe, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison, Mitchell, Polk, Rutherford, Swain, Transylvania, Yancey, Alexander, Alleghany, Ashe, Avery, Burke, Caldwell, Catawba, Cleveland, Gaston, Iredell, Lincoln, Mecklenburg, Surry, Watauga, Wilkes and Yadkin Counties, NC (*points in TN) points in Allegheny, Armstrong, Beaver, Butler, Fayette, Greene, Indiana, Lawrence, Somerset, Washington and Westmoreland Counties, PA (*Newton Falls, OH) points in Allendale, Bamberg, Barnwell, Beaufort, Berkely, Charleston, Colleton, Dorchester, Hampton, Jasper, Orangeburg, Aiken, Calhoun, Chesterfield, Darlington, Fairfield, Keeshaw, Lancaster, Lee, Lexington, Marlboro, Richland, Sumter, Abbeville, Anderson, Greenville, Ocomee, Pickens, Cherokee, Chester, Edgefield, Greenwood, Lamens, McCormick, Newberry, Saluda, Spartanburg, Union and York Counties, SC (*points in TN).

(4) From points in Albany, Bronx, Columbia, Dutchess, Greene, Kings, Nassau New York, Orange, Putnam, Queens, Rensselar, Richmond, Rockland, Sullivan, Ulster and Westchester Counties, NY, to points in buncombe, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison, Mitchell, Polk, Rutherford, Swain, Transylvania, Yancey, Alexander, Alleghany, Ashe, Avery, Burke, Caldwell, Catawba, Cleveland, Gaston, Iredell, Lincoln, Mecklenburg, Surry, Watauga, Wilkes and Yadkin Counties, NC (*points in TN) points in Aiken, Calhoun, Chesterfield, Darlington, Fairfield, Keeshaw, Lancaster, Lee, Lexington, Marlboro, Richland, Sumter, Abbeville, Anderson, Greenville, Ocomee, Pickens, Cherokee, Chester, Edgefield, Greenwood, Lamens, McCormick, Newberry, Saluda, Spartanburg, Union and York Counties, SC (*points in TN).

(5) From points in Suffolk County, NY, to points in Buncombe, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison, Mitchell, Polk, Rutherford, Swain, Transylvania, Yancey, Alexander, Alleghany, Ashe, Avery, Burke, Caldwell, Catawba, Cleveland, Gaston, Iredell, Lincoln, Mecklenburg, Surry, Watauga, Wilkes and Yadkin Counties, NC (*points in TN) points in Cameron, Clarion, Crawford, Elk, Erie, Forest, Jefferson, McKean, Mercer, Potter, Venango and Warren Counties, PA (*Newton Falls, OH) points in Aiken, Calhoun, Chesterfield, Darlington, Fairfield, Keeshaw, Lancaster, Lee, Lexington, Marlboro, Richland, Sumter, Abbeville, Anderson, Greenville, Ocomee, Pickens, Cherokee, Chester, Edgefield, Greenwood, Lamens, McCormick, Newberry, Saluda, Spartanburg, Union and York Counties, SC (*points in TN). (Eliminate gateways indicated by asterisks above).

MC 111401 (Sub-E50) (correction), filed May 14, 1974, published in the FEDERAL REGISTER, issue of April 15, 1975, and republished, as corrected, this issue. Applicant: GROENDYKE TRANSPORT, INC., P.O. Box 632, Enid, OK 73701. Representative: Victor R. Comstock (same as above). *Petrochemicals,* in bulk, in tank vehicles, from points in KS located on and south of State Hwy 96 and on and west of State Hwy 99 to points in AR, IA, and MO. (2) *Petrochemicals,* in bulk, in tank vehicles, from points in KS on and West of U.S. Hwy 77, to points in AR. (3) *Petrochemicals,* in bulk, in tank vehicles, from points in KS on and east and south of a line beginning at the KS-OK state line and extending along KS Hwy 14, then along KS Hwy 14 to junction U.S. Hwy 54, then east along U.S. Hwy 54 to the KS-MO state line, to points in IA and NE. (Gateway eliminated: points of Wichita, KS). The purpose of this republication is to add part (2) and (3), previously omitted, to the territorial description.

MC 111401 (Sub-E56) (clarification), filed May 12, 1974, published in the FEDERAL REGISTER, issue of June 11, 1975, and republished, as clarified, this issue. Applicant: GROENDYKE TRANSPORT, INC., P.O. Box 632, Enid, OK 73701. Representative: Victor R. Comstock (same as above). *Petroleum products* (except lubricating oils), in bulk, in tank vehicles, from points in KS on and east of U.S. Hwy 77 and on and north of U.S. Hwy 24 to points in Louisiana, (Eliminate gateways: Points of Ardmore, Cleveland, Cushing, Ducan, Tulsa, and Wynnewood, OK.) This republication is to clarify that this letter-notice is the correct E-56.

NOTE.—A letter-notice under Sub-E56 was published on May 23, 1975, erroneously, and republished under the correct number E-56, on June 9, 1975.

MC 111401 (Sub-E86) (clarification), filed May 4, 1975, published in the FEDERAL REGISTER, issue of May 23, 1975 (under Sub-E56), republished as corrected under Sub-E86 in the FEDERAL REGISTER, issue of June 9, 1975, and republished as clarified, this issue. Applicant: GROENDYKE TRANSPORT, INC., P.O. Box 632, Enid, OK 73701. Representative: Victor R. Comstock (same as above). *Liquid petrochemicals,* in bulk, in tank vehicles, from points in TX located on, south and east of a line beginning at Galveston and extending along I Hwy 45 to junction U.S. Hwy 90, then along U.S. Hwy 90 to junction U.S. Hwy 77, then along U.S. Hwy 77 to the U.S.-Mexico International Boundary line, to points in AL, AR, LA, MS, and MO. (Gateway eliminated: points of Texas City, TX.) This republication is to clarify Sub E-86 and to include the correct destination territory.

MC 123407 (Sub-E651), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Composition board, materials and accessories used in the installation of composition board, and ceiling tile* (except lumber, commodities in bulk and commodities requiring special equipment) in containers or in trailers, having an immediately prior to subsequent movement by water, or by water-rail or by air, from points in ME, NH, VT, MA, RI, CT, NY, NJ, MD, DE, DC, MI, PA, Newport News and Norfolk, VA, and points in Hancock, Brooke, Ohio, Marshall, Wetzel, Tyler, Pleasants, Wood, Jackson, and Mason Counties, WV, to points in NM.

(Gateway eliminated points of Dubuque, IA.)

MC 124174 (Sub-E63), filed November 2, 1976; Applicant: MOMSEN TRUCKING COMPANY, P.O. Box 37490, Omaha, NE 68137. Representative: Karl E. Momsen (same as above) *Hides, skins, and pieces thereof, and tannery products, tannery-by-products, and supplies* (except commodities in bulk, in tank vehicles), from all points in Mississippi, to points in IN on and east of a line from U.S. Hwy 41 at the KY-IN border to U.S. Hwy 50 to the IN-IL border; points in IL on and northeast of a line from U.S. Hwy 50 at the IN-IL border west to U.S. Hwy 51, north on U.S. Hwy 51 to state Hwy 29, to state Hwy 125, to U.S. Hwy 67, to state Hwy 9 to the IL-IA border; points in IA on and north-east of a line from U.S. Hwy 61 at the border of IA and MS River north to U.S. Hwy 34, to U.S. Hwy 63, to U.S. Hwy 30, to U.S. Hwy 65, to state Hwy 3, to U.S. Hwy 169 to the IA-MN border; points in MN on and northeast of a line from U.S. Hwy 169 at the IA-MN border, to state Hwy 68, to U.S. Hwy 14, to U.S. Hwy 59, to state Hwy 68 to the MN-SD border; points in SD on and north of a line from state Hwy 22 at the MN-SD border, to U.S. Hwy 81 to U.S. Hwy 212 west to the SD-WY border; points in GA on and north of a line from U.S. Hwy 41 & 76 at the GA-TN border to state Hwy 52 to state Hwy 136, to U.S. Hwy 19, to state Hwy 20, to state Hwy 13, to U.S. Hwy 23, to U.S. Hwy 23 & 41 to GA-NC border; points in TN on and east of a line from U.S. Hwy 27 at Chattanooga, north on U.S. Hwy 27 to the TN-KY border; points in KY on and north-east of a line from U.S. Hwy 27 at the KY-TN border to state Hwy 92, to U.S. Hwy 25W, to U.S. Hwy 25, to Daniel Boone Parkway, east on Parkway to state Hwy 15 at Bonnyman, north on state Hwy 15 to U.S. Hwy 60, to U.S. Hwy 62, to state Hwy 44 to U.S. Hwy 31W & 60 to U.S. Hwy 60, to U.S. Hwy 231 at the KY-IN border; points in VA; WV; MD; NJ; MA; VT: NH; ME; NY; PA; OH; MI; WI; and Hazelwood, NC. (Eliminate gateway points of Chattanooga, TN, and Evansville, IN.)

MC 124174 (Sub-E64), filed November 2, 1976; Applicant: MOMSEN TRUCKING COMPANY, P.O. Box 37490, Omaha, NE 68137. Representative: Karl E. Momsen (same as above) *Hides, skins, and pieces thereof, and tannery products, tannery-by-products, and supplies* (except commodities in bulk, in tank vehicles), from all points in WY on and north of a line beginning at the ID-WY line, then east on U.S. Hwy 20, then east on U.S. Hwy 14 to Sheridan, then east on I-90 to Moorcraft, then east on U.S. Hwy 16 to the Weston and Crook County line then east to the SD-WY state line, to points in TX on and east of unnumbered Hwy from Mexico-U.S. boundary approximately 4 miles south of Del Rio, TX to Del Rio then north on U.S. Hwy 277, to U.S. Hwy 283, to the OK-TX state line. (Eliminate gateway points of Salina, KS.)

MC 124174 (Sub-E65), filed November 2, 1976. Applicant: MOMSEN TRUCKING COMPANY, P.O. Box 37490, Omaha, NE 68137. Representative: Karl E. Momsen (same as above). *Hides, skins, and pieces thereof, and tannery products, by-products and supplies,* (except commodities in bulk, in tank vehicles) from points in ND on and North of a line beginning at the MO-ND line, then east on U.S. Hwy 2 to U.S. Hwy 40, then north on U.S. Hwy. 40 to the ND-Canadian line, to points in MN on and south of a line beginning at the MN-WY line, then west on State Hwy 48, to State Hwy 23, then southwest on State Hwy 23 to State Hwy 15, then south on State Hwy 15 to U.S. Hwy 14, then east on U.S. Hwy 14 to State Hwy 60, then west on State Hwy 60 to State Hwy 86, then south on State Hwy 86 to the IA-MN State line. (Eliminate gateway: point of St. Paul, MN).

MC 124174 (Sub-E66), filed November 2, 1976. Applicant: MOMSEN TRUCKING COMPANY, P.O. Box 37490, Omaha, NE 68137. Representative: Karl E. Momsen (same as above). *Hides, skins, and pieces thereof, tannery products, tannery by-products, and supplies* (except commodities in bulk, in tank vehicles), from all points in MS, points in TN on and east of a line from I Hwy 24 at the GA-TN border to Nashville, to U.S. Hwy 31E, to State Hwy 25, to State Hwy 53 to the TN-KY border; points in GA on and east of a line from I Hwy 24 at the GA-TN border along said border to U.S. Hwy 41 & 76, to U.S. Hwy 41, to State Hwy 92, to U.S. Hwy 19, to State Hwy 20, to I Hwy 85; points in on and east of a line from U.S. Hwy 41 at Chicago, to U.S. Hwy 14 to the IL-WI border; points in WI on and east of a line from U.S. Hwy 14 at the IL-WI border to State Hwy 15 to State Hwy 67, to State Hwy 33, to State Hwy 26, to U.S. Hwy 45, to U.S. Hwy 8, to State Hwy 47, to U.S. Hwy 51, to U.S. Hwy 2, to State Hwy 122 at the WI-Lake Superior border; points in VA; KY; WV; MD; NJ; MA; VT; NH; ME; NY; PA; OH; IN; MI; and Hazelwood, NC. (Gateway eliminated: points in Chicago, IL; Nashville, TN; New Albany, IN; and St. Louis, MO.)

By the Commission.

H. G. Homme, Jr.,
Secretary.

[FR Doc. 79-878 Filed 1-9-79; 8:45 am]

[7035-01-M]

[Notice No. 1]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

January 3, 1979.

The following are notices of filing of applications for temporary authority under Section 210(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

MC 2900 (Sub-344 TA), filed November 21, 1978. Applicant: RYDER TRUCK LINES, INC., P.O. Box 2408, Jacksonville, FL 32203. Representative: S.E. Somers, Jr., P.O. Box 2408, Jacksonville, FL 32203. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, (except Classes A and B explosives, those of unusual value, commodities in bulk, those requiring special equipment and household goods as defined by the Commission), (1) Between Knoxville, TN and Lexington, KY: From Knoxville, TN over Interstate Highway 75 to Lexington, KY., and return over the same route. (2) Between Lexington, KY and Cincinnati, OH: From Lexington, KY over Interstate Highway 78 to Cincinnati, OH and return over the same route. (3) Between Nashville, TN and Lexington, KY: From Nashville, TN over U.S. Highway 31E to junction U.S. Highway 62, then over U.S. 62 to junction U.S. Highway 60, then over U.S. Highway 60 to Lexington, KY and return over the same route. (4) Between Charleston, WV and Lexington, KY: From Charleston, WV over Interstate Highway 64 to Lexington, KY and return over the same route. (5) Between Lexington, KY and New Albany, IN: From Lexington, KY over Interstate Highway 64 to New Albany, IN and return over the same route. (6) Serving all intermediate and off-route points in Anderson, Bourbon, Boyle, Clark, Fayette, Franklin, Garrard, Harrison, Jessamine, Madison, Mercer, Montgomery, Scott and Woodford Counties, KY in connection with routes (1) through (5) above, for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): There are approximately (29) statements of support attached to this application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: G. H. Fauss, Jr., DS, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 26825 (Sub-17TA), filed November 21, 1978. Applicant: ANDREWS VAN LINES, INC., Seventh St., and Park Avenue, Box 1609, Norfolk, NE 68701. Representative: J. Max Harding, P.O. Box 82028, Lincoln, NE 68501. *Room heating devices*, from Seattle, WA., to Springfield, OH., restricted to the transportation of traffic having a prior movement by air or water, for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Robert H. Hayes President, Energy Mart, Inc., 14 Buxton Avenue, Springfield, OH 45505. SEND PROTESTS TO: Carroll Russell DS, ICC, Suit 620, 110 North 14th Street, Omaha, NE 68102.

MC 28905 (Sub-7TA), filed November 21, 1978. Applicant: RISBERG'S TRUCK LINE, 2339 S.E., Grand Avenue, Portland, OR 97214. Representative: Lawrence V. Smart, Jr., 419 NW., 23rd Avenue, Portland, OR 97210. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, (except those of unusual value, uncrated household goods, commodities in bulk, and those requiring special equipment), Between Portland, OR, and Bend, OR, serving the intermediate points of Warm Springs, Madras, Terrebonne, Prineville Junction and Redmond, OR, and the off-route points of Culver, Metolius, Sisters and Prineville, OR: From Portland, over U.S. Highway 26 to Junction U.S. Highway 97, thence over U.S. Highway 97 to Bend, and return over the same route. Between Portland and Bend, OR, as an alternate route for operating convenience only, serving no intermediate points: From Portland over Interstate Highway 5 to Junction U.S. Highway 22 at or near Salem, OR, thence over U.S. Highway 22 to Junction U.S. Highway 20, thence over U.S. Highway 22 to Junction U.S. Highway 20, thence over U.S. Highway 20 to Bend and return over the same route, for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): There are approximately (25) statements of support attached to this application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: Odoms DS, ICC, 114 Pioneer Courthouse, 555 SW., Yamhill Street, Portland, OR 97204.

MC 42146 (Sub.-20TA), filed November 21, 1978. Applicant: A. G. BOONE COMPANY, 1812 W. Morehead Street, P.O. Box 8126, Charlotte, NC 28208. Representative: Floyd C. Hartsell, P.O. Box 8126, Charlotte, NC 28208. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale, retail and chain-grocery and food business houses, and in connection therewith, equipment, materials and supplies used in the conduct of such business for the account of Rainbo Baking Co., between points and places in Mecklenburg County, NC and Washington County, TN., on the one hand and on the other, points and places in the State of NC, State of SC, State of TN, State of VA, Baltimore County, MD, Blair County, PA and Brooklyn, NY., under a continuing contract or contracts, with Rainbo Baking Company, for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Rainbo Baking Company, 4825 Hovis Road, Charlotte, NC 28208. SEND PROTESTS TO: Terrell Price DS, 800 Briar Creek Road, Room CC516, Mart Office Bldg., Charlotte, NC 28205.

MC 52704 (Sub.-196TA), filed November 21, 1978. Applicant: GLENN McCLENDON TRUCKING COMPANY, INC., P.O. Drawer H, Lafayette, AL 36863. Representative: Archie B. Culbreth, 2200 Century Parkway, Suite 202, Atlanta, GA 30345. (1) *Molded rubber and rubber and plastic combined products*, from the facilities of Entek Corporation of America at or near Irving, TX., to points in AL, AR, DE, FL, GA, IL, IN, KY, LA, MD, MS, MO, NJ, NC, OH, OK, PA, SC, TN, VA, WV and DC; and (2) *Materials, equipment and supplies used in the manufacture and distribution of molded rubber and rubber and plastic combined products*, (except commodities in bulk), from points in the States named in (1) above, to the facilities of Entek Corporation of America at or near Irving, TX., for 180 days. SUPPORTING SHIPPER(S): Entek Corporation of America, 104 County Line Road, Irving, TX 75060. SEND PROTESTS TO: Mabel E. Holston Trans. Asst., ICC, Room 1616, 2121 Building, Birmingham, AL. 35203.

MC 56679 (Sub-108TA); filed November 2, 1978. Applicant: BROWN TRANSPORT CORP., 352 University Avenue, S.W., Atlanta, GA 30315. Representative: Leonard S. Cassell, 352 University Ave., S.W., Atlanta, GA 30315. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, with usual exceptions, (1) Between Ocoee, TN. and New Orleans, LA.: Form Ocoee, TN. over U.S. Highway 64 to its Junction with Interstate 75 at or near Cleveland, TN, then over Interstate 75 to its junction with Interstate 24, then over Interstate 24 to its junction with Interstate 59, then over Interstate 59 to its junction with Interstate 10, then over Interstate 10 to New Orleans, LA., and return over the same route, serving all intermediate points in AL., MS. and LA. (2) Between Atlanta, GA. and New Orleans, LA.: From Atlanta, GA., over Interstate 85 to its Junction with Interstate 65 at or near Montgomery, AL., then over Interstate 65 to its temporary termination, then over AL., Highway 59 to its Junction with U.S. Highway 31, at or near Bay Minette, AL., then over U.S. Highway 31 to Mobile, AL., then over Interstate 10 to its Junction with U.S. Highway 90, then over U.S. Highway 90 to New Orleans, LA. and return over the same route, serving all intermediate points in AL, MS, and LA. (3) Between Columbus, GA. and Vicksburg, MS., and return over the same route, serving all intermediate points in AL. and MS. (4) Between Atlanta, GA. and Hamilton, AL.: From Atlanta over U.S. Highway 278 to Hamilton, AL., and return over the same route, serving all intermediate points in AL. (5) Between Birmingham, AL. and Southaven, MS.: From Birmingham, AL., over U.S. Highway 79 to Junction U.S. 51, then over U.S. 51 to Southaven, MS., and return over the same route, serving all intermediate points in AL., and MS. (6) Between Corinth, MS. and Mobile, AL.: From Corinth, MS. over U.S. Highway 45 to Mobile, AL., and return over the same route, serving all intermediate points.

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(7) Between Dothan, AL. and Natchez, MS.: From Dothan, AL. over U.S. Highway 84 to Natchez, MS. and return over the same route, serving all intermediate points. (8) Between Andalusia, AL. and Flomaton, AL.: From Andalusia, AL. over U.S. Highway 29 to Junction with U.S. Highway 31, then over U.S. Highway 31 to Flomaton, AL., and return over the same route serving all intermediate points. (9) Between Dothan, AL. and the AL-TN line North of Athens, AL.: From Dothan, AL. over U.S. Highway 231 to Montgomery, AL., then over Interstate 65 to AL-TN line and return over the same route serving all intermediate points. (10) Between Atlanta, GA. and Birmingham, AL. From Atlanta, GA., over Interstate 20 to Birmingham, LA., and return over the same route, serving all intermediate points in AL. (11) Between Dothan, AL. and Gadsden, AL.: From Dothan, AL. over U.S. Highway 431 to Gadsden, AL. and return over the same route, serving all intermediate points in AL. (12) Between Junction Interstate 59 and Alabama Highway 5 and Mobile, AL.: From Junction Interstate 59 and Alabama Highway 5 over Alabama Highway 5 to its Junction with U.S. Highway 43, then over U.S. Highway 43 to Mobile, AL., and return over the same route, serving all intermediate points. (13) Between Junction U.S. Highway 72 and U.S. Highway 41 and Southaven, MS.: From U.S. Highways 72 and 41 over U.S. Highway 72 to Junction U.S. Highways 51 and 72, then over U.S. Highway 51 to Southaven, MS., and return over the same route, serving all intermediate points in AL., and MS. (14) Between Memphis, TN. and New Orleans, LA.: From Southaven, MS., over U.S. Highway 51 to Horn Lake, MS., then over unnumbered highway to Walls, MS., then over U.S. Highway 61 to New Orleans, LA., and return over the same route serving all intermediate points. (15) Between Southaven, MS. and New Orleans, LA.: From Southaven, MS., over U.S. Highway 51 to Horn Lake, MS., then over unnumbered highway to Walls, MS., then over U.S. Highway 61 to New Orleans, LA., and return over the same route serving all intermediate points. (16) Between Montgomery, AL. and Greenville, MS.: From Montgomery, AL., over U.S. Highway 82 to Greenville, MS., and return over the same route, serving all intermediate points. (17) Between Dalton, GA., and Junction U.S. Highway 41 and U.S. Highway 72.: From Dalton, GA. over U.S. Highway 41 to Junction U.S. Highway 72 and return over the same routes serving no intermediate points. (18) Between Dalton, GA. and Gadsden, AL.: From Dalton, GA., over U.S. Highway 41 to Junction U.S. Highway 411, then over U.S. Highway 411 to Gadsden, AL., and return over the same route serving all intermediate points in AL. (19) Between Flomaton, AL., and Bay Minette, AL.: From Flomaton, AL., over U.S. Highway 31 to Bay Minette, AL., and return over the same route, serving all intermediate points. (20) Between Ocoee, TN., and Charlotte, NC.: From Ocoee, TN., over U.S. Highway 64 to Junction U.S. Highway 74, then over U.S. Highway 74 to Charlotte, NC., and return over the same route, serving all intermediate points in NC., serving as off-route points in connection with the above-described routes, all points in AL and MS, those within 20 miles of New Orleans, LA, those within 20 miles of Dalton, GA; and serving the Commercial Zones of the termini in the above routes, for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): There are approximately (274) statements of support attached to this application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: Sara K. Davis Trans. Asst., ICC, 1252 W. Peachtree Street, N.W., Room 300, Atlanta, GA. 30309.

MC 105375 (Sub-83 TA), filed November 21, 1978. Applicant: DAHLEN TRANSPORT, INC., 1680 Fourth Avenue, Newport, MN 55055. Representative: Joseph A. Eschenbacher, Jr., 1680 Fourth Avenue, Newport, MN 55055. *Chemicals*, (in bulk), from the plantsite of Minnesota Mining and Manufacturing Company at or near Cordova, IL, to the plantsite of Minnesota Mining and Manufacturing Company at or near Brookings, SD, for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Minnesota Mining and Mfg. Company, 3M Center, 224-1E, St. Paul, MN 55101. SEND PROTESTS TO: Delores A. Poe Trans. Asst., ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 106037 (Sub-5 TA), filed November 21, 1978. Applicant: ROADWAY TRANSPORT LIMITED, 25 Selfield Road, Rexdale, Ontario, Canada M9W 1E8. Representative: Robert G. Gawley, P.O. Box 184, Buffalo, NY 14221. *Trucks and buses and parts and accessories thereof*, moving at the same time with the vehicles of which they are a part and on which they are to be installed in initial and secondary movements in driveaway and truckaway service, for 90 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): General Motors of Canada Limited, Oshawa, Ontario L1G 1K7. SEND PROTESTS TO: ICC, 910 Federal Building, 111 West Huron St., Buffalo, NY 14202.

MC 107012 (Sub-323 TA), filed November 21, 1978. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801..Representative: David D. Bishop, P.O. Box 988, Fort Wayne, IN 46801. *New furniture*, from Red Lion, Mifflinburg and Stewartstown, PA, to points in North Carolina and South Carolina, for 180 days. SUPPORTING SHIPPER(S): Yorktown Cabinet Division of Wickes Corporation, Redco Avenue, Red Lion, PA 17356. SEND PROTESTS TO: J. H. Gray DS, ICC, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

NOTE: Common control may be involved.

MC 107743 (Sub-53 TA), filed November 21, 1978. Applicant: SYSTEM TRANSPORT, INC., E. 11707 Montgomery, P.O. Box 3456 TA, Spokane, Wa 99220. Representative: James W. Hightower, 136 Wynnewood Professional Bldg., Dallas, TX 75224. *Drilling mud, clay, gilsonite and lignite*, (except in bulk), from MT, ND, SD, NV, WY, TO TX, OK, OR, WA, ID, CA, IL, IN, MO, PA, OH, WI, MI AND IA., for 180 days. SUPPORTING SHIPPER(S): Dresser Industries, Inc., P.O. Box 6504, Houston, TX. SEND PROTESTS TO: Hugh H. Chaffee DS, ICC, 858 Federal Bldg., Seattle, WA 98174.

MC 108297 (Sub-29TA) filed November 21, 1978. Applicant: FOX TRANSPORT SYSTEM, 21 S. 5th Street, Philadelphia, PA 19106. Representative: James J. Fox (same address as applicant). *Such merchandise* as is dealt in by wholesale, retail, and chain grocery and food business houses, and in connection therewith, equipment, materials and supplies used in the conduct of such business, (except commodities in bulk), in vehicles equipped with mechanical refrigeration, between points in and south of the counties of Bradford, Lycoming, Clinton, Clearfield, Jefferson, Butler and Mercer, PA., on the one hand, and, on the other, points in New Jersey, West Chester, Nassau Counties, NY; Baltimore County and Baltimore, MD; Philadelphia, PA., and New York, NY., and their commercial zones, for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): There are approximately (11) statements of support attached to this application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: T. M. Esposito Trans. Asst., 600 Arch Street, Room 3238, Philadelphia, PA 19106.

MC 109443 (Sub-28TA) filed November 21, 1978. Applicant: SEABOARD TANK LINES, INC., Monahan Avenue, Dunmore, PA 18512. Representative: Joseph F. Hoary, 121 South Main Street, Taylor, MI 18517. *Dry Litharge*, (in bulk, in tank vehicles) from Dunmore, PA., to points in N.C., for 150 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Gould, Inc., Metals Division, P.O. Box 43484, St. Paul, MN 55164. SEND PROTESTS TO: Paul J. Kenworthy DS, ICC, 314 U.S. Post Office Bldg., Scranton, PA 18503.

MC 109449 (Sub-20TA) filed November 21, 1978. Applicant: KUJAK TRANSPORT, INC., Junction Avenue, Winona, MN 55987. Representative: Gary Huntbatch, Junction Avenue, Winona, MN 55987. *Meat, meat products, meat by-products, and articles distributed by meat packinghouses* (except hides and commodities in bulk), from Huron, SD and Austin, MN., to points in West Virginia, OH and points in PA., west of Highway 219, for 180 days. SUPPORTING SHIPPER(S): Geo. A. Hormel & Co., P. O. Box 800, Austin, MN 55912. SEND PROTESTS TO: Delores A. Poe Trans. Asst., ICC, 414 Federal Building & U.S. Court House, 110 South 4th St., Minneapolis, MN 55401.

MC111611 (Sub-42TA) filed November 21, 1978. Applicant: NOERR MOTOR FREIGHT, INC., 205 Washington Avenue, Lewistown, PA 17044. Representative: William D. Taylor, 100 Pine Street, San Francisco, CA 94111. (1) *Plastic containers and bottles and related materials*, From the plant sites and/or warehouses of IMCO Container Company at or near Lewistown, PA, to points in places in Ohio, Illinois, Indiana, Virginia, Pennsylvania, New York, Maryland, Delaware, New Jersey, Connecticut, Rhode Island, and MA.; and (2) *Plastic continers and bottles and related materials*, from the plant sites and/or warehouses of IMCO Container Company at or near Harrisonburg, VA; Rockaway, NJ; Jeffersonville, IN; Vandalia, IL; Pittsfield, MA; and Goleta, LaMirada and Union City, CA, to Lewistown, PA., for 180 days. SUPPORTING SHIPPER(S): IMCO Container Company, 75th & Cleveland Streets, Kansas City, MO 64132. SEND PROTESTS TO: Charles F. Myers DS, ICC, P.O. Box 869 Federal Square Station, 228 Walnut Street, Harrisburg, PA 17108.

MC 115495 (Sub-39 TA), filed November 9, 1978. Applicant: UNITED PARCEL SERVICE, INC., 300 North 2nd Street, St. Charles, IL 60174. Representative: Irving R. Segal, Schnader, Harrison, Segal & Lewis, 1719 Packard Building, Philadelphia, PA 19102 and Everett Hutchinson, Fulbright & Jaworski, Suite 400, 1150 Connecticut Ave., N.W., Washington, D.C. 20036. *General commodities*, (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between department stores, specialty shops and retail stores or the branches or warehouses of such stores; or between department stores, specialty shops and retail stores or the branches or warehouses thereof, on the one hand, and, on the other, the premises of the customers of such stores. (1) Between points in Area A, which includes: (1) California, Oregon and Washington, (2) those parts of Idaho and Nevada within an area described is follows: (a) that part of Idaho north and west of a line beginning at a point on the Washington-Idaho State line near Lewiston, Idaho, thence extending southeasterly along U.S. Highway 95 to Grangeville, Idaho, thence northeasterly along Idaho Highway 13 to junction Idaho Highway 9, thence along Idaho Highway 9 to eastern boundary of Nez Perce County, Idaho, thence northerly along the eastern boundaries of Nez Perce, Latah, Benewah, and Kootenai Counties, Idaho, to U.S. Highway 10, thence easterly along U.S. Highway 10 to the Idaho-Montana State line, thence northerly along the Idaho-Montana State line to the United States-Canada Boundary line; (b) that part of Idaho bounded by a line beginning at the Oregon-Idaho State line, thence extending easterly along U.S. Highway 30-N to Weiser, Idaho, thence southerly along U.S. Highway 95 to junction Idaho Highway 52, thence easterly along Idaho Highway 52 to Horse Shoe Bend, Idaho, thence southerly along Idaho Highway 15 to Boise, Idaho, thence westerly along U.S. Highway 30 to Nampa, Idaho, thence westerly along Idaho Highway 72 to junction U.S. Highway 95, thence southerly along U.S. Highway 95 to the Oregon-Idaho State line, and thence northerly along the Oregon-Idaho State line to the point of beginning; (c) that part of Nevada bounded by a line beginning at a point on the California-Nevada State line, near Verdi, Nev., thence extending easterly along U.S. Highway 40 (Interstate Highway 80) to junction Alternate U.S. Highway 95, thence easterly along Alternate U.S. Highway 95 through Hazen, Nev., to junction U.S. Highway 50, thence westerly along U.S. Highway 50 to Carson City, Nev., thence southerly along U.S. Highway 395 to the California-Nevada State line, and thence northerly along the California-Nevada State line to the point of beginning; and (d) that part of Nevada bounded by a line beginning at a point on the California-Nevada State line, thence extending northerly along U.S. Highway 91 (Interstate Highway 15) to Las Vegas, Nev., thence southeasterly along U.S. Highway 93 to junction U.S. Highway 95, thence southerly along U.S. Highway 95 to the California-Nevada State line, and thence northwesterly along the California-Nevada State line to the point of beginning; and Fallon and Boulder City, Nev., including all points on the described highways and those on the described county lines which do not coincide with State lines, and (3) those parts of Arizona within an area described as follows: (a) Phoenix and points within 25 miles of the Phoenix United States Post Office. (b) Tucson and points within 15 miles of the Tucson United States Post Office. (c) Yuma and Somerton. (d) On and within two miles of: U.S. Highways 66 and 89, and Arizona Highways 84, 87 and 187, between Flagstaff and Nogales, through Prescott, Wickenburg, Phoenix, Mesa, Coolidge, Tucson, and Casa Grange. Arizona Highway 187 between Florence and Coolidge. U.S. Highways 60, 70 and 80 between Buckeye and Globe through Florence Junction. U.S. Highway 80 between Tucson and Douglas. On the one hand, and, on the other, points in Area B which includes: (1) Alabama, Arkansas, Colorado, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Utah, Wisconsin and Wyoming; and points in Pennsylvania, West Virginia, and Virginia within ten miles of the Pennsylvania-Ohio, the West Virginia-Ohio, the West Virginia-Kentucky, the Virginia-Kentucky, the Virginia-Tennessee and the Virginia-North Carolina State lines. (2) all points in Idaho, Nevada and Arizona not included in Area A. 2. Between points in Area B above, restricted against the transportation of traffic originating at and destined to points in Texas, Oklahoma, and Kansas, that part of Nebraska on, south, and within 10 miles north of a line beginning at the Nebraska-Colorado state line and extending along U.S. Highway 138 to junction with U.S. Highway 30, and thence along U.S. Highway 30 to the Nebraska-Iowa State line, Fort Smith, Fayetteville and points in Benton, Carroll, and Boone Counties, AR, and those points in Arkansas on and west of U.S. Highway 71, points in Adair, Atchison, Andrew, Barry, Barton, Bates, Benton, Boone, Buchaan, Caldwell, Callaway, Camden, Carroll, Cass, Cedar, Chariton, Christian, Clay, Clinton, Cole, Cooper, Dade, Dallas, Daviess, DeKalb, Gentry, Greene, Grundy, Harrison, Henry, Hickory, Holt,

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Howard, Jackson, Jasper, Johnson, LaClede, Lafayette, Lawrence, Linn, Livingston, McDonald, Macon, Mercer, Miller, Moniteau, Morgan, Newton, Nodaway, Pettis, Platte, Polk, Putnam, Randolph, Ray, St. Claire, Saline, Schuyler, Stone, Sullivan, Taney, Vernon, Webster, and North Counties, MO, except between Omaha, NE; Kansas City, KS, and the counties in western Missouri named herein. Restricted against the transportation of traffic between Memphis, TN, and points in its commercial zone, as defined at 49 C.F.R. § 1048.33 (December 20, 1967), on the one hand, and, on the other, points in AR. Restricted against the transportation of traffic between Memphis, TN, on the one hand, and, on the other, points in that part of Mississippi on and north of U.S. Highway 80. Restricted against the movement of traffic between Denver, CO, on the one hand, and, on the other, points in Kansas and those in that part of Nebraska on and south, and within 10 miles north of a line beginning at the Nebraska-Colorado State line and extending along U.S. Highway 138 to junction U.S. Highway 30 and thence along U.S. Highway 30 to the Nebraska-Iowa State line.

Subject to the following restrictions:

No service shall be rendered in the transportation of any package or article weighing more than 50 pounds or exceeding 108 inches in length and girth combined, and each package or article shall be considered as a separate and distinct shipment.

No service shall be provided in the transportation of packages or articles weighing in the aggregate more than 100 pounds from one consignor at one location to one consignee at one location on any one day, for 180 days. SUPPORTING SHIPPER(S): There are approximately (103) statements of support attached to this application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: Lois M. Stahl, Trans. Asst. ICC, 219 S. Dearborn Street, Room 1386, Chicago, IL 60604.

MC 116254 (Sub-218TA), filed November 21, 1978. Applicant: CHEMHAULERS, INC., 118 East Mobile Plaza, Florence, AL 35630. Representative: Randy C. Luffman, P.O. Box 339, Florence, AL 35630. *Sodium silicate, (in bulk, in collapsible rubber containers or collapsible rubber tanks)*, from DuPont plant sites at East Chicago, IN, Fortyville, IN and Cleveland, OH., to the DuPont plant at New Johnsonville, TN., for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): E. I. DuPont de Nemous & Company, 1007 Market Street, Wilmington, DE 19898. SEND PROTESTS TO: Mabel E. Holston Trans. Asst., ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 116254 (Sub-219TA), filed November 21, 1978. Applicant: CHEMHAULERS, INC., 118 East Mobile Plaza, Florence, AL 35630. Representative: Randy C. Luffman, P.O. Box 339, Florence, AL 35630. *Inedible tallow*, From Montgomery, AL., to points in LA., for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): John Morrell & Co., 208 S. LaSalle St., Chicago, IL 60604. SEND PROTESTS TO: Mabel E. Holston Trans. Asst., ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 116459 (Sub-77TA), filed November 21, 1978. Applicant: RUSS TRANSPORT, INC., P.O. Box 4022, Chattanooga, TN 37405. Representative: Charles Williams (same address as applicant), *Asphalt and asphalt products*, (in bulk, in tank vehicles), from Atlanta and Lithonia, GA., to points in TN., for 180 days. SUPPORTING SHIPPER(S): Amoco Oil, Mail Code 1402, P.O. Box 6110-A, Chicago, IL 60680. SEND PROTESTS TO: Glenda Kuss Trans. Asst., ICC, Suite A-422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 118535 (Sub-61TA), filed November 21, 1978. Applicant: TIONA TRUCK LINE, INC., 111 S. Prospect, Butler, MO 64730. Representative: Tom Ventura (same address as applicant). *Lead and lead alloys*, (except commodities which because of size or weight require the use of special equipment), From Frisco, TX., to points in Arkansas, Colorado, Iowa, Illinois, Kansas, Louisiana, Missouri, Nebraska, Oklahoma & TN., for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Gould, Inc., Metals Divisions, Mendota Heights, MN 55050. SEND PROTESTS TO: John V. Barry DS, Room 600, 911 Walnut Street, Kansas City, MO 64106.

MC 123233 (Sub-87TA), filed November 21, 1978. Applicant: PROVOST CARTAGE, INC., 7887 Grenache Street, Ville d'Anjou, Quebec, Canada H1J 1C4. Representative: Gilbert G. Beriault (same address as applicant). *HVP Sauce (Soya Sauce)*, in bulk, in tank vehicles, From Harbor Beach, MI, to the port of entry on the International Boundary Line between the United States and Canada located at Port Huron, MI, restricted to traffic moving in foreign commerce only, for 90 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): RJR Foods, Ltd., 20 Sicard Street, Ste-Therese, Quebec, Canada. SEND PROTESTS TO: ICC, P.O. Box 548, 87 State Street, Montpelier, VT 05602.

MC 124692 (Sub-250 TA), filed November 21, 1978. Applicant: SAMMONS TRUCKING, P.O. Box 4347, Missoula, MT 59806. Representative: J. David Douglas (same address as applicant). *Insulated building and roofing panels, and equipment, materials and supplies* used in the installation thereof, (except commodities in bulk), from the facilities of Panel Era Corporation, at Dallas, TX, to points in the United States in, east and north of MN, IA, MO, KY and VA, for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Panel Era Corporation, 1857 South 3850 West, Salt Lake City, UT 84104. SEND PROTESTS TO: Paul J. Labane DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 125692 (Sub-251TA), filed November 21, 1978. Applicant: SAMMONS TRUCKING, P.O. Box 4347, Missoula, MT 59806. Representative: J. David Douglas (same address as applicant). *Insulated building and roofing panels, and equipment, materials and supplies* used in the installation thereof, (except commodities in bulk), from the facilities of Panel Era Corporation at Salt Lake City, UT, to points in the United States in and west of MN, IA, MO, OK and TX, (except Alaska and Hawaii), for 180 days. An underlying ETA seeks up to 90 days of authority. SUPPORTING SHIPPER(S): Panel Era Corporation, 8157 South 3850 West, Salt Lake City, UT 84104. SEND PROTESTS TO: Paul J. Labane DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 127187 (Sub-45TA), filed November 21, 1978. Applicant: FLOYD DUENOW, INC., 1728 Industrial Park Blvd., P.O. Box 415, Fertus Falls, MN 56537. Representative: James B. Hovland, 414 Gate City Bldg., P.O. Box 1680, Fargo, ND 58102. *Agricultural chemicals*, (except in bulk), from Great Falls, MT., to (1) Denver, CO; Sioux City, IA; Kansas City, KS; Kansas City, MO; Omaha, NE; Fargo, Grand Forks and Minot, ND; and points in ID, OR and WA; (2) ports of entry on the United States-Canada Boundary Line located at points in MT. RESTRICTION: Restricted in Part (2) to the transportation of traffic destined to Alberta, and Saskatchewan, Canada, for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Falls Chemicals, Inc., P.O. Box 6323, Great Falls, MT 59401. SEND PROTESTS TO: Ronald R. Mau DS, ICC, Room 268 Federal Bldg., & U.S. Post Office, 657 2nd Avenue North, Fargo, ND. 58102.

MC 134645 (Sub-27TA), filed November 21, 1978. Applicant: LIVESTOCK SERVICE, INC., P. O. Box 944, 1420 Second Avenue South, St. Cloud, MN

56301. Representative: Robert P. Sack, P. O. Box 6010, West St. Paul, MN 55113. *Fresh meats, suspended*, from Huron, SD., to Los Angeles County, CA., for 180 days. SUPPORTING SHIPPER(S): Huron Dressed Beef, Inc., Huron, SD. SEND PROTESTS TO: Delores A. Poe, Trans. Asst., ICC, 414 Federal Building & U. S. Court House, 110 South 4th St., Minneapolis, MN 55401.

MC 138254 (Sub-5TA), filed November 9, 1978. Applicant: NEW ENGLAND SHUTTLE SERVICE, INC, P. O. Box 39, West Dover, VT 05356. Representative: Edward L. Nehez, P. O. Box 1409, 167 Fairfield Road, Fairfield, NJ 07006. *Passengers and their baggage* in the same vehicle with passengers, in special operations, in door-to-door service, limited to transportation of no more than 11 passengers in any one vehicle, not including the driver thereof, and not including children under 10 years of age who do not occupy a seat or seats, (1) Between Winhall, Jamaica, Stratton and Somerset Townships, VT., on the one hand, and, on the other, Boston, MA, and New York, NY., and points in their respective commercial zones as defined by the Commission; Springfield, Amherst and Worcester, MA; Albany and Albany County Airport, NY; and New Haven, Greenwich, Hartford and Windsor Locks, CT; and (2) Between Dover, Jamaica, Marlboro, Newfane, Searsburg, Somerset, Stratton, Wardsboro, and Winhall Townships, VT., on the one hand, and, on the other Dillant-Hopkins Airport near Keene, NH., for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): (1) Dover Corporation-Mt. Snow, West Dover, VT. 05356. (2) Mountain Resorts, Inc., Mt. Snow, VT. 05356. (3) Vermont Equities, Ltd., West Dover, VT. 05356. SEND PROTESTS TO: David A. Demers DS, ICC, P. O. Box 548, 87 State Street, Montpelier, VT. 05602.

MC 138256 (Sub-14TA), filed November 21, 1978. Applicant: INTERIOR TRANSPORT, INC., N. 2128 Waterworks Way, P.O. Box 3347, Spokane, WA 99220. Representative: George H. Hart, 1100 IBM Bldg., Seattle, WA 98101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Boat trailer manufacturing materials consisting of tubular steel;* and (2) *boat trailer parts and related accessories* in (1) from Seattle, WA and Chicago, IL, to the facilities of E-Z Loader Spokane, WA. Shipment of materials described in (2) from E-Z Loader facilities in Spokane to E-Z Loader facilities in OH, under a continuing contract, or contracts, with E-Z Loader Trailer, Inc., for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): E-Z Loader Trailer, Inc., N. 717 Hamilton, Spokane, WA 99220. SEND PROTESTS TO: Hugh H. Chaffee DS, ICC, 858 Federal Bldg., Seattle, WA 98174.

MC 138627 (Sub-44TA), filed November 21, 1978. Applicant: SMITHWAY MOTOR XPRESS, INC., P.O. Box 404, Fort Dodge, IA 50501. Representative: Arlyn L. Westergren, 7101 Mercy Road, Suite 106, Omaha, NE 68106. *Lumber and lumber mill products*, from Oshkosh, WI, to points in Arkansas, Illinois, Indiana, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, Oklahoma and SD, for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Pluswood, Inc., P.O. Box 2248, Oshkosh, WI 54903. SEND PROTESTS TO: Herbert W. Allen DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 139193 (Sub-89TA), filed November 21, 1978. Applicant: ROBERTS & OAKE, INC., 4240 Blue Ridge Blvd., Kansas City, MO 64123. Representative: Jacob P. Billig, 2033 "K" Street, N.W., Washington, DC 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Canned and preserved foodstuffs*, from the facilities of Heinz U.S.A., Div., of H. J. Heinz Co., at or near Pittsburgh, PA, to points in Arkansas, Oklahoma and TX, under a continuing contract or contracts, with H. J. Heinz Co., for 180 days. SUPPORTING SHIPPER(S): Heinz U.S.A., Division of H. J. Heinz Co., P.O. Box 57, Pittsburgh, PA 15230. SEND PROTESTS TO: John V. Barry DS, Room 600, 911 Walnut, Kansas City, MO 64106.

MC 139244 (Sub-2TA), filed November 21, 1978. Applicant: TRUCKING SERVICE, INC., P.O. Box 229, Carlinville, IL 62656. Representative: Robert T. Lawley, 300 Reisch Building, Springfield, IL 62701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum articles*, from the facilities of Kaiser Aluminum & Chemical Corporation in the Chicago, IL, commercial zone to Arkansas, Colorado, Delaware, Florida, Georgia, Iowa, Indiana, Kansas, Kentucky, Maryland, Michigan, Minnesota, Missouri, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, and WI, under a continuing contract or contracts, with Kaiser Aluminum & Chemical Corporation, for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): F. A. Carre Manager Midwest Region, Kaiser Aluminum & Chemical Corporation, 9700 S. Harlem, Bridgeview, IL. 60455. SEND PROTESTS TO: Charles D. Little DS, ICC, 414 Leland Office Bldg., 527 East Capitol Avenue, Springfield, IL. 62701.

MC 141532 (Sub-36 TA), filed November 21, 1978. Applicant: PACIFIC STATES TRANSPORT, INC., 35433 16th Avenue South, Federal Way, WA 98003. Representative: Miles L. Kavaller, Mandel & Kavaller, 315 South Beverly Drive, Suite 315, Beverly Hills, CA 90212. *Plastic pipe and plastic pipe fittings*, from points in Bakersfield, Santa Ana and Sun Valley, CA, to points in Idaho, Montana, and UT, for 180 days. SUPPORTING SHIPPER(S): R & G Sloane Manufacturing Co., Inc., 7606 North Clybourn Avenue, Sun Valley, CA 91352. SEND PROTESTS TO: Hugh H. Chaffee DS, ICC, 858 Federal Bldg., Seattle, WA 98174.

MC 142672 (Sub-37TA), filed November 21, 1978. Applicant: DAVID BENEUX PRODUCE AND TRUCKING, INC., P.O. Drawer F, Mulberry, AR 72947. Representative: Don Garrison, 324 North Second Street, Rogers, AR 72756. *Candy and confectionery and candy cough drops*, from the facilities of Luden's, Inc., at or near Reading, PA, to points in California, Colorado, Louisiana, Missouri, Oklahoma, Oregon, Texas and WA., for 180 days. SUPPORTING SHIPPER(S): Luden's, Inc., 200 North Eighth Street, Reading, PA. 19609. SEND PROTESTS TO: William H. Land, Jr., DS, 3108 Federal Office Bldg., 700 West Capitol, Little Rock, AR 72201.

MC 142672 (Sub-38TA), filed November 21, 1978. Applicant: DAVID BENEUX PRODUCE AND TRUCKING, INC., P.O. Drawer F, Mulberry, AR 72947. Representative: Don Garrison, 324 North Second Street, Rogers, AR 72756. *Candy and confectionery*, from West Reading, PA, to Dallas, TX; Tacoma, WA; Vernon and Union City, CA; Denver, CO; Salt Lake City, UT; and Phoenix, AZ, for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): R. M. Palmer Candy Company, 2nd and Franklin Streets, West Reading, PA 19602. SEND PROTESTS TO: William H. Land, Jr., DS, 3108 Federal Office Building, 700 West Capitol Little Rock, AR. 72201.

MC 142672 (Sub-39TA), filed November 21, 1978. Applicant: DAVID BENEUX PRODUCE AND TRUCKING, INC., P.O. Drawer F, Mulberry, AR 72947. Representative: Don Garrison, 324 North Second Street, Rogers, AR 72756. *Recreational .equipment and related articles; BBQ equipment, NOI and electrical appliances NOI*, from the facilities of Neosho Products Company, at or near Neosho, MO., to points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA, and WY, for 180 days. SUPPORTING SHIPPER(S):

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Neosho Products, Division of Sunbeam, P.O. Box 622, Neosho, MO 64850. SEND PROTESTS TO: William H. Land, Jr., DS, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 142820 (Sub-2TA), filed November 21, 1978. Applicant: ODEX EXPRESS, INC., Bayonne, NJ 07002. Representative: Piken & Piken, One Lefrak City Plaza, Flushing, NY 11368. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fat and trimming*, (except in bulk), in mechanically refrigerated vehicles, from points in OH, to Carteret, NJ; and (2) *Shortening* (except in bulk), in mechanically refrigerated vehicles, from Carteret, NJ, to points in OH; (3) *Animal feed and feed ingredients, supplements, additives, materials and supplies* for use in the manufacture and promotion of animal feeds, from the facilities of Kal Kan Foods, Inc., at or near Columbus, OH, to points in NY, NJ, CT, PA, MA, RI, NH, VT, and ME. CONDITION: (A) Service in (1) and (2) above to be performed, under a contract or continuing contracts with Intercon Co., Inc., of Carteret, NJ. (B) Service in (3) above to be performed, under a continuing contract or contracts with Kal Kan Foods, Inc., of Vernon, CA, for 180 days. SUPPORTING SHIPPER(S): (1) Intercon Co., Inc., 351 Roosevelt Avenue, Carteret, NJ 07008. (2) Kal Kan Foods, Inc., 3386 E. 44th Street, Vernon CA 90058. SEND PROTESTS TO: Robert E. Johnston DS, ICC, 9 Clinton Street, Newark, NJ 07102.

MC 143846 (Sub-5TA), filed November 21, 1978. Applicant: P. ROSA, INC., 315 Feather Lane, Franklin Lakes, NJ 07417. Representative: Piken & Piken, One Lefrak City Plaza, Flushing, NJ 11368. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *General department store merchandise*, (1) From Baltimore, MD. to points in Vermont, New Hampshire, New York, Ohio, and PA. (2) Between Baltimore, MD and Chicago, IL. (3) From Albany, NY and New York, NY to Baltimore, MD. (4) From New York, NY to Chicago, IL, Cincinnati, OH, Ft. Worth, Dallas, Houston and San Antonio, TX, and Phoenix, AR. (5) From Fort Worth & Dallas, TX. to Baltimore, MD. (6) From Chicago, IL to Albany, NY. (7) Between New York, NY and Baltimore, MD, on the one hand, and points in CA, on the other. (8) From Nashville, TN to Chicago, IL and Baltimore, MD. CONDITION: Service to be performed for and in behalf of Montgomery Ward, under a continuing contract or contracts, with Montgomery Ward & Co., Inc., for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Montgomery Ward Co., Montgomery Ward Plaza, Chicago, IL 60671. SEND PROTESTS TO: Robert E. Johnston DS, ICC, 9 Clinton Street, Newark, NJ 07102.

MC 144162 (Sub-4TA), filed November 21, 1978. Applicant: TIME CONTRACT CARRIERS, INC., 17734 Sierra Highway, Canyon County, CA 91351. Representative: Milton W. Flack, 4311 Wilshire Blvd., Los Angeles, CA 90010. (1) *Gift-wrapped and packaged foods, food products and commodities dealt in by retail gift shops*, (except frozen), and (2) *Plants and bulbs* when moving at the same time and in the same vehicle with the commodities in (1) above, from the facilities of Harry and David located at or near Medford, OR, to points in the United States, (except Alaska and Hawaii), for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Harry and David, 2518 South Pacific Highway, Medford, OR 97501. SEND PROTESTS TO: Irene Carlos Trans. Asst., Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 144282 (Sub-4TA), filed November 21, 1978. Applicant: JAMES RECK, d/b/a JAMES RECK TRUCKING, 4029 W. McDowell No, 4, Phoenix, AZ 85009. Representative: Phil B. Hammond, Lewis P. Ames; Shimmel, Hill, Bishop & Gruender, 111 W. Monroe, 10th Floor, Phoenix, AZ 85003. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Iron Oxide*, From Vernon, CA, to points in AZ, under a continuing contract or contracts, with Pfizer Incorporated, for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Pfizer Incorporated, 235 E. 42nd Street, New York, NY 10017. SEND PROTESTS TO: Andrew V. Baylor DS, ICC, Room 2020 Federal Bldg., 230 N. First Avenue, Phoenix, AZ 85025.

MC 144819 (Sub-4TA), filed November 21, 1978. Applicant: C & N TRANSPORT, INC., 727 South Overhead Drive, Oklahoma City, OK 73108. Representative: C. L. Phillips, 1411 North Classen Terrace Bldg., Oklahoma City, OK 73106. *Meat, meat products, meat by-products and packing house products*, From Sioux City, IA, to points in CA., for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Armour Food Company, (Fresh meat Division), 111 W. Clarendon, Phoenix, AZ 85077. SEND PROTESTS TO: Connie Stanley Trans. Asst., Room 240, Old Post Office Bldg., 215 N.W., Third Street, Oklahoma City, OK 73102.

MC 145202 (Sub-2TA), filed November 21, 1978. Applicant: K-LINES, LTD., 3225 South 11th Street, Council Bluffs, IA 51501. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the Report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of Hygrade Food Products Corporation at Storm Lake and Cherokee, IA., to points in FL and GA., under a continuing contract or contracts, with Hygrade Food Products Corporation at Detroit, MI., for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): William L. Fidler, Director of Transportation, Hygrade Food Products Corporation, P.O. Box 4771, Detroit, MI 48219. SEND PROTESTS TO: Carroll Russell DS, ICC, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 145397 (Sub-1TA), filed November 21, 1978. Applicant: P. A. JOHNSON & CO., 1220 Monroe Avenue, Riber Forest, IL 60305. Representative: John F. Kelly (Same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* for the National Starch & Chemical Corporation, to include commodities that require protestion from freezing, not to include commodities in bulk), from the plant site of National Starch & Chemical Corporation at Chicago, IL., to points in the states of Indiana, Iowa, Michigan and WI as shown in attached Map restriction above. Authority restricted to seasonal operation, November through April, under a continuing contract or contracts, with National Starch & Chemical Corporation, for 180 days. SUPPORTING SHIPPER(S): National Starch & Chemical Corporation, Henry G. Kavanagh, Traffic Director, P.O. Box 6500, Bridgewater, NJ 08817. SEND PROTESTS TO: Lois M. Stahl, Trans. Asst., ICC, 219 South Dearborn St., Room 1386, Chicago, IL 60604.

MC 145640 (Sub-1TA), filed November 21, 1978. Applicant: STEPHEN R. GRIDER, 15571 Victoria Avenue, White Rock, B.C., Canada V4B 1H8. Representative: Craig Gray, 14344 Harris Road, Pitt Meadows, B.C., Canada VOM 1PO. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Brewer's grain, using sealed opened dum box* with a centre

gate for splitting the loads, from the ports of entry on the International Boundary line between the United States and Canada located at or near Blaine, Lynden and Sumas to Lynden, Everson and Sumas, WA., under a continuing contract or contracts, with Miracle Feeds, for 180 days. SUPPORTING SHIPPER(S): Miracle Feeds, 9395 Scott Road, Delta, B.C. SEND PROTESTS TO: Hugh H. Chaffee DS, ICC, 858 Federal Building, Seattle, WA 98174.

MC 145745 (Sub-1TA), filed November 21, 1978. Applicant: GODFREY LUMBER COMPANY, INC., P.O. Box 615, Statesville, NC 28677. Representative: Wilson W. Godfrey, 1715 Amity Hill Road, Statesville, NC 28677. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wrecker bodies*, from Chattanooga, and Newbern, TN., to Statesville, NC., under a continuing contract, or contracts, with Auto Equipment, Inc., for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Auto Equipment, Inc., Route 1, Box 358, Statesville, NC 28677. SEND PROTESTS TO: Terrell Price DS, 800 Briar Creek Road, Room CC516, Mart Office Building, Charlotte, NC 28205.

MC 145794TA, filed November 21, 1978. Applicant: ARD'S TRUCKING COMPANY, INCORPORATED, P.O. Box 362, Darlington, SC 29532. Representative: Martin S. Driggers, Sr., Saleeby, Cox, Driggers & Blodsoe, P.O. Box 519, Hartsville, SC 29532. *Steel and steel products and wire and wire products*, between the facilities of the ACCO Corp., Darlington County, SC., and the facilities of Nucor Corp., Darlington and Florence Counties, SC., on the one hand, and, on the other, points in Alabama, Delaware, Georgia, Florida, Indiana, Kentucky, Missouri, North Carolina, Maryland, New Jersey, New York, Ohio, Pennsylvania, Tennessee, Virginia, and WV., for 180 days. SUPPORTING SHIPPER(S): Vulcraft Division, Nucor Corporation, P.O. Box F-2, Florence, SC 29502. (2) Page Fence Division, Acco Corporation, P.O. Box 25, Darlington, SC 29532. SEND PROTESTS TO: E. E. Strotheid DS, Room 302, 1400 Building, 1400 Pickens Street, Columbia, SC 29201.

MC 145795TA, filed November 21, 1978. Applicant: HERBERT E. CRAVEN, JR., d/b/a HERBERT E. CRAVEN & SON, P.O. Box 124, Ladson, SC 29456. Representative: Falcon B. Hawkins, Hawkins & Morris, 141 East Bay Street, Charleston, SC 29401. *Dry fertilizer and dry fertilizer materials*, (in bulk and in bags), from Clyo, GA., to the facilities of Goldkist, Inc., in Allendale, Anderson, Bamberg, Calhoun, Charleston, Clarendon, Greenville, Edgefield, Laurens, Lee, Newberry, Orangeburg and Williamsburg Counties, SC., for 180 days. SUPPORTING SHIPPER(S): Gold Kist, Inc., P.O. Box 2210, Atlanta, GA 30301. SEND PROTESTS TO: E. E. Strotheid DS, Room 302, 1400 Building, 1400 Pickens Streets, Columbia, SC 29201.

By the Commission.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc. 79-880 Filed 1-9-79; 8:45 am]

[7035-01-M]

[I.C.C. Order No. P-15]

ST. LOUIS SOUTHWESTERN RAILWAY COMPANY

Passenger Train Operation; Decision

Decided: December 26, 1978.

The National Railroad Passenger Corporation (Amtrak) has established through passenger train service between Chicago, Illinois, and Laredo, Texas. The operation of these trains requires the use of the tracks and other facilities of the Missouri Pacific Railroad Company (MP) between St. Louis, Missouri, and Laredo. A portion of these MP tracks between Little Rock, Arkansas, and Texarkana, Arkansas-Texas, are temporarily out of service because of a derailment. An alternate route is available between these points via the lines of the MP between Little Rock and Pine Bluff, Arkansas, and thence via the lines of the St. Louis Southwestern Railway Company between Pine Bluff and Taxarkana.

It is the opinion of the Commission that the use of such alternate route is necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, (a) Pursuant to the authority vested in me by order of the Commission served December 10, 1976, and of the authority vested in the Commission by section 402(c) of the Rail Passenger Service Act of 1970 (45 U.S.C. 562(c)), the St. Louis Southwestern Railway Company be, and it is hereby directed to permit the use of its tracks and facilities for the movement of trains of the National Railroad Passenger Corporation between a connection with the Missouri Pacific Railroad Company at Pine Bluff, Arkansas, and a connection with the Missouri Pacific at Texarkana, Arkansas-Texas.

(b) In executing the provisions of this order, the common carriers involved shall proceed even though no agreements or arrangements now exist between them with reference to the compensation terms and conditions applicable to said transportation. The compensation terms and conditions shall be, during the time this order remains in force, those which are voluntarily agreed upon by and between said carriers; or upon failure of the carriers to agree, the compensation terms and conditions shall be as hereafter fixed by the Commission upon petition of any or all of the said carriers in accordance with pertinent authority conferred upon it by the Interstate Commerce Act and by the Rail Passenger Service Act of 1970, as amended.

(c) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(d) *Effective date.* This order shall become effective at 2:00 p.m., CST December 26, 1978.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., CST December 29, 1978, unless otherwise modified, changed or suspended by order of this Commission.

This order shall be served upon the St. Louis Southwestern Railway Company and upon the National Railroad Passenger Corporation, and a copy of this order shall be filed with the Director, Office of the Federal Register.

Interstate Commerce Commission,
Robert S. Turkington,
Agent.

[FR Doc. 79-891 Filed 1-9-79; 8:45 am]

[7035-01-M]

[Revised I.C.C. Order No. P-15]

CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD CO.

Passenger Train Operation; Decision

Decided December 27, 1978.

The National Railroad Passenger Corporation (Amtrak) has established through passenger train service between Chicago, Illinois, and Laredo, Texas. The operation of these trains requires the use of the tracks and other facilities of the Missouri Pacific Railroad Company (MP) between St. Louis, Missouri, and Laredo. A portion of these MP tracks between Little Rock, Arkansas, and Texarkana, Arkansas-Texas, are temporarily out of service because of a derailment. An alternate route is available between these points via the lines of the MP between Little Rock and Haskells, Arkansas, and thence via the lines of the Chicago, Rock Island and Pacific Railroad Company between Haskells and Benton, Arkansas, and thence via the lines of the MP.

It is the opinion of the Commission that the use of such alternate route is

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necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

(a) Pursuant to the authority vested in me by order of the Commission served December 10, 1976, and of the authority vested in the Commission by section 402(c) of the Rail Passenger Service Act of 1970 (45 U.S.C. 562(c)), the Chicago, Rock Island and Pacific Railroad Company be, and it is hereby directed to permit the use of its tracks and facilities for the movement of trains of the National Railroad Passenger Corporation between a connection with the Missouri Pacific Railroad Company at Haskells, Arkansas, and a connection with the Missouri Pacific at Benton, Arkansas.

(b) In executing the provisions of this order, the common carriers involved shall proceed even though agreements or arrangements now exist between them with reference to the compensation terms and conditions applicable to said transportation. The compensation terms and conditions shall be, during the time this order remains in force, those which are voluntarily agreed upon by and between said carriers, or upon failure of the carriers to agree, the compensation terms and conditions shall be as hereafter fixed by the Commission upon petition of any or all of the said carriers in accordance with pertinent authority conferred upon it by the Interstate Commerce Act and by the Rail Passenger Service Act of 1970, as amended.

(c) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(d) *Effective date.* This order shall become effective at 2:00 p.m., CST December 27, 1978.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., CST December 29, 1978, unless otherwise modified, changed or suspended by order of this Commission.

This order shall be served upon the Chicago, Rock Island and Pacific Railroad Company and upon the National Railroad Passenger Corporation, and a copy of this order shall be filed with the Director, Office of the FEDERAL REGISTER

INTERSTATE COMMERCE COMMISSION,
ROBERT S. TURKINGTON,
Agent.

[FR Doc. 79-882 Filed 1-9-79; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3)

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[6320-01-M]

1

[M-189; JANUARY 4, 1979.]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., January 11, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of items adopted by notation.
2. Docket 29044, Part 252—Final Rule on Segregation of Smokers. (OGC)
3. Amendement of Board's *Ex Parte* Rules, 14 CFR 300.2, 300.3, (OGC)
4. Docket 30362—Fees for shippers on air freight shipments. (Memo 7190-B, OGC.)
5. Docket 30537, Draft final rule to eliminate CAB Form 41 Schedule P-13, "Passenger Revenue and Traffic Data by Type of Fare—48 States." (Memo 7550-A, BAS, BPDA, OEA, OGC.)
6. Docket 28115—*Midwest-Atlanta Nonstop Service Investigation*—draft tentative decision. (Memo 8084-A, OGC.)
7. Docket 29790—*Dallas/Fort Worth-Western Mexico Route Proceeding*, Designation of the carrier to serve Route B.3, United States-Mexico Air Transport Agreement, January 1, 1978. Memorandum of Issues and Request for Instructions. (OGC, BIA.)
8. Docket 28475, St. Louis-Kansas City Subpart M Proceeding. (Memo 5708-D, (OGC.))
9. Docket 33171, Dismissal of an application for approval of interlocking directors. Hawaiian Airlines, Inc., *et al.* (BPDA)
10. Dockets 33580, 33629, 33672, 33821, 33863, 33878, and 33997, Applications for certificate amendments nonstop Denver-Detroit authority in the following: Frontier, Braniff, Northwest, Allegheny, Continental, American and Ozark. (BPDA)
11. Dockets 33223, 33462, 33548, 33948, Federal Express petition for an order to show cause on its certificate application for Midway-Cleveland/Detroit/Kansas City/Minneapolis/Pittsburgh/St. Louis nonstop authority; Wright's petition for an order to show cause on its certificate amendment application for Midway-Cleveland/Detroit nonstop authority; Ozark's application for Midway-Cleveland/Detroit/Kansas City/Minneapolis/Pittsburgh nonstop authority and its motion to consolidate with Federal Express, application; Frontier's application for Midway-Cleveland/Detroit/Kansas City/Minneapolis/Pittsburgh/St. Louis nonstop authority and its motion to consolidate with Federal Express application and for dismissal of its application; American's answer requesting some of the same authority. (Memo 8373-B, BPDA.)
12. Dockets 32801 (United), 32864 (Southern), 32917 (American), 33596 (Allegheny), 34112 (Contintental), 29622 (Delta), 34221 (Ozark), 33628 (American), 33679 (Braniff), 33746 (Allegheny), 33888 (Continental), 33892 (Southern), 33999 (Ozark), 34192 (Piedmont), requesting authority between Memphis and various points; Dockets 34073 (United), 34113 (Continental), 34169 (Delta); exemption requests. (Memo 8414, BPDA.)
13. Dockets 33115 (Braniff), 33298 and 33202 (Airwest), 33315 (American), 33524 (Western), 33543 (TWA), 33607 (Continental), 33674 (Northwest), 33671 (Allegheny), 33996 and 34067 (Ozark), requesting certificate authority between Salt Lake City and various points. (Memo 8412, 8412-A, BPDA, BALJ.)
14. Docket 32696, order 78-9-150, Frontier's application to serve Redding, Calif., and order to show cause. (BPDA)
15. Dockets 31128, 31213,31244, 31529, and 32791—Service to Fort Myers. (Memo 8233, BPDA, OCCR, BALJ, OGC.)
16. Air Carrier rules pertaining to transportation of pregnant women. (Memo 8387, BPDA.)
17. Docket 33288—Petition by Governor, State of Illinois; City of Rockford, Ill.; Greater Rockford Airport Authority; et al. for show-cause order to hyphenate Chicago, Ill., and Rockford, Ill. on certificates of airlines serving Chicago but not authorized to serve Rockford. (Memo 8418, BPDA.)
18. Docket 33960, Allegheny's notice of termination of services at Utica, N.Y., under sections 401(j) and 419(a)(3). The Board is acting on the request by Oneida County to prohibit Allegheny's withdrawal. (BPDA)
19. Dockets 34148, 34149, 34260, and 34262—Airwest's notices of intent to suspend services at Bakersfield, Calif., and Medford, Oreg., respectively, in 90 days. (Memo 8415, BPDA.)
20. Docket 31233, Air New England application requesting dual authorization—instant order responds to petitions for reconsideration filed by Air New England and Commuter Airline Association of America, Inc. (Memo 8061-B, BPDA.)
21. Dockets 34055 and 34083; applications of North Central Airlines and Braniff Airways for an exemption under 416(b) from the service-commencement requirement of section 401(d)(5)(H)(i) of the unused authority provisions. (BPDA)
22. Docket 34306, complaint of TWA against American's "Winter Sale" fares alleging that the filing should have been made on 60-days notice rather than 45-days notice provided by American. (BPDA)
23. United States-Mideast and Far East fare increases filed by Pan American. (Memo 8419, BPDA, BIA.)
24. Docket 30332, IATA agreements proposing varying increases in Western Hemisphere cargo rates through September 30, 1979, to compensate for cost increases. The reporting carriers support the increases; no other comments or objections have been received. (Memo 8322, 8322-A, BPDA, BIA, OGC.)
25. Dockets 33112 and 33283, Waiver of separation of functions rule (section 300.4) in *TXI-National Acquisition Case* (Memo 8242-D, BCP, OGC.)
26. Recommended reply to the Department of State's request for views on granting Japan authority to serve San Juan. (BIA, BPDA, OEA, memo 8359.)

STATUS: Open. Closed—Item 26.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: This memo contains possible strategy and positions to be taken by the United States in its negotiations with Japan. Public disclosures, particularly to foreign governments, of opinions, evaluations, and strategies relating to the issues could seriously compromise the ability of the United States Delegation to achieve an agreement which would be in the best interests of the United States. Accordingly, the following Members have voted that the meeting on this subject would involve matters the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action within the meaning of the exemption provided under 5 U.S.C. 552b(c)(9)(B) and 14 CFR Section 310b (9)(B) and that the meeting on this item should be closed:

Chairman Marvin S. Cohen
Member Elizabeth E. Bailey
Member Gloria Schaffer

Member O'Melia was not present.

PERSONS EXPECTED TO ATTEND:

Board Members: Chairman Marvin S. Cohen, Member Richard J. O'Melia, Member Elizabeth E. Bailey, and Member Gloria Schaffer.

Assistants to Board Members: Mr. David M. Kirstein, Mr. Sanford Rederer, and Mr. Stephen H. Lachter.

Office of the Managing Director: Mr. John R. Hancock.

Bureau of International Affairs: Mr. Donald A. Farmer, Jr., Ms. Sandra W. Gerson, Mr. David A. Levitt, Mr. Edward R.

Wilbur, Mr. Ronald C. Miller, Mr. Richard M. Loughlin, and Mr. Willard L. Demory.

Office of the General Counsel: Mr. Philip J. Bakes, Jr., Mr. Gary J. Edles, Mr. Peter B. Schwarzkopf, Mr. Michael Schopf, and Ms. Carol Light.

Bureau of Pricing and Domestic Aviation: Mr. Michael E. Levine, Ms. Barbara A. Clark, Mr. Herbert Aswall, Mr. Douglas V. Leister, and Mr. James L. Deegan.

Office of Economic Analysis: Mr. Robert H. Frank and Mr. Richard H. Klem.

Bureau of Consumer Protection: Mr. Reuben B. Robertson.

Office of the Secretary: Mrs. Phyllis T. Kaylor and Ms. Deborah A. Lee.

GENERAL COUNSEL CERTIFICATION

I certify that this meeting may be closed to the public under 5 U.S.C. 552b(c)(9)(B) and 14 CFR section 310b.5(9)(B) and that this meeting may be closed to public observation.

PHILLIP J. BAKES, Jr.,
General Counsel.

[S-42-79 Filed 1-8-79; 10:45 am]

[6351-01-M]

2

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11 a.m., January 9, 1979.

PLACE: 2033 K Street NW., Washington, D.C., fifth floor hearing room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement matter/settlement offer.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-41-79 Filed 1-8-79; 10:45 am]

[6350-01-M]

3

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 2 p.m., January 19, 1979.

PLACE: 2033 K Street NW., Washington, D.C., eighth floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Judicial session.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-48-79 Filed 1-8-79; 3:44 pm]

[6714-01-M]

4

FEDERAL DEPOSIT INSURANCE CORPORATION.

NOTICE OF AGENCY MEETING

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 10:30 a.m. on Saturday, January 6, 1979, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to (1) accept sealed bids for the purchase of certain assets of and the assumption of the deposit liabilities of Toney Brothers Bank, Doerun, Georgia, which was closed by the Commissioner of the Department of Banking and Finance of the State of Georgia on January 5, 1979; (2) approve a resulting application from American Banking Co., Moultrie, Ga., for consent to purchase certain assets of and assume the liability to pay deposits made in the closed bank and for consent to operate the sole office of Toney Brothers Bank as a branch of American Banking Co.; (3) provide such financial assistance, pursuant to section 13(e) of the Federal Deposit Insurance Act (12 U.S.C. 1823(e)), as was necessary to effect the purchase and assumption transaction; and (4) appoint a liquidator for such of the assets of the closed bank as were not purchased by American Banking Co.

In calling the meeting, the Board determined, on motion of Director William M. Isaac (Appointive), seconded by Acting Chairman John G. Heimann, that Corporation business required its consideration of the matter on less than 7 days notice to the public; that no earlier notice of the meeting was practicable; and that the meeting could be closed to public observation pursuant to subsections (c)(8) and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8) and (c)(9)(A)(ii)), since the public interest did not require consideration of the matter in a meeting open to public observation.

Dated: January 8, 1979.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[S-46-79 Filed 1-8-79; 2:52 pm]

[4910-58-M]

5

NATIONAL TRANSPORTATION SAFETY BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 44 FR 1288, January 4, 1979.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9 a.m. Thursday, January 11, 1979, [NM-79-1].

CHANGE IN MEETING: A majority of the Board has determined by recorded vote that the business of the Board requires revising the agenda of this meeting and that no earlier announcement was possible. The agenda as now revised is set forth below.

STATUS: Open.

1. *Aircraft Incident Report*—E.S.M. Group, Inc., Cessna Citation, N51MW, North Central Airlines, Inc., DC-9-30, N957N, LaGuardia Airport, Flushing, N.Y., June 21, 1978.
2. *Marine Accident Reports*—U.S.S. *L. Y. Spear* collision with Liberian Motor Tankship *Zephyros*, Lower Mississippi River, February 22, 1978.
3. *Letter* to Federal Aviation Administration re Recommendation A-75-28, overboard leakage of fluids subject to freezing.
4. *Discussion* of reassignment of duties, Oakland Field Chief.

CONTACT PERSON FOR MORE INFORMATION:

Sharon Flemming, 202-472-6022.

[S-47-79 Filed 1-8-79; 2:54 pm]

[7600-01-M]

6

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 9:30 a.m., January 18, 1979.

PLACE: Room 1101, 1825 K Street NW., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION:

Mrs. Patricia Bausell, 202-634-4015.

Date: January 8, 1979.

[S-43-79 1-8-79; 12:45 am]

[4410-01-M]

7

PAROLE COMMISSION.

National Commissioners—the Commissioners presently maintaining officers at Washington, D.C. Headquarters.

TIME AND DATE: 9:30 a.m., Wednesday, January 10, 1979.

PLACE: Room 831, 320 First Street N.W., Washington, D.C. 20537.

STATUS: Closed, pursuant to a vote to be taken at the beginning of the meeting.

MATTER TO BE CONSIDERED: Referrals from Regional Commissioners of approximately 20 cases in which inmates of Federal Prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION:

A. Ronald Peterson, Analyst, 202-724-3094.

[S-45-79 Filed 1-8-79; 2:38 pm]

[7910-01-M]

8

RENEGOTIATION BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 44 FR 1511, January 5, 1979.

PREVIOUSLY ANNOUNCED DATE AND TIME OF MEETING: Tuesday, January 9, 1979.

CHANGE IN MEETING: Meeting is cancelled.

CONTACT PERSON FOR MORE INFORMATION: Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street, N.W., Washington, D.C. 20446, 202-254-8277.

Dated January 5, 1979.

HARRY R. VAN CLEVE,
Acting Chairman.

[S-44-79 Filed 1-8-79; 2:38 pm]

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federal register

WEDNESDAY, JANUARY 10, 1979
PART II



ENVIRONMENTAL PROTECTION AGENCY

■

TOXIC SUBSTANCES CONTROL

Premanufacture Notification Requirements and Review Procedures

V 4 4 / 7

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 720]

[OTS-050002; FRL—1022-6]

TOXIC SUBSTANCES CONTROL

Premanufacture Notification Requirements and Review Procedures

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rules and notice forms.

SUMMARY: These proposed rules and notice forms would implement the requirements of section 5 of the Toxic Substances Control Act (TSCA) concerning new chemical substances. TSCA requires each person who intends to manufacture or import a new chemical substance for commerical purposes to submit a notice to EPA at least 90 days before manufacture or import commences. At the end of the notification period, the person may manufacture or import the substance unless EPA has taken regulatory action under section 5(e) or section 5(f) to ban or otherwise regulate the substance.

These proposed rules and forms would define the applicability of these requirements, the information which must be submitted, optional information submissions, and Agency procedures for reviewing notices.

DATES: Interested persons, should comment on these proposed requirements on or before March 26, 1979.

PUBLIC MEETINGS: EPA has scheduled the following public meetings on these proposed rules and forms during the official comment period:

Atlanta, Georgia	January 31, 1979
Dallas, Texas	February 1, 1979
Los Angeles, California	February 2, 1979
Chicago, Illinois	February 6, 1979
Cleveland, Ohio	February 7, 1979
Newark, New Jersey	February 8, 1979
Washington, D.C	February 13 & 14, 1979

The purpose of these meetings is to enable interested persons to provide oral comments on the proposed rulemaking to EPA officials who are directly responsible for developing the rules and notice forms. See Part VI under "Supplementary Information" below.

ADDRESS: Written comments should bear the document control number OTS-050002 and should be submitted in triplicate to the Document Control Officer (TS-793), Office of Toxic Substances, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

The addresses for the public meetings are provided in Part VI under "Supplementary Information" below.

FOR FURTHER INFORMATION CONTACT:

Mr. John B. Ritch, Director, Industry Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460; 800-424-9065 toll free; in Washington, D.C. call 554-1404.

SUPPLEMENTARY INFORMATION: The remainder of this preamble discusses EPA's approach to implementing the premanufacture notification requirements, the provisions of this proposal, major issues addressed in developing this proposal, and anticipated impact. The Agency also has prepared a Support Document which is available from the Industry Assistance Office. (See "Information Contact" above.) EPA requests comments on any aspect of this proposal and alternative approaches. The Agency has identified specific issues for comment in this preamble and in the Support Document.

Following is an index to the remainder of this preamble.

I. INTRODUCTION
A. STATUTORY FRAMEWORK
B. PARTS OF THIS RULEMAKING
C. GENERAL APPROACH
D. INTERIM POLICY—SUBMITTAL OF PREMANUFACTURE NOTICES PRIOR TO PUBLICATION OF THE INVENTORY
II. PROVISIONS OF THIS PROPOSAL
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2. *What Chemical Substances Must be Reported*
B. GENERAL NOTICE PROCEDURES
1. *General Provisions*
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III. MAJOR ISSUES
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B. TESTING FOR NEW CHEMICAL SUBSTANCES
C. SMALL BUSINESS; LOW VOLUME CHEMICALS
IV. IMPACTS
A. REGULATORY ANALYSIS
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C. OTHER IMPACTS
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V. PUBLIC PARTICIPATION
VI. PUBLIC MEETINGS
VII. PUBLIC RECORD

I. INTRODUCTION

A. STATUTORY FRAMEWORK

Under § 5 of the Toxic Substances Control Act (TSCA), 15 U.S.C. section 2604, any person who intends to manufacture a new chemical substance for commercial purposes in the United States must submit a notice to the Environmental Protection Agency (EPA) at least 90 days before he commences manufacture. Section 3(7) of the Act defines "manufacture" to include import into this country. Thus section 5 and this proposed rulemaking apply to imports of new chemical substances as well.

Section 3(9) of the Act defines a "new chemical substance" as any chemical substance which is not included on the list, or "inventory," of existing substances published by EPA under section 8(b). The Agency promulgated the inventory reporting rules on December 23, 1977, 40 CFR Part 710, (42 FR 64572) and supplemented these rules on March 6, 1978 (43 FR 9254) and April 17, 1978 (43 FR 16147). The Agency presently is compiling this inventory and intends to publish it during the first half of 1979. Thirty days after this publication, the requirements of section 5 are effective.

Section 5(d)(1) of the Act defines the contents of a premanufacure notice. It requires the manufacturer to report certain information described in § 8(a)(2) of the Act (e.g., chemical identity, uses, and exposure data) plus test data and descriptions of other data related to the effects on health and the environment of the manufacture, processing, distribution in commerce, use, and disposal of the new chemical substance. In general, these data and information must be submitted to the extent they are known to or reasonably ascertainable by the submitter.

Section 5(b) of the Act contains additional reporting requirements for chemical substances subject to testing rules under section 4 of the Act and chemicals which the Administrator, by rules under § 5(b)(4) of the Act, has determined may present unreasonable risks of injury to health or the environment. Section 5(h) authorizes exemptions from some or all of the reporting requirements for new chemical substances which are used for certain limited purposes including in small quantities solely for purposes of research and development, for test marketing, or for use as intermediates if there is no exposure to the substances.

Once EPA receives a premanufacture notice, the Agency normally has 90 days within which to review it (§ 5(a)(1)). However, under section 5(c) of the Act, the Agency for good cause may extend the review period for up to an additional 90 days. During the premanufacture review period, EPA may initiate actions under sections 5(e) or 5(f) to regulate the production and use of the new chemical substance. Section 5(e) authorizes EPA to regulate the manufacture, processing, distribution in commerce, use or disposal of a new chemical substance pending development of sufficient data to evaluate the effects of the substance, if the Agency determines that the information available is insufficient to evaluate the health and environmental effects, and that the substance either (1) may present an unreasonable risk of injury to health or the environment or (2) will be produced in substantial quantities and there may be significant or substantial exposure to the substance. Under section 5(f), EPA may regulate a new chemical substance if the Agency finds that there is a reasonable basis to conclude that the manufacture, processing, distribution in commerce, use, or disposal of the substance will present an unreasonable risk of injury to health or the environment before a rule promulgated under § 6 can protect against such risk. Under both § 5(e) and § 5(f), EPA may limit production and use or ban manufacture altogether.

Once the notification period expires, the submitter may commence manufacture of the substance if EPA or a Federal court has not banned production. When manufacture begins, EPA will add the substance to the inventory. Thereafter any person may produce the substance without giving notice to the Agency under § 5(a)(1)(A) of the Act. If the Agency has not prohibited manufacture, but has placed limitations on the chemical substance, others may manufacture it provided they comply with the requirements.

The Act requires EPA to publish in the FEDERAL REGISTER certain information on a chemical substance for which the Agency has received a premanufacture notice. Section 5(d)(2) requires EPA to publish, within five days of receipt of a notice, information on the identity and uses for the substance, as well as a description of test data required to be submitted under § 5(b) and the results of such tests. In addition, at the beginning of every month the Agency must publish a list of (1) each chemical substance for which a premanufacture notice has been received and for which the notification period has not expired, and (2) each chemical substance for which the notification period has expired since the last monthly FEDERAL REGISTER notice. Also, section 5(g) of the Act requires EPA to publish in certain cases a statement in the FEDERAL REGISTER of the reasons for not taking regulatory actions on substances for which the Agency has received notices.

B. PARTS OF THIS RULEMAKING

This rulemaking establishes the basic framework for the premanufacture program and has two components, premanufacture rules and notice forms. The rules will be codified as 40 CFR Part 720 and would contain the following subparts:

Subpart A, "General"—general scope and compliance provisions; definitions applicable to the entire Part 720.

Subpart B, "Applicability"—persons who must submit notices and those who need not; chemicals subject to notification and those excluded; exemptions.

Subpart C, "Premanufacture Notices"—general provisions concerning how, where, and when to submit notices; special provisions for imports; general content of notices; submittal of health and environmental effects data.

Subpart D, "Disposition of Notices"—EPA's procedures for receiving, processing, and reviewing notices; deficiencies and invalid notices; actions under § 5(e) and § 5(f) of the Act.

Subpart E, "Confidentiality and Public Access to Information"—general provisions for handling, protecting and disclosing confidential information; special provisions concerning information on chemical identity and use, and for data from health and safety studies; public files.

Subpart F "Supplemental Reporting Requirements"—additional reporting requirements under § 5, § 8(a), and § 8(d) of the Act; reporting concerning commencement of manufacture.

The general notice form is referenced in the regulations, and contains the specific information requirements applicable to new chemical substances. In particular, it contains both mandatory and optional parts: manufacturers must submit information concerning experimental testing performed and exposures to humans and the environment; at their discretion, they may submit other information concerning steps taken to control exposures and concerning certain non-risk factors. EPA also is publishing for public comment three other forms: one to be sent by manufacturers and importers to persons likely to process or use the substance; one for use by importers; and one to be sent by importers to the suppliers and manufacturers of their imported substances.

After evaluating comments, EPA will promulgate the final rules and forms, and in the future the Agency will follow notice and comment rulemaking procedures to make substantive changes in them. EPA will treat as technical amendments any minor changes which would not require public comment under the Administrative Procedure Act (APA). The forms will be available at EPA offices and other locations throughout the country for use in preparing premanufacture notices.

In addition to the rules, forms, and preamble, EPA has developed a Support Document which discusses in detail the basic issues in this rulemaking and includes (where appropriate) alternatives considered and EPA's rationale for its proposed approach. A separate document, *Impact of TSCA Premanufacturing Review Requirements* discusses the estimated economic impacts of the proposed program.

Three other documents supplement this rulemaking. First, Appendix II to this proposal contains a slightly amended version of the *Guidelines for Creating Proposed Generic Names*, originally made available by EPA in April 1978 (43 FR 16178) to assist in development of proposed generic names for the inventory. The Agency will use this document in implementing relevant parts of these premanufacture rules. Second, at a later date EPA will publish *Formats for Data Submitted Under the Toxic Substances Control Act*, for use by persons who submit health and environmental effects data as a part of their premanufacture notices. Third, when EPA promulgates the notice forms the Agency will publish an instruction manual for completing the forms, entitled *Premanufacture Reporting of New Chemical Substances Under TSCA*. For purposes of comment on the proposed forms, the Support Document describes the reporting requirements, what information should be reported and how, and the rationales for these requirements. In addition, the Agency is preparing an explanatory appendix to the forms, based on the Support Document, which we will make available as soon as possible.

Finally, in addition to this rulemaking EPA in the future will issue other rules and documents which will further implement the premanufacture program. These are summarized in the Support Document, "Supplements to this Proposal," and include significant new uses rules under § 5(a)(2), the § 5(b)(4) "risk list," § 4 testing rules, and premanufacture testing guidelines.

C. GENERAL APPROACH

EPA's implementation of TSCA § 5 will focus upon the assessment of risks presented by the manufacture, processing, distribution in commerce, use, and disposal of new substances and decisions concerning the reasonableness of such risks. Manufacturers must design a testing scheme and should

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make an initial determination that any risks are not unreasonable.

Section 5 does not establish a certification or registration program for new chemical substances. Rather, it requires a manufacturer to notify EPA of his intent to manufacture (or import) a new chemical substance, and to submit information concerning that substance which the Agency can use to assess the risks associated with its manufacture, processing, distribution in commerce, use, or disposal. On the basis of this assessment and an evaluation of relevant non-risk factors, EPA will make decisions concerning the reasonableness of any risk, and will take appropriate action to obtain more information or data, to regulate production or use, or to follow up the substance once it is commercialized. If EPA does not regulate the substance during the premanufacture notification period, the manufacturer may begin production (subject to regulation under any other laws). However, the fact that EPA does not take regulatory action does not imply that the substance is "safe" or has been "approved" by the Agency.

EPA considered several different approaches to implementing the premanufacture review program. The alternative approaches are described below (see "Regulatory Analysis"), and the advantages, disadvantages, and economic consequences of each are discussed. The alternatives considered consist of different combinations or modifications of three elements: notification rules, notice forms, and testing guidelines.

Testing guidelines would assist manufacturers in designing testing programs to evaluate the potential effects which new chemical substances might have on health or the environment. Although EPA believes that testing guidelines are an important part of a premanufacture review program, the Agency is not including a specific guidelines approach as a part of this proposal. In the near future EPA will publish for public comment a detailed discussion of the major testing issues and guidelines alternatives. Subsequently, the Agency will propose testing guidelines.

Notification rules provide the regulatory basis for the submittal and review of notices. The rules specify the chemical substances for which reporting is required, who must report, what information is to be submitted to EPA, and when and where that information should be submitted. The rules also describe how EPA will process notices, handle claims of confidentiality for data submitted in notices, and take action under § 5(e) or § 5(f) of the Act. For a detailed description of the contents of this proposed rule, see below, "Provisions of this Proposal".

Notice forms establish the specific reporting requirements for manufacturers. EPA has designed the notice forms to serve four basic purposes:

(1) To provide EPA the information and data necessary to assess risks associated with the production, use, and disposal of new chemical substances;

(2) To enable EPA to determine the need for additional reporting or for the imposition of controls on production, use, or disposal;

(3) In particular, to provide an initial information and data base which the Agency can use to evaluate chemical exposures, including specific populations exposed and the levels and durations of exposure; and

(4) To enable manufacturers to provide information concerning their own activities to limit exposure, plus information which may explain why risks presented by their new substances are reasonable.

The proposed forms contain both mandatory and optional parts. The manufacturers must submit certain information which is most relevant to EPA's assessment of risks, but are not required to submit extensive information concerning other aspects of production and use. This minimizes the general reporting burden of the forms while enabling individual companies to provide additional information which they believe EPA should consider in its evaluation of their new substances.

The proposed forms would require reporting of information necessary to perform risk assessments on new substances. Thus in addition to certain basic information (e.g., chemical identity, anticipated production volumes and uses), the forms would require information concerning possible exposures throughout the life cycle of new substances, such as information associated with various aspects of these substances' commercial development (e.g., manufacture, processing, use, transport, and disposal), and relative to the expected routes of exposure and populations to be exposed. To obtain information concerning the effects of the chemical substances on health and the environemnt, the forms would require submitters to explain their testing programs, including tests performed and the scientific rationales for their testing decisions. Finally, manufacturers must submit reports of test data in their possession or control and descriptions of certain other data.

In most cases the submitter will be the person most likely to have information relevant to his new substance. The Act requires persons to submit this information insofar as it is known to or reasonably ascertainable by them. Thus a manufacturer must make good faith efforts to obtain such information, including that which is not immediately known to him. In particular, EPA interprets this to require submitters to contract certain other persons and to request them voluntarily to supply information relevant to their own anticipated handling and uses of the new substance.

Because chemical risk is a function of both effects and exposure, most manufacturers probably will employ various engineering safeguards and industrial hygiene practices to limit exposure and thereby reduce risk. The proposed notice forms would permit, but do not require, manufacturers to describe such safeguards and practices for consideration by EPA in its risk assessments. In addition, the forms include provisions for reporting concerning structure-activity correlations, and industrial process and use restrictions. Information on both may be relevant to the Agency's decisions concerning the need for more data and the levels of risk associated with particular substances, and manufacturers may wish to provide this information so that the agency does not feel it necessary to take any action with respect to a substance.

At his discretion, a manufacturer also would be able to report any information which explains why any risk presented by his new substance is reasonable. Such information should focus upon the economic and other non-risk factors identified by EPA for optional reporting in the notice forms. Further, the information should relate to the possible exposures and exposure levels described by the manufacturer and to the consequences of imposing controls upon the manufacturer and any others who may produce or use the new substance.

EPA will use the notices as a point of departure for performing its risk assessments and unreasonable risk judgments, and not as the exclusive source of information for such decisions. However, the agency will be limited in its ability to obtain information not included in the premanufacture notices within the statutory review period. To the extent time will permit, EPA will use its statutory authorities and other means (e.g., literature searches, contractor support, consultations with scientific and engineering experts) to supplement and verify submittals by manufacturers. In some cases where data in the notices are incomplete or otherwise inadequate, the Agency may make worst case assumptions about possible exposures and risks associated with particular chemical substances.

The Agency intends to provide to the Occupational safety Health Administration (OSHA) all information concerning worker exposures, for use by OSHA in establishing its own standards. EPA and OSHA will work together in evaluating reisks and the need for regulatory actions, but OSHA will have primary responsibility for evaluation of occupational risks.

If on the basis of its risk assessment EPA determines that a substance may present significant risk to health or the environment, the Agency may evaluate its regulatory options. There are a number of options under TSCA for regulating when EPA finds that a chemical presents an unreasonable risk. These include regulation under § 5(f), § 6(a), and § 7. If the Agency finds that a substance may present an unreasonable risk, it may designate the substance for inclusion on the § 5(b)(4) "risk list," perhaps in conjunction with a significant new use rule for the substance. If additional information about the chemical is required by EPA before making a decision to regulate a chemical under one of these sections, the Agency may issue a testing rule under § 4. Alternatively, under § 5(e), EPA may prohibit or limit the manufacture, processing, distribution in commerce, use or disposal of a substance pending development of that information EPA can also use § 8(a) rules to require manfacturers to report information to EPA to fill data gaps.

The Agency may determine that regulation under laws other than TSCA may be appropriate to control or limit risk to health and the environment. If so the Agency may take action under § 9 of the Act to refer actions to other EPA program offices or Federal agencies. Other laws administered by EPA that will be considered include the Clean Water Act, Clean Air Act, Resource Conservation and Recovery Act, and Safe Drinking Water Act. In recommending action under laws administered by other agencies (e.g., Consumer Product Safety Act, Occupational Safety and Health Act), EPA is authorized by TSCA § 9(a) to submit to the other agency a report describing the nature of the risk associated with a given chemical substance. That agency then may take the appropriate action under its statute to control the risk.

During the commercial life of a chemical, exposures and risk may change from those which manufacturers project prior to production. Therefore EPA will follow up certain new substances after their introduction into commerce. Follow-up may be appropriate for new substances with moderate or high toxicities but for which the information contained in premanufacture notices indicates limited exposure. Further, for chemicals for which little or no toxicity data are available, EPA may initiate follow-up action to guard against risk which may result from future increases in exposure.

TSCA provides EPA two basic tools for follow-up of substances once the premanufacture notification period has ended. Under § 8(a), the Agency can require reporting on such matters as changes in chemical production and uses, including increased volumes and new commercial activities which may result in new exposures. EPA also may issue significant new use rules (SNURs) under § 5(a)(2) which would define new uses of existing substances that the Agency determines would be significant. (E.g., uses with resulting exposures which may result in risk to health or the environment.) TSCA requires persons to submit § 5(a) notices before they manufacture or process substances for uses covered by SNURs, thereby enabling EPA to review the substances prior to their production for such uses. The Agency intends to propose initial SNURs for public comment during the latter part of 1979.

D. INTERIM POLICY—SUBMITTAL OF PREMANUFACTURE NOTICES PRIOR TO PUBLICATION OF THE INVENTORY

The premanufacture notification requirement of § 5(a)(1) applies to any new chemical substance which a person intends to manufacture or import on or after the 30th day after publication of the initial § 8(b) inventory. TSCA also establishes a minimum 90-day period, after submittal of a premanufacture notice, during which the submitter may not commence manufacture or import of the substance. Taken together, these provisions may pose a dilemma for a person who intends to commerce manufacture of a new chemical substance within 120 days after publication of the initial inventory. If he is not allowed to submit a premanufacture notice until 30 days after publication of the inventory, he may not be able to commence manufacture on his intended date of manufacture.

To address this practical difficulty, EPA will implement, effective immediately, the following policy with respect to pre-inventory submittals of premanufacture notices. This policy applies only to chemical substances which are believed to be "new," and for which manufacture or import is intended to commence between the effective date of the premanufacture notification requirement (30 days after publication of the initial inventory) and 90 days thereafter.

Persons may submit notices for such substances at any time, but are encouraged not to submit notices more than 60 days prior to publication of the inventory. This is because if a person first manufactures a substance less than 30 days after publication of the inventory he may report it for the inventory under § 710.6(b) and thereby avoid the requirement to submit a premanufacture notice. EPA currently estimates that it will publish the initial inventory in April 1979. The Agency will publish a notice in the FEDERAL REGISTER of the publication date as soon as this date is firmly established.

The official review period for any such premanufacture notice will begin 90 days before the projected commencement of manufacture, and not on the date of submittal. The projected date of commencement of manufacture must be identified in the notice. Manufacture may commence on that date unless EPA acts to control the substance. However, if manufacture commences at a later date, EPA's authority to act under § 5(e) or § 5(f) will extend automatically to the actual date of manufacture, but in no event to a date later than 90 days after premanufacture requirements become effective. The Agency will not use its authority under section 5(c) of the Act to extend the review period beyond the latter date.

Any such notice should be filed on the appropriate notice form which is included in this proposed rulemaking, and in accordance with the proposed rules, 40 CFR Part 720. When the person commences manufacture or import, he must submit a notice of this fact in accordance with proposed § 720.52. At that time, EPA will add the substance to the inventory.

II. PROVISIONS OF THIS PROPOSAL

These rules are modeled in part on the inventory reporting rules, 40 CFR Part 710, promulgated on December 23, 1977 (42 FR 64572). To best understand this proposal, one should be familiar with those rules.

A. APPLICABILITY

1. *Who Must Report.* Section 5(a)(1)(A) of the Act requires any person who intends to "manufacture" a new chemical substance for a commercial purpose to submit a premanufacture notice to EPA. Section 3(7) of the Act defines "manufacture" to include import of a substance into the United States.

Sections 720.10 and 720.11 of the proposed regulations contain EPA's proposed identification of the persons who must submit premanufacture notices and those who are not subject to the notification requirements. These provisions closely follow those established for the initial inventory; see generally § 710.3. Following is a detailed discussion of who must report.

Domestic Manufacturers

Beginning 30 days after publication of the initial inventory any person who intends to manufacture a new chemical substance in the United States for a commercial purpose must submit a premanufacture notice. This reporting requirement also applies to a person who originally manufactures a

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new chemical substance for a use which is specifically exempt from these requirments, and who later decides to either manufacture the substance for a non-exempt use or use the already-Manufactured substance for a non-exempt purpose. (See § 720.10(a)(3) & (4).)

Manufacturers of Chemicals Solely for Export

Section 12(a) of the Act states that, except for section 8, TSCA does not apply to a substance which is manufactured solely for export. This general principle is qualified by § 12(a)(2), which provides that the Act applies to such a substance if EPA finds that it will present an unreasonable risk to health within the United States or to the environment of the United States. In addition, section 12(a)(2) authorizes the Agency to impose testing requirements under § 4 upon a substance manufactured solely for export to determine whether it presents such an unreasonable risk.

Section 12(a) indicates the Congress' intent that EPA should protect against unreasonable risks to the United States, but not seek to regulate activities which do not present risk to health or the environment in the U.S. Section 12(a) also might be interpreted to mean that EPA should not require premanufacture notification for new substances intended solely for export. However, this would create a major gap in the statutory scheme. Although a person manufactures or processes a substance solely for export, there may be significant exposure to workers in the United States, as well as release of the substance to the air or water in this country. Section 12(a)(2) indicates that Congress did not intend to exempt such a substance from coverage by the Act if it presents an unreasonable risk within the United States. But if EPA is not aware that a new substance is being manufactured domestically, the Agency could not require testing of, or otherwise control, the substance. Without a notice that a substance is being manufactured, EPA may not be able to act until a significant health or environmental problem occurs, and this is contrary to the preventive approach to toxic substances embodied in § 5. Therefore when read in light of the Congressional purposes, § 12 authorizes EPA to require premanufacture notices for new chemical substances manufactured solely for export.

Section 720.10(a)(1) would apply the premanufacture notification requirements to new substances manufactured in this country solely for export. Manufacturers of substances for export also were subject to reporting for the initial inventory under § 710.3(a). EPA will implement this provision in the spirit of § 12d(a) by limiting its information requirements and notice review to risk to persons and the environment within the U.S. In addition, because the exported substances will be added to the inventory, EPA will evaluate the substances to determine whether the Agency should issue significant new use rules to anticipate end uses within the U.S. Notice requirements for manufacturers of substances intended solely for export are discussed below under "Information Submittals." (For a further discussion of this issue, see Section II-A-1-b of the Support Document.)

Importers

Under § 720.10(a)(2), persons who intend to import new chemical substances "in bulk form" would be subject to premanufacture notification requirements beginning 30 days after publication of the initial inventory. Under § 720.10(b)(1), persons who intend to import new chemical substances as a part of mixtures would be subject to premanufacture reporting beginning 30 days after publication of the revised inventory. The proposed rules do not require persons to submit notices for new substances which they import as part of articles. However, EPA is continuing to evaluate the issue of reporting by importers of articles, and in the future may propose rules to apply the premanufacture reporting requirements to chemical substances imported as part of articles.

Proposed § 720.2 defines "import in bulk form," and specifies that chemical substances imported in containers used for transportation or containment are not substances imported as a part of articles. Therefore such chemicals would be subject to the premanufacture notice requirements.

The term "importer" was defined for purposes of the inventory. In this proposal, EPA has revised that definition, on the basis of Customs' Regulations, (19 CFR Part III) to include a list of the types of persons which are included in the term. Each of the persons listed would be responsible for ensuring that a premanufacture notice is submitted to EPA. In this rulemaking, the Agency is proposing a special form for use by importers, plus special reporting procedures which apply to imported substances. These provisions are discussed below under "Information Submittals." Also see § 720.21 of the proposed rules.

In the near future, the Department of Treasury will propose regulations concerning import of chemical substances. These regulations would implement § 13 of TSCA, and may include provisions for identifying and preventing entry into this country of new substances which are not imported in compliance with the premanufacture requirements.

Processors

In § 720.11(b), EPA proposes that persons who only process new chemical substances are not subject to the premanufacture notification requirements of § 5(a)(1)(A) of the Act. If EPA receives a notice from a processor or user, the Agency will consider the notice to be invalid under § 720.34(b)(1)(vii) and will not process it. Of course, a processor may take part in the notification process by submitting information under § 720.20(e). Also, a processor may prepare the premanufacture notice as an agent of the appropriate manufacturer or importer, provided the latter signs the notice form.

A substance may have been manufactured previously solely for a use which is exempt from coverage by the Act, such as a pesticide, food, drug, or cosmetic. If such a substance subsequently is manufactured for a "TSCA use," the manufacturer then would be subject to the premanufacture notification requirement. However, a special reporting problem would arise if the manufacturer intends to produce a substance for a use excluded from TSCA, but another person intends to process the substance for a TSCA use. If the manufacturer knows of the processor's intended use of the chemical, the manufacturer would be required to submit a premanufacture notice. However, for a variety of reasons the processor may not inform the manufacturer that a TSCA use of the substance is intended, and if the manufacturer has no knowledge of this intended TSCA use, he may not know that he should report.

In the immediate future, processors can resolve this problem by reporting substances for the revised inventory. EPA is exploring various alternatives to address the problem after expiration of the revised inventory reporting period. One alternative would be to develop significant new use rules under § 5(a)(2) which would require reporting by both manufacturers and processors.

2. *What Chemical Substances Must Be Reported.* Section 5(a) of the Act provides that the premanufacture notification requirements extend to all new chemical substances manufactured for commercial purposes, except to the extent that notification is exempted by § 5(h). Under § 5(h) chemical substances manufactured only "in small quantities" solely for purposes of research and development are excluded from the premanufacture notification requirements, provided that certain conditions are observed. The other exemptions provided by

§ 5(h) require application to, and a determination by, EPA.

Under § 710.4 of the Inventory Reporting Requirements, EPA identified those substances subject to reporting for the inventory. In general, reporting was required for substances manufactured or imported for commercial purposes since January 1, 1975. Section 710.4(c) of those regulations exempted substances excluded from reporting by the Act. In addition, in § 710.4(d) EPA excluded certain other substances which have no commercial purpose separate from substances, mixtures, or articles of which they are a part.

Sections 720.12 through 720.15 of these proposed regulations identify those substances subject to premanufacture notification requirements. These sections are largely identical in language to the analogous inventory provisons. The following discussion focuses on the most significant changes.

General. The most fundamental distinction between inventory and premanufacture reporting is that notification is required under these proposed rules only for *new* chemical substances, i.e. those not included on the inventory to be published by EPA.

Chemical substances will be included on the inventory of chemical substances in a variety of forms. Some substances will be included in a category. For example, any chemical which is "naturally occurring" and which meets the other criteria of § 710.4(b) of the inventory rules will be included on the inventory under the category of naturally-occurring substances. Most other substances will be identified individually by their specific chemical identities (i.e. molecular formulae, chemical structures). It is not feasible to report the composition of certain substances by definite chemical structure diagrams. On the inventory these may be identified by descriptions of the final steps of the methods used to manufacture them. In any event, the published inventory should be sufficient to enable persons to determine whether most chemical substances are included. However, for those substances for which identification is more difficult, EPA will be prepared to assist manufacturers in determining whether substances which they intend to produce already are included in the published inventory.

Persons who reported chemical substances for inclusion on the inventory, and persons who will commence manufacture or import after submittal of premanufacture notices, may assert claims of confidentiality with respect to the specific identities of their chemical substances. In general, if EPA determines that the fact that a particular substance is manufactured or imported in the U.S. for a commercial purpose is confidential, the Agency will not place the specific identity on the published inventory. Instead EPA will publish a generic chemical name in an appendix to the inventory. In general, the Agency will disclose the specific identity of a substance represented by such a generic name only if it is necessary to inform a person who demonstrates a *bona fide* intent to manufacture a substance whether his substance is on the inventory. (Also see below "Major Issues—Confidentiality for Specific Chemical Identity.") The procedures which a *bona fide* manufacturer must follow to make such an inquiry are included in proposed § 720.12(b) and are based upon those which EPA previously promulgated for inventory reporting.

Small Quantities for R&D

Chemical substances intended to be manufactured or imported only in small quantities solely for purposes of research and development would be exempt from premanufacture notification if the submitter complies with proposed § 720.14. Like the inventory rules, this proposal defines "small quantities for R&D" to mean quantities that are no greater than reasonably necessary for scientific experimentation, research, or analysis, including that involved in product development. However, the terms of this exemption differ from the inventory language in two ways.

First, the proposal would delete a note included in the inventory definition which may result in misconceptions regarding the scope of the exemption. That note provided that for purposes of the inventory any substance manufactured, imported, or processed in quantities of less than 1000 pounds annually would be presumed to be manufactured solely in small quantities for R&D purposes, unless the submitter could certify that the substance was used for other purposes, unrelated to R&D. Although the note did not affect the scope of the inventory requirements, it provided guidance concerning certain chemicals which must be evaluated carefully to determine whether they were eligible for inclusion on the inventory. The criteria used to determine whether a substance is manufactured only in small quantities solely for purposes of R&D were whether the substance is (1) used solely for R&D purposes, (2) manufactured in quantities no greater than reasonably necessary for such purposes, and (3) used under the supervision of a technically qualified individual.

With regard to premanufacture notification, the Agency is concerned that submitters may misconstrue the note to mean that premanufacture notices are not required for substances produced in quantities of less than 1000 pounds annually. That is, they may think the note creates an absolute exemption rather than a presumption which must be justified. In addition, persons also could interpret the note to mean that premanufacture notice must be submitted for all substances produced in quantities greater than 1000 pounds annually. Therefore the proposal would delete the note.

This deletion does not affect the scope of the "R&D" exemption. The Agency feels that this deletion will result in manufacturers more clearly understanding the criteria to be used in determining whether a substance qualifies for an exemption under § 5(h)(3) of the Act. These are the same three criteria described above. The Agency intends to establish in future rulemakings numerical or other more precise definitions of "small quantities" for specific substances or groups of substances.

This proposed revision to the inventory definition would not affect the applicability of the inventory reporting requirements and therefore would not, by itself, require EPA to provide manufacturers an opportunity to revise their inventory reporting submittals.

Second, this proposal further implements the terms of the § 5(h)(3) exemption by placing responsibility on the manufacturer to notify certain persons of any risk to health which the manufacturer believes may be associated with the substance. Any such notification must go to all persons engaged in the manufacture, processing, use, transport, storage, or disposal of the substance. This ensures that all persons who may be at risk are apprised of that fact, and not just those who are directly involved in the specific R&D activities. These rules do not prescribe specific methods of notification. Rather, they identify certain acceptable procedures, and leave it to the individual manufacturers to ensure that they adequately inform all of the persons who should be notified. In addition, proposed § 720.14(d) states that upon request manufacturers must make available to EPA, or to any person who may be exposed to the substance, any information on the risk of the chemical.

Test Marketing

Section 720.15 of the proposed rules addresses the test marketing exemption authorized by § 5(h)(1) of the Act. The Act and this rule provide that the exemption may be granted only upon a showing that the test marketing of the substance will not present an unreasonable risk of injury to health or the environment. EPA expects that in most cases this showing will require the same information, and impose sim-

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ilar reporting burdens upon manufacturers, as for premanufacture notices. Therefore manufacturers should use the premanufacture notice form to file for any test marketing exemptions. This will facilitate timely Agency review.

Other Exemptions

These proposed rules do not address the three remaining exemptions provided in § 5(h), either because further guidance is not necessary at this time, or because there appear to be no cricumstances at present under which persons will apply for these exemptions.

Intermediates

The inventory rules defined the term "intermediate" in § 710.2 as a substance which is consumed in whole or in part in chemical reactions used for the intentional manufacture of other substances, or which is intentionally present for the purpose of altering the rate of such reactions. However, the inventory rules stated that to be considered an "intermediate" the substance also must be "intentionally removed from the equipment in which it is manufactured." Substances which are not intentionally removed from the equipment in which they are manufactured, were excluded from the definition and from reporting for the inventory. For these premanufacture rules, EPA proposes to change the definition of the term "intermediate," by removing the proviso. Further the Agency is proposing a new term, "non-isolated intermediate," to describe those intermediates which are excluded from premanufacture notification. These modifications are for the purposes of clarity. At this time, EPA does not intend to change the applicability of the premanufacture rules from that set out in the inventory rules.

However, TSCA authorizes EPA to require the submittal of premanufacture notices for non-isolated intermediates. Thus far the Agency has exempted these substances for several reasons. First, such substances often are extremely difficult to identify. In developing the inventory rules EPA received numerous comments on this point. Second because there often will be limited exposure to such substances, often they will result in insignificant exposure, and thus minimal risk, to humans and the environment. But there may be exceptions to this general statement. For example, there is no requirement in these regulations that non-isolated intermediates be produced and handled in closed systems. Further, they may accumulate in residue materials or may be released accidentally as a result of spills or process upsets. In these and other situations, there may be exposure to humans and the environment.

Although at this time EPA is not changing the applicability of § 5 to non-isolated intermediates, the Agency is considering exempting from the premanufacture requirements only those intermediates to which there is, in fact, no exposure, in accordance with § 5(h)(5) of the Act. Therefore EPA solicits comments on how best to achieve this result.

Byproducts, Co-products

As with intermediates, the proposed definition of "byproduct" modifies that contained in the inventory rules without altering the general applicability of § 5. The definition would provide that to be considered a byproduct (and thus excluded from the premanufacture requirements under proposed § 720.13(e)(2)), a substance must be produced *solely* without commercial purpose during the production, use, or disposal of another substance. In addition, EPA is proposing a definition of "co-product." The notice forms would require certain information on both byproducts and co-products, and these proposed definitions should help define those reporting requirements.

B. General Notice Procedures

1. *General Provisions.* Subpart C would require a person who submits a premanufacture notice to use forms developed by EPA. A submitter would be required to provide the information requested by the applicable notification form, unless questions are designated optional, or particular information is not known to or reasonably ascertainable by the submitter. In addition to completing the notice form itself, the person must report test data and other data concerning the environmental and health effects of the manufacture, processing, distribution in commerce, use, and disposal of the substance. The information to be submitted with the notice is discussed below, under the heading "Information Submittals."

A person must submit a notice to the OTS Document Control Officer, at the address indicated on the form, at least 90 calendar days before he commences manufacture or import of his new substance. Submittal of notices to the Document Control Officer will ensure safe handling of any confidential information submitted. Proposed § 720.31 explains when EPA will consider a notice to be officially submitted.

Persons who intend to submit premanufacture notices may contact EPA prior to submittal to resolve certain questions. In addition to the pre-notice consultations which would be specifically authorized by § 720.12(b) and § 720.41(a)(2), persons may seek the Agency's assistance in determining whether they have described their new substances with sufficient specificity, whether specific substances are included on the inventory with non-confidential identities, or whether the use or exposure descriptions for the § 5(d)(2) Federal Register notice are adequate.

2. *How to Assert a Claim of Confidentiality.* Section 14(c) of the Act authorizes EPA to prescribe the manner in which persons assert claims that information is entitled to confidential treatment. EPA has proposed under § 720.40 certain general procedures for asserting such claims; in addition, § 720.41, § 720.42, and § 720.43 contain particular requirements with respect to claims of confidentiality for chemical identity, intended uses of a substance, and information included in health and safety studies.

Any information submitted to EPA in connection with TSCA may be claimed confidential. All claims must be made when the information is submitted. Persons may assert claims of confidentiality for information on the notice form by marking the box provided for that purpose beside the particular item of information. Information other than that entered on the notice form, such as a health and safety study, also may be claimed confidential. If only a portion of a document is claimed confidential, the person must submit a second copy of the material from which he has deleted the information claimed to be confidential. This sanitized copy will be placed in the public file.

Proposed § 720.40(c) provides that submitters must substantiate their claims with respect to specific chemical identity and health and safety studies at the time the information is submitted to EPA. In addition, EPA has considered requiring substantiation for certain exposure information which the Agency believes should be included in the § 5(d)(2) Federal Register notice. To satisfy this substantiation requirement, a person must provide written answers to a series of questions developed by EPA. The basis for this requirement, and the draft substantiation questions, are included in Section III-A of the Support Document.

EPA's treatment under these proposed rules of information for which a claim of confidentiality is asserted is discussed below under "EPA's Processing of Notices."

3. *Early Notices.* Some persons may wish to sumit premanufacture notice substantially more than 90 days before the date of intended manufacture or import. EPA recognizes that early review and, if necessary, regulation of new substances will reduce the adverse economic impacts of such review and

regulation. In addition, early notification provides EPA with more time to review substances before their manufacture. However, some proportion of such substances will not be manufactured for commercial purposes because of changing market conditions. Reviewing such notices will consume scarce Agency time and resources. Furthermore, EPA often may have difficulty reviewing these notices because they may contain highly speculative, or little, information. The proposed rules do not prohibit submittal of notices significantly earlier than the 90 day minimum period established by the Act. However, the rules and form contain special requirements for persons who submit certain early notices. Any person who submits a premanufacture notice must certify that he intends to manufacture or import the substance for a commercial purpose other than only in small quantities solely for R&D. In addition, if a manufacturer submits a premanufacture notice more than three years prior to the date on which he intends to commence manufacture, § 720.20(h) of the proposed regulations requires him to submit evidence of his commitment to manufacture the substance for a commercial purpose. The following types of evidence may satisfy this standard: descriptions of R&D efforts to date and of those planned for the future; information concerning zoning approvals, building permits, contracts, and other licenses or permits to construct and operate production facilities. In addition, EPA is considering requiring the submitter to report more detailed and accurate use and exposure information as it becomes available, up to the commencement of manufacture, to compensate for the fact that information submitted several years early may be highly speculative. The Agency welcomes comment on the feasibility of these approaches, and on the types of information which should be required for early notices.

4. *Chemical Identity.* The specific chemical identity of a new substance is a critical component of a premanufacture notice. If the notice does not include this information, § 720.20(f) would provide that the notice is invalid and that the 90-day revciew period will not begin. If the submitter does not know the specific chemical identity because, for example, the new substance results from the reaction of one or more unknown substances (such as trademarked products), § 720.50(b) would require the person to attempt to obtain this information. If he is unable to secure the identity of the final product or of the reactants, under proposed §720.50(b) EPA may require his supplier to submit that information to the Agency.

5. *New Information or Data.* A submitter may obtain new information relevant to EPA's premanufacture review after he submits the notice. Section 720.20 (i) of the proposed rules would require him to make some of this information available to EPA, to ensure that the information which the Agency reviews is as complete and accurate as possible. This requirement would apply only during the notification period, and would cover new information or data which the manufacturer obtains after he submits his notice, and which materially adds to, changes, or otherwise makes significantly more complete the information included in his notice. EPA has considered extending the time period for submittal of new data to run from the date a notice is submitted until manufacture actually begins, and invites comments on this issue.

6. *Notice of Commencement of Manufacture or Import.* Section 8(b) of the Act requires EPA to add to the inventory new chemical substances, for which notices were submitted under section 5, "as of the earliest date . . . on which such substance [were] manufactured or processed in the United States." EPA proposes to determine this "earliest date" by requiring under § 720.52 that a person submit a separate notice to EPA no later than the day on which manufacture or import of the substance commences. This brief, routine notice would be required under the authority of section 8(a) and section 8(b) of the Act.

C. Information Submittals

1. *General.* Section 5(d)(1) of the Act, "Content of Notice," describes the information which shall be included in premanufacture notices. Section 5(d)(1)(A) references the provisions of § 8(a)(2)(A)–(G) (excluding § 8(a)(2)(e)), which list various types of information including chemical identity, amounts, uses, disposal practices, and byproducts. Sections 5(d)(1) (B) and (C) require a manufacturer to submit test data in his possession or control, and a description of any other data known to or reasonably ascertainable by him, that are related to the health and environmental effects of the manufacture, processing, distribution in commerce, use or disposal of the chemical substance.

In the proposed notification rules and forms, EPA further specifies the information to be submitted. The rules establish the general contents of the forms (§ 720.22) and the legal duty to complete them (§ 720.20). The rules also define the terms "known to or reasonably ascertainable" and "possession or control" (§ 720.2), and provide detailed guidance on the data submittal requirements of § 5(d)(1) (B) and (C) (§ 720.23). The forms themselves specify the information to be submitted, including that referenced in § 5(d)(1)(A). The submitter must provide the information identified on the appropriate form as mandatory, insofar as it is known to or reasonably ascertainable by him. In addition, in his discretion he may provide information in the optional part of the form.

In proposed § 720.2 EPA defines "known to or reasonably ascertainable" to include all information in a person's possession or control, as well as other information that a reasonable person similarly situated might be expected to know or could obtain without unreasonable burden or cost. EPA has interpreted this legal standard to require the following. First, § 720.20(e) identifies certain persons whom the manufacturer must contact concerning their anticipated uses of his new substance. Second, for purposes of test data and other data submittals, § 720.23(b)(3) further defines the term to include data known to certain of the submitter's employees or other agents.

The following two sections, "Notice Form Information" and "Test Data and Other Data," identify in greater detail the information to be submitted. The first discusses the scope and level of detail of the notice form requirements, which ones are optional, and the procedures for contacting certain persons for information. The second discusses the scope of and compliance with the requirements concerning test data in the possession or control of the submitter and other data known to or reasonably ascertainable by him.

2. *Notice form information.—Scope.* EPA considered several options for the scope of the requirements specified by the rules and notice forms. First, the Agency could limit the information required to that specifically listed in § 8(a)(2). Second, EPA could expand upon the § 8(a)(2) list by requiring other information which relates to exposures throughout the "life cycle" of a chemical, i.e. manufacture, processing, distribution in commerce, use, and disposal. Third, the Agency not only could expand upon the § 8(a)(2) list for exposure-related information, but also could require other information which explains how and why the submitter (or others) will control possible exposures (e.g., engineered safeguards, industrial hygiene considerations), information explaining risk assessments, and information concerning the reasonableness of certain risks. (These options are further discussed in Section II-C-1-a of the Support Document.)

EPA's proposed rules and forms would implement a modification of the second option. Thus EPA would require submission of the specific infor-

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mation listed in Section 8(a)(2) plus other exposure-related information, and would encourage (but not require) submisson of other relevant information which the Agency may consider in determining the need for regulatory controls. Proposed § 720.22 identifies the types of information covered, including each of the items listed in section 8(a)(2). Taken together the rules and form serve the basic purpose of providing EPA the information necessary to evaluate risks associated with new substances and to determine the need for additional effects information, follow-up reporting, or regulatory control. Further, the optional reporting enables manufacturers to submit additional information relevant to EPA's review of new substances (e.g., manufacturing and use safeguards that affect levels of risk; non-risk factors relevant to the reasonableness of particular risks).

In distinguishing between mandatory and optional data requirements EPA sought to balance the types of data and information necessary to perform risk assessments, whether the information is necessary to review all new substances or only some, and the reporting burdens on the submitters. The information designated "optional" is the type of information which a manufacturer of a chemical would want EPA to review, with the hope that the Agency would not take regulatory action, including action under Section 5(e), because of a lack of information. By making this information optional, EPA would reduce the reporting burden on industry without reducing the Agency's ability to perform risk assessments, and would allow submitters to report detailed information if they think it would be important in EPA's review of the notices.

EPA further proposes to limit the scope of these requirements in certain special cases. The information required for imported substances and for substances manufactured solely for export (discussed in greater detail below) would be limited to that necessary for assessing potential risk to health or the environment in the United States. Also, the reporting requirements for byproducts, co-products and other substances related to a new substance would be more limited than for the new substance itself.

Finally, EPA welcomes comments on whether the various questions on the general form are appropriate for substances produced in low volumes by batch production operations. Depending on these comments, EPA may promulgate a briefer form for such substances at the time these rules are promulgated, or thereafter if the need arises. (Also see III-C, "Small Business; Low Volume Chemical," below.)

Mandatory and Optional Data Requirements. EPA Proposes that manufacturers must provide the information contained in the mandatory Parts I and II of the form insofar as the information is known to or reasonably ascertainable by them. At their discretion, they may submit any other information including that requested in the optional Part III.

Part I of the form would require general information necessary to identify the submitter and his new chemical substance. In addition, estimated production volume would be reported (in ranges) for the first five years, with an indication whether the estimates are based on firm orders, forecasts, or speculation. Information on anticipated uses must be reported by function and application. The submitter also would provide the information to be published in the § 5(d)(2) FEDERAL REGISTER notice, including chemical identity, uses, exposure and environmental release estimates, and a description of tests related to health and environmental effects. Finally, the submitter would provide a schematic flow diagram of his manufacturing and processing operations involving the new substance.

Part II of the form would require information and data that will serve as the primary basis for EPA's risk assessments. In section A, the submitter would indicate the properties and effects of the substance which he has evaluated, and would explain any conclusions, evaluations, or assessments he has made concerning the results of such tests. Also, if the submitter has performed a risk assessment he would explain his evaluations of risk. In particular, the submitter must explain any evaluation he has performed of whether the reported data are sufficient to assess the risk associated with a particular property or effect.

Sections B and C would require information related to human exposure and environmental release, at manufacturing and processing sites respectively. Section B would require information on worker exposure, environmental release, disposal, and transport of the new chemical substance and of other substances associated with its manufacture. For worker exposure the submitter would describe the routes of exposure that are expected to occur; the magnitude, duration, and frequency of exposure; and the number of persons that will be exposed. For environmental release, the submitter would estimate the maximum and average amounts of the substance that will be discharged and the concentrations of these discharges. If these concentrations are based on the use of pollution control equipment, the notice would describe the types of equipment, the emission or effluent streams they serve, and the expected efficiency of the equipment. Section C would require similar information on worker exposure, environmental release, and disposal of the chemical substance associated with processing operations.

Section D would require information on general population exposures that may result from use of products that contain the substance. The submitter would identify such products, describe their uses, and estimate the total amount of the substance devoted to each use. In addition, he would estimate the consumer market population and the frequency and duration of human exposures. The submitter also would be required to complete Sections C and D for other persons' operations to the best of his ability, including reasonable estimates when he does not know with factual certainty the answers to particular questions.

In addition to the information required by Parts I and II, a manufacturer may report any other information that he believes is important for a review of the chemical substance. Part III identifies the types of information EPA expects would most often be useful for Agency decisionmaking. Using Part III, the submitter may explain his overall testing and evaluation scheme, and why it is not necessary to develop additional data. Also, he may provide detailed information on structure-activity correlations used in assessing the toxicity of the new substance and related chemicals. The submitter may describe conditions of maximum exposure that may occur through misuse, expanded production, accidental exposure, or new uses, and industrial hygiene programs and engineered safeguards that will be used to prevent or control human exposure and environmental release. Finally, this optional part requests specific information related to the economic significance and benefits of the new substance.

EPA believes that TSCA grants the authority to require submission of the information designated as optional, and will review public comments to determine whether some of the "optional" information should be "mandatory."

Level of Detail. The proposed notice form would require information in varying levels of detail, to the extent known to or reasonably ascertainable by the submitter. For example, the form would require the minimal estimates of human exposure and environmental release data that are necessary to perform general exposure modeling for chemical substances. In addition, the form would require each submitter to provide a manufacturing and processing schematic flow diagram for his new substance, which EPA and the Occupational Safety and Health Administration (OSHA) would use to assess potential workplace exposures and environmental releases. Questions on substances associated with the production, use, and disposal of the new substance (e.g., byproducts and coproducts) would require less detail than questions on the new substance itself.

This proposed approach attempts to balance the burden placed on the submitter, the information likely to be known to or ascertainable by him, and the scope and level of information required to perform risk assessments. This approach will enable EPA to perform risk assessments commensurate with the level of detail that submitters are able to provide and to identify potential problem areas for further investigation.

Information From Other Persons. Under Section 5(d)(1) of the Act, submitters must provide the requested information insofar as it is "known to" or "reasonably ascertainable" by them. EPA could interpret this statutory language in a number of different ways. First, the Agency could offer no guidance or interpretation of this language and allow manfacturers and importers to complete the notice forms in good faith to the best of their ability. Second, EPA could estabish a legal standard for the phrase "known to or reasonably ascertainable," to provide general guidance for manufacturers. Third, EPA could identify certain types of information which the Agency assumes to be known to or reasonably ascertainable by all manufacturers. Fourth, the Agency could establish procedures for submitters to identify and obtain information "known to or reasonably ascertainable" by them, identifying persons whom a submitter should contact and specifying types of information which the submitter should request. (These alternatives are discussed further in Section II-C-1-c of the Support Document.)

EPA has incorporated a combination of the second and fourth options into the proposed rules. In proposed § 720.2 EPA defines "known to or reasonably ascertainable" to include all information in a person's possession or control, as well as other information that a reasonable person similarly situated might be expected to know or could obtain without unreasonable burden or cost. Complementing this definition, proposed § 720.20(e) identifies persons whom each manufacturer must contact concerning their anticipated processing uses of his new chemical substance. EPA proposes to treat compliance with these procedures as minimum compliance with the Act's notification requirements.

In general, the proposed rules would require a manufacturer to contact persons to whom he may subsequently supply the substance, and whom he is able to identify without undue effort or cost. However, a manufacturer need not contact all such persons, if he believes that they will provide duplicative information (in which case he may contact a representative sample of them) or if he believes that their information will not materially add to, change, or otherwise make significantly more complete that which he himself includes in his notice. Thus a manufacturer would have considerable discretion to reduce his responsibilities to contact others.

In a separate Processing and Consumer Use Form, EPA has specified the information which a submitter must request from other persons. Most of the questions in this form concern exposures resulting from processing, use, and disposal. A submitter would be required to send this form to the appropriate persons prior to submittal of his premanufacture notice. Section 720.20(e)(4) would require him to include in his notice all information which other persons provide to him. However, the manufacturer need not delay submittal until his customers respond, and any failure of theirs to respond would not affect the validity of his notice.

The persons contacted would not be under any legal obligation to respond to these requests for information. However, EPA would be able directly to require the information under the supplementary reporting provisions of § 720.50, or could make worst case assumptions about possible exposures associated with processing and use, and initiate control actions based upon such assumptions. Therefore those contacted may decide that it is in their own best interests to provide the information.

Because much of the information requested may be confidential, the proposed rules authorize persons contacted to respond directly to EPA and to make claims of confidentiality for any information submitted. Further, the rules and forms would require a submitter to tell all persons whom he contacts that they are not legally obligated to respond, and that they may report either to the submitter or directly to EPA.

Finally, the manufacturer would be required to certify in the notice his compliance with these procedures, including the names and addresses of the persons he contacted, and a designation of those who have provided information to him or who have indicated that they intend to respond directly to EPA. Also, if a manufacturer limits the number of persons whom he contacts, he must briefly explain in his certification how and why he did so.

Reporting Requirements For Substances Manufactured Solely For Export. Proposed § 720.10(a)(1) requires persons who intend to manufacture substances solely for export to submit premanufacture notices. Manufacturers of chemical substances solely for export would use the same premanufacture notice form as manufacturers for domestic use, except that questions on end uses and exposures outside the United States (which do not present risks to the United States) would be optional. In addition, a submitter would not be required under § 720.20(e) to contact persons who may process or use the substance in another country unless the uses and exposures outside the United States may present a risk to the health or environment of the United States. EPA requests comments on how such uses and exposures could be identified.

Reporting Requirements For Importers. Section 720.21(b) would require importers to use a special reporting form which is similar in many respects to that for domestic manufacturers. One major distinction is the deletion of questions pertaining to human or environmental exposures which may occur abroad as a result of the manufacturing or processing of new substances. As with the reporting requirements for substances manufactured solely for export, exposures resulting from those phases of a substance's life-cycle which occur outside of the United States generally are not of concern to EPA unless they present a risk to health or the environment in the United States. The Agency requests comments on how exposures presenting such a risk can be identified.

Like domestic manufacturers, importers must contact potential processors or users of their new substances to obtain use and exposure information. In addition, § 720.21(c) would require importers to request certain information from their foreign suppliers and manufacturers: importers would send these persons a specially prepared form which requests several types of information for the new substances, including all existing test data. The foreign manufacturers and suppliers would not be legally obligated to provide the information requested. However, EPA believes that in many cases foreign companies would find it in their best interest to cooperate, to avoid possible EPA regulatory actions.

EPA recognizes that foreign companies may have legitimate concerns about the confidentiality of information which they submit to the Agency. To encourage their cooperation, the rules permit foreign manufacturers and suppliers to report directly to EPA, rather than through their importers, and permit them to assert claims of confidentiality with respect to any data which they provide in ac-

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cordance with the Act. The proposed rules do not specifically address the situation in which the importer is the same person as the foreign manufacturer or supplier, or in which the companies are separate entities but part of the same corporate structure. In such cases, an importer should consult the definition of "possession or control" to determine the information which he must submit.

3. *Test Data and Other Data.—Scope.* Section 720.23 of the proposed rules requires manufacturers to submit reports and studies of test data in their possession or control, descriptions of other data (e.g., data concerning structure activity relationships) in their possession or control, and descriptions of any data (test data or otherwise) not in their possession or control but known to or reasonably ascertainable by them. These requirements would apply to data concerning the new chemical substance. They also would include data for impurities, byproducts, coproducts, degradation products, or other chemical substances which are related to the manufacture, processing, distribution in commerce, use, or disposal of the new chemical substance. Under § 720.23(c), data on related chemicals would be required only if the chemicals are not on the inventory of existing chemical substances. The Agency believes that effects data on such related substances are necessary to effectively evaluate risks which may result from activities involving the new substance.

Proposed § 720.2 defines "test data" to include data and information which result from a variety of methodological approaches. Thus the definition applies to data from studies, experiments, recorded observations, monitoring, and measurements—all of which EPA considers to be covered by the word "test" as it is used in the Act. In addition, the proposed definition includes both formal and informal tests. (See EPA's proposed definition of "health and safety study" in § 720.2, which clarifies EPA's interpretation that test for which data are submitted under section 5(d)(1)(B) are the same as health and safety studies.) The definition also provides that "test data" includes not only the raw data *per se*, but other information which is relevant to the development and analysis of the data. This specifically includes any risk assessements concerning the data, as well as protocols, results, and conclusions. Also, chemical identity is included as a part of the data.

Test Data in the Possession or Control of the Submitter. Pursuant to section 5(d)(1)(B) of the Act and § 720.23 of the proposed rules, a manufacturer must submit with his notice (in the form and manner prescribed by EPA) any test data in his possession or control which are related to the effects of the manufacture, processing, distribution in commerce, use or disposal of the new substance upon health or the environment.

EPA's proposed definition of "possession or control" in § 720.2 contains a number of provisions which specifically identify persons or organizations related to the manufacturer and whose information or data EPA presumes to be in the submitter's possession or control. These include subsidiary and parent companies, plus certain other related companies which are associated with development and commercialization of the chemical substance. With regard to employees or other agents of the submitter, the proposed definition would apply to information in the business files of those who are associated with R&D, or with test or commercial marketing of the new substance. As proposed, "possession or control" also includes information in the possession of certain contractors and shared funding facilities. Finally, the proposed definition applies to the information which is known to or reasonably ascertainable by the submitter and which must be given to him upon request. Basically, this interprets the word "control" and clarifies that some, but not all, of the information which is known to or reasonably ascertainble by a person is in his possession or control. (Note that EPA's proposed definition of "known to or reasonably ascertainable" includes all information in a person's possession or control.)

The proposed rules require manufacturers to submit full reports on test data relevant to certain health effects, ecological effects, physical and chemical properties, and environmental fate characteristics which are listed in § 720.23(a)(3). To mitigate the reporting burden of this requirement, § 720.23(a)(5)(i) would allow submitters to provide abstracts for any other test data, provided the submitters agree to submit full reports upon request by EPA. In addition, under proposed § 720.23(a)(4)(ii) manufacturers need not reorganize reports which have been published prior to the effective date of the final premanufacture regulations. Finally, if test data have been published in the open scientific literature, § 720.23(a)(2) would authorize submitters to provide the papers in which they appear, instead of the full reports.

In the future the Agency will publish guidance on the form of test data submittals, "Formats for Data Submitted Under the Toxic Substances Control Act." Use of these formats will facilitate EPA's review of premanufacture notices, including the use of electronic data processing techniques. Pending publication of these formats, the following interim guidance applies. In general, a full report on the effects and properties listed in § 720.23(a)(3) should include the following parts: abstract, introduction, experimental methods and materials, results, discussion of data analyses, conclusions, and references. (Briefer reports may be appropriate for certain effects. See Section II-C-2 of the Support Document.) An abstract for other test data should briefly describe the purposes, methodolgy, results, and conclusions of the study.

Other Data Known to or Reasonably Ascertainable by the Submitter. Section 5(d)(1)(C) of the Act requires a manufacturer to submit descriptions of any other data concerning the environmental and health effects of the manufacture, processing, distribution in commerce, use or disposal of his new substance, insofar as the data are known to or reasonably ascertainable by him. Proposed § 720.23(b) implements this provision. Section 720.2 would define "known to or reasonably ascertainable" to mean "all information that a reasonable person similarly situated might be expected to possess, control, or know, or could obtain without unreasonable burden or cost." For the purposes of data submittal requirements, § 720.23(b)(3) further would construe this term to include data which are known to the submitter's employees or other agents who are associated with research, development, test marketing, or commercial marketing of the substance. As further guidance, § 720.23(b)(3) would include examples of test data for which descriptions should be submitted. These include data which such employees or agents learn about through discussions, attendance at symposia, or by reading scientific articles.

Incomplete Reports. Sections 720.23(a)(4)(iii), (a)(5)(ii), and (b)(4) of the proposed rule exempt incomplete reports and studies from the full data submittal requirements of § 720.23. However, the submitter would be required to describe the nature and objective of any such study, report or test, its principal investigator, laboratory contacts, progress to date, types of data collected, significant preliminary results and anticipated completion date. In addition, if the study or report yields significant results prior to the expiration of the notification period, and if the results were not submitted with the premanufacture notice, the manufacturer would be required to immediately submit the relevant study, report, or test results to EPA.

Data That Need Not be Submitted. Proposed § 720.23(c) contains provisions for data which need not be submitted to EPA. First, manufacturers may submit standard literature citations for data which appear in periodicals listed in Appendix I of the rules. These are periodicals to which EPA has immediate access, and the number of periodicals listed will increase as the Agency's access capacity increases. Second, persons are not required to resubmit any data previously submitted to EPA or another Federal agency, provided EPA is not now prevented from accessing those data because of prior claims of confidentiality. Third, efficacy data need not be submitted. Fourth, test data on exposure to human or ecological populations outside the United States need not be submitted. Finally, persons need not submit data on impurities, byproducts, co-products or other related chemicals which are themselves included on the inventory.

D. EPA'S PROCESSING OF NOTICES

1. *Acknowledgement of Receipt.* Under the procedures proposed in Subpart D, EPA would acknowledge receipt of each premanufacture notice. This receipt would bear the date when the OTS Document Control Officer receives the notice, and the 90-day notice review period would begin on this date. As discussed below, under § 720.34 and § 720.35 EPA may extend the review period for up to 90 additional days.

2. *Confidential Treatment of Information Contained in Premanufacture Notices.* When information is submitted and is covered by a claim of confidentiality asserted in accordance with these rules, EPA will disclose that information only to the extent permitted by the Act, these rules, and EPA's Public Information rules, 40 CFR Part 2. Basically, this means that EPA will not disclose information claimed as confidential without prior notice to the submitter. If a person asserts a claim, but fails to submit any substantiation or, in the case of a health and safety study, fails to submit a sanitized copy, he will be given an opportunity to correct this problem before EPA releases the information.

EPA will review all confidentiality claims asserted for information in health and safety studies, to assure the maximum availability of such information to the public. In addition, the Agency will in every case review a claim with respect to specific chemical identity prior to adding a substance to the inventory. EPA may review claims with respect to other information at any time; however, the Agency will review most claims only upon receipt of Freedom of Information Act requests.

EPA will deny confidentiality claims if it finds that disclosure of the relevant materials would not reveal confidential business information. In general, EPA will grant confidentiality to materials in health and safety studies only if the Agency determines that release would disclose confidential information concerning the manufacturing or processing process for a chemical, or the proportions of a mixture. However, for the period prior to commencement of manufacture, EPA will withhold the chemical identity of a substance as part of a health and safety study if the person shows that release would disclose confidential business information. (EPA's proposed resolution of the question of confidentiality for specific chemical identities is discussed in detail in Section III A of this supplementary information.)

3. *Federal Register Notice.* Under section 5(d)(2) of the Act, five days after EPA receives a premanufacture notice the Agency must publish in the FEDERAL REGISTER, subject to § 14, a notice which includes information identifying the new substance, its "uses or intended uses," and any data developed pursuant to a § 4 rule or to a designation under § 5(b)(4) that the substance may present an unreasonable risk. In implementing § 5(d)(2), EPA faces a conflict between the need to keep certain information confidential, and the need to make information public and thus facilitate public oversight of new substances as intended by Congress. Section 720.32 contains EPA's proposed resolution of this conflict.

As a general rule, EPA will identify the substance in the FEDERAL REGISTER notice by its specific identity. However, if the submitter claims identity to be confidential, the Agency will identify the substance by a generic name.

If a person asserts a valid claim of confidentiality for use information submitted in a notice, EPA will protect this information. However, § 720.42 provides that when a person asserts such a claim, he must at the same time provide non-confidential information concerning the generic uses of the substance and the human and environmental exposure which may occur. This exposure information will focus on identifying the populations which may be exposed to the substance (e.g., consumers, workers), and the extent of the exposure which is likely to occur. In addition, the person would indicate the degree of environmental release of the substance at various stages in its life cycle. This non-confidential data will be published in the § 5(d)(2) FEDERAL REGISTER notice.

EPA believes that Congress intended information on uses of new substances to be published so that the public can estimate the types and extent of potential human and environmental exposures to the substances. With an understanding of likely exposure, the public more effectively may exercise its opportunities for participating in review of chemical risks. By providing for the submittal and publication of exposure information, EPA will address this public need for information without releasing technical use information, which may be the most commercially sensitive type of information included in the premanufacture notice.

Under § 720.32(b)(3), in the section 5(d)(2) notice EPA would list all test data reported as part of a premanufacture notice, and would publish submitter-prepared abstracts for much of this test data. These abstracts would not contain any confidential information. EPA rejected a suggestion that it publish only those data developed in connection with § 4 testing requirements or § 5 (b)(4) designations. Much of the test data submitted with section 5 notices will have been developed independently of the section 4 and section 5(b)(4) requirements, but are relevant to the public's interest in new chemical substances.

Proposed § 720.32 provides that EPA will file this notice with the FEDERAL REGISTER within five days after the Agency receives the premanufacture submittal. Because of this time constraint, the Agency will utilize elements of the notice form for the Federal Register notice, including the submitter's proposed generic chemical identity and use information. However, if any of this information proves inaccurate or significantly more generic than necessary, EPA may publish and amended FEDERAL REGISTER notice, subject to the Agency's confidentiality rules in 40 CFR Part 2.

4. *Deficient Notices.* The information required to be submitted by these rules and the forms is necessary for EPA's effective review of new substances. If a person does not follow these rules, EPA may consider his notice to be deficient.

In §720.34, EPA proposes that its response to a deficient notice would depend upon the nature of the deficiency, distinguishing between those deficiencies of a relatively minor nature for which the Agency may request corrections, and those which are more serious and which will render a notice invalid. Section 720.34(a) provides that within 30 days after receipt of a notice EPA may request a submitter to correct minor or technical deficiencies (e.g., failure to date the notice; typographical errors which render entries unclear or ambiguous.) For thse types of deficiencies, the Agency will suspend the notification period for up to 30 days, pending correction of the notice. If the submitter does not make the correction within this time period, EPA may declare the notice to be invalid.

Section 720.34(b) identifies grounds for invalidation of a notice. These in-

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clude failure to comply with the procedures for obtaining information from other persons, in accordance with § 720.20(e) or § 720.21(c); submittal of a notice by a person other than the one who intends to manfacture or import the substance; failure to provide any information requested on the notice form, unless the form clearly indicates that the information is optional; and failure to provide any information required by § 5(d)(1)(B) and (C) of the Act, in accordance with § 720.23. EPA would be able to determine at any time during the notification period that a notice is invalid for these reasons.

Finally, § 720.34(c) provides that if EPA discovers after expiration of the notification period that a person submitted intentionally false or misleading statements concerning a material aspect of his notice, the Agency may find that the notice itself was invalid. If so, the manufacture of that substance will constitute a violation of the Act.

5. *Extension of Notification Period.* Section 5(c) of the Act provides that EPA can extend the original 90-day notification period by up to an additional 90 days for "good cause." Section 720.35 of the rules provides that EPA will notify the submitter by certified mail if the Agency extends the period, and provides examples of situations which EPA believes could constitute good cause for extension. In addition, § 720.35(c) provides that EPA may issue a Notice of Continuing Review if the Agency is actively evaluating the substance for regulatory action after expiration of the notification period. This Notice of Continuing Review would be for informational purposes only, and would not extend the notification period or prevent a person from beginning to manufacture or import the substance.

6. *Supplementary Reporting.* Despite the reporting requirements proposed in these regulations and in the forms, for some substances of particular concern the premanufacture notices may not contain sufficient information for EPA to evaluate the chemical substance and to initiate regulatory actions or prescribe follow-up reporting requirements. In particular, it is possible that some of the information specified in the notice form may not be known to or reasonably ascertainable by the submitter. Further, for some substances of particular concern, the Agency will need informatin in addition to that required by the form.

To deal with these information gaps, in § 720.50 and § 720.51 EPA is proposing rules pursuant to § 5 and § 8 of the Act under which EPA may require defined classes of persons (including submitters, potential processors of new substances, and manufacturers of reactant products) to report specific types of information with respect to new chemical substances for which premanufacture notices have been submitted. Under these proposed rules EPA may require the specified information either during the premanufacture review period or after its expiration. These requirements would be issued administratively and not through independent rulemakings for each individual case. The issuance of each such reporting requirement would be subject to the approval of the Assistant Administrator for Toxic Substances or the Deputy Assistant Administrator for Program Integration and Information.

Timely availability of information is particularly important to EPA's decision-making concerning actions under § 5(e) or § 5(f). Further, this approach would enable EPA to direct information requirements to identified persons, and thereby diminishes the need to promulgate rules of general applicability to large numers of manufacturers. It also precludes the need for more extensive and burdensome initial notification requirements for all new substances by permitting the Agency to acquire necessary information on selected substances of concern to supplement that in the notice form.

7. *Supplementary Reporting—Small Business Definition.* To the extent that supplemental reporting under § 720.50 of these proposed rules is based upon the authority of § 8(a), EPA generally may not impose a reporting requirement on a "small manufacturer or processor." EPA must define or otherwise construe "small" in a manner which balances EPA's need for this information with the reporting burden placed upon small companies.

For purposes of these supplemental reporting requirements, EPA is proposing to define as a "small" business any company with annual sales of less than $1,000,000. EPA estimates that this would exclude from such requirements 44% of the chemical manufacturers in this country, who account for 0.8% of manufacturers' sales and 1.4% of manufacturers' employment. When considered with the estimated average reporting costs (which are relatively low) and the probably infrequent use by EPA of the proposed supplemental reporting authority, this definition will not result in a significant burden upon industry.

EPA has considered several other options to this single definition of "small business." First, the Agency could define the term (and hence the applicability of the supplemental reporting requirements) on a case-by-case basis, balancing the costs to the particular person reporting the specific information against EPA's need for it. Second, the Agency could define "small business" according to annual sales in conjunction with the projected sales volume of the new substance. Third, EPA could develop a multiple definition which assigns a separate number (based, for example, upon annual sales) to each type of data or task which the Agency may require. Fourth, the Agency could use a dual definition: companies under a lower limit (expressed in terms of sales, number of employees, or other factors) generally would not be subject to supplemental reporting; firms above an upper limit always would be covered; and for those in between EPA would decide on a case-by-case basis. These options are discussed further in II-D-8 of the Support Document, where EPA has estimated the impact of the reporting requirements at five different levels of annual sales.

8. *Actions under section 5(e) or section 5(f) of the Act.* Under section 5(e) of the Act EPA may issue a proposed order to regulate the manufacture, processing, distribution in commerce, use or disposal of a new substance if the Agency determines that the information available is insufficient to evaluate its health or environmental effects, and that the substance either (1) may present an unreasonable risk of injury to health or the environment, or (2) will be produced in substantial quantities and there may be significant or substantial exposure to the substance. If a manufacturer or porcessor objects to a proposed order, or if EPA has not issued a proposed order 45 days before expiration of the notification period, EPA may apply to a U.S. District Court for an injunction to regulate a new substance under § 5(e). Such an order or injunction remains effective pending development and submittal to the Agency of sufficient data to evaluate the substance's effects.

Section 5(f) authorizes EPA to regulate a new substance if there is a reasonable basis to conclude that the substance will present an unreasonable risk to health or the environment before a rule promulgated under Section 6 can protect against such risk. To ban manufacture of a chemical, EPA may issue a proposed order; if EPA has not issued a timely order, or if a manufacturer or porcessor objects to the order, EPA must apply to a U.S. District Court for an injunction. Otherwise the Agency may regulate a chemical under section 5(f) by issuing a section 6(a) rule which is immediately effective upon publication in the FEDERAL REGISTER. Sections 720.36 and 720.37 of these rules would establish procedures for actions under these authorities.

Sections 5(e)(1)(B) and 5(f)(3)(C) of the Act provide that, on or before the

issuance of a proposed order, EPA must notify "each manufacturer or processor, as the case may be" of the basis of EPA's determination to regulate a substance under these authorities. Any such person may object to the order within 30 days after he receives it. The Act is unclear whether EPA must notify only the submitter of the notice (which in the case of a new substance will be the manufacturer or importer). It is possible that Congress intended the term "processor" to apply only with respect to proposed orders concerning "significant new uses"; both manufacturers and processors may be required to submit notices for such uses. In § 720.36 and § 720.37, EPA proposes that the Agency will send notices of proposed orders concerning new substances not only to the manufacturers but also to other persons who would be affected by the orders, including processors and users. Because EPA may not be able to identify all interested persons, the Agency proposes both to inform directly the submitter and other persons whom he has identified in accordance with § 720.20(e), and to publish a FEDERAL REGISTER notice which describes the proposed order and persons who may object to it.

The Act does not provide a particular mechanism for the modification or revocation of orders issued under § 5(e) or § 5(f). Sections 720.36(b)(5) and (6), and § 720.37(b)(5), provide that any person who is affected by an order may petition EPA for its modification or revocation if there has been a change in the factors relevant to EPA's decision to issue the order.

Section 5(e)(2)(D) of the Act does not state how long EPA may evaluate test data submitted pursuant to an injunction (issued under § 5(e)(2)(A)) before the appropriate United States District Court may dissolve the injunction. Section 720.36(c)(2) would establish an administrative procedure whereby EPA will inform the submitter within 90 days of receipt of the data whether EPA will petition the court to modify or dissolve the injunction; whether the Agency intends to propose a rule under § 6(a); or whether, because of the bulk or complexity of data, the Agency has not completed its review and will oppose and petition to dissolve the injunction at that time.

9. *Compliance and Enforcement.* EPA considers the success of the premanufacture notification program to be vital to the effectiveness of the TSCA chemical control program as a whole. Consequently, the Agency will make every effort to ensure compliance with the mandates of § 5 of the Act and with the rules promulgated thereunder.

EPA will make a major effort to identify and take enforcement action against violators of the premanufacture notification rules. Pursuant to § 15 and § 16 of the Act, any person who does not comply with the premanufacture requirements may be liable for a civil penalty of up to $25,000 for each violation. For the purposes of § 16, each day a violation continues constitutes a separate violation. In addition to any such civil penalty, knowing or willful violations of these rules may lead to the imposition of criminal penalties in the amount of up to $25,000 for each day of violation and to imprisonment for up to one year. In addition, the Agency may utilize any of the remedies available to it under section 17 of the Act, including seeking injunctions to restrain persons from violating the premanufacture rules, and seizing any substances manufactured in violation of the rules.

Individuals as well as corporations will be subject to enforcement actions. Sections 15 and 16 apply to "any person" who violates various provisions of TSCA. Thus in actions under § 16, EPA may at its discretion proceed against individuals, such as corporate officials, as well as the companies themselves. In particular, this includes individuals who report false information or who cause false information to be reported.

Persons who are subject to these rules should be fully aware of the potential magnitude of penaltites for violations. Section 5 and these rules require manufacturers to submit complete and valid premanufacture notices at least 90 days before the start of manufacture of new substances. If a person does not submit a complete and valid notice he may be subject to penalties of up to $25,000 per day. Persons who submit false information may be subject to penalties calculated as if they never filed their notices. EPA also may impose penalties for reporting false data and tests, although the reporting is done pursuant to the optional reporting sections of the notice form. Such false information would have a damaging impact on the effectiveness of the program because it could result in the Agency's failing to take action under § 5(e) and § 5(f) during the premanufacture period in cases where such action was appropriate. Such violations, however, are largely a matter of degree and may be the subject of lesser penalties as particular cases warrant. Further, EPA will direct its resources to the detection of violations of other aspects of the premanufacture rules, particularly the exemption for research and development. Finally, the Agency will apply a less vigorous enforcement approach towards minor deviations from and technical violations of the rules and forms.

III. MAJOR ISSUES

A. CONFIDENTIALITY FOR SPECIFIC CHEMICAL IDENTITY

If a person claims that the fact that he intends to manufacture, import or process a particular chemical substance is confidential, several issues arise under TSCA. EPA's proposed approach to confidentiality of specific chemical identity is set forth in § 720.41. In choosing this proposed approach, EPA balanced the competing concerns of Sections 5, 8 and 14 of TSCA.

Section 5(d)(2) of the Act requires EPA, within five days of receipt of the notice, to publish in the FEDERAL REGISTER a notice identifying, among other things, the substance for which a premanufacture notice has been received. This notice is to identify the chemical substance by a generic chemical name unless EPA determines that a more specific identification is in the public interest. The statute provides that publication of this notice is subject to the disclosure of data provisions in Section 14 of the Act.

Section 14 of the Act states that if information reported to EPA under TSCA is exempt from disclosure under the fourth exemption of the Freedom of Information Act (FOIA) (5 U.S.C. 552(b)(4)), it may not be disclosed except in the specific circumstances set out in the section. In particular, Section 14(b) of the Act provides that, except for the two classes of information identified below, the Administrator cannot deny a request for information concerning data from a health and safety study with respect to a chemical substance which has been offered for commercial distribution, for which testing is required under Section 4 of the Act, or for which notification is required under Section 5. Two two classes of information which are exempt from disclosure as part of a health and safety study are data which disclose confidential processes used in the manufacture or processing of a chemical substance or mixture, and the confidential proportions of a chemical substance in a mixture.

Section 8(b) of the Act requires EPA to publish an inventory of chemical substances which are manufactured, imported or processed in the United States for commercial purposes, and requires the Administrator to add a chemical, for which notice is submitted under Section 5, to the inventory as of the earliest date that it is manufactured, imported or processed for a commercial purpose in the United States.

EPA believes that Congress intended the Agency to publish a generic chemical name in the FEDERAL REGISTER notice of receipt of a premanufacture notice under Section 5(b)(2) of the

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Act, if the fact that anyone intends to manufacture, import or process the chemical substance for a commercial purpose is confidential. This policy is reflected in Sections 720.41(a) and 720.32 of these proposed regulations. Because of time constraints, EPA will not review the claim of confidentiality or the adequacy of the generic name prior to publication of the FEDERAL REGISTER notices. EPA may review the claim of confidentiality and the generic name at a later date, either on its own initiative or in response to an FOIA request or a petition under § 720.41(a)(4)(iii). If EPA denies the claim of confidentiality or determines that the generic name is inadequate, it may publish an amended notice in the FEDERAL REGISTER.

EPA also believes that, *in the absence of submission of a health and safety study,* Congress intended the Agency to hold in confidence a specific chemical identity if the submitter complies with the requirements of the regulations and EPA determines that the fact that the particular chemical substance is manufactured, imported or processed for commercial purposes in the United States by anyone is confidential. This is the policy established in § 710.7 of the inventory reporting rules. EPA is not now proposing to amend that policy.

However, it is likely that many, if not all, premanufacture notices will contain health and safety studies. In addition, while EPA estimates that only 1 or 2 percent of specific chemical identities reported for the inventory will be confidential, comments already submitted to the Agency suggest that persons submitting premanufacture notices will be making such claims in a high percentage of cases.

Thus, for the purposes of premanufacture notices, the more difficult and significant issue is how EPA should handle claims of confidentiality for specific chemical identity if a health and safety study has been submitted. It is clearly implicit in the statute that chemical identity is part of a health and safety study; § 720.2 of these proposed regulations would define the term "health and safety study" to explicitly include chemical identity. Section 3(6) of the statute defines "health and safety study" to include "any study of any effect of a *chemical substance* • • • on health or the environment or on both, including *underlying data* • • •" (emphasis added). It is difficult to imagine any data more basic to a study than the identity of the chemical substance tested. For example, identity allows one to interpret the results of a study and determine whether the appropriate test methodology was followed for the particular chemical.

The legislative history of TSCA indicates that Congress intended the term "health and safety study" to be interpreted broadly. If Congress had intended that chemical identity would not be considered part of a health and safety study, it would have so provided. The statute does provide that in disclosing a health and safety study, the Administrator is not to disclose data on confidential processes used in the manufacture or processing of a chemical substance in a mixture, or the confidential proportions of a chemical substance in a mixture. However, in explaining § 14(b) of the Committee bill, which became § 14(b) of TSCA as enacted, the House report explains:

> In referring to "disclosing the portion of the mixture," the Committee intends to protect confidential trade secret information respecting the specific formulation of a mixture. However, the Committee does not intend to prohibit the Administrator from disclosing the chemical substances comprising the mixture by their order of quantity in the mixture. H.R. Rep. No. 94-1341, 94th Cong., 2d Sess. 51 (1976).

Thus EPA considers chemical identity to be part of a health and safety study.

A mechanical reading of the statute would suggest that EPA is required to disclose specific chemical identity as part of a health and safety study (unless that would disclose confidential data on the processes used in the manufacture or processing of a chemical substance or mixture or the proportions of a chemical substance in a mixture) on any chemical which has been offered for commercial distribution, for which testing is required under § 4 of the Act, or for which notification is required under § 5. There are, however, indications in the statute that Congress intended the Agency to draw a distinction between disclosure of specific chemical identity for substances which are being manufactured for "non-exempt commercial purposes," as that term is defined in § 720.2, and chemicals which a person merely *intends* to manufacture for such purposes at some point in the future. In particular, § 5(d)(2) of the Act unmistakably provides that the notice of receipt of a premanufacture notice is to identify the chemical by generic name unless the Administrator determines that more specific identification is required in the public interest. Congress, accordingly, seemed to recognize the importance of confidentiality prior to manufacture of a chemical for commercial purposes. Thus EPA considers chemical identity to be part of a health and safety study.

A variety of policy considerations reinforce the idea that premanufacture confidentiality for chemical identities was intended by Congress. Prior to manufacture of a chemical for non-exempt commercial purposes, exposure of the public to the chemical is minimized. The chemical will usually be manufactured solely in small quantities for research and development, and under § 5(h)(3) of the Act (and § 720.14 of the proposed regulations) all persons engaged in the manufacture, processing, use, transport, storage or disposal of the substance must be notified of any risk to health which may be associated with the chemical. There also is the possibility that the chemical will never be manufactured for non-exempt commercial purposes, either because of a business judgment on the part of the submitter or because of regulation by EPA. If the chemical is not to be manufactured, imported or processed in the United States for non-exempt commerical purposes, there may be no reason to disclose its confidential chemical identity to the general public or a business competitor. Lastly, manufacturers and importers have impressed upon the Agency the special importance of confidentiality during the period prior to commencement of manufacture. Often the first entrant into a new market has a very real competitive advantage. Disclosure of confidential identity at that time could result in competitive harm and, more broadly, in reduction of technological innovation. Manufacturers may protect their investment in reserach and development of a new substance in some cases by obtaining a patent. While disclosure of chemical identity of a substance does not appear to affect U.S. patent rights, various industry comments have indicated that premature publication may endanger patent rights in certain foreign countries. EPA welcomes comment on the relationship between the disclosure of identity and competitive effects abroad.

Accordingly, EPA is not persuaded that Congress intended the Agency to take a mechanical approach to disclosure of specific chemical identity as part of a health and safety study. Therefore, the Agency in these regulations is proposing a pragmatic position with regard to disclosure of health and safety studies submitted under § 5 of TSCA. (The Agency is not here proposing a policy for disclosure of identity as part of a health and safety study if the chemical is subject to a testing rule under § 4 or a reporting rule under § 8.)

Under § 720.41(a), prior to commencement of manufacture or import of a substance for a non-exempt commercial purpose, EPA would disclose only a generic chemical name as part of a health and safety study if public disclosure of the fact that anyone intends to manufacture, import or process the specific chemical substance for a non-exempt commercial purpose would reveal confidential business information. After a chemical begins to be manufactured, imported or processed for a non-exempt commercial purpose, EPA would deny, under § 720.41(b), any claim for confidentiality of specific chemical identity as part of a health and safety study, unless release would disclose confidential processes used in the manufacture or processing of a chemical substance or mixture, or confidential proportions of chemical substances in a mixture. In that case, EPA would disclose the health and safety study and identify the specific chemical substance by a generic chemical name. EPA intends to make these studies routinely available to the public, within the limits of the policy described above.

Under the Agency's proposed approach, it is very important to determine what types of information would disclose confidential "processes used in the manufacture or processing of a chemical substance or mixture." It is difficult to define this phrase so as to identify clearly the particular situations to which it applies. The terms "manufacturing" and "processing" are defined by sections 3(7) and 3(10) of the Act and in § 720.2 of the proposed rules. EPA will refer to these definitions in deciding what information would be included within this phrase. The following are examples of the kinds of information which may fall within the category of data which disclose processes: physical parameters of reactions vessels; methods of purification of reactants or reaction products; whether substance is incorporated into an article; and information on how an article is made or how an article works if this would reveal how it is made. These examples are very general. Application of the exception will turn on particular factual circumstances and will involve a determination of whether a particular item of information, when added to other information generally known, would disclose a confidential process. The Agency specifically welcomes comment on this issue.

If the specific chemical substance could be disclosed as part of a health and safety study, EPA would deny any claim for confidentiality of the specific chemical identity for purposes of adding the substance to the inventory. On the other hand, if specific chemical identity was not subject to disclosure as part of a health and safety study, and if the submitter complied with the provisions of the regulations, EPA would not publish the specific chemical identity in the inventory. Instead, as was the policy under the inventory reporting regulations, EPA would publish a generic chemical name in an appendix to the inventory. Thereafter, a person with a bona fide intent to manufacture a substance is included on the inventory as confidential identity. See proposed § 720.41.

The Agency recognizes that it is sometimes difficult to choose an appropriate generic name. Under § 720.41, the generic chemical name must be only as generic as necessary to protect the confidential identity of the particular chemical substance. EPA has already made available for use in inventory reporting its *Guidelines for Creating Proposed Generic Names,* 43 FR 16178, April 17, 1978. As part of this rulemaking, the Agency again specifically solicits comment on the *Guidelines,* which is published as Appendix II to these proposed rules. In addition, EPA is proposing in the rules an additional standard to assure that generic chemical names not only satisfy the regulatory standard ("only as generic as necessary"), but also provide as much information as possible on toxicologically significant aspects of the substance's structure. EPA welcomes comment on this standard and on whether it should be incorporated in the *Guidelines* document. Section 720.41(a)(2) of these proposed regulations establishes a voluntary procedure for prenotice consultation with the Agency concerning selection of a generic name.

The Agency believes that its proposed approach balances the competing concerns of the public interest and industrial sectors and is a rational resolution. Moreover, this approach has the advantage of straightforward administration which is important because of the potential volume of confidentiality claims and of requests by the public to examine these materials.

Because of the complexity of this issue, EPA has considered a large number of alternatives. The major alternatives considered are identified below. These are discussed in greater detail in the Support Document.

1. Do not disclose a confidential specific chemical identity as part of a health and safety study before or after commencement of manufacture for commercial purposes.

2. Disclose specific chemical identity as part of a health and safety study both prior to and after commencement of manufacture for commercial purposes unless such disclosure would release confidential processes used in the manufacture or processing of a chemical substance or mixture or the confidential proportions of a chemical substance in a mixture.

3. Establish a panel of experts, with no commercial interest in chemicals, to review all health and safety studies on new chemical substances with confidential identities prior to commencement of manufacture for commercial purposes. If the health and safety study, including specific chemical identity, is not disclosed to the public after the commencement of manufacture for commercial purposes, the panel would have continued access to the data.

4. Disclose specific chemical identity as part of a health and safety study, both prior to and after commencement of manufacture, to any person who can establish a *bona fide* public interest in obtaining the identity and who has no commercial interest in chemical substances.

5. Disclose specific chemical identity as part of a health and safety study only with the consent of the submitter. EPA would be a middleman and relay requests for information to the submitter.

6. Rather than routinely making identity available (such as through a public reading room), await receipt of an FOIA request before determining whether to disclose identity after commencement of manufacture. Until that time, EPA would hold identity confidential

7. After commencement of manufacture, publish the generic name on the inventory even if the specific identity has been released in connection with a health and safety study.

8. Require a minimum level of test data on any new chemical substance whose specific chemical identity is claimed as confidential.

Any of these alternatives might be selected in the final regulation. EPA intends to further evaluate each of them before determining how to handle claims of confidentiality for specific chemical identity with respect to health and safety studies submitted under TSCA § 5. EPA specifically solicits comment on these various altenatives and any other possible approaches.

B. TESTING FOR NEW CHEMICAL SUBSTANCES

EPA has given considerable attention to testing for new chemical substances and, in particular, the need for and possible contents of testing guidelines. At this time, the Agency is not proposing guidelines for public review and comment. However, in the near future EPA will publish in the FEDERAL REGISTER a detailed discussion of the major testing issues and guidelines alternatives considered by the Agency. The publication also will contain a number of recommended testing methods which EPA considers to be appropriate for estimating a wide range of health and ecological effects and environmental fate characteristics. The Agency will request interested persons to comment on the issues, alternatives, and testing methods, and subsequently will propose testing guidelines for use with new chemical substances.

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EPA's long term strategy is to issue § 4 testing rules which apply to specific categories of chemical substances and which require testing for a significant number of effects. However, it may be several years before the Agency issues enough such rules to require testing of a substantial proportion of new chemical substances. Further, the § 4 rules will not cover all or even most chemical substances for all effects of concern to EPA. Therefore the Agency intends to issue testing guidelines to supplement the § 4 rules. The guidelines would be consistent with the testing rules, but they will be discretionary. The Agency will revise the guidelines and § 4 rules to reflect changes in scientific knowledge and EPA's experience in reviewing chemical substances.

With regard to both § 4 and § 5 guidelines, EPA's goal is a tiered scheme of testing for health and ecological effects. The scheme will be designed to develop, in the most cost-effective manner possible, data needed for assessments of risk. It will be constructed so that data from the initial tier of tests will help determine whether more testing should be performed. Decision rules for passing from one tier of tests to another will be explicit in the § 4 rules. In the § 5 guidelines, the decision rules will be as explicit as possible, considering the broader range of circumstances which the guidelines must accommodate. To the extent possible, EPA will harmonize its testing schemes under TSCA with those developed by other federal agencies, nations, and international organizations.

Both prior to and after establishment of the guidelines for testing of new chemical substances under § 5(e), EPA may take action to assure, on a case-by-case basis, that substances are tested before commencement of manufacture or import. While § 5(e) does not authorize the imposition of a testing requirement *per se*, the section does authorize the Agency to prohibit or limit the manufacture, processing, distribution in commerce, use, or disposal of a substance pending development of test data sufficient to evaluate the health and environmental effects of a substance.

C. SMALL BUSINESS; LOW VOLUME CHEMICALS

EPA is acutely aware of the impacts which the premanufacture program may have upon small companies, low volume chemicals, and general innovation in the chemical industry. Those impacts will vary considerably depending upon the Agency's decisions on certain key issues.

Section 5 does not exempt small businesses from the premanufacture notification requirements or otherwise qualify their legal responsibilities. Congress recognized that chemical risks are a function of effects and exposure and are not correlated with company size. (Further, because many large companies produce low volume chemicals, and certain small companies manufacture chemicals in high volumes, it is not accurate to use the terms "small business" and "low volume" interchangeably.) Because EPA's primary focus is upon limiting risks to health and the environment, the Agency will not give small companies exemptions or other special provisions which would minimize their responsibilities to prevent unreasonable risks. However, EPA recognizes that it must balance the need to protect humans and ecological populations from unreasonable risks against possible impacts upon the economy and technological innovation which may result from implementation of § 5. (See § 2(b)(3) of the Act.)

The consequences of regulatory actions particularly may impact small businesses and the innovations for which they are responsible. The ability of many such companies to compete with larger ones often is tied directly to their ability to reach commercial production from product R&D in a short period of time. If as a result of government regulation (or of other similar outside factors) this time frame is lengthened, this may effectively reduce the capability of small chemical manufacturers to introduce new chemical substances into commerce. Further, to the extent that larger businesses rely upon and use smaller companies' innovations in their own new products, innovation in the industry in general could be impeded.

Small manufacturers may be less able to absorb the costs of introducing new chemical substances into the market because their total sales volumes are relatively low. Although low volume chemicals may have relatively high profit margins, if costs are increased by R&D expenditures, testing costs, compliance with premanufacture notification requirements, or other factors, it may become less profitable to commercialize new products. This might be true for all new chemical substances produced in low volumes regardless of the size of the companies which introduce them. However, larger manufacturers may be able to spread these costs across product lines to higher volume, higher profit products, whereas small manufacturers may not have this option.

The extent to which innovation is primarily the domain of small companies is not clear. At this time there are no detailed studies or analyses which adequately characterize the various types of innovations in the chemical industry and the sources of the innovations. Thus it is unclear whether innovation is evenly distributed throughout the industry or concentrated in certain types of companies. Only gross estimates can be made as to the percentage of various-sized companies' productive efforts which are tied to the development of TSCA "new chemical substances."

In light of these and other similar considerations EPA solicits comments on how the Agency should implement the premanufacture program as it relates to small businesses and low volume producers. Comment also is requested regarding the impact of the program on innovation in general within the chemical industry. In particular, the impacts of two parts of EPA's premanufacture activities merit special attention: (1) the notice forms, and (2) the premanufacture testing guidelines.

The general notice form which EPA is proposing at this time would apply to all new chemical substances. This form would require detailed reporting on exposure and use. EPA welcomes comments on whether the Agency should develop a separate, briefer form for certain new substances produced in low volumes. Depending on these comments, EPA may promulgate such a form either at the time these rules and forms are promulgated, or thereafter if the need arises.

Any such comments should focus upon two related, but distinct, issues. First, to whom or for which new substances should a separate form apply? EPA could use any of several criteria to define applicability, including production volumes, anticipated issues (e.g., intermediates, consumer products), production processes (i.e. batch, continuous) and size of manufacturer (e.g., annual sales or profits, number of employees). If the Agency promulgates two forms, it must clearly distinguish between them concerning the situations in which each must be used. Thus comments should include any proposed definitions or criteria (qualitative or quantitative) for applicability and estimates of the percentage and types of new substances which thereby would be covered.

Second, what should be the contents of any such form? This preamble and the support document for this rulemaking discuss the contents of the proposed general form, including EPA's rationale for requesting the various types of information. If the Agency develops a separate, briefer form, it must decide that it does not need to receive all of this information for all new substances. Therefore comments should indicate not only the information which should be requested in a separate form, but also the reasons why such information would be

adequate for EPA's review of those new substances subject to the form. Further, consistent with the development of a briefer form the Agency may need to require subsequent reporting as production and use—and thus exposure—increase. Commenters are encouraged to address this issue as well.

With regard to the testing guidelines, a major issue concerns their impact upon low volume chemicals. For many such chemicals, it may be commercially feasible to perform certain health and environmental effects testing. Because EPA is not proposing testing guidelines for public review and comment at this time, this preamble does not focus upon specific approaches to the low volume chemical testing issue. When EPA publishes its document on premanufacture testing guidelines, the Agency will discuss this issue.

EPA is examining whether it is feasible for the Agency to provide technical and other nonfinancial assistance to small companies to facilitate their ability to comply with the premanufacture requirements. EPA's Industry Assistance Office now provides general information and nonfinancial assistance to businesses (both large and small) concerning the Agency's implementation of the Act. EPA is considering how it could expand upon these activities to be more supportive to small companies in their efforts to provide notices and to otherwise comply with the premanufacture requirements. For example, EPA might be able to provide help in completing the notice forms. Similarly, the Agency might assist in various aspects of testing, including the determination of the need to test (e.g., literature searches, structure-activity work), and general guidance concerning appropriate test methods and schemes. And EPA could provide technical and other support in the development of organizations or shared facilities in the private sector which could enable small companies to test on a more cost-effective basis than is otherwise the case. EPA also is exploring with the Small Business Adminstration ways to mitigate the financial hardships which small businesses may incur in complying with TSCA.

Finally, Congress limited EPA's authority to issue § 8(a) reporting requirements by limiting their use to other than "small business" unless the chemicals for which information is sought are subject to Agency regulatory actions. (Section 8(a)(3)(A)(ii) of the Act.) As noted in the "General Approach" section, EPA intends to use § 8(a) reporting rules to obtain additional information necessary to review premanufacture notices, and to follow-up certain new substances once they enter commercial production. Therefor EPA must define the term "small business" as it applies to this § 8(a) reporting. (See § 720.50 of the proposed rules, and "Supplementary Reporting" above. Also see Sections II-D-7 and II-D-8 of the Support Document.)

IV. IMPACTS

A. REGULATORY ANALYSIS

The following discussion describes the major alternative approaches considered by EPA in implementing the premanufacture program. There are three possible parts to any of these alternatives—notification rules, notice forms, and testing guidelines. Each serves a specific purpose, and when taken in various combinations they comprise the major alternatives available to the Agency in implementing § 5. The proposed premanufacture program is consistent with Alternative 3, including premanufacture rules and notification forms. In this discussion, the alternatives are presented in order from the least to the most resource-intensive. Further, in the interest of brevity the advantages of each component are described only in the alternative in which it first appears.

ALTERNATIVE 1—"DO NOTHING"

TSCA does not require EPA to promulgate rules relating to premanufacture notification. Thus § 5 could become self-implementing 30 days after the publication of the initial inventory of existing chemical substances. The Act provides direction as to who must submit notices and when, the information which must be included in the notices, the length of the premanufacture notification period, and EPA's authorities to regulate new substances. Thus the Agency could adopt a "do nothing" approach, under the assumption that the Act is self-explanatory.

Advantages. The major advantage to this approach is that in the short run the Agency would avoid the burden of a complex and controversial rulemaking. Persons subject to § 5 could avoid the effort and expense of participating in the rulemaking process and of familiarizing themselves with the final rules. Manufacturers would give notification to EPA in the quickest, least burdensome, most expedient manner.

Disadvantages. Short-run expediency quickly would turn to long-run ineffectiveness. Individual manufacturers often would interpret vague and ambiguous provisions in the Act in different ways, resulting in inconsistency and inefficiency for both EPA and submitters. For example, TSCA requires notices to include information on chemical identity, uses, disposal, production volume, exposure, and by-products. With no clarification from EPA, the imprecise nature of many of these terms may result in different interpretations and responses. Some would be incomplete or of insufficient detail, thus greatly complicating EPA's task of assessing risk. In these cases, EPA might find the notices to be invalid and return them to the manufacturers, with considerable expense and delay for submitters.

This approach also could create confusion concerning a manufacturer's rights to confidentiality and EPA's handling of confidential information. Further, there are many chemical fate characteristics and health and environmental effects which the Agency might want to evaluate with respect to new chemical substances. Without any statements from EPA on effects of concern, manufacturers may find it difficult to allocate scarce testing dollars appropriately.

Economic Consequences. The initial economic impact from this approach might be minimal. Manufacturers probably would submit very general information in areas required by the statute. Normally, much of this information is available prior to manufacture of any new substance. Lacking specific direction from EPA, submitters may not collect the specific information which the Agency would find most useful.

The initial impact from complying with the premanufacture requirements may be minimal. However, there could be secondary effects if EPA (1) considers notices with insufficient data to be invalid and returns them to the submitters; (2) utilizes its § 8(a) reporting authority to fill in important data gaps; or (3) decides to make worst case assumptions about effects and exposures as a basis for its regulation of new substances. Delays and resubmittals could be costly and time consuming.

This alternative likely would avoid some of the possible anti-competitive effects of the more costly alternatives. As compliance costs increase, they will tend to have disproportionate impacts upon smaller firms which are unable economically to justify significant regulatory expenditures.

ALTERNATIVE 2—DEVELOP NOTIFICATION RULES

A second option is to issue rules which amplify and clarify the requirements of § 5. (Such rules make up a portion of EPA's proposed premanufacture program.) The rules could establish policy and procedures for (1) handling of confidential information, (2) processing and handling of notices, and (3) use of the regulatory authorities in section 5(e) and section 5(f). In addition, rules could define phrases in the law such as "known to or reasonably ascertainable," "possession or

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control," and "small quantities for research and development." The rules also could more precisely identify the information and data which EPA considers necessary to comply with the general notification requirements of § 5. Finally, rules could inform manufacturers of the Agency's policy on such issues as the applicability of § 5 to exporters and importers, the role of § 8 reporting in the implementation of the premanufacture program, and the content of the section 5(d) (2) & (3) FEDERAL REGISTER notices.

Advantages. This approach could eliminate much of the confusion and inconsistency discussed in the first alternative. Submitters would be more certain concerning EPA's interpretation of key provisions in the Act. Once promulgated, the rules would provide the basis for the future implementation of the premanufacture review program.

In particular, the rules would help to clarify the Agency's definition of a valid notice. Thus submitters could avoid costly delays due to the submittal of insufficient information and data. Further, EPA could save the resources necessary to obtain information omitted from notices as a result of manufacturers' individual interpretations of the Act. Agency staff would be able to provide a more consistent and uniform review of notices. Important data gaps could be closed considerably, facilitating the performance of preliminary risk assessments from the information in the premanufacture notices.

Disadvantages. Submitters would present information to EPA in the form and manner convenient to themselves. This could force the Agency to utilize considerable resources to place the information in standard formats prior to review. Additionally, there are many test protocols available for evaluating health and environmental effects and the rules would not give guidance concerning the protocols which EPA considers to be most appropriate. Consequently, submitters would use vastly different test methods, making uniform review of tests results more difficult. Further, Agency reviewers might be required to spend a significant amount of time and resources to understand the protocols followed. Subsequently EPA might decide that some of the tests performed were not acceptable bases from which to draw conclusions.

Economic Consequences. The cost and economic impacts of this option are dependent on: (1) the cost of developing information and data to EPA's specifications, (2) the levels of detail required in the rules, (3) the number of uses for a chemical substance (and the different types of exposure and disposal which may result), and (4) the resources of the company submitting the notice. Given the program which EPA contemplates, the cost probably would exceed that for data submitted under the first approach. However, the economic and scientific significance of the chemicals which might not be developed under this alternative likely would be minor in view of the modest expenditures involved.

ALTERNATIVE 3—DEVELOP RULES AND NOTICE FORMS

In addition to the rules discussed in alternative 2, EPA could develop standard notice forms for use in submitting the information and data required by the rules. This alternative—development of forms, in addition to rules—is reflected in this proposed rulemaking.

Advantages. The notice forms would provide consistent and standard formats for the submittal of information. This would greatly facilitate EPA's screening and review of premanufacture notices. In addition, although the rules could specify the information requirements (as discussed in alternative 2), they would be much less complex if the rules simply instruct submitters to complete standard notice forms. The information requirements then could be explained clearly in the notice forms. This would avoid the need to include detailed data descriptions in the rules.

Disadvantages. This option would not provide manufacturers with guidance concerning standard test protocols which are considered to be most appropriate for evaluating health and environmental effects. In the absence of such guidance, submitters may use different test methods, and this would make uniform review of test results more difficult.

Economic Consequences. The additional cost to manufacturers of filing standard EPA notice forms should be minor and should not significantly increase the economic impact discussed for alternative 2.

ALTERNATIVE 4—DEVELOP RULES, NOTICE FORMS, AND "REFERENCE TESTS"

In addition to the rules and notice forms, EPA could publish "reference tests" for important effects. The reference tests would contain recommended test methods and protocols for use in evaluating the likelihood that specific chemical substances cause particular effects, including any effects identified in the rules. Thus the reference test guidelines would state, "These are specific tests which EPA believes are appropriate for testing for certain effects. If you test your new substance for these effects, the Agency recommends that you use the following test methods or protocols."

Advantages. For manufacturers, this would eliminate uncertainty concerning the test methods which EPA considers to be appropriate for premanufacture testing. For the Agency, the reference tests should result in the use of consistent testing methods by submitters. This consistency would greatly facilitate the notice review and risk assessment processes. (However, because any such reference tests would be optional, manufacturers would retain the flexibility to follow other test methods which they believe to be more appropriate in particular situations.)

Disadvantages. The reference tests would not address the applicability issue, i.e. the circumstances in which new substances should undergo specific tests for particular effects, lacking direction from EPA, manufacturers would decide whether to test, and to what extent, using varying and inconsistent criteria.

Economic Consequences. EPA does not have the legal authority to require premanufacture testing of all new substances, though, as indicated in the testing discussion above, EPA may regulate a substance in certain cases pending the development of test data. Therefore to the extent manufacturers conduct the reference tests, the economic impact will depend upon (1) the costs of the reference tests and (2) the amount of testing which manufacturers undertake in excess of testing they would conduct in the absence of identification of such reference tests.

ALTERNATIVE 5—DEVELOP RULES, NOTICE FORMS, AND TESTING GUIDELINES WITH DECISION CRITERIA

In addition to identifying certain effects of priority concern and standardized testing methods, this option would include a set of decision criteria which would explain which tests EPA considers to be necessary for a substance given its unique structure, physical and chemical properties, uses, exposures, and production volume. These criteria would guide the Agency in determining cases in which it should not act under § 5(e). Decision criteria could be based on scientific or economic and other non-risk considerations. The following examples are illustrative:

(1) Scientific decision criteria—Most high molecular weight polymers might require only minimal health effects testing if they are non-reactive, if their particle size is large enough to prevent absorption through the lungs, and if there are no low weight monomers present that could be leached out. Most new substances may need to be tested consistent with their primary routes of anticipated human exposure (oral, dermal, or inhalation).

(2) Economic and non-risk decision criteria—EPA could predicate a recommendation for certain testing of new chemical substances upon annual production volume thresholds (e.g., 10,000 lb.) unless there is reason to suspect adverse effects based on structure activity relationships, data from pre-existing studies, or other relevant information.

(For a further discussion of the testing guideline alternatives, see III-B of the Support Document, "testing for New Chemical Substances.")

Advantages. This approach would most effectively encourage manufacturers to evaluate the health and environmental impacts of new chemical substances prior to their premanufacture notification submittals. EPA would be in a position to perform more thorough reviews and to make more informed regulatory decisions. Submitters would have more and better information available to use in designing necessary safeguards into their manufacturing processes or as a basis for withholding commercialization altogether. Manufacturers also would have guidance from the Agency concerning appropriate types and levels of testing, and this should greatly reduce the necessity for EPA to regulate substances under section 5(e).

Disadvantages. The principal disadvantage of this approach is the difficulty in implementing it. It will be difficult to develop useful decision criteria except in reference to particular chemical and exposure/use situations. Also, to the extent that this approach calls for increased testing for new substances, it may result in substantial expenses and delays, and a number of foregone investments for manufacturers who develop economically marginal chemicals.

Economic Consequences. The costs and impacts of this option are dependent upon: (1) the costs of the tests requested in the guidelines and (2) the extent to which chemical manufacturers perform the recommended tests. It is probable that the economic costs of this alternative would exceed those of the other four. In general, the impacts could include substantial compliance costs, reduced numbers of new substances, longer new product development lead times, and increased industry concentration.

EPA'S PREFERRED APPROACH

EPA's preferred approach is Alternative 5—rules, notice forms, and testing guidelines with decision criteria. If the Agency is able to develop decisions criteria based upon scientific, economic, and other non-risk factors which focus resources upon those substances most likely to present significant risks, the health and environmental benefits of this alternative would far exceed the economic costs.

However, the time needed to develop a quality program of this complexity is substantial, and EPA does not expect to develop complete testing guidelines with decision rules before the premanufacture notification program begins in early 1979. Consequently, EPA will pursue Alternative 3 as an interim strategy, and this rulemaking proposes notification rules and notice forms which are compatible with testing guidelines currently under development. In a separate publication in the near future, EPA will publish for public comment a detailed discussion of testing guidelines issues and alternatives, and will propose reference tests and guidelines in 1979.

B. ECONOMIC IMPACT

The notification form has three parts: Part I—General Information, Part II—Risk Assessment Data, and Part III—Risk Analysis and Optional Data. Each manufacturer of a new chemical substance must complete Parts I and II. Manufacturers may complete Part III as well, although it is optional. EPA has made a preliminary analysis of the cost of completing both the mandatory and optional parts in the interest of understanding the potential total costs to submitters. In this analysis, EPA has not considered the cost of any increased health and safety testing undertaken by manufacturers as a result of premanufacture notification.

The estimates cited below are judgmental and are not the result of an actual simulation of the completion of the notice form. The following general approach was utilized. Estimates were made of the time necessary to complete each subsection of the form. Costs then were calculated using assumed hourly labor rates multiplied by the hourly requirements identified. Estimates therefore may give an impression of preciseness that is not intended. Final estimates should be rounded to the nearest thousand dollars.

Due to several factors, the cost of filling out the form may vary over a wide range. The following factors account for most of this variation:

1. Company size and resources.

The amount and quality of data "known to" the company, including all relevant information in its possession or control.

The amount and quality of data "reasonably ascertainable" by the company.

2. The number and types of uses of the new chemical substance.

3. Distribution and fate of the new chemical substance.

Nature of human and environmental release and exposure.

Physical and chemical properties which may influence environmental release, persistence, and transport of the substance.

Considering these factors, EPA estimates the costs of completing the notice form as follows:

Form Sections	Cost Ranges
Mandatory Information	
Part I: General Information	$800-2,900
Part II: Risk Assessment Data:	
Section A: Physical and Chemical Properties, Environmental Fate Characteristics, and Effects Data	900-4,800
Section B: Exposure from Manufacture	800-6,400
Subtotal (Minimum Mandatory Form)	$2,500-14,000
Section C: Exposure from Processing Operations	600-6,400
Subtotal	$3,100-20,500
Section D: Exposure from Consumer Use	600-1,700
Subtotal (Maximum Mandatory Form)	$3,700-22,200
Optional Information	
Part III: Risk Analysis and Optional Data	5,500-19,200
Total (Maximum Total Cost)	$9,200-41,400

All manufacturers must complete Part I and Part II-A of the Notification Form. The remainder of Part II is divided into 3 subparts that deal with exposure at manufacturing sites (II-B), industrial processing facilities (II-C), and from consumer use (II-D). Manufacturers must complete each subsection that applies to their specific chemical. Thus all manufacturers must complete Section II-B. In certain special cases, however (e.g., captively consumed chemical intermediates), portions of Sections II-C and II-D may be inapplicable. In other instances the data requested in these sections may not be known or reasonably ascertainable. The "minimum mandatory" cost of completing the form is therefore the cost of completing Parts I, II-A, and II-B ($2,500-14,100). The "maximum mandatory" cost is to complete Parts I and II in their entirety ($3,700-$22,200). The "maximum total" cost includes all optional data in Part III ($9,200-$41,400).

EPA estimates that in the past five-year period, 700-1300 new chemicals have been introduced for commercial purposes each year. If there chemicals were subject to the proposed requirements, the Agency estimates that a significant but uncertain number might not have been introduced due to their low sales volumes and profitability. Questions have been raised concerning the types and general commercial significance of chemicals likely to be foregone as a result of this pro-

posed regulation. EPA will address this issue in the future as part of a more extensive study.

EPA expects to receive between 150 and 550 premanufacture notices per year. Total reporting costs as a function of level of reporting would be as follows:

Total Regulatory Costs per Year

[In millions of dollars]

Level of reporting:		
Minimum Mandatory		2.0–5.6
Maximum Mandatory		2.8–6.6
Maximum Total	Total	4.1–5.0

EPA believes that the above figures may overstate the cost and impact of the premanufacture program for two reasons. First, depending upon comments received in this rulemaking, the Agency may promulgated a briefer form for low volume, batch process chemicals. Such a form probably would be less costly than the one now proposed for all new chemical substances. Second, costs of completing the forms should decrease in the future because manufacturers will begin to generate data in the formats requested in the notice form. Thus they would no longer incur that portion of the costs which are attributable to re-formatting data.

Further, this analysis is based upon the assumption that the submitter of a notice has a minimum level of knowledge, expertise, and sophistication typical of a moderate-sized chemical company with some specialized technical resources. This may be appropriate for companies with annual sales of $5 million or more. However, the cost may be significantly lower for small companies which do not have this minimum level of specialization and expertise.

The economic impacts are discussed in greater detail in *Impact of TSCA Proposed Premanufacturing Notification Requirements* (EPA Report No. EPA 230/2-12/78-005), which is available from the EPA . (See "Information Contact" above).

C. OTHER IMPACTS

Aside from the economic impacts described above, there may be other impacts associated with the development of the premanufacture notification program. Many of these impacts derive directly from the legislative mandate for premanufacture notification, rather than from the particulars of this proposal. Further, at this stage these other impacts cannot be projected with certainty but only can be discussed in general qualitative terms.

For example, this proposed action will benefit health and the environment to the extent that the submittal of notices and any subsequent regulatory actions prevent the production, use, or disposal of new substances which present unreasonable risks. Moreover, this proposal may foster heightened awareness on the part of industry concerning its responsibilities to test and otherwise evaluate new substances prior to production, so that companies will limit exposures which otherwise may result in unreasonable risks.

The proposal has a potential for affecting both the production and consumption of fuels in the United States, insofar as EPA regulates any new substances intended to improve the efficiency of the fuel production process or the combustion efficiency of vehicles. The nature and extent of such impacts cannot be evaluated at this time, because this rulemaking establishes the general frame work for the premanufacture program and does not focus upon specific substances. However, consistent with § 2(c) of the Act, the Agency will consider the environmental, economic, and social impacts of any proposed actions.

D. EVALUATION PLAN

While EPA's new "sunset policy" on reporting requirements does not apply to the statutory requirement to submit premanufacture notification, EPA will evaluate these rules within five years after their effective date. In this review, EPA will assess the impacts of the rules, compliance with them, and alternative approaches. Pursuant to this review EPA will make appropriate changes to the rules, providing notice of an opportunity for comment on any substantive changes.

EPA will include in the final rules a plan for conducting this evaluation, describing the sources and availability of data needed for the evaluation and providing a schedule for conducting the review.

V. PUBLIC PARTICIPATION

In developing the proposed rules and notice forms, EPA has provided extensive opportunity for public participation. On March 29, April 20, May 18, July 12, July 19, and July 24, 1978, the Agency held public meetings to discuss major program issues with representatives from environmental and other public interest groups, organized labor, and the chemical industry. Further, EPA has met on numerous other occasions with representatives of individual constituencies to discuss specific issues, and has provided early drafts of this proposed rulemaking to the public for comment. This public participation has significantly influenced the development of these rules and forms.

EPA will hold public meetings during the comment period to provide the public an opportunity to present comments and questions (as described in Part VI below), and will continue to meet with smaller groups of interested persons on specific issues. The Agency will transcribe the general public meetings and will keep summary minutes of the smaller meetings.

VI. PUBLIC MEETINGS

EPA has scheduled the following public meetings on these proposed rules and forms during the official comment period:

Atlanta, Georgia—January 31, 1979

Sheraton Atlanta, 590 West Peachtree, N.W., Atlanta, GA 30308, (404) 881-6000 or 800-325-3535.

Dallas, Texas—February 1, 1979

EPA Conference Room, 29th Floor, 1st International Building, 1201 Elm Street, Dallas, TX 75270.

Los Angeles, California—February 2, 1979

Wilshire Hyatt House, 3535 Wilshire Blvd., Los Angeles, CA 90010, (213) 381-7411 or 1-800-228-9000.

Chicago, Illinois—February 6, 1979

Hyatt Regency Chicago, 151 East Wacker Drive, Chicago, IL 60601, (312) 556-1000 or 1-800-228-9000.

Cleveland, Ohio—February 7, 1979

Stouffer's Somerset Inn, 3550 Northfield Road, Shaker Heights, OH 44122, (216) 752-5600.

Newark, New Jersey—February 8, 1979

Hilton Gateway, 810 McCarter Highway, Newark, NJ 07102, (201) 622-5000.

Washington, D.C.—February 13 and 14, 1979

North Building Auditorium, Department of Health, Education and Welfare, 330 Independence Avenue, S.W., Washington, D.C. 20201.

The purpose of these meetings is to enable interested persons to provide oral comments on the proposed rulemaking to EPA officials who are directly responsible for developing the rules and notice forms.

All meetings will begin at 9:00 a.m. and end at 4:30 p.m., with a one-hour recess for lunch. The meetings will start with a short summary by EPA of the proposed rules and notice forms to be followed by oral presentations from the floor of no more than 10 minutes per person, company, or organization. (Less time may be allotted depending upon the number of presentations.)

Persons who wish to present their comments at any one of the meetings should contact EPA no later than four days before the meeting date by calling Mr. Doug Bannerman toll-free at 800-424-9065 (in Washington, D.C., call 554-1404), or by writing to the address listed above under "For Further Information Contact." EPA will allot speaking times on a first-come basis, although the Agency reserves the right to alter the order depending upon the nature of the particular comments and other relevant factors. If time permits, following these prepared presentations EPA will receive any other comments from the floor.

Presenters are urged, but not required, to submit copies of their statements on the day of the meeting. All such written materials will become a part of EPA's record for this rulemaking. In addition, the Agency will transcribe each meeting and will include the written transcripts in the public record.a

VII. PUBLIC RECORD

EPA has established a public record for this rulemaking (docket number OTS 050002) which is available for inspection in the OTS Reading Room from 9:00 a.m. to 5:00 p.m., on working days (Room 710E, 401 M Street SW., Washington, D.C. 20460.) This record includes all the information considered by the Agency in developing this proposal. The Agency will supplement the record with additional information as it is received. the record includes the following categories of information:

(1) USEPA-OTS. "Premanufacture Notification Requirements and Review Procedures": Notice of Proposed Rulemaking.

(2) USEPA-OTS. "Premanufacture Notification Requirements and Review Procedures": Support Document.

(3) USEPA-OTS. "Impact of TSCA Premanufacturing Review Requirements" (EPA 230/2-12/78-005).

(4) Seven working drafts of proposed 40 CFR Part 720 dated from June 20, 1978 to December 3, 1978; three working drafts of the premable to proposed 40 CFR Part 720 dated from October 28, 1978 to December 3, 1978; eight working drafts of the proposed Premanufacture Notice Form dated from July 30, 1978 to December 3, 1978; two working drafts of the Premanufacture Notice Form for Importers dated October 5, 1978 to December 3, 1978; three working drafts of the Premanufacture Notice Form for Foreign Manufacturers/Supplier dated from October 5, 1978 to December 3, 1978; and one draft of the Processing and Consumer Use Form dated December 3, 1978.

(5) All factual information and raw data of any sort considered during the rulemaking (including such information in comments from EPA personnel);

(6) EPA correspondence to persons outside the Agency;

(7) Correspondence (including comments on the rule) received from persons outside the Agency before the close of the comment period, and correspondence received after the close of the comment period if actually considered;

(8) EPA memoranda summarizing meetings and telephone conversations with outside persons relevant to the development of this rulemaking;

(9) Transcripts of hearings and advisory committee meetings.

The docket of the record which details its specific contents to date is available in the OTS Reading Room. EPA welcomes comment on any additional material that should be part of the record to date. EPA will identify the complete rulemaking record on or before the date of promulgation of these requirements, as prescribed by TSCA § 19(a)(3).

NOTE.—The Environmental Protection Agency has determined that this document does not contain a major proposal requiring preparation of an economic impact analysis under Executive Order 12044 and OMB circular A-107.

Dated: December 29, 1978.

DOUGLAS M. COSTLE,
Administrator.

It is proposed that a new Part 720 be added to Chapter I of Title 40 as follows:

PART 720

PREMANUFACTURE NOTIFICATION FOR NEW CHEMICAL SUBSTANCES

Subpart A—General

720.1 Scope and compliance.
720.2 Definitions.
720.3 Reporting requirements of this Part.

Subpart B—Applicability

720.10 Persons who must report.
720.11 Persons not subject to premanufacture notification requirements.
720.12 Chemical substances for which premanufacture notices must be submitted.
720.13 Chemicals not subject to premanufacture notification requirements.
720.14 Exemptions for research and development.
720.15 Exemptions for test marketing.

Subpart C—Premanufacture Notices

720.20 General provisions.
720.21 Imports.
720.22 Information relating to chemical identity; manufacture, processing, distribution in commerce, use and disposal; amounts; by-products and other related chemicals; exposure; safeguards and controls.
720.23 Submittal of test data and other data concerning the health and environmental effects of a substance.

Subpart D—Disposition of Notices

720.30 General.
720.31 Acknowledgment of receipt of notice.
720.32 Notice in the FEDERAL REGISTER.
720.33 Notice that premanufacture notification is not required.
720.34 Deficiencies in the premanufacture notice.
720.35 Premanufacture notification period; reports on status of new chemical substances.
720.36 Actions under § 5(e) of the Act.
720.37 Actions under § 5(f) of the Act.
720.38 Statement of reasons for not taking action.

Subpart E—Confidentiality and Public Access to Information

720.40 General provisions.
720.41 Specific chemical identity.
720.42 Uses and intended uses of a new chemical substance.
720.43 Data from health and safety studies.
720.44 Public files.

Subpart F—Supplemental Reporting Requirements

720.50 Reporting requirements under § 8(a) and § 5 of the Act.
720.51 Requirements for submittal of health and safety studies under § 8(d) of the Act.
720.52 Notice of commencement of manufacture or import.

AUTHORITY: Sections 5, 8, and 14 of the Toxic Substances Control Act, 15 U.S.C. 2604, 2607, and 2613.

Subpart A—General

§ 720.1 Scope and compliance.

(a) This Part establishes procedures for the reporting of new chemical substances by manufacturers and importers under section 5 of the Toxic Substances Control Act, 15 U.S.C. 2604 (hereinafter "the Act"). The rules define the persons and chemical substances subject to the reporting requirements, prescribe the contents of premanufacture notices, and establish procedures for filing notices. The rules also specify the procedures EPA will follow in processing premanufacture notices, and explain the Agency's policy regarding claims of confidentiality for, and public disclosure of, various categories of information submitted in connection with premanufacture notices.

(b)(1) Beginning 30 days after publication of the initial inventory, the manufacture or import of a new chemical substance can be undertaken only if the manufacturer or importer has complied with these premanufacture notification requirements. Sections 15(1) and 15(3) of the Act make it unlawful for any person to fail or refuse to submit information required for premanufacture notification. If a person submits information in a premanufacture notice that is intentionally false or misleading, contains significant omissions, or otherwise does not fulfill the requirements of section 5(d) of the Act, EPA will consider the notice to be invalid. If the person commences to manufacture or import the chemical substance and if EPA subsequently determines that his notice is invalid because it contains intentionally false or misleading information, the manufacturer or importer will have been in violation of section 15 starting 90 days before manufacture began and continuing every day thereafter until

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he ceases manufacture. Also under section 15(1), it is unlawful for a person to manufacture or import a new chemical substance for a non-exempt commercial purpose during the notification period described in § 720.35. Section 15(3) makes it unlawful for any person to fail to keep records which support information that these regulations require to be submitted to EPA, or to fail to permit access to these records. In addition, section 15(2) makes it unlawful for any person to use for commercial purposes a chemical substance which the person knows or had reason to know was manufactured or imported in violation of section 5.

(2) Section 16(a) provides that any person who violates any provision of section 15 shall be liable to the United States for a civil penalty of up to $25,000 per violation, with each day of violation constituting a separate violation. If a violation is knowing or willful, criminal penalties of up to one year in prison and $25,000 per day of violation may also be assessed. Section 17 (and, in imminent hazard cases, section 7) provides EPA with a number of specific enforcement remedies, including injunctions to restrain any section 15 violators and in particular to restrain persons from taking actions prohibited by section 5 or any rules or orders under section 5. EPA is also empowered to compel the taking of actions required under TSCA, and is authorized to seize any substance manufactured, processed or distributed in commerce in violation of the Act. EPA intends to use these remedies, separately or in combination, to assure compliance with the section 5 rules. The Agency will utilize whatever injunctive remedies are appropriate; for example, to stop manufacturing when no section 5(a) notice has been filed for a new substance, as well as to assess appropriate civil or criminal penalties.

(c) Any person who submits a premanufacture notice must retain health and safety data which is referenced in the notice for 30 years following the date of commencement of manufacture or importation of the chemical substance, and must retain other documentation for five years following the date of commencement of manufacture or importation.

§ 720.2 Definitions.

For the purposes of this Part: The following terms shall have the meaning contained in the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 321 et seq., and the regulations issued under such Act: "cosmetic," "device," "drug," "food," and "food additive." In addition, the term "food" includes poultry and poultry products, as defined in the Poultry Products Inspection Act, 21 U.S.C. 453 et seq.; meats and meat food products, as defined in the Federal Meat Inspection Act, 21 U.S.C. 60 et seq.; and eggs and egg products, as defined in the Egg Products Inspection Act, 21 U.S.C. 1033 et seq.

The term "pesticide" shall have the meaning contained in the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. 136 et seq., and the regulations issued thereunder.

The following terms shall have the meaning contained in the Atomic Energy Act of 1954, 42 U.S.C. 2014 et seq., and the regulations issued thereunder: "byproduct material," "source material," and "special nuclear material."

"Act" means the Toxic Substances Control Act, 15 U.S.C. 2601 et seq.

"Administrator" means the Administrator of the U.S. Environmental Protection Agency, any employee or authorized representative of the Agency to whom the Administrator may either herein or by order delegate his authority to carry out his functions, or any other person who shall by operation of law be authorized to carry out such functions.

An "article" is a manufactured item (1) which is formed to a specific shape or design during manufacture, (2) which has end use function(s) dependent in whole or in part upon its shape or design during end use and (3) which has either no change of chemical composition during its end use or only those changes of composition which have no commercial purpose separate from that of the article and that may occur as described in § 720.13 (e)(5), except that fluids and particles are not considered articles regardless of shape or design.

"Byproduct" means a chemical substance produced solely without a commercial intent during the manufacture, processing, use, or disposal of another chemical substance(s) or mixture(s).

"Chemical substance" means any organic or inorganic substance of a particular molecular identity, including any combination of such substances occurring in whole or in part as a result of a chemical reaction or occurring in nature, and any chemical element or uncombined radical, except that "chemical substance" does not include:

(1) Any mixture

(2) Any pesticide when manufactured, processed, or distributed in commerce for use as a pesticide;

(3) Tobacco or any tobacco product, but not including any derivative products;

(4) Any source material, special nuclear material, or byproduct material;

(5) Any pistol, firearm, revolver, shells, and cartridges; and,

(6) Any food, food additive, drug, cosmetic, or device, when manufactured, processed or distributed in commerce for use as a food, food additive, drug, cosmetic, or device.

"Commerce" means trade, traffic, transportation, or other commerce (1) between a place in a State and any place outside of such State, or (2) which affects trade, traffic, transportation, or commerce described in clause (1).

"Co-product" means a chemical substance produced for a commercial purpose during the manufacture, processing, use, or disposal of another chemical substance(s) or mixture(s).

"Distribute in Commerce" and "distribution in commerce" when used to describe an action taken with respect to a chemical substance or mixture or article containing a substance or mixture mean to sell, or the sale of, the substance, mixture, or article in commerce; to introduce, or deliver for introduction into commerce or the introduction or delivery for introduction into commerce of, the substance, mixture, or article; or to hold, or the holding of, the substance, mixture, or article after its introduction into commerce.

"EPA" means the U.S. Environmental Protection Agency.

"Health and safety study" means any study or test of any effect of a chemical substance or mixture on health or the environment or on both, including underlying data (such as the chemical identity of the substance(s) being tested), and epidemiological studies, studies of the physical and chemical properties of the substance, studies of occupational exposure to a chemical substance or mixture, toxicological, clinical, and ecological studies of a chemical substance or mixture, and any test performed pursuant to this Act.

"Importer" means any person who imports a chemical substance, including a chemical substance as a part of a mixture or article, into the Customs Territory of the United States, and includes the person primarily liable for the payment of any duties on the merchandise or an authorized agent acting on his behalf. Importer also includes, as appropriate:

(1) The consignee;

(2) The importer of record;

(3) The actual owner if an actual owner's declaration and superseding bond has been filed in accordance with 19 CFR 141.20; or,

(4) The transferee, if the right to draw merchandise in a bonded warehouse has been transferred in accordance with Subpart C of 19 CFR 144. For the purpose of this definition, the Customs Territory of the U.S. consists of the 50 States, Puerto Rico, and the District of Columbia.

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"Import in bulk form" means to import a chemical substance (other than as part of a mixture or article) in any quantity, in cans, bottles, drums, barrels, packages, tanks, bags, or other containers used for purposes of transportation or containment, if the chemical substance is intended to be removed from the container and the substance has an end use or commercial purpose separate from the container.

"Impurity" means a chemical substance which is unintentionally present with another chemical substance.

"Intermediate" means any chemical substance which either is consumed in whole or in part in a chemical reaction(s) used for the intentional manufacture of another chemical substance(s) or mixture(s), or is intentionally present for the purpose of altering the rate of such chemical reaction(s).

"Known to or reasonable ascertainable" means all information in a person's possession or control, plus all information that a reasonable person similarly situated might be expected to possess, control, or know, or could obtain without unreasonable burden or cost.

"Manufacture" means to produce or manufacture in the United States or import into the Customs Territory of the United States.

"Manufacture or import for commercial purposes" means to manufacture or import:

(1) For distribution in commerce, including for test marketing purposes;

(2) For use by the manufacturer, including for use as an intermediate.

NOTE.—The fact that a chemical substance is manufactured or imported solely for research and development does not determine whether it is manufactured or imported "for commercial purposes." If the chemical substance is manufactured or imported solely for research and development purposes, and is either distributed in commerce, or is used by its manufacturer or importer for research and development of a potential commercial product, it is manufactured or imported "for commercial purposes." However, this does not mean that it is subject to the premanufacture notification requirements. See § 720.13(a) and § 720.14.

"Manufacture or import for non-exempt commercial purposes" means to manufacture or import for any commercial purpose for which a person would be required to submit a premanufacture notice. Specifically, the term excludes any manufacture or importation:

(1) In small quantities solely for research and development, in accordance with § 720.14;

(2) For test marketing purposes, under restrictions imposed by EPA in conjunction with an exemption granted under § 720.15;

(3) For commercial purposes enumerated in § 720.13(d) and § 720.13(e); and

(4) For commercial purposes exempted under section 5(h)(4) or section 5(h)(5) of the Act.

"Mixture" means any combination of two or more chemical substances if the combination does not occur in nature and is not, in whole or in part, the result of a chemical reaction; except that "mixture" does include (1) any combination which occurs, in whole or in part, as a result of a chemical reaction if the combination could have been manufactured for commercial purposes without a chemical reaction at the time the chemical substances comprising the combination were combined and if, after the effective date of these regulations, none of the chemical substances comprising the combination is a new chemical substance, and (2) hydrates of a chemical substance or hydrated ions formed by association of a chemical substance with water so long as the non-hydrated form is itself not a new chemical substance.

NOTE.—The term "mixture" includes alloys, inorganic glasses, ceramics, frits and cements, including Portland cements.

"New chemical substance" means any chemical substance which is not included in the inventory compiled and published under subsection 8(b) of the Act.

"Non-isolated intermediate" means any intermediate which is not intentionally removed from the equipment in which it is manufactured.

NOTE.—The "equipment in which it is manufactured" includes the reaction vessel in which the chemical substance is manufactured and other equipment which is strictly ancillary to the reaction vessel, and any other equipment through which the chemical substance may flow during a continuous flow process, but does not include tanks or other vessels in which the chemical substance is stored after its manufacture.

"Person" means any natural person, firm, company, corporation, joint-venture, partnership, sole proprietorship, association, or any other business entity, any State or political subdivision thereof, any municipality, any interstate body and any department, agency, or instrumentality of the Federal Government.

"Possession or control" means in possession or control of the submitter, or of any subsidiary, parent company, or any company which the parent company owns or controls if the subsidiary, parent company, or other company is associated with the submitter in the research, development, test marketing, or commercial marketing of the substance. (A parent company owns or controls another company if the parent owns or controls 50% or more of the other company's voting stock.) Information is included within this definition if it is: (1) in the submitter's own files, (2) in commercially available data bases to which the submitter has purchased access, or (3) maintained in the files in the course of employment by employees or other agents of the submitter who are associated with research, development, test marketing, or commercial marketing of the substances.

"Process" means the preparation of a chemical substance or mixture, after its manufacture, for distribution in commerce (1) in the same form or physical state as, or in a different form or physical state from, that in which it was received by the person so preparing such substance or mixture, or (2) as part of a mixture or article containing the chemical substance or mixture.

"Process for commercial purposes" means to process (1) for distribution in commerce, including for test marketing purposes, or (2) for use as an intermediate.

"Processor" means any person who processes a chemical substance or mixture.

"Site" means a contiguous property unit. Property divided only by a public right-of-way shall be considered one site. There may be more than one manufacturing plant on a single site. For the purposes of imported chemical substances, the site shall be the business address of the importer.

"Small quantities for purposes of scientific experimentation or analysis or chemical research on, or analysis of, such substance or another substance, including any such research or analysis for the development of a product" (hereinafter sometimes shortened to "small quantities for research and development") means quantities of a chemical substance manufactured, imported, or processed or proposed to be manufactured, imported, or processed that (1) are not greater than reasonably necessary for such purposes and (2) after the publication of the revised inventory, are used by, or directly under the supervision of, a technically qualified individual(s).

"State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Canal Zone, American Samoa, the Northern Mariana Islands, or any other territory or possession of the United States.

"Technically qualified individual" means a person (1) who because of his education, training, or experience, or a combination of these factors, is capable of appreciating the health and environmental risks associated with the chemical substance which is used under his supervision, (2) who is responsible for enforcing appropriate

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methods of conducting scientific experimentation, analysis, or chemical research in order to minimize such risks, and (3) who is responsible for the safety assessments and clearances related to the procurement, storage, use, and disposal of the chemical substance as may be appropriate or required within the scope of conducting the research and development activity. The responsibilities in clause (3) of this paragraph may be delegated to another individual, or other individuals, as long as each meets the criteria in clause (1) of this paragraph.

"Test data" means: (1) data, including chemical identity, from a formal or informal study, test, experiment, recorded observation, monitoring, or measurement; and (2) information concerning the objectives, experimental methods and materials, protocols, results, data analyses (including risk assessments), and conclusions from a study, test, experiment, recorded observation, monitoring, or measurement.

"Test marketing" means the distribution in commerce of no more than a predetermined amount of a chemical substance, mixture, or article containing that chemical substance or mixture, by a manufacturer or processor to no more than a defined number of potential customers to explore market capability in a competitive situation during a predetermined testing period prior to the broader distribution of that chemical substance, mixture or article in commerce.

"United States," when used in the geographic sense, means all of the States, territories, and possessions of the United States.

§ 720.3 Reporting requirements of this Part.

The following reporting requirements are established or implemented under this Part:

(a) Each person who intends to manufacture or import a new chemical substance for a commercial purpose (as defined in § 720.2) is subject to these regulations. Subpart B describes who must report and which chemical substances must be reported. Subpart C sets out reporting procedures and describes in greater detail the information which such persons must submit to EPA.

(b) In accordance with § 720.50(e), EPA may require any person who intends to manufacture, import, or process a new chemical substance for a commercial purpose to report information on uses and exposures of the substance, the benefits of and alternatives to the substance, and the economic consequences of potential regulatory actions with respect to the substance.

(c) In accordance with § 720.51(b), EPA may require any person in possession of a health and safety study to submit a copy of the study to the Agency.

(d) Any person who commences to manufacture or import a new chemical substance for which he had previously submitted a premanufacture notice must submit a Notice of Commencement of Manufacture in accordance with § 720.52.

Subpart B—Applicability

§ 720.10 Persons who must report.

(a) Beginning 30 days after publication of the initial inventory (40 CFR § 710.3(a)) the following persons must submit premanufacture notices under the provisions of this Part:

(1) Any person who intends to manufacture a new chemical substance (as defined in § 720.2) in the United States for commercial purposes, including manufacture of a substance solely for export from the United States;

(2) Any person who intends to import a new chemical substance in bulk form (as defined in § 720.2) into the United States for commercial purposes;

(3) Any person who originally manufactured, or imported in bulk form, a new chemical substance under the terms of an exemption authorized in § 720.14 or § 720.15, and who intends to distribute in commerce or to otherwise use the substance in a manner inconsistent with the terms of the applicable exemption, even if he does not intend to continue or resume manufacture or import of the substance; and,

(4) Any person who intends to manufacture a new chemical substance, or import a new chemical substance in bulk form, in a manner inconsistent with any exemption authorized under § 5(h) of the Act, and §§ 720.14 and 720.15 of this Part.

(b) In addition to the persons listed in paragraph (a) of this section, beginning 30 days after publication of the revised inventory (40 CFR § 710.3(b)) the following persons must submit premanufacture notice under the provisions of this Part:

(1) Any person who intends to import a new chemical substance into the United States for a commercial purpose as part of a mixture;

(2) Any person who originally imported as a part of a mixture a new chemical substance under the terms of any exemption authorized in § 720.14 or § 720.15, and who intends to distribute in commerce or to otherwise use the substance in a manner inconsistent with the terms of an applicable exemption, even if he does not intend to continue or resume import of the substance; and

(3) Any person who intends to import a new chemical substance as part of a mixture in a manner inconsistent with an exemption authorized under § 5(h) of the Act, and §§ 720.14 and 720.15 of this Part.

§ 720.11 Persons not subject to premanufacturer notification requirements.

The following persons are not subject to the premanufacturer notification requirements of this Part:

(a) Any person who intends to import a new chemical substance into the United States for commercial purposes as part of an article;

NOTE.—In the future, EPA may by rule designate categories of chemical substances imported as part of articles to which these premanufacture notice requirements will apply.

(b) Except as provided by § 720.10(a)(3) and 720.10(b)(2), any person who intends only to process or use a new chemical substance for commercial purposes, including processing for or use of the substance in research and development, as an intermediate, or for distribution in commerce.

NOTE.—A notice is invalid under § 720.34(b) if it is submitted by a person other than a manufacturer or importer. Filing of such a notice will not satisfy the premanufacture notice requirement of section 5(a) of the Act. If a person intends to process or use a new chemical substance for a commercial purpose, and the chemical substance is not excluded from premanufacture notice regulations under § 720.13, he must rely on the manufacturer or importer to submit the notice. In accordance with § 720.20(e), the manufacturer or importer may request the processor or user to participate in the filing of the notice by providing information on uses and exposures, either to the manufacturer or importer, or directly to EPA.

§ 720.12 Chemical substances for which premanufacture notices must be submitted.

(a) A person described in § 720.10 must submit a premanufacture notice for any chemical substance which he intends to manufacture or import for commercial purposes which (1) is not included on the inventory, and (2) is not exluded from the reporting requirements of this Part by § 720.13. Chemical substances on the inventory include those specifically identified, and those which are identified by use of the procedures established in paragraph (b) of this section.

(b)(1) If a particular chemical substance is not included on the inventory by specific chemical name but falls within one of the generic chemical names in the appendix to the inventory entitled "Confidential Chemical Substance Identities," a person who intends to manufacture or import that substance may ask EPA whether it is included on the inventory. EPA will answer such an inquiry only if the Agency determines that the person has a *bona fide* intent to manufacture or import the substance for a non-exempt commercial purpose.

(2) To establish a *bona fide* intent to manufacture or import the specific chemical substance, the person who proposes to manufacture or import the substance must submit to EPA:

(i) A signed statement that he intends to manufacture or import the chemical substance for non-exempt commercial purposes.

(ii) A description of the research and development activities he has conducted to date, and the purpose for which he will manufacture or import the substance;

(iii) An elemental analysis;

(iv) Either an X-ray diffraction pattern (for inorganic substances) or a mass spectrum (for most other substances) of the particular chemical substance, or if such data do not resolve uncertainties with respect to the identity of the chemical substance, additional or alternative spectra or other data to identify the substance; and,

(v) If requested by EPA, a sample of the substance in its purest form.

(3) EPA will compare the information submitted by the proposed manufacturer or importer under this paragraph with either the information requested for the confidential chemical under § 710.7(e)(2)(v) of this chapter or the information requested under § 720.40(b)(2).

(4) If (i) the comparisons of the elemental analyses, and of either the X-ray diffraction patterns or mass or alternative spectra, are sufficiently similar to be consistent with a presumption that the chemical substance for which information is requested is the same as a substance on the inventory, and (ii) comparison of any other submitted information affirms or does not contradict this presumption, EPA will tell the person proposing to manufacture or import the particular chemical substance that the substance is included on the inventory and that a premanufacture notice is not required. At the same time, EPA will notify the person(s) who originally reported the substance that another person has demonstrated a *bona fide* intent to manufacture or import the substance, and has been notified that the substance is included on the inventory.

(5) If (i) the comparisons of the elemental analyses, and of either the X-ray diffraction patterns or the mass or alternative spectra, are not sufficiently similar to be consistent with a presumption that the chemical substances are the same, and (ii) comparison of the other information does not rebut this conclusion, EPA will tell the person proposing to manufacture or import the particular chemical substance that the information submitted does not support a conclusion that the substance is included on the inventory and that a premanufacture notice is required if the person intends to manufacture or import the substance for a non-exempt commercial purpose.

(6) A disclosure of chemical identity to a person with a *bona fide* intent to manufacture or import a particular chemical substance will not be considered a disclosure of confidential information.

(7) EPA will provide a final response to an inquiry under these procedures as to whether a particular chemical substance is included on the inventory within 45 days after the Agency's receipt of a complete submission under paragraph (b)(2) of this section.

§ 720.13 Chemicals not subject to premanufacture notification requirements.

The following chemicals are not subject to the premanufacture notification requirements of this Part:

(a) Any chemical substance which will be manufactured or imported solely in small quantities for research and development in accordance with § 720.14;

(b) Any chemical substance which will be manufactured or imported solely for test marketing purposes under the terms of an exemption granted under § 720.15;

(c) Any chemical which is not a "chemical substance" as defined in § 720.2 of the Part, and any mixture as defined in § 720.2 of this Part.

NOTE.—A new chemical substance that is manufactured, or is imported as part of a mixture, is subject to the requirements of this Part. This exclusion applies only to a mixture and not to any new chemical substances which are part of the mixture.

(d) Any co-product if its only commercial purpose is for sale to municipal or private organizations who (1) burn it as a fuel, (2) dispose of it as a waste, including in a landfill, or for enriching soil, or (3) extract component chemical substances which have commerical value. However, a manufacturer may submit a premanufacture notice for a co-product described by this paragraph.

NOTE.—If a person intends to extract a component chemical substance from a co-product, that person is considered to be a manufacturer of the component substance, and if the component is a new chemical substance the extractor-manufacturer must submit a premanufacture notice for the substance.

(e) The chemical substances described below: [Although they are manufactured for commercial purposes under the Act, they are not manufactured for distribution in commerce as chemical substances *per se* and have no commercial purpose separate from the substance, mixture, or article of which they are a part.]

(1) Any impurity.

(2) Any byproduct.

(3) Any chemical substance which results from a chemical reaction that occurs incidental to exposure of another chemical substance, mixture, or article to environmental factors such as air, moisture, microbial organisms, or sunlight.

(4) Any chemical substance which results from a chemical reaction that occurs incidental to storage or disposal of another chemical substance, mixture, or article.

(5) Any chemical substance which results from a chemical reaction that occurs upon end use of another chemical substance, mixture, or article such as an adhesive, paint, miscellaneous cleanser or other housekeeping product, fuel or fuel additive, water softening and treatment agent, photographic film, battery, match, or safety flare, and which is not itself manufactured or imported for distribution in commerce or for use as an intermediate.

(6) Any chemical substance which results from a chemical reaction that occurs upon use of curable plastic or rubber molding compounds, inks, drying oils, metal finishing compounds, adhesives, or paints; or any other chemical substance formed during the manufacture of an article destined for the marketplace without further chemical change of the chemical substance except for those chemical changes that occur as described elsewhere in this paragraph.

(7) Any chemical substance which results from a chemical reaction that occurs when (i) any of the following functions as intended: a stabilizer, colorant, odorant, antioxidant, filler, solvent, carrier, sufactant, plasticizer, corrosion inhibitor, anitfoamer or defoamer, dispersant, precipitation inhibitor, binder, emulsifier, deemulsifier, dewatering agent, agglomerating agent, adhesion promoter, flow modifier, pH neutralizer, sequesterant, coagulant, flocculant, fire retardant, lubricant, chelating agent, or quality control reagent or (ii) a chemical substance, which is intended solely to impart a specific physicochemical characteristic, functions as intended.

(8) Any non-isolated intermediate.

§ 720.14 Exemptions for research and development.

(a) This Part does not apply to a chemical substance if:

(1) The chemical substance is manufactured or imported or is proposed to be manufactured or imported only in small quantities for research and development (as defined in § 720.2); and,

(2) The manufacturer or importer notifies all persons engaged in the manufacture, processing, use (including use in research and development), transport, storage or disposal of the substance of any risks to health which may be associated with the substance,

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in accordance with paragraph (c) of this section.

(b) The manufacturer or importer may notify persons by means of a container labeling system, conspicuous placement of notices in areas where exposure may occur, a system of oral or written notification to each person who may be exposed to the substance, or any other method of notification which adequately informs persons of risk which the manufacturer or importer believes may be associated with the substance. The adequacy of the notification is the responsibility of the manufacturer or importer and, after publication of the revised inventory, shall be assured by a technically qualified individual (as defined in § 720.2). If the importer is not also the manufacturer, it is the importer's responsibility to make the necessary evaluation and notification of any risks to health which may be associated with the substance. In making such evaluations, the importer shall obtain the information described in paragraph (c) of this section from the manufacturer.

(c)(1) The manufacturer or importer shall evaluate any information or test data in his possession or control (the terms "possession and control" and "test data" have the meanings defined in § 720.2). Such information shall include:

(i) Any information concerning any significant adverse reaction to persons exposed to the substance which may reasonably be associated with such exposure; and,

(ii) Any information provided to the manufacturer or importer by a supplier or any other person concerning a health risk believed to be associated with the substance.

(2) In addition, the manufacturer or importer shall notify all persons exposed to the substance if the substance is subject to any rule or order proposed or promulgated under §§ 4, 5, or 6 of the Act; or an action filed under § 7 of the Act; or the notice requirements of § 8(e) of the Act. In addition, the manufacturer or importer shall notify all persons of any risk to health which EPA, under § 5(h)(3) of the Act, has determined may be associated with the substance.

(d) Upon request, the manufacturer shall make available to EPA, or any person who may be exposed to the substance, any information (described in paragraph (c) of this section) evaluated by the manufacturer in determining the need for notification under paragraph (a)(2) of this section.

(e) It is unlawful for any person to manufacture or import a chemical substance under the terms of this exemption without meeting all of the provisions of paragraphs (a)-d) of this section.

§ 720.15 Exemptions for test marketing.

(a) Any person may apply for an exemption from any requirement of this Part to permit such person to manufacture or import a new chemical substance for test marketing purposes (as defined in § 720.2). EPA may grant such an exemption if the person demonstrates that the substance will not present an unreasonable risk of injury to health or the environment as a result of the test marketing activities.

(b) The EPA will consider the following information in determining whether to grant an exemption:

(1) All existing data regarding health and environmental effects of such substances, including physical-chemical properties;

(2) The maximum quantity of the substance which the applicant will manufacture for test marketing purposes;

(3) The maximum number of persons that may be provided the substance for test marketing purposes;

(4) The maximum number of mixtures or articles containing the substance that would be distributed during the test marketing activities;

(5) The maximum number of persons who may be exposed to the substance as a result of test marketing activities (including information regarding duration, concentration, and route of such exposures); and,

(6) Information regarding the period during which test marketing will occur.

(c) No later than five days after EPA receives an application for exemption under this section, the Agency will file with the Office of the FEDERAL REGISTER a notice which will contain, subject to § 14:

(1) A summary of the information provided in the application;

(2) An address and telephone number where inquiries and requests for copies of the full application may be directed (release of the full application will be subject to the confidentiality provisions of this Part); and,

(3) A request for written comments regarding the appropriateness of granting such an exemption.

(d) No later than 45 days after EPA receives an application, the Agency will either approve or deny the application. Thereafter EPA will publish in the FEDERAL REGISTER a notice which explains the reasons for approval or denial.

(e) If EPA approves an application for exemption, the Agency may impose such restrictions as are necessary to insure that the substance will not present an unreasonable risk of injury to health and the environment as a result of the test marketing activities. Such restrictions may include, but are not limited to, restrictions on workplace concentration, quantity distributed, or populations exposed to the substance.

Subpart C—Premanufacture Notices

§ 720.20 General provisions.

(a) *Use of notice forms.* Each person who is required by subpart B to submit a premanufacture notice must complete in English, sign, and submit the information in the form and manner set forth on the appropriate EPA premanufacture notice forms published by and available from EPA. Except as otherwise provided in this subpart C, each notice must be submitted as a complete package, including all referenced attachments and enclosures. In submitting a notice, a person should carefully follow the reporting instructions, "Premanufacture Reporting of New Chemical Substances Under TSCA," published by and available from EPA. Premanufacture notice forms and reporting instructions are available from EPA by calling this toll-free number: 800-424-9065. In Washington, D.C., call 554-1404.

(b) *When to submit notices.* Each person who is required to submit a premanufacture notice must submit the notice at least 90 calendar days before he begins to manufacture or import the new chemical substance for non-exempt commercial purposes.

(c) *Where to submit notices.* Each person who submits a premanufacture notice must submit it to the address listed in the notice form.

(d) *General notice requirements.* Each person who submits a premanufacture notice must provide the information described in § 720.22 and requested in the applicable notice form, plus any other information requested in the form and not designated "optional," insofar as such information is known to or reasonably ascertainable by him. In addition, in accordance with § 720.23, the submitter must append to the form any test data in his possession or control and descriptions of other data reasonably ascertainable by him concerning the environmental and health effects of the substance.

(e) *Information from other persons.* At a minimum, the submitter must follow the procedures outlined below to identify and obtain information which is not known to him but which is reasonably ascertainable by him.

(1) Except as provided in paragraphs (e) (5) and (6) of this section, the submitter must contact in writing:

(i) Each person who is a party to a contract to obtain the substance from the submitter for processing or use; and

(ii) Each person who has contacted the submitter and indicated an interest in obtaining the substance for processing or use;

(iii) Each person who has obtained a sample of the substance from the submitter and who has indicated an interest in purchasing the substance; and

(iv) Each person whom the submitter has contacted or intends to contact concerning the substance and who the submitter firmly believes will purchase the substance from the submitter during the first three years of commercial production.

(2) The submitter must request each person contacted to complete the Processing and Consumer Use form.

(3) The submitter must offer each such person the option either to provide the requested information to the submitter for inclusion by him in the premanufacture notice or to provide the information directly to EPA in accordance with the notice form and reporting instructions. The submitter must state in his request that the other person is not under a legal obligation to provide the requested information.

NOTE.—If the submitter complies with these procedures, EPA will not consider the notice to be invalid under § 720.34 for the reason that the other persons do not provide the information requested. However, if the information is not provided, EPA subsequently may require any other persons to provide the information directly to the Agency. (See § 720.50.)

(4) The submitter must include in his premanufacture notice all information which is provided to him by other persons in accordance with this paragraph (e).

(5) If the submitter identifies a significant number of persons under paragraphs (e)(1) (ii), (iii), and (iv) of this section, and if he has reason to believe that the information which they provide will be duplicative, instead of contacting all such persons he may contact a sample of them which he has reason to believe is representative of the types of persons who will process and use the substance.

(6) The submitter need not contact any person who the submitter has reason to believe will not provide information which materially adds to, changes, or otherwise makes significantly more complete the information which the submitter himself includes in his notice.

(7) The submitter must certify in the premanufacture notice his compliance with this paragraph. The certification must include:

(i) The names and addresses of the persons whom the submitter contacted, and a designation of those who have provided information to him or who have indicated that they intend to provide information directly to EPA; and

(ii) If the submitter relies upon paragraph(s) (e) (5) or (6) of this section, a brief explanation of how and why he did so.

(f) *Specific chemical identity.* A premanufacture notice is not valid, and the notification period does not begin, unless the notice contains the specific chemical identity of the substance for which the notice is submitted.

(1) A manufacturer may authorize another person to report to EPA on his behalf concerning the specific chemical identity, if both the manufacturer and the other person sign the declaration provided on the premanufacture notice form.

(2) An importer may authorize the foreign manufacturer or supplier of an imported chemical substance to report to EPA on his behalf concerning the specific chemical identity, if both the importer and the other person sign the declaration provided on the Foreign Manufacturer or Supplier Form identified in § 720.21(c)(1)(ii).

(3) If EPA receives a premanufacture notice which does not include the specific chemical identity of the substance, but the notice indicates that the submitter has authorized another person to provide the chemical identity, the premanufacture notification period will begin when EPA receives the chemical identity.

(4) If EPA receives a premanufacture notice which does not include the specific chemical identity of the substance, and the notice indicates that the submitter has attempted without success to obtain information concerning the identity of reactants used to produce the substance, EPA may issue a supplemental reporting requirement under § 720.50(b) to obtain this information from the manufacturer or importer of the reactants. In such cases, the premanufacture notification period will begin when EPA, on the basis of identification of the reactants and other information, is able to identify the new substance.

(g) *Reporting polymers.* (1) To report a polymer, a person must list in the description of the polymer composition at least those monomers used at greater than two percent (by weight) in the manufacture of the polymer.

(2) Those monomers used at two percent (by weight) or less in the manufacture of the polymer may be included as part of the description of the polymer's composition.

NOTE.—The "percent (by weight)" of a monomer is the weight of the monomer expressed as a percentage of the weight of the polymeric chemical substance manufactured.

(h) *Intent to manufacture or import.* Each person who submits a premanufacture notice for a substance, with the intent to commence manufacture or import of the substance more than three years after the date of such submittal, must provide in conjunction with his notice evidence of his commitment to manufacture or import the substance for a non-exempt commercial purpose.

(i) *New information or data.* Following submittal of a notice and prior to the expiration of the notification period, if the submitter possesses, controls, or knows of new information or data which materially add to, change, or otherwise make significantly more complete the information and data included in his notice, he must submit the new information or data to EPA immediately. Except where it is impracticable to do so, the person must submit the new information on the relevent premanufacture notice form(s) and must clearly identify himself and the premanufacture notice to which the new information or data are related.

(j) *Chemical substances subject to section 4 testing rules.* (1) Except as provided in paragraph (j)(3) of this section, if

(i) A person intends to manufacture or import a new chemical substance which is subject to the premanufacture notification requirements of this Part; and

(ii) The person is subject to a testing rule applicable to the new chemical substance promulgated under section 4 of the Act before the notice is submitted, the person must submit the test data required by the testing rule with the premanufacture notice, in the form and manner specified in the testing rule and in accordance with § 720.23 of this Part. If the person does not submit the test data, the notice is incomplete and EPA will follow the procedures in § 720.34(b)(2) for invalid notices.

(2) If EPA has granted the submitter an exemption under section 4(c) of the Act from the requirement to conduct tests and submit data, he may not submit a premanufacture notice until the test data are submitted to EPA.

(3) If EPA has granted the submitter an exemption under section 4(c) of the Act and if another person previously has submitted the test data to EPA, the exempted person may either submit the test data or provide the following information as part of the premanufacture notice:

(i) The name, address, and other information which identifies the person who submitted the test data to EPA;

(ii) The date the test data were submitted to EPA;

(iii) Information which identifies the section 4 testing rule; and,

(iv) Information which identifies and describes the exemption.

§ 720.21 Imports.

(a) Except as otherwise provided in this section, the provisions of this subpart C apply to each person who sub-

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mits a premanufacture notice for a new chemical substance which he intends to import for a commercial purpose.

NOTE.—As specified in § 720.10(a)(2) of this Part, these rules apply to any person who intends to import a new chemical substance in bulk form into the United States for commercial purposes. In addition, following publication of the revised inventory, these rules will apply to any person who intends to import a new chemical substance as a part of a mixture(s).

(b) Each importer who submits a premanufacture notice must use the Premanufacture Notice Form for Imported Chemical Substances. He must provide the information described in § 720.22 and requested in the form, plus any other information requested in the form and not designated "optional," insofar as such information is known to or reasonably ascertainable by him. In addition, in accordance with § 720.23, the importer must append to the form any test data in his possession or control and descriptions of other data concerning the environmental and health effects of the substance.

(c) In addition to following the requirements in § 720.20(e), each importer must follow the procedures outlined below to identify information and data which are not known to him but which are reasonably ascertainable by him.

(1) The importer must contact in writing the manufacturer of the substance and the person who supplies the substance to the importer. The importer must request both the manufacturer and the supplier to:

(i) Provide all test data in their possession or control which are related to the effects of the substance on health or the environment, in accordance with § 720.23; and

(ii) Complete the Foreign Manufacturer or Supplier Form.

(2) If the importer does not know the identity of the manufacturer of the substance, the importer also must request his supplier to provide the identity of the manufacturer.

(3) The importer must offer the person contacted the option either to provide the requested information to the importer for inclusion by him in the premanufacture notice or to provide the information directly to EPA in accordance with the notice form and reporting instructions. The importer must state in his request that the other person is not under a legal obligation to provide the requested information to the importer or to EPA.

NOTE.—If the importer complies with these procedures, EPA will not consider the notice to be invalid under § 720.34 for the reason that the other persons do not provide the information requested. However, if the notice does not contain such information, EPA subsequently may require any other persons who are under the jurisdiction of the United States to provide the information directly to the Agency. (See § 720.50.)

(4) The importer must include in his premanufacture notice all information which is provided to him by the manufacturer or supplier in accordance with this paragraph (c).

(5) The importer must certify in the premanufacture notice his compliance with this paragraph (c). The certification must include the names and addresses of the persons whom the importer contacted, and a designation of those who have provided information or test data to him or who have indicated that they intend to provide information or test data directly to EPA.

(d) The importer has the ultimate responsibility for complying with this Part and for completing the Premanufacture Notice Form for Imported Chemical substances, and for the completeness and truthfulness of all information and data which he submits except for that included by him pursuant to paragraph (c)(4) of this section and § 720.20(e)(4).

§ 720.22 Information relating to chemical identity; manufacture, processing, distribution in commerce, use, and disposal; amounts; byproducts and other related chemicals; exposure; safeguards and controls.

The premanufacture notice forms request the following information relating to the manufacture, processing, distribution in commerce, use, and disposal of the new chemical substance. Each person who submits a premanufacture notice must include the information as specified in the forms (unless it is designated "optional"), to the extent it is known to or reasonably ascertainable by him. This does not include information which relates solely to exposure of human or ecological populations to the substance outside of the United States.

(a) A description of the new chemical substance, including the chemical identity, molecular structure, Chemical Abstracts Service (CAS) registry number, and the common or trade name;

(b) The estimated total amount to be manufactured and processed;

(c) The proposed categories of use;

(d) The estimated amount to be manufactured and processed for each proposed category of use;

(e) The manner and methods of distribution in commerce (including transportation) and disposal;

(f) The estimated amount of the substance for each manner and method of distribution in commerce (including transportation) and disposal;

(g) Descriptions of direct and indirect exposure of humans and of ecological populations, including exposure levels, as a result of manufacture, processing, distribution in commerce, use, and disposal of the chemical substance;

(h) Descriptions of releases to the air, land, and water (including emissions, effluents, and other discharges), whether intentional or unintentional;

(i) Explanations of risk to health and the environment resulting from the manufacture, processing, distribution in commerce, use, or disposal of the chemical substance, including explanations of test programs used to assess risk;

(j) Descriptions of any engineering safeguards and controls, industrial hygiene considerations, and other measures to be used to limit exposure;

(k) descriptions and other information concerning related chemical substances and mixtures, including feedstocks, byproducts, co-products, impurities, degradation products, and unintended reaction products and other chemical substances which are related to the manufacture, processing, distribution in commerce, use, or disposal of the new chemical substance;

(l) Descriptions of mixtures and articles which contain or may contain the new chemical substance.

§ 720.23 Submittal of test data and other data concerning the health and environmental effects of a substance.

(a) *Test data in the possession or control of the submitter.* (1) Except as provided in paragraph (c) of this section, each person who submits a premanufacture notice must report, as provided below, all test data in his possession or control which are related to the effects on health or the environment of any manufacture, processing, distribution in commerce, use, or disposal of the chemical substance, or of any mixture or article containing such substance, or any combination of such activities. This includes test data concerning the chemical substance in a pure, technical grade, or formulated form. This also includes test data concerning any impurity, byproduct, coproduct, degradation product, unintended reaction product, or other chemical substance or mixture which is related to the manufacture, processing, distribution in commerce, use, or disposal of the new chemical substance, except as excluded under paragraph (c)(5) of this section. All test data described by this paragraph (a)(1) are subject to these requirements regardless of their age, quality, or results.

(2) If the test data have been published in the open scientific literature, the person may submit a copy of the paper(s) in which they appear and, if necessary, an indication of where the test data appear in the paper(s). Otherwise, he must submit the test data as

specified in paragraph (a)(3) of this section.

(3) Test data which pertain to the health and ecological effects, physical and chemical properties, and environmental fate characteristics listed below, must be submitted in accordance with paragraph (a)(4) of this section. Data regarding effects, properties, and characteristics which are not listed in this paragraph (a)(3) must be submitted in accordance with paragraph (a)(5).

(i) Health Effects.

(A) Carcinogenesis
(B) Mutagenesis
(C) Teratogenesis
(D) Reproductive toxicity
(E) Behavioral disorders
(F) Neurotoxicity
(G) Hepatotoxicity
(H) Cardiovascular toxicity
(I) Renal toxicity
(J) Acute toxicity
(K) Dermal sensitization
(L) General subchronic and chronic toxicity
(M) Cumulative, synergistic, antagonistic, additive, and potentiating effects

(ii) Ecological Effects

(A) Microbial inhibition
(B) Algal inhibition
(C) Aquatic macrophyte inhibition
(D) Seed germination inhibition
(E) Seedling growth inhibition
(F) Invertebrate acute toxicity
(G) Fish acute toxicity
(H) Avian dietary toxicity
(I) Invertebrate chronic toxicity
(J) Fish critical life stage toxicity
(K) Fish bioconcentration

(iii) Physical and Chemical Properties; Environmental Fate Characteristics

(A) Corrosion potential and redox potential
(B) Tropospheric degradation and transformation studies
(C) Stratospheric degradation studies
(D) Atmospheric transport studies
(E) Vapor phase uv absorption spectra
(F) Solubility studies
(G) Octanol/water partition coefficient (measurements and calculations)
(H) Vapor pressure measurements
(I) Soil sorption studies
(J) Vapor phase sorbent studies
(K) Olfactory threshold studies
(L) Combustion and pyrolysis studies and theoretical analyses
(M) Measurements of the permeability of the chemical through gloves used by workers or consumers
(N) Boiling/melting/sublimation point determinations
(O) Density (gas, liquid, or solid) measurements
(P) Dissociation constant measurements
(Q) Flammability/explodability studies
(R) Particle size measurements
(S) pH measurements
(T) Chemical incompatibility studies and theoretical analyses
(U) Biodegradation studies
(V) Hydrolysis studies
(W) Aquatic oxidation studies
(X) Aquatic photochemical degradation studies
(Y) Any environmental fate studies in natural waters
(Z) Spectral data

(iv) Test data related to the exposure of the substance to humans or the environment.

(4)(i) Except as provided in paragraphs (a)(4) (ii) and (iii) any test data on the health and environmental effects listed in paragraph (a)(3) of this section must be submitted in a full report format containing the following parts: abstract, introduction, experimental methods and materials, results, discussion and data analysis, conclusions, and references. After publication by EPA of *Formats for Data Submitted Under the Toxic Substances Control Act* the person must submit data in the manner specified in that document.

(ii) If a report was completed prior to the effective date of this Part, the submitter may submit that report instead of using the full report format.

(iii) If a study, report, or test is incomplete when a person submits a premanufacture notice, the submitter must identify its nature and purpose, the principal investigators, laboratory contacts, progress to date, types of data collected, significant preliminary results and anticipated completion date. If a study, report, or test is completed prior to expiration of the premanufacture notification period, the person must immediately submit the study, report, or test to EPA as specified in paragraph (a)(4)(i) of this section.

(5)(i) For any test data in the submitter's possession or control which are not listed in paragraph (a)(3) of this section, a person may submit the data in summary form, (utilizing a standard scientific abstract format) if he agrees to submit a full report upon request by EPA. Otherwise, he must submit the test data in the appropriate full report format. After publication of *Formats for Data Submitted Under the Toxic Substances Control Act*, the person must prepare the abstract in accordance with that document.

(ii) If a test for an effect, property, or characteristic not listed in paragraph (a)(3) is incomplete when a person submits a premanufacture notice, the submitter must identify it in accordance with paragraph (a)(4)(iii). If the test is completed prior to the expiration of the premanufacture notification period or if significant results become known during that period, the person must submit an abstract in accordance with paragraph (a)(5)(i).

(b) *Other data concerning the environmental and health effects of a substance that are known to or reasonably ascertainable by the submitter.* (1) Except as provided in paragraph (c) of this section, each person who submits a premanufacture notice must describe:

(i) Any data, othe than test data, that are in the submitter's possession or control, and

(ii) Any data, including test data, that are not in the submitter's possession or control but that are known to or reasonably ascertainable by him, which are contained in completed studies or reports and which are related to the effects on health or the environment of any manufacture, processing, distribution in commerce, use, or disposal of the chemical substance, or of any mixture or article containing such substance, or any combination of such activities. This includes data concerning the chemical substance in a pure, technical grade, or formulated form. This also includes data concerning any impurity, byproduct, co-product, degradation product, unintended reaction product, or other chemical substance or mixture which is related to the manufacture, processing, distribution in commerce, use, or disposal of the new chemical substance, except as excluded under paragraph (c)(5) of this section. All data described by this paragraph (b)(1) are subject to the requirements of this paragraph regardless of their age, quality, or results.

(2) The description of data reported under this paragraph shall include:

(i) An abstract or other summary of the contents of the study or report;

(ii) A standard literature citation, if the data are contained in the open scientific literature; or

(iii) If the data are not contained in the literature, the names and addresses of persons the submitter believes may have possession or control of the data.

(iv) In addition, upon publication of *Formats for Data Submitted Under the Toxic Substances Control Act*, these data must be described as specified in that document.

(3) For the purposes of this paragraph, data are known to or reasonably ascertainable by the submitter if the data are known to his employees or other agents who are associated with research, development, test marketing, or commercial marketing of a substance. The following data are among those which are known to such employees or agents:

(i) Data which they discuss orally with other persons;

(ii) Data contained in papers presented at symposia, seminars, and conferences which they attend; and,

(iii) Data which they read about in scientific articles.

(4) For incomplete studies, reports, or tests, the description of data must

include the information specifdied in paragraph (a)(4)(iii) of this section.

(5) The submitter must include in the premanufacture notice a brief description of his procedures for identifying data that are known to or reasonably ascertainable by him.

(c) *Data that need not be submitted.*—(1) *Published studies.* A person need not submit any data that appear in the periodicals listed in Appendix I if he submits a standard literature citation which includes author, title, periodical name, date of publication, volume number, pages, and year

(2) *Data previously submitted to EPA or another Federal agency.* A person need not submit any data previously submitted to EPA or another Federal agency with no claims of confidentiality if he provides in the premanufacture notice the agency name, the office or person to whom the data were submitted, the date of submittal, and, if appropriate, a standard literature citation as specified in paragraph (c)(1) of this section. This paragraph also applies to data previously submitted to EPA or another Federal agency with claims of confidentiality if the person who submitted the data specifically authorizes EPA to have immediate access to the data.

(3) *Efficacy data.* A person need not submit any data related solely to product efficacy. This does not exempt a person from submitting any of the data specified in paragraphs (a) and (b) of this section.

(4) *Exposure data.* A person need not submit any data which solely concern the amounts of release, or levels and routes of exposure, resulting from the manufacture, processing, distribution in commerce, use, or disposal of the substance outside the United States.

(5) *Data concerning related chemicals.* A person need not submit any data concerning any impurity, byproduct, co-product, degradation product, unintended reaction product or other chemical substance or mixture which is related to the manufacture, processing, distribution in commerce, use, or disposal of the new chemical substance if the substance to which the data pertain is listed on the TSCA inventory of existing chemicals.

Subpart D—Disposition of Notices

§ 720.30 General.

This subpart establishes procedures that EPA will follow in reviewing premanufacture notices.

§ 720.31 Acknowledgment of receipt of notice.

EPA will acknowledge receipt of each premanufacture notice by sending to the submitter a notification of the date on which the Agency received the notice. EPA will consider a person to have submitted the notice on the date the notice is received by the EPA office designated on the notice form as the proper recipient of the notice. The acknowledgment does not constitute a finding by EPA that the notice, as submitted, is in compliance with this Part. See § 720.34.

§ 720.32 Notice in the Federal Register.

(a) *Initial notice.* Not later than five days after receipt of a premanufacture notice (excluding Saturdays, Sundays, and legal holidays), EPA will file with the Office of the FEDERAL REGISTER a notice containing the information specified in paragraph (b) of this section.

(b) *Contents of notice.* (1) In the public interest, EPA will publish the specific chemical identity of the substance for which premanufacture notice is given, unless the submitter has claimed confidentiality for this identity in accordance with § 720.41(a). If confidentiality is claimed, EPA initially will publish the generic name proposed in the premanufacture notice in accordance with § 720.41 (a)(3)(ii). If subsequently EPA either denies this claim of confidentiality for the chemical identity, or determines that the original proposed generic name is more generic than necessary to protect the confidential business information, EPA may publish an amended FEDERAL REGISTER notice in accordance with the procedures in paragraph (c) of this section.

(2) EPA will publish the specific function(s) and application(s) of the new chemical substance as reported to EPA either by the submitter, or by any person under § 720.20(e) or § 720.21(c) unless this information is claimed confidential in accordance with § 720.42. If confidentiality is claimed, EPA will publish the additional information which is required to be submitted by § 720.42(b).

(3) EPA will publish a list of data submitted in accordance with § 720.23(a). In addition, for test data submitted in accordance with § 720.20 (j), test data on any of the effects, properties, and characteristics listed in § 720.23(a)(3), and data from other tests which the person has performed, EPA will publish a summary of the data including, where appropriate, abstracts prepared as specified in the *Formats for Data Submitted Under the Toxic Substances Control Act.*

(4) EPA will also publish procedures for examining the public file for the premanufacture notice, and on the filing of comments on the notice.

(c) *Amended notices.* If EPA does not publish in the initial notice some of the information specified in paragraph (b) of this section because the submitter claims confidentiality for the information, and if EPA subsequently denies a claim of confidentiality in accordance with §§ 720.40–720.43, EPA may publish an amended notice in the FEDERAL REGISTER containing the additional information.

§ 720.33 Notice that premanufacture notification is not required.

When EPA receives a premanufacture notice, the Agency will review it to determine whether the chemical is subject to the requirements of this Part. If EPA determines that the chemical is not subject to these requirements, the Agency will notify the submitter that § 5 of the Act does not prevent him from beginning manufacture or import.

§ 720.34 Deficiencies in the premanufacture notice.

(a) *Request for correction.* (1) Within 30 days of receipt of the premanufacture notice (as defined by § 720.31), EPA may request the submitter to correct or remedy minor or technical deficiencies in the premanufacture notice. Such deficiencies include:

(i) Failure to date the notice form(s);

(ii) Typographical errors which render answers to any questions unclear or ambiguous;

(iii) Confusing responses; and,

(iv) Answers which do not conform to premanufacture notice instructions.

(2) EPA will transmit a request for correction to the submitter by certified mail, return receipt requested. In the request, the Agency will state the basis for its determination that the notice is deficient in its present form, and will explain the action which the submitter must take to correct the deficiency.

(3) EPA will suspend the premanufacture notification period from the date the Agency sends the certified letter until the date the Agency receives the requested corrections. If the person fails to submit the requested information within 30 days of receipt of the request, EPA may determine that the notice is invalid under paragraph (b) of this section.

(b) *Invalid notice.* (1) At any time during the notification period, EPA may determine that a premanufacture notice is invalid. Grounds for this determination include the following:

(i) Failure to sign the premanufacture notice form;

(ii) Failure to comply with the procedures for obtaining information from other persons, in accordance with § 720.20(e), or to certify that the procedures have been complied with;

(iii) Failure by an importer to comply with the procedures for obtaining information from foreign manufacturers or suppliers, in accordance with § 720.21(c);

(iv) Failure to provide any information requested on the premanufacture form, unless the form clearly indicates that a response is optional. For the purposes of this determination, indication that a question is "not applicable" because the information is either "unknown" or not "reasonably ascertainable", together with an explanation of this fact, where necessary, does not necessarily constitute a failure to provide information;

(v) Failure to remedy any deficiency for which EPA issued a request for correction under paragraph (a) of this section, within 30 days following a person's receipt of the request;

(vi) Submittal of intentionally false or misleading responses to questions on the premanufacture notice form;

(vii) Except as specifically authorized by § 720.10(a)(3) and (b)(2), submittal of a premanufacture notice by other than the person who intends to manufacture or import the chemical substance, or his designated agent;

(viii) Failure to provide any information required by §§ 5(d)(1)(B) and (C) of the Act, in accordance with § 720.23;

(ix) Failure of a notice to include the test data or other information which the submitter is required to submit pursuant to a rule promulgated under § 4 of the Act, in accordance with § 720.20(j);

(x) Failure to include the specific chemical identity of the substance for which the notice is submitted, unless it is impossible to do so, in accordance with § 720.20(f);

(xi) If EPA has listed a chemical substance under § 5(b)(4) of the Act, failure to submit data which the submitter believes show that the chemical substance will not present an unreasonable risk of injury to health or the environment.

(2) If EPA determines that a premanufacture notice is invalid, the premanufacture notification period specified in § 720.35 of this Part will not begin.

(3) If EPA determines that a premanufacture notice is invalid, the Agency will notify the submitter by certified mail, return recepit requested. The notification will state the basis for the determination, and will explain the actions which are necessary to render the notice valid. Following receipt of a notice of invalidity, the person must submit a new notice for the chemical substance if he intends to manufacture or import the substance for a non-exempt commercial purpose. The person need not resubmit any information that he submitted with the first notice. The premanufacture notification period will commence upon acknowledgment of receipt, under § 720.31, of the required revisions.

(c) *Intentionally false or misleading statements.* If EPA discovers after expiration of the notification period that a person submitted intentionally false or misleading statements concerning a material aspect of his notice, EPA may find that the notice was invalid from the time of it initial submittal. If EPA makes this finding, the submitter will have failed to comply with the Act and these rules, and any manufacture, import, processing, distribution in commerce, use, or disposal of the substance by that person constitutes a violation of the Act.

§ 720.35 Premanufacture notification period; reports on status of new chemical substances.

(a) *Length of notification period.* The premanufacture notification period specified in § 5(a) of the Act runs for 90 days from the date EPA acknowledges receipt of premanufacture notice under § 720.31, unless the Agency extends the period in accordance with paragraph (b) of this section or suspends or invalidates the notice in accordance with § 720.34.

(b) *Extension of notification period.* (1) At any time during the notification period, EPA may determine that good cause exists to extend the notification period specified in paragraph (a).

(2) If EPA makes such a determination, the Agency will:

(i) Notify the submitter by certified letter, return receipt requested, that EPA is extending the period for a specified length of time, and state the reasons for the extension; and,

Publish a notice in the FEDERAL REGISTER which states that EPA is extending the period and gives the reasons for the extension.

(3) The initial extension may be for a period of up to 90 days. If the extension is for less than 90 days, EPA may make additional extensions. However, the total of the extensions may not exceed 90 days for any premanufacture notice.

(4) The following are examples of situations in which EPA may find that good cause exists for extending the notification period:

(i) EPA has reviewed the notice, and has determined that there is a significant possibility that the chemical will be regulated under section 5(e) or section 5(f) of the Act, but the Agency is unable to initiate regulatory action within the initial 90-day period;

(ii) EPA has reviewed the notice and has determined that information on the chemical is incomplete, and the Agency is seeking additional information;

(iii) Based on EPA's priorities and resources, the Agency is unable to process and review the notice within the initial notification period; and

(iv) EPA has found it necessary to publish an amended notice under § 720.32(c).

(c) *Notice of continuing review.* Upon expiration of the notification period, if EPA has identified a substance for possible regulatory action under the Act (other than imposition of a significant new use rule under section 5(a)(2) of the Act, or any requirement under section 8 of the Act) and is actively considering such an action, the Agency will notify the submitter of this fact. This continuing review has no effect on the submitter's right to commence manufacture or import of the new chemical substance upon expiration of the notification period. In addition, such notification is not a prerequisite to any regulatory action by EPA with respect to the chemical substance at any time after expiration of the notification period.

(d) *Monthly status report.* Subject to section 14, at the beginning of each month EPA will publish in the FEDERAL REGISTER a list of:

(1) Each chemical substance for which a premanufacture notice has been recieved, and for which the notification period described in paragraphs (a) and (b) of this section has not expired;

(2) Each chemical substance for which the notification period has expired since the last monthly status report; and,

(3) Each chemical substance that has been added to the inventory since the last monthly status report.

§ 720.36 Actions under section 5(e) of the Act.

(a) *Insufficient information.* Section 5(e) of the Act authorizes EPA to issue an order or to apply to a United States District Court for an injunction to prohibit or limit the manufacture, processing, distribution in commerce, use, or disposal of a chemical substance for which the Agency has received a premanufacture notice. In general, EPA may act under section 5(e) if the Agency lacks sufficient information to make a reasoned evaluation of the health and environmental effects of the substance, and the substance either

(1) May present an unreasonable risk of injury to health or the environment, or

(2) Will be produced in substantial quantities, and either it may enter the environment in substantial quantities, or there may enter the environment in substantial quantities, or there may be significant or substanital human exposure to the substance.

(b) *Order.* (1) EPA may issue a proposed order under § 5 (e) of the Act no later than 45 days before expiration of the applicable notification period (including any extensions which the Agency makes prior to issuance of the order).

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(2) Before or on the date EPA issues a proposed order, the Agency will send a copy of the order by certified mail, return receipt requested, to the person who submitted the premanufacture notice, and to any other person who EPA believes intends to manufacture, import, or process the substance. The order will:

(i) State the basis for the determination required by § 5(e)(1)(A) of the Act; and

(ii) Indicate the type of information which would enable EPA to evaluate the health and environmental effects of the manufacture, processing, distribution in commerce, use, or disposal of the substance. In addition, EPA will publish a notice in the FEDERAL REGISTER which describes the proposed order.

(3) Any manufacturer, importer, or processor of a chemical which is the subject of an order, or any other person who will be affected by the order, may file with EPA a written objection to the proposed order. EPA must receive the objection no later than 30 days after the person who files it receives the order sent under paragraph (b)(2) of this section; or, for any other person, no later than 30 days after the order appears in the FEDERAL REGISTER. The objection must specify with particularity the provisions of the order which the person finds objectionable, and state the grounds for these objections. If an objection is filed in accordance with this paragraph (b)(3), the provisions in the order to which the person objected will not take effect.

(4) Any provisions of the proposed order to which no person files an objection, in accordance with paragraph (b)(3) of this section, will take effect upon the expiration of the applicable notification period, and will remain in effect until EPA modifies or revokes them.

(5) If a person obtains new information which he believes is sufficient (alone or in combination with information previously submitted to EPA) to evaluate the health and environmental effects of the manufacture, processing, distribution in commerce, use, or disposal of the substance, the person may petition EPA to modify or revoke the order based on the Agency's evaluation of the new information. EPA will publish a notice of the petition in the FEDERAL REGISTER.

(6) Any person who is affected by the order may petition EPA to modify or revoke the order if he believes there has been a substantial change in the factors relevant to EPA's decision to issue the § 5(e) order. EPA will publish a notice of the petition in the FEDERAL REGISTER.

(c) *Injunctive relief.* (1) At any time during the notification period, EPA may apply to a United States District Court for an injunction under the authority of § 5(e) of the Act.

(2) After an injunction is granted, any person may submit to EPA new information which he believes is sufficient to permit a reasoned evaluation of the health and environmental effects of the substance or which otherwise justifies modification or dissolution of the injunction. EPA will evaluate the information and, within 90 days after receiving it, will inform the submitter whether the Agency intends to petition the court for a modification or dissolution of the injunction.

§ 720.37 Actions under section 5(f) of the Act.

(a) *Unreasonable risk.* Under § 5(f) of the Act, if EPA determines that there is a reasonable basis to conclude that the manufacture, processing, distribution in commerce, use, or disposal of a chemical substance for which it has received a premanufacture notice will present an unreasonable risk of injury to health or the environment before a rule promulgated under § 6(a) of the Act can protect against such risk, the Agency may issue an order or apply to a United States District Court for an injunction to prohibit the manufacture, processing, or distribution in commerce of a substance, or may issue a proposed rule under § 6(a)(2)-(7) of the Act.

(b) *Order.* (1) EPA may issue a proposed order under section 5(f) of the Act no later than 45 days before expiration of the applicable notification period (including any extensions which the Agency makes prior to issuance of the order).

(2) Before or on the date EPA issues a proposed order, the Agency will send a copy of the order by certified mail, return receipt requested, to the person who submitted the premanufacture notice, and to any other person who EPA believes intends to manufacture, import, or process the substance. The order will state the basis of the determination required by section 5(f) of the Act. In addition, EPA will publish a notice in the FEDERAL REGISTER which describes the proposed order.

(3) Any manufacturer, importer or processor who is subject to an order, or any other person who will be affected by the order, may file with EPA a written objection to the proposed order. EPA must receive the objection no later than 30 days after the person who files it receives the order sent under paragraph (b)(2) of this section, or for any other person, no more than 30 days after the order appears in the FEDERAL REGISTER. The objection must specify with particularity the provisions of the order which the person finds objectionable, and state the grounds for these objections. If an objection is filed in accordance with this paragraph (b)(3), the provisions in the order to which the person objected will not take effect.

(4) Any provisions of the proposed order to which no person files an objection in accordance with paragraph (b)(3) of this section will take effect upon the expiration of the applicable notification period, and will remain in effect until EPA modifies or revokes them.

(5) Any person who is affected by the order may petition EPA to modify or revoke the order if he believes that new information has been developed, or that there has been a substantial change in the factors relevant to EPA's decision to issue the section 5(f) order. EPA will publish a notice of the petition in the FEDERAL REGISTER.

(6) If a person subsequently submits a premanufacture notice for a chemical substance which is subject to a section 5(f) order, EPA will consider the notice to be an application for modification or revocation of the order, and not a valid premanufacture notice.

(c) *Injunctive relief.* At any time during the notification period, EPA may apply to a United States District Court for an injunction under the authority of § 5(f) of the Act.

(d) *Proposed rule.* (1) If EPA proposes a rule in accordance with § 5(f) of the Act, the Agency will notify interested persons of this action within five days from the date of publication of the proposed rule in the FEDERAL REGISTER. The FEDERAL REGISTER notice will state the basis for the findings required by § 5(f), and also will include information concerning procedures for requesting a hearing on the proposed rule and for filing written comments with the Agency.

(2) If a hearing is requested, EPA will convene an informal hearing within five business days of the Agency's receipt of the request, unless the person(s) making the request and EPA agree on a later date. The hearing will be conducted in accordance with the provisions of section 6(c) of the Act, except as modified in accordance with the expedited schedule mandated by section 6(d)(2) of the Act.

(3) Within ten days of the conclusion of the informal hearing, EPA will either promulgate the rule as proposed or modified, or revoke it.

§ 720.38 Statement of reasons for not taking action.

(a) If: (1) EPA receives a premanufacture notice for a chemical substance for which a person is required to submit test data under § 4 and § 5(b)(1) of the Act, or for which the person is required under sections 5(b)(2) and (4) of the Act to submit data which he believes show that the chemical substance will not present an

unreasonable risk of injury to health or the environment; and (2) before expiration of the notification period EPA does not initiate any action under sections 5, 6, or 7 of the Act to prohibit or limit manufacture, processing, distribution in commerce, use, or disposal of the substance, EPA will publish in the FEDERAL REGISTER, before expiration of the notice period, a statement of the Agency's reasons for not initiating any such action.

(b) Publication of the statement will not prevent EPA from taking future regulatory actions with respect to the substance, and is not a prerequisite to the manufacture or processing of the substance.

Subpart E—Confidentiality and Public Access to Information

§ 720.40 General provisions.

(a) A person may assert a claim of confidentiality for any information which he submits to EPA under this Part.

(b) Any claim of confidentiality must accompany the information at the time it is submitted to EPA.

(1) For any information which a person submits on forms provided by EPA, he must assert his claim(s) on the form, and in the manner prescribed on the form and in the reporting instructions.

(2) For any information which a person does not submit on an EPA premanufacture form, he must submit two copies of the document in which the information appears.

(i) One copy of the document must be complete. In that copy the submitter must clearly identify the data which are claimed confidential by marking the specific information on each page with a label such as "confidential business information," "proprietary," or "trade secret."

(ii) The second copy must be complete except that all information claimed as confidential in the first copy must be deleted. EPA will place the second copy in the public file.

(iii) If the person does not provide the second copy, EPA will notify him of this fact by telephone or certified mail. If EPA does not receive the second copy within ten days after the person receives this notice, the Agency will place the first copy in the public file.

(c) (1) At the time a person submits the information to EPA, he must substantiate any claim of confidentiality for chemical identity and for information contained in health and safety studies. The person must provide substantiation in the manner specified in the reporting instructions.

(2) If a person does not submit any substantiation, EPA will notify him of this fact by certified mail. If EPA does not receive the substantiation within ten days after the person receives this notice, the Agency will place the information in the public file.

(d) EPA will disclose information that is covered by a claim of confidentiality asserted in accordance with this section only to the extent permitted by, and in accordance with the procedures set forth in the Act, this subpart, and Part 2 of this Title.

(e) If a person does not assert a claim of confidentiality for information at the time he submits it to EPA, the Agency may make the information public, including placement in the public file, without further notice to the person.

§ 720.41 Specific chemical identity.

(a) *Claims applicable to period prior to commencement of manufacture or import for non-exempt commercial purposes.* (1) A person who submits information to EPA under this Part may assert a claim of confidentiality concerning the specific chemical identity of a particular chemical substance for the period prior to the commencement of manufacture or import for a non-exempt commercial purpose. A submitter may assert this claim only if he believes that public disclosure of the fact that anyone intends to manufacture or import the specific chemical substance prior to the commencement of manufacture or import for a non-exempt commercial purpose would reveal confidential business information.

(2)(i) Any person who intends to assert a claim of confidentiality with respect to the specific chemical identity of a new chemical substance under this paragraph should, before submitting a premanufacture notice, seek an advance determination by EPA of an appropriate generic name for the substance. For this purpose, a person should submit to EPA:

(A) The specific chemical identity of the substance;

(B) A proposed generic name(s) which is only as generic as necessary to protect the confidential identity of the particular chemical substance. In addition, the name should reveal to the maximum extent possible toxicologically significant aspects of the molecular structure. Before proposing a generic name to meet these criteria, the submitter should consult the *Guidelines for Creating Proposed Generic Names*, published as Appendix II to these rules; and

(C) An explanaton of why a more specific name would reveal confidential business information.

(ii) Within 30 days, EPA will inform the submitter either that the proposed generic name is adequate or that it may be inadequate and further consultation is necessary.

(3) Any person who asserts a claim of confidentiality for a specific chemical identity under this paragraph, at the time the premanufacture notice is submitted, must:

(i) Report the information identified in paragraph (a)(2)(i) of this section; and

(ii) Provide a detailed written substantiation of the claim, as specified in the reporting instructions.

(4)(i) If a submitter asserts such a claim, and if he complies with the procedures specified in paragraph (a)(3) of this section, EPA will publish the generic name in the FEDERAL REGISTER notice specified in § 720.32.

(ii) In response to a petition under paragraph (a)(4)(iii) of this section, or for any other reason, EPA subsequently may review the validity of the claim of confidentiality, including the substantiation of the claim required in paragraph (a)(3)(ii) of this section and the extent to which the generic name complies with EPA requirements.

(iii) Any person may petition EPA to review a generic name which has appeared in the FEDERAL REGISTER notice described in § 720.32. In his petition, the person must explain why the public interest would be served by a more specific name, why the existing generic name may not be in accord with EPA requirements, and why there is some characteristic of the class of chemicals included in the generic description which makes it imperative to make available a more specific name to allow more effective public evaluation of the likely health and environmental effects of the substance. EPA will examine the petition and, if the Agency determines that the petitioner has made an adequate justification for a more specific name, the Agency will evaluate the name in accordance with this paragraph.

(iv)(A) If at any time EPA determines that the generic name proposed by the submitter is more generic than necessary to protect the confidential identity, the Agency will request the submitter to submit further proposed generic names.

(B) If EPA does not agree with the further proposed generic names, the Agency will choose a generic name that the Agency believes is in accordance with the principles set forth in paragraph (a)(2)(i)(B) of this section, and will notify the submitter concerning this choice. Thirty days after this notification, EPA will publish the chosen generic name in an amended FEDERAL REGISTER notice under § 720.32.

(b) *Claim applicable to the period after commencement of manufacture or import.* (1) Any claim of confidentiality under paragraph (a) of this section is applicable only until the substance is manufactured or imported

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for non-exempt commercial purposes and becomes eligible for inclusion on the inventory. To maintain the confidential status of the specific chemical identity after the substance is added to the inventory, a person must assert an additional and independent claim of confidentiality concerning the specific chemical identity of a particular chemical substance. The submitter may assert this claim in the premanufacture notice if he intends to commence manufacture or import within one year from the date of the notice. If the projected date of commencement of manufacture or import for a non-exempt commercial purpose is more than one year from the date of the premanufacture notice, or if the person otherwise does not assert the claim in the premanufacture notice, he must assert the claim at least sixty days prior to the date of commencement of manufacture or import for non-exempt commercial purposes.

(2)(i) A person who believes that public disclosure of the fact that anyone manufactures or imports a specific chemical substance for a non-exempt commercial purpose would reveal confidential business information may assert a claim of confidentiality under this paragraph.

(ii) Notwithstanding the validity of a claim asserted under paragraph (b)(1) of this section, if the specific chemical identity is part of a health and safety study as defined in § 720.2, and if the claim for confidentiality with respect to that identity is denied in accordance with § 720.43, EPA will deny a claim asserted under this paragraph (b). EPA will notify the submitter concerning this determination, and thirty days after this notification, EPA will place the specific chemical identity on the inventory.

(3) Any person who asserts such a claim shall:

(i) Comply with the requirements of paragraph (a)(3) of this section;

(ii) Agree that EPA may disclose to a person with a *bona fide* intent to manufacture or import the substance (as defined in §720.12(b)) the fact that the particular substance is included on the inventory for purposes of TXCA §5(a)(1)(A) premanufacture notification; and

(iii) Have available for the particular substance, and agree to furnish to EPA upon request:

(A) An elemental analysis;

(B) Either an X-ray diffracton pattern (for inorganic substances) or a mass spectrum (for most other substances) of the particular chemical substance, or if such data do not resolve uncertainties with respect to the identity of the chemical substance, additional or alternative spectra or other data to identify the chemical substance:

(C) A sample of the substance;

(iv) Provide a detailed written substantiation of the claim, as specified in the reporting instructions.

(4) If the submitter does not meet the requirements of this paragraph EPA will deny the claim of confidentiality.

(5)(i) EPA will publish a generic name in an appendix to the inventory if:

(A) The submitter asserts a claim of confidentiality in accordance with this paragraph;

(B) No claim for confidentiality of the specific chemical identity as part of a health and safety study has been denied in accordance with § 720.43; and

(C) The EPA General Counsel has made a determination (in accordance with Part 2 of this Title) that the particular chemical identity should not appear on the inventory because inclusion would disclose confidential business information.

(ii) Publication of a generic name in the appendix does not create a category for purposes of the inventory. Any person who has a *bona fide* intent to manufacture or import a substance which he believes may be on the inventory under a generic name may submit an inquiry to EPA under § 720.12(b) of this Part to determine whether a particular chemical is included in the inventory.

(iii) Upon receipt of the information specified in § 720.12(b), EPA may require the submitter who originally asserted confidentiality for a specific chemical substance to submit to EPA:

(A) An elemental analysis;

(B) Either an X-ray diffraction pattern (for inorganic substances) or a mass spectrum (for most other substances) of the particular chemical substance, or if such data do not resolve uncertainties with respect to the identity of the chemical substance, additional or alternative spectra or other data to identify the substance; and,

(C) A sample of the substance in its purest form.

(iv) Failure to submit any of the information required under paragraph (b)(3)(iii) of this section within ten days of notification by the Agency under this paragraph is a waiver of the original submitter's confidentiality claim. In this event, EPA will place the specific chemical identity on the inventory without further notice to the original submitter.

(6) If a person asserts a claim of confidentiality under this paragraph, EPA will examine the generic chemical name proposed by the submitter who claims confidentiality.

(i) If EPA determines that the generic name proposed by the submitter is only as generic as necessary to protect the confidential identity of the particular chemical substance, the Agency will place the generic name in an appendix to the inventory.

(ii) If EPA determines that the generic name proposed by the submitter is more generic than necessary to protect the confidential identity, the Agency will request the submitter to submit further proposed generic names.

(iii) If EPA does not agree with the further proposed generic names, the Agency will choose a generic name that is only as generic as necessary to protect the confidential identity and will notify the submitter concerning this choice. Thirty days after this notification, EPA will place the chosen generic name in an appendix to the inventory.

§ 720.42 Uses and intended uses of a new chemical substance.

(a) A person who submits information to EPA under this Part with respect to the uses or intended uses of a new chemical substance may assert a claim of confidentiality for this information. A submitter may assert this claim only if he believes that public disclosure of the uses or intended uses of the substance would reveal confidential business information.

(b) If a submitter asserts such a claim, he must:

(1) Report the uses or intended uses of the substance;

(2) Provide, in non-confidential form, a description of the uses that is only as generic as necessary to protect the confidential business information; and

(3) Characterize, in accordance with the premanufacture notice form, the intended or projected exposure to persons in occupational, consumer, and other situations; the intended or projected releases of the substance to the general environment; and routes and levels of intended or projected exposure to humans and the environment.

(c) The person must submit the information required by paragraph (b) of this section in the manner specified in the premanufacture reporting instructions.

(d) If the person does not submit all of the information required by paragraph (b) of this section, EPA will deny the claim of confidentiality.

§ 720.43 Data from health and safety studies.

(a) *Information other than specific chemical identity.* Except as provided in paragraph (b) of this section, EPA will deny any claim of business confidentiality with respect to information included in a health and safety study, unless the information would disclose confidential information concerning:

(1) Processes used in the manufacturing or processing of a chemcial substance or mixture;

(2) In the case of a mixture, the portions of a mixture comprised by any of the chemical substances in the mixture; or

(3) Information which is not in any way related to the effects of a substance on human health or the environment, including the name of the submitting company, cost or other financial data, product development or marketing plans, advertising plans, and use information for which the person submits a claim of confidentiality in accordance with § 720.42, but not including the specific chemcial identity of the substance(s) tested.

(b) *Specific chemical identity prior to commencement of manufacture or import for non-exempt commercial purposes.* (1) Notwithstanding paragraph (a) of this section, for the period prior to the commencement of manufacture or import, EPA will not deny a claim of business confidentiality with respect to the specific chemical identity of the substance if public disclosure of the specific identity would reveal confidential business information. This claim of confidentiality will be applicable only until the substance is manufactured or imported for non-exempt commercial purposes.

(2) A claim of confidentiality for the period prior to commencement of manufacture with respect to the specific chemical identity included in a health and safety study shall be asserted and substantiated in conjunction with a claim asserted under § 720.41(a).

(c) *Specific chemical identities after commencement of manufacture or import.* (1) To maintain the confidential status of a specific chemical identity as part of a health and safety study after the commencement of manufacture or import, a person must assert an additional and independent claim of confidentiality. This claim should be asserted in conjunction with a claim under § 720.41(b)(3), and the substantiation should particularly address whether disclosure of the specific chemcial identity would reveal confidential business information concerning the processes used in the manufacture or processing of a chemical substance, or the portions of a mixture comprised by any of the chemical substances in the mixture.

(2) EPA will deny a claim of business confidentiality under this paragraph, unless the information would disclose:

(i) Processes used in the manufacture or processing of a chemical substance or mixture; or

(ii) In the case of a mixture, the portions of the mixture comprised by any of the substances in the mixture.

(d) *Use of generic names.* When EPA discloses a health and safety study for which the person has asserted a claim of confidentiality with respect to the specific chemical identity, and if the Agency has not denied the claim in accordance with paragraphs (a) or (b) of this section, EPA will identify the substance by its generic name as proposed by the submitter, or as modified by EPA in accordance with § 720.41.

§ 720.44 Public files.

All information submitted with a premanufacture notice, including any health and safety study and other supporting documentation, will become part of the public file for that notice, unless such materials are subject to any claims of confidentiality. In addition, EPA may add materials to the public file, subject to § 14 of the Act and subpart E of this Part. Any of the non-confidential material described above will be available for public inspection in the Office of Toxic Substances Public Reading Room, EPA, 401 M Street, S.W., Washington, D.C. 20460, during normal business hours.

Subpart F—Supplemental Reporting Requirements

§ 720.50 Reporting requirements under Section 8(a) and Section 5 of the Act.

(a) *General.* (1) EPA may use the procedures established in paragraph (e) of this section to require persons to report supplemental information with respect to the manufacture, processing, distribution in commerce, use, or disposal of a new chemical substance for which the Agency receives a premanufacture notice. Except as provided in paragraph (a)(2) of this section, paragraphs (b), (c), and (d) of this section describe the persons who may be subject to such reporting requirements.

(2) Except with respect to reporting under paragraph (c)(2)(i) of this section, no person whose total annual sales are less than $1,000,000, based upon the person's latest complete fiscal year, shall be subject to a reporting requirement under this section.

(b) *Manufacturer or importer of an unknown reactant.* If EPA receives a premanufacture notice from a person who identifies the new chemical substance as a product of a reaction which includes at least one unknown reactant, and if the person demonstrates that he has attempted to obtain information concerning the identity of the reactant from the manufacturer or importer of the reactant, EPA may require the manufacturer or importer of the unknown reactant(s) to report its identity or composition to EPA.

(c) *Person who submits a premanufacture notice.* (1) EPA may require the person who submits a premanufacture notice to report the information specified in paragraph (c)(2) of this section if the Agency believes that the information would be relevant to determine whether EPA should require the substance to be tested under § 4 of the Act, control the substance under §§ 5(e), 5(f), or 6(a), or follow up on the substance under the authorities of §§ 5(a)(2) or 8(a).

(2) EPA may require submittal of the following types of information if the information is known to or reasonably ascertainable by the submitter:

(i) Information which supplements, provides further detail on, or otherwise clarifies the information which a person was required to submit in his premanufacture notice;

(ii) Information which was identified as optional in the premanufacture notice, or information which supplements, provides further detail on, or otherwise clarifies such information;

(iii) Information concerning the benefits of the substance for various uses and the availability of substitutes for those uses; and,

(iv) Information concerning the reasonably ascertainable economic consequences of any specified regulation under the Act including the national economy, small business, technological innovation, the environment, and public health.

(d) *Processor.* (1) EPA May require any person who intends to process a substance for which a premanufacture notice was received to report the information specified in paragraph (d)(2) of this section, if the Agency believes that the information would be relevant to determine whether EPA should require the substance to be tested under section 4 of the Act, control the substance under sections 5(e), 5(f), or 6(a), or follow up on the substance under sections 5(a)(2) or 8(a).

(2) EPA may require submittal of the following types of information, if the information is known to or reasonably ascertainable by the intended processor:

(i) Information requested on the premanufacture notice form and instructions with respect to that person's processing of the substance, including categories of use, amounts to be processed for each use, the manner and method of disposal of such substance, and human and environmental exposures which may result from his processing of the substance and from subsequent distribution in commerce, use, or disposal of the substance or of mixtures or articles containing the substance;

(ii) information concerning the benefits of the substance for uses resulting from the person's processing of the substance, and "the availability of substitutes" for such uses; and,

(iii) Information concerning the reasonably ascertainable economic consequences of any specified control meas-

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ure under the Act, including impact on the national economy, small business, technological innovation, the environment, and public health.

(e) *Procedures for reporting.* EPA will notify in writing any person subject to a reporting requirement under this section. The notification will be sent by certified mail, with return receipt requested. The written notification will include:

(1) A copy of this § 720.50;

(2) A detailed description of the information which is required to be submitted;

(3) The name, address, and telephone number of the person to whom the information must be submitted; and,

(4) The date by which the information must be submitted, which shall be no sooner than 15 days after the person receives the notification.

§ 720.51 Requirements for submittal of health and safety studies under § 8(d) of the Act.

(a) *Applicability.* EPA may use the procedures established in paragraph (b) of this section to require any person who has possession of a health and safety study to submit the study, if the Agency believes that the study would assist in the evaluation of the health or environmental effects of the manufacture, processing, distribution in commerce, use, or disposal of a new chemical substance for which the Agency received a premanufacture notice.

(b) *Procedures.* EPA will notify in writing any person subject to a requirement under this section. The notification will be sent by certified mail, with return receipt requested. The written notification will include:

(1) A copy of this § 720.51;

(2) A description of the requested study;

(3) The name, address, and telephone number of the person to whom the study must be submitted; and,

(4) The date by which the study must be submitted, which date shall be no sooner than 15 days after the person receives the notification.

§ 720.52 Notice of commencement of manufacture or import.

(a) *Applicability.* Any person who commences to manufacture or import for a non-exempt commercial purpose a new chemical substance for which the person previously submitted a premanufacture notice under this Part shall submit the notice prescribed by this section.

(b) *When to report.* The person must submit the notice to EPA no later than the day the person first manufactures or imports the substance for a non-exempt commercial purpose.

(c) *Information to be reported.* (1) To report a chemical substance, a person shall complete, sign, and submit to EPA a "Notice of Commencement of Manufacture or Import." This form has OMB No. ———. The notice must include a reference to the relevant premanufacture notice as required by the form instructions. In addition, if the person has asserted a confidentiality claim under § 720.41(b) he must certify that any substantiation previously submitted to the Agency is materially accurate as of the date of commencement of manufacture or import indicated by the notice.

40 CFR Part 720

PREMANUFACTURE NOTIFICATION FOR NEW CHEMICAL SUBSTANCES

APPENDIX I

Sections 5(d)(1)(B) and (C) of TSCA require persons to submit in their premanufacture notices all test data in their possession or control, plus descriptions of any other data which are known to or reasonably ascertainable by them. Section 720.23 of the Premanufacture Notification Rules implement these provisions of the Act. In particular, § 720.23(c)(1) provides that persons need not submit data that appear in periodicals which are listed in this Appendix I, provided they submit standard literature citations for the data.

The periodicals listed are those to which EPA's Office of Toxic Substances (OTS) has immediate access on a regular on-call basis. From time to time EPA will amend this list, primarily to add new listings as OTS's access to periodicals improves.

APPENDIX I—PERIODICAL TITLES AND DATES

1. Accounts of Chemical Research, 1976-present
2. Air Pollution Control Association Journal, 1974-present
3. American Chemical Society Journal, 1968-present
4. American Industrial Hygiene Association Journal July 1969-present
5. American Scientist, 1953-present
6. Analytical Chemistry Journal, 1957-present
7. Annual Review of Ecology and Systematics, 1970 Vol. 1-present
8. Archives of Environmental Contamination and Toxicology, 1973-present
9. Archiv fur Toxicology, 1958-present
10. Archive of Environmental Health, 1960-present
11. Atmospheric Environment, an Industrial Journal, 1967-present
12. Biochemical Pharmacology, 1958-present
13. British Journal of Industrial Medicine, 1973-present
14. Bulletin of Environmental Contamination and Toxicology, 1976-present
15. Cancer Research, 1962-present
16. Chemosphere, 1972-present
17. CRC Critical Reviews in Toxicology, 1978-present
18. Ecology, 1970-present
19. Environment Health Perspectives, 1978-present
20. Environment Science and Technology, 1967-present
21. Food and Cosmetics Toxicology, 1963-present
22. Health Physics, 1958-present
23. I.A.R.C. Monographs, all volumes
24. Inorganic Chemistry, 1962-present
25. Journal of Agricultural and Food Chemistry, 1953-present
26. Journal of the Fisheries Research Board of Canada, 1972-present
27. Journal of Organic Chemistry, 1962-present
28. Journal of Pharmacology and Experimental Therapeutics, 1969-present
29. Journal of Physical Chemistry, 1963-present
30. Journal of Physical Chemical Reference Data, 1978-present
31. Mutation Research, 1964-present
32. National Academy of Sciences Proceedings, July 1978-present
33. National Cancer Institute Journal, 1978-present
34. Nature, 1960-present
35. New England Journal of Medicine, 1969-present
36. Pesticides Monitoring Journal, 1967-present
37. Residue Review, 1970 (Vol. 3)-present
38. Science, 1960-present
39. Teratology, 1978-present
40. Toxicology and Applied Pharmacology, December 1974-present
41. Water Pollution Control Federation Journal, 1960-present
42. Weed Science, 1968-present
43. Xenobiotica, 1978-present

APPENDIX II.—GUIDELINES FOR CREATING PROPOSED GENERIC NAMES FOR CONFIDENTIAL CHEMICAL SUBSTANCE IDENTITIES FOR PREMANUFACTURE NOTIFICATION

I. BACKGROUND AND PURPOSE

II. BASIC APPROACH

III. CLASS 1 CHEMICAL SUBSTANCES

IV. CLASS 2 CHEMICAL SUBSTANCES

V. JUSTIFYING THE USE OF ADDITIONAL MASKING

This document contains guidelines for creating proposed generic names for chemical substances whose identities are claimed confidential for purposes of EPA's Premanufacture Notification Program. These guidelines are an amended version of guidelines which EPA first made available in April, 1977, to assist persons who claimed specific chemical identity confidential for purposes of the Chemical Substance Inventory. The Agency has modified them to conform to the premanufacture notification rules. These proposed rules would require persons who claim confidentiality with respect to specific chemical identity to follow these guidelines in creating a proposed generic name. EPA solicits comments concerning the applicability of these guidelines in implementing the confidential identity requirements of the premanufacture notification rules.

I. BACKGROUND AND PURPOSE

Proposed § 720.41 would require any person who claims the identity of his new chemical substance confidential to provide a detailed, written substantiation to support the claim. In addition the rules would require such a person to submit a proposed generic name for the substance which "is only as generic as necessary to protect the confidential identity of the chemical substance."

EPA designed these guidelines to assist submitters in developing proposed generic names to meet these requirements. They offer a systematic means of masking selected parts of a specific chemical identity to construct an appropriate generic name.

In general, adherence to these guidelines should result in development of a generic name which is acceptable to EPA. If the manufacturer does not adhere to these guidelines, he must submit a written justification for the proposed generic name. This justification must include an explanation of why a more specific name than the one which was proposed would not adequately mask the confidential substance identity. If EPA determines that the proposed generic name is more generic than is necessary to protect the confidential identity of the substance, the Agency, in accordance with 720.41(a)(4)(ii) will request the submitter to propose other less generic names for EPA consideration. The name justification referred to above is necessary in order to provide EPA with a basis for review of the generic name proposed.

The proposed rules also state that the generic name should reveal, to the maximum extent possible, "toxicologically significant aspects" of the molecular structure. Thus in creating a generic name which adequately masks the specific chemical identity, the submitter should choose the name which most closely meets this requirement. EPA is considering how it should modify these guidelines to provide explicit guidance in this regard. The Agency specifically solicits comments concerning the practicability of creating generic names which would reveal toxicologically significant aspects of the chemical identity, and concerning any criteria or procedures which would achieve this objective.

II. BASIC APPROACH

The procedures presented below for creating a proposed generic name are based on the masking of selected, revealing parts of the specific substance name which most precisely describe the identity of a particular chemcial substance.

The specific name for a Class 1 chemical substance (a substance whose composition, except for impurities, may be represented by a definite chemical structure diagram) will invariably permit the unambiguous identification of the substance in terms of its molecular formula and chemical structure diagram. However, the specific name for a Class 2 chemical substance (a substance whose composition, except for impurities, *cannot* be represented by a definite chemical structure diagram) may or may not reveal all of the supporting information which is reported to establish the substance's identity. This supporting information, required in the Premanufacture Notice Form, will identify the method by which the substance was manufactured, including its precursors and other reactants, the nature of the reaction or derivation used to produce the chemical substance and its chemical composition.

Because of differences inherent in naming Class 1 and Class 2 chemical substances, these procedures address each separately. However, the procedures for creating proposed generic names for Class 1 substances may be applicable, in certain instances, to the creation of proposed generic names for Class 2 substances.

III. CLASS 1 CHEMICAL SUBSTANCES

The composition of a Class 1 chemical substance, except for impurities, can be represented by a definite chemical structural diagram. For identification purposes, a substance of this type is specified by three items of information: 1) its specific chemical name, 2) its molecular formula, and 3) its chemical structure diagram. The specific chemical name for a Class 1 substance is so precisely descriptive of the exact substance identity, however, that the other two items of information can be generated easily.

The names of Class 1 chemical substances normally disclose the following chemical structure information:

Identity of parent structure (i.e., a chain of carbon atoms, a ring system, or a coordinated metal).

Identity, number, and position of each chemical group which is attached to the parent structure(s) or to other chemical groups.

Identity and number of counter ions (for salts).

Stereochemical relationships.

Generic chemical names may be created for Class 1 chemical substances by masking structurally descriptive parts of their specific chemical names. Masking may be accomplished by substituting less descriptive terms for descriptive parts of the name. Proposed generic names created by eliminating stereochemical indicators (if appropriate) from the specific chemical name and by masking *one* other structure detail, as specified below, will, in most cases, be acceptable to EPA.

The structurally descriptive parts of a Class 1 chemical name, any *one* of which may be masked when creating a proposed generic name, are listed below:

1. A locant which specifies the placement of a single chemical group.
2. Locant and multiplicative prefixes (e.g., di-, tri-, tetra-) which together specify the number and placement of a given chemical group.
3. Identity (but *not* placement and number) of a given chemical group.
4. Identity of a given parent structure, and locants of substituent chemical groups.
5. Identity and multiplicative prefixes (specifying the number) of a given simple cation or anion of a salt.

Chemical Group Masking

Table 1 of this procedure lists by name and molecular formula the chemical groups which may be masked to create a proposed generic name for a Class 1 chemical substance. As stated above, only one such group or multiple occurrence of the *same* group should be masked in the specific chemical name for the substance.

The groups of atoms found in Table 1 are common chemical structural units; a given group may be listed under more than one name. Each group includes at least one atom other than carbon or hydrogen.

A chemical group which includes a carbon atom having more than one single free valence (e.g., carbonyl –CO–) should not be masked if the carbon atom is directly attached to an acyclic carbon atom or is included within a ring system; in this circumstance, only the atom or group of atoms attached to the carbon atom should be masked. (See Example 2, below, where the oxo group is masked.)

Certain chemical groups in Table 1 include hydrogen atoms which are often additionally substituted, e.g., an ethyl group may be substituted for a hydrogen of the sulfamyl group (H_2NSO_2–) to give $C_2H_5NHSO_2$–. If additionally substituted, *only* the chemical group listed in Table 1 should be masked, *not* the substituent.

Table 1 lists most of the *common* chemical functional groups which contain oxygen, e.g., H_2NCO–. While not always listed, the Periodic Chart Group VIa element (sulfur, selenium, and tellurium) analogs of these functional groups, e.g., H_2NCSe–, are considered included within Table 1 and, accordingly, may be used in masking.

Parent Masking

A parent structure which is a chain of carbon atoms or a ring system may be masked in the chemical name only by the following generic terms:

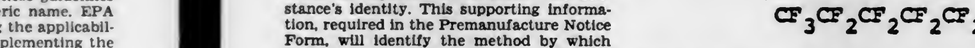
alkyl *or* alkane
alkenyl *or* alkene
alkynyl *or* alkyne
carbomonocyclic *or* carbomonocycle (e.g., benzene, cyclopentane)
carbopolycyclic or carbopolycycle (e.g., naphthalene, spiroundecane)
heteromonocyclic *or* heteromonocycle (e.g., pyrrole, p-dioxane)
heteropolycyclic *or* heteropolycycle (e.g., indole, benzothiazole)

In the case of a coordinated metal compound, the identity of the metal atom may be masked by the term "metal" in the chemical name.

Only one such parent group or multiple occurrences of the *same* parent group should be masked.

The following examples show how several hypothetical compounds could be identified by names which mask only *one* structural detail (other than stereochemistry).

EXAMPLE 1

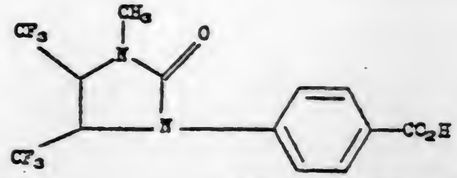


Fully defined name:
2,2,3,3,4,4,5,5,6,6,6-undecafluoro-*N,N*-bis(2-hydroxyethyl)hexanamide

Acceptable generic names:
fluorine atoms masked: *N,N*,-bis(2-hydroxyethyl)-2,2,3,3,4,4,5,5,6,6,6-undescasubstituted hexanamide
number of fluorine atoms masked: polyfluoro-*N,N*-bis(2-hydroxyethyl)hexanamide
hydroxyl groups masked: 2,2,3,3,4,4,5,5,6,6,6-undecafluoro-*N,N*-bis(2-substituted ethyl)hexanamide
hexane parent (plus locants) masked: undecafluoro-*N,N*-bis(2-hydroxyethyl)alkanamide
amide group (plus nitrogen locants) masked: 2,2,3,3,4,4,5,5,6,6,6-undecafluorobis (2-hydroxyethyl)hexane derivative

V 4 4 / 7 J A 1 0 7 9 UMI

EXAMPLE 2

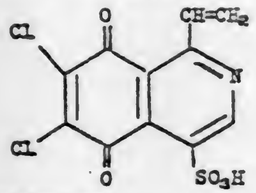


Fully defined name:
4-[3-methyl-2-oxo-4,5-bis(trifluoromethyl)-1-imidazolidinyl] benzoic acid
Acceptable defined names:
oxo group masked: 4-[3-methyl-2-substituted-4,5-bis(trifluoromethyl)-1-imidazolidinyl]benzoic acid

(NOTE.—Only the oxo and not the carbonyl group has been masked.)

fluorine atoms masked: 4-[3-methyl-2-oxo-4,5-bis(trisubstituted methyl)-1-imidazolidinyl]benzoic acid
benzene ring (plus locant) masked: [3-methyl-2-oxo-4,5-bis(trifluormethyl)-1-imidazolidinyl]carbomonocyclic carboxylic acid
imidazolidine ring (plus locants) masked: 4 - [methyloxobis (trifluoromethyl) heteromonocycle] benzoic acid

EXAMPLE 3



Fully defined name:
6,7-dichloro-1-ethenyl-5,8-dihydro-5,8-dioxo-4-isoquinolinesulfonic acid
Acceptable generic names:
chlorine atoms masked: 1-ethenyl-5,8-dihydro-5,8-dioxo-6,7-disubstituted-4-isoquinolinesulfonic acid
vinyl group masked: 1-alkenyl-6,7-dichloro-5,8-dihydro-5,8-dioxo-4-isoquinolinesulfonic acid
oxo group masked: 6,7-dichloro-1-ethenyl-5,8-dihydro-5,8-disubstituted-4-isoquinolinesulfonic acid
sulfo group masked: 6,7-dichloro-1-ethenyl-5,8-dihydro-5,8-dioxo-4-substituted isoquinoline
isoquinoline ring (plus locants) masked: dichloroethenyldihydrodioxo heteropolycyclic sulfonic acid or dichloroethenyldihydrodioxosulfo heteropolycycle

IV. CLASS 2 CHEMICAL SUBSTANCES

The composition of a Class 2 chemical substance cannot be represented by a definite chemical structure diagram. The specific name which is used to describe such a substance for the Premanufacture Notice Form may be based, in whole or in part, on the supplemental information—information which further establishes the identity of the substance.

The composition of some Class 2 substances can be represented by a partial or incomplete chemical structure diagram, similar to those shown on page 113 of "Reporting for the Chemical Substance Inventory" (December 1977). In other instances, the composition can only be described in terms of a complex combination of several different known or unknown components.

The method by which a Class 2 substance was manufactured can also serve to identify the substance. For a substance manufactured by chemical reaction, identification can be stated in terms of the immediate precursor substances and other reactants which participate in the final reaction sequence used to manufacture the substance, and the nature of the reaction, e.g., ethoxylation, or bromination. For a substance derived from a source without chemical reaction, processing information will identify the source and method of derivation, e.g., distillation, or extraction with methylene chloride.

Because Class 2 chemical substance names may be based on such variable types of information, these procedures are stated in only the most general terms. Nonetheless, in instances such as those described below, the procedure presented earlier for creating generic names for Class 1 substances may be applicable.

The composition of a Class 2 chemical substance which can be represented by a partial or incomplete chemical structure diagram can generally be described by a specific chemical name which encompasses the variability or incompleteness in the structure, yet which is as descriptive as possible of the structure in other respects. EPA will generally accept a proposed generic name for such a substance if created by following the procedure specified for masking Class 1 chemical substances.

In other instances, the specific name for a Class 2 chemical substance may identify, by specific chemical name, a predominant component or components of its composition, an immediate precursor or precursors, and other reactants. EPA will generally accept a proposed generic name for such a substance if it is constructed by masking the chemical name of *one* such component, precursor, or reactant according to the procedure specified for Class 1 substances.

Clearly, the procedure in this document are most useful for masking the identity of Class 1 chemical substances, and will only be useful for some kinds of Class 2 substance names. Persons who attempt to apply the procedures to mask other Class 2 chemical substance names may find, in certain instances, that the guidelines have little applicability. They will, therefore, need to base their choice of a generic name on the general principle that the name should be "only as generic as necessary to protect the confidential identity of the particular chemical substance." These persons should attach a written statement to the Premanufacture Notice Form explaining their choice of the generic name for the substance. Each feature that is masked should be discussed separately. The statement should specifically address why a more specific name than the one proposed would not adequately mask the confidential substance identity. EPA will consider each such proposed generic name on a case-by-case basis.

V. JUSTIFYING THE USE OF ADDITIONAL MASKING

Persons who determine that strict application of these procedures would not adequately mask the confidential substance identity may propose a generic name which masks the substance identity to a greater extent than provided for by these procedures. Such additional masking should be in a written statement, headed "Justification for Additional Masking," and attached to the Premanufacture Notice Form. The statement should be prepared in the following manner:

1. Construct each reasonably applicable generic name provided for by following the procedure specified here.

2. For each generic name constructed by Step 1, explain the reason why the name is inappropriate for masking the confidential substance identity. For example, the number of substances encompassed by the generic name may be very small. Or, the generic name may still reveal information about the chemical substance which in and of itself formed the basis for the confidential chemical substance identity claim. Such reasons should be clearly explained.

3. Select a suitable generic name which masks two aspects of the chemical substance identity. If such double masking is perceived as still inappropriate, state the reason for rejecting each reasonably applicable, doubly-masked generic name (as discussed in Step 2) before proceeding to propose a generic name that masks three or more aspects of the chemical substance name. In proposing a generic name for a chemical substance, explain the reasons for rejecting each reasonably applicable generic name which would mask the specific chemical identity to a lesser degree.

TABLE 1 *List of Common Chemical Structural Units*

aldo O=
amidino $H_2NC(=NH)$—
amino H_2N—
(aminoamidino) $H_2NC(=NNH_2)$— or $H_2NNHC(=NH)$—
(aminocarbonyl) H_2NCO—
[(aminocarbonyl)amino] H_2NCONH—
[2-(aminocarbonyl)hydrazino] $H_2NCONHNH$—
[(aminocarbonyl)hydrazono] $H_2NCONHN=$
(aminohydrazonomethyl) $H_2NC(=NNH_2)$—
[(aminohydroxymethylene)hydrazino] $H_2NC(OH)=NNH$—
(aminoiminomethyl) $H_2NC(=NH)$—
(aminoiminophosphoranyl) $H_2NPH(=NH)$—
(P-aminophosphinimyl) $H_2NPH(=NH)$—
(aminosulfinyl) H_2NSO—
(aminosulfonyl) H_2NSO_2—
(aminothio) H_2NS—
(aminothioxomethyl) H_2NCS—
ammonio H_3N^+—
antimono —Sb=Sb—
arseno —As=As—
arsenoso OAs—
arsinico HOAs(O)=
arsinidene AsH=
arsinidyne As≡
arsinimyl $AsH_2(=NH)$—
arsino AsH_2—
arsinothioyl $AsH_2(S)$—
arsinyl $AsH_2(O)$—
arsinylidene AsH(O)=
arso $O_{3/4}As$—
arsono $(HO)_2As(O)$—
(arsonooxy) $(HO)_2As(O)O$—
arsonoitridyl AsH(=N)—
arsoranyl AsH_4—
arsoranylidyne AsH_3=
arsylene AsH=
arsylidyne AsH≡
astato At—
astatoxy O_2At—
astatyl O_2At—
azi —N=N—
azido N_3—
(azidocarbonyl) N_3CO—
(azidoformyl) N_3CO—
(azidosulfonyl) N_3SO_2—
azino =NN=
azo —N=N—
azoxy —N(O)N—
bismuthino BiH_2—
bismuthylene BiH=
bismuthylidyne Bi≡
borono $(HO)_2B$—
(boronooxy) $(HO)_2BO$—
boryl BH_2—
borylene BH=
boryljdyne B≡
bromo Br—
(bromocarbonyl) BrCO—
(bromoiminomethyl) BrC(=NH)—
(bromosulfonyl) $BrSO_2$—
carbamido H_2NCONH—
carbamoyl H_2NCO—
carbamyl H_2NCO—
carbonimidoyl —C(=NH)—
(carbonimidoylamino) HN=C=N—
carbonothioyl —CS—
carbonyl —CO—
(carbonyldiimino) —NHCONH—
(carbonyldioxy) —OC(O)O—
carboxy HO_2C—
chloro Cl—
(chlorocarbonyl) ClCO—
(chloroformyl) ClCO—
(chloroiminomethyl) ClC(=NH)—
(chlorosulfinyl) ClSO—
(chlorosulfonyl) $ClSO_2$—
chlorosyl OCl—
(chlorothio) ClS—
chloryl O_2Cl—
cyanato NCO—
cyano NC—
1,2-diarsenediyl —As=As—
diarsenyl HAs=As—
diarsinetetrayl =AsAs=
diarsinyl H_2AsAsH—
1,2-diazenediyl —N=N—
diazeno HN=N—
diazo N_2=
diazoamino —NHN=N—
diazonio N_2^+—
1,2-diborane(4)diylidene =BB=
diborane(4)tetrayl =BB=
digermanylene $—GeH_2GeH_2$—
digermathianyl $H_2GeSGeH_2$—
dioxy —OO—
1,2-diphosphenediyl —P=P—
1,2-diphosphinediyl —PHPH—
1,2-diphosphinediylidene =PP=
diphosphinetetrayl =PP=
diphosphinyl H_2PPH—
diseleno —SeSe—
1,2-disilanediyl $—SiH_2SiH_2$—
disilanoxy H_2SiSiH_2O—
disilanyl H_2SiSiH_2—
disilanylene $—SiH_2SiH_2$—
(disilanyloxy) H_2SiSiH_2O—
(disilathianyloxy) $H_2SiSSiH_2O$—
disilazanoxy $H_2SiNHSiH_2O$—
disilazanyl $H_2SiNHSiH_2$—
2-disilazanyl $(H_2Si)_2N$—
(disilazanyloxy) $H_2SiNHSiH_2O$—
1,3-disiloxanediyl $—SiH_2OSiH_2$—
1,3-disiloxanediylidene =SiHOSiH=
disiloxanoxy $H_2SiOSiH_2O$—
disiloxanylene $—SiH_2OSiH_2$—
(disiloxanyloxy) $H_2SiOSiH_2O$—
disilthianoxy $H_2SiSSiH_2O$—
1,2-distannanediyl $—SnH_2SnH_2$—
distannanylene $—SnH_2SnH_2$—
1,3-distannathianediylidene =SnHSSnH=
1,2-distibenediyl —Sb=Sb—
disulfinyl —S(O)S(O)—
dithio —SS—
(dithiocarboxy) HSCS—
(dithiohydroperoxy) HSS—
epidioxy —OO—
epidiseleno —SeSe—
epidithio —SS—
epioxy —O—
episeleno —Se—
epithio —S—
epoxy —O—
fluoro F—
(fluorocarbonyl) FCO—
fluoryl O_2F—
formamido HCONH—
1,5-formazandiyl —N=NCH=NNH—
1,formazano $H_2NN=CHN=N$—
5,formazano HN=NCH=NNH—
formazanyl $HN=NC(=NNH_2)$—
formimidoyl HC(=NH)—
formyl HCO—
(formylamino) HCONH—
germanetetrayl =Ge=
germyl H_3Ge—germylene H_2Ge=
germylidyne HGe≡
guanyl $H_2NC(=NH)$—
hydrazi —NHNH—
1,2-hydrazinediylidene =NN=
hydrazino H_2NNH—
(hydrazinocarbonyl) H_2NNHCO—
(hydrazinoiminomethyl) $H_2NNHC(=NH)$—
(hydrazinosulfinyl) H_2NNHSO—
(hydrazinosulfonyl) H_2NNHSO_2—
(hydrazinothioxomethyl) H_2NNHCS—
1-hydrazinyl-2-ylidene —NHN—
hydrazo —NHNH—
hydrazono $H_2NN=$
hydroperoxy HOO—
(hydroperoxycarbonyl) HOOCO—
(hydroperoxyiminomethyl) HOOC(=NH)—
(hydroperoxysulfinyl) HOOS(=O)—
(hydroperoxysulfonyl) $HOOS(=O)_2$—
(hydroperoxythioxomethyl) HOOCS—
hydroxy HO—
(hydroxyamino) HONH—
(hydroxyimino) HON=
(hydroxyiminomethyl) HOC(=NH)—
hydroxyl HO—
(hydroxyphosphinyl) HOPH(O)—
imidocarbonyl —C(=NH)—
(imidocarbonylamino) HN=C=N—
imino HN=
(iminomercaptomethyl) HSC(=NH)—
[imino(mercaptooxy)methyl] HSOC(=NH)—
(iminomethyl) HN=CH—
(iminontrilo) —NHN=
(iminophosphoranyl) $H_2P(=NH)$—
(iminosulfenomethyl) HOSC(=NH)—
iodo I—
(iodocarbonyl) ICO—
iodosyl OI—
iodyl O_2I—
isocyanato OCN—
(isocyanatocarbonyl) OCNCO—
(isocyanatosulfonyl) $OCNSO_2$—
isocyano CN—
(isocyanocarbonyl) CNCO—
isonitro HON(O)=
isonitroso HON=
isosemicarbazido $H_2NC(OH)=NNH$—
isothiocyanato SCN—
(isothiocyanatocarbonyl) SCNCO—
(isothiocyanatosulfonyl) $SCNSO_2$—
isothiocyano SCN—
keto O=
mercapto HS—
(mercaptoamino) HSNH—
(mercaptooxy) HSO—
[(mercaptooxy)carbonyl] HSOCO—
[(mercaptooxy)sulfinyl] HSOS(=O)—
[(mercaptooxy)sulfonyl] $HSOS(=O)_2$—
[(mercaptooxy)thioxomethyl] HSOCS—
(mercaptotelluro) HSTe—
nitramino O_2NNH—
aci-nitramino HON(O)=N—
nitrilio HN^+≡
nitrilo N≡
(nitrilophosphoranyl) HP(=N)—
nitro O_2N—
aci-nitro HON(O)=
(nitroamino) O_2NNH—
(*aci*-nitroamino) HON(O)=N—
(nitrooxy) O_2NO—
nitroso ON—
(nitrosoamino) ONNH—
(nitrosoimino) ONN=
(nitrosooxy) ONO—
(nitrothio) O_2NS—
oximido HON=
oxo O=
(oxoboryl) OB—
oxy —O—
1,3-pentazadienyl $H_2NN=NN=N$—
perchloryl O_3Cl—
perseleno Se=Se=
perthio S=S=
phosphinico HOP(O)=
phosphinidene HP=
phosphinidyne P≡
phosphinimyl $H_2P(=NH)$—
phosphino H_2P—
phosphinothioyl $H_2P(S)$—
phosphinothioylidene HP(S)=
phosphinyl $H_2P(O)$—
phosphinylidene HP(O)=
phosphinylidyne P(O)≡
phospho O_2P—
phophono $(HO)_2P(O)$—
(phosphonocarbonyl) $(HO)_2P(O)CO$—
phosphononitridyl HP(=N)—
(phosphonooxy) $(HO)_2P(O)O$—
phosphoranyl H_4P—
phosphoranylidene H_3P=
phosphoranylidyne H_2P≡
phosphoro —P=P—
phosphoroso OP—
plumbanetetrayl =Pb=
plumbyl H_3Pb—
plumbylene H_2Pb=
plumbylidyne HPb≡
seleneno HOSe—
selenino HOSe(O)—
seleninoselenoyl Se=Se=
seleninyl OSe=
seleno —Se—
selenocyanato NCSe—
selenono $(HO)SeO_2$—
selenonyl O_2Se=
selenoxo Se=
selenyl HSe—
semicarbazido $H_2NCONHNH$—
semicarbazono $H_2NCONHN=$
silanetetrayl =Si=
silyl H_3Si—
silylene H_2Si=
silylidyne HSi≡
(silyloxy) H_2SiO—
stannanetetrayl =Sn=
stannono HOSn(O)—
stannyl H_3Sn—
stannylene H_2Sn=
stannylidyne HSn≡

stibinico HOSb(O)=
stibino H_2Sb—
stibo O_2Sb—
stibono $(HO)_2Sb(O)$—
(stibonooxy) $(HO)_2Sb(O)O$—
stiboso OSb—
stibyl H_2Sb—
stibylene HSb=
stibylidyne Sb≡
sulfamino $HOSO_2NH$—
sulfamoyl H_2NSO_2—
sulfamyl H_2NSO_2—
sulfeno HOS—
(sulfenocarbonyl) HOSCO—
(sulfenosulfinyl) HOSS(=O)—
(sulfenosulfonyl) $HOSS(=O)_2$—
(sulfenothioxomethyl) HOSCS—
sulfhydryl HS—
sulfinimidoyl HN=S=
sulfino HOS(O)
(sulfinooxy) HOS(O)O—
sulfinothioyl S=S=
sulfinyl OS=
sulfo HO_3S—
(sulfoamino) $HOSO_2NH$—
sulfonimidoyl HN=S(O)=
sulfonodiimidoyl (HN=)$_2$S=
sulfonyl $—SO_2$—
(sulfooxy) HO_2SO—
sulfuryl $—SO_2$—

telluro —Te—
telluroxo Te=
telluryl HTe—
1,4-tetraphosphinediyl —$(Ph)_4$—
1,7-tetrasiloxanediyl —$SiH_2(OSiH_2)_2OSiH_2$—
tetrathio—SSSS—
1,4-tetrazanediyl —$(NH)_4$—
1,4-tetrazanediylidene =$N(NH)_2N$=
1-tetrazenyl H_2NNHN=N—
thio —S—
(thioarsenoso) S=As—
(thiocarbamoyl) H_2NCS—
thiocarbamyl H_2NCS—
(thiocarbonyl) —CS—
(thiocarboxy) HOSC—
thiocyanato NCS—
thiocyano NCS—
(thioformyl) HCS—
thiohydroperoxy HOS— or HSO—
(thiohydroxy) HS—
(thionitroso) SN—
thionyl —SO—
thioseleneno HSSe—
(thiosulfeno) HSS—
(thiosulfo) (HO_2S_2)—
thioxo S=
(thioxoarsino) S=As—
(thioxomethyl) HCS—
thiuram H_2NCS—
triazanyl H_2NNHNH—
1-triazene-1,3-diyl —NHN=N—
1-triazenyl H_2NN=N—
triseleno —SeSeSe—
1,3-trisilanediyl $—SiH_2)_3$—
1,3,5-trisiloxanetriyl —$SiH(OSiH_2—)_2$
trithio —SSS—

uramino H_2NCONH—
ureido H_2NCONH—
ureylene —NHCONH—

PROPOSED FORMS FOR PREMANUFACTURE NOTIFICATION

The following are the proposed reporting forms for premanufacture notification.

GENERAL INSTRUCTIONS

These instructions are intended to assist the submitter of a premanufacture notice in the use of the following forms:

Premanufacture Notice Form

Processing and Consumer Use Form

The submitter must complete the mandatory parts of the Premanufacture Notice Form to the extent the information required is known to or reasonably ascertainable by him. In addition, the submitter must contact certain other persons and request them to complete the Processing and Consumer Use Form as discussed below.

Premanufacture Notice Form

The Premanufacture Notice Form consists of the three parts listed below. Each part consists of two or more sections.

Part I - General Information

Part II - Risk Assessment Data

Part III - Risk Analysis and Optional Data

All sections of Parts I and II must be completed by the submitter as appropriate in accordance with Section 720.20 of the Premanufacture Notification Rules. Section B of Part II must be completed for each site where the new chemical substance will be manufactured. The submitter must complete Section C of Part II for each site where he will process the new chemical substance and Section D of Part II if he intends to produce consumer products that contain the new chemical substance. In addition, the submitter must complete Section C of Part II for processing operations which will be conducted by other persons and Section D of Part II if other persons will produce consumer products that contain the new chemical substance.

The Premanufacture Notification Rules do not require the submission of Part III. This part, or selected sections, may be completed at the discretion of the submitter.

In completing Parts I and II, the submitter must provide all of the information and data requested that are known to or reasonably ascertainable by him. Thus he must answer all questions to the best of his ability, including reasonable estimates where he does not know with factual certainty the answers to particular questions. In cases where the submitter cannot provide a reasonable estimate (i.e., the information is unknown and is not reasonably ascertainable), he should enter NA (not available).

[6560-01-C] PREMANUFACTURE NOTICE

CERTIFICATION STATEMENT: I hereby certify that, to the best of my knowledge and belief: (1) I intend to manufacture for a commercial purpose the chemical substance for which this notice is submitted, other than in small quantities for research and development, and that the substance is not excluded from premanufacture notification (40 CFR 720.13); (2) All information entered on the Premanufacture Notice Form is complete and truthful as of the date of submittal; and (3) I am submitting with this form all test data in my possession or control concerning effects of the substance on health or the environment and a description of any other data known to or reasonably ascertainable by me, in accordance with 40 CFR 720.23. I agree to permit access to, and the copying of records by, a duly authorized representative of the EPA Administrator in accordance with the Toxic Substances Control Act and any regulations issued thereunder, to document any information reported in this form.

Signature of Authorized Official _____

Date _____

When completed, send this notice to:

Document Control Officer
Office of Toxic Substances
TS-793
U.S.E.P.A.
401 M Street, S.W.
Washington, D.C. 20460

CONFIDENTIALITY INSTRUCTIONS: If you are asserting a claim of confidentiality for any data or information contained in this notice you should place a check in the box in the left hand margin immediately adjacent to the data or information entry. If you do not assert a claim of confidentiality on this form at the time of submission of the information, EPA may make the information public without further notice to you. Claims of confidentiality must be made in accordance with 40 CFR 720, Subpart E. Confidentiality claims related to chemical identity or to health and safety data must be substantiated in accordance with 40 CFR 720.40(c).

FOR EPA USE ONLY
Date of receipt _____

V 4 4 / 7 J A 10 7 9 UMI

Processing and Consumer Use Form

In accordance with 40 CFR 720.20(e) the submitter must contact certain other persons and request them to complete the Processing and Consumer Use Form concerning their own processing and use of the new chemical substance. He must send them copies of this form and state that the recipient is not under a legal obligation to provide the requested information. He must also offer them the option either to provide the requested information to him for inclusion in his notice, or to provide the information directly to EPA. The submitter must certify below his compliance with these procedures, and provide a summary of those whom he contacted and the disposition of their responses.

For further information on these procedures, including the persons that must be contacted and exceptions to these requirements, see 40 CFR 720.20(e).

Certification

I hereby certify that I have contacted the persons listed below and requested them to complete the Processing and Consumer Use Form in accordance with the requirements of 40 CFR 720.20(e). If no persons were contacted or if a representative sample of persons was contacted I have attached an explanation in accordance with the provisions of 40 CFR 720.20(e).

Signature of Authorized Official _____

List those persons you have contacted (if appropriate) and check if you have attached their responses to this notice, if you expect them to send information directly to EPA or if you do not know whether the information will be supplied.

Name	Address	Response Attached	Response To Be Sent To EPA	Response Unknown
_____	_____	[ ]	[ ]	[ ]
_____	_____	[ ]	[ ]	[ ]
_____	_____	[ ]	[ ]	[ ]
_____	_____	[ ]	[ ]	[ ]
_____	_____	[ ]	[ ]	[ ]

Part 1

GENERAL INFORMATION

All data requested in this Part must be provided insofar as they are known to or reasonably ascertainable by the submitter. A notice is not valid unless the chemical identity is reported. In cases where the requested data are unknown and not reasonably ascertainable enter NA (not available).

Section A. Manufacturer Identification

1. Person Filing Notice

[ ] Name of Authorized Official _____

[ ] Title _____

[ ] Organization _____

[ ] Mailing Address _____

_____

_____

_____

[ ] 2. Incorporation Information

[ ] Legal Title of Organization _____

_____

Place of Incorporation

Street _____

City _____

State _____

[ ] 3. Principal Place of Business

Street _____

City _____

State _____

4. Technical Contact

[ ] Name/Title _____

[ ] Address _____

[ ] Telephone Number _____

5. Related Companies

a. Other Persons Authorized to Manufacture Chemical

(i) Identify any other persons who may manufacture the chemical substance in the U.S. or import the chemical substance to the U.S. within five years after you commence manufacture, by virtue of an existing or planned business arrangement (e.g., contract, license, or other form of legal permission) between you and the person.

	Name	Address	Business Arrangement	Anticipated Date of Manufacture or Import
[ ]	_____	_____	_____	_____
[ ]	_____	_____	_____	_____
[ ]	_____	_____	_____	_____

(ii) If such a business arrangement exists or is planned, do the responses on this form include production volume, uses, and exposure information concerning the activities of these persons?

Yes [ ] No [ ]

If no, estimate the production or import volumes expected during the first 5 years after you commence manufacture.

[ ] b. Parent Company

Name _____

Address _____

_____

_____

[ ] c. List any subsidiary companies that are or hav been associated with research, development, test marketing or other commercialization activities involving the new chemical substance.

	Name	Address
[ ]	_____	_____
[ ]	_____	_____
[ ]	_____	_____

[ ] 6. Intended date of commencement of manufacture for commercial purposes.

Month _____ Year _____

If the intended date of commencement of manufacture is more than 3 years after the date of this notice, submit evidence of intent to manufacture in accordance with 40 CFR 720.20(h).

Section B Chemical Identity

Complete either 1, 2, or 3 as appropriate. Complete 4. If chemical identity is claimed confidential also complete 5.

1. Class 1 chemical substance (other than polymers)

[ ] a. CAS Registry No. (if known) _____

[ ] b. Specific Chemical Name _____

[ ] c. Molecular Formula _____

[ ] d. Synonyms _____

[ ] e. Trademarks _____

[ ] Structural Diagram

2. Class 2 chemical substance.

[ ] a. CAS Registry No. (if known) _____

b. Specific Chemical Name _____

[ ] c. Synonyms _____

[ ] d. Trademarks _____

[ ] e. List the immediate precursor substance(s) and/or reactants with their respective CAS Registry Number(s) and the nature of the reaction. Also provide a partial or incomplete chemical structure diagram (where appropriate). Indicate the range of composition.

3. Polymers

a. (1) Provide the specific chemical name and the CAS Registry Number of those monomers and other reactants used at greater than two percent (by weight) in the manufacture of the polymer. Monomers used at two percent (by weight) or less need not be listed as part of the polymer description; (2) Provide the intended range of composition of the polymer in terms of monomer percent (by weight). Calculate the percent based on the composition of the polymer formed. If your notice is for any copolymer of the listed monomers, enter "any" under Range of Composition; (3) For each monomer, indicate the maximum amount (weight percent) that may be present as a residual in the polymer as distributed in commerce.

	(1) Monomers and CAS Registry #	(2) Range of Composition	(3) Maximum Residual (Weight Percent)
[ ]			
[ ]			
[ ]			

[ ] b. List any monomers used at 2% (by weight) or less in the manufacture of the polymer which are not listed in 3(a) above. For each such monomer indicate the maximum amount (weight percent) that may be present as a residual in the polymer as distributed in commerce.

[ ] c. Indicate the minimum molecular weight, compositional restrictions or other restrictions of the polymeric compositions to which this notice applies.

4. Impurities

List the identities and estimate the maximum percent (by weight) of those impurities which may reasonably be anticipated to be present in the chemical substance as it will be manufactured for commercial purposes. Consider information developed during

R&D activities, your knowledge of manufacturing process chemistry and anticipated quality control operations. Check if the concentration of an impurity will be specifically controlled based upon your knowledge of potential adverse health or environmental effects. Estimate the maximum total percent (by weight) of the impurities that may be present.

Total Percent _____

	Identity	Maximum Percent	Specifically Controlled
[ ]	_____	_____	[ ]
[ ]	_____	_____	[ ]
[ ]	_____	_____	[ ]

5. Chemical Identity Claimed Confidential

a. If claimed for period prior to commencement of manufacture:

Proposed Generic Name: _____

b. If claimed for period following commencement of manufacture:

Proposed Generic Name: _____

Substantiation and other materials required to be submitted with a claim of confidentiality must be attached in accordance with 40 CFR 720.40(c).

Section C Production and Marketing Data

1. Estimated Production and Sales Volume (See ranges in Support Document)

		Production	Sales
[ ]	a. First Year		
[ ]	b. Third Year		
[ ]	c. Maximum Annual Demand (fifth year or beyond)		

2. Basis of Production Estimate

	% of First Year	% of Third Year	% of Maximum Annual Demand
[ ] Firm Order			
[ ] Forecast			
[ ] Speculative	_____	_____	_____
	100%	100%	100%

3. Chemical Use Assumptions Used in Production Estimate

In the following questions, list each use by function, and as specific an application as possible. (Example: function-solvent; application-paint used in automotive finishes.) List partial information if complete information is not known. (Example: function-solvent; application-unknown.) Uses reported elsewhere in this form should also be reported here.

a. List those uses on which your production estimates are based. List uses in descending order of the anticipated production volume devoted to each use.

	Function	Application
[ ]	_____	_____
[ ]	_____	_____
[ ]	_____	_____

b. List any other uses that you believe the chemical substance could have.

	Function	Application
[ ]	_____	_____
[ ]	_____	_____
[ ]	_____	_____

c. Do you intend or expect the new chemical substance to be used to treat water or drinking water supplies or to be used in coatings, paints, liners, pipes or other products that will come in contact with drinking water?

[ ] Yes [ ] No [ ]

[ ] d. Will the new chemical substance be distributed from its site of manufacture?

Yes [ ] No [ ]

4. Historical Production Information

a. Has the new chemical substance been manufactured before?

Yes [ ] No [ ] Don't Know [ ]

If yes, estimate the average annual domestic production or import volume and the number of years it was produced or imported. (see Support Document for production ranges).

b. Was production or use of this chemical restricted because of governmental action, litigation, or voluntarily because of adverse health or environmental effects?

[ ] Yes [ ] No [ ] Don't Know [ ]

If yes, cite references or attach information or data.

5. Hazard Warnings

[ ] Attach to this notice a copy or reasonable facsimile of any hazard warning statement, labels, labeling or instructions, technical data sheet, Material Safety Data Sheet and any other information which will be provided to purchasers regarding the safe handling, use, disposal, treatment upon accidental exposure, or recommendations concerning the formulation, construction or labeling of products containing the chemical substance.

Section D Federal Register Notice

Information provided in this section will be published in the Federal Register in accordance with Section 5(d)(2) of the TSCA. Separate sections are provided for presentation of data related to confidential information where appropriate. Do not enter any information in this section which you consider confidential.

1. Chemical Identity

a. If chemical identity was not claimed confidential in Section B, enter the specific chemical name which you reported in Section B. For polymers enter those monomers which were listed in Section B(3)(a).

_____

b. If chemical identity was claimed confidential in Section B, enter the proposed generic name which you reported in Section B(5).

_____

2. Use Data

a. If use data were not claimed confidential in Section C, list the proposed uses of the chemical substance by function and as specific an application as known. List industrial uses and consumer uses separately.

Industrial Uses

Function	Application
_____	_____
_____	_____
_____	_____

Consumer Uses

Function	Application
_____	_____
_____	_____
_____	_____

b. If use data were claimed confidential in Section C, report a generic description of the proposed industrial and consumer use(s) of the chemical substance. This description should be as specific as possible without revealing confidential information.

Industrial Uses

_____

_____

_____

Consumer Uses

_____

_____

_____

3. Check below the populations that will be exposed to the new chemical substance during manufacture, processing or use, and estimate the maximum number of persons exposed during a one year period (see Support Document for ranges). Base your estimate on the maximum annual production and use rate anticipated within the first 5 years of production, and include all uses, processing and manufacturing operations.

Population	Exposure Yes	Exposure No	Numbers Exposed
Workers			
manufacturing	[ ]	[ ]	_____
processing	[ ]	[ ]	_____
Consumers (through use of a product(s))	[ ]	[ ]	_____
General Population (in the vicinity of manufacturing, processing operations)	[ ]	[ ]	_____

4. For each population group listed in question 3, describe the maximum level, duration and frequency of exposures expected.

5. Estimate the percent of the total manufactured volume, for the first 5 years of production that will be released to the environment under normal conditions of manufacture, processing, use and disposal.

Activity	Percent Release
Manufacturing/Processing Operations	_____
Industrial Disposal	_____
Consumer Use	_____
Consumer Disposal	_____

6. Test Data

List all data that are being submitted, described or cited as part of this notice in accordance with §720.23 of the premanufacture notification rules. Identify whether the data relate to the new chemical substance or to substances associated with the new chemical substance (e.g., byproducts, co-products, feedstocks, intermediates, degradation products). For all data that are submitted in accordance with 720.23(a), 720.20(j) and data that are submitted for any other tests you have performed concerning health and the environment, provide a brief abstract of the results.

[ ] Section E Schematic Flow Diagram

For each manufacturing or processing operation you conduct, attach to this notice a schematic flow diagram. This diagram must graphically illustrate (1) each manufacturing step and the type of equipment involved; (2) the major components of the process streams at each step; (3) the points of environmental release to the air, water or land; and (4) the manufacturing and processing steps that account for release of the new chemical substance into the workplace. In addition, provide a mass balance around the entire process and list the major chemical reactions and significant side reactions which account for the chemical substances listed in Section B(4)(b) of Part II.

Section F

Provide a list of all attachments which are submitted with this form.

Part II

RISK ASSESSMENT DATA

All the data requested in this Part must be provided insofar as they are known to or reasonably ascertainable by the submitter. In cases where the requested data are unknown and not reasonably ascertainable enter NA (not available).

Section A Chemical Properties, Environmental Fate Characteristics, and Human and Ecological Effects Data

Under Section 5(d)(1)(B) and (C) of TSCA and 40 CFR 720.23, a manufacturer must submit all test data in his possession and control and a description of any other data which are reasonably ascertainable and are related to the effect of any manufacture, processing, distribution in commerce, use, or disposal of the chemical substance on health or the environment. The regulations detail which data must be submitted with the notice and which data may be referenced by a literature citation. In addition, the regulations prescribe formats for data concerning certain effects.

Table 1 lists what EPA considers to be the most important basic physical and chemical properties and potential effects that should be considered in an assessment of risk. This section of the form requires additional information concerning the relationship of the test data and information submitted with this form to the properties and effects listed in Table 1.

[ ] 1. Using Table 1, check the property(ies), characteristic(s) or effect(s) for which you have submitted: (1) data, (2) a description of data, and/or (3) a literature citation. Enter the name of the specific technique or methodology of those tests for which you have submitted data next to the property(ies), characteristic(s) or effect(s) to which each pertains. (A given test may be pertinent to two or more properties, characteristics or effects.)

[ ] 2. Discuss any conclusions, evaluations or assessments which you have made concerning the implications of the test data results or descriptions of other data you have submitted for each particular property, characteristic or effect.

[ ] 3. Have you evaluated the health or environmental risks associated with the manufacture, processing, distribution in commerce, use or disposal of the chemical substance?

Yes [ ] No [ ]

If yes, explain your evaluations.

[ ] 4. Have you evaluated the health or environmental risks presented by substances associated with the manufacture, processing, distribution in commerce, use, or disposal of the chemical substance (e.g., byproducts, co-products, feedstocks, intermediates, degradation products)?

Yes [ ] No [ ]

If yes, explain your evaluations.

[ ] 5. Have you evaluated whether the data you have submitted are sufficient to assess the risk associated with the property(ies), characteristics(s) or effect(s) to which they pertain?

Yes [ ] No [ ]

If yes, explain your evaluations. Provide references to any factors discussed in other sections of this notice.

If you have not reported any information for a particular property or effect listed in Table 1 because you believe that such information is either unnecessary or impractical, or if data you are submitting may indicate adverse health or environmental effects, you may wish to provide additional information or explanation to EPA. Section A of Part III is an optional section which provides a format for the presentation of such information.

Table 1

CONFIDENTIALITY: The information that is required to be entered in this table is limited to the identification of: (1) the physical/chemical properties and health and environmental effects for which data or a description of data have been submitted with this notice and (2) the specific technique or methodology used to develop such data. If you are asserting a claim of confidentiality for any of these data you must mark the attached document(s) which contain(s) the data in accordance with Section 720.40(b) of the Premanufacture Notification Rules.

PHYSICAL/CHEMICAL PROPERTIES

(1) data submitted
(2) description submitted
(3) literature citation

Property	(1)	(2)	(3)	Test Methodology or Technique
Spectra (ultraviolet, visible, infrared)	[ ]	[ ]	[ ]	_____
Density	[ ]	[ ]	[ ]	_____
Solubility in water	[ ]	[ ]	[ ]	_____
Melting point	[ ]	[ ]	[ ]	_____
Boiling point	[ ]	[ ]	[ ]	_____
Sublimation point	[ ]	[ ]	[ ]	_____
Vapor pressure	[ ]	[ ]	[ ]	_____
Dissociation constant	[ ]	[ ]	[ ]	_____
Particle size distribution	[ ]	[ ]	[ ]	_____

Table 1 continued

Property	(1)	(2)	(3)	Test Methodology or Technique
pH	[ ]	[ ]	[ ]	_____
Other physical/chemical or fate characteristics tests (specify)	[ ]	[ ]	[ ]	_____
Chemical Reactivity:				
Photochemical degradation	[ ]	[ ]	[ ]	_____
Hydrolysis	[ ]	[ ]	[ ]	_____
Chemical oxidation	[ ]	[ ]	[ ]	_____
Chemical reduction	[ ]	[ ]	[ ]	_____
Chemical incompatibility	[ ]	[ ]	[ ]	_____
Flammability	[ ]	[ ]	[ ]	_____
Explodability	[ ]	[ ]	[ ]	_____
Other	[ ]	[ ]	[ ]	_____
Biodegradation	[ ]	[ ]	[ ]	_____
Adsorption/desorption characteristics	[ ]	[ ]	[ ]	_____
Formation of persistent transformation products	[ ]	[ ]	[ ]	_____

Table 1 continued

HEALTH AND ENVIRONMENTAL EFFECTS DATA

(1) data submitted
(2) description submitted
(3) literature citation

Effect	(1)	(2)	(3)	Test Methodology or Technique
Acute animal effects	[ ]	[ ]	[ ]	_____
Genetic effects	[ ]	[ ]	[ ]	_____
Subchronic	[ ]	[ ]	[ ]	_____
Teratogenicity	[ ]	[ ]	[ ]	_____
Reproductive effects	[ ]	[ ]	[ ]	_____
Oncogenicity	[ ]	[ ]	[ ]	_____
Other health effects (chronic or latent animal effects)	[ ]	[ ]	[ ]	_____
Microbial effects	[ ]	[ ]	[ ]	_____
Aquatic invertebrate effects	[ ]	[ ]	[ ]	_____
Plant effects	[ ]	[ ]	[ ]	_____
Fish effects	[ ]	[ ]	[ ]	_____

Table 1 continued

Effect	(1)	(2)	(3)	Test Methodology or Technique
Bioconcentration	[ ]	[ ]	[ ]	_____
Community or ecosystem level effects	[ ]	[ ]	[ ]	_____
Other environmental effects* (specify)	[ ]	[ ]	[ ]	_____

*"Other environmental effects" refer to any direct or indirect effect on any environmental entity, process, function, or amenity not specifically included in another category. Example: weather modification, stratospheric ozone depletion, property damage, agricultural or silvicultural damage, or aesthetic effects.

Section B Exposure From Manufacture

This section must be completed for each site where the new chemical substance will be manufactured. If more than one manufacturing site will be used, attach supplementary sections.

[ ] Site Name _____

[ ] Address _____

_____

_____

1. Worker Exposure

[ ] a. Check the routes of exposure to the new chemical substance that may occur at the manufacturing site during normal operation. For each route checked, estimate the maximum number of workers exposed to the new chemical substance during a one-year time period in the first 5 years (see Support Document for ranges).

Exposure Route		Maximum Number Exposed
Inhalation	[ ]	
Ingestion	[ ]	
Skin contact	[ ]	

[ ] Describe the magnitude, duration and frequency of the exposures that may occur through ingestion or skin contact. Include a description of inhalation exposure if the information in question b is unknown and not reasonably ascertainable.

b. State the maximum level of the new chemical substance in the workplace air that workers are expected to be exposed to during normal operations in the first 5 years. If appropriate, include levels for the following types of exposure situations (1) direct exposure that occurs in close proximity to manufacturing equipment and/or from direct handling of the chemical substance and (2) exposure to ambient workplace concentrations that may be experienced by any worker normally in the general vicinity of the manufacturing operation.

		Levels	
		Direct	Ambient Workplace Air
[ ]	(i) Time-weighted average concentration in air for an 8-hour day, 40-hour work week schedule ([ ] ppm or [ ] mg/m^3)	_____	_____
[ ]	(ii) Peak concentration in air for 15 minutes ([ ] ppm or [ ] mg/m^3)	_____	_____

[ ] c. Explain how the workplace exposure estimates in questions a and b were derived.

[ ] d. Based on your analytical and instrument capabilities, what is the minimum level of the new chemical substance which you can detect in the workplace air? Describe the analytical and sampling techniques on which you have based the minimum detectable level.

[ ] e. Estimate the maximum number of workers exposed to the levels of the new chemical substance in the workplace air reported in question b during a one-year time period in the first 5 years as listed below (see Support Document for ranges). Estimate the maximum number of days per year and hours per day that any person may be exposed to the chemical substance.

Exposure	Maximum Number Exposed	Maximum Hours/Day	Maximum Days/year
[ ] Direct			
[ ] Ambient Workplace			

2. Environmental Release

a. Indicate, as required in Table 2, the maximum amount of the new chemical substance intended to be manufactured at the site to one significant figure (kg/yr), the hours of operation, the type of manufacturing operation and the estimated average and maximum environmental release rates and concentrations of the new chemical substances at the manufacturing site during normal operation. Enter the minimum level of the new chemical substance that you have analytical and sampling capability to detect in air emission streams and water effluent streams and describe your method of detection. Enter the specified stack parameters for each air process emission point listed. Place the following letters in the appropriate range estimates to indicate the range of the maximum and average release rates or concentration expected. Base your estimates on the year of maximum release during the first 5 years.

A - average discharge rate or average hourly concentration in air emission streams, average daily concentration in water effluent streams.

M - maximum discharge rate or concentration

TABLE 2

ENVIRONMENTAL RELEASE FROM MANUFACTURING SITES

Amount Manufactured kg/yr _____ Hours of Operation/Yr. _____

Type of Operation [ ] Batch [ ] continuous Hours/day _____

Type of Level		Range					
Air							
[ ] a.	estimated discharge to the air from an entire site (kg/hr)	<.1 [ ]	.1-1 [ ]	1-10 [ ]	10-100 [ ]	>100 [ ]	
[ ] b.	hourly concentration in process emission streams [ ] ppm [ ] mg/m_3	<10	10-100	100-1,000	1,000-10,000	10,000-100,000	>100,000

	Stack	Stack Dia.	Stack height	Velocity	Temp						
[ ]	1.	_____	_____	_____	___	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
[ ]	2.	_____	_____	_____	___	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
[ ]	3.	_____	_____	_____	___	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]

[ ] c. minimum detectable level in process emission streams [ ] ppm [ ] mg/m^3 _____ Method of Detection: _____.

WATER [ ] POTW[1] [ ] Navigable Waterway or Tributary [ ] Other

[ ] a.	estimated discharge rate in effluent streams (kg/day)	<1 [ ]	1-10 [ ]	10-100 [ ]	100-1,000 [ ]	>1,000 [ ]
[ ] b.	daily concentration in effluent streams [ ] ppm [ ] ppb	<1	1-10	10-100	100-1,000	>1,000
[ ]	1. _____ flow rate GPD[2]	[ ]	[ ]	[ ]	[ ]	[ ]
[ ]	2. _____ flow rate GPD	[ ]	[ ]	[ ]	[ ]	[ ]
[ ]	3. _____ flow rate GPD	[ ]	[ ]	[ ]	[ ]	[ ]

[ ] c. minimum detectable level in effluent streams [ ] ppm [ ] ppb _____ Method of Detection: _____.

1-POTW - Publicly Owned Treatment Works
2-GPD - gallons per day

b. Enter the name of the receiving water body(ies) or name and location of the POTW listed in Table 2 to which you will be discharging.

c. If the concentration levels listed in Table 2 result from treatment of the wastewater stream or use of air pollution control equipment, describe the type of treatment or control equipment, identify the air emission stream or water effluent stream it serves, and state the expected efficiency of the equipment (i.e., the percent of emission or effluent reduction).

d. Explain how the environmental release estimates in Table 2 were derived.

e. List any degradation products that may be formed as a result of the release of the new chemical substance to the environment for which you have knowledge of data indicating the potential for adverse health and/or environmental effects.

3. Disposal

[ ] a. Describe any material(s) known to you that are associated with the manufacture of the new chemical substance and which require disposal. Include the new chemical substance itself, byproducts, unreacted feedstocks, intermediates, or other chemical substances. Estimate the maximum amount to be disposed of in a one-year period in the first 5 years (see Support Document for ranges), the percent of the new chemical substance contained in the material(s) requiring disposal and indicate the anticipated method of disposal. Also enter the name of the commercial disposer (if applicable) and location of the site of disposal if known.

	Material Requiring Disposal	Amount (kg/yr)	Percent of New Chemical Substance	Anticipated Method of Disposal	Name and Site Location
[ ]					
[ ]					
[ ]					
[ ]					

[ ] b. If substances containing the new chemical substance that require disposal are incinerated or otherwise treated to destroy or remove the chemical substance, indicate the efficiency of this operation.

[ ] c. Attach to this notice a copy or reasonable facsimile of any warning statement, labels, labeling or instructions that will be provided by you to persons who may dispose of the new chemical substance in order to inform them of disposal procedures you recommend.

[ ] d. Estimate the maximum number of workers that may be exposed to the new chemical substance during normal disposal operations (see Support Document for ranges) and characterize the magnitude, duration and frequency of such exposures.

4. Byproducts, Co-products, Feedstocks and Intermediates

a. List any other substances (e.g. byproducts, co-products, feedstocks and intermediates) associated with the manufacture of the chemical substance that may be present in the workplace which (1) are listed on the NIOSH Registry of Toxic Effects of Chemical Substances, or (2) for which you have submitted data related to health effects. Estimate the maximum number of workers exposed to these substances at the industrial site in a one-year time period (see Support Document for ranges).

	Substance	CAS Reg. Number	NIOSH Registry	Data Submitted	Max. Number Exposed
[ ]			[ ]	[ ]	
[ ]			[ ]	[ ]	

b. Identify the byproducts, co-products, feedstocks and intermediates of manufacturing that may be reasonably anticipated to be in any water effluent stream or air emission stream based upon a consideration of process chemistry, pollution control safeguards and information acquired during R&D activities. As a minimum, you should identify and provide the information requested for substances (1) for which you have attached data concerning health or environmental effects or (2) which EPA

has indicated should be reported (see Support Document). Provide the CAS Registry Number, if known. Estimate the maximum amount of each substance released to the environment during the year of maximum production of the new chemical substance during the first 5 years (see Support Document for ranges). Check those substances for which you have reported data concerning health or environmental effects.

	Substance	Amount Released	CAS Registry No.	Data Submitted
[ ]				[ ]
[ ]				[ ]
[ ]				[ ]

c. Using the concentration ranges for effluent streams in Table 2, estimate the concentration (ppm) of the substances (byproducts, co-products, feedstocks and intermediates) listed in question b that are expected to be in water effluent streams. Estimate the flow rate (GPD) associated with those concentrations.

	Substance	Conc. (ppm)	Flow Rate (GPD)
[ ]			
[ ]			
[ ]			

d. Using the ranges in Table 2 for discharge to the air, estimate the amount of the substances (byproducts, co-products, feedstocks and intermediates) listed in question b that will be emitted to the air (kg/hr) and estimate the maximum number of days per year that the releases will occur.

	Substance	Days/Year	Kg/hr
[ ]			
[ ]			
[ ]			

5. Transport

Complete this section if the new chemical substance will be transported.

a. Enter the DOT hazard class and shipping name of your chemical substance (if applicable).

[ ] Shipping Name _____

[ ] Hazard Class _____

The DOT criteria for hazardous materials are found in 49 CFR Section 171.8 and Part 173. For listing of proper shipping name see 49 CFR 172.101. For more information, call the U.S. Department of Transportation at (202) 426-9280.

[ ] b. Indicate the mode(s) of transport which you believe will be used for the new chemical substance.

Truck [ ]

Railcar [ ]

Barge/Vessel [ ]

Pipeline [ ]

Plane [ ]

Other, specify

For each mode of transport:

[ ] c. Describe the potential hazards to operators exposed to the new chemical substance during handling and/or loading operations.

[ ] d. Describe the potential hazards in the event of spill or accident. Indicate the maximum amount that may be transported in a single transportation unit (e.g., rail tank car, tank truck, etc.) and estimate the magnitude of a potential spill.

[ ] e. Describe any safeguards taken to prevent or reduce these hazards.

Section C. Exposure From Processing Operations

This section must be completed by the submitter for each site where the submitter or certain other persons (as specified in Section 720.20(e) of the Premanufacture Notification Rules) intend to process the new chemical substance. If more than one processing site will be used attach supplementary sections.

[ ] Site Name _____

[ ] Address _____

_____

_____

[ ] Technical Contact _____

The information in this section is for:

[ ] submitter's processing site [ ]

[ ] other person's processing site [ ]

1. Worker Exposure

a. Check the routes of exposure to the new chemical substance that may occur at the processing site during normal operations. For each route checked, estimate the maximum number of workers exposed to the new chemical substance during a one-year time period in the first 5 years (see Support Document for ranges).

	Exposure Route	Maximum Number Exposed
[ ]	Inhalation	[ ]
[ ]	Ingestion	[ ]
[ ]	Skin contact	[ ]

[ ] Describe the magnitude, duration and frequency of the exposures that may occur through ingestion or skin contact. Include a description of inhalation exposures if the information in question b is unknown and not reasonably ascertainable.

b. State the maximum levels of the new chemical substance in the workplace air that workers are expected to be exposed to during normal operations at the processing site during the first 5 years. If appropriate, include levels for the following types of exposure situations: (1) direct exposure that occurs in close proximity to processing equipment and/or from direct handling of the chemical substance and (2) exposure to ambient workplace concentrations that may be experienced by any worker normally in the general vicinity of a processing operation.

		Levels	
		Direct	Ambient Workplace Air
[ ] (i)	Time weighted average concentration in air for an 8 hour day, 40 hour work week schedule ([ ] ppm or [ ] mg/m^3)		
[ ] (ii)	Peak concentration in air for 15 minutes ([ ] ppm or [ ] mg/m^3)		

[ ] c. Explain how the workplace exposure estimates in questions a and b were derived.

[ ] d. Based on your analytical and instrument capabilities enter the minimum level of the new chemical substance which you can detect in the workplace air. Describe the analytical and sampling techniques on which you have based the minimum detectable level.

[ ] e. Estimate the maximum number of workers exposed to the levels of the new chemical substance in the workplace air reported in question b during a one-year time period in the first 5 years as listed below (see Support Document for ranges). Estimate the maximum number of days per year and hours per day that any person may be exposed to the chemical substance.

	Exposure	Maximum Number Exposed	Maximum Hours/day	Maximum Days/year
[ ]	Direct			
[ ]	Ambient Workplace			

f. Describe the use(s) of the new chemical substance at this site by function and application and estimate the amount devoted to each use to one significant figure.

	Uses		
	Function	Application	Amount
[ ]	_____	_____	_____
[ ]	_____	_____	_____
[ ]	_____	_____	_____

g. Describe any products produced by your processing operations which intentionally contain the chemical substance and are intended for use at industrial sites only.

2. Environmental Release

[ ] a. Indicate, as required in Table 3, the maximum amount of the new chemical substance intended to be processed at the site to one significant figure (kg/yr), the hours of operation, and the estimated average and maximum environmental release rates and concentrations of the chemical substance at the processing site during normal operation. Enter the minimum level of the new chemical substance that you have analytical and sampling capability to detect in air emission streams and water effluent streams and describe your method of detection. Enter the specified stack parameters for each air process emission point listed. Place the following letters in the appropriate range estimates to indicate the range of the maximum and average release rates or concentrations expected. Base your estimates on the year of maximum release during the first 5 years.

A - average discharge rate or average hourly concentration in air emission streams, average daily concentration in water effluent streams.

M - maximum discharge rate or concentration.

[ ] b. Enter the name of the receiving water body(ies) or name and location of the POTW listed in Table 3 to which you will be discharging.

[ ] c. If the concentration levels listed in Table 3 result from treatment of the wastewater stream or use of air pollution control equipment, describe the type of control equipment, identify the air emission stream or water effluent stream it serves, and state the expected efficiency of the equipment (i.e., the percent of emission or effluent reduction).

[ ] d. Explain how the environmental release estimates in Table 3 were derived.

3. Disposal

[ ] a. Describe any materials associated with the processing operation that contain the new chemical substance and require disposal. Estimate the maximum amount of each material to be disposed of in a one-year period during the first 5 years (see Support Document for ranges), the percent of the new chemical substance contained in the

TABLE 3

ENVIRONMENTAL RELEASE FROM PROCESS SITES

Amount Manufactured kg/yr _____ Hours of Operation/Yr. _____
Hours/day _____

Type of Level		Range					
Air							
[ ] a.	estimated discharge to the air from an entire site (kg/hr)	<.1 [ ]	.1-1 [ ]	1-10 [ ]	10-100 [ ]	>100 [ ]	
[ ] b.	hourly concentration in process emission streams [ ] ppm [ ] mg/m^3	10	10-100	100-1,000	1,000-10,000	10,000-100,000	>100,000
	Stack / Stack Dia. / Stack height / Velocity / Temp						
[ ] 1.	_____ _____ _____ ___	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
[ ] 2.	_____ _____ _____ ___	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
[ ] 3.	_____ _____ _____ ___	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
[ ] c.	minimum detectable level in process emission streams [ ] ppm [ ] mg/m^3	_____ Method of Detection: _____					
WATER	[ ] POTW[1] [ ] Navigable Waterway or Tributary [ ] Other						
[ ] a.	estimated discharge rate in effluent streams (kg/day)	<1 [ ]	1-10 [ ]	10-100 [ ]	100-1000 [ ]	>1000 [ ]	
[ ] b.	daily concentration in effluent streams [ ] ppm [ ] ppb	<1	1-10	10-100	100-1000	>1000	
[ ]	1. _____ flow rate [ ] GPD[2]	[ ]	[ ]	[ ]	[ ]	[ ]	
[ ]	2. _____ flow rate [ ] GPD	[ ]	[ ]	[ ]	[ ]	[ ]	
[ ]	3. _____ flow rate [ ] GPD	[ ]	[ ]	[ ]	[ ]	[ ]	
[ ] c.	minimum detectable level in effluent streams [ ] ppm [ ] ppb	_____ Method of Detection: _____					

1-POTW - Publicly Owned Treatment Works
2-GPD - gallons per day

materials requiring disposal and enter the anticipated method of disposal. Also enter the name of the commercial disposer (if applicable) and the location of the site of disposal if known.

	Material Requiring Disposal	Amount (kg/yr)	Percent of New Chemical Substance	Anticipated Method of Disposal	Name and Site Location
[ ]	_____	_____	_____	_____	_____
[ ]	_____	_____	_____	_____	_____
[ ]	_____	_____	_____	_____	_____

[ ] b. If substances containing the new chemical substance that require disposal are incinerated or otherwise treated to destroy or remove the chemical substance, indicate the efficiency of this removal.

[ ] c. Attach to this notice a copy or reasonable facsimile of any warning statement, labels, labeling or instructions that will be provided by you to persons who may dispose of the new chemical substance in order to inform them of disposal procedures you recommend.

[ ] d. Estimate the maximum number of workers that may be exposed to the new chemical substance during normal disposal operations and characterize the magnitude, duration, and frequency of such exposures (see Support Document for ranges).

Section D. Exposure From Consumer Use

Complete this section if you or certain other persons (as specified in 40 CFR 720.20(e)) will manufacture a product(s) that contains the new chemical substance and that will be distributed for use by the general population or for use in products to which the general population may be exposed. A separate section should be completed for products intended to be produced by the submitter and products the submitter believes other persons intend to produce.

The information in this section is for:

products produced by the submitter [ ]

products produced by other persons [ ]

[ ] 1. Using Table 4, list the anticipated products by function and application and the total amount of the new chemical substance devoted to each product to one significant figure. Estimate the consumer market population which will be exposed to the product (see Support Document for ranges), the route of exposure and the frequency and duration of exposure based on each use. For products which are mixtures indicate the maximum percent by weight of the chemical substance in the product. Check those products which are constructed or formulated so as to limit potential exposure.

[ ] 2. Describe the level of human exposure that may occur through use of products that contain the new chemical substance. Where possible provide quantitative estimates of exposure levels such as the maximum concentration of the substance in air during normal use.

[ ] 3. Describe how the estimates in question 2 were derived.

[ ] 4. For each article checked in Table 4 explain those aspects of its construction or formulation which will affect the potential for exposure to the new chemical substance.

[ ] 5. Attach to this notice a copy or reasonable facsimile of any hazard warning statement, labels, labeling or instructions which will be provided with each product regarding the prevention of adverse health and/or environmental effects upon use or disposal.

TABLE 4

CONSUMER EXPOSURE

	Product Function/ Application	Amount For each Use	Consumer Market Population for each use	Frequency of Exposure	Duration of Exposure	Exposure Route Through Use			% in formulated Mixture	Controlled Exposure Construction
						Inhal.	Ingest.	Derm.		
[ ]	_____	_____	_____	_____	_____	[ ]	[ ]	[ ]	_____	[ ]
[ ]	_____	_____	_____	_____	_____	[ ]	[ ]	[ ]	_____	[ ]
[ ]	_____	_____	_____	_____	_____	[ ]	[ ]	[ ]	_____	[ ]

Part III

Risk Analysis and Optional Data

(Optional)

A reasonable evaluation of the health and environmental effects of a chemical substance requires basic data relating to the primary factors of health effects, ecological effects, chemical properties (transport and persistence), and exposure. Information on such factors is required in Part II of this form.

Other factors can affect the magnitude of human and environmental risk from chemicals or influence the analysis of risk. These additional factors include structure/activity relationships, engineered safeguards, industrial hygiene programs, and consideration of intended restrictions on chemical use. This part of the form (Part III) is optional and provides the form and manner in which data and information pertaining to these factors can be submitted to EPA. The submitter may complete any section or portion of a section in this Part. In addition to this part the submitter may attach any information which he believes EPA should consider in assessing this notice.

Section A Risk Analysis

[ ] 1. Describe your overall testing/evaluation scheme and discuss the scientific rationale underlying your scheme.

[ ] 2. If no data are submitted concerning a particular effect or property listed in Table 1 (pages 15 through 18 of Part II) explain why the development of additional data concerning such properties or effects are unnecessary for the chemical substance. In the absence of such data explain why you believe the information which you have submitted allows a reasoned evaluation of the health and environmental effects of the new chemical substance. Provide references to any mitigating factors discussed in the other sections of this notice (e.g., structure/activity relationships, safeguards, etc.).

[ ] 3. For each of the properties, characteristics, or effects listed in Table 1 (pages 15 through 18 of Part II), if any of the applicable data indicate a potential for adverse health or environmental risk, alone or in combination with other data, discuss any information which you feel mitigates such risk.

[ ] 4. If testing for any effect or property listed in Table 1 was not done because of economic impracticality, explain why you reached such a conclusion.

[ ] 5. One common approach utilized in risk assessment methodology consists of identifying conditions of maximum exposure or susceptible segments of the population in order to identify maximum potential for risk. You may assist EPA by providing estimates of maximum exposure (considering or speculating upon new uses, expanded production, accidental exposure, misuse of the chemical, etc.) or identifying those uses that affect the most susceptible segments of the population (e.g., children, the infirm, etc.). Further, you may wish to provide EPA with your own analysis of risk under these same conditions.

Section B Structure/Activity Relationships

[ ] 1. Have you attached a description of any data or information to this notice concerning properties or effects of chemical substances or classes of substances that are related to the new chemical substance on the basis of structural similarity, chemical reactivity or other characteristics and that relate to an evaluation of the risks posed by the new chemical substance? [ ] Yes [ ] No

If yes, identify the related chemical(s) and explain what makes these related chemicals similar (e.g. functional group, characteristic chemical reactivity, other chemical or physical property).

[ ] 2. Explain why you concluded that this similarity presents a valid basis for evaluating the activity of the new chemical substance.

[ ] 3. Explain how properties or effects of these related chemical substances affect the risk associated with the new chemical substance.

[ ] 4. Are there other structurally related chemical substances which you have not discussed here? [ ] Yes [ ] No

If yes, explain why.

Section C Industrial Hygiene

The establishment of safe working conditions and industrial hygiene practices can result in substantial reductions in chemical concentrations and worker exposure in the workplace environment. Prudence dictates the use of such practices for any chemical, but in the case of toxic chemical substances and substances for which there are limited health effects data, the establishment of sound industrial hygiene programs is one essential way of reducing risk to workers from chemical hazards. This section permits a response by the manufacturer in cases where an industrial hygiene program is thought to be an important control strategy which should be considered in EPA's risk assessment. If more than one manufacturing site will be used, attach supplementary forms.

[ ] Site Name _____

[ ] Address _____

_____

_____

1. Industrial Hygiene Considerations

Will you have an industrial hygiene program?

[ ] Yes [ ] No

If "yes",

[ ] a. Will you employ a full or part-time hygienist?
[ ] Yes [ ] No

[ ] b. Will you provide periodic instruction and training of workers on chemical hazards, and proper use of personal protective equipment?
[ ] Yes [ ] No

[ ] c. Will you provide information to workers on the chemical identity and toxicity at their work stations?
[ ] Yes [ ] No

[ ] d. Will you post workplace instructions for workers on how to handle and cope with chemical hazards routinely and in emergencies?

[ ] Yes [ ] No

[ ] e. Will you establish procedures and personnel responsibilities for chemical emergency evacuations?

[ ] Yes [ ] No

[ ] f. Will you have a respiratory protection program?

[ ] Yes [ ] No

[ ] g. Is knowledge of the chemical hazards in your plant communicated to local fire/police authorities?

[ ] Yes [ ] No

[ ] h. Will periodic inspections of production facilities be performed by an industrial hygienist or other knowledgeable personnel?

[ ] Yes [ ] No

2. Control of Worker Exposure

[ ] a. Have you established an action level (air concentration level, particulate level, etc.) for the new chemical substance or other chemical substances associated with its manufacture for purposes of worker protection?

[ ] Yes [ ] No

b. If 'yes' to question (a), identify the chemical substances and levels.

	Chemical	Concentration
[ ]	_____	_____
[ ]	_____	_____
[ ]	_____	_____

c. Will you monitor to assure that concentration levels for the new chemical substance or other chemicals identified in question (b) are not exceeded?

[ ] Yes [ ] No

If yes, provide the information in the table below.

	Chemical	Sampling Frequency	Instrument or Analytical Procedure	Monitoring Locations
[ ]	_____	_____	_____	_____
[ ]	_____	_____	_____	_____
[ ]	_____	_____	_____	_____

d. Check what procedures will be taken when an action level is exceeded.

[ ] 1. Process shutdown pending correction. [ ]

[ ] 2. Protective equipment used pending correction. [ ]

[ ] 3. Alarm and personnel evacuation from plant. [ ]

[ ] 4. Corrections made during normal plant operations. [ ]

[ ] 5. Increased monitoring and medical surveillance activities. [ ]

[ ] 6. Other, describe:

e. Based on your experience or projections estimate the frequency of incidents that may occur during a one-year time period which would result in worker exposure at or above the action levels stated in question 2b of this section. Estimate the maximum number of workers exposed.

	Chemical	Frequency	Number Exposed
[ ]	_____	_____	_____
[ ]	_____	_____	_____
[ ]	_____	_____	_____

[ ] f. Characterize the duration and magnitude of the potential exposures you have reported in question e.

3. Worker Health Considerations

[ ] a. Will you establish a medical program with periodic medical examinations?

[ ] Yes [ ] No

[ ] b. If yes, will employee participation in the program be mandatory?

[ ] Yes [ ] No

[ ] c. How will medical examinations be used to detect or prevent occurrence of health effects related to the new chemical substance?

4. Other Considerations

[ ] a. Are there any other industrial hygiene considerations that EPA should be made aware of in its assessment of risk associated with production of the new chemical substance? For example, describe the relationship between action levels and risk to human health.

Section D Engineered Safeguards

The use of engineered safeguards can result in substantial reduction in worker exposure and environmental release of the chemical substance. Prudence dictates the use of these safeguards for any chemical, but in the case of toxic chemical substances and substances for which there are limited health and environmental effects data, these safeguards can mitigate the risk associated with a chemical. This section permits a response by the manufacturer in cases where engineered safeguards are considered to be important input into EPA's risk assessment. If more than one manufacturing site will be used, attach supplementary forms.

[ ] Site Name _____

[ ] Address _____

_____

_____

1. Workplace Safeguards

a. Check the safeguards that will be used to prevent or control worker exposure to the new chemical substance at the manufacturing site.

Safeguards

[ ] (i) Production plant design features and maintenance procedures for production equipment which will contain the substance. [ ]

[ ] (ii) Explicit manufacturing, processing, and handling procedures concerning prevention of worker exposure. [ ]

[ ] (iii) Local ventilation of work area and/or selected activities. [ ]

[ ] (iv) Other, explain. [ ]

[ ] b. Provide a flowchart depicting each safeguard's location in the manufacturing operation.

[ ] c. Describe the function of each safeguard.

[ ] d. Describe the efficiency and relative contribution to the reduction in exposure associated with each safeguard under normal operating conditions.

[ ] e. Describe how production or process equipment malfunctions may result in the release of the new chemical substance. Include instrumentation, mechanical and/or electrical failures.

[ ] f. Based on your experience, describe the potential frequency of manufacturing/processing accidents and the resultant worker exposure. If you have completed question 2e and 2f in Section C of this part, omit this question.

[ ] g. How are releases due to production or process malfunctions controlled? Include a description of redundant controls and emergency procedures. Describe what is done with that portion of the chemical substance that has been released.

2. Environmental Release Safeguards

a. Check the safeguards that will be used to prevent or control environmental release of the new chemical substance at the manufacturing site.

[ ] (i) Processes are designed to prevent environmental release of the new chemical substance. [ ]

[ ] (ii) Water and/or air pollution control equipment will control releases. [ ]

[ ] (iii) Production plant design features and maintenance procedures for production equipment will contain the new chemical substance to control fugitive emissions. [ ]

[ ] (iv) Operating procedures limit the frequency, concentration and/or amount of air and water releases. [ ]

[ ] (v) Emergency control procedures and equipment will contain spills due to process upsets or accidents. [ ]

[ ] (vi) Other, explain. [ ]

[ ] b. Describe the function of each safeguard.

[ ] c. Describe the efficiency and relative contribution to the reduction in release associated with each safeguard under normal operation conditions.

[ ] d. Discuss the possible adverse effects if the equipment malfunctions. Describe redundant controls and emergency procedures that are used to prevent or control release of the chemical substance in the event of malfunctions.

[ ] e. Describe the emergency procedures and redundant controls that are used to prevent or control release of the chemical substance during startups, shutdowns, and in the event of an accident.

[ ] f. Describe how the new chemical substance is disposed of during maintenance procedures.

[ ] g. Will quality control sampling of production or processing streams containing the new chemical substance result in direct environmental release of the substance?

[ ] Yes [ ] No

If yes,

(a) Are the samples continuous, and

(b) Estimate the quantity of the release during a one-year time period.

[ ] h. Will measurement of any process parameter result in direct environmental release of the new chemical substance?

[ ] Yes [ ] No

If yes,

(a) Are the measurements continuous, and

(b) Estimate the quantity of the release during a one-year time period.

3. Environmental Release Action Levels

a. Will you establish action levels for plant releases to air, water, or land for new chemical substances?

[ ] Yes [ ] No

For other process related chemicals?

[ ] Yes [ ] No

b. If yes to (a), identify chemical, media, concentration level, and release rate, as appropriate.

	Chemical	Media land, air, water	Concentration Level	Rate
[ ]	_____	_____	_____	____
[ ]	_____	_____	_____	____
[ ]	_____	_____	_____	____

c. Will you monitor to assure that action levels are not exceeded?

[ ] Yes [ ] No

If yes, provide the information in the table below.

	Chemical	Sampling Frequency	Instrument/or Analytical Procedure	Media
[ ]	_____	_____	_____	____
[ ]	_____	_____	_____	____
[ ]	_____	_____	_____	____

[ ] d. What procedures are taken when action levels are exceeded?

[ ] e. What is the frequency, maximum concentration, maximum release rate, and duration of periods when action levels are exceeded?

	Chemical	Frequency	Duration	Maximum Conc.	Maximum Release Rate
[ ]	_____	_____	_____	_____	_____
[ ]	_____	_____	_____	_____	_____
[ ]	_____	_____	_____	_____	_____

Section E Industrial Process and Use Restriction Data

Many chemical substances are manufactured for exclusive and highly specialized industrial use and consumption (e.g., chemical intermediates and catalysts). Other chemical substances are manufactured and processed under the exclusive control of the manufacturer. Because of the exclusive use and control within the industrial environment, these types of chemicals can present different risk considerations than other chemicals that are utilized by many processors and manufacturers for a diverse variety of industrial and consumer products and uses. The purpose of this section is to assist the manufacturer of highly specialized or industrially controlled chemicals in reporting any unique risk considerations. Complete this section only if your new chemical substance will be limited to exclusive and specialized industrial uses.

1. Describe those exclusive specialized industrial uses for which the new chemical substance will be used.

[ ] _____

[ ] _____

[ ] _____

[ ] 2. Explain any factor concerning restricted use or exclusive control of the chemical substance which is not addressed in other sections of this form and which should be considered by EPA in assessing the risk associated with the substance.

Section F Process Chemistry

[ ] An understanding of the actual process chemistry of the chemical substance may permit a conclusion that impurity or byproduct concentrations can be kept at safe levels by appropriate control of the process conditions. You may wish to provide information on the process chemistry in order to substantiate such a conclusion. For instance, the particular reaction may have been chosen so as to preclude the formation of toxic impurities or byproducts which would have been produced via an alternate route. Similarly, the dependence of the course of reaction upon temperature, pressure, or solvent may allow the minimization of toxic impurities through control of the reaction conditions. Also, direct monitoring of the composition of the reaction mixture for impurity concentrations may provide additional safeguards. Provide any information about the process chemistry which you believe will assist EPA in evaluating your submission.

Section G Non-Risk Factors: Economic and Non-Economic Benefits

The economic significance and benefits associated with a chemical substance are relevant to determining whether the risks associated with the manufacture, processing, distribution, use, and disposal of the chemical substance are unreasonable. This section assists the manufacturer in providing his assessment of certain economic and benefit factors that he believes EPA should consider when evaluating the chemical's risks and benefits.

1. Economic changes resulting from availability/production of the new chemical.

[ ] a. Estimate the total five-year projected gross market value of the new chemical.

[ ] b. What effect will production of the new chemical have on the price of any existing feedstocks, raw materials, intermediates, end-products or non-chemical products? Identify any affected products and indicate the expected effect by means of the appropriate price change symbol.

	Affected Product	Price Change	Current Price
[ ]	1.	[ ]	[ ]
[ ]	2.	[ ]	[ ]
[ ]	3.	[ ]	[ ]

Key: 1 = Decrease in excess of 25%
2 = Decrease between 10% and 25%
3 = Some decrease but less than 10%
4 = No change
5 = Some increase but less than 10%
6 = Increase between 10% and 25%
7 = Increase in excess of 25%

c. What effect will production of the new chemical have on the volume of production of any existing feedstocks, raw materials, intermediates, end-products or non-chemical products? Identify any affected products and indicate the expected effect by means of the appropriate production change symbol.

	Affected Product	Production Change
[ ]	1.	[ ]
[ ]	2.	[ ]
[ ]	3.	[ ]

Key: 1 = Decrease in excess of 50,000 pounds
2 = Decrease between 10,000 and 50,000 pounds
3 = Some decrease but less than 10,000 pounds
4 = No change
5 = Some increase but less than 10,000 pounds
6 = Increase between 10,000 and 50,000 pounds
7 = Increase in excess of 50,000 pounds

d. What employment effects will result from production of the new chemical? Indicate the source and magnitude of any employment change below, using the appropriate symbol.

	Affected Product	Employment Change
[ ]	A. Production of the chemical itself	[ ]
[ ]	B. Production of any raw materials, feedstocks, intermediates, end products or non-chemical products (Identify below)	
[ ]	_____	[ ]
[ ]	_____	[ ]
[ ]	_____	[ ]

Key: 1 = Decrease in excess of 25 people
2 = Decrease between 10 and 25 people
3 = Some decrease but less than 10 people
4 = No change
5 = Increase but less than 10 people
6 = Increase between 10 and 25 people
7 = Increase in excess of 25 people

[ ] e. Describe any significant regional or community effects resulting from production of the new chemical, such as a significant reduction in the rate of unemployment.

f. What effects on the balance of trade will result from production of the new chemical? Indicate the source and magnitude of export and import changes by the appropriate symbol.

Source	Changes in Exports	Changes in Imports
[ ] A. Production of the new chemical itself	[ ]	[ ]
B. Production of any feedstocks, raw materials, intermediates, end products or non-chemical products (Identify below)		
[ ] _____	[ ]	[ ]
[ ] _____	[ ]	[ ]
[ ] _____	[ ]	[ ]

Key: 1 = Decrease in excess of $25 million annually
2 = Decrease between $10 million and $25 million annually
3 = Some decrease but less than $10 million annually
4 = No change
5 = Some increase but less than $10 million annually
6 = Increase between $10 million and $25 million annually
7 = Increase in excess of $25 million annually

g. Are any plant and equipment outlays planned in conjunction with production of the new chemical? Estimate the timing of investment, the amount of investment, and the production capacity created.

Investment

Year	Amount	Production Capacity Created
[ ]		

[ ] h. What are the (unique) properties of this chemical that will be the basis of its value in the marketplace? (Include such factors as contribution to reliability or durability of intermediates or end products, increases in productivity, convenience factors, and aesthetic factors).

[ ] i. What existing substitute products or processes (if any) have any of the properties listed in 1h? In what ways do the properties of the new chemical exceed those of existing substitutes?

2. Non-economic benefits resulting from production of the new chemical.

[ ] a. Are there any uses for the new chemical which contribute directly or indirectly to human health or safety?

[ ] b. What existing substitute products or processes (if any) have any of the uses listed in 2a? In what ways do the use properties of the new chemical exceed those of existing substitutes?

[ ] c. Are there any uses for the new chemical which result in environmental benefits or conservation of energy or natural resources?

[ ] d. What existing substitute products or processes (if any) have any of the uses listed in 2c? In what ways do the use properties of the new chemical exceed those of existing substitutes?

PREMANUFACTURE NOTICE FOR IMPORTERS

CERTIFICATION STATEMENT: I hereby certify that, to the best of my knowledge and belief: (1) I intend to import for a commercial purpose the chemical substance for which this notice is submitted, other than in small quantities for research and development, and that the substance is not excluded from premanufacture notification (40 CFR 720.13); (2) All information entered on the Premanufacture Notice For Importers Form is complete and truthful as of the date of submittal; and (3) I am submitting with this form all test data in my possession or control concerning effects of the substance on health or the environment and a description of any other data known to or reasonably ascertainable by me, in accordance with 40 CFR 720.23. I agree to permit access to, and the copying of, records by a duly authorized representative of the EPA Administrator in accordance with the Toxic Substances Control Act and any regulations issued thereunder, to document any information reported in this form.

Signature of Authorized Official _____

Date _____

When completed, send this notice to:

Document Control Officer
Office of Toxic Substances
TS-793
U.S.E.P.A.
401 M Street, S.W.
Washington, D.C. 20460

CONFIDENTIALITY INSTRUCTIONS: If you are asserting a claim of confidentiality for any data or information contained in this notice you should place a check in the box in the left hand margin immediately adjacent to the data or information entry. If you do not assert a claim of confidentiality on this form at the time of submission of the information, EPA may make the information public without further notice to you. Claims of confidentiality must be made in accordance with 40 CFR 720, Subpart E. Confidentiality claims related to chemical identity or health and safety data must be substantiated in accordance with 40 CFR 720.40(c).

FOR EPA USE ONLY

Date of receipt _____

GENERAL INSTRUCTIONS

These instructions are intended to assist the submitter of a premanufacture notice in the use of the following forms:

Premanufacture Notice Form for Importers
Foreign Manufacturer/Supplier Form
Processing and Consumer Use Form

The submitter must complete the mandatory parts of the Premanufacture Notice Form to the extent the information required is known to or reasonably ascertainable by him. In addition, the submitter must contact certain other persons and request them to complete the Foreign Manufacturer/Supplier Form and the Processing and Consumer Use Form as discussed below.

Premanufacture Notice Form for Importers

The Premanufacture Notice Form consists of the three parts listed below. Each part consists of two or more sections.

Part I - General Information

Part II - Risk Assessment Data

Part III - Risk Analysis and Optional Data

All sections of Parts I and II must be completed by the submitter as appropriate in accordance with Section 720.20 of the Premanufacture Notification Rules. The submitter must complete Section B of Part II for each site where he will process the new chemical substance in the United States and Section C of Part II if he intends to produce consumer products that contain the new chemical substance. In addition, the submitter must complete Section B of Part II for processing operations which will be conducted by other persons and Section C of Part II if other persons will produce consumer products that contain the new chemical substance.

The Premanufacture Notice Rules do not require the submission of Part III. This part, or selected sections, may be completed at the discretion of the submitter.

In completing Parts I and II, the submitter must provide all of the information and data requested that are known to or reasonably ascertainable by him. Thus he must answer all questions to the best of his ability, including reasonable estimates where he does not know with factual certainty the answers to particular questions. In cases where the submitter cannot provide a reasonable estimate (i.e., the information is unknown and is not reasonably ascertainable), he should enter NA (not available).

Foreign Manufacturer/Supplier Form

In accordance with 40 CFR 720.21(c) the submitter must contact the foreign manufacturer(s) and supplier(s) of the new chemical substance, and request them to provide all test data in their possession or control which are related to the effects of the substance on health or the environment (in accordance with 40 CFR 720.23) and complete the Foreign Manufacturer/Supplier Form. The submitter must send them copies of this form and state that the recipient is not under a legal obligation to provide the requested information. He must also offer them the option either to provide the requested information to him for inclusion in his notice, or to provide the information directly to EPA. The submitter must certify below his compliance with these procedures, and provide a summary of those whom he contacted and the disposition of their responses.

For further information on these procedures see 40 CFR 720.21(c).

CERTIFICATION

I hereby certify that I have contacted the persons listed below and requested them to complete the Foreign Manufacturer/Supplier Form in accordance with the requirements of 40 CFR 720.21.

Signature of Authorized Official _____

List those persons you have contacted (if appropriate) and check if you have attached their responses to this notice, if you expect them to send information directly to EPA or if you do not know whether the information will be supplied.

Name	Address	Response Attached	Response To Be Sent To EPA	Response Unknown
_____	_____	[ ]	[ ]	[ ]
_____	_____	[ ]	[ ]	[ ]
_____	_____	[ ]	[ ]	[ ]
_____	_____	[ ]	[ ]	[ ]

Processing and Consumer Use Form

In accordance with 40 CFR 720.20(d) the submitter must contact certain other persons and request them to complete the Processing and Consumer Use Form concerning their own processing and use of the new chemical substance. He must send them copies of this form and state that the recipient is not under a legal obligation to provide the requested information. He must also offer them the option either to provide the requested information to him for inclusion in his notice, or to provide the information directly to EPA. The submitter must certify below his compliance with these procedures, and provide a summary of those whom he contacted and the disposition of their responses.

For further information on these procedures, including the persons that must be contacted and exceptions to these requirements, see 40 CFR 720.20(e).

CERTIFICATION

I hereby certify that I have contacted the persons listed below and requested them to complete the Processing and Consumer Use Form in accordance with the requirements of 40 CFR 720.20(e). If no persons were contacted or if a representative sample of persons was contacted I have attached an explanation in accordance with the provisions of 40 CFR 720.20(e).

Signature of Authorized Official _____

List those persons you have contacted (if appropriate) and check if you have attached their responses to this notice, if you expect them to send information directly to EPA or if you do not know whether the information will be supplied.

Name	Address	Response Attached	Response To Be Sent To EPA	Response Unknown
_____	_____	[ ]	[ ]	[ ]
_____	_____	[ ]	[ ]	[ ]
_____	_____	[ ]	[ ]	[ ]
_____	_____	[ ]	[ ]	[ ]
_____	_____	[ ]	[ ]	[ ]
_____	_____	[ ]	[ ]	[ ]

Part 1

GENERAL INFORMATION

All data requested in this Part must be provided insofar as they are known to or reasonably ascertainable by the submitter. A notice is not valid unless the chemical identity is reported. In cases where the requested data are unknown and not reasonably ascertainable enter NA (not available).

Section A Importer Identification

1. Person Filing Notice

[ ] Name of Authorized Official _____

[ ] Title _____

[ ] Organization _____

[ ] Mailing Address _____

_____

_____

_____

[ ] 2. Incorporation Information

Legal Title of Organization _____

_____

Place of Incorporation

Street _____

City _____

State _____

[ ] 3. Principal Place of Business

Street _____

City _____

State _____

4. Technical Contact

[ ] Name/Title _____

[ ] Address _____

[ ] Telephone Number _____

5. Related Companies

a. Other Persons Authorized to Import Chemical

(i) Identify any other persons who may import the chemical substance to the U.S. within five years after you commence import, by virtue of an existing or planned business arrangement (e.g., contract, license, or other form of legal permission) between you and the person.

	Name	Address	Business Arrangement	Anticipated Date of Import
[ ]	_____	_____	_____	_____
[ ]	_____	_____	_____	_____
[ ]	_____	_____	_____	_____

(ii) If such a business arrangement exists or is planned, do the responses on this form include import volume, uses, and exposure information concerning the activities of these persons?

Yes [ ] No [ ]

If no, estimate the import volume expected during the first 5 years after you commence import of the chemical substance.

[ ] b. Parent Company

Name _____

Address _____

_____

_____

[ ] 6. Intended date of commencement of import (date of entry) to the U.S. for commercial purposes.

Month _____ Year _____

If the intended date of commencement of import is more than 3 years after the date of this notice, submit evidence of intent to manufacture in accordance with 40 CFR 720 Subpart C and 720.21(a).

Port of entry _____

Section B Chemical Identity

If chemical identity will be reported by the foreign manufacturer/supplier complete the certification statement below and do not complete the remainder of Section B.

CERTIFICATION STATEMENT: I hereby certify that the chemical identity of the chemical substance for which this notice is submitted will be reported by the foreign manufacturer/supplier designated below.

Name of foreign manufacturer/supplier _____

Signature of Authorized Official _____

Date _____

Complete either 1, 2 or 3 as appropriate. Complete 4. If chemical identity is claimed confidential, complete 5.

1. Class 1 chemical substance (other than polymers).

[ ] a. CAS Registry No. (if known) _____

[ ] b. Specific Chemical Name _____

[ ] c. Molecular Formula _____

[ ] d. Synonyms _____

[ ] e. Trademarks _____

[ ] f. Structural Diagram

2. Class II chemical substance.

[ ] a. CAS Registry No. (if known) _____

[ ] b. Specific Chemical Name _____

[ ] c. Synonyms _____

[ ] d. Trademarks _____

[ ] e. List the immediate precursor substance(s) and/or reactants with their respective CAS Registry Number(s) and the nature of the reaction. Also provide a partial or incomplete chemical structure diagram (where appropriate). Indicate the range of composition.

3. Polymers

a. (1) Provide the specific chemical name and the CAS Registry Number of those monomers and other reactants used at greater than two percent (by weight) in the manufacture of the polymer. Monomers used at two percent (by weight) or less need not be listed as part of the polymer description; (2) Provide the intended range of composition of the polymer in terms of monomer percent (by weight). Calculate the percent based on the composition of the polymer formed. If your notice is for any copolymer of the listed monomers, enter "any" under Range of Composition; (3) For each monomer, indicate the maximum amount (weight percent) that may be present as a residual in the polymer as distributed in commerce.

	(1) Monomers and CAS Registry #	(2) Range of Composition	(3) Maximum Residual (Weight Percent)
[ ]	_____	_____	_____
[ ]	_____	_____	_____
[ ]	_____	_____	_____

[ ] b. List any monomer used at 2% (by weight) or less in the manufacture of the polymer which is not listed in 3(a) above. For each such monomer indicate the maximum amount (weight percent) that may be present as a residual in the polymer as distributed in commerce.

c. Indicate the minimum molecular weight, compositional restrictions or other restrictions of the polymeric compositions to which this notice applies.

[ ] 4. Impurities

List the identities and estimate the maximum percent (by weight) of those impurities which may reasonably be anticipated to be present in the chemical substance as it will be manufactured for commercial purposes. Consider information developed during R&D activities, your knowledge of manufacturing process chemistry and anticipated quality control operations. Check if the concentration of an impurity will be specifically controlled based upon your knowledge of potential adverse health or environmental effects. Estimate the maximum total percent (by weight) of the impurities that may be present.

Total Percent: _____

	Identity	Maximum Percent	Specifically Controlled
[ ]	_____	_____	[ ]
[ ]	_____	_____	[ ]
[ ]	_____	_____	[ ]

5. Chemical Identity Claimed Confidential

a. If claimed for period prior to commencement of import:

Proposed Generic Name: _____

b. If claimed for period following commencement of import:

Proposed Generic Name: _____

Substantiation and other materials required to be submitted with a claim of confidentiality must be attached in accordance with 40 CFR 720.40(c).

Section C Import and Marketing Data

1. Estimate your import volume (see ranges in Support Document)

[ ] a. First year

[ ] b. Third year

[ ] c. Maximum Annual Demand (fifth year or beyond)

2. Basis of Import Estimate

	% of First Year	% of Third Year	% of Maximum Year
[ ] Firm Order			
[ ] Forecast			
[ ] Speculative	_____	_____	_____
	100%	100%	100%

3. Estimate the total amount of the chemical substance that others may import to the United States in the years following the date of entry reported in question 6, Section A of this Part (see ranges in Support Document).

[ ] a. First year

[ ] b. Third year

[ ] c. Maximum Annual Demand (fifth year or beyond)

4. Chemical Use Assumptions Used in Import Estimate

In the following questions, list each use by function, and as specific an application as possible. (Example: function-solvent; application-paint used in automotive finishes.) List partial information if complete information is not known. (Examples: function-solvent; application-unknown). Uses reported elsewhere in this from should also be reported here.

a. List those uses on which your import estimates are based. List uses in descending order of the anticipated import volume devoted to each use.

	Function	Application
[ ]	_____	_____
[ ]	_____	_____
[ ]	_____	_____

b. List any other uses that you believe the chemical substance could have.

	Function	Application
[ ]	_____	_____
[ ]	_____	_____
[ ]	_____	_____

c. Do you intend or expect the new chemical substance to be used to treat water or drinking water supplies or to be used in coatings, paints, liners, pipes or other products that will come in contact with drinking water?

[ ] Yes [ ] No [ ]

5. Production Information

a. Has the chemical substance been manufactured before?

Yes [ ] No [ ] Don't Know [ ]

If yes, estimate the average annual production and number of years it was produced (see Support Document for ranges).

b. Estimate the total annual production of the chemical substance outside of the United States in the years following the date of entry reported in question 6, Section A of this Part (see ranges in Support Document).

[ ] i. First year

[ ] ii. Third year

[ ] iii. Maximum Annual Demand (fifth year and beyond)

[ ] c. Was production of this chemical banned or restricted because of governmental action, litigation, or voluntarily because of adverse health or environmental effects?

Yes [ ] No [ ] Don't Know [ ]

If yes, cite references or attach information or data.

6. Hazard Warnings

[ ] Attach to this notice a copy or reasonable facsimile of any hazard warning statement, labels, labeling or instructions, technical data sheet, Material Safety Data Sheet and any other information which will be provided to purchasers regarding the safe handling, use, disposal, treatment upon accidental exposure, or recommendations concerning the formulation, construction or labeling of products containing the chemical substance.

Section D Federal Register Notice

Information provided in this section will be published in the Federal Register in accordance with Section 5(d)(2) of the TSCA. Separate sections are provided for presentation of data related to confidential information where appropriate. Do not enter any information in this section which you consider confidential.

1. Chemical Identity - If chemical identity will be reported by a foreign manufacturer/supplier do not complete this question.

   a. If chemical identity was not claimed confidential in Section B, enter the specific chemical name which you reported in Section B. For polymers enter those monomers which were listed in Section B(3)(a).

   _____

   b. If chemical identity was claimed confidential in Section B, enter the proposed generic name which you reported in Section B(5).

   _____

2. Use Data

   a. If use data were not claimed confidential in Section C, list the proposed uses of the chemical substance by function and as specific an application as known. List industrial uses and consumer uses separately.

Industrial Uses

Function	Application

Consumer Uses

Function	Application

   b. If use data were claimed confidential in Section C, report a generic description of the proposed industrial and consumer use(s) of the chemical substance. This description should be as specific as possible without revealing confidential information.

Industrial Uses

_____

_____

_____

Consumer Uses

_____

_____

_____

3. Check below the populations that will be exposed to the new chemical substance during processing or use within the U.S., and estimate the maximum number of persons exposed during a one-year period (see Support Document for ranges). Base your estimate on the maximum annual import and use rate anticipated within the first 5 years of import and include all uses and processing operations.

Population	Exposure Yes	Exposure No	Number Exposed
Workers (processing)	[ ]	[ ]	
Consumers (through use of a product(s))	[ ]	[ ]	
General Population (in vicinity of processing operations)	[ ]	[ ]	

4. For each population group listed in question 3, describe the maximum level, duration and frequency of exposures expected.

5. Estimate the percent of the total import volume for the first 5 years of production that will be released to the environment under normal conditions of processing, use and disposal.

Activity	Percent Release
Processing Operations	
Industrial Disposal	
Consumer Use	
Consumer Disposal	

6. Test Data

List all data that are being submitted, described or cited as part of this notice in accordance with §720.23 of the Premanufacture Notification Rules. Identify whether the data relate to the new chemical substance or to substances associated with the new chemical substance (e.g., by-products, co-products, feedstocks, intermediates degradation products). For all data that are submitted in accordance with §720.23(a), §720.20(j) and data that are submitted for any other tests you have performed concerning health or the environment, provide a brief abstract of the results.

[ ] Section E Schematic Flow Diagram

For each processing operation you conduct, attach to this notice a schematic flow diagram. This diagram must graphically illustrate (1) each processing step and the type of equipment involved, (2) the major components of the process streams at each step, (3) the points of environmental release to the air, water or land, and (4) the processing steps that account for release of the new chemical substance into the workplace.

Section F

Provide a list of all attachments which are submitted with this form.

Section G Transport

[ ] 1. Indicate the means of transport which will be used for the chemical substance to enter the United States from a foreign country.

Truck [ ]

Railcar [ ]

Pipeline [ ]

Barge/Vessel [ ]

Plane [ ]

Other, specify

For each means of transport:

[ ] 2. Describe the potential hazards to operators exposed to the chemical substance during handling and/or loading operations.

[ ] 3. Describe the potential hazards in the event of a spill or accident. Indicate the magnitude of a potential spill.

[ ] 4. Describe any safeguards taken to prevent or reduce these hazards.

[ ] 5. Indicate the means of transport which will be used for the chemical substance within the United States.

Truck [ ]

Railcar [ ]

Pipeline [ ]

Barge/Vessel [ ]

Plane [ ]

Other, specify

For each means of transport:

[ ] 6. Describe the potential hazards to operators exposed to the chemical substance during handling and/or loading operations.

[ ] 7. Describe the potential hazards in the event of spill or accident. Indicate the maximum amount that may be transported in a single transportation unit (e.g., rail tank car, tank truck, etc.) and estimate the magnitude of a potential spill.

[ ] 8. Describe any safeguards taken to prevent or reduce these hazards.

[ ] 9. Enter the DOT hazard class and shipping name of your chemical substance (if applicable).

[ ] Shipping Name _____

[ ] Hazard Class _____

The DOT criteria for hazardous materials are found in 49 CFR Sections 171.8 and 173. For listing of proper shipping name see 49 CFR 172.101. For more information, call the U.S. Department of Transportation at (202)426-9280.

Part II

RISK ASSESSMENT DATA

All the data requested in this Part must be provided insofar as they are known to or reasonably ascertainable by the submitter. In cases where the requested data are unknown and not reasonably ascertainable enter NA (not available).

Section A Chemical Properties, Environmental Fate Characteristics, and Human and Ecological Effects Data

Under Section 5(d)(1)(B) and (C) of TSCA and 40 CFR 720.23, an importer must submit all test data in his possession and control and a description of any other data which are reasonably ascertainable and are related to the effect of any manufacture, processing, distribution in commerce, use, or disposal of the chemical substance on health or the environment. The regulations detail which data must be submitted with the notice and which data may be referenced by a literature citation. In addition, the regulations prescribe formats for data concerning certain effects.

Table 1 lists what EPA considers to be the most important basic physical and chemical properties and potential effects that should be considered in an assessment of risk. This section of the form requires additional information concerning the relationship of the test data and information submitted with this form to the properties and effects listed in Table 1.

[ ] 1. Using Table 1, check the property(ies), characteristic(s) or effect(s) for which you have submitted: (1) data, (2) a description of data and/or (3) a literature citation. Enter the name of the specific technique or methodology of those tests for which you have submitted data next to the property(ies), characteristic(s) or effect(s) to which each pertains. (A given test may be pertinent to two or more properties, characteristics or effects.)

[ ] 2. Discuss any conclusions, evaluations or assessments which you have made concerning the implications of the test data results or descriptions of other data you have submitted for each particular property, characteristic or effect.

[ ] 3. Have you evaluated the health or environmental risks associated with the manufacture, processing, distribution in commerce, use, or disposal of the chemical substance?

Yes [ ] No [ ]

If yes, explain your evaluations.

[ ] 4. Have you evaluated the health or environmental risks presented by substances associated with the manufacture, processing, distribution in commerce, use, or disposal of the chemical substance (e.g., byproducts, co-products, feedstocks, intermediates, degradation products)?

Yes [ ] No [ ]

If yes, explain your evaluations.

[ ] 5. Have you evaluated whether the data you have submitted are sufficient to assess the risk associated with the property(ies), characteristic(s) or effect(s) to which they pertain?

Yes [ ] No [ ]

If yes, explain your evaluations. Provide references to any factors discussed in other sections of this notice.

If you have not reported any information for a particular property or effect listed in Table 1 because you believe that such information is either unnecessary or impractical, or if data you are submitting may indicate adverse health or environmental effects, you may wish to provide additional information or explanation to EPA. Section A of Part III is an optional section which provides a format for the presentation of such information.

Table 1

CONFIDENTIALITY: The information that is required to be entered in this table is limited to the identification of: (1) the physical/chemical properties and health and environmental effects for which data or a description of data has been submitted with this notice and (2) the specific technique or methodology used to develop such data. If you are asserting a claim of confidentiality for any of these data you must mark the attached document(s) which contains the data in accordance with Section 720.40(b) of the Premanufacture Notification Rules.

PHYSICAL/CHEMICAL PROPERTIES

(1) data submitted
(2) description submitted
(3) literature citation

Property	(1)	(2)	(3)	Test Methodology or Technique
Spectra (ultraviolet, visible, infrared)	[ ]	[ ]	[ ]	_____
Density	[ ]	[ ]	[ ]	_____
Solubility in water	[ ]	[ ]	[ ]	_____
Melting point	[ ]	[ ]	[ ]	_____
Boiling point	[ ]	[ ]	[ ]	_____
Sublimation point	[ ]	[ ]	[ ]	_____
Vapor pressure	[ ]	[ ]	[ ]	_____
Dissociation constant	[ ]	[ ]	[ ]	_____
Particle size distribution	[ ]	[ ]	[ ]	_____
pH	[ ]	[ ]	[ ]	_____
Other physical/chemical or fate characteristics tests (specify)	[ ]	[ ]	[ ]	_____
Chemical Reactivity:				
Photochemical degradation	[ ]	[ ]	[ ]	_____

Table 1 (continued)

Property	(1)	(2)	(3)	Test Methodology or Technique
Hydrolysis	[ ]	[ ]	[ ]	_____
Chemical oxidation	[ ]	[ ]	[ ]	_____
Chemical reduction	[ ]	[ ]	[ ]	_____
Chemical incompatibility	[ ]	[ ]	[ ]	_____
Flammability	[ ]	[ ]	[ ]	_____
Explodability	[ ]	[ ]	[ ]	_____
Other	[ ]	[ ]	[ ]	_____
Biodegradation	[ ]	[ ]	[ ]	_____
Adsorption/desorption characteristics	[ ]	[ ]	[ ]	_____
Formation of persistent transformation products	[ ]	[ ]	[ ]	_____

HEALTH AND ENVIRONMENTAL EFFECTS DATA

(1) data submitted
(2) description submitted
(3) literature citation

Property	(1)	(2)	(3)	Test Methodology or Technique
Acute animal effects	[ ]	[ ]	[ ]	_____
Genetic effects	[ ]	[ ]	[ ]	_____
Subchronic	[ ]	[ ]	[ ]	_____
Teratogenicity	[ ]	[ ]	[ ]	_____
Reproductive effects	[ ]	[ ]	[ ]	_____
Oncogenicity	[ ]	[ ]	[ ]	_____
Other health effects (chronic or latent animal effects)	[ ]	[ ]	[ ]	_____
Microbial effects	[ ]	[ ]	[ ]	_____

Effect	(1)	(2)	(3)	Test Methodology or Technique
Aquatic invertebrate effects	[ ]	[ ]	[ ]	_____
Plant effects	[ ]	[ ]	[ ]	_____
Fish effects	[ ]	[ ]	[ ]	_____
Bioconcentration	[ ]	[ ]	[ ]	_____
Community or ecosystem level effects	[ ]	[ ]	[ ]	_____
Other environmental effects* (specify)	[ ]	[ ]	[ ]	_____

*"Other environmental effects" refers to any direct or indirect effect on any environmental entity, process, function, or amenity not specifically included in another category. Example: weather modification, stratospheric ozone depletion, property damage, agricultural or silvicultural damage, or aesthetic effects.

Section B Exposure From Processing Operations

This section must be completed by the submitter for each site where the submitter or certain other persons (as specified in Section 720.20(e) of the Premanufacture Notification Rules) intend to process the new chemical substance within the United States. If more than one processing site will be used, attach supplementary sections.

[ ] Site Name _____

[ ] Address _____

_____

_____

[ ] Technical Contact _____

The information in this section is for:

[ ] submitter's processing site [ ]

[ ] other person's processing site [ ]

1. Worker Exposure

a. Check the routes of exposure to the new chemical substance that may occur at the processing site during normal operations. For each route checked, estimate the maximum number of workers exposed to the new chemical substance during a one-year time period in the first 5 years (see Support Document for ranges).

	Exposure Route	Maximum Number Exposed
[ ]	Inhalation	[ ]
[ ]	Ingestion	[ ]
[ ]	Skin contact	[ ]

[ ] Describe the magnitude, duration and frequency of the exposures that may occur through ingestion, or skin contact. Include a description of inhalation exposures if the information in question b is not known and not reasonably ascertainable.

b. State the maximum levels of the new chemical substance in the workplace air that workers are expected to be exposed to during normal operations at the processing site during the first 5 years. If appropriate, include levels for the following types of exposure situations: (1) direct exposure that occurs in close proximity to processing equipment and/or from direct handling of the chemical substance and (2) exposure to ambient workplace concentrations that may be experienced by any worker normally in the general vicinity of a processing operation.

Levels

		Direct	Ambient Workplace Air
[ ] 1.	Time-weighted average concentration in air for an 8-hour day, 40-hour work week schedule ([ ] ppm or [ ] mg/m^3)		
[ ] 2.	Peak concentration in air for 15 minutes ([ ] ppm or [ ] mg/m^3)		

[ ] c. Explain how the workplace exposure estimates in question a and b were derived.

[ ] d. Based on your analytical and instrument capabilities enter the minimum level of the new chemical substance you can detect in the workplace air. Describe the analytical and sampling techniques on which you have based the minimum detectable level.

[ ] e. Estimate the maximum number of workers exposed to the levels of the new chemical substance in the workplace air reported in question b during a one-year time period in the first 5 years as listed below (see Support Document for ranges). Estimate the maximum number of days per year and hours per day that any person may be exposed to the chemical substance.

Exposure	Maximum Number Exposed	Maximum Hours/day	Maximum Days/year
[ ] Direct			
[ ] Ambient workplace			

f. Describe the use(s) of the new chemical substance at this site by function and application and estimate the amount devoted to each use.

Uses

	Function	Application	Amount
[ ]			
[ ]			
[ ]			

g. Describe any products produced by your processing operations which intentionally contain the chemical substance and are intended for use at industrial sites only.

2. Environmental Release

[ ] a. Indicate, as required in Table 2, the maximum amount of the new chemical substance intended to be processed at the site (kg/yr), the hours of operation, and the estimated average and maximum environmental release rates and concentrations of the chemical substance at the processing site during normal operation. Enter the minimum level of the new chemical substance that you have analytical and sampling capability to detect in air emission streams and water effluent streams and describe your method of detection. Enter the specified stack parameters for each air process emission point listed. Place the following letters in the appropriate range estimates to indicate the range of the maximum and average release rates or concentrations expected. Base your estimates on the year of maximum release during the first 5 years.

A - average discharge rate or average hourly concentration in air emission streams, average daily concentration in water effluent streams.

M - maximum discharge rate or concentration.

TABLE 2

ENVIRONMENTAL RELEASE FROM PROCESS SITES

Amount Manufactured kg/yr _____ Hours of Operation/Yr. _____ Hours/day _____

Type of Level		Range				
Air						
[ ] a.	estimated discharge to the air from an entire site (kg/hr)	<.1 [ ]	.1-1 [ ]	1-10 [ ]	10-100 [ ]	>100 [ ]
[ ] b.	hourly concentration in process emission streams [ ] ppm [ ] mg/m^3	10	10-100	100-1,000	1,000-10,000	10,000-100,000

	Stack	Stack Dia.	Stack height	Velocity	Temp					
[ ]	1.	_____	_____	_____	____	[ ]	[ ]	[ ]	[ ]	[ ]
[ ]	2.	_____	_____	_____	____	[ ]	[ ]	[ ]	[ ]	[ ]
[ ]	3.	_____	_____	_____	____	[ ]	[ ]	[ ]	[ ]	[ ]

[ ] c. minimum detectable level in process emission streams [ ] ppm [ ] mg/m^3 _____ Method of Detection: _____

WATER [ ] POTW[1] [ ] Navigable Waterway or Tributary [ ] Other

[ ] a.	estimated discharge rate in effluent streams (kg/day)	<1 [ ]	1-10 [ ]	10-100 [ ]	100-1000 [ ]	>1000 [ ]
[ ] b.	daily concentration in effluent streams [ ] ppm [ ] ppb	<1	1-10	10-100	100-1000	>1000
[ ]	1. _____ flow rate [ ] GPD[2]	[ ]	[ ]	[ ]	[ ]	[ ]
[ ]	2. _____ flow rate [ ] GPD	[ ]	[ ]	[ ]	[ ]	[ ]
[ ]	3. _____ flow rate [ ] GPD	[ ]	[ ]	[ ]	[ ]	[ ]

[ ] c. minimum detectable level in effluent streams [ ] ppm [ ] ppb _____ Method of Detection: _____

1-POTW - Publicly Owned Treatment Works
2-GPD - gallons per day

[ ] b. Enter the name of the receiving water body(ies) or name and location of the POTW listed in Table 2 to which you will be discharging.

[ ] c. If the concentration levels listed in Table 2 result from treatment of the wastewater stream or use of air pollution control equipment, describe the type of control equipment, identify the air emission stream or water effluent stream it serves, and state the expected efficiency of the equipment (i.e., the percent of emission or effluent reduction).

[ ] d. Explain how the environmental release estimates in Table 2 were derived.

3. Disposal

[ ] a. Describe any materials associated with the processing operation that contain the new chemical substance and require disposal. Estimate the maximum amount of each material to be disposed of in a one-year period during the first 5 years (see Support Document for ranges), the percent of the new chemical substance contained in the materials requiring disposal and enter the anticipated method of disposal. Also enter the name of the commercial disposer (if applicable) and the location of the site of disposal if known.

	Material Requiring Disposal	Amount (kg/yr)	Percent of New Chemical Substance	Anticipated Method of Disposal	Name and Site Location
[ ]					
[ ]					
[ ]					

[ ] b. If substances containing the new chemical substance that require disposal are incinerated or otherwise treated to destroy or remove the chemical substance indicate the efficiency of this removal.

[ ] c. Attach to this notice a copy or reasonable facsimile of any warning statement, labels, labeling or instructions that will be provided by you to persons who may dispose of the new chemical substance in order to inform them of disposal procedures you recommend.

[ ] d. Estimate the maximum number of workers that may be exposed to the new chemical substance during normal disposal operations and characterize the magnitude, duration, and frequency of such exposures (see Support Document for ranges).

Section C Exposure From Consumer Use

Complete this section if you or certain other persons (as specified in 40 CFR 720.20(e)) will manufacture a product(s) that contains the new chemical substance and that will be distributed for use by the general population or for use in products to which the general population may be exposed. A separate section should be completed for products intended to be produced by the submitter and products the submitter believes other persons intend to produce.

The information in this section is for:

products produced by the submitter [ ]

products produced by other persons [ ]

[ ] 1. Using Table 3, list the anticipated products by function and application and the total amount of the new chemical substance devoted to each product to one significant figure. Estimate the consumer market population which will be exposed to the product (see Support Document for ranges), the route of exposure and the frequency and duration of exposure based on each use. For products which are mixtures indicate the maximum percent by weight of the chemical substance in the product. Check those products which are constructed or formulated so as to limit potential exposure.

[ ] 2. Describe the level of human exposure that may occur through use of products that contain the new chemical substance. Where possible provide quantitative estimates of exposure levels such as the maximum concentration of the substance in air during normal use.

[ ] 3. Describe how the estimates in question 2 were derived.

[ ] 4. For each article checked in Table 3 explain those aspects of its construction or formulation which will affect the potential for exposure to the new chemical substance.

[ ] 5. Attach to this notice a copy or reasonable facsimile of any hazard warning statement, labels, labeling or instructions which will be provided with each product regarding the prevention of adverse health and/or environmental effects upon use or disposal.

TABLE 3

CONSUMER EXPOSURE

	Product Function/ Application	Amount For each Use	Consumer Market Population for each use	Frequency of Exposure	Duration of Exposure	Exposure Route Through Use			% in formulated Mixture	Controlled Exposure Construction
						Inhal.	Ingest.	Derm.		
[ ]						[ ]	[ ]	[ ]		[ ]
[ ]						[ ]	[ ]	[ ]		[ ]
[ ]						[ ]	[ ]	[ ]		[ ]

Part III

Risk Analysis and Optional Data

(Optional)

A reasonable evaluation of the health and environmental effects of a chemical substance requires basic data relating to the primary factors of health effects, ecological effects, chemical properties (transport and persistence), and exposure. Information on such factors is required in Part II of this form.

Other factors can affect the magnitude of human and environmental risk from chemicals or influence the analysis of risk. These additional factors include structure/activity relationships, engineered safeguards, industrial hygiene programs, and consideration of intended restrictions on chemical use. This part of the form (Part III) is optional and provides the form and manner in which data and information pertaining to these factors can be submitted to EPA. The submitter may complete any section or portion of a section in this Part. In addition to this part the submitter may attach any information which he believes EPA should consider in assessing this notice.

Section A Risk Analysis

[ ] 1. Describe your overall testing/evaluation scheme and discuss the scientific rationale underlying your scheme.

[ ] 2. If no data are submitted concerning a particular effect or property listed in Table 1 (pages 16 through 18 of Part II) explain why the development of additional data concerning such properties or effects is unnecessary for the chemical substance. In the absence of such data explain why you believe the information which you have submitted allows a reasoned evaluation of the health and environmental effects of the new chemical substance. Provide references to any mitigating factors discussed in the other sections of this notice (e.g., structure/activity relationships, safeguards, etc.).

[ ] 3. For each of the properties, characteristics, or effects listed in Table 1 (pages 16 through 18 of Part II), if any of the applicable data indicate a potential for adverse health or environmental risk, alone or in combination with other data, discuss any information which you feel mitigates such risk.

[ ] 4. If testing for any effect or property listed in Table 1 was not done because of economic impracticality, explain why you reached such a conclusion.

[ ] 5. One common approach utilized in risk assessment methodology consists of identifying conditions of maximum exposure or susceptible segments of the population in order to identify maximum potential for risk. You may assist EPA by providing estimates of maximum exposure (considering or speculating upon new uses, expanded production, accidental exposure, misuse of the chemical, etc.) or identifying those uses that affect the most susceptible segments of the population (e.g., children, the infirm, etc.). Further, you may wish to provide EPA with your own analysis of risk under these same conditions.

Section B Structure/Activity Relationships

[ ] 1. Have you attached a description of any data or information to this notice concerning properties or effects of chemical substances or classes of substances that are related to the new chemical substance on the basis of structural similarity, chemical reactivity or other characteristics and that relate to an evaluation of the risks posed by the new chemical substance?

[ ] Yes [ ] No

If yes, identify the related chemical(s) and explain what makes these related chemicals similar (e.g., functional group characteristic chemical reactivity, other chemical or physical property).

[ ] 2. Explain why you concluded that this similarity presents a valid basis for evaluating the activity of the new chemical substance.

[ ] 3. Explain how properties or effects of these related chemical substances affect the risk associated with the new chemical substance.

[ ] 4. Are there other structurally related chemical substances which you have not discussed here?

[ ] Yes [ ] No

If yes, explain why.

Section C Non-Risk Factors: Economic and Non-Economic Benefits

The economic significance and benefits associated with a chemical substance are relevant to determining if the risks associated with the importation, processing, use, or disposal of the chemical substance are unreasonable. This section assists the importer in providing his assessment of certain economic and benefit factors which he believes EPA should consider when evaluating the chemical's risks and benefits.

1. Economic changes resulting from importation of the new chemical.

[ ] a. Estimate the total five-year projected gross market value of the new chemical.

b. What effect will importation of the new chemical have on the price of any domestically produced feedstocks, intermediates, end products or non-chemical products? Identify any affected products and indicate by means of the appropriate price change symbol.

		Affected Product	Price Change	Current Price
[ ]	1.		[ ]	[ ]
[ ]	2.		[ ]	[ ]
[ ]	3.		[ ]	[ ]

Key:
1 = Decrease in excess of 25%
2 = Decrease between 10% and 25%
3 = Some decrease but less than 10%
4 = No change
5 = Some increase but less than 10%
6 = Increase between 10% and 25%
7 = Increase in excess of 25%

c. What effect will importation of the new chemical have on the volume of production of any domestically produced feedstocks, intermediates, end products or non-chemical products? Identify any affected products and indicate by means of the appropriate production change symbol.

	Affected Product	Production Change
[ ]	1.	[ ]
[ ]	2.	[ ]
[ ]	3.	[ ]

Key:
1 = Decrease in excess of 50,000 pounds
2 = Decrease between 10,000 and 50,000 pounds
3 = Some decrease but less than 10,000 pounds
4 = No change
5 = Some increase but less than 10,000 pounds
6 = Increase between 10,000 and 50,000 pounds
7 = Increase in excess of 50,000 pounds

d. What employment effects will result from importation of the new chemical? Indicate the source and magnitude of any employment change below, using the appropriate symbol.

	Affected Product	Employment Change
[ ]	A. Importation of the chemical itself	[ ]
	B. Domestic production of any feedstock, intermediates, end products or non-chemical products (Identify below)	
[ ]	_____	[ ]
[ ]	_____	[ ]
[ ]	_____	[ ]

Key:
1 = Decrease in excess of 25 people
2 = Decrease between 10 and 25 people
3 = Some decrease but less than 10 people
4 = No change
5 = Increase but less than 10 people
6 = Increase between 10 and 25 people
7 = Increase in excess of 25 people

[ ] e. Describe any significant regional or community effects resulting from importation of the new chemical, such as a significant reduction in the rate of unemployment.

f. What effects on the balance of trade will result from importation of the new chemical? Indicate the source and magnitude of export and import changes by the appropriate symbol.

Source	Changes in Exports	Changes in Imports
[ ] A. Importation of the new chemical itself	[ ]	[ ]
[ ] B. Domestic production of any feedstocks, intermediates, end products or non-chemical products (Identify below)	[ ]	[ ]

Key:
1 = Decrease in excess of $25 million annually
2 = Decrease between $10 million and $25 million annually
3 = Some decrease but less than $10 million annually
4 = No change
5 = Some increase but less than $10 million annually
6 = Increase between $10 million and $25 million annually
7 = Increase in excess of $25 million annually

[ ] g. Are any plant and equipment outlays planned in conjunction with importation of the new chemical? Describe the nature of the investment, the timing, and the amount of the investment.

Investment		
Year	Amount	Production Capacity Created

[ ] h. What are the (unique) properties of this chemical that will be the basis of its value in the marketplace? (Include such factors as contribution to reliability or durability of intermediates or end products, increases in productivity, convenience factors, and aesthetic factors).

[ ] i. What existing substitute products or processes (if any) have any of the properties listed in 1(h)? In what ways do the properties of the new chemical exceed those of existing substitutes?

2. Non-economic benefits resulting from production of the new chemical.

[ ] a. Are there any uses for the new chemical which contribute directly or indirectly to human health or safety?

[ ] b. What existing substitute products or processes (if any) have any of the uses listed in 2(a)? In what ways do the use properties of the new chemical exceed those of existing substitutes?

[ ] c. Are there any uses for the new chemical which result in environmental benefits or conservation of energy or natural resources?

[ ] d. What existing substitute products or processes (if any) have any of the uses listed in 2(c)? In what ways do the use properties of the new chemical exceed those of existing substitutes?

FOREIGN MANUFACTURERS/SUPPLIERS FORM

CERTIFICATION STATEMENT: I hereby certify that, to the best of my knowledge and belief, all information entered on this form is complete and truthful as of the date of submittal.

Signature of Authorized Official _____

Date _____

GENERAL INSTRUCTIONS

Section 720.21(c) of the rules for Premanufacture Notification for New Chemical Substances requires an importer of a new chemical substance submitting a premanufacture notice to request the manufacturer and supplier of the substance to complete this form. You have been selected because an importer has indicated that you intend to manufacture or supply the substance(s) for which premanufacture notification has been or will be submitted. If you do not intend to manufacture or supply this substance, you should not complete this form. If you do intend to manufacture or supply the substance, you are requested to complete this form, but you are not under a legal obligation to do so. However, if you have been authorized to report the chemical identity on behalf of the importer, failure to do so will invalidate the importer's notice.

If this form is completed, it may be returned to the person who sent it to you, or sent directly to EPA at the following address:

Document Control Officer
Office of Toxic Substances
TS-793
U.S.E.P.A.
401 M Street, S.W.
Washington, D.C. 20460

CONFIDENTIALITY INSTRUCTIONS: You may assert a claim of confidentiality with respect to any data or information submitted on this form. If you are asserting such a claim, you should place a check in the box in the left hand margin immediately adjacent to the data or information entry. If you do not assert a claim of confidentiality on this form at the time of submission of the information, EPA may make the information public without further notice to you. Claims of confidentiality must be made in accordance with 40 CFR 720, Subpart E, and EPA's Public Information provisions in 40 CFR Part 2. Information submitted to EPA, and subject to a claim of confidentiality, will be treated in accordance with 40 CFR 720, Subpart E, and 40 CFR Part 2.

Part 1

GENERAL INFORMATION

Section A Manufacturer Identification

[ ] 1. Person Completing Form

Name of Authorized Official _____

Title _____

Organization _____

Address _____

2. Incorporation Information

Legal Title of Organization _____

_____

Place of Incorporation

Street _____

City _____

State _____

[ ] 3. Principal Place of Business

Street _____

City _____

State _____

[ ] 4. Technical Contact

Name/Title _____

Address _____

Telephone Number _____

5. Related Companies

a. Other Persons Authorized to Manufacture and Export Chemical to U.S.

1) Identify any other persons that may manufacture or export this chemical substance to the United States by virtue of an existing or planned business arrangement (e.g., contract, license, or other form of legal permission) between you and the person.

	Name	Address	Business Arrangement	Anticipated Date of Export
[ ]	_____	_____	_____	_____
[ ]	_____	_____	_____	_____
[ ]	_____	_____	_____	_____

[ ] 2) If such a business arrangement exists will the responses on this form include export volume and use information resulting from the activities of these other persons?

Yes [ ] No [ ]

[ ] If no, provide export volumes expected for the next five years.

[ ] b. Parent Company

Name _____

Address _____

_____

_____

Section B Chemical Identity

If chemical identity will be reported by the importer who sent you this form, check this box and do not complete the remainder of this section [ ]. If you have been authorized to report the chemical identity for the importer, failure to do so will invalidate the importer's notice.

Complete either 1, 2, or 3 as appropriate. Complete 4. If chemical identity is claimed confidential also complete 5.

1. Class 1 chemical substance (other than polymers).

[ ] a. CAS Registry No. (if known) _____

[ ] b. Specific Chemical Name _____

[ ] c. Molecular Formula _____

[ ] d. Synonyms _____

[ ] e. Trademarks _____

[ ] f. Structural Diagram

2. Class 2 chemical substance.

[ ] a. CAS Registry No. (if known) _____

[ ] b. Specific Chemical Name _____

[ ] c. Synonyms _____

[ ] d. Trademarks _____

[ ] e. List the immediate precursor substance(s) and/or reactants with their respective CAS Registry Number(s) and the nature of the reaction. Also provide a partial or incomplete chemical structure diagram (where appropriate). Indicate the range of composition.

3. Polymers

a. (1) Provide the specific chemical name and the CAS Registry Number of those monomers and other reactants used at greater than two percent (by weight) in the manufacture of the polymer. Monomers used at two percent (by weight) or less need not be listed as part of the polymer description; (2) Provide the intended range of composition of the polymer in terms of monomer percent (by weight). Calculate the percent based on the composition of the polymer formed. If your notice is for any copolymer of the listed monomers, enter "any" under Range of Composition; (3) For each monomer, indicate the maximum amount (weight percent) that may be present as a residual in the polymer as distributed in commerce.

	(1) Monomers and CAS Registry #	(2) Range of Composition	(3) Maximum Residual (Weight Percent)
[ ]			
[ ]			
[ ]			

b. List any monomers used at 2% (by weight) or less in the manufacture of the polymer which are not listed in 3(a) above. For each such monomer indicate the maximum amount (weight percent) that may be present as a residual in the polymer as distributed in commerce.

c. Indicate the minimum molecular weight, compositional restrictions or other restrictions of the polymeric compositions to which this notice applies.

4. Impurities

List the identity and estimate the maximum percent (by weight) of those impurities which may reasonably be anticipated to be present in the chemical substance as it will be manufactured for commercial purposes. Consider information developed during R&D activities,

your knowledge of manufacturing process chemistry and anticipated quality control operations. Check if the concentration of an impurity will be specifically controlled based upon your knowledge of potential adverse health or environmental effects. Estimate the maximum total percent (by weight) of the impurities that may be present. Total percent ____.

	Identity	Maximum Percent	Specifically Controlled
[ ]			[ ]
[ ]			[ ]
[ ]			[ ]

5. Chemical Identity Claimed Confidential

a. If claimed for period prior to commencement of export to the U.S.:

Proposed Generic Name _____

b. If claimed for period following commencement of export to the U.S.:

Proposed Generic Name: _____

Substantiation and other materials required to be submitted with a claim of confidentiality must be attached in accordance with 40 CFR 720.40(c).

Section C Production and Marketing Data

1. Estimate your past total annual production of the new chemical substance for the following years (see ranges in Support Document).

[ ] a. One year ago

[ ] b. Three years ago

[ ] c. Five years ago

2. Estimate the past total annual production of the new chemical substance by others for the following years (see ranges in Support Document).

[ ] a. One year ago

[ ] b. Three years ago

[ ] c. Five years ago

3. Has the chemical substance been manufactured more than five years ago?

Yes [ ] No [ ] Don't Know [ ]

If yes, estimate the average annual production and the number of years it was produced (see ranges in Support Document).

4. Estimate your total annual production volume for the years following submittal of this notice (see ranges in Support Document).

[ ] a. First year

[ ] b. Third year

[ ] c. Maximum annual demand (fifth year or beyond)

5. Export Volumes

a. Estimate the total amount of the chemical substance that you will sell for export to the United States for the following years (see ranges in Support Document).

[ ] (i) First year

[ ] (ii) Third year

[ ] (iii) Maximum annual sales (fifth year or beyond)

6. Basis of Export Estimate

	% of First Year	% of Third Year	% of Maximum Annual Demand
[ ] Firm Orders			
[ ] Forecast			
[ ] Speculative			
	%100	%100	%100

7. Chemical Use Assumptions Used in Production Estimate

In the following questions, list each use by function, and as specific an application as possible. (Example: function-solvent; application-paint used in automotive finishes.) List partial information if complete information is not known. (Examples: function-solvent; application-unknown.) Uses reported elsewhere in this form should also be reported here.

a. List those uses on which your export estimates are based. List uses in descending order of the anticipated production volumes devoted to each use.

	Function	Application
[ ]		
[ ]		
[ ]		

b. List any other uses that you believe the chemical substance could have. Identify those uses for which the chemical substance was manufactured prior to the date of this notice.

	Function	Application	Prior Use
[ ]			[ ]
[ ]			[ ]
[ ]			[ ]

c. Do you intend or expect the new chemical substance to be used within the United States to treat water or to be used in drinking water supplies or to be used in coatings, paints, liners, pipes or other products that will come in contact with drinking water?

[ ] Yes [ ] No [ ]

[ ] 8. Was production of this chemical banned or restricted because of governmental action, litigation, or voluntarily because of adverse health or environmental effects?

Yes [ ] No [ ] Don't Know [ ]

If yes, cite references or attach information or data.

9. Hazard Warnings

Attach to this notice a copy or reasonable facsimile of any hazard warning statement, labels, labeling or instructions, technical data sheet, Material Safety Data Sheet and any other information which will be provided to purchasers regarding the safe handling, use, disposal, treatment upon accidental exposure, or recommendations concerning the formulation, construction or labeling of products containing the chemical substance.

Section D Federal Register Notice

Information provided in this section will be published in the Federal Register in accordance with Section 5(d)(2) of the TSCA. Separate sections are provided for presentation of data related to confidential information where appropriate. Do not enter any information in this section which you consider confidential.

1. Chemical Identity - If chemical identity will be reported by the importer who sent you this form do not complete this question.

a. If chemical identity was not claimed confidential in Section B, enter the specific chemical name which you reported in Section B. For polymers enter those monomers which were listed in Section B(3)(a).

_____

b. If chemical identity was claimed confidential in Section B, enter the proposed generic name which you reported in Section B(5).

_____

2. Use Data

a. If use data were not claimed confidential in Section C, list the proposed uses of the chemical substance in the United States by function and as specific an application as known. List industrial uses and consumer uses separately.

Industrial Uses

Function	Application

Consumer Uses

Function	Application

b. If use data were claimed confidential in Section C, report a generic description of the proposed industrial and consumer use(s) of the chemical substance in the United States. This description should be as specific as possible without revealing confidential information.

Industrial Uses

_____

_____

_____

Consumer Uses

_____

_____

_____

Part II

RISK ASSESSMENT DATA

Section A Chemical Properties, Environmental Fate Characteristics, and Human and Ecological Effects Data

Under Section 5(d)(1)(B) and (C) of TSCA and 40 CFR 720.23, a manufacturer within the United States must report all test data in his possession or control and a description of any other data which is reasonably ascertainable related to the effect of any manufacture, processing, distribution in commerce, use or disposal of the chemical substance. The regulations detail which data must be submitted with the notice and which data may be referenced by a literature citation. In addition, the regulations prescribe a format for data on certain effects.

Foreign manufacturers/suppliers are not under a legal obligation to report any test data in their possession or control, or a description of any other data. However, the submission of such data or a description of data will aid EPA in assessing the risk associated with the chemical substance. In addition, in some cases (such as when significant human exposure to the chemical substance is expected and the importer possesses little or no data), voluntary reporting of health or environmental effects data by you may reduce the chance of a delay in importation of the chemical substance due to inadequate data.

Table 1 lists what EPA considers to be the most important basic chemical properties and potential effects that should be considered in an assessment of risk. You are urged to attach to this notice all health and environmental effects and physical/chemical properties data concerning the effects and properties listed in this Table. This section of the form requires additional information concerning the relationship of the test data and information submitted with this form to the properties and effects listed in Table 1. If such data are reported, you are also requested to complete this section.

[ ] 1. Using Table 1, check those property(ies), characteristic(s) or effect(s) for which you have submitted: (1) data, (2) a description of data and/or (3) a literature citation. Enter the name of the specific technique or methodology of those tests for which you have submitted data next to the property(ies), characteristic(s) or effect(s) to which each pertains. (A given test may be pertinent to two or more properties, characteristics or effects.)

[ ] 2. Discuss any conclusions, evaluations or assessments which you have made concerning the implications of the test data results or descriptions of other data you have submitted for each particular property, characteristic or effect.

[ ] 3. Have you evaluated the health or environmental risks associated with the manufacture, processing, distribution in commerce, use, or disposal of the chemical substance?

Yes [ ] No [ ]

If yes, explain your evaluations.

[ ] 4. Have you evaluated the health or environmental risks presented by substances associated with the manufacture, processing, distribution in commerce, use, or disposal of the chemical substance (e.g., by-products, co-products, feedstocks, intermediates, degradation products)?

Yes [ ] No [ ]

If yes, explain your evaluations.

[ ] 5. Have you evaluated whether the data you have submitted are sufficient to assess the risk associated with the property(ies), characteristic(s) or effect(s) to which they pertain?

Yes [ ] No [ ]

If yes, explain your evaluations. Provide references to any factors discussed in other sections of this notice.

If you have not reported any information for a particular property or effect listed in Table 1 because you believe that such information is either unnecessary or impractical, or if data you are submitting may indicate adverse health or environmental effects, you may wish to provide additional information or explanation to EPA. Section C provides a format for the presentation of such information.

Table 1

CONFIDENTIALITY: The information that is required to be entered in this table is limited to the identification of (1) the physical/chemical properties and health and environmental effects for which data or a description of data has been submitted with this notice and (2) the specific technique or methodology used to develop such data. If you are asserting a claim of confidentiality for any of this data you must mark the attached document(s) which contain the data in accordance with Section 720.40(b) of the Premanufacture Notification Rules.

PHYSICAL/CHEMICAL PROPERTIES

(1) data submitted
(2) description submitted
(3) literature citation

Property	(1)	(2)	(3)	Test Methodology or Technique
Spectra (ultraviolet, visible, infrared)	[ ]	[ ]	[ ]	
Density	[ ]	[ ]	[ ]	
Solubility in water	[ ]	[ ]	[ ]	
Melting point	[ ]	[ ]	[ ]	
Boiling point	[ ]	[ ]	[ ]	
Sublimation point	[ ]	[ ]	[ ]	
Vapor pressure	[ ]	[ ]	[ ]	
Dissociation constant	[ ]	[ ]	[ ]	
Particle size distribution	[ ]	[ ]	[ ]	
pH	[ ]	[ ]	[ ]	
Other physical/chemical or fate characteristics tests (list)	[ ]	[ ]	[ ]	

Table 1 (continued)

Property	(1)	(2)	(3)	Test Methodology or Technique
Chemical Reactivity:				
Photochemical degradation	[ ]	[ ]	[ ]	
Hydrolysis	[ ]	[ ]	[ ]	
Chemical oxidation	[ ]	[ ]	[ ]	
Chemical reduction	[ ]	[ ]	[ ]	
Chemical incompatibility	[ ]	[ ]	[ ]	
Explodability	[ ]	[ ]	[ ]	
Other	[ ]	[ ]	[ ]	
Biodegradation	[ ]	[ ]	[ ]	
Adsorption/desorption characteristics	[ ]	[ ]	[ ]	
Formation of persistent transformation products	[ ]	[ ]	[ ]	

HEALTH AND ENVIRONMENTAL EFFECTS DATA

(1) data submitted
(2) description submitted
(3) literature citation

Effect	(1)	(2)	(3)	Test Methodology or Technique
Acute animal effects	[ ]	[ ]	[ ]	
Genetic effects	[ ]	[ ]	[ ]	
Subchronic	[ ]	[ ]	[ ]	

Table 1 (continued)

Effect	(1)	(2)	(3)	Test Methodology or Technique
Teratogenicity	[ ]	[ ]	[ ]	
Reproductive effects	[ ]	[ ]	[ ]	
Oncogenicity	[ ]	[ ]	[ ]	
Other health effects (chronic or latent animal effects)	[ ]	[ ]	[ ]	
Microbial effects	[ ]	[ ]	[ ]	
Aquatic invertebrate effects	[ ]	[ ]	[ ]	
Plant effects	[ ]	[ ]	[ ]	
Fish effects	[ ]	[ ]	[ ]	
Bioconcentration	[ ]	[ ]	[ ]	
Community or ecosystem level effects	[ ]	[ ]	[ ]	
Other environmental effects* (specify)	[ ]	[ ]	[ ]	

*"Other environmental effects" refers to any direct or indirect effect on any environmental entity, process, function, or amenity not specifically included in another category. Example: weather modification, stratospheric ozone depletion, property damage, agricultural or silvicultural damage, and aesthetic effects.

Section B Risk Analysis

[ ] 1. Describe your overall testing/evaluation scheme and discuss the scientific rationale underlying your scheme.

[ ] 2. If no data are submitted concerning a particular effect or property listed in Table 1 (pages 13 through 15 of Part II) explain why the development of additional data for such properties or effects is unnecessary for your chemical substance. In the absence of such data explain why you believe the information which has been submitted allows a reasoned evaluation of the health and environmental effects of your new chemical substance. Provide references to any mitigating factors discussed in the other sections of this notice (e.g., structure activity relationships, safeguards, etc.).

[ ] 3. For each of the properties, characteristics, or effects listed in Table 1 (pages 13 through 15 of Part II), if any of the applicable data indicate a potential for adverse health or environmental risk, alone or in combination with other data, discuss any information which you feel mitigates such risk.

[ ] 4. If testing for any effect or property listed in Table 1 was not done because of economic impracticality explain why you reached such a conclusion.

[ ] 5. One common approach utilized in risk assessment methodology consists of identifying conditions of maximum exposure or susceptible segments of the population in order to identify maximum potential for risk. You may assist EPA by providing estimates of maximum exposure (considering or speculating upon new uses, expanded production, accidental exposure, misuse of the chemical, etc.) or identifying those uses that affect the most susceptible segments of the population (e.g., children, infirm, etc.). Further, you may wish to provide EPA with your own analysis of risk under these same conditions.

Section C Structure/Activity Relationships

[ ] 1. Have you attached a description of any data or information to this notice concerning properties or effects of chemical substances or classes of substances that are related to the new chemical substance on the basis of structural similarity, chemical reactivity or other characteristics and that relate to an evaluation of the risks posed by your new chemical substance?

Yes [ ] No [ ]

If yes, identify the related chemical(s) and explain what makes these related chemicals similar (e.g., functional group, characteristic chemical reactivity, other chemical or physical property).

[ ] 2. Explain why you concluded that this similarity presents a valid basis for evaluating the activity of the new chemical substance.

[ ] 3. Explain how properties or effects of these related chemical substances affect the risk associated with the new chemical substance.

[ ] 4. Are there other structurally related chemical substances which you have not discussed here?

Yes [ ] No [ ]

If yes, explain why.

PROCESSING AND CONSUMER USE FORM

CERTIFICATION STATEMENT: I hereby certify that, to the best of my knowledge and belief, all information entered on this form is complete and truthful as of the date of this submittal.

Signature of Authorized Official _____

Date: _____

GENERAL INSTRUCTIONS

Section 720.20(e) of the Premanufacture Notification Rules for New Chemical Substances requires each person who submits a premanufacture notice to request certain other persons to complete this form. You have been selected because of an indication that you may process or use the substance(s) for which a premanufacture notice has been or will be submitted. If you do not intend to process or use this substance, you should not complete this form. If you do intend to process or use the substance, please complete this form. However, you are not under a legal obligation to do so.

If you complete this form, it may be returned to the person who sent it to you, or sent directly to EPA at the following address:

Document Control Officer
Office of Toxic Substances
TS-793
U.S.E.P.A.
401 M Street, S.W.
Washington, D.C. 20460

CONFIDENTIALITY INSTRUCTIONS

You may assert a claim of confidentiality with respect to any data or information submitted on this form. If you are asserting such a claim, you should place a check in the box in the left hand margin immediately adjacent to the data or information entry. If you do not assert a claim of confidentiality at the time of submission of the information, EPA may make the information public without further notice to you. Claims of confidentiality must be made in accordance with 40 CFR 720, Subpart E, and EPA's Public Information provisions, in 40 CFR Part 2.

Information submitted to EPA, and subject to a claim of confidentiality, will be treated in accordance with 40 CFR 720, Subpart E, and 40 CFR Part 2.

Person Completing Form

Name of Authorized Official _____
Title _____
Organization _____
Mailing Address _____

Part I

PROCESSING OPERATIONS

The risk which a chemical substance presents to health or the environment depends upon two factors: effects (toxicity) and exposure. Further, exposure has two aspects: (1) the type and magnitude of exposure to humans and ecological populations and (2) the probability that such exposure will occur. To perform assessments of risks presented by new chemical substances, EPA needs information on both aspects. This section is intended to identify the levels of exposure to workers, the general population, and the environment resulting from processing of the chemical substance.

Sections A, B and C should be completed for each site where you intend to process the new chemical substance. If more than one processing site will be used attach supplementary sections.

[ ] Site Name _____

[ ] Address _____

_____

_____

Section A Worker Exposure

1. Check the routes of exposure to the new chemical substance that may occur at the processing site during normal operations. For each route checked, estimate the maximum number of workers exposed to the new chemical substance during a one-year time period in the first 5 years (see Support Document for ranges).

	Exposure Route	Maximum Number Exposed
[ ]	Inhalation	[ ]
[ ]	Ingestion	[ ]
[ ]	Skin contact	[ ]

Describe the magnitude, duration and frequency of the exposures that may occur through ingestion or skin contact. Include a description of inhalation exposures if the information in Question 2 is unknown and not reasonably ascertainable.

2. State the maximum levels of the new chemical substance in the workplace air that workers are expected to be exposed to during normal operations at the processing site in the first 5 years. If appropriate, include levels for the following types of exposure situations: (1) direct exposure that occurs in close proximity to manufacturing equipment and/or from direct handling of the chemical substance and (2) exposure to ambient workplace concentrations that may be experienced by any worker normally in the general vicinity of a processing operation.

		Levels	
		Direct	Ambient Workplace Air
[ ]	a. Time-weighted average concentration in air for an 8-hour day, 40-hour work week schedule ([ ] ppm or [ ] mg/m3)		
[ ]	b. Peak concentration in air for 15 minutes ([ ] ppm or [ ] mg/m3)		

[ ] 3. Explain how the workplace exposure estimates in Questions 1 and 2 were derived.

[ ] 4. Based on your analytical and instrument capabilities enter the minimum level of the new chemical substance that you can detect in the workplace air. Describe the analytical and sampling techniques on which you have based the minimum detectable level.

[ ] 5. Estimate the maximum number of workers exposed to the levels of the new chemical substance in the workplace air reported in Question 2 during a one-year time period in the first 5 years as listed below (see Support Document for ranges). Estimate the maximum number of days per year and hours per day that any person may be exposed to the chemical substance.

	Exposure	Maximum Number Exposed	Maximum Hours/day	Maximum Days/Year
[ ]	Direct			
[ ]	Ambient workplace			

6. Describe the use(s) of the new chemical substance at this site by function and application and estimate the amount devoted to each use to one significant figure.

	Uses		
	Function	Application	Amount
[ ]	_____	_____	_____
[ ]	_____	_____	_____
[ ]	_____	_____	_____

7. Describe any products produced by your processing operations which intentionally contain the chemical substance and are intended for use at industrial sites only.

Section B Environmental Releases

[ ] 1. Indicate, as required in Table 1, the maximum amount of the new chemical substance intended to be processed at the site to one significant figure (kg/yr), the hours of operation, the estimated average and maximum environmental release rates and concentration of the chemical substance at the processing site during normal operation. Enter the minimum level of the new chemical substance that you have analytical and sampling capability to detect in air emission streams and water effluent streams and describe your method of detection. Enter the specified stack parameters for each air process emission point listed. Place the following letters in the appropriate range estimates to indicate the range of the maximum and average release rates or concentrations expected. Base your estimates on the year of maximum release during the first 5 years.

A - average discharge rate or average hourly concentration in air emission streams, average daily concentration in water effluent streams.

M - maximum discharge or concentration.

[ ] 2. Enter the name of the receiving water body(ies) or name and location of the POTW listed in Table 1 to which you will be discharging.

[ ] 3. If the concentration levels listed in Table 1 result from treatment of the wastewater stream or use of air pollution control equipment, describe the type of control equipment, identify the air emission stream or water effluent stream it serves, and state the expected efficiency of the equipment (i.e., the percent of emission or effluent reduction).

[ ] 4. Explain how the environmental release estimates in Table 1 were derived.

TABLE 1

ENVIRONMENTAL RELEASE FROM PROCESS SITES

Amount Manufactured kg/yr _____ Hours of Operation/Yr. _____
Hours/day _____

Type of Level		Range					
Air							
[ ] a.	estimated discharge to the air from an entire site (kg/hr)	<.1 [ ]	.1-1 [ ]	1-10 [ ]	10-100 [ ]	>100 [ ]	
[ ] b.	hourly concentration in process emission streams [ ] ppm [ ] mg/m^3	10	10-100	100-1,000	1,000-10,000	10,000-100,000	>100,000
Stack	Stack Dia. / Stack height / Velocity / Temp						
[ ] 1.	_____ _____ _____ ___	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
[ ] 2.	_____ _____ _____ ___	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
[ ] 3.	_____ _____ _____ ___	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
[ ] c.	minimum detectable level in process emission streams [ ] ppm [ ] mg/m^3	_____ Method of Detection: _____.					
WATER	[ ] POTW[1] [ ] Navigable Waterway or Tributary [ ] Other						
[ ] a.	estimated discharge rate in effluent streams (kg/day)	<1 [ ]	1-10 [ ]	10-100 [ ]	100-1000 [ ]	>1000 [ ]	
[ ] b.	daily concentration in effluent streams [ ] ppm [ ] ppb	<1	1-10	10-100	100-1000	>1000	
[ ]	1. _____ flow rate [ ] GPD[2]	[ ]	[ ]	[ ]	[ ]	[ ]	
[ ]	2. _____ flow rate [ ] GPD	[ ]	[ ]	[ ]	[ ]	[ ]	
[ ]	3. _____ flow rate [ ] GPD	[ ]	[ ]	[ ]	[ ]	[ ]	
[ ] c.	minimum detectable level in effluent streams [ ] ppm [ ] ppb	_____ Method of Detection: _____.					

1-POTW - Publicly Owned Treatment Works
2-GPD - gallons per day

Section C Disposal

[ ] 1. Describe any materials associated with the processing operation that contain the new chemical substance and require disposal. Estimate the maximum amount of each material to be disposed of in one year during the first 5 years (see Support Document for ranges), the percent of the new chemical substance contained in the substances requiring disposal and enter the anticipated method of disposal. Also enter the name of the commercial disposer (if applicable) and the location of the site of disposal if known.

	Material Requiring Disposal	Amount (kg/yr)	Percent of New Chemical Substance	Anticipated Method of Disposal	Name and Site Location
[ ]	_____	_____	_____	_____	_____
[ ]	_____	_____	_____	_____	_____
[ ]	_____	_____	_____	_____	_____

[ ] 2. If substances containing the new chemical substance that require disposal are incinerated or otherwise treated to destroy or remove the chemical substance indicate the efficiency of this removal.

[ ] 3. Attach to this notice a copy or reasonable facsimile of any warning statement, labels, labeling or instructions that will be provided by you to persons who may dispose of the new chemical substance in order to inform them of disposal procedures you recommend.

[ ] 4. Estimate the maximum number of workers that may be exposed to the new chemical substance during normal disposal operations and characterize the magnitude, duration, and frequency of such exposures (see Support Document for ranges).

Section D Federal Register Notice

Information provided in this section will be published in the Federal Register in accordance with Section 5(d)(2) of the TSCA. Separate sections are provided for presentation of data related to confidential information where appropriate. Do not enter any information in this section which you consider confidential.

1. If use data were not claimed confidential, list the proposed uses of the chemical substance by function and as specific an application as known. List industrial uses and consumer uses separately.

Industrial Uses

Function	Application
_____	_____
_____	_____
_____	_____

Consumer Uses

Function	Application
_____	_____
_____	_____
_____	_____

2. If use data were claimed confidential provide a generic description of the proposed industrial and consumer use(s) of the chemical substance. This description should be as specific as possible without revealing confidential information.

Industrial Uses

_____

_____

_____

Consumer Uses

_____

_____

_____

Part II

GENERAL POPULATION EXPOSURE/CONSUMER PRODUCTS

Complete this part if you will manufacture a product(s) that intentionally contains the new chemical substance and that will be distributed for use by the general population or for use in products to which the general population may be exposed.

[ ] 1. Using Table 2 list the anticipated products by function and application and the total amount of the new chemical substance devoted to each product to one significant figure. Estimate the consumer market population which will be exposed to the product (see Support Document for ranges), the route of exposure and the frequency and duration of exposure based on each use. For products which are mixtures indicate the maximum percent by weight of the chemical substance in the product. Check those products which are constructed or formulated so as to limit potential exposure.

[ ] 2. Describe the level of human exposure that may occur through use of products that contain the new chemical substance. Where possible provide quantitative estimates of exposure levels such as the maximum concentration of the substance in air during normal use.

[ ] 3. Describe how the estimates in Question 2 were derived.

[ ] 4. For each article checked in Table 2 explain those aspects of its concentration or formulation which will affect the potential for exposure to the new chemical substance.

[ ] 5. Attach to this notice a copy or reasonable facsimile of any hazard warning statement, labels, labeling or instructions, which will be provided with each product regarding the prevention of adverse health and/or environmental effects upon use or disposal.

TABLE 2

CONSUMER EXPOSURE

	Product Function/ Application	Amount For each Use	Consumer Market Population for each use	Frequency of Exposure	Duration of Exposure	Exposure Route Through Use			% in formulated Mixture	Controlled Exposure Construction
						Inhal.	Ingest.	Derm.		
[ ]	_____	_____	_____	_____	_____	[ ]	[ ]	[ ]	_____	[ ]
[ ]	_____	_____	_____	_____	_____	[ ]	[ ]	[ ]	_____	[ ]
[ ]	_____	_____	_____	_____	_____	[ ]	[ ]	[ ]	_____	[ ]

[FR Doc. 79-394 Filed 1-9-79; 8:45 am]

FEDERAL REGISTER, VOL. 44, NO. 7—WEDNESDAY, JANUARY 10, 1979

federal register

WEDNESDAY, JANUARY 10, 1979
PART III



DEPARTMENT OF STATE

FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976

Applications for Permits to Fish Off the Coasts of the United States

[4710-09-M]

DEPARTMENT OF STATE

[Public Notice 645]

FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976

Applications for Permits to Fish Off the Coasts of the United States

The Fishery Conservation and Management Act of 1976 (P.L. 94-265) as amended (the "Act") provides that no fishing shall be conducted by foreign fishing vessels in the Fishery Conservation Zone of the United States after February 28, 1977, except in accordance with a valid and applicable permit issued pursuant to Section 204 of the Act.

The Act also requires that a notice of receipt of all applications for such permits, a summary of the contents of such applications, and the names of the Regional Fishery Management Councils that receive copies of these applications, be published in the FEDERAL REGISTER.

Individual vessel applications for fishing during 1979 have been received from the Governments of Japan and Korea and are summarized herein.

If additional information regarding any applications is desired, it may be obtained from: Permits and Regulations Division (F37), National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, (Telephone: (202) 634-7265).

Dated: January 2, 1979.

LARRY L. SNEAD,
Acting Director,
Office of Fisheries Affairs.

[4710-09-C]

FISHERY CODES AND DESIGNATION OF REGIONAL COUNCILS WHICH BEVIEW APPLICATIONS FOR INDIVIDUAL FISHERIES ARE AS FOLLOWS:

CODE	FISHERY	REGIONAL COUNCIL
ABS	Atlantic Billfishes and Sharks	New England Mid-Atlantic South Atlantic Gulf of Mexico Caribbean
BSA	Bering Sea and Aleutian Islands Trawl, Longline and Herring Gillnet	North Pacific
CRB	Crab (Bering Sea)	North Pacific
GOA	Gulf of Alaska	North Pacific
NWA	Northwest Atlantic	New England Mid-Atlantic
SMT	Seamount Groundfish (Pacific Ocean)	Western Pacific
SNL	Snails (Bering Sea)	North Pacific
WOC	Washington, Oregon, California Trawl	Pacific

ACTIVITY CODES SPECIET CATEGORIES OF FISHING OPERATIONS APPLIED FOR AS FOLLOWS:

ACTIVITY CODE	FISHING OPERATIONS
1	Catching, processing, and other support.
2	Processing and other support only.
3	Other support only.

NATION/VESSEL NAME/VESSEL TYPE	APPLICATION NO.	FISHERY	ACTIVITY
KOREA			
*SOO GONG NO. 51 LARGE STERN TRAWLER	KS-79-0042	GOA	2
*BOOK NEUNG LARGE STERN TRAWLER	KS-79-0079	GOA	2
*TAE YANG 12 MEDIUM STERN TRAWLER	KS-79-0081	GOA	3
JAPAN			
KEIKO MARU FACTORY SHIP	JA-79-0701	BSA,CRB,GOA, NWA,SNA	2
DAIKICHI MARU NO. 33 LONGLINER	JA-79-0702	CRB	1
FUKUYO MARU NO. 18 LONGLINER	JA-79-0703	CRB	1
HOKKO MARU NO. 12 LONGLINER	JA-79-0704	CRB	1
RYUHO MARU NO. 25 LONGLINER	JA-79-0705	CRB	1
TAIKI MARU NO. 81 LONGLINER	JA-79-0706	CRB	1
KEIYO MARU NO. 28 LONGLINER	JA-79-0710	CRB	1
KEIYO MARU NO. 38 LONGLINER	JA-79-0711	CRB	1
FUKUYO MARU NO. 8 LONGLINER	JA-79-0713	CRB	1
KAIUN MARU NO. 21 LONGLINER	JA-79-0717	CRB	1
DAIAN MARU NO. 88 LONGLINER	JA-79-0718	CRB	1
KOYO MARU FACTORY SHIP	JA-79-0720	BSA,CRB,GOA, NWA,SNA	2
BENTEN MARU NO. 58 LONGLINER	JA-79-0731	CRB	1
TOMI MARU NO. 18 LONGLINER	JA-79-0732	CRB	1
OTOBE MARU LONGLINER	JA-79-0734	CRB	1
KOYO MARU NO. 3 LONGLINER	JA-79-0812	CRB	1
BOKO MARU NO. 36 LONGLINER	JA-79-0813	SNA	1
KYOWA MARU NO. 7 LONGLINER	JA-79-0815	CRB,SNA	1
EIKYU MARU LONGLINER	JA-79-0817	CRB	1
EIWA MARU NO. 28 LONGLINER	JA-79-0820	CRB,SNA	1
MATSUEI MARU NO. 72 LONGLINER	JA-79-0821	CRB	1
EITAN MARU LONGLINER	JA-79-0830	SNA	1
HAKUYO MARU LONGLINER	JA-79-0837	CRB	1
CHOSEI MARU NO. 78 LONGLINER	JA-79-0838	SNA	1
KOHOKU MARU NO. 18 LONGLINER	JA-79-0839	SNA	1
HOYO MARU NO. 68 LONGLINER	JA-79-0840	SNA	1
HOKUSEN MARU NO. 2 LONGLINER	JA-79-0841	SNA	1
TAISAN MARU NO. 1 LONGLINER	JA-79-0851	CRB, SNA	1
TAKASHIRO MARU NO. 31 LONGLINER	JA-79-0856	CRB,SNA	1
MARUNAKA MARU NO. 68 LONGLINER	JA-79-0860	CRB,SNA	1
HOYO MARU NO. 63 LONGLINER	JA-79-0862	SNA	1
AZUMA MARU NO. 11 LONGLINER	JA-79-0871	SNA	1
HAKKAI MARU NO. 11 LONGLINER	JA-79-0872	SNA	1
RIGO MARU LONGLINER	JA-79-0873	SNA	1
RYOUN MARU NO. 2 LONGLINER	JA-79-0877	SNA	1
RYUSHO MARU NO. 1 LONGLINER	JA-79-0878	SNA	1
TAKIMARU NO. 2 LONGLINER	JA-79-0879	SNA	1
KAIYO MARU NO. 8 LONGLINER	JA-79-1137	CRB	1
WAKASHIO MARU NO. 58 LONGLINER	JA-79-1223	ABS	1
DAIKICHI MARU NO. 77 LONGLINER	JA-79-1317	ABS	1
KOYO MARU NO. 11 LONGLINER	JA-79-1318	ABS	1
TENRYO MARU CARGO/TRANSPORT VESSEL	JA-79-2024	BSA,CRB,GOA	3

*These vessels are applying for authorization to conduct activities in support of U.S. fishing vessels. Specifically, the request is to purchase fish for processing and shipment to Korea from U.S. fishing vessels in the Gulf of Alaska during 1979. A total of 130,000 metric tons of pollock including incidental species of pacific ocean perch, flounders, rockfish, pacific cod and other species is requested.

[FR Doc. 79-808 Filed 1-9-79; 8:45 am]

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A Cumulative List of CFR Sections Affected is published separately at the end of each month. The guide lists the parts and sections affected by documents published since the revision date of each title.

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NOTE: There were no items eligible for inclusion in the list of RULES GOING INTO EFFECT TODAY.

List of Public Laws

NOTE: A complete listing of all public laws from the second session of the 95th Congress was published as Part II of the issue of December 4, 1978. (Price: 75 cents. Order by stock number 022-003-00960-4 from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Telephone 202-275-3030.)

The continuing listing will be resumed upon enactment of the first public law for the first session of the 96th Congress, which will convene on Monday, January 15, 1979.

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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[3410-02-M]

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Navel Orange Reg. 448]
[Navel Orange Reg. 447, Amdt. 1]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period January 12-18, 1979, and increases the quantity of such oranges that may be so shipped during the period January 5-11, 1979. Such action is needed to provide for orderly marketing of fresh navel oranges for the periods specified due to the marketing situation confronting the orange industry.

DATES: The regulation becomes effective January 12, 1979, and the amendment is effective for the period January 5-11, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, (202) 447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under this marketing order, and upon other information, it is found that the limitation of handling of navel oranges, as hereafter provided, will tend to effectuate the declared policy of the act by tending to establish and maintain such orderly marketing conditions for such oranges as will provide, in the interests of producers and consumers, an orderly flow of the supply thereof to market throughout the normal marketing season to avoid unreasonable fluctuations in supplies and prices, and is not for the purpose of maintaining prices to farmers above the level which it is declared to be the policy of Congress to establish under the act. This regulation has not been determined significant under the USDA criteria for implementing Executive Order 12044.

The committee met on January 8 and 9, 1979, to consider supply and market conditions and other factors affecting the need for regulation, and recommended quantities of navel oranges deemed advisable to be handled during the specified weeks. The committee reports the demand for navel oranges has improved slightly.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of navel oranges. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 907.748 Navel Orange Regulation 448.

Order. (a) The quantities of navel oranges grown in Arizona and California which may be handled during the period January 12, 1979, through January 18, 1979, are established as follows:

(1) District 1: 510,000 cartons;

(2) District 2: 90,000 cartons;

(3) District 3: unlimited movement.

(b) As used in this section, "handled", "District 1", "District 2", "District 3", and "carton" mean the same as defined in the marketing order.

§ 907.747 [Amended]

Paragraph (a)(1) in § 907.747 Navel Orange Regulation 447 (44 FR 1077), is hereby amended to read:

(1) District 1: 550,000 cartons;

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: January 10, 1979.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-1282 Filed 1-10-79; 11:24 am]

[3410-05-M]

CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—General Regulations Governing Price Support for the 1978 and Subsequent Crops

REVISION OF REGULATIONS

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This rule provides (1) that individual producers may obtain loans on their separate share of a commodity in a farm storage facility in which two or more producers have grain stored in the facility, (2) that loans on commodities other than rice, farm stored, flue-cured tobacco, and farm stored peanuts mature not later than the ninth calendar month following the month in which the loan was disbursed, (3) that warehouse receipts may be issued by a warehouse other than that of original deposit under certain conditions, (4) that producers may commingle eligible and ineligible grain stored on farms, (5) that producers may obtain farm stored loans on 90 percent of the measured quantity in case of ear corn and 100 percent of the measured quantity in case of all other

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commodities, (6) producers may transfer warehouse storage loans to farm storage loans, (7) that producers may request that loans not be called because of initial incorrect certification under certain condiflons, (8) that producers may request that loans not be called because of initial unauthorized removal under certain conditions, and (9) that commodities covered by purchase agreements will have the same availability and delivery dates as those governing loans.

This rule is needed in order that producers and others will be aware of program changes. The rule will permit producers of 1978 crop commodities to take advantage of changes in the program.

EFFECTIVE DATE: January 11, 1978.

FOR FURTHER INFORMATION CONTACT:

Dalton Ustynik, ASCS (202) 447-6611, P.O. Box 2415, Washington, D.C. 20013.

SUPPLEMENTARY INFORMATION: Since producers are harvesting 1978 crop commodities and the provisions of these regulations are needed in order to carry out the loan program, it has been determined by Mr. Ray Fitzgerald, Administrator, ASCS, that compliance with the notice and public procedure provisions of 5 U.S.C. 553 is impractical and contrary to the public interest, and in accordance with the provisions of Executive Order 12044 (43 FR 12661, March 24, 1978), that it is not possible to publish these regulations in proposed form and allow 60 days for public comment.

FINAL RULE

Accordingly, 7 CFR 1421, Subpart General Regulations Governing Price Support for the 1976 and Subsequent Crops in 7 CFR 1421, are revised, applicable to 1978 and subsequent crop loans, as follows. The material previously appearing in these regulations remains in full force and effect as to the crops to which it was applicable.

Subpart—General Regulations Governing Price Support for the 1978 and Subsequent Crops

Sec.

1421.1 General statement.
1421.2 Administration.
1421.3 Eligible producers.
1421.4 Eligibility requirements.
1421.5 Miscellaneous requirements.
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1421.23 Foreclosure.
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1421.25 Handling payments and collections not exceeding $3.
1421.26 Definitions.
1421.27 Death, incompetency, or disappearance.
1421.28 Kansas City Commodity Office and Management Field Office.

AUTHORITY: Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714b and c); secs. 101, 105A, 107A, 201, 301, 401, 405, 63 Stat. 1051, as amended (7 U.S.C. 1441, 1444c, 1445b, 1446, 1447, 1421, 1425).

Subpart—General Regulations Governing Price Support for the 1978 and Subsequent Crops

§ 1421.1 General statement.

This subpart contains the regulations which set forth the general requirements with respect to price support for the 1978 crop and each subsequent crop of barley, corn, flaxseed, oats, rice; rye, sorghums, soybeans, farm-stored peanuts, farm-stored flue-cured tobacco, and wheat. Price support shall be made available for a particular crop of any such commodity only if an annual commodity supplement applicable to the crop is issued authorizing a price support program. The regulations in this subpart shall also apply to other commodities to the extent specified in the regulations applicable to such commodities. Farm-storage loans will be evidenced by notes and secured by security agreements. In certain cases, chattel mortgages or financing statements will be filed. Warehouse storage loans will be evidenced by notes and security agreements and secured by the pledge of warehouse receipts representing an eligible commodity stored in approved warehouse storage. A producer may sell to CCC any or all of an eligible commodity which is not security for a price support loan by delivering to CCC, the commodity or the warehouse receipts representing the commodity in approved warehouse storage. As used in the regulations in this subpart, "CCC" means the Commodity Credit Corporation, and "ASCS" means the Agricultural Stabilization and Conservation Service of the U.S. Department of Agriculture.

§ 1421.2 Administration.

(a) *Responsibility.* The Price Support and Loan Division, ASCS, will administer the regulations in this subpart under the general supervision and direction of the Deputy Administrator, State and County Operations, ASCS, in accordance with program provisions and policy determined by the CCC Board of Directors and the Executive Vice President, CCC. In the field, the regulations in this subpart will be administered by the Agricultural Stabilization and Conservation State and county committees (hereinafter called State and county committees) the Kansas City Commodity Office, and the ASCS Management Field Office.

(b) *Documents.* Any member of the county committee, the county executive director, or other employee of the county ASCS office (hereinafter called county office) designated in writing by the county executive director to act in the county executive director's behalf (such delegation to be filed in the county office) is authorized to approve documents under this program except where otherwise specified in the regulations in this subpart. They may also execute releases or otherwise obtain the release of record of financing statements and chattel mortgages filed by CCC to protect security in agricultural loan commodities upon payment in full of the loan involved. They may execute indemnity agreements on behalf of CCC where any county recording officer deems such indemnity agreement necessary to releasing a mortgage or security agreement of record.

(c) *Limitation of authority.* County executive directors, State and county committees, the Kansas City Commodity Office, and the ASCS Management Field Office do not have authority to modify or waive any of the provisions of the regulations in this subpart.

(d) *State committee.* The State committee may take any action authorized or required by the regulations in this subpart to be taken by the county committee which has not been taken by such committee. The State committee may also (1) correct or require a county committee to correct any action taken by such county committee which is not in accordance with the regulations in this subpart, or (2) require a county committee to withhold taking any action which is not in accordance with the applicable regulations in this subpart.

(e) *Executive Vice President, CCC.* No delegation herein to a State or county committee, the Kansas City Commodity Office, or the ASCS Management Field Office shall preclude the Executive Vice President, CCC, or a designee, from determining any question arising under the regulations in this subpart or from reversing or modifying any determination made by a State or county committee, the Kansas City Commodity Office, or the ASCS Management Field Office.

§ 1421.3 Eligible producers.

(a) *Producer.* An eligible producer of a crop of a commodity shall be an individual, partnership, association, corporation, estate, trust, State or political subdivision or agency thereof, or other legal entity (1) which produces such crop as landowner, landlord, tenant, or sharecropper, or in the case of rice, furnishes land, labor, water, or equipment for a share of the rice crop and (2) which meets the requirements for eligibility for price support contained in the regulations in this subpart. A producer member of a cooperative must furnish the cooperative a CCC-822, Certificate of Eligibility, before the cooperative can pledge the producer's commodity for loan.

(b) *Estates and trusts.* A receiver or trustee of an insolvent or bankrupt debtor's estate, an executor or an administrator of a deceased person's estate, a guardian of an estate of a ward or an incompetent person, and trustees of a trust estate shall be considered to represent the insolvent or bankrupt debtor, the deceased person, the ward or incompetent, and the beneficiaries of a trust, respectively, and the production of the receiver, executor, administrator, guardian, or trustee shall be considered to be the production of the person or estate represented by the executor or administrator. Loan or purchase documents executed by any such person will be accepted by CCC only if they are legally valid and such person has the authority to sign the applicable documents.

(c) *Eligibility of minors.* A minor who is otherwise an eligible producer shall be eligible for price support only if the minor meets one of the following requirements. (1) The right of majority has been conferred on the minor by court proceedings or by statute; (2) a guardian has been appointed to manage the minor's property and the applicable price support documents are signed by the guardian; (3) any note signed by the minor is cosigned by a financially responsible person; or (4) a bond is furnished under which a surety guarantees to protect CCC from any loss incurred for which the minor would be liable had the minor been an adult.

(d) *Joint loans.* Two or more eligible producers may obtain a joint loan on an eligible commodity produced by them if stored in the same farm storage facility except that in lieu of obtaining a joint loan, a producer may obtain an individual loan on his or her separate share of the commodity if other producers who stored a portion of the commodity in the facility execute a Form CCC-665 stating, in part, that they are aware that a portion of the commodity in the storage facility will be under loan and that they will obtain permission from the county office, prior to removing any commodity from the facility. Two or more eligible producers may obtain a warehouse storage joint loan on an eligible commodity produced by them, provided the warehouse receipt is issued jointly to such producers. Each producer who is a party to a joint loan will be jointly and severally liable for the breach of the obligations set forth in the loan documents and in the regulations applicable to the price support program for the commodity on which the loan was made.

(e) *Approval by county committee.* If a producer has been convicted of a criminal act, or has made a misrepresentation, in connection with any price support program, or has, unlawfully disposed of any loan collateral, or if a county committee has had difficulty in settling a loan with the producer because of failure to protect properly the mortgaged commodity, or for other reasonable grounds, the producer may be denied price support until the county committee is satisfied that both the producer and the commodity offered for price support meet the eligibility requirements of the program, and that CCC will be fully protected against any possible loss other than a loss assumed by CCC under the regulations in this subpart.

(f) *Warehouse storage loans to warehousemen.* Warehouse storage loans may be made to a warehouseman who, in the capacity of a producer, tenders to CCC warehouse receipts issued by such warehouseman on a commodity produced by such warehousman only in those States where the issuance and pledge of such warehouse receipts is valid under State law.

(g) *Approved cooperative.* A cooperative marketing association which is approved by the Executive Vice President, CCC or the Executive Vice President's designee, pursuant to Part 1425 of this chapter, to obtain price support on a crop of barley, corn, oats, rice, rye, sorghum, soybeans, and wheat may obtain price support on the eligible warehouse stored production of such crop of the commodity on behalf of its members. When used in this subpart and on applicable forms, the term "producer" means both an eligible producer as defined by paragraphs (a), (b), and (c) of this section and an approved cooperative association.

§ 1421.4 Eligibility requirements.

(a) *Requesting price support.* To obtain price support on an eligible commodity a producer must request a loan on, or notify the county office of an intention to sell the eligible commodity by delivering to the county office a completed Purchase Agreement (Form CCC-614), no later than the date(s) specified in the applicable commodity supplement(s).

(b) *Area of availability.* Price support shall be available to eligible producers on barley, corn, flaxseed, oats, rye, sorghum, soybeans, and wheat produced in any area of the United States. Price support shall be available on rice produced only in the continental United States and price support on farm stored peanuts, and farm-stored flue-cured tobacco shall be available only in the States specified in the regulations applicable to such commodities. Commodities must not have been produced on land owned by the Federal Government if such land is occupied without lease, permit or other right of possession.

(c) *Beneficial interest.* To be eligible for price support, the beneficial interest in the commodity must be in the producer tendering the commodity as security for a loan or for purchase and must always have been in the producer or in such producer and a former producer whom he/she succeeded before it was harvested, except that heirs who (1) succeed to the beneficial interest of a deceased producer, (2) assume the decedent's obligation under a loan if a loan has already been obtained, and (3) assure continued safe storage of the commodity if under farm storage loan, shall be eligible for price support as producers whether such succession occurs before or after harvest of the commodity. A producer shall not be considered to have divested the beneficial interest in the commodity if the producer enters into a contract to sell or gives an option to buy the commodity if under the contract or option, the producer retains control, risk of loss and title to the commodity subject to such agreements and retains control of its production. Commodities obtained by purchase shall not be eligible for price support. If price support is made available through an approved cooperative marketing association, the beneficial interest in the commodity must always have been in the producer-members who delivered the commodity to the approved cooperative or its member cooperatives or must always have been in them and former producers whom they succeeded before the commodity was harvested, except as provided in the case of heirs of a deceased producer. Commodities so delivered to a cooperative marketing association shall not be eligible for price support if the producer-members who delivered the commodity to the cooperative or its member cooperatives do not retain the right to share in the proceeds from the marketing of the commodity as provided in Part 1425 of this chapter.

(d) *Succession of interest.* To meet the requirements of succession to the beneficial interest of a former or de-

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ceased producer under paragraph (c) of this section, the rights, responsibilities, and interest of the former producer with respect to the farming unit on which the commodity was produced shall have been substantially assumed by the person claiming succession. Mere purchase or inheritance of a crop prior to harvest without acquisition of any additional interest in the farming unit on which the crop is produced does not constitute succession to such beneficial interest.

(e) *Doubtful cases.* Any producer in doubt as to whether the beneficial interest in the commodity complies with the requirements of this section, before requesting price support, shall make available to the county committee all pertinent information which will permit a determination to be made by CCC.

(f) *Redeemed loan collateral.* A producer may, before the final availability date reoffer as security or repledge as collateral for a new loan any commodity that has been previously so mortgaged or pledged.

§ 1421.5 Miscellaneous requirements.

(a) *Revenue stamps.* Farm Storage Note and Security Agreements and Warehouse Storage Note and Security Agreements must have State and documentary revenue stamps affixed thereto where required by law.

(b) *Restrictions in use of agents.* A producer shall not delegate to any person (or the person's representative) who has any interest in storing, processing, or merchandising any commodity eligible for price support under a program to which this subpart is applicable, authority to exercise on behalf of the producer any of the producer's rights or privileges under such program or any note and security agreement or other instrument executed in obtaining price support under such program, unless the person (or the person's representative) to whom authority is delegated is serving in the capacity of a farm manager for the producer. Any delegation of authority given in violation of this paragraph shall be without force and effect and shall not be recognized by CCC.

§ 1421.6 Program availability, disbursement, and maturity of loans.

(a) *Where to request price support.* A producer should request price support at the local county ASCS office. An approved cooperative marketing association must request price support at a servicing bank approved by CCC or at the county ASCS office for the county in which the principal office of the cooperative is located unless the State ASC committee designates some other county ASCS office.

(b) *Disbursement of loans.* Disbursement of loans will be make by county ASCS offices by drafts drawn on CCC or by credit to the producer's account, except that loans may be disbursed by approved servicing banks to approved cooperative marketing associations. The loan documents shall not be presented for disbursement unless the commodity covered by the mortagage or pledge is in existence and in good condition.

If the commodity was not in existence and in good condition at the time of disbursement, the total amount disbursed under the loan shall be refunded promptly.

(c) *Availability and maturity dates.* Final availability and maturity dates applicable to loans and purchases will be specified in the annual commodity supplements to the regulations in this subpart. Whenever the final date of availability or the maturity date falls on a nonworking day for county offices, the applicable final date shall be extended to include the next workday. Loans on commodities, other than rice, farm-stored flue-cured tobacco and farm-stored peanuts, mature on demand but not later than the last day of the ninth calendar month following the month in which the loan was disbursed.

(d) *Loan repayment acceleration.* CCC may, at any time, accelerate the time for repayment of a price support loan indebtedness. In the event of any such acceleration, CCC will give the producer notice of such acceleration at least 10 days in advance of the accelerated loan maturity date.

§ 1421.7 Approved storage.

Loans will be made only on commodities in approved storage as defined below:

(a) *Farm storage.* Approved farm storage shall consist of a storage structure located on or off the farm (excluding public warehouses) which is determined by a representative of the county committee to afford safe storage of the commodity.

(b) *Warehouse storage.* Approved warehouse storage shall consist of a public warehouse for which a CCC storage agreement for the commodity is in effect and which is approved by CCC for price support purposes. Such warehouse is referred to in the regulations in this subpart as an "approved warehouse". The names of approved warehouses may be obtained from the Kansas City Commodity Office or from State and county offices.

§ 1421.8 Applicable forms.

The forms for use in connection with this program shall be as follows: Form CCC-614, Purchase Agreement; Form CCC-665, Agreement on Grain Mortgaged to CCC; Form CCC-677, Farm Storage Note and Security Agreement; Form CCC-678, Warehouse Storage Note and Security Agreement; Form CCC-679, Lien Waiver; Form CCC-681, Authorization for Removal of Farm Storage Collateral; Form CCC-681-1, Marketing Authorization for Loan Collateral; Form CCC-685, Authorization to Release Warehouse Receipts; Form CCC-687-1, Approval to Commingle or Move Loan Collateral; Form CCC-691, Commodity Delivery Notice; Form CCC-692, Settlement Statement; Form CCC-822, Certificate of Eligibility; Form CCC-864, Lienholder's Subordination Agreement; and such other forms as may be prescribed by CCC. These forms may be obtained in State and county offices.

§ 1421.9 Warehouse receipts.

(a) *General.* Warehouse receipts tendered to CCC, under this program, must meet all of the requirements of this section and any other requirements contained in the regulations in this subpart and in the applicable commodity supplement.

(b) *Manner of issuance and endorsement.* Warehouse receipts must be issued in the name of the eligible producer or CCC. If issued in the name of the eligible producer, the receipts must be properly endorsed in blank so as to vest title in the holder. Receipts must be issued by an approved warehouse and, except in the case of rice, must represent a commodity which is deemed to be stored commingled. The receipts must be negotiable, must cover the eligible commodity actually in storage in the warehouse of original deposit; *Provided, however,* That warehouse receipts may be issued by another warehouse if the eligible commodity was reconcentrated under a Reconcentration and Trust Agreement approved by CCC.

(c) *Where warehouseman is also owner.* If the receipt is issued for a commodity which is owned by the warehouseman either solely, jointly, or in common with others, the fact of such ownership shall be stated on the receipt. In States where the pledge of warehouse receipts issued by a warehouseman on the warehouseman's commodity in invalid, the warehouseman may offer the commodity to CCC for loan or purchase if such warehouse in licensed and operating under the U.S. Warehouse Act. In such States, if the warehouseman is not licensed and operating under the U.S. Warehouse Act, the warehouseman may deliver the commodity to CCC for purchase if the warehouse receipt is issued in the name of CCC.

(d) *Insurance.* Each warehouse receipt or accompanying supplemental certificate representing a commodity stored in an approved warehouse which has a storage agreement with CCC shall indicate that the commodity is insured in accordance with such agreement. The cost of such insurance shall not be for the account of CCC.

§ 1421.10 Liens.

If there are any liens or encumbrances on the commodity, waivers that fully protect the interest of CCC must be obtained even though the liens or encumbrances are satisfied from the loan or purchase proceeds. Notwithstanding, the foregoing provisions, in lieu of waiving a prior lien on a commmodity tendered as security for a loan, a lienholder may execute a Lienholders Subordination Agreement (Form CCC-864) with CCC to which the lienholder subordinates the security interest to the rights of CCC in the commodity subject to the loan or such other quantity of the commodity as is delivered in satisfaction of a loan under applicable program provisions. No additional liens or encumbrances shall be placed on the commodity after the loan is approved.

§ 1421.11 Fees and charges.

(a) *Loan service fee.* A producer shall pay a loan service fee of $10 for each farm storage loan disbursed, plus $1 for each bin over one, and $6 for each warehouse storage loan disbursed, plus $1 for each warehouse receipt over one. The loan service fee is not refundable.

(b) *Delivery charge.* A delivery charge, in addition to the loan service fee, shall be paid by producers on the quantity of the commodity delivered to CCC. The rate is one-half cent per bushel for commodities handled on a bushel basis and 1 cent per hundredweight for commodities handled on a hundredweight basis. In the case of farm storage loans, identity preserved and modified commingled warehouse storage loans and purchases, such delivery charge shall be paid at time of settlement. In the case of commingled warehouse storage loans, such delivery charge shall be deducted from loan proceeds and will be credited to the producer's account on any quantity redeemed.

§ 1421.12 Interest rate.

Loans shall bear interest at the rate announced in a separate notice published in the FEDERAL REGISTER.

§ 1421.13 Insurance on farm storage loans.

CCC does not require the producer to insure the commodity placed under a farm storage loan, however, if the producer insures such commodity and an indemnity is paid thereon, such indemnity shall inure to the benefit of CCC to the extent of its interest after first satisfying the producer's equity in the commodity involved in the loss.

§ 1421.14 Setoffs.

(a) *Facility and drying equipment loans.* If any installment(s) on any loan made by CCC on farm storage facilities or drying equipment are due and payable under the provisions of the note evidencing such loan out of any amount due the producer under the regulations in this subpart, the amount due the producer, after deduction of applicable fees and charges and amounts due prior lienholders, shall be applied to satisfy the amounts due and payable on such installment(s).

(b) *Producers listed on county claim control record.* If the producer is indebted to CCC or to any other agency of the United States and such indebtedness is listed on the county claim control record, amounts due the producer under the regulations in this subpart, after deduction of amounts due and payable on farm storage facilities or drying equipment and other amounts provided in paragraph (a) of this section, shall be applied as provided in the Secretary's Setoff Regulations, Part 13 of this title, to such indebtedness.

(c) *Producer's right.* Compliance with the provisions of this section shall not deprive the producer of any right the producer would otherwise have to contest the justness of the indebtedness involved in the setoff action, either by administrative appeal or by legal action.

§ 1421.15 Loss or damage to the commodity.

The producer is responsible for any loss in quantity or quality of the commodity placed under a farm storage loan or identity preserved warehouse storage loan, or for any loss in quality of the commodity placed under a modified commingled warehouse storage loan. Notwithstanding the foregoing, any such loss occurring and reported to the county office after disbursement of the loan funds and prior to redemption or delivery to CCC will be assumed by CCC to the extent of the settlement value at the time of destruction of the quality of the commodity destroyed up to a quantity not in excess of that required to secure the outstanding loan (or if the commodity is not destroyed in an amount equivalent to the extent of the loss or damage as determined by CCC), less any insurance proceeds to which CCC may be entitled and the salvage value of the commodity, if the producer establishes to the satisfaction of CCC each of the following conditions: (a) The physical loss or damage occurred without fault or negligence on the part of the producer or any other person having control of the storage structure; (b) the physical loss or damage resulted solely from an external cause (other than insect infestation, rodents, or vermin) such as theft by a person not entrusted with possession of the commodity and occurring without the knowledge or consent (express or implied) of the producer, fire, lightning, explosion, windstorm, cyclone, tornado, flood, or other act of God; (c) the producer has given the county office immediate notice of such loss or damage prior to redemption or delivery to CCC; and (d) the producer has made no fraudulent representation in the loan documents or in obtaining the loan. No physical loss or damage occurring prior to the date of disbursement of the loan funds to the producer will be assumed by CCC.

§ 1421.16 Personal liability of the producers.

(a) *Fraud relating to farm storage and warehouse storage loans and unlawful dispositions.* The making of any fradulent representation by a producer in the loan documents, in obtaining a loan, or in connection with settlement or delivery under a loan, or the unlawful disposition of any portion of the commodity by the producer, shall render the producer subject to criminal prosecution under Federal law. Any such loans shall become payable upon demand and the producer shall be personally liable, aside from any additional liability under criminal and civil fraud statutes, for the amount of the loan, for any additional amount paid to the producer in connection with the commodity and for all costs which CCC would not have incurred had it not been for the producer's fraudulent representation or unlawful disposition, together with interest on such amounts. Notwithstanding the provisions of section 6(b) of the Farm Storage Note and Security Agreement (Form CCC-677) and section 6(b) of the Warehouse Storage Note and Security Agreement (Form CCC-678), if a producer has made any such fraudulent representation or unlawful disposition, the amount with which the producer will be credited for any commodity delivered to or removed by CCC will be, whichever is applicable, (1) the market value as determined by CCC as of the date of delivery to or removal by CCC or the loan settlement value, whichever is the lower, in the case of farm storage loans, (2) the market value of the commodity at the close of the market on the final date for repayment or the loan settlement value, whichever is the lower, in the case of warehouse storage loans, or (3) the sales price, less any costs sustained by CCC, if the commodity is sold by CCC in order to determine its market value, or the loan settlement value, whichever is

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the lower. If the unlawful disposition of the loan collateral is determined by CCC not to have been a willful conversion, the value of the commodity, or part thereof delivered to CCC or removed by CCC, shall be the same as the settlement value for an eligible commodity acquired by CCC as provided in the applicable commodity supplement.

(b) *Fraud relating to purchases.* If the producer has made a fraudulent representation in a price support purchase by CCC or in the purchase documents, the producer shall be personally liable, aside from any additional liability under criminal or civil fraud statutes, for any loss which CCC sustains upon the commodity delivered under the purchase agreement. For the purpose of this program, such loss shall be deemed to be the price paid to the producer on the commodity delivered under the purchase agreement plus all costs sustained by CCC in connection with the commodity together with interest on such amounts, less the lowest of the following: The market value, as determined by CCC, of the commodity as of the close of the market on the date of delivery; the sales price if the commodity is sold in order to determine its market value; or CCC's purchase price.

(c) *Poisonous substances and contamination.* A producer shall be personally liable for any damages resulting from delivering to CCC a commodity containing mercurial compounds or other substances poisonous to humans or animals or food commodities which are contaminated.

(d) *Overdisbursement.* If the amount disbursed under a loan or purchase, or in settlement thereof, exceeds the amount authorized under these regulations and the applicable commodity supplement to this subpart, the producer shall be personally liable for repayment of the amount of such excess.

(e) *Undercollection.* If the amount collected from the producer in satisfaction of the loan is less than the amount required according to this part, the producer shall be personally liable for repayment of the amount of such deficiency.

(f) *Joint loans.* In the case of joint loans, the personal liability for the amounts specified in this section shall be joint and several on the part of each producer signing the note.

§ 1421.17 Farm storage loans.

(a)(1) *Quantity for loan.* Farm storage loans shall not be made on more that a percentage (hereinafter called the "loan percentage"), as established by the State committee, of the certified or measured quantity of the eligible commodity stored in approved farm storage and covered by the note and security agreement. In case of all farm stored loans, when the quantity is determined by measurement, the maximum loan percentage shall be 90 percent in case of ear corn and 100 percent for all other commodities.

(2) When the quantity is determined by producer certification, as provided in paragraph (e) of this section, the maximum loan percentage shall be 85 percent in case of ear corn and 90 percent in the case of all other farm stored commodities. The State committee shall establish the loan percentage each year for each commodity on a statewide basis or for specified areas within the State. Prior to the establishment of a loan percentage the State committee shall consider conditions in the State or areas within a State to determine if the loan percentage should be below the maximum loan percentage in order to provide CCC with adequate protection. Loan percentages previously determined shall be lowered if warranted by changed conditions in the State or areas within a State but new loan percentages shall apply only to new loans and not to loans already made. Factors to be considered by the State committee in determining the loan percentages are: (1) general crop conditions, (2) factors affecting quality peculiar to an area or State, and (3) climatic conditions affecting storability. The loan percentages established by the State committee may be lowered by the county committee on an individual farm or producer basis when determined to be necessary in order to provide CCC with adequate protection. Factors to be considered by the county committee are: (i) condition or suitability of the storage structure, (ii) condition of the commodity, (iii) hazardous location of the storage structure, such as a location which exposes the structure to danger of flood, fire, and theft by a person not entrusted with possession of the commodity (when the percentage is lowered for one or more of these hazards, the producer shall be notified in writing that CCC will not assume any loss or damage to the loan collateral resulting from the particular hazards to which the structure was exposed), (iv) disagreement on the quantity, (v) producers who have been approved under ¶ 1421.3 (e), and (vi) factors peculiar to individual farms or producers as reported by the commodity loan inspector or as known to the county office which relate to the preservation or safety of the loan collateral. Farm storage loans may be made on less than the maximum quantity eligible for loan at the producer's request. In any event, the mortgage shall cover all of the commodity in the bin, crib, or lot in which the commodity on which the loan is made is stored.

(b) *Commingling eligible and ineligible commodity.* (1) Except as provided in subparagraph (2) or when stored in an approved warehouse, if a quantity of an eligible commodity not under loan is commingled without prior county office approval with a quantity which is ineligible or a quantity on which price support has already been obtained, the quantity so commingled will not be eligible for loan.

(2) A rice producer who produces over the eligible production on a farm which has an acreage allotment or to which a producer allotment has been allocated may commingle both the eligible and ineligible rice and be eligible to obtain price support on the amount of rice considered eligible.

(c) *Transfer from farm storage loans to warehouse storage loans.* Upon request by the producer, the county committee may approve the transfer of a commodity or part thereof which is under a farm storage loan to a warehouse storage loan at any time during the loan period. In the case of emergency transfers, the producer must make the request in writing describing the emergency. Liquidation of the farm storage loan or part therof shall be made through the pledge of warehouse receipts for the commodity placed under warehouse storage loan and the immediate payment by the producer of the amount by which the warehouse storage loan is less than the farm storage loan or part thereof plus interest. Any amounts due the producer shall be disbursed by the county office. The maturity date of the warehouse storage loan shall be the maturity date applicable to the farm storage loan which was transferred.

(d) *Transfer from warehouse storage loan to farm storage loan.* Upon request by the producer, the county committee may authorize the transfer of a warehouse storage loan or part thereof to a farm storage loan. The producer must immediately repay the amount by which the farm storage loan is less than the warehouse storage loan plus interest on the shortage. Such farm storage loans shall be made in the manner prescribed herein and the maturity date shall be the maturity date applicable to the warehouse storage loan which was transferred.

(e) *Producer certification.* In addition to loan quantity determinations based on measurement, as provided in paragraph (a) of this section, determinations may be made on the basis of the quantity of the commodity which an eligible producer certifies in writing on Form CCC-666 is eligible, if the commodity is in approved farm storage and available for loan purposes.

(f) *Producer incorrect certification.*—(i) If the county committee determines, by measurement or otherwise, that the actual quantity serving as collateral for a loan based on certification by the producer is less than the loan quantity, the county committee shall call the loan. The producer shall have ten days to settle the loan; However, the producer may request reconsideration of the call and provide information regarding the circumstances leading to the incorrect certification. The county committee may approve the producer's request if (1) the circumstances are of a highly meritorious nature, (2) the producer acted in good faith, (3) the producer did not knowingly provide an incorrect certification and made a reasonable attempt to determine the quantity, (4) the producer repays the overdisbursement. if the loan is called, the county committee may refuse to approve any further farm stored loans for the producer on any commodity through the end of the next crop year after the crop year in which the incorrect certification was made and, if the county committee feels the seriousness of the matter justifies such action, refer the case to the State committee which may request the Office of Inspector General of the United States Department of Agriculture (hereinafter referred to as OIG) to make an investigation.

(ii) If the producer has incorrectly certified such quantities on more than one occasion, the county committee shall call the loan or loans involved and approve no further farm stored loans for the producer on any commodity through the end of the next crop year after the crop year in which the incorrect certification was made. If the county committee feels the seriousness of the matter so justifies, they may deny further farm stored loans to the producer for more than one year. They may also refer the case to the State committee which may request OIG to make an investigation.

(g) *Unauthorized removal.* If there has been an unauthorized removal of any part of farm stored collateral, the county committee shall, on the first offense, call the loan involved. The producer shall have ten days to settle the loan except that the producer may request reconsideration of the call and provide information regarding the circumstances leading to the unauthorized removal. The county committee may approve the producer's request if, (1) the circumstances leading to the unauthorized removal are of a highly meritorious nature, (2) the producer acted in good faith, (3) the producer did not knowingly remove the commodity under loan, and (4) the producer repays the loan on the quantity removed. If the loan is called, the county committee may refuse to approve any further farm stored loans for the producer on any commodity through the end of the next crop year after the crop year in which the unauthorized removal occurred, and if the county committee feels the seriousness of the matter justifies such action, refer the case to the State committee which may request an OIG investigation. If the unauthorized removal is the second offense, the county committee shall call the loan involved and approve no further farm stored loans for the producer on any commodity through the end of the next crop year after the crop year in which the unauthorized removal occurred. The county committee may also, if they feel the seriousness of the matter so justifies, deny farm storage loans to the producer for more than one year and may also refer the case to the State committee which may request an OIG investigation.

§ 1421.18 Release of the commodity under loan.

(a) *Obtaining release—farm storage loan.* A producer shall not remove any loan commodity until prior written approval for such removal is provided by the county committee on one of the applicable forms listed in § 1421.8. A producer may at any time obtain release of all or part of the commodity remaining under loan by paying to CCC the amount of the loan made with respect to the quantity of the commodity released plus interest. CCC will permit removal of a quantity of the commodity from storage, without any payment on the loan, if the principal amount outstanding on the loan does not exceed the maximum loan which may be obtained based on the quantity remaining in storage after removal of the quantity requested by the producer. When the proceeds of the sale of the commodity are needed to repay a farm storage loan, the producer must request and obtain prior written approval of the county office on a form prescribed by CCC to remove a specified quantity of the commodity from storage. Any such approval shall be subject to the terms and conditions set out in the applicable form, copies of which may be obtained by producers at the county office. Any such approval shall not constitute a release of CCC's security interest in the commodity or release the producer from liability for any amounts due on the loan indebtedness if full payment of such amounts is not received by the county.

(b) *Release of farm storage note and security agreement.* The note and security agreement shall not be released until the loan has been satisfied in full.

(c) *Obtaining release, warehouse storage loans.* The producer may arrange with the county office for release of all or part of the commodity under warehouse storage loan on or prior to maturity by repayment of the amount of the loan with respect to the quantity of the commodity to be released plus interest. Each partial release must cover all of the commodity represented by one warehouse receipt. Subject to provisions of § 1421.5(b), warehouse receipts redeemed by repayment shall be released only to the producer or the producer's authorized agent, except that redeemed warehouse receipts may be released to perons designated in written authorization filed with the county office by the producer or the producer's properly authorized agent and dated within 15 days prior to the date of repayment.

(d) *Release of warehouse storage note and security agreement.* The note and security agreement shall not be released until the loan has been satisfied in full.

§ 1421.19 Liquidation of farm storage loans.

(a) *General.* In the case of farm storage loans, the producer is required to pay off the loan or deliver to CCC a sufficient quantity of the eligible commodity having a price support value equal to or greater than the outstanding balance of the loan. Deliveries may be either of the identical commodity which is subject to the note and security agreement or of other eligible commodity of the same kind and of the same crop year. Deliveries shall be made in accordance with written instructions issued by the county office which shall set forth the time and place of delivery. CCC will not accept delivery of any quantity in excess of the larger of (1) 110 percent of the measured or certified quantity, or (2) a sufficient quantity of the commodity having a settlement value equal to 110 percent of the loan value being settled. Settlement of the quantity delivered shall be made as provided in § 1421.22.

(b) *Notice to county office.* If the producer desires to deliver the commodity to CCC, the producer should, on or before maturity, give the county office notice, in writing, of such intention.

(c) *Commodity going out of condition.* If, either before or after maturity, the commodity is going out of condition or is in danger of going out of condition, the producer shall so notify the county office and confirm such notice in writing. If the county committee determines that the commodity is going out of condition or is in danger of going out of condition and the commodity cannot be satisfactorily conditioned by the producer and delivery cannot be accepted within a reasonable length of time, the county committee shall arrange for an inspection and grade and quality determina-

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tion. When delivery is completed, settlement shall be made subject to the provisions of § 1421.15 on the basis of such grade and quality determination or on the basis of the grade and quality determination made at the time of delivery, whichever is higher, for the quantity actually delivered.

(d) *Delivery before maturity date.* If the producer loses control of the storage structure, or if there is insect infestation that cannot be controlled, danger of flood, or damage to the storage structure making it unsafe to continue storage of the commodity on the farm, the commodity may be delivered before the maturity date of the loan upon prior approval of the county committee. Settlement will be made with the producer as provided in § 1421.22.

§ 1421.20 Liquidation of warehouse storage loans.

If a producer does not repay the loan indebtedness upon maturity of the loan, CCC shall have the right to sell or acquire title to the commodity pledged as security for the loan indebtedness.

§ 1421.21 Purchase agreements.

(a) *Quantity eligible for purchase.* An eligible producer may sell to CCC any or all of the producer's eligible commodity which is not mortgaged to CCC under a farm storage loan or pledged to CCC under a warehouse storage loan: *Provided*, That the producer executes and delivers to the county office no later than the date specified in the applicable commodity supplement, a Purchase Agreement (Form CCC-614) indicating the approximate quantity of the commodity the producer will sell to CCC. CCC will not accept delivery of any quantity in excess of 110 percent of the quantity shown on the purchase agreement. Settlement of the quantity not to exceed 110 percent of the quantity shown on the purchase agreement shall be made as provided in § 1421.22.

(b) *Delivery period.* (1) In the case of an eligible commodity not in an approved warehouse, the producer must make delivery of the commodity the producer desires to sell to CCC within the period of time after the expiration date of the purchase agreement as specified in delivery instructions issued by the county office.

(2) In the case of eligible commodities stored in an approved warehouse, the producer must submit to the county office, not earlier than 10 days before the expiration date of the purchase agreement nor later than the day after such date, warehouse receipts for the quantity of the commodity the producer elects to sell to CCC. Notwithstanding any of the provisions of this § 1421.21, in the case of an eligible farm stored commodity covered by an approved Purchase Agreement (Form CCC-614) the county committee may on request of the producer, authorize early delivery of the commodity if the producer loses control of the storage structure or if there is insect infestation that cannot be controlled, danger of flood or damage to the storage structure, making it unsafe to continue storage of the commodity on the farm.

§ 1421.22 Settlement.

(a) *General.* Settlement with producers for commodities acquired by CCC under loans or purchases made under this subpart will be made as provided in this section and in the applicable commodity supplement. The support rate at which settlement will be made shall be determined under the provisions of the applicable commodity supplement. Settlement will be made on the basis of the grade, quality, and quantity of the commodity delivered by the producer. In the case of farm stored peanuts, rice, and farm stored tobacco, paragraphs (b), (c), and (e) of this section shall not apply.

(b) *Warehouse storage.* Settlement for eligible commodities stored in an approved warehouse and acquired by CCC shall be made on the basis of the weight, grade, and other quality factors shown on the warehouse receipts or accompanying documents, as applicable, issued by such warehouse.

(c) *Other than approved warehouse storage.* (1) Settlement for corn, oats, and soybeans delivered from other than approved warehouse storage shall be based on (i) the applicable support rate for the county in which the producer's customary delivery point (as determined by the county office) is located, and (ii) on the quality and quantity delivered as shown on the warehouse receipts and accompanying documents issued by an approved warehouse to which delivery is made, or if applicable the quality and quantity delivered as shown on a form prescribed by CCC for this purpose.

(2) Settlement for barley, sorghums, rye, flaxseed, and wheat delivered from other than approved warehouse storage shall be based on the applicable support rate for the county in which the producer's customary shipping point (as determined by the county committee) is located, except that if the producer is directed to ship the commodity by rail to a warehouse for storage which is in line of transit to a normal marketing center, settlement shall be based on the support rate established for the county from which the commodity was shipped plus the amount of freight charges per bushel actually paid in and the truck receiving and rail load out charges charged by the shipping warehouse. Settlement shall be based on the quality and quantity delivered as indicated on warehouse receipts and accompanying documents issued by an approved warehouse to which delivery is made, or, if applicable, the quantity and quality delivered as shown on a form prescribed by CCC.

(d) *Ineligible commodity inadvertently accepted by CCC.* If an ineligible commodity or a quantity in excess of the maximum estabished in § 1421.19 or 1421.21 is inadvertently accepted by CCC, the settlement value of such commodity shall be the market value as of the date of delivery as determined by CCC, but in no event more than the applicable loan value. If CCC sells the commodity for the purpose of determining its market value, the settlement value shall be the lower of the sales price or the loan value after applying applicable premiums and discounts. If a commodity is delivered to CCC which contains mercurial compounds or other substances poisonous to humans or animals, any sale by CCC shall be for seed (in accordance with applicable State seed laws and regulations), fuel, or industrial uses where the end product will not be consumed by humans or animals. The provisions of § 1421.16 shall be applicable to settlement on ineligible commodities where there has been a fraudulent representation on the part of the producer.

(e) *Compensation for hauling.* When a producer is directed by the county office to haul the commodity a greater distance than would have been necessary to make delivery to the producer's customary delivery point, the producer will be allowed compensation (as determined by the State committee at not to exceed the common carrier truck rate or the rate available from local truckers) for hauling the eligible commodity the additional distance. In determining the rate of payment for excess hauling, the State committee may establish reasonable mileage minimums below which producers will not receive compensation for hauling.

(f) *Trackloading—(1) Delivery.* Producers may request trackloading where approved warehouse space is not available locally or where the county office determines that it would be to the benefit of CCC. Where local weighing facilities are not available or when requested by producers, destination weights may be used for settlement purposes. All producers loading in the same car must sign an agreement stating the percentage share of the total quantity to be credited to each. When requested by producers prior to delivery of the commodity, settlement may be made on the basis of destination grades. Such destination grade determination for a car shall be applied to the entire quantity

of a commodity loaded into the same car, irrespective of the grade or quality of a commodity loaded into the car by any producer.

(2) *Payments.* A trackloading payment of 10 cents per bushel (or 16.67 cents per hundredweight in the case of sorghum and rice) shall be made to the producer on an eligible commodity delivered to CCC on track at a county point.

(g) *Storage deduction for early delivery.* If a farm stored commodity is delivered in advance of the applicable loan maturity date as provided in § 1421.19 and 1421.21, a deduction for storage charges shall be made. The deduction shall be made for the period from the date of delivery to the applicable maturity date or expiration date for the commodity. Such deduction shall be at the rate charged by the warehouse to which the commodity was delivered. No deduction for storage charges shall be made for early delivery of a farm stored commodity if the loan maturity date is accelerated by CCC under a general acceleration of the maturity date in a particular area.

(h) *Warehouse storage loans called prior to maturity and not redeemed.* A refund of warehouse storage charges will be made by CCC to the producer if the maturity date of a warehouse storage loan is accelerated by CCC for reasons other than any wrongful act or omission on the part of the producer, and the commodity is not redeemed. The amount of the storage charges to be refunded shall be computed at the rate prepaid by the producer for the period of unearned storage.

(i) *Refund of prepaid handling charges.* If a warehouse charges the producer for the receiving or the receiving and loading out charges on an eligible commodity in an approved warehouse, the producer shall, upon delivery to CCC of warehouse receipts representing the commodity stored in such warehouse, be reimbursed or given credit by the county office for such prepaid charges at the rate prepaid by the producer. The producer must furnish to the county office, written evidence signed by the warehouse operator that such charges have been paid.

(j) *Payment of amount due producer.* If the settlement value of the commodity delivered exceeds the amount due on the loan (excluding interest), such excess amount shall be paid to the producer.

(k) *Payment of deficiency by producer.* If the settlement value of the commodity is less than the amount due on the loan (excluding interest), the amount of the deficiency plus interest thereon shall be paid to CCC, except as provided in § 1421.15, and may set off against any payment which would otherwise be due the producer under any agricultural program administered by the Secretary of Agriculture or any other payments which are due or may become due the producer from CCC or any other agency of the United States.

(l) *Storage payment where CCC is unable to take delivery.* A producer may be required to retain a commodity stored in other than an approved warehouse under loan or for sale to CCC for a period of 60 days after the maturity date without any cost to CCC. If CCC is unable to take delivery of the commodity within the 60-day period after maturity, the producer shall be paid a storage payment upon delivery of the commodity to CCC: *Provided*, That, in the case of sales to CCC, a storage payment shall be paid a producer whose commodity is stored in other than an approved warehouse only if the producer had properly given notice that the commodity would be sold to CCC. The period for earning such storage payment shall begin the day following the expiration of the 60-day period after the maturity date and extend through the final date of delivery, or the final date for delivery as specified in the delivery instructions issued to the producer by the county office, whichever is earlier. The storage payment for grains shall be computed at the rate furnished by the storing warehouse. The storage payment for rice shall be computed at the rate furnished by the storing warehouse for commodities stored on an identity-preserved basis.

§ 1421.23 Foreclosure.

(a) *Removal from storage.* If the loan indebtedness (i.e., the amount of the note, interest, and charges) is not satisfied upon maturity, CCC may remove the commodity from storage, and assign, transfer, and deliver the commodity or documents evidencing title thereto at such time, in such manner, and upon such terms as CCC may determine, at public or private sale. Any such disposition may similarly be effected without removing the commodity from storage. The commodity may be processed before sale and CCC may become the purchaser of the whole or any part of the commodity.

(b) *When CCC takes title to commodity.* Upon maturity and nonpayment of the producer's note, title to the unredeemed collateral securing the note shall, at CCC's election, immediately vest in CCC without a sale thereof. When CCC acquires title to the unredeemed collateral, CCC shall have no obligation to pay for any market value which such collateral may have in excess of the loan indebtedness, i.e., the unpaid amount of the note plus interest and charges.

(c) *Payments to producer.* Nothing herein shall preclude the making of the following payments to the producer, or to the producer's personal representative only, without right of assignment to or substitution of any other party: (1) Any amount by which the settlement value of the mortgaged or pledged commodity exceeds the loan indebtedness, or (2) the amount by which the proceeds of sale exceed the loan indebtedness if the loan collateral is sold to third persons rather than CCC acquiring title to such loan collateral.

(d) *Commodity sold at less than amount due on loan.* If a farm stored commodity removed by CCC from storage is sold at less than the amount due on the loan (excluding interest) the producer shall pay to CCC the difference between the amount due on the loan and the higher of the sales proceeds or the settlement value of the commodity removed by CCC plus interest on such difference. The amount of the deficiency may be set off against any payment which would otherwise be due the producer under any other agricultural program administered by the Secretary of Agriculture or any other payments which are due or may become due the producer from CCC or any other agency of the United States.

§ 1421.28 Weed control laws.

Where the State committee determines that State, district, or county weed control laws, as administered, affect the commodity, the price support rate shall be reduced by the discount as shown in the applicable commodity supplement. The discount will not apply; however, if the producer furnishes a certification from the appropriate weed control official that the commodity complies with the weed control laws or the storing warehouseman in the case of approved storage furnishes a certification that the commodity complies with the weed control laws and that the warehouseman will hold CCC harmless from loss or penalty. The certification of the warehouseman shall be in substantially the following form:

CERTIFICATION

This is to certify that the commodity evidenced by warehouse receipt No. ——— issued to ——— is not subject to seizure or other action under weed control laws or regulations in effect a point of storage. It is further certified and agreed that if such commodity be taken over by CCC in settlement of a loan or be purchased by CCC, the undersigned will save CCC from loss or penalty under weed control laws or regulations in effect at the point the commodity was stored under the above warehouse receipt.

(Signature) ———

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§ 1421.25 Handling payments and collections not exceeding $3.

In order to avoid administrative costs of making small payments and handling small accounts, amounts of $3 or less which are due the producer will be paid only upon the producer's request. Deficiencies of $3 or less, including interest, may be disregarded unless demand for payment is made by CCC.

§ 1421.26 Defintions.

As used in the regulations in this subpart, and in all instructions, forms, and documents in connection therewith, the words and phrases listed in this section shall have the meaning assigned to them herein unless the context or subject matter otherwise requires.

(a) *General.* The following words or phrases: "Person", "State committee,", "State Executive Director", "county committee", "county executive director", and "farm", respectively, shall each have the same meaning as the definitions of such term in the Regulations Governing Reconstitution of Farms, Allotments, and Bases, Part 719 of this title and any amendments thereto.

(b) *Settlement value.* The term "settlement value" means the value at which settlement is made with the producer on the mortgaged or pledged commodity or the commodity offered for purchase, as determined under the provisions of the regulations in this part.

(c) *Charges.* The term "charges" means all fees, costs, and expenses incident to insuring, carrying, handling, storing, conditioning, and marketing the commodity and otherwise protecting the interest in the loan collateral of CCC or the producer, including foreclosure costs.

(d) *Basic price support rate.* The term "basic price support rate" means the support rate for a commodity for an applicable area or county before adjustment for premiums and discounts.

(e) *County committee.* The term "county committee" means only the committee and not its representative.

(f) *Representative of the county committee and county committee representative.* The terms "representative of the county committee" and "county committee representative" means a member of the county committee, the county executive director or a person designated by the county executive director to act in behalf of the county executive director.

(g) *The regulations in this subpart.* The term "the regulations in this subpart" means the regulations in Subpart—General Regulations Governing Price Support for the 1978 and Subsequent Crops, and in the applicable commodity supplements together with any amendments thereto.

(h) *Request for price support.* The term "request for price support" means a request for loan or execution of Purchase Agreement (Form CCC-614) as applicable.

§ 1421.27 Death, incompetency, or disappearance.

In case of the death, incompetency, or disappearance of any producer who is entitled to the payment of any sum in settlement of a loan or a purchase, payment shall, upon proper application to the county office which made the loan or purchase, be made to the persons who would be entitled to such producer's payment under the regulations contained in Part 707 of this title—Payments Due Persons Who Have Died, Disappeared, or Have Been Declared Incompetent.

§ 1421.28 Kansas City Commodity Office and Management Field Office.

(a) Kansas City Commodity Office, P.O. Box 8377, Shawnee Mission, Kansas 66208, will serve all States.

(b) Accounting, recording, and reporting for all States will be handled through Management Field Office, P.O. Box 205, Kansas City, Missouri 64141.

Signed at Washington, D.C., on January 3, 1979.

RAY FITZGERALD,
Executive Vice President,
Commodity Credit Corporation.

[FR Doc 79-973 Filed 1-10-79; 8:45 am]

[4910-13-M]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 14237; SFAR No. 29-2]

PART 21—CERTIFICATION PROCEDURES FOR PRODUCTS AND PARTS

PART 27—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

PART 29—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY ROTORCRAFT

PART 91—GENERAL OPERATING AND FLIGHT RULES

Special Federal Aviation Regulation No. 29-2; Limited IFR Operations of Rotorcraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment reissues a special regulation which allows for limited operations under instrument flight rules (IFR) of certain transport category rotorcraft that are limited by their type certificates to operations under visual flight rules (VFR). It also amends the provisions of the special regulation by including Part 27 rotorcraft operations and deleting the airspace restrictions. The amendment is necessary to provide time for further study to determine whether the airworthiness requirements should be revised.

EFFECTIVE DATE: January 3, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. Donald A. Schroeder, Safety Regulations Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; Telephone: 202-755-8715.

SUPPLEMENTARY INFORMATION: Under Part 27 or 29 of the Federal Aviation Regulations (FAR) a rotorcraft is certificated for VFR operation only, unless it has been shown that the rotorcraft fully complies with all of the airworthiness requirements for IFR operations. The FAA believes that certain IFR operations can be safely conducted with rotorcraft that do not meet all of the present flight characteristic requirements. Special Federal Aviation Regulation (SFAR) No. 29 was adopted to provide for the issue by the Administrator of approvals for this relief on an interim basis pending the conclusion of a study to determine whether a "limited" IFR category should be established for these rotorcraft, including flight characteristics and equipment requirements, operating procedures and limitations, flight crew requirements, and training requirements. The expiration date of SFAR No. 29 as amended by SFAR No. 29-1 (41 FR 1060), is December 31, 1978.

The FAA has established a Rotorcraft Regulatory Review Program which will involve a comprehensive review and upgrading of rules regarding rotorcraft airworthiness standards and operating requirements. This program will consider the development of IFR airworthiness standards for rotorcraft certification in Parts 27 and 29 of the FAR. This program will not be concluded by the December 31, 1978, termination date of SFAR No. 29.

The FAA has been requested by the Helicopter Association of America on behalf of their membership to consider including certain helicopters certificated to the airworthiness standards of Part 27 to allow IFR operations similar to those conducted under SFAR 29. In addition, it was requested that the airspace restrictions be deleted. Based upon the study results to date and the need to collect additional data, the FAA has determined that the requirement for specific approval of IFR routes and area of operation could be deleted without jeopardizing safety. The present IFR study provisions of SFAR 29 have not included Part 27 helicopters which are being used in pilot training programs leading toward instrument ratings in rotorcraft-helicopters. In addition, a number of these helicopters, operating VFR, presently require, under the interim standards for IFR certification, stringent and costly stability augmentation devices to be added to the flight control system before operating in instrument meteorological conditions. The need exists to expand the IFR study to include certain helicopters certificated to the airworthiness standards of Part 27 and evaluate the need for stability devices prior to imposing a large financial burden upon the industry.

In a continued effort to expand the data base of operational information, the FAA has, therefore, determined it advisable to amend SFAR 29 to delete the airspace restrictions and to include certain helicopters certificated to the airworthiness standards of Part 27.

If SFAR No. 29 were not to continue in effect until the completion of the rulemaking action generated by the Rotorcraft Regulatory Review Program, an undue burden could be placed on certain operators of helicopters meeting the criteria specified in SFAR No. 29 because it would prohibit IFR operations with those helicopters which might be allowed when the Rotorcraft Regulatory Review Program is completed. Thus, the FAA believes that it is in the public interest to allow IFR operations with certain rotorcraft that do not meet all of the present requirements of Parts 21, 27, 29, and 91 of the FAR pending a determination of whether or not new standards should be developed.

The expansion and effectivity of SFAR No. 29 to December 31, 1980, should provide the FAA sufficient time to determine what regulatory changes are necessary.

ADOPTION OF THE AMENDMENT

Since this amendment temporarily relieves a restriction in connection with operations conducted as part of an FAA study and imposes no additional burden on any person, I find that notice and public procedure are unnecessary and that good cause exists for making this amendment effective in less than 30 days.

Accordingly, Special Federal Aviation Regulation No. 29, as amended by SFAR No. 29-1, is reissued, effective January 3, 1979, to read as follows:

SPECIAL FEDERAL AVIATION REGULATION
SFAR No. 29-2

1. Contrary provisions of Parts 21, 27, and 29 of the Federal Aviation Regulations notwithstanding, an operator of a rotorcraft that is not otherwise certificated for IFR operations may conduct an approved limited IFR operation in the rotorcraft when—

(a) FAA approval for the operation has been issued under paragraph 2 of this SFAR;

(b) The operator complies with all conditions and limitations established by this SFAR and the approval; and

(c) A copy of the approval and this SFAR are set forth as a supplement to the rotorcraft flight manual.

2. FAA approval for the operation of a rotorcraft in limited IFR operations may be issued when the following conditions are met:

(a) The operation is approved as part of the FAA study of limited rotorcraft IFR operations.

(b) Specific FAA approval has been obtained for the following:

(i) The rotorcraft (make, model, and serial number).

(ii) The flight crew.

(iii) The procedures to be followed in the operation of the rotorcraft under IFR and the equipment that must be operable during such operations.

(c) The conditions and limitations necessary for the safe operation of the rotorcraft in limited IFR operations have been established, approved, and incorporated in the operating limitations section of the Rotorcraft Flight Manual.

3. An approval issued under paragraph 2 of this Special Federal Aviation Regulation and the change to the Rotorcraft Flight Manual specified in paragraph 2(c) of this Special Federal Aviation Regulation constitute a supplemental type certificate for each rotorcraft approved under paragraph 2 of this SFAR. Each approval issued under this SFAR terminates on December 31, 1980, unless sooner suspended, rescinded, or otherwise terminated by the Administrator.

4. Notwithstanding § 91.23(a)(3) of the Federal Aviation Regulations, a person may operate a rotorcraft in a limited IFR operation approved under paragraph 2(a) of this Special Federal Aviation Regulation with enough fuel to fly, after reaching the alternate airport, for not less than 30 minutes, when that period of time has been approved.

This Special Federal Aviation Regulation terminates on December 31, 1980, unless sooner superseded or rescinded.

(Sections 313(a), 601(a), and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421(a), and 1423) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

The Federal Aviation Administration has determined that this document is not significant in accordance with the criteria required by Executive Order 12044, and set forth in the proposed "Department of Transportation Regulatory Policies and Procedures" published in the FEDERAL REGISTER June 1, 1978 (43 FR 23925).

Issued in Washington, D.C., on January 3, 1979.

LANGHORNE BOND,
Administrator.

[FR Doc. 79-827 Filed 1-10-79; 8:45 am]

[4910-13-M]

SUBCHAPTER C—AIRCRAFT

[Docket No. 78-NW-7-AD; Amdt. 39-3388]

PART 39—AIRWORTHINESS DIRECTIVES

Boeing Model 707-300/-400/-300B/-300C Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: This amendment requires structural changes to the Boeing 707-300/-400/-300B/-300C horizontal stabilizer which will provide an alternate load path if spar chord cracking should occur. The need for these changes became apparent as a result of an accident in which the spar chord failed, causing loss of the horizontal stabilizer. This modification improves the safety characteristics of the stabilizer and assures compliance with the airworthiness standards which make up the certification basis of these aircraft. Current FAA Airworthiness Directives (AD's) 77-16-11 [42 FR 41105] and 78-01-04 [43 FR 1293, 4420] require repetitive inspections at intervals not exceeding 375 flights of all unmodified stabilizers that have accumulated 8,000 flights. This amendment shortens the inspection interval to 325 flights after January 1, 1980, and provides terminating action for these AD's by making modification mandatory by January 1,

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1981, at which time the need for special inspections is eliminated.

DATES: Effective date: February 10, 1979. Compliance schedule: As indicated.

ADDRESSES: Boeing Service bulletins specified in this directive may be obtained upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108.

FOR FURTHER INFORMATION CONTACT:

Mr. Harold N. Wantiez, Airframe Section, Engineering and Manufacturing Branch, FAA, Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108; telephone: 206-767-2516.

SUPPLEMENTARY INFORMATION:

HISTORY

Investigation of an accident of a Boeing 707-321C, which occurred in Zambia, Africa, on May 14, 1977, revealed that the right hand stabilizer separated from the airplane during final approach. An examination of the fracture surface showed that the right hand upper spar chord experienced a fatigue failure some time prior to the accident flight. The closure rib also showed signs of fatigue. Thereafter, on May 18, 1977, a telegraphic message AD was issued which required a visual inspection of the stabilizer rear spar upper chord. This inspection was soon found to be inadequate since further investigation indicated that cracks may exist in the stabilizer rear spar upper chord which are not detectable by visual means, but which are detectable by nondestructive testing (NDT) methods. Accordingly, a superseding AD telegraphic message was issued on May 27, 1977, requiring a one-time NDT inspection of the chord. The telegraphic AD's of May 18 and 27, 1977 were published in the FEDERAL REGISTER as AD 77-14-10 (42 FR 36810, July 18, 1977.) On July 11, 1977, another AD telegraphic message was issued which required an additional one-time NDT inspection. During July and August 1977, the manufacturer conducted static tests. On August 5, 1977, after reviewing the results of those tests, the FAA issued AD 77-16-11 (42 FR 41105, August 15, 1977), which superseded all previous messages and AD's, and requires repetitive eddy-current inspections of the outer panels of the horizontal stabilizer at intervals not to exceed 375 landings. On December 27, 1977, AD 78-01-04 was issued to require visual inspection of the rear spar center section (43 FR 1293, January 9, 1978; amended 43 FR 4420, February 2, 1978).

This amendment is based on a Notice of Proposed Rulemaking (NPRM), published on May 8, 1978 (43 FR 19666). The NPRM would require the installation of structural improvement kits on the horizontal stabilizer and center section no later than January 1, 1980.

PUBLIC PARTICIPATION

All interested persons have been given an opportunity to participate in the making of this amendment and due consideration has been given to all matters presented. The manufacturer, The Boeing Commercial Airplane Company, commented, and the Air Transport Association of America (ATA) commented on behalf of the four principal U.S. 707-300/400 operators: American Airlines, Pan American World Airways, Trans World Airlines, and Western Airlines. ATA also transmitted comments it had received on the proposal from seven foreign operators. By telegram received November 14, 1978, ATA requested that the docket for this rulemaking action be reopened so that they, as well as other interested parties, would have the opportunity to comment on data obtained from the manufacturer subsequent to the close of the comment period. The FAA does not agree with this request. The information obtained from the manufacturer only clarified data previously received relating to material availability, tool allocation and kit orders and the FAA does not believe that additional comment on this clarifying information is needed.

DISCUSSION OF COMMENTS

1. *Mandatory Modification of Outboard Stabilizer Structure:* The commenters do not oppose the requirement to modify the stabilizer center section (provided the compliance time is extended) but both ATA and Boeing maintain that modification of the outboard panels is unnecessary so long as the structure is eddy-current inspected in accordance with the AD (77-18-11) and applicable Service Bulletin (A-3313), as presently required, at intervals not exceeding 375 landings. Boeing and ATA argue that the stabilizer, using these inspection techniques, meets applicable airworthiness requirements.

The heart of the horizontal stabilizer problem lies in the fundamental fact that the airplane in its current structural configuration does not meet the fail-safe requirements of its certification basis. Section 603(c) of the Federal Aviation Act of 1958, as amended, 49 USC 1423(c), requires that an airplane conform to its type certificate and be in a condition for safe operation before it is eligible for the issuance of an airworthiness certificate. Section 21.41 of the Federal Aviation Regulations, which implements the statute, provides, in turn, that each type certificate includes "the applicable regulations with which the Administrator records compliance."

The applicable regulation which serves as the certification basis for this model aircraft provides, in pertinent part, as follows:

Fail safe strength. It shall be shown by analysis and/or tests that catastrophic failure or excessive structural deformation, which could adversely affect the flight characteristics of the airplane, are not probable after fatigue failure or obvious partial failure of a single principal structural element. After such failure, the remaining structure shall be capable of withstanding static loads corresponding with the flight loading condition specified in subparagraphs (1) through (4) of this paragraph. These loads shall be multiplied by a factor of 1.15 unless the dynamic effects of failure under static load are otherwise taken into consideration. [CAR 4b.270(b)]

The original fail-safe substantiation for the Boeing Model 707-300/-400/ -300B and -300C series was shown by analysis, not tests. It was assumed that if the upper structural load path became ineffective (simulating a fatigue failure), the fail-safe load would be carried by the mid chord, lower chord, and lower spar web acting with the remaining intact structure (i.e., skins, ribs, front spar, etc.). Since then and following the Zambia accident, static tests have demonstrated vividly that, with the upper chord failed outboard of the terminal fittings, only a portion of the fail-safe load can be carried before failure of the entire rear spar structure occurs.

During July and August, 1977, the manufacturer conducted static tests on a 707-400 horizontal stabilizer. First, strain surveys were conducted with the application of loads corresponding to certain flap configurations and fail-safe design conditions. Then, the upper chord on the right hand side of the rear spar was cut to simulate the structural configuration of the accident airplane. Loads were then applied to the stabilizer simulating the "1 G, flaps 50" flight condition. This caused a failure of the fasteners tying the skin to the rear spar upper chord inboard of the cut and also the web from the upper chord to the mid chord. On August 1, 1977, loads were placed on the stabilizer to simulate a "1 G, flaps 50" abrupt elevator condition. There appeared to be some distress; however, the structure remained intact. On August 4, 1977, loads were placed on the stabilizer representing the fail-safe negative gust condition (Boeing 707 design condition 1022). Upon reaching 80 percent of this load condition, the stabilizer failed. In order to have passed the test, the stabilizer was required to carry 115 percent of condition 1022 without failure. From this it is apparent that the original fail-safe analysis does not satisfy the requirements of the certification basis. Compliance will be established when the structure is capable of carrying the fail-safe load with the upper chord severed. Thus, it will be necessary to modify the basic structure to assure fail-safe capability of the horizontal stabilizer and conform it to its type certificate.

Further and contrary to the commenters' argument, compliance with the certification requirements for fail-safety of the upper chord cannot rest on short interval inspections: this type of structure must be capable of supporting the fail-safe load after failure of "a single principal structural element" which is the spar chord. Only in the case of large pieces of structure, such as wing/stabilizer skins/planks or fuselage skins, may it be acceptable to show compliance with the fail-safe requirements with only a portion of the structure failed. In these cases, the strutural damage must be obvious to personnel in the normal course of events, such as walk-around inspections, leaking fuel, inability to maintain pressure, unusual aircraft vibrations, spongy flight controls, etc. Moreover, relying on such short interval inspections of structures like the stabilizer rear spar assembly would not be an acceptable predicate to show type certification compliance, even under the new damage/tolerant concepts recently adopted by the FAA.

In its comments, the ATA referred to nine (9) other FAA AD's which involve eddy-current inspection but for which no mandatory terminating action has been required by the FAA. That observation, however, disregards the fact that none of the conditions for which inpections are required by those AD's involves a failure of the aircraft to meet a fail-safe certification base requirement.

2. *Landing Threshold.* The current AD's specify an inspection threshold for unmodified stabilizers of 8,000 landings. The NPRM failed to include this as an alternate to compliance with the fixed calendar date for modification and it is recommended by the manufacturer and the airlines. A reexamination of all of the data available to date reconfirms the validity of the 8,000 landing figure and it is included in the final rule for those aircraft with stabilizers that have not reached that threshold by the calendar cut-off date.

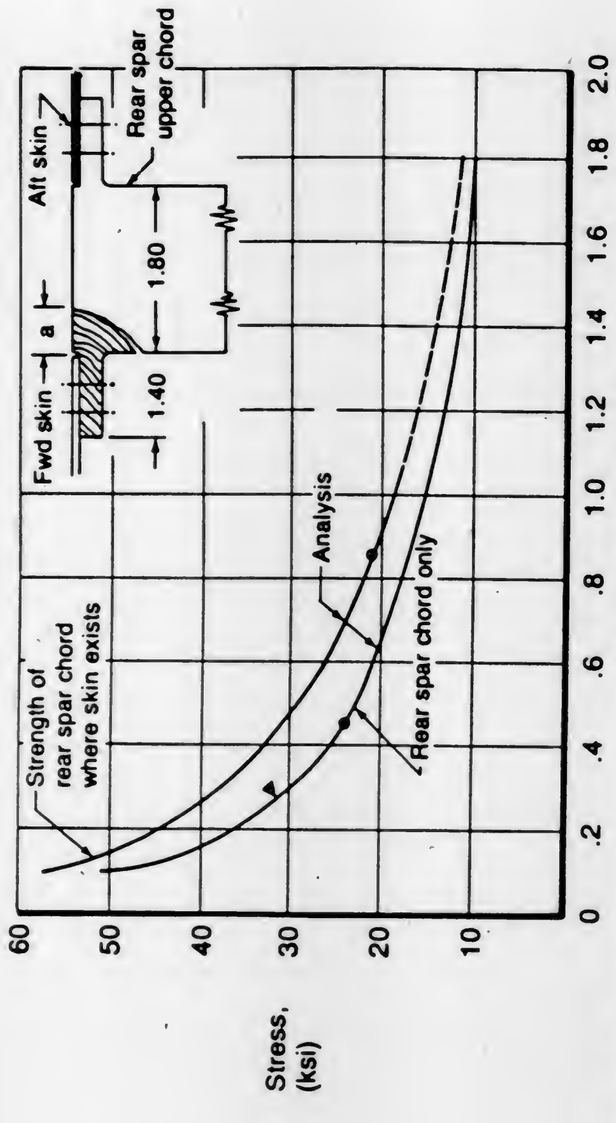
As of the date of the NPRM (May, 1978), 12 operators had reported cracks in the upper chord of 34 stabilizers on 27 airplanes with flight hours ranging from 21,500 to 61,700 and landings ranging from 8,400 to 22,000. In three instances, the cracks were nonrepairable and the chord or stabilizer was replaced. In the remaining instances, the cracks were stop drilled or removed by oversizing the fastener in which the crack initiated and, in some instances, a repair doubler was installed. Since that time, data from fleet inspections have disclosed 15 additional airplanes with repairable cracks and one with a non-repairable crack requiring chord replacement. All of these airplanes fell within the hours/landings ranges found by the earlier campaign surveys. In addition, a probability analysis was made which showed that spar chord cracking extending into the chord body does not occur until approximately 10,000 total landings have been accumulated.

It is not until a crack has propagated into the flange-to-chord body radius that it must be replaced. The following chart displays the residual strength capabilities of the rear spar upper chord:

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Stabilizer Spar Chord

Residual Strength



▲ Test data, chord alone
● Limit - design requirements

[4910-13-C]

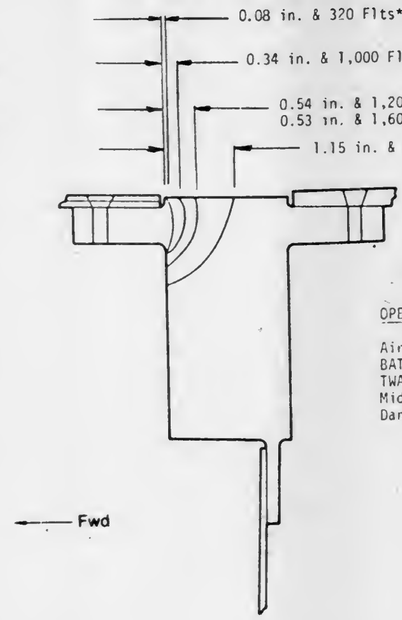
FEDERAL REGISTER, VOL. 44, NO. 8—THURSDAY, JANUARY 11, 1979

As seen above, limit design requirements and one actual test data point are displayed. From this plot, the critical flaw length inside the body of the chord can be determined as approximately 0.45 inches.

The following chart displays crack growth data once cracking has propagated to a point inside the chord body: the five points represent the four airplanes with non-repairable cracks reported to date plus the accident airplane:

Crack Growth Data

*NOTE - This number represents the number of interim flights made after the crack entered the main body of the chord.



Summary of Total Hours & Landings

OPERATOR	TOTAL HOURS	TOTAL LANDINGS
Air India	54,706	24,285
BAT	55,300	20,460
TWA	58,633	19,398
Middle East	31,778	15,842
Dan Air	47,621	16,723

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A detailed metallurgical examination conducted by the Boeing Company carefully measuring the striations of the chords which had cracks extending into the body, showed that the rate of crack growth, once spar chord cracking begins, is relatively consistent among specimens, regardless of age, all other conditions being equal and that it takes approximately 1,000 flights to propagate a crack from the land-flange radius area to a length where the design limit load capability is reached.

As can be seen from the above chart, these conclusions coincide with the empirical data obtained from the nonrepairable chords. For the foregoing reasons, it is clear that a threshold of 8,000 landings before requiring modification allows for an adequate safety margin and, accordingly, it is included in the final rule.

3. *Inspection Procedures.* Until modification is completed, cracked structure is detected using the inspection procedures specified in the FAA AD's and Boeing Service Bulletins. These inspections are repeated at each 375 landing cycle. They involve both visual and the latest state-of-the-art inspection methods, including a low frequency eddy-current technique using an encircling ("doughnut") probe which is placed over the heads of the steel fasteners through the chord forward flange. This latter technique provides an improved method of detecting cracks earlier in the flange area and before they propagate to the body of the chord. In this manner, the cracks can be found *before* fail-safety becomes a factor and while the chord is still repairable.

4. *Compliance Date.* In addition to their argument that modification of the outer panels is unnecessary since repetitive inspections will suffice to provide an adequate level of safety, the commenters have requested that the deadline for modification of the rear spar upper chord center section be extended to December 31, 1982, instead of the January 1, 1980, date in the NPRM. The request is based primarily upon two considerations. The first is Boeing's representation that parts and special tools required to perform the modification will not be ready in time to permit completion of the work for the fleet by the date stated in the NPRM, without massive removal of aircraft from revenue service. The second is the argument by ATA on behalf of the operators that, unless the deadline is extended, the economic burden on their operations will constitute an unwarranted hardship.

The FAA, as noted above, does not agree that repetitive inspections of the outer panels will suffice. Modification is required to assure compliance with the applicable airworthiness standards. Considering that airplanes with unmodified stabilizers do not conform to their type certificates, the need for terminating action is compelling. A failure of the horizontal stabilizer in flight will result in loss of control and a potential catastrophe. Furthermore, there are human factors inherent in any inspection process. If spar chord cracking has begun (as it has in 49 aircraft to date) and if it propagates beyond the flange-to-chord body radius (as it has in 5), the fail-safe design limits can be expected to be reached (if undetected), within approximately 1,000 flights. This means that if a crack is overlooked during two successive 375-flight intervals (i.e., overlooked twice), failure may occur before the next inspection is due.

Other factors which must be considered in setting a date for compliance with this AD are (a) availability of materials and, tools to perform the required modification, and (b) the economic consequences to the industry. These subjects are carefully considered and analyzed in the Analysis of Economic Consequences which is presented in Appendix A to this discussion. That analysis indicates that parts and tooling are not immediately available. They can be made available by January 1, 1980, but the modification incorporations by the operators could not be completed by then, without a significant economic penalty to the carriers, and a massive removal of aircraft from public revenue service. The NPRM impact to carriers is calculated as follows (using most recent labor costs and fleet size information):

Termination date	Cost to U.S. fleet (in millions)	Passenger seat miles lost* (in millions)	Revenue plane days out of service*
1 Jan 1980	$35.5	783.6	1,341

An extension of the compliance date to January 1, 1981, would substantially reduce the loss of revenue to the carriers (and consequent loss of available seats to the traveling public), and at the same time allow for total parts and tooling availability without a significant fleet grounding. The difference in cost impact is presented as follows:

Termination date	Cost to U.S. fleet (in millions)	Passenger seat miles lost* (in millions)	Revenue plane days out of service*
1 Jan 1981	$22.1	409	680
Cost reduction 1/1980 vs 1/1981 termination date	[$13.4]	*[$354.6]	*[661]

*NOTE.—Excluding Pan American whose lost time does not necessarily reflect lost revenue for reasons discussed elsewhere.

DECISION

It is the FAA's judgment, after more than a year of service experience since the issuance of AD's 77-16-11 and 78-01-04, that the stabilizer should be modified at the earliest practicable time without compromising safety and without causing an intolerable burden to industry or the traveling public. The FAA now believes that the earliest date to accomplish both these objectives feasibly is January 1, 1981. If this date is considered demanding, it is because safety demands it and, as it draws closer, more aircraft will have been brought into conformity with the required certification base, while the remaining aircraft will continue to be required to undergo detailed, short interval inspections until they are modified also. In that connection, the FAA has determined that pending the modification of all affected aircraft, an additional safety assurance during the one-year extension period of the NPRM compliance date of January 1, 1980, to January 1, 1981, can be provided by shortening the inspection level from 375 to 325 cycles which provides for three (rather than two) inspections before critical crack length is reached.

Finally, the ATA's reference to the fact that the 707 must meet the new operating noise limits rule by 1985 for U.S. operators and, therefore, may be retired due to economic constraints, is little consolation for the foreign operators who may purchase this U.S. product. Further, such an argument fails to consider the fact that the bulk of the world 707 fleet is unaffected by the phased compliance noise rule, which is not applicable to operators of foreign registered airplanes, or the portion of the fleets of U.S. registered airplanes that are engaged in foreign air commerce (between U.S. and abroad). That argument also overlooks the potential for new engine technology advances as well.

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CONCLUSIONS

1. Mandatory installation of the horizontal stabilizer modification is required in both the center section and outer panels to conform the aircraft to its type certificate.

2. A terminating date of January 1, 1981, (or 8,000 landings, whichever occurs later) to accomplish the modifications, will provide a reasonable length of time, without posing an undue economic burden on the operators, and without compromising safety.

3. In the interim, eddy-current and visual inspections in accordance with existing AD's 77-66-11 and 78-01-04 will provide an acceptable level of safety in accordance with the Federal Aviation Regulations, with the inspection interval reduced from 375 to 325 landings during the extended period.

ADOPTION OF AMENDMENT: Accordingly, pursuant to the authority delegated to me by the Administrator, Section 39.13 of the Federal Aviation Regulations (14 CFR 3913) is amended, by adding the following new Airworthiness Directive: BOEING: Applies to all Boeing 707-300/-400/-300B/-300C airplanes certificated in all categories previous to line number 936. Compliance required as indicated.

On and after January 1, 1980, inspect all unmodified stabilizers which have accumulated 8,000 or more landings in accordance with Airworthiness Directives (AD's) 77-16-11 (42 FR 41105, August 15, 1977) and 78-01-04 (43 FR 1293, January 9, 1978; amended 43 FR 4420, February 2, 1978) at intervals not to exceed 325 landings. On or before January 1, 1981, or upon the accumulation of 8,000 total landings, whichever occurs later, install structural improvement kits on the horizontal stabilizer outer panels and center section in accordance with (a) Boeing Service Bulletins A-3313, Rev. 6, or later FAA-approved revisions, and 3331, Rev. 2 or later FAA-approved revisions; or (b) a modification approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region. Compliance with the modification requirements of this AD constitutes terminating action for AD's 77-16-11 and 78-01-04 and the inspections required by this AD.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer, may obtain copies upon request to The Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may also be examined at FAA, Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 USC 1354(a), 1421, 1423); Sec. 6(c) Department of Transportation Act (49 USC 1655(c)); 14 CFR 11.89).

Issued in Seattle, Washington, on December 27, 1978.

C. B. WALK, JR.,
Director,
Northwest Region.

(The incorporation by reference provisions in the document were approved by the Director of the FEDERAL REGISTER on June 19, 1967.)

APPENDIX A

ANALYSIS OF ECONOMIC CONSEQUENCES

General. The fact the 707-300/400 horizontal stabilizer cannot carry the required fail-safe design load with the upper chord severed necessitates that suitable modifications be made to it so as to improve its load-carrying capability and thus show compliance with the applicable regulations. As might be expected, extensive modifications in an existing, in-service structural component are usually expensive since they often require unscheduled out-of-service time (or down-time), special tools, special production lines, as well as other subtle costs which may not be obvious at the outset but still must eventually be paid. For example, the prototyping of a modification is essentially a "proof test" of the design since errors will often come to light which require liaison work or sometimes recoordination. Labor costs vary among operators and are a function of many variables among which must be included maintenance complements, skill levels required, geographic location and size of the maintenance facility, etc. There is also a learning curve for shop personnel which means that the first units will take longer than those done later in the program. If an operator has only a few aircraft and elects to do the work in-house, its cost per unit will be higher than one who has a larger fleet over which the learning curve costs can be amortized.

The final termination date for the modification is, of course, a major factor in determining costs since it often dictates the amount of unscheduled down-time required and as down-time is directly related to loss of revenue, it can be reasonably concluded that a later compliance date is more desirable, from an economic standpoint, than one which is earlier. Material costs also will be affected since material procurement and the number of special tools required are sensitive to the final termination date.

When the aircraft is withdrawn from service for special maintenance, revenue loss results. Depending upon the length of time required to complete the maintenance program, the loss can substantially impact the airline's income. The traveling public is also inconvenienced since fewer seats are available. It is, therefore, desirable to complete modifications as quickly as possible and return the aircraft to active service in a minimum amount of time.

MANUFACTURER'S MATERIAL ESTIMATES

The Boeing Company has made estimates of both manhour and material costs. The manhour estimates are for direct labor only and assume experienced crew. These estimates do not include setup, planning, familiarization, tool acquisition, or lost time. The actual cost could vary among operators. The following tables, 1-A and 1-B, depict the parts costs.

TABLE 1-A.—*Parts Cost Estimate*

[SB 3313 Outer Panel Modification]

Description	Unit price
Doubler and Chord Inst.—Rear Spar—Hor. Stabilizer (Kit) RH	$10,356
Doubler and Chord Inst.—Rear Spar—Hor. Stabilizer (Kit) LH	10,356
Fastener Inst.—Skin Replacement—Hor. Stabilizer 2 required @ $584 each	1,168
Total	[1]21,880

[1]Per aircraft, adjusted as of November 1978.

TABLE 1-B.—*Parts Cost Estimate*

[SB 3331 Center Section Modification]

Description	Unit price
Failsafe Instl. Rear Spar, Center Section, Stab. (Kit)	$5,532
Horizontal Web Instl	369
Stiffener Instl. Front Spar, Center Section, Hor. Stabilizer (Kit)	687
Upper Skin Fastener Replacement, Center Section, Hor. Tail	187
Front Spar Upper Strap Fastener Replacement, Center Section, Hor. Tail	153
Front Spar Lower Strap Fastener Replacement, Center Section, Hor. Tail	114
Bushing Replacement, Center Section, Rear Spar Center Chord (Kit)	350
Total, per aircraft	7,392
Total Materials Cost per Aircraft	29,272
Total World Fleet (567) @ $29,272	16,597,224

TOOLS

Special tooling is required for installing the kit modifications. The following was provided by The Boeing Company:

Service Bulletin	Kit number	Description	Rent/Day	Rent/Month
A-3313	65C19080-10	Tool Kit	*$258.00	*$2,582.00
3331	65C19070-10	Tool Kit	*$904.00	*$9,042.00
Totals			$1,192.00	$11,654.00

*Plus $15.00 handling charge.

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Boeing advises that the modification and tool kits identified above will be offered at "no charge" to the operators as long as orders are received by December 31, 1978. Priority in allocation will be established based on the date of purchase order receipt and the operator's planned incorporation schedules.

MANPOWER

The following tables show the manufacturer's estimate of the manpower needed to accomplish the modification work and the manufacturer's estimate of the hours an aircraft should be out-of-service (or "down") while the work is being done.

TABLE 2-A.—*Man-hour estimate per airplane SB 3313, outer panel modification*

Operation	Crew size	Man-hours	Down-time
Remove stabilizers and remove secondary structure as required	6	120	20
Install supplemental fail-safe chords, fatigue straps and flap peen upper and center spar chords	6	1,296	216
Install modified stabilizers, secondary structures and perform functional check	8	168	28
Total modification time		1,584	264

TABLE 2-B.—*Man-hour estimate per airplane SB 3331, center section modification*

Operation	Crew size	Man-hours	Down-time
CENTER SECTION IN AIRPLANE			
Remove left and right stabilizers	4	48	12
Modify center section and section 48 as required	2	180	80
Restoration and operation check	4	64	16
Total per airplane		272	108
CENTER SECTION REMOVED FROM AIRPLANE			
Remove left and right stabilizers and center section from airplane	4	80	20
Modify center section and section 48 as required	2	104	52
Restoration and operation check	4	96	24
Total per airplane		280	96

To summarize, the manufacturer estimates both modifications will consume a maximum of 1,864 manhours and a down-time of 372 hours (or approximately two weeks). Some savings will be effected if the two modifications are done concurrently. In addition, 8 manhours and 12 hours down-time could be saved, depending on whether or not the center section is removed from the aircraft.

Air Transport Association Estimates of Cost to Fleet

The Air Transport Association of America (ATA) provided inputs it had received from certain airlines on the proposed modification program for both the United States and world fleets. Their estimates include labor costs and loss of revenue owing to unscheduled down-time. Table 3 is a summary of the ATA's estimated of the modification impact on the four principal U.S. 707/300-400 operators, assuming a January 1, 1980, NPRM termination date:

TABLE 3.—*NPRM Impact: ATA: Jan. 1, 1980 Compliance Date*

[Principal User U.S. Airlines]

Total Number of Aircraft	117
Cost of Out-of-Service Time (in millions)	$37.25
Cost of Labor (in millions)	$8.71
Available seat miles service lost @ 546,554 per revenue plane day (in billions)	1.18
Total nonrecurring cost (in millions)	$45.96

The following table breaks out the four airlines and their costs by labor and out-of-service time:

TABLE 4.—*Incorporate SBs 3313 and 331 by January 1, 1980*

	No. of aircraft	Labor	Out-of-service cost	Available seat miles lost
Airline:				*Million*
AA	38	$2,243,520	$9,607,500	217.0
PA	29	3,748,320	12,493,780	412.1
TWA	45	2,430,000	15,144,980	546.6
WA	5	290,000	Zero	Zero
Total	117	8,711,840	37,246,260	1,175.7
Grand total			45,958,100	

The above costs are further broken down and explained for each of the carriers listed, as follows:

1. *American:*

Labor: 38 aircraft×2,400 manhours (estimate is manufacturer's 1,860+30 percent) per aircraft×$24.60 per hour=$2,243,520.

Out-of-Service: American uses the manufacturer's estimate of two weeks (14 days) out-of-service time per aircraft. This means that for aircraft which cannot be accommodated on the existing American maintenance schedules, the full two weeks (14 days) is incurred. For aircraft which can be modified on existing visits, the net extra loss of service is reduced to roughly five days. One prototype plus 22 aircraft require special lines and, hence, the full 14 days down-time, while 15 can be handled on existing lines. The total is: 427 days×$22,500 (lost revenue)=$9,607,500.

American notes that it will have a special 707 line going through Tulsa through 1981. This line will start at the finish of their 707 wing skin line, which will terminate in December, 1979. American states they could accomplish all of their aircraft on existing visit lines and have all aircraft completed by January 1, 1981. *This would completely eliminate the $9.6 million out-of-service cost,* according to the carrier.

American also states that in addition to its 38 aircraft, it will accomplish six for British West Indies Airlines.

2. *Pan American:* Advises that it cannot accomplish any of the modification work without specially hiring the mechanic personnel and then furloughing them at the end of the work period at $31,236 (1979); $34,308 (1980); and $36,228 (1981) per man per year, hence requiring special tracks or lines for all aircraft. They estimate 2,600 manhours per aircraft (manufacturer's 1,860+40 percent) and a straight downtime of 26 days, nearly doubling the manufacturer's estimate of 14 days. The totals are:

Labor: $3,748,320.

Out of Service: 29 aircraft×26 days=754 days. No assignment of dollar value is given by Pan Am. ATA assumed a loss of $16,570/day×754=$12,493,780.

3. *TWA:* Uses an estimate of 2,000 manhours per aircraft (manufacturer's 1,860+approximately 10 percent). The labor is, therefore, calculated at 2,000×$27/hour×45 aircraft=$2,430,000. The out-of-service time is, like American's, based on a generally sliding scale with a ratio of termination date to the special versus regular maintenance scheduling. Compliance with the NPRM date is calculated to incur 914 days out-of-service time×$16,570 (lost revenue)=$15,144,980. TWA also calculated that if the termination date were extended to December 31, 1982, the out-of-service days would be reduced to 220 days at $16,570, or $3,645,400 (labor remaining the same).

4. *Western Airlines:* Planned on removing their five 707's from service during the latter part of 1978 to incorporate a number of aircraft modifications, including the modification on both outer panels and

center section. Therefore, there are zero unscheduled out-of-service costs to Western. The labor total of $290,000 approximates the same manhour rate and work time as American's.

MATERIAL AVAILABILITY

As of October 17, 1978, the following materials have been ordered from The Boeing Company:

Number of airplanes in fleet	Number of kits ordered		Number of kits shipped	Number of tool sets shipped
	SB3313	SB3331		
567	471	487	45	6

As of that date, the fleet requirements were as follows:

FLEET SIZE—October 17, 1978

	Airplanes
American	38
British West Ind	6
Air France	18
Libyan Arab	1
Cameroon	1
Air Madagascar	1
British Air	30
Nigeria	3
Sudan	2
Qatar	1
Spares	2
Lufthansa	15
Iran Air	5
Lan Chile	5
Iraqi	3
Saudi	8
Tarom	5
German Rep	4
Abu Dhabi	1
Varig	16
Singapore	10
China Air	6
Dan Air	2
Atasco	13
Pelican	2
Tradewinds	3
Ron Air	3
JAT Jugoslavia	4
Korea	7
Kuwait	8
Middle East	3
Malaysia	3
Egypt Air	7
Egypt Govt. of	1
Pakistan	7
USAF	2
Israel	4
Ecuatoriana	2
Charlotte Air	6
Wichita	12
Western	5
Trans Med	12
Sabena	8
Air India	9
MCA Leasing	6
Lloyd Aerio Bolivino	1
Wardair	2
Northwest	1
CAAC (Peking)	10
IIAF	14
Aer Lingus	4
Zambia Air	3
Royal Air Maroc	3

The present shipping schedule ranges from September, 1978, to approximately April, 1981, with only 21 airlines asking for firm delivery schedules. This scheduling does not, however, represent specific or discrete incorporation dates which, of course, will depend upon regulatory action. Further, it does not represent the production capability of the manufacturer.

According to the latest available information obtained from the head of the Boeing 707/727/737 Division, the following material capability existed as of 11/78:

REPLACEMENT REAR SPAR UPPER CHORDS (STABILIZER)

Available: 9 each left hand; 10 each right hand.

AIRPLANE MODIFICATION KITS (STABILIZER AND CENTER SECTION)

Available: 0.

To be shipped: 30 each per month to February, 79; thereafter, 40 per month until completion 1/1/80.

Capability: 60 each per month, beginning with 2nd Quarter CY 1979, which would accelerate completion of deliveries slightly ahead of 1/1/80.

SPECIAL TOOL KITS

Available: 0.

To be shipped: 14 by 1/79.

Kit production is complicated by the non-availability of raw material. The material required to manufacture the supplementary chords is -7075 aluminum which requires long lead times for procurement. This was verified by an informal check with three major suppliers.

The "pacing" factor, according to Boeing, in the rate of fleet incorporation, will be the availability, distribution and the utilization of the 20 sets of required tools, which will be loaned to and shared by the operators. The distribution of those tools will be the governing element of the Boeing allocation program which, as stated earlier, will be based on the date of purchase order receipt and the operator's planned incorporation schedules (i.e., effectively a "first-come, first-served" basis).

DATA FROM WESTERN MODIFICATIONS

FAA now has the benefit of the results of the Western Airlines modification program which was only recently completed at Boeing Wichita. The Western program reflects the following:

Aircraft and *Down-Time*

Prototype—16 days.
2nd—14 days.
3rd, 4th & 5th—11 days.

The labor costs averaged $48,000 per unit, which included the modification to the stabilizer outer panel and center section, as well as additional work to the aircraft and the incorporation of over 50 other service bulletins. The down-time listed above credits as full days the in-and-out dates. This information shows that the estimated impact of the NPRM was well within the actual labor cost and down-time incurred, at least for the first airline to complete the program. Even considering the fact that additional work was done on the aircraft, the $48,000 figure fairly equates with 2,000 manhours x $25, or within a range of 7½ percent of the manufacturer's estimates. (As shown above, the airlines' earlier estimates ran from 10 percent to 40 percent over that of the manufacturer.)

The 16 to 11 days compares favorably with that estimated originally by Boeing, ATA and the FAA (Boeing and ATA—14; FAA—11).

NON-U.S. FLEET

While United States airworthiness regulations are not binding *per se* on foreign registered aircraft, the airworthiness authorities of many foreign governments or their operators may elect to comply with the U.S. standards. Consideration has, therefore, been given to the ATA submittal on behalf of the foreign airlines. As ATA observed, because of the limited amount of data received from the non-ATA member airlines, constructive cost and operating factor comparisons were made using U.S. operating data, derived in part from information reported to the Civil Aeronautics Board for the period September, 1976, to September 1977. Those factors assumed labor costs of an average of 2,000 manhours per airplane x $25.00 per hour and a straight line extra out-of-service time of 14 days, with revenue loss of $16,570 per aircraft day. With some 431 known aircraft in the non-U.S. world fleet, the following results from the application of the NPRM termination date:

NON-U.S. FLEET—1/1/80 COMPLIANCE DATE

(No. of Airplanes) (Days Out-of-Service) (Revenue Loss per Aircraft per Day = Loss of Revenue (431) (14) (16,570) = 100 million

(Cost per Manhour) (Total Manhours Required) (No. of Airplanes) = Total Labor Costs ($25) (2,000) (431) = $21.60 million

Total Cost to Operators = Loss of Revenue + Labor Costs: 100M + 21.60M = 121.6M

The labor costs used for the foreign estimates are within a supportable range but the revenue loss forecast is questionable. Without discrete operator maintenance schedules and aircraft utilization plans, it is impossible to predict revenue impact: the assumption of a straight line down-time of 14 days per aircraft is not necessarily a measurement of revenue loss (compare Pan Am information mentioned earlier). Only 7 out

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of 90 known foreign operators responded with scheduled/plans data.

ENERGY IMPACT

The center section modification will add 66 pounds and the stabilizer modification 141 pounds to the weight of the aircraft. The addition of these 207 pounds will, in turn, result in greater aircraft fuel requirements and consumption. For example, TWA estimated that the center section addition would increase consumption by 265,836 gallons or $110,322 annually, as compared with 833,759 gallons or a cost of $346,010 annually for its fleet, if both the center section and outer panels are modified, and correlative increases for the rest of the fleet are predictable.

INDUSTRY ALTERNATIVE

As an alternative, the ATA proposed to:

1. Modify the center section by December 31, 1982, or 8,000 landings, whichever is later; *but*

2. Continue inspecting the outer panels until retirement of the aircraft. The estimate for this program was as follows:

	Principal U.S. airlines	Other airlines
Total No. of Aircraft	117	424
Cost of Out-of-Service Time	0	0
Cost of Labor (See prior tables)	$1,938,836	$3,180,000
Revenue passenger miles service lost	0	0
Cost of Repetitive Eddy Current Inspection	Negligible	Negligible
Total cost	$5,118,836	

The ATA concludes that its proposed program will provide a level of safety within the intent of CAR 4b and FAR Part 39. In addition, they believe it will prevent the loss of approximately 1.18 billion revenue seat miles of service offered by ATA member airlines to the public, and will cost the ATA member airlines approximately $44.02 million less than the FAA-proposed program for their fleet. The ATA proposed program is also alleged to prevent the loss of approximately 4.42 billion seat miles of service offered by the worldwide 707 operators and would cost approximately $160.4 million less than the FAA-proposed program for the worldwide fleet.

The ATA bases its position primarily upon the following rationale:

1. Under current FAA noise regulations, these aircraft must meet upgrade noise requirements by January 1, 1985. It is unlikely that the aircraft would be retrofitted to meet those requirements and will probably be retired. Consequently, the FAA proposal would require a "very expensive modification which must be amortized over a very short period."

2. There have been no chordwise cracks reported in the center section rear spar upper chord and, as long as the inspections of Boeing Service Bulletin (S.B.) 3331 are continued, airworthiness will be assured until December 31, 1982, when terminating action (modification) can be accomplished with little or no down-time.

3. Although all of the modification kits can be delivered by January 1, 1980, accomplishing the modifications specified in both S.B. A3313 and S.B. 3331, as proposed, by January 1, 1980, is logistically impracticable for many of the airlines and a "massive removal of aircraft from revenue service with resultant loss of public service and revenue loss to the operators" would occur.

4. The stabilizer rear spar upper chord meets the intent of CAR § 4b-270, provided the special eddy current inspections specified in S.B. A3313 are continued as required by AD 77-16-11.

5. The ATA program would permit most of the center section modifications to be accomplished during regularly scheduled major aircraft maintenance visits. These modifications can be performed without removal of the center section, with substantial savings in cost to the airlines.

The Boeing Commercial Airplane Company commented that its production schedule for supplying the kits will not allow mandatory completion of all affected airplanes by January 1, 1980; that the outboard panels can be maintained safely by inspection; and, regarding the center section, that it endorses mandatory modification, but due to non-availability of kits, concurs in the ATA request for extension to a December 31, 1982 compliance date.

For the reasons discussed at length in the adopted rule, the above alternate which would not result in compliance of the outboard stabilizer with its certification basis, is not acceptable to the FAA, even though it obviously has a less burdensome economic impact on the industry. The paramount consideration in this rulemaking is not economic, but safety: modification of both the outboard and center stabilizer structure is required (see complete discussion in rule). Also, Boeing's comments on logistic capability is not reflective of developments since the issuance of the NPRM (see "materiel availability" discussion above).

ANALYSIS

General. The FAA has carefully reviewed all of the data submitted in response to the NPRM. In addition, the agency has compared the data received, particularly labor costs and U.S. revenue loss predictions, with information on file with or compiled by the Civil Aeronautics Board, as well as with industry marketing sources. Consultation was also had within the agency through its principal maintenance inspectors with respect to airline maintenance scheduling. The labor cost information obtained from the inaugural program of Western Airlines was most helpful.

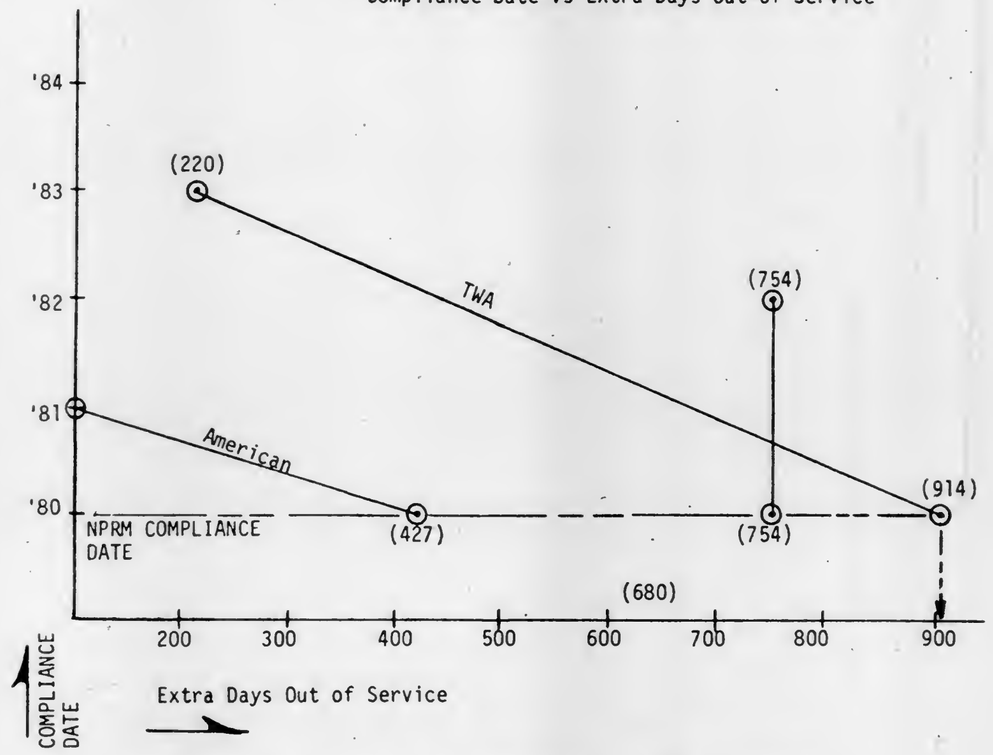
Factors. The pivotal consideration in determining the economic impact of the proposal to the affected industry is the compliance or termination date for accomplishing the modifications. Labor costs will increase with date advancement. On the other hand, revenue loss is related to airline capability to accomplish all or a part of the modification work during regular or scheduled maintenance visits, as opposed to special visits which will require extra (or unscheduled) out-of-service time. The latter aspect of this study is somewhat elusive. Western's program has been completed; and American states it can complete its program with zero loss by January 1, 1981. TWA indicates a generally downward sloping curve for out-of-service time as the termination date is advanced. The FAA has been advised by the engineering department of Pan American that it expects the total impact cost of the proposal to approximate five to six million dollars, representing labor, facility changes, and an interest allocation for aircraft which are planned to be sold but for which some delay will be absorbed to accomplish the modification. In addition, some of Pan American's aircraft are already out of regularly scheduled service for reasons other than the proposal. The ATA assumption, therefore, of a $18,570/day loss factor for Pan American's aircraft is not validated.

The following tables portray the results of this study. The first figure displays the relationship of alternative compliance dates versus unscheduled out-of-service impact (in days):

[4910-13-C]

TABLE 5

Center Section & Outer Panel Mod.,
Compliance Date vs Extra Days out of Service



NOTE: OUT OF SERVICE DAYS ARE TABULATED BELOW FOR DIFFERENT COMPLIANCE DATES.

	AM	TWA	PAN AM*	TOTAL
1 Jan 1980	427.	914	754	2095
1 Jan 1981	0	680	754	1434
1 Jan 1982	0	450	754	1204
1 Jan 1983	0	220	754	974

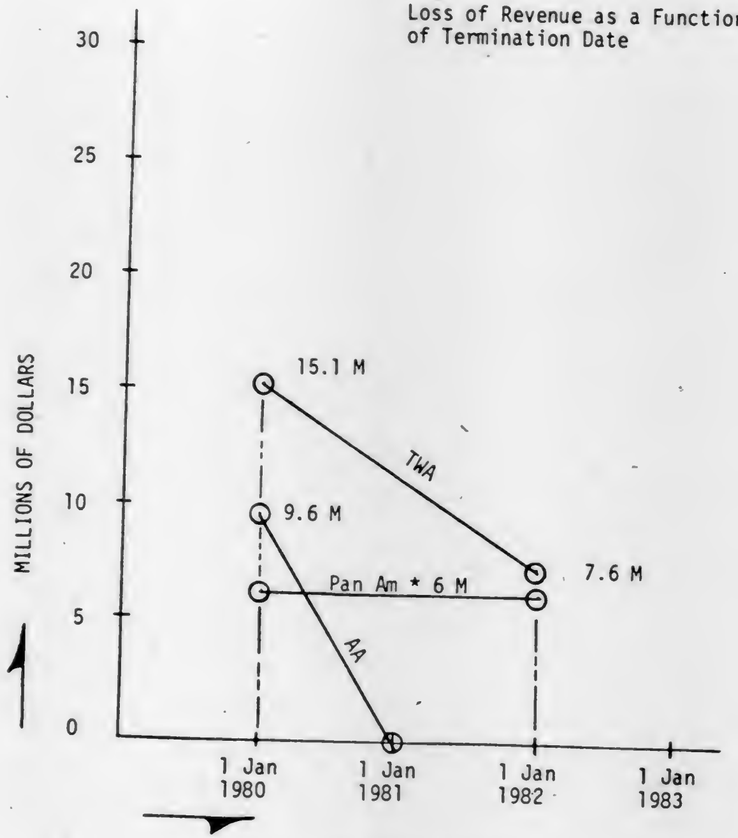
* Does not necessarily represent lost revenue days.

V 4 4 / 8 JAN 11 79 UMI

Translated into dollar losses, Table 6 shows total loss of revenue for each principal U.S. carrier in relation to termination date:

TABLE 6

Loss of Revenue as a Function of Termination Date



* TOTAL COST (INCLUDING LABOR)

In summary, the total cost to the U.S. fleet (excluding Western Airlines which has completed its program) may be shown as follows:

SUMMARY

DAYS OUT OF SERVICE VS ALTERNATE TERMINATION DATES

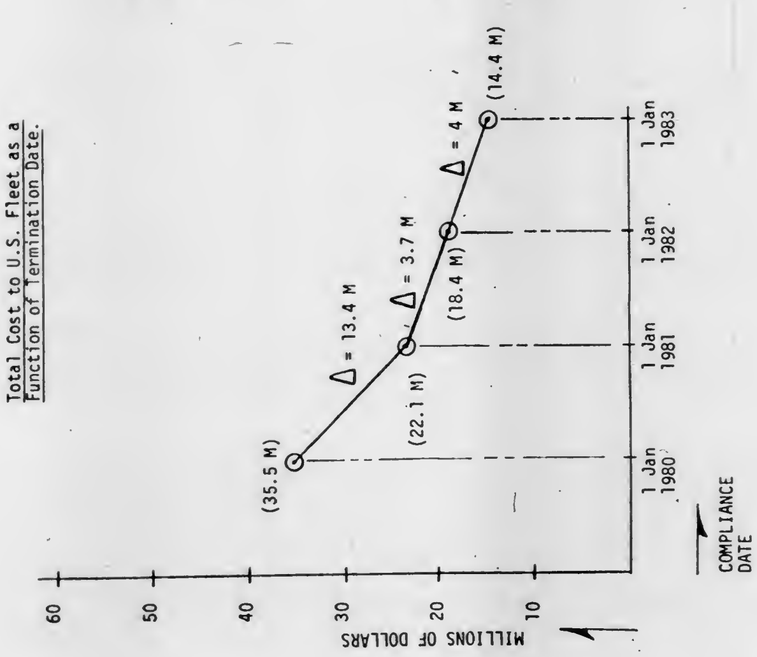
TERM DATE	1 JAN 1980	1 JAN 1981	1 JAN 1982	1 JAN 1983
DAYS OUT OF SERV.				
AA	427	0	0	0
TWA	914	680	450	220
PAN AM	754	754	754	754

TOTAL COST TO U.S. FLEET VS ALTERNATE TERMINATION DATES

TERM DATE	1 JAN 1980	1 JAN 1981	1 JAN 1982	1 JAN 1983
COST TO U.S. FLT	35.5M	22.1M	18.4M	14.4M
△ COST		13.4M	3.7M	4M

TABLE 7

Total Cost to U.S. Fleet as a Function of Termination Date.



V 4 4 / 8 J A 1 1 7 9 UMI

V 4 4 / 8 J A 1 1 7 9 UMI

In conclusion, as noted in the preamble of the AD, in light of the alternate modification date being chosen, additional safety assurance during the one year extension is being provided by a shortening of the inspection cycles currently required by AD's 77-16-11 and 78-01-04 from 375 to 325 cycles during that one year period. As ATA pointed out in its comments, the relative cost of repetitive eddy current inspections is negligible. The same is true for the decrease in the inspection interval being adopted.

[FR Doc. 79-577 Filed 1-10-79; 8:45 am]

[4910-13-M]

[Docket No. 78-NW-29-AD, Amdt. 39-3392]

PART 39-AIRWORTHINESS DIRECTIVES

Boeing Model B-17F and G Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT

ACTION: Final Rule.

SUMMARY: FAA Airworthiness Directive 77-17-11, (Amdt. 39-3025, 42 FR 43385) requires inspection of the wing rear spar lower chord on Boeing Model B-17 airplanes. The AD is amended herein to allow an alternate repair and inspection method.

EFFECTIVE DATE: January 23, 1979.

ADDRESS: FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108.

FOR FURTHER INFORMATION CONTACT:

Mr. Iven Connally, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108, telephone (206) 767-2516.

SUPPLEMENTARY INFORMATION: AD 77-17-11 requires removal of certain bolts in the rear spar lower chord splice plates and inspection of the spar chord for cracks. The AD also requires a repeat inspection interval of 50 flight hours or 12 months, whichever comes first. Since issuance of the AD an alternate rework and inspection procedure has been developed which provides an equivalent level of safety. The AD is, therefore, amended to provide for the alternate procedure.

Since this amendment imposes no additional burden on any person, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

ADOPTION OF AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by amending Airworthiness Directive No. 77-17-11 (Amdt. 39-3025, 42 FR 43385), as follows:

BOEING: Applies to Model B-17F and G airplanes.

1. Revise paragraph (3) to read:

(3) After repairs per (2) have been accomplished, reinspect in accordance with (1) at intervals not to exceed 150 hours time-in-service or every 12 months, whichever comes first.

2. Add a new paragraph (4) to read:

(4) The bolt holes described in paragraph (1) above may be reamed .063 inch oversize for a close tolerance oversize bolt, provided no cracks are detected when the chords are inspected in accordance with paragraph (1) above using the eddy current inspection methods. Any holes reworked with the oversize bolts must be reinspected in accordance with (1) above within 1500 flight hours after such rework. Upon accumulation of 1500 flight hours on the reworked holes, the repeat inspection interval reverts to the interval specified in (3) above.

3. Add a new paragraph (5) to read:

(5) Any new replacement beam chords must be inspected within 2500 flight hours after installation and thereafter at intervals specified in paragraph (3) above.

This amendment becomes effective January 23, 1979.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423) and Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c); and 14 CFR 11.89.)

(NOTE.—The FAA has determined that this document involves a regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).)

Issued in Seattle, Washington, on January 2, 1979.

C. B. WALK, Jr.,
Director,
Northwest Region.

[FR Doc. 79-826 Filed 1-10-79; 8:45 am]

[4910-13-M]

[Docket No. 78-EA-111; Amdt. 39-3391]

PART 39—AIRWORTHINESS DIRECTIVES

Piper Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: This amendment issues a new airworthiness directive applicable to Piper PA-38-112 type airplanes which requires an inspection and alteration or replacement of the engine mount. It also requires an inspection and alteration of the magnetic compass. The purpose of this rule is to preclude nose gear failure due to weakened engine mount tubes, and preclude malfunctioning compasses.

EFFECTIVE DATE: January 16, 1979. Compliance is required within the next 50 hours in service.

ADDRESS: Piper Service Bulletins may be acquired from the manufacturer at Piper Aircraft Corporation, 820 East Bald Eagle Street, Lock Haven, Pennsylvania 11745.

FOR FURTHER INFORMATION CONTACT:

C. Kallis, Airframe Section, AEA-212, Engineering and Manufacturing Branch, Federal Building, J.F.K. International Airport, Jamaica, New York 11430; Tel. 212-995-2875.

SUPPLEMENTARY INFORMATION: There had been reports of failures of the engine mount assemblies involving the lower support tubes which also support the nose gear. Such failure could also cause failure of the nose gear. Since this is a deficiency which can exist or develop in similar type airplanes, an airworthiness directive is being issued which requires an inspection of the tubes for bends and cracks and replacement where they are found or alteration where not found. Since a question of air safety is involved, notice and public procedure hereon are impractical and good cause exists for making the rule effective in less than 30 days.

ADOPTION OF THE AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by issuing a new airworthiness directive, as follows:

Applies to Piper Model PA-38-112 Serial Nos. as indicated, certificated in all categories.

To prevent possible nose-gear failure associated with weakening of the engine-mount, and to prevent malfunctioning of the compass, accomplish the following unless previously accomplished:

(a) Applies to Piper Model PA-38-112, Serial Nos. 38-78A0001 thru 38-78A0652. Within the next 50 hours in service after the effective date of this AD inspect and alter or replace the engine-mount in accordance with the "Instructions" Section of Part I in Piper Service Bulletin No. 617 dated October 12, 1978, or equivalent.

(b) Applies to Piper Model PA-38-112, Serial Nos. 38-78A0660, thru 38-78A0663, 38-78A0670, thru 38-78A0678.

Within the next 50 hours in service, after the effective date of this AD, seal the lower engine-mount tubes per instruction No. 4 step I of Part I of Piper Service Bulletin No. 617, dated October 12, 1978, or equivalent.

(c) Applies to Piper Model PA-38-112, Serial Nos. 38-78A0300, 38-78A0400, 38-78A0433, 38-78A0464, 38-78A0511, 38-78A0533, 38-78A0536, 38-78A0539, 38-78A0542, 38-78A0545, 38-78A0549, 38-78A0554, 38-78A0557, 38-78A0560, 38-78A0563, 38-78A0566, 38-78A0569, 38-78A0572, 38-78A0575, 38-78A0582, 38-78A0583, 38-78A0586, 38-78A0589, 38-78A0593, 38-78A0597, 38-78A0600, 38-78A0607, 38-78A0608, 38-78A0611, 38-78A0615, 38-78A0618, 38-78A0619, 38-78A0621, thru 38-78A0624, 38-78A0626, 38-78A0627, 38-78A0629, 38-78A0630, thru 38-78A0632, 38-78A0636, thru 38-78A0638, 38-78A0640, 38-78A0642, 38-78A0644, thru 38-78A0649, 38-78A0651, 38-78A0652, 38-78A0660, thru 38-78A0663, 38-78A0670, thru 38-78A0678.

Within the next 50 hours in service, after the effective date of this AD, check the compass compensation and demagnetize the engine-mount if necessary in accordance with the "Instructions" Section of Part III in Piper Service Bulletin 617 dated October 12, 1978, or equivalent.

(d) Equivalent inspections, repairs or alterations must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

(e) Upon submission of substantiating data through an FAA Maintenance Inspector, the compliance times specified in this AD may be adjusted by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region. Effective Date: This amendment is effective January 16, 1979.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, 49 U.S.C. 1354(a), 1421, and 1423; Sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c); and 14 CFR 11.89.)

Issued in Jamaica, New York, on January 2, 1979.

L. J. CARDINALI,
Acting Director,
Eastern Region.

[FR Doc. 79-825 Filed 1-10-79; 8:45 am]

[4910-13-M]

[Docket No. 78-CE-21-AD; Amendment 39-3371]

PART 39—AIRWORTHINESS DIRECTIVES

Cessna Models A150M and A152 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction of Final Rule.

SUMMARY: This action corrects a rule issued on December 7, 1978, and appearing in FR Doc. 78-34966 on pages 58805 and 58806 in the issue of Monday, December 18, 1978 (78-CE-21-AD). An airplane serial number was incorrectly cited in the Applicability Statement of the Airworthiness Directive (AD) which necessitates this correction.

EFFECTIVE DATE: December 22, 1978.

FOR FURTHER INFORMATION CONTACT:

William L. Schroeder, Aerospace Engineer, Engineering and Manufacturing Branch, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106; Telephone (816) 374-3446.

SUPPLEMENTARY INFORMATION: The FAA issued a final rule with an effective date of December 22, 1978. In the final rule, in the Applicability Statement of the AD, the beginning serial number for Model A150M airplanes was incorrectly cited as "A1500645". It should read "A1500654". Action is taken herein to make this correction. Since the change is relieving in nature, notice and public procedure thereon are not considered necessary.

In FR Doc 78-34966 appearing at pages 58805 and 58806 in the FEDERAL REGISTER of December 18, 1978, line 2 of the AD Applicability Statement appearing on page 58806 should be corrected to read "Numbers A1500654 through A1500734".

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421 and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.89 of the Federal Aviation Regulations (14 CFR Sec. 11.89)).

Issued in Kansas City, Missouri on January 2, 1979.

C. R. MELUGIN, Jr.,
Director, Central Region.

[FR Doc. 79-970 filed 1-10-79; 8:45 am]

[4910-13-M]

[Docket No. 78-GL-9; Amdt. No. 39-3390]

PART 39—AIRWORTHINESS DIRECTIVES

Enstrom Model F-28C and 280C Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This airworthiness directive (AD) requires replacement of a fitting in the induction system and the retorquing and staking of three cap screws on the turbocharger on Enstrom Model F-28C and 280C helicopters. The adopted AD is prompted by service difficulty reports which could result in loss of engine power or complete engine failure.

DATES: Effective—January 17, 1979.

FOR FURTHER INFORMATION CONTACT:

Cornelius Biemond, Engineering and Manufacturing Branch, Flight Standards Division, AGL-217, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-4500, extension 460.

SUPPLEMENTARY INFORMATION: There have been reports of cap screws on the bearing housing backing out in service thus allowing the loss of engine lubricating oil, and of a nut installed inside the induction air inlet container backing off and traveling through the turbocharger on Model 280C helicopters. Either of these reported problems could result in the loss of engine power. Since this condition is likely to exist or develop on other helicopters of the same type design, the proposed AD would require the retorquing and staking of the screws which attach the bearing housing flange to the turbocharger and the replacement of the AN815-6D fitting on the induction air inlet container with an AN832-6D bulkhead fitting installed so that the AN924-6D nut is outside the induction air inlet container on Enstrom Models F-28C and 280C.

THE AMENDMENT

Accordingly, the Federal Aviation Administration hereby amends § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

ENSTROM HELICOPTERS. Applies to Enstrom Model F-28C and 280C helicopters certificated in all categories. Compliance required as indicated, unless previously accomplished. In order to prevent damage to the turbocharger and possible engine power loss accomplish the following:

Within 50 hours time in service after the effective date of this AD, accomplish the following:

A. Inspect the Rajay turbocharger. If the turbocharger serial number is 70484 or greater, proceed with step B. If the turbocharger serial number is less than 70484 accomplish the following:

1. Remove the turbocharger from the helicopter in accordance with the Enstrom Maintenance Manual.

2. Using a 5/32 Allen wrench, remove the six counter-sunk cap screws that secure the compressor housing to the bearing housing assembly. If necessary, gently tap the compressor housing with a plastic hammer to loosen it from the bearing housing assembly.

3. Torque the three bearing housing flange attachment screws on the turbocharger to 90±10 inch-pounds. "Stake" the screws in place in accordance with the sketch and notes which follow this AD.

4. Reinstall the compressor housing by placing the turbocharger on the compressor housing using a new gasket, Rajay P/N TC6-44. Secure with six cap screws and tighten evenly and alternately to 90±10 inch-pounds.

5. Reinstall the turbocharger in the helicopter in accordance with the Enstrom Maintenance Manual.

B. Remove the induction system air inlet filter in accordance with the Enstrom Maintenance Manual.

C. Remove the AN815-6D union which attaches the fuel nozzle air vent installation to the induction system air inlet filter container. Save the AN924-6D nut which was

holding the union in place, for reinstallation, in accordance with step D.

D. Install an AN832-6D union, in place of the AN815-6D union, so that the AN924-6D nut is *outside* of the filter container.

E. Attach the fuel nozzle air vent line to the AN832-6D union.

F. Replace the air filter in accordance with the Enstrom Maintenance Manual.

Equivalent methods of compliance may be approved by the Chief, Engineering and Manufacturing Branch, FAA Great Lakes Region.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1655(c)); and 14 CFR 11.89.)

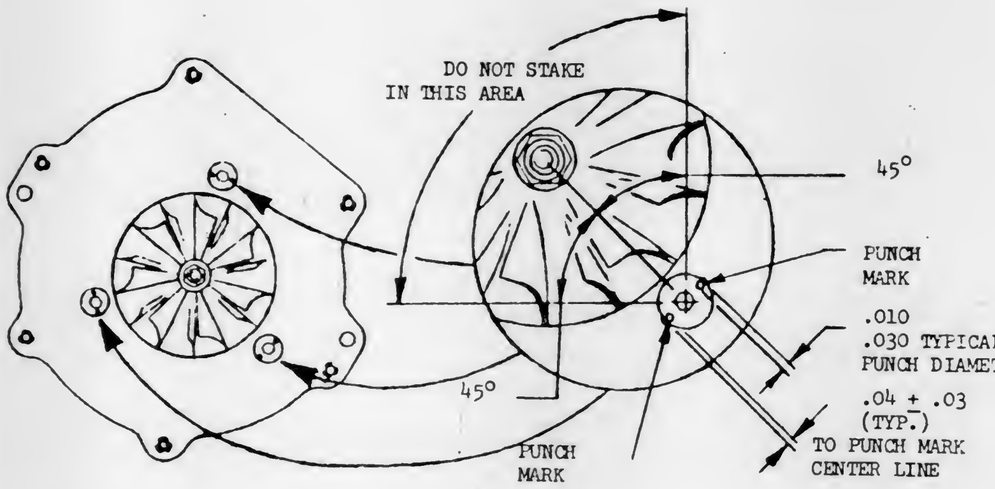
This Airworthiness Directive becomes effective Jan. 17, 1979.

The Federal Aviation Administration has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Des Plaines, Illinois on January 2, 1979.

WAYNE J. BARLOW,
Acting Director,
Great Lakes Region.

SKETCH



VIEW LOOKING AT THE TURBOCHARGER WITH THE COMPRESSOR HOUSING REMOVED

DETAIL OF STAKED SCREWS

[FR Doc. 79-971 Filed 1-10-79; 8:45 am]

[4910-13-M]

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

[Docket No. 18626; Amdt. No. 1128]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from: 1. FAA Public Information Center (APA-430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, may be ordered from Superintendant of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The annual subscription price is $135.00.

FOR FURTHER INFORMATION CONTACT:

William L. Bersch, Flight Procedures and Airspace Branch (AFS-730), Aircraft Programs Division, Flight Standards Service, Federal Aviation Administration. 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. § 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4 and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the FEDERAL REGISTER expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.m.t. on the dates specified, as follows:

1. By amending § 97.23 VOR-VOR/DME SIAPs identified as follows:

* * * *Effective February 22, 1979*

Jasper, AL—Walker County, VOR/DME Rwy 29, Amdt. 1
Napa, CA—Napa County, VOR Rwy 6, Admt. 8
Santa Ana, CA—Orange County, VOR Rwy 1L, Amdt. 1
Santa Ana, CA—Orange County, VOR Rwy 19R, Amdt. 18
Willows, CA—Willows-Glenn County, VOR Rwy 34, Amdt. 3
Willows, CA—Willows-Glenn County, VOR/DME Rwy 34, Amdt. 3
Ormond Beach, FL—Municipal Airport Ormond Beach, VOR Rwy 8, Amdt. 7
Vero Beach, FL—Vero Beach Muni, VOR Rwy 11, Amdt. 10
Vero Beach, FL—Vero Beach Muni, VOR/DME Rwy 29, Original
Dublin, GA—Dublin Municipal, VOR Rwy 26, Amdt. 2, cancelled
Dublin, GA—Dublin Municipal, VOR-A, Original
Manito, IL—Waddell, VOR-A, Amdt. 1
Fort Wayne, IN—Fort Wayne Muni (Baer Field), VOR Rwy 4 (TAC), Amdt. 13
Fort Wayne, IN—Fort Wayne Muni (Baer Field), VOR Rwy 9, Amdt. 8
Fort Wayne, IN—Fort Wayne Muni (Baer Field), VOR Rwy 13, Amdt. 9
Fort Wayne, IN—Fort Wayne Muni (Baer Field), VOR Rwy 22 (TAC), Amdt. 5
Lafayette, IN—Halsmer, VOR/DME-B, Amdt. 5
Clinton, IA—Clinton Muni, VOR Rwy 3, Amdt. 6
Clinton, IA—Clinton Muni, VOR/DME Rwy 21, Amdt. 1
Oskaloosa, IA—Oskaloosa Muni, VOR/DME Rwy 31, Original
Dowagiac, MI—Cass County Memorial, VOR-A, Amdt. 4
Muskegon, MI—Muskegon County, VOR-A (TAC), Amdt. 14
Muskegon, MI—Muskegon County, VOR/DME Rwy 5, Amdt. 5
Grand Rapids, MN—Grand Rapids Itasca County, VOR Rwy 34, Amdt. 7
Marshall, MN—Marshall Municipal-Ryan Field, VOR Rwy 12, Amdt. 3
Mohall, ND—Mohall Muni, VOR/DME Rwy 31, Original
Mohall, ND—Mohall Muni, VOR/DME Rwy 31, Original, cancelled
Charleston, SC—Charleston AFB/Muni, VOR Rwy 15 (TAC), Amdt. 10
Logan, UT—Logan-Cache, VOR Rwy 17, Original, cancelled
Logan, UT—Logan-Cache, VOR-A, Amdt. 3
Logan, UT—Logan-Cache, VOR-C, Original
Clarksburg, WV—Benedum, VOR Rwy 3, Amdt. 10
Fairmont, WV—Fairmont Muni, VOR/DME Rwy 22, Amdt. 2
Morgantown, WV—Morgantown Muni-Walter L. Bill Hart Field, VOR-A, Amdt. 9
Morgantown, WV—Morgantown Muni-Walter L. Bill Hart Field, VOR/DME Rwy 18, Amdt. 3
Burlington, WI—Burlington Municipal, VOR Rwy 29, Amdt. 3
Kenosha, WI—Kenosha Municipal, VOR Rwy 14, Amdt. 4
Lake Geneva, WI—Playboy, VOR Rwy 23, Amdt. 4
Rhinelander, WI—Rhinelander-Oneida County, VOR Rwy 5, Amdt. 7
Rhinelander, WI—Rhinelander-Oneida County, VOR Rwy 15, Amdt. 10
Rhinelander, WI—Rhinelander-Oneida County, VOR/DME Rwy 23, Amdt. 5

2. By amending § 97.25 SDF-LOC-LDA SIAPs identified as follows:

* * * *Effective February 22, 1979*

Santa Ana, CA—Orange County, LOC BC Rwy 1L, Amdt. 8
Santa Ana, CA—Orange County, LOC Rwy 19R, Amdt. 8
Fort Wayne, IN—Fort Wayne Muni (Baer Field), LOC BC Rwy 13, Amdt. 6

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Fort Wayne, IN—Fort Wayne Muni (Baer Field), LOC BC Rwy 22, Amdt. 2
Muskegon, MI—Muskegon County, LOC BC Rwy 14, Amdt. 3

3. By amending § 97.27 NDB/ADF SIAPs identified as follows:

• • • *Effective February 22, 1979*

Aniak, AK—Aniak, NDB Rwy 28, Amdt. 7
Aniak, AK—Aniak, NDB/DME Rwy 28, Original
Fort Wayne, IN—Fort Wayne Muni (Baer Field), NDB Rwy 31, Amdt. 17
Clinton, IA—Clinton Muni, NDB Rwy 3, Original
Clinton, IA—Clinton Muni, NDB Rwy 3, Amdt. 3, cancelled
Clinton, IA—Clinton Muni, NDB Rwy 14, Original
Clinton, IA—Clinton Muni, NDB Rwy 14, Amdt. 3, cancelled
Covington, KY—Greater Cincinnati, NDB Rwy 9R, Amdt. 6
Covington, KY—Greater Cincinnati, NDB Rwy 18, Amdt. 11
Covington, KY—Greater Cincinnati, NDB Rwy 36, Amdt. 25
Gaylord, MI—Otsego County, NDB Rwy 9, Original
Muskegon, MI—Muskegon County, NDB Rwy 32, Amdt. 5
Troy, MI—Oakland-Troy, NDB-A, Amdt. 2
Grand Rapids, MN—Grand Rapids Itasca County, NDB Rwy 34, Amdt. 3
Fairbury, NE—Fairbury Muni, NDB Rwy 17, Original
Fairbury, NE—Fairbury Muni, NDB-A, Original
Cadiz, OH—Harrison County, NDB Rwy 13, Amdt. 1
Marysville, OH—Union County, NDB Rwy 27, Amdt. 2
Greenville, SC—Greenville-Downtown, NDB Rwy 36, Amdt. 17
Logan, UT—Logan-Cache, NDB-B, Amdt. 2
Omak, WA—Omak, NDB-A, Amdt. 1
Clarksburg, WV—Benedum, NDB Rwy 21, Amdt. 5
Fairmont, WV—Fairmont Muni, NDB-A Amdt. 4
Morgantown, WV—Morgantown Muni-Walter L. Bill Hart Field, NDB Rwy 18, Amdt. 13
Kenosha, WI—Kenosha Municipal, NDB Rwy 14, Amdt. 7

4. By amending § 97.29 ILS-MLS SIAPs identified as follows:

• • • *Effective February 22, 1979*

Aniak, AK—Aniak, ILS/DME Rwy 10, Amdt. 2
Santa Ana, CA—Orange County, ILS Rwy 19R, Amdt. 7
Orlando, FL—Orlando International, ILS Rwy 36L, Amdt. 6
Orlando, FL—Orlando International, ILS Rwy 36R, Amdt. 2
Fort Wayne, IN—Fort Wayne Muni (Baer Field), ILS Rwy 4, Amdt. 4
Fort Wayne, IN—Fort Wayne Muni (Baer Field), ILS Rwy 31, Amdt. 20
Covington, KY—Greater Cincinnati, ILS Rwy 9R, Amdt. 7
Covington, KY—Greater Cincinnati, ILS Rwy 18, Amdt. 11
Covington, KY—Greater Cincinnati, ILS Rwy 27L, Amdt. 5
Covington, KY—Greater Cincinnati, ILS Rwy 36, Amdt. 27
Muskegon, MI—Muskegon County, ILS Rwy 32, Amdt. 10
Grand Rapids, MN—Grand Rapids Itasca County, MLS Rwy 34 (Interim), Amdt. 3
Greenville, SC—Greenville Downtown, ILS Rwy 36, Amdt. 22
Clarksburg, WV—Benedum, ILS Rwy 21, Amdt. 6
Morgantown, WV—Morgantown Muni-Walter L. Bill Hart Field, ILS Rwy 18, Amdt. 6

5. By amending § 97.31 RADAR SIAPs identified as follows:

• • • *Effective February 22, 1979*

Ormond Beach, FL—Municipal Airport Ormond Beach, RADAR-1, Amdt. 1
Fort Wayne, IN—Fort Wayne Muni (Baer Field), RADAR-1, Amdt. 13
Covington, KY—Greater Cincinnati, RADAR-1, Amdt. 17
Muskegon, MI—Muskegon County, RADAR-1, Amdt. 4
Greenville, SC—Greenville-Downtown, RADAR-1, Amdt. 11

6. By amending § 97.33 RNAV SIAPs identified as follows:

• • • *Effective February 22, 1979*

Clinton, IA—Clinton Muni, RNAV Rwy 21, Amdt. 3
Dowagiac, MI—Cass County Memorial, RNAV Rwy 9, Amdt. 1
Muskegon, MI—Muskegon County, RNAV Rwy 14, Amdt. 4

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. §§ 1348, 1354(a), 1421, and 1510); Sec. 6(c), Department of Transportation Act (49 U.S.C. § 1655(c)); and 14 CFR 11.49(b)(3).)

NOTE—The FAA has determined that this document involves a regulation which is not significant under the procedures and criteria prescribed by Executive Order 12044 and implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Washington, D.C. on January 5, 1979.

NOTE.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on May 12, 1969.

JAMES M. VINES,
Chief,
Aircraft Programs Division.

[FR Doc. 79-972 Filed 1-10-79; 8:45 am]

[6450-01-M]

Title 18—Conservation of Power and Water Resources

CHAPTER I—FEDERAL ENERGY REGULATORY COMMISSION, DEPARTMENT OF ENERGY

[Docket No. RM78-10]

PART 1—RULE OF PRACTICE AND PROCEDURE

Order Denying Rehearing

JANUARY 3, 1979.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final order.

SUMMARY: This order denies an application for rehearing of Order No. 14 which was issued November 3, 1978, (43 FR 52219, November 9, 1978) and established procedures for the review of remedial orders issued by the Secretary of Energy. Upon review, the Commission finds that the application for rehearing presents no new facts or principles of law which were not considered in Order No. 14, or which would warrant any change in the order.

EFFECTIVE DATE: January 3, 1979.

FOR FURTHER INFORMATION CONTACT:

Alexander M. Peters, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, 202-275-4227.

Order No. 14 was issued by the Commission on November 3, 1978, and established procedures for Commission review of remedial orders issued by the Secretary of Energy. A public hearing was held on May 25, 1978. In addition, thirty-three written comments were received and considered prior to the issuance of the final regulations.

On December 4, 1978, Taunton Municipal Lighting Plant, Taunton, Massachusetts ("Taunton") and the Cities of Alachua, Bartow, Bushnell, Chattahoochee, Fort Meade, Lake Helen, Liesburg, Mount Dora, Newberry, Ocala, Quincy, and Williston, Florida ("Florida Cities") applied for a rehearing of Order No. 14 pursuant to § 1.34 of the Commission's rules of practice and procedure, 18 CFR 1.34. The petition for rehearing is denied.

Taunton and Florida cities state that there are six aspects of the regulations that should be reconsidered:

(a) The application for rehearing asks that the time frame for filing requests for permission to intervene and the detail required in the request be modified. Taunton and Florida Cities claim that the party requesting intervention must set forth its position in detail, request permission to raise new facts or issues, and request discovery "before the Secretary even files the contested order or the record of prior

proceedings, and long before the Secretary or the contesting petitioner have revealed their positions on the contested order." Section 1.38(f)(3)(iv) provides that the deadline for filing a request to intervene is the same as the deadline for the Secretary to file a copy of the certified record with the Commission (§ 1.38(f)(1)(i)). However, because of the prior proceedings, any potential intervenor is on notice of the proceedings and has knowledge of the facts.[1] Section 1.38(d)(1) provides that a copy of the contested order be served on other participants in the prior proceedings including persons denied intervention in those proceedings. While the Commission recognizes that it may be burdensome for an intervenor to submit his entire case in the petition to intervene, it has determined that, in view of the nature of the proceeding, this burden is justified. The purpose of the proceeding is to expeditiously provide the recipient of a remedial order with administrative review of the sufficiency of the order by a body not involved in the issuance of the order. S. Rep. No. 95-367, 95th Congress, 1st Sess. 85 (1977). Congress intended that the time and financial burden on the recipient of the order occasioned by the review be minimized. Accordingly, section 503(d) of the DOE Act provides that the Secretary may impose reasonable time limits on Commission review. While not statutorily required, the Commission has provided in § 1.38 opportunity for intervention by persons who will be directly affected by Commission action in the proceeding and whose interest is not adequately represented by existing parties. However, in an effort to balance the competing interests of providing an expedious review minimizing the burden on the recipient of the order and of providing qualified persons the opportunity to intervene, the Commission determined that intervenors shall be required to state their case in full sufficiently early in the proceeding so as to not unduly delay the proceeding. In addition, the presiding officer may authorize a late filing in extraordinary circumstances and for good cause shown (§ 1.38(f)(3)(iv)). Accordingly, the regulations are sufficiently flexible so that a presiding officer could insure a full disclosure of the facts and yet provide a balance between permitting persons an opportunity to intervene and burdening the proceeding with the delay and complexity caused by the intervention.

[1] 10 CFR 205.199B(b) provides that a copy of any final remedial order be served on, among others, "any person readily identifiable by the ERA as one who is aggrieved by the order."

In addition, a remedial order must "include a statement which sets forth the relevant facts and legal basis supporting the determination." 10 CFR 205.199B(a).

(b) Second, Taunton and Florida Cities ask that § 1.38(g) of the regulations be modified to broaden the circumstances under which an intervenor may raise new facts and issues. They contend that intervenors who support the remedial order may be precluded from raising relevant new facts or issues because the contesting petitioner did not choose to raise such issues in the prior proceedings. However, what they are in actuality requesting is that intervenors be given broader latitude in raising new facts or issues than either the petitioner or the Secretary; that is, that these intervenors may be permitted to raise any new facts or issues which are necessary for a full and true disclosure of the facts, without regard as to whether these could have been raised before the Secretary. As the Commission stated in the Preamble to Order No. 14, "in the interest of administrative efficiency, the parties should be required to present their case fully before the Secretary and • • • the Commission proceedings should be directed toward correcting inequities in the prior proceedings." Accordingly, the Commission does not agree that § 1.38(g), which permits intervenors to raise new facts and issues under essentially the same criteria as the petitioner, and under more liberal criteria than the Secretary, should be modified.

(c) Taunton and Florida Cities also request that § 1.38(h) be modified to provide for requests for permission to conduct discovery by any party of new facts or issues raised by any party. Taunton and Florida Cities requested such a provision in their comments on the proposed regulations filed June 5, 1978. The Commission considered the request and determined that intervenors would be adequately protected by allowing the Secretary to request discovery for new facts and issues raised by the petitioner (§ 1.38(g)(2)).

(d) Section 1.38(m)(3) provides that after the presiding officer issues a proposed order, participants may submit comments on the proposed order and on rulings of the presiding officer directly to the Commission. The application for rehearing requests that § 1.38(m)(3) be modified to permit replies to those comments to be also submitted directly to the Commission. The Commission considered and rejected this same request in Taunton and Florida Cities' comments on the propsed regulations. The Commission believes that the comments provided for in the regulations give ample opportunity for participants to communicate their views to the Commission and that the time and burden required by permitting replies is unwarranted.

(e) The application for rehearing states that § 1.38(f) should be changed to allow the introduction of new facts or issues at later stages of the proceedings and to delete the waiver provisions. The Commission, in its rulemaking proceedings, considered provisions allowing new facts or issues to be raised "under appropriate circumstances." (Comments to Proposed Rulemaking filed by Taunton and Florida Cities on June 5, 1978.)

However, in view of the fact that new facts and issues are not permitted to be raised before the Commission except under certain narrow circumstances, and in view of the Congressional intent that the proceedings before the Commission be expeditious, the Commission feels that it is appropriate to assure that participants be required to raise new facts and issues sufficiently early in the proceeding so that the presiding officer may determine which procedures will be utilized during the proceeding.

(f) Finally, Taunton and Florida Cities requests that §§ 1.38(c)(4)-(7) be modified to provide that, in addition to using confidential information in the context of the proceedings, participants may use confidential information in the course of judicial review of that proceeding. The Commission believes that this modification is beyond its scope of authority and that its jurisdiction is limited in this regard to proceedings before it. The use of confidential information in litigation is a question for the courts to decide.

Upon review, the Commission finds that the application for rehearing presents no new facts or principles of law which were not considered in Order No. 14, or which would warrant any change in the order of November 3, 1978. Taunton's and Florida Cities' application for rehearing shall accordingly be denied.

The Commission orders. Taunton's and Florida Cities' application for rehearing is denied.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-1043 Filed 1-10-79; 8:45 am]

[6450-01-M]

SUBCHAPTER I—OTHER REGULATIONS UNDER THE NATURAL GAS POLICY ACT OF 1978

[Docket No. RM79-12]

PART 286—ADMINISTRATIVE PROCEDURES

Administrative Procedure—Final Regulation Providing for Rehearing of Orders and Rules Issued Under the NGPA

AGENCY: Federal Energy Regulatory Commission.

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ACTION: Final rule.

SUMMARY: This regulation provides for rehearing, at the Commission, of rules and orders issued under the Natural Gas Policy Act. Those persons aggrieved by an agency action subject to rehearing under this rule will be required to seek administrative review prior to judicial review.

EFFECTIVE DATE: January 3, 1979.

FOR FURTHER INFORMATION CONTACT:

Mary Jane Reynolds, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 202-275-4282.

SUPPLEMENTARY INFORMATION: The Natural Gas Policy Act of 1978, Pub. L. 95-612, enacted November 9, 1978, provides a new legislative framework for the regulation of the natural gas industry.

On November 29, 1978, the Commission adopted interim regulations in Docket No. RM79-3, subject to further comment and consideration, to implement those aspects of the new statute requiring immediate treatment—particularly the pricing provisions in Title I which, under section 101(b)(4) of NGPA, became effective on December 1, 1978. 43 FR 56448 (December 1, 1978). As stated in the preamble to these regulations:

> The Commission is directed to administer essentially all of the NGPA and is authorized to perform any and all acts and to prescribe and issue such rules and orders as it finds necessary or appropriate to carry out its functions under the NGPA.

(43 FR 56451) See NGPA, section 501.

The purpose of this regulation is to establish a procedure for rehearing of Commission actions subject to the rehearing requirements in section 506 of NGPA. For the reasons set forth below, we have concluded that those requirements apply to rules and orders subject to review under sections 506 (a) and (b).

Section 506(a) establishes detailed procedures for judicial review in the courts of appeals of any order as defined in 5 U.S.C. 551(6), subject to certain exceptions. Among other things, it specifies time limits, makes the seeking of rehearing a jurisdictional prerequisite to review, and specifies procedures for review of the record by the court. Subsection (b) of section 506 is far less informative. It provides:

> Except as provided in subsections (a) and (c), judicial review of any rule or order, within the meaning of section 551(4) of title 5, United States Code, issued under this Act may be obtained in the United States Court of Appeals for any appropriate circuit pursuant to the provisions of chapter 7 of title 5, United States Code, except that the second sentence of section 705 thereof shall not apply.

Under this language, there is a question whether the procedures and rehearing requirements in section 506(a) also apply to the review of rules under section 506(b).

Section 506(a) of NGPA is similar to the judicial review provisions in section 19(b) of the Natural Gas Act, 15 U.S.C. 717r(b). It has been held that rules promulgated by the Commission under the Natural Gas Act, at least where a record has been developed, are reviewable on petition to the courts of appeals under section 19(b). *City of Chicago, Illinois* v. *FPC*, 458 F. 2d 731 (D.C. Cir. 1971), certiorari denied, 405 U.S. 1074 (1972). All of the procedures applicable to judicial review of orders in section 19(b) of the Natural Gas Act have thus been applied to judicial review of record-based regulations under the Natural Gas Act, including the specified time limits for seeking judicial review requirements for rehearing before the Commission, and provisions for stay. *City of Chicago* did not directly address the reviewability of Commission regulations where no evidentiary record had been compiled, because the rules in that case were based upon an evidentiary record. 458 F. 2d at 740-741. Thus, under the NGA, it is at least arguable that rules not based upon such a record are outside the scope of section 19(b) and therefore may be reviewed only in the district courts. *Id.* at 740. *Cf. United Gas Pipe Line Co.*, v. *FPC*, 181 F. 2d 796, certiorari denied, 340 U.S. 827. Whatever merit this argument might have for purposes of the NGA, subsection (b) of section 506 of NGPA clearly forecloses it for purposes of the NGPA. Congress specified in section 506(b) that judicial review of regulations shall be available in the courts of appeals in accordance with the provisions for judicial review specified in the Administrative Procedure Act, 5 U.S.C. 701-706. But these provisions do not prescribe detailed procedures. Section 703 of that act states only that "the form of proceeding for judicial review is the special statutory review proceeding relevant to the subject matter in a court specified by statute or, in the absence or inadequacy thereof, any applicable form of legal action, including actions for declaratory judgments or writs of prohibitory or mandatory injunction or habeas corpus, in a court of competent jurisdiction. Except to the extent that prior, adequate, and exclusive opportunities for judicial review are provided by law, agency action is subject to judicial review in civil or criminal proceedings for judicial enforcement." Whether rehearing is required or not under Section 506(b) is thus not expressly answered by the APA. We, therefore, turn back to the language and structure of section 506 to determine whether it provides "the special statutory review proceeding" or a guide to "the applicable form of legal action."

Subsection (a) of section 506 provides for review of "orders," *i.e.*, final agency dispositions other than rulemaking but including licensing (5 U.S.C. 551(6)), but excludes orders for civil enforcement under section 504(b)[1] and orders under the emergency authority provisions in sections 302 and 303 of NGPA. Subsection (c) of section 506 provides for judicial review of actions under the emergency authority in the Temporary Emergency Court of Appeals in accordance with the procedure set forth therein. Civil penalty orders are subject to review *de novo* in enforcement proceedings initiated by the Commission in the district courts under section 504(b)(6)(F). Subsection (b) of section 506, relating to rules, however, states that review lies in courts of appeals "except as provided in subsections (a) and (c)." The joint explanatory statement of the Committee on Conference contained in the Conference Report on the NGPA (H.R. Rep. No. 95-72, October 10, 1978) states at page 122 that "[t]he conference agreement provides judicial review based upon the Natural Gas Act * * *." It would appear, therefore, that the limiting phrase "except as provided in subsections (a) and (c)," refers only to the categories of orders excluded from subsection (a) (*i.e.*, orders assessing civil penalties, or any order under sections 302 or 303, relating to emergency authority); and to the matters within the exclusive jurisdiction of TECA under subsection (c), *i.e.* "civil cases and controversies under section 301, 302 or 303, including any order issued, or other action taken, under such section." For the foregoing reasons, the Commission has determined to give effect to the expressed intention of the Statement of Managers that generally the judicial review procedures under the NGPA should follow those under the Natural Gas Act. Thus, insofar as rehearing is concerned the review procedures for rules under section 502(b) will be the same as for rules issued under the Natural Gas Act and follow those expressly provided for under section 502(a). However, the Commission recognizes that there is a key difference in the judicial authority to grant stays pending judicial review of rules issued under the NGPA and the Natural Gas Act.

[1] The exclusion refers to "an order assessing a civil penalty under Section 504(b)(4)." That clause provides for injunctive relief to be issued by a court in any action by the Commission to enforce NGPA, or rules and orders thereunder. Commission orders assessing civil penalties are authorized by Section 504(b)(6). The words of the statute indicate that the reference to subsection (b)(4) was a technical error, and that Congress intended to exclude civil penalty orders under section 504(b)(6).

Section 506(a) expressly requires that any party aggrieved by an order must seek rehearing within 30 days after the issuance of the order, and that the Commission must act on the application within 30 days, or it will otherwise be deemed denied by operation of law. Under this provision "[n]o person may bring an action under this section to obtain judicial review of any order of the Commission unless" he has exhausted the rehearing remedy. Rehearing is thus a jurisdictional prerequisite. Accordingly, by this order, the Commission is adopting a procedure whereby any person aggrieved by any rule or order of the Commission subject to review under sections 506(a) or (b) may request rehearing by the Commission.

A person aggrieved by an order or rule issued under the NGPA and subject to judicial review under section 506(a) and (b) may file an application for rehearing within 30 days after the order or rule being challenged is issued by the Commission. However, the Commission recognizes that part or all of the 30-day period for requesting rehearing has expired with respect to certain rules and orders issued under the NGPA. Accordingly, the Commission is providing 30 days from issuance of this rule implementing rehearing procedures, that is until February 2, 1979, to request rehearing of rules and orders issued on or before January 3, 1979. A person will not be considered to have exhausted administrative remedies until an application for rehearing has been filed, and it has been disposed of under this section. After a person's administrative remedies have been exhausted, that person may seek judicial review as prescribed in section 506 of the NGPA.

The content and filing requirements for applications for rehearing are detailed in the regulation. Applicant must set out with particularity the provision of the order or section or sections of the rule for which rehearing is sought, the grounds for rehearing and the facts and legal arguments in support of its position.

The Commission may grant rehearing in whole or in part by issuing an order which specifies the scope of the rehearing. Unless the Commission acts upon the application within 30 days after it is filed, the application will be deemed to be denied. If the Commission grants rehearing in part, any part of the application outside the scope of the order granting rehearing shall be considered to have been denied.

Findings and Conclusion

For the foregoing reasons, the Commission has determined that the regulation should be effective immediately. Inasmuch as the regulation is procedural, the requirement for notice and comment do not apply. This final regulation is effective, without prior notice and comment and without publication 30 days prior to the effective date.

(Administrative Procedure Act, 5 U.S.C. 551 *et seq.*, Natural Gas Policy Act of 1978, Pub. L. 95-621, 92 Stat. 3350, Department of Energy Organization Act, Pub. L. 95-91, E. O. 12009, 42 F. R. 46267.)

In consideration of the foregoing, Chapter I of Title 18, Code of Federal Regulations, is amended as set forth below.

By the Commission.

KENNETH F. PLUMB,
Secretary.

Subchapter I of Chapter I of Title 18, is amended at the end of Part 286 by adding a new § 286.102 to read as follows:

§ 286.102 Application for rehearing.

(a) *General rule.* Any person aggrieved by any order or regulation or any amendment to a regulation issued under the NGPA and subject to judicial review under section 506(a) or (b) thereof shall file a petition for rehearing within 30 days after the order or regulation is issued by the Commission or February 3, 1979, whichever is later. There has not been an exhaustion of administrative remedies until a petition for rehearing has been filed under this section and the proceeding is complete by the denial of the request, or if rehearing is granted, an order affirming, modifying or revoking the challenged order or regulation is issued.

(b) *Specifications of error.* The application for rehearing shall state clearly and concisely with respect to the challenged order or regulation:

(1) The provision of the order or the regulation, by section, and where appropriate, by paragraph;

(2) Applicant's interest in the particular provision; and

(3) The facts and legal analysis upon which the request for rehearing is based.

(c) *Procedural requirements.* Except as otherwise provided in this section, the procedures for rehearing in Part 1, Subchapter A, Chapter I shall apply.

(d) *Commission action upon the application.*

(1) The Commission may grant the request for rehearing, in whole or in part, by issuing an order specifying the scope of rehearing. If, and to the extent that rehearing is granted, the Commission may request Staff, applicant or any other party to file briefs. In every case where rehearing is granted, the Commission will issue an order affirming, modifying or revoking the challenged order or regulation.

(2) The Commission may modify the original order or regulation without further hearing.

(3) Unless the Commission acts upon the application within 30 days after it is filed, such application shall be considered to have been denied. If the Commission grants rehearing in part, any part of the application outside the scope of the order granting rehearing shall be considered to have been denied.

[FR Doc. 79-979 Filed 1-10-79; 8:45 am]

[4210-01-M]

Title 24—Housing and Urban Development

CHAPTER II—OFFICE OF ASSISTANT SECRETARY FOR HOUSING—FEDERAL HOUSING COMMISSIONER, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER A—GENERAL

[Docket No. D-79-539]

PART 200—INTRODUCTION

Subpart D—Delegations to Particular Positions

MULTIFAMILY PARTICIPATION REVIEW COMMITTEE

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of Delegation of Authority.

SUMMARY: The Assistant Secretary for Housing-Federal Housing Commissioner is revising the Delegations of Authority to the Multifamily Participation Review Committee in order to reflect the changed composition of the committee, resulting from a reorganizational alignment.

EFFECTIVE DATE: November 13, 1978.

SUPPLEMENTARY INFORMATION: This document brings current the delegations to the Multifamily Participation Review Committee under § 200.93 published at 36 FR 24483, December 22, 1971. Since the amendment involves only internal matters of agency management, it does not require comment or public procedure. Therefore § 200.93 is revised to read as follows:

§ 200.93 Multifamily Participation Review Committee.

(a) *Members.* The Multifamily Participation Review Committee is com-

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posed of the following members or their designees: Director, Office of Management; Director, Participation and Compliance Division, Office of Management; Director, Office of Mortgagee Activities; Director, Office of Housing Operations and Field Monitoring; Director, Office of Multifamily Housing Development; Director, Office of State Agency and Bond Financed Programs; Director, Office of Multifamily Housing Management and Occupancy; Director, Office of Multifamily Financing and Preservation; Director, Office of Existing and Moderate Rehabilitation Housing; Director, Office of Public Housing; and such other members as the Assistant Secretary for Housing-Federal Housing Commissioner shall designate. The General Counsel or his designee serves as a non-voting member of the Board. The Director, Office of Management, shall serve as Chairman and shall vote only in cases of ties. The Committee shall have an Executive Secretary appointed by the Chairman, who will attend all meetings in a non-voting capacity, present to the Committee each case under consideration, arrange for and keep Committee minutes, issue notices, keep attendance, and execute any responsibilities that the Chairman may assign. The Director, Participation and Compliance Division, shall be empowered to sign all notices, letters and directives on behalf of the Committee.

(b) *Functions.* The Multifamily Participation Review Committee will act for the Assistant Secretary for Housing-Federal Housing Commissioner in determining the acceptability of participants in multifamily proposals, taking into consideration all past HUD-FHA experience with the principals.

Effective date. This amendment is effective November 13, 1978. Issued at Washington, D.C., December 11, 1978.

LAWRENCE B. SIMONS,
Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 79-1004 Filed 1-10-79; 8:45 am]

[4210-01-M]

[Docket No. D-79-540]

PART 200—INTRODUCTION

Subpart D—Delegations to Particular Positions

LOAN ASSISTANCE COMMITTEE

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of Delegation of Authority.

SUMMARY: The Assistant Secretary for Housing—Federal Housing Commissioner is revising the Delegations of Authority to the Loan Assistance Committee in order to reflect the changed composition of the committee, resulting from a reorganizational alignment.

EFFECTIVE DATE: November 13, 1978.

SUPPLEMENTARY INFORMATION: This document brings current the delegations to the Loan Assistance Committee under § 200.94 published at 36 FR 24483, December 22, 1971. Since the amendment involves only internal matters of agency management, it does not require comment or public procedure.

Accordingly, Part 200 is amended by revising § 200.94 to read as follows:

§ 200.94 Loan Assistance Committee.

(a) *Members.* The Loan Assistance Committee is composed of the following members, or their designees: the Director, Office of Multifamily Housing Development, Chairman; the Director, Office of Policy and Program Development; the Director, Office of Management; and (by agreement with the Assistant Secretary for Administration) the Director, Office of Financing and Accounting.

(b) *Functions.* The functions of the Loan Assistance Committee are the review and approval or disapproval of requests for cancellation or waiver of repayment, in whole or in part, of loans made under Section 106 of the Housing and Urban Development Act of 1968 and Section 207 of the Appalachian Regional Development Act of 1965, as amended.

(Secretary's delegation of authority to redelegate published at 41 FR 24755, June 18, 1976)

Issued at Washington, D.C., December 11, 1978.

LAWRENCE B. SIMONS,
Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 79-1003 Filed 1-10-79; 8:45 am]

[3150-01-M]

Title 32—National Defense

CHAPTER XXI—NATIONAL SECURITY COUNCIL

PART 2103—REGULATIONS TO IMPLEMENT E.O. 12065—INCLUDING PROCEDURES FOR PUBLIC ACCESS TO DOCUMENTS THAT MAY BE DECLASSIFIED

NSC Staff Information Security Program

AGENCY: National Security Council Staff.

ACTION: Final rule.

SUMMARY: This National Security Council Staff regulation is issued to govern the NSC Information Security Program. It is issued under the authority of, and pursuant to, Executive Order 12065 and Information Security Oversight Office Directive No. 1. It is intended that this regulation will assist the NSC Staff in classifying national security information and will assist the public in obtaining information that may be declassified.

EFFECTIVE DATE: December 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Christine Dodson, Staff Secretary National Security Council, Washington, D.C. 20506 (202-395-3440).

SUPPLEMENTARY INFORMATION: This National Security Council Staff Regulation governing the NSC Information Security Program is issued under the authority of and pursuant to Executive Order 12065 and Directive No. 1 of the Information Security Oversight Office. The Regulation shall become effective on December 1, 1978 and shall be published in the FEDERAL REGISTER.

CHRISTINE DODSON,
Staff Secretary.

32 CFR Chapter XXI is amended by adding a new Part 2103 reading as follows:

PART 2103—REGULATIONS TO IMPLEMENT E.O. 12065—INCLUDING PROCEDURES FOR PUBLIC ACCESS TO DOCUMENTS THAT MAY BE DECLASSFIED

Subpart A—Introduction

Sec.
2103.1 References.
2103.2 Purpose.
2103.3 Applicability.

Subpart B—Original Classification

2103.11 Basic Policy.
2103.12 Level of Original Classification.
2103.13 Duration of Original Classification.
2103.14 Challenges to Classification.

Subpart C—Derivative Classification

2103.21 Definition and Application.

Subpart D—Declassification and Downgrading

2103.31 Declassification Authority.
2103.32 Mandatory Review for Declassification.
2103.33 Downgrading Authority.

Subpart E—Safeguarding

2103.41 Reproduction Controls.

Subpart F—Implementation and Review

2103.51 Information Security Oversight Committee.
2103.52 Classification Review Committee.

AUTHORITY: E.O. 12065 and Information Security Oversight Office Directive No. 1.

Subpart A—Introduction

§ 2103.1 References.

(a) Executive Order 12065, "National Security Information," dated June 28, 1978.

(b) Information Security Oversight Office, Directive No. 1, "National Security Information," dated October 2, 1978.

§ 2103.2 Purpose.

The purpose of this Regulation is to ensure, consistent with the authorities listed in § 2103.1, that national security information processed by the National Security Council Staff is protected from unauthorized disclosure, but only to the extent, and for such period, as is necessary to safeguard the national security.

§ 2103.3 Applicability.

This Regulation governs the National Security Council Staff Information Security Program. In consonance with the authorities listed in § 2103.1, it establishes the policy and procedures for the security classification, downgrading, declassification, and safeguarding of information that is owned by, is produced for or by, or is under the control of the National Security Council Staff.

Subpart B—Original Classification

§ 2103.11 Basic Policy.

It is the policy of the National Security Council Staff to make available to the public as much information concerning its activities as is possible, consistent with its responsibility to protect the national security.

§ 2103.12 Level of Original Classification.

Unnecessary classification, and classification at a level higher than is necessary, shall be avoided. If there is reasonable doubt as to which designation in section 1-1 of Executive Order 12065 is appropriate, or whether information should be classified at all, the less restrictive designation should be used, or the information should not be classified.

§ 2103.13 Duration of Original Classification.

Original classification may be extended beyond six years only by officials with Top Secret classification authority. This extension authority shall be used only when these officials determine that the basis for original classification will continue throughout the entire period that the classification will be in effect and only for the following reasons:

(a) The information is "foreign government information" as defined by the authorities in § 2301.1;

(b) The information reveals intelligence sources and methods;

(c) The information pertains to communication security;

(d) The information reveals vulnerability or capability data, the unauthorized disclosure of which can reasonably be expected to render ineffective a system, installation, or project important to the national security;

(e) The information concerns plans important to the national security, the unauthorized disclosure of which reasonably can be expected to nullify the effectiveness of the plan;

(f) The information concerns specific foreign relations matters, the continued protection of which is essential to the national security;

(g) Disclosure of the information would place a person's life in immediate jeopardy; or

(h) The continued protection of the information is specifically required by statute.

Even when the extension authority is exercised, the period of original classification shall not be greater than twenty years from the date or original classification, except that the original classification of "foreign government information" pursuant to paragraph (a) of this section may be for a period of thirty years.

§ 2103.14 Challenges to classification.

If holders of classified information believe that the information is improperly or unnecessarily classified, or that original classification has been extended for too long a period, they should discuss the matter with their immediate superiors or the classifier of the information. If these discussions do not satisfy the concerns of the challenger, the matter should be brought to the attention of the chairperson of the NSC Information Security Oversight Committee (see § 2103.51 below).

Subpart C—Derivative Classification

§ 2103.21 Definition and application.

Derivative classification is the act of assigning a level of classification to information that is determined to be the same in substance as information that is currently classified. Thus, derivative classification may be accomplished by any person cleared for access to that level of information, regardless of whether the person has original classification authority at that level.

Subpart D—Declassification and Downgrading

§ 2103.31 Declassification authority.

The Staff Secretary, Staff Counsel, and Director of Freedom of Information of the National Security Council Staff are authorized to declassify NSC documents after consultation with the appropriate NSC Staff members.

§ 2103.32 Mandatory review for declassification.

(a) *Receipt.* (1) Requests for mandatory review for declassification under section 3-501 of Executive Order 12065 must be in writing and should be addressed to:

National Security Council, ATTN: Staff Secretary (Mandatory Review Request), Old Executive Office Building, Washington, D.C. 20506.

(2) The requestor shall be informed of the date of receipt of the request. This date will be the basis for the time limits specified in paragraph (b) of this section.

(3) If the request does not reasonably describe the information sought, the requestor shall be notified that, unless additional information is provided or the request is made more specific, no further action will be taken.

(b) *Review.* (1) The requestor shall be informed of the National Security Council Staff determination within sixty days of receipt of the initial request.

(2) If the determination is to withhold some or all of the material requested, the requestor may appeal the determination. The requestor shall be informed that such an appeal must be made in writing within sixty days of receipt of the denial and should be addressed to the chairperson of the National Security Council Classification Review Committee.

(3) The requestor shall be informed of the appellate determination within thirty days of receipt of the appeal.

(c) *Fees.* (1) Fees for the location and reproduction of information that is the subject of a mandatory review request shall be assessed according to the following schedule:

a. Search for records. $5.00 per hour when the search is conducted by a clerical employee; $8.00 per hour when the search is conducted by a professional employee. No fee shall be assessed for searches of less than one hour.

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b. Reproduction of documents. Documents will be reproduced at a rate of $.25 per page for all copying of four pages or more. No fee shall be assessed for reproducing documents that are three pages or less, or for the first three pages of longer documents.

(2) Where it is anticipated that the fees chargeable under this section will amount to more than $25, and the requestor has not indicated in advance a willingness to pay fees as high as are anticipated, the requestor shall be promptly notified of the amount of the anticipated fee or such portion thereof as can readily be estimated. In instances where the estimated fees will greatly exceed $25, an advance deposit may be required. Dispatch of such a notice or request shall suspend the running of the period for response by the NSC Staff until a reply is received from the requestor.

(3) Remittances shall be in the form either of a personal check or bank draft drawn on a bank in the United States, or a postal money order. Remittances shall be made payable to the Treasury of the United States amd mailed to the Staff Secretary, National Security Council, Washington, D.C. 20506.

(5) A receipt for fees paid will be given only upon request. Refund of fees paid for services actually rendered will not be made.

(6) If a requestor fails to pay within thirty days for services rendered, further action on any other requests submitted by that requestor shall be suspended.

(7) The Staff Secretary, National Security Council may waive all or part of any fee provided for in this section when it is deemed to be in either the interest of the NSC Staff or of the general public.

§ 2103.33 **Downgrading Authority.**

The Staff Secretary, Staff Counsel, and Director of Freedom of Information of the National Security Council Staff are authorized to downgrade NSC documents, after consultation with the appropriate NSC Staff members.

Subpart E—Safeguarding

§ 2103.41 **Reproduction Controls**

The Staff Secretary shall maintain records to show the number and distribution of all Top Secret documents, of all documents covered by special access programs distributed outside the originating agency, and of all Secret and Confidential documents that are marked with special dissemination or reproduction limitations.

Subpart F—Implementation and Review

§ 2103.51 **Information Security Oversight Committee**

The NCS Information Security Oversight Committee shall be chaired by the Staff Counsel of the National Security Council Staff. The Committee shall be responsible for acting on all suggestions and complaints concerning the administration of the National Security Council information security program. The chairperson, who shall represent the NSC Staff on the Interagency Information Security Committee shall also be responsible for conducting an active oversight program to ensure effective implementation of Executive Order 12065.

§ 2103.52 **Classification Review Committee.**

The NSC Classification Review Committee shall be chaired by the Staff Secretary of the National Security Council. The Committee shall decide appeals from denials of declassification requests submitted pursuant to section 3-5 of Executive Order 12065. The Committee shall consist of the chairperson, the NSC Director of Freedom of Information, and the NSC Staff member with primary subject matter responsibility for the material under review.

[FR Doc. 79-434 Filed 1-10-79; 8:45 am]

[4910-14-M]

Title 33—Navigation and Navigable Waters

CHAPTER 1—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 77-230]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Victoria Channel, Texas; Correction

AGENCY: Coast Guard, DOT.

ACTION: Correction.

SUMMARY: In FR Doc. 78-31735 appearing at page 52235 in the FEDERAL REGISTER of Thursday, November 9, 1978, in paragraph (e) of § 117.554 appearing on page 52236 the time is corrected to read "10 minutes" instead of "5 minutes." Section 117.554(e) is corrected to read as follows:

§ 117.551 **Victoria Channel, mile 29.4 near Bloomington, Tex.**

• • • • •

(e) Interruption of the detector beam, located at the end of the bridge fender system will cancel the existing time intervals and start a new 10-minute interval during which the bridge will remain open. The span will not close until the vessel clears the detector located at the opposite end of the fender system, or the 10-minute interval elapses, whichever occurs earlier.

• • • • •

EFFECTIVE DATE: January 11, 1979.

FOR FURTHER INFORMATION CONTACT:

Frank L. Teuton Jr., Chief, Drawbridge Regulations Branch (G-WBR/73), Room 7300, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-426-0942).

Dated: January 4, 1979.

R. H. SCARBOROUGH,
Vice Admiral, U.S. Coast Guard, Acting Commandant.

[FR Doc. 79-1017 Filed 1-10-79; 8:45 am]

[7710-12-M]

Title 39—Postal Service

CHAPTER I—UNITED STATES POSTAL SERVICE

SUBCHAPTER D—ORGANIZATION AND ADMINISTRATION

PART 224—GROUPS AND DEPARTMENTS

Operations Group Revisions

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This document reflects a number of organizational changes within the Operations Group resulting from the establishment of the Engineering and Technical Support Department within that Group.

EFFECTIVE DATE: The Engineering and Technical Support Department was established on December 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Neva Watson, (202) 245-4642.

Accordingly, 39 CFR is amended as follows:

In § 224.4, revise paragraphs (a) and (c)(1) and add new paragraph (c)(3) to read as follows:

§ 224.4 **Operations Group.**

(a) The Operations Group is headed by the Senior Assistant Postmaster General, Operations, who reports to the Deputy Postmaster General. It has overall responsibility for all facets of the processing and delivery of mail, including collection, distribution, and transportation throughout the Postal Service. Operations establishes and evaluates policies related to these functions, establishes and evaluates retail operations, and is responsible for insuring the consistent achievement of service standards. It also establishes and evaluates programs to reduce costs for labor, transportation, supplies, and other services. Operations also directs field engineering and associated technical personnel, except those under direction of the Real Estate and Buildings Department. It is responsible for establishing requirements for facilities and centrally procured mechanization and for their effective utilization. It is also responsible for establishing and evaluating national facility and equipment maintenance policies and for approving regional plans and budgets.

• • • • •

(c) The Operations Group is divided into three departments whose heads report to the Senior Assistant Postmaster General, Operations.

(1) *Mail Processing Department.* The Mail Processing Department is headed by an Assistant Postmaster General who has managerial and budgetary responsibility for the distribution, processing and transportation of all mail throughout the Postal Service and to foreign countries, and to, from, and between U.S. military installations outside the United States. The Department plans and develops a national mail routing and transportation system and monitors performance of each region with respect to achievement of transportation and processing standards and productivity goals. It also exercises policy authority over procurement issues which, by reason of law or custom, are unique to mail transportation contracting and is responsible for budget review and approval for all regional mail processing functions.

• • • • •

(3) *Engineering and Technical Support Department.* The Engineering and Technical Support Department is headed by an Assistant Postmaster General, who is responsible for planning and approving all Postal Service requirements for postal facilities and centrally procured mechanization. The Department establishes standards for the effective use of mechanization and facility resources and establishes the national policy and programs for the repair and maintenance of facilities and of mail processing, customer service and delivery equipment. It also develops engineering policy and provides technical services and functional guidance to field engineering in order to improve productivity and reduce operating costs. The Department establishes and implements engineering programs in support of postal cost and service objectives.

(39 U.S.C. 401)

W. ALLEN SANDERS,
Assistant General Counsel.

[FR Doc. 79-961 Filed 1-10-79; 8:45 am]

[6560-01-M]

Title 40—Protection of the Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 997-6]

PART 65—DELAYED COMPLIANCE ORDERS

Delayed Compliance Order for Veterans Home and Hospital, Rocky Hill, Conn.

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Administrator of EPA hereby issues a Delayed Compliance Order to the Veterans Home and Hospital. The Order requires the company to bring air emissions from its incinerator at Rocky Hill, Connecticut into compliance with certain regulations contained in the federally-approved Connecticut State Implementation Plan (SIP). Veterans Home and Hospital's compliance with the Order will preclude suits under the federal enforcement and citizen suit provisions of the Clean Air Act for violations of the SIP regulations covered by the Order during the period the Order is in effect.

DATES: This rule takes effect on January 11, 1979.

FOR FURTHER INFORMATION CONTACT:

Attorney Thomas J. Engellenner at (617) 223-5470 or Engineer Steven P. Fradkoff at (617) 223-5610. Their address is U.S. Environmental Protection Agency, J.F.K. Federal Building, Room 2103, Boston, Massachusetts 02203.

ADDRESSES: The Delayed Compliance Order, supporting material, and any comments received in response to a prior FEDERAL REGISTER notice proposing issuance of the Order are available for public inspection and copying during normal business hours at: U.S. Environmental Protection Agency, J.F.K. Federal Building, Room 2103, Boston, Massachusetts 02203.

SUPPLEMENTARY INFORMATION: On September 11, 1978, the Regional Administrator of EPA's Region I Office published in the FEDERAL REGISTER, 43 FR 40247, a notice setting out the provisions of a proposed delayed compliance order for Veterans Home and Hospital. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed Order. No public comments or requests for a public hearing were received in response to the proposal notice.

Therefore, a delayed compliance order effective this date is issued to Veterans Home and Hospital by the Administrator of EPA pursuant to the authority of section 113(d)(1) of the Clean Air Act, 42 U.S.C. 7413(d)(1). The Order places Veterans Home and Hospital on a schedule to bring its incinerator at Rocky Hill, Connecticut into compliance as expeditiously as practicable with Section 19-508-18(c)(3) of the Connecticut Regulations for the Abatement of Air Pollution, a part of the federally-approved Connecticut State Implementation Plan. The Order also imposes interim requirements for emission reduction which meet Section 113(d)(7) of the Act. No reasonable system of monitoring as required by Section 113(d)(1)(c) exists, since a new incinerator will be in use by November 1978.

If the conditions of the Order are met, it will permit Veterans Home and Hospital to delay compliance with the SIP regulations covered by the Order until November 20, 1978. The facility is unable to immediately comply with these regulations.

EPA has determined that the Order shall be effective upon publication of this notice because of the need to immediately place Veterans Home and Hospital on a schedule for compliance with the applicable requirements of the Connecticut State Implementation Plan.

(Authority: 42 U.S.C. 7413(d), 7601)

Dated: December 12, 1978.

DOUGLAS M. COSTLE,
Administrator.

In consideration of the foregoing, Chapter 1 of title 40 of the code of Federal Regulations is amended as follows:

1. By adding an entry to the table in § 65.110 to read as follows:

§ 65.110 **Federal delayeds compliance orders issued under Section 113(d)(1), (3), and (4) of the Act.**

• • • • •

Source	Location	Order No.	Date of FR proposal	SIP regulation involved	Final compliance date
Veterans Home & Hospital.	Rocky Hill Connecticut.	A-55-78-647.....	Sept. 11, 1978	19-508-18(c)(3)	Nov. 20, 1978.

[FR Doc. 79-910 Filed 1-10-79; 8:45 am]

[6560-01-M]

[FRL 1013-1]

PART 65—DELAYED COMPLIANCE ORDER

Delayed Compliance Order for the U.S. Army Depot Pueblo, Colo.

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: On May 26, 1978, notice of proposed approval of a delayed compliance order issued by the Colorado Air Pollution Variance Board to the U.S. Army Depot Activity, Pueblo, Colorado, was published in the FEDERAL REGISTER. Public comment was invited and none was received. The Administrator has determined that the proposed order may be approved pursuant to Section 113(d)(2) of the Clean Air Act, 42 U.S.C. 7413(d)(2). The only addition to the State order is that final compliance with Regulation 1, Section II.A. is required in addition to Section I.A.1, no later than February 28, 1979.

DATE: This rule takes effect on January 11, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. C. A. Baldwin, Enforcement Division, EPA, Region VIII, 1860 Lincoln Street, Denver, Colorado 80295, telephone 303-837-2361.

SUPPLEMENTAL INFORMATION: The Content of the State order was published in its entirety in the FEDERAL REGISTER on May 26, 1978.

(Clean Air Act, Section 113(d), 42 U.S.C. 7413(d)).

Issued in Washington, D.C., December 14, 1978.

Dated: December 14, 1978.

DOUGLAS M. COSTLE,
Administrator.

In consideration of the foregoing, Chapter 1 of Title 40 of the Code of Federal Regulations is amended as follows:

1. By adding an entry to the table in § 65.101 to read as follows:

§ 65.101 EPA Approval of State delayed compliance orders issued to major stationary sources.

. . . . . .

Source	Location	Order No.	SIP regulation(s) involved	Date of FR proposal	Final compliance date
U.S. Army Depot	Pueblo, CO	A-78-2	Regulation 1 Sections I.A.1 and II.A.	May 26, 1978.	Feb. 28, 1979

[FR Doc. 79-911 Filed 1-10-79; 8:45 am]

[6820-24-M]

Title 41—Public Contracts and Property Management

CHAPTER 1—FEDERAL PROCUREMENT REGULATIONS

APPENDIX—TEMPORARY REGULATIONS

[FPR Temporary Regulation 48]

NEW DATA REQUIREMENTS

AGENCY: General Services Administration.

ACTION: Temporary regulation.

SUMMARY: This temporary regulation provides for the submission of four new items of data by offerors and contractors, revised reporting of data on Standard Form 37, Report on Procurement by Civilian Executive Agencies, and the submission of data as required by the Federal Procurement Data System. The regulation implements a request by the Office of Federal Procurement Policy. The regulation recognizes the expiration of the requirement for participation of the handicapped in small business setasides. The effect of the regulation will be to facilitate the administration of Government procurement programs.

DATES: Effective date: December 22, 1978. Expiration date: This regulation will expire on December 22, 1980.

FOR FURTHER INFORMATION CONTACT:

Philip G. Read, Director, Federal Procurement Regulations Directorate, Office of Acquisition Policy, 703-557-8947.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).)

In 41 CFR Chapter 1, the following temporary regulation is added to the appendix at the end of the chapter to read as follows:

GENERAL SERVICES ADMINISTRATION

FEDERAL PROCUREMENT REGULATIONS—
TEMPORARY REGULATION 48

To: Heads of Federal agencies.
Subject: New data requirements.

1. *Purpose.* This temporary regulation adds four new data submission requirements which apply to offerors and contractors.

2. *Effective date.* This regulation is effective December 22, 1978.

3. *Expiration date.* This regulation expires on December 22, 1980.

4. *Background.* These four new data requirements were prescribed by the Office of Federal Procurement Policy. They involve the identification of: (1) Women-owned Businesses; (2) Percent of Foreign Content of purchased items; (3) Principal Place of Contract Performance; and (4) DUNS Contractor Establishment Number. Some or all of these data requirements will be added to Standard Forms 18, 19, 19B, 21, 26, 33, and 129. The data, as appropriate, will be used to prepare the report on Standard Form 37, Report on Procurement by Civilian Executive Agencies. It will also be reported as required by the new Federal Procurement Data System.

The requirement in Section 15(c) of the Small Business Act (15 U.S.C. 644(c)) expired at the end of fiscal year 1978. This negated the further need for procedures concerning the participation of public and private organizations for the handicapped or handicapped individuals in small business set-asides.

5. *Explanation of changes.* This temporary regulation makes the following changes in the FPR:

a. Section 1-1.340 is added as follows:

§ 1-1.340 Woman-owned business.

The following representation shall be included in all solicitations and all contract awards which exceed $10,000:

WOMAN-OWNED BUSINESS

Concern is ☐ is not ☐ a woman-owned business.

A woman-owned business is a business which is, at least, 51 percent owned, controlled, and operated by a woman or women. Controlled is defined as exercising the power to make policy decisions. Operated is defined as actively involved in the day-to-day management.

For the purposes of this definition, businesses which are publicly owned, joint stock associations, and business trusts are exempted. Exempted businesses may voluntarily represent that they are, or are not, woman-owned if this information is available.

b. Section 1-1.341 is added as follows:

§ 1-1.341 Federal Procurement Data System.

(a) Agencies shall report data to the Director, Federal Procurement Data Center, Washington Headquarters Service, Department of Services, Washington, D.C. 20301. The report is required by the Federal Procurement Data System which was established by a February 3, 1978, memorandum from the Office of Federal Procurement Policy (OFPP) to heads of executive departments and agencies. Applicable instructions appear in the reporting manual, as amended, accompanying the OFPP memorandum.

(b) The data provided for the Federal Procurement Data System will be in addition to the data submission for Standard Form 37, Report on Procurement by Civilian Executive Agencies.

c. Section 1-1.706-9 is deleted.

§ 1-1.706-9 [Deleted]

d. Pending an amendment to the Federal Procurement Regulations, references to public and private organizations for the handicapped or handicapped individuals in the following sections are deleted:

§ 1-1.702(b)(17).
§ 1-1.706-1(c).
§ 1-1.706-5.
§ 1-1.706-6.

e. Section 1-6.106 is added as follows:

§ 1-6.106 Percent of foreign content.

The following representation shall be included in all solicitations and all contract awards which exceed $10,000:

PERCENT OF FOREIGN CONTENT

The offeror/contractor will represent (as an estimate), immediately after the award of a contract, the percent of the foreign content of the item or service being procured expressed as a percent of the contract award price (accuracy within plus or minus 5 percent is acceptable).

f. Section 1-16.101 is amended by revising paragraphs (a) and (d) as follows:

§ 1-16.101 Contract forms.

. . . . . .

(a) Solicitation Offer and Award (Standard Form 33, March 1977 edition). Pending the publication of a new edition of the form, the representations, Woman-owned Business, prescribed by § 1-1.340; and Percent of Foreign Content, prescribed by § 1-6.106; shall be added to the representations and certifications on the form. In addition, add to the OFFER provisions that appear on page 1 of the form, the requirements that the offeror identify its DUNS Contractor Establishment Number and the Principal Place of Performance.

. . . . . .

(d) Award/Contract (Standard Form 26, July 1966 edition.) Pending the publication of a new edition of the form, add to the provisions that appear on page 1 of the form, the requirements that the offeror identify its DUNS Contractor Establishment Number and the Principal Place of Performance.

. . . . . .

g. Section 1-16.201-1 is revised as follows:

§ 1-16.201-1 Form prescribed.

Request for Quotations (Standard Form 18, February 1977 edition) is prescribed for use in obtaining price, delivery, and related information from suppliers in accordance with this section. Pending the publication of a new edition of the form, the representations, Woman-owned Business, prescribed by § 1-1.340; and Percent of Foreign Content, prescribed by § 1-6.106; shall be added to the representations and certifications that appear on the form. In addition, add to the provisions that appear on page 1 of the form, the requirements that the offeror identify its DUNS Contractor Establishment Number and the Principal Place of Performance. Standard Form 36, Continuation Sheet, may be used with the Request for Quotations from when additional space is needed.

h. Section 1-16.401 is amended by adding a sentence to the end of paragraphs (a) and (e), and by revising paragraph (c) as follows:

§ 1-16.401 Forms prescribed.

. . . . . .

(a) . . .

In addition, add to the provisions that appear on page 1 of the form, a requirement that the offeror identify its DUNS Contractor Establishment Number.

. . . . . .

(c) Representations and Certifications (Construction and Architect-Engineer Contract) (Standard Form 19-B, June 1976 edition). Pending the publication of a new edition of the form, the representations, Woman-owned Business (see § 1-1.340) and Percent of Foreign Content (see § 1-18.607) shall be added to the representations and certifications that appear on the form.

. . . . . .

(e) . . .

In addition, add to the provisions that appear on page 2 of the form, a requirement that the offeror identify its DUNS Contractor Establishment Number.

. . . . . .

i. Section 1-16.802 is revised as follows:

§ 1-16.802 Bidder's Mailing List Application.

Bidder's Mailing List Application (Standard Form 129, February 1977 edition) is prescribed for use in connection with the establishment and maintenance of bidders mailing lists in accordance with § 1-2.205. Supplemental information, where required, may be obtained in accordance with agency procedures. Pending the publication of a new edition of the form, add to the provisions that appear on page 1 of the form, the following representation:

WOMAN-OWNED BUSINESS

Concern is ☐ is not ☐ a woman-owned business.

Add to the provisions that appear on page 2 of the form, the following definition:

WOMAN-OWNED BUSINESS

A woman-owned business is a business which is, at least, 51 percent owned, controlled, and operated by a woman or women. Controlled is defined as exercising the power to make policy decisions. Operated is defined as actively involved in the day-to-day management.

For the purposes of this definition, businesses which are publicly owned, joint stock associations, and business trusts are exempted. Exempted businesses may voluntarily represent that they are, or are not, women-owned if this information is available.

In addition, add to the provisions that appear on page 1 of the form a

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requirement for the identification of the DUNS Contractor Establishment Number.

j. Section 1-16.804-3 is amended by revising paragraph (a) as follows:

§ 1-16.804-3 Standard Form 37, Report on Procurement by Civilian Executive Agencies.

(a) *Forms prescribed.* (1) Standard Form 37, Report on Procurement by Civilian Executive Agencies (February 1977 edition), is prescribed for use when reporting procurement in accordance with this section. However, where determined advantageous by the reporting agency, mechanized printout reports containing the same information and in the same format as called for on Standard Form 37 may be submitted instead of Standard Form 37.

(2) Pending the publication of a new edition of the form; (i) add a definition of woman-owned business as paragraph 6 under "General Instructions," as follows:

(6) A woman-owned business is a business which is, at least, 51 percent owned, controlled, and operated by a woman or women. Controlled is defined as exercising the power to make policy decisions. Operated is defined as actively involved in the day-to-day management. For the purposes of this definition, businesses which are publicly owned, joint stock associations, and business trusts are exempted. Exempted businesses may voluntarily represent that they are, or are not, women-owned if this information is available.

(ii) Report data under Remarks on the number and dollar value of awards to women-owned businesses.

(3) The percent of foreign content identified by contractors shall not be reported on Standard Form 37.

k. Section 1-18.607 is added as follows:

§ 1-18.607 Percent of foreign content.

The following representation shall be included in all solicitations and all contract awards which exceed $10,000:

PERCENT OF FOREIGN CONTENT

The offeror/contractor will represent (as and estimate), immediately after the award of a contract, the percent of the foreign content of the item or service being procured expressed as a percent of the contract award price (accuracy within plus or minus 5 percent is acceptable).

6. *Agency action.* (a) Agencies shall employ four data submission requirements in conjunction with the use of Standard Forms 18, 19, 19B, 21, 26, and 33, as provided in this regulation.

(b) The data submission requirements regarding the DUNS Number and women-owned businesses also shall be included on Standard Form 129.

(c) Revised editions of Standard Form 37 and Optional Form 61, Subcontracting Program—Quarterly Report of Participating Large Company on Subcontract Commitments to Small Business Concerns and Minority Business Enterprises, will be prescribed in a few days. These new editions include blocks which are to be used by agencies to report labor surplus area subcontract data.

(d) A later revision of Standard Form 37 is in the process which will provide a block for the reporting of data regarding women-owned businesses. Pending the issuance of this later revision (toward the end of fiscal year 1979) agencies should report the data on the form under Remarks.

(e) Agencies shall not recognize handicapped organizations or handicapped individuals as being eligible to participate in small business set-asides.

PAUL E. GOULDING,
Acting Administrator of General Services.

DECEMBER 22, 1978.

[FR Doc. 79-1020 Filed 1-10-79; 8:45 am]

[4910-14-M]

Title 46—Shipping

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 76-086]

FIRE STATION HYDRANTS, HOSE, AND NOZZLES

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This document amends the firefighting and fire protection equipment regulations to require that, except in special limited cases, only Coast Guard approved combination solid stream and water spray firehose nozzles and low velocity applicators that meet the engineering equipment specifications may be on Coast Guard certificated vessels other than small passenger vessels. Straight or "smoothbore" firehose nozzles that emit only a solid stream of water are ineffective on some types of fire and lack cut-off capability. Since the installation of straight or "smoothbore" firehose nozzles is prohibited and the installation of approved combination solid stream and water spray firehose nozzles and low velocity applicators required on most new and existing vessels, those vessels will have a more effective firefighting capability.

EFFECTIVE DATE: These amendments become effective on February 12, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. Daniel Sheehan, Merchant Marine Technical Division (G-MMT-4/82), Room 8228, U.S: Coast Guard, Department of Transportation, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590. (202-426-2197).

SUPPLEMENTARY INFORMATION: The Coast Guard published a notice of proposed rule making in the June 16, 1977 issue of the FEDERAL REGISTER (42 FR 30694), and invited public comment on these rules. Fourteen comments were received in response to the notice. These comments are discussed below. A final economic analysis has been entered in the docket (CGD 76-086) and may be examined on request at the above address.

DRAFTING INFORMATION

The principal persons involved in drafting this document are: Mr. Daniel Sheehan, Office of Merchant Marine Safety, Project Manager, and Mr. Stanley Colby, Office of Chief Counsel, Project Attorney.

DISCUSSION OF COMMENTS

Three commenters favored the proposal. Two commenters agreed in principle with the proposal but requested, for various reasons, that the Coast Guard revise 46 CFR Subpart 162.027, the approval specification for combination solid stream and water spray firehose nozzles. One other commenter also submitted comments relating to 46 CFR Subpart 162.027. These comments go beyond the scope of the changes to Subpart 162.027 in the original proposal and have not been acted on in this rule making. The Coast Guard, however, has these recommendations under consideration for future rule making. Another commenter suggested that the proposal for garden hose nozzles on ¾ inch hose be changed to include a definition of the term "garden hose nozzle". This comment also goes beyond the scope of the original proposal and has not been adopted in this rule making. The term "garden hose nozzle" has been used in these regulations for many years, and the Coast Guard believes that vessel owners and operators are aware that a garden hose nozzle is an adjustable jet nozzle. This recommendation, however, will be also considered for future rule making.

Six commenters requested the Coast Guard not to apply the proposed regulations to Mobile Offshore Drilling Units (MODU's) because that industry uses a combination nozzle that is different than the Coast Guard-approved combination nozzle.

These regulations do not apply to MODU's. The fire hose nozzle requirements for MODU's are included in 46 CFR Subchapter IA which was published on December 4, 1978 (43 FR 56788). Under that subchapter, MODU's constructed after January 1, 1981 would have to have approved combination fire hose nozzles meeting 46 CFR Subpart 162.027. Existing MODU's formerly certificated under 46 CFR Subchapter I would be permitted to retain installed fire extinguishing systems, including combination fire hose nozzles, that provide equivalent or greater protection than required by Subchapter IA, as long as they are in good material condition, will function as designed, and are maintained in good working order to the satisfaction of the Officer in Charge, Marine Inspection. New installations and replacements must meet the requirements in 46 CFR 108.425 for new construction.

The final commenter, while generally supporting the proposal, disagreed with the requirements as they would apply to Great Lakes bulk cargo vessels. This commenter contends that, because these vessels are designed to carry only bulk cargoes such as grain or coal, smoothbore nozzles are adequate for fighting cargo hold fires and may actually be more effective on fires in these cargoes than combination nozzles. This commenter further proposed that a Great Lakes vessel be required to carry only two combination nozzles and one four-foot applicator at each end of the vessel and one 10 to 12-foot applicator immediately inside the engine room. The Coast Guard agrees in part with this comment and has changed proposed § 95.10-10 accordingly. As changed, these regulations allow any vessel that is designed to carry only bulk cargoes other than liquids to have smoothbore nozzles on hoses connected to hydrants that serve only cargo holds. These nozzles must be bronze or metal with strength and corrosion resistance equivalent to bronze and have orifices that meet the requirements in Table 95.10-5(a). All other firehose nozzles on a bulk cargo vessel must be approved combination nozzles that meet 46 CFR Subpart 160.027 or have been approved by the Coast Guard before May 26, 1965. The applicator requirements in proposed § 95.10-10(i-1) have not been changed; however, an owner or operator may provide as many additional applicators as he chooses. Since this exception of bulk cargo vessels from the combination solid stream and water spray firehose nozzle requirements retains the existing requirements in § 95.10-10, no further rule making on this change is considered necessary.

This rule has been reviewed under Department of Transportation's "Policies and Procedures for Simplification, Analysis, and Review of Regulations" (43 FR 9582, March 8, 1978). A final evaluation has been prepared, and is included in the public docket.

In consideration of the foregoing, the proposed rules published in the June 16, 1977 issue of the FEDERAL REGISTER are hereby adopted with the changes described above and set forth below.

Chapter I of Title 46, Code of Federal Regulations, is amended as follows:

PART 34—FIREFIGHTING EQUIPMENT

1. By amending § 34.10-10 by deleting paragraph (o), revising Table 34.10-10(o) and redesignating it Table 34.10-10(e-1), revising paragraph (n), revising the first sentence in paragraph (e) and adding a new sentence to follow this first sentence, and adding a new paragraph (e-1). As amended, § 34.10-10 reads as follows:

§ 34.10-10 Fires station hydrants, hose and nozzles—T/ALL.

• • • • •

(e) Each fire station hydrant must have at least one length of firehose. Each firehose on the hydrant must have a combination solid stream and water spray firehose nozzle that is approved under Subpart 162.027 of this chapter. A suitable hose rack or other device shall be provided. Hose racks on weather decks shall be located so as to afford protection from heavy seas. The hose shall be stored in the open or so as to be readily visible.

(e-1) Each approved combination nozzle of a hydrant in the locations listed in Table 34.10-10(e-1) must have a low-velocity water spray applicator approved under Subpart 162.027 of this chapter that is of the length listed in that table.

TABLE 34.10-10(e-1) *Hydrants with Coast Guard approved low-velocity water spray applicators*

Location	Number of hydrants with approved applicators	Approved applicator length (feet)
Living space	1	4
Weather deck	4	10 or 12
Machinery space	2	4

• • • • •

(n) Each low-velocity water spray applicator under paragraph (e-1) of this section must—

(1) Connect to the Coast Guard-approved combination nozzle at that hydrant; and

(2) Have fixed brackets, hooks, or other means for stowing next to the hydrant.

2. By amending § 34.10-90 by revising paragraph (a)(7), and paragraphs (a)(10) through (a)(13), striking the words "and facilities" and inserting the words, "facilities, and equipment, except firehose nozzles," after the word "materials" in the first sentence in paragraph (b)(1), and revising paragraph (b)(2). As amended, § 34.10-90 reads as follows:

§ 34.10-90 Installations contracted for prior to May 26, 1965—T/ALL.

(a) • • •

(7) Each fire pump on a tankship of 500 gross tons or more must deliver enough water to the fire main so that the topmost outlet on the fire main emits two jets of water at a Pitot tube pressure of 50 pounds per square inch through two combination solid stream and water spray firehose nozzles meeting paragraph (10) of this section.

• • • • •

(10) Each fire station hydrant on a tankship of 500 gross tons or more must have at least one length of firehose. Each firehose on the hydrant must have a combination solid stream and water spray firehose nozzle that is approved under Subpart 162.027, except as allowed under paragraph (a)(12) and (a)(13) of this section.

(11) On each tankship of 1000 gross tons or more, the nozzle under paragraph (a)(10) on each of the following hydrants must have a low-velocity water spray applicator that is approved under Subpart 162.027 and that connects to that nozzle:

(i) At least two hydrants in the machinery and boiler spaces.

(ii) At least 25 percent of other hydrants.

(12) Each tankship of 1000 gross tons or more contracted for after June 30, 1951 and before January 1, 1962, must meet the following:

(i) Before February 12, 1981, if the nozzle or applicator was approved under Subpart 162.027 before May 26, 1965—

(A) The nozzle must have a high-velocity water spray tip that meets § 162.027-2(c) of this chapter, and the applicator must have a low-velocity water spray head that meets § 162.027-2(c) of this chapter; or

(B) The fire hydrant or the nozzle must have a self-cleaning strainer that meets the requirements under which the nozzle was approved.

(ii) After February 11, 1981, each new or replacement nozzle must meet § 34.10-90(a)(10), and each replacement low-velocity water spray applicator must meet § 34.10-90(a)(11).

(13) Each tankship of 1000 gross tons or more contracted for before July 1, 1951, must meet the following:

(i) Before February 12, 1981, if the nozzle or applicator was approved under Subpart 162.027 of this chapter before May 26, 1965—

(A) The nozzle must have a high-velocity water spray tip that meets § 162.027-7(c) of this chapter, and the applicator must have a low-velocity water spray head that meets § 162.027-2(c) of this chapter; or

(B) The fire hydrant or nozzle must have a self-cleaning strainer that

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meets the requirements under which the nozzle was approved.

(ii) After February 11, 1981, each new or replacement nozzle must meet § 34.10-90(a)(10), and each replacement low-velocity water spray applicator must meet § 34.10-90(a)(11).

. . . . . .

(b) • • •

(1) Existing arrangements, materials, facilities, and equipment, except firehose nozzles, previously approved shall be considered satisfactory as long as they meet the minimum requirements of this paragraph and they are maintained in good condition to the satisfaction of the Officer in Charge, Marine Inspection. Minor repairs and alterations may be made to the same standards as the original installation.

(2) Each fire station hydrant must have at least one length of firehose. Each firehose on the hydrant must have a combination solid stream and water spray firehose nozzle that is approved under Subpart 162.027 of this chapter, and each of the number of hydrants in the locations listed in Table 34.10-10(e-1) must have a low-velocity water spray applicator that—

(i) Is approved under Subpart 162.027 of this chapter;

(ii) Is of the length listed in Table 34.10-10(e-1); and

(iii) Meets § 34.10-10(n).

PART 76—FIRE PROTECTION EQUIPMENT

3. By revising § 76.10-10 (g) and (j) and adding new § 76.10-10 (j-1) and (j-2) to read as follows:

§ 76.10-10 Fire hydrants and hose.

. . . . . .

(g) Each fire hydrant must have at least one length of fire hose, a spanner, and a hose rack or other device for stowing the hose.

. . . . . .

(j) Each fire hose on each hydrant must have a combination solid stream and water spray fire hose nozzle that is approved under Subpart 162.027 of this chapter.

(j-1) The following must have low-velocity water spray applicators that are approved under Subpart 162.027 of this chapter:

(1) In the accommodation and service areas, two fire hoses having approved combination nozzles.

(2) In each propulsion machinery space containing an oil-fired boiler, internal combustion machinery, or oil fuel unit on a vessel on an international voyage or of 1000 gross tons or more, each firehose having an approved combination nozzle. The length of each applicator must be 4 feet.

(j-2) Fixed brackets, hooks, or other means for stowing an applicator must be next to each fire hydrant that has an applicator under paragraph (j) of this section.

. . . . . .

4. By amending § 76.10-90 by inserting the words ", except firehose nozzles and low-velocity water spray applicators," following the words "Existing equipment" in the second sentence of paragraph (a)(1), and by adding new paragraphs (a) (6) and (7). As amended, § 76.10-90 reads as follows:

§ 76.10-90 Installations contracted for prior to May 26, 1965.

(a) • • •

(1) Except as specifically modified by this paragraph, the requirements of §§ 76.10-5 through 76.10-15 shall be complied with insofar as the number and general type of equipment is concerned. Existing equipment, except firehose nozzles and low-velocity water spray applicators, previously approved but not meeting the applicable requirements of §§ 76.10-5 through 76.10-15 may be continued in service so long as they are maintained in good condition to the satisfaction of the Officer in Charge, Marine Inspection. Minor repairs, alterations, and replacements may be permitted to the same standards as the original installation. However, all new installations or major replacements shall meet the applicable requirements in this part.

. . . . . .

(6) Before February 12, 1981, each firehose nozzle must meet § 76.10-10(j), and each low-velocity water spray applicator must meet § 76.10-10(j-1), except if the nozzle or applicator was approved under Subpart 162.027 of this chapter before May 26, 1965—

(i) The nozzle must have a high-velocity water spray tip that meets § 162.027-2(c) of this chapter, and the applicator must have a low-velocity water spray head that meets § 162.027-2(c) of this chapter; or

(ii) The fire hydrant or nozzle must have a self-cleaning strainer that meets the requirements under which the nozzle was approved.

(7) After February 11, 1981, each new or replacement nozzle must meet § 76.10-10(j), and each low-velocity water spray applicator must meet § 76.10-10(j-1).

PART 95—FIRE PROTECTION EQUIPMENT

5. By revising § 95.10-10 (g) and (i), and adding new § 95.10-10(i-1), and (i-2) to read as follows:

§ 95.10-10 Fire hydrants and hose.

. . . . . .

(g) Each fire hydrant must have at least one length of firehose, a spanner, and a hose rack or other device for stowing the hose.

. . . . . .

(i) Except as allowed in this paragraph, each firehose on each hydrant must have a combination solid stream and water spray firehose nozzle that is approved under Subpart 162.027 of this chapter.

(1) Each ¾ inch hose on a vessel 65 feet or less in length may have a garden hose nozzle that is bronze or metal with corrosion resistance and strength equivalent to bronze.

(2) A vessel designed to only carry bulk cargoes other than liquids may have a smoothbore firehose nozzle on a hose connected to a hydrant that is on an open deck and that serves only cargo holds. This nozzle must be bronze or metal with strength and corrosion resistance equivalent to bronze and have an orifice of the size required under Table 95.10-5(a).

(i-1) In each propulsion machinery space containing an oil fired boiler, internal combustion machinery, or oil fuel unit on a vessel on an international voyage or of 1000 gross tons or more, each firehose having an approved combination nozzle must have a low-velocity water spray applicator that is approved under Subpart 162.027 of this chapter. The length of each applicator must be four feet.

(i-2) Fixed brackets, hooks, or other means for stowing an applicator must be next to each fire hydrant that has an applicator under paragraph (i-1) of this section.

. . . . . .

6. By amending § 95.10-90 by inserting the words, ", except firehose nozzles and low-velocity water spray applicators," following the words "Existing equipment" in the second sentence of paragraph (a)(1), and adding new paragraphs (a) (5) and (6). As amended, § 95.10-90 reads as follows:

§ 95.10-90 Installations contracted for prior to May 26, 1965.

(a) • • •

(1) Except as specifically modified by this paragraph, the requirements of §§ 95.10-5 through 95.10-15 shall be complied with insofar as the number and general type of equipment is concerned. Existing equipment, except firehose nozzles and low-velocity water spray applicators, previously approved, but not meeting the applicable requirements of §§ 95.10-5 through 95.10-15 may be continued in service so long as they are maintained in good condition to the satisfaction of the Officer in Charge, Marine Inspection. Minor repairs, alterations, and replacements may be permitted to the same standards as the original installations. However, all new installations or major replacements shall meet the applicable requirements in this subpart.

. . . . . .

(5) Before February 12, 1981, each fire hose nozzle must meet § 95.10-10(i), and each low-velocity water spray applicator must meet § 95.10-10(i-1), except if the nozzle or applicator was approved under Subpart 162.027 of this chapter before May 26, 1965—

(i) The nozzle must have a high-velocity water spray tip that meets § 162.027-2(c) of this chapter, and the applicator must have a low-velocity water spray head that meets § 162.027-2(c) of this chapter; or

(ii) The fire hydrant or nozzle must have a self-cleaning strainer that meets the requirements under which the nozzle was approved.

(6) After February 11, 1981, each new or replacement nozzle must meet § 95.10-10(i), and each new or replacement low-velocity water spray applicator must meet § 95.10-10(i-1).

PART 162— ENGINEERING EQUIPMENT

7. By revising the heading of Subpart 162.027 to read as follows:

Subpart 162.027—Combination Solid Stream and Water Spray Firehose Nozzle and Low-Velocity Water Spray Applicator

8. By amending § 162.027-2 as follows:

a. By amending paragraph (a) by inserting the word "and" between the words "either outlet," and "a high-velocity" in the first sentence; by striking the words ", and an applicator with a low-velocity water spray head", from the first sentence; by striking the words "the applicator with the low-velocity head" from the second sentence and inserting in their place the words "a low-velocity water spray applicator that meets § 162.027-3(b)(2)"; and by revising the third sentence to read "The low-velocity water spray applicator has an angled tube, a low-velocity water spray head, and a connection for the combination nozzle."

b. By revising the heading of paragraph (b) to read "Nozzle Size", and adding a new paragraph (c).

As amended, § 162.027-2 reads as follows:

§ 162.027-2 Type and size.

(a) *Type.* Combination solid stream and water spray firehose nozzles specified by this subpart shall consist essentially of a firehose nozzle body with two discharge outlets, a valve for shut off and directing the flow of water to either outlet and a high-velocity water spray tip. One discharge outlet shall be a straight stream orifice, and the other outlet shall be designed to accommodate either the high-velocity tip or a low-velocity water spray applicator that meets § 162.027-3(b)(2) both of which must be capable of being removed or inserted readily without the use of tools. The low-velocity water spray applicator has an angled tube, a low-velocity water spray head, and a connection for the combination nozzle. Nozzles permitting adjustment to obtain a range of spray patterns will not be considered as meeting the requirements of this subpart.

(b) *Nozzle Size.* Combination solid stream and water spray fire hose nozzles shall be of two sizes: one for use on 1½ inch hose, and the other for use on 2½ inch hose.

(c) *Spray tip and head.* Each high-velocity water spray tip and each low-velocity water spray head of a nozzle or applicator for 1½ inch hose must be designed to pass material equal in size to a ⅜ inch diameter ball. Each high-velocity water spray tip and each low-velocity water spray head of a nozzle or applicator for 2½ inch hose must be designed to pass material equal in size to a ½ inch diameter ball.

10. By amending § 162.027-3 by inserting the words "and applicators" following the words "fire hose nozzles" in the first sentence of paragraph (a)(1), following the words "combination nozzles" in the first sentence of the introductory text in paragraph (b), and following the words "Combination nozzles" in paragraphs (c) and (d). As amended, § 162.027-3 reads as follows:

§ 162.027-3 Materials, construction, workmanship, and performance requirements.

(a) • • •

(1) *Materials, general.* All materials used in the construction of combination solid stream and water spray fire hose nozzles and applicators shall be of good quality, suitable for the purpose intended, and shall conform to the requirements of this subpart. The use of dissimilar metal in combination shall be avoided if possible but, when such contacts are necessary, provisions shall be made to prevent effects such as galvanic corrosion, freezing of moving parts, and loosening or tightening of joints due to differences in thermal expansion coefficients. Castings shall be free from blow holes, porosity shrinkage defects, cracks, or other injurious defects.

. . . . . .

(b) *Contruction.* The construction of combination nozzles and applicators manufactured in accordance with this subpart shall comply with the requirements outlined in this paragraph. Alternate arrangements which meet the performance requirements of this subpart will be given special consideration.

. . . . . .

(c) *Workmanship.* Combination nozzles and applicators manufactured in accordance with this subpart shall be of first class workmanship and shall be free from any defects materially affecting their appearance or serviceability.

(d) *Performance requirements.* Combination nozzles and applicators manufactured in accordance with this subpart shall be capable of meeting the test requirements outlined in § 162.027-4.

11. By amending 162.027-4 by inserting the words "and applicators" following the words "combination nozzles" wherever they appear in the first sentence of paragraph (a). As amended, § 162.027-4 reads as follows:

§ 162.027-4 Inspections and tests.

(a) *General.* Combination nozzles and applicators specified by this subpart are not inspected at regularly scheduled factory inspections by the Coast Guard; however, the Commander of the Coast Guard District may detail an inspector at any time to visit any place where combination nozzles and applicators are manufactured to check materials and manufacturing methods, and to conduct such tests and examinations as may be required to satisfy himself that combination nozzles and applicators are being manufactured in compliance with the requirements of this specification. The manufacturer shall provide a suitable place and the necessary equipment for the use of the inspector in conducting such tests or examinations at the place of manufacture.

. . . . . .

12. By amending § 162.027-5 by revising the heading of paragraph (a) and adding a new paragraph (b). As amended, § 162.027-5 reads as follows:

§ 162.027-5 Marking.

(a) *Nozzles.* Each combination nozzle shall be permanently and legibly marked with the manufacturer's name and model designation in addition to the marking of the valve positions required by § 162.027-3(b)(1).

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(b) *Applicators.* Each low-velocity water spray applicator must be permanently and legibly marked with the manufacturer's name and the model designation of the nozzle with which it is used.

13. By amending § 162.027-6 by inserting the words "and applicators" following the words "fire hose nozzles" in the first sentence of paragraph (a) and following the word "nozzle" or "nozzles" wherever it appears in paragraph (b). As amended, § 162.027-6 reads as follows:

§ 162.027-6 Procedure for approval.

(a) *General.* Combination solid stream and water spray fire hose nozzles and applicators for use on merchant vessels are approved only by the Commandant, U.S. Coast Guard, Washington, D.C. Correspondence pertaining to the subject matter of this specification shall be addressed to the Commander of the Coast Guard District in which the factory is located.

(b) *Manufacturer's plans and specifications.* In order to apply for approval of combination nozzles and applicators the manufacturer shall submit 4 prints each of detailed plans and specifications, including a complete bill of materials, assembly drawing, and parts drawings descriptive of the arrangement and construction of the device, to the Commander of the Coast Guard District in which the factory is located. Each drawing shall have an identifying number, date, with alterations properly noted, and the model designation identifying the nozzle and applicator involved. These drawings and specifications will be forwarded to the Commandant for examination.

* * * * *

PART 167—PUBLIC NAUTICAL SCHOOL SHIPS

14. By amending § 167.45-5 by striking in the third sentence of paragraph (c)(1) each word after the words "50 pounds per square inch", and adding a new paragraph (h). As amended, § 167.45-5 reads as follows:

§ 167.45-5 Steam fire pumps or their equivalent.

* * * * *

(c) * * *

(1) All nautical school ships shall be provided with powerful pumps available for use as fire pumps. When of less than 1,000 gross tons it shall have 1, and when larger it shall have at least 2 independently driven pumps connected to the fire main. Each pump shall be capable of delivering two powerful jets of water simultaneously from the highest outlets on the fire main at a Pitot tube pressure of approximately 50 pounds per square inch.

* * * * *

(h) Each fire hydrant must have at least one length of firehose. Each firehose on the hydrant must have a combination solid stream and water spray firehose nozzle that is approved under Subpart 162.027 of this chapter.

15. By revising § 167.45-40(c) and adding new § 167.45-40 (c-1) and (c-2) to read as follows:

§ 167.45-40 Fire fighting equipment on nautical school ships using oil as fuel.

* * * * *

(c) In the boiler and machinery spaces, at least two fire hydrants must have a firehose of a length that allows each part of the boiler and machinery spaces to be reached by the combination nozzle.

(c-1) Before February 12, 1981, each firehose under paragraph (c) must have a combination solid stream and water spray nozzle and a low-velocity water spray applicator that are approved under Subpart 162.027 of this chapter, except if the nozzle or applicator has approved under Subpart 162.027 of this chapter before May 26, 1965—

(1) The nozzle must have a high-velocity water spray tip that meets § 162.027-2(c) of this chapter, and the applicator must have a low-velocity water spray applicator that meets § 162.027-2(c) of this chapter; or

(2) The fire hydrant or nozzle must have a self-cleaning strainer that meets the requirements under which the nozzle was approved.

(c-2) After February 11, 1981, each new or replacement nozzle or applicator must be approved under Subpart 162.027 of this chapter.

* * * * *

PART 193—FIRE PROTECTION EQUIPMENT

16. By amending § 193.10-10(d) by striking out the words "and hose with fog applicator" from the second sentence of paragraph (d), revising paragraph (i), and adding paragraphs (i-1) and (i-2). As amended, § 193.10-10 reads as follows:

§ 193.10-10 Fire hydrants and hose.

* * * * *

(d) Fire hydrants shall be of sufficient number and so located that any part of the vessel, other than main machinery spaces, may be reached with at least 2 streams of water from separate outlets, at least one of which shall be from a single length of hose. At least one hydrant shall be located outside and in the immediate vicinity of each laboratory. In main machinery spaces, all portions of such spaces shall be capable of being reached by at least 2 streams of water, each of which shall be from a single length of hose from separate outlets; however, this requirement need not apply to shaft alleys containing no assigned space for the stowage of combustibles. Fire hydrants shall be numbered as required by § 196.37-15 of this subchapter.

* * * * *

(i) Each fire hydrant must have at least one length of firehose. Each firehose must have a combination solid stream and water spray nozzle that is approved under Subpart 162.027 of this chapter, except ¾ inch hose may have a garden hose nozzle that is bronze or metal with strength and corrosion resistance equivalent to bronze.

(i-1) Each of the following must have a low-velocity water spray applicator that is approved under Subpart 162.027 of this chapter:

(1) At least one length of firehose on each fire hydrant outside, and in the immediate vicinity of, each laboratory.

(2) In each propulsion machinery space containing an oil-fired boiler, internal combustion machinery, or oil fuel unit on a vessel of 1000 gross tons or more, each firehose having an approved combination nozzle. The length of each applicator must be four feet.

(i-2) Fixed brackets, hooks, or other means for stowing an applicator must be next to each fire hydrant that has an applicator under paragraph (i-1) of this section.

* * * * *

17. By amending § 193.10-90 by inserting the words ", except firehose nozzles and low-velocity water spray applicators," following the words "Existing equipment" in the first sentence of paragraph (a)(2) and adding new paragraphs (a)(4) and (5) to read as follows:

§ 193.10-90 Installations contracted for prior to March 1, 1968.

(a)* * *

(2) Existing equipment, except firehose nozzles and low-velocity water spray applicators, previously approved but not meeting the applicable requirements of §§ 193.10-5 through 193.10-15, may be continued in service so long as they are maintained in good condition to the satisfaction of the Officer in Charge, Marine Inspection. Minor repairs, alteration, and replacements may be permitted to the same standards as the original installations. However, all new installations or major replacements shall meet the applicable requirements in this subpart for new installations.

* * * * *

(4) Before February 12, 1981, each firehose nozzle must meet § 193.10-10(i); and each low-velocity water spray applicator must meet § 193.10-10(i-1), except if the nozzle or applicator was approved under Subpart 162.027 of this chapter before May 26, 1965—

(i) The nozzle must have a high-velocity water spray tip that meets § 162.027-2(c) of this chapter, and the applicator must have a low-velocity water spray head that meets § 162.027-2(c) of this chapter; or

(ii) The fire hydrant or nozzle must have a self-cleaning strainer that meets the requirements under which the nozzle was approved.

(5) After February 11, 1981, each new or replacement nozzle must meet § 193.10-10(i), and each new or replacement low-velocity water spray applicator must meet § 193.10-10(i-1).

(46 U.S.C. 390b, 481, and 391a; 49 U.S.C. 1655(b)(1); and 49 CFR 1.46(b) and 1.46(n)(4)).

NOTE. The Coast Guard has determined that this document does not contain a major proposal requiring the preparation of an Economic Impact Statement under Executive Order 11821, as amended, and OMB Circular A-107.

Dated: January 4, 1979.

R. H. SCARBOROUGH,
Vice Admiral, U.S. Coast Guard,
Acting Commandant.

[FR Doc. 79-1016 Filed 1-10-79; 8:45 am]

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[4910-62-M]

Title 49—Transportation

SUBTITLE A—OFFICE OF THE SECRETARY OF TRANSPORTATION

[OST Docket No. 1; Amdt. No. 1-137]

PART 1—ORGANIZATION AND DELEGATION OF POWER AND DUTIES

Delegation to the Commandant of the Coast Guard

AGENCY: Department of Transportation.

ACTION: Final rule.

SUMMARY: This change delegates to the Commandant of the Coast Guard certain authority that is vested in the Secretary of Transportation by the Outer Continental Shelf Lands Act Amendments of 1978. This authority relates to the establishment of safety and manning requirements for offshore facilities and activities and the administration of the liability and compensation fund for offshore oil pollution. These powers and duties are being delegated to the Commandant since they generally represent an expansion of functions previously delegated or traditionally associated with the Coast Guard. In addition, this action will affect an orderly implementation by the Department of Transportation of the Outer Continental Shelf Lands Act Amendments of 1978.

EFFECTIVE DATE: This amendment is effective on January 12, 1979.

FOR FURTHER INFORMATION CONTACT:

LCDR Thomas J. Barrett, USCG, Outer Continental Shelf Safety Staff, Room 8228, Department of Transportation, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590, (202) 472-5160.

SUPPLEMENTARY INFORMATION: Since this amendment relates to Departmental rules of organization, it is excepted from notice and public procedure requirements and it may be made effective in fewer than 30 days after publication in the FEDERAL REGISTER.

DRAFTING INFORMATION

The principal persons involved in drafting this rule are:

Commander R. J. Beaver, USCG, Title III Fund Project Staff, U.S. Coast Guard; Lieutenant Commander T. J. Barrett, USCG, Outer Continental Shelf Safety Staff, U.S. Coast Guard; and Richard R. Clark, Office of the General Counsel, Office of the Secretary.

DISCUSSION OF DELEGATION

On 18 September 1978 the President signed into law the Outer Continental Shelf Lands Act Amendments of 1978 (the Amendments). Sections 203 and 208 of Title II of the Amendments confer upon the Secretary of Transportation responsibilities for imposing and enforcing regulations concerning safety, manning, and documentation of certain facilities and activities upon the Outer Continental Shelf. (43 U.S.C. 1331 et seq.) In addition, section 607 of Title VI, of the Amendments requires the Secretary of Transportation to assist the Secretary of Interior with respect to recommendations for training of persons employed on the Outer Continental Shelf who are responsible for pollution-prevention equipment. The powers and duties conferred by these sections represent an expansion of functions in traditional Coast Guard mission areas and, therefore, are delegated to the Commandant of the Coast Guard. Section 5(e) of the Outer Continental Shelf Lands Act, as amended, and the newly added Section 21 make it clear that the Secretary's responsibility and authority for pipeline safety is not diminished; this authority is to continue in the Office of Pipeline Safety of the Research and Special Programs Administration.

Title III of the Amendments establishes an offshore oil pollution liability and compensation scheme, including the creation of a fund to provide compensation for oil pollution costs and damages when, for any reason, payment is not available from the corporation or the facility which is the source of the oil pollution. The Secretary is assigned primary responsibility for the implementation and administration of Title III. In keeping with the intent of the drafters of this legislation, and in recognition of the expertise and experience of the Coast Guard in the oil pollution field, all Secretarial functions relating to Title III, with the exception of those relating to referral of disputed claims against the fund to a specially appointed three member panel, are delegated to the Coast Guard.

Accordingly, Part 1 of Title 49 of the Code of Federal Regulations is amended by revising the heading of § 1.53 and adding new §§ 1.44(p), 1.46(z), and 1.53(a)(6), to read as follows:

§ 1.44 Reservation of authority.

* * * * *

(p) *Offshore Oil Pollution Compensation Fund.* The following powers and duties included in Title III of the Outer Continental Shelf Lands Act Amendments of 1978 (PL 95-372):

(1) The authority to appoint three member panels to hear and decide disputes pursuant to section 307(h).

(2) The authority to refer a disputed claim to a three member panel for decision in accordance with section 307(i)(1).

§ 1.46 Delegations to the Commandant of the Coast Guard

* * * * *

(y) Carry out the functions vested in the Secretary by the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), as amended, Title III and VI of the Outer Continental Shelf Lands Act Amendments of 1978 (Pub. L. 95-372), except as reserved by § 1.44(p) and delegated by § 1.53(a)(6).

§ 1.53 Delegations to the Administrator of the Research and Special Programs Administration.

The Director of the Research and Special Programs Administration is delegated authority to exercise powers and perform duties, including duties under the specified statutes as follows:

(a) *Pipelines.*

* * * * *

(6) Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) as amend-

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ed, with respect to establishment, enforcement and review of regulations concerning pipeline safety.

(Section 9(e) of the Department of Transportation Act, 49 U.S.C. 1657(e).)

Issued in Washington, D.C. on January 4, 1979.

BROCK ADAMS,
Secretary of Transportation.

[FR Doc 79-1019 Filed 1-10-79; 8:45 am]

[7035-01-M]

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER C—ACCOUNTS, RECORDS AND REPORTS

[No. 32448 (Sub.-No. 3)]

PART 1253—RATEMAKING ORGANIZATIONS: RECORDS AND REPORTS

Revised Annual Report Form RBO for Ratemaking Organizations

JANUARY 8, 1979.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of final rule.

SUMMARY: The Commission is adopting a revised annual report for carrier ratemaking organizations (commonly known as rate bureaus). The revisions simplify carrier reporting requirements and improve the quality of data necessary for the Commission to oversee rate bureau operations. In addition, § 1253.40 is being reworded to correct a typographical error.

DATES: Effective January 1, 1979.

ADDRESSES: For copies of the new reporting forms call: (800) 424-5403. Submit comments to: Section of Accounting, Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Bryan Brown, Jr., (202) 275-7448.

SUPPLEMENTAL INFORMATION: In Docket No. 32448 (Sub-No. 1), Uniform System of Accounts for Rate Bureaus, the Commission established two classes of rate bureaus, based on annual operating revenues. The Commission also provided for the annual submission in Annual Report Form RBO of certain cost and operating data and other data relating to the actual processing of rate proposals. Rate bureaus were divided between those with annual operating revenue of $100,000 or more and accounts maintained under the Uniform System of Accounts for rate bureaus (Class I) and those with annual operating revenues under $100,000 (Class II).

The Commission's Data Task Force has reviewed Annual Report Form RBO to determine whether it is providing the data which the Commission needs. The Task Force had concluded that the report provides more data than is needed and, for Class II bureaus, creates cumbersome paperwork. As a result, the Commission is adopting a revised form RBO for use beginning with reports for calendar year 1979. The revised form will simplify the reporting requirements for both Class I and Class II bureaus and will provide the Commission with more meaningful information. Specifically, revised form RBO will require more detailed data relating to the processing of rate proposals. This data will enable the Commission to perform its monitoring functions of rate bureaus better and will assist in analysis of rate bureau procedures during on-site investigations.

Class I bureaus will be required to complete the entire revised form, which includes a schedule for reporting remuneration to the five highest paid management personnel and all officers and employees of the bureau paid $40,000 or more during the year. The confidentiality of this information will continue to be preserved. The schedule will not be available for public inspection. Class II bureaus will be required to complete only the statistical (page 2) and certification (page 6) portions of the revised report.

The Commission is taking this opportunity to revise and simplify the language of § 1253.40, which presently contains a typographical error. The Commission finds that a formal proceeding under the Administrative Procedure Act is not necessary in order to adopt this change in § 1253.40, since the change is non-substantive. However, the Commission invites public comment on the revisions which have been made to Annual Report Form RBO. Copies of the revised form may be obtained by writing the Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423 or by calling, toll free, (800) 424-5403. Comments should be filed as soon as possible.

It is ordered, § 1253.40 of Chapter X of Title 49 of the Code of Federal Regulations is revised to read:

§ 1253.40 Reporting requirements.

All Class I and Class II rate bureaus are required to file Annual Report Form RBO. Two copies of the report should be submitted to the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423, within the first three months of the close of each reporting period.

This action is taken under the authority of 49 U.S.C. section 10706 and 5 U.S.C. section 553. Notice of this action shall be served by mail on every rate bureau operating pursuant to section 10706.

Dated: December 21, 1978.

By the Commission, Chairman O'Neal, Vice Chairman Christian, Commissioners Brown, Stafford, Gresham, and Clapp. Commissioner Brown absent and not participating.

H. G. HOMME, JR.,
Secretary.

[FR Doc. 79-1062 Filed 1-10-79; 8:45 am]

[4310-55-M]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 32—SPORT HUNTING

Amendment to the Opening of Noxubee National Wildlife Refuge, Mississippi, to Sport Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulation.

SUMMARY: The Director has determined that the opening to sport hunting of Noxubee National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource and will provide additional recreation opportunity to the public.

DATES: January 15-February 20, 1979.

FOR FURTHER INFORMATION CONTACT:

James H. Roberts, Refuge Manager, Noxubee National Wildlife Refuge, Route 1, Box 84, Brooksville, Mississippi 39739. Telephone (601) 323-5548.

SUPPLEMENTARY INFORMATION:

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

Public hunting of upland game on the Noxubee National Wildlife Refuge, Mississippi, is amended to include the dates of January 15 to February 20, 1979. Species permitted to be taken are quail and rabbit. The area opened is delineated on maps available at the refuge headquarters and from the office of the Area Manager, U.S. Fish and Wildlife Service, 200 E. Pascagoula Street, Suite 300, Jackson, Mississippi 39205. Special regulations will be the same as those for the December 16, 1978-January 6, 1979, season for quail and rabbit as previously published in the FEDERAL REGISTER.

The provisions of these special regulations supplement the regulations which govern hunting on wildlife refuge areas as set forth in Title 50, Code of Federal Regulations, Part 32. Hunting will be in accordance with any applicable State regulations.

(Sec. 2, 33 Stat. 614, as amended; sec. 5, 43 Stat. 651; sec. 5, 45 Stat. 449; sec. 10, 45 Stat. 1224; sec. 4, 48 Stat. 402, as amended; sec. 4, 48 Stat. 451, as amended; sec. 2, 48 Stat. 1270; sec. 4, 80 Stat. 927; 5 U.S.C. 301. 16 U.S.C. 685, 725, 690d, 715i, 664, 718d, 43 U.S.C. 315a; 16 U.S.C. 460k, 668dd; sec. 2, 80 Stat. 926; 16 U.S.C. 668bb.)

The public is invited to offer suggestions or comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: January 4, 1979.

JIM KILLER,
Acting Area Manager.

[FR Doc. 79-939 Filed 1-10-79; 8:45 am]

[3510-22-M]

Title 50—Wildlife and Fisheries

CHAPTER VI—FISHERY CONSERVATION AND MANAGEMENT, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 651—ATLANTIC GROUNDFISH (COD, HADDOCK, AND YELLOWTAIL FLOUNDER)

Addition of Appendix A and B to Final Regulations

AGENCY: National Oceanic and Atmospheric Administration.

ACTION: Correction of regulations.

SUMMARY: This document corrects the final Atlantic groundfish regulations published on Wednesday, January 3, 1979 (44 FR 885) by adding one appendix A and two appendices B, which were inadvertently omitted. The appendices show the quarterly quotas for Atlantic groundfish and also the catch limitations for each class of fishing vessel.

EFFECTIVE DATE: This corrective addition is effective immediately.

FOR FURTHER INFORMATION CONTACT:

Mr. Denton R. Moore, Acting Chief, Permit and Regulations Division, National Marine Fisheries Service, Washington, D.C. 20235, Telephone: (202) 634-7454.

Part 651 is corrected by adding Appendix A and Appendices B to read as follows:

APPENDIX A—*Quarterly Quotas*

	Oct.-Dec. 78	Jan.-Mar. 79	April-June 79	July-Sept. 79	Annual
COD—Gulf of Maine (Commercial) Mobile gear:					
1-60 GRT	581	699	798	479	2,557
61-125 GRT	342	277	262	266	1,147
Over 125 GRT	180	171	55	55	461
Fixed gear	317	253	645	620	1,835
Total	1,420	1,400	1,760	1,420	6,000
COD—Georges Bank and South (Commercial) Mobile gear:					
1-60 GRT	501	593	648	364	2,106
61-125 GRT	1,777	1,567	2,232	1,361	6,937
Over 125 GRT	2,958	2,129	2,426	2,365	9,878
Fixed gear	404	311	824	1,540	3,079
Total	5,640	4,600	6,130	5,630	22,000
HADDOCK—Gulf of Maine (Commercial) Mobile gear:					
1-60 GRT	183	146	460	200	989
61-125 GRT	261	209	183	160	813
Over 125 GRT	178	202	83	86	549
Fixed gear	106	210	265	198	779
Total	728	767	991	644	3,130
HADDOCK—Georges Bank and South (Commercial) Mobile gear:					
1-60 GRT	86	40	150	157	433
61-125 GRT	650	662	1,782	1,023	4,117
Over 125 GRT	1,133	1,393	2,449	1,720	6,695
Fixed gear	33	72	82	338	525
Total	1,902	2,167	4,463	3,238	11,770
YELLOWTAIL FLOUNDER—East of 69 W. (Commercial and Recreational):					
All classes	810	1,500	640	1,450	4,400
YELLOWTAIL FLOUNDER—West of 69 West (Commercial and Recreational):					
All classes	960	1,150	830	760	3,700

APPENDIX B—*Catch Limitations*

[Effective Dec. 29-Dec. 31, 1978]

Vessel Class	Gulf of Maine		Georges Bank and South	
	Limits	Overruns	Limits	Overruns
COD (pounds/week)				
0-60 GRT	2,500	1,500	4,900	3,500
61-125 GRT	2,500	1,500	4,900	1,500
Over 125 GRT	Closed Nov. 19		Closed Dec. 17	
Fixed gear	Closed Dec. 17		13,000	0
HADDOCK (pounds/week)				
0-60 GRT	Closed Nov. 19		Closed Nov. 19	
61-125 GRT	Closed Nov. 19		Closed Dec. 17	
Over 125 GRT	Closed Nov. 19		Closed Nov. 19	
Fixed gear	Closed Dec. 17		8,000	0
YELLOWTAIL FLOUNDER [1]				
	West of 69 West		East of 69 West	
0-60 GRT	Closed Dec. 17		5,000	
61-125 GRT	Closed Dec. 17		5,000	
Over 125 GRT	Closed Dec. 17		5,000	

[1] Pounds per week or trip, whichever time period is longer. No overruns are allowed.

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APPENDIX B—*Catch Limitations (Revised)*

[Effective Jan. 1, 1979]

Vessel Class	Gulf of Maine		Georges Bank and South	
	Limits	Overruns	Limits	Overruns
COD (pounds/week)				
0-60 GRT	2,500	1,500	4,900	3,500
61-125 GRT	5,000	1,500	9,800	3,500
Over 125 GRT	Closed Jan. 1		14,000	3,500
Fixed gear	5,000	0	13,000	0
HADDOCK (pounds/week)				
0-60 GRT	3,500	2,500	3,500	2,500
61-125 GRT	7,000	2,500	7,000	2,500
Over 125 GRT	Closed Jan. 1		10,000	2,500
Fixed gear	8,000	0	8,000	0
YELLOWTAIL FLOUNDER [2]	West of 69 West		East of 69 West	
0-60 GRT	5,000			
61-125 GRT	5,000			
Over 125 GRT	5,000			

[2] Pounds per week or trip, whichever time period is longer. A vessel may land *no more than* 5,000 pounds, even if it fished on both sides of the 69° W. line. No overruns are allowed.

Signed at Washington, D.C., this 4th day of January, 1979.

WINFRED H. MEIBOHM,
Acting Executive Director,
National Marine Fisheries Service.

[FR Doc. 79-816 Filed 1-10-79; 8:45 am]

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proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[6450-01-M]

DEPARTMENT OF ENERGY

Office of Energy Conservation and Solar Applications

[10 CFR Part 430]

ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

Advance Notice of Proposed Rulemaking and Notice of Public Meetings; Correction

AGENCY: Department of Energy.

ACTION: Advance Notice of Proposed Rulemaking and Notice of Public Meetings; Correction.

SUMMARY: This document corrects an Advance Notice of Proposed Rulemaking that appeared at 44 FR 49, in the issue of January 2, 1979.

FOR FURTHER INFORMATION CONTACT:

James A. Smith, U.S. Department of Energy, Office of Conservation and Solar Applications, Division of Buildings and Community Systems, Consumer Products Efficiency Branch, Room 2248, 20 Massachusetts Avenue, NW., Washington, D.C. 20545 (202) 376-4814.

SUPPLEMENTARY INFORMATION: FR Doc. 78-35936, appearing at page 49 in the FEDERAL REGISTER for Tuesday, January 2, 1979, is corrected as follows:

1. In the "DATES" paragraph, third column, page 49, the date "January 26, 1979", listed for the Boston, Massachusetts public meeting, is changed to read "January 29, 1979".

2. The "ADDRESSES" paragraph, first column, page 50, is corrected as follows:

The zip code "20461" listed for the Department of Energy under "Comments of the document to:" is changed to read "20545".

The second telephone number, "(415) 556-7216", listed in "Requests to speak at the San Francisco, California meeting:" is changed to read "FTS 556-7216".

The address, "2000 M Street, NW.,", listed for the Washington, D.C., meeting location under "Meeting locations:" is changed to read "GSA Auditorium, 18th and F Streets, NW.,".

The meeting location listed for the San Francisco public meeting under "Meeting locations:", "Hyatt Regency Union Square", is changed to read "Hyatt Union Square".

3. In the "FOR FURTHER INFORMATION CONTACT" paragraph, the telephone number in the second line, middle column, page 50, now reading "(202) 376-4614", should read "(202) 376-4814."

4. The fourth line of column three, page 50, now reading "Standards for dishwashers, televisions, clothes washers, humidifiers, and dehumidifiers are" is changed to read "Standards for dishwashers, television sets, clothes washers, and humidifiers and dehumidifiers are".

5. The third line of column three under the chart, page 51, now reading "(dishwashers, television sets, humidifiers, and dehumidifiers, and clothes washers)" is changed to read "(dishwashers, television sets, humidifiers and dehumidifiers, and clothes washers)".

6. The second line of column one, page 55, now reading "terminal, through-the-wall (no outdoor louvers)," should read "terminal, through-the-wall (no outdoor side louvers),".

7. The eighth line, second paragraph, of column one, page 55, now reading "units (no outdoor louvers)" is changed to read "units (no outdoor side louvers)".

8. The first line of the fourth full paragraph of column three, page 58, now reading "(1) In accordance with DOT test procedures," is changed to read "(1) In accordance with DOE test procedures,".

9. The ninth line of paragraph 2 in the second column under "VI. CONSUMER PARTICIPATION", page 59, now reading "• • • Further, DOE will accept collect telephone calls, at the consumer information numbers listed at the beginning of this notice, from individuals making requests to speak at the public meetings or requesting information about this program until the close of the comment period March 5, 1979." is changed to read "• • • Further, DOE has made available a toll free telephone number listed at the beginning of this notice under consumer information numbers for individuals outside of the Washington, D.C., metropolitan area wishing to request to speak at the public meetings or requesting information about this program until the close of the comment period, March 5, 1979. For those individuals residing in the Washington, D.C., metropolitan area wishing to request to speak at the public meetings or requesting information about this program, the number 376-5924 has been designated for this purpose until the close of the comment period, March 5, 1979."

Issued in Washington, D.C., January 5, 1979.

OMI WALDEN,
Assistant Secretary, Conservation and Solar Applications.

[FR Doc. 79-992 Filed 1-10-79; 8:45 am]

[1505-01-M]

[10 CFR Part 430]

ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

Advance Notice of Proposed Rulemaking and Notice of Public Meetings Regarding Energy Efficiency Standards for Nine Types of Consumer Products

Correction

In FR Doc. 78-35936 appearing at page 49 in the issue for Tuesday, January 2, 1979, on page 56, in Table II, under the listing for "Preliminary maximum technologically feasible energy efficiency levels" for the category of clothes dryers, the designations now reading "• • • lb/dWh (EF)" should have all read "• • • lb/kWh (EF)".

[4910-13-M]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 18632]

AIRWORTHINESS DIRECTIVES

Britten-Norman (Bembridge) Ltd. BN-2A Mk III Series Trislander Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to adopt an Airworthiness Directive (AD) that would require the replacement of elevator trim tab cables on Britten-Norman BN-2A Mk III series Trislander airplanes. Based on several reports of failure of the cables, this AD is required to preserve integrity of the

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elevator trim system and to prevent possible hazardous trim tab flutter.

DATES: Comments must be received on or before March 12, 1979.

ADDRESSES: Send comments on the proposal in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-24) Docket No. 18632, 800 Independence Avenue, S.W., Washington, D.C. 20591.

The applicable service bulletin may be obtained from: Britten Norman (Bembridge) Ltd., Bembridge-Isle of Wight, England.

A copy of the service bulletin is contained in the Rules Docket, Rm. 916, 800 Independence Avenue, S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

D. C. Jacobsen, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, Telephone 513.38.30. or Chris Christie, AFS-110 Engineering and Manufacturing Branch, (202) 426-8374.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

The FAA has determined that failure of the elevator trim tab cables, P/Ns NB-45-B-2333, 2231 and 2229 on Britten-Norman BN-2 Mk III Trislander airplanes is likely to occur. Several instances of failure of the cables in the vicinity of the pulleys located in the tailplane and rear engine pod have been reported. Consequently, it is considered necessary to require replacement of the existing cables with cables of greater flexibility to prevent failure of the cables and possible hazardous flutter of the elevator trim tab. Since this condition is likely to exist or develop on other airplanes of the same type design, an AD is being proposed which would require replacement of the existing cables with cables of improved design.

THE PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

BRITTEN-NORMAN (Bembridge) LTD. Applies to BN-2A Mk III Series Trislander airplanes, certificated in all categories, which do not incorporate Britten-Norman modification NB/M/679.

Compliance is required prior to the accumulation of 1000 hours time in service or within 200 hours time in service after the effective date of this AD, whichever occurs later, unless already accomplished.

To prevent failure of the elevator trim tab cable and the possible resultant trim tab flutter, replace the existing elevator trim tab cables, P/Ns NB-45-B-2333, 2231, 2229 with new cables P/Ns NB-45-B-2747, 2749, 2745, respectively, in accordance with Britten-Norman Service Bulletin BN-2/SB.75, dated June 27, 1978, or an FAA-approved equivalent.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); 14 CFR 11.85).

NOTE.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Washington, D.C., on January 5, 1979.

BERNARD A. GEIER,
Acting Director,
Flight Standards Service.

[FR Doc. 79-974 Filed 1-10-79; 8:45 am]

[4910-22-M]

Federal Highway Administration

[23 CFR Part 420]

[FHWA Docket No. 78-24]

HIGHWAY PLANNING—PROGRAM APPROVAL AND AUTHORIZATION

Proposed Rulemaking

AGENCY: Federal Highway Administration, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to prescribe Federal Highway Administration (FHWA) policies and procedures related to program approval and authorization of highway planning projects undertaken with Federal-aid highway funds. These policies and procedures allow more efficient use of highway fund by eliminating areas of conflict and confusion.

DATES: Comments must be received on or before March 12, 1979.

ADDRESS: Submit comments, preferably in triplicate, to FHWA Docket No. 78-24, Federal Highway Administration, Room 4205, HCC-10, 400 Seventh Street, SW., Washington, D.C. 20590. All comments and suggestions received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m. ET, Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Walter S. Manning, Systems and Program Review Branch, Office of Highway Planning, 202-426-0175, or Lee Burstyn, Office of the Chief Counsel, 202-0426-0780, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590.

SUPPLEMENTARY INFORMATION: This rule is proposed by the FHWA in order to update 23 CFR 420, Subpart A. This revision is felt to be more flexible and involves a reduction in requirements. There have been no major policy changes.

This proposed regulation would codify the policies and procedures contained in the Federal-Aid Highway Program Manual, Volume 4, Chapter 1, Section 2, Subsection 1.*

NOTE.—The Federal Highway Administrator has determined that this document does not contain a major proposal according to the criteria established by the Department of Transportation pursuant to E.O. 12044.

This notice of proposed rulemaking is issued under the authority of 23 U.S.C. §§ 104, 307, and 315, and the delegation of authority by the Secretary of Transportation at 49 CFR 1.48(b).

Issued on: January 4, 1979.

JOHN S. HASSELL, Jr.,
Deputy Administrator.

It is, therefore, proposed to amend Chapter I of Title 23, Code of Federal Regulations by revising Part 420, Subpart A to read as follows:

PART 420—PROGRAM MANAGEMENT AND COORDINATION

Subpart A—Highway Planning—Program Approval and Autherization

Sec.
420.101 Purpose.
420.103 Definitions.
420.105 Policy.
420.107 Planning work program format and submission.
420.109 Reporting requirements.

*The Federal-Aid Highway Program Manual is available for inspection and copying as prescribed in 49 CFR 7, Appendix D.

Sec.
420.111 Approval and authorization procedures.
420.113 Fiscal procedures.

AUTHORITY: 23 U.S.C. 104, 307, and 315; and 49 CFR 1.48(b).

§ 420.101 Purpose.

To prescribe Federal Highway Administration (FHWA) policies and procedures related to program approval and authorization of highway planning projects undertaken with Federal-aid highway funds other than the one-half percent metropolitan planning funds.

§ 420.103 Definitions.

(a) Type of Funds—HPR, PR, or PL funds. HPR funds are the 1½ percent funds authorized under 23 U.S.C. 307(c)(2) and PR funds are the optional one-half percent funds authorized under 23 U.S.C. 307(c)(3). PL funds are the one-half percent metropolitan planning funds authorized under 23 U.S.C. 104(f)(1).

(b) Class of Fund—Primary, secondary, urban, or Interstate (including resurfacing, restoring, and rehabilitating) funds which are authorized under 23 U.S.C. 104(b) and which are the source of HPR and PR funds.

(c) HP&R Work Program—The total highway planning and research/development effort described in a periodic statement(s) of proposed work and estimated cost.

§ 420.105 Policy.

HPR funds shall be administered as a single fund and the identity of PR funds, by class, shall be preserved. Administration of PL funds shall be in accordance with 23 CFR Part 450, Subpart B.

§ 420.107 Planning work program format and submission.

(a) The planning work program, whether including or excluding urbanized area planning or research/development, shall support the expenditure of Federal funds and be in a format which is acceptable to both the State highway agency (SHA) and the FHWA.

(b) Federal-aid highway funds shall not participate in any work accomplished prior to FHWA approval and authorization of a planning work program.

§ 420.109 Reporting requirements.

(a) Performance report.

(1) Unless otherwise waived by FHWA, the SHA shall submit to the FHWA a quarterly performance report which at a minimum includes:

(i) A comparison of actual accomplishments to the goals established, and

(ii) Reasons why established goals are not being met or were not met.

(2) The quarterly performance report submission requirement may be waived by the FHWA, in agreement with the SHA, if the SHA submits a summary performance report within 90 days of the anniversary date of the work program.

(b) Financial summary. The SHA shall submit to the FHWA, either prior to or concurrently with submission of the work program, a financial summary covering the use of all Federal and matching funds used for highway planning, whether for combined or separate projects.

(c) Financial status report. Unless otherwise waived by FHWA, the SHA shall submit to the FHWA a quarterly financial status report no later than 30 days after the end of each quarter.

§ 420.111 Approval and authorization procedures.

(a)(1) The SHA shall obtain prior approval and authorization from the FHWA for a work program. The SHA shall also obtain prior approval from the FHWA when a revision to an individual work item or the work program will be necessary for any of the following reasons:

(i) Changes in scope or objectives,

(ii) Addition of a work item,

(iii) The need for additional Federal funding,

(iv) The acquisition of equipment not identified in the work program, or

(v) The acquisition of professional services rendered by individuals or organizations not a part of the SHA.

(a)(2) Minor adjustments to estimated costs for individual line items do not require FHWA approval.

(b) Authorization to proceed with the work program in whole or in part shall be deemed a contractual obligation of the Federal Government pursuant to 23 U.S.C. 106 and shall reuire that appropriate funds are available for Federal participation in the cost of the authorized work.

(c) Execution of, and amendments to, the Federal-aid Project Agreement (PR-2) shall follow established procedures.

§ 420.113 Fiscal procedures.

(a) The SHA shall follow procedures set forth by the FHWA regarding the identification of projects.

(b) Apportionment and Federal Share.

(1) HPR Funds. Unless otherwise determined by the Federal Highway Administrator, the maximum percentage of Federal participation for HPR funds authorized during a given fiscal year shall be one of the two rates computed by the FHWA at the time the apportionment for that fiscal year is made. The rate initially determined shall be retained throughout the life of the project, except that (i) the SHA may revise an active project by modification of the project agreement to use a revised rate, and (ii) at the final voucher stage the SHA may use a rate in effect at that time.

(2) PR Funds. Unless otherwise determined by the Administrator, the maximum matching ratio of Federal participation for PR funds shall be the same as for non-Interstate Federal-aid construction funds in the State.

(c) Reimbursement. Federal funds shall not be used to reimburse the SHA for any work accomplished prior to the fiscal year for which the funds are apportioned.

(d) The SHA shall account for any property acquired with Federal funds.

[FR Doc. 79-958 Filed 1-10-79; 8:45 am]

[4910-14-M]

Coast Guard

[33 CFR Part 161]

[CGD 78-080]

NEW ORLEANS VESSEL TRAFFIC SERVICE

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: The Coast Guard is proposing to amend the regulations governing the New Orleans Vessel Traffic Service to reflect existing river practice and terminology. Since the existing regulations and river practice and terminology do not coincide, there is a potential for unsafe activities on the Mississippi River. The proposed changes will eliminate any misunderstanding, and should increase navigation safety.

DATES: Comments must be received on or before: March 1, 1979.

ADDRESSES: Comments should be submitted to Commandant (G-CMC/81), (CGD 78-080), U.S. Coast Guard, Washington, D.C. 20590. Comments will be available for examination at the Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Lieutenant (Junior Grade) George W. Molessa, Jr., Office of Marine Environment and Systems (G-WLE-4/73), Room 7315, Department of Transportation, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590 (202 426-4958).

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Each comment should in-

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clude the name and address of the person submitting the comment, reference the docket number (CGD 78-080), identify the specific section of the proposal to which each comment applies, and include sufficient detail to indicate the basis on which each comment is made. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned but one may be held at a time and place to be set in a later notice in the FEDERAL REGISTER if requested in writing by an interested person raising a genuine issue and desiring to comment orally at a public hearing.

DRAFTING INFORMATION

The principal persons involved in drafting this proposal are: Lieutenant (Junior Grade) George W. Molessa, Jr., Project Manager, Office of Marine Environment and systems, and Edward J. Gill, Jr., Project Attorney, Office of the Chief Counsel.

DISCUSSION OF THE PROPOSED REGULATIONS

The regulations governing the New Orleans Vessel Traffic Service were transferred from the U.S. Army Corps of Engineers to the Coast Guard on September 29, 1977 (42 FR 51758). When the transfer took place, only certain non-substantive word changes were made to make the regulatory language compatible with Coast Guard operations. The regulations proposed in this document are substantive in nature.

It is proposed to lower the levels for the Carrollton Gage, thus changing the stage of the Mississippi River at which the control lights are utilized. This proposal reflects a current river practice.

The reference to "Morgans Wharf" is being deleted since it no longer exists. The "Atlantic Street Discharge Light" replaces the deleted reference.

The "vertical flagpole at Eastern Associated Terminals" replaces "Diana Street" as a reference point since it is more readily identifiable.

This proposal also reflects equipment changes in the traffic lights on the Mississippi River. Antiquated lights and drive mechanisms used for years by the Corps of Engineers are being replaced by modern Coast Guard FA-190 lanterns. The new lights will experience considerably less down time because of the replaceability of the standard components. Identification by the mariner will also be improved because the old lamps had erratic oscillations.

The Coast Guard has reviewed this proposed rule under the Department of Transportation's "Policies and Procedures for Simplification, Analysis, and Review of Regulations" (43 FR, 9582, March 8, 1978). A draft evaluation has been prepared, and has been included in the public docket.

In consideraion of the foregoing, it is proposed that Part 161 of Title 33 of the Code of Federal Regulations be amended as follows:

By revising § 161.402(b)(1), (2), and (3)(i) to read as follows:

§ 161.402 Vessel operation.

* * * * *

(b) * * *

(1) *Control lights.* When the Mississippi River reaches 8 feet on the Carrollton Gage on a rising stage, and until the gage reads 9 feet on a falling stage, the movement of all tugs with tows and all ships, whether under their own power or in tow, but excluding tugs or towboats without tows or river craft of comparable size and maneuverability operating under their own power, in the vicinity of Algiers Point shall be governed by red and green lights designated and located as follows: Governor Nicholls Light located on the left descending bank on the wharf shed at the upstream end of Esplanada Avenue Wharf, New Orleans, approximately 94.3 miles above Head of Passes; and Gretna Light located on the right descending bank on top of the levee at the foot of Ocean Avenue, Gretna, approximately 96.6 miles above Head of Passes. Governor Nicholls Light has lights visible from both upstream and downstream, and Gretna Light has lights visible from upstream, all indicating by proper color the direction of traffic around Algiers Point. From downstream, Gretna Light always shows green. All lights are visible throughout the entire width of the river and flash once every second. A green light displayed ahead of a vessel (in the direction of travel) indicates that Algiers Point is clear and the vessel may proceed. A red light displayed ahead of a vessel (in the direction of travel) indicates that Algiers Point is not clear and the vessel shall not proceed. Absence of lights shall be considered a danger signal and no attempt shall be made to navigate through the restricted area.

(2) *Ascending vessels.* Ascending vessels shall not proceed farther up the river than a line connecting the upper end of Atlantic Street Discharge Light (on right descending bank) with the lower end of Desire Street Wharf (on left descending bank) when a red light is displayed. Vessels waiting for a change of signal shall keep clear of descending vessels.

(3) *Descending vessels.* (i) Descending vessels shall not proceed farther down the river than a line connecting the lower end of Julia Street Wharf (on left descending bank) with the vertical flagpole at Eastern Associated Terminals (on right descending bank) when a red light is displayed. Vessels shall round to and be headed upstream before they reach that line, if the signal remains against the vessel. Vessels waiting for a change of signal shall keep clear of ascending vessels.

* * * * *

(Sec. 104, Pub. L. 92-340, 86 Stat. 424 (33 U.S.C. 1224); 49 CFR 1.46 (n)(4).)

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended, and OMB Circular A-107.

Dated: January 4, 1979.

R. H. SCARBOROUGH,
Vice Admiral, U.S. Coast Guard,
Acting Commandant.

[FR Doc. 79-1018 Filed 1-10-79; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 65]

[FRL 1021-4]

DELAYED COMPLIANCE ORDERS

Proposed Disapproval of an Administrative Order Issued by Indiana Air Pollution Control Board to Youngstown Sheet & Tube Co.

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: U.S. EPA proposes to disapprove an Administrative Order issued by the Indiana Air Pollution Control Board to Youngstown Sheet and Tube Company. The Order requires the Company to bring air emissions from its Sinter plant in East Chicago, Indiana, into compliance by July 1, 1979, with Regulations APC-3 and APC-5 of the Indiana Air Pollution Control Board (Indiana APC-3 and Indiana APC-5). It is important to note that Indiana APC-3 is different than State Implementation Plan (SIP) APC-3, as will be discussed later. Because the Order has been issued to a major source and purports to permit a delay in compliance with provisions of the SIP, it must be approved by U.S. EPA before it can become effective as a Delayed Compliance Order under the Clean Air Act (the Act). If approved by U.S. EPA, the Order would constitute an addition to the SIP. In addition, a source in compliance with an approved Order may not be sued under the Federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the Order. The purpose of this notice is to invite public comment on U.S. EPA's proposed disapproval of the Order as a Delayed Compliance Order.

DATE: Written comments must be received on or before February 12, 1979.

ADDRESSES: Comments should be submitted to Director, Enforcement Division, EPA, Region V, 230 South Dearborn Street, Chicago, Illinois 60604. The State Order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Mr. Michael Smith, Enforcement Division, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, Telephone (312) 353-2082.

SUPPLEMENTARY INFORMATION: Youngstown Sheet and Tube Company operates a Sinter plant at East Chicago, Indiana. The Order under consideration addresses emissions from the Sinter plant which is subject to Indiana APC-3 as promulgated on October 7, 1974, and APC-5 as promulgated on December 6, 1968. Indiana APC-3 sets the standards for visible emissions, but is less stringent than the federally approved SIP APC-3. The Order does not require compliance with the applicable Indiana SIP. The Order, at Order paragraph 1, requires compliance with "* * * Indiana Air Pollution Control Board Regulations APC-3 and APC-5, as promulgated October 7, 1974 and December 6, 1968 respectively. * * *" The cited Indiana APC-3 contains a 15 minute exemption which was disapproved when submitted by the State (40 FR 50032, October 28, 1975) and does not appear as part of the Indiana Implementation Plan. An approval of this Order would constitute approval of compliance with a requirement less stringent than the applicable Indiana Implementation Plan and is not authorized by section 113(d)(1) of the Act.

The Order also provides for an extension of dates by which certain events are required under the Order, upon certain "satisfactory showing(s)". Such extensions cannot be accomplished except by means of the rulemaking process for Order approval.

The Order contains provisions which would shield the Company from civil or criminal penalties if certain vaguely defined events occur. Such provisions eliminate effective State enforcement of the provisions of the Order and could impair Federal enforcement contrary to sections 113(d)(1), (9), (10) of the Act. For these reasons, the U.S. Environmental Protection Agency proposes to disapprove the state Order.

Because this Order has been issued to a major source of visible emissions and permits a delay in compliance with the applicable regulation, it must be approved by U.S. EPA before it becomes effective as a Delayed Compliance Order under section 113(d) of the Act. U.S. EPA may approve the Order only if it satisfies the appropriate requirements of this subsection.

If the Order is disapproved by U.S. EPA, source compliance with its terms would not preclude Federal enforcement action under Section 113 of the Act against the source for violations of the regulation covered by the Order during the period the Order is in effect. Enforcement against the source under the citizen suit provision of the Act (Section 304) would similarly not be precluded. If disapproved, the Order would not constitute an addition to the Indiana SIP.

All interested persons are invited to submit written comments on the proposed disapproval of the Order. Written comments received by the date specified above will be considered in determining whether U.S. EPA will disapprove the Order. After the public comment period, the Administrator of U.S. EPA will publish in the FEDERAL REGISTER the Agency's final action on the Order in 40 CFR Part 65.

(Authority: 42 U.S.C. 7413, 7601.)

Dated: November 28, 1978.

JOHN MCGUIRE,
Regional Administrator,
Region V.

[FR Doc. 79-912 Filed 1-10-79; 8:45 am]

[4110-02-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

[45 CFR Part 122a]

INDOCHINA REFUGEE CHILDREN ASSISTANCE ACT

AGENCY: Office of Education, HEW.

ACTION: Notice of decision to develop regulations.

SUMMARY: The Commissioner of Education proposes regulations for the Indochina Refugee Children Assistance Act as required by the Education Amendments of 1978. The intended effect of the regulations is to provide direction to State and local educational agencies in implementing the program which will provide services to those Indochinese refugee children paroled into the United States on or after January 1, 1977.

The regulations will include: (a) The eligibility requirements of the refugee children;

(b) Educational services;

(c) Adjustment of the allotted amount of funds per child;

(d) The role of the SEA;

(e) Implementation of the Commissioner's by-pass authority as well as the Commissioner's authority to reallocate and ratably reduce allocations, and to provide services to nonpublic school children.

These regulations are policy significant.

FOR FURTHER INFORMATION CONTACT:

Mr. James H. Lockhart, Room 2189 FOB #6, 400 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone: (202) 245-3081.

(Catalog of Federal Domestic Assistance No. 13.596, Indochina Refugee Children Assistance Act.)

Dated: November 1, 1978.

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc. 79-1021 Filed 1-10-79; 8:45 am]

[4110-02-M]

[45 CFR Part 161b]

METRIC EDUCATION PROGRAM

AGENCY: Office of Education, HEW.

ACTION: Notice of decision to develop regulations.

SUMMARY: The Commissioner of Education proposes to recodify and amend the regulations for the Metric Education Program. The proposed regulations will revise the sections of the existing regulations that have been found to be ambiguous or unclear. They will also include revisions that are necessary to implement that program as required by the Education Amendments of 1978. Some of these revisions will be to revise: (1) criteria for awarding new grants; (2) sections of the present regulations that address the funding of the National Metric Education Technical Support Grant; and (3) criteria for funding of public and private nonprofit organizations. These proposed regulations are considered to be technical.

FOR FURTHER INFORMATION CONTACT:

Dr. Floyd A. Davis, Room 835, Riviere Building, 1832 M Street, N.W., Washington, D.C. Telephone: (202) 653-5920.

(Catalog of Federal Domestic Assistance Program 13.561 Metric Education Program)

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Dated: December 1, 1978.

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc. 79-1022 Filed 1-10-79; 8:45 am]

[4110-02-M]

[45 CFR Part 161c]

ARTS EDUCATION PROGRAM

AGENCY: Office of Education, HEW.

ACTION: Notice of decision to amend regulations.

SUMMARY: The Commissioner of Education proposes to amend the Arts Education Program regulations to incorporate changes in the program authorized by the Education Amendments of 1978. The act authorizes financial assistance to strengthen the arts in elementary and secondary education. The regulations govern the selection of all grantees and some contractors for funding under the program. The regulations respond to the broadened eligibility provision in the legislation, which allows public and private organizations, as well as State and local educational agencies, to compete for funds. The regulations establish eligibility requirements and criteria for applicants. These regulations are policy signifícant.

FOR FURTHER INFORMATION CONTACT:

Lonna Jones (Room 4129, Federal Office Building 6), 400 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone: (202) 472-5658.

(Catalog of Federal Domestic Assistance Number 13.566, Arts Education Program)

Dated: December 11, 1978.

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc. 79-1023 Filed 1-10-79; 8:45 am]

[4110-02-M]

[45 CFR Part 161e]

CONSUMERS' EDUCATION PROGRAM

AGENCY: Office of Education, HEW.

ACTION: Notice of decision to develop regulations.

SUMMARY: The Commissioner of Education proposes to recodify and amend the regulations for the Consumers' Education Program. The proposed regulations will simplify and clarify the language of the existing regulations and implement the Education Amendments of 1978. The major thrust of these amendments is to develop the capacity of educational institutions and community agencies to provide consumers' education to persons of all ages in a variety of settings. It has been determined that these regulations are policy significant.

FOR FURTHER INFORMATION CONTACT:

Dr. Dustin W. Wilson, Jr., Office of Consumers' Education, U.S. Office of Education, 400 Maryland Avenue, S.W., Washington, D.C. 20202. Phone: (202) 653-5983.

(Catalog of Federal Domestic Assistance No. 13.564, Consumers' Education Program)

Dated: December 1, 1978.

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc. 79-1024 Filed 1-10-79; 8:45 am]

[4110-02-M]

[45 CFR Part 161n]

SPECIAL GRANTS FOR SAFE SCHOOLS

AGENCY: Office of Education, HEW.

ACTION: Notice of decision to develop regulations.

SUMMARY: The Commissioner of Education proposes to publish a notice of proposed rulemaking for Special Grants for Safe Schools under the Education Amendments of 1978. These regulations govern the award of grants to local educational agencies to reduce and prevent crimes against children, employees, and school facilities. They define terminology, establish funding criteria, and emphasize program purpose and direction. These regulations are policy significant.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert L. Thomas, 400 Maryland Avenue, S.W., Room 3010, ROB-3, Washington, D.C. 20202. Telephone: 202-245-2605.

(Catalog of Federal Domestic Assistance Number Special Grants for Safe Schools)

Dated: November 1, 1978.

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc. 79-1025 Filed 1-10-79; 8:45 am]

[4110-02-M]

[45 CFR Part 183]

FINANCIAL ASSISTANCE FOR ENVIRONMENTAL EDUCATION PROJECTS

AGENCY: Office of Education, HEW.

ACTION: Notice of decision to develop regulations.

SUMMARY: The Commissioner of Education proposes to publish regulations governing the award of grants to improve environmental education. The regulations are required by the technical amendments in the reauthorization of the Environmental Education Act of 1974. They will also clarify the language of the existing regulations. These regulations are technical.

FOR FURTHER INFORMATION CONTACT:

Ms. Sylvia Wright, Room 2025, FOB-6, 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone: 202/245-9231.

(Catalog of Federal Domestic Assistance Number 13.522, Environmental Education Program)

Dated: September 28, 1978.

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc. 79-1026 Filed 1-10-79; 8:45 am]

[4110-07-M]

Social Security Administration

[45 CFR Parts 205 and 206]

AID TO FAMILIES WITH DEPENDENT CHILDREN

Access to Wage Record Information

AGENCY: Social Securtiy Administration, HEW.

ACTION: Proposed rule.

SUMMARY: The proposed regulations specify the requirements for State AFDC agencies to request wage information from the State unemployment compensation agencies. If State unemployment compensation agencies do not have the information, State AFDC agencies must request this from the Social Security Administration. This information will be used to determine eligibility for, or the amount of, financial assistance or services. These regulations also specify the safeguards which must be observed in the use of the information under the Aid to Families with Dependent Children (AFDC) program.

DATES: Comments must be received on or before March 12, 1979.

ADDRESSES: Prior to final adoption of the proposed regulations, consideration will be given to any comments submitted in writing to the Commissioner of Social Security, Department of Health, Education, and Welfare, P.O. box 1585, Baltimore, Maryland 21203.

Copies of all comments received in response to this notice will be available during regular business hours at the Washington Inquiries Section, Office of Information, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 5131, 330 Independence Avenue, S.W., Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT:

Miss Helen T. Hamilton, Office of Family Assistance, Division of Policy, Social Security Administration, 330 C Street, S.W., Washington, D.C. 20201, telephone (202) 245-1716.

SUPPLEMENTARY INFORMATION: Section 403 of Pub. L. 95-216 amended section 402(a) of the Social Security Act to add a new paragraph (29). This provides that, in the administration of the AFDC program, State AFDC agencies must request and use wage information, about current applicants and recipients, available from the Social Security Administration and from agencies administering State unemployment compensation laws. State AFDC agencies must request information from the Social Security Administration when it is not available from a State unemployment compenstation agency. This requirement is effective October 1, 1979.

These provisions are designed to improve a State's ability to acquire accurate wage data about current applicants and recipients. The use of this wage information is expected to enable a State to reduce error rates in determining eligibility for, and the amount of, assistance under its AFDC program.

The proposed regulations require that a State establish procedures to request and use wage information for all current AFDC applicants or recipients from the State unemployment compensation agency, if wage information is available, four times each year. If a State unemployment compensation agency does not collect wage information, the AFDC agency must request this information from the Social Security Administration twice each year.

The State agency is to use the requested wage information to determine a person's eligibility for, or the amount of, aid or services under its AFDC plan. In addition, this information is available for any investigation or prosecution to determine whether recipients received aid or services to which they were not entitled.

A large amount of wage information is available from State unemployment compensation agencies and the Social Security Administration. The data are maintained by those agencies in computerized storage files in social security number sequence. This, together with the expected large number of requests for data, will make furnishing the requested wage information subject to error and long delays unless a practical procedure for exchanging information is used. For this season, the proposed regulations require that an AFDC agency maintain an automated file of current applicants' and recipients' names and social security numbers. Requests for wage information will be made from these automated files in a "machine-readable" format to permit electronic transfers of information from the wage records to the AFDC agency.

The Department believes this requirement is essential to the efficient operation of the wage information system mandated by section 403 of Public Law 95-216. Manual recordkeeping and printed or handwritten requests would be far more error-prone, and would result in long delays in furnishing the requested information. Errors and delay would make the new information substantially less useful to a State in accurately determining eligibility and the amount of the grant, thus frustrating the purpose for which this legislation was enacted.

Under these regulations, all existing confidentiallty requirements for AFDC information apply to the automated files and wage information. These protections are clarified with the addition of § 205.50(a)(3)(ii) and (iii), which require than any information about wages, including information in machine-readable form, must be stored so that unauthorized persons cannot acquire the information. In addition, anyone with access to this information must be advised of the circumstances under which access is permitted and the sanctions imposed for its misuse. These requirements will apply to information about wages from any source.

States are encouraged to develop ADP systems security procedures for protecting wage information. In that regard, Part 6 of DHEW Systems Manual is considered to be a good reference and will be made available to interested States upon request.

The protections within both 45 CFR 205.50 and 20 CFR 401.105 apply to wage information provided under the proposed regulations. In certain respects, however, these may be inconsistent because of historic differences betweeen the AFDC program and the Old Age, Survivors and Disability Insurance programs. The disclosure regulations will be revised shortly to ensure consistency. Until then, if there is an inconsistency between two provisions, the more restrictive applies.

The proposed regulations also provide that the specific arrangements for requesting wage information be covered in an agreement between the requesting agency and the agency furnishing the information. Each agreement will identify, at a minimum, the officials authorized to make te requests; the exact methods to be used; the dates in the year that the requests will be made; the periods of employment for which wage information will be furnished (i.e., the wage reporting periods); the time within which the requested information will be furnished; safeguards limiting release or redisclosure; and any reimbursement to be made for the costs of furnishing the requested information.

In addition, to measure the results and the cost effectiveness of the wage data exchange, the Department is requiring that State AFDC agencies maintain basic statistical information about the chanes in eligibility and benefit amount which occur after this requirement is effective. We are specifically soliciting States' views regarding this requirement, particularly the extent to which a serious reporting burden would result, and whether agencies believe that alternative ways of measuring effectiveness would be superior.

The proposed regulations also provide that assistance will not be denied, delayed or discontinued, pending receipt of wage information requested under these new requirements, if other documentary evidence establishes that the individual is eligible. The Department expects that in most cases the information gained through the wage record system will be used to verify eligiblity information already received.

State agencies will be required to implement these provisions by October 1, 1979.

Agencies may implement these provisions sooner, if they wish. The new law also added section 411 to the Social Security Act which is currently in effect. This provides that the Secretary of Health, Education, and Welfare will, upon request, make available to State and local agencies wage information contained in the records of the Social Security Administration for use in determining an individual's eligiblity for, or the amount of, assistance or services under the AFDC program. The new law also added a new section 3304(a)(16) to the Federal Unemployment Tax Act. This provides that wage information which is contained in the records of the agency administering State unemployment compensation laws, shall similarly be available to State and local welfare agencies. Under both of these provisions, the Secretary of Health, Education, and Welfare is to establish safeguards ensuring that wage information obtained from the State unemployment compensation agencies or the Social Security Administration is used only for the specified AFDC purposes.

The Department's iterim regulations for the disclosure or official records and information to State and local AFDC agencies were published on January 30, 1978. (43 FR 3907), and public comment was requested on June 14, 1978 (43 FR 25672).

The regulations are to be issued under the authority contained in sec-

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tions 402, 411, 1102, 1106(a), of the Social Security Act, as amended; 49 Stat. 647, as amended, 91 Stat. 1561, 53 Stat. 1398, as amended; 42 U.S.C. 602, 611, 1302, 1306(a), and section 403 of Public Law 95-216, 91 Stat. 1561.

(Catalog of Federal Domestic Assitance Program No. 13.761, Public Assistance—Maintenance Assistance (State Aid).)

Dated: October 2, 1978.

DON WORTMAN,
Acting Commissioner of Social Security.

Approved: December 28, 1978.

JOSEPH A. CALIFANO, JR.,
Secretary of Health, Education, and Welfare.

Chapter II, Title 45 of the Code of Federal Regulations is amended as set forth below:

1. Section 205.50 is amended by revising paragraph (a)(2)(i)(B) and paragraph (a)(3) to read as follows:

§ 205.50 Safeguarding information for the financial assistance and social services programs.

(a) *State plan requirements.* • • •

(2) • • •

(i) • • •

(B) Information related to the social and economic conditions or circumstances of a particular individual, including wage information (see § 205.51) obtained from the agency administering the State unemployment compensation laws or from the Social Security Administration;

• • • • •

(3)(i) The agency will publicize provisions governing the confidential nature of information about applicants and recipients, including the legal sanctions imposed for improper disclosure and use, and will make these provisions available to applicants and recipients and to other persons and agencies to whom information is disclosed.

(ii) All information about wages (including that described in § 205.51) will be stored and processed so that no unauthorized personnel can acquire or retrieve the information by any means.

(iii) All persons with access to information about wages will be advised of the circumstances under which access is permitted and the sanctions imposed for illegal use or disclosure of the information.

• • • • •

2. A new § 205.51 is added to read as follows:

§ 205.51 Definition of wage information.

For purposes of §§ 205.50, 205.56, 205.57, 205.58, 205.60, and 206.10.

(a) Wage information requested from agencies administering State unemployment compensation laws means information about both "wages" and "self-employment income" as defined in the State unemployment compensation laws;

(b) Wage information requested from the Social Security Administration means information about both "wages" and "self-employment income" as defined in title II of the Social Security Act; and

(c) Wage information also includes the name and address of the employer and the identification number used by the employer in making the wage report.

3. A new § 205.56 is added to read as follows:

§ 205.56 Access to wage information from agencies administering State unemployment compensation laws and from the Social Security Administration.

A State plan under title IV-A of the Social Security Act must provide that:

(a) The State agency will request wage information about all current AFDC applicants and recipients quarterly from agencies administering the State unemployment compensation laws if those agencies collect wage information. If they do not, the State agency must request the wage information semi-annually from the Social Security Administration.

(b) The State agency will use this wage information for:

(1) Determining individuals' eligibility for aid or services under the State plan;

(2) Determining the amount of aid or services;

(3) Investigations to determine whether recipients received aid or services under the State plan to which they were not entitled; and

(4) Criminal or civil prosecutions based on receipt of aid or services under the State plan to which recipients were not entitled.

4. A new § 205.57 is added to read as follows:

§ 205.57 Maintenance of an automated file; requests for wage information.

A State plan under title IV-A of the Social Security Act must provide that:

(a) The State agency will maintain a file which is machine-readable, i.e., which is maintained in a fashion that permits automated processing, containing the name and social security number of each person applying for, or receiving, aid or services under the plan.

(b) Requests for wage information will be made in machine-readable form from this file.

5. A new § 205.58 is added to read as follows:

§ 205.58 Access to wage information; specific agreements between the State agency and the agency supplying the information.

(a) A State plan under title IV-A of the Social Security Act must provide that, in carrying out the requirements of §§ 205.56 and 205.57, the State agency will enter into specific agreements with agencies administering State unemployment compensation laws, or with the Social Security Administration, if appropriate, detailing the procedures to be used in requesting and providing wage information.

(b) These agreements will include, but need not be limited to, the following:

(1) Identification of all agency officials by position with authority to request wage information;

(2) Methods and timing of the requests for information, including the machine-readable format to be used, and the period of time needed to furnish the requested wage information;

(3) The wage reporting periods for which information will be provided;

(4) Safeguards limiting release or redisclosure as required by Federal or State law or regulation, including the requirements of § 205.50 and 20 CFR 401.105; and

(5) Reimbursement, if any, for the costs of furnishing the information requested by the State agency.

6. Section 205.60 is amended by adding a sentence to paragraph (a)(1); redesignating paragraph (a)(2) as (a)(3) and adding a new paragraph (a)(2) to read as follows:

§ 205.60 Reports and maintenance of records.

(a) *State plan requirements.* • • •

(1) • • •

In addition, records kept under a State's IV-A plan will include the individual's social security number.

(2) Under title IV-A, the State agency will establish and maintain statistical records regarding the specific effect of the use of wage information on all of the following:

(i) The number and dollar value of case closings per month;

(ii) The number and dollar value of grant reductions per month;

(iii) The number and dollar value of grant increases per month;

(iv) The number of cases referred for prosecution per month;

(v) The number of cases prosecuted per month; and

(vi) The number and dollar value of overpayments recovered per month.

7. Section 206.10 is amended by revising paragraph (a)(5) to read as follows:

§ 206.10 Application, determination of eligibility and furnishing of assistance.

(a) State plan requirements. • • •

(5)(i) Financial assistance and medical care and services included in the plan shall be furnished promptly to eligible individuals without any delay attributable to the agency's administrative process, and shall be continued regularly to all eligible individuals until they are found to be ineligible. Under this requirement there must be arrangements to assist applicants and recipients in obtaining medical care and services in emergency situations on a 24-hour basis, 7 days a week.

(ii) Under title IV-A, assistance will not be denied, delayed or discontinued pending receipt of wage information requested under § 205.56, if other evidence establishes the individual's eligibility for assistance.

[FR Doc. 79-1027 Filed 1-10-79; 8:45 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1100]

[Ex Parte No. MC-109 (Sub-No. 1); Ex Parte No. MC-110]

APPLICATIONS SEEKING SUBSTITUTION OF FOR-HIRE SERVICE FOR PROPRIETARY OPERATIONS; SERVICE AT NEW PLANTSITES

Rules and Practice

AGENCY: Interstate Commerce Commission.

ACTION: Notice of discontinuance of proceedings.

SUMMARY: The Commission has under consideration proposed rules [42 FR 55241 (1977) (Ex Parte No. MC-109 (Sub-No. 1), 42 FR 55239 (1977) (Ex Parte No. MC-110)] which would ease significantly entry requirements with respect to motor carrier applicants seeking substitute for-hire service for proprietary operations or to provide service for a new plantsite. In view of recent procedural revisions adopted in Ex Parte No. 55 (Sub-No. 25), Revision of Application Procedures, 42 FR 62486 (1977), and Ex Parte No. 55 (Sub-No. 26), Protest Standards in Motor Carrier Application Proceedings, 43 FR 50908 (1978), the Commission now believes that further consideration of and action on the proposals in these proceedings are unnecessary. The objectives sought in these rulemaking proceedings can be accomplished under the newly revised procedures without adding to our regulations. Accordingly, the proceedings in Ex Parte No. MC-109 (Sub-No. 1), Applications Seeking Substitution of For-Hire Service for Proprietary Operations, and Ex Parte No. MC-110, Service at New Plantsites, are discontinued.

EFFECTIVE DATE: January 11, 1979.

FOR FURTHER INFORMATION CONTACT:

Michael Erenberg, (202)-275-7292.

This document is issued under the authority contained in 49 U.S.C. 10321 and 5 U.S.C. 553 and 559.

Dated December 18, 1978.

By the Commission, Chairman O'Neal, Vice Chairman Christian, Commissioners Brown, Stafford, Gresham, and Clapp.

H. G. HOMME, JR.,
Secretary.

[FR Doc. 79-1063 Filed 1-10-79; 8:45 am]

[7035-01-M]

[49 CFR Parts 1207 and 1240]

[No. 36137 (Sub. No. 1)]

REVISION OF LEVELS OF REVENUES WHICH DEFINE THE CLASSES OF MOTOR CARRIERS OF PROPERTY

Classes of Carriers

JANUARY 8, 1979.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: This Notice proposes changes in the levels of gross annual carrier operating revenues which define the classes of common and contract motor carriers of property for accounting and reporting purposes. These changes will reduce the number of carriers subject to the Commission's accounting requirements, and reduce the reporting burden.

DATES: Comments should be filed by February 12, 1979.

ADDRESSES: An original and 10 copies (if possible) of any comments should be sent to: Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Bryan Brown, Jr., Chief, Section of Accounting, Telephone: (202) 275-7448.

SUPPLEMENTARY INFORMATION: Carrier revenues have grown not necessarily from increased operations, but as a result of the general inflation of the economy. Leaving the revenue levels which define carrier classes unchanged would result in an increasing number of small carriers becoming subject to our uniform system of accounts and related detailed reporting requirements. The small carriers find our accounting and reporting requirements administratively and financially burdensome. To relieve these carriers without jeopardizing regulation of the industry, we propose to raise the levels of gross annual carrier operating revenues, which define the classes of motor carriers of property, as shown below:

REVENUE LEVELS

Class	Current	Proposed
I	$3 million or more	$5 million or more.
II	$500,000 to less than $3 million.	$1 million to less than $5 million.
III	Less than $500,000	Less than $1 million.

The changes will benefit about 1,500 carriers, composed of:

66	Class I's that would be reclassified to Class II's.
691	Class II's that would be reclassified to Class III's.
781	Class III's that would otherwise become Class II's due to the new level for that class.
1,538	

In addition, the base revenue level for common carriers of general freight subject to Instruction 27 of the Uniform System of Accounts for Motor Carriers of Property will be changed from $500,000 (Class II) to $1 million, with 75 percent or more of operating revenues derived from general freight.

The proposed revisions will be effective for the year beginning January 1, 1979, based on reports of operations for the year 1978.

This decision does not significantly affect the quality of the human environment. No oral hearing is planned at this time.

It is ordered:

(1) This rulemaking is instituted pursuant to Sections 204 and 220 of the Interstate Commerce Act, and Sections 553 and 559 of the Administrative Procedures Act, to consider whether the proposed revisions in this Notice are warranted.

(2) All motor carriers of property subject to the Interstate Commerce Act are made respondents in this rulemaking.

(3) All respondents, each Governor of every State, and the Public Utilities Commission or Board for each State having jurisdiction over transportation be served with a copy of this order.

Dated: December 19, 1978.

By the Commission, Chairman O'Neal, Vice Chairman Christian, and Commissioners Brown, Stafford, Gresham, and Clapp. Vice Chairman Christian and Commissioner Stafford believe that more staff study should be undertaken prior to attempting to specify the precise dividing points for the three classes of carriers. Commissioner Brown was absent and did not participate in the disposition of this proceeding.

H. G. HOMME, JR.,
Secretary.

[FR Doc. 79-1064 Filed 1-10-79; 8:45 am]

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-02-M]

DEPARTMENT OF AGRICULTURE

Agriculture Marketing Service

THIEF RIVER LIVESTOCK AUCTION, INC., ET AL.

Depositing of Stockyards

It has been ascertained, and notice is hereby given, that the livestock markets named herein, originally posted on the respective dates specified below as being subject to the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*), no longer come within the definition of a stockyard under said Act and are, therefore, no longer subject to the provisions of the Act.

Facility No., Name, Location of Stockyard, and Date of Posting

MN-154 Thief River Livestock Auction, Inc., Thief River Falls, Minnesota, October 2, 1961
MO-181 Platte County Auction Company, Inc., Platte City, Missouri, January 13, 1960
NJ-101 Flemington Agricultural Marketing Coop Ass'n., Inc., Flemington, New Jersey, September 9, 1965
SD-120 Gettysburg Livestock Sales Company, Inc., Gettysburg, South dakota, June 26, 1956
SD-159 Yankton Livestock Auction Market, Yankton, South Dakota, January 18, 1944
WA-119 Tacoma Livestock Market, Spanaway, Washington, January 28, 1967

Notice or other public procedure has not preceded promulgation of the foregoing rule. There is no legal justification for not promptly deposting a stockyard which is no longer within the definition of that term contained in the Act.

The foregoing is in the nature of a rule relieving a restriction and may be made effective in less than 30 days after publication in the FEDERAL REGISTER. This notice shall become effective upon publication in the FEDERAL REGISTER.

(42 Stat. 159, as amended and supplemented; 7 U.S.C. 181 *et seq.*).

Done at Washington, D.C. this 3rd day of January, 1979.

EDWARD L. THOMPSON,
Chief, Registrations, Bonds, and Reports Branch, Livestock Marketing Division.

[FR Doc. 79-1012 Filed 1-10-79; 8:45 am]

[3410-11-M]

Forest Service

GOSPEL-HUMP ADVISORY COMMITTEE

Meeting

The Gospel-Hump Advisory Committee will meet at 7 p.m., February 22, 1979 in the meeting room of the Smokejumpers Barracks, Grangeville Airport, Grangeville, Idaho. The purpose of this meeting is to make a detailed review of Research's work plan.

The meeting will be open to the public. Persons who wish to attend should notify Ed Laven, 319 East Main, Grangeville, Idaho; telephone 208-983-1950. Written statements may be filed with the committee before or after the meeting.

DON BIDDISON,
Forest Supervisor.

JANUARY 3, 1979.

[FR Doc. 79-962 Filed 1-10-79; 8:45 am]

[6320-01-M]

CIVIL AERONAUTICS BOARD

[Docket No. 33552; Order No. 79-1-32]

FRONTIER AIRLINES AND THE SHREVEPORT PARTIES

Order To Show Cause and Granting Exemption

On September 28, 1978, Frontier, together with the Shreveport Parties,[1] filed for exemption authority under section 416(b) of the Act to provide first nonstop service between Shreveport and Oklahoma City for 5 years.[2] Frontier proposes to extend one Salt Lake City-Denver-Oklahoma City flight to Shreveport and to add a second flight in a year if the operating results are good.[3]

In support, the applicants state that: Shreveport travelers will gain, in addition to first nonstop Oklahoma City service, first single-plane service to Denver and Salt Lake City and greater connecting opportunities for the entire Rocky Mountain area via Denver; discount fares will be offered; travel time and circuitry for the markets will be greatly reduced; certification would preclude Frontier from providing the proposed services, and Frontier's subsidy need will be reduced by $329,000.

No answers have been filed.[4]

We have decided to order any interested person to show cause why Frontier's certificate should not be amended to authorize, on a Category II subsidy ineligible basis, permissive nonstop Shreveport-Oklahoma City service. We will also grant Frontier an exemption to provide the service until 90 days after our final decision on the proposed certificate amendment. That the proposed certificate amendment is consistent with the public convenience and necessity follows from the tentative findings discussed below.[5]

The certification of Frontier in the Shreveport-Oklahoma City market makes possible first nonstop service there and first single-plane service in the Shreveport-Denver/Salt Lake City markets. Travel time in the primary market could be cut by 1½ hours. That market has been growing faster than traffic nationwide, and the two communities have close economic ties.[6] Under these circumstances, and in view of the fact that certification is the norm under the Act, we believe that a certificate amendment is a better vehicle here than an exemption standing alone which would need to be renewed. The permissive authority we propose to award leaves the decision of whether to inaugurate service to a management reading of marketplace conditions.

[1] The City of Shreveport and the Shreveport Chamber of Commerce.

[2] Braniff, on November 7, 1978, and Texas International, on November 6, 1978, filed notices of intent to suspend their service at Shreveport (in Dockets 33957 and 33947, respectively). Shreveport also receives certificated service from Delta.

[3] Shreveport would be a new point on Frontier's system; Denver-Oklahoma City service is not currently provided by Frontier but will be in effect in fiscal year 1980. (See FL-102, p. 1).

[4] The City of Oklahoma City, the Oklahoma City Chamber of Commerce and the Trustees of the Oklahoma City Airport Trust filed a joint petition for leave to intervene. Under Part 302.15 of our Procedural Regulations we do not require such petitions for participation in nonhearing matters such as exemptions. Therefore, we will dismiss the petition.

[5] We also tentatively find, based on officially noticeable material, that Frontier is a citizen of the United States and is fit, willing and able to provide the air transportation in question and abide by our rules.

[6] Both are areas where there is considerable activity in oil and gas exploration. There are also a number of headquarters or branch offices of national or regional corporations of substantial size located around Shreveport and Oklahoma City.

For the above reasons and because delaying the service improvements would be unresponsive to the current needs of the market, we find that exempting Frontier from the requirements of section 401 to enable it to serve immediately is consistent with the public interest.[7]

Interested persons will be given 30 days following the date of service of this order to show cause why these tentative findings and conclusions should not be made final. We expect that objections will be supported by detailed economic or legal arguments. We will not entertain general, vague or unsupported objections. Answers to objections are due within 10 days after the due date for objections.

Accordingly, 1. We direct all interested persons to show cause why we should not issue an order making final these tentative findings and conclusions and amending Frontier's certificate for Route 73 so as to add a new segment authorizing, on a permissive, Category II subsidy ineligible basis, nonstop scheduled air transportation of persons, property and mail between the terminal point Oklahoma City, Okla., and the terminal point Shreveport, La.;

2. Any interested persons having objections to the issuance of an order making the proposed findings, conclusions and certificate amendments shall, no later than February 8, 1979, file with us and serve upon all persons listed in paragraph 8 a statement of objections together with a summary of testimony, statistical data, and evidence expected to be relied upon to support its objections; answers to objections shall be filed by February 20, 1979;

3. If timely and properly supported objections are filed, full consideration will be accorded the matters or issues raised before further action is taken by the Board;[8]

4. In the event no objections are filed to any part of this order, we will deem all further procedural steps relating to such part or parts have been waived, and we will take further action;

5. We exempt Frontier from section 401 of the Act to permit it to provide the air service described above between Oklahoma City and Shreveport;

6. The authority granted in 5 above will be effective until 90 days following the final determination of the certification proceeding;

7. We dismiss the petition for leave to intervene filed by the City of Oklahoma City, the Oklahoma City Chamber of Commerce, and the Trustees of the Oklahoma City Airport Trust;

8. We shall serve a copy of this order on all persons listed in Docket 33552; and

9. We may amend or revoke the exemption given by this order at any time in our discretion without hearing.

We shall publish this order in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 79-1028 Filed 1-10-79; 8:45 am]

[6320-01-M]

[Order 79-1-31; Docket 31727]

REEVE ALEUTIAN AIRWAYS

Route 127 (Seattle-Cold Bay); Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 4th day of January, 1979.

On September 13, 1978, Reeve Aleutian Airways filed an application to amend its certificate for Route 127 so as to add a new segment authorizing nonstop service between Seattle, Washington, and Cold Bay, Alaska. Initially, Reeve will offer three nonstop round-trip flights a week during the peak summer period and two flights during the off-peak period with L-188 Electra equipment.[1]

In support of its application, Reeve states that the addition of the new segment will help relieve recent heavy demands on its Anchorage-Cold Bay operations;[2] that the proposed direct nonstop service will eliminate the risk of missed connections and unwanted overnight stays in Anchorage;[3] and that the public will benefit through a lowering of passenger fares and cargo rates. Reeve also contends that award of the requested authority will not affect existing service and will result in the more efficient utilization of its L-188 Electra aircraft. Reeve presented exhibits designed to show that its new service will be profitable and that this profit will help strengthen a small carrier. Finally, Reeve states that no risk will be borne to taxpayers because of the proposed service since it is an unsubsidized carrier.

No answers were filed in response to Reeve's motion.

We have tentatively concluded, on the basis of the findings below, that it is consistent with the public convenience and necessity to amend Reeve's certificate for Route 127 so as to authorize direct nonstop Seattle-Cold Bay service. We also tentatively find, based on Reeve's ongoing operational, financial and other data on file with the Board, that Reeve is fit, willing, and able to perform the air transportation it proposes and to conform to the provisions of the Act and the Board rules; and that, based on the environmental evaluation submitted by Reeve, our proposed action would not be a major Federal action significantly affecting the quality of the environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969, or a major regulatory action within the meaning of the Energy Policy and Conservation Act of 1975.

During the time Reeve's application has been before the Board, Congress passed the *Airline Deregulation Act* of 1978 which, inter alia, establishes a presumption that applications for interstate certificate authority are consistent with the public convenience and necessity (and should, therefore, be granted) unless an opponent of the application proves by a preponderance of the evidence, that the application is not consistent with the public convenience and necessity.[4] Our proposal to give Reeve Seattle-Cold Bay nonstop authority will encourage innovation in pricing by offering the potential for lower passenger fares and cargo rates and increasing the availability of efficient services by eliminating the potential inconvenience in a Seattle-Cold Bay connecting flight.

We will give interested persons 30 days following the date of service of this order to show cause why these tentative findings and conclusions should not be made final. Under section 401(9)(B) added by Section 14 of the *Airline Deregulation Act of 1978*, effective on October 24, 1978, the burden of proof is on objecting parties to show that the grant of Reeve's application is not consistent with the public convenience and necessity. Accordingly, objections must be supported by detailed economic or legal arguments. If an oral evidentiary hearing complete with the opportunity for cross-examination is requested, the objector should state, in detail, why such a hearing is necessary and what rele-

[7] We have reviewed Frontier's environmental evaluation for its proposed services and conclude that our actions will not significantly affect the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 and are not major regulatory actions under the Energy Policy and Conservation Act of 1975.

[8] All motions and/or petitions for reconsideration shall be filed within the period allowed for filing objections and we will not entertain further motions, requests or petitions for reconsideration of this order.

[1] The peak summer period runs from May 15-October 15 while the off-peak period occurs October 16-May 14.

[2] The carrier has experienced increased air service demand in the Anchorage-Cold Bay market because of the influx of laborers to local fish processing companies. The recent growth in the fisheries industry is attributed to the passing of a bill authorizing the expansion of the exclusive U.S. fishing limits from 12 to 200 miles.

[3] At present, passengers wishing to fly from the lower 48 states to Reeve Aleutian's system must travel via a two-carrier connecting flight over Anchorage.

[4] Pub. L. No. 95-504, section 14.

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vant and material facts he would expect to establish through such a hearing that cannot be established in written pleadings. General, vague, or unsupported objections will not be entertained.

Accordingly,

1. We direct all interested persons to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here and amending Reeve's certificate for Route 127 so as to add a new segment authorizing the nonstop scheduled air transportation of persons, property, and mail between Seattle, on the one hand, and Cold Bay, on the other;

2. We require any interested persons having objections to the issuance of an order making final the proposed findings, conclusions, and certificate amendments no later than February 8, 1979, to file with the Board and serve upon all persons listed in paragraph 5 a statement of objections together with a summary of testimony, statistical data, and evidence expected to be relied upon to support its objections; answers to objections shall be filed no later than February 19, 1979;

3. If timely and properly supported objections are filed, we will accord full consideration to the matters or issues raised before further consideration;[5]

4. If no one files objections to any part of this order, we will consider all further procedural steps relating to such part or parts waived, and the case submitted to us for further action; and

5. We will serve a copy of this order upon all persons named in the service list of Docket 31727.

We shall publish this order in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[6]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 79-1029 Filed 1-10-79; 8:45 am]

[5] Since provision is made for filing objections, we will not entertain petitions for reconsideration.

[6] All Members concurred.

[3510-22-M]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

MARINE MAMMALS

Modification of Permit

Notice is hereby given that, pursuant to the provisions of Sections 216 33(d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), Permit No. 142 issued to Dr. Bruce R. Mate, Assistant Professor, School of Oceanography Marine Science Center, Oregon State University, Newport, Oregon 97365, on July 22, 1976, is modified in the following manner:

1. Section B-8 has been changed to read: "This Permit is valid with respect to the taking authorized herein, until December 31, 1979."

This modification is effective on January 11, 1979.

The Permit as modified, and documentation pertaining to the modification is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Northwest Region, 1700 Westlake Avenue North, Seattle, Washington 98109.

Dated: December 27, 1978.

JACK W. GEHRINGER,
Deputy Assistant, Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 79-976 Filed 1-10-79; 8:45 am]

[3510-22-M]

GULF OF MEXICO FISHERY MANAGEMENT COUNCIL

Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

ACTION: Public Meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), will meet to: (1) Review status reports on development of fishery management plans; (2) consider foreign fishing applications, if any; and (3) conduct other fishery management business.

DATES: The meeting will convene on Tuesday, February 6, 1979, at 1:30 p.m. and adjourn on Thursday, February 8, 1979, at approximately 12:00 noon. The meeting is open to the public.

ADDRESS: The meeting will be held in the Mediterranean Room of the Bienville House Motor Hotel, 320 Decatur Street, New Orleans, Louisiana.

FOR FURTHER INFORMATION CONTACT:

Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Florida 33609. Telephone: (813) 228-2815.

Dated: January 8, 1979.

WINFRED H. MEIBOHM,
Acting Executive Director, National Marine Fisheries Service.

[FR Doc. 79-1011 Filed 1-10-79; 8:45 am]

[3510-04-M]

National Technical Information Service

GOVERNMENT-OWNED INVENTIONS

Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents & Trademarks, Washington, DC 20231, for $.50 each. Requests for copies of patents must include the patent number.

Copies of the patent applications can be purchased from the National Technical Information Service (NTIS), Springfield, Virginia 22161 for $4.00 ($8.00 outside North American Continent). Requests for copies of patent applications must include the PAT-APPL number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

DOUGLAS J. CAMPION,
Patent Program Coordinator, National Technical Information Service.

U.S. DEPARTMENT OF THE AIR FORCE, AF/JACP, 1900 Half Street, S.W., Washington, DC 20324.

Patent Application 762,079: Azimuth Monitoring System; filed Aug. 10, 1978.

Patent Application 915,719: Sorption Tube Atmospheric Sampling System; filed June 15, 1978.

Patent Application 916,024: Gas Relief Valve Design for Low Temperature; filed June 15, 1978.

Patent Application 920,867: Secondary Seal for Tubing Joined via ' -Band Couplings; filed June 28, 1978.

Patent Application 922,602: Grating Output Wavefront Sampling System; filed July 7, 1978.

Patent 4,091,184: High Power, Rechargeable, Pile Type Silver Zinc Battery; filed Aug. 19, 1977, patented May 23, 1978; not available NTIS.

Patent 4,091,256: Pulsed Atomic Beam Apparatus; filed Jan. 16, 1975, patented May 23, 1978; not available NTIS.

Patent 4,091,681: Method for the Simultaneous Determination of Low Optical Bulk and Surface Absorption Coefficients in Solids; filed June 21, 1977, patented May 30, 1978; not available NTIS.

U.S. DEPARTMENT OF THE NAVY, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, Va. 22217.

Patent Application 882,297: Offset Liquid Metal Storage Method and Means; filed Feb. 28, 1978.

Patent Application 895,416: Gas Laser Aerodynamic Window; filed Apr. 11, 1978.

Patent Application 895,828: Piezoelectric Polymer Hydrophone; filed Apr. 13, 1978.

Patent Application 909,319: Diver Controlled Underwater Linear Milling Machine; filed May 24, 1978.

Patent Application 911,261: Hydrogen Isotope Separation; filed May 31, 1978.

Patent Application 915,345: Linkage Apparatus for Synchronizing Aircraft Door Movements with the Deployment of a Door-Enclosed Member; filed June 13, 1978.

Patent Application 916,410: Hydraulic Chain Jack Automatic Latch Control System; filed June 16, 1978.

Patent Application 916,412: Pontoon Spudwell System; filed June 16, 1978.

Patent Application 918,122: Bis(2-fluoro-2,2-dinitroethyl) thionocarbonate and a Method of Preparation; filed June 22, 1978.

Patent Application 920,429: Surface Profile Follower and Indicator System; filed June 29, 1978.

Patent Application 921,912: Reactively Loaded Corner Fed Electric Microstrip Dipole Antennas; filed July 3, 1978.

Patent Application 923,857: High-Speed Electrooptical A/D Converter; filed July 12, 1978.

Patent Application 925,726: Surface Acoustic Wave Modulator Using Single Crystal Films of Lithium Ferrite; filed July 18, 1978.

Patent 4,051,424: Digital Amp-Hour Monitor; filed July 13, 1978, patented Sept. 27, 1977; not available NTIS.

Patent 4,054,787: Apparatus for Computing an Arithmetically Accumulated Sequence of Numbers; filed June 6, 1975, patented Oct. 18, 1977; not available NTIS.

Patent 4,055,682: Controllable Gas Generator; filed Dec. 22, 1976, patented Oct. 25, 1977; not available NTIS.

Patent 4,058,446: Anodic Stripping Voltammetry System and Combination Electrode Assembly Therefore; filed Nov. 29, 1976, patented Nov. 15, 1977; not available NTIS.

Patent 4,060,850: Beam Former Using Bessel Sequences; filed Apr. 25, 1977, patented Nov. 29, 1977; not available NTIS.

Patent 4,067,025: Self Developing Camera for Use in Macrophotography and Endoscopic Pathology; filed May 3, 1976, patented Jan. 3, 1978; not available NTIS.

Patent 4,087,374: Photodichroic Crystals and Preparation Thereof; filed Apr. 30, 1975, patented May 2, 1978; not available NTIS.

NATIONAL AERONAUTICS & SPACE ADMINISTRATION, Assistant General Counsel for Patent Matters, NASA Code GP-2, Washington, DC 20546.

N78 32917 4: NASA Patent Abstracts Bibliography: A Continuing Bibliography. Section 1: Abstracts; July 1978.

N78 32918 2: NASA Patent Abstracts Bibliography: A Continuing Bibliography. Section 2: Indexes; July 1978.

Patent Application 928,129: Displacement Probes with Self-Contained Exciting Medium; filed July 26, 1978.

Patent Application 931,090: Gas Path Seal; filed Aug. 4, 1978.

Patent Application 931,218: A Pressure Limiting Propellant Actuating System; filed August 4, 1978.

Patent 4,081,250: Coal desulfurization Process; filed Aug. 27, 1976, patented Mar. 28, 1978; not available NTIS.

Patent 4,091,166: Boron Trifluoride Coatings for Thermoplastic Materials and Method of Applying Same in Glow Discharge; filed June 17, 1977, patented May 23, 1978; not available NTIS.

Patent 4,091,464: Spacesuit Mobility Joints; filed Dec. 23, 1976, patented May 30, 1978; not available NTIS.

Patent 4,091,465: Spacesuit Torso Closure; filed Mar. 23, 1977, patented May 30, 1978; not available NTIS.

Patent 4,091,665: Multi-Purpose Wind Tunnel Reaction Control Model Block; filed Feb. 11, 1977, patented May 30, 1978; not available NTIS.

Patent 4,091,798: Non-Tracking Solar Energy Collector System; filed Feb. 3, 1977, patented May 30, 1978; not available NTIS.

Patent 4,091,800: Solar Pond: filed June 30, 1977, patented May 30, 1978; not available NTIS.

Patent 4,092,188: Nitramine Propellants; filed May 16, 1977, patented May 30, 1978; not available NTIS.

Patent 4,092,274: Polymeric Foams from Cross-Linkable Poly-N-Arylenebenzimidazoles; filed July 26, 1976, patented May 30, 1978; not available NTIS.

Patent 4,092,648: Reflex Feed System for Dual Frequency Antenna with Frequency Cutoff Means; filed March 24, 1977, patented May 30, 1978; not available NTIS.

Patent 4,092,874: Actuator Mechanism; filed Dec. 6, 1976, patented June 6, 1978; not available NTIS.

[FR Doc. 79-945 Filed 1-10-79; 8:45 am]

[3510-17-M]

Office of the Secretary

[Dept. Organization Order No. 10-11]

DEPUTY UNDER SECRETARY

Statement of Responsibilities and Functions; Delegation of Authority

This order effective December 6, 1978 supersedes the material appearing at 42 FR 62028 of December 8, 1977.

SECTION 1. *Purpose.* 01. This Order prescribes the responsibilities and functions of the Deputy Under Secretary.

SEC. 2. *Administrative Designation.* The position of Deputy Under Secretary is hereby continued. The Deputy Under Secretary shall report and be responsible to the Secretary.

SEC. 3. *Status and Line of Authority.* .01 The Director, Office of Regional Affairs shall serve as the principal assistant of the Deputy Under Secretary and shall perform the functions of the Deputy Under Secretary in the latter's absence.

.02 The coordinating functions specified in this Order shall be performed in conjunction with the Assistant Secretaries for Policy and Administration.

.03 The consulation functions specified in this Order shall be performed in conjunction with the responsibilities of the Assistant to the Secretary.

SEC. 4. *Functions.* The Deputy Under Secretary shall:

.01 Provide coordination of and assistance to the Secretarial Representatives, on behalf of the Secretary.

.02 Serve as the Department's liaison with individual governors and mayors.

.03 Provide a point of contact and outreach for constituents of the Department.

.04 Assist the Department in being aware of, and responsive to, the needs of constituents; and in particular, foster and promote the integration and coordination of the Department's services to people, places, industries, and businesses, and other government agencies.

.05 Involve constituents, as appropriate, in Department policymaking and program development. Insure their awareness of Department resources, policies, and programs.

.06 Convene meetings of constituents and Department officials, as necessary, to resolve problems and improve coordination in areas affecting more than one major element of the Department; and in coordination with the Assistant to the Secretary, to comment on significant Department policies and programs.

.07 Assist the Under Secretary in the Under Secretary's capacity as a member of the Under Secretaries Group on Regional Operations pursuant to Executive Order 11892 of January 1, 1976.

.08 Initiate, assist in, facilitate, or manage development and coordination of new Departmental services, approaches, or systems for meeting the Department's goals, using suitable methods, to include demonstration and pilot programs.

.09 Work to improve the coordinated impact of the programs of two or more operating units, both in Washington and in the field, for the benefit of users of Departmental services and for contributions to cost reduction efforts.

.10 Encourage, promote, and facilitate improved coordination, cooperation, and support among the various field elements of the Department.

.11 Advise the Secretary on lead and support roles of Departmental agencies when Commerce participation is required in interdepartmental groups; and serve as lead or provide staff support for inter- or intra-Departmental task forces or groups concerned with State, county and municipal government assistance, program coordination

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and development, or other matters as assigned by the Secretary.

.12 Provide coordination in Washington and in the Regions for Secretarial trips to the field.

.13 Administer special projects and functions, as directed by the Secretary, that impact more than one operating unit of the Department. These include ongoing activities, or functions, such as consumer affairs and education/work; special projects of a limited duration; sensitive feasibility studies on Secretarial initiatives; and service programs in the initiation and development stage which may later be assigned to operating units. Direct the activities of the Office of State and Local Government Assistance, the Office of Program Coordination, the Office of Consumer Affairs, the Office of Regional Affairs, and the activities of the Education and Work Advisor.

.14 Plan for, and facilitate, strengthened information, technology, and development services to business and industry and to State, county, and municipal governments.

.15 Serve as the point of contact on matters of human productivity and resources and of education and work as these subjects relate to the Department's primary missions.

.16 Chair Departmental committees established to encourage, foster, and monitor coordination, cooperation and support for Departmental initiatives, or for programs and services in support of initiatives.

.17 Participate with the Assistant Secretaries for Policy and Administration in fostering and structuring multi-agency or Departmental level initiatives affecting policy, budget, and field service delivery.

SEC. 5. *Limitation of Authority.* Nothing in this Order shall be construed to amend, modify, or repeal the authorities and responsibilities assigned to program officials by other Department Orders.

Effective Date: December 6, 1978.

ELSA A. PORTER,
Assistant Secretary for Administration.

[FR Doc. 79-1007 Filed 1-10-79; 8:45 am]

[3510-17-M]

[Dept. Organization Order No. 20-1]

OFFICE OF ADMINISTRATIVE SERVICES

Delegation of Authority

This order effective November 30, 1978 supersedes the material appearing at 42 FR 62027 of December 8, 1977.

SECTION 1. *Purpose.* .01 This Order prescribes the functions and organizations of the Office of Administrative Services.

.02 This revision reflects the transfer of procurement operations, and staff-level procurement responsibilities to the Office of Procurement and ADP Management established by Department Organization Order 20-14.

SEC. 2. *Status and Line of Authority.* The Office of Administrative Services (OAS), a Departmental office, shall be headed by a Director who shall report and be responsible to the Assistant Secretary for Administration. The Director shall be assisted by a Deputy Director who shall perform the functions of the Director during the latter's absence.

SEC. 3. *Functions.* Pursuant to the authority vested in the Assistant Secretary for Administration by Department Organization Order 10-5 and subject to such policies and directives as the Assistant Secretary for Administration may prescribe, OAS shall:

a. Have Departmentwide staff management responsibility for supply (other that procurement), property, library, space, motor vehicle, occupational safety and health, telecommunications, mail, historic preservation, energy conservation, traffic, and certain aspects of records management as specified in Section 5;

b. Provide services in the functional areas, enumerated in subparagraph a. above, required by the Office of the Secretary and as relevant to elements of operating units located in the Main Commerce Building; and

c. Within the scope of services, provide under a., above, develop, implement, and maintain a Commerce "Facility Self-Protection Program" in accordance with the provisions of the General Services Administration's Federal Property Management Regulations (Subpart 101-20.5).

SEC. 4. *Specified Authority.* In addition to the authority implicit in and essential to carrying out the functions assigned OAS and related to the exercise of such functions, the Director is hereby designated Claims Officer and delegated the authority vested in the Assistant Secretary for Administration by Department Administrative Order 203-22 to settle and pay claims for damage to, or loss of personal property incident to an employee's service, under the provisions of 31 U.S.C. 240-243, filed by an employee (or the employee's duly authorized representative) of the Office of the Secretary.

SEC. 5. *Organization.* Under the direction and supervision of the Director, the functions of OAS shall be organized and carried out as provided below:

a. The *Library Division* shall provide library services for the Office of the Secretary and operating units located in the Main Commerce Building, and serve as a reference source for libraries of operating units.

b. The *Communications and Transportation Division* shall provide Departmentwide review of major changes to telecommunications systems as defined by FPMR 101-35 and shall be the focal point in the Department of obtaining GSA approvals for these changes. In addition, the Division shall provide the following services for the Office of the Secretary and elements of other operating units in the Main Commerce Building, assigned Commerce annexes, the Regional Commissions and, upon request, other outlying and independently operated buildings not regularly serviced by the Division: telecommunications services including the operation of the Commerce link in the worldwide State Department's telecommunications network, mail and messenger services, travel arrangements, receiving and shipping services, motor pool services, imprest fund services, and internal distribution of publications for the Department and its component agencies.

c. The *Property and Buildings Management Division* shall serve as the principal liaison between operating units and the GSA headquarters and regional offices on all real property and space management matters, including Federal Building Fund transactions. The Division shall also exercise personal property utilization surveillance over all operating units nationwide; and it shall operate an automated personal property system for the Office of the Secretary and other designated operating units. The Division shall be responsible for preparing the Commerce Telephone Directory; coordinating postage payments with the U.S. Postal Service; and providing office machine repairs, forms store supplies, labor services and building liaison services with GSA for all operating units in the Main Commerce Building.

d. The *Records Management Division* shall be responsible for the development and issuance of policies, procedures, and other such instructions as necessary on (1) forms management; (2) files management; (3) records equipment and supplies management; (4) records disposition management; and (5) correspondence management. The Division shall also provide files, records disposition, forms management, and correspondence management services for the Office of the Secretary and, as approved by the Assistant Secretary for Administration, for designated operating units headquartered in the Main Commerce Building. The Division is also responsible for providing liasion with NARS on the clearance of all Record Schedules developed within the Department and with GSA Records Centers on the disposition and retrieval of retired records for those organizational units for

which the Division has operational responsibilities.

SEC. 6. *Department of Commerce Administrative Services Council.* There shall be a Department of Commerce Administrative Services Council, which shall consist of the Director, OAS, as Chairperson, the Deputy Director, and the chief administrative services officers of the operating units of the Department. The Council will meet on a call from the Chairperson for the purpose of advising and assisting in the development of policy and programs for the maximum effectiveness of administative services throughout the Department.

Effective Date: November 30, 1978.

ELSA A. PORTER,
Assistant Secretary for Administration.

[FR Doc. 79-1009 Filed 1-10-79; 8:45 am]

[3510-17-M]

[Dept. Organization Order No. 20-7; Amdt. 4]

OFFICE OF ORGANIZATION AND MANAGEMENT SYSTEMS

Statement of Functions

This order effective December 27, 1978 further amends the materials appearing at 41 FR 50321 of November 15, 1976, 42 FR 11863 of March 1, 1977, 43 FR 6132 of February 13, 1978 and 43 FR 21498 of May 18, 1978.

Department Organization Order 20-7, dated November 1, 1976, is hereby further amended as shown below. The purpose of this amendment is to exclude from OOMS' responsibilities Subpart 101-20.5 of GSA's Federal Property Management Regulations, which is now under DOO 20-1.

In Section 3. Functions, Subparagraph 3.01b. is revised to read as follows:

"b. Serve as the principal staff component within the Department for coordinating and assisting in the development, implementation, and continuation of a Departmentwide emergency preparedness program, particularly as applicable to the requirements of Executive Order 11490; but, excluding the functions under GSA's FPMR, Subpart 101-20.5, (which are assigned, in DOO 20-1 to the Office of Administrative Services)."

Effective Date: December 27, 1978.

ELSA A. PORTER,
Assistant Secretary for Administration.

[FR Doc. 79-1010 Filed 1-10-79; 8:45 am]

[6330-01-M]

THE COMMISSION OF FINE ARTS

AMENDMENT TO NOTICE OF MEETING

An amendment is made to the previous notice announcing the Commission of Fine Arts meeting scheduled for Tuesday, January 23, 1979, at 10:00 a.m. in the Commission's offices at 708 Jackson Place, N.W., Washington, D.C. 20006. This meeting has been postponed to Wednesday, January 31, 1979, at 10:00 a.m. at the Commission's offices as stated above.

Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Mr. Charles H. Atherton, Secretary, Commission of Fine Arts, at the above address.

Dated in Washington, D.C., January 4, 1979.

CHARLES H. ATHERTON,
Secretary.

[FR Doc. 79-990 Filed 1-10-79; 8:45 am]

[3510-25-M]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

CERTAIN COTTON, WOOL AND MAN-MADE FIBER TEXTILE PRODUCTS FROM THE REPUBLIC OF THE PHILIPPINES

Import Restraint Levels

JANUARY 5, 1979

CORRECTION

On January 2, 1979, there was published in the FEDERAL REGISTER (44 FR 93) a letter dated December 27, 1978 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs establishing the import restraint levels for certain cotton, wool and man-made fiber textile products, produced or manufactured in the Philippines and exported to the United States during the twelve-month period beginning on January 1, 1979. Footnote 2 of the letter should have read as follows:

[2]In Category 641, all T.S.U.S.A. Numbers except T.S.U.S.A. 382.0460 and 382.8139.

ROBERT E. SHEPHERD,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Domestic Business Development.

[FR Doc. 79-975 Filed 1-10-79; 8:45 am]

[3910-01-M]

DEPARTMENT OF DEFENSE

Department of the Air Force

PAVE PAWS RADAR SYSTEM OPERATION; OTIS AFB, MASSACHUSETTS

Public Hearing

JANUARY 9, 1979.

An informal public hearing will be held for the purpose of soliciting comments from the public on the Draft Environmental Impact Statement (EIS) on the operation of the PAVE PAWS Radar System at Otis AFB, Massachusetts. The hearing is scheduled to be conducted on January 22, 1979 at 8 p.m. in the Sandwich High School Auditorium, Sandwich, Massachusetts. The presiding officer will be Colonel Allan C. Smith.

PAVE PAWS is a new surveillance and tracking radar and its primary purpose is to detect, track and provide early warning of sea-launched ballistic missiles. Also, PAVE PAWS will be used to assist the USAF space track system to track objects orbiting the Earth.

The Draft EIS on the radar system operation was filed with the Environmental Protection Agency on December 22, 1978. The date, time and place of the hearing was indicated in cover letters by which copies of the EIS were distributed. The Air Force has also furnished a press release containing this information to newspapers in the area.

The following procedures will apply during the hearing. Individual speakers will be limited to five minutes with ten minutes for a group spokesman. There will be no relinquishing of time by one speaker to another. The time limit may be waived at the discretion of the presiding officer. Written statements in addition to, or in lieu of, oral presentations will be accepted. Written statements must be received no later than January 29, 1979 in order to be included in the hearing record. Written statements are to be submitted to the hearing officer or as directed at the hearing.

FOR FURTHER INFORMATION CONTACT:

Lt Colonel David G. Kanter, Headquarters Air Force Systems Command (HQ AFSC/DLWM), Andrews AFB MD 20334, phone (301) 981-2554.

CAROL M. ROSE,
Air Force Federal Register Liaison Officer.

[FR Doc. 79-1246 Filed 1-10-79; 8:45 am]

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[3810-71-M]

Department of the Navy

TECHNOLOGY SUB-PANEL OF THE CHIEF OF NAVAL OPERATIONS EXECUTIVE PANEL ADVISORY COMMITTEE

Closed Meeting; Correction

In FR Doc. 78-38409 appearing at pages 94-95 in the FEDERAL REGISTER of January 2, 1979, the date of the closed meeting of the Technology Sub-Panel of the Chief of Naval Operations is corrected to January 31-February 1, 1979, vice January 25-26, 1979. Accordingly, in the seventh line of the notice the date is corrected to January 31-February 1, 1979; in the seventh, eighth, and eleventh lines the date is corrected to January 31; and in the eleventh line the date is corrected to February 1.

Dated: January 5, 1979.

P. B. WALKER,
Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Administrative Law).

[FR Doc. 79-991 Filed 1-10-79; 8:45 am]

[6450-01-M]

DEPARTMENT OF ENERGY

Energy Information Administration and Federal Energy Regulatory Commission

DATA CURRENTLY COLLECTED ON CERTAIN DEPARTMENT OF ENERGY FORMS

Requirements Review

AGENCY: Department of Energy, Energy Information Administration and Federal Energy Regulatory Commission.

ACTION: Notice of a requirements review of thirteen (13) data collection forms.

SUMMARY: The Energy Information Administration (EIA) and the Federal Energy Regulatory Commission (FERC) of the Department of Energy (DOE), hereby give notice of a requirements review of the data currently being gathered on thirteen (13) forms from natural gas producers and pipelines, electric utilities, and electric power producers, and solicits comments thereto. These data collection forms were previously used by the Federal Power Commission and are now being used by FERC and/or EIA. This action is consistent with efforts of the DOE's Regulatory Reform Task Force and the President's Reporting Burden Reduction Program, for which one of the primary goals is to reduce the reporting burden on the public. Therefore, critical needs for any of the forms, schedules of forms, or reports produced by forms listed below should be addressed in comments of respondents to this notice. The FERC is particularly interested in comments from State Commissions on regulatory needs for the forms listed. All comments will be reviewed by both EIA and FERC in their joint evaluation of regulatory and statistical needs for information reported in the forms listed.

DATE: Written comments are due on or before February 12, 1979.

ADDRESS: Submit written comments to: Director, Survey and Statistical Design Division, Energy Information Administration, Department of Energy, 1000 Independence Ave, SW, Room BG-014, Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT:

Survey and Statistical Design Division, Energy Information Administration, Department of Energy, 1000 Independence Ave., SW, Room BG-014, Washington, D.C. 20585, (202) 252-5786.

SUPPLEMENTARY INFORMATION: The forms (and the resultant publications) currently undergoing a requirements review are as follows:

FPC-1, *Annual Report for Electric Utilities, Licensees and Others (Class A and Class B).* Publications: "Gas Turbine Plant Construction for New Electric Generating Units", "Hydroelectric Plant Construction", "Steam Electric Plant Construction Cost and Annual Production Expenses", "Depreciation Practices of Electric Utilities", "Sales of firm Electric Power for Resale", "Statistics of Privately Owned Electric Utilities".

FPC-1F. *Annual Report for Public Utilities and Licensees (Class C and Class D).* Publication: None

FPC-2A, *Natural Gas Processing Report.* Publication: None.

FPC-9, *Annual Report for Licensees of Privately Owned Major Projects (Utility and Industrial).* Publication: None.

FPC-12, *Power System Statement (Class I and II and Requested Class IV and V systems).* Publication: None.

FPC-12A, *Power System Statement (Classes III, IV, and V Systems).* Publication: None.

FPC-12D, *Power System Statement (Class I and II Systems and Requested Class IV and V Systems).* Publication: None.

FPC-12F, *Powerline and Construction Data.* Publication: None.

FPC-15, *Total Gas Supply of Natural Gas Pipeline Companies Annual Report.* Publication: "Gas Supplies of Interstate Pipeline Companies".

FPC-16, *Report of Gas Supply, Requirements and Curtailments.* Publication: None.

FPC-17, *Monthly Report of Natural Gas Pipeline Curtailments.* publication: "Report of Monthly Curtailment".

FPC-67, *Steam-Electric Plant Air and Water Quality Control Data.* Publication: "Steam-Electric Plant Air and Water Quality Control Data".

FPC-108, *Questionnaire Schedules for Continuing Review of Rate Schedules Analysis, filed Rates, Volumes and Quality Conditions.* Publication: None.

COMMENT PROCEDURES

Written Comments: Consideration will be given to any relevant comments submitted in writing with respect to this notice. Accordingly, comments are requested to be submitted no later than thirty (30) days (February 12, 1979) following publication of this notice. Any person who wishes to do so may submit written comments with respect to this requirements review. All comments should be addressed to director, survey and Statistical Design Division at the address indicated above and should be identified on the outside envelope and on the document with the designation: FERC and EIA Requirements Review". Two copies should be submitted.

Any information or data submitted which a person considers to be confidential must be so identified. Two copies of the confidential material should be provided. DOE reserves the right to determine the confidential status of such information or data and to treat it according to its determination.

Respondents to FERC and EIA forms will be notified if forms or filing schedules are changed as a result of this requirements review. All FERC and EIA forms and filing schedules will continue unchanged until such notification.

Issued at Washington, D.C., January 2, 1979.

LINCOLN E. MOSES,
Administrator, Energy Information Administration.

KENNETH F. PLUMB,
Secretary, Federal Energy Regulatory Commission.

[FR Doc. 79-909 Filed 1-10-79; 8:45 am]

[6450-01-M]

Federal Energy Regulatory Commission

[Docket No. ER79-105]

ALCOA GENERATING CORP.

Filing

JANUARY 3, 1979.

Take notice that Alcoa Generating Corporation on December 12, 1978 tendered for filing as a supplement to Rate Schedule FERC No. 1 a letter agreement dated August 22, 1978. Said supplement proposes to increase the charge found in Section 4(b) of the

June 26, 1969 Supplement No. 4 to Rate Schedule FERC No. 1 from $20.00 per megawatt hour or fraction thereof to $50.00 per megawatt hour or fraction thereof.

Alcoa requests that this supplement become effective upon its acceptance for filing by the Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before January 12, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-914 Filed 1-10-79; 8:45 am]

[6450-01-M]

[Docket No. ER78-489]

ARKANSAS-MISSOURI POWER CO.

Informal Settlement Conference

JANUARY 3, 1979.

Please take notice that pursuant to Presiding Administrative Law Judge Bruce L. Birchman's Order of December 22, 1978, an informal settlement conference will be held at 10:00 A.M. on January 18, 1979, in room 8402, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C.

The informal conference will be followed at 1:00 P.M. with a formal settlement conference before the Presiding Judge in a hearing room of the Federal Energy Regulatory Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-915 Filed 1-10-79; 8:45 am]

[6450-01-M]

[Docket No. E-7738]

BOSTON EDISON CO.

Extension of Time

DECEMBER 29, 1978.

On December 7, 1978, Commission Staff Counsel filed a motion for extension of time to file reply briefs to the Commission under the Presiding Judge's certificate dated September 8, 1978 in this proceeding. The motion states that additional time is needed because the initial brief filed by the Justice Department adopted a different posture from that presented during the hearing. The Justice Department filed an answer on December 26, 1978, disputing Staff's assertions, but not opposing the extension. The Massachusetts Towns and Boston Edison filed answers on December 19, 1978, offering no objection to the extension request.

Upon consideration, notice is hereby given that the time for filing reply briefs is extended to and including January 19, 1979.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-916 Filed 1-10-79; 8:45 am]

[6450-01-M]

[Docket No. ER77-278]

ARKANSAS POWER & LIGHT CO.

Order Approving Settlement Agreement and Terminating Proceedings

DECEMBER 22, 1978.

On June 6, 1977, Arkansas Power & Light Company (AP&L) filed a proposed settlement agreement dated June 2, 1977. The agreement has been signed by AP&L and all of its wholesale municipal customers, one private company, three cooperatives and the City of Jonesboro, Arkansas.[1] On January 16, 1978, at the Commission's [2] direction, the Secretary to the Commission circulated copies of a staff memorandum dated November 29, 1977, setting forth with particularity advisory staff's objections to the proposed settlement and requested comments within 15 days. Written responses were filed by Arkansas and by Wholesale Customers on January 31, 1978. This settlement was again considered at the Commission Meeting of September 28, 1978. At that time there were two alternative orders for consideration, one to approve the settlement agreement and the other to remand for further hearing. The Office of Opinions and Reviews recommended approval of the settlement, but the Office of Electric Power Regulation (OEPR) objected to this position in light of a staff analysis which indicated the proposed settlement revenues would exceed calendar year 1977 test period revenues by approximately $2.4 million.

The Commission did not take final action on the proposed settlement at the September 28 agenda meeting. Decision was deferred with instructions to the staff to request additional cost of service information from AP&L to evaluate the reasonableness of the proposed settlement.

Based upon information provided by AP&L, and a reevaluation of the settlement cost revenue analysis, staff now supports approval of the proposed settlement.

We will approve the settlement agreement. We caution however, that in voicing our approval we agree with staff that we are not bound because of the Federal Power Commission's approval in Docket No. ER76-110 to accept the proposed settlement in this docket merely because the settlement is consistent with the terms and conditions of the earlier approved settlement.

PROCEDURAL HISTORY

June 1, 1973, AP&L filed in Docket No. E-8250 its first wholesale rate increase with the Federal Power Commission. All of the sales-for-resale customers which are parties to the settlement agreement in the instant docket intervened in the prior proceeding in opposition to AP&L's request. Extensive hearings, spread over many months were held. Because of increased costs which occurred during the pendency of the June 1, 1973 filing, AP&L decided it was necessary to make application to the Commission for a further rate increase. This filing, in Docket No. ER76-110, was made on September 8, 1975, and after a one-month suspension, the rates were placed into effect subject to refund. Again, the same customers intervened in opposition to AP&L's request. Settlement negotiations were conducted between the parties for a period of almost three years. On September 16, 1976, in resolution of the proceedings in both of the earlier filed dockets the parties entered into a settlement agreement. This agreement was filed with the Federal Power Commission on October 7, 1976, and was approved by it by order issued November 15, 1976.[3] The major elements of

[1] AP&L's wholesale municipal customers include the following: the Cities of West Memphis, North Little Rock, Prescott, Hope and Osceola, The Conway Corporation, and Benton Municipal Light and Water Company. The private company is Citizens Light & Power Company. The subject cooperatives include Farmers Electric Cooperative, Mississippi County Electric Cooperative and North Arkansas Electric Cooperative. The City of Jonesboro is listed separately from the municipals because it is a partial requirements customer subject to a different Rate Schedule.

[2] This proceeding was commenced before the Federal Power Commission (FPC). By the joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the FERC. The term "Commission", when used in the context of action taken prior to October 1, 1977, refers to the FPC; when used otherwise, the reference is to the FERC.

[3] Order Approving Settlement Agreement and Terminating Proceedings, Docket Nos. E-8071, E-8142, E-8250, ER76-110.

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the agreement approved by the Commission's order of November 15, 1976, are as follows:

1. The Company will furnish to its customers prior to filing with the Federal Power Commission its proposed rate design and within twenty days the customers will advise of any objections they have to such design. If agreement cannot be reached, the company is free to file for changes in rate levels with this Commission, provided that no change in design can be implemented within two years of the filing date of such rates.

2. The Company agrees in the future to develop a cost of service study for each wholesale classification using the same total company test year data, rate base items, expenses, rate of return, etc. consistent with rules and regulations of the Arkansas Public Service Commission in effect at the time of AP&L's filing of its most recent retail rate case or cost of service study.

3. After August 30, 1976, AP&L will file for retail rate increases first, followed by a filing for increases in wholesale rates based, among other things, on the fact that the cost of providing service in each jurisdiction is increasing at about the same rate.

4. In the event that such differences in relative amount of allowed rate increases result in a significant change in the relationship between gross wholesale and retail rates, from that produced by the above uniform costing approach, and to the extent that such relationship is significantly changed, whether by decision of the Arkansas Public Service Commission, Federal Power Commission or otherwise, so that the comparable wholesale rates are significantly higher or lower than they would be if set as described above in relation to the retail rate authorized or to be charged, the Company will immediately, either:

(a) File a unilateral reduction of pending wholesale rates to levels substantially equivalent to the newly-effective retail rates, or

(b) Commerce negotiations with customers for the express purpose of negotiating and seeking FPC approval of settlement rates developed in conformance with the uniform costing methodology established in this agreement and which are consistent with FPC's implementation of the holding of the United States Supreme Court in *Federal Power Commission* v. *Conway Corp., et al.* If negotiations do not result in an agreed upon settlement rate within such ninety (90) day period, or a mutually agreed extension thereof, then, in that event, those matters still at issue shall be submitted to the Federal Power Commission for determination; or

(c) Refile for rates at wholesale to attain gross rate levels substantially equivalent to the then effective retail rates.

5. All wholesale rates filed as a result of any of the above shall be retroactive to the effective date of the wholesale rate being superseded, unless mutually agreed upon."

The FPC conditioned its approval of the agreement filed in Docket No. E-8071 *et al.*, with the following caveat:

"We will accept the Settlement Agreement subject to the following proviso that all parties should recognize that these provisions do not in any way bind the Commission in exercising its responsibility for fixing just and reasonable rates under the Federal Power Act."

Numbered paragraph 2 is the operative paragraph which has led to the settlement in the instant case.

We turn now to the instant proceeding. This proceeding began when AP&L on April 1, 1977, filed a proposed rate increase for service to its municipal and rural electric cooperative customers. This rate increase was designed to produce increased revenues of approximately $5,591,381 during period II (the 12 months ending December 31, 1977). Notice of the proposed increase was issued on April 8, 1977 and on April 20, 1977, some of AP&L's wholesale customers[1] filed a petition to intervene alleging that the proposed rate increase was excessive and not in accordance with the settlement agreement approved by the Commission in Docket No. ER 76-110.

On April 29, 1977, the Commission issued an order accepting the proposed increase and suspending its use for two months until July 2, 1977. The Commission granted petitioners leave to intervene and set the proceeding for hearing as to the justness and reasonableness of the proposed rate. Thereafter AP&L and its customers held extensive settlement negotiations. These settlement negotiations resulted in an agreement entered into on June 2, 1977, which reduced the requested rate increase to $4,932,930 for a net reduction of $658,451.

On June 6, 1977, AP&L filed a motion for approval of the settlement agreement. On July 8, 1977, staff filed its comments on the proposed agreement. Staff requested that a date be set for filing top sheets. On September 8, 1977, a prehearing conference was conducted before Presiding Administrative Law Judge Michel Levant and on September 14, 1977, Judge Levant certified the proposed settlement to the Commission. Judge Levant's certification provided for initial comments by the parties on October 11, 1977, and reply comments on October 18, 1977. Initial comments were filed by AP&L and staff and reply comments were filed by AP&L and its wholesale customers. Thereafter, by letter dated January 16, 1978, a staff memorandum dated November 29, 1977, was circulated by the Secretary of the Commission to the parties of record in this proceeding. The parties submitted their comments on the staff memorandum on January 31, 1978.

[1] Petitioners consist of the Conway Corporation, Benton Municipal Light and Water Works, Hope Water and Light Commission, the Cities of North Little Rock, Osceola, Prescott and West Memphis, Arkansas, Farmers, Electric Cooperative Corp., and Mississippi County Electric Cooperative, Inc.

The Proposed Settlement Agreement

The settlement agreement states that it is entered into in accordance with the earlier settlement agreement dated September 16, 1976, which was approved by Commission order of November 15, 1976. The agreement further provides:

1. The Company will make an application to the Commission requesting the rate schedules, attached, designed to produce increased revenues of $4,932,930 for Period II be placed into effect on July 2, 1977. In event that the Commission's order approving the Settlement is not issued by July 2, the Rate Schedules originally filed by the Company on April 1, 1977, shall be in effect subject to refund on July 2, pending issuance of Commission order. Amounts collected subject to refund in excess of those that would have been collected under settlement rate schedules shall be refunded to the Customer Intervenors together with interest at the rate of 9 percent per annum, upon Commission's approval of this Settlement Agreement.

2. All provisions of the Settlement Agreement dated September 16, 1976, are ratified, confirmed, and continued.

3. The parties specifically agree that in arriving at agreement on the level of the settlement rates, construction Work in Progress was excluded from rate base.

4. Nothing in the Settlement Agreement is to constitute an admission by any party of the correctness of applicability of any claim, defense, rule or interpretation of law, allegation of fact, principle or method of ratemaking or cost of service determination in docket No. ER77-278. The Settlement Agreement is made with the understanding that it is a negotiated settlement with respect to the Company's jurisdictional rates. The settlement provides that in any future negotiation the parties shall not be bound or prejudiced by the Settlement Agreement.

5. The Agreement is contingent on approval by the Federal Power Commission, [Federal Energy Regulatory Commission] without modification, unless modification(s) are agreed to by the parties. All parties agree to cooperate in seeking acceptance and approval by the Commission.

In their comments on the November 29, 1977, staff memorandum both AP&L and Wholesale customers continue their support of the proposed settlement agreement. However, we reject the arguments in their comments of both Arkansas Power and Light and its wholesale customers that our previous approval of the settlement agreement in Docket No. E-8071 *et al.* binds us to accept the settlement in this proceeding. Additionally, we reject the curious contention of the wholesale customers in their comments on January 31, 1978, that the "settlement agreement is a contract which falls within the scope of the *Sierra-Mobile* doctrine, which covers agreements between the parties * * *".[5] The Court of Appeals for District of Columbia Circuit recently repeated the *Sierra-Mobile* rule as follows:

> "[t]he rule of Sierra, Mobile and Memphis is refreshingly simple: The contract between the parties governs the legality of the filing. Rate filings consistent with contractual obligations are valid; rate filings inconsistent with contractual obligations are invalid." *New England Power Co.*, v. *FERC*, No. 75-1945,—F.2d—; *Richmond Power & Light* v. *FPC*, 156 U.S. App. D.C. 315, 318, 481 F.2d 490, 493, cert. denied 414 U.S. 1068 (1973).

As we have stated, our approval of the agreement filed in Docket No. E-8071, *et al.* was conditioned so as to "not in any way bind the Commission in exercising its responsibility for fixing just and reasonable rates under the Federal Power Act." The instant proposed settlement agreement is, of course, of no significance until and unless it receives approval of this Commission subject to such conditions as the Commission may see fit to impose in the exercise of its responsibilities under the Federal Power Act. The *Sierra Mobile* doctrine has no application to this case.

Discussion

The proposed settlement was reached by discussions between AP&L and its wholesale customers. Approval has been consistently urged by all of them. The staff's opposition to the basis of the settlement was made known to the parties in comments filed October 11, 1977. Additionally, the Commission instructed the Secretary to serve upon all parties the aforementioned Staff memorandum of November 29, 1977, which stated that the two items accounted for the major difference between the staff cost results and the settlement rate level:

(1) Provision for contingencies, Income Taxes; Indicated effect on wholesale revenue requirements: $1.0 million increase; and

(2) Provision for Deferred Income Tax, Unbilled Revenue; Indicated effect on wholesale revenue requirements: $1.5 million increase.

On January 31, 1978, AP&L filed comments upon the staff's settlement reporting memorandum. Although AP&L did not in those comments directly address the two specific issues noted in the staff memorandum, the Company did state that if actual 1977 demands were to be substituted for the estimated demands in the Period II cost of service study, the results would justify an increase of approximately $7.9 million.

OEPR's letter of October 13, 1978, asked AP&L to provide copies of any studies, workpapers or other documents which would support the $7.9 million figure. The letter which was served upon all parties, suggested that AP&L might now wish to comment upon the issues identified in the earlier staff memorandum.

Attachment A hereto is a copy of AP&L's responding letter of October 26, 1978, together with Summary Schedule Nos. 1 and 4 which accompanies that letter. Schedule No. 1 purports to show that wholesale revenues before the settlement increase were deficient by $7.9 million on the basis of actual 1977 demand data and demand allocation methodology which had been proposed in ER77-535. That docket concerned services to customers other than those affected by the rates in ER77-278. Additionally, the AP&L proposed allocation methodology is at issue in ER77-535, and we do not believe it is appropriate for consideration in disposition of ER77-278.

As an alternative position, Schedule No. 4 is offered by AP&L to indicate that it could justify an increase of $6.8 million, rather than the $4.9 million settlement figure. This schedule reflects the following significant modifications of the Company's case-in-chief submittal in ER77-278.

(1) Use of actual 1977 demand allocation data in lieu of that originally estimated for Period II (annual coincidental peak method of allocation).

(2) A revised allocation of the provision for deferred income tax, unbilled revenue.

Schedule No. 4 reflects agreement by AP&L with staff's position on the allocation of the tax effect of unbilled revenue. AP&L continues to maintain, however, that it should be permitted to include a provision for contingencies in its allowable income taxes. In addition, Schedule No. 4 modifies the allocation of that tax contingency so as to impact upon the wholesale revenue requirements by about $1.8 million as compared with $1.0 million in its original submittal.[6] If this income tax contingency claim were eliminated, Schedule No. 4 would support a rate increase of approximately $5.0 million at a claimed rate of return of 9.76% (13.8% on common equity at 34.0%). At staff's recommended rate of return of 9.52% (13.0% on equity of 34.1%), the permissible rate increase would be approximately $4.7 million, which is about $200,000 less than the proposed settlement increase of $4.9 million.

The staff top sheets served in this proceeding raised further issues which could increase the indicated excess revenues to about $1.2 million. However, both the staff top sheets and the Company's cost of service submittals reflect wholesale revenues prior to application of term discounts. These discounts are applicable to customers executing long term service agreements with AP&L, and are in effect for all of these wholesale customers except Jonesboro.[7] For 1977, the discounts would total about $2.7 million, and on that basis the rate of return actually to be earned by AP&L would be less than 9.52%.

Although AP&L and its customers in this proceeding have agreed that cost of service analyses for their presentations would reflect the gross revenues rather than net of discount, it appears reasonable in this instance to evaluate the proposed settlement rate level on a net basis. We believe this to be appropriate not only because the customers themselves urge approval of the settlement, but also because the net revenues do in fact reflect the reality of the return to be earned in AP&L.

We will approve the proposed settlement increase of $4.9 million recognizing that AP&L's actual earned rate of return will reflect the downward impact of the term discount provisions of these wholesale rates.

The Commission finds:

Good cause exists to accept and approve the proposed Settlement Agreement, subject to the condition that our approval of the Settlement Agreement in this proceeding does not in any way bind the Commission in exercising its responsibility for fixing just and reasonable rates under the Federal Power Act in any future proceeding.

[5] *United Gas Pipe Line Co.* v. *Mobile Gas Service Corp.*, 350 U.S. 332 (1956); *FPC* v. *Sierra Pacific Power Company*, 350 U.S. 348 (1956).

[6] The Company apparently did not recognize its change in demand data has this effect, since its October 26 letter refers to $1.0 million at page 2, paragraph 3.

[7] Although Jonesboro does not receive the discount, Staff's top sheets showed the originally proposed rate increase for Jonesboro to be cost justified. Jonesboro takes high voltage service, and it is the only AP&L customer served under that rate schedule. Jonesboro's rate is not modified by the proposed settlement.

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The Commission orders:

(A) The Settlement Agreement, incorporated by reference, is accepted and approved.

(B) The revised rate schedules, attached to the Settlement Agreement, will be filed within 30 days after this order becomes final and nonappealable and shall be made effective as of July 2, 1977.

(C) Within 30 days after this order becomes final and nonappealable AP&L will refund the difference between the amounts billed pursuant to rate schedules accepted for filing by our Order issued April 29, 1977, in this docket and the revised rate schedules attached to the Settlement Agreement plus interest. Interest shall be computed at 9% per annum for the period July 2, 1977, through December 1, 1977.

(D) AP&L is directed to file a compliance report within 15 days after refunds have been made to show monthly billing determinants and revenues under prior, present and settlement rates. The report should also show the monthly settlement increase, the monthly rate refund, and the monthly interest computation together with a summary of such information for the total refund period. A copy of this report shall be furnished to the Arkansas Public Service Commission and any other state commission within whose jurisdiction the wholesale customers distrbute and sell electric energy at retail.

(E) Upon compliance with ordering paragraphs (B), (C) and (D), Docket No. ER77-278 is terminated.

(F) This order is without prejudice to any findings or orders which have been made or which may be made afterward by the Commission, and is without prejudice to any claims or contentions which may be made by the Commission, the Staff or any other person affected by this order in any proceeding now pending or to be instituted in the future by or against AP&L or any other person or party.

(G) The Secretary shall have this order published promptly in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

ARKANSAS POWER & LIGHT CO.,
Little Rock, Ark., October 26, 1978.

Re: Arkansas Power & Light Company, Docket No. ER77-278.

Mr. WILLIAM W. LINDSAY,
Director, Office of Electric Power Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426.

DEAR MR. LINDSAY: This is Arkansas Power & Light Company's response to your October 13, 1978 letter requesting supporting data for the $7.9 million revenue deficiency figure referenced in our January 31, 1978 response to the Staff's November 29, 1977 settlement reporting memorandum.

Attached are the following items:

Schedule 1—Revenue Deficiency Analysis at $7.9 million level.

Schedule 2—Cost of Service Study supporting $7.9 million wholesale deficiency based on 1977 actual demands and demand allocation methodology in Docket No. ER77-535.

Schedule 3—Development of Production (DO1) and Transmission (DO2) demand allocation factors using 1977 actual demands and ER77-535 methodology.

Schedule 4—Revenue Deficiency Analysis at $6.8 million level using ER77-278 allocation methodology and the 1977 actual demands.

Schedule 5—Cost of Service Study supporting $6.8 million level.

Schedule 6—Development of Production (DO1) and Transmission (DO2) demand allocation factors using 1977 actual demands and ER77-278 methodology.

Schedule 7—Summary of actual and projected 1977 demands.

Schedule 8—Development of DO1 and DO2 demand allocation factors as originally filed.

Schedule 9—Development of corrected SFO3 allocation factor.

The $7.9 million deficiency was derived by using 1977 actual demands and the use of the allocation methodology filed in Docket No. ER77-535 (contract between AP&L and Arkansas Electric Cooperative Corporation—AECC), which we believe is the appropriate method. The deficiency is $6.8 million using 1977 actual demands and the methodology in the original ER77-278 filing. Both methodologies calculate deficiencies well in excess of the $4.9 million settlement.

Since Docket No. ER77-278 was originally filed it has been determined that the item, Purchased Power—Other Demand, can be further functionalized into Capacity Equalization and Transmission Equalization components. Both of the attached studies incorporate this refinement. The capacity equalization portion is allocated by factor DO1 and the transmission equalization portion is allocated by DO2.

We remain firm in our belief that a Contingency for Income Taxes is justly and reasonably includable as an expense item for AP&L since the Company has historically experienced increases in income tax requirements as the result of audits by the Internal Revenue Service. However, we do agree with the Staff that the allocation of the contingency in this case based on taxable income produces illogical cost assignments because some of the customer categories have negative taxable incomes. This is a new problem which we had not recognized. We propose that a more reasonable allocation would result if Net Income Before Taxes (factor TYO1) were used. However, changing this allocation methodology or even eliminating the contingency altogether would only reduce the deficiency by roughly $1 million. The resulting deficiency of $6.9 million or $5.8 million) is still well in excess of the $4.9 million settlement.

The Staff is correct with respect to the allocation of unbilled revenues and this error has been corrected in both of the attached studies.

The 1977 peak demand of 3,625 MW for the Company forecasted in the original Period II failed to materialize for several reasons. It should be noted, however, that the projected wholesale peak both in total and by component was reasonably accurate, which meant that the forecasted loads understated the proportional contribution to peak and consequently the allocation factor for wholesale was understated.

The inaccuracy of the forecast was in the retail sector which is much more volatile and difficult to forecast than the wholesale sector. We are now developing more sophisticated econometric forecasting techniques which should improve our ability to forecast. Should you need additonal information on this matter, please advise me or Mr. Robert Hall, III, 1701 K Street, N.W., Washington, D.C. 20006.

Sincerely,

O. V. HOLEMAN,
Director of Rates & Research.

SCHEDULE 1.—*Arkansas Power & Light Company*

REVENUE DEFICIENCY ANALYSIS

[12 Months Ended December 31, 1977—Period II]

	(1) Total Company	(2) Total Wholesale	(3) Municipals & Citizens	(4) Distribution Cooperatives	(5) City of Jonesboro	(6) All Other
Total Average Rate Base	848,618,999.	74,407,544.	65,122,531.	5,496,477.	3,788,536.	774,211,456.
Revenues:						
Rate Schedules	432,452,000.	32,635,000.	29,028,000.	2,330,000.	1,277,000.	399,817,000.
Misc. Oper. & Pool Rev.	27,439,000.	2,032,122.	1,816,913.	151,237.	63,973.	25,406,878.
Total Revenues	459,891,000.	34,667,122.	30,844,913.	2,481,237.	1,340,973.	425,223,878.
Total Operating Income	69,951,767.	3,376,609.	2,999,534.	164,787.	212,288.	66,575,158.
Current Rate of Return	8.24	4.54	4.61	3.00	5.60	8.60
Required Rate of Return	9.76	9.76	9.76	9.76	9.76	9.76
Required Operating Income	82,825,214.	7,262,176.	6,355,959.	536,456.	369,761.	75,563,038.
Operating Income Deficiency	12,873,447.	3,885,567.	3,356,425.	371,669.	157,474.	8,987,880.
Revenue Deficiency	26,336,884.	7,949,210.	6,866,675.	760,371.	322,164.	18,387,674.
Revenue Requirements	486,227,884.	42,616,333.	37,711,588.	3,241,608.	1,663,137.	443,611,552.

SCHEDULE 4.—*Arkansas Power & Light Company*

COST OF SERVICE STUDY

Total Average Rate Base	848,618,999.	72,138,618.	63,140,856.	5,330,360.	3,667,401.	776,480,361.
Revenues:						
Rate Schedules	432,452,000.	32,635,000.	29,028,000.	2,330,000.	1,277,000.	399,817,000.
Misc. Oper & Pool Rev.	27,439,000.	2,029,372.	1,814,511.	151,036.		
Total Revenues	459,891,000.	34,664,372.	30,842,511.	2,481,036.	1,340,826.	425,226,628.
Total Operating Income	69,951,767.	3,681,232.	3,265,591.	187,090.	228,551.	66,270,535.
Current Rate of Return	8.24	5.10	5.17	3.51	6.23	8.53
Rate of Return Multipliers	1.0	1.0	1.0	1.0	1.0	1.0
Required Rate of Return	9.76	9.76	9.76	9.76	9.76	9.76
Required Operating Income	82,825,214.	7,040,729.	6,162,548.	520,243.	357,938.	75,784,465.
Operating Income Deficiency	12,873,447.	3,359,497.	2,896,956.	333,153.	129,387.	9,513,950.
Revenue Deficiency	26,336,884.	6,872,959.	5,926,680.	681,574.	264,705.	19,463,925.
Revenue Requirements	486,227,884.	41,537,331.	36,769,191.	3,162,610.	1,605,530.	444,690,553.

[FR Doc. 79-908 Filed 1-10-79; 8:45 am]

[6450-01-M]

Docket No. ER79-102]

CAMBRIDGE ELECTRIC LIGHT CO.

Termination of Rate Schedule

JANUARY 3, 1979

Take notice that on December 11, 1978 Cambridge Electric Light Company (Cambridge) tendered for filing its Notice of Termination of its currently effective Federal Energy Regulatory Commission Rate Schedule No. 5. Cambridge indicates that said Rate Schedule consists of an agreement between Cambridge and Boston Edison Company (Edison) for a convenience sale for resale of electricity to one 4000 lumen incandescent street lamp located on the edge of Edison's service territory in the Town of Arlington, Massachusetts.

Cambridge has requested the Commission to permit the tendered Notice of Termination to become effective on December 31, 1978, the last day of its current fiscal year. Edison's written assent to the proposed termination is attached to Cambridge's filing.

Cambridge has stated that a copy of this filing has been mailed to Boston Edison Company.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 12, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-917 Filed 1-10-79; 8:45 am]

[6450-01-M]

[Docket No. ES 79-20]

CITIZENS UTILITIES CO.

Application

JANUARY 3, 1979.

Take notice that on December 13, 1978, Citizens Utilities Company, a corporation organized under the laws of the State of Delaware, with its principal business office in Stanford, Connecticut, filed an application pursuant to Section 204 of the Federal Power Act, seeking authority to issue up to $22.5 million of promissory notes and commercial paper, on or before February 1, 1980, and to mature on or before February 1, 1980.

The short-term debt will be used for the replenishment of the treasury for expenditures for current transactions, for the repayment of indebtedness, and for the construction, extension and improvement of facilities.

Any person desiring to be heard or to make any protests with reference to said Application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) on or before January 12, 1979. The Application is on file and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-918 Filed 1-10-79; 8:45 am]

[6450-01-M]

[Docket No. CP75-233]

CONSOLIDATED GAS SUPPLY CORP. AND TEXAS GAS TRANSMISSION CORP.

Petition To Amend

JANUARY 3, 1979.

Take notice that on December 18, 1978, Consolidated Gas Supply Corporation (CGS), 445 West Main Street, Clarksburg, West Virginia 26301, and Texas Gas Transmission Corporation (TGT), 3800 Frederica Street, Owensboro, Kentucky 42301 (Petitioners) filed in Docket No. CP75-233 a petition to amend the order of the FPC issued in the instant docket on July 2, 1975, pursuant to Section 7(c) of the Natural Gas Act to add an additional point of exchange between Petitioners, all as more fully set forth in the petition on file with the Commission and open to public inspection.[1]

Petitioners state that they agreed on November 20, 1978, to add a point of exchange between them so as to permit either party to deliver volumes of natural gas to others at the interconnection of the system of CGS with the facilities of Columbia Gulf Transmission Company and TGT in Acadia Parish, Louisiana. Accordingly, Petitioners request that the order issued in the instant docket on July 2, 1975, be amended to reflect this change. It is indicated that the additional exchange point would assist Petitioners in fulfilling their system obligations and would provide added flexibility of operation and continuity of service.

[1]This proceeding with commenced before the FPC. By joint regulation on October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

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Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before January 23, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUM,
Secretary.

[FR Doc. 79-919 Filed 1-10-79; 8:45 am]

[6450-01-M]

[Docket Nos. RP75-91, RP77-7 and RP77-140]

CONSOLIDATED GAS SUPPLY CORP.

Settlement Conference

JANUARY 3, 1979.

Take notice that an informal settlement conference will be convened in the subject gas pipeline rate proceedings on January 16, 1979 in a hearing room at the office of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Such informal conference shall convene immediately upon the recessing of the formal conference in *Consolidated Gas Supply Corporation*, Docket No. RP78-52, which formal conference is scheduled to commence at 9:00 A.M. on January 16, 1979.

Customers and other interested persons will be permitted to attend the above-mentioned informal conference, but if such persons have not previously been permitted to intervene by order of the Commission, attendance at the conference will not be deemed to authorize intervention as a party in the proceeding.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-920 Filed 1-10-79; 8:45 am]

[6450-01-M]

[Docket No. CP79-130]

CORTEZ PIPELINE CO.

Application for Declaratory Order

JANUARY 3, 1979.

Take notice that on December 18, 1978, Cortez Pipeline Company (Applicant), Entex Building, Houston, Texas 77002, filed in Docket No. CP79-130 an application pursuant to Section 1.7(c) of the Commission's Rules of Practice and Procedure (18 CFR 1.7(c)) for an order of the Commission declaring that the construction and operation of certain facilities, the transportation of predominately pure carbon dioxide in interstate commerce for Shell Oil Company (Shell) and others are exempt from the provisions of the Natural Gas Act, the Natural Gas Policy Act of 1978 (NGPA), the Department of Energy Organization Act (DOE Act) and the rules and regulations of the Commission, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport volumes of carbon dioxide produced by Shell and/or others from the carbon dioxide field in the Four Corners area of Utah, Arizona, New Mexico, and Colorado through a pipeline to the Wasson Oil Field for use by Shell and/or others in tertiary oil recovery operations in the Denver Unit, Gaines and Yoakum Counties, Texas. Applicant anticipates a gathering, transportation, and delivery system which would include the construction and operation of a 20-inch to 30-inch pipeline approximately 480 miles in length and certain dehydration and compression facilities.

Applicant asserts that the production, transportation, and other disposition of carbon dioxide to be used in tertiary oil recovery operations are clearly new technological developments which would not justify any expansion of the jurisdiction of the Commission over these activities. Applicant asserts further that (1) carbon dioxide is not by definition natural gas, (2) the underlying purpose and intent of the Natural Gas Act and the DOE Act as explained in the legislative history and subsequent case law make it clear that carbon dioxide was not contemplated by Congress for regulation, and (3) the general consuming public has no interest to protect because it would not and cannot use carbon dioxide, and that the Commission does not have jurisdiction over the subject proposals and transactions contemplated.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 23, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-921 Filed 1-10-79; 8:45 am]

[6450-01-M]

[Docket No. ES79-19]

THE DETROIT EDISON CO.

Application

JANUARY 3, 1979

Take notice that on December 21, 1978, the Detroit Edison Company, a corporation organized under the laws of the States of Michigan and New York, with its principal business offices in Detroit, Michigan, filed an application pursuant to Section 204 of the Federal Power Act, seeking authority to issue short-term notes of up to $90 million and enter into a loan agreement and a Nuclear Fuel Heat Purchase Contract.

The net proceeds will be used to finance Applicant's costs of nuclear fuel to be used in the Enrico Fermi Unit No. 2 Nuclear Generating Facility.

Any person desiring to be heard or to make any protests with reference to said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N. E., Washington, D. C. 20426, in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) on or before January 15, 1979. The application is on file and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-922 Filed 1-10-79; 8:45 am]

[6450-01-M]

[Docket No. ER78-375]

DUQUESNE LIGHT CO.

Certification

JANUARY 3, 1979.

Take notice that on December 19, 1978, Presiding Administrative Law Judge Curtis L. Wagner, Jr. certified the proposed settlement agreement in Docket No. ER78-375. This proceeding involves Duquesne Light Company's proposed change in its FERC Municipal Electric Resale Service Tariff for customer, Pitcairn, Pennsylvania. The proposed change will increase revenues on jurisdictional sales by $48,841 based on the 12-month period ending May 31, 1979. The Commission suspended the proposed tariff change for one day and deferred the use thereof until August 19, 1978, when it became effective subject to refund.

By motion dated December 14, 1978, the Presiding Judge states, he was advised that Duquesne Light Company and the Borough of Pitcairn had executed a settlement agreement in settlement of all issues in this proceeding.

Any person desiring to be heard or to protest said settlement agreement should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before January 12, 1979. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-923 Filed 1-10-79; 8:45 am]

[6450-01-M]

[Docket No. ER79-111]

ILLINOIS POWER CO.

Filing of Revised Exhibit B

JANUARY 3, 1979.

Take notice that Illinois Power Company (Illinois Power) on December 18, 1978, tendered for filing Revised Exhibit B to an Agreement dated July 25, 1975, between Illinois Power and Western Illinois Power Cooperative (WIPCO).

Illinois Power states that the purpose of the filing is to revise the Agreement to reflect the actual cost of providing the interconnection between the parties.

According to Illinois Power, copies of this filing have been mailed to WIPCO and the Illinois Commerce Commission, Springfield, Illinois.

Illinois Power requests an effective date of August 11, 1978 and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 19, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-924 Filed 1-10-79; 8:45 am]

[6450-01-M]

[Docket Nos. ER77-511 and ER78-311]

NEW YORK POWER POOL

Informal Settlement Conference

JANUARY 3, 1979

Please take notice that there will be an informal settlement conference in the above-captioned proceedings on January 26, 1979 at 10:00 A.M., in room 3400, Federal Energy Regulatory Commission, 941 North Capitol Street, NE., Washington, D.C.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-925 Filed 1-10-79; 8:45 am]

[6450-01-M]

[Docket No. CP79-110]

NORTHERN NATURAL GAS CO.

Application

JANUARY 3, 1979

Take notice that on December 8, 1978, Northern Natural Gas Company (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed an application in Docket No. CP79-110 pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to transport natural gas for Fruehauf Corporation (Fruehauf), all as more fully set forth in the application on file with the Commission and open to public inspection.

The application states that Applicant and Fruehauf, on November 9, 1978, executed an agreement pursuant to which Applicant would transport for Fruehauf, on a best efforts basis, up to 300 Mcf per day of gas, less 3½ percent for fuel and loss, from an existing interconnection with Panhandle Eastern Pipe Line Company's system in Mullenville, Kansas, to an existing interconnection with the Metropolitan Utilities District's system in Douglas County, Nebraska. It is indicated that the gas subject to the agreement would be produced by Fruekel, Inc., Fruehauf's wholly owned subsidiary, from wells in Tuscarawas and Guernsey Counties, Ohio; the gas would be consumed in Fruehauf's plant in Omaha, Nebraska. The price charged by Applicant for the transportation service would be 13.15 cents per Mcf of gas transported, it is stated.

Applicant states the gas would be used in Fruehauf's direct gas fired drying ovens and other operations for which other fuels cannot be used. Applicant further states that it has sufficient excess capacity to render the proposed service without affecting its ability to serve its existing customers.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 23, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in the subject to the jurisidiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-926 Filed 1-10-79; 8:45 am]

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[6450-01-M]

[Docket No. CP79-119]

NORTHWEST PIPELINE CORP.

Application

JANUARY 3, 1979.

Take notice that on December 14, 1978, Northwest Pipeline Corporation (applicant), P.O. Box 1526, Salt Lake City, Utah 84110, filed an application in Docket No. CP79-119 pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to change the FERC gas rate schedule under which it sells gas to Wyoming Industrial Gas Company (Wyoming), all as more fully set forth in the application on file with the Commission and open to public inspection.

It is stated that Wyoming, in order to offset the impact of a loss of industrial load, requested Applicant on October 16, 1978, to render natural gas service under Applicant's FERC Gas Rate Schedule DS-1, in lieu of service under Applicant's FERC Gas Rate Schedule ODL-1 heretofor authorized by the Commission. Applicant states that no new facilities will be required to implement this change.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 23, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to invervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-927 Filed 1-10-79; 8:45 am]

[6450-01-M]

[Docket No. CP79-127]

NORTHWEST PIPELINE CORP.

Application

JANUARY 3, 1979.

Take notice that on December 15, 1978, Northwest Pipeline Corporation (Applicant), P.O. Box 1526, Salt Lake City, Utah 84110, filed an application in Docket No. CP79-127 pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to construct and operate four new delivery points for Washington Water Power Company (Water Power), Northwest Natural Gas Company (Northwest Natural), and CP National Corporation (CP), all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that Water Power has requested it to install two taps in Spokane County, Washington so that Water Power can provide service to two residences and commercial establishments, and that Northwest Natural has similarily requested it to install a tap for a residential subdivision in Linn County, Oregon. The estimated cost of each tap, exclusive of Applicant's labor, would be $1,300; Water Power and Northwest Natural would reimburse Applicant for their taps.

Applicant further states that CP has requested it to install a tap in Klamath Falls, Oregon, so that CP may provide service to a farm. Applicant would pay the estimated cost of $7,250, it is stated.

The application indicates that all four taps would provide needed natural gas service.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 23, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-928 Filed 1-10-79; 8:45 am]

[6450-01-M]

[Docket No. ER79-110]

OHIO POWER CO.

Filing

JANUARY 3, 1979.

Take notice that Ohio Power Company (Ohio Power) on December 18, 1978 tendered for filing an agreement, dated as of December 11, 1978, between Ohio Power and Ohio Edison Company, supplementing an agreement between such companies dated June 20, 1968, designated Ohio Power Rate Schedule FPC No. 71 and as Ohio Edison Company Rate Schedule FPC No. 67.

Ohio Power states that the filing amends the 1968 agreement to add a new delivery point in Senaca County, Ohio, amends a related definition and adds provisions relating to access to metering and system disturbances. According to Ohio Power, service at the new delivery point is expected to commence on or about December 15, 1978 and Ohio Power requests waiver of the Commission's notice requirements and requests an effective date of December 15, 1978.

Copies of the filing were served upon Ohio Edison Company and Buckeye Power, Inc., according to Ohio Power.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, D.C., N.E. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 19, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-929 Filed 1-10-79; 8:45 am]

[6450-01-M]

[Docket No. ES79-21]

SOUTH CAROLINA ELECTRIC & GAS CO.

Application

JANUARY 3, 1979.

Take notice that on December 26, 1978, South Carolina Electric & Gas Company, a corporation organized under the laws of the State of South Carolina, with its principal business office at Columbia, South Carolina, filed an application pursuant to Section 204 of the Federal Power Act, seeking authority to issue up to $110 million unsecured promissory notes or commercial paper, with maturity dates of twelve months or less, but not later than December 31, 1980.

The short-term debt will be used to maintain cash working funds at normal levels and to provide interim financing for the Company's construction program.

Any person desiring to be heard or to make any protests with reference to said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, Washington, D.C. 20426, in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) on or before January 22, 1979. The application is on file and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-930 Filed 1-10-79; 8:45 am]

[6450-01-M]

[Docket No. OR79-2]

THE TEXAS DEEPWATER PORT AUTHORITY

Petition for Declaratory Order Approving Proposed Tariff Structure

JANUARY 2, 1979.

Take notice that the Texas Deepwater Port Authority (DPA), an agency of the State of Texas, on December 7, 1978, tendered for filing a petition for a declaratory order which would approve a proposed tariff structure. This proposed tariff structure is set forth in the Petition For Declaratory Order filed by the DPA in this docket.

DPA requests a declaratory order that the DPA may lawfully charge its customers according to the formula it proposes, with specific findings that the nature and magnitude of the differential proposed between classes of shippers is lawful. DPA states that the differential is based upon a private shipper's advance commitment to use the proposed facility and that such advance commitment is necessary to finance the project. DPA further requests that the Commission consider its declaratory order petition under an adjusted form of the Interstate Commerce Commission's "modified procedure", as set forth in Rules 43-52, 49 C.F.R. §§ 1100.43-1100.52.

Under the adjusted form of its modified procedure requested by Texas, the Petition For Declaratory Order and its appendices and affidavits, would be published, and a 30-day comment period would be permitted for filing of petitions in support of opposition. Texas further recommends that a 20-day rebuttal period follow, after which the case would be submitted to the Commission for decision. The modified procedure set forth in the ICC's Rules 43-52 may be ordered at our discretion if it appears that substantially all important issues of material fact may be resolved by means of written materials and that the efficient disposition of the proceeding can be made without oral hearing. Rule 42, 49 C.F.R. § 1100.42 states that no reply to such a petition may be filed.

The Commission requests comments on both the merits of DPA's proposed tariff structure as well as on the procedure requested by DPA for resolution of this declaratory order proceeding. Any person desiring to be heard or to protest said finding should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1100.70 and 1100.40 of the Commission's Rules of Practice and Procedure for Oil Pipeline Matters (49 CFR 1100.70, 1100.40). All such petitions or protests should be filed on or before January 22, 1979. Protests and comments will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Texas states that copies of its filing were filed upon the general counsel of all potentially interested parties presently known to Texas, categorized as follows: (1) potential user/shippers; (2) associations that may have some interest in this matter; (3) organizations concerned with natural resource use and management; and (4) port authorities as reflected in the latest directory of the American Association of Port Authorities and the Louisiana Offshore Oil Port (LOOP).

A copy of the complete filing made by Texas in this docket is available for inspection, upon request, at the following locations: (1) the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426; (2) the Attorney General of Texas, Supreme Court Building, Austin, Texas 78711; (3) the Texas Deepwater Port Authority, Suite 500, 3131 W. Alabama, Houston, Texas 77098; (4) the Texas Deepwater Port Authority, Suite 901, 815 Brazos Street, Austin, Texas 78701; and (5) the Texas Office of State-Federal Relations, 1019 19th Street, Washington, D.C.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-931 Filed 1-8-79; 4:53 pm]

[6450-01-M]

TEXAS GAS PIPE LINE CORP.

[Docket No. RP76-30 (PGA No. 79-1)]

Tariff Sheet Filing

JANUARY 2, 1979.

Take notice that on December 13, 1978, Texas Gas Pipe Line Corporation, pursuant to Section 154.62 of the Commission Regulations under the Natural Gas Act, filed Seventh Revised Sheet No. 4a to its FERC Gas Tariff, First Revised Volume No. 1. Texas Gas states that the filed tariff sheet related to the Unrecovered Purchased Gas Cost Account of the Purchased Gas Adjustment Provision contained in Section 12 of the General Terms and Conditions of the tariff. More specifically, the tariff sheet reflects a net increase over that currently being collected of 32.69¢ per Mcf (at 14.65 Psia) to be effective January 1, 1979.

Any person desiring to be heard and to make any protest with reference to said filing should on or before January

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10, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing must file petitions to intervene in accordance with the Commission's Rules. Texas Gas' tariff filing is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-932 Filed 1-10-79; 8:45 am]

[6450-01-M]

[Docket No. RP72-156]

TEXAS GAS TRANSMISSION CORP.

Proposed Changes in FPC Gas Tariff

JANUARY 2, 1979.

Take notice that Texas Gas Transmission Corporation, on December 15, 1978, tendered for filing Third Substitute Twenty-Fourth Revised Sheet No. 7 to its FPC Gas Tariff, Third Revised Volume No. 1.

This sheet is being issued to reflect changes in the cost of purchased gas pursuant to Texas Gas' Purchased Gas Adjustment Clause, and the recovery of demand charge adjustments pursuant to the terms of Section 10.5 of the General Terms and Conditions of Texas Gas' tariff. Also reflected are the producer rates specified by the Commission to become effective for the month of January, 1979, under the provisions of the Natural Gas Policy Act of 1978 (NGPA), increased by the January monthly inflation factor to derive the rate which will become effective on February 1, 1979. In addition, the surcharge adjustment for unrecovered purchased gas costs includes estimated changes in purchased gas costs attributable to the NGPA for the months of December, 1978 and January, 1979, as authorized by Commission Order No. 17, issued December 1, 1978, in Docket No. RM79-7. The filing also reflects changes in costs associated with advance payments, the cost of offshore transportation and the reduction to 46% of the Federal income tax rate, all pursuant to the provisions of Article IX, X and XI of the Stipulation and Agreement approved by Commission order issued November 17, 1978 in Docket No. RP77-139.

Copies of the filing were served upon the company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 10, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-933 Filed 1-10-79; 8:45 am]

[6450-01-M]

[Docket No. CP79-123]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Application

JANUARY 3, 1979.

Take notice that on December 15, 1978, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77001, filed an application in Docket No. CP79-123 pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to transport natural gas for Columbia Gas Transmission Corporation (Columbia Gas), all as more fully set forth in the application on file with the Commission and open to public inspection.

It is stated that Applicant and Columbia Gas executed an agreement on November 27, 1978, pursuant to which Columbia Gas would deliver to Applicant up to 270 Mcf per day of natural gas at an interconnection between their systems in St. James Parish, Louisiana, whereupon Applicant would redeliver thermally equivalent volumes for Columbia Gas' account to Columbia Gulf Transmission Company at existing points of interconnection near Egan, Acadia Parish, Louisiana, and at the outlet of Continental Oil Company's Acadia Plant, Acadia Parish, Louisiana. Applicant states that the initail monthly fee for this firm transportation service would be $286. This proposed service would enable Columbia Gas to economically receive certain supplies of natural gas.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 23, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 1.57.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is timely filed, or if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR.Doc. 79-934 Filed 1-10-79; 8:45 am]

[6450-01-M]

[Docket No. ER79-109]

VIRGINIA ELECTRIC AND POWER CO.

Notice of Tendered Revised Contract Supplement

JANUARY 3, 1979.

Take notice that on December 15, 1978, Virginia Electric and Power Company (VEPCO) tendered for filing a new supplement to the contract between VEPCO and Virginia Electric Cooperative. VEPCO states that the new contract supplement is for a new delivery point which has been requested by the Cooperative and designated Greenwood Delivery Point.

Delivery point and proposed FERC number.

Greenwood, 87-32.

VEPCO requests that the Commission allow the Greenwood Delivery

Point Supplement to become effective on the date the facilities are connected with the understanding that VEPCO will notify the Commission of the effective date.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 12, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-935 Filed 1-10-79; 8:45 am]

[6450-01-M]

[Docket No. CP79-129]

MICHIGAN WISCONSIN PIPE LINE CO.

Application

JANUARY 3, 1979.

Take notice that on December 18, 1978, Michigan Wisconsin Pipe Line Company (Applicant), One Woodward Avenue, Detroit, Michigan 48226, filed an application in Docket No. CP79-129 pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to provide a gas transportation service for United Gas Pipe Line Company (United), all as more fully set forth in the application on file with the Commission and open to the public inspection.

It is stated that Applicant and United executed an agreement on November 16, 1978, pursuant to which Applicant would transport, by displacement, up to 12,500 Mcf (Contract Demand) of natural gas per day for United from Eugene Island Block 307, offshore Louisiana, to (1) the tailgate of Mobil Oil Corporation's processing plant in Cameron Parish, Louisiana, or (2) the tailgate of Atlantic Richfield's plant in St. Mary Parish, Louisiana, or (3) an interconnection between the systems of Applicant and United to be built by Applicant pursuant to the authority granted on July 6, 1978, in Docket No. CP77-567. Applicant states that it would charge a monthly fee equal to the Contract Demand times a demand charge of $7.17 per Mcf.

The proposed service would be performed by means of existing facilities and would enable United to attach gas to be purchased by it from Getty Oil Company production in the Eugene Island Area, Block 307, offshore Louisiana, it is asserted.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 23, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-993 Filed 1-10-79; 8:45 am]

[6450-01-M]

[Docket No. CP79-113]

MOUNTAIN FUEL RESOURCES, INC.

Application

JANUARY 3, 1979.

Take notice that on December 11, 1978, Mountain Fuel Resources, Inc. (Applicant), 180 East 1st South, Salt Lake City, Utah 84139, filed in Docket No. CP79-113 an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.7(b) of the Commission's Regulations thereunder (18 CFR 157.7(b) for a certificate of public convenience and necessity authorizing the construction, during the period February 23, 1979, through December 31, 1979, and operation of facilities to enable Applicant to take into it certificated main pipeline system natural gas which would be purchased from producers or other similar sellers thereof, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in connecting to its pipeline system supplies of natural gas which may become available from various producing areas generally coextensive with its pipeline system or the systems of other pipeline companies which may be authorized to transport gas for the account of or exchange gas with Applicant.

Applicant states that the total cost of the proposed gas-purchase facilities would not exceed $879,761 with the cost of any single project not to exceed $219,940.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 23, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

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Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-994 Filed 1-10-79; 8:45 am]

[6450-01-M]

[Docket No. RP73-64]

SOUTHERN NATURAL GAS CO.

Proposed Changes in FERC Gas Tariff

JANUARY 3, 1979.

Take notice that Southern Natural Gas Company (Southern), on December 15, 1978, tendered for filing proposed changes in its FERC Gas Tariff, Sixth Revised Volume No. 1, to become effective January 1, 1979. Such filing is pursuant to Section 17 (Purchased Gas Adjustment) of the General Terms and Conditions of Southern's FERC Gas Tariff, Sixth Revised Volume No. 1. The proposed filing would substitute a revised tariff sheet for one filed on November 22, 1978.

Southern states that this amended filing is for the two-fold purpose of (1) adjusting, pursuant to Order No. 18 and Section 154.38(X)(b) of the Commission's Regulations implemented by that Order, Southern's current cost of gas supply directly attributable to the Natural Gas Policy Act of 1978 (NGPA) and (2) to reflect a reduction in the Surcharge Adjustment for estimated Demand Charge Credits pursuant to Section 9.6(3) of the General Terms and Conditions of Southern's tariff.

Southern says that in its November 22, 1978 filing, Southern reflected increased cost of gas supply under the Natural Gas Policy Act only to the extent applicable under Section 104 of Part 271 of the proposed rulemaking in Docket No. RM79-3, Regulations Implementing the Natural Gas Policy Act of 1978. With the availability of additional data, however, Southern now estimates that it will have additional costs of purchased gas attributable to the Natural Gas Policy Act of approximately $21 million which were not reflected in its filing of November 22, 1978. The additional cost of gas would result in an increase in Southern's commodity and one-part rates of approximately 3.6¢ per Mcf.

Additionally, Southern now estimates that because of additional supplies of gas (primarily purchases of vaporized LNG from Southern Energy Company at Elba Island, Georgia), curtailments on its system this winter and next spring will not be as great as projected in the November 22, 1978 filing. Therefore, Southern proposes to reduce the Surcharge Adjustment for estimated Demand Charge Credits by 2.027¢ per Mcf to reflect reduced curtailments on its pipeline system.

Southern says that since its initial PGA filing made three weeks ago, Southern's customers have initiated filings with their regulatory bodies. Southern therefore requests that it be allowed to reduce its commodity rates for the Surcharge Adjustment for Demand Charge Credits by 2.027¢ per Mcf and to increase its commodity rates by the Current Adjustment for purchased gas only by the amount of 2.027¢ per Mcf.

Copies of the filing are being served upon the company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before *January 15, 1979*. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc 79-995 Filed 1-10-79; 8:45 am]

[6450-01-M]

Office of Environment

ENVIRONMENTAL ADVISORY COMMITTEE

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given that the Environmental Advisory Committee will meet Monday, January 29, 1979, from 8:30 a.m. to 4:30 p.m., and Tuesday, January 30, 1979, from 8:30 a.m. to approximately 3:00 p.m., at the Department of Energy, 20 Massachusetts Avenue NW., Room 8222C, Washington, D.C.

The purpose of the Environmental Advisory Committee is to advise the Department of Energy on the overall activities which pertain to the goals of restoring, protecting and enhancing environmental quality and assuring public health and safety.

The tentative agenda is as follows:

Monday, January 29, 1979

- Introduction to DOE.
- Preliminary organization of Committee, including review of administrative procedures.
- Briefing on the Office of Environment.
- Discussion of issues.

Tuesday, January 30, 1979

- Further discussion of issues.
- Planning, organization, and preparation for next meeting.

The meeting is open to the public. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statement pertaining to agenda items should inform Georgia Hildreth, Director, Advisory Committee Management Office, 202-252-5187, at least 5 days prior to the meeting and reasonable provision will be made to include their presentation of the agenda.

Transcripts of the meeting will be available for public review and copying at the Freedom of Information Public Reading Room GA-152, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. In addition , any person may purchase a copy of the transcript from the reporter. An executive summary of the meeting may be obtained by calling the Advisory Committee Management Office at the lower number.

Issued at Washingon, D.C., on January 5, 1979.

GEORGIA HILDRETH,
Director,
Advisory Committee Management.

[FR Doc. 79-989 Filed 1-10-79; 8:45 am]

[6210-01-M]

FEDERAL RESERVE SYSTEM

BARCLAYS BANK LTD. AND BARCLAYS BANK INTERNATIONAL LTD.

Proposed Acquisition of American Credit Corp.

Barclays Bank Limited and Barclays Bank International Limited, both of London, England, have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of American Credit Corporation, Charlotte, North Carolina ("ACC").

Notice of the application was published between November 28, 1978 and December 13, 1978, in newspapers of general circulation in the communities to be served by ACC.

Applicant states that the proposed subsidiary would engage in the following activities: Making or acquiring consumer finance and commercial loans and other extensions of credit such as would be made by a finance or factoring company, leasing of personal property on a full payout basis, or acting as agent, broker or advisor therefor; acting as agent or broker for credit life and credit accident and health insurance, and property and casualty insurance sold in connection with extensions of credit by ACC; and acting as underwriter for credit life and credit accident and health insurance which is directly related to extensions of credit by ACC. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than February 8, 1979.

Board of Governors of the Federal Reserve System, January 8, 1979.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 79-983 Filed 1-10-79; 8:45 am]

[6210-01-M]

DUNLAP CORP.

Formation of Bank Holding Co.

Dunlap Corporation, Slater, Iowa, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1) to become a bank holding company by acquiring 80 percent or more of the voting shares of South Story Bank & Trust, Slater, Iowa. The factors that are considered in acting on the application are set forth in 3 section (c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than January 25, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 5, 1979.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 79-985 Filed 1-10-79; 8:45 am]

[6210-01-M]

MANUFACTURERS NATIONAL CORP.

Acquisition of Bank

Manufacturers National Corporation, Detroit, Michigan, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire indirectly 100 per cent of the voting shares of State Bank of Michigan, Coopersville, Michigan, through the acquisition of 100 per cent of the voting shares of American Heritage Bancshares, Inc., East lansing, Michigan. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than February 5, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 5, 1979.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 79-984 Filed 1-10-79; 8:45 am]

[6210-01-M]

TEXAS AMERICAN BANCSHARES, INC.

Acquisition of Bank

Texas American Bancshares Inc., Forth Worth, Texas, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 75 per cent of the voting shares of Riverside State Bank, Fort Worth, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than February 5, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 4, 1979.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 79-978 Filed 1-10-79; 8:45 am]

[6820-23-M]

GENERAL SERVICES ADMINISTRATION

REGIONAL PUBLIC ADVISORY PANEL ON ARCHITECTURAL AND ENGINEERING SERVICES

Meeting

DECEMBER 28, 1978.

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the Regional Public Advisory Panel on Architectural and Engineering Services, Region 5, February 6 and February 7, 1979, from 9:00 AM to 5:00 PM, Room 3520B, John C Kluczynski Federal Building, 230 South Dearborn Street Chicago, Illinois. The meeting will be devoted to the initial step of the procedures for screening and evaluation of the qualifications of architect-engi-

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neers under consideration for selection to furnish professional services for the following projects:

1. "Automatic Sprinkler System", John C. Kluczynski Federal Building, 230 South Dearborn Street and Everett McKinley Dirksen Building, 219 South Dearborn Street, Chicago, Illinois.
2. "Automatic Sprinkler System", Federal Building, U.S. Courthouse, 231 West LaFayette Street and Patrick V. McNamara Federal Building, 477 Michigan Avenue, Detroit, Michigan.
3. "Conversion", U.S. Post Office & Courthouse, Fort Wayne, Indiana.
4. "Conversion & Improvements", U.S. Post Office & Courthouse, LaFayette, Indiana.
5. "Window Replacement & Miscellaneous Improvements", Federal Building, U.S. Courthouse, Cleveland, Ohio.

This Meeting will be open to the public.

Dated: December 28, 1978.

EDWARD R. KENNELLY,
Acting Regional Administrator.

[FR Doc. 79-1006 Filed 1-10-79; 8:45 am]

[6820-34-M]

ADVISORY COMMITTEES

Renewal

This notice is published in accordance with the provisions of Section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463) and advises of the renewal of the following GSA advisory committees for a two-year period commencing January 6, 1979, without change in basis purpose:

National Archives Advisory Council, Regional Public Advisory Panels on Architectural and Engineering Services (Regions 1 thru 10).

The Administrator of General Services has determined that renewal of these advisory committees is in the public interest in connection with the performance of duties imposed on the General Services Administration by law.

Dated: January 2, 1979.

PAUL E. GOULDING,
Acting Administrator of General Services.

[FR Doc. 79-996 Filed 1-10-79; 8:45 am]

[4110-08-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health

NATIONAL DIABETES ADVISORY BOARD

Meeting Rescheduling

Notice is hereby given of a rescheduling of a National Diabetes Advisory Board meeting that was scheduled for January 10, 1979 in Houston. The notice was published in the FEDERAL REGISTER on December 5, 1978, 43 FR 56734.

The meeting has been rescheduled for January 16, 1979, at the Old Town Holiday Inn, 480 King Street, Alexandria, Va. The time of the meeting may be obtained by contacting Mr. Raymond M. Kuehne, Executive Director of the Board, P.O. Box 30174, Bethesda, Md. 20014, (301) 496-6045.

The meeting which will be open to the public is being held to continue review of the status and implementation of national diabetes programs. Attendance by the public will be limited to space available.

Mr. Raymond M. Kuehne (address above) will provide summaries of the meetings and a roster of the committee members.

(Catalog of Federal Domestic Assistance Program No. 13.847, National Institutes of Health.)

Dated: January 8, 1979.

SUZANNE L. FREMEAU,
Committee Management Officer, NIH.

[FR Doc. 79-1093 Filed 1-10-79; 8:45 am]

[4110-02-M]

Office of Education

NATIONAL ADVISORY COUNCIL ON EQUALITY OF EDUCATIONAL OPPORTUNITY

Meeting

AGENCY: National Advisory Council on Equality of Educational Opportunity.

ACTION: Notice of meetings.

SUMMARY: This notice sets forth the proposed agenda for the forthcoming meeting of the National Advisorty Council on Equality of Educational Opportunity and the meeting of its Legislative and Administrative Task Force. It also describes the functions of the National Advisory Council. Notice of this meeting is required under the Federal Advisory Committee Act (5 U.S.C., Appendix 1, 10(a)(21)). This document is intended to notify the general public of their opportunity to attend.

DATES OF MEETING: Legislative and Administrative Task Force, February 8, 1979; full Council, February 9-10, 1979.

PLACE OF MEETING: Los Angeles, California.

ADDRESS: The New Otani Hotel, Camillia Room, 120 S. Los Angeles Street, Los Angeles, California.

FOR FURTHER INFORMATION, CONTACT:

Rosemarie Maynez, Administrative Assistant, NACEEO, 1325 G Street, N.W., Suite 710, Washington, D.C. 20005. Phone: (202) 724-0221.

The National Advisory Council on Equality of Educational Opportunity is established under Section 716 of the Emergency School Aid Act (Pub. L. 92-318, Title VII, as amended by Pub. L. 93-380 and Pub. L. 94-482). The Council is established to: (1) Advise the Assistant Secretary for Education with respect to the operation of the program authorized under the Emergency School Aid Act (ESAA), including the preparation of regulations and the development of criteria for the approval of applications; and (2) review the operation of the program with respect to its effectiveness in achieving its purpose as stated in the Act and with respect to the Assistant Secretary's conduct in the administration of the program.

The meeting of the Legislative and Administrative Task Force, which is open to the public, will convene at 1:30 p.m. until 5:00 p.m. on Thursday, February 8, 1979. The meeting will be held to discuss the operational plans for the Task Force for the remainder of the fiscal year and to develop a structure for reporting significant findings for review by the full Council. In the event that the tentative agenda is completed prior to the projected time, the Chairman will adjourn the meeting.

The meeting of the full Council, which is open to the public, will convene at 9:30 a.m. until 4:00 p.m. on Friday, February 9, 1979, and reconvene at 9:00 a.m. until 11:00 a.m. on Saturday, February 10, 1979. The meeting will primarily be a work session aimed at formulating a plan of action for the development of the Council's final report to Congress. In the event that the tentative agenda is completed prior to the projected time, the Chairman will adjourn the meeting.

Requests for oral presentations by the public before the Legislative and Administrative Task Force and/or the full Council must be submitted in writing to the Executive Director of NACEEO, Mr. Leo A. Lorenzo, and should include the names of all persons seeking an appearance, the party or parties which they represent, and the purpose for which the presentation is requested. Following the presentation, the statement in writing shall be submitted to the Executive Director.

Records of all meetings are kept at NACEEO headquarters, 1325 G Street, N.W., Suite 710, Washington, D.C. 20005, and are available for public inspection.

Signed at Washington, D.C., on January 8, 1979.

LEO A. LORENZO,
Executive Director.

[FR Doc. 79-1015 Filed 1-10-79; 8:45 am]

[4110-02-M]

NATIONAL ADVISORY COUNCIL ON EXTENSION AND CONTINUING EDUCATION

Meeting

AGENCY: National Advisory Council on Extension and Continuing Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Ad-Hoc Committee on Title I of the National Advisory Council on Extension and Continuing Education. It also describes the functions of the Council. Notice of meetings is required under the Federal Advisory Committee Act (5 U.S.C. Appendix 1, 10(a)(2)). This document is intended to notify the general public of their opportunity to attend the meeting.

DATE: Meeting: January 22, 1979.

ADDRESS: The Washington Hotel, Fifteenth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20004.

FOR FURTHER INFORMATION CONTACT:

William G. Shannon, Executive Director, National Advisory Council on Extension and Continuing Education, 425 Thirteenth Street, N.W., Suite 529, Washington, D.C. 20004. Telephone: (202) 376-8888.

The National Advisory Council on Extension and Continuing Education is authorized under Pub. L. 89-329. The Council is required to report annually to the President, the Congress, the Secretary of HEW, and the Commissioner of Education in the preparation of general regulations and with respect to policy matters arising in the administration of Part A of Title I (HEA) including policies and procedures governing the approval of State plans under section 105; and to advise the Assistant Secretary of HEW on Part B (Lifelong Learning activities) of the title. The Council is required to review the administration and effectiveness of all Federally supported extension and continuing education programs.

The meetings of the Council are open to the public. However, because of limited space, those interested in attending any meeting are asked to call the Council's office beforehand. Available seats will be assigned on a first-come basis. Less than fifteen days notice to the public for this committee meeting is given because conflict in schedules among participants required the Council to reschedule the meeting. The meeting of the Ad-Hoc Committee on Title I will begin at 9:00 a.m. and adjourn at about 5:00 p.m.

The committee will meet to further review for reauthorization purposes title I and other titles of the Higher Education Act.

All records of the Council proceedings are available for public inspection at the Council's staff office, located in Suite 529, 425 Thirteenth Street, N.W., Washington, D.C.

Dated: January 8, 1979.

WILLIAM G. SHANNON,
Executive Director.

[FR Doc. 79-986 Filed 1-10-79; 8:45 am]

[4110-12-M]

Office of the Secretary

OFFICE OF THE ASSISTANT SECRETARY FOR PERSONNEL ADMINISTRATION, REVIEWING AUTHORITY (CIVIL RIGHTS)

Statement of Organization and Delegation of Authority; Establishment

Part 2 of the Statement of Organization and Delegations of Authority of the Department of Health, Education and Welfare, entitled "Office of the Secretary," as amended, 34 FEDERAL REGISTER 7390 (May 7, 1969), establishing a Reviewing Authority (Civil Rights) is hereby further amended so that Subparagraph (a) shall read as follows:

(a) There is hereby established in the Office of the Secretary a Reviewing Authority (Civil Rights) which shall consist of no more than seven members to be appointed by the Secretary.

Dated: December 28, 1978.

JOSEPH A. CALIFANO, Jr.,
Secretary.

[FR Doc. 79-1005 Filed 1-10-79; 8:45 am]

[4210-01-M]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

[Docket No. NFD-656; FDAA-570-DR]

ARIZONA

Major Disaster and Related Determinations

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of Arizona (FDAA-570-DR), dated December 21, 1978, and related determinations.

DATED: December 21, 1978.

FOR FURTHER INFORMATION CONTACT:

A. C. Reid, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202/634-7825).

NOTICE: Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on December 21, 1978, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the State of Arizona resulting from severe storms and flooding beginning about December 17, 1978, is of sufficient severity and magnitude to warrant a major disaster declaration under Pub. L. 93-288. I therefore declare that such a major disaster exists in the State of Arizona.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285, I hereby appoint Mr. William C. Tidball of the Federal Disaster Assistance Administration to act as the Federal Coordinating Officer for this declared major disaster.

I do hereby determine the following areas of the State of Arizona to have been adversely affected by this declared major disaster.

The Counties of: Gila, Graham, Greenlee, Maricopa, Navajo, Pima.

(Catalog of Federal Domestic Asst. No. 14.701, Disaster Asst.)

WILLIAM H. WILCOX,
Federal Disaster Assistance Administration.

[FR Doc. 79-956 Filed 1-10-79; 8:45 am]

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[4210-01-M]

[Docket No. NFD-655; FDAA-568-DR]

KENTUCKY

Amendment to Notice of Major Disaster Declaration

AGENCY: Federal Disaster Assistance Administration

ACTION: Notice.

SUMMARY: This Notice amends the Notice of major disaster declaration for the Commonwealth of Kentucky (FDAA-568—DR), dated December 12, 1978.

DATED: December 20, 1978.

FOR FURTHER INFORMATION CONTACT:

A. C. Reid, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202/634-7825).

NOTICE: The Notice of major disaster for the Commonwealth of Kentucky dated December 12, 1978, and amended on December 17, 1978, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of December 12, 1978.

The Counties of: Johnson and Pike.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance)

WILLIAM H. WILCOX,
Administrator, Federal Disaster Assistance Administration.

[FR Doc. 79-957 Filed 1-10-79; 8:45 am]

[4210-01-M]

Federal Housing Commissioner—Assistant Secretary for Housing

[Docket No. D-79-541]

PROPERTY DISPOSITION COMMITTEE

Redelegation of Authority

Section A of the redelegation of authority and assignment of functions with respect to Property Disposition Committee published at 35 FR 4022, March 3, 1978, and revised at 41 FR 26946, June 30, 1976, is amended to read as follows:

Section A. Headquarters Property Disposition Committee Members. The Headquarters Property Disposition Committee (herein called the Headquarters Committee) is comprised of the following members: Assistant Secretary for Housing—Federal Housing Commissioner, Chairman; Director, Office of Multifamily Financing and Preservation, Office of Housing; Director, Office of Multifamily Housing Management and Occupancy, Office of Housing; Director, Office of Mortgagee Activities, Office of Housing; Director, Office of Multifamily Housing Development, Office of Housing; General Counsel or his designee; and such other members as the Assistant Secretary for Housing (herein called the Assistant Secretary) shall designate.

(Secretary's delegation of authority to redelegate published at 41 FR 24755, June 18, 1976.)

Effective date: This redelegation of authority is effective as of November 13, 1978.

Issued at Washington, D.C., December 11, 1978.

LAWRENCE B. SIMONS,
Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 79-988 Filed 1-10-79; 8:45 am]

[4210-01-M]

Office of the Secretary

[Docket No. N-79-907]

NEW SYSTEMS OF RECORDS

AGENCY: Department of Housing and Urban Development.

ACTION: Notification of two new systems of records.

SUMMARY: The Department is giving notice of two new systems of records it intends to maintain that are subject to the Privacy Act.

EFFECTIVE DATE: The systems of records shall become effective without further notice on February 12, 1979, unless comments are received on or before February 12, 1979, which would result in a contrary determination.

ADDRESS: Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT:

Mr. Harold Rosenthal, Departmental Privacy Act Officer, telephone 202-755-5192.

SUPPLEMENTARY INFORMATION: The systems are: (1) Disaster Recovery Assistance Files which will contain personal information on disaster victims who apply for Federal assistance and (2) Disaster Assistance Reserve Files which will contain personal information on individuals who comprise a stand-by force of disaster assistance personnel.

A new system report was filed with the Speaker of the House, the President of the Senate, and the Office of Management and Budget on November 14, 1978. The prefatory statement containing General Routine Uses applicable to all of the Department's systems of records was published at 43 FR 55105 (November 24, 1978). Appendix A, which lists the addresses of HUD's field offices was published at 43 FR 55121 (November 24, 1978).

HUD/FDAA-1

System name:

Disaster Recovery Assistance Files

System location:

Disaster Field Offices; FDAA Regional Offices.

Categories of individuals covered by the system:

Persons applying for disaster recovery assistance.

Categories of records in the system:

Socio-economic, demographic and financial information; disaster impact (including verification and cost estimates); disaster recovery plans and needs; and other assistance requested by applicant.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

See routine uses paragraphs of prefatory statement. Other routine uses: to the agencies from which the applicant is seeking disaster recovery assistance: the State or Federal agency administering the Temporary Housing program, the State agency administering the Individual and Family Grant program, and the Small Business Administration which administers the Disaster Home Loan program, for making eligibility determinations. In cases where the applicant is requesting a disaster home loan, references given by applicant will be contacted, and a credit report will be requested. This information may also be provided to: The American Red Cross, the Salvation Army, the Mennonite Disaster Service, the appropriate agency providing services to the aged, and to other governmental, voluntary or private organizations offering disaster recovery assistance to supplement that offered through application to HUD. This information may also be shared with insurers of applicants' damaged properties to coordinate recovery assistance.

Policies and practices for storing, retrieving, accessing, retaining and disposing of records in the system:

Storage:

In file folders and on magnetic tape/disc/drum.

Retrievability:

By subject name; address.

Safeguards:

Manual records are kept in lockable cabinets in lockable rooms; computer records are maintained in secured facilities. Access to either type of record is limited to authorized personnel.

Retention and disposal:

Applications and supporting documents are retained until the disaster field office closes, and then moved to the FDAA Regional office and kept no longer than 3 years after the date of the disaster declaration.

System manager and address:

Director, Office of Organization and Management Information, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

Notification procedure:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in appendix A.

Record access procedures:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in appendix A.

Contesting record procedures:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) In relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

Record source categories:

Applicants for disaster recovery assistance, financial references, credit reporting bureaus, insurance companies, and agencies providing disaster relief.

HUD/DEPT-59

System name:

Disaster Assistance Personnel Reserve Files

System location:

Headquarters and Regional offices. For a complete listing of these offices, with addresses, see appendix A.

Categories of individuals covered by the system:

Individuals designated as active Disaster Assistance Reservists.

Categories of records in the system:

File folders and computer files contain name; address; telephone number; social security number; professional specialities and experience in disaster relief and recovery activities; type and date of appointment; expiration date; availability; and duty station.

Routine uses of records maintained in the system including categories of users and the purposes of such uses:

See Routine Uses paragraphs in prefatory statement. Other routine uses: none.

Policies and practices for storing, retrieving, accessing, retaining and disposing of records in the system:

Storage:

In file folders and on magnetic tape/disc/drum.

Retrievability:

Name, functional title.

Safeguards:

Manual files are kept in lockable cabinets in a secured building; computer records are maintained in secured areas. Access to either type of record is limited to authorized personnel.

Retention and disposal:

Records are maintained until employee termination date.

System manager and address:

Director, Office of Organization and Management Information, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

Notification procedure:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

Record source categories:

Subject, previous and current employers.

AUTHORITY: 5 U.S.C. 552a, 88 Stat. 1896; Section 7(d), Department of HUD Act (42 U.S.C. 3535(d)).

Issued at Washington, D.C., December 29, 1978.

WILLIAM A. MEDINA,
Assistant Secretary for Administration.

[FR Doc. 79-1245 Filed 1-10-79; 8:45 am]

[4310-84-M]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR 8160; 2340(943.4)]

OREGON

Termination of Proposed Withdrawal and Reservation of Land

Notice of application, OR 8160, filed by the Forest Service, U.S. Department of Agriculture, for withdrawal and reservation of land was published as FEDERAL REGISTER Document 73-20021 on page 26395 of the issue of September 20, 1973. The land was proposed as an addition to the Deschutes National Forest, and the application was rejected in its entirety because the authority for transfer of such land to national forest status was repealed by Public Law 94-579. The land involved is described as follows:

DESCHUTES NATIONAL FOREST WILLAMETTE MERIDIAN

T. 20 S., R. 15 E.,
Sec. 30, lots 1, 2, 3, and 4.

The area described contains 163.76 acres in Deschutes County, Oregon.

Therefore, pursuant to the regulations contained in 43 CFR 2091.2-5(b)(1), such land will be at 10 a.m. on February 12, 1979, relieved of the segregative effect of the above-mentioned application.

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Dated: January 2, 1979.

HAROLD A. BERENDS,
Chief, Branch of Lands, and Minerals Operations.

[FR Doc. 79-946 Filed 1-10-79; 8:45 am]

[4310-84-M]

SALT LAKE DISTRICT, GRAZING ADVISORY BOARD

Correction

In Volume 44 FR Page 1474, January 5, 1979 the date February 3, 1979 is hereby changed to February 13, 1979.

W. CLIFF YARDLEY,
Acting District Manager.

Dated: January 5, 1979.

[FR Doc. 79-947 Filed 1-10-79; 8:45 am]

[4310-84-M]

[CA 881]

CALIFORNIA

Termination of Proposed Withdrawal and Reservation of Land

JANUARY 4, 1979.

Notice of Bureau of Sport Fisheries and Wildlife, U.S. Department of the Interior, application CA 881, for withdrawal and reservation of lands for addition to Lower Klamath National Wildlife Refuge was published as FR Doc. 74-3542 on pages 5521 and 5522 of the issue of February 13, 1974 and republished as FR Doc. 77-18664 on page 33383 of the issue of June 30, 1977. The applicant agency has cancelled its application.

MOUNT DIABLO MERIDIAN

T. 47 N., R. 3 E.,
Sec. 19, Lots 1, 2, 3, 4, and 5, and SE¼SE¼.
Sec. 20, Lots 1 and 2, fractional SW¼NE¼, E½NE¼, and NW¼SW¼;
Sec. 30, Lot 1 and NE¼NW¼.

The area aggregates 428.18 acres in Siskiyou County, California.

Therefore, pursuant to the regulations contained in 43 CFR Part 2350, such lands at 10:00 a.m. on February 12, 1979, will be relieved of the segregative affect of the above-mentioned application.

JOAN B. RUSSELL,
Chief, Lands Section, Branch of Lands and Minerals Operations.

[FR Doc. 79-963 Filed 1-10-79; 8:45 am]

[4310-84-M]

[Serial No. I-4032]

IDAHO

Termination of Proposed Withdrawal and Reservation of Lands

JANUARY 5, 1979.

Notice of an application, serial number I-4032, for withdrawal and reservation of lands was published as Federal Register Document No. 42-97 on page 25772 of the issue for May 19, 1977. The applicant agency has cancelled its application insofar as it involved the lands described below. Therefore, pursuant to the regulations contained in 43 CFR, Subpart 2091, such lands will be at 10:00 a.m. on January 16, 1979, relieved of the segregative effect of the above mentioned application.

The lands involved in this notice of termination are:

BOISE MERIDIAN

KANIKSU NATIONAL FOREST

T. 55 N., R. 1 E.
Sec. 12, Southwest 450 feet of Mineral Survey No. 2995.

The area described aggregates 6.20 acres in Bonner County.

VINCENT S. STROBEL,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-964 Filed 1-10-79; 8:45 am]

[4310-84-M]

[NM 35625 and 35629]

NEW MEXICO

Applications

JANUARY 3, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Transwestern Pipeline Company has applied for two 4-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 23 S., R. 25 E.,
Sec. 34, SE¼NE¼, NE¼SE¼ and SE¼SE¼;
Sec. 35, W½SW¼.
T. 24 S., R. 25 E.,
Sec. 3, lot 1.
T. 24 S., R. 29 E.,
Sec. 3, SW¼NE¼, N½SW¼ and NW¼SE¼.

These pipelines will convey natural gas across 1.701 miles of public lands in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-1000 Filed 1-10-79; 8:45 am]

[4310-84-M]

[NM 35620, 35640, 35643]

NEW MEXICO

Notice of Applications

JANUARY 4, 1979.

Notice is hereby that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for two 4½ and one 8⅝-inch natural gas pipeline and related facilities rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 24 N., R. 3 W.,
Sec. 10, S½NE¼ and NE¼SE¼;
Sec. 31, SE¼NE¼.
T. 31 N., R. 9 W.,
Sec. 5, lots 7 and 8.

These pipelines will convey natural gas across 0.705 of a mile of public lands in Rio Arriba and San Juan Counties, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-1001 Filed 1-10-79; 8:45 am]

[4310-84-M]

WILDERNESS INVENTORY

Proposed Decision

Notice is hereby given that the Bureau of Land Management has completed the first phase of wilderness inventories on certain public lands in Idaho. The inventories, following guidelines established by the Bureau, were conducted in advance of the statewide inventory in order to meet

time commitments previously established for two proposed projects: Idaho Power Company's 69 Kv transmission line from Tendoy, Idaho, to Peterson Flat, Montana; and a BLM-State of Idaho land exchange in the Donkey Hills area. Both projects are in the BLM Salmon District.

PROPOSED DECISIONS

TENDOY, IDAHO, TO PETERSON FLAT, MONT., TRANSMISSION LINE

The Idaho State Director's proposed decision on the wilderness inventory of the three inventory units containing public lands is as follows:

ID-402-01 (620 acres, adjacent to RARE II area 4-512).

The public lands within this unit clearly and obviously do not meet the criteria for identification as a wilderness study area, based on lack of outstanding opportunity for solitude or primitive and unconfined type of recreation.

ID-402—02 (6,415 acres)

The public lands within this unit clearly and obviously do not meet the criteria for identification as a wilderness study area, based on extensive impacts on naturalness from mining activities and range developments.

ID-402-03 (640 acres in three parcels, adjacent to RARE II area 4-512).

The public lands within this unit clearly and obviously do not meet the creteria for identification as a wilderness study area, based on lack of outstanding opportunity for solitude or primitive and unconfined type of recreation.

It has therefore been determined that there are no public lands in Idaho containing wilderness values that will be impacted by the proposed transmission line.

A 90-day public review of this proposed decision will begin on December 29, 1978, and conclude on March 30, 1979. An informal open house will be held February 7, 1979, at the BLM Salmon District Office to provide an opportunity for public discussion and review of the proposed decision. Interested persons should contact the District Office by telephone if they wish to visit after regular working hours.

DONKEY HILLS STATE LAND EXCHANGE

The Idaho State Director's proposed decision on the wilderness inventory of the three inventory units containing public lands is as follows:

ID-405-1—Goldburg Unit.

This unit contains 11,640 acres of public land, adjacent to RARE II area 4-503. An area of 3,290 acres, directly adjacent to the RARE II area was found to have wilderness characteristics, based on lack of noticeable imprints of man and the presence of outstanding opportunity for solitude and primitive and unconfined type of recreation. This proposed decision and designation as a wilderness study area is contingent upon the Forest Service decision on RARE II, as the portion of the Goldburg Unit possessing wilderness characteristics is less than 5,000 acres in size. The remaining portion of the Goldburg Unit (the lower slopes to the west), contains substantially noticeable imprints of man's work and lacks outstanding opportunity for solitude or primitive and unconfined type of recreation.

ID-405-2—Summit Creek Unit.

This unit contains 4,408 acres of public land, adjacent to RARE II area 4-503. Due to lack of vegetative and topographic screening, outstanding opportunity for solitude is not present. Primitive and unconfined types of recreation opportunities are also not outstanding. The Summit Creek Unit does not meet the criteria for identification as a wilderness study area.

ID-402-3——Donkey Hills Unit.

This unit contains 46,408 acres, including 1,673 acres of non-Federal lands. An area of 22,680 acres, generally the higher elevations or central portion of the area, was found to have wilderness characteristics, based on lack of noticeable imprints of man and the presence of outstanding opportunity for solitude and primitive and unconfined type of recreation. This 22,680-acre area meets the criteria for identification as a wilderness study area.

The remaining acreage, the lower elevation hills and slopes on the north, east, and west, and the Elkhorn Creek area on the south, does not meet the criteria for identification as a wilderness study area, due to substantially noticeable imprints of man's work (grazing developments) and lack of outstanding opportunity for solitude.

It has therefore been determined that only a portion of one of the above recommended wilderness study areas, the central portion of the Goldburg Unit, could be impacted by the proposed land exchange.

A 90-day public review of this proposed decision will begin on December 29, 1978, and conclude on March 30, 1979. An informal open house will be held February 7, 1979, at the BLM Salmon District Office to provide an opportunity for public discussion and review of the proposed decision. Interested persons should contact the District Office by telephone if they wish to visit after regular working hours. A public meeting/workshop will also be held in Challis, Idaho, February 8, 1979 (location and time to be announced).

Further Information

For further information or to submit written comments on the wilderness inventory for the above units, contact:

William L. Mathews, State Director, Idaho State Office—BLM, 550 W. Fort Street, Federal Building, Box 042, Boise, Idaho 83724.

Harry Finlayson, District Manager Salmon District Office—BLM, P. O. Box 430, Salmon, Idaho 83467. Telephone: 208-756-2201

Dated: January 3, 1979.

WILLIAM L. MATHEWS,
Idaho State Director, Bureau of Land Management.

[FR Doc. 79-988 Filed 1-10-79; 8:45 am]

[4310-84-M]

NEVADA

Airport Lease Application

JANUARY 3, 1979.

Notice is hereby given that pursuant to the Act of May 24, 1928 (49 U.S.C. 211-214), the Lyon County Board of Commissioners has applied for an airport lease for the following land:

MOUNT DIABLO MERIDIAN

T. 15 N., R. 25 E.
Sec. 22, NE¼NE¼, W½NE¼, NW¼SE¼;
Sec. 23, N½, N½SW¼;
Sec. 24, N½, SE¼.

The area described comprises 1040 acres in Lyon County, Nevada. The application was filed on September 26, 1978. On that date the land was segregated from all other forms of appropriation under the public land laws.

Interested persons may submit comments to the District Manager, Bureau of Land Management, Carson City District Office, 1050 E. Williams St., Carson City, NV 89701.

LACEL E. BLAND,
Acting Chief, Division of Technical Services.

[FR Doc. 79-999 Filed 1-10-79; 8:45 am]

[4310-84-M]

BOISE DISTRICT IDAHO, GRAZING ADVISORY BOARD

Meeting

In accordance with the Pub. L. 92-463 the Federal Advisory Committee Act, and Pub. L. 94-579, the Federal Land Policy Management Act, notice is given that the Boise District Grazing Advisory Board will meet on February 6, 1979. The meeting will begin at 9:00 a.m. in the Green Room of the Owyhee Plaza, 11th and Main Streets, Boise, Idaho.

The agenda for the meeting will include discussion and recommendations

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on 1979 range betterment projects; and the expenditure of Advisory Board Funds; and election of new officers.

The meeting is open to the public. Interested persons may make oral statements to the board between 2:00 and 3:00 p.m. or file written statements for the board's consideration. Statements must be on agenda topics only. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 230 Collins Road, Boise, Idaho 83702, prior to the meeting. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Minutes of the board meeting will be maintained in the District Office. They will be available for public inspection during regular business hours within 30 days following the meeting.

JAMES GABETTAS,
Acting District Manager.

DECEMBER 29, 1978.

[FR Doc. 79-997 Filed 1-10-79; 8:45 am]

[4310-84-M]

[NM 35829]

NEW MEXICO

Notice of Proposed Withdrawal and Reservation of Lands

JANUARY 5, 1979.

The Corps of Engineers, Department of the Army, on January 2, 1979, filed application, NM 35829, for the withdrawal of the following described lands known as McGregor Range from settlement, sale, location, or entry, under all of the general land laws, including the mining laws and the mineral leasing laws subject to valid existing rights:

NEW MEXICO PRINCIPAL MERIDIAN

T. 26 S., R. 6 E.,
Sec. 1, N½SE¼ lying south and east of the Southern Pacific Railway right-of-way;
Sec. 25, S½N½ and E½SE¼;
Sec. 26, S½NE¼ and S½SE¼;
Sec. 35, N½NE¼;
Sec. 36, lots 5, 6, 7, 8 and N½N½.
T. 24 S., R. 7 E.,
Secs. 1, 12, 13, 14 and 23, those parts lying east of the Southern Pacific Railway right-of-way;
Secs. 24 and 25;
Secs. 26, 27 and 34, those parts lying east of the Southern Pacific Railway right-of-way;
Secs. 35 and 36.
T. 25 S., R. 7 E.,
Secs. 1 and 2;
Sec. 3, E½ and that part of the W½ lying east of the Southern Pacific Railway right-of-way;
Secs. 4 and 9, those parts lying east of the Southern Pacific Railway right-of-way;
Secs. 10, 11, 12, 13 and 14;
Sec. 16, that part lying east and south of the Southern Pacific Railway right-of-way;
Sec. 20, NE¼NE¼;
Sec. 21, NW¼NW¼;
Sec. 23;
Sec. 24, N½, SW¼, E½SE¼ and SW¼SE¼;
Secs. 25, 26 and 27;
Sec. 28, S½S½;
Sec. 30, that part lying east of the Southern Pacific Railway right-of-way;
Sec. 31, lots 5, 6 and 7;
Sec. 32, lots 1, 2, 3, 4, N½ and N½S½;
Sec. 34, lots 1, 2, NE¼ and N½ SE¼;
Sec. 35, lots 1, 2, 3, 4, N½ and N½S½;
Sec. 36, lots 1, 2, 3, 4, N½ and N½S½.
T. 26 S., R. 7 E.,
Sec. 1, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 2, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 3, lots 1, 2, S½NE¼ and SE¼;
Sec. 6, lots 3, 6 and SE¼NW¼;
Sec. 10;
Sec. 11, E½ and NW¼;
Secs. 12 and 13;
Sec. 14, E½ and SW¼;
Sec. 15, NE¼, N½NW¼, SE¼NW¼ and SW¼SW¼;
Secs. 16 and 17;
Sec. 18, lots 3, 4, E½ and E½SW¼;
Sec. 19, lots 1, 2, 3, 4, E½ and E½W½;
Secs. 23, 24, 25, 26, 27 and 28;
Sec. 29, N½;
Sec. 30, lots 1, 2, NE¼ and E½NW¼;
Sec. 31, lots 2, 3, 4 and 5;
Sec. 32, lots 1, 2, 3, 4 and N½N½;
Sec. 33, lots 1, 2, 3, 4 and N½N½;
Sec. 34, lots 1, 2, 3, 4 and N½N½;
Sec. 35, lots 1, 2, 3, 4 and N½N½;
Sec. 36, lots 1, 2, 3, 4 and N½N½;
T. 22 S., R. 8 E.,
Secs. 13, 23 and 24, those parts lying east of the Southern Pacific Railway right-of-way;
Sec. 25, lots 1 to 16, inclusive;
Sec. 26, lots 1, 2, 6 and that part of S½ lying east of the Southern Pacific Railway right-of-way;
Secs. 34 and 35, those parts lying east of the Southern Pacific Railway right-of-way;
Sec. 36.
T. 23 S., R. 8 E.,
Sec. 1, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 2, lots 1, 2, 3, 4, S½N½ and S½;
Secs. 3, 9 and 10, those parts lying east of the Southern Pacific Railway right-of-way;
Secs. 11, 12, 13, 14 and 15;
Secs. 16, 20 and 21, those parts lying east and south of the Southern Pacific Railway right-of-way;
Secs. 22, 23, 24, 25, 26, 27 and 28;
Secs. 29, 31 and 32, those parts lying east and south of the Southern Pacific Railway right-of-way;
Secs. 33, 34, 35 and 36.
T. 24 S., R. 8 E.,
Sec. 1, lots 1, 2, 3, 4, SE¼NE¼, S½NW¼ and S½;
Sec. 2, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 3, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 4, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 5, lots 1, 2, 3, 4, S½N½ and S½;
Secs. 6 and 7, those parts lying east of the Southern Pacific Railway right-of-way;
Secs. 8 to 14, inclusive;
Sec. 15, N½, N½S½, SE¼SW¼ and S½SE¼;
Secs. 16 and 17;
Sec. 18, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 19, lots 1, 2, 3, 4, E½ and E½W½;
Secs. 20 to 29, inclusive;
Sec. 30, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 31, lots 1, 2, 3, 4, E½ and E½W½;
Secs. 32 to 36, inclusive.
T. 25 S., R. 8 E.,
Sec. 1, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 2, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 3, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 4, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 5, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 6, lots 1 to 7, inclusive, S½NE¼, SE¼NW¼; E½SW¼ and SE¼;
Sec. 7, lots 1, 2, 3, 4, E½ and E½W½;
Secs. 8 to 17, inclusive;
Sec. 18, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 19, lots 1, 2, 3, 4, E½ and E½W½;
Secs. 20 to 29, inclusive;
Sec. 30, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 31, lots 1, 2, 3, 4, E½ and E½W½;
Secs. 32, 33, 34, 35 and 36.
T. 26 S., R. 8 E.,
Sec. 1, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 2, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 3, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 4, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 5, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 6, lots 1 to 7, inclusive, S½NE¼ SE¼NW¼,E½SW¼ and SE¼;
Sec. 7, lots 1, 2, 3, 4, E½ and E½W½;
Secs. 8 to 17, inclusive;
Sec. 18, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 19, lots 1, 2, 3, 4, E½ and E½W½;
Secs. 20 to 26, inclusive;
Sec. 27, E½, E½W½, W½NW¼ and NW¼SW¼;
Sec. 28, N½N½, NE¼SW¼ and NW¼SE¼.
Sec. 29, N½, N½S½, S½SW¼ and SW¼SE¼;
Sec. 30, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 31, lots 1, 2, 3, 4, 5, N½NE¼ and NE¼NW¼.
Sec. 33, lot 4 and NW¼NW¼;
Sec. 34, N½NE¼ and NE¼NW¼;
Sec. 35, lots 1, 2, 3, 4, and N½N½;
Sec. 36, lots 1, 2, ,3, 4 and N½N½,
T. 19 S., R. 9 E.,
Sec. 2, lots 1 to 12, inclusive and S½,
Secs. 3 and 10, all those parts lying east of the Southern Pacific Railway right-of-way;
Sec. 11, W½;
Sec. 12, E½;
Secs. 13 and 14;
Secs. 15 and 22, all those parts lying east of the Southern Pacific Railway right-of-way;
Secs. 23, 24, 25 and 26;
Secs. 27 and 34, all those parts lying east of the Southern Pacific Railway right-of-way;
Secs. 35 and 36.
T. 20 S., R. 9 E.,
Sec. 1, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 3, lots 1, 2, 3, 4, S½N½ and S½;
Secs. 3 and 10, those parts lying east of the Southern Pacific Railway right-of-way;
Secs. 11, 12, 13 and 14;
Secs. 15 and 21, those parts lying east of the Southern Pacific Railway right-of-way;
Secs. 22 to 27, inclusive;
Secs. 28 and 33, those parts lying east of the Southern Pacific Railway right-of-way;
Secs. 34, 35 and 36.
T. 21 S., R. 9 E.,
Sec. 1, lots 1 to 12, inclusive and S½;
Sec. 2, lots 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 12 and S½;
Sec. 3, lots 1 to 12, inclusive and S½;

Secs. 4 and 9, those parts lying east of the Southern Pacific Railway right-of-way;
Secs. 10 to 15, inclusive;
Sec. 16, E½;
Sec. 21, that part lying east of the Southern Pacific Railway right-of-way;
Secs. 22, 23, 24 and 25;
Sec. 26, NE¼, W½, N½SE¼ and SE¼SE¼;
Sec. 27;
Secs. 28, 32 and 33, those parts lying east of the Southern Pacific Railway right-of-way;
Sec. 34, lots 1, 2, 3, 4, N½ and N½S½;
Sec. 35, lots 1, 2, 3, 4, N½ and N½S½;
Sec. 36, lots 1, 2, 3, 4, N½ and N½S½.
T. 22 S., R. 9 E.,
Sec. 1, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 2, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 3, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 4, lots 1, 2, 3, 4, S½N½ and S½;
Secs. 5, 7 and 8, those parts lying east of the Southern Pacific Railway right-of-way;
Secs. 9 to 14, inclusive;
Sec. 15, E½, E½NW¼, NW¼NW¼ and SW¼;
Secs. 16 and 17;
Sec. 18, that part lying east of the Southern Pacific Railway right-of-way;
Sec. 19, lots 1, 2, 3, 4, E½ and E½W½;
Secs. 20 and 21;
Sec. 22, E½;
Secs. 23, 24, 25 and 26;
Sec. 27, E½;
Secs. 28 and 29;
Sec. 30, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 31, lots 1, 2, 3, 4, E½ and E½W½;
Secs. 32 and 33;
Sec. 34, E½;
Secs. 35 and 36.
T. 23 S., R. 9 E.,
Sec. 1, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 2, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 3, lots 1, 2, S½NE¼ and SE¼;
Sec. 4, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 5, lots 1, 2, 3, 4, S½N½ and S¼;
Sec. 6, lots 1, 2, 3, 4, 5, 6, 7, S½NE¼, SE¼NW¼, E½SW¼ and SE¼;
Sec. 7, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 8;
Sec. 9, W½NE¼ and W¼;
Sec. 10, E½, NW¼NW¼, SE¼NW¼ and SW¼;
Secs. 11 to 17, inclusive;
Sec. 18, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 19, lots 1, 2, 3, 4, E½ and E½W½;
Secs. 20, 21 and 22;
Sec. 23, N½, SW¼, E½SE¼ and SW¼SE¼;
Secs. 24 to 29, inclusive;
Sec. 30, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 31, lots 1, 2, 3, 4, E½ and E½W½;
Secs. 32 to 36, inclusive.
T. 24 S., R. 9 E.,
Sec. 1, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 2, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 3, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 4, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 5, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 6, lots 1, 2, 3, 4, 5, 6, 7, S½NE¼, SE¼NW¼, E½SW¼ and SE¼;
Sec. 7, lots 1, 2, 3, 4, E½NE½ and S½;
Secs. 8, 9, 10 and 11;
Secs. 12, E½, E½W½, W½NW¼ and NW¼SW¼;
Secs. 13 to 17, inclusive;
Sec. 18, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 19, lots 1, 2, 3, 4, E½ and E½W½;
Secs. 20 to 29, inclusive;
Sec. 30, lots 1, 2, 3, 4, E½ and E½ W½;
Sec. 31, lots 1, 2, 3, 4, E½ and E½ W½;
Secs. 32 to 36, inclusive.
T. 25 S., R. 9 E.,
Sec. 1, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 2, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 3, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 4, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 5, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 6, lots 1, 2, 3, 4, 5, 6, 7, S½NE¼, SE¼NW¼, E½SW¼ and SE¼;
Sec. 7, lots 1, 2, 3, 4, E½ and E½W½;
Secs. 8, 9 and 10;
Sec. 11, W½NE¼, SE¼NE¼, W½ and SE¼;
Sec. 12, SW¼SW¼;
Secs. 13 to 17, inclusive;
Sec. 18, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 19, lots 1, 2, 3, 4, E½ and E½W½;
Secs. 20 to 26, inclusive;
Sec. 27, W½NE¼, SE¼NE¼, W½ and SE¼;
Secs. 28 and 29;
Sec. 30, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 31, lots 1, 2, 3, 4, E½ and E½W½;
Secs. 32 to 36, inclusive.
T. 26 S., R. 9 E.,
Sec. 1, NE¼, W½ and W½SE¼;
Secs. 2, 3, and 4;
Sec. 5, E½;
Sec. 6, lots 1, 2, 3, 4 and E½W½;
Sec. 7, lots 1, 2, 3, 4, E½ and E½W½;
Secs. 8 to 16, inclusive;
Sec. 17, N½ and SW¼;
Sec. 18, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 19, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 20, W½;
Sec. 21, E½ and SW¼;
Secs. 22 and 23;
Sec. 24, N½, N½S½, SE¼SW¼ and S½SE¼;
Secs. 25 to 29, inclusive;
Sec. 30, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 31, lots 1, 2, 3, 4, 5, N½NE¼ and NE¼NW¼;
Sec. 32, lots 1, 2, 3, 4, and N½N½;
Sec. 33, lots 1, 2, 3, 4, and N½N½;
Sec. 34, lots 1, 2, 3, 4, and N½N½;
Sec. 35, lots 1, 2, 3, 4, and N½N½;
Sec. 36, lots 1, 2, 3, 4, and N½N½.
T. 19 S., R. 10 E.,
Sec. 7, W½ and S½SE¼;
Sec. 8, SW¼SW¼;
Sec. 9, SW¼;
Sec. 10, E½;
Sec. 11;
Sec. 12, W½ (unsurveyed);
Sec. 13, lots 1, 2, 3, 4 and W½;
Sec. 14, NE¼ and S½;
Secs. 15 and 16;
Sec. 17, W½W½;
Secs. 18 to 22, inclusive;
Sec. 23, E½ and SW¼;
Sec. 24, lots 1, 2, 3, 4 and W½;
Sec. 25, lots 1, 2, 3, 4 and W½;
Secs. 26 to 34, inclusive;
Sec. 36, lots 1, 2, 3, 4 and W½.
T. 20 S., R. 10 E.,
Sec. 1, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 2, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 3, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 4, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 5, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 6, lots 1, 2, 3, 4, 5, 6, S½NE¼ and SE¼;
Sec. 7, lots 1, 2, 3, 4 and E½;
Sec. 8 and 9;
Secs. 11 to 17, inclusive;
Sec. 18, lots 1, 2, 3, 4 and E½;
Sec. 19, lots 1, 2, 3, 4 and E½;
Secs. 22 to 27, inclusive;
Sec. 30, lots 1, 2, 3, 4 and E½;
Secs. 32 to 36, inclusive.
T. 21 S., R. 10 E.,
Sec. 1, lots 1 to 12, inclusive and S½;
Sec. 2, lots 1 to 12, inclusive and S½;
Sec. 3, lots 1 to 12, inclusive and S½;
Sec. 4, lots 1 to 12, inclusive and S½;
Sec. 5, lots 1 to 12, inclusive and S½;
Sec. 6, lots 1 to 21, inclusive and SE¼;
Sec. 7, lots 1 to 12, inclusive and E½;
Secs. 8 to 14, inclusive;
Sec. 15, SE¼;
Secs. 16 and 17;
Sec. 18, lots 1 to 12, inclusive and E½;
Sec. 19, lots 1 to 12, inclusive and E½;
Secs. 20, 21 and 22;
Sec. 23, N½, SW¼ and N½SE¼;
Secs. 24 and 25;
Sec. 26, W½NE¼, W½ and SE¼;
Secs. 27, 28 and 29;
Sec. 30, lots 1 to 12, inclusive and E½;
Sec. 31, lots 1 to 14, NE¼ and N½SE¼;
Sec. 32, lots 1, 2, 3, 4, N½ and N½S½;
Sec. 33, lots 1, 2, 3, 4, N½ and N½S½;
Sec. 34, lots 1, 2, 3, 4, N½ and N½S½;
Sec. 35, lots 1, 2, 3, 4, N½ and N½S½;
Sec. 36, lots 1, 2, 3, 4, N½ and N½S½.
T. 22 S., R. 10 E.,
Sec. 1, lots 5 to 12, inclusive and S½;
Sec. 2, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 3, lots 5 to 12, inclusive and S½;
Sec. 4, lots 1 to 12, inclusive and S½N½;
Sec. 5, lots 1, 2, 3, 4 and S½N½;
Sec. 6, lots 1 to 7, inclusive, S½NE¼, SE¼NW¼, E½SW¼ and SE¼;
Sec. 7, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 8;
Sec. 9, lots 1 to 16, inclusive;
Secs. 10 to 17, inclusive;
Sec. 18, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 19, lots 1, 2, 5 to 12, inclusive, NE¼ and E½NW¼;
Sec. 20, lots 1 to 15, inclusive;
Sec. 21, lots 1 to 8, inclusive and E½;
Secs. 22 to 29, inclusive;
Sec. 30, lots 5 to 20, inclusive;
Sec. 31, lots 5 to 20, inclusive;
Secs. 32 to 36, inclusive.
T. 23 S., R. 10 E.,
Sec. 1, lots 1, 2, 3, S½N½ and S½;
Sec. 2, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 3, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 4, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 5, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 6, lots 1 to 7, inclusive, S½NE¼, SE¼NW¼, E½SW¼ and SE¼;
Sec. 7, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 8;
Sec. 9

Sec. 18, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 19, lots 1, 2, 3, 4, E½ and E½W½;
Secs. 20, 21, 22 and 23;
Sec. 24, lots 1 to 16, inclusive;
Sec. 25, lots 1 to 16, inclusive;
Secs. 26, 27, 28 and 29;
Sec. 30, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 31, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 32, E½, W½NW¼, SE¼NW¼ and SW¼;
Secs. 33, 34, 35 and 36.

T. 25 S., R. 10 E.,
Sec. 1, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 2, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 3, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 4, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 5, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 6, lots 1 to 7, inclusive, S½NE¼, SE¼NW¼, E½SW¼ and SE¼;
Sec. 7, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 8, SW¼;
Sec. 9, S½;
Sec. 10, S½S½;
Sec. 11, N½;
Secs. 12 and 13;
Sec. 14, E½SW¼, NW¼SW¼ and SE¼;
Secs. 15, 16 and 17;
Sec. 18, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 19, lots 1, 2, 3, 4, E½ and E½W½;
Secs. 20, 21 and 22;
Sec. 23, E½E½, NW¼NE¼ and W½SE¼;
Sec. 24, N½ and SW¼;
Sec. 26, E½ and S½SW¼;
Secs. 27, 28 and 29;
Sec. 30, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 31, lots 1, 2, 3, 4, E½ and E½W½;
Secs. 32 and 33;
Sec. 35.

T. 26 S., R. 10 E.,
Secs. 2, 3, 4 and 5;
Sec. 6, lots 1, 2, E½ and E½W½;
Sec. 7, lots 1, 2, 3, 4, E½ and E½W½;
Secs. 8 and 9;
Sec. 10, NW¼;
Sec. 16, N½ and SW¼;
Sec. 17;
Sec. 18, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 19, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 20;
Sec. 21, NW¼;
Sec. 29, N½ and SW¼;
Sec. 30, lot 1, NE¼ and NE¼NW¼;
Sec. 32, lots 3, 4 and N½NW¼.

T. 20 S., R. 11 E.,
Sec. 1, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 2, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 3, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 4, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 5, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 6, lots 1 to 7, inclusive, S½NE¼, SE¼NW¼, E½SW¼ and SE¼;
Sec. 7, lots 1, 2, 3, 4, E½ and E½W½;
Secs. 8 to 17, inclusive;
Sec. 18, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 19, lots 1, 2, 3, 4, E½ and E½W½;
Secs. 20 and 29;
Sec. 30, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 31, lots 1, 2, 3, 4, E½ and E½W½;
Secs. 32 to 36, inclusive.

T 21 S., R. 11 E.,
Sec. 1, lots 1 to 12, inclusive and S½;
Sec. 2, lots 1 to 12, inclusive and S½;
Sec. 3, lots 1 to 12, inclusive and S½;
Sec. 6, lots 1 to 14, inclusive, E½SW¼ and SE¼;
Sec. 7, lots 1, 2, 3, 4, E½ and E½W½;
Secs. 8 to 17, inclusive;
Sec. 18, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 19, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 20;
Secs. 25 and 29, inclusive;
Sec. 30, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 31, lots 1 to 7, inclusive, NE¼, E½NW¼, NE¼SW¼ and N½SE¼;
Sec. 32, lots 1, 2, 3, 4, N½ and N½S½;
Sec. 33, lots 1, 2, 3, 4, N½ and N½S½;
Sec. 34, lots 1, 2, 3, 4, NW¼NE¼, N½NW¼, S½N½ and N½S½;
Sec. 35, lots 1, 2, 3, 4, N½ and N½S½;
Sec. 36, lots 1, 2, 3, 4, N½ and N½S½.

T. 22 S., R. 11 E.,
Sec. 1, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 2, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 3, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 4, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 5, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 6, lots 1 to 7, inclusive, S½NE¼, SE¼NW¼, E½SW¼ and SE¼;
Sec. 7, lots 1, 2, 3, 4, E½ and E½W½;
Secs. 8 to 12, inclusive;
Secs. 15, 16 and 17;
Sec. 18, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 19, lots 1, 2, 3, 4, E½ and E½W½;
Secs. 20 to 29, inclusive;
Sec. 30, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 31, lots 1, 2, 3, 4, E½ and E½W½;
Secs. 32 to 36, inclusive.

T. 23 S., R. 11 E.,
Sec. 1, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 2, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 3, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 4, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 5, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 6, lots 1 to 7, inclusive, S½NE¼, SE¼NW¼, E½SW¼ and SE¼;
Sec. 7, lots 1, 2, 3, 4, E½ and E½W½;
Secs. 8 to 17, inclusive;
Sec. 18, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 19, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 20 to 29, inclusive;
Sec. 30, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 31, lots 1, 2, 3, 4, W½E½, E½W½, SE¼SE¼, E½NE¼ and NE¼SE¼;
Sec. 32 to 36, inclusive.

T. 24 S., R. 11 E.,
Sec. 1, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 2, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 3, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 4, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 5, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 6, lots 8 to 23, inclusive;
Sec. 7, lots 5 to 20, inclusive;
Sec. 8, lots 1 to 16, inclusive;
Secs. 9, 10 and 11;
Sec. 12, NW¼;
Sec. 14, NW¼;
Secs. 15, 16 and 17;
Sec. 18, lots 5 to 20, inclusive;
Sec. 19, lots 5 to 20, inclusive;
Sec. 20, lots 1 to 8, inclusive and W½;
Sec. 21, lots 1 to 16, inclusive;
Sec. 22, lots 3, 4, 5, 6, 11, 12, 13 and 14;
Sec. 28, N½ and SW¼;
Sec. 29;
Sec. 30, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 31, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 32.

T. 25 S., R. 11 E.,
Sec. 5, lots 3, 4, S½NW¼ and SW¼;
Sec. 6, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 7, N½ and SW¼;
Sec. 18, NW¼.

T. 20 S., R. 12 E.,
Sec. 2, S½;
Sec. 3, lots 1, 2, 3, 4 and S½N½;
Sec. 5, lots 1, 2 and S½NE¼;
Sec. 7, NW¼NW¼;
Sec. 8, NW¼;
Sec. 9, SE¼NE¼;
Sec. 10, N½SW¼ and SE¼SE¼;
Sec. 11, E½NW¼ and NE¼SW¼;
Sec. 15, E½NE¼ and SE¼SE¼;
Sec. 16;
Sec. 22, W½SW¼;
Sec. 24, lot 3 and NW¼SE¼;
Sec. 26, SE¼NE¼, S½NW¼, N½SW¼ and NW¼SE¼;
Sec. 27, SW¼NE¼, S½NW¼ and N½S½;
Sec. 28, NW¼NE¼, N½NW¼, S½N½ and N½S½;
Secs. 30 and 32;
Sec. 36, lots 1, 2, 3, 4, W½E½ and W½.

T. 21 S., R. 12 E.,
Sec. 1, lots 1 to 12, inclusive and S½;
Sec. 2, lots 1 to 12, inclusive and S½;
Sec. 3, lots 1, 2, 3, and 4;
Sec. 4, lots 1, 2, 3, 4, 5, 6, 11, 12 and SW¼;
Sec. 5, lots 1 to 12, inclusive and S½;
Sec. 6, lots 1 to 11, inclusive and SE¼;
Sec. 7, lots 1, 2, 3, 4 and E½;
Secs. 8, 11, 12, 13, 14, 15, 16 and 17;
Sec. 18, lots 1, 2, 3, 4 and E½;
Sec. 19, lots 1, 2, 3, 4 and E½;
Secs. 20 and 21;
Sec. 22, N½;
Secs. 23 to 27, inclusive;
Sec. 29;
Sec. 30, lots 1, 2, 3, 4 and E½;
Sec. 31, lots 1, 2, 3, 4 and E½;
Secs. 32, 34, 35 and 36.

T. 22 S., R. 12 E.,
Sec. 1, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 2, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 3, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 4, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 5, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 6, lots 1, 2, 3, 4, 5, 6, S½NE¼ and SE¼;
Secs. 8, 9, 10, 11 and 12;
Secs. 14, 15, 16 and 17;
Sec. 18, E½;
Sec. 19, lots 1, 2, 3, 4 and E½;
Sec. 20, 21 and 22;
Secs. 24 to 29, inclusive;
Sec. 30, lots 1, 2, 3, 4 and E½;
Sec. 31, lots 1, 2, 3, 4 and E½;
Secs. 32 to 36, inclusive.

T. 23 S., R. 12 E.,
Secs. 1 to 5, inclusive;
Sec. 6, lots 1, 2, 3, 4 and E½;
Sec. 7, lots 1, 2, 3, 4 and E½;
Secs. 8 to 12, inclusive;
Sec. 14, N½;
Sec. 15, N½, N½S½ and S½SW¼;
Sec. 17;
Sec. 18, lots 1, 2, 3, 4 and E½;
Sec. 19, lots 1, 2, 3, 4 and E½;
Sec. 20 and 21;
Sec. 22, W½NE¼, SE¼NE¼ and W½;
Sec. 28, NW¼;
Sec. 29;
Sec. 30, lots 1, 2, 3, 4 and E½;
Sec. 31, lots 1, 2, 3, 4, 5, 6, NE¼ and NE¼SE¼;
Sec. 32, NW¼.

T. 24 S., R. 12 E.,
Sec. 6, lots 10, 11, 12 and 13.

T. 20 S., R. 13 E.,
Sec. 7, lots 3 and 4;
Sec. 16, S½;
Sec. 17, S½;
Sec. 18, lots 1, 2, 3, 4, E½SW¼ and SE¼;
Sec. 19, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 21, NE¼;
Sec. 22, E½; NW¼ and E½SW¼;
Sec. 25, E½NW¼ and SW¼;
Sec. 26, SW¼NE¼ and E½SE¼;
Secs. 27 and 28;
Sec. 29, S½;
Sec. 30, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 31, lots 1, 2, 3, 4, E½ and E½W½;
Secs. 32, 33 and 34;
Sec. 35, SE¼NW¼, W½W½ and NE¼SW¼;
Sec. 36.

T. 21 S., R. 13 E.,

Sec. 1, lots 8, 9, 10, 12 and S½;
Sec. 2, lots 1 to 12, inclusive and S½;
Sec. 3, lots 1 to 12, inclusive and S½;
Sec. 4, lots 1 to 12, inclusive and S½;
Sec. 5, lots 1 to 12, inclusive and S½;
Sec. 6, lots 1 to 14, inclusive, E½SW¼ and SE¼;
Sec. 7, lots 1, 2, 3, 4, E½ and E½W½;
Secs. 8 to 17, inclusive;
Sec. 18, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 19, lots 1, 2, 3, 4, E½ and E½W½;
Secs. 20, 21, 22 and 23;
Sec. 24, N½ and SW¼;
Sec. 25, NW¼;
Secs. 26, 27, 28 and 29;
Sec. 30, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 31, lots 1, 2, 3, 4, E½ and E½W½;
Secs. 32, 33 and 34;
Sec. 35, N½ and SW¼.

T. 22 S., R. 13 E.,
Sec. 3, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 4, lots 3, 4, S½NW¼ and S½;
Sec. 5, lots 1, 2, 3, 4, S½N½ and S½;
Sec. 6, lots 1 to 7, inclusive, S½NE¼, SE¼NW¼, E½SW¼ and SE¼;
Sec. 7, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 9, E½ and SW¼;
Sec. 10, W½;
Sec. 16, NW¼ and N½SW¼;
Sec. 20;
Sec. 21, NW¼;
Sec. 29, N½ and SW¼;
Sec. 30, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 31, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 32, NW¼.

T. 23 S., R. 13 E.,
Sec. 6, lots 1 to 7, inclusive, S½NE¼, SE¼NW¼ and E½SW¼.

T. 21 S., R. 14 E.,
Sec. 5, lots 1, 2, 3, 8 and SW¼;
Sec. 6, lots 1 to 14, inclusive, E½SW¼ and SE¼;
Sec. 7, lots 1, 2, 3, 4, NE¼ and E½W½;
Sec. 18, lots 1, 2 and E½NW¼.

The lands described above aggregate 608,384.87 acres, more or less, in Otero County.

This application represents a significant change in acreage from the existing withdrawal and is due to the exclusion of 18,004.06 acres of National Forest lands. The Department of the Army desires that the lands be withdrawn and reserved for the purpose of providing continuing use of the area by the United States Army Air Defense Center and Fort Bliss, Texas. McGregor Range will be used for a training area for artillery, missile firing, tactical training, maneuvering, air support and such other and further uses that are not inconsistent therewith.

On or before February 12, 1979, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned authorized officer of the Bureau of Land Management.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal. All interested persons who desire to be heard on the proposed withdrawal must submit a written request for a hearing to the State Director, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87501, on or before March 1, 1979. If a public hearing is scheduled, notice wil be published in the FEDERAL REGISTER giving the time and place of such hearing. The public hearing will be scheduled and conducted in accordance with BLM Manual, Sec. 2351.16 B.

The Department of the Interior's regulations provide that the authorized officer of the BLM will undertake such investigations as are necessary to determine the existing and potential demands for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of assuring that the area sought is the minimum essential to meet the applicant's needs, providing for the maximum concurrent utilization of the lands for purposes other than the applicant's and reaching agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn and reserved as requested by the applicant agency. The determination of the Secretary on the application will be published in the FEDERAL REGISTER. The Secretary's determination shall, in a proper case, be subject to the provisions of section 204(c) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2752. The above-described lands are temporarily segregated from the operation of the public land laws, including the mining laws and the mineral leasing laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. The segregative effect of this proposed withdrawal shall terminate upon (1) rejection of the application by the Secretary; (2) withdrawal of the lands by the Secretary; or (3) the expiration of two years from the date of publication of this notice.

All communications (except for public hearing requests) in connection with this propsoed withdrawal should be addressed to the Chief, Branch of Lands and Minerals Operations, Division of Technical Services, Bureau of Land Management, Department of the Interior, P.O. Box 1449, Santa Fe, New Mexico 87501.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-1002 Filed 1-10-79; 8:45 am]

[4310-93-M]

[Order No. 2969, Amdt No. 1]

TRANSFER OF TRUST TERRITORY PUBLIC LANDS TO DISTRICT CONTROL

House Resolution No. 27-30, passed by the Truk District Legislature on August 3, 1977, in the Twenty-Seventh Regular Session, 1977, requested the Secretary to amend Order No. 2969 to provide therein that public lands in Truk District be conveyed to the Chartered District Government rather than to a land holding entity as presently authorized under Secretarial Order No. 2969. Therefore, Section 2(d) of Order No. 2969 is amended to read as follows:

(d) "Legal Entity" means a chartered district government, a non-profit public or municipal corporation, trust, council, board or other juridical, as opposed to natural person, established or designated by a district legislature with the powers, duties and competence set forth in Section 3. Members or officers of a legal entity may be made up, in whole or in part, of the traditional leadership of a district, and members or officers may be elected, designated or appointed.

Effective Date. This Amendment shall be effective immediately. Its provisions shall remain in effect until amended, superseded, or revoked, whichever occurs first.

Dated December 20, 1978.

JAMES A. JOSEPH
Under Secretary.

[FR Doc. 79-948 Filed 1-10-79; 8:45 am]

[7020-02-M]

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-40]

MONUMENTAL WOOD WINDOWS

Commission Determination and Action

PROCEDURAL HISTORY

The United States International Trade Commission instituted investigation No. 337-TA-40 on monumental wood windows on February 3, 1978. The investigation was based upon the allegations contained in a complaint filed on behalf of Wrand Industries, Inc., of Chester, Pa., under section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337). Notice of the institution of the complaint was published in the FEDERAL REGISTER on February 9, 1978 (43 FR 5593). Named as respondents were two Swedish corporations—A. B. Electrolux and its subsidiary A. B. Overums Bruk.

On October 5, 1978, pursuant to § 210.51 of the Commission's Rules of

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Practice and Procedure (19 CFR 210.51), the Commission investigative attorney filed a motion to terminate the investigation with prejudice by reason of there being no violation of section 337 (motion docket No. 40-14). Appended to the motion were complainant's statement of no objection to the motion and respondent's statement of support for the motion. The presiding officer issued a recommended determination on October 16, 1978 that—

the Commission terminated this proceeding by granting the motion to terminate the investigation with prejudice and the motion to withdraw the complaint with prejudice. It is further recommended that the Commission determine that, based on the record in this case, there is no evidence of past or present violation of Section 337 in the importation into the United States or sale of monumental wood windows.

DETERMINATION AND ORDER

Having considered the Commission investigative attorney's motion to terminate the investigation with prejudice by reason of there being no violation of section 337 (motion docket No. 40-14), the complainant's statement of no objection to the motion, the respondents' statement of support for the motion, the presiding officer's recommended determination, and the entire administrative record, the Commission determines that there is no violation of section 337 of the Tariff Act of 1930, as amended, by reason of the importation into the United States and sale of monumental wood windows which are the subject of this investigation.

Therefore, the Commission grants the motion to terminate the investigation with prejudice and orders that the investigation be terminated with prejudice to complaintant.

OPINION

The Commission investigative attorney's motion to terminate the investigation with prejudice was not opposed by the complainant and was supported by the respondents. After extensive discovery by all parties, complainant admitted that there was no present violation of section 337 and indicated to the presiding officer that it would not present any case to prove a past violation of the statute.

Section 210.42(a) of the Commission's Rules of Practice and Procedure provides: "The proponent of any factual proposition shall be required to sustain the burden of proof with respect thereto." Since complainant concedes that there is no present violation of the statute and has failed to sustain its burden of proof that a past violation existed, we have determined that there is no violation of section 337.

Complainant also orally moved to withdraw and dismiss the complaint. Because of our determination of no violation, we have denied this motion.

By order of the Commission.

Issued: January 8, 1979.

KENNETH R. MASON,
Secretary.

[FR Doc. 79-1042 Filed 1-10-79; 8:45 am]

[4410-01-M]

DEPARTMENT OF JUSTICE

UNITED STATES CIRCUIT JUDGE NOMINATING COMMISSION, SECOND CIRCUIT PANEL

Meeting

The Nominating Panel for the Second Circuit of the United States Circuit Judge Nominating Commission will meet on successive Fridays, until further notice, at 10:00 a.m., beginning on January 19, 1979, at One Chase Manhattan Plaza, New York, New York, in the offices of Davis, Polk & Wardell. These meetings will not be open to the public pursuant to P. L. 92-463, Section 10(D) as amended. (CF 5 U.S.C. 552b (c)(6).) Due to the exigencies of scheduling, the notice for the January 19, 1979, meeting has not been published 15 days prior to the meeting date.

JOSEPH A. SANCHES,
Advisory Committee Management Officer.

JANUARY 5, 1979.

[FR Doc. 79-949 Filed 1-10-79; 8:45 am]

[7590-01-M]

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-315 and 50-316]

INDIANA AND MICHIGAN POWER CO. AND INDIANA AND MICHIGAN ELECTRIC CO.

Proposed Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) is considering approval of an application by Indiana and Michigan Power Company and Indiana and Michigan Electric Company (the licensees) to expand spent fuel storage capacity from 500 to 2050 fuel assemblies. This application has been made for the Donald C. Cook Nuclear Plant, Units 1 and 2 located in Bridgman, Michigan, which the licensees operate under Facility Operating Licenses Nos. DPR-58 and DPR-74.

Prior to approval of this application for increased spent fuel storage capacity, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By February 12, 1979, the licensee may file a request for a hearing with respect to approval of the application for increase in spent fuel storage capacity and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR § 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend his petition, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, the petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have

the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, or may be delivered to the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to A. Schwencer: (petitioner's name and telephone number); (date petition was mailed); Donald C. Cook Nuclear Plant, Units 1 and 2; and (publication date and page number of this FEDERAL REGISTER notice). A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Gerald Charnoff, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR § 2.714(a)(i)–(v) and § 2.714(d).

For further details with respect to this action, see the licensees' application for increase in spent fuel storage capacity dated November 22, 1978, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Maude Reston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Dated at Bethesda, Maryland this 3rd day of January, 1979.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc. 79-835 Filed 1-10-79; 8:45 am]

[7590-01-M]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS; ARCHITECT-ENGINEER BALANCE OF PLANT SUBCOMMITTEE

Meeting

The ACRS Architect-Engineer Balance of Plant Subcommittee will hold a meeting on January 26, 1979, (rescheduled from December 18, 1978) in Room 1046, 1717 H Street, N.W., Washington, DC 20555 to review the Fluor Power Services, Inc. Balance of Plant Standard Safety Anaylsis Report (BOPSSAR) and its relationship to the Babcock and Wilcox Standard Reference System B-SAR-205 for a preliminary design approval. Notice of this meeting was published on November 20 and December 20, 1978 (43 FR 54147 and 59448, respectively).

In accordance with the procedures outlined in the FEDERAL REGISTER on October 4, 1978, (43 FR 45926), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows: *Friday, January 26, 1979, 8:30 a.m. until the conclusion of business.*

The Subcommittee may meet in Executive Session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting and to formulate a report and recommendations to the full Committee.

At the conclusion of the Executive Session, the Subcommittee will hear presentations by and hold discussions with representatives of the NRC Staff, Fluor Power Services, Inc., and their consultants, pertinent to this review. The Subcommittee may then caucus to determine whether the matters identified in the initial session have been adequately covered and whether the project is ready for review by the full Committee.

In addition, it may be necessary for the Subcommittee to hold one or more closed sessions for the purpose of exploring matters involving proprietary information. I have determined, in accordance with subsection 10(d) of Public Law 92-463, that, should such sessions be required, it is necessary to close these sessions to protect proprietary information (5 U.S.C. 552b(c)(4)).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the Designated Federal Employee for this meeting, Mr. Richard K. Major, (telephone 202/634-1414) between 8:15 a.m. and 5:00 p.m., EST.

Background information concerning items to be considered at this meeting can be found in documents on file and available for public inspection at the NRC Public Document Room, 1717 H Street, N.W., Washington, DC 20555.

Dated January 8, 1979.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc. 79-968 Filed 1-10-79; 8:45 am]

[4910-58-M]

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 79-2]

REPORT; RESPONSES TO SAFETY RECOMMENDATIONS

Availability

SAFETY EFFECTIVENESS EVALUATION

Copies of "Analysis of Proceedings of the National Transportation Safety Board into Derailments and Hazardous Materials, April 4-6, 1978" are again available to the public. In response to popular demand, a second printing of the report, No. NTSB-SEE-78-2, was accomplished last week. The public hearing focused on derailments and the carriage of hazardous materials. Forty-nine witnesses from the railroad industry, tank car builders and operators, shippers, State and local officials, firefighters, labor representatives, and the public provided testimony on derailments and the carriage of hazardous materials.

The Safety Board examined safeguard installations for DOT 112A and 114A tank cars, emergency notification and response procedures, the derailment problem, hazardous materials

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track routing, track standards, the Federal/State Participation Program, and other areas of Safety Board concern. As a result, the Safety Board last June 29 issued immediate urgent recommendations to the Task Force on Rail Transportation of Hazardous Materials (I-78-8), to the U.S. Department of Transportation (I-78-9 through I-78-12 and R-78-32 and R-78-33), to the Environmental Protection Agency (I-78-13), to the Association of American Railroads (R-78-28 through R-78-31), and to the Federal Railroad Administration (R-78-34 through R-78-36). (See 43 FR 30149, July 13, 1978.)

The recommendations to DOT called for acceleration of installation of shelf couplers and head shields for all DOT 112A and 114A tank cars. The Safety Board further determined that the severity of derailments with subsequent release of hazardous materials was increased by the lack of information and documented procedures for identifying and assessing the threats to public safety, the lack of accelerated action and leadership by Federal regulatory agencies in reversing derailment trends and minimizing the risk to the public of hazardous materials releases, the lack of timely notification of accidents, and the need to research and review current Federal regulations for improvement and application.

Responses to Safety Recommendations

Aviation

A-72-233.—Letter of December 29 from the Federal Aviation Administration reports on the status of one of the nine recommendations issued by the Safety Board in connection with its 1972 special study, "General Aviation Stall/Spin Accidents, 1967-1969." FAA reports that the spin Testing and Stall Suppression/Prevention Programs, conducted jointly by FAA, the General Aviation Manufacturers Association, and the National Aeronautics and Space Administration, and discussed in FAA's February 13, 1973, response, have been completed. The results, FAA states, while containing much useful information, were not sufficiently definitive to warrant regulatory action at this time. However, NASA is continuing research in design parameters to predict or improve the stall and post-stall characteristics. If this effort indicates a need for a regulation, FAA will initiate action.

A-74-38 and 39.—FAA's letter of December 14 provides an update on the status of two recommendations issued in connection with the Safety Board's 1974 special study, "U.S. General Aviation Accidents Involving Fuel Starvation, 1970-1972." The recommendations asked FAA to amend 14 CFR Part 23. FAA reports that the research and development project relating to powerplant controls and fuel selector standardization is continuing, and the project is expected to be completed in July 1979. A regulatory effort will be contingent on the supporting information developed in the project.

A-75-30.—FAA reports in its letter of December 28 that actions with respect to this recommendation have been completed and that FAR Part 135 was revised, effective December 1, containing provisions which FAA believes will satisfy the recommendation. The recommendation was developed as a result of investigation of the January 6, 1974 crash of an Air East, Inc., Beechcraft 99A on instrument approach to the Johnstown-Cambria County (Pa.) airport.

FAA notes that § 135.37 now requires each certificate holder, except for a one-pilot operation, to have enough qualified management personnel in these or equivalent positions to ensure safety in its operations: Director of Operations, Chief Pilot, and Director of Maintenance. FAA also notes that each certificate holder shall set forth the duties, responsibilities and authority of the required personnel, list their names in the manual required by § 135.21, and notify FAA of any changes in the assignment of personnel to the required positions. Further, § 135.39 specifies the qualifications for management personnel.

A-75-73.—Letter of December 29 reports on FAA's actions in implementing a recommendation issued September 2, 1975, after the Safety Board investigated two helicopter accidents which involved excessive rates of descent. FAA notes that §§ 27.33(e) and 29.33(e) of the Federal Aviation Regulations, effective March 1, require main rotor low-speed warning systems on single engine helicopters and on multiengine helicopters which do not have an approved device which automatically increases power on the operating engines when one engine fails. FAA considers this more desirable than an engine-out system because it will warn of low rotor speed for any reason, including engine failure, and continue to do so during power-off descent. For this reason, FAA does not intend to propose requirements for engine-out warning devices in the foreseeable future.

A-76-94.—FAA's letter of December 21 concerns a recommendation issued following investigation of an incident involving a Ransome Airlines Nord 262 aircraft at Dulles International Airport, January 9, 1976; during the aircraft's approach, the right main landing gear could not be extended. The recommendation called for an airworthiness directive to require repeated inspections, at appropriate intervals, of the main landing gear actuators to detect moisture.

FAA reports that a proposal to amend 14 CFR Part 39, to require repetitive inspections and reworking of the main landing gear actuator cylinder on all Nord Model 262 series airplanes, was issued November 11, 1976 (41 FR 49828). Because no significant adverse service experience had been found, FAA determined that withdrawal action would be appropriate. The gear manufacturer reported that more than 900,000 hours had been accumulated on the actuators with only one reported malfunction. A withdrawal notice was issued December 6, 1977 (42 FR 63180).

A-76-122 through A-76-128.—Under date of December 29, FAA advised of actions taken to implement recommendations issued September 19, 1976, concerning prevention of accidents that occur in low visibility environments during the completion of an instrument landing system approach.

With reference to A-76-122, FAA is expediting two advanced landing system programs conducted by its Systems Research and Development Service—the microwave landing system and the evaluation of a head-up display. In addition, the automatic landing capability is being progressively improved and encouraged. To determine as soon as possible whether the head-up display can be expected to increase landing safety, FAA has requested the National Aeronautics and Space Administrastion to assist in this effort. (Recommendation A-76-123 is not referred to in FAA's letter.)

Concerning A-76-124, FAA refers to its published guidelines which outline recommended instrument approach monitoring procedures and callouts in Handbook 8430.6A. This is guidance material for FAA's principal operations inspectors for inclusion in air carrier training programs. Although this is not regulatory in nature, the procedures and callouts outlined in the FAA handbook have been included in operator's training programs and are used in line operations. The procedures involved in the transfer or exchange of visual scanning responsibilities are devised by the operator so they will be compatible with the overall callout procedures. The procedures recommend that the pilot not flying monitor the flight instruments during an instrument approach. FAA says it will again emphasize to all operators the need for strict adherence to established callout procedures. FAA believes that noncompliance with established procedures is the primary problem rather than a lack of adequate procedures.

FAA agrees with recommendation A-76-125, which asked that unrequired callouts which can result in the premature abandonment of instrument procedures be prohibited.

In answer to A-76-126, FAA states that altitude callout procedures have been prescribed in Handbook 8430.6A for many years and pertain to approaches conducted under all conditions. However, the procedures for VFR approaches differ from those for IFR approaches. Therefore, FAA plans no further action on this recommendation except for continuing emphasis to the air carriers on the strict adherence to callout procedures.

With reference to A-76-127, FAA agrees that flightcrews should be encouraged to keep the autopilot-coupler engaged until reaching the minimum authorized altitude except when using some Category I ILS facilities where beam quality and glideslope threshold crossing heights may require disengagement at a higher altitude. FAA will request all operators through the principal operations inspectors to include this information in their manuals and training program.

Recommendation A-76-128 asked FAA to include in air carrier training programs flightcrew discussion of formal reports involving approach and landing accidents or incidents, placing special emphasis on those mishaps involving human limitations. FAA reports that a similar proposal, submitted during the First Biennial Operations Review would be included in a notice of proposed rulemaking. However, FAA believes the air carriers should have the latitude of selecting how this information will be disseminated to crewmembers.

Attached to FAA's December 29 letter is a copy of Notice 8430.277, issued December 29 1976. Reproduced in an appendix to that notice are recommendations A-76-122 through A-76-128 and FAA's comments on each, as indicated above. The notice was distributed to all Flight Standards Offices in Washington, the regions and the Aeronautical Center to the branch level; to all General Aviation District Offices, Air Carrier District Offices, and Flight Standards District Offices; and to all International Field Offices and Aeronautical Quality Assurance Field Offices.

A-77-42.—Another FAA letter of December 29 advises of completion of action with respect to one of three recommendations issued June 16, 1977, following investigation of the crash of a Bell 212 helicopter which lost directional control during a landing approach to Natrona County Airport, Casper, Wyo. The recommendation asked FAA to revise the applicable parts of FAR 29.923 and 29.931 to require manufacturers to demonstrate 120 percent rotor system overspeed by driving the power train with an external power source, if installed engine power turbine speed (N_2) limits preclude meeting this requirement.

FAA refers to its August 19, 1977, letter which stated that NPRM 75-31 proposed to transfer the overspeed test from § 29.923 to § 29.927 and to permit the use of other test facilities in lieu of testing on the actual aircraft. Also, § 29.923(1)(4) which allowed less than 120 percent, would no longer apply. FAA reports that Airworthiness Review Program Amendment No. 7, containing the items noted was adaopted, effective December 1. FAA believes this action meets the intent of the recommendation. A copy of Amendment No. 7 is attached to FAA's letter.

A-77-53.—FAA's letter of December 28 advises of action taken to complete implementation of this recommendation, issued following investigation of the near midair collision of a TWA B-727 and a TWA DC-9 near Appelton,Ohio. Investigation of the incident revealed that neither the flightcrew of the B-727 nor the air traffic controller understood or heard correctly each other's message regarding altitude assignment. FAA reports that Notice 8430.293 was issued last January 19, emphasizing the importance of strict adherence to recommended communications procedures as essential to flight safety. Principal operations inspectors have stressed this information to their assigned certificate holders. A copy of the notice is attached to FAA's letter.

A-77-59 and A-77-60.—These recommendations, dated September 13, 1977, resulted from Safety Board investigation of the crash of a Dassault Falcon Fan Jet, operated by the R. J. Reynolds Tobacco Company, at Naples, Fla., November 12, 1976; the nine passengers aboard encountered severe difficulties in evacuating the aircraft because of lack of knowledge of emergency procedures.

FAA's letter of December 29 advises of actions taken to implement the recommendations. Operations Bulletin No. 77-6, "NTSB Safety Recommendation A-77-69" dated December 8, 1977, requested inspectors to alert corporate aircraft operators to brief passengers on emergency procedures, ensure compliance with placard requirements, stow loose items before take-off and landing, and conduct periodic reviews of the adequacy of passengers' briefing cards. Maintenance Bulletin 52-11, issued October 25, 1977, requested airworthiness inspectors to reevaluate operators and repair agencies inspection procedures to assure proper emergency placard placement after interior refurbishing, and review installed placards to ensure that adequate operating instructions are provided. In addition, FAA reports, Order 8620.1, "Inspection and Functional Check of Emergency Exits," was issued on June 22, 1977. This order provides field inspectors with information needed to ensure proper operation of emergency exits. Copies of the bulletins and order are attached to FAA's letter.

A-78-16.—According to FAA's letter of December 29, action on this recommendation, which was issued last March 21 and called for mandatory nondestructive inspection of cable drum arms, has been completed. FAA refers to its initial response dated June 1 (43 FR 28263, June 29, 1978) indicating that a proposed requirement for ultrasonic and magnetic particle inspection of the cable drum areas at 1,500 and 4,000 hours time-in-service, respectively, had been issued. FAA now reports that Airworthiness Directive 78-20-04 was issued effective November 7, copy attached to FAA's letter.

A-78-40 and 41.—FAA on December 29 reported completion of action with respect to these recommendations which were issued last May 17 following investigation of the September 6, 1977, crash of an Alaska Aeronautical Industries DHC-6-200 into Mount Illamna after the aircraft strayed off course en route to Anchorage, Alaska. Investigation revealed poor operational practices, poor maintenance practices, and inadequate training practices by the operator, and inadequate surveillance of the operator by FAA.

FAA refers to its initial response of July 6 (43 FR 34222, August 3, 1978) which indicated that the intent of these recommendations would be satisfied by the adoption of the proposals contained in NPRM 77-17. FAA now reports that 14 CFR Part 135 was revised, effective December 1, and the proposals associated with these recommendations were adopted. Section 135.23 contains the requirements for management personnel duties and responsibilities, and § 135.77 assigns a responsibility for operational control; §§ 135.411 through 135.443 contain the aircraft maintenance requirements for Part 135 operations.

A-78-77 and A-78-78.—FAA's letter of December 27 is in response to recommendations issued by the Safety Board during investigation into the Pacific Southwest Airlines Boeing 727-214/Cessna 172 midair collision last September 25 over San Diego, Calif. (See 43 FR 51150, November 2, 1978.)

In response to A-78-77 which asked FAA to implement a Terminal Radar Service Area (TRSA) at Lindbergh Airport, San Diego, FAA reports that a TRSA serving that airport is currently being established, projected target date for implementation May 1, 1979.

Recommendation A-78-78 asked FAA to review procedures at all airports which are used regularly by air

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carrier and general aviation aircraft to determine which other areas require either a terminal control area or a TRSA, and establish the appropriate one. In response, FAA states that a program is well underway to expedite the on-going TRSA establishment program at all air carrier airports, where capability exists. A notice of proposed rulemaking to establish additional terminal control areas is to be issued prior to January 1, 1979.

Highway

H-78-52.—Letter of December 29 from the Federal Highway Administration is in response to one of the recommendations resulting from the Safety Board's investigation into the cargo tank-semitrailer overturn near Beattyville, Ky., September 24, 1977. The recommendation asked FHWA to research the feasibility of installing energy attenuating devices capable of decelerating large runaway vehicles on steep grades where the use of adjacent property prohibits the installation of truck escape routes. (See 43 FR 32475, July 27, 1978.)

In response, FHWA reports sponsoring or financially assisting several research projects to study ways to reduce the frequency and severity of runaway trucks. Methods which could be used in areas of restricted right-of-way will be studied for comparative feasibility. The more pertinent studies are:

1. "Runaway Truck Arresting Schemes"—a 1½-year study begun in September 1978 by North Carolina State University under contract with the North Carolina Department of Transportation.
2. "Evaluation of Techniques to Counteract Truck Accidents on Steep Downgrades"—FHWA contract involving use of a full-scale field tests and laboratory truck simulator tests to develop a prototype grade severity rating system and to evaluate techniques for reducing the incidence and severity of runaway trucks.
3. "Energy Absorption of Gravel mounds for Truck Escape Ramps"—Final Report, March 1978. Oregon Department of Transportation, concludes that "gravel mounds, while effective, should not be used except under very critical circumstances."
4. "Impact Attenuators for Heavy Vehicles—A Feasibility Study"—a current FHWA study to determine the feasibility of developing and impact attenuator system capable of safely decelerating both compact and heavy vehicles.

FHWA states that truck escape ramps can be designed with gravel arrestor beds, crash cushions, steel drums, and barrels of sand to reduce the length required and the criticality of the adjacent terrain. FHWA also states that the best available system, and the only system proven by experience, is the escape ramp with or with gravel arrestor beds or crash cushions. Since the prospects for a dramatic breakthrough in arrestors is not promising, the FHWA is encouraging approaches such as brake check areas, intermediate areas to stop and allow brakes to cool, and signing to give accurate warning of the situation.

H-78-57 through 60.—Letter of December 13 from the Department of Highway & Transportation, Commonwealth of Virginia, responds to the Safety Board's November 3 letter commenting on the Department's initial response of August 14 (43 FR 41101, September 14, 1978). The recommendations resulted from investigation of the truck/automobile collision near Chantilly, Va., July 21, 1977.

The Safety Board indicated approval of the Department's policy to allow for an all-red phase on new installations and on all in-place signals where the speed limit is 45 mph or more; accordingly, recommendation H-78-58 is considered closed—acceptable action.

With reference to recommendations H-78-57 and H-78-59, the Board noted in its November 3 letter that its investigation of the Chantilly accident has indicated that there was a substantial time difference between the minimum and maximum green interval through U.S. 50 traffic (42.5 seconds)—a difference which has caused concern on the part of persons using the intersection as the cycle length variance appears as a malfunction in the system. H-78-57 and H-78-59 were designed to correct this problem: (1) A reduction of the minimum-to-maximum green interval on through Route 50 by increasing the minimum time will create a more uniform cycle length and users of the intersection will have better information on which to decide a course of action; and (2) the installation of multipoint detection and override logic will allow an approaching high-speed vehicle to have the necessary amount of green time to pass through the intersection safely. Therefore, the Board asks that the Department give further consideration to H-78-57 and H-78-59.

The Board further stated that it had noted only one reference to wide application of these recommendations, and hopes that the analyzation of green intervals and the use of multipoint detection systems would be considered as widely as was the application of an all-red phase. The Board's file on recommendation H-78-60 will be kept open also pending further discussion.

The Department's December 13 response provides a detailed account, including comments of witnesses to the Chantilly accident, in support of its belief that ". . . the minimum green/maximum green variation had insignificant influence, if any, on the actions of the truck driver. . . ." With reference to H-78-57, the Department states:

In summary, with actuated traffic signal equipment (but with the phases not on "Recall") the Department has realized an increase in intersection capacity and a decrease in motorist delay and energy consumption. If one reduced the difference between the minimum and maximum green of each phase, in terms of benefits to cost, it will probably become apparent that the less expensive fixed time controllers will do the job since the benefits of actuated equipment are lost.

On the use of multipoint detection recommended in H-78-59, the Department refers to an FHWA-sponsored seminar on the Type 170 controller held January 24 and 25, 1978, attended by a Department representative, during which the California Department of Transportation's experience with multipoint detection, its cost, its effectiveness, etc., was discussed. The Department's December 13 response also refers to the November 1978 issue of the *ITE Journal* containing an article entitled "Green-Extension Systems at High-Speed Intersections" by Mr. C. V. Zegeer and Dr. R. C. Deen which states ". . . while these systems (Green Extension Systems) should theoretically increase safety and reduce rear-end and right-angle accidents, very little data are available to verify their effectiveness." The Department states that since traffic signal controllers used in Virginia are standard "off the shelf" equipment, override logic implementation would require either a special controller or minicomputer or external "black boxes" to existing equipment; however, reliability of operation will decrease with this additional equipment. The Department is providing volume density type controllers at most new installations for such features as added initial, time waiting, gap reduction, and last car passage. "These features attempt to compensate for motorists in the Dilemma Zone even with single point detection," the Department stated.

The Department concludes from its analysis and the investigation conducted by the Virginia Highway Safety Division (now Virginia Department of Transportation Safety) that neither recommendations H-78-57 nor H-78-59 would have prevented the fatalities at Chantilly. As to Statewide applicability of these recommendations, as recommended in H-78-60, the Department reports that Virginia has been providing an all-red phase on all new installations and has been adding such to its signals at locations where the speed limit is 45 mph or more or where high numbers of angle conflicts exist.

NOTE.—Single copies of the Board's Safety Effectiveness Evaluation Study are available without charge as long as the supply lasts. Copies of recommendation response letters in their entirety are also available without charge. All requests for copies must be in writing, identified by report or recommendation number. Address inquiries to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

Multiple copies of the study may be purchased my mail from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151.

(Secs. 304(a)(2) and 307 of the Independent Safety Board Act of 1974 (Pub. L. 93-633, 88 Stat. 2169, 2172 (49 U.S.C. 1903, 1906)).)

MARGARET L. FISHER,
Federal Register Liaison Officer.

JANUARY 5, 1979.

[FR Doc. 79-987 Filed 1-10-79; 8:45 am]

[3110-01-M]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on 01/04/79 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes—

The name of the agency sponsoring the proposed collection of information;

The title of each request received;

The agency form number(s), if applicable;

The frequency with which the information is proposed to be collected;

An indication of who will be the respondents to the proposed collection;

The estimated number of responses;

The estimated burden in reporting hours; and

The name of the reviewer or reviewing division or office.

Requests for extension which appear to raise no significant issues are to be approved after brief notice thru this release.

Further information about the items on this daily list may be obtained from the clearance office, Office of Management and Budget Washington, D.C. 20503. (202-395-4529), or from the reviewer listed.

NEW FORMS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service
Medical Problems Related to Pregnancy
Single-time
Women of reproductive age
2,700 responses; 2,025 hours
Richard Eisinger, 395-3214

Public Health Service
Public Health Service Sterilization Record
PHS-6044
Quarterly
Ambulatory health care organizations
800 responses; 800 hours
Richard Eisinger, 395-3214

Office of Human Development
Child Welfare Resource Information Exchange;
Participants and Post-TA surveys
Single-time
Child Welfare agencies and practitioners
1,400 responses; 467 hours
Reese, B. F., 395-3211

REVISIONS

DEPARTMENT OF DEFENSE

Department of the navy
Facilities available for the construction or repair of ships
SF-17
Annually
Private shipyards
500 responses; 125 hours
Caywood, D. P., 395-6140

DAVID R. LEUTHOLD,
Budget and Management Officer.

[FR Doc. 79-940 Filed 1-10-79; 8:45 am]

[7715-01-M]

POSTAL RATE COMMISSION

[Docket No. A79-1; Order No. 230]

BOB McCALL

Notice and Order of Filing of Appeal

JANUARY 8, 1979.

On December 18, 1978, the Commission received an undated handwritten letter from Bob McCall (hereinafter "Petitioner"), on behalf of himself and others similarly situated concerning alleged U.S. Postal Service plans to close the Lone Grove, Texas post office. Although the letter makes no explicit references to the Postal Reorganization Act, we believe it should be liberally construed as a petition for review pursuant to § 404(b) of the Act [39 U.S.C. § 404(b)], so as to preserve petitioner's right to appeal which is subject to a 30-day time limit.[1] Since the petition was apparently written by a layman rather than an attorney, it does not conform perfectly with the Commission's rules of practice which also require a petitioner to attach a copy of the Postal Service's final determination to the petition.[2] However, § 1 of the Commission's rules of practice calls for a liberal construction of the rules to secure just and speedy determination of issues.[3]

The Act requires that the Postal Service provide the affected community with at least 60 days' notice of a proposed post office closing so as to ". . . insure that such persons will have an opportunity to present their views."[4] The petition requests a hearing before any final decision is reached. From the face of the petition it is unclear whether the Postal Service provided 60 days' notice, whether any hearings were held, and whether a determination has been made under 39 U.S.C. § 403(b)(3). (Petitioner failed to supply a copy of the Postal Service's final determination, if one is in existence.) The Commission's rules of practice requires the Postal Service to file the administrative record of the case within 15 days after the date on which the petition for review is filed with the Commission.[5] Since the nature of the petition has not been entirely clear until this point, the 15-day limit will begin to run from the date of this notice as will the 120-day time limit for the Commission's decision.[6]

The Postal Reorganization Act states:

The Postal Service shall provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining. No small post office shall be closed solely for operating at a deficit, it being the specific intent of the Congress that effective postal services be insured to residents of both urban and rural communities.[7]

Section 404(b)(3)(c) of the Act specifically includes consideration of this goal in determinations by the Postal Service to close post offices. Petitioner asserts that the Lone Grove post office's financial losses are minor when compared to losses at similarly situated post offices in Texas, and claims that a hearing should be held before a final determination is made. This raises questions as to whether the Postal Service has complied with its regulations for the discontinuance of post offices.[8] The petition appears to set forth the Postal Service action complained of in sufficient detail to warrant further inquiry by the Commission.[9]

The Act does not contemplate the appointment of an officer of the Commission in § 404(b) cases, and none is being appointed.[10]

The Commission Orders:

(A) The letter of December 18, 1978 from Petitioner shall be construed as a petition for review pursuant to section 404(b) of the Act [39 U.S.C. 404(b)].

[1] 39 U.S.C. 404(b)(5). 39 U.S.C. 404(b) was added to title 39 by Pub. L. 94-421 (September 24, 1976), 90 Stat. 1310-1311. Our rules of practice governing these cases appear at 39 CFR § 3001.110 *et seq.*

[2] 39 CFR 3001.111(a).

[3] 39 CFR 3001.1.

[4] 39 U.S.C. 404(b)(1).

[5] 39 CFR 3001.113(a).

[6] 39 U.S.C. 404(b)(5).

[7] 39 U.S.C. 101(b).

[8] 42 FR 59079-59085 (November 15, 1977).

[9] The Commission's standard of review is set forth at 39 U.S.C. 404(b)(5).

[10] In the Matter of Gresham, S.C., Route No. 1, Docket No. A78-1 (May 11, 1978).

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(B) The Secretary of the Commission shall publish this Notice and Order in the FEDERAL REGISTER.

(C) The Postal Service shall as provided above, file the administrative record in this case on or before January 23, 1979, pursuant to the Commission's rules of practice [39 CFR § 3001.113(a)].

By the Commission.

DAVID F. HARRIS,
Secretary.

APPENDIX

January 8, 1979—Notice and Order of Filing of Appeal
January 23, 1979—Filing of record by Postal Service [*see* 39 CFR § 3001.113(a)]
January 29, 1979—Last day for filing of petitions to intervene [*see* 39 CFR § 3001.111(b)]
February 7, 1979—Petitioner's initial brief [*see* 39 CFR § 3001.115(a)]
February 22, 1979—Postal Service answering brief [*see* CFR 3001.115(b)]
March 9, 1979—(1) Petitioner's reply brief, if petitioner chooses to file such brief [*see* 39 CFR § 3001.115(c)]
(2) Deadline for motions by any party requesting oral argument. The Commission will exercise its discretion, as the interests of prompt and just decision may require, in scheduling or dispensing with oral argument.
May 8, 1979—Expiration of 120-day decisional schedule [*see* 39 U.S.C. § 404(b)(5).

[FR Doc. 79-1033 Filed 1-10-79; 8:45 am]

[7715-01-M]

[Docket No. A79-2; Order No. 231]

CITIZENS OF WESTVILLE

Notice and Order on Filing of Appeal

JANUARY 8, 1979.

On December 22, 1978, the Commission received a letter of appeal from the "Citizens of Westville" (hereinafter "Petitioners"), concerning alleged U.S. Postal Service plans to close the Westville, Pennsylvania post office. Although the letter makes no explicit reference to the Postal Reorganization Act, it probably should be liberally construed as a petition for review pursuant to section 404(b) of the Act [39 U.S.C. § 404(b)], so as to preserve Petitioners' right to appeal which is subject to a 30-day time limit.[1] Since the petition was apparently written by a layman rather than an attorney, it does not conform perfectly with the Commission's rules of practice which also require a petitioner to attach a copy of the Postal Service's final determination to the petition.[2] However, § 1 of the Commission's rules of practice calls for a liberal construction of the rules to secure just and speedy determination of issues.[3]

The Act requires that the Postal Service provide the affected community with at least 60 days' notice of a proposed post office closing so as to ". . . insure that such persons will have an opportunity to present their views."[4] The petition requests that the decision to close the Westville post office be reversed. From the face of the petition it is unclear whether the Postal Service provided 60 days' notice, whether any hearings were held, and whether a determination has been made under 39 U.S.C. 403(b)(3). (Petitioner failed to supply a copy of the Postal Service's final determination, if one is in existence.) The Commission's rules of practice require the Postal Service to file the administrative record of the case within 15-days after the date on which the petition for review is filed with the Commission.[5]

The Postal Reorganization Act states:

(b) The Postal Service shall provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining. No small post office shall be closed solely for operating at a deficit, it being the specific intent of the Congress that effective postal services be insured to residents of both urban and rural communities.[6]

Section 404(b)(2)(c) of the Act specifically includes consideration of this goal in Postal determinations by the Postal Service to close post offices. Petitioners assert that the Westville post office is a local landmark and that the community depends on its services. The effect "on the community" of a post office closing is made a mandatory subject of consideration by section 404(b)(2)(A) of the Act. The petition appears to set forth the Postal Service action complained of in sufficient detail to warrant further inquiry to determine whether the Postal Service complied with its regulations for the discontinuance of post offices.[7]

The Act does not contemplate appointment of an Officer of the Commission in § 404(b) cases, and none is being appointed.[8]

The Commission orders: (A) The letter of December 22, 1978 from the "Citizens of Westville" shall be construed as a petition for review pursuant to section 404(b) of the Act [39 U.S.C. 404(b)].

(B) The Secretary of the Commission shall publish this Notice and Order in the FEDERAL REGISTER.

(C) The Postal Service shall as provided above, file the administrative record in this case on or before January 23, 1979, pursuant to the Commission's rules of practice [39 CFR 3001.113(a)].

By the Commission.

DAVID F. HARRIS,
Secretary.

APPENDIX

January 8, 1979—Notice and Order of Filing of Appeal
January 23, 1979—Filing of record by Postal Service [*see* 39 CFR § 3001.113(a)]
January 29, 1979—Last day for filing of petitions to intervene [*see* 39 CFR § 3001.111(b)]
February 7, 1979—Petitioners' initial brief [*see* 39 CFR § 3001.115(a)]
February 22, 1979—Postal Service answering brief [*see* 39 CFR § 3001.115(b)]
March 9, 1979—(1) Petitioner's reply brief, if petitioner chooses to file such brief [*see* 39 CFR § 3001.115(c)].
(2) Deadline for motions by any party requesting oral argument. The Commission will exercise its discretion, as the interests of prompt and just decision may require, in scheduling or dispensing with oral argument.
May 8, 1979—Expiration of 120-day decisional schedule [*see* 39 U.S.C. § 404(b)(5)].

[FR Doc. 79-1034 Filed 1-10-79; 8:45 am]

[7905-01-M]

RAILROAD RETIREMENT BOARD

AGENDA PUBLICATION SCHEDULE

AGENCY: Railroad Retirement Board.

ACTION: Agenda publication schedule under Executive Order 12044.

EFFECTIVE DATE: Immediately.

FOR FURTHER INFORMATION CONTACT:

R. F. Butler, Secretary, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611, 312-751-4920.

In accordance with Executive Order 12044, notice is hereby given of the dates on which the Railroad Retirement Board will publish its agendas of significant regulations under development and review. The dates for Fiscal Year 1979 are January 31, 1979 and July 31, 1979.

Dated: January 2, 1979.

By Authority of the Board.

R. F. BUTLER,
Secretary of the Board.

[FR Doc. 79-967 Filed 1-11-79; 8:45 am]

[1] 39 U.S.C. 404(b)(5). 39 U.S.C. 404(b) was added to title 39 by Pub. L. 94-421 (September 24, 1976), 90 Stat. 1310-13-11. Our rules of practice governing these cases appear at 39 CFR § 3001.110 *et seq.*

[2] 39 CFR 3001.111(a).

[3] 39 CFR 3001.1.

[4] 39 U.S.C. 404(b)(1).

[5] 39 CFR § 3001.113(a). However, since Petitioners appear to have regarded this Commission as the entity responsible for the closing, and hence presumably have not notified the Postal Service of their appeal, the 15-day limit will begin to run from the date of this notice.

[6] 39 U.S.C. 101(b).

[7] 42 FR 59079-59085 (11/17/77); the Commission's standard of review is set forth at 39 U.S.C. 404(b)(5).

[8] In the Matter of Gresham, S.C., Route No. 1, Docket No. A78-1 (May 11, 1978).

[8025-01-M]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 1556]

KENTUCKY

Declaration of Disaster Loan Area

Christian County and adjacent counties within the State of Kentucky constitute a disaster area as a result of damage caused by severe storms and flooding which occurred from December 7-21, 1978. Applications will be processed under the provisions of Pub. L. 04-305. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on March 5, 1979, and for economic injury until the close of business on October 5, 1979 at:

Small Business Administration, District Office, Federal Office Building—Room 188, 600 Federal Place, Louisville, Kentucky 40202,

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: January 3, 1979.

A. VERNON WEAVER,
Administrator.

[FR Doc. 79-1035 Filed 1-10-79; 8:45 am]

[8025-01-M]

[Declaration of Disaster Loan Area No. 1552]

KENTUCKY

Declaration of Disaster Loan Area; Amendment No. 1

The above numbered declaration (see 43 FR 59561) is amended in accordance with the President's declaration of December 12, 1978, to include Bourbon, Breathitt, Carter, Casey, Estill, Fayette, Fleming, Harrison, Lawrence, Lee, Lincoln, Madison, Oldham, Rowan, Trimble and Wolfe Counties in the State of Kentucky. The Small Business Administration will accept applications for disaster relief loans from disaster victims in the above named counties and adjacent counties within the State of Kentucky. All other information remains the same; i.e., the termination date for filing applications for physical damage is close of business on February 12, 1979, and for economic injury until close of business on September 12, 1979.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

A. VERNON WEAVER,
Administrator.

[FR Doc. 79-1036 Filed 1-10-79; 8:45 am]

[8025-01-M]

[Application No. 09/09-5230]

MINORITY ENTERPRISE FUNDING, INC.

Application for a License To Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company under section 301(d) of the Small Business Investment Act of 1958, as amended (Act) (15 U.S.C. 661 *et seq.*), has been filed by Minority Enterprise Funding, Inc. (applicant) with the Small Business Administration (SBA) pursuant to 13 C.F.R. 107.102 (1978).

The officers, directors, and stockholders are as follows:

Howard D. Balshan, 3029 Earlmar Drive, Los Angeles, Calif. 90064, President, Director and 33⅓ percent Stockholder.
Maurice N. Gibbel, 720 Loretta Drive, Orange, Calif. 92669, Vice President, General Manager, Chief Financial Officer, and 33⅓ percent Stockholder.
Nicholas N. Alexander, 2241 Duxbury Circle, Los Angeles, Calif. 90034, Secretary, Director and 33⅓ percent Stockholder.

The applicant, a California corporation, will maintain an office at 4061 East Whittier Boulevard, Los Angeles, California 90023, and will begin operations with $500,000 of paid-in capital and paid-in surplus derived from the sale of 5,000 shares of common stock to three individuals.

The applicant will operate within the investment policies of § 107.101(c) of the regulations. Applicant intends to have a normal financial interest in various businesses, with an emphasis in equity participation to ease the start-up burden on such firms. The applicant intends to make investments to businesses owned by person or persons whose participation in the free enterprise system is hampered because of social or economic disadvantages and primarily to establish or to acquire existing pharmacies and laboratories and automotive muffler businesses. These particular areas of endeavor have been chosen because the backgrounds of applicant's principals are in those particular fields, and this will allow them to judge the merits of any proposal submitted to them properly and assure the soundness of its investment through a strong management and technical assistance effort.

Applicant does not contemplate rendering management or consulting services except as stated above.

As a small business investment company under section 301(d) of the Act, the applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Act, as amended, from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed owners and management and the probability of successful operations of the applicant under this management, including adequate profitability and financial soundness, in accordance with the Act and SBA Rules and Regulations.

Any person may, not later than January 26, 1979, submit to SBA written comments on the proposed applicant. Any such communication should be addressed to the Deputy Associate Administrator for Investment, 1441 L Street NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Los Angeles, California.

(Catalog of Federal Domestic Assistance Program Number 59.011, Small Business Investment Companies.)

PETER F. MCNEISH,
Deputy Associate Administrator, for Investment.

JANUARY 3, 1979.

[FR Doc. 79-1031 Filed 1-10-79; 8:45 am]

[4710-02-M]

DEPARTMENT OF STATE

Agency for International Development

ADVISORY COMMITTEE ON VOLUNTARY FOREIGN AID

Determination

The Advisory Committee on Voluntary Foreign Aid serves as an important link between the U.S. Government and the private and voluntary organization community engaged in foreign assistance activities. In addition to its statutory duty to register and approve private and voluntary organizations, the Committee advises A.I.D. on policies and procedures concerning the private and voluntary community; provides a forum for the exploration of topics of mutual concern; provides information, counsel and assistance to private and voluntary organizations; and fosters public interest in the field of voluntary foreign aid. There continues to be a significant need for such liaison and the related functions of the Committee.

Accordingly, I hereby determine, pursuant to the provisions of section 14(c) of the Federal Advisory Committee Act (Pub. L. 92-463), that continuation of the Advisory Committee for a

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two year period, beginning December 31, 1978, is in the public interest.

Dated: November 30, 1978.

JOHN J. GILLIGAN,
Administrator.

[FR Doc. 79-968 Filed 1-10-79; 8:45 am]

[4710-02-M]

[5.26, 38.23, 40.12, 96.4, 99.18, 100.5]

AFRICA BUREAU FIELD POSTS

Redelegation of Authority

Section. 1. Purpose. The Africa Bureau has, basically, four types of field posts in Africa—Missions, Regional Offices, A.I.D. Offices and Sections of Embassy. This Redelegation of Authority is a comprehensive revision of the authorities available to these field posts. It reflects the upgrading of certain posts to Mission status, changes in A.I.D. policy regarding authorities redelegated to the field, the size of the A.I.D. programs in the respective countries, and the staff available to the various field posts for the effective exercise of authorities.

For purposes of this redelegation, the Africa field posts are grouped into two categories; Missions and Regional Offices and other field posts. The redelegation made to the Directors of A.I.D. Missions and Regional Offices in Africa includes the authority to negotiate and execute certain agreements, to implement such agreements (including approval of host country contracts), to extend terminal dates in such agreements, to waive source, origin and nationality requirements, and to approve certain projects and host country assurances under Section 110(a) of the Foreign Assistance Act of 1961, as amended (the "Act"). The redelegations to A.I.D. Offices and to Sections of Embassy include the authority to review and approve certain projects and to negotiate and execute certain agreements. Both authorities delegated to such field posts must be exercised with the concurrence of the appropriate Mission or Regional Office.

Section 2. Issuance Authority. This delegation is issued pursuant to A.I.D. Delegation of Authority Numbers 5, 38, 40, 96, 99, and 100 and A.I.D. Handbooks, Manual Orders, airgrams and other memoranda.

Section 3. Authorities Delegated to the Directors of A.I.D. Missions and Regional Offices. The following authorities are hereby delegated to the Directors of A.I.D. Missions in Africa, to the Director of the East Africa Regional Economic Development Services Office (REDSO/EA), and to the Director of the West Africa Regional Economic Development Services Office (REDSO/WA) for their respective countries or areas of responsibility with respect to the administration of foreign assistance programs:

(A) *Negotiation and Execution.* Authority to negotiate and execute loan and grant agreements, and amendments or modifications thereto, with respect to loans and grants authorized under the Act in accordance with the terms of the authorization of such loan or grant; such agreements for purposes of this authority and all other authorities contained in this redelegation shall mean agreements with foreign governments, foreign government agencies, and international organizations having a membership consisting primarily of such foreign governments;

(B) *Implementation.* Authority to implement loan and grant agreements with respect to loans and grants authorized under the Act and loans authorized by the Board of Directors of the Corporate Development Loan Fund, including the following:

(i) Authority to prepare, negotiate, sign and deliver letters of implementation;

(ii) Authority to review and approve documents and other evidence submitted by borrowers or grantees in satisfaction of conditions precedent to financing under such loan or grant agreements;

(iii) Authority to negotiate, execute and implement all agreements and other documents ancillary to such loan or grant agreements;

(iv) Authority to sign or approve Project Implementation Orders; and

(v) Authority to approve contractors, review and approve the terms of country contracts, amendments and modifications thereto, and requests for proposals and invitations for bids with respect to such contracts financed by funds made available under such loan and grant agreements.(C) *Extenson of Terminal Dates.* Authority to extend the following terminal dates, in accordance with AIDTO Circular A-24 dated December 16, 1977, amendments thereto or successor regulations, provided that this authority shall be exercised in writing, including a justification therefor and an analysis of the steps that might be taken to accelerate implementation, and a copy shall be forwarded to the Director, AFR/DR:

(i) The terminal date for signing a Project Agreement for a cumulative period not to exceed six months;

(ii) The terminal date for meeting initial conditions precedent for a cumulative period not to exceed six months;

(iii) The terminal date for requesting disbursement authorization for a cumulative period not to exceed one year; and

(iv) The terminal date for completion of performing services and furnishing goods for a cumulative period not to exceed one year.

(D) *Procurement Waivers.* Authority to waive and grant specific exceptions, in accordance with Supplement B of Handbook 1, of source, origin or nationality requirements to permit the procurement of goods and services (exclusive of transportation services) in countries included in A.I.D. Geographic Codes 941, 899 or 935 subject to the following:

(i) All such waivers shall be in writing, including the justification therefor and the certification required herein, signed by the Director and a copy of each waiver shall be forwarded to the Director, AFR/DR and to AA/SER;

(ii) Each waiver to Code 935 or 899 for goods shall contain a certification signed by the Director that "exclusion of procurement from free world countries other than the cooperating country and countries included in Code 941 would seriously impede attainment of U.S. foreign policy objectives and objectives of the foreign assistance program", and additionally with respect to motor vehicles, a finding that "special circumstances exist to waive the requirements of Section 636(i) of the Act";

(iii) Each waiver of the nationality requirement for suppliers of services to Code 899 or 935 shall contain a certification signed by the Director that "the interests of the U.S. are best served by permitting the procurement of services from free world countries other than the cooperating country and countries included in Code 941";

(iv) Each waiver shall be made after consultation with a Regional Legal Advisor or GC/AFR, as appropriate, and waivers for goods shall be made after consultation with a Commodity Management Advisor or SER/COM, as appropriate, and for services, the Regional Contracting Officer or SER/CM, as appropriate.

(v) The aggregate amount of such waivers for goods and services for a particular project, program or activity shall not exceed $100,000, except for motor vehicles which shall not exceed $25,000;

(vi) Waivers or exceptions made under this redelegation shall be based upon the criteria set forth in Sections 5B.4.b (for goods) and 5C.4.a.(2) (for services) of Handbook 1 (Supplement B), as may be amended from time to time, except that this redelegation shall not apply to any waiver based upon the criteria in subparagraphs 5B.4.b.(5) or 5C.4.a.(2)(d), "impelling political considerations" or subparagraphs 5B.4.b.(7) or 5C.4.a.(2)(f), "such other circumstances as are determined to be critical to the success of project objectives" and each waiver based upon these specific criteria shall be referred to the Assistant Administrator for Africa for approval upon the recommendation of the Director.

(E) *Project Approval and Host Country Assurances.* Authority to approve projects, including operational program grants to private voluntary organizations, provided that the firm total cost of the project to A.I.D. does not exceed $500,000, and the authority to receive and determine the adequacy of assurahces with respect to such projects required under Section 110(a) of the Act.

(F) *Other.* The authority delegated to Directors of Missions in unpublished Delegation of Authority of January 10, 1955 and in A.I.D. Manual Orders, Handbooks, regulations (published or otherwise), policy directives, policy determinations, memoranda, and other instructions as they may be amended, supplemented or superceded from time to time.

Section 4. Authorities Delegated to the Principal Officers of Other Field Posts. Subject to the condition set forth in subparagraph (E) of this Section, the following authorities are hereby delegated to the Principal A.I.D. Officer in all field posts in Africa, except those included in Section 3, each for their respective country or area of responsibility with respect to the administration of foreign assistance programs;

(A) *Negotiation and Execution.* Authority to negotiate and execute loan and grant agreements, and amendments or modifications thereto, with respect to loans and grants authorized under the Act in accordance with the terms of the authorization of such loan or grant; such agreements for purposes of this authority and all other authorities contained in this redelegation shall mean agreements with foreign governments, foreign government agencies, and international organizations having a membership consisting primarily of such foreign governments;

(B) *Project Approval and Host Country Assurances.* Authority to approve projects, including operational program grants to private voluntary organizations, provided that the firm total cost of the project to A.I.D. does not exceed $500,000 and the authority to receive and determine the adequacy of assurances with respect to such projects required under Section 110(a) of the Act.

(C) *PIO/Ts.* Authority to sign or approve project implementation orders—technical services (PIO/T).

(D) *Other.* Authority delegated to Directors of Missions, except for the authorities enumerated in Section 3 of this Redelegation, in unpublished Delegation of Authority of January 10, 1955 and in A.I.D. Manual Orders, Handbooks, regulations (published or otherwise), policy directives, policy determinations, memoranda and other instructions as they may be amended, supplemented or superceded from time to time.

(E) The authority delegated in paragraphs (A) and (B) of this Section shall be exercised with the concurrence of the Director of the appropriate Regional Economic Development Services Office, who shall also exercise the other authorities delegated under Section 3 with respect to such field post, except that Mission Directors indicated below shall exercise such authority with respect to the following field posts:

(i) Guinea and Gambia—USAID/Senegal.

(ii) Central African Empire—USAID/Cameroon.

Section 5. Miscellaneous.

(A) *Limitations and Guidance.* The authorities redelegated herein shall be exercised in accordance with A.I.D. Handbooks, policies, regulations (published or otherwise) and procedures as they may be amended, supplemented or superseded from time to time.

(B) *Consultation.* Except to the extent such personnel are on the staff of a Mission or other field post, the authorities redelegated herein shall be exercised after consultation with a Regional Legal Advisor or GC/AFR, as appropriate, a Regional Contracting Officer or SER/CM, as appropriate, a Regional Engineer or SER/ENGR, as appropriate.

(C) *Subsequent Redelegation.* The authorities delegated in Section 3 may be exercised by persons performing the functions of the Director on an "Acting" basis and may be redelegated by the Director to the Principal Deputy of the Director. The authorities delegated in Section 4 may be exercised by persons performing the functions of the Principal A.I.D. Officer on an "acting" basis but may not be redelegated.

(D) *Concurrent Authority and Instructions.* I retain for myself concurrent authority to exercise any of the functions herein delegated, and such authorities shall be exercised subject to instructions otherwise by me or my designee.

(E) *Redelegations of Authority Affected.* The following are hereby rescinded: Africa Redelegation of Authority Nos. 57, 134, 135, 137, 138 and such other Redelegations of Authority issued prior to the effective date of this Redelegation to the extent inconsistent with the terms of this Redelegation.

(F) *Effective Date and Ratification.* This Redelegation of Authority is effective immediately and includes ratification of all acts taken prior hereto which are consistent with the terms and scope of this Redelegation of authority.

Dated: October 18, 1978.

GOLER T. BUTCHER,
Assistant Administrator for Africa.

[FR Doc. 79-969 Filed 1-10-79; 8:45 am]

[4710-07-M]

Office of the Secretary

[Public Notice CM-8/147]

STUDY GROUP 1 OF THE U.S. ORGANIZATION FOR THE INTERNATIONAL TELEGRAPH AND TELEPHONE CONSULTATIVE COMMITTEE (CCITT)

Meeting

The Department of State announces that Study Group 1 of the U.S. Organization for the International Telegraph and Telephone Consulative Committee (CCITT) will meet on February 1, 1979 at 10:00 a.m. in Room A-110 (Training Room) of the Federal Communications Commission, 1229 20th Street, NW., Washington, D.C. This Study Group deals with U.S. Government regulatory aspects of international telegraph and telephone operations and tariffs.

The Study Group will discuss international telecommunications questions relating to telegraph, telex, data, maritime mobile and leased channel services in order to develop U.S. positions to be taken at international CCITT meetings to be held during 1979 in Geneva, Switzerland.

Members of the general public may attend the meeting and join in the discussion subject to instructions of the Chairman. Admittance of public members will be limited to the seating available.

Requests for further information should be directed to Richard H. Howarth, State Department, Washington, D.C. 20520, telephone (202) 632-1007.

Dated: January 4, 1979.

RICHARD H. HOWARTH,
Chairman,
U.S. CCITT National Committee.

[FR Doc. 79-950 Filed 1-10-79; 8:45 am]

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[8120-01-M]

TENNESSEE VALLEY AUTHORITY

Public Utility Regulatory Policies Act of 1978

Consideration of Service Practice Standards

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Notice of consideration of standards.

SUMMARY: The Tennessee Valley Authority is considering adopting for itself and the distributors of TVA power certain service practice standards. The standards being considered include those listed in section 113 of the Public Utility Regulatory Policies Act of 1978 (Pub. L. 95-617) and other service practices affecting consumers of TVA power. The standards will be considered on the basis of their effect on conservation of energy, efficient use of facilities and resources, equity among electric consumers, and the objectives of the Tennessee Valley Authority Act. Comments are requested from the public on whether TVA should adopt these standards or any variations on them. Comments are also invited on: (a) any other service practices which affect consumers of TVA electricity, and (b) whether the TVA Board should prescribe uniform service policies for the distributors of TVA power.

DATES: Written comments must be received by April 5, 1979. Hearings will be held on February 27, March 1, 6, 8, 13, 15, and 20.

ADDRESS: Written comments should be sent to Presiding Officer, Service Practice Hearings, Tennessee Valley Authority, 540 Market Street, Chattanooga, Tennessee 37402.

FOR FURTHER INFORMATION CONTACT:

Dawn S. Ford, Tennessee Valley Authority, 400 Commerce Avenue, E12A2, Knoxville, Tennessee 37902, (615) 632-4402.

SUPPLEMENTAL INFORMATION: Of the standards being considered, the Public Utility Regulatory Policies Act of 1978 (Put. L. 95-617) requires that TVA consider standards 1-5. Standards 6-8 are part of a Schedule of Rules and Regulations attached to TVA's wholesale power contracts with the distributors. These contracts permit individual distributors to amend, supplement, or repeal these standards under certain circumstances upon 30 days' notice to TVA. However, all such contracts are expressly subject to the provisions of the TVA Act and the Rules and Regulations must be consistent with the provisions of the power contracts and the TVA Act. There is variation in standards 6-8 as presently practiced in the distributor systems. Standard 9 is a new proposal. Data, views, and comments are requested from the public on each of the nine standards. Comments on variations in any of the standards, as well as views for or against their adoption, are welcome. The nine standards are being presented in order to initiate consideration and obtain the public's views on the need and desirability of changes in the service practices affecting TVA consumers. Determinations on the appropriateness of the standards will be made by the TVA Board of Directors. The TVA Board will also determine what, if any, standards included in this notice will be implemented by TVA for itself and the distributors of TVA power. Implementation will be through one or a combination of the following: The addition of new provisions or rules and regulations to the wholesale power contract between TVA and the distributors of TVA power; the amendment of existing provisions or rules and regulations of the wholesale power contract; the issuance by the TVA Board of rules and regulations under Section 10 of the TVA Act; or other appropriate means.

STANDARDS: The standards about which a determination will be made are: (*1*) *Master metering.* To the extent determined appropriate, master metering of electric service in the case of new buildings shall be prohibited or restricted to the extent necessary to carry out the purposes of Title I of the Public Utility Regulatory Policies Act of 1978 (Pub. L. 95-617). Separate metering shall be determined appropriate for any new building if

(a) There is more than one unit in such building;

(b) The occupant of each such unit has control over a portion of the electric energy used in such unit; and

(c) With respect to such portion of electric energy used in such unit, the long-run benefits to the electric consumers in such building exceed the costs of purchasing and installing separate meters in such building.

(*2*) *Automatic adjustment clauses.* No rate may be increased pursuant to an automatic adjustment clause unless it meets the following requirements:

(a) Such clause is determined, not less often than every four years, by TVA, after an evidentiary hearing, to provide incentives for efficient use of resources (including incentives for economical purchase and use of fuel and electric energy) and

(b) Such clause is reviewed not less often than every two years, by TVA, to insure the maximum economies in those operations and purchases which affect the rates to which such clause applies. In making such review TVA shall examine and, if appropriate, cause to be audited its practices relating to costs subject to an automatic adjustment clause and shall require such reports as may be necessary to carry out such review (including a disclosure of any ownership or corporate relationship between TVA and sellers to it of fuel, electric energy, or other items).

The term "automatic adjustment clause" means a provision of a rate schedule which provides for increases or decreases (or both), without prior hearing, in rates reflecting increases or decreases (or both) in costs incurred by TVA or the distributors of TVA power. Such term does not include an interim rate which takes effect subject to a later determination of the appropriate amount of the rate.

(*3*) *Information to consumers.* TVA and the distributors of TVA power shall transmit to each of their electric consumers the following information regarding rate schedules:

(a) A clear and concise explanation of the existing rate schedule and any rate schedule applied for or proposed applicable to such consumer. Such statement shall be transmitted to each such consumer

(i) Not later than 60 days after the date commencement of service to such consumer or 90 days after this standard is adopted, whichever last occurs and

(ii) Not later than 30 days (60 days in the case of a bimonthly billing system) after application for or proposal of any change in a rate schedule applicable to such consumer.

(b) Each electric consumer shall be given not less frequently than once each year

(i) A clear and concise summary of the existing rate schedules applicable to each of the major classes of electric consumers for which there is a separate rate and

(ii) An identification of any classes whose rates are not summarized.

Such summary may be transmitted together with such consumer's billing or in such other manner as TVA or the distributor deems appropriate.

(c) On request an electric consumer shall be given a clear and concise statement of the actual consumption (or degree-day adjusted consumption) of electric energy by such consumer for each billing period during the prior year (unless such consumption data is not reasonably ascertainable).

(*4*) *Procedures for termination of electric service.* Electric service to any electric consumer may not be terminated except pursuant to procedures which provide that

(a) Reasonable prior notice (including notice of rights and remedies) is given to such consumer and such consumer has a reasonable opportunity to dispute the reasons for such termination and

(b) During any period when termination of service to an electric consumer would be especially dangerous to health, as determined by TVA, and such consumer establishes that

(i) He is unable to pay for such service in accordance with the requirements of the billing or

(ii) He is able to pay for such service but only in installments.

Such service may not be terminated.

Such procedures shall take into account the need to include reasonable provisions for elderly and handicapped consumers.

(*5*) *Advertising.* Neither TVA nor the distributors of TVA power may recover from any person other than their shareholders (or other owners) any direct or indirect expenditure for promotional or political advertising.

(a) The term "advertising" means the commercial use of any media, including newspaper, printed matter, radio, and television, in order to transmit a message to a substantial number of members of the public or to electric consumers.

(b) The term "political advertising" means any advertising for the purpose of influencing public opinion with respect to legislative, administrative, or electoral matters, or with respect to any controversial issue of public importance.

(c) The term "promotional advertising" means any advertising for the purpose of encouraging any person to select or use electric service or additional electric service or the selection or installation of any appliance or equipment designed to use electric service.

(d) The terms "political advertising" and "promotional advertising" do not include

(i) Advertising which informs electric consumers how they can conserve energy or can reduce peak demand for electric energy;

(ii) Advertising required by law or regulation, including advertising required under part 1 of Title II of the National Energy Conservation Policy Act;

(iii) Advertising regarding service interruptions, safety measures, or emergency conditions;

(iv) Advertising concerning employment opportunities;

(v) Advertising which promotes the use of energy efficient appliances, equipment, or services: or

(vi) Any explanation or justification of existing or proposed rate schedules or notifications of hearings thereon.

(*6*) *Deposit.* A deposit or suitable guarantee approximately equal to twice the average monthly bill may be required of any Customer before electric service is supplied. Distributor may at its option return deposit to Customer after one year. Upon termination of service, deposit may be applied by Distributor against unpaid bills of Customer, and if any balance remains after such application is made, said balance shall be refunded to Customer.

(*7*) *Connection, reconnection, and disconnection charges.* Distributor may establish and collect standard charges to cover the reasonable average cost, including administration, of connecting or reconnecting service, or disconnecting service as provided above. Higher charges may be established and collected when connections and reconnections are performed after normal office hours or when special circumstances warrant.

(*8*) *Billing.* Bills will be rendered monthly and shall be paid at the office of Distributor or at other locations designated by Distributor. Failure to receive bill will not release Customer from payment obligation. Should bills not be paid by due date specified on bill, Distributor may at any time thereafter, upon five (5) days' written notice to Customer, discontinue service. Bills paid after due date specified on bill may be subject to additional charges. Should the due date of bill fall on a Sunday or holiday, the business day next following the due date will be held as a day of grace for delivery of payment. Remittances received by mail after the due date will be subject to such additional charges if the incoming envelope bears United States Postal Service date stamp of the due date or any date prior thereto.

Distributor shall designate in its standard policy a period of not less than 10 days nor more than 20 days after date of the bill during which period the bill is payable as computed by application of the charges for service under the appropriate resale schedule and shall further designate in said policy the percentage or percentages, if any, not to exceed 10 percent of the bill, computed as above provided, which will be added to the bill as additional charges for payment after the period so designated.

(*9*) *Building standards.* New buildings, including homes, must meet energy conservation weatherization standards developed by TVA as a requirement for electric service.

PROCEDURES: Public hearings respecting the above standards will be conducted at the following times and places:

Tupelo, Mississippi—February 27, 1979, 9 a.m. and 7 p.m., Lee County Library, 219 North Madison;

Memphis, Tennessee—March 1, 1979, 9 a.m. and 7 p.m., Memphis Light, Gas & Water Auditorium, Main and Veal Streets;

Nashville, Tennessee—March 6, 1979, 9 a.m. and 7 p.m., Nashville Electric Service, 1214 Church Street;

Huntsville, Alabama—March 8, 1979, 9 a.m. and 7 p.m., Huntsville Utilities Building, 2d Floor, 112 Spragins Street;

Knoxville, Tennessee—March 13, 1979, 9 a.m. and 7 p.m., TVA Auditorium, West Tower, 400 Commerce Avenue;

Chattanooga, Tennessee—March 14, 1979, 9 a.m. and 7 p.m., YMCA, Room 239, 301 West Sixth Street; and

Paducah, Kentucky—March 30, 1979, 9 a.m. and 7 p.m., City Hall, Fourth and Washington Streets.

Anyone wishing to make an oral presentation at any of the hearings is requested at least five days before the hearing to notify Dawn S. Ford at Tennessee Valley Authority, 400 Commerce Avenue, E12A2, Knoxville, Tennessee 37902, (615) 632-4402. The request should include the amount of time and session (morning or evening) desired. The hearings will be conducted by a presiding officer and testimony will be heard by a panel of designees of the TVA Board of directors. Persons making presentations may be questioned by the hearing panel, but will not be subject to questioning by the public. The presiding officer will insure that the hearing is conducted in an orderly manner and in accordance with these procedures. In so doing, the presiding officer shall make any such parliamentary rulings and establish such supplemental procedures, including setting time limits, as may be appropriate in the presiding officer's discretion to afford all interested parties a reasonable opportunity to be heard. A verbatim transcript will be made of each hearing.

Written data, views, and comments on the standards are also requested from the public. All written material received by TVA before 5 p.m. EST on April 5, 1979, will be part of the official record and will be considered by the Tennessee Valley Authority. Written statements of the TVA Office of Power staff concerning the standards will be made part of the official record on or about February 8, at which time they will be available to the public on request. The statements will include information on the standards and practices currently being used by TVA and the distributors of TVA power and other available information that might be helpful to the public in developing its views and recommendations for the TVA Board's consideration.

The official record will consist of the verbatim transcript of the hearings and copies of all written materials submitted within the time set forth above. A summary of the record will be prepared by the hearing panel and will be transmitted to the TVA Board

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of Directors along with the complete record. The record will be used by the Board in making the determinations required by section 113 of the Public Utility Regulatory Policies Act of 1978 (Pub. L. 95-617) and in fulfilling its obligations under the Tennessee Valley Authority Act.

Individual copies of the record will be available to the public at cost of reproduction. Copies will also be kept on file for public inspection at selected public libraries to be announced at each hearing and at the following TVA offices:

Eastern District Office, Tennessee Valley Authority, 900 Walnut Street, Knoxville, Tennessee 37902.
Central District Office, Tennessee Valley Authority, 1719 West End Building, Nashville, Tennessee 37203.
Tennessee Valley Authority, 1878 Southern Avenue, Memphis, Tennessee 38109.
Western District Office, Tennessee Valley Authority, First Tennessee Bank Building, North Branch, 4th Floor, 620 Old Hickory Boulevard, Jackson, Tennessee 38301.
Mississippi District Office, Tennessee Valley Authority, 1014 North Gloster Street, Tupelo, Mississippi 38802.
Alabama District Office, Tennessee Valley Authority, 501 First Federal Building, Muscle Shoals, Alabama 35660.
Tennessee Valley Authority, 179 Charlotte Street, Asheville, North Carolina 28801.
Tennessee Valley Authority, Chamber of Commerce Building, 524 Holiday Avenue, Dalton, Georgia 30720.

TVA is developing arrangements for engaging public counsel to represent the interests of consumers who cannot afford to effectively participate in the hearings. The individuals serving as public counsel will also be available to assist consumers in preparing information for inclusion in the record. Inquiries concerning the public counsel should be directed to Dawn S. Ford at the above address and telephone.

Dated: January 3, 1979.

LEON E. RING,
General Manager.

[FR Doc. 79-938 Filed 1-10-79; 8:45 am]

[4810-31-M]

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco, and Firearms

[Notice No. 79-5; Reference: ATF O 1100.102]

DELEGATION TO THE ASSISTANT DIRECTOR (REGULATORY ENFORCEMENT) OF AUTHORITIES OF THE DIRECTOR IN 27 CFR PART 290, EXPORTATION OF CIGARS, CIGARETTES, AND CIGARETTE PAPERS AND TUBES, WITHOUT PAYMENT OF TAX OR WITH DRAWBACK OF TAX

Delegation Order

1. *Purpose.* This order delegates certain authorities, now vested in the Director by regulations in 27 CFR Part 290, to the Assistant Director (Regulatory Enforcement), and permits redelegation to Regulatory Enforcement personnel, Headquarters and field.

2. *Background.* Under current regulations, the Director has authority to take final action on matters relating to the exportation (including supplies for vessels and aircraft) of cigars, cigarettes, and cigarette papers and tubes, without payment of tax; the qualification of, and operations by, export warehouse proprietors; and the allowance of drawback of tax paid on cigars, cigarettes, and cigarette papers and tubes exported. It has been administratively determined that certain authorities now vested in the Director by regulations in 27 CFR Part 290, Exportation of Cigars, Cigarettes, and Cigarette Papers and Tubes, Without Payment of Tax, or With Drawback of Tax, belong at and should be delegated to a lower organizational level.

3. *Delegations.* Under the authority vested in the Director, Bureau of Alcohol, Tobacco and Firearms, by Treasury Department Order No. 221, dated June 6, 1972, and by 26 CFR 301.7701-9, there is hereby delegated to the Assistant Director (Regulatory Enforcement) the authority to take final action on the following matters relating to 27 CFR Part 290, Exportation of Cigars, Cigarettes, and Cigarette Papers and Tubes, Without Payment of Tax, or With Drawback of Tax:

a. To prescribe all forms required by regulations, under 27 CFR 290.2.

b. To approve, pursuant to written applications by manufacturers or proprietors, the use of alternate methods or procedures in lieu of method or procedure specifically prescribed in regulations, and to require the manufacturer or proprietor to retain, as part of his records, any approved authorizations, under 27 CFR 290.72.

c. To withdraw authorization of any alternate method or procedure whenever the revenue is jeopardized or the effective administration of the regulations is hindered by the continuation of such authorization, under 27 CFR 290.72.

d. To approve, pursuant to written applications by manufacturers or proprietors, emergency variations from the methods of operation requirements specified in regulations and to require the manufacturer or proprietor to retain, as part of his records, any approved authorizations, under 27 CFR 290.73.

e. To withdraw authorization of any variations whenever the revenue is jeopardized or the effective administration of the regulations is hindered by the continuation of such variations, under 27 CFR 290.73.

f. To approve pursuant to written notice, where cigars and cigarettes are both packaged and removed by the same manufacturer at the same or different factories, the use of an alternative mark as the name of the manufacturer; to approve the means to be used to identify on or in the package the factory where packaged; and to return copies of the approved notice to the manufacturer for retention as part of the factory records at each of the factories operated by the manufacturer, under 27 CFR 290.184.

4. *Redelegation.*

a. The authorities in paragraphs 3a, 3c, 3e, and 3f above may be redelegated to Regulatory Enforcement personnel in Bureau Headquarters not lower than the position of branch chief.

b. The authorities in paragraphs 3b and 3d above may be redelegated to Regulatory Enforcement personnel in Bureau Headquarters not lower than the position of ATF specialist.

c. The authorizations that follow may be redelegated to regional regulatory administrators, who may redelegate the authority to regional Regulatory Enforcement personnel not lower than the position of chief, technical services, or area supervisor:

(1) The authorities in paragraphs 3b and 3f above to approve, without submission to Headquarters, applications for alternate methods or procedures or notices for the use of alternative marks, which are identical to those previously approved by Bureau Headquarters.

(2) The authorities in paragraphs 3c, 3d, and 3e above to approve emergency variations and to withdraw approval of alternate methods or procedures or variations. Where an alternate method or procedure or variation is withdrawn, the regional regulatory administrator will notify the Assistant Director (Regulatory Enforcement) of such withdrawal.

Effective date. This order becomes effective on January 3, 1979.

Signed: January 3, 1979.

JOHN G. KROGMAN,
Acting Director.

[FR Doc. 79-951 Filed 1-10-79; 8:45 am]

[4810-31-M]

[Notice No. 79-6; Reference: ATF O 1100.103]

ASSISTANT DIRECTOR (REGULATORY ENFORCEMENT)

Delegation Order

1. *Purpose.* This order delegates certain authorities, now vested in the Director by regulations in 27 CFR Part 285, to the Assistant Director (Regulatory Enforcement), and permits redelegation to Regulatory Enforcement personnel, Headquarters and field.

2. *Background.* Under current regulations, the Director has authority to take final action on matters relating to the manufacture of cigarette papers and tubes, the payment of internal revenue taxes imposed by chapter 52 of the Internal Revenue Code, and the qualification of and operations by manufacturers of cigarette papers and tubes. It has been administratively determined that certain authorities now vested in the Director by regulations in 27 CFR Part 285, Manufacture of Cigarette Papers and Tubes, belong at and should be delegated to a lower organizational level.

3. *Delegations.* Under the authority vested in the Director, Bureau of Alcohol, Tobacco and Firearms, by Treasury Department Order No. 221, dated June 6, 1972, and by 26 CFR 301.7701-9, there is hereby delegated to the Assistant Director (Regulatory Enforcement) the authority to take final action on the following matters relating to 27 CFR Part 285, Manufacture of Cigarette Papers and Tubes:

a. To prescribe all forms required by regulations, under 27 CFR 285.2.

b. To approve, pursuant to written applications by manufacturers, the use of alternate methods or procedures in lieu of a method or procedure specifically prescribed in regulations, and to require the manufacturer to retain, as part of his records, any approved authorizations, under 27 CFR 285.34a.

c. To withdraw authorization of any alternate method or procedure whenever the revenue is jeopardized or the effective administration of the regulations is hindered by the continuation of such authorization, under 27 CFR 285.34a.

d. To approve, pursuant to written applications by manufacturers, emergency variations from the methods of operation requirements specified in regulations, and to require the manufacturer to retain, as part of his records, any approved authorizations, under 27 CFR 285.35.

e. To withdraw authorization of any variations whenever the revenue is jeopardized or the effective administration of the regulations is hindered by the continuation of such variations, under 27 CFR 285.35.

4. *Redelegation.* a. The authorities in paragraphs 3a, 3c, and 3e above may be redelegated to Regulatory Enforcement personnel in Bureau Headquarters not lower than the position of branch chief.

b. The authorities in paragraphs 3b and 3d above may be redelegated to Regulatory Enforcement personnel in Bureau Headquarters not lower than the position of ATF specialist.

c. The authorizations that follow may be redelegated to regional regulatory administrators, who may redelegate the authority to regional Regulatory Enforcement personnel not lower than the position of chief, technical services, or area supervisor:

(1) The authority in paragraph 3b above to approve, without submission to Headquarters, applications for alternate methods or procedures which are identical to those previously approved by Bureau Headquarters.

(2) The authorities in paragraphs 3c, 3d, and 3e above to approve emergency variations and to withdraw approval of alternate methods or procedures or variations. Where an alternate method or procedure or variation is withdrawn, the regional regulatory administrator will notify the Assistant Director (Regulatory Enforcement) of such withdrawal.

Effective date This order becomes effective on January 3, 1979.

Signed: January 3, 1979.

JOHN G. KROGMAN,
Acting Director.

[FR Doc. 79-952 Filed 1-10-79; 8:45 am]

[4810-31-M]

[Notice No. 79-7; Reference: ATF O 1100.104]

ASSISTANT DIRECTOR (REGULATORY ENFORCEMENT)

Delegation Order

1. *Purpose.* This order delegates certain authorities, now vested in the Director by regulations in 27 CFR Part 275, to the Assistant Director (Regulatory Enforcement), and permits redelegation to Regulatory Enforcement personnel, Headquarters and field.

2. *Background.* Under current regulations, the Director has authority to take final action on matters relating to cigars, cigarettes, and cigarette papers and tubes, imported into the United States from a foreign country or brought into the United States from Puerto Rico, the Virgin Islands, or a possession of the United States; the removal of cigars from a customs bonded manufacturing warehouse, class 6; and the release of cigars, cigarettes, and cigarette papers and tubes from customs custody, without payment of internal revenue tax or customs duty attributable to the internal revenue tax. It has been administratively determined that certain authorities now vested in the Director by regulation in 27 CFR Part 275, Importation of Cigars, Cigarettes, and Cigarette Papers and Tubes, belong at and should be delegated to a lower organizational level.

3. *Delegations.* Under the authority vested in the Director, Bureau of Alcohol, Tobacco and Firearms, by Treasury Department Order No. 221, dated June 6, 1972, and by 26 CFR 301.7701-9, there is hereby delegated to the Assistant Director (Regulatory Enforcement) the authority to take final action on the following matters relating to 27 CFR Part 275, Importation of Cigars, Cigarettes, and Cigarette Paper and Tubes:

a. To prescribe all forms required by regulations, under 27 CFR 275.21.

b. To approve, pursuant to written applications by importers, the use of alternate methods or procedures in lieu of a method or procedure specifically prescribed in regulations, and to require the importer to retain, as part of his records, any approved authorizations, under 27 CFR 275.26.

c. To withdraw authorization of any alternate method or procedure whenever the revenue is jeopardized or the effective administration of the regulations is hindered by the continuation of such authorization, under 27 CFR 275.26.

d. To approve, pursuant to written applications by importers, emergency variations from the methods of operation requirements specified in regulations, and to require the importer to retain, as part of his records, any approved authorizations under 27 CFR 275.27.

e. To withdraw authorization of any variations whenever the revenue is jeopardized or the effective administration of the regulations is hindered by the continuation of such variations, under 27 CFR 275.27.

4. *Redelegation.* a. The authorities in paragraphs 3a, 3c, and 3e above may be redelegated to Regulatory Enforcement personnel in Bureau Headquarters not later than the position of branch chief.

b. The authorities in paragraphs 3b and 3d above may be redelegated to Regulatory Enforcement personnel in Bureau Headquarters not lower than the position of ATF specialist.

c. The authorizations that follow may be redelegated to regional regulatory administrators, who may redelegate the authority to regional Regulatory Enforcement personnel not lower than the position of chief, technical services, or area supervisor:

(1) The authority in paragraph 3b above to approve, without submission to Headquarters, applications for alternate methods or procedures which are identical to those previously approved by Bureau Headquarters.

(2) The authorities in paragraphs 3c, 3d, and 3e above to approve emergency variations and to withdraw approval of alternate methods or procedures or variations. Where an alternate method or procedure or variation is withdrawn, the regional regulatory administrator will notify the Assistant Director (Regulatory Enforcement) of such withdrawal.

Effective date. This order becomes effective on January 3, 1979.

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Signed: January 3, 1979.

JOHN G. KROGMAN,
Acting Director.

[FR Doc. 79-953 Filed 1-10-79; 8:45 am]

[4810-31-M]

[Notice No. 79-8; Reference: ATF O 1100.105]

ASSISTANT DIRECTOR (REGULATORY ENFORCEMENT)

Delegation Order

1. *Purpose.* This order delegates certain authorities, now vested in the Director by regulations in 27 CFR Part 270, to the Assistant Director (Regulatory Enforcement), and permits redelegation to Regulatory Enforcement personnel, Headquarters and field.

2. *Background.* Under current regulations, the Director has authority to take final action on matters relating to the manufacture of cigars and cigarettes, the payment by manufacturers of tobacco products of internal revenue taxes imposed by chapter 52 of the Internal Revenue Code, and the qualification of and operations by manufacturers of tobacco products. It has been administratively determined that certain authorities now vested in the Director by regulations in 27 CFR Part 270, Manufacture of Cigars and Cigarettes, belong at and should be delegated to a lower organizational level.

3. *Delegations.* Under the authority vested in the Director, Bureau of Alcohol, Tobacco and Firearms, by Treasury Department Order No. 221, dated June 6, 1972, and by 26 CFR 301.7701-9, there is hereby delegated to the Assistant Director (Regulatory Enforcement) the authority to take final action on the following matters relating to 27 CFR Part 270, Manufacture of Cigars and Cigarettes:

a. To prescribe all forms required by regulations, under 27 CFR 270.41.

b. To approve, pursuant to written applications by manufacturers of tobacco products, the use of alternate methods or procedures in lieu of a method or procedure specifically prescribed in regulations, and to require the manufacturer to retain, as part of his records, any approved authorizations, under 27 CFR 270.45.

c. To withdraw authorization of any alternate method or procedure whenever the revenue is jeopardized or the effective administration of the regulations is hindered by the continuation of such authorization, under 27 CFR 270.45.

d. To approve, pursuant to written applications by manufacturers, emergency variations from methods of operation requirements specified in regulations, and to require the manufacturer to retain, as part of his records, any approved authorizations, under 27 CFR 270.46.

e. To withdraw authorization of any variations whenever the revenue is jeopardized or the effective administration of the regulations is hindered by the continuation of such variations, under 27 CFR 270.46.

f. To approve, pursuant to written applications, the requests of manufacturers to engage in other businesses within the factory, and to require the manufacturer to retain, as part of his records, any approved authorizations, under 27 CFR 270.47.

g. To approve pursuant to written notice, where cigars or cigarettes are both packaged and removed subject to tax by the same manufacturer at the same or different factories, the use of an alternative mark as the name of the manufacturer; to approve a means to be used to identify on or in the package the factory where packaged; and to return copies of the approved notice to the manufacturer for retention as part of the factory records as each of the factories operated by the manufacturer, under 27 CFR 270.212.

4. *Redelegation.* a. The authorities in paragraphs 3a, 3c, 3e, and 3g above may be redelegated to Regulatory Enforcement personnel in Bureau Headquarters not lower than the position of branch chief.

b. The authorities in paragraph 3b, 3d, and 3f above may be redelegated to Regulatory Enforcement personnel in Bureau Headquarters not lower than the position of ATF specialist.

c. The authorizations that follow may be redelegated to regional regulatory administrators, who may redelegate the authority to regional Regulatory Enforcement personnel not lower than the position of chief, technical services, or area supervisor:

(1) The authorities in paragraphs 3b, 3f, and 3g above to approve, without submission to Headquarters, applications for alternate methods or procedures or applications to engage in other businesses within the factory or notices for the use of alternative marks, which are identical to those previously approved by Bureau Headquarters.

(2) The authorities in paragraphs 3c, 3d, and 3e above to approve emergency variations and to withdraw approval of alternate methods or procedures or variations. Where an alternate method or procedure or variation is withdrawn, the regional regulatory administrator will notify the Assistant Director (Regulatory Enforcement) of such withdrawal.

Effective date. This order becomes effective on January 3, 1979.

Signed: January 3, 1979.

JOHN G. KROGMAN,
Acting Director.

[FR Doc. 79-954 Filed 1-10-79; 8:45 am]

[4810-31-M]

[Notice No. 79-9; Reference: AFT O 1100.106]

ASSISTANT DIRECTOR (REGULATORY ENFORCEMENT)

Delegation Order

1. *Purpose.* This order delegates certain authorities, now vested in the Director by regulations in 27 CFR Part 295, to the Assistant Director (Regulatory Enforcement), and permits redelegation to Regulatory Enforcement personnel, headquarters and field.

2. *Background.* Under current regulations, the Director has authority to take final action on matters relating to the removal of cigars, cigarettes, and cigarette papers and tubes, without payment of tax, for use of the United States. It has been administratively determined that certain authorities now vested in the Director by regulations in 27 CFR Part 295, Removal of Cigars, Cigarettes, and Cigarette Papers and Tubes, Without Payment of Tax, for Use of the United States, belong at and should be delegated to a lower organizational level.

3. *Delegations.* Under the authority vested in the Director, Bureau of Alcohol, Tobacco and Firearms, by Treasury Department Order No. 221, dated June 6, 1972, and by 26 CFR 301.7701-9, there is hereby delegated to the Assistant Director (Regulatory Enforcement) the authority to take final action on the following matters relating to 27 CFR Part 295, Removal of Cigars, Cigarettes, and Cigarette Papers and Tubes, Without Payment of Tax, for Use of the United States.

a. To approve, pursuant to written application by manufacturers, the use of alternate methods or procedures in lieu of a method or procedure specifically prescribed in regulations, and to require the manufacturer to retain, as part of his records, any approved authorizations, under 27 CFR 295.21.

b. To withdraw authorization of any alternate method or procedure whenever the revenue is jeopardized or the effective administration of the regulations is hindered by the continuation of such authorization, under 27 CFR 295.21.

c. To approve, pursuant to written applications by manufacturers, emergency variations from the methods of operation requirements specified in regulations, and to require the manufacturer to retain, as part of his records, any approved authorizations, under 27 CFR 295.22.

d. To withdraw authorization of any variations whenever the revenue is jeopardized or the effective administration of the regulation is hindered by the continuation of such variations, under 27 CFR 295.22.

e. To approve pursuant to written notice, where cigars and cigarettes are both packaged and removed by the same manufacturer at the same or different factories, the use of an alternative mark as the name of the manufacturer; to approve the means to be used to identify on or in the package the factory where packaged; and to return copies of the approved notice to the manufacturer for retention as part of the factory records at each of the factories operated by the manufacturer, under 27 CFR 295.42.

4. *Redelegation.*

a. The authorities in paragraphs 3a and 3c above may be redelegated to Regulatory Enforcement personnel in Bureau Headquarters not lower than the position of ATF specialist.

b. The authorities in paragraphs 3b, 3d, and 3e above may be redelegated to Regulatory Enforcement personnel in Bureau Headquarters not lower than the position of branch chief.

c. The authorizations that follow may be redelegated to regional regulatory administrators, who may redelegate the authority to regional Regulatory Enforcement personnel not lower than the position of chief, technical services, or area supervisor:

(1) The authorities in paragraphs 3a and 3e above to approve, without submission to headquarters, applications for alternate methods or procedures or notices for the use of alternative marks, which are identical to those previously approved by Bureau Headquarters.

(2) The authorities in paragraphs 3b, 3c, and 3d above to approve emergency variations and to withdraw approval of alternate methods or procedures or variations. Where an alternate method or procedure or variation is withdrawn, the regional regulatory administrator will notify the Assistant Director (Regulatory Enforcement) of such withdrawal.

Effective date. This order becomes effective on January 3, 1979.

Signed: January 3, 1979.

JOHN G. KROGMAN,
Acting Director.

[FR Doc. 79-955 Filed 1-10-79; 8:45 am]

[8320-01-M]

VETERANS ADMINISTRATION

QUANTICO NATIONAL CEMETERY, QUANTICO, VA.

Availability of Final Environmental Impact Statement

Notice is hereby given that a document entitled "Final Environmental Impact Statement for the Veterans Administration, Quantico National Cemetery, Quantico, Virginia," dated October 1978, has been prepared as required by the National Environmental Policy Act of 1969.

The proposed 726.58 acre cemetery site located approximately 35-40 miles south of Washington, D.C., is planned in order to accommodate all other than dishonorably discharged veterans and their dependents who can no longer be served at Arlington National Cemetery. Total development will provide an interment yield of approximately 300,000 gravesites designed to be operable by late 1981 and through the year 2012. Burial areas will be composed of conventional in-ground sites, preplaced liners, columbariums and/or mausoleums. Proposed support facilities will include an Administration building, maintenance complex, Memorial Center and lake, and various special interest features. Approximately 300 of the 726± acres will be developed with the remaining acreage left in its natural state.

This final statement discusses the environmental impact of the proposed construction. The document is being placed for public examination in the Veterans Administration Office in Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sitler, Director, Environmental Affairs Office (66), Room 950, Veterans Administration, 1425 K Street NW., Washington, D.C. 20420, Phone 202-389-2526.

Single copies of the Final Statement may be obtained on request to: Director, Environmental Affairs Office (66), Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420.

Dated: January 4, 1979.

By direction of the Administrator.

RUFUS H. WILSON,
Deputy Administrator.

[FR Doc. 79-977 Filed 1-10-79; 8:45 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

[Permanent Authority Decisions Volume No. 62]

PERMANENT AUTHORITY APPLICATIONS

Decision-Notice

Decided: December 26, 1978.

The following applications are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the FEDERAL REGISTER. Failure to file a protect, on or before February 12, 1979, will be considered as a waiver of opposition to the application. A protest under these rules should comply with Rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive

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amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

We Find: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the national transportation policy. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of the Interstate Commece Act and the Commission's regulations. This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the national transportation policy subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of section 10930 (formerly section 210) of the Interstate Commerce Act.

It is ordered: In the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a noncomplying applicant shall stand denied.

By the Commission, Review Board Number 2, Members Boyle, Eaton, and Liberman.

H. G. HOMME, Jr.,
Secretary.

MC 2052 (Sub-15F), filed October 30, 1978. Applicant: BLAIR TRANSFER, INC., 203 South Ninth, Blair, NE 68008. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Road, Omaha, NE 68106. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of Spencer Foods, Inc., at or near Schuyler, NE, to points in FL, GA, NC, and SC. (Hearing site: Omaha, NE.)

NOTE: —The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application under 49 U.S.C.S. 11343(a) (formerly section 5(2) of the Interstate Commerce Act), or submit an affidavit indicating why such approval is unnecessary.

MC 2421 (Sub-17F), filed October 25, 1978. Applicant: NEWTON TRANSPORTATION CO., INC., P.O. Box 678, Lenoir, NC 28645. Representative: Edward G. Villalon, 1032 Pennsylvania Bldg., Pennsylvania Ave. & 13th St., NW, Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *new furniture*, from Lenoi, NC, to points in IL. (Hearing site: Charlotte, NC, or Washington, D.C.)

MC 16903 (Sub-58F), filed November 8, 1978. Applicant: MOON FREIGHT LINES, INC., P.O. Box 1275, Bloomington, IN 47401, Representative: Donald W. Smith, P.O. Box 40659, Indianapolis, IN 46240. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *talc* from points in Windham and Windsor Counties, VT, to those points in the United States in and east of MN, IA, MO, AR, and LA. (Hearing site: Washington, DC.)

MC 25798 (Sub-346F), filed November 13, 1978. Applicant: CLAY HYDER TRUCKING LINES, INC., A North Carolina Corporation, P.O. Box 1186, Auburndale, FL 33823. Representative: Tony G. Russell (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen foods*, from the facilities of Pet, Incorporated, Frozen Foods Division, at (a) Allentown, Chambersburg, Fogelsville, and Waynesboro, PA, and (b) Martinsburg and Ranson, WV, to points in AL, FL, GA, LA, MS, NC, SC, and TN. (Hearing site: St. Louis, MO.)

MC 42261 (Sub-140F), filed October 24, 1978. Applicant: LANGER TRANSPORT CORP., Box 305, Jersey City, NJ 07303. Representative: W. C. Mitchell, 370 Lexington Ave., New York, NY 10017. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *containers*, and containers parts and *accessories*, and (2) *materials and supplies* used in the manufacture, sale, and distribution of the commodities named in (1) above, (except commodities in bulk), between points in the United States in and east of MN, IA, MO, KS, OK, and TX. (Hearing site: New York, NY, or Washington, DC.)

MC 43867 (Sub-44F), filed October 12, 1978. Applicant: A. LEANDER McALISTER TRUCKING COMPANY, a Corporation, P.O. Box 2214, 1610 East Scott St., Wichita Falls, TX 76307. Representative: John T. Wirth, 717-17th St., Suite 2600, Denver, CO 80202. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *asbestos cement pipe, and couplings and fittings* for asbestos cement pipe, and (2) *accessories* used in the installation of the commodities in (1) above, (except commodities in bulk), from the facilities of CertainTeed Corporation, at Hillsboro, TX, to points in the United States (except AK and HI). (Hearing site: Dallas, TX.)

MC 50069 (Sub-537F), filed December 1, 1978. Applicant: REFINERS TRANSPORT & TERMINAL CORPORATION, 445 Earlwood Ave., Oregon, OH 43616. Representative: J. A. Kundtz, 1100 National City Bank Bldg. Cleveland, OH 44114. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *asphalt*, in bulk, in tank vehicles, from Cleveland, OH, to points in AR, FL, KY, IA, LA, KS, ME, MI, MN, MS, MO, NE, NH, NC, ND, OK, SC, SD, TX, VT, VA, WV, AND WI. (Hearing site: Washington, DC.)

NOTE.—Dual operations are involved in this proceeding.

MC 51146 (Sub-652F), filed October 11, 1978. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box, 2298, Green Bay, WI 54306. Representative: Neil A. DuJardin, (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *pet food*, (a)

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between the facilities of Perk Dog Food Company, at or near (i) Camp Hill, PA, and (ii) Kansas City, KS, on the one hand and, on the other, points in the United States (except Alaska and Hawaii), restricted to the transportation of traffic originating at or destined to the named facilities and (b) from the facilities of Doane Products, at or near Manassas, VA, to points in AL, AR, CT, DE, FL, GA, IA, IL, IN, KY, LA, MA, MD, ME, MI, MN, MO, MS, NC, NH, NJ, NY, OH, PA, RI, SC, TN, VA, VT, WI, and WV, and (2) *equipment, materials, and supplies* used in the manufacture and distribution of pet food, (except commodities in bulk), from the destination States in (1)(b) above, to the facilities of Doane Products, at or near Manassas, VA. (Hearing site: Chicago, IL.)

MC 52704 (Sub-186F), filed October 23, 1978, Applicant: GLENN McCLENDON TRUCKING COMPANY, INC., P.O. Drawer "H", LaFayette, AL 36862. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *plastic containers and parts for plastic containers*, from the facilities of Amoco Chemicals Corporation, at or near Monroe, GA, to points in AL, FL, MS, NC, SC, TN, VA, and WV, and (2) *materials, equipment, and suppliers* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), from points in AL, FL, MS, NC, SC, TN, VA, and WV, to the facilities of Amoco Chemicals Corporation, at or near Monroe, GA. (Hearing site: Atlanta, GA.)

MC 56082 (Sub-75F), filed October 30, 1978. Applicant: DAVIS & RANDALL, INC., c/o White Inn Suite 50, Main Street, Fredonia, NY 14063. Representative: Katherine Furness (same as above). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by grocery and food business houses, (except commodities in bulk), from the facilities of Ralston Purina Co., at Dunkirk, NY, to points in OH, those in PA on and west of U.S. Hwy 15, and those in WV on, north and west of a line beginning at the KY-WV State line and extending along U.S. Hwy 60 to junction U.S. Hwy 219, and then along U.S. Hwy 219 to the WV-MD state line. (Hearing site: Buffalo, NY.)

MC 57239 (Sub-42F), filed November 15, 1978. Applicant: RENNER'S EXPRESS, INC., P.O. Box 882, Indianapolis, IN 46206. Representative: Alki E. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN 46204. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving North Vernon, IN, as an off-route point in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Indianapolis, IN, or Chicago, IL)

MC 59531 (Sub-112F), filed October 23, 1978. Applicant: AUTO CONVOY CO., A Limited Partnership, 3020 South Haskell Ave., Dallas, TX 75223. Representative: Eugene C. Ewald, 100 West Long Lake Rd., Suite 102, Bloomfield Hills, MI 48103. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *farm tractors*, between points in TX, OK, AR, LA, and MS. (Hearing site: Dallas, TX).

MC 59668 (Sub-9F), filed November 17, 1978. Applicant: HAROLD G. CLINE, INC., Penns Grove, NJ 08069. Representative: M. Bruce Morgan, 104 Azar Building, Glen Burnie, MD 21061. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by manufacturers and distributors of chemicals, dyes, and motor fuel anti-knock compounds, between the facilities of E. I. duPont de Nemours & Company, at Haines-port and Edison, NJ, on the one hand, and, on the other, points in CT, DE, MD, MA, NY, PA, RI, and VA, under contract with E. I. duPont de Nemours & Company, of Wilmington, DE. (Hearing site: Philadelphia, PA).

MC 61592 (Sub-428F), filed October 30, 1978. Applicant: JENKINS TRUCK LINE, INC., P.O. Box 697, Jeffersonville, IN 47130. Representative: E. A. DeVine, P.O. Box 737, Moline, IL 61265. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *precut log buildings*, knocked down or in sections, and (2) *materials and supplies* used in the manufacture and erection of the commodities in (1) above, (except commodities in bulk), from Plymouth, WI, to points in the United States (except AK and HI). (Hearing site: Chicago, IL, or Milwaukee, WI)

MC 63417 (Sub-177F), filed October 11, 1978. Applicant: BLUE RIDGE TRANSFER CO., INC., P.O. Box 13447, Roanoke, VA 24034. Representative: William E. Bain (Same as above). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *vacuum cleaner parts and attachments, brushes, cleaning compounds, castings, steel rods, and plastic articles*, (a) from Lea, MI, Belleville, Columbus, Green Springs, Fremont, and Marysville, OH, and points in Cuyahoga, Lorain, Medina, and Summit Counties, OH, to the facilities of the Kirby Company, at Andrews, TX, and (b) from the facilities of the Kirby Company, at Andrews, TX, to Orlando, FL. (Hearing site: Roanoke, VA, or Washington, DC)

MC 78228 (Sub-99F), filed December 1, 1978. Applicant: J MILLER EXPRESS, INC., An Ohio Corporation, 962 Greentree Road, Pittsburgh, PA 15220. Representative: Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, PA 15219. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, by motor vehicle over irregular routes, transporting *coke*, in bulk, in dump vehicles, from Ashland, KY, to points in IL, IN, MI, NY, NC, OH, PA, TN, VA, and WV. (Hearing site: Washington, DC, or Pittsburgh, PA).

MC 83539 (Sub-512F), filed December 4, 1978. Applicant: C & H TRANSPORTATION CO., INC., P.O. Box 270535, Dallas, TX 75227. Representative: Thomas E. James (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *cooling towers*, and *parts and accessories* for cooling towers, from the facilities of BAC Pritchard, Inc., at Merced, CA, to points in the United States (except AK and HI). (Hearing site: San Francisco, CA, or Dallas, TX)

MC 85934 (Sub-83F), filed October 19, 1978. Applicant: MICHIGAN TRANSPORTATION CO., a corporation, 3601 Wyoming Street, P.O. Box 248, Dearborn, MI 48120. Representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *coal tar and coal tar products*, in bulk, in tank vehicles, from Detroit, MI, to points in IL, IN, NJ, NY, OH, PA, and WI. (Hearing site: Chicago, IL, or Washington, DC)

MC 87103 (Sub-26F), filed November 6, 1978. Applicant: MILLER TRANSFER & RIGGING COMPANY, a corporation, P.O. Box 6077, Akron, OH 44312. Representative: Edward P. Bocko (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *air compressors, drilling equipment, and parts, accessories, and attachments* for air compressors and drilling equipment, and (2) *equipment,*

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materials, and supplies used in the manufacture and distribution of the commodities named in (1) above (except commodities in bulk), between Franklin, PA, on the one hand, and, on the other, points, in the United States (except AK and HI). (Hearing site: Columbus, OH, or Washington, DC)

NOTE. Dual operations are involved.

MC 94393 (Sub-9F), filed November 9, 1978. Applicant: W. J. CASEY TRUCKING & RIGGING CO., INC., 1200 Springfield Road, Union, NJ 07083. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *power plant equipment*, and (2) *materials, equipment*, and *supplies* used in the manufacture, installation, and sale of power plant equipment (except commodities in bulk), between New York, NY on the one hand, and, on the other points in the United States (except AK and HI), restricted to the transportation of the traffic having an immediately prior or subsequent movement by water. (Hearing site: New York, NY, or Washington, DC)

MC 99653 (Sub-10F), filed November 13, 1978. Applicant: VICTORY FREIGHT LINES, INC., P.O. Box 2254, Birmingham, AL 35201. Representative: Roland L. Stichweh, 727 Frank Nelson Building, Birmingham, AL 35203. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *cast iron pipe and hydrants, and valves, couplings, gaskets, and fittings* for cast iron pipe and hydrants, from the facilities of (1) United States Pipe & Foundry Co., and (2) McWane Cast Iron Pipe Company, at or near Birmingham, AL, to points in AR. (Hearing site: Birmingham, AL)

MC 99969 (Sub-3F), filed November 27, 1978. Applicant: HUNTLEY TRUCKING COMPANY, a corporation, Route 1, New Plymouth, OH 45654. Representative: A. Charles Teli, 100 E. Broad Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *coal, in bulk*, in dump vehicles, from points in Athens, Gallia, Hocking, Jackson, Lawrence, and Vinton Counties, OH, to West Columbia and Clifton, WV, and points in Gallia County, OH, (2) *general commodities (except groceries and hardware)*, between Haydenville, OH, on the one hand, and, on the other, points in OH, (3) *unfinished lumber*, between points in Vinton County, OH, on the one hand, and, on the other, points in OH, and (4) *coal, clay, and clay products*, between Haydenville, OH, and those points in Hocking County, OH, on and east of a line beginning at the Fairfield-Hocking County line and extending along OH Hwy 664 to junction OH Hwy 56 and then along OH Hwy 56 to the Hocking-Vinton County line, on the one hand, and, on the other, points in OH. CONDITIONS: (1) Prior to coincidental cancellation, at applicant's written request, of its certificate of registration in MC 99969 (Sub-No. 1), issued October 2, 1978. (2) To the extent the certificate to be issued here authorizes transportation of classes A and B explosives in (2) above, it shall be limited in point of time to a period expiring 5 years from the date of issuance of the certificate. (Hearing site: Columbus, OH)

MC 105457 (Sub-94F), filed October 10, 1978. Applicant: THURSTON MOTOR LINES, INC., 600 Johnston Road, Charlotte, NC 28206. Representative: John V. Luckadoo (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *asbestos cement pipe, and couplings and fittings for asbestos cement pipe* and (2) *accessories* used in the installation of the commodities in (1) above, from the facilities of CertainTeed Corporation, at Ambler, PA, to points in AL, CT, DE, FL, GA, IL, IN, KY, ME, MD, MA, MI, MS, NH, NJ, NY, NC, OH, RI, SC, TN, VT, VA, WV, and DC. (Hearing site: Washington, DC, or Philadelphia, PA)

MC 106603 (Sub-191F), filed November 13, 1978. Applicant: DIRECT TRANSIT LINES, INC., 200 Colrain Street, SW, Grand Rapids, MI 49508. Representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *building materials, and* (2) *materials, equipment, and supplies* used in the manfacture, installation, and distribution of building materials, between the facilities of Georgia-Pacific Corporation, Gypsum Division, in Bucks County, PA, on the one hand, and, on the other, points in DE, IL, IN, KY, MD, MI, NJ, NY, OH, VA, WV, and WI. (Hearing site: Washington, DC, or Chicago, IL.)

NOTE—Dual operations may be involved.

MC 106674 (Sub-346F), filed October 23, 1978. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Representative: Jerry L. Johnson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *plasterboard joint systems,* and *materials and supplies* used in the installation and distribution of plasterboard joint systems, (except commodities in bulk), (a) from the facilities of the Georgia Pacific Corporation, at or near Marietta, GA, to points in CT, DE, IL, IN, KY, ME, MD, MA, MI, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, and DC, and (b) from the facilities of the Georgia Pacific Corporation, at or near Akron, NY, to points in IL, IN, MI, OH, and PA, and (2) *materials and supplies* used in the manufacture and distribution of plasterboard joint systems, from points in CT, DE, IL, IN, KY, ME, MD, MA, MI, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, and DC, to the facilities of the Georgia Pacific Corporation, at or near (a) Marietta, GA, and (b) Akron, NY. (Hearing site: Chicago, IL, or Indianapolis, IN.)

MC 106674 (Sub-347F), filed October 23, 1978. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Representative: Jerry L. H Johnson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plastic pipe*, from the facilities of Johns-Manville Sales Corporation, at or near Jackson, TN, to points in CT, DE, MA, MD, NJ, NY, RI, and DC. (Hearing site: Chicago, IL, or Indianapolis, IN.)

MC 107403 (Sub-1138F), filed November 13, 1978. Applicant: MATLACK, INC., Ten West Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *dry fertilizer*, in bulk, in tank vehicles, from Lake Providence, LA, to points in AR and MS, and those points in TX on, north, and east of a line beginning at the NM-TX State line extending along Interstate Hwy 10 to junction Interstate Hwy 20, then along Interstate Hwy 20 to junction Interstate Hwy 35W, then south along Interstate Hwy 35W to junction Interstate Hwy 35, and then along Interstate Hwy 35 to the international boundary line between the United States and Mexico. CONDITION: Pursuant to the Decision in MC 107403 (Sub-1101F), served October 19, 1978, this proceeding is being held open until such time as a determination of applicant's fitness has been made in MC 107403 (Sub-1101F). (Hearing site: Washington, DC.)

MC 107527 (Sub-60F), filed October 16, 1978. Applicant: POST TRANSPORTATION COMPANY, A Corporation, 1970 E. 213 St., Carson, CA 90745. Representative: John C. Allen (same address as applicant). To operate as a *contract carrier*, by motor vehicle, in

interstate or foreign commerce, over irregular routes, transporting *hydrofluosilicic acid*, in bulk, in tank vehicles, from Salt Lake City, UT, to points in CA, under contract with Stauffer Chemical Company, of San Francisco, CA. (Hearing site: Los Angeles, CA, or Salt Lake City, UT.)

MC 108119 (Sub-108F), filed November 24, 1978. Applicant: E. L. MURPHY TRUCKING COMPANY, a Corporation, P.O. Box 43010, St. Paul, MN 55164. Representative: Andrew R. Clark, 1000 First National Bank Bldg., Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *tubing*, from East Troy, WI, to points in the United States (except AK and HI). (Hearing site: Milwaukee, WI or Chicago, IL.)

MC 108119 (Sub-109F), filed November 30, 1978. Applicant: E. L. MURPHY TRUCKING COMPANY, a Corporation, P.O. Box 43010, St. Paul, MN 55164. Representative: Robert Gisvold, 1000 First National Bank Bldg., Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lumber, lumber products, wood, and wood products*, from points in ID, MT, OR, and WA, to points in IL, IN, IA, KY, MI, MN, ND, OH, SD, and WI. (Hearing site: Spokane or Seattle, WA.)

MC 108119 (Sub-110F), filed December 1, 1978. Applicant: E. L. MURPHY TRUCKING COMPANY, a Corporation, P.O. Box 43010, St. Paul, MN 55164. Representative: Andrew R. Clark, 1000 First National Bank Bldg., Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel buildings, knocked-down*, between points in San Joaquin County, CA, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: San Francisco or Los Angeles, CA.)

MC 109124 (Sub-54F), filed October 22, 1978. Applicant: SENTLE TRUCKING CORPORATION, P.O. Box 7850, Toledo, OH 43619. Representative: James M. Burtch, 100 East Broad Street, Suite 1800, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting: *materials used in the installation of wallboard*, from the facilities of Rapid Supply, a Division of Grand Rapids Gypsum, Inc., at Cleveland, OH, to points in IL, IN, and MI. (Hearing site: Columbus, OH.)

MC 109692 (Sub-75F), filed October 26, 1978. Applicant: GRAIN BELT TRANSPORTATION COMPANY, a Corporation, Route 13, Kansas City, MO 64161. Representative: Warren H. Sapp, P.O. Box 16047, Kansas City, MO 64112. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, (1) from the facilities of Norfolk Iron and Metal Company at or near Norfolk, NE, to points in CO, IL, IN, IA, KS, MN, MO, OK, TX, and WI, and (2) from Chicago, IL, St. Louis, MO, Minneapolis, MN, and Houston, TX, to the facilities of Norfolk Iron and Metal Company, at or near Norfolk, NE. (Hearing site: Omaha, NE, or Kansas City, MO.)

MC 110563 (Sub-251F), filed November 8, 1978. Applicant: COLDWAY FOOD EXPRESS, INC., P.O. Box 747, State Route 29 North, Sidney, OH 45365. Representative: Gerald K. Gimmel, Suite 145, 4 Professional Drive, Gaithersburg, MD 20760. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs*, (except in bulk), from New York, NY, to points in CO, IL, IN, IA, KY, MI, MO, MN, NE, OH, and WI. (Hearing site: New York, NY.)

MC 111397 (Sub-124F), filed October 16, 1978. Applicant: DAVIS TRANSPORT, INC., 1345 South 4th St., Paducah, KY 42001. Representative: H. S. Melton, Jr., P.O. Box 1407, Paducah, KY 42001. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *clay*, from points in Graves County, KY, and Weakly County, TN, to points in IL, IN, KY, OH, and PA. (Hearing site: Louisville, KY, or Washington, DC.)

MC 111397 (Sub-125F), filed October 16, 1978. Applicant: DAVIS TRANSPORT, INC., 1345 South 4th Street, Paducah, KY 42001. Representative: H. S. Melton, Jr., P.O. Box 1407, Paducah, KY 42001. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *uranium hexafluoride*, from the facilities of Allied Chemical Corporation, at Metropolis, IL, to the facilities of the United States Department of Energy, in McCracken County, KY. (Hearing site: St. Louis, MO, or Washington, DC.) Condition: The certificate to be issued in this proceeding shall be limited in point of time to a period expiring 5 years from its date of issue.

MC 111397 (Sub-126F), filed October 16, 1978. Applicant: DAVIS TRANSPORT, INC., 1345 South 4th Street, Paducah, KY 42001. Representative: H. S. Melton, Jr., P.O. Box 1407, Paducah, KY 42001. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *granulated slag*, from the facilities of H. B. Reed Company, at Memphis, TN, to points in IL, IN, MI, OH, PA, and WV. (Hearing site: Chicago IL, or Washington, DC.)

MC 111812 (Sub-599F), filed October 30, 1978. Applicant: MIDWEST COAST TRANSPORT, INC., a Minnesota corporation, P.O. Box 1233, Sioux Falls, SD 57101. Representative: Ralph H. Jinks (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen foods*, and *materials and supplies* used in the manufacture and distribution of frozen foods, (except commodities in bulk), between the facilities of The Pillsbury Company, at or near Murfreesboro and Nashville, TN, on the one hand, and, on the other, points in the United States (except TN, AK, and HI), restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: Minneapolis, MN.)

MC 113106 (Sub-63F), filed October 18, 1978. Applicant: THE BLUE DIAMOND COMPANY, a corporation, 4401 East Fairmount Ave., Baltimore, MD 21224. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 15th Street, NW., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plastic containers*, and *materials, equipment, and supplies* used in the manufacture and sale of plastic containers (except commodities in bulk), between the facilities of Hoover Universal, Inc., Beverage Bottle Division, at or near New Castle, DE, on the one hand, and, on the other, points in CT, MD, NJ, NY, PA, VA, WV, and DC. (Hearing site: Washington, DC.)

MC 113362 (Sub-339F), filed October 31, 1978. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, IA 50533. Representative: Milton D. Adams, 1105½ Eighth Avenue NE., P.O. Box 429, Austin, MN 55912. To operate as a *common carrier*, by motor vehicle, in intertate or foreign commerce, over irregular routes, transporting *canned and preserved foodstuffs*, (except commodities in bulk), from the facilities of Heinz U.S.A., Division of H. J. Heinz Co., at or near Pittsburgh, PA, to points in KS, MN, MO, and WI, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 113434 (Sub-118F), filed October 20, 1978. Applicant: GRA-BELL TRUCK LINE, INC., 679 Lincoln Avenue, Holland, MI 49423. Representative: Wilhelmina Boersma, 1600

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First Federal Building, Detroit, MI 48226. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *canned and preserved foodstuffs*, (except commodities in bulk), (1) from the facilities of Heinz U.S.A., Division of H.J. Heinz Co., at or near Pittsburgh, PA, to points in IL, IN, KY, and MI, those points in WV on and south of U.S. Hwy 50 (except Clarksburg), and those points on OH in, south, and west of a line beginning at the IN-OH State line and extending along Interstate Hwy 70 to junction Interstate Hwy 77, and then along Interstate Hwy 77 to the Ohio River, and (2) from the facilities of Heinz U.S.A., Division of H. J. Heinz Co., at Holland, MI, to those points in PA on and west of U.S. Hwy 220, and those points in NY on and west of Interstate Hwy 81, restricted in (1) and (2) to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 113855 (Sub-457F), filed November 30, 1978. Applicant: INTERNATIONAL TRANSPORT, INC., a North Dakota corporation, 2450 Marion Road SE., Rochester, MN 55901. Representative: Alan Foss, 502 First National Bank Bldg., Fargo, ND 58102. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *pre-cut log buildings*, and (2) *materials and supplies* used in the construction and erection of the commodities in (1) above, from points in Lyon County, NV, to points in the United States in and west of MN, IA, NE, CO, and NM (including AK, but excluding HI). (Hearing site: Reno, NV, or San Francisco, CA.)

MC 115654 (Sub-115F), filed October 23, 1978. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 23193, Nashville, TN 37202. Representative: Henry E. Seaton, 929 Pennsylvania Building, 13th and Pennsylvania Avenue, NW., Washington, D.C. 20004. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen foods*, and *materials and supplies* used in the manufacture and distribution of frozen foods, (except commodities in bulk), between the facilities of The Pillsbury Company, at or near Murfreesboro and Nashville, TN, on the one hand, and, on the other, points in AL, AR, FL, GA, IL, IN, KY, LA, MI, MO, MS, NC, OH, SC, VA, and WI, restricted to the transportation of traffic originating at or destined to the facilities of The Pillsbury Company at or near Murfreesboro and Nashville, TN. (Hearing site: Fridley, MN, or Nashville, TN.)

NOTE.—In view of the findings in No. MC-115654 (Sub. No. 43) of which official notice is taken, the certificate to be issued here will be limited to a period expiring 3 years from its effective date unless, prior to its expiration (but not less than 6 months prior to its expiration) applicant files a petition for the extension of said certificate and demonstrates that it has been conducting operations in full compliance with the terms and conditions of its certificate and with the requirements of the Interstate Commerce Act and the Commission's regulations.

MC 115654 (Sub-116F), filed October 23, 1978. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 23193, Nashville, TN 37202. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 13th and Pennsylvania Ave., N.W., Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of Standard Brands, Inc., at or near Birmingham, AL, to points in AL, AR, FL, GA, KY, LA, MS, and TN, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: New York, NY, or Nashville, TN.)

NOTE.—In view of the findings in No. MC-115654 (Sub-No. 43) of which official notice is taken, the certificate to be issued here will be limited to a period expiring 3 years from its effective date unless, prior to its expiration (but not less than 6 months prior to its expiration) applicant fiel files a petition for the extension of said certificate and demonstrates that it has been conducting operations in full compliance with the terms and conditions of its cetificate and with the requirements of the Interstate Commerce Act and the Commission's regulations.

MC 115826 (Sub-356F), filed October 18, 1978. Applicant: W. J. DIGBY, INC., A Nevada corporation, 6015 East 58th Ave., Commerce City, CO 80022. Representative: Howard Gore (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs*, in vehicles equipped with mechanical refrigeration, from Kansas City, KS, to points in AL, AR, AZ, CT, FL, GA, KY, LA, MA, MD, ME, MS, NC, NH, NJ, NM, NY, OK, PA, RI, SC, TN, TX, VA, VT, and WV. (Hearing site: Denver, CO.)

MC 115931 (Sub-72F), filed October 25, 1978. Applicant: BEE LINE TRANSPORTATION, INC., P.O. Box 3987, Missoula, MT 59801. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58102. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *building materials, pipe, and insulation board, and* (2) *fittings and materials* used in the installation of plastic pipe, from the facilities of (a) Johns-Manville Sales corp., at or near (i) Wilton, IA, and (ii) Waukegan, IL, and (b) Johns-Manville Perlite Corp., at or near Rockdale, IL, to points in CA, ID, MN, MT, ND, OR, SD, UT, WA, and WY. (Hearing site: Chicago, IL.)

MC 115931 (Sub-73F), filed October 25, 1978. Applicant: BEE LINE TRANSPORTATION, INC., P.O. Box 3987, Missoula, MT 59801. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58102. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *solar furnace collector and storage systems*, and (2) *parts and attachments* used in the installation and operation of the commodities named in (1) above, and (3) *materials, equipment, and supplies* used in the manufacture of the commodities named in (1) and (2) above, between the facilities of R.C. solar Company, at or near Richardton, ND, on the one hand, and, on the other, points in the United States (including AK, but excluding HI). (Hearing site: Fargo, ND.)

MC 116763 (Sub-454F), filed November 7, 1978. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Representative: H. M. Richters (same address as Applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *such commodities* as are dealt in or used by manufacturers, converters, and printers of paper and paper products, (except commodities in bulk), between the facilities of Kimberly-Clark Corporation, in Calhoun County, MI, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Washington, DC.)

MC 117119 (Sub-707F), filed December 1, 1978. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of MBPXL Corporation, at or near Dodge City, KS, to points in CA, CT, DE, ID, IL, IN, KY, MD, MA, MI, MN, NV, NY, OH, OR, PA, TN, UT, WA, and WI, restricted to the transportation of traffic originating at the named origin facilities. (Hearing site: Kansas City, MO.)

MC 117574 (Sub-320F), filed October 19, 1978. Applicant: DAILY EXPRESS, INC., P.O. Box 39, 1076 Harrisburg Pike, Carlisle, PA 17013. Representative: James W. Hagar, P.O. Box 1166, 100 Pine Street, Harrisburg, PA 17108. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *aluminum articles, and materials, equipment, and supplies* used in the manufacture of aluminum articles, (except in bulk, in tank vehicles), between the facilities of Alumax, Inc., in Berkeley County, SC, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Washington, DC.)

MC 117786 (Sub-36F), filed October 18, 1978. Applicant: RILEY WHITTLE, INC., A Kentucky corporation, P.O. Box 19038, Phoenix, AZ 85005. Representative: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, AZ 85014. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *room fresheners and cleaning compounds*, from Chicago, IL, and Columbus, OH, to points in CA, OR, and WA. (Hearing site: Phoenix, AZ.)

MC 118142 (Sub-190F), filed October 27, 1978. Applicant: M. BRUENGER & CO., INC., 6250 North Broadway, Wichita, KS 67219. Representative: Brad T. Murphree, 814 Century Plaza Building, Wichita, KS 67202. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen foods*, and *materials and supplies* used in the manufacture and distribution of frozen foods (except commodities in bulk), between the facilities of The Pillsbury Company, at or near Murfreesboro and Nashville, TN, on the one hand, and, on the other, points in AL, GA, FL, NC, SC, MS, LA, and VA, restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing Site: Minneapolis, MN, or Nashville, TN.)

MC 118159 (Sub-300F), filed November 28, 1978. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., a Louisiana Corporation, P.O. Box 51366 Dawson Station, Tulsa, OK 74151. Representative: Warren L. Troupe, 2480 E. Commercial Blvd., Fort Lauderdale, FL 33308. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except in bulk), from South Hackensack and Jersey City, NJ, to points in AL, FL, GA, NC, SC, and TN. (Hearing site: Atlanta, GA.)

MC 118202 (Sub-95F), filed October 30, 1978. Applicant: SCHULTZ TRANSIT, INC., P.O. Box 406, Winona, MN 55987. Representative: Robert S. Lee, 1000 First National Bank Bldg., Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plastic containers*, between Winona, MN, on the one hand, and, on the other, points in CO, IL, IN, IA, KS, KY, MD, MA, MI, MO, NJ, NY, ND, PA, SC, SD, and WI. (Hearing site: Minneapolis, MN.)

MC 119493 (Sub-244F), filed November 7, 1978. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, MO 64801. Representative: Lawrence F. Kloeppel (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by grocery and food business houses, between Clinton and Davenport, IA, on the one hand, and on the other, points in IN, MI, and OH. (Hearing site: St. Louis or Kansas City, MO.)

MC 119632 (Sub-82F), filed October 24, 1978. Applicant: REED LINES, INC., 634 Ralston Avenue, Defiance, OH 43512. Representative: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *canned and preserved foodstuffs*, (1) from Pittsburgh, PA, to points in IL, IN, KY, MI, those in WV on and south of U.S. Hwy 50 (except Clarksburg), and those in OH on, south, and west of line beginning at the IN-OH State line and extending along Interstate Hwy 70 to junction Interstate Hwy 77, and then along Interstate Hwy 77 to the Ohio River, and (2) from Holland, MI, to those points in PA on and west of U.S. Hwy 220, restricted in (1) and (2) to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Pittsburgh, PA, or Columbus, OH.)

MC 119702 (Sub-66F), filed October 30, 1978. Applicant: STAHLY CARTAGE, CO., a Delaware corporation, 119 S. Main Street, Edwardsville, IL 62025. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, NW, Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *liquid fertilizer*, in bulk, in tank vehicles, from Bourbon and Watseka, IL, to points in IN. (Hearing site: Houston, TX, or Washington, DC.)

MC 121626 (Sub-8F), filed October 13, 1978. Applicant: BAYVIEW TRUCKING, INC., 7080 Florin-Perkins Rd., Sacremento, CA 95828. Representative: Ann M. Pougiales, 100 Bush St., 21st Floor, San Francisco, CA 94104. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *such commodities* as are dealt in by grocery and food business houses, in vehicles equipped with mechanical refrigeration, and (2) *commodities* which are otherwise exempt from economic regulation under 49 U.S.C. § 10526(a)(6) [formerly section 203(b)(6) of the Interstate Commerce Act], when transported in mixed loads with the commodities in (1) above, in vehicles equipped with mechanical refrigeration, from the facilities of (a) Kendall Foods, Inc., Division of Standard Brands, Inc., at Los Angeles, CA, (b) Servicecraft Warehouse, Inc., at Buena Park, CA, (c) Fleischman's Manufacturing, Division of Standard Brands, Inc., at Oakland, CA, (d) Standard Brands, Inc., Modesto Distribution Center, and Merchants Refrigeration, Inc., at Modesto, CA, (e) Nu-Laid, Inc., at Ripon, CA, (f) Pinata Warehouse & Manufacturing, Inc., Division of Standard Brands, at Richmond, CA, and (g) Topmost Foods, Division of Pinata Warehouse & Manufacturing, Inc., at Anaheim, CA, to points in AZ. (Hearing site: San Francisco, CA.)

MC 121626 (Sub-9F), filed October 16, 1978. Applicant: BAYVIEW TRUCKING, INC., 7080 Florin-Perkins Rd., Sacremento, CA 95828. Representative: Ann M. Pougiales, 100 Bush St., 21st Floor, San Francisco, CA 94104. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *such commodities* as are dealt in by grocery and food business houses, in vehicles equipped with mechanical refrigeration, and (2) *commodities* which are otherwise exempt from economic regulation under 49 U.S.C. § 10526(a)(6) [formerly section 203(b)(6) of the Interstate Commerce Act], when transported in mixed loads with the commodities in (1) above, in vehicles equipped with mechanical refrigeration, from the facilities of (a) Campbell Soup Company, Swanson Division, at Modesto, CA, (b) Fleischman's Manufacturing, Division of Standard Brands, Inc., at Oakland, CA, (c) Standard Brands, Inc., Modesto Distribution Center, and Merchants Refrigeration, Inc., at Modesto, CA, (d) Nu-Laid, Inc., at Ripon, CA, and (e) Pinata Warehouse & Manufacturing, Inc., Division of Standard Brands, Inc., at Richmond, CA, to points in OR. (Hearing site: San Francisco, CA.)

MC 123023 (Sub-9F), filed November 9, 1978. Applicant: DIPETRO TRUCKING CO., a corporation, 2201 6th Avenue South, Seattle, WA 98134.

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Represenative: George H. Hart, 1100 IBM Building, Seattle, WA 98101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *wine and malt beverages*, from Fairfield and Los Angeles, CA, and points in Los Angeles, Madera, Napa, San Francisco, Sonoma, Santa Clara, and San Joaquin Counties, CA, to points in Snohomish, Skagit, and Whatcom Counties, WA. (Hearing site: Seattle, WA)

NOTE.—Dual operations are involved.

MC 123023 (Sub-10F), filed November 13, 1978. Applicant: DIPIETRO TRUCKING COMPANY, a corporation, 2201 Sixth Avenue South, Seattle, WA 98134. Representative: George H. Hart, 1100 IBM Building, Seattle, WA 98010. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *bananas*, from Long Beach, San Pedro, Los Angeles, and Wilmington, CA, to points in WA. (Hearing site: Seattle, WA.)

NOTE.—Dual operations are involved.

MC 123361 (Sub-7F), filed October 25, 1978. Applicant: CANTWELL MOTOR SERVICE, INC., 1718 Pontiac Rd. East St. Louis, IL 62208. Representative: Melvin J. Brendel (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs*, (1) from St. Louis, MO, to points in OH, KY, IN, IA, IL, and MO, and (2) from Indianapolis, IN, to points in KY, IL, and MO. (Hearing site: St. Louis, MO, or Springfield, IL.)

MC 123778 (Sub-44F), filed December 4, 1978. Applicant: JALT CORP. d/b/a, UNITED NEWSPAPER DELIVERY SERVICE, INC., 802 Raritan Center, Edison, NJ 08817. Representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, NY 10048. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *magazines and books*, from Edison, NJ, to Wilmington, DE, points in CT and NJ, those in NY on and east of NY Hwy 14, those in MD and PA on and east of US Hwy 15, and DC, under contract with printing houses, publishing houses, or newsdealers. CONDITION: Prior or coincidental cancellation, at applicant's written request, of duplicating portions of Permit No. MC-123778 and No. MC-123778 (Sub-Nos. 19, 21, and 23). (Hearing site: New York, NY).

MC 124692 (Sub-247F), filed October 30, 1978. Applicant: SAMMONS TRUCKING, a corporation, P.O. Box 4347, Missoula, MT 59806. Representative: J. David Douglas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from the facilities of Jones & Laughlin Steel Corp., at Hammond, IN, to Muscatine, IA, restricted to the transportation of traffic originating at the named origin facilities. (Hearing site: Chicago, IL.)

MC 124692 (Sub-248F), filed October 31, 1978. Applicant: SAMMONS TRUCKING, a corporation, P.O. Box 4347, Missoula, MT 59806. Representative: J. David Douglas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *fence posts*, from McMinnville, OR, to points in AZ, CO, ID, KS, MT, NE, NV, ND, SD, UT, WA, and WY. (Hearing site: Portland, OR.)

MC 124835 (Sub-12F), filed November 6, 1978. Applicant: PRODUCERS TRANSPORT CO., a corporation, P.O. Box 4022, Chattanooga, TN 37405. Representative: Charles T. Williams (same as above). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *cement*, in bulk, in tank vehicles, from the facilities of Missouri Portland Cement Co., and Dundee Cement Co., at or near Nashville, TN, to points in KY. CONDITION: Issuance of a certificate in this proceeding is subject to the prior or coincidental cancellation, at the written joint request of applicant and its affiliate, Liquid Transporters, Inc., of the latter's Certificate MC 112617 (Sub-225). (Hearing site: Chattanooga or Nashville, TN.)

MC 125708 (Sub-155F), filed November 28, 1978. Applicant: THUNDERBIRD MOTOR FREIGHT LINES, INC., 425 W. 152nd Street, East Chicago, IN 46312. Representative: Anthony C. Vance, 1307 Dolley Madison Blvd., McLean, VA 22101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *scrap iron, scrap steel, and scrap non-ferrous metals*, from the facilities of David J. Joseph Co., at Baldwin, Indiantown, and Tampa, FL, to points in AL, AR, CT, DE, GA, IL, IN, IA, KY, KS, LA, MD, MA, MI, MN, MS, MO, NJ, NY, NC, OH, OK, PA, SC, TN, TX, VA, WV, and WI, restricted to the transportation of traffic originating at the named origin facilities. (Hearing site: Cincinnati, OH.)

MC 128246 (Sub-33F), filed October 18, 1978. Applicant: SOUTHWEST TRUCK SERVICE, a corporation, P.O. Box A. D., Watsonville, CA 95076. Representative: William F. King, Suite 400, Overlook Bldg., 6121 Lincolnia Rd., Alexandria, VA 22312. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs*, (except commodities in bulk), from the facilities of American Home Foods, Division of American Home Products Corp., at or near Vacaville, CA, to points in AZ, NM, OK, and TX, under contract with American Home Foods, Division of American Home Products Corp., of New York, NY. (Hearing site: Washington, DC.)

MC 128246 (Sub-34F), filed October 18, 1978. Applicant: SOUTHWEST TRUCK SERVICE, a corporation, P.O. Box A. D., Watsonville, CA 95076. Representative: William F. King, Suite 400, Overlook Bldg., 6121 Lincolnia Rd., Alexandria, VA 22312. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen fruits, frozen vegetables, and frozen berries*, (1) between points in CA, on the one hand, and, on the other, points in WA, and (2) from Ogden, UT, and points in CA and WA, to points in IA, IL, KS, MN, MO, NE, and WI, under contract with John Inglis Frozen Foods Co., of Modesto, CA. (Hearing site: Modesto, CA.)

MC 128543 (Sub-13F), filed November 9, 1978. Applicant: CRESCO LINES, INC., 13900 South Keeler Avenue, Crestwood, IL 60445. Representative: Allan C. Zuckerman, 39 South LaSalle Street, Chicago, IL 60603. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *fire sprinkler systems, pipe, valves, sprinkler heads*, and *pipe hangers*, and (2) *materials, equipment*, and *supplies* used in the manufacture, installation, and distribution of fire sprinkler systems, between those points in the United States in and east of ND, SD, NE, KS, OK, and TX, under contract with Grinnell Fire Protection Systems Company, Inc., of Providence, RI. (Hearing site: Chicago, IL.)

MC 129032 (Sub-62F), filed October 30, 1978. Applicant: TOM INMAN TRUCKING, INC., 6015 So. 49th West Avenue, Tulsa, OK 74107. Representative: David R. Worthington (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *confectionery* (except in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of E. J. Brach & Sons, at or near Chicago, IL, to points in TX and OK, restricted to the transportation of traffic originating at the named origin facilities. (Hearing site: Chicago, IL, or St. Louis, MO.)

MC 129032 (Sub-63F), filed October 30, 1978. Applicant: TOM INMAN TRUCKING, INC., 6015 So. 49th West Avenue, Tulsa, OK 74107. Representative: David R. Worthington (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by grocery and food business houses, (except commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, from the facilities of Kraft, Inc., at (a) Champaign, IL, (B) New Ulm, MN, and (c) Wausau, IL, to points in CA, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Chicago, IL. or Oklahoma City, OK.)

MC 133119 (Sub-147F), filed November 6, 1978. Applicant: HEYL TRUCK LINES, INC. P.O. Box 206, Akron, IA 51001. Representative: A. J. Swanson, P. O. Box 81849, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of MBPXL Corporation, at or near Dodge City, KS, to points in the United States (except AK, CT, DE, HI, KS, ME, MD, MA, NH, NJ, NY, PA, RI, and VT), restricted to the transportation of traffic originating at the named origin. (Hearing site: Wichita, KS, or Omaha, NE.)

MC 133591 (Sub-52F), filed October 23, 1978. Applicant: WAYNE DANIEL TRUCK, INC., P.O. Box 303, Mount Vernon, MO 65712. Representative: Harry Ross, 58 South Main St., Winchester, KY 40391. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except meats, meat products and meat by-products, frozen foods, and commodities in bulk), from the facilities of Sunmark, Inc., at or near St. Louis, MO, to points in CT, DE, FL, GA, IL, MD, MA, NJ, NY, OH, PA, RI, NC, SC, VA, and DC. (Hearing site: St. Louis, MO, or Washington, DC.)

NOTE: Dual operations are involved.

MC 134134 (Sub-31), filed October 20, 1978. Applicant: Mainliner Motor Express, Inc., a Delaware corporation, 4202 Dahlman Avenue, Omaha, NE. Representative: James F. Crosby, P.O. Box 37205, Omaha, NE 68137. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *synthetic fiber* and *synthetic fiber waste*, from points in CT and MA to the facilities of Koenig & Sons, Inc., at or near Trenton, NJ; and (2) *plastic materials*, (a) from the facilities of Koenig & Sons, at or near Trenton, NJ, to Houston, TX, and Grand Island, NE, and to points in CT, MA, MI, and OH, and (b) from points in OH to points in MI. (Hearing site: New York, NY,)

MC 134286 (Sub-84F), filed October 18, 1978. Applicant: ILLINI EXPRESS, INC., a Nebraska corporation, P.O. Box 1564, Sioux City, IA 51102. Representative: Charles J. Kimball, 350 Capitol Life Center, 1600 Sherman St., Denver, CO 80203. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *boots, shoes, and handbags*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, (except commodities in bulk), between points in MA, NH, NJ, and NY, on the one hand, and, on the other, points in AR, IL, MO, and TN. (Hearing site: St. Louis, MO, or Sioux City, IA.)

NOTE: The person or persons who appear to be engaged in common control between applicant and another regulated carrier must either file an application under 49 U.S.C. 11343(a) (formerly Section 5(2) of the Interstate Commerce Act), or submit an affidavit indicating why such approval is unnecessary.

MC 134477 (Sub-278F), filed October 13, 1978. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting cleaning compounds, polishing compounds, textile softener, lubricants, hypochlorite solution, deodorants, disinfectants, paints, stains, varnishes, plastic bags, and filters*, (except commodities in bulk), from the facilities of Economics Laboratory, Inc., at or near Garland, TX, to Denver, CO, Joliet, IL, and Wichita and Kansas City, KS, restricted to the transportation of traffic originating at the named origin and destined to the named destinations. (Hearing site: St. Paul, MN.)

MC 134477 (Sub-279F), filed October 13, 1978. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *confectionery products*, (except commodities in bulk), from the facilities of Pearson Candy Company, at or near St. Paul, MN, to Atlanta, GA, Chicago, IL, and Dallas, TX, and points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, WV, and DC. (Hearing site: St. Paul, MN.)

MC 134599 (Sub-168F), filed December 4, 1978. Applicant: INTERSTATE CONTRACT CARRIER CORP., a Delaware corporation, P.O. Box 30303, Salt Lake City, UT 84125. Representative: Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *aquariums, aquarium accessories, and household pet cages, and* (2) *supplies and equipment* used in the installation and maintenance of the commodities in (1) above, (except commodities in bulk and those which because of size or weight require the use of special equipment), from the facilities of Mattel, Inc., at Compton, CA, to points in NV, under continuing contract(s) with Metaframe Corporation, of Elmwood Park, NJ. (Hearing site: Lincoln NE, or Salt Lake City, UT.)

NOTE: Dual operations are involved in this proceeding.

MC 134724 (Sub-7F), filed October 23, 1978. Applicant: BIG RIG REFRIGERATION, INC., 6465 South 86th Street, Omaha, NE 68127. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Road, Omaha, NE 68106. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the facilities of Palamera Beef Corp., at Omaha, NE, to points in CT, MD, MA, NJ, NY, PA, RI, VA, WV, and DC. (Hearing site: Omaha, NE.)

MC 135518 (Sub-11F), filed November 22, 1978. Applicant: WESTERN CARRIERS, INC., 2100 Alaskan Way, Seattle, WA 98121. Representative: George R. LaBissoniere, 1100 Norton Building, Seattle, WA 98104. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except in bulk), in vehicles equipped with mechanical refrigeration, from Turlock, Modesto, Gustine, and Stockton, CA, and those points in CA in and south of Santa Cruz, San Benito, Fresno, Madera, and Inyo Counties, CA, to points in OR and WA. (Hearing site: Los Angeles, CA.)

MC 135609 (Sub-5F), filed November 20, 1978. Applicant: FRED W. MOHOLLAND, P.O. Box 98, Princeton,

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ME 04668. Representative: Frederick T. McGonagle, 36 Main St., Gorham, ME 04038. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *paper and paper products*, from Lincoln, ME, to points in AL, DE, FL, GA, IL, IN, KY, MD, MI, MS, NJ, NC, OH, SC, TN, VA, WV, WI, and DC, under contract with Lincoln Pulp & Paper Co., Inc., of Lincoln, ME. (Hearing site: Bangor or Portland, ME.)

MC 135639 (Sub-10F), filed November 22, 1978. Applicant: QUEENSWAY, INC., 196 N. Keyser Ave., Old Forge, PA 18518. Representative: John W. Frame, Box 626, Camp Hill, PA 17011. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *glass containers*, from the facilities of Metropak Containers, at Washington, PA, to points in CT, IL, IN, ME, MA, NH, NY, OH, RI, and VT, restricted to the transportation of traffic originating at the named origin facilities. (Hearing site: Harrisburg, PA.)

MC 135867 (Sub-5F), filed September 22, 1978. Applicant: H.T.L., INC., P.O. Box 122, Fairfield, AL 35064. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (*1*) (*a*) *pipe, fittings, valves, fire hydrants, and castings, and* (*b*) *materials and supplies* used in the installation of the commodities in (1) (a) above, from the facilities of the American Cast Iron Pipe Company, at Birmingham, AL, to those points in the United States in and east of ND, SD, WY, CO, and NM; and (*2*) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk, in tank vehicles), from the destination points in (1) above, to the origin facilities in (1) above, in (1) and (2) above; all of the service in (1) and (2) above to be performed under contract with American Cast Iron Pipe Company, of Birmingham, AL. (Hearing site: Birmingham, AL, and Atlanta, GA.)

NOTE.—Dual operations are involved in this proceeding.

MC 136168 (Sub-28F), filed December 5, 1978. Applicant: WILSON CERTIFIED EXPRESS, INC., a Delaware corporation, P.O. Box 3326, Des Moines, IA 50316. Representative: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, NE 68106. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meat, meat products and meat by-products, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), (1) from the facilities of Wilson Foods Corporation, at Monmouth, IL, to points in CT, DE, ME, MA, MD, NH, NJ, NY, PA, RI, VT, VA, WV, and DC, and (2) from the facilities of Wilson Foods Corporation, at Cedar Rapids and Des Moines, IA, to points in CO; all of the operations in (1) and (2) above to be performed under contract with Wilson Foods Corporation, of Oklahoma City, OK. (Hearing site: Oklahoma City, OK.)

NOTE.—Dual operations are involved in this proceeding.

MC 136343 (Sub-153F), filed November 7, 1978. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 355, Milton, PA 17847. Representative: Herbert R. Nurick, P.O. Box 1166, Harrisburg, PA 17108. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by manufacturers, converters, and printers of paper and paper products, (except commodities in bulk), between the facilities of Kimberly-Clark Corporation, in Emmett Township, (Calhoun County), MI, on the one hand, and, on the other, points in the United States (except AK, HI, and MI). (Hearing site: Detroit or Lansing, MI.)

MC 138313 (Sub-45F), filed November 9, 1978. Applicant: BUILDERS TRANSPORT, INC., 409 14th Street S.W., Great Falls, MT 59404. Representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lumber, millwork*, and *wood products*, from points in OR, WA, ID, and MT, to points in ND, SD, WY, and UT. (Hearing site: Portland, OR, or Washington, DC.)

MC 138345 (Sub-10F), filed November 29, 1978. Applicant: BASIL B. GORDON, d/b/a VALLEY SPREADER COMPANY, 260 N. Ninth Street, Brawley, CA 92227. Representative: R. Y. Schureman, 1545 Wilshire Boulevard., Los Angeles, CA 90017. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *liquid chemicals*, from the Port of Entry on the International Boundary line, between the United States and the Republic of Mexico, at Calexico, CA, to points in Los Angeles, San Joaquin, and Contra Costa Counties, CA. (Hearing site: Los Angeles, CA.)

MC 138875 (Sub-117F), filed November 6, 1978. Applicant: SHOEMAKER TRUCKING COMPANY, a corporation, 11900 Franklin Road, Bosie, ID 83705. Representative: F. L. Sigloh (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *wines*, (except in bulk), in vehicles equipped with mechanical refrigeration, from Chicago, IL, to points in WA, restricted to the transportation or traffic originating at the named origin. (Hearing site: Seattle WA, or Portland, OR.)

MC 138882 (Sub-172F), filed October 30, 1978. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: James W. Segrest (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *wheat flour* (except in bulk and tank vehicles), from the facilities of Con Agra Corp., at Chester, IL, to points in AL, AR, IN, IA, KS, KY, LA, MS, MO, NE, OH, OK, TN, TX, FL, SC, NC, and GA. (Hearing site: St. Louis, MO, or Montgomery, AL.)

MC 139299 (Sub-3F), filed November 29, 1978. Applicant: UNRUH GRAIN, INC., P.O. Box 95, Copeland, KS 67837. Representative: Clyde N. Christey, Kansas Credit Union Bldg.—Suite 110L, 1010 Tyler, Topeka, KS 66612. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *alfalfa pellets*, from Great Bend and Sublette, KS, to points in OK and TX, and (2) from Mullinville, KS, to points in AR, OK, and TX. (Hearing site: Kansas City, MO.)

MC 139378 (Sub-3F), filed December 1, 1978. Applicant: LLOYD C. BUSBEE, P.O. Box 6344, Mobile, AL 36606. Representative: Jack H. Blanshan, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts*, and *articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of Wilson Foods Corporation, at Des Moines and Cedar Rapids, IA, to points in AL, LA, and MS, restricted to the transportation of traffic originating at the named origin facilities and destined to the named destinations. (Hearing site: Oklahoma City, OK, or Chicago, IL.)

MC 139495 (Sub-391F), filed September 27, 1978. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *petroleum, petroleum products, and gasoline additives*, in containers, and (2) *such commodities* as are dealt in by distributors of petroleum products, in mixed loads with the commodities in (1) above, from the facilities of Texaco, Inc., in Jefferson County, TX, to points in IL, IA, KS, KY, MI, MO, NE, OH, OK, and WI. (Hearing site: Washington, DC.)

MC 139495 (Sub-393F), filed October 20, 1978. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *canned goods, and pet foods*, (1) from points in Los Angeles, Orange, Riverside, San Bernardino, and San Diego Counties, CA, to points in the United States in and east of MN, IA, NE, KS, OK, and NM, and (2) from San Diego, CA, to points in ID, OR, and WA. (Hearing site: Los Angeles, or San Diego, CA.)

MC 139934 (Sub-4F), filed October 20, 1978. Applicant: ALL SOUTHERN TRUCKING, INC., 1909 East Hemlock Avenue, P.O. Box 2698, Tampa, FL 33601. Representative: M. Craig Massey, 202 East Walnut Street, P.O. Drawer J, Lakeland, FL 33802. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, and commodities requiring special equipment), having an immediately prior or subsequent movement by water or rail, (1) between points in FL, (2) between Jacksonville, FL, on the one hand, and, on the other, points in AL and GA, (3) between Savannah, GA, on the one hand, and, on the other, points in FL and GA, and (4) between Mobile, AL, on the one hand, and, on the other, points in AL, GA, and FL. (Hearing site: Tampa, FL.)

MC 140389 (Sub-41F), filed November 27, 1978. Applicant: OSBORN TRANSPORTATION, INC., P.O. Box 1830, Gadsden, AL 35902. Representative: Clayton R. Byrd, P.O. Box 12566, Atlanta, GA 30315. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, from the facilities of Kraft, Inc., at or near Lakeland, FL, to points in AL, GA, KY, LA, MS, NC, SC, TN, and VA. (Hearing site: Tampa, FL, or Atlanta, GA.)

MC 141804 (Sub-142F), filed October 10, 1978. Applicant: WESTERN EXPRESS, DIVISION, of Interstate Rental, Inc., a Nevada corporation, P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *synthetic staple fiber, synthetic fiber yarn, and synthetic plastics*, from Irmo and Columbia, SC, Bermuda Hundred, VA, and Milledgeville, GA, to points in CA, and NV. (Hearing site: Los Angeles or San Francisco, CA.)

MC142288 (Sub-5F), filed November 28, 1978. Applicant: HAMILTON TRUCKING CO. OF OKLAHOMA, INC., 12612 E. Admiral Place, Tulsa, OK 74115. Representative: J. David Geiger (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *dry granulated fertlizer*, from Catoosa, OK, to points in AR, CO, KS, MO, and TX. (Hearing site: Tulsa, OK, or Oklahoma City, OK.)

MC 143059 (Sub-34F), filed November 27, 1978. Applicant: MERCER TRANSPORTATION CO., a Texas Corporation, P.O. Box 35610, Louisville, KY 40232. Representative: J. L. Stone (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from the facilities of Northwestern Steel and Wire Co., at or near Sterling and Rock Falls, IL, to points in AL, AR, GA, IN, IA, KS, KY, LA, MI, MN, MS, MO, NE, ND, OH, OK, SD, TN, TX, and WI, restricted to the transportation of traffic originating at the named origins. (Hearing site: Louisville, KY, or Washington, DC.)

MC 143059 (Sub-36F), filed November 29, 1978. Applicant: MERCER TRANSPORTATION CO. a Texas Corporation, P.O. Box 35610 Louisville, KY 40232. Representative: J. L. Stone (same address as appplicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *cross ties, switch ties, lumber piling and posts*, between points in IL, IN, IA, KY, MI, MO, TN, and WI. (Hearings site: Louisville, KY, or Washington, DC.)

MC 143183 (Sub-5F), filed November 9, 1978. Applicant: L. M. ROACH d/b/a D & L TRUCKING COMPANY, P.O. Box 1741, 145 Sampson Road, Wilmington, NC 28401. Representative: Ralph McDonald, P.O. Box 2246, Raleigh, NC 27602. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *salt*, in bulk, from the facilities of Carolina Salt Company, at or near Wilmington, NC, to points in GA, SC, TN, and VA. (Hearing site: Wilmington or Raleigh, NC.)

MC 143959 (Sub-2F), filed November 27, 1978. Applicant: S & S TRANSFER & STORAGE, a Corporation, doing business as ALL-PRO DISTRIBUTION, 3501 E. 11th Ave. Hialeah, FL 33013. Representative: John P. Bond, 2766 Douglas Rd., Miami, FL 33133. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment, motor vehicles, cement, and commodities in vehicles equipped with mechanical refrigeration), between points in Dade, Broward, and Palm Beach Counties, FL, restricted to the transportation of traffic having a prior or subsequent movement by rail. (Hearing site: Miami, FL.)

MC 144122 (Sub-31F), filed October 30, 1978. Applicant: CARRETTA TRUCKING, INC., South 160, route 17 North, Paramus, NJ 07652. Representative: Charles J. Williams, 1815 Front Street, Scotch Plains, NJ 07076. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs*, (except commodities in bulk), from points in CA, ID, OR, and WA, to points in MD, MA, NJ, and NY, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: New York, NY.)

NOTE—Dual operations are involved in this proceeding.

MC 144188 (Sub-1F), filed December 5, 1978. Applicant: P. L. LAWTON, INC., P.O. Box 325, Berwick, PA 18603. Representative: John M. Musselman, P.O. Box 1146, 410 North Third Street, Harrisburg, PA 17108. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (*1*) *aluminum articles* (except commodities in bulk, in tank vehicles), and (*2*) *materials, equipment, and supplies* used in the manufacture of aluminum articles (except commodities in bulk, in tank vehicles), between the facilities of Alumax, Inc., in Berkeley County, SC, on the one hand, and, on the other, points in the United States

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(except AK and HI). (Hearing site: Washington, DC.)

NOTE.—Dual operations are involved in this proceeding.

MC 144503 (Sub-4F), filed November 9, 1978. Applicant: ADAMS REFRIGERATED EXPRESS, INC., P.O. Box F, Forest Park, GA 30050. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, GA 30349. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the *Report In Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of Farmland Foods, Inc., at or near (a) Denison, Iowa Falls, Carroll, Sioux City, Fort Dodge, and Des Moines, IA, and (b) Crete, Omaha, and Lincoln, NE, to points in AL, FL, GA, KY, LA, MS, NC, SC, and TN, restricted to the transportation of traffic originating at the named origin facilities and destined to the named destinations. (Hearing site: Atlanta, GA, or Des Moines, IA.)

MC 144614 (Sub-2F), filed August 29, 1978. Applicant: CHARLES L. WOHLERT, d/b/a LATAH TRANSPORTATION, P.O. Box 8897 (Route 3, Box 211), Moscow, ID 83843. Representative: Michael D. Duppenthaler, 607 3rd Ave., 515 Lyon Bldg., Seattle, WA 98104. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *malt beverages and wines* (except commodities in bulk, in tank vehicles), from points in CA and WA to Moscow, ID, and Pullman and Clarkston, WA, under contract with (1) Latah Distributors, Incorporated, of Moscow, ID, (2) Silverstri Distributing Company, of Clarkston, WA, and (3) Dantini Distributors, of Pullman, WA. (Hearing site: Spokane, WA.)

MC 144789 (Sub-1F), filed November 28, 1978. Applicant: SUZANNE V. KING, d.b.a. ERNIE'S MOBILE HOME TRANSPORT, 5779 Feather River Blvd., Marysville, CA 95901. Representative: Marvin Handler, 100 Pine St., Suite 2550, San Francisco, CA 94111. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *trailers* designed to be drawn by passenger automobiles, between points in AZ, CA, CO, ID, MT, NV, NM, OR, TX, UT, WA, and WY. (Hearing site: San Francisco or Los Angeles, CA.)

MC 144828 (Sub-2F), filed December 5, 1978. Applicant: FEPCO TRUCKING, INC., 3458 Moreland Avenue, Conley, GA 30027. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *fibreboard, paperboard, or pulpboard containers* (except corrugated), between the facilities of Mead Packaging, Division of The Mead Corporation, in Cobb and Fulton Counties, GA, on the one hand, and, on the other, points in FL, under contract with The Mead Corporation, of Dayton, OH. (Hearing site: Atlanta, GA.)

MC 144866 (Sub-1F), filed September 14, 1978. Applicant: ENGINEERS TRANSPORT, INC., 1300 West Center Street, Orem, UT 84057. Representative: Macoy A. McMurray, 800 Beneficial Life Tower, 36 South State Street, Salt Lake City, UT 84111. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (*1*) *metals and metal articles, and* (*2*) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) above, between the facilities of Western Springfield Corporation and Klemp Corporation, at Orem, UT, on the one hand, and, on the other, points in the United States (except AK and HI), under contract with (a) Western Springfield Corporation of Orem, UT, and (b) Klemp Corporation, of Chicago, IL. (Hearing site: Salt Lake City, UT, or Boise, ID.)

MC 145152 (Sub-19F), filed October 27, 1978. Applicant: BIG THREE TRANSPORTATION, INC., Post Office Box 706, Springdale, AR 72764. Representative: Don Garrison, 324 North Second Street, Rogers, AR 72756. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *canned goods*, from Napoleon, OH, to Paris, TX, Camden, NJ, and Chicago, IL, and points in IN, KY, NC, NY, PA, SC, and WV. (Hearing site: Toledo, OH, or Fayetteville, AR.)

MC 145152 (Sub-20F), filed October 30, 1978. Applicant: BIG THREE TRANSPORTATION, INC., P.O. Box 706, Springdale, AR 72764. Representative: Don Garrison, 324 North Second Street, Rogers, AR 72756. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *confectionery*, from the facilities of Queen Anne Candy Company, Inc., at or near Hammond, IN, to points in AZ, CA, CO, NM, and TX. (Hearing site: Hammond, IN, or Fayetteville, AR.)

MC 145242 (Sub-4F), filed October 30, 1978. Applicant: CASE HEAVY HAULING, INC., P.O. Box 267, Warren, OH 44482. Representative: Michael Spurlock, 275 East State Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *zinc alloy ingots and aluminum ingots*, from the facilities of (a) Aluminum Smelting and Refining Co., Inc., and (b) Certified Alloys Co., at Maple Heights, OH, to points in KY, TN, GA, NC, SC, and AL. (Hearing site: Columbus, OH.)

MC 145339 (Sub-3F), filed December 4, 1978. Applicant: NEBRASKA BEEF EXPRESS, INC., 5521 S. 91st St., Omaha, NE 68127. Representative: Kenneth P. Weiner, 408 Executive Bldg., Omaha, NE 68102. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat by-products and articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Omaha, NE, Geneseo, IL, and points in IA, to points in FL, GA, IL, IN, IA, KS, MI, MN, MO, NC, SC, TN, TX, and WI. CONDITION: Prior or coincidental cancellation, at applicant's written request, of its Permit in MC 134114 (Sub-No. 1), issued February 27, 1978, and dismissal of its pending contract carrier application in MC 134114 (Sub-No. 8). (Hearing site: Omaha, NE.)

MC 145441 (Sub-1F), filed October 23, 1978. Applicant: A. C. B. TRUCKING, INC., I-40 and Protho Junction, P.O. Box 5130, North Little Rock, AR 72119. Representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, TX 75201. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except in bulk,) *plastic articles*, and *rubber articles*, from Altavista, VA, Columbus, OH, and Sturgis, MI, to points in AZ, CA, FL, ID, LA, NV, OK, OR, TX, UT, and WA. (Hearing site: Dallas, TX.)

NOTE.—Dual operations are involved in this proceeding.

MC 145507F, filed October 10, 1978. Applicant: TRUCKING SERVICES, INC., 26400 Van Born Road, Dearborn Heights, MI 48123. Representative: Edwin M. Snyder, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lumber, particle board, and composition board*, from Ashtabula and Toledo, OH, and from ports of entry on the International Boundary line between the United States and Canada, at Detroit and Sault Ste. Marie, MI, and Buffalo, NY, to points in GA, IL, IN, KY, MI, MN, OH, PA, TN, and WI. (Hearing site: Chicago, IL, or Washington, DC.)

NOTE.—Dual operations are involved in this proceeding.

MC 145546 (Sub-1F), filed October 9, 1978. Applicant: ELDARADO TRUCK LINES, INC., P.O. Box 1109, Cartersville, GA 30120. Representative: Francis L. Ford (same address as applicant). To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *floor coverings*, from Cartersville, Calhoun, and Dalton, GA, to Little Rock, AR, Miami, FL, Oklahoma City, OK, and Dallas, Fort Worth, and Houston, TX, under contract with Eldarado Carpet Mills, Inc., of Cartersville, GA. (Hearing site: Atlanta, GA.)

MC 145574 (Sub-1f), filed October 20, 1978. Applicant: RUSS'S MOTOR SERVICE, INC., 5070 Lake Street, Melrose Park, IL 60160. Representative: Albert A. Andrin, 180 North LaSalle Street, Chicago, IL 60601. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* having a prior or subsequent movement by rail or water, between Chicago, IL, on the one hand, and, on the other, points in IL, IN, IA, MI, and WI. RESTRICTION: The extent the certificate to be issued in this proceeding authorizes the transportation of classes A and B explosives, it shall expire 5 years from date of issuance. (Hearing site: Washington, DC, or Chicago, IL.)

MC 145631F, filed October 23, 1978. Applicant: KNOWLES TRANSPORT, INC., 4215 Thurman Road, Conley, GA 30027. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *canned and preserved foodstuffs*, from the facilities of Heinz U.S.A., Division of H. J. Heinz Co., at or near Pittsburgh, PA, to points in AL, GA, and SC, restricted to the transportation of traffic originating at the named origin facilities and destined to the named destinations. (Hearing site: Atlanta, GA.)

NOTE.—Dual operations are involved in this proceeding.

MC 145642F, filed October 26, 1978. Applicant: GENE INMAN, d.b.a. GENE INMAN TRUCKING, RFD 1, Box 148-A, Whiteville, NC 28472. Representative: F. Kent Burns, P.O. Box 1406, Raleigh, NC 27602. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *wood residuals*, between points in NC, SC, and VA. (Hearing site: Raleigh or Whiteville, NC.)

MC 145769F, filed November 13, 1978. Applicant: R.P.C. TRANSPORTATION CO., INC., 465 Central Ave., Rochester, NY 14605. Representative: William J. Hirsch, 43 Court St. Suite 1125, Buffalo, NY 14202. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *paperboard products* and (2) *materials, equipment and supplies* used in the manufacture of paperboard products, from the facilities of Rendoll Paper Corp., at Rochester, NY, to points in AL, CT, DE, FL, GA, IL, IN, KY, ME, MD, MA, MI, MN, MS, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, and WI, under contract with Rendoll Paper Corp., of Rochester, NY. (Hearing site: Buffalo, NY.)

PASSENGER AUTHORITY

MC 145153 (Sub-2F), filed October 16, 1978. Applicant: DOUBLE-DEKKER, INC., P.O. Box 5390, Baltimore, MD 21209. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th Street, Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *passengers and their baggage*, in the same vehicle with passengers, in round trip charter and special operations, beginning and ending at Baltimore, MD, and Washington, DC, and extending to points in VA, WV, PA, MD, DE, NJ, NY, and DC. (Hearing site: Baltimore, MD.)

BROKER AUTHORITY

MC 130510F, filed June 28, 1978. Applicant: ANTHONY ATTARDO, d.b.a. ALL SEASONS TRAVEL, 229 East 8th Street, Wyoming, PA 18644. Representative: Patrick E. Dougherty, 700 United Penn Bank Building, Wilkes Barre, PA 18701. To engage in operations, in interstate or foreign commerce, as a *broker*, at Wyoming, PA, in arranging for the transportation, by motor vehicle, of *passengers and their baggage*, in round-trip special and charter operations, beginning and ending at points in Luzerne County, PA, and extending to points in the United States (except AK and HI). (Hearing site: Philadelphia, PA.)

NOTE.—Applicant is cautioned that arrangements for charter parties or groups should be made in conformity with the requirements set forth in *Tauck Tours, Inc., Extention—New York, NY*, 54 M.C.C. 291 (1952).

[FR Doc. 79-876 Filed 1-10-79; 8:45 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

[Volume No. 1]

PETITIONS, APPLICATIONS, FINANCE MATTERS (INCLUDING TEMPORARY AUTHORITIES), ALTERNATE ROUTE DEVIATIONS, AND INTRASTATE APPLICATIONS

JANUARY 3, 1979.

REPUBLICATIONS OF GRANTS OF OPERATING RIGHTS AUTHORITY PRIOR TO CERTIFICATION

NOTICE

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the FEDERAL REGISTER.

An orginal and one copy of a petition for leave to intervene in the proceding must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such pleading shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

MC 29910 (Sub-174) (Republication), filed January 21, 1977, published in the FEDERAL REGISTER issue of March 10, 1977, and republished this issue. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South 11th Street, Fort Smith, AR 72901. Representative: Don A. Smith, P.O. Box 43, 510 N. Greenwood Ave., Fort Smith, AR 72902. A Decision of the Commission, Division 2, decided August 3, 1978, and served August 11, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of *Prefabricated buildings, equipment, supplies, and building materials* (except limestone, limestone products, and commodities in bulk), between the plantsite of Arkansas Log Homes, Inc., located in Polk County, AR, on the one hand, and, on the other, points in that part of the United States in and east of CO, MT, NM, and WY, that applicant is fit,

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willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate applicant's actual grant of authority.

MC 120028 (Sub-12) (Republication), filed January 31, 1978, published in the FEDERAL REGISTER issue of April 6, 1978, as New York Docket No. T-1318, and republished this issue. Applicant: CRAW CARTING, INC., 160 Despatch Drive, P.O. Box 267, East Rochester, NY 14445. Representative: Herbert M. Canter, 305 Montgomery Street, Syracuse, NY 13202. A Decision of the Commission, Review Board Number 4, decided October 24, 1978, and served October 31, 1978, finds that applicant may conduct operations in interstate or foreign commerce within limits which do not exceed the scope of the intrastate operations for which applicant holds Certificate No. 3099, embraced in the order dated September 26, 1978, issued by the New York State Department of Transportation, which authorizes operations as a *common carrier*, by motor vehicle, solely within the State of New York in the transportation of *General commodities*, as defined in Section 800.1 of Title 17 of the Official Compilation of Codes, *Rules and Regulations of the State of New York:* Between all points in a territory comprised of the Counties of Erie, Genesee, Livingston, Monroe, Niagara, Ontario, Orleans, Wayne, Wyoming, the City of Syracuse and the Towns of Sterling (Cayuga County) and Hannibal (Oswego County), and the Villages of Baldwinsville (Onondage County) and Cato and Meridian (Cayuga County). The applicant is authorized to unitize this authority with its present authority to provide service to, from and between all points under the combined authorities. The purpose of this republication is to reflect applicant's actual grant of authority.

MC 126118 (Sub-67F) (Republication), filed Feburary 23, 1978, published in the FEDERAL REGISTER issue of April 6, 1978, and republished this issue. Applicant: CRETE CARRIER CORP., P.O. Box 81228, Lincoln, NE 68501. Representative: Duane W. Acklie (same address as applicant). A Decision of the Commission, Review Board Number 1, decided December 4, 1978, and served December 14, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of (1) *Nuts;* and (2) *agricultural commodities* otherwise exempt from economic regulations under 49 U.S.C. § 10526(a)(6) (formerly section 203(b)(6) of the Interstate Commerce Act), when transported in mixed loads with nuts, from points in CA, to points in CO, TX, WA, and OR, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to modify the commodity description, and add OR as destination point.

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

NOTICE

The following applications are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the FEDERAL REGISTER. Failure to seasonably file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with Section 247(e)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected.

The original and one copy fo the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. All pleadings and documents must clearly specify the "F" suffix where the docket is so identified in this notice. If the protest includes a request for oral hearing, such request shall meet the requirements of Section 247(e)(4) of the Special rules, and shall include the certification required therein.

Section 247(f) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request dismissal thereof, and that failure to prosecute an application under procedures ordered by the Commission will result in dismissal of the application.

Further processing steps will be by Commission decision which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the* FEDERAL REGISTER *of a notice that the proceeding has been assigned for oral hearing.*

Each applicant states that approval of its application will not significantly affect the quality of the human environment nor involve a major regulatory action under the Energy Policy and Conservation Act of 1975.

MC 35320 (Sub-157F) (correction), filed August 9, 1978, previously noticed in the FEDERAL REGISTER issue of October 26, 1978, and republished as corrected this issue. Applicant: T.I.M.E.-DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, commodities in bulk, commodities requiring special equipment and household goods as defined by the commission), (1) between San Antonio and Laredo, TX: From San Antonio, TX over Interstate Hwy 35, to Laredo, TX and return over the same route, serving all intermediate points, (2) between junction Interstate Hwy 35 and U.S. Hwy 57 and Eagle Pass, TX: From Junction Interstate Hwy 35 and U.S. Hwy 57 over U.S. Hwy 57 to Junction U.S. Hwy 277, then over U.S. Hwy 277 to Eagle Pass, TX and return over the same route, serving all intermediate points, (3) between Eagle Pass, TX and Junction Interstate Hwy 35 and U.S. Hwy 83: From Eagle Pass, TX over U.S. Hwy 277 to Junction U.S. Hwy 83, then over U.S. Hwy 83 to Junction Interstate Hwy 35 and return over the same route, serving all intermediate points, (4) between San Antonio, TX and Junction U.S. Hwys 57 and 83 at or near La Pryor, TX: From San Antonio, TX over U.S. Hwy 90 to Junction U.S. Hwy 83, then over U.S. Hwy 83 to Junction U.S. Hwy 57 at or near La Pryor and return over the same route, serving all intermediate points, (5) between San Antonio, TX and Oklahoma City, OK: From Antonio, TX over Interstate Hwy 35 to Oklahoma City, OK and return over the same route, serving no intermediate points, as an alternate route for operating convenience only; and (6) between San Antonio, TX and Memphis, TN: From San Antonio, TX over Interstate Hwy 35 to Junction Interstate Hwy 35E, then over Interstate Hwy 35E to Junction Interstate Hwy 30, then over Interstate Hwy 30 to Junction Interstate Hwy 40, then over Interstate Hwy 40 to Memphis, TN and return over the same route, serving no intermediate points, as an alternate route for operating convenience only. (Hearing: To be designated at a later time.)

NOTE.—The purpose of this republication is to indicate service at intermediate points and to include certain alternate routes.

MC 144467F, filed March 30, 1978. Applicant: INDOTEL, S.A., A Mexican Corporation, Tecate, Baja California, Mexico. Representative: Fred H. Mackensen, 9454 Wilshire Blvd., Suite 400, Beverly Hills, CA 90212. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *passengers and their baggage* in the same vehicle with passengers, between the port of entry on the International Boundary line between the United States and the Republic of Mexico at or near Potrero, CA, on the one hand, and, on the other, the San Diego, CA, Commercial Zone, restricted to transportation involving a prior or subsequent movement in foreign commerce. (Hearing site: San Diego, CA.)

NOTE.—Applicant has filed a motion to dismiss the request because it falls within the exemption of Section 10526(a)(3) (formerly Section 203(b)(3)) of the Interstate Commerce Act. Applicant states that it provides management services in a hotel facility and employs the requested services to facilitate the convenience of arriving and departing hotel guests without compensation or credit extension.

FINANCE APPLICATIONS

NOTICE

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, of rail carriers or motor carriers prusuant to Sections 11343 (formerly Section 5(2)) or 11349 (formerly Section 210a(b)) of the Interstate Commerce Act.

An orginal and one copy of protests against the granting of the requested authority must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protest shall comply with Special Rules 240(c) or 240(d) of the Commission's *General Rules of Practice* (49 CFR 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant, if no representative is named.

Each applicant states that approval of its application will not significantly affect the quality of the human environment nor involve a major regulatory action under the Energy Policy and Conversation Act of 1975.

MC-F-13850F. Authority sought for purchase by BADGER LINES, INC., a Wisconsin corporation, 3109 W. Lisbon Ave., Milwaukee, WI, 53208, of a portion of the operating rights of THE STOUT TRUCKING CO., INC., an Illinois corporaton, P.O. Box 177, Urbana, IL, 61801. Applicants' attorney: William C. Dineen, Suite 412, Empire Bldg., 710 N. Plankinton Ave., Milwaukee, WI, 53203. Operating rights sought to be transferred: That portion of MC-128030 (Sub-75) which authorizes transportation of *malt beverages*, in containers from St. Louis, MO, to Chicago, South Holland, and Ingleside, IL; and that portion of MC-128030 (Sub-79) which authorizes transportation of *malt beverages* from; 1) Columbus, OH to Waukegan, IL, 2) St. Louis, MO to Waukegan, IL. The applicant purchaser is authorized to operate pursuant to permits in docket No. MC-29990 and various subs as a contract carrier of malt beverages between specified points in IA, IL, MO, OH, and WI. Application has not been filed for temporary authority under section 210a(b).

MC-F-13851F. Authority sought for control by JOSEPH ELETTO TRANSFER, INC., 33 West Hawthorne Avenue, Valley Stream, NY 11580, of Venetian Trucking Corp., 66 Wolf Avenue, Malverne, NY 11565, and for control by Joseph Eletto, 33 West Hawthorne Ave., Valley Stream, NY 11580 through operations under common management and control. Applicant's attorney: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Operating rights sought to be controlled over irregular routes: new furniture from New York, NY to points in NJ and CT, used furniture and returned new furniture from points in NY and CT to New York, NY under contract with Gimbel Brothers, Inc., as a contract carrier in Permit MC-139211. Vendee is authorized to operate as a contract carrier of department store and related merchandise in NY, NJ, CT, PA, MA, MD, MI IL, MO, AZ, GA, FL, TX, RI, VT, and NH as more specifically described in Permit MC-125506 and subs thereto. The transaction will result in both carriers being operated under management and control in a common interest through the use of personnel, facilities, equipment, management, and ownership. Approval of the transaction will not result in (a) dual operations (b) duplicating authority except as to furniture. Application has not been filed for temporary authority under Section 11349.

MC-F-13852F. Authority sought for control by ODRIC GREGORY, P.O. Box 888, Gallatin, TN., 37066 of TENNESSEE TEXAS EXPRESS, INC., 915 Visco Drive, Nashville, TN., 37210, and for acquisition by ODRIC GREGORY, P.O. Box 888 Gallatin, TN., 37066, of TENNESSEE TEXAS EXPRESS, INC., 915 Visco Drive, Nashville, TN., 37210, of control of such rights through the transaction, Applicants' attorney: Walter Harwood, P.O. Box 15214, Nashville, TN., 37215. Operating rights sought to be controlled: MC-145461 (Pending) General commodities, with exceptions as a common carrier (1) between Nashville, TN and Houston, TX: from Nashville via I-40 to Little Rock, AR, thence via I-30 to Dallas, TX, then via I-45 to Houston, TX, and return over the same route, serving the intermediate points of Memphis, TN, Dallas and Ft. Worth, TX, and serving the junction of I-30 and US Hwy 259 at or near Bassett, TX, for purposes of joinder only; (2) between Houston TX, and the junction of US Hwy 259 and I-30 at or near Bassett, TX, and return over the same route, serving Lufkin and Longview, TX, as intermediate points, and serving the junction of US Hwy 259 and I-30 for purpose of joinder only. RESTRICTION: Service at Memphis, TN and points in its commercial zone is restricted against the handling of traffic which originates at, is destined to, or interlined at Nashville, TN, and points in its commercial zone. ODRIC GREGORY has no authority from this Commission. However, he is the President and a director of Gallatin-Portland Freight Lines, Inc., a Tennessee corporation, which operates as a common carrier by motor vehicle pursuant to authority issued it in MC-120727, and subs, and is authorized to operate within the states of TN, KY, and AL. Application has not been filed for temporary authority under section 210a(b).

MC-F-13854F. Authority sought by REYNOLDS MERGER CORP., World Headquarters Building, Reynolds Boulevard, Winston-Salem, NC 27102, to acquire the capital stock of Distribution Systems, Inc., P.O. Box 2276, 2950 Merced Street, San Leandro, CA 94577; and through such transaction control of the following motor common carriers: Ida-Cal Freight Lines, Inc., 419 West Karcher Road, Nampa, ID 83651; Shippers Imperial, Inc., P.O. Box 5790, San Jose, CA 95150; Fairchild General Freight, Inc., P.O. Box 9967, 19 West Washington Avenue, Yakima, WA 98903; Willis Shaw Frozen Express, Inc., P.O. Box 188, Elm Springs, AR 72778; Northwest Arkansas Truck and Equipment, Inc., P.O. Box 89, Springdale, AR 72764. R. J. REYNOLDS INDUSTRIES, INC., World Headquarters Building, Reynolds Boulevard, Winston-Salem, NC 27102, the corporate parent of Reynolds Merger Corp., also

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seeks authority to control such motor carriers through this transaction and authority to commonly control those carriers and Sea-Land Freight Service, Inc., and Petroleum Transportation Company, Inc. Applicants' attorneys are Harry J. Jordan and Francis W. McInery, Macdonald & McInerny, Suite 502 Solar Building, 1000 16th Street, NW., Washington, DC. Operating rights sought to be controlled: (1) Ida-Cal Freight Lines, Inc., operates over irregular routes transporting agricultural products, meats, meat by-products, hides, food items, and merchandise as dealt with wholesale, retail, and grocery and food business houses, principally between points in described areas in CA and ID and with limited service from or to points in WA, OR, UT, AZ, MT, NV, and also holds limited regular route, general commodity authority, with exceptions, between Butte, MT, and Idaho Falls, ID, and irregular route, general commodity rights, with exceptions, between points in ID within 50 miles of Twin Falls, ID, and a described portion of southern ID; (2) Shippers Imperial, Inc., holds authority to transport general commodities, with exceptions, over a system of regular routes in CA and similar authority over irregular routes between described portions of CA. It also holds irregular route authority to transport bananas from points in the Los Angeles Harbor commercial zone to points in Los Angeles, CA, commercial zone; (3) Fairchild General Freight, Inc., is authorized to transport, over irregular routes, general commodities, with the usual exceptions, between points within Yakima, WA, including Yakima, and such commodities as wool, paper, paper articles, fiberboard, livestock, glass containers, canned goods, empty containers, used trailers and trailer chassis, empty pallets, and materials and supplies used in the manufacture of glass containers from and to points generally in described areas of WA and OR and from plantsities and warehouse distribution facilities in those states to MT, ID, UT, CA, NV, WY; (4) Willis Shaw Frozen Express, Inc., holds authority to transport, over irregular routes, generally food stuffs and related items serving points in described territories generally throughout the United States, with the exception of AK and HI; (5) Northwest Arkansas Truck and Equipment, Inc., holds authority to transport wrecked, disabled, repossessed, or replacement vehicles by use of wrecker equipment (except trailers designed to be drawn by passenger automobiles and except passenger automobiles) between Springdale, AR, on the one hand, and, on the other, points in the United States, except those in AK, AR, and HI. This transaction is directly related to the proposed merger of Reynolds Merger Corp. with Del Monte Corporation whereby acquisition of control of the Del Monte companies will be acquired by R. J. Reynolds Industries, Inc. Application for temporary authority has not been filed under Section 210(a)(b).

MC-F-13865F. Authority sought for purchase by DAVE'S MOTOR TRANSPORTATION, INC., Logan International Airport, Boston, MA 02128, of a portion of the operating rights of B & B Trucking, Inc., 83 Egleston Rd., Westfield, MA 01085, and for acquisition by David J. Porcaro, Logan International Airport, Boston, MA 02128 and Ann P. Mucera, 12 Olde Towne Rd., Lynnfield, MA 01940 of control of such rights through the purchase. Applicants', Attorneys: Kenneth B. Williams, 84 State Street, Boston, MA 03209, (For Transferee) *and* Gerald A. Joseloff, 80 State Street, Hartford, CT 06103 (For Transferor). Operating rights sought to be transferred: IRREGULAR ROUTES: *General Commodities,* with exceptions, Between Bradley Field, Windsor Locks, CT, on the one hand, and, on the other, points in CT and MA within 50 miles of Windsor Locks, CT. Between La Guardia and John F. Kennedy International Airports, New York, NY, and Newark Airport, Newark NJ, on the one hand, and, on the other, points in CT and MA within 50 miles of Windsor Locks, CT. RESTRICTION: The service authorized above is restricted to the transportation of shipments having an immediately prior or subsequent movement by air. Vendee is authorized to operate as a common carrier in the State of MA, and RI. Application has been filed for temporary authority under section 210a(b) of the Act.

MC-F-13866F. Authority sought for control by UTAH CARRIERS, INC., P.O. Box 1218, Freeport Center, Clearfield, UT of the operating rights of INTERNATIONAL CONTRACT CARRIERS, INC., 6534 Gessner Street, Houston, TX 77040 common management of the operating rights issued in Docket MC 139468, and for control by Glade Holfeltz and Duane A. Barker. Applicant's representative: Earl H. Scudder, Jr., P.O. Box 82028, 500 The Atrium, Lincoln, NE 68501. Operating rights which are sought to be controlled: Metal buildings and related parts and equipment, as a common carrier over irregular routes from the plantsites and storage facilities of National Steel Products Company, Inc., at Houston, TX to points in AR, LA, TN, MS, AL, GA, FA, SC, NC, OK, KS, NE, SD, ND, NM, CO, WY, MT, ID, UT, AZ, NV, OR, WA, and CA; Metal buildings and related parts and equipment from the plantsite of National Steel Products Company, Inc. at or near Terre Haute IN to points in AZ, CA, CO, ID, IL, IA, KY, MN, MO, MT, NE, NV, NM, ND, OK, OR, SD, UT, VA, WA, WV, WI, WY; between the plantsites of National Steel Products, Company, Inc., at or near Houston, TX, and at or near Terre Haute, IN; Buildings, complete, knocked down and in sections, from the plantsites and storage facilities of National Steel Products Company, Inc., at or near LaGrange, GA to points in AL, FA, GA, KY, MI, NC, SC, TN, VA and WV, CT, DE, ME, MD, MA, MI, NH, NJ, NY, OH, PA, RI, VT, AR, IL, KA, LA, MI, OK, and TX; between the plantsites of National Steel Products Company, Inc., at or near Terre Haute, IN, to points in CT, DE, MA, MD, MA, MI, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, AR, LA, MS, and TX; from the plantsites of National Steel Products Company, Inc. at or near Houston, TX, to points in IL, IN, IA, MN, MI, and WI; between the plantsites and storage facilities of National Steel Products Company, Inc., at or near Houston, TX, La Grange, GA and Terre Haute, IN; From Terre Haute, IN and Houston, TX, to points in Alaska; Lumber from Kooskia and Princeton, ID and Clarkston, WA, to points in IL, IN, IA, KS, MI, MN, MO, NE, ND, OH, PA, SD, WI, AZ, KY, NM, OK, TX, CO, UT and WY. Materials, supplies and equipment utilized in the manufacturing, distribution and storage of buildings, building sections, building panels, pre-fabricated structural components and panels and related accessories from points in the United States (except AK and HI), to Houston, TX, La Grange, GA and Terre Haute, IN; Window and window frames, door and door frames, from the plantsites and facilities of National Steel Products Co., Inc., at or near Monroe and Shreveport, LA to points in AL, AR, GA, IL, IN, IA, KS, KY, MN, MS, MO, NE, OK, TN, TX and WI; Materials and supplies and equipment utilized in the manufacturing, processing and distributing of the commodities described above, from points in AL, AR, GA, IL, IN, IA, KS, KY, MN, MS, MO, NE, OK, TN, TX, to the plantsites and facilities of National Steel Products Co., Inc., at or near Monroe and Shreveport, LA; Iron and steel sheeting and coil from the facilities of Midwest Steel Division, National Steel Corporation, at or near Portage, IN to points in the St. Louis, MO Commercial Zone; Vendee is authorized to operate as a common carrier in all States in the United States (except AK, HI and the District of Columbia). Application has been filed for temporary authority under Section 210a(b) of the Act. (Hearing site: Salt Lake City, UT.)

Motor Carrier Alternate Route Deviations

NOTICE

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Property (49 CFR 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of this Federal Register notice.

Each applicant states that there will be no significant effect on either the quality of the human environment or energy policy and conservation.

Motor Carriers of Property

MC 53965 (Deviation No. 5), GRAVES TRUCK LINE, INC., 92 Shawnee Ave., Kansas City, KS 66119, filed June 20, 1978. Carrier's representative: John E. Jandera, 641 Harrison St., Topeka, KS 66603. Carrier proposes to operate as a *common carrier,* by motor vehicle, of *general commodities,* with certain exceptions, over a deviation route as follows: From Dallas, TX over US Hwy 75 to junction US Hwy 69 near Denison, TX, then over US Hwy 69 to Kansas City, MO and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over pertinent service routes as follows: (1) From Dallas, TX over US Hwy 77 to Oklahoma City, OK, (2) From Wichita, KS over US Hwy 81 to junction US Hwy 177, then over US Hwy 177 to junction US Hwy 77, then over US Hwy 77 to Oklahoma City, OK and (3) From Kansas City, MO over the Kansas Turnpike to Wichita, KS and return over the same routes.

NOTE.—A portion of this deviation is premised on a grant of temporary authority under section 210(a)(b). If applicant's right to operate all or part of the leased authority expires, this deviation, if authorized, will likewise expire.

MC 112713 (Deviation No. 56), YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, 10990 Roe Ave., Shawnee Mission, KS 66207, filed December 21, 1978. Carrier proposes to operate as a *common carrier,* by motor vehicle, of *general commodities,* with certain exceptions, over a deviation route as follows: From Parsons, KS over US Hwy 59 to junction KS Hwy 47; then over KS Hwy 47 to Fredonia, KS, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Parsons, KS over US Hwy 160 to junction US Hwy 169, then over US Hwy 169 to junction KS Hwy 37, then over KS Hwy 37 to junction US Hwy 75, then over US Hwy 75 to junction KS Hwy 96, then over KS Hwy 96 to Fredonia, KS and return over the same route.

Motor Carrier Intrastate Application(s)

NOTICE

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to Section 10931 (formerly Section 206(a)(6)) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's *General Rules of Practice* (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall *not* be addressed to or filed with the Interstate Commerce Commission.

Missouri Docket T-26,150 (Sub-2), filed December 10, 1978. Applicant: MARSHFIELD DRAYAGE COMPANY, P.O. Box 50, Marshfield, MO 65706. Certificate of Public Convenience and Necessity sought to operate freight service, over regular routes, as follows: Transportation of: *General commodities* (except explosives, articles of unusual value, household goods, commodities in bulk, commodities requiring special equipment, and articles injurious and contaminating to other freight). From Springfield over Interstate 44 to Lebanon, and from Marshfield over State Hwy 38 to Elkland, and return over the same routes. Between Springfield, Marshfield, Lebanon, Elkland and all intermediate points on the described routes. Intrastate, interstate, and foreign commerce authority sought. HEARING: Date, time and place not yet fixed. Requests for procedural information should be addressed to Missouri Public Service Commission, Jefferson Building, P.O. Box 360, Jefferson City, MO 65101, and should not be directed to the Interstate Commerce Commission.

New York Docket T-420, filed November 7, 1978. Applicant: R. A. K. EXPRESS, INC., P.O. Box 222, Salina Station, Syracuse, NY 13208. Representative: Herbert M. Canter, 305 Montgomery Street, Syracuse, NY 13202. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: *General commodities,* as defined in Section 800.1 of Title 17 of the Official Compilation of Codes, Rules and Regulations of the State of New York, except dangerous articles within the purview of Part 822 of said Title 17, between all points in Broome, Cayuga, Chemung, Chenango, Cortland, Herkimer, Madison, Monroe, Montgomery, Oneida, Ontario, Onondaga, Oswego, Schenectady and Seneca Counties, NY. Intrastate, interstate and foreign commerce sought. HEARING: Date, time and place not yet fixed. Requests for procedural information should be addressed to New York State Department of Transportation, 1220 Washington Avenue, State Campus, Building #4, Room G-21, Albany, NY 12232, and should not be directed to the Interstate Commerce Commission.

New York Docket T-3487, filed October 16, 1978. Applicant: E. YOUNG'S EXPRESS, INC., 1200 Bradley Street, Watertown, NY 13601. Representative: Herbert M. Canter, 305 Montgomery Street, Syracuse, NY 13202. Certificate of Public Convenience and Necessity sought to operate a freight service, over irregular routes, as follows: Transportation of: *General commodities,* as defined in Section 800.1 of Title 17 of the Official Compilation of Codes, Rules and Regulations of the State of New York, between all points in Onondaga and Jefferson Counties, NY, on the one hand, and, on the other, the Village of Lake Placid (Essex County), NY. Intrastate, interstate and foreign commerce authority sought. HEARING: Date, time and place not yet fixed. Requests for procedural information should be addressed to New York State Department of Transportation, 1220 Washington Avenue, State Campus, Building #4, Room G-21, Albany, NY 12232, and should not be directed to the Interstate Commerce Commission.

New York Docket T-3693, filed December 21, 1978. Applicant: TANNEY'S MOTOR TRANSPORTATION, INC., 10 Northway Lane, P.O. Box 610, Latham, NY 12110. Representative: Herbert M. Canter, 305 Montgomery Street, Syracuse, NY 13202. Certificate of Public Convenience and Necessity sought to operate a freight service, over irregular routes, as follows: Transportation of: *General commodities,* as defined in Section 800.1 of Title 17 of the Official Compilation of Codes, Rules and Regulations of the State of New York, between all points in a territory comprised of Albany, Broome, Columbia, Dutchess,

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Fulton, Greene, Hamilton, Herkimer, Montgomery, Rensselaer, Saratoga, Schenectady, Schoharie, Ulster and Washington Counties, NY, the Cities of Utica and Glen Falls, NY, the Village of Stamford (Delaware County), NY, all points on U.S. Hwy 9 extending between the Dutchess County, NY line and the City of New York and all points on NY Hwy 7 extending between the Broome and Schoharie County lines, NY. Intrastate, interstate and foreign commerce authority sought. HEARING: Date, time and place not yet fixed. Requests for procedural information should be addressed to New York State Department of Transportation, 1220 Washington Avenue, State Campus, Building #4, Room G-21, Albany, NY 12232, and should not be directed to the Interstate Commerce Commission.

By the Commission.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-877 Filed 1-10-79; 8:45 am]

[7035-01-M]

[Notice No. 5]

ASSIGNMENT OF HEARINGS

JANUARY 8, 1979.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

No. MC 99610 (Sub-No. 17), Ross Neely Express, Inc., No. MC 99610 (Sub-No. 19), Ross Neely Express, Inc, and No. MC 99610 (Sub-No. 27), Ross Neely Express, Inc., now assigned for hearing on January 9, 1979, at Birmingham, Alabama, postponed to January 23, 1979 (9 days), at Birmingham, Alabama, on the First Floor, Wage & Hour Conference Room, 1929 9th Avenue, South, Birmingham, Alabama.

No. MC 550 (Sub-No. 8F), Rudie Wilhelm Warehouse Company, DBA Wilhelm Trucking Co., now being assigned for continued hearing on January 22, 1979 (5 days), in Room 3086, Federal Building, 915 2nd Avenue, Seattle, Washington.

No. MC-144979F, Daniel P. Geiger DBA Atlantic Limousine, Service, now being assigned for hearing on February 12, 1979, (1 week), at Atlantic Limousine, Service, now being assigned for hearing on February 12, 1979, (1 week), at Atlantic City, New Jersey in a hearing room to be later designated.

No. MC 144581F, Harvey Hayes, An Individual Doing Business As Hayes Trailer Transport now assigned January 10, 1979 at Los Angeles, California is canceled and application dismissed.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-1037 Filed 1-10-79; 8:45 am]

[7035-01-M]

[Ex Parte No. MC-119]

POLICY STATEMENT REGARDING THE "RULE OF EIGHT" IN CONTRACT CARRIER APPLICATIONS

AGENCY: Interstate Commerce Commission.

ACTION: Policy statement.

SUMMARY: The Commission adopts a policy statement describing how it will apply that part of the statutory definition of "contract carrier by motor vehicle" which requires that these carriers serve no more than a "limited number" of persons. The statement provides that no fixed numerical ceiling will be used in defining the term limited number; describes certain situations in which it will be presumed that a contract carrier is serving no more than a limited number of persons; and adopts standards for determining when a contract carrier, because of a general holding-out of its services, may be found to have become, in fact, a common carrier.

EFFECTIVE DATE: January 11, 1979.

FOR FURTHER INFORMATION CONTACT:

Michael Erenberg, telephone 202-275-7292.

SUPPLEMENTARY INFORMATION: This proceeding was initiated to announce the Commission's intent to terminate use of the "rule of eight" as a means for determining whether a motor contract carrier serves a limited number of persons. Comments were requested from interested parties, and twenty-seven pleadings have been received. They express the views of motor contract and common carriers, carrier organizations, shippers, shipper associations and government agencies.

BACKGROUND

A motor contract carrier is defined in 49 U.S.C. 10101(12) as a person providing motor vehicle transportation under continuing agreements with a person or a limited number of persons and characterized by the assignment of motor vehicles either for a continuing period of time for the exclusive use of each customer or by service designed to meet the distinct needs of each customer. In deciding whether to approve an application for contract carrier authority, the Commission is required by section 10923(b)(2) to consider the number of shippers to be served, the nature of the transportation proposed to be provided, the effect which granting the permit would have on the transportation of opposing carriers, and the effect which denial of the permit would have on the applicant or its supporting shippers and the changing character of the shippers' requirements.

The definition of a motor contract carrier and the statutory standards to be applied in determining contract carrier applications became a part of the Interstate Commerce Act in 1957. Following their adoption, the Commission in a number of proceedings developed, refined and applied criteria which would impart a degree of certainty to the term "limited number of persons". As a result of these decisions, several of which are cited in the notice of proposed rulemaking, the Commission developed several factors to be considered in determining whether a contract carrier was—or would be if a particular application were granted—serving more than a limited number of persons. These factors are: the different types of commodities transported, the number of permits under which the carrier operates, the territory in which the operation is conducted, the similarity in services the carrier performs under its effective continuing contracts, the degree of specialization required by the nature of the business of the shippers involved, and the historical manner in which the carrier's business has grown and developed.

The so-called "rule of eight", which is the major factor leading to the institution of this proceeding, is attributable to the decision in *Umthun Trucking Co. Ext.-Phosphatic Feed* Supplements, 91 M.C.C. 691, 697 (1962). It was stated there that—

> Those contract carriers whose services do not possess such a high degree of specialization . . . are hereby put on notice that their attempts to expand their operations by offering service to more than six or eight separate shippers will be scrutinized with great care to insure that they are not thereby placing themselves in a position to serve more than the limited number of persons permitted them by * * * the Act.

As we noted in the notice of proposed rulemaking, there has been a temptation, in response to this language, simply to count the number of shippers that a contract carrier applicant proposed to serve and to find that

service for more than eight shippers would result in the applicant's serving more than a limited number of persons.

POINTS RAISED BY THE PARTIES

Several parties have offered arguments in support of our proposal to move away from reliance upon any set figure for determining what constitutes a limited number of contract carrier customers. The most commonly mentioned point is that use of the rule of eight has caused a hardship for smaller shippers. Because carriers have usually had to assume that they would not be granted authority to serve more than eight customers, they have often been reluctant to "waste" a contract on a small shipper. This has made it more difficult for the small shipper to obtain the benefits of contract carriage. Elimination of the rule of eight should create enough flexibility to encourage carriers to serve small shippers as well as large. The elimination of a ceiling on the number of persons that may be served will also make it easier for contract carriers to serve shippers with complementary needs, thus assuring the most efficient use of their equipment and personnel.

A number of responses were submitted by opponents of the proposal, principally common carriers and their associations. They fear that elimination of the rule of eight will cause significant expansion of contract carrier operations accompanied by diversion of traffic now transported by common carriers. While some expansion is to be expected, this proposal does not remove all limitations on contract carrier operations, and we do not foresee any materially adverse effect on common carriers.

Many of the comments address the criteria that have been used in the past and which should be used in the future to assist us in determining what constitutes a limited number of shippers. The six criteria which we have applied over the past six years in making this determination have been cited above.

Our review of these criteria in light of the statutory definition of contract carriage convinces us that a new approach is necessary. The application of the rule of eight, however ill-advised, did at least provide a measure of certainty. Retaining the six standards without a clear understanding of how they will be applied and what weight will be given to them would leave the carriers, the shippers, and the Commission without effective guidelines.

At least some of the six standards are of dubious relevance in making the determination of what constitutes a limited number. The number of permits held by the carrier is not significant because it does not necessarily reflect the number of persons served under those permits. If one person is named as the contracting shipper in several individual permits, this, quite obviously, does not add to the number of persons served by the carrier. The territory in which the applicant's operations are conducted likewise strikes us as not being a particularly pertinent factor in making the limited number determination.

Other factors do appear relevant, at least in some respects. The key difference between a common and a contract carrier is the ability, the willingness, and the duty of the common carrier to hold out its service to all those who are able to use it and wish to do so. Whether an alleged contract carrier is really "holding out" can be a major factor in determining whether it remain a contract carrier or has crossed the line into the field of common carriage. Certainly the developing pattern of the carrier's operations may be a relevant factor in determining whether this widespread holding out is taking place. In addition, the degree of specialization provided in the carrier's overall operations, as contrasted to that provided for each individual shipper, may be a relevant factor in determining whether a carrier is actually limiting its service to some finite number of shippers or is simply offering it to any person willing to support an application.

The type of commodity which the carrier transports may also have some pertinence, as may the type of motor carrier equipment which it operates and the similarity in the services which it performs under its contract. Where it can be found that a carrier is providing a highly specialized service for a clearly defined industry or type of user, and particularly where it is using specialized equipment exclusively, the Commission has in the past had no hesitation in finding that the operation, even if performed for a great many contracting customers, is that of a bona fide contract carrier.

CONCLUSIONS

In seeking a solution to the interpretive problem which is presented here, we note that a standard dictionary definition of "limit" is "boundary", while common synonyms for "limited" are "confined", "finite", and "bounded". Under standard practice today, a contract carrier is authorized to perform service under contract with either individual shippers named in its permit or a class of shippers representing a highly concentrated or specialized industry group. In either class, obviously the contract carrier can serve only a finite number of shippers, and its ability to expand is bounded, in the one instance by the willingness of the Commission to grant it new authority, and in the other by the number of members of the industry for which it performs services. Where restricted to service for named shippers, it cannot serve additional customers, even transporting the same commodities and within the same territories, unless it obtains from the Commission a new authorization. Thus, we think that logic and common word usage compel the finding that such a carrier is, in fact, serving a limited number of shippers. Therefore, we propose to put no arbitrary limit to the number of contracts which a particular contract carrier may hold and still be found to be serving a limited number of persons.

In testing the operations of an expanding contract carrier against the statutory definition, we will give the greatest weight to the manner in which and the speed with which the carrier's business has grown and developed. The purpose of making this analysis will be to determine whether this is a carrier which is not limiting its service but rather is offering that service to any shipper willing to support an application. Subsidiary factors to be considered in determining this issue will continue to be the similarity in the types of commodities transported, the similarity in services which the carrier performs under its contracts, and the degree of specialization required by the nature of the business of its present and potential new customers.

One situation which has faced contract carriers in the past and which we expect will become even more significant is the question whether a contract carrier may properly serve a substantial number of affiliated companies, even though their business may be rather diverse. Even where a conglomerate is composed of a large number of individual corporations, that number is necessarily a finite one. We conclude, therefore, that where a contract carrier performs transportation service exclusively for firms which are affiliated with one another, it may properly be found to be serving only a limited number of shippers.

The Act recognizes as one form of contract carriage the performance of service through the assignment by the carrier of vehicles to a shipper for a "continuing period of time". This reflects what the Commission has long recognized as a "house carrier" service, in which the shipper has a significant degree of control over the service performed and the vehicles used, and in which it can be said that the contract carrier's service is a true substitute for the shipper's own private carriage. Where a contract carrier's operations are characterized by the assignment of vehicles, we again think that it will only be able to serve some finite number of customers, and we will pre-

sume that it is serving a limited number of persons. However, there must be a *bona fide* assignment of vehicles for a "continuing period of time". This means that assignments cannot simply be made on a trip-by-trip basis. Normally, we would expect such an assignment to be for no less than a 30-day period.

STATEMENT OF POLICY

In determining whether a motor carrier serves a limited number of persons and thus meets the definition of motor contract carrier found at 49 U.S.C. 10101(12), the Commission will apply the following standards:

1. No fixed numerical limit will be set on the number of contracting shippers which a contract carrier may serve.

2. Where a contract carrier performs exclusively one type of specialized service which, because of the degree of specialization involved, is usable only by a particular type of shipper or industry, it will be presumed to be serving only a limited number of persons.

3. Where a contract carrier serves exclusively firms which are affiliated with one another, it will be presumed to be serving only a limited number of persons.

4. Where a contract carrier assigns equipment to the exclusive use of each person served for periods of at least 30 days, it will be presumed to be serving a limited number of persons.

5. A contract carrier whose operations do not fall within the terms of Item 2, 3, or 4 above may, with the Commission's approval, increase the number of its customers and still be found to be serving a limited number of persons as long as its operations are not expanding so rapidly and in such a manner as to indicate that it is holding out its services to the public generally. In determining whether a contract carrier is actually holding out its services to the public generally, the Commission will consider the similarity in the services which the carrier performs, the similarity in the types of commodities transported, and the degree of specialization required by the nature of business of its present potential new customers.

This decision is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

This document is promulgated under the authority contained in 49 U.S.C. 10321(a) and 10102, and 5 U.S.C. 553.

Dated: December 27, 1978.

By the Commission, Chairman O'Neal, Vice Chairman Christian, Commissioners Brown, Stafford, Gresham, and Clapp. Commissioner Stafford adheres to his dissent of August 11, 1978 (see below).

H. G. HOMME, Jr.,
Secretary.

COMMISSIONER STAFFORD (DISSENTING)

The so-called "rule of eight" is no more rigid than is necessary in order to achieve a needed standard. Administrative fairness dictates that there be some standard so that the limited number of persons criterion is not applied discriminatorily. If would not be within the Commission's legitimate discretion, for example, to allow one carrier to serve only five shippers, another ten, and a third as many as 20, in the absence of particular circumstances which might warrant such a discrepancy. By promulgating a "rule of eight," the *Umthun* decision establishes a standard for the "normal" contract carrier case, so that a determination of what constitutes a limited number of persons in individual cases would not appear arbitrary and capricious. Such a result could easily occur considering that different attorneys and decisionmaking bodies are making this determination. The apparent rigidity of the "rule of eight" stems, in part, from the fact that in most contract carrier proceedings there have been circumstances which distinguish one carrier and its shippers from another carrier and its shippers. Where special circumstances have existed, the Commission has not insisted on applying the "rule of eight." Such circumstances involve conglomerate shippers, where the Commission has found that the size and diversity of contracting shippers act to reduce the total number of persons a contract carrier may serve. While large size and diversity has been a factor tending to reduce the number of permissible contracting persons, small size and specialization have acted to allow service for a greater than normal number of supporting shippers.

Any modification of the rule of eight should focus on some alternative standard. If no alternate standard is established, the possibility of inconsistent and arbitrary determinations would be substantial. If the number of permissible contracting shippers is increased, it is likely that contract carrier operations would be encouraged, and that traffic now transported by common carriers would be diverted to contract carriers. Such diversion would have a negative effect on the national transportation system.

For these reasons, I am opposed to elimination of the "rule of eight," and I respectfully dissent from the proposed policy statement.

[FR Doc. 79-1041 Filed 1-10-79; 8:45 am]

[7035-01-M]

[Docket No. AB-55 (Sub-No. 24F)]

SEABOARD COAST LINE RAILROAD CO.

Abandonment Near Minehead and Early Bird in Marion County, Fla.; Findings

Notice is hereby given pursuant to Section 1a of the Interstate Commerce Act (49 U.S.C. 1a) that by a Certificate and Decision decided December 21, 1978, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.-Abandonment Goshen*, 354 I.C.C. 584 (1978), the present and future public convenience and necessity permit the abandonment by the Seaboard Coast Line Railroad Company of a portion of a line of railroad known as the Early Bird Spur, extending from railroad milepost SR-743.82 near Minehead, FL, to milepost SR-745.00 at Early Bird, FL, a distance of 1.18 miles in Marion County, FL. A certificate of public convenience and necessity permitting abandonment was issued to the Seaboard Coast Line Railroad Company. Since no investigation was instituted, the requirement of § 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the FEDERAL REGISTER be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (§ 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than January 26, 1979. The offer, as filed, shall contain information required pursuant to § 1121.38(b)(2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective February 26, 1979.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-1038 Filed 1-10-79; 8:45 am]

[7035-01-M]

[Docket No. AB-55 (Sub-No. 25F)]

SEABOARD COAST LINE RAILROAD CO.

Abandonment Near Belton and Anderson in Anderson County, S.C.; Findings

Notice is hereby given pursuant to Section 1a of the Interstate Commerce Act (49 U.S.C. 1a) that by a Certificate and Decision decided December 21, 1978, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.—Abandonment Goshen*, 354 I.C.C. 584 (1978), and for public use as set forth in said decision, the present and future public convenience and necessity permit the abandonment by the Seaboard Coast Line Railroad Company of a portion of a line of railroad known as the Belton Subdivision, extending from railroad milepost AKM-2.0 near Belton, SC, to milepost AKM-10.0 near Anderson, SC, a distance of 8.0 miles, in Anderson County, SC. A certificate of public convenience and necessity permitting abandonment was issued to the Seaboard Coast Line Railroad Company. Since no investigation was instituted, the requirement of § 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the FEDERAL REGISTER be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (§ 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than January 26, 1979. The offer, as filed, shall contain information required pursuant to § 1121.38(b)(2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective February 26, 1979.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-1039 Filed 1-10-79; 8:45 am]

[7035-01-M]

[Docket No. AB-55 (Sub-No. 26F)]

SEABOARD COAST LINE RAILROAD CO.

Abandonment Near Candler and Leesburg in Marion and Lake Counties, Fla.; Findings

Notice is hereby given pursuant to Section 1a of the Interstate Commerce Act (49 U.S.C. 1a) that by a Certificate and Decision decided December 22, 1978, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.—Abandonment Goshen*, 354 I.C.C. 584 (1978), the present and future public convenience and necessity permit the abandonment by the Seaboard Coast Line Railroad Company of a portion of a line of railroad known as the Ocala Subdivision, extending from railroad milepost AS-781.19 near Candler, Fla., to milepost AS-800.79 near Leesburg, Fla., a distance of 19.60 miles, in Marion and Lake Counties, Fla. A certificate of public convenience and necessity permitting abandonment was issued to the Seaboard Coast Line Railroad Company. Since no investigation was instituted, the requirement of § 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the FEDERAL REGISTER be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (§ 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than January 26, 1979. The offer, as filed, shall contain information required pursuant to § 1121.38(b)(2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective February 26, 1979.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-1040 Filed 1-10-79; 8:45 am]

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sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3)

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[6320-01-M]

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[M-189, Amdt. 1; Jan. 5, 1979]

CIVIL AERONAUTICS BOARD.

Notice of addition and closure of item to the January 11, 1979 agenda.

TIME AND DATE: 10 a.m., January 11, 1979.

PLACE: Room 1011, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 27. Negotiating Strategy for Northern and Southern Europe (BIA).

STATUS: Closed.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: This item was not completed at the time the January 11 agenda was prepared and therefore was omitted from that agenda. Staff work on this item has now been completed and in order to meet the Board's own commitment to discuss it January 11, the following Members have voted to add it to the January 11 meeting and no earlier announcement was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

This meeting will concern proposed negotiating strategies for countries in Northern and Southern Europe. Premature public disclosure of the options, plans and opinions of the Board could seriously compromise the United States' ability to successfully resolve this issue in the best interests of the United States. Accordingly, the following Members have voted that public disclosure of this meeting would involve matters the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action within the meaning of the exemption provided under 5 U.S.C. 552b(c)(9)(B) and 14 CFR 310b.5(9)(B) and that the meeting will be closed:

Chairman, Marvin S. Cohen
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

Member O'Melia was not present.

PERSONS EXPECTED TO ATTEND

Board Members.—Chairman, Marvin S. Cohen; Member, Richard J. O'Melia; Member, Elizabeth E. Bailey; and Member, Gloria Schaffer.
Assistants to Board Members.—Mr. David M. Kirstein, Mr. Sanford Rederer, and Mr. Stephen H. Lachter.
Office of the Managing Director.—Mr. John R. Hancock.
Bureau of International Affairs.—Mr. Donald A. Farmer, Jr., Ms. Sandra W. Gerson, Mr. David A. Levitt, Mr. Edward R. Wilbur, Mr. Ronald C. Miller, Mr. Richard M. Loughlin, Mr. Willard L. Demory, Mr. Rosario J. Scibilia, Mr. Francis S. Murphy, Mr. Donald L. Litton, Ms. Mary I. Pett, Mr. James S. Horneman, and Mr. Ivars V. Mellups.
Office of the General Counsel.—Mr. Philip J. Bakes, Jr., Mr. Gary J. Edles, Mr. Peter b. Schwarzkopf, Mr. Michael Schopf, and Ms. Carol Light.
Bureau of Pricing and Domestic Aviation.—Mr. Michael E. Levine, Ms. Barbara A. Clark, Mr. Herbert Aswall, Mr. Douglas V. Leister, and Mr. James L. Deegan.
Office of Economic Analysis.—Mr. Robert H. Frank and Mr. Richard H. Klem.
Bureau of Consumer Protection.—Mr. Reuben B. Robertson.
Office of the Secretary.—Mrs. Phyllis T. Kaylor and Ms. Deborah A. Lee.

GENERAL COUNSEL CERTIFICATION

I certify that this meeting may be closed to the public under 5 U.S.C. 552b(c)(9)(B) and 14 CFR Section 310b.5(9)(B) and that this meeting may be closed to public observation.

PHILIP BAKES, Jr.,
General Counsel.

[S-49-79 Filed 1-9-79; 9:52 am]

[3410-05-M]

2

COMMODITY CREDIT CORPORATION.

TIME AND DATE: 10 a.m., January 12, 1979.

PLACE: Room 218-A, Administration Building, U.S. Department of Agriculture, Washington, D.C.

STATUS: Open meeting.

MATTERS TO BE CONSIDERED:

1. Minutes of CCC Board meeting on December 5, 1978.
2. Docket UCZ 314 re: Guarantee of loans for pilot projects for the production and marketing of industrial hydrocarbons and alcohols from the agricultural commodities and forest products.
3. Docket CZ 266, Resolution 16, Amendment 1 re: Pub. L. 480 availability determination for dehydrated potatoes.

CONTACT PERSON FOR MORE INFORMATION:

Bill Cherry, Secretary, Commodity Credit Corporation, Room 202-W, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20013, telephone 202-447-7583.

[S-52-79 Filed 1-9-79; 11:09 am]

[6351-01-M]

3

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., January 16, 1979.

PLACE: 2033 K Street NW., Washington, D.C., 5th floor hearing room.

STATUS: Open.

MATTERS TO BE CONSIDERED: Proposed call schedule for contracts to be reviewed under Section 1.50 of the Regulations.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-53-79 Filed 1-9-79; 11:37 am]

[6351-01-M]

4

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., January 16, 1979.

PLACE: 2033 K Street NW., Washington, D.C., 5th floor hearing room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement Matters: Institution of public administrative proceedings; filing of administrative complaint; offer of settlement; private investigation; and application for registration as an associated person of a futures commission merchant and revocation of the registration of a commodity trading advisor.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-54-79 Filed 1-9-79; 11:37 am]

[3125-01-M]

5

COUNCIL ON ENVIRONMENTAL QUALITY.

TIME AND DATE: 2. p.m., January 17, 1979.

PLACE: Conference Room, 722 Jackson Place NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: Proposed changes to the National Oil and Hazardous Substances Contingency Plan.

CONTACT PERSON FOR MORE INFORMATION:

Foster Knight, 633-7111.

[S-56-79 Filed 1-9-79; 3:38 pm]

[6740-02-M]

6

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Published December 18, 1978, 43 FR 58895.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., December 20, 1978.

CHANGE IN THE MEETING: The following items have been added:

Item No., Docket No., and Company

M-2. RM79-3, Repeal of § 270.205 of the Commission's Interim Regulations Implementing the Natural Gas Policy Act of 1978 and Relating to Indefinite Price Escalator Clauses.
M-3. RM78-17, Procedures for Review by the Federal Energy Regulatory Commission of Adjustment Request Denials by the Secretary of Energy.
M-4. RM79- , Procedures for Adjustments of Rules and Orders Issued by the Federal Energy Regulatory Commission Under the NGPA.
M-5. Interim Rule on § 315 of NGPA, Offers and Right of First Refusal.
M-6. Staff Recommendations on the Revenue Act of 1978.
M-7. RM79- , Treatment of Certain Production Related Costs for Gas to be Transported through the Alaska Natural Gas Transportation System.
ER-8. ER76-285 (Phase II), Public Service Company of New Hampshire.
ER-9. E-9592, *Roscoe E. Dean, Jr.* and *William D. Lovin*; Complainants v. *Georgia Power Company*, Defendant.

KENNETH F. PLUMB,
Secretary.

[S-50-79 Filed 1-9-79; 9:52 am]

[6210-01-M]

7

FEDERAL RESERVE SYSTEM (Board of Governors).

TIME AND DATE: 11 a.m., Monday, January 8, 1979.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Proposed negotiation of a contract for architectural and engineering services for the Omaha Branch of the Federal Reserve Bank of Kansas City. (This matter was originally announced for a meeting on Friday, December 22, 1978).

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

Dated: January 8, 1979.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[S-51-79 Filed 1-9-79; 9:52 am]

[6210-01-M]

8

FEDERAL RESERVE SYSTEM (Board of Governors).

TIME AND DATE: 10 a.m., Wednesday, January 17, 1979.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Study for transmittal to the Congress as required by the Home Mortgage Disclosure Act, on the feasibility and usefulness of extending mortgage disclosures to cover depository institutions outside standard metropolitan statistical areas.
2. Proposal to implement Title VI of the Financial Institutions Regulatory and Interest Rate Control Act.
3. Proposed statement to be presented to the Senate Committee on Banking, Housing, and Urban Affairs regarding the Federal Reserve System's budget.
4. Any agenda items carried forward from a previously announced meeting.

NOTE.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling 202-452-3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

[7910-01-M]

9

THE RENEGOTIATION BOARD.

DATE AND TIME: Tuesday, January 16, 1979; 10 a.m.

PLACE: Conference Room, 4th floor, 2000 M Street NW., Washington, D.C.

STATUS: Matters 1 through 8 are open to public observation. Matters 9 and 10 are closed to public observation. Matters 11 and 12 are not applicable for status.

MATTERS TO BE CONSIDERED:

1. Approval of minutes of meeting held December 19, 1979; and other Board meetings, if any.
2. Recommendation for determination of excessive profits or assignment to a division: Cubic Corp., fiscal years ended December 31, 1973 and 1974.
3. Request to make an untimely application for commercial exemption: Cyprus Mines Corp., fiscal year ended December 31, 1975.
4. Recommendation for clearance: Southwestern Refining Co., Inc., fiscal year ended December 31, 1973.
5. Report on partial year filings and applications for commercial exemption.
6. Recommendation for clearance or assignment to a division: A. G. S. Parsons Co., fiscal year ended December 31, 1973. B. Parsons Medical Gas Co., Inc., fiscal year ended December 31, 1973.
7. Determination of excessive profits: Kaiser Aerospace & Electronics Corp., fiscal year ended December 31, 1972.
8. Determination of excessive profits: International Business Machines Corp., fiscal years ended December 31, 1969 and 1970.
9. Recommendation for finding of excessive profits: Stelma Inc., Successor-in-Interest to a 1960 Delaware Corporation of the same name, fiscal years ended March 31, 1968 and 1969 and May 8, 1969.
10. Court of Claims Case: *Norris Industries, Inc.* v. *United States*, Ct. Cl. No. 449-75.
11. Approval of agenda for meeting to be held January 30, 1979.
12. Approval of agenda for other meetings, if any.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

Dated: January 8, 1979.

HARRY R. VAN CLEVE,
Acting Chairman.

[S-55-79 Filed 1-9-79; 2:30 pm]

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THURSDAY, JANUARY 11, 1979
PART II



DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

Indian Housing

Proposed Rules

V 4 4 / 8 J A 1 1 7 9 UMI

[4210-01-M]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing

[24 CFR Part 805]

[Docket No. R-78-599]

INDIAN HOUSING

Proposed Rulemaking

AGENCY: Department of Housing and Urban Development.

ACTION: Proposed rule.

SUMMARY: This notice sets forth proposed amendments to the regulations for the HUD Indian Housing Program under the United States Housing Act of 1937. The amendments would include changes in the procedures for development of the housing, changes in the procedure for providing Indian enterprise preference in IHA contracting, and for Mutual Help housing, changes in the computation of required homebuyer payments and a provision for payment of needed operating subsidy.

DATE: Comments are due on or before February 12, 1979.

ADDRESS: Comments should be filed with the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451-7th Street, SW., Washington, D.C. 20410, (202) 755-7603 (this is not a toll-free number).

Each person submitting a comment should include name and address and refer to the document by the document name indicated in the heading and give reasons for any recommendation. Copies of all written comments received will be available for examination by interested persons in the office of the Rules Docket Clerk at the address listed above.

FOR FURTHER INFORMATION CONTACT:

Thomas Sherman, Office of Assisted Housing, Department of Housing and Urban Development, Washington, D.C. 20410, (202) 755-5658 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Comprehensive regulations for the Indian Housing Program became effective on March 9, 1976. At that time it was anticipated that amendments would probably be required on the basis of experience under the published regulations. The present amendments provide for important changes in the present regulations, reflecting the concerns of Indian Housing Authorities and of HUD during the period the regulations have been in effect. These changes can be accomplished under present statutory authority. The Department recognizes that more extensive changes, requiring new legislation, may be needed in order to realize a more comprehensive solution to the problems of the program.

The changes which are now proposed for public comment are already the result of an extensive series of consultations with IHAs and other concerned Indian organizations, since early 1977. Successive working drafts of the amendments were simultaneously circulated to these groups and to HUD Field Staff. Numerous comments form HUD and non-HUD sources were received on successive rounds of the amendments, and have been carefully considered.

The following is a summary of the specified proposed amendments:

Production Method—Modified Turnkey

1. Section 805.203(a) now provides that the IHA's application for a Project shall state which production method it prefers to use and that the IHA shall provide a justification for its chosen method. Under this system, some IHA's have been using the Turnkey method, while others have been using the Conventional method. Section 805.203(a) is continued without change. It has been determined, however, that a modified form of the Turnkey method should be established in order to provide a more expeditious and less costly method and to take account of certain complaints by IHA's that under the present Turnkey method they do not have sufficient control of the design.

Accordingly, § 805.203 would be amended to set forth a modified form of the Turnkey method which responds to the two objections metioned above and combines the best features of both production methods. The modified form of Turnkey includes the following basic provisions.

(A) Before advertising for Turnkey Proposals, (1) the sites shall have been selected, (2) HUD shall have approved drawings and specifications for the housing in sufficient detail to enable a developer to quote a firm price and to assure the quality of the design and construction, and (3) on the basis of these drawings and specifications, HUD shall have approved an estimate of the Total Development Cost and separate estimates of the cost of Dwelling Construction and Equipment Cost (DC&E Cost) and of the maximum total construction contract price which it has determined to be reasonable and within applicable limitations.

(B) The invitation for Turnkey Proposals shall be based on a Developer's Packet which includes a description of the sites and the detailed drawings and specifications.

(C) Accordingly, each developer will be required to quote a firm price. After the developer has been selected, and the ACC executed, the Contract of Sale will be executed.

(D) Finally, whatever the production method used, the IHA shall provide (and sufficient development funds will be provided for this purpose) regular inspections by a qualified inspector sufficient to assure compliance with the approved drawings and specifications and the quality of the completed housing. (See comment 41.)

Prohibition on Bonding for Turnkey

2. The regulations would provide, for both the standard and the modified Turnkey Method, that the developer may not be required to post a bond for performance or payment (§ 805.203(b) and (c)).

Production Method—Force Account

3. In response to comments, § 805.203(f)(3) would authorize the field offices to approve the use of Force Account for repairs and rehabilitation of acquired housing, correction of deficiencies, or completion after default by the original contractor. For new construction, however, § 805.203(d)(2) would permit the use of Force Account only with the approval of the Assistant Secretary for Housing, and only if the tribe agrees in writing to cover any excess costs. The tribe would have to demonstrate that it has the financial resources to meet this commitment up to a specified amount.

In all cases where an IHA requests authority to use the Force Account method, it would have to provide the justification and demonstrate that it has the capability to achieve timely completion of the work within the Total Development Cost and with the additional assurances provided by the tribe.

Public Advertisement for Competitive Proposals

4. A number of comments requested authority to enter into construction contracts on a negotiated basis. It has been determined that the arguments given are insufficient to outweigh the public interest in providing public opportunity for competitive bidding. Accordingly, § 805.203(g), provides that contracts for development of a Project may be awarded, whether to Indian Enterprises or to others, only after public advertisement for competitive proposals.

5. Difficulties have arisen in the past where the lowest bid or proposal could not be accepted because it was above the amount budgeted for the contract, or because the amount allocable to

DC&E Cost was in excess of the applicable Prototype Cost limit. These difficulties arose because there was nothing in the advertisement or in the information made available to the prospective contractors to apprise them of any such limitations. Accordingly, § 805.203(g) would provide that the advertisement for proposals shall inform all prospective contractors of the amount of the applicable Prototype Cost limit and of the maximum total contract price which has been determined to be reasonable.

Indian Preference in Contracting

6. Section 805.106(a) would be amended to clarify the meaning of "Indian Organizations and Indian-owned Economic Enterprises," the class of businesses entitled to contracting preference under Section 7(b) of the Indian Self-Determination and Education Assistance Act. This class includes both an "economic enterprise" as defined in Section 3(e) of the Indian Financing Act of 1974, and a "tribal organization" as defined in Section 4(c) of the Indian Self-Determination and Education Assistance Act. The regulations now incorporate only the Indian Financing Act definition of an "economic enterprise," and would be amended to add the statutory definition of "tribal enterprise."

7. Since it has been determined to exempt programs subject to Section 7(b) from the conflicting requirements under Section 3 of the HUD Act of 1968, Section 3 requirements would be deleted from § 805.106.

8. Experience has shown that public advertisement for bids or proposals addressed to all types of contractors, with a provision that the bid of an Indian Enterprise shall be preferred if its price is within 110 percent of the otherwise low bid, is not workable. Generally, non-Indian contractors are reluctant or unwilling to participate in such bidding. In addition, troublesome questions have arisen as to how the 10 percent price preference can be reconciled with Prototype Cost limits and reasonable contract cost determinations. This experience indicates that the most practicable and effective method of providing preference to Indian Enterprise is to issue an advertisement for proposals limited to Indian Enterprises.

Accordingly, § 805.204 would be revised to incorporate this with HUD approval as an optional method of providing preference to Indian Enterprises. When this method is used, the amended § 805.204 would also specifically authorize the IHA, with HUD approval, to publish a prior invitation for Indian Enterprises to submit a Statement of Intent to respond to an advertisement for proposals when published and to furnish evidence to establish their qualifications in accordance with § 805.204(a)(4).

9. Where a contractor seeks to qualify for award of a contract under the new preference provisions, the contractor's eligibility for preference must be approved by HUD (§ 805.204(a)(4)). This section would state the nature of the submission by any prospective contractor seeking to qualify for the preference. The contractor would be required to submit evidence showing fully the extent of Indian ownership and interest, and evidence of structure, management and financing affecting the Indian character of the enterprise.

10. Section 805.204(d) would provide that for all construction contracts, the information for prospective contractors shall set forth all Indian preference requirements affecting award of or to be included in the terms of the Contract.

IHA Commissioners

11. A new § 805.110(b) would be added to provide that a member of the Board of Commissioners shall not be eligible for employment by the IHA except under unusual circumstances and with the approval of HUD. While some comments suggested allowing employment of a Board member in the position of Executive Director, it was the consensus of the comments that the role of Commissioner was basically incompatible with concurrent employment by the IHA in any capacity and that exceptions should be allowed only for the most compelling reasons.

12. There were several recommendations from IHAs and Indian groups that IHA Commissioners be compensated for losses in income incurred by reason of attendance at board meetings and that such compensation be funded by additional operating subsidy from HUD. Either a flat rate of compensation would have to be established which would be paid to Commissioners regardless of the varying amounts of lost income or HUD would have to become involved in calculations of individual losses of income.

The present policy is in line with that which prevails in the public housing program generally, and it is felt that this issue, as well as other operating policy issues, should be deferred until consideration has been given to the recommendations of the Counselor to the Secretary under which increased responsibility for operations and for maintaining the financial stability of the projects without HUD operating subsidy would be placed on the tribal governments and their IHAs. For these reasons, no amendment on the issue of compenastion for Commissioners is proposed.

Allocation of Contract Authority

13. A proposal to amend § 805.205 to provide that HUD will allocate contract authority for Indian housing in accordance with need and administrative capability of the IHA was rejected based upon negative comments.

Compliance with Section 213 and OMB Circular A-95

14. Section 805.206 would be amended to provide that the application shall designate at least the general locations of the proposed housing as needed to permit the commencement of the Section 213 local review process. To expedite processing for Section 213 purposes, the application may be accompanied by comments on the application by the Chief Executive Officer on behalf of the local government. Appropriate provisions of OMB Circular A-95 are quoted. Section 805.217(a) would be revised to eliminate a description of procedural requirements under A-95, and to provide only that tentative site approval shall not be given until the requirements for compliance with Section 213 and with A-95 (where applicable) have been met.

Program Reservation and Development Program

15. The definition (in § 805.102) of the term "Program Reservation" has been modified to indicate that the obligation of contract and budget authority will be made at the program reservation stage and that the number of units which may be approved for ACC will be the number of units in the Program Reservation or such lesser number as is consistent with the reserved amount of contract and budget authority.

16. Section 805.206(b)(4) would require submission of an approvable Development Program within one year from issuance of the Program Reservation.

17. Section 805.208 would be substantially expanded to provide a mechanism for an ongoing process of coordination and cooperation by HUD, the IHA, the tribe and other concerned agencies during the development period. The amendments would require institution of the coordination process as soon as sites are identified. By concurring in tentative site approval, each party would be committed to providing any agreed funding or other assistance.

Section 805.208 would also provide for periodic consultations beteen the tribe, as well as IHA, HUD and other concerned federal agencies, on the progress of project development, at which times the parties would agree on necessary action on problems delaying the project development. Before the end of the one-year period,

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the parties would recommend to HUD whether to extend the one-year limit or cancel the Program Reservation.

PRELIMINARY LOANS

18. The provisions for preliminary loan funding (§ 805.209) would be comprehensively revised. Because the amount of preliminary loan previously authorized ($500 per unit, $1,000 in Alaska) has often been insufficient, the amendments would allow a higher and more flexible limitation for preliminary surveys and planning. The new limitation is 3 percent of estimated Total Development Cost ($1,500 in the case of a $50,000 TDC). In addition, the HUD field office could under certain specified conditions approve preliminary loan funding for purposes other than preliminary surveys and planning, or for more than 3 percent.

19. While increasing the amounts of preliminary loan, the regulations would also establish limitations on the availability and use of the funds. The regulations would clarify that preliminary loan funds are only available for purposes and in amounts that can be included in a Development Cost Budget (§ 805.209(c)). In order to establish tighter controls over the use of the funds, the IHA would be required to to adopt, and submit for HUD approval, a budget for use of the loan funds (§ 805.209(d)). Finally, since adequate preliminary loan funding is now to be provided, the amendments would explicitly prohibit an IHA from the use of funds from other projects to cover the pre-ACC expenses (§ 805.209(e)).

CAPABILITY OF CONTRACTOR

20. A new § 805.211(c) would provide that the IHA may not award a construction contract until the prospective contractor has demonstrated that he has the technical, administrative and financial capability to perform the contract work within the time provided under the contract.

DESIGN OF THE HOUSING

21. Section 805.212(a) sets forth a revised statement of the basic design standards. In the interests of clarity, all the relevant standards are brought together in one paragraph. In addition, the revision states that the HUD Minimum Property Standards shall be taken into account, but shall not be controlling. This will eliminate the need for specific exceptions or waivers where deviations from the MPS are considered desirable or appropriate.

22. Section 805.212(b) is a new provision which sets forth the procedure for obtaining HUD approval of a design preliminary to preparation of a Developer's Packet and advertisement for proposals. Under this procedure, the IHA shall prepare and submit to HUD a basic outline for a minimum acceptable house for its jurisdictional area and attendant water supply and waste disposal facilities. This shall be done after consultation with the families to be housed. HUD shall approve a basic outline of the housing and facilities which, as determined by HUD, can be constructed within the applicable Prototype Cost limit and at a reasonable total contract price, and within an acceptable Total Development Cost. These amounts shall be stated in HUD's approval of the basic outline and, as stated earlier, the prototype cost limit and the maximum total contract price which has been determined to be reasonable shall be included in the advertisement for proposals. Following HUD approval of the basic outline, the IHA shall prepare the drawings and specifications needed for the advertisement for proposals and shall submit these, together with the remainder of the information for prospective contractors, to HUD for its approval.

COST LIMITS—NEW CONSTRUCTION OR ACQUISITION

23. Section 805.213 which provides procedures for special prototype cost determinations for this program, would be amended to clarify that these provisions apply only to separate Indian prototype cost areas.

24. The statement of the special factors to be considered in establishing prototype costs for separate Indian areas (now § 805.213(b)(1)) would be modified by adding a sentence requiring that prototype costs shall provide for features, appropriate for the area, designed to conserve energy, lower utility costs, or utilize indigenous energy sources.

25. Section 805.213(b)(2), a new provision, states that a copy of the prototype design on which a published prototype cost is based shall be supplied to the IHA for its guidance in preparing the basic house design to be submitted to HUD for approval.

26. Section 805.212(c) deals with revisions of prototype cost, in the context of the procedure which calls for the submission by the IHA to HUD of a basic outline of the housing and facilities it desires to have built. This section states that if the IHA finds that a proposed housing design cannot be built within 110 percent of the existing prototype cost because construction costs have increased (but not because the design has more expensive features than the prototype design) the IHA shall so state and request a revision of the prototype cost. This request shall be accompanied by evidence of the cost increase. HUD shall agree to revise the prototype cost only if (1) it determines that the evidence of cost increases supports the request and (2) the design cannot be modified to reduce the cost sufficiently.

27. Section 805.214d(b) would be amended to clarify that the prototype cost limit applies only to new construction, and to provide that where a Project is developed under the Acquisition method Development Cost shall not exceed 90 percent of the imputed Development Cost of a comparable hypothetical new construction project (or an appropriately lower percentage if the projected useful life of the acquisition project is less than the ACC term).

28. Many comments addressed the delay in the publication of the annual updates and interim revisions of prototype costs. The Department is reviewing actions it might take to alleviate this problem by expediting the present process or by delegating authority to field offices subject to total development cost ceilings. Comments from the public are specifically invited on this point.

PROVISIONS RELATING TO DEVELOPMENT COST

29. At the request of the BIA, § 805.214(c) would be amended to provide that where BIA is to assume responsibility for maintenance of streets after the housing development is completed, BIA must be given the opportunity to review the design and to inspect the construction of the streets.

30. Section 805.214(e) presently provides that connections to utility distribution systems may be included in Development Cost. In view of questions and comments relating to the meaning of the word *connections* and whether costs of extensions to distribution systems may be included, the paragraph has been revised to change the word *connections* to *hookups* and to provide that where reasonably short extensions are needed to make the utility distribution system available to the site, such costs may be included in the Development Cost if the costs can be justified on the basis of net savings in the Development Cost or long-term savings based upon utility analysis.

31. Section 805.214(e) now provides that costs of facilities to be provided by other than HUD shall not be included in Development Cost. This paragraph has been revised to state that such costs may not be included unless such costs are offset by other parties assuming costs that would otherwise be included in Development Cost.

TENANT COUNSELING

32. A new paragraph, § 805.214(i), has been added to provide for the costs of a HUD-approved counseling program (up to $500 per dwelling unit) in Development Costs for tenants of a Rental Project. Previously such counseling programs were allowable only for Mutual-Help projects.

SITE SELECTION AND APPROVAL

33. Section 805.216(b) is being amended to specify that a site may not be approved unless, in addition to assurances of access roads in time for initial occupancy of a proposed project, there are assurances that there will be access to the site in time for construction purposes.

34. Section 805.216(e) would be amended to specify that IHAs may only use sites for which the costs of surveys and planning, including test borings and drillings, are expected to be reasonable. A new § 805.216(g)(5) would state that final site approval will not be given unless HUD determines there is not an unreasonable risk of natural hazard.

35. Section 805.217(b) would be amended to include an exception permitting execution of an ACC before final site approval on donated sites or contributed sites for which the MH Contribution credit is $750 or less per site under the following conditions:

a. All projects have tentative site approval before ACC;

b. At least 50 percent of the sites have final site approval before ACC;

c. It is shown to the satisfaction of HUD that the balance of the sites will probably meet the requirements for final site approval no later than one year from execution of the Construction Contract; and

d. The Construction Contract shall provide that is all sites, finally approved and with executed leases, have not been delivered by the IHA to the contractor within one year from execution of the Construction Contract (or HUD-approved extension), the Construction Contract shall be reduced by the amount attributable to the units to be developed on the undelivered sites.

36. Section 805.217(c) would prohibit the acquisition of a site until after (1) final site approval and any necessary approvals from IHS and BIA and (2) execution of the ACC, unless HUD authorizes advance acquisition.

APPRAISALS

37. In response to field recommendations, the dollar amount below which an appraisal is not required is raised from $500 to $750 (§ 805.219(a)).

38. Section 805.219(b) would be amended to eliminate the provision that HUD or BIA appraisals shall not be requested until receipt of a HUD notification that a sufficient number of sites have been approved to permit the project to proceed. It is intended to facilitate and encourage the submission of requests for site appraisals for particular sites, or batches of sites, at the earliest possible date, to avoid delays in project development.

39. Section 805.219(c)(4) provides that the valuation of a leasehold interest on trust land may not exceed ⅔ of the value of the land as if alienable in fee. This limitation would be retained, but the regulation would be amended to provide that the ⅔ limitation may be exceeded with approval of the Assistant Secretary for Housing in exceptional cases where no other suitable sites are available.

FINANCIAL FEASIBILITY—RENTAL PROJECTS

40. An amendment of § 805.220 to state in detail the process by which financial feasibility of a rental project shall be determined has been eliminated based upon comments that it was difficult to understand. Therefore, the section remains unchanged and the financial feasibility test is referenced to the test applicable to projects subject to the Performance Funding System (24 CFR 890.101 et. seq.) for providing operating subsidy. Operating subsidy for these projects is now provided under PFS.

INSPECTIONS

41. Section 805.221(a) has been expanded to make it clear that whatever the production method used, inspections during construction must be performed with such frequency and under such procedures as will assure completion of quality housing in accordance with the contract.

42. Section 805.221(c) would provide that the homebuyer must be given a copy of the report on the final inspection when the home is completed.

ACC AMENDMENTS

43 A new § 805.223(b) would provide explicitly that the Development Program and ACC may be amended to provide amounts needed to correct deficiencies in design, construction or equipment and resulting damages, where it is not possible to obtain timely correction by the responsible parties.

44. In the case of a MH home, the additional development cost for such work will not result in an increase in the homebuyer's purchase price. However, before approving work on a MH home for correction of deficiencies, the field office may review the homebuyer's compliance with the MHO Agreement and may require the IHA to reach an agreement with the homebuyer for the correction of significant non-compliances.

ADMISSION POLICIES

45. The existing regulation permits IHAs to set maximum income limits for eligibility at the maximum permitted under the Act, which limits participants to families who cannot afford to pay enough to cause private enterprise to build an adequate supply of decent, safe and sanitary dwellings for their use. It was anticipated that under permissible income limits, families of relatively higher incomes who could not obtain decent housing because of the near impossibility of obtaining private financing on trust or restricted land would be able to participate in the program and the existing regulation specifically states that "HUD shall approve the IHA's schedules of maximum income limits unless it finds that the IHA's determination of such limits is arbitrary or capricious."

Evidence has been received that higher income limits in some cases are not being approved. Therefore, the provision would be revised (a) to state that IHAs in submitting higher income limits to HUD for approval may furnish a certification that private (conventional, FHA or VA) or Farmers Home Administration financing is not available to the prospective tenants or homebuyers along with such other supporting evidence as the IHAs deem advisable and (b) to eliminate the "arbitrary and capricious" language and provide a new standard for HUD field offices in acting up on an IHA's request. The new standard is that HUD shall not disapprove such income limits on the ground of their being too high unless it finds that the IHA certification is incorrect.

46. The regulations now require (§ 805.302(b)(2)(i)) the adoption by an IHA of admission policies for Rental, MH and Turnkey III Projects designed to achieve occupancy by families with a "broad range of incomes and rent-paying ability which is generally representative of the range of incomes of low-income Indian families in the area." These provisions would be amended to change the standard of reference to "range of income of low-income Indian families in the area, as determined by HUD, who would be qualified for admission to the type of project (Rental or Mutual-Help)." Thus, in the case of a Mutual-Help project, the relevant area population would consist of only those families who would be income-eligible for a Mutual-Help project, taking into account the obligation to pay as a minimum the amount of the Administration Charge and to provide maintenance and utilities. A similar amendment would be made in § 805.302(b)(2)(iv) in connection with the requirement for at least 20 percent occupancy of an MH project by those of very low income.

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MAINTENANCE AND IMPROVEMENTS

47. Section 805.306(d) presently states, with respect to IHA homeownership projects, that the IHA is responsible to HUD for assuring that the housing is being kept in decent, safe and sanitary condition. In response to concern that this does not sufficiently express the responsibility of the IHA, bearing in mind that the obligation to provide the maintenance is on the homebuyer, this section would be amended to provide that the IHA has the overall responsibility for assuring that the home and grounds are maintained in a manner that will preserve their condition, normal wear and depreciation excepted. A provision would also be added requiring the IHA to conduct a complete interior and exterior examination of each home at least once a year, and to take appropriate remedial action, including steps to assure performance of the homebuyer's obligations.

48. A new provision which would have required that any improvements to rental, Turnkey III or MH units must be performed under HUD-approved plans and specifications, even if financed by non-project funds, and has not been included because minor improvements by homebuyers would be delayed and excessive paperwork and administrative time would be required.

OPERATING SUBSIDY FOR MUTUAL-HELP PROJECTS

49. Some comments requested the payment of operating subsidies to assist homebuyers in paying the Administration Charge and utilities and in maintaining the homes, since the costs of these items have increased faster than the incomes of homebuyer families. It is felt that this issue, as well as other operating policy issues, should be deferred until consideration has been given to the recommendations of the Counselor to the Secretary under which increased responsibility for operations and for maintaining the financial stability of projects without HUD operating subsidy would be placed on the tribal governments and their IHAs. However, to provide for the immediate need for operating subsidy for items for which the homebuyer is not responsible, a new Section 805.311 would be added. In addition to the use of operating subsidy to pay for Independent Public Accountant Audits, operating subsidy could be authorized to pay for the following:

a. Administration Charges for vacant units where the IHA is making all reasonable efforts to fill the vacancies.

b. Collection losses due to delinquencies of homebuyers who have vacated their homes, and the costs of repairs to the vacant homes.

c. Costs of homebuyer counseling not funded under the Development Cost Budget, and training of staff and Commissioners.

d. Costs resulting from other unusual circumstances determined by HUD as justifying payment of operating subsidy.

Under the "unusual circumstances" provision, it is the intent that operating subsidy presently being paid for existing projects will be continued to the extent otherwise justified. However, it is also anticipated that each IHA will update the amount of the Administration Charge in accordance with its Operating Budget.

50. Many comments pointed out that although the Development Cost Budgets for projects developed under the new Regulation may include an amount of $500 per unit for homebuyer counseling, there is no source of funds for homebuyer counseling with respect to the occupants of the older Mutual-Help projects, or for training of IHA staff and Commissioners. Moreover, these are ongoing needs for which "one-shot" funding from development cost is not in itself sufficient. The provision authorizing operating subsidy for ongoing training and counseling would permit payment of operating subsidy to meet these needs.

DEVELOPMENT OF MH PROJECTS

51. Unrestricted land (fee land) may be purchased for a Mutual-Help homesite if the tribe and the homebuyer cannot donate or contribute enough usable sites. Under the present Regulation, § 805.404(c), the maximum amount that may be paid for a purchased site is $1,500 per unit, unless the excess cost is paid for by non-project funds or is compensated for by additional Mutual-Help contribution. In view of rising costs, as well as cost differences among localities, it has been determined that a more flexible ceiling is necessary. Another problem with the flat dollar ceiling is that it fails to give credit for those cases where the purchased site happens to include improvements which can be used in the development of the projects and which would otherwise have to be provided at additional development cost. Accordingly, § 805.404(c) would be amended in three respects:

a. The ceiling amount for an unimproved site would be stated as 8.75 percent of the estimated Dwelling Construction and Equipment Cost (DC&E Cost). This percentage would amount to approximately $1,500 where the DC&E Cost is about $17,000. This ceiling could be exceeded if the site has such topographic features that offsetting savings will be achieved through lower site improvement costs.

b. In case of an improved or partially improved site, the purchase price, together with the cost of further site improvements, must be reasonable in relation to the estimated DC&E Cost and consistent with an acceptable Total Development Cost.

52. In order to reflect increases in land cost, the maximum cost for a homesite, below which an appraisal is not required, has been raised from $500 to $750, and the maximum Mutual Help credit for a contributed homesite has been revised from $1500 per homesite to a project average of $1500 per homesite. (Section 805.219(a); 805.408(c)(2)).

53. Section 806.404(e) would provide that after final site approval a change of site shall not be permitted except with specific HUD approval on the basis of a showing of special circumstances and that the change will not unreasonably delay or add to the cost of the project.

54. Section 805.404(f) requires that contributed or donated land be leased or conveyed to the IHA before execution of the construction contract. This section would be amended to provide for exception as allowed by HUD.

55. Section 805.404(g) would provide that the IHA shall be responsible for determining the extent to which homebuyers be given an opportunity to comment on the planning and design of the homes, consistent with HUD standards and cost limitations.

ADMISSION TO MH PROJECTS

56. A new § 805.406(a)(2) which would have required that a family to be eligible for a MH project must have at least one person (not counting minors) who is not yet either sixty-two years of age or disabled was considered on the basis that this would help assure the ability to maintain the property. This section was withdrawn, however, based upon comments that such a section would adversely affect elderly family applicants and would not necessarily assure maintenance.

57. Section 805.406(b), which states the requirement for limiting admission to MH projects to families able and willing to meet all obligations under an MHO Agreement, would be amended to refer specifically to the MH homebuyer's duty to perform or provide the necessary maintenance.

HOMEBUYER ACCOUNTS

58. Section 805.409(a) would be amended to clarify the treatment of MH contribution credits after a substitution. In particular the amendment would provide that any additional MH credit after a substitution must be offset by an agreed reduction in the amount paid to the contractor. The additional credit cannot be covered by an increase in the total contract price included in development cost.

59. Section 805.414 would be amended to clarify the treatment on termination of MH credits for contributed land where the terminated homebuyer does not receive reimbursement or return of property.

60. Sections 805.418(a)(2)(ii) and (b) and 805.421(c)(4) would be amended to allow charges to be made to an MH homebuyer's equity account if necessary for the correction of a condition which presents an immediate risk of serious damage to the property.

MUTUAL-HELP—REQUIRED MONTHLY PAYMENTS

61. Under § 805.416(a) of the present Regulations, a homebuyer is required to pay the higher of (a) the Administration Charge, the amount necessary to meet per unit monthly operating expense of the IHA, or (b) 25 percent of the family's adjusted income ("Family Income"), less an allowance for utilities. If a family pays more than the Administrative charge, the family gets individual equity credit for the additional amount. Comments to the Department have indicated a need for more flexiblity by permitting the use of a lower percentage than 25 percent and by permitting a ceiling for those homebuyers of relatively high income. In response to these comments § 805.416(a) would be amended to provide that, except as necessary to meet the Administrative Charge, the amount of the Required Monthly Payment shall be computed by multiplying Family Income by a specified percentage (no less than 15 percent and no more than 25 percent). In addition, an IHA may provide for a maximum Required Monthly Payment of not less than the economic rent (Administration Charge plus debt service).

62. Sections 805.416(b) and (d) would be amended to provide for changes of Required Monthly Payments under a HUD-approved schedule to reflect changes in any of the factors affecting computation of the monthly payment.

63. The new rules for determination of Required Monthly Payments would be applicable only to MH projects placed under ACC on or after March 9, 1976. These rules would not apply to existing projects unless they are converted to development or operation under the new regulations.

64. A new provision, § 805.416(d)(2), is added to permit agreements to be made with homebuyers for seasonably adjusted payments schedules in order to accommodate wide fluctuations in a payments burden due to seasonal conditions.

MH OPERATING RESERVE

65. Section 805.420(a) would be amended to provide that the Operating Reserve for an MH project must be sufficient for working capital and other HUD-approved purposes.

PURCHASE OF HOME

66. Section 805.442(c)(2) and (3) would be amended to provide a simplified and uniform procedure for computation of the purchase price for an MH homebuyer other than the homebuyer who first occupies an MH home.

67. Section 805.422(d)(4) would be amended to specify that the home may not be conveyed until the homebuyer has met all his obligations under the Mutual-Help Agreement.

68. Sections 805.422(d)(5) and 805.423(d) would be amended to state the IHA's obligation to invest, and later to send to HUD, the purchase monies received by the IHA.

69. Section 805.422(a) and (e) would be amended to delete any requirement for a homebuyer to take title when his income increases, although the homebuyer does have the right if he so desires to obtain title with IHA homeownership financing (see § 805.423). Under the new text of § 805.422(e), when the IHA finds that a homebuyer is eligible to purchase with IHA homeownership financing, it will send him a written notification to that effect. This notification will also advise the homebuyer that until he purchases the home, his status will be governed by § 805.422(e)(2). Under this provision, the homebuyer will continue to make payments based upon his income, equity credits will continue to build up, but the purchase price will be frozen at the amount as of the date of the written notification.

70. Section 805.424(f) would be added to state the IHA's obligation to take action for non-compliance by a homebuyer with the Mutual-Help Agreement, and to require adoption of an agreed plan for bringing a homebuyer into compliance. Where a homebuyer does not comply with the plan, the IHA is required to proceed with eviction.

SETTLEMENT UPON TERMINATION—MAINTENANCE CREDIT ACCOUNT

71. Under the present Regulation, § 805.424(d)(3) provides that in case of termination of the MHO Agreement before acquisition of ownership, any credit balance in the Monthly Equity Payments Account (MEPA) shall be disposed of (after making all the necessary charges for repairs, etc.) by paying to the departing homebuyer only the amount that is equal to his total Maintenance Credit. This system has required that a special Maintenance Credit account be carried for each homebuyer to show the estimated value of the maintenance he is required under the present Regulation to provide. Comments have indicated that this adds to the complexity of bookkeeping and it has been urged that since the Maintenance Credit account serves no function under any other circumstances, it should be eliminated. In recognition of the need for simplifying the program as much as possible, the Regulation would be amended by deleting the Maintenance Credit account and authorizing payment to a departing homebuyer of the amount remaining in the MEPA Account after charging that account with the cost of all necessary repairs to the home and other delinquencies, if any.

CONVERSION

72. Section 805.428(b) would be amended to state the form of agreement by a Participant in the old Mutual-Help Program (before March 9, 1976) to convert his unit to the new Mutual-Help system.

A finding of inapplicability regarding the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this finding of inapplicability will be available for public inspection during regular business hours at the office of the Rules Docket Clerk at the above address.

Accordingly, it is proposed to amend Part 805 as follows:

Subpart A—General

Sec.
805.101 Applicability and scope.
805.102 Definitions.
805.103 Types of low income housing projects.
805.104 Assistance from Indian Health Service and Bureau of Indian Affairs.
805.105 Applicability of civil rights statutes.
805.106 Preferences, opportunities, and non discrimination in employment and contracting.
805.107 Compliance with other Federal requirements.
805.108 Establishment of IHAs pursuant to Tribal law or State law.
805.109 Procedures for establishment of IHAs by Tribal ordinance.
805.110 IHA Commissioners who are tenants or homebuyers.
Appendix I—Tribal Ordinance.

Subpart B—Development

805.201 Definitions.
805.202 Roles and responsibilities of Federal agencies.
805.203 Production methods.
805.204 Indian preference in contracting.
805.205 Allocations of contract authority.
805.206 Submission and HUD review of application for Program Reservation.
805.207 Prerequisites for application approval.
805.208 Interagency and Tribal Coordination.
805.209 Preliminary loans.
805.210 Development program.
805.211 Contracts in connection with development.
805.212 HUD's minimum property standards.

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Sec.
805.213 Prototype costs in Indian areas.
805.214 Development cost.
805.215 Design for economy in fuel consumption.
805.216 Site selection.
805.217 Site approval.
805.218 Types of interest in land.
805.219 Appraisals.
805.220 Financial feasibility of rental projects.
805.221 Construction inspection.
805.222 Inspections after acceptance and enforcement of warranties.
805.223 Cost to correct deficiencies.
Appendix I—Interdepartmental Agreement on Indian Housing. Exhibit to Agreement—BIA Homebuyer Training Program.

Subpart C—Operation

805.301 Definitions.
805.302 Admission policies.
805.303 Grievance procedures.
805.304 Determination of rents and homebuyer payments.
805.305 Rent and homebuyer payment collection policy.
805.306 Maintenance.
805.307 Procurement and adminstration of supplies, materials and equipment.
805.308 Correction of management deficiencies.
805.309 Indian preference in contracting.
805.310 Contracts for personal services.
805.311 Operating Subsidy—MH Projects.
805.312 Operating Subsidy—Other Projects.

Subpart D—Mutual Help Homeownership Opportunity Program

805.401 Scope and applicability.
805.402 Definitions.
805.403 Contractual framework.
805.404 Special provisions for development of an MH Project.
805.405 Financing of development cost.
805.406 Selection of MH homebuyers.
805.407 Notifications to applicant families.
805.408 MH contribution.
805.409 MH contributions in event of substitution of homebuyer.
805.410 MH work contribution.
805.411 Cash contribution.
805.412 Materials or equipment contribution.
805.413 Special requirements for NH construction contracts.
805.414 Disposition of contributions on termination before date of occupancy.
805.415 Actions upon completion; commencement of occupancy.
805.416 Required monthly payments.
805.417 Inspections; responsibility for items covered by warranty.
805.418 Maintenance, utilities, and use of home.
805.419 Administration charge and operating expense.
805.420 Operating reserve.
805.421 Homebuyer reserves and accounts.
805.422 Purchase of home.
805.423 IHA homeownership financing.
805.424 Termination of MHO agreement.
805.425 Succession upon death, mental incapacity or abandonment.
805.426 Miscellaneous.
805.427 Annual contributions contract.
805.428 Conversion of existing projects.
805.429 Counseling of homebuyers.
805.430 Cross references to defined terms.

AUTHORITY: Section 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)); sections 201(b) and 203 of the Housing and Community Development Act of 1974 (42 U.S.C. 1437, note and 1437f, note); U.S. Housing Act of 1937 (42 U.S.C. 1437 et seq.), especially sections 5(b), 5(c), and 5(h) (42 U.S.C. 1437c(b), 1437c(c), and 1436c(h)).

Subpart A—General

§ 805.101 Applicability and scope.

(a) *General.* (1) Under the U.S. Housing Act of 1937 (42 U.S.C. 1437 et seq.), the U.S. Department of Housing and Urban Development provides financial and technical assistance to public housing agencies for the development and operation of low income housing projects. This Part is applicable to such projects which are developed or operated by an Indian Housing Authority in the area within which such Indian Housing Authority is authorized to operate.

(2) If assistance under this Part is not available to a low income Indian family because the family desires housing in an area within which no Indian Housing Authority is authorized to provide housing, or if for any other reason an Indian family desires housing assistance other than under this Part, a family may seek housing assistance under other Parts of this Chapter.

(b) *Other HUD regulations and requirements.* The provisions of this Part do not constitute a self-contained or complete statement of the HUD regulations and requirements affecting the development or operation of low income housing Projects of Indian Housing Authorities. Except as modified or supplemented by the provisions of this Part, HUD regulations, procedures and requirements generally applicable to the development or operation of low income housing are applicable to Projects subject to this Part.

§ 805.102 Definitions.

This section sets forth certain definitions of terms used in this Part. Definitions of other terms are contained in various sections where the terms are used. For a list of cross references to the location of the various definitions, see 805.430.

ACC. An Annual Contributions Contract.

Act. The U.S. Housing Act of 1937 (42 U.S.C. 1437 et seq.).

Annual Contributions Contract. A contract on a form prescribed by HUD for loans and annual contributions between HUD and an IHA, under which HUD finances the development of a low income housing project under the Act, and the IHA agrees to develop and operate the project in compliance with all provisions of the ACC and the Act, and all HUD regulations, requirements and procedures pursuant thereto. The amount charged against contract authority is the maximum contribution payable under the ACC (Maximum Contribution Percentage times Maximum Development Cost), and this amount multiplied by the maximum number of debt service annual contributions over the term of the ACC is the amount charged against budget authority.

BIA. The Bureau of Indian Affairs in the Department of the Interior.

Construction Contract. The contract for construction in the case of the Conventional method, or the Contract of Sale in the case of the Turnkey method.

Conversion. A conversion of an Existing Project in accordance with § 805.428.

Development Cost. See Total Development Cost.

Development Program. A statement of the basic elements of a Project, including the estimated Total Development Cost of the Project, as adopted by the IHA and approved by HUD.

Existing Project. A Mutual Help Project placed under ACC before March 9, 1976, the effective date of this Part.

Home. A dwelling unit covered by a Homebuyer's Mutual Help and Occupancy Agreement.

Homebuyer. A person(s) who has executed a Mutual Help and Occupancy Agreement with the IHA, and who has not yet achieved homeownership.

Homeowner. A Homeowner who has achieved ownership of his Home.

HUD. The Department of Housing and Urban Development, including the Regional, Area or Insuring Office which has been delegated authority under the Act to perform functions pertaining to this Part for the area in which the IHA is located.

IHA. An Indian Housing Authority.

IHA Homeownership Financing. IHA financing for purchase of a Home by an eligible Homebuyer who gives the IHA a Promissory Note and Mortgage for the balance of the purchase price (see section 805.423).

IHS. The Indian Health Service in the Department of Health, Education, and Welfare.

Indian. Any person recognized as being an Indian or Alaska Native by a tribe, the Government, or any state.

Indian Area. The area within which an IHA is authorized to provide housing.

Indian Housing Authority. A public housing agency established (a) by exercise of a tribe's powers of self-government independent of state law, or (b) by operation of state law providing specifically for housing authorities for Indians.

Interdepartmental Agreement. The agreement among HUD, the Department of Health, Education and Welfare and the Department of the Interi-

or concerning assistance to Projects developed and operated under the Act (Appendix I to Subpart B).

MEPA. The Monthly Equity Payments Account (see § 805.421(b)(1)).

MH. Mutual Help.

MH Construction Contract. A Construction Contract for an MH Project where an MH contribution of work, materials or equipment is to be made, which contract shall be on a form prescribed by HUD.

MH Contribution. A contribution of land, work, cash, materials or equipment toward the Development Cost of a Project in accordance with a Homebuyer's MHO Agreement, credit for which is to be used toward purchase of a Home unless used earlier to pay for maintenance or other obligations of the Homebuyer.

MHO Agreement. A Mutual Help and Occupancy Agreement between an IHA and a Homebuyer.

MH Program. The Mutual Help Homeownership Opportunity Program.

MH Project. A Project developed and operated under the MH Program.

Program Reservation. A written notification by HUD to an IHA, which is not a legal obligation, but which expresses HUD's determination, subject to fulfillment by an IHA of all legal and administrative requirements within a stated time, to enter into a new or amended Preliminary Loan Contract or ACC covering the stated number of housing units, or such lesser number as is consistent with the amount of contract and budget authority reserved by HUD under the Program Reservation.

Project. The entire undertaking to provide housing as identified in the ACC involved, including all real or personal property, funds and reserves, rights, interests and obligations, and activities related thereto to be developed and operated by an IHA.

Total Development Cost. The sum of all HUD-approved costs for a Project incurred by an IHA in any and all undertakings necessary for planning, site acquisition, demolition, construction or equipment and their necessary financing (including the payment of carrying charges), and in otherwise carrying out the development of the Project.

Tribe. An Indian tribe, band, pueblo, group or community of Indians or Alaska Natives.

§ 805.103 Types of low income housing projects.

IHAs may develop the following types of Projects:

(a) *Rental.* In a Rental Project, the occupants are month-to-month tenants of the IHA. Projects may be developed with single family detached, duplex, row house, walk-up, garden type, or elevator structures. Projects for the elderly and the handicapped may include congregate housing.

(b) *Mutual Help Homeownership Opportunity.* This program (see Subpart D) is available only for use by IHAs eligible for assistance under this Part. Under this program, a Homebuyer enters into an MHO Agreement under which the Homebuyer agrees to (1) contribute cash, work, land, materials, or equipment, or a combination thereof, for development of the Project; (2) make monthly payments based on income; and (3) provide all maintenance of the Home. In return, the initial purchase price of the Home is reduced each month in accordance with a predetermined purchase price schedule, and the Homebuyer is given the right to buy the Home by payment of the remaining balance of the purchase price at the time of the purchase. The credit for the Homebuyer's contribution is available for maintenance of the Home, and any balance is applied against the purchase price of the Home.

(c) *Section 8 Housing Assistance Payments.* The regulations for this program are set forth in Parts 880, 881, 882, and 883 of this Chapter. Under this program, a low income family leases a dwelling unit in newly constructed, substantially rehabilitated or existing housing. Housing assistance payments are made on behalf of the family to cover the difference between the contract rent of the unit and the amount payable by the family, as determined in accordance with schedules and criteria established by HUD. This program may include rental and cooperative projects, including housing for the elderly or handicapped and congregate housing, and homeownership opportunity housing (see Section 8(c)(8) of the Act.)

§ 805.104 Assistance from Indian Health Service and Bureau of Indian Affairs.

Projects undertaken by IHAs of Federally Recognized Tribes shall be developed and operated in accordance with the provisions of the Interdepartmental Agreement. "Federally Recognized Tribe" means a tribe recognized as eligible for services from BIA or IHS. Since HUD assistance under this Part is not limited to IHAs of Federally Recognized Tribes, provisions in this Part relating to assistance from BIA or IHS, or to required approvals, actions or determinations by these agencies in connection with such assistance, shall be construted as applicable only to Projects undertaken by IHAs of Federally Recognized Tribes.

§ 805.105 Applicability of civil rights statutes.

(a) *Indian Civil Rights Act.* The Indian Civil Rights Act (Title II of the Civil Rights Act of 1968, 25 U.S.C. 1301-03) provides, among other things, that no Indian tribe in exercising power of self-government shall deny due process or the equal protection of its laws to any person within its jurisdiction. The Indian Civil Rights Act applies to tribes which exercise powers of self-government. Thus, it is applicable in all cases when an IHA has been established by exercise of such powers. In the case of an IHA established pursuant to state law, the capacity of the tribe to exercise powers of self-government and the applicability of the Indian Civil Rights Act shall be determined by HUD on a case-by-case basis. Projects of IHAs subject to the Indian Civil Rights Act shall be developed and operated in compliance with its provisions and all HUD requirements thereunder.

(b) *Non-applicability of Title VI and Title VIII.* Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d-2000d-4), which prohibits discrimination on the basis of race, color or national origin in federally assisted programs, and Title VIII of the Civil Rights Act of 1968 as amended (42 U.S.C. 3601 et seq.), which prohibits discrimination based on race, color, religion, sex or national origin in the sale or rental of housing, do not apply to IHAs established by exercise of a tribe's powers of self-government. HUD regulations implementing Title VI and Title VIII shall not be applicable to development or operation of Projects by such IHAs. In the case of an IHA established pursuant to state law, the question of applicability of Title VI and Title VIII shall be determined by HUD on a case-by-case basis.

§ 805.106 Preferences, opportunities, and nondiscrimination in employment and contracting.

(a) *Indian Self-Determination and Education Assistance Act (preference for Indians).* HUD has determined that the Projects under this Part are subject to Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(b)), which requires that, to the greatest extent feasible: (1) Preference and opportunities for training and employment shall be given to Indians, and (2) preference in the award of contracts and subcontracts shall be given to Indian Organizations and Indian-owned Economic Enterprises. "Indian Organizations and Indian-owned Economic Enterprises" include both: (1) Any "economic enterprise" as defined in Section 3(e) of the Indian Financing Act of 1974 (Pub. L. 93-262); that is "any Indian-owned commercial, industrial, or business activity established or organized for the purpose of profit: Provided, that such Indian ownership shall constitute not less than 51 per-

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cent of the enterprise, and (2) any "tribal organization" as defined in section 4(c) of the Indian Self-Determination and Education Assistance Act (Pub. L. 93-638); that is: "the recognized governing body of any Indian tribe; any legally established organization of Indians which is controlled, sanctioned or chartered by such governing body or which is democratically elected by the adult members of the Indian Community to be served by such organization and which includes the maximum participation of Indians in all phases of its activities * * *."

(b) *Executive Order 11246 (equal employment opportunity).* (1) Contracts for construction work in connection with Projects under this Part are subject to Executive Order 11246 (30 FR 12319), as amended by Executive Order 11375 (32 FR 14303), and applicable implementing regulations (24 CFR, Part 130; 41 CFR, Chapter 60), rules, and orders of HUD and the Office of Federal Contract Compliance Programs of the Department of Labor. Executive Order 11246 prohibits discrimination and requires affirmative action to ensure that employees or applicants for employment are treated without regard to their race, color, religion, sex, or national origin.

(2) Compliance with Executive Order 11246, and related regulations, orders and requirements shall be to the maximum extent consistent with, but not in derogation of, compliance with Section 7(b) of the Indian Self-Determination and Education Assistance Act.

(c) *IHA's Own Employment Practices.* Each IHA shall adopt and promulgate regulations with respect to the IHA's own employment practices which shall be in compliance with its obligations under Section 7(b) of the Indian Self-Determination and Education Assistance Act, and Executive Order 11246, where applicable. A copy of these regulations shall be posted in the IHA office, and a copy shall be submitted to HUD promptly after adoption by the IHA. (Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e), as amended, which prohibits discrimination in employment by making it unlawful for employers to engage in certain discriminatory practices, excludes Indian tribes from the nondiscrimination requirements of Title VII.)

§ 805.107 Compliance with other Federal requirements.

(a) *National Environmental Policy Act.* Projects shall be developed in compliance with the National Environmental Policy Act (42 U.S.C. 4321 et seq.) and all requirements thereunder.

(b) *Clean Air Act and Federal Water Pollution Control Act.* Projects shall be developed in compliance with the Clean Air Act (42 U.S.C. 1857 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1151 et seq.) and all requirements thereunder.

(c) *Davis-Bacon Wage Rates for Laborers and Mechanics.* Not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. 276a through 276a-5), shall be paid to all laborers and mechanics employed in the development of a Project.

(d) *Professional and Technical Wage Rates.* Not less than the wages prevailing in the locality, as determined or adopted (subsequent to a determination under applicable state or local law) by HUD, shall be paid to all architects, technical engineers, draftsmen and technicians employed in the development of a Project.

(e) *Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and Expenses of Temporary Relocation.* (1) When a Project is developed by an IHA established in accordance with § 805.108(a), the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 ("Uniform Act") (42 U.S.C. 4601 et seq.) does not apply, because such an IHA is not a "State agency" covered by the Uniform Act.

(2) When a Project is developed by an IHA established in accordance with § 805.108(b), the Project shall be developed in compliance with the Uniform Act and HUD policies and requirements thereunder (24 CFR, Part 42).

(3) In the case of both (1) and (2), Development Cost may include the reasonable moving costs for a family which is moved from a Project site during construction and is returned to the site after completion.

§ 805.108 Establishment of IHAs pursuant to Tribal law or State law.

An IHA may be established either:

(a) By a tribal ordinance enacted by exercise of a tribe's powers of self-government independent of state law, creating an IHA with all necessary legal powers to carry out low income housing projects for Indians, which IHA shall be established in accordance with § 805.109; or

(b) Pursuant to a state law which provides for the establishment of IHAs with all necessary legal powers to carry out low income housing projects for Indians.

§ 805.109 Procedures for establishment of IHAs by Tribal ordinance.

(a) *Applicability.* This section shall be applicable only when an IHA is established by exercise of a tribe's powers as described in § 805.108(a).

(b) *Legal Capacity of Tribe to Establish IHA.* Where an Indian tribe has governmental police power to promote the general welfare, including the power to create a housing authority, an IHA may be established by tribal ordinance enacted by the governing body of the tribe.

(c) *Approval or Review of Ordinance by the Department of the Interior.* HUD shall not enter into an undertaking for assistance to an IHA formed by tribal ordinance unless such ordinance has been submitted to HUD, accompanied by evidence that the tribe's enactment of the ordinance either has been approved by the Department of the Interior or has been reviewed and not objected to by that Department.

(d) *Form of Ordinance.* The form of tribal ordinance shown as Appendix I to this Subpart A shall be used for the establishment of IHAs by tribal ordinance on and after March 9, 1976, the effective date of this Part. No substantive change may be made in the form of tribal ordinance except as indicated by footnotes in Appendix I or with specific written approval from HUD.

(e) *Amendment of Ordinance Previously Enacted.* Tribal ordinances enacted prior to the effective date of this part, which do not conform to the required provisions of the form of ordinance set out as Appendix I, shall be amended to conform thereto as soon as possible. Beginning January 1, 1977, no contract or ammendment providing any additional commitment for HUD financial assistance shall be entered into unless such conforming amendments have been enacted.

(f) *Submission to HUD of Documents Establishing IHA.* The tribal ordinance, evidence of Department of the interior approval or review, and the following documentation relating to the initial organization of the IHA, in the form prescribed by HUD, shall be submitted to HUD prior to or with any application for financial assistance:

(1) Certificate of appointment of Commissioners.
(2) Commissioner's oath of office.
(3) Notice of organization meeting.
(4) Consent to meeting.
(5) Minutes of meeting.
(6) Resolutions establishing the IHA, adopting the by laws, adopting a seal, designating a regular place of meeting, and designating officers.
(7) Bylaws.
(8) Certificate of Secretary as to authenticity of documents.
(9) General Certificate of Housing Authority.

§ 805.110 IHA Commissioners who are tenants or homebuyers.

(a) *Tenant or Homebuyer Commissioners.* No person shall be barred from serving on an IHA's Board of Commissioners because he is a tenant or Homebuyer in a housing Project of the IHA. A commissioner who is a

tenant or Homebuyer shall be entitled to participate fully in all meetings concerning matters that affect all of the tenants or Homebuyers, even though such matters affect him as well. However, no such Commissioner shall be entitled or permitted to participate in or be present at any meeting (except in his capacity as a tenant or Homebuyer), or be counted or treated as a member of the Board, concerning any matter involving his individual rights, obligations or status as a tenant or Homebuyer.

(b) *Commissioner as IHA Employee.* A member of the IHA's Board of Commissioners shall not be eligible for employment by the IHA except under unusual circumstances and with HUD approval.

APPENDIX I—TRIBAL ORDINANCE

Pursuant to the authority vested in the ———— Tribe by its Constitution, and particularly by Article ————, Sections ———— thereof, and its authority to provide for the health, safety, morals and welfare of the Tribe, the Tribal Council of the ———— Tribe hereby establishes a public body known as the ———— Housing Authority (hereinafter referred to as the Authority), and enacts this ordinance which shall establish the purposes, powers and duties of the Authority.

In any suit, action or proceeding involving the validity or enforcement of or relating to any of its contracts, the Authority shall be conclusively deemed to have become established and authorized to transact business and exercise its powers upon proof of the adoption of this ordinance. A copy of the ordinacne duly certified by the Secretary of the Council shall be admissible in evidence in any suit, action or proceeding.

ARITCLE I [1]

DECLARATION OF NEED

It is hereby declared:

1. That there exist on the ———— Reservation insanitary, unsafe, and overcrowded dwelling accommodations; that there is a shortage of decent, safe and sanitary dwelling accommodations available at rents or prices which persons of low income can afford; and that such shortage forces such persons to occupy insanitary, unsafe and overcrowded dwellilng accommodations;

2. That these conditions cause an increase in and spread of disease and crime and constitute a menace to health, safety, morals and welfare; and that these conditions necessitate excessive and disproportionate expenditures of public funds for crime prevention and punishment, public health and safety protection, fire and accident prevention, and other pubilc services and facilities;

3. That the shortage of decent, safe and sanitary dwellings for persons of low income cannot be relieved through the operation of private enterprise;

4. That the providing of decent, safe and sanitary dwelling accommodations for persons of low income are public uses and purposes for which money may be spent and private property acquired and are governmental functions of Tribal concern;

5. That residential construction activity and a supply of acceptable housing are important factors to general economic activity, and that the undertakings authorized by this ordinance to aid the production of better housing and more desirable neighborhood and community development at lower costs will make possible a more stable and larger volume of residential construction and housing supply which will assist materially in achieving full employment; and

6. That the necessity in the public interest for the provisions hereinafter enacted is hereby declared as a matter of legislative determination.

ARTICLE II

PURPOSES

The Authority shall be organized and operated for the purposes of:

1. Remedying unsafe and insanitary housing conditions that are injurious to the public health, safety and morals;

2. Alleviating the acute shortage of decent, safe and sanitary dwellings for persons of low income; and

3. Providing employment opportunities through the construction, reconstruction, improvement, extension, alteration or repair and operation of low income dwellings.

ARTICLES III

DEFINITIONS

The following terms, wherever used or referred to in this ordinance, shall have the following respective meanings, unless a different meaning clearly appears from the context:

"Area of Operation" means all areas within the jurisdiction of the tribe.

"Board" means the Board of Commissioners of the Authority.

"Council" means The————Tribal Council.

"Federal government" includes the United States of America, the Department of Housing and Urban Development, or any other agency or instrumentality, corporate or otherwise, of the United States of America.

"Homebuyer" means a person(s) who has executed a lease-purchase agreement with the Authority, and who has not yet achieved homeownership.

"Housing project" or *"project"* means any work or undertaking to provide or assist in providing (by any suitable method, including but not limited to: rental; sale of individual units in single or multifamily structures under conventional condominium, or cooperative sales contracts or lease-purchase agreements; loans; or subsidizing of rentals or charges) decent, safe and sanitary dwellings, apartments, or other living accomodations for persons of low income. Such work or undertaking may include buildings, land, leaseholds, equipment, facilities, and other real or personal property for necessary, convenient, or desirable appurtenances, for streets, sewers, water service, utilities, parks, site preparation or landscaping, and for administrative, community, health, recreational, welfare, or other purposes. The term "housing project" or "project" also may be applied to the planning of the buildings and improvements, the acquisition of property or any interest therein, the demolition of existing structures, the construction, reconstruction, rehabilitation, alteration or repair of the improvements or other property and all other work in connection therewith, and the term shall include all other real and personal property and all tangible or intangible assets held or used in connection with the housing project.

"Obligations" means any notes, bonds, interim certificates, debentures, or other forms of obligation issued by the Authority pursuant to this ordinance.

"Obligee" includes any holder of an obligation, agent or trustee for any holder of an obligation, or lessor demising to the Authority property used in connection with a project, or any assignee or assignees of such lessor's interest or any part thereof, and the Federal government when it is a party to any contract with the Authority in respect to a housing project.

"Persons of low income" means persons or families who cannot afford to pay enough to cause private enterprise in their locality to build an adequate supply of decent, safe, and sanitary dwellings for their use.

ARTICLE IV

BOARD OF COMMISSIONERS

1. (a)[2](1) The affairs of the Authority shall be managed by a Board of Commissioners composed of five persons.

(2) The Board members shall be appointed, and may be reappointed, by the Council. A certificate of the Secretary of the Council as to the appointment or reappointment of any commissioner shall be conclusive evidence of the due and proper appointment of the commissioner.

(3) A commissioner may be a member or non-member of the Tribe, and may be a member or non-member of the Tribal Council.

(4) No person shall be barred from serving on the Board because he is a tenant or homebuyer in a housing project of the Authority; and such commissioner shall be entitled to fully participate in all meetings concerning matters that affect all of the tenants or homebuyers, even though such matters affect him as well. However, no such commissioner shall be entitled or permited to participate in or be present at any meeting (except in his capacity as a tenant or homebuyer), or to be counted or treated as a member of the Board, concerning any matter involving his individual rights, obligations or status as a tenant or homebuyer.

(b)[3] The term of office shall be four years and staggered. When the Board is first established, one member's term shall be designated to expire in one year, another to expire in two years, a third to expire in three years, and the last two in four years. Thereafter, all appointments shall be for four years, except that in the case of a prior vacancy, an appointment shall be only for the length of the unexpired term. Each member of the Board shall hold office until his successor has been appointed and has qualified.

(c)[4] The Council shall name one of the Commissioners as Chairman of the Board. The Board shall elect from among its members a Vice-Chairman, a Secretary, and a Treasurer; and any member may hold two of these positions. In the absence of the Chairman, the Vice-Chairman shall preside; and in the absence of both the Chairman and Vice-Chairman, the Secretary shall preside.

(d)[5] A member of the Board may be removed by the appointing power for serious inefficiency or neglect of duty or for misconduct in office, but only after a hearing before the appointing power and only after the member has been given a written notice

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of the specific charges against him at least 10 days prior to the hearing. At any such hearing, the member shall have the opportunity to be heard in person or by counsel and to present witnesses in his behalf. In the event of removal of any Board member, a record of the proceedings, together with the charges and findings thereon, shall be filed with the appointing power and a copy thereof sent to the appropriate office of the Department of Housing and Urban Development.

(e) The Commissioners shall not receive compensation for their services but shall be entitled to compensation for expenses, including travel expenses, incurred in the discharge of their duties.

(f) A majority of the full Board (i.e., notwithstanding the existence of any vacancies) shall constitute a quorum for the transaction of business, but no Board action shall be taken by a vote of less then a majority of such full Board.

(g) The Secretary shall keep complete and accurate records of all meetings and actions taken by the Board.

(h) The Treasurer shall keep full and accurate financial records, make periodic reports to the Board, and submit a complete annual report, in written form, to the Council as required by article VII, Section 1, of this ordinance.

2. Meetings of the Board shall be held at regular intervals as provided in the bylaws. Emergency meetings may be held upon 24 hours actual notice and business transacted, provided that not less than a majority of the full Board concurs in the proposed action.

ARTICLE V

POWERS

1. The Authority shall have perpetual succession in its corporate name.

2. The Council hereby gives its irrevocable consent to allowing the Authority to sue and be sued in its corporate name, upon any contract, claim or obligation arising out of its activities under this ordinance and hereby authorizes the Authority to agree by contract to waive any immunity from suit which it might otherwise have; but the Tribe shall not be liable for the debts or obligations of the Authority.

3. The Authority shall have the following powers which it may exercise consistent with the purposes for which it is established:

(a) To adopt and use a corporate seal.

(b) To enter into agreements, contracts and understandings with any governmental agency, Federal, state or local (including the Council) or with any person, partnership, corporation or Indian tribe; and to agree to any conditions attached to Federal financial assistance.

(c) To agree, notwithstanding anything to the contrary contained in this ordinance or in any other provision of law, to any conditions attached to Federal financial assistance relating to the determination of prevailing salaries or wages or payment of not less than prevailing salaries or wages or compliance with labor standards, in the development or operation of projects; and the Authority may include in any contract let in connection with a project stipulations requiring that the contractor and any subcontractors comply with requirements as to minimum salaries or wages and maximum hours of labor, and comply with any conditions which the Federal government may have attached to its financial aid to the project.

(d) To obligate itself, in any contract with the Federal government for annual contributions to the Authority, to convey to the Federal government possession of or title to the project to which such contract relates, upon the occurrence of a substantial default (as defined in such contract) with respect to the covenants or conditions to which the Authority is subject; and such contract may further provide that in case of such conveyance, the Federal government may complete, operate, manage, lease, convey or otherwise deal with the project and funds in accordance with the terms of such contract: *Provided*, That the contract requires that, as soon as practicable after the Federal government is satisfied that all defaults with respect to the project have been cured and that the project will thereafter be operated in accordance with the terms of the contract, the Federal government shall reconvey to the Authority the project as then constituted.

(e) To lease property from the Tribe and others for such periods as are authorized by law, and to hold and manage or to sublease the same.

(f) To borrow or lend money, to issue temporary or long term evidence of indebtedness, and to repay the same. Obligations shall be issued and repaid in accordance with the provisions of Article VI of this ordinance.

(g) To pledge the assets and receipts of the Authority as security for debts; and to acquire, sell, lease, exchange, transfer or assign personal property or interests therein.

(h) To purchase land or interests in land or take the same by gift; to lease land or interests in land to the extent provided by law.

(i) To undertake and carry out studies and analyses of housing needs, to prepare housing plans, to execute the same, to operate projects and to provide for the construction, reconstruction, improvement, extension, alteration or repair of any project or any part thereof.

(j) With respect to any dwellings, accommodations, lands, buildings or facilities embraced within any project (including individual cooperative or condominium units): to lease or rent, sell, enter into lease-purchase agreements or leases with option to purchase; to establish and revise rents or required monthly payments; to make rules and regulations concerning the selection of tenants or homebuyers, including the establishment of priorities, and concerning the occupancy, rental, care and management of housing units; and to make such further rules and regulations as the Board may deem necessary and desirable to effectuate the powers granted by this ordinance.

(k) To finance purchase of a home by an eligible homebuyer in accordance with regulations and requirements of the Department of Housing and Urban Development.

(l) To terminate any lease or rental agreement or lease-purchase agreement when the tenant or homebuyer has violated the terms of such agreement, or failed to meet any of its obligations thereunder, or when such termination is otherwise authorized under the provisions of such agreement; and to bring action for eviction against such tenant or homebuyer.

(m) To establish income limits for admission that insure that dwelling accommodations in a housing project shall be made available only to persons of low income.

(n) To purchase insurance from any stock or mutual company for any property or against any risk or hazards.

(o) To invest such funds as are not required for immediate disbursement.

(p) To establish and maintain such bank accounts as may be necessary or convenient.

(q) To employ an executive director, technical and maintenance personnel and such other officers and employees, permanent or temporary, as the Authority may require; and to delegate to such officers and employees such powers or duties as the Board shall deem proper.

(r) To take such further actions as are commonly engaged in by public bodies of this character as the Board may deem necessary and desirable to effectuate the purposes of the Authority.

(s) To join or cooperate with any other public housing agency or agencies operating under the laws or ordinances of a State or another tribe in the exercise, either jointly or otherwise, of any or all of the powers of the Authority and such other public housing agency or agencies for the purpose of financing (including but not limited to the issuance of notes or other obligations and giving security therefor), planning, undertaking, owning, constructing, operating, or contracting with respect to a housing project or projects of the Authority or such other public housing agency or agencies. For such purpose, the Authority may by resolution prescribe and authorize any other public housing agency or agencies, so joining or cooperating with the Authority, to act on the Authority's behalf with respect to any or all powers, as the Authority's agent or otherwise, in the name of the Authority or in the name of such agency or agencies.

(t) To adopt such bylaws as the Board deems necessary and appropriate.

4. It is the purpose and intent of this ordinance to authorize the Authority to do any and all things necessary or desirable to secure the financial aid or cooperation of the Federal government in the undertaking, construction, maintenance or operation of any project by the Authority.

5. No ordinance or other enactment of the Tribe with respect to the acquisition, operation, or disposition of Tribal property shall be applicable to the Authority in its operations pursuant to this ordinance.

ARTICLE VI

OBLIGATIONS

1. The Authority may issue obligations from time to time in its discretion for any of its purposes and may also issue refunding obligations for the purpose of paying or retiring obligations previously issued by it. The Authority may issue such types of obligations as it may determine, including obligations on which the principal and interest are payable: (a) exclusively from the income and revenues of the project financed with the proceeds of such obligations, or with such income and revenues together with a grant from the Federal government in aid of such project; (b) exclusively from the income and revenues of certain designated projects whether or not they were financed in whole or in part with the proceeds of such obligations; or (c) from its revenues generally. Any of such obligations may be additionally secured by a pledge of any revenues of any project or other property of the Authority.

2. Neither the commissioners of the Authority nor any person executing the obligations shall be liable personally on the obligations by reason of issuance thereof.

3. The notes and other obligations of the Authority shall not be a debt of the Tribe and the obligations shall so state on their face.

4. Obligations of the Authority are declared to be issued for an essential public and governmental purpose and to be public instrumentalities and, together with interest thereon and income therefrom, shall be exempt from taxes imposed by the Tribe. The tax exemption provisions of this ordinance shall be considered part of the security for the repayment of obligations and shall constitute, by virtue of this ordinance and without necessity of being restated in the obligations, a contract between (a) the Authority and the Tribe, and (b) the holders of obligations and each of them, including all transferees of the obligations from time to time.

5. Obligations shall be issued and sold in the following manner:

(a) Obligations of the Authority shall be authorized by a resolution adopted by the vote of a majority of the full Board and may be issued in one or more series.

(b) The obligations shall bear such dates, mature at such times, bear interest at such rates, be in such denominations, be in such form, either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment and at such places, and be subject to such terms of redemption, with or without premium, as such resolution may provide.

(c) The obligations may be sold at public or private sale at not less than par.

(d) In case any of the commissioners of the Authority whose signatures appear on any obligations cease to be commissioners before the delivery of such obligations, the signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if the commissioners had remained in office until delivery.

6. Obligations of the Authority shall be fully negotiable. In any suit, action or proceeding involving the validity or enforceability of any obligation of the Authority or the security therefor, any such obligation reciting in substance that it has been issued by the Authority to aid in financing a project pursuant to this ordinance shall be conclusively deemed to have been issued for such purpose, and the project for which such obligation was issued shall be conclusively deemed to have been planned, located and carried out in accordance with the purposes and provisions of this ordinance.

7. In connection with the issuance of obligations or incurring of obligations under leases and to secure the payment of such obligations, the Authority, subject to the limitations in this ordinance, may:

(a) Pledge all or any part of its gross or net rents, fees or revenues to which its right then exists or may thereafter come into existence.

(b) Provide for the powers and duties of obligees and limit their liabilities; and provide the terms and conditions on which such obligees may enforce any covenant or rights securing or relating to the obligations.

(c) Covenant against pledging all or any part of its rents, fees and revenues or against mortgaging any or all of its real or personal property to which its title or right then exists or may thereafter come into existence or permitting or suffering any lien on such revenues or property.

(d) Covenant with respect to limitations on its right to sell, lease or otherwise dispose of any project or any part thereof.

(e) Covenant as to what other or additional debts or obligations may be incurred by it.

(f) Covenant as to the obligations to be issued and as to the issuance of such obligations in escrow or otherwise, and as to the use and disposition of the proceeds thereof.

(g) Provide for the replacement of lost, destroyed or mutilated obligations.

(h) Covenant against extending the time for the payment of its obligations or interest thereon.

(i) Redeem the obligations and covenant for their redemption and provide the terms and conditions thereof.

(j) Covenant concerning the rents and fees to be charged in the operation of a project or projects, the amount to be raised each year or other period of time by rents, fees and other revenues, and as to the use and disposition to be made thereof.

(k) Create or authorize the creation of special funds for monies held for construction or operating costs, debt service, reserves or other purposes, and convenant as to the use and disposition of the monies held in such funds.

(l) Prescribe the procedure, if any, by which the terms of any contract with holders of obligations may be amended or abrogated, the proportion of outstanding obligations the holders of which must consent thereto, and the manner in which such consent may be given.

(m) Covenant as to the use, maintenance and replacement of its real or personal property, the insurance to be carried thereon and the use and disposition of insurance monies.

(n) Covenant as to the rights, liabilities, powers and duties arising upon the breach by it of any covenant, condition or obligation.

(o) Covenant and prescribe as to events of default and terms and conditions upon which any or all of its obligations become or may be declared due before maturity, and as to the terms and conditions upon which such declaration and is consequencies may be waived.

(p) Vest in any obligees or any proportion of them the right to enforce the payment of the obligations or any covenants securing or relating to the obligations.

(q) Exercise all or any part or combination of the powers granted in this section.

(r) Make covenants other than and in addition to the covenants expressly authorized in this section, of like or different character.

(s) Make any covenants and do any acts and things necessary or convenient or desirable in order to secure its obligations, or, in the absolute discretion of the Authority, tending to make the obligations more marketable although the covenants, acts or things are not enumerated in this section.

ARTICLE VII

MISCELLANEOUS

1. The Authority shall submit an annual report, signed by the Chairman of the Board, to the Council showing (a) a summary of the year's activities, (b) the financial condition of the Authority, (c) the condition of the properties, (d) the number of units and vacancies, (e) any significant problems and accomplishments, (f) plans for the future, and (g) such other information as the Authority or the Council shall deem pertinent.

2. During his tenure and for one year thereafter, no commissioner, officer or employee of the Authority, or any member of any governing body of the Tribe, or any other public official who exercises any responsibilities or functions with regard to the project, shall voluntarily acquire any interest, direct or indirect, in any project or in any property included or planned to be included in any project, or in any contract or proposed contract relating to any project, unless prior to such acquisition, he discloses his interest in writing to the Authority and such disclosure is entered upon the minutes of the Authority, and the commissioner, officer or employee shall not participate in any action by the Authority relating to the property or contract in which he has any such interest. If any commissioner, officer or employee of the Authority involuntarily acquires any such interest, or voluntarily or involuntarily acquired any such interest prior to appointment or employment as a commissioner, officer or employee, the commissioner, officer or employee, in any such event, shall immediately disclose his interest in writing to the Authority, and such disclosure shall be entered upon the minutes of the Authority, and the commissioner, officer or employee shall not participate in any action by the Authority relating to the property or contract in which he has any such interest. Any violation of the foregoing provisions of this section shall constitute misconduct in office. This section shall not be applicable to the acquisition of any interest in obligations of the Authority issued in connection with any project, or to the execution of agreements by banking institutions for the deposit or handling of funds in connection with a project or to act as trustee under any trust indenture, or to utility services the rates for which are fixed or controlled by a governmental agency, or to membership on the Board as provided in Article IV, Section 1(a)(4).

3. Each project developed or operated under a contract providing for Federal financial assistance shall be developed and operated in compliance with all requirements of such contract and applicable Federal legislation, and with all regulations and requirements prescribed from time to time by the Federal government in connection with such assistance.

4. The Authority shall obtain or provide for the obtaining of adequate fidelity bond coverage of its officers, agents, or employees handling cash or authorized to sign checks or certify vouchers.

5. The Authority shall not construct or operate any project for profit.

6. The property of the Authority is declared to be public property used for essential public and governmental purposes and such property and the Authority are exempt from all taxes and special assessments of the Tribe.

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7. All property including funds acquired or held by the Authority pursuant to this ordinance shall be exempt from levy and sale by virtue of an execution, and no execution or other judicial process shall issue against the same nor shall any judgment against the Authority be a charge or lien upon such property. However, the provisions of this section shall not apply to or limit the right of obligees to pursue any remedies for the enforcement of any pledge or lien given by the Authority on its rents, fees or revenues or the right of the Federal government to pursue any remedies conferred upon it pursuant to the provisions of this ordinance or the right of the Authority to bring eviction actions in accordance with Article V, Section 3(1).

ARTICLE VIII

COOPERATION IN CONNECTION WITH PROJECTS

1. For the purpose of alding and cooperating in the planning, undertaking, construction or operation of projects, the Tribe hereby agrees that:

(a) It will not levy or impose any real or personal property taxes or special assessments upon the Authority or any project of the Authority.

(b) It will furnish or cause to be furnished to the Authority and the occupants of projects all services and facilities of the same character and to the same extent as the Tribe furnishes from time to time without cost or charge to other dwellings and inhabitants.

(c) Insofar as it may lawfully do so, it will grant such deviations from any present or future building or housing codes of the Tribe as are reasonable and necessary to promote economy and efficiency in the development and operation of any project, and at the same time safeguard health and safety, and make such changes in any zoning of the site and surrounding territory of any project as are reasonable and necessary for the development and protection of such project, and the surrounding territory.

(d) It will do any and all things, within its lawful powers, necessary or convenient to aid and cooperate in the planning, undertaking, construction or operation of projects.

(e) The Tribal Government hereby declares that the powers of the Tribal Government shall be vigorously utilized to enforce eviction of a tenant or homebuyer for nonpayment or other contract violations including action through the appropriate courts.

(f) The Tribal Courts shall have jurisdiction to hear and determine an action for eviction of a tenant or homebuyer. The Tribal Government hereby declares that the powers of the Tribal Courts shall be vigorously utilized to enforce eviction of a tenant or homebuyer for nonpayment or other contract violations.

2. The provisions of this Article shall remain in effect with respect to any project, and said provisions shall not be abrogated, changed, or modified without the consent of the Department of Housing and Urban Development, so long as (a) the project is owned by a public body or governmental agency and is used for low income housing purposes, (b) any contract between the Authority and the Department of Housing and Urban Development for loans or annual contributions, or both, in connection with such project, remains in force and effect, or (c) any obligations issued in connection with such project or any monies due to the Department of Housing and Urban Development in connection with such project remain unpaid, whichever period ends the latest. If at any time title to, or possession of, any project is held by any public body or governmental agency authorized by law to engage in the development or operation of low income housing including the Federal government, the provisions of this section shall inure to the benefit of and be enforced by such public body or governmental agency.

ARTICLE IX

APPROVAL BY SECRETARY OF THE INTERIOR

With respect to any financial assistance contract between the Authority and the Federal government, the Authority shall obtain the approval of the Secretary of the Interior or his designee.

FOOTNOTES

Article I may be modified as deemed appropriate.

[2]Article IV, section 1(a), paragraphs (1), (2) and (3) may be modified. For example the number of board members may be more or less than five; the appointments may be made by the elected head of the tribal government, rather than the Council, the IHA may be made a department or division of the tribal government, membership on the Board may be limited to those who are members of the tribe, or to those who are members of the Council, or to those who are nonmembers of the Council, or to a certain number of any category.

[3]Article IV, section 1(b) may be modified to conform to changes in Article IV, section 1(a), and as to the length of the term of membership.

[4]Article IV, Section 1(c) may be modified as to the manner of appointment of the Chairman. For example, it may provide for appointment by the Board members or by the elected head of the tribal government. This paragraph may also be modified as to the manner of appointment of the other officials.

[5]Article IV, Section 1(d) may be modified, but adequate safeguards against arbitrary removal shall be included.

[6]Article IV, Section 1(f) may be modified if deemed appropriate, where the full Board consists of more than 5 members.

[7]Article VIII, Section 1(f) may be modified to insert the name of the appropriate court, or it may be deleted where it is demonstrated to HUD that the jurisdiction for evictions is vested in other than tribal courts (e.g., State courts or Courts of Indian Offenses).

Subpart B—Development

§ 805.201 Definitions.

See §§ 805.102 and 805.430.

§ 805.202 Roles and responsibilities of Federal agencies.

HUD, IHS and BIA shall coordinate functions and funding in accordance with the Interdepartmental Agreement. HUD assistance shall not include items or services which either BIA or IHS has agreed to provide or fund under the Interdepartmental Agreement, or items or services otherwise provided by other Government agencies.

§ 805.203 Production methods and requirements.

(a) *Justification for Production Method.* The IHA's application for a Project shall state which of the production methods described in this section it prefers to use supported by a justification for the use of the proposed method, such as economy, quality, design, expeditious completion and maximum competition. The method to be used shall be approved by HUD in the agreement entered into as a result of the Project Coordination Meeting (see § 805.208).

Turnkey Method. Under the Turnkey method, the IHA advertises for developers to submit proposals to build a Project described in the IHA's Invitation for proposals. The Invitation for Proposals may, when approved by HUD, prescribe the sites to be used. The IHA selects, subject to HUD approval, the best of the proposals received, taking into consideration price, design, the developer's experience and other evidence of the developer's ability to complete the Project. After HUD approval of the proposal selected by the IHA, the working drawings and specifications are agreed to by the developer, the IHA, and HUD, and the developer and the IHA enter into a Contract of Sale. Upon completion of the Project in accordance with the Contract of Sale, the IHA purchases the Project from the developer. The IHA may employ an architect to assist in evaluating proposals and negotiating the working drawings and specifications. The IHA provides inspection services by an architect, engineer or other qualified person. The developer shall not be required by the IHA or HUD to post a bond for performance or payment.

(c) *Modified Turnkey Method.* (1) Before advertising for Turnkey proposals: (i) The site or sites for the housing shall have been selected in accordance with § 805.217, (ii) the working drawings and specifications for the housing shall have been prepared by the IHA and approved by HUD, and (iii) on the basis of those drawings and specifications, HUD shall have approved an estimate of the Total Development Cost and separate statements of the estimated total construction contract price, which HUD has determined to be reasonable and within the applicable prototype cost and other limitations.

(2) The invitation for Turnkey Proposals shall be based upon a developer's packet which includes a description of the preselected sites and the working drawings and specifications as described above. Accordingly, each developer shall be required to submit a firm price for purposes of a Contract of Sale. The developer shall not be required by the IHA or HUD to post a bond for performance or payment.

(3) When the developer has been selected by the IHA and approved by HUD, the Development Program shall be prepared and submitted to HUD for approval. After execution of the ACC, the Contract of Sale shall be executed.

(4) Upon completion of the Project in accordance with the Contract of Sale, the IHA purchases the Project from the developer.

(d) *Conventional Method.* Under the Conventional Method, the IHA, after HUD approval of the plans and specifications, shall advertise for contractors to build the project. The contractor shall be required to provide assurance in the form of 100 percent performance and payment bonds, or other security approved by HUD. The contractor receives progress payments during construction, and a final HUD approved payment upon completion in accordance with the contract.

(e) *Acquisition of Existing Housing (with or without rehabilitation).* Under the Acquisition method, the IHA acquires existing housing which may need only minor repairs or may require substantial rehabilitation. Repair or rehabilitation may be accomplished prior to acquisition using Turnkey procedures or after acquisition, as authorized by HUD.

(f) *Force Account Method.* (1) Under the Force Account method an IHA performs construction or rehabilitation in a manner similar to a contractor, using a work force entirely employed by and under the supervisions of the IHA, or in combination with contracts for those portions of the work which can be better or more economically performed by an independent contractor. Force Account work shall be subject to Davis-Bacon wage rates.

(2) The Force Account method may be used for development of a new construction Project only (i) in exceptional cases, (ii) with the approval of the HUD Assistant Secretary for Housing, and (iii) if the tribe agrees in writing to cover any costs in excess of the HUD-approved Development Cost, including contingencies, and demonstrates that it has the financial resources to meet the excess costs up to a specified amount.

3) The HUD Field Office may approve use of the Force Account method. (i) For repair and rehabilitation of existing housing acquired by the IHA, (ii) for correction of deficiencies in design, construction or equipment (where allowed under § 805.223(b)(1), and (iii) for completion of units where the original contractor does not complete.

(4) In any case, whether under paragraph (2) or (3), the IHA must justify use of the Force Account method and demonstrate the capabilities of the IHA to achieve timely completion of the work within the Total Development Cost, and with the additional assurances provided by the tribe.

(g) *Public Advertisement.* Contracts for development of a Project may be awarded, to Indian Organizations and Indian-owned Economic Enterprises or to other construction contractors, only after public advertisement for competitive proposals. The advertisement shall inform all prospective contractors of the amount of the applicable prototype cost limit and of the maximum total contract price which has been determined to be reasonable (see § 805.212(b)).

§ 805.204 Indian preference in contracting.

(a) *Preference in the Award of Contracts.* (1) An IHA shall to the greatest extent feasible under this Part give preference in the award of contracts in connection with a Project to Indian Organizations and Indian-owned Economic Enterprises.

(2) With HUD approval, an IHA may publish an advertisement limited to qualified Indian Organizations and Indian-owned Economic Enterprises. If the IHA publishes an advertisement open to all qualified contractors, Indian or non-Indian, preference over a non-Indian enterprise shall be given to a qualified Indian enterprise whose price does not exceed the lowest price by more than one percent.

(3) If the advertisement for proposals is to be limited to qualified Indian enterprises, the IHA with HUD approval, may publish a prior invitation for Indian enterprises to submit a Statement of Intent to respond to such an advertisement when published, and to furnish with the Statement of Intent, or within a specified period of time, evidence sufficient to establish their qualifications in accordance with paragraph (a)(4) of this Section.

(4) A prospective contractor seeking to qualify as an Indian Organization of Indian-owned Enterprise shall submit with or prior to submission of his bid or proposal:

(i) Evidence showing fully the extent of Indian ownership and interest.

(ii) Evidence of structure, management and financing affecting the Indian character of the enterprise, including major subcontracts and purchase agreements; material or equipment supply arrangements; and management, salary or profit-sharing arrangements; and evidence showing the effect of these on the extent of Indian ownership and interest.

(iii) Evidence sufficient to demonstrate to the satisfaction of the IHA and HUD that the prospective contractor has the technical, administrative and financial capability to perform contract work of the size and type involved and within the time provided under the proposed contract (see § 805.211 (c)).

(b) *Required Contract Clause.* The IHA shall incorporate the following clause (referred to as a Section 7(b) clause) in each contract awarded in connection with a Project:

(1) The work to be performed under this contact is on a project subject to Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e (b)). Section 7(b) requires that to the greatest extent feasible (i) preferences and opportunities for training and employment shall be given to Indians, and (ii) preferences in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises.

(2) The parties to this contract shall comply with the provisions of said Section 7(b) and all HUD requirements pursuant thereto.

(3) The contractor shall, in connection with this contract, to the greatest extent feasible, give preference in the award of any subcontracts to Indian organizations and Indian-owned Economic Enterprises, and preferences and opportunities for training and employment to Indians.

(4) The contractor shall include this Section 7(b) clause in every subcontract in connection with the project, and shall, at the direction of the IHA, take appropriate action pursuant to the subcontract upon a finding by the IHA or HUD that the subcontactor is in violation of the Section 7(b) clause.

(c) *Additional Indian Preference Requirements.* An IHA may, with HUD approval, provide for Indian preference requirements in addition to those under § 805.204(a) and the Section 7(b) clause required under § 805.204(b), as conditions for the award of, or in the terms of, any contract in connection with a Project if the additional Indian preference requirements are consistent with the objectives of the Section 7(b) clause. Such additional Indian preference requirements may not result in a higher cost or greater risk of non-performance or longer period of performance.

(d) *Inclusion of All Preference Requirements in Information for Prospective Contractors.* With respect to any contract, the information for prospective contractors shall set forth all Indian preference requirements affecting award of, or to be included in the terms of, the contract.

§ 805.205 Allocations of contract authority.

HUD will allocate contract authority for Indian housing in conformance with Section 213(d) of the Housing and Community Development Act of 1974.

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§ 805.206 Submission and HUD review of Application for Program Reservation.

(a) *Submission to HUD.* To apply for a Project, an IHA shall submit an application on the form prescribed by HUD. The application shall be accompanied by a resolution of the local governing body approving the application for a preliminary loan, if a preliminary loan is requested. Where the provisions for the necessary local government cooperation (as in Subpart A—Appendix I, Article VIII) are not contained in the ordinance or other enactment creating the IHA, the IHA shall submit an executed cooperation agreement, or a showing that a cooperation agreement already exists for the location involved sufficient to cover the number of units in the application.

(b) *Action on Application.* (1) HUD shall begin processing of a complete application as soon as possible after receipt. Within 10 working days of its receipt of the application, HUD shall notify the applicant of the approximate date, which shall be as soon as possible, by which HUD will act on the application.

(2) The application shall designate at least the general locations of the proposed housing. To expedite processing, the application may be accompanied by comments on the application by the Chief Executive Officer on behalf of the local government. (For areas with a Housing Assistance Plan, see § 891.203(b). For other areas, see § 891.304(b).)

(3) OMB Circular A-95 includes the following provisions:

"* * * Applications from federally recognized Indian tribes are not subject to the requirements of OMB Circular A-95. However, Indian tribes may voluntarily participate in the Project Notification and Review System and are encouraged to do so. Federal Agencies will notify the appropriate State and areawide clearinghouses of any applications from federally recognized Indian tribes upon their receipt. Where a federally recognized Tribal Government has established a mechanism for coordinating the activities of Tribal departments, divisions, enterprises, and entities, Federal agencies will, upon request of such Tribal Government transmitted through the Office of Management and Budget, require the applications for assistance under programs covered by this Part from such Tribal departments, divisions, enterprises, and entities be subject to review by such Tribal coordinating mechanism as though it were a State or areawide clearinghouse * * *"

(4) If the application is approved, a Program Reservation on the form prescribed by HUD shall be issued to the IHA. The Program Reservation shall specify whether the Project is Rental or Mutual Help, the total number of dwelling units, and the number of units for the elderly or handicapped, if any. The Program Reservation shall set a time limit of not to exceed one year within which the IHA must submit an approvable Development Program. (See § 805.208(d)).

(5) If the application is disapproved, HUD shall give the IHA a written notification of disapproval and of the reasons therefor. If the application is approved for fewer units than requested, HUD shall issue a Program Reservation with respect to the total number of dwelling units approved, and the written notification to the IHA shall include a statement of the reasons for not approving the number of units requested. The notification under this paragraph (b)(5) shall state the time within which any objections to the HUD action may be presented to the field office director.

§ 805.207 Prerequisites for application approval.

(a) *Determination of Administrative Capability.* An application shall not be approved unless HUD determines that the IHA has, or will achieve within a reasonable time prescribed by HUD, the capability to provide adequate administration in compliance with all applicable HUD requirements of the proposed Project and other IHA Projects without an unreasonable need for continuing HUD assistance. Approval of an application shall not be withheld because of minor administrative deficiencies. As a minimum, however, the IHA shall have the capability to comply with all HUD requirements for prompt completion of development, the maintenance of complete and accurate books of accounts and records, the proper handling of funds, the timely preparation and submission of reports, the maintenance of the property, the occupancy of the housing units, determination of rents and required Homebuyer payments, the Prompt collection of rents and required Homebuyer payments, and the prompt processing of evictions in cases of nonpayment or other serious breach of a lease or Homebuyer agreement.

(b) *Action When IHA Lacks Administrative Capability.* (1) If HUD cannot approve an application because the IHA does not have the capability to provide adequate administration of the proposed Project and other IHA Projects, and if the IHA wishes to achieve and maintain such capability, HUD shall assist the IHA to the extent of funds and staff available to HUD for this purpose. In such case, an application will be approvable after:

(i) Adequate administrative capability has been achieved; or

(ii) The IHA has adopted a plan, satisfactory to HUD, to achieve adequate administrative capability within a specified reasonable time, and after the IHA has demonstrated good faith and diligence in carrying out the plan. If achievement of final goals under such a plan will require an extended period of time, the plan shall include interim goals. The achievement of interim goals may be considered by HUD to be a sufficient demonstration of the IHA's good faith and diligence in carrying out the plan.

(2) If HUD determines that the number of required units is too small for development of adequate administrative capability, the IHA shall be so advised, with a recommendation to combine with other IHAs or to obtain necessary assistance from the tribe, the BIA or other sources.

(c) *Preliminary Feasibility Determination.* An application for a Program Reservation may be approved only if HUD determines that it is likely that the feasibility requirements for approval of the Development Program under § 805.220 or § 805.404(g), as the case may be, can be met.

§ 805.208 Interagency and tribal coordination.

(a) Inasmuch as several agencies (IHA, HUD, BIA and IHS) and the tribal government each have an essential role to play and contribution to make to development of a Project, the process of cooperation and coordination shall begin as soon as prospective sites have been identified and shall thereafter continue throughout the development process.

(b) In the case of IHA's established by tribal ordinance, each Preliminary Site Report which is submitted to HUD for tentative site approval shall be accompanied by written concurrence of the tribal government, in addition to the approvals of BIA and IHS in accordance with § 805.217(a). The concurrence of each party shall constitute a commitment by the party that it will provide the funds, actions and/or services which have been agreed upon, and that this commitment will not be released unless the Program Reservation is cancelled. The final decision as to site approval shall be made by HUD.

(c) The IHA shall submit, with or prior to approval of the Development Program, and agreement between the IHA and the tribal government which shall describe, as specifically as possible, the funds, actions and/or services which are to be provided by the BIA, those which are to be provided by the IHS, and those which are to be provided by the tribal government itself (including block grant or other funds, as applicable). The agreement shall also express the tribal government's commitment to use its best efforts to assure that the funds, actions and/or services so identified will be provided as needed for purposes of prompt development of the project. The tribal government shall have the basic responsibility for agreeing with IHS and

BIA for the necessary participation and/or contribution by the BIA and IHS.

(d) Promptly after issuance of the Program Reservation, a Project Coordination Meeting shall be held in accordance with the procedures stated in paragraph 3 of the Interdepartmental Agreement. The tribal government shall be represented at this meeting. Periodically, the tribal government, the IHA, HUD and the other concerned federal agencies shall consult and evaluate the progress of the Project development, identify any problems which may threaten compliance with the one-year time limit for submission of an approvable Development Program (see § 805.206) and agree upon appropriate corrective action. If it appears at the last such evaluation prior to the end of the one-year period that the time limit will not be met, the parties shall determine whether an approvable Development Program can be submitted in a reasonable time and whether an extension of the time limit should be recommended to HUD. After considering the results of the evaluation, HUD shall determine whether to extend the time limit, or to cancel the Program Reservation and commitment of contract and budget authority thereunder.

(e) After approval of the Development Program, similar periodic meetings shall be continued for purposes of assuring timely completion of construction to the point of occupancy.

(f) In the case of projects for which no financial assistance is to be provided by IHS or BIA, their participation in carrying out the provisions of this section shall be encouraged.

§ 805.209 Preliminary loans.

(a) If an application is approved and a Program Reservation is issued, HUD may approve a Preliminary Loan to pay the cost of preliminary surveys and planning (including the cost of appraisals) in respect to the number of units covered by the Preliminary Loan Contract. Except as provided in paragraph (b) of this section, the amount of the Preliminary Loan may not be more than 3 percent of a Total Development Cost which can be supported by the amount of ACC Contract Authority obligated under the Program Reservation.

(b) HUD may approve Preliminary Loan funds in addition to the 3 percent or for purposes other than preliminary surveys and planning, if it has been shown to the satisfaction of HUD that: (1) Because of unusual circumstances it is essential that Development Costs in such amount or for such purpose be incurred prior to execution of the ACC, (2) the Project will successfully proceed to ACC, and (3) the governing body of the locality has agreed to provide the local cooperation required by the Act.

(c) Preliminary Loan funds shall in no event be provided or used for purposes, or in amounts, that would not be approvable for inclusion in a Development Cost Budget.

(d) The IHS shall submit for HUD approval, together with the application for a Preliminary Loan, a proposed Preliminary Loan Budget. Preliminary Loan Funds shall not be approved or expended except in accordance with a HUD-approved Preliminary Loan Budget.

(e) Use of development or operating funds of other Projects under ACC to cover costs for a Project which has not reached ACC is strictly prohibited.

§ 805.210 Development program.

The ACC for a Project shall not be executed until the IHA has adopted, and HUD has approved, the Development Program for the Project.

§ 805.211 Contracts in connection with development.

(a) The IHA shall not enter into the Construction Contract for a Project prior to execution of the ACC for the Project.

(b) The IHA shall not, without HUD approval, enter into any contract in connection with the development of a Project, including contacts for work, materials or equipment, or for architectural, engineering, consultant, legal, or other professional services, without HUD approval. This requirement shall not apply to MHO Agreements in the form prescribed by HUD or such other types of contracts as HUD may specify.

(c) The IHA shall not award a Construction Contract for the Project until the prospective contractor has demonstrated the technical, administrative and financial capability to perform contract work of the size and type involved and within the time provided under the contract.

§ 850.212 Design.

(a) The design of the housing shall take into account: (1) The extra durability required for safety and security and economical maintenance of such housing, (2) the provision of amenities designed to guarantee a safe and healthy family life and community environment, (3) the application of good design as an essential component of such housing for safety and security as well as other purposes, (4) the maintenance of quality in architecture to reflect the standards of the community, (5) climatic conditions, and (6) the need for maximizing the conservation of energy for heating, lighting, and other purposes. The Minimum Property Standards (24 CFR Part 200, Subpart S) shall also be taken into account, but shall not be controlling.

(b) The IHA shall prepare and submit to HUD a basic outline for a minimum acceptable house for its jurisdictional area in accordance with the applicable design standards, and attendant water supply and waste disposal facilities. This shall be done after appropriate consultation with families to be housed. This recommended outline should provide for variations of the interior to suit particular cultural or family needs and for exterior variations such as in type of material, roof design and overhangs. HUD shall approve a basic outline of the housing and facilities which HUD has determined can be constructed within the applicable prototype cost limit, and the maximum total construction contract price which has been determined to be reasonable. These amounts shall be stated in HUD's approval, and shall be included in the advertisement for proposals or bids pursuant to § 805.203(g). Following HUD approval of the basic outline, the IHA shall prepare the drawings and specifications needed for advertisement for proposals or bids (see § 805.203) and shall submit these, together with the remainder of the documents needed for purposes of the advertisement, to HUD for its approval.

§ 805.213 Prototype costs in Indian areas.

(a) *Establishment of Special Separate Prototype Cost Areas.* Where trade conditions and economic influences cause construction costs in an Indian Area or portion thereof to be significantly different from such costs in adjoining areas, HUD shall establish or amend the published portion thereof, as a separate Indian prototype cost area.

(b) *Factors to be Considered in Establishing Prototype Cost for Separate Prototype Cost Areas.* (1) When HUD establishes or amends the published prototype costs for a separate Indian prototype costs area (See Appendix A to 24 CFR, Part 841), consideration shall be given to all relevant factors including pertinent trade conditions and economic influences. The factors to be considered include, where applicable, the following: Local customs; abnormal climatic conditions; the logistical problems associated with projects of remote location, low density and/or scattered sites; availability of skilled labor or acceptable materials; provisions for the use of wood or coal as an alternative heat source; and, with respect to trust or restricted land, the unavailability of the legal protection normally available for enforcement of claims by contractors, laborers and materialmen. In addition, prototype costs shall provide for features, appropriate for the area, designed to

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conserve energy, lower utility costs, or utilize indigenous energy sources.

(2) The determination of prototype cost is based on a prototype design. A copy of the prototype design on which a published prototype cost is based shall be supplied to the IHA, for guidance in preparing the basic house design under § 805.212(b).

(c) *Revision of Prototype Cost.* IHAs shall design projects that can be built within the prototype cost limit and the maximum total construction contract price as determined by HUD under § 805.212(b). If an IHA finds that a proposed house design cannot be built within 110 percent of the existing prototype cost because construction costs have increased since the date of the data on which the existing prototype cost was based (but not because the design has more expensive features than the prototype design), the IHA shall so state in its submission to HUD of the basic outline pursuant to § 805.212(b) and request a revision of the prototype cost. The request shall be accompanied by evidence of the cost increase. HUD shall agree to revise the prototype cost only if (1) it determines that the evidence of cost increases supports the request and (2) the design cannot be modified to reduce the cost sufficient to permit construction without a revision of the prototype cost.

§ 805.214 Development cost.

(a) *Total Development Cost.* The IHA shall complete development of each Project at the lowest possible cost, and in no event at a cost in excess of the Total Development Cost approved by HUD.

(b) *Cost Limits*— (1) *Prototype Cost Limit—New Construction Projects.* Dwelling construction and equipment cost for a new construction Project shall not exceed the sum of the unit prototype costs (as published by HUD for the area) for the homes of various sizes and types comprising the Project; *Provided*, That this limit may be increased to an amount not exceeding 110 percent of such sum, if approved by HUD on the basis of special justification.

(2) *Acquisition Projects.* For a Project developed under the Acquisition method (see § 805.203(d)), Total Development Cost shall not exceed 90 percent (or an appropriately lower percentage if the Project has a projected useful life of less than 40 years in the case of a Rental Project, or of less than 25 years in the case of an MH Project) of the imputed Development Cost of a comparable hypothetical newly constructed low income housing project.

(c) *Streets and Driveways.* The Development Cost of a Project may include the planning, construction and inspection costs of providing on-site streets, sidewalks, curbing and streetlights for such Project. Where BIA is to assume responsibility for maintenance of streets after the housing development is completed, BIA shall be given the opportunity to review the design and to inspect the construction of the street. The cost of driveways within the boundaries of a multi-unit site, or within the boundaries of the individual homesites, in the case of a scattered site Project, may also be included in Development Cost. The total cost of driveways may not, unless specifically agreed to by HUD, exceed one and one-half percent of the HUD-approved Dwelling Construction and Equipment Cost for the Project. Development Cost shall not include the cost of providing the access roads referred to in § 805.216(b). The cost of obtaining access to the site during construction, or costs due to delays in construction because of inaccessibility of the site, shall not be included in Development Cost.

(d) *Water and Sanitation; Electricity and Fuel Distribution Systems.* Development Cost may include: (1) The costs of providing water, sewer, electrical and fuel facilities within the boundaries of any multi-unit site, or within the boundaries of the individual homesites in the case of a scattered site Project; hookups to the appropriate distribution systems, if such systems are available to the multi-unit site, or to the homesites of a scattered site Project; or the pro rata cost of a community water and sewer system where required in accordance with section 8h(2) of the Interdepartmental Agreement. Where reasonably short extensions are needed to make the utility distribution system available to the site, such costs may be included in the Development Cost if the cost can be justified on the basis of net savings in the Development Cost or long-term savings based upon utility analysis.

(2) The costs of providing on-site wells, septic tanks, electrical generating and fuel storage facilities and distribution systems.

(e) *Exclusion of Costs for Facilities, Improvements or Services to be Provided by IHS or BIA.* Development Cost shall not include costs of the facilities or improvements described in paragraphs (c) or (d) of this section which are to be provided by the local government or utility company or with respect to an IHA of a Federally Recognized Tribe by IHS or BIA, or of services to be provided by IHS or BIA pursuant to the Interdepartmental Agreement, unless such costs are offset by other parties assuming costs that would otherwise be included in the development cost.

(f) *Nondwelling Facilities.* Management, maintenance, and community space and facilities may be approved for inclusion in the Development Cost for a Rental or an MH Project. In addition, where necessary and feasible to achieve adequate fire protection, HUD may approve inclusion of the cost of providing adequate fire warning devices and extinguishing equipment, and also may approve inclusion of all or a part of the reasonable expense of obtaining the required fire-fighting equipment and space for its storage. In areas subject to severe storms, consideration may also be given to the inclusion of the cost of storm shelter space in a Project.

(g) *Contingency Allowance.* HUD may permit a contingency allowance of up to five percent for a Project developed under the Conventional or Force Account method, and up to one percent for a Project developed under the Turnkey method. However, if HUD determines in writing that a higher contingency allowance is necessary because of special circumstances set forth in the determination, a higher contingency allowance may be permitted, not to exceed ten percent for a Project developed under the Conventional or Force Account method, and three percent for a Project developed under the Turnkey method.

(h) *Initial Insurance Premiums.* The insurance premiums for the first three years may be included in Development Cost, with no obligation for reimbursement from operating receipts.

(i) *Training of tenants.* The Development Cost Budget submitted with the Development Program for a Rental Project may include an estimated amount for costs of a HUD-approved tenant counseling program (for counseling of homebuyers in MH projects see § 805.429) not to exceed $500 per dwelling unit (including follow-up needs during the management stage and counseling in connection with turnover). The approved amount for counseling shall be included in the Contract Award Development Cost Budget.

§ 805.215 Design for economy in fuel consumption.

(a) *Choice Among Feasible Options.* In selecting from among feasible options and in designing installations for heating and cooking, particular attention shall be given to maximum economy in the cost of fuel, adequacy for the purposes intended, maximum economy in maintenance and the long-term reliability of fuel supplies. All options which are feasible in the locality shall be examined, and HUD shall provide technical assistance for this purpose.

(b) *Cost of Alternate Fuel System.* Development Cost may include, where availability and cost of fuel and local preferences indicate, the design, construction and equipment costs of an alternate fuel system, either primary or supplemental, such as coal or wood stoves or fireplaces. Where locally available coal or wood offers a ready supply of fuel at costs less than those of other fuels which might be used, strong consideration should be given to requests for the installation of stoves or fireplaces as a supplemental or primary system for heating and/or cooking. A further possibility is the supplemental installation of stove flues only, which would permit residents to install coal or wood burning stoves at their individual option and expense.

§ 805.216 Site selection.

(a) *Relation to Local and Regional Plans.* Site selection shall be made with due regard for local and regional plans.

(b) *Access Roads.* An access road up to the boundaries of a multi-unit site shall be provided by the BIA, the tribe, or other appropriate agency without cost to the Project. In the case of a scattered site Project, access roads up to the boundaries of the individual homesites shall be provided by the Homebuyer, the tribe, or other appropriate agency without cost to the Project. In all cases, access roads shall provide safe and suitable vehicular access at all times. No site may be approved unless such access roads exist, or a written assurance has been obtained from the responsible entity prior to site approval that they will be provided in time for construction purposes, and that the requisite roads will be constructed in time for occupancy of the proposed Project, and will be maintained for continuous accessibility to the Project.

(c) *Water and Sanitation.* The IHA shall, prior to site approval, obtain a written assurance from the IHS, or from the appropriate local agency, that water and sanitation facilities acceptable to the IHS, or to HUD where the IHS has no jurisdiction, exist or will be provided in time for occupancy of the housing. (See also section 8 of the Interdepartmental Agreement).

(d) *Lighting, Heating and Cooking Sources.* The IHA shall, prior to site approval, obtain a written assurance from the appropriate utility companies, or other entities providing the requisite lighting, heating and cooking sources, that the sources exist or will be provided in time for occupancy of the housing. The statement of assurance shall include the rates currently in effect, and, where possible, information concerning anticipated increases for the next year.

(e) *Physical Characteristics of Site.* The physical characteristics of a site shall be such that the costs of surveys and planning, including but not limited to test borings and test well drilling, are expected to be reasonable, and the physical characteristics shall facilitate overall economy in site preparation, construction and management.

(f) *Topography.* (1) Sites with dominant grades in excess of ten percent shall be avoided where possible.

(2) Low-lying and flat sites shall not be approved unless practical and economical means of surface drainage can be provided to accommodate the level of rainfall expected.

(3) The topography shall permit an acceptable arrangement for the proposed number and type of units. If the topography of a proposed site raises serious doubt as to the suitability of the site, HUD may require the preparation of site feasibility study in order to establish whether the site can be utilized satisfactorily.

(g) *Subsurface Conditions and Natural Hazards.* (1) Where there is any evidence to suggest that a site may have unsuitable bearing qualities for foundations and/or underground utilities or excessive areas of rock to be excavated, tentative site approval shall not be requested from HUD until a preliminary examination of the adverse conditions has indicated that they can be overcome.

(2) No site shall be selceted if the hazard of earthslides exists either on the site or on adjacent or nearby land.

(3) In regions where local experience shows loss of life or damage resulting from earthquakes, or in regions located in zones 1, 2 or 3 as shown on the Seismic Risk Maps provided in the HUD Minimum Property Standards, precautions in design shall be taken in accordance with the requirements of the HUD Minimum Property Standards.

(4) In general, subsurface soil investigations, if required, shall be undertaken as soon as tentative site approval is obtained from HUD. Professional competence in soils and foundation engineering shall be required for both the performance of the subsurface soil investigation and the evaluation of the results.

(5) Final site approval not be given unless HUD technical staff has determined that there is no reasonable risk of natural hazard or that such risk can be avoided through proper design and construction.

(h) *Flooding.* The Project shall not be built in an area that has been identified by HUD as having special flood hazards unless other reasonable sites are not available. Where it is necessary to use a site in such an area, the community must have entered the National Flood Insurance Program under the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 et seq.), and the Project must be covered by flood insurance under that Program.

(i) *Multi-Unit Sites Versus Scattered Sites.* (1) A Project may consist of a multi-unit site, or scattered sites, or a combination. A "multi-unit site" is a site for a multi-unit structure or structures, or where individual homesites are contiguous. "Scattered sites" are where individual homesites are not contiguous.

(2) Basic considerations to be taken into account in selecting the type of sites are:

(i) Suitability for the type of occupancy intended (e.g. elderly);

(ii) The economical development and operation of the Project.

(j) *Size of Sites.* (1) The size of a multi-unit site shall be no greater than necessary to permit an acceptable arrangement for the proposed number and type of units.

(2) No individual homesite, whether a scattered site or included in a multi-unit site, shall exceed one acre unless HUD approves the use of a larger site for acceptable reasons, such a compliance with local law or BIA regulations for trust or restricted lands or to meet sanitary design requirements; however, the amount to be included in Development Cost for such site shall not exceed the value of a one acre site.

(k) *Individually Owned Trust or Restricted Land.* A site on individually owned trust or restricted land shall not be approved by HUD unless HUD obtains written assurance from the BIA that, in its judgment, a valid lease executed by all necesssary parties can be obtained within a reasonable time (3-6 months) after issuance of the tentative site approval. HUD may approve a site requiring a longer period of time if HUD determines that such longer period will not unduly delay the Project.

§ 805.217 Site approval.

(a) *Tentative Site Approval.* (1) The IHA shall request tentative HUD approval for each site by submitting a Preliminary Site Report on a form prescribed by HUD, including all required exhibits, and including the written approval of IHS or BIA when required under the Interdepartmental Agreement, or in connection with services or facilities to be provided by the IHS or the BIA. Tentative site approval shall not be given until the requirements for compliance with section 213 and with A-95 (where applicable) have been met (see § 805.206(b)).

(2) HUD shall notify the IHA as soon as possible of tentative approval, conditional approval, or disapproval of the proposed sites or portions thereof. The notification to the IHA shall specifically state any conditions to be met for final site approval and, in the case of a scattered site Project, whether a sufficient number of sites have been approved for the Project to proceed. If

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HUD disapproves any proposed sites, it shall notify the IHA of the reasons for disapproval.

(3) HUD approval of a site is subject to compliance with applicable environmental procedures (see § 805.107).

(b) *Required Site Approval Before ACC.* (1) HUD shall not enter into an ACC before final site approval on all project sites, except in accordance with paragraph (b)(2) of this section.

(2) In the case of donated sites, or of contributed sites for which the MH Contribution Credit is $750 or less per site, HUD may permit final approval of trust or restricted land sites after ACC under these conditions: (i) All sites on the project have tentative site approval before ACC; (ii) At least 50 percent of the sites have final site approval before ACC; (iii) It is shown to the satisfaction of HUD that the balance of the sites will probably meet the requirements for final site approval no later than one year from execution of the Construction Contract; (iv) The Construction Contract shall provide that if all sites, finally approved and with executed leases, have not been delivered by the IHA to the contractor within one year from execution of the Construction Contract (or HUD-approved extention) the Construction Contract shall be reduced by the amount attributable to the units to be developed on the undelivered sites.

(c) *Time of Acquisition or Leasing.* No site may be acquired or leased and no commitment shall be made to acquire or lease until final site approval by HUD and any required approvals from IHS or BIA, nor shall any such action be taken prior to execution of the ACC unless HUD so authorizes.

§ 805.218 Types of interest in land.

(a) *Sites on Trust or Restricted Land.* (1) Sites on tribally or individually owned trust or restricted land shall be leased to the IHA for a term of not less than 50 years (25 years, automatically renewable for an additional term of 25 years). For sites on trust or restricted land, HUD may accept a Title Status Report furnished by the BIA in lieu of obtaining other title information, opinions, certificates or policies.

(2) "Trust or restricted land" includes "tribal land" or "individually owned land" as defined in 25 CFR 13.1. "Tribal land" under 25 CFR 131.1 means land or any interest therein held by the United States in trust for a tribe, or land or any interest therein held by a tribe subject to federal restrictions against alienation or encumbrance. "Individually owned land" under 25 CFR 131.1 means land or any interest therein held by the United States in trust for an individual Indian, or land or any interest therein held by an individual Indian subject to federal restrictions against alienation or encumbrance, including allotted land.

(b) *Unrestricted Land.* Sites on unrestricted land may be either conveyed to the IHA in fee, or leased to the IHA for a term of not less than 50 years.

§ 805.219 Appraisals.

(a) *When Appraisals are Required.* If the amount to be charged to Development Cost for the site exceeds $750 per unit, an appraisal shall be made in accordance with the standards provided in this section, and in the case of an MH Project such amount shall not exceed the limitations stated in §§ 805.404(c) and 805.408(c)(1). If the cost of a site does not exceed $750 per unit, no appraisal shall be required unless HUD determines that an appraisal is required by law.

(b) *Performance of Appraisals.* The IHA shall submit a formal request for appraisal to HUD or BIA, as appropriate. When BIA appraisal service is available, appraisals shall be provided by the BIA in accordance with paragraph (c) of this section (unless HUD agrees to provide the services in whole or in part), and shall be accepted by HUD. Otherwise, all appraisals shall be provided by HUD.

(c) *Appraisal Standards.* (1) *Conformity with Appraisal Standards.* All appraisals shall be in conformance with established and generally recognized appraisal practice and procedures in common use by professional appraisers. Opinions of value shall be based on the best available data properly analyzed and interpreted.

(2) *Nature of Legal Interest in land.* In valuing the property interest to be conveyed to the IHA, appraisals shall give full consideration to the nature of the property interest, including any legal and market restrictions and restraints on alienation that affect market value. It shall be determined whether the interest to be conveyed to the IHA is fee simple title, an easement, a leasehold or another property right. In the case of tribally or individually owned trust or restricted land to be leased to the IHA, the appraiser shall report the value of the leasehold.

(3) *Market Data Comparables.* In the application of the market data approach to valuation, a property shall be compared with properties that have been leased or sold recently in the same or competing market areas. However, value estimates shall not be predicated upon comparable sales or leases that involve the IHA either as seller or purchaser, or lessor or lessee.

(4) *Valuation of Trust or Restricted Land—Market Data Approach.* When the interest to be appraised is a leasehold interest in tribally or individually owned trust or restricted land, and comparable leasehold transactions are not available, the appraiser shall estimate the value of the land as if alienable in fee, based on a comparison of the land being valued with sales of fee interests in comparable land in the same or competing market areas. The value of the land as if marketable in fee shall be discounted to obtain an estimate of the value of the leasehold interest which is alienable. An acceptable estimate of the value of the leasehold shall not exceed ⅔ of the estimate of the value as if alienable in fee. This limit may be exceeded only with approval of the Assistant Secretary for Housing in exceptional cases where no other suitable sites are available.

§ 805.220 Financial feasibility of rental projects.

The financial feasibility test for a Rental Project, which must be met before a Development Program for the Project can be approved, shall be the test applicable to Projects subject to 24 CFR 890.101 et seq. (Performance Funding System). However, this requirement may be modified with the approval of the HUD Assistant Secretary for Housing in cases involving exceptional circumstances. The financial feasibility test for an MH Project is stated in § 805.404(g).

§ 805.221 Construction inspection.

(a) *IHA Inspections.* (1) Whatever the projection method used, the IHA shall be responsible for providing inspections during construction (and sufficient development funds shall be provided for this purpose) which shall be performed by an architect, engineer or other qualified person. These inspections shall be performed with such frequency and under such procedures as the IHA determines with HUD approval are sufficient to assure completion of quality housing in accordance with the approved contract documents. IHA construction inspectors shall be selected by the IHA and approved by HUD.

(2) The IHA shall promptly forward a copy of each inspection report to HUD with comments on action taken to remedy deficiencies disclosed by the report. Because remote or scattered sites are sometimes used for Indian housing, and inspections at such sites may be more expensive, HUD may approve, where necessary, a larger amount for the cost of IHA inspection than provided under regular program requirements.

(b) *HUD Inspections.* HUD representatives shall make site visits from time to time, and shall make a report to HUD of each of their visits. HUD shall send a copy of each report to the IHA, with HUD's recommendation of the action, if any, to be taken by the IHA. The HUD report shall include its evaluation of the adequacy of the IHA inspections and the IHA actions with respect thereto.

(c) *Inspection Upon Completion.* (1) The contractor shall notify the IHA in writing as to the date when, in his opinion, the contract work, or stage when applicable, will be completed and ready for final inspection. If the IHA determines that the state of the work is as represented, the IHA shall promptly notify HUD and request HUD's participation in the final inspection. The final inspection shall be made jointly by the representatives of the IHA, HUD and the contractor. In the case of an MH Project, each Homebuyer shall also be invited to participate as an observer in the inspection of his Home, and shall be given a copy of the inspection report, but acceptance shall be by the IHA with HUD approval.

(2) If the inspection discloses no deficiencies other than punch list items, or items awaiting seasonal opportunity to complete, the IHA shall submit for HUD approval an Interim Certificate of Completion, which shall detail the items. The IHA shall also submit for HUD approval a proposed time schedule agreed to by the contractor for completion of the items. Upon HUD approval of the Interim Certificate and schedule for completion, the IHA may release the monies to the contractor less the withholdings required by the Construction Contract. The IHA may permit occupancy prior to IHA sign-off on all punch list items and items awaiting seasonal opportunity.

(3) The contractor shall complete the punch list items, and items awaiting seasonal opportunity to complete, in accordance with the time schedule for completion of the items as approved by HUD. The contractor will be paid for such items only after inspection and acceptance by the IHA and HUD approval; and the IHA shall not accept any item if there is a dispute as to whether such items have been completed. If the IHA is satisfied that the applicable requirements of the Construction Contract have been met, the IHA shall submit for HUD approval a Final Certificate of Completion and release to the contractor the amounts withheld with respect to such items in accordance with the applicable provisions of the Construction Contract.

§ 805.222 Inspections after acceptance and enforcement of warranties.

(a) The Construction Contract shall specify the warranty periods applicable to items completed as of the date of the approved Interim Certificate of Completion and to items completed after the date of the Interim Certificate, and shall also provide for assignment to the IHA of manufacturers' and suppliers' warranties covering equipment or supplies.

(b) The IHA shall inspect each dwelling unit no less often than every three months during the contractor's warranty period or periods, beginning three months after the date of the approved Interim Certificate of Completion, provided that there shall be a final inspection in time to exercise rights before expiration of the contractor's warranties (for MH Projects see also § 805.417(b)). These inspections shall cover all items under warranty as of the time of the inspection, including the items covered by manufacturers' and suppliers' warranties, as well as those covered by the contractor's warranties. At each inspection, the IHA shall obtain a signed statement from the occupants as to any deficiencies in the structure, equipment, grounds, etc., so that it may enforce any rights under applicable warranties. The costs to the IHA of making the inspections provided for in this paragraph (b) shall be included in Development Cost.

§ 805.223 Cost to correct deficiencies.

(a) *Responsibility for Correction of Deficiencies.* Costs to correct deficiencies which are the responsibility of the contractor or of an MH Homebuyer shall be charged accordingly. Costs which are not chargeable to the contractor or to the Homebuyer can only be met by increasing the Development Cost with an amendment to the development cost budget where necessary, or by charging the costs to Project operating receipts. Such costs shall not be incurred without the specific approval of HUD.

(b) *Amendments.* (1) The Development Program and ACC may be amended to provide amounts needed to correct deficiencies (and damages resulting from the deficiencies) in design, construction or equipment where it is not possible to obtain timely correction or payment by the responsible parties.

(2) In the case of a HM home, the additional development cost for work done under this paragraph (b) shall not result in an increase in the homebuyer's purchase price. However, before approving work on a MH home for correction of deficiencies, the Field Office may review the record of the homebuyer's compliance with the MHO Agreement, and may require the IHA to reach an agreement with the Homebuyer for the correction of significant non-compliances.

APPENDIX I—INTERDEPARTMENTAL AGREEMENT ON INDIAN HOUSING

1. *Introduction.* Most assisted housing in Indian areas is made available under the low-income housing programs authorized by the United States Housing Act of 1937 (USH ACT). For federally recognized tribes, the Bureau of Indian Affairs (BIA) in the Department of the Interior, and the Indian Health Service (IHS) in the Department of Health, Education and Welfare furnish the principal necessary additional services. The purpose of this Interdepartmental Agreement is to set forth the responsibilities of the signatory agencies, having in mind that the financial and contractual relationships for assisted housing under the USH Act are between HUD and the IHAs and their tribal governments and that this Agreement contemplates promotion of the independent initiative and responsibilities of the IHAs and tribal governments involved. In addition, this Agreement specifies the responsibilities of IHS concerning water supply and sewerage facilities not only for HUD-supported housing but also for the BIA-Housing Improvement Program (HIP).

2. *HUD Responsibilities.* Except as specified in this Agreement, HUD will assume all responsibilities for projects of IHAs of federally recognized tribes under the USH Act that it normally does for any project under the USH Act.

3. *Coordination of Agencies.*

a. Before issuing the Program Reservation,[1] HUD will request the IHA to specify the time and place for a meeting of the IHA with representatives from HUD, BIA, IHS and any other agencies that may be involved. The time and place will be determined by the IHA and furnished to HUD after consultation with all participants. When HUD issues the Program Reservation, it shall send a notice to all the participants of the time and place for the meeting.

b. The purpose of the meeting will be to decide on the production method and to establish a time schedule of all necessary actions to be taken by the IHA and the Federal agencies leading to the start of construction and all subsequent actions to be taken during the total development period. These actions will include but not be limited to: site review, selection and development as they relate to the provision of water, sewer, house placement, access roads and streets where applicable; Homebuyer training program; development program; execution of Annual Contributions Contract; execution of Construction Contract; construction schedule; and inspections during construction and upon completion.

c. The time schedule agreed to at this meeting will be signed by each participant on behalf of his agency and by a representative of the IHA, and each participant agency and the IHA will thereby agree to meet that schedule. Any departure from the schedule must be for good cause and justified in writing by the head of the HUD field office, the Chairman of the IHA, the BIA Area Office Director or the IHS Area Director, as the case may be.

d. Complaints concerning compliance with the time schedule or performance of functions by the participating agencies may be made in writing to the head of the HUD field office and, in that event, it shall be his responsibility to resolve the matter. Complaints and the action taken with respect thereto shall be included in the monthly report required under paragraph e.

e. A monthly production progress reporting system on HUD-assisted projects compatible with the needs of HUD, BIA and IHS will be established by HUD in consultation with the other agencies and implemented within 90 days of the effective date of the HUD Indian Housing Regulations.

[1] See § 805.206(b)(2) of the Regulation.

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4. *Related Statutory Requirements.* The Departments of Housing and Urban Development; Health, Education and Welfare and the Interior shall develop memoranda of agreement, which shall be made a part of this Agreement, relating to compliance with the flood Disaster Protection Act of 1973, the National Environmental Policy Act, the 1974 Historic and Archeological Data Preservation Act, the National Historic Preservation Act of 1966, the Act for the Preservation of American Antiquities, and related Executive Orders. Until such time as they are approved, each Department shall be responsible for following its own applicable procedures in such manner as to avoid or minimize delays. Required clearances to comply with these Acts will be included in the time schedule worked out at the Interdepartmental coordination meeting (see paragraph 3b).

5. *Homebuyer Training Programs.* An IHA may elect to use, without additional HUD approval, the HUD pre-approved BIA Homebuyer Training Program (HTP). The BIA will assist with this program in accordance with responsibilities enumerated in the Exhibit to this Agreement.

6. *Other BIA Functions.*

a. *Site Selection and Land Acquisition Services.* The BIA will assist an IHA with site selection and land acquistion services, including title evidence and furnishing the site lease forms for both HUD rental and homeownership projects.

b. *Appraisals.* When requested by an IHA, the BIA will perform appraisals of the proposed sites in accordance with the HUD and BIA regulations.

c. *Roads.* The BIA will carry out its responsibilities under applicable regulations of the Department of Interior for providing roads, including access roads, which are not the responsibility of HUD under the HUD regulations.

d. *Management Services.* Although there is no commitment by the BIA for the furnishing of assistance in the management and operation of IHA projects, it is understood under this Agreement that where the BIA has staff or facilities available to provide such assistance and an IHA requests such assistance, the BIA will provide it to the extent feasible.

7. *Audits.*

a. The Office of Audit and Investigation (OAI) in the Department of the Interior, will provide audits of IHAs of federally recognized tribes until federal fiscal year 1977. The scope of these audits will be limited as follows:

(1) As a general rule, the audits will omit confirmation procedures for tenants' accounts receivable. The audit opinion will be qualified or a disclaimer will be made in those instances where receivables are material. Other tests and analyses applicable to receivables will be applied, such as review of billing procedures and aging receivables and evaluation of collection efforts. If results of these tests indicate the possibility of serious error or potential for fraud, OAI will attempt confirmation.

(2) Upon request of OAI, HUD will confirm the balance of outstanding notes for the construction of the projects and of HUD contributions surplus accounts.

b. Audits will be scheduled only upon receipt of required financial statements. HUD procedures will provide that the IHA furnish a copy of its financial statement to OAI at the times it is furnished to HUD.

c. Audits will not be performed at those IHAs, such as in Oklahoma and Alaska, which are not located on Federal Indian reservations.

d. HUD will assume responsibility for the audit of IHAs beginning with fiscal year 1977.

8. *Water Supply and Sewage Facilities.*

a. *General.* The IHS has general responsibility to provide water supply and sewage facilities for those Indians and Alaska Natives who are eligible to receive such benefits under the Indian Sanitation Facilities and Construction Act (Pub. L. 86-121). The IHS will exercise this responsibility with respect to facilities required to serve Indian homes constructed or improved with the support of HUD or BIA to the extent that funds are specifically appropriated by the Congress for such facilities and as agreed upon under the terms of this Agreement.

b. *Planning for Budget Purposes.* Sixteen months prior to the beginning of a fiscal year during which IHS will be required to furnish sanitation facilities, HUD and BIA will, to the extent possible, advise IHS with respect to the number and, where possible, the location of HUD-assisted housing starts and of HIP units of housing improvement to be started during that fiscal year. (If the information cannot be provided at that particular time, HUD and BIA will notify the IHS Director in writing accordingly). IHS will use this information in developing its budget request to assure that adequate funds are included to support construction of all necessary sanitation facilities for HUD-assisted and HIP housing units.

c. *Evaluation of Housing Site and Determination of Type of Facility to be Provided.*

(1) The ability of the IHS to provide needed water supply and waste facilities is dependent on the availability of a water source of suitable quantity and quality and a means of sewage disposal which will conform to acceptable standards and can be developed within reasonable cost limits. Therefore, the IHS shall be consulted with respect to the general site plan for new housing units and shall review and concur in the site selection.

(2) It shall be the responsibility of the IHS to determine, following its review of the site in each case, whether community or individual type facilities of a combination of these, can best serve the housing units concerned.

(3) IHS's review and approval of sites, along with any recommendations and observations concerning water and sanitation facilities, will be furnished the IHA, which shall in turn forward this material to HUD as part of the Preliminary Site Report submission.

d. *Technical Requirements.* To minimize the cost of providing and maintaining water supply and sewage facilities, the following criteria shall apply:

(1) Wherever possible, project sites will be on or adjacent to existing community water and sewer systems.

(2) Economic feasibility of water and sewer installations shall be considered in site selection. Feasibility shall be determined on the basis of initial construction as well as long range costs of operation, maintenance and replacement. Overly expensive and complex utility installation shall be avoided.

(3) Whenever possible and practicable, dwelling units within a multi-unit project site will be located on both sides of the street.

e. *Test Well Drilling.* Whenever it is determined by the IHS that test drilling is required for wells to provide individual water facilities for housing supported by HUD, tentative site approval may be given subject to the results of the test drilling. Should the test drilling indicate an insufficient supply of potable water, the site shall be disapproved and another selected unless another suitable water source can be provided. All test drilling, including obtaining of necessary permits or authorizations, shall be performed by and at the expense of the HUD program and carried out in accordance with accepted practices in the area concerned, and the data obtained shall be furnished to the IHS. For all community water facilities, including facilities for HUD-assisted projects and for individual wells to be provided for BIA sponsored housing, the IHS will perform at its expense any test drilling required.

f. *Soil Percolation Tests.* Soil percolation tests are necessary to ascertain the suitability of a home site for septic tank and drainfield facilities. The test will be conducted by, or at the expense of, the IHS. The data obtained will be provided to the IHA with IHS's recommendations for accepting or rejecting the site. (IHS's concurrence is required as a condition for use of the site, see paragraph 8c(1) above).

g. *Individual House Facilities.* In those instances where the IHS determines that individual water supply and/or waste disposal facilities are the most feasible and should be provided, the following conditions will apply:

(1) The agency financing the house construction or improvement will be responsible for the installation of all plumbing facilities within the dwelling and the house service lines.

(2) In the case of BIA-HIP homes, the IHS will provide the on-site water supply and waste disposal facilities along with service lines to a point five feet from the house.

(3) In the case of HUD-supported homes, the housing project will include the cost of installing any water supply and/or sewage disposal facilities which are to be located on the individual house sites. These facilities would include individual water supplies, sewage disposal systems or service lines to the house. All such work is to be carried out in accordance with guides and recommendations furnished by the IHS regarding the location and design of the facilities. These guides and recommendations will be provided by the IHS, following site review, to the IHA.

h. *Community Systems.* All community water and sewer systems will be designed on the basis of a total community concept. The following conditions will apply:

(1) The agency financing the house construction or improvement will be responsible for the installation of all plumbing facilities within the house and the house service lines.

(2) Where HUD-financed new houses are interspersed with existing homes, HUD will fund a pro rata share of the system's cost, excluding water source development, treatment and storage, and sewage treatment facility. This share will be based on the ratio of new to existing homes and will not exceed the cost of equivalent individual type facilities.

(3) Where the systems serve only new HUD-financed houses, HUD will fund the total cost of water distribution and sewage collection systems located within the boundaries of the project. The cost of all necessary facilities outside the housing project boundary will be funded by IHS.

(4) Community systems servicing BIA-HIP homes will be provided by IHS.

i. *Plan Review and Approval.*

(1) In those instances where the housing project includes the cost of installing individual or on-site water and sewer facilities, approval must be obtained from the IHS Area Office on all final plans before advertisement for construction bids. The IHS at its expense will inspect the installation of these facilities during construction and after completion of the work to assure the IHA that the installation has been done in conformance with the plans and specifications and may be accepted.

(2) If connection to a BIA water and/or sewage system is contemplated, a joint feasibility study will be conducted by the BIA and IHS to determine the adequacy of existing facilities to meet the additional requirements, to recommend necessary improvements or additions and to determine points of master or individual metered connections, valving, flushing hydrants, etc., in order to insure compatibility with existing systems. If the system is not adequate, the IHS and BIA will develop a mutually agreed upon program for providing additional capacity.

(3) Responsibility for the acquisition of land or interest therein in connection with the provision of water and sewage facilities for HUD-assisted housing shall not be assumed by the IHS, BIA, or HUD.

Dated: February 7, 1976.

THOMAS S. KLEPPE,
Secretary,
Department of the Interior.

Dated: February 20, 1976.

DAVID MATHEWS,
Secretary, Department of
Health, Education, and Welfare.

Dated: March 2, 1976.

CARLA A. HILLS,
Secretary, Department of
Housing and Urban Development.

EXHIBIT TO THE INTERDEPARTMENTAL AGREEMENT

BIA HOMEBUYER TRAINING PROGRAM

1. *Scope of Program.* The HUD-approved BIA Houmebuyer Training Program (HTP) will provide pre-occupancy and post occupancy training to Homebuyer families in Mutual Help Projects and shall consist of the following:

a. *Training in the Mutual Help Program.* Training will be provided to explain the Mutual Help Program and the rights and obligations of the Homebuyers.

b. *Training in Home and Appliance Maintenance and Care.* Training will be provided to increase the knowledge and understanding of Homebuyers of the methods and means to properly care for and maintain (1) both the interior and exterior structures of the Home including electrical, plumbing (including water heaters and pumps) and heating systems; (2) major appliances, refrigerators, ranges and dishwashers; (3) minor appliances, such as can openers and toasters; and (4) yards and gardens. In addition, training will be provided to Homebuyers to increase their knowledge about simple repair techniques with regard to the abovementioned house components and equipment.

c. *Training in Budgeting and Financial Management.* Training will be provided to Homebuyer families on family budgeting, use of credit, and meeting financial obligations, including their responsibility to make the required monthly payments and to allocate funds to various other necessities, such as utilities.

d. *Information and Referral Services.* Homebuyers will be give information on and, where appropriate, will be assisted by referrals to, other local, state and Federal agencies whose programs relate to total family counseling, and social service, including services on problems such as alcoholism, drug abuse, etc.

2. *Implementation of Program.*

a. *General.* The HTP will be implemented accordidng to the schedule established under paragraph 3 of the Agreement in accordance with the following: (1) An IHA will submit a proposal to the BIA which will set forth the specific needs of Homebuyers, the scope of training, methodology and budget to be undertaken within the general guidelines stated above.

(2) The program shall be developed and implemented at the local level by the IHAs employing locally recruited members of the community to the maximum extent possible.

(3) The program may be carried out through individual home visits, demonstration or other group sessions, or by any combination of these deemed appropriate.

(4) The BIA shall assist the IHAs in obtaining the necessary training and instruction for their training staff who will carry out the program. Such training of IHA employees may be undertaken through IHS training centers at universities or other institutions which can provide the needed training.

b. *Progress Reports.* IHAs shall submit quarterly progress reports to BIA and to HUD, which shall include:

(1) A list of expenditures under the program, including salaries, cost of transportation, training materials, office expenses and other justifiable expenditures. All expenditures must be identified and supportd by appropriate books and records of the IHA and must be certified as correct by the Executive Director and the Chairman of the IHA.

(2) Names of Homebuyer participants, the number of training sessions, descriptions of training activities, degree of participation, deficiencies noted, and other relevant information or observations.

(3) Efficacy of training as shown by reports, results of tests, reduction in monthly payments delinquencies, reduction in maintenance costs or other factors.

(4) Proposed changes during the next period of training, including program changes to overcome deficiencies described in current or prior report(s) or called to the attention of the IHA previously by BIA and to provide training to any additional or substitute Homebuyers.

c. *BIA Responsibilities.* The BIA will monitor and evaluate the progress and the implementation of the HTP of IHAs and submit semi-annual reports to HUD. Should BIA judge that an IHA is not implementing the program consistent with these guidelines, it will:

(1) Notify the IHA of the deficiencies in its program implementation and provide the necessary assistance to it to assure proper implementation,

(2) Afford the IHA 90 days from the date of notification to take corrective action, and

(3) Report to HUD whether the program should be continued based on the corrective action or whether the program should be terminated.

d. *HUD Responsibilities.* HUD will be responsible for including in the development cost of a project the funds for the HTP, provided that the BIA will not be reimbursed for utilization of its staff or facilities. HUD will also be responsible for determining whether the program for a particular project shall be terminated on the basis of information provided pursuant to paragraph c above, or otherwise.

Subpart C—Operation

§ 805.301 Definitions.

See §§ 805.102 and 805.430.

§ 805.302 Admission policies.

(a) *Income and Assets Limits.* (1) Subject to approval by HUD, the IHA shall adopt and promulgate regulations establishing schedules of maximum income limits for admission of tenants or homebuyers. An IHA may establish income limits up to the maximum permitted by the Act, which limits admission to families of low income who cannot afford to pay enough to cause private enterprise in the Indian Area to build an adequate supply of decent, safe and sanitary dwellings for their use. In determining the income limits for admission, consideration shall be given to any relevant limitations in the local private housing market (such as an insufficient supply of standard private housing, or the unavailability of mortgage financing on trust or restricted land). HUD shall approve the IHA's schedules of maximum income limits unless it finds that the IHA's determination of such limits is arbitrary or capricious. An IHA may also adopt regulations establishing reasonable assets limits for admission to occupancy. A copy of the IHA's income and assets regulations shall be posted prominently in the IHA's office for examination by prospective tenants or Homebuyers.

(2) Where decent, safe and sanitary housing is not otherwise being provided in the Indian area even for those of relatively high income, the IHA may establish maximum income limits at a sufficiently high level to meet those needs. In submitting such income limits to HUD for approval, the IHA may furnish a certification that private (conventional, FHA or VA) or Farmers Home Administration financing is not available to the prospective tenants or homebuyers along with such other supporting evidence as it deems appropriate. HUD shall

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not disapprove such income limits on the ground of their being too high unless it finds that the IHA certification is incorrect.

(b) *Other Admission Policies.* (1) The IHA shall adopt and promulgate regulations establishing the IHA's policies for admission of tenants or Homebuyers. Such regulations shall specify the types of Projects to which they apply (i.e., Rental, MH, or Turnkey III). A copy of the regulations shall be posted prominently in the IHA's office for examination by prospective tenants or homebuyers, and shall be submitted to HUD promptly after adoption by the IHA.

(2) These regulations shall be designed:

(i) To attain at initial occupancy, or within a reasonable period of time for Projects beyond the state of initial occupancy (but without prejudice to contract rights of homebuyers in Turnkey III or MH Projects), a tenant or homebuyer body in each Project composed of families with a broad range of incomes and rent-paying ability which is generally representative of the range of incomes of low income Indian families in the area, as determined by HUD, who would be qualified for admission to the type of project (Rental or Mutual Help).

(ii) To avoid concentrations of the most economically and socially deprived families in any one or all of the IHA's Projects;

(iii) For Rental and Turnkey III Projects, to achieve compliance with the applicable provisions of 24 CFR, Part 860, Subpart D, Minimum and Maximum Rent-Income Ratios, and Minimum Rent Requirements, including, but not limited to, § 860.406 which provides that "at least 20 percent of the dwelling units in any project placed under annual contributions contract in any fiscal year beginning after [September 26, 1975] shall be occupied by very low-income families * * *;" and

(iv) So that at least 20 percent of the dwelling units in any MH Project placed under ACC after September 26, 1975 shall be occupied by very low income families, i.e., families whose incomes do not exceed 50 percent of the median income of Indian families in the area, as determined by HUD, whose incomes would qualify them for admission to a Mutual-Help project.

§ 805.303 Grievance procedures.

The requirements set forth in HUD regulations relating to procedures for the resolution of tenant or homebuyer grievances against Public Housing Agencies (24 CFR, Part 866) are not applicable to Projects under this Part. Each IHA shall adopt and promulgate grievance procedures which are appropriate to local circumstances, provided that such procedures shall afford all tenants and homebuyers a fair and reasonable opportunity to have their grievances heard and considered by IHA officials, and shall comply with the Indian Civil Rights Act. A copy of the grievance procedures shall be posted prominently in the IHA office, and shall be provided to a tenant or homebuyer upon request.

§ 805.304 Determination of rents and homebuyer payments.

(a) *Rental and Turnkey III Projects.* The amount of rent or homebuyer payment required of a tenant in a Rental Project or a homebuyer in a Turnkey III Project shall be determined in accordance with the provisions of 24 CFR, Part 860, Subpart D.

(b) *MH Projects.* The amount of the Required Monthly Payment for a Homebuyer in an MH Project placed under ACC on or after the effective date of this Part and a Homebuyer admitted to occupancy in an Existing Project on or after the effective date of the conversion of the Project in accordance with § 805.428 shall be determined in accordance with § 805.416 of this Part.

(c) *Examination and Reexamination of Family Income.* For purposes of determining rent and homebuyer payment amounts under paragraphs (a) and (b) of this section, making adjustments in the amounts so determined, and determining whether an MH Homebuyer is required to purchase the Home under § 805.422(e), the IHA shall examine the family's earnings and other income prior to initial occupancy, and shall make periodic reexaminations thereafter at least once a year, except as follows:

(1) The date of the first reexamination may be extended to not more than 18 months after the initial examination, if necessary to fit a reexamination schedule established by the IHA.

(2) For families whose heads (or their spouses) or whose sole members are 62 years of age or over, the reexaminations need not be more often than once every two years.

For each examination or reexamination, the tenant or homebuyer shall furnish to the IHA certification of his family's earnings and other income and family composition, including any information and evidence required by the IHA.

§ 805.305 Rent and homebuyer payment collection policy.

Each IHA shall adopt and promulgate, and shall use its best efforts to obtain compliance with, rules or regulations sufficient to assure the prompt payment and collection of rents and required homebuyer payments. A copy of the rules or regulations shall be posted prominently in the IHA office, and shall be provided to a tenant or homebuyer upon request. The rules or regulations shall include provisions on at least the following subjects:

(a) The time, place and method for payment.

(b) A statement to the effect that prompt payment is a requirement for continued occupancy.

(c) For tenants or homebuyers whose income is seasonal or otherwise irregular, provisions for special plans or schedules for assuring that the required payments are made when due, e.g., prepayment, or arrangements with public welfare agencies regarding public assistance payments.

(d) Procedures for counseling and assistance to tenants and homebuyers so as to minimize the need for resort to the remedy of eviction.

(e) Procedures for enforcement of tenant and homebuyer obligations to make payment, including procedures for eviction where necessary.

(f) Procedures for collection of amounts remaining due and unpaid from terminated tenants and homebuyers.

(g) Procedures for obtaining assistance from the tribal government.

§ 805.306 Maintenance and improvements.

(a) *General.* Each IHA shall adopt and promulgate, and shall use its best efforts to obtain compliance with, rules or regulations to assure full performance of the respective maintenance responsibilities of the IHA and tenants or homebuyers. A copy of such rules or regulations shall be posted prominently in the IHA office, and shall be provided to a tenant or homebuyer upon request.

(b) *Provisions for Rental Projects.* For Rental Projects, the maintenance rules or regulations shall contain provisions on at least the following subjects:

(1) A statement specifying the responsibilities of tenants for normal care and maintenance, if any, of their dwelling units and common property, if any.

(2) Procedures for handling maintenance service requests from tenants.

(3) Procedures for IHA inspections of dwelling units and common property, if any.

(4) Special arrangements, if any, for obtaining maintenance services from outside workmen or contractors.

(5) Procedures for charging tenants for damages for which they are responsible.

(c) *Provisions for MH and Turnkey III Projects.* For MH and Turnkey III Projects, the maintenance rules or regulations shall contain provisions on at least the following subjects:

(1) A statement specifying the responsibilities of homebuyers for maintenance and care of their dwelling units and common property, if any.

(2) For Turnkey III Projects only, procedures for handling service requests from homebuyers for nonroutine maintenance.

(3) Procedures for providing advice and technical assistance to homebuyers to enable them to meet their maintenance responsibilities.

(4) Procedures for IHA inspections of homes and common property, if any.

(5) Procedures for IHA performance of homebuyer maintenance responsibilities (where homebuyers fail to satisfy such responsibilities) including procedures for charging the homebuyer's proper account for the cost thereof.

(6) Special arrangements, if any, for obtaining maintenance services from outside workmen or contractors.

(7) Procedures for charging homebuyers for damages for which they are responsible.

(d) *IHA Responsibility in MH and Turnkey III Projects.* The IHA shall enforce those provisions of a Homebuyer's agreement under which the homebuyer is responsible for maintenance of the home. The IHA shall have overall responsibility to HUD for assuring that the housing is being kept in decent, safe and sanitary condition, and that the home and grounds are maintained in a manner that will preserve their condition, normal wear and depreciation excepted. Failure of a Homebuyer to meet his obligations for maintenance shall not relieve the IHA of responsibility in this respect. Accordingly, the IHA shall conduct a complete interior and exterior examination of each home at least once a year, and shall furnish a copy of the inspection report to the Homebuyer. The IHA shall take appropriate action, as needed to remedy conditions shown by the inspection, including steps to assure performance of the Homebuyer's obligations under the Homebuyer agreement.

§ 805.307 Procurement and administration of supplies, materials and equipment.

(a) Each IHA shall adopt and promulgate, and shall comply with, rules or regulations for the procurement and administration of supplies, materials and equipment, which shall contain provisions on at least the following subjects:

(1) Procedures for purchasing in cases where competitive bidding is required.

(2) Identification (by position title) of IHA officials authorized to make purchases when competitive bidding is not required, and procedures for making such purchases.

(3) Procedures for inventory control.

(4) Procedures for storage and protection of goods and supplies.

(5) Procedures for issuance or other disposition of supplies and equipment.

A copy of such rules or regulations shall be promptly furnished to HUD.

(b) In the purchasing of equipment, materials and supplies, and in the award of contracts for services or for repairs, maintenance and replacements, the IHA shall comply with all applicable laws, and in any event shall make such purchases and award such contracts only to the lowest responsible bidder after advertising a sufficient time in advance for proposals, except:

(1) When the amount involved does not exceed an amount prescribed from time to time by HUD; or

(2) When the public exigencies require immediate delivery of the articles or performance of the service; or

(3) When only one source of supply is available and the purchasing or contracting officer of the IHA has so certified; or

(4) When the services required are (i) of a technical and professional nature, or (ii) to be performed under the IHA supervision and paid for on a time basis.

§ 805.308 Correction of management deficiencies.

IHA shall promptly take such action as may be required or approved by HUD to remedy management deficiencies. Particular attention shall be given to the correction of serious deficiencies in any of the following: Physical maintenance of the property, occupancy practices, maintenance of accounts and records, cost controls, handling of funds, rent or homebuyer payment collection, required reports to HUD, IHA staffing and staff turnover, and tribal government cooperation. HUD shall provide the maximum feasible assistance to an IHA to remedy management deficiencies.

§ 805.309 Indian preference in contracting.

The provisions of § 805.204 shall apply to contracts in connection with the operation of a Project.

§ 805.310 Contracts for personal services.

The IHA shall not without the prior written approval of HUD enter into, execute or approve any agreement or contract for personal, management, legal or other services with any person or firm (a) where the initial period or term of the agreement or contract (including any renewal) is in excess of two years, or (b) where the amount of the agreement or contract is in excess of the amount included for such purpose in the HUD-approved development cost budget or operating budget or an amount specified from time to time by HUD, as the case may be, or (c) where the agreement or contract is for legal or other services in connection with litigation.

§ 805.311 Operating subsidy—MH projects.

(a) *Scope.* This section provides for determination of operating subsidy on a uniform basis for all MH Projects, including Existing Projects whether or not converted in accordance with § 805.428.

(b) *Eligible Costs.* Operating subsidy shall be paid to reimburse the IHA for the HUD-approved costs of Independent Public Accountant audits. Operating subsidy may also be paid to cover proposed expenditures approved by HUD for the following purposes.

(1) Administration Charges for vacant units where the IHA shows to HUD's satisfaction that it is making every reasonable effort to fill the vacancies.

(2) Collection losses due to payment delinquencies on the part of Homebuyer families whose MHO Agreements have been terminated, and who have vacated the home, and the actual cost of any maintenance (including repairs and replacements) necessary to put the vacant home in a suitable condition for a substitute Homebuyer family. Operating subsidy may be made available for these purposes only after the IHA has previously utilized all available homebuyer credits.

(3) The costs of HUD-approved Homebuyer counseling but not in duplication of Homebuyer Counseling costs funded under a Development Cost Budget (pursuant to § 805.412 or § 805.429).

(4) HUD-approved costs for training of staff and Commissioners.

(5) Operating costs resulting from other unusual circumstances, as determined by HUD, justifying payment of operating subsidy.

(c) *Ineligible Costs.* No operating subsidy shall be paid for utilities, maintenance or other items for which the Homebuyer is responsible (other than necessary to put a vacant home in condition for a substitute family as provided in paragraph (b)(2) of this section).

§ 805.312 Operating subsidy—other projects.

Operating subsidy for Projects other than MH Projects shall be determined under the applicable regulations.

Subpart D—Mutual Help Homeownership Opportunity Program

§ 805.401 Scope and applicability.

(a) *Scope.* This Subpart sets forth the requirements applicable to the Mutual Help Homeownership Opportunity Program. For any matter not covered in this Subpart see also the provisions of Subparts A, B, and C of this Part.

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(b) *Applicability.* The provisions of this Subpart shall be applicable to all MH Projects placed under ACC on or after the effective date of this Part, and any Existing Projects converted in accordance with § 805.428.

§ 805.402 Definitions.

See §§ 805.102 and 805.430.

§ 805.403 Contractual framework.

An MH Project involves three basic contracts: an ACC for an MH Project, an MHO Agreement and an MH Construction Contract, each in the form prescribed by HUD.

§ 805.404 Special provisions for development of an MH Project.

(a) *Application for Project.* An application for an MH Project shall include, in as much detail as possible, a tentative listing of the family size and incomes of the families who will be eligible and willing to participate as MH Homebuyers, and the expected sources, forms and amounts of their MH Contributions. The application shall state that the listing is supported by signed applications of the families.

(b) *Inclusion of MH Contribution in Development Cost.* The total amount of the MH Contributions shall be included in the Development Cost for an MH Project. The development cost budget shall state in total and separately the portion of the Total Development Cost to be attributed to the land, cash, materials, equipment, and MH work to be furnished by or on behalf of the Homebuyers as their MH Contributions.

(c) *Purchase of Sites.* (1) An IHA may purchase a homesite (subject to the limitation stated in paragraph (c)(2) of this section), if neither the tribe nor the Homebuyers can donate or contribute enough sites suitable for Project use.

(2) In the case of purchased homesites, the cost of an unimproved homesite to be charged against the Development Cost Budget shall not exceed 8.75 percent of the estimated Dwelling Construction and Equipment Cost (DC&E Cost) unless it is shown to the satisfaction of HUD that the topographic features of the site are such that the excess cost will be offset by the savings in the cost of site improvements. The cost for purchase of an improved or partially improved homesite may be approved by HUD if the purchase price, together with any cost of further site improvement, is reasonable in relation to the estimated DC&E Cost and is consistent with an acceptable Total Development Cost.

(d) *Availability of Sites for Use by Substitute Homebuyers.* Each homesite shall be legally and practicably available for use by a substitute Homebuyer. If a site is part of other land owned by the prospective Homebuyer, the lease or other conveyance to the IHA shall include legal right of access to the site by any substitute Homebuyer.

(e) *Substitution of Site.* No substitution of a site shall be permitted after final site approval except with specific HUD approval on the basis of a showing to the satisfaction of HUD that: (1) the change is necessary by reason of special circumstances and (2) the change will not unreasonably delay or unreasonably add to the cost of the Project.

(f) *Time for Acquisition of Contributed or Donated Sites.* Contributed or donated sites shall (with only those exceptions allowed in accordance with § 805.217(b)) be leased or conveyed to the IHA before execution of the Construction Contract.

(g) *Consultation with Homebuyers.* The IHA shall be responsible for determining the extent to which homebuyers or their representatives should be given an opportunity to comment on the planning and design of the homes. Any recommendations resulting from such consultation shall be consistent with HUD standards and cost limitations and shall be subject to IHA and HUD approval.

(h) *Execution of MHO Agreements.* MHO Agreements may be executed prior to ACC. Where MHO Agreement have not been executed prior to ACC, they shall be executed promptly after ACC.

(i) *Cost of Counseling Program.* The Development Cost of an MH Project shall include an amount not in excess of $500 multiplied by the number of Homes in the Project for a counseling program as required by § 805.429.

(j) *Financial Feasibility.* The Development Program shall include a demonstration by the IHA that there is a sufficient number of selected Homebuyers who are able and willing to pay the Administration Charge and meet the other obligations under MHO Agreements (see § 805.406(b)) and who have signed statements that they are willing to enter into MHO Agreements. However, this requirement may be modified with the approval of the HUD Assistant Secretary for Housing Management in cases involving areas of exceptionally low income or other exceptional circumstances.

(k) *Rights Under MHO Agreement if Project Fails to Proceed.* Any MHO Agreement shall be subject to revocation by the IHA if the IHA or HUD determines not to proceed with the development of the Project in whole or part. In such event any contribution made by the Homebuyer or tribe shall be returned.

§ 805.405 Financing of development cost.

(a) Development Cost shall be financed by issuance of notes, and not by issuance of bonds.

(b) Under the ACC, HUD agrees to advance funds from time to time to the IHA upon a showing by the IHA that the funds requisitioned by the IHA are needed for the development of the Project. This commitment is called the Project Loan, and the IHA note evidencing the borrowing from HUD is called a Project Loan Note.

(c) HUD may at any time require the IHA to obtain loans from sources other than HUD, in lieu of advances from HUD, secured by a pledge of HUD's agreement under the ACC to advance monies to the IHA. The IHA note evidencing such borrowing from non-HUD sources is called a Project Note.

§ 805.406 Selection of MH homebuyers.

(a) *Admission Policies.* In adopting admission regulations in accordance with § 805.302, an IHA may establish admission policies for MH Projects which are different from those for Rental or Turnkey III Projects of the IHA, including different income and assets limits.

(b) *Ability to Meet Homebuyer Obligations.* A family shall not be selected for MH housing unless, in addition to meeting the maximum income limits and other requirements for admission (see § 805.302), the family is able and willing to meet all obligations of an MHO Agreement, including the obligations to perform or provide the necessary maintenance, to provide the required MH Contribution and its own utilities, and to pay the Administration Charge (unless such requirements are modified in exceptional cases in accordance with § 805.404(g)). A family may be selected even if the Administration Charge plus utilities, or the Administration Charge alone, would exceed 25 percent of Family Income, if the family can be expected reasonably to pay the Administration Charge and meet its other obligations under the MHO Agreement (e.g., as demonstrated by the family's income, including public assistance, the family's past history, or the family's ability to supplement its income by providing its own food, fuel or other necessities).

(c) *MH Waiting List.* (1) Families who wish to be considered for selection for MH housing shall apply specifically for such housing. A family on any other IHA waiting list, or a tenant in a Rental Project of the IHA, must also submit an application for selection in order to be considered for MH Projects.

(2) The IHA shall maintain a waiting list, separate from any other IHA waiting lists, of families which have applied for MH housing and which have been determined to meet the admission requirements.

(3) All applications for selection for MH housing shall be dated as received; except that an application from a family on the waiting list for any other IHA Project shall have the same date of application as the date of its application for such other IHA Projects.

(4) The filing of an application for MH housing by a family which is an applicant for other IHA housing, or is a tenant in such housing, shall not in any way affect its status with regard to such other housing. Such applicant shall not lose its place on another IHA housing waiting list until it has been selected for MH housing and the MHO Agreement has been signed.

(d) *Making the Selections.* Promptly after HUD approval of the application for a Project, the IHA shall proceed with selection of as many Homebuyers as there are Homes in the Project. Selection of Homebuyers shall be made from the MH waiting list in accordance with the date of application and other pertinent factors under the IHA's admissions regulations established in accordance with § 805.302. Selection of a Homebuyer shall be made only after the site for that Homebuyer has received HUD final site approval.

§ 805.407 Notifications to applicant families.

(a) *Notification to Families Not Meeting Admission Requirements.* When an IHA determines that a family does not meet the admission requirements, the IHA shall give the family prompt written notice of this determination. The notice shall state the basis for the determination, and shall state that the family is entitled to an informal hearing by the IHA on the determination if request for such hearing is made within a reasonable time as specified in the notice.

(b) *Notification to Selected Families.* A selected family shall be given a written Notice of Selection including the following information:

(1) A statement that the family has been selected for an MH Project and that the site for the family (identify) has been approved;

(2) A statement that the family shall return the enclosed statement of willingness to execute an MHO Agreement and the name(s) of the person(s) who must sign the statement on behalf of the family;

(3) A statement that the family will be advised at a later date of the time and place for execution of the MHO Agreement and the name(s) of the person(s) who must execute it on behalf of the family;

(4) A statement that after execution of the Construction Contract the family will receive a notice of confirmation which will state the estimated date of completion of the unit designated for the Homebuyer, insofar as such date can be reasonably determined; and

(5) A statement that the issuance of the Notice of Selection does not constitute or give rise to any contractual obligation of the part of the IHA or HUD.

(c) *Notification to Families Not Selected for a Project.* If the IHA determines that an applicant meets the admission requirements but is not to be selected for a certain MH Project, the IHA shall so notify the applicant in writing. The notice shall also state that the applicant will remain on the IHA's waiting list for consideration for admission in the event of vacancies or additional MH housing.

§ 805.408 MH contribution.

(a) *Form of Contribution.* MH Contributions toward the Development Cost of a Project may be in the form of (1) land, (2) work, (3) cash, or (4) materials or equipment. Contributions other than work may be made by a tribe on behalf of Homebuyers. The IHA may determine that the MH Contributions to a Project shall consist either wholly of any of these forms of contribution, or of any combination of these forms of contribution. The amount of each form of MH Contribution shall be specified in the Development Program and development cost budget for the Project. Where a tribal contribution is involved, the tribe shall adopt a tribal resolution stating its commitment to the IHA to make the contribution on behalf of Homebuyers, and a copy of this resolution shall be submitted to HUD with the Development Program.

(b) *Amount of MH Contribution to Project.* The minimum aggregate MH Contribution to a Project shall be $1,500 multiplied by the number of Homes in the Project. If any homesite has been purchased for more than $1,500 and the excess has not been covered by funds from a source other than Project funds (see § 805.404(c)), the minimum aggregate contribution for the Project shall be increased by the amount of the excess.

(c) *Credit for MH Land Contribution—(1) Sharing of Land Credits.* Whether homesites are contributed by Homebuyers or by the tribe, the total of the MH credits for contributed homesites shall be pooled and shared equally by all the Homebuyers in the Project, including substitute Homebuyers.

(2) *Credit for Contributed Homesite.* The amount to be credited as an MH Contribution for a contributed homesite shall not exceed $750 or the appraised value determined in accordance with § 805.219, but shall not in any event be more than an average for the project of $1,500 per homesite.

(d) *Non-land Contributions.* (1) If the land contributions aggregate less than the minimum for the Project as stated in paragraph (b) of this section, the difference shall be provided by non-land contributions, and this obligation shall be shared equally by all the Homebuyers in the Project.

(2) The foregoing establishes the minimum non-land contribution. An IHA may require an additional non-land contribution in its discretion.

(e) *Total Contribution to be Furnished Before Occupancy.* A Homebuyer shall not be entitled to commence occupancy of the Home until the total non-land MH Contribution on behalf of the Homebuyer as specified in the MHO Agreement (whether to be furnished by the Homebuyer or the tribe), has been furnished, whether or not the items are necessary for occupancy, e.g., exterior painting. (For exception, see § 805.415(a)(2)(ii).)

§ 805.409 MH contributions in event of substitution of homebuyer.

(a) If an HMO Agreement is terminated and a substitute Homebuyer is selected, the amount and kind of MH Contribution to be provided by the substitute Homebuyer shall be determined in accordance with the principles set forth in § 805.408; i.e., the credits for the land contribution shall be divided equally among all the Homebuyers including the substitute Homebuyer and the aggregate MH credit to the Homebuyers for credit for contributions consisting of work, materials or equipment shall not be more than the amount stated in the Construction Contract unless (1) the contractor agrees to reduce the Price Payable to Contractor by an amount equal to the additional MH credit, but without any increase in the Total Contract Price, or (2) the excess is accounted for under paragraph (b) of this section. The distribution among the Homebuyers of the non-land contribution to be provided shall, to the maximum extent possible follow the principles of § 805.408 to achieve an equitable distribution among all the Homebuyers. After consulting the Homebuyers and the contractor, the IHA shall notify each Homebuyer and the contractor, in writing, of the modifications to the MH Contribution requirements, and shall advise them that unless they notify the IHA of any objection within a stated time from receipt of the notification, the modified MH requirements will become effective. In the case of any dispute which cannot be resolved by the IHA, the matter may be referred to HUD for resolution.

(b) Where circumstances so require, the IHA may, provided that the appro-

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priate development account is credited, permit the substitute Homebuyer to complete his MH Contribution within a specified period of time, not later than the first five years of occupancy, in the form of (1) cash in addition to the Required Monthly Payments, (2) clerical, maintenance, professional or technical work for the IHA or (3) another form of contribution satisfactory to the IHA, as set forth in specific provisions to be included in the MHO Agreement.

§ 805.410 MH work contribution.

(a) *Homebuyer's Work Obligation.* (1) Each Homebuyer shall perform the work obligation under the direction of the contractor in accordance with the terms of the MHO Agreement. The work obligation of a Homebuyer may be performed by members of the family. The work may also be performed by an arrangement for others (relatives or friends, for example) to work on the Homebuyer's behalf, but only with the approval of the IHA and the contractor.

(2) The specific jobs to be performed by Homebuyers, and the value of each job, shall be listed in an appendix to the Construction Contract, which shall be available for inspection by the Homebuyers. The listed jobs shall be essential jobs which the contractor would have to pay for in order to complete the Construction Contract if the work were not provided by the Homebuyers. The listed jobs may relate to work on site improvements or community facilities and may include office or clerical work.

(3) The total value of the jobs actually assigned to the Homebuyers shall not exceed the total value of jobs to be performed by MH work, and the total value of the jobs actually assigned to any Homebuyer may not exceed the value of the MH work the Homebuyer is required to provide.

(b) *Valuation of Jobs.* The jobs listed in the appendix to the Construction Contract shall be valued by the IHA and the contractor as follows:

(1) The jobs to be assigned shall be identified. For example, the jobs could include prefabrication of trusses, wall sections, etc., mixing mortar, cutting and/or nailing lumber, installing lath, exterior and/or interior painting, but in every instance shall be related to a defined quantity or a part of the Home, so that the job can be priced on a per unit basis.

(2) For each of these jobs an estimate shall be made of the time (hours or days) which would be needed if the work were done by journeymen workers.

(3) The amount of time so estimated shall then be multiplied by the journeymen Davis-Bacon wage rate for the type of work involved. The amount so computed shall constitute the value of the job involved.

(c) *Assignment and Performance of Jobs and Homebuyer Credit.* (1) The Homebuyer may be assigned to any of the listed jobs, and may be reassigned from one job to another during the course of construction.

(2) The Homebuyer shall provide as many hours of work as necessary to complete the assigned jobs regardless of the number of hours used to compute the value of the jobs under paragraph (b) of this section. The credit given the Homebuyer shall be the value of the assigned jobs regardless of the number of hours actually worked to perform the jobs.

(3) As an alternative to paragraph (c)(2) of this section, the contractor may estimate the number of hours of Homebuyer work required to perform the jobs and may make assignments to the Homebuyers in terms of numbers of hours of work. In that event, the Homebuyer shall be credited for the full MH work contribution when the number of hours of work assigned to him has been completed.

(d) *Record of MH Work.* The contractor shall adopt a system (with the approval of the IHA) for keeping a record of MH work.

(e) *Failure to Provide MH Work.* (1) The IHA shall to the extent feasible monitor the performance of MH work so that problems in the performance of MH work can be anticipated and avoided, or effectively dealt with when they occur. The IHA may terminate the MHO Agreement if the Homebuyer is unable or unwilling to provide, or for any other reason fails to provide, the MH work obligation.

(2) If in the judgment of the contractor a Homebuyer is not meeting his MH work obligations, the contractor may request the assistance of the IHA. Where the deficiency cannot otherwise be remedied, the contractor may request the IHA to terminate the Homebuyer's MHO Agreement and select another Homebuyer to provide the MH work.

(3) If the contractor calls upon the IHA to terminate the MHO Agreement and the contractor furnishes to the IHA sufficient proof of the alleged nonperformance by the Homebuyer, the IHA shall then terminate the MHO Agreement in accordance with the procedures stated in § 805.424(b). In the event of such a termination of an MHO Agreement, the IHA shall, to the extent feasible, select a substitute Homebuyer able to provide an MH work contribution equal to the value of the uncompleted work assignment of the terminated Homebuyer. If the IHA finds it is not feasible to select such a substitute, the contractor shall nevertheless not be excused from his obligation to achieve acceptable completion of all the contract work without an increase in the Total Contract Price or Price Payable to Contractor.

§ 805.411 Cash contribution.

The MHO Agreement may provide for a contribution of cash in a lump sum, or under a planned installment schedule, so long as the full amount of the cash contribution is to be received by the IHA not later than the date the Home is available for occupancy. (For exceptions see § 805.409(b) and § 805.415(a)(2)(ii).) Payments of contributed cash shall be made to the IHA and shall be utilized for the payment of Development Costs.

§ 805.412 Materials or equipment contribution.

If any part of a Homebuyer's MH Contribution is to be provided by furnishing materials or equipment, such contribution shall be provided and accounted for in accordance with the special provisions of the Construction Contract covering such contribution, which provisions shall include a statement of the kind, quality and value of such contributed materials and equipment.

§ 805.413 Special requirements for MH construction contracts.

(a) *Special Provisions to be Included in Advertisements.* The advertisement for an MH Construction Contract shall state that:

(1) The Project is an MH Project;

(2) The contractor may obtain a copy of the proposed MH Construction Contract and form of MHO Agreement;

(3) The contractor may obtain a listing of the Homebuyers whose sites have received HUD tentative site approval, and a specification of the sources, forms and amounts of the MH Contributions to be utilized by the contractor;

(4) The contractor shall be permitted to review information relating to the ability and capacity of each Homebuyer to provide MH work, and to interview the Homebuyers:

(5) By submitting a bid or proposal, the contractor agrees that, except as he may specify in his bid, the selected Homebuyers have the ability and capacity to provide the required MH work; and

(6) Substitution of a Homebuyer shall be subject to the approval of the contractor, but only with respect to the ability and capacity of the subsitute Homebuyer to provide MH work.

(b) *Workmen's Compensation Insurance.* The contractor shall provide Workmen's Compensation Insurance for Homebuyers and those authorized to provide work on their behalf. If such insurance is not available, the contractor shall obtain private insurance of substantially comparable coverage.

(c) *Responsibility of Contractor.* The Construction Contract shall provide that the contractor shall be responsible for acceptable completion of all the Homes, including the tasks assigned to Homebuyers for MH work credit.

(d) *Total Contract Price and Price Payable to Contractor.* The Total Contract Price shall include the sum of (1) the values of the MH work to be performed, and (2) the value of any materials and equipment to be provided as an MH Contribution. The Price payable to Contractor shall be the Total Contract Price, less the sum of paragraph (d)(1) and (2) of this section. The Total Contract Price shall not exceed the HUD-approved estimate of the cost of constructing the Project without the use of any MH Contributions.

§ 805.414 Disposition of contributions on termination before date of occupancy.

(a) If an MHO Agreement is terminated by the IHA or the Homebuyer before the Date of Occupancy, the Homebuyer shall not receive any reimbursement or return of property on account of any contribution, unless the IHA makes a determination, subject to HUD approval, that the termination is warranted by reason of unforeseen circumstances beyond the Homebuyer's control, or other unforeseen compelling circumstances. If such a determination is made:

(1) The Homebuyer may be reimbursed for any cash materials or equipment contributed by the Homebuyer.

(2) If the Homebuyer contributed land as a Project site, the site may be returned if (i) construction has not started on the site or construction on the site is minimal, *and* (ii) if the scope of the Construction Contract is affected, an appropriate reduction in the Total Contract Price and Price Payable to Contractor has been agreed to with the contractor. If the site is not returned and is used in the Project, the terminated Homebuyer shall be reimbursed for the amount specified in the MHO Agreement for the land contribution.

(3) The terminated homebuyer shall have no right to any reimbursement or return of property on account of any tribal contribution, or on account of the value of any MH work contribution.

(b) The amount of any credit for non-land contributions by a terminated Homebuyer, other than a contribution for which reimbursement or return of property was made in accordance with paragraph (a) of this section, shall be credited in equal shares to the Unrefundable MH Reserves of all the Homebuyers in the Project, including a substitute Homebuyer (see § 805.421(a)).

(c) The amount of any credit on account of any tribal non-land contribution on behalf of any terminated Homebuyer shall be credited to the Unrefundable MH Reserve maintained for the substituted Homebuyer. (see § 805.421(a)).

(d) The amount of any credit on account of any land contribution for which reimburement or return of property in accordance with paragraph (a) of this section is not made, and of any credit on account of the terminated Homebuyer's share of the credits for homesites contributed by the tribe, shall be pooled and shared equally by all the Homebuyers in accordance with § 805.408(c)(1).

§ 805.415 Actions upon completion; commencement of occupancy.

(a) *Notice.* (1) Upon acceptance by the IHA from the contractor of the Home as ready for occupancy, the IHA shall determine whether the Homebuyer's full MH Contribution has been provided and, in the event of an affirmative determination, the Homebuyer shall be notified in writing that his Home is available for occupancy as of a date specified in the notice ("Date of Occupancy").

(2) If the IHA determines that the Homebuyer has not fully provided his MH Contribution, the Homebuyer shall be so notified in writing and:

(i) The notice shall specify the time by which the Homebuyer's full MH Contribution shall be provided and shall state that the Homebuyer may not commence occupancy until the Homebuyer's full MH Contribution has been provided, or

(ii) If there is special justification for permitting occupancy prior to completion of the Homebuyer's MH Contribution (such as prevention of vandalism or unacceptable hardship to the family) and there is reasonable assurance that the Homebuyer will complete the MH Contribution within an acceptable time, the notice may contain a Date of Occupancy. In such case the notice shall state that the Home may be occupied on such date: Provided, That a written agreement has been entered into by the Homebuyer, the IHA and the contractor (if MH work is involved) specifying the schedule and other details for completion of the MH Contribution.

(b) *Lease Term Under MHO Agreement.* The term of the Homebuyer's lease under the MHO Agreement shall be as provided in the MHO Agreement.

(c) *Credits to MH Reserves.* Promptly after the Date of Occupancy the IHA shall credit the amount of the MH Contributions to the appropriate Reserves in accordance with § 805.421(a) and shall provide the Homebuyer and the tribal government with a statement, approved by HUD, of the amounts so credited.

§ 805.416 Required monthly payments.

(a) *Establishment of Schedule.* (1)(i) Each Homebuyer shall be required to make a monthly payment ("Required Monthly Payment") of no less than the Administration Charge.

(ii) Subject to the requirement for payment of at least the Administration Charge, each Homebuyer shall pay an amount of Required Monthly Payment computed by (i) multiplying Family Income by a specified percentage, and (ii) subtracting from that amount the Utility Deduction (as specified in the approved schedule). The specified percentage shall be no less than 15 percent and no more than 25 percent, as determined by the IHA.

(2) The IHA's schedule may provide that the Required Monthly Payment shall not be more than a maximum amount as determined under the regulations, provided that this maximum shall not be less than the sum of:

(i) The Administration Charge, and

(ii) The monthly debt service amount shown on the Homebuyer's Purchase Price Schedule.

(b) *Amount of Required Monthly Payment.* The Homebuyer shall pay to the IHA during the lease term a monthly payment ("Required Monthly Payment") determined in accordance with the IHA's HUD-approved schedule and regulations. If the Required Monthly Payment exceeds the Administration Charge, the amount of the excess shall be credited to the Home- buyer's Monthly Equity Payments Account (see § 805.421(b)(1)).

(c) *Definitions Used in Determining Required Monthly Payment.* For the purpose of determining the amount of the Required Monthly Payment:

(1) The definitions of "Family Income" and "Total Family Income" as stated in 24 CFR, 860.403(f) and 860.403(o), shall be applicable;

(2) "Utility Deduction" shall mean the amount estimated by the IHA, and approved by HUD, for the monthly cost to the Homebuyer for the reasonable use of utilities which he is obligated to provide under the MHO Agreement; and

(3) "Utilities" shall mean water, electricity, gas, other heating, refrigeration and cooking fuels and sewerage services. (Telephone service is not included as a utility.)

(d) *Adjustments in the Amount of the Required Monthly Payment.* After the initial determination of a Homebuyer's Required Monthly Payment, the IHA shall increase or decrease the amount of such payment in accordance with the HUD-approved schedule or regula-

tions to reflect changes in Family Income (pursuant to a reexamination by the IHA), adjustments in the Administration Charge, or in any of the other factors affecting computation of the Homebuyer's Required Monthly Payment.

(2) In order to accommodate wide fluctuations in the burden of making Required Monthly Payments due to seasonal conditions, an IHA may agree with any Homebuyer for payments to be made in accordance with a seasonally adjusted schedule which assures full payment of the required amount for each year.

§ 805.417 Inspections; responsibility for items covered by warranty.

(a) *Inspection Before Move-In and Identification of Warranties.* (1) In order that there shall be a record of the condition of the Home as of the Date of Occupancy, an inspection of the Home by the IHA and the Homebuyer shall be made as close as possible to, but not later than, the Date of Occupancy. This inspection shall be independent of the inspection required by § 805.221(c), but may, if feasible, be combined with such inspection. After the inspection, the IHA inspector shall give the Homebuyer a written statement, signed by the inspector, of the condition of the Home and equipment. If the Homebuyer concurs with the statement, he shall sign a copy of the statement. If the Homebuyer does not concur, he shall state his objections. The inspector shall note all such objections on the statement, and the differences shall be resolved by the IHA.

(2) On or before commencement of occupancy of each Home, the IHA shall furnish the Homebuyer with a list of applicable contractor's, manufacturers' and suppliers' warranties, indicating the items covered and the periods of the warranties.

(b) *Inspections During Contractor's Warranty Periods; Responsibility for Items Covered by Contractor's, Manufacturer's or Suppliers Warranties.* The IHA shall inspect the Home in accordance with the provisions of § 805.222(b) during the contractor's warranty period or periods. Independent of such IHA inspections, and the inspections required under paragraph (a) of this section, it shall be the responsibility of the Homebuyer during the period covered by §§ 805.222(b) and 805.417(a) and subsequently for the duration of the applicable warranties, to promptly inform the IHA in writing of any deficiencies arising during the warranty periods (including manufacturers' and suppliers' warranties) so that the IHA may enforce any rights under the applicable warranties. If a Homebuyer fails to furnish such a written report in time, and the IHA is subsequently unable to obtain redress under the warranty, correction of the deficiency shall be the responsibility of the Homebuyer.

(c) *Inspection Upon Termination of Agreement.* If the MHO Agreement is terminated for any reason after commencement of occupancy, the IHA shall inspect the Home, after notifying the Homebuyer of the time for the inspection, and shall give the Homebuyer a written statement of the cost of any maintenance work required to put the Home in satisfactory condition for the next occupant (see § 805.424(d)(1)(i)).

(d) *Homebuyer Participation in Inspections.* The Homebuyer shall be notified that he or his representative may join in the inspection made pursuant to this section.

(e) *Permission for Inspections.* The Homebuyer shall permit the IHA to inspect the Home at reasonable hours and intervals during the lease term in accordance with rules established by the IHA.

§ 805.418 Maintenance, utilities, and use of home.

(a) *Maintenance.* (1) Homebuyer's Responsibility for Maintenance. The Homebuyer shall be responsible for maintenance of the Home, including all repairs and replacements (including repairs and replacements necessitated by damage from any cause). The IHA shall not be obligated to pay for or to provide any maintenance of the Home other than the correction of warranty items reported during the applicable warranty period.

(2) *Homebuyer's Failure to Perform Maintenance.* (i) Failure of the Homebuyer to perform his maintenance obligations constitutes a breach of the MHO Agreement. Upon a determination by the IHA that a breach has occurred, the IHA shall require the Homebuyer to agree to a specific plan of action to cure the breach and to assure future compliance. The plan shall provide for maintenance work to be done within a reasonable time by the Homebuyer, or to be done by the IHA and charged to the Homebuyer's MEPA. If the Homebuyer fails to agree to a reasonable plan or fails to carry out the agreed to plan, the MHO Agreement shall be terminated in accordance with §§ 805.424(a) and 805.424(b).

(ii) If the condition of the property creates a hazard to the life, health or safety of the occupants, or if there is an immediate risk of serious damage to the property if the condition is not corrected, the IHA shall have the work done, and charge the cost thereof to the Homebuyer's MEPA in accordance with § 805.421(c).

(iii) Any maintenance work performed by the IHA shall be accounted for through a work order stating the nature of and charge for the work. The Homebuyer shall receive a copy of all work orders for his Home.

(b) *Homebuyer's Responsibility for Utilities.* The Homebuyer shall furnish his own utilities. The IHA shall have no obligation to do so. However, if the IHA determines that the Homebuyer is unable to provide his utilities, and that this inability creates conditions which are hazardous to life, health or safety of the occupants, or threaten immediate serious damage to the property, the IHA may provide the utilities and charge the Homebuyer's MEPA for doing so (subject, however, to the limitation provided at § 805.421(c)(4)).

(c) *Obligations with Respect to Home and Other Persons and Property.* The Homebuyer shall agree:

(1) To use the Home only as a place to live for (i) himself and the members of his family listed in a schedule appended to the Homebuyer's MHO Agreement, (ii) children born to or adopted by members of such family after the date of the MHO Agreement, and foster children, (iii) persons providing live-in care for a member of the Homebuyer family, and (iv) aged or widowed parents of the Homebuyer or spouse; other family members may live in the Home only with the prior written approval of the IHA;

(2) Not to sublet his Home without the prior written approval of the IHA;

(3) To abide by necessary and reasonable regulations promulgated by the IHA for the benefit and well-being of the Project and the Homebuyers, which shall be prominently posted in the IHA office;

(4) To comply with all obligations imposed upon Homebuyers by applicable provisions of building and housing codes materially affecting health and safety;

(5) To keep the Home and such other areas as may be assigned to him for his exclusive use in a clean and safe condition;

(6) To dispose of all ashes, garbage, rubbish, and other waste from the Home in a sanitary and safe manner;

(7) To use only in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air-conditioning and other facilities and appurtenances;

(8) To refrain from, and to cause his household and guests to refrain from, destroying, defacing, damaging, or removing any part of the Home or Project;

(9) To conduct himself and cause other persons who are on the premises with his consent to conduct themselves in a manner which will not distrub the neighbors' peaceful enjoyment of their accommodations and will be conducive to maintaining the

Project in a decent, safe and sanitary condition; and

(10) To refrain from illegal or other activity which impairs the physical or social environment of the Project.

(d) *Structural Changes.* A Homebuyer shall not on his own initiative make any structural changes in or additions to his Home unless the IHA has first determined in writing that such change would not (1) impair the value of the Home, the surrounding Homes, or the Project as a whole; or (2) affect the use of the Home for residential purposes; or (3) violate HUD requirements as to construction and design. Any changes made in accordance with this section shall be at the Homebuyer's expense (and not from any Reserve or Account created under the MHO Agreement), and in the event of termination of the MHO Agreement the Homebuyer shall not be entitled to any compensation for such changes or additions.

§ 805.419 Administration charge and operating expense.

(a) *Administration Charge.* The term "Administration Charge" means the amount budgeted per unit month for operating expense exclusive of the costs of Independent Public Accountant audits.

(b) *Components of Operating Expense.* The term "operating expense" means the amount budgeted for the following operating expense categories, and any other operating expense categories included in the IHA's HUD-approved operating budget for a fiscal year or other budget period:

(1) *Administration.* Administrative salaries; travel; legal expenses; postage; telephone and telegraph; office supplies, space, maintenance, and utilities; accounting services; and Independent Public Accountant audits approved by HUD (the costs of which shall be reimbursed by HUD).

(2) *General Expense.* The cost of premiums for fire and other insurance; payments in lieu of taxes, if any; payroll taxes; etc.

(3) *Contribution to Operating Reserve.* An estimate of the amount required to accumulate an Operating Reserve for the Project as provided in § 805.420.

§ 805.420 Operating reserve.

(a) The IHA shall maintain an Operating Reserve for the Project in an amount sufficient for working capital purposes, for estimated future nonroutine requirements for IHA-owned administrative facilities and common property, and for unanticipated project requirements approved by HUD. The contribution for this reserve pursuant to § 805.419(b)(3) shall be determined by the IHA with the approval of HUD. The minimum amount of such contribution during the first budget period following the end of the Intial Operating Period, as defined in the ACC, shall be $2.00 per unit per month. The subsequent amount of this contribution and the proper amount of this contribution and the proper amount in this reserve shall be increased or decreased annually by the IHA, and these amounts shall be included in the Operating Budget submitted to HUD for approval.

(b) At the end of each fiscal year or other budget period the Project Operating Reserve shall be (1) credited with the amount by which operating receipts exceed operating expenses of the Project for the budget period, or (2) charged with the amount by which operating expenses exceed operating receipts of the Project for the budget period to the extent of the balance in the Operating Reserve.

§ 805.421 Homebuyer reserves and accounts.

(a) *Refundable and Unrefundable MH Reserves ("Reserves").* (1) The IHA shall establish as of the Date of Occupancy separate Refundable and Undrefundable MH Reserves for each Homebuyer.

(2) The Refundable MH Reserve shall be credited with the amount of the Homebuyer's non-land MH Contribution.

(3) The Unrefundable MH Reserve shall be credited (i) with the amount of the Homebuyer's share of any credits for land contributed to the Project, as determined in accordance with § 805.408 (c)(2), (ii) the Homebuyer's share of any tribal non-land contribution to the Project, and (iii) the Homebuyer's share pursuant to § 805.414(b) of any credit for non-land contributions by a terminated Homebuyer.

(4) When it becomes necessary to draw against either the Refundable MH Reserve or the Unrefundable MH Reserve, the IHA shall requisition the funds from HUD as an advance against the Project Loan pursuant to the ACC. The amount of these borrowings, along with other Development Costs, are repaid by HUD annual contributions payments made pursuant to the ACC.

(b) *Equity Accounts ("Accounts").* (1) *Monthly Equity Payments Account ("MEPA").* The IHA shall maintain a separate MEPA for each Homebuyer. The IHA shall, as provided in § 805.416 (a), credit this account with the amount by which each Required Monthly Payment exceeds the Administration Charge.

(2) *Voluntary Equity Payments Account.* The IHA shall maintain a separate Voluntary Equity Payments Account for each Homebuyer. The IHA shall credit this account with the amounts of any periodic or occasional voluntary payments (over and above the Required Monthly Payments) the Homebuyer may desire to make to acquire ownership of the Home within a shorter period of time.

(3) *Investment of Excess.* When the aggregate amount of funds held by the IHA in the MEPAs and Voluntary Equity Payments Accounts of all the Homebuyers in the Project exceeds the estimated expenditure requirements for 90 days, the IHA shall invest the excess in federally insured savings accounts, in federally insured credit unions, or in securities approved by HUD. Income earned on the investment of such funds shall periodically, but at least annually, be prorated and credited to each Homebuyer's MEPA and Voluntary Equity Payments Account, in proportion to the amount in each such account on the date of proration.

(c) *Charges for Maintenance.* (1) If the IHA has maintenance work done in accordance with § 805.418(a)(2), the cost thereof shall be charged to the Homebuyer's MEPA.

(2) At the end of each fiscal year, the debit balance, if any, in the MEPA shall be charged, first, to the Voluntary Equity Payments Account, second, to the Refundable MH Reserve and, Third, to the Unrefundable MH Reserve, to the extent of the credit balances in such Account and Reserves.

(3) In lieu of charging the debit balance in the MEPA to the Homebuyer's Refundable MH Reserve and/or Unrefundable MH Reserve (but not in lieu of charging his Voluntary Equity Payments Account), the IHA may allow the debit balance to remain in the MEPA pending replenishment from subsequent credits to the Homebuyer's MEPA.

(4) The IHA shall at no time permit the accumulation of a debit balance in the MEPA in excess of the sum of the credit balances in the Homebuyer's Refundable and Unrefundable MH Reserves unless the expenditure is required to alleviate a hazard to the life, health or safety of the occupants, or to alleviate an immediate risk of serious damage to the property, and the source of funds for reimbursement to the IHA is specifically approved by HUD.

(d) *Disposition of Reserves and Accounts Upon Acquisition of Ownership.* When the Homebuyer purchases his Home, the balances in the Homebuyer's Reserves and Accounts shall be disposed of in accordance with § 805.422(d)(3).

(e) *Disposition of Reserves and Accounts Upon Termination of the Agreement.* If the MHO Agreement is terminated by the Homebuyer or the IHA, the balances in the Homebuyer's Re-

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serves and Accounts shall be disposed of in accordance with § 805.424(d).

(f) *Use of Reserves and Accounts; Nonassignability.* The Homebuyer shall have no right to receive or use the funds in any Reserve or Account except as provided in the MHO Agreement, and the Homebuyer shall not, without approval of the IHA and HUD, assign, mortgage or pledge any rights in the MHO Agreement or to any Reserve or Account.

§ 805.422 Purchase of home.

(a) *When Home May Be Purchased.* A Homebuyer may at his option purchase his Home on or after the Date of Occupancy, but only if the Homebuyer has met all of his obligations under the MHO Agreement.

(b) *Purchase Price and Purchase Price Schedule.* (1) *Determination of Initial Purchase Price.* The IHA shall determine the Initial Purchase Price of a Home for the Homebuyer who first occupies the Home pursuant to an MHO Agreement as follows:

Step 1: From the estimated Total Development Cost (including the MH Contributions and the full amount for contingencies as authorized by HUD) of the Project as shown in the development cost budget in effect at the time of execution of the Construction Contract, deduct the amounts, if any, attributable to (i) relocation costs, (ii) counseling costs, and (iii) the cost of any community, administration or management facilities, including the land, equipment and furnishings attributable to such facilities as set forth in the Development Program for the Project.

Step 2: Deduct the total amount attributable to land for the Project (including MH Contribution credits for land, but not including land attributable to community, administration or management facilities) from the amount determined in Step 1.

Step 3: Multiply the amount determined in Step 2 by a fraction of which the numerator is the prototype cost for the size and type of Home being constructed for the Homebuyer and the denominator is the sum of the unit prototype costs for the Homes of various sizes and types comprising the Project.

Step 4: Determine the amount chargeable to Development Cost for acquisition of the homesite (the assigned value of the homesite in accordance with section 805.408(c)(1) or the actual cost of the homesite, and not the Homebuyer's share of the aggregate credit for all the contributed homesites.)

Step 5: Add the amount determined in Step 4 to the amount determined in Step 3. The sum determined under this step shall be the Initial Purchase Price of the Home.

(2) *Purchase Price Schedule.* As promptly as possible after execution of the Construction Contract, the IHA shall furnish to the Homebuyer a statement of the Initial Purchase Price of the Home and a Purchase Price Schedule. The Purchase Price Schedule shall (i) show the monthly amortization of the Initial Purchase Price over a 25-year period, (ii) state the monthly debt service amount upon which the schedule is based, and (iii) state that such amortization shall commence with the first day of the month following the Date of Occupancy. The schedule shall be computed on the basis of a rate of interest equal to the Minimum Loan Interest Rate for the Project as stated in the ACC.

(c) *Initial Purchase Price and Purchase Price Schedule for Subsequent Homebuyer.* (1) *Subsequent Homebuyer.* "Subsequent Homebuyer" means a Homebuyer other than the Homebuyer who first occupies a Home pursuant to an MHO Agreement.

(2) *Determination of Initial Purchase Price.* The Initial Purchase Price for a Subsequent Homebuyer shall be the lower of the current appraised value or the current replacement cost of the Home, both as determined or approved by HUD.

(3) *Purchase Price Schedule.* Each Subsequent Homebuyer shall be provided with a Purchase Price Schedule showing (1) the monthly declining purchase price over a 25 year period commencing with the first day of the month following the effective date of the Homebuyers Ownership Opportunity Agreement of the Subsequent Homebuyer and (2) the level monthly debt service amount necessary to complete amortization of the initial purchase price over such period at the interest rate used to compute the Purchase Price Schedule for the first homebuyer.

(d) *Conveyance of Home.* (1) *Amounts To Be Paid.* The purchase price shall be the amount shown on the Purchase Price Schedule for the month in which the settlement date falls.

(2) *Settlement Costs.* Settlement Costs are the costs incidental to acquiring ownership, including, e.g., the cost and fees for credit report, field survey, title examination, title insurance, inspections, attorneys other than the IHA's attorney, closing, recording, transfer taxes, financing fees and mortgage loan discounts. Settlement Costs shall be paid by the Homebuyer, who may use any Reserves or Accounts available for this purpose in accordance with paragraph (d) (3) of this section.

(3) *Disposition of Homebuyer Reserves and Accounts.* When the Homebuyer purchases the Home the net credit balances in the Homebuyer's Reserves and Accounts under § 805.421 shall be applied in the following order:

(i) If the IHA finances purchase of the Home in accordance with § 805.423, the MEPA and the Voluntary Equity Payments Account shall be charged, to the extent of the net credit balance of these Accounts, first, for the initial payment for fire and extended coverage insurance on the Home after conveyance and, second, for establishment of a Homeowner's maintenance reserve. Any further amounts necessary for these purposes shall then be charged against the MH Reserves;

(ii) For application to Settlement Costs if the Homebuyer so directs;

(iii) To payment of the purchase price; and

(iv) For refund to the Homebuyer.

(4) *Settlement.* A Home shall not be conveyed until the Homebuyer has met all his obligations under the MHO Agreement. The settlement date shall be mutually agreed upon by the parties. On the settlement date the Homebuyer shall receive the documents necessary to convey to the Homebuyer the IHA's right, title and interest in the Home, subject to any applicable restrictions of covenants as expressed in such documents. The required documents shall be approved by the attorneys representing the IHA and HUD, and by the Homebuyer or his attorney.

(5) *IHA Investment of Purchase Price Payments, and Remittance to HUD.* After conveyance, all funds held or received by the IHA which are applied to payment of the purchase price of a Home by a Homebuyer or Homeowner shall be held separate from other Project funds, shall not be used for development or operating expenses of any Project, and shall be invested in accordance with HUD requirements. Such funds include the amount applied to payment of the purchase price from the MEPA and the Voluntary Equity Payments Account; any cash paid in by the Homebuyer for application to the purchase price; and, if the IHA finances purchase of the Home in accordance with § 805.423, any portion of the mortgage payments by the Homeowner attributable to payment of the debt service (principal and interest) on the mortgage. At such intervals as HUD may direct, the IHA shall remit to HUD all such funds, and all income earned on the investment of such funds.

(e) *Notice of Eligibility for Financing.* (1) The IHA shall at the time of each examination or reexamination of the family's earnings and other income determine among other things whether the Homebuyer is eligible for IHA Homeownership Financing under § 805.423. If the IHA determines that the Homebuyer is eligible, it shall notify the Homebuyer in writing and shall state that it will make available IHA Homeownership Financing to enable the Homebuyer to purchase the home, and until the Homebuyer purchases the home, his or her status will be as provided in § 804.422(e)(2), the text of which, appropriately modified, shall be set forth in the letter of notification.

(2) After the IHA has given notice in accordance with paragraph (e)(1) of this section that the Homebuyer is eligible for IHA Homeownership Financing, and until the Homebuyer purchases his Home, he shall have all the rights of a Homebuyer (including the right to continue accumulating credits in the MEPA and Voluntary Equity Payments Account) and shall be subject to all the obligations under the MHO Agreement (including the obligation to make monthly payments based on income). However, during this period there shall be no reduction in the purchase price pursuant to the Purchase Price Schedule, and the purchase price at the time the Homebuyer purchases his Home shall be the amount shown on the Purchase Price Schedule for the month the IHA gave the notice in accordance with paragraph (e) (1) of this section.

§ 805.423 IHA homeownership financing.

(a) *Eligibility.* The Homebuyer shall be eligible for IHA Homeownership Financing when the IHA determines that:

(1) he can pay: (i) The amount necessary for Settlement Costs, (ii) the initial payment for fire and extended coverage insurance carried on the Home after conveyance, and (iii) $1,500 for the Homeowner's maintenance reserve (these amounts may be paid by application of balances in the Homebuyer's Reserves or Accounts, or from other Homebuyer sources); and

(2) The Homebuyer's income has reached the level, and is likely to continue at such level, at which 25 percent of monthly Family Income is at least equal to the sum of the monthly debt service amount shown on the Homebuyer's Purchase Price Schedule and the IHA's estimates, approved by HUD, of the following monthly payments and allowances:

(A) Payment for fire and extended coverage insurance;

(B) Payment for taxes and special assessments, if any;

(C) The IHA mortgage servicing charge;

(D) Amount necessary for maintenance of the Home; and

(E) Amount necessary for utilities for the Home.

(b) *Promissory Note, Mortgage, and Mortgage Amortization Schedule.* (1) When IHA Homeownership Financing is utilized the Homebuyer shall execute and deliver a Promissory Note and Mortgage. The Mortgage shall be a first lien on the property, shall be in form approved by HUD, shall be recorded by the IHA, and shall secure performance of all the terms and conditions of the Promissory Note. The principal amount of the Promissory Note shall be equal to the unpaid balance of the purchase price of the Home as determined in accordance with § 805.422. The Promissory Note and/or Mortgage shall contain provisions required by HUD which, among other things, will provide for adjustment of monthly mortgage payments in the event of a reduction in income, and for a maintenance reserve of $1,500 to be used if the Homeowner has no other funds reasonably available to pay for expenses such as maintenance, insurance, and taxes.

(2) The IHA shall furnish the Homebuyer a Mortgage Amortization Schedule based on the amount of the Promissory Note. This schedule shall provide for monthly reductions in and complete amortization of the principal amount of the Promissory Note, and shall show the level monthly debt service amount needed to complete the amortization. The amortization period shall commence on the first day of the month following the date of settlement and shall end on the first day after the end of the period covered by the Homebuyer's Purchase Price Schedule. The rate of interest shall be the FHA maximum interest rate for home mortgages in effect at the time of settlement.

(c) *Insurance.* Fire and extended coverage insurance in an amount and on terms acceptable to HUD shall be obtained by the IHA prior to settlement and shall be maintained until termination of the obligation under the Mortgage. The Homeowner shall make payments to the IHA to cover the cost of the insurance.

(d) *Disposition of Servicing Fees and Mortgage Debt Service Payments.* The amount of the mortgage servicing fees collected from the Homeowner under Promissory Note may be retained by the IHA, and utilized as Project operating receipts. The total amount of the mortgage payments collected which are attributable to payment of debt service (principal and interest) on the mortgage shall be remitted to HUD in accordance with § 805.422 (d)(5).

(e) *Occupancy, Care and Use of Home.* The IHA shall promulgate rules and regulations which are consistent with the provisions of § 805.418(c) concerning occupancy, care and use of their Homes by Homeowners.

§ 805.424 Termination of MHO agreement.

(a) *Termination Upon Breach.* In the event the Homebuyer fails to comply with any of his obligations under the MHO Agreement, the IHA may terminate the MHO Agreement. Misrepresentation or withholding of material information in applying for admission or in connection with any subsequent reexamination of income and family composition constitutes a breach of the Homebuyer's obligations under the MHO Agreement. "Termination" as used in the MHO Agreement does not include acquisition of ownership by the Homebuyer.

(b) *Notice of Termination of MHO Agreement by the IHA; Right of Homebuyer to Respond.* Termination of the MHO Agreement by the IHA for any reason shall be by written Notice of Termination. Such notice shall state (1) the reason for termination; (2) that the Homebuyer may respond to the IHA in writing or in person, within a specified reasonable period of time regarding the reason for termination; (3) that in such response he may be represented or accompanied by a person of his choice, including a representative of the tribal government; (4) that the IHA will advise the tribal government concerning the termination; (5) that if, within 30 days after the date of receipt of the Notice of Termination, the Homebuyer presents to the IHA evidence or assurances satisfactory to the IHA that he will cure the breach and continue to carry out his MHO obligations, the IHA may rescind or extend the Notice of Termination; and (6) that unless there is such recision or extension, the lease term and MHO Agreement shall terminate on the 30th day after the date of receipt of the Notice of Termination. The IHA may, with HUD approval, modify the provisions of the Notice of Termination relating to the procedures for presentation and consideration of the Homebuyer's response. In all cases the IHA's procedures for the termination of an MHO Agreement shall afford a fair and reasonable opportunity to have the Homebuyer's response heard and considered by the IHA. Such procedures shall comply with the Indian Civil Rights Act.

(c) *Termination of MHO Agreement by Homebuyer.* The Homebuyer may terminate the MHO Agreement by giving the IHA written notice, and the lease term and MHO Agreement shall terminate on the 30th day after the date of receipt of such notice. If the Homebuyer vacates the Home without notice to the IHA the Homebuyer shall remain subject to the obligations of the MHO Agreement including the obligation to make monthly payments until the IHA terminates the MHO Agreement in writing. Notice of the termination shall be communicated by the IHA to the Homebuyer to the extent feasible and the termination shall be effective on the date stated in the notice.

(d) *Disposition of Funds Upon Termination of the MHO Agreement.* If the MHO Agreement is terminated by the Homebuyer or the IHA the balances in the Homebuyer's Reserves and Accounts shall be disposed of as follows:

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(1) The MEPA shall be charged with:

(i) Any maintenance cost incurred by the IHA to put the Home in satisfactory condition for the next occupant;

(ii) Any amounts the Homebuyer owes the IHA including Required Monthly Payments; and

(iii) The Required Monthly Payment for the period the Home is vacant not to exceed 30 days from the date of receipt of the Notice of Termination, or if the Homebuyer vacates the Home without notice to the IHA, for the period ending with the effective date of termination by the IHA.

(2) If after making the charges in accordance with paragraph (d)(1) of this section there is a debit balance in the MEPA, the IHA shall charge that debit balance, first, to the Voluntary Equity Payments Account, second, to the Refundable MH Reserve and, third, to the Unrefundable MH Reserve, to the extent of the credit balances in such Reserves and Account. If the debit balance in the MEPA exceeds the sum of the credit balances in the Voluntary Equity Payments Account and the Refundable and Unrefundable MH Reserves the Homebuyer shall be required to pay to the IHA the amount of such excess.

(3) If, after making the charges in accordance with paragraph (d)(1) of this section there is a credit balance in the MEPA, this amount shall be refunded to the Homebuyer.

(4) Any credit balance remaining in the Voluntary Equity Payments Account after making the charges described in paragraph (d)(2) of this section shall be refunded to the Homebuyer.

(5) Any credit balance remaining in the Refundable MH Reserve after making the charges described in paragraph (d)(2) of this section shall be refunded to the Homebuyer.

(6) Any credit balance remaining in the Unrefundable MH Reserve after making the charges described in paragraph (d)(2) of this section is not refundable to the Homebuyer and shall be retained by the IHA on behalf of a Subsequent Homebuyer.

(e) *Settlement upon Termination.* (1) *Time for Settlement.* Settlement with the Homebuyer following a termination shall be made as promptly as possible after all charges provided in paragraph (d) of this section have been determined and the IHA has given the Homebuyer a statement of such charges. The Homebuyer may obtain a settlement before the actual cost of any maintenance required to put the Home in satisfactory condition for the next occupant has been determined if the Homebuyer is willing to accept the IHA's estimate of the amount of such cost. In such case, the amounts to be charged for such maintenance shall be based on the IHA's estimate of the cost thereof.

(2) *Disposition of personal property.* Upon termination, the IHA may dispose of in any lawful manner deemed suitable by the IHA any item of personal property abandoned by the Homebuyer in the Home. Proceeds, if any, after such disposition, may be applied to the payment of amounts owned by the Homebuyer to the IHA.

(f) *Responsibility of IHA to Terminate.* (1) The IHA is responsible for taking appropriate action with respect to any non-compliance with the MHO Agreement by the Homebuyer. In cases of non-compliance which are not corrected as provided further in this paragraph, it is the responsibility of the IHA to terminate the MHO Agreement to evict the occupant in accordance with the provisions of this section.

(2) As promptly as possible, after a non-compliance comes to the attention of the IHA, the IHA shall discuss the matter with the Homebuyer and give him an opportunity to state any extenuating circumstances or complaints which he may have. A specific plan of action shall be agreed upon which will indicate specifically how the Homebuyer will come into compliance as well as any actions by the IHA which may be appropriate. This plan shall be put in writing and shall be signed by both parties.

(3) Compliance with the plan shall be checked by the IHA not later than 30 days from the date thereof. In the event of refusal by the Homebuyer to agree to such a plan or failure by the Homebuyer to comply with the plan, the IHA shall issue a Notice of Termination of the MHO Agreement and evict the Homebuyer in accordance with the provisions of this section.

(4) A record of meetings with Homebuyers, written plans of action agreed upon, and all other related steps taken pursuant to this paragraph (f) shall be maintained by the IHA for inspection by HUD.

§ 805.425 Succession upon death, mental incapacity or abandonment.

(a) *Definition of "Event."* "Event" means the death of, or mental incapacity of, or abandonment of the Home by, all of the persons who have executed the MHO Agreement as Homebuyers.

(b) *Designation of Successor by Homebuyer.* A Homebuyer may designate as a successor only a person who, at the time of the designation, is a member of the Homebuyer's family and is an authorized occupant of the Home in accordance with the MHO Agreement, or if the designation is made before completion of the Home, is a member of the Homebuyer's family and is scheduled to be an occupant withn the Home is completed. The designation shall be made at the time of execution of the MHO Agreement and the Homebuyer may, at any subsequent time, change the designation by written notice to the IHA, and designate another successor who meets the qualifications of this paragraph. The designated successor shall be entitled to succeed only if, at the time of the Event, he meets the conditions stated in paragrpah (c) of this section.

(c) *Succession by Persons Designated by Homebuyer.* Upon occurrence of an Event, the person designated as the successor shall succeed to the former Homebuyer's rights and responsibilities under the MHO Agreement if the designated successor meets the following conditions:

(1) At the time of the Event, (i) the successor is a member of the Homebuyer's family who is entitled to live in the Home pursuant to the IHA's written approval, and (ii) in the case of an Event occurring after commencement of occupancy by the Homebuyer, the successor is living in the Home;

(2) The successor is willing and able to pay the Administration Charge and to perform the obligations of a Homebuyer under an MHO Agreement; and

(3) The successor executes an assumption of the former Homebuyer's obligations under the MHO Agreement.

(d) *Designation of Successor by IHA.* If at the time of the Event there is no successor designated by the Homebuyer, or if any of the conditions in paragraph (c) of this section are not met by the designated successor, the IHA may designate as successor any family member who meets all of the conditions of paragraph (c) of this section.

(e) *Occupancy by Appointed Guardian.* If at the time of the Event there is no qualified successor designated by the Homebuyer or by the IHA in accordance with the foregoing paragraphs of this section, and a minor child or children of the Homebuyer are living in the Home, the IHA may, in order to protect their continued occupancy and opportunity for acquiring ownership of the Home, approve as occupant of the Home an appropriate adult who has been appointed legal guardian of the children with a duty to perform the obligations of the MHO Agreement in their interest and behalf.

(f) *Succession and Occupancy on Restricted Indian Land.* In the case of a Home on Indian land subject to restrictions on alienation under federal or state law (including federal trust or restricted land as defined in § 805.218(a)(2) and land subject to trust or restriction under state law), a person who is prohibited by law from succeeding to the IHA's interest in such land may, nevertheless, continue in occupancy with all the rights, obligations and benefits of the MHO Agreement, modified to conform to these restrictions on succession to the land.

(g) *Termination in Absence of Qualified Successor or Occupant.* If there is no qualified successor in accordance with any of the foregoing paragraphs of this section, the IHA shall terminate the MHO Agreement.

§ 805.426 Miscellaneous.

(a) *Annual Statement to Homebuyer.* The IHA shall provide an annual statement to the Homebuyer which will set forth, at the end of the IHA fiscal year, the amount in each of the following: (1) The Voluntary Equity Payments Account, (2) the MEPA, (3) the Refundable MH Reserve, and (4) the Unrefundable MH Reserve. The statement shall also set forth the remaining balance of the purchase price.

(b) *Insurance Prior to Transfer of Ownership; Repair or Rebuilding.* (1) *Insurance.* The IHA shall carry all insurance prescribed by HUD including fire and extended coverage insurance upon the Home.

(2) *Repair or Rebuilding.* In the event the Home is damaged or destroyed by fire or other casualty the IHA shall consult with the Homebuyer as to whether the Home shall be repaired or rebuilt. If the IHA determines that the Home should not be repaired or rebuilt, but the Homebuyer disagrees, the matter shall be submitted to HUD for final determination. If the final determination is that the Home should not be repaired or rebuilt, the IHA shall terminate the MHO Agreement, and the Homebuyer's obligation to make Required Monthly Payments shall be deemed to have terminated as of the date of the damage or destruction. The Homebuyer shall in no event be entitled to any portion of the insurance proceeds upon such damage or destruction.

(3) *Suspension of Payments.* In the event of termination of an MHO Agreement because of damage or destruction of the Home, or if the Home must be vacated during the repair period, the IHA will use its best efforts to assist in relocating the Homebuyer. If the Home must be vacated during the repair period, Required Monthly Payments shall be suspended during the vacancy period.

(c) *Notices.* Any notice by the IHA to the Homebuyer required under the MHO Agreement or by law shall be delivered in writing to the Homebuyer personally or to any adult member of his family residing in the Home, or shall be sent by certified mail, return receipt requested, properly addressed, postage prepaid. Notice to the IHA shall be in writing, and either delivered to an IHA employee at the office of the IHA or sent to the IHA by certified mail, return receipt requested, properly addressed, postage prepaid.

§ 805.427 Annual contributions contract.

(a) The ACC for MH Projects placed under ACC on or after the effective date of this Part and for MH Projects converted in accordance with section 805.428 shall be in the form prescribed by HUD for such Projects. Projects under this form of ACC shall not be consolidated with Projects under other forms of ACC.

(b) The Minimum Loan Interest Rate shall be a rate specified by HUD in accordance with the Act.

§ 805.428 Conversion of existing projects.

(a) *Applicability.* This § 805.428 shall govern the conversion of an Existing Project to development and operation, or to operation only, under this Subpart. Any such conversion shall become effective upon the date agreed to by the IHA and HUD.

(b) *Obtaining Consent of Homebuyers to Conversion.* (1) Each Existing Project shall be converted as soon as the consent of all the Homebuyers in the Project can be obtained. An IHA shall counsel all Homebuyers concerning the effects of the conversion, and shall obtain from each Homebuyer who consents to conversion of the Project a written commitment in the form prescribed in paragraph (b)(3) of this section. After conversion the Homebuyers will be entitled to all the benefits of the new MHO Agreement including IHA Homeownership Financing.

(2) Pending conversion, Existing Projects shall be operated in accordance with the ACC and MHO Agreements applicable prior to the effective date of this Part, but any MHO Agreements executed prior to conversion shall be modified to include a commitment in the form prescribed in paragraph (b)(3) of this section.

(3) The commitments required under paragraph (b)(1) or paragraph (b)(2) shall contain the following language: "The Participant hereby agrees that when the project is converted in accordance with 24 CFR 805.428, he shall execute the form of Mutual Help and Occupancy Agreement applicable for such converted Project."

(c) *Changes not Required for Conversion.* (1) A Project may be converted without any change in the previously approved Development Program or previously executed Construction Contract or previously approved value or form of the MH Contribution.

(2) A Project may be converted without requiring Homebuyers admitted to occupancy prior to the effective date of conversion to make Required Monthly Payments computed on the basis of a higher percentage of Family Income than the HUD-approved schedule in effect at the time of conversion.

(3) Use of the 25-year purchase price amortization period shall not be required as a condition for conversion. Instead the IHA and HUD shall estimate when the shorter amortization period under the existing MHO Agreement would end, and shall provide a Purchase Price Schedule ending at that time.

(d) *Purchase Price.* The purchase price of a Home on the date of conversion shall be (1) the balance of debt attributable to the Home, plus (2) the balance of the MH contribution not previously funded.

(e) *Transfer of Credits.* The balances in a Homerbuyer's accounts shall be credited as of the date of conversion to the appropriate accounts under the new form of MHO Agreement in accordance with the following:

(1) *Unrefundable MH Reserve.* This reserve shall be credited with the balance, if any, of the MH Contribution furnished by the tribe.

(2) *Refundable MH Reserve.* This reserve shall be credited with the balance, if any, of the MH Contribution furnished by the Homebuyer.

(3) *MEPA.* This account shall be credited with the balance in the Homebuyer's individual operating reserve not previously applied to reduce Project debt.

§ 805.429 Counseling of homebuyers.

(a) *General.* The IHA shall provide counseling to Homebuyers in accordance with this section. The purpose of the counseling program shall be to develop (1) a full understanding by Homebuyers of their responsibilities as participants in the MH Project, (2) ability on their part to carry out these responsibilities, and (3) a cooperative relationship with the other Homebuyers and the IHA. Each Homebuyer shall be required to participate in and cooperate fully in all official pre-occupancy and post-occupancy counseling activities. Failure without good cause to participate in the program shall constitute a breach of the MHO Agreement.

(b) *Contents of the Program.* The counseling program shall consist of a pre-occupancy phase and a post-occupancy phase. While some elements of the program lend themselves more to one phase than the other, counseling in the two phases shall be coordinated and interrelated. The counseling program shall include, but not be limited to, the following areas:

(1) *Explanation of the MH Program.* The Homebuyers should be given a full explanation of the MH Program

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and how each Homebuyer relates to the program. Each Homebuyer should be made aware of his financial and legal responsibilities and those of the IHA.

(2) *MH Contribution.* Each Homebuyer should be given counseling necessary to assure that he has a full understanding of and will be able to provide the particular form or forms of contribution he is obligated to make under his MHO Agreement, as well as an understanding of his rights in connection therewith.

(3) *Property Care and Maintenance.* Each Homebuyer should be made familiar with the overall operation of the Home, and its equipment (e.g., basic systems of the Home such as electrical, plumbing, heating systems; major appliances such as refrigerators, ranges, dishwashers; minor appliances such as openers, toasters; the surroundings of the Home, i.e. yards and gardens); the care and maintenance to be provided by the Homebuyer; the basic provisions of all applicable warranties; and the Homebuyer's responsibilities in connection with the warranties.

(4) *Budgeting and Money Management.* Each Homebuyer should be counseled in the importance of family budgeting and meeting financial obligations, methods for allocating funds for utilities and other necessities, the use of credit, and consumer matters.

(5) *Information on Community Resources and Services.* Each Homebuyer should be supplied with information relating to resources available in the community to provide services in areas such as educational opportunities, upgrading employment skills, legal services, dental and health care, child care for working mothers, counseling on family problems such as marital problems, alcoholism or drug problems.

(c) *Planning.* (1) The counseling program shall be carefully designed to meet the special needs of the MH Project, and shall be flexible and responsive to the needs of each Homebuyer. While many subjects lend themselves to group sessions, provision should be made for individual instruction as needed. Individuals should not be required to attend classes on material with which they are familiar unless they can actively participate in the instruction process.

(2) Special attention shall be directed to the needs of working members of the family for sessions to be held during a time when they can attend. There shall be recognition of the communication and value systems of the participants and an understanding and respect for their background and experience. Maximum possible use shall be made of local trainers to insure good communication and rapport.

(3) The program may be provided by the IHA staff, or by contract with another organization, but in either case with voluntary cooperation and assistance of groups and individuals within the community. It is essential that the training entity be completely knowledgeable concerning the MH Program. Where contractors are utilized, there shall be a close working relationship with the IHA, and there shall be a program for phasing in the IHA staff who will have the ongoing responsibility for counseling.

(4) In planning the program and use of the counseling funds (see section (e) below), the IHA shall recognize that for a number of years after the initial counseling there are likely to be followup counseling needs. There may also be need for counseling in connection with turnover. Therefore, the IHA shall limit the amounts for the initial counseling, and shall reserve a reasonable amount for future counseling needs.

(d) *Submissions of Program for Approval.* (1) The IHA shall submit to HUD an application for approval of a counseling program and approval of funds therefor. The application shall be submitted at the time of the submission of the Development Program or as soon thereafter as possible but no later than the submission of the working drawings and specifications.

(2) If the IHA intends to use the HUD-approved BIA Homebuyer Training Program (see Exhibit to Interdepartmental Agreement, Subpart B—Appendix I), the IHA shall submit, in lieu of an application for approval of the counseling program, a statement that the IHA intends to use the BIA program and an application for approval of the funds therefor.

(3) The application pursuant to paragraph (d)(1) of this section shall include a narrative statement outlining the counseling program, and copies of any proposed contract and other pertinent documents. This statement shall include the following:

(i) A showing that the training entity has the necessary knowledge and capability for effectively carrying out the proposed program, including a statement of the experience and qualifications of the organization and of personnel who will directly provide the counseling.

(ii) A description of the method and instruments to be used to determine individual counseling needs.

(iii) A description of the scope and content of the proposed program, including a detailed breakdown of tasks to be performed, products to be produced, and a time schedule, including provision for progress payments for specific tasks.

(iv) A description of the methods and instruments to be used.

(v) A statement of the local community resources to be used.

(vi) The estimated cost and methods of payment for the task and products to be performed or produced, including separate estimates of costs for the pre-occupancy and post-occupancy phases of the program, and a description of services and funds to be obtained from non-HUD sources, if any.

(4) No counseling costs shall be incurred until HUD has approved the counseling program (or the submission of proposed costs in the case of the BIA Homebuyer Training Program).

(e) *Funding.* The development cost budget submitted with the Development Program shall include an estimated amount for costs of the counseling program not to exceed $500 multiplied by the number of Homes in the Project (including follow-up needs during the management stage, and counseling in connection with turnover). The approved amount for counseling shall be included in the Contract Award Development Cost Budget. If the approved amount is less than $500 per Home, the Amount may, if necessary, be amended up to the $500 per Home limitation with HUD approval, but not later than the Final Development Cost Budget.

(f) *Progress Reports.* IHAs shall submit quarterly progress reports to HUD (and to BIA in the case of the BIA Homebuyer Training Program), which shall include the following.

(1) A list of expenditures under the program, including salaries, costs of transportation, training materials, office expenses and other justifiable expenditures. All expenditures must be identified and supported by appropriate books and records of the IHA and must be certified as correct by the Executive Director and the Chairman of the IHA.

(2) Names of Homebuyers, the number of training sessions, descriptions of training activities, degree of participation, deficiencies noted, and other relevant information or observations.

(3) Efficacy of training as shown by reports, results of tests, reduction in Required Monthly Payment delinquencies, reduction in maintenance costs or other factors.

(4) Proposed changes during the next period of training, including program changes to overcome deficiencies, and to provide training to any additional or substitute Homebuyers.

(g) *Termination of Counseling Program.* If HUD determines that an IHA's counseling is not being properly implemented in accordance with the approved program, the program may be terminated after notice to the IHA stating the deficiencies in program implementation, and giving the IHA 90 days from the date of notification to take corrective action, and in the event of termination the amount included in the development cost budget for the program shall be reduced so as not to exceed expenses already incurred at the time of termination.

§ 805.430 Cross references to defined terms.

ACC. § 805.102.
Act. § 805.102.
Administration Charge. § 805.419(a).
Annual Contributions Contract. § 805.102.
BIA. § 805.102.
Construction Contract. § 805.102.
Conventional (Production) method. § 805.203(c).
Conversion. §§ 805.102, 805.428.
Date of Occupancy. § 805.415(a)(1).
Development Program. § 805.102.
Event. § 805.425(a).
Existing Project. § 805.102.
Family Income. § 805.416(b).
Federally Recognized Tribe. § 805.104.
Force Account (production) method. § 805.203(e).
Home. § 805.102.
Homebuyer. § 805.102.
Homeowner. § 805.102.
Housing Assistance Plan (HAP). § 805.102.
HUD. § 805.102.
IHA. § 805.102.
IHA Homeownership Financing. §§ 805.102, 805.423.
IIIS. § 805.102.
Indian. § 805.102.
Indian Area. § 805.102.
Indian Housing Authority. § 805.102.
Housing Organizations and Indian-owned Economic Enterprises. § 805.106(a).
Individually owned land. § 805.218(a)(2).
Initial Purchase Price. § 805.422(b).
Interdepartmental Agreement. § 805.102.
Maintenance Credit. § 805.418(a)(3).
MEPA. §§ 805.102, 805.421(b)(1).
MH § 805.102.
MH Construction Contract. § 805.102.
MH Contribution. § 805.102.
MHO Agreement. § 805.102.
MH Program. § 805.102.
MH Project. § 805.102.
Mortgage. § 805.423(b).
Mortgage Amortization Schedule. § 805.423(b)(2).
Multi-unit site. § 805.216(i)(1).
Notice of Selection. § 805.407(b).
Notice of Termination. § 805.424(b).
Operating expense. § 805.419(b).
Operating Reserve. § 805.420.
Preliminary Loan. § 805.209.
Preliminary Loan Contract. § 805.209(a).
Preliminary Site Report. § 805.217(a).
Price Payable to Contractor. § 805.413(d).
Program Reservation. § 805.102.
Project. § 805.102.
Project Coordination Meeting. § 805.208.
Project Loan. § 805.405(b).
Project Loan Note. § 805.405(b).
Project Note. § 805.405(c).
Promissory Note. § 805.423(b).
Purchase Price Schedule. § 805.422(b)(2).
Refundable MH Reserve Account. § 805.421(a).
Required Monthly Payment. § 805.416.
Scattered sites. § 805.216(i)(1).
Settlement Costs. § 805.422(d)(2).
Subsequent Homebuyer. § 805.422(c)(1).
Termination. § 805.424(a).
Total Contract Price. § 805.413(d).
Total Development Cost. § 805.102.
Total Family Income. § 805.416(b).
Tribal land. § 805.218(a)(2).
Tribe. § 805.102.
Trust or restricted land. § 805.218(a)(2).
Turkey (production) method. § 805.203(b).
Unrefundable MH Reserve Account. § 805.421(a).
Utilities. § 805.416(b).
Utility Deduction. § 805.416(b).
Voluntary Equity Payments Account. § 805.421(b)(2).
Work order. § 805.418(a)(2)(iii).

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued at Washington, D.C., November 7, 1978.

LAWRENCE B. SIMONS,
Assistant Secretary for Housing, Federal Housing Commissioner.

[FR Doc. 79-903 Filed 1-10-79; 8:45 am]

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federal register

THURSDAY, JANUARY 11, 1979
PART III



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

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TAKING OF CERTAIN ALASKA MARINE MAMMALS

Waiver of the Moratorium, Final Rule

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[4310-55-M]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

SUBCHAPTER B—TAKING, POSSESSION, TRANSPORTATION, SALE, PURCHASE, BARTER, EXPORTATION, AND IMPORTATION OF WILDLIFE AND PLANTS

PART 18—MARINE MAMMALS

Waiver of the Moratorium on the Taking of Three Alaska Marine Mammals

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final Rule.

SUMMARY: As part of an eventual return of management authority to the State of Alaska, regulations are issued which allow, subject to certain conditions, the taking of polar bears, sea otters, and Pacific walruses in Alaska or adjacent waters. The regulations waive the moratorium on such taking imposed by the Marine Mammal Protection Act. The regulations will not be effective until the Director approves the laws and regulations of the State of Alaska governing these mammals.

EFFECTIVE DATE: [Will be published by the Director at a later time.]

FOR FURTHER INFORMATION CONTACT:

Mr. Jackson E. Lewis, Office of Wildlife Assistance, U.S. Fish and Wildlife Service, Washington, D.C. 20240, Telephone: 202-632-2202.

SUPPLEMENTARY INFORMATION:

DIRECTOR'S DECISION

Background. On January 31, 1973, the State of Alaska requested that it be granted management authority over certain marine mammals pursuant to Federal approval of its proposed marine mammal regulations. *See* 16 U.S.C. 1379(a)(2). Alaska's proposed regulations deal with a number of marine mammals, three of which, the polar bear (*Ursus maritimus*), sea otter (*Enhydra lutris*), and Pacific walrus (*Odobenus rosmarus*), are placed under the Department's jurisdiction by the Marine Mammal Protection Act. 16 U.S.C. 1362(5)-(6), (12); 50 CFR 18.3. Because Alaska's proposed regulations allow taking of these mammals, approval of those regulations is necessarily contingent upon a waiver of the Act's moratorium on taking. *See* 16 U.S.C. 1371(a).

On April 5, 1976, the Director approved Alaska's Pacific walrus regulations and issued Federal regulations waiving the moratorium on the hunting and killing of this mammal 50 CFR 18.58, 18.94; 41 FR 14373. (For more detailed information concerning this earlier walrus waiver and return of management authority to the State of Alaska, see section *infra* entitled "*Waiver of the Moratorium—Pacific Walruses.*") On April 9, 1976, the Service published proposed regulations to modify the walrus waiver if revised Alaska regulations governing walruses were approved. 41 FR 15166. On April 9, 1976, the Service also announced its intention to review Alaska's regulations on polar bears and sea otters, and published proposed regulations to waive the moratorium on the taking of these mammals if the State regulations were approved. *Id.* After formal hearings on the record, Administrative Law Judge Malcolm Littlefield, on June 30, 1977, issued a recommended decision that regulations waiving the moratorium on the taking of polar bears and sea otters, and modifying the walrus waiver, be promulgated. Rec. Dec. 1, 91-92, 137-139; *see also* notice concerning this recommended decision at 42 FR 37215 (July 20, 1977). The portions of the Judge's recommended decision that are pertinent to these waiver regulations are adopted to the extent that such portions are consistent with the discussion, findings, and conclusions set forth herein.

Citations to Hearing Record and Recommended Decision. As used in this preamble: "ALJ" means Administrative Law Judge; "Br." means brief; "EDF" means Environmental Defense Fund; "Exh." means exhibit; "FWS" means U.S. Fish and Wildlife Service; "MMC" means Marine Mammal Commission; "Rec. Dec." means Recommended Decision (for these regulations) dated June 30, 1977, In the Matter of the Request of the State of Alaska to Waive the Moratorium on Nine Species of Marine Mammals and Allow the State to Resume Management, MMPA Docket No. Wash 76-1; "Rep. Br." means reply brief; "Tr." means transcript for the hearings on these regulations held in Alaska; "Walrus Rec." means the hearing record for the Pacific walrus regulations issued by the Service on April 5, 1976, 50 CFR 18.92-18.94, 41 FR 14372 (1976); *see also* 40 FR 59459 (1975); and "Wash. Tr." means transcript for the hearings on these regulations held in Washington, D.C.

Waiver of the Moratorium—General Requirements. As indicated previously, the Marine Mammal Protection Act imposes "a moratorium on the taking • • • of marine mammals." 16 U.S.C. 1371(a). However, the Act also provides that the Secretary may issue regulations which waive the moratorium and allow the taking of marine mammals. 16 U.S.C. 1371(a)(3)(A), 1973. The Secretary's authority under the Act has been delegated to the Director. 242 Intrerior Departmental Manual 1.

(The Act also imposes a moratorium on the importation of marine mammals. 16 U.S.C. 1371(a). However, since Alaska does not propose to allow the entry of mammals coming from foreign territories or beyond the waters under the jurisdiction of the United States, the regulations hereby published do not waive the moratorium on importation. *See generally,* 16 U.S.C. 1362(15), 1371(a)(3)(A); 50 CFR 10.12, 18.3; S. Rep. No. 92-863, 92d Cong., 2d Sess. 7,13 (1972) (hereinafter cited as "Senate Report").)

Regulations waiving the moratorium must comply with a number of substantive and procedural requirements. With respect to procedure, waiver regulations may be issued only after consultation with the Marine Mammal Commission. 16 U.S.C. 1371(a)(3)(A), 1373(a). There must be notice and an opportunity for a formal agency hearing on the record. 16 U.S.C. 1373(d). At the time the regulations are proposed, or before that time, the Service must publish and make available to the public statements setting forth the estimated existing population levels of the marine mammal stocks concerned, the expected impact of the regulations on the stocks' optimum sustainable populations, and the evidence upon which the regulations are based. 16 U.S.C. 1373(d)(1)-(3). The Service must also publish any studies and recommendations made by or for it or the Marine Mammal Commission which relate to the regulations. 16 U.S.C. 1373(d)(4).

The present regulations fulfill these procedural requirements. The draft environmental impact statement prepared in conjunction with the regulations, which was made available for public inspection and copying on March 5, 1976 (41 FR 9588), contained detailed statements concerning the estimated population levels of polar bears, sea otters, and Pacific walruses, the expected impact of the regulations on the optimum sustainable populations of the three mammals, and the evidence underlying the regulations. These statements were summarized in the notice of proposed rulemaking for the regulations. 41 FR 15166, 15167-15169 (April 9, 1976). The notice of proposed rulemaking also announced that the preparation of the draft environmental impact statement was the only known study relating to issuance of the regulations. 41 FR 15169.

After the proposed regulations were published, they were the subject of formal hearings on the record that were held in Alaska from June 29 through July 20, 1976, and in Washington, D.C., on October 19 and 20, 1976. The hearings provided the means for consultation with the Marine Mammal Commission, since the Commission participated fully in the proceeding, presenting evidence and advocating its position. The Commission was also consulted before publication of the proposed regulations and the draft environmental impact statement.

With respect to substantive requirements, regulations waiving the moratorium must be based on "the best scientific evidence available." 16 U.S.C. 1371(a)(3)(A), 1373(a). Full consideration must be given to the regulations' effect on "the distribution, abundance, breeding habits, and times and lines of migratory movements" of the three mammals and on their "existing and future (population) levels, (any) existing international treaty and agreement obligations of the United States • • • the marine ecosystem and related environmental considerations • • • the conservation, development, and utilization of fishery resources • • • and • • • the economic and technological feasibility of implementation." 16 U.S.C. 1371(a)(3)(A), 1973(b). In addition, the waiver regulations must insure that any taking permitted thereby will not be to the mammals' disadvantage and will be consistent with the Act's purposes and policies. 16 U.S.C. 1371(a)(3)(A), 1373(b), 1374(b)(1), (d)(3).

The Act's purposes and policies are stated as follows:

> "• • • certain species and population stocks of marine mammals are, or may be, in danger of extinction or depletion as a result of man's activities • • •
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> "Such species and population stocks should not be permitted to diminish beyond the point at which they cease to be a significant functioning element in the ecosystem of which they are a part, and, consistent with this major objective, they should not be permitted to diminish below their optimum sustainable population. Further measures should be immediately taken to replenish any species or population stock which has already diminished below that population. In particular, efforts should be made to protect the rookeries, mating grounds, and areas of similar significance for each species of marine mammal from the adverse effect of man's actions • • •
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> "Marine mammals have proven themselves to be resources of great international significance, esthetic and recreational as well as economic, and it is the sense of the Congress that they should be protected and encouraged to develop to the greatest extent feasible commensurate with sound policies of resource management and that the primary objective of their management should be to maintain the health and stability of the marine ecosystem. Whenever consistent with this primary objective, it should be the goal to obtain an optimum sustainable population keeping in mind the optimum carrying capacity of the habitat." 16 U.S.C. 1361(1)-(2), (6).

In addition, the Act imposes a number of specific restrictions on taking under a waiver, including a requirement that all taking be authorized by a permit and be done in a humane and non-wasteful manner. *See* 16 U.S.C. 1371(b)(3), 1374; 50 CFR 18.3.

A number of these substantive requirements need further discussion.

The Act defines a "humane" method of taking as "that method • • • which involves the least possible degree of pain and suffering practicable to the mammal involved." 16 U.S.C. 1362(4). Regulations implementing the Act define a "wasteful manner" of taking as "• • • any taking or method of taking which is likely to result in the killing or injuring of marine mammals beyond those needed for subsistence purposes or for the making of authentic native articles of handicrafts and clothing or which results in the waste of a substantial portion of the marine mammal and includes without limitation the employment of a method of taking which is not likely to assure the capture or killing of a marine mammal, or which is not immediately followed by a reasonable effort to retrieve the marine mammal." 50 CFR 18.3. To be approved by the Director, Alaska's laws and regulations governing polar bears, sea otters, and Pacific walruses must insure that only humane and non-wasteful methods will be used in taking these mammals. 50 CFR 18.55(h), 43 FR 45373 (Oct. 2, 1978).

Regulations waiving the moratorium must take into account not only effects on entire species but also effects on individual "population stocks." 16 U.S.C. 1373. The Act defines "population stock" or "stock" as "a group of marine mammals of the same species or smaller taxa in a common spatial arrangement, that interbreed when mature." 16 U.S.C. 1362 (11). In his recommended decision on the present regulations, the Administrative Law Judge found that a single population stock does not mean that each animal in the stock has an equal opportunity to interbreed with every other animal, but rather that there are no barriers which prevent a continuous genetic interchange throughout the stock's range. Rec. Dec. 53. The Director adopts this finding.

Before issuance of regulations waiving the moratorium, it must be shown that the species or stock in question is at or above its "optimum sustainable population" and that the taking permitted by the waiver will not reduce the species or stock below that level. 16 U.S.C. 1361(2), (6), 1373(a), (b)(1); *See also, Committee for Humane Legislation, Inc. v. Richardson,* F. Supp. 297, 311-312 (D.D.C. 1976), *aff'd* 540 F. 2d 1141, 1149-1150 (D.C. Cir. 1976).

The Act defines "optimum sustainable population" (OSP) as:

> "• • • the number of animals which will result in the maximum productivity of the species, keeping in mind the optimum carrying capacity of the habitat and the health of the ecosystem of which they form a constituent element." 16 U.S.C. 1362(9).

The National Marine Fisheries Service (NMFS) has interpreted the Act's definition to mean:

> "a population size which falls within a range from the population level of a given species or stock which is the largest supportable within the ecosystem to the population level that results in maximum net productivity. Maximum net productivity is the greatest net annual increment in population numbers or biomass resulting from additions to the population due to reproduction and/or growth less losses due to natural mortality." 50 CFR 216.3; 41 FR 55536 (Dec. 21, 1976).

For the reasons set forth below, the Director accepts this definition of OSP.

The Administrative Law Judge and Marine Mammal Commission concluded that OSP falls within a range of population levels. Rec. Dec. at 37; ALJ Exh. 6 at 1-2. This finding appears reasonable in view of the references in the Act's definition to both maximum productivity and carrying capacity. 16 U.S.C. 1362(9). Furthermore, in *Committee for Humane Legislation v. Kreps,* No. 77-0564 (D.D.C. July 6, 1977), Judge Richey found that the NMFS definition of OSP as referring to a range of population sizes was reasonable and consistent with the Act.

The NMFS interpretation construes "maximum productivity" in the Act's definition to mean maximum net productivity, or the greatest net annual increment in population numbers or biomass resulting from additions to the population due to reproduction or growth of the animals less losses due to natural mortality. This definition is consistent with the accepted management practice of measuring productivity in terms of the annual production of new animals or the annual growth of the biomass (the aggregate weight of all the animals in the population). Maximum net productivity was held to be a reasonable imterpretation of maximum productivity in *Committee for Humane Legislation v. Kreps, supra.*

Maximum net productivity is also different from the "maximum sustained yield" (MSY) level rejected by Congress, the Marine Mammal Commission, and the Administrative Law Judge because it jeopardizes the health and stability of both the mammals and their ecosystem. H.R. Rep. No. 92-707, 92d Cong., 1st Sess. 22 (1971) (hereinafter cited as "House Report"); Hearings on Marine Mammals Before the Subcomm. on Fisher-

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ies and Wildlife Conservation of the House Comm. on Merchant Marine and Fisheries, 92d Cong., 1st Sess. ser. 92-10, at 401 (1971) (hereinafter cited as "House Hearings"); Rec. Dec. at 35-37; ALJ Exh. 6 at 3. As the Commission and Administrative Law Judge have pointed out, management under the MSY theory keeps the population at the level where its produces the greatest number of new animals of the age and sex of interest to man. Rec. Dec. at 35; EDF Br., App. 4 at 8. This level may be considerably different from the one resulting in maximum net biological productivity, which occurs regardless of whether or not there is a harvest. *Id.* Furthermore, an essential component of MSY management is its level of taking: a harvest of all animals not needed to maintain the population at the maximum productivity level. ALJ Exh. 6 at 2. A harvest this large prevents the population from growing. *Id.;* Rec. Dec. at 34. A smaller harvest that allows growth of the population is not consistent with the MSY theory.

Under the NMFS definition, the upper boundary of the OSP range is the population size that is the largest supportable by the ecosystem. A population at this level is said to be at the carrying capacity of its habitat; in other words, at its maximum natural level or "equilibrium unexploited level." Rec. Dec. at 37; ALJ Exh. 6 at 1, Neither Exh. 5 at 6. This level was found to be a reasonable upper boundary for OSP by Judge Richey in *Committee for Humane Legislation v. Kreps, supra.*

At the hearings on these regulations, it was argued that the carrying capacity or equilibrium unexploited level should be the only level of OSP. However, in certain instances, it may be to the advantage of a stock to be reduced below the carrying capacity level. At the carrying capacity level, a significant number of animals may suffer from disease, malnutrition, and agressive behavior due to increased competition for space and food. ALJ Exh. 6 at 3. Stocks at the carrying capacity level may also be vulnerable to losses of food and essential habitat areas resulting from shifts in weather and other factors. *Id.* Furthermore, if OSP were equivalent to carrying capacity, taking under a waiver would be allowable only in instances of overpopulation. Yet it is clear that Congress did not intend overpopulation to be the sole basis for a waiver. 16 U.S.C. 1374(b); House Report at 20, 25; Senate Report at 16-17; H.R. Rep. No. 92-1488, 92d Cong. 2d Sess. 24 (1972) (hereinafter cited as "Conference Report").

For the reasons discussed above, the Director accepts the definition of OSP adopted by the National Marine Fisheries Service in which OSP is defined as a population size falling within a range that is bounded by the level at the carrying capacity of the habitat and the level resulting in maximum net productivity.

Regulations waiving the moratorium must insure that any taking permitted will not be to the "disadvantage" of the species or stock concerned. The Director accepts the finding of the Administrative Law Judge that a species or stock is disadvantaged if it is below or above the range of its OSP. *See* Rec. Dec. 40-41.

The Director also accepts the finding of the Administrative Law Judge that a species or stock is depleted under section 3(1)(C) of the Act, 16 U.S.C. 1362(1)(C), if it is below the range of its OSP. *See* Rec. Dec. 39-41.

Waiver of the Moratorium—Polar Bears. The Administrative Law Judge found that there are two stocks of polar bears in Alaska and adjacent waters, a northern stock and a western stock. Rec. Dec. 54, 79. The northern stock is made up of bears found north and east to the Canadian border from a line extending northwest from Point Lay, Alaska, and the western stock is made up of bears found west and south of that line. Rec. Dec. 78-79. Bears from the western stock have larger skulls and bodies, while those from the northern stock have higher mercury levels. Rec. Dec. 53. These findings are well supported in the hearing record for these regulations, FWS Exh. 8 at 326-327; Tr. 32; MMC Exh. 7 at 4, and are accepted by the Director.

The Administrative Law Judge found that each stock of polar bears is within the range of its OSP. Rec. Dec. 80-81. He further found that the annual taking of 170 bears (one-third of that figure to be taken from the northern stock and two-thirds from the western stock) would not reduce either stock below the range of its OSP and maintain the health and stability of the marine ecosystem. Rec. Dec. 83-86. He therefore recommended a waiver of the moratorium to allow this level of taking. Rec. Dec. 86.

The Judge's decision and the accompanying record show that due consideration has been given to the range and distribution of the two stocks, Rec. Dec. 66, 78-82, 84, FWS Exh. 1 at 1, 6, Exh 2 at 367, Exh. 5 at 44, 46, Exh. 8, Exh. 10 at 2-3, Tr. 32, 68, 81-83, 114; the abundance and population levels of the stocks (*see* discussion of OSP below); the bears' breeding and reproduction habits, Rec. Dec. 65, 84, 132, FWS Exh. 1, at 1-2, Exh. 7, Exh. 10 at 3-4, MMC Exh. 6, Tr. 41, 48, 63, 68, 85, 106-109; the bears' migrations with respect to seasons, movement of the ice, and availability of food, Rec. Dec. 65, 84, 132, FWS Exh. 1, at 1, 7, Exh. 2 at 367, Exh. 5 at 46, Tr. 66, 90-91, 101, 108; the international Agreement on the Conservation of Polar Bears, Nov. 15, 1973, 13 Int'l Leg. Mats. 13-18 (1974), Rec. Dec. 68, 85, FWS Exh. 1 at 12-13, Exh. 6 at 8-9, Exh. 9, Exh. 13, Exh. 23, MMC Exhs. 5-6, FWS Br. at 62; the relationships between polar bears and seals, fish, and other components of the marine ecosystem, Rec. Dec. 37-38, 83, FWS Exh. 1 at 1, 7, Exh. 10 at 3, MMC Exh. 6, Tr. 35-36, 84-85, 90-91, 102, 104-106; the conservation, development, and utilization of fishery resources, Rec. Dec. 37-38, FWS Exh. 1 at 7, Tr. 36, 84-85; and the feasibility of implementing the present regulations as well as those proposed by the State of Alaska, Rec. Dec. 63-65, 69-72, 84, 122-123, 127-128, Tr. 39-43, 46-47, 54-56, 69-70, 96, MMC Exh. 6.

On the question of OSP, the Service's expert on polar bears estimated that there are between 2,300 and 2,600, or approximately 2,500, bears in the northern stock, and between 6,400 and 7,200, or approximately 7,000, bears in the western stock. FWS Exh. 1 at 4; Exh. 19; Tr. 32, 57. These estimates were obtained by computer modeling with a wildlife population model developed at the Cooperative Wildlife Research Unit, Colorado State University. FWS Exh. 1 at 4. The model utilized population composition data obtained from bears taken by hunters since 1961 and from bears captured for marking and later recovery pursuant to a program started in 1967. FWS Exh. 1 at 4-5; Exh. 19; Tr. 58. The Service's expert also testified that in his opinion, polar bears are probably approaching the carrying capacity level and are widely distributed, being found in most, if not all, of the habitat that is suitable to them. Tr. 36-37, 78-79.

Based on this evidence, the Service's polar bear expert concluded that each stock of polar bears was within the range of its OSP. Tr. 33-37.

The Marine Mammal Commission agrees with the Service's expert that the northern stock is approximately half the size of the western stock. MMC Exh. 7 at 4, MMC Br. at 9. However, the Commission disagrees with the Service's witness on the number of animals in the two stocks.

The Commission questioned the reliability of the Service's computer estimates because of lack of information on how the computer model was constructed or used. MMC Exh. 7 at 2; Wash. Tr. 233. The Commission also submitted an estimate of its own—a total of 6,100 bears for the two stocks combined. MMC Exh. 8 at 1; Wash. Tr. 32. This estimate was based on analysis of the age composition of adult males killed annually by hunters and on an assumption that the bears' natural mortality rate is 5 percent. MMC Exh. 7 at 2-3; Exh. 8 at 1; Wash. Tr. 32. The Commission further concluded that the "best scientific estimate" is 5,700 bears for the two stocks combined. MMC Exh. 8 at 1; Wash. Tr. 32, 233-234. This estimate was obtained by averaging a 1959 estimate of 2,500 bears based on an aerial survey by sport hunting guides, a 1972 estimate of 4,925 bears based on analysis of the ages of male bears harvested over a five-year period, the Commission's 1976 estimate of 6,100 bears, and the Service's 1976 computer estimate of 9,500 bears. MMC Exh. 7 at 2; Exh. 8 at 1; FWS Exh. 1 at 2, 4; Exh. 2 at 367-369, Exh. 4; Wash. Tr, 32, 233-234. The 5,700 estimate was accepted by the Administrative Law Judge, Rec. Dec. 86, and as noted by the Commission, it is significantly close to an estimate of 5,500 bears that can be obtained by averaging the 4,925 and 6,100 figures regarded by the Commission as the most reliable of the four. MMC Exh. 8 at 1; Wash. Tr. 233-234.

By comparing the average number of polar bears killed annually from 1961 to 1972 with the lower annual average before 1961 (*see* FWS Exh. 1 at 8-9), the Commission concluded that the level of killing from 1961 to 1972 was not such that it would have reduced the polar bear population below the level of maximum productivity. Wash. Tr. 235; MMC Exh. 7 at 1. The Commission therefore concluded that the two polar bear stocks are within the range of OSP. MMC Exceptions at 5.

Believing it safer to adopt the more conservative estimate, the Director accepts the finding of the Commission and the Administrative Law Judge that the best scientific estimate of the total Alaska polar bear population is 5,700 bears. Accepting the views of both the Commission and the Service's expert that the northern stock is approximately half the size of the western stock, their respective populations are estimated to be 1,900 and 3,800 bears. Based on the evidence presented by both the Service and the Commission, the Director finds that each stock is within the range of its OSP.

The Administrative Law Judge and Marine Mammal Commission found that the annual taking of 170 polar bears (one-third of that figure to be taken from the northern stock and two-thirds from the western stock) would not reduce either stock below the range of its OSP and would maintain the health and stability of the marine ecosystem. Rec. Dec. 83-86; MMC Br. at 9. Accordingly, both the Judge and the Commission recommended a waiver of the moratorium to allow this level of taking.

Allocating approximately one-third of the total annual limit of 170 bears to the northern stock and approximately two-thirds to the western stock, their respective individual limits would be 55 and 115 bears. This level of taking would constitute only 2.89 and 3.03 percent of their respective estimated populations of 1,900 and 3,800 bears. The hearing record for these regulations indicates that the net annual recruitment of new bears to each stock is between 6 and 10 percent of its population. FWS Exh. 1 at 4; Tr. 47-48. Thus, limits of 55 and 115 bears for the northern and western stocks, respectively, will permit both stocks to continue to increase in abundance, *see* Rec. Dec. 86, MMC Br. at 9, and this increase will insure that they remain within the range of OSP and continue to be significant functioning elements in their respective ecosystems. The Director therefore concludes that a waiver of the moratorium to allow the annual taking of 55 polar bears from the northern stock and 115 polar bears from the western stock is appropriate under the Act.

Waiver of the Moratorium—Sea Otters. The Administrative Law Judge found that sea otters in Alaska occur in a number of individual colonies, but that these colonies are all part of one stock. Rec. Dec. 54-55, 90. The Director accepts this finding. It is well supported by the record for these regulations which shows that there has been interbreeding between colonies and establishment of new colonies as a result of sea otters crossing the largest geographical barriers within their range. FWS Exh. 15 at 4-6; Tr. 154-156, 178-179, 182, 229, 250-251. The Marine Mammal Commission concluded that, genetically, sea otters in Alaska "must be treated as a single population." Wash. Tr. 244.

The Administrative Law Judge found that the Alaska sea otter stock as a whole is within the range of OSP but that individual colonies of the stock are at various levels within that range, and at least two are either below, or barely at, the lower boundary of OSP. Rec. Dec. 1,88,90,137. The Judge also found that the annual taking of 3,000 sea otters from the Rat Islands-Delarof Island colony and the Andreanof Islands colony, if allocated between the two groups, "would be within the range of OSP and present no immediate threat to the species." Rec. Dec. 89-90. However the Judge believed that a waiver of the moratorium on the entire stock would be "legally inappropriate." Rec. Dec. 90.

As with polar bears, the Administrative Law Judge's decision and the accompanying record show that due consideration has been given to the range and distribution of the sea otter stock, Rec. Dec. 54,89, ALJ Exh. 3 at 31-32; FWS Exh. 15 at 2-16, Exh. 16 at 1-2, Tr. 154-156, 226-229; the abundance and population levels of sea otters (*see* discussion of OSP below); the otters' breeding and reproduction habits, FWS Exh. 15 at 22-23, Tr. 178-179, 194, 225, 232; the otters' migrations across stretches of water from densely populated areas to sparsely populated or unpopulated areas, Rec. Dec. 54-55, FWS Exh. 15 at 4-6, Tr. 178-179, 229, 250-251; the relationships between sea otters and fish, sea urchins, kelp, and other components of the marine ecosystem, Rec. Dec. 87-88, FWS Exh. 17, Tr. 176-177, 181-182, 201, 203-206, 230-232; the conservation, development, and utilization of fishery resources, Rec. Dec. 88, Tr. 144, 175-177, 205-207, 218-220, 278-279; and the feasibility of implementing the present regulations as well as those proposed by the State of Alaska, Rec. Dec. 63-64, 69-70, FWS Exh. 15 at 22, Tr. 148-150, 157-158, 174-175, 180-181, 183-185, 195-198, 200, 213-216, 246.

With respect to population size and OSP, the Service's prinicipal witness on sea otters estimated that the population of the stock is between 100,000 and 140,000 otters. FWS Exh. 15 at 6-16; Tr. 142. This estimate was obtained by dividing the stock into management groups and then adding together the estimates for the individual groups. FWS Exh. 15 at 6. To obtain the estimates, airplane, helicopter, boat, and shore surveys were taken. There was also analysis of size, physical condition, growth rates, incidence of beach dead juveniles, and other data from experimental harvests and transplant programs. FWS Exh. 15 at 7-16. Adjustments were made based on the efficiency of the survey techniques. The efficiency of a technique was evaluated by comparing counts from two or more techniques and by analyzing the effects of known losses to the population in question. FWS Exh. 15 at 6-7. Although the record contains higher estimates, *see* FWS Exh. 16 at 1, the total estimate of 100,000 to 140,000 otters was accepted by the Marine Mammal Commission as the "best available evidence at this time with which to evaluate the proposed waiver." MMC Exh. 7 at 6, *see also* Wash. Tr. 247-249. The Director accepts this estimate.

The evidence in the record indicates that the 100,000-140,000 estimate is within the range of the stock's OSP. Approximately half of the suitable sea otter habitat now supports populations that are at or above the carrying capacity level. FWS Exh. 15 at 16. The stock now exists in most of its former range. *Id.* at 17. It is estimated that the present number of sea otters is approximately 75 percent of the total number that would exist in an undisturbed state throughout all of the available habitat in Alaska. *Id.* at 17, Tr. 166. The stock's overall rate of pro-

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ductivity is below maximum and declining. FWS Exh. 15 at 17. Although the total population of the stock is still increasing, the rate of increase is decreasing. Tr. 143.

In view of this evidence and other evidence in the record relating to mortality of juveniles, FWS Exh. 15 at 23, Tr. 169-170, reduction in the rate of body growth and body size, FWS Exh. 15 at 23, changes in diet and time budgets, *Id.*, and the otters' birth rate of approximately 20 to 25 percent, Tr. 194, the Service's principal expert on sea otters, the Marine Mammal Commission, and the Administrative Law Judge concluded that the Alaska stock of sea otters is within the range of OSP. FWS Exh. 15 at 17; Tr. 143; Wash. Tr. 252; MMC Exceptions at 1; Rec. Dec. 1, 88, 137. The Director accepts this finding.

Despite his conclusion that the stock as a whole is within the range of OSP, the Administrative Law Judge found that a waiver of the moratorium was appropriate only for the Rat Islands-Delarof Island colony and the Andreanof Islands colony. Rec. Dec. 90. The Judge found that a waiver for the entire stock was "legally inappropriate" because certain colonies within the stock may be below the range of OSP. *Id.*

The Director believes that it is legally permissible to waive the moratorium for the entire stock if the taking authorized by the waiver regulations will not reduce the stock below the range of OSP and will maintain the health and stability of the marine ecosystem. 16 U.S.C. 1361(2), (6), 1373(a), (b)(1); *see also, Committee for Humane Legislation, Inc. v. Richardson supra.* The stock's net annual growth rate was estimated to be between 3 and 5 percent, and rates of 10 to 20 percent appear to be theoretically possible. MMC Exh. 7 at 6-7; Tr. 248. An annual limit of 3,000 for the stock, as suggested by the Marine Mammal Commission, would amount to only 2.14 to 3 percent of the estimated population of 100,000 to 140,000 otters. Thus, a limit of 3,000 otters would permit the stock to continue to increase in population and thereby remain within the range of OSP. However, to insure that sea otters are a significant functioning element throughout their historic range, the taking under the waiver must be restricted to otters from colonies that are themselves within the range of OSP and are not contributing to the repopulation of additional sea otter habitat. Also, the taking must be allocated between such colonies so that it does not exceed 3.5 percent of the population of any one of them. *See* FWS Exh. 16 at 5; Tr. 239-242; Wash. Tr. 246-247.

Accordingly, the Director finds that it is appropriate to waive the moratorium for the entire stock of Alaska sea otters so as to allow the annual taking of 3,000 animals. However, this taking may occur only from colonies that are themselves within the range of OSP and are not contributing to the repopulation of additional sea otter habitat, and in no event may the taking exceed 3.5 percent of the population of any such colony.

Waiver of the Moratorium—Pacific Walruses. After extensive hearings in Alaska and Washington, D.C., in the spring and summer of 1975, regulations were issued which waived the moratorium on the hunting and killing of Pacific walruses. 50 CFR 18.58, 18.94; 40 FR 59459 (Dec. 24, 1975); 41 FR 14373 (April 5, 1976). In addition, management authority for the Pacific walrus has been returned to the State of Alaska pursuant to approval of the State's laws and regulations governing that mammal. 40 FR 59459 (Dec. 24, 1975); 41 FR 14373 (April 5, 1976).

On April 9, 1976, as part of the proposal relating to polar bears and sea otters, the Service published proposed regulations to modify the walrus waiver by extending it to taking other than hunting and killing. 41 FR 15166. However, the annual limit on taking would remain the same, 3,000 animals. *Id.* at 15172. As Administrative Law Judge Littlefield pointed out in his recommended decision, the Service agreed that in modifying the 1976 walrus waiver, it would rely on the record made for that waiver, but other participants could submit additional evidence relating to the status of walruses or to the Alaska or Federal regulations governing the mammal. Rec. Dec. 15.

At the hearings on this modified waiver, the only evidence submitted (other than the record for the 1976 waiver) was a set of answers by the State of Alaska to interogatories propounded by Monitor, Inc. Neither Exh. 1, Exh. 3. The Administrative Law Judge found the nothing in the State's answers tends to show that the 1976 return of management to the State is in any manner contrary to the mandates of the Act. Rec. Dec. 91. The Judge further concluded that waiver of the moratorium on the taking of Pacific walruses is consistent with the Act. Rec. Dec. 91-92. Since the modified waiver will impose the same annual limit on taking as the 1976 waiver and will also provide more effective protection for Pacific walruses (*see* section entitled *"Description of the Waiver Regulations" infra*), the Director finds that the modified waiver is appropriate.

Best Scientific Evidence Available. Regulations waiving the moratorium must be based on the "best scientific evidence available." 16 U.S.C. 1371(a)(3)(A), 1373(a). The Environmental Defense Fund, Monitor, Inc., the Marine Mammal Commission, and other participants in this rulemaking have commented on the desirability of further analysis of existing data, the desirability of obtaining more data, and a number of factors which lend uncertainty to the conclusions reached by the experts who testified.

In *Committee for Humane Legislation v. Kreps, supra* at 50, Judge Richey interpreted the "best scientific evidence available" standard to mean "the latest and most up-to-date evidence and knowledge and experience available." During the hearings on these regulations, testimony was received from recognized experts on polar bears and sea otters as well as from a distinguished expert in the field of wildlife population analysis who at the time of his testimony served as Chairman of the Marine Mammal Commission's Committee of Scientific Advisors and who is presently the Chairman of the Commission itself. Rec. Dec. 24-25, 28-29; MMC Exceptions at 6, n.1. The 1976 Pacific walrus waiver regulations were also based on the testimony of recognized experts. Wal. Rec.: Tr. 1088. The data analyzed by these experts was derived from a number of sources and survey techniques. The population estimates and OSP determinations adopted by the Director in these reg-ulations are regarded by the Marine Mammal Commission as being supported by the best scientific evidence available. MMC Br. 1, 9-10; MMC Rep. Br. at 1; MMC Exceptions at 1, 5, 7; MMC Exh. 7 at 6-7, Exh. 8 at 1; Wash. Tr. 232-235, 246, 246-249, 251-252; Wal. Rec.: Tr. 1082-1084, 1088-1089, 1129-1130; MMC Br. 10,39; MMC Rep. Br. 1-2, 13.

The standard of "best scientific evidence available" does not require inaction simply because future studies may develop more data and scientific certainty. In *Committee for Humane Legislation v. Kreps, supra* at 49-50. Judge Richey approved the taking of marine mammals even though he recognized that as of 1977, "[t]he state of research and the state of knowledge with respect to [the] subject matter (of marine mammals) is far from complete, and much remains to be learned and done about marine mammal populations • • •."

Nevertheless, to provide an even greater margin of safety, these regulations accept the recommendation of the Marine Mammal Commission and require that a workshop be held to further obtain and analyze data on polar bears, sea otters, and Pacific walruses. The findings and data from this workshop must be included in the annual report received by the Director from the State of Alaska within 120 days after the close of the first full calendar year following the effective

date of these regulations pursuant to 50 CFR 18.56(b). The waiver regulations for the three mammals will be reevaluated in light of this report. If the report does not contain the findings and data from the workshop, the waiver granted by these regulations for polar bears and sea otters, and modified thereby for Pacific walruses, may be terminated.

Description of the Waiver Regulations. This waiver of the moratorium on the taking of polar bears, sea otters, and Pacific walruses will be governed by these regulations and by the laws and regulations of the State of Alaska. Issuance of these regulations waives the moratorium and these regulations also impose appropriate conditions and limitations on the waiver. The regulations of the State of Alaska, which must be approved by the Director under section 109(a)(2) of the Act, 16 U.S.C. 1379(a)(2), and Subpart F of 50 CFR Part 18, 43 FR 45372, will provide the details of the conservation and management program for the three mammals by prescribing seasons, hunting areas, humane and non-wasteful methods of taking, license and permit requirements, and other management procedures.

The regulations originally proposed by Alaska to implement this waiver were submitted with its 1973 request for a return of management authority over the mammals. The 1973 proposal is contained in Appendix D to the draft environmental impact statement for the waiver. In August of 1975, Alaska submitted revised regulations for the mammals. The 1975 regulations are set forth in Appendix G to the draft impact statement and also in Appendix G to the final impact statement. In its comments in 1977 on the recommended decision for the waiver, Alaska indicated that it intended to submit another set of regulations for the three mammals. Alaska Comments at 9 10.

In view of the State's intention to submit new regulations, the Director will not make a consistency determination on the 1975 revision. Instead, Alaska's new regulations will be reviewed once they are received. The Federal regulations published herein will not be effective unless Alaska's regulations are approved.

These Federal regulations will be codified in 50 CFR 18.92-18.95. Section 18.92 defines a number of important terms used in these regulations. The definitions prescribed in § 18.92 will be discussed in the description of other sections.

Section 18.93 waives the moratorium on the taking of sea otters by allowing them to be taken in Alaska. Section 18.92(a) defines "Alaska" as all lands within the State of Alaska and all waters within the State's three-mile seaward boundary. Because the Fur Seal Act, 16 U.S.C. 1171(a), prohibits the taking of sea otters on the high seas, the moratorium remains in effect beyond the seaward boundary of the State of Alaska.

Section 18.93 also waives the moratorium on the taking of polar bears and Pacific walruses by allowing them to be taken in Alaska or the "waters off Alaska". Section 18.92(f) defines "waters off Alaska" to include certain waters beyond "Alaska" (as that term is defined in § 18.92(a)).

Section 18.94 limits the extent of the waiver by imposing a number of conditions on it. Section 18.94(a) provides that the moratorium is waived only for taking by persons, residents or non-residents, who are subject to the jurisdiction of the State of Alaska. Because the State of Alaska must administer the conservation and management program for the mammals concerned, these regulations do not allow taking by persons who are not subject to the State's jurisdiction. Consequently, § 18.94(a) further provides that all taking allowed by these regulations must comply with the laws and regulations of the State of Alaska.

Section 18.94 imposes an annual limit on the number of animals that may be taken from each stock. This annual limit is the aggregate number for the stock. The limit must be apportioned between individual takers and groups of takers in a manner consistent with sound principles of conservation and management.

The annual limit for each stock is the total number of animals that may be removed from the natural habitat in any calendar year as a result of all takings. Section 18.92(e) defines "removed from the natural habitat" to mean that the animal has been killed and retrieved, or has been captured for purposes other than immediate return to the natural habitat. Thus, for example, animals captured for tagging or marking will not count against the annual limit unless they are killed or seriously injured in the process. Section 18.92(d) defines "natural habitat" to mean the habitat in which the animal lives as a wild animal. The director believes that removal from the natural habitat is the best measure for the annual limit in view of the Act's primary purposes to protect and maintain the health and stability of wild populations and the ecosystems of which they form essential parts. 16 U.S.C. 1361(2), (6), 1362(8)-(9), 1373(a).

Because the record for these regulations indicates that an undetermined, but possibly considerable, number of polar bears and Pacific walruses are being killed unlawfully for their valuable hides and ivory, respectively, and that activities associated with oil exploration and development pose a significant threat to polar bears, walruses, and sea otters, MMC Exh. 4 at 2, Tr. 38-39, 69-71, 85, 87, 150, 198-200, Walrus Rec.: Tr. 107, 149, 669-670, 675, 682-686, 697-698, 916-917, the Director believes that the annual limits must include the number of animals removed from the natural habitat as a result of unlawful taking and incidental taking. Including illegally killed animals in the annual limit will create an incentive for improved enforcement efforts, since for each animal killed unlawfully, one less may be killed lawfully. Likewise, including animals killed incidentally as a result of fishing, oil development, and other activities will create an incentive for reducing such incidental taking, since for each animal killed incidentally, one less may be killed directly.

Because there are two stocks of polar bears, each stock has it own annual limit. *See* previous discussion under *"Waiver of the Moratorium—Polar Bears."* To insure that sea otters are a significant functioning element throughout their historic range, protection must be given to each individual colony. Thus, § 18.94(h)-(l) provides that sea otters may be taken only from colonies which are themselves within the range of OSP and are not contributing to the repopulation of other areas, and that the annual limit for each such colony may not exceed 3.5 percent of its population.

Under § 18.94(j), the annual limit for Pacific walruses is 3,000 animals. To mitigate the problem of animals killed but not retrieved, § 18.94(l) provides that any person who kills or injures any walrus, bear, or sea otter must immediately make a reasonable effort to retrieve or capture such mammal.

Section 18.94 also imposes a number of other conditions on the waiver. To facilitate enforcement, § 18.94(m) establishes certain marking and tagging requirements for mammals taken under these regulations. Section 18.94(n) provides for either suspension of taking or reimposition of the moratorium if it appears likely that the annual limit for any stock or colony may be exceeded. Section 18.94(o) provides that the Director will take all appropriate action to terminate any taking found to be inconsistent with the Act or its regulations, including, if necessary, reimposition of the moratorium. Section 18.94(p) establishes the workshop requirement described previously in the section entitled *"Best Scientific Evidence Available."*

Section 18.95(a) requires that any taking allowed by the waiver be authorized by a written license or permit issued by the State of Alaska.

Under the Act, permits for scientific research or public display may be issued without a waiver of the morato-

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rium. 16 U.S.C. 1371(a)(1). The Act's legislative history indicates that Congress contemplated that after return of management authority to a State pursuant to approval of its laws, such State could assign scientific research or public display permits to qualified persons in accordance with the provisions of a general permit for scientific research or public display issued to the State by the Secretary. Conference Report at 26. Accordingly, § 18.95(b) provides that the State of Alaska may assign scientific research or public display permits to qualified persons in accordance with the terms of a general permit issued to the State by the Service. Since the Service may also be issuing a limited number of scientific research or public display permits and since removals from the natural habitat under either Alaska or Service permits will count against the annual limit for the stock or colony, it is imperative that responsible State and Service officials keep each other informed of the number of permits issued in order to insure that the annual limit is not exceeded.

Finally, for purposes of clarity, these regulations make a number of changes in the organization and wording of the proposed rules published on April 9, 1976, 41 FR 15166. Also, these regulations omit certain paragraphs in the proposed rules concerning enforcement provisions for polar bear hides. Similar provisions will be contained in the laws and regulations of the State of Alaska, and the State will also prescribe additional requirements to faciiitate enforcement.

The Act's Native Exemption. The Director adopts the conclusion of the Administrative Law Judge that the State of Alaska may regulate the taking of marine mammals by Alaska natives for subsistence, handicraft, or clothing purposes after a waiver of the moratorium and return of management authority to the State. The Director does not adopt the Judge's conclusion or rationale to the extent they suggest or imply that Alaska may not regulate native taking for such purposes before a waiver and return of management authority or that a waiver and return of management authority are necessary prerequisites to the States regulation of native taking.

It is the Director's view that the Act did not totally preempt State jurisdiction over Alaska natives. Section 101(b) of the Act, 16 U.S.C. 1371(b), states that "the provisions of this Act shall not apply" with respect to non-wasteful takings of non-depleted species of marine mammals by Alaska natives for subsistence, handicraft, or clothing purposes. Section 109(a)(1), 16 U.S.C. 1379(a)(1), which provides that "no State may adopt any law or regulation relating to the taking of marine mammals," is one such provision that "shall not apply" under the terms of Section 101(b). Thus, the Act did not preempt State law governing Alaska native takings unless the species are depleted, the takings are wasteful, or the takings are for purposes other than handicrafts, clothing, or subsistence. Congress left native handicraft, clothing, and subsistence taking exactly as it was before the Act, regulated by the State of Alaska. While native subsistence taking evidently is preferred to other kinds of taking under the Act, the Director does not regard this preference as overriding the Act's policy of protecting marine mammals.

These regulations are issued under the Marine Mammal Protection Act of 1972, 16 U.S.C. 1361-1407. They were prepared by Ronald Swan, Office of the Solicitor, Department of the Interior.

Dated: January 4, 1979.

KEITH M. SCHREINER,
Acting Director.

Accordingly, Part 18 of Title 50, Code of Federal Regulations, is amended as set forth below:

1. Subpart H of the Table of Contents is revised to read as follows:

Subpart H—Waiver of the Moratorium on the Taking of Polar Bears, Sea Otters, and Pacific Walruses in Alaska or the Waters Off Alaska

Sec.
18.92 Definitions.
18.93 Waiver of the moratorium.
18.94 Conditions of the waiver.
18.95 Permits.

AUTHORITY: Marine Mammal Protection Act of 1972, 16 U.S.C. 1361-1407.

Subpart H—Waiver of the Moratorium on the Taking of Polar Bears, Sea Otters, and Pacific Walruses in Alaska or the Waters Off Alaska

2. Subpart H is revised to read as follows:

§ 18.92 Definitions.

As used in this Subpart H:

(a) "Alaska" means all lands within the State of Alaska and all waters within the seaward boundary of the State of Alaska;

(b) "Colony" means a group of sea otters found in a common area that is isolated by a body of water or other physical barrier which impedes, but does not prevent, genetic interchange with sea otters outside the common area;

(c) "Optimum sustainable population" means a population size which falls within a range from the population level of a given species, stock, or, in the case of sea otters, colony which is the largest supportable within the ecosystem to the population level that results in maximum net productivity. Maximum net productivity is the greatest net annual increment in population numbers or biomass resulting from additions to the population due to reproduction and/or growth less losses due to natural mortality;

(d) "Natural habitat" means the habitat in which a marine mammal lives as a wild animal;

(e) "Removed from the natural habitat" means that the animal has been killed and retrieved, or has been captured for purposes other than immediate return to the natural habitat;

(f) "Waters off Alaska" means waters outside Alaska, and west of longitude 130 degrees West, north of latitude 50 degrees North, east of the Convention Line of 1867 between the United States and the Union of Soviet Socialist Republics, and south of latitude 75 degrees North.

§ 18.93 Waiver of the moratorium.

Subject to the provisions of this Subpart H, sea otters may be taken in Alaska and polar bears and Pacific walruses may be taken in Alaska or the waters off Alaska.

§ 18.94 Conditions of the Waiver.

(a) Any taking allowed by this Subpart H may be done only by a person who is subject to the jurisdiction of the State of Alaska and must comply with the laws and regulations of the State of Alaska.

(b) The total number of polar bears which may be removed from the natural habitat in Alaska and waters off Alaska, in the area east of a line extending northwest and southeast from Point Lay, Alaska, in any calendar year is 55.

(c) The total number of polar bears which may be removed from the natural habitat in Alaska and waters off Alaska, in the area west of a line extending northwest and southeast from Point Lay, Alaska, in any calendar year is 115.

(d) No polar bear less than 28 months of age may be taken.

(e) No female polar bear that is accompanied by a polar bear less than 28 months of age may be taken.

(f) No polar bear may be taken in a den.

(g) Subject to the conditions set forth in paragraph (h) and (i) of this section, the total number of sea otters which may be removed from the natural habitat in Alaska in any calendar year is 3,000.

(h) The total number of sea otters which may be removed from the natural habitat of any colony in any calendar year may not exceed 3.5 percent of the population of that colony.

(i) No sea otter may be taken from any colony which is below its optimum sustainable population or from which sea otters are moving to other areas of natural habitat which they are establishing new colonies.

(j) The total number of Pacific walruses which may be removed from the natural habitat in Alaska and waters off Alaska in any calendar year is 3,000.

(k) The annual limits established by paragraphs (b), (c), (g), (h), and (j) of this section include all polar bears, sea otters, or Pacific walruses that have been removed from the natural habitat during any calendar year as a result of taking for subsistence, handicraft, or clothing purposes, incidental taking, unlawful taking, taking authorized by the Service or the State of Alaska under §§ 18.31 or 18.95(b) pursuant to a permit for scientific research or public display, and all other taking authorized by the laws and regulations of the State of Alaska.

(l) Any person who kills or injures any polar bear, sea otter, or Pacific walrus must immediately make a reasonable effort to retrieve or capture such marine mammal.

(m) No marine mammal taken under this Subpart H or under § 18.31, and no part or product of any such marine mammal, may be transported out of Alaska or the waters off Alaska unless it is first marked, tagged, or otherwise identified in accordance with the laws and regulations of the State of Alaska, and any such mark, tag, or identification shall remain on such marine mammal, or part or product thereof, until completion of any tanning, taxidermy work, or other processing.

(n) Whenever 80 percent of an annual limit established by paragraph (b), (c), (g), (h), or (j) of this section is reached, the State of Alaska must immediately so inform the Director pursuant to § 18.57. After notifying the Director, the State of Alaska must take all necessary measures to insure that such annual limit is not exceeded. If the Director determines that the State of Alaska has not insured that the annual limit will not be exceeded, he may, by regulation, prohibit any further taking during the calendar year in question or repeal this Subpart H and thereby reimpose the moratorium on taking established by section 101(a) of the Act, 16 U.S.C. 1371(a).

(o) Whenever the Director determines that any taking of polar bears, sea otters, or Pacific walruses is not consistent with the Act, this Subpart H, or any other regulation issued under the Act, he shall take all appropriate action to terminate such taking, including, if necessary, issuance of regulations to repeal this Subpart H and thereby reimpose the moratorium on taking established by section 101(a) of the Act, 16 U.S.C. 1371(a).

(p) If the Director does not receive from the State of Alaska within 120 days after the close of the first full calendar year following the effective date of this Subpart H an annual report submitted under § 18.56(b) which contains the findings and data of a workshop held to obtain and analyze data on polar bears, sea otters, and Pacific walruses, he may, by regulation, repeal this Subpart H and thereby reimpose the moratorium on taking established by section 101(a) of the Act, 16 U.S.C. 1371(a).

§ 18.95 Permits.

(a) Any taking allowed by this Subpart H must be authorized in writing by the State of Alaska.

(b) In addition to licenses or permits referred to in paragraph (a) of this section, the State of Alaska, in accordance with the provisions of a general permit for scientific research or public display issued to the State under § 18.31, may assign to qualified persons permits for scientific research or public display.

[FR Doc. 79-959 Filed 1-10-79; 8:45 am]

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CHAPTER II—NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 216—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

Alaska Waiver

AGENCY: National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Determination of Alaska Waiver Request; Final Rule.

SUMMARY: Under the authority of the Marine Mammal Protection Act of 1972 (the "Act"), the Administrator of the National Oceanic and Atmospheric Administration (NOAA), (the "Administrator"), has determined that it is appropriate to waive conditionally the requirements of the Act to allow the taking of certain Alaska marine mammals and to promulgate regulations implementing the waiver. The waiver and its implementing regulations will not become effective until management of these marine mammals has been returned to Alaska, following a determination that the State's laws and regulations are consistent with this decision and the Act's purposes and policies.

DATE: The waiver and accompanying Federal regulations will not be effective until the Administrator subsequently determines (in accordance with Section 109(a)(2) of the Act and 50 CFR Part 216, Subpart H) that Alaskan laws and regulations are consistent with the Act.

ADDRESS: Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT:

William P. Jensen, Marine Mammal Program Manager, Office of Marine Mammal and Endangered Species, National Marine Fisheries Service, 3300 Whitehaven St., NW. Washington, D.C. 20235. Telephone: 202-634-7461.

SUPPLEMENTARY INFORMATION: On January 31, 1973, the Governor of Alaska requested the Secretary of Commerce to return to the State of Alaska the management of the following marine mammals in accordance with Section 109(a)(2) of the Act: Northern (Steller) sea lion, *Eumetopias jubatus;* land-breeding harbor seal, *Phoca vitulina;* ice-breeding harbor seal, also known as spotted or largha seal, *Phoca largha;* ringed seal, *Pusa hispida;* ribbon seal, *Histriophoca fasciata;* Pacific bearded seal, *Erignathus barbatus;* and beluga whale, *Delphinapterus leucas.* Because the Act divided jurisdiction over marine mammals between the Departments of Commerce and the Interior, the Governor made a similar request to the Secretary of the Interior regarding a waiver and return of management of the polar bear, *Ursus maritimus;* sea otter, *Enhydra lutris;* and Pacific walrus, *Odobenus rosmarus.*

On April 9, 1976, the Directors of the National Marine Fisheries Service (NMFS) [1] and the U.S. Fish and Wildlife Service (FWS), acting on behalf of the Secretaries of Commerce and the Interior, respectively, proposes to waive the moratorium with respect to the marine mammals under their jurisdictions (41 FR 15166, 15173). Simultaneously, NMFS and FWS published proposed regulations and statements in accordance with Section 103(d) of the Act to implement the waiver subject to a determination that

[1] At the time of proposal, the authority of the Secretary of Commerce to issue final regulations and decide on a waiver of the moratorium and return of management had been delegated to the Administrator of the National Oceanic and Atmospheric Administration who in turn had delegated his authority to the Director of NMFS. This delegation was changed on November 4, 1977, to return this authority to the Administrator of the National Oceanic and Atmospheric Administration.

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Alaska's laws and regulations are consistent with the Act.[2]

A joint Draft Environmental Impact Statement (DEIS) filed on March 5, 1976, was made available to Federal Agencies and the general public for comment. Comments were received from the Department of Agriculture, Department of the Interior, California Department of Fish and Game, Alaska Department of Environmental Conservation, State of Oregon, Washington State Department of Game, National Fisheries Institute, University of Alaska, Alaska Professional Hunters Association, Bering Straits Native Corporation, Nunam Kitlutsisti, Environmental Defense Fund, National Parks and Conservation Association, Committee for Humane Legislation, Society for Animal Protective Legislation, National Wildlife Federation, Safari Club International, and the Wildlife Society. A Final Environmental Impact Statement (FEIS) was filed on March 27, 1978.

In accordance with Section 103(d) of the Act, the proposals were subject to a hearing on the record, presided over by an Administrative Law Judge (ALJ). The ALJ's prehearing order of May 28, 1976 (41 FR 21832) listed 17 issues to be considered during the hearing which took place as follows: Anchorage, Alaska (June 29-July 1, 1976); Nome, Alaska (July 6-9, 1976); Bethel, Alaska (July 12-13, 1976); Anchorage, Alaska (July 14-20, 1976); Washington, D.C. (October 19-20, 1976). The following parties made appearances in the hearing: State of Alaska; FWS; NMFS; Marine Mammal Commission; National Fisheries Institute, Inc.; Committee for Humane Legislation, Inc.; Friends of Animals, Inc.; Environmental Defense Fund; Monitor Inc.; Nunam Kitlutsisti; Alaska Legal Service Corps (on behalf of various Natives and Native groups); Savoonga and Gambell Native Corporation; and Mancluk Association.

The availability of the ALJ's recommended decision was announced on July 20, 1977 (42 FR 37215) accompanied by a summary of his recommended decision. The public was asked to comment and responses from the following were received: Monitor Inc.; Environmental Defense Fund; Friends of Animals; Committee for Humane Legislation; State of Alaska; Marine Mammal Commission; International Association of Fish and Wildlife Agencies; Animal Care and Welfare Inc.; Safari International; Ms. Susan T. Peschka; Ms. Judi Stephens; and Mrs. E. M. T. Moore.

[2] On April 5, 1976, the Secretary of the Interior in a separate action waived the moratorium on walrus and returned management to Alaska with the understanding that the walrus waiver and return of management would be reconsidered in the instant proceeding.

Summary of ALJ's Decision

The Administrative Law Judge's recommended decision contains the following important findings of fact and conclusions of law:

1. The ALJ found that the best scientific evidence available was presented at the hearings in support of the proposed waiver of the moratorium.

2. The ALJ concluded that optimum sustainable population (OSP) constitutes a range of population sizes from a point somewhat above the point of maximum productivity up to the carrying capacity of the habitat.

3. Notwithstanding the exemption from the moratorium provided for Alaskan natives under Section 101(b) of the Act, regarding the taking of marine mammals for subsistence purposes, for native handicraft purposes, and for non-wasteful takings, the ALJ concluded that the State may, upon a waiver and return of management, regulate all hunting of marine mammals by natives. The ALJ seemed to suggest that the legislative intent was to exempt natives only from the moratorium and that once the moratorium was waived, so was the exemption.

4. Consistent with the preliminary findings of NMFS in the preamble of the April 9, 1976, proposal to waive the moratorium, the ALJ found that Alaska beluga whales are comprised of two population stocks, one located in the Cook Inlet-Shelikoff Strait and the other located in the Bering Sea-Chukchi Sea, but there is only one stock each of land-breeding harbor seals, ice-breeding harbor seals (largha or spotted seals), ribbon seals, bearded seals, ringed seals, and sea lions in Alaska.

5. The ALJ concluded that the proponents of the waiver have satisfied the burden of proof in establishing that each stock is within the range of OSP.

6. The ALJ found that a waiver and return of management to the State was beneficial and without it, there would be little if any management of marine mammals in general and of native taking in particular. The ALJ believed that management was needed to maintain healthy populations of the subject marine mammals and that none now exists.

7. The ALJ found that Alaska had a modern scientific resource program and that the waiver of the moratorium and implementation of Alaska's program would be in accord with sound principles of resource protection and conservation, including research, enforcement, census, habitat acquisition and improvement, and public participation in the development of game regulations.

8. The ALJ also determined that the proposed Federal regulations were adequate to protect the subject marine mammals; and, that the suggested State regulations met the criteria set forth in the Federal regulations and the Act, protected the subject marine mammals, and should be approved.

9. With respect to the Department of Commerce species, the ALJ accepted the following population estimate for each of the stocks involved:

(a) Northern sea lion—214,000;

(b) Beluga whale (Cook Inlet stock)—500;

(c) Beluga whale (Bering-Chukchi Sea stock)—9,000;

(d) Land-breeding harbor seal—270,000;

(e) Ice-breeding harbor seal—200,000 to 250,000;

(f) Ringed seal—1 million to 1.5 million;

(g) Ribbon seal—90,000 to 100,000; and

(h) Pacific bearded seal—300,000 to 400,000.

10. With respect to the Department of Commerce species, the ALJ found that it was appropriate to waive section 101(a) of the Act to permit the following annual taking limits and that such limits would protect the stocks from being disadvantaged under the terms of a waiver and return of management:

(a) Northern sea lion—The ALJ recommended setting an annual taking limit of 6,648 adults, providing that two pups could be taken in lieu of each adult covered by the limit.

(b) Beluga whale (Cook Inlet stock)—The ALJ concluded that an annual taking limit of 10 belugas would not disadvantage the stock.

(c) Beluga whale (Bering-Chukchi Sea stock)—The ALJ concluded that an annual taking limit of 350 belugas would not disadvantage the stock.

(d) Land-breeding harbor seal—The ALJ found that the annual taking limit of land-breeding harbor seal adults should not exceed 8,461 seals. However, in light of the high natural mortality of pups, he further found that two pups could be safely taken in lieu of one adult animal. He added that there should be no taking from the sub-populations in the Outer Kenai Coast, Management Area 2, and the Kodiak Archipelago, Management Area 3, where there has been heavy exploitation in the past.

(e) Ice-breeding harbor seal—The ALJ found that an annual taking limit of 5,700 animals would be appropriate to avoid disadvantage to the stock.

(f) Ringed seal—The ALJ found that an annual taking limit of 20,000 ringed seals would not disadvantage the stock.

(g) Ribbon seal—The ALJ found that an annual taking limit of 500 ribbon seals would not disadvantage the stock.

(h) Pacific bearded seal—The ALJ found that an annual taking limit of 4000 Pacific bearded seals would not disadvantage the stock.

The ALJ was assured that all of these takings were in accord with sound principles of resource protection and conservation as provided in the purposes and policies of the Act. The ALJ indicated that before the waiver and a return of management is effected, the State of Alaska should develop detailed regulations which incorporate, as applicable to the Department of Commerce species, the following points:

1. Subsistence takers should be given preference over sport and commercial hunters, and "subsistence taker" should be defined on the basis of bona fide dependence on marine mammals by coastal residents.

2. The State should exercise extreme caution and prudence, allowing margins for safety, in calculating harvest levels.

3. To prevent the Federal waiver limit from becoming a target, lower figures should be published within the State as harvest quotas, and quotas should be set not only for the total area of the State, but also for each region or village.

4. Persons who conduct commercial harvests should be required to submit jaw and reproductive tract specimens for analysis and research.

5. The State regulations should include specific language corresponding to that in the Act using the standard of OSP.

6. A working arrangement for enforcement of the marine mammal laws should be negotiated between the State of Alaska and the U.S. Coast Guard.

7. A cooperative agreement concerning marine mammal enforcement monitoring and review should be negotiated between FWS and NMFS.

8. A working partnership should be established between the Native community and the State concerning proposed regulations bearing on Native communities. The ALJ strongly urged that the State provide translations of its proposals so that affected Native communities can be fully informed.

9. Proposed changes in laws, regulations, policies, and permits by the State of Alaska should be published in the Federal Register to allow non-Alaskan participation in such changes.

10. Whenever seals are to be taken by clubbing, clubbers should be trained, stickers and a backup staff should be used, and seals should be grouped together.

11. The State method for selecting hearing officers in civil prosecution should not be employed for civil prosecutions under Alaska's approved marine mammal regulations. Rather, U.S. Administrative Law Judges should be retained and assigned through the U.S. Civil Service Commission on a case by case basis with reimbursement being made to the U.S. Government.

12. Even after a return of management, programs for continued research and analysis should be pursued to improve the management effort.

13. The ALJ noted that several witnesses had testified that the State system made it difficult for Natives to serve as guides; therefore, most of the profit went to non-Native brokers in Anchorage. This problem should be resolved through appropriate means.

14. Regulations should provide for the furnishing of necessary data and other information from the State of Alaska to the Marine Mammal Commission.

Consideration of the ALJ's Recommended Decision

I have thoroughly reviewed the recommended decision of the ALJ, the record of the hearing upon which it is based, and all comments received after publication of the notice of its availability. I hereby adopt and incorporate by reference the ALJ's decision, except as noted below. In each instance where I make a specific determination, I will refer to the ALJ's decision and indicate whether I adopt both his decision and underlying rationale. Where I concur in his decision but wish to modify or add to his rationale, I will make appropriate comments.

Statutory Basis for Determinations

Section 101(a)(3)(A) of the Act provides that a waiver decision must be made on the basis of the best scientific evidence available and in consultation with the Marine Mammal Commission, giving due regard to the distribution, abundance, breeding habits, and times and lines of migratory movements of the marine mammals in question. Also, I must be assured that the taking of these mammals is in accord with sound principles of resource protection and conservation provided in the purposes and policies of this Act.

Section 103 of the Act provides that regulations allowing the taking of marine mammals must be based on the best scientific evidence available and in consultation with the Marine Mammal Commission. I must insure that the taking allowed under the regulations will not be to the disadvantage [3] of the species and population stocks in question and will be consistent with the purposes and policies of section 2 of the Act. The regulations implementing the waiver of the moratorium must not permit the subject species and population stocks to diminish beyond the point at which they cease to be a functioning element in the ecosystem of which they are a part or to diminish below their optimum sustainable population. Management of these species and population stocks must be to maintain the health and stability of the marine ecosystem.

Section 109(a)(2) of the Act provides for a return of management of marine mammals to any State if the Administrator determines that the State's laws and regulations will be consistent with regulations promulgated under Section 103 of the Act with respect to the subject species and population stocks and with other applicable provisions of the Act. Section 109(a)(3) requires the Administrator to monitor continuously the laws and regulations of the state to which management has been returned to determine whether they are in substantial compliance with this section of the Act.

Determinations

Under Section 101(a)(3)(A) of the Act, I have determined that it is appropriate to effect a waiver and allow the taking of certain marine mammals to the extent indicated below; and, to promulgate regulations implementing the waiver pursuant to section 103(a) of the Act. However, at this time I am unable to make a determination that Alaska's laws and regulations are consistent or inconsistent with the Act and, consequently, I cannot return management of these mammals to the State. The waiver and accompanying regulations will not be effective and management will not be returned until Alaska makes appropriate changes to its laws and regulations, submits them to me, and they are approved in accordance with the policies, criteria, and procedures outlined in 50 CFR Part 216, Subpart H. To assist the State in this effort, certain changes I deem appropriate and necessary are stated herein.

Consulation

My actions under Sections 101 and 103 of the Act require consultation with the Marine Mammal Commission. The Commission was consulted prior to publication of the proposal and the DEIS and was a party to the administrative proceedings. The Commission also submitted comments on the ALJ's recommended decision. It is my conclusion, therefore, that the consultative requirements of the Act have been satisified.

[3] Although not defined in the Act, I find for purposes of this determination that "disadvantaged" refers to species or population stocks below or above OSP or subject to conditions that do not preserve the purposes and policies of the Act or do not maintain optimum sustainable population and a healthy ecosystem.

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BEST SCIENTIFIC EVIDENCE AVAILABLE

My actions under Sections 101 and 103 also must be based on the "best scientific evidence available." The ALJ found that the best scientific evidence available was presented at the hearing in support of the proposed waiver of the moratorium.

A major point of contention raised by some opponents to the proposed waiver was that the scientific evidence did not meet this standard. In final briefs, certain parties argued that the waiver should not be granted until "greater scientific certainly" is attained. However, by using the phrase "best scientific evidence available" rather than "best scientific evidence possible," the Act provides that scientific certainty is not required. I believe that the evidence in the record is sufficient to permit the conservative decision I have taken and that my decision will not disadvantage the populations involved.

POPULATION STOCK AND LEVELS

Each species in question is represented by a single stock in Alaska and the waters off Alaska except for the beluga whale which has two stocks. The population estimates for these species, based on the best scientific evidence available, are as follows:

Species	Estimated population level
Northern sea lion (*Eumetopias Jubatus*)	214,000
Harbor seal (*Phoca vitulina*)	270,000
Largha seal (*Phoca largha*)	200,000 to 250,000
Ringed seal (*Pusa hispida*)	1.0 million to 1.5 million
Ribbon seal (*Phoca fasciata*)	90,000 to 100,000
Bearded seal (*Erignathus barbatus*)	300,000
Beluga whale (*Delphinapterus leucas*):	
Cook Inlet stock	500
Bering/Chukchi Sea stock	9,000

The ALJ and Marine Mammal Commission concur with the foregoing number of stocks and population levels.

OPTIMUM SUSTAINABLE POPULATION

A major issue in the hearing was the expected impact of the waiver and accompanying regulations on the optimum sustainable population (OSP) of each species or population stock in question. It is my duty to determine OSP for each species or population stock and to be assured that the waiver and accompanying regulations will maintain populations at OSP levels.

On December 21, 1976 (41 FR 55536), NMFS published a definition of OSP as follows: "Optimum sustainable population is a population size which falls within a range from the population level of a given species or stock which is the largest supportable within the ecosystem to the population level that results in maximum net productivity. Maximum net productivity is the greatest net annual increment in population numbers or biomass resulting from additions to the population due to reproduction and growth less losses due to natural mortality." Maximum net productivity is defined as the lower limit of the range of OSP.

This definition was approved by the Director of NMFS as a result of the formal hearing in the tuna-porpoise controversy. (MMPAH #2-1976). It was promulgated before the close of the administrative record herein and was discussed by various parties. It was approved by Judge Richey of the U.S. District Court for the District of Columbia in *Committee for Humane Legislation* v. *Kreps*, D.D.C., Civ. Action No. 77-0564, Order of the Court dated June 30, 1977 (transcript pp. 41-51).

The ALJ concluded that OSP constitutes a range of population sizes from an undefined point somewhat above the point of maximum productivity up to the average carrying capacity of the habitat. He noted that "maximum productivity" is not defined in the Act and he did not address specifically the NMFS refinement of that term discussed above, even though the NMFS definition was in the record and discussed by many parties and witnesses.

I disagree with the ALJ's definition because it does not define clearly the lower end of the range of OSP. In addition, the NMFS definition more accurately reflects the dynamics of marine mammal populations and is supported by expert testimony in the hearing. The NMFS definition clearly defines the lower end of the range of OSP and allows consideration of all factors which pertain to the health of the ecosystem and the functioning of a species or population stock in the ecosystem. OSP may be evaluated in terms of numbers of animals and it also may be evaluated by reference to scientific indicators of the health and vitality of a species or population stock such as historical population levels, population trends, distribution, habitat, relative density, mortality rates, reproductive rates, age composition, and other behaviorial characteristics. The record contains much evidence about these factors and their use in evaluating OSP for each of the subject species and population stocks.

Because of the prior administrative decision, the recent judicial approval of this NMFS definition and my in-depth review of the record, I do not accept the ALJ's definition of OSP and find that the NMFS definition is correct.

After careful review of the expert testimony, the ALJ's review of the various ecological factors, and, especially, the views of the Marine Mammal Commission, I adopt the ALJ's recommendation that each of the subject species or population stocks is within the range of OSP.

EXTENT OF THE WAIVER

The waiver of the moratorium and the numerical, annual taking limits pertain to the following takings of marine mammals in Alaska and in the waters off Alaska: subsistence taking by Alaskan natives; and direct taking, incidental taking, and lethal scientific research by all U.S. citizens and residents, including Alaskan natives, Alaskan citizens, and resident aliens.

The annual taking limits do not pertain to taking for non-lethal scientific research (e.g. tagging), taking for public display purposes, and all taking by foreign persons and vessels. These will remain under NOAA control and operate outside the waiver.

After a consistency determination under Section 109(a)(2) of the Act and 50 CFR Part 216, Subpart H, the waiver and other legal authority will give Alaska control over all takings except direct taking, incidental taking, and lethal scientific research by non-Alaskan, U.S. citizens and residents in the waters off Alaska. These will remain under NOAA supervision, with Alaska's consultation required before any permit is issued.

1. *Northern Sea Lion.* I adopt the ALJ's recommendation of an annual taking limit of 6,648 adults and, with modification, adopt the recommendation of the MMC and ALJ allowing the taking of two pups in lieu of one adult. The MMC recommended an annual taking limit of 7,800 adults.

The evidence supports an exception for the taking of pups because of their high natural mortality, but I believe that this should be allowed only under very narrow circumstances. Consequently, I have determined that two pups can be taken in lieu of one adult only in commercial harvests, which will be operated under strict State controls, and that the State must establish the maximum age for pups that qualify for this exception (based on the age of pups subject to very high natural mortality.) Animals born in the year in which they are harvested are considered pups.

2. *Land-breeding Harbor Seal.* I do not adopt the ALJ's recommendation of an annual taking limit of 8,461 adults, allowing the taking of two pups in lieu of one adult, prohibiting any take in certain areas, and allowing only a pup harvest in other areas. The MMC recommended an annual taking limit of 10,800 adults and recognized that two pups could be taken in lieu of one adult.

I have determined that the annual taking limit should be 10,511 adults and although the record indicates that two pups can be taken in lieu of one adult, this exception must be limited as indicated in my discussion of the preceeding species. Two pups can be taken in lieu of one adult, but only in commercial harvests and according to maximum age restrictions established by the State (based on the age of pups subject to very high natural mortality).

Although I appreciate the ALJ's recommendation that no taking occur in certain areas, there is evidence in the record that these particular groups of seals are not depressed. In my view, if such a restriction is necessary, it cannot be implemented effectively through the waiver process. Rather, Alaska should impose this restriction, where necessary, through its game management procedures.

Moreover, the evidence indicates, and the ALJ found, that there is one stock of land-breeding harbor seals and that it is within OSP. It is likely that neighboring groups of seals will contribute to the "recovery" of seals in any areas where groups are depressed. The annual taking limit is directed at the number of animals that can be taken from the entire stock. If the state adopts a management approach that is not conservative and does not wisely distribute any harvest, I have reserved the power to correct the situation (see 50 CFR 216.113(e) and 216.113(f).)

The appropriateness of a pup harvest is also a matter to be resolved by the State through its management procedures, but as indicated above, pups can be taken only in limited circumstances.

3. *Ice-breeding (Spotted or Largha) Harbor Seal.* I adopt the ALJ's recommendation of an annual taking limit of 5,700 ice-breeding harbor seals. The MMC recommended that annual U.S. taking be limited to 5,700 largha seals.

4. *Ringed Seal.* I adopt the ALJ's recommendation of an annual taking limit of 20,000 ringed seals. The MMC recommended that annual U.S. taking be limited to 20,000 ringed seals.

5. *Ribbon Seal.* I adopt the ALJ's recommended annual taking limit of 500 ribbon seals. The MMC recommended that annual U.S. taking be limited to 500 ribbon seals.

6. *Pacific Bearded Seal.* I do not adopt the ALJ's recommended limit of 4,000 bearded seals returned to shore. The MMC recommended that annual U.S. taking be limited to 9,000 bearded seals. The record indicates a high loss rate for this species, perhaps as high as two to one. The ALJ's recommendation might, if implemented, result in as many as 12,000 seals killed annually. Until better data on loss rate are obtained, I have determined that the annual take limit for Pacific bearded should be 9,000 animals, to be measured by the landing and taking ashore of 3,000 animals.

7. *Beluga whale.* Two stocks of beluga whales are recognized in Alaskan waters, the Cook Inlet stock and the Bering-Chukchi Sea stock. I adopt the ALJ's recommended annual taking limit of 10 whales from the Cook Inlet stock and 350 whales from the Bering-Chukchi sea stock. The MMC recommended that total annual U.S. taking be limited to 360 beluga whales.

After careful review of the record and, in particular, the views of the Marine Mammal Commission, I have determined that all subject species and population stocks are within OSP and will not be disadvantaged or reduced below OSP as a result of conditionally waiving the moratorium to the extent determined above. Therefore, the waiver is in accordance with the principles of resource protection and conservation provided by the purposes and policies of the Act.

NATIVE EXEMPTION

I adopt the ALJ's conclusion that the State of Alaska can regulate subsistence hunting of marine mammals by Alaskan natives after a waiver and return of management to the State. I do not adopt his conclusion or rationale to the extent they suggest or imply that Alaska cannot regulate native subsistence hunting prior to a waiver and return of management or that a waiver and return of management are necessary prerequisites to State regulation of native subsistence hunting.

It is my view that the Act did not totally preempt state jurisdiction over Alaskan natives. Section 101(b) states that "the provisions of this Chapter shall not apply" with respect to non-wasteful takings of non-depleted species of marine mammals by Alaskan natives for subsistence and handicraft purposes. Section 109(a)(1), which provides that "no State may adopt any law or regulation relating to the taking of marine mammals," is one such provision that "shall not apply" under the terms of Section 101(b). The Act did not preempt State law governing Alaskan native takings unless the species are depleted, the takings are wasteful, or the takings are for purposes other than for handicrafts or subsistence. The foregoing exceptions aside, Congress left native subsistence, handicraft, and non-wasteful taking exactly as it was prior to the Act, regulated by the State of Alaska. While native subsistence hunting evidently is preferred to other kinds of taking under the Act, I do not regard this preference to override the Act's policy of protecting marine mammals.

The record indicates that annual non-wasteful, subsistence, and handicraft taking of the subject species and population stocks by Alaskan natives is in the following amounts: Northern sea lion (0); harbor seal (500); largha seal (2,800); ringed seal (4,500); ribbon seal (250); bearded seal (1,500); beluga whale, Cook Inlet stock (3); and, beluga whale, Bering/Chukchi Sea stock (150).

RETURN OF MANAGEMENT

At this time, I must defer the consistency determination allowed under Section 109(a)(2) of the Act and 50 CFR Part 216; Subpart H, and I do not adopt the ALJ's suggestion that Alaska's laws and regulations be approved. The laws and regulations appearing in the record are not current.

Alaska must effect appropriate changes to its laws and regulations before I can begin the process culminating in a determination of consistency and a return of management to the State. Therefore, the waiver and regulations approved today will not be effective immediately.

To facilitate this subsequent consistency determination, Alaska's laws and regulations must conform to the criteria and procedures set forth in 50 CFR 216.105 and related sections of 50 CFR Part 216, Subpart H. Also, with respect to the ALJ's recommended and required changes to Alaska's laws and regulations I have the following comments:

1. I take no position regarding the prohibition on the taking of polar bears in dens because polar bears are not under NOAA jurisdiction.

2. I take no position regarding the ALJ's recommendation that standards be set for, and preference be given to, subsistence takers. The record appears to indicate that legitimate subsistence needs are, and would be, preserved by the State.

3. I adopt the ALJ's recommendation that extreme caution and prudence, allowing margins of safety, are to be exercised by the State in calculating its harvest limits.

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4. I adopt the ALJ's recommendation that regional or village quotas should be set.

5. I do not adopt the ALJ's recommendation that specimens from commercial harvests be taken. The State should determine whether such sampling is necessary to satisfy its research and other needs.

6. With modification, I adopt the ALJ's recommendation that the OSP standard should be clearly enunciated in the State's laws and regulations. The modification is that the State must recognize the definition of OSP for marine mammals I adopted above. OSP is the cornerstone of the Act and must be fully incorporated into the State's laws and regulations before I can make any determination of consistency.

7. I do not adopt the ALJ's recommendation that Alaska negotiate an enforcement arrangement with the Coast Guard. This appears to be an inappropriate topic for this decision. The State should ascertain whether an arrangement with the Coast Guard is necessary to augment its existing enforcement capability. NMFS already has an arrangement with the Coast Guard and will assist the State in this regard if Alaska determines that such assistance is necessary.

8. I do not adopt the ALJ's recommendation regarding a NMFS-FWS cooperative agreement because it is an inappropriate topic to be included in Alaska's laws and regulations. An agreement already exists on enforcement and NMFS will cooperate with FWS to insure proper marine mammal monitoring, review, and cooperative enforcement.

9. I take no position on the ALJ's recommendation to amend proposed 50 CFR 18.95(k) because it does not pertain to any species under NOAA jurisdiction.

10. I do not adopt the ALJ's recommendation regarding a "working partnership" between the State and native communities. I am satisfied that the State already has substantial contact with the native communities, has gone to considerable length to insure that it receives substantial input from these native communities on all relevant matters, and that the State intends to continue and improve this interaction.

11. The ALJ recommended that all changes in the State's laws, regulations, policies, and permits be published in the FEDERAL REGISTER to allow non-Alaskan participation. I adopt the ALJ's recommendation only with respect to proposed changes in Alaska's laws and regulations after management is returned to it. 50 CFR 216.103(f) already requires all changes to Alaska's laws and regulations (except emergency closing of seasons) to be approved by me only after public notice and comment. I do not adopt the ALJ's recommendation that all policy changes and permit applications be treated similarly. Alaska's management policies will be subject to significant public comment when its laws and regulations are submitted to me for a consistency determination and whenever its laws and regulations are changed. Moreover, after a return of management, the State's annual reports, in which the management policies are reflected, will be subject to review by the public and the MMC. Therefore, additional FEDERAL REGISTER procedures are unnecessary. As to the State's permitting scheme, publishing each permit in the FEDERAL REGISTER will hamper Alaska's efforts to manage these species effectively. As noted later in this decision, I have retained numerous safeguards to apply in the event Alaska's laws, regulations, management, or permitting scheme in any way or at any time work to the disadvantage of any species or population stock.

12. With amplification, I adopt the ALJ's humaneness recommendation regarding the training of clubbers, backup staff, grouping of animals, and the use of stickers. First, I note that Alaska's 1978 game regulations (5 AAC 81.100) appear to prohibit clubbing altogether; hence, the specific recommendation insures that if Alaska laws and regulations are changed to permit any clubbing in the future, clubbing will be done in accordance with this recommendation.

Second, to insure that the laws and regulations submitted by Alaska for a consistency determination control all inhumane and wasteful taking and satisfy the Act's humaneness requirement, such laws and regulations shall require that taking be accomplished in a humane manner and that harassment be reduced to the maximum extent. The State cannot issue permits that allow harassment of marine mammals.

13. I do not adopt the ALJ's recommendation regarding the use of Federal ALJ's as hearing officers in State civil prosecutions after a return of management. The State should decide whether the use of U.S. ALJ's is necessary to augment its own judicial system.

14. With amplification I adopt the ALJ's finding that Alaska has a modern scientific resource management program. To satisfy the criteria in 50 CFR 216.105 and the reporting requirements in 50 CFR 216.106 and to establish the continuing research and analysis program envisioned by the Act and recommended by the ALJ, Alaska's revised laws and regulations and other management efforts must insure that the best available scientific evidence is collected regarding the number of animals taken under the waiver regulations. Alaska must be able to ascertain when an annual taking limit is, or is likely to be, exceeded.

Also, in accordance with the recommendation of the Marine Mammal Commission, Alaska must convene a population study workshop to evaluate the current status of each species and population stock. The results of the workshop must be included in the first annual report submitted to NOAA, if and when management is returned to the State.

15. I take no position in the ALJ's recommendation regarding polar bear hunting by dogs. Polar bears are not under NOAA jurisdiction.

16. I do not adopt the ALJ's recommendation that the native guide and broker problem be resolved by changes to Alaska's laws and regulations at this time. The problem is an internal one that does not appear to relate to the possible consistency of State laws and regulations with the Act or with the propriety of returning management to the State. Alaska should determine for itself the best solution to the problem.

17. I do not adopt the ALJ's recommendation that regulations be considered that require Alaska to furnish data and other necessary information to the MMC. NMFS will have access to all data needed by the MMC and if NMFS does not have the information needed by the MMC, NMFS can make an appropriate request to the State. Given the numerous reporting requirements Alaska will have to satisfy after a return of management, I do not believe that it should be subjected to any further information gathering responsibility. Alaska will be reporting the needed information to NMFS, which has responsibility for monitoring the State's activities under the waiver, and NMFS in turn will be consulting with the MMC.

CHANGES TO PROPOSED REGULATIONS

50 CFR Part 216, Subpart I, has been revised to reflect the determinations and positions noted above. Proposed § 216.113(k) relating to tanneries has been deleted. The tannery registration requirement was proposed as a check on the number of animals taken under the waiver. However, I am not satisfied that the system is workable and the State has other means available to determine what animals have been taken under the waiver.

SAFEGUARDS

In accordance with my authority under section 101(a)(3)(A) to effect a waiver only to the extent I deem compatible with the Act, I have reserved authority to suspend or terminate takings or reimpose the waiver as warranted. Under 50 CFR 216.113(e), I shall suspend or terminate takings at any time during the calendar year, by notice to the State and publication in the FEDERAL REGISTER, if the annual taking limits are exceeded (or are likely to be exceeded) based on best available information and if Alaska has not taken (or does not take) appropriate steps to remedy the situation. A suspension or termination does not reimpose the moratorium on the species or population stock in question. However, under 50 CFR 216.113(f), if at any time takings cause a species or population stock to diminish below OSP or if Alaska's management does not preserve the purposes and policies of the Act or maintain OSP and a healthy ecosystem, I shall reimpose the moratorium under section 101(a) by notice to the State and publication in the FEDERAL REGISTER.

Also, under section 101(a)(3)(B) and section 101(b) of the Act, I can terminate all taking (except for scientific research) of a subject species or population stock by designating it as depleted. For this purpose, "depleted" means any species or population stock that is below OSP or which otherwise satisfies the definition found in section 3(1) of the Act.

Finally, I have a continuing responsibility under section 109(a)(3) of the Act and 50 CFR Part 216, Subpart H, to monitor continuously the implementation and enforcement of previously approved State laws and regulations. If management is returned, Alaska is required to submit annual reports of its management efforts. These reports can be approved only after consultation with the Marine Mammal Commission and comment from the public. Approval depends on whether the State's laws, regulations, and management efforts comply with the requirements of the Act and 50 CFR Part 216, Subpart H.

Moreover, any modifications, amendments, deletions, or additions to previously approved State laws and regulations must be reviewed and approved in accordance with 50 CFR Part 216, Subpart H, before they can take effect.

SUBSEQUENT EVENTS

As noted above, my decision takes no position on the consistency or inconsistency of Alaska's laws and regulations. The laws and regulations in the record are not current. 50 CFR Part 216, Subpart H, explains how Alaska may obtain a review of proposed or existing laws and regulations for consistency. After a submittal, 50 CFR 216.106(f) requires my preliminary determination of consistency or inconsistency to be published in the FEDERAL REGISTER and I must take public comment into consideration before rendering a final determination. After approval of a State's laws and regulations, 50 CFR 216.104(e) requires any modifications, amendments, deletions, or additions to such laws and regulations (except emergency closing of seasons) to be reviewed and approved under 50 CFR 216.106 before they can take effect.

In the instant case, it is expected that the State of Alaska and NOAA will execute a managment agreement that elaborates on the management effort Alaska will undertake if management is returned to it. The agreement will be submitted with Alaska's amended laws and regulations and will be open to public comment in accordance with the above noted procedures.

Dated: January 5, 1979.

RICHARD A. FRANK,
Administrator.

50 CFR Part 216 is hereby amended by adding a new Subpart I as follows

Subpart I—Waiver of The Moratorium on Taking of Marine Mammals

Sec.
216.110 Purpose of regulations.
216.111 Scope.
216.112 Definitions.
216.113 Taking of seals, sea lions and Beluga Whales (Alaska).

AUTHORITY: Secs. 103 and 109 of the Marine Mammal Protection Act of 1972, as amended, (16 U.S.C. 1373 and 1379).

Subpart I—Waiver of the Moratorium on Taking of Marine Mammals

§ 216.110 Purpose of regulations.

Pursuant to section 103 of the Act, the regulations contained in this subpart insure that the taking of each species or population stock of marine mammal for which the moratorium imposed by section 101 of the Act has been waived will not be to the disadvantage of any species or population stock.

§ 261.111 Scope.

(a) The provisions of this subpart apply with respect to each species or population stock only after (1) the Administrator has made a decision to effect a waiver and allow taking such species or population stocks pursuant to Section 101(a)(3)(A) of the Act; and (2) a State has adopted and submitted to the Administrator laws and regulations relating to the protection and taking of such species and population stocks and the Administrator has approved such State laws and regulations pursuant to Section 109(a)(2) of the Act and Subpart H of this part.

(b) The provisions of this subpart, unless specifically stated otherwise, apply to all taking of marine mammals by U.S. citizens and residents in Alaska and the waters off Alaska.

(c) The provisions of this subpart do not apply to nonlethal scientific research or public display, which shall be permitted in accordance with § 216.31, and incidental taking by foreign persons or foreign vessels, which shall be permitted in accordance with § 216.24.

§ 216.112 Definitions.

For purposes of this part:

(a) "Alaska" means all lands and waters within the seaward boundary of the State of Alaska;

(b) "Foreign person" means any person who is not a U.S. citizen or resident; "foreign vessel" means any vessel other than a vessel documented or certificated under U.S. laws.

(c) "Lethal scientific research" means scientific research in which the subject mammal is killed or seriously injured.

(d) "Pup" refers to a marine mammal which is born in the year in which it is taken in a commercial harvest.

(e) The term "Waters off Alaska" means waters outside Alaska and west of longitude 130° W., north of latitude 50° N., east of the U.S.-Russia Convention Line of 1867, and south of latitude 75° N.

§ 216.113 Taking of Seals, Sea Lions and Beluga Whales (Alaska).

(a) Pursuant to Section 101(a)(3)(A), 103 and 109 of the Act, and subject to the terms and conditions of this section, the moratorium and other requirements of section 101(a) of the Act are waived to allow the kinds of taking described in § 216.111(b) up to the following amounts on an annual, calendar year basis effective with the publication of the notice of approval of the laws and regulations of the State of Alaska pursuant to § 216.104(d).

Species	Annual taking limit on mortality and serious injury
Northern (Steller), Sea Lion (*Eumetopias jubatus*)	* 6,648
Harbor Seal (*Phoca vitulina*)	* 10,511
Largha Seal (*Phoca largha*)	5,700
Ribbon Seal (*Histriophoca fasciata*)	500
Ringed Seal (*Pusa hispida*)	20,000
Pacific Bearded Seal (*Enignatha barbatus*)	** 9,000
Beluga Whale (*Delphinapterus leucas*)	10
Cook Inlet stock, Bering-Chukchi Sea stock	350

* Two (2) pups may be taken in lieu of one adult, but only in commercial harvests and in accordance with age restrictions established by the State of Alaska. In accordance with 50 CFR 216.112(d), the State can allow only animals born in the year in which they are taken to qualify as pups.

** To be measured by the landing and taking ashore of 3,000 animals.

(b) The State of Alaska must insure that for each species and population

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stock, no more than the number of animals set forth in paragraph (a) of this section are taken annually.

(c) All takings of marine mammals allowed by § 216.111(b) and § 216.113(a) and all related activities shall be conducted in accordance with the applicable laws and regulations of the State of Alaska and the United States.

(d) The takings of marine mammals allowed by §§ 216.111(b) and 216.113(a) shall be duly licensed or otherwise authorized in writing as follows:

(1) *Alaska citizens and residents (including resident aliens).* All subsistence, direct, incidental, and lethal scientific research taking in Alaska and the waters of Alaska shall be permitted in accordance with laws and regulations established by the State of Alaska;

(2) *Non-Alaskan-U.S. citizens, residents, and resident aliens.* (i) All direct and incidental taking, and lethal scientific research in Alaska shall be permitted in accordance with laws and regulations established by the State of Alaska; (ii) if such takings occur in the waters off Alaska, they shall be permitted in accordance with the laws and regulations of the U.S.

(3) With respect to all permit applications for taking in the waters off Alaska under paragraph (d)(2)(ii) of this section, the Assistant Administrator for Fisheries, NOAA, shall consult with appropriate officials of the State of Alaska prior to issuing any permits.

4. The State of Alaska shall consult with the Assistant Administrator for Fisheries, NOAA, prior to issuing any lethal scientific research permits under paragraphs (d)(1) and (d)(2) of this section.

(e) Whenever the taking of any species or population stock during any calendar year reaches, or is likely to reach 90 percent of the annual taking limit under paragraph (a) of this section, the Administrator shall be notified pursuant to § 216.107. After notification, the State of Alaska must take appropriate steps to insure that the annual waiver limit is not exceeded, including, if necessary, an immediate termination of any taking under its control. If the State of Alaska does not take such appropriate steps, the Administrator as he deems appropriate, by notice to the State of Alaska and publication in the FEDERAL REGISTER, shall suspend and terminate any takings authorized by the State of Alaska for the calendar year in question.

(f) Whenever any species or population stock diminishes or is likely to diminish below its optimum sustainable population, or if the State of Alaska does not preserve the purposes and policies of the Act, or maintain optimum sustainable population and a healthy ecosystem, the Administrator shall by notice to the State of Alaska and publication in the FEDERAL REGISTER reimpose the moratorium on the taking of such affected species or population stock provided by section 101(a) of the Act.

(g) No marine mammal or product thereof taken under this section may be removed from Alaska or the waters off Alaska unless it is marked, tagged, or otherwise identified as required by State law or regulation and such mark, tag, or other identification remains on the part or product or container until the final stages of processing.

(h) For those persons or vessels subject to Alaskan jurisdiction, any violation of the laws and regulation of the State of Alaska applicable to the taking of marine mammals, committed in the waters off Alaska, shall be a violation of 50 CFR Part 216, Subpart I. For those persons or vessels not subject to the jurisdiction of the State, any violation of these regulations in Alaska and the waters off Alaska may be punished in accordance with the procedures and penalties of sections 105, 106, and 107 of the Act and the regulations in this part.

(i) In accordance with paragraph (d)(2)(ii) of this section, the Administrator, after consultation with the State of Alaska, may issue permits to non-Alaskan, U.S. citizens authorizing the taking of any marine mammal listed in this section in the waters off Alaska. Applications for permits shall include:

(1) Name and address of applicant;

(2) Month and year of taking;

(3) Identity of the marine mammal and the quantity to be taken;

(4) Proposed location of taking;

(5) Method of taking;

(6) Proposed disposition of parts and products and method of shipment;

(7) The following certification:

I hereby certify that the foregoing information is complete, true and correct to the best of my knowledge and belief. I understand that this information is submitted for the purpose of obtaining the benefits of a permit under the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407) and regulations promulgated thereunder, and that any false statement may subject me to the criminal penalties of 18 U.S.C. 1001 or to penalties under the Marine Mammal Protection Act of 1972; and

(8) Signature of the applicant;

(j) Permits applied for under paragraph (i) of this section shall be terminated by reimposition of the moratorium or any closure of a season by the State of Alaska.

(k) Permits issued under paragraph (i) of this section shall contain such terms and conditions as the Administrator may deem appropriate to ensure that any taking and subsequent disposition shall be in accordance with the Act, with these regulations, and with the applicable provisions of Alaska's approved laws and regulations and shall include:

(1) The number of animals which are authorized to be taken;

(2) The location from which they may be taken;

(3) The method of taking;

(4) The period during which the permit is valid, which period shall be subject to reimposition of the moratorium, or any closure of a season by the State of Alaska;

(5) Any requirements for reports or rights of inspection with respect to any activities carried out pursuant to the permit;

(6) The conditions of sale or other disposition of any parts or products including any marking requirements; and

(7) A reasonable fee covering the cost of issuance of such permit, including an appropriate apportionment of overhead and administrative expenses of the Department of Commerce. In no event will the cost be less than the fee for the comparable non-resident license or permit issued by the State of Alaska.

(Secs. 103, 109, Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1373, 1379).)

[FR Doc. 79-960 Filed 1-10-79; 8:45 am]

federal register

THURSDAY, JANUARY 11, 1979
PART IV



DEPARTMENT OF ENERGY

ORGANIZATIONAL CONFLICTS OF INTEREST

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[6450-01-M]

Title 41—Public Contracts and Property Management

CHAPTER 9—DEPARTMENT OF ENERGY PROCUREMENT REGULATIONS

PART 9-1—GENERAL

Organizational Conflicts of Interest

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: This rule establishes policy and procedures for the Department of Energy (the "Department") with respect to the avoidance of organizational conflicts of interest (OCI). The regulation is intended to avoid or mitigate contractual relationships which might lead contractors to give advice and assistance that is not unbiased, impartial, objective and technically sound. Additionally, it seeks to reduce the opportunities for an unfair competitive advantage that might accrue to a contractor. These objectives are sought to be attained by requiring prospective contractors to disclose pertinent information bearing upon possible organizational conflicts of interest and by requiring the inclusion of specified contract clauses designed to prevent such conflicts during and after performance.

EFFECTIVE DATE: Effective upon publication.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

I. Background.
II. Statutory and Regulatory Requirements.
III. Public Comments.

I. Background

Under Section 644 of the Department of Energy Organization Act (hereinafter referred to as the Act) (Pub. L. 95-91, 91 Stat. 565, 42 U.S.C. 7254), the Secretary of the Department is authorized to prescribe such procedural rules and regulations as he may deem necessary or appropriate to effectuate the functions vested in him. These functions include those heretofore authorized by law and transferred to the Secretary under the Act (42 U.S.C. 7251), including the Federal Nonnuclear Energy Research and Development Act of 1974 (Pub. L. 93-577, 88 Stat. 1878, 42 U.S.C. 5901), as amended by Pub. L. 95-39, and the Federal Energy Administration Act of 1974 (Pub. L. 93-275, 88 Stat. 96, 15 U.S.C. 761), as amended by Pub. L. 95-70. Pursuant to these laws, the Secretary is specifically required to promulgate regulations governing the avoidance of organizational conflicts of interest in accordance with statutory criteria therein set forth (Pub. L. 95-39; Pub. L. 95-70). Additionally, public notice of such rules and regulations is required by the Act (42 U.S.C. 7191) in accordance with the Administrative Procedure Act, as amended (5 U.S.C. 551, et. seq.).

On June 24, 1977, the Energy Research and Development Administration (ERDA), whose functions were transferred to the Department by the Act, (Pub. L. 95-91), published in the Federal Register (42 FR 32232), ERDA Temporary Regulation No. 35, which amended the pertinent ERDA organizational conflicts of interest regulation then in effect. Thereafter, on March 27, 1978, the Department published in the Federal Register (43 FR 12727) its proposed OCI regulation and solicited public comments thereon.

On April 14, 1978, the Department published its proposed Procurement Regulations (43 FR 15853), which included the proposed OCI regulation of March 27, 1978. This final OCI rule will also be incorporated into the Department of Energy Procurement Regulations to be published as a final rule in the Federal Register at a later date.

II. Statutory and Regulatory Requirements

Pursuant to section 501 of the Department of Energy Organization Act (42 U.S.C. 7191) relating to the opportunity for oral presentations on proposed regulations, the Department has determined that no substantial issue of fact or law exists and that this OCI regulation is unlikely to have a substantial impact on the Nation's economy, or large numbers of individuals or businesses. Accordingly, public hearings relating to this OCI regulation were not held. However, all written comments received by the Department in response to its proposed OCI regulation of March 27, 1978, were carefully assessed and fully considered in the formulation of this final OCI rule.

Note.—The Department has determined that this regulation does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821, as amended, and OMB Circular A-107. The Department has also determined that the regulation will not affect the quality of the environment and that the requirements of section 7(c)(2) of the Federal Energy Administration Act of 1974, Pub. L. 93-275, do not apply.

III. Public Comments

This final OCI rule reflects the Department's efforts to comply with statutory criteria contained in Pub. L. 95-39 and Pub. L. 95-70. In addition, the regulation reflects, as fully as possible, consistent with statutory requirements and policy and programmatic needs, the opinions and recommendations expressed by interested parties commenting on the Department's proposed rule of March 27, 1978. It also recognizes the organizational conflict of interest regulation proposed by the Office of Management and Budget (OMB), Office of Federal Procurement Policy (OFPP), and published in the Federal Register on September 30, 1977, (42 FR 47223), as revised October 13, 1978 (43 FR 47480), for use by all Federal executive agencies, and the public hearing held by OFPP on November 17, 1978, on its revised proposed OCI regulation. The Department's proposed OCI rule of March 27, 1978, specified that comments thereon were to be received on or before April 26, 1978. This date for submission of comments was extended by the Department to May 5, 1978. The Department received timely comments from 25 organizations.

A summary of the substantive comments received by the Department is set forth below together with the Department's action regarding the comments.

(1) *Exclusion of Independent Contract Research Organizations (ICRO) and Universities.* It was recommended by some commenters that ICRO's and universities be specifically excluded from OCI coverage. One commenter stated that such organizations should not be excluded from OCI coverage. The Department has adopted the latter position because it believes that ICROs and universities are not immune from being in the position of "serving two masters" or from gaining an unfair competitive advantage. Neither Pub. L. 95-39 nor Pub. L. 95-70 provides for the exclusion of such organizations and the Department does not believe that such exclusion was the intent of Congress. Additionally, OFPP's revised proposed rule does not exclude such organizations from coverage.

(2) *Definition of OCI (§ 9-1.5403(a)).* The term "planned interests" in the definition of OCI was criticized by four organizations as being too broad a term, and they argued that it should either be eliminated or restricted to realistically foreseeable plans. Accordingly, we have revised the language to read "currently planned interests", a revision similar to that made by OFPP. Similarly, several commenters pointed out that *past* interests could give rise to an OCI. We agree with this observation and have incorporated the suggested change in the definition of OCI. It was further noted in the comments that client relationships could give rise to and OCI and should be addressed. While such coverage is implicit in the proposed regulation, clarifying words have been added to the definition of OCI. In the OCI definition, some commenters felt that the words "*may* result in • • • an unfair competitive advantage", should be changed to "*will* result in • • • an unfair competitive advantage", whereas other commenters were in complete agreement with the existing wording, "may". We believe this recommended change presupposes a degree of certainty which is not always present beforehand. While OFPP has adopted this change, we believe this change would be inconsistent with the Department's statutory criteria which address OCI in terms of *possible* conflicts of interest. Accordingly, the Department has not adopted this recommended change.

(3) *Inclusion of affiliates and subcontractors (§§ 9-1.5403(a)(g) and 9-1.5413).* Several organizations argued that including affiliates and subcontractors in OCI coverage would unduly burden many contractors. We do not believe such is the case. In any event, both Pub. L. 95-39 and Pub. L. 95-70 explicitly require that OCI apply to subcontractors. In our view, the OCI regulation must also apply to affiliates particularly in the area of possible bias. Indeed, it was precisely such a situation which prompted Congress to pass legislation requiring the Department to promulgate OCI regulations.

(4) *Government Handling of Disclosure Statements (§§ 9-1.5405 and 9-1.5407).* Opposing views were expressed on the release and/or publication of contractor disclosure statements to the public. The Department's position is that it may not and should not release proprietary information such as future business plans, acquisitions, mergers, competitive strategies which prospective contractors may submit for OCI purposes. Accordingly, it has been determined that OCI submittals will be treated in confidence and will be used by the Department only for OCI purposes to the extent permitted by law. As regards disclosure by subcontractors, many commenters requested that subcontractors be permitted to file their disclosure statements directly with the Department rather than through the prime contractor. This recommendation has been adopted.

(5) *Applicability of OCI Requirements—Grants and Financial Assistance.* One organization questioned whether or not the regulation applied to financial assistance awards. Such is not the case and it is felt that the regulation, as proposed, was sufficiently clear on this matter.

(6) *OCI Examples and Illustrative Cases.* Many groups asked that the regulation include more examples and more specific illustrative cases of OCI situations. This request has been accommodated by the addition of an Appendix A.

(7) *Disclosure Format.* Several firms asked for more specific guidance as to the type of information to be disclosed and the format for disclosure. Appendix B has been added to the regulation in order to provide this guidance.

(8) *Nature of Certification (§§ 9-1.5407 and 9-1.5408-1).* Several commenters pointed out that the certification requirement was unclear or ambiguous in that it could be interpreted to mean that prospective contractors could determine and self-certify as to the existence of an OCI. We agree and have clarified the language so that an offeror may certify only that no facts exist relevant to an OCI determination.

(9) *Due Process (§ 9-1.5414).* Many commenters expressed concern that the proposed regulation did not establish separate and distinct due process procedures for adverse OCI determinations. The Department believes that if such separate procedures were to be established, they would be little more than a costly duplication of the administrative and judicial channels already established for use by offerors and contractors seeking redress of Governmental adverse actions in the acquisition process, and this could be time consuming so as to frustrate the Department's procurement process. Accordingly, no separate and distinct due process procedures have been developed for adverse OCI determinations.

(10) *Nature of Nondisclosure or Misrepresentation (§ 9-1.5414).* Several firms requested that terms importing intent such as "knowing", "intentional", or "willful" be used to qualify the nondisclosure or misrepresentation. The Department has carefully considered this aspect and deems it inappropriate and undesirable to use such words. It is our view that to establish intent would impose a substantial burden of proof upon the Government and might well result in vitiating the remedies which this section otherwise permits the Government to invoke for specified acts of commission or omission. Such words importing intent are typically required in statutes relating to serious crimes. They are not contained in the statutes governing Department actions in the OCI area.

(11) *Other Changes Adopted.* The Department's proposed regulation of March 13, 1978 (Sec. 9-1.5405(c)) included a representation procedure for procurements exceeding $100,000 and for R&D contracts not subject to the disclosure requirement of Pub. L. 95-70. This provision was based upon the OFPP proposed rule of September 20, 1977 (Sec. 1.2406(a)) in accordance with Pub. L. 93-400 which vests authority for Federal procurement policy in the OFPP Administrator and which requires that agency procurement policies and regulations follow those prescribed by OFPP. In the light of public comments received by the Department regarding this provision, and recognizing that the OFPP revised rule of October 13, 1978 (Sec. 1.2406(a)) has deleted this provision, the Department has eliminated such coverage. However, R&D performed for the Department under Pub. L. 95-70 will still be covered (Sec. 9-1.5405). Similarly, the OCI example of "general benefit to industry" has been deleted (Sec. 9-1.5404).

For the Department of Energy.

Dated: January 8, 1979.

Hilary J. Rauch,
Deputy Director, Procurement and Contracts Management Directorate.

The regulations in 41 CFR Chapter 9, Subpart 9-1.54 is revised to read as follows:

Subpart 9-1.54 Organizational Conflicts of Interest

Sec.
9-1.5401 Scope of subpart.
9-1.5402 Policy.
9-1.5403 Definitions.
9-1.5404 Criteria for recognizing organizational conflicts of interest.
9-1.5405 Disclosure of organizational conflicts of interest.
9-1.5406 Notices and representations; action required of contracting officers.
9-1.5407 Disclosure or representation.
9-1.5408 Contract clauses.
9-1.5408-1 General contract clause.
9-1.5408-2 Special contract clauses.
9-1.5409 Evaluation, findings, and contract award.
9-1.5410 Action in lieu of termination.
9-1.5411 DOE management contractors, subcontractors and consultants.
9-1.5412 Architect-engineering and construction contracts.
9-1.5413 Subcontractors and consultants.
9-1.5414 Remedies.

Appendix A—Examples of Contractual Situations or Relationships—Organizational Conflicts of Interest
Appendix B—Disclosure Format

Authority: Sec. 644 of the Department of Energy Organization Act (Pub. L. 95-91) to implement the requirements of the Federal Nonnuclear Energy Research and Development Act of 1974 (Pub L. 93-577), as amended, and the Federal Energy Administration Act of 1974 (Pub. L. 93-275), as amended.

SUBPART 9-1.54—ORGANIZATIONAL CONFLICTS OF INTEREST

§ 9-1.5401 Scope of subpart.

This subpart sets forth Department of Energy (the "Department") policy

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and procedures regarding organizational conflicts of interest (OCI) and is issued pursuant to section 644 of the Department of Energy Organization Act (Pub. L. 95-91) to implement the requirements of the Federal Nonnuclear Energy Research and Development Act of 1974 (Pub. L. 93-577), as amended, and the Federal Energy Administration Act of 1974 (Pub. L. 93-275), as amended.

§ 9-1.5402 Policy.

It is the policy of the Department to identify and avoid or mitigate organizational conflicts of interest before entering into contracts, agreements, and other arrangements.

§ 9-1.5403 Definitions.

(a) The term "organizational conflicts of interest" means that a relationship or situation exists whereby an offeror or a contractor (including chief executives and directors, to the extent that they will or do become involved in the performance of the contract, and proposed consultants or subcontractors where they may be performing services similiar to the services provided by the prime) has past, present, or currently planned interests that either directly or indirectly through a client relationship relate to the work to be performed under a Department contract which (1) may diminish its capacity to give impartial, technically sound, objective assistance and advice or (2) may result in it being given an unfair competitive advantage. It does not include the normal flow of benefits from the performance of the contract.

(b) The term "research and development" means any work or effort the principal purpose of which involves (1) theoretical analysis, exploration, or experimentation; or (2) the extention of investigative findings and theories of a scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, devices, equipment, materials, and processes.

(c) The term "evaluation services or activities" means any work or effort the principal purpose of which involves the independent study of a technology, process, product, or policy which entails the assessment, appraisal, or survey of such technology, process, product, or policy.

(d) The term "technical consulting and management support services" means any work or effort the principal purpose of which is to provide internal assistance to any program element or other organizational component of the Department in the formulation or administration of its programs, projects, or policies which requires the contractor to be given access to internal or proprietary data. Such services typically include assistance in the preparation of program plans; evaluation, monitoring or review of contractors' activities or proposals submitted by prospective contractors; preparation of preliminary designs, specifications, or statements of work.

(e) The term "architect-engineering services" means the work or effort of a professional nature associated with the study, tests, design, supervision, and construction, alteration, or repair of real property including utilities and appurtenances thereto. Such services embrace conceptual design and Title I, Title II, and Title III work, as defined in § 9-18.306-50(b).

(f) The term "contract" means any contract, agreement or other arrangement with the Department.

(g) The term "contractor" means any person, firm, unincorporated association, joint venture, partnership, corporation or affiliates thereof, which is a party to a contract with the Department.

(h) The term "affiliates" means business concerns which are affiliates of each other when either directly or indirectly one concern or individual controls or has the power to control another, or when a third party controls or has the power to control both, (see 41 CFR § 1-1.601-1(e)).

(i) The term "subcontractor" means any subcontractor of any tier which performs work under a contract.

(j) The term "offeror" means any person, firm, unincorporated association, joint venture, partnership, corporation or affiliates thereof, submitting a bid or proposal, solicited or unsolicited to the Department to obtain a contract or modification thereof.

§ 9-1.5404 Criteria for recognizing organizational conflicts of interest.

(a) *General.* Two questions should generally be asked in determining whether organizational conflicts of interest exist: (1) Are there conflicting roles which might bias a contractor's judgment in relation to its work for the Department? (2) Is the contractor being given an unfair competitive advantage based on the performance of the contract? The ultimate determination as to whether organizational conflicts of interest exist should be made in the light of common sense and good business judgment based upon the relevant facts and the work to be performed. While it is difficult to identify, and to prescribe in advance, a specific method for avoiding all the various situations or relationships which might involve potential organizational conflicts of interest, Department personnel must pay particular attention to proposed contractual requirements which call for the rendering of advice, consultation or evaluation services, or similar activities that lay direct groundwork for the Department's decisions on future procurements, research and development programs, production and regulatory activities.

(b) *Situations or relationships involving organizational conflicts of interest.* The following general examples (which are not all-inclusive) illustrate situations or relationships where potential organizational conflicts of interest frequently arise. Specific examples are set forth in Appendix A.

(1) Contract performance involving the preparation and furnishing of complete or essentially complete specifications which are to be used in a competitive procurement for the furnishing of products or services.

(2) Contract performance involving the preparation and furnishing of a detailed plan for specific approaches or methodologies that are to be incorporated in a competitive procurement.

(3) Contract performance involving access to internal information not available to the public concerning Departmental plans or programs and related opinions, clarifications, interpretations and positions.

(4) Contract performance involving access to proprietary information which cannot lawfully be used for purposes other than those authorized by the owners.

(5) Contract performance involving evaluation of the contractor's products or services, or the products or services of another party where the contractor is or has been substantially involved in their development or marketing.

(c) *Other considerations.* An organizational conflict of interest may exist or arise:

(1) Even though no follow-on procurement is anticipated;

(2) Even though a hardware exclusion clause may not be appropriate; and

(3) When a contract is awarded on a noncompetitive or a sole source basis.

(d) An organizational conflict of interest is more likely to be disclosed if a contract is competitive. Accordingly, greater care shall be exercised in the absence of competition.

§ 9-1.5405 Disclosure of organizational conflicts of interest.

When submitting solicitations and unsolicited proposals for (1) evaluation services or activities; (2) technical consulting and management support services and professional services; (3) research and development conducted pursuant to the authority of the Federal Energy Administration Act of 1974 (Pub. L. 93-275), as amended; and (4) other contractual situations where special organizational conflicts of interest provisions are noted in the solicitation and included in the resulting contract, offerors shall be required to disclose relevant information bearing on the possible existence of any organizational conflicts of interest or complete the representation required by 9-1.5407. This requirement shall also apply to all modifications of contracts of the types noted above except those issued under the "Changes" clause. Where, however, a disclosure statement of the type required by the Organizational Conflicts of Interest Disclosure or Representation provision has previously been submitted with regard to the contract being modified, only an updating of such statement shall be required. Information submitted by offerors pursuant to the disclosure requirement shall be treated by the Department, to the extent permitted by law, as confidential information to be used solely for OCI purposes.

When the Government finds that an organizational conflict of interest exists or may exist with respect to an offeror or contractor, no contract or contract modification award covered by Section 9-1.5407 shall be made until the organizational conflict of interest has been adequately avoided or mitigated, except as provided in 9-5409 below.

§ 9-1.5406 Notices and representations; action required of contracting officers.

The disclosure or representation required by § 9-1.5407 is designed to alert the contracting officer to situations or relationships which may constitute either present or anticipated organizational conflicts of interest with respect to a particular offeror or contractor. However, this disclosure or representation may not identify a potential organizational conflict of interest involving a successful offeror that could affect the offeror's participation in subsequent procurements arising out of or related to work performed under a contract that results from the solicitation currently under consideration. Accordingly, whenever such potential conflicts are foreseeable by the Government, a special notice also shall be included in the solicitation informing offerors of the fact that such a potential conflict is foreseen and that a special contract clause designed to avoid or mitigate such contract will be included in any resultant contract as required by § 9-1.5407. Such notice shall specify the proposed extent and duration of restrictions to be imposed with respect to participation in subsequent procurements. A fixed term of reasonable duration is measured by the time required to eliminate what would otherwise constitute an unfair competitive advantage. This is a variable; and in no event shall an exclusion be stated which is not related to a specific expiration date or an event certain. In the event a contractor, having performed on one contract, later seeks work that stems or may be deemed to stem directly from prior performance, such contractor shall not be precluded from proposing on follow-on work unless the prior contract contained an appropriate follow-on restriction.

§ 9-1.5407 Disclosure or representation.

(a) The following disclosure or representation provision shall be included in all solicitations, scope modifications and unsolicited proposals for (1) evaluation services or activities; (2) technical consulting and management support services and professional services; (3) research and development conducted pursuant to the authority of the Federal Energy Administration Act of 1974 (Pub. L. 93-275), as amended; and (4) other contractual situations where special organizational conflicts of interest provisions are noted in the solicitation and included in the resulting contract. Appendix B contains a suggested format for the disclosure submission.

ORGANIZATIONAL CONFLICTS OF INTEREST DISCLOSURE OR REPRESENTATION

It is Department of Energy policy to avoid situations which place an offeror in a position where its judgment may be biased because of any past, present, or currently planned interest, financial or otherwise, the offeror may have which relates to the work to be performed pursuant to this solicitation or where the offeror's performance of such work may provide it with an unfair competitive advantage. (As used herein, "offeror" means the proposer or any of its affiliates or proposed consultants or subcontractors of any tier). Therefore:

(a) The offeror shall provide a statement which describes in a concise manner all relevant facts concerning any past, present, or currently planned interest (financial, contractual, organizational, or otherwise) relating to the work to be performed hereunder and bearing on whether the offeror has a possible organizational conflict of interest with respect to (a) being able to render impartial, technically sound, and objective assistance or advice, or (b) being given an unfair competitive advantage. The offeror may also provide relevant facts that show how its organizational structure and/or management systems limit its knowledge of possible organizational conflicts of interest relating to other divisions or sections of the organization and how that structure or system would avoid or mitigate such organizational conflict.

(b) In the absence of any relevant interests referred to above, the offeror shall submit a statement certifying that to its best knowledge and belief no such facts exist relevant to possible organizational conflicts of interest. Proposed consultants and subcontractors shall submit such information directly to the contracting officer.

(c) The Department will review the statement submitted and may require additional relevant information from the offeror. All such information, and any other relevant information known to the Department, will be used to determine whether an award to the offeror may create an organizational conflict of interest. If such organizational conflict of interest is found to exist, the Department may (i) impose appropriate conditions which avoid such conflict, (ii) disqualify the offeror, or (iii) determine that it is otherwise in the best interests of the United States to contract with the offeror by including appropriate conditions mitigating such conflict in the contract awarded.

(d) The refusal to provide the disclosure or representation and any additional information as required shall result in disqualification of the offeror for award. The nondisclosure or misrepresentation of any relevant interest may also result in the disqualification of the offeror for award, or if such nondisclosure or misrepresentation is discovered after award the resulting contract may be terminated for default. The offeror may also be disqualified from subsequent related Department contracts, and be subject to such other remedial action as may be permitted or provided by law or in the resulting contract. The attention of the offeror in complying with this provision is directed to 18 U.S.C. 1001.

(e) Depending on the nature of the contract activities, the offeror may, because of possible organizational conflicts of interest, propose to exclude specific kinds of work from the statement of work contained in a solicitation for a negotiated procurement, unless the solicitation specifically prohibits such exclusion. Any such proposed exclusion by an offeror shall be considered by the Department in the evaluation of proposals, and if the Department considers the proposed excluded work to be an essential or integral part of the required work, the proposal may be rejected as unacceptable.

(f) No award shall be made until the disclosure or representation has been evaluated by the Government. Failure to provide the disclosure or representation will be deemed to be a minor informality (FPR § 1-2.405) and the offeror or contractor shall be required to promptly correct the omission.

§ 9-1.5408 Contract clauses.

§ 9-1.5408-1 General contract clause.

Except where a special clause has been determined to be appropriate, all contracts subject to the disclosure or representation requirement of 9-1.5407 shall include the following clause:

ORGANIZATIONAL CONFLICTS OF INTEREST—GENERAL

(a) The contractor warrants that, to the best of its knowledge and belief, and except as otherwise disclosed, there are no relevant facts which would give rise to organizational conflicts of interest, as defined in 41 CFR § 9-1.5403(a) or that the contractor has disclosed all relevant information.

(b) The contractor agrees that, if after award, an organizational conflicts of interest with respect to this contract, is discovered, an immediate and full disclosure in writing shall be made to the contracting officer which shall include a description of the action which the contractor has taken or proposes to take to avoid or mitigate such conflicts. The Department may, however, terminate the contract for its convenience if it deems such termination to be in the best interests of the Government.

(c) In the event that the contractor was aware of an organizational conflict of interest prior to the award of this contract and did not disclose the conflict to the Contracting Officer, the Government may terminate the contract for default.

(d) The provisions of this clause shall be included in all subcontracts for work to be performed similar to the services provided by the prime contractor, and the terms "contract," "contractor," and "contracting officer" modified appropriately to preserve the Government's rights.

§ 9-1.5408.2 Special contract clauses.

(a) If it determine from the nature of the proposed contract that a potential organizational conflict of interest may exist, the contracting officer may determined that such conflict can be avoided through the use of an appropriate special contract clause. Examples of the types of clauses which may be employed include but are not limited to the following:

(1) Hardware exclusion clauses which prohibit the acceptance of production contracts following a related nonproduction contract previously performed by the contractor;

(2) Software exclusion clauses;

(3) Clauses which require the contractor (and/or certain of its key personnel) to avoid certain organizational conflicts of interest;

(4) Clauses which provide for the protection of the confidentiality of data and guard against its unauthorized use; and

(5) Clauses that prohibit other segments or divisions of the contractor from becoming involved in the performance of the contract work or being in a position to influence such work.

If deemed appropriate, the prospective contractor may be given the opportunity to negotiate the terms and conditions of the clause and its application including the extent and time period of any restrictions.

(b) Contracts for technical consulting and management support services, as defined in § 9-1.5403(d), are particularly susceptible to organizational conflicts of interest. Therefore, the following contract clause shall be included in all contracts for technical consulting and management support services. This clause, after any appropriate modification, may also be included in any contract for professional services and evaluation services and activities:

ORGANIZATIONAL CONFLICTS OF INTEREST

(a) *Purpose.* The primary purpose of this clause is to aid in ensuring that the Contractor (1) is not biased because of its past, present, or currently planned interests (financial, contractual, organizational, or otherwise) which relate to the work under this contract, and (2) does not obtain any unfair competitive advantage over other parties by virtue of its performance of this contract.

(b) *Scope.* The restrictions described herein shall apply to performance or participation by the Contractor and any of its affiliates or their successors in interest (hereinafter collectively referred to as the "Contractor") in the activities covered by this clause as a prime contractor, subcontractor, Cosponsor, joint venturer, consultant, or in any similar capacity.

(1) Technical consulting and management support services. (i) The Contractor shall be ineligible to participate in any capacity in Department contracts, subcontracts, or proposals therefor (solicited or unsolicited) which stem directly from the contractor's performance of work under this contract. Furthermore, unless so directed in writing by the Contracting Officer, the Contractor shall not perform any technical consulting or management support services work under this contract on any of its products or services or the products or services of another firm if the Contractor is or has been substantially involved in their development or marketing. Nothing in this subparagraph shall preclude the contractor from competing for follow-on contracts for technical consulting and management support services.

(ii) If the Contractor under this contract prepares a complete or essentially complete statement of work or specifications to be used in competitive procurements, the Contractor shall be ineligible to perform or participate in any capacity in any contractual effort which is based on such statement of work or specifications. The Contractor shall not incorporate its products or services in such statement of work or specifications unless so directed in writing by the Contracting Officer, in which case the restriction in this subparagraph shall not apply.

(iii) Nothing in this paragraph shall preclude the Contractor from offering or selling its standard commercial items to the Government.

(2) Access to and Use of Information. (i) If the Contractor, in the performance of this contract, obtains access to information, such as Department plans, policies, reports, studies, financial plans, internal data protected by the Privacy Act of 1974 (Pub. L. 93-579), or data which has not been released or otherwise made available to the public, the Contractor agrees that without prior written approval of the contracting officer it shall not: (a) Use such information for any private purpose unless the information has been released or otherwise made available to the public; (b) compete for work for the Department based on such information for a period of six (6) months after either the completion of this contract, or until such information is released or otherwise made available to the public, whichever is first; (c) submit an unsolicited proposal to the Government which is based on such information until one year after such information is released or otherwise made available to the public; and (d) release such information unless such information has previously been released or otherwise made available to the public by the Department.

(ii) In addition, the Contractor agrees that to the extent it receives or is given access to proprietary data, data protected by the Privacy Act of 1974 (Pub. L. 93-579), or other confidential or privileged technical, business, or financial information under this contract, it shall treat such information in accordance with any restrictions imposed on such information.

(iii) The Contractor shall have, subject to patent and security provisions of this contract, the right to use technical data it first produces under this contract for its private purpose provided that, as of the date of such use, all reporting requirements of this contract have been met.

(c) *Disclosure after Award.* (1) The Contractor agrees that if after award it discovers an organizational conflict of interest with respect to this contract, an immediate and full disclosure shall be made in writing to Contracting Officer which shall include a description of the action which the Contractor has taken or proposes to take to avoid or mitigate such conflicts. The Department may, however, terminate the contract for convenience if it deems such termination to be in the best interests of the Government.

(2) In the event that the contractor was aware of an organizational conflict of interest prior to the award of this contract and did not disclose the conflict to the contracting officer, the Department may terminate the contract for default.

(d) *Subcontracts.* The Contractor shall include this clause, including this paragraph, in subcontracts of any tier which involve performance or work of the type specified in (b)(1) above or access to information of the type covered in (b)(2) above. The terms "contract", "contractor" and "contracting officer" shall be appropriately modified to preserve the Government's rights.

(e) *Remedies.* For breach of any of the above restrictions or for nondisclosure or misrepresentation of any relevant facts required to be disclosed concerning this contract, the Government may terminate the contract for default, disqualify the Contractor for subsequent related contractual efforts and pursue such other remedies as may be permitted by law or this contract.

(f) *Waiver.* Requests for waiver under this clause shall be directed in writing to the Contracting Officer and shall include a full description of the requested waiver and the reasons in support thereof. If it is determined to be in the best interests of the Government, the Contracting Officer shall grant such a waiver in writing.

§ 9-1.5409 Evaluation, findings, and contract award.

(a) The contracting officer or selection official, as appropriate, shall evaluate all relevant facts submitted by an offeror pursuant to the requirements of § 9-1.5407 and such other relevant information as may be available concerning possible organizational conflicts of interest. After evaluating all such information in accordance with the criteria of § 9-1.5404 and prior to any award, a finding shall be made by the contracting officer whether possible organizational conflicts of interest exit with respect to a particular offeror or whether there is little or no likelihood that such conflicts exist. If the finding indicates that such conflicts exist, then the contracting officer shall:

(1) Disqualify the offeror from award; or

(2) Avoid such conflicts by the inclusion of appropriate conditions in the resulting contract; or

(3) If such conflicts cannot be avoided by an appropriate contract provision, and the Secretary or the Secretary's designee has nevertheless determined that award of the contract to the offeror is in the best interest of the United States, the contract may be awarded. Where such a public interest determination is made, an appropriate written finding and determination shall be published in the FEDERAL REGISTER and an appropriate clause included in the contract to mitigate the conflict, to the extent feasible prior to any award.

(b) Examples of circumstances justifying the determination permitted by § 9-1.5409(a)(3) include but are not limited to:

(1) Situations where the public exigency will not otherwise permit; and

(2) Situations where the work or services cannot otherwise be obtained.

§ 9-1.5410 Action in lieu of termination.

If after award a possible organizational conflict of interest is identified by the contractor or other sources and the contracting officer determines that such a conflict does in fact exist and that it would not be in the best interests of the Government to terminate the contract as provided in the clauses required by § 9-1.5408, the contracting officer shall take every reasonable action to avoid or mitigate the effects of the conflict.

§ 9-1.5411 DOE management contractors, subcontractors and consultants.

The missions and functions of the Department require the use of contractors to operate and manage the Department's facilities on a long-term basis pursuant to Part § 9-50. Where such an operating contract is to be renewed, the contracting officer should exercise special care in incorporating an appropriate organizational conflicts of interest provision therein. Whenever an operating contract is not to be renewed, but a new selection is to be made, the disclosure or representation requirement of § 9-1.5407 and an appropriate clause should be included in the solicitation and resulting contract. In preparing such clause, the contracting officer shall consider provisions which assure appropriate restraints on intercorporate relations between the contractor's organization and personnel operating the Department's facility and its parent corporate body and affiliates, including personnel access to the facility, technical transfer of information from the facility, and the availability from the facility of other advantages flowing from performance of the contract. The subcontractors and consultants of Department operating contractors should be, to the extent feasible, made subject to the requirements of this subpart as if they were performing the work as prime contractors to the Department.

§ 9-1.5412 Architect-engineering and construction contracts.

(a) The award of related architect-engineering services and construction contracts or subcontracts to the same contractor can result in self-inspection of construction work and permit the contractor to render biased decisions. Such contract awards shall not be permitted unless a waiver is obtained prior to award from the Department's senior procurement official.

(b) The award of architect-engineering services contracts, the principal purpose of which is to provide evaluation services and activities or technical consulting and management support services, shall be subject to the requirements of § 9-1.5407 and § 9-1.5408-2(b).

§ 9-1.5413 Subcontractors and consultants.

The contracting officer shall require offerors and contractors to obtain for the Department a disclosure or representation in accordance with subsection 9-1.5407 from subcontractors and consultants who may be performing services similar to the services provided by the prime except that subcontractors shall not normally be required to submit the disclosure or representation if such subcontract is for supplies. Such disclosure or representation shall be submitted by the subcontractors and consultants directly to the contracting officer and they shall be treated by the Department as confidential information to be used solely for OCI purposes. The contracting officer shall assure that contract clauses in accordance with § 9-1.5408 are included in subcontracts or consultant agreements involving performance of work under a prime contract covered by this subpart.

§ 9-1.5414 Remedies.

In addition to such other remedies as may be permitted by law or contract, for a breach of any of the restrictions in this subpart or for nondisclosure or misrepresentation of any relevant facts required to be disclosed by this subpart, the Department may disqualify the contractor for subsequent Department contracts. Contractors and offerors may also be subject to the criminal penalties expressed in 18 U.S.C. § 1001 for such violations.

APPENDIX A

Specific Examples of Contractual Situations or Relationships—Organizational Conflicts of Interest

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GENERAL

In development work it is normal to select firms which have done the most advanced work in the field. It is to be expected that these firms will design and develop around their own prior knowledge. Development contractors can frequently start production earlier and more knowledgeably than firms which did not participate in the development, and this affects the time and quality of production, both of which are important to the Government. In many instances the Government may have financed such development. Thus, the development contractor may have an unavoidable competitive advantage which is not considered unfair and no prohibition should be imposed.

EXAMPLES

The following examples illustrate types of situations and relationships where organizational conflict of interest questions frequently arise, but they are not all inclusive.

Example 1

Contractor A in connection with the performance of a study contract is given information by the Department regarding the Department plans for future procurements. This information is not available to interested industrial firms.

Guidance. Normally this would constitute an OCI and the contractor should not be permitted to compete with such firms for work relating to such plans.

Example 2

Company A in response to a request for proposals (RFP), proposes to undertake certain analyses of an energy savings device as called for in the RFP. The company is one of several companies considered to be technically well qualified. In response to the inquiry in the RFP, A advises that it is currently performing similar analyses for the manufacturer of the device.

Guidance. Normally this would constitute an OCI and a contract for that particular would not be awarded to Company A because it would be placed in a position in which its judgment could be biased in relationship to its work for the Department. Since there are other well qualified companies available, there would be no reason for granting a waiver of the policy.

Example 3

Accounting firm A in response to a request for proposal, proposes to undertake an analysis of the profitability of one segment of the energy industry. The firm is one of several firms considered to be technically well qualified. In response to the inquiry in the RFP, A advises that it derives a substantial portion of its income from the industry to be studied.

Guidance. Normally this would constitute an OCI and a contract would not be awarded to firm A because it would be placed in a position in which its judgment could be biased in relationship to its work for the Department.

Example 4

Company A prepares updated Government specifications for a standard refrigerator to be procured competitively.

Guidance. Normally this would constitute an OCI and Company A shall not be allowed for a reasonable period of time to compete for supply of the refrigerator.

Example 5

Company A designs or develops new electronics equipment and, as a result of the design or development, prepares specifications.

Guidance. Normally this would not constitute an OCI and the company may supply the electronics equipment.

Example 6

A tool company and/or a machinery company representing the American Tool Institute works under the supervision and control of Government representatives to refine specifications or to clarify the requirements of a specific procurement.

Guidance. Normally this would not constitute an OCI and these companies may supply the item.

Example 7

Prior to procurement of Automatic Data Processing (ADP) Equipment, Company A is awarded a contract to develop software to automate a DOE function. Since software can be written to favor a particular vendor's commercial ADP hardware, a potential conflict of interest exists.

Guidance. Normally this would constitute an OCI and Company A should be barred from at least the initial follow-on ADP hardware procurement using the software developed under its development contract.

Example 8

Company A receives a contract to define the detailed performance characteristics a Government agency will require for the purchase of rocket fuels. A has not developed the particular fuels. At the time the contract is awarded, it is clear to both parties that the performance characteristics arrived at will be used by the Government agency to choose competitively a contractor to develop or produce the fuels.

Guidance. Normally this would constitute an OCI and Company A shall not be permitted to bid on this procurement.

Example 9

Company A receives a contract to prepare a detailed plan for the procurement of services aimed at the advanced scientific and engineering training of the Department's personnel. It suggests a curriculum which the agency endorses and incorporates in requests for proposals to various institutions to establish and conduct such training.

Guidance. Normally this would constitute an OCI and Company A shall not be permitted to bid on this procurement.

Example 10

Consulting firm A in response to a request for proposals (RFP), proposes to undertake an evaluation of the environmental impacts of coal-fired power plants as called for in the RFP. The company is one of several companies considered to be technically well qualified. In response to the inquiry in the RFP, A advises that it derives a substantial portion of its income from companies which manufacture nuclear power plants.

Guidance. Normally this would constitute an OCI and a contract for that particular work would not be awarded to Company A because it would be placed in a position in which its judgment could be biased in relationship to its work for the Department.

Example 11

Consultant firm A derives a substantial portion of its income from Company B in connection with the study of natural gas production. Company B is also heavily involved with motor gasoline marketing. A discloses these facts in response to an RFP for a study of motor gas marketing.

Guidance. Normally this would constitute an OCI and a contract for the study of motor gasoline marketing plants would not be awarded to Company A because it would be placed in a position in which its judgment could be biased in relationship to its work for the Department.

APPENDIX B

DISCLOSURE FORMAT

With respect to past, present, and currently planned interests (financial, contractual, organizational, or otherwise) the offeror should furnish a list of past, present, and currently planned activities (including contracts) which relate to the work to be performed under the solicitation. The list may be in columnar format showing:

(a) the company (or agency) for which the work is being, has been, or will be performed;

(b) nature of the work (a brief description);

(c) period of performance for the work; and

(d) dollar value of the work;

(e) sales and marketing activity.

Similar information should be provided by the covered subcontractors and consultants relating to the work to be performed by them under the solicitation.

[FR Doc. 79-1032 Filed 1-10-79; 8:45 am]

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federal register

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FRIDAY, JANUARY 12, 1979

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Rules Going Into Effect Today

NOTE: There were no items eligible for inclusion in the list of RULES GOING INTO EFFECT TODAY.

List of Public Laws

NOTE: A complete listing of all public laws from the second session of the 95th Congress was published as Part II of the issue of December 4, 1978. (Price: 75 cents. Order by stock number 022-002-00960-4 from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402, Telephone 202-275-3030.)

The continuing listing will be resumed upon enactment of the first public law for the first session of the 96th Congress, which will convene on Monday, January 15, 1979.

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Title 3—
The President

Proclamation 4633 of January 10, 1979

American Heart Month, 1979

By the President of the United States of America

A Proclamation

More than 40 million Americans suffer from some form of heart or blood vessel disease. During 1979, these diseases and their complications will claim more than 980,000 lives and partially or completely disable several million other Americans. The total economic cost in disability payments, medical expenses and lost wages and productivity will exceed $50 billion.

The picture would be darker had not the Nation launched a concerted effort against cardiovascular diseases more than thirty years ago. Since 1948, this effort has resulted in greatly increased support for cardiovascular research; for training thousands of new research workers and clinicians; for health education and information programs; and for community service programs concerned with preventing, diagnosing, and relieving cardiovascular diseases. Over this period, we have learned more about the cardiovascular system and its diseases than during all previous medical history. The application of this knowledge has enabled us to decrease the mortality rate for all cardiovascular diseases combined by 30 percent.

Our successes in combatting cardiovascular diseases have accelerated since 1968. I am particularly gratified that the mortality rate of the two major killers among this family of diseases—coronary heart disease and stroke—has decreased nearly 20 and 25 percent respectively.

If present trends continue during 1979, there will be at least 170,000 fewer deaths from cardiovascular disease in the U.S. than if the mortality rates of ten years ago still prevailed.

Two organizations have been in the forefront of the national effort against the cardiovascular diseases: the National Heart, Lung and Blood Institute—a Federal agency—and the American Heart Association, supported by private contributions. But it has been a cooperative effort involving a great many agencies and groups—Federal and private, national and local. Our continued success must rest, as always, on the support and participation of the American people.

Recognizing the need for all Americans to help in the battle against cardiovascular disease, the Congress, by joint resolution approved December 30, 1963 (77 Stat. 843; 26 U.S.C. 169b) has requested the President to issue annually a proclamation designating February as American Heart Month.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby proclaim the month of February, 1979, as American Heart Month. I invite the Governors of the States, the appropriate officials of all

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other areas subject to the jurisdiction of the United States and the American people to join with me in reaffirming our commitment to the search for new ways to prevent, detect and control cardiovascular disease in all its forms.

IN WITNESS WHEREOF, I have hereunto set my hand this tenth day of January, in the year of our Lord nineteen hundred seventy-nine, and of the Independence of the United States of America the two hundred and third.

Jimmy Carter

[FR Doc. 79–1366
Filed 1–10–79; 4:59 pm]

Billing Code 3195–01–M

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[6325-01-M]

Title 5—Administrative Personnel

CHAPTER I—OFFICE OF PERSONNEL MANAGEMENT

PART 213—EXCEPTED SERVICE

Department of Energy

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment (1) changes the title of certain positions at the Department of Energy from two Private Secretaries to Commissioners, Federal Power Commission to two Private Secretaries to Members of the Commission, Federal Energy Regulatory Commission, and from two Confidential Assistants to Commissioners, Federal Power Commission to two Confidential Assistants to Members of the Commission, Federal Energy Regulatory Commission. These changes reflect the current title of the superiors and reflects an organizational transfer of the positions. These positions formerly existed at the Federal Power Commission and were subsequently transferred to the Department of Energy on September 30, 1977. And (2) revokes a position because it has been vacant for more than 60 days.

EFFECTIVE DATE: December 29, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3331(c)(2) and (7) are amended to read as set out below:

§ 213.3331 Department of Energy.

* * * * *

(c) *Federal Energy Regulatory Commission.* * * *

(2) Four Private Secretaries, one to each Member of the Commission.

* * * * *

(7) Four Confidential Assistants, one to each Member of the Commission.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

Office of Personnel Management.

JAMES C. SPRY,
Special Assistant to the Director.

[FR Doc. 79-1190 Filed 1-11-79; 8:45 am]

[6325-01-M]

PART 213—EXCEPTED SERVICE

Overseas Private Investment Corporation

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment (1) revokes a position at the Overseas Private Investment Corporation because the need for the position no longer exists and the position has been abolished and (2) excepts under Schedule C a position at the Overseas Private Investment Corporation because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: December 29, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3317(c) is revoked and (g) is added as set out below:

§ 213.3317 Overseas Private Investment Corporation.

* * * * *

(c) [Revoked].

* * * * *

(g) One Administrative Assistant to the Vice President/General Counsel.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

Office of Personnel Management.

JAMES C. SPRY,
Special Assistant to the Director.

[FR Doc. 79-1265 Filed 1-11-79; 8:45 am]

[1505-01-M]

CHAPTER I—CIVIL SERVICE COMMISSION

PART 550—PAY ADMINISTRATION (GENERAL)

Income Tax Withholding

Correction

In FR Doc. 78-36353 appearing at page 60857 in the issue for Friday, December 29, 1978, the final paragraph in the middle column, beginning "The payment of city * * *" should be preceded by "(b)".

[3410-11-M]

Title 7—Agriculture

SUBTITLE A—OFFICE OF THE SECRETARY OF AGRICULTURE

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

Delegations for Renewable Resource Research and Cooperative Forestry Assistance

AGENCY: Office of the Secretary, USDA.

ACTION: Final rule.

SUMMARY: This document revises the delegations of authority to the Assistant Secretary of Conservation, Research, and Education and to the Chief of the Forest Service due to the passage of the Cooperative Forestry Assistance Act of 1978 (Pub. L. 95-313; 16 U.S.C. 2101-2111) and the Forest and Rangeland Renewable Resources Research Act of 1978 (Pub. L. 95-307;

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16 U.S.C. 1641-1647). It also makes minor additional changes.

EFFECTIVE DATE: January 12, 1979.

FOR FURTHER INFORMATION CONTACT:

Robert G. Rippey, Administrative Management Staff, Forest Service, USDA, P.O. Box 2417, Washington, D.C. 20013, 202-447-9133.

In accordance with exceptions to rulemaking procedures in 5 U.S.C. 553 and Department of Agriculture policy (36 FR 13804), it has been determined that advance notice and public participation are unnecessary.

Accordingly, Part 2, Subtitle A, Title 7 of the Code of Federal Regulations is amended as follows:

Subpart C—Delegations of Authority to the Deputy Secretary, Assistant Secretaries, the Director of Economics, Policy Analysis and Budget, and the Director, Office of Government and Public Affairs

1. Section 2.19 is amended by revising paragraphs (d)(3), (4), (5), (9), (11) and by combining paragraphs (d)(19) and (20) into a new paragraph (d)(19) as follows:

§ 2.19 **Delegations of authority to the Assistant Secretary for Conservation, Research, and Education.**

* * * * *

(d) *Related to Forest Service.* * * *

(3) Conduct, support, and cooperate in investigations, experiments, tests, and other activities deemed necessary to obtain, analyze, develop, demonstrate, and disseminate scientific information about protecting, managing, and utilizing forest and rangeland renewable resources in rural, suburban, and urban areas in the United States and foreign countries. The activities conducted, supported, or cooperated in shall include, but not be limited to: renewable resource management research, renewable resource environmental research, renewable resource protection research, renewable resource utilization research, and renewable resource assessment research (16 U.S.C. 1641-1647). Use authorities and means available to disseminate the knowledge and technology developed from forestry research. Coordinate activities with other agencies in the Department, other Federal and State agencies; forestry schools, and private entities and individuals (16 U.S.C. 2101-2111).

(4) Administer programs of cooperative forestry assistance in the protection, conservation, and multiple resource management of forests and related resources in both rural and urban areas. Provide assistance to States in forest resources planning. Conduct a program of technology implementation for State forestry personnel, private forest landowners and managers, vendors, forest operators, public agencies, and individuals (16 U.S.C. 2101-2111).

(5) Administer forest insect, disease, and other pest control and eradication programs.

* * * * *

(9) Provide assistance to the Agricultural Stabilization and Conservation Service in connection with the agricultural conservation program, the naval stores conservation program, and the cropland conversion program (16 U.S.C. 590g-590q). Jointly administer the Forestry Incentives Program with the Agricultural Stabilization and Conservation Service, in consultation with State Foresters (16 U.S.C. 2103).

* * * * *

(11) Enter into contracts, grants, and coopertative agreements, for the support of scientific research in forestry activities (7 U.S.C. 427i(a) and 1624; and 16 U.S.C. 1643-1645).

* * * * *

(19) Administer rural fire protection and control programs (16 U.S.C. 2106).

* * * * *

Subpart G—Delegations of Authority by the Assistant Secretary for Conservation, Research, and Education

2. Section 2.60 is amended by revising paragraphs (a)(3), (4), (5), (9), (11); combining paragraphs (a)(18) and (19) into a new paragraph (a)(18); redesignating paragraph (a)(20) as (a)(19); and by revising paragraph (b)(9) to read as follows:

§ 2.60 **Chief, Forest Service.**

(a) *Delegations.* * * *

(3) Conduct, support, and cooperate in investigations, experiments, tests, and other activities deemed necessary to obtain, analyze, develop, demonstrate, and disseminate scientific information about protecting, managing, and utilizing forest and rangeland renewable resources in rural, suburban, and urban areas in the United States and foreign countries. The activities conducted, supported, or cooperated in shall include, but not be limited to: renewable resource management research, renewable resource environmental research, renewable resource protection research, renewable resource utilization research, and renewable resource assessment research (16 U.S.C. 1641-1647). Use authorities and means available to disseminate the knowledge and technology developed from forestry research. Coordinate activities with other agencies in the Department, other Federal and State agencies; forestry schools, and private entities and individuals (16 U.S.C. 2101-2111).

(4) Administer programs of cooperative forestry assistance in the protection, conservation, and multiple resource management of forests and related resources in both rural and urban areas. Provide assistance to States in forest resources planning. Conduct a program of technology implementation for State forestry personnel, private forest landowners and managers, vendors, forest operators, public agencies, and individuals (16 U.S.C. 2101-2111).

(5) Administer forest insect, disease, and other pest control and eradication programs.

* * * * *

(9) Provide assistance to the Agricultural Stabilization and Conservation Service in connection with the agricultural conservation program, the naval stores conservation program, and the cropland conversion program (16 U.S.C. 590g-590q). Jointly administer the Forestry Incentives Program with the Agricultural Stabilization and Conservation Service, in consultation with State Foresters (16 U.S.C. 2103).

* * * * *

(11) Enter into contracts, grants, and cooperative agreements for the support of scientific research in forestry activities (7 U.S.C. 427i(a) and 1624; and 16 U.S.C. 1643-1645).

* * * * *

(18) Administer rural fire protection and control programs (16 U.S.C. 2106).

(19) Administer responsibilities and functions assigned under the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 et seq.), and the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2251 et seq.) relating to forests and forest products, rural fire defense, and forestry research.

(b) *Reservations.* The following authorities are reserved to the Assistant Secretary of Agriculture for Conservation, Research, and Education: * * *

(9) Approving the use of 2, 4, 5-T, Silvex, and any other dioxin-contaminated herbicides on the National Forests. Approving the use of chemicals or other preventive practices for control of outbreaks of insects and diseases in wilderness areas within the National Forests (16 U.S.C. 2104).

(5 U.S.C 301 and Reorganization Plan No. 2 of 1953).

Dated: January 8, 1979.

BOB BERGLAND,
Secretary.

[FR Doc. 79-1081 Filed 1-11-79; 8:45 am]

[3410-05-M]

CHAPTER VII—AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE (AGRICULTURAL ADJUSTMENT), DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

PART 722—COTTON

Subpart—1979 Crop of Extra Long Staple Cotton; Acreage Allotments and Marketing Quotas

AGENCY: Agricultural Stabilization and Conservation Service, Department of Agriculture.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to proclaim the result of the national marketing quota referendum with respect to the 1979 crop of extra long staple cotton held during the period December 4-8, 1978, each inclusive. The Agricultural Adjustment Act of 1938, as amended, requires that the result of the referendum be proclaimed within thrity days after the referendum. This rule is needed to satisfy this statutory requirement.

EFFECTIVE DATE: January 8, 1979.

ADDRESS: Production Adjustment Division, ASCS, USDA, 3630 South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

Charles V. Cunningham (ASCS) (202) 447-7873.

SUPPLEMENTARY INFORMATION: In accordance with section 343 of the Agricultural Adjustment Act of 1938, as amended, a referendum with respect to marketing quotas for extra long staple (ELS) cotton was conducted by the Agricultural Stabilization and Conservation Service (ASCS) on December 4-8, 1978, to determine whether farmers were in favor of or opposed to the marketing quota proclaimed by the Secretary of Agriculture for the 1979 crop of ELS cotton. It is essential that this rule be made effective as soon as possible since the proclamation of the result of the referendum is required by section 313 of the 1938 Act to be made not later than thirty days after the referendum. Accordingly, it is hereby found and determined that compliance with any further rulemaking requirements of 5 U.S.C. 553 is impracticable and contrary to the public interest. Therefore, this amendment to 7 CFR § 722.564 shall be effective upon filing this document with the Director, Office of the Federal Register. The material previously appearing in this section remains in full force and effect as to the crop to which it was applicable. Accordingly, 17 CFR § 722.564 and the title of the subpart preceding 7 CFR § 722.564 are amended to read as follows:

FINAL RULE

Subpart—1979 Crop of Extra Long Staple Cotton: Acreage Allotments and Marketing Quotas

§ 722.564 **Result of the national marketing quota referendum for the 1979 crop of extra long staple cotton.**

(a) *Referendum period.* The national marketing quota referendum for the 1979 crop of extra long staple cotton was held by mail ballot during the period December 4 to 8, 1978, each inclusive, in accordance with § 722.561 (43 FR 48990) and Part 717 of this chapter.

(b) *Farmers voting.* A total of 974 farmers engaged in the production of the 1978 crop of extra long staple cotton voted in the referendum. Of those voting, 879 farmers, or 90.2 percent, favored the 1979 national marketing quota, and 95 farmers, or 9.8 percent, opposed the 1979 national marketing quota.

(c) *1979 National marketing quota continues in effect.* The national marketing quota for the 1979 crop of extra long staple cotton of 137,000 bales proclaimed in § 722.558 (43 FR 48990) shall continue in effect since two-thirds or more of the extra long staple cotton farmers voting in the referendum favored the quota.

(Sec. 343, 63 Stat. 670, as amended (7 U.S.C. 1343).)

NOTE: An approved impact analysis statement is available from Charles V. Cunningham (ASCS), (202) 447-7873.

NOTE: The ASCS, to meet the requirements of the National Environmental Policy Act (Pub. L. 91-190, 42 U.S.C. 4321 et seq.) has determined that the impact of the marketing quota and allotment for ELS cotton on the human environment is not significant. Therefore, no environmental impact statement is needed.

Signed at Washington, D.C. on January 8, 1979.

RAY FITZGERALD,
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 79-1014 Filed 1-8-79; 3:55 pm]

[3410-05-M]

SUBCHAPTER D—PROVISIONS COMMON TO MORE THAN ONE PERSON

PART 795—PAYMENT LIMITATION

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Correction of authority.

SUMMARY: In F.R. Doc. 43-9784 appearing at page 9784 in the FEDERAL REGISTER of March 10, 1978, the authority is corrected by deleting Pub. L. 93-86, 87 Stat. 221 and inserting Pub. L. 95-113, 91 Stat. 917.

Signed at Washington, D.C., December 27, 1978.

RAY FITZGERALD,
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 79-846 Filed 1-11-79; 8:45 am]

[3410-02-M]

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Lemon Regulation 181]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period January 14-20, 1979. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: January 14, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), reg-

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ulating the handling of lemons grown in California and Arizona, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, and upon other information, it is found that the limitation of handling of lemons, as hereafter provided, will tend to effectuate the declared policy of the act. This regulation has not been determined significant under the USDA criteria for implementing Executive Order 12044.

The committee met on January 9, 1979, to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons has improved.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 910.481 Lemon Regulation 181.

Order. (a) The quantity of lemons grown in California and Arizona which may be handled during the period January 14, 1979, through January 20, 1979, is established at 200,000 cartons.

(b) As used in this section, "handled" and "carton(s)" mean the same as defined in the marketing order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: January 10, 1979.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-1459 Filed 1-11-79; 11:43 am]

[3410-34-M]

Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), NEWCASTLE DISEASE (AVIAN PNEUMOENCEPHALITIS), AFRICAN SWINE FEVER, AND HOG CHOLERA: PROHIBITED AND RESTRICTED IMPORTATIONS

Finland Declared To Be Free of Hog Cholera

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of these amendments is to add Finland to the list of countries declared to be free of hog cholera in §§ 94.9(a) and 94.10 of the regulations. This action is taken because data furnished to the Department establishes the fact that Finland qualifies for this status. The effect of this action is to relieve certain restrictions on the importation of pork, pork products, and live swine from Finland.

EFFECTIVE DATE: January 4, 1979.

FOR FURTHER INFORMATION CONTACT:

Dr. J. D. Roswurm, USDA, APHIS, VS, Federal Building, Room 819, Hyattsville, MD 20782, 301-436-8499.

SUPPLEMENTARY INFORMATION: Veterinary Services has reviewed pertinent technical information and documents submitted by the authorities of Finland in support of their position that Finland is free of hog cholera. Additionally, a meeting between officials of the Government of Finland and a representative of this Department was held in Finland to further review the existing situation. As a result, it has been concluded that Finland qualifies for listing as a country declared to be free of hog cholera. Accordingly, the regulations are amended to add Finland to the list of countries, appearing in §§ 94.9(a) and 94.10 of the regulations (9 CFR 94.9 and 94.10), which are declared to be free of hog cholera. Therefore, pork, pork products, and live swine from Finland may now be imported into the United States if they otherwise qualify for importation.

Accordingly, Part 94, Title 9, Code of Federal Regulations, is amended in the following respects:

§ 94.9 [Amended]

1. § 94.9(a) is amended by inserting into both lists of countries therein "Finland," immediately after "Denmark,".

§ 94.10 [Amended]

2. § 94.10 is amended by inserting into the list of countries therein "Finland," immediately after "Denmark,".

(Sec. 2, 32 Stat. 792, as amended; secs. 2, 3, 4, and 11, 76 Stat. 129, 130, 132; 21 U.S.C. 111, 134a, 134b, 134c, 134f; 37 FR 28464, 28477; 38 FR 19141.)

Insofar as the amendments relieve certain restrictions presently imposed but no longer deemed necessary to prevent the introduction and dissemination of the contagion of hog cholera, they should be made effective immediately to be of maximum benefit to affected persons. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, it is found upon good cause, under the administrative procedure provisions in 5 U.S.C. 553, that further notice and other public procedure with respect to the amendments are unnecessary and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 4th day of January 1979.

NOTE.—This final rulemaking has been reviewed under the USDA criteria established to implement E.O. 12044, "Improving Government Regulations." While this action has not been designated "significant" under those criteria, an approved Final Impact Analysis Statement has been prepared and is available from Program Services Staff, Room 870, Federal Building, 6505 Belcrest Road, Hyattsville, Maryland 20782, 301-436-8695.

PIERRE A. CHALOUX,
Deputy Administrator, Veterinary Services.

[FR Doc. 79-845 Filed 1-11-79; 8:45 am]

[7590-01-M]

Title 10—Energy

CHAPTER I—NUCLEAR REGULATORY COMMISSION

Miscellaneous Amendments

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: This rule changes the telephone number for the Commission's Inspection and Enforcement Regional Office V listed in Parts 20, 21, and 73 of the Commission's regulations.

EFFECTIVE DATE: January 12, 1979.

FOR FURTHER INFORMATION CONTACT:

Gerald L. Hutton, Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Tel: 301-492-7086.

SUPPLEMENTARY INFORMATION: Effective December 28, 1978, the commercial telephone number for the Commission's Inspection and Enforcement Regional Office V, Walnut Creek, California, was changed to 415-932-8300. This number will be in effect at all times. The amendments set forth below change the telephone number for Region V as set forth in Parts 20, 21, and 73.

Because these amendments relate solely to corrections and minor matters, the Commission has found that good cause exists for omitting notice of proposed rule making, and public procedure thereon, as unnecessary and for making the amendments effective upon publication in the FEDERAL REGISTER.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552 and 553 of Title 5 of the United States Code, the following amendments to Title 10, Chapter I, Code of Federal Regulations, Parts 20, 21, and 73 are published as a document subject to codification.

PART 20—STANDARDS FOR PROTECTION AGAINST RADIATION

1. Appendix D of 10 CFR Part 20 is amended by changing the telephone number of NRC Regional Office V to (415) 932-8300.

PART 21—REPORTING OF DEFECTS AND NONCOMPLIANCE

2. Footnote 1 to § 21.2 of 10 CFR Part 21 is amended by changing the telephone number of NRC Regional Office V to (415) 932-8300.

PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

3. Appendix A of 10 CFR Part 73 is amended by changing the telephone number of NRC Regional Office V to (415) 932-8300.

(Sec. 161, Pub. L. 83-703, 68 Stat. 948 (42 U.S.C. 2201); sec. 201, Pub. L. 93-438, 88 Stat. 1242 (42 U.S.C. 5841).)

Dated at Bethesda, Md., this 5th day of January 1979.

For the Nuclear Regulatory Commission.

LEE V. GOSSICK,
Executive Director for Operations.

[FR Doc. 79-1204 Filed 1-11-79; 8:45 am]

[6750-01-M]

Title 16—Commerical Practices

CHAPTER I—FEDERAL TRADE COMMISSION

PART 456—ADVERTISING OF OPHTHALMIC GOODS AND SERVICES

Interpretation of Trade Regulation Rule

AGENCY: Federal Trade Commission.

ACTION: Interpretation of Trade Regulation Rule.

SUMMARY: The Federal Trade Commission has issued an interpretation of its trade regulation rule concerning the Advertising of Ophthalmic Goods and Services (16 CFR Part 456). The interpretation states that a refractionist need not release a visual prescription to a patient after an eye examination unless the refractionist is affirmatively prescribing that corrective lenses be obtained. The interpretation also states that a refractionist must offer a prescription to a patient when the patient's eye examination reveals that ophthalmic goods are necessary even if the eyeglasses or contact lenses needed are the same as those currently worn by the patient.

EFFECTIVE DATE: January 12, 1979.

FOR FURTHER INFORMATION CONTACT:

Gary D. Hailey, Scott P. Klurfeld, or Christine Latsey, Room 281, Federal Trade Commission, 6th and Pennsylvania Avenue, NW, Washington, D.C. 20580, 202-523-3426.

FEDERAL TRADE COMMISSION INTERPRETATIONS OF 16 CFR Part 456

In § 456.7 of the Commission's rule on the Advertising of Ophthalmic Goods and Services (16 CFR Part 456), the Federal Trade Commission defined the failure of a refractionist to "give to the buyer a copy of the buyer's prescription immediately after [an] eye examination" to be an unfair act or practice in violation of Section 5 of the Federal Trade Commission Act. A question has arisen whether an optometrist or ophthalmologist must give a prescription to his or her patient where he or she has determined that refractive error of the patient's eyes, but is not prescribing eyeglasses or contact lenses to correct that error.

Section 456.1(g) of the rule defines a "prescription" as the "written specifications for ophthalmic lenses which are derived from an eye examination • • • to permit the buyer to obtain the *necessary* ophthalmic goods." [emphasis supplied]

In adopting this trade regulation rule, the Commission did not intend to interfere with the professional judgment of ophthalomologists and optometrists as to whether ophthalmic goods should be prescribed. Rather, it was the Commission's intention in those instances where it was determined by the examining doctor that ophthalmic goods are necessary that the patient be given a copy of his or her prescription to enable that patient to comparison shop if he or she wished to do so. The rule adopted by the Commission is consistent with that intention. Only where the ophthalomologist or optometrist is affirmatively prescribing ophthalmic goods for a patient need that doctor tender a prescription to the patient.

For example, a patient who is suffering from a medical problem which affects his vision, as undergone surgery, or who is undergoing a course of therapy by an optomertrist or ophthlmologist may, on occasion, be refracted to determine the patient's precise visual function. In the course of such examinations, the refractive status of the patient's eyes may be determined, but the doctor does *not* have to tender a prescription to the patient *unless* the doctor is prescribing that eyeglasses or contact lenses be purchased. Similarly, the refractive status of a patient's eyes may, on occasion, be determined during a routine physical examination or during an insurance examination. The standard is the same: only if the examining doctor is prescribing ophthalmic goods need a prescription be tendered.

A related question has been raised as to whether a refractionist must tender a prescription to his or her patient when the eye examination reveals that ophthalmic goods are necessary, but the eyeglasses or contact lenses needed are the same as those currently worn by the patient. In this case the refractionist *must* tender a prescription to his or her patient unless the wearing of new corrective lenses would be medically or optometrically inadvisable. Unlike the case where the doctor has made a determination that ophthalmic goods should not be prescribed, in this instance the doctor has determined that ophthalmic goods are necessary for the patient. Thus, the prescription must be given to the patient.

Some optometrists and ophthalmologists have argued that releasing prescriptions to patients who require eyeglasses or contact lenses, but who do

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not require any change in their existing eyeglasses or contact lenses, will result in unnecessary purchases of ophthalmic products—especially by the elderly.

In this case, the rule does not interfere with the professional judgment of the optometrist or ophthalmologist. The threshold determination as to whether ophthalmic goods are necessary rests with the doctor. However, once the doctor has determined that specific ophthalmic goods must be worn by a patient a prescription for those goods must be offered to the patient.

As the record in the rulemaking proceeding on this matter demonstrated, the consumer may need to purchase the prescribed ophthalmic goods at virtually any time or place because of breakage or loss, or the patient may simply want to replace his or her existing eyeglasses for comestic reasons. The rule does not prevent a refractionist from emphasizing either verbally, or in writing on the prescription itself, that because the patient's visual needs have not changed, new lenses are not required. Once the patient has received this explanation, he or she has the option of purchasing or obtaining a second pair of eyeglasses.

CAROL M. THOMAS,
Secretary.

[FR Doc. 79-1264 Filed 1-11-79; 8:45 am]

[4810-22-M]

Title 19—Customs Duties

CHAPTER 1—UNITED STATES CUSTOMS SERVICE

PART 159—LIQUIDATION OF DUTIES

[T.D. 79-13]

Countervailing Duties; Bicycle Tires and Tubes

REPUBLIC OF KOREA

AGENCY: Customs Service, Treasury Department.

ACTION: Final Countervailing Duty Determination.

SUMMARY: This notice is to inform the public that a countervailing duty investigation has resulted in a determination that the Government of the Republic of Korea has given benefits with respect to one manufacturer which constitute bounties or grants under the countervailing duty law on the manufacture, production, or exportation of bicycle tires and tubes from the Republic of Korea. Consequently, additional duties in the amount of these benefits will be collected along with regular Customs duties on shipments.

EFFECTIVE DATE: January 12, 1979.

FOR FURTHER INFORMATION CONTACT:

Holly Kuga, Operations Officer, Duty Assessment Division, United States Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229 ((202) 566-4592).

SUPPLEMENTARY INFORMATION: On July 28, 1978, a "Preliminary Countervailing Duty Determination" was published in the FEDERAL REGISTER (43 FR 32910). The notice stated that it had been determined preliminarily that benefits had been bestowed by the Government of Korea on the manufacture, production or exportation of bicycle tires and tubes which constituted bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303) (referred to in this notice as the "Act").

For purpose of this notice, the term "bicycle tires and tubes" means pneumatic bicycle tires and tubes, of rubber or plastic, whether such tires and tubes are sold together as units or separately. Bicycle tires and tubes are covered under items 772.48 and 772.57, respectively, of the Tariff Schedules of the United States (TSUS).

The above-noted preliminary determination indicated that there are three programs utilized by Korean firms exporting bicycle tires and tubes to the United States which confer benefits constituting bounties or grants within the meaning of the Act. The countervailable programs are: (1) The Foreign Capital Inducement Law (FCIL); (2) The accelerated depreciation provision of Article 51 of the Enforcement Decree to the Corporation Tax Law; and (3) Short-term preferential financing. Only one firm, however, Korea Inoue Kasei, Co., Ltd. (Inoue), was noted as receiving benefits whose aggregate *ad valorem* effect was greater than *de minimis*.

The notice stated further that before a final determination would be made in the proceeding, consideration would be given to any relevant data, views, or arguments submitted in writing and received by the Commissioner of Customs not later than August 28, 1978.

After consideration of all information received subsequent to the preliminary determination, it is hereby determined that Korea Inoue Kasei (Inoue) receives bounties or grants within the meaning of section 303 of the Act in an amount considered to be more than *de minimis*. The net amount of the bounty or grant has been ascertained and determined to be 0.5 percent of the f.o.b. price for export to the United States of bicycle tires and tubes from the Republic of Korea produced by Inoue. The other Korean manufacturers/exporters investigated received aggregate *ad valorem* benefits of no greater than 0.34 percent, which are considered *de minimis*.

The preliminary notice indicated that certain practices by the Korean government, alleged to be countervailable, were determined on their face not to constitute bounties or grants. They are as follows:

1. Exemption for Export-Oriented Businesses From Business Tax
2. Exemption From Commodity Tax and Customs Duties on Imported Material
3. Wastage Allowance for Imported Raw Materials

The notice also determined that several other programs, alleged to be bounties or grants, were either not utilized by or not available to manufacturers or exporters of bicycle tires and tubes. They are as follows:

1. Accelerated Depreciation for Firms Located in "Industrial Development Districts"
2. Miscellaneous Tax Benefits
3. Industrial Estates
4. Free Export Zones
5. Government Asssumption of Quality Control on Exports
6. Railway Freight and Electric Power Discounts
7. Export-Import "Link System"
8. Medium and Long-Term Preferential Financing

Since no additional information has been received with respect to any of the programs enumerated above which dictates a change in the conclusions about them reached in the preliminary determination, those conclusions remain unchanged and it is determined that no bounty or grant is being paid with respect to these programs.

Counsel for Inoue contended that the benefits received by Inoue under the FCIL, which provides benefits to companies that are wholly or partially foreign-owned, should be treated by Treasury as offsets for "dislocation costs". The "dislocation costs" claimed allegedly result from the difficulty in converting and repatriating Korean currency and from the problems faced in investing in a war-threatened country. Information was submitted showing that these costs, such as extra expenses incurred in locating and maintaining management personnel in Korea, insurance costs for capital investment, and losses from converting and repatriating Korean currency more than offset the benefits received by Inoue under the FCIL. However, Treasury has never applied the concept of "dislocation costs" to any situation other than that of cost differences between regions within a country. The claim made in this case is with respect to a program that is not limited to a particular region within the Republic of Korea. Because of the fact that this program is national in scope, the claim made for offsets arising from dislocation costs cannot be accepted. To recognize them in such circumstances would be contrary to one of the principal purposes of the countervailing duty law, namely, to discourage governments from subsidizing the production of goods in situations that lack comparative advantage in the absence of such subsidies.

Accordingly, notice is hereby given that bicycle tires and tubes produced by Inoue which are imported directly or indirectly from Korea, if entered, or withdrawn from warehouse, for consumption on or after January 12, 1979, will be subject to the payment of countervailing duties equal to the net amount of the bounty or grant determined to have been paid or bestowed.

In accordance with section 303 of the Act, until further notice the net amount of such bounties or grants has been determined to be five-tenths of one percent (0.5 percent) of the export price.

Effective on or after January 12, 1979, and until further notice, upon the entry for consumption or withdrawal from warehouse for consumption of such dutiable bicycle tires and tubes produced by Inoue imported directly or indirectly from the Republic of Korea, which benefit from these bounties or grants, there shall be collected, in addition to any other duties estimated or determined to be due, countervailing duties in the amount determined in accordance with the above declaration. To the extent that it can be established to the satisfaction of the Commissioner of Customs that imports of bicycle tires and tubes from the Republic of Korea produced by Inoue are subject to a bounty or grant smaller than the amount which otherwise would be applicable under the above declaration, the smaller amount so established shall be assessed and collected.

Any merchandise subject to the terms of this order shall be deemed to have benefited from a bounty or grant if such bounty or grant has been or will be credited or bestowed, directly or indirectly, upon the manufacture, production or exportation of bicycle tires and tubes, produced by Inoue, from the Republic of Korea.

The table in section 159.47(f) of the Customs Regulations (19 CFR 159.47(f)) is amended by inserting after the last entry for the Republic of Korea the words "bicycle tires and tubes produced by Korea Inoue Kasei, Co., Ltd.", in the column headed "Commodity", the number of this Treasury Decision in the column headed "Treasury Decision", and the words "Bounty Declared-Rate" in the column "Action".

(R.S. 251, as amended, secs. 303, 624; 46 Stat. 687, as amended, 759, 88 Stat. 2051, 2052; (19 U.S.C. 66, 1303), as amended, 1624).

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order 190 (Revision 15) March 16, 1978, the provisions of Treasury Department Order 165, revised November 2, 1954, and section 159.47(d) of the Customs Regulations (19 CFR 159.47(d)), insofar as they pertain to the issuance of a countervailing duty order by the Commissioner of Customs, are hereby waived.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

JANUARY 8, 1979.

[FR Doc. 79-1209 Filed 1-11-79; 8:45 am]

[4110-03-M]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER A—GENERAL

PART 14—PUBLIC HEARING BEFORE A PUBLIC ADVISORY COMMITTEE

Dentrifice and Dental Care Drug Products Panel

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) announces the termination of the Panel on Review of Dentrifrice and Dental Care Drug Products and amends the regulations to delete it from the list of standing advisory committees. The Panel was terminated because it had completed its work.

EFFECTIVE DATE: October 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Dr. Saul Bader, Bureau of Drugs (HFD-510), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4871.

SUPPLEMENTARY INFORMATION: The Panel's functions were to review the data and information submitted as part of the over-the-counter (OTC) drug review under § 330.10 (21 CFR 330.10) on OTC products containing dentifrice or dental care active ingredients for human use. The Panel has submitted its conclusions and recommendations on the safety, effectiveness, and labeling of these products to the Commissioner of Food and Drugs. These conclusions and recommendations will be published in the FEDERAL REGISTER in the near future.

Accordingly, the purpose of the Panel has been served, and the Panel is no longer needed. On October 2, 1978, the Secretary of Health, Education, and Welfare terminated the Committee's charter.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 14 is amended in § 14.100 *List of standing advisory committees* by deleting paragraph (c)(20)(i)(*g*) *Dentrifrice and Dental Care Panel* and marking it reserved.

Effective date. Because this is a technical conforming amendment to Part 14, the Commissioner finds that there is good cause for the rule to be effective immediately upon publication in the FEDERAL REGISTER, January 12, 1979.

(Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)))

Dated: January 5, 1979.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc 79-1067 Filed 1-11-79; 8:45 am]

[4210-01-M]

Title 24—Housing and Urban Development

CHAPTER VIII—LOW INCOME HOUSING, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-78-517]

PART 888—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—FAIR MARKET RENTS AND CONTRACT RENT AUTOMATIC ANNUAL ADJUSTMENT FACTORS

Fair Market Rents for New Construction and Substantial Rehabilitation; Correction

AGENCY: Office of Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Correction of Final Rule.

SUMMARY: In FR Doc. No. R-78-28304 appearing at page 46529 in the FEDERAL REGISTER of October 10, 1978, the Schedule A Fair Market Rents for the New York, N.Y. market area ap-

pearing on page 46530 is corrected by adding Fair Market Rents of "900" for 3 bedroom and "990" for 4 bedroom dwelling units in 5+ story elevator structures.

FOR FURTHER INFORMATION CONTACT:

Henry F. P. Cassagne, 202-472-4810.

Dated: October 23, 1978.

MORTON A. BARUCH,
Deputy Assistant Secretary for Housing—Federal Housing Commissioner

[FR Doc. 79-1203 Filed 1-11-79; 8:45 am]

[4210-01-M]

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI 4898]

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Suspension of Community Eligibility

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: This rule lists communities where the sale of flood insurance, as authorized under the National Flood Insurance Program (NFIP), will be suspended because of noncompliance with the flood plain management requirements of the program.

EFFECTIVE DATES: The third date ("Susp.") listed in the fourth column.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, DC 20410.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), administered by the Federal Insurance Administration, enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001-4128) unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (24 CFR Part 1909 et seq.). Accordingly, the communities are suspended on the effective date in the fifth column, so that as of that date subsidized flood insurance is no longer available in the community.

In addition, the Federal Insurance Administration has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), as amended, provides that no direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP, with respect to which a year has elapsed since publication of a flood insurance map. This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

In each entry, a complete chronology of effective dates appears for each listed community.

Section 1914.6 is amended by adding in alphabetical sequence new entries to the table.

§ 1914.6 List of Suspended Communities.

State	County	Location	Community Number	Effective dates of authorization/ cancellation of sale of Flood Insurance in community	Special Flood Hazard Area Identified	Date[1]
California	Merced	Unincorporated Areas	060188	August 23, 1974, Emergency, January 3, 1979, Regular, January 17, 1979, Suspended.	Aug. 23, 1974	Jan. 17, 1978.
Do	Santa Clara	Monte Sereno, City of	060345-A	August 7, 1975, Emergency, January 3, 1979, Regular, January 17, 1979, Suspended.	May 24, 1974 Mar. 7, 1975	Do.
Do	Alameda	Newark, City of	060009-A	April 22, 1974, Emergency, December 1, 1978, Regular, January 17, 1979, Suspended.	Feb. 22, 1974 Jan. 16, 1976	Do.
Do	San Bernardino	Redlands, City of	060279-A	April 12, 1974, Emergency, January 3, 1979, Regular, January 17, 1979, Suspended.	May 17, 1974 Nov. 21, 1975	Do.
Colorado	Archuleta	Unincorporated Areas	080273	July 23, 1975, Emergency, January 3, 1979, Regular, January 17, 1979, Suspended.	Jul. 25, 1977	Do.
Do	Weld	Erie, Town of	080181-B	July 22, 1975, Emergency, October 17, 1978, Regular, January 17, 1979, Suspended.	Jun. 28, 1974 Nov. 28, 1975	Do.
Do	Larimer	Estes Park, Town of	080193	May 22, 1975, Emergency, January 17, 1979, Regular, January 17, 1979, Suspended.	Sept. 19, 1975	Do.
Connecticut	Hartford	Glastonbury, Town of	090124-B	December 15, 1972, Emergency, June 15, 1978, Regular, January 17, 1979, Suspended.	Apr. 20, 1973 Nov. 19, 1976	Do.
Do	New Haven	West Haven, City of	090092	October 6, 1972, Emergency, January 17, 1979, Regular, January 17, 1979, Suspended.	May 31, 1974	Do.
Delaware	Kent	Little Creek, Town of	100015-A	July 30, 1975, Emergency, January 17, 1979, Regular, January 17, 1979, Suspended.	Aug. 9, 1974 Dec. 12, 1975	Do.
Florida	Orange	Eatonville, Town of	120182-A	March 31, 1975, Emergency, December 1, 1978, Regular, January 17, 1979, Suspended.	July 19, 1974 May 14, 1976	Do.

State	County	Location	Community Number	Effectiv. dates of authorization/ cancellation of sale of Flood Insurance in community	Special Flood Hazard Area Identified	Date[1]
Georgia	Clarke	Unincorporated Areas	130243	March 5, 1974, Emergency, December 15, 1978, Regular, January 17, 1979, Suspended.	Mar. 21, 1975 Oct. 3, 1975	Do.
Do	Cobb	do	130052	June 12, 1973, Emergency, January 3, 1979, Regular, January 17, 1979, Suspended.	Oct. 3, 1975	Do.
Do	Rockdale	Conyers, City of	130213-A	May 23, 1975, Emergency, December 1, 1978, Regular, January 17, 1979, Suspended.	June 28, 1974 Oct. 22, 1976	Do.
Do	Troup	LaGrange, City of	130177	February 5, 1974, Emergency, December 1, 1978, Regular, January 17, 1979, Suspended.	Apr. 2, 1976	Do.
Do	Houston	Warner Robins, City of	130111-A	January 15, 1974, Emergency, December 1, 1978, Regular, January 17, 1979, Suspended.	June 14, 1974 Mar. 26, 1976	Do.
Illinois	Jo Daviess	Galena, City of	175.J8-A	August 27, 1971, Emergency, July 20, 1973, Regular, January 17, 1979, Suspended.	July 20, 1973	Do.
Do	Cook	Northbrook, Village of	170132	December 12, 1973, Emergency, January 17, 1979, Regular, January 17, 1979, Suspended.	Feb. 22, 1974 Aug. 13, 1976	Do.
Indiana	Lake	Highland, Town of	185176-B	May 21, 1971, Emergency, May 19, 1972, Regular, January 17, 1979, Suspended.	May 19, 1972	Do.
Do	Brown	Nashville, Town of	180018-B	October 22, 1971, Emergency, January 24, 1976, Regular, January 17, 1979, Suspended.	Do.	
Kansas	Wyandotte	Bonner Springs, City of	200361	June 6, 1975, Emergency, January 3, 1979, Regular, January 17, 1979, Suspended.	Dec. 28, 1973	Do.
Kentucky	Boyd	Catlettsburg, City of	210018	August 21, 1975, Emergency, January 3, 1979, Regular, January 17, 1979, Suspended.	May 3, 1974 Feb. 20, 1976	Do.
Do	Harlan	Harlan, City of	210102-A	October 29, 1971, Emergency, January 17, 1979, Regular, January 17, 1979, Suspended.	Mar. 16, 1973	Do.
Michigan	Kent	Grand Rapids, City of	260106	April 13, 1973, Emergency, January 17, 1979, Regular, January 17, 1979, Suspended.	Apr. 13, 1973	Do.
Do	Saginaw	Zilwaukee, Township of	260286	January 21, 1974, Emergency, January 17, 1979, Regular, January 17, 1979, Suspended.	July 19, 1974	Do.
Minnesota	Carver	Carver, City of	275234	March 19, 1971, Emergency, September 8, 1972, Regular, January 17, 1979, Suspended.	Sept. 12, 1972	Do.
Do	Clay	Unincorporated Areas	275235	August 7, 1970, Emergency, May 5, 1972, Regular, January 17, 1979, Suspended.		
Missouri	Madison	Fredericktown, City of	290221	September 17, 1973, Emergency, January 3, 1979, Regular, January 17, 1979, Suspended.	June 14, 1974	Do.
Do	Jackson	Greenwood, City of	290711	October 11, 1977 Emergency, January 3, 1979, Regular, January 17, 1979, Suspended.	June 4, 1976	Do.
Do	do	Sugar Creek, City of	290178-A	January 25, 1977, Emergency, January 3, 1979, Regular, January 17, 1979, Suspended.	Dec. 17, 1976	Do.
North Carolina	Durham	Durham, City of	370066-A	July 13, 1973, Emergency, January 17, 1979, Regular, January 17, 1979, Suspended.	Feb. 1, 1974 Aug. 13, 1976	Do.
New York	Tompkins	Dryden, Village of	360847-A	March 30, 1973, Emergency, January 3, 1979, Regular, January 17, 1979, Suspended.	June 7, 1974 May 28, 1976	Do.
Do	Cattaraugus	Hinsdale, Town of	360077-A	July 22, 1975, Emergency, January 17, 1979, Regular, January 17, 1979, Suspended.	Oct. 15, 1976	Do.
Do	Westchester	Pelham Manor, Village	360926-A	November 11, 1974, Emergency, January 17, 1979, Regular, January 17, 1979, Suspended.	May 10, 1974 Jan. 16, 1976	Do.
Do	Onondaga	Pompey, Town of	360590-A	April 20, 1973, Emergency, January 3, 1979, Regular, January 17, 1979, Suspended.	May 31, 1974 July 30, 1976	Do.
Ohio	Sandusky	Unincorporated Areas	390488	November 13, 1974, Emergency, January 17, 1979, Regular, January 17, 1979, Suspended.	Jan. 13, 1978	Do.
Pennsylvania	Montgomery	Bridgeport, Borough of	420948-A	October 4, 1973, Emergency, January 3, 1979, Regular, January 17, 1979, Suspended.	Jan. 16, 1974	Do.
South Carolina	Greenville	Mauldin, City of	450198-B	August 16, 1978, Emergency, September 29, 1978, Regular, January 17, 1979, Suspended.	Aug. 16, 1974 Aug. 6, 1976	Do.
Do	do	Simpsonville, City of	450092-B	January 23, 1974, Emergency, September 29, 1978, Regular, January 17, 1979, Suspended.	May 17, 1974	Do.

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State	County	Location	Community Number	Effective dates of authorization/ cancellation of sale of Flood Insurance in community	Special Flood Hazard Area Identified	Date[1]
Vermont	Windsor	Woodstock, Town of	500160	April 30, 1974, Emergency, December 15, 1978, Regular, January 17, 1979, Suspended.	Aug. 9, 1974	Do.
Virginia		Covington, City of	510040-A	March 13, 1974, Emergency, January 3, 1979, Regular, January 17, 1979, Suspended.	May 17, 1974 Apr. 16, 1976	Do.
Do	Dinwiddie	Unincorporated Areas	510187	January 16, 1974, Emergency, January 17, 1979, Regular, January 17, 1979, Suspended.	Nov. 15, 1974	Do.
Wisconsin	Buffalo	Alma, City of	555540-B	May 21, 1971, Emergency, August 8, 1972, Regular, January 17, 1979, Suspended.	Dec. 12, 1972	Do.

[1]Date certain Federal assistance no longer available in special flood hazard area.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 2, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-859 Filed 1-11-79; 8:45 am]

[4210-01-M]

[Docket No. FI 4899]

PART 1914—COMMUNITIES ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The date listed in the fourth column of the table.

ADDRESSES: The addresses where flood insurance policies can be obtained are published at 24 CFR 1912.7.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, DC 20410.

SUPPLEMENTARY INFORMATION: The Flood Disaster Protection Act of 1973 (Pub. L. 93-234), amended, requires the purchase of flood insurance as a condition of Federal financial assistance of insurable property if such assistance is:

(1) For acquisition and construction purposes as defined in Part 1909 of Title 24 of the Code of Federal Regulations and

(2) For property located in a special flood hazard area identified by the Secretary of Housing and Urban Development.

The requirement applies to all identified special flood hazard areas within the United States, and no such financial assistance can legally be provided for acquisition or construction except as authorized by section 202(a) of the Act unless the community has entered the program. Accordingly, for communities listed under this Part no such restriction exists, although insurance, if required, must be purchased.

Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurers Association (NFIA) servicing company for the State.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

Section 1914.6 is amended by adding in alphabetical sequence new entries to the table.

§ 1914.6 List of eligible communities.

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area Identified	Community Number
Texas	Young	Unincorporated Areas	October 25, 1978, Emergency.	Feb. 7, 1978	480684-A
Alabama	Shelby	Helena, Town of	October 30, 1978, Emergency.	Jan. 10, 1975 and Feb. 13, 1976.	010294-A
Do	Monroe	Unincorporated Areas	do	Aug. 18, 1978	010325-A
Maryland	Frederick	Middletown, Town of	do	Jan. 14, 1977	240162-A
North Carolina	Harnett	Unincorporated Areas	do	Aug. 18, 1978	370328-A

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area Identified	Community Number
Florida	Palm Beach	Atlantis, City of	November 1, 1978, Suspension Withdrawnn.	Dec. 6, 1974	120193-A
Do	do	Lake Clarke Shores, Town of.	do	Jan. 9, 1974 and October 24, 1975.	120211-B
Illinois	Cook	East Chicago Heights, Village of.	do	Apr. 5, 1974 and June 11, 1976.	170084-B
Kansas	Pratt	Pratt, City of	do	Apr. 5, 1975 and Oct. 24, 1975.	200278-B
Louisiana	Calcasieu	Unincorporated Areas	do	Sept. 13, 1974	220037-A
Maryland	Prince Georges	Laurel, City of	do	Aug. 9, 1974 and Dec. 19, 1975.	240053-C
Minnesota	Winona	Elba, City of	do	Aug. 9, 1974 and June 11, 1976.	270527-C
Do	Rice	Faribault, City of	do	Jan. 21, 1977	270404-C
Do	Itasca	Unincorporated Areas	do	Nov. 1, 1978	270200-A
Do	Kanabec	do	do	Nov. 1, 1978	270214-A
Do	Scott & LeSeur	New Prague, City of	do	May 10, 1974 and Mar. 26, 1976.	270249-B
Do	Carver	Watertown City of	do	Nov. 5, 1976	270056-A
Missouri	Pemiscot	Hayti, City of	do	Apr. 12, 1974 and June 25, 1976.	290276-B
New York	Allegany	Bolivar, Village of	do	Jan. 7, 1977	360026-B
Do	Orleans	Carlton, Town of	do	Aug. 2, 1974 and Dec. 19, 1975.	360542-B
Do	Livingston	Dansville, Village of	do	Oct. 22, 1976	360383-A
Do	Suffolk	Huntington Town of	do	Aug. 2, 1974 and Feb. 20, 1976.	360796-B
Do	Monroe	Rochester City of	do	June 28, 1974 and Aug. 27, 1976.	360431-B
North Carolina	Wake	Fuquay-Varina, Town of	do	Apr. 11, 1975	370239-A
Ohio	Mahoning	Canfield, City of	do	May 17, 1974 and Apr. 23, 1976.	390369-B
Oregon	Douglas	Canyonville, City of	do	June 7, 1974 and Feb. 8, 1976.	410060-B
Pennsylvania	Lackawanna	Dalton, Borough of	do	June 28, 1974 and May 14, 1976.	420998-B
Tennessee	Anderson	Lake City, Town of	do	Feb. 26, 1971	475436-B
Texas	Bandera	Unincorporated Areas	do	June 18, 1976	480020-A
Missouri	Johnson & Clay	Kansas City, City of	do	Nov. 8, 1974	290173

(National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 3, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR. Doc. 79-860 Filed 1-11-79; 8:45 am]

[6735-01-M]

Title 29—Labor

CHAPTER XXV—FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

PART 2701—GOVERNMENT IN THE SUNSHINE ACT REGULATIONS

Implementation Rules.

AGENCY: Federal Mine Safety and Health Review Commission.

ACTION: Adoption of rules implementing the Government in the Sunshine Act.

SUMMARY: On November 16, 1978, the Commission proposed the adoption of regulations implementing the Government in the Sunshine Act, 5 U.S.C. 552b, and invited comments from interested persons. 43 FR 53470. No comments were received.

The Commission has decided to adopt the proposed rules with only one minor change. The Commission changed the number of copies of a request to open or close a meeting required by § 2701.4 from seven to two. The rules contemplate that most meetings of the Commission, including those at which the Commission carries out adjucation responsibilities, will be open to the public.

DATES: Part 2701 is effective January 12, 1979.

FOR FURTHER INFORMATION CONTACT:

Donald Terry, Executive Director, (202) 653-5644.

Dated: January 5, 1979.

JEROME R. WALDIE,
Chairman, Federal Mine Safety and Health Review Commission.

Under the authority of section 113 of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-165 (30 U.S.C. 823), the Commission amends Title 29 of the Code of Federal Regulations by adding a new Part 2701, to read as follows:

PART 2701—GOVERNMENT IN THE SUNSHINE ACT REGULATIONS

Sec.
2701.1 Purpose and scope.
2701.2 Open meetings policy: Closure of meetings.
2701.3 Announcement of meetings.
2701.4 Request to open or close meeting.
2701.5 Petition for review.
2701.6 Discussions during open meetings.
2701.7 Expedited closing procedure.

AUTHORITY.—Sec. 113, Federal Mine Safety and Health Act of 1977, Pub. L. 95-165 (30 U.S.C. 823).

§ 2701.1 Purpose and scope.

(a) *Purpose.* The purpose of this part is to implement the Government in

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the Sunshine Act, 5 U.S.C. 552b. The rules in this part are intended to open, to the extent practicable, the meetings of the Commission to public observation while preserving the Commission's ability to fulfill its responsibilities and respect the interests of persons in confidential consideration of sensitive matters.

(b) *Scope.* This part applies to all meetings of the Commission. A "meeting of the Commission" means a joint deliberation in person or by conference telephone call of at least a majority of either the members of the Commission or of a panel of three or more Commissioners that determines or results in the joint conduct or disposition of official Commission business, but does not include (1) deliberations regarding a decision to open or close a meeting, to withhold information about a meeting, and the circumstances of meetings, such as their time, place, and subject matter, and (2) the individual deliberations of Commission members of matters considered upon circulated documents or other notation procedure.

§ 2701.2 Open meetings policy; closure of meetings.

(a) *Policy.* Commission meetings will generally be open to public observation, including meetings concerning the disposition by the Commission of a formal adjudication. See 5 U.S.C. 522b(c)(10).

(b) *Closure.* Meetings may be closed, or certain information about a meeting may not be disclosed under the circumstances contemplated by 5 U.S.C. 522b(c)(1)-(10), and under the procedures specified by 5 U.S.C. 552b (d) and (f). Commission employees may attend closed meetings of the commission unless the notice of a closed meeting states otherwise.

§ 2701.3 Announcement of meetings.

(a) *Generally.* The Commission shall publicly announce and submit to the FEDERAL REGISTER at least 7 days before a meeting, the time, place, subject matter of a meeting, whether it is to be open or closed, and the name and phone number of the Commission employee who will respond to requests for information about the meeting. The description of the subject matter of a meeting at which the Commission will consider adjudicatory matters, shall include the names and docket numbers of the cases to be considered. The Commission shall also contact, by phone or mail, the parties to the cases to be considered at the meeting, shall post a copy of a notice of the meeting at the Office of Public Information, shall mail notices to persons who have requested inclusion of their names on a meeting mailing list, and may issue press releases.

(b) *Shorter notice.* If a majority of the members of the Commission or a panel of three or more Commissioners determines by a recorded vote that pressing Commission business requires that a meeting be called in less than 7 days, the announcement required by paragraph (a) of this section shall be made at the earliest practicable time.

(c) *Changes in time, place, subject matter, and decision whether to open or close after public announcement of meeting.* If the time or place of a meeting publicly announced is changed, or an item to be considered at such a meeting is to be deleted, the change or deletion shall be publicly announced without a recorded vote at the earliest practicable time in the manner required by paragraph (a) of this section. The subject matter of a meeting publicly announced shall not be expanded and the decision to open or close such a meeting shall not be changed unless a majority of the members of the Commission or if a panel of three or more Commissioners determines by a recorded vote that agency business so requires and that no earlier announcement of the change was possible; the Commission shall publicly announce such a change and the vote of each member upon the change at the earliest practicable time.

§ 2701.4 Request to open or close meeting.

Any person may request that the Commission open a meeting that it has earlier decided to close. Any person whose interest may be directly affected by the opening of a meeting may request that the meeting be closed. Two copies of a request shall be filed in writing with the Executive Director of the Commission at the earliest practicable time, and no later than one hour before the meeting. A request to close shall state the interest of the person that may be adversely affected. The Commission shall take a recorded vote on the request if one member desires that it do so. The Executive Director shall inform the requesting person of whether a vote was taken, and, if so, its outcome. Requests shall be addressed as follows: Sunshine Act Request, Office of the Executive Director, Federal Mine Safety and Health Review Commission, 1730 K Street NW., Washington, D.C. 20006.

§ 2701.5 Petition for review.

Any person may petition the Commission to review any action he alleges to be in violation of this part or 5 U.S.C. 552b that was taken by any employee or member of the Commission. The petition shall be in writing and shall be filed with the Executive Director within 30 days of the alleged violation. The Commission shall consider and rule upon the petition with expedition.

§ 2701.6 Discussion during open meetings.

Deliberations, discussions, comments, statements, or observations made during the course of an open meeting do not constitute actions of the Commission, nor do they necessarily represent the basis for any Commission action. Comments made by a Commissioner or an employee of the Commission may be advanced for purposes of discussion or argument, or as an aside, and may not reflect the views or ultimate position of that Commissioner or employee. Reasons for decisions stated by a Commissioner at an open meeting may be later changed by that Commissioner, as may a Commissioner's vote. For these reasons, persons who choose to act on the basis of discussions at open meetings do so entirely at their own risk and without any assurance that the Commission's final decisions will be reflective of the discussions or initial vote.

§ 2701.7 Expedited closing procedure.

(a) *Policy.* Although it is the general policy of the Commission to open to the public meetings that may be subject to closure, including meetings concerning adjudication of cases, the Commission may find it necessary in the public interest to close meetings. The purpose of this section is to provide an expedited closing procedure under 5 U.S.C. 552b(d)(4). The Commission has determined that, inasmuch as the Commission's responsibilities are almost entirely adjudicatory, a majority of its meetings may properly be closed under 5 U.S.C. 552b(c)(10). Although the Commission has to date held few meetings, those that have been held concerned the adjudication of cases and could properly have been closed.

(b) *Procedure.* A meeting may be closed if a majority of either the members of the Commission or of a panel of three or more Commissioners votes by recorded vote at the beginning of such a meeting to close it to the public. The record of the vote shall reflect the vote of each voting member and shall be made available to the public. A public announcement of the time, place, and subject matter of the meeting shall be made at the earliest practicable time, except to the extent that such information is exempt from disclosure under 5 U.S.C. 552b(c). Section 2701.3 does not apply to meetings closed under this section.

[FR Doc. 79-1068 Filed 1-11-79; 8:45 am]

[4310-70-M]

Title 36—Parks, Forests, and Public Property

CHAPTER I—NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

PART 21—HOT SPRINGS NATIONAL PARK: BATHHOUSE REGULATIONS

AGENCY: National Park Service, Interior.

ACTION: Final Rulemaking.

SUMMARY: On August 8, 1978, the National Park Service, Department of the Interior published in the FEDERAL REGISTER (43 FR 153) as a proposed rule a complete revision of 36 CFR Part 21, which contained regulations pertaining to the operation of bathhouses within Hot Springs National Park. The revision deleted references to two advisory boards which were recently terminated, as well as regulations on subjects which were sufficiently covered in other ways, such as concession contract language. These items were not dealt with in the bathhouse regulations. An addition to the regulations was proposed that would allow management to expand the use of thermal water for other than traditional therapeutic tub bathing, thereby permitting recreational pool bathing in and out of the park in accordance with an approved Statement for Management. A penalty section was also added to correct a deficiency in the current regulations.

The proposal was made available for public review and comment for a period of 30 days after publication in the FEDERAL REGISTER, ending officially on September 8, 1978.

As of September 8, 1978, only one comment was received. This comment was from an individual who recommended rewording 36 CFR to permit persons who are not undergoing medical treatment to walk in a thermal pool for exercise and to receive whirlpool baths without presenting a prescription from a registered physician. Since the services at the Libbey Memorial Physical Medicine Center have recently been revised to allow the above, the National Park Service recommends that the wording of 36 CFR 21.6 be changed to permit continuation of the services now offered. Accordingly, the wording has been changed in this section.

The National Park Service also made minor editorial changes to §§ 21.5, 21.7, 21.8, 21.11 and 21.12 to correct typographical errors and clarify the intent of the sections.

EFFECTIVE DATE: February 12, 1979.

ADDRESS: Mail comments to Regional Director, Southwest Region, National Park Service, P.O. Box 728, Santa Fe, New Mexico 87501.

FOR FURTHER INFORMATION CONTACT:

Richard Maeder, Superintendent, Hot Springs National Park, (501) 624-3383.

SUPPLEMENTARY INFORMATION: The proposed regulations reduce the scope of Part 21 from 30 existing sections to 12 revised sections. This reduction is due, in large part, to the termination of the park's two advisory boards by the Secretary of the Interior on June 30, 1977, as recommended by the Office of Management and Budget on December 7, 1976. These boards were the Hot Springs National Park Federal Registration Board and the Examining Board for Technicians. The termination of the boards makes it possible to eliminate all or portions of existing §§ 21.4 through 21.16 of Part 21, as well as allowing the simplification of the number of other sections.

In reviewing the present regulations in order to remove material made obsolete by termination of the advisory boards, it was found that certain other material was no longer necessary. The Language of present concession contracts and directives issued by the park adequately covers these subjects. Accordingly, these regulations would be deleted from the new Part 21.

Existing regulations prohibit the use of the park's hot mineral waters for other than bathing or other therapeutic purposes.

With the decline in therapeutic use of these waters which has taken place in recent years, it is no longer necessary to be as restrictive with their use. Therefore, the new regulations would merely limit use of the waters to those purposes authorized by the Superintendent.

One management objective of the park is "To make available opportunities for recreational and therapeutic bathing and associated activities in a manner that is appropriate to present day public interests and that ensures high quality visitor experience". Another objective is "to encourage a broadened recreational bathing use concept as a future bathhouse service". The adoption of the proposed regulations will give the Superintendent authority to permit adaptive uses of the park's thermal water in accordance with the above stated management objectives which were approved on June 1, 1977.

The penalties which would be established by the new § 21.2 are authorized by the Act of April 20, 1904, Chapter 1400, as amended (16 U.S.C. 374).

AUTHORITY: Sec. 3, Act of August 25, 1916, 39 Stat. 535, as amended (16 U.S.C. 3); (16 U.S.C. 361 et seq.); and 245 DM-1 (42 FR 12931).

DRAFTING INFORMATION

The following persons are principally responsible for the preparation of these proposed regulations: Hugh L. Crenshaw, Bernard Goodman, and Benson Holmes, National Park Service.

IMPACT ANALYSIS:

Although the changes in this notice are numerous, they result in minimal changes in the management of park areas or in the activities of visitors to these areas. Therefore, these revisions are not considered to be a major Federal action significantly affecting the quality of the human environment and no environmental impact statement has been prepared; nor is it a major Federal action requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: December 26, 1978.

DANIEL J. TOBIN, Jr.,
Acting Director,
National Park Service.

Part 21 of Title 36, Code of Federal Regulations, is revised in its entirety to read as follows:

PART 21—HOT SPRINGS NATIONAL PARK: BATHHOUSE REGULATIONS

Sec.
21.1 Definitions.
21.2 Penalties.
21.3 Use of thermal water.
21.4 Registration of physicians.
21.5 Therapeutic bathing requirements.
21.6 Use of therapeutic pools.
21.7 Health examinations.
21.8 Employee certification.
21.9 Solicitation by employees.
21.10 Losses.
21.11 Redemption of bath tickets.
21.12 Loss of bath tickets.

AUTHORITY: Sec. 3, Act of August 25, 1916, 39 Stat. 535, as amended (16 U.S.C. 3); sec. 3, Act of March 3, 1891, 26 Stat. 842, as amended (16 U.S.C. 363).

§ 21.1 Definitions.

When used in the regulations in this part:

(a) The term "Superintendent" means the Superintendent of Hot Springs National Park, Arkansas.

(b) The term "physician" means doctor of medicine or osteopathy who is licensed to practice by a State or territory of the United States.

(c) The term "registered physician" means a physician registered at the office of the Superintendent as authorized to prescribe the waters of Hot Springs National Park.

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(d) The term "employee" means any person licensed or certified by a State or territory of the United States in his or her specialty, or who is certified by the Superintendent to perform or render special services in a bathhouse.

(e) The term "bathhouse" means any facility which is operated by an individual, trustee, partnership, corporation, or business entity and which receives thermal water from Hot Springs National Park.

§ 21.2 Penalties.

Any person convicted of violating any provision of the regulations contained in this part, or as the same may be amended or supplemented, shall be punished by a fine not exceeding $100 and shall be adjudged to pay all costs of the proceedings.

§ 21.3 Use of thermal water.

(a) The use of the thermal waters of Hot Springs National Park, for purposes other than those authorized by the Superintendent, is prohibited.

(b) The heating, reheating, or otherwise increasing the temperature of the thermal waters of Hot Springs National Park is prohibited.

(c) The introduction of any substance, chemical, or other material or solution into the thermal waters of Hot Springs National Park, except as may be prescribed by a physician for a bather or as may be directed by the Superintendent, is prohibited.

§ 21.4 Registration of physicians.

Physicians desiring to prescribe the thermal waters of Hot Springs National Park must first be registered at the office of the Superintendent. Any physician may make application for registration to the Superintendent. To maintain registered status, reapplication is required triannually.

§ 21.5 Therapeutic bathing requirements.

Baths shall be administered to persons having a prescription from a registered physician with prescription instructions therein. Baths shall be administered to person who do not have prescriptions from registered physicians only if the bath is administered in accordance with the bath directions prescribed by the Superintendent, the violation of which is not subject to the penalty provisions of § 21.2.

§ 21.6 Use of therapeutic pools.

Persons undergoing medical treatment may use the therapeutic pools only upon presenting a prescription describing the treatment from a registered physician. Persons with acute or infectious diseases or discharges of the body, or who lack complete control of their bodily functions, are prohibited from using the therapeutic pools.

§ 21.7 Health examinations.

No employee who comes in direct personal contact with bathers or pool users will be permitted to enter duty without first undergoing a health examination, or remain in such employment without undergoing periodic health examinations, as required by the Superintendent, and being found free from any infectious or communicable disease.

CROSS REFERENCE: For a list of communicable diseases included in the regulations of the United States Public Health Service, see 21 CFR 1240.54.

§ 21.8 Employee certification.

(a) Employees engaged as physical therapists must be licensed or certified by a State or territory of the United States to practice

(b) Employees engaged as physical therapy aids or physical therapy technicians will be certified by the Superintendent upon completion of an examination.

(c) Employees engaged as masseurs or masseuses must be licensed or certified by a State or territory of the United States, or be certified by the Superintendent upon the completion of an examination.

(d) Employees engaged as bath attendants will be certified by the Superintendent upon completion of an apprenticeship and an examination.

§ 21.9 Solicitation by employees.

Soliciting by employees for any purpose, including soliciting for gratuities, commonly called "tips," is prohibited in all bathhouses.

§ 21.10 Losses.

A bathhouse receiving deposits of jewelry, money, or other valuables from patrons shall provide means for the safekeeping thereof, satisfactory to the Superintendent. It is understood, however, that the Government assumes no responsibility for such valuables kept on the premises. All losses must be reported promptly to the Superintendent by the bathhouse manager.

§ 21.11 Redemption of bath tickets.

Unused tickets may be redeemed by the purchaser within one year from the date of purchase, according to the redemption scale approved by the Superintendent.

§ 21.12 Lost bath tickets.

A patron who loses his ticket may continue to receive service, without additional charge, for the number of units remaining in the ticket. Records of lost tickets, and of service given thereunder, shall be maintained as required by the Superintendent. Lost tickets shall have no redemption value.

[FR Doc. 79-1210 Filed 1-11-79; 8:45 am]

[6560-01-M]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 1012-2]

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Appendix A—Reference Method 16

AGENCY: Environmental Protection Agency.

ACTION: Amendment.

SUMMARY: This action amends Reference Method 16 for determining total reduced sulfur emissions from stationary sources. The amendment corrects several typographical errors and improves the reference method by requiring the use of a scrubber to prevent potential interference from high SO_2 concentrations. These changes assure more accurate measurement of total reduced sulfur (TRS) emissions but do not substantially change the reference method.

SUPPLEMENTARY INFORMATION: On Februrary 23, 1978 (43 FR 7575), Appendix A—Reference Method 16 appeared with several typographical errors or omissions. Subsequent comments noted these and also suggested that the problem of high SO_2 concentrations could be corrected by using a scrubber to remove these high concentrations. This amendment corrects the errors of the original publication and slightly modifies Reference Method 16 by requiring the use of a scrubber to prevent potential interference from high SO_2 concentrations.

Reference Method 16 is the reference method specified for use in determining compliance with the promulgated standards of performance for kraft pulp mills. The data base used to develop the standards for kraft pulp mills has been examined and this additional requirement to use a scrubber to prevent potential interference from high SO_2 concentrations does not require any change to these standards of performance. The data used to develop these standards was not gathered from kraft pulp mills with high SO_2 concentrations; thus, the problem of SO_2 interference was not present in the data base. The use of a scrubber to prevent this potential interference in the future, therefore, is completely consistent with this data base and the promulgated standards.

The increase in the cost of determining compliance with the standards of performance for kraft pulp mills, as a result of this additional requirement to use a scrubber in Reference Method 16, is negligible. At most, this additional requirement could increase the cost of a performance test by about 50 dollars.

Because these corrections and additions to Reference Method 16 are minor in nature, impose no additional substantive requirements, or do not require a change in the promulgated standards of performance for kraft pulp mills, these amendments are promulgated directly.

EFFECTIVE DATE: January 12, 1979.

FOR FURTHER INFORMATION CONTACT:

Don R. Goodwin, Director, Emission Standards and Engineering Division, (MD-13) Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number 919-541-5271.

Dated: January 2, 1979.

DOUGLAS M. COSTLE,
Administrator.

Part 60 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

APPENDIX A—REFERENCE METHODS

In Method 16 of Appendix A, Sections 3.4, 4.1, 4.3, 5, 5.5.2, 6, 8.3, 9.2, 10.3, 11.3, 12.1, 12.1.1.3, 12.1.3.1, 12.1.3.1.2, 12.1.3.2, 12.1.3.2.3, and 12.2 are amended as follows:

1. In subsection 3.4, at the end of the first paragraph, add: "In the example system, SO_2 is removed by a citrate buffer solution prior to GC injection. This scrubber will be used when SO_2 levels are high enough to prevent baseline separation from the reduced sulfur compounds."

2. In subsection 4.1, change "± 3 percent" to "± 5 percent."

3. In subsection 4.3, delete both sentences and replace with the following: "Losses through the sample transport system must be measured and a correction factor developed to adjust the calibration accuracy to 100 percent."

4. After Section 5 and before subsection 5.1.1 insert "5.1. Sampling."

5. In Section 5, add the following subsection: "5.3 SO_2 Scrubber. The SO_2 scrubber is a midget impinger packed with glass wool to eliminate entrained mist and charged with potassium citrate-citric acid buffer." Then increase all numbers from 5.3 up to and including 5.5.4 by 0.1, e.g., change 5.3 to 5.4, etc.

6. In subsection 5.5.2, the word "lowest" in the fourth sentence is replaced with "lower."

7. In Section 6, add the following subsection: "6.6 Citrate Buffer. Dissolve 300 grams of potassium citrate and 41 grams of anhydrous citric acid in 1 liter of deionized water. 284 grams of sodium citrate may be substituted for the potassium citrate."

8. In subsection 8.3, in the second sentence, after "Bypassing the dilution system," insert "but using the SO_2 scrubber," before finishing the sentence.

9. In subsection 9.2, replace sentence with the following: "Aliquots of diluted sample pass through the SO_2 scrubber, and then are injected into the GC/FPD analyzer for analysis."

10. In subsection 10.3, "paragraph" in the second sentence is corrected with "subsection."

11. In subsection 11.3 under B_{wo} definition, insert "Reference" before "Method 4."

12. In subsection 12.1.1.3 "(12.2.4 below)" is corrected to "(12.1.2.4 below)."

13. In subsection 12.1, add the following subsection: "12.1.3 SO_2 Scrubber. Midget impinger with 15 ml of potassium citrate buffer to absorb SO_2 in the sample." Then renumber existing section 12.1.3 and following subsections through and including 12.1.4.3 as 12.1.4 through 12.1.5.3.

14. The second subsection listed as "12.1.3.1" (before corrected in above amendment) should be "12.1.4.1.1."

15. In subsection 12.1.3.1 (amended above to 12.1.4.1) correct "GC/FPD-1 to "GC/FPD-I."

16. In subsection 12.1.3.1.2 (amended above to 12.1.4.1.2) omit "Packed as in 5.3.1." and put a period after "tubing."

17. In subsection 12.1.3.2 (amended above to 12.1.4.2) correct "GC/FPD-11" to "GC/FPD-II."

18. In subsection 12.1.3.2.3 (amended above to 12.1.4.2.3) the phrase "12.1.3.1.4. to 12.1.3.1.10" is corrected to read "12.1.4.1.5 to 12.1.4.1.10."

19. In subsection 12.2, add the following subsection: "12.2.7 Citrate Buffer. Dissolve 300 grams of potassium citrate and 41 grams of anhydrous citric acid in 1 liter of deionized water. 284 grams of sodium citrate may be substituted for the potassium citrate."

(Sec. 111, 301(a) of the Clean Air Act as amended (42 U.S.C. 7411, 7601 (a))).

[FR Doc. 79-1047 Filed 1-11-79; 8:45 am]

[6560-01-M]

[FRL 1023-7]

PART 65—DELAYED COMPLIANCE ORDERS

Delayed Compliance Order for Bowling Green University

AGENCY: Environmental Protection Agency.

ACTION: Final Rule.

SUMMARY: By this rule, the Administrator of U.S. EPA issues a Delayed Compliance Order to Bowling Green University. The Order requires the Bowling Green University to bring air emissions from its boiler house at Bowling Green, Ohio, into compliance with certain regulations contained in the federally approved Ohio State Implementation Plan (SIP). Bowling Green University's compliance with the Order will preclude sults under the Federal enforcement and citizen suit provisions of the Clean Air Act for violations of the SIP regulations covered in the Order.

DATES: This rule takes effect January 12, 1979.

FOR FURTHER INFORMATION CONTACT:

Michael Smith, Attorney, United States Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, Telephone (312) 353-2082.

SUPPLEMENTARY INFORMATION: On September 5, 1978, the Acting Regional Administrator of U.S. EPA's Region V Office published in the FEDERAL REGISTER (43 FR 39397) a notice setting out the provisions of a proposed Federal Delayed Compliance Order for Bowling Green University. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed Order.

No public comments and no request for a public hearing were received in response to the proposed notice.

Therefore, a Delayed Compliance Order effective this date is issued to Bowling Green University by the Administrator of U.S. EPA pursuant to the authority of Section 113(d)(2) of the Clean Air Act, 42 U.S.C. 7413(d)(2). The Order places Bowling Green University on a schedule to bring its boiler house at Bowling Green, Ohio, into compliance as expeditiously as practicable with Regulation AP-3-11, a part of the federally approved Ohio State Implementation Plan. Bowling Green University is unable to immediately comply with this regulation. The Order also imposes interim requirements with meet Sections 113(d)(1)(C) and 133(d)(7) of

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the Act, and emission monitoring and reporting requirements. If the conditions of the Order are met, it will permit Bowling Green University to delay compliance with the SIP regulation covered by the Order until July 1, 1979.

Compliance with the Order by Bowling Green University will preclude Federal enforcement action under Section 113 of the Act for violations of the SIP regulation covered by the Order. Citizen suits under Section 304 of the Act to enforce against the source are similarly precluded. Enforcement may be initiated, however, for violations of the terms of the Order, and for violations of the regulation covered by the Order which occurred before the Order was issued by U.S. EPA or after the Order is terminated. If the Administrator determines that Bowling Green University is in violation of a requirement contained in the Order, one or more of the actions required by Section 113(d)(9) of the Act will be initiated. Publication of this notice of final rulemaking constitutes final Agency action for the purposes of judicial review under Section 307(b) of the Act.

U.S. EPA has determined that the Order shall be effective upon publication of this notice because of the need to immediately place Bowling Green University on a schedule for compliance with the Ohio State Implementation Plan.

(42 U.S.C. 7413(d), 7601)

Dated: January 2, 1979.

DOUGLAS M. COSTLE,
Administrator.

In consideration of the foregoing, Chapter I of Title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

1. By adding an entry to the table in § 65.400 to read as follows:

§ 65.400 Federal delayed compliance orders issued under section 113(d)(1), (3), and (4) of the act.

Source	Location	Order No.	SIP regulation(s) involved	Date of FR proposal	Final compliance date
Bowling Green University.....	Bowling Green, Ohio	EPA-5-79-A-6	9/5/78	AP-3-11	7/1/79

[FR Doc. 79-1056 Filed 1-11-79; 8:45 am]

[6560-01-M]

[FRL 1025-6]

PART 65—DELAYED COMPLIANCE ORDERS

Delayed Compliance Order for Longview State Hospital and Ohio Department of Mental Health and Mental Retardation

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: By this rule, the Administrator of U.S. EPA approves a Delayed Compliance Order to Longview State Hospital and Ohio Department of Mental Health and Mental Retardation. The Order requires the Hospital to bring air emissions from its three coal-fired boilers at Cincinnati, Ohio into compliance with certain regulations contained in the federally approved Ohio State Implementation Plan (SIP). The Hospital's compliance with the Order will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act (Act) for violations of the SIP regulations covered in the Order.

DATE: This Rule takes effect January 12, 1979.

FOR FURTHER INFORMATION CONTACT:

Deborah Garber, Attorney, United States Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, telephone 312-353-2086.

SUPPLEMENTARY INFORMATION: On September 27, 1978, the Acting Regional Administrator of U.S. EPA's Region V Office published in the FEDERAL REGISTER (43 FR 43736) a notice setting out the provisions of a proposed State Delayed Compliance Order for Longview State Hospital and Ohio Department of Mental Health and Mental Retardation. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed Order. No public comments and no request for a public hearing were received in response to the notice.

Therefore, a Delayed Compliance Order effective this date is approved to the Longview State Hospital and Ohio Department of Mental Health and Mental Retardation by the Administrator of U.S. EPA pursuant to the authority of Section 113(d)(2) of the Act, 42 U.S.C. 7413(d)(2). The Order places the Hospital on a schedule to bring three coal-fired boilers at Cincinnati, Ohio into compliance as expeditiously as practicable with Regulation OAC 3745-17-10, a part of the federally approved Ohio State Implementation Plan. The Hospital is unable to immediately comply with this regulation. The Order also imposes interim requirements which meet Sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the Order are met, it will permit the Hospital to delay compliance with the SIP regulation covered by the Order until July 1, 1979.

Compliance with the Order by the Longview State Hospital will preclude Federal enforcement action under Section 113 of the Act for violations of the SIP regulation covered by the Order. Citizen suits under Section 304 of the Act to enforce against the source are similarly precluded. Enforcement may be initiated, however, for violations of the terms of the Order, and for violations of the regulation covered by the Order which occurred before the Order was issued by U.S. EPA or after the Order is terminated. If the Administrator determines that the Hospital is in violation of a requirement contained in the Order, one or more of the actions required by Section 113(d)(9) of the Act will be initiated. Publication of this notice of final rulemaking constitutes final Agency action for the purposes of judicial review under Section 307(b) of the Act.

U.S. EPA has determined that the Order shall be effective upon publication of this notice because of the need to immediately place the Longview State Hospital on a schedule for compliance with the Ohio State Implementation Plan.

(42 U.S.C. 7413(d), 7601.)

Dated: January 2, 1979.

DOUGLAS M. COSTLE,
Administrator.

In consideration of the foregoing, Chapter I of Title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

1. By adding an entry to the table in § 65.401 to read as follows:

§ 65.401 U.S. EPA Approval of State Delayed Compliance Orders issued to major stationary sources.

The State Order identified below has been approved by the Administrator in accordance with Section 113(d)(2) of the Act and with this Part. With regard to each Order, the Administrator has made all the determinations and findings which are necessary for approval of the Order under Section 113(d) of the Act.

Source: Ohio Department of Mental Health and Mental Retardation, Longview State Hospital; Location: Cincinnati, Ohio; Date of FR Proposal: September 27, 1978; SIP Regulation Involved: OAC 3745-17-10; Final Compliance Date: July 1, 1979.

[FR Doc. 79-1057 Filed 1-11-79; 8:45 am]

[6560-01-M]

[FRL 1023-1]

PART 65—DELAYED COMPLIANCE ORDERS

Delayed Compliance Order for Steel Containers Inc.

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: By this rule, the Administrator of U.S. EPA approves a Delayed Compliance Order to Steel Containers Inc., d.b.a. Calumet Containers. The Order requires the company to bring air emissions from its drum reclamation incinerator at Hammond, Indiana, into compliance with certain regulations contained in the federally approved Indiana State Implementation Plan (SIP). Steel Containers Inc., d.b.a. Calumet Containers' compliance with the Order will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act for violations of the SIP regulations covered in the Order.

DATE: This rule takes effect January 12, 1979.

FOR FURTHER INFORMATION CONTACT:

Anne Swofford, Attorney, United States Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, telephone 312-353-2082.

SUPPLEMENTARY INFORMATION: On September 11, 1978, the Acting Regional Administrator of U.S. EPA's Region V Office published in the FEDERAL REGISTER (43 FR 40248) a notice setting out the provisions of a proposed State Delayed Compliance Order for Steel Containers Inc., d.b.a. Calumet Containers. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed Order.

No public comments and no request for a public hearing were received in response to the notice.

Therefore, a Delayed Compliance Order effective this date is approved to Steel Containers Inc., d.b.a. Calumet Containers by the Administrator of U.S. EPA pursuant to the authority of Section 113(d)(2) of the Clean Air Act, 42 U.S.C. 7413(d)(2). The Order places Steel Containers Inc., d.b.a. Calumet Containers on a schedule to bring its drum reclamation incinerator at Hammond, Indiana, into compliance as expeditiously as practicable with Regulations APC-7 and APC-16, a part of the federally approved Indiana State Implementation Plan. Steel Containers Inc., d.b.a. Calumet Containers is unable to immediately comply with these regulations. The Order also imposes interim requirements which meet Sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the Order are met, it will permit Steel Containers Inc., d.b.a. Calumet Containers to delay compliance with the SIP regulations covered by the Order until October 30, 1978.

Compliance with the Order by Steel Containers Inc., d.b.a. Calumet Containers will preclude Federal enforcement action under Section 113 of the Act for violations of the SIP regulations covered by the Order. Citizen suits under Section 304 of the Act to enforce against the source are similarly precluded. Enforcement may be initiated, however, for violations of the terms of the Order, and for violations of the regulations covered by the Order which occurred before the Order was issued by U.S. EPA or after the Order is terminated. If the Administrator determines that Steel Containers Inc., d.b.a. Calumet Containers is in violation of a requirement contained in the Order, one or more of the actions required by Section 113(d)(9) of the Act will be initiated. Publication of this notice of final rulemaking constitutes final Agency action for the purposes of judicial review under Section 307(b) of the Act.

U.S. EPA has determined that the Order shall be effective upon publication of this notice because of the need to immediately place Steel Containers Inc., d.b.a. Calumet Containers on a schedule for compliance with the Indiana State Implementation Plan.

(42 U.S.C. 7413(d), 7601.)

Dated: January 3, 1979.

DOUGLAS M. COSTLE,
Administrator.

In consideration of the the foregoing, Chapter I of Title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

I. By adding an entry to the table in § 65.191 to read as follows:

§ 65.191 U.S. EPA Approval of State Delayed Compliance Orders Issued to major stationary sources.

The State Order identified below has been approved by the Administrator in accordance with Section 113(d)(2) of the Act and with this Part. With regard to this Order, the Administrator has made all the determinations and findings which are necessary for approval of the Order under Section 113(d) of the Act.

Source: Steel Containers Inc., d.b.a. Calumet Containers; Location: Hammond, Indiana; Date of FR Proposal: September 11, 1978; SIP Regulation Involved: APC-7, APC-16; Final Compliance Date: October 30, 1978.

[FR Doc. 79-1058 Filed 1-11-79; 8:45 am]

[6560-01-M]

[FRL 1026-4]

PART 65—DELAYED COMPLIANCE ORDERS

Approval of a Delayed Compliance Order Issued by the The Commonwealth of Kentucky, Department for Natural Resources and Environmental Protection, to United States Department of the Army Headquarters U.S. Army Armor Center and Fort Knox

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Administrator of EPA hereby approves a Delayed Compliance Order issued by the Commonwealth of Kentucky to the United States Department of the Army, Headquarters U.S. Army Armor Center and Fort Knox (hereinafter referred to as "Fort Knox"). The Order requires Fort Knox to bring air emissions from its asphalt plant and quarrying operations at Fort Knox, Kentucky, into compliance with certain regulations contained in the federally-approved Kentucky State Implementation Plan (SIP). Because of the Administrator's approval, Fort Knox's compliance with the Order will preclude suits under the federal enforcement and citizen suit provisions of the Clean Air Act for violation(s) of the SIP regulations covered by the Order during the period the Order is in effect.

V 4 4 / 9 J A 1 2 7 9 UMI

DATES: This rule takes effect on January 12, 1979.

FOR FURTHER INFORMATION CONTACT:

Richard S. DuBose, Air Enforcement Branch, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30308, telephone number: 404-881-4298.

ADDRESSES: A copy of the Delayed Compliance Order, any supporting material, and any comments received in response to a prior FEDERAL REGISTER notice proposing approval of the Order are available for public inspection and copying during normal business hours at:

U.S. Environmental Protection Agency, Region IV, Air Enforcement Branch, 345 Courtland Street, NE., Atlanta, Georgia 30308.

SUPPLEMENTARY INFORMATION: On September 15, 1978, the Regional Administrator of EPA's Region IV Office published in the FEDERAL REGISTER, 43 FR 41239 (1978), a notice proposing approval of a delayed compliance order issued by the Commonwealth of Kentucky to Fort Knox. The notice asked for public comments by October 16, 1978, on EPA's proposed approval of the Order. No public comments were received in response to the proposal notice.

Therefore, the delayed compliance order issued to Fort Knox is approved by the Administrator of EPA pursuant to the authority of Section 113(d)(2) of the Clean Air Act, 42 U.S.C. 7413(d)(2). The Order places Fort Knox on a schedule to bring its asphalt plant and quarrying operations at Fort Knox, Kentucky, into compliance as expeditiously as practicable with Kentucky Air Pollution Control Regulation 401 KAR 3:060, Section 14(2), a part of the federally-approved Kentucky State Implementation Plan. The Order also imposes interim requirements which meet Sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the Order are met, it will permit Fort Knox to delay compliance with the SIP regulations covered by the Order until March 31, 1979. The facilities are unable to immediately comply with these regulations.

EPA has determined that its approval of the Order shall be effective upon publication of this notice because of the need to immediately place Fort Knox on a schedule which is effective under the Clean Air Act for compliance with the applicable requirement(s) of the Kentucky State Implementation Plan.

(42 U.S.C. 7413(d), 7601.)

Dated: January 2, 1979.

DOUGLAS M. COSTLE,
Administrator.

In consideration of the foregoing, Chapter I of Title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

1. By adding an entry to the table in § 65.221 to read as follows:

§ 65.221 EPA Approval of State delayed compliance orders issued to major stationary sources.

. . . . . .

Source	Location	Order No.	SIP regulation(s) involved	Date of FR proposal	Final compliance date
. . .	. . .	. . .	. . .	. . .	. . .
Fort Knox	Fort Knox, Kentucky	DCO-78-26	401 KAR 3:060 Section 14(2); 401 KAR 3:020 Section 4(8).	Sept. 15, 1978	Mar. 31, 1979

[FR Doc. 79-1059 Filed 1-11-79; 8:45 am]

[6560-01-M]

CHAPTER 1—ENVIRONMENTAL PROTECTION AGENCY

[FRL 1026-3]

PART 65—DELAYED COMPLIANCE ORDERS

Approval of a Delayed Compliance Order Issued by the Commonwealth of Kentucky, Department for Natural Resources and Environmental Protection, to United States Department of Energy

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Administrator of EPA hereby approves a Delayed Compliance Order issued by the Commonwealth of Kentucky to the Paducah Gaseous Diffusion Plant of the United States Department of Energy. The Order requires the facility to bring air emissions from its indirect heat exchangers, reverberatory and sweat furnaces, and induction smelter in Paducah, Kentucky, into compliance with certain regulations contained in the federally-approved Kentucky State Implementation Plan (SIP). Because of the Administrator's approval, the United States Department of Energy's compliance with the Order will preclude suits under the federal enforcement and citizen suit provisions of the Clean Air Act for violation(s) of the SIP regulations covered by the Order during the period the Order is in effect.

DATE: This rule takes effect on January 12, 1979.

FOR FURTHER INFORMATION CONTACT:

Richard S. DuBose, Air Enforcement Branch, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, NE, Atlanta, Georgia 30308, telephone number: (404) 881-4298.

ADDRESS: A copy of the Delayed Compliance Order, any supporting material, and any comments received in response to a prior FEDERAL REGISTER notice proposing approval of the Order are available for public inspection and copying during normal business hours at: U.S. Environmental Protection Agency, Region IV, Air Enforcement Branch, 345 Courtland Street, NE, Atlanta, Georgia 30308.

SUPPLEMENTARY INFORMATION: On August 4, 1978, the Regional Administrator of EPA's Region IV Office published in the FEDERAL REGISTER, 43 FR 34506 (1978), a notice proposing approval of a delayed compliance order issued by the Commonwealth of Kentucky to the Paducah Gaseous Diffusion Plant of the United States Department of Energy. The notice asked for public comments by September 5, 1978, on EPA's proposed approval of the Order. No public comments were received in response to the proposal notice.

Therefore, the delayed compliance order issued to the United States Department of Energy is approved by the Administrator of EPA pursuant to the authority of Section 113(d)(2) of the Clean Air Act, 42 U.S.C. 7413(d)(2). The Order places the Paducah Gaseous Diffusion Plant of the United States Department of Energy in Paducah, Kentucky, on a schedule to bring (1) its indirect heat exchangers into compliance as expeditiously as practicable with Kentucky Air Pollution Control Regulation 401 KAR 3:060, Sections 3(3) and 3(4), and (2) its reverberatory and sweat furnaces and induction smelter into compliance as expeditiously as practicable with Kentucky Air Pollution Control Regulation 401 KAR 3:060, Section 4(3). The Order also cites the facility as being in violation of Kentucky Air Pollution Control Regulation 401 KAR 3:020, Section 4(8). The previously cited regulations are part of the federally-approved Kentucky State Implementation Plan. The Order also imposes interim requirements which meet Sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. Since the issuance of this Order by the Commonwealth of Kentucky, the facility has demonstrated that its indirect heat exchangers are in compliance with Kentucky Air Pollution Control Regulation 401 KAR 3:060, Section 3(4), and that its reverberatory and sweat furnaces and induction smelter are in compliance with Kentucky Air Pollution Control Regulation 401 KAR 3:060, Section 4(3). If the remaining conditions of the Order are met, it will permit the Paducah Gaseous Diffusion Plant of the United States Department of Energy to delay compliance with the applicable SIP regulations covered by the Order until March 1, 1979. The facility is unable to immediately comply with these regulations.

EPA has determined that its approval of the Order shall be effective upon publication of this notice because of the need to immediately place the Paducah Gaseous Diffusion Plant of the United States Department of Energy on a schedule which is effective under the Clean Air Act for compliance with the applicable requirement(s) on the Kentucky State Implementation Plan.

(Authority: 42 U.S.C. 7413(d), 7601)

Dated: January 2, 1979.

DOUGLAS M. COSTLE,
Administrator.

In consideration of the foregoing, Chapter 1 of Title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

1. By adding an entry to the table in § 65.221 to read as follows:

§ 65.221 EPA Approval of State delayed compliance orders issued to major stationary sources.

Source	Location	Order No.	SIP regulation(s) involved	Date of FR proposal	Final compliance date
. . .	. . .	. . .	. . .	. . .	. . .
U.S. Department of Energy.	Paducah, Ky	DCO-78-9	401 KAR 3:020 Section 4(8); 401 KAR 3:060 Sections 3(3), 3(4), and 4(3).	Aug. 4, 1978...	Mar. 1, 1979

[FR Doc 79-1053 Filed 1-11-79; 8:45 am]

[6560-01-M]

[FRL 1023-2]

PART 65—DELAYED COMPLIANCE ORDERS

Delayed Compliance Order for Steel Containers, Inc., d.b.a. Calumet Containers, Hammond, Ind.

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: By this rule, the Administrator of U.S. EPA approves a Delayed Compliance Order to Steel Containers, Inc., d.b.a. Calumet Containers. The Order requires the Company to bring air emissions from its pail reclamation incinerator at Hammond, Indiana, into compliance with certain regulations contained in the federally approved Indiana State Implementation Plan (SIP). Steel Containers, Inc., d.b.a. Calumet Containers' compliance with the Order will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act for violations of the SIP regulations covered in the Order.

DATES: This rule takes effect on January 12, 1979.

FOR FURTHER INFORMATION CONTACT:

Anne Swofford, Attorney, United States Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, Telephone: (312) 353-2082.

SUPPLEMENTARY INFORMATION: On August 18, 1978, the Acting Regional Administrator of U.S. EPA's Region V Office published in the FEDERAL REGISTER (43 FR 36652) a notice setting out the provisions of a proposed State Delayed Compliance Order for Steel Containers, Inc., d.b.a. Calumet Containers. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed Order. No public comments and no request for a public hearing were received in reponse to the notice.

Therefore, a Delayed Compliance Order effective this date is approved to Steel Containers, Inc., d.b.a. Calumet Containers, by the Administrator of U.S. EPA pursuant to the authority of Section 113(d)(2) of the Clean Air Act, 42 U.S.C. 7413(d)(2). The Order places the Company on a schedule to bring its pail reclamation incinerator at Hammond, Indiana, into compliance as expeditiously as practicable with Regulations APC-7 and APC-16, part of the federally approved Indiana State Implementation Plan. Steel Containers, Inc., d.b.a. Calumet Containers, is unable to immediately comply with these regulations. The Order also imposes interim requirements which meet Sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the Order are met, it will permit the Company to delay compliance with the SIP regulations covered by the Order until December 31, 1978.

Compliance with the Order by Steel Containers, Inc., d.b.a. Calumet Containers, will preclude Federal enforcement action under Section 113 of the Act for violations of the SIP regulations covered by the Order. Citizens suits under Section 304 of the Act to enforce against the source are similarly precluded. Enforcement may be initiated, however, for violations of the terms of the Order, and for violations of the regulations covered by the Order which occurred before the Order was issued by U.S. EPA or after the Order is terminated. If the Administrator determines that Steel Containers, Inc., d.b.a. Calumet Containers, is in violation of a requirement contained in the Order, one or more of the actions required by Section 113(d)(9) of the Act will be initiated. Publication of this notice of final rulemaking constitutes final Agency action for the purposes of judicial review under Section 307(b) of the Act.

U.S. EPA has determined that the Order shall be effective upon publication of this notice because of the need to immediately place Steel Containers, Inc., d.b.a. Calumet Containers, on a schedule for compliance with the Indiana State Implementation Plan.

(Authority: 42 U.S.C. 7413(d), 7601)

Dated: January 2, 1979.

DOUGLAS M. COSTLE,
Administrator.

In consideration of the foregoing, Chapter I of Title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

1. By adding an entry to the table in § 65.191 to read as follows:

V 4 4 / 9 J A 1 2 7 9 UMI

§ 65.191 U.S. EPA Approval of State Delayed Compliance Orders issued to major stationary sources.

The State Order identified below has been approved by the Administrator in accordance with Section 113(d)(2) of the Act and with this Part. With regard to this order, the Administrator has made all the determinations and findings which are necessary for approval of the Order under Section 113(d) of the Act.

Source	Location	Date of FR proposal	SIP regulation involved	Final compliance date
Steel Containers, Inc., d.b.a. Calumet Containers.	Hammond, Ind.	Aug. 18, 1978.	APC-7, APC-16.	Dec. 13, 1978

[FR Doc. 79-1054 Filed 1-11-79; 8:45 am]

[6560-01-M]

[FRL 1028-2]

PART 65—DELAYED COMPLIANCE ORDERS

Delayed Compliance Order for Phillips Petroleum Co., Kansas City, Kans.

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Administrator of EPA hereby issues a Delayed Compliance Order to the Phillips Petroleum Company (Phillips). The Order requires the company to bring air emissions from its Fluid Catalytic Cracking Unit at Kansas City, Kansas into compliance with certain regulations contained in the federally-approved Kansas State Implementation Plan (SIP). Phillips' compliance with the Order will preclude suits under the federal enforcement and citizen suit provisions of the Clean Air Act for violation(s) of the SIP regulations covered by the Order during the period the Order is in effect.

DATES: This rule takes effect on January 12, 1979.

FOR FURTHER INFORMATION CONTACT:

Henry F. Rompage, Environmental Protection Agency, Region VII, 1735 Baltimore, Kansas City, Missouri 64108, telephone 816-374-2576.

ADDRESSES: The Delayed Compliance Order, supporting material, and any comments received in response to a prior FEDERAL REGISTER notice proposing issuance of the Order are available for public inspection and copying during normal business hours at: Environmental Protection Agency, Region VII, Enforcement Division, 1735 Baltimore, Kansas City, Missouri 64108.

SUPPLEMENTARY INFORMATION: On October 27, 1978, the Regional Administrator of EPA's Region VII Office published in the FEDERAL REGISTER, 43 FR 50223, a notice setting out the provisions of a proposed delayed compliance order for Phillips. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed Order. No public comments or requests for a public hearing were received in response to the proposal notice.

Therefore, a delayed compliance order effective this date is issued to Phillips by the Administrator of EPA pursuant to the authority of Section 113(d)(1) of the Clean Air Act, 42 U.S.C. 7413(d)(1). The Order places Phillips on a schedule to bring its Fluid Catalytic Cracking Unit at Kansas City, Kansas into compliance as expeditiously as practicable with Kansas Air Pollution Emission Control Regulation 28-19-20, Particulate emissions, and 28-19-50, Opacity requirements, part of the federally-approved Kansas State Implementation Plan. The Order also imposes interim requirements which meet Sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the Order are met, it will permit Phillips to delay compliance with the SIP regulations covered by the Order until July 1, 1979. The company is unable to immediately comply with these regulations.

Compliance with the order by Phillips will preclude federal enforcement action under Section 113 of the Act for violations of the SIP regulations covered by the Order during the period the Order is in effect. Citizen suits under Section 304 of the Act are similarly precluded. If the Administrator determines that Phillips is in violation of a requirement contained in the Order, one or more of the actions required by Section 113 (d)(9) of the Act will be initiated. Publication of this notice of final rulemaking constitutes final agency action for the purposes of judicial review under Section 307(b) of the Act.

EPA has determined that the Order shall be effective upon publication of this notice because of the need to immediately place Phillips on a schedule for compliance with the applicable requirement(s) of the Kansas State Implementation Plan.

(Authority: 42 U.S.C. 7413(d), 7601.)

Dated: January 2, 1979.

DOUGLAS M. COSTLE,
Administrator.

In consideration of the foregoing, Chapter 1 of Title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

1. By adding the following entry to the table in § 65.210 to read as follows:

§ 65.210 Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the Act.

Source	Location	Order No.	Date of FR proposal	SIP regulation involved	Final compliance date
Phillips Petroleum Company.	Kansas City, Kans.	VII-78-DCO-13 ..	Oct. 27, 1978 .	28-19-20, 28-19-50.	July 1, 1979

[FR Doc. 79-1055 Filed 1-11-79; 8:45 am]

[6560-01-M]

[FRL 1024-1]

PART 65—DELAYED COMPLIANCE ORDERS

Delayed Compliance Orders for Toledo Edison Co., Acme Station and Bay Shore Station

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: By this rule, the Administrator of U.S. EPA issues two Delayed Compliance Orders to Toledo Edison Company. The Orders require the Company, to bring air emissions from Boilers 16, 91, and 92 at the Acme Station and Boilers 1 and 2 at the Bay Shore Station into compliance with certain regulations contained in the federally approved Ohio State Implementation Plan (SIP). Toledo Edison Company's compliance with the Orders will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act (Act) for violations of the SIP regulations covered in the Order.

DATE: This rule takes effect January 12, 1979.

FOR FURTHER INFORMATION CONTACT:

Linda M. Buell, Attorney, United States Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, Telephone (312) 353-2082.

SUPPLEMENTARY INFORMATION: On October 2, 1978, the Acting Regional Administrator of U.S. EPA's Region V Office published in the FEDERAL REGISTER (43 FR 45408) a notice setting out the provisions of two proposed Federal Delayed Compliance Orders for Toledo Edison Company. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed Order. No public comments and no request for a public hearing were received in response to the proposed notice. Because a line was omitted from the Bay Shore Station Order in the proposed issuance notice, this Order is being reprinted.

Therefore, two Delayed Compliance Orders effective this date are issued to Toledo Edison Company by the Administrator of U.S. EPA pursuant to the authority of Section 113(d)(1) of the Clean Air Act, 42 U.S.C. 7413(d)(1). The Orders place Toledo Edison Company on schedules to bring its Boilers 16, 91, and 92 at Acme Station located at Toledo, Ohio, and Boilers 1 and 2 at Bay Shore Station, located at Oregon, Ohio, into compliance as expeditiously as practicable with Regulations AP-3-07 and AP-3-11, a part of the federally approved Ohio State Implementation Plan. Toledo Edison Company is unable to immediately comply with these regulations. The Orders also impose interim requirements which meet Sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the Orders are met, they will permit Toledo Edison Company to delay compliance with the SIP regulations covered by the Orders until April 15, 1980.

Compliance with the Orders by Toledo Edison Company will preclude Federal enforcement action under Section 113 of the Act for violations of the SIP regulations covered by the Orders. Citizen suits under Section 304 of the Act to enforce against the source are similarly precluded. Enforcement may be initiated, however, for violations of the terms of the Orders, and for violations of the regulations covered by the Orders which occurred before the Orders were issued by U.S. EPA or after the Orders are terminated. If the Administrator determines that Toledo Edison Company is in violation of a requirement contained in the Orders, one or more of the actions required by Section 113(d)(9) of the Act will be initiated. Publication of this notice of final rulemaking constitutes final Agency action for the purposes of judicial review under Section 307(b) of the Act.

U.S. EPA has determined that the Orders shall be effective upon publication of this notice because of the need to immediately place Toledo Edison Company on a schedule for compliance with the Ohio State Implementation Plan. (Authority: 42 U.S.C. 7413(d), 7601.)

Dated: January 2, 1979.

DOUGLAS M. COSTLE,
Administrator.

In consideration of the foregoing, Chapter 1 of Title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

1. By adding an entry to the table in § 65.400 to read as follows:

§ 65.400 Federal Delayed Compliance Orders issued under Section 113(d)(1), (3), and (4) of the Act.

Source	Location	Order No.	Date of FR proposal	SIP regulation involved	Final compliance date
Toledo Edison Company, Acme Station.	Toledo, Ohio	EPA-5-79-A-4	Oct. 2, 1978 ...	AP-3-07, AP-3-11..	Apr. 15, 1980
Toledo Edison Company, Bay Shore Station.	Oregon, Ohio	EPA-5-79-A-5	Oct. 2, 1978 ...	AP-3-07, AP-3-11..	Apr. 15, 1980

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of Toledo Edison Company, Bay Shore Station, Oregon, Ohio. Proceeding Under Sections 113(a), (d) and 114, Clean Air Act, as Amended; Order No. EPA-5-79-A-5.

ORDER

The following ORDER is issued this date pursuant to Sections 113(a), (d) and 114 of the Clean Air Act, as amended, 42 U.S.C. Section 7401 *et seq.*, (hereinafter referred to as "the Act"). The ORDER contains a compliance schedule with increments of progress, interim emission reduction requirements, and emission monitoring and reporting conditions. Final compliance is required as expeditiously as practicable, but no later than April 15, 1980. Public notice, opportunity for a public hearing and notice to the State of Ohio have been provided pursuant to Section 113(d)(1) of the Act.

On May 25, 1977, James O. McDonald, Director, Enforcement Division, Region V, United States Environmental Protection Agency (hereinafter referred to as "U.S. EPA"), pursuant to authority duly delegated to him by the Administrator of U.S. EPA, issued a Notice of Violation to Toledo Edison Company (hereinafter referred to as "the Company") stating that the Company's Bay Shore Station, located in Oregon, Ohio, was found to be in violation of the applicable Ohio Implementation Plan, as defined in Section 110(d) of the Act. The Notice cited the Company's Boilers #1 and #2 and Stacks #1 and #2 for violation of Ohio Regulations AP-3-07 and AP-3-11. A copy of said Notice was sent to the State of Ohio Environmental Protection Agency.

Pursuant to Section 113(a)(4) of the Act, opportunity to confer with the Administrator's delegates was duly given to the Company. On June 20, 1977, a conference was held in Chicago, Illinois, to discuss the May 25, 1977, Notice of Violation mentioned above.

U.S. EPA has determined that said violations have continued beyond the 30th day after the date of the Enforcement Director's notification and that the Company is unable to comply with the applicable implementation plan at this time.

After a review of information submitted at the conference and a thorough investigation

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of all relevant facts, including public comment, it has been determined that the schedule hereinafter set forth requires compliance as expeditiously as practicable, and that the terms of this ORDER comply with 113(d) of the Act.

Therefore, it is hereby ORDERED that:

I. The Company shall achieve compliance with Ohio Regulations AP-3-07 and AP-3-11 in accordance with the following schedule:

Increment	*Date*
Begin on-site construction	Achieved
Begin tie-in outage for Unit #2	Nov. 15, 1979
Start-up of Unit #2	Jan. 1, 1980
Begin tie-in outage for Unit #1	Jan. 1, 1980
Start-up of Unit #1	Feb. 15, 1980
Complete testing of Unit #2	Feb. 15, 1980
Complete testing of Unit #1	Apr. 1, 1980
Achieve compliance with Ohio Regulations AP-3-07 and AP-3-11.	Apr. 15, 1980

II. Nothing herein shall affect the responsibility of the Company to comply with other Federal, State or local regulations.

III. No later than 15 days after any date for achievement of an incremental step for final compliance specified in this ORDER, the Company shall notify U.S. EPA in writing of its compliance, or noncompliance and reasons therefore, with the requirement. If delay is anticipated in meeting any requirement of this ORDER, the Company shall immediately notify U.S. EPA in writing of the anticipated delay, reasons therefore, and the estimated length of the delay.

The Company shall submit quarterly reports to U.S. EPA detailing progress made with respect to each requirement of this ORDER. In addition, photographs shall be submitted along with these reports, showing progress made since the previous quarter. U.S. EPA personnel shall be admitted to the facility at any reasonable time for the purpose of viewing the construction progress.

IV. Nothing herein shall be construed to be a waiver by the Administrator of any rights or remedies under the Clean Air Act, including, but not limited to, Section 303 of the Act, 42 U.S.C. Section 7503.

V. Pursuant to Section 113(d)(7) of the Act, during the period of this ORDER, until completion of the program set out in Paragraph 1 herein, the Company shall use the best practicable systems of emission reduction so as to maximize the reliability and efficiency of the exsting controls on Unit #1 and Unit #2, minimize paticulate matter emissions, avoid any imminent and substantial endangerment to the public health, and comply with the requirement of the applicable implementation plan as it is able to.

Written operating and maintenance procedures for the existing controls shall be submitted to U.S. EPA for approval within one month from the effective date of this ORDER. These procedures shall provide for maximizing reliability and efficiency, malfunction reporting, record keeping, and corporate reviewing. Failure to submit or comply with the procedures will constitute a violation of this ORDER.

VI. A continuous opacity monitoring system for the stack which is being constructed to service Units #1 through #4 shall be installed, calibrated, maintained and operated in accordance with the procedures set forth in Appendix B of 40 CFR Part 60 no later than April 15, 1980. Pursuant to Section 114, monitor data shall be retained by the Company for at least two years subsequent to recording. On a quarterly basis, the Company shall report all 6-minute data averages from the monitor (reduced as specified in 40 CFR Section 60.13(b)) in excess of 20 percent.

VII. The Company is hereby notified that failure to achieve final compliance by July 1, 1979, will result in a requirement to pay a noncompliance penalty unless exempted under Section 120 of the Act. In the event of such failure, the Company will be formally notified pursuant to Section 120(b)(3) and any regulations promulgated thereunder, of its noncompliance.

VIII. Nothing herein shall be construed to be a waiver by the Company of its right to challenge the reasonableness, legality or constitutionality of the imposition of noncompliance penalties on the Company.

IX. The Company hereby waives its right to file a petition for review of this ORDER pursuant to Section 307(b)(1) of the Act.

X. All submissions and notifications to U.S. EPA, pursuant to this ORDER, shall be made to the Air Compliance Section, Enforcement Division, U.S. EPA, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 353-2090. A copy of all submissions and notifications shall be made to the Toledo Pollution Control Agency, 26 Main Street, Toledo, Ohio 43605.

Dated: January 2, 1979.

DOUGLAS M. COSTLE,
Administrator.

Toledo Edison Company has reviewed this ORDER, consents to the requirements set forth in this ORDER, and believes it to be a reasonable means by which the Bay Shore Station can achieve final compliance with Ohio Regulations AP-3-07 and AP-3-11. The Company denies the existence of any past or present violation of the Ohio Implementation Plan at its Bay Shore Station, but for purposes of settlement consents to the abatement program set forth herein.

Dated: November 15, 1978.

LOWELL E. ROE,
Vice President, Facilities Development, Toledo Edision Company.

[FR Doc. 79-1060 Filed 1-11-79; 8:45 am]

[6560-01-M]

SUBCHAPTER N—EFFLUENT GUIDELINES AND STANDARDS

[FRL 1036-7]

PART 434—COAL MINING POINT SOURCE CATEGORY

Standards of Performance for New Sources

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: On September 19, 1977, the Environmental Protection Agency (EPA) proposed regulations setting forth limitations on the discharge of pollutants into navigable waters from new source coal mines and coal preparation plants, as required by the Federal Water Pollution Control Act. The rules promulgated today establish final standards of performance for new sources in the coal mining point source category. Changes and clarifications in response to comments received on the proposed regulations are included in the rules promulgated today. These standards of performance will be incorporated in National Pollutant Discharge Elimination System permits issued by EPA or by States with approved programs.

EFFECTIVE DATE: February 12, 1979.

FOR FURTHER INFORMATION CONTACT:

William Telliard, Effluent Guidelines Division (WH-552), Environmental Protection agency, 401 M Street, S.W., Washington, D.C. 20460.

SUPPLEMENTARY INFORMATION: On October 17, 1975, EPA proposed regulations adding Part 434 to Title 40 of the Code of Federal Regulations (40 FR 48830). Those regulations, with subsequent amendments, established effluent limitations guidelines based on use of the best practicable control technology currently available (BPT) for existing sources in the coal mining point source category. These were followed, on April 26, 1977, with final BPT effluent limitations guidelines for this category (42 FR 21380).

On September 19, 1977, the Agency published proposed standards of performance for new sources (NSPS) within this category based on application of the best available demonstrated control technology (42 FR 46932). Many comments were received concerning these proposed standards. After consideration of these comments, and incorporation of certain adjustments, the Agency today promulgates final standards of performance for new sources in the coal mining point source category.

The Agency is not at this time promulgating pretreatment standards for new sources in this category, nor does it intend to promulgate such standards in the future, because there are no known situations in which such standards would be applicable. Nor is the Agency at this time promulgating final regulations establishing effluent limitations reflecting best available technology economically achievable (BAT) which were proposed on May 13, 1976 (41 FR 19841). The Agency intends to promulgate BAT regulations in 1980 after careful consideration of the discharge of certain "priority pollutants" from mines and preparation plants in the coal mining point source category. This review complies with the settlement agreement approved by the U.S. District Court for the District of Columbia in *Natural Resources Defense Council, et al* v. *Train*, 8 ERC 2120 (D.C.D.C., 1976). During that review, these new source standards will be reconsidered.

LEGAL AUTHORITY

These standards of performance are authorized by Section 306 of the Federal Water Pollution Control Act ("Act"), as amended in 1977 by the Clean Water Act, Pub. L. 95-217. This section requires the achievement by new sources of a Federal standard of performance determined by the Administrator to be achievable through application of the best available demonstrated control technology, processes, operating methods, or other alternatives, including, where practicable, a standard permitting no discharge of pollutants.

Section 403(c) of the Act requires the Administrator to issue to States and appropriate water pollution control agencies information on the processes, procedures or operating methods which result in the elimination or reduction of the discharge of pollutants in accordance with Section 306. The "Development Document" referred to below fulfills these requirements.

Finally, section 501(a) authorizes the Agency to prescribe regulations as necessary to carry out its functions under the Act.

SUMMARY AND BASIS OF EFFLUENT LIMITATIONS GUIDELINES

The report entitled "Development Document for Performance Standards for the Coal Mining Point Source Category, May 1976," details the analyses undertaken in support of these regulations and is available for inspection at the EPA Public Information Reference Unit, Room 2404, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460, at all EPA regional offices, and at State Water Pollution Control Offices. The report on the potential economic effects of these regulations is also available for inspection at these locations. Persons wishing to obtain copies may write to the National Technical Information Service, Springfield, Virginia 22151.

At the time of proposal of performance standards on September 19, 1977 (42 FR 46932), interested persons were asked to submit written comments to the Agency by November 18, 1977. Copies of all public comments which were received are available for inspection at the EPA Public Information Reference Unit, Room 2922 (EPA Library), Waterside Mall, 401 M Street, S.W., Washington, D.C.

The regulations promulgated today incorporate several adjustments to the proposed standards of performance. In large part, these changes reflect EPA's consideration of the substantial number of comments received from industrial and environmental groups. The comments are addressed in detail in Appendix A to the preamble; major issues and changes in the proposed regulations are summarized below.

SUMMARY AND OUTLINE OF ISSUES AND MAJOR CHANGES

The definition of "new source coal mine" used in these regulations is tied closely to an identification number system implemented by the Mining Safety and Health Administration of the Department of Labor ("MSHA"), formerly the Mining Enforcement and Safety Administration of the Department of the Interior. MSHA requires every coal mine operator to file a Notification of Legal Identity, which provides information relating to mine ownership and location (30 CFR Part 82). Upon reciept of these Notices, it assigns identification numbers to the mines on a routine, first come-first serve basis.

This identification system offers EPA a convenient vehicle for identifying new source coal mines. If a mine has received an MSHA number before the promulgation date of these regulations, it will be considered an existing source and, therefore, will not be required to meet the standards of this Part. Conversely, if a mine receives a number after the promulgation date of these regulations, the mine constitutes a new source and must satisfy the requirements of this Part.

It should be noted that in the proposed NSPS (September 19, 1977), the date for determining a "new source coal mine" was the date the regulation was proposed. However, in that promulgation of the regulation was delayed past one hundred and twenty days after the date of proposal because the Agency needed additional time to address the substantial number of comments received on the proposed regulation, the date for determining a "new source coal mine" in this final rule is the date this rule is promulgated.

In some instances, however, the MSHA identification system might not yield a fair result. It is possible, for example, that some delay in registration could occur; in that event, a mine which was in existence when these regulations were promulgated could be classified as a new source. To avoid this possibility, the regulations offer an option. If a mine owner or operator can demonstrate that contractual obligations to purchase unique facilities or equipment (as defined in 40 CFR Part 6, Appendix A) existed before the promulgation date of these regulations, his mine will be considered existing rather than new. To carry his burden of proof, the owner or operator must show that substantial contractual obligations existed. A building contract would qualify, for example, but not options to purchase or contracts terminable at little or no loss. Similarly, the "facilities" or "equipment" for which contracts are let must constitute items of significant value, the purchase of which represents a substantial commitment to go forward with the commercial endeavor. Such items include structures, structural materials unique to a particular site, and machinery, process equipment or construction equipment for use at a particular site.

Furthermore, a mine presently categorized as existing may subsequently be reclassified as new if it undergoes a "major alteration." Changes which are substantial enough to create, in effect, a new source would fall under the term. However, normal expansion of mining operations would not be considered a major alteration and would, therefore, not bring a site under these regulations. Of course, determining whether a particular change constitutes a simple modification or a major alteration can be accomplished fairly only on a case-by-case basis. This the Agency will do, taking into account a range of factors relating to mine operation and capital investment (see Section 434.11(i)(2) of the regulations). A factor that will not be determinative of whether a "major alteration" has occurred is the acquisition of additional land or mineral rights. The Agency has deleted this criterion from the proposed regulations because simple legal transactions do not necessarily translate into creation of new point sources. Nor do they indicate a present intention to increase mining activity.

COAL PREPARATION PLANTS AND ASSOCIATED AREAS

Although recycling is a common practice, the Agency has deleted the requirement that process water in preparation plants be reused. There are several reasons for this change. First, reuse of process water is essentially a function of the economics of operation of a preparation plant: sensible operators will strive to achieve recycle quite apart from the pollution control aspect.

More importantly, most preparation plants are surrounded by associated areas. Common settling ponds service the coal preparation plant and associated area. Discharges from the preparation plants often are channeled to the common ponds rather than directly to navigable waterways. The discharges from those ponds to navigable waters, of course, are covered by these effluent limitations guidelines. But since those limitations are expressed in concentration terms, it is often impossible to apportion the pollution coming from the preparation plant discharges. Thus, there would be little practical difference between regulations containing a recycle provision

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and those that do not. And it appears that the recycle language would have caused substantial confusion for those involved in the permit drafting process.

Limitations on Iron

Among the effluent limitations imposed in these new source performance standards are maximum concentration limits on iron. When these regulations were proposed, the daily maximum limitation for total iron was set at 3.5 mg/l. This figure provoked several objections from the industry to the effect that a daily maximum of only 1.17 times the 30 day average (set at 3 mg/l in the proposed regulations) was unrealistic. In response to these objections, EPA reviewed its data and has determined that it fails to substantiate the 3.5 limitation. Therefore, in that other effluent limitations for the coal mining point source category have been based on long term data indicating that a daily maximum of twice the 30 day average can be maintained, final limitations promulgated for total iron are 3.0 mg/l as a 30 day average and 6.0 mg/l as a daily maximum.

Western Coal Mines Subcategory

In the proposed new source performance standards for the coal mining point source category, the Agency established a separate Subpart for Western Coal Mines (Subpart F). That approach was based on data indicating that many Western coal mines are able to discharge pollutants in lower concentrations than Eastern coal mines. Factors offered to explain this difference included the relatively more even topography of Western mines, the emphasis on conserving scarce water supplies, and the lower concentration of pollutants in the geologic formations being exploited. Proposed standards of performance for this subcategory were founded upon data gathered from reports on NPDES permits and from sampling and analysis at certain Western mines.

This proposed approach prompted comments from the mining industry. These comments pointed out that although many Western mines, defined as those mines located west of the 100 meridian, West Longitude, are located in more even topography, still others are situated in areas topographically similar to Eastern coal fields.

EPA has reviewed this information and believes that insufficient data presently exists to justify a regionally based imposition of standards of performance with respect to all pollutant parameters covered by these regulations. However, such data may be forthcoming in the future. For example, it is clear that many mines in certain Western states are achieving total suspended solids (TSS) limitations more stringent than those applicable to Eastern mines. See the preamble for proposed Standards of Performance for New Sources (42 FR 46933, September 19, 1977) and for BPT Effluent Limitations and Guidelines (42 FR 21380, April 26, 1977).

If, in the future, available information justifies separate consideration for Western mines, this Subpart will be amended.

Therefore, EPA today reserves Subpart F for that purpose. As an immediate measure, the Agency today excepts from national regulations with respect to TSS those States in which mines have demonstrated an ability to discharge TSS in lower concentrations than the effluent limitations established in these regulations. This exception means that persons initiating mining activity in those States will receive TSS limitations based on the best engineering judgment of the State or Federal permitting authority pursuant to Section 402(a)(1).

Exemption for Discharge Resulting From Extraordinary Volumes Due to Precipitation Events

A number of coal mining companies and environmental groups requested clarification of the overflow exemption contained in the proposed standards of performance.

While the language, in an attempt to clarify, does differ slightly from the exemption in the BPT regulation, the intent is the same. Simply put, each discharger should design, construct and properly maintain his containment or treatment facilities. The treatment facilities should be constructed to include the volume which would result from a "10-year/24-hour precipitation event" at the mine or preparation plant. A 10-year/24-hour precipitation event is a measurement of precipitation in inches of water which can be found from the isoploval maps in "Rainfall Frequency Atlas of the U.S.," a publication of the U.S. Department of Commerce. For example, using the "10-year/24-hour precipitation event" for Charleston, West Virginia, a treatment facility should be constructed to include the volume of water that would result from 4 inches of rain over the mine or preparation plant area covered by the regulation. Should a 10-year/24-hour precipitation event or a snow melt of equivalent volume cause an overflow or discharge of effluent that is not within the effluent limitations, that amount of overflow or discharge caused by the precipitation event will be allowed, provided that the treatment facility has been constructed, operated and maintained to meet the stated design. The soundness and justification for the specific design, construction, operation and maintenance of the waste water treatment facility is left to the operator or owner of the mine or preparation plant.

A change has been made in the provision to emphasize that the burden is on the discharger to show that the exemption is warranted. A technical correction will be made to the regulation based on best practicable technology currently available to clarify that that meaning applies to those regulations also.

For a detailed discussion of this exemption, see the preamble to the BPT Effluent Limitations Guidelines (42 FR 21381-21382, April 26, 1977).

Areas Under Reclamation

The proposed regulations added Subpart E-Areas Under Reclamation, but imposed no standards of performance due to on-going data collection and analysis. The addition of this Subpart occasioned numerous comments. Environmental groups urged the Agency, for example, to promulgate standards of performance for Subpart E because "areas under reclamation" could use the same technology to comply with standards of performance as are used for mine drainage originating from an "active mine area." Others suggested that Subpart E should address post-mining discharges from closed, abandoned or orphaned mines. Still others requested clear delineation of EPA FWPCA authority and that of the Department of the Interior pursuant to the Surface Mining Control and Reclamation Act of 1977 (Pub. L. 95-87). It was further maintained that specific effluent limitations for discharges from areas under reclamation would be inappropriate.

After close consideration of these comments, the Agency has chosen to add Subpart E as originally proposed because there is insufficient information to justify imposition of standards of performance at this time for inactive mines and areas under reclamation.

EPA intends to propose BAT regulations and revised new source performance standards in 1979. As part of this review, EPA will continue to gather and analyze information with respect to water pollution originating in surface mines undergoing reclamation and, if warranted, may at the time it proposes the revised BAT limitations, propose standards of performance for Subpart E.

Environmental Review of New Source Mines Permits

General regulations governing the application of NEPA to new source permits were promulgated on January 11, 1977, (40 CFR Part 6 (42 FR 2450)). EPA expanded these general regulations by issuing a separate policy memorandum on the applicability of NEPA to new source coal mines. (A summary of this guidance was included in 42 FR 46932). The Agency received a number of comments on this summary. Many comments requested that NEPA review be extended to all underground drift mines operating in seams which have a potential for producing acid mine drainage. They further maintained that the adverse potential of post-mining discharge was sufficiently high to warrant automatic NEPA review of all mines. Other comments took a different view, arguing that NEPA review be contingent upon factors relating to down-stream water use.

As the Agency explained in the policy memorandum, environmental assessments of new source coal mines should be based upon mine size (design annual tonnage) and mining method (surface or underground). If the assessment suggested that a site may pose a significant risk of major environmental impact to the environment (in accordance with 40 CFR 2450 et seq.), an EIS would be prepared. This review could be triggered by appropriate evidence relating to any of the following: archaeological sites, sensitive ecosystems, habitats of endangered species, historical sites, wild and scenic rivers, wetlands, prime agricultural lands, significant surface water or ground water pollution, recreational land uses, air quality, noise level, community integrity and quality of life, mining in a saturated zone, presence of overburden with a potential for producing acid mine drainage, steep slope mines (over 25 percent), mining in an alluvial valley floor, and other criteria based on characteristics of particular regions.

The Agency believes that this approach is sound and fully comports with all legal requirements.

A number of comments were received addressing the EPA draft document "Best Practices for New Source Surface and Underground Coal Mines." They requested that this draft document be reappraised in light of the regulations required by the Surface Mining Control and Reclamation Act of 1977 (Pub. L. 95-87). EPA agrees and will continue to work closely with the Department of Interior's Office of Surface Mining in those areas where these regulations affect the same activities. When final regulations are promulgated by the Department of the Interior, EPA will review the regulations and will issue, as appropriate, further guidance to Regional Administrators regarding the continued applicability of "best practice procedures."

Economic Impact Analysis

The report, "Economic Impacts of Effluent Guidelines, Coal Mining" which supports these regulations, concludes that these new source performance standards should not significantly affect prices, production, employment, or balance of trade. The standards are predicted to cause 1985 raw coal prices to increase up to 32 cents per ton; this represents an average cost increase of no more than 1.6 percent. The economic analysis indicated that the higher price is expected to reduce 1985 demand from 897 to 894 million tons, a decrease of 0.3 percent. Assuming 12000 BTU per pound of coal, this annual reduction would approximate 72×10^{12} BTU. These estimates which were based upon an earlier analysis done for the Agency, differ from current Administration estimates of approximately 1.2 billion tons of coal demanded in 1985. However, the price and proportionate production impacts are expected to be similar.

The proposed preparation plant standards of performance were predicted to increase the cost of prepared coal up to seven cents per ton. This increase was approximately 3.5 percent of the $2.00 per ton charge for coal cleaning and proportionally less of the cost of prepared coal. No significant change in the demand for cleaned coal was expected to result from the regulation.

These promulgated regulations remain substantially unchanged from the proposed regulations; thus, the economic analysis remains applicable. However, these promulgated regulations have removed the requirement for preparation plants to recycle their waste streams. This could to some small extent ease economic impacts of the regulations.

For both coal mines and preparation plants, capital requirements through 1985 will total approximately $126 to $161 million. This is less than 2 percent of the eight to eleven billion dollars which the coal industry is expected to spend for capital expansion during this period.

The requirement to prepare Regulatory Analyses is governed by Executive Order 12044. EPA adopted guidelines to implement this policy. Although not necessary, the economic analysis prepared in support of this regulation fulfills the requirements of the executive order.

Monitoring

Raw process waste water or raw mine drainage at some mines and preparation plants may contain a pollutant controlled by this Part in undetectable or insubstantial quantities, or at substantially lower concentrations than allowed by the standard of performance. If that is the case, the Agency may allow by permit less frequent monitoring of those parameters than is required for other pollutants in the discharge (see 40 CFR Part 125.27). A less frequent schedule in some circumstances may still be sufficient to assure that no change in concentrations is occurring. Such modifications in monitoring requirements will be considered on a case-by-case basis.

Small Business Administration Loans

Section 8 of the FWPCA authorizes the Small Business Administration, through its economic disaster loan program, to make loans to assist certain small business concerns in effecting additions or alterations to their equipment, facilities, or methods of operation so as to meet water pollution control requirements under the FWPCA. These loans exist to aid concerns likely to suffer substantial economic injury without such assistance.

For further details on this Federal loan program, write to EPA, Office of Analysis and Evaluation (WH-586), 401 M Street, S.W., Washington, D.C. 20460.

Dated: December 20, 1978.

Douglas M. Costle,
Administrator.

Part 434 is amended as follows:

Subpart A—General Definitions

1. In § 434.11, paragraph (i) is added as follows:

§ 434.11 General Definitions.

* * * * *

(i) The term "new source coal mine" shall mean a coal mine which:

(1) was not assigned the applicable Mining Safety and Health Administration (MSHA) identification number under 30 CFR Part 82 prior to the promulgation date of these new source performance standards and which, at such date, had no contractual obligation to purchase unique facilities or equipment as defined in Appendix A of 40 CFR Part 6, Guidance on Determining a New Source, or

(2) is determined by the Regional Administrator to constitute a "major alteration" in accordance with 40 CFR Part 6 Appendix A (even if the applicable MSHA identification number is assigned prior to the promulgation date of new source performance standards). In making this determination, the Regional Administrator shall take into account the occurrence of one or more of the following events, in connection with the mine for which the NPDES permit is being considered, after the date of promulgation of ap-

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plicable new source performace standards:

(i) A mine operation initiates extraction of a coal seam not previously extracted by that mine;

(ii) a mine operation discharges into a drainage area not previously affected by waste water discharges from the mine;

(iii) a mine operation causes extensive new surface disruption;

(iv) a mine operation initiates construction of a new shaft, slope, or drift;

(v) a mine operation makes significant capital investment in additional equipment or additional facilities;

(vi) such other factors as the Regional Administrator deems relevant.

Subpart B—Coal Preparation Plants and Associated Areas

2. Section 434.25 is added as follows:

§ 434.25 Standards of performance for new sources.

(a) The following limitations establish the concentrations of pollutants which may be discharged by a point source subject to the provisions of this subpart after application of the best available demonstrated control technology:

(1) Discharge of pollutants shall not exceed the following limitations, if discharges from that point source normally are acidic prior to treatment:

Effluent characteristics	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Milligrams per liter	
TSS	70.0	35.0
Iron, total	6.0	3.0
Manganese, total	4.0	2.0
pH	within the range of 6 to 9	

(2) Discharge of pollutants shall not exceed the following limitations, if discharges from that point source normally are alkaline prior to treatment:

Effluent characteristics	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Milligrams per liter	
TSS	70.0	35.0
Iron, total	6.0	3.0
pH	within the range of 6 to 9	

(b) Upon satisfactory demonstration by the discharger, any overflow, increase in volume of a discharge, or discharge from a bypass system, resulting from a 10-year/24-hour or larger precipitation event or from a snow melt of equivalent volume, from facilities designed, constructed, and maintained to contain or treat the volume of water which would result from a 10-year/24-hour precipitation event, shall not be subject to the limitations set forth in paragraph (a) of this section.

(c) Where the application of neutralization and sedimentation treatment technology results in an inability to comply with the manganese limitation set forth in paragraph (a) of this section, the permit issuer may allow the pH level in the final effluent to be exceeded to a small extent in order that the manganese limitation in paragraph (a) of this section will be achieved.

Subpart C—Acid or Ferruginous Mine Drainage Subcategory.

3. Section 434.35 is added as follows:

§ 434.35 Standards of performance for new sources.

(a) The following limitations establish the concentrations of pollutants which may be discharged by a point source subject to the provisions of this subpart after application of the best available demonstrated control technology:

Effluent characteristics	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Milligrams per liter	
TSS	[1]70.0	[1]35.0
Iron, total	6.0	3.0
Manganese, total	4.0	2.0
pH	within the range of 6 to 9	

[1]These TSS limitations shall not apply to discharges from coal mines located in the following States: Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming. In these States, TSS limitations shall be determined on a case-by-case basis.

(b) Upon satisfactory demonstration by the discharger, any overflow, increase in volume of a discharge, or discharge from a bypass system, resulting from a 10-year/24-hour or larger precipitation event or from a snow melt of equivalent volume, from facilities designed, constructed, and maintained to contain or treat the volume of water which would result from a 10-year/24-hour precipitation event, shall not be subject to the limitations set forth in paragraph (a) of this section.

(c) Drainage which is not from an active mining area shall not be required to meet the limitations set forth in paragraph (a) of this section as long as such drainage is not commingled with untreated mine drainage which is subject to the limitations in paragraph (a) of this section.

(d) Where the application of neutralization and sedimentation treatment technology results in an inability to comply with the manganese limitation set forth in paragraph (a) of this section, the permit issuer may allow the pH level in the final effluent to be exceeded to a small extent in order that the manganese limitation in paragraph (a) of this section will be achieved.

Subpart D—Alkaline Mine Drainage Subcategory

4. Section 434.45 is added as follows:

§ 434.45 Standards of performance for new sources.

(a) The following limitations establish the concentrations of pollutants which may be discharged by a point source subject to the provisions of this subpart after application of the best available demonstrated control technology:

Effluent characteristics	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Milligrams per liter	
TSS	[1]70.0	[1]35.0
Iron, total	6.0	3.0
pH	within the range of 6 to 9	

[1]These TSS limitations shall not apply to discharges from coal mines located in the following States: Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming. In these States, TSS limitations shall be determined on a case-by-case basis.

(b) Upon satisfactory demonstration by the discharger, any overflow, increase in volume of a discharge, or discharge from a bypass system, resulting from a 10-year/24-hour or larger precipitation event or from a snow melt of equivalent volume, from facilities designed, constructed, and maintained to contain or treat the volume of water which would result from a 10-year/24-hour precipitation event, shall not be subject to the limitations set forth in paragraph (a) of this section.

(c) Drainage which is not from an active mining area shall not be required to meet the limitations set forth in paragraph (a) of this section as long as such drainage is not commingled with untreated mine drainage which is subject to the limitations in paragraph (a) of this section.

5. Subpart E is added as follows:

Subpart E—Areas Under Reclamation Subcategory

§ 434.50 Applicability; description of the areas under reclamation subcategory.
§ 434.55 [Reserved]

§ 434.50 Applicability; description of the areas under reclamation subcategory.

The provisions of this subpart are applicable to discharges from surface mining areas where grading has been completed and the area of land is bonded by an appropriate reclamation bond.

§ 434.55 [Reserved]

6. Subpart F is added as follows:

Subpart F—Western Coal Mines Subcategory

§ 434.60 Applicability; description of the Western coal mines subcategory.
§ 434.65 [Reserved]

§ 434.60 Applicability; description of the western coal mines subcategory.

The provisions of this subpart are applicable to mine drainage resulting from the mining of coal of any rank including but not limited to bituminous, lignite, and anthracite from mines located west of the 100-degree meridian.

§ 434.65 [Reserved]

APPENDIX A

SUMMARY OF PUBLIC PARTICIPATION

Prior to this publication, the Environmental Protection Agency set forth in substantial detail factual determinations supporting the promulgation of these regulations. These appeared in the Notice of Final Rulemaking for existing sources (BPT) in the Coal Mining Point Source Category, published April 26, 1977 (42 FR 21380) and in the notice of Public Review Procedures, published October 6, 1973 (38 FR 21202). Moreover, the Development Document for Final Effluent Limitations Guidelines and New Source Performance Standards for the Coal Mining Point Source Category and the document entitled Economic Impact of Interim Final Effluent Guidelines on the U.S. Coal Mining Industry support these regulations. The public had opportunity to review these studies (42 FR 46932).

The following parties submitted written comments: West Virginia Citizen Action Group Salt River Project; Dechert, Price and Rhoads (for Westmoreland Resources); A.T. Massey Coal Company; Peter Kiewit Sons' Company; Island Creek Coal Company; Consolidation Coal Company; United States Steel Corporation; AMAX Coal Company; State of West Virginia, Office of the Attorney General; State of West Virginia, Department of Natural Resources; Kentucky Coal Association Incorporated; Pennsylvania Power and Light Company; Jack McCormack and Associates; National Coal Association; State of Utah, Office of the Governor; The North American Coal Corporation; The State of North Dakota; Commonwealth of Pennsylvania, Department of Environmental Resources; Duquesne Light; Trout Unlimited; The Pittsburgh and Midway Coal Mining Company; the United States Environmental Protection Agency, Region VIII; Utah Power and Light Company; Ashland Coal Company Incorporated; Dow Chemical, U.S.A.; Texas Utilities Generating Company; CF & I Steel Corporation; Peabody Coal Company; Knife River Coal Mining Company; Save Our Cumberland Mountains; East Tennessee Research Corporation; Utah International Incorporated; Bethlehem Steel Corporation; The Pittston Company Coal Group; The West Virginia Highlands Conservancy; National Mines Corporation; United States Department of the Interior; and the Honorable Robert H. Mollhan, House of Representatives.

(1) The Agency received comments questioning exemptions for discharges of extraordinary volume due to precipitation events. Some of these requested that EPA employ the same language that it used in the BPT regulations. EPA has decided to modify that language but only to clarify the earlier statement. For a full discussion of this provision, see the preamble to these regulations.

(2) EPA received numerous comments concerning its definition of "new source coal mine. The majority of comments agree with the Agency decision to ground the determination upon the identification number system of the Mining Safety and Health Administration of the Department of Labor ("MSHA"). One comment maintained, however, that, as the MSHA identification system deals with mine operation, its use here would violate Section 306(a)(2) of the Clean Water Act, which ties the definition of "new source" to time of construction. The Agency agrees that commencement of construction is critical in this regard. Consequently, the regulations allow a mine owner or operator to demonstrate that construction occurred prior to the promulgation date of these regulations. A successful demonstration would rebut the presumption created by the time of issuance of the MSHA number.

Other comments requested a definition for "existing" sources. This definition is not necessary because any source which is not "new" is, by implication, "existing."

EPA also received comments concerning "major alterations" of coal mines. One argued that the guidance criteria established in the regulations is too vague, but failed to offer any specific alternative language. EPA has decided to retain these criteria because it believes them to be sufficient. They provide specific guidance to Regional Administrators who must make these case-by-case decisions, and also put owners and operators on notice in this regard. These criteria allow needed discretion and maintain a national uniformity in decision making.

Another comment suggested that "major alterations" be linked to degradation of water quality. Although in a given case, degradation alone could prompt a decision that a major alteration has occurred, EPA disagrees that this, or any other single criterion, should exclusively govern the determination. There are too many factors which indicate major operational change to exclusively rely on one.

(3) Numerous comments were received concerning Subpart E—Areas under Reclamation. Many of these comments asked EPA to include standards of performance for discharges from deep mines after closure and cessation of mining activity. The Agency declines to do so because it has insufficient data at this time to impose limitations on inactive mine discharges. BAT limitations, however, may impose effluent limitations for discharges from areas under reclamation.

Other commenters noted that these regulations set forth no clear distinction between EPA control of coal mine discharges and that of the Office of Surface Mining of the Department of the Interior. EPA and the Department of the Interior are working together to ensure that these new source performance standards will neither jeopardize the efforts of the agencies nor unfairly burden the industry.

Finally, some commenters prefer regulation of discharges from areas under reclamation by other than effluent limitations. Once again, the lack of sufficient data precludes adoption of this suggestion. This possibility will receive attention during BAT review.

(4) With respect to the proposed maximum daily limitations for total iron, commenters complained that the 3.5 mg/l figure was too stringent. In these regulations, EPA has amended that standard to 6.0 mg/l. For a discussion of its reasons, see the preamble to these regulations.

(5) EPA received comments on Subpart F—Western Coal Mines. They requested deletion of the category or, in the alternative, the imposition of total suspended solid limitations identical to those imposed in the rest of the Nation. In response, EPA has removed the TSS limitations set forth in the proposed new source performance standards. The effect is that TSS limitations for western mines will reflect best engineering judgment on a case-by-case basis. For a fuller discussion, see the preamble to these regulations.

(6) Industry commented that the TSS limitations are too stringent. The Agency carefully considered this objection; it believes that these standards reflect the best available demonstrated control technology in the industry.

Another comment suggested that EPA base TSS limitations on ambient total solids in the receiving stream. Because new source performance standards are technology-based, it would be inappropriate to key the regulations to receiving water quality.

Finally, one comment asserted that EPA should prepare a cost-benefit analysis focusing solely on removal of total suspended solids. EPA believes that its more broad economic analysis is both appropriate and adequate.

(7) Certain comments questioned the pH limitation with respect to manganese. In the proposed new source performance standards, EPA authorized exceedance of the upper pH limit to 9.5 when necessary to meet the manganese limitation. Comments asked EPA to abandon the 9.5 ceiling and to adopt in its place the approach contained in the BPT regulation. That regulation allows exceedance "to a small extent." Upon consolidation, EPA has reinstated the BPT language, in order to maximize discretion in the permit issuing authority.

(8) EPA received numerous comments concerning its recycling proposal. Specifically, these comments requested guidance on the amount of process waste water that must be returned to the process. Because EPA has decided not to require recycling, these inquiries require no response.

(9) State officials commented that EPA's decision to forego regulation of post-mining

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discharges at this time will unfairly burden their regulatory programs. They also maintained that the continuation of non-uniform state standards would influence the location of new industry.

Although these allegations may be true, EPA cannot impose effluent limitations in the absence of sufficient data. The Agency will study the post-mining discharge problem and promulgate standards, as appropriate, in conjunction with its BAT review of this point source category.

(10) One comment asked EPA to conduct specific economic impact analyses on individual mining districts. EPA believes that its nationwide analysis adequately considers regional impacts of the regulations.

(11) Several commenters contended that discharges from preparation plant associated areas are not point source discharges and that, therefore, these regulations should not apply. EPA's study of the industry reveals the contrary: most discharges are from point sources. Consequently, we decline to remove coal preparation plant associated areas from coverage. Of course, only point sources as defined in the Act are covered.

(12) EPA received comments from numerous private interests regarding the procedures for environmental review of new source coal mine permits. Although not a part of these regulations, EPA had discussed these procedures in the preamble to the proposed new source performance standards for this point source category (42 FR 46932). At that time, it outlined a method which expands upon the general NEPA regulations by using screening procedures to identify coal mines that are most likely to have significant impact on the environment. Under that scheme, EPA would use two criteria, the rate of production and the mining method, as preliminary indicators of environmental impact, and, thus, of the need for an environmental impact statement.

Some of the comments preferred to this approach a full NEPA review of all underground drift mines operated in pitching seams, due to the risk of acid mine drainage. Others wanted NEPA review if a mine could significantly affect a watershed. After consideration of these comments, EPA has decided to retain the procedures. First, the Agency believes that the propriety of environmental review should not be determined on narrow grounds. This method carefully avoids that consequence. Second, this administratively expedient procedure will help to shorten the time required to determine whether full NEPA review is warranted; other suggested procedures would extend this time unneecessarily.

Finally, commenters noted that EPA's draft document, "Best Practice for New Source Surface and Underground Coal Mines," overlapped regulations established under the Surface Mining Control and Reclamation Act of 1977 (Pub. L. 95-87). EPA is aware of the Department of the Interior's parallel role in regulating coal mines; consequently, the Agency will continue to work closely with the Office of Surface Mining of that Department to ensure that mutual regulatory efforts are neither duplicative nor conflicting.

[FR Doc. 79-1048 Filed 1-11-79; 8:45 am]

[4110-35-M]

Title 42—Public Health

CHAPTER IV—HEALTH CARE FINANCING ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER B—MEDICARE PROGRAM

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

Payment Under Medicare for Items and Services Furnished by Indian Health Service Hospitals and Skilled Nursing Facilities

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Final Rule.

SUMMARY: These amendments permit payment for items and services furnished Medicare beneficiaries by hospitals and skilled nursing facilities of the Indian Health Service (IHS). The amendments implement Section 1880(a) of the Social Security Act, which was added by Section 401 of the Indian Health Care Improvement Act (Pub. L. 94-437). With certain exceptions, Medicare payment could not previously be made for these services because of the general statutory prohibition against Medicare payment for services furnished by Federal providers.

DATE: Effective January 12, 1979.

FOR FURTHER INFORMATION, CONTACT:

Mr. John B. Russell, Medicare Bureau, Health Care Financing Administration, Room 1H-5 East Low Rise Building, Baltimore, Maryland 21235 (301) 594-8260.

SUPPLEMENTARY INFORMATION: Section 401 of the Indian Health Care Improvement Act (Pub. L. 94-437), enacted on September 30, 1976, authorized Medicare payment for services furnished by IHS hospitals and skilled nursing facilities to Medicare beneficiaries. (See Section 1880 of the Social Security Act, 42 U.S.C. 1395qq.)

The Medicare statute (title XVIII of the Social Security Act) generally prohibits payment (other than for emergency services) (1) to any Federal provider of services, except those providing services to the general public as community institutions or agencies, (2) to any provider for items or services which the provider is obligated under a law of the United States or contract with the United States to furnish at public expense, and (3) for items or services which are paid for directly or indirectly by a governmental entity, whether or not the Medicare beneficiary was otherwise entitled to free care. (See Sections 1814(c), 1835(d), and 1862(a)(3) of the Act.) Therefore, prior to enactment of Pub. L. 94-437, payment could not be made under Medicare for services (other than emergency services) furnished by IHS hospitals and skilled nursing facilities (SNFs), except in the case of certain hospitals in Alaska that had been determined to be serving the general public as community institutions. Now Medicare payment can be made for services furnished by an IHS hospital or SNF, whether or not the Medicare beneficiary who receives the services is otherwise entitled to free care from the IHS.

A Notice of Proposed Rulemaking (NPRM) was published in the FEDERAL REGISTER on August 8, 1977 (42 FR 39995). The NPRM proposed to extend Medicare coverage also to certain services furnished in Veterans Administration (VA) hospitals under section 115(a) of the Veterans Omnibus Health Care Act (Pub. L. 94-581). However, these provisions cannot be implemented until a number of administrative issues are resolved by the VA and the Department of Health, Education, and Welfare, as provided by section 115(a) of Pub. L. 94-581. We are concerned that, under these circumstances, amending the regulations would be misleading or confusing. For this reason, the proposed extension to VA hospitals has been omitted from these final regulations. When agreement on these administrative questions is reached between the Department and the VA, implementing regulations will be published in a new NPRM.

COMMENTS RECEIVED AND RESPONSES

Nine comments were received with regard to the NPRM. A summary of the comments and the Department's responses follow:

1. One group of comments related to the proposed amendments on VA facility coverage. Since those amendments have been deferred for publication in a future NPRM, these comments will be considered in the redraft of that NPRM.

2. Another group endorsed the proposed amendments related to IHS hospital and extended care coverage, expressing the view that they would result in improved utilization of medical services.

3. One commenter objected to one Federal agency (HCFA) reimbursing another Federal agency (IHS) for services the latter is required to furnish without charge.

Since the reimbursement for these services is required by Section 1880 of the Social Security Act, we have no discretion to withhold it.

4. Another commenter objected to (a) Medicare reimbursement to IHS facilities that do not meet Medicare conditions of participation, and (b) use of Medicare funds, instead of IHS funds, to upgrade the facilities.

Those provisions did not appear in the NPRM but are required by Section 1880. Section 1880(b), added by Pub. L. 94-437, provided that IHS facilities not in compliance with the existing Medicare standards for participation and payment could submit a plan prior to March 31, 1977, for achieving compliance. Upon acceptance of the plan, a facility would be eligible for payments without regard to the extent of its actual compliance during the first 12 months after the month the plan was submitted. In addition, section 1880(c) of the Act requires that Medicare payments owed to IHS facilities be used exclusively to upgrade IHS facilities, until substantially all the facilities meet Medicare health and safety standards.

5. Another commenter urged that the availability of Medicare reimbursement to IHS facilities not result in decreased Departmental funding of IHS health care activities.

This comment is dealt with by section 401(c) of Pub. L. 94-437, which states: "Any payments received for services provided to beneficiaries hereunder shall not be considered in determining appropriations for health care and services to Indians."

EFFECTIVE DATE

Section 401 of the Indian Health Care Improvement Act was effective September 30, 1976. All facilities wishing to participate in the Medicare program submitted a plan for compliance with Medicare standards and were approved for participation beginning March 31, 1977. Since all planning, staff training, instructions and other activities needed to begin Medicare payments for services furnished by IHS facilities have been completed, good cause exists for not having a delayed effective date, and, therefore, these regulations are effective upon publication (January 12, 1979).

42 CFR Part 405 is amended as set forth below:

1. Section 405.101 is amended by revising the material in paragraph (a) which precedes paragraph (a)(1) to read as follows:

§ 405.101 Hospital insurance benefits; general.

(a) An individual who meets the conditions for entitlement to hospital insurance benefits provided under Part A of title XVIII of the Act is eligible to have payment made on his behalf, or to him directly (for certain hospital services), subject to the conditions, limitations, and exclusions set out in this part and in the Act for:

* * * * * *

2. Sections 405.154 and 405.155 are vacated and reserved.

§ 405.154 [Reserved]

§ 405.155 [Reserved]

3. Section 405.252 is amended by revising the material preceding paragraph (a) and by vacating and reserving paragraphs (b) and (c) to read as follows:

§ 405.252 Conditions prohibiting payment of benefits.

In addition to any other limitation, condition, or exclusion set out in this part or in the Act, payment of supplementary medical insurance benefits may not be made under the following circumstances:

* * * * * *

(b) [Reserved]
(c) [Reserved]

* * * * * *

4. Sections 405.311a and 405.311b are added to read as follows:

§ 405.311a Nonreimbursable expenses; items or services furnished by a Federal provider of services or other Federal agency.

Payment may not be made for expenses incurred for any items or services that are furnished by a Federal provider of services or other Federal agency, except that:

(a) Payment may be made for emergency hospital services if the conditions in § 405.152 or § 405.249 are met;

(b) Payment may be made to a participating Federal provider which has been determined by the Secretary to be providing services to the public generally as a community institution or agency; and

(c) Payment may be made for items and services furnished by participating hospitals and skilled nursing facilities of the Indian Health Service, notwithstanding § 405.311.

§ 405.311b Nonreimbursable expenses; items or services which a provider or other person is obligated to furnish at public expense under a law of, or contract with, the United States.

Payment may not be made for items or services that a provider of services or other person (other than a hospital or skilled nursing facility of the Indian Health Service) is obligated by a law of, or contract with, the United States to furnish at public expense.

5. Section 405.312 is amended by revising paragraph (e) to read as follows:

§ 405.312 Nonreimbursable expenses; items or services paid for by governmental entity.

* * * * * *

(e) Payment may be made for items and services furnished by participating hospitals and skilled nursing facilities of the Indian Health Service.

* * * * * *

(Secs. 1102, 1814(c), (d), 1835(d), 1862(a), 1871, and 1880 of the Social Security Act; (42 U.S.C. 1302, 1395f(c), (d), 1395n(d), 1395y(a)(3), 1395hh, 1395qq).)

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare—Hospital Insurance; No. 13.774, Medicare—Supplementary Medical Insurance.)

Dated: October 30, 1978.

ROBERT A. DERZON,
Administrator, Health Care Financing Administration.

Approved: January 3, 1979.

JOSEPH A. CALIFANO, Jr.,
Secretary.

[FR Doc. 79-1205 Filed 1-11-79; 8:45 am]

[4110-35-M]

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

Clinical Laboratory Proficiency Examination

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Final Rule.

SUMMARY: These amendments allow us to continue to administer a Public Health Service proficiency examination by which an individual may qualify as a clinical laboratory technologist or cytotechnologist. Current regulations authorize the use of these examinations only until December 31, 1977. These amendments delete that expiration date and provide continued opportunity for a person who lacks the required academic qualifications to qualify as a technologist by passing a proficiency examination. The intent is to increase the availability of competent laboratory personnel available to provide services for patients whose care is funded under Medicare.

DATE: January 12, 1979.

FOR FURTHER INFORMATION CONTACT:

Martha Chestem—(301/594-7930).

SUPPLEMENTARY INFORMATION: On August 1, 1978, a Notice of Pro-

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posed Rulemaking (NPRM) was published in the FEDERAL REGISTER proposing a continuance of the Public Health Service proficiency examinations for clinical laboratory technologists and cytotechnologists. Current Medicare regulations provide that an individual not meeting specified academic requirements can qualify as a technologist or cytotechnologist by passing a Public Health Service proficiency examination given on or before December 31, 1977.

As stated in the NPRM, the statutory requirement for the examination program (Section 1123 of the Act) expired on December 31, 1977. However, Sections 1861(s)(11) and 1871 of the Act authorize us to extend the program. Our experience with the proficiency examination has been a positive one. HCFA believes that continuation of the examination will benefit the Medicare program and protect the health and safety of Medicare beneficiaries by increasing the availability of competent clinical laboratory personnel.

DISCUSSION OF MAJOR COMMENTS

There were 467 responses to the NPRM. Seventy percent (327) of the respondents favored continuance of the examinations without change. Below is a categorization of the other major comments received, and our response to these comments.

(1) LINK BETWEEN PASSING EXAMINATION AND JOB PERFORMANCE

A number of commenters stated that no validation study has been conducted to correlate test performance and job performance. At present, there is a validation study underway by Public Health Service to relate the test and job performance of individuals who previously passed the technologist examination. However, it will be at least 9 to 12 months before findings of the study are known. In the meantime, our observation is that people who previously passed the examination are doing a competent job as technologists and cytotechnologists.

(2) AWAIT LEGISLATION TO ALLOW CONTINUANCE OF THE EXAMINATION

Some commenters said that legislation should provide the guidance for future proficiency examinations. House (H.R. 10909) and Senate (S. 705) bills introduced in the 95th Congress contained provisions for proficiency examinations for clinical laboratory technologists. (H.R. 10909 was not voted on before adjournment; S. 705 passed the Senate on July 28, 1977.)

In our view, the failure of the Congress to pass this legislation did not constitute a rejection of the use of proficiency examinations. Rather, we view the introduction of these bills, and passage by the Senate, as support for the examination. Since we have current statutory authority for this measure, and since we favor these examinations, we see no reason to wait for a further legislative mandate to make them available.

(3) EDUCATION

Finally, there were respondents who stated that only 4-year college graduates with degrees in medical technology should be recognized as technologists in the regulations. We believe this proposal is too restrictive. Current regulations for independent laboratories participating in Medicare and for laboratories licensed under the Clinical Laboratory Improvement Act (CLIA) of 1967 (42 U.S.C. § 263a) recognize as technologists individuals who have at least 90 semester hours in pertinent science subjects and clinical laboratory experience, even though they have not received a degree in medical technology. It is our experience that these individuals are functioning well.

As explained in the NPRM, we are developing a comprehensive NPRM setting uniform personnel standards for laboratories participating in Medicare and laboratories licensed under CLIA. We hope to publish that NPRM soon.

42 CFR Part 405 § 405.1315 is amended by revising paragraph (b)(6) and (c)(3) to read as follows:

§ 405.1315 Conditions—clinical laboratory; technical personnel.

* * * * *

(b) Standard; technologists—qualifications.

* * * * *

(6) Achieves a satisfactory grade in a proficiency examination approved by the Secretary.

(c) Standard; cytotechnologists—qualifications.

* * * * *

(3) Achieves a satisfactory grade in a proficiency examination approved by the Secretary.

(Sections 1102, 1861(s)(11), 1871 of the Social Security Act; (42 U.S.C. 1302, 139x(s)(11) and 1395hh).)

(Catalog of Federal Domestic Assistance Programs No. 13.773, Medicare Hospital Insurance.)

Dated: December 8, 1978.

LEONARD D. SCHAEFFER,
Administrator, Health Care Financing Administration.

Approved: January 6, 1979.

JOSEPH A. CALIFANO, Jr.,
Secretary.

[FR Doc. 79-1208 Filed 1-11-79; 8:45 am]

[4110-35-M]

PART 460—PROFESSIONAL STANDARDS REVIEW

Redesignation of PSRO Areas in Illinois

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Final Regulation.

SUMMARY: This regulation redesignates PSRO areas in Illinois in order to transfer Madison and Clinton Counties (currently in Area VIII) and McDonough County (currently in Area V), to Area VII. As a result of the redesignations, PSRO Area VII will better coincide with the existing boundaries of the local medical review organization.

DATES: The amendment is effective on January 12, 1979.

FOR FURTHER INFORMATION CONTACT:

Ann Flurry (301) 443-1794.

SUPPLEMENTARY INFORMATION: Professional Standards Review Organizations are independent physician organizations mandated under Title XI, Part B of the Social Security Act to review the medical necessity, appropriateness, and quality of health care and services funded through the Medicare, Medicaid, and Maternal and Child Health programs. Specific PSRO areas must be designated before review activities can be undertaken.

On March 18, 1974, regulations were published in the FEDERAL REGISTER (39 FR 10204) designating eight PSRO areas within Illinois. On September 26, 1978, we published a Notice (43 FR 43475) proposing to redesignate Illinois PSRO Areas V, VII, and VIII so that three counties, Madison and Clinton (currently in Area VIII) and McDonough (currently in Area V), are transferred to Area VII. This transfer will make the boundaries of Area VII more congruent with the existing boundaries of the local medical review organization, the Western Illinois Foundation for Medical Care (the Foundation). Only one response was received during the 60 day comment period. This response supported the proposed redesignation.

The Western Illinois Foundation for Medical Care is a local medical review organization responsible under the Hospital Admission and Surveillance Program (HASP) for review of care provided to Medicaid patients. The Foundation's review area currently includes thirteen of the eighteen counties in Area VII as well as the counties of Madison, Clinton, McDonough and Bond. In order to make the boundaries of Area VII more congruent with the Foundation's review area, the counties of Madison, Clinton, and McDonough are being transferred to Area VII.

The Foundation is ready and willing to enter into an agreement for designation as a PSRO for the redesignated Area VII. The redesignation will thus facilitate the implementation of PSRO activity in the only area in Illinois where PSRO review has not yet been initiated.

42 CFR 460.17 is amended by revising the designation of PSRO Area V, Area VII and Area VIII as follows:

§ 460.17 Illinois.

Eight Professional Standards Review Organization areas are designated in Illinois, composed of the following counties:

AREA I

Jo Daviess	Ogle
Stephenson	De Kalb
Winnebago	Whiteside
Boone	Lee
Carroll	

AREA II

McHenry	Kane
Lake	Du Page

AREA III

Cook

AREA IV

Kendall	Grundy
Will	Kankakee

AREA V

Rock Island	Knox
Mercer	Stark
Henry	Marshall
Bureau	Fulton
Putnam	Peoria
La Salle	Tazewell
Warren	Woodford
Henderson	

AREA VI

Livingston	Macon
Ford	Moultrie
Iroquois	Douglas
McLean	Edgar
De Witt	Shelby
Piatt	Coles
Champaign	Cumberland
Vermilion	Clark

AREA VII

Adams	McDonough
Schuyler	Morgan
Brown	Sangamon
Cass	Christian
Mason	Calhoun
Menard	Greene
Logan	Jersey
Pike	Macoupin
Scott	Montgomery
Clinton	Hancock
Madison	

AREA VIII

Bond	Richland
Fayette	Williamson
Effingham	Saline
Jasper	Gallatin
Crawford	Union
Randolph	Johnson
Perry	Lawrence
Franklin	Washington
Hamilton	Jefferson
White	Wayne
Jackson	Edwards
Monroe	Wabash
St. Clair	Pope
Marion	Hardin
Clay	Alexander
Pulaski	Massac

(Section 1152 of the Social Security Act, 42 U.S.C. 1302c-1; Section 1102 of the Social Security Act, 42 U.S.C. 1302.)

Dated: December 8, 1978.

LEONARD D. SCHAEFFER,
Administrator, Health Care Financing Administration.

Approved: January 6, 1979.

JOSEPH A. CALIFANO, Jr.,
Secretary.

[FR Doc. 79-1207 Filed 1-11-79; 8:45 am]

[6730-01-M]

Title 46—Shipping

CHAPTER IV—FEDERAL MARITIME COMMISSION

SUBCHAPTER B—REGULATIONS AFFECTING MARITIME CARRIERS AND RELATED ACTIVITIES

PART 530—INTERPRETATIONS AND STATEMENTS OF POLICY

AGENCY: Federal Maritime Commission.

ACTION: Adoption of Statement of Policy; Correction.

SUMMARY: In the Commission's adoption of statement of policy published December 28, 1978, 43 FR 60471, the new section should be designated "530.10" instead of "530.9".

EFFECTIVE DATE: January 12, 1979.

FOR FURTHER INFORMATION CONTACT:

Francis C. Hurney, Secretary, 1100 L Street, N.W., Washington, D.C. 20573, (202) 523-5725.

SUPPLEMENTARY INFORMATION: None.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 79-1247 Filed 1-11-79; 8:45 am]

[7035-01-M]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Ex Parte No. MC-19 (Sub-No. 16(a))]

PART 1056—TRANSPORTATION OF HOUSEHOLD GOODS IN INTERSTATE OR FOREIGN COMMERCE

Transportation of Household Goods [1]

(Use of Charge Cards)

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

SUMMARY: The Interstate Commerce Commission has modified its regulations governing the participation of household goods carriers in charge card plans. As modified, these regulations permit carriers of household goods to offer household goods shippers an opportunity to pay for interstate transportation costs by use of a charge card. Generally, the regulations permit participation in plans which include chargeback provisions percentage service fees, and discounts to cash shippers. The regulations contain relaxed reporting requirements. Published at 43 FR 17004, April 21, 1978.

DATES: Effective January 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Michael Erenberg (202) 275-7292.

SUPPLEMENTARY INFORMATION: As set forth below, the Commission has modified its regulations governing the participation of household goods carriers in charge card plans, 49 CFR 1056.25 and 1322.1 *et. seq.* As modified, these regulations permit carriers of household goods to extend a charge card payment option to shippers of household goods as defined in 49 CFR 1056.1(a). Prior approval of such plans must be obtained from the Commission.

Generally, plans which discriminate against other carriers of household goods or which are otherwise contrary to the public interest will be disapproved. The regulations also reserve to the Commission the right to withdraw approval of plans which are later shown to be disconsonant with the national transportation policy. Approval of plans will be given informally by letter.

[1] Formerly entitled Practices of Motor Common Carriers of Household Goods (Use of Credit Card Systems)

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The regulations in the appendix also permit carriers to enter plans in which the contract between the carrier and the merchant provides for charge-backs to a carrier's account and a percentage service fee. Carriers will be able to assess surcharges to card customers and to offer discounts to cash customers to the extent the Truth in Lending Act (15 U.S.C. § 1601 *et. seq.*) permits these practices, provided that their tariffs are amended to reflect the terms and conditions of any such pricing provisions and the discounts are shown to be reasonable.

Reporting requirements have been retained on a relaxed basis. For the first full year of the operation of a plan, carriers must make quarterly reports to the Commission. Thereafter, reports will not be required.

If Commission approval of a plan is withdrawn, carriers will have a 30-day period in which to terminate their contract with the participating financial institution. Charge card plans are exempt from the Commission's credit regulations (49 CFR 1322.1 *et. seq.*) except in the instance where transactions are reversed and carriers are forced involuntarily to extend credit to shippers.

A copy of the Commission report, which contains a discussion of the issues considered in the development of the final regulations and a list of the participants, is available upon request. Requests should be sent to: Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

Accordingly, the rules set forth below are adopted. These rules are issued under the authority of part II of the Interstate Commerce Act and 5 U.S.C. §§ 552, 553, and 559 (the Administrative Procedure Act).

Issued in Washington, D.C., on December 11, 1978.

By the Commission.

H. G. HOMME, Jr.,
Secretary.

RULE CHANGE

(1) 49 CFR 1056 is amended by deleting present §§ 1056.4, 1056.21(d), and 1056.25 and by substituting therefor the following same-numbered sections:

§ 1056.4 Discounts prohibited; rates based on prepayment of charges prohibited.

No discounts shall be authorized, by tariff provision or otherwise, by any common carrier of household goods, except as permitted by § 1056.25(f) of this chapter. No rates or charges shall be based on prepayment of charges.

§ 1056.21 Uniform rates for identical services.

. . . . .

(d) The regulations in (a), (b), and (c) above shall not apply to rates applicable to the transportation of shipments of machinery which, because of its unusual nature or value, requires the specialized handling and equipment usually employed in the moving industry, nor shall the above sections apply to rates established in accordance with § 1056.25(g) of this chapter.

§ 1056.25 Charge card plans.

(a) *Approval required.* Each motor common carrier of household goods shall obtain approval from the Commission before offering shippers of household goods the option of paying transportation charges with a charge card.

(b) *Application.* (1) Each such carrier shall make application for approval to participate in a charge card plan by submitting to the Commission a copy of its proposed agreement with the financial institution offering participation in the plan.

(2) Each application shall include the name and principal office location of the carrier seeking approval, the name and address of the carrier's authorized representative (if any), the name and address of the financial institution offering participation in the plan, and a summary of the plan.

(c) *Approval of application.* (1) Approval of a charge card plan shall be given informally by the Commission by sending an appropriate letter to the applying carrier. (2) Approval of a charge card plan shall be denied where the plan is being offered in a manner or on terms which unreasonably discriminate against other carriers which may seek to participate in a charge card plan. Approval shall also be denied when a plan contains terms or conditions contrary to the provisions in paragraphs (e) and (f) of this section or when it is contrary to the public interest.

(d) *Chargeback permitted.* The inclusion in a charge card agreement of reasonable provisions permitting the participating financial institution to charge back a carrier's account shall not result in automatic disapproval of a charge card plan.

(e) *Percentage service charges.* A carrier seeking to participate in a charge card plan may contract with the participating financial institution for payment of a percentage service charge to the financial institution provided that the amount of such service charge is reasonably related to the services performed by the financial institution in conjunction with the operation of such plan. Reasonable variances in the rates of service charges extended to individual carriers shall not alone result in a rate being deemed unrelated to the services provided by the institution.

(f) *Discounts and surcharges.* A motor common carrier of household goods which participates in charge card plan may offer discounts to cash shippers of household goods and assess charge card shippers with surcharges to the extent permitted by 15 U.S.C. § 1666(f), when such carrier has in effect, as part of its tariff, a rule which specifically sets forth (1) the amount of such discount or surcharge, and (2) the class of shipper to which a discount is offered or against which a surcharge is assessed.

(g) *Reporting.* During the first full year of its participation in a charge card plan, each motor common carrier of household goods shall file with the Commission quarterly reports showing (1) each shipment transported for which a charge card was used by the shipper (by bill of lading number and date), (2) the total charges for each such shipment, (3) the charge plan used for each such transaction, (4) the name of the financial institution through which the carrier participates in the charge card plan, and (5) the quarterly totals for items (1) and (2). No reports shall be required after the first full year of participation in a plan.

(h) *Withdrawal of approval.* The Commission expressly reserves the right to withdraw its approval of a charge card plan and to forbid a carrier or carriers from further participation in the plan should such action prove necessary to the protection of the public interest and the National Transportation Policy. In the event a plan or plans are disapproved, each participating carrier shall have a period of 30 days within which to settle its accounts with the participating financial institution and within which to terminate its contractual relationship with that institution.

(i) *Cross reference.* No practices authorized by this section shall be considered violative of any of the provisions of Part 1322 of this chapter as provided in § 1322.6.

(2) 49 CFR 1322 is amended by adding thereto the following § 1322.6:

§ 1322.6. Charge card plans not included.

The provisions of this Part shall not apply to payments of interstate transportation charges by use of charge cards when a carrier offering charge card payment service(s) has obtained approval for such charge card plan(s) as provided in § 1056.25 of this chapter and when the shipper of household goods does not force an involuntary extension of credit by the carrier by causing the charge card issuer to reverse the charge transaction and charge payments back to the carrier's account.

[FR Doc. 79-1258 Filed 1-11-79; 8:45 am]

[4310-55-M]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

SUBCHAPTER B—TAKING, POSSESSION, TRANSPORTATION, SALE, PURCHASE, BARTER, EXPORTATION, AND IMPORTATION OF WILDLIFE AND PLANTS

PART 18—MARINE MAMMALS

State Laws and Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Rule amendments.

SUMMARY: The date for receiving a State's annual report on its approved marine mammal laws, regulations, and conservation program is amended to extend the due date from 60 to 120 days following the close of the reporting period and to include the calendar year, as well as the fiscal year, as recognized report periods. States may have difficulty in meeting reporting obligations because the current submittal deadline of 60 days after the close of the fiscal year may coincide with a period of heavy research and management activities; by allowing additional time after the close of the report period in which to submit their reports and also by giving States the option of reporting on a calendar-year basis, these changes will help them meet reporting requirements. A State's obligation to notify the Service when a certain percentage of the maximum annual retrieved taking quota is reached for mammals whose management has been returned is also modified to lower the percentage from 90 to 80 percent. This change will help the Service take appropriate emergency steps to notify the public and to meet its responsibility for insuring that waiver quotas, especially small ones, are not exceeded.

EFFECTIVE DATE: February 12, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. Rupert R. Bonner, Marine Mammal Coordinator, Office of Wildlife Assistance, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone: 202-632-2202.

SUPPLEMENTARY INFORMATION: The regulations in revised Subpart F of 50 CFR Part 18, published in the FEDERAL REGISTER on October 2, 1978 (43 FR 45370-45374), established procedures for States to follow in requesting review and approval of their marine mammal laws and regulations. They also set forth procedures, standards, and criteria that the Service will use in reviewing, approving, and monitoring the State provisions and in superseding them should that become necessary.

Under the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 *et seq.*), the Service is obligated to continuously monitor and review approved State laws and regulations (16 U.S.C. 1379(a)(3)). To meet part of this obligation, the Service requires in § 18.56(b) of its revised Subpart F that each State with approved laws, regulations and conservation programs submit an annual report on them not later than 60 days after the close of its first full fiscal year following the effective date on which the Director approved them, and annually on that date thereafter. Because this requirement may place a severe reporting burden on States when their research and management activities are greatest, the Service is changing the due date for receiving the annual report from 60 to 120 days after the close of the reporting period and is including the calendar year, as well as the fiscal year, as an approved reporting period. These changes will assist States in meeting their reporting obligations; they will not adversely affect States' organizational, procedural, or operational frameworks, nor will they eliminate States' responsibilities to satisfy all reporting requirements.

Even after management of a species or population stock has been returned to a State under a waiver, the Service remains responsible for insuring that retrieved taking of involved marine mammals does not exceed the maximum number permitted by the waiver. To meet this responsibility, § 18.57 of the revised Subpart F requires a State to notify the Service when 90 percent of the maximum annual quota for a species or stock has been taken. As soon as practicable after receiving such a notification, the Service must publish an appropriate notice in the FEDERAL REGISTER and may initiate steps to prevent taking beyond the quota. Because it may be hard for the Service to take effective action by the time 90 percent of the quota has been taken, particularly when the quota is small, the notification level in 50 CFR 18.57 is being changed to 80 percent. This change will help the Service insure that a small-quota taking limit is not exceeded, but, like the changes in State reporting requirements, it will not adversely affect States because it does not alter their obligations to continuously monitor takings and notify the Service when a given taking level is reached.

Since this regulation merely clarifies the times when certain State reports and notifications are due and imposed no new requirements on States, organizations, or persons, the Director finds, pursuant to 5 U.S.C. 553 (b)(B), that notice and public procedure on this regulation are impracticable, unnecessary, and contrary to the public interest.

This document was prepared by Jackson E. Lewis, Marine Biologist, Office of Wildlife Assistance.

NOTE.—The Department has determined that this document is not a significant rule and does not require the preparation of a regulatory analysis under Executive Order 12044.

Accordingly, Subchapter B of Chapter I, Title 50, Code of Federal Regulations, is amended as shown below:

§ 18.56 [Amended]

1. The first paragraph of § 18.56(b) is amended to read as follows:

. . . . .

(b) In order to facilitate such a review, each State having approved laws and regulations must submit an annual report, which must be received not later than 120 days after the close of such State's first full fiscal or calendar year following the effective date of the Director's approval of the State laws and regulations and at the same time each following year. The report shall contain the following information current for each reporting period:

. . . . .

§ 18.57 [Amended]

2. Additionally, line 4 of § 18.57 is amended by deleting the words "90 percent" and inserting in their place "80 percent."

Dated: January 3, 1979.

LYNN A. GREENWALT,
Director,
Fish and Wildlife Service.

[FR Doc. 79-1266 Filed 1-11-79; 8:45 am]

[4310-55-M]

PART 20—MIGRATORY BIRD HUNTING

Possession of Shotshells Loaded With Material Other Than Steel Shot While Taking Waterfowl in Nontoxic Shot Zones

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule establishes restrictions on the use of toxic shot for waterfowl hunting in certain designated zones beginning September 1, 1979. Currently, steel shot is the only approved non-toxic shot. The rule postpones the previously proposed restric-

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tion on toxic shot for all gauges of guns until September 1, 1980, but continues the restriction on possession of 12-gauge shotshells loaded with toxic shot until that date. This postponement for gauges other than 12-gauge has been determined necessary as a result of recent legislation and the non-availability of steel shot in gauges other than 12-gauge.

EFFECTIVE DATE: September 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Robert I. Smith, Special Projects Coordinator, Office of Migratory Bird Management, Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. 202-254-3207.

SUPPLEMENTARY INFORMATION: On July 28, 1976, the Fish and Wildlife Service published a final rule restricting the taking of waterfowl with shotshells loaded with shot that has not been approved as non-toxic (41 FR 31388). This rule, codified in 50 CFR 20.21(j), related to the taking of ducks, geese, swans, and coots in areas designated as non-toxic shot zones in 50 CFR 20.108.

On August 2, 1977, in recognition of the fact that approved non-toxic shot was manufactured in 12-gauge shells only, the Service published a ruling which prohibited the possession of toxic shot in 12-gauge shells while waterfowl hunting in non-toxic shot zones during the 1977-78 season (42 FR 39106). This amendment permitted the possession and use of shotshells containing lead or other metals in or outside of such zones in guns bored for ammunition other than 12-gauge.

On June 29, 1978, the Service published an amendment to § 20.21(j) which changed the rule published on August 2, 1977 to include waterfowl hunting seasons commencing in 1978 and terminating in 1979 (43 FR 28205-28206). Also, on June 29, 1978, the Service published a proposed amendment to § 20.21(j) (43 FR 28217-28218), to eliminate the exception to the non-toxic shot rule permitting toxic shot for gauges of guns other than 12-gauge for waterfowl hunting seasons commencing in 1979. The proposed ruling would have required that hunting of waterfowl within designated non-toxic shot zones occur only with shotshells approved as non-toxic, regardless of gauge of gun.

Public comment on the proposed rule for 1979 was received until November 9, 1978. Fifty-nine letters were received which expressed opposition to all regulations requiring that non-toxic shot be used. In addition, a petition was received which expressed similar opposition to all regulations relating to non-toxic shot. This petition contained the names of 531 people, most of whom reside in the State of Missouri. Fourteen letters were received which dealt specifically with the proposed amendment. Seven of these letters requested that the ruling requiring non-toxic shot in all gauges of guns in 1979 be delayed. Four letters stated opposition to the proposal without suggesting an alternative. Three letters expressed approval of the proposal.

Two letters were received from manufacturers of shotshells. One of these letters requested a delay in implementation of the proposal. The other letter made no specific request to alter the proposal.

Requests for delays in implementing the proposed amendment in 1979 generally referred to the lack of factory-loaded steel shot in 20- and 16-gauge shells and to the lack of components for hand-loading steel shot. Both letters from manufacturers of shotshells indicated that steel loads in gauges other than 12-gauge will not be available as factory-loaded products in 1979. Since components for hand-loading steel shot were not generally available in 1978, it cannot be assumed that they will be available for hand-loading in 1979.

In 1974, the Service contacted by mail a sample of duck stamp purchasers from throughout the United States. One question asked in this survey related to the gauge of gun normally used when hunting waterfowl. Eighty-four percent of the 3,628 respondents indicated that they normally used a 12-gauge gun for waterfowl hunting. Eight percent of the respondents indicated that they used a 20-gauge gun and 6.6 percent used a 16-gauge gun. Waterfowl hunters under 16 years of age were not included in this sample, since their names were not available from a sample of duck stamp purchasers. The estimate of smaller gauged guns used for waterfowl hunting would have been higher had this group been included in the sample. Hunters less than 16 years old make up about 5 percent of the total waterfowl-hunter population, based on a national survey conducted in 1970. An unknown proportion of these hunters use 20-gauge guns for waterfowl hunting, but it is reasonable to assume that the 20-gauge is popular among this age group. Therefore, the proportion of waterfowl hunters who use guns other than 12-gauge is estimated to be about 20 percent.

Following the implementation of non-toxic shot regulations applied to users of 12-gauge guns in 1976 and 1977, surveys were conducted to determine changes in the use of various gauges of guns for waterfowl hunting. A study conducted in Wisconsin indicated that 92 percent of the waterfowl hunters used 12-gauge guns prior to non-toxic shot regulations and 61 percent used 12-gauge guns in areas where the regulations had been implemented. In 1977 a survey by State wildlife law enforcement officers in the Mississippi Flyway indicated that a pronounced shift had occurred in gauge of gun preference when steel shot was first required in 12-gauge guns. The magnitude of the shift could not be determined with accuracy, and it appeared to vary widely from one location to another. A survey by Fish and Wildlife Service law enforcement agents in both the Atlantic and Mississippi Flyways in 1977 gave additional estimates of the proportion of hunters switching to gauges other than 12-gauge. These estimates ranged from no switching to as high as 80 percent of the hunters contacted.

Appropriated funds for the Department of the Interior (Pub. L. 95-465) for the fiscal year 1979 were restricted in their use by the following provision regarding non-toxic shot regulations:

> No funds appropriated by this Act shall be available for the implementation or enforcement of any rule or regulation of the United States Fish and Wildlife Service, Department of the Interior, requiring the use of steel shot in connection with the hunting of waterfowl in any State of the United States unless the appropriate State regulatory authority approves such implementation.

This congressional action took place at the time of the opening of waterfowl hunting seasons or a few days prior to such openings. Certain non-toxic shot zones in 13 States were identified as areas where non-toxic shot regulations would not be enforced in the 1978-79 waterfowl hunting season due to the refusal of these States to approve such enforcement in part or in total. These States were Arkansas, Idaho, Louisiana, Nevada, North Carolina, Utah, Arizona, Oklahoma, California, Iowa, Ohio, Oregon, and Washington. Twenty-five States approved the enforcement of the regulations.

One of the consequences of the aforementioned action by Congress was to create uncertainty regarding future federal regulatory requirements, and hence demand for shotshells loaded with either toxic or non-toxic shot. Store owners could become reluctant to stock shotshell supplies for waterfowl hunting in 1979. A change in regulations in 1979 with respect to gauge of gun would further complicate this situation, and could result in circumstances in which neither lead nor steel waterfowl loads would be available to the waterfowl hunter in ample amounts in 1979.

The final decision regarding regulations for 1979 included consideration of problems related to the availability of and demand for both toxic and non-toxic shotshells. After weighing these factors, the Service has decided to postpone the restrictions on use of lead shot in gauges other than 12-gauge until September 1, 1980.

Accordingly, 50 CFR Part 20 is amended by deleting the present (j) under § 20.21(j) and replacing it with the following:

§ 20.21 Hunting methods.

* * * * *

(j) While possessing shotshells loaded with shot other than steel shot or such shot approved as non-toxic by the Director pursuant to procedures set forth in § 20.134. *Provided*, That:

(1) This restriction applies only to the taking of ducks, geese, swans, and coots (*Fulica americana*) in areas described in § 20.108 as non-toxic shot zones; and

(2) Prior to September 1, 1980, this restriction applies only to 12-gauge shotshells.

This amendment was authored by Robert I. Smith, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240, 202-254-3207.

NOTE.—The Department has determined that this rule is not a significant rule and does not require preparation of a regulatory analysis. An Environmental Assessment was prepared and a negative declaration filed.

Dated: January 3, 1979.

LYNN A. GREENWALT,
Director, United States Fish and Wildlife Service.

[FR Doc. 79-942 Filed 1-11-79; 8:45 am]

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proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons on opportunity to participate in the rule making prior to the adoption of the final rules.

[3410-34-M]

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[9 CFR Part 91]

INSPECTION AND HANDLING OF LIVESTOCK FOR EXPORTATION

Proposed Rulemaking

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed Rulemaking.

SUMMARY: This document proposes to add the port of Los Angeles, California, and to delete the port of San Francisco, California, from the lists of airports and ocean ports designated as ports of embarkation for animals. It is proposed to delete the port of San Francisco, California, from these lists because it no longer has export inspection facilities for animals which satisfy the required standards.

The intended effect of this action is to update the list of ports of embarkation through which animals may be exported.

DATE: Comments on or before March 13, 1979.

ADDRESS: Comments to Deputy Administrator, USDA, APHIS, VS, Room 826, Federal Building, Hyattsville, Maryland 20782.

FOR FURTHER INFORMATION CONTACT:

Dr. H. A. Waters, USDA, APHIS, VS, Room 826, Federal Building, Hyattsville, Maryland 20782, 301-436-8383.

SUPPLEMENTARY INFORMATION: Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553, that pursuant to sections 4, 5, and 11 of the Act of May 29, 1884, as amended; section 10 of the Act of August 30, 1890, as amended; sections 1 and 2 of the Act of March 3, 1891, as amended; section 1 of the Act of February 2, 1903, as amended; sections 12, 13, 14, and 18 of the Act of March 4, 1907, as amended; and sections 3 and 11 of the Act of July 2, 1962, (21 U.S.C. 105, 112, 113, 114a, 120, 121, 134b, 134f, 612, 613, 614, 618; 46 U.S.C. 466a, 466b); 37 FR 28464, 28477, and 38 FR 19141, the Animal and Plant Health Inspection Service proposes to amend Part 91, Title 9, Code of Federal Regulations.

The export inspection facilities at the port of Los Angeles were inspected by a representative of Veterinary Services, were found to comply with the standards for approved export inspection facilities in § 91.3(c) of the regulations, and were approved by the Deputy Administrator pursuant to § 91.3(d) of the regulations. Therefore, it is proposed that the port of Los Angeles, California, be designated as a port of embarkation for animals under § 91.3(a) of the regulations, and would be added to the lists of airports and ocean ports appearing respectively in §§ 91.3 (a)(1)(i) and (a)(2)(i) of the regulations.

The export inspection facilities at the port of San Francisco were inspected by a representative of Veterinary Services and were found not to be in compliance with the standards for approved export inspection facilities designated in § 91.3(c) and approval of these facilities was revoked pursuant to section 91.3(d). Therefore, designation of the port of San Francisco as a port of embarkation would be revoked, and the port of San Francisco, California, would be deleted from the lists of airports and ocean ports appearing respectively in §§ 91.3 (a)(1)(i) and (a)(2)(i) of the regulations.

Accordingly, § 91.3, paragraphs (a)(1)(i) and (a)(2)(i) would be amended to read as follows:

§ 91.3 Ports of embarkation and export inspection facilities.

(a) * * *

(1) *Airports.* (i) Chicago, Illinois; Harrisburg, Pennsylvania; Helena, Montana; Richmond, Virginia; Miami, Tampa, and St. Petersburg, Florida; New Iberia, Louisiana; Brownsville and Houston, Texas; Los Angeles, California; Moses Lake, Washington; and Newburgh, New York. * * *

(2) *Ocean ports.* (i) Richmond, Virginia; Miami and Tampa, Florida; Brownsville and Houston, Texas; and Los Angeles, California.

* * * * *

All written submissions made pursuant to this notice will be made available for public inspection at the Federal Building, Room 826, 6505 Belcrest Road, Hyattsville, Maryland 20782, during regular hours of business (8 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

Comments submitted should bear a reference to the date and page number of this issue of the FEDERAL REGISTER.

Done at Washington, D.C., this 9th day of January 1979.

NOTE.—This proposal has been reviewed under the USDA criteria established to implement E. O. 12044, "Improving Government Regulations," and has been designated "significant." An approved Draft Impact Analysis Statement has been prepared and is available from Program Services Staff, Room 870, Federal Building, 6505 Belcrest Road, Hyattsville, Maryland 20782. 301-436-8695.

PIERRE A. CHALOUX,
Deputy Administrator,
Veterinary Services.

[FR Doc. 79-1082 Filed 1-11-79; 8:45 am]

[6750-01-M]

FEDERAL TRADE COMMISSION

[16 CFR Part 13]

[File No. 762 3096]

ALUMINUM CO. OF AMERICA, ET AL.

Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Provisional consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this provisionally accepted consent agreement, among other things, would require a Pittsburgh, Pa. producer of aluminum building products and its subsidiary, Alcoa Building Products, Inc., to cease disseminating or participating in the dissemination of advertisements which contain fuel reduction, heat loss reduction, energy savings or thermal insulation representations regarding residential aluminum siding. The order would also require that the R-value for insulating material be disclosed in advertisements which merely use the term "insulated aluminum siding" for descriptive purposes.

DATE: Comments must be received on or before March 12, 1979.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th St. and Pennsylvania Ave., N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

Paul R. Peterson, Director, 4R, Cleveland Regional Office, Federal Trade Commission, 1339 Federal Office Bldg., 1240 East Ninth St., Cleveland, Ohio. 44199. (216) 522-4207.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's rules of practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and provisionally accepted by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's rules of practice (16 CFR 4.9(b)(14)).

[File No. 762-3096]

AGREEMENT CONTAINING CONSENT ORDER TO CEASE AND DESIST

ALUMINUM COMPANY OF AMERICA AND ALCOA BUILDING PRODUCTS, INC.

The Federal Trade Commission having initiated an investigation of certain acts and practices of the Aluminum Company of American, a corporation, and of Alcoa Building Products, Inc., a corporation, and it now appearing that the Aluminum Company of America, a corporation, and Alcoa Building Products, Inc., a corporation, hereinafter sometimes referred to as proposed respondents, are willing to enter into an agreement containing an order to cease and desist from the acts and practices being investigated.

IT IS HEREBY AGREED by and between the Aluminum Company of America, by its duly authorized officer, and its attorney, and by Alcoa Building Products, Inc., by its duly authorized officer, and its attorney, and counsel for the Federal Trade Commission that:

(1) Aluminum Company of America is a corporation organized, existing and doing business under and by virtue of the Laws of the Commonwealth of Pennsylvania with its office and principal place of business located at 1501 Alcoa Building, Pittsburgh, Pennsylvania 15219.

Alcoa Building Products, Inc., is a corporation organized, existing and doing business under and by virtue of the Laws of the Commonwealth of Pennsylvania, with its offices and principal place of business located at 1200 Two Allegheny Center, Pittsburgh, Pennsylvania 15212.

(2) Proposed respondents admit all the jurisdictional facts set forth in the draft of complaint here attached.

(3) Proposed respondents waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

(4) This agreement shall not become a part of the official record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of complaint contemplated thereby and related material pursuant to Rule 2.34, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondents, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision in disposition of the proceeding.

(5) This agreement is for settlement purposes only and does not constitute an admission by proposed respondents that the law has been violated as alleged in the draft of complaint here attached.

(6) This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's rules, the Commission may, without further notice to proposed respondents, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Mailing of the complaint and decision containing the agreed-to order to proposed respondents' address as stated in this agreement shall constitute service. Proposed respondents waive any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

(7) Proposed respondents have read the proposed complaint and order contemplated hereby, and they understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order, and that they may be liable for a civil penalty in the amount provided by law for each violation of the order after it becomes final.

ORDER

For purposes of this Order, the following definitions shall apply:

"Advertisement" means any written or verbal statement, illustration or depiction, whether the same appears in a television or radio broadcast, newspaper or newspaper supplement, magazine or magazine supplement, label, brochure, leaflet, circular, mailer, book insert, journal, catalog, sales promotion material, other periodical literature, billboard, public transit card, point of purchase display, or in any other media.

"Representation" means any direct or indirect statement, suggestion or implication.

"R Value" is the numerical measure of the degree of thermal resistance of a particular material.

For the purpose of this order the disclosed R Value shall be the R Value, expressed to the nearest tenth, of the thickness of respondents' product as packaged and shall be determined by actual tests of respondents' product. The tests shall be based on competent, widely accepted, scientific engineering criteria, applicable to a retrofit situation.

It is ordered, That respondents Aluminum Company of America, a corporation, and Alcoa Building Products, Inc., a corporation, their successors and assigns, and respondents' officers, agents, representatives and employees (hereinafter "respondents"), directly or through any corporation, subsidiary, division or other device shall forthwith cease and desist from disseminating, causing to be disseminated, paying in whole or in part for, or supplying information used in developing any advertisements in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, which make any fuel reduction, heat loss reduction, energy savings, fuel savings, or thermal insulation representations for residential aluminum siding whether "insulated" or not.

In advertisements which merely describe respondents' products without any special emphasis on insulated aluminum siding, the term "insulated aluminum siding" may be used to describe aluminum siding which has insulating material added to it during the manufacturing or installing process so long as a specific R-value for the insulating material so added is disclosed in conjunction with the term "insulated aluminum siding."

It is further ordered, That respondents deliver a copy of this order to all present and future personnel or agents of respondents responsible for the design or creation of advertising materials promoting Alcoa residential aluminum siding.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondents, such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That respondents herein shall within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form within which they have complied with this order.

ANALYSIS OF THE PROPOSED CONSENT ORDER TO AID PUBLIC COMMENT

The Federal Trade Commission has accepted an agreement to a proposed consent order from the Aluminum Company of America, Inc., and its subsidiary, Alcoa Building Products, Inc.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested parties and the public. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received, and will decide

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whether it should withdraw from the agreement or make final the agreement's proposed order.

The complaint alleges that respondents used deceptive advertising in order to induce people to purchase Alcoa residential aluminum siding. Certain Alcoa advertisements have misrepresented the thermal insulating value of Alcoa's several types of aluminum siding products, and the resultant fuel savings advantages to consumers. Specifically, certain advertisements have:

(1) Overstated the insulating benefits of aluminum siding;

(2) Implied that aluminum siding provides insulating benefits comparable to other traditional methods of insulating;

(3) Failed to distinguish the very minimal benefits of the plain aluminum siding from the more substantial, but still relatively insignificant, insulating benefits of the so-called "insulated" siding; and

(4) Failed, in conjunction with a representation of insulating benefits, to disclose an R-value for the material thus represented so that a comparison to other forms of insulating materials could be made.

The proposed order forbids any further thermal insulating, energy savings, fuel reduction, etc., claims for Alcoa residential aluminum siding. While the order permits use of the term "insulated aluminum siding" for descriptive purposes only, and without any special emphasis, use of that term triggers and R-value disclosure requirement. The Commission is particularly interested in receiving public comment on:

(1) The advisability of an R-value disclosure requirement for a product with only marginal insulating value;

(2) Whether in this case it is in the public interest to require an R-value disclosure without also requiring an R-value definition statement; and

(3) Whether other disclosures are necessary to make the R-value not misleading in the context in which it appears.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order, or to modify in any way their terms.

CAROL M. THOMAS,
Secretary.

[FR Doc. 79-1262 Filed 1-11-79; 8:45 am]

[6750-01-M]

[16 CFR Part 461]

CHILDREN'S ADVERTISING

Revised Schedule for Public Hearing and Submission Dates on Proposed Trade Regulation Rulemaking

AGENCY: Federal Trade Commission.

ACTION: Dates changed for Washington, D.C. legislative hearing and submission of proposed disputed issues.

SUMMARY: On April 27, 1978, the Commission published in the FEDERAL REGISTER its initial notice of proposed rulemaking regarding children's advertising. The public hearing and submission dates were subsequently rescheduled by the Presiding Officer and published in the FEDERAL REGISTER on August 22, 1978. This notice announces a new schedule for the Washington, D.C. legislative hearing and the submission of proposed disputed issues.

DATES AND SCHEDULE: The San Francisco legislative hearing in this proceeding will commence on January 15, 1979 and will continue through January 26, 1979. After a short recess, the legislative hearing will resume in Washington, D.C. on March 5, 1979 and will end on March 30, 1979. Proposed disputed issues of fact that are material and necessary to resolve at a disputed issues hearing, requests to cross-examine at a disputed issues hearing witnesses who appeared at the legislative hearing, and requests to present oral rebuttal at a disputed issues hearing must be received on or before April 30, 1979. Specific dates for the remainder of the rulemaking proceeding will be announced at a later date, although the procedures to be followed will be those contained in the nitial notice of April 27, 1978.

ADDRESS: The legislative hearing in Washington, D.C. will begin at 9 a.m., March 5, 1979, in Room 332, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, NW., Washington, D.C.

Proposed disputed issues of fact, requests to cross-examine witnesses at a disputed issues hearing, and requests to resent oral rebuttal at a disputed issues hearing should be submitted in five copies, when feasible, to Morton Needelman, Presiding Officer, Children's Advertising, Federal Trade Commission, Washington, D.C. 20580. These documents will be available for public inspection in Room 130 of the Public Reference Branch, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Morton Needelman, Presiding Officer Children's Advertising, Federal Trade Commission, Washington, D.C. 20580, 202-254-7667, or William P. Golden, Assistant to the Presiding Officer, Children's Advertising, Federal Trade Commission, Washington, D.C. 20580, 202-254-7657.

SUPPLEMENTARY INFORMATION: On April 27, 1978, the Commission published in the FEDERAL REGISTER a notice of proposed rulemaking to consider certain restrictions regarding television advertising directed toward children (43 FR 17967). This notice announced special procedures which the Commission, pursuant to 16 CFR § 1.20, determined to employ in the proceeding and contained a schedule for the various stages of the proceeding, including dates for public hearings. In response to a petition from the Association of National Advertisers and other participants, the Presiding Officer extended the filing and hearing dates for the proceeding (Presiding Officer's Order No. 19, August 4, 1978, Public record 215-60) and published a notice of a revised schedule in the FEDERAL REGISTER on August 22, 1978 (43 FR 37203) which set January 29, 1979 as the start of the Washington phase of the legislative-type hearings.

Under Section D(1) of the Commission's initial notice of proposed rulemaking, the Presiding Officer has the primary responsibility for asking questions of witnesses at the legislative hearing. In order to facilitate his preparation for this task, the Presiding Officer has determined that there should be a brief recess between the San Francisco and Washington legislative hearings, which were originally scheduled to run consecutively. Accordingly, the beginning of the Washington, D.C. legislative hearing has been postponed 35 days until March 5, 1979. *See* Presiding Officer's Order No. 41, December 27, 1978 (Public Record 215-60). During this recess, interested persons are encouraged to submit to the Presiding Officer proposed questions or lines of questioning for witnesses scheduled to appear at the Washington, D.C. legislative hearing.

Although the remainder of the rulemaking proceeding will adhere closely to the sequence established by the Commission, the Presiding Officer has decided that the setting of specific dates beyond the deadline for the submission of proposed disputed issues of fact and requests to cross examine and to present oral rebuttal at a disputed issues hearing will be deferred.

Issued: January 9, 1979.

MORTON NEEDELMAN,
Presiding Officer.

[FR Doc. 79-1263 Filed 1-11-79; 8:45 am]

[4830-01-M]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

[LR-278-76]

INCOME TAX

Distributions of Electing Small Business Corporation

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed Income Tax Regulations relating to distributions of undistributed taxable income previously taxed to shareholders of small business corporations. Changes to the applicable tax law were made by the Tax Reform Act of 1976. These regulations would provide the public with the guidance needed to comply with certain of the changes to the law relating to small business corporation made by the Act.

DATES: Written comments and requests for a public hearing must be delivered or mailed by March 13, 1979. The amendments are proposed to be effective in the case of taxable years beginning after December 31, 1975.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

Walter H. Woo of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3734).

SUPPLEMENTARY INFORMATION: This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 1377 of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to section 902(b) and 1901(b)(32)(iv) of the Tax Reform Act of 1976 (90 Stat. 1608, 1800) and are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

The Tax Reform Act amended section 1377 (relating to special rules applicable to earnings and profits of electing small business corporation) by adding a new subsection (d). Section 1.1377-4 (relating to distributions of undistributed taxable income previously taxed to shareholders) states the rule under section 1377(d) that current year earnings and profits are computed without regard to section 312 (k)(relating to effect of depreciation on earnings and profits) but only for purposes of determining whether a distribution by an electing small business corporation is considered to be a distribution of previously taxed income and provides an example illustrating the application of the rule.

COMMENTS AND REQUESTS FOR A PUBLIC HEARING

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the FEDERAL REGISTER.

DRAFTING INFORMATION

The principal author of these proposed regulations is Walter H. Woo of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

PROPOSED AMENDMENTS TO THE REGULATIONS

The proposed amendments to the Income Tax Regulations (26 CFR Part 1) are as follows:

§ 1.1377 [Deleted]

PARAGRAPH 1. Section 1.1377 is deleted.

PAR. 2. There is added immediately after § 1.1377-3 the following new section:

§ 1.1377-4 Distributions of undistributed taxable income previously taxed to shareholders.

(a) *Undistributed taxable income previously taxed.* Under section 1377(d) the current year earnings and profits of an electing small business corporation are computed without regard to section 312(k) (formerly designated as section 312(m) for taxable years beginning before 1977). This rule applies solely for purposes of determining whether a distribution constitutes a distribution of the corporation's undistributed taxable income previously taxed to shareholders (to which section 1375(d) applies). Section 1377(d) and this section apply to taxable years of an electing small business corporation beginning after December 31, 1975.

(b) *Example.* The application of this section may be illustrated by the following example:

Example. Corporation M, an electing small business corporation, in 1977 has $100 of taxable income, $120 of current earnings and profits (the $20 difference between taxable income and current earnings and profits representing the accelerated portion of depreciation which is not deducted for purposes of determining current earnings and profits as a result of section 312(k)), and $10 of undistributed taxable income previously taxed to shareholders in a prior year. During the taxable year, the corporation distributes $120 to its shareholders. Solely for purposes of determining whether the corporation has distributed previously taxed income, the corporation's current earnings and profits are considered to be $100. Accordingly, $10 of the amount distributed is treated as a distribution of previously taxed income, and $110 of the amount distributed is treated as a distribution of current earnings and profits (determined with regard to section 312(k)) and is taxable as a dividend. The remaining $10 of undistributed current earnings and profits increases accumulated earnings and profits.

JEROME KURTZ,
Commissioner of Internal Revenue.

[FR Doc. 79-1261 Filed 1-11-79; 8:45 am]

[4810-31-M]

Bureau of Alcohol, Tobacco, and Firearms

[27 CFR Parts 4, 5, and 7]

[Notice No. 313]

ADVERTISING REGULATIONS UNDER THE FEDERAL ALCOHOL ADMINISTRATION ACT

Extension of Comment Period to the Advance Notice of Proposed Rulemaking

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Treasury.

ACTION: Extension of comment period.

SUMMARY: This advance notice extends the comment period an additional 60 days to the advance notice of proposed rulemaking, published on November 21, 1978, on alcoholic beverage advertising practices.

DATE: Comment period is extended from January 22, 1979, to March 23, 1979. All comments must be received on or before March 23, 1979.

ADDRESS: Comments must be submitted to the Director, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044 (Attention: Chief, Regulations and Procedures Division).

SUPPLEMENTARY INFORMATION: On November 21, 1978, the Bureau of Alcohol, Tobacco and Firearms published an advance notice of proposed rulemaking (43 FR 54266) to obtain input on contemplated revisions to 27 CFR Part 4, Subpart G (Advertising of Wine); Part 5, Subpart H (Advertising of Distilled Spirits); and Part 7, Subpart F (Advertising of Malt Beverages). Due to the impact of advertising practices on the consumer and the historical fact that the regulations on the advertisement of these products (under 27 CFR Part 4, Subpart G; Part 5, Subpart H; and Part 7, Subpart F) have basically remained unchanged since the mid-1930's, ATF has decided to extend the comment period from January 22, 1979 to March 23, 1979.

DISCLOSURE OF COMMENTS

Written comments or suggestions may be inspected by any person at the ATF Reading Room, Office of Public Affairs, Room 4408, Federal Building,

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12th and Pennsylvania Avenue, NW., Washington, DC, during normal business hours.

After considerations of all comments and suggestions, ATF may issue a notice of proposed rulemaking. The proposals discussed in this advance notice may be modified due to the comments and suggestions received.

DRAFTING INFORMATION

The principal author of this document is Thomas B. Busey of the Bureau of Alcohol, Tobacco and Firearms. However, other personnel of the Bureau and of the Treasury Department have participated in the preparation of this document, both in matters of substance and style.

AUTHORITY

This advance notice of proposed rulemaking is issued under the authority contained in section 5 of the Federal Alcohol Administration Act, 49 Stat. 981, as amended (27 U.S.C. 205).

Signed: January 5, 1979.

JOHN G. KROGMAN,
Acting Director.

[FR Doc. 79-1066 Filed 1-11-79; 8:45 am]

[4510-26-M]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[29 CFR Part 1910]

[Docket No. H-005]

BERYLLIUM

Reopening of Rulemaking Record

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Reopening of rulemaking record to introduce certain documents and to allow opportunity for written comments.

SUMMARY: This document reopens the rulemaking record on occupational exposure to beryllium in order to introduce new documents into the record. It also invites interested persons to submit written comments concerning these documents.

DATES: Comments on the new document and related correspondence must be received by February 12, 1979.

ADDRESS: Comments should be sent to: Docket Officer, Docket No. H-005, Room S6212, U.S. Department of Labor, Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert A. Manware, Occupational Safety and Health Administration, Room N-3660, U.S. Department of Labor, Washington, D.C. 20210, (202) 523-7183.

SUPPLEMENTARY INFORMATION: The Occupational Safety and Health Administration (OSHA) published a proposed standard for occupational exposure to beryllium in the FEDERAL REGISTER on October 17, 1975 (40 FR 48814). Pursuant to that notice and to a notice of hearing published June 7, 1977 (42 FR 29021), OSHA held public hearings in Washington, D.C. from August 16, 1977, to September 12, 1977. The Administrative Law Judge who presided at the public hearing allowed time after the close of the oral hearing for the submission of posthearing evidence, comments, briefs, and arguments. The record of the public hearing in this matter was closed on February 22, 1978 and was certified by the Administrative Law Judge to the Assistant Secretary of Labor for Occupational Safety and Health on March 14, 1978.

After the close of the hearing record, on March 8, 1978, the Assistant Secretary of Labor for Occupational Safety and Health requested the Assistant Secretary for Health, Department of Health, Education and Welfare (DHEW) to review certain parts of the public record pertaining to the epidemiological studies on the carcinogenicity of beryllium. The Assistant Secretary made this request as an aid to OSHA in making final determinations on a final standard for occupational exposure to beryllium.

The request for review and recommendations culminated in a final report from DHEW with attachments by independent experts, transmitted to the Assistant Secretary for Occupational Safety and Health on November 7, 1978. This report and related correspondence have now been placed in the beryllium rulemaking record. They are available for inspection and copying at the address below.

It seems appropriate to allow public written comments on the additional material relating to beryllium that has been generated subsequent to the certification of this record. The Assistant Secretary of Labor for Occupational Safety and Health is giving the public a period of 30 days to submit written comments relating to the DHEW Report and certain correspondence. This additional period for comments based on the new material is consistent with the intent and spirit of 29 CFR Part 1911, and OSHA's commitment to provide for public participation concerning all materials upon which the final occupational safety and health standard for beryllium will be based.

PUBLIC PARTICIPATION

Interested persons are invited to submit written comments with respect to the new document and other material mentioned above. These comments must be received by February 12, 1979, and submitted in quadruplicate to the Docket Office, Docket No. H-005, Room S6212, U.S. Department of Labor, Washington, D.C. 20210.

The comments that are submitted will be available for public inspection and copying at the above address. All timely submissions received will be made a part of the record of this proceeding.

AUTHORITY

This document was prepared under the direction of Eula Bingham, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, Washington, D.C. 20210.

Accordingly, under section 6(b) of the Occupational Safety and Health Act of 1970, (84 Stat. 1593; 29 U.S.C. 655), Secretary of Labor's Order No. 8-76 (41 FR 25059), and 29 CFR Part 1911, the record in the rulemaking proceeding on an occupational safety and health standard for beryllium is reopened for the limited purposes of introducing certain new documents and allowing written submissions relating to these documents.

Signed to Washington, D.C., this 9th day of January 1979.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc. 79-1249 Filed 1-11-79; 8:45 am]

[4510-43-M]

Mine Safety and Health Administration

[30 CFR Parts 55, 56, 57]

EXPLOSIVES

Proposed Safety and Health Standards

AGENCY: Mine Safety and Health Administration, Department of Labor.

ACTION: Proposed Rule.

SUMMARY: This proposed rule would prohibit the loading of explosives into blastholes through drill steel or other devices which would be withdrawn from the hole after loading. Recently developed devices such as fiber tubes, which would not be removed prior to firing, would be permissible.

DATE: Comments must be received by March 13, 1979.

ADDRESS: Send comments to Frank A. White, Office of Standards, Regulations and Variances, Room 631, Ballston Tower #3, 4015 Wilson Boulevard, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT:

Roy L. Bernard, Chief, Division of Safety, Metal and Nonmetal Mine Safety and Health, Room 717, Ballston Tower #3, 4015 Wilson Boulevard, Arlington, Virginia 22203, phone: 703-235-8646.

SUPPLEMENTARY INFORMATION:

BACKGROUND INFORMATION

In March 1976, following its similar recommendations in 1974, the Federal Metal and Nonmetal Mine Safety Advisory Committee (MNMSAC) recommended that the Secretary of Interior adopt a standard which would forbid the loading of explosives into blastholes through drill stem equipment. Further rulemaking activity was postponed pending the development of an acceptable alternative method of loading.

Pub. L. 95-164, the Federal Mine Safety and Health Amendments Act of 1977 (Amendments Act) amended the Federal Coal Mine Health and Safety Act, Pub. L. 91-173, and repealed the Federal Metal and Nonmetallic Mine Safety Act, Pub. L. 89-577.

The resulting law, the Federal Mine Safety and Health Act of 1977, applies to all coal and other (metal and nonmetal) mines. With regard to rulemaking proceedings which had begun but were not completed prior to March 9, 1978, the effective date of the Amendments Act, section 301(c)(3) of that Act provides the Secretary of Labor with the authority to continue the proceedings and promulgate such rules under the rulemaking authority of the Federal Mine Safety and Health Act.

In order to ensure early and effective public participation in the rulemaking process, a draft of the proposed rule was sent to interested persons for comment on July 25, 1978, and 22 days were allowed for the receipt of comments. The major comments are addressed below.

DISCUSSION OF THE PROPOSED RULE

Loading explosives through hollow drill steel (Kelly Bar) is standard procedure for placing charges in blastholes in Southern Florida. Blastholes do not remain open after the drill steel is removed because of high water tables and the character of the conglomerate rock formations. Often loose sand and rock collapse into the blasthole and prevent open hole loading.

In Kelly Bar loading, holes are drilled with hollow drill stems and open-end bits. After reaching the desired depth, rotation and flushing of the drill is stopped, the upper end of the drill stem is opened and explosive charges are inserted. On larger diameter boreholes, a core breaker is used to keep the Kelly Bar free of cuttings and debris. After the hole is drilled to depth, the core breaker is withdrawn and the exposives are loaded into the hollow drill stem. The core breaker is repositioned over the Kelly Bar and the Kelly Bar is withdrawn, leaving the explosives in the hole.

There are two primary hazards associated with this loading method. First, a hazardous condition can exist when explosives are loaded into a Kelly Bar which has become blocked. While use of the core breaker has minimized this risk, it has been neither uniformly effective nor consistently used. When the Kelly Bar is withdrawn, the charge may remain in the Kelly Bar. Attempts to remove the charge have resulted in a number of accidents. Second, it is not always possible to pull the Kelly Bar from the hole with a straight pull after loading. Binding of the Kelly Bar by sand or rock, or a twisted hole, often requires that the bar be rotated to free it. This must be done while explosives and detonators remain in the bar. Rotation may cause heat or impact, or both, against pieces of rock which may cause the detonation of the charge.

Accident records for South Florida show that Kelly Bar loading resulted in three deaths in one accident in 1964, four deaths and three serious injuries in three accidents in 1971, and two injuries in an accident in 1974. On construction work at the Panama Canel in 1975, the same loading practice caused five deaths and at least one serious injury in one accident. These accidents might have been avoided if a viable alternative method of loading blastholes had been used.

Following the recommendations of MNMSAC in October 1974 to prohibit Kelly Bar loading, a great deal of experimentation was undertaken to develop alternatives. As the result of a Bureau of Mines research contract completed in March 1978, it has been demonstrated that expendable paper-based tubes can be conveniently placed through suitably modified Kelly Bar drills and left in place once the Kelly Bar is retracted. Packaged charges or dynamite or water gel explosives can then be loaded into the expendable tubes and fired to produce blasts which are equal to, or better than those produced by the current method. It was concluded that this method is a viable alternative to the Kelly Bar method of loading explosives.

DISCUSSION OF COMMENTS ON DRAFT PROPOSED RULE

Several commenters were concerned that the draft proposed rule could be interpreted to restrict the use of loading hose used in bulk loading of explosive materials. Generally, the proposed rule is intended to apply to any pipe, tubing or casing which may be part of a drilling unit, through which explosives are loaded, and which could be removed from the drill hole while still containing enough explosives to detonate. The rule is not intended to apply to hose used in connection with pneumatic loading or pump machines which are used as part of a loading function, as opposed to a drilling function. In addition, the rule is not intended to restrict the use of collar pipe, which can be removed from a drill hole with only a small residue of explosive remaining. The proposed rule is also not intended to prohibit slurry loading.

DRAFTING INFORMATION

The principal persons responsible for drafting the proposed rule are: Frank A. White and John F. Honecker, Office of Standards, Regulations and Variances, MSHA, Department of Labor.

REGULATORY ANALYSIS

NOTE.—It has been determined that this proposed rule would not have major economic consequences requiring the preparation of a regulatory analysis under Executive Order 12044 or the Department of Labor's proposed guidelines for implementing the Executive Order (43 FR 22915, May 26, 1978).

Dated: December 18, 1978.

ROBERT B. LAGATHER,
Assistant Secretary for Mine and Health.

In consideration of the foregoing, it is proposed to amend 30 CFR Chapter I, Parts 55, 56 and 57 as follows:

PART 55—HEALTH AND SAFETY STANDARDS—METAL AND NONMETALLIC OPEN PIT MINES

1. It is proposed to add a new mandatory standard § 55.6-141 as follows:

§ 55.6-141 *Mandatory.* Explosives or blasting agents shall not be loaded into boreholes through or with drill stem equipment or other tubing or casing which could be extracted while containing explosives or blasting agents.

PART 56—HEALTH AND SAFETY STANDARDS—SAND, GRAVEL AND CRUSHED STONE OPERATIONS

2. It is proposed to add a new mandatory standard § 56.6-141 as follows:

§ 56.6-141 *Mandatory.* Explosives or blasting agents shall not be loaded into boreholes through or with drill stem equipment or other tubing or casing which could be extracted while containing explosives or blasting agents.

PART 57—HEALTH AND SAFETY STANDARDS—METAL AND NONMETALLIC UNDERGROUND MINES

3. It is proposed to add a new mandatory standard § 57.6-141 as follows:

§ 57.6-141 *Mandatory.* Explosives or blasting agents shall not be loaded into boreholes through or with drill stem equipment

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or other tubing or casing which could be extracted while containing explosives or blasting agents.

[FR Doc. 79-1248 Filed 1-11-79; 8:45 am]

[1505-01-M]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Port 110]

[CGD 77-028]

ANCHORAGE GROUNDS, MISSISSIPPI RIVER BELOW BATON ROUGE, LA., INCLUDING SOUTH AND SOUTHWEST PASSES

Correction

In FR Doc. 78-35519, appearing at page 59521 in the issue of Thursday, December 21, 1978, the fifth line of § 110.195(a)(14); column two, page 54523, should read, "mile 90.9 to mile 91.6 above Head of".

[3410-11-M]

DEPARTMENT OF AGRICULTURE

Forest Service

[36 CFR Part 219]

NATIONAL FOREST SYSTEM LAND AND RESOURCE MANAGEMENT PLANNING

Meeting

AGENCY: Forest Service, USDA.

ACTION: A Committee of Scientists meeting on proposed rules to guide land and resource management planning on the National Forest System.

SUMMARY: A Committee of Scientists meeting will be held regarding the proposed rules published August 31, 1978 (FEDERAL REGISTER, Volume 43, No. 170, pages 39046-39059), by the Department of Agriculture pursuant to Section 6 of the National Forest Management Act.

DATES: Committee of Scientists Meeting: January 26-27, 1979—9:00 a.m.

ADDRESS: Meeting location: Department of Agriculture, South Agriculture Bldg., Room 3846.

FOR FURTHER INFORMATION CONTACT:

Charles R. Hartgraves, Director, Land Management Planning, P.O. Box 2417, Washington, D.C. 20013, 202-447-6697.

SUPPLEMENTARY INFORMATION:

NOTICE OF MEETING

There will be a Committee of Scientists meeting in Washington, D.C., to finalize the Committee's report to the Secretary of Agriculture regarding the scientific and technical adequacy of proposed regulations prepared by the Forest Service pursuant to Section 6 of the National Forest Management Act. The meeting will be held at the Department of Agriculture, room 3846, South Agriculture Building, 12th and Independence Avenue, S.W., Washington, D.C.

This is primarily a working session for the purpose of finalizing the Committee's report to the Secretary, and therefore the Committee will not engage in extensive public discussion.

This meeting is subject to cancellation depending upon the results of the Committee of Scientists meeting in Houston, Texas, January 8-9, 1979, notice of which was published in the December 15, 1978 FEDERAL REGISTER, Volume 43, page 58593.

Dated: January 5, 1979.

GLENN P. HANEY,
Acting Deputy Chief.

[FR Doc. 79-1083 Filed 1-11-79; 8:45 am]

[7715-01-M]

POSTAL RATE COMMISSION

[39 CFR Part 3001]

IMPROVING GOVERNMENT REGULATIONS

Implementation of Executive Order No. 12044; Final Report and Advance Notice of Proposed Rulemaking

AGENCY: Postal Rate Commission.

ACTION: Final Report and Advance Notice of Proposed Rulemaking.

SUMMARY: The Postal Rate Commission's preliminary report on its plan for voluntarily implementing Executive Order No. 12044 (43 FR 12661, March 24, 1978) was published in the FEDERAL REGISTER on July 5, 1978 (43 FR 29045) for public comment. Two comments were received, one of which requires a minor change in our plan. Simultaneously with the issuance of our final report we are issuing an Advance Notice of Proposed Rulemaking instituting the first annual review of our rules of practice following the procedures adopted in our plan for implementing Executive Order 12044. The Advance Notice of Proposed Rulemaking includes proposed rules relating to *in camera* orders and proposes certain technical amendments to our rules of practice.

DATES: The procedures established by the plan are in effect for all actions initiated after the date of this final report. Comments responsive to our Advance Notice of Proposed Rulemaking should be submitted by January 22, 1979.

ADDRESS: Comments should be directed to David F. Harris, Secretary, Postal Rate Commission, Suite 500, 2000 L Street, NW., Washington, D.C. 20268.

FOR FURTHER INFORMATION CONTACT:

David F. Stover, Assistant General Counsel (Regulation), Suite 500, 2000 L Street, N.W., Washington, D.C. 20268; telephone 202-254-3830.Q04

DAVID F. HARRIS,
Secretary.

FINAL REPORT

A. BACKGROUND AND SUMMARY

Our final report sets forth the plan adopted by the Postal Rate Commission for periodic review and improvement of its rules of practice, pursuant to Executive Order 12044. Section 6(b)(5) of that order exempts independent regulatory agencies, including the Postal Rate Commission, from its coverage. But the President has requested that such agencies voluntarily implement the principles of E.O. 12044, and the Commission has chosen to do so. The coverage of the plan is limited to the Commission's rules of practice, all other rules being of an internal, administrative nature. Our final report explains the effect of the Commission's substantive duties and the effect of its other mechanisms for amending its rules on the plan adopted. Pursuant to E.O. 12044, the plan adopted contains a timetable for the annual review of the Commission's rules that provides for public comment at the formative stage of our rulemaking deliberations.

Our final plan differs only slightly from our proposed plan previously published for comment in the FEDERAL REGISTER (43 FR 29054). In response to comments by the Justice Department, the policy section of the plan has been revised to include a commitment to remove inappropriate gender-based distinctions from our rules.

B. EVALUATION OF COMMENTS

Two comments upon our preliminary plan were received. The Justice Department's Task Force on Sex Discrimination recommended that the language "or remove sex-based criteria" be added to item "D." in the list of policy considerations in § IV of the plan. This we have done.

The Magazine Publishers Association (MPA) urges that we include in our plan our recommended decisions issued pursuant to Subchapters II and IV of Title 39 of the United States Code. It argues that the spirit of E.O. 12044 requires that the regulations contained in our recommended decisions be reviewed for need, for meaningful alternatives, for their compliance costs and for their effect on competition. We agree that it is important that these factors be considered in arriving at our recommended decisions. We disagree, however, that subjecting

our recommended decisions to the additional procedures established in our plan would improve upon our consideration of factors such as those mentioned by MPA. Our recommended decisions issued pursuant to Subchapters II and IV must, by statutory command, be based upon evidence adduced according to the elaborate procedural safeguards of 5 U.S.C. 556 and 557. These procedures ensure full opportunity to explore all relevant factors on the record, including those mentioned by MPA, and to have those factors evaluated in a reasoned opinion by the Commission. Moreover, the factors mentioned by MPA closely parallel the lists of factors in 39 U.S.C. 3622(b) and 3623(c), which the Postal Reorganization Act requires us to consider in reaching our recommended decisions. E.O. 12044 specifically excludes from its coverage regulations promulgated in accord with 5 U.S.C. 556 and 557 procedures, clearly implying that for such regulations E.O. 12044 procedures are not needed. Accordingly, we have declined to modify our final plan in the manner that MPA recommends. Our program for improving the Commission's rules appears below.

OUTLINE OF PROGRAM FOR IMPROVING POSTAL RATE COMMISSION RULES

I. INTRODUCTION

On March 24, 1978, Executive Order 12044, Improving Government Regulations, was published in the FEDERAL REGISTER. This Executive order embodied procedures designed by the Administration to increase the efficiency and intelligibility of rules issued by the Federal Government and reduce the burden of compliance with them. The Executive order recognizes that independent regulatory agencies, including this Commission, should not be made subject to its mandatory provisions, but urges that such agencies voluntarily adopt its principles in reviewing their rules and regulations. The Postal Rate Commission has done so, and is adopting the following procedural plan for the future improvement of its rules of practice.

II. COVERAGE OF THE PLAN

This plan affects the Commission's rules of practice (39 CFR Part 3001). The Commission's other rules—i.e., standards of employee conduct, statement of organization, and Privacy Act rules—are either concerned entirely with internal administrative matters or are governed by statutory standards (in the case of the Privacy Act), and are not amenable to the methods proposed in Executive Order 12044.

III. STATUS OF THE PLAN

The plan is intended by the Commission to provide the principal mechanism for periodic review and improvement of the rules of practice. It must be recognized that, on occasion, the demands of the Commission's substantive workload may require postponement or adjustment of the dates set forth in the plan for the various procedural steps. Nevertheless, it is the Commission's intention that review under the plan will be conducted annually. When it is necessary to depart by more than a few days from the schedule given in the plan, the Commission will publish notice of the fact, setting forth the reasons for the departure. The fact that, in any year, review under the plan does not take place in accordance with the schedule given therein shall not affect the validity or applicability of any existing rule. The Commission of course reserves the right to make other changes in the rules of practice, using generally applicable rulemaking standards, at any time such action appears necessary.

IV. POLICY CONSIDERATIONS

The following policy considerations to be observed in the revision of rules under the plan are suggested in part by Executive Order 12044 and in part by our independent consideration of the needs of the Commission, the public, and the parties and counsel appearing before us.

A. Continued need for the regulation.

B. Type and number of complaints or suggestions received.

C. Burdens imposed on those affected by the rule.

D. Need to clarify or simplify language or remove sex-based criteria.

E. Need to eliminate overlapping or duplicative rules.

F. Changed conditions (including economic conditions, technological developments including data processing techniques, or other relevant factors) when such changes can be shown to have occurred.

G. Need for stability in procedural rules.

H. Need for expedition in Commission cases.

I. Standards of sections 556 and 557 of the Administrative Procedure Act (5 U.S.C. 556, 557).

J. Ability of the Officer of the Commission effectively to represent the interests of the public [see 39 U.S.C. 3624(a)].

K. Need to preserve and promote both the appearance and the reality of fairness and impartiality in Commission proceedings.

L. Need for a full and complete evidentiary record.

M. Need to explore alternatives not advocated by a party [see *Scenic Hudson Preservation Conf. v. FPC*, 354 F. 2d 608 (2d Cir., 1965)].

N. Such other factors as the Commission may find to be relevant in a particular case.

V. PROCEDURAL TIMETABLE

The annual review contemplated by the plan would follow the timetable set out below, subject to the qualifications expressed in section III:

A. Advance Notice of Proposed Rulemaking—December 1. The advance notice of proposed rulemaking would (a) invite suggestions and proposals for improvements in the rules of practice, and (b) describe any amendments the Commission was at that time contemplating.

B. Deadline for Filing Responsive Comments to Advance Notice of Proposed Rulemaking—January 15.

C. Completion of Commission Analysis of Comments—February 15.

This analysis would include the preparation of draft language for any change the Commission contemplated adopting.

D. Notice of Proposed Rulemaking—February 20.

E. Deadline for Filing Responsive Comments on Notice of Proposed Rulemaking—March 31.

F. Commission's Final Rulemaking Order—April 20.

If an issue of extraordinary complexity should arise in the notice and comment process, the Commission contemplates severing that issue for further study and later disposition, rather than extending the procedural schedule as a whole to accommodate it.

ADVANCE NOTICE OF PROPOSED RULEMAKING

PROPOSALS BY THE PUBLIC

Pursuant to our program implementing Executive Order 12044, the Postal Rate Commission invites the public to submit suggestions and proposals for improving our rules of practice. Proposals relating to any of our rules of practice will be considered with the exception of 39 CFR 54 and 64. Because the matters governed by these rules are currently the subject of litigation in *National Association of Greeting Card Publishers v. United States Postal Service*, D.C. Cir. No. 78-1448 *et al.*, it would be premature for the Commission to undertake review of these rules at this time.

PROPOSALS BY THE COMMISSION

(1) SUGGESTED RULES FOR IN CAMERA PROCEEDINGS

The Commission contemplates including in its rules of practice rules establishing procedures for conducting *in camera* review of materials. These procedures are modeled after the rules of the Federal Trade Commission gov-

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erning *in camera* orders, found in 16 CFR 3.45 (1978).

A. Part 3001 of 39 CFR is proposed to be amended by adding the following new section:

§ 3001.31a In camera orders.

(a) *Definition.* Except as hereinafter provided, documents and testimony made subject to *in camera* orders are not made a part of the public record, but are kept confidential, and only authorized parties, their counsel, authorized Commission personnel, and court personnel concerned with judicial review shall have access thereto. The right of the presiding officer, the Commission, and reviewing courts to disclose *in camera* data to the extent necessary for the proper disposition of the proceeding is specifically reserved.

(b) *In camera treatment of documents and testimony.* Presiding officers shall have authority, but only in those unusual and exceptional circumstances when good cause is found on the record, to order documents or oral testimony offered in evidence whether admitted or rejected, to be placed *in camera.* The order shall specify the date on which *in camera* treatment expires and shall include: (1) A description of the documents and testimony; (2) a full statement of the reasons for granting *in camera* treatment; and (3) a full statement of the reasons for the date on which *in camera* treatment expires. Any party desiring, for the preparation and presentation of the case, to disclose *in camera* documents or testimony to experts, consultants, prospective witnesses, or witnesses, shall make application to the presiding officer setting forth the justification therefor. The presiding officer, in granting such application for good cause found, shall enter an order protecting the rights of the affected parties and preventing unnecessary disclosure of information. *In camera* documents and the transcript of testimony subject to an *in camera* order shall be segregated from the public record and filed in a sealed envelope, bearing the title and docket number of the proceeding, the notation *"In Camera* Record under § 3001.31a," and the date on which *in camera* treatment expires.

(c) *Release of in camera information. In camera* documents and testimony shall construe a part of the confidential records of the Commission and shall be subject to the provisions of § 3001.42 of this chapter. However, the Commission, on its own motion without notice to any affected party, may make *in camera* documents and testimony available for inspection, copying, or use by any other governmental agency.

(d) *Briefing of in camera information.* In the submittal of proposed findings, briefs, or other papers, counsel for all parties shall make a good faith attempt to refrain from disclosing the specific details of *in camera* documents and testimony. This shall not preclude references in such proposed findings, briefs, or other papers to such documents or testimony including generalized statements based on their contents. To the extent that counsel consider it necessary to include specific details of *in camera* data in their presentations, such data shall be incorporated in separate proposed findings, briefs, or other papers marked "confidential," which shall be placed *in camera* and become a part of the *in camera* record.

B. The first sentence of paragraph (b) of § 3001.42 is proposed to be amended to read as follows:

§ 3001.42 Public information and requests.

* * * * *

(b) *Public records.* Except as provided in § 3001.31a of this chapter, the public records of the Commission include:

* * * * *

(2) TECHNICAL CONFORMING CHANGES

(a) Prior to the enactment of Pub. L. 94-421, 39 U.S.C. 3604(a) provided that "[a]ll final acts of the Commissioners shall be by a vote of an absolute majority thereof." This requirement was deleted from 39 U.S.C. 3604(a) by section 4 of Pub. L. 94-421, enacted September 24, 1976 (90 Stat. 1305). The corresponding provision in our rules has not, however, been amended to conform to this change effected by Pub. L. 94-421. Currently, 39 CFR 3002.2(a) provides in part

> Three members of the Commission constitute a quorum for the transaction of business, but all final acts of the Commission shall be by a vote of an absolute majority of the Commissioners.

We propose to delete from the above-quoted sentence the language following "business," to bring 39 CFR 3002.2(a) into conformity with current 39 U.S.C. 3604(a). Since current 39 U.S.C. 3604(a) is silent regarding the requisite vote for final acts of the Commission, the effect of our proposed conforming amendment to 39 CFR 3002.2(a) would be to subject this aspect of the Commission's operation to the common law rule stated in *FTC v. Flotill Products,* 389 U.S. 179, 183-84 (1967) that

> * * * in the absence of a contrary statutory provision, a majority of a quorum constituted of a simple majority of a collective body is empowered to act for the body. Where the enabling statute is silent on the question, the body is justified in adhering to that common-law rule.

In § 3002.2(a), the third sentence is proposed to be revised to read as follows:

§ 3002.2 The Commission and its offices.

(a) * * * Three members of the Commission constitute a quorum for the transaction of business.

* * * * *

§ 3001.102 [Amended]

(b) 39 CFR 3001.102 specifies the contents of certain reports by the United States Postal Service that are to be filed periodically with the Commission. Section 3001.102, 3001.102(a)(2) currently specifies the "Incremental Cost Analysis" as one of the reports required to be filed. In lieu of the "Incremental Cost Analysis" report, the United States Postal Service has filed a more detailed document entitled "Cost Segments and Components." We have reviewed this document and find it to be an appropriate replacement for the "Incremental Cost Analysis" report. Accordingly, we propose that § 3001.102(a)(2) be amended to read "Cost Segments and Components."

[FR Doc. 79-1089 Filed 1-11-79; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 51]

[FRL 981-2]

1977 CLEAN AIR ACT AMENDMENTS FOR STACK HEIGHTS

Proposed Regulatory Revisions

AGENCY: Environmental Protection Agency.

ACTION: Proposed rulemaking.

SUMMARY: The Clean Air Act Amendments of 1977 (Pub. L. 95-95) signed, August 7, 1977, require the Administrator to promulgate regulations to assure that the degree of emission limitation required for control of any pollutant under an applicable State Implementation Plan (SIP) not be affected by a stack height which exceeds good engineering practice (GEP) or any other dispersion technique.

This action incorporates this intent into the Agency's requirements for the development of State Implementation Plans, rescinds EPA's Stack Height Increase Guideline published on February 18, 1976 (41 FR 7450), and requires that State Implementation Plans incorporate and implement specific procedures necessary to carry out the stack height provisions contained in Section 123 of the Clean Air Act.

DATES: Comments must be received no later than March 13, 1979.

ADDRESS: All comments should be sent to: Environmental Protection Agency, Control Programs Development Division (MD-15), Research Triangle Park, N.C. 27711, Attn: Mr. Darryl D. Tyler.

Comments received on this proposal will be available for public inspection and copying at the Public Information Reference Unit (EPA Library), Room 2922, 401 M Street, S.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Darryl D. Tyler, Chief, Standards Implementation Branch, Control Programs Development Division, Office of Air Quality Planning and Standards, Office of Air, Noise, and Radiation, Environmental Protection Agency, (MD-15), Research Triangle Park, N.C. 27711 (919-541-5497).

SUPPLEMENTARY INFORMATION:

BACKGROUND

Under Title I of the Clean Air Act, national ambient air quality standards for certain criteria pollutants are to be met through the establishement of State Implementation Plans governing emission sources of these pollutants. Effects of pollutant emissions from stationary sources can be mitigated in either of two ways: constant emission reduction or dispersion techniques. Constant emission reduction involves the use of technologies that prevent pollutants from being generated or that remove pollutants from waste gas on a continuous basis.

Dispersion techniques do not reduce total emissions into the atmosphere on a continuous basis. Rather, the rate of emission is varied according to atmospheric conditions by use of a supplementary or intermittent control system (SCS or ICS), or emissions are dispersed over a wider geographic area by use of a stack. A stack that is higher than that required by GEP [1] is known as a tall stack. Although ambient concentrations of a pollutant may be reduced in the vicinity of a source, the amount of pollution entering the atmosphere is not reduced by use of a tall stack and is reduced only on an intermittent basis by use of SCS or ICS.

On February 18, 1976 (41 FR 7450), EPA published the Stack Heights Increase Guideline which provided (1) a legal analysis of the litigation affecting the use of tall stacks and dispersion technology and (2) guidance for implementing the principles established by court cases.

While Congress was aware of the Agency's Stack Heights Increase Guideline, it rejected much of the Guideline in the 1977 Amendments and adopted new requirements limiting use of dispersion technology to a greater extent than either the Guideline or the court decisions.

The House Committee's proposals on dispersion technology were adopted in Sections 110, 123, and 302 of the amended Act. Under Section 110(a)(2)(B), a State Implementation Plan must include emission limitations and such other measures as are necessary to assure attainment and maintenance of standards. Section 302(k) defines an emission limitation as requiring continuous emission reduction technology. Pursuant to Section 123, the degree of emission limitation, or constant control, required of any source in a plan under Section 110 may not be reduced to any extent by the use of any dispersion technique. [2] Taken together, these Sections, in sharp contrast to the earlier Guideline, wholly prohibit the use of dispersion techniques in SIPs to meet ambient standards. Consequently, dispersion techniques cannot be included in a control strategy demonstration submitted as part of the SIP pursuant to 40 CFR 52.12.[3] The House Committee Report affirms this conclusion:

> "By defining the terms 'emission limitation,' 'emission standards,' and 'standard of performance,' the committee has made clear that constant or continuous means of reducing emissions must be used to meet these requirements." [4]

However, in narrowly defined circumstances, Congress explicitly provided for use of dispersion technology by certain sources. Section 123 permits sources currently using dispersion techniques to receive full credit for their dispersive effects in determining the required degree of emission limitation, if the stack height was in existence or the dispersion technique implemented prior to the passage of the Clean Air Act of 1970.[5]

In addition, in Sections 113(d) and 119, Congress permitted limited temporary use of dispersion techniques by specific classes of sources for purposes of attaining and maintaining ambient standards, but not as a means of complying with SIP emission limitations. Administrative enforcement orders issued under Section 113(d) may provide for use of dispersion as an interim control measure if a source is unable to comply with SIP requirements, is notified that it is to subject noncompliance penalties after July 1, 1979, and meets the other conditions of Section 113(d). Section 119 permits a nonferrous smelter to use a tall stack in excess of GEP and/or an SCS as interim control measures if the smelter can demonstrate that it is eligible for a primary nonferrous smelter order.

Thus, apart from the limited circumstances of Sections 113(d) and 119, and the narrow exceptions of Section 123, dispersion technology cannot be employed in lieu of constant controls for any purpose under the Act. Implementation plans submitted under the Act must provide that the necessary degree of emission limitations be achieved solely by constant control measures. Under *Union Electric* v. *EPA,* 427 US 246 (1976), this requirement exists regardless of the possibility that adequate continuous emission controls may be technologically or economically infeasible at the time the SIP is adopted.[6] However, this in no

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[1] House Report No. 95-294, 95th Cong., 1st Sess. (hereafter 1977 House Report) described the effect of dispersion techniques at p. 81. GEP is discussed elsewhere in this preamble.

[2] Section 123 defines dispersion technique as a stack height which exceeds GEP or any intermittent or supplemental control of air pollutants varying with atmospheric conditions.

[3] In early litigation, it had been argued by sources that the phrase "such other measures" in Section 110(a)(2)(B) should be interpreted to permit use of dispersion techniques as an alternative to constant controls. This argument was rejected in *Big Rivers, et al., v. EPA,* 523 F.2d 16, 21-22 (6th Cir., 1975) *cert. denied* 425 U.S. 934 (1976). As discussed in the text, Sections 302, 110, and 123 ratify and expand this result. Since Congress has specifically defined in Sections 113(d), 119, and 123 the situations in which use of dispersion is permissible, there is now even less justification for reading the phrase "such other measures" to include dispersion technology. Rather, the term may only be read as referring to the type of environmental planning techniques listed in § 110(a)(2)(B).

[4] 1977 House Report, p. 92.

[5] An exception is also available if the source is a coal-fired steam electric generating unit which is subject to the provisions of Section 118, and which commenced operation before July 1, 1975. In that case, the effect of the entire height of stacks for which a construction contract was awarded before Feburary 8, 1974 may be considered.

[6] In *Kennecott Copper Corporation* v. *EPA* (Kennecott II), 572 F. 2d 1349 (9th Cir. 1978), the U.S. Court of Appeals for the Ninth Circuit consisered a proposed SIP revision for a copper smelter. As to such a plan, the Court held that the Administrator was not bound by a finding of the State the constant controls were infeasible. In dicta, however, the Court suggested that, while not bound by State findings, the Administrator was obligated to assess the constant control requirements that might be imposed on the smelter. To the extent the opinion suggests that the Administrator must evaluate the technological or economic feasibility of an emission limitation for a particular source, the Administrator believes it is in conflict with the holding of *Union Electric,* and the requirements of Sections 110, 123, and 302 as previously discussed. The Administrator has determined not to appeal the decision, however, since (i) the disputed challenge is dicta and unnecessary to the Court's decision and (ii) he believes that new Section 119, primary nonferrous smelter orders, governs the problems which concerned the Ninth Circuit.

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way means that a State may not consider economic and technological feasibility in developing its SIP. EPA encourages States to consider the cost and technological feasibility of alternative compliance strategies as well as the social, energy and economic impacts of their strategies. See 40 CFR 51.2(b) and (d). Nevertheless, except as noted above, a State does not have the authority to propose use of a dispersion technique, even if continuous controls are thought to be economically or technologically infeasible. In addition, EPA does not have the authority to reject on grounds of economic or technological infeasibility a State plan which is predicated on the use of constant controls.

The Regulation

The proposed Stack Heights Regulation implements the requirements of the Stack Heights Amendment through changes to Sections 51.1, 51.12, and 51.18 of Title 40, Part 51 of the Code of Federal Regulations.

Definitions are offered in paragraphs 51.1(z), 51.1(ff), 51.1(gg), and 51.1(hh) defining "emission limitation" and "emission standard," "stack," "in existence," and "dispersion technique" respectively; these definitions are offered to clarify the intent and applicabiltiy of the Stack Heights Regulation.

Definitions in paragraphs 51.1(ii), 51.1(jj), and 51.1(kk) for "good engineering practice stack height," "nearby," and "excessive concentrations," respectively, are proposed to provide implementation guidance for the Regulation.

Finally, in accordance with the mandate that State Implementation Plan emission limitations be met through constant control measures, paragraphs 51.12(j) and 51.18(j), respectively prohibit the inclusion of dispersion techniques in control strategy demonstrations for the SIPs or in new source reviews. Paragraph 51.12(k) establishes the exceptions to these prohibitions as required by the Clean Air Act.

Implementation of the Stack Heights Amendment

The guidance provided by Congress establishes the framework for a program to assure that stack heights and other dispersion techniques are not used in lieu of constant emission controls. Implementation of that objective is advanced by establishing GEP stack height as the maximum creditable stack height which a source may use in establishing its applicable State Implementation Plan emission limitation and by defining "dispersion technique" and limiting its use in State Implementation Plans.

The GEP stack height criteria is premised on the observed phenomenon that in the immediate vicinity of a structure or terrain obstacle, atmospheric flow is adversely disrupted by aerodynamic forces and that some minimal stack height is necessary to prevent adverse air flow situations. The criteria thus defines that stack height for each source at which excessive concentrations due to adverse aerodynamic effects are not expected to occur.

Although the scientific literature in general indicates that a detailed case specific review employing fluid modeling or field study would be integral to determined more precisely the specific stack height necessary for avoiding aerodynamic downwash effects in the immediate vicinity of a given source, the literature also identifies generalized formulations which when applied to specific sources may be used to predict the minimum stack heights needed to prevent this phenomenon.

As a general rule, the evaluation of a source's GEP stack height will be accomplished in accordance with the empirical equation provided in this Regulation. However, EPA along with State and local agencies reserves the authority to require fluid modeling or field studies where the empirical equation may be determined to be inappropriate for a particular GEP determination. In the specific case of existing sources with stack heights less than GEP, as determined by the equation, which seek to raise their stacks to the GEP height, the Administrator may require a field study or fluid modeling demonstration of an air quality problem attributable to downwash, wakes, or eddies affecting such sources as justification for the use of the equation based GEP height.

The Empirical Equation for GEP

The Administrator proposes that the following empirical equation be used in determining the GEP stack height needed by a source to avoid excessive concentrations of air pollutants due to adverse downwash effects caused by nearby structures. The equation thus establishes, for source stacks uninfluenced by terrain features, the maximum stack height creditable under the proposed Regulation for establishing source emission limitation requirements. The equation is as follows:

Where:

$H_G = H + 1.5L$

H_G = GEP stack height

H = Height of the structure or nearby structure

L = Lesser dimension (height or width) of the structure or nearby structure

Both the height and width of the structure are determined from the frontal area of the structure projected onto a plane perpendicular to the direction of the wind. If the projected area of a structure is determined for an asymmetrical structure or for a group of structures, the GEP stack height is based on their projections upwind of the source. The plane projections may have a multitude of height and width combinations. The GEP stack height is then determined by that combination of projected structure height, H, and lesser dimension, L, which results in the greatest estimated stack height according to the equation. Procedures for determining the GEP stack height for varied structure configurations are found in the technical support document for this Regulation.

This document is available for inspection and copying at the Public Information Reference Unit (EPA Library) Room 2922, 401 M Street, S.W., Washington, D.C. It is also available for distribution to the public upon request from the U.S. Environmental Protection Agency, Library, Research Triangle Park, North Carolina 27711. Telephone: (919) 541-2777. When requesting the document, please ask for: "Technical Support Document for Determination of Good Engineering Practice Stack Height," Draft, July 1978.

The above empirical formula for determining GEP stack heights can only be used to assess what stack heights would be needed to avoid excessive concentrations due to adverse downwash, wakes, and eddy effects of structures but not terrain features.

Nearby Structures —Technical information indicates that for all structures that have a maximum width less than ten times their height, adverse downwash effects amy be expected to extend downwind to a distance of five time the height or width of the structure, whichever is less. Structures with a maximum widths greater than ten times their height may have significant adverse effects extending farther downwind.

For the purposes of implementation of the Stack Heights Regulation, the Administrator purposes that the above scale effect, viz, the five times the height or width of a structure, be used to define when a structure is "nearby" a stack. However, in response to expressions of Congressional intent, the Administrator proposes to limit consideration of "nearby" structures, consistent with the technically based (5 times) scale effect, to those features which are within one-half mile (0.8 km) of an affected source stack. EPA proposes to define the term "nearby" in the same fashion for terrain features. EPA interprets the Congressional guidance as a criterion to indirectly establish a reasonable upper limit on GEP stack heights. The Agency is especially interested in receiving information on the extent to which structures and terrain features that are more than half a mile from the source can and do cause significant adverse downwash, wake, and eddy effects. The Agency solicits suggestions on how to evaluate the impacts of structures and terrain features that are beyond one-half mile away. Comments on the relative impacts of different definitions of "nearby" are sought.

Fluid Modeling Determination of GEP

In cases where a source wishes to consider the downwash, wakes, and eddy effects of a nearby terrain feature, the GEP stack height determination must be calculated on case-by-case basis through the use of appropriate field studies or fluid modeling demonstrations.

Field studies or fluid modeling may also be used, at a source's option, for determining GEP stack heights in those situations where nearby structures are the source of aerodynamic downwash, wakes, and eddies. The owner or operator of a source is provided the opportunity to demonstrate that a greater height than determined by the empirical equation is needed to prevent excessive concentrations in the immediate vicinity of the source resulting from adverse downwash, wakes, and eddy effects. In those situations where a source demonstrates the need for a stack height in excess of two-and-a-half times the height of the source and such determination is the basis for a SIP revision or new source permit approval, the State will notify the public of the availability of the demonstration for review and will provide opportunity for a public hearing on the demonstration.

As in the case of GEP determinations using the empirical equation, the definition of "nearby" is intergral to determine the extent to which structures or terrain features may reasonably influence the fluid modeling or field study based GEP determination. Thus, comment on the appropriateness of considering the downwash effects of only those structures or terrian features within one-half mile (0.8 km) of the stack in the fluid modeled or field study determination of GEP is soliciated.

The Administrator proposes to evaluate on a case-by-case basis the adequacy of the field or fluid modeling demonstrations provided by sources to determine GEP stack heights. The review of fluid modeling and field studies will be guided by evaluation criteria currently being developed by EPA. In addition to providing minimum criteria for fluid modeling purposes, the guidance will also provide criteria for the modeling of specific terrain types and establish a basis, through the definition of excessive concentration, upon which estimates of GEP stack heights may be made.

In order to evaluate fluid modeling demonstrations, there is the need for explicit guidance as to the degree and kind of "excessive" concentration which is to be avoided. Therefore, EPA is proposing, for the purposes of determining GEP stack heights from fluid modeling studies that excessive concentration be defined as the maximum concentration anticipated in excess of a national ambient air quality standard and which is at least 40 percent in excess of the maximum concentration experienced in the absence of the downwash, wakes, and eddy effects produced by nearby structures or terrain features. For sources subject to the Prevention of Significant Deterioration (PSD) program (40 CFR 51.24 and 52.21), an excessive concentration is the maximum concentration which is greater than that permitted by an applicable remaining increment and which is at least 40 percent in excess of the maximum concentration experienced in the absence of the downwash, wakes, and eddy effects produced by nearby structures or terrian features. The rationale for employing the 40 percent or greater criteria is to establish a reasonable upper bound for creditable stack heights. Section 2.3 of the technicial support document explains the relationship of percent impact effects and stack heights to building height ratios for selected structure types. EPA solicits comments on the proposed definition of excessive concentration, especially with respect to the use of the 40 percent impact criteria.

In summary, the prerequisites for increased stack height credit are (1) the documentation of downwash, wakes, and eddy effects from nearby structures or terrain and (2) the documentation of a resulting modeled or monitored exceedence of the air quality standards or PSD increments.

Implementation Issues

During the course of development of the proposed Stack Heights Regulation, certain issues have been raised concerning the intent and implementation of the Regulation. The following discussion focuses on some of the implementation issues associated with the Regulation.

Applicability of the Regulation

Two major issues arise regarding the applicability of the Stack Heights Regulation.

(1) What is the meaning of the phrase "stack height in existence before the date of enactment of the Clean Air Act Amendments of 1970" in Section 123(a) of the Clean Air Act?

(2) Which facilities may receive credit for emissions venting through a stack that is determined to be "in existence" for purposes of Section 123?

In the 1977 Amendments, Congress employed two concepts to describe the status of source construction: facilities on which construction had commenced and facilities in existence. The distinction suggests that the terms were intended to have different meanings.

The phrase "in existence" is used in provisions applicable to PSD and visibility protection, as well as in Section 123. In Section 165(b) Congress exempted from certain PSD requirements expansions or modification of major emitting facilities "in existence" on the date of enactment of the Amendments, if their allowable emissions will be less than 50 tons per year and will not cause or contribute to exceedences of national secondary ambient air standards for SO_2 and particulates. For visibility protection, Section 169A(b)(2)(A) mandates a SIP requirement that each major stationary source "in existence" on the date of enactment of the Amendments, but which has not been in operation for more than fifteen years as of that date, use best available retrofit technology to control visibility impairment.

In contrast to these provisions for sources "in existence," a source on which construction has "commenced" for PSD purposes under Section 169(2)(A) means a source that has obtained all necessary preconstruction permits and either begun physical on-site construction or entered into binding contractual agreements, which cannot be cancelled without substantial loss to the source.

Since Congress in 1977 defined "commenced construction" to include the acquisition of permits, the beginning of actual construction or the entering into binding contracts, EPA believes the term "in existence" must mean something more. For purposes of Section 123, "in existence" is thus taken to mean physically constructed.

Section 123 was proposed by the House Committee. In discussing the grandfathering provision of Section 123, the 1977 House Report indicates that the exemption for "stack heights in existence" was to shield sources that had in good faith raised their stacks.[7]

Thus sources which raised their stacks or constructed tall stacks before December 31, 1970, are entitled to credit those tall stacks and sources which raised their stacks or constructed tall stacks on or after that date are not eligible for credit.

The view that some credit should be given for partial stack construction, that is, actual stack heights existing before December 31, 1970, is supported by the statute which explicitly provides credit for "stack heights" rather than "stacks."[8] Unless the term is

[7] 1977 House Report, p. 93.

[8] In its description of the grandfather provision of the House bill, the Conference

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read to grandfather whatever portion of a stack existed before December 31, 1970, the word "heights" becomes meaningless.

As to how high a stack must be to receive the grandfathering credit, the legislative history indicates that the Administrator is allowed to credit stacks which were in existence prior to enactment of the 1970 Act and whose actual stack height, whether the stack was completed or not, exceeded the GEP stack height.

Reading the statutory language and legislative history together, EPA believes the most supportable interpretation is that Congress intended credit to be given for the actual stack height partially or fully constructed before December 31, 1970.[9]

A corollary question is, "Which facilities should receive the full benefit of the stack height credit?" The statute states only that the degree of emission limitation required for control of an air pollutant may be affected by stack heights in existence before the date of enactment of the 1970 Amendments; it does not indicate which facilities should benefit from the credit. The issue is not discussed in the legislative history.

In the absence of clear-cut Congressional guidance, the Agency proposes to adopt a policy we believe consistent with the stack heights provision. We believe the Congressional purpose in restricting stack height credit is best served by giving credit only for emissions from facilities that before December 31, 1970 were committed to tie into a stack in existence as defined in this Regulation. Commitment to tie into the stack would be evidenced by having commenced construction, as defined in Section 169(2)(a), on the facility before December 31, 1970.

This approach is consistent with the purpose of Section 123 especially with regard to the grandfathering provision. Stack height credit will be available only for emissions from facilities which commenced construction prior to December 31, 1970, provided that the facility was intended to use a stack height "in existence" for purposes of Section 123. An approach which requires a commitment by the end of 1970 to tie into the stack ensures that no credit will be given for emissions from units that now use the stack, but which commenced construction after the 1970 cut-off date. By using this test, rather than one which credits all emissions venting through a grandfathered stack, the Congressional intent both to honor financial commitments made prior to the end of 1970, and restrict atmospheric loading through dispersion, is realized.

Another question associated with the applicability of the Regulation is whether sources which have used elevated releases such as flares for health, safety, and economic reasons were meant to be subject to the stack heights limitation. The EPA believes that these sources were intended to be covered by the stack heights limitation. The proposed rulemaking in paragraph 51.1(ff) defines "stack" to make this point explicit and offers in subparagraph 51.1(ii)(1) a minimum GEP stack height of 30 meters which would generally be applicable to isolated flaring or uncontrolled or noxious emission releases by a source. This is provided to acknowledge the existence of a reasonable stack height needed to minimize the impact of natural adverse atmospheric phenomena.

CIRCUMVENTION OF THE REGULATION

The Stack Heights Regulation promotes and supports the use of constant control technology. The Regulation prohibits the use of dispersion techniques in the State Implementation Plans to meet air quality standards and limits the creditable stack height which a source may use in determining its State Implementation Plan emission limitations.

The major concern regarding circumvention of the Stack Heights Regulation has been the problem of dealing with the plume rise component of the effective stack height for a source. Effective stack height is the height from which atmospheric dispersion of emissions from a source are modeled in the vertical, lateral, and downwind directions. The significance of plume rise is that by a source's selective adjusting of various stack parameters other than physical stack height (which must be limited to GEP as prescribed in the Regulation), a source may increase the plume rise component of the effective stack height and thereby possibly circumvent the intent of the Regulation. Accordingly, the term "dispersion technique" is defined in the regulation to include the manipulation of source process parameters, exhaust gas parameters, stack parameters other than height, or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise.

New sources also have the capability to promote enhanced plume rise through certain stack design parameters and operating characteristics. Thus, the Administrator believes that comparative analysis of stack parameters for sources within source categories should be a review element in the modeling to establish an emission limitation. Additionally, the use of selective siting of stacks or associated structures or modification of physical designs will also be reviewed for consistency with the intent of this Regulation.

AIR QUALITY AND ECONOMIC IMPACTS

The air quality and economic impact of the Stack Heights Regulation is directly related to the degree that actual stack heights conform to GEP stack heights. Thus in general when the Regulation is applied to tall stack facilities, i.e., those with stack heights greater than GEP, it will have the potential for producing positive air quality impacts (emission reductions) and negative economic (increased control cost) impacts. Impacts upon short stack facilities, if permitted to raise their stacks, are expected to be the converse.

A preliminary evaluation of the potential air quality impacts and a cost analysis of the Regulation was performed on a sample of the potentially affected sources. The impacts identified have been established in isolation of other regulatory requirements. For example, for sources affected by new source performance standards (NSPS) in 40 CFR, Part 60, the degree of emission reduction required by such standards may greatly exceed the degree of emission reduction determined as needed for the source when it is modeled with a GEP stack height. In this example, the Stack Heights Regulation impacts are clearly hypothetical ones and would only have a quantifiable effect if the NSPS did not exist. As can be seen from Table 1, an average reduction in emissions of approximately 34% will be required by each source currently using a tall stack credit. This percent reduction would represent approximately a 2.6% increase in annualized costs for 1980 and a 1.7% increase in annualized costs for 1985.

Table 1 summarizes the expected potential impact of the proposed Stack Heights Regulation on the coal-fired power plant community.[10]

In general, the implementation of the Stack Heights Regulation should:

1. Provide for air quality and emissions benefits. Although there is an indication that a significant number of sources may have the potential for emission limitation relaxations, potential emission reductions more than offset potential emission increases.

Footnotes continued from last page

Report refers to "stack height" not "stack." H.R. Rep. No. 564, 95th Cong., 1st Sess. 143 (1977).

[9] The burden will be on the source to show how much of the stack was built by December 31, 1970, since it must demonstrate eligibility under the grandfathering clause to avoid being subject to the general restriction of Section 123(a)(1).

[10] The Nation's coal-fired power plant population, approximately 400 plants, was the basis for the impact study. This source category is significant because of its representativeness of a wide range of stack height uses, the large emissions contributions from the category, and the wide geographic distribution of the sources nationally.

TABLE 1.—*Summary of Impacts* [a]

Total number of coal-burning plants	439
Number of plants with stack heights greater than GEP stack heights	54
Average stack height for the 54 plants	212 meters (695 ft.)
Average potential stack height reduction needed	38%
Average potential reduction in emissions needed	34%&
National estimate of the potential emission reductions required for the 54 plants	973,000 tons/year
Potential reduction to total coal-burning power plant emissions	5%
Number of plants with stack heights less than GEP stack heights	145
Average stack height for the 145 plants	52 meters (169 ft.)
Average potential stack height increase allowable	86%
Average potential increase in emissions	28%
National estimate of the potential emissions increase allowable for the 145 plants.	421,000 tons/year
Potential increase to total coal-burning power plant emissions	2%

[a] "Impact Assessment Report for the Proposed Stack Heights Regulation," Draft, July 1978, available at the Public Information Reference Unit (EPA Library), Room 2922, 401 M Street, S.W., Washington, D.C.

2. Not produce significant adverse economic cost effects on affected source categories. This belief is premised on the fact that this effect was not found for the coal-fired power plant community, a category of sources which has made significant use of "tall stacks" and hence would be potentially subject to the greatest degree of emission reduction.

The above anticipated impacts represent a preliminary assessment of the proposed Regulation. Additional documentation regarding (1) the existence of unavoidable terrain impaction problems, (2) significant air quality (ambient standards or significant deterioration increments) problems, and (3) the limitations of available control technology is solicited to assist EPA in developing specific procedures to implement the final Stack Heights Regulation.

STATE IMPLEMENTATION OF STACK HEIGHT REVIEWS

States must develop programs, pursuant to the Clean Air Act Amendments of 1977, PL 95-95 (August 7, 1977), to review sources in order to implement the Stack Heights requirements as expeditiously as practicable. Extensive State and Federal effort will be necessary to review, in detail, all emission sources in accordance with the Stack Heights requirements.

In accordance with Section 406(d)(2)(B) of the Act, revisions to SIPs that are required by the Stack Heights Regulation must be submitted within nine months after promulgation of the Regulation. States which are currently revising SIPs for nonattainment areas, as required by Section 110(a)(2)(I) and Part D of the Act, are encouraged to enhance the effectiveness of their resource expenditures by incorporating, where possible, stack height reviews and necessary revisions into the nonattainment plan revision process. State programs for the preconstruction review of new sources should incorporate the revised stack height criteria immediately in order to avoid the necessity for revision of emission limitations at a later date.

CALL FOR COMMENTS AND INFORMATION

EPA solicits comment on its proposed Regulation and on the Technical Support Document which accompanies the Regulation.[11] The Agency, in addition, wishes to solicit for review and consideration any information which the public feels may be relevant to the development of the Stack Heights Regulation. In an effort to ensure the proper and expeditious consideration of comments and submitted information, the following topical divisions are offered to the public for its use in formatting its response to this call: (1) Intent and Purpose of the Regulation, (2) Applicability and Grandfathering, (3) Technical Definition of GEP Stack Height, including the definition of "excessive concentration," (4) Definition of "Nearby": Technical Aspects and Policy Implications, (5) Air Quality Impacts: Costs and Benefits of the Regulation, (6) Environmental Impacts: Costs and Benefits of the Regulation, including economic and energy impacts, (7) Case-Specific Impacts for Consideration in Implementation Guidance Development, including identification of hardship cases, and (8) Air Pollution Control Agency Priorities and Stack Heights Reviews: Resources Scheduling and Program Coordination.

Executive Order 12044, dated March 24, 1978, whose objective is to improve Government regulations, requires executive branch agencies to prepare regulatory analyses for regulations that may have major economic consequences. Prior to March 24, 1978, Executive Orders 11821 and 11949 were applicable to pending rulemaking proceedings.

Because this Regulation and its support documentation was initiated and was substantively developed before the March 24, 1978 issuance of Executive Order 12044, the Impact Assessment Report for the Proposed Stack Heights Regulation does not and is not required to reflect consistency with that order. The impact assessment does, however, reflect a consistency with EPA's procedures responsive to the previously effective executive orders. The "Impact Assessment Report for the Proposed Stack Heights Regulation" is available for inspection and copying at the Public Information Reference Unit (EPA Library), Room 2922, 401 M Street, S.W., Washington, D.C.

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[11] "Technical Support Document for Determination of Good Engineering Practice Stack Height," Draft, July 1978.

(Sections 110(a)(2)(B), 301(a), and 123 of the Clean Air Act as amended (42 USC 7410, 7601(a), and 7423.)

Dated: December 29, 1978.

DOUGLAS M. COSTLE,
Administrator.

It is proposed to amend Part 51 of Chapter I, Title 40 of the Code of Federal Regulations as follows:

1. Section 51.1 is amended by revising paragraph (z) and by adding paragraphs (ff), (gg), (hh), (ii), (jj), and (kk), as follows:

§ 51.1 Definitions.

• • • • •

(z) "Emission limitation" and "emission standard" mean a requirement established by a State, local government, or the Administrator which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirement which limits the level of opacity, prescribes equipment or fuel specifications, or relates to the operation or maintenance of a source to assure continuous emission reduction.

• • • • •

(ff) "Stack" means any point in a source, designed to emit solids, liquids, or gases into the air, including a pipe, duct, or flare.

(gg) "In existence", as used within Section 51.12(k) of this part, means that stack height (of a stack) which has been constructed.

(hh) "Dispersion technique" means any method which attempts to affect the concentration of a pollutant in the ambient air by (1) use of that portion of a stack which exceeds good engineering practice stack height, (2) varying the rate of emission of a pollutant according to atmospheric conditions or ambient concentrations of that pollutant, or (3) the manipulation of source process parameters, exhaust gas pa-

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rameters, stack parameters other than height, or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise. The preceding sentence does not include the reheating of a gas stream, following use of a pollution control system, for the purpose of returning the gas to the temperature at which it was originally discharged from the facility generating the gas stream.

(ii) "Good engineering practice stack height" means that stack height necessary to ensure that emissions from the stack do not result in excessive concentrations of any air pollutant in the immediate vicinity of the source as a result of atmospheric downwash, wakes, or eddy effects which may be created by the source itself, nearby structures, or nearby terrain obstacles and shall not exceed as appropriate:

(1) 30 meters, for stacks unifluenced by structures or terrain;

(2) $H_G = H + 1.5 L$

where

H_G = good engineering practice stack height
H = height of structure or nearby structure
L = lesser dimension (height or width) of the structure or nearby structures,

provided that the cognizant State or local control agency or the U. S. Environmental Protection Agency may require that a field study or fluid model be used (1) to determine the good engineering practice stack height for the source, or (2) for existing sources with stack heights less than good engineering practice, as determined by the equation, to demonstrate the existence of an air quaility problem, attributable to downwash, wakes, or eddy effects on such source as justification for use of the equation based good engineering practice stack height.

(3) such height as an owner or operator of a source demonstrates through the use of a field study or fluid model is necesary to ensure that emissions from the stack do not result in excessive concentrations of any air pollutant in the immediate vicinity of the source.

(jj) "Nearby" as used in Section 51.1(ii) of this part, is defined for a specific structure or terrain feature, and means that distance equal to five times the lesser of the height or width dimension of a structure or terrain feature not greater than one-half mile (0.8 km).

(kk) "Excessive concentrations" for the purpose of determining good engineering practice stack heights in fluid modeling studies means a maximum concentration greater than an ambient air quality standard, due in part or whole to downwash, wakes, or eddy effects and which concentrations is at least 40 percent in excess of the maximum concentration experienced in the absence of downwash, wakes, or eddy effects produced by nearby structures or terrain. For sources subject to the Prevention of Significant Deterioration program (40 CFR 51.24 and 52.21) an "excessive concentration" is a maximum concentration greater than that permitted by an applicable remaining prevention of significant deterioration increment and which concentration is at least 40 percent in excess of the maximum concentrations experienced in the absence of the downwash, wakes, and eddy effects produced by nearby structures of terrain features.

2. Section 51.12 is amended by adding paragraphs (j) and (k) as follows:

§ 51.12 Control strategy: General.

* * * * *

(j) The plan shall provide for any source whose stack emissions are required to be controlled in order to attain and maintain any national ambient air quality standard or to prevent significant deterioration of the air quality, that such control shall be accomplished through emission limitation alone. The degree of emission limitation required of any source for control of any air pollutant shall not be affected by so much of any source's stack height that exceeds good engineering practice or by any other dispersion technique, except as provided in Section 51.12(k) of this part, even when the degree of emission limitation required may be economically or technologically infeasible to attain. The plan shall provide that before a State submits to EPA a plan or plan revision that is based on a stack height determined under Subparagraph 51.1(ii)(3) of this part which exceeds two-and-a-half times the height of the source, the State shall notify the public of the availability of the source's demonstration and shall provide oppotunity for public hearing on the demonstration.

(k) The provisions of Sections 51.12(j) and 51.18(j) of this part shall not apply to: (i) stack heights in existence, or dispersion techniques implemented, prior to December 31, 1970, or (ii) coal-fired steam electric generating units, subject to the provisions of Section 118 of the Clean Air Act, which commenced operation before July 1, 1957, and whose stacks were constructed under a construction contract awarded before February 8, 1974.

3. Section 51.18 is amended by adding paragraph (j) as follows:

§ 51.18 Review of new sources and modifications.

* * * * *

(j) Such procedures shall provide for any source whose stack emissions are controlled in order to attain and maintain any national ambient air quality standard, or to prevent the significant deterioration of air quality, that such control shall be accomplished through emission limitation alone. The degree of emission limitation required of any source for control of any air pollutant shall not be affected by so much of any source's stack height that exceeds good engineering practice or by any other dispersion technique, except as provided in Section 51.12(k) of this part, even where the degree of emisison limitation required may be ecnomically or technologically infeasible to attain. Such procedures shall provide that before a State issues a permit to a source based on a stack height determined under Subparagraph 51.1(ii)(3) of this part which exceeds two-and-a-half times the height of the source, the State shall notify the public of the availability of the source's demonstration and shall provide opportunity for public hearing on the demonstration.

[FR Doc. 79-1049 Filed 1-11-79; 8:45 am]

[6560-01-M]

[40 CFR Part 52]

[FRL 1037-1]

MAINE

Approval and Promulgation of Implementation Plans; Proposed Rulemaking: Maine Regulations for Air Quality Surveillance and New Source Review

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes approval of revisions to the Maine State Implementation Plan (SIP) for Air Quality Control by amending Chapter 5, *Air Quality Surveillance*, which updates the ambient air monitoring network, and Chapter 6, *Review of New Sources and Modifications*, which establishes a category of "Lesser Sources" which will be licensed on a 5-year basis. The air monitoring network will be considered an interim measure until such time as further revisions are required.

No action will be taken at this time on Chapter 2, *Control Strategies*, and Chapter 9, *Intergovernmental Cooperation* since the state is to submit additional information.

DATES: Comments must be received on or before February 12, 1979.

ADDRESSES: Copies of the Maine submittal and EPA's evaluation are available for public inspection during normal business hours at the Environmental Protection Agency, Region I, Room 1903, JFK Federal Building, Boston, Massachusetts 02203; Public Information Reference Unit, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C 20460; and Maine Department of Environmental Protection.

Comments should be submitted to the Regional Administrator, Region I, Environmental Protection Agency, Room 2203, JFK Federal Building, Boston, Massachusetts 02203.

FOR FURTHER INFORMATION CONTACT:

Ruth Leabman, Air Branch, EPA Region I, Room 1903, JFK Federal Building, Boston, Massachusetts 02203, (617) 223-5609.

SUPPLEMENTARY INFORMATION: On March 10, 1978, the Governor of Maine submitted a revision to the State Implementation Plan (SIP). The revision includes amendments to Chapters 5, and 6 of the Air Quality Control Plan which are summarized as follows:

CHAPTER 5—STATE IMPLEMENTATION PLAN AIR QUALITY SURVEILLANCE

The revisions to Chapter 5 update the air monitoring network to reflect the present configuration. However, the network will be an interim measure since it does not meet all the requirements of EPA monitoring strategies which were proposed in the FEDERAL REGISTER on August 7, 1978 (43 FR 34982) and are to be promulgated in the near future.

The revision deletes original equipment specifications existing at the time the monitoring network was established, incorporating conformance with EPA requirements and operated in accordance with the Maine Department of Environmental Protection (the Department) quality assurance program. Analytical technique will conform to Federally designated methods.

The Regional Administrator proposes approval of the revision to Chapter 5 until such time as a modified SIP network may be required by EPA under its Air Quality Surveillance and Data Reporting Regulations, and stipulates that any further changes or proposed relocations of monitoring instruments be approved by EPA.

CHAPTER 6—REVIEW OF NEW SOURCES AND MODIFICATIONS

This revision establishes a category of "Lesser Sources" which is licensed on a five-year basis rather than every two years required for all other sources. The same change is also applied to the Department's Emission License regulation (100.8). "Lesser Sources" are those less than 50 million Btu/hour and consume less than 500,000 gallons of fuel per year. The sources remain subject to all applicable rules, regulations, orders, emission and ambient air standards.

The proposed revision to Chapter 6 is administrative in nature and will not interfere with the attainment or maintenance of the National Ambient Air Quality Standards.

This submittal also included revisions to Chapter 2, Control Strategies, and Chapter 9, Intergovernmental Cooperation.

Chapter 2 consolidated related sections dealing with control strategies for CO, HC, O_x and NO_2 and other transportation control strategies. A new section 9.3 under Chapter 9 provided for review of transportation plans for consistency between transportation plans of urbanized areas with statewide plans and programs contained in SIP. No action will be taken on these regulations at this time since additional information required under the Clean Air Act Amendments, and the Joint EPA-DOT Transportation Air Quality Planning Guidelines (June 1978) will be submitted including additional provisions and plans.

The Administrator's decision to approve or disapprove the plan revision will be based on whether it meets the requirement of Sections 110(a)(2)(A)-(K) and 110(a)(3) of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51. This revision is being proposed pursuant to Sections 110(a) and 301 of the Clean Air Act, as amended (42 U.S.C. 7401 and 7601).

Dated: January 3, 1979.

WILLIAM R. ADAMS, Jr.,
Regional Administrator,
Region I.

[FR Doc 79-1050 Filed 1-11-79; 8:45 am]

[6560-01-M]

[40 CFR Part 65]

[FRL 998]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMETATION PLAN REQUIREMENTS

—Proposed Delayed Compliance Order for Nassau Recyle Corp., Staten Island, N.Y.

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to issue an administrative Order to the Nassau Recycle Corporation. The Order requires the company to bring air emissions from several emission points at its Staten Island, New York facility into compliance with certain regulations contained in the federally-approved New York Implementation Plan ("SIP"). Because the company is unable to comply with these regulations at this time, the proposed Order would establish an expeditious schedule requiring final compliance by no later than May 15, 1979. Source compliance with the terms of the Order would preclude suits under the federal enforcement and citizen suit provisions to the Clean Air Act for violation of the SIP regulations covered by the Order. The purpose of this notice is to invite public comment and to offer an opportunity to request a public hearing on EPA's proposed issuance of the Order.

DATES: Written comments must be received on or before February 12, 1979, and requests for a public hearing must be received on or before January 29, 1979. All requests for a public hearing should be accompanied by a statement of why the hearing would be beneficial and a text or summary of any proposed testimony to be offered at the hearing. If there is significant public interest in a hearing, it will be held after twenty-one days prior notice of the date, time and place of the hearing has been given in this publication.

ADDRESSES: Comments and requests for a public hearing should be submitted to Meyer Scolnick, Director, Enforcement Division, EPA Region II, 26 Federal Plaza, New York, New York 10007. Material supporting the Order and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Walter E. Mugdan, Attorney, General Enforcement Branch, Enforcement Division, EPA Region II, 26 Federal Plaza, New York, New York 10007, (212) 264-4434.

SUPPLEMENTARY INFORMATION: The Nassau Recyle Corporation operates a facility for the recovery of copper and other metals from scrap, in Staten Island, New York. The proposed Order addresses emissions from the De-Tin Furnace and System Kettles #1 through #5, and several other points. These emission points are subject to the requirements of Title 6, Official Compilation of Codes, Rules and Regulations of the State of New York ("NYCRR"), Parts 201 and 212. Part 201 requires that each source of air pollution in New York must have a valid Certificate to Operate issued by the State Department of Environmental Conservation ("DEC"); Part 212 limits the permissible emission rates for particulates from processes and exhaust and/or ventilation systems. The regulations are part of the federally-approved New York State Implementation Plan. The Order requires

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Nassau Recyle to be in final compliance with the regulations by no later than May 15, 1979. The source has, furthermore, agreed to meet the Order's increments of progress during the period of this informal rulemaking.

The proposed Order satisfies the applicable requirements of Section 113(d) of the Clean Air Act ("the Act"). If the Order is issued, source compliance with its terms would preclude further EPA enforcement action under Section 113 of the Act against it for violations of the regulations covered by the Order during the period it is in effect. Enforcement against the source under the citizen suit provisions of the Act (Section 304) would be similary precluded.

The provisions of 40 CFR Part 65 will be promulgated by EPA in the near future, and will contain the procedure for Agency issuance, approval, and disapproval of an Order under Section 113(d) of the Act. In addition, Part 65 will contain sections summarizing Orders issued, approved, and disapproved by EPA. A prior notice proposing regulations for Part 65, published at 40 FR 14876 (April 2, 1975), will be withdrawn, and replaced by a notice promulgating these new regulations.

(Authority: 42 U.S.C. §§ 7413, 7601.)

Date: October 19, 1978.

ECKARDT C. BECK,
Regional Administrator,
Region II.

In consideration of the foregoing, it is proposed to amend 40 CFR Chapter 1, § 65.370, to reflect approved of the following order:

§ 65.370 [Amended]

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION II

CONSENT ORDER, INDEX NO. 80230

In the Matter of NASSAU RECYCLE CORPORATION (Staten Island, New York).

FINDINGS

On March 2, 1978, the United States Environmental Protection Agency ("EPA") performed a complete inspection of the Nassau Recycle Corporation's Staten Island, New York facility, for the purpose of determining the facility's compliance with applicable air pollution regulations. As a result of this inspection, the Nassau Recycle Corporation ("Nassau") was verbally informed by representatives of the EPA that it had found what the Agency considered to be a number of violations existing at that facility. Specifically, the source operates a number of emission points subject to the provisions of Title 6, Official Compilation of Codes, Rules and Regulations of the State of New York ("NYCRR"), Parts 201 and 212. Part 201 requires that all sources of air pollution emissions in New York have a valid Certificate to Operate issued by the State Department of Environmental Conservation ("DEC"); Part 212 limits the permissible emissions rates for particulates from processes and exhaust and/or ventilation systems. The regulations are part of the federally-approved New York State Implementation Plan ("SIP") for the Air Quality Control Region in which Nassau's Staten Island facility is located.

The EPA inspection revealed the following:

1. Nassau's Emission Point "A" (including System Kettles #1, #2, and #5, two Sleeve Presses and several other processes) does not have a valid certificate to operate issued by the DEC.

2. Emission Point "S" (including System Kettles #3 and #4) does not have a valid certificate to operate issued by the DEC.

3. Nassau's De-tin Furnace at Emission Point "A" did not have a certificate to operate but EPA was informed that Nassau ceased operation and discontinued the use of this furnace.

4. Nassau maintains three acid storage tanks and EPA was informed that Nassau is about to construct a 5,000 gallon acid storage tank all of which do not have certificates to operate.

At a meeting held on April 13, 1978 between representatives of Nassau and the EPA, Nassau admitted Points 1 and 2 above. However, it is recognized by the EPA that there were certain mitigating circumstances which contributed to the company's failure to obtain certificates to operate. Nassau waives any formal notification requirements of Section 113(a)(1) of the Act.

Nassau also agreed to physically disconnect the De-tin furnace and, as required by DEC regulations, to apply for a certificate to operate the three acid storage tanks, and a permit to construct and certificate to operate the additional 5,000 gallon storage tank.

The EPA has determined that Nassau acted in good faith; that Nassau commenced performance to enable it to obtain the required certificates and that Nassau can, by meeting the terms of this Order, be in final compliance with applicable air pollution control regulations prior to July 1, 1979. The EPA has determined that the schedule contained herein will provide for such compliance by Nassau as expeditiously as practicable.

The EPA has determined that there exist no interim control measures which are practicably available to Nassau to minimize air pollution emissions during the period of delayed compliance at its Staten Island facility permitted by the terms of this Order.

Public notice, opportunity for a public hearing, and thirty days notice to the State of New York have been provided.

ORDER

Based on the foregoing, and pursuant to Section 113(d) of the Clean Air Act, it is hereby ordered:

That the Nassau Recycle Corporation (Nassau) take the following actions on or before the dates specified at its Staten Island facility.

I. A. On or before July 1, 1978, Nassau shall submit to EPA preliminary design and specifications for the installation of a baghouse to control the particulate emission from its System Kettles #1 through 5.

B. On or before August 1, 1978, Nassau shall solicit bids for the construction and installation of such baghouse.

C. On or before August 15, 1978, Nassau shall review the proposals and submit to EPA the proposed final design and specifications, and apply to the New York DEC for appropriate permits to construct and certificates to operate such baghouse.

D. On or before August 30, 1978, EPA shall acknowledge its acceptance or disapproval with comments, of the final designs submitted by Nassau.

E. On or before October 1, 1978, Nassau shall award the contract for the construction and installation of the baghouse.

F. On or before January 1, 1979, necessary construction and installation of the baghouse facilities shall commence.

G. On or before April 1, 1979, construction and installation of the baghouse shall have been completed.

H. On or before May 15, 1979, Nassau shall submit to the EPA the results of a stack test demonstrating that emission from its System Kettles #1 through 5 are in compliance with all applicable air pollution control regulations.

II. On or before July 1, 1978, Nassau shall:

A. to the extent required by 6 NYCRR Part 201, make application to the DEC for certificates to operate its three acid storage tanks; and

B. to the extent required by 6 NYCRR Part 201, make application to construct and operate its proposed 5,000 gallon acid storage tank.

III. On or before August 1, 1978, Nassau shall by physical means disconnect the De-tin furnace from Emission Point "A".

IV. On or before July 1, 1978, Nassau shall make application to the DEC for issuance of a permit to construct and certificate to operate its Sleeve Press Line.

V. Nassau shall comply with the following reporting requirements:

A. No later than five business days after any date specified in Paragraphs I through IV of this Order, for achievement of any incremental step (including final compliance), Nassau shall notify the EPA in writing of its status of compliance with respect to said incremental step. If compliance with any incremental step is not achieved by the specified dates, the notification required by this Paragraph shall provide a full explanation for the failure or expected failure to so comply. Notwithstanding any explanation for a delay or expected delay, any failure to meet the incremental step by the date specified herein shall be deemed a violation of this Order and may subject Nassau to the remedies described in Paragraph VI, below. Any failure to meet one of the schedules contained in Paragraphs I through IV shall only be deemed a violation of that schedule, and shall not affect the requirements of the remaining portions of this Order.

B. All submissions, notifications and reports to the EPA, pursuant to the terms of this Order, shall be made to Mr. Kenneth Eng, Chief, Air and Environmental Applications Section, Status of Compliance Branch, Enforcement Division, U.S. Environmental Protection Agency, Region II, 26 Federal Plaza, New York, New York 10007.

VI. Violation of any requirement of this Order may result in one or more of the following:

A. Enforcement of such requirement pursuant to Section 113 (a), (b), or (c) of the Act, including possible judicial action for an injunction and civil penalties, or criminal prosecution.

B. Revocation of this Order, after notice and opportunity for a public hearing, and subsequent enforcement of 6 NYCRR Parts 201 and 212, in accordance with the preceding paragraph.

C. If such violation continues beyond July 1, 1979, notice of noncompliance and subsequent action pursuant to Section 120 of the Act.

D. Nassau shall not be in violation of this Order if the failure to meet any of the schedules arise out of causes entirely beyond the control and without the fault or negligence of Nassau.

So ordered, effective immediately.

Dated: December 6, 1978.

DOUGLAS COSTLE,
Administrator, U.S. Environmental Protection Agency.

CONSENT

The undersigned, having full authority to represent the Nassau Recycle Corporation, has read the foregoing Order, believes it to be reasonable, and therefore consents to both its issuance and to its terms. The undersigned waives any formal notification requirements of Section 113(a)(1) of the Act. The undersigned recognizes that Nassua is subject to all remedies provided in Section 113 of the Act for failure to comply with the terms of the foregoing Order, and explicitly waives any and all rights under any provision of law to challenge this Order.

Dated: August 7, 1978.

For: Nassau Recycle Corporation Vice President

ANDREW M. LAURENCE.

[FR Doc. 79-1051 Filed 1-11-79; 8:45 am]

[6560-01-M]

[FRL 1036-2]

[40 CFR Part 81]

AIR QUALITY CONTROL REGIONS, CRITERIA, AND CONTROL TECHNIQUES

Attainment Status Designations: Florida and North Carolina

AGENCY: Environmental Protection Agency.

ACTION: Proposed rulemaking.

SUMMARY: The Clean Air Act Amendments of 1977 required that the Environmental Protection Agency (EPA) designate the attainment status of all areas within the states on a state-by-state, pollutant-by-pollutant basis. This was done on March 3, 1978 (43 FR 8962). Either the state or EPA can initiate changes in these designations, and such changes, if approved, will replace extant designations. This has been done previously for certain areas in EPA's Region IV (43 FR 40412, September 11, 1978).

Review of the air quality data from states in Region IV has shown that "nonattainment" designations for some areas were based on invalid data. The purpose of this notice is to solicit comment on the proposal to change the designation for areas in Florida and North Carolina to "attainment or unclassifiable" until such time as valid data can be collected to confirm or reject this classification.

DATES: Written public comment should be submitted to the person listed below and must be received on or before February 12, 1979, to be considered.

FOR FURTHER INFORMATION CONTACT:

Mr. John Eagles, Air Programs Branch, EPA Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30308, 404-881-2864.

SUPPLEMENTARY INFORMATION: It is proposed to change the designation for oxidants for Buncombe County, North Carolina, from "nonattainment" to "attainment or unclassifiable." Review of the air quality data on which the present designation is based has shown that the data are not of sufficient quality, primarily because of a lack of proper monitor calibration procedures, to be a basis for designating an area as nonattainment. Quality assurance procedures for the data cannot be verified, and anamalous recorder operation has been observed. The instrument will continue to operate, but under approved quality assurance procedures, and if subsequent data indicate nonattainment, the designation will be changed accordingly.

It is proposed to change the designation for particulate matter for Seminole County, Florida, from "nonattainment for secondary standards" to "unclassifiable." This is based on an on-site review of the monitor in violation. This review shows that the monitor is improperly sited in light of EPA siting criteria, and is not collecting valid, representative data, primarily because siting is improper in several respects and because the quality control of the sample measurement was inadequate.

The monitor is being relocated and will continue to operate. When sufficient valid data have been collected to change the designation from "unclassifiable," the designation will be changed.

It is proposed to change the designation for oxidants for Leon County, Florida, from "nonattainment" to "attainment or unclassifiable." This is the result of a data audit conducted by EPA which showed inadequate calibration of the monitor indicating nonattainment. The instrument will continue to operate, but under approved quality assurance procedures, and if subsequent data indicate nonattainment, designation will be changed accordingly.

Background materials stating in more detail the reasons for unreliability of the data for these three counties may be obtained by contacting Mr. Eagles, whose address and telephone number appear above.

(Sec. 107(d), 171(2), 301(a) of the Clean Air Act as amended (42 U.S.C. 7407(d), 7501(2), 7601(a)).)

Dated: January 5, 1979.

JOHN C. WHITE,
Regional Administrator,
Region IV.

(1) In § 81.310, the attainment status designation table is amended as follows:

§ 81.310 Florida.

FLORIDA—TSP

Designated area	Does not meet primary standard	Does not meet secondary standards	Cannot be classified	Better than national standards
The Downtown Jacksonville Area Located Just North and West of the St. Johns River & East of I-95.		X**		
Seminole County			X**	
Polk County			X**	
That Portion of Hillsborough County which falls within the area of the circle having a centerpoint at the intersection of US 41 & State Road 60 and a radius of 12 km.		X**		
Rest of State				X**

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FLORIDA—O_x

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
Duval County	X**	
Broward County	X**	
Dade County	X**	
Palm Beach County	X**	
Escambia County	X**	
Orange County	X**	
Hillsborough County	X**	
Pinellas County	X**	
Rest of State		X**

. . . . . .

(2) In § 81.334, the attainment status designation table is amended as follows:

§ 81.334 North Carolina

. . . . . .

NORTH CAROLINA—O_x

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
Mecklenburg County	X	
Rest of State		X

** EPA designation only.

[FR Doc. 79-913 Filed 1-11-79; 8:45 am]

[4110-35-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

[42 CFR Part 405]

MEDICARE PROGRAM

Payments for Inpatient Services of Foreign Hospitals

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Proposed Rule.

SUMMARY: The proposed amendments provide for payment based on 100 percent of customary charges for covered inpatient hospital services furnished by foreign hospitals that elect to receive payment directly from the Medicare program. If the foreign hospital does not elect to receive payment directly, the Medicare beneficiary will be reimbursed based upon the hospital's reasonable charges, upon submitting an itemized bill to the program. The purpose of the proposed amendments is to encourage foreign hospitals to bill the Medicare program directly for services rendered to Medicare beneficiaries. The amendments also will simplify the administrative requirements for processing claims for reimbursement from foreign hospitals.

DATES: Consideration will be given to written comments or suggestions received on or before March 13, 1979.

ADDRESS: Address comments to: Administrator, Health Care Financing Administration, Department of Health, Education, and Welfare, P.O. Box 2372, Washington, D.C. 20013.

In commenting, please refer to MAB-36-P. Comments will be available for public inspection beginning approximately 2 weeks after publication, in room 5231 of the Department offices at 330 C Street, S.W., Washington, D.C., on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (telephone 202-245-0950).

FOR FURTHER INFORMATION, CONTACT:

Mr. Hugh McConville, Medicare Bureau, Health Care Financing Administration, Room 412, East High Rise Building, Baltimore, Maryland 21235, (301) 594-9430.

SUPPLEMENTARY INFORMATION: Section 1814(f) of the Social Security Act provides Medicare payment for covered care furnished by foreign hospitals in two specific instances:

1. Emergency inpatient hospital services if the beneficiary is inside the United States (or the beneficiary is in Canada while traveling to or from Alaska without unreasonable delay by the most direct route) when the medical necessity occurs and the foreign hospital is closer or substantially more accessible to the site of the emergency than the nearest United States hospital which is adequately equipped and available to treat the emergency; and

2. Inpatient hospital services if the foreign hospital is closer or substantially more accessible to the beneficiary's United States residence than the nearest United States hospital which is equipped and available to treat the beneficiary's illness or injury.

The restrictions imposed by section 1814(f) regarding the foreign hospital being closer to, or substantially more accessible than, the nearest hospital in the United States, have the result that services furnished in any foreign country other than Canada or Mexico could not qualify for reimbursement.

The Medicare program presently pays foreign hospitals, subject to deductible and coinsurance amounts, the lesser of (1) 90 percent of the hospital's average inpatient per diem cost of all patients as determined by third-party nongovernmental payers, or (2) 85 percent of the hospital's customary charge for the services rendered.

Canadian hospitals are reluctant to accept reimbursement from the Medicare program on less than 100 percent of their average per diem charges. Based on information furnished by officials of the Canadian Department of Health and Welfare, HCFA determined that the average per diem rate charged by the Canadian hospitals is, in fact, the same as their average per diem costs. HCFA also determined that their per diem costs are less than the costs reimbursable by the Medicare program since their costs do not include certain items, such as mortgage interest and medical education salaries, which are included by Medicare in the determination of "reimbursable cost" for domestic providers. Canadian officials state that acceptance of payments based on less than 100 percent of their average per diem charges would constitute a Canadian subsidy of hospital services furnished to U.S. residents. The officials also object to the submission of cost reports in order to receive full reimbursement from the Medicare program for their costs, because the time and cost necessary to prepare these reports would not be justified for the relatively few services rendered to Medicare beneficiaries.

Section 1814(f) provides two methods for reimbursing foreign hospitals, which are essentially the same two methods applicable to payments for domestic emergency hospital services. If the foreign hospital elects to claim payment from the Medicare program for all covered services furnished during a calendar year, and agrees to comply with certain payment procedures prescribed in section 1866(a) of the Act, it may be reimbursed on the basis of its reasonable cost or customary charges, whichever is less. If the foreign hospital does not elect to claim payment from the Medicare program directly, beneficiaries will be reimbursed based upon the hospital's reasonable charges upon submitting an itemized bill.

A hospital's reasonable cost is determined in accordance with section 1861(v)(1)(A) of the Act, which authorizes the Secretary to develop regulations which "may provide for the use of charges or a percentage of charges where this method reasonably reflects the costs."

As discussed above, information obtained from the Canadian Department of Health and Welfare disclosed that the charges imposed by Canadian hospitals (which render the vast majority of services described in Section 1814(f) of the Act) are, in fact, equal to their necessary costs in the efficient delivery of needed health services. This is true for all the provinces in Canada. Further, costs as determined in Canadian hospitals are less than the costs reimbursable by the Medicare program to domestic providers. HCFA believes these differences adequately justify the proposed determination that "reasonable costs", as applied to Canadian hospitals, are 100 percent of their customary charges.

Medicare payments are rarely made for services furnished by Mexican hospitals because the criteria in the law for establishing the proximity of Mexican hospitals to the site of an emergency that occurred in the United States or to the Medicare beneficiary's residence is rarely met. Additionally, HCFA has determined that charges imposed and the costs incurred by Mexican hospitals are also less than those of domestic providers. As with Canadian hospitals, HCFA believes these differences justify the proposed determination of "reasonable costs" as applied to Mexican hospitals.

Accordingly, under the authority of section 1861(v)(1)(A), the proposed amendments would provide for payment to foreign hospitals, for admissions after December 31, 1979, based on 100 percent of the hospitals' customary charges subject to applicable deductible and coinsurance amounts, for covered hospital services furnished to Medicare beneficiaries by foreign hospitals which elect to receive payment from the Medicare program directly. The hospital must establish its customary charges for the service by submitting an itemized bill with each claim it files. This would preclude the necessity of foreign hospitals filing cost reports to receive full reimbursement of their costs. If the foreign hospital does not elect to claim payment, beneficiaries may be reimbursed based on the hospital's reasonable charges, in accordance with section 405.153(c)(2) of the regulations, upon submitting an itemized bill.

However, the objective of the proposed amendment is to encourage foreign hospitals to elect to bill the Medicare program directly. The amendments also will simplify the administrative requirements for processing claims for reimbursement from foreign hospitals. This would be accomplished, for example, by the adoption of a single reimbursement procedure and the opportunity for HCFA to deal directly with each electing hospital.

Additionally, by encouraging foreign hospitals to bill the Medicare program directly, the proposed regulation would be advantageous to Medicare beneficiaries in two ways: (1) the beneficiary will not have to submit a bill; and (2) the beneficiary will only be liable for the applicable deductible and coinsurance amounts. If the beneficiary submits a bill, the beneficiary is statutorily liable for the applicable deductible and coinsurance amounts and a percentage of the hospital's reasonable charges (see section 405.153(c)(2) of the proposed rule, and sections 1814(d)(3) and (f)(4) of the Act).

42 CFR Part 405 is amended as set forth below:

1. Section 405.153 is amended by revising paragraph (c) to read as follows:

§ 405.153 Payment for services: hospitals outside the United States.

. . . . . .

(c) *Payments.* (1) Payment to a Canadian or Mexican hospital for inpatient services specified in paragraphs (a) and (b) of this section and furnished either directly by the hospital or under arrangements made by the hospital, shall be made in the amount specified in § 405.454-1, if:

(i) Payment would be made if a provider agreement were in effect with the hospital;

(ii) The hospital files a statement of election to claim payment for all covered services furnished during a calendar year (see § 405.658); and

(iii) The hospital agrees to comply with those terms of a provider agreement that relate to charges and refunds to patients, as specified in § 405.607.

(2) If the foreign hospital does not file an election to claim direct payment from the Medicare program for covered inpatient services furnished to a Medicare beneficiary, payment will be made to the beneficiary based on an itemized bill of the hospital. In accordance with sections 1814(d)(3) and 1814(f)(4) of the Act, the payment amount, which is subject to the applicable deductible and coinsurance amounts, shall be equal to the following:

(i) If the hospital makes separate charges for routine and ancillary services, 60 percent of the hospital's reasonable charges for routine services furnished in the accommodations occupied by the Medicare beneficiary or in semiprivate accommodations, whichever is less, and 80 percent of the reasonable charges for ancillary services for covered days in the benefit period.

(ii) If the hospital does not make separate charges for routine and ancillary services, two-thirds of the hospital's reasonable charges for all covered services furnished, but not to exceed charges based on semiprivate accommodations.

2. A new § 405.454-1 is added to read as follows:

§ 405.454-1 Payment to a foreign hospital.

(a) Section 1814(f) of the Act provides for the payment of emergency and nonemergency inpatient hospital services furnished by foreign hospitals to Medicare beneficiaries. Section 405.153, together with this section, specifies the conditions for payment. These conditions, when applied, result in payments only to Canadian and Mexican hospitals.

(b) *Amount of payment.* Effective with admissions after December 31, 1979, the reasonable cost for services covered under the Medicare program furnished to beneficiaries by a foreign hospital shall be equal to 100 percent of the hospital's customary charges (as defined in § 405.455(b)) for the services.

(c) *Submittal of claims.* The hospital must establish its customary charges for the services by submitting an itemized bill with each claim it files in accordance with its election under § 405.658.

(d) *Exchange rate.* Payment to the hospital will be subject to the official exchange rate on the date the patient is discharged and to the applicable deductible and coinsurance amounts described in §§ 405.113—405.115.

3. Section 405.658 is revised to read as follows:

§ 405.658 Hospital election to receive health insurance payments.

(a) *General.* The provisions of this section apply to hospitals (both domestic and foreign) which qualify under § 405.152 or § 405.153 to elect to claim payment for all covered hospital services furnished either directly by the hospital or under arrangement with the hospital during a calendar year. To be eligible to file an election for a calendar year, the hospital must not have previously charged a beneficiary or any other person on his behalf for covered hospital services

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furnished in that calendar year. The hospital's statement of election must be filed on a form designated by the Health Care Financing Administration (HCFA).

(b) *Statement of election.* Under the provisions of the statement of election, the hospital agrees for the calendar year of election:

(1) To comply with the provisons of §§ 405.607—405.610 relating to charges for items and services the hospital may make to the beneficiary, or any other person on his behalf.

(2) To comply with the provisions of §§ 405.618—405.621 relating to proper disposition of moneys incorrectly collected from, or on behalf of, a beneficiary; and

(3) To request payment under the Medicare program based on amounts provided under § 405.454-1.

(c) *Filing of statement of election.* (1) The hospital's statement of election must be signed by an authorized official of the hospital and must be submitted to HCFA before the close of the calendar year of election.

(2) An election is submitted to HCFA before the close of a calendar year only if postmarked or received by HCFA before the close of the calendar year of election.

(3) If accepted by HCFA, the effective date of the election shall be the earliest day in the calendar year of election for which HCFA determines that the hospital has been in continuous compliance with the requirements of section 1814(d) of the Act.

(d) *Notification of failure to continue to comply.* HCFA will give the hospital at least 5 days notice of its determination that the hospital does not qualify to claim reimbursement because of its failure to continue to be in compliance with the elements of its election, or of its failure to continue to be a hospital. The notice will:

(1) State the calendar year to which the determination applies;

(2) State the effective date of the determination;

(3) State that the determination applies to claims filed by the hospital for services furnished in the applicable calendar year to beneficiaries who are accepted as patients (inpatients and outpatients) on or after the effective date of the determination; and

(4) Inform the hospital of its right to appeal the determination.

(e) *Appeal by institution.* Any institution dissatisfied with a determination that it does not qualify to claim reimbursement shall be entitled to appeal the determination as provided in Subpart O of this part.

4. Section 405.659 is revised to read as follows:

§ 405.659 Reinstatement of hospital after notice of failure to continue to comply.

If a hospital is notified by HCFA of its ineligibility to receive reimbursement for a calendar year (see § 405.658(d)), the hospital may not file another election to claim payment from the Medicare program until HCFA finds that:

(a) The reason for its ineligibility has been removed; and

(b) There is reasonable assurance that it will not recur.

(Sections 1102, 1814(b), (d), and (f), 1861(v), and 1871 of the Social Security Act; 42 U.S.C. 1302, 1395f(b), (d), and (f), 1395x(v), and 1395hh.)

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare—Hospital Insurance; No. 13.774, Medicare—Supplementary Medical Insurance.)

Dated: December 1, 1978.

LEONARD D. SCHAEFFER,
Administrator, Health Care Financing Administration.

Approved: January 6, 1979.

JOSEPH A. CALIFANO, Jr.,
Secretary.

[FR Doc. 79-1208 Filed 1-11-79; 8:45 am]

[4310-84-M]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[43 CFR Parts 2740, 2910]

RECREATION AND PUBLIC PURPOSES ACT

Proposed Rules

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rulemaking.

SUMMARY: This proposed rulemaking updates the Recreation and Public Purposes Act regulations to reflect the amendments of that Act made by section 212 of the Federal Land Policy and Management Act.

DATE: Comments by March 13, 1979.

ADDRESS: Send comments to: Director (210), Bureau of Land Management, 1800 C Street, NW., Washington, D.C. 20240. Comments will be available for public review in Room 5555 of the above address from 7:45 a.m.-4:15 p.m., on regular work days.

FOR FURTHER INFORMATION CONTACT:

Mr. Mathew Millenbach (202) 343-8731 or Mr. Robert C. Bruce (202) 343-8735.

SUPPLEMENTARY INFORMATION: Section 212 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) amended the Recreation and Public Purposes Act (43 U.S.C. 869 et seq.) by requiring that certain additional criteria shall be met prior to approving applications, by changing the acreage limitations, and by providing that patents and leases for recreational purposes shall be made without monetary consideration.

In addition to accommodating these changes, the proposed rulemaking changes provisions of the regulations regarding the termination of classifications of lands for which no applications had been filed, the collection of filing fees and the reappraisal of a patent when the patentee applies for a title transfer or change of use.

It is hereby determined that the publication of this document is not a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

The Department of the Interior has determined that this document is not a significant regulatory action requiring the preparation of a regulatory analysis under Executive Order 12044.

The principal author of this proposed rulemaking is Mathew Millenbach of the Division of Lands and Realty, Bureau of Land Management, assisted by the Division of Legislation and Regulatory Management.

Under the authority of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 et seq.) it is proposed to revise Part 2740, Group 2700, and Subpart 2912, Part 2910, Group 2900, Subchapter B, Chapter II, Title 43 of the Code of Federal Regulations as set forth below:

1. Part 2740 is revised to read as follows:

PART 2740—RECREATION AND PUBLIC PURPOSES ACT

Subpart 2740—Recreation and Public Purposes Act: General

Sec.
2740.0-1 Purpose.
2740.0-2 Objectives.
2740.0-3 Authority.
2740.0-5 Definitions.
2740.0-6 Policy.
2740.0-7 Cross reference.

Subpart 2741—Recreation and Public Purposes Act: Requirements

Sec.
2741.1 Lands subject to disposition.
2741.2 Qualified applicants.
2741.3 Applications.
2741.4 Guidelines for conveyances and leases under the act.
2741.5 Applications for transfer of title or change of use.
2741.6 Acreage limitations and general conditions.
2741.7 Price.
2741.8 Patent provisions.

AUTHORITY: Recreation and Public Purposes Act, as amended (43 U.S.C., 869 et seq.

Subpart 2740—Recreation and Public Purposes Act: General

§ 2740.0-1 Purpose.

These regulations provide guidelines and procedures for transfer of certain public lands under the Recreation and Public Purposes Act as amended (43 U.S.C. 869 et seq.), to States or their political subdivisions, and to nonprofit corporations and associations, for recreational and public purposes.

§ 2740.0-2 Objectives.

The objective is to meet the needs of certain State and local governmental agencies and other qualified organizations for public lands required for recreational and public purposes.

§ 2740.0-3 Authority.

(a) The Act of June 14, 1926, as amended, (43 U.S.C. 869 et seq.), commonly known as the Recreation and Public Purposes Act, authorizes the Secretary of the Interior to lease or convey public lands for recreational and public purposes under specified conditions.

(b) Section 211 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1721), authorizes the conveyance to States or their political subdivisions of unsurveyed islands, determined by the Secretary to be public lands of the United States, and "omitted lands" without regard to acreage limitations contained in the Recreation and Public Purposes Act.

§ 2740.0-5 Definitions.

As used in this part, the term:

(a) "Act" means the Recreation and Public Purposes Act as amended by section 212 of the Federal Land Policy and Management Act of 1976.

(b) "Authorized officer" means any employee of the Bureau of Land Management who has been delegated the authority to perform the duties described in this part.

(c) "Public lands" means any lands and interest in lands administered by the Bureau of Land Management, except lands located on the Outer Continental Shelf and lands held for the benefit of Indians, Aleuts and Eskimos.

§ 2740.0-6 Policy.

(a) To assure development of public lands in accordance with a development plan and compliance with an approved management plan, the authorized officer may require that public lands first be leased under the provisions of subpart 2912 of this title for a period of time prior to issuance of a patent.

(b) Municipal corporations may not secure public lands under this act which are not within convenient access to the municipality and within the same State as the municipality. Other quallfied governmental applicants may not secure public lands outside their political boundaries or other area of jurisdiction.

§ 2740.0-7 Cross references.

(a) Requirements and procedures for conveyance of land under the Recreation and Public Purposes Act are contained in Subpart 2741 of this chapter.

(b) Requirements and procedures for leasing of land under the Recreation and Public Purposes Act are contained in Subpart 2915 of this chapter.

(c) Requirements and procedures for conveyance of unsurveyed islands and omitted lands under Section 211 of the Federal Land Policy and Management Act are contained in Subpart 2742 of this chapter.

Subpart 2741—Recreation and Public Purposes Act: Requirements

§ 2741.1 Lands subject to disposition.

(a) The act is applicable to any public lands except (1) lands withdrawn or reserved for nationa' forests, national parks and monuments, and national wildlife refuges, (2) Indian lands and lands set aside or held for use by or for the benefit of Indians, and (3) lands which have been acquired for specific purposes.

(b) Revested Oregon and California Railroad grant lands and reconveyed Coos Bay Wagon Road grant lands may only be leased to States and counties and to State and Federal instrumentalities and political subdivisions and to municipal corporations.

(c) Section 211 of the Federal Land Policy and Management Act of 1976 does not apply to public lands within the National Forest System, defined in the Act of August 17, 1974 (16 U.S.C. 1601), the National Park System, the National Wildlife Refuge System and the National Wild and Scenic Rivers System.

§ 2741.2 Qualified applicants.

Applications for any recreational or public purpose may be filed by States, Federal and State instrumentalities and political subdivisions, including counties and municipalities, and nonprofit associations and nonprofit corporations that, by their articles of incorporation or other authority, are authorize to acquire land.

§ 2741.3 Applications.

(a) Applications shall be submitted on forms approved by the Director.

(b) Each application shall be accompanied by three copies of a statement describing the proposed use of the land. The statement shall show that there is an established or definitely proposed project for such use of the land, present detailed plan and schedule for development of the project and a management plan which includes a description of how any revenues will be used. The provisions of § 1821.2 of this title apply to filings pursuant to this section.

§ 2741.4 Guidelines for conveyances and leases under the act.

(a) Public lands shall be conveyed or leased under the act only for an established or definitely proposed project for which there is a reasonable timetable of development and satisfactory development and management plans.

(b) No public lands having national significance shall be conveyed pursuant to the act.

(c) No more public lands than are reasonably necessary for the proposed use shall be conveyed pursuant to the act.

(d) For proposals involving over 640 acres, public lands shall not be sold or leased pursuant to this act until:

(i) Land use plans and zoning regulations have been adopted by the appropriate State or local authorities.

(ii) The authorized officer has held at least one public meeting on the proposal.

(e) Applications shall not be approved unless and until it has been determined that disposal under the act would serve the national interest following the planning requirements of section 202 of the Federal Land Policy and Management Act (43 U.S.C. 1712).

(f) Public lands may be determined to be suitable for lease or sale under the act by the authorized officer on his own motion as a result of demonstrated public needs for public lands for recreational or public purposes during the planning process described in section 202 of the Federal Land Policy and Management Act. Potential applicants should contact the authorized officer and furnish him with conceptual plans of the proposed use early in the planning process so that he can plan for the proposed use of the public lands.

(g) Lands under the jurisdiction of another agency shall not be determined to be suitable for lease or sale without that agency's approval.

(h) The issuance of a notice that public lands are suitable for sale or lease under the act and are classified as such shall segregate such public lands from all other appropriations, including locations under the mining laws, except as provided in the notice or an amendment thereof. If no application is filed within 18 months after issuance of the notice, the segregation shall be automatically vacated and the

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public lands restored to their former status.

(i) Patents shall not be issued for sanitary landfill sites, unless it can be shown that when the usefulness of the lands for landfill purposes ends, the land shall be used for recreation or other public purposes as provided in the approved development plan. The land shall be leased until the sanitary landfill has been filled and the subsequent development has been completed.

(j) The act shall not be used to provide sites for the disposal of permanent or long-term hazardous wastes.

§ 2741.5 Applications for transfer or change of use.

(a) Applications under the act for permission to add to or change the use specified in a patent or applications to transfer title to a third party shall be filed as prescribed in § 2741.2 of this title.

(b) Applications for transfer of title are subject to the acreage limitations as prescribed in § 2741.5(a) of this title.

(c) Prior to approval of an application filed under this section, the public lands may be reappraised in accordance with § 2741.7 of this title and the beneficiary required to make such payments as are found justified by the reappraisal.

§ 2741.6 Acreage limitations and general conditions.

(a) Conveyances under the act to any applicant in any one calendar year shall be limited as follows:

(1) Any State or State agency having jurisdiction over the State park system may acquire not more than 6,400 acres for recreational purposes and such additional acreage as may be needed for small roadside parks and rest sites of 10 acres or less each.

(2) Any State or agency or instrumentality of such State may acquire not more than 640 acres for each of its programs involving public purposes other than recreation.

(3) Any political subdivision of a State may acquire for recreational purposes not more than 6,400 acres, and for public purposes other than recreation an additional 640 acres. In addition, any political subdivision of a State may acquire such additional acreage as may be needed for roadside parks and rest sites of not more than 10 acres each.

(4) If a State or political subdivision has failed in any one calendar year to receive 6,400 acres (not counting public lands for small roadside parks and rest sites) and had an application on file on the last day of that year, the State, State park agency or political subdivision may receive additional public lands to the extent that the conveyances would not have exceeded the limitations for that year.

(5) Any nonprofit corporation or nonprofit association may acquire for recreational purposes not more than 640 acres and for public purposes other than recreation an additional 640 acres.

(6) Acreage limitations described in this section do not apply to conveyances made under section 211 of the Federal Land Policy and Management Act of 1976.

(b) Conveyances within any State shall not exceed 25,600 acres for recreational purposes per calendar year, except that should any State park agency or political subdivision fail in one calendar year to receive 6,400 acres other than small roadside parks and rest sites, additional conveyances may be made thereafter to that State park agency or political subdivision pursuant to any application on file on the last day of said year to the extent that the conveyances would not have exceeded the limitations of said year.

(c) No patents shall be issued under the act unless and until the public lands are officially surveyed. This requirement does not apply to islands patented under the authority of section 211(a) of the Federal Land Policy and Management Act of 1976.

(d) All leases and patents issued under the act shall reserve to the United States all minerals together with the right to mine and remove the same under applicable laws and regulations to be established by the Secretary of the Interior.

§ 2741.7 Price.

(a) Conveyances for recreational or historic-monument purposes to a State, county, or other State or Federal instrumentality or political subdivision shall be issued without monetary consideration.

(b) All other conveyances shall be made at prices established by the Secretary of the Interior through appraisal or otherwise, taking into consideration the purpose for which the land is to be used.

(c) Patents shall be issued only after payment of the full purchase price by a patent applicant.

§ 2741.8 Patent provisions.

(a) All patents under the act shall provide that title shall revert if, without the approval of the authorized officer:

(i) The patentee or its approved successor attempts to transfer title to or control over the lands to another;

(ii) The lands are devoted to a use other than that for which the lands were conveyed;

(iii) The lands are not used for the purpose for which they were conveyed for a 5-year period; or

(iv) The patentee fails to follow the approved development plan or management plan.

(b) Patents shall also provide that the Secretary of the Interior may take action to revest title in the United States if the patentee directly or indirectly permits his agents, employees, contractors, or subcontractors (including without limitation lessees, sublessees, and permittees) to prohibit or restrict the use of any part of the patented lands or any of the facilities thereon by any person because of such person's race, creed, color, or national origin.

PART 2910—LEASES

2. Subpart 2912 is revised to read as follows:

Subpart 2912—Recreation and Public Purposes Act

See.
2912.0-7 Cross reference.
2912.1 Nature of Interest.
2912.1-1 Terms and conditions of lease.
2912.2 Renewal of leases.
2912.3 Substitution of new lease.
2912.4 Leases for solid waste disposal sites.
2912.4-1 Requirement.
2912.4-2 Procedures.

AUTHORITY: Recreation and Public Purposes Act, as amended (43 U.S.C. 869 et seq.)

Subpart 2912—Recreation and Public Purposes Act

§ 2912.0-7 Cross reference.

The general requirements and procedures under the Recreation and Public Purposes are contained in part 2740 of this title.

§ 2912.1 Nature of Interest.

§ 2912.1-1 Terms and conditions of lease.

(a) The term of leases under the Recreation and Public Purposes Act, hereafter referred to as "the Act," shall be fixed by the authorized officer but shall not exeed 20 years for nonprofit associations and nonprofit corporations, and 25 years for Federal, State, and local governmental entities. A lease may contain, at the discretion of the authorized officer, a provision giving the lessee the privilege of renewing the lease for a like period.

(b) Leases shall be issued on a form approved by the Director, Bureau of Land Management and shall contain terms and conditions required by law, and public policy, and which the authorized officer considers necessary for the proper development of the land, for the protection of Federal property, and for the protection of the public interest.

(c) Leases shall be terminable by the authorized officer upon failure of the lessee to comply with the terms of the lease, upon a finding that all or part of the land is being devoted to a use other than the use authorized by the lease, or upon a finding that the land has not been used by the lessee for the purpose specified in the lease for any consecutive period specified by the authorized officer but not more than 5 years or less than 2 years.

(d) Reasonable annual rentals shall be established by the Secretary of the Interior and shall be payable in advance. Upon notification of the amount of the yearly rental, a lease applicant shall be required to pay at least the first year's rental before the lease shall be issued. Upon the voluntary relinquishment of a lease before the expiration of its term, any rental paid for the unexpired portion of the term shall be returned to the lessee upon a proper application for repayment to the extent that the amount paid covers a full lease year or years of the remainder of the term of the original lease.

(e) Leases are not transferable except with the consent of the authorized officer. Transferees shall have all the qualifications of applicants under the Act and shall be subject to all the terms and conditions of the regulations in this part.

(f) A lessee shall not be permitted to cut timber from the leased lands without prior permission from the authorized officer.

(g) All leases shall reserve to the United States all minerals together with the right to mine and remove the same under applicable laws and regulations to be established by the Secretary of the Interior.

§ 2912.2 Renewal of leases.

A lessee with a privilege of renewal must notify the authorized officer that it will exercise the privilege at least 180 days before the end of the lease period.

§ 2912.3 Substitution of a new lease.

A lessee may apply for a new lease at any time. Applications for new leases shall be accompanied by consent of the lessee to cancellation of the existing lease upon the issuance of the new lease and by three copies of a statement showing (a) the need for a new lease and (b) any changes in the use or management of the lands or the terms and conditions of the lease which the applicant desires.

§ 2912.4 Leases for solid waste disposal sites.

§ 2912.4-1 Requirement.

Compliance with *Guidelines for the Thermal Processing of Solid Wastes* (40 CFR Part 240), *Guidelines for the Land Disposal of Solid Waste* (40 CFR Part 241), and *Regulations for the Acceptance of Certain Pesticides and Recommended Procedures for the Disposal and Storage of Pesticides and Pesticide Containers* (40 CFR Part 165), and any other regulations or guidelines promulgated pursuant to the Resource Conservation and Recovery Act of 1976 (43 U.S.C. Chapter 82) is required under leases issued for purposes involving disposal of solid waste.

§ 2912.4-2 Procedures.

(a) All new leases shall contain stipulations requiring compliance with the above-referenced regulations and guidelines. Leases and respective plans of development and management already in existence without such specific stipulations shall be amended to require compliance with the above guidelines by lessees. In all cases, the lease must stipulate that failure to comply with the regulations and guidelines shall constitute sufficient grounds for cancellation of the lease.

(b) Lease applications shall include in the plan of development and management detailed description of the methods and procedures that will be employed to achieve compliance with the above regulations and guidelines. The regulations and guidelines delineate minimum standards of performance that must be followed. The recommended methods and procedures in the guidelines are means whereby the requirements may be met. Alternate methods and procedures may be used in meeting the requirements when approved by the authorized officer.

GARY J. WICKS,
Acting Assistant Secretary of the Interior.

JANUARY 4, 1979.

[FR Doc. 79-981 Filed 1-11-79; 8:45 am]

[4310-84-M]

[43 CFR Part 3800]

MINING CLAIMS UNDER THE GENERAL MINING LAWS

Exploration and Mining—Wilderness Review Program

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rulemaking.

SUMMARY: This proposed rulemaking provides for the management and protection of potential and identified wilderness study areas on public lands. The Federal Land Policy and Management Act of 1976 provides that certain public lands be reviewed to determine their suitability for inclusion in the Wilderness System. Mining may continue on wilderness study areas during the review in the same manner and degree as was being conducted on October 21, 1976: *Provided*, That no undue or unnecessary damage is being done to public lands and resources and that environmental protection is afforded. The intended effect is to protect potential and identified wilderness study areas from the loss of wilderness suitability that might result from mining operations.

DATES: Comment date: March 14, 1979.

ADDRESS: Send comments to: Director (210), Bureau of Land Management, 1800 C Street, N.W., Washington, D.C. 20240.

Comments received will be available for public review in room 5555 at the above address from 8:00 a.m. to 4:00 p.m. on regular working days.

FOR FURTHER INFORMATION, CONTACT:

Robert M. Anderson at the above address or phone 202-343-7722 or Robert C. Bruce 202-343-7424.

SUPPLEMENTARY INFORMATION: The principal author of this rulemaking is Billy R. Templeton of the Bureau of Land Magangement, Division of Legislation and Regulatory Management, assisted by Kenneth Lee of the Department of the Interior, Office of the Solicitor.

In providing for wilderness review on public lands, section 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782) provides that operations related to mining on roadless areas of 5,000 acres or more and roadless islands may continue in the same manner and degree in which the same was being conducted on the date of approval of the Act (October 21, 1976). Mining operations other than these must be regulated to ensure nonimpairment of wilderness suitability. The section also includes the provision that the Secretary of the Interior by regulation or otherwise shall take any action required to prevent unnecessary or undue degradation of the lands and resources or to afford environmental protection. Provisions of section 603 shall be implemented as follows:

1. One of the stated objectives of the Act is to protect potential wilderness areas from activities that would impair their suitability for inclusion in the wilderness system until those roadless areas of 5,000 acres or more and roadless islands can be reviewed, a recommendation made by the Secretary, and action taken by the Congress on the recommendation.

2. This rulemaking shall apply to any activity related to mining under the general mining laws that may result in impairment of the wilderness suitability of public lands and resources in wilderness study areas.

3. The location of identified wilderness study areas will be made public through the FEDERAL REGISTER, local news media, public meetings, or distribution of maps as necessary to implement the regulations.

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4. A plan of operations is required for existing operations that were initiated after October 21, 1976, for the expansion of existing operations, or for new operations. Operations will be monitored through the plan of operations. Provisions are included to make changes in the plan, to expand operations if appropriate, or to transfer a plan to a new owner.

5. The regulatory procedures are set up to provide for the least possible interruption of mining operations during the development and review of plans of operations consistent with the need to manage and protect the potential or identified wilderness study areas.

6. Discretionary bonding, reclamation procedures, environmental protection standards, and appeals procedures are included in the rulemaking.

The number of persons required to assume a Federally imposed paperwork burden has been reduced to the extent possible in keeping with the statutory mandate to avoid impairment of the wilderness suitability of wilderness study areas. A level of operations, based upon the kinds of mining related activities taking place on public lands and the potential impact of these activities, is estabilised in the draft proposed rulemaking. Only those operations above that level are subject to regulation. The presence of ongoing mining operations served by roads and other ancillary facilities precludes many mineralized areas from consideration as wilderness study areas.

Therefore, the enclosed rulemaking would affect a relatively small segment of the mining industry and a relatively small acreage of public land. For these reasons this proposed rulemaking, as an interim regulation, is not considered a significant regulatory proposal requiring a regulatory analysis under Executive Order 12044. Both a regulatory analysis and environmental statement are being prepared to assess the need for and the impact of regulations for hardrock mining operations on all public lands. Special provisions for the management and protection of wilderness study areas are being analyzed in the context of an overall regulatory proposal for the public lands. It is considered necessary and appropriate to promulgate interim regulations to carry out the intent of the Congress to guard against impairment of the suitability of wilderness study areas for inclusion in the Wilderness System. These regulations provide management capability to accomplish that objective during the time needed to complete the Regulatory Analysis and Environmental Impact Statement analyzing mining regulations for public lands in general.

Subsequent to the completion of the Regulatory Analysis and Environmental Impact Statement, the form and substance of regulatory provisions to replace these interim regulations will be determined and permanent regulations adopted.

Under the authority of section 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782), it is proposed to amend Part 3800, Group 3800, Subchapter C, Chapter II, Title 43 of the Code of Federal Regulations as set forth below:

1. Part 3800 is amended by adding Subpart 3802 to read as follows:

PART 3800—MINING CLAIMS UNDER THE GENERAL MINING LAWS

Subpart 3802—Exploration and Mining—Wilderness Review Program

Sec.

3802.0-1 Purpose.
3802.0-2 Objectives.
3802.0-3 Authority.
3802.0-5 Definitions.
3802.0-6 Policy.
3802.0-7 Scope.
3802.1 Plan of operations.
3802.1-1 When required.
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3802.1-3 Operations existing on October 21, 1976.
3802.1-4 Contents of plan.
3802.1-5 Plan approval.
3802.1-6 Modification of plan.
3802.1-7 Existing operations.
3802.2 Bond requirements.
3802.3 Environmental protection.
3802.3-1 Environmental assessment.
3802,3-2 Requirements for environmental protection.
3802.4 General provisions.
3802.4-1 Noncompliance.
3802.4-2 Access.
3802.4-3 Multiple-use conflicts.
3802.4-4 Fire prevention and control.
3802.4-5 Maintenance and public safety.
3802.4-6 Inspection.
3802.4-7 Notice of suspension of operations.
3802.4-8 Cessation of operations.
3802.5 Appeals.
3802.6 Public availability of information.

AUTHORITY: 43 U.S.C 1782.

Subpart 3802—Exploration and Mining, Wilderness Review Program

§ 3802.0-1 Purpose.

The purpose of this subpart is to establish procedures to prevent impairment of the suitability of potential and identified wilderness study areas for inclusion in the wilderness system and to prevent unnecessary or undue degradation and provide for environmental protection of the public lands and resources.

§ 3802.0-2 Objectives.

The objectives of this subpart are to:

(a) allow mining claim location, prospecting, and mining operations in potential or identified wilderness study areas pursuant to the United States Mining Laws, but only in a manner that will not impair the suitability of an area for inclusion in the wilderness system, except that operations initiated prior to October 21, 1976 may continue in the same manner and degree as they were being conducted on that date even if impairment is being caused as a necessary part of the operation; and

(b) assure management programs that reflect consistency between the spirit and intent of the United States Mining Laws, and other appropriate statutes.

§ 3802.0-3 Authority.

These regulations are issued under the authority of sections 302, 303, and 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1732, 1733, and 1782).

§ 3802.0-5 Definitions.

As used in this subpart, the term:

(a) "Reclamation as contemporaneously as practicable" means the commencement, conduct, and completion of reclamation as soon after disturbance as feasible, without undue physical interference with ongoing operations, leaving a mininum of land unreclaimed, consistent with the requirements for environmental protection set forth in this subpart.

(b) "Environment" means surface and subsurface resources both tangible and intangible, including air, water, scenic, cultural, paleontological, vegetative, soil, wildlife, fish, and wilderness values.

(c) "Identified Wilderness Study Area" means a roadless area which has been found through the Bureau of Land Management wilderness inventory process to have wilderness characteristics (thus having the potential of being included in the National Wilderness Preservation System), and which will be subjected to intensive analysis through the Bureau's planning system, and through public review to determine wilderness suitability, and is not yet the subject of a Congressional decision regarding its designation as wilderness.

(d) "Impairment of suitability for inclusion in the Wilderness System" means taking actions that cause permanent impacts, i.e. impacts that will not be practically and economically reclaimed within a time period no longer than 5 years after Congressional designation of the area as a unit of the National Wilderness Preservation System. "Reclaimed" means that the effects of the activity shall be rehabilitated to the point of being substantially unnoticeable and damaged environmental systems returned to essentially the condition that existed on the effective date of these regulations or on October 21, 1976, for operations already in motion.

(e) "Mining claim" means any unpatented mining claim, millsite, or tunnel site authorized by the United States mining laws.

(f) "Mining operations" means all functions, work, facilities, and activities in connection with the exploration, development, extraction, and processing of mineral deposits and all uses reasonably incident thereto including the construction and maintenance of roads and other means of access to and across lands subject to these regulations.

(g) "Operator" means a person conducting or proposing to conduct prospecting, exploration, or mining operations.

(h) "Potential Wilderness Study Area" means any area of the public lands for which the wilderness inventory has not been completed pursuant to the Section 603 of the Federal Land Policy and Management Act.

(i) "Reclamation" means:

(1) Reshaping of the land disturbed or affected by mining operations, to its approximate original contour or to an appropriate contour considering the surrounding topography that is consistent with preserving its suitability for inclusion within the wilderness system as determined by the authorized officer;

(2) Restoring such reshaped lands to a stable soil condition consistent with its pre-mining productivity and capable of supporting all practicable uses that the land was capable of supporting at the time of initiation of mining operations as determined by the authorized officer; and

(3) Revegetating the land, to provide a vegetative cover capable of self-regeneration and equal in permanence to its vegetative state at initiation of mining operations.

(j) "Wilderness inventory" means an evaluation conducted under BLM wilderness inventory procedures in the form of a written description and map showing those lands that meet the wilderness criteria established under section 603(a) of the Federal Land Policy and Management Act.

(k) "Manner and degree" means that existing operations will be defined geographically by the area of active development and the logical adjacent (not necessarily contiguous) continuation of the existing activity, and not necessarily by the boundary of a particular, claim or lease. However, the significant measure for these activities is still the impact they are having on the wilderness potential of an area. It is the actual use of the area, and not the existence of an entitlement for use, which is the controlling factor. In other words, an existing activity may continue to be expanded in an area over time so long as the additional impacts caused by the expansion do not cause impairment of wilderness suitability beyond that caused by the existing activity. In determining the manner and degree of existing operations, a rule of reason will be employed.

§ 3802.0-6 Policy.

Under the 1872 Mining Law (30 U.S.C. 22), a person has a statutory right consistent with other laws and Departmental regulations, to go upon the open (unappropriated and unreserved) public lands for the purpose of mineral prospecting, exploration, development, and extraction. The Federal Land Policy and Management Act requires the Secretary to regulate mining activities in potential or identified wilderness study areas to prevent impairment of the suitability of these areas for inclusion in the wilderness system. However, mining activities occurring in the same manner and degree that same were being conducted on October 21, 1976, may continue, even if they are determined to be impairing. Mining activities not exceeding manner and degree shall be regulated only to prevent undue and unnecessary degradation of and to afford environmental protection for public lands and resources.

§ 3802.0-7 Scope.

(a) These regulations apply to prospecting, exploration, and mining operations conducted under the United States mining laws, as they affect the resources and environment of potential or identified wilderness study areas of the public lands that are subject to location under those laws.

(b) These regulations apply to roads and other approved means of access across public land for the purpose of conducting operations under the United States mining laws.

§ 3802.1 Plan of operations.

An approved plan shall include appropriate environmental protection and rehabilitation measures selected by the authorized officer that shall be carried out by the operator. An operator may prepare and submit with a plan measures for the reclamation of the affected area.

§ 3802.1-1 When required.

An approved plan of operations is required for operations within potential or identified wilderness study areas, prior to commencing:

(a) Any mining operations which involve construction of roads, bridges, landing areas for aircraft, or improving or maintaining such access facilities in a way that alters the alignment, width, gradient size, or character of such facilities;

(b) Any mining operations which destroy trees;

(c) Mining operations using tracked vehicles or mechanized earth moving equipment, such as bulldozers or backhoes;

(d) Any operations using motorized vehicles over other than "open use areas and trails" as defined in Subpart 6292 of this title, *off-road vehicles*, unless the use of a motorized vehicle can be covered by a temporary use permit issued under Subpart 8372 of this title;

(e) The construction or placing of any mobile, portable or fixed structure on public land for more than 30 days; or

(f) On mining operations requiring the use of explosives.

§ 3802.1-2 When not required.

A plan of operations under this subpart is not required for—

(a) Searching for and occasionally removing mineral samples or specimens;

(b) Operating motorized vehicles over "open use areas and trails" as defined in 43 CFR Part 6292 so long as the vehicles conform to the operating regulations and vehicle standards contained in that subpart;

(c) Maintaining or making minor improvements of existing access routes, bridges, landing areas for aircraft, or other facilities for access where such improvements or maintenance shall not alter the alignment, width, gradient, size, or character of such facilities; or

(d) Making geological, radiometric, geochemical, geophysical or other tests and measurements using instruments, devices, or drilling equipment which are transported without using mechanized earth moving equipment or tracked vehicles.

§ 3802.1-3 Operations existing on October 21, 1976.

A plan of operations shall not be required for operations that were being conducted on October 31, 1976, unless the operation is undergoing changes that exceed the manner and degree of operations on October 21, 1976. However, if the authorized officer determines that operations in the same manner and degree are causing undue or unnecessary degradation of lands and resources or adverse environmental effects, an approved plan containing protective measures may be required. Any changes planned in an existing operation that would result in operations exceeding the present manner and degree shall be delayed until the plan is processed under provisions of § 3802.1-5.

§ 3802.1-4 Contents of plan of operations.

(a) No special form is required to file a plan of operations.

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(b) The plan of operations shall include—

(1) The name and mailing address of both the person for whom the operation will be conducted, and the person who will be in charge of the operation and should be contacted concerning the reclamation or other aspects of the operation (any change in the mailing address shall be reported promptly to the authorized officer);

(2) A map, preferably a topographic map, or sketch showing present road, bridge or aircraft landing area locations, proposed road, bridge or aircraft landing area locations, and size of areas where surface resources will be disturbed;

(3) Information sufficient to describe either the entire operation proposed or reasonably foreseeable operations and how they would be conducted, including the nature and location of proposed structures and facilities;

(4) The type and condition of existing and proposed roads or aircraft landing areas, the means of transportation used or to be used, and the estimated period during which the proposed activity will take place;

(5) If and when applicable, the serial number assigned to the mining claim, mill or tunnel site filed pursuant to Subpart 3833 of this title.

§ 3802.1-5 Plan approval.

(a) The authorized officer shall promptly acknowledge the receipt of a plan of operations and within 30 days act on the plan of operations to determine its acceptability.

(b) The authorized officer shall review the plan of operations to determine if the operations are impairing the suitability of the area for preservation as wilderness. Pending approval of the plan of operations, mining operations may continue in a manner that minimizes environmental impacts as prescribed in § 3802.3. After completing the review of the plan of operations, the authorized officer shall give the operator written notice that: (1) The plan is approved subject to measures that will prevent the impairment of the suitability of the area for preservation as wilderness as determined by the authorized officer; or (2) the anticipated impacts of the mining operations are such that all or part of further operations will impair the suitability of the area for preservation as wilderness, the plan is disapproved and continuance of such operations is not allowed.

(c) Upon receipt of a plan of operations for mining activities commencing after the effective date of these regulations, the authorized officer may notify the operator that:

(1) In a potential wilderness study area where an inventory has not been completed, an operator may agree to operate under a plan of operations that includes terms and conditions that would be applicable in an identified wilderness study area. Without an agreement to this effect, no action may be taken on the plan until a wilderness inventory is completed; or

(2) The area has been inventoried and does not contain wilderness characteristics, and that the mining operations are no longer subject to these regulations; or

(3) The anticipated impacts are such that all or part of the proposed mining operations will impair the suitability of the area for preservation as wilderness, and therefore, the proposed mining operation cannot be allowed.

(d) In addition to paragraphs (a) through (c) of this section, the following general plan approval procedures may also apply. The authorized officer may notify the operator that:

(1) The plan of operations is unacceptable and the reasons therefore; or

(2) Modification of the plan of operations is necessary to meet the requirements of these regulations; or

(3) The plan of operations is being reviewed, but that more time, not to exceed an additional 60 days, is necessary to complete such review, setting forth the reasons why additional time is needed, except in those instances where it is determined that an Environmental Statement or compliance with section 106 of the National Historic Preservation Act (NHPA) is needed. Periods during which the area of operations is inaccessible for inspection due to climatic conditions, fire hazards or other physical conditions or legal impediments, shall not be included when counting the 60 calendar day period.

(e) If the authorized officer does not act on the plan of operations within the 30-day period, or the 60-day extension, or notify the operator of the need for an Environmental Statement or compliance with section 106 of NHPA, operations under the plan may begin. However, if the authorized officer at a later date finds that operations under the plan are impairing wilderness suitability, the authorized officer shall notify the operator that the operations are not in compliance with these regulations and what changes are needed, and shall require the operator to submit a modified plan of operations, within a time specified in the notice. If the operator is notified of the need for an Environmental Statement, the plan of operations shall not be approved before 30 days after final statement is prepared and filed with the Environmental Protection Agency. If the operator is notified of the need for compliance with section 106 of the NHPA, the plan of operations shall not be approved until the compliance responsibilities of the Bureau of Land Management are satisfied.

(f) If cultural resource properties listed on or eligible for listing on the National Register of Historic Places are within the area of operations, no operations which would affect those resources shall be approved until compliance with section 106 of the National Historic Preservation Act is accomplished. The operator is not required to do or to pay for an inventory. The responsibility and cost of the cultural resource mitigation included in an approved plan of operation shall be the operator's.

(g) Pending final approval of the plan of operations, the authorized officer shall approve any operations that may be necessary for timely compliance with requirements of Federal and State laws. Such operations shall be conducted so as to prevent impairment of wilderness suitability and to minimize environmental impacts as prescribed by the authorized officer in accordance with the standards contained in § 3802.3 of this title.

§ 3802.1-6 Modification of plan.

(a) If the development of a plan for an entire operation is not possible, the operator shall file an initial plan setting forth this proposed operation to the degree reasonably foreseeable at that time. Thereafter, he shall file a supplemental plan or plans prior to undertaking any operations not covered by the initial plan.

(b) At any time during operations under an approved plan of operations, the authorized officer or the operator may initiate a modification of the plan detailing any necessary changes that were unforeseen at the time of filing of the plan of operations. If the operator does not furnish a proposed modification within a time considered reasonable by the authorized officer, the authorized officer may recommend to the State Director that the operator be required to submit a proposed modification of the plan. The recommendation of the authorized officer shall be accompanied by a statement setting forth the supporting facts and reasons for his recommendations. In acting upon such recommendation, except in the case of a modification under § 3802.1-5(e) the State Director shall determine (1) whether all reasonable measures were taken by the authorized officer to predict the environmental impacts of the proposed operations; (2) whether the disturbance is or may become of such significance as to require modification of the plan of operations in order to meet the requirement for environmental protection specified in § 3802.3-2 of this title, and (3) whether the disturbance can be minimized using reasonable means.

Lacking such a determination by the State Director, an operator is not required to submit a proposed modification of an approved plan of operations. Operations may continue in accordance with the approved plan of operations until a modified plan is approved, unless the State Director determines that the operations are causing impairment or unnecessary or undue degradation to surface resources. He shall advise the operator of those measures needed to avoid such damage and the operator shall immediately take all necessary steps to implement measures recommended by the State Director.

(c) A supplemental plan of operations or a modification of an approved plan of operations shall be approved by the authorized officer in the same manner as the initial plan of operations.

§ 3802.1-7 Existing operations.

(a) Persons conducting mining operations on the effective date of these regulations, who would be required to submit a plan of operations under § 3802.1-2 of this title, may continue operations but shall, within 60 days after the effective date of these regulations, submit a plan of operations. Upon a showing of good cause, the authorized officer shall grant an extension of time to submit a plan of operations not to exceed an additional 180 days.

(b) Operations may continue according to the submitted plan of operations during its review unless the operator is notified otherwise by the authorized officer.

(c) Upon approval of a plan of operations, mining operations shall be conducted in accordance with the approved plan.

§ 3802.2 Bond requirements.

(a) Any operator who conducts mining operations under an approved plan of operations shall, if required to do so by the authorized officer, furnish a bond in an amount determined by the authorized officer. The authorized officer may determine not to require a bond where mining operations would cause nominal environmental damage, or the operator has an excellent past record for reclamation. In determining the amount of the bond, the authorized officer shall consider the estimated cost of stabilizing rehabilitating and reclaiming all areas disturbed by the operations consistent with § 3802.3-2(h) of this title.

(b) In lieu of a bond, the operator may deposit and maintain in a Federal depository account of the United States Treasury, as directed by the authorized officer, cash in an amount equal to the required dollar amount of the bond or negotiable securities of the United States having a face and market value at the time of deposit of not less than the required dollar amount of the bond.

(c) In place of the individual bond on each separate operation, a blanket bond covering hardrock mining operations may be furnished, at the option of the operator, if the terms and conditions as determined by the authorized officer are sufficient to comply with these regulations.

(d) In the event that an approved plan of operations is modified in accordance with § 3802.1-5 of this title, the authorized officer shall review the initial bond for adequacy and, if necessary, shall require that the amount of bond be adjusted to conform to the plan of operations, as modified.

(e) When a mining claim is patented, the authorized officer shall release the operator from that portion of the performance bond and plan of operations which applies to operations within the boundaries of the patented land. The authorized officer shall release the operator from the remainder of the performance bond and plan of operations (covering approved means of access outside the boundaries of the mining claim) when the operator has either completed reclamation in accordance with paragraph (f) of this section or those requirements are waived by the authorized officer.

(f)(1) When all or any portion of the reclamation has been completed in accordance with paragraphs (i) of § 3802.3-2) of this title, the operator shall notify the authorized officer who shall promptly make a joint inspection with the operator. The authorized officer shall then notify the operator whether the performance under the plan of operations is accepted. When the authorized officer has accepted as completed any portion of the reclamation, he shall reduce proportionally the amount of bond with respect to the remaining reclamation. The authorized officer may continue the bond as it relates to revegetation for only the amount necessary for revegetation of each planting area for a period not to exceed 5 years after the date of the first planting. The financial liability incurred by the operator as a result of the continuation of the bond shall not exceed an amount directly proportional to the probability of successful revegetation.

(2) When, during any extended period of the bond, the authorized officer determines that revegetation is likely to be successful before the end of such period, or that natural conditions shall preclude successful revegetation, he may releae the operator from liability under the bond for revegetation of the planting area.

§ 3802.3 Environmental protection.

§ 3802.3-1 Environmental assessment.

(a) When a plan of operations or significant modification is filed, the authorized officer shall make an environmental assessment to identify the impact of the proposed mining operations upon the environment and to determine whether the proposed activity will impair the suitability of the area for preservation as wilderness and whether an environmental impact statement is required.

(b) Following completion of the environmental assesment or the environmental statement, the authorized officer shall develop measures to be included in the plan of operations that will prevent impairment of wilderness suitability and undue or unnecessary degradation of land and resources.

(c) If as a result of the environment assessment, the authorized officer determines that there is substantial public interest in the proposed mining operations, he may notify the operator that an additional period of time is required to consider public comments. The period shall not exceed the additional 60 days provided for approval of a plan in § 3802.1-4 of this title except as provided for cases requiring an environmental inpact statement or a cultural resource inventory.

(d) If the surface resources of the lands involved are administered by an agency other than the Bureau of Land Management, that agency shall be responsible for the environmental assessment. In cases of mixed administration, the agencies shall make a joint environmental assessment.

§ 3802.3-2 Requirements for environmental protection.

(a) *Air Quality.* The operator shall comply with applicable Federal and State air quality standards, including the requirements of the Clean Air Act (42 U.S.C. 1857 et seq.).

(b) *Water Quality.* The operator shall comply with applicable Federal and State water quality standards, including regulations issued pursuant to the Federal Water Pollution Control Act (33 U.S.C. 1151 et seq.).

(c) *Solid Wastes.* The operator shall comply with applicable Federal and State standards for the disposal and treatment of solid wastes. All garbage, refuse, or waste shall either be removed from the affected lands or disposed or treated to minimize, so far as is practicable, its impact on the environment and the surface resoureces. All tailings, waste rock, trash, deleterious materials of substances and other waste produced by operations shall be deployed, arranged, disposed or treated to minimize adverse impact upon the environment and surface resources.

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(d) *Visual Resources.* The operator shall, to the extent practicable, harmonize operations with the visual resources, identified by the authorized officer, through such measures as the design, location of operating facilities and improvements to blend with the landscape.

(e) *Fisheries, Wildlife and Plant Habitat.* The operator shall take such action as may be needed to control or prevent adverse impact upon plants, fish, and wildlife, including threatened or endangered species, and their habitat which may be affected by the operations.

(f) *Cultural and Paleontological Resources.* (1) The operator shall not disturb, alter, injure, destroy or take any scientifically important paleontological remains or any historical, archaeological, or cultural district, site, structure, building or object.

(2) The operator shall immediately bring to the attention of the authorized officer any such cultural and/or paleontological resources that might be altered ro destryed by his operation, and shall leave such discovery intact until told to proceed by the authorized officer. The authorized officer shall evaluate the discoveries brought to his attention, and determine within five working days what action shall be taken with respect to such discoveries.

(3) The responsibility and the cost of investigations and salvage of such values discovered during approved operations shall be the Federal Government's.

(g) *Access Routes.* No new access routes that would cause more than temporary impact and therefore would impair wilderness sutiability shall be constructed in a wilderness study area. Temporary access routes that are constructed by the operator shall be constructed and maintained to assure adequate drainage and to control or prevent damage to soil, water, and other resource values. Unless otherwise approved by the authorized officer, roads no longer needed for operations shall be closed to normal vehicular traffic; bridges and culverts shall be removed; cross drains, dips, or water bars shall be constructed, and the road surface shall be shaped to as near a natural contour as practicable, be stabilized and revegetated as required in the plan of operations.

(h) *Reclamation.* (1) Unless a longer time is allowed by the authorized officer, the operator shall perform reclamation of those lands disturbed or affected by the mining operation conducted by the operator under an approved plan of operations containing reclamation measures stipulated by the authorized officer as contemporaneously as feasible with operations. The disturbance or effect on mined land shall not include that caused by separate operations in areas abandoned before the effective date of these regulations.

(2) An operator may propose and submit with his plan of operations measures for reclamation of the affected area.

(i) *Protection of survey monuments.* The operator shall, to the extent practicable and consistent with the operation, protect all survey monuments, witness corners, reference monuments, bearing trees and line trees against destruction, obliteration, or damage from the approved operations. If, in the course of operations, any monuments, corners or accessories are destroyed, obliterated or damaged by such operations, the operator shall immediately report the matter to the authorized officer. The authorized officer shall prescribe in writing the requirement for the restoration or reestablishment of monuments, corners, bearing trees, and line trees.

§ 3802.4 General provisions.

§ 3802.4-1 Noncompliance.

(a) An operator who conducts mining operations which are undertaken either without an approved plan of operations or without taking actions specified in a notice of noncompliance within the time specified therein may be enjoined by an appropriate court order from continuing such operations and be liable for damages for such unlawful acts.

(b) Whenever the authorized officer determines that an operator is failing or has failed to comply with the requirements of an approved plan of operations, or with the provisions of these regulations and that noncompliance is causing unnecessary and undue degradation of the resources of the lands involved, he shall serve a notice of noncompliance upon the operator by delivery in person to the operator or his authorized agent, or by certified mail addressed to his last known address.

(c) A notice of noncompliance shall specify in what respects the operator is failing or has failed to comply with the requirements of the plan of operations of the provisions of applicable regulations, and shall specify the actions which are in violation of the plan or regulations and the actions which shall be taken to corrrect the noncompliance and the time limits, usually 30 days, within which corrective action shall be taken.

§ 3802.4-2 Access.

(a) An operator is entitled to non-exclusive access to his mining operations consistent with provisions of the United States mining laws and Departmental regulations.

(b) In approving access as part of a plan of operations, the authorized officer shall specify the location of the access route, the design, construction, operation and maintenance standards, means of transportation, and other conditions necessary to prevent impairment of wilderness suitability, protect the environment, the public health or safety, Federal property and economic interests, and the interests of other lawful users of adjacent lands or lands traversed by the access road. The authorized officer may also require the operator to utilize existing roads in order to minimize the number of separate rights-of-way, and, if practicable, to construct access roads within a designated transportation and utility corridor. When commercial hauling is involved and the use of an existing road is required, the authorized officer may require the operator to make appropriate arrangements for use and maintenance.

(c) On all mining claims located after July 23, 1955, and on all other claims which are subject to section 4 of the Surface Resources Act of July 23, 1955 (43 U.S.C. 612), the operator shall permit free and unrestricted access for all lawful and proper purposes, except when such access would endanger or materially interfere with authorized prospecting, exploration or mining operations or would constitute a hazard to health or safety, as determined by the authorized officer. Restriction of public access by the operator is not allowed without prior approval of the authorized officer, except where necessary for timely compliance with State laws.

§ 3802.4-3 Multiple-use conflicts.

In the event that uses under any lease, license, permit, or other authorization pursuant to the provisions of any other law, shall conflict, interfere with, or endanger operations in approved plans or otherwise authorized by these regulations, the conflicts will be reconciled, as much as practicable, by the authorized officer.

§ 3802.4-4 Fire prevention and control.

The operator shall comply with all applicable Federal and State fire laws and regulations, and shall take all reasonable measures to prevent and suppress fires on the area of mining operations.

§ 3802.4-5 Maintenance and public safety.

During all operations, the operator shall maintain his structures, equipment, and other facilities in a safe and orderly manner. Hazardous sites or conditions resulting from operations shall be marked by signs, fenced, or otherwise identified to protect the public in accordance with applicable Federal and State laws and regulations.

§ 3802.4-6 Inspection.

The authorized officer shall periodically inspect operations to determine if the operator is complying with these regulations and the approved plan of operations, and the operator shall permit access to the authorized officer for this purpose.

§ 3802.4-7 Notice of suspension of operations.

(a) Except for seasonal suspension, the operator shall notify the authorized officer of any suspension of operations within 30 days of such suspension. This notice shall include:

(1) Verification of intent to maintain structures, equipment, and other facilities, and

(2) The expected reopening date.

(b) The operator shall maintain the operating site, structure, and other facilities in a safe and environmentally acceptable condition during nonoperating periods.

(c) The name and address of the operator shall be clearly posted and maintained in a prominent place at the entrance to the area of mining operations during periods of nonoperation.

§ 3802.4-8 Cessation of operations.

The operator shall, within one year following cessation of operations, remove all structures, equipment, and other facilities and clean up the site of operations, unless variances are agreed to in writing by the authorized officer. Additional time may be granted by the authorized officer upon a show of good cause by the operator.

§ 3802.5 Appeals.

(a) An operator adversely affected by a decision of the authorized officer or the State Director made pursuant to the provisions of this subpart shall have a right of appeal to the Board of Land Appeals, Office of Hearings and Appeals, pursuant to part 4 of this title.

(b) In any case involving lands under the jurisdiction of any agency other than the Department of the Interior, or an office of the Department of the Interior other than the Bureau of Land Management, the office rendering a decision shall designate the authorized officer of such agency as an adverse party on whom a copy of any notice of appeal and any statement of reasons, written arguments, or brief must be served.

§ 3802.6 Public availability of information.

(a) Except as provided herein, all information and data, including plans of operation, submitted by the operator shall be available for examination by the public at the office of the authorized officer in accordance with the provisions of the Freedom of Information Act (F.O.I.A.).

(b) Information and data submitted and specifically identified by the operator as containing trade secrets or confidential or privileged commercial or financial information and so determined by the authorized officer will not be available for public examination.

(c) The determination concerning specific information which may be withheld from public examination will be made in accordance with the rules in 43 CFR Part 2.

GUY R. MARTIN,
Assistant Secretary of the Interior.

JANUARY 2, 1979.

[FR Doc. 79-982 Filed 1-11-79; 8:45 am]

[4310-55-M]

Fish and Wildlife Service

[50 CFR Part 20]

MIGRATORY BIRD HUNTING

Proposed Rule Describing Areas in Which Non-Toxic Shot Would Be Required in Waterfowl Hunting Seasons Commencing in 1979

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: This proposed rule describes non-toxic shot zones for waterfowl hunting for hunting seasons commencing in 1979. When eaten by waterfowl, spent lead pellets have a toxic effect. The intended effect of these non-toxic shot zones is to reduce the number of deaths to waterfowl caused by eating spent lead pellets.

DATES: Comments on this proposed rulemaking will be accepted until February 12, 1979.

ADDRESS: Submit comments to Director (FWS-MBMO), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Robert I. Smith, Special Projects Coordinator, Office of Migratory Bird Management, Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240 (202-254-3207).

SUPPLEMENTARY INFORMATION:

BACKGROUND

Research on the problem of lead poisoning in waterfowl has been conducted for the past 25 years. The complexities of the issue have been explored with conservationists, ammunition manufacturers, and State fish and game departments. During the past seven years the Service has studied lead poisoning of waterfowl in cooperation with organizations representing a broad cross section of interests affected by and concerned with the problem.

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C), the Service prepared a Final Environmental Statement (Use of Steel Shot for Hunting Waterfowl in the United States). This document was published in January 1976 and is available on request.

On March 20, 1976, the Secretary of the Interior announced a plan for the progressive implementation of steel shot. According to this plan, shotshells loaded with non-toxic shot were to be required for hunting waterfowl in designated areas of the Atlantic Flyway in 1976, in designated areas of the Mississippi Flyway in 1977, and in designated areas of the Central and Pacific Flyways in 1978.

On July 28, 1976, a final rule on the use of steel shot for waterfowl hunting was published in the FEDERAL REGISTER (41 FR 31386-89) and became effective August 27, 1976. On September 13, 1976, the Service published an amendment to 50 CFR 20.105(e) containing descriptions of areas where non-toxic shot was required for waterfowl hunting in the Atlantic Flyway in 1976 (41 FR 38772-38774).

On April 28, 1977, the Service published descriptions of areas where non-toxic shot was required for waterfowl hunting in the Atlantic and Mississippi Flyways in hunting seasons commencing in 1977 (42 FR 21616-18). On February 28, 1978, the Service published descriptions of areas where non-toxic shot was required for waterfowl hunting in portions of 32 States in 1978 (43 FR 8144-8149).

The zones proposed below were identified using several criteria; however, the primary consideration was quantities of lead shot found in the digestive tracts of waterfowl harvested in the area and quantities of lead shot being deposited by waterfowl hunters. The zones proposed below would apply to waterfowl hunting occurring after August 30, 1979. However, appropriated funds for the Department of the Interior (Pub. L. 95-465) for fiscal year 1979 were restricted in their use by the following provision:

"No funds appropriated by this Act shall be available for the implementation or enforcement of any rule or regulation of the United States Fish and Wildlife Service, Department of the Interior, requiring the use of steel shot in connection with the hunting of waterfowl in any State of the United States unless the appropriate State regulatory authority approves such implementation."

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This provision is effective from October 1, 1978, until September 30, 1979.

PROPOSED RULING

Accordingly, it is proposed that 50 CFR 20.180 be revised to read as follows:

§ 20.108 Non-toxic shot zones.

The areas described within the States indicated below are designated for the purposes of § 20.21(j) as non-toxic shot zones.

ATLANTIC FLYWAY

CONNECTICUT

1. That portion of New Haven and Fairfield Counties bounded by a line beginning at the north end of the breakwater at Milford Point extending south to Stratford Point, north along Prospect Drive and Rte. 113 to Interstate 95, easterly along I-95 to Naugatuck Avenue, southerly along Naugatuck Avenue and Milford Point Road and continuing along a line extending from the end of Milford Point Road to the north end of the breakwater at Milford Point.

2. That portion of New Haven County along the Quinnipiac River known as the Quinnipiac Meadows beginning at the intersection of Sackett Point Road and Interstate 91, extending south along I-91 to Rte. 5, northerly along Rte. 5 to Sackett Point Road, and easterly along Sackett Point Road to I-91.

DELAWARE

All bays, lakes, ponds, marshes, swamps, rivers, and streams of the State and within a 150-yard zone of land in the State adjacent to the margins of such waters. Drainage ditches and temporary sheet water more than 150 yards from the waters described above are excluded from the non-toxic shot requirement. Areas described as sea duck zones in waterfowl regulations of the State of Delaware are excluded from these provisions.

FLORIDA

In Osceola, Broward, Dade, Glade, and Leon Counties and on Lake Miccosukee, which lies in Leon County and the adjacent portions of Jefferson County. In that portion of Brevard County lying east of Interstate Highway 95, and on Orange Lake and Lochloosa Lake in Alachua County.

MAINE

On the waters of the Kennebec River known as Merrymeeting Bay bounded as follows: from the high tension wires at Chops Point to the first dam on the Androscoggin River, to the first road bridge on the Muddy, Cathance, Abbagadasset, and Eastern Rivers and the Richmond-Dresden bridge on the Kennebec River, and within a 150-yard zone of land adjacent to the margins of these waters in the counties of Cumberland, Sagadahoc and Lincoln.

MARYLAND

All waters (including bays, lakes, ponds, marshes, swamps, rivers, streams, and Chesapeake Bay) in Worcester, Somerset, Wicomico, Dorchester, Talbot, Caroline, Queen Anne's, Kent and Cecil Counties and those portions of Harford, Baltimore, and Anne Arundel Counties lying south and east of U.S. Route 1, and within a 150-yard zone of land in the above counties adjacent to the margins of such waters. Drainage ditches and temporary sheet water more than 150 yards from the waters described above are excluded from the steel shot requirement.

MASSACHUSETTS

Essex County: *North Boundary*—Massachusetts—New Hampshire line (Salisbury). *West Boundary*—U.S. Route 1 from State line southward to juncture with 1A in Newburyport, southward on 1A through the towns of Newbury and Rowley to juncture with 133 in Rowley and further south along combined routes 133-1A through Ipswich. *South Boundary*—juncture of 133 and 1A in Ipswich east along Route 133 through Essex and Gloucester to juncture of 13 and Route 128 in Gloucester. East along 128 to west bank of Annisquam River. *East Boundary*—west bank of the Annisquam River north to Ipswich Bay continuing north along the shoreline at Ipswich Bay to the Atlantic Ocean to New Hampshire—Massachusetts line.

Plymouth County: *North Boundary*—Route 139 from the west bank of the Green Harbor River (Marshfield) west to juncture with Route 3A (Duxbury). *West and South Boundary*—Route 3A from juncture of 139 south along 3A through towns of Duxbury, Kingston and Plymouth to juncture with Rocky Hill Road in Plymouth. *East Boundary*—Line extending from juncture of Route 3A and Rocky Hill Road in Plymouth north of Plymouth Light House on Duxbury Beach and further north along ocean side of Duxbury Beach to the west bank of Green Harbor River in Marshfield. Also—waters of the Wareham and Weweantic Rivers in the towns of Wareham and Marion and the marshes adjacent to these rivers and within a 150-yard zone of land adjacent to these rivers and marshes, seaward from the first upstream bridge.

Barnstable County: Barnstable Marshes *North Boundary*—Cape Code Bay. *West Boundary*—from Cape Cod Bay south along Sandy Neck Road in the towns of Barnstable and Sandwich to juncture with Route 6A in E. Sandwich. *South Boundary*—juncture of Sandy Neck Road and Route 6A in E. Sandwich east along 6A through E. Sandwich, Barnstable, Yarmouth and Dennis to juncture with New Boston Road. *East Boundary*—North along New Boston Road to Beach Street and, north along Beach Street to Cape Cod Bay. Also—Nauset Marshes—Pleasant Bay. *North Boundary*—Nauset Beach west along Doane Road in Eastham to juncture Nauset Road continuing southwest along Nauset Road to juncture with 6 in Eastham. *West Boundary*—south along Route 6 from juncture of Route 6 and Nauset Road in Eastham to juncture of Route 6 and 6A, south along Route 6A to juncture with Route 28 in Orleans, and south along Route 28 to juncture with Shore Road in Chatham to Chatham Lighthouse. *South Boundary*—line extending from Chatham Lighthouse to Atlantic Ocean. *East Boundary*—Atlantic Ocean.

Bristol County: Waters of the Wareham River, Weweantic River, East Branch of the Westport River, and the West Branch of the Westport River, and the marshes adjacent to these rivers, and within a 150-yard zone of land adjacent to these rivers and marshes, seaward from the first upstream bridge.

NEW JERSEY

That portion of the State bounded on the north by Highway 36 from its intersection with the Garden State Parkway near Keyport eastward to the Atlantic Ocean (south of Raritan Bay and Sandy Hook Bay), bounded on the west by the Garden State Parkway, and bounded on the south by the Cape May Canal.

NEW YORK

All waters (including bays, lakes, ponds, marshes, swamps, rivers, streams, and ocean waters) of Nassau and Suffolk Counties and that portion of New York west of Interstate Highway 81 and north of the New York Thruway (Interstate Highway 90) and within a 150-yard zone of land in the above area adjacent to the margins of such waters. Drainage ditches and temporary sheet water more than 150 yards from the waters described above are excluded from the non-toxic shot requirement. Areas described as sea duck zones in waterfowl regulations of the State of New York and Flander's Bay are excluded from the non-toxic shot requirements.

NORTH CAROLINA

1. All waters (including sounds, lakes, ponds, marshes, swamps, rivers, and streams) of Currituck, Dare, and Pamilico Counties and within 150-yard zone of land in these counties adjacent to the margins of such waters. Drainage ditches and temporary sheet water more than 150 yards from the waters described above are excluded from the steel shot requirement.

2. The waters of the Cape Fear River and its tributaries in New Hanover and Brunswick Counties and a 150-yard zone of land adjacent to the waters of this river and its tributaries in these two counties.

PENNSYLVANIA

Crawford County, Middle Creek Wildlife Management Area in Lancaster and Lebanon Counties, and the waters of the Susquehana River beginning at the confluence of the North and West branches at Northumberland and continuing southward to the Maryland-Pennsylvania State boundary and including a 25-yard zone of land adjacent to the waters of the Susquehana River that are described above.

RHODE ISLAND

That portion of Washington County lying south and east of U.S. Route 1 but excluding Block Island and the waters of Block Island Sound and Narragansett Bay.

SOUTH CAROLINA

Georgetown, Colleton, Charleston, and Beaufort Counties.

VIRGINIA

All waters and a 150-yard zone of land adjacent to these waters in the City of Virginia Beach and in an area between the York River and the James River bounded on the north by U.S. Highway 60, on the west by Highway 155, and on the south by Highway 5.

MISSISSIPPI FLYWAY

ARKANSAS

All waters of Poinsett and Arkansas Counties and that portion of Bayou Meta Wildlife Management Area in Jefferson County and within a 150-yard zone of land in these counties adjacent to the margins of these waters. This includes lakes, ponds, marshes, swamps, rivers, streams, and seasonally flooded areas of all types. Drainage ditches and temporary sheet water more than 150 yards from the water areas described above are excluded from the non-toxic shot requirement.

ILLINOIS

1. On all waters and all lands within 150 yards of these waters in the following counties: Jo Daviess, Carroll, Rock Island, Henderson, Pike, Calhoun, Jersey, Cass, Mason, Woodford, Marshall, Putnam, Lake, and McHenry. Drainage ditches and temporary sheet water more than 150 yards from the above described waters are exempted from this regulation.

2. On all State managed lands and waters, including the following public hunting areas: Anderson Lake, Baldwin, Bluff Lake, Carlyle Lake and subimpoundments, Chain O'Lakes, Collins Station, Forbes State Park, Grass Lake, Horseshoe Lake (Alexander County), Horseshoe Lake (Madison County), Kankakee River, Lake DePue, Lake Shelbyville and subimpoundments, Lake LaRue Scatters, Marshall County, Mermet, Oakwood Bottoms, Potter's Marsh, Rend Lake and subimpoundments, Rice Lake, Saline County, Sanganois, Sangchris Lake State Park, Savanna Ordnance, Sinnissippi Lake, Sparland, Spring Lake, Union County, Will County, William Powers, and Woodford County.

3. All waters managed for waterfowl hunting by the Illinois Department of Conservation on the Mississippi River, the Illinois River, and the Rock River from Pool 12 at the city of East Dubque, south to the Lock and Dam at Pool 26.

4. Crab Orchard National Wildlife Refuge.

INDIANA

1. On all waters of Lake, Porter, LaPorte, Newton, Jasper, Starke, Elkhart, Kosciusko, LaGrange, Steuben, and Posey Counties and within 150-yard zone of land in these counties adjacent to the margins of these waters. This includes lakes, ponds, marshes, swamps, rivers, streams, and seasonally flooded areas of all types. Excluded from these provisions are the waters of Lake Michigan and drainage ditches and temporary sheet water that are more than 150 yards from the waters described above.

2. Within the boundaries of the following State-owned or State-operated properties: Jasper-Pulaski Fish and Wildlife Area in Pulaski County, Mallard Roost Wetland Conservation Area in Noble County, Monroe Reservior in Monroe and Brown Counties, and Glendale Fish and Wildlife Area in Daviess County, and the Tri-County Fish and Wildlife Area in Noble and Kosciusko Counties.

3. Within the proposed boundaries of the Menominee Wetlands Conservation Area in Marshall County.

IOWA

In Fremont and Mills Counties on all waters and a 150-yard zone of land in these two counties adjacent to waters. The waters referred to above include lakes, ponds, marshes, swamps, rivers, streams, and seasonally flooded areas of all types. Excluded from these provisions are the waters of the Missouri River and drainage ditches and temporary sheet water that are more than 150 yards from the waters described above.

LOUISIANA

1. That portion of Vermilion Parish lying north of the Intracoastal Waterway.

2. That portion of Calcasieu Parish lying south of Interstate Highway 10.

3. That portion of Cameron Parish lying north of the Intracoastal Waterway.

4. On the west side of Calcasieu Lake that portion of Cameron Parish lying west of Highway 27 and north of the boundary of the Sabine National Wildlife Refuge.

5. In that portion of the State bounded as follows: From Pineville northeast along State Highway 28 to Archie, then northwest along U.S. Highway 84 from Archie to Jena, then southwest along State Highway 8 from Jena to Pollock, then south along U.S. Highway 165 from Pollock to Pineville.

6. The green-tree reservoir located on the Saline Wildlife Management Area.

OHIO

On all waters of Erie, Ottawa and Lucas Counties and within a 150-yard zone of land in these counties adjacent to the margins of these waters. This includes lakes, ponds, marshes, swamps, rivers, streams, and seasonally flooded areas of all types. Drainage ditches and temporary sheet water more than 150 yards from the water areas described above are excluded from the non-toxic shot requirement.

MICHIGAN

1. Saginaw Bay Area—That area of Iosco, Arenac, Bay, Saginaw, Tuscola and Huron counties:

Beginning at a point at the tip of Tawas Point in Sec. 3, T21N, R8E, Iosco County; northeast north and west on Tawas Point Road to its intersection with highway US-23 (Sec. 21, T22N, R8E); south and west on highway US-23 in Iosco and Arenac counties to the intersection with highway M-13(Sec. 2, T18N, R4E, Arenac County); south on highway M-13 in Arenac and Bay counties to the intersection with interstate highway I-75 (Sec. 13, T14N, R4E); south on I-75, US-23 to the intersection with highway US-10 (Sec. 24 T14N, R4E); west on highway US-10 to the intersection with Garfield Road (northeast corner Sec. 27, T14N, R3E); south on Garfield Road in Bay and Saginaw counties to the intersection with Tittabawassee Road (southwest corner Sec. 35, T13N, R3E); west on Tittabawassee Road to intersection with Graham Road (northwest corner Sec. 4, T12N, R3E); south on Graham Road to the junction of highways M-46 and M-52 (west quarter corner Sec. 28, T12N, R3E); south on highway M-52 to highway M-57 (southwest corner Sec. 7, T9N, R3E); east on highway M-57 to highway M-13 (southeast corner Sec. 13, T9N, R4E); north on highway M-13 to Burt Road (northwest corner Sec. 31, T10N, R5E); east on Burt Road to highway I-75, US-10 and US-23 (Sec. 28, T10N, R6E); north on highway I-75 to Highway M-46 (Sec. 28, T12N, R5E); east on highway M-46 to North Gera Road southeast corner (Sec. 27, T12N, R6E); north on North Gera Road to highway M-15 (Sec. 23, T12N, R6E); north on highway M-15 in Saginaw and Bay counties to Munger Road (Sec. 18, T13N, R6E); east on Munger Road (M-138) in Bay County and Fairgrove Road (M-138), in Tuscola County to Vassar Road (southeast corner Sec. 13, T13N, R7E); north on Vassar Road to highway M-25 east quarter corner (Sec. 13, T14N, R7E); east and north on highway M-25 in Tuscola and Huron counties to Kinde Road (Sec. 35, T18N, R10); east on Kinde Road to highway M-53 (southeast corner Sec. 36, T18N, R12E); north on highway M-53 to the junction with highway M-25 (Sec. 30, T19N, R13E); north from that point to the shoreline of Lake Huron and then northwesterly from this point to the point of beginning (tip of Tawas Point in Iosco County).

2. Houghton Lake Area—That area of Roscommon, Missaukee, Kalkaska and Crawford counties:

Beginning at the intersection of State Highway M-55 and highway M-76 in Roscommon County (southeast corner Sec. 10, T22N, R1W); north on highway M-76 to the Village of Roscommon, then west and south on county road 100 to the intersection of county road 104 (Sec. 32, T24N, R3W); west on county road 104 to the intersection of highway US-27 (Sec. 34, T24N, R4W); north on highway US-27 to the intersection of Fletcher Road in Crawford County (Sec. 23, T25N, R4W); west and northwest on Fletcher Road to county road 571 in Kalkaska County (Sec. 8, T25N, R6W); south on county road 571 to highway M-55 in Missaukee County (Sec. 32, T23N, R6W); then east on highway M-55 to the point of beginning.

3. Eastern Upper Peninsula Area—That area of Mackinac and Chippwea counties:

Beginning at the point where the Mackinac Straits Bridge intersects the Lake Huron shoreline of Mackinac County north on highway I-75 to highway M-134 (Sec. 4, T42N, R3W); east on highway M-134 to highway M-129 (southeast corner Sec. 25, T42N, R1W); north on highway M-129 to business loop I-75 (Sec. 7, T47N, R1E); north on business loop I-75 to downtown Sault Ste. Marie and extending on a line northward to the International Boundary between U.S. and Canada; east and south along the International Boundary on the St. Marys River north channel and Lake Huron to a point west of the southwest corner of Cockburn Island (in Canada); east from that point on the International Boundary in Lake Huron to the south tip of Goose Island lying southwest of Marquette Island; continuing southwest in Lake Huron to the southernmost point of Mackinac Island and then west to the point of beginning.

4. Southwestern Michigan Area (revised)—That area of Muskegon, St. Joseph, Newago, Ottawa, Allegan, Van Buren, Cass, Kalamazoo, Calhoun, Barry, Ionia and Kent counties:

Beginning at the southwest meandor corner of Sec. 4, T12N, R18W, Muskegon County, west on a line across Lake Michigan to the State boundary between Michigan and Wisconsin; south along the State boundary to a point directly west of the mouth of the Black River (Sec. 9, T1S, R17W) Van Buren County; east along a line to the mouth of the Black River (Sec. 9, T1S, R17W); upstream along the south shore of the Black River to highway US-31, then southerly along highway US-31 to highway M-43 (Sec. 14, T1S, R17W); easterly along highway M-43 in Van Buren County to the junction with M-40 (Sec. 13, T2S, R14W); southerly along M-40 to the

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junction of M-216 (Marcellus) (Sec. 16, T5S, R13W) Cass County; easterly along M-216 to junction of US-131 (Sec. 19, T5S, R11W); south on US-131 and Business US-131 to junction with M-60 (Sec. 18, T6S, R11W) St. Joseph County; north on M-60 and M-66 to the junction with I-96 (Sec. 25, T6N, R7W) Ionia County; west on I-96 to the junction with M-37 (Sec. 13, T7N, R12W) Kent county; north on M-37 to 112 St. (north quarter corner Sec. 13, T11N, R13W); west on 112 St. to Warner road (Sec. 13, T11N, R14W); north on Warner Road to Roth Road (NE corner, Sec. 26, T12N, R14W); west on Roth Road to Maple Island Road to highway M-20 (southwest corner, Sec. 31, T13N, R14W) and continuing north on M-20 to Skeels Road (northeast corner Sec. 1, T12N, R15W); west on Skeels Road to Nichols Road (Sec. 2, T12N, R16W); south on Nichols Rd. to Fruitville Rd. (Sec. 2, T12N, R16W); west on Fruitville Road to highway US-31 (Sec. 9, T12N, R17W); north on highway US-31 to Meinert Road (Sec. 4, T12N, R17W); west on Meinert Road to the southwest meandor corner Sec. 4, T12N, R18W (the point of beginning).

5. Southeastern Michigan Area (revised)—That area of Shiawassee, Washtenaw, Lenawee, Jackson, Wayne, Ingham, St. Clair, Macomb and Monroe counties.

Beginning at a point on the Blue Water Bridge at the International boundary between the United States and Canada (Sec. 35, T7N, R17E) St. Clair County; westerly and south on highway I-94 in St. Clair, Macomb counties to the junction with M-59; west on M-59 to the junction with highway I-75 in Oakland County; northwest along highway I-75 to the junction with highway I-69 in Genesee County; southwest along highway I-69 to the junction with highway M-52 (Sec. 9, T5N, R2E) Shiawassee County; south on M-52 to the junction with highway M-36 (Sec. 22, T2N, R2E) Ingham County; west on M-36 to the junction with highway US-127 (Sec. 6, T2N, R1W) Ingham County; south along US-127 in Ingham and Jackson counties (through City of Jackson) to the junction with highway US-12 (Sec. 7, T5S, R1E) Lenawee County; easterly on US-12 to the junction with highway I-94 (Sec. 18, T3S, R7E) Washtenaw County; easterly on I-94 to the junction with highway I-275 in Wayne County; southerly along I-275 to the junction with I-75 in Monroe County; southerly along I-75 to the State line (Sec. 5, T17S, R8E); east along the State line between Michigan and Ohio to the shoreline of Lake Erie; northeasterly along the State line to the International boundary in Lake Erie, northerly along the International boundary in Lake Erie, the Detroit River, Lake St. Clair and the St. Clair River to the point of beginning.

MINNESOTA

1. All waters within the boundaries of all State Wildlife Management Areas and Federal Waterfowl Production Areas and within a 150-yard zone of land adjacent to the margins of these waters. This includes lakes, ponds, marshes, swamps, rivers, streams and seasonally flooded areas of all types. Drainage ditches and temporary sheet water more than 150 yards from the water areas described above are excluded from the steel shot requirement. Controlled hunting zones of goose management areas are excluded from this provision, exeept the Roseau Wildlife Management Area which is included.

2. On the waters on Swan and Middle Lakes in Nicollet County, North and South Heron Lakes in Jackson County, Pelican Lake in Wright County, Bear Lake in Freeborn County, and Christina Lake in Douglas and Grant Counties and within a 150-yard zone of land adjacent to the margins of the above lakes.

3. Beginning at the intersection of the midline of the Mississippi River and U.S. Highway 61 at Hastings, thence southerly along U.S. Highway 61 to U.S. Highway 16 at LaCresent, thence southerly along U.S. Highway 16 to State Trunk Highway 26, thence southerly along State Trunk Highway 26 to the southern boundary of the State; thence along the Southern and Eastern boundaries of the State to the confluence of the St. Croix and Mississippi Rivers, thence along the midline of the Mississippi River to the point of beginning.

MISSOURI

Within the following areas on all waters and a 150-yard zone of land within the areas adjacent to these waters. This includes lakes, ponds, marshes swamps, rivers, streams and seasonally flooded lands of all types. Drainage ditches and temporary sheet water more than 150-yards from water areas described above are excluded from the non-toxic shot requirement.

1. Squaw Creek Area: North boundary—Iowa-Missouri State line. East boundary—U.S. Highway I-29. South boundary —St. Joseph, Missouri city limits. West boundary—East bank of the Missouri River.

2. Swan Lake—Fountain Grove Area: North boundary—U.S. Highway 36. East boundary—State Highway 5. South boundary—State Highway 240 and U.S. Highway 65. West boundary—U.S. Highway 65.

3. Upper Mississippi River Area: North boundary—U.S. Highway 36. East boundary—Illinois-Missouri State line. South boundary—North bank of the Missouri River. West boundary—U.S. Highway 61.

4. Montrose—Schell-Osage Area: North boundary—State Highway 7. East boundary—State Highway 13. South boundary—U.S. Highway 54. West boundary—U.S. Highway 71.

5. Duck Creek—Mingo Area: North boundary—State Highway 34. East boundary—State Highways 51, 91, and 25. South boundary—U.S. Highway 62. West boundary—U.S. Highway 67 and State Highway 53.

TENNESSEE

Camden, Big Sandy, New Hope, Lick Creek and Harmon's Creek Wildlife Management Areas.

WISCONSIN

1. In that portion of the State lying west of the Burlington Northern Railroad in Pierce, Pepin, Buffalo, Trempealeau, La Crosse, Vernon, Crawford and Grant Counties.

2. On all waters in the counties of Calumet, Columbia, Dane, Dodge, Fond du Lac, Green Lake, Jefferson, Kenosha, Manitowoc, Marquette, Milwaukee, Outagamie, Ozaukee, Rancine, Sheboygan, Walworth, Waukesha, Winnebago, Washington, Waupaca and Waushara, all of the Wisconsin River in Juneau and Adams Counties, and those portions of Oconto and Marinette Counties east of U.S Highway 41, and that portion of Brown County lying northwest of the Fox River and east of U.S. Highway 141, and the Brown County Islands in Green Bay and within a 150-yard zone of land adjacent to the margins of these waters. The waters referred to above include lakes, ponds, marshes, swamps, rivers, streams and seasonally flooded areas of all types. Drainage ditches and temporary sheet water more than 150 yards from the water areas described above and the open water of Lake Michigan are excluded from the non-toxic shot requirements. All county boundary waters and lakes partially within a steel shot zone are totally included.

3. On any State wildlife area within the zones described in (2), steel shot is required for hunting waterfowl anywhere on State-owned lands or waters within the boundaries of said wildlife area and on the following State-owned wildlife areas which are not within the zones described in (2): Mead Wildlife Area in Marathon, Wood and Portage Counties, Wood County Wildlife Area and Sandhill Wildlife Area in Wood County, Meadow Valley Wildlife Area in Juneau County.

CENTRAL FLYWAY

KANSAS

Barton County: The Cheyenne Bottoms Wildlife Area except the south 200 yards west of U.S. 156 and east of the north-south centerline of S36, T18S, R13W in Barton County.

Linn County: All of the Marais des Cygnes Wildlife Areas.

Montgomery County: All of the Elk City Reservoir and Wildlife Area including all lands and waters managed by the U.S. Corps of Engineers and the Kansas Forestry, Fish and Game Commission.

Neosho County: All of the Neosho Wildlife Area.

Reno County: All of the Cheney Reservoir and Wildlife Area including all lands managed by the U.S. Bureau of Reclamation and the Kansas Forestry, Fish and Game Commission. Also, that portion of Quivira National Wildlife Refuge in Reno County.

Stafford County: That portion of the Quivira National Wildlife Refuge in Stafford County.

Rice County: That portion of the Quivira National Wildlife Refuge in Rice County.

NEBRASKA

Clay and Fillmore Counties and in Kearney and Phelps Counties except on the waters of the Platte River.

TEXAS

J. D. Murphree Wildlife Management Area and Sea Rim State Park in Jefferson County.

PACIFIC FLYWAY

CALIFORNIA

1. That portion of the Lower Klamath Basin beginning at the junction of Highway 161 (State Line Road) and the Dorris-Brownell Road at the NW corner of Indian Tom Lake; thence south and east on the Dorris-Brownell Road as it makes a semicircle and unites again with Highway 161 on the east side of Sheepy Ridge; thence west along Highway 161 to point of origin at the NW side of Indian Tom Lake. Also included is the Tule Lake National Wildlife Refuge (excluding refuge lands on Sheepy Ridge) in the Tule Lake portion of the Klamath Basin.

2. Sacramento and Delevan National Wildlife Refuges in the Counties of Glenn and Colusa.

IDAHO

The Deer Flat National Wildlife Refuge in Canyoln County, excluding the Snake River Island Unit.

NEVADA

The Stillwater Wildlife Management Area.

OREGON

Beginning at the Longview Bridge on the Columbia River, thence south on State Highway 30 to Portland, thence east from Portland along Interstate Highway 80N to the Bonneville Dam, thence down the Columbia River along the Oregon-Washington boundary to the Longview Bridge and point of origin.

WASHINGTON

1. Beginning at Interstate 5 and Highway 20 at Burlington, thence easterly along Highway 20 to Highway 9 at Sedro Woolley; thence southerly along Highway 9 to Highway 538 at Big Rock; thence westerly along Highway 538 to Mt. Vernon and Interstate 5; thence northerly along Interstate 5 to the point of origin.

2. Beginning at the Conway junction of Highway 530 and Fir Island Road, northwesterly along Fir Island Road to the Chilberg Road; thence northwesterly along Chilberg Road to LaConner and the Swinomish Channel; thence southerly and westerly along the red buoy line of Swinomish Channel to the Island County line; thence southeasterly along Island County line to State Highway 532; thence easterly along Highway 532 to State Highway 530 at Stanwood; thence northerly along State Highway 530 to the point of origin.

3. Beginning at the Longview Columbia River Bridge, thence north and east on Highways 833 and 832 to Interstate 5; thence southerly along I-5 to State Highway 14 in Vancouver; thence easterly along Highway 14 to the Skamania County line; thence southerly along said County line to the Columbia River; thence down the Columbia River along the Oregon-Washington State boundary to the Longview Bridge and point of origin.

NOTE.—The Department has determined that this rule is not a significant rule and does not require preparation of a regulatory analysis. An Environmental Assessment was prepared and a negative declaration filed.

This final rule was authored by Robert I. Smith, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240, 202-254-3207.

Dated: January 3, 1979.

LYNN A. GREENWALT,
Director,
Fish and Wildlife Service.

[FR Doc. 79-941 Filed 1-11-79; 8:45 am]

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[6050-01-M]

ACTION

COMPETITIVE NATIONAL VISTA GRANTS

Proposed Procedures

AGENCY: Action.

ACTION: Amendment to Proposed Notice of Competitive National VISTA Grants published October 5, 1978, at 43 FR 46153, and October 30, 1978, at 43 FR 50488.

SUMMARY: The proposed notice set forth the competitive procedures under which applications for national VISTA grants will be accepted and reviewed in fiscal year 1979. It provided that to be eligible for consideration, an application must be prepared and submitted in accordance with the announcement and with forms, instructions, and program guidelines contained in the national VISTA grant application kit.

This amendment changes the application due date from January 12, 1979, to January 29, 1979, because a modification was made in the Table of Allowable National/Regional VISTA Grant Costs found in the application kit.

FOR FURTHER INFORMATION CONTACT:

Ms. Diana London, VISTA, 806 Connecticut Avenue, NW., Washington, DC 20525, 202-254-5195.

SAM BROWN,
Director.

[FR Doc. 79-1318 Filed 1-11-79; 8:45 am]

[3410-02-M]

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

DEPARTMENT OF AGRICULTURE, STATE OF ILLINOIS, SPRINGFIELD, ILL.

Offical Agency Designation and Proposal of Geographic Area

AGENCY: Federal Grain Inspection Service.

ACTION: Notice and Request for Comments.

SUMMARY: This notice announces the designation of the Illinois Department of Agriculture as an official agency to perform grain inspection services under the authority of the United States Grain Standards Act, as amended. This notice also proposes a geographic area within which that agency will operate.

DATE: Comments by February 26, 1979.

FOR FURTHER INFORMATION CONTACT:

Edith A. Christensen, Federal Grain Inspection Service, Compliance Division, Delegation and Designation Branch, 201 14th Street, S.W., Room 2405, Auditors Building, Washington, D.C. 20250, (202) 447-8525.

SUPPLEMENTARY INFORMATION: The United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*, hereinafter the "Act"), has been amended to extensively modify the official grain inspection system. Pursuant to Sections 7 and 7A of the Act (7 U.S.C. 79 and 79a), the Administrator of the Federal Grain Inspection Service (FGIS) has the authority to designate any State or local governmental agency, or any person, as an official agency for the conduct of all or specified functions involved in official inspection (other than appeal inspection), weighing and supervision of weighing of grain at locations where the Administrator determines there is a need for such services. Such a designation shall terminate triennially (7 U.S.C. 79(g)(1) and 79a(c)).

The Illinois Department of Agriculture, an existing official agency, made application to be officially designated under the Act, as amended, to perform official inspection functions, not including official weighing.

This is to announce that the FGIS has conducted the required investigation of the Illinois Department of Agriculture which included onsite reviews of the inspection points (specified service points).

NOTE.—Section 7(f)(2) of the Act (7 U.S.C. 79(f)(2)) generally provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administrator.

As a result, the Illinois Department of Agriculture was deemed eligible for designation to perform official inspection functions (other than appeal inspection), not including official weighing. A document designating the Illinois Department of Agriculture as an official agency was signed on November 13, 1978.

Said designation also included an interim assignment of geographic area within which the official agency shall officially inspect grain. The geographic area assigned on an interim basis pending final determination in this matter is: the Northern Section of the area which shall be:

Bounded: on the North by the Illinois-Wisconsin State line from Jo Daviess County east to Interstate 94;

Bounded: on the East by Interstate 94 south to Interstate 294; Interstate 294 south to Interstate 55; Interstate 55 southwest to Will County;

Bounded: on the South by the northern Will County line west to Kendall County; the Western Will County line south to Grundy County; the southern Kendall County line west to LaSalle County; the eastern LaSalle County line north to DeKalb County; the northern LaSalle County line west to Lee County; the southern Lee County line west to Whiteside County; and

Bounded: on the West by the western Lee County line north to Ogle County; the western Ogle County line north to Stephenson County; the southern Stephenson County line west to Jo Daviess County; the western Stephenson County line north to Wisconsin.

The Southern Section of the area which shall be:

Bounded: on the North by the northern Pike County line from the Mississippi River east to the Illinois River; the Illinois River south to Greene County; the northern Greene County line east to Macoupin County; the northern Macoupin County line east to State Route 111; a straight line from the junction of State Route 111 and the Macoupin County line southeast to the junction of Interstate 55 and State Route 16; State Route 16 east-northeast to a point approximately one mile northeast of Irving; a straight line from this point to the northern Fayette County line; the northern Fayette County line east to Effingham County; the northern Effingham county line east to Cumberland County; the western Cumberland County line north; the northern Cumberland County line east; the eastern Cumberland County line south to Jasper County; the northern Jasper County line east to Crawford County; the western Crawford County line south to State Route 33; State Route 33 east-southest to U.S. Route 50; U.S. Route east to the Wabash River;

Bounded; on the East by the Wabash River south-southwest to the Ohio River; the Ohio River southwest to Massac County;

Bounded: on the South by the eastern Massac County line north-northwest to Johnson County; the eastern Johnson County line north; the northern Johnson County line west to Union County; the northern Union County line west to U.S. Route 51; U.S. Route 51 north to State Route 13; State Route 13 northwest to State Route 149; State Route 149 west to State Route 3; State Route 3 northwest to State Route 51; State Route 51 south to the Mississippi River; and

Bounded: on the West by the Mississippi River north to Interstate 270; Interstate 270 east to Interstate 70; Interstate 70 east to State Route 4; State Route 4 north to Macoupin County; the southern Macoupin County line west to Jersey County; the eastern Jersey County line north; the northern Jersey County line west to the Illinois River; the Illinois River southsouthcast to the Mississippi River; the Mississippi River west-northwest to Adams County.

Service locations outside of this geographic area but also to be serviced by the Illinois Department of Agriculture shall include: Casey, Illinois, in Clark County; Leland, Illinois, in LaSalle County; and Sigel, Illinois, in Shelby County. A service location for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspection functions other than official grading where no licensed inspectors are located.

An exception to this designated geographic area is the following service location inside the area which is serviced by another official agency: Florence, Illinois, in Pike County, to be serviced by Springfield Grain Inspection Department.

Interested persons may obtain a map of the proposed geographic area for this agency from the Compliance Division, Delegation and Designation Branch.

The specified service points of this agency are: Illinois Department of Agriculture, 621 South Belt West, Belleville, Illinois 62221; Illinois Department of Agriculture, 315 North 6th Street, DeKalb, Illinois 60115; Illinois Department of Agriculture, 2209 West Main Street, Marion, Illinois 62959; and Illinois Department of Agriculture, State Office Building, 601 North 18th Street, Mt. Vernon, Illinois 62864, all located within the proposed geographic area. A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of all or specified official insection functions and where the agency or one or more of its licensed inspectors is located. The designation document provides for the inclusion of additional specified service points and service locations which may be established in the future, within the agency's geographic area.

Publication of this notice does not preclude future amendment of this designation consistent with the provisions and objectives of the Act.

Interested persons are hereby given opportunity to submit written views or comments with respect to the geographic area proposed for assignment to this agency. All views and comments should be submitted in writing to the Office of the Director, Compliance Division, Federal Grain Inspection Service, 201 14th Street, S.W., Room 2405, Auditors Building, Washington, D.C. 20250. All materials should be mailed to the Director not later than February 26, 1979. All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Director and to all other information available to the U.S. Department of Agriculture before final determination of the assignment of geographic area is made with respect to this matter.

(Sec. 8, Pub. L. 94-582, 90 Stat. 2870 (7 U.S.C. 79); sec. 9, Pub. L. 94-582, 90 Stat. 2875 (7 U.S.C. 79a); sec. 27, Pub. L. 94-582, 90 Stat. 2889 (7 U.S.C. 74 note).)

Done in Washington, D.C. on: January 5, 1979.

D. R. GALLIART,
Acting Administrator.

[FR Doc. 79-1167 Filed 1-11-79; 8:45 am]

[3410-02-M]

BLOOMINGTON GRAIN INSPECTION DEPARTMENT, BLOOMINGTON, ILL.

Official Agency Designation and Proposal of Geographic Area

AGENCY: Federal Grain Inspection Service.

ACTION: Notice and Request for Comments.

SUMMARY: This notice announces the designation of the Bloomington Grain Inspection Department as an official agency to perform grain inspection services under the authority of the United States Grain Standards Act, as amended. This notice also proposes a geographic area within which that agency will operate.

DATE: Comments by February 26, 1979.

FOR FURTHER INFORMATION CONTACT:

Edith A. Christensen, Federal Grain Inspection Service, Compliance Division, Delegation and Designation Branch, 201 14th Street, S.W., Room 2405, Auditors Building, Washington, D.C. 20250, (202) 447-8525.

SUPPLEMENTARY INFORMATION: The United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*, hereinafter the "Act"), has been amended to extensively modify the official grain inspection system. Pursuant to Sections 7 and 7A of the Act (7 U.S.C. 79 and 79a), the Administrator of the Federal Grain Inspection Service (FGIS) has the authority to designate any State or local governmental agency, or any person, as an official agency for the conduct of all or specified functions involved in official inspection (other than appeal inspection), weighing, and supervision of weighing of grain at locations where the Administrator determines there is a need for such services. Such a designation shall terminate triennially (7 U.S.C. 79(g)(1) and 79a(c)).

The Bloomington Grain Inspection Department, an existing official agency, made application to be officially designated under the Act, as amended, to perform official inspection functions, not including official weighing.

This is to announce that the FGIS has conducted the required investigation of the Bloomington Grain Inspection Department which included an onsite review of the inspection point (specified service point).

NOTE.—Section 7(f)(2) of the Act (7 U.S.C. 79(f)(2)) generally provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administrator.

As a result, the Bloomington Grain Inspection Department was deemed eligible for designation to perform official inspection functions (other than appeal inspection), not including official weighing. A document designating the Bloomington Grain Inspection Department as an official agency was signed on October 20, 1978.

Said designation also included an interim assignment of geographic area within which the official agency shall officially inspect grain. The geographic area assigned on an interim basis pending final determination in this matter is:

Bounded: on the North by State Route 18 from State Route 26 east to U.S. Route 51; U.S. Route 51 south to State Route 17; State Route 17 east to Livingston County; the Livingston County line north then east to the ICG Railroad line northeast to Dwight, Illinois;

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Bounded: on the East by the ICG Railroad line southwest to Pontiac, Illinois, including the Bunge Elevator 5 miles north-northwest of Pontiac and the city of Pontiac, Illinois; a straight line running north and south from Pontiac south through Arrowsmith to the southern McLean County line;

Bounded: on the South by the southern McLean County line; the eastern Logan County line south to State Route 10; State Route 10 west to State Route 121; and

Bounded: on the West by State Route 121 North to Interstate 74; Interstate 74 northwest to State Route 116; State Route 116 north to State Route 26; State Route 26 north to State Route 18.

Interested persons may obtain a map of the proposed geographic area for this agency from the Compliance Division, Delegation and Designation Branch.

The specified service point of this agency is: Bloomington Grain Inspection Department, 1700 W. Olive Street, P.O. Box 817, Bloomington, Illinois 61701, located within the proposed geographic area. A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of all or specified official inspection functions and where the agency or one or more of its licensed inspectors is located. A service location for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspection functions other than official grading where no licensed inspectors are located. The designation document provides for the inclusion of additional specified service points and service locations which may be established in the future, within the agency's geographic area.

Publication of this notice does not preclude future amendment of this designation consistent with the provisions and objectives of the Act.

Interested persons are hereby given opportunity to submit written views or comments with respect to the geographic area proposed for assignment to this agency. All views and comments should be submitted in writing to the Office of the Director, Compliance Division, Federal Grain Inspection Service, 201 14th Street, S.W., Room 2405, Auditors Building, Washington, D.C. 20250. All materials should be mailed to the Director not later than February 26, 1979. All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Director and to all other information available to the U.S. Department of Agriculture before final determination of the assignment of geographic area is made with respect to this matter.

(Sec. 8, Pub. L. 94-582, 90 Stat. 2870 (7 U.S.C. 79); sec. 9, Pub. L. 94-582, 90 Stat. 2875 (7 U.S.C. 79a); sec. 27, Pub. L. 94-582, 90 Stat. 2889 (7 U.S.C. 74 note).)

Done in Washington, D.C. on: January 5, 1979.

D. R. GALLIART,
Acting Administrator.

[FR Doc. 79-1169 Filed 1-11-79; 8:45 am]

[3410-02-M]

ALTON GRAIN INSPECTION DEPARTMENT, ALTON, ILL.

Official Agency Designation and Proposal of Geographic Area

AGENCY: Federal Grain Inspection Service.

ACTION: Notice and Request for Comments.

SUMMARY: This notice announces the designation of the Alton Grain Inspection Department as an official agency to perform grain inspection services under the authority of the United States Grain Standards Act, as amended. This notice also proposes a geographic area within which that agency will operate.

DATE: Comments by February 26, 1979.

FOR FURTHER INFORMATION CONTACT:

Edith A. Christensen, Federal Grain Inspection Service, Compliance Division, Delegation and Designation Branch, 201 14th Street, S.W., Room 2405, Auditors Building, Washington, D.C. 20250, (202) 447-8525.

SUPPLEMENTARY INFORMATION: The United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*, hereinafter the "Act"), has been amended to extensively modify the official grain inspection system. Pursuant to Sections 7 and 7A of the Act (7 U.S.C. 79 and 79a), the Administrator of the Federal Grain Inspection Service (FGIS) has the authority to designate any State or local governmental agency, or any person, as an official agency for the conduct of all or specified functions involved in official inspection (other than appeal inspection), weighing, and supervision of weighing of grain at locations where the Administrator determines there is a need for such services. Such a designation shall terminate triennially (7 U.S.C. 79(g)(1) and 79a(c)).

The Alton Grain Inspection Department, an existing official agency, made application to be officially designated under the Act, as amended, to perform official inspection functions, not including official weighing.

This is to announce that the FGIS has conducted the required investigation of the Alton Grain Inspection Department which included an onsite review of the inspection point (specified service point).

NOTE—Section 7(f)(2) of the Act (7 U.S.C. 79(f)(2)) generally provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administrator.

As a result, the Alton Grain Inspection Department was deemed eligible for designation to perform official inspection functions (other than appeal inspection), not including official weighing. A document designating the Alton Grain Inspection Department as an official agency was signed on September 25, 1978.

Said designation also included an interim assignment of geographic area within which the official agency shall officially inspect grain. The geographic area assigned on an interim basis pending final determination in this matter is:

Bounded: on the North by the northern county line of Jersey County; the eastern county line of Jersey County; the Madison-Macoupin county line to State Route 4;

Bounded: on the East by State Route 4 south to Interstate 70;

Bounded: on the South by Interstate 70 west to Interstate 270; Interstate 270 west to the Mississippi River; and

Bounded: on the West by the Mississippi River north to the Illinois River; the Illinois River north to the northern Jersey County line.

Interested persons may obtain a map of the proposed geographic area for this agency from the Compliance Division, Delegation and Designation Branch.

The specified service point of this agency is: Alton Grain Inspection Department, 145 W. Broadway, Alton, Illinois 62002, located within the proposed geographic area. A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of all or specified official inspection functions and where the agency or one or more of its licensed inspectors is located. A service location for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspection functions other than official grading where no licensed inspectors are located. The designation document provides for the inclusion of additional specified service points and service locations which may be established in the future, within the agency's geographic area.

Publication of this notice does not preclude future amendment of this designation consistent with the provisions and objectives of the Act.

Interested persons are hereby given opportunity to submit written views or comments with respect to the geographic area proposed for assignment to this agency. All views and comments should be submitted in writing to the Office of the Director, Compliance Division, Federal Grain Inspection Service, 201 14th Street, S.W., Room 2405, Auditors Building, Washington, D.C. 20250. All materials should be mailed to the Director not later than February 26, 1979. All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Director and to all other information available to the U.S. Department of Agriculture before final determination of the assignment of geographic area is made with respect to this matter.

(Sec. 8, Pub. L. 94-582, 90 Stat. 2870 (7 U.S.C. 79); sec. 9, Pub. L. 94-582, 90 Stat. 2875 (7 U.S.C. 79a); sec. 27, Pub. L. 94-582, 90 Stat. 2889 (7 U.S.C. 74 note))

Done in Washington, D.C. on: January 5, 1979.

D. R. GALLIART,
Acting Administrator.

FR Doc. 79-1170 Filed 1-11-79; 8:45 am]

[3410-02-M]

CAIRO GRAIN INSPECTION AGENCY, CAIRO, ILL.

Official Agency Designation and Proposal of Geographic Area

AGENCY: Federal Grain Inspection Service.

ACTION: Notice and Request for Comments.

SUMMARY: This notice announces the designation of the Cairo Grain Inspection Agency as an official agency to perform grain inspection services under the authority of the United States Grain Standards Act, as amended. This notice also proposes a geographic area within which that agency will operate.

DATE: Comments by February 26, 1979.

FOR FURTHER INFORMATION CONTACT:

Edith A. Christensen, Federal Grain Inspection Service, Compliance Division, Delegation and Designation Branch, 201 14th Street, S.W., Room 2405, Auditors Building, Washington, D.C. 20250, (202) 447-8525.

SUPPLEMENTARY INFORMATION: The United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*, hereinafter the "Act"), has been amended to extensively modify the official grain inspection system. Pursuant to Sections 7 and 7A of the Act (7 U.S.C. 79 and 79a), the Administrator of the Federal Grain Inspection Service (FGIS) has the authority to designate any State or local governmental agency, or any person, as an official agency for the conduct of all or specified functions involved in official inspection (other than appeal inspection), weighing, and supervision of weighing of grain at locations where the Administrator determines there is a need for such services. Such a designation shall terminate triennially (7 U.S.C. 79 (g)(1) and 79a(c)).

The Cairo Grain Inspection Agency, an existing official agency, made application to be officially designated under the Act, as amended, to perform official inspection functions, not including official weighing.

This is to announce that the FGIS has conducted the required investigation of the Cairo Grain Inspection Agency which included an onsite review of the inspection point (specified service point).

NOTE.—Section 7(f)(2) of the Act (7 U.S.C. 79(f)(2)) generally provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administrator.

As a result, the Cairo Grain Inspection Agency was deemed eligible for designation to perform official inspection functions (other than appeal inspection), not including official weighing. A document designating the Cairo Grain Inspection Agency as an official agency was signed on August 31, 1978.

Said designation also included an interim assignment of geographic area within which the official agency shall officially inspect grain. The geographic area assigned on an interim basis pending final determination in this matter is: in Illinois, the area which shall be: southeast of State Route 150 from the Mississippi River north to State Route 3; State Route 3 southeast to State Route 149; State Route 149 east to State Route 13; State Route 13 southeast to U.S. Route 51; U.S. Route 51 south to Union County; the area shall include the following counties: Alexander County, Johnson County, Massac County, Pulaski County, and Union County.

In Kentucky, the area shall include the following counties: Ballard County, Calloway County, Carlisle County, Fulton County, Graves County, Hickman County, Livingston County, Lyon County, Marshall County, McCracken County, and Trigg County; and in Tennessee, the area shall include the following counties: Benton County, Dickson County, Henry County, Houston County, Humphreys County, Lake County, Montgomery County, Obion County, Steward County, and Weakley County.

Service locations outside this designated geographic area, but also to be serviced by Cairo Grain Inspection Agency, shall include: Hopkinsville, Kentucky, and Masonville, Kentucky, in Christian County. A service location for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspection functions other than official grading, where no licensed inspectors are located.

Interested persons may obtain a map of the proposed geographic area for this agency from the Compliance Division, Delegation and Designation Branch.

The specified service point of this agency is: Cairo Grain Inspection Agency, 4007 Sycamore Street, Cairo, Illinois 62914, located within the proposed geographic area. A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of all or specified official inspection functions and where the agency or one or more of its licensed inspectors is located. The designation document provides for the inclusion of additional service locations and specified service points which may be established in the future, within the agency's geographic area.

Publication of this notice does not preclude future amendment of this designation consistent with the provisions and objectives of the Act.

Interested persons are hereby given opportunity to submit written views or comments with respect to the geographic area proposed for assignment to this agency. All views and comments should be submitted in writing to the Office of the Director, Compliance Division, Federal Grain Inspection Service, 201 14th Street, S.W., Room 2405, Auditors Building, Washington, D.C. 20250. All materials should be mailed to the Director not later than February 26, 1979. All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Director and to all other information available to the U.S. Department of Agriculture before final determination of the assignment of geographic area is made with respect to this matter.

(Sec. 8, Pub. L. 94-582, 90 Stat. 2870 (7 U.S.C. 79); sec. 9, Pub. L. 94-582, 90 Stat. 2875 (7 U.S.C. 79a); sec. 27, Pub. L. 94-582, 90 Stat. 2889 (7 U.S.C. 74 note))

Done in Washington, D.C. on: January 5, 1979.

D. R. GALLIART,
Acting Administrator.

[FR Doc. 79-1165 Filed 1-11-79; 8:45 am]

[3410-02-M]

CHAMPAIGN-DANVILLE GRAIN INSPECTION DEPARTMENTS, INC., DANVILLE, ILL.

Official Agency Designation and Proposal of Geographic Area

AGENCY: Federal Grain Inspection Service.

ACTION: Notice and Request for Comments.

SUMMARY: This notice announces the designation of the Champaign-Danville Grain Inspection Departments, Inc., as an official agency to perform grain inspection services under the authority of the United States Grain Standards Act, as amended. This notice also proposes a geographic area within which that agency will operate.

DATE: Comments by February 26, 1979.

FOR FURTHER INFORMATION CONTACT:

Edith A. Christensen, Federal Grain Inspection Service, Compliance Division, Delegation and Designation Branch, 201 14th Street, SW., Room 2405, Auditors Building, Washington, D.C. 20250, (202) 447-8525.

SUPPLEMENTARY INFORMATION: The United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*, hereinafter the "Act"), has been amended to extensively modify the official grain inspection system. Pursuant to Sections 7 and 7A of the Act (7 U.S.C. 79 and 79a), the Administrator of the Federal Grain Inspection Service (FGIS) has the authority to designate any State or local governmental agency, or any person, as an official agency for the conduct of all or specified functions involved in official inspection (other than appeal inspection), weighing, and supervision of weighing of grain at locations where the Administrator determines there is a need for such services. Such a designation shall terminate triennially (7 U.S.C. 79(g)(1) and 79a(c)).

The Champaign-Danville Grain Inspection Departments, Inc., an existing official agency, made application to be officially designated under the Act, as amended, to perform official inspection functions, not including official weighing.

This is to announce that the FGIS has conducted the required investigation of the Champaign-Danville Grain Inspection Departments, Inc., which included onsite reviews of the inspection points (specified service points).

NOTE.—Section 7(f)(2) of the Act (7 U.S.C. 79(f)(2)) generally provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administrator.

As a result, the Champaign-Danville Grain Inspection Departments, Inc., was deemed eligible for designation to perform official inspection functions (other than appeal inspection), not including official weighing. A document designating the Champaign-Danville Grain Inspection Departments, Inc., as an official agency was signed on September 15, 1978.

Said designation also included an interim assignment of geographic area within which the official agency shall officiallly inspect grain. The geographic area assigned on an interim basis pending final determination in this matter is:

Bounded: on the North by a line running east and west along State Route 115 from the western Kankakee County line east to U.S. Route 52; U.S. Route 52 south to the northern Iroquois County line; the Iroquois County line east to State Route 1; State Route 1 south to U.S. Route 24; U.S. Route 24 east into Indiana to U.S. Route 41;

Bounded: on the East by U.S. Route 41 south, including Attica, Indiana, to the southern Fountain County line; the Fountain County line west to Vermillion County; the eastern Vermillion County line south to U.S. Route 36;

Bounded: on the South by U.S. Route 36 west to Illinois to the eastern Douglas County line; the eastern Douglas County line and Coles County line; the southern Coles County line; and

Bounded: on the West by the western Coles County line north; the western Douglas County line north; the Champaign county line north to Interstate 72 southwest to the western Piatt County line; the McLean County line west to a point 10 miles west of the western Champaign County line; a straight line running north and south from this point north to U.S. Route 136; U.S. Route 136 east to Interstate 57; Interstate 57 north to the northern Champaign County line; the northern Champaign County line; the western Vermillion and Iroquois County lines; the Kankakee County line north to the northern boundary.

Service locations outside of this geographic area, but also to be serviced by Champaign-Danville Grain Inspection Departments, Inc., shall include: Monticello, Illinois, in Piatt County; Pittwood, Illinois, in Iroquois County; Cadwell, Illinois, in Moultrie County; and Lovington, Illinois, in Moultrie County., A service location for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspection functions other than official grading where no licensed inspectors are located.

A specified service point outside of this geographic area, but also to be serviced by Champaign-Danville Grain Inspection Departments, Inc., only on an intermittent basis as requested by the applicant, is Farmer City, Illinois, in Dewitt County. a specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of all or specified official inspection functions and where the agency or one or more of its licensed inspectors is located.

Exceptions to this designated geographic area are the following service locations inside the area which are serviced by other official agencies: Danna, Indiana, in Vermillion County; Newman, Illinois, in Douglas County; and Oakland Illinois, in Coles County, all to be serviced by Paris Illinois Grain Inspection; Sheldon, Illinois, in Iroquois County, to be serviced by Schneider Inspection Service; Dunn, Raub, and Boswell, Indiana, in Benton County, all to be serviced by Titus Grain Inspection.

Interested persons may obtain a map of the proposed geographic area for this agency from the Compliance Division, Delegation and Designation Branch.

The specified service points of this agency are: Champaign Grain Inspection Department, 209 Wallace, Champaign, Illinois 61820; and Danville Grain Inspection Department, 527 East Main Street, Danville, Illinois 61832. Specified service points where services will be provided only on an intermittent basis as requested by the applicant are: Champaign Grain Inspection Department, State Route 150, Champaign, Illinois 61820; Champaign Grain Inspection Department, 201 West North Street (West Plant), Farmer City, Illinois 61842; and Danville Grain Inspection Department, 402 East Coffeen, Homer, Illinois 61849. The designation document provides for the inclusion of additional specified service points and service locations which may be established in the future, within the agency's geographic area.

Publication of this notice does not preclude future amendment of this designation consistent with the provisions and objectives of the Act.

Interested persons are hereby given opportunity to submit written views or comments with respect to the geographic area proposed for assignment to this agency. All views and comments should be submitted in writing to the Office of the Director, Compliance Division, Federal Grain Inspection Service, 201 14th Street, SW., Room 2405, Auditors Building, Washington, D.C. 20250. All materials should be mailed to the Director not later than February 26, 1979. All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Director and to all other information available to the U.S. Department of Agriculture before final determination of the assignment of geographic area is made with respect to this matter.

(Sec. 8, Pub. L. 94-582, 90 Stat. 2870 (7 U.S.C. 79); sec. 9, Pub. L. 94-582, 90 Stat. 2875 (7 U.S.C. 79e); sec. 27, Pub. L. 94-582, 90 Stat. 2889 (7 U.S.C. 74 note).)

Done in Washington, D.C. on: January 5, 1979.

D. R. GALLIART,
Acting Administrator.

[FR Doc. 79-1171 Filed 1-11-79; 8:45 am]

[3410-02-M]

COLUMBUS GRAIN INSPECTION, INC., COLUMBUS, OHIO

Official Agency Designation and Proposal of Geographic Area

AGENCY: Federal Grain Inspection Service.

ACTION: Notice and Request for Comments.

SUMMARY: This notice announces the designation of the Columbus Grain Inspection, Inc., as an official agency to perform grain inspection services under the authority of the United States Grain Standards Act, as amended. This notice also proposes a geographic area within which that agency will operate.

DATE: Comments by February 26, 1979.

FOR FURTHER INFORMATION CONTACT:

Edith A. Christensen, Federal Grain Inspection Service, Compliance Division, Delegation and Designation Branch, 201 14th Street, S.W., Room 2405, Auditors Building, Washington, D.C. 20250, (202) 447-8525.

SUPPLEMENTARY INFORMATION: The United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*, hereinafter the "Act"), has been amended to extensively modify the official grain inspection system. Pursuant to Sections 7 and 7A of the Act (7 U.S.C. 79 and 79a), the Administrator of the Federal Grain Inspection Service (FGIS) has the authority to designate any State or local governmental agency, or any person, as an official agency for the conduct of all or specified functions involved in official inspection (other than appeal inspection), weighing, and supervision of weighing of grain at locations where the Administrator determines there is a need for such services. Such a designation shall terminate triennially (7 U.S.C. 79(g)(1) and 79a(c)).

The Columbus Grain Inspection, Inc., an existing official agency, made application to be officially designated under the Act, as amended, to perform official inspection functions, not including official weighing.

This is to announce that the FGIS has conducted the required investigation of the Columbus Grain Inspection, Inc., which included onsite reviews of the inspection points (specified service points).

NOTE.—Section 7(f)(2) of the Act (7 U.S.C. 79(f)(2)) generally provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administrator.

As a result, the Columbus Grain Inspection, Inc., was deemed eligible for designation to perform official inspection functions (other than appeal inspection), not including official weighing. A document designating the Columbus Grain Inspection, Inc., as an official agency was signed on September 30, 1978.

Said designation also included an interim assignment of geographic area within which the official agency shall offically inspect grain. The geographic area assigned on an interim basis pending final determination in this matter is:

Bounded: on the North by U.S. Route 30 from U.S. Route 68 east to State Route 154 east to the Ohio-Pennsylvania State line;

Bounded: on the East and South by the Ohio-Pennsylvania State line south to the Ohio River; and the Ohio River south-southwest to the western Scioto County line; and

Bounded: on the West by the western Scioto County line north to State Route 73; State Route 73 northwest to U.S. Route 22; U.S. Route 22 west to U.S. Route 68; U.S. Route 68 north to the northern Clark County line; the Clark County line west to State Route 560; State Route 560 north to State Route 296; State Route 296 west to Interstate 75; Interstate 75 north to State Route 47; State Route 47 northeast to U.S. Route 68; U.S. Route 68 north to U.S. Route 30.

Interested persons may obtain a map of the proposed geographic area for this agency from the Compliance Division, Delegation and Designation Branch.

The specified service points of this agency are: Columbus Grain Inspection, Inc., 2177 South James Road, Columbus, Ohio 43227; Columbus Grain Inspection, Inc., East Farming Street, P.O. Box 72, Marion, Ohio 43302; Columbus Grain Inspection, Inc., South Main Street, Mechanicsburg, Ohio 45504. Specified service points where services will be provided only on an intermittent basis as requested by the applicant are: Columbus Grain Inspection, Inc., Browns Lane, Coshocton, Ohio 43812; Columbus Grain Inspection, Inc. 1855 E. Main, Columbus, Ohio 43205; Columbus Grain Inspection, Inc., 4200 Sullivant Avenue, Columbus, Ohio 43228; Columbus Grain Inspection, Inc., 4250 Groves Road, Columbus, Ohio 43227; Columbus Grain Inspection, Inc., Cherokee Street, Harpster, Ohio 43323; Columbus Grain Inspection, Inc., 12574 State Route 41, N.W., Jeffersonville, Ohio 43128; Columbus Grain Inspection, Inc., Highway 31 South, Kenton, Ohio 43326; Columbus Grain Inspection, Inc., 489 North Main Street, Mansfield, Ohio 44903; Columbus Grain Inspection, Inc., Vandemark Road, Sidney, Ohio 45365; Columbus Grain Inspection, Inc., 149 S. Chillicothe, South Charleston, Ohio 45368; Columbus Grain Inspection, Inc., 3345 Lilly Chapel Road, West Jefferson, Ohio 43162; Columbus Grain Inspection, Inc., 4201 S R 238, Bloomingburg, Ohio 43106, all located within the proposed geographic area. A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of all or specified official inspection functions and where the agency or one or more of its licensed inspectors is located. A service location for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspection functions other than official grading where no licensed inspectors are located. The designation document provides for the inclusion of additional specified service points and service locations which may be established in the future, within the agency's geographic area.

Publication of this notice does not preclude future amendment of this designation consistent with the provisions and objectives of the Act.

Interested persons are hereby given opportunity to submit written views or comments with respect to the geographic area proposed for assignment to this agency. All views and comments should be submitted in writing to the Office of the Director, Compliance Division, Federal Grain Inspection Service, 201 14th Street, S.W., Room 2405, Auditors Building, Washington, D.C. 20250. All materials should be mailed to the Director not later than February 26, 1979. All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (7 CFR

1.27(b)). Consideration will be given to the views and comments so filed with the Director and to all other information available to the U.S. Department of Agriculture before final determination of the assignment of geographic area is made with respect to this matter.

(Sec. 8, Pub. L. 94-582, 90 Stat. 2870 (7 U.S.C. 79); sec. 9, Pub. L. 94-582, 90 Stat. 2875 (7 U.S.C. 79a); sec. 27, Pub. L. 94-582, 90 Stat. 2889 (7 U.S.C. 74 note).)

Done in Washington, D.C. on January 5, 1979.

D. R. GALLIART,
Acting Administrator.

[FR Doc. 79-1175 Filed 1-11-79; 8:45 am]

[3410-02-M]

DETROIT GRAIN INSPECTION SERVICE, INC., DETROIT, MICH.

Official Agency Designation and Proposal of Geographic Area

AGENCY: Federal Grain Inspection Service.

ACTION: Notice and Request for Comments.

SUMMARY: This notice announces the designation of the Detroit Grain Inspection Service, Inc., as an official agency to perform grain inspection services under the authority of the United States Grain Standards Act, as amended. This notice also proposes a geographic area within which that agency will operate.

DATE: Comments by February 26, 1979.

FOR FURTHER INFORMATION CONTACT:

Edith A. Christensen, Federal Grain Inspection Service, Compliance Division, Delegation and Designation Branch, 201 14th Street, S.W., Room 2405, Auditors Building, Washington, D.C. 20250, (202) 447-8525.

SUPPLEMENTARY INFORMATION: The United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*, hereinafter the "Act"), has been amended to extensively modify the official grain inspection system. Pursuant to Sections 7 and 7A of the Act (7 U.S.C. 79 and 79a), the Administrator of the Federal Grain Inspection Service (FGIS) has the authority to designate any State or local governmental agency, or any person, as an official agency for the conduct of all or specified functions involved in official inspection (other than appeal inspection), weighing, and supervision of weighing of grain at locations where the Administrator determines there is a need for such services. Such a designation shall terminate triennially (7 U.S.C. 79(g)(1) and 79a(c)).

The Detroit Grain Inspection Service, Inc., an existing official agency, made application to be officially designated under the Act, as amended, to perform official inspection functions, not including official weighing.

This is to announce that the FGIS has conducted the required investigation of the Detroit Grain Inspection Service, Inc., which included an onsite review of the inspection point (specified service point).

NOTE.—Section 7(f)(2) of the Act (7 U.S.C. 79(f)(2)) generally provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administrator.

As a result, the Detroit Grain Inspection Service, Inc., was deemed eligible for designation to perform official inspection functions (other than appeal inspection), not including official weighing. A document designating the Detroit Grain Inspection Service, Inc., as an official agency was signed on September 11, 1978.

Said designation also included an interim assignment of geographic area within which the official agency shall officially inspect grain. The geographic area assigned on an interim basis pending final determination in this matter is:

Bounded: on the North by the northern Clinton County line from U.S. Route 27 east; the eastern Clinton County line south to Interstate 69; Interstate 69 northeast to the Shiawassee County line; the Shiawassee County line south; the northern Livingston County line; the northern Oakland County line east to Lapeer County; the western Lapeer County line north to State Route 24; State Route 24 north to State Route 46; State Route 46 east to Lake Huron;

Bounded: on the East by the shoreline south to State Route 50 at Monroe, Michigan;

Bounded: on the South by State Route 50 west-northwest to U.S. Route 127; and

Bounded: on the West by U.S. Route 127 north to U.S. Route 27; U.S. Route 27 north to the northern Clinton County line.

Service locations outside of this geographic area, but also to be serviced by Detroit Grain Inspection Service, Inc., shall include: St. Johns, Michigan, in Clinton County. A service location for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspection functions other than official grading where no licensed inspectors are located.

Interested persons may obtain a map of the proposed geographic area for this agency from the Compliance Division, Delegation and Designation Branch.

The specified service point of this agency is: Detroit Grain Inspection Service, Inc., 111 E. Larned Street, Detroit, Michigan 48226, located within the proposed geographic area. A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of all or specified official inspection functions and where the agency or one or more of its licensed inspectors is located. The designation document provides for the inclusion of additional specified service points and service locations which may be established in the future, within the agency's geographic area.

Publication of this notice does not preclude future amendment of this designation consistent with the provisions and objectives of the Act.

Interested persons are hereby given opportunity to submit written views or comments with respect to the geographic area proposed for assignment to this agency. All views and comments should be submitted in writing to the Office of the Director, Compliance Division, Federal Grain Inspection Service, 201 14th Street, S.W., Room 2405, Auditors Building, Washington, D.C. 20250. All materials should be mailed to the Director not later than February 26, 1979. All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Director and to all other information available to the U.S. Department of Agriculture before final determination of the assignment of geographic area is made with respect to this matter.

(Sec. 8, Pub. L. 94-582, 90 Stat. 2870 (7 U.S.C. 79); sec. 9, Pub. L. 94-582, 90 Stat. 2875 (7 U.S.C. 79a); sec. 27, Pub. L. 94-582, 90 Stat. 2889 (7 U.S.C. 74 note).)

Done in Washington, D.C. on: January 5, 1979.

D. R. GALLIART,
Acting Administrator.

[FR Doc. 79-1174 Filed 1-11-79; 8:45 am]

[3410-02-M]

FOSTORIA GRAIN INSPECTION, FOSTORIA, OHIO

Official Agency Designation and Proposal of Geographic Area

AGENCY: Federal Grain Inspection Service.

ACTION: Notice and Request for Comments.

SUMMARY: This notice announces the designation of the Fostoria Grain Inspection as an official agency to perform grain inspection services under

the authority of the United States Grain Standards Act, as amended. This notice also proposes a geographic area within which that agency will operate.

DATE: Comments by February 26, 1979.

FOR FURTHER INFORMATION CONTACT:

Edith A. Christensen, Federal Grain Inspection Service, Compliance Division, Delegation and Designation Branch, 201 14th Street, S.W., Room 2405, Auditors Building, Washington, D.C. 20250, (202) 447-8525.

SUPPLEMENTARY INFORMATION: The United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*, hereinafter the "Act"), has been amended to extensively modify the official grain inspection system. Pursuant to Sections 7 and 7A of the Act (7 U.S.C. 79 and 79a), the Administrator of the Federal Grain Inspection Service (FGIS) has the authority to designate any State or local governmental agency, or any person, as an official agency for the conduct of all or specified functions involved in official inspection (other than appeal inspection), weighing and supervision of weighing of grain at locations where the Administrator determines there is a need for such services. Such a designation shall terminate triennially (7 U.S.C. 79(g)(1) and 79a(c)).

The Fostoria Grain Inspection, an existing official agency, made application to be officially designated under the Act, as amended, to perform official inspection functions, not including official weighing.

This is to announce that the FGIS has conducted the required investigation of the Fostoria Grain Inspection which included an onsite review of the inspection point (specified service point).

NOTE.—Section 7(f)(2) of the Act (7 U.S.C. 79(f)(2)) generally provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administrator.

As a result, the Fostoria Grain Inspection was deemed eligible for designation to perform official inspection functions (other than appeal inspection), not including official weighing. A document designating the Fostoria Grain Inspection as an official agency was signed on October 25, 1978.

Said designation also included an interim assignment of geographic area within which the official agency shall officially inspect grain. The geographic area assigned on an interim basis pending final determination in this matter is:

Bounded: on the North by the Michigan-Ohio State line from the Williams-Fulton County line east to Lake Erie; the Lake Erie shoreline east to the Ottawa-Sandusky County line;

Bounded: on the East by the Ottawa-Sandusky County line west to State Route 590; State Route 590 south to Seneca County; the Seneca-Sandusky County line east to State Route 53; State Route 53 south to Wyandot County; the southern county line of Seneca County east to State Route 19; State Route 19 south to U.S. Route 30;

Bounded: on the South by U.S. Route 30 west to Allen County; and

Bounded: on the West by the western county line of Hancock County; west on the southern county line of Henry County to State Route 108; State Route 108 north to Napoleon, Ohio; U.S. Route 24 southwest to Defiance County; north on the eastern county line of Defiance County then west on the northern Defiance County line to Williams County; the eastern line of Williams County.

Interested persons may obtain a map of the proposed geographic area for this agency from the Compliance Division, Delegaton and Designation Branch.

The specified service point of this agency is: Fostoria Grain Inspection, 506 Lockwood Avenue, Fostoria, Ohio 44830, located within the proposed geographic area. A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of all or specified official inspection functions and where the agency or one or more of its licensed inspectors is located. A service location for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspection functions other than official grading where no licensed inspectors are located. The designation document provides for the inclusion of additional specified service points and service locations which may be established in the future, within the agency's geographic area.

Publication of this notice does not preclude future amendment of this designation consistent with the provisions and objectives of the Act.

Interested persons are hereby given opportunity to submit written views or comments with respect to the geographic area proposed for assignment to this agency. All views and comments should be submitted in writing to the Office of the Director, Compliance Division, Federal Grain Inspection Service, 201 14th Street, S.W., Room 2405, Auditors Building, Washington, D.C. 20250. All materials should be mailed to the Director not later than February 26, 1979. All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Director and to all other information available to the U.S. Department of Agriculture before final determination of the assignment of geographic area is made with respect to this matter.

(Sec. 8, Pub. L. 94-582, 90 Stat. 2870 (7 U.S.C. 79); sec. 9, Pub. L. 94-582, 90 Stat. 2875 (7 U.S.C. 79a); sec. 27, Pub. L. 94-582, 90 Stat. 2889 (7 U.S.C. 74 note).)

Done in Washington, D.C. on January 5, 1979.

D. R. GALLIART,
Acting Administrator.

[FR Doc. 79-1126 Filed 1-11-79; 8:45 am]

[3410-02-M]

GRAIN INSPECTION SERVICES, INC., BATTLE CREEK, MICH.

Official Agency Designation and Proposal of Geographic Area

AGENCY: Federal Grain Inspection Service.

ACTION: Notice and Request for Comments.

SUMMARY: This notice announces the designation of the Grain Inspection Services, Inc., as an official agency to perform grain inspection services under the authority of the United States Grain Standards Act, as amended. This notice also proposes a geographic area within which that agency will operate.

DATE: Comments by February 26, 1979.

FOR FURTHER INFORMATION CONTACT:

Edith A. Christensen, Federal Grain Inspection Service, Compliance Division, Delegation and Designation Branch, 201 14th Street, S.W., Room 2405, Auditors Building, Washington, D.C. 20250, (202) 447-8525.

SUPPLEMENTARY INFORMATION: The United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*, hereinafter the "Act"), has been amended to extensively modify the official grain inspection system. Pursuant to Sections 7 and 7A of the Act (7 U.S.C. 79 and 79a), the Administrator of the Federal Grain Inspection Service (FGIS) has the authority to designate any State or local governmental agency, or any person, as an official agency for the conduct of all or specified functions involved in official inspection (other than appeal inspection), weighing, and supervision of weighing of grain at locations where the Administrator determines there is a need for such services. Such a designation shall terminate triennially (7 U.S.C. 79(g)(1) and 79a(c)).

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The Grain Inspection Services, Inc., an existing official agency, made application to be officially designated under the Act, as amended, to perform official inspection functions, not including official weighing.

This is to announce that the FGIS has conducted the required investigation of the Grain Inspection Services, Inc., which included an onsite review of the inspection point (specified service point).

NOTE.—Section 7(f)(2) of the Act (7 U.S.C. 79(f)(2)) generally provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administrator.

As a result, the Grain Inspection Services, Inc., was deemed eligible for designation to perform official inspection functions (other than appeal inspection), not including official weighing. A document designating the Grain Inspection Services, Inc., as an official agency was signed on August 31, 1978.

Said designation also included an interim assignment of geographic area within which the official agency shall officially inspect grain. The geographic area assigned on an interim basis pending final determination in this matter is:

Bounded: on the North by the northern Mason County line from Lake Michigan east; the eastern Mason County line south to Newaygo County; the northern Newaygo County line east; the eastern Newaygo County line south to Montcalm County; the Montcalm County line east to Gratiot County; the northern Gratiot County line east to U.S. Route 27;

Bounded: on the East by U.S. Route 27 south to U.S. Route 127; U.S. Route 127 south to the State line; the Michigan-Ohio State line west to the eastern William County line, in Ohio; the William County line south to Defiance County;

Bounded: on the South by the Southern Williams County line west; the Ohio-Indiana State line north; the Michigan-Indiana State line west to Lake Michigan; and

Bounded: on the West by the shoreline north to the northern Mason County line.

Service locations outside this geographic area, but also to be serviced by Grain Inspection Services, Inc., shall include: North Star, Michigan, in Gratiot County; Hudson, Michigan, in Lenawee County. A service location for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspection functions other than official grading, where no licensed inspectors are located.

Exceptions to this designated geographic area are the following service locations inside the area which are serviced by other official agencies: St. Johns, Michigan, in Clinton County to be serviced by Detroit Grain Inspection Service.

Interested persons may obtain a map of the proposed geographic area for this agency from the Compliance Division, Delegation and Designation Branch.

The specified service point of this agency is: Grain Inspection Services, Inc., 24 First Street, Battle Creek, Michigan 49017, located within the proposed geographic area. A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of all or specified official inspection functions and where the agency or one or more of its licensed inspectors is located. The designation document provides for the inclusion of additional specified service points and service locations which may be established in the future, within the agency's geographic area.

Publication of this notice does not preclude future amendment of this designation consistent with the provisions and objectives of the Act.

Interested persons are hereby given opportunity to submit written views or comments with respect to the geographic area proposed for assignment to this agency. All views and comments should be submitted in writing to the Office of the Director, Compliance Division, Federal Grain Inspection Service, 201 14th Street, S.W., Room 2405, Auditors Building, Washington, D.C. 20250. All materials should be mailed to the Director not later than February 26, 1979. All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Director and to all other information available to the U.S. Department of Agriculture before final determination of the assignment of geographic area is made with respect to this matter.

(Sec. 8, Pub. L. 94-582, 90 Stat. 2870 (7 U.S.C. 79); sec. 9, Pub. L. 94-582, 90 Stat. 2875 (7 U.S.C. 79a); sec. 27, Pub. L. 94-582, 90 Stat. 2889 (7 U.S.C. 74 note))

Done in Washington, D.C. on: January 5, 1979.

D. R. GALLIART,
Acting Administrator.

[FR Doc. 79-1173 Filed 1-11-79; 8:45 am]

[3410-02-M]

LIMA GRAIN INSPECTION SERVICE, LIMA, OHIO

Official Agency Designation and Proposal of Geographic Area

AGENCY: Federal Grain Inspection Service.

ACTION: Notice and Request for Comments.

SUMMARY: This notice announces the designation of the Lima Grain Inspection Service as an official agency to perform grain inspection services under the authority of the United States Grain Standards Act, as amended. This notice also proposes a geographic area within which that agency will operate.

DATE: Comments by February 26, 1979.

FOR FURTHER INFORMATION CONTACT:

Edith A. Christensen, Federal Grain Inspection Service, Compliance Division, Delegation and Designation Branch, 201 14th Street, S.W., Room 2405, Auditors Building, Washington, D.C. 20250, (202) 447-8525.

SUPPLEMENTARY INFORMATION: The United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*, hereinafter the "Act"), has been amended to extensively modify the official grain inspection system. Pursuant to Sections 7 and 7A of the Act (7 U.S.C. 79 and 79a), the Administrator of the Federal Grain Inspection Service (FGIS) has the authority to designate any State or local governmental agency, or any person, as an official agency for the conduct of all or specified functions involved in official inspection (other than appeal inspection), weighing, and supervision of weighing of grain at locations where the Administrator determines there is a need for such services. Such a designation shall terminate triennially (7 U.S.C. 79(g)(1) and 79a(c)).

The Lima Grain Inspection Service, an existing official agency, made application to be officially designated under the Act, as amended, to perform official inspection functions, not including official weighing.

This is to announce that the FGIS has conducted the required investigation of the Lima Grain Inspection Service which included an onsite review of the inspection point (specified service point).

NOTE.—Section 7(f)(2) of the Act (7 U.S.C. 79(f)(2)) generally provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administrator.

As a result, the Lima Grain Inspection Service was deemed eligible for designation to perform official inspection functions (other than appeal inspection), not including official weighing. A document designating the Lima Grain Inspection Service as an official agency was signed on August 31, 1978.

Said designation also included an interim assignment of geographic area within which the official agency shall officially inspect grain. The geographic area assigned on an interim basis pending final determination in this matter is:

Bounded: on the North by the northern Defiance County line east; the eastern Defiance County line south to U.S. Route 24; U.S. Route 24 northeast to Napoleon, Ohio;

Bounded: on the East by State Route 108 from Napoleon, Ohio, south to Putnam County; the northern Putnam County line east; the eastern Putnam County line south; the eastern Allen County line south to Hardin County; the northern Hardin County line east to U.S. Route 68; U.S. route 68 south to Bellefontaine, Ohio;

Bounded: on the South by U.S. Route 47 from Bellefontaine, Ohio, west-southwest to Sidney, Ohio; Interstate 75 south to the southern Shelby County line; the southern Shelby County line west; the western Shelby County line north; the southern Mercer County line west to the State line;

Bounded: on the West by the Ohio-Indiana State line north to the northern Defiance County line.

Interested persons may obtain a map of the proposed geographic area for this agency from the Compliance Division, Delegation and Designation Branch.

The specified service point of this agency is: Lima Grain Inspection Service, 2242 Arcadia Avenue, Lima, Ohio 45805, located within the proposed geographic area. A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of all or specified official inspection functions and where the agency or one or more of its licensed inspectors is located. The designation document provides for the inclusion of additional specified service points and service locations which may be established in the future, within the agency's geographic area.

Publication of this notice does not preclude future amendment of this designation consistent with the provisions and objectives of the Act.

Interested persons are hereby given opportunity to submit written views or comments with respect to the geographic area proposed for assignment to this agency. All views and comments should be submitted in writing to the Office of the Director, Compliance Division, Federal Grain Inspection Service, 201 14th Street, S.W., Room 2405, Auditors Building, Washington, D.C. 20250. All materials should be mailed to the Director not later than February 26, 1979. All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Director and to all other information available to the U.S. Department of Agriculture before final determination of the assignment of geographic area is made with respect to this matter.

(Sec. 8, Pub. L. 94-582, 90 Stat. 2870 (7 U.S.C. 79); sec. 9, Pub. L. 94-582, 90 Stat. 2875 (7 U.S.C. 79a); sec. 27, Pub. L. 94-582, 90 Stat. 2889 (7 U.S.C. 74 note))

Done in Washington, D.C. on: January 5, 1979.

D. R. GALLIART,
Acting Administrator.

[FR Doc. 79-1172 Filed 1-11-79; 8:45 am]

[3410-02-M]

PARIS ILLINOIS GRAIN INSPECTION, PARIS, ILL.

Official Agency Designation and Proposal of Geographic Area

AGENCY: Federal Grain Inspection Service.

ACTION: Notice and Request for Comments.

SUMMARY: This notice announces the designation of the Paris Illinois Grain Inspection as an official agency to perform grain inspection services under the authority of the United States Grain Standards Act, as amended. This notice also proposes a geographic area within which that agency will operate.

DATE: Comments by February 26, 1979.

FOR FURTHER INFORMATION CONTACT:

Edith A. Christensen, Federal Grain Inspection Service, Compliance Division, Delegation and Designation Branch, 201 14th Street, S.W., Room 2405, Auditors Building, Washington, D.C. 20250, (202) 447-8525.

SUPPLEMENTARY INFORMATION: The United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*, hereinafter the "Act"), has been amended to extensively modify the official grain inspection system. Pursuant to Sections 7 and 7A of the Act (7 U.S.C. 79 and 79a), the Administrator of the Federal Grain Inspection Service (FGIS) has the authority to designate any State or local governmental agency, or any person, as an official agency for the conduct of all or specified functions involved in official inspection (other than appeal inspection), weighing, and supervision of weighing of grain at locations where the Administrator determines there is a need for such services. Such a designation shall terminate triennially (7 U.S.C. 79(g)(1) and 79a(c)).

The Paris Illinois Grain Inspection, an existing official agency, made application to be officially designated under the Act, as amended, to perform official inspection functions, not including official weighing.

This is to announce that the FGIS has conducted the required investigation of the Paris Illinois Grain Inspection which included an onsite review of the inspection point (specified service point).

NOTE.—Section 7(f)(2) of the Act (7 U.S.C. 79(f)(2)) generally provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administrator.

As a result, the Paris Illinois Grain Inspection was deemed eligible for designation to perform official inspection functions (other than appeal inspection), not including official weighing. A document designating the Paris Illinois Grain Inspection as an official agency was signed on August 25, 1978.

Said designation also included an interim assignment of geographic area within which the official agency shall officially inspect grain. The geographic area assigned on an interim basis pending final determination in this matter is:

Bounded: on the North by U.S. Route 36 from the western Edgar County line in Illinois; east across the State line to Parke County in Indiana; the western Parke County line north to Fountain County; the northern Parke County line east to Putnam County; the northern Putnam County line east to Hendricks County;

Bounded: on the East by the eastern county lines of Putnam County, Owen County, and Greene County;

Bounded: on the South by the southern Greene County line west to Sullivan County; the southern Sullivan County line west to U.S. Route 41 (150); U.S. Route 41 (150) south to U.S. Route 50; U.S. Route 50 west across the State line to Illinois State Route 33; State Route 33 north to the western Crawford County line; and

Bounded: on the West by the western Crawford County line north to Clark County; the western county lines of Clark County and Edgar County north to U.S. Route 36.

Service locations outside of this geographic area, but also to be serviced by Paris Illinois Grain Inspection shall include: Dana, Indiana, in Vermillion County; Newman, Illinois, in Douglas County; and Oakland, Illinois, in Coles

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County. A service location for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspection functions other than official grading where no licensed inspectors are located.

Exceptions to this designated geographic area are the following service locations inside the area which are serviced by other official agencies: Casey, Illinois, in Clark County, to be serviced by the Illinois Department of Agriculture.

Interested persons may obtain a map of the proposed geographic area for this agency from the Compliance Division, Delegation and Designation Branch.

The specified service point of this agency is: Paris Illinois Grain Inspection, 1020 North Central Avenue, Paris, Illinois 61944, located within the proposed geographic area. A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of all or specified official inspection functions and where the agency or one or more of its licensed inspectors is located. The designation document provides for the inclusion of additional specified service points and service locations which may be established in the future, within the agency's geographic area.

Publication of this notice does not preclude future amendment of this designation consistent with the provisions and objectives of the Act.

Interested persons are hereby given opportunity to submit written views or comments with respect to the geographic area proposed for assignment to this agency. All views and comments should be submitted in writing to the Office of the Director, Compliance Division, Federal Grain Inspection Service, 201 14th Street, S.W., Room 2405, Auditors Building, Washington, D.C. 20250. All materials should be mailed to the Director not later than February 26, 1979. All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Director and to all other information available to the U.S. Department of Agriculture before final determination of the assignment of geographic area is made with respect to this matter.

(Sec. 8, Pub. L. 94-582, 90 Stat. 2870 (7 U.S.C. 79); sec. 9, Pub. L. 94-582, 90 Stat. 2875 (7 U.S.C. 79a); sec. 27, Pub. L. 94-582, 90 Stat. 2889 (7 U.S.C. 74 note))

Done in Washington, D.C. on January 5, 1979.

D. R. GALLIART,
Acting Administrator.

[FR Doc. 79-1163 Filed 1-11-79; 8:45 am]

[3410-02-M]

QUINCY GRAIN INSPECTION & WEIGHING SERVICE, QUINCY, ILL.

Official Agency Designation and Proposal of Geographic Area

AGENCY: Federal Grain Inspection Service.

ACTION: Notice and Request for Comments.

SUMMARY: This notice announces the designation of the Quincy Grain Inspection & Weighing Service as an official agency to perform grain inspection services under the authority of the United States Grain Standards Act, as amended. This notice also proposes a geographic area within which that agency will operate.

DATE: Comments by February 26, 1979.

FOR FURTHER INFORMATION CONTACT:

Edith A. Christensen, Federal Grain Inspection Service, Compliance Division, Delegation and Designation Branch, 201 14th Street, S.W., Room 2405, Auditors Building, Washington, D.C. 20250, (202) 447-8525.

SUPPLEMENTARY INFORMATION: The United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*, hereinafter the "Act"), has been amended to extensively modify the official grain inspection system. Pursuant to Sections 7 and 7A of the Act (7 U.S.C. 79 and 79a), the Administrator of the Federal Grain Inspection Service (FGIS) has the authority to designate any State or local governmental agency, or any person, as an official agency for the conduct of all or specified functions involved in official inspection (other than appeal inspection), weighing, and supervision of weighing of grain at locations where the Administrator determines there is a need for such services. Such a designation shall terminate triennially (7 U.S.C. 79(g)(1) and 79a(c)).

The Quincy Grain Inspection & Weighing Service, and existing official agency, made application to be officially designated under the Act, as amended, to perform official inspection functions, not including official weighing.

This is to announce that the FGIS has conducted the required investigation of the Quincy Grain Inspection & Weighing Service which included an onsite review of the inspection point (specified service point).

NOTE.—Section 7(f)(2) of the Act (7 U.S.C. 79(f)(2)) generally provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Adminstrator.

As a result, the Quincy Grain Inspection & Weighing Service was deemed eligible for designation to perform official inspection functions (other than appeal inspection), not including official weighing. A document designating the Quincy Grain Inspection & Weighing Service as an official agency was signed on August 25, 1978.

Said designation also included an interim assignment of geographic area within which the official agency shall officially inspect grain. The geographic area assigned on an interim basis pending final determination in this matter is: the area within Illinois in Adams County and Brown County.

Exceptions to this designated geographic area are the following service locations inside the area which are serviced by other official agencies: Meyer and Ursa, Illinois, in Adams County to be serviced by Keokuk Grain Inspection Service, Inc. A service location for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspection functions other than official grading where no licensed inspectors are located.

Interested persons may obtain a map of the proposed geographic area for this agency from the Compliance Division, Delegation and Designation Branch.

The specified service point of this agency is: Quincy Grain Inspection & Weighing Service, 902 South 6th Street, P.O. Box 755, Quincy, Illinois 62301, located within the proposed geographic area. A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of all or specified official inspection functions and where the agency or one or more of its licensed inspectors is located. The designation document provides for the inclusion of additional specified service points and service locations which may be established in the future, within the agency's geographic area.

Publication of this notice does not preclude future amendment of this designation consistent with the provisions and objectives of the Act.

Interested persons are hereby given opportunity to submit written views or comments with respect to the geographic area proposed for assignment to this agency. All views and comments should be submitted in writing to the Office of the Director, Compliance Division, Federal Grain Inspection Service, 201 14th Street, S.W., Room 2405, Auditors Building, Washington, D.C. 20250. All materials should be mailed to the Director not later than February 26, 1979. All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Director and to all other information available to the U.S. Department of Agriculture before final determination of the assignment of geographic area is made with respect to this matter.

(Sec. 8, Pub. L. 94-582, 90 Stat. 2870 (7 U.S.C. 79); sec. 9, Pub. L. 94-582, 90 Stat. 2875 (7 U.S.C. 79a); sec. 27, Pub. L. 94-582, 90 Stat. 2889 (7 U.S.C. 74 note))

Done in Washington, D.C. on: January 5, 1979.

D. R. GALLIART,
Acting Administrator.

[FR Doc. 79-1164 Filed 1-11-79; 8:45 am]

[3410-02-M]

SPRINGFIELD GRAIN INSPECTION DEPARTMENT, SPRINGFIELD, ILL.

Official Agency Designation and Proposal of Geographic Area

AGENCY: Federal Grain Inspection Service.

ACTION: Notice and Request for Comments.

SUMMARY: This notice announces the designation of the Springfield Grain Inspection Department as an official agency to perform grain inspection services under the authority of the United States Grain Standards Act, as amended. This notice also proposes a geographic area within which that agency will operate.

DATE: Comments by February 26, 1979.

FOR FURTHER INFORMATION CONTACT:

Edith A. Christensen, Federal Grain Inspection Service, Compliance Division, Delegation and Designation Branch 201 14th Street, S.W., Room 2405, Auditors Building, Washington, D.C. 20250, (202) 447-8525.

SUPPLEMENTARY INFORMATION: The United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*, hereinafter the "Act"), has been amended to extensively modify the official grain inspection system. Pursuant to Sections 7 and 7A of the Act (7 U.S.C. 79 and 79a), the Administrator of the Federal Grain Inspection Service (FGIS) has the authority to designate any State or local governmental agency, or any person, as an official agency for the conduct of all or specified functions involved in official inspection (other than appeal inspection), weighing, and supervision of weighing of grain at locations where the Administrator determines there is a need for such services. Such a designation shall terminate triennially (7 U.S.C. 79(g)(1) and 79a(c)).

The Springfield Grain Inspection Department, an existing official agency, made application to be officially designated under the Act, as amended, to perform official inspection functions, not including official weighing.

This is to announce that the FGIS has conducted the required investigation of the Springfield Grain Inspection Department which included an onsite review of the inspection point (specified service point).

NOTE.—Section 7(f)(2) of the Act (7 U.S.C. 79(f)(2)) generally provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administrator.

As a result, the Springfield Grain Inspection Department was deemed eligible for designation to perform official inspection functions (other than appeal inspection), not including official weighing. A document designating the Springfield Grain Inspection department as an official agency was signed on September 11, 1978.

Said designation also included an interim assignment of geographic area within which the official agency shall officially inspect grain. The geographic area assigned on an interim basis pending final determination in this matter is:

Bounded: on the North by the northern Schuyler County line east to the Illinois River; the Illinois River southwest to Cass County; the northern Cass County line; the northern Mendard County line; the western Logan County line north to State Route 10; State Route 10 east to the west side of Beason, Illinois;

Bounded: on the East by a straight line from the west side of Beason, Illinois southwest to Elkhart, Illinois, on Interstate 55; a straight line from Elkhart southeast to Stonington, Illinois, on State Route 48; a straight line from Stonington southwest to Irving, Illinois, on State Route 16;

Bounded: on the South by State Route 16 west to Interstate 55; a straight line from the junction of Interstate 55 and State Route 16 northwest to the junction of State Route 111 and the Morgan County line; the southern Morgan County line and Scott County line west to the Illinois River; and

Bounded; on the West by the Illinois River north to Schuyler County; the southern and western county lines of Schuyler County.

Service locations outside of this geographic area, but also to be serviced by Springfield Grain Inspection Department, shall include: Florence, Illinois, in Pike County. A service location for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspection functions other than official grading where no licensed inspectors are located.

Interested persons may obtain a map of the proposed geographic area for this agency from the Compliance Division, Delegation and Designation Branch.

The specified service point of this agency is: Springfield Grain Inspection Department, 1301 North 15th Street, Springfield, Illinois 62702, located within the proposed geographic area. A specified service point for the purpose of this notice is a city, town, or other loction specified by an agency for the conduct of all or specified official inspection functions and where the agency or one or more of its licensed inspectors is located. The designation document provides for the inclusion of additional specified service points and service locations which may be established in the future, within the agency's geographic area.

Publication of this notice does not preclude future amendment of this designation consistent with the provisions and objectives of the Act.

Interested persons are herey given opportunity to submit written views or comments with respect to the geographic area proposed for assignment to this agency. All views and comments should be submitted in writing to the Office of the Director, Compliance Division, Federal Grain Inspection Service, 201 14th Street, S.W., Room 2405, Auditors Building, Washington, D.C. 20250. All materials should be mailed to the Director not later than February 26, 1979. All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Director and to all other information available to the U.S. Department of Agriculture before final determination of the assignment of geographic area is made with respect to this matter.

(Sec. 8, Pub. L. 94-582, 90 Stat. 2870 (7 U.S.C. 79); sec. 9, Pub. L. 94-582, 90 Stat. 2875 (7 U.S.C. 79a); sec. 27, Pub. L. 94-582, 90 Stat. 2889 (7 U.S.C. 74 note))

Done in Washington, D.C. on: January 5, 1979.

D. R. GALLIART,
Acting Administrator.

[FR Doc. 79-1166 Filed 1-11-79; 8:45 am]

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[3410-02-M]

DECATUR GRAIN INSPECTION, INC., DECATUR, ILL.

Offical Agency Designation and Proposal of Geographic Area

AGENCY: Federal Grain Inspection Service.

ACTION: Notice and request for comments.

SUMMARY: This notice announces the designation of the Decatur Grain Inspection, Inc., as an official agency to perform grain inspection services under the authority of the United States Grain Standards Act, as amended. This notice also proposes a geographic area within which that agency will operate.

DATE: Comments by February 26, 1979.

FOR FURTHER INFORMATION CONTACT:

Edith A. Christensen, Federal Grain Inspection Service, Compliance Division, Delegation and Designation Branch, 201 14th Street, S.W., Room 2405, Auditors Building, Washington, D.C. 20250, (202) 447-8525.

SUPPLEMENTARY INFORMATION: The United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*, hereinafter the "Act"), has been amended to extensively modify the official grain inspection system. Pursuant to Sections 7 and 7A of the Act (7 U.S.C. 79 and 79a), the Administrator of the Federal Grain Inspection Service (FGIS) has the authority to designate any State or local governmental agency, or any person, as an official agency for the conduct of all or specified functions involved in official inspection (other than appeal inspection), weighing, and supervision of weighing of grain at locations where the Administrator determines there is a need for such services. Such a designation shall terminate triennially (7 U.S.C. 79(g)(1) and 79a(c)).

The Decatur Grain Inspection, Inc., an existing official agency, made application to be officially designated under the Act, as amended, to perform official inspection functions, not including official weighing.

This is to announce that the FGIS has conducted the required investigation of the Decatur Grain Inspection, Inc., which included an onsite review of the inspection point (specified service point).

NOTE.—Section 7(f)(2) of the Act (7 U.S.C. 79(f)(2)) generally provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administrator.

As a result, the Decatur Grain Inspection, Inc., was deemed eligible for designation to perform official inspection functions (other than appeal inspection), not including official weighing. A document designating the Decatur Grain Inspection, Inc., as an official agency was signed on November 13, 1978.

Said designation also included an interim assignment of geographic area within which the official agency shall officially inspect grain. The geographic area assigned on an interim basis pending final determination in this matter is:

Bounded: on the North by the northern and eastern county lines of DeWitt County; the eastern county line of Macon County south to Interstate 72; Interstate 72 northeast to the eastern Piatt County line;

Bounded: on the East by the eastern Piatt, Moultrie, and Shelby County lines;

Bounded: on the South by southern Shelby County line west; a straight line running along the southern Montgomery County line west to State Route 16, a point northeast of Irving, Illinois; and

Bounded: on the West by a straight line from the point northeast of Irving northeast to Stonington, Illinois; a straight line from Stonington northwest to Elkhart, Illinois; a straight line from Elkhart northeast to the west side of Beason, Illinois, on State Route 10; State Route 10 east to DeWitt County; the western DeWitt County line north.

Exceptions to this designated geographic area are the following service locations inside the area which are serviced by other official agencies: Farmer City, Illinois, in DeWitt County; Cadwell, Illinois, and Lovington, Illinois, in Moultrie County; and Monticello, Illinois, in Piatt County to be serviced by the Champaign-Danville Grain Inspection Departments, Inc.; Sigel, Illinois, in Shelby County to be serviced by the Illinois Department of Agriculture. A service location for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspection functions other than official grading where no licensed inspectors are located.

Interested persons may obtain a map of the proposed geographic area for this agency from the Compliance Division, Delegation and Designation Branch.

The specified service point of this agency is: Decatur Grain Inspection, Inc., 3434 East Wabash Avenue, Decatur, Illinois 62521, located within the proposed geographic area. A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of all or specified official inspection functions and where the agency or one or more of its licensed inspectors is located. The designation document provides for the inclusion of additional specified service points and service locations which may be established in the future, within the agency's geographic area.

Publication of this notice does not preclude future amendment of this designation consistent with the provisions and objectives of the Act.

Interested persons are hereby given opportunity to submit written views or comments with respect to the geographic area proposed for assignment to this agency. All views and comments should be submitted in writing to the Office of the Director, Compliance Division, Federal Grain Inspection Service, 201 14th Street, S.W., Room 2405, Auditors Building, Washington, D.C. 20250. All materials should be mailed to the Director not later than February 26, 1979. All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Director and to all other information available to the U.S. Department of Agriculture before final determination of the assignment of geographic area is made with respect to this matter.

(Sec. 8, Pub. L. 94-582, 90 Stat. 2870 (7 U.S.C. 79); sec. 9, Pub. L. 94-582, 90 Stat. 2875 (7 U.S.C. 79a); sec. 27, Pub. L. 94-582, 90 Stat. 2889 (7 U.S.C. 74 note).)

Done in Washington, D.C. on: January 5, 1979.

D. R. GALLIART,
Acting Administrator.

[FR Doc. 79-1168 Filed 1-11-79; 8:45 am]

[3410-02-M]

OFFICIAL AGENCY DESIGNATION

Official Designation of the Evansville Grain Inspection, Evansville, Ind., and Proposal of Geographic Area

AGENCY: Federal Grain Inspection Service.

ACTION: Notice and Request for Comments.

SUMMARY: This notice announces the designation of the Evansville Grain Inspection as an official agency to perform grain inspection services under the authority of the United States Grain Standards Act, as amended. This notice also proposes a geographic area within which that agency will operate.

DATE: Comments by February 26, 1979.

FOR FURTHER INFORMATION CONTACT:

Edith A. Christensen, Federal Grain Inspection Service, Compliance Division, Delegation and Designation Branch, 201 14th Street, S.W., Room 2405, Auditors Building, Washington, D.C. 20250, (202) 447-8525.

SUPPLEMENTARY INFORMATION: The United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*, hereinafter the "Act"), has been amended to extensively modify the official grain inspection system. Pursuant to Sections 7 and 7A of the Act (7 U.S.C. 79 and 79a), the Administrator of the Federal Grain Inspection Service (FGIS) has the authority to designate any State or local governmental agency, or any person, as an official agency for the conduct of all or specified functions involved in official inspection (other than appeal inspection), weighing, and supervision of weighing of grain at locations where the Administrator determines there is a need for such services. Such a designation shall terminate triennially (7 U.S.C. 79(g)(1) and 79a(c)).

The Evansville Grain Inspection, an existing official agency, made application to be officially designated under the Act, as amended, to perform official inspection functions, not including official weighing.

This is to announce that the FGIS has conducted the required investigation of the Evansville Grain Inspection which included an onsite review of the inspection point (specified service point).

NOTE.—Section 7(f)(2) of the Act (7 U.S.C. 79(f)(2)) generally provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administrative.

As a result, the Evansville Grain Inspection was deemed eligible for designation to perform official inspection functions (other than appeal inspection), not including official weighing. A document designating the Evansville Grain Inspection as an official agency was signed on August 31, 1978.

Said designation also included an interim assignment of geographic area within which the official agency shall officially inspect grain. The geographic area assigned on an interim basis pending final determination in this matter is the area which shall be within the following counties: Daviess County, Dubois County, Gibson County, Knox County, except the area west of U.S. Route 41 (150) from Sullivan County south to U.S. Route 50, Pike County, Posey County, Vanderburgh County, and Warrick County, all in Indiana.

Interested persons may obtain a map of the proposed geographic area for this agency from the Compliance Division, Delegation and Designation Branch.

The specified service point of this agency is: Evansville Grain Inspection, 1320 S. Grand Avenue, P.O. Box 2057, Station D, Evansville, Indiana 47714, located within the proposed geographic area. A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of all or specified official inspection functions and where the agency or one or more of its licensed inspectors is located. A service location for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspection functions other than official grading where no licensed inspectors are located. The designation document provides for the inclusion of additional service locations and specified service points which may be established in the future, within the agency's geographic area.

Publication of this notice does not preclude future amendment of this designation consistent with the provisions and objectives of the Act.

Interested persons are hereby given opportunity to submit written views or comments with respect to the geographic area proposed for assignment to this agency. All views and comments should be submitted in writing to the Office of the Director, Compliance Division, Federal Grain Inspection Service, 201 14th Street, S.W., Room 2405, Auditors Building, Washington, D.C. 20250. All materials should be mailed to the Director not later than February 26, 1979. All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Director and to all other information available to the U.S. Department of Agriculture before final determination of the assignment of geographic area is made with respect to this matter.

(Sec. 8, Pub. L. 94-582, 90 Stat. 2870 (7 U.S.C. 79); sec. 9, Pub. L. 94-582, 90 Stat. 2875 (7 U.S.C. 79a); sec. 27, Pub. L. 94-582, 90 Stat. 2889 (7 U.S.C. 74 note))

Done in Washington, D.C. on: January 5, 1979.

D. R. GALLIART,
Acting Administrator.

[FR Doc. 79-1184 Filed 1-11-79; 8:45 am]

[3410-02-M]

OFFICIAL AGENCY DESIGNATION

Official Designation of the Henderson Grain Inspection, Henderson, Ky., and Proposal of Geographic Area

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: This notice announces the designation of the Henderson Grain Inspection as an official agency to perform grain inspection services under the authority of the United States Grain Standards Act, as amended. This notice also proposes a geographic area within which that agency will operate.

DATE. Comments by February 26, 1979.

FOR FURTHER INFORMATION CONTACT:

Edith A. Christensen, Federal Grain Inspection Service, Compliance Division, Delegation and Designation Branch, 201 14th Street, S.W., Room 2405, Auditors Building, Washington, D.C. 20250, (202) 447-8525)

SUPPLEMENTARY INFORMATION: The United States Grain Standards Act, as amended (7 U.S.C. *et seq.*, hereinafter the "Act"), has been amended to extensively modify the official grain inspection system. Pursuant to Sections 7 and 7A of the Act (7 U.S.C. 79 and 79a), the Administrator of the Federal Grain Inspection Service (FGIS) has the authority to designate any State or local governmental agency, or any person, as an official agency for the conduct of all or specified functions involved in official inspection (other than appeal inspection), weighing, and supervision of weighing of grain at locations where the Administrator determines there is a need for such services. Such a designation shall terminate triennially (7 U.S.C. 79(g)(1) and 79(c)).

The Henderson Grain Inspection, an existing official agency, made application to be officially designated under the Act, as amended, to perform official inspection functions, not including official weighing.

This is to announce that the FGIS has conducted the required investigation of the Henderson Grain Inspection which included an onsite review of the inspection point (specified service point).

NOTE.—Section 7(f)(2) of the Act (7 U.S.C. 79(f)(2)) generally provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administrator.

As a result, the Henderson Grain Inspection was deemed eligible for designation to perform official inspection functions (other than appeal inspection), not including official weighing. A document designating the Henderson Grain Inspection as an official agency was signed on August 31, 1978.

Said designation also included an interim assignment of geographic area within which the official agency shall officially inspect grain. The geograph-

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ic area assigned on an interim basis pending final determination in this matter is: in Kentucky, the area which shall be

Bounded: on the North by the Ohio River from Crittenden County, in Kentucky, northeast to Henderson County;

Bounded: on the East by the eastern Henderson County line south-southwest to U.S. Route Alternate 41; U.S. Route Alternate 41 south to State Route 814; State Route 814 south to State Route 109; State Route 109 south to the Western Kentucky Parkway; the Western Kentucky Parkway east to the Hopkins County line; the Hopkins-Christian-Todd-Logan County lines; the eastern Logan County line to Tennessee;

Bounded: on the South by the Kentucky-Tennessee State line west to the western Christian County line; and

Bounded: on the West by the western Christian County line north to Caldwell County; the Caldwell County line west-northwest to Crittenden County; the western Crittenden County line to the Ohio River;

In Tennessee, the area which shall include the following counties: Cheatham County, Davidson County, and Robertson County.

Exceptions to this designated geographic area are the following service locations inside the area which are serviced by other official agencies: Hopkinsville, Kentucky, and Masonville, Kentucky, in Christian County to be serviced by Cairo Grain Inspection Agency.

Interested persons may obtain a map of the proposed geographic area for this agency from the Compliance Division, Delegation and Designation Branch.

The specified service point of this agency is: Henderson Grain Inspection, West Jefferson Street, P.O. Box 622, Henderson, Kentucky 42420, located within the proposed geographic area. A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of all or specified official inspection functions and where the agency or one or more of its licensed inspectors is located. A service location for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspection functions other than official grading where no licensed inspectors are located. The designation document provides for the inclusion of additional specified service points and service locations which may be established in the future, within the agency's geographic area.

Publication of this notice does not preclude future amendment of this designation consistent with the provisions and objectives of the Act.

Interested persons are hereby given opportunity to submit written views or comments with respect to the geographic area proposed for assignment to this agency. All views and comments should be submitted in writing to the Office of the Director, Compliance Division, Federal Grain Inspection Service, 201 14th Street, S.W., Room 2405, Auditors Building, Washington, D.C. 20250. All materials should be mailed to the Director not later than February 26, 1979. All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Director and to all other information available to the U.S. Department of Agriculture before final determination of the assignment of geographic area is made with respect to this matter.

(Sec. 8, Pub. L. 94-582, 90 Stat. 2870 (7 U.S.C. 79); sec. 9, Pub. L. 94-582, 90 Stat. 2875 (7 U.S.C. 79a); sec. 27, Pub. L. 94-582, 90 Stat. 2889 (7 U.S.C. 74 note))

Done in Washington, D.C. on: January 5, 1979.

D. R. GALLIART,
Acting administrator.

FR Doc. 79-1185 Filed 1-11-79; 8:45 am]

[3410-02-M]

OFFICIAL AGENCY DESIGNATION

Official Designation of the Indianapolis Grain Inspection & Weighing Service, Inc., Indianapolis, Ind., and Praposal of Geographic Area

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: This notice announces the designation of the Indianapolis Grain Inspection & Weighing Service, Inc., as an official agency to perform grain inspection services under the authority of the United States Grain Standards Act, as amended. This notice also proposes a geographic area within which that agency will operate.

DATE: Comments by February 26, 1979.

FOR FURTHER INFORMATION CONTACT:

Edith A. Christensen, Federal Grain Inspection Service, Compliance Division, Delegation and Designation Branch, 201 14th Street, S.W., Room 2405, Auditors Building, Washington, D.C. 20250, (202) 447-8525.

SUPPLEMENTARY INFORMATION: The United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*, hereinafter the "Act"), has been amended to extensively modify the official grain inspection system. Pursuant to Sections 7 and 7A of the Act (7 U.S.C. 79 and 79a), the Administrator of the Federal Grain Inspection Service (FGIS) has the authority to designate any State or local governmental agency, or any person, as an official agency for the conduct of all or specified functions involved in official inspection (other than appeal inspection), weighing, and supervision of weighing of grain at locations where the Administrator determines there is a need for such services. Such a designation shall terminate triennially (7 U.S.C. 79(g)(1) and 79a(c)).

The Indianapolis Grain Inspection & Weighing Service, Inc., an existing official agency, made application to be officially designated under the Act, as amended, to perform official inspection functions, not including official weighing.

This is to announce that the FGIS has conducted the required investigation of the Indianapolis Grain Inspection & Weighing Service, Inc., which included onsite reviews of the inspection points (specified service points).

NOTE.—Section 7(f)(2) of the Act (7 U.S.C. 79(f)(2)) generally provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administrator.

As a result, the Indianapolis Grain Inspection & Weighing Service, Inc., was deemed eligible for designation to perform offcial inspection functions (other than appeal inspection), not including official weighing. A document designating the Indianapolis Grain Inspection & Weighing Service, Inc., as an official agency was signed on November 20, 1978.

Said designation also included an interim assignment of geographic area within which the official agency shall officially inspect grain. The geographic area assigned on an interim basis pending final determination in this matter is:

Bounded: on the North by the southern county line of Boone County; the Boone-Hamilton County line north to State Route 32; State Route 32 east to Fishersburg, Indiana; State Route 13 south to Hancock County; the northern Hancock County line east to Henry County; the Hancock-Henry County line; the Henry-Rush County line east;

Bounded: on the East by the eastern Rush County line south to State Route 244; State Route 244 west to Shelby County; the Shelby County line south to Bartholomew County; the Bartholomew County line south to Jackson County;

Bounded: on the South by the Southern county lines of Bartholomew County, Brown County, and Monroe County; and

Bounded: on the West by the western county lines of Monroe County, Morgan County, and Hendricks County.

Interested persons may obtain a map of the proposed geographic area for this agency from the Compliance Division, Delegation and Designation Branch.

The specified service points of this agency are: Indianapolis Grain Inspection & Weighing Service, Inc., 727 Board of Trade Building, 143 North Meridian Street, Indianapolis, Indiana 46204; and Indianaplis Grain Inspection & Weighing Service, Inc., 2235 North Montcalm, Indianapolis, Indiana 46202, both located within the proposed geographic area. A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of all or specified official inspection functions and where the agency or one or more of its licensed inspectors is located. A service location for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspection functions other than official grading where no licensed inspectors are located. The designation document provides for the inclusion of additional specified service points and service locations which may be established in the future, within the agency's geographic area.

Publication of this notice does not preclude future amendment of this designation consistent with the provisions and objectives of the Act.

Interested persons are hereby given opportunity to submit written views or comments with respect to the geographic area proposed for assignment to this agency. All views and comments should be submitted in writing to the Office of the Director, Compliance Division, Federal Grain Inspection Service, 201 14th Street, S.W., Room 2405, Auditors Building, Washington, D.C. 20250. All materials should be mailed to the Director not later than February 26, 1979. All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Director and to all other information available to the U.S. Department of Agriculture before final determination of the assignment of geographic area is made with respect to this matter.

(Sec. 8, Pub. L. 94-582, 90 Stat. 2870 (7 U.S.C. 79); sec. 9, Pub. L. 94-582, 90 Stat. 2875 (7 U.S.C. 79a); sec. 27, Pub. L. 94-582, 90 Stat. 2889 (7 U.S.C. 74 note).)

Done in Washington, D.C. on: January 5, 1979.

D. R. GALLIART,
Acting Administrator.

[FR Doc. 79-1188 Filed 1-11-79; 8:45 am]

[3410-02-M]

OFFICIAL AGENCY DESIGNATION

Official Designation of the Schneider Inspection Service, Inc., Lowell, Ind., and Proposal of Geographic Area

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice and Request for Comments.

SUMMARY: This notice announces the designation of the Schneider Inspection Service, Inc., as an official agency to perform grain inspection services under the authority of the United States Grain Standards Act, as amended. This notice also proposes a geographic area within which that agency will operate.

DATE: Comments by February 26, 1979.

FOR FURTHER INFORMATION CONTACT:

Edith A. Christensen, Federal Grain Inspection Service, Compliance Division, Delegation and Designation Branch, 201 14th Street, S.W., Room 2405, Auditors Building, Washington, D.C. 20250, (202) 447-8525.

SUPPLEMENTARY INFORMATION: The United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*, hereinafter the "Act"), has been amended to extensively modify the official grain inspection system. Pursuant to Sections 7 and 7A of the Act (7 U.S.C. 79 and 79a), the Administrator of the Federal Grain Inspection Service (FGIS) has the authority to designate any State or local governmental agency, or any person, as an official agency for the conduct of all or specified functions involved in official inspection (other than appeal inspection), weighing, and supervision of weighing of grain at locations where the Administrator determines there is a need for such services. Such a designation shall terminate triennially (7 U.S.C. 79 (g)(1) and 79a(c)).

The Schneider Inspection Service, Inc., an existing official agency, made application to be officially designated under the Act, as amended, to perform official inspection functions, not including official weighing.

This is to announce that the FGIS has conducted the required investigation of the Schneider Inspection Service, Inc., which included an onsite review of the inspection point (specified service point).

NOTE.—Section 7(f)(2) of the Act (7 U.S.C. 79(f)(2)) generally provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administrator.

As a result, the Schneider Inspection Service, Inc., was deemed eligible for designation to perform official inspection functions (other than appeal inspection), not including official weighing. A document designating the Schneider Inspection Service, Inc., as an official agency was signed on October 25, 1978.

Said designation also included an interim assignment of geographic area within which the official agency shall officially inspect grain. The geographic area assigned on an interim basis pending final determination in this matter is:

Bounded: on the North by the northern Will County line, in Illinois, from Interstate 57 east to Indiana; the Illinois-Indiana State line north to Interstate 94; Interstate 94 east-northeast to Michigan; the Indiana-Michigan State line east to LaGrange County;

Bounded: on the East by the eastern Elkhart County line south; the southern Elkhart County line west to Marshall County; the eastern Marshall County line south to Fulton County;

Bounded: on the South by the southern Marshall County line west; the southern Starke County line west to Jasper County; the eastern Jasper County line south-southwest to U.S. Route 24; U.S. Route 24 west to State Route 55; State Route 55 south to Benton County line west to U.S. route 41; U.S. Route 41 north to U.S. Route 24; U.S. Route 24 west across the State line to Illinois State Route 1; and

Bounded: on the West by State Route 1 north to Kankakee County; the southern Kankakee County line west to U.S. Route 52; U.S. Route 52 north to Interstate 57; Interstate 57 north to Cook County.

Service locations outside of this geographic area, but also to be serviced by Schneider Inspection Service, Inc., shall include: Winamac, Indiana, in Pulaski County; and Sheldon, Illinois, in Iroquois County. A service location for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspection functions other than official grading, where no licensed inspectors are located.

An exception to this designated geographic area is the following service location inside the area which is serviced by another official agency: Pittwood, Illinois, in Iroquois County to be serviced by Champaign-Danville Grain Inspection Departments, Inc.

Interested persons may obtain a map of the proposed geographic area for

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this agency from the Compliance Division, Delegation and Designation Branch.

The specified service point of this agency is: Schneider Inspection Service, Inc., 15406 White Oak, Lowell, Indiana 46356, located within the proposed geographic area. A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of all or specified official inspection functions and where the agency or one or more of its licensed inspectors is located. The designation document provides for the inclusion of additional specified service points and service locations which may be established in the future, within the agency's geographic area.

Publication of this notice does not preclude future amendment of this designation consistent with the provisions and objectives of the Act.

Interested persons are hereby given opportunity to submit written views or comments with respect to the geographic area proposed for assignment to this agency. All views and comments should be submitted in writing to the Office of the Director, Compliance Division, Federal Grain Inspection Service, 201 14th Street, S.W., Room 2405, Auditors Building, Washington, D.C. 20250. All materials should be mailed to the Director not later than February 26, 1979 (45 days after publication). All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Director and to all other information available to the U.S. Department of Agriculture before final determination of the assignment of geographic area is made with respect to this matter.

(Sec. 8, Pub. L. 94-582, 90 Stat. 2870 (7 U.S.C. 79); sec. 9, Pub. L. 94-582, 90 Stat. 2875 (7 U.S.C. 79a); sec. 27, Pub. L. 94-582, 90 Stat. 2889 (7 U.S.C. 74 note).)

Done in Washington, D.C. on January 5, 1979.

D. R. GALLIART,
Acting Administrator.

[FR Doc. 79-1187 Filed 1-11-79; 8:45 am]

[3410-02-M]

OFFICIAL AGENCY DESIGNATION

Official Designation of the Titus Grain Inspection, West Lafayette, Ind., and Proposal of Geographic Area

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: This notice announces the designation of the Titus Grain Inspection as an official agency to perform grain inspection services under the authority of the United States Grain Standards Act, as amended. This notice also proposes a geographic area within which that agency will operate.

DATE: Comments by February 26, 1979.

FOR FURTHER INFORMATION CONTACT:

Edith A. Christensen, Federal Grain Inspection Service, Compliance Division, Delegation and Designation Branch, 201 14th Street, S.W., Room 2405, Auditors Building, Washington, D.C. 20250, (202) 447-8525.

SUPPLEMENTARY INFORMATION: The United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*, hereinafter the "Act"), has been amended to extensively modify the official grain inspection system. Pursuant to Sections 7 and 7A of the Act (7 U.S.C. 79 and 79a), the Administrator of the Federal Grain Inspection Service (FGIS) has the authority to designate any State or local governmental agency, or any person, as an official agency for the conduct of all or specified functions involved in official inspection (other than appeal inspection), weighing, and supervision of weighing of grain at locations where the Administrator determines there is a need for such services. Such a designation shall terminate triennially (7 U.S.C. 79(g)(1) and 79a(c)).

The Titus Grain Inspection, an existing official agency, made application to be officially designated under the Act, as amended, to perform official inspection functions, not including official weighing.

This is to announce that the FGIS has conducted the required investigation of the Titus Grain Inspection which included onsite reviews of the inspection points (specified service points).

NOTE.—Section 7(f)(2) of the Act (7 U.S.C. 79(f)(2)) generally provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administrator.

As a result, the Titus Grain Inspection was deemed eligible for designation to perform official inspection functions (other than appeal inspection), not including official weighing. A document designating the Titus Grain Inspection as an official agency was signed on August 31, 1978.

Said designation also included an interim assignment of geographic area within which the official agency shall officially inspect grain. The geographic area assigned on an interim basis pending final determination in this matter is:

Bounded: on the North by the northern Pulaski County line;

Bounded: on the East by the eastern Pulaski County line; the southern Pulaski County line; the eastern White County line; the eastern Carroll County line to State Route 25; State Route 25 southwest to Tippecanoe County; the eastern Tippecanoe County line;

Bounded: on the South by the southern Tippecanoe County line; the eastern Fountain County line; the southern Fountain County line west to U.S. Route 41; and

Bounded: on the West by U.S. Route 41, including Boswell, Indiana, north to the northern Benton County line; the northern Benton County line east to State Route 55; State Route 55 north to U.S. Route 24; U.S. Route 24 east to the western White County line; the western White County line; the western Pulaski County line.

Service locations outside of this geographic area but also to be serviced by Titus Grain Inspection shall include: The Anderson's Elevator, located at Delphi, Indiana, in Carroll County; Dunn and Raub, Indiana, in Benton County; Leiters Ford, Indiana, in Fulton County; Linden, Indiana, in Montgomery County. A service location for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspection functions other than official grading where no licensed inspectors are located.

Exceptions to this designated geographic area are the following service locations inside the area which are serviced by other official agencies: Winamac, Indiana, in Pulaski County to be serviced by Schneider Inspection Service.

Interested persons may obtain a map of the proposed geographic area for this agency from the Compliance Division, Delegation and Designation Branch.

The specified service points of this agency are: Titus Grain Inspection, 1111 E. 800 N., West Lafayette, Indiana 47906; Titus Grain Inspection, Routes 25 & 218 RR 3, Delphi, Indiana 46923, located within the proposed geographic area. A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of all or specified official inspection functions and where the agency or one or more of its licensed inspectors is located. The designation document provides for the inclusion of additional specified service points and service locations which may be established in the future, within the agency's geographic area.

Publication of this notice does not preclude future amendment of this designation consistent with the provisions and objectives of the Act.

Interested persons are hereby given opportunity to submit written views or comments with respect to the geographic area proposed for assigment to this agency. All views and comments should be submitted in writing to the Office of the Director, Compliance Division, Federal Grain Inspection Service, 201 14th Street, S.W., Room 2405, Auditors Building, Washington, D.C. 20250. All materials should be mailed to the Director not later than February 26, 1979 (45 days after publication). All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Director and to all other information available to the U.S. Department of Agriculture before final determination of the assignment of geographic area is made with respect to this matter.

(Sec. 8, Pub. L. 94-582, 90 Stat. 2870 (7 U.S.C. 79); sec. 9, Pub. L. 94-582, 90 Stat. 2875 (7 U.S.C. 79a); sec. 27, Pub. L. 94-582, 90 Stat. 2889 (7 U.S.C. 74 note).)

Done in Washington, D.C. on January 5, 1979.

D. R. GALLIART,
Acting Administrator.

[FR Doc. 79-1183 Filed 1-11-79; 8:45 am]

[3410-02-M]

OFFICIAL AGENCY DESIGNATION

Offical Designation of the William F. Christen Grain Inspection, Decatur, Ind., and Proposal of Geographic Area

AGENCY: Federal Grain Inspection Service.

ACTION: Notice and request for comments.

SUMMARY: This notice announces the designation of the William F. Christen Grain Inspection as an official agency to perform grain inspection services under the authority of the United States Grain Standards Act, as amended. This notice also proposes a geographic area within which that agency will operate.

DATE: Comments by February 26, 1979.

FOR FURTHER INFORMATION CONTACT:

Edith A. Christensen, Federal Grain Inspection Service, Compliance Division, Delegation and Designation Branch, 201 14th Street, S.W., Room 2405, Auditors Building, Washington, D.C. 20250, (202)447-8525.

SUPPLEMENTARY INFORMATION: The United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*, hereinafter the "Act"), has been amended to extensively modify the official grain inspection system. Pursuant to Sections 7 and 7A of the Act (7 U.S.C. 79 and 79a), the Administrator of the Federal Grain Inspection Service (FGIS) has the authority to designate any State or local governmental agency, or any person, as an official agency for the conduct of all or specified functions involved in official inspection (other than appeal inspection), weighing and supervision of weighing of grain at locations where the Administrator determines there is a need for such services. Such a designation shall terminate triennially (7 U.S.C. 79(g)(1) and 79a(c)).

The William F. Christen Grain Inspection, an existing official agency, made applicaton to be officially designated under the Act, as amended, to perform official inspection functions, not including official weighing.

This is to announce that the FGIS has conducted the required investigation of the William F. Christen Grain Inspection which included an onsite review of the inspection point (specified service point).

NOTE.—Section 7(f)(2) of the Act (7 U.S.C. 79(f)(2)) generally provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administrator.

As a result, the William F. Christen Grain Inspection was deemed eligible for designation to perform official inspection functions (other than appeal inspection), not including official weighing. A document designating the William F. Christen Grain Inspection as an official agency was signed on October 20, 1978.

Said designation also included an interim assignment of geographic area within which the official agency shall officially inspect grain. The geographic area assigned on an interim basis pending final determination in this matter is:

Bounded: on the North by the northern Lagrange and Steuben County lines;

Bounded: on the East by the eastern Steuben, Dekalb, Allen, and Adams County lines;

Bounded: on the South by southern Adams and Wells County lines; the eastern Grant County line south to State Route 18; State Route 18 west to State Route 221; State Route 221 north to Huntington County; the southern Huntington County and Wabash County lines; and

Bounded: on the West by the western Wabash County line north to Disko, Indiana; State Route 114 northwest to Akron, Indiana; State Route 19 north to Kosciusko County; the western and northern Kosciusko County lines; the western Noble and Lagrange County lines.

Interested persons may obtain a map of the proposed geographic area for this agency from the Compliance Division, Delegaton and Designation Branch.

The specified service point of this agency is: William F. Christen Grain Inspection, 108 W. Monroe Street, P.O. Box 87, Decatur, Indiana 46733, located within the proposed geographic area. A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of all or specified official inspection functions and where the agency or one or more of its licensed inspectors is located. A service location for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspection functions other than official grading where no licensed inspectors are located. The designation document provides for the inclusion of additional specified service points and service locations which may be established in the future, within the agency's geographic area.

Publication of this notice does not preclude future amendment of this designation consistent with the provisions and objectives of the Act.

Interested persons are hereby given opportunity to submit written views or comments with respect to the geographic area proposed for assignment to this agency. All views and comments should be submitted in writing to the Office of the Director, Compliance Division, Federal Grain Inspection Service, 201 14th Street, S.W., Room 2405, Auditors Building, Washington, D.C. 20250. All materials should be mailed to the Director not later than February 26, 1979. (45 days after publication). All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Director and to all other information available to the U.S. Department of Agriculture before final determination of the assignment of geographic area is made with respect to this matter.

(Sec. 8, Pub. L. 94-582, 90 Stat. 2870 (7 U.S.C. 79); sec. 9, Pub. L. 94-582, 90 Stat. 2875 (7 U.S.C. 79a); sec. 27, Pub. L. 94-582, 90 Stat. 2889 (7 U.S.C. 74 note).)

Done in Washington, D.C. on: January 5, 1979.

D. R. GALLIART,
Acting Administrator.

[FR Doc. 79-1186 Filed 1-11-79; 8:45 am]

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[3410-02-M]

OFFICIAL AGENCY DESIGNATION

Official Designation of the Winchester Grain Inspection, Winchester, Ind., and Proposal of Geographic Area

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: This notice announces the designation of the Winchester Grain Inspection as an official agency to perform grain inspection services under the authority of the United States Grain Standards Act, as amended. This notice also proposes a geographic area within which that agency will operate.

DATE: Comments by February 26, 1979.

FOR FURTHER INFORMATION CONTACT:

Edith A. Christensen, Federal Grain Inspection Service, Compliance Division, Delegation and Designation Branch, 201 14th Street, SW., Room 2405, Auditors Building, Washington, D.C. 20250, (202) 447-8525.

SUPPLEMENTARY INFORMATION: The United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*, hereinafter the "Act"), has been amended to extensively modify the official grain inspection system. Pursuant to Sections 7 and 7A of the Act (7 U.S.C. 79 and 79a), the Administrator of the Federal Grain Inspection Service (FGIS) has the authority to designate any State or local governmental agency, or any person, as an official agency for the conduct of all or specified functions involved in official inspection (other than appeal inspection), weighing, and supervision of weighing of grain at locations where the Administrator determines there is a need for such services. Such a designation shall terminate triennially (7 U.S.C. 79(g)(1) and 79a(c)).

The Winchester Grain Inspection, an existing official agency, made application to be officially designated under the Act, as amended, to perform official inspection functions, not including official weighing.

This is to announce that the FGIS has conducted the required investigation of the Winchester Grain Inspection which included an onsite review of the inspection point (specified service point).

NOTE.—Section 7(f)(2) of the Act (7 U.S.C. 79(f)(2)) generally provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administrator.

As a result, the Winchester Grain Inspection was deemed eligible for designation to perform official inspection functions (other than appeal inspection), not including official weighing. A document designating the Winchester Grain Inspection as an official agency was signed on August 31, 1978.

Said designation also included an interim assignment of geographic area within which the official agency shall officially inspect grain. The geographic area assigned on an interim basis pending final determination in this matter is:

Bounded: on the North by the northern county lines of Blackford County and Jay County;

Bounded: on the East by the Indiana-Ohio State line south to the northern Darke County line in Ohio; the northern, eastern, and southern county lines of Darke County; the Ohio-Indiana State line south to the southern Union County line in Indiana;

Bounded: on the South by the southern county lines of Union County and Fayette County; the western Fayette County line; the southern Henry County line; and

Bounded: on the West by the western Henry County line; the southern Madison County line west to State Route 13; State Route 13 north to State Route 28; north on the western Madison County line; the northern Madison county line; the northern Delaware County line; the western Blackford County line.

Interested persons may obtain a map of the proposed geographic area for this agency from the Compliance Division, Delegation and Designation Branch.

The specified service point of this agency is: Winchester Grain Inspection, 220 North East Street, Winchester, Indiana 47394, located within the proposed geographic area. A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of all or specified official inspection functions and where the agency or one or more of its licensed inspectors is located. A service location for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspection functions other than official grading where no licensed inspectors are located. The designation document provides for the inclusion of additional specified service points and service locations which may be established in the future, within the agency's geographic area.

Publication of this notice does not preclude future amendment of this designation consistent with the provisions and objectives of the Act.

Interested persons are hereby given opportunity to submit written views or comments with respect to the geographic area proposed for assignment to this agency. All views and comments should be submitted in writing to the Office of the Director, Compliance Division, Federal Grain Inspection Service, 201 14th Street, SW., Room 2405, Auditors Building, Washington, D.C. 20250. All materials should be mailed to the Director not later than February 26, 1979. (45 days after publication). All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Director and to all other information available to the U.S. Department of Agriculture before final determination of the assignment of geographic area is made with respect to this matter.

(Sec. 8, Pub. L. 94-582, 90 Stat. 2870 (7 U.S.C. 79); sec. 9, Pub. L. 94-582, 90 Stat. 2875 (7 U.S.C. 79a); sec. 27, Pub. L. 94-582, 90 Stat. 2889 (7 U.S.C. 74 note).)

Done in Washington, D.C. on: January 5, 1979.

D. R. GALLIART,
Acting Administrator.

[FR Doc. 79-1182 Filed 1-11-79; 8:45 am]

[3410-02-M]

OFFICIAL AGENCY DESIGNATION

Official Designation of the Alva Grain Inspection Department, Alva, Okla., and Proposal of Geographic Area

AGENCY: Federal Grain Inspection Service.

ACTION: Notice and Request for Comments.

SUMMARY: This notice announces the designation of the Alva Grain Inspection Department as an official agency to perform grain inspection services under the authority of the United States Grain Standards Act, as amended. This notice also proposes a geographic area within which that agency will operate.

DATE: Comments by February 26, 1979.

FOR FURTHER INFORMATION CONTACT:

Edith A. Christensen, Federal Grain Inspection Service, Compliance Division, Delegation and Designation Branch, 201 14th Street, S.W., Room 2405, Auditors Building, Washington, D.C. 20250, (202) 447-8525

SUPPLEMENTARY INFORMATION: The United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*, hereinafter the "Act"), has been amended to extensively modify the official grain inspection system. Pursuant to Sections 7 and 7A of the Act (7 U.S.C. 79 and 79a), the Administrator of the Federal Grain Inspection Service (FGIS) has the authority to designate any State or local governmental agency, or any person, as an official agency for the conduct of all or specified functions involved in official inspection (other than appeal inspection), weighing, and supervision of weighing of grain at locations where the Administrator determines there is a need for such services. Such a designation shall terminate triennially (7 U.S.C. 79(g)(1) and 79a(c)).

The Alva Grain Inspection Department, an existing official agency, made application to be officially designated under the Act, as amended, to perform official inspection functions, not including official weighing.

This is to announce that the FGIS has conducted the required investigation of the Alva Grain Inspection Department which included an onsite review of the inspection point (specified service point).

NOTE.—Section 7(f)(2) of the Act (7 U.S.C. 79(f)(2)) generally provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administrator.

As a result, the Alva Grain Inspection Department was deemed eligible for designation to perform official inspection functions (other than appeal inspection), not including official weighing. A document designating the Alva Grain Inspection Department as an official agency was signed on August 31, 1978.

Said designation also included an interim assignment of geographic area within which the official agency shall officially inspect grain. The geographic area assigned on an interim basis pending final determination in this matter is:

The area within the following counties: Alfalfa, Beckham, Caddo, Custer, Dewey, Ellis, Greer, Harper, Kiowa, Major, Roger Mills, Washita, Woods, and Woodward, all located in Oklahoma.

Interested persons may obtain a map of the proposed geographic area for this agency from the Compliance Division, Delegation and Designation Branch.

The specified service point of this agency is: Alva Grain Inspection Department, 129 College, P.O. Box 501, Alva, Oklahoma 13717, located within the proposed geographic area. A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of all or specified official inspection functions and where the agency or one or more of its licensed inspectors is located. A service location for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspection functions other than official grading where no licensed inspectors are located. The designation document provides for the inclusion of additional specified service points and service locations which may be established in the future, within the agency's geographic area.

Publication of this notice does not preclude future amendment of this designation consistent with the provisions and objectives of the Act.

Interested persons are hereby given opportunity to submit written views or comments with respect to the geographic area proposed for assignment to this agency. All views and comments should be submitted in writing to the Office of the Director, Compliance Division, Federal Grain Inspection Service, 201 14th Street, S.W., Room 2405, Auditors Building, Washington, D.C. 20250. All materials should be mailed to the Director not later than February 26, 1979. All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Director and to all other information available to the U.S. Department of Agriculture before final determination of the assignment of geographic area is made with respect to this matter.

(Sec. 8, Pub. L. 94-582, 90 Stat. 2870 (7 U.S.C. 79); sec. 9, Pub. L. 94-582, 90 Stat. 2875 (7 U.S.C. 79a); sec. 27, Pub. L. 94-582, 90 Stat. 2889 (7 U.S.C. 74 note))

Done in Washington, D.C. on: January 5, 1979.

D. R. GALLIART,
Acting Administrator.

[FR Doc. 79-1177 Filed 1-11-79; 8:45 am]

[3410-02-M]

OFFICIAL AGENCY DESIGNATION

Official Designation of the Ft. Smith-Van Buren Grain Inspection Service, Van Buren, Ark., and Proposal of Geographic Area

AGENCY: Federal Grain Inspection Service.

ACTION: Notice and Request for Comments.

SUMMARY: This notice announces the designation of the Ft. Smith-Van Buren Grain Inspection Service as an official agency to perform grain inspection services under the authority of the United States Grain Standards Act, as amended. This notice also proposes a geopgraphic area within which that agency will operate.

DATE: Comments by February 26, 1979.

FOR FURTHER INFORMATION CONTACT:

Edith A. Christensen, Federal Grain Inspection Service, Compliance Division, Delegation and Designation Branch, 201 14th Street, S.W., Room 2405, Auditors Building, Washington, D.C. 20250, (202) 447-8525.

SUPPLEMENTARY INFORMATION: The United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*, hereinafter the "Act"), has been amended to extensively modify the official grain inspection system. Pursuant to Sections 7 and 7A of the Act (7 U.S.C. 79 and 79a), the Administrator of the Federal Grain Inspection Service (FGIS) has the authority to designate any State or local governmental agency, or any person, as an official agency for the conduct of all or specified functions involved in official inspection (other than appeal inspection), weighing, and supervision of weighing of grain at locations where the Administrator determines there is a need for such services. Such a designation shall terminate triennially (7 U.S.C. 79(g)(1) and 79a(c)).

The Ft. Smith-Van Buren Grain Inspection Service, an existing official agency, made application to be officially designated under the Act, as amended, to perform official inspection functions, not including official weighing.

This is to announce that the FGIS conducted the required investigation of the Ft. Smith-Van Buren Grain Inspection Service which included an onsite review of the inspection point (specified service point).

NOTE.—Section 7(f)(2) of the Act (7 U.S.C. 79(f)(2)) generally provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administrator.

As a result, the Ft. Smith-Van Buren Grain Inspection Service was deemed eligible for designation to perform official inspection functions (other than appeal inspection), not including official weighing. A document designating the Ft. Smith-Van Buren Grain Inspection Service as an official agency was signed on September 30, 1978.

Said designation also included an interim assignment of geographic area within which the official agency shall officially inspect grain. The geographic area assigned on an interim basis pending final determination in this matter is: the following area in Arkansas and Oklahoma.

In Arkansas, the area shall include the following counties: Benton, Boone, Carroll, Crawford, Franklin, Johnson, Logan, Howard, Madison, Montgomery, Newton, Polk, Sebastian, Sevier, Scott, Washington, and Yell.

V 4 4 / 9 J A 1 2 7 9 UMI

In Oklahoma, the area shall include the following counties: Adair, Cherokee, Choctaw, Delaware, Haskell, Latimer, Le Flore, McCurtain, McIntosh, Muskogee, Ottawa, Pittsburg, Pushmataha, and Sequoyah.

Interested persons may obtain a map of the proposed geographic area for this agency from the Compliance Division, Delegation and Designation Branch.

The specified service point of this agency is: Ft. Smith-Van Buren Grain Inspection Service, Kibler Road, P.O. Box 498, Van Buren, Arkansas 72956, located within the proposed geographic area. A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of all or specified official inspection functions and where the agency or one or more of its licensed inspectors is located. A service location for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspection functions other than official grading where no licensed inspectors are located. The designation document provides for the inclusion of additional specified service points and service locations which may be established in the future, within the agency's geographic area.

Publication of this notice does not preclude future amendment of this designation consistent with the provisions and objectives of the Act.

Interested persons are hereby given opportunity to submit written views or comments with respect to the geographic area proposed for assignment to this agency. All views and comments should be submitted in writing to the Office of the Director, Compliance Division, Federal Grain Inspection Service, 201 14th Street, S.W., Room 2405, Auditors Building, Washington, D.C. 20250. All materials should be mailed to the Director not later than February 26, 1979. All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Director and to all other information available to the U.S. Department of Agriculture before final determination of the assignment of geographic area is made with respect to this matter.

(Sec. 8, Pub. L. 94-582, 90 Stat. 2870 (7 U.S.C. 79); sec. 9, Pub. L. 94-582, 90 Stat. 2875 (7 U.S.C. 79a); sec. 27, Pub. L. 94-582, 90 Stat. 2889 (7 U.S.C. 74 note))

Done in Washington, D.C. on: January 5, 1979.

D. R. GALLIART,
Acting Administrator.

FR Doc. 79-1178 Filed 1-11-79; 8:45 am]

[3410-02-M]

OFFICIAL AGENCY DESIGNATION

Official Designation of the Enid Grain Inspection Co., Inc., Enid, Okla., and Proposal of Geographic Area

AGENCY: Federal Grain Inspection Service.

ACTION: Notice and Request for Comments.

SUMMARY: This notice announces the designation of the Enid Grain Inspection Co., Inc., as an official agency to perform grain inspection services under the authority of the United States Grain Standards Act, as amended. This notice also proposes a geographic area within which that agency will operate.

DATE: Comments by February 26, 1979.

FOR FURTHER INFORMATION CONTACT:

Edith A. Christensen, Federal Grain Inspection Service, Compliance Division, Delegation and Designation Branch, 201 14th Street, S.W., Room 2405, Auditors Building, Washington, D.C. 20250, (202)447-8525.

SUPPLEMENTARY INFORMATION: The United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*, hereinafter the "Act"), has been amended to extensively modify the official grain inspection system. Pursuant to Sections 7 and 7A of the Act (7 U.S.C. 79 and 79a), the Administrator of the Federal Grain Inspection Service (FGIS) has the authority to designate any State or local governmental agency, or any person, as an official agency for the conduct of all or specified functions involved in official inspection (other than appeal inspection), weighing and supervision of weighing of grain at locations where the Administrator determines there is a need for such services. Such a designation shall terminate triennially (7 U.S.C. 79(g)(1) and 79a(c)).

The Enid Grain Inspection Co., Inc., an existing official agency, made application to be officially designated under the Act, as amended, to perform official inspection functions, not including official weighing.

This is to announce that the FGIS has conducted the required investigation of the Enid Grain Inspection Co., Inc., which included onsite reviews of the inspection points (specified service points).

NOTE.—Section 7(f)(2) of the Act (7 U.S.C. 79(f)(2)) generally provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administrator.

As a result, the Enid Grain Inspection Co., Inc., was deemed eligible for designation to perform official inspection functions (other than appeal inspection), not including official weighing. A document designating the Enid Grain Inspection Co., Inc., as an official agency was signed on October 5, 1978.

Said designation also included an interim assignment of geographic area within which the official agency shall officially inspect grain. The geographic area assigned on an interim basis pending final determination in this matter is:

Bounded: on the North and including the counties of Grant, Kay, Osage, Washington, Nowata, and Craig;

Bounded: on the East and including the counties of Mayes, Wagoner, Okmulgee, Okfuskee, Hughs, Coal, Atoka, and Bryan;

Bounded: on the South and including the counties of Marshall, Love, Jefferson, Cotton, Tillman, Jackson, and Harmon; and

Bounded: on the West and including the counties of Comanche, Grady, Canadian, Blaine, Kingfisher, and Garfield, all located in Oklahoma.

Interested persons may obtain a map of the proposed geographic area for this agency from the Compliance Division, Delegation and Designation Branch.

The specified service points of this agency are: Enid Grain Inspection Co., Inc., 2305 N. 10th Street, P.O. Box 229, Enid Oklahoma 73701, Enid Grain Inspection Co., Inc., 5212 West Chanel Road, Port of Catoosa, Oklahoma 74015, both located within the proposed geographic area. A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of all of specified official inspection functions and where the agency or one or more of its licensed inspectors is located. A service location for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspection functions other than official grading where no licensed inspectors are located. The designation document provides for the inclusion of additional specified service points and service locations which may be established in the future, within the agency's geographic area.

Publication of this notice does not preclude future amendment of this designation consistent with the provisions and objectives of the Act.

Interested persons are hereby given opportunity to submit written views or comments with respect to the geographic area proposed for assignment to this agency. All views and comments should be submitted in writing to the Office of the Director, Compliance Division, Federal Grain Inspection Service, 201 14th Street, S.W., Room 2405, Auditors Building, Washington, D.C. 20250. All materials should be mailed to the Director not later than February 26, 1979. All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Director and to all other information available to the U.S. Department of Agriculture before final determination of the assignment of geographic area is made with respect to this matter.

(Sec. 8, Pub. L. 94-582, 90 Stat. 2870 (7 U.S.C. 79); sec. 9, Pub. L. 94-582, 90 Stat. 2875 (7 U.S.C. 79a); sec. 27, Pub. L. 94-582, 90 Stat. 2889 (7 U.S.C. 74 note).)

Done in Washington, D.C. on: January 5, 1979.

D. R. GALLIART,
Acting Administrator.

[FR Doc. 79-1179 Filed 1-11-79; 8:45 am]

[3410-02-M]

OFFICIAL AGENCY DESIGNATION

Official Designation of the Guymon Grain Inspection, Inc., Guymon, Okla., and Proposal of Geographic Area

AGENCY: Federal Grain Inspection Service.

ACTION: Notice and Request for Comments.

SUMMARY: This notice announces the designation of the Guymon Grain Inspection, Inc., as an official agency to perform grain inspection services under the authority of the United States Grain Standards Act, as amended. This notice also proposes a geographic area within which that agency will operate.

DATE: Comments by February 26, 1979.

FOR FURTHER INFORMATION CONTACT:

Edith A. Christensen, Federal Grain Inspection Service, Compliance Division, Delegation and Designation Branch, 201 14th Street, S.W., Room 2405, Auditors Building, Washington, D.C. 20250 (202) 447-8525.

SUPPLEMENTARY INFORMATION: The United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*, hereinafter the "Act"), has been amended to extensively modify the official grain inspection system. Pursuant to Sections 7 and 7A of the Act (7 U.S.C. 79 and 79a), the Administrator of the Federal Grain Inspection Service (FGIS) has the authority to designate any State or local governmental agency, or any person, as an official agency for the conduct of all or specified functions involved in official inspection (other than appeal inspection), weighing, and supervision of weighing of grain at locations where the Administrator determines there is a need for such services. Such a designation shall terminate triennially (7 U.S.C. 79(g)(1) and 79a(c)).

The Guymon Grain Inspection, Inc., an existing official agency, made application to be officially designated under the Act, as amended, to perform official inspection functions, not including official weighing.

This is to announce that the FGIS conducted the required investigation of the Guymon Grain Inspection, Inc., which included an onsite review of the inspection point (specified service point).

NOTE.—Section 7(f)(2) of the Act (7 U.S.C. 79(f)(2)) generally provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administrator.

As a result, the Guymon Grain Inspection, Inc., was deemed eligible for designation to perform official inspection functions (other than appeal inspection), not including official weighing. A document designating the Guymon Grain Inspection, Inc., as an official agency was signed on October 15, 1978.

Said designation also included an interim assignment of geographic area within which the official agency shall officially inspect grain. The geographic area assigned on an interim basis pending final determination in this matter is: the area within the following counties in Oklahoma: Beaver County, Cimarron County, and Texas County.

Interested persons may obtain a map of the proposed geographic area for this agency from the Compliance Division, Delegation and Designation Branch.

The specified service point of this agency is: Guymon Grain Inspection, Inc., Highway 54 East, P.O. Box Drawer E, Guymon, Oklahoma 73942, located within the proposed geographic area. A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of all or specified official inspection functions and where the agency or one or more of its licensed inspectors is located. A service location for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspection functions other than official grading where no licensed inspectors are located. The designation document provides for the inclusion of additional specified service points and service locations which may be established in the future, within the agency's geographic area.

Publication of this notice does not preclude future amendment of this designation consistent with the provisions and objectives of the Act.

Interested persons are hereby given opportunity to submit written views or comments with respect to the geographic area proposed for assignment to this agency. All views and comments should be submitted in writing to the Office of the Director, Compliance Division, Federal Grain Inspection Service, 201 14th Street, S.W., Room 2405, Auditors Building, Washington, D.C. 20250. All materials should be mailed to the Director not later than February 26, 1979. All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Director and to all other information available to the U.S. Department of Agriculture before final determination of the assignment of geographic area is made with respect to this matter.

(Sec. 8, Pub. L. 94-582, 90 Stat. 2870 (7 U.S.C. 79); sec. 9, Pub. L. 94-582, 90 Stat. 2875 (7 U.S.C. 79a); sec. 27, Pub. L. 94-582, 90 Stat. 2889 (7 U.S.C. 74 note))

Done in Washington, D.C. on: January 5, 1979.

D. R. GALLIART,
Acting Administrator.

[FR Doc. 79-1180 Filed 1-11-79; 8:45 am]

[3410-02-M]

OFFICIAL AGENCY DESIGNATION

Offical Designation of the Frankfort Grain Inspection, Inc., Frankfort, Ind., and Proposal of Geographic Area

AGENCY: Federal Grain Inspection Service.

ACTION: Notice and request for comments.

SUMMARY: This notice announces the designation of the Frankfort Grain Inspection, Inc., as an official agency to perform grain inspection services under the authority of the United States Grain Standards Act, as amended. This notice also proposes a geographic area within which that agency will operate.

DATE: Comments by February 26, 1979.

FOR FURTHER INFORMATION CONTACT:

V 4 4 / 9 JA 12 79 UMI

Edith A. Christensen, Federal Grain Inspection Service, Compliance Division, Delegation and Designation Branch, 201 14th Street, S.W., Room 2405, Auditors Building, Washington, D.C. 20250, (202) 447-8525.

SUPPLEMENTARY INFORMATION: The United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*, hereinafter the "Act"), has been amended to extensively modify the official grain inspection system. Pursuant to Sections 7 and 7A of the Act (7 U.S.C. 79 and 79a), the Administrator of the Federal Grain Inspection Service (FGIS) has the authority to designate any State or local governmental agency, or any person, as an official agency for the conduct of all or specified functions involved in official inspection (other than appeal inspection), weighing and supervision of weighing of grain at locations where the Administrator determines there is a need for such services. Such a designation shall terminate triennially (7 U.S.C. 79(g)(1) and 79a(c)).

The Frankfort Grain Inspection Inc., an existing official agency, made application to be officially designated under the Act, as amended, to perform official inspection functions, not including official weighing.

This is to announce that the FGIS has conducted the required investigation of the Frankfort Grain Inspection, Inc., which included an onsite review of the inspection point (specified service point).

NOTE.—Section 7(f)(2) of the Act (7 U.S.C. 79(f)(2)) generally provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administrator.

As a result, the Frankfort Grain Inspection, Inc., was deemed eligible for designation to perform official inspection functions (other than appeal inspection), not including official weighing. A document designating the Frankfort Grain Inspection, Inc., as an official agency was signed on August 25, 1978.

Said designation also included an interim assignment of geographic area within which the official agency shall officially inspect grain. The geographic area assigned on an interim basis pending final determination in this matter is:

Bounded: on the North by the northern Fulton County line;

Bounded: on the East by the eastern Fulton County line south to State Route 19; State Route 19 south to Akron, Indiana; State Route 114 southeast to Disko, Indiana; the eastern Miami County line south to Grant County; the northern Grant County line east to State Route 221; State Route 221 south to State Route 18; State Route 18 east; the eastern Grant County line south; the southern Grant County line; the eastern Tipton County line south; the eastern Hamilton County line south to Fishersburg, Indiana;

Bounded: on the South by State Route 32 west from Fishersburg to Boone County; the eastern Boone County line south; the southern Boone County line; the southern Montgomery County line; and

Bounded: on the West by the western Montgomery County line; the northern Montgomery County line; the western Clinton County line; the western Carroll County line to State Route 25; State Route 25 northeast to Cass County; the western Cass County line; the western Fulton County line.

Exceptions to this designated geographic area are the following service locations inside the area which are serviced by other official agencies: Leiters Ford, Indiana, in Fulton County; Linden, Indiana, in Montgomery County; and Delphi, Indiana, in Carroll County, all to be serviced by Titus Grain Inspection.

Interested persons may obtain a map of the proposed geographic area for this agency from the Compliance Division, Delegation and Designation Branch.

The specified service point of this agency is: Frankfort Grain Inspection, Inc., R R 2, Frankfort, Indiana 46041, located within the proposed geographic area. A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of all or specified official inspection functions and where the agency or one or more of its licensed inspectors is located. A service location for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspection functions other than official grading where no licensed inspectors are located. The designation document provides for the inclusion of additional specified service points and service locations which may be established in the future, within the agency's geographic area.

Publication of this notice does not preclude future amendment of this designation consistent with the provisions and objectives of the Act.

Interested persons are hereby given opportunity to submit written views or comments with respect to the geographic area proposed for assignment to this agency. All views and comments should be submitted in writing to the Office of the Director, Compliance Division, Federal Grain Inspection Service, 201 14th Street, S.W., Room 2405, Auditors Building, Washington, D.C. 20250. All materials should be mailed to the Director not later than February 26, 1979. All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Director and to all other information available to the U.S. Department of Agriculture before final determination of the assignment of geographic area is made with respect to this matter.

(Sec. 8. Pub. L. 94-582, 90 Stat. 2870 (7 U.S.C. 79); sec. 9, Pub. L. 94-582, 90 Stat. 2875 (7 U.S.C. 79a); sec. 27, Pub. L. 94-582, 90 Stat. 2889 (7 U.S.C. 74 note).)

Done in Washington, D.C. on January 5, 1979.

D. R. GALLIART,
Acting Administrator.

[FR Doc. 79-1181 Filed 1-11-79; 8:45 am]

[3410-11-M]

Forest Service

MODOC NATIONAL FOREST GRAZING ADVISORY BOARD

Meeting

The Modoc National Forest Grazing Advisory Board will meet at 1:00 p.m. February 15, 1979 in the Conference Room of the Supervisor's Office at 411 N. Main St. Alturas, California.

The purpose of this meeting is to establish a charter, secure recommendations for use of the range betterment fund, and grazing allotment plans.

The meeting will be open to the public. Persons who wish to attend should notify William E. Britton, Modoc Supervisor's Office; telephone 916-233-3521. Written statements will be filed with the Board before or after the meeting.

KENNETH C. SCOGGIN,
Forest Supervisor.

JANUARY 3, 1979.

[FR Doc. 79-1079 Filed 1-11-79; 8:45 am]

[3410-16-M]

Soil Conservation Service

BLIND BROOK WATERSHED, NEW YORK AND CONNECTICUT

Intent To Prepare an Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is being prepared for the Blind Brook Watershed, Westchester County, New York, and Fairfield County, Connecticut.

The environmental assessment of this federally-assisted action indicates that the project may cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Robert L. Hilliard, State Conservationist, has determined that the preparation and review of an environmental impact statement is needed for this project.

The project or measure concerns a plan for watershed protection and flood prevention. The planned works of improvement include conservation land treatment, two floodwater retarding structures, three dikes, a flood warning system, and an evacuation plan.

A draft environmental impact statement will be prepared and circulated for review by agencies and the public. The SCS invites participation of agencies and individuals with expertise or interest in the preparation of the draft environmental impact statement. The draft environmental impact statement will be developed by Mr. Robert L. Hilliard, State Conservationist, Soil Conservation Service, 771 Federal Building, 100 S. Clinton Street, Syracuse, New York 13260.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Pub. L. 83-566, (16 U.S.C. 1001-1008).)

Dated: January 4, 1979.

JOSEPH W. HAAS,
Assistant Administrator for Water Resources, Soil Conservation Service, U.S. Department of Agriculture.

[FR Doc. 79-1069 Filed 1-11-79; 8:45 am]

[3410-16-M]

UPPER BIG SWAMP CREEK WATERSHED, ALABAMA

Deauthorization of Federal Funding

Pursuant to the Watershed Protection and Flood Prevention Act, Pub. L. 83-566, and the Soil Conservation Service Guidelines (7 CFR Part 622), the Soil Conservation Service gives notice of deauthorization of Federal funding for the Upper Big Swamp Creek Watershed, Lowndes County, Alabama, effective on December 20, 1978.

A notice of intent not to file an environmental impact statement for deauthorization of Federal funding was published on October 10, 1978. Appropriate committees of Congress and concerned Federal, State, and local agencies were notified of the proposed deauthorization at least 60 days prior to the effective date. No objections to deauthorization or expressions of support to complete the project have been made known to the Soil Conservation Service.

Dated: January 4, 1979.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Pub. L. 83-566 (16 U.S.C. 1001-1008).)

JOSEPH W. HAAS,
Assistant Administrator for Water Resoures, Soil Conservation Service, U.S. Department of Agriculture.

[FR Doc. 79-1070 Filed 1-11-79; 8:45 am]

[6320-01-M]

CIVIL AERONAUTICS BOARD

[Order 79-1-30; Dockets 32333 and 33100]

AMERICAN AIRLINES, INC.

Application for Amendment of Certificate of Public Convenience and Necessity; Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 4th day of January, 1979.

On July 26, 1978, American Airlines, Inc. filed an application in Docket 33100 to amend its certificate of public conveniece and necessity for Route 134 to add Zihuatanejo and Manzanillo, Mexico, as intermediate points to its existing Chicago-Dallas/Ft. Worth-San Antonio-Mexico City-Acapulco route. American also sought a purely technical amendment of Condition (5) of its Route 134 certificate to reflect the addition of the two new Mexican points, Specifically, Condition (5) which now reads:

(5) Flights serving the intermediate point San Antonio, Texas, shall originate at Mexico City or Acapulco, Mexico, and terminate at Ft. Worth-Dallas, Texas, or a point north thereof, or originate at Ft. Worth-Dallas, Texas, or a point north thereof, and terminate at Mexico City or Acapulco, Mexico,

would be chaned to read as follows:

(5) Flights serving the intermediate point San Antonio, Texas, shall originate at Acapulco, Zihuatanejo, Manzanillo, or Mexico City, Mexico and terminate at Ft. Worth/Dallas, Texas, or a point north thereof, or originate at Ft. Worth/Dallas, Texas, or a point north thereof, and terminate at Mexico City, Manzanillo, Zihuatanejo or Acapulco, Mexico.

American's application was accompanied by a petition requesting that the Board act by show cause procedures.[1]

In support of its application in Docket 33100, American states that the latest amendment to the U.S.-Mexico Air Transport Agreement, signed January 20, 1978, adds Manzanillo and Zihuantanejo as intermediate points on American's U.S.-Mexico route; that the Board has recently employed show cause procedures to add Mexican points to the routes of Braniff Airways, Inc. (Order 78-5-182) and Western Air Lines, Inc. (Order 78-5-186) where the new Mexican points were added totheir routes by the amended bilateral agreement; that estimates show that Manzanillo and Zihuatanejo will be able to accommodate nearly one million visitors annually by the year 1994; that it proposes to operate three services weekly to each of the new Mexican points via its existing services to Mexico City; and that it anticipates an operating profit of $505,900, annually as a result of the new services.

We have received no answers to the application in Docket 33100, or to the petition to show cause.

We have decided to issue an order directing all interested persons to show cause why American Airlines' certificate for Route 134 should not be amended to add Manzanillo and Zihuatanejo to the Chicago-Dallas/Ft. Worth-San Antonio-Mexico City-Acapulco route, and to modify Condition (5) of Route 134 to reflect the addition of Manzanillo and Zihuatanejo to the route.[2] We tentatively find that American is fit, willing, and able properly to perform the air transportation authorized by the certificate proposed to be issued by this order and to conform to the provisions of the Act and to the Board's rules, regulations and requirements. Furthermore, we tentatively conclude that the public convenience and necessity require the amendments which american seeks. Lastly, we tentatively find that an oral evidentiary hearing is not required in this proceeding.

We have decided to propose a modification of Condition (5) somewhat different from that proposed by American. This condition has been in American's certificate since it first received Mexican authority.[3] It was modified in 1972 to enable American to operate nonstop or one-stop (via Mexico City) San Antonio-Acapulco service in competition with Braniff, but it was not

[1] Earlier, in an application filed April 3, 1978 in Docket 32333, American had requested modification of Route 134's Condition (5). No action was taken on this application, and American's application in Docket 33100 clearly supersedes it. We will, therefore, dismiss as moot American's application in Docket 32333.

[2] Based upon our review of American's Environmental Evaluation, we find that the addition of the new authority will not constitute a "major Federal action" within the meaning of the National Environmental Policy Act of 1969. Moreover, since American's proposed operations will not result in the near-term consumption of 10 million gallons of fuel, our action here will not constitute a "major regulatory action" under the Energy Policy and Conservation Act of 1975.

[3] *Additional Service to Latin America*, 6 C.A.B. 857, 881-82 (1946).

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eliminated because the Board found that removal would significantly change the balance of competitive opportunities between American and Braniff.[4] We, therefore, propose the following simplified long-haul condition:

(5) Flights serving the intermediate point San Antonio, Tex., shall also serve a point in Mexico and Dallas/Ft. Worth, Tex., or a point north thereof.

Any interested persons objecting to the issuance of an order making final the Board's tentative findings and conclusions and amending American's certificate shall file such objections within 30 days of the date of service of this order. Answers to objections shall be filed no later than ten days thereafter. We expect such persons to support their objections with detailed economic analysis. If an evidentiary hearing is requested, the objector should state, in detail, why the hearing is necessary and what relevant and material facts he would expect to establish through such a proceeding that cannot be established in written pleadings. We will not entertain general, vague, or unsupported objections.

ACCORDINGLY: 1. We direct interested persons to show cause why the Board should not (1) issue an order making final the tentative findings and conclusions stated here, and (2) subject to disapproval by the President under section 801(a) of the Act, amend the certificate of public convenience and necessity of American Airlines, Inc. for Route 134 by adding the intermediate points Manzanillo and Zihuatanejo, Mexico, and by revising Condition (5);

2. We direct interested persons having objections to the issuance of an order making final tentative findings and conclusions stated here, or to the proposed certificate amendment in the specimen form attached, to file no later than February 8, 1979, with the Board and serve upon all persons listed in paragraph 7, a statement of objections together with a summary of testimony, statistical data, and other evidence expected to be relied upon to support the stated objections. Answers shall be due no later than February 20, 1979;

3. If timely and properly supported objections are filed, we will give further consideration to the matters and issues raised by the objections before we take further action; [5]

4. In the event no objections are filed, all further procedural steps will be waived, and the Secretary shall enter an order which shall (1) make final the Board's tentative findings and conclusions set forth in this order, and (2) subject to disapproval by the President under section 801(a) of the Act, issue an amended certificate to the applicant;

5. We grant the petition of American Airlines, Inc. for issuance of an order to show cause;

6. We dismiss the application of American Airlines, Inc. in Docket 32333; and

7. We will serve a copy of this order upon American Airlines, Inc., Hughes Air Corp., d/b/a Hughes Airwest, Aeronaves de Mexico, S.A., Mexicana de Aviacion, S.A., the Governors of Illinois and Texas, the Governors of Colima and Guerrero, Mexico, the Ambassador of the Republic of Mexico in Washington, D.C., and the U.S. Departments of State and Transportation.

We shall publish this order in the FEDERAL REGISTER and shall transmit a copy to the President of the United States.

By the Civil Aeronautics Board: [6]

PHYLLIS T. KAYLOR,
Secretary.

[Specimen Certificate]

UNITED STATES OF AMERICA CIVIL AERONAUTICS BOARD, WASHINGTON, D.C.

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY (AS AMENDED) FOR ROUTE 134

AMERICAN AIRLINES, INC. is authorized, subject to the provisions set forth below, the provisions of Title IV of the Federal Aviation Act of 1958, as amended, and the Board's orders, rules, and regulations issued under it, to engage in air transportation of persons, property and mail:

Between the coterminal points Acapulco and Mexico City, Mexico, the intermediate point Monterrey, Mexico, and (a) beyond Monterrey, the terminal point El Paso, Texas, and (b) beyond Monterrey, the intermediate points Zihuatanejo and Manzanillo, Mexico, and San Antonio and Dallas/Ft. Worth, Texas, and the terminal point Chicago, Illinois.

The service is subject to the following terms, conditions and limitations:

(1) The holder shall conduct its operations in accordance with all treaties and agreements between the United States and other countries, and the exercise of the privileges granted by this certificate shall be subject to compliance with such treaties and agreements and to any orders of the Board issued for the purpose of requiring compliance with such treaties and agreements.

(2) The holder shall render service to and from each of the points named, except as temporary suspensions of service may be authorized by the Board, and may begin and terminate or begin or terminate trips at points short of terminal points.

(3) The holder may continue to serve regularly any point named through the airport last regularly used to serve that point before the effective date of this certificate; and may continue to maintain regularly scheduled nonstop service between any two points not named consecutively if nonstop service was regularly scheduled between the points before the effective date of this certificate.

Upon compliance with such procedures as the Board may prescribe, the holder may, in addition, regularly serve a named point through any convenient airport and may operate nonstop service between any two points not named consecutively.

(4) The exercise of the authority granted shall be subject to the holder's first obtaining from the Mexican Government such operating rights as may be necessary.

(5) Flights serving the intermediate point San Antonio, Tex., shall also serve a point in Mexico and Dallas/Ft. Worth, Tex., or a point north of Dallas/Ft. Worth.

The exercise of the privileges granted by this certificate shall be subject to such other reasonable terms, conditions and limitations required by the public interest as the Board may prescribe.

This certificate shall be effective on: .....: *Provided,* That, before the date on which this certificate would otherwise become effective, the Board, either on its own initiative or upon the timely filing of a petition for reconsideration of the order issuing this certificate, may by order or orders extend the effective date from time to time: *Provided, further,* That the continued effectiveness of the authority to serve the intermediate points Zihuatanejo and Manzanillo, Mex., shall be subject to timely payment of such license fees as the Board may prescribe.

The Civil Aeronautics Board, through its Secretary, has executed this certificate and affixed its seal on

(SEAL)

Secretary.

[FR Doc. 79-1198 Filed 1-11-79; 8:45 am]

[6320-01-M]

[Order 79-1-37; Dockets 23080-2; 26487; 34395]

PRIORITY AND NONPRIORITY DOMESTIC SERVICE MAIL RATES INVESTIGATION AND TRANSATLANTIC, TRANSPACIFIC AND LATIN AMERICAN MAIL RATES

Amendment of Certificates of Charter Air Carriers To Authorize Mail Transportation; Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 4th day of January, 1979.

By Order 78-11-80, dated November 16, 1978, the Board, in Docket 23080-2, established final domestic service mail rates for the certificated air carrier and air taxi operator parties to the proceeding. By Order 78-12-159, dated December 21, 1978, the Board, in Docket 26487, established final international service mail rates for certificated air carrier parties to the proceeding. By this order, the Board is proposing to amend the certificates of all charter air carriers to include the authority to transport mail [1] and is proposing to establish final domestic and international service mail rates for charter air carriers, all-cargo air carriers,[2] including those who have been awarded permissive authority to provide all-cargo air service pursuant to ER-1080, intrastate and other carriers who have been awarded unused authority which includes the authority to carry mail, and intrastate and other carriers who have been awarded certificates to engage in nonstop service between any one pair of points in interstate or over seas air transportation under the new automatic entry market program.

The Airline Deregulation Act of 1978 [3] eliminates paragraph 37 from section 101 of the Federal Aviation Act of 1958, as amended. Paragraph 37 defined "supplemental air transportation," now replaced by the term "charter air transportation" to mean charter trips in air transportation, other than the transportation of mail by aircraft. In defining charter air transportation in the new paragraph 15 of section 101, Congress did not exclude the transportation of mail by aircraft. Accordingly, we believe that Congress intended to empower the Board to authorize the charter air carriers to transport mail. We propose to amend the certificates of all existing charter air carriers to include the authority to transport mail and to insure that all future certificates for charter air transportation include such authority. As there are no mail rates in effect for charter air carriers who transport mail, we propose to fix the rates established in Dockets 23080-2 and 26487 as the fair and reasonable final mail rates for those carriers.

Section 418 of the Federal Aviation Act provides for the issuance of "grandfather" certificates awarding mandatory authority for all-cargo air service to carriers who held valid certificates or operated under an exemption and provided scheduled all-cargo air service and to carriers who held valid certificates and provided supplemental air transportation carrying only cargo for a specified "grandfather" period. Those carriers holding "grandfather" certificates, which authorize the carriage of mail, are covered by the domestic and international service mail rates fixed in Dockets 23080-2 and 26487. However, other carriers which have been or subsequently will be certificated pursuant to section 418(a)(4) of the Act have not been made parties to those dockets and thus service mail compensation has not been fixed for their mail transportation services. In addition, there will be a group of carriers (virtually any applicant) to which the Board, pursuant to final rule (ER-1080) adopted November 8, 1978, will award permissive authority to transport mail in all-cargo air service. No mail rate is presently in effect for that group of carriers.

Finally, under the new section 401(d)(5) of the Federal Aviation Act,[4] the Board is empowered to award certificates to air carriers authorizing them to serve routes which had previously constituted unused authority of the former certificate holder. These newly certificated carriers may include intrastate air carriers and carriers who also operate as air taxi operators. In addition, a new section 401(d)(7) of the Federal Aviation Act [5] instructs the Board to award certificates to air carriers and intrastate air carriers to engage in nonstop service between any one pair of points in interstate or overseas air transportation under a new automatic entry market program. There is presently no rate in effect for the transportation of mail pursuant to authority awarded under those two new sections of the Act.

We have reviewed the nature and extent of the air transport services now and hereafter to be provided by the various categories of carriers covered by this order, and we find that those carriers are and will be performing essentially the same services as those provided by the carriers who are presently receiving compensation for the transportation of mail under final domestic service mail rates established by Order 78-11-80 in Docket 23080-2, and for the transportation of mail under final international service mail rates established by Order 78-12-159 in Docket 26487. We therefore find it in the public interest and consistent with the objectives of the Federal Aviation Act to establish as the fair and reasonable rates of mail compensation for charter air services, all-cargo air services, air services over routes previously unused, and air services provided under the automatic market entry program, the final domestic service mail rates fixed by Order 78-11-80 in Docket 23080-2, and the final international service mail rates fixed by Order 78-12-159. We intend that this order shall propose rates of compensation for the transportation of mail in all charter or scheduled services authorized by the Board by certificate or exemption which are not covered by those orders.[6]

Accordingly, pursuant to the Federal Aviation Act of 1958, as amended, and particularly, sections 204(a), 401, 406, and 416(b) thereof, and the regulations promulgated in 14 C.F.R. Part 302,

1. We propose to make all air carriers and air taxi operators covered by this order and all applicants for air services covered by this order parties to the proceedings in Dockets 23080-2 and 26487;

2. We propose to exempt air carriers, charter air carriers, all-cargo air carriers, intrastate air carriers, and air taxi operators now and hereafter covered by this order from the provisions of section 406 of the Federal Aviation Act of 1958, as amended, insofar as the enforcement of section 406 would prevent those carriers from continuing to receive compensation for the transportation of mail under contracts entered into with the Postal service; [7]

3. We propose to amend the certificates of all existing charter air carriers to include the authority to transport mail;

4. We direct all interested persons to show cause why the Board should not adopt the findings and conclusions proposed here, amend the certificates of all existing charter air carriers to include the authority to transport mail and fix the final domestic service mail rates established by Order 78-11-

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[4] *Texas-Mexico Service Investigation,* Order 72-7-49 (served July 17, 1972).

[5] Since provision is made for filing of objections to this order, petitions for reconsideration will not be entertained.

[6] All Members concurred.

[1] No longer prohibited as the result of enactment of Pub. L. 95-504.

[2] Certificated pursuant ot the provisions of section 418 of the Federal Aviation Act of 1958, *as amended by* Pub. L. 95-163.

[3] Pub. L. 95-504, 95th Cong., 2nd Session (October 24, 1978).

[4] Section 10(a) of the Airline Deregulation Act of 1978.

[5] Section 12 of the Airline Deregulation Act of 1978.

[6] We intend, however, that the domestic service mail rates not apply to the services of air taxi or commuter air carriers that are performed pursuant to contracts with the Postal Service, but are subsequently changed to a "certificated" status through authority granted under one of the liberalized entry programs. With the exception of certain air taxi/commuter parties to Docket 23080-2, air taxi operators are not authorized to carry mail except in accordance with contracts with the Postal Service entered into in accordance with the authority in section 5402(c) of the Postal Reorganization Act. [14 CFR Part 298.35; 39 U.S.C. § 5402(c)]. Although certification would change the nature of this relationship, in the sense that an air taxi holding a certificate would be technically subject to the mail rate provisions in section 406 of the Act, rates that the air taxi had previously established under its status as a contract carrier would presumably constitute valid expressions of what the marketplace viewed as the fair and reasonable rate of compensation for the services involved. Accordingly, we believe that it is in the public interest that these rates be permitted to survive certification and we propose to exempt the certificated operations of air taxi and commuter air carriers to the extent that enforcement of section 406 would prevent the continuation of rates established by contract with the Postal Service. As a general matter, of course, our action in this order does not affect the authority of the Postal Service to contract for air services, certificated or noncertificated, in circumstances that accord with the provisions and conditions set forth in section 5402 of the Postal Reorganization Act.

[7] When in accord with the provisions and conditions set forth in section 5402 of the Postal Reorganization Act.

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80 in Docket 23080-2 and the final international service mail rates established by Order 78-12-159 in Docket 26487 as the fair and reasonable rates of compensation to be paid for the transportation of mail by aircraft, the facilities used and useful therefor and the services connected therewith as related to new air services authorized pursuant to Pub. L. 95-163 and Pub. L. 95-504;

5. We direct any interested persons having objections to the issuance of an order making final any of the proposed findings and conclusions with respect to the certificate amendments proposed here to file with us and serve upon all parties to Docket 34395, no later than February 12, 1979, a statement of objections, together with a summary of testimony, statistical data, and other material expected to be relied upon to support the stated objections; answers shall be due no later than February 26, 1979;

6. If timely and properly supported objections are filed, we will accord full consideration to the matters and issues raised by the objections before we take further action; [8]

7. In the event no objections are filed, we will deem all further procedural steps to have been waived and we may proceed to enter an order in accordance with the tentative findings and conslusions set forth here;

8. Further procedures with respect to the rates proposed herein shall be in accordance with the Board's Rules of Practice, particularly Rule 302, *et seq.*, and if there is any objection to the rates specified herein, notice must be filed no later than January 22, 1979, and, if notice is filed, written answer and supporting documents must be filed no later than February 12, 1979;

9. If notice of objection is not filed within the time specified here, or if notice is filed and answer is not filed within the time required, or, if an answer timely filed raises no material issue of fact, we shall deem all interested persons to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order fixing the rates specified herein;

10. If a timely notice of objection and answer are filed presenting issues for hearing, we shall limit the issues going to the establishement of the fair and reasonable rates to those specifically raised by such answer except as otherwise provided in 14 C.F.R. section 302.307;

11. The final domestic service mail rates, including both linehaul and terminal charges, container minimum charges and excess weight charges established in Order 78-11-80 and made applicable to all air carriers and air taxi operator parties to this proceeding shall be paid in their entirety by the Postmaster General;

12. The final international service mail rates established in Order 78-12-159 shall be paid in their entirety by the Postmaster General; and

13. We shall serve this order on all parties to the proceedings in Dockets 23080-2 and 26487.

We shall publish this order in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[9]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 79-1197 Filed 1-11-79; 8:45 am]

[8]Since provision is made for the filing of objections to this order, we will not entertain petitions for reconsideration.

[9]All Members concurred.

[6320-01-M]

[Docket 32920]

ST. LOUIS-DENVER-LAS VEGAS/RENO ROUTE INVESTIGATION

Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held commencing February 13, 1979, at 9:30 a.m. (local time) in Room 1003, Hearing Room A, Universal North Building, 1875 Connecticut Avenue, N.W., Washington, D.C., before the undersigned Administrative Law Judge.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the Prehearing Conference Report, served August 28, 1978, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., January 8, 1979.

JOSEPH J. SAUNDERS,
Administrative Law Judge.

[FR Doc. 79-1196 Filed 1-11-79; 8:45 am]

[6320-01-M]

[Dockets 33048, 33235, 33614, 34075; Order 79-1-35]

TRANS WORLD AIRLINES, INC., ET AL.

Applications for Certificate Authority; Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 4th day of January, 1979.

On July 19, 1978, Trans World Airlines filed an application to amend its certificate for Route 2 to include unrestricted nonstop authority between Colorado Springs, Colorado, and Chicago, Illinois. This application was accompanied by a joint motion of TWA and the Colorado Springs Chamber of Commerce for a hearing. On October 5, 1978, TWA filed a petition requesting us to issue an order to show cause why its certificate application for Colorado Springs-Chicago authority should not be granted.

In support of its application, it states that Continental, the market's monopoly authorized nonstop carrier, provides inadequate service with only one nonstop round trip and two and one-half one-stop round trips between Colorado Springs and Chicago; that it will initially provide two nonstop round trips in the Colorado Springs-Chicago market and first single plane service in the Colorado Springs-New York/Washington markets [1]; that it will offer new fares that are lower than those currently offered by Continental as well as super-saver fares in all on-line connecting markets; and that it will earn an operating profit of $2.7 million computed on a Subpart K costing basis.

The City of Colorado Springs and the New York Chamber of Commerce have filed answers supporting TWA's application.

On August 18, 1978, American Airlines filed an application requesting the same authority requested by TWA,accompanied by a motion to consolidate.[2] This application was amended on September 25, 1978, to include a request, with supporting data, for nonstop authority in the Colorado Springs-St. Louis/Dallas/Fort Worth/ Denver markets, and accompanied by a motion for hearing.[3] On October 7, American petitioned for a show cause order on its amended application, in support of which it states that it will provide first nonstop service in the Colorado Springs-St. Louis market and first competitive nonstop service in the Colorado Springs-Dallas/Fort Worth market; it will provide new single plane service to beyond markets, and it will offer low-fare options in all markets.

TWA and the Colorado Springs Chamber of Commerce filed answers in opposition to American's motion to consolidate. They argue that there is a pressing need for expeditious action on the Colorado Springs-Chicago market and that consideration of other markets would unnecessarily delay the processing of TWA's application.

Subsequently, Northwest Airlines and Ozark Air Lines filed applications

[1]Braniff is authorized to provide single plane service between Colorado Springs and New York/Newark and Washington via Dallas/Fort Worth, but it does not currently exercise that authority.

[2]No supporting data was filed.

[3]The Civil Parties of Dallas and Fort Worth filed an answer supporting American's motion.

for nonstop authority in the Colorado Springs-Chicago/St. Louis/Dallas/Fort Worth/Denver markets, along with motions to consolidate with TWA's application. No supporting data was filed.

The incumbent carriers in the markets have neither filed answers to TWA's motion nor made any other indications that they object to awards of new authority.

Upon consideration of the facts and pleadings in this case, we have tenatively determined that we should grant multiple awards here. We tentatively conclude, on the basis of the tentative findings below, that it is consistent with the public convenience and necessity to award multiple authority, on a category II subsidy-ineligible basis, in the Colorado Springs-Chicago Midway/Chicago O'Hare/St. Louis/Dallas/Fort Worth/ Denver markets and to grant the applications of TWA, American, Northwest, Ozark, and any other fit, willing and able applicant, whose fitness, willingness, and ability can be established by officially noticeable data.[4] Further, we tentatively conclude that no oral evidentiary hearing is needed here since there are no material determinative issues of fact requiring such a hearing for their resolution.

We have tentatively decided to grant Colorado Springs-Chicago Midway and Colorado Springs-Chicago O'Hare authority separately. If any carrier does not use either its Chicago O'Hare-Colorado Springs authority or its Chicago Midway-Colorado Springs authority, another carrier can obtain that authority under section 401(d)(5) of the Act as long as they are listed as separate points on the first carrier's certificate (*see* Order 78-11-41). We find this approach more consistent with the Act's declaration of policy which calls on us to encourage air service at major urban areas through secondary or satellite airports.

Under the Airline Deregulation Act of 1978, we must approve an application for certificate authority unless we find, by a preponderance of the evidence, that approval would not be consistent with the public convenience and necesssity (Pub. L. No. 95-504, section 14). The new Act creates a presumption that the grant of all applications is consistent with the public convenience and necessity. It places on any opponents of these applications the burden of proving them inconsistent with the public convenience and necessity (Pub. L. No. 95-504, section 14). To give such opponents a reasonable opportunity to meet their burden of proof, it is our view that applicants must indicate what type of service they would provide if they served the markets at issue. This does not mean that an applicant must show that it will provide service if it receives authority but rather what the nature of its service would be if it decided to serve. We will give all existing and would-be applicants 15 days from the date of service of this order to supply data,[5] in order to give interested persons sufficient information on the nature of the applicant's proposal to assess consistency with the public convenience and necessity. Our tentative findings concerning all applicants that have not filed illustrative service proposals are contingent on such filings.

Our tentative conclusions comport with the letter and spirit of the Airline Deregulation Act of 1978, particularly the declaration of policy set forth in section 102 which instructs us to rely, to the maximum extent possible, on competitive forces, including potential competition.[6] See our general conclusions about the benefits of multiple permissive authority in *Improved Authority to Wichita Case, et al.*, Order 78-12-106, December 14, 1978. Accordingly, we conclude that it is desirable to award the additional authority sought by the applicants, whether or not services are in fact operated. The existence of additional operating rights in markets now being served by incumbent carriers or authorized to be served will best effect the statute's policy objective of placing maximum reliance on the decisions of the marketplace. This will occur because newly authorized carriers may actually enter the market in order to exploit unmet demand, both in terms of price and service, or because incumbents will be encouraged by the realistic threat of entry to meet such demand. Because demand is dynamic in character and therefore constantly changing, the most effective means to assure that competitive forces will operate quickly and efficiently is to award multiple operating authority to carriers that are fit, willing and able to provide service.

Notwithstanding the foregoing tentative conclusions in support of multiple permissive authority in this proceeding, we wish to make clear that we in no way desire to deter objections that might be asserted under the 1978 Act by air carriers, civic interests or other interested persons. The new statute contains a completely revised declaration of policy in section 102, as well as numerous additional and modified substantive provisions. Some of these statutory changes relate to considerations not expressly covered in the preceding statute. For example, while diversion from existing carriers will not be given decisive weight in rejecting applications for new authority except upon an extraordinary showing of financial jeopardy on the part of one or more existing air carriers, with the consequent loss of air service which cannot be immediately replaced, other provisions suggest that the Congress desires us to take into account other factors. These include, but are not limited to, satellite airport questions and the degree of concentration within the industry and safety. Any party in this proceeding may explain in full why the authority that we propose to grant should not issue. Such explanations should apply specifically to the applications in issue, and should be sufficiently detailed to overcome the presumption of favorable treatment that the Act bestows on applications.

Finally, upon review of the environmental evaluations submitted by TWA for the Colorado Springs-Chicago market and American for the Colorado Springs-St. Louis/Dallas/Fort Worth/ Denver markets, to which no answers have been filed, we find that our decision to award them authority in those markets does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, or a major regulatory action under the Energy Policy and Conservation Act of 1975. We reserve judgment on the environmental consequences of other ap-

[4]Officially noticeable data consist of that information set out in rule 24(M) of the Board's Rules of Practice. Applicants whose fitness cannot be so established must make a showing of fitness, as well as dealing with any questions under sections 408 and 409 of the act. Should such applications be filed, we will then consider how to deal with them procedurally.

On the basis of officially noticable data, we find that TWA, American, Northwest and Ozark are citizens of the United States and are fit, willing and able to perform the air services proposed and to conform to the provisions of the Act and our rules, regulations and requirements.

[5]They should submit an illustrative schedule of service in the markets at issue, which shows all points that they might choose to serve, the type and capacity of the equipment they would likely use and the elapsed trip time of flights in block hours over segments. For the markets at issue only, they should also provide an environmental evaluation as required by Part 312 of our Regulations, and an estimate of the gallons of fuel to be consumed in the first year of operations in the markets if they instituted the proposed service, as well as a statement on the availability of the required fuel.

[6]Section 102(a) specifies as being in the public interest, among other things:

"The placement of maximum reliance on competitive market forces and on actual and potential competition (a) to provide the needed air transportation system, and (b) to encourage efficient and well-managed carriers to earn adequate profits and to attract capital" and "The encouragement, development, and maintenance of an air transportation system relying on actual and potential competition to provide efficiency, innovation, and low prices, and to determine the variety, quality, and price of air transportation services."

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plications, pending submission of environmental data.

We will give interested persons 30 days following the service date of this order to show cause why the tentative findings and conclusions set forth here should not be made final; replies will be due within 10 days thereafter. We expect such persons to direct their objections, if any, to specific markets, and to support such objections with detailed economic analysis. If an evidentiary hearing is requested, the objector should state, in detail, why such a hearing is necessary and what relevant and material facts he would expect to establish through such a proceeding that cannot be established in written pleadings. We will not entertain general, vague, or unsupported objections.

We remind objectors that under the 1978 Act they have the burden of proving why the awards proposed here will not be consistent with the public convenience and necessity.

ACCORDINGLY,

1. We direct all interested persons to show cause why we should not issue an order making final the tentative findings and conclusions stated above and amending the certificate of public convenience and necessity of Trans World Airlines for Route 2 so as to authorize the carrier to engage in nonstop operations between Colorado Springs-Chicago Midway and Colorado Springs-Chicago O'Hare; amending the certificates of public convenience and necessity of American Airlines for Route 4, Northwest Airlines for Route 3 and Ozark for Route 107 so as to authorize them to engage in nonstop operations between Colorado Springs, on the one hand, and St. Louis, Chicago Midway, Chicago O'Hare, Dallas/Fort Worth and Denver, on the other; and amending, to grant any of the authority in issue, the certificates of any other fit, willing and able applicants the fitness of which can be established by officially noticeable material;

2. We direct any interested persons having objections to the issuance of an order making final any of the proposed findings, conclusions, or certificate amendments set forth here, to file with us and serve upon all persons listed in paragraph 7, no later than February 8, 1979, a statement of objections, together with a summary of testimony, statistical data, and other material expected to be relied upon to support the stated objections; answers shall be due no later than February 20, 1979;

3. If timely and properly supported objections are filed, we will accord full consideration to the matters and issues raised by the objections before we take further action;[7]

4. In the event no objections are filed, we will deem all further procedural steps to have been waived and we may proceed to enter an order in accordance with the tentative findings and conclusions set forth here;

5. We grant the motions of American, Northwest and Ozark to Consolidate their applications in Dockets 33235, 33614 and 34075, respectively, with TWA application in Docket 33048;

6. We direct American, Northwest, Ozark and any other applicant for the authority in issue to file the data set forth in footnote 5 no later than January 24, 1979; and

7. We will serve a copy of this order upon all persons named in the service list of Docket 33048.

We will publish this order in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[8]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 79-1199 Filed 1-11-79; 8:45 am]

[7] Since provision is made for the filing of objections to this order we will not entertain petitions for reconsideration.

[8] All Members concurred.

[6335-01-M]

COMMISSION ON CIVIL RIGHTS

CALIFORNIA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the California Advisory Committee (SAC) of the Commission will convene at 2:00 p.m. and will end at 5:00 p.m. on January 27, 1979, at the National Association for Better Broadcasting, 2315 Westwood Boulevard, Los Angeles, California 90064.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Western Regional Office of the Commission, 312 North Spring Street, Room 1015, Los Angeles, California 90012.

The purpose of this meeting is to discuss the establishment of a commission communications policy through research and findings on broadcasting in California.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C. January 9, 1979.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 79-1218 Filed 1-11-79; 8:45 am]

[6335-01-M]

MINNESOTA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Minnesota Advisory Committee (SAC) of the Commission will convene at 5:00 p.m. and will end at 9:00 p.m. on February 7, 1979, at Capp Towers, 77 E. 9th Street, Walnut Room, St. Paul, Minnesota 55119.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Midwestern Regional Office of the Commission, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604.

The purpose of this meeting is to discuss the Police project and plan for the hearing on the same.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C. January 9, 1979.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 79-1219 Filed 1-11-79; 8:45 am]

[6335-01-M]

NEW JERSEY ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the New Jersey Advisory Committee (SAC) of the Commission will convene at 6:30 p.m. and will end at 8:30 p.m. on February 5, 1979, at the Gateway Hilton, Gateway Center, Newark, New Jersey 07102.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northeastern Regional Office of the Commission, 26 Federal Plaza, Room 1639, New York, New York 10007.

The purpose of this meeting is to discuss program planning.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C. January 9, 1979.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 79-1220 Filed 1-11-79; 8:45 am]

[3510-24-M]

DEPARTMENT OF COMMERCE

Economic Development Administration

JEFFERSONVILLE, INDIANA RAILWAY FACILITIES RELOCATION AND RECREATION AREA—VISITORS CENTER DEVELOPMENT

Intent to Prepare an Environmental Impact Statement

Notice is hereby given that, pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Economic Development Administration (EDA) of the Department of Commerce will prepare an environmental impact statement on an application for financial assistance from the city of Jeffersonville, Indiana.

Jeffersonville, in cooperation with private investors and the Baltimore and Ohio Railroad Company, plans to relocate existing railway facilities from the center of the city to an appropriate industrial zone and to redevelop the current railway site into a recreational area and vistors center. The railway facilities will be relocated to a 26-acre industrial site. The recreation-visitors center development will involve 12 acres. No businesses or private dwellings will require relocation.

Federal, State and local agencies, proponents of the proposed action, and interested citizens are invited to assist EDA in developing the scope of the environmental analyses and to advise EDA in preparing the environmental impact statement for this proposal. Expressions of interest should be forwarded as soon as possible to:

Economic Development Administration, U.S. Department of Commerce, 175 West Jackson Boulevard, Suite A-1630, Chicago, Illinios 60604. ATTN: Mr. Budarz.

Dated: January 5, 1979.

ROBERT T. HALL,
Assistant Secretary for Economic Development.

[FR Doc. 79-1075 Filed 1-11-79; 8:45 am]

[3510-25-M]

Industry and Trade Administration

UNIVERSITY OF ILLINOIS, URBANA-CHAMPAIGN CAMPUS, ET AL.

Applications for Duty Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, Bureau of Trade Regulation, U.S. Department of Commerce, Washington, D.C. 20230, on or before February 1, 1979.

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 a.m. and 5:00 p.m., Monday through Friday, in Room 6886C of the Department of Commerce Building, 14th and Constitution Avenue NW., Washington, D.C. 20230.

DOCKET NUMBER: 78-00449. APPLICANT: University of Illinois Urbana-Champaign Campus, Purchasing Division, 223 Administration Building, Urbana, Illinois 61801. ARTICLE: 450 Watt Xenon arc lamp system with lamp and housing and accessories. MANUFACTURER: Photochemical Research Associates, Canada. INTENDED USE OF ARTICLE: The article is intended to be used to study the kinetic decays of photochemicals as well as the spectra of reagents, products, and intermediate compounds. Chemical reactions and/or recombinations on a time scale of from 100 microseconds to milliseconds along with spectra from 4000 to 8000 Angstroms will be studied. APPLICATION RECEIVED BY COMMISSIONER OF CUSTOMS: December 14, 1978.

DOCKET NUMBER: 79-00068. APPLICANT: Washington University, Lindell and Skinker Blvds., St. Louis, Missouri 63130. ARTICLE: Electron Microscope, Model JEM 100S with Haskris Water Chiller. MANUFACTURER: JEOL Ltd., Japan. INTENDED USE OF ARTICLE: The article is intended to be used to study the inner ear tissues and auditory areas of the central nervous system from various experimental animals (chinchilla, guinea pig, gerbil, cat, and monkey). The phenomena to be studied concern injury of these structures by exposure to different noxious agents such as noise, drugs or partial or total lack of oxygen. Studies will be conducted to elucidate the mechanisms of action of noise, drugs and circulatory dysfunction upon the inner ear and auditory portions of the central nervous system. APPLICATION RECEIVED BY COMMISSIONER OF CUSTOMS: December 14, 1978.

DOCKET NUMBER: 79-00069. APPLICANT: National Bureau of Standards, B-344, Metrology Bldg., Washington, D.C. 20234. ARTICLE: Imacon 790/S20 fibre optic coupled camera with S20 photocathode and accessories. MANUFACTURER: John Hadland Ltd., United Kingdom. INTENDED USE OF ARTICLE: The article is intended to be used to study conduction and breakown in insulating materials. Scheduled applications include measurement of the pre-breakdown streamers in transformer oil and water, measurement of the electric field distribution during electrical breakdown at the interface between eposy and compressed sulfur hexafluoride gas, and measurement of the lifetime of selected atomic states during arc extinction in gases. APPLICATION RECEIVED BY COMMISSIONER OF CUSTOMS: December 14, 1978.

DOCKET NUMBER: 79-00075. APPLICANT: University of Mississippi, University, MS 38677. ARTICLE: LKB 2107-010 Batch Microcalorimeter and Accessories. MANUFACTURER: LKB Produkter AB, Sweden. INTENDED USE OF ARTICLE: The article is intended to be used to study the thermodynamics of the binding of specific ligands to proteins. These studies will be conducted to relate the thermodynamics information to the nature of the protein-ligand binding forces. The article will also be used to monitor the kinetics of enzyme catalyzed reactions. In addition, the article will be used to study the heat of detergent micelle formation. The article will be used as an educational tool in the courses Biochemistry Laboratory (Chem 472) and Graduate Research (Chem 697-797). APPLICATION RECEIVED BY COMMISSIONER OF CUSTOMS: December 14, 1978.

DOCKET NUMBER: 79-00076. APPLICANT: Purdue University, Purchasing Department, FREH Building, West Lafayette, Indiana 47907. ARTICLE: Model GX20 Rotating Anode X-ray Generator and Accessories. MANUFACTURER: Marconi Elliott Avionics, United Kindom. INTENDED USE OF ARTICLES: The article is intended to be used as high intensity fine focus X-ray source for the investigation of the crystal and molecular structure of small spherical RNA viruses. APPLICATION RECEIVED BY COMMISSIONER OF CUSTOMS: December 14, 1978.

DOCKET NUMBER: 79-00077. APPLICANT: University of Florida, College of Pharmacy, Box J-4, J. Hillis Miller Health Center, Gainesville, Florida 32610. ARTICLE: LKB 2107-010 Batch Microcalorimeter and accessories. MANUFACTURER: LKB Produkter AB, Sweden. INTENDED USE OF ARTICLE: The article is intended to be used for the study of the binding of drugs to molecules (albumin, enzymes, nucleic acids, polysaccharides, etc.). The binding is investigated by having the macromolecule and drug separated in the mixing cell, then measure the heat changes following

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the mixing from the magnitude of this heat; important information on the strength of binding as well as the binding capacity of the macromolecule can be obtained. The article will also be used in research courses leading to masters and Ph.D degrees, for the teaching of research methods and understanding of drug macromolecule interactions. APPLICATION RECEIVED BY COMMISSIONER OF CUSTOMS: December 14, 1978.

Docket Number: 79-00078. Applicant: Geophysical Institutes, C. T. Elvey Bldg., University of Alaska, Fairbanks, AK 99701. Article: TG-4A Water Level Recorder. Manufacturer: Annderaa Instruments, Canada. Intended Use of Article: The article is intended to be used to measure the basic water circulation parameters under arctic conditions on the Alaskan coastal shelf. The article will be lowered to the bottom of the sea from a small boat and left at the bottom and will record the needed parameters continuously at about 10 minute intervals for a length of time of at least one month. The instrument will then be recovered and the data retrieved. Later, after the ice has formed on the sea, the instrument will be replaced through a hole in the ice after access to the spot via helicopter. The instrument will be left for a period of about 8 months before it will be recovered again. Application Received by Commissioner of Customs: December 14, 1978.

Docket Number: 79-00079. Applicant: DHEW, PHS, National Institute of Dental Research, Building 30, Room B-20, 9000 Rockville Pike, Bethesda, Md. 20014. Article: Stereotaxic Frame and Micromanipulator Frame. Manufacturer: AB Transvertex, Sweden. Intended use of article: The article is intended to be used for research which involves the introduction of a fine micropipette (Tip Diameter less than 1 um) into nerve cells of the spinal cord and brain. Physiological characterization of these nerve cells will be followed by the intracellular iontophoresis of a chemical which will permit observation of the morphology of the cells studied physiologically. The objective of this research is to characterize the function and morphology of nerve cells (and the connections between them) involved in pain perception. Application received by Commissioner of Customs: December 14, 1978.

Docket Number: 79-00080. Applicant: University of Wisconsin-Madison, Laboratory of Molecular Biology, 1525 Linden Drive, Madison, Wisconsin 53706.

ARTICLE: D&M 2008 Electron Microscope and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for the following research/objectives:

(1) Electron Microscope Studies on the Structure and Replication of R plasmid DNA—which includes (a) physical mapping studies of R plasmid DNA and the isolation of R plasmid mutants which affect important plasmid genes and functional sites; (b) The regulation of R plasmid replication; (c) the structure of R plasmid DNA in both the non-replicating and replicating states and the location of R plasmid origins of replication; (d) the mechanism of segregation of plasmid DNA at cellular division and the localization and internal organization of plasmid DNA within bacterial cells.

(2) Ultrastructures of the Excitable Membranes and the Cilia or Normal and Mutants *Parmmecium*,— to understand the structural and mechanistic basis of behavior.

(3) Electron Microscope Studies on the Assembly and Function of Cytoplasmic Microtubules—to study the molecular mechanisms governing the assembly and function of microtubules.

(4) Structure and Mechanism of Assembly of the 308 Ribosome—research concerned with the development of new techniques designed to elucidate the structure, function and mechanism of assembly of the 308 ribosome from *E. coli*.

(5) Organization and Replication of Yeast Ribosomel DNA—a research program designed to (a) gain a more detailed understanding of the fine structure of the repeating units in *Saccharomyees cerevisise* ribosomal DNA, (b) examine the tramacriptional controls affecting their expression, (c) determine the arrangement of the multiple repeating units in yeast chromosomes and characterize the DNA adjacent to them, and finally (d) study the replication of chromosomes containing the ribosomal DNA.

(6) Motility, Membrances, and Mechanotransduction—to (1) investigate the mechanism of a unique type of cell motility in a protozoan, (2) study the maeromolecular structure of fluid membranes in this cell, and (3) determine the properties of a non-nervous, epithelial conducting pathway that coordinates comp blates in ctenophores.

Application received by Commissioner of Customs: December 14, 1978.

Docket Number: 79-00081. Applicant: Battelle Memorial Institute, Pacific Northwest Laboratories, P.O. Box 999, Richland, WA 99352. ARTICLE: VIW2302A1 Portable Magnetometer. Manufacturer: Varian Associates of Canada, Ltd., Canada. INTENDED USE OF ARTICLE: The article is intended to be used for research and development on methods to detect and map buried waste materials such as oil drums, pipes, steel scrap, and tools. Application received by Commissioner of Customs: December 14, 1978.

Docket Number: 79-00086. Applicant: State of Florida, Department of Citrus, Scientific Research Department, c/o University of Florida, Institute of Food and Agricultural Sciences, Agricultural Research and Education Center, P.O. Box 1088, Lake Alfred, FL 33850. ARTICLE: LKB 2127-0011 Tachophor complete, with Power Supply Unit, Analyzer Unit and accessories. Manufacturer: LKB Produkter AB, Sweden. INTENDED USE OF ARTICLE: The article is intended to be used for studies of biological molecules (including metabolites from plant tissue). Investigation will include studies on *in vitro* and/or *in vivo* reactions between molocules following increase, decrease, or absence of one or all of the reacting molocules.

The objective pursued in the course of these investigations is to understand the interrelationship between biological molecules and to correlate these changes with chemical alterations observed in organic acid levels in citrus fruit. Application received by Commissioner of Customs: December 14, 1978.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Richard M. Sepps,
Director,
Statutory Import Programs Staff.

[3510-25-M]

NATIONAL RADIO ASTRONOMY OBSERVATORY, ET AL.

Applications for Duty Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, Bureau of Trade Regulation, U.S. Department of Commerce, Washington, D.C. 20230, on or before February 1, 1979.

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 A.M. and 5:00 P.M., Monday through Friday, in Room 6886C of the Department of Commerce Building, 14th and

Constitution Avenue, N.W., Washington, D.C. 20230.

DOCKET NUMBER: 79-00074. APPLICANT: National Radio Astronomy Observatory, Post Office Box O, 1000 Bullock Blvd. NW, Socorro, New Mexico 87801. ARTICLE: 4,060 pieces TE01 Circular Waveguide and 3,900 Coupling Sleeves and accessories. MANUFACTURER: Sumitomo Electric Industries, Japan. INTENDED USE OF ARTICLES: The article is intended to be used as a part of the Very Large Array radio telescope to transmit radio wavelength radiation received from extraterrestrial objects to recording apparatus. The study of this radiation enables astronomers to study the sources of energy, origin, and evolution of the universe. APPLICATION RECEIVED BY COMMISSIONER OF CUSTOMS: December 14, 1978.

DOCKET NUMBER: 79-00082. APPLICANT: Battelle Memorial Institute, Pacific Northwest Division, P.O. Box 999, Richland, WA 99352. ARTICLE: Model 2192DIT Microdiffractometer with attachments for transmission method and accessories. MANUFACTURER: Rigaku, Japan. INTENDED USE OF ARTICLE: The article is intended to be used to do small area x-ray diffractions which will give structural and microstructural information on geothermal samples, fine crystalling phases, and thin films. APPLICATION RECEIVED BY COMMISSIONER OF CUSTOMS: December 14, 1978.

DOCKET NUMBER: 79-00083. APPLICANT: Surgical Neurology Branch, N.I.N.C.D.S., NIH, 9000 Rockville Pike, Bethesda, Maryland 20014. ARTICLE: LKB 2128-010 Ultrotome IV Ultramicrotome and accessories. MANUFACTURER: LKB Produkter AB, Sweden. INTENDED USE OF ARTICLE: The article is intended to be used to prepare cells from the central and peripheral nervous system taken from tumor and other biopsies in patients or from various animal models for study directly or after growth in vitro. Scientific problems to be studied will include:

1. The ultrastructural characteristics of gliomas and other types of brain tumors.

2. Quantitative ultrastructural surface and cytoplasmic characteristics of chromatolytic and regenerating neurons and quiescent, hypertrophic and mitotic post-injury microglia, oligodendroglia and astroglia.

3. Quantitative ultrastructural surface and cytoplasmic characteristics of arachnoidal cells under quiescent and various experimental conditions (such as subarachnoid hemorrhage and ischemic and blunt trauma), i.e. arachnoiditis.

4. Surface membrane characterization and differentiation of gliomas and other brain tumors.

5. Analysis of lectin and other receptor movement after alterations of membrane fluidity and cytoskeletal organization; surface and cytoplasmic events in transformation as well as nerve regeneration.

6. Quantitative analysis of fine structural changes in glioma cells after treatment with various chemotherapeutic agents such as CCNU, BCNU, phentoin, procarbazine, methotrexate (TEM with quantitative image analysis).

7. Quantitation of elemental content of neuronal and glial cell surfaces and cytoplasmic regions as organelles for elements ranging from Be to U or Na to U by wave dispersive and/or energy dispersive X-ray spectroscopy.

8. Examination of freeze fracture and replica surface specimens.

9. The determination of molecular and supramolecular structure of intact and isolated proteins and/or protein complexes.

Post-doctoral fellows as well as medical students and neurological and neurosurgical residents will be trained to use the instrument as part of the research training in the laboratories. APPLICATION RECEIVED BY COMMISSIONER OF CUSTOMS: December 14, 1978.

DOCKET NUMBER: 79-00085. APPLICANT: University of Texas at Austin, Humanities Research Center, P.O. Box 7219, Austin, Texas 78712. ARTICLE: Prismascope. MANUFACTURER: Scolar Press Ltd., United Kingdom. INTENDED USE OF ARTICLE: The article is intended to be used as an attachment on a camera to provide a flat, undistorted, evenly illuminated image of the book page (of old and rare books) on which it is focused when the page is not opened out flat. APPLICATION RECEIVED: BY COMMISSIONER OF CUSTOMS: December 14, 1978.

DOCKET NUMBER: 79-00087. APPLICANT: Frederick Cancer Research Center, P.O. Box B, Frederick, Maryland 21701. ARTICLE: LKB 2128-010/ Ultrotome IV Ultramicrotome and accessories. MANUFACTURER: LKB Produkter AB, Sweden. INTENDED USE OF ARTICLE: The article is intended to be used for light microscopic and ultrastructural studies on normal and pathologic human and animal tissues as well as of normal and transformed cells and tissues in culture. Other investigations will include histochemical and ultrahistochemical studies to localize enzymes and subcellular organelles and morphometric examinations to study the changes in sizes and distribution of subcellular organelles as well as of autoradiography to localize the subcellular distribution of cancer inducing chemicals. APPLICATION RECEIVED BY COMMISSIONER OF CUSTOMS: December 14, 1978.

DOCKET NUMBER: 79-00088. APPLICANT: Carnegie-Mellon University—Dept. of Metallurgy and Materials Science, Schenley Park, Pittsburgh, PA 15213. ARTICLE: JEM 100CX-Temscan Electron Microscope, and accessories. MANUFACTURER: JEOL Ltd., Japan. INTENDED USE OF ARTICLE: The article is intended to be used for conducting varied research projects which will include the following investigations:

1. Microstructural methods for controlling Fatigue Crack Growth in *B*-Ti Alloys.

2. The effect of Composition and Microstructure on the Low Cycle Fatigue Life of α and near-α Ti Alloys.

3. Analysis of Local Stresses and Strains in Ti-Welds.

4. Relationships Between Structure and roughness in Ultra-High Strength Aluminum alloys.

5. Direct Observation of Interfacial Microstructure.

6. Ordering in Ni-Based Binary Systems.

7. The Role of Hydrogen in the Stress Corrosion Cracking of High Strength Aluminum Alloys.

8. Mechanisms of Hydrogen Cracking in Structural Materials.

9. An Investigation on the use of Metallurgical Variable and Surface Properties to Control Hydrogen Embrittlement of Steel.

10. Relationships Between Gain Boundary Structure and Migration Kinetics by Means of TEM.

11. Studies of Interfacial Reactions in Dissimilar Metallic Thin Films.

12. Cell Biology Studies.

In addition, the article will be used in the course 27-763 Electron Optical Methods of Materials Characterization to teach standard techniques in Tem, Stem and Sem to a level of competence that the student may use these techniques in his research projects. APPLICATION RECEIVED BY COMMISSIONER OF CUSTOMS: December 14, 1978.

DOCKET NUMBER: 79-00089. APPLICANT: The Buffalo General Hospital, 100 High Street, Buffalo, New York 14203. ARTICLE: Uro-dynamic's Amplifier, Calibrator and Withdrawal. MANUFACTURER: Vingmed, Norway. INTENDED USE OF ARTICLE: The article is intended to be used for the study of female-stress urinary inconvenience. APPLICATION RECEIVED BY COMMISSIONER OF CUSTOMS: December 14, 1978.

DOCKET NUMBER: 79-00090. APPLICANT: The Regents of the University of California, San Diego, University of California Medical Center, 225 Dickinson Street, San Diego, Calif.

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92103. ARTICLE: LKB 2088 Ultrotome V Ultramicrotome and the LKB Histoknifemaker 2078 and accessories. MANUFACTURER: LKB Produkter AB, Sweden. INTENDED USE OF ARTICLE: The article is intended to be used to prepare specimens for long-term studies of the pathology of alloxan diabetes in rats and, in particular, the glomerular basement thickening in rats with long-term alloxan diabetes. APPLICATION RECEIVED BY COMMISSIONER OF CUSTOMS: December 14, 1978.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 79-1077 Filed 1-11-79; 8:45 am]

[3510-25-M]

YALE UNIVERSITY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

DOCKET NUMBER: 77-00018. APPLICANT: Yale University, Purchasing Department, 260 Whitney Avenue, New Haven, CT 06520. ARTICLE: Gas Chromatograph-Mass Spectrometer, Model MAT 111 and accessories. MANUFACTURER: Varian MAT, West Germany. INTENDED USE OF ARTICLE: The article is intended to be used for the study of metabolities in the blood and urine from patients with metabolic disease and from control subjects. The materials analyzed will be complex mixtures of compounds extracted from blood or urine. The objectives of the investigations that will require use of the article are threefold: 1) to detect and characterize metabolic disorders which have not yet been described; 2) to establish the diagnosis of known diseases in new patients; 3) to study such disorders, both known and newly discovered, in greater detail in order to gain insight into their biochemical origins and implications.

COMMENTS: No comments have been received with respect to this application. A letter postmarked December 15, 1976 was received from Nuclide Corporation (Nuclide) which stated among other things that either its Model 6-60-G or its Model 12-90-G, when combined with a suitable gas chromatograph (GC), can meet all the applicant's requirements and that there is no basis for duty-free entry. This letter, which was received after expiration of the period for comment, was treated as an offer to provide additional information in accordance with Subsection 301.10 of the regulations 15 C.F.R. 301.10(1978). DECISION: Application denied. An instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the article was ordered (May 31, 1973). REASONS: This application is a resubmission of Docket Numbers 74-00018-01-11000, 74-00314-01-11000, and 75-00214-01-11000 which were denied without prejudice to resubmission (DWOP) on November 2, 1973, August 7, 1974, and July 16, 1976, respectively, for informational deficiencies. The applicant states in response to Question 8 that a combination of several features of the foreign article alleged to be pertinent to its intended use is not incorporated into any domestic instrument. However, the National Bureau of Standards (NBS) advises in memorandum dated December 3, 1977 and August 9, 1978, that the applicant's needs, as described in response to question 7, can be met with either the 6-60-G or the 12-90-G fitted for gas chromatography/mass spectrometry (GC/MS). A discussion of each of the features alleged to be pertinent follows:

MAGNETIC ANALYZER

The applicant acknowledges, and specifications confirm, that the Model 12-90-G and the Model 21-490B (manufactured by E. I. DuPont De Nemours and Company Inc.), Instrument Products Division (DuPont) provide magnetic mass analyzers. Further, NBS advises, and specifications conform, that both the domestic 6-60-G and 12-90-G provide magnetic mass analyzers. The Department notes that the applicant's statement of an unmatched requirement for magnetic analyzers is not intended to apply to the 6-60-G, 12-90-G or 21-490B (which operate on the same principle as the foreign article) but rather to mass spectrometers with other types of analyzers such as quadrupole mass spectrometers. Quadrupoles have frequently been used for purposes similar to those described by the applicant and the applicant has not provided enough information (e.g., on required accuracy) to establish their inadequacy for the intended use of the article. However, it will not be necessary to determine whether a quadrupole instrument can meet the applicant's needs since domestic instruments with magnetic analyzers have been found scientifically equivalent to the foreign article for the applicant's intended research program.

MASS RANGE

The applicant claims a requirement for a mass range of one to 1000 with 10% valley resolution of 1000 at scan speed of 330 masses/second linear with constant sensitivity over the entire mass range. However, no claim is made by the applicant that this specification is not matched in the Model 6-60-G, 12-90-G or 21-490B. In fact, the applicant indicates correctly that difficulties in meeting the above mass range specification apply only to quadrupole mass spectrometers and similar instruments such as the "dodecapole". As part of the comparison of magnetic versus quadrupole analyzers in the second and third submissions (Docket Numbers 74-00314-01-11000 and 75-00214-01-11000), the applicant states that magnetic analyzers provide constant sensitivity over the entire mass range and, in the table summarizing the response to question 8 of the third and fourth submissions (Docket Numbers 75-00214-01-11000 and 77-00018), the applicant indicates that both the 21-490B and the 12-90-G match the article with respect to the mass range feature given above. This summation is in agreement with specifications of the 6-60-G, 12-90-G and 21-490B which indicate that each of these magnetic analyzer systems equipped with available options could provide a mass range greater than 1-1000, scan speeds above and below 330 masses/second and 10% valley resolution above 1000. Accordingly, the Department concurs with NBS's advice that both the 6-60-G and the 12-90-G match the complete mass range specification of the foreign article.

DUTY CYCLE

Duty cycle is defined by the applicant as the sum of the time required for the mass scan plus the time required before another mass scan can be initiated. The applicant explains that with magnetic instruments time is required to reset the magnet from the end mass of the scan to the starting mass. The applicant claims a requirement for a duty cycle in a cyclic exponential model of less than 1.25 seconds for one mass decade (sec/dec) or less than 2.25 second for two mass decades (sec/2 dec). In comparing the foreign article with domestic instruments, the applicant recognizes that the DuPont 21-490B and the Nuclide 12-90-G can provide scan rates fast enough for a single scan and that this scan rate is acceptable for analysis of the sharp gas chromatography (GC) peaks produced with capillary columns but claims that the article has a reset time of 0.25 seconds while the DuPont instrument has a 8 second reset time (i.e., a 10 sec/2 dec duty cycle) and the Nuclide instrument "also has a relatively long reset time." The applicant further claims that the shorter duty cycle of the article will permit more scans per GC peak than its domestic counterparts, in order to yield better results and eliminate statistical error in the analysis of the overlapping peaks expected in the determination of stable isotope enrichment in the analysis or urinary metabolities from precursors labeled with such isotopes. The applicant states that each peak of urinary metabolite is usually eluted within 35 seconds permitting only three scans with the 21-490B as opposed to 15 for the foreign article.

Although the applicant claimed the need for fast mass scan and reset in the initial submission (Docket Number 74-00018-01-11000), the duty cycle values of 1.24 sec/dec and 2.24 sec/2 dec (scan rate of 1 sec/dec or 2 sec/2 dec plus reset time of 0.25 seconds) were not provided until the third submission (Docket Number 75-00214-01011000). The applicant's need for these duty cycle values, which were not guaranteed by the manufacturer of the foreign article at the time of order but were obtained experimentally under unknown conditions in the applicant's laboratory, was restated in this fourth submission. Recognizing the experimental nature of the applicant's duty cycle values as extending far beyond manufacturer's guaranteed performance specifications, NBS advised that (1) the fine tuning of a specific instrument to attain a performance greater than that guaranteed or specified by the [foreign] manufacturer does not rule out this same possibility with instruments of domestic manufacture which, when given the same degree of tuning, may give an even better performance than that of the foreign article; (2) although the duty cycle attained by the applicant is a pertinent specification for analysis of individual components in small, very sharp peaks, the greater sensitivity of the Nuclide instrument would have the advantage in this respect; and (3) the performance attainable or guaranteed by the domestically manufactured instruments of the Nuclide Corporation is equivalent or exceeds that of the foreign article for the applicant's intended use. The ability of both DuPont and Nuclide to meet the applicant's duty cycle requirement will be discussed below.

In comments dated March 22, 1974 and January 9, 1975 (relating to the applicant's second and third submissions, Docket Numbers 74-00314-01-11000 and 75-00214-01-11000, DuPont claimed that its duty cycle is 4 sec/2 dec, not 10 sec/2 dec as alleged by the applicant. While 4 sec/2 dec is longer than the duty cycle attained with the foreign article (2.25 sec/2 dec), it is still fast enough to permit a reasonable number of scans of the 35 second GC peaks described above (i.e., almost 9 scans). This number of scans appears adequate considering the applicant's stated need to run a large number of samples daily (e.g., in response to question 8.c.(3) of Docket Numbers 74-00018-01-11000, 74-00314-01-11000 and 75-00214-01-11000) which would be difficult to accomplish if a very large number of scans per peak were performed. Nuclide provides as a standard feature with its Model 12-90-G, the Model MR-13 magnetic regulator and power supply. The MR-13 system, which was available at the time the foreign article was ordered, is designed to operate the magnet of either the 12-90-G or the 6-60-G in those applications requiring rapid scanning. The 12-90-G equipped with a power supply such as the MR-13 is capable of meeting or exceeding the applicant's duty cycle needs in at least two ways. The applicant needs can be met through a undirectional exponential scan. In this mode, measurements made with the 12-90-G over the mass range of 10-1000 indicate that this instrument has duty cycles of 2.7 sec/2 dec (scan time 2.2 seconds and reset 0.5 seconds) at an ion acceleration of 4480 volts (V), 1.5 sec/2 dec (scan time 1.1 seconds and reset 0.4 seconds) at 1000 V and 1.0 sec/2 dec (scan time 0.7 seconds and reset 0.3 seconds) at 500 V. Even faster scan rates should be possible using less massive magnets such as in the 6-60-G. Further, since lowering the ion acceleration, which determines the magnet field range required, also lowers the minimum feasible scan time and reset time for magnetic scanning, Nuclide's ability to vary continously voltage down to 100 V is advantageous. The accelerating voltage of the foreign article is not listed in its specifications but the manufacturer of the article has informed the Department that this voltage is normally fixed at 820 V but can be lowered approximately 30% for multiple ion selection. The applicant's needs can also be met with mirror image scanning which is more efficient than unidirectional scanning since there is essentially no lost time in the duty cycle and the maximum duty cycle of the 12-90-G in this mode should be in the vicinity of 1.7 sec/2 dec (exponential scan) at 5000 V.

In view of the above, the Department finds that with respect to duty cycle the Nuclide Models 12-90-G, 6-60-G are, and almost certainly the DuPont Model 21-490G is scientifically equivalent to the foreign article for the applicant's intended purposes.

SLIT SEPARATOR

The applicant terms the device that separates GC eluants* from carrier gas prior to introduction into MS, the "Separator", and consistently alleges that the article's variable slit type separator is pertinent to the uses described in reply to question 7 because it allows variation of flow into the MS without changing source conditions or breaking the vacuum. But, after it became clear to the applicant that the original specific reasons for needing the capabilities of the article's separator could not justify duty-free entry, these reasons changed considerably.

At the outset (Docket Number 74-00018-01-11000) the applicant's statements relating to the need for the article's separator were, in essence, as follows:

1. No separator for the applicant's planned work should discriminate, by chemical characteristics, the compounds which are separated by GC as does the "Membrane separator." In this separator, permeability through the membrane differs greatly from compound to compound. Hewlett-Packard Company's (HP) model 5930A has a membrane separator.

2. Because the number of samples to be analyzed is very large the separator must be durable. The fine glass nozzle [i.e., glass jet] type of separator "works well for separation" but "may" not be suitable for the intended work where frequent use is required. Finnigan Corporation's (Finnigan) has a glass jet separator. It also causes clogging sometimes. In contrast, the article's slit separator is simpler in structure and easily adjustable.

3. In the ordinary preliminary GC separation a packed column with fairly large carrier gas flow will be used. For better separation of the metabolites to be analyzed a capillary column with very small flow must be used. The article's slit separator can be optimally adjusted to either packed or capillary columns but glass jet separators, such as found in Finnigan's 1015 and DuPont's 490, are not suitable for use at the low rate of flow of capillary columns. In the case of jet separators "Scavenger gas," which significantly reduces the efficiency of the GC/MS system, is added to make up gas flow rate.

Both DuPont and Finnigan, in letters dated August 13, 1978 commented on the initial application (Docket Number 74-00018-01-11000) and supported their comments adequately with manufacturer's literature. In this

*Elution is a process for extracting (eluting) a solid substance (the eluant) from a mixture of solids with a liquid or gas.

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and subsequent submissions, DuPont forwarded its comments directly to the applicant and the essence of Finnigan's claims were provided to the applicant in the DWOP. DuPont claimed that it offers either metal or glass separators and pointed out that performance of a metal separator will be poor at low concentrations of most of the applicant's samples due to catalytic decomposition at metal surfaces. DuPont also pointed out that it offers differential pumping and a capillary inlet which permits introduction of at least 5 ml/minute of column effluent directly into the MS, that its system is more sensitive than the article and that it does not use "scavenger gas." Finnigan claimed that the up-time and sample throughput of its system far exceed that of the article, that the capillary column can be coupled directly with its MS without a separator, that its scan rate is far superior to that of the article and of definite advantage in good capillary column performance and finally that, unlike the glass jet, the hot metal surface of the article's separator will degrade labile compounds such as metabolites. After reviewing the application and these comments HEW in its memorandum of October 5, 1973 advised that domestic instruments comparable to the article such as the 1015 or the 21-490B are not clearly shown to be scientifically inadequate for the planned work. HEW further pointed out that a superiority of slit versus jet separators is not proven or documented and that scavenging gas use is not shown actually to reduce jet separator efficiency. A copy of HEW's memorandum was forwarded to the applicant as part of the DWOP of the initial application on November 2, 1973. The DWOP also pointed out that neither DuPont nor Nuclide instruments have been shown to be incapable of operating with capillary columns. *In the second submission* (Docket Number 74-00314-01-11000) the applicant repeated some of the allegations made at the outset and added in summary the following:

1. Adjustment of the article's slit separator can change the fraction of GC effluent admitted to the MS ion source during the course of a GC run. Once the retention time of a minor component of interest is known, a larger sample may be injected into the GC. The separator may be opened and most of the major components of GC effluent may be pumped away to prevent contamination of the ion source or analyzer without preventing continuous monitoring of these major components which may be detected even when little effluent enters the source. When the minor component of interest is about to emerge from the GC, the separator may be closed somewhat and the desired source housing pressure attained for recording the spectrum. In addition, this same technique allows one to avoid the dangers posed by introducing a large amount of the sample's solvent into the source.

2. The article's separator allows the use of any carrier gas flow rate between 1 milliliter per minute (ml/min) and 100, ml/min with maintenance of source housing pressure at any desired value over this range. Since fragmentation patterns in mass spectra is crucially dependent on source pressure, a mass spectrum of an unknown cannot be reliably compared to that of a reference compound unless the two were recorded at the same source pressure.

3. The variable slit separator, which operates at its highest efficiency at the low flow rates of capillary columns, is much more suitable than separators of domestic instruments for use with capillary columns. The differential pumping technique, which involves direct connection of the capillary column to the ion source resulting in operation at relatively high source pressure, is unacceptable because the spectrum attained could not be compared with reference spectra attained under low source pressure.

DuPont in its letter of March 24, 1974 and Finnigan in its letter of March 25, 1974 commented on the second submission. In brief, DuPont's rebuttal of the applicant's second submission allegations were as follows:

1. The contamination problem stated by the applicant to occur when a sufficiently large sample is introduced to permit detection of minor components does not exist in the 21-490B. The article does not have differential pumping, which severely limits sample introduction rate and results in instrument contamination, particularly in GC application. The 21-490B with differential pumping accepts 5 ml/min of hellum without loss of performance or increased contamination. Both the jet system and the direct capillary inlet are connected in parallel and no shut down or venting is required when changing between capillary and packed column.

2. Fragmentation patterns of the 21-490B are completely independent of sample introduction rate up to 5 ml/min, and should be independent of source pressure in any properly designed MS. Furthermore, the much greater sensitivity (25-fold greater) of the 21-490B largely alleviates the necessity to use such large samples to detect minor components.

Finnigan's rebuttal is summed up as follows:

1. The article's slit separator is very difficult to reset reproducibly.

2. The use of the slit separator for capillary column is in an illusory advantage since no separator needs to be used with capillary column GC.

3. The concern for high source pressure is also illusory. A properly designed MS with good conductance and a sufficient pumping capacity does not have this problem.

In its memorandum of June 6, 1974, HEW advised that it believed comments by DuPont and Finnigan were valid. In the DWOP of Docket Number 74-00314-01-11000 the applicant was informed that domestic instruments of Nuclide, Finnigan and DuPont were not shown to be inadequate for the intended use of the article.

In the *third submission* (Docket Number 75-00214-01-11000) the applicant, among other things, alleged:

1. For the purposes described in response to question 7, the article has been utilized at flow rates from 6 ml/min to 80 ml/min for packed columns. The article's separator can handle 1-100 ml/min with maximum results over the entire range while maintaining constant flow into the MS.

2. Jet separators give poor yields at low GC flow rates and porous-type effusion separators can be optimized for only one set of flow conditions.

3. The yield of the slit separator is highest at low flow rates.

4. The article's separator can be opened with solvent emerges from the GC, then accurately reset to a desired flow rate avoiding contamination of the ion source with large amounts of solvent. Suppression of the solvent peak is especially important when analyzing trimelthysilyl-derivatives because an excess of trimethylsilation agent is present.

5. The article's separator allows changing of packed columns without seriously affecting vacuum in the MS with a saving of time, allowing analysis of more samples in a given period of time. [According to the applicant's reply to question 7 of the second submission several specimens from patients (each requiring 1-2 hours) are to be analyzed daily].

6. The article's separator is gold plated and treated to enhance inertness. While gold does not prevent decomposition of labile samples as well as glass, data on the decomposition of cholesterol indicates that it gives better results than steel and gold is more rugged mechanically than glass.

DuPont, in comments dated January 9, 1975 countered in essence with the following:

1. Yield from the jet separator has been confirmed experimentally to be 80-90% at 10 ml/mln (the lowest flow normally used in packed column work). Such yields are theoretically possible even at 1-2 ml/min. with the DuPont capillary column system discussed in prior comments yield is 100% up to 5 ml/min. Yield of the article's separator is 3% at 80 ml/min to 30% at 10 ml/min.

2. The need to vent or partially vent solvent may be a problem with the non-differentially pumped article but users of the 21-490B run large numbers of samples in all types of solvents, including silylated samples without the need for frequent cleaning. Further, DuPont can provide a metal or all-glass system for venting solvent peaks, for those users who feel that this capability is essential.

3. With DuPont's system, columns are changed without affecting vacuum of the MS, and without introducing air into the MS or jet separator.

4. DuPont feels that the comparison of gold separators and glass separators with respect to decomposition would favor glass separators even more if more sensitive compounds than cholesterol were studied.

After reviewing the complete record NBS advised in its memorandum dated May 26, 1976, that the choice of a separator system is not pertinent to achievement of the applicant's ends which can be accomplished equally well with jet separators or with a high speed differential pumping system requiring no separator.

A copy of NBS's memorandum was forwarded to the applicant as part of the DWOP.

In this fourth submission (Docket Number 77-00018) the applicant referred to discussion in prior submissions relating to the claimed superiority of the slit-separators and high speed differential pumping and then emphasized the article's utility for suppressing solvent as well as major component peaks. The applicant also reiterated some of the allegations already discussed. Thus, the issues to be resolved in this fourth submission are as follows:

1. Suppressing the solvent peak by opening briefly the slit eliminates contamination of the ion source by large or undesirable amounts of solvent which would result in ionization chiefly of solvent *even* when a sample elutes on the solvent *shoulder*. Using this technique permits analysis of samples whose concentration is only 10 to 100 parts per million (ppm) of solvent concentration.

2. Suppression is an invaluable aid in obtaining mass spectra of a relatively minute amount of sample eluting slightly after a considerably greater quantity of sample because the variable slit separator *instantaneously* allows control of the quantity of sample entering the ion source to eliminate flooding.

3. The article can handle a range of flow rates from 1 ml/min to 100 ml/min with maximum results over the entire range while maintaining constant flow into the MS.

4. Jet separators give poor yields at low GC flow rates. Porous-type effusion separators can be optimized for only one set of flow conditions. At widely varying flow rates, the yield of such separators is reduced considerably. The variable slit separator permits optimal MS results while operating under optimal GC conditions.

5. The article's separator makes the use of capillary columns possible since its yield is highest at low flow rates.

These issues differ substantially from those raised initially (Docket Number 74-00018-01-11000) and their presentation from the second submission forward appears to exceed the intent of the DWOP procedure, a mechanism which permits correction of deficiencies that fall within the scope and context of those described to the applicant in writing.

Moreover, all of the applicant's fourth submission allegations were considered in prior submissions and were shown to be without merit. DuPont and Finnigan in their comments have clearly shown that domestic instruments meet the applicant's needs including those emphasized in this fourth submission. Nuclide's instruments have capabilities similar to DuPont's. Further discussion of the issues emphasized in this fourth submission follows.

Suppression of Peaks

1. The foreign manufacturer's literature states that flow though the slit of the article's separator is molecular, mainly the lighter carrier gas [not higher molecular weight solvent] escapes, so that the high molecular [weight] sample, the chromatographed peak, is enriched in the annular channel. The literature further states that there is a possibility [not a capability] of suppressing the solvent peak without disturbing recording. Although the claim is made that suppression of solvent peak facilitates analysis of the sample, whose concentration is perhaps only 10 to 100 ppm of the solvent concentration, no mention is made of suppression of either solvent or sample peak to favor a shoulder peak of interest and no examples of such an analysis are shown. The Department notes that the foreign manufacturer has no actual responsibility with respect to suppression of peaks and finds that this possibility does not have the force of a guaranteed specification which, in accordance with Subsection 301.11(a) of the regulations, are considered in duty-free entry deliberations.

2. DuPont has stated that an instrument with high speed differential pumping and high sensitivity (25 times that of the article) does not have the problem with contamination of the source or the need to vent or partially vent solvents experienced in the article. Nuclide's 6-60-G and 12-90-G have high speed differential pumping systems and high sensitivity. Should a customer desire to vent or partially vent solvent peaks, valving systems for that purpose are available from both DuPont and Nuclide. Such valving systems are amenable to continuous recording. GC technicians have used the technique of partial venting and continuous recording for at least 10 years. Nuclide has published GC/MS chromatograms showing that solvent peak can be completely vented with a resultant enhancement of a shoulder peak and, since the unrecorded solvent was already known, no loss of significant data. Prior knowledge of solvent, and retention time of large peaks and shoulder peaks is required to use the suppression technique and such knowledge can be gained from the preliminary run which the applicant performs (or from the literature). Other recognized techniques, in addition to those already have utility in particular situations. For example, effluent splitting, pattern venting, changing columns and solvents after a preliminary run, turning off the ionizing beam temporarily to prevent solvent detection and multiple ion detection can be used.

Range of Flow Rates

DuPont, in its comments, has shown that its glass jet separator (either alone or in combination with direct capillary inlet) compares favorably with the article with respect to efficiency over the range of flow rates utilized by the applicant (6 to 80 ml/min). Nuclide's 6-60-G and 12-90-G (both in GC/MS mode) provides capabilities for high speed differential pumping, direct introduction of GC effluent, porous glass frit (Watson-Biemen) separators and other separators. NBS advises that the applicant has not shown that the Watson-Biemen separator (which Nuclide states in its literature is quite general in its applicability, can be used with a wide variety of GC and column gas flow rates, and can handle flow rates of over 60 ml/min.) is less efficient than the article's separator over any given range. Further, Nuclide's high speed differential pumping system needs no separator at all. NBS advises that this system is capable of providing yields of 100% to at least 10 ml/min down to 20% at 150 ml/min., i.e., greater yields than the foreign article (70% at 1 ml/min, 30% at 10 ml/min and 7% at 60 ml/min). The Department notes that a splitter valve is used with carrier gas flow rates above 10 ml/min to provide constant flow into the MS without changing source conditions or breaking vacuum.

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Low GC Flow Rates

In the discussion of "Range of Flow Rates" it is shown that domestic separators (jet or porous frit) can be used under a variety of conditions. Further, with DuPont, Finnigan or Nuclide systems no separator is needed at low GC flow rates. Without a separator, yield is 100%.

Capillary Columns

Discussion above clearly indicates that domestic systems can provide more than adequate yields at capillary column flow rates. Nuclide specifications show mass scans obtained from a GC with a capillary column interfaced to the 12-90-G through a glass frit separator.

Conclusion

In conclusion it is noted that NBS advises that the methods of separation of carrier gas available from domestic manufacturers such as the glass jet, the porous frit and direct introduction of GC effluent into the MS are scientifically equivalent alternate methods of satisfying the applicant's requirements. In view of the above discussion including consideration of prior submissions, the Department finds that the domestic instruments and the article are scientifically equivalent with respect to flow rates.

It is important to note that the applicant has drawn conclusions about the capabilities and features available from domestic manufacturers without affording these manufacturers an opportunity to bid an instrument appropriate to the planned work.

Based on the foregoing discussion, NBS advice, our own review of the application and factual information in our possession (specifications, textbooks etc), we find that Nuclide 12-90-G or 6-60-G in the GC/MS mode was of equivalent scientific value to the foreigh article for such purposes as this article is intended to be used at the time the article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 79-1078 Filed 1-11-79; 8:45 am]

[3510-15-M]

[Docket No. S-633]

APPLICATION BY GULF OIL CORP.

Participation by Vessel Built With Construction-Differential Subsidy in the Carriage of Alaskan Oil in the Domestic Trade

Notice is hereby given that Gulf Oil Corporation has filed an application for written permission under section 506 of the Merchant Marine Act, 1936, as amended (the Act), for its vessel, the SS AMERICAN SPIRIT, to make one voyage in the Alaska/Panama oil trade.

The AMERICAN SPIRIT is a VLCC of 262,376 DWT, built with construction-differential subsidy. The AMERICAN SPIRIT is to commence the requested single voyage in the Alaska/Panama oil trade on or about February 5, 1979, under charter to Sohio Natural Resources Company, as a replacement vessel for the SS STUYVESANT, a VLCC which suffered an engine breakdown. The voyage would be made in accordance with the provisions of section 506 of the Act and the regulations set forth in Part 250 of Chapter II, Title 46, of the Code of Federal Regulations.

Interested parties may inspect the application in the Office of the Secretary, Maritime Administration, Room 3099-B, Department of Commerce Building, 14th and E Streets NW., Washington, D.C. 20230.

Any person, firm, or corporation who is a "competitor," as defined in section 250.2 of the regulations as set forth in Part 250 of Chapter II Title 46 of the Code of Federal Regulations published in the FEDERAL REGISTER issue of June 29, 1977 (42 F.R. 33035), and desires to protest such application should submit such protest in writing, in triplicate, to the Secretary, Maritime Administration, Washington, D.C. 20230. Protests must be received within five working days after the date of publication of this Notice in the FEDERAL REGISTER. If a protest is received, the applicant will be advised of such protest by telephone or telegram and will be allowed three working days to respond in a manner acceptable to the Assistant Secretary for Maritime Affairs. Within five working days after the due date for the applicant's response, the Assistant Secretary will advise the applicant, as well as those submitting protests of the action taken, with a concise written explanation of such action. If no protest is received concerning the application, the Assistant Secretary will take such action as may be deemed appropriate.

(Catalog of Federal Domestic Assistant Program No. 11.500 Construction-Differential Subsidies (CDS).)

By Order of the Assistant Secretary for Maritime Affairs.

Dated: January 9, 1979.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc. 79-1260 Filed 1-11-79; 8:45 am]

[3510-22-M]

National Oceanic and Atmospheric Administration

NEW ENGLAND FISHERY MANAGEMENT COUNCIL'S SCIENTIFIC AND STATISTICAL COMMITTEE

Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Scientific and Statistical Committee of the New England Fishery Management Council, established under Section 302(g) of the Fishery Conservation and Management Act of 1976 (Public Law 94-265), will meet to discuss: (1) Lobster plan scientific needs; (2) Silver Hake; and (3) Other Business.

DATES: The meeting will convene on Tuesday, January 30, 1979, at approximately 10:00 a.m. and adjourn at approximately 5:00 p.m.

ADDRESS: The meeting will take place at the Holiday Inn, Junction of Routes 1 and 128, Peabody, Massachusetts.

FOR FURTHER INFORMATION CONTACT:

Spencer Apollonio, Executive Director, New England Fishery Management Council, Peabody Office Building, One Newbury Street, Peabody, Massachusetts 01960, Telephone: (617) 535-5450.

SUPPLEMENTARY INFORMATION: For information on seating arrangements, changes to the agenda, and/or written comments, contact the Executive Director.

Dated: January 9, 1979.

WINFRED H. MEIBOHM,
Acting Executive Director, National Marine Fisheries Service.

[FR Doc. 79-1259 Filed 1-11-79; 8:45 am]

[3510-04-M]

National Technical Information Service

GOVERNMENT-OWNED INVENTIONS

Availability for Licensing

The inventions listed below are owned by the U. S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents & Trademarks, Washington, DC 20231, for $.50 each. Requests for copies of patents must include the patent number.

Copies of the patent applications can be purchased from the National Technical Information Service (NTIS), Springfield, Virginia 22161 for $4.00 ($8.00 outside North American Continent). Requests for copies of patent applications must include the PAT-APPL number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

DOUGLAS J. CAMPION,
Patent Program Coordinator, National Technical Information Service.

U.S. DEPARTMENT OF THE AIR FORCE, AF/JACP, 1900 HALF STREET SW., WASHINGTON, D.C. 20324.

Patent Application 826,222: Method for the Preparation of 1-Alkyl Pyridinium Chlorides; filed August 19, 1977.

Patent Application 926,359: A Self-Aligned Process for Fabricating Radiation Hard CMOS/SOS Devices; filed July 20, 1978.

Patent Application 926,360: Electret Charge Technique; filed July 20, 1978.

Patent Application 926,361: Arm Restraint System; filed July 20, 1978.

Patent Application 929,468: Apparatus for, and Method of, Recording and Viewing Laser-made Images on High Gain Retroreflective Sheeting; filed July 31, 1978.

Patent Application 929,470: Procedure for the Synthesis of Stoichiometric Proportioned Indium Phosphide; filed July 31, 1978.

Patent Application 932,814: Non-Combustible High Temperature Abradable Seal Material; filed August 10, 1978.

Patent Application 932,815: A Balanced Input Zero Differential Detector; filed August 10, 1978.

Patent 4,090,684: Stowable Airfoil Structure; filed April 18, 1977; patented May 23, 1978; not available NTIS.

Patent 4,091,279: Method and Means for Equalizing the Sensitivity of a Multi-Element Sensor Array; filed March 23, 1976; patented May 23, 1978; not available NTIS.

Patent 4,095,289: Air Ventilation Apparatus for Flight Helmet; filed August 31, 1976; patented June 20, 1978; not available NTIS.

Patent 4,095,614: Liquid Level Control System; filed November 5, 1976; patented June 20, 1978; not available NTIS.

Patent 4,095,899: Apparatus for Double-Beaming in Fourier Spectroscopy; filed March 1, 1976; patented June 20, 1978; not available NTIS.

Patent 4,097,388: Linear Fluorinated Polyether Lubricant Compositions Containing Perfluoroalkylether Substituted Phosphines; filed October 12, 1976; patented June 27, 1978; not available NTIS.

Patent 4,097,827: Constant Impedance, Constant Phase PIN Diode with Attenuator; filed February 4, 1977; patented June 27, 1978; not available NTIS.

Patent 4,097,866: Multilevel Sidelobe Canceller; filed February 10, 1977; patented June 27, 1978; not available NTIS.

U.S. DEPARTMENT OF THE NAVY, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, Va. 22217.

Patent application 902,196: Axisymmetric Stabilized Liner Implosion System; filed May 2, 1978.

Patent application 910,544: Pressure Probe for Safety-Arming Device; filed May 24, 1978.

Patent application 920,088: Fiber Optic Acoustic Sensor; filed June 28, 1978.

Patent application 921,527: Liquid Propellant Gun; filed July 3, 1978.

Patent 4,053,867: Acoustic Hologram Reconstructor Using Surface Acoustic Wave Devices; filed December 22, 1975; patented October 11, 1977; not available NTIS.

Patent 4,067,016: Dual Notched/Diagonally Fed Electric Microstrip Dipole Antennas; filed November 10, 1976; patented January 3, 1978; not available NTIS.

Patent 4,069,483: Coupled Fed Magnetic Microstrip Dipole Antenna; filed November 10, 1976; patented January 17, 1978; not available NTIS.

Patent 4,072,951: Notch Fed Twin Electric Microstrip Dipole Antennas; filed November 10, 1976; patented February 7, 1978; not available NTIS.

Patent 4,074,270: Multiple Frequency Microstrip Antenna Assembly; filed August 9, 1976; patented February 14, 1978; not available NTIS.

Patent 4,078,237: Offset Fed Magnetic Microstrip Dipole Antenna; filed November 10, 1976; patented March 7, 1978; not available NTIS.

Patent 4,087,061: Wide Angle Seeker; filed May 8, 1972; patented May 2, 1978; not available NTIS.

Patent 4,088,969: Tapped Surface Acoustic Wave Delay Line; filed April 19, 1977; patented May 9, 1978; not available NTIS.

Patent 4,089,000: High Altitude Pulse Doppler Fuze; filed November 20, 1970; patented May 9, 1978; not available NTIS.

Patent 4,090,168: Solid Filled Vitration Isolation Module for a Towed Sonar Array; filed May 17, 1977; patented May 16, 1978; not available NTIS.

Patent 4,090,197: Monopulse, Fan-Beam, Search-Radar System with Improved Height and Azimuth Determination; filed May 24, 1977; patented May 16, 1978; not available NTIS.

Patent 4,090,458: Pressure Responsive Fluid Bag Ejector; filed April 27, 1970; patented May 23, 1978; not available NTIS.

Patent 4,091,734: Aircraft to Weapon Fuze Communication Link; filed February 22, 1977; patented May 30, 1978; not available NTIS.

Patent 4,092,621: Thin Foil Pulse Transformer Coil for Reducing Distributed and Leakage Inductance; filed November 18, 1976; patented May 30, 1978; not available NTIS.

Patent 4,092,898: Shock-Excursion Apparatus for Retracting the Umbilical Plug of a Missile; filed April 25, 1977; patented June 6, 1978; not available NTIS.

Patent 4,092,947: Oil Level Indicator for Use with Damping Fluid Metering Pins; filed October 6, 1977; patented June 6, 1978; not available NTIS.

Patent 4,093,428: Gas/Liquid Separator; filed April 12, 1977; patented June 6, 1978; not available NTIS.

Patent 4,095,527: Specialized Detonator Firing Circuit; filed September 15, 1964; patented June 20, 1978; not available NTIS.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, Assistant General Counsels for Patent Matters, NASA Code GP-2, Washington, D.C. 20546.

Patent application 935,811: Belt for Coupling Driven Members; filed August 22, 1978.

Patent application 938,582: A Floating Nut Retention System; filed August 31, 1978.

Patent application 940,688: Fibrous Refractory Composite Insulation; filed September 8, 1978.

Patent application 940,689: Dual Acting Slit Control Mechanism; filed September 8, 1978.

Patent application 941,711: Cork-Resin Ablative Insulation for Complex Surfaces and Method for Applying the Same; filed October 17, 1978.

Patent application 943,086: Belt for Transmitting Power from a Driving Member to a Driven Member; filed September 18, 1978.

Patent application 943,089: Diffractoid Grating Configuration for X-Ray and Ultraviolet Focusing; filed September 18, 1978.

Patent application 945,040: Spray Coating Apparatus Having a Rotatable Workpiece Holder; filed September 22, 1978.

Patent application 945,044: Pneumatic Inflatable End Effector; filed September 22, 1978.

Patent 4,092,466: Heat Resistant Polymers of Oxidized Styrylphosphine; filed July 19, 1976; patented May 30, 1978; not available NTIS.

Patent 4,092,606: Quadraphase Demodulation; filed June 21, 1977; patented May 30, 1978; not available NTIS.

Patent 4,092,617: Wide Power Range Microwave Feedback Controller; filed March 29, 1977; patented May 30, 1978; not available NTIS.

Patent 4,092,633: Condition Sensor System and Method; filed May 21, 1976; patented May 30, 1978; not available NTIS.

Patent 4,092,712: Regulated High Efficiency, Lighweight Capacitor-Diode Multiplier DC to DC Converter; filed May 27, 1977; patented May 30, 1978; not available NTIS.

Patent 4,093,156: Supersonic Transport; filed August 27, 1976; patented June 6, 1978; not available NTIS.

Patent 4,093,354: Method and Apparatus for Splitting a Beam of Energy; filed December 23, 1975; patented June 6, 1978; not available NTIS.

Patent 4,093,382: Hybrid Holographic Non-Destructive Test System; filed May 14, 1976; patented June 6, 1978; not available NTIS.

Patent 4,093,771: Reaction Cured Glass and Glass Coatings; filed October 29, 1976; patented June 6, 1978; not available NTIS.

Patent 4,094,862: Process for Preparing Thermoplastic Aromatic Polyimides; filed March 28,1975; patented June 13, 1978; not available NTIS.

Patent 4,094,943: Process for Spinning Flame Retardant Elastomeric Compositions; filed February 13, 1976; patented September 13, 1978; not available NTIS.

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Patent 4,095,593: Cooling System for Removing Metabolic Heat from an Hermetically Sealed Spacesuit; filed December 23, 1976; patented July 20, 1978; not available NTIS.

Patent 4,096,315: Process for Producing a Well-Adhered Durable Optical Coating on an Optical Plastic Substrate; filed December 15, 1976; patented June 20, 1978; not available NTIS.

[FR Doc. 79-1202 Filed 1-11-79; 8:45 am]

[3510-25-M]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COLOMBIA

Increasing the Import Restraint Level for Certain Wool Textile Products

JANUARY 9, 1979.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Increasing the level of restraint for women's, girls' and infants' wool suits in Category 444 from Colombia and controlling imports at this level during the agreement year which began on July 1, 1978. (A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on January 4, 1978 (43 F.R. 884), as amended on January 25, 1978 (43 F.R. 3421), March 3, 1978 (43 F.R. 8828), June 22, 1978 (43 F.R. 26773), September 5, 1978 (43 F.R. 39408), and January 2, 1979 (44 F.R. 94).

SUMMARY: Under the terms of paragraph 16 of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 3, 1978, between the Governments of the United States and Colombia, the Government of the United States has agreed, at the request of the Government of Colombia, to increase the level of restraint for Category 444 from 1,852 dozen to 4,167 dozen and will control imports at that level for the agreement year which began on July 1, 1978.

EFFECTIVE DATE: January 12, 1979.

FOR FURTHER INFORMATION CONTACT:

Donald R. Foote, International Trade Specialists, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-5423).

SUPPLEMENTARY INFORMATION: On October 5, 1978, there was published in the FEDERAL REGISTER (43 F.R. 46062) a letter dated September 28, 1978 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs which established levels of restraint for certain specified categories of cotton, wool and man-made fiber textile products, produced or manufactured in Colombia, which may be entered into the United States for consumption, or withdrawn from warehouse for consumption, during the twelve-month period which began on July 1, 1978 and extends through June 30, 1979. The agreement also establishes consultation levels for categories, like Category 444, which are not subject to specific limits. In accordance with the terms of the bilateral agreement, and at the request of the Government of Colombia, the United States Government has agreed to increase the consultation level for Category 444 during the twelve-month period which began on July 1, 1978. Accordingly, there is published below a letter from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, directing that imports in this category be limited to the designated level of restraint. The level has not been adjusted to reflect any imports during the period which began on July 1, 1978. An adjustment will be made to account for imports during the period beginning on July 1, 1978 and extending through the effective date of this action.

ARTHUR GAREL,
Acting Chairman, Committee for the Implementation of Textile Agreements.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

JANUARY 9, 1979.

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20229.

DEAR MR. COMMISSIONER: This directive amends, but does not cancel, the directive issued to you on September 28, 1978 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in Colombia.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 3, 1978, between the Governments of the United States and Colombia; and in accordance with the provisions of Excecutive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on January 12, 1979 and for the twelve-month period beginning on July 1, 1978 and extending through June 30, 1979, entry into the United States for consumption and withdrawal from warehouse for consumption, of wool textile products in Category 444, produced or manufactured in Colombia, in excess of 4,167 dozen.[1]

Entries of wool textile products in Category 444, produced or manufactured in Colombia and exported to the United States before July 1, 1978 shall not be subject to this directive.

Wool textile products in Category 444 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1848(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on January 4, 1978 (43 F.R. 884), as amended on January 25, 1978 (43 F.R. 3421), March 3, 1978 (43 F.R. 8828), June 22, 1978 (43 F.R. 26773), September 5, 1978 (43 F.R. 39408), and January 2, 1979 (44 F.R. 94).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The action taken with respect to the Government of Colombia and with respect to imports of wool textile products from Colombia has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ARTHUR GAREL,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 79-1250 Filed 1-11-79; 8:45 am]

[1] The level of restraint has not been adjusted to account for any imports after June 30, 1978.

[6820-33-M]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1979

Proposed Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Addition to Procurement List.

SUMMARY: The Committee has received a proposal to add to Procurement List 1979 commodities to be produced by workshops for the blind and other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: February 14, 1979.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77.

If the Committee approves the proposed addition, all entities of the Federal government will be required to procure the commodities listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities to Procurement List 1979, November 15, 1978 (43 FR 53151):

Class 8430

Footwear Cover, Radioactive Contaminants, 8430-00-591-1359, 8430-00-580-1206, 8430-00-580-1205.

C. W. FLETCHER,
Executive Director.

[FR Doc. 79-1097 Filed 1-11-79; 8:45 am]

[6820-33-M]

PROCUREMENT LIST 1979

Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Addition to Procurement List.

SUMMARY: This action adds to Procurement List 1979 commodities to be produced by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: January 12, 1979.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: On October 13, 1978 the Committee for Purchase from the Blind and Other Severely Handicapped published notice (43 FR 47235) of proposed addition to Procurement List 1979, November 15, 1978 (43 FR 53151).

After consideration of the relevant matter presented, the Committee has determined that the commodities listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77.

Accordingly, the following commodities are hereby added to Procurement List 1979:

Class None

Mattress, Bed, Innerspring, 38-75-100, 38 x 75"; 53-75-100, 53 x 75" (Navy requirements only)

C. W. FLETCHER,
Executive Director.

[FR Doc. 79-1096 Filed 1-11-79; 8:45 am]

[3810-70-M]

DEPARTMENT OF DEFENSE

Office of the Secretary

DEFENSE SCIENCE BOARD TASK FORCE ON ECM

Advisory Committee Meeting

The Defense Science Board Task Force on ECM will meet in closed session on January 30-31, 1979 in the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

A meeting of the Task Force on ECM has been scheduled for January 30-31, 1979 to discuss potential technical solutions to several current problems in electronic counter-measures.

In accordance with Section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Defense Science Board Task Force meeting concerns matters listed in Section 552b(c) of Title 5, of the United States Code, specifically subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

JANUARY 9, 1979.

MAURICE W. ROCHE,
Director, Correspondence and Directives DOD/WHS.

[FR Doc. 79-965 Filed 1-11-79; 8:45 am]

[6450-01-M]

DEPARTMENT OF ENERGY

NATIONAL PETROLEUM COUNCIL, TASK GROUP OF THE COMMITTEE ON GEOPRESSURED ZONES

Meeting

Notice is hereby given that the National Petroleum Council, Committee on Unconventional Gas Sources, Geopressured Zones Task Group will meet on Tuesday, January 16, 1979, starting at 9:00 a.m. in the office on the 9th floor of Union Oil Company of California, 900 Executive Plaza West, 4635 Southwest Freeway, Houston, Texas.

The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries.

The tentative agenda for the meeting follows:

1. Introductory remarks by Chairman and Government Cochairman.
2. Discussion of the study methodology to be employed by the Geopressured Zones Task Group and review of assignments.
3. Discussion of the timetable of the Geopressured Zones Task Group.
4. Discussion of any other matters pertinent to the overall assignments of the Geopressured Zones Task Group.

The meetings are open to the public. The Chairman of the task group are empowered to conduct the meetings in a fashion that will, in their judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the task group will be permitted to so do, either before or after the meeting. Members of the public who wish to make oral statements should inform Lucio D'Andrea, Office of Resource Applications, 202-633-8383, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Transcripts and/or minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room GA 152, DOE, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Any person may purchase a copy of the transcript from the reporter.

Issued at Washington, D.C. on January 4, 1979.

GEORGE S. MCISAAC,
Assistant Secretary for Resource Applications.

JANUARY 4, 1979.

[FR Doc. 79-1243 Filed 1-11-79; 8:45 am]

[6450-01-M]

Assistant Secretary for Defense Programs

SANDIA CORPORATION SITES

Trespassing on Department Property

The notice concerning unauthorized entry into or upon the Sandia Corporation sites of the Energy Research and Development Administration (formerly the Atomic Energy Commission) appearing at pages 13269-90 of the FEDERAL REGISTER of October 19, 1965, 30 FR 13289 (FR Doc. 65-11115) as amended by the notice appearing at page 5384 of the FEDERAL REGISTER of March 30, 1967, 32 FR 5384 (FR Doc. 67-3475), and at page 17738 of the FEDERAL REGISTER of November 1, 1969, 34 FR 17738 (FR Doc. 69-13011), and at page 12912 of the FEDERAL REGISTER of April 9, 1974, 39 FR 12912 (FR Doc. 74-8103), is hereby further amended in the following respects:

The following installations are added:

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Facility	County	Section	New Mexico Principal Median Township and Range
Explosive Preparation Facility (Building 9832)	Bernalillo	SW¼,SE¼	T.9N, R.5E
Explosive Storage Magazine (Building 9968)	Bernalillo	SW¼,NW¼ of Sec. 27	T.9N, R.4E
Signal Conditioning Bunker (Building 9964)	Bernalillo	SE¼, SW¼ of Sec. 33	T.9N, R.4E
New Cable Site, Sol se Mete Canyon	Bernalillo	SE¼, SE¼ of Sec. 17	T.9N, R.5E
Sodium Concrete Reaction Facility (Building 9939A)	Bernalillo	NE¼, SW¼ of Sec. 27	T.9N, R.4E
Solar Thermal Test Facility comprising 490 acres of land and having erected thereon a concrete solar tower, a heliostat collector field, Building 9981, and four temporary buildings all enclosed within a chain link fence.	Bernalillo	SW¼; S½ NW¼; S½ N½ NW¼; SW¼ NE¼; S½ NW¼ NE¼; SW¼ NE¼ NE¼; W½ SE¼ NE¼; W½ SE¼; W½ E½ SE¼ of Sec. 34.	T.9N, R.4E
Electron Beam Fusion Accelerator: Laboratory Building 980 and Office Building 981.	Bernalillo	SW¼, S½	T.9N, R.4E

Dated at Washington, DC this 5th day of January 1979.

DUANE C. SEWELL,
Assistant Secretary, for Defense Programs.

[FR Doc. 79-1244 Filed 1-11-79; 8:45 am]

[6450-01-M]

Economic Regulatory Administration

[Release No. 7]

MANDATORY OIL IMPORT PROGRAM

Oil Import Allocations and Licensing, December 1-31, 1978

The fee-exempt allocations and licenses issued in accordance with Presidential Proclamation 3279, as amended, during the period December 1-31, 1978, are given in the following tables. The allocations are listed for the appropriate sections of 10 CFR 213 under which the allocations are made.

On December 8, 1978 the President signed Proclamation No. 4629 (43 FR 58077 (December 12, 1978)) which further amended Proclamation 3279, which provides for the long-term control of petroleum imports. Proclamation 4629 provided, among other changes, for an increase in fee-exempt residual fuel oil allocations into District I for use as fuel. A final rule amending the Department of Energy's Oil Import Regulations was recently published (43 FR 59458 (December 20, 1978)) providing for those additional fee exempt allocations. In accordance with the changes provided for in the final rule, additional allocations were issued pursuant to amended section 213.15 to 20 historical importers. Also listed are those allocations of fee-exempt residual fuel oil allocation issued to those who applied under the provisions of paragraphs 213.15 (d) and (e).

A tabulation of the fee-exempt crude oil and product licenses and a listing of the sale and reassignment of fee-exempt crude oil licenses issued during the month of December 1978, is shown on tables 3 and 4.

Previous releases covered the issuance of allocations and licenses for the period May 1, 1978, through November 30, 1978. The releases will continue to be issued on a monthly basis.

Dated: January 5, 1979.

FINN K. NEILSEN,
Acting Assistant Administrator, Fuels Regulation, Economic Regulatory Administration.

INDEX

Table	Title
1	Allocations of Residual Fuel Oil—District I—10 CFR 213.15.
2	Fee-exempt allocation for imports of Canadian oil based upon exchange for domestic oil—10 CFR 213.28(b).
3	Sales of fee-exempt licenses—10 CFR 213.22.
4	Fee-paid licenses issued—10 CFR 213.35.
5	Fee-exempt licenses issued as a result of decision and orders from the Office of Hearings and Appeals.

DEPARTMENT OF ENERGY

OFFICE OF OIL IMPORTS, ALLOCATION DECEMBER 1-31, 1978

TABLE 1.—*Residual Fuel Oil Imports § 213.15—District I*
Additional Allocations—Paragraph 213.15(c)

Company	Address	Allocation bbls.
Exxon Corporation	Houston, Texas	42,447,335
Belcher Oil Company	Miami, Florida	5,223,531
Central Petroleum Corp	Bronx, New York	508,047
Colonial Oil Industries	Savannah, Georgia	4,863,024
A. Tarricone, Inc	Yonkers, New York	282,317
Swann Oil, Inc	Bala Cynwyd, PA	2,004,986
Steuart Petroleum Co	Washington, D.C.	2,591,817
Sears Oil Co., Inc	Rome, New York	217,225
Rico Petroleum Corp	New York, New York	899,297
Northville Industries	Huntington Station, NY	2,490,661
Metropolitan Petroleum	New York, New York	5,350,786
George Hall Company	Ogdensburg, NY	54,705
Irving Oil Corporation	Bangor, Maine	1,387,612
Coastal States Gas Corp	Houston, Texas	3,431,509
Oceana Terminal Corp	Bronx, New York	1,874,838
Amerada Hess Corporation	Woodbridge, New Jersey	51,301,115
Asiatic Petroleum Corp	New York, New York	10,049,094
New England Petroleum	New York, New York	37,189,091
Texaco Inc	White Plains, New York	15,000,000
Castle Coal & Oil Co	Bronx, New York	1,753,259
Allocations Issued Pursuant to Paragraphs 213.15(d) and (e)		
Chevron U.S.A. Inc	San Francisco, CA	500,000
Kaiser Aluminum	Oakland, CA	275,000
Tauber Oil Company	Houston, Texas	500,000
Leeward Petroleum USA	New York, New York	500,000
Trammo Petroleum Corp	New York, New York	500,000

TABLE 2.—*Canadian Crude Oil—Exchange of Material Not Allocated Under Part 214*

Paragraph 213.28(b)

Company	Address	Exchange volume license total barrels
Total Petroleum	Alma, Michigan	50,000
Dow Chemical Co	Midland, Michigan	912,000

TABLE 3.—*Oil Import Licenses Sold Pursuant to Paragraph 213.22(d)*

DISTRICT I-IV

Seller	Buyer	Date	Commodity	Barrels sold
Western Refining Co	Ashland Oil	Nov. 27, 1978	Crude	500,000
Winston Refining Co	Gulf Oil Co	Nov. 27, 1978	Crude	475,000
Winston Refining Co	Gulf Oil Co	Nov. 27, 1978	Crude	214,850
Bruin Refining Co	Gulf Oil Co	Nov. 27, 1978	Crude	500,000
Giant Industries	Texaco Inc	Nov. 27, 1978	Crude	1,168,730
Crystal Oil Co	Getty Refining	Nov. 24, 1978	Crude	232,870
Vickers Petroleum	Cities Service	Dec. 4, 1978	Crude	1,000,000
Atlantic Richfield	Energy Coop	Dec. 4, 1978	Crude	4,000,000
American Cyanamid	Texaco Inc	Dec. 4, 1978	Crude	59,540
Husky Oil Company	Mobil Oil	Dec. 4, 1978	Crude	1,195,000
Husky Oil Company	Mobil Oil	Dec. 4, 1978	Crude	524,880
Getty Refining	Texaco Inc	Dec. 4, 1978	Crude	403,038
Little America	Mobil Oil	Dec. 8, 1978	Crude	2,000,000
Oxirane Chemical	Gulf Oil Co	Dec. 8, 1978	Crude	85,811
Oxirane Chemical	Gulf Oil Co	Dec. 8, 1978	Crude	93,340
Soltex Polymert	Texaco Inc	Dec. 8, 1978	Crude	103,260
Dart Industries	Texaco Inc	Dec. 8, 1978	Crude	172,574
Dart Industries	Texaco Inc	Dec. 8, 1978	Crude	62,909
Vickers Petroleum	Texaco Inc	Dec. 13, 1978	Crude	1,000,000
Vickers Petroleum	Texaco Inc	Dec. 13, 1978	Crude	1,000,000
Oklahoma Refining	Total Petroleum	Dec. 14, 1978	Crude	430,000
Oklahoma Refining	Total Petroleum	Dec. 14, 1978	Crude	585,399
Cabot Corporation	Gulf Oil Co	Dec. 18, 1978	Crude	39,055
Cabot Corporation	Gulf Oil Co	Dec. 18, 1978	Crude	39,055
Cabot Corporation	Gulf Oil Co	Dec. 18, 1978	Crude	48,286
Cabot Corporation	Gulf Oil Co	Dec. 18, 1978	Crude	45,734
Cabot Corporation	Gulf Oil Co	Dec. 18, 1978	Unfinished	8,521
Cabot Corporation	Gulf Oil Co	Dec. 18, 1978	Unfinished	8,071
Thriftway, Inc	Amoco Oil Co	Dec. 21, 1978	Crude	59,725
Thriftway, Inc	Amoco Oil Co	Dec. 21, 1978	Crude	524,405
Thriftway, Inc	Amoco Oil Co	Dec. 21, 1978	Crude	110,000
Louisiana Land	Amoco Oil Co	Dec. 21, 1978	Crude	2,249,880
Wyoming Refining	Ashland Oil	Dec. 21, 1978	Crude	310,000
Wyoming Refining	Ashland Oil	Dec. 21, 1978	Crude	136,030
Shell Oil Co	Phillips Petro	Dec. 27, 1978	Unfinished	1,206
Shell Oil Co	Phillips Petro	Dec. 27, 1978	Unfinished	1,918

DISTRICT V

USA Petroleum	Texaco Inc	Dec. 4, 1978	Crude	3,000,000
USA Petroleum	Gulf Oil Co	Dec. 4, 1978	Crude	1,000,000
San Joaquin	Mobil Oil	Dec. 21, 1978	Crude	600,000
Chevron USA, Inc	Edgington Oil	Dec. 27, 1978	Crude	250,000
Mohawk Petroleum	Union Oil CA	Dec. 27, 1978	Crude	392,150
Mohawk Petroleum	Union Oil CA	Dec. 21, 1978	Crude	538,375
Mohawk Petroleum	Union Oil CA	Dec. 21, 1978	Crude	807,745
Beacon Oil Co	Texaco Inc	Dec. 27, 1978	Crude	444,690
Beacon Oil Co	Texaco Inc	Dec. 27, 1978	Crude	500,000
Beacon Oil Co	Texaco Inc	Dec. 27, 1978	Crude	700,000

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TABLE 4.—*Fee-Paid Licenses Issued Pursuant to §213.35*

Company	Date	Quantity total bbls.
CRUDE OIL—PREPAID		
Farmers Union Central	Dec. 1, 1978	300,000
Int'l Petroleum	Dec. 21, 1978	375,000
CRUDE OIL—BOND POSTED		
United Refining Co	Dec. 1, 1978	1,097,750
Coastal States Gas Corp	Dec. 4, 1978	5,000,000
Coastal States Gas Corp	Dec. 5, 1978	1,000,000
Koch Industries, Inc	Dec. 7, 1978	750,000
Sun Oil Co. of PA	Dec. 7, 1978	6,000,000
CRA, Inc. (Farmland)	Dec. 7, 1978	2,000,000
Atlantic Richfield Co	Dec. 11, 1978	1,000,000
Atlantic Richfield Co	Dec. 11, 1978	2,000,000
Atlantic Richfield Co	Dec. 11, 1978	2,000,000
Cities Service Oil Co	Dec. 13, 1978	7,000,000
Exxon Corporation	Dec. 13, 1978	30,000,000
Farmers Union Central	Dec. 15, 1978	1,400,000
Chevron U.S.A. Inc	Dec. 15, 1978	10,000,000
Gulf Oil Co U.S.	Dec. 15, 1978	3,542,857
Crown Central Petroleum	Dec. 18, 1978	2,500,000
Clark Oil & Refining	Dec. 19, 1978	2,500,000
Texaco Inc	Dec. 19, 1978	17,000,000
Champlin Petroleum Co	Dec. 21, 1978	1,617,000
Gordon Duke	Dec. 21, 1978	20,000
Gulf Oil Company—U.S	Dec. 27, 1978	6,500,000
FINISHED PRODUCTS—PREPAID		
Nashua Corporation	Dec. 4, 1978	[1]33
Mattiace Petrochemical	Dec. 4, 1978	[1]10,000
Bombardier Corporation	Dec. 8, 1978	[1]40
Edwin Cooper, Inc	Dec. 8, 1978	[1]2,600
Finachem Canada	Dec. 8, 1978	[1]10,000
Sunchem (Div. of Sunoco)	Dec. 13, 1978	[1]54,000
Airco Welding Products	Dec. 13, 1978	[1]27,000
Thrall Oil/Major Oil	Dec. 15, 1978	[1]190
Americhem Corporation	Dec. 18, 1978	[1]20,000
Hudson Lubricants	Dec. 18, 1978	[1]500
Schofield Oil Ltd	Dec. 18, 1978	[1]1,500
Mitsubishi International	Dec. 19, 1978	[1]9,576
Edwin Cooper	Dec. 19, 1978	[1]514
Keyser International	Dec. 20, 1978	[1]600
John Deere	Dec. 20, 1978	[1]60
Industrial Solvents	Dec. 20, 1978	[1]60,000
Robert L. Freeman	Dec. 20, 1978	[1]4,000
Sunchem (Div. of Sunoco)	Dec. 21, 1978	[1]30,000
Metro Oil & Chemical Corp	Dec. 26, 1978	[1]3,000
Charter International	Dec. 18, 1978	[1]10,800
UCO Oil Company	Dec. 27, 1978	[1]241,399
The Lubrizol Corporation	Dec. 27, 1978	[1]10,300
Interprise Oil & Gas Co	Dec. 27, 1978	[1]90,000
Witco Chemical Corporation	Dec. 28, 1978	[1]10,935
FINISHED PRODUCTS—BOND POSTED		
By-Lo Oil Company	Dec. 4, 1978	120,000
Colonial Oil Industries	Dec. 4, 1978	200,000
Chevron U.S.A. Inc	Dec. 5, 1978	800,000
Western Trading Company	Dec. 7, 1978	50,000
Chevron U.S.A. Inc	Dec. 7, 1978	1,000,000
Chevron U.S.A. Inc	Dec. 7, 1978	1,000,000
Philipps Brothers	Dec. 7, 1978	9,000
Union Oil Co. of CA	Dec. 13, 1978	200,000
Texaco Inc	Dec. 19, 1978	5,000,000
Chevron U.S.A. Inc	Dec. 19, 1978	500,000
So. California Edison Co	Dec. 26, 1978	7,500,000
Shell Oil Company	Dec. 26, 1978	1,000,000
Puerto Rico Sun Oil Co	Dec. 28, 1978	400,000

[1]License quantity total barrels.

TABLE 5.—*Fee-Exempt Licenses Issued as a Result of Decisions and Orders*

FROM THE OFFICE OF HEARINGS AND APPEALS

Company	Date	Commodity	Barrels
American Petrofina	Dec. 13, 1978.	Crude Oil	992,311

[FR Doc. 79-1030 Filed 1-11-79; 8:45 am]

[6450-01-M]

NATIONAL PETROLEUM COUNCIL

Coordinating Subcommittee and Task Groups of the Subcommittee on Petroleum Inventories and Storage and Transportation Capacities

Meetings

Notice is hereby given that the Coordinating Subcommittee on Petroleum Inventories and Storage and Transportation Capacities of the National Petroleum Council will meet on January 17, 1979. In addition, the Gas Pipeline Task Group will meet on January 9, 1979, the Petroleum Pipeline Task Group will meet on January 10, 1979 and, the Inventory and Storage Task Group will meet on January 16, 1979.

The National Petroleum Council was established to provide advice, information and recommendations to the Secretary of Energy on matters relating to oil and gas or the oil and gas industries. The Subcommittee on Petroleum Inventories and Storage and Transportation Capacities will make an analysis of the Petroleum inventories, and storage and transportation capacities of the United States, and will report its findings to the National Petroleum Council. Its analysis and findings will be based on information and data to be gathered by task groups whose efforts will be coordinated by the Coordinating Subcommittee.

The fourth meeting of the Coordinating Subcommittee of the Subcommittee on Petroleum Inventories and Storage and Transportation Capacities will meet on Wednesday, January 17, 1979, starting at 1:30 p.m., in Room 1635, One Shell Plaza, Houston, Texas. Its tentative agenda is as follows:

1. Introductory Remarks by R. Scott Van-Dyke, Chairman.
2. Remarks by Mario Cardullo, Government Cochairman.
3. Discussion of Study Coordination.
4. Discussion of the Glossary.
5. Discuss Any Other Matters Pertinent to the Overall Assignment of the Coordinating Subcommittee.

The individual task groups will meet at the following times and locations.

Gas Pipeline Task Group: fourth meeting: Tuesday, January, 9, 1979, starting at 8:30 a.m., in Demonstration Room A, Pacific Gas & Electric Company, 245 Market Street Lobby, San Francisco, California.

Petroleum Pipeline Task Group: fourth meeting: Wednesday, January 10, 1979, starting at 9:00 a.m. in the 14th Floor Conference Room, Sun Building, 907 Detroit Avenue, Tulsa, Oklahoma.

Inventory and Storage Task Group: fourth meeting: Wednesday, January 17, 1979, starting at 10:00 a.m. in Room 1635, One Shell Plaza, Houston, Texas.

The agenda for each of these task groups will be as follows:

1. Remarks by Chairman and Government Co-chairman.
2. Discussion of Data Collection.
3. Discussion of Glossary.
4. Discussion of Any Other Matters Pertinent to the Overall Assignment of the Task Group.

The meetings are open to the public. The chairman of the Coordinating Subcommittee and task groups are empowered to conduct the meetings in a fashion that will, in their judgment facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Coordinating Subcommittee or task groups will be permitted to do so, either before or after the meeting but not later than January 26, 1979. Members of the public who wish to make oral statements should inform Dr. Erik A. Svenson, Office of Policy and Evaluation, 202-376-1846, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of all Task group meetings will be prepared and filed. Full transcripts of the Coordinating Subcommittee meeting will be available for public review at the Freedom of Information Public Reading Room, Room GA-152, Department of Energy, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. between the hours of 8 a.m. and 4:30 p.m. Monday through Friday, except Federal holidays. Any person may purchase a copy of the transcripts from the reporter.

Issued at Washington, D.C. on January 5, 1979.

ALVIN L. ALM,
Assistant Secretary for Policy and Evaluation, Department of Energy.

[FR Doc. 79-1044 Filed 1-9-79; 9:19 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[OPP-50395; FRL 1036-6]

ISSUANCE OF EXPERIMENTAL USE PERMITS

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 270-EUP-1. Farnam Companies, Inc., Phoenix, Arizona 85036. This experimental use permit allows the use of one pound of the insecticide chlorpyrifos on 300 dog collars to evaluate control of ticks and fleas on dogs. The program is authorized only in the States of Arizona, California, Florida, Kentucky, and Texas. The experimental use permit is effective from November 17, 1978 to November 17, 1979. (PM 12, Room: E-229; Telephone: 202-426-9425.)

No. 876-EUP-33. Velsicol Chemical Corporation, Chicago, Illinois 60611. This experimental use permit allows the use of 10,772 pounds of the herbicide dicamba on field and silage corn to evaluate control of weeds. A total of 35,200 acres is involved; the program is authorized only in the States of Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Michigan, Minnesota, Missouri, Montana, Nebraska, New Jersey, New York, North Carolina, North Dakota, Ohio, Pennsylvania, South Dakota, Virginia, Wisconsin, and Wyoming. The experimental use permit is effective from November 16, 1978 to November 16, 1979. A permanent tolerance has been established for residues of the active ingredient in or on corn (40 CFR 180.227). (PM 25, Room: 301, Telephone: 202-755-2196.)

No. 1021-EUP-21. McLaughlin Gormley King Company, Minneapolis, Minnesota 55427. This experimental use permit allows the use of 27 pounds of the repellent putrescent whole egg solids on Douglas fir seedlings to evaluate control of deer. A total of 50 acres is involved; the program is authorized only in the State of Oregon. The experimental use permit is effective from November 20, 1978 to November 20, 1979. (PM 16, Room: 229, Telephone: 202-755-9315.)

Interested parties wishing to review the experimental use permits are referred to the designated Product Manager (PM), Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, SW., Washington, D.C. 20460. The descriptive paragraph for each permit contains a telephone number and room number for information purposes. It is suggested that interested persons call before visiting the EPA Headquarters Office, so that the appropriate permits may be made conveniently available for review purposes. The files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

(Section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended in

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1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).

Dated: December 7, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc. 79-1045 Filed 1-11-79; 8:45 am]

[6560-01-M]

[OPP—30000/12B; FRL 1036-8]

DETERMINATION PURSUANT TO 40 CFR 162.11(a)(5) CONCLUDING THE REBUTTABLE PRESUMPTION AGAINST REGISTRATION OF PESTICIDE PRODUCTS CONTAINING AMITRAZ

Availability of Position Document

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Notice of Determination and Availability of Position Document concerning Amitraz.

SUMMARY: On April 6, 1977, the EPA published in the FEDERAL REGISTER (42 FR 18299) a notice of rebuttable presumption against registration (RPAR) of pesticide products containing amitraz, a new pesticide for which an end use has not yet been approved. The applicant for registration and other interested persons were provided the opportunity to submit data and information to rebut the presumption. After reviewing the rebuttals the EPA has accepted certain arguments and rejected others. The Agency has determined that there is weakly positive evidence that amitraz is a potential human carcinogen and has concluded that the proposed uses of amitraz on pears and applies might pose a very small risk of cancer to certain exposed groups. The Agency has also reviewed information relating to the benefits of these proposed uses. While there is an indication of possible significant benefit from the use of amitraz on pears, there appears to be little or no benefit from its use on applies. After weighing these risks and benefits, and considering whether the prerequisites for conditional registration have been met, the Agency has determined that it will grant a conditional registration of amitraz for use on pears for 4 years, provided that the applicant for registration submits additional benefit data and a mouse oncogenic bioassay within 4 years (along with annual reports of progress and test results), and amends the proposed label to restrict the use of amitraz as specified by the Agency. EPA has decided to deny the application for registration of amitraz for use on apples.

DATE: Comments must be received on or before February 12, 1979.

ADDRESS COMMENTS TO: FEDERAL REGISTER Section, Program Support Division (TS-757), Office of Pesticide Programs, EPA, Room 401, East Tower, 401 M St., S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Jeff Kempter, Project Manager, Special Pesticide Review Division, Office of Pesticide Programs (TS-791), Room 447, East Tower, EPA (202/755-8053).

SUPPLEMENTARY INFORMATION: This Notice of Determination and the referenced Amitraz Position Document 3 detail the reasons for the regulatory actions being proposed. As required by the Federal Insecticide, Fungicide, and Rodenticide Act as Amended (FIFRA), copies of this Notice of per Bozoff Determination and the Position Document are being transmitted to the Secretary of Agriculture and the Scientific Advisory Panel for comment; these documents are also being provided to the affected applicant for registration. Other interested persons may receive a copy of the Position Document by contacting Jeff Kempter, Project Manager, at the address given.

Anyone may comment on the proposed actions. All comments should be sent to the FEDERAL REGISTER Section at the EPA headquarters address given. Copies of the comments should be submitted to facilitate the work of the Agency and others interested in inspecting the comments. The comments should bear the identifying notation OPP-30000/12B.

I. INTRODUCTION

On April 6, 1977, the Environmental Protection Agency issued a notice of rebuttable presumption against registration ("RPAR") of pesticide products containing amitraz (42 FR 18299). This action initiated the Agency's public review of the risks and benefits of the use of amitraz on pears and apples, the two uses which are proposed in the only pending application for registration. This Notice of Determination ("Notice") is issued pursuant to 40 CFR §162.11(a)(5) and constitutes a preliminary notice of intent to deny registration of amitraz for use on apples and to grant conditional registration of amitraz for use on pears.

In broad summary, the Agency has determined that the cancer risk presumption announced in the amitraz RPAR has not been rebutted; therefore, the evidence that amitraz might pose a cancer risk to exposed groups is of sufficient concern to require the Agency to thoroughly evaluate the risks and the economic, social and environmental benefits of the agent. The Agency has performed detailed risk and benefit assessments, based in part on information submitted by the applicant for registration and by the U.S. Department of Agriculture. The Agency has weighed risks against benefits in order to determine if the risks from each proposed use are warranted by the respective benefits. In making this determination, the Agency has considered the quality of the risks and benefits data, the availability of risk reduction measures, and the extent to which these risk reduction measures impact on the benefits of use.

With respect to the proposed uses of amitraz, the Agency has determined: (1) The benefits from the use of amitraz on pears for four years outweigh the risks from that use only if the risks are reduced by modification in the proposed terms and conditions of registration. More definitive data are needed before the benefits and risks of the long-term use of amitraz on pears can be compared with adequate precision. (2) The risks from the use of amitraz on apples outweigh the benefits of such use, even when the reduction in risk which might be achieved by modifications in the proposed condition of registration is taken into account.

Based on these factors and the applicable legal requirements, the Agency is initiating action to conditionally register amitraz for use on pears for 4 years, provided that the proposed terms and conditions of registration are restricted and that the registrant provides additional benefit and risk data within four years, along with annual reports of progress and test results. The Agency is also initiating action to deny the application for registration of amitraz for use on apples.

The remainder of this notice sets forth in detail the Agency's analysis of comments submitted during the rebuttal phase of the amitraz RPAR and the Agency's reasons and factual bases for the regulatory actions it is initiating. The notice is organized in four sections. Section I is this introduction. Section II, "Legal Background," is a general discussion of the regulatory framework within which this action is taken. Section III sets forth the Agency's determinations concluding the amitraz RPAR and initiating the regulatory action which flow from these determinations; Section III and Position Document 3 set forth the bases for these determinations. Section IV, "Procedural Matters," is a brief discussion of the procedures which will be followed in implementing the regulatory actions which the Agency is initiating in this notice.

II. LEGAL BACKGROUND

In order to obtain a registration for a pesticide under the FIFRA, a manufacturer must demonstrate that the pesticide satisfies the statutory standard for registration. That Standard requires, among other things, that the pesticide perform its intended function without causing "unreasonable adverse effects" on the environment (Section 3(c)(5)). "Unreasonable adverse effects on the environment" is defined to mean "any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide" [FIFRA, Section 2(bb)]. In effect, this standard requires a finding that the benefits of each use of the pesticide exceed the risks of each use, when the pesticide is used in accordance with the terms and conditions of registration or in accordance with commonly recognized practice.[1]

Under special circumstances, the Administrator may conditionally register a pesticide for a limited period of time. The conditional registration provision of FIFRA which is applicable to amitraz is Section 3(c)(7)(C). This section provides that the Administrator may conditionally register a pesticide containing an active ingredient not contained in any currently registered pesticide if he determines: (1) a period reasonably sufficient for the generation and submission of data required for unconditional registration has not elapsed since the Administrator first imposed the data requirement; (2) use of the pesticide during the period of conditional registration will not cause any unreasonable adverse effects; and (3) use of the pesticide is in the public interest. If the Administrator makes these determinations and grants conditional registration, such registration shall be subject to the conditions that (1) the data submission requirement be satisfied before the specified term of the registration has expired and (2) the newly submitted data do not meet or exceed any of the risk criteria enumerated in 40 CFR §162.11. In addition, the Administrator may prescribe any other conditions he deems appropriate. If the Administrator determines that the registrant has failed to take appropriate steps toward fulfilling any condition imposed or that a condition has not been met within the period prescribed for satisfying such condition, he shall issue a notice of intent to cancel the conditional registration. New chemical conditional registrations will be decided on a case-by-case basis until promulgation of appropriate regulations. Amitraz falls within the purview of Section 3(c)(7)(C) because it is not currently registered for use as a pesticide. Although technical amitraz is registered, this registration is for formulation only, not for pest control. The Agency considers the provisions of Section 3(c)(7)(C) to apply to pesticides which are not currently registered for an end use.

The Agency created the RPAR process to facilitate the identification of pesticide uses which may not satisfy the statutory standard for registration, and to provide a structure for gathering and evaluating risk and benefit information. The structure permits public participation at major points in the evaluation process.

The RPAR process is set forth at 40 CFR §162.11. This section provides that a rebuttable presumption shall arise if a pesticide meets or exceeds any of the risk criteria set out in the regulations. After an RPAR is issued, applicants for registration and other interested persons are invited to review the data on which the presumption is based and to submit data to rebut the presumption. Respondents may rebut the presumption of risk by showing that the Agency's initial determination of risk was in error, or by showing that use of the pesticide is not likely to result in any significant exposure to man or the environment.[2] In addition, respondents may submit evidence which demonstrates that the economic, social and environmental benefits of the use of a pesticide subject to a presumption outweigh the risks of use.

The regulations require the Agency to conclude an RPAR by issuing a notice of determination. In that notice, the Agency first must state whether the risk presumption has been rebutted. If the Agency determines that the presumption has been rebutted, the Agency will register the pesticide, assuming all the requirements for registration have been met. If the Agency determines that the presumption has not been rebutted, it will consider information relating to the social, economic and environmental costs and benefits which the applicant for registration and other interested persons submitted to the Agency, and any other benefits information collected by the Agency. If the Agency determines that the risks of a pesticide use outweigh its benefits, the RPAR process will conclude with a notice of intent to deny registration, pursuant to FIFRA Section 3(c)(6). If, on the other hand, the Agency determines that benefits appear to outweigh the risks, the Agency may issue a notice of intent to hold a hearing, as authorized by Section 6(b)(2) of FIFRA, to determine whether the application for registration should be denied.[3] The Regulations further provide that the Agency may withdraw a notice of intent to hold a hearing on whether registration should be denied if there is insufficient public interest.

[1] Another part of the statutory standard for registration is that the pesticide must satisfy the labeling requirements of FIFRA. These requirements are set out in the statutory definition of "misbranded" [FIFRA section 2(q)]. Among other things, this section provides that a pesticide is misbranded if "the labeling . . . does not contain directions for use which are necessary for effecting the purpose for which the product is intended and if complied with together with any . . . [restrictions] imposed under section 3(d) . . . are adequate to protect health and the environment."

The Agency can require changes in the directions for use of a pesticide in most circumstances, either finding that the pesticide is misbranded if the labeling is not changed or by finding that the pesticide would cause unreasonable adverse effects on the environment, unless labeling changes are made which accomplish risk reductions.

[2] 40 CFR 162.11(a)(4) provides that registrants and applicants may rebut a presumption against registration by sustaining the burden of proving: (1) In the case of a pesticide which meets or exceeds the criteria for risk set forth in paragraphs (a)(3) (i) or (iii) that when considered with the formulation, packaging, method of use, and proposed restrictions on and directions for use and widespread and commonly recognized practices of use, the anticipated exposure to an applicator or user and to local, regional or national populations of nontarget organisms is not likely to result in any significant acute adverse effects; or (ii) in the case of a pesticide which meets or exceeds the criteria for risk set forth in paragraph (a)(3)(ii) that when considered with proposed restrictions on use and widespread and commonly recognized practices of use, the pesticide will not concentrate, persist or accrue to levels in man or the environment likely to result in any significant chronic adverse effects; or (iii) that the determination by the Agency that the pesticide meets or exceeds any of the criteria for risk was in error. A primary purpose of the RPAR process is to screen for appropriate action those pesticide uses which pose risks which are of sufficient concern to require the Agency to consider whether offsetting benefits justify the risks. Accordingly, the Agency's approach to rebuttal determinations concentrates on whether the risk concerns which are central to each RPAR proceeding have in fact been answered.

[3] As indicated earlier, one of the primary purposes of the RPAR process is information-gathering about pesticide uses which may cause unreasonable adverse effects. At times during an RPAR, new information about the risks or benefits of a pesticide will come to light, as a result of the development of new information, or as a result of reassessing previously available information or for other reasons. In such instances, it is Agency policy to consider such information in the risk/benefit assessment of the pesticide use in question which is already underway. Generally, the Agency will not publish a separate or amended RPAR notice with respect to such new information; accordingly, the Agency has frequently admonished pesticide registrants and other participants in the RPAR process to take full and frequent advantage of the Agency's open invitation to inspect the RPAR public files, and otherwise to keep abreast of developments in any ongoing RPAR proceeding.

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In weighing the risks and benefits, the Agency considers the quality of the data, possible modifications to the proposed terms and conditions of registration which can reduce risks, and the impacts of such modifications on the benefits of the use. Risk reduction measures short of denial which are available to the Agency include requiring changes in the directions for use on the pesticide's labeling, and classifying the pesticide for "restricted use" pursuant to FIFRA, Section 3(d).

The statute requires the Agency to submit a notice, issued pursuant to Section 6(b)(2) to the Secretary of Agriculture for comment. The Agency must also provide the Secretary of Agriculture with an analysis of the impact of the proposed action on the agricultural economy. These documents must be received by the Secretary at least 60 days before the notice is sent to the applicant or made public. The Secretary of Agriculture is required to comment in writing within 30 days, and the Agency is required to publish the Secretary's comments and the Administrator's response with the publication of the notice. The statute also requires the Administrator to submit Section 6 notices to a scientific advisory panel for comment on the impact of the proposed action on health and the environment, at the same time and under the same procedures as those for review by the Secretary of Agriculture [Section 25(d) of FIFRA].

Although not required by the statute, the Agency has decided that it is consistent with the general theme of the RPAR process and Agency's overall policy of open decision-making to give the applicant and other interested persons the opportunity to comment on the bases for the actions proposed in this notice of determination. Accordingly, the applicant and other interested persons will be allowed the same period of time to comment—30 days—that the statute provides for receipt of comments from the Secretary of Agriculture and the Scientific Advisory Panel.

After receiving these comments and making any changes in the contemplated action which it deems appropriate in light of the comments, the Agency will implement its regulatory action by publishing either a notice of denial of registration under FIFRA Section 3(c)(6) or a notice of intent to hold a hearing under FIFRA Section 6(b)(2). In the case of a notice of denial, under FIFRA Section 6(b) the applicant for registration and other interested persons with the concurrence of the applicant, have 30 days to request a hearing. In the event a hearing is not requested and any changes in the terms or conditions of registration directed in the denial notice are not accepted, the denial will become final at the end of the 30-day notice period. If a hearing is requested, it will be governed by the Agency's rules of practice for hearings under FIFRA Section 6 [40 CFR Part 164]; the denial will not become final except pursuant to an order of the Administrator at the conclusion of the hearing. Rules governing participation in and the conduct of hearings under FIFRA Section 6(b)(2) are also set forth in 40 CFR Part 164. As noted, the Agency may withdraw such a notice prior to the commencement of a hearing, upon appropriate findings.

III. Determinations and Initiation of Regulatory Action

The Agency has considered information on the risks from the use of amitraz, including information submitted by the applicant for registration and other interested persons in rebuttal to the amitraz RPAR. The Agency has also considered information on the social, economic and environmental costs and benefits of the uses of amitraz subject to the RPAR, including benefits information submitted by the applicant for registration and other interested persons in conjuction with their rebuttal submissions, and information submitted by the U.S. Department of Agriculture. The position document accompanying this notice (Position Document 3) describes in detail the Agency's assessment of the risks and benefits of the uses of amitraz subject to this RPAR, its determinations as to whether these uses of amitraz pose unreasonable adverse effects on the environment, and its determinations as to whether modifications in terms or conditions of registration reduce risks sufficiently to eliminate any unreasonable adverse effects. Position Document 3 is hereby adopted by the Agency as its statement of reasons for the determinations and actions announced in this notice, and as its analysis of the impacts of the regulatory actions on the agricultural economy. The Agency's determinations and the reasons for these determinations are summarized in this section.

A. DETERMINATIONS ON RISK

After the RPAR was issued, the Agency initiated a detailed risk assessment in accordance with its Interim Procedures and Guidelines for Health Risk and Economic Impact Assessment of Suspected Carcinogens (41 FR 21401-21405, May 25, 1976). In the preamble to these guidelines, the Administrator stated that it is necessary to consider evidence for carcinogenicity as a "warning signal," the strength of which depends on the quality and scope of the data, the nature of the toxicological response, and the potential impact on human health. The Agency's risk assessment has addressed these important topics and reached its conclusions as follows:

1. Evaluation of Rebuttal Submissions—As part of its evaluation of the quality and scope of available data, the Agency reviewed rebuttal arguments on risk which it received during the 105 day comment period following the RPAR. The only rebuttal relevant to the presumption of risk was jointly submitted by the Upjohn Company and the Boots Company, Ltd. This Boots-Upjohn rebuttal was very extensive and addressed nearly every statment made by the Agency in the notice of RPAR, Position Document 1 and other supporting documents. Consequently, the Agency found it necessary to reexamine nearly all of its statements made in these documents and to articulate responses to the most important rebuttal comments. This is done in Position Document 3.

Briefly, the three major findings made in support of the RPAR which have been challenged are: (1) amitraz induced lymphoreticular (LR) tumors in the highest-dose female mice in the Boots Mouse Study; (2) amitraz induced lung tumors in the highest dose female mice in the Boots Mouse Study; and (3) 2.4-dimethylaniline, a metabolite of amitraz, induced sarcomas in female mice and malignant tumors in male rats in a National Cancer Institute study.

In rebuttal to these findings, Boots-Upjohn asserted that: (1) the excess of lymphoreticular tumors in the high dose female mice was "probably a nonspecific reaction arising indirectly through a combination of factors" and not due to amitraz alone; (2) the Agency's tabulation of lung lesions contained errors and the method of correcting the lung tumor counts for survival was incorrect; and (3) if the Agency had pooled the tumor incidences of six available control groups of mice before making statistical comparisons to the mice treated with 2,4-dimethylaniline, it would have found no statistically significant differences.

While the Agency concludes that it erred in its count of lung tumors in the female CFLP mice, it still concludes that amitraz induced a significant excess of lymphoreticular tumors in the high dose CFLP mice; and that 2,4-dimethylaniline induced a positive oncogenic response in mice and a positive mutagenic response in one strain of bacteria. Therefore, the Agency concludes that the rebuttal comments do not successfully rebut the cancer risk presumption.

2. Qualitative Assessment of Risk Data—To provide a judgment on the "weight" or meaning of the available evidence, the Agency has evaluated the quality of the relevant studies on amitraz and 2,4-dimethylaniline. The Agency has also assessed the nature and extent of the toxicological response observed in these studies.

EPA's Interim Cancer Guidelines describe the weight that should be given to various kinds of risk evidence. The "best" evidence is provided through epidemiological studies of humans confirmed by animal tests. "Substantial" evidence comes from animal tests showing excess incidences of malignant tumors and benign tumors that are recognized as early stages of malignant tumors. "Suggestive" evidence may consist of non-life-shortening benign tumor counts, mutagenicity tests, initiation-promotion skin tests and other ancillary information.

In the case of amitraz, there are no epidemiological data available. Of the animal oncogenicity tests conducted with this compound on both sexes of two species at three doses (plus controls), an excess incidence of one tumor type (lymphoreticular) was seen by several pathologists in one sex (female) of one species (mouse) at one dose (400 ppm). There are questions about the protocols and results of the mouse test, and, consequently, another test has been recommended by the Agency. Further, the mutagenicity tests performed on amitraz cannot be interpreted due to a lack of information on the protocols. However, additional evidence to support the possibility of risk is (a) an NCI study showing 2,4-dimethylaniline induced an oncogenic effect in female mice at the highest dose, and (b) an Ames test performed by the Boots and Upjohn companies showing this compound induced a positive mutagenic response.

In summary, although a few positive oncogenic effects were observed in the Boots mouse study, there are questions as to the reliability of that study. Also, 2,4-dimethylaniline gave one positive oncogenic response in animals and a single mutagenic response in bacteria. On this basis, the Agency concludes that there is weakly positive evidence that amitraz is a potential human carcinogen.

3. Human Exposure to Amitraz—From information provided by the U.S. Department of Agriculture, State Extension Service personnel, the Boots-Upjohn rebuttal, and other sources, the Agency has identified human populations exposed to amitraz, the route of their exposure, and the extent of their exposure.

The reliability of the dietary and occupational exposure estimates vary according to the data and assumptions upon which they were based. Since dietary exposures were derived from actual average residues in fresh and processed fruit, on standard food factors, and on the estimates of acreage treated with amitraz, they should be considered fairly accurate. Occupational exposures, however, were mostly derived from data for other pesticides and based upon worst-case assumptions about the penetrability of amitraz into the body.

Based on these estimates it appears that the highest exposures to humans are through the skin during mixing and loading and during application. Much lower doses result from lung penetration of swallowing of amitraz during these same activities. Doses resulting from ingestion of amitraz residues on treated fruit are very small. No exposure is expected for farm workers as long as an appropriate reentry interval is observed. Very little exposure is anticipated for persons not immediately in the application area.

4. Quantitative Risk Estimates—The Interim Cancer Guidelines state that when a chemical is judged to be a potential human carcinogen, the Agency will make estimates of its possible impact on public health at anticipated levels of exposure. These guidelines also recognize that the available techniques for assessing the magnitude of cancer risk to human populations based on animal data are at best very crude; this is due, among other things, to uncertainties in the extrapolation of dose-response data to very low dose levels and to differences in levels of susceptibility of animals and humans. Accordingly, the risk estimates are neither scientific certainties nor absolute upper limits, but are used by the Agency only as rough approximations of potential health risks.

For the uses proposed by the applicant for registration, the Agency has observed that the hypothetical lifetime cancer risks for individuals consuming treated apples and pears are small ($2X10^{-6}$ for each) with these risks being one to two orders of magnitude higher for apple and pear applicators ($1X10^{-4}$ and $6X10^{-5}$ to $1X10^{-4}$, respectively). However, the hypothetical total number of cancer cases per year is much higher for the U.S. population consuming treated apples (6 per year) and pears (8 per year) than for apple and pear applicators (0.002 and 0.004 per year, respectively). This is due to the great disparity between the size of the U.S. population (220,000,000) and the size of the applicator population (5,000).

B. DETERMINATIONS ON BENEFITS

The Agency examined the potential usage of amitraz if it were to be registered, the availability and comparative efficacy and costs of alternative pest control programs, and the potential impacts on growers and consumers that might result if amitraz were not available.

The Agency depended upon a team of agricultural specialists from the U.S. Department of Agriculture and the EPA to collect test plot data, to evaluate that data and to make economic estimates based on that data and their best judgment. Basically, there were two economic impact assessments. One was performed by EPA in March, 1977, to indicate the impacts of approving or disapproving applications for the emergency use of amitraz on pears in Oregon and Washington during the summer of 1977, ("Emergency Economic Assessment of Pears"). The other analysis was conducted by USDA and EPA from May, 1977, to August, 1978, to evaluate the impacts of the unavailability of amitraz for use in pears and apples from 1977 through 1981 ("USDA/State Assessment Team Report").

Below are the results of these analyses for apples and pears, followed by the Agency's judgment on the quality of the empirical data, the limitations of the assumptions made, and the relative weight which the Agency places on the economic estimates of the benefits of amitraz.

1. Apples—Amitraz has been used on apples in the United States only on an experimental basis. Under the proposed label, it would be used to control European red mites, apple rust mites and two-spotted spider mites. According to the USDA/State Assessment Team Report, amitraz is expected to be used only in the Eastern and North-Central apple-producing states on a maximum of 52,000 acres. In these areas, acaricides are routinely used for mite control because alternative integrated pest management (IPM) methods are not well established. If an additional material such as amitraz were available, it might be rotated with other popular apple miticides to minimize mite resistance. Washington, Oregon and California are also large apple-producing areas; however mite populations are already effectively controlled in these areas by IPM methods.

The Assessment Team Report also states that several miticides are currently registered for use on apples which are as efficacious as amitraz for mite control. Of these, cyhexatin (Plictran) and propargite (Omite) are the most widely used miticides, and both are less expensive to use than amitraz. Also, advances in integrated pest management methods indicate that the need for broad spectrum acaricides might be substantially lessened in the future.

Because fully effective means for the control of apple mites already exist, the USDA/State Assessment Team Report concludes that the unavailability of amitraz for use on apples would have a negligible impact on apple growers and would have no effect on consumers.

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2. Pears—Amitraz is currently under consideration for registration for use as a summer control of pear psylla in pear orchards. The control of summer pear psylla is a pest problem in three states: California, Washington and Oregon. Ninety-one thousand acres of pear orchards are cultivated in these states. The Assessment Team Report estimates that about 54,000 acres might be treated with amitraz each year.

The unavailability of amitraz would be expected to have an effect on pear producers in California, Washington and Oregon. The Assessment Team Report states that damage from summer pear psylla would result in the downgrading of the fruit from US#1 to US#2 and culls, and would eventually so weaken the trees as to require their uprooting. The Report estimates that between 1978 and 1981, the extent of this damage might be as much as $33 million dollars. The Report also predicts that over a period of 5 years, grower returns could be expected to be reduced from $330/A to $89/A, ultimately resulting in the planting of affected acreage with other crops. Finally, the Report indicates that retail prices of pears could increase by a significant amount.

3. Quality of the Benefit Data.

a. Apples—The Agency believes that the Assessment Team used an adequate data base in evaluating the potential economic impact of the use of amitraz on apples. Nine field trials conducted in 1976 and 1977 on apple orchards provided an extensive data base for comparing the efficacy of amitraz to other registered miticides (Entomological Society of America 1977, 1978). These test plots involved several varieties of applies, several states, different formulations of products, most of the registered apple miticides and all of the target-pest species listed on the proposed BAAM label.

Although the test results vried, the Assessment Team concluded after examining the data that amitraz and the alternative registered miticides provide comparable levels of mite control, that no overall change in apple yield or quality would result from the introduction of amitraz, and that the only potential benefit from amitraz would be in areas which might face mite resistance. Because of the higher cost of amitraz compared to alternative registered pesticides, it was concluded that the use of amitraz could have a negative economic impact. The Agency concurs with these conclusions.

b. Pears—For pears, the data base was very small. Four test ploys in various locations were set up by the Assessment Team to compare amitraz to the alternate spray programs. The results were variable, some showing no effect by either amitraz or the alternate spray program, some showing amitraz was less effective than the alternate program and some indicating it was more effective. Only a few of the available alternative insecticides were tested. The agricultural specialists pointed out that psylla infestation levels were lower than usual that year. They labeled two of the plots "atypical" because of this factor.

Based on the results observed in the two remaining plots, the Assessment Team assumed that the better performance by amitraz would be repeated on all the affected acres in Oregon, Washington and California. The Team then used the data from these two plots to extrapolate 1977 economic impacts for the entire Pacific Northwestern pear production area. Thus, the figures obtained were essentially based on the opinion of the agricultural specialists and not upon an adequate number of experimental test plots or other documented field evidence.

To estimate economic impacts of the the unavailability of amitraz for 1978–1981, the Assessment Team made assumptions about the losses due to pear tree decline and pear quality grading decreases. However, the empirical data in the Team's report which could support these assumptions are extremely limited. In addition, a number of anomalies and errors in the Assessment Team's analysis have been discovered which undermine the reliability of the Team's estimates of adverse economic impacts.

Thus, the Agency considers the data base for the economic estimates of the benefits of amitraz to be very weak. The Agency believes that the use of two of the four test plots as data bases for the entire Pacific Northwest pear production area would not produce a reliable extrapolation of potential losses in 1977. Furthermore, EPA concludes that the projection of losses for the 1979–1981 period could not be reliably achieved solely on the basis of expert opinion, or in the absence of an empirical data base.

Nevertheless, the Agency believes that expert opinion should be given some weight. Therefore, the Agency concludes that while the adverse economic impact of denying the use of amitraz cannot be quantified, it may be subtantial in the short-run.

C. DETERMINATIONS ON UNREASONABLE ADVERSE EFFECTS

The Agency has made the following determinations as to whether the proposed uses of amitraz would pose unreasonable adverse effects. The rationale for these determinatons is set forth in Position Document 3.

1. Determination on Apple Uses—The Agency has determined that the potential risks arising from the proposed use of amitraz on apples would be greater than the social, economic and environmental benefits of these uses.

2. Determination on Pear Uses—Uncertainties in the reliability of the risks and benefits data make it impossible to ascertain at this time whether the benefits of the long-term use of amitraz on pears outweigh the risks. However, the Agency believes that the data is sufficiently reliable to balance the short-term risks and benefits. After doing so, the Agency has determined that the benefits from the use of pears for a four year period are greater than the risks of this use if risk reductions are accomplished by modifications in the proposed terms and conditions of registrations, described in subsection E. These modifications would reduce the risk to the general population from ingestion of pear residues by 20% to 50%, and to pear applicators by 80%.

D. OTHER DETERMINATIONS

The Agency has determined that the applicant must submit another mouse on cogenic bioassay and additional benefits data for use of amitraz on pears within 4 years, along with annual reports of progress and test results. The Agency needs these data for the purpose of refining its risk and benefit assessments on the use of amitraz on pears; these data will also be used to reassess its conclusion that the use of amitraz on pears, in accordance with the Agency's proposed modifications to the terms or conditions of registration, does not cause unreasonable adverse effects on the environment. The Agency considers these data requirements to be "additional" data requirements which the applicant for registration has not yet had an ample opportunity to generate, rather than "old" data requirements.

The Agency has also determined that use of amitraz on pears for four years while new data is being generated would be in the public interest. Such use appears to be necessary to meet consumer demands for pears and would result in no unreasonable adverse effects.

E. INITIATION OF REGULATORY ACTIONS

Based upon the determinations summarized elsewhere in this notice and developed in detail in Position Document 3, the Agency is initiating the following regulatory actions:

1. Deny registration of amitraz products for use on apples.

2. Conditionally register the amitraz product BAAM for use on pears with the requirement that the applicant submit another mouse oncogenic bioassay and benefit data within 4 years (with annual reports of progress and test results), and modify the terms and conditions of registration as follows:

a. Classification of amitraz products for restricted use only by or under the direct supervision of certified applicators.

b. Modification of the labeling of amitraz products to include the following:

Restricted Use Pesticide. For retail sale to and use only by certified applicators or persons under their direct supervision and only for those uses covered by the certified applicator's certification.

General Precautions

A. Avoid getting in eyes, on skin, or on clothing.

B. Avoid breathing vapors or spray mist.

C. In case of contact with skin, wash as soon as possible with soap and plenty of water.

D. If amitraz gets on clothing, remove contaminated clothing and wash affected parts of body with soap and water. If the extent of contamination is unknown, bathe entire body thoroughly. Change to clean clothing.

E. Wash hands with soap and water each time before eating, drinking, or smoking.

F. At the end of the work day, bathe entire body with soap and plenty of water.

G. Wear clean clothes each day and launder before reusing.

Required Clothing and Equipment for mixing, loading and cleanup procedures:

1. Long-sleeve shirt (fine weave)
2. Long pants (fine weave)
3. Rubber gloves
4. Apron
5. Boots

Required clothing for ground spray application:

1. Long-sleeve shirt (fine weave)
2. Long pants (fine weave)
3. Rubber gloves
4. Boots

Re-entry Interval. Reentry into treated areas is prohibited until the leaves are completely dry, and in any event, until at least 24 hours after application.

Preharvest Interval. Harvest of treated pears is prohibited until 7 days after application of amitraz.

IV. PROCEDURAL MATTERS

Section II of this notice explains in detail the Agency's responsibility to refer the determinations described in this notice to the Secretary of Agriculture and the Scientific Advisory Panel for review. The Position Document 3 and this notice of determination are being transmitted immediately to the Secretary of Agriculture and the Scientific Advisory Panel for comment to satisfy these external review requirements. The Position Document 3 is also being sent to the applicant for registration. As indicated in Section II, the Agency offers the applicant and other interested persons an opportunity to comment on the bases for the Agency's action.

After completion of these review procedures, the Agency will consider the comments and publish an analysis of them, together with any changes in the regulatory actions announced in this notice which it determines are appropriate. Until this final review phase is concluded, it is not necessary for the applicant for registration or other interested persons with the concurrence of the applicant, to request a hearing to contest any proposed regulatory actions resulting from the conclusion of this RPAR.

Dated: January 6, 1979.

STEVEN D. JELLINEK,
Assistant Administrator for Toxic Substances.

[FR Doc. 79-1046 Filed 1-11-79; 8:45 am]

[6712-01-M]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20271]

ITU 1979 WORLD ADMINISTRATIVE RADIO CONFERENCE (WARC)

Announcement of Proposals

The FCC adopted yesterday a *Report and Order* announcing its proposals to amend the international Radio Regulations to be considered at the general World Administrative Radio Conference in September 1979.

The FCC's *Report and Order* in this proceeding comes at the end of four years of inquiries in preparation for the general World Administrative Radio Conference (WARC). The Department of State will now use this *Report and Order* to prepare United States proposals which will be delivered to the International Telecommunication Union (ITU) in January 1979 for circulation among the nations of the world.

The ITU is an international organization of 154 member nations and has a history dating back to 1865. It is headquartered in Geneva, Switzerland. Through the ITU, nations cooperate in the use of telecommunications of all kinds to prevent interference, to provide common standards, and to promote the development of efficient technical facilities. It does this by several means, the most significant of which are: agreement among the member nations on a common set of international regulations [the function of Administrative Conferences]; agreement on common technical recommendations [the function of the international Consultative Committees (CCIR and CCITT)]; and registration of radio stations to avoid harmful interference [the function of the International Frequency Registration Board (IFRB)]. Each country participates on an equal basis.

The purpose of the 1979 (WARC) is to amend nearly the entire set of international Radio Regulations. These regulations consist of various definitions and operational and administrative requirements. The most extensive provisions are contained in a Table of Allocations which proceeds from one end of the radiofrequency spectrum to the other, and allocates various bands to defined "services." The Table is divided into three world regions. The Americas are contained within Region 2; Europe, Africa, and the Soviet Union within Region 1; and Asia, Australia, and the South Pacific within Region 3. Past General Administrative Radio Conferences were convened in 1927, 1932, 1937, 1947, and 1959. Numerous specialized Conferences have been held since the 1959 General Conference.

The FCC's Conference preparatory effort began in January 1975, with the issuance of a notice of inquiry, and establishment of a supporting Commission staff, including a Steering committee having overall management responsibility, and several specialized Functional Committees. In addition, the FCC created a number of industry advisory committees to serve as advocates for the various radio user groups through the preparation of reports and the filing of comments in this proceeding. During these past four years, the notices of inquiry have not only served to elicit public comment, they have also represented successive revisions in a process of refining FCC proposals.

Because the Radio Regulations affect all radio users, the Commission has coordinated all of its preparatory activities with the Department of Commerce/National Telecommunications and Information Administration (NTIA) [formerly the Executive Office of the President/Office of Telecommunications Policy (OTP)]. NTIA has the responsibility for coordinating U.S. government use of radio, which is managed by the Interdepartment Radio Advisory Committee (IRAC). IRAC established a 1979 (WARC) preparatory structure similar to that of the Commission's. Because of this ongoing coordination, the proposals adopted by the FCC are consonant with those of IRAC.

During this proceeding, thousands of United States citizens contributed their work and thoughts to the effort. Nearly 2,000 individual comments occupy almost 10 feet of file space. They range from those of a private citizen who saw his life impacted, to

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the massive reports of corporations and industry groups who saw their businesses potentially affected. The Commission is grateful for all these comments which, large or small, were considered and appreciated for the unique perspective which they afforded. Although the envisioned needs for radio spectrum exceeded the amount available, the FCC believes that in each case it has suggested a position which is equitable, in the public interest, and capable of being accepted by most of the ITU member nations.

The resulting Final Acts of the Conference will be in the form of a multilateral treaty and, in order to be binding, must proceed through the U.S. ratification process. Where the ITU Regulations impose a new affirmative obligation, the Commission will amend its Rules and Regulations to reflect the obligation. Where the ITU Regulations allow new allocations flexibilities, the Commission will, in appropriate future proceedings, consider the available options and offer them for public comment.

After the 1979 GWARC, there will be additional ITU Conferences which will also be of substantial importance to the U.S. Among them, the Plenipotentiary Conference [the equivalent of a constitutional convention] in 1982 has the power to consider and modify all major ITU institutional features. The Region 2 [Western Hemisphere] Broadcasting-Satellite Conference in 1983 will review the 12 GHz band allocations.

The FCC's underlying policy goal throughout this proceeding has been to minimize the international constraints placed upon the FCC in its domestic regulatory activities. Thus, it should be noted that merely because the FCC's GWARC position provided for the possibility of implementing a service in some band in the frequency spectrum, the Commission is not required in any future domestic proceeding to actually implement it.

Many of the FCC's proposals advocate increased sharing of frequency bands among radio services, as well as minimal administrative restraints on availability of radio spectrum and geostationary orbit allotments. This position of flexibility is particularly appropriate during the period of dramatic technological change which is foreseeable during the next two decades. The FCC believes that such a posture benefits not only the United States, but all ITU members.

Some of the highlights of the FCC's proposals include:

Proposing the expansion of the AM broadcasting band. The expansion would create a band at 1615-1800 kHz which is shared between broadcasting and various other services, and a band at 1800-1860 which is exclusively allocated to broadcasting. This change could result in approximately 14 new channels [or approximately 700 new AM stations]. Because most of the available broadcasting channels have been alloted to licensees, this would provide new channels for potential diversities in broadcasting and minority ownership. However, it will require that changes in the design of AM radio receivers be made. These new receivers should not be more costly than existing ones, although a significant number must obviously be in use for the new allocations to be economically viable.

Proposing that the UHF band be internationally allocated equally among most communications services. Because communications technology is rapidly changing and the demand for local communications is increasing, it is highly desirable to minimize international restraints in this band. Therefore, the FCC is proposing to add the fixed and mobile communications services in nearly the entire band between 470 and 890 MHz which is presently allocated exclusively to broadcasting. This will give the Commission the flexibility to apportion this spectrum among these three services in whatever manner it deems appropriate in future domestic proceedings. This posture does not indicate a lessened committment to domestic UHF broadcasting, but rather a recognition of the great value of the radio spectrum resource, and a desire to make it available for use where appropriate.

Proposing that HF (shortwave) band allocations be adjusted to increase frequencies available to broadcasting, maritime and amateur communications. A number of interests have sought to use the band between 3 and 30 MHz, because of its ability to furnish inexpensive, long-range communications. The Commission has concurred in an NTIA proposal to increase the spectrum available for short-wave broadcasting because of White House interests in increasing the international flow of information, to increase spectrum for maritime communications to accomodate growth in maritime industries, and to increase spectrum for amateur radio to as to accomodate the growing amateur community. With only four broadcasting licensees in the international broadcasting service, the Commission would not appear to have a substantial interest in this matter, and has largely relied on NTIA to reach a compromise among the various affected government agencies.

Proposing to double the available radio/orbital resource available for advanced satellite communication systems at 12 GHz. Because many of our country's technologically advanced, domestic communication systems will be introduced in the 12/14 GHz bands during the next decade, this issue is considered by many to be one of the most significant for the U.S. at the 1979 (WARC). In light of a number of factors, the Commission is proposing to make the entire range of the geostationary orbit available in the Western Hemisphere equally to fixed and broadcasting services; and at the same time, separating into individual 500 MHz segments the frequency bands within which the services must operate.

Proposing amendments which would allow introduction of large-scale, user-oriented satellite systems in a number of bands. Such satellite systems are those which will employ a number of emerging technologies to provide highly efficient, two-way communication capabilities (electronic mail service, voice, facsimile, slow-scan TV) directly to large numbers of very low-cost earth stations. They are systems which can bypass existing terrestrial communications systems to provide interconnection among themselves or with regional information service facilities. From the array of options available, the Commission is proposing that certain allocation and technical specification changes be made to allow appropriate introduction of these satellite systems in the 2.5/6, 10, and 12/14 GHz bands as the technology is developed.

Proposing the protection of certain frequencies for scientific uses. The Commission is proposing the allocation of certain bands, and the application of certain technical limitations, to enable the use of satellite sensing of natural microwave emissions for environmental and weather studies. This technique, known as "passive sensing," allows the determination of things such as the moisture content of the soil, the surface temperature, ice thickness, water vapor, and other data of universal benefit to mankind. Most of the needs of radio astronomy have been met, as have those for the research of the physical characteristics of space.

Proposing an amendment which would allow future consideration of a land mobile-satellite service in the 806-890 MHz band. This amendment allows the implementation of land-mobile satellite service in some 20 MHz segment in the 806-890 MHz band. Such a service could provide inexpensive two-way voice and data communications to a wide variety of local, state, and federal government users in mountainous or rural areas where such systems are not presently feasible.

Proposing allocations to various radio services between 40 and 275 GHz. The present international Table

of Allocations ends at 275 GHz. In the spectral region between 40 and 275 GHz, only a few allocations have been made. The Commission said that specific allocations would encourage experimentation and development, and certain bands associated with natural microwave emissions must be protected for the scientific community.

Proposing a number of changes to transmitter technical standards which would improve the efficiency of spectrum use. These changes include additional limits on unwanted signals of radio transmitters, on the requirement that a transmitter stay within a certain frequency range, the eventual conversion to single sideband equipment in the short-wave broadcasting service, and improved control over the pointing of satellite antennas.

The text of the FCC's *Report* and *Order* has been released publicly December 28, 1978. The document consists of 437 pages. Because of the cost of printing so voluminous a text, it will not be published in the FEDERAL REGISTER. However, the FCC has prepared a limited number of copies that are available upon request (*Report* and *Order* FCC 78-849, Docket No. 20271, adopted December 5, 1978, "An Inquiry relative to preparation for a General World Administrative Radio conference of the International Telecommunication Union to consider revision of the International Radio Regulations.") at its Information Office, Room 202, 1919 M Street, N.W., Washington, D.C. 20554. The *Report* and *Order* is also available for inspection at the Commission's Docket Reference Room.

FEDERAL COMMUNICATION COMMISSION.
WILLIAM J. TRICARICO,
Secretary.

STATEMENT OF CHAIRMAN CHARLES D. FERRIS

DECEMBER 6, 1978.

RE: Docket 20271, 1979 (WARC) Proposals.

For over four years the Federal Communications Commission has examined literally hundreds of issues related to the 1979 general World Administrative Radio Conference (WARC). This Conference, which will begin next September, will review the international Radio Regulations and make decisions about use of the airwaves for the next twenty years.

The Commission's proposals will be forwarded to the Department of State which is responsible for forwarding the final U.S. proposals to the ITU. The *Report and Order* represents a careful and in-depth examination of thousands of comments and an expert determination of the future needs of the non-governmental users of the radio spectrum in the United States.

Throughout this process, I have sought, as Chairman, to have the Commission's recommendations reflect several important themes. The first is that our recommendations be based on the public comments of the thousands of interested individuals and groups who petitioned the Commission.

The second is that our proposals provide the United States—and every other nation—with the greatest possible flexibility in deciding how to use the available spectrum. Too often, international and national regulations are inflexible—restricting innovation, dramaticaly increasing communication costs, or even precluding development. If the Commission's recommendations are adopted at the Conference, each national administration will be able to choose how to best meet its national communications needs. This flexibility will aid the less developed nations, as well as the U.S., in communications planning, and will facilitate the development of innovative services which may radically restructure the way we communicate as we approach the 21st Century. For example, new uses for communications satellites, new systems for electronic message distribution, should benefit from this flexibility.

A third principle underlying the Commission recommendations is that detailed analyses of the policy choices in communications planning are required. Even given the flexibility of U.S. proposals, the available spectrum is simply insufficient to meet all possible communications needs. Our recommendations make clear our policy choices.

A fourth and related principle is that every effort must be made to conserve the spectrum. The spectrum is one of our most valuable resources. Recommendations that encourage inefficient use of the spectrum will only lessen our ability to communicate—a precious ability in an interdependent world such as our own. As technology develops we must be able to utilize it to increase spectrum efficiency.

Finally the Commission's recommendations seek to provide our country with increased diversity in the electronic media. Adoption of the Commission's expansion in the AM broadcast band could provide hundreds of new stations which would allow those who have traditionally been excluded from our electronic media to enter into the communications mainstream. In another example, the adoption of our recommendations would preserve the possibility of direct broadcast satellites providing new channels across the United States.

The Commission's formal work is over with the adoption of this *Report and Order.* I look forward to following the proceedings of the 1979 Conference with great interest. Because of its fundamental importance, I hope all concerned citizens will also be watching.

JOINT SEPARATE STATEMENT OF COMMISSIONER ABBOTT WASHBURN AND COMMISSIONER JAMES H. QUELLO

DECEMBER 5, 1978.

RE: Docket 20271, WARC 1979 Proposals.

President Carter has enunicated a policy of increasing the international flow of information and, for this purpose, has adopted a policy of increasing the use by the United States of international shortwave broadcasting * * * primarily by the *Voice of America, Radio Free Europe,* and *Radio Liberty.* The frequency allocations for international broadcasting contained in today's Report and Order—totaling an increase of 865 kHz—reflect but one alternative now under active consideration within the Executive Branch of the Government. This total falls some 800 kHz short of the proposals that have been made by the International Communications Agency and the Board by International Broadcasting.

Inclusion here of the 865-kHz alternative was not based on any independent analysis by the Commission. The FCC has merely deferred judgment in this matter to other agencies of the Executive Branch.

In the interest of accuracy, we believe it should be brought to the attention of all interested parties, here and abroad, that at the time of the Commission's action (December 5, 1978) there has yet been no decision within the Executive Branch as to a final figure for a U.S.-proposed frequency allocation for international broadcasting.

This is the purpose of our joint separate statement.

[FR Doc. 79-1214 Filed 1-12-79; 8:45 am]

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[6712-01—M]

Office of the Secretary

[Report No. 1158]

PETITIONS FOR RECONSIDERATION OF ACTIONS IN RULE MAKING PROCEEDINGS FILED

JANUARY 3, 1979.

Docket or RM No.	Rule No.	Subject	Date Rec'd.
21348	Parts 90, 89, 91 & 93	Amendment of the Commission's Rules governing the Private Land Mobile Radio Services to provide a new Part 90 that Re-regulates and consolidates Parts 89, 91 and 93. Filed by Peter Tannenwald, and Gerald O' Reilly, Attorneys for Sears, Roebuck and Co.	Dec. 15, 1978.

NOTE.—Oppositions to Petitions for reconsideration must be filed within 15 days after publication of this Public Notice in the FEDERAL REGISTER. Replies to an opposition must be filed within 10 days after time for filing oppositions has expired.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 79-1213 Filed 1-11-79; 8:45 am]

[6712-01-M]

RENEWAL OF ADVISORY COMMITTEES

The Federal Communications Commission has determined that renewal of two advisory committees, the Radio Technical Commission for Marine Services (RTCM) and the Advisory Committee for Cable Signal Leakage, is necessary and in the public interest. Pursuant to the provisions of the Federal Advisory Committee Act, P.L. 92-463, notice of renewal is hereby provided.

The purpose of the Radio Technical Commission for Marine Services is to advance the art and science of marine telecommunications through study, investigation, appropriate recommendations to the Federal Government and industry, and promotion of ideas and exchange of information. The RTCM has been renewed for an additional period of nine months, extending until October 5, 1979.

The purpose of the Advisory Committee for Cable Signal Leakage is to furnish advice concerning research being undertaken to prevent the possibility of interference from cable television systems to aeronautical navigation and safety radio services. The advisory committee advises the FCC and other Federal agencies participating in the research on design of the research plan, monitors progress of the research, and recommends areas for additional study. The Committee is being renewed for an additional period of two years, extending until February 10, 1981.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 79-1215 Filed 1-11-79; 8:45 am]

[1610-01-M]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on January 3, 1979. See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER *is to inform the public of such receipt.*

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed FCC request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before January 30, 1979, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street, NW, Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

FEDERAL COMMUNICATIONS COMMISSION

The FCC requests clearance of a revision to Form 610-A, Application of Alien Amateur Radio Licensee for Permit to Operate in the United States. Form 610-A is required by Parts 1 and 97 of the FCC's Rules and Regulations and is used by aliens who apply for or modify a reciprocal amateur radio license. Before an alien can operate an amateur radio station in the United States, an alien amateur licensee must obtain a permit for such operation from the FCC. A permit for such operation is issued only to an alien holding a valid amateur operation and station authorization from his/her government, and only when there is in effect a bilateral agreement between the U.S. and that government for such operation on a reciprocal basis by U.S. amateur radio operators. Form 610-A is being revised to add a new question "Are you a citizen of the U.S.?" Citizens of the U.S. are not eligible for an alien operator permit and must take a test to receive a license. It has been the Commission's experience that many applicants ignore instructions and certifications whether intentionally or unintentionally. Therefore in order for the FCC to ascertain whether an applicant is eligible for an alien permit this question is necessary for the Commission to make a determination. The FCC estimates that approximately 3,000 applications are received annually and that respondent burden averages 15 minutes per response.

NORMA. F. HEYL,
Regulatory Reports Review Officer.

[FR Doc. 79-1217 Filed 1-11-79; 8:45 am]

[4110-03-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 78F-0328]

AMERICAN CYANAMID CO.

Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: American Cyanamid Co. has filed a petition (FAP 8B3399) proposing to amend the food additive regulations to provide for the safe use of 2 - (2*H* - benzotriazol - 2 - yl)-4-(1,1,3,3-tetramethylbutyl)phenol as a stabilizer in polycarbonate resins intended for food-contact use.

FOR FURTHER INFORMATION CONTACT:

John J. McAuliffe, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 8B3399) has been filed by American Cyanamid Co., Wayne, NJ 07470, proposing that the food additive regulations be amended to provide for the safe use of 2-(2*H*benzotriazol-2-yl)-4-(1,1,3,3-tetramethylbutyl)phenol as a stabilizer in polycarbonate resins intended for use in contact with food.

The agency has determined that the proposed action falls under § 25.1(f)(3) (21 CFR 25.1(f)(3)) and is exempt from the need of an environmental impact analysis report, and that no environmental impact statement is necessary.

Dated: January 3, 1979.

SANFORD A. MILLER,
Director, Bureau of Foods.

[FR Doc. 79-1072 Filed 1-11-79; 8:45 am]

FERTILITY AND MATERNAL HEALTH DRUGS ADVISORY COMMITTEE

Meeting Cancellation

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Fertility and Maternal Health Drugs Advisory Committee subcommittee meeting announced by notice in the FEDERAL REGISTER of December 15, 1978 (43 FR 58629), for January 17, 1979, has been canceled.

FOR FURTHER INFORMATION CONTACT:

A. T. Gregoire, Bureau of Drugs (HFD-130), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3520.

Dated: January 4, 1979.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-814 Filed 1-11-79; 8:45 am]

[4110-03-M]

[Docket No. 78N-0315]

SAFETY OF CERTAIN HUMAN FOOD INGREDIENTS

Opportunity for Public Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document announces an opportunity for public hearing on the safety of starter distillate, hydrochloric acid, tartrates, riboflavin, and propionates to determine whether they are generally recognized as safe (GRAS) or subject to a prior sanction. This action accords with procedures of a comprehensive safety review that the agency is conducting. Interested persons are invited to give their views on the safety of these substances.

DATE: Requests to make oral presentations at the public hearing must be postmarked on or before February 12, 1979.

ADDRESSES: Written requests to the Select Committee on GRAS Substances, Life Sciences Research Office, Federation of American Societies for Experimental Biology, 9650 Rockville Pike, Bethesda, MD 20014, and to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Corbin I. Miles, Bureau of Foods (HFF-335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-472-4750.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of July 26, 1973 (38 FR 20053), the Commissioner of Food and Drugs issued a notice advising the public that an opportunity would be provided for oral presentation of data, information, and views at public hearings to be conducted by the Select Committee on GRAS Substances of the Life Sciences Research Office, Federation of American Societies for Experimental Biology (the Select Committee), about the safety of ingredients used in food, to determine whether the ingredients are GRAS or subject to a prior sanction.

The Commissioner now announces that the Select Committee is prepared to conduct a public hearing on the following categories of food ingredients: starter distillate and diacetyl for direct food use; hydrochloric acid for direct food use; potassium acid tartrate, sodium potassium tartrate, sodium tartrate, and tartaric acid for direct food use; riboflavin and riboflavin-5'-phosphate for direct food use; propionic acid, calcium propionate, and sodium propionate for direct food use; and thiodipropionic acid and dilauryl thiodipropionate for direct food use, and for food packaging materials. The public hearing will provide an opportunity, before the Select Committee reaches its final conclusions, for any interested person(s) to present scientific data, information, and views on the safety of these substances, in addition to those previously submitted in writing under notices published in the FEDERAL REGISTER of July 26, 1973 (38 FR 20051, 20053), April 17, 1974 (39 FR 13798), and March 28, 1978 (43 FR 12941).

The Select Committee has reviewed all the available data and information on the categories of food ingredients listed above and has reached one of the five following tentative conclusions on the status of each:

1. There is no evidence in the available information that demonstrates or suggests reasonable grounds to suspect a hazard to the public when the ingredient is used at levels that are now current or that might reasonably be expected in the future.

2. There is no evidence in the available information that demonstrates or suggests reasonable grounds to suspect a hazard to the public when the ingredient is used at levels that are now current and in the manner now practiced. However, it is not possible to determine, without additional data, whether a significant increase in consumption would constitute a dietary hazard.

3. Although no evidence in the available information demonstrates a hazard to the public when the ingredient is used at levels that are now current and in the manner now practiced, uncertainties exist requiring that additional studies be conducted.

4. The evidence is insufficient to determine that the adverse effects reported are not deleterious to the public health when the ingredient is used at levels that are now current and in the manner now practiced. (This finding does not apply to the substances covered by this notice.)

The information available is not sufficient to make a tentative conclusion. (This finding does not apply to the substances covered by this notice.)

The following table lists each ingredient, the Select Committee's tentative conclusion (keyed to the five types of conclusions listed above), and the available information on which the Select Committee reached its conclusions; all prices listed in the table are subject to change:

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Substance	Select Committee tentative conclusion	Scientific literature review (order no.; price code; price)	Animal study report (order no.; price code; price)	Other information (order no.; price code; price)
Starter Distillate:				
Starter distillate	3	PB 234-896/AS; A07; $7.25	1. Final report to FDA on teratogenicity of starter distillate in animals submitted by Food and Drug Research Laboratories, Inc. (PB 223-833/AS); A03; $4.50.	1. Human intake data taken from "A Comprehensive Survey of Industry on the Use of Food Chemicals Generally Recognized as Safe (GRAS)," available from the National Technical Information Service (PB Nos. 221-921 through 221-949; PB 221-920 for the set); E99; $173.00.
Diacetyl	1		2. Mutagenic evaluation (Tier 1) of starter distillate (71-73) by Litton Bionetics, Inc., under FDA contract (PB 245-431/AS); A03; $4.50.	2. Telephone conversation, R. L. Sellars, C. Hansen's Laboratory, Inc., Milwaukee, WI. 3. Letter, August 4, 1977, L. W. Chumlea, Chumlea's Laboratory, Lebanon, IN. 4. Memorandum, July 20, 1977, R. I. Meyer, FDA, Washington, DC. 5. Lindsay, R. C., 1978, Madison, WI, supplemental information about the composition and use of starter distillate. 6. Telephone conversation, Mr. Beery, Chumlea's Laboratory, Lebanon, IN.
Hydrochloric Acid	1	PB 241-962/AS; A04; $5.25		1. Human intake data taken from "A Comprehensive Survey of Industry on the Use of Food Chemicals Generally Recognized as Safe (GRAS)," available from the National Technical Information Service (PB Nos. 221-921 through 221-949; PB 221-920 for the set); E99; $173.00.
Tartrates:				
L (+) Potassium acid tartrate	1	PB 241-955/AS; A05; $6.00	1. Mutagenic evaluation (host-medicated assay, cytogenetics, dominant lethal assay) of tartaric acid (71-55) by Litton Bionetics, Inc., under FDA contract (PB 245-445/AS); A08; $8.00.	1. Human intake data taken from "A Comprehensive Survey of Industry on the Use of Food Chemicals Generally Recognized as Safe (GRAS)," available from the National Technical Information Service (PB Nos. 221-921 through 221-949; PB 221-920 for the set); E99; $173.00.
L (+) Sodium potassium tartrate	1		2. Teratogenic evaluation of tartaric acid (71-55) by Food and Drug Research Laboratories, Inc., under FDA contract (PB 223-821/AS); A04; $5.25.	2. Toxicity and teratogenicity studies in avian embryos: tartaric acid. Submitted by the University of Arizona.
L (+) Sodium tartrate	1		3. Mutagenic evaluation (Tier 1) of potassium acid tartrate (71-13) by Litton Bionetics, Inc., under FDA contract (PB 254-521/AS); A03; $4.50.	
L (+) Tartaric acid	1			
Riboflavin:				
Riboflavin	1	PB 241-964/AS; A12; $10.75	1. Mutagenic evaluation (Tier 1) of riboflavin (75-76) by Litton Bionetics, Inc., under FDA contract (PB 278-477/AS); A03; $4.50.	1. Human intake data taken from "A Comprehensive Survey of Industry on the Use of Food Chemicals Generally Recognized as Safe (GRAS)," available from the National Technical Information Service (PB Nos. 221-921 through 221-949; PB 221-920 for the set); E99; $173.00.
Riboflavin-5'-phosphate	1	PB 275-753/AS; A02; $4.00	2. Mutagenic evaluation (Tier 1) of riboflavin-5'-phosphate, sodium (75-77) by Litton Bionetics, Inc., under FDA contract (PB 278-478/AS); A03; $4.50.	2. Wade, M. J., Review of the Recent Literature of the Health Aspects of Riboflavin and Riboflavin-5'-phosphate as food Ingredients (PB 275-917/AS); no record of price code and price. 3. Randall, L. O., Toxicity of Monodiethanolamine Salt of Riboflavin Monophosphoric Acid Ester Dihydrate. Unpublished report submitted by Hoffmann-LaRoche, Inc. 4. Randall, L. O., Chronic Toxicity of Mono-diethanolamine Salt of Riboflavin Monophosphoric Acid Ester Dihydrate. Unpublished report submitted by Hoffmann-LaRoche, Inc.

Substance	Select Committee tentative conclusion	Scientific literature review (order no.; price code; price)	Animal study report (order no.; price code; price)	Other information (order no.; price code; price)
Propionates:				
Direct food use:				
Propionic acid	1	PB 228-538/AS; A05; $6.00	1. Mutagenic evaluation (host-medicated assay, cytogenetics, dominant lethal assay) of calcium propionate (71-36) by Litton Bionetics, Inc., under FDA contract (PB 245-448/AS); A06; $6.50.	1. Human intake data taken from "A Comprehensive Survey of Industry on the Use of Food Chemicals Generally Recognized as Safe (GRAS)," available from the National Technical Information Service (PB Nos. 221-921 through 221-949; PB 221-920 for the set); E99; $173.00.
Calcium propionate	1		2. Teratogenic evaluation of calcium propionate (71-36) by Food and Drug Research Laboratories, Inc., under FDA contract (PB 221-778); A04; $5.25.	2. Committee on GRAS List Survey—Phase III. Estimating distribution of daily intakes of certain GRAS substances.
Sodium propionate	1		3. Mutagenic evaluation (Tier 1) of calcium propionate (71-36) by Litton Bionetics, Inc., under FDA contract (PB 245-439/AS); A03; $4.50.	3. Investigation of the toxic effects of GRAS substances to the developing chicken embryo: calcium propionate, submitted by Mississippi State University.
Thiodipropionic acid	2		4. Mutagenic evaluation (Tier 1) of propionic acid (75-62) by Litton Bionetics, Inc., under FDA contract (PB 266-897/AS); A04; $5.25.	4. Investigation of the toxic and teratogenic effects of GRAS substances to the developing chicken embryo: sodium propionate; FDA in-house investigation.
Dilauryl thiodipropionate	2		5. Mutagenic evaluation (Tier 1) of sodium propionate (75-61) by Litton Bionetics, Inc., under FDA contract (PB 266-900/AS); A04; $5.25.	5. Tullar, P. E., 1947, The George Washington University, The Pharmacology and Toxicology of Thiodipropionic Acid and its "Dilauryl-" and "Distearyl-" Esters.
Food packaging materials:				
Thiodipropionic acid	1		6. Mutagenic evaluation (host-medicated assay, cytogenetics, dominant lethal assay) of dilauryl thiodipropionate (71-40) by Litton Bionetics, Inc., under FDA contract (PB 245-452/AS; A06; $6.50.	6. Hazleton, L. W., and R. C. Hellerman, 1947, Hazleton Laboratories, Thiodipropionic acid-ester mixture heated in lard.
Dilauryl thiodipropionate	1		7. Teratogenic evaluation of dilauryl thiodipropionate (71-40) by Food and Drug Research Laboratories, Inc., under FDA contract (PB 221-776); A03; $4.50; (PB 223-824/AS); A02; $4.00.	7. Investigation of the toxic and teratogenic effects of GRAS substances to the developing chicken embryo: thiodipropionic acid; FDA in-house investigation.
			8. Mutagenic evaluation (Tier 1) of thiodipropionic acid (75-35) by Litton Bionetics, Inc., under FDA contract (PB 257-874/AS); A03; $4.50.	8. Investigation of the toxic and teratogenic effects of GRAS substances to the developing chicken embryo: dilauryl thiodipropionate; submitted by Mississippi State University.

Reports in the table with "PB" prefixes may be obtained from the National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Va. 22151.

In addition to the information contained in the documents listed in the table above, the Select Committee supplemented, where appropriate, its reviews with specific information from specialized sources as announced in a previous hearing opportunity notice published in the FEDERAL REGISTER of September 23, 1974 (39 FR 34218).

The Select Committee's tentative reports on (1) starter distillate and diacetyl for direct food use; (2) hydrochloric acid for direct food use; (3) potassium acid tartrate, sodium potassium tartrate, and tartaric acid for direct food use; (4) riboflavin and riboflavin-5'-phosphate for direct food use; and (5) propionic acid, calcium propionate, and sodium propionate for direct food use, and thiodipropionic acid and dilauryl thiodipropionate for direct food use and for food packaging materials are available for review at the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857, and also at the Public Information Office, Food and Drug Administration, Rm. 3807, 200 C Street SW., Washington, D.C. 20204. In addition, all reports and documents used by the Select Committee to review the ingredients are available for review at the office of the Hearing Clerk.

To schedule the public hearing, the Select Committee must be informed of the number of persons who wish to attend and the amount of time requested to give their views. Accordingly, any interested person who wishes to appear at the public hearing to make an oral presentation shall so inform the Select Committee in writing, addressed to: The Select Committee on GRAS Substances, Life Sciences Research Office, Federation of American Societies for Experimental Biology, 9650 Rockville Pike, Bethesda, Md. 20014. A copy of each such request shall be sent to the Hearing Clerk, address noted above, and all requests shall be placed on public display in that office. Any such request

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must be postmarked on or before February 12, 1979, shall state the substance(s) on which an opportunity to present oral views is requested, and shall state how much time is requested for the presentation. Requests should specify the docket number found in brackets in the heading of this notice. As soon as possible after the request deadline, a notice announcing the date, time, place, and scheduled presentations for any public hearing that may be requested will be published in the FEDERAL REGISTER.

The purpose of the public hearing is to receive data, information, and views not previously available to the Select Committee about the substances listed above. Information already contained in the scientific literature reviews and in the tentative Select Committee report shall not be duplicated, although views on the interpretation of this material may be presented.

Depending on the number of requests for opportunity to make oral presentations, the Select Committee may reduce the time requested for any presentation. Because of time limitations, individuals and organizations with common interests are urged to consolidate their presentations. Any interested person may, in lieu of an oral presentation, submit written views, which shall be considered by the Select Committee. Three copies of written views identified with the docket number found in brackets in the heading of this notice, shall be addressed to the Select Committee at the address noted above, and must be postmarked not later than 10 days before the scheduled date of the hearing. A copy of any written views shall be sent to the Hearing Clerk, Food and Drug Administration, and shall be placed on public display in that office.

A public hearing will be presided over by a member of the Select Committee. Hearings will be transcribed by a reporting service, and a transcript of each hearing may be purchased directly from the reporting service and will also be placed on public display in the office of the Hearing Clerk, Food and Drug Administration.

Dated: December 19, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-813 Filed 1-11-79; 8:45 am]

[4110-03-M]

[Docket No. 78P-0386]

TOMATO JUICE DEVIATING FROM IDENTITY STANDARD

Temporary Permit For Market Testing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces that a temporary permit has been issued to Riviana Foods Inc., to market test tomato juice from concentrate. The purpose of the temporary permit is to permit the applicant to measure consumer acceptance of the food.

EFFECTIVE DATE: This permit is effective for 15 months, beginning on the date the new food is introduced into or caused to be introduced into interstate commerce, but not later than April 12, 1979. However, the permit may terminate sooner, depending upon the final action on the Food and Drug Administration's proposal to amend the standard of identity for tomato juice published in the FEDERAL REGISTER of May 9, 1978 (43 FR 19864). If the proposal is affirmed, the permit will terminate on the effective date of the final regulation. If the proposal is rejected, the permit will expire 30 days after such negative ruling on the proposal.

FOR FURTHER INFORMATION CONTACT:

F. Leo Kauffman, Bureau of Foods (HFF-414), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-245-1164.

SUPPLEMENTAL INFORMATION: In accordance with § 130.17 (21 CFR 130.17) on temporary permits to facilitate market testing of foods varying from the requirements of the standards of identity promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341), notice is given that a temporary permit has been issued to Riviana Foods, Inc., Houston, Texas 77001. This permit covers interstate marketing tests of tomato juice that deviates from the standard of identity prescribed in § 156.145 (21 CFR 156.145). The permit provides for the temporary marketing of 15,000 cases of forty-eight 5¼-ounce cans of the product to be distributed in Puerto Rico and the U.S. Virgin Islands.

The test product will be packed at the Riviana Foods, Inc., subsidiary Alimentos Kern de Guatemala, located in Guatemala City, Guatemala. The product is prepared from concentrated tomato liquid that complies with the requirements of § 155.192(a)(1) (21 CFR 155.192(a)(1)). The finished product will be equivalent to a single-strength tomato juice normally found in the marketplace. The finished product will contain not less than 5.5 percent tomato soluble solids.

The principal display panel of the label will state the product name as "tomato juice from concentrate." Each of the ingredients used will be stated on the label as required by the applicable sections of 21 CFR Part 101, except that the tomato ingredient complying with the requirements of § 155.192(a)(1) will be declared as "tomato concentrate". This permit is effective for 15 months, beginning on the date the new food is introduced or caused to be introduced into interstate commerce, but no later than April 12, 1979. However, the permit may terminate sooner, depending upon the final action on the Food and Drug Administration's proposal to amend the standard of identity for tomato juice published in the FEDERAL REGISTER of May 9, 1978 (43 FR 19864). If the proposal is affirmed, the permit will terminate on the effective date of the final regulation. If the proposal is rejected, the permit will expire 30 days after the negative ruling on the proposal.

Dated: January 5, 1979.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-1073 Filed 1-11-79; 8:45 am]

[4110-02-M]

Office of Education

FOREIGN LANGUAGE AND AREA STUDIES FELLOWSHIPS PROGRAM AND INTERNATIONAL STUDIES CENTERS PROGRAM

Closing Date for Transmittal of Applications for Fiscal Year 1979

Applications are invited for new projects under the Foreign Language and Area Studies Fellowships Program and the International Studies Centers Program.

Authority for these programs is contained in section 601 of the National Defense Education Act of 1958, as amended.

(20 U.S.C. 511)

The Fellowships and the Centers Programs issue awards to institutions of higher education; consortia applications are eligible but must be submitted by a member institution.

The purpose of the awards under the Fellowships Program is to assist individuals undergoing advanced training in modern foreign languages and related area studies through awards to approved institutions. The purpose of the awards under the International Studies Centers Program is to provide general assistance for programs in language and area studies and in international studies.

CLOSING DATE FOR TRANSMITTAL OF APPLICATIONS: Applications for awards must be mailed (postmarked) or hand delivered by February 20, 1979.

APPLICATIONS DELIVERED BY MAIL: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.434 (for Fellowships) and/or 13.435A (for Centers), Washington, D.C. 20202.

Proof of mailing must consist of a legible U.S. Postal Service dated postmark or a legible mail receipt with the date of the mailing stamped by the U.S. Postal Service. Private metered postmarks, or mail receipts will not be accepted unless they have been date stamped by the U.S. Postal Service.

Note.—The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method.

Applicants are encouraged to use registered or at least first class mail.

Each late applicant will be notified that its application will not be considered in the current competition.

APPLICATIONS DELIVERED BY HAND: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8:00 a.m. and 4:00 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, or Federal Holidays.

Applications that are hand delivered will not be accepted after 4:00 p.m. on the closing date.

PROGRAM INFORMATION: Specific information about the Fellowships and Centers Programs is contained in the regulations and guidelines (published in the FEDERAL REGISTER on My 23, 1977) and in the program information and application package.

All grants will be new awards; a current grantee may apply for a new award on the same basis as an applicant not previously funded. In this competition awards for both fellowships and centers are for two years' duration. Continuation of the award for the second year depends upon the availability of funds and satisfactory performance. It is expected that a three-year cycle will resume with the subsequent competition.

AVAILABLE FUNDS: It is anticipated that approximately $4,590,000 will be available for the Fellowships program for FY 1079. It is estimated that three funds could support approximately 800 Fellowships for language and area studies at an average unit cost of $5,700. The tentative allocation of foreign language and area fellowships according to world areas is as follows: Africa 89; East Asia 193; Eastern Europe and the U.S.S.R. 140; Latin America 75; Middle East 140; South Asia 88; Southeast Asia 70; and Western Europe 5.

It is anticipated that approximately $8,000,000 will be available for the Centers Program in FY 1979. It is estimated that these funds could support approximately 80 awards to Centers, with up to 20% of the awards for centers with a primary focus on other than foreign language and area studies, such as comparative area studies or international affairs, and with up to 20% of the awards for undergraduate centers. The anticipated average award for centers will be about $100,000 with a range between $32,000 and $180,000.

The number of regional centers will range from about 8 to 15 for each of the following world areas: East Asia (including Japan, China, and Korea), South Asia (India, Sri Lanka, Pakistan, Bangladesh, and Nepal), the Middle East (including North Africa), the Soviet Union and Eastern Europe, Africa, and Latin America. Assistance will also be available for up to approximately three centers in each of the following areas: Southeast Asia (including Indonesia and the Philippines as well as Thailand, Vietnam, Cambodia, Laos, Malaysia, and Burma) and contemporary Western Europe; and about one or two for other world areas such as Canada, Inner Asia, and the Pacific Islands.

These estimates do not bind the U.S. Office of Education except as may be required by the applicable statute and regulations.

APPLICATION FORMS: Application forms and program information packages are available and will be mailed to interested parties upon publication of this Notice in the FEDERAL REGISTER. Applications and information packages may be obtained by writing to the International Studies Branch of the U.S. Office of Education (Room 3923, Regional Office Building 3), 400 Maryland Aveune, SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

APPLICABLE REGULATIONS: The regulations applicable to this program are:

(a) Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a), and

(b) Regulations governing the International Studies Centers and the Foreign Language and Area Studies Fellowships (45 CFR Part 146), published on May 23, 1977.

FURTHER INFORMATION: For further information, contact the Centers Program staff (202) 245-9588, or the Fellowships Program staff (202) 245-9808, of the International Studies Branch, Division of International Education, U.S. Office of Education (Room 3923, Regional Office Building 3), 400 Maryland Aveune, SW., Washington, D.C. 20202.

(20 U.S.C. 511)

(Catalog of Federal Domestic Assistance Numbers 13.434; Foreign Language and Area Studies Fellowships Program, and 13.435A; International Studies Centers Program)

Dated: January 8, 1979.

JOHN ELLIS,
Acting United States Commissioner of Education.

[FR Doc. 79-1161 Filed 1-11-79; 8:45 am]

[4110-02-M]

MEDIA RESEARCH PRODUCTION, DISTRIBUTION, AND TRAINING GRANT PROGRAM

Extension of Deadline Date for Transmittal of Applications for Fiscal Year 1979

The March 5, 1979, deadline date for transmittal of new applications under the Media Research Production, Distribution, and Training Grant Program is extended because the application forms and program information was not available January 2 as stated. The material is expected to be ready for mailing by January 15, 1979. The *new deadline date is March 19, 1979.*

The purpose of the awards is to promote the advancement of handicapped persons through media by assisting research, production, distribution, and training in the use of media.

Closing date for transmittal of applications: To be assured of consideration for funding, applications for new awards should be mailed or hand delivered by March 19, 1979.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.446, Washington, D.C. 20202. The application must be mailed on or before the deadline date.

Proof of mailing must consist of a legible U.S. Postal Service dated postmark or a legible mail receipt with the date of mailing stamped by the U.S. Postal Service. Private metered postmarks or mail receipts will not be accepted without a legible date stamped by the U.S. Postal Service.

NOTE.—The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method.

Applicants are encouraged to use registered or at least first-class mail.

Each late applicant will be notified that its application will not be considered in the current competition.

Application delivered by hand: An application that is hand delivered

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must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8 a.m. and 4 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

Applications that are hand delivered will not be accepted after 4 p.m. on the closing date.

Available funds: Approximately $5.5 million has been obligated to more than 50 new awards in the first 2 years of the program. The budget total for 1979 new awards has not yet been established but should equal and may well exceed the average for the first 2 years.

Previous first year awards for new projects have been between $25,000 and $19,000 with an average just over $100,000. It is anticipated that most new awards will fall in this range.

These estimates do not bind the U.S. Office of Education except as may be required by the applicable statute and regulations.

Application forms: Application forms and program information packages are expected to be ready for mailing by January 15, 1979. They may be obtained by writing to the Division of Media Services, Bureau of Education for the Handicapped, U.S. Office of Education (Room 4821, Donohoe Building), 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

Special information: Applicants to this program are not subject to the State and areawide clearinghouse procedure under OMB Circular A-95.

Applicable regulations: The regulations applicable to this program are:

(a) Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a), and

(b) Regulations governing Instructional Media for the Handicapped (45 CFR Part 121i).

For further information: For further information contact Dr. Barry E. Katz, Grant Program Officer, Division of Media Services, BEH, U.S. Office of Education (Room 4319, Donohoe Building), 400 Maryland Avenue, SW., Washington, D.C. 20202, Telephone 202-472-4640.

(20 U.S.C. 1451, 1452.)

(Catalog of Federal Domestic Assistance No. 13.446, Media Research Production, Distribution, and Training Grant Program.)

Dated: January 8, 1979.

JOHN ELLIS,
Acting United States Commissioner of Education.

[FR Doc. 79-1162 Filed 1-11-79; 8:45]

[4110-08-M]

National Institutes of Health

REPORT ON BIOASSAY OF COUMAPHOS FOR POSSIBLE CARCINOGENICITY

Availability

Coumaphos (CAS 56-72-4) has been tested for cancer-causing activity with rats and mice in the Carcinogenesis Testing Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay of coumaphos for possible carcinogenicity was conducted by administering the test chemical in feed to F344 rats and B6C3F1 mice. Applications of the chemical include use as a pesticide.

It is concluded that under the conditions of this bioassay, coumaphos was not carcinogenic for either F344 rats or B6C3F1 mice.

Single copies of the report, Bioassay of Coumaphos for Possible Carcinogenicity (T.R. 96), are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Maryland 20014.

(Catalogue of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research)

Dated: January 3, 1979.

DONALD S. FREDRICKSON,
Director,
National Institutes of Health.

[FR Doc. 79-944 Filed 1-11-79; 8:45 am]

REPORT ON BIOASSAY OF 4 - NITRO - O - PHENYLENEDIAMINE FOR POSSIBLE CARCINOGENICITY

Availability

4 - Nitro - o - phenylenediamine (CAS 99-56-9) has been tested for cancer-causing activity with rats and mice in the Carcinogenesis Testing Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay for the possible carcinogenicity of 4 - nitro - o - phenylenediamine was conducted using Fischer 344 rats and B6C3F1 mice. Applications of the chemical include use as an ingredient of hair dyes. 4 - Nitro - o - phenylenediamine was administered in the feed, at either of two concentrations, to groups of 50 male and 50 female animals of each species.

Under the conditions of this bioassay, dietary administration of 4 - nitro - o - phenylenediamine was not carcinogenic in Fischer 344 rats or B6C3F1 mice.

Single copies of the report, Bioassay of 4 - Nitro - o - phenylenediamine for Possible Carcinogenicity (T.R. 180), are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Maryland 20014.

(Catalogue of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research)

Dated: January 3, 1979.

DONALD S. FREDRICKSON,
Director,
National Institutes of Health.

[FR Doc. 79-943 Filed 1-11-79; 8:45 am]

[4110-08-M]

NATIONAL CANCER INSTITUTE COMMITTEES

Renewals

The Director, National Institutes of Health, announces the renewal of charters on December 20, 1978, of the advisory committees indicated below by the Director, National Cancer Institute. Such advisory committees shall be governed by the provisions of the Federal Advisory Committee Act, as amended (Pub. L. 92-463) setting forth standards governing the establishment and use of advisory committees. These committees will terminate on December 20, 1980 unless renewed by appropriate action as authorized by law.

Committees established under the authority of section 410(a)(3) of the Public Health Service Act (42 U.S.C. 286d) are:

Biometry and Epidemiology Contract Review Committee
Board of Scientific Counselors, Division of Cancer Biology and Diagnosis
Board of Scientific Counselors, Division of Cancer Treatment
Breast Cancer Task Force Committee
Committee on Cytology Automation
Diagnostic Research Advisory Group

Committees established under the authority of section 410A(a) of the Public Health Service Act (42 U.S.C. 286e) are:

Cancer Clinical Investigation Review Committee
Cancer Special Program Advisory Committee

Dated: January 5, 1979.

DONALD S. FREDRICKSON, M.D.,
Director, National Institutes of Health.

[FR Doc. 79-1094 Filed 1-11-79; 8:45 am]

[4110-08-M]

NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

Amended Notice of Meeting of Division of Blood Diseases and Resources Advisory Committee

A notice is hereby given of a change in the January 15 and 16, 1979, meeting of the Blood Diseases and Resources Advisory Committee, National Heart, Lung, and Blood Institute, which was published in the FEDERAL REGISTER of November 27, 1978 (43 FR 55285-55286).

This meeting was originally intended to be an entirely open meeting. There now will be a closed session on January 16, 1979 from 8:30 AM-10:00 AM. In accordance with the provisions set forth in Section 552b(c)(6), Title 5, U.S. Code Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from 8:30 AM-10:00 AM for the consideration of personnel qualifications and performance of all investigators involved in three Specialized Centers of Research supported by the Division of Blood Diseases and Resources, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Fann Harding, Special Assistant to the Director, Division of Blood Diseases and Resources, National Heart, Lung, and Blood Institute, Federal Building, Room 514, National Institutes of Health, Bethesda, Maryland, 20014, phone: (301) 496-1817, will furnish substantive program information.

Dated: January 10, 1979.

SUZANNE L. FREMEAU,
Committee Management, Officer, NIH.

[FR Doc. 79-1365 Filed 1-11-79; 8:45 am]

[4310-02-M]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

NEAR RESERVATION DESIGNATIONS

DECEMBER 27, 1978.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 230 DM 2.

In accordance with Title 25—Indians, Chapter 1—Bureau of Indian Affairs, Department of the Interior, Subchapter D—Social Welfare, Part 20—Financial Assistance and Social Services Program (25 CFR 20) the Assistant Secretary—Indian Affairs has designated certain locales as "Near reservation" locations appropriate for the extension of Bureau of Indian Affairs financial assistance and/or social services. The locales listed alphabetically below by Bureau Agency Office jurisdiction are those designated for this purpose:

Agency	Reservation-Tribe	"Near reservation" location
Cherokee Agency, Cherokee, NC.	Cherokee	Counties of Cherokee, Graham, Haywood, Jackson and Swain (all of the above within the State of North Carolina).
Choctaw Agency, Philadelphia, MS.	Choctaw	Counties of Neshoba, Leake, Newton, Kemper, Scott, Attala, Lauderdale, Winston, Noxubee, Clarke, Smith and Jones (all of the above within the State of Mississippi).
Colorado River Agency, Parker, AZ.	Colorado River	Bouse, Ehrenberg, Parker, Salome, Lake Havasu City, Kingman, Bull Head City, Holiday Shores, Mohave Valley, Havasu Valley (all of the above within the State of Arizona).
Fort Apache Agency, Whiteriver, AZ.	Fort Apache	Pine Top, Lakeside, Eager, Showlow, Nutrioso, Holbrook, Overgaard, Alpine, Taylor, Springerville, Herber, Globe, St. Johns, Snowflake, Winslow (all of the above within the State of Arizona).
Fort Hall Agency, Fort Hall, ID.	Shoshone-Bannock	Counties of Bingham, Power, Bannock and Caribou (all of the above within the State of Idaho).
Fort McDowell Agency, Fountain Hills, AZ.	Majave-Apache	Mesa, Tempe, Scottsdale (all of the above within the State of Arizona).
Fort Yuma Agency, Yuma, AZ.	Quechan, Cocopah	Gadsen, Roll, San Luis, Somerton, Tacna, Yuma, Wellton (all of the above within the State of Arizona).
Hopi Agency, Keams Canyon, AZ.	Kaibab-Paiute	Fredonia, Arizona; St. George, Utah; Kanob, Utah; Cedar City, Utah.
	Hopi	Holbrook, Winslow, Flagstaff, Grand Canyon, Page (all of the above in the State of Arizona).
Navajo Area Office, Window Rock, AZ.	Navajo	Grand Canyon, Joseph City, Marble Canyon, Flagstaff, Snowflake, Holbrook, Page, Wupatki, Winslow (all of the above in the State of Arizona); Farmington, Aztec, Bloomfield, Magdalena, Cuba, Kirtland, Grants, Milan, Socorro, Gallup (all of the above within the State of New Mexico); La Plata, Cortez, Bayfield, Durango, Ignacio, and Towaoc (all of the above within the State of Colorado).
Papago Agency, Sells, AZ	Papago	Tucson, Why, South Tucson, Ajo, Gila Bend, Sasabe, Case Grande, Sahuarita, Coolidge, Marana, Florence, Red Rock, Eloy, Cortaro, Toltec, Picacho, Buckeye, Arizona City, Stanfield (all of the above in the State of Arizona).
Pima Agency, Sacaton, AZ	Ak-Chin	Chandler, Mobile, Laveen, Stanfield, Casa Grande, Gila Bend, Phoenix, Midway, Eleven Mile Corner, Kyrene, Coolidge, Florence, Buckeye, Maricopa (all of the above within the State of Arizona).
	Gila River	Chandler, LaPalma, Eloy, Ocotillo, Casa Grande, Gilbert, Higley, Kyrene, Rittenhouse, Hightown, Queen Creek, Gila Bend, Standfield, Chandler Hts, Florence, Mobile, Maricopa, Coolidge, Borree Corners, Avondale, Randolf, Tempe, Phoenix, Guadalupe, Mesa, Glendale, Litchfield, Laveen, Eleven Mile Corner, Buckeye, Cotton Bowl, Tolleson, Apache Junction (all of the above within the State of Arizona).
Salt River Agency, Scottsdale, AZ.	Salt River Pima-Maricopa.	Tempe, Mesa, Phoeniz, Scottsdale (all of the above within the State of Arizona).
San Carlos Agency, San Carlos, AZ.	San Carlos	Miami, Superior, Eden, Thatcher, Pima, Safford, Hayden, Winkleman, Globe, Fort Thomas, Showlow (all within the State of Arizona).
Truxton Canon Agency, Valentine, AZ.	Hualapai	Kingman, Seligman, Nelson (all of the above within the State of Arizona).
Havasupai		Grand Canyon, Williams, Flagstaff (all of the above within the State of Arizona).
	Yavapai (Prescott)	Prescott, Arizona.
	Yavapai (Apache)	Jerome, Clarkdale, Cottonwood, Rimrock, McGuire< ville, Camp Verde, Lake Montezuma (all of the above within the State of Arizona).
Umatilla Agency, Pendleton, OR.	Umatilla	Counties of Umatilla and Union; Celilo Village in Wasco county (all of the above within the State of Oregon).
Western Washington Agency, Everett, WA.	Lummi	County of Whatcom in the State of Washington.
	Klallam	County of Kitsap in the State of Washington.
	Puyallup	Counties of King, Pierce, Kitsap, Thurston, in the State of Washington.
	Tulalip	County of Snohomish in the State of Washington.
	Hoh	Counties of Clallam, Jefferson, Grays Harbor and Kling, in the State of Washington.
	Quileute	Forks, Washington.

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25 CFR 20—*Financial Assistance and Social Services Program* regulations have full force and effect when extending Bureau of Indian Affairs assistance and/or services in the above designated "Near reservation" locations.

Further information about these "Near reservation" designations may be obtained from the Chief, Division of Social Services, Bureau of Indian Affairs, 1951 Constitution Avenue NW., Washington, D.C. 20245, telephone 703-235-2756.

RICK LAVIS,
Acting Assistant Secretary—
Indian Affairs.

[FR Doc. 79-1071 Filed 1-11-79; 8:45 am]

[1505-01-M]

Bureau of Land Management

[AA-6661-A, B, C, H]

ALASKA

Alaska Native Claims Selection

Correction

In FR Doc. 78-35919 appearing at page 60337 in the issue of Wednesday, December 27, 1978, make the following corrections:

(1) On page 60338, in the last column, the fifth paragraph which begins with the number "10", in the second to the last line of this paragraph the address should read "555 Cordova Street".

(2) On page 60339, the first column, in the seventh line the number "2344" should be corrected to read "2433".

[1505-01-M]

COOK INLET/SHELIKOF STRAIT, ALASKA, OUTER CONTINENTAL SHELF (TENTATIVE SALE NO. 60)

Call for Nominations of and Comments on Areas for Oil and Gas Leasing

Correction

In FR Doc. 78-36064, appearing at page 60671 in the issue of Thursday, December 28, 1978, on page 60671 in the middle column under the heading of *"OSC Official Protraction Diagrams"* in the paragraph which begins with the number five, the fourth line should read "573, inclusive".

[4310-84-M]

[NM 35522]

NEW MEXICO

Application

JANUARY 3, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Northwest Pipeline Corporation has applied for one 4½-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 30 N., R. 14 W.,
Sec. 10, lots 2, 3, S½NE¼ and E½SE¼.

This pipeline will convey natural gas across 1.045 miles of public land in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

FRED E. PADILLA,
Chief, Branch of Lands
and Minerals Operations.

[FR Doc. 79-1080 Filed 1-11-79; 8:45 am]

[4310-84-M]

DRAFT INTERIM MANAGEMENT POLICY AND GUIDELINES FOR WILDERNESS STUDY AREAS

Availability for Public Review and Comment

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability and invitation for comment.

SUMMARY: This notice includes as an attachment the draft interim management policy and guidelines for the management of wilderness study areas on public lands. The Federal Land Policy and Management Act provides for special management of areas that are being studies to determine their wilderness suitability. The purpose of this notice is to seek public participation in the development of the interim management policy and guideliens for wilderness study areas.

DATE: Send comments by March 14, 1979.

ADDRESS: Send comments to Director (303), Bureau of Land Management, 1800 C Street, N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Terry R. Sopher, 202-343-6064.

SUPPLEMENTARY INFORMATION: Section 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782) directs the Secretary of the Interior to review areas of the public lands administered by the Bureau of Land Management that have wilderness characteristics. The Act also provides special, interim management direction for these areas during the wilderness review and until Congress determines otherwise. The attached draft contains the proposed policy and guidelines by which the BLM would implement the interim management provision.

The background of the proposed interim management policy is described in Chapter I (Overview) of the draft.

Members of the public are invited to submit written comments on the draft to the Director, Bureau of Land Management, at the address listed above.

To obtain further comment, BLM will hold a national workshop in Washington, D.C., and each BLM State Office will sponsor a public meeting or workshop. The dates and locations of these meetings and workshops will be announced in the FEDERAL REGISTER.

Comments received on the draft document within 60 days (March 14, 1979) will be considered when the draft is revised. The Bureau plans to complete revision and release the final Interim Management Policy and Guidelines prior to the 1979 summer season of peak development activity on the public lands.

Dated: January 8, 1979.

FRANK GREGG,
Director, Bureau of
Land Management.

[4310-84-C]

INTERIM MANAGEMENT POLICY AND GUIDELINES FOR WILDERNESS STUDY AREAS

DRAFT

U.S. Department of the Interior

Bureau of Land Management

January 12, 1979

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INTERIM MANAGEMENT POLICY AND GUIDELINES FOR WILDERNESS STUDY AREAS

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CHAPTER I. OVERVIEW

This document describes policies and guidelines for managing the use of lands and islands administered by the Bureau of Land Management which have been identified as wilderness study areas (WSA's). These WSA's are areas that have wilderness characteristics and are being reviewed by the BLM to determine whether they are suitable or nonsuitable for designation as wilderness. The BLM's recommendations will be submitted through the Secretary of the Interior to the President, and the President will send his recommendations to Congress.

The policies and guidelines in this document also apply to BLM-administered lands and islands that are subject to the wilderness review but have not yet been dropped from the inventory or been identified as wilderness study areas. Such lands must be considered potential WSA's, and will be managed under the Interim Management Policy until BLM has resolved their status.

The BLM wilderness review program stems from section 603 of the Federal Land Policy and Management Act of 1976 (FLPMA). In FLPMA, Congress gave BLM its first clear-cut, comprehensive mandate on how the public lands should be managed. The law establishes a policy of keeping the public lands in Federal ownership, and it directs BLM to manage them under principles of multiple use and sustained yield. Management decisions are to be made through a land-use planning process that considers all potential uses of each land area. Under FLPMA, wilderness preservation is part of BLM's multiple-use mandate. The specific responsibility for the wilderness review program appears in section 603. (The complete text of section 603 is shown in Appendix E of this document.)

Section 603(c) tells BLM how to manage the lands that are being reviewed, in these words:

> During the period of review of such areas and until Congress has determined otherwise, the Secretary shall continue to manage such lands according to his authority under this Act and other applicable law in a manner so as not to impair the suitability of such areas for preservation as wilderness .... (emphasis added).

A grandfather clause in section 603(c) lays out more specific instructions for existing mining, grazing, and mineral leasing—what will be called "grandfathered" uses—in these words:

> ... subject, however, to the continuation of existing mining and grazing uses and mineral leasing in the manner and degree in which the same was being conducted on the date of approval of this Act ....

However, these uses are not completely unrestricted. The Secretary is also directed by section 603(c) to "take any action required to prevent unnecessary or undue degradation of the lands and their resources or to afford environmental protection." This applies not only to these grandfathered uses, but to all activities. These mandates establish as a matter of policy that, while some development activities may continue or be permitted in a WSA, they must be carefully regulated. All activities except the grandfathered uses must be regulated to prevent impairment of wilderness suitability, and in some circumstances development may be prohibited where impairment cannot be prevented or where the impacts will not be rehabilitated. To the extent that activities and their imprint on wilderness are temporary and can be carried on in a manner that minimizes interference with wilderness potential, these activities pose less of a threat to an area's suitability for wilderness designation than do activities with long-term impact and low rehabilitation potential.

There are two different practical effects of these "interim management" mandates in FLPMA. First, those grazing, mining, and mineral leasing uses which existed on October 21, 1976 (the date FLPMA was enacted), may continue in the same manner and degree as on that date, even if they do impair wilderness suitability, so long as they do not cause unnecessary or undue degradation of the lands and their resources.

Second, uses and activities other than the grandfathered uses may be permitted in WSA's so long as they can take place without impairing the suitability of the area for preservation as wilderness. Obviously, the question of what causes "impairment" is the key to determining what can take place in a WSA.

A yardstick for answering this question is the definition of wilderness in section 2(c) of the Wilderness Act of 1964:

> A wilderness, in contrast with those areas where man and his own works dominate the landcape, is hereby recognized as an area where the earth and its community of life are untrammeled by man, where man himself is a visitor who does not remain. An area of wilderness is further defined to mean in this Act an area of undeveloped Federal land retaining its primeval character and influence, without permanent improvements or human habitation, which is protected and managed so as to preserve its natural conditions and which (1) generally appears to have been affected primarily by the forces of nature, with the imprint of man's work substantially unnoticeable; (2) has outstanding opportunities for solitude or a primitive and unconfined type of recreation; (3) has at least five thousand acres of land or is of sufficient size as to make practicable its preservation and use in an unimpaired condition; and (4) may also contain ecological, geological, or other features of scientific, educational, scenic, or historical value.

This definition is based on the physical and esthetic character of the land, not on how the land is being used.

Another criterion for "impairment," applicable to new mineral activities (including oil and gas), stems from the management provisions in section 4(d) of the Wilderness Act. These provisions allow carefully controlled mining and mineral leasing in designated wilderness areas of the national forests. Almost by

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definition these activities could adversely affect wilderness character to some degree, yet by enacting these provisions Congress decided that mining and mineral leasing may be compatible with an area's suitability for preservation as wilderness. Therefore, oil and gas and mining activities whose impacts are only temporary are considered not to impair wilderness suitability.

The goal of interim management is to ensure that any area that now satisfies the wilderness definition in section 2(c) of the Wilderness Act will still satisfy this definition when Congress acts on the President's recommendations as to whether that area should be designated permanently as wilderness. Anything that would cause the land not to meet this definition would constitute impairment of its suitability for designation as wilderness. The final decision belongs to Congress. The Interim Management Policy protects Congress's right to make that decision by preventing actions that would preempt that decision.

However, there are two exceptions. First, the congressional decision might be preempted by impairment resulting from the grandfathered mining, mineral leasing, and grazing uses. That is a risk Congress chose to take when it approved FLPMA.

Second, new mining and mineral leasing activities might cause temporary impacts that would be rehabilitated within 5 years after Congress designates the area as wilderness.

The question will arise, why does the BLM allow activities in WSA's that are prohibited in designated wilderness areas? (An exempple is operation of motor vehicles.) The answer is that section 603(c) of FLPMA gave BLM no authority to impose such prohibitions; some activities that are prohibited in wilderness areas do not inherently impair a WSA's wilderness potential. The BLM's mandate is to protect the physical and esthetic features that make an area suitable for designation as wilderness so that Congress can make the decision on whether or not to designate it as wilderness. The mandate is *not* to prohibit any and all activity in the area.

Most activities will fall in one of the following categories:

1. There are some activities that may occur in WSA's that are also allowed in designated wilderness areas. (For example: hunting.)
2. There are some acts that may occur in WSA's even though they are not allowed in designated wilderness areas, because these activities do not cause physical changes that would impair the area's wilderness suitability. (For example: driving motor vehicles on existing ways and trails.)
3. There are other activities that may occur in WSA's, even though they cause temporary impact on wilderness suitability, because the impact can and will be rehabilitated within a reasonable time. (For example: building a temporary road to install a water source for cattle.)
4. The most difficult questions arise with activities that have longlasting impacts, so that the area will not be suitable for wilderness designation for many years. Such activities will not be allowed, unless they are necessary to conduct grandfathered mineral or grazing uses.

The purpose of the policies and guidelines in this document is to guide BLM staff in the specific decisions that arise every day in the management of land uses in WSA's.

A. Objectives. The objectives of interim management are:

1. To manage "so as not to impair the suitability . . . for preservation as wilderness" of those areas and islands that meet the criteria of section 2(c) of the Wilderness Act of 1964.

2. To manage existing mineral and grazing uses continuing in the manner and degree in which the same were being conducted on October 21, 1976, so as to prevent undue or unnecessary degradation of the lands and their resources and to afford environmental protection.

3. To manage so that, to the extent possible, resource uses may continue with minimum interruption while a wilderness review program is being conducted.

B. Authority.

1. The WSA interim management policy is based on the following authorities:

a. The Federal Land Policy and Management Act of 1976, Public Law 94-579, section 603, hereafter referred to as "FLPMA." (See Appendix D for the text of section 603.)

b. The Wilderness Act of September 3, 1964, Public Law 88-577. (See Appendix E for the text of section 2(c).)

C. The Wilderness Program. To carry out the mandate of FLPMA, the Bureau has developed a wilderness program with these four elements:

1. Wilderness Review. The wilderness review process has three phrases: inventory, study, and submission of a report to Congress. Public involvement is provided for all phases of the process, with opportunity for comment, participation, and review. The review applies to most public lands administered by BLM, except those Oregon and California Grant (O&C) lands which are managed for commercial timber production.

a. Inventory. First, BLM does an inventory of the public lands to identify areas that meet the definition of wilderness established by Congress. Such areas are identified as wilderness study areas (WSA's).

b. Study. Next, BLM studies each WSA, using the BLM land-use planning system to analyze all values, resources, and uses within the WSA. The findings of the study determine whether the area will be recommended as suitable or nonsuitable for designation as wilderness.

c. Reporting. When the study has been completed, a recommendation as to whether the WSA is suitable or nonsuitable for designation as wilderness is submitted through the Secretary of the Interior and the President to Congress. Reports on all WSA's must reach the President by October 21, 1991, and reach Congress by October 21, 1993.

2. Instant Study Areas. FLPMA also requires wilderness recommendations to be reported to the President by July 1, 1980, on 55 public land areas which were formally designated as "natural" or "primitive" areas prior to November 1, 1975. These are known as the "instant study areas" because they are already identified, and need not go through the inventory process.

3. Management of WSA's. In a WSA, the BLM must not permit actions which would impair the area's suitability for preservation as wilderness. Existing mining, mineral leasing, and grazing uses may continue in the same manner and degree as they were being done when FLPMA was enacted on October 21, 1976, but will be regulated to afford environmental protection and prevent undue and unnecessary degradation of the land and resources.

4. Management During Wilderness Inventory. The wilderness inventory work began in 1978 and will be completed by September 30, 1980. While the inventory is in progress, the Bureau has an obligation to protect the wilderness suitability of any lands that may be identified as WSA's by the final inventory decisions. This does not mean that all public lands will be covered by the interim management policy. It does mean that during the inventory period, BLM-administered lands that have not yet been dropped from the inventory will be regarded as potential WSA's, and will be governed by the Interim Management Policy. Before WSA's have been identified, the Bureau will approve activities on BLM-administered land under any of these four conditions:

a. If a "special project inventory" or the initial inventory, supported by public comments, shows that the land clearly and obviously does not meet the wilderness definition, and therefore will not be identified as a WSA, the activity may be approved by normal BLM procedures.

b. If a special project inventory or the initial inventory, supported by public comments, shows that the land appears to meet the wilderness definition, and therefore is likely to be identified as a WSA, then the question must be addressed in the EAR/ES process: Will the activity impair the area's wilderness suitability? If the answer is "no," the activity may be approved.

c. If the activity is necessary to an existing grazing, mining, or mineral-leasing use being conducted in the same manner and degree as on October 21, 1976, it may be approved without any inventory.

d. If the activity is something that the BLM has determined, as a rule, does not impair wilderness suitability (such as reforestation, or camping), it may be approved without any inventory. (See Appendix A for examples.)

D. Definitions.

Some of the terms used in this document have particular and specific meanings and are defined as follows:

Cumulative Impact: The total impact caused by a proposed activity combined with the impacts of existing substantially unnoticeable intrusions in an area or island that were not previously sufficient to preclude the land from WSA designation.

Impair: To diminish in value, excellence, etc. (Distinguished from impacts; see "temporary impacts.")

Instant Study Area: One of the 55 primitive and natural areas formally identified through a final action published in the *Federal Register* prior to November 1, 1975. FLPMA requires a wilderness review of these areas.

Multiple Use: ". . . the management of the public lands and their various resource values so that they are utilized in the combination that will best meet the present and future needs of the American people; making the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; the use of some land for less than all of the resources; a combination of balanced and diverse resource uses that takes into account the long-term needs of future generations for renewable and nonrenewable resources, including, but not limited to, recreation, range, timber, minerals, watershed, wildlife and fish, and natural scenic, scientific and historical values; and harmonious and coordinated management of the various resources without permanent impairment of the productivity of the land and the quality of the environment with consideration being given to the relative values of the resources and not necessarily to the combination of uses that will give the greatest economic return or the greatest unit output." (From section 103, FLPMA.)

Outstanding: 1. Standing out among others of its kind; conspicuous; prominent. 2. Superior to others of its kind; distinguished; excellent.

Permanent Roads, Structures, or Facilities: Those which cause impacts that cannot be practically and economically rehabilitated in a reasonable period of time.

Potential Wilderness Study Area: Any area of the public lands that is subject to the wilderness inventory, but has not yet been dropped from the inventory or been identified as a wilderness study area.

Primitive and Unconfined Recreation: Recreational activities that do not use motorized equipment and do not require manmade structures.

Public Lands: For the purpose of the wilderness review program, any lands and interest in lands owned by the United States within the several States and administered by the Secretary of the Interior through the Bureau of Land Management, without regard to how the United States acquired ownership, except:

1. Land located on the Outer Continental Shelf; and

2. Lands held for the benefit of Indians, Aleuts, and Eskimos; and

3. Lands where the United States retains the minerals, but the surface is in other ownership.

Roadless: Refers to the absence of roads which have been improved and maintained by mechanical means to insure relatively regular and continuous use. A way maintained solely by the passage of vehicles does not constitute a road.

Words and phrases used in the above definition of "roadless" are defined as follows:

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1. Improved and maintained. Actions taken physically by man to keep the road open to vehicular traffic. "Improved" does not necessarily mean formal construction. "Maintained" does not necessarily mean annual maintenance.

2. Mechanical means: Use of hand or power machinery or tools.

3. Relatively regular and continuous use: Vehicular use which has occurred and will continue to occur on a relatively regular basis. Examples are: Access roads for equipment to maintain a stock water tank or other established water sources; access roads to maintained recreation sites or facilities; or access roads to mining claims.

Roadless Area or Roadless Island: An area or island bounded by non-Bureau administered land, water, or a road, using the edge of the physical change that created the road or the adjacent edge of the right-of-way as the boundary. Applies only to areas identified and indexed as such through the roadless area inventory of the wilderness inventory process.

Solitude: 1. The state of being alone or remote from habitations; isolation. 2. A lonely, unfrequented, or secluded place.

Substantially Unnoticeable: Refers to something that is not immediately recognizable as manmade or man-caused because of age, weathering, or biological change, or because the thing is so insignificant as to be only a very minor feature of the overall area. An example of the first would be an old juniper control project that has grown up to a natural appearance, the old fallen trees largely decomposed. An example of the latter would be one or a few minor dams or abandoned mine buildings that are widely scattered over a large area, so that they are an inconspicuous part of the scene. Serious intrusions of this kind, or many of them, may preclude inclusion of the land in a wilderness study area.

Temporary Impacts: Impacts which the BLM has determined to be temporary on grounds that rehabilitation will be practically and economically accomplished by the time of congressional designation of the area as wilderness or, in the case of new mineral activities, no later than 5 years after congressional designation. The BLM will determine in advance the plan and schedule for rehabilitation measures. The effects of the activity must be rehabilitated to the point of being substantially unnoticeable, and the damaged environmental systems must be capable of being rehabilitated to essentially the condition which existed on the date the activity was approved by BLM.

Undue Degradation: Detrimental impacts from a proposed or ongoing action resulting in unnecessary damage to lands or their resources. These usually occur when an operator is not using or does not propose to use the best available management or operating practices which are technically, economically, and legally feasible.

Wilderness: The definition contained in section 2(c) of the Wilderness Act of 1964 (78 Stat. 891). (See Appendix E for its full text.)

Wilderness Area: An area formally designated by Congress as a part of the National Wilderness Preservation System.

Wilderness Characteristics: The definition contained in section 2(c) of the Wilderness Act of 1964 (78 Stat. 891).

Wilderness Inventory: An evaluation of the public lands in the form of a written description and map showing those lands that meet the wilderness criteria as established under section 603(a) of the FLPMA and section 2(c) of the Wilderness Act, which will be referred to as wilderness study areas (WSA's). (See Wilderness Inventory Handbook, dated September 27, 1978.)

Wilderness Review Program: The process covering the entire wilderness inventory, study, and reporting for the wilderness resource and culminating in recommendations to the Secretary, the President, and Congress as to the suitability or nonsuitability of WSA's for inclusion in the National Wilderness Preservation System.

Wilderness Study Area: A roadless area or island which has been inventoried and found to have wilderness characteristics as described in section 603 of the FLPMA and section 2(c) of the Wilderness Act of 1964 (78 Stat. 891).

E. Implementing Regulations. Some of the policies in this document will be implemented through regulations. These particular policies will be reflected in proposed regulations that are now in preparation. One rulemaking concerns mining activities in WSA's and potential WSA's:

— Exploration and Mining—Wilderness Review Program (43 CFR 3802). These regulations will be effective upon final rulemaking until the Surface Management (43 CFR 3809) regulations are promulgated. They will then be incorporated into the 3809 regulations.

Two other rulemakings concern mineral leasing and mining activities on all BLM-administered lands:

— Geophysical Exploration—Oil and Gas (43 CFR 3045).
— Surface Management (43 CFR 3809).

A rulemaking is also in preparation concerning use of off-road vehicles on all BLM-administered lands:

— Off-Road Vehicles (43 CFR 6290). Upon publication of final rulemaking in the *Federal Register*, the number will be changed to 43 CFR 8340.

Changes in existing regulations will also be proposed wherever this is found necessary to implement the Interim Management Policy.

Chapter II. Management Policy for Wilderness Study Areas

A. General Policy. The Department of the Interior's management policy is to continue resource uses in wilderness study areas in a manner that preserves the areas' suitability for designation as wilderness until one of the following occurs:

1. If a BLM wilderness inventory determines that an area does not meet the Wilderness Act's definition of wilderness, the interim management policies will no longer apply.

2. If Congress designates the area as wilderness, the BLM will manage the area for preservation of its wilderness character. FLPMA requires that designated wilderness areas be managed under provisions of the Wilderness Act which apply to national forest wilderness. BLM is preparing a management policy to implement this mandate.

3. If Congress declares the area nonsuitable for designation as wilderness, the interim management policies will no longer apply.

The Department's policy is also to continue grazing, mining, and mineral leasing activities in wilderness study areas in the manner and degree in which these activities were being done on October 21, 1976, so long as they do not cause unnecessary or undue degradation of the lands and their resources and so long as environmental protection is afforded.

The Department's policy is also to allow new mineral activities in wilderness study areas, so long as they cause only temporary impacts that will be rehabilitated within 5 years after Congress designates the area as wilderness.

B. Specific Policy Guidance.

1. Wilderness Inventory. The Bureau of Land Management is doing the wilderness inventory under procedures described in the *Wilderness Inventory Handbook*, approved on September 27, 1978. The inventory will sort lands into two categories: (a) Wilderness study areas, to which these interim management policies will apply, and (b) lands that are not wilderness study areas and will not be affected by the interim management policies.

2. Special Project Inventory. The BLM Washington Office has directed special project inventories to be done in connection with certain proposed projects. (These are listed in Appendix C.) Other special project inventories may be initiated by BLM State Directors, following procedures in the *Wilderness Inventory Handbook*. A special project inventory sorts lands into these two categories:

a. Lands that clearly and obviously do not satisfy the definition of wilderness and therefore are not affected by the interim management policies.

b. Land that *appear* to satisfy the definition of wilderness. These areas must be given an intensive inventory to determine whether they do indeed satisfy the definition and therefore will be identified as wilderness study areas. The interim management policies will apply to these lands.

3. Non-Impairing Activities. Any activity that BLM has determined does not impair the land's suitability for designation as wilderness may be done in a wilderness study area. (Later in this document, the "Guidelines for Managing Specific Uses" and Appendix A identify some of the these activities.)

4. Supporting Activities. However, some nonimpairing activities require supporting facilities or activities that could impair wilderness suitability. (For example: A ski lift, a boat launching ramp and associated parking area, the use of vehicles off trails to retrieve sailplanes or hang gliders.) When this is the case, the supporting activity will be limited to prevent impairment. (For example: A rope tow may be used instead of a permanent ski lift.) If the supporting activity cannot be done in a nonimpairing manner, then the proposed activity will not be approved.

5. Variable Activities. There are some activities that in certain cases would impair wilderness suitability, but in other cases would not do so, because of differences in size or degree. (For instance, small stock ponds generally are acceptable, but large ones could impair wilderness suitability.) When one of these activities is proposed in a WSA, the BLM will consider the impairment question in the environmental assessment record (EAR) or environmental statement (ES). If the EAR or ES finds that the activity in this case will not impair wilderness suitability, then the activity may be approved.

In some cases, an activity may be modified to preserve wilderness suitability. Sometimes a special design can make something acceptable. Sometimes a different location within the WSA will make an activity more acceptable; some lands are more fragile than others. Sometimes an activity can be limited to a particular season when it will have little impact, or limited to a short period of time.

6. Temporary Activities. Some activities would impair wilderness suitability if they were permanent, but will not do so if their impact is only temporary. Temporary impacts are defined as impacts which the BLM has determined to be temporary on grounds that rehabilitation will be practically and economically accomplished by the time of congressional designation of the area as wilderness or, in the case of new mineral activities, no later than 5 years after congressional designation. The BLM will determine in advance the plan and schedule for rehabilitation measures. The effects of the activity must be rehabilitated to the point of being substantially unnoticeable, and the damaged environmental systems must be capable of being rehabilitated to essentially the condition which existed on the date the activity was approved by BLM.

For instance, a permanent road would make an area nonsuitable for wilderness designation, but a temporary access route that is built for a specific purpose and whose impact will be rehabilitated by regrading and reseeding may be allowed.

The Bureau's contrast rating process (BLM Manual Section 8431, and Form 8400-4) may be used to help determine whether the results of a rehabilitation project will be substantially unnoticeable. A rating of no more than 10 points for any one individual feature (i.e., land/water surface, vegetation, structure) may indicate a satisfactory condition. The definition of "substantially unnoticeable" appears in Chapter I.D of this document.

7. Prohibited Activities. No permanent roads, permanent structures, or permanent installations will be built in WSA's. No public land disposals will be approved in WSA's; however, the question of state selections is unresolved as a result of the *Utah v. Kleppe* litigation.

8. Grazing and Mineral Activities. Grazing, mining, and mineral leasing uses that existed on the date of enactment of FLPMA (October 21, 1978) may continue in WSA's in the same manner and degree as

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on that date, even if this impairs wilderness suitability. These activities will be regulated to ensure that they do not cause unnecessary or undue degradation of the lands and their resources.

Grazing, mining, and mineral leasing uses that are new, or that are different in manner and degree from those existing on October 21, 1976, must meet the test of not impairing wilderness suitability, because these are not covered by the grandfather clause in FLPMA section 603. In the case of new mineral uses, temporary impacts are permissible within 5 years after Congress designates the area as wilderness.

9. Maintenance. Existing structures and installations may be maintained to keep them in an effective, usable condition. Except as provided below for grandfathered activities, maintenance will not be allowed to improve a structure or installation to a condition that would impair the area's suitability for wilderness designation. Measures required to do maintenance activities, such as building temporary access routes, will be allowed only if these measures do not in themselves impair wilderness suitability.

Maintenance in connection with grazing, mining, and mineral leasing activities conducted in the same manner and degree as on October 21, 1976, will be subject to regulations described in subsection 8, above.

10. Emergencies. In emergencies, such as drought, fire, or flood, any action necessary to prevent loss of life or property may be taken, even if the action will impair wilderness suitability. Within 2 days of the action, circumstances and action will be documented and filed in the BLM District Office.

11. Oil and Gas Leases. BLM will advise oil and gas lessees to file Applications for Permit to Drill no later than 120 days before expiration of the lease, to allow time for the U.S. Geological Survey and the BLM to consider the APD in light of these interim management policies and to work with the applicant to seek solutions where conflicts appear. Exploration and development activities may be allowed if these activities (including access routes) cause only temporary impacts that will be rehabilitated within 5 years after Congress designates the area as wilderness.

12. Air Quality. Under the Clean Air Act Amendments of 1977, all BLM-administered lands were designated as Class II, under that law's provision concerning prevention of significant degradation. The BLM will continue to manage wilderness study areas as Class II, unless Congress or a state redesignates them as Class I.

Chapter III. How to Evaluate Proposed Activities

There are two different procedures for evaluating proposed activities under the interim management policies. One will be used on lands for which no wilderness inventory has yet been completed. Another will be used for lands identified by an inventory as wilderness study areas.

A. Lands Not Yet Inventoried.

1. When the proposed activity involves lands for which no wilderness inventory has been completed, start by asking these three questions:

a. Is the proposed activity located in an area that an initial inventory (Step 2 in the *Wilderness Inventory Handbook*) has found clearly and obviously not to meet the criteria for identification as a wilderness study area?

b. Is the proposed activity something that BLM has determined, as a rule, does not impair wilderness suitability (such as the activities listed in Appendix A as "Class A"), and is there no evidence that the activity is an exception to the general rule?

c. Is the activity necessary to an existing grazing, mining, or mineral leasing use being conducted in the same manner and degree as on October 21, 1976, and does it afford environmental protection and cause no unnecessary or undue degradation of the lands and their resources?

If the answer to any one of these questions is "yes," then the proposal will be considered acceptable under the interim management policy, and it may be analyzed under normal BLM procedures.

2. If the answer to all three questions is "no," BLM will consider the proposal in either of two ways:

a. Conduct a "special project inventory" using the procedures of the intensive inventory (Step 4 in the *Wilderness Inventory Handbook*), and simultaneously prepare the EAR/ES. This inventory will sort the lands into two categories: (1) those identified as WSA's, and (2) those that do not qualify as WSA's and therefore are no longer subject to the interim management policy. If the proposal involves lands identified by this inventory as a WSA, the EAR/ES must analyze the individual and cumulative impacts of the proposed action on the area's wilderness suitability. If the EAR/ES analysis shows that the activity will not impair wilderness suitability, then the proposal may be approved through normal BLM procedures.

b. If the decision has to be made before a special project inventory can be completed, then the affected lands must be considered a potential WSA and the proposed action must be evaluated as though the land were in a WSA.

B. Lands in Wilderness Study Areas.

1. When the proposed activity involves lands identified as a wilderness study area, start by preparing an EAR/ES that analyzes the impacts of the activity on the wilderness suitability of the WSA.

If the activity is necessary to existing grazing, mining, or mineral leasing uses conducted in the same manner and degree as on October 21, 1976, the EAR/ES will determine whether it will cause unnecessary and undue degradation of the lands and their resources.

2. In the EAR/ES analysis, it is the physical, ecological, and esthetic impact of a proposed activity that determines whether that activity will impair an area's wilderness suitability. Cumulative impacts must also be taken into account, since a gradual accumulation of minor impacts may add up to an impairment of wilderness suitability.

3. If the analysis shows that the activity will not impair the area's wilderness suitability, it may be approved through normal BLM procedures.

In the case of grazing, mining, and mineral leasing covered by the grandfather clause, if the activity will not cause unnecessary and undue degradation of the lands and their resources, it may be approved through normal BLM procedures.

C. Monitoring. In WSA's and in areas not yet inventoried:

1. The construction of any temporary access route, including routes to mining claims or mineral leases, must be recorded in a District Transportation Plan.

2. Each BLM District Office will keep a log of all proposed and authorized actions (including the construction of temporary access routes) and actions believed to be in violation of FLPMA, section 603. This log will consist of the following information.

a. A description of the proposed or ongoing action.

b. The WSA identification number or location description.

c. A cross-reference to the pertinent case files or decision documentation, and the name of the staff member handling the case.

d. Action taken on proposed and authorized activities (approved/disapproved/pending) and on violations of the Act that are under investigation.

e. Comments on problems encountered or on the current status of the proposal or investigation.

Chapter IV. Guidelines for Specific Activities

A. Recreation. Generally, most recreation activities (including hunting and fishing) are permitted within WSA's, in some cases with restrictions. However, in all cases the magnitude of use must be analyzed to ensure that recreation use will not cause impacts that impair the wilderness suitability of the WSA.

1. In recreation, as with all activities under the Interim Management Policy, no new permanent structures, roads, or facilities will be allowed in a WSA. Temporary installations having minimal visual and environmental impacts may be permitted if the State Director determines that they are necessary to protect the natural environment or to provide acceptable levels of visitor health and safety.

2. Hobby collecting of mineral and vegetative specimens may be allowed unless it is determined to impair the suitability for wilderness designation.

3. ORV use may continue in WSA's on existing ways and trails. Vehicles designed to travel across snow or sand dunes may be allowed in areas designated for these uses, so long as they do not cause physical or esthetic impacts that would impair the suitability of the area for designation as wilderness. For ORV competitive events, assembly areas and start and finish lines shall not be allowed in WSA's. No lands will be classified as "closed" solely because they are in a WSA.

4. Environmental education programs may be continued and teaching stations may be established in a manner that will not impair wilderness suitability.

5. River running may be allowed in a manner that will not impair wilderness suitability.

6. Other recreational use designations may be established so long as they will not cause impacts that would impair a WSA's wilderness suitability.

B. Cultural and Paleontological. Cultural and paleontological resource inventories, studies, and research involving only surface examination or limited subsurface sampling are permitted. Generally, no cultural resource restoration or reconstruction work may be conducted in a WSA. Cultural or paleontological work involving extensive surface collection, excavation, or stabilization may be allowed so long as such work does not impair wilderness suitability. Such work must be monitored, and must include appropriate rehabilitation measures. Physical protection (such as fences) will be limited to those measures needed to reduce impacts and to protect high value resources.

C. Lands Actions. If a proposed land action is determined through the EAR/ES process to be compatible with wilderness preservation, or will result only in a temporary impact on the suitability of the lands for wilderness designation, the action may be permitted.

Appendix A includes a list of the major land actions which will be affected by the Interim Management Policy, and describes some of the restrictions that apply to these actions. It is not intended to be a complete listing, as variations will occur which will have to be considered on a case-by-case basis. However, land transfers cannot be approved within a WSA.

D. Forestry. Except for those Oregon and California (O&C) Grant lands which are managed for commercial timber production, timber management activities on all other forest lands within WSA's are subject to the provisions of the Act. They are guided by the following procedures and by the guidance in Appendix A.

Timber management operations (e.g. road construction, clearcutting, partial cutting, site preparation, and other harvesting activities) authorized prior to October 21, 1976, by timber sale contracts, permits, leases, or licenses must be reevaluated to determine whether the operations within a WSA do or do not impair the area's suitability for wilderness preservation. If the operation is determined to be impairing, BLM will determine whether the contract, permit, lease, or license should be amended, if its terms permit, to prevent impairment of the WSA's suitability for preservation as wilderness.

Timber management activities, as with all activities, will be managed on the basis of the intensity of their impacts, not on the basis of the activity itself.

Activities that cause *major* impacts (such as timber sale, road construction, clearcut, shelterwood cut, partial cut, commercial thinning, and stand conversion) would not be permitted in WSA's.

Generally, activities such as precommercial thinning, site preparation, reforestation, insect and disease control, domestic firewood gathering, and small salvage logging operations, cause only *moderate* impacts or can be rehabilitated so that wilderness suitability will not be impaired. Motorized wheeled or tracked logging equipment will be permitted in the area of operation on existing ways and on new temporary access routes or ways, but impacts caused

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by vehicles must be rehabilitated to a substantially unnoticeable condition.

Activities such as pruning, tree improvement (genetic selection and pollination), and seed collection (climbing and squirrel cache) cause only minor impacts. Activities of this kind may proceed, observing the constraints stated in the "Comments" column of Appendix A.

E. Wildlife. Habitat management projects are allowed so long as they do not impair the area's wilderness potential. Projects that alter natural vegetation in a major way may be approved if BLM determines that they will not impair wilderness potential. Projects which seed or plant exotics are not permitted. Most other wildlife-related activities are permitted if they are conducted so as not to impair wilderness suitability.

The BLM will continue to cooperate with State wildlife agencies in the management of resident wildlife species in accordance with established policies and procedures.

Stocking of wildlife species not indigenous to North America is not permitted in WSA's. Introduction of threatened, endangered, and sensitive species which were native to an area is allowed if there is a reasonable chance for the animals or birds to become established. Temporary enclosures and related facilities may be built, and any means of transportation which does not impair wilderness potential may be used to transplant or reintroduce such species. When endangered, threatened, or sensitive species do not respond to the management measures mentioned above, exceptions for more intensive management may be granted on a case-by-case basis.

F. Fire Management. BLM will continue all presuppression, suppression, and post-suppression fire activities under current methods of operation, using caution to avoid unnecessary impairment of an area's suitability for preservation as wilderness, until new fire management plans for each WSA are developed. These fire management plans, including prescribed burning and controlled wild fire, will be developed promptly. Management objectives for the area must take into account the existing wilderness characteristics of the WSA, the need to prevent actions that would impair the suitability of the area for designation as wilderness, historic fire occurrence, natural role of fire, proposed degree of suppression, expected fire behavior, acceptable suppression techniques, adequate buffer zones, smoke management, effect on private or other agency inholdings and on adjacent landowners, the limits of acceptable fire weather, fire behavior, and fire effects, and the access requirements of other agencies. Emergency fire rehabilitation measures will continue to be carried out under guidelines in Manual Section 7441 and Departmental Manual Part 910.

To hold fire damage to the minimum, fire management plans will rely on (1) the most effective methods of suppression that are least damaging to resources and the environment and that involve the least expenditure of public funds to rehabilitate the area; (2) an aggressive fire prevention program; and (3) an integrated cooperative suppression program by agencies of the Department among themselves or with other qualified suppression organizations.

G. Watershed. Land treatments (e.g., trenching, ripping, pitting, terracing, plowing) and vegetative manipulation by biological, mechanical, or chemical means are permitted in WSA's if a given project is determined not to impair the area's wilderness suitability. Temporary structural measures may also be permitted. Permanent structures will not be built. However, gauges for air and water monitoring will be considered to be nonimpairing and may be established if these are the minimum necessary for determination of real and potential threats to human health and property or if no other areas are available to collect base line data. Activities needed to alleviate, rehabilitate, or contain damage from existing or potential natural hazards may be accomplished within limits established by a case-by-case review. Hazards caused by fire, storms, biological phenomena, landslides, and fumes may need emergency project work; this emergency work will be conducted in a manner that does not impair the area's wilderness suitability. More intensive measures may be authorized after careful analysis by the State Director. Fire damage will be rehabilitated under the same policy with emphasis on the seeding of species native to the area and on management practices. Permanent structural or similar rehabilitation measures which are not in accord with wilderness preservation should be deemphasized.

Rehabilitation projects will be documented according to standard BLM procedures.

Threatened, endangered, and sensitive plant species as well as paleontological resources (see IV.B—Cultural) may also require emergency protection measures to prevent degradation.

H. Range Management.

1. Grazing. The Act provides for the continuation of existing grazing uses in the same manner and degree in which they were conducted on October 21, 1976, but these must cause no unnecessary or undue degradation of the lands and their resources, and they must afford environmental protection. It is clear that the "manner and degree" in which an "existing" grazing use was being conducted on that date established as a benchmark the physical and esthetic impact that activity was having on the area in question.

Therefore, if an existing grazing use can be expanded without increasing the physical impact on wilderness suitability, it may be allowed. (This might occur, for example, if the range condition has improved, or if ephemeral forage is available.)

New grazing uses, and grazing uses different in manner and degree from those existing on October 21, 1976, may be allowed so long as the activity is regulated to prevent impairment of the area's suitability for designation as wilderness. Expansion or curtailment of grazing use and changes in numbers, seasons of use, and class of livestock may be allowed so long as wilderness suitability is not impaired. This would include implementation of grazing systems and changes in grazing systems.

2. Range Improvements. Use and maintenance of existing range improvements is allowed so long as this does not cause undue or unnecessary degradation. In some cases, maintenance can make an installation less obtrusive and therefore more compatible with Interim Management objectives. New range improvements needed to support and facilitate grazing use and management may be installed and maintained so long as the activities and structures do not impair the area's wilderness suitability. Appropriate location and design can make some range improvements acceptable that would otherwise be considered to impair wilderness suitability.

a. BLM may permit new fences, cattleguards, corrals, and trails to be built if their impacts will not impair wilderness suitability. Motor vehicles may be used in existing ways and trails. New water developments may be built if the surface disturbance is not great and can be rehabilitated in a reasonable period of time, and if the above-ground facilities are discreetly designed to blend with the natural surroundings or are readily removable. Examples that do not require permanent surface disturbance are spring developments with a short pipe and removable trough on the surface, above-ground temporary pipelines, buried pipelines where surface features can be restored, small stock ponds, and artificial catchments requiring minimal surface disturbance.

b. Vegetation manipulation (land treatment) projects will be allowed under controls to assure that wilderness suitability is not impaired.

(1) Projects involving biological, chemical, or mechanical control of undesirable, noxious, and poisonous plants may be approved on a case-by-case basis if the actions do not impair the area's wilderness suitability and the affected acreage is small.

(2) Control by fire—either prescribed burning or controlled wild fire—will be done under conditions specified under the fire management guidelines. These practices are generally allowed, so long as each project does not involve road construction or other land disturbances that would impair wilderness suitability.

(3) Plant species that now occur in the WSA may be reseeded to restore a site to its natural conditions. Seeding should be done only by aerial application or surface broadcasting where these are practical, or by mechanical drilling where this practice is shown to be less destructive of wilderness characteristics than other methods.

3. Wild Horse and Burro Management. Activities may be allowed, and temporary facilities for holding and transporting horses and burros may be located and designed, in a manner that will not impair the suitability of the area for designation as wilderness.

I. Minerals.

1. All Mining and Leasing Activities.

a. All existing mining and mineral leasing activities may continue in the manner and degree in which they were being conducted on October 21, 1976, but these activities will be regulated to prevent unnecessary or undue degradation of the lands and their resources and to afford environmental protection.

b. In determining the manner and degree of existing operations, a rule of reason will be employed. Existing operations will be defined geographically by the area of active development and the *logical adjacent* (not necessarily contiguous) continuation of the existing activity, and not necessarily by the boundary of a particular claim or lease. It will also be recognized that operations are not always conducted at precisely the same degree at all times. For instance, operations may have been curtailed for economic reasons from one year to the next and may have been temporarily suspended on October 21, 1976. However, the significant measure for these activities is still the impact they are having on the wilderness potential of an area. It is the actual use of the area, and not the existence of an entitlement for use, which is the controlling factor. In other words, an existing activity may continue to be expanded in an area over time so long as the additional impacts caused by the expansion do not cause impairment of wilderness suitability beyond that caused by the existing activity.

c. All new mining and mineral leasing operations that began after October 21, 1976, and any change in existing operations that exceed the manner and degree occurring on that date, will not be allowed to impair the area's wilderness suitability.

3. Oil and Gas Leasing and Development.

a. Leasing. Leasing may continue in WSA's with the addition of the enclosed wilderness protection stipulation (see Appendix B–1) which will be attached to all oil and gas leases. During the wilderness inventory, it will also be attached to leases in potential WSA's, but it will not be attached to leases covering lands which are determined through the initial inventory (Step 2 in the Wilderness Inventory Handbook) as clearly and obviously not meeting the criteria for identification as WSA's. The stipulation becomes inoperative if the intensive inventory (Step 4 in the Wilderness Inventory Handbook) determines that the land in the lease does not meet the criteria for a WSA; it remains in effect if the area is identified as a WSA.

The protection stipulation remains in effect in WSA's unless Congress acts to declare an area nonsuitable for preservation as wilderness.

b. Notice of Intent to Conduct Oil and Gas Exploration Operations. Most operations proposed in a notice usually cause only temporary impacts.

c. Application for Permit to Drill. The BLM should advise all lessees to file an APD no later than 120 days before expiration of the lease in order to allow adequate time to determine if the area is within a WSA or if the action will impair the area's suitability for wilderness. Any lease issued after October 21, 1976, is subject to conditions to protect the suitability of such lands for preservation as wilderness. Because it is possible that impacts of oil and gas *exploration operations* (including initial investigation, "wildcat" drilling, and construction of temporary access routes) may be successfully removed through rehabilitation in some areas within 5 years after Congress designates an area as wilderness, it is probable that some such operations can be approved in WSA's. Similarly, if the impacts of some oil and gas *production* activities can be successfully rehabilitated within 5 years after

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designation, a recommendation of approval of such an operation by BLM to the U.S. Geological Survey may be made. In addition, some production activities (small delivery pipelines, well-control equipment, etc.) may, if put in place so that the impact is substantially unnoticeable, be allowed without being restricted by the requirement to complete rehabilitation within 5 years after designation. However, extensive production activities (major field development) will probably be substantially noticeable and not be capable of practical rehabilitation within 5 years after designation and will not, therefore, be allowed. But it is clearly contemplated that some oil and gas exploration and development activities as determined on a case-by-case basis may be permitted in WSA's.

In areas that clearly and obviously do not qualify as WSA's because they are less than 5,000 acres, roaded, or extremely impacted by existing intrusions (such as drilling rigs, wells, or pipelines), the length of the associated public comment period may be, on a case-by-case determination by the State Director, set for less than 30 days, so long as the public comment period includes adequate publicity in the local news media, and includes at least one public meeting if the State Director determines that a public meeting is appropriate.

d. Suspension of Lease Terms. If commencement of operations is going to be delayed or postponed by BLM beyond the end of the primary term of a lease either because of WSA inventory or review or until Congress decides whether the area will be designated as wilderness, BLM will recommend that the lessee file an application for suspension of operations and production. It will be recommended to the Secretary that such suspension is to begin on the date an acceptable application for suspension of operations and production is filed in the proper U.S. Geological Survey office.

4. Geothermal Resources.

a. Leasing. Prior to the identification of WSA's, leasing (both competitive and noncompetitive) may continue with the addition of the enclosed wilderness protection stipulation (see Appendix B-2) which will be attached to all geothermal leases in potential WSA's. It will not be attached to leases covering lands which clearly do not have potential for wilderness. The stipulation becomes inoperative if the BLM State Director formally determines that the land in the lease does not meet the criteria for a WSA. It remains in effect if the area is designated as a WSA. It prohibits utilization of the leased area for development or production of geothermal resources for the purposes of electrical power development or production until and unless Congress removes the management restrictions of section 603 of the Act. It does provide for use of the surface for limited exploration operations subject to regulation to prevent impairment of the suitability of the area for preservation as wilderness.

After all WSA's are identified, it will be attached to all subsequently issued geothermal leases in those areas and remain in effect until Congress removes the management restrictions of section 603 of the Act.

b. Notice of Intent to Conduct Geothermal Exploration Operations. Because most operations proposed in a notice usually cause only temporary impacts, most may be approved.

c. Action on Plans of Operation (filed under 30 CFR 270.34 or 43 CFR 3203.6). Because of the substantial impact that is caused by construction and operation of power-generating facilities and related facilities on producing geothermal leases, the stipulation that is included in all new geothermal leases prohibits such activities until the wilderness potential of the area has been determined. However, other developmental operations for nonelectrical purposes and the drilling of deep exploration wells may be permitted upon a case-by-case determination if they have only temporary impacts or the impacts are substantially unnoticeable.

d. Suspension of Lease Terms. If BLM delays or postpones approval of exploration operations that are necessary to comply with diligence requirements of the lease because of the possible effect such operations will have on the wilderness potential of an area, BLM will recommend to the U.S. Geological Survey that the terms of the lease be suspended until the wilderness potential of the area is settled. The suspension will be effective from the date of the BLM recommendation.

5. Coal.

a. Leasing.

(1) New Competitive Leases. Criteria to determine which lands are unsuitable for coal mining have been promulated under authority of the Federal Land Policy and Management Act and the Surface Mining Control and Reclamation Act. These criteria are used to determine whether to lease coal. The criterion for WSA's is: Federal lands designated as WSA's shall be considered unsuitable for coal leasing while under review by the Administration and Congress for possible wilderness designation unless the coal will be mined by underground mining methods which produce no surface effects on the WSA. Surface effects include surface occupancy, subsidence, fire, and other environmental impacts of underground mining which are manifested on the surface.

(2) Existing Noncompetitive (Preference Right) Lease Applications. Existing rights to preference right leases will be recognized. In all cases leases shall be conditioned so that operations will not cause undue or unnecessary degradation of the lands. In addition, leases shall be conditioned to prevent impairment of the suitability of the lands for preservation as wilderness. These conditions may include terms which specify areas that cannot be mined and exceed the current technological capability of the particular lease applicant.

(3) Mining Plans. The same criterior applied to coal leasing will be applied to new permits to mine filed on existing leases. It will be recommended that permits be disapproved unless it can be demonstrated that underground mining methods which have no surface effects on the WSA will be used.

b. Exploration. Exploration for Federal coal can occur either under terms of a coal exploration license or permit issued to a private party or by the Federal Government (U.S. Geological Survey) as part of its normal exploration program. Exploration authority, if granted, is subject to prior environmental analysis of the proposal and in accordance with stipulations determined necessary to avoid, lessen, or mitigate adverse environmental impacts. Because the effects of coal exploration are temporary in nature and can be successfully rehabilitated, they should normally be approved in WSA's.

6. Oil Shale Leasing and Development. Leasing and development of oil shale will be conducted in a manner consistent with section 603(c) of the FLPMA.

7. Other Leasable Minerals (Phosphate, Potash, Sodium, Sulphur, and Hardrock (Solid) Minerals on Acquired Lands).

a. Leases and Prospecting Permits.

(1) Prospecting Permits. Prospecting permits shall continue to be issued in WSA's or areas on which the inventory has not been completed, subject to a stipulation that no preference right leases will be issued until and unless an environmental analysis (or environmental statement) is completed and it is demonstrated (on the basis on the environmental analysis and a mining plan submitted with the application for a preference right lease) that the minerals can be removed by mining methods (including the surface impacts of such mining operations) which will not impair the suitability of the area for preservation as wilderness. The stipulation shall become inoperative under the same conditions as those for oil and gas and geothermal leases and will be included in all leases covering lands which are not clearly in areas without wilderness potential. Each permit will also condition exploration operations by a stipulation to insure that the impact caused by the activities will not impair the area's wilderness suitability.

(2) Noncompetive Preference Right Leases. Existing rights to preference right leases will be recognized. However, conditions will be imposed in such leases to prevent impairment of the suitability of the area for preservation as wilderness. These conditions may include terms which specify areas which may not be mined and/or which exceed the current technological capability of the particular lease applicant.

(3) Competitive and "Fringe-Acreage" Leases. All other leases may be issued in WSA's only if it can be demonstrated that the mineral deposit can be removed by mining methods that will not impair the suitability of the area for wilderness preservation.

b. Exploration and Mining Plans. Exploration and mining plans may be approved in accordance with the terms included in the permit or lease to prevent impairment of the suitability of the permit or lease areas for preservation as wilderness. When the effects of exploration are temporary in nature and can be successfully rehabilitated, they may be approved in WSA's. However, the impacts of mining (especially surface mining operations or underground mining which has surface effects on the WSA) will have to be assessed on a case-by-case basis to determine if they are temporary.

8. Disposal of Mineral Materials (Salable). Salable and free use of mineral materials in WSA's will be assessed on a case-by-case basis. The impacts of small sand and gravel pits and other mineral material sites can be temporary. Because successful reclamation can be done in some areas, it may be possible to approve mineral material sales or free use of these materials in WSA's.

9. Mining Claims Located Under the 1872 Mining Law.

a. Prospecting, Exploration, and Mining. Mining operations conducted in potential and identified WSA's will be subject to regulations to be published simultaneously with this document as proposed rulemaking (43 CFR 3802, copy enclosed). The regulations will not apply to areas that BLM has determined, through the wilderness inventory process, clearly and obviously to have no wilderness potential. These regulations will provide a procedure for notifying the BLM of activities being conducted or proposed to be conducted on mining claims and will also establish the standards for approval of the conduct of those operations, including reclamation. Certain activities will not require approval by the BLM. (See section 3802.1-1 of the enclosed regulations.)

Operations proposed in potential WSA's will be evaluated to determine whether or not they will impair the area's wilderness suitability, with the exception of existing operations which are being conducted in the same manner and degree as they were on October 21, 1976, and are not causing undue or unnecessary degradation of the area.

Operations that began after October 21, 1976, will be regulated to prevent impairment of the suitability of the area for preservation as wilderness. Those causing impairment will not be allowed to continue. However, all work which is reasonable and the minimum necessary to hold the claim under the mining law will be approved subject to conditions to prevent unnecessary or undue degradation and afford environmental protection. When the effects of exploration operations are temporary and can be rehabilitated, they may be approved in WSA's. However, the impacts of mining (especially surface mining operations or underground mining which has surface effects on the WSA) will have to be assessed on a case-by-case basis to determine if they are temporary.

b. Location, Discovery, and Assessment Work. Public land within WSA's will continue to be subject to location under the mining law. Discovery work (which is required in some states to locate a claim) and assessment work may be done in order to locate the claim and comply with state law, but these activities will be regulated to prevent impairment of the area's suitability for preservation as wilderness. Discovery and assessment work which are both necessary and reasonable to locate or to hold a claim will not be totally prohibited.

c. Patents. Patents to mining claims will continue to be processed and issued in WSA's.

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Chapter V. Enforcement Procedures

Regulations now in effect will be relied upon to enforce management policies and procedures established for WSA's. Necessary trespass actions will be handled in accordance with the appropriate lands, range, or forestry regulations.

However, the following additional steps must be taken whenever a District Manager believes that an activity taking place in an identified WSA is in violation of FLPMA:

A. Enter the activity under investigation in the log described in Chapter III, section C. Update the information in parts c, d, and e when needed as the case progresses.

B. Contact the owner of the operation, informally or in writing (certified mail, return receipt requested). Explain the situation and, depending on the situation or activity, attempt to secure his or her cooperation in (1) conditioning the continued activity to eliminate impairment of the suitability for wilderness preservation or (2) restricting such activity in the case of existing grazing or mineral uses to the manner and degree established on October 21, 1976, and preventing unnecessary or undue degradation.

C. If the operator will not cooperate, decide whether immediate action is needed to prevent the impairment of the potential of the area for wilderness designation. If so, the State Director should contact the Regional Solicitor and request that he work with the U.S. Attorney's Office to seek a temporary restraining order and injunction, if appropriate, from the local U.S. District Court. Send a copy of the case file to the Director, Bureau of Land Management, for transmittal to the Office of the Solicitor, Division of Energy and Resources, for information.

D. If the operator will not cooperate and the situation is not an emergency, send the case file directly to the State Director for appropriate action. Be sure to include the name and telephone number of a BLM employee who is familiar with the matter. Also, send copies of pertinent information to the Director, Bureau of Land Management, to distribute to each division affected. At the State Director's discretion, he may contact the Regional Solicitor for his opinion on the appropriate course of action to be taken.

E. **Appeal Procedures.** Appeal procedures will be provided by the regulations governing the decision being appealed. Applicants who are adversely affected by a management decision within a WSA will be informed of appeal procedures.

APPENDIX A

SPECIFIC ACTIVITY GUIDANCE TABLES

The guidance is intended only to provide general, optional assistance to resource managers in evaluating a few of the many activities on public lands. Decisions must be made on a case-by-case basis through careful analysis and where appropriate, with the assistance of the following guidelines:

TABLE KEY

1. Class A Activities: Activities may proceed without initiating a wilderness inventory for the affected area, if they meet the qualifications in the "Comments" column. They will not impair the area's suitability for preservation as wilderness. However, supporting activities and facilities (such as access routes, ski lifts, or the use of vehicles off existing ways and trails) will be assessed as Class B activities.

2. Class B Activities: Those that may or may not impair an area's suitability for wilderness preservation. When a project is considered, the wilderness issue must be addressed through a wilderness inventory and an evaluation of the proposed action as described in chapter III, section A.

3. The "Comments" Column: Addresses qualifications on allowable activities as well as those activities that more than likely will impair an area's suitability for preservation as wilderness. When a project is considered, the wilderness issue must be addressed through a wilderness inventory and an evaluation of the proposed action as described in chapter III, section A.

RECREATION ACTIONS WITHIN WILDERNESS STUDY AREAS

ACTIVITY	CLASS A	CLASS B	COMMENTS
Recreation Development		X	Temporary structures may be allowed, if wilderness potential is not impaired. Permanent structures are not allowed.
Concessions		X	Temporary structures and mobile facilities may be allowed, with rehabilitation stipulations, when necessary, but no permanent facilities.
The following activities are allowed in wilderness study areas. No permanent structures or facilities to support these activities may be built in the WSA's, but temporary structures and mobile facilities may be used so long as they do not impair the area's suitability for designation as wilderness.			
Fishing, Hunting, Trapping, Winter Sports, Water-skiing, Float Boating, Vegetative Collecting, Rockhounding, Spelunking, Ballooning, Sailplaning, (Sandsailers), Sky Diving, Hang Gliding, Recreational Gold Dredging, Gold Panning, Camping	X		
Special Recreation	X		

RECREATION ACTIONS WITHIN WILDERNESS STUDY AREAS

ACTIVITY	CLASS A	CLASS B	COMMENTS
Power Boating	X		No permanent launching ramps or dock facilities may be built in WSA's.
Sailboating	X		No permanent launching or docking facilities may be built in WSA's.
Motor-Aircraft	X		No permanent runways or airport structures may be built in WSA's.
Trap Shooting and Skeet	X		No permanent facilities may be built, but temporary facilities are allowed, with rehabilitation stipulations, if necessary.
Interpretation	X		Facilities are limited to temporary ones.
National Recreational Trails		X	New trails for foot and horse travel may be built, but not for use by motor vehicles.
National Scenic Trails	X		
Natural History Areas			
Research Natural	X		
Experimental Ecological Reserves		X	Research activities must avoid large-scale manipulation that might impair the area's wilderness suitability.

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RECREATION ACTIONS WITHIN WILDERNESS STUDY AREAS

ACTIVITY	CLASS A	CLASS B	COMMENTS
Natural History Inventory	X		
Recreation Areas			
Natural	X		
Scenic	X		
Cultural Recreation		X	
Recreation Lands		X	
ORV		X	Allowed on existing ways and trails. Snow and sand vehicles are allowed off these routes in designated areas.

CULTURAL ACTIONS WITHIN WILDERNESS STUDY AREAS

ACTIVITY	CLASS A	CLASS B	COMMENTS
Socio-Cultural Areas	X		
Research Actions within Research Cultural Areas		X	May require rehabilitation efforts.
Cultural Conservation Areas	X		
Cultural Inventories	X		

LANDS ACTIONS WITHIN WILDERNESS STUDY AREAS

ACTIVITY	CLASS A	CLASS B	COMMENTS
Public Sales		X	Sales will not be allowed in a WSA.
Exchanges		X	Lands to be disposed of cannot be within WSA.
State Selections		X	Must be suspended pending further instructions from the Director as a result of the *Utah v. Kleppe* litigation (except Alaska).
R&PP			
(a) Patent		X	No R&PP patents will be issued in WSA's.
(b) Lease		X	1) Only temporary improvements. 2) Short-term lease. 3) Rehabilitation stipulations. 4) No permanent road construction. 5) Revocable upon wilderness designation.
Color of Title			
(a) Class I		X	Must meet the requirement of the Act (occupation and/or cultivation); therefore, the land will not meet wilderness criteria.
(b) Class II		X	Potential land disposal action; therefore, the action must be suspended.

LANDS ACTIONS WITHIN WILDERNESS STUDY AREAS

ACTIVITY	CLASS A	CLASS B	COMMENTS
Temporary Use Permit		X	1) Must be able to restore lands to pre-authorization conditions. 2) No permanent road construction.
Withdrawals			
(a) Preservation or emergency	X		
(b) Military (renewal)		X	Evaluate for health and safety hazards and decontamination potential prior to inclusion into a WSA.
(c) Other specific uses		X	1) No permanent development. 2) No permanent road construction. 3) Rehabilitation stipulations.
Revocation & Restoration		X	Section 603 will have no effect on these actions.

LANDS ACTIONS WITHIN WILDERNESS STUDY AREAS

ACTIVITY	CLASS A	CLASS B	COMMENTS
Desert Land Entry		X	1) Potential land disposal action; therefore, this must be held up pending action by Congress on wilderness designation. 2) Patent may be issued where vested right was established prior to October 21, 1976.
Rights-of-Way (new)			
(a) Linear & ancillary facilities		X	1) No permanent road construction. 2) Only temporary facilities permitted. 3) Rehabilitation stipulations. 4) Early review with applicants to alert them of wilderness considerations. 5) Short-term authorizations.
(b) Communication sites			
Rights-of-Way			
(a) Renewal & authorizations for existing use		X	Will be evaluated during renewal.
(b) Joint use of existing facility	X		

The wilderness provisions of the FLPMA are not intended to stop land uses; however, until Congress has indicated which lands will become a part of the Wilderness System, we must carefully consider the degree of permanency and the extent of development requested in all land-use applications.

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FORESTRY ACTIONS WITHIN WILDERNESS STUDY AREAS

ACTIVITY	CLASS A	CLASS B	COMMENTS
O&C Lands, Western Oregon	X		O&C lands designated through BPS as *being available and used for continuous timber production* are exempt from section 603 of FLPMA. All other western Oregon lands are subject to the wilderness provisions.
Permits, leases, licenses, and Contracts Authorized Prior to October 21, 1976		X	The documents must be reevaluated to determine if they impair wilderness suitability. If so, consider amending the document, if the terms permit and the contractor is willing.
Actions after October 21, 1976			In general, no timber harvest is allowed in WSA's, and no permanent road construction for timber harvest. These activities will be deferred while an area is in WSA status: Clearcut Shelterwood Cut Seedtree Cut Partial Cut (Includes Commercial Thinning) Stand Conversion
a) Precommercial Thinning		X	Power saws; axes; and chemical means may be used. No wheeled or track logging equipment. Access by helicopter, existing roads, or ways, and–or foot travel.

FORESTRY ACTIONS WITHIN WILDERNESS STUDY AREAS

ACTIVITY	CLASS A	CLASS B	COMMENTS
b) Pruning	X		
c) Seed Collection Felling Trees	X		Trees must be well scattered (300 feet or more apart).
Climbing	X		
Squirrel Cache	X		
d) Tree Improvement	X		Genetic selection; pollenation.
e) Site Preparation Scarification	X		Hand methods. No motorized wheeled or track logging equipment. Access by helicopter, existing road or way, and/or foot travel.
Brush Control	X		Axes, chemicals, hand tools in general. No motorized wheeled or track logging equipment. Access by helicopter, existing road or way, and/or foot travel.
Burning	X		Only after evaluation to insure that adequate fire protection measures can be implemented. No motorized wheeled or track logging equipment.
f) Reforestation	X		Hand planting or seeding, or aerial seeding. Access by helicopter, existing road or way, and/or foot travel. Use native species.
g) Insect/Disease Control Major		X	Corrective measures must be approved by State Director.
Minor	X		Felling or chemical treatment of small patches or individual trees. Access by helicopter, existing road or way, and/or foot travel.
h) Salvage Log Major		X	Corrective measures must be approved by S.D.
Minor	X		Activities must be assessed on a case-by-case basis.
1) Firewood; Christmas trees, pine nuts, etc.	X		These are noncommercial citizen uses, and they will be confined to small areas. Access by existing road or way and/or foot travel.

WILDLIFE ACTIONS WITHIN WILDERNESS STUDY AREAS

ACTIVITY	CLASS A	CLASS B	COMMENTS
Vegetation Manipulations			
(a) Mechanical		X	Major projects with long-term detrimental visual impact will not be allowed. Use only plant species found within the WSA.
(b) Nonmechanical Plantings and Seedings	X		Hand plantings and seedings may continue if they do not impair wilderness suitability and if they use native plant species.
Prescribed fire		X	May be allowed, so long as no major surface disturbance is necessary in building fire lines.
Land-Water Treatment	X		In the case of disease outbreaks, water land sources may have to be treated; no permanent impacts allowed.
Water Facilities	X		Stream and sediment control should use natural materials; springs, wells, and artificial structures can be developed with minimum disturbance and visual intrusions.
Fences	X		Materials used and location will result in a visual impact which is substantially unnoticeable.

WILDLIFE ACTIONS WITHIN WILDERNESS STUDY AREAS

ACTIVITY	CLASS A	CLASS B	COMMENTS
Introductions and Transplants			
(a) Exotic Animals			No exotics may be introduced.
(b) Native Animals	X		Species native to North America may be reintroduced or transplanted, using temporary enclosures and facilities if necessary.
(c) Threatened and Endangered (T/E) Animals	X		T/E transplants are allowed if the species is or has been native to the region in which they are proposed to be introduced or reintroduced.

FIRE MANAGEMENT ACTIONS WITHIN WILDERNESS STUDY AREAS

ACTIVITY	CLASS A	CLASS B	COMMENTS
Presuppression	X		All fire activities will continue as usual until new fire management plans are developed for each WSA.
Suppression	X		
Post-suppression	X		

WATERSHED ACTIONS WITHIN WILDERNESS STUDY AREAS

ACTIVITY	CLASS A	CLASS B	COMMENTS
Fire Rehabilitation	X		Fire rehabilitation seeding is allowable under current method of operation, using native species.
Water Facilities	X		Only temporary structures.
Fences	X		To protect critical soil and vegetation. Natural material preferred. No fenceline blading. Location and materials cause minimum visual impact.
Monitoring			
(a) Water	X		New structures must be minimum necessary to determine threats to human health and property. Monitors for upstream tributary pollution affecting aquatic habitat and aesthetics will be allowed.
(b) Air	X		
Soil Survey	X		Rehabilitation of soil pits will be required.
Emergency Project Work	X		Will be documented under standard BLM procedures.
Land Treatment Trenching, Ripping, Pitting, Terracing, Plowing		X	Major projects with long term detrimental visual impact will not be allowed. Only treatment for the purpose of preservation of soil productivity will be allowed.

WATERSHED ACTIONS WITHIN WILDERNESS STUDY AREAS

ACTIVITY	CLASS A	CLASS B	COMMENTS
Vegetation Manipulation			
(a) Biological		X	New projects must be the minimum necessary to protect soil productivity or downstream private property. Long term detrimental visual impact will not be allowed.
(b) Mechanical, chemical		X	
Brush Conversions		X	Only allowed if it provides protection of human health or property or to restore site to original condition.
Structural Measures Detention, Retention Dams		X	New structures, other than those required under emergency conditions, will not be allowed unless they are within critical community watersheds. Structures allowed must relate to water supplies needed to protect human health and property.

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RANGE MANAGEMENT ACTIONS WITHIN WILDERNESS STUDY AREAS

ACTIVITY	CLASS A	CLASS B	COMMENTS
Range Management			
1. Livestock Grazing			
a. Change in Numbers	X		These changes generally may be allowed so long as grazing is still in the manner and degree it was being conducted on October 21, 1976.
b. Change in Season of Use	X		
c. Change in Class of Livestock	X		
d Grazing Systems	X		
e. Supplemental Feeding		X	Existing practice may be continued. New supplemental feeding may be initiated if it will not cause impairment of wilderness potential.
f. Salting Grounds	X		Existing practice may be continued. New salting station may be initiated to improve distribution of grazing use.

RANGE MANAGEMENT ACTIONS WITHIN WILDERNESS STUDY AREAS

ACTIVITY	CLASS A	CLASS B	COMMENTS
2. Range Improvements			
a. Facilitating Livestock Grazing and Management			
1) Fencing	X		Prevent surface disturbance. Use materials with minimum visual impacts.
2) Cattleguards	X		Temporary installation.
3) New Water Developments			
a) Wells and Springs	X		Prevent undue damage to vegetation and soil. Above surface facilities must be unobtrusive or removable. No constructed access for motorized equipment, but temporary roads may be built.
b) Artificial Catchments	X		Temporary above ground facilities. Little surface disturbance.

RANGE MANAGEMENT ACTIONS WITHIN WILDERNESS STUDY AREAS

ACTIVITY	CLASS A	CLASS B	COMMENTS
c) Supplemental Water Facilities	X		Temporary surface pipelines allowed. Buried pipelines allowed if installed without undue surface disturbance and rehabilitation to natural condition within 1 or 2 years. Watering troughs of material blending with natural surroundings and/or removable.
d) Earthen Reservoirs		X	Small stock ponds may be approved, but larger reservoirs and associated construction activities could permanently impair wilderness potential.
4) Livestock Handling Facilities			
a) New Corrals	X		Temporary structure of materials which blend with natural surroundings.
b) New Trails	X		Locate and design so as not to impair wilderness potential.

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RANGE MANAGEMENT ACTIONS WITHIN WILDERNESS STUDY AREAS

ACTIVITY	CLASS A	CLASS B	COMMENTS
c) New Camps	X		Temporary camps, such as sheep camps, may be allowed.
d) New Roads	X		Temporary roads may be allowed, with rehabilitation stipulations.
b. Maintenance of Existing Improvements	X		Limited to that necessary to return facility to original constructed condition without causing impairment of wilderness characteristics. Cross country access by motorized equipment may be allowed.
c. Vegetation Manipulation (Site Conversion)			
(1) Control of Undesirable, Noxious and Poisonous Plants			
(a) Chemical		X	Major projects with long-term detrimental visual impact will not be allowed. Exceptions for small areas or individual plants subject to environmental assessment and approval by the State Director.
(b) Mechanical		X	
(c) Burning		X	May be done through carefully designed prescribed burning or controlled natural fire with same restrictions as in the WSA fire management plan, so long as no major disturbance is necessary in building fire lines.
(2) Reseeding	X		Allowed only to restore site to its natural condition. Use of species native to the site.
(3) Livestock grazing management systems.	X		May be implemented to maintain or improve ecologic conditions. Subject to restrictions on construction of supporting facilities.
Wild Horse and Burro Management			
1. Gathering	X		As conducted under current guidelines and policies.
2. Handling Facilities			
a. Corrals and holdings pens	X		Temporary structure.
b. Transportation (roads or trails)	X		Cross country access on existing ways or trails by motorized vehicles. No constructed roads.

MINERALS ACTIONS WITHIN WILDERNESS STUDY AREAS

ACTIVITY	CLASS A	CLASS B	COMMENTS
All Existing Mining and Mineral Activities (as of October 21, 1976)	X		These activities are allowed provided they are conducted in the manner and degree in which the same were being conducted on October 21, 1976, and they cause no undue or unnecessary degradation.
All New Activities and Those Existing Activities Exceeding the Manner and Degree Established on October 21, 1976			
Oil and Gas			
Leasing	X		Requires stipulation (see Appendix B-1).
APD		X	Subject to conditions.
Notice of Intent to Conduct Exploration		X	Subject to conditions.
Geothermal			
Leasing	X		Requires stipulation (see Appendix B-2).
Plans of Operation		X	Electrical power development excluded and other development and exploration may be allowed.
Coal			
Leasing		X	Not suitable for coal mining while in WSA, unless underground mining with no surface effects.
Development		X	
Oil Shale		X	Subject to Federal Oil Shale Prototype Program.
Other Leasables			
Prospecting		X	Subject to stipulation that no preference right lease will issue until further environmental evaluation.

MINERALS ACTIONS WITHIN WILDERNESS STUDY AREAS

ACTIVITY	CLASS A	CLASS B	COMMENTS
Non-Competitive Leases		X	Existing rights to preference right leases will be recognized.
Competitive Leases		X	Issued only if mineral removal will not impair.
Exploration		X	Subject to non-impairment controls.
Mining Plans		X	"
Salable Minerals		X	Sales by case-by-case basis only.
1872 Mining Claims			
Prospecting, Location, and Assessment		X	Subject to surface protection regulations.

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MINERALS ACTIONS WITHIN WILDERNESS STUDY AREAS

ACTIVITY	CLASS A	CLASS B	COMMENTS
Exploration		X	Governed by surface protection regulations.
Search for and Occasional Removal of Small Amounts of Mineral for Sample or Specimen	X		Activities must not increase the size of the access facility.
Mining		X	Governed by surface protection regulations.
Patent	X		
Temporary Road Construction		X	Permanent roads are prohibited.
Existing Roads, Trails, Bridges, Landing Strips, or Other Access Facilities Maintenance	X		As provided in 3802.1-1(d) of Title 43.

Appendix B-1

UNITED STATES DEPARTMENT OF THE INTERIOR BUREAU OF LAND MANAGEMENT

WILDERNESS PROTECTION STIPULATIONS—OIL AND GAS

By accepting this lease, the lessee acknowledges that the lands contained in this lease are being inventoried or evaluated for their wilderness potential by the Bureau of Land Management (BLM) under section 603 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2743, 2785 43 U.S.C. Sec. 1782).

Until the BLM determines that the lands covered by this lease do not meet the criteria for a wilderness study area as set forth in section 603, or until Congress decides against the designation of lands included within this lease as "wilderness," the following conditions apply to this lease and override every other provision of this lease which could be considered as inconsistent with them and which deals with operations and rights of the lessee:

1. Any oil or gas activity conducted on the leasehold for which a surface use plan is not required under NTL-6 (for example, geophysical and seismic operations) may be conducted only after the lessee first secures the consent of the BLM. Such consent shall be given if the BLM determines that the impact caused by the activity will not impair the area's wilderness suitability.
2. Any oil and gas exploratory or development activity conducted on the leasehold which is included within a surface use plan under NTL-6 is subject to regulation (which may include no occupancy of the surface) or, if necessary, disapproval until the final determination is made by Congress either to designate the area as wilderness or remove the section 603 restrictions.

If all or any part of the area included within the leasehold estate is formally designated by Congress as wilderness, oil and gas exploration and development operations taking place or to take place on that part of the lease shall become subject to: (1) those provisions of the Wilderness Act of 1964 which apply to national forest wilderness areas, 16 U.S.C. Sec. 1131 *et seq.*, as amended; (2) the Act of Congress designating the land as wilderness; and (3) Interior Department regulations and policies pertaining thereto.

Appendix B-2

WILDERNESS PROTECTION STIPULATION—GEOTHERMAL RESOURCES

By accepting this lease, the lessee acknowledges that the lands contained in this lease are being inventoried or evaluated for their wilderness potential by the Bureau of Land Management (BLM) under section 603 of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. 1782.

Until the BLM determines that the lands covered by this lease do not meet the criteria for a wilderness study area as set forth in section 603 or until Congress decides against the designation of lands included within this lease as wilderness, the lessee agrees not to occupy or use the surface of the leased lands for electrical power development or production purposes, except for certain limited uses, as indicated below. Excepted uses will include those exploration operations usually provided with a "Notice of Intent to Conduct Geothermal Resource Exploration Operations" (Form 3200-9), and, in certain instances, other exploration activities. Those operations would generally include geological mapping, geochemical studies, passive geophysical surveys, and the drilling of shallow temperature gradient holes. Drilling deep exploration wells may be permitted on a case-by-case determination by the Authorized Officer.

Any such operations are subject to regulations or, if necessary, disapproval until the final determination is made by Congress either to designate the lands as wilderness or remove the section 603 restrictions. Therefore, none of these operations may be conducted until approval has been obtained from either the Supervisor (under 30 CFR 270.78) or the BLM authorized officer (under 43 CFR 3209). The BLM authorized officer shall approve or recommend approval of such operations if he determines that the impact caused by the operations will not impair the suitability of the area for preservation as wilderness.

If all or any part of the area included within the leasehold is formally designated by Congress as wilderness, all geothermal resources operations taking place or to take place on that part of the lease shall become subject to: (1) the provisions of the Wilderness Act of 1964 which apply to national forest wilderness areas, 16 U.S.C. Sec. 1131 *et seq.*, as amended; (2) the Act of Congress designating the land as wilderness; and (3) Interior Department regulations and policies pertaining thereto.

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Appendix C

ACTIONS RECEIVING INSTRUCTIONS FOR SELECT WILDERNESS INVENTORY

STATE	DISTRICT	PROJECT	INITIATING DIVISION	DATE SIGNED
Alaska	Fairbanks/Anchorage	W.G.M. Mining Company	370	4/14/78
Arizona	N/A	Palo Verde—Devers T.L.	370	1/24/78
Arizona	N/A	Palo Verde—Kyvene T.L.	370	8/4/78
Arizona	N/A	Yavapai County Road Proposals	320	8/4/78
Arizona	Yuma	Havasu City—FAA Proposal	321	FS Underway
Arizona	N/A	Sohio Pipeline	321	11/14/77
California	N/A	California Desert C.A.P.	370	2/6/78
California	N/A	Sohio/Sundesert Nuclear Power Project	321	11/14/77
California	N/A	Palo Verde—Devers T.L.	370	1/24/78
California	N/A	Palo Verde—Kyvene T.L.	370	8/4/78
California	N/A	Sohio Pipeline	321	11/14/78
California	N/A	Intermountain Power Project	321	8/20/78
Colorado	Grand Junction	Palmer Oil and Gas	370	6/78
Colorado	N/A	White River Grazing Statement Action	CSO	6/78
Colorado	N/A	Gunnison Basin Grazing Statement Action	CSO	6/78
Colorado	N/A	Royal Gorge Grazing Statement Action	CSO	6/78
Idaho	Coeur d' Alene	Grandmother Mountain Exchange	321	4/78
Idaho	Boise/Shoshone	PP&L Transmission Line	321	10/25/77
Idaho	Salmon	Donkey Hills Exchange	321	8/16/78
Idaho	Boise	Riddle Exchange	321	8/16/78
Idaho	N/A	Agricultural ES	321	8/23/78
Nevada	N/A	Oil and Gas Lease Areas	370	7/21/78
Nevada	N/A	Highway Fee Use Permit	370	7/5/78
Nevada	N/A	North Valmy PDES	370	9/28/78
Nevada	N/A	Intermountain Power Project	321/370	8/20/78
Nevada	Ely	Mt. Wheeler 69 kV Right-of-Way	321	9/14/78
New Mexico	Roswell	APD Oil and Gas	370	7/31/78
New Mexico	N/A	Navajo Exchanges	321	8/30/78
New Mexico	N/A	Sohio Pipeline	370	8/14/78
New Mexico	Chaves County	Petroleum Devel. Corp. Mescalem Sands Roadless Area, New Mexico (932)		11/14/78
Oregon	N/A	PP&L Transmission Line	370	10/25/77
Texas	N/A	Sohio Pipeline	370	11/14/77
Utah	Moab/Richfield	Emery Powerplant Units 3 and 4	321	7/20/78
Utah	N/A	Palmer Oil and Gas	370	6/78
Utah	N/A	Intermountain Power Project	321	8/20/78
Bureauwide	N/A	APD-Lease w/i 60-Day Expir. (OAD 78-38, Change 1)	370	7/31/78

Appendix D

THE FEDERAL LAND POLICY AND MANAGEMENT ACT OF 1976 (P.L. 94-579)

Bureau of Land Management Wilderness Study

Sec. 603. (a) Within fifteen years after the date of approval of this Act, the Secretary shall review those roadless areas of five thousand acres or more and roadless islands of the public lands, identified during the inventory required by section 201(a) of the Act as having wilderness characteristics described in the Wilderness Act of September 3, 1964 (78 Stat. 890; 16 U.S.C. 1131 et seq.) and shall from time to time report to the President his recommendation as to the suitability or nonsuitability of each such area or island for preservation as wilderness: Provided, that prior to any recommendations for the designation of an area as wilderness the Secretary shall cause mineral surveys to be conducted by the U.S. Geological Survey and the Bureau of Mines to determine the mineral values if any, that may be present in such areas: Provided further, that the Secretary shall report to the President by July 1, 1980, his recommendations on those areas which the Secretary has prior to November 1, 1975, formally identified as natural or primitive areas. The review required by this subsection shall be conducted in accordance with the procedures specified in section 3(d) of the Wilderness Act.

(b) The President shall advise the President of the Senate and the Speaker of the House of Representatives of his recommendations with respect to designation as wilderness of each such area, together with a map thereof and a definition of its boundaries. Such advice by the President shall be given within two years of the receipt of each report from the Secretary. A recommendation of the President for designation as wilderness shall become effective only if so provided by an Act of Congress.

(c) During the period of review of such areas and until Congress has determined otherwise, the Secretary shall continue to manage such lands according to his authority under this Act and other applicable law in a manner so as not to impair the suitability of such areas for preservation as wilderness, subject, however, to the continuation of existing mining and grazing uses and mineral leasing in the manner and degree in which the same was being conducted on the date of approval of this Act: Provided, that, in managing the public land the Secretary shall by regulation or otherwise take any action required to prevent unnecessary or undue degradation of the lands and their resources or to afford environmental protection. Unless previously withdrawn from appropriation under the mining laws, such lands shall continue to be subject to such appropriation during the period of review unless withdrawn by the Secretary under the procedures of section 204 of this Act for reasons other than preservation of their wilderness character. Once an area has been designated for preservation as wilderness, the provisions of the Wilderness Act which apply to national forest wilderness areas shall apply with respect to the administration and use of such designated area, including mineral surveys required by section 4(d)(2) of the Wilderness Act, and mineral development, access, exchange of lands, and ingress and egress for mining claimants.

APPENDIX E

SECTION 2(c) OF THE WILDERNESS ACT OF SEPTEMBER 3, 1964 (P.L. 88-577)

A wilderness, in contrast with those areas where man and his own works dominate the landscape, is hereby recognized as an area where the earth and its community of life are untrammeled by man, where man himself is a visitor who does not remain. An area of wilderness is further defined to mean in this Act an area of undeveloped Federal land retaining its primeval character and influence, without permanent improvements or human habitation, which is protected and managed so as to preserve its natural conditions and which (1) generally appears to have been affected primarily by the forces of nature, with the imprint of man's work substantially unnoticeable; (2) has outstanding opportunities for solitude or a primitive and unconfined type of recreation; (3) has at least five thousand acres of land or is of sufficient size as to make practical its preservation and use in an unimpaired condition; and (4) may also contain ecological, geological or other features of scientific, educational, scenic, or historical values.

[FR Doc. 79-1105 Filed 1-11-79; 8:45 am]

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[4410-01-M]

DEPARTMENT OF JUSTICE

UNITED STATES CIRCUIT JUDGE NOMINATING COMMISSION

Eastern Fifth Circuit Panel

The Nominating Panel for the Eastern Fifth Circuit of the United States Circuit Judge Nominating Commission (Chairman DuBose Ausley) will meet in the Federal Building, 56 Forsyth Street, Atlanta, Georgia, at 9:00 a.m. February 8, 9, and 10, 1979.

The purpose of these meetings will be to interview candidates and they will be closed to the public pursuant to Pub. L. 92-463, Section 10(D) as amended. (CF 5 U.S.C. 552b (c)(6).)

JOSEPH A. SANCHES,
Advisory Committee Management Officer.

JANUARY 5, 1979.

[FR Doc. 79-1216 Filed 1-11-79; 8:45 am]

[4510-24-M]

DEPARTMENT OF LABOR

Bureau of Labor Statistics

BUSINESS RESEARCH ADVISORY COUNCIL'S COMMITTEE ON OCCUPATIONAL SAFETY AND HEALTH

Meeting

The BRAC Committee on Occupational Safety and Health will meet on Tuesday, January 30, 1979, at 10 a.m. in Room 4454 A and B of the General Accounting Office Building, 441 G Street, N.W., Washington, D.C. The agenda for the meeting is as follows:

1. Review of Program.
2. Program Developments and Releases.
3. Future Activities.
4. Report of Interagency Task Force on Workplace Safety and Health.

This meeting is open to the public. It is suggested that persons planning to attend this meeting as observers contact Kenneth G. Van Auken, Executive Secretary, Business Research Advisory Council on Area Code (202) 523-1559.

Signed at Washington, D.C. this 4th day of January 1979.

JANET L. NORWOOD,
Acting Commissioner of Labor Statistics.

[FR Doc. 79-1224 Filed 1-12-79; 8:45 am]

[4510-03-M]

Employment and Training Administration

EMPLOYMENT TRANSFER AND BUSINESS COMPETITION DETERMINATIONS UNDER THE RURAL DEVELOPMENT ACT

Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 USC 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.
2. Employment trends in the same industry in the local area.
3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.
4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).
5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice. Comments received after the two-week period may not be considered. Send comments to: Administrator, Employment and Training Administration, 601 D Street NW., Washington, D.C. 20213.

Signed at Washington, D.C. this 12th day of January 1979.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training.

APPLICATIONS RECEIVED DURING THE WEEK ENDING JANUARY 5, 1979

NAME OF APPLICANT AND LOCATION OF ENTERPRISE/PRINCIPAL PRODUCT OR ACTIVITY

Reactive Metal & Alloys Corporation, Pittsburgh, Pennsylvania: Manufacture of rare earth metals, alloys and steel desulfurization compounds.

Nevamar Corporation, Odenton, Maryland: Manufacture of decorative high pressure laminates.

National Art Co., Inc., Greenwood, Mississippi: Manufacture of picture frames and framed graphics.

Seacoast Building Centers, Inc., Conway, South Carolina: Retail lumber and building material.

A. R. Wood Manufacturing Company, Luverne, Minnesota: Manufacture of agricultural equipment.

The Rockland Corporation, Siloam Springs, Arkansas: Manufacture of industrial washing detergents and cleaning equipment and related accessories.

Greenwood Sugar Cooperative, Inc., Thibodaux, Louisiana: Manufacture of sugar and raw sugar products.

Norton Concrete Company Kaufman, Hunt, Wood and Lamar Counties, Texas: Manufacture of ready-mix concrete.

M&M Investment Company, Tahlequah, Oklahoma: Motel.

Diversified Industries Corporation, Riverton, Wyoming: Motel.

The Vail Club, Ltd., Vail, Colorado: Hotel.

High Country Corporation, Craig, Colorado: Motel.

United Packing Company, Sanger, California: Sorting, grading and packing of fresh tree fruit and vine commodities.

Shaw Real Estate, Castroville, California: Shopping Center.

Port Brownsville Shipyard, Inc., Brownsville, Texas: Construction of fishing boats and barges.

Garibaldi Management Company, Garibaldi, Oregon: Recreational marina.

HyPlains Dressed Beef, Inc., Dodge City, Kansas: Purchase, slaughter and processing of beef cattle.

[FR Doc. 79-980 Filed 1-11-79; 8:45 am]

[4510-43-M]

[Docket No. M-78-37]

OLGA COAL CO.

Final Action Granting a Petition for Modification of Application of Mandatory Safety Standard

The Mine Safety and Health Administration (MSHA) has granted in part the petition (43 FR 8193) of Olga Coal Co. to modify the application of 30 CFR 75.305 to its Olga Mine located in McDowell County, West Virginia, in accordance with Section 101(c) of the Federal Mine Safety and Health Act of 1977, Public Law 95-164. MSHA has determined that an alternative method exists that will guarantee at all times no less than the same measure of protection given miners of the mine by the standard.

MSHA based its determination on the following findings:

1. An investigation was made of the return air courses for the 15 Dip Section on April 5, 1978, by MSHA field investigators, along with others, and the conditions observed were as follows:

a. The return air courses of the 15 Dip Section pass through the following areas: Nos. 2 North Section, 3 North Section and 1 East Section and were mined in 1940.

b. The roof has fallen in a number of entries and intersections making the return air courses in these areas virtually impassable and most hazardous to travel and examine.

c. The existing falls have no effect on the velocity or quantity of air passing through the return air courses. These return air courses are not designated as escapeways.

2. The investigators recommended that the following precautions be taken in addition to those stated in the petition:

a. Air measurement stations shall be established where the air enters and exits the areas designated in the petition.

b. Methane or other harmful, noxious, or poisonous gases shall not be permitted to accumulate in these return air courses in excess of the legal limits. An increase of 0.5 per centum methane above the last previous methane reading shall require an immediate investigation of the affected airways. If, at any time, the air quantity at any of the measuring stations indicates a reduction of air quantity of 10 percent, an immediate investigation of the affected area will be conducted.

Because of these findings, the Administrator for Coal Mine Safety and Health, under authority delegated by the Secretary of Labor, ordered that the petition be granted, conditioned upon compliance with the terms and conditions stated above.

A copy of the decision is available for inspection by the public at the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203.

Dated: December 22, 1978.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 79-1223 Filed 1-12-79; 8:45 am]

[4510-43-M]

Mine Safety and Health Administration

[Dcket No. M-78-34]

BETHLEHEM MINES CORP.

Inal Action Granting a Petition for Modification of Application of Mandatory Safety Standard

The Mine Safety and Health Administration (MSHA) has granted the petition (43 FR 2773) of Bethlehem Mines Corporation to modify the application of 30 CFR 75.305 to its No. 116 Mine located in Raleigh County, W. Va., in accordance with Section 101(c) of the Federal Mine Safety and Health Act of 1977, Public Law 95-164. MSHA has determined that an alternative method exists that will guarantee at all times no less than the same measure of protection given miners of the mine by the standard.

MSHA based its determination on the following findings:

1. An attempt by MSHA investigators to travel the 7 left airway of the mine resulted in reaching a point some 40 feet in by the drift opening, where further advancement was not advisable because of the condition of the entries.

2. A letter received in MSHA's field office, dated April 3, 1978, as part of the proposed ventilation plan stated the need for this airway and plans for cleaning the airway are in progress; also, 40 feet of the airway has already been cleaned and resupported.

Because of these findings, the Administrator for Coal Mine Safety and Health, under authority delegated by the Secretary of Labor, ordered that the petition be granted conditioned upon compliance with the terms set forth in the petition and that records of the monitoring be kept available for interested persons.

A copy of the decision is available for inspection by the public at the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203.

Dated: December 22, 1978.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 79-1222 Filed 1-12-79; 8:45 am]

[4510-26-M]

Occupational Safety and Health Administration

ADVISORY COMMITTEE ON CONSTRUCTION SAFETY AND HEALTH

Meeting

Notice is hereby given that the Advisory Committee on Construction Safety and Health, established under section 107(e)(1) of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) and section 7(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656) will meet on Wednesday, January 31, and Thursday, February 1, 1979 in the Departmental Auditorium, Conference Room B, Constitution Avenue between 12th and 14th Streets, N.W., Washington, D.C. 20009.

The meetings are open to the public and will begin at 9:00 a.m.

The meeting agenda includes the following:

Discussion and development of recommendations on physical qualifications for crane and derrick operators; discussion and development of recommendations on the application of the coke oven standard to non-coke oven employees, and review and development of recommendations on a draft standard for abrasive blasting.

Written data, views or arguments may be submitted, preferably with 20 copies, to the Division of Consumer Affairs. Any such submissions received prior to the meeting will be provided to the members of the committee and will be included in the record of the meeting.

Anyone wishing to make an oral presentation should notify the Division of Consumer Affairs before the meeting. The request should state the amount of time desired, the capacity in which the person will appear, and a brief outline of the content of the presentation.

Oral presentations will be scheduled at the discretion of the chairman, depending on the extent to which time permits. Communications may be mailed to:

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Ken Hunt,
Office of Information and Consumer Affairs,
Occupational Safety and Health Administration,
Third Street and Constitution Avenue, NW,
Room N-3635,
Washington, D.C. 20210,
Phone: 202-523-8024.

Materials provided to members of the Committee are available for inspection and copying at the above address.

Signed at Washington, D.C. this 9th day of January 1979.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc. 79-1257 Filed 1-11-79; 8:45 am]

[4510-29-M]

Pension and Welfare Benefit Programs

UNITED MINE WORKERS OF AMERICA

Proposed Exemption for Certain Activities Involving the 1950 Benefit Plan and Trust

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act). The proposed exemption would permit the trustees of the United Mine Workers of America 1950 Benefit Plan and Trust (the 1950 Benefit Plan) to offer their opinion to assist in the resolution of certain disputes arising in connection with the provision of health and other benefits through employee welfare benefit plans established by individual employers pursuant to the National Bituminous Coal Wage Agreement of 1978 (the 1978 Agreement). The proposed exemption, if granted, would affect the trustees of the 1950 Benefit Plan, the participants and beneficiaries of the 1950 Benefit Plan, the administrators, participants and beneficiaries of the employee benefit plans established pursuant to the 1978 Agreement (the 1978 plans), the United Mine Workers of America (the Union), the members of the Bituminous Coal Operators' Association, Inc. (the Employers), and other persons participating in the proposed transaction.

DATES: Written comments and requests for a public hearing must be received by the Department on or before February 12, 1979.

EFFECTIVE DATE: If the proposed exemption is granted, the exemption will be effective from March 27, 1978 through the date of the termination of the 1978 Agreement.[1]

ADDRESS: All written comments and requests for a hearing (at least six copies) should be sent to: Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20016, Attention: L-1214. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

William J. Flanagan of the Plan Benefits Security Division, Office of the Solicitor, U.S. Department of Labor, 202-523-7931. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of a proposed exemption from the restrictions of section 406(a)(1) (C) and (D) and 406(b)(1) of the Act. The proposed exemption was requested in an application filed by the Trustees of the 1950 Plan, pursuant to section 408(a) of the Act and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975).

SUMMARY OF FACTS AND REPRESENTATIONS

The application and supplementary information submitted by the applicants contain facts and representations which are summarized below. Interested persons are referred to the application and supplementary information on file with the Department for the complete representations of the applicants.

The 1950 Benefit Plan is an employee welfare benefit plan within the meaning of section 3(1) of the Act. Prior to December 1974, all pension, health and death benefits for employees of signatory employers of the National Bituminous Coal Wage Agreement were provided by the United Mine Workers Welfare and Retirement Fund of 1950. By and for the duration of the collective bargaining agreement approved in 1974, the functions of this Fund were divided among a number of plans and trusts. The UMWA 1950 Pension Trust and Pension Plan provided pension benefits for eligible employees who retired before January 1, 1976. The application indicates that health, life insurance and death benefits for these employees and their spouses and dependents were supplied by the UMWA 1950 Benefit Plan and Trust. The 1974 Benefit Plan and Trust provided health and other benefits for active miners and for retired miners receiving pension benefits under the 1974 Pension Plan, generally those miners who retired after December 31, 1975.[2]

In 1978, the manner in which health, life insurance and death benefits were to be provided was further modified by collective bargaining. The parties agreed that on or before June 1, 1978, each signatory employer would establish an employee welfare benefit plan ("the separate welfare plans" or "1978 plans") through one or more insurance carriers. Each such plan covers that employer's active employees and those pensioners under the 1974 Pension Plan whose last classified employment was with such employer. The 1974 Benefit Plan and Trust now provides health and other benefits only to pensioners covered by the 1974 Pension Plan who would not otherwise receive health and welfare benefits because their former employer is no longer in business. The 1950 Benefit Plan now provides health and other benefits to pensioners under the 1950 Pension Plan, to certain disabled miners, and, under certain circumstances, to the surviving spouse and dependents of deceased miners.

The applicants represent that each of the separate welfare plans contains identical eligibility criteria, and that these criteria are similar to those formerly contained in plans administered by the Trustees. The applicants further represent that the benefit coverage provided by the separate welfare plans is identical to the benefit coverage provided by the 1950 Benefit Plan. The applicants state that bargaining parties sought to assure uniform application of the eligibility criteria among the 1978 plans, and consistent interpretation of the benefit coverage provisions between the 1950 Benefit Plan and the 1978 plans, and that therefore, the union and the Employers, as settlors of the 1950 Benefit Plan and Trust, have amended the 1950 Benefit Plan and Trust instrument to authorize the trustees of the 1950 Benefit Plan to resolve disputes concerning eligibility and benefit coverage which arise under either the 1950 Benefit Plan or the 1978 plans.[3] Specifically, it

[1] The 1978 Agreement is, by its terms, subject to termination by either the Union or the Employers after March 31, 1981.

[2] The four trusts were administered by three-member boards of trustees pursuant to section 302(c)(5) of the Labor Management Relations Act of 1947, 29 U.S.C. § 186(c)(5). Each of these boards consisted of the same three trustees.

[3] The applicants represent that the trustees consider their determinations to be advisory in nature with regard to the 1978 plans. The applicants further indicate that the extent to which such decisions are consid-

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appears, from the information provided by the applicants, that the trustees propose to participate in the resolution of three types of disputes: (1) generic disputes relating to the nature of benefits to be provided under identical language of the 1950 Benefit Plan and the 1978 plans; (2) generic disputes involving the eligibility criteria shared by the 1978 plans; and (3) eligibility disputes involving individual participants of the 1978 plans.

The trustees have filed an application seeking an exemption which will permit them to participate in the resolution of these disputes, and to use resources of the 1950 Benefit plan for that purpose. The trustees are fiduciaries with respect to the 1950 Benefit Plan as defined in section 3(21)(A) of the Act, and parties in interest with respect to the 1950 Benefit Plan as defined in section 3(14) (A) and (B) of the Act. The union is a party in interest with respect to the 1950 Benefit Plan as defined in section 3(14)(D) of the Act. The signatory Employers are parties in interest with respect to the 1950 Benefit Plan as defined in section 3(14)(C) of the act.[4] To the extent that the trustees, in performing advisory functions in connection with the 1978 plans, may be causing the 1950 Benefit Plan to render services to the union or to the signatory Employers, or to both, the rendering of such services is a prohibited transaction pursuant to sections 406(a)(1) (C) and (D), and possibly 406(b)(1) of the Act.

The applicants represent that the requested exemption is in the interest of the 1950 Benefit Plan and its participants and beneficiaries. The applicants suggest that the 1950 Benefit Plan and its participants will benefit from trustee clarifications of the benefit coverage provisions shared by the 1950 Benefit Plan and the 1978 plans.[5] In addition, the applicants indicate that employer contributions to the 1950 Benefit Plan as provided by the 1978 Agreement are dependent upon fulfillment of the peripheral conditions of that agreement.

The applicants also represent that the requested exemption would be protective of the rights of the participants and beneficiaries of the 1950 Benefit Plan. The application represents that the trustees will receive no additional compensation for the performance of these functions, and that they will devote no less time to their duties relating solely to the administration of the 1950 Benefit Plan. Although the 1950 Benefit Plan would have to bear the administrative cost of the additional functions, and the applicants state that they are unable to estimate such costs precisely, the applicants represent that they expect such costs to be relatively small in comparison to the cost of administering the entire 1950 Plan. The applicants further indicate that, regardless of the amount of administrative costs, the level of benefits provided by the 1950 Benefit Plan, as set by the 1978 Agreement, is guaranteed by the signatory Employers. Finally, the applicants note that, even if the requested application were granted, the trustees would remain subject to the general fiduciary responsibility provisions of section 404 of the Act.

The exemption proposed herein differs from the exemption requested by the applicants in two ways. First, the exemption requested by the applicants would have no expiration date, whereas the exemption proposed herein would expire upon the termination of the present collective bargaining agreement. The Department is proceeding in this manner because future collective bargaining agreements between the UMWA and the Employers may alter the present arrangements for providing benefits in such a way as to make the exemption unnecessary or inappropriate. Of course, the trustees or any other party may in the future apply for another exemption if one is deemed necessary. Second, the proposed exemption contains the condition that the trustees must keep records adequate to ascertain both the costs incurred in rendering the described services and the portion of such costs which may be attributed to resolving each of the three types of disputes which the trustees might resolve i.e., generic questions relating to nature of benefits, generic questions of eligibility, and individual questions of eligibility. This condition is intended to help ensure that the trustees will be in a position to monitor the costs of such services. At the same time, the trustees will be creating a data base which can be used in connection with the analysis of any future plan modifications.

NOTICE TO INTERESTED PARTIES

The Employers and the UMWA, as settlors of the 1950 Plan, will be notified by letter containing a copy of the notice of pendency of the proposed exemption as published in the FEDERAL REGISTER. The participants and beneficiaries of the 1950 Plan will be notified by publication in the UMWA Journal of a copy of the notice of pendency of the proposed exemption as published in the FEDERAL REGISTER. Both types of notification will also advise these persons of their rights to comment and to request a hearing within the period of time specified above. Both types of notification will be given no later than January 22, 1979 and published in the FEDERAL REGISTER.

GENERAL INFORMATION

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act does not relieve a fiduciary or other party in interest from certain other provision of the Act, including the general fiduciary responsibility provisions of section 404 of the Act which require, among other things, that a fiduciary discharge his duties respecting the Plan solely in the interests of the participants and beneficiaries of the Plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under sections 406(a)(1) (A), (B) and (E), 406(a)(2), 406(b) (2) and (3), and 407(a) of the Act;

(3) Before any exemption may be granted under section 408(a) of the Act, the Department must find that the exemption is administratively feasible, in the interests of the Plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the Plan;

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

WRITTEN COMMENTS AND HEARINGS REQUESTS

All interested persons are invited to submit written comments or requests for a hearing on the proposed exemption to the address and within the time period set forth above. All comments will be made a part of the

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ered to be binding on the 1978 plans is a matter to be determined solely by the 1978 plans and the respective settlors.

[4] It does not appear that either the 1978 plans, or the participants and beneficiaries of those plans, are parties in interest with respect to the 1950 Benefit Plan.

[5] With regard to the generic benefit coverage disputes, the application represents that the trustees are peculiarly suited to resolve such disputes due to their experience in dealing with the identical language of the 1950 Benefit Plan. Similarly, with regard to both the generic and individual eligibility disputes, the application states that the trustees have developed an extensive body of knowledge and precedent in dealing with previous eligibility standards for the 1950 Benefit Plan and the 1974 Trust and Plan. The applicants submit that, in light of the trustees' expertise and experience, allowing the trustees to perform these dispute resolution functions is the most efficient and least burdensome method of administering the system established by the 1978 Agreement.

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record. Comments and requests for a hearing should state the reasons for the writer's interest in the proposed exemption. Comments received will be available for public inspection with the application for exemption at the addresses set forth above.

PROPOSED EXEMPTION

Based on the facts and representations set forth in the application, the Department is considering granting the exemption set forth below under the authority of section 408(a) of the Act, and in accordance with ERISA Procedure 75-1. The exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application be true and complete, and that the application accurately describe all material term of the transaction which is the subject of this exemption.

Effective March 27, 1978, and until the date of termination of the 1978 National Bituminous Coal Wage Agreement, the restrictions of section 406(a)(1)(C) and (D), and 406(b)(1) of the Act shall not apply to the resolution by the trustees of the 1950 United Mine Workers of America Benefit Plan and Trust of disputes involving the nature of benefit to be provided under plans established pursuant to Article XX of the National Bituminous Coal Wage Agreement of 1978 (1978 plans), generic questions of eligibility under 1978 plans, and individual questions of eligibility under 1978 plans, provided that such trustees maintain, and make available to the Department of Labor upon request, records adequate to ascertain both the cost of rendering such services and the portion of such costs which may be attributed to the resolution of each of the three types of disputes which the trustees may consider.

Signed at Washington, D.C., this 5th day of January 1979.

IAN D. LANOFF,
Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 79-832 Filed 1-12-79; 8:45 am]

[4510-28-M]

Office of the Secretary

[TA-W-4298]

BROCKWAY GLASS CO., INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4298: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 26, 1978 in response to a worker petition received on that date which was filed by the American Flint Glass Workers' Union on behalf of workers and former workers producing glass tableware at the Clarksburg, West Virginia plant of Brockway Glass Company, Incorporated. The Notice of Investigation incorrectly identified the petitioners.

The Notice of Investigation was published in the FEDERAL REGISTER on November 3, 1978 (43 FR 51475-76). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Brockway Glass Company, Incorporated, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivison have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Imports of glassware (machine and handmade) increased from $93,778,000 in 1976 to $108,846,000 in 1977. Imports increased from $86,786,000 in the first nine months of 1977 to $111,453,000 in the first nine months of 1978.

Imports of machine made glassware, in terms of value, increased from $7,106,000 in 1976 to $9,754,000 in 1977. Imports declined from $8,260,000 in the first nine months of 1977 to $8,028,000 in the first nine months of 1978. The ratios of imports to domestic production, in terms of value, remained less than 1.5 percent from 1973 through 1977.

Imports of machine made glassware, in terms of quantity, increased from 32,026 thousand pieces in 1976 to 41,471 thousand pieces in 1977. Imports declined from 36,460 thousand pieces in the first nine months of 1977 to 25,713 thousand peices in the first nine months of 1978.

The Department conducted a survey of customers who purchased glassware from Brockway Glass Co. The survey revealed that, in general, customers did not purchase imported glassware.

According to a press release by the company, the unprofitability and imminent closing of the plant can be attributed to a "slow growth market and a reduced demand for decorated glass tumblers used in fast food and other sales promotions".

In July, 1977, the market for premium glassware faced serious difficulties. The Massachusetts Department of Public Health declared that decorations on promotional glasses sold through a fast food chain contained lead and were a potential health hazard. Sales of premium glassware, which in 1976 represented a substantial portion of total sales by the Glassware Division of Brockway, decreased significantly in 1977 and still further in 1978.

Major customers, including fast food chains, who purchased these promotional glasses, considerably reduced their purchases from Brockway from 1977 to 1978. These customers did not buy imported glassware.

CONCLUSION

After careful review, I determine that all workers of the Clarksburg, West Virginia plant of Brockway Glass Company, Incorporated, are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 22d day of December 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 79-122 Filed 1-11-79; 8:45 am]

[4510-28-M]

[TA-W-4269]

THE BUNKER HILL CO., ELECTROLYTIC ZINC PLANT

Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4269: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 17, 1978 in response to a worker petition received on October 3, 1978 which was filed on behalf of workers and former workers producing refined zinc metal and zinc alloys at the Electrolytic Zinc Plant of The Bunker Hill Company, Kellogg, Idaho.

The Notice of Investigation was published in the FEDERAL REGISTER on October 27, 1978 (43 FR 50271). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of The Bunker Hill Company, *Metals Week, Metal Bulletin,* the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

The plant was shut down due to a strike from May 6, 1977 to September 19, 1977. The earliest possible impact date is September 11, 1977, one week prior to the end of the strike. Since the plant reopened after the strike, average production employment at the plant has increased in each quarter compared to the previous quarter. No production employees have been laid off since before the strike. Average salaried employment at the plant has remained the same or increased in each quarter compared to the previous quarter for the past eight quarters.

CONCLUSION

After careful review, I determine that all workers of the Electrolytic Zinc Plant of The Bunker Hill Company, Kellogg, Idaho, are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 22nd day of December 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 79-1226 Filed 1-11-79; 8:45 am]

[4510-28-M]

[TA-W-4290]

DAN RIVER, INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4290: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 25, 1978 in response to a worker petition received on October 17, 1978 which was filed on behalf of workers and former workers producing corduroy material at the Clanton, Alabama plant of Dan River, Incorporated.

The Notice of Investigation was published in the FEDERAL REGISTER on November 3, 1978 (43 FR 51475). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Dan River, Incorporated, the American Textile Manufacturers Institute, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Production of corduroy fabric at the Clanton, Alabama plant was discontinued and most workers were permanently separated from employment when the plant closed in October 1977.

Company-wide production of corduroy fabric has increased in quantity since the closing of the Clanton plant, indicating that production was transferred to other Dan River facilities. Sales of finished corduroy fabric produced at Dan River increased in quantity in the first nine months of 1978 compared with the same period in 1977.

CONCLUSION

After careful review, I determine that all workers at the Clanton, Alabama plant of Dan River, Incorporated are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this December 22, 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 79-1227 Filed 1-11-79; 8:45 am]

[4510-28-M]

[TA-W-4058, 4059]

DAY'S INCORP.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4058 and 4059: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on August 15, 1978 in response to worker petitions received on August 14, 1978 which were filed by the United Garment Workers of America on behalf of workers and former workers producing men's slacks and ski-jackets at the Tacoma, Washington (TA-W-4058) and Bremerton, Washington (TA-W-4059) plants of Day's, Incorporated. The investigation revealed that Day's produced a variety of ski-wear for men, women, and children, including ski-jackets.

The Notice of Investigation was published in the FEDERAL REGISTER on August 29, 1978 (43 FR 38635-38636). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Day's, Incorporated, its customers, the National Cotton Council of America, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certifiction of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Imports of men's and boy's dress and sport trousers and shorts increased absolutely during 1977 compared to 1976 and during the first six months of 1978 compared to the first six months of 1977. Imports declined relative to domestic production during 1977 compared to 1976.

U.S. imports of snow suits and coat/legging sets increased absolutely and relative to domestic production during 1977 compared to 1976 and increased absolutely during the first half of 1978 compared to the first half of 1977.

Most customers of men's slacks and men's, women's and children's skiwear sold by Day's who were surveyed did not increase purchases of imports of such products during periods in which they were reducing purchases from Day's.

CONCLUSION

After careful review, I determine that all workers of the Tacoma, Washington and Bremerton, Washington plants of Day's Incorporated are

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denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 22nd day of December 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 79-1228 Filed 1-11-79; 8:45 am]

[4510-28-M]

[TA-W-3953]

FOXCO INDUSTRIES, LTD.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3953: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on July 6, 1978 in response to a worker petition received on July 5, 1978 which was filed on behalf of workers and former workers producing single and double-knit natural and synthetic fabric at Foxco Industries, Ltd., New York, New York.

The investigation revealed that Foxco also sold some printed woven fabric.

The Notice of Investigation was published in the FEDERAL REGISTER on July 18, 1978 (43 FR 30927). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from Foxco Industries, Ltd., its customers, the American Textile Manufacturers Institute, the U.S. Department of Commerce, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Foxco Industries, Ltd., New York, New York, produces knitted and woven fabrics for the apparel industry. The petitioners appear to allege that increased imports of wearing apparel contributed importantly to the decline in sales or production and employment at Foxco Industries, Ltd., New York, New York. Imported apparel cannot be considered like or directly competitive with fabric. Imports of fabric must be considered in determining import injury to workers producing fabric.

Imports of all finished fabric (bleached, dyed and printed) decreased in quantity absolutely from 464 million square yards in 1976 to 453 million square yards in 1977, then increased from 187 million square yards in the first half of 1977 to 255 million square yards in the first half of 1978. The ratio of imports to domestic production remained low but increased from 1.8 percent in 1976 to 1.9 percent in 1977.

Foxco does not purchase imported fabric or commission foreign contractors. Foxco's major customers which reduced purchases from the company in 1977 compared to 1976 or in the first half of 1977 were surveyed. Customers who responded generally did not increase their purchases of imports while reducing purchases from Foxco.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that all workers of Foxco Industries, Ltd., New York, New York, are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 22nd day of December 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 79-1229 Filed 1-11-79; 8:45 am]

[4510-28-M]

[TA-W-3806]

GAFREY FABRICS, INC.

Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3806: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on June 5, 1978 in response to a worker petition received on May 30, 1978 which was filed on behalf of workers and former workers producing fabrics for the garment industry at Gafrey, Inc., New York, New York.

The investigation revealed that the full name of the company is Gafrey Fabrics, Inc.

The Notice of Investigtion was published in the FEDERAL REGISTER on June 20, 1978 (43 FR 26498). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Foxco Industries, Ltd., the parent company, its customers, the American Textile Manufacturers Institute, the U.S. Department of Commerce, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by such workers' firm or any appropriate subdivision thereof contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Gafrey Fabrics, Inc., New York, New York, produced knitted fabric. The petitioners appear to allege that increased imports of wearing apparel contributed importantly to the decline in sales or production and employment at Gafrey Fabrics, Inc., New York, New York. Imported apparel cannot be considered like or directly competitive with knitted fabric. Imports of fabric must be considered in determining import injury to workers producing knitted fabric.

Imports of all finished fabric (bleached, dyed and printed) decreased in quantity absolutely from 464 million square yards in 1976 to 453 million square yards in 1977, then increased from 187 million square yards in the first half of 1977 to 255 million square yards in the first half of 1978. The ratio of imports to domestic production remained low but increased from 1.8 percent in 1976 to 1.9 percent in 1977.

All of Gafrey's production was commissioned by Foxco Industries, Ltd., the parent company. Foxco (TA-W-3953) experienced decreased sales in 1977 compared to 1976, and in the first half of 1978 compared to the first half of 1977. Foxco does not purchase imported fabric or commission foreign contractors. Foxco's major customers which reduced purchases from Foxco in these periods were surveyed. Customers who responded generally did not increase their purchases of imports while reducing purchases from Foxco.

Gafrey ceased production approximately April 28, 1978. No workers were employed by the company after May 12, 1978.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that all workers of Gafrey Fabrics, Inc., New York, New York, are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 22nd day of December 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 79-1230 Filed 1-11-79; 8:45 am]

[4510-28-M]

[TA-W-4110]

GOULD, INC., MILLVILLE, N.J.

Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4110: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on August 24, 1978 in response to a worker petition received on August 22, 1978 which was filed by the Distributive Workers of America on behalf of workers and former workers producing electrical connectors at the Millville, New Jersey plant of Gould, Incorporated, Electrical Components Division.

The Notice of Investigation was published in the FEDERAL REGISTER on September 5, 1978 (43 FR 39457). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Gould, Incorporated, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, *Electronic News*, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivison have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

A survey by the Department revealed that none of the customers of Gould, Incorporated's Millville and Tampa plants purchased imported connectors in 1976, 1977 or the first eight months of 1978. None of the customers indicated any significant import competition in the domestic market.

Gould, Incorporated transferred production of connectors from its Millville plant to its Tampa plant, resulting in the closing of the Millville plant.

The petition alleges that electrical connectors production was transferred to Canada. Gould subcontracted the drilling of some of the connectors to a Canada firm. This type of connector has never been drilled at the Millville plant. Subsequent to the transfer of connector production to Tampa, Gould continued to subcontract this drilling operation to the Canadian firm.

CONCLUSION

After careful review, I determine that all workers of Gould, Incorporated, Millville, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 22nd day of December 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 79-1231 Filed 1-11-79; 8:45 am]

[4510-28-M]

[TA-W-3872]

GRAVINER, INC., MOUNTAINSIDE, N.J.

Negative Determination Regarding Application for Reconsideration

On November 9, 1978, the petitioner requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of workers and former workers producing smoke detectors at the Mountainside, New Jersey, plant of Graviner, Inc. The determination was published in the FEDERAL REGISTER on October 31, 1978, (43 FR 50754).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) if it appears, on the basis of facts not previously considered, that the determination complained of was erroneous;

(2) if it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) if, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

The petitioner claims that Graviner, Inc., manufactured smoke detectors notwithstanding the fact that the Department denied the petitioner's application because workers at Graviner, Inc., were engaged only in the testing and marketing of imported smoke detectors. The Department determined that such services are not "articles" within the meaning of Section 222 of the Trade Act. The petitioner predicates his claim on two facts; namely, (1) a capacitor was installed on each smoke detector at the Mountainside, New Jersey, plant and (2) the Underwriters Laboratories, UL, listed states that the final manufacturing point for all Graviner smoke detectors is Mountainside, New Jersey. The petitioner further claims that the control units were manufactured primarily in the United States.

The Department reviewed the investigative case file and made further investigation and learned that the capacitor was added in order to comply with UL's standards and that this installation was more in the nature of making an adjustment in order to meet UL requirements for marketing and sale in the U.S. market, than an integral part of the production process. The investigation further revealed that the control unit was a separate unit and basically a power supply which included a battery and an AC power source enclosed in a box and connected to the smoke detector by wires. Parts for the control unit were not manufactured at the Mountainside plant but purchased on the open market.

The separation of a marketing manager and salesman in 1978 resulted from Graviner's decision to terminate its smoke detector marketing effort in the face of declining sales.

CONCLUSION

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of fact or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C. December 22, 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 79-1232 Filed 1-11-79; 8:45 am]

[4510-28-M]

[TA-W-3954]

GRECO KNIT FINISHERS, INC., NEW YORK, N.Y.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3954: investigation regarding certification eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on July 6, 1978 in response to a worker

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petition received on July 5, 1978 which was filed on behalf of workers and former workers producing single and double-knit natural and synthetic fabric at Greco Knit Finishers, New York, New York.

The investigation revealed that the formal name of the company is Greco Knit Finishers, Inc., and that some woven fabric was printed and finished by the company.

The Notice of Investigation was published in the FEDERAL REGISTER on July 18, 1978 (43 FR 30927). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from Foxco Industries, Ltd., the parent company, its customers, the American Textile Manufacturers Institute, the U.S. Department of Commerce, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or porduction.

Greco Knit Finishers, Inc., New York, New York, produces knit and woven fabric. The petitioners appear to allege that increased imports of wearing apparel contributed importantly to the decline in sales or production and employment at Greco Knit Finishers, Inc., New York. Imported apparel cannot be considered like or directly competitive with fabric. Imports of fabric must be considered in determining import injury to workers producing fabric.

Imports of all finished fabric (bleached, dyed and printed) decreased in quantity absolutely from 464 million spuare yards in 1976 to 453 million square yards in 1977, then increased from 187 million square yards in the first half of 1977 to 255 million square yard in the first half of 1978. The ratio of imports to domestic production remained low but increased from 1.8 percent in 1976 to 1.9 percent in 1977.

All of Greco's production was commisssioned by Foxco Industries, Ltd., the parent company. Foxco (TA-W-3953) experienced decreased sales in 1977 compared to 1976, and in the first half of 1978 compared to the first half of 1977. Foxco does not purchase imported fabric or commission foreign contractors. Foxco's major customers which reduced purchases from Foxco in these periods were surveyed. Customers who responded generally did not increase their purchases of imports while reducing purchases from Foxco.

Greco ceased production in May 1978. No workers were employed by the company after May 12, 1978.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that all workers of Greco Knit Finishers, Inc., New York, New York, are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 22nd day of December 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 79-1223 Filed 1-11-79; 8:45 am]

[4510-28-M]

[TA-W-4352]

GTE SYLVANIA, INC., BATAVIA, N.Y.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4352: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 7, 1978 in response to a worker petition received on November 3, 1978 which was filed by the International Union of Electrical, Radio and Machine Workers on behalf of workers and former workers producing parts for television sets at the Batavia, New York plant of GTE Sylvania, Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on November 17, 1978 (43 FR 53852). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of GTE Sylvania, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

On January 17, 1977, the Department issued a certification of eligibility to apply for adjustment assistance applicable to workers of Batavia, New York plant of GTE Sylvania engaged in employment related to the production of color televisions (TA-W-1169). That certification expires on January 17, 1979—two years from its date of issuance.

The ultimate separations of workers involved in the production of color television components at the Batavia plant will be a direct result of Sylvania's decision to transfer the major portion of Batavia's television production to foreign locations in order to maintain price competitiveness. Thus, increased imports of color televisions, which resulted in the transfer of Sylvania's television production, continue to have an adverse impact on workers at the Batavia plant.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with color televisions produced by GTE Sylvania, Inc., contributed importantly to the separation of workers of the Batavia, New York Plant. In accordance with the provisions of the Act, I make the following certification:

"All workers of the Batavia, New York plant of GTE Sylvania engaged in employment related to the production of color televisions who became totally or partially separated from employment on or after January 17, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C. this 22nd day of December 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 79-1234 Filed 1-11-79; 8:45 am]

[4510-28-M]

[TA-W-4133]

MANSFIELD TIRE AND RUBBER COMPANY, MANSFIELD, OHIO

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4133: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on September 5, 1978 in response to a worker petition received on September 5, 1978 which was filed by Local 17 of the United Rubber, Cork, Linoleum, and Plastic Workers of America, AFL-CIO on behalf of workers and former workers producing tires and tubes at the Mansfield, Ohio plant of Mansfield Tire and Rubber Company. The investigation revealed that the plant primarily produces tires and tubes for passenger cars, trucks, farm equipment and other vehicles.

The Notice of Investigation was published in the FEDERAL REGISTER on September 26, 1978 (43 FR 43589). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Mansfield Tire and Rubber Company, its customers, manufacturers, the Rubber Manufacturers Association, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. The Department's investigation revealed that all of the requirements have been met.

U.S. imports of passenger, truck, and tractor tires increased in 1976 compared to 1975 and increased in 1977 compared to 1976.

Company imports of truck tires increased in 1977 compared to 1976 and further increased in the first nine months of 1978 compared to the same period of 1977.

A survey of customers of the subject firm revealed that some customers increased purchases of imported tires, while decreasing purchases from the subject firm, in 1977 compared to 1976 and in the first quarter of 1978 compared to the same period of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with tires and tubes for passenger cars, trucks, farm equipment and other vehicles produced at the Mansfield, Ohio plants of Mansfield Tire and Rubber Company contributed importantly to the decline in sales and to the separation of workers at those plants. In accordance with the provisions of the Act, I make the following certification:

All workers of the Mansfield, Ohio plants of Mansfield Tire and Rubber Company who became totally or partially separated from employment on or after August 30, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this December 22, 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 79-1235 Filed 1-11-79; 8:45 am]

[4510-28-M]

[TA-W-4240]

MIRANDO MANUFACTURING COMPANY, INCORPORATED, ELIZABETH, NEW JERSEY

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4240: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

the investigation was initiated on October 4, 1978 in response to a worker petition received on October 2, 1978 which was filed on behalf of workers and former workers producing men's and boys' jackets at the Mirando Manufacturing Company in Elizabeth, New Jersey. The investigation revealed that only men's and boys' cloth outercoats were produced in 1977 and through April, 1978, and that only men's leather jackets have been produced since May, 1978.

The Notice of Investigation was published in the FEDERAL REGISTER on October 20, 1978 (43 FR 49060-49061). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Mirando Manufacturing Company, Incorporated, its manufacturer, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been meet, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

In 1977 and through April in 1978 Mirando produced only cloth outercoats for a single manufacturer. In May, 1978, Mirando ceased production of cloth outercoats and began production of leather jackets for a different manufacturer. Production, in value, increased from 1976 to 1977 and in the first ten months of 1978 compared with the same period of 1977.

CONCLUSION

After careful review, I determine that all workers of Mirando Manufacturing Company, Incorporated in Elizabeth, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this December 22, 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 79-1236 Filed 1-11-79; 8:45 am]

[4510-28-M]

[TA-W-4349]

PEMBROKE, INC., EGG HARBOR CITY, NEW JERSEY

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4349: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 3, 1978 in response to a worker petition received on November 2, 1978 which was filed on behalf of workers and former workers producing tailored topcoats for the military. The investigation revealed that the plant primarily produces AG44 military overcoats.

The Notice of Investigation was published in the FEDERAL REGISTER on November 17, 1978 (43 FR 53851). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Pembroke, Inc., the National Cotton Council of America, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or subdivision have contributed importantly to the total or partial separation, or threat thereof, and to the absolute decline in sales or production.

Military overcoats produced by Pembroke, Inc. are included in the import category Men's Tailored Uniform Overcoats and Topcoats. There have been no imports of articles in this category by the Armed Forces of the United States. The Defense Appropriation Acts (32 C.F.R. 6-300) annually

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restrict the procurement of clothing items to U.S. sources, where available.

Conclusion.

After careful review, I determine that all workers of Pembroke, Inc., Egg Harbor City, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., December 22, 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 79-1237 Filed 1-11-79; 8:45 am]

[4510-28-M]

[TA-W-4430]

RIVERSIDE SERVICE CORPORATION, BUFFALO, NEW YORK

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4430: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 27, 1978 in response to a worker petition received on November 20, 1978 which was filed by the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America on behalf of workers and former workers providing trucking service, delivering freight for Riverside Service, Buffalo, New York. The investigation revealed that the correct company name is Riverside Service Corporation.

The Notice of Investigation was published in the FEDERAL REGISTER on December 5, 1978 (43 FR 56952). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Riverside Service Corporation, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. The Department has determined that services are not "articles" within the meaning of Section 222 of the Act, and that independent firms for which the subject firm provides services cannot be considered to be the "workers' firm".

The Riverside Service Corporation (Riverside) was founded in 1919 and incorporated in the state of New York. Riverside consists of a terminal, which includes a repair facility and warehouse, and general offices.

Workers of Riverside Service Corporation are engaged exclusively in the transportation of freight and do not produce an article within the meaning of Section 222(3) of the Act.

Riverside and its customers have no controlling interest in one another.

All workers engaged in providing transport services for the Riverside Service Corporation are employed by that firm. All personnel actions and payroll transactions are controlled by the Riverside Service Corporation. All employee benefits are provided and maintained by the Riverside Service Corporation. Workers are not, at any time, under employment or supervision by customers of the Riverside Service Corporation. Thus, the Riverside Service Corporation must be considered to be the "workers' firm".

Conclusion.—After careful review, I determine that all workers of Riverside Service Corporation, Buffalo, New York, are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this December 22, 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 79-1238 Filed 1-11-79; 8:45 am]

[4510-28-M]

[TA-W-4243; TA-W-4247]

ROBBY KENT LIMITED, NEW YORK, NEW YORK AND SHERRY GALE CASUALS INCORPORATED, NEW YORK, NEW YORK

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4243 & 4247: investigations regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigations were initiated on October 4, 1978 in response to worker petitions received on September 25, 1978 which were filed on behalf of workers and former workers producing sweaters at Robby Kent Limited and Sherry Gale Casuals, Incorporated, both of New York, New York. The investigation revealed that the companies produced ladies' sweaters.

The Notice of Investigation was published in the FEDERAL REGISTER on October 20, 1978 (43 FR 49060-1). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Robby Kent Limited and Sherry Gale Casuals, Incorporated, its customers, the National Cotton Council of America, the U.S. Department of Commerce, the U.S. International Trade Commission, Industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses', and children's sweaters increased both absolutely and relative to domestic production from 1975 to 1976. Imports of sweaters in 1977 were greater than the average level of imports for the years 1973 through 1976. The ratio of imports of sweaters to domestic production (IP ratio) exceeded 140 percent in 1976 and 1977. The IP ratio in 1977 was higher than the average IP ratio for the period 1973 through 1976.

Robby Kent Limited and Sherry Gale Casuals, Incorporated were two separate apparel jobbers under common ownership before they went out of business on October 31, 1978. The sales data was kept on a combined basis for both Robby Kent and Sherry Gale.

A Department of Labor survey of customers of Sherry Gale Casuals, Incorporated, which represented the bulk of the combined sales, revealed that, from 1976 to 1977 and during the first three quarters of 1978 when compared to the same period in 1977, several customers decreased purchases from Sherry Gale and increased purchases of imported women's sweaters.

CONCLUSION.

After careful review of the facts obtained in the investigation, I conlcude that increases of imports of articles like or directly competitive with ladies' sweaters produced at Robby Kent Limited and Sherry Gale Casuals, Incorporated, both of New York, New York contributed importantly to the decline in sales or production and to the total or partial separation of workers of those firms. In accordance with the provisions of the Act, I make the following certification:

All workers of Robby Kent Limited and Sherry Gale Casuals, Incorporated both of New York, New York who became totally or partially separated from employment on or after November 25, 1977 and before November 1, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974. All workers totally or partially separated from employment on or after November 1, 1978 are denied eligibility on or after November 1, 1978 are denied eligibility to apply for adjustment assistance.

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Signed at Washington, D.C. this December 22, 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 79-1239 Filed 1-11-79; 8:45 am]

[4510-28-M]

[TA-W-4134]

ROCHESTER ENTERPRISES, SHERIDAN, MONTANA

Certificotion Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4134: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on September 5, 1978 in response to a worker petition received on September 5, 1978 which was filed on behalf of workers and former workers producing copper concentrates at Rochester Enterprises, Sheridan, Montana.

The Notice of Investigation was published in the FEDERAL REGISTER on September 26, 1978 (43 FR 43589). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Rochester Enterprises, its customers, the U.S. Department of the Interior, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of refined copper increased from 384 thousand short tons in 1976 to 391 thousand short tons in 1977 and rose from 164 thousand short tons in January-June 1977 to 327 thousand short tons in January-June 1978. The ratio of imports to domestic copper production increased from 21.0 percent in 1976 to 22.2 percent in 1977 and rose from 15.0 percent in January-June 1977 to 35.9 percent in January-June 1978.

Price competition from imports of refined copper has adversely affected production and employment at Rochester Enterprises. Imports of copper are affected by the differential between the domestic price for copper and the price estabiished by the LME (London Metal Exchange). When the LME price drops more than the estimated transportation cost of 5 cents per pound below the domestic producers price, the demand for imported copper increases. During the last nine months of 1977 and the first six months of 1978, the average LME price had fallen almost 8 cents per pound below the average domestic producers price.

The major factor contributing to depressed prices is an oversupply of domestic and imported copper. U.S. inventories of refined copper were higher in every month of 1977, except December, when compared to the same month in 1976. Inventories in December 1977 were less than one percent below December 1976 levels. In the first nine months of 1978, inventory levels surpassed levels in the same months of 1977, except for March which was only marginally below March 1977.

The abundant supply of copper stocks in the forseeable future provides no reason for domestic consumers of copper to maintain ties with domestic producers for purposes of a guarantee against copper shortages. Consequently, in 1977 and in the first half of 1978, when many domestic copper producers curtailed production because of the depressed market price for copper, imports of refined copper increased in 1977 compared to 1976 and doubled in the first half of 1978 compared to the same period in 1977.

Price pressure from imported copper has reduced the ability of domestic producers to profitably mine domestic ore and convert it to copper concentrate and refined copper.

Estimated costs of production at Rochester Enterprises for its copper concentrates vis-a-vis what Rochester Enterprises was able to receive made the entire operation very marginal and as a consequence Rochester Enterprises was forced to cease production of copper concentrates in October 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with copper concentrates produced at Rochester Enterprises, Sheridan, Montana, contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Rochester Enterprises, Sheridan, Montana, engaged in the production of copper concentrates who became totally or partially separated from employment on or after July 13, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., December 22, 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 79-1240 Filed 1-11-79; 8:45 am]

[4510-28-M]

[TA-W-3415]

ROGERS PEET COMPANY, PARAMUS, NEW JERSEY

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3415: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 27, 1978 in response to a worker petition received on March 9, 1978 which was filed on behalf of workers and former workers engaged in the retail sale of men's and women's ready-to-wear apparel at the Paramus, New Jersey facility of Rogers Peet Company.

The Notice of Investigation was published in the FEDERAL REGISTER on April 11, 1978 (43 FR 15205). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Rogers Peet Company and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

Evidence developed during the Department's investigation revealed that Rogers Peet Company was a chain of four retail clothing stores located in New York City and New Jersey. Rogers Peet Company was founded and incorporated in Delaware in 1962. Rogers Peet Company was a wholly-owned subsidiary of Cluett Peabody and Company, Inc., a manufacturer of men's and women's apparel. The Paramus, New Jersey store of Rogers Peet closed in December 1977. Rogers Peet Company closed in January 1978.

Rogers Peet Company, Inc. sold men's and women's apparel manufactured by Cluett Peabody, by other domestic clothing manufacturers and by foreign manufacturers. Total purchases by all of the retail stores of the Rogers Peet Company constituted an insignificant percentage of total sales by the three major men's apparel manufacturing subsidiaries of Cluett Peabody in 1976 and 1977. In addition, in the 1976-1977 period the predomi-

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nant volume of Rogers Peet's clothing purchases were from domestic and foreign manufacturers other than Cluett Peabody.

Employees of Rogers Peet stores were engaged in the retail sales of clothing purchased predominantly from domestic sources other than Cluett Peabody and from foreign manufacturers. Since only a small percentage of Cluett Peabody's sales were to Rogers Peet and since Rogers Peet's retail stores handled clothing purchased predominantly from sources other than Cluett Peabody, it has been determined that Rogers Peet Company is not an "appropriate subdivision" of Cluett Peabody within the meaning of Section 222 of the Trade Act of 1974. Furthermore, the retail stores of Rogers Peet did not produce any articles and the Department of Labor has previously determined that the performance of services is not included within the term "articles" as used in Section 222 (3) of the Act.

Conclusion

After careful review, I determine that the Paramus, New Jersey retail store of Rogers Peet Company is not an "appropriate subdivision" of Cluett Peabody and Company, Inc. within the meaning of Section 222 of the Trade Act of 1974. Moreover, the services provided by Rogers Peet Company's retail stores are not "articles" within the meaning of Section 222 (3) of the Trade Act.

Signed at Washington, D.C. December 22, 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 79-1241 Filed 1-11-79; 8:45 am]

[4510-28-M]

[TA-W-4256]

UNITED SCREW & BOLT CORP., CLEVELAND, OHIO

Certification Regarding eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4256: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 10, 1978 in response to a worker petition received on October 4, 1978 which was filed by the United Auto Workers on behalf of workers and former workers producing sheet metal screws, recessed heads, oval heads slotted heads, washer heads, pan heads, and other screws at the Cleveland, Ohio fastener plant of United Screw and Bolt Corporation.

The Notice of Investigation was published in the FEDERAL REGISTER on October 20, 1978 (43 FR 49061). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of United Screw and Bolt Corporation, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of bolts and large screws increased from 474,084 thousands of pounds in 1976 to 491,140 thousands of pounds in 1977. In the first six months of 1978 imports increased to 287,314 thousands of pounds compared to 255,849 thousands of pounds for the same 1977 period. The ratio of imports to domestic production increased from 53.8 percent in 1976 to 54.7 percent in 1977 and increased to 60.7 percent in the first half of 1978 compared to 53.6 percent for the same period in 1977.

Imports of small screws increased from 108,250 thousands of pounds in 1976 to 166,968 thousands of pounds in 1977. In the first nine months of 1978, imports continued to increase to 134,991 thousands of pounds compared to 133,571 thousands of pounds in the first six months of 1977. The ratio of imports to domestic production increased from 25.7 percent in 1976 to 37.7 percent in 1977.

The Department conducted a survey of some of the customers purchasing large and small screws from United Screw and Bolt Corporation. The survey indicated that a major customer reduced purchases from the subject firm and increased purchases from foreign sources from 1976 to 1977 and in the first nine months of 1978 compared to the same 1977 period.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with industrial fasteners including sheet metal screws, recessed heads, oval heads, slotted heads, washer heads and pan heads produced at the Cleveland, Ohio fastener plant of United Screw and Bolt Corporation, contributed importantly to the decline in sales or production and to the total or partial separation of workers of that plant. In accordance with the provisions of the Act, I make the following certification:

"All workers of the Cleveland, Ohio fastener plant of United Screw and Bolt Corporation, who became totally or partially separated from employment on or after October 2, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C. this December 22, 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 79-1242 Filed 1-11-79; 8:45 am]

[7510-01-M]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (79-10)]

NASA ADVISORY COUNCIL (NAC)

AERONAUTICS ADVISORY COMMITTEE

Meeting

The Informal Ad Hoc Advisory Subcommittee on Advanced Aeronautical Propulsion Technology Requirements of the NAC Aeronautics Advisory Committee will meet January 30-31, 1979, in Conference Room 625, Federal Office Building 10B, NASA Headquarters, 600 Independence Avenue, SW, Washington, DC. The meeting will be open to the public up to the seating capacity of the room (approximately 40 persons including Subcommittee members and participants).

The Subcommittee was established to assist the NASA in identifying and examining advanced propulsion technology requirements for future aeronautical vehicles, and to recommend program additions, deletions or changes in scope or emphasis which may be found necessary to support the overall NASA aeronautical research and technology objectives. The chairperson is Dr. Maurice Shank and there are five members on the Subcommittee.

For further information please contact Mr. Richard Rudey, Code RT-3, NASA Headquarters, Washington, DC 20546 (202/755-3000).

AGENDA

JANUARY 30, 1979

8:30 a.m. Introductory Remarks
9:30 a.m. Overview of Ongoing NASA Aeronautical Propulsion and Related Programs
11:00 a.m. Overview of NASA Aeronautics R&T 5-Year Plan
4:00 p.m. Committee Discussions on 5-Year Plan

JANUARY 31, 1979

8:30 a.m. Overview of Army, Navy and Air Force Aeronautical Propulsion Plans and Programs
10:30 a.m. Committee Discussion and Formulation of Recommendations
3:00 p.m. Adjourn

ARNOLD W. FRUTKIN,
Associate Administrator for External Relations.

JANUARY 8, 1979.

[FR Doc. 79-1200 Filed 1-11-79; 8:45 am]

[7510-01-M]

[Notice (79-11)]

SPACE SCIENCE STEERING COMMITTEE, PHYSICAL SCIENCE SPACELAB AND LDEF AD HOC ADVISORY SUBCOMMITTEE

Establishment

Pursuant to Section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), and after consultation with the Committee Management Secretariat, General Services Administration, NASA has determined that the establishment of the Physical Science Spacelab and LDEF Ad Hoc Advisory Subcommittee for the evaluation of proposals for Physics, Astronomy, and Planetary Science Spacelab and Long duration Exposure Facility (LDEF) payloads is in the public interest, in connection with the performance of duties imposed upon NASA by law. The Space Science Steering Committee, under which the Subcommittee will operate, is a NASA internal committee, composed wholly of Government employees.

The function of this Subcommittee will be to obtain the advice of the scientific community on proposals in the specialized areas identified by the name of the Subcommittee.

ARNOLD W. FRUTKIN,
Associate Administrator for External Relations.

JANUARY 8, 1979.

[FR Doc. 79-1201 Filed 1-11-79; 8:45 am]

[7555-01-M]

NATIONAL SCIENCE FOUNDATION

ADVISORY COMMITTEE FOR SCIENCE EDUCATION

Notice of Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Science Education;
Date and time: January 31, February 1 and 2, 1979—1/31—8 p.m. to 9:30 p.m.; 2/1—9 a.m. to 5 p.m.; 2/2—9 a.m. to 12 noon.
Place: National Science Foundation, 1800 G Street, NW, Washington, D.C., 1/31 and 2/1—Room 540. 2/2—Room 642.
Type of meeting: Open.
Contact person: Dr. Alphonse Buccino, Executive Secretary, Advisory Committee for Science Education, Room W-660, National Science Foundation, Washington, D.C. 20550. Telephone: (202) 282-7947. Anyone who plans to attend should notify Dr. Buccino prior to the meeting.
Summary minutes: May be obtained from the Committee Management Coordinator, Division of Financial and Administrative Management, Room 248, National Science Foundation, Washington, D.C. 20550.
Purpose of committee: To provide advice and recommendations concerning the impact of all Foundation activities relating to education in the sciences in U.S. schools, colleges, universities, and other organizations performing educational activities in the sciences.
Agenda:

January 31, 1979—8:00 p.m. to 9:30 p.m.

8:00 p.m.—Orientation of new members
9:30 p.m.—Adjourn

February 1, 1979—9:00 a.m. to 5:00 p.m.

9:00 a.m.—Introductory Remarks
9:30 a.m.—Science Education Program review and discussion
12:00 Noon—Recess
1:30 p.m.—Oversight, presentation of CAUSE oversight report and discussion of issues and options
5:00 p.m.—Adjourn

February 2, 1979—9:00 a.m. to 12 Noon

9:00 a.m.—Individual oversight subcommittee meetings
10:00 a.m.—Recommendations for creating an operational oversight system
10:30 a.m.—Discussion of annual report
11:00 a.m.—Discussion of issues initiated by the Committee
12:00 Noon—Adjourn

M. REBECCA WINKLER,
Committee Management Coordinator.

[FR Doc. 79-1085 Filed 1-11-79; 8:45 am]

[7555-01-M]

SUBCOMMITTEE ON NEUROBIOLOGY

Notice of Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Neurobiology of the Advisory Committee of Behavioral and Neural Sciences.
Date and time: January 28, 29 & 30, 1979: 9:00 a.m. to 5:00 p.m. each day.
Place: Conference Center, Elkhorn at Sun Valley, Idaho 83353.
Type of meeting: Closed.
Contact person: Dr. Janett Trubatch, Program Director, Neurobiology Program, Room 320, National Science Foundation, Washington, DC 20550, telephone (202) 634-4036.
Purpose of subcommittee: To provide advice and recommendations concerning support for research in Neurobiology.
Agenda: To review and evaluate research proposals as part of the selection process for awards.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committeee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Committee Management Coordinator.

JANUARY 9, 1979.

[FR Doc. 79-1084 Filed 1-11-79; 8:45 am]

[7555-01-M]

SUBCOMMITTEE ON POPULATION BIOLOGY AND PHYSIOLOGICAL ECOLOGY

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Population Biology and Physiological Ecology of teh Advisory Committee for Environmental Biology.
Date and time: February 1 and 2, 1979; 8:30 a.m. to 5:00 p.m. each day.
Place: Room 321, National Science Foundation, 1800 G St NW, Washington, D.C. 20550.
Type of meeting: Closed.
Contact person: Dr. Donald W. Kaufman, Associate Program Director, Population Biology and Physiological Ecology Program, Room 336, Na-

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tional Science Foundation, Washington, D.C. 20550, telephone (202) 632-7317.

Purpose of subcommittee: To provide advice and recommendations concerning support for research in population biology and physiological ecology.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Committee Management Coordinator.

JANUARY 9, 1979.

[FR Doc. 79-1086 Filed 1-11-79; 8:45 am]

[7555-01-M]

SUBCOMMITTEE ON REGULATORY BIOLOGY OF THE ADVISORY COMMITTEE FOR PHYSIOLOGY, CELLULAR & MOLECULAR BIOLOGY

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Subcommittee on Regulatory Biology of the Advisory Committee for Physiology, Cellular and Molecular Biology.

Dates and time: February 7, (1:00 to 7:00 p.m.) and February 8 and 9, 1979, (8:30 a.m. to 5:00 p.m.).

Place: Conference Room 338, National Science Foundation, 1800 G Street, N.W., Washington, D.C. 20550.

Type of meeting: Closed.

Contact person: Dr. Robert B. Sanders, Program Director, Regulatory Biology Program, Room 333, National Science Foundation, Washington, D.C. 20550, Telephone (202) 632-4298.

Purpose of subcommittee: To provide advice and recommendations concerning support for research in regulatory biology.

Agenda: To review and evaluate research proposals and projects as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Committee Management Coordinator.

JANUARY 9, 1979.

[FR Doc. 79-1087 Filed 1-11-79; 8:45 am]

[7555-01-M]

SUBCOMMITTEE ON PSYCHOBIOLOGY

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Psychobiology of the Advisory Committee for Behavioral and Neural Sciences.

Date: February 5 and 6, 1979.

Time: 8:30 a.m. to 5:00 p.m. each day.

Place: Room 321, National Science Foundation, 1800 G. Street, NW., Washington, D.C. 20550.

Type of meeting: Closed.

Contact person: Fred Stollnitz, Program Director, Psychobiology Program, Room 320), National Science Foundation, Washington, D.C., 20550, telephone (202) 632-4264.

Summary minutes: May be obtained from the Committee Management Coordinator, Division of Financial & Administrative Management, Room 248, National Science Foundation, Washington, D.C. 20550.

Purpose of subcommittee: To provide advice and recommendations concerning support for research in Psychobiology.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Committee Management Coordinator.

JANUARY 9, 1979.

[FR Doc. 79-1088 Filed 1-11-79; 8:45 am]

[7555-01-M]

ADVISORY COUNCIL; TASK GROUP NO. 7

Meeting

In accordance with the Federal Advisory Committee Act, P. L. 92-463, the National Science Foundation announces the following meeting:

NAME: Task Group No. 7 of the NSF Advisory Council.

PLACE: Room 1224, National Science Foundation, 1800 G Street, NW, Washington, D.C. 20550.

DATE: Monday, January 29 and Tuesday, January 30, 1979.

TIME: 9 a.m. until 5 p.m., both days.

TYPE OF MEETING: Open.

CONTACT PERSON: Ms. Margaret L. Windus, Executive Secretary, NSF Advisory Council, National Science Foundation, Room 518, 1800 G Street, NW, Washington, D.C. 20550. Telephone: (202) 632-4368.

PURPOSE OF TASK GROUP: The purpose of the Task Group, composed of members of the NSF Advisory Council, is to provide the full Advisory Council with a mechanism to consider numerous issues of interest to the Council that have been assigned by the National Science Foundation.

SUMMARY MINUTES: May be obtained from the Committee Management Coordinator Division of Financial and Administrative Management, National Science Foundation, Room 248, 1800 G Street, NW, Washington, D.C. 20550.

AGENDA: The Task Group is asked to study the effects on basic research of existing mechanisms for assuring technical, financial, and social accountability, and to recommend ways in which the balance between accountability and effectiveness in research can be optimized.

Dated: January 10, 1979.

M. REBECCA WINKLER,
Committee Management Coordinator.

[FR Doc. 79-1290 Filed 1-11-79; 8:45 am]

[7555-01-M]

ADVISORY COUNCIL; TASK GROUP NO. 8

Meeting

In accordance with the Federal Advisory Committee Act, P.L. 92-463, the National Science Foundation announces the following meeting:

NAME: Task Group #8 of the NSF Advisory Council.

PLACE: Room 523, National Science Foundation, 1800 G Street, NW, Washington, D.C. 20550.

DATE: Friday, February 2, 1979.

TIME: 9:00 a.m. until 5:00 p.m.

TYPE OF MEETING: Open.

CONTACT PERSON:

Ms. Margaret L. Windus, Executive Secretary, NSF Advisory Council, National Science Foundation, Room 518, 1800 G Street, NW, Washington, D.C. 20550. Telephone: (202) 632-4368.

PURPOSE OF TASK GROUP: The purpose of the Task Group, composed of members of the NSF Advisory Council, is to provide the full Advisory Council with a mechanism to consider numerous issues of interest to the Council that have been assigned by the National Science Foundation.

SUMMARY MINUTES: May be obtained from the Committee Management Coordinator, Division of Financial and Administrative Management, National Science Foundation, Room 248, 1800 G Street, NW, Washington, D.C. 20550.

AGENDA: The Task Group is asked to consider whether support mechanisms in addition to individual project grant support may be necessary to maintain the vitality of research in universities during the next 15 or 20 years of changing demographic conditions.

Dated: January 10, 1979.

M. REBECCA WINKLER,
Committee Management Coordinator.

[FR Doc. 79-1290 Filed 1-11-79; 8:45 am]

[7590-01-M]

NUCLEAR REGULATORY COMMISSION

[Docket Nos. STN 50-516 and STN 50-517]

LONG ISLAND LIGHTING CO. AND NEW YORK STATE ELECTRIC & GAS CORP. (JAMESPORT NUCLEAR POWER STATION, UNITS 1 AND 2)

Issuance of Construction Permits

Notice is hereby given that, pursuant to the Partial Initial Decision dated May 9, 1978 and the Initial Decision, dated December 26, 1978, of the Atomic safety and Licensing board, the Nuclear Regulatory Commission (the Commission) has issued Construction Permits Nos. CPPR-175 and CPPR-176 to the Long Island Lighting Company and New York State Electric & Gas Corporation for construction of two pressurized water nuclear reactors at the applicants' site on the north shore of Long Island in the towns of Riverhead and Southhold, New York. The proposed reactors, known as the Jamesport Nuclear Power Station, Units 1 and 2, are each designed for a rated power of 3411 megawatts thermal with a net electrical output of 1150 megawatts.

The Licensing Board's Decisions are subject to review by an Atomic Safety and Licensing Appeal board prior to their becoming final. Any decision or action taken by an Atomic Safety and Licensing Appeal Board in connection with the two Decisions may be reviewed by the Commission.

The Commission has made appropriate findings as required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the construction permits. The application for the construction permits complies with the standards and requirements of the Act and the Commission's rules and regulations.

The construction permits are effective as of their date of issuance. The earliest date for the completion of Unit 1 is July 1, 1986 and the latest date for completion is July 31, 1990; the earliest date for the completion of Unit 2 is July 1, 1988 and the latest date for completion is July 31, 1992. Each permit shall expire on the latest date for completion of the facility for which it is issued.

A copy of (1) the Partial Initial Decision, dated May 9, 1978; (2) the Initial Decision, dated December 26, 1978; (3) Construction Permits Nos. CPPR-175 and CPPR-176; (4) the report of the Advisory Committee on Reactor Safeguards, dated November 13, 1975; (5) the Office of Nuclear Reactor Regulation's Safety Evaluation Report dated October 1975 and Supplements 1, 2 and 3 thereto, dated April 1976, August 1976 and January 1977, respectively; (6) the Preliminary Safety Analysis Report and amendments thereto; (7) the applicants' Environmental Report dated September 1974 and supplements thereto; (8) the Draft Environmental Statement dated February 1975; and (9) the Final Environmental Statement dated October 1975, are available for public inspection at the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. and the Riverhead Free Library, 330 Court Street, Riverhead, New York. A copy of the construction permits may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Project Management.

Copies of the Safety Evaluation Report (Document No. NUREG-75/095), its Supplements (NUREG-0057) and the Final Environmental Statement (Document No. NUREG-75/079) may be purchased, at current rates, from the National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161.

Dated at Bethesda, Maryland, this 4th day of January, 1979.

For the Nuclear Regulatory Commission.

ROBERT L. BAER,
Chief, Light Water Reactors Branch No. 2, Division of Project Management.

[FR Doc. 79-1098 Filed 1-11-79; 8:45 am]

[7590-01-M]

[Docket No. 50-437]

OFFSHORE POWER SYSTEMS

Availability of NRC final Environmental Statement (Part III) Comparison of Risks From the Accidental Releases of Radioactivity to the Environment for Floating and Land-Based Nuclear Power Plants

Pursuant to the National Environment Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in Appendix M of 10 CFR Part 50 and 10 CFR Part 51, notice is hereby given that a Final Environmental State (FES), Part III providing a comparison of overall risk from accidental releases of radioactivity to the environment for floating and land-based plants has been prepared by the Commission's Office of

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Nuclear Reactor Regulation. The FES also presents an integrated cost-benefit analysis for the floating nuclear plant concepts and reflects on a cumulative basis, the elements of review in Parts I, II, and III. This Statement (NUREG-0502) is Part III of the environmental review related to the issuance of a manufacturing license to Offshore Power Systems.

NUREG-0502 is available for inspection by the public in the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C.; the Jacksonville Public Library, 122 North Ocean Street, Jacksonville, Florida 32204; the Stockton State College Library, Pomona, New Jersey 08240; and the New Orleans Public Library, Business and Science Division, 219 Loyola Avenue, New Orleans, Louisiana 70141. The report is also being made available at the Florida State Clearinghouse Bureau of Intergovernmental Relations, Division of State Planning, Department of Administration, 660 Apalachee Parkway, Tallahassee, Florida 32304 and at the Metropolitan Clearinghouse Jacksonville Area Planning Board, 330 East Bay Street, Jacksonville, Florida 32202.

Notice of Availability of the Draft Environmental Statement, Part III, was published in the FEDERAL REGISTER on October 18, 1976 (41 FR 45899). Revision 1 to NUREG-0127 was issued May 11, 1978 (43 FR 20283). Comments received from Federal, State and local officials and interested members of the public on NUREG-0127 and Revision 1 thereto have been included as appendices in NUREG-0502 (FES, Part III).

Other NRC documents previously issued relating to this environmental review include: (1) Draft Environmental Statement (DES) Part I, July 1974; (2) DES Part II, (NUREG-75/113), November 1975; (3) DES Part III (NUREG-0127), October 1976 and Revision 1, March 1978; (4) FES, Part I, (NUREG-75/091), October 1975; (5) FES, Part II, (NUREG-0056) September 1976; (6) Draft Addendum to FES Part II, March 1978; and (7) Final Addendum to FES, Part II, June 1978. A copy of items 1, 2, 3 and 6 may be obtained by request addressed to the U. S. Nuclear Regulatory Commission, Division of Document Control, Washington, D.C. 20555. Items 4, 5 and 7 and copies of this FES, Part III (NUREG-0502) may be purchased from the National Technical Information Service, Springfield, Virginia 22161. (Printed copy: $13.25; microfiche: $3.00).

Dated at Bethesda, Maryland this 29th day of December 1978.

For the Nuclear Regulatory Commission.

RONALD L. BALLARD,
Chief, Environmental Projects Branch 1, Division of Site Safety and Environmental Analysis.

[FR Doc. 79-1099 Filed 1-11-79; 8:45 am]

[7590-01-M]

[Docket No. P-564A]

PACIFIC GAS AND ELECTRIC CO. (STANISLAUS NUCLEAR PROJECT, UNIT NO. 1)

Order

JANUARY 5, 1979.

I.

On December 28, 1978, the Southern California Edison Company (Edison), not a party to this proceeding, appeared specially and filed a motion to quash a subpoena duces tecum which had been served upon Edison by DWR. This motion was supported by points and authorities and the affidavit of Lowell John Dosch.

This motion to quash will be heard and considered by the Board at 10:00 a.m., local time, Wednesday, January 24, 1979, in the State Building, Room 1202 (First Floor), 310 McAllister Street, San Francisco, California 94102.

II.

The continuation of the September 25-27, 1978, prehearing conference in this proceeding will be resumed at 9:00 a.m., local time, Tuesday, January 23, 1979, in the State Building, Room 1202 (First Floor), 310 McAllister Street, San Francisco, California 94102.

The Board will consider the following matters, among others, at this resumed prehearing conference:

1. DWR motion of September 14, 1978 regarding discovery and scheduling, as modified by DWR motions dated December 1, 1978.

2. Prehearing conference briefs filed by all parties December 1978, and January 1979.

3. Issues related to the Stanislaus Commitments, Mendocino Advice Letter of Attorney General, Stanislaus Advice Letter and correspondence from Attorney General, Mooted Issues, if any, Pending Hearings in Other Fora.

4. Reports on status of discovery, including document production and analysis of information derived or anticipated from such discovery.

5. Consideration of suggestions to expedite discovery and schedule evidentiary hearings.

6. Consideration of other pending motions or requests.

It is so ordered.

Dated at Bethesda, Maryland this 5th day of January 1979.

For the Atomic Safety and Licensing Board.

MARSHALL E. MILLER,
Chairman.

[FR Doc. 79-1100 Filed 1-11-79; 8:45 am]

[7590-01-M]

[Docket Nos. 50-361 and 50-362]

SOUTHERN CALIFORNIA EDISON CO. AND SAN DIEGO GAS AND ELECTRIC CO. (SAN ONOFRE NUCLEAR GENERATING STATION, UNITS 2 AND 3)

Order Extending Construction Completion Dates

Southern California Edison Company and San Diego Gas and Electric Company are the holders of Construction Permit Nos. CPPR-97 and CPPR-98 issued by the Atomic Energy Commission [1] on October 18, 1973 for the San Onofre Nuclear Generating Station. These facilities are presently under construction at the applicants' site at Camp Pendleton, San Diego County, California. By letter dated March 31, 1978, Southern California Edison Company filed a request for an extension of the latest construction completion dates for the facilities from January 1, 1979 to June 1, 1980 for Unit 2 and from January 1, 1980 to June 1, 1981 for Unit 3. The extension was requested because construction has been delayed due to (1) unanticipated review effort incurred prior to issuance of the Construction Permits; (2) delays in obtaining approval from the California Coastal Zone Conservation Commission for the facilities; (3) delays due to a labor strike and (4) greater than anticipated time required for erection of walls and dome of the containment.

This action involves no significant hazards consideration, good cause has been shown for the delay, and the requested extension is for a reasonable period, the bases for which are set forth in the staff evaluation dated December 28, 1978. The preparation of an environmental impact statement for this particular action is not warranted because there will be no significant environmental impact attributable to the Order other than that which has already been predicted and described in the Commission's Draft Environmental Statement for the San Onofre Nuclear Generating Station, Units 2 and 3, published in November 1972 and the Final Environmental Statement published in March 1973. A

[1] Effective January 20, 1975, the Atomic Energy Commission became the Nuclear Regulatory Commission and permits in effect on that day continued under the authority of the Nuclear Regulatory Commission.

Negative Declaration and an Environmental Impact Appraisal have been prepared and are available, as are the above stated documents, for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and at the local public document room established for the San Onofre Nuclear Generating Station, Units 2 and 3 at the Mission Viejo Branch Library, 24851 Chrisanta Drive, Mission Viejo, California 92676.

It is hereby ordered, That the latest completion date for CPPR-97 be extended from January 1, 1979 to June 1, 1980 and the latest date for CPPR-98 be extended from January 1, 1980 to June 1, 1981.

Date of Issuance: December 28, 1978.

For the Nuclear Regulatory Commission.

ROGER S. BOYD,
Director, Division of Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 79-1101 Filed 1-11-79; 8:45 am]

[7590-01-M]

[Docket Nos. 50-361 and 50-362]

SOUTHERN CALIFORNIA EDISON CO. AND SAN DIEGO GAS AND ELECTRIC CO. (SAN ONOFRE NUCLEAR GENERATING STATION, UNIT NOS. 2 & 3)

Negative Declaration Supporting: Extension of Construction Permit

The U.S. Nuclear Regulatory Commission (the Commission) has reviewed the Southern California Edison Company and San Diego Gas and Electric Company (permittees) request to extend the expiration date of the construction permit for the San Onofre Nuclear Generating Station, Unit Nos. 2 and 3 (CPPR-97 and CPPR-98) which are located in San Diego County in the State of California. The permittees requested an eighteen month extension to the permits through June 1, 1980 for CPPR-97 and through June 1, 1981 for CPPR-98, to allow for completion of construction of the facilities.

The Commission's Division of Site Safety and Environmental Analysis has prepared an environmental impact appraisal relative to these changes to CPPR-97 and CPPR-98. Based on this appraisal, the Commission has concluded that an environmental impact statement for this particular action is not warranted because there will be no significant environmental impact attributable to the proposed action other than that which has already been described in the Commission's Final Environmental Statement-Construction Permit stage or evaluated in the environmental impact appraisal.

The environmental impact appraisal is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Mission Viejo Branch Library, 24851 Chrisanta Drive, Mission Viejo, California.

Dated at Bethesda, Maryland, this 28th day of December 1978.

For the Nuclear Regulatory Commission.

DONALD E. SELLS,
Acting Chief, Environmental Projects Branch 2, Division of Site Safety and Environmental Analysis.

[FR Doc. 79-1102 Filed 1-11-79; 8:45 am]

[7590-01-M]

[Docket No. 50-280]

VIRGINIA ELECTRIC AND POWER CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 46 to Facility Operating License No. DPR-32, issued to Virginia Electric and Power Company (the licensee), which adds license conditions related to operation of the Surry Power Station, Unit No. 1 (the facility) located in Surry County, Virginia. This amendment is effective as of the date of issuance.

This amendment specifies license conditions related to steam generator tube inspections for Surry Unit 1. Operating limits on these plant parameters were previously governed by NRC Order for Modification of License dated June 23, 1978, which is superseded by the amendment. The only change to the operating limits previously imposed for steam generator tube inspections is the date for the next inspection.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated December 12, 1978 as supplemented December 20 and 29, 1978, (2) Amendment No. 46 to License No. DPR-32; and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Swem Library, College of William and Mary, Williamsburg, Virginia. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 29th day of December, 1978.

For the Nuclear Regulatory Commission.

CHARLES M. TRAMMELL,
Acting Chief, Operating Reactors Branch #1, Division of Operating Reactors.

[FR Doc. 79-1103 Filed 1-11-79; 8:45 am]

[7590-01-M]

[Docket Nos. 50-338SP & 50-339SP]

VIRGINIA ELECTRIC AND POWER CO. (VEPCO) (NORTH ANNA POWER STATION, UNITS 1 AND 2)

Assignment of Atomic Safety and Licensing Appeal Board; Proposed Amendment to Operating License NPF-4

Notice is hereby given that, in accordance with the authority in 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has assigned the following panel members to serve as the Atomic Safety and Licensing Appeal Board for this spent fuel pool proceeding.

Alan S. Rosenthal, Chairman
Dr. John H. Buck
Dr. Lawrence R. Quarles

Dated: January 5, 1979.

MARGARET E. DU FLO,
Secretary to the Appeal Board.

[FR Doc. 79-1104 Filed 1-11-79; 8:45 am]

[3110-01-M]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Man-

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agement and Budget on January 5, 1979 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes:

The name of the agency sponsoring the proposed collection of information;

The title of each request received;

The agency form number(s), if applicable;

The frequency with which the information is proposed to be collected;

An indication of who will be the respondents to the proposed collection;

The estimated number of responses;

The estimated burden in reporting hours; and

The name of the reviewer or reviewing division or office.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the clearance office, Office of Management and Budget, Washington, D.C. 20503, (202-395-4529), or from the reviewer listed.

NEW FORMS

U.S. CIVIL SERVICE COMMISSION

Financial disclosure statement proposed, SF-278A
On occasion
Public officials, 1 responses; 1,500 hours
Marsha Traynham, 395-6140

DEPARTMENT OF COMMERCE

Bureau of Census
Mattresses, matching foundations, and convertible sofas, MA-25E
Annually
Bedding manufacturers, 150 responses; 150 hours
Office of Federal Statistical Policy and Standard, 673-7956

Bureau of Census
1979 residential finance survey (pretest)—1980 census followon survey, D1608(X) through D1613(X)
Single-time
Residential property owners nationwide, 4,600 responses; 1,683 hours
Office of Federal Statistical Policy and Standard, 673-7956

Economic Development Administration
Preliminary plan for interview guide for Indian economic development evaluation, ED-446Q
Single-time
Members of Indian tribes, 380 responses; 190 hours
C. Louis Kincannon, 395-3211

REVISIONS

VETERANS ADMINISTRATION

Application for medical benefits VA 10-10
On occasion
Veterans, 1,750,000 responses; 291,666 hours
Caywood, D.P., 395-6140

DEPARTMENT OF COMMERCE

Economic Development Administration
Minority business enterprise utilization report ED-530 (parts A and B)
On occasion
State and local governments, 2,400 responses; 1,600 hours
Budget Review Division, 395-4775

Bureau of Census
Mining machinery and mineral processing equipment (domestic and export shipments) MA-35F
Annually
Manufacturing establishments, 168 responses; 112 hours
Office of Federal Statistical Policy and Standard, 673-7956

Bureau of Census
Selected heating equipment (shipments and inventories) MA-34N
Annually
Manufacturers of heating equipment, 350 responses; 175 hours
Office of Federal Statistical Policy and Standard, 673-7956

Bureau of Census
Asphalt and tar roofing and siding products (shipments) MA-29A
Monthly
Manufacturers of asphalt and tar roofing products, 100 responses; 50 hours
Office of Federal Statistical Policy and Standard, 673-7956

EXTENSIONS

DEPARTMENT OF COMMERCE

Bureau of Census
Survey of plant capacity MQ-C1
Annually
Manufacturing establishments, 9,000 responses; 13,500 hours
Office of Federal Statistical Policy and Standard, 673-7956

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education
Financial status report and performance report (BEH) OE-9037-1
Annually
LEA's, SEA's, other public and private agencies, 1,173 responses; 14,706 hours
Budget Review Division, 395-4775

DEPARTMENT OF LABOR

Labor Management and Service Administration
Eligibility data from LMSA1010
On occasion
Veterans, reservists, nat'l guard mem., exam. rejectees, 3,500 responses; 875 hours
Strasser, A., 395-6132

DEPARTMENT OF THE TREASURY

Bureau of Customs
Certification of manufacture and delivery customs 7577-A, 7577-B
On occasion
Manufacturers/producers/exporters, 55,000 responses; 9,185 hours
Gelger, Susan B., 395-5867

DAVID R. LEUTHOLD,
Budget and Management Officer.

[FR Doc. 79-1221 Filed 1-11-79; 8:45 am]

[6325-01-M]

OFFICE OF PERSONNEL MANAGEMENT

COMMITTEE ON PRIVATE VOLUNTARY AGENCY ELIGIBILITY

Meeting

In accordance with the Federal Advisory Committee Act, Public Law 92-463, the Office of Personnel Management announces the following meeting:

NAME: Committee on Private Voluntary Agency Eligibility.

DATE AND TIME: January 31, 1979, 9:30 a.m.

PLACE: Office of Personnel Management, 1900 E Street, N.W., Washington, D.C.

ROOM: 7B09.

TYPE OF MEETING: Open. Any interested person may file a written statement with the Committee in advance of or at the meeting.

CONTACT PERSON:

Margaret Davis, Office of the Assistant to the Director, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415. Telephone: 202-632-5564.

PURPOSE OF COMMITTEE: To make recommendations to the Director of the Office of Personnel Management regarding eligiblity of national voluntary agencies to participate in the Federal fund-raising program.

AGENDA: Review of applications for fund-raising privileges which have been submitted by voluntary organizations to the Office of Personnel Management in accordance with the Federal Fund-Raising Manual.

Dated: January 8, 1979.

GEORGE J. MCQUOID,
Assistant to the Director.

[FR Doc. 79-1256 Filed 1-11-79; 8:45 am]

[3190-01]

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

TRADE POLICY STAFF COMMITTEE

Generalized System of Preferences: Information on Imports During First Ten Months of 1978

This notice is for information only, and has no legal effect. It is provided in order to inform the public of certain import statistics covering the period of January through October, 1978. These statistics are relevant to the "competitive-need" limits set forth in section 504(c) of the Trade Act of 1974 (19 U.S.C. 2464(c)), pertaining to the Generalized System of Preferences (GSP). Those limits provide, in effect, that any GSP beneficiary country that exported to the United States during the most recent calendar year a quantity of any one GSP eligible article in excess of (1) $25 million, adjusted annually to reflect changes in the U.S. Grosss National Product, or (2) 50 percent of total U.S. imports of the article, is to cease receiving duty-free treatment under GSP for such article not later than 60 days after the close of that calendar year.

Based on preliminary data, subject to revision, the dollar limit cited in the preceding sentence is expected to be approximately $37.5 million for calendar year 1978.

An Executive order will be issued on or before March 1, 1979, making the adjustments that are required by section 504(c) of the Trade Act, on the basis of official data covering all of calendar year 1978. Such data are not currently available. It should be emphasized that the information set forth below covers only the first ten months of 1978. While this is not complete information on which adjustments will be based, it is being published now in order to provide the maximum possible advance indication as to adjustments that may be made to meet the requirements of section 504(c) of the Trade Act.

List I below shows how the "competitive-need" list of countries ineligible to receive GSP benefits for particular articles might look if that list were based on data covering the period January through October, 1978. In fact, the "competitive-need" list that will be issued and become effective on or about March 1 will be based on data for the full twelve months of 1978, so that List I below is indicative only and is subject to changes.

List II below shows countries which, on the basis of data for the first ten months of 1978, were close to exceeding the "competitive-need" limits for particular articles, but which had not actually exceeded those limits.

The column headed "TSUS" in the List below sets forth item numbers of the Tariff Schedules of the United States (19 U.S.C. 1202), representing categories of imported articles.

LIST I

GSP eligible articles for which a beneficiary country supplied—

(a) 50 per cent or more of U.S. imports in January—October 1978, or

(b) Imports valued at $37.5 million or more during that perios.

LIST I

TSUS	Country	Percent	$ Million
106.60	India	53	
106.70	Cayman Islands	100	
107.48	Argentina	51	
107.80	Argentina	53	
113.01	Thailand	51	
114.05	Republic of Korea	51	
121.55	India	66	
121.56	Argentina	56	
126.71	Republic of China	51	
130.35	Argentina	61	
130.40	Mexico	97	
135.51	Mexico	92	
135.80	Nicaragua	97	
135.90	Mexico	96	
136.00	Dominican Republic	93	
136.80	Mexico	60	
136.92	Israel	57	
137.40	Mexico	62	
137.71	Mexico	76	
137.75	Costa Rica	84	
138.05	Mexico	65	
140.21	Mexico	81	
140.25	Mexico	66	
141.35	Turkey	65	
141.55	Dominican Republic	90	
141.70	Republic of China	97	
141.77	Mexico	57	
145.53	Turkey	84	
145.60	Republic of China	79	
146.12	Argentina	52	
146.22	Turkey	59	
146.44	Phillippine Republic	71	
147.33	Jamica	94	
147.36	Israel	100	
147.80	Mexico	83	
147.88	Mexico	93	
148.12	Mexico	95	
148.25	Mexico	60	
148.35	Mexico	95	
148.72	Chile	94	
148.77	Republic of Korea	81	
152.00	Panama	74	
152.43	Dominican republic	84	
152.54	Brazil	57	
153.08	Brazil	52	
154.40	Republic of China	55	
154.55	Republic of China	53	
154.60	Republic of China	66	
155.20	Dominican Republic	17	107
155.20	Brazil	10	63
155.20	Philippine Republic	20	125
155.35	Barbados	60	
156.40	Brazil	20	65
156.53	Egypt	100	
161.69	Mexico	71	
162.11	Syria	51	
168.15	Trinidad	82	
176.33	Malaysia	62	
177.12	Panama	100	
177.72	Cayman Islands	92	

LIST I—Continued

TSUS	Country	Percent	$ Million
182.90	Panama	53	
184.65	Republic of China	77	
186.20	Brazil	88	
186.40	Mexico	100	
190.68	Mexico	61	
192.85	Mexico	68	
200.06	Hong Kong	96	
200.91	Honduras	56	
202.40	Philippine Republic	52	
202.62	Mexico	99	
203.20	Philippine Republic	58	
206.45	Philippine Republic	50	
206.47	Republic of China	65	
206.60	Mexico	68	
206.98	Republic of China	58	
220.10	Portugal	71	
220.15	Portugal	77	
220.20	Portugal	77	
220.25	Portugal	67	
220.35	Portugal	99	
220.37	Portugal	85	
220.41	Portugal	100	
220.48	Portugal	59	
220.50	Portugal	51	
222.10	Hong Kong	67	
222.34	Philippine Republic	66	
240.02	Philippine Republic	78	
240.10	Nicaragua	69	
240.12	Brazil	56	
240.16	Republic of China	100	
240.19	Republic of China	57	
240.21	Mexico	54	
240.30	Mexico	57	
240.34	Republic of China	58	
240.40	Mexico	50	
240.50	Republic of China	100	
240.56	Honduras	100	
245.00	Romania	64	
245.30	Brazil	69	
245.45	Romania	72	
252.25	Argentina	55	
254.56	Hong Kong	59	
254.58	Hong Kong	55	
256.60	Republic of Korea	66	
256.85	Mexico	91	
304.04	Philippine Republic	100	
304.40	Thailand	100	
304.44	Brazil	74	
304.58	Sierra Leone	63	
305.22	India	85	
305.28	Thailand	58	
305.30	Thailand	53	
306.52	Peru	99	
308.30	Brazil	92	
308.55	Republic of Korea	95	
319.01	India	98	
319.03	India	96	
319.05	India	99	
319.07	India	97	
335.50	India	67	
347.30	India	86	
355.04	Mexico	63	
355.20	Republic of China	100	
360.35	India	88	
364.09	Ghana	67	
365.05	Haitl	71	
389.61	Hong Kong	66	
403.58	Israel	65	
403.79	Mexico	59	
408.75	Romania	100	
416.05	Mexico	74	
417.22	Mexico	98	
418.24	India	77	
420.78	Turkey	84	
420.98	Brazil	92	
422.24	Mexico	99	
422.76	Mexico	91	
425.84	Netherlands Antilles	100	
426.12	Republic of China	54	
426.34	Republic of China	98	
427.16	Argentina	93	
437.16	India	87	
437.24	Brazil	63	
437.64	Brazil	61	
446.10	Malaysia	74	
455.16	Republic of China	100	
455.30	Israel	74	

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LIST I—Continued

TSUS/Country	Percent	$ Million
460.60 India	99	
461.15 Bermuda	62	
465.15 Cayman Islands	53	
465.70 Argentina	100	
466.05 Jamaica	63	
472.48 Cyprus	51	
473.32 Cyprus	100	
473.50 Mexico	100	
473.52 Mexico	100	
473.56 Mexico	92	
473.82 Republic of Korea	93	
490.32 Argentina	55	
493.21 Republic of China	64	
511.31 Mexico	91	
514.11 Dominican Republic	82	
514.54 Mexico	67	
515.54 Mexico	53	
516.24 India	75	
516.71 India	91	
516.73 India	100	
516.74 India	91	
516.76 India	90	
517.24 Malagasy Republic	57	
518.41 Mexico	71	
520.35 Thailand	65	
522.71 Somalia	100	
523.51 India	100	
531.21 Mexico	73	
533.26 Romania	73	
535.31 Mexico	66	
544.11 Romania	51	
545.31 Republic of China	68	
545.37 Republic of China	77	
545.53 Mexico	56	
545.65 Mexico	80	
545.81 India	63	
545.85 Republic of China	55	
546.21 Republic of China	57	
547.41 Hong Kong	78	
603.45 Republic of Korea	81	
610.66 Israel	100	
610.71 Israel	93	
612.03 Chile	58	
612.06 Peru	12	62
612.06 Chile	31	156
612.06 Zambia	15	78
612.15 Mexico	52	
612.40 Cayman Island	100	
613.15 Mexico	57	
622.40 Brazil	99	
626.22 Peru	66	
628.05 Mexico	88	
628.50 Peru	55	
632.60 Peru	98	
642.09 Chile	51	
646.04 Republic of China	64	
646.82 Republic of China	59	
646.86 Hong Kong	54	
646.98 Mexico	95	
649.23 Peru	58	
649.75 Republic of China	69	
650.83 Hong Kong	93	
650.87 Hong Kong	93	
650.89 Hong Kong	62	
651.01 Hong Kong	63	
651.13 Hong Kong	51	
651.45 Republic of China	57	
651.51 Hong Kong	59	
651.62 Peru	100	
652.84 Mexico	57	
652.93 Mexico	55	
653.02 Mexico	63	
653.25 Peru	82	
653.47 Republic of China	85	
653.49 Republic of China	63	
653.70 Hong Kong	84	
653.85 Republic of China	72	
653.93 Republic of China	71	
657.24 Republic of China	77	
657.30 Republic of China	50	
660.42 Brazil	20	44
660.44 Mexico	18	66
662.18 Republic of Korea	74	
662.35 Mexico	53	
672.10 Hong Kong	84	
674.56 Mexico	60	
676.23 Argentina	71	
676.52 Hong Kong	12	62
678.50 Republic of Korea	5	42
678.50 Republic of China	5	43
683.15 Mexico	52	
683.80 Hong Kong	74	
684.10 Republic of China	75	
684.50 Hong Kong	31	55
684.70 Republic of China	14	50
685.24 Republic of Korea	8	44
685.24 Hong Kong	21	118
685.24 Republic of China	10	59
685.90 Mexico	16	73
686.24 El Salvador	60	
687.30 Malaysia	55	
687.37 Republic of Korea	51	
688.10 Republic of China	63	
688.12 Mexico	53	
688.30 Republic of Korea	53	
688.40 Hong Kong	24	40
690.15 Mexico	94	
692.27 Mexico	10	115
696.35 Republic of China	59	
702.14 Republic of Korea	74	
702.15 Republic of China	85	
702.20 Republic of Korea	72	
702.35 Mexico	51	
702.45 Mexico	98	
702.47 Mexico	64	
703.20 Portugal	68	
703.30 Mexico	100	
703.65 Mexico	72	
703.75 Mexico	71	
704.34 Republic of China	91	
704.95 Republic of Korea	60	
706.40 Hong Kong	70	
706.47 Republic of China	52	
708.57 Republic of Korea	73	
713.15 Mexico	51	
713.19 Mexico	97	
722.14 Hong Kong	73	
722.55 Hong Kong	80	
724.35 Republic of Korea	51	
725.32 Republic of China	50	
726.70 Mexico	50	
726.90 Mexico	53	
727.31 Republic of Korea	50	
730.25 Turkey	98	
730.27 Philippine Republic	62	
730.29 Brazil	53	
730.41 Brazil	98	
731.10 Republic of China	55	
731.50 Republic of China	52	
732.52 Mexico	53	
732.62 Republic of China	72	
734.10 Republic of China	87	
734.25 Hong Kong	63	
734.30 Hong Kong	70	
734.34 Hong Kong	56	
734.51 Republic of China	85	
734.56 Haiti	77	
734.60 Republic of China	92	
734.75 Republic of Korea	71	
734.87 Republic of China	63	
735.09 Republic of China	50	
735.11 Republic of China	54	
737.25 Republic of Korea	53	
737.30 Republic of Korea	62	
737.35 Hong Kong	63	
737.50 Hong Kong	63	
737.80 Hong Kong	59	
737.95 Hong Kong	39	92
737.95 Republic of China	17	42
740.10 Hong Kong	10	38
740.30 Hong Kong	64	
740.75 Republic of Korea	60	
741.15 Republic of China	50	
741.20 Hong Kong	97	
741.25 Hong Kong	51	
741.50 Hong Kong	53	
745.08 Hong Kong	97	
748.40 Republic of Korea	53	
750.05 Hong Kong	56	
750.35 Republic of China	82	
750.50 Republic of Korea	50	
751.05 Republic of China	70	
751.10 India	57	
751.15 Republic of China	62	
751.20 Republic of China	69	
756.40 Hong Kong	56	
760.65 Republic of China	89	
772.03 Hong Kong	58	
772.35 Republic of China	75	
772.97 Hong Kong	55	
774.20 India	54	
774.35 Republic of China	100	
774.60 Hong Kong	19	46
790.07 Hong Kong	51	
790.39 Republic of China	78	
790.59 Republic of China	63	
790.61 Republic of China	71	
790.62 Republic of China	61	
790.70 Republic of Korea	89	
791.17 Argentina	68	
791.76 Republic of Korea	38	97
791.80 Republic of China	83	
792.50 Philippine Republic	68	
792.60 Hong Kong	81	
792.75 Hong Kong	90	

LIST II.

GSP beneficiary countries which supplied—

(a) 47 percent or more, but less than 50 percent, of U.S. imports of a GSP eligible article in January-October 1978, or

(b) Imports of a GSP eligible article valued at $35 million or more, but less than $37.5 million, during that period.

LIST II

TSUS/Country	Percent	$ Million
111.92 Philippine Republic	47	
121.15 Mexico	47	
121.35 Argentina	48	
131.35 Hong Kong	48	
145.09 Costa Rica	48	
147.85 Brazil	47	
156.40 Ivory Coast	11	36
206.53 Republic of China	49.2	
222.44 Philippine Republic	49.9	
245.20 Brazil	47	
305.20 India	47	
308.06 Republic of Korea	49.2	
308.06 Hong Kong	49.8	
365.84 Republic of China	49.2	
370.17 Portugal	47	
418.78 Mexico	47	
419.60 Chile	49.5	
421.90 Fiji	48	
429.22 Brazil	47	
534.74 Republic of China	47	
613.18 Israel	47	
646.88 Hong kong	47	
648.63 Mexico	48	
651.53 Republic of China	48	
652.36 Republic of Korea	48	
660.25 Israel	49.3	
676.52 Mexico	7	36
686.30 Republic of Korea	48	
686.30 Republic of China	48	
687.42 Republic of China	49.9	
694.40 Singapore	15	35
731.30 Republic of China	47	
734.54 Republic of Korea	47	
734.54 Republic of China	49.0	
748.12 Haiti	49.4	
748.15 Republic of China	47	
750.65 Republic of Korea	48	
755.25 Hong Kong	49.2	
756.23 India	49.0	
774.60 Republic of China	14	35
791.76 Argentina	13	35

WILLIAM B. KELLY, JR.,
Chairman.

[FR Doc. 79-1212 Filed 1-11-79; 8:45 am]

[4810-31-M]

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[Notice No. 79-1]

CLOSED MEETINGS

Public Availability of Reports

Pursuant to the provisions of the Federal Advisory Committee Act 5 U.S.C. App. I (Pub. L. 92-463), the Advisory Committees of the Bureau of Alcohol, Tobacco and Firearms, which held closed meetings through December 31, 1978, have prepared summary reports on activities of those meetings. Copies of the reports have been filed and are available for public inspection at two locations:

The Library of Congress, Room 256, Main Building, 10 First Street SE., Washington, D.C.

The Bureau of Alcohol, Tobacco and Firearms, Federal Building, 12th and Pennsylvania Avenue NW., Room 8233, Washington, D.C.

Signed: January 3, 1979.

JOHN G. KROGMAN,
Acting Director.

[FR Doc. 79-1065 Filed 1-11-79; 8:45 am]

[4810-22-M]

Customs Service

[520974]

AMERICAN MANUFACTURER'S PETITION

Receipt of an American Manufacturer's Petition to Reclassify Sheets of Acrylic Resin

AGENCY: United States Customs Service, Department of the Treasury.

ACTION: Notice of receipt of American manufacturer's petition.

SUMMARY: The Customs Service has received a petition from an American manufacturer of sheets of acrylic resin requesting that imports of these articles be reclassified under item 771.45, Tariff Schedules of the United States (TSUS), regardless of dimension or thickness. The current Customs practice is to classify certain sheets of acrylic resin measuring over 15 inches in width and 18 inches in length under item 771.42, TSUS. Articles classified under item 771.42, TSUS, are dutiable at the rate of six percent ad valorem and are eligible for duty-free treatment under the Generalized System of Preferences (GSP). Articles classified under item 771.45, TSUS, are dutiable at the rate of 8.5 cents per pound and are eligible for duty-free treatment under the GSP unless imported from the Republic of China.

DATES: Interested persons may comment on this petition, and comments must be received on or before February 12, 1979.

ADDRESS: Comments, preferably in triplicate, should be addressed to the Commissioner of Customs, Attention: Regulations and Legal Publications Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT:

Donald F. Cahill, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-8181).

SUPPLEMENTARY INFORMATION:

BACKGROUND

A petition has been filed under section 516 of the Tariff Act of 1930, as amended (19 U.S.C. 1516), by Rohm and Haas Company, an American manufacturer of sheets of acrylic resin. The petitioner requests that imports of these sheets, regardless of dimension or thickness, be classified under the provision for sheets, wholly or almost wholly of plastics, not of cellulosic plastics materials, of acrylic resin, in item 771.45, Tariff Schedules of the United States (TSUS), which carries a duty of 8.5 cents per pound. The current Customs practice is to classify sheets of acrylic resin measuring over 15 inches in width and 18 inches in length under the provision for other sheets, wholly or almost wholly of rubber or plastics, not of cellulosic plastics materials, flexible, in item 771.42, TSUS, which carries a duty of six percent ad valorem, provided the sheets can be easily bent, turned, or twisted by hand without being broken, cracked, or permanently distorted upon returning by themselves to their original shape. Articles imported from beneficiary developing countries are eligible for duty-free treatment under the Generalized System of Preferences (GSP) if classified under either item 771.42, TSUS, or 771.45, TSUS, except that articles from the Republic of China classified under item 771.45, TSUS, are not eligible for GSP treatment. The petitioner believes that classification of acrylic resin sheets under item 771.42, TSUS, is erroneous for a number of reasons.

First, the petitioner contends that the provision for acrylic resin materials in item 771.45, TSUS, is an *eo nomine* provision which includes all forms of acrylic resin products unless there is a clear manifestation of a contrary Congressional intent. The petitioner states that there is no evidence of such a contrary intent, and further notes that item 771.42, TSUS, (relating to flexible sheets) is not a heading superior to item 771.45, TSUS; rather, it is a co-equal heading and does not qualify, modify, restrict, or invade item 771.45, TSUS. Even if item 771.42, TSUS were a superior heading, the petitioner claims that no article covered by item 771.45, TSUS, should be classified in item 771.42, TSUS, because the *eo nomine* classification in item 771.45, TSUS, would modify a less specific heading applicable to sheets generally.

The petitioner also argues that sheets of acrylic resin are not "flexible" within the definition of item 771.42, TSUS, stating that since their commercial introduction in 1935, sheets of acrylic resin have been characterized as "rigid plastic sheets" without regard for their size or thickness. To support this position the petitioner cites the explanatory notes provided in the Tariff Classification Study, November 15, 1960, for Schedule 7, Part 12—Rubber and Plastic Products, which explain on page 451 that the rates specified in item 771.42, TSUS, were to apply to polyvinyl chloride film and sheets in imitation of patent and fancy leather. The petitioner contends that the specific reference to these materials, which are more flexible than sheets of acrylic resin, indicates that item 771.42, TSUS, was not intended to apply to articles which the plastics industry considers to be rigid. These are defined as plastic products having a flexural modulus (a measure of flexibility) in excess of 100,000 psi. The petitioner believes that the legislative history of items 771.42 and 771.45, TSUS, establishes that the authors of these items were aware of the commercial distinction between rigid and flexible plastic sheets. Therefore, the petitioner contends that the dictionary definition of a flexible sheet as one that can be easily bent must yield to industry standards of defining flexibility. Under these standards, sheets of acrylic resin are not considered flexible, and thus classification under item 771.42 would be improper.

COMMENTS

Pursuant to § 175.21(a) of the Customs Regulations (19 CFR 175.21(a)), the Customs Service invites written comments (preferably in triplicate) on this petition from all interested parties.

The American manufacturer's petition, as well as all comments received in response to this notice, will be available for public inspection in accordance with §§ 103.8(b) and 175.21(b) of the Customs Regulations (19 CFR 103.8(b), 175.21(b)) during regular business hours at the Regulations and Legal Publications Division, Headquarters, U.S. Customs Service, Room 2335,

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1301 Constitution Avenue, NW., Washington, D.C. 20229.

AUTHORITY

This notice is being published in accordance with § 175.21(a) of the Customs Regulations (19 CFR 175.21(a)).

LEONARD LEHMAN,
Assistant Commissioner, Regulations and Rulings.

JANUARY 8, 1979.

[FR Doc. 79-1211 Filed 1-11-79; 8:45 am]

[4810-22-M]

CERTAIN TEXTILES AND TEXTILE PRODUCTS FROM PAKISTAN

Preliminary Countervailing Duty Determination

AGENCY: U.S. Customs Service, Treasury Department.

ACTION: Preliminary Countervailing Duty Determination.

SUMMARY: This notice is to inform the public that a countervailing duty investigation has resulted in a preliminary determination that the Government of Pakistan has given benefits which are considered bounties or grants within the meaning of the countervailing duty law on the manufacture, production or exportation of men's and boys' apparel and textile mill products of cotton, wool and manmade fibers. A final determination will be made by July 5, 1979. Interested persons are invited to comment on the action.

EFFECTIVE DATE: January 12, 1979.

FOR FURTHER INFORMATION CONTACT:

Donald W. Eiss, Office of Tariff Affairs, U.S. Treasury Department, 15th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20220, telephone (202-566-8256).

SUPPLEMENTARY INFORMATION: On August 28, 1978, a notice of "Receipt of Countervailing Duty Petition and Initiation of Investigation" was published in the FEDERAL REGISTER (43 FR 38485-38486). The notice stated that a petition had been received from the Amalgamated Clothing and Textile Workers Union alleging that payments or bestowals conferred by the Government of Pakistan upon the manufacture, production or exportation of men's and boys' apparel and textile mill products of cotton, wool and manmade fibers constitute the payment or bestowal of a bounty or grant, directly or indiretly, within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303) (referred to in this notice as the "Act").

For purposes of this notice, "textile mill products" include yarns, fabrics, household textiles, miscellaneous products of textile mills and certified handloomed and folklore products, made of cotton, wool and manmade fibers, as specified in U.S. bilateral textile agreements and described by the Tariff Schedules of the United States Annoted (TSUSA) item numbers set forth in the Appendix to the FEDERAL REGISTER notice published on October 13, 1978 (43 FR 47340). "Men's and boys' apparel" includes those items described by TSUSA item numbers in the Appendix to the above-cited FEDERAL REGISTER notice.

In the Notice of Initiation cited above, two programs contained in the petition were identified as *prima facie* not constituting the bestowal of a "bounty or grant." Those practices are:

(1) The exemption from the payment of sales tax on exported items and on raw materials used in the manufacture of items which are later exported.

(2) The remission from import duties on imported raw materials and component parts which are later exported as a part of a finished product.

On the basis of an investigation conducted pursuant to § 159.47(c) of the Customs Regulations (19 CFR 159.45(c)), the following programs have also been preliminarily determined not to operate in such a way as to be considered "bounties or grants" within the meeting of the Act. They are:

(1) Accelerated depreciation allowances for new plants and equipment and for machinery used for extra shifts. This program is available to, and is utilized by, firms in Pakistan regardless of whether they produce for export or for domestic consumption. Since the program is available to all firms in Pakistan, and does not contain any preferential provisions for export-oriented firms, this program does not constitute a "bounty or grant."

(2) Loans for capital equipment and projects made through government entities such as the Pakistan Industrial Credit and Investment Corporation, the Industrial Development Bank of Pakistan, the Investment Corporation of Pakistan and the Pakistan Industrial Development Corporation. These loans are in fact the method by which the Government of Pakistan distributes the bilateral and multilateral assistance it receives. The loans are made on identical terms regardless of whether the market orientation of the applicant is domestic or export. Further, there is no evidence at this stage that the Government of Pakistan has directed these loans to firms or industries which are export oriented. Due to the lack of any apparent preferential aspect of these loans for export oriented firms, it is determined preliminarily that this program does not constitute a "bounty or grant."

The following programs have been preliminarily determined not to have been utilized by the Pakistani textile industry.

(1) Tax credit schemes to encourage investment in designated areas of Pakistan. Virtually all firms manufacturing the products under investigation are ineligible to receive the credits in that they do not operate plants located in the designated areas. The few firms located in the designated areas were located there before the inception of the tax credit scheme and are also not eligible.

(2) Reduced corporate income taxes for companies established between July 1, 1975 and June 30, 1981 in specified areas of Pakistan. This program, which was listed separately in the Notice on Initiation has been determined to be a part of the regional development tax scheme discussed immediately above. For the reasons cited above, this program has also been determined not to have been utilized by the Pakistani textile industry.

Based upon the information available to date, two programs have been determined to constitute the bestowal of a "bounty or grant" upon the manufacture, production or exportation of certain textiles and textile products from Pakistan. They are:

(1) Reductions in income tax liabilities, depending upon the share of total sales which is exported.

(2) Short-term export financing (up to 90 days) at rates lower than those offered on loans of the same terms made to non-exporters.

It has been determined that both of these programs are available to, and have been utilized by, firms manufacturing the products under investigation. It is the contention of the Government of Pakistan that the utilization of each of these programs has been so limited that the benefits bestowed to any one manufacturer, or the industry as a whole, are clearly *de minimis*. It has been determined that for the purposes of this preliminary determination, insufficient information has been supplied to justify the acceptance of this contention. The Treasury Department will undertake to investigate these programs further prior to the issuance of a Final Determination in the case in order to calculate more precisely the level of utilization of each of these programs by firms in the Pakistani textile industry.

Before a final determination is made, consideration will be given to any relevant data, views, or arguments submitted in writing with respect to this preliminary determination. Submissions should be addressed to the Commissioner of Customs, 1301 Constitution Avenue, N.W., Washington, D.C. 20229, in time to be received by this office not later than February 12, 1979. Any request for an opportunity to present views orally should accompany such submission and a copy of all submissions should be delivered to any counsel that has heretofore represented any party to these proceedings.

This preliminary determination is published pursuant to section 303(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)).

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order 190 (Revision 15), March 16, 1978, the provisions of Treasury Department Order 165, Revised, November 2, 1954, and § 159.47 of the Customs Regulations (19 CFR 159.47), insofar as they pertain to the issuance of a preliminary countervailing duty determination by the Commissioner of Customs, are hereby waived.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

JANUARY 8, 1979.

[FR Doc. 79-1191 Filed 1-11-79; 8:45 am]

[4810-22-M]

CERTAIN TEXTILES AND TEXTILE PRODUCTS FROM THAILAND

Preliminary Countervailing Duty Determination

AGENCY: United States Customs Service, Treasury Department.

ACTION: Preliminary Countervailing Duty Determination.

SUMMARY: This notice is to inform the public that a countervailing duty investigation has resulted in a preliminary determination that the Government of Thailand has not given benefits which are considered to be bounties or grants on the manufacture or exportation of men's and boys' apparel and textile mill products of cotton, wool, and manmade fibers. A final determination will be made by July 5, 1979. Interested persons are invited to comment on this action.

EFFECTIVE DATE: January 12, 1979.

FOR FURTHER INFORMATION CONTACT:

Leon McNeill, Technical Branch, Duty Assessment Division, Office of Operations, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229, telephone 202-566-5492.

SUPPLEMENTARY INFORMATION: On August 28, 1978, a notice of "Receipt of Countervailing Duty Petition and Initiation of Investigation" was published in the FEDERAL REGISTER (43 FR 38492). The notice stated that a petition had been received alleging that payments or bestowals conferred by the Government of Thailand upon the manufacture, production or exportation of men's and boys' apparel and textile mill products of cotton, wool, and manmade fibers constitute the payment or bestowal of a bounty or grant, directly or indirectly, within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303) (referred to in this notice as "the Act").

For purposes of this notice "textile mill products" include yarns, fabrics, household textiles, miscellaneous products of textile mills, and certified handloomed and folklore products, made of cotton, wool and manmade fibers, as specified in the U.S. bilateral textile agreements and described by the Tariff Schedules of the United States Annotated (TSUSA) item numbers set forth in the Appendix to the FEDERAL REGISTER notice published on October 13, 1978 (43 FR 47340). "Men's and boys' apparel" includes those items described by TSUSA item numbers in the Appendix to the above-cited FEDERAL REGISTER notice.

On the basis of an investigation conducted under § 159.47(c) of the Customs Regulations (19 CFR 159.47(c)), it has been preliminarily determined that no practice of the Government of Thailand provides benefits constituting bounties or grants within the meaning of section 303 of the Act to manufacturers of textiles and textile products which export to the United States. One practice—an exemption for three to eight years from corporate income taxes for certain companies approved by the Board of Investment—was found to have provided benefits to one manufacturer during 1977. However, that company does not export to the United States, and accordingly that benefit does not constitute a bounty or grant.

Based on the information currently available, it preliminarily has been determined that certain practices of the Government of Thailand on their face do not constitute a bounty or grant. These practices are:

(1) Advisory technical and training services provided to manufacturers by the Ministry of Industry. The full cost of such services is charged directly to those companies which benefit from the program. The services are not free, as alleged in the petition.

(2) Rebate of a business tax imposed on raw materials used in export production. Inasmuch as the rebate is limited to taxes assessed on physical components of the exported product, allowance of the rebate is consistent with past Treasury policy toward indirect taxes.

It preliminarily has been determined that certain practices of the Government of Thailand either are not applicable or have not been utilized by the textile industry. These practices are:

1. Fiscal benefits granted by the Board of Investment for locating in certain specified areas of the country, including (a) a 100 percent tax holiday or a partial exemption of a tax for a certain time period; (b) reduction of business taxes on sales of products for a maximum of five years; (c) following expiration of the tax holiday, deduction from taxable income of double the actual cost of transport, water and electricity; (d) deduction from taxable income of up to 25 percent of capital investment in plant and amenities; and (e) reduction of income tax by 50 percent for five years following the expiration of the initial 100 percent tax holiday period.

2. Benefits granted to companies in areas controlled by the Industrial Estate Authority, including the provision of power and water at subsidized rates and availability of land at low rental or acquisition cost.

3. Relief from "business taxes" (levied on gross monthly receipts and collected at the point of origin) on equipment through either an outright exemption, a reduction from income tax or a cash rebate for companies producing for export.

4. Exemption from exchange controls or remittance of profits and dividends.

Before a final determination is made, consideration will be given to any relevant data, views or arguments submitted in writing with respect to this preliminary determination. Submissions should be addressed to the Commissioner of Customs, 1301 Constitution Avenue, N.W., Washington, D.C. 20229, in time to be received by his office not later than February 12, 1979. Any request for an opportunity to present views orally should accompany such submission and a copy of all submissions should be delivered to any counsel that has heretofore represented any party to these proceedings.

This preliminary determination is published pursuant to section 303(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)).

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order 190 (Revision 15), March 16, 1978, the provisions of Treasury Department Order No. 165, Revised, November 2, 1954, and section 159.47 of the Customs Regulations (19 CFR 159.47), insofar as they pertain to the issuance of a preliminary countervailing duty determination by the Com-

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missioner of Customs, are hereby waived.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.
JANUARY 8, 1979.

[FR Doc. 79-1192 Filed 1-11-79; 8:45 am]

[4810-22-M]

CERTAIN TEXTILES AND TEXTILE PRODUCTS FROM SINGAPORE

Preliminary Countervailing Duty Determination

AGENCY: U.S. Customs Service, Treasury Department.

ACTION: Preliminary Countervailing Duty Determination.

SUMMARY: This notice is to inform the public that a countervailing duty investigation has resulted in a preliminary determination that the Government of Singapore has not given benefits which are considered bounties or grants within the meaning of the countervailing duty law on the manufacture, production or exportation of men's and boys' apparel and textile mill products of cotton, wool and manmade fibers. A final determination will be made by July 5, 1979. Interested persons are invited to comment on this action.

EFFECTIVE DATE: January 9, 1979.

FOR FURTHER INFORMATION CONTACT:

Leon McNeill, Duty Assessment Division, Technical Branch, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229, telephone (202-566-5492).

SUPPLEMENTARY INFORMATION: On August 28, 1978, a notice of "Receipt of Countervailing Duty Petition and Initiation of Investigation" was published in the FEDERAL REGISTER (43 FR 38489). The notice stated that a petition had been received alleging that payments or bestowals conferred by the Government of Singapore upon the manufacture, production or exportation of men's boys' apparel and textile mill products of cotton, wool and manmade fibers constitute the payment or bestowal of a bounty or grant, directly or indirectly, within the meaning of Section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303) (referred to in this notice as the "Act").

For purposes of this notice, "textile mill products" include yarns, fabrics, household textiles, miscellaneous products of textile mills, and certified handloomed and folklore products, made of cotton, wool and manmade fibers, as specified in United States bilateral textile agreements and described by the Tariff Schedules of the United States Annotated (TSUSA) item numbers set forth in the Appendix to the FEDERAL REGISTER notice published on October 13, 1978 (43 FR 47340). "Men's and boys' apparel" includes those items described by TSUSA item numbers in the Appendix to the above-cited FEDERAL REGISTER notice.

On the basis of an investigation conducted pursuant to § 159.47(c) of the Customs Regulations (19 CFR 159.47(c)), it preliminarily has been determined that certain practices of the Government of Singapore do not constitute a bounty or grant because they are not used by the textile industry. These practices are:

(1) Exemption from corporate income tax for companies designated as a "pioneer" industry. Such status has been granted to textile companies in the past, but none has received any benefits under this program since 1976. Tax incentives are available only to "pioneer" companies and those eligible for the specific programs described below.

(2) Reduced corporate income tax for export-oriented companies. Companies granted "export enterprise status" are entitled to a concessionary tax rate on profits above a specified base. Only one textile firm has been granted such status, but its profits did not reach the level required for preferential treatment.

Based on the information currently available, it preliminarily has been determined that certain practices of the Government of Singapore do not consititute a bounty or grant within the meaning of the countervailing duty law. These practices are:

(1) Exemption from corporate income tax for companies increasing their investment in equipment. Any company may be granted limited tax relief on the increase of profits generated by at least S$ (Singapore dollars) 10 million. This program is not considered counteravailable because it is universally available to qualified firms. In any case, no textile company has ever received this benefit.

(2) Accelerated depreciation allowance. All manufacturers in Singapore are eligible to make use of this program, a 3-year depreciation plan, in lieu of normal depreciation practices. This program is not considered counteravailable because it is universally available to qualified firms.

Furthermore, it has been preliminarily determined that certain practices alleged in the petition do not exist in Singapore. These alleged practices are:

(1) Government loans available at preferential rates. No loans have been provided by either the Government of Singapore or the Economic Development Board (EDB).

(2) Preferential rental, tax, and utility rates for companies locating in designated industrial zones and free-trade zones. There are no such zones supported by the Government of Singapore. Most textile companies are located in Jurong Industrial Estate, a commercially-run industrial park. No direct incentives are given to locate there and space is equally available to all industries. Some apparel firms are located on sites leased by the Housing Development Board (HDB), but without any incentives. No textile or apparel firms are located in free trade zones and no such benefits exist there.

(3) Loans at preferential rates to exporters made by the Development Board of Singapore (DBS) and other sources. Loans have been provided by DBS and under the Small Industry Finance Scheme, but these are made at commercial rates.

Certain practices of the Government of Singapore were found to provide benefits to manufacturers and exporters of men's and boys' apparel and textile mill products. These practices are:

(1) Tax benefits derived from the double deduction from gross corporate income of expenses incurred in promoting export sales by participation in certain overseas trade fairs. The value of this benefit has been calculated by multiplying the amount of the deduction allowed eligible companies which exported to the United States in 1977 by the standard corporate income tax rate, and spreading this amount over the companies' total export sales.

(2) Short-term financing at preferential interest rates provided by the Monetary Authority of Singapore (MAS). The MAS operates a program which allows exporters to discount the value of pre-export and export issuance bills of exchange (which are, essentially, sales and purchase contracts) with commercial banks at a rate lower than the one commercially available. In turn, these banks rediscount the bills of exchange with the MAS. The benefit conferred by this program is equal to the interest savings of those participating exporters which had business dealings with the United States in 1977, spread over the value of their total exports in that year.

The benefits bestowed under these two programs involve an aggregate amount of less than five one-hundredths of one percent (.05%) of the value of the merchandise exported and are, therefore, considered to be *de minimis*. Accordingly, such benefits do not constitute bounties or grants within the meaning of the countervailing duty law. Therefore, it has been preliminarily determined that the Government of Singapore does not pay or bestow, directly or indirectly, bounties or grants withn the meaning of Section 303 of the Act upon the manufacture, production or exportation of men's and boys' apparel and textile mill products of cotton, wool and manmade fibers from Singapore.

Before a final determination is made, consideration will be given to any relevant data, views, or arguments submitted in writing with respect to this preliminary determination. Submissions should be addressed to the Commissoner of Customs, 1301 Constitution Avenue, N.W., Washington, D.C. 20229, in time to be received by this office not later than February 12, 1979. Any request for an opportunity to present views orally should accompany such submission and a copy of all submissions should be delivered to any counsel that has heretofore represented any party to these proceedings.

This preliminary determination is published pursuant to section 303(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)).

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order 190 (Revision 15), March 16, 1978, the provisions of Treasury Department Order 165, Revised, November 2, 1954, and section 159.47 of the Customs Regulations (19 CFR 159.47), insofar as they pertain to the issuance of a preliminary countervailing duty determination by the Commissioner of Customs, are hereby waived.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.
JANUARY 8, 1979.

[FR Doc. 79-1193; Filed 1-11-79; 8:45 am]

[4810-22-M]

CERTAIN TEXTILES AND TEXTILE PRODUCTS FROM MALAYSIA

Preliminary Countervailing Duty Determination

AGENCY: U.S. Customs Service, Treasury Department.

ACTION: Preliminary Countervailing Duty Determination.

SUMMARY: This notice is to inform the public that a countervailing duty investigation has resulted in a preliminary determination that the Government of Malaysia has given benefits which constitute bounties or grants within the meaning of the countervailing duty law on the manufacture, production, or exportation of men's and boys' apparel and textile mill products of cotton, wool, and manmade fibers. A final determination will be made not later than July 5, 1979. Interested persons are invited to comment on this action.

EFFECTIVE DATE: January 11, 1979.

FOR FURTHER INFORMATION CONTACT:

Holly Kuga, Duty Assessment Division, Office of Operations, U.S. Customs Service, Washington, D.C. 20229; (202) 566-5492.

SUPPLEMENTARY INFORMATION: On August 28, 1978, a "Notice of Receipt of Countervailing Duty Petition and Initiation of Investigation" was published in the FEDERAL REGISTER (43 FR 38479). The notice stated that a petition had been received alleging that payments or bestowals conferred by the Government of Malaysia upon the manufacture, production, or exportation of men's and boys' apparel and textile mill products of cotton, wool and manmade fibers constitute the payment or bestowal of a bounty or grant, within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303) (referred to in this notice as "the Act").

For purposes of this notice, "textile mill products" include yarns, fabrics, household textiles, miscellaneous products of textile mills, and certified handloomed and folklore products, made of cotton, wool and manmade fibers, as specified in U.S. bilateral textile agreements, and as described by the Tariff Schedules of the United States Annotated (TSUSA) item numbers set forth in the appendix to the FEDERAL REGISTER notice published on October 13, 1978 (43 FR 47340). "Men's and boys' apparel" includes those items described by TSUSA item numbers in the appendix to the above-cited FEDERAL REGISTER notice.

Information was not received from the Government of Malaysia in time to be properly analyzed prior to this determination. Accordingly, based on information contained in the petition and on investigation conducted pursuant to § 159.47(c) of the Customs Regulations (19 CFR 159.47(c)), it has been preliminarily determined that the following benefits granted by the Government of Malaysia constitute the payment or bestowal of bounties or grants within the meaning of section 303 of the Act:

1. Tax relief for up to 8 years for companies designated as being in a "pioneer" industry by the Federal Industrial Development Authority (FIDA).

2. Investment tax credits for other companies fulfilling certain conditions regarding investment.

3. Tax relief for companies satisfying specified conditions regarding employment levels and location.

4. Preferential loan rates, low lease and rental fees and subsidized utility rates for companies locating in designated industrial estates.

5. Tax relief for a period up to 8 years for enterprises qualifying under the "Locational Incentive Scheme".

6. Tax relief for companies qualifying under the "Increased Capital Allowance Incentive".

The incentives described above would be considered a bounty or grant if the cumulative size of the benefits, when viewed in conjunction with the proportion of total production which is exported, dictates such a conclusion. Information presently available does not permit the making of firm conclusions on this question.

7. Tax exemptions for companies that have surpassed their previous year's export sales level.

8. Accelerated depreciation allowance for companies exporting 20 percent or more of their total production.

9. Income tax deductions for expenses incurred in promoting exports.

10. Duty-free imports of machinery and other benefits for companies locating in free trade zones.

11. Subsidized premium rates for export insurance.

Accordingly, it is preliminarily determined that bounties or grants, within the meaning of section 303 of the Act, are being paid or bestowed, directly or indirectly, upon the manufacture, production, or exportation of men's and boys' apparel and textile mill products of cotton, wool and manmade fibers from Malaysia. A final determination will be made on or before July 5, 1979.

Before a final determination is made, consideration will be given to any relevant data, views or arguments submitted in writing with respect to this preliminary determination. Submissions should be addressed to the Commissioner of Customs, 1301 Constitution Avenue NW., Washington, D.C. 20229, in time to be received by his office not later than February 12, 1979. Any request for an opportunity to present views orally should accompany such submission and a copy of all submissions should be delivered to any counsel that has heretofore represented any party to these proceedings.

This preliminary determination is published pursuant to section 303(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)).

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order 190 (Revision 15), March 16, 1978, the provisions of Treasury Department Order 165, Revised, November 2, 1954, and § 159.47 of the Customs Regulations (19 CFR 159.47), insofar as they pertain to the issuance of a preliminary countervailing duty determination by the Commissioner of Customs, are hereby waived.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.
JANUARY 8, 1979.

[FR Doc. 79-1194 Filed 1-11-79; 8:45 am]

V 4 4 / 9 JA 12 79 UMI

[4810-22-M]

CERTAIN TEXTILES AND TEXTILE PRODUCTS FROM MEXICO

Preliminary Countervailing Duty Determination

AGENCY: U.S. Customs Service, Treasury Department.

ACTION: Preliminary Countervailing Duty Determination.

SUMMARY: The notice is to inform the public that a countervailing duty investigation has resulted in a preliminary determination that the Government of Mexico has given benefits which may constitute bounties or grants on the manufacture or exportation of men's and boys' apparel and textile mill products of cotton, wool and manmade fibers. A final determination will be made no later than July 5, 1979. Interested persons are invited to comment on this action.

EFFECTIVE DATE: January 9, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles F. Goldsmith, Economist, Office of Tariff Affairs, U.S. Treasury Department, 15th and Pennsylvania Avenue, N.W., Washington, D.C. 20220, telephone (202) 566-2323.

SUPPLEMENTARY INFORMATION: On August 28, 1978, a notice of "Receipt of Countervailing Duty Petition and Initiation of Investigation" was published in the FEDERAL REGISTER (43 FR 38482). The notice stated that a petition had been received alleging that payments or bestowals conferred by the Govenment of Mexico upon the manufacture, production or exportation of men's and boys' apparel and textile mill products of cotton, wool and manmade fibers constitute the payment or bestowal of a bounty or grant, directly or indirectly, within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303) (referred to in this notice as the "Act").

For purposes of this notice, "textile mill products" include yarns, fabrics, household textiles, miscellaneous products of textile mills and certified handloomed and folklore products, made of cotton, wool and manmade fibers, as specified in U.S. bilateral textile agreements and described by the Tariff Schedules of the United States Annotated (TSUSA) item numbers set forth in the Appendix to the FEDERAL REGISTER notice published on October 13, 1978 (43 FR 47340). "Men's and boys' apparel" includes those items described by TSUSA item numbers in the Appendix to the above-cited FEDERAL REGISTER notice.

On the basis of an investigation conducted pursuant to section 159.47(c) of the Customs Regulations (19 CFR 159.47(c)), it has been preliminarily determined that certain programs of the Government of Mexico provide benefits to manufacturers and/or exporters of the subject merchandise which may constitute bounties or grant within the meaning of the Act. These benefits have been conferred under the following programs:

(1) Loans at rates more favorable than those commercially available, designed to finance production for sales to foreign markets. These loans are provided by the Fund for Development of Manufactured Export Products (FOMEX) which is operated by the Central Bank (Banco de Mexico). Further information will be sought to determine the extent to which these loans are utilized by the investigated companies and the benefit they provide in terms of interest rate differential compared to commercial loans in Mexico.

(2) A tax rebate certificate program known as "CEDI". (In the initiation notice, this program was referred to as a partial rebate to exporters of a "mercantile" tax. The response indicated that use of such terminology was not accurate.) The CEDI is designed to offset the cascade effect of the turnover taxes paid in the production process. Further details will be necessary to determine whether indirect taxes charged on items physically incorporated into the final product equal or exceed this rebate. If such taxes are found to equal or exceed the CEDI rebate, the rebate will not be regarded as a bounty or grant.

(3) Services provided by FOMEX and other government entities such as the Mexican Foreign Trade Institute (IMCE) which assist Mexican companies in developing foreign markets, including the compensation of exporters for costs incurred abroad in obtaining credit and direct help to Mexican companies in connection with their export transactions and shipping problems. Information will be sought regarding the nature and cost of the services provided by these organizations.

(4) Special benefits for companies located in so-called "free zones." Such benefits may include duty-free imports of machinery and low rental and utility rates. Details concerning the benefits that may be available will be necessary in order to evaluate this program.

Additionally, it has been preliminarily determined that low-interest loans provided by the Guarantee Fund for the Development of Small-and-Medium-Sized Industries (FOGAIN) do not constitute bounties or grants. This benefit is available to all enterprises and is in no way contingent upon or relates to the exportation of merchandise produced by firms receiving the benefit. Since available information indicates that the *ad valorem* size of the benefit is small and only a small proportion of merchandise produced by firms enjoying this benefit is exported, no bounty or grant is preliminarily determined to exist. However, more information concerning this program will be sought before a final determination is made.

It has also been preliminarily determined that certain incentives provided by the Government of Mexico are not bounties or grants since available information indicates that they are not utilized by producers or exporters of the merchandise in question. These incentives are:

(1) Corporate tax benefits granted by the "Comision Intersecretarial" to certain firms. This body includes the Secretariat of National Properties and Industrial Growth, to which these benefits had previously been attributed.

(2) Exemptions of 10 to 40 percent from income tax for a period of three to ten years depending upon the location of the enterprise.

(3) Exemption of 50 to 100 percent from the stamp tax normally imposed on all contracts and business documents and transactions for certain companies. Available information indicates that the stamp tax is imposed only on non-mercantile contracts or documents and is not related to the sale of goods. A manufacturer pays a stamp tax only on certain official documents outside of his usual business transactions.

(4) Tax incentives on the state level which involve, for example, partial or full exemption from real estate taxes and various municipal and state taxes on industrial licenses.

(5) Low-interest loans for industry provided by the Industrial Equipment Fund (FONEI).

It has further been preliminarily determined that certain practices of the Government of Mexico do not constitute the payment or bestowal of a bounty or grant since it appears that these programs are not in effect. These practices are:

(1) Low-interest loans provided by the National Fund for Industrial Development (FOMIN). The Government of Mexico has stated that loans are not given by that organization. More information will be necessary to determine the assistance, if any, provided by this organization.

(2) Corporate income tax exemption of 100 percent of income derived from exports for the first three years of operation, which is gradually reduced to 50 percent. The Government of Mexico has stated that there is no such provision in its tax laws.

(3) Subsidized premiums on export insurance provided by the government-owned Mexican Credit Insurance Company (COMESEC). Available information indicates that COMESEC does not grant any special insurance premium rate.

(4) Rebates of up to 50 percent on railroad freight rates in Mexico to exporters. The Government of Mexico has stated that such an incentive does not exist.

(5) Federal tax incentives that involve partial or full exemption from real estate taxes and various fees on industrial licenses. The Government of Mexico has stated that there is no such provision in its federal tax laws.

Before a final determination is made, consideration will be given to any relevant data, views, or arguments submitted in writing with respect to this preliminary determination. Submissions should be addressed to the Commissioner of Customs, 1301 Constitution Avenue, N.W., Washington, D.C. 20229, in time to be received by his office no later than February 12, 1979. Any request for an opportunity to present views orally should accompany such submission and a copy of all submissions should be delivered to any counsel that has heretofore represented any party to these proceedings.

This preliminary determination is published pursuant to section 303(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)).

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order 190 (Revision 15), March 16, 1978, the provisions of Treasury Department Order No. 165, Revised, November 2, 1954, and section 159.47 of the Customs Regulations (19 CFR 159.47), insofar as they pertain to the issuance of a preliminary countervailing duty determination by the Commissioner of Customs, are hereby waived.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

JANUARY 8, 1979.

[FR Doc. 79-1195 Filed 1-11-79; 8:45 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

[Notice No. 6]

Assignment of Hearings

JANUARY 9, 1979.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

No. MCC-10150, Victory Freight Lines, Inc.—Investigation and Revocation of Certificates, now assigned for hearing on January 12, 1979, at Birmingham, Alabama is canceled.

No. MC 114457 (Sub-No. 445F), Dart Transit Company, now assigned January 15, 1979, at St. Paul, Minnesota, is postponed indefinitely.

No. MC 133689 (Sub No. 187F), Overland Express, Inc., now assigned for hearing on February 26, 1979, at St. Paul, MN. and will be held in Court Room 584, Federal Building.

No. MC 82841 (Sub-No. 229F), Hunt Transportation, Inc. now assigned January 25, 1979 at Dallas, Texas is postponed indefinitely.

No. MC 135231 (Sub-No. 27F), North Star Transport, Inc., now assigned for hearing January 11, 1979 at St. Paul, Minnesota is canceled and application dismissed.

No. MCF 13593, Nebraska Transport Co., Inc.,—Control—G & H Truck Lines, Inc., now assigned for hearing on February 6, 1979 at Scottsbluff, Nebraska and will be held in Territorial Room, Scottsbluff Inn.

No. MC 113678 (Sub No. 749F), Curtis Inc., now assigned for hearing on February 27, 1979, at Los Angeles, California and will be held in Room 3123, Federal Building.

No. MC 124896 (Sub No. 61F), Williamson Truck Lines, Inc., now assigned for hearing on February 22, 1979, at Kansas City, MO. and will be held in Federal Building, Room 609.

No. MC 116254 (Sub No. 210F), Chem-Haulers, Inc., now assigned for hearing on February 23, 1979, at Kansas City, Missouri and will be held in Room 609, Federal Building.

No. MC 116254 (Sub No. 205F), Chem-Haulers, Inc., now assigned for hearing on February 26, 1979, at Kansas City, Missouri and will be held in Room 609, Federal Building.

No. MC 116254 (Sub No. 206F), Chem-Haulers, Inc., now assigned for hearing on February 27, 1979, at Kansas City, Missouri and will be held in Room 609, Federal Building.

No. MC 116254 (Sub No. 204F), Chem-Haulers, Inc., now assigned for hearing on February 28, 1979, at Kansas City, Missouri and will be held in Room 609, Federal Building.

No. MC 119493 (Sub No. 210F), Monkem Company, Inc., now assigned for hearing on March 1, 1979, at Kansas City, Missouri and will be held in Room 609, Federal Building.

No. MC 121568 (Sub-No. 10), Humboldt Express, Inc., now being assigned for continued hearing on January 29, 1979, at the Offices of the Interstate Commerce Commission, Washington, D.C.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-1251 Filed 1-11-79; 8:45 am]

[7035-01-M]

[Decision No. MC-29643 (Sub-No. 10F)]

WALSH TRUCKING SERVICE INC., EXTENSION-CLINTON COUNTY, N.Y. (MASSENA, N.Y.)

Decided: December 15, 1978.

Applicant filed a petition for reconsideration of the decision of the Commission, Review Board Number 2, entered October 5, 1978. We believe the proceeding should be reopened for reconsideration on the present record.

In its decision Review Board Number 2, deleted, as unnecessary, a "restriction against traffic moving from or to points in Canada." It concluded instead that the grant of authority should be in interstate commerce only. In the petition for reconsideration, applicant contends that by limiting the grant of authority to "interstate" traffic only, it is prevented from handling traffic in foreign commerce which does not move from or to points in Canada. It argues that the review board failed to recognize that Albany, NY, is a port into and out of which traffic moves in foreign commerce by water carrier. Applicant indicates that this traffic is available to it and it intends to participate in the traffic.

Additionally, applicant argues that it indicated that it now holds one-way general commodity authority from New York, NY, to Clinton County, NY under its subnumber 8 certificate and that one of the reasons for seeking the involved authority is to be able by joinder with certain regular route authority it holds authorizing service between New York, NY and Albany, NY to transport southbound traffic from Clinton, via Albany, to New York. Since some of the traffic will move over highways traversing New Jersey, it will be interstate traffic. Applicant requests that a decision should be issued indicating that the grant of authority in this proceeding includes the right to tack.

After reviewing the record in the light of the above-described petition, we believe the review board's decision should be modified and the proceeding will be reopened to affect this modification. Contrary to review board's conclusions, petitioner requires authority to operate in foreign commerce. With respect to applicant's contention that a decision should be issued indicating that the grant of authority in this proceeding includes the right to tack regular-route authority and irregular-

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route authority and such tacking is permissible. See *Gateway Elimination*, 119 M.C.C. 530, 574 (1974). No specific authorization of such tacking is required.

Inasmuch as applicant's intention to tack the authority sought with its existing authority was not published in the FEDERAL REGISTER, it is possible that other parties who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of applicant's intention to tack. Therefore, a notice of applicant's intention to tack will be published in the FEDERAL REGISTER and issuance of a certificate will be withheld for a period of 30 days from the date of publication, during which period any proper party in interest may file an appropriate petition for leave to intervene in this proceeding setting forth in detail the precise manner in which it has been prejudiced.

Inasmuch as the authority described in the appendix duplicates applicant's other authority to a certain extent, we will impose a non-duplicating condition.

We find on reconsideration: The present and future public convenience and necessity require operation by petitioner, in interstate or foreign commerce as a common carrier by motor vehicle, over irregular routes, performing the service described in the appendix. Applicant is fit, willing, and able properly to perform the granted service and to conform to the requirements of the Interstate Commerce Act and the Commissioner's regulations. An appropriate certificate should be granted. This decision is not a major Federal action significantly affecting the quality of the human environment.

It is ordered: The application and petition for reconsideration, except to the extent granted are denied.

The decision entered October 5, 1978, in this proceeding, to the extent inconsistent with this decision, is vacated.

If applicant does not comply with the appropriate requirements set forth in the Code of Federal Regulations (49 CFR 1043, 1044, and 1307) within 90 days after the date of service in this decision, the grant of authority will be void, and the application will stand denied.

By the Commission, Division 2, Acting as an Appellate Division, Commissioners Stafford, Gresham and Christian. Commissioner Stafford dissenting in part.

H. G. HOMME, Jr.,
Secretary.

COMMISSIONER STAFFORD, dissenting in part:

I agree with the majority in all respects except one, i.e., the failure to impose a restriction against the transportation of traffic moving from or to points in Canada.

This restriction was part of the original application and I see no reason to lifting the restriction which in effect grants applicant more authority than it sought.

APPENDIX

SERVICE AUTHORIZED

To operate as a common carrier by motor vehicle, in interstate of foreign commerce, over irregular routes, of general commodities (except classes A and B explosives, articles of unusual value, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Albany, NY, on the one hand, and, on the other, points in Clinton County, NY.

CONDITIONS

The above grant of authority and carrier's existing operating authority that it duplicates shall not be construed as conferring more than a single operating right.

A notice of applicant's intention to tack the authority granted with its regular-route authority in No. MC-F-13184 authorizing service between Albany and New York, NY will be published in the FEDERAL REGISTER, and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate petition for leave to intervene in this proceeding setting forth in detail the precise manner in which it has been prejudiced by the lack of proper notice of applicant's intention to tack.

[FR Doc. 79-1252 Filed 1-11-79; 8:45 am]

[6820-98-M]

NATIONAL COMMISSION ON AIR QUALITY

PUBLIC HEARING

The National Commission on Air Quality hereby gives notice, pursuant to authority vested by Section 323 of the Clean Air Act as amended, of a public hearing scheduled for February 12, 1979. The hearing will be conducted in the Auditorium of the California State Building located at 107 South Broadway, Los Angeles, California. The hearing will begin at 9:30 a.m. and may be continued on the following day, February 13, if interest in presenting testimony warrants doing so.

The purpose of the hearing is to solicit public comment with respect to the appropriate focus of the Commission during its life. The Commission is required by law to submit to the Congress any recommendations for legislative changes and regulatory modifications necessary to most effectively pursue national air quality objectives. This will be the second public hearing conducted by the Commission on this issue. The first hearing was held in Washington, D.C. on January 8, 1979.

Specifically, the Commission invites public comment regarding the following issues and how the Commission should organize its plan of study to address them:

Effects of air pollution on health and health care costs;

Impact of air pollution and air pollution controls on regional economic development;

Costs of compliance with the requirements of the Clean Air Act, as amended, as interpreted by the Environmental Protection Agency;

Effectiveness of present statutory requirements and success of current regulatory efforts in accomplishing the general purposes set forth in the Clean Air Act, as amended;

Appropriate automobile emission standards and best available technologies needed to meet them;

Most appropriate and cost-effective means of preserving air quality in areas in which the air is now cleaner than the national ambient air quality standards;

Most appropriate and cost-effective means of enhancing air quality in those areas in which established air quality standards are not met; and

Special problems of small business and governmental agencies in obtaining reductions of emissions from existing sources to offset increased emissions from new sources.

The Commission also invites comment on such issues as alternatives to regulation as a means of reducing pollution, the special problems inherent in efforts to diminish pollution levels in high altitude areas, and the practical relationship of established environmental regulations to other governmental policies such as encouraging the increased use of coal as a substitute for oil and natural gas.

Because of an expectation that there will be more who wish to testify than time would normally allow, witnesses may be requested to limit their oral statements to a maximum of ten minutes in order to ensure sufficient time for questions and answers. Both witnesses and those unable to testify at the February 12 hearing may submit material of any length for inclusion in the hearing record, and will be afforded an opportunity after the hearing to submit additional material for the record. The Commission may determine that an additional hearing to be held in the near future is desirable.

Pursuant to the established rules of the Commission, each witness scheduled to testify at any Commission hearing must provide at least twenty-five copies of prepared testimony in advance of the hearing. Those wishing to have their statements available for the media, however, should provide at least twenty-five copies in addition to

the twenty-five required by the Commission rules.

Those wishing to testify should notify Paul Freemen at (202) 634-7138 by February 5, 1979 in order to schedule a time for submission of prepared oral testimony, and should send at least twenty-five copies of such testimony to the Office of the Mayor, Room 305, City Hall, Los Angeles, California 90012. Such testimony is to be sent to the attention of Mr. Graham Smith, for receipt by the morning of February 9.

The National Commission on Air Quality is a 13-member Commission created by the 1977 Clean Air Act Amendments. It is required to report to Congress on the effectiveness of that law and on alternative approaches to controlling air pollution. The Commission Chairman is Senator Gary Hart (D.-Colorado) and the Vice Chairman is State Representative Thomas McPherson of Florida.

National Commission on Air Quality.

WILLIAM H. LEWIS, Jr.,
Director.

JANUARY 12, 1979.

[FR Doc. 79-1415 Filed 1-11-79; 11:03 am]

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sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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[6155-01-M]

1

BOARD FOR INTERNATIONAL BROADCASTING.

TIME AND DATE: 9:30 a.m., January 19, 1979.

PLACE: Board for International Broadcasting Conference Room, suite 430, 1030 15th Street NW., Washington, D.C. 20005.

STATUS: Closed, pursuant to 5 U.S.C. 552b(c)(1) 1 CFR 460.4 (c) and (h) of the Board's rules (42 FR 9388, Feb. 16, 1977).

MATTERS TO BE CONSIDERED: Matters concerning the broad foreign policy objectives of the U.S. Government.

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Arthur D. Levin, Budget and Administrative Officer, Board for International Broadcasting, 1030 15th Street NW., Washington, D.C. 20005, 202-254-8040.

[S-65-79 Filed 1-10-79; 3:57 pm]

[6335-01-M]

2

COMMISSION ON CIVIL RIGHTS.

DATE AND TIME: Monday, January 15, 1979—9 a.m.-12 noon; 1:30 p.m.-5:30 p.m. Tuesday, January 16, 1979—1 p.m.-4 p.m., Press Conference 10 a.m., Cumberland Room, Holiday Inn.

PLACE: Room 512, 1121 Vermont Avenue NW., Washington, D.C.

STATUS: Portion open to public; portion closed to public.

MATTERS TO BE CONSIDERED: Open to public—January 15, 9 a.m.-12 noon, Briefing on Higher Education Desegregation Pursuant to *Adams* v. *Califano*.

MATTERS TO BE CONSIDERED: Open to public—January 15, 1:30-5:30 p.m.

I. Approval of agenda.
II. Approval of minutes from last meeting: 1. Approval of conference call minutes.
III. Staff Director's report: (a) Status of funds; (b) Personnel report; and (c) Office Directors reports.
IV. Report on civil rights developments in the Mid-Atlantic region.
V. State Advisory Committee re-charters: (a) Idaho; (b) Missouri; (c) New Mexico; (d) South Dakota; (e) Tennessee; (f) Vermont; and (g) Wyoming.
VI. Response to Houston Police Chief Caldwell.
VII. Report on State of Civil Rights—1978.
VIII. Report on enforcement effort housing report recommendations: 1. House subcommittee request for excerpts from unpublished housing report.
IX. Closed to public—Recommendation regarding 1980 fiscal year budget submission—age and handicap jurisdiction.

MATTERS TO BE CONSIDERED: January 16, 10 a.m. (open to public) Press conference, Cumberland Room, Holiday Inn.

January 16, 1 p.m.-4 p.m. (open to public):

X. *Bakke* clearinghouse material.
XI. Report on comments on proposed policy interpretation of title IX.
XII. Approval of letter to President Carter on Conference on Security and Cooperation in Europe.
XIII. Report on affirmative action project design.
XIV. Report on affirmative action initiative for fiscal year 1979.
XV. North Dakota Advisory Committee report and recommendation re Native American justice issues.

FOR FURTHER INFORMATION CONTACT:

Loretta Ward, Public Affairs Unit, 202-254-6697.

[S-62-79 Filed 1-10-79; 2:36 pm]

[6355-01-M]

3

CONSUMER PRODUCT SAFETY COMMISSION.

DATE AND TIME: 9:30 a.m., Wednesday, January 17, 1979.

LOCATION: Third floor hearing room, 1111 18th Street NW., Washington, D.C. 20207.

STATUS: Part open, part closed.

MATTERS TO BE CONSIDERED:

AGENDA

OPEN TO THE PUBLIC

1. *Briefing on Power Lawn Mowers.*—The staff will brief the Commission on possible actions on the proposed safety standard for power lawn mowers which CPSC published in May 1977. The Commission plans to decide on the standard at the January 25 Meeting.

CLOSED TO THE PUBLIC

2. *Briefing on Recent Court of Appeals Decision.*—The staff will brief the Commission on a recent decision by the Court of Appeals for the District of Columbia Circuit in a Freedom of Information Act case, *Consumers Union* v. *CPSC et al.* (closed under exemption 10: involvement in a civil action).

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon D. Butts, Assistant Secretary, Office of the Secretary, Consumer Product Safety Commission, suite 300, 1111 18th Street NW., Washington, D.C. 20207, 202-634-7700.

Agenda approved January 9, 1979.

[S-59-79 Filed 1-10-79; 11:37 am]

[6355-01-M]

4

CONSUMER PRODUCT SAFETY COMMISSION.

DATE AND TIME: 9:30 a.m., Thursday, January 18, 1979.

LOCATION: Third floor hearing room, 1111 18th Street NW., Washington, D.C. 20207.

STATUS: Open.

MATTERS TO BE CONSIDERED:

AGENDA

OPEN TO THE PUBLIC

1. *Aluminized Polyester-Film Kites.*—The Commission will consider a staff recommendation to propose a rule under the Federal Hazardous Substances Act to ban certain aluminized polyester-film kites. The kites may pose an electric shock and fire hazard.
2. *Replies to General Order Concerning Nitrobenzene in Consumer Products.*—The staff has asked the Commission for guidance on future action as a result of replies to a general order requiring manufacturers of consumer products containing nitrobenzene to provide certain information to the Commission. The staff has recommended that the Commission take no further action at this time.
3. *Draft Memorandum of Understanding with EPA on Pesticides.*—The Commission will consider a draft memorandum of understanding which would set forth the responsibilities of both CPSC and EPA concerning child-resistant packaging and pesticides.
4. *Exemption of Erythromycin from Child-Resistant Packaging Requirements.*—The Commission will consider two matters related to erythromycin ethylsuccinate: (a) petition PP 78-2, which seeks exemption of the drug in 200 mg. tablets in packages of no more than 80 tablets, and (b) a final rule to exempt up to 8 grams of the drug in oral suspension.
5. *Proposed Exemption of Colestipol from Child-Resistant Packaging Requirements.*—The Commission will consider a draft FEDERAL REGISTER document which would propose to exempt colestipol in power form from special packaging requirements of the Poison Prevention Packaging Act, thereby granting petition PP 78-4.

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon D. Butts, Assistant Secretary, Office of the Secretary, Consumer Product Safety Commission, suite 300, 1111 18th Street NW., Washington, D.C. 20207, 202-634-7700.

Agenda approved January 9, 1979.

[S-60-79 Filed 1-10-79; 11:37 am]

[6740-02-M]

5

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Published January 8, 1979, 44 FR 1030.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., January 10, 1979.

CHANGE IN THE MEETING: The following items have been added:

ITEM NUMBER AND DOCKET NUMBER AND COMPANY

CAP-5. ER77-530, Ohio Edison Co.
CAG-12. CP78-443, El Paso Natural Gas Co.
ER-9. E-9592, Roscoe E. Dean, Jr. and William D. Lovin, *Complainants* v. *Georgia Power Co.*, defendant.
CI-2. Southern Union Gathering Co., FERC Gas Rate Schedule No. 1.
M-2. Clarification of Commission's policy respecting indefinite price escalator clauses in existing interstate and intrastate contracts and bilateral schedule modification of these contracts.

M-3. RM78-17, procedures for review by the Federal Energy Regulatory Commission of adjustment request denials by the Secretary of Energy.
M-4. RM79- , procedures for adjustment of rules and ordes issued by the Federal Energy Regulatory Commission under the NGPA.
M-5. Interim rule on S 314 of NGPA, offers and right of first refusal.
M-6. Staff recommendation on the Revenue Act of 1978 which reduces the Statutory Corporate Federal Income Tax rate from 48 percent to 46 percent.
M-7. RM79- , treatment of certain production related costs for gas to be transported through the Alaska Natural Gas Transportation system.
M-8. RM79- , certification of pipeline transportation agreements for certain high-priority uses.

KENNETH F. PLUMB,
Secretary.

[S-63-79 Filed 1-10-79; 3:11 pm]

[6740-02-M]

6

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Published January 3, 1979, 44 FR 983.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., January 4, 1979.

CHANGE IN THE MEETING: The following item has been added:

ITEM NUMBER AND DOCKET NUMBER AND COMPANY

M-8. RM 79- . Certification of pipeline transportation agreements for certain high-priority uses.

KENNETH F. PLUMB,
Secretary.

[S-64-79 Filed 1-10-79; 3:11 pm]

[6730-01-M]

7

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 10 a.m., January 17, 1979.

PLACE: Room 12126, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions open to the public:

1. Monthly report of actions taken pursuant to authority delegated to the Managing Director.
2. Agreement No. 10265-1: Modification of a cooperative working arrangement to expand its geographic scope to include Argentina and Uruguay.
3. Agreement No. 10135-6: Modification of the Far East and Pacific Westbound Conferences Member Lines Discussion Agreement to extend its term of approval for an unlimited period.
4. Independent ocean freight forwarder application—Manufacturers forwarding.
5. Notice of inquiry as to exemption from requirements of shipping statutes.
6. Compliance with section 21 orders: Baltic Shipping Co.

Portions closed to the public:

1. Docket No. 77-26: Independent ocean freight forwarder license E. L. Mobley, Inc., discussion of the record.
2. Docket No. 77-4: Agreement Nos. 9902-3, 9902-4, 9902-5, and 9902-6, modification of Euro-Pacific Joint Service Agreement, discussion of the record.
3. Docket No. 72-35: Pacific Westbound Conference—Investigation of rates, rules and practices pertaining to the movement of wastepaper and woodpulp from United States west coast ports to ports in Japan, discussion of the record.
4. Docket No. 76-14: Agreement No. 10116-1, extension of pooling agreement in the eastbound and westbound trades between Japanese ports and ports in California, Oregon, and Washington, discussion of the record.
5. Processing of section 15 agreements.

CONTACT PERSON FOR MORE INFORMATION:

Francis C. Hurney, Secretary, 202-523-5725.

[S-61-79 Filed 1-10-79; 11:55 am]

[7035-01-M]

8

INTERSTATE COMMERCE COMMISSION.

TIME AND DATE: 9:30 a.m., Tuesday, January 16, 1979.

PLACE: Hearing room "C", Interstate Commerce Commission, 12th and Constitution Avenue NW., Washington, D.C. 20423.

STATUS: Open regular conference.

MATTER TO BE CONSIDERED: Section 5a application No. 9-A, National Bus Traffic Association, Inc., agreement.

CONTACT PERSON FOR MORE INFORMATION:

Douglas Baldwin, Director, Office of Communications, 202-275-7252.

The Commission's professional staff will be available to brief news media representatives on conference issues at the conclusion of the meeting.

[S-58-79 Filed 1-10-79; 10:14 am]

FEDERAL REGISTER, VOL. 44, NO. 9—FRIDAY, JANUARY 12, 1979

V 44 / 9 JA 12 79 UMI

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[A Cumulative checklist of CFR issuances for 1978 appears in the first issue of the Federal Register each month under Title 1. In addition, a checklist of current CFR volumes, comprising a complete CFR set, appears each month in the LSA (List of CFR Sections Affected)]

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Vol. 44—No. 9
1-12-79
BOOK 2:
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2757-3019

Federal Register

BOOK 2 OF 2 BOOKS
FRIDAY, JANUARY 12, 1979
PART II

DEPARTMENT OF ENERGY

Energy Information Administration

■

REPORTING SYSTEM CLEARANCE

[6450-01-M]

DEPARTMENT OF ENERGY

Energy Information Administration

REPORTING SYSTEM CLEARANCE

AGENCY: Energy Information Administration, Department of Energy.

ACTION: Notice of reporting system clearance.

SUMMARY: The Energy Information Administration (EIA) of the Department of Energy (DOE) announces that it has received clearance from the Office of Management and Budget to implement the Financial Reporting System (FRS). The FRS form (designated as EIA-28), reporting instructions and glossary have been mailed to the initial group of respondents.

DATES: Designated respondents must file the EIA-28 by February 1, 1979, for the 1977 reporting period and by August 1, 1979 for the 1978 reporting period.

FOR FURTHER INFORMATION CONTACT:

Arthur T. Andersen, Director, Financial Reporting System, Energy Information Administration, Room 8443, 12th & Pennsylvania Avenue, N.W., Washington, D.C. 20461 (202) 633-8806.

SUPPLEMENTARY INFORMATION:

I. Historical Development of EIA-28
II. Office of Management and Budget (OMB) Clearance of EIA-28
III. Companies Required to Report
IV. Future Plans for Reporting Requirements
V. Forms, Instructions, and Glossary

I. HISTORICAL DEVELOPMENT OF EIA-28

EIA-28 was filed for clearance with the OMB on June 16, 1978. Announcement of this was included in a FEDERAL REGISTER Notice (43 FR 27056, June 22, 1978). That notice contains a complete description of FRS history to that date.

II. OFFICE OF MANAGEMENT AND BUDGET (OMB) CLEARANCE OF EIA-28

Pursuant to comments received, OMB requirements and further FRS staff analysis, certain changes were made to the form, and clearance was subsequently granted October 10, 1978. The clearance is applicable to the collection of data for the years 1977 and 1978 from the 27 companies named below. The 1977 information is due at DOE February 1, 1979 and 1978 information is due August 1, 1979.

III. COMPANIES REQUIRED TO REPORT

The first group of companies required to file EIA-28 comprises 27 companies chosen from the top 50 domestic oil and gas producers which have at least 1% of domestic production or reserves of oil, gas, coal, or uranium, or 1% of domestic refining capacity or petroleum product sales. These companies are as follows:

Armerada Hess Corp.
American Petrofina
Ashland Oil, Inc.
Atlantic Richfield Co.
Burlington Northern, Inc.
Cities Service Co.
Coastal States Gas Corp.
Continental Oil Co.
Exxon Corp.
General Electric Co.
Getty Oil Co.
Gulf Oil Corp.
Kerr-McGee Corp.
Marathon Oil Co.
Mobil Corp.
Occidental Petroleum Corp.
Phillips Petroleum Co.
Shell Oil Co.
Standard Oil Co. of California
Standard Oil Co. (Indiana)
Standard Oil Co. (Ohio)
Sun Co.
Superior Oil Co.
Tenneco, Inc.
Texaco, Inc.
Union Oil Co. of California
Union Pacific Corp.

IV. FUTURE PLANS FOR REPORTING REQUIREMENTS

Future EIA plans for the FRS include regular annual reporting by each of the 27 named companies. OMB has deferred clearance for collecting 1974-1976 data, pending an evaluation of the submissions for 1977. Accordingly, EIA will request OMB clearance for collection of 1974-1976 data following such evaluation of the 1977 submissions. During 1979, EIA intends to request clearance to expand the group of reporters to a total of approximately 300 energy-producing companies in all phases of the energy industry, including petroleum, coal and nuclear. The specific companies to be included in the expanded group will be identified in 1979.

V. FORMS, INSTRUCTIONS, AND GLOSSARY

The forms, instructions, and glossary for the FRS are printed for information purposes on the following pages of this FEDERAL REGISTER notice.

Issued at Washington, D.C. on January 2, 1979.

LINCOLN E. MOSES,
Administrator, Energy Information Administration.

DEPARTMENT OF ENERGY, ENERGY INFORMATION ADMINISTRATION, ENERGY COMPANY FINANCIAL REPORTING SYSTEM (FRS)

FORM EIA-28

Instructions

General Instructions

Purpose and Legislative Authority
Filing Requirements for 1974-1978 and Thereafter
Other Filing Requirements
Confidentiality
Data Entry
Use of Exhibits
Amendments to FRS Reported Data

FRS Overview

Relation to Reporting Company's Accounting Principles
FRS Segments and FASB 14
Eliminations at More Than One Level
FRS Segment Allocations and Nontraceable Columns
One-Line Consolidations
Income Tax Expense
Petroleum Supply and Trading
Allocating Amounts to Geographic Areas
Significance Standards (Materiality)
Operating Statistics and Financial Data

Detailed Instructions for Each Schedule

5110—Reporting Company
Consolidating Statement of Income
5111—Reporting Company
Research and Development Expenditures
5112—Reporting Company
Analysis of Income Taxes
5113—Reporting Company
Analysis of Income Taxes by Segments
5114—Reporting Company
Analysis of U.S. Federal Deferred Income Taxes
5115—Reporting Company
Analysis of Other Tax Benefits
5120—Reporting Company
Consolidating Balance Sheet
5121—Reporting Company
Investments/Advances to Unconsolidated Affiliates
5122—Reporting Company
Joint Venture Participation
5130—Reporting Company
Consolidating Statement of Sources/Uses of Funds
5141—Reporting Company
Unconsolidated Affiliates
5142—Reporting Company
Consolidated Joint Ventures
5210—Domestic and Foreign Petroleum Segments
Consolidating Statement of Income
5211—Petroleum Production and Refining/Marketing Segments
General Operating Expenses
5212—Petroleum Refining-Marketing Segments
Acquistions of Raw Materials and Refined Products
5213—Petroleum Production and Refining/Marketing Segments
Dispositions of Raw Materials
5214—Petroleum Refining/Marketing Segments
Dispositions of Refined Products
5215—Domestic and Foreign Petroleum Segments
Primary Transportation Expenses
5220—Domestic and Foreign Petroleum Segments
Selected Consolidating Balance Sheet Items
5221—Domestic and Foreign Petroleum Segments
Net Property and Other Capitalized Cost Balances
5222—Domestic and Foreign Petroleum Segments; Changes in
Net Property and Other Capitalized Cost Balances
5223—Domestic and Foreign Petroleum Segments; Exploration, Development, and Production Expenditures Capitalized
5241—Domestic and Foreign Petroleum Segments; Exploration, Development, and Production Statistics
5242—Domestic and Foreign Petroleum Segments
Refining Statistics
5243—Domestic Petroleum Segment
Motor Fuel Marketing Statistics
5244—Domestic and Foreign Petroleum Segment
Transportation Statistics
5245—Petroleum Purchases, Sales, and Exchanges
5246—Domestic and Foreign Petroleum Segments
Proved Petroleum Reserves
5310—Domestic and Foreign Coal Operatings
Statement of Income
5320—Domestic and Foreign Coal Operations
Summary Financial Indicators
5341—Domestic Coal Operations
Reserves and Production Statistics
5342—Domestic and Foreign Coal Operations
Other Coal Operating Statistics
5410—Domestic and Foreign Nuclear Fuel Operations
Statement of Income
5420—Domestic and Foreign Nuclear Fuel Operations
Summary Financial Indicators
5441—Domestic and Foreign Nuclear Fuel Operations
Nuclear Fuel Operating Statistics
5510—Domestic and Foreign Other Energy Operations
Statement of Income
5520—Domestic and Foreign other Energy Operations
Summary Financial Indicators
5541—Domestic and Foreign Other Energy Operations
Other Energy Operating Statistics
5610—Domestic and Foreign Non-Energy Operations
Statement of Income
5620—Domestic and Foreign Non-Energy Operations
Summary Financial Indicators

GENERAL INSTRUCTIONS

PURPOSE AND LEGISLATIVE AUTHORITY

The legislative authority for the Energy Company financial Reporting System (FRS), Form EIA-28, is provided by Section 205(h) of the Department of Energy Organization Act of 1977 (Public Law 95-91) and Section 13(b) of the Federal Energy Administration Act (Public Law 93-275), as amended. These laws require the collection of information needed to address major energy policy concerns and to analyze the adequacy of energy supply and development efforts.

The data collected will included revenues, profits, funds flows, and investments in total, as well as by type of energy (e.g., petroleum, coal, and nuclear) by function (e.g., producing, refining, and marketing), and by geographic area. The data will be used to construct an automated data base which will provide a wide range of statistical and analytical reports.

These reports will be used to evaluate the competitive environment within which energy products are developed and supplied and to analyze the nature of institutional arrangements which affect the competitive environment.

FILING REQUIREMENTS FOR 1974-1978 AND THEREAFTER

The FRS schedules are designed to collect information for annual periods beginning in 1974. However, some of the reporting requirements for these years have been abbreviated to minimize burden and to allow sufficient time for reporting companies to make modifications to their own internal financial reporting systems.

Requests for Exception From Reporting Requirements

Requests for exception from reporting requirements should be filed with the Office of Hearings and Appeals, Department of Energy, in accordance with the provisions of 10 CFR 205 (D).

Abreviated Filing Requirements for 1977 and 1978

For the years 1977 and 1978, certain data on some schedules are not required; one schedule is not required at all. These requirements are as follows:

Schedule	Data not required for 1977 and 1978
5122	Column I
5211	Lines 22.00-24.00
5214	Lines 07.00-12.00
5241	Lines 66.00-73.00
5245	Entire schedule

1974-1976 Filing Requirements; Planned, But Not Approved

EIA-28 is approved by the Office of Management and Budget (OMB) through December 1979 to collect information from the reporting companies covering only 1977 and 1978. Although OMB clearance was requested for the collection of information for the years 1974-76, OMB has chosen not to act on this request until a Department of Energy evaluation of the initial submission of 1977 data is complete.

OMB has requested that this evaluation of 1977 data be completed by June 1979, and that barring the discovery of unforeseen problems with the reporting form, the objective of receiving 1974-76 data from the reporting companies by September 1979 can be completed as planned.

OMB feels that this evaluation will allow final 1974-76 reporting requirements to reflect actual experience with the report form. Furthermore, OMB has stated that it agrees with the need to collect selected information for 1974-76 from the reporting companies.

Filing requirements planned by DOE for the 1974-76 information, but not now in effect as explained above, are provide below. This information is provided to assist reporting companies in planning records retention and work schedules.

Note that certain schedules are not required at all; other schedules are only required in part. These requirements are as follows:

Schedule	Planned (Not Approved) Data for 1974, 1975 & 1976
5110	Lines 01.00, 07.00, & 08.00 (all columns); all other lines (column A only)
5111	Line 12.00 (all columns)
5112	Entire schedule
5113	Not required
5114	Not required
5115	Not required
5120	Lines 00.07, 08.00, & 09.00 (all columns), all other lines (column A only)
5121	Not required
5122	Not required
5130	Entire schedule
5141	Npt required
5142	Not required
5210	Lines 10.00, 16.00, & 17.00 (all columns)
5211	Lines 12.00, 21.00, 30.00, 31.00-35.00, 69.00, 73.00, 74.00-84.00 (all columns); all other lines (column A only), except 36.00-65.00
5212	Not required
5213	Not required
5214	Not required
5215	Not required
5220	Lines 04.00, 05.00, 06.00 (all columns)
5221	Entire schedule
5222	Entire schedule
5223	Lines 12.00, 25.00, 26.00, 27.00, 28.00. (all columns); all other lines (column A only)

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V 4 4 / 9 JA 12 79 UMI

Schedule	Planned (Not Approved) Data for 1974, 1975 & 1976
5320	Lines 04.00, 05.00, 06.00, & 10.00–14.00 (all columns)
5310	Lines 04.00, 19.00, & 20.00 (all columns)
5420	Lines 13.00, 14.00, 15.00, & 19.00–28.00 (all columns)
5410	Lines 16.00, 38.00, & 39.00 (all columns)
5520	Lines 04.00, 05.00, 06.00 & 10.00–14.00
5510	Lines 06.00, 17.00, & 18.00 (all columns)
5620	Lines 04.00, 05.00, 06.00 & 10.00 (all columns)
5610	Lines 01.00, 07.00, & 08.00 (all columns)
5241	Entire Schedule
5242	Lines 01.00–07.00, 14.00, 21.00, 28.00, 29.00 & 30.00–37.00 (all columns)
5243	Lines 01.00–04.00, (all columns)
5244	Not required
5245	Not required
5246	Lines 01.00, 06.00, 08.00, 10.00, 12.00, 14.00, 19.00, 21.00, 23.00, 25.00, 26.00, 31.00, 33.00, 35.00, 37.00 and 38.00 (all columns)
5341	Lines 04.00, 08.00, 12.00, and 13.00 (all columns); line 21.00 (columns A only); lines 22.00–31.00(column A only); lines 35.00, 39.00, 44.00, and 45.00 (all columns); lines 46.00–49.00 (all columns)
5342	Lines 01.00–16.00 (all columns)
5441	Entire schedule except lines 05.00–06.00, 10.00–15.00, 17.00, & 43.00–49.00
5541	Entire schedule except lines 08.00 and 09.00

Filing Due Dates

Filing due dates for the years 1974 through 1978 and future years are as follows:

February 1, 1979	1977
August 1, 1979	1978
September 1, 1979 (planned, not approved).	1974–1976
Five months after the end of the fiscal year.	Future years

Extensions of Time To File

If the entire FRS form is not expected to be completed by the applicable due date, requests for a partial submission and/or extension will be considered if the Administrator of the Energy Information Administration has been notified in writing at least one month in advance of the applicable due date. Such notification letter must: (1) detail why the due date cannot be met, (2) indicate which specific FRS schedules and data elements will be filed on time, and (3) indicate which specific FRS schedules and data elements will not be filed on time and the expected actual filing date(s).

OTHER FILING REQUIREMENTS

Who Must File

Section 205(h) of the Department of Energy Organization Act specifies that FRS data will be collected from all major energy producing companies and a representative sample of smaller energy producing companies so as to provide a statistically accurate profile of each line of commerce in the United States energy industry.

The Administrator of the Energy Information Administration has designated companies required to report. Respondents have been notified of their reporting requirement.

Where to File

Submit three (3) copies of the completed FRS to the following address: Department of Energy, Energy Information Administration, Code 2906, Washington, D.C. 20461.

Certification

The FRS Certification Statement on each of the submitted copies must be signed by an officer of the reporting company, or a designee the reporting company.

CONFIDENTIALITY83PUBLIC DISCLOSURE

The information contained on EIA-28 may be confidential information which is protected from disclosure to the public by 18 U.S.C. 1905. However, before a determination can be made that particular information is protected from disclosure by 18 U.S.C 1905, reporting companies must certify that the information has not previously been made publicly available and that, if made public, the information would divulge methods or processes entitled to protection by 18 U.S.C. 1905 as trade secrets or other proprietary information. Reporting companies should state briefly and specifically, in a letter accompanying their submissions, why the information concerned is a trade secret or other proprietary information, whether such information is customarily treated as confidential, and the type of competitive harm that would result to the reporting company from disclosure of the information. This letter should be certified in the same manner as the form itself.

Disclosure to "Named Agencies"

The following guidelines are applicable in making EIA-28 data available to the Attorney General, the Federal Trade Commission, the Secretary of the Interior, and the Comptroller General (the "Named Agencies"):

1. EIA will provide disaggregated EIA-28 data to a Named Agency in response to a written request from it which meets the following conditions:

(a) Contains a statement that the data requested is necessary to the requesting agency in carrying out its lawful duties and responsibilities.

(b) Contains an undertaking not to disseminate or disclose the disaggregated information provided by EIA outside the Named Agency except for disclosures determined by the Named Agency to be made (i) in connection with proceedings in which the Named Agency is or might become involved, (ii) in response to a Freedom of Information Act request, or (iii) in response to a written request from the General Accounting Office or from the Congress or any Committee of the Congress having jurisidiction.

(c) Contains an undertaking that in responding to a Freedom of Information Act request encompassing disaggregated data obtained from EIA, the Named Agency (i) will not make a discretionary release of any disaggregated information obtained from EIA which is exempt from mandatory disclosure under the Freedom of Information Act and (ii) will consult with and give great deference to the views of EIA in determining whether any information obtained from EIA falls within the exemptions from mandatory disclosure; provided, however, that where the pertinent regulations of the Named Agency authorize the referral of Freedom of Information Act requests for records originating in another agency to that agency, the Named Agency shall refer any request for EIA data to EIA for response.

(d) Contains an undertaking that prior to disclosing any disaggregated data received from EIA in any manner outside the Named Agency, the Named Agency shall give EIA and the orginator of such data ten-days' written notice of the proposed disclosure.

2. Prior to honoring a request from a Named Agency for access to disaggregated EIA-28 data, EIA will give the originator of such data ten-days' written notice before making the data available.

DATA ENTRY

Rounding

All amounts (including dollars, barrels, cubic feet, tons, acres, pounds, etc.) must be rounded to the nearest thousand and expressed in thousands of units unless otherwise indicated. For example, 2,533,500 tons must be reported as 2,534 M tons; similarly, 157,498,680,000 cubic feet must be reported as 157,499 MMCF.

Estimates

Where the reporting company's records cannot produce data in the fashion required by FRS, use of estimates is encouraged if the respondent feels a meaningful estimate can be made without significant distortion of results.

Where estimates are used, attach an explanation on a separate sheet of paper as part of Exhibit B identifying where estimates are used and indicating how such estimates were made.

USE OF EXHIBITS

In addition to the data required on the FRS schedules themselves, the following information must be attached as exhibits:

Exhibit A. Background information on the company's accounting and financial reporting practices. Provide the following information:

1. Is equity income recognized in accounts other than line 09.00 of Schedule 5110? If yes, see the section of the instructions entitled "FRS Overview: One-Line Consolidations," which requires a complete explanation of the amounts and financial statement accounts involved.

2. Indicate whether the full cost or successful efforts method of accounting is used for the company's petroleum exploration and development activities. Indicate the cost center(s) used: lease, field, geologic province, country, hemisphere, worldwide, U.S. vs. total foreign, or other (specify).

3. Which method is used to value inventories for each of the FRS segments? If more than one method is used in a segment indicate the proportion of inventory for each method.

4. Briefly describe the financial statement treatment for the following types of exchanges: Crude-for-crude, product-for-product, and crude-for-product.

5. Describe how gain or loss on disposition of property, plant, and equipment is reflected in the financial statements.

6. Describe how dry hole costs (if applicable) are reflected in the capital expenditure and sources of funds sections of Schedule 5130. Are expenditures which ultimately lead to dry holes first capitalized and then charged to expense, or if they occur during the reporting period, are they charged directly to expense without first being reflected as an application of funds? Provide amounts.

Exhibit B. Supplemental analysis of items appearing in the financial schedules where required.

Exhibit C. Summaries and explanations of eliminations made in FRS consolidations.

Exhibit D. Explanations of the nature of amounts included in the nontraceable columns.

Exhibit E. A copy of the reporting company's SEC Form 10-K or a copy of its audited financial statements is requested.

Exhibit F. Any other information or explanations the reporting company believes are needed to understand its reported FRS data.

Each exhibit must be clearly labeled to indicate the specific item of data (schedule, line, and column) for which a supplementary explanation is provided. Also, mark an "X" in the "footnote" column on each schedule to indicate that a supplementary explanation has been provided for an item of data on that line.

AMENDMENTS TO FRS REPORTED DATA

Circumstances

An amended FRS report must be filed if: (a) there has been a determination that information previously filed is materially inaccurate or misleading (see the section of the instructions entitled "FRS Overview—Significance Standards"), or (b) financial or statistical reporting standards are changed, rendering prior reports noncomparable to current reports.

In the case of changes in statistical reporting standards imposed by the Federal Government, amendments must be filed for the year of the change and one preceding year.

If an amended filing is required, submit only those schedules affected. However, all pages of the affected schedules must be submitted.

Since an FRS filing covers only 1 year, sufficient reports must be filed to amend all prior years affected. This will be limited to 5 years, unless unusual circumstances exist.

When Due

In the case of (a) above, the amendment is due within 90 days of such determination. In the case of (b) above, the amendment is due at the time of filing the first report embodying the new reporting principle(s).

FRS OVERVIEW

RELATION TO REPORTING COMPANY'S ACCOUNTING PRINCIPLES

In completing the FRS schedules, reporting companies should follow the accounting principles they currently use to prepare their annual certified financial statements. All of the detailed FRS financial schedules aggregate up into Schedules 5110 and 5120.

Specifically, schedules 5110 and 5120 contain a "Consolidated" column, representing the reporting company's certified consolidated financial statements. However, there may by some differences between the FRS line items in this column and the classifications in the reporting company's published financial statements. Such differences must be explained and reconciled on a separate sheet of paper attached as part of Exhibit B.

FRS SEGMENTS AND FASB 14

The FRS is designed to present a company's operations as separate functional lines of business (referred to as "segments"), as though each were a separate entity, entering into transactions with other segments and third parties. In FRS, the reporting company's consolidated financial statements are disaggregated to separate financial statements for each applicable "functional line of business" (i.e., each applicable FRS segment). These disaggregations are generally made in accordance with Financial Accounting Standards Board (FASB) Statement No. 14.

However, the FRS goes beyond FASB 14 in that the FRS segments are often further disaggregations of a line of business than those defined by FASB 14. In addition, while the FRS attributes certain items to specific segments (such as income taxes), FASB 14 treats them as corporate items. In all other respects, the principles outlined in FASB 14 should be followed for FRS purposes.

The reporting company may not have a separate entity for consolidation purposes corresponding to each of the FRS segments. Therefore, to complete the FRS schedules, it may be necessary to disaggregate information from specific operations within the reporting company's consolidation into the FRS segments (functional lines of business) and then perform a new consolidation based on the FRS segments, including appropriate eliminations at each level of subconsolidation as required.

ELIMINATIONS AT MORE THAN ONE LEVEL

In preparing FRS eliminations, two factors must be kept in mind. First, the FRS segments are not consolidated all at once. For example, the three foreign petroleum segments are first consolidated on Schedule 5210 and then these consolidated foreign petroleum segments are consolidated with the consolidated domestic petroleum segments on the same schedule. Finally, the consolidated domestic and foreign petroleum segments are consolidated with the other industry segment groups on Schedule 5110. Therefore, there are three levels of consolidation for petroleum financial statements; eliminations must be developed separately for each level of consolidation.

The second factor to keep in mind is that certain eliminations may be required due to the FRS rules for defining what business functions are within each of the defined segments. Of particular note in this regard are the rules established for the petroleum supply and trading activity. (These rules are explained in the section entitled "Petroleum Supply and Trading."

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Some examples of where to report eliminations are as follows:

Eliminations reported on Schedule 5110 in column B are only the eliminations arising from transactions among Petroleum, Coal, Nuclear, Other Energy, and Non-Energy (columns D through H, respectively). Eliminations arising from transactions *within* these columns must be reported on the appropriate segment schedule.

Eliminations arising from transactions between the Domestic Petroleum Production Segment and the Domestic Refining/Marketing Segment must be reported on Schedule 5210 in column G.

Eliminations arising from transactions between the Domestic/Refining/Marketing Segment and the Foreign Refining/Marketing Segment must be reported on Schedule 5210 in column B.

Eliminations arising from transactions between the Domestic Refining/Marketing Segment and the Domestic Chemical Segment must be reported on Schedule 5110 in column B.

FRS SEGMENT ALLOCATIONS AND NONTRACEABLE COLUMNS

In disaggregating consolidated financial statements for FRS, most items of revenue and expense can be readily assigned to a particular functional line of business, i.e., FRS segment. However, there will be some items (such as general corporate items) which may be more difficult to assign to a particular FRS segment.

If, on the basis of operating realities, these items cannot be assigned to a segment, they should be reported as nontraceable. It is the function of an item and not its geographic location that determines how it should be reported (i.e., within an FRS segment or as nontraceable). That is, some expenses occurring at the corporate office location may in fact be assignable to a particular FRS segment and therefore should not be reported as nontraceable.

ONE-LINE CONSOLIDATIONS

"One-line" consolidations of equity in affiliate earnings should be reflected in FRS submissions in the same way they are reflected in the company's published financial statements. For example, if such equity in earnings is reflected as a reduction in cost of raw materials acquired, then it should be reflected as such in the FRS income statements and in any supporting schedules.

A detailed description of the method(s) of accounting for such affiliates must be provided on a separate sheet of paper attached as a part of Exhibit A. This description of accounting method(s) must identify the specific account(s) in both the consolidated and segment financial statements that are reflected by the "one-line" consolidation and the dollar amounts involved.

If any of these affiliates are large enough, they must be reported separately on Schedule 5121. (See instructions to Schedule 5121 for size criteria.)

INCOME TAX EXPENSE

Income tax expense is a very significant item of corporate expense and is determined to a great degree by the operations of particular segments. That is, items such as operating profits and losses, investment tax credits, foreign tax credits, book/tax timing differences, and statutory depletion can each be identified with individual segments. It is an objective of FRS to show the tax impacts of such items within each segment.

Therefore, the basic principle underlying the determination of income tax expense for individual FRS segments is that each and every component of consolidated income tax expense must either be identified with an allocated to a particular segment or be classified as nontraceable. The objective is to achieve an income tax expense for each individual segment that reflects the benefits accruing to the consolidated entity in the segment where the benefits are generated.

In general, the following steps will be necessary to determine income tax expense for each segment:

Classify the timing differences and permanent differences according to the segment in which they originate. For tax calculation purposes, the nontraceable classifications are considered segments and should be assigned amounts that cannot be associated with the segments. (See Schedules 5112, 5113, and 5114).

Ascertain "book" taxable income and "tax" taxable income for each segment.

Allocate a pro-rata portion of consolidated U.S. income tax expense before credits to each segment on the basis of the ratio that a particular segment's taxable income bears to the consolidated entity's taxable income. If a segment's taxable income is negative and the consolidated entity has a positive tax expense, the segment must reflect a negative tax expense.

Report the tax credits that are utilized by the consolidated entity in the segments where they are generated. Tax credits generated which cannot be utilized by the consolidated entity due to limitations are carried forward. If and when recognized by the consolidated entity, they will be reflected as a tax benefit in the segment where they were originally generated.

Below are listed some additional principles which apply to the allocation of tax expense to the segments:

None of the tax expense allocation principles are intended to affect *consolidated* income tax expense. If however, there appears to be some conflict caused by these principles, include a note explaining the conflict as part of Exhibit F and/or contact the FRS staff to discuss the matter.

If deferred taxes "turn around", the consolidated entity's negative deferred tax expense will have to be allocated in some manner. One way that would minimize burden would be to allocate the amount based on the pro-rata amount of the applicable reversing timing differences.

Foreign income tax expense will usually be attributable to a subsidiary which is in a single FRS segment. If not, an allocation will have to be made based on the applicable taxable income of the subsidiary split on a segment basis.

If unusual circumstances occur which would generate segment income tax results which are unreasonable, contact the FRS staff to discuss the matter.

The example presented on the following page illustrates FRS treatment of segment income tax expense.

PETROLEUM SUPPLY AND TRADING

To ensure the collection of comparable data, the FRS must use one standard method for reporting supply and trading operations, even though respondent companies can and do organize their raw material and product supply and trading operations in different ways.

FRS defines the following segments *within* petroleum. These segments are the main columnar components of Schedules 5210 and 5220:

Domestic Production	column I
Domestic Refining/Marketing	column J
Federally Regulated Crude/Liquid Pipelines	column K
Federally Regulated Natural Gas Pipelines	column L
Federal Regulated Refined Product Pipelines	column M
Foreign Production	column Q
Foreign Refining/Marketing	column R
International Marine	column S

Although many respondent companies may use similar segment designations for their financial reporting purposes, the specific FRS segment definitions must be used.

Specifically, for FRS purposes:

Segments are separate profit centers.

Transfers of material between segments are treated as sales valued at arms-length market prices. (See foreign unconsolidated affiliate, 7 paragraphs below.)

Supply, trading, and transportation operations are downstream activities, i.e., they are included within Domestic Refining/Marketing and Foreign Refining/Marketing.

The Domestic and Foreign Production Segments can sell natural gas and natural gas liquids to domestic/foreign third parties, domestic/foreign unconsolidated affiliates, and other domestic/foreign segments of the company, respectively.

The Domestice and Foreign Refining/Marketing Segments purchase all of the company's remaining domestic and foreign production, respectively, except for material used within the Domestic and Foreign Production Segments for production purposes.

TAX ALLOCATION EXAMPLE

	Consolidated (a)	Non-traceable (b)	Petroleum (c)	Coal (d)
YEAR NO. 1				
Pre-tax income (loss)	80.0	(20.0)	200.0	(100.0)
Income tax expense:				
Before investment tax credit	40.0	(10.0)	100.0	(50.0)
Investment tax credit recognized	20.0		6.6	13.4
Net income tax expense	20.0	(10.0)	93.4	(63.4)
Net income (loss)	60.0	(10.0)	106.6	(36.6)
Investment tax credit:				
Generated	30.0		10.0	20.0
Recognized	20.0		6.6	13.4
Carried forward	10.0		3.4	6.6
YEAR NO. 2				
Pre-tax income (loss)	180.0	(20.0)	250.0	(50.0)
Income tax expense:				
Before investment tax credit	90.0	(10.0)	125.0	(25.0)
Investment tax credit recognized	45.0	3.0	29.1	13.9
Net income tax expense	45.0	(13.0)	95.9	(38.9)
Net income (loss)	135.0	(7.0)	154.1	(11.1)
Investment tax credit:				
Generated	40.0	3.0	27.0	10.0
Used this year	35.0	2.6	23.6	8.8
Carried forward to next year	5.0	0.4	3.4	1.2
Carried forward from previous year	10.0		3.4	6.6
Utilized this year*	10.0		3.4	6.6
Carried forward to next year				

*Amounts of investment tax credit recognized this year which are carried forward from a previous year are recognized pro-rata based on amounts originally generated.

The Domestic and Foreign Refining/Marketing Segments conduct all import and export sales within their respective geographic domains. For example, domestic source products to be sold abroad must first be reported as a sale from Domestic Refining/Marketing to Foreign Refining/Marketing, and then as a sale by Foreign Refining/Marketing to the actual foreign purchaser.

The Domestic and Foreign Production Segments can purchase natural gas and natural gas liquids from third parties.

A segment which acquires imported crude or product pays all transportation costs. For example, when Domestic Refining/Marketing acquires imported crude from Foreign Refining/Marketing, the f.o.b. shipping point cost of the crude should be reflected on Schedule 5212; the cost of primary transportation should be reflected separately on Schedule 5215 as a cost to Domestic Refining/Marketing. Both components of cost then flow forward as general operating expenses on Schedule 5211.

For example, if the reporting company has an interest in a foreign unconsolidated affiliate, such as Aramco, from which crude oil is acquired for ultimate use in the United States, the acquisition of such crude would first be reported by the Foreign Refining/Marketing Segment on Schedule 5212 line 13.00. Then, this crude oil would be "sold" (at no profit) to the Domestic Refining/Marketing Segment. This second transaction would be reported as a purchase on Schedule 5212, line 02.00 and as a sale on Schedule 5213, line 32.00. The expense of transportation would be borne by the Domestic Refining/Marketing Segment; Foreign Refining/Marketing would reflect only the f.o.b. shipping point cost of the purchase from Aramco.

Production of raw materials is valued at the actual value received for sales to third parties. Where there are no comparable arms-length transactions, field posted prices may be used for all other sales and transfers. If third-party realizations for specific raw material streams are below posted prices, the same lower prices should be used to value internal movements of those raw materials.

ALLOCATING AMOUNTS TO GEOGRAPHIC AREAS

Within the industry catagories of Petroleum, Coal, Nuclear, Other Energy, and Non-Energy, the FRS requires a breakdown between domestic and foreign. Domestic and foreign data (e.g., expenditures and asset holdings) are sometimes further broken down geographically:

Domestic. Alaskan (onshore and offshore) and other domestic (onshore and offshore).

Foreign. Canada, OECD Europe, Africa (northern Africa and other Africa), Middle East, Other Eastern Hemisphere (Asian landmass and other), and Other Western Hemisphere.

Refer the FRS Glossary for specific definitions of these geographic areas.

SIGNIFICANCE STANDARDS (MATERIALITY)

Significance standards are needed to avoid undue respondent burden. Such standards must be established with the ultimate use of the data in mind, but since it is not possible to describe in advance all the posible uses of each piece of FRS data or all the possible combinations in which they might be used with other data, only general guidelines can be given.

A definition of "material" is contained in Rule 1-02 of Securities and Exchange Commission Regulation S-X (and in Rule 405 under the Securities Act and Rule 12b-2 under the Exchange Act). However, this definition is based on a "prudent man" principle, which is of limited practical help in deciding many questions of materiality for FRS purposes.

To provide more explicit guidance, a 5% significance standard has been established for FRS reporting. This

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standard should be used to test the materiality of any item within its immediate category. The test should be made on both a vertical (line) and horizontal (row) basis.

For example, on Schedule 5211 if lease rents (line 07.00) is less than 5% of total exploration costs (line 12.00), then lease rents could be combined with other exploration costs on line 11.00.

Similarly, Schedule 5211 requires separate disclosure of depreciation of suport equipment and facilities. Some companies may not now have such a category stated separately. In accordance with FRS significance standards, such depreciation need not be stated separately if less than a 5% overstatement or understatement would be caused in the depreciation accounts where this amount would normally be reported.

The 5% significance standard must be applied both on a separate and a cumulative basis (i.e., separate reporting is required, for example, when three items, each of which causes a 4% overstatement of some expense account, would cause a 12% overstatement in the aggregate).

OPERATING STATISTICS AND FINANCIAL DATA

Operating statistics will be used in conjunction with financial data to compare, among other things, effort with results. For this reason:

Only operating statistics from *consolidated* operations must be reported on Schedules 5241 through 5246, 5341, 5342, 5441, and 5541 (and, in the case of consolidated joint ventures, on Schedule 5142) so that the statistical data parallel the financial data.

Operating statistics from *unconsolidated* operations and operations consolidated on a "one-line" basis must be reported on Schedule 5141.

REPORTING COMPANY, CONSOLIDATING STATEMENT OF INCOME

SCHEDULE 5110

GENERAL

Report consolidated results of operations for the period in column A. Reported amounts must agree with the company's certified consolidated income statement except for reclassifications needed to complete the required line items. Itemize these reclassifications on a separate sheet of paper and attach as part of Exhibit B.

Report amounts directly assignable (See "FRS Overview" section of the instructions) to Petroleum, Coal, Nuclear, Other Energy, and Non-Energy in columns D through H. Such amounts must agree with those reported on Schedules 5210, 5310, 5410, 5510, and 5610 as referenced by the column headings. Refer to the detailed instructions for these schedules for more specific guidance.

Report amounts not directly assignable (See "FRS Overview" section of the instructions) to Petroleum, Coal, Nuclear, Other Energy, and Non-Energy as nontraceable in column C. Provide a detailed explanation of amounts classified as nontraceable on a separate sheet of paper and attach as part of Exhibit D.

Explain all reported eliminations on a separate sheet of paper and attach as part of Exhibit C. Include a description of the nature of and reason for these entries.

DO NOT allocate line items 11.00, 13.00, and 16.00 to the segments. Report these items only in columns A and C.

Line 01.00—Operating Revenues

Report operating revenues brought forward from the corresponding lines on Schedules 5210, 5310, 5410, 5510 and 5610.

Line 02.00—General Operating Expenses

Report general operating expenses brought forward from the corresponding lines on Schedules 5210, 5310, 5410, 5510 and 5610. Include selling expenses.

General operating expenses include all expenses related to both unaffiliated third-party sales and intersegment sales or transfers.

Line 03.00—Depreciation, Depletion, and Amortization (DD&A)

Report total DD&A, including DD&A of support equipmnt and facilities, brought forward from Schedules 5210, 5310, 5410, 5510 and 5610.

Line 04.00—Valuation Charges

Report valuation charges (e.g., valuation allowances and dry hole charges in the Petroleum Production Segments) related to impairment or abandonment of non-producing properties as brought forward from Schedules 5210, 5310, 5410, 5510, and 5610. (Refer to the Glossary for the definition of valuation charges.)

Line 05.00—General and Administrative

Report general and administrative expenses brought forward from Schedules 5210, 5310, 5410, 5510, and 5610. DO NOT include selling expenses, which should be reported as a general operating expense on line 02.00 above.

Line 06.00—Research and Development

Report all research and development (R&D) expenses for the period, excluding applicable DD&A brought forward from Schedules 5210, 5310, 5410, 5510 and 5610. The amount reported in column A must equal the amount reported in Schedule 5111, line 16.00.

Report R&D in the segment wherein it is recorded in the reporting company's records. For example, coal liquefaction R&D may, in fact, be reported in the domestic Petroleum Refining/Marketing Segment. However, it would be reported in the coal gasification/liquefaction column on Schedule 5111.

Line 07.00—Total Operating Expenses

Total lines 02.00 through 06.00.

Line 08.00—Operating Income

Line 01.00 less line 07.00.

Line 09.00—Equity in Earnings of Unconsolidated Affiliates

Report equity in earnings of unconsolidated affiliates recorded during the period. Include equity in earnings of joint venture companies in accordance with the company's normal reporting practices. Include the effect, if any, of adjustments due to impairment of value to investments carried at equity.

Equity in earnings of unconsolidated affiliates which operate in more than one FRS segment should be reported in the segment corresponding to the affiliate's primary business activity, unless data from corporate records are available to make an allocation among the applicable FRS segments. Describe the allocation method used on a separate sheet of paper and attach as part of Exhibit B.

Line 10.00—Dividend Income From Cost Basis Unconsolidated Affiliates

Report dividend income recognized from unconsolidated affiliates accounted for on the cost basis.

Dividend income from cost basis unconsolidated affiliates which operate in more than one FRS segment should be reported in the segment corresponding to the affiliate's primary business activity, unless data from corporate records are available to make an allocation among the applicable FRS segments. Describe the allocation method used on a separate sheet of paper and attach as part of Exhibit B.

Line 11.00—Other Dividend and Interest Income

Report other dividend income (i.e., portfolio dividends) and interest income for the period. Only include dividends received from marketable securities reported on Schedule 5120, line 01.00. DO NOT assign other dividend and interest income to the segments in columns D through H.

Line 12.00—Gain/(Loss) on Disposition of Property, Plant, and Equipment

Report the net gain or less recognized for the period on disposition of property, plant, and equipment in accordance with the company's normal practice for certified financial statement reporting. That is, if such gains or losses are not significant and are classifed otherwise, no reclassification need be made. A note to this effect must be included in Exhibit B, explaining why Schedule 5222, column C, foreign plus domestic, does not tie to this line in column D). Miscellaneous charges or credits to DD&A reserve accounts for normal assets retirements need not be adjusted.

Line 13.00—Interest Expense and Financial Changes

Report all interest expense and financial charges, including interest expense for capitalized leases. DO NOT assign interest expenses and financial charges to Petroleum, Coal, Nuclear, Other Energy, or Non-Energy in columns D through H.

Line 14.00—Minority Interest in Income

Report minority interest in income of consolidated affiliates in accordance with the company's normal reporting practice. Amounts should be reported net of income taxes. Assign amounts to segments in proportion to the operating income generated by the respective segments.

Line 24.00—Net Income

Total lines 21.00, 22.00, and 23.00.

Line 15.00—Foreign Currency Translation Effects

Report the effects of converting the financial statements of consolidated foreign affiliates to a U.S. dollar reporting basis. Include the gain or loss from currency trading and from transactions with foreign entities.

For allocations to the segments, report only the net gain or loss recognized during the period from foreign currency translations applicable to balance sheet accounts assigned to the segments. See instructions to Schedule 5120. The balance not allocated to the segments should be reported as nontraceable in column C. The amount reported in column A must equal the amount reported in the company's consolidated statement of income.

Line 16.00—Other Revenue and (Expense)

Report all other non-operating income and expenses recognized during the period for certified financial statement reporting purposes and not reflected elsewhere on this schedule. DO NOT assign these incomes and expenses to the segments in columns D through H.

If amounts reported on this line exceed 5% of the pre-tax income for any column, provide an analysis of such amounts on a separate sheet of paper and attach as part of Exhibit B.

Lines 17.00 and 18.00—Current and Deferred Taxes

Report current and deferred Federal, State, local, and foreign income taxes in column A as reported in the company's certified financial statements. With respect to columns B through H, compute current and deferred tax expenses as described in the "FRS Overview" section of the instructions under "Income Tax Expense". Also, see Schedules 5112 through 5114.

Line 19.00—Total Income Tax

Total lines 17.00 and 18.00

Line 20.00—Total Other Revenue and (Expense)

Total lines 09.00 through 16.00, and 19.00.

Line 21.00—Income Before Extraordinary Items and Effects of Accounting Changes

Total lines 08.00 and 20.00

Lines 22.00 and 23.00—Extraordinary Items and Cumulative Effects of Accounting Changes

Report extraordinary items and cumulative effects of accounting changes if applicable.

REPORTING COMPANY (RESEARCH AND DEVELOPMENT FUNDING AND EXPENDITURES)

SCHEDULE 5111

GENERAL

Report research and development (R&D) funds and expenditures for the period that can be assigned to the project classifications identified in columns B through L. Other funds and expenditures must be reported on column M. Assign R&D funds and expenditures to the specified project classifications on the basis of the nature of the project, NOT on the basis of the business segment that provided the funds or carried out the research and development activities. See Glossary for definitions.

SOURCE OF R&D FUNDS

Line 01.00—Federal Government

Report receipts from the the U.S. Federal Government for work done by the company on R&D contracts or subcontracts and R&D portions of procurement contracts and subcontracts.

Line 02.00—Internal Company

Report funds provided by the company for research and development performed by deducting non-company sources of R&D funds from total R&D expenditures.

Line 03.00—Other Sources

Report receipts of funds from all other sources for R&D work done by the company. Include grants from nonprofit organizations and any other third parties.

Line 04.00—Total Sources

Total lines 01.00 through 03.00.

R&D EXPENDITURES

Lines 05.00 through 10.00—Basic and Applied Research and Development

Report R&D expenses for basic and applied research and development (as defined in Glossary) performed within the company and contracted or subcontracted to third parties.

Line 11.00—Capitalized Expenditures

Report all capitalized expenditures for materials, supplies, laboratory equipment, and other costs of facilities and equipment within the company's R&D function.

Line 12.00—Total R&D Expenditures

Total lines 05.00 through 11.00.

R&D EXPENSE

Use this section to reconcile the amount reported on line 12.00, column A, to total R&D expense reported on Schedule 5110, line 06.00, column A, and to the disclosure of R&D expense appearing in reporting company's Form 10-K.

Line 13.00—Total R&D Expenditures

Report amount from line 12.00, column A, above.

Line 14.00—Less: Capitalized Items

Enter all expenditures reported on lines 05.00 through 12.00 that were capitalized (line 11.00, column A).

Line 15.00—Less: Amount Paid for by Others

Enter all expenditures reported on lines 05.00 through 12.00 paid for by others if such amounts are not included in the sources of R&D funds in line 04.00.

Line 16.00—Total R&D Expense, Excluding DD&A

Line 13.00, less the total of lines 14.00 and 15.00. This amount must equal the amount reported on Schedule 5110, line 06.00, column A.

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Line 17.00—Plus DD&A

Report DD&A applicable to R&D.

Line 18.00—Total

Total line 16.00 and line 17.00.

REPORTING COMPANY, ANALYSIS OF INCOME TAXES

SCHEDULE 5112

GENERAL

This schedule is designed principally to provide a disaggregation of consolidated income tax information into the FRS segments. The purpose of this disaggregation and the principles to be used in performing the disaggregation are described in the "FRS Overview" section of the instructions under "Income Tax Expense".

INCOME TAXES (AS PER FINANCIAL STATEMENTS)

Lines 01.00 through 17.00

These lines provide details of consolidated income tax expense per the reporting company's financial statements. Lines 11.00, 16.00, and 17.00 correspond to Schedule 5110, column A, lines 17.00, 18.00, and 19.00.

RECONCILIATION OF ACCRUED U.S. FEDERAL INCOME TAX EXPENSE TO STATUTORY RATE

Line 18.00

Enter the amount arrived at by: (1) striking a subtotal after line 16.00 on Schedule 5110, column A, (2) adding back line 14.00 on Schedule 5110, column A, (3) and adding it to operating income (line 08.00 on Schedule 5110) to arrive at consolidated pretax income or (loss).

Line 19.00

Enter the portion of foreign source income not subject to U.S. Federal income tax. Foreign source income is earned by both U.S. corporations (those incorporated in the U.S.) and by foreign corporations (those incorporated in a foreign country). The earnings of the latter are not subject to U.S. income tax until remitted to the U.S. Therefore, enter on this line (1) income earned by foreign corporations, reduced by earnings remitted to the U.S., and (2) Sub-part F income or foreign corporations.

Line 20.00

Line 18.00 less line 19.00.

Line 21.00

Enter U.S. State and local income taxes included in consolidated income tax expense.

Line 22.00

Enter on this line the amount of foreign income taxes deducted as an expense in arriving at taxable income for the U.S. Federal tax accural.

Income subject to U.S. tax may also be subject to foreign tax (see line 19.00 above). In computing the amount of U.S. Federal tax due, the taxpayer must elect to classify the foreign taxes either as a deduction or a credit. Therefore, the amount reported on this line is the deduction elected to be taken.

Line 23.00

Enter the net of line 20.00 minus the sum of lines 21.00 and 22.00

Line 24.00 (column A)

Enter the amount arrived at by multiplying the amount on line 23.00 by the statutory U.S. Federal income tax rate of 48%.

Line 25.00 (column A)

Enter in the amount of foreign tax credit recognized in arriving at the current year's income tax expense.

Line 26.00 (column A)

Enter the amount of U.S. Federal investment tax credits which are recognized in arriving at the current year's Federal income tax expense.

Line 27.00 (column A)

Enter the amount of tax savings recognized due to statutory depletion.

Line 28.00 (column A)

Enter any other items needed to complete this reconciliation. If the amount on this line exceeds 5% of the amount of line 24.00, provide a detailed breakdown of line 28.00 so that the unexplained amount is less than 5% of line 24.00. Attach the detailed breakdown on a separate sheet of paper as part of Exhibit B.

Line 29.00 (column A)

Enter the amount of the U.S. Federal tax provision which will equal the net of lines 01.00 and 02.00, plus the net of lines 12.00 and 13.00 above.

Lines 24.00 through 29.00 (column B)

Enter the percentage arrived at by dividing the amount in column A by the amount on line 23.00 above.

REPORTING COMPANY, ANALYSIS OF INCOME TAXES BY SEGMENTS

SCHEDULE 5113

This schedule provides segment-by-segment details of the current and deferred taxes reported to total in the segment income statements. Column A corresponds to the current tax expense in the segment income statements; column F corresponds to the deferred tax expense.

Instructions for determining these amounts are included in the "FRS Overview" section of the instructions under "Income Tax Expense".

The amounts reported on line 36.00, Schedule 5113, must equal the amounts reported on the corresponding lines on Schedule 5112, i.e., columns A, B, C, D, E, F, G, H, I, and J on line 36.00, Schedule 5113, must equal lines 11.00, 01.00, 02.00, 03.00, 10.00, 16,00, 12.00, 13.00, 14.00, and 15.00 of Schedule 5112, respectively.

Lines 35.00 and 34.00 of Schedule 5113 represent the taxes applicable to amounts included in columns B and C of Schedule 5110, respectively.

REPORTING COMPANY, ANALYSIS OF U.S. FEDERAL DEFERRED INCOME TAXES

SCHEDULE 5114

This schedule provides segment-by-segment disaggregation of line 12.00, Schedule 5112; i.e., the components of U.S. Federal deferred income taxes before deferred investment tax credits.

Lines 01.00 through 36.00

These lines represent the FRS segments. The principles for allocating amounts to the segments are explained in the "FRS Overview" section of the instructions under "Income Tax Expense".

Column A

Each line of column A of Schedule 5114 has a corresponding line in column G of Schedule 5113. Line 36.00, column A, corresponds to line 12.00 of Schedule 5112.

Column E

Report any timing differences (between financial statements and tax returns) in recognizing provisions for losses due to such items as anticipated expropriation, unfavorable long-term contract commitments, etc.

Column F

If the amount in column F on line 36.00 exceeds 5% of line 36.00, column A, attach a detailed schedule identifying (by segment) the nature of the components of this amount so that the unidentified amount is less than 5% of line 36.00, column A. Attach the detailed breakdown on a separate sheet of paper as part of Exhibit B.

REPORTING COMPANY, ANALYSIS OF OTHER TAX BENEFITS

SCHEDULE 5115

This schedule is designed to provide an analysis (by segment) of certain tax benefits.

Column A

Line 36.00 corresponds to line 27.00 of Schedule 5112.

Columns B and C

Line 36.00 will correspond to lines 02.00 and 13.00 of Schedule 5112 only if all amounts generated are recognized in the same year by the reporting company. Amounts carried forward or carried back will account for any differences.

Column E

Line 36.00, column E, will correspond to line 25.00 of Schedule 5112.

REPORTING COMPANY, CONSOLIDATING BALANCE SHEET

SCHEDULE 5120

GENERAL

Report the consolidated balance sheet as of the end of the period in column A. Reported amounts must agree with the company's certified consolidated balance sheet, except for reclassifications needed to complete the required line items. Itemize these reclassifications on a separate sheet of paper and attach as part of Exhibit B.

Report amounts directly assignable to Petroleum, Coal, Nuclear, Other Energy, and Non-Energy in columns D through H. Such amounts must agree with those reported on Schedules 5220, 5320, 5420, 5520, and 5620 as referenced in the column headings. Refer to the detailed instructions for each of these schedules for more specific guidance.

Report amounts not directly assignable (see "FRS Overview" section of the instructions) to particular segments as nontraceable in column C. DO NOT allocate costs of assets maintained for general corporate purposes to particular segments. Provide a detailed explanation of amounts classified as nontraceable on a separate sheet of paper and attach as a part of Exhibit D.

Report consolidation eliminations in column B. Include only those eliminations applicable to transactions among Petroleum, Coal, Nuclear, Other Energy, and Non-Energy, as indicated in columns D through H. Eliminations required within each of these five columns should be reported on Schedules 5220, 5320, 5420, 5520, or 5620 as appropriate. Explain the eliminations reported on this schedule on a separate sheet of paper attached as part of Exhibit C. Include a brief description of the nature of and reason for the entries.

DO NOT assign amounts reported on lines 01.00 and 05.00 to columns D through H. Report these items only in column A and C. Report lines 14.00 through 25.00 in column A only.

Line 01.00—Cash and Marketable Securities

Report in total all amounts classified as cash and marketable securities for certified financial statement reporting. DO NOT allocate cash and marketable securities to columns D through H.

Line 02.00—Trade Accounts and Notes Receivable

Report third party and unconsolidated affiliate trade accounts and notes receivable net of reserves for uncollectible accounts as they are recorded in the company's financial records for certified financial statement reporting. DO NOT include amounts reported on Schedule II of Form 10-K. DO NOT include intersegment receivables or receivables from consolidated affiliates.

Lines 03.00 and 04.00—Inventories

Report end-of-period inventories according to the valuation method used for certified financial statement reporting. Report separately inventories held for resale, including raw materials inventories held for processing and subsequent sale (line 03.00), and materials and supplies inventories (line 04.00).

If LIFO reserves are not specifically identifiable with respect to inventories held for resale, allocate them on a pro-rata basis.

Line 05.00—Other Current Assets

Report in total all other assets classified as current for certified financial statement reporting, such as prepaid expenses, deferred charges, and non-trade notes and accounts receivable. DO NOT assign these other current assets to the segments in columns D through H.

Line 06.00—Total Current Assets

Total lines 01.00 through 05.00, columns A and C only.

Line 07.00—Gross Property, Plant, and Equipment

Report all capitalized costs reported as property, plant, and equipment.

Line 08.00—Accumulated DD&A

Report accumulated depreciation, depletion, and amortization (DD&A) and valuation charges relating to capitalized costs reported on line 07.00. (Refer to the Glossary for the definition of valuation charges.)

Line 09.00—Net Property, Plant, and Equipment

Line 07.00 less line 08.00.

Line 10.00—Investments and Advances to Unconsolidated Affiliates

Report investments in and advances to unconsolidated affiliates as recorded on the company's financial records.

Investments and advances to unconsolidated affiliates which operate in more than one FRS segment should be reported in the segment corresponding to the affiliate's primary business activity, unless data from corporate records are available to make an allocation among the applicable FRS segments. Describe the allocation method used on a separate sheet of paper and attach as part of Exhibit B.

Line 11.00—Other Noncurrent Assests

Report all other assets classified as non-current.

Line 12.00—Total Noncurrent Assets

Total lines 09.00 through 11.00.

Line 13.00—Total Assets

Total lines 06.00 and 12.00, columns A and C only.

Line 14.00—Trade Accounts and Notes Payable

Report total trade account and note payable balances.

Line 15.00—Other Current Liabilities

Report all other non-trade accounts and notes payable, accrued expenses, current income taxes payable, and other liabilities classified as current.

Line 16.00—Long Term Debt

Report long-term debt.

Line 17.00—Deferred Income Tax Credits

Report the non-current portion of tax effects of accumulated book-to-tax timing differences.

Line 18.00—Other Deferred Credits

Report all other deferred credits of a non-current nature. Include the non-current portion of income applicable to future periods. If significant in amount provide an analysis on a separate sheet of paper and attach as a part of Exhibit B.

Line 19.00—Other Long Term Items

Report all other liabilities classified as long-term.

Line 20.00—Minority Interest in Consolidated Affiliates

Report minority interest in equity of consolidated affiliates.

Line 21.00—Total Liabilities

Total lines 14.00 through 20,00.

Lines 22.00 and 23.00—Stockholders' Equity

Report retained earnings and other equity.

Line 24.00—Total Stockholders' Equity

Total lines 22.00 and 23.00.

Line 25.00—Total Liabilities and Stockholders' Equity

Total lines 21.00 and 24.00.

REPORTING COMPANY, INVESTMENTS AND ADVANCES TO UNCONSOLIDATED AFFILIATES

SCHEDULE 5121

GENERAL

Information on individual unconsolidated affiliates must be reported on this schedule only if any amount reported in columns E through K with respect to an individual affiliate exceeds $10 million.

Use additional sheets as necessary. Continue numbering the lines sequentially.

Do not complete columns L and M for non-energy unconsolidated affiliates.

Column A—Affiliate's Name and Code

List the name of each unconsolidated affiliate meeting the above criteria. Use continuation sheets if necessary. Enter in column A a four-digit code corresponding to the number of the line on which the unconsolidated affiliate is reported. For example, enter "0015" for an unconsolidated affiliate reported on line 15.00.

Column B—Business/Geographic Code

Indicate the *two* primary businesses and the *two* principal geographic areas of operation each affiliate listed in column A in order of magnitude. Use the Business/Geographic Code described in the table on the following page. If only one code is applicable use a zero in place of the second number(s).

Column C—Percent Owned

Report the company's percentage common stock ownership in each company listed in column A.

Column D—Accounting Method Code

Indicate the method by which the company accounts for its investment in each affiliate listed in column A. Use the Accounting Method Code described below:

FRS BUSINESS/GEOGRAPHIC CODES

(SCHEDULES 5121 AND 5122)

Use the following four-digit code to indicate the *two* primary business activities and *two* principal geographic areas of operation for each unconsolidated affiliate and joint venture reported in Schedules 5121 and 5122:

First Two Digits Code:	*Primary Business Activity*
1	Petroleum Production
2	Petroleum Refining/ Marketing
3	Federally Regulated Pipelines
4	International Marine
5	Coal
6	Nuclear
7	Other Energy
8	Non-Energy (Chemicals)
9	Non-Energy (Other)

Second Two Digits Code:	*Location of Principal Operations*
1	United States
2	Canada
3	OECD Europe
4	Africa (North)
5	Africa (Other)
6	Middle East
7	Other Eastern Hemisphere (Asia)
8	Other Eastern Hemisphere (Other)
9	Other Western Hemisphere

Example: 5623=Unconsolidated affiliate with primary operations in Coal and Nuclear, located in Canada and OECD Europe.

Code	*Accounting Method*
1	Cost Basis
2	Equity Method
3	Other (explain in Exhibit A; see also section entitled "One-Line Consolidations" under "FRS Overview").

Column E—Investments and Advances (Beginning Balance)

Report the beginning-of-period balance of this account.

Column F—Equity in Earnings

Report the company's equity in the net income of each affiliate accounted for by the equity method.

Column G—Equity Method Dividends

Report dividends received from each affiliate that is accounted for by the equity method.

Column H—New Investment and Repayment of Advances

Report new investments (net of advance repayments) made during the reporting period to affiliates.

Column I—Other Changes in Investments and Advances

Report all other changes in investments and advances to the affiliate not included in columns F through H. Explain these changes on a separate sheet of paper attached as a part of Exhibit B.

Column J—Investments and Advances (Ending Balance)

Report the ending balance of this account.

Column K—Cost Method Dividends

Report dividends received from affiliates accounted for by the cost method.

Column L—Total Affiliate Sales

Report total consolidated sales (revenues) for each separately listed affiliate.

Column M—Total Affiliate Assets

Report total consolidated assets for each separately listed affiliate.

REPORTING COMPANY, JOINT VENTURE PARTICIPATION

SCHEDULE 5122

GENERAL

Information on individual joint ventures must be reported on this schedule only if the reporting company's accounts for a particular venture's expenditures (column F plus column G) exceed $10 million during the period or the company's gross investment in the venture (column H) exceeds $30 million at the end of the period. Use continuation sheets if necessary. Continue numbering the lines sequentially.

If no joint ventures exceed these thresholds, report the required information for the reporting company's five largest joint ventures in terms of the reporting company's accounts for venture expenditures (column F plus column G).

Report joint ventures with unaffiliated third parties and unconsolidated affiliates. Include partnerships. DO NOT include activities reported on Schedule 5121.

See Glossary for definition of "joint venture."

Column A—Joint Venture's Name and Code

List the name of each joint venture that meets the selection criteria described above. Use continuation sheets if necessary.

Enter in column A a four-digit code corresponding to the number of the line on which the joint venture is reported. For example, enter "0015" for a joint venture reported on line 15.00.

Column E—Business/Geographic Code

Enter the code (from the table presented with the instructions for Schedule 5121) corresponding to the two primary business activities and two primary locations of the venture.

Column C—Participation

Enter the percentage participation of the company in the venture as of the end of the period. Specify whether this percentage refers to assets (A) or expenditures (E), e.g., 40% A.

Column D—Consolidation Method Code

Enter the code from the following list to indicate whether or not the reporting company is the operator of the joint venture and to indicate the method used to consolidate the joint venture financial results with the financial results of the reporting company.

Code:	*Method of Consolidation*
1	Fully consolidated (operator)
2	Proportionately consolidated (operator)
3	Other (operator)
4	Fully consolidated (non-operator)
5	Proportionately consolidated (non-operator)
6	Other (non-operator)

Column E

Report the year in which the joint venture was formed. For example, if the joint venture was formed in 1974, enter "74".

Column F

Enter the balance in the reporting company's accounts of venture expenditures that were capitalized during the period.

Column G

Enter the balance in the reporting company's accounts of venture expenditures that were expensed during the period.

Column H

Enter the balance in the reporting company's account of venture revenues.

Column I

Enter accumulated DD&A as of the end of the reporting period.

Column J

Enter the balance of the reporting company's gross investment in the venture.

REPORTING COMPANY, CONSOLIDATING STATEMENT OF SOURCES AND USES OF FUNDS

SCHEDULE 5130

SOURCES OF FUNDS

Report consolidated sources of funds (lines 01.00 through 13.00) for the reporting company. Amounts must agree with certified financial statement reporting, except for reclassifications needed to complete the required line items. Itemize these reclassifications on a separate sheet of paper attached as a part of Exhibit B.

USES OF FUNDS

In completing lines 14.00 through 42.00, use column C for additions to the nontraceable assets reported in column C of Schedules 5220, 5320, 5420, 5520, and 5620.

Lines 14.00 through 17.00—Additions to Property, Plant, and Equipment (Petroleum Production Segments)

Report capitalized expenditures for exploration, development, and production as reported on Schedule 5223. Include *all* support equipment and facilities on line 17.00. Assign amounts reported in column E to the geographic areas indicated by columns F through K.

Lines 18.00 and 19.00—Additions to Property, Plant, and Equipment (Refining/Marketing Segments)

Report capitalized expenditures for refining and marketing as reported on Schedule 5222. Assign amounts reported in column E to the geographic areas indicated by columns F through K.

Lines 20.00 through 23.00—Additions to Property, Plant, and Equipment (Refining/Marketing Primary Transportation)

Report capitalized expenditures for primary transportation property, plant, and equipment used in refining and marketing operations as reported on Schedule 5222. *Exclude* Federally Regulated Pipelines Segment transportation and International Marine Segment transportation reported on lines 24.00 through 27.00. Assign amounts reported in column E to the geographic areas indicated by columns F through K.

Line 20.00—Pipeline Transportation

Report capitalized expenditures for primary pipeline transportation of petroleum products. Include trunk lines, pump and heater stations, storage tanks along lines, delivery facilities, and transmission lines. DO NOT include facilities accounted for as part of other refining and marketing activities.

Line 21.00—Marine Transportation

Report capitalized expenditures for primary marine transportation of petroleum products. Include costs of facilities for inland waterways and ocean-going marine (Jones Act) operations. DO NOT include marine facilities accounted for as part of other refining and marketing activities, such as facilities used in offshore production or terminals associated with refining activities. Include in-progress ship construction.

Line 22.00—Other Transportation

Report capitalized expenditures for other primary facilities used to transport petroleum products (other than by marine or pipeline modes) to the extent that such facilities can be assigned to a refining and marketing transportation and supply function.

Line 23.00—Total Primary Transportation

Total lines 20.00 through 22.00.

Lines 24.00 through 26.00—Additions to Property, Plant, and Equipment (Federally Regulated Pipeline Segments)

Report capitalized expenditures for Federally Regulated Pipeline operations as reported on Schedule 5222. Report crude/liquid pipelines (line 24.00), natural gas pipelines (line 25.00), and refined product pipelines (line 26.00) separately. Use columns A and D only. "Federally regulated" refers to pipeline operations regulated by the Federal Energy Regulatory Commission (formerly the U.S. Interstate Commerce Commission or U.S. Federal Power Commission).

Line 27.00—Additions to Property, Plant and Equipment (International Marine Segment)

Report capitalized expenditures for international marine operations, excluding Jones Act tankers and related equipment, as reported on Schedule 5222.

Line 28.00—Additions to Property, Plant, and Equipment (Total Petroleum)

Total lines 14.00 through 27.00 (less line 23.00).

Lines 29.00 through 33.00—Additions to Property, Plant, and Equipment (Other Industry Segments)

Report capitalized expenditures that can be assigned to the Coal, Nuclear, Other Energy, and Non-Energy.

Line 34.00—Nontraceable Assets

Report capitalized expenditures that cannot be assigned to the segments identified in lines 14.00 through 33.00. This is a breakdown of additions to property, plant, and equipment included in columnn C of Schedule 5120.

Line 35.00—Total Additions to Property, Plant, and Equipment

Total lines 28.00 through 34.00.

Lines 36.00 through 40.00—Traceable Investments and Advances to Unconsolidated Affiliates

Report funds used for investments in and advances to unconsolidated affiliates that can be assigned to the various FRS foreign and domestic segments. If these funds cannot be directly assigned to specific segments, determine the appropriate segment based on the primary business activity of the affiliate, unless data from corporate records are available to make an allo-

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cation among the applicable FRS segments. Describe the allocation method used on a separate sheet of paper and attach as part of Exhibit B.

Line 41.00—Nontraceable Investments and Advances to Unconsolidated Affiliates

Report funds used as investments in and advances to unconsolidated affiliates that cannot be assigned to particular segments.

Line 42.00—Total Investments and Advances

Total lines 36.00 through 41.00.

Lines 43.00 through 45.00—Other Investments, Dividends, and Reductions in Long Term Debt

Report funds used for the linc items indicated.

Line 46.00—Other Uses of Funds

Report all other uses of funds for the period. If this amount exceeds 5% of the amount reported on line 13.00, provide a detailed anaylsis on a separate sheet of paper attached as part of Exhibit B.

Line 47.00—Total Uses of Funds

Total lines 35.00 and 42.00 through 46.00, column A.

INCREASE/(DECREASE) IN WORKING CAPITAL

Report the net increase/(decrease) in working capital. This amount must equal the difference between line 13.00 and line 47.00, column A.

REPORTING COMPANY, UNCONSOLIDATED AFFILIATES

SCHEDULE 5141

GENERAL

Report the required information for each unconsolidated affiliate listed in Schedule 5121, except for non-energy unconsolidated affiliates.

Line 01.00—Unconsolidated Affiliate

Enter the name and code of the unconsolidated affiliate listed on Schedule 5121 for which this Schedule 5141 is being submitted.

Lines 02.00 through 10.00—Names of Co-owners

Report the names of each major (10% or greater ownership interest) coowner of the affiliate, including the name of the reporting company. Also, report the percentage ownership of each co-owner in the affiliate. DO NOT report such information for affiliates registered with the Securities and Exchange Commission.

Lines 11.00 through 49.00—Operating Statistics (Total Affiliate)

Report each petroleum affiliate's net wells completed, net working interest production, and net proved reserves on lines 11.00 through 19.00.

Report the other statistical data specified for the affiliate on lines 20.00 through 49.00. Refer to the instructions for Schedules 5241, 5242, 5244, 5246, 5341 and 5441 for definitions of line items 20.00 through 49.00.

Lines 50.00 and 51.00—Energy Research and Development

Complete these lines only if the unconsolidated affiliate is primarily engaged in energy research and development activities, i.e., if 75% or more of its expenses are assignable to research and development efforts.

Report separately the total domestic and foreign research and development expenditures on line 50.00.

Report on line 51.00 the predominant type of research and development activities in which the affiliate is engaged. Use the following code to identify the type of activities:

Code:	Type of Activity
1	Petroleum
2	Coal
3	Nuclear
4	Oil Shale
5	Tar Sands
6	Geothermal
7	Solar
8	Other Energy

REPORTING COMPANY, CONSOLIDATED JOINT VENTURES

SCHEDULE 5142

GENERAL

Report the required information for each joint venture listed in Schedule 5122, except for non-energy joint ventures.

DO NOT include activities reported on Schedule 5141. Report only joint ventures which involve unaffiliated third parties.

Line 01.00—Joint Venture

Enter the name and code of the joint venture listed on Schedule 5122 for which this Schedule 5142 is being submitted.

Lines 02.00 through 10.00—Names of Co-Venturers

Report the names of each major (10% or greater ownership interest) coventurer and the percentage ownership of each.

Lines 11.00 through 49.00—Operating Statistics (Company Share)

Report the company's share of each petroleum joint venture's net wells completed, net working interest production, and net proved reserves on lines 11.00 through 19.00.

Report the company's share of the other statistical data specified for the joint venture on lines 20.00 through 49.00. Refer to the instructions for Schedules 5241, 5242, 5244, 5246, 5341, and 5441 for definitions of line items 20.00 through 49.00.

Lines 50.00 and 51.00—Energy Research and Development

Complete these lines only if the joint venture is primarily engaged in energy research and development activities, i.e., if 75% or more of its expenses are assignable to research and development efforts.

Report separately the total domestic and foreign research and development expenditures on line 50.00.

Report on line 51.00 the predominant type of research and development activities in which the venture is engaged. Use the following code to identify the type of activities:

Code:	Type of Activity
1	Petroleum
2	Coal
3	Nuclear
4	Oil Shale
5	Tar Sands
6	Geothermal
7	Solar
8	Other Energy

DOMESTIC AND FOREIGN PETROLEUM SEGMENTS, CONSOLIDATING STATEMENT OF INCOME

SCHEDULE 5210

GENERAL

Report consolidating results of operations assignable to domestic and foreign petroleum operations.

Refer to the Glossary for definitions of activities considered as domestic or foreign; Production or Refining/Marketing; Federally Regulated Pipelines; and International Marine.

In general, revenues and expenses should be associated with costs incurred within a segment, but refer of the "FRS Overview" section of the instructions for more detailed explanation of the FRS segments and the petroleum supply and trading function.

Refer to the instructions for Schedule 5211 to identify general operating expense items included in the Production and Refining/Marketing Segments.

Column C—Nontraceable (Domestic and Foreign)

Report amounts that can be assigned to petroleum operations, but cannot be further assigned to specific domestic or foreign segments.

Columns H and P—Nontraceable (Petroleum)

Report amounts that can be assigned to domestic or foreign petroleum operations, but cannot be further assigned specifically to the Production, Refining/Marketing, Federally Regulated Pipeline, or International Marine Segments.

Columns I and Q—Production

Report as raw materials revenues (1) the value of production transferred to the Refining/Marketing Segment and (2) the sales of natural gas and plant products to third parties or unconsolidated affiliates. DO NOT include the value of production used for production purposes, e.g., reinjected gas and crude burned on the lease (see Schedule 5213).

Columns K, L and M—Federally Regulated Pipelines

Report income statement information only if it applies to Federally regulated pipeline operations governed by the Federal Energy Regulatory Commission (formerly the U.S. Interstate Commerce Commission or Federal Power Commission).

Report crude/liquid, natural gas, and refined product pipeline operations as separate segments.

Column S—International Marine

Report income statement information only if it applies to International Marine Segment operations. Include only high seas transportation activities serving a foreign port (i.e., exclude Jones Act shipping).

Include revenues and expenses for voyages by company-owned, leased or chartered vessels carrying cargo for others as well as for the company's own use.

DO NOT include foreign transportation charges paid to third parties for shipments or deliveries of the reporting company's own goods. These costs should be reported in the Refining/Marketing Segment (column R).

OPERATING REVENUES

Report all operating revenues included on Schedule 5110 (line 01.00, column D) in the categories indicated on lines 01.00 through 10.00 (domestic and foreign) as follows:

Line 01.00—Raw Materials

Report the value of the sale or intersegment transfer of crude and condensate, natural gas, plant products, and semi-finished and blending stocks by the domestic and foreign segments. These amounts must agree with the corresponding amounts reported on Schedule 5213, column A, lines 09.00 and 17.00 (domestic); and lines 31.00 and 37.00 (foreign).

Line 02.00—Refined Products

Report all revenues derived from the sale of motor gasoline, distillate fuels, residual fuels, and other refined products by the domestic and foreign segments. These amounts must agree with the corresponding amounts reported on Schedule 5214, column B, line 20.00 (domestic) and line 27.00 (foreign).

Line 03.00—Transportation

Report all revenues derived from Federally Regulated Pipeline Segment operations in column K for transporting crude/liquids, in column L for transporting natural gas, and in column M for transporting refined products.

Report all revenues derived from International Marine Segment operations in column S.

Report all other transportation revenues under the appropriate column heading. For example, the revenues of a domestic intra-state pipeline would be reported in column J.

Line 04.00—Management Fees and Processing Revenues

Report all management fees and processing revenues, domestic and foreign. Include amounts paid to the consolidated reporting company for processing crude oil or other raw materials for the accounts of third parties. Management fees include only those fees for operating oil and gas facilities for host country governments or their agencies.

Line 05.00—Not Used

Line 06.00—Not Used

Lines 07.00 and 08.00—Consumer Excise Taxes

Report all domestic and foreign consumer excise taxes collected by the consolidated company on line 07.00 regardless of whether such amounts are reported in the company's certified financial statements.

If consumer excise taxes are *excluded* from reported operating revenues, also report the amount of excise taxes collected as a deduction (in brackets) on line 08.00.

If consumer excise taxes are *included* in reported operating revenues, enter "0" on line 08.00. Instead, report domestic excise taxes on Schedule 5211, line 59.00; include foreign excise taxes on Schedule 5210, line 11.00.

Line 09.00—Other

Report all other domestic and foreign operating revenues not included on lines 01.00 through 08.00. Include all revenues derived from tire, battery, and accessory (TBA), anti-freeze, undercoating and other sales.

Line 10.00—Total Operating Revenues

Total lines 01.00 through 09.00.

Lines 11.00 through 30.00

Refer to the instructions for Schedule 5110 for revenue and expense definitions applicable to Schedule 5210, lines 11.00 through 30.00 (domestic and foreign). Amounts reported in column A must agree with amounts reported in column D on Schedule 5110. Note that other revenue and expense (lines 18.00 through 26.00) excludes portfolio dividend and interest income, and interest expense and financial charges since these items are considered to be corporate in nature (see Schedule 5110, columns A and C).

PETROLEUM PRODUCTION AND REFINING MARKETING SEGMENTS, GENERAL OPERATING EXPENSES

SCHEDULE 5211

GENERAL

Report costs that can be assigned to petroleum exploration, development, production, and refining/marketing operations that were treated as expenses for certified financial statement reporting. DO NOT include capitalized expenditures; these are reported separately on Schedules 5221, 5222, and 5223.

DOMESTIC PRODUCTION SEGMENT

Segregate reported amounts by the indicated domestic geographic areas based on operating location. Refer to the Glossary for detailed definitions of these areas.

Include only expenses assignable to the Domestic Production Segment. Allocations performed at the district or field level as part of the company's normal reporting system are acceptable and need not be adjusted for this schedule.

EXPLORATION

Line 01.00—Acquisition of Unproved Acreage

Report all expenses incurred for acquiring unproved acreage. Include expenses associated with acquiring leases, mineral rights, and fee lands incident to oil and gas exploration.

DO NOT include expenses related to carrying leases to maintain the company's leasehold interests. These expenses should be reported on line 07.00 (lease rents).

Lines 02.00 through 04.00—Drilling and Equipping of Wells

Report cumulative expenditures expensed for drilling and equipping exploratory wells completed during the period.

Include all expenses incurred from the inception of these completed wells.

Include expenses related to developing successful exploratory wells.

Do NOT include expenses related to activities beyond the christmas tree, as these should be reported under lease equipment on lines 18.00 through 21.00 below.

Line 05.00—Work-in-Progress Adjustment

Report the increase or (decrease) in cumulative expenditures expensed for drilling and equipping exploratory wells-in-progress between the beginning and end of the reporting period.

Line 06.00—Total Drilling and Equipping of Wells

Total lines 02.00 through 05.00. This must equal expenditures expensed during the period.

Line 07.00—Lease Rents

Report expenses related to carrying leases necessary for the company to maintain its leasehold interests.

Line 08.00—Geological and Geophysical

Report all geological and geophysical expenses including, but not limited to, expenses related to salaries, equipment, and supplies for scouts, and geological and geophysical crews.

Include expenses associated with surface and subsurface studies and geochemcial analyses.

Line 09.00—Test Hole Contributions

Report all test well, bottom hole, and dry hole cash contributions expensed during the period. DO NOT reclassify acreage contributions. Refer to the Glossary for definitions of these items.

Line 10.00—Land Department, Leasing, and Scouting

Report all expensed land department, leasing, and scouting costs not considered to be geological and geophysical costs, but related directly to exploratory activities.

Line 11.00—Other Exploration Expenses

Report all other expenses, including direct overhead costs assigned at the field or district level, directly associated with exploration activities.

Line 12.00—Total Exploration Expenses

Total lines 01.00 and 06.00 through 11.00.

DEVELOPMENT

Lines 13.00 through 15.00—Drilling and Equipping of Wells

Report cumulative expenditures expensed for drilling and equipping successful development wells and dry holes completed during the period.

Include all expenses incurred from the inception of these completed wells.

Include expenses related to casing, tubing, and wellhead fittings associated with development wells; costs of roads and grading; costs of drilling platforms; and all expenses incident to development drilling.

Include expenses associated with old wells drilled deeper, redrilled wells, and recompletions.

Exclude expenses for well workovers.

Refer to Glossary definitions of the various descriptive well terms used above.

Line 16.00—Work-in-progress Adjustment

Report the increase or (decrease) in cumulative expenditures expensed for drilling and equipping development wells-in-progress between the beginning and end of the reporting period.

Line 17.00—Total Drilling and Equipping of Wells

Total lines 13.00 through 16.00. This must equal expenditures expensed during the period.

Line 18.00—Lease Equipment

Report all expenses related to acquiring and maintaining lease equipment.

Line 19.00—Lease (Acquisition of Producing Acreage)

Report all expenses incurred in acquiring producing acreage. Include expenses associated with acquiring leases, mineral rights, and fee lands incident to oil and gas development.

Line 20.00—Other Development Expenses

Report all other development expenses not included on lines 13.00 through 19.00.

Line 21.00—Total Development Expenses

Total of lines 17.00 through 20.00.

PRODUCTION (LIFTING)

Refer to the Glossary for definitions of production and production costs. Report amounts expensed during the period as follows (Lines 22.00 through 24.00 are reserved for possible future use):

Line 25.00—Total Well Operation, Maintenance, and Workover Expenses

Report lifting and other expenses that can be assigned to the production of oil and gas. Exclude expenses for exploratory and development activities.

Production costs include labor, supervision in the field, repair and maintenance (See below for workovers), fuel, power and water, small tools and supplies, cost of treating oil, teaming and trucking, insurance, taxes other than income taxes (see instructions for lines 27.00 and 28.00, below, for ad valorem taxes and production or severance taxes paid to State and local governments), buildings, lease or field facilities, and other property used in production operations, bailing, shooting, fracturing, and acidizing (when not part of original competion work), abandonments, and expenditures for maintaining field offices.

Include all expenses of cleaning out and working over wells for the purpose of restoring or increasing the production from the same producing horizon. Costs of old wells drilled deeper, redrilled wells, and recompletions in different producing horizons are included in drilling and equipping development wells (see lines 13.00 through 17.00).

Report all expenses for operations and maintenance of fluid injection and other improved recovery programs, including well operations and maintenance for improved recovery wells. Include workovers of improved recovery wells. Refer to Glossary for definitions of "improved recovery."

Include the value of all materials used, except the reporting company's own raw material production used on the lease which is reported on Schedule 5213, lines 02.00 and 24.00.

Line 26.99—Gas Processing Facilities

Include all expenses for the operation and maintenance of natural gas cycling and processing plants included on line 22.00 of Schedule 5223.

Line 27.00—Ad Valorem Taxes

Include all expenses for ad valorem taxes on producing properties, equipment, buildings, lease or field facilities, and other property used in production operations. Exclude ad valorem taxes on undeveloped properties and on buildings and equipment used for exploratory purposes. (Include these items in other exploration costs on line 11.00 above.)

Line 28.00—Severance Taxes

Include payments of production or severance taxes to State and local Governments. DO NOT reduce the revenues from crude oil or natural gas produced at the wellhead by such amounts.

Line 29.00—Other Production Expenses

Report overhead expense, especially at the district and field levels, and other expenses not included elsewhere, which are assigned to the production function. Include domestic royalty expenses.

Line 30.00—Total Production (Lifting)

Total lines 25.00 through 29.00.

Line 31.00

Total lines 12.00, 21.00, and 30.00.

Line 32.00—DD&A of Support Equipment and Facilities

Report the amount of DD&A applicable to support equipment and facilities. Report this amount as a deduction (credit).

Lines 33.00 and 34.00—Natural Gas and Natural Gas Liquids

Report on line 33.00 all expenses incurred by the Domestic Production Segment in purchasing natural gas and natural gas liquids for processing and resale. Include inventory changes.

Report on line 34.00 all selling and related expenses incurred directly by the Domestic Production Segment in disposing of natural gas and natural gas liquids to third parties and unconsolidated affiliates.

Line 35.00—Total Domestic Production Segment General Operating Expenses

Total lines 31.00 through 34.00. Note that line 32.00 is a negative amount and will therefore be excluded from total Domestic Production Segment general operating expenses reported here on line 35.00 and on Schedule 5210, line 11.00, column I.

DOMESTIC REFINING MARKETING SEGMENT

Report the expenses that can be assigned to the Domestic Refining/Marketing Segment as described below.

Operating expenses must be segregated among the indicated raw material, refined product, and marketing categories.

The marketing function includes the operation of terminals, bulk plants, retail outlets, and transportation facilities used for delivering refined products. Canning plant operations (e.g., blending, compounding, and canning lube oil products) should be included in refinery operating expenses.

DO NOT include the expenses of petrochemical operations since such operations must be included in the Chemical Segment and reported on Schedules 5610 and 5620 columns F through J.

Line 36.00—Raw Material Purchases

Report purchases by the Domestic Refining/Marketing Segment of crude oil, condensate, natural gas, plant products, semifinished products, and blending stocks as reported on Schedule 5212, line 05.00, column A.

Line 37.00—Raw Material Transportation

Report total domestic expenses incurred in transporting raw materials for the company's own use as reported on Schedule 5215, line 19.00.

Line 38.00—Raw Material Exchange Differentials

Report all domestic raw material exchange differentials. Include differentials arising from differences in the quality, quantity, and location of raw materials.

Include in "raw material exchange differentials" those differentials arising from "product for raw material" exchanges if raw materials were *received* by the reporting company.

Report multi-party exchanges in accordance with the reporting company's normal accounting practices.

Line 39.00—Changes in Raw Material Inventories

Report the net change in domestic inventories of crude, condensate, natural gas, plant products, semifinished products, and blending stocks between the beginning and end of the reporting period.

Line 40.00—Other Raw Material Supply Expense

Report all other domestic raw material supply expenses not included in lines 36.00 through 39.00.

Line 41.00—Total Raw Material Supply Expense

Total lines 36.00 through 40.00.

Line 42.00—Less: Raw Materials Input to Refining

Report the value of total raw materials input to domestic refining.

Line 43.00—Net Raw Material Supply

Line 41.00 minus line 42.00.

Line 44.00—Raw Materials Input to Refining

Report the value of total raw materials input to domestic refining. This amount must agree with the amount reported on line 42.00 above.

Line 45.00—Credit Amount of Raw Material Used As Refinery Fuel

Report the value of raw materials input to domestic refining (line 42.00) that were subsequently used as refinery fuel. This figure should be reported as a deduction (credit).

Line 46.00—Refinery Process Energy Expense

Report all domestic refinery process energy expenses, including cost of own fuel, purchased fuel, electricity, and steam used in the process of refining. Include amounts reported on line 45.00.

Line 47.00—DOE Crude Entitlements

Report net crude oil entitlements recorded under the provisions of the Department of Energy's Crude Oil Equalization Program.

Line 48.00—Other Refining Operating Expenses

Report all other domestic refining operating expenses. (All foreign refining operating expenses, including raw material acquistions, must be reported on Schedule 5210, line 11.00, column R).

Line 49.00—Refined Product Purchases

Report domestic refined product purchases as reported on Schedule 5212, line 05.00, column F.

Line 50.00—Refined Product Exchange Differentials

Report all domestic refined product exchange differentials. Include differentials arising from differences in the quality, quantity, and location of refined products.

Include in "refined product exchange differentials" those differentials arising from "raw material for product" exchanges if refined products were *received* by the reporting company.

Report multi-party exchanges in accordance with the reporting company's normal accounting practices.

Line 51.00—Changes in Refined Product Inventories

Report the change between the beginning-of-period and end-of-period domestic inventories of refined products held for resale. Report inventory changes for other merchandise on line 56.00.

Line 52.00—Refined Product Transportation

Report all identifiable refined product transportation expenses as reported on Schedule 5215, line 20.00. Report amounts as they apply to the domestic marketing operations of the company.

Line 53.00—Other Refined Product Supply Expenses

Report all other domestic refined product supply general operating expenses not included on lines 44.00 through 52.00.

Include all taxes applicable to refined product supply (other than income taxes and consumer excise taxes). Also include any canning and blending operation expenses not assigned to other marketing expenses (line 62.00).

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DO NOT include any amounts incurred in Federally regulated pipeline operations.

Line 54.00—Total

Total lines 44.00 through 53.00.

Line 55.00—Purchases of Other Products (including TBA)

Reporting domestic purchases of other products held for resale, including tires, batteries, and accessories (TBA) and other merchandise.

Line 56.00—Changes in Other Product Inventories (including TBA)

Report the change between the beginning-of-period and end-of-period domestic inventories of other products held for resale. Include tires, batteries, and accessories (TBA) and other merchandise. Report inventory changes for refined products on line 51.00.

Amounts reported should be net of valuation reserves. (Refer to instructions for Schedule 5120, lines 03.00 and 04.00, regarding inventory reporting requirements.)

Line 57.00—Advertising

Report all Domestic Refining/Marketing Segment advertising expenses for the period. Include all costs related to advertising the company's name, products or services in newspapers, periodicals, or other advertising media.

Line 58.00—DOE Residual Fuel Entitlements

Report net entitlements recorded under the provisions of the Department of Energy's Residual Fuel Entitlements Program.

Line 59.00—Consumer Excise Taxes

If consumer excise taxes arc included in total operating revenues on Schedule 5210, line 10.00, report the same amount of excise taxes here on line 59.00.

Line 60.00—Credit Card Operating Expense

Report direct expenses of credit card operations including costs of record-keeping and billing personnel and equipment.

Line 61.00—Company-Operated (Salaried) Retail Operating Expenses

Report direct operating expenses of company-operated retail outlets including rent, real estate taxes, utilities, payroll, repairs, and maintenance.

Line 62.00—Other Marketing Expenses

Report all other domestic marketing operation expenses not included on lines 55.00 through 61.00. Include expenses of any canning and blending operations that might be assigned to the marketing function.

Line 63.00—Total Marketing Expenses

Total lines 55.00 through 62.00

Line Line 64.00—Expense of Transportation Services for Others

Report all domestic transportation expenses applicable to the transportation revenues reported on Schedule 5210, line 03.00, column J. This expense represents the cost of transporting goods for third parties and unconsolidated affiliates. This amount must agree with the amount reported on Schedule 5215, line 21.00.

Line 65.00—Total Domestic Refining/Marketing Segment General Operating Expenses

Total lines 43.00, 54.00, 63.00, and 64.00. This amount must agree with the amount reported on Schedule 5210, line 11.00, column J.

FOREIGN PRODUCTION SEGMENT

Report all Foreign Production Segment general operating expenses in the categories listed. Refer to the above instructions for the Domestic Production Segment (lines 01.00 through 35.00) for detailed definitions of the above categories covered by lines 66.00 through 83.00.

Note that "other exploration", "other development", and "other production" for foreign operations include cost items that are identified in more detail on lines 01.00 through 31.00 for domestic operations.

The total amount reported on line 83.00, column A, must agree with the amount reported on Schedule 5210, line 11.00, column Q.

FOREIGN REFINING/MARKETING SEGMENT

Report all Foreign Refining/Marketing Segment general operating expenses as a single entry on Schedule 5210, line 11.00, column R.

PETROLEUM REFINING/MARKETING SEGMENTS ACQUISITIONS OF RAW MATERIALS AND REFINED PRODUCTS

SCHEDULE 5212

GENERAL

Read the "FRS Overview" section of the instructions concerning petroleum supply and trading before completing this schedule.

Report acquisitions (domestic and foreign volumes; domestic values) of raw materials and refined products as specified. Refer to the Glossary for definitions of classifications appearing in the column headings.

Report all volumes in thousands of 42 U.S. gallon barrels (MB), except for natural gas, which is to be reported in millions of cubic feet (MMCF). DO NOT report raw material volume totals in column A.

Report domestic and foreign volumes and domestic values for purchase/sale agreements and brokerage activities in accordance with the company's normal accounting practices. DO NOT report exchanges; these are reported on Schedule 5245.

Report transfers of raw materials from the Production Segment to the Refining/Marketing Segment as purchases by the Refining/Marketing Segment as explained in the "FRS Overview" section of the instructions concerning petroleum supply and trading.

Include intersegment tansactions.

DOMESTIC

Report the dollar value (lines 01.00 through 05.00) and volume (lines 06.00 through 10.00) of raw material and refined product purchases. Raw material transporation costs should not be included. Instead they should be reported on Schedule 5211, line 37.00, unless purchases were made f.o.b. destination and transportation cannot be separated from material costs.

Line 01.00—Domestic Production Segment

Report the value of raw material purchased by the Domestic Refining/Marketing Segment from the Domestic Production Segment, including all company-owned domestic production for the period.

Line 02.00—Foreign Refining/Marketing Segment

Report the value of foreign source raw material and refined products purchased by the Domestic Refining/Marketing Segment from the Foreign Refining/Marketing Segment and landed at domestic locations. These amounts should also be reported as dispositions by the Foreign Refining/Marketing Segment on Schedule 5213 (raw materials) or 5214 (refined product), as appropriate.

Lines 03.00 and 04.00—Domestic Unconsolidated Affiliates and Unaffiliated Third Parties

Report purchases from domestic unconsolidated affiliates and unaffiliated third parties on lines 03.00 and 04.00, respectively. Include purchase/sale agreements and brokerage activities in accordance with the company's normal accounting practices.

Line 05.00—Total Cost of Purchases

Total lines 01.00 through 04.00. The total in each column must equal all domestic acquistions of raw material and refined products during the period, excluding the reporting company's refinery output.

Lines 06.00 through 10.00—Volumes Purchased

Report the volumes of raw material and refined product purchases reported on lines 01.00 through 05.00 above.

FOREIGN

Lines 11.00 through 18.00—Volumes Purchased

Report volumes of raw material and refined product acquired by the company's Foreign Refining/Marketing Segment. Note that refined products need only be reported in column F; detailed breakdowns by product type are not required.

Assign volumes purchased from foreign unaffiliated third parties to the categories sepcified on lines 14.00 and 15.00 to the extent that vendors can be identified as entities which are either wholly-owned by a foreign government or operate as a foreign government unit. All other voumes purchased by the company's Foreign Refining/Marketing Segment from foreign unaffiliated third parties should be reported on line 16.00.

Amounts reported here on line 12.00 should also be reported as dispositions by the Domestic Refining/Marketing Segment on Schedules 5213 (raw material) or 5214 (refined products), as appropriate.

PETROLEUM PRODUCTION AND REFINING/MARKETING SEGMENTS, DISPOSITIONS OF RAW MATERIALS

SCHEDULE 5213

GENERAL

Read the "FRS Overview" section of the instructions concerning petroleum supply and trading before completing this schedule.

Report all sales and other dispositions of petroleum raw materials (crude oil, natural gas, natural gas liquids, semi-finished products, and blending stocks). Refer to the Glossary for definitions of the material classifications appearing in the column headings. Report these amounts net of sales discounts.

Report all volumes in thousands of 42 U.S. gallon barrels (MB), except for natural gas, which is to be reported in millions of cubic feet (MMCF).

Report volumes and values of purchase/sale agreements and brokerage activities in accordance with the company's normal accounting practices.

DOMESTIC DISPOSITIONS

Line 01.00—Total Value of Production and Purchases

Report the domestic volume and value of all raw material production. Include purchases of natural gas and plant products. That portion of production used by the Domestic Production Segment for production is not recognized as an expense, but is reported separately on line 02.00 below.

Line 02.00—Less: Amounts Used in Production

Report as a deduction (credit) the domestic volume and value of raw material production used in the production process.

Line 03.00—Raw Material Inventory Changes

Report the domestic volume and value of changes in Domestic Production Segment raw material inventories between the beginning and end of the reporting period.

Line 04.00—Domestic Production Segment Sales

Total lines 01.00 through 03.00. This amount must agree with the amount reported on line 09.00 below.

Line 05.00—Domestic Refining/Marketing Segment

Report all sales of raw materials by the Domestic Production Segment to the Domestic Refining/Marketing Segment.

Line 06.00—Other Domestic Segments

Report natural gas and natural gas liquid sales by the Domestic Production Segment to other domestic segments of the reporting company.

Line 07.00—Unconsolidated Affiliates

Report natural gas and natural gas liquid sales by the Domestic Production Segment that are made to unconsolidated affiliates.

Line 08.00—Third Parties

Report natural gas and natural gas liquid sales by the Domestic Production Segment that are made to unaffiliated third parties.

Line 09.00—Total Domestic Production Segment Dispositions

Total lines 05.00 through 08.00. The amount in column A must agree with the amount reported on Schedule 5210, line 01.00, column I. The amount in each column on line 09.00 must agree with the amounts reported above on line 04.00 in each column.

Lines 10.00 through 13.00—Sales to Other Company Segments

Report volumes and values of all raw materials sold or transferred by the Domestic Refining/Marketing Segment to the segments indicated.

Feedstocks reported on line 11.00 should be net of any raw materials returned to the Domestic Refining/Marketing Segment by the Domestic Chemical Segment.

Amounts reported on line 13.00 relating to Federally Regulated Pipeline Segment operations should represent only materials used as fuel by that segment (e.g., natural gas to run pipeline pumps and compressors).

Lines 14.00 and 15.00—Unconsolidated Domestic Affiliates

Report all raw material dispositions by the Domestic Refining/Marketing Segment to unconsolidated domestic affiliates whose primary operations are in the petroleum industry (line 14.00) or other industries (line 15.00).

Exclude sales by the Domestic Production Segment to unconsolidated domestic affiliates reported on line 07.00.

Line 16.00—Domestic Unaffiliated Third Parties

Report all raw material sales made by the Domestic Refining/Marketing Segment to domestic unaffiliated third parites.

Exclude sales by the Domestic Production Segment to unaffiliated domestic third parties reported on line 08.00.

Line 17.00—Total Domestic Refining/Marketing Segment Sales

Total lines 10.00 through 16.00. The amount reported in column A must agree with the amount reported in Schedule 5210, line 01.00, column J.

Lines 18.00 and 19.00—Own Domestic Refineries and Other Refineries (for own account)

Report raw materials input to or used in company-owned domestic refineries and input to others' refineries for the reporting company's account. Include raw materials processed into refined products and raw materials consumed as fuel in the refining process.

These raw materials must be valued at their cost to the Domestic Refining/Marketing Segment.

Line 20.00—Other (Including Transportation Cost Centers)

Report raw materials consumed within the Domestic Refining/Marketing segment not reported on lines 18.00 and 19.00 above. Include consumption by such users as non-Federally regulated pipelines and domestic marine (i.e., those users that are classified by FRS as part of the Domestic Refining/Marketing Segment.

These raw materials must be valued at their cost to the Domestic Refining/Marketing Segment.

Line 21.00—Total Internal Use and Input

Total lines 18.00 through 20.00.

Line 22.00—Total Domestic Refining/Marketing Segment Dispositions

Total lines 17.00 and 21.00.

FOREIGN DISPOSITIONS

Report sales and other dispositions by the Foreign Production and Foreign Refining/Marketing Segments on lines 23.00 through 41.00 in the same manner as domestic sales and other dispositions are reported on lines 01.00 through 22.00.

Note that line 34.00 includes raw materials consumed as fuel by the International Marine Segment.

PETROLEUM REFINING/MARKETING SEGMENT, DISPOSITION OF REFINED PRODUCTS

SCHEDULE 5214

GENERAL

Read the "FRS Overview" section of the instructions concerning petroleum supply and trading before completing this schedule.

Report all refined product dispositions by the company and its consolidated affiliates. Refer to the Glossary for definitions of product classifications appearing in the column headings.

Report all volumes in thousands of 42 U.S. gallon barrels (MB).

Report all sales amounts net of sales discounts.

Report exchanges pursuant to the reporting company's normal accounting practice; those not recorded as sales, must be reported on Schedule 5245.

Exclude consumer excise taxes from all dollar amounts reported.

Note that petrochemical manufacturing operations must be reported separately on Schedules 5620 and 5610.

DOMESTIC DISPOSITIONS

Lines 01.00 through 05.00—Domestic Intra-Company Sales

Report all refined product sales and transfers from the Domestic Refining/Marketing Segment to each of the other company segments indicated.

Amounts reported on line 02.00 should be net of any refined products returned to the Domestic Refining/Marketing Segment from petrochemical plants.

Amounts reported on line 05.00 should include refined products consumed as fuel in operations of Federally regulated pipelines.

Lines 06.00—Total Domestic Intra-Company Sales

Total lines 01.00 through 05.00. Amounts reported should include all dispositions of refined products by the Domestic Refining/Marketing Segment, other than to third parties.

Lines 07.00 through 12.00—Wholesale-Resellers

Report motor gasoline sales to wholesale-resellers separately for branded and unbranded motor gasoline.

Report rack sales on the basis of individual deliveries *into* customer tank wagons or transports. Report tank wagon sales on the basis of individual deliveries to customers *via* company tank wagons or transports

Report common carrier tank wagon deliveries on lines 08.00 and 11.00 if paid for by the reporting company and on lines 07.00 and 10.00 if paid for by the customer.

Report company tank wagon or transport deliveries of branded motor fuels to company-operated outlets, lessee dealers, and open dealers on line 14.00, below.

Report company tank wagon or transport deliveries of branded motor fuels to other purchasers (e.g., branded independent marketers) on line 08.00.

Line 13.00—Total Wholesale-Resellers

Total lines 07.00 through 12.00, columns C and D, for motor gasoline; report sales of distillate fuels, residual fuels, and other refined products to wholesale-resellers in columns E through J.

Lines 14.00 through 16.00—Ultimate Consumption

Report refined product sales to the ultimate consumer categories indicated.

Report on line 14.00 sales to "company retail outlets" (see Glossary). Motor gasoline sales are further disaggregated on Schedule 5243. Report sales to other non-automotive retail outlets (such as marinas and airports) on line 15.00. Report industrial and commercial sales on line 16.00.

Lines 17.00 and 18.00—Domestic Unconsolidated Affiliates

Report sales by the Domestic Refining/Marketing Segment to domestic unconsolidated affiliates operating in the chemical industry (line 17.00) and other industries (line 18.00).

Line 19.00—Total Domestic Third-Party Sales

Total lines 13.00 through 18.00.

Line 20.00—Total Domestic Dispositions

Total lines 06.00 and 19.00. The amount reported in column (B) must agree with the amount reported in Schedule 5210, line 02.00, column J.

FOREIGN DISPOSITIONS

Report all sales, tranfers, and other dispositions of refined products by the Foreign Refining/Marketing Segment on lines 21.00 through 27.00 in the same manner as domestic dispositions are reported on lines 01.00 through 20.00

Report total volumes and values in column A and B. DO NOT report dispositions by product type. Amounts reported on line 22.00 should include refined products used as fuel by the International Marine segment.

The amount reported on line 27.00, column B, must agree with the amount reported on Schedule 5210, line 02.00, column R.

DOMESTIC AND FOREIGN PETROLEUM SEGMENTS, PRIMARY TRANSPORTATION EXPENSES

SCHEDULE 5215

GENERAL

Schedule 5215 summarizes all primary transportation expenses incurred by the Domestic Refining/Marketing Segment, whether it be through its own internally-operated transportation facilities or purchased from third parties or other segments.

The total transportation expense includes the operation of facilities serving third parties, including pipelines not included in the Federally Regulated Pipeline Segment.

DOMESTIC PRIMARY PETROLEUM TRANSPORTATION EXPENSES

Lines 01.00 through 16.00—By Source

Report primary transportation expenses according to how it was incurred (i.e., by source).

Lines 17.00 through 22.00—By Application

Report primary transportation expenses according to how the transportation was used (i.e., either for own use (raw materials or refined products) or for others).

Report on line 21.00 (transportation expense for others) the expenses incurred by the reporting company to produce the transportation revenues reported on Schedule 5210, line 03.00. DO NOT treat these transportation revenues as a deduction from transportation expenses.

FOREIGN PRIMARY PETROLEUM TRANSPORTATION EXPENSES

Line 23.00—Amounts Charged by International Marine Segment to the Foreign Refining/Marketing Segment

Report the amount charged by the International Marine Segment to the Foreign Refining/Marketing Segment.

DOMESTIC AND FOREIGN PETROLEUM SEGMENTS, SELECTED CONSOLIDATING BALANCE SHEET ITEMS

SCHEDULE 5220

GENERAL

Report balance sheet amounts recorded in the company's certified financial statements. Specific definitions are provided below with regard to the domestic and foreign segments within petroleum (i.e., Production, Refining/Marketing, Federally Regulated Pipelines (crude and liquid, natural gas, and refined product), and International Marine).

Definitions of "foreign" and "domestic" appear in the Glossary.

Report in column C as nontraceable balance sheet items not directly attributable to either domestic or foreign operations.

Report in column H as nontraceable amounts that are considered by the company to relate directly to domestic petroleum operations, but that do not fall under the categories "Production," "Refining/Marketing," or "Federally Regulated Pipelines".

All amounts reported in column A must agree with the corresponding amounts reported on Schedule 5120, column D.

Line 01.00—Trade Accounts and Notes Receivable

Report third party and unconsolidated affiliate trade accounts and notes receivable (net of reserves for uncollectable amounts) as they are recorded in the company's financial records for certified financial statement reporting.

DO NOT include amounts reported on Schedule II of Form 10-K. DO NOT include intersegment receivables or receivables from consolidated affiliates.

Amounts reported on this line may include net exchange imbalances if it is the company's policy to record such amounts as trade receivables in its certified financial statements.

Report only those amounts that are specifically attributable to domestic and foreign petroleum operations.

Lines 02.00 and 03.00—Inventories

Report end-of-period inventories separately for raw materials and products (line 02.00) and materials and supplies (line 03.00) according to the valuation methods used in the reporting company's certified financial statements.

Exchange imbalances may be reported either in inventory or as a receivable in accordance with the company's normal external reporting practices.

Allocate valuation reserves (e.g., LIFO reserves) to the Production, Refining/Marketing, Federally Regulated Pipeline, and International Marine Segments on the basis of the relative value of the inventories of each segment to total inventories, unless the company separates valuation reserves for each category of inventories in its books of account.

Production Segment. Report inventories of crude oil, natural gas, natural gas liquids, and semi-finished and blending stocks held by the Production Segment for resale or refinery input.

Refining/Marketing Segment. Report inventories of crude oil, condensate, natural gas, plant products, and semi-finished and blending material inventories held by the Refining/Marketing Segment for resale or refinery imputs. Include line-fill. Include all refined product inventories, such as inventories of gasolines, distillates, residual fuels, and other outputs of the refining process not requiring further processing to be salable as a finished product. DO NOT include inventories of chemicals or petrochemicals. Include inventories of tires, batteries, and accessories held for resale.

Line 04.00—Gross Property, Plant, and Equipment

Report all capitalized non-current costs directly associated with the company's petroleum operations as follows:

Production Segment. Report capitalized costs of exploration, development, and production activities and of support equipment and facilities. See the instructions to Schedule 5223 for the composition of these costs.

Refining/Marketing Segment. Report capitalized costs pertaining to refining, marketing and primary transportation operations as defined in the instructions to Schedule 5222, lines 08.00 through 11.00.

Federally Regulated Pipeline Segment. Report capitalized costs pertaining to Federally Regulated Pipelines as reported to the Federal Energy Regulatory Commission (formerly the U.S. Interstate Commerce Commission or Federal Power Commission).

International Marine Segment. Report capitalized costs pertaining to international marine operations. Include company-owned vessels, capitalized leases on vessels, and in-progress ship construction. DO NOT include costs pertaining to domestic inland waterway or ocean-going vessels subject to the Jones Act.

Line 05.00—Accumulated DD&A

Report DD&A and valuation charges relating to capitalized costs reported on line 04.00.

Line 06.00—Net Property, Plant, and Equipment

Line 04.00 less line 05.00.

Line 07.00—Investments in and Advances to Unconsolidated Affiliates

Report investments in and advances to unconsolidated affiliates as they are recorded in the company's financial records. In the case of a multi-segment affiliate, determine the appropriate segment based on the affiliate's primary business activity.

Line 08.00—Other Non-current Assets

Report all other non-current assets which are directly associated with the company's petroleum operations.

Line 09.00—Total Non-current Assets

Total lines 06.00 through 08.00.

DOMESTIC AND FOREIGN PETROLEUM SEGMENTS, NET PROPERTY AND OTHER CAPITALIZED COST BALANCES

SCHEDULE 5221

GENERAL

Report the end-of-period balances (at net book value) of demestic and foreign petroleum properties and other capitalized costs. These balances should be assigned to the segments and geographic areas indicated by the lines and columns, respectively.

Refer to the instructions for Schedule 5222 for detailed definitions of the line items specified.

Amounts reported in columns A, B, an G must agree with the corresponding amounts reported in column H of Schedule 5222.

DOMESTIC AND FOREIGN PETROLEUM SEGMENTS, CHANGES IN NET PROPERTY AND OTHER CAPITALIZED COST BALANCES

SCHEDULE 5222

GENERAL

Report beginning-of-period balances at net book value (column A), additions at cost (column B), and book value of disposals, including retirements and abandonments (column D), representing retirements and sales at cost, in the manner prescribed for reporting on Schedule V of Form 10-K.

Gains or losses on disposals reported in column C should reflect the difference between the net book value of sales and retirements and proceeds recorded during the year.

Report the current period depreciation, depletion, and amortization [1] (column E) and valuation allowances and dry hole charges [2] (column F) in

[1] If depreciation, depletion, and amortization (DD&A) balances cannot be identified separately with respect to the asset categories presented, they may be allocated based on the historical costs of asset balances in a category relative to the total asset cost for the lowest level of aggregation in which DD&A is computed.

[2] Refer to the Glossary for definitions of "valuation allowance" and "dry hole charge".

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accordance with Form 10-K reporting requirements.

Adjustments reported in column G should include the net book value of transfers between classifications.

Ordinary retirements charged or credited to reserve accounts in conformity with the company's normal accounting practices need not be separately reported. However, the gain or loss from property disposals should be reported separately if greater than 1% of the segment's pretax income.

Column H must equal the net total of columns A, B, D, E, F, and G.

DOMESTIC PRODUCTION SEGMENT

Lines 01.00 through 06.00—Domestic Production Segment

Report amounts as described above with respect to mineral interestes in proved and unproved properties, as well as related equipment and facilities, support equipment and facilities, and uncompleted wells, equipment, and facilities. Include facilities for natural gas liquid plant operations (line 03.00). Refer to the Glossary for descriptions of amounts to be included in these categories.

Line 07.00—Total Domestic Production Segment

Total lines 01.00 through 06.00.

DOMESTIC REFINING/MARKETING SEGMENT

Line 08.00—Refining

Report amounts pertaining to facilities associated with the refining of petroleum materials. Include facilities for utilities, warehousing, storage, and general and administrative facilities that pertain directly to refinery operations.

Exclude facilities relating to petrochemical operations.

Include transportation facilities normally associated with refining.

Line 09.00—Marketing

Report amounts associated with the marketing of petroleum products. Include terminals, bulk plants, retail outlets, any associated canning and blending activities and other facilities *directly* associated with marketing activities. Include transportation facilities normally associated with marketing.

Line 10.00—Transportation

Report amounts associated with transportation of petroleum products, excluding International Marine Segment operations (see line 34.00) and Federally Regulated Pipeline Segment operations (see line 12.00, 13.00, and 14.00).

To the extent they can be identified separately from refining and marketing costs, include capitalized costs related to pump and heater stations, storage tanks, delivery facilities, transmission lines, and costs of facilities for inland waterway and domestic ocean-going marine operations, and construction of domestic vessels in progress.

DO NOT include facilities normally associated with other departments such as facilities used in offshore production or terminals associated with refining activities.

Line 11.00—Total Refining/Marketing Segment

Total lines 08.00 through 10.00.

Lines 12.00, 13.00 and 14.00—Federally Regulated Pipelines

Report amounts pertaining to Federally regulated pipelines as governed by the Federal Energy Regulatory Commission (formerly the U.S. Interstate Commerce Commission and Federal Power Commission). Segregate these amounts between crude/liquid pipelines (line 12.00), natural gas pipelines (line 13.00), and refined product pipelines (line 14.00).

Lines 15.00 and 16.00—Refinery Refurbishment, Expansion and New Construction

Segregate costs reported in line 08.00, column B, as to expenditures made for expansion and refurbishment of existing refining facilities (line 15.00) and expenditures pertaining to new refinery construction (line 16.00). Include the cost of land for new construction and expansion.

Line 17.00—Other Refinery Additions

Report all other amounts applicable to refining additions.

Line 18.00—Total Refinery Additions

Total lines 15.00 through 17.00. (Must equal line 08.00, column B).

Lines 19.00 and 20.00—Retail Outlet Refurbishment, Expansion and New Construction

Segregate costs reported in line 09.00, column B as to expenditures made for expansion and refurbishment of existing marketing facilities and expenditures pertaining to construction of new facilities. Include the cost of land for new construction and expansion.

Line 21.00—Other Marketing Additions

Report all other amounts applicable to marketing additions.

Line 22.00—Total Marketing Additions

Total lines 19.00 through 21.00. (Must equal line 09.00, column B).

FOREIGN PRODUCTION AND FOREIGN REFINING/MARKETING SEGMENTS

Lines 23.00 through 33.00

Report amounts pertaining to the Foreign Production Segment (lines 23.00 through 29.00) and the Foreign Refining/Marketing Segment (lines 30.00 through 33.00) in accordance with the instructions outlined above.

INTERNATIONAL MARINE SEGMENT

Line 34.00

Report amounts pertaining to international marine operations. Include vessels owned or leased by the company engaged in international transportation of petroleum products not subject to the Jones Act. Include construction in progress of ocean-going vessels.

DOMESTIC AND FOREIGN PETROLEUM PRODUCTION SEGMENTS, EXPLORATION, DEVELOPMENT, AND PRODUCTION EXPENDITURES CAPITALIZED

SCHEDULE 5223

GENERAL

Report all costs capitalized during the period that are associated with the domestic and foreign exploration, development, and production operations and with support equipment and facilities.

Segregate reported amounts by the indicated domestic and foreign geographic areas based on operating location. Refer to the Glossary for detailed definitions of these areas.

Capitalized expenditures not directly associated with the Domestic Production Segment or the Foreign Production Segment should not be included. No arbitrary allocations should be made. However, allocations which are performed at the district or field level as part of the company's normal reporting system are acceptable and need not be adjusted for this report.

Report only those amounts representing the net company interest in capitalized costs.

Amounts relating to petroleum production activities that are expensed during the period are to be reported separately on Schedule 5211.

DOMESTIC EXPLORATION

Line 01.00—Acquisition of Unproved Acreage

Report the net company interest in direct domestic expenditures incurred for acquiring unproved acreage. Include lease bonuses; options to purchase or lease properties; title costs; recording, broker, and legal fees; advance initial royalties; and any other direct outlays necessary to acquire leases, mineral rights, and fee lands incident to oil and gas exploration.

DO NOT include minimum royalties or annual rentals which should be reported as lease rents on line 07.00.

Lines 02.00 through 04.00—Drilling and Equipping of Wells

Report cumulative domestic expenditures capitalized for drilling and equipping exploratory wells completed during the period, reduced by the amount of outside cash contributions such as bottom hole or dry hole contributions.

Include all expenditures capitalized since the inception of these completed wells.

Include expenditures for casing, tubing, and other equipment, including equipment installed for development of successful exploratory wells, such as downhole pumping equipment, platforms, and the wellhead assembly, as well as the costs of roads, grading, etc.

DO NOT include costs related to equipment beyond the christmas tree, as these should be reported under lease equipment on lines 18.00 through 21.00 below.

Reduce costs of exploratory dry holes by salvage of equipment capable of re-use.

Line 05.00—Work-in-Progress Adjustment

Report the increase or (decrease) in expenditures capitalized for drilling and equipping domestic exploratory wells-in-progress between the beginning and end of the reporting period.

Line 06.00—Total Drilling and Equipping of Wells

Total lines 02.00 through 05.00. This must equal the expenditures capitalized during the period.

Line 07.00—Lease Rents

Report domestic delay rentals, minimum royalties, and annual rentals capitalized. Include all rentals (other than bonuses reported on line 01.00 above) and other costs of carrying leases necessary for the company to maintain its leasehold interests.

Line 08.00—Geological and Geophysical

Report all capitalized domestic geological and geophysical expenditures including, but not limited to, costs incurred for salaries, equipment and supplies for scouts, and geological and geophysical crews.

Include costs of surface and subsurface studies and geochemical analyses.

Include costs of core drilling where the intention in advance of drilling is not to complete the well as a producing well or where productive completion is not possible.

Line 09.00—Test Hole contributions

Report all domestic test well, bottom hole, and dry hole contributions capitalized during the period. DO NOT include the costs of acreage contributions which should be reported as acquisition of nonproducing acreage (line 01.00).

Line 10.00—Land Department, Leasing, and Scouting

Report all capitalized domestic land department, leasing, and scouting costs not considered to be geological and geophysical costs, but related directly to exploratory activities.

Line 11.00—Other Capitalized Exploration Costs

Report all other capitalized domestic costs, including direct overhead costs assigned at the field or district level, directly associated with exploration activities. Include costs associated with exploratory capital equipment constructed or purchased.

Line 12.00—Total Capitalized Exploration Costs

Total line 01.00 and 06.00 through 11.00.

DOMESTIC DEVELOPMENT

Lines 13.00 through 15.00—Drilling and Equipping of Wells

Report cumulative domestic expenditures capitalized for drilling and equipping development wells (reduced by the amount of outside cash contributions such as bottom hole or dry hole) completed during the period.

Include all expenditures capitalized since the inception of these completed wells.

Include casing, tubing, and wellhead fittings associated with development wells; costs of roads and grading; costs of drilling platforms; and all costs incident to development drilling.

Include costs of old wells drilled deeper, redrilled wells, and recompletions.

Exclude costs of service wells, which should be reported on lines 19.00 and 20.00.

Exclude costs of well workovers.

Reduce cost by salvage value of equipment capable of re-use.

Line 16.00—Work-in-Progress Adjustment

Report the increase or (decrease) in expenditures capitalized for drilling and equipping domestic development wells-in-progress between the beginning and end of the reporting period.

Line 17.00—Total Drilling and Equipping of Wells

Total lines 13.00 through 16.00 This must equal the expenditures capitalized during the period.

Line 18.00—Lease Equipment (Primary Recovery)

Report the net company interest in capitalized domestic expenditures for primary recovery programs.

Lines 19.00 and 20.00—Lease Equipment (Improved recovery)

Report the net company interest in capitalized domestic expenditures for improved recovery systems. Include injection of unheated fluids through injection wells and improved recovery by means other than unheated fluid injection, such as steam injection, in-situ combustion, etc.

Segregate these amounts between statutory tertiary recovery programs as defined by the Department of Energy (line 19.00) and other improved recovery programs (line 20.00).

In general, improved recovery refers to all methods for supplementing natural reservoir pressure.

Line 21.00—Total Lease Equipment

Total lines 18.00 through 20.00.

Line 22.00—Gas Processing Facilities

Report capitalized domestic expenditures for gas processing facilities.

Line 23.00—Acquisition of Producing Acreage

Report the net company interest in domestic expenditures capitalized during the period for acquiring producing acreage (i.e., the consideration given to the seller determined in accordance with generally accepted accounting principles for purchases of assets, including all necessary outlays directly associated with the purchase, such as legal fees and commissions).

Line 24.00—Other Capitalized Development Costs

Include all other domestic development costs, including: access facilities to district installation (as opposed to individual wells) such as roads, bridges, canals, and other improvements; camp and district facilities; fuel gas systems; observation wells, salt water disposal wells, and water supply wells, directly assignable and other overhead costs; and expenditures for capital equipment used for development not otherwise accounted for. Exclude costs of equipment and buildings used by personnel engaged in general producing activities as distinguished from development operations.

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Line 25.00—Total Capitalized Development Costs

Total lines 17.00 and 21.00 through 24.00.

DOMESTIC PRODUCTION (LIFTING)

Line 26.00—Production (Lifting)

Report the net company interest in domestic production (lifting) costs capitalized during the period.

Production (lifting) costs, in general, are those costs incurred to operate and maintain wells and related equipment and facilities, and include depreciation of support facilities and equipment.

Production (lifting) costs include labor to operate wells and equipment, repairs and maintenance to sustain operating capability, materials, supplies and fuel consumed, and property taxes and insurance applicable to proved properties and wells and related equipment and facilities.

Line 27.00—Support Equipment and Facilities

Report the net company interest in domestic expenditures capitalized for support equipment and facilities, including seismic, drilling, construction and grading equipment, vehicles, repair shops, supply points, and division, district, and field offices.

Line 28.00—Total Capitalized Exploration, Development, and Production Expenditures

Total lines 12.00, 25.00, 26.00, and 27.00.

FOREIGN PETROLEUM PRODUCTION SEGMENT

Report in the required categories all costs capitalized during the period that are associated with foreign exploration, development, and production operations and with support equipment and facilities.

DOMESTIC AND FOREIGN PETROLEUM SEGMENTS, EXPLORATION, DEVELOPMENT, AND PRODUCTION STATISTICS

SCHEDULE 5241

GENERAL

Report exploration, development, and production statistics for domestic and foreign petroleum operations as indicated.

Reported amounts must relate only to the reporting company and its consolidated affiliates.

Information on the operation of unconsolidated affiliates must be reported on Schedules 5121 and 5141.

ACREAGE, WELLS, AND DRILLING (LINES 01.00-38.00)

Report information pertaining to acreage, wells, and drilling as indicated. Refer to the Glossary for definitions of all line items and for definitions of the geographic areas listed in the column headings.

Note that information on the number of wells completed should not reflect an end-of-pocket well count, but instead should reflect the wells completed at any time *during* the period, regardless of when drilling was initiated. The number of wells refers to the number of holes drilled.

Estimates are permitted for reporting farmins and farmouts.

As part of Exhibit B for lines 09.00, 12.00, 17.00, and 20.00, report the number of dry wells that are "new field discovery wells". See Glossary.

"Gross" acreage, wells, and drilling footage refer to the total number of acres, wells, and feet drilled for all properties in which the company has a working interest.

"Net" acreage, wells, and drilling footage refer to the company's share of the total working interest.

PRODUCTION

Lines 39.00 through 45.00—Working Interest Production

Report the company's gross and net working interest production. Refer to the Glossary for the definitions of "gross working interest production" and "net working interest production."

Production of natural gas should include only marketable production of gas on as "as sold" basis. Include dry, residue, and wet gas, depending on whether liquids have been extracted before the company passed title. Exclude flared gas and injected gas.

Report natural gas liquids separately for leasehold production and contract production. (See Glossary).

Lines 46.00 through 51.00—Gross Company-Operated Production

Report 100% of crude oil, natural gas, and natural gas liquid production from company-operated properties by the indicated categories.

Lines 52.00 through 54.00—Non-Working Interest Production

Report the company's non-working interest production of crude oil, natural gas, and natural gas liquids, i.e., the reporting company's royalty interests in the working interest production of others.

FOREIGN ACCESS (LINES 55.00-57.00)

Report production of crude and condensate, natural gas, and natural gas liquids applicable to long-term supply agreements with foreign governments or authorities in which the company acts as producer.

DOMESTIC IMPROVED RECOVERY PRODUCTION (LINES 58.00-65.00)

Report the company's net working interest production of crude and condensate in the indicated categories. Refer to the Glossary for definitions of individual line items. Statutory tertiary includes only production qualified under the incentive program defined in the Code of Federal Regulations (10 CFR 212.78).

DOMESTIC PRODUCTION BY TIER (LINES 66.00-73.00)

Report the company's net working interest "upper tier", "lower tier", and "world price" production of crude oil in accordance with current Department of Energy Crude Oil Equalization Program definitions.

DOMESTIC AND FOREIGN PETROLEUM SEGMENTS, PETROLEUM REFINING STATISTICS

SCHEDULE 5242

GENERAL

Report refining statistics for domestic and foreign petroleum operations as indicated.

Reported amounts must relate only to the reporting company and its consolidated affiliates.

Information on the operation of unconsolidated affiliates must be reported on Schedules 5121 and 5141.

Refer to the Glossary for definitions of geographic areas listed in column headings.

Lines 01.00 through 03.00—Number of Refineries

Report the number of operable petroleum refineries 100% owned by the company and by its consolidated affiliates (line 01.00), the number of consolidated refinieries less than 100% owned (line 02.00), and the total number of wholly and partially owned refineries (line 03.00) by geographic area at the end of the period. DO NOT include natural gas processing or petrochemical plants.

Lines 04.00 through 07.00—Runs to Stills

Report the company's share of runs to stills on a calendar day basis for the period. Condensate may be included in volumes reported. Include runs to fractionators.

Lines 04.00 and 05.00—At Own Refineries

Report volumes run for the company at the refineries included in line 03.00. Report volumes processed for company use or sale (line 04.00), and volumes processed for others (line 05.00).

Line 06.00—By Other Refineries

Report volumes processed for the company's account by refineries not included in line 03.00.

Line 07.00—Total Runs to Stills

Total lines 04.00 through 06.00.

Lines 08.00 through 14.00—Total Refinery Output at Own Refineries (for own account)

Report refinery output by product type for the period. The product slate should relate to the total runs for the company's account (line 04.00). Refer to the Glossary for product definitions.

Lines 15.00 through 21.00—Total Refinery Output at Own Refineries (for others)

Report refinery output for others by product type for the period. The product slate should relate to the total runs for others (line 05.00).

Lines 22.00 through 28.00—Total Refinery Output at Others' Refineries (for own account)

Report refinery output of others for the reporting company's account by product type for the period. The product slate should relate to the total runs by others for the company's account (line 06.00).

Line 29.00—Total Refinery Output

Total of lines 14.00, 21.00 and 28.00.

Lines 30.00 through 37.00—Capacity

Report the company's share of total refinery capacity and changes in capacity during the year for the refineries reported in line 03.00.

Lines 38.00 through 41.00—Announced Future Capacity Changes

Report planned changes in existing refinery capacity that have been formally announced by the company. Line 41.00 should reflect capacity to be sold, taken out of service, or converted to other use.

DOMESTIC PETROLEUM SEGMENT, MOTOR FUEL MARKETING STATISTICS

SCHEDULE 5243

Report domestic motor fuel marketing statistics as indicated for motor gasoline.

Reported amounts must relate only to the reporting company and its consolidated affiliates.

Information on the operation of unconsolidated affiliates must be reported on Schedules 5121 and 5141.

RETAIL MOTOR FUEL SALES (LINES 01.00 THROUGH 04.00)

Report the total annual volumes of motor gasoline sold and the number of retail outlets pumping the indicated average monthly gallonage (columns A through E) by the indicated categories. See Glossary for definitions.

ACQUISITIONS AND DISPOSITIONS OF RETAIL OUTLETS OWNED BY OR UNDER LEASE TO THE REPORTING COMPANY

Line 05.00—Number at Beginning of Period

Report the number of active and inactive retail outlets owned by or under lease to the reporting company (i.e., outlets reported on lines 01.00 and 02.00, above) at the beginning of the period in columns F and G, respectively.

Lines 06.00 through 12.00—Activity During the Period

Report the number of active and inactive retail outlets that were newly constructed, purchased, sold, or newly leased; the number or leased active and inactive retail outlets for which the leases expired and were not renewed; and other activity and reclassifications during the period in column F (active outlets) and column G (inactive outlets).

Line 13.00—Number at End of Period

Report the number of active and inactive retail outlets at the end of the period in columns F and G, respectively.

DOMESTIC AND FOREIGN PETROLEUM SEGMENTS, PETROLEUM TRANSPORTATION STATISTICS

SCHEDULE 5244

Report transportation statistics for domestic and foreign petroleum operations as indicated.

Reported amounts must relate only to the reporting company and its consolidated affiliates.

Information on the operation of unconsolidated affiliates must be reported on Schedules 5121 and 5141.

MARINE (INTERNATIONAL MARINE ONLY)

Report the number of vessels and their total capacity (columns A and B, respectively) in the categories indicated on lines 01.00 through 10.00. Include only international marine vessels.

Report on line 01.00 those vessels owned and leased (if the lease is capitalized for financial reporting purposes).

Long-term charters include all executed charter agreements for which the initial non-cancellable term is in excess of one year. Other charters include terms of 6 months to 1 year and excludes single voyage charters.

See "Vessels" in the Glossary for definitions of vessel types (ULCC, VLCC, specialty (LPG/LNG), and other).

PIPELINE

Report pipeline transportation data as indicated for the Domestic Petroleum Segment only. Segregate date reported between Federally regulated pipelines and pipelines which are not Federally regulated. Include feeder lines. DO NOT include information pertaining to gathering lines.

Lines 11.00 through 22.00—Consolidated Pipelines (100% Owned)

Report information on these lines only for pipelines that are 100% owned by the company or by any of its consolidated affiliates.

Lines 11.00 through 13.00—Mileage

Report the total miles of pipelines carrying crude/liquids, natural gas, and refined product.

Lines 14.00 and 16.00—Capacity

Report the thru-put capacity for the period for pipelines carrying crude/liquids, natural gas, and refined product.

Lines 17.00 through 19.00—Volume Transported for Own Account

Report volumes transported for the company's account during the period.

Lines 20.00 through 22.00—Volume Transported for Others

Report all other volumes transported during the period.

Lines 23.00 through 34.00—Consolidated Pipelines (Partially Owned)

Report information on these lines for pipelines in which the company or any of its consolidated subsidiaries have an ownership interest of less than 100%. For purposes of this schedule, pipeline ownership refers only to ownership of the physical asset—not to interests in companies (outside the consolidated group) that separately own pipelines. These latter interests, if any, must be reported on Schedule 5121. (See instructions for reporting thresholds).

Lines 23.00 through 25.00—Mileage

Report the total miles of pipelines partially owned by the reporting company by the specified categories.

Lines 26.00 and 28.00—Gross Capacity

Report the total capacity of pipelines partially owned by the reporting company by the specified categories.

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Lines 29.00 and 31.00—Net Capacity

Report the portion of the capacity entered on lines 26.00 through 28.00 which represents the company's ownership interest.

Lines 32.00 through 34.00—Volume Transported for Own Account

Report total volumes transported for the company's account during the period by the specified categories.

PETROLEUM PURCHASES, SALES, AND EXCHANGES [1]

SCHEDULE 5245

GENERAL

Report activities related to exchanges, purchase/sale agreements, and other purchases and sales (including brokerage activities) for the period by the categories indicated. Include all activities where either the receipt or delivery takes place in the U.S.

Report transactions between (1) the reporting company or its consolidated affiliates, and (2) unconsolidated affiliates or unaffiliated third parties only.

Report separately the total volumes and dollars of receipts and deliveries on a gross basis by category.

For exchanges involving three or more parties, report receipts and deliveries for the company's account.

For purposes of reporting, Group I and Group II companies consist of the following firms:

GROUP I

Atlantic Richfield
Exxon
Gulf
Mobile
Royal Dutch/Shell Group
Standard Oil of California
Standard Oil (Indiana)
Texaco

GROUP II

Amerada Hess
American Petrofina
Ashland
British Petroleum
Burlington Northern
Cities Service
Coastal States
Continental Oil
General Electric
Getty
Kerr-McGee
Marathon
Occidental
Phillips
Standard Oil (Ohio)
Sun
Superior
Tenneco
Union Oil of California
Union Pacific

[1] This schedule is not required until 1979.

DOMESTIC AND FOREIGN PETROLEUM SEGMENTS, PROVED PETROLEUM RESERVES

SCHEDULE 5246

GENERAL

Report proved reserves of crude oil, natural gas, and natural gas liquids (and changes therein) by the indicated categories and geographic areas.

Refer to the Glossary under "reserves" for the definitions of "net working interest reserves", "gross working interest reserves", "non-working interest (royalty) reserves", and "proportional interest in investee reserves".

Also refer to the Glossary under "reserves, changes in" for the definitions of "revisions of previous estimates", "improved recovery", "statutory tertiary portion of improved recovery", "purchases of minerals-in-place", "extensions, discoveries, and other additions", "production", and "sales of minerals-in-place".

"Foreign access" refers to proved reserves of crude and condensate, natural gas, and natural gas liquids applicable to long-term supply agreements with foreign governments or authorities in which the company acts as producer.

SUMMARY FINANCIAL INDICATORS AND STATEMENTS OF INCOME, COAL, NUCLEAR, OTHER ENERGY, AND NON-ENERGY OPERATIONS

SCHEDULES 5310, 5320, 5410, 5420, 5510, 5520, 5610 and 5620

GENERAL

Report balance sheet and income statement information on the company's operations in the following industries:

Industry	Schedule reference: Balance sheet	Schedule reference: Income statement
Coal Operations	5320	5310
Nuclear Operations*	5420	5410
Other Energy Operations (including oil shale, tar sands, geothermal, coal liquefaction and gasification, and other energy industries)	5520	5510
Non-Energy Industries (including chemical, petrochemical, and all industries other than petroleum, coal, nuclear, and other energy)	5620	5610

* Estimate for each separate line item of operating revenues, the portion attributable to the U.S. Federal Government. Report this estimate as part of Exhibit B.

Before completing these schedules, refer to the instructions for Schedule 5110 (income statement) and Schedule 5120 (balance sheet).

Amounts reported in column (A) of the Selected Balance Sheet Item section of Schedules 5320, 5420, 5520, and 5620, must agree with amounts reported on Schedule 5120, columns (E) through (H), on the corresponding lines.

Similarly, amounts reported in column (A) of Schedules 5310, 5410, 5510 and 5610 must agree with amounts reported on Schedule 5110 columns (E) through (H), on the corresponding lines.

Refer to the Glossary for definitions of specific terms.

DOMESTIC COAL OPERATIONS, RESERVES AND PRODUCTION STATISTICS

SCHEDULES 5341 AND 5342

GENERAL

Report domestic coal reserves, production, and sales data as indicated.

Reported amounts must relate only to the reporting company and its consolidated affiliates.

Information on the operation of unconsolidated affiliates must be reported on Schedules 5121 and 5141.

RANK

The term "coal" as used in Schedules 5341 and 5342 is defined to include bituminous, subbituminous, and lignite coal. Data relating to anthracite coal should be excluded from all reported figures. Bituminous, subbituminous, and lignite coal are defined in accordance with the American Society for Testing and the Materials Institute Specification for Classification of Coal by Rank.

RESERVES (SCHEDULE 5341)

Report domestic coal reserves (lines 01.00 through 17.00) and changes therein (lines 22.00 through 31.00) in accordance with the categories specified. Include coal reserves the company controls, owns, or leases. DO NOT include coal reserves the company leases to others.

Since no single uniform industrial standard exists to ascertain the amount of coal reserves a company controls, use the reserve definitions and classifications currently followed in company records. Describe *in detail* on separate sheets of paper attached as part of Exhibit E the methods and definitions used to develop these reserve data and how these methods/definitions differ from the suggested definitions for coal reserves provided in the FRS Glossary. Specify whether the reported coal reserves refer to in-place coal or recoverable reserves. If in-place coal is reported, specify the estimated recoverability factor for both surface and underground coal.

SULPHUR CONTENT (LINES 01.00—13.00, AND LINES 32.00-44.00)

The following guidelines are suggested to classify coal as low, medium, or high sulphur. Report any differences between these guidlines and company recordkeeping in Exhibit F.

Low Sulphur

Bituminous coal with total sulphur content less than or equal to 0.85 percent by weight.

Subbituminous and lignite coal with total sulphur content less than or equal to 0.45 percent by weight.

Medium Sulphur

Bituminous coal with total sulphur content greater than 0.85 percent by weight and less than or equal to 1.85 percent by weight.

Subbituminous coal with total sulphur content greater than 0.45 percent by weight and less than or equal to 1.05 percent by weight.

Lignite with total sulphur content greater than 0.45 percent by weight and less than or equal to 0.85 percent by weight.

High Sulphur

Bituminous coal with total sulphur content greater than 1.85 percent by weight.

Subbituminous coal with total sulphur content greater than 1.05 percent by weight.

Lignite with total sulphur content greater than 0.85 percent by weight.

GRADE (SCHEDULE 5341, LINES 14.00—17.00)

Report the amount of coal reserves that can be used (1) for only metallurgical processing, (2) for either steam or metallurgical consumption, or (3) only by non-metallurgical consumption. Indicate on a separate sheet of paper attached asa a part of Exhibit F the criteria use to make these classifications or any specific comments pertaining to the classifications.

COAL COMMITTED UNDER CONTRACT (SCHEDULE 5341, LINES 18.00—21.00)

Report the total amount of coal the company is committed to supply by contract or similar legal obligation to electric utilities, steel companies, and other companies. Coal committed to contract must be disaggregated by geographic recion according to the location of the mine or potential mine which will supply the customer. DO NOT classify the data by customer location. However, if coal is committed to customer and the location of the mine that will be used to fulfill this commitment is unknown, report this fact on a separate sheet and attach as part of Exhibit F.

GEOGRAPHIC BREAKDOWNS (SCHEDULE 5341)

Use the following regional definitions for reporting the information required on Schedule 5341:

Eastern Region. Consists of the Northern Appalachian and Southern Appalachian Coal Basins. The following States comprise the Eastern Region:

Alabama	Pennsylvania
Georgia	Virginia
Ohio	Tennessee
Maryland	North Carolina
Eastern Kentucky	West Virginia

Eastern Kentucky is defined to include th following counties: Bell, Boyd, Breathitt, Carter, Clay, Clinton, Elliott, Estill, Floyd, Greenup, Harlan, Jackson, Johnson, Knott, Knox, Laurel, Lawrence, Less, Leslie, Letcher, Lewis, McCreary, Madison, Magoffin, Martin, Menifee, Morgan, Owsley, Perry, Pike, Powell, Pulaski, Rockcastle, Rowan, Wayne, Whitley, and Wolfe.

Midwest Region. Consists of the Illinois and Mighigan Coal Basins. The following States comprise the Midwest Region:

Illinois	Michigan
Indiana	Western Kentucky

Wesern Kentucky is defined to include the following counties: Butler, Christian, Crittenden, Caldwell, Daviess, Edmonson, Grayson, Hancock, Hart, Henderson, Hopkins, Logan, McLean, Muhlenberg, Ohio, Todd, Union, Warren, and Webster.

Western Region. Consists of the Northern Rocky, Southern Rocky, Western Interior, and West Coast Coal Basins. The following States comprise the Central Western Region:

Iowa	Idaho
Kansas	Colorado
Missouri	Utah
Oklahoma	Arizona
Arkansas	New Mexico
Texas	Alaska
North Dakota	Washington
South Dakota	Oregon
Montana	California
Wyoming	

If any domestic coal reserves or domestic coal production is located in a State not specified above, report this information in Exhibit F. DO NOT include these reserves or production amounts in the figures reported on Schedule 5341.

OUTPUT PER PERSON PER DAY (SCHEDULE 5341, LINE 45.00)

Indicate on a separate sheet how output per person per day is collected. Include also an explanation of what type of employees are included in the calculation (e.g., are clerical workers included?) and attach as part of Exhibit F.

LAND AVAILABLE FOR DEVELOPMENT (SCHEDULE 5341, LINES 46.00-49.00)

Report the number of acrea (lessed or owned) that were available for development at the beginning of the period, any acquistions or dispositions of such acreage, and the number of such acres that were available for development at the end of the period. Provide geographic breakdowns as indicated.

COAL SALES (SCHEDULE 5342, LINES 01.00 THROUGH 16.00)

Report domestic and foreign coal sales separately in thousands of tons as specified:

To Electric Utilities: Report coal sold to electric utilities.

To Steel Companies: Includes coal sold for metallurgical and/or coking purposes.

To Industrial Users: Include broker sales and retail sales.

To Other General Industry: Includes all coal sold to industrial users, excluding coal sales to electric utilities, and metallurgical and coking coal sold to steel companies.

Other Sales: Includes all coal not sold to categories listed above. Includes coal sold to brokers and retailers other than the above users.

NEW UNITS AND ANNOUNCED UNITS (SCHEDULE 5342)

Report the name, MHSA code, and State of each new domestic mine placed in operation during the period. Also report the name, MHSA code (if available), and State of each planned unit announced during the year for which regulatory and/or licensing approvals are still pending. Report this information on lines 17.00 through 27.00 in columns A and B.

Report in column C the date the initial license was requested for each mine listed. Indiacate on a separate sheet of paper (attached as part of Exhibit F) the type of license used to define "date initial license requested."

Report in column D the actural or expected date of operation for each mine listed.

Report in column E the actual or expected annual capacity of each mine listed. In computing capacity, specify as part of Exhibit F the criteria on which the calculations are based. Include any other specific comments pertaining to the measure of mining capacity used.

Report the breakdown of annual capacity by mining method (columns F and G) and by mine type (columns H through K).

Total columns E through K on line 28.00.

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CURRENT ANNUAL PRODUCTION CAPACITY

Report the current annual production capacity (domestic and foreign) of the reporting company and its consolidated affiliates. As described above, provide in Exhibit F specific comments pertaining to the measure of mining capacity used.

DOMESTIC AND FOREIGN NUCLEAR FUEL OPERATIONS, NUCLEAR FUEL OPERATING STATISTICS

SCHEDULE 5441

GENERAL

Report required information with regard to the uranium production operations of the company and its consolidated subsidiaries as maintained in the company's records, segregated between domestic and foreign operations.

Reserve and inventory data should be reported as of the end of the period.

Information on the nuclear operations of unconsolidated affiliates should be reported on Schedule 5141, lines 33.00 through 35.00

DOMESTIC AND FOREIGN OTHER ENERGY OPERATIONS, OTHER ENERGY OPERATING STATISTICS

SCHEDULE 5541

GENERAL

Report the required information related to the operations of the reporting company and its consolidated affiliates in the production of energy from oil shale, tar sands, geothermal sources, coal liquefaction and gasification, and other sources. "Other" (column E) excludes petroleum, coal, nuclear, and non-energy operations of the company.

Refer to the Glossary for definitions of the column headings.

Lines 01.00 through 05.00—Acreage at End of Period

Report the total number of acres owned or leased, as indicated, at the end of the period that can be assigned to the segment operations specified in columns A through C and E for domestic operations and F through H and J for foreign operations.

Line 06.00—Annual Capacity (in place at beginning of period)

Report the annual capacitly of existing facilities (in barrels or barrel equivalents) at the beginning of the period for energy production as indicated by the columns.

Line 07.00—Additions During Period

Report additions to annual capacity for energy production during the period as indicated by the columns.

Lines 08.00 and 09.00—Announced Additions to Capacity

Report planned additions (within the next five years) to pilot plants and commercial operations that have been formally announced by the company. Include planned new facilities construction.

DEPARTMENT OF ENERGY

ENERGY INFORMATION ADMINISTRATION

ENERGY COMPANY FINANCIAL REPORTING SYSTEM (FRS)

FORM EIA-28

Glossary

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GLOSSARY

ACQUISITION

The procurement of the legal right to explore for and produce discovered minerals, if any, within a specific area; that legal right may be obtained by mineral lease, concession, or purchase of land and mineral rights, or of mineral rights alone.

ACQUISITION COSTS

Direct costs and indirect costs incurred to acquire legal rights to wasting natural resources. Direct costs include costs incurred to obtain options to lease or purchase mineral rights and costs incurred for the actual leasing (e.g., lease bonuses) or purchasing of the rights. Indirect costs include such costs as: brokers' commissions and expenses; abstract and recording fees; filing and patenting fees; and costs of legal examination of title and documents.

ACREAGE

An area, measured in acres, that is subject to ownership or control by those holding total or fractional shares of working interests. (See definition of Working Interest.) A distinction may be made between "gross" acreage and "net" acreage:

- *Gross.* All acreage covered by any working interest, regardless of the percentage of ownership in the interest.
- *Net.* Gross acreage adjusted to reflect the percentage of ownership in the working interest in the acreage.

AFFILIATE

An "affiliate" of, or a person "affiliated" with, a specific person is a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified. The term "affiliate" includes any subsidiary or parent of the person specified.

- *Person.* The term "person" means an individual, or any legal entity such as a corporation, a partnership, an association, a joint-stock company, a trust, or an unincorporated organization.
- *Control.* The term "control" (including the terms "controlling," "controlled by" and "under common control with") means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting shares, by contract, or otherwise.

AMORTIZATION

The depreciation, depletion, or charge-off to expense of intangible and tangible assets over a period of time. In the extractive industries, the term is most frequently applied to mean either (1) the periodic charge-off to expense of the costs associated with nonproducing mineral properties incurred prior to the time when they are developed and entered into production or (2) the systematic charge-off to expense of those costs of productive mineral properties (including tangible and intangible costs of prospecting, acquisition, exploration, and development) that had been initially capitalized (or deferred) prior to the time the property entered into production, and thereafter are charged off as minerals are produced.

BOTTOM-HOLE CONTRIBUTION

A payment (either in cash or in acreage) that is required by agreement when a test well is drilled to a specified depth regardless of the outcome of the well and that is made in exchange for well and evaluation data. (See Dry Hole Contribution and Test Well Contribution.)

BRANDED INDEPENDENT MARKETER

A firm which is engaged in the marketing or distribution of refined petroleum products pursuant to:

- An agreement or contract with a refiner (or a firm which controls, is controlled by, or is under common control with such refiner) to use a trademark, trade name, service mark, or other identifying symbol or name owned by such refiner (or any such firm); or
- An agreement or contract under which any such firm engaged in the marketing or distribution of refined petroleum products is granted authority to occupy premises owned, leased, or in any way controlled by a refiner (or firm which controls, is controlled by, or is under common control with such refiner).

BRANDED PRODUCT

A refined petroleum product sold by a refiner with the understanding that the purchaser has the right to resell the product under a trademark, trade name, service mark, or other identifying symbol or names owned by such refiner.

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BY-PRODUCT

A secondary product obtained during the course of production or manufacture, having relatively small importance as compared with the principal product or products.

CARRIED-INTEREST ARRANGEMENT

An agreement by which a mineral property owned by one party (carried party) is developed by anbother party (carrying party) in exchange for a share in the working interest. Often, the carrying party agrees to drill, equip, and operate one or more wells in consideration for a fraction of the working interest plus the right to recoup the carried party's share of specified costs (or a greater amount) out of the carried party's share of the production proceeds. The carried party does not share in revenue from the property until the amounts advanced have been recovered by the carrying party. A carried-interest is similar to a free-well agreement, except that under the latter, the sharing of revenues begins as soon as commercial production has been secured.

CARRYING COSTS

Costs incurred in order to retain exploration and property rights after acquisiton but before production has occurred. Such costs include legal costs for title defense, ad valorem taxes on nonproducing mineral properties, shut-in royalties, and delay rentals.

CHEMICAL OPERATIONS

All petrochemical and plastics operations.

CHRISTMAS TREE

The valves and fittings installed at the top of a well to control and direct the flow of well fluids.

COAL GASIFICATION

The conversion of coal into a gas which can be burned as a fuel or processed into chemicals or fuels.

COAL LIQUEFACTION

The conversion of coal into a liquid which can be burned as a fuel or processed into chemicals or fuels.

COMPANY RETAIL OUTLET

Any retail outlet selling motor fuel under a reporting company brand name. See definition of Branded Product.

● *Company Operated/Commission Agent.* A company retail outlet which is operated by salaried or commission personnel paid by the reporting company.

● *Lessee Dealer.* An independent marketer who leases the station and land and has use of tanks, pumps, signs, etc. A lessee dealer typically has a supply agreement with a refiner or a distributor and purchases products at dealer tank wagon prices. The term "lessee dealer" is limited to those dealers who are supplied directly by a refiner or any affiliate or subsidiary company of a refiner. "Direct supply" includes use of commission agent or common carrier delivery.

● *Open Dealer.* An independent marketer who owns or leases (from a third party who is not a refiner) the station or land of a retail outlet and has use of tanks, pumps, signs, etc. An open dealer typically has a supply agreement with a refiner or a distributor and purchases products at or below dealer tank wagon prices.

CONDENSATE (LEASE CONDENSATE)

A natural gas liquid recovered from associated and nonassociated gas well gas from lease separators or field facilities, reported in barrels of 42 U.S. gallons at atmospheric pressure and 60° F. For FRS reporting, condensate that is commingled with the crude oil stream should be reported as crude. (See definition of Crude Oil.)

CRUDE OIL

A mixture of hydrocarbons that existed in the liquid phase in natural underground reservoirs and remains liquid at atmospheric pressure after passing through surface separating facilities. For FRS reporting, volumes reported as crude include:

● Liquids technically defined as crude oil;

● Small amounts of hydrocarbons that exist in the gaseous phase in natural underground reservoirs but are liquid at atmospheric pressure after being recovered from oil well (casinghead) gas in lease separators and are commingled with the crude stream without being separately measured (see definition of Condensate); and

● Small amounts of nonhydrocarbons produced with the oil.

Statistical data pertaining to crude oil production and reserves are reported as liquid equivalents at the surface (excluding base sediment and water) measured in terms of stock tank barrels of 42 U.S. gallons at atmospheric pressure, corrected to 60° F.

Where a State regulatory agency specifies a definition of crude oil which differs from that set forth above for statistical purposes, the State definition should be followed.

DELAY RENTAL

A payment that commonly is required annually by the lease contract to be paid by a lessee if commercial production has not yet been obtained in lieu of the lesse's performing specified work on the leased property according to the terms of the mineral lease. Failure to pay the delay rental normally terminates the lease with no penalty to the lessee.

DEPLETION

A term for either (1) a periodic assignment to expense of recorded amounts or (2) an allowable income tax deduction that is related to the exhaustion of mineral reserves. Depletion is included as one of the elements of amortization. When used in that manner, depletion refers only to book depletion. (See Amortization).

● *Book.* The portion of the carrying value (other than the portion associated with tangible assets) prorated in each accounting period, for financial reporting purposes, to the extracted portion of an economic interest in a wasting natural resource.

● *Tax-cost.* A deduction (allowance) under U.S. Federal income taxation normally calculated under a formula whereby the adjusted basis of the mineral property is multiplied by a fraction, the numerator of which is the number of units of minerals sold during the tax year and the denominator of which is the estimated number of units of unextracted minerals remaining at the end of the tax year plus the number of units of minerals sold during the tax year.

● *Tax-percentage (or Statutory).* A deduction (allowance) allowed to certain mineral producers under U.S. Federal income taxation calculated on the basis of a specified percentage of gross revenue from the sale of minerals from each mineral property not to exceed the lesser of 50 percent of the taxable income from the property computed without allowance for depletion. (There are also other limits on percentage depletion on oil and gas production.) The taxpayer is entitled to a deduction representing the amount of tax-cost depletion or percentage (statutory) depletion, whichever is higher.

● *Excess Statutory Depletion.* The excess of estimated statutory depletion allowable as an income tax deduction over the amount of cost depletion otherwise allowable as a tax deduction, determined on a total enterprise basis.

DEVELOPMENT

The preparation of a specific mineral deposit for commercial production; this preparation includes construction of access to the deposit and of facilities to extract the minerals. The development process is sometimes further distinguished between a preproduction stage and a current stage, with the distinction being made on the basis of whether the development work is performed before or after production from the mineral deposit has commenced on a commercial scale.

DEVELOPMENT COSTS

Costs incurred to obtain access to proved reserves and to provide facilities for extracting, treating, gathering, and storing the oil and gas. More specifically, development costs, including depreciation and applicable operating costs of support equipment and facilities and other costs of development activities, are costs incurred to:

● Gain access to and prepare well locations for drilling, including surveying well locations for the purpose of determining specific development drilling sites, clearing ground, draining, road building, and relocating public roads, gas lines, and power lines, to the extent necessary in developing the proved reserves.

● Drill and equip development wells, development-type stratigraphic test wells, and service wells including the costs of platforms and of well equipment such as casing, tubing, pumping equipment, and the wellhead assembly.

● Acquire, construct, and install production facilities such as lease flow lines, separators, treators, heaters, mainfolds, measuring devices, and production storage tanks, natural gas cycling and processing plants, and utility and waste disposal systems.

● Provide improved recovery systems.

DISTILLATE

A general classification for one of the petroleum fractions which, when produced in conventional distillation operations, has a boiling range from 10 percent point at 300° F to 90 percent point at 675° F. Included are kerosene and products known as heating oils and diesel fuels, specifically: No. 1 Fuel Oil; No. 2 Fuel Oil; and Diesel Fuel.

DOMESTIC OPERATIONS

Domsetic operations are those operations located in the United States.

The United States is defined as the 50 States, including their offshore territorial waters, the District of Columbia, and U.S. commonwealths, territories, and protectorates.

For FRS reporting, "domestic" is segregated between Alaska and other domestic (consisting of all domestic other than Alaska).

DRILLING

The act of boring a hole (1) to determine whether minerals are present in commercially recoverable quantities and (2) to accomplish production of the minerals (including drilling to inject fluids.)

● *Exploratory.* Drilling to locate probable mineral deposits or to establish the nature of geological structures; such wells may not be capable of production if minerals are discovered.

● *Development.* Drilling to delineate the boundaries of a known mineral deposit or to enhance the productive capacity of the producing mineral property.

● *Directional.* Drilling that is deliberately made to depart significantly from the vertical.

DRILLING ARRANGEMENT

A contractual agreement under which a working interest owner (the assignor) assigns a part of a working interest in a property to another party (the assignee) in exchange for which the assignee agrees to develop the property. The term may also be applied to an agreement under which an operator assigns fractional shares in production from a property to participants for cash considerations as a means of acquiring cash for developing the property. Under a "disproportionate cost" drilling arrangement, the participants normally pay a greater total share of costs than the total value of the fractional shares of the property received in the arrangements.

DRY HOLE CHARGE

The charge-off to expense of a previously capitalized cost upon the conclusion of an unsuccessful drilling effort.

DRY HOLE CONTRIBUTION

A payment (either in cash or in acreage) that is required by agreement only if a test well is unsuccessful and that is made in exchange for well test and evaluation data. (See Bottom Hole Contribution and Test Well contribution).

ENRICHMENT (URANIUM)

A process whereby the percentage of a given uranium isotope present in a material is artificially increased so that it is higher than the percentage of that isotope naturally found in the material.

EXPLORATION

Exploration involves (i) identifying areas that may warrant examination and (ii) examining specific areas that are considered to have prospects of containing oil and gas reserves, including drilling exploratory wells and exploratory-type stratigraphic test wells. Exploration costs may be incurred both before acquiring the related property (sometimes referred to in part as prospecting costs) and after acquiring the property.

EXPLORATION COSTS

Costs, including depreciation and applicable operating costs of support equipment and facilities and other costs directly identifiable with exploration activities, such as:

● Costs of topographical, geological, and geophysical studies, rights of access to properties to conduct those studies, and salaries and other expenses of geologists, geophysical crews, and others conducting those studies. Collectively, those are sometimes referred to as geological and geophysical or "G&G" costs.

● Costs of carrying and retaining undeveloped properties, such as delay rentals, ad valorem taxes on the properties, legal costs for title defense, and the maintenance of land and lease records.

● Dry hole contributions and bottom hole contributions.

● Costs of drilling and equipping exploratory wells.

● Costs of drilling exploratory-type stratigraphic test wells.

EXTRACTIVE INDUSTRIES

Industries involved in the activities of (a) prospecting and exploring for wasting (non-regenerative) natural resources, (b) acquiring them, (c) further exploring them, (d) developing them, and (e) producing (extracting) them from the earth. The term does not encompass the industries of forestry, fishing, agriculture, animal husbandry, or any others that might be involved with resources of a regenerative nature.

FARM-OUT (-IN) ARRANGEMENT

SAn arrangement, used primarily in the oil and gas industry, in which the owner or lessee of mineral rights (the first party) assigns a working interest to an operator (the second party), the consideration for which is specified exploration and/or development activities. The first party retains an overriding royalty or other type of economic interest in the mineral production. The arrangement from the viewpoint of the second party is termed a "farm-in arrangement."

FEE INTEREST

The absolute, legal possession and ownership of land, property, or rights, including mineral rights. A fee interest can be sold (in its entirety or in part) or passed on to heirs or successors.

FIELD

An area consisting of a single reservoir or multiple reservoirs all grouped on or related to the same individual geological structural feature and/or stratigraphic condition. There may be two or more reservoirs in a field which are separated vertically by intervening impervious strata, or laterally by local geologic barriers, or by both.

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FOOTAGE DRILLED

Total footage for wells in various categories, as reported for any specified period, includes (1) the deepest total depth (length of well bores) of all wells drilled from the surface, (2) the total of all bypassed footage drilled in connection with reported wells, and (3) all new footage drilled for directional "sidetrack" wells. Footage reported for directional "sidetrack" wells does not include footage in the common bore which is reported as footage for the original well. In the case of old wells drilled deeper, the reported footage is that which was drilled below the total depth of the old well.

● *Surface Drilling Footage (Uranium).* Includes both exploration and developing drilling:

Exploration drilling includes (a) drilling in search for new ore deposits or extensions to known deposits, and (b) drilling at the location of a discovery up to the time the company decides sufficient ore reserves are present to justify commercial exploitation.

Development drilling includes all drilling of an ore deposit to determine more precisely size, grade, and configuration subsequent time that commercial exploitation is deemed feasible.

● *Deepest Total Depth.* The deepest total depth of a given well is the distance from a surface reference point (usually the Kelly bushing) to the point of deepest penetration measured along the well bore. If a well is drilled from a platform or barge over water, the depth of the water is included in the total length of the well bore.

● *Bypassed Footage.* Bypassed footage is the footage in that section of hole which is abandoned as the result of remedial sidetrack drilling operations.

● *Depth of Deepest Production.* The depth of the deepest production is the length of the well bore measured (in feet) from the surface reference point to the bottom of the open hole or the deepest perforation in the casing of a producing well.

● *Plugged-Back Footage.* Under certain conditions, drilling operations may be continued to a greater depth than that at which a potentially productive formation is found. If production is not established at the greater depth, the well may be completed in the shallower formation. Except in special situations, the length of the well bore from the deepest depth at which the well is completed to the maximum depth drilled is defined as "plugged-back footage".

Plugged-back footage is included in total footage drilled but is not reported separately.

● *Redrill Footage.* Occasionally a hole is lost or junked and a second hole may be drilled from the surface in close proximity to the first. Footage drilled for the second hole is defined as "redrill footage". Under these circumstances, the first hole is reported as a dry hole (exploratory or developmental) and the total footage is reported as dry hole footage. The second hole is reported as an oil well, gas well, or dry hole according to the result. The redrill footage is included in the appropriate classification of total footage but is not reported as a separate classification.

● *Sidetrack Drilling.* Sidetrack drilling is a remedial operation which results in the creation of a new section of well bore for the purpose of (1) detouring around junk, (2) redrilling lost hole, or (3) straightening key seats and crooked holes. Directional "sidetrack" wells do not include footage in the common bore which is reported as footage for the original well.

FOREIGN OPERATIONS

Foreign operations include those operations that are located outside the U.S. (see Domestic Operations). Determination of whether an enterprise's mobile assets, such as offshore drilling rigs or ocean-going vessels, constitute foreign operations should depend on whether such assets are normally identified with operations located outside the U.S.

Foreign operations are segregated into the following areas for FRS reporting purposes:

● OECD Europe: Includes Austria, Belgium, Denmark, Finland, France, the Federal Republic of Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, Turkey, and the United Kingdom.

● Middle East: Includes Saudi Arabia, the United Arab Emirates, Iraq, Iran, Kuwait, the Iraq-Saudi Arabia Neutral Zone, Qatar, Dubai, Bahrain, Oman, Yemen, Syria, Jordan and Israel.

● Canada.

● Africa: the African continent.

Northern Africa: All of the African countries along the Mediterranean Sea, plus Morocco.

Other Africa: All of the other African countries.

● Other Eastern Hemisphere: Areas eastward of the Greenwich prime meridian to 180° longitude not included in other specified domestic or foreign classifications.

Asia: All countires in "Other Eastern Hemisphere" located on the Asian landmass.

Other: All other countries in "Other Eastern Hemisphere".

● Other Western Hemisphere: Areas westward of the Greenwich prime meridian to 180° longitude not included in other domestic or foreign classifications.

GEOLOGICAL AND GEOPHYSICAL (G & G) COSTS

Costs incurred in making geological and geophysical studies, including, but not limited to, costs incurred for salaries, equipment, and supplies for scouts, geologists, and geophysical crews.

GEOLOGICAL AND GEOPHYSICAL STUDIES

Processes which seek surface or subterranean indications in the earth's structure of formations of a type that experience has shown likely to contain mineral deposits.

The principal types of geological studies include (1) surface-studies: classifications and measurements of outcrops and formations, mapping, and correlation of data with other observations to produce a geological picture of underground formations; (2) subsurface-studies: analyses and correlations of samples of rock extracted from wells or mines drilled or sunk into the earth; (3) core drillings: a modified form of subsurface study that involves a drilling of slim holes into the top layers of the earth's crust for the purpose of extracting rock samples for study and analysis; (4) geochemical analyses: systematic measurements of the chemical properties of soils, waters, or organisms to identify concentrations of hydrocarbons, metals, or other minerals; and (5) logs and seismic studies.

HYDROCARBON

An organic chemical compound of hydrogen and carbon in either the gaseous, liquid, or solid phase. The molecular structure of hydrocarbon compounds varies from the simplest (e.g., methane, a constituent of natural gas) to the very heavy and very complex.

IMPROVED RECOVERY

The operation whereby crude oil or natural gas is recovered using any method other than those that rely primarily on the use of natural reservoir pressure, gas lift or the use of a pump. Improved recovery may be distinguished between "secondary" and "tertiary" recovery:

● *Statutory Tertiary.* Production qualified under the Department of Energy incentive program as defined in 10 CFR 212.78

● *Other Improved Recovery.* Total production (not incremental production) from improved recovery programs other than those covered by 10 CFR 212.78, including secondary and tertiary methods:

Secondary. Improved recovery obtained by the injection of fluids through injection wells into the reservoir for the purpose of augmenting reservoir energy; usually, but not necessarily, this is done after the primary recovery phase has been concluded. Secondary revovery includes non-miscible gas injection, waterflooding, and steam soak.

Tertiary. Tertiary recovery is usually initiated after the secondary recovery phase has been concluded. It includes miscible gas injection, chemically assisted waterflooding (micellar, surfactant polymer, caustic, etc.), steam flooding and in situ combustion.

INITIAL PRODUCTION, YEAR OF

The year in which continuous, sustained production of oil and/or gas commenced.

INTANGIBLE DRILLING AND DEVELOPMENT COSTS (IDC)

Costs incurred in preparing well locations, drilling and deepening wells, and preparing wells for initial production up through the point of installing control valves. None of these functions, because of their nature, have salvage value. Such costs would include labor, transportation, consumable supplies, drilling tool rentals, site clearance, and similar costs.

JOBBER (INDENPENDENT JOBBER/ DISTRIBUTOR)

An independent person who purchases at wholesale, receives through transfer, or otherwise obtains motor fuels or fuel oils for purposes of resale to or through retail outlets.

JOINT PRODUCTS

Two or more products produced simultaneously from a common raw material source, with each product having a significant relative sales value. By definition, true joint products are locked together inseparably, either by their nature or by the manner of their production, so that one cannot be produced until a certain stage of production, often called the "splitoff point". Examples of joint products in the extractive industries include crude oil and natural gas, and various combinations of minerals contained in the same ores.

JOINT VENTURE

The joint ownership or operation of any separate and specific business or business related project. Included are partnerships, corporate joint ventures, and joint operating agreements for producing properties.

LEASE BONUS

An amount paid by a lessee to a lessor as consideration for granting a lease, usually as a lump sum; this payment is in addition to any rental or royalty payments.

LIFTING COSTS

The costs associated with the extraction of a mineral reserve from a producing property. (See Production Cost.)

LONG-TERM CONTRACT

A contract with a duration in excess of one year.

MILLING

The grinding or crushing of ore, concentration, and other beneficiation including the removal of valueless or harmful constituents and preparation for market.

MILLING CAPACITY

The maximum rate at which a mill is capable treating ore or producing concentrate.

MINING

Any activity directed to severance and treatment of ore and associated rock. Included are open pit work, quarrying, augering, alluvial dredging and combined operations, including surface and underground operations.

MINERAL

Any of the various naturally occurring substances (such as coal, crude oil, metals, natural gas, salt, sand, stone, sulfur, and water) usually obtained from the earth. The term is used to include all wasting, i.e., nonregenerative, inorganic substances that are extracted from the earth.

MINERAL INTERESTS IN PROPERTIES (HEREINAFTER REFERRED TO AS PROPERTIES)

Include fee ownership or a lease, concession, or other contractual interest representing the right to extract oil or gas subject to such terms as may be imposed by the conveyance of that interests. Properties also include royalty interests, production payments payable in oil or gas, and other nonoperating interests in properties operated by others. Properties include those agreements with foreign governments or authorities under which an enterprise participates in the operation of the related properties or otherwise serves as "producer" of the underlying reserves but properties do not include other supply agreements or contracts that represent the right to purchase (as opposed to extract) oil and gas. Properties shall be classified as proved or unproved as follows:

● *Unproved properties.* Properties with no proved reserves.

● *Proved properties.* Properties with proved reserves.

MINERAL LEASE

An agreement whereby a mineral interest owner (lessor) conveys to another party (lessee) the rights to explore for, develop, and produce specified minerals. The lessee acquires a working interest and the lessor retains a nonoperating interest in the property, referred to as the royalty interest, each of proportions agreed upon.

MINERAL RESOURCE ASSETS

Those costs shown on the balance sheet representing assets which are directly associated with and which derive value from mineral reserves. For the oil and gas industry these costs may include the following:

● Intangible drilling and development costs.

● Capitalized nonproductive costs, delay rentals, and overhead and similar costs.

● Producing and nonproducing leasehold costs.

● Down-hole equipment.

● Well-head equipment.

● Lease production facilities—tanks, flow-lines, separators, above-ground pumps, compressors, etc.

● Gas cycling plants.

● Processing facilities located in a field in which the company owns interests in producing leases.

● Support facilities—power plants, field living quarters, etc.

● Gathering systems to the point of market in the field.

● Offshore platforms.

All costs which involve processing, transportation, refining, distribution, and marketing are not classified as mineral resource assets. Examples may include the following:

● Refineries.

● Transportation equipment and facilities beyond the point of market in the field—including pipelines, barges, trucking equipment.

● Drilling equipment and related facilities used in drilling operations.

For the mining industry these costs may include the following:

● Capitalized costs related to acquisition of mineral rights, leases, or properties; exploration; and development of ore bodies.

● All assets employed in the extraction and conversion process which are necessary to produce mineral product or products which are commercially marketable.

● Processing assets located at or dedicated solely to a mine or mines in which the company has an economic interest, which are designed with specific regard to the particular physical or chemical characteristics of the ores being mined or the scale of operation, and which, by their nature, would have only nominal economic value in the absence of the ores they were designed to treat.

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● Supportive facilities such as power generating and distribution facilities, mine transportation facilities, townsites, other infrastructure, etc., which derive value solely because of the existence of the ore body.

All costs which involve processing, manufacturing and fabricating facilities which are not directly associated with, nor derive value from, a particular mineral deposit in which the company has an economic interest, e.g., smelters and refineries which obtain their feed from outside shippers, are not mineral resource assets.

MINERAL RIGHTS

The ownership of the minerals beneath the earth's surface with the right to remove them. Mineral rights may be conveyed separately from surface rights.

MONETARY ASSET

An asset whose amount is fixed, by contract or otherwise, in terms of units of currency. Examples of monetary assets are cash, short- or long-term accounts and notes receivable in cash.

MOTOR GASOLINE

Refers to blended gasoline suitable as fuel for use in spark ignition systems and within ASTM Specifications D 439.

NATURAL GAS

A naturally occurring mixture of hydrocarbon compounds and small quantities of various non-hydrocarbons existing in the gaseous phase or in solution with oil in nautral underground reservoirs at reservoir conditions. The principal hydrocarbons usually contained in the mixture are methane, ethane, propane, butanes, and pentanes. Typical non-hydrocarbon gases which may be contained in reservoir natural gas are carbon dioxide, helium, hydrogen sulphide, nitrogen, etc.

Under reservoir conditions, natural gas and the liquefiable portions thereof occur either in a single gaseous phase in the reservoir or in solution with crude oil and are not distinguishable at that time as separate substances. Natural gas is classified by two categories based on the type of occurrence in the reservoir, as follows:

● *Non-Associated Gas.* Free natural gas not in contact with significant quantities of crude oil in the reservoir.

● *Associated/Dissolved Gas.* The combined volume of natural gas which occurs in crude oil reservoirs either as free gas (associated) or as gas in solution with crude oil (dissolved).

Associated gas is free natural gas, commonly known as gas cap gas, which overlies and is in contact with crude oil in the reservoir. Dissolved gas is natural gas which is in solution with crude oil in the reservoir at reservoir conditions.

Statistical data pertaining to natural gas production and reserves are reported in units of 1000 cubic feet at 14.73 pounds per square inch absolute and 60°F.

NATURAL GAS LIQUIDS

The sum of hydrocarbon liquids defined as lease condensate and liquids recovered at natural gas processing plants.

● *Contract Production.* Natural gas liquids accruing to a company because of its ownership of liquids extraction facilities which it uses to extract liquids from gas belonging to others, thereby earning a portion of the resultant liquids.

● *Leasehold Production.* Natural gas liquids produced, extracted, and credited to a company's interest.

● *Contract Reserves.* Natural gas liquid reserves corresponding to the contract production defined above.

● *Leasehold Reserves.* Natural gas liquid reserves corresponding to the leasehold production defined above.

NATURAL RESERVOIR PRESSURE

The energy within an oil or gas reservoir that causes the oil or gas to rise (unassisted by other forces) to the earth's surface when the reservoir is penetrated by an oil or gas well. The energy may be the result of "dissolved gas drive," "gas cap drive" or "water drive." Regardless of the type of drive, the principle is the same: the energy of the gas or water, creating a natural pressure, forces the oil or gas to the well bore.

NET PROFITS INTEREST

A contractual arrangement under which the beneficiary, in exchange for consideration paid, receives a stated percentage of the net profits from an extractive operation. The contract specifies the items to be take into account in computing net profits. That type of arrangement is considered a nonoperating interest, as distinguished from a working interest, since it does not involve the rights and obligations of operating a mineral property (costs of exploration, development, and operating). The net profits interest does not bear any part of net losses.

NONBRANDED PRODUCT

Any refined petroleum product that is not a branded product.

NONMONETARY ASSET

An asset whose amount is not fixed in terms of units of currency by contract or otherwise, i.e., an asset other than a monetary one. Examples of nonmonetary assets are inventories, investments in common stocks, and property, plant, and equipment.

NONOPERATING INTEREST

Any mineral lease interest (e.g., royalty, production payment, net profits interest) that does not involve the rights and obligations of operating a mineral property.

NONPRODUCING

A term often used in reference to a property, well, or mine from which production of commercially recoverable quantities of wasting natural resources has not yet commenced.

NONTRACEABLE

Those revenues, costs, assets, and liabilities which cannot be directly attributed to a line of business or which cannot be assigned to a line of business by use of a reasonable allocation method developed on the basis of operating level realities.

NUCLEAR FUEL OPERATIONS

All nuclear fuel operations, excluding reactor and reactor component manufacturing or containment construction.

OFFSHORE

That geographic area which lies seaward of the coastline. In general, the coastline is the line of ordinary low water along with that portion of the coast which is in direct contact with the open sea or the line marking the seaward limit of inland water.

If a State agency uses a different basis for classifying onshore and offshore areas, the State classification should be used.

Cook Inlet in Alaska is classified as offshore.

OIL SHALE

A sedimentary rock containing a solid organic material, kerogen.

OTHER ENERGY OPERATIONS

Energy operations not included in Petroleum, Coal, or Nuclear. Other Energy includes oil shale, tar sands, geothermal, and coal liquefaction and gasification.

PAYOUT

The point at which costs of drilling and equipping a property have been recovered from production proceeds less operating costs.

PERMANENT DIFFERENCES

Differences between taxable income and pretax accounting income arising from transactions that, under applicable tax laws and regulations, will not

be offset by corresponding differences or "turn around" in other periods.

PETROCHEMICALS

Organic and inorganic compounds and mixtures that include but are not limited to organic chemicals, cyclic intermediates, plastics and resins, synthetic fibers, elastomers, organic dyes, organic pigments, detergents, surface active agents, carbon black and ammonia.

PETROLEUM

Hydrocarbon mixtures broadly defined to include crude oil, lease condensate, natural gas, products of natural gas processing plants (plant products), refined products, and semi-finished products and blending materials.

PLANT PRODUCTS

Natural gas liquids recovered from natural gas processing plants (and in some cases from field facilities), including ethane, propane, butanes, butane-propane mixtures, natural gasoline, plant condensate and lease condensate.

PRE-DISCOVERY COSTS

All costs incurred in an extractive industry operation prior to the actual discovery of minerals in commercially recoverable quantities; normally includes prospecting, acquisition, and exploration costs, and may include some development costs.

PRE-PRODUCTION COSTS

Costs of prospecting for, acquiring, exploring, and developing mineral reserves, incurred prior to the point when production of commercially recoverable quantities of minerals commences.

PRIMARY RECOVERY

The crude oil or natural gas recovered by any method that may be employed to produce them where the fluid enters the well bore by the action of natural reservoir pressure (energy or gravity).

PRIMARY TRANSPORTATION

Conveyance of large shipments of petroleum raw materials and refined products usually by pipeline, barge, or ocean-going vessel. all crude oil transportation is primary, including the small amounts moved by truck. All refined product transportation by pipeline, barge, or ocean-going vessel is primary transportation.

PRODUCING PROPERTY

A term often used in reference to a property, well or mine that produces wasting natural resources. The term means a property that produces in paying quantities (that is, one for which proceeds from production exceed operating expenses).

PRODUCTION

The lifting the oil and gas to the surface and gathering, treating, field processing (as in the case of processing gas to extract liquid hydrocarbons), and field storage. The production function shall normally be regarded as terminating at the outlet valve on the lease or field production storage tank; if unusual physical or operational circumstances exist, it may be more appropriate to regard the production function as terminating at the first point at which oil, gas, or gas liquids are delivered to a main pipeline, a common carrier, a refinery, or a marine terminal.

● *Gross Company-Operated Production.* Total production from all company operated properties including all working and non-working interests.

● *Net Working Interest Production.* Total production accruing to the reporting company's working interests less royalty oil and volumes due others.

PRODUCTION COSTS

Production costs are those costs incurred to operate and maintain wells and related equipment and facilities, including depreciation and applicable operating costs of support equipment and facilities and other costs of operating and maintaining those wells and related equipment and facilities. They become part of the cost of oil and gas produced. Examples of production costs (sometimes called lifting costs) are:

● Costs of labor to operate the wells and related equipment and facilities.
● Repairs and maintenance.
● Materials, supplies, and fuel consumed and services utilized in operating the wells and related equipment and facilities.
● Property taxes and insurance applicable to proved properties and wells and related equipment and facilities.
● Severance taxes.

Depreciation, depletion, and amortization of capitalized acquisition, exploration, and development costs are not production costs but also become part of the cost of oil and gas produced along with production (lifting) costs identified above.

Production costs include the following sub-categories of costs:

● Well operations and maintenance.
● Well workovers
● Operating fluid injection and improved recovery programs
● Operating gas processing plants
● Ad valorem taxes
● Production or severance taxes
● Other, including overhead

PRODUCTION PAYMENT

A contractual arrangement providing a mineral interest that gives the owner a right to receive a fraction of production or of proceeds from the sale of production, until a specified quantity of minerals (or a definite sum of money, including interest or a definite sum of money, plus interest) has been received. It is considered a nonoperating interest, since the owner bears no part of exploration, development, and operating costs. Usually, there is no recourse if production is insufficient to satisfy the amount of the production payment.

Production payments are classified according to the manner in which the rights were created:

● *Carved-out.* A production payment created out of the working interest in a mineral property. The working interest owner "carves out" and transfers the production payment contractual right to the transferee in return for cash or other consideration but retains the operating rights and responsibilities.

● *Retained.* Production payment retained under a contract in which the transferor divests a working interest in the producing property to the transferee and subsequently becomes the recipient of production payments delivered by the transferee.

PROSPECTING

The search for an area of probable mineralization; the search normally includes topographical, geological, and geophysical studies of relatively large areas undertaken in an attempt to locate specific areas warranting detailed exploration. Prospecting usually occurs prior to the acquisition of mineral rights.

PROSPECTING COSTS

Direct and indirect costs incurred to identify areas of interest that may warrant detailed exploration. Such costs include those incurred for: topographical, geological, and geophysical studies; rights of access to properties in order to conduct such studies; salaries, equipment, instruments, and supplies for geologists, geophysical crews, and others conducting such studies; and overhead that can be identified with those activities.

RESEARCH AND DEVELOPMENT

Basic and applied research in the sciences and engineering and the design and development of prototypes and processes, excluding quality control, routine product testing, market research, sales promotion, sales service, research in the social sciences or psychology, and other non-technological activities or technical services.

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Basic research, applied research, and development are distinguished as follows:

● *Basic Research.* Original investigations for the advancement of scientific knowledge not having specific known commercial objectives, although such investigations may be in the fields of present or potential interest to the reporting company or others.

● *Applied Research.* Investigations directed to the discovery of new scientific knowledge having specific commercial objectives with respect to products or processes. This definition differs from that of basic research chiefly in terms of the objectives of the reporting company or the organization sponsoring the activity.

● *Development.* Technical activities of a nonroutine nature concerned with translating research findings or other scientific knowledge into products or processes. This does not include routine technical services to customers or other activities excluded from the above definition of research and development.

REFINED PETROLEUM PRODUCTS

Refined petroleum products include but are not limited to gasolines, kerosene, distillates (including No. 2 fuel oil), liquified petroleum gas, asphalt, lubricating oils, diesel fuels, and residual fuels.

RESERVES (COAL): (SUGGESTED DEFINITION FOR SCHEDULES 5341 AND 5342)

Coal reserve estimates comprising the demonstrated coal reserve base include only proved (measured) and probable (indicated).

● *Proved (Measured) Reserves.* Reserves or resources for which tonnage is computed from dimensions revealed in outcrops, trenches, workings, and drill holes and for which the grade is computed from the results of detailed sampling. The sites for inspection, sampling, and measurement are spaced so closely and the geologic character is so well defined that size, shape, and mineral content are well established. The computed tonnage and grade are judged to be accurate within limits which are stated, and no such limit is judged to be different from the computed tonnage or grade by more than 20 percent.

● *Probable (Indicated) Reserves.* Reserves or resources for which tonnage and grade are computed partly from specific measurements, samples, or production data and partly from projection for a reasonable distance on geologic evidence. The sites available for inspection, measurement, and sampling are too widely or otherwise inappropriately spaced to permit the mineral bodies to be outlined completely or the grade established throughout.

RESERVES (OIL AND GAS)

Estimated quantities of future recoverable oil and gas. For FRS purposes, reserves include only proved developed or proved undeveloped.

● *Proved Reserves.* The estimated quantities of crude oil, natural gas, and natural gas liquids which geological and engineering data demonstrate with reasonable certainty to be recoverable in future years from known reservoirs under existing economic and operating conditions.

Reservoirs are considered *proved* if economic producibility is supported by either acutal production or conclusive formation test. The area of a reservoir considered proved includes (1) that portion delineated by drilling and defined by gas-oil and/or oil-water contacts, if any; and (2) the immediately adjoining portions not yet drilled; but which can be reasonably judged as economically productive on the basis of available geological and engineering data. In the absence of information on fluid contacts, the lowest known structural occurrence of hydrocarbons controls the lower proved limit of the reservoir.

Reserves which can be produce economically through application of improved recovery techniques (such as fluid injection) are included in the "proved" classification when successful testing by a pilot project, or the operation of an installed program in the reservoir, provides support for the engineering analysis on which the project or program was based.

Estimates of proved reserves do not include the following: (1) oil that may become available from known reservoirs but is classified separately as "indicated additional reserves"; (2) crude oil, natural gas, and natural gas liquids, the recovery of which is subject to reasonable doubt because of uncertainty as to geology, reservoir characteristics, or economic factors; (3) crude oil, natural gas, and natural gas liquids, that may occur in undrilled prospects; and (4) crude oil, natural gas, and natural gas liquids, that may be recovered from oil shales, coal, gilsonite and other such sources.

● *Proved Developed Reserves.* Reserves which can be expected to be recovered through existing wells with existing equipment and operating methods. Proved developed reserves include both (1) proved developed producing reserves (those that are expected to be produced from existing completion intervals now open for production in existing wells) and (2) proved developed nonproducing reserves (those that exist behind the casing of existing wells, or at minor depths below the present bottom of such wells, which are expected to be produced through these wells in the predictable future, where the cost of making such oil and gas available for production should be relatively small compared to the cost of a new well). Additional oil and gas expected to be obtained through the application of fluid injection or other improved recovery techniques for supplementing the natural forces and mechanisms of primary recovery should be included as "proved developed reserves" only after testing by a pilot project or after the operation of an installed program has confirmed through production response that increased recovery will be achieved.

● *Proved Undeveloped Reserves.* Reserves which are expected to be recovered from new wells on undrilled acreage, or from existing wells where a relatively major expenditure is required for recompletion. Reserves on undrilled acreage shall be limited to those drilling units offsetting productive units, which are reasonably certain of production when drilled. Proved reserves for other undrilled units can be claimed only where it can be demonstrated with certainty that there is continuity of production from the existing productive formation. Under no circumstances should estimates for proved undeveloped reserves be attributable to any acreage for which an application of fluid injection or other improved recovery technique is contemplated, unless such techniques have been proved effective by actual tests in the area and in the same reservoir.

RESERVES, NET

Includes all proved reserves associated with the company's net working interests. (See Working Interest.)

RESERVES, CHANGES IN

For FRS reporting, the following definitions should be used for changes in reserves.

● *Revisions of Previous Estimates.* Changes in previous estimates of proved reserves, either upward or downward, resulting from new information normally obtained from development drilling and production history or resulting from a change in economic factors. Revisions do not include changes in reserve estimates resulting in proved acreage or from improved recovery techniques.

● *Improved Recovery.* Changes in reserve estimates resulting from application of improved recovery techniques shall be separately shown if significant. If not significant, such changes shall be included in revisions of previous estimates.

● *Purchases or Sales of Minerals-in-Place.* Increase or decrease in the estimated quantity of reserves resulting from the purchase or sale of mineral rights in land with known reserves.

● *Extensions, Discoveries, and Other Additions.* Additions to an enterprise's proved reserves that result from (i) extension of the proved acreage of previously discovered (old) reservoirs through additional drilling in periods subsequent to discovery and (ii) discovery of new fields with proved reserves or of new reservoirs of proved reserves in old fields.

RESERVOIR

A porous and permeable underground formation containing an individual and separate accumulation of producible hydrocarbons (oil and/or gas) that is confined by impermeable rock or water barriers and is characterized by a single natural pressure system.

RESIDUAL FUEL

Topped crude obtained in refinery operations including light and heavy grades 5 and 6, heavy diesel fuel, type S-M diesel fuel, navy grade, navy special, bunker C, and acid sludge.

ROYALTY

A contractual arrangement providing a mineral interest that gives the owner a right to a fractional share of production or proceeds therefrom, that does not contain rights and obligations of operating a mineral property, and that is normally free and clear of exploration, development, and operating costs, except production taxes. (See Nonoperating Interest.)

● *Advance Royalty.* A royalty required to be paid in advance of production from a mineral property that may or may not be recoverable from future production.

● *Basic Royalty.* A royalty interest retained by the owner in fee under a lease contract.

● *Minimum Royalty.* A guaranteed minimum amount of royalty income that a royalty owner is to receive under the terms of the lease agreement, regardless of the royalty owner's share of actual proceeds from the sale of production. A minimum royalty may or may not be recoverable out of future production.

● *Overriding Royalty.* A royalty interest, in addition to the basic royalty, created out of the working interest; it is, therefore, limited in its duration to the life of the lease under which it is created.

● *Shut-In Royalty.* A royalty paid by a lessee as a compensation for a lessor's loss of income because the lessee has deferred production from a property that is known to be capable of producing minerals. Shut in may be caused by a lack of a ready market, by a lack of transportation facilities, or by other reasons. A shut in royalty may or may not be recoverable out of future production.

SALT DOME

A domical arch (anticline) of sedimentary rock beneath the earth's surface, in which the layers bend downward in opposite directions from the crest, and that has a mass of rock salt as its core.

SEMIFINISHED (PETROLEUM) PRODUCTS

Unfinished petroleum stocks except those designated as raw materials. In most cases, these are produced by partial refining or purchased in an unfinished state for conversion to finished products by further refining.

SHALLOW PITTING

Testing a potential mineral deposit by systematically sinking small shafts into the earth and by analyzing the material recovered.

SHORT TON

A unit of weight that equals 2,000 pounds.

SHUT IN

Closed temporarily; wells and mines capable of production may be shut in for repair, cleaning, inaccessibility to a market, etc.

SPENT FUEL (DEPLETED FUEL)

Nuclear reactor fuel that has been used to the extent that it can no longer effectively sustain a chain reaction. Fuel becomes spent when its fissionable isotopes have been partially consumed and fission-product poisons have accumulated in it.

STATUTORY TERTIARY

Refers to costs or production identified and regulated pursuant to 10 CFR 212.78.

SUPPORT EQUIPMENT AND FACILITIES

Support equipment and facilities include, but are not limited to, seismic equipment, drilling equipment, construction and grading equipment, vehicles, repair shops, warehouses, supply points, camps, and division, district, or field offices.

SURFACE DRILLING EXPENSES (URANIUM)

Surface drilling expenses include drilling, drill roads, site preparation, geological and other technical support, sampling and drill hole logging.

SURFACE RIGHTS

Fee ownership in surface areas of land. Also used to describe a lessee's right to use as much of the surface of the land as may be reasonably necessary for the conduct of operations under the lease.

TAKE-OR-PAY CONTRACT

An agreement in which a buyer of minerals agrees to pay for the purchase of a minimum quanity of minerals over a period of time regardless of whether or not the buyer actually "takes" the purchased minerals. Usually, any amount paid in excess of minimum quantities (make-up products).

TANGIBLE DEVELOPMENT COSTS

Costs incurred during the development stage for access, mineral-handling, and support facilities having a physical nature. In mining, such costs would include tracks, lighting equipment, ventilation equipment, other equipment installed in the mine to facilitate the extraction of minerals, and supporting facilities for housing and care of work forces. In the oil and gas industry, tangible development costs would include well equipment (such as casing, tubing, pumping equipment, and well heads), as well as field storage tanks and gathering systems.

TAR SANDS

Bitumen-impregnated sands which yield mixtures of liquid hydrocarbon and which require further processing other than mechanical blending before becoming finished petroleum products.

TEST WELL CONTRIBUTION

A payment made to the owner of an adjacent or nearby tract who has drilled an exploratory well on that tract in exchange for information obtained from the drilling effort. (See Bottom Hole Contribution and Dry Hole Contribution.)

TIMING DIFFERENCES

Differences between the periods in which transactions affect taxable income and the periods in which they enter into the determination of pretax accounting income. Timing differences originate in one period and reverse or "turn around" in one or more subsequent periods. Some timing differences reduce income taxes that would otherwise be payable currently; others increase income taxes that would otherwise be payable currently.

TRANSFER PRICE

The monetary value assigned to products, services, or rights conveyed or exchanged between related parties, including those occurring between units of a consolidated entity.

UNCOMPLETED WELLS, EQUIPMENT, AND FACILITIES COSTS

The costs incurred to:

● Drill and equipment wells that are not yet completed.

● Acquire or construct equipment and facilities that are not yet completed and installed.

UNDEVELOPED

Refers to a mineral property on which development wells or mines have not been drilled or completed to a point that would permit the production of commercial quantities of mineral reserves.

URANIUM EXPLORATION, LAND HELD FOR

Types of land holdings and acquisitions include fee land, mineral fee, leases, patented and unpatented claims, and options to purchase mineral fee. Excludes land acquired or held for production of uranium from known commercial uranium deposits.

URANIUM INVENTORIES

Includes preproduction and postproduction inventories:

● *Preproduction.* Preproduction inventories of U_3O_8 are cumulative tonnage-grade distributions of individual properties prior to production (i.e., the original in-place inventory).

● *Postproduction.* Postproduction inventories reflect in-place distributions of U_3O_8 after subtracting all production during and prior to the reporting period.

VALUATION CHARGE

A loss recognized in connection with an impairment in the value of an unproved property below its acquisition cost. See paragraph 28 of Financial Accounting Standards Board (FASB) Statement No. 19.

VESSELS

The following vessel categories have been established for FRS reporting:

● *Ultra Large Crude Carrier (ULCC).* A crude oil carrying ship exceeding 320,000 dead weight tons.

● *Very Large Crude Carrier (VLCC).* A crude oil carrying ship of between 160,001 and 320,000 dead weight tons.

● *Other Tanker.* A crude oil carrying ship of between 25,000 and 160,000 dead weight tons.

● *Speciality Ships (LPG/LNG).* A ship designed specifically to carry liquefied gases.

WASTING (NON-REGENERATIVE) NATURAL RESOURCES

Naturally occurring substances that are classified as minerals, are present in or on the earth's surface, and are extracted therefrom by man but are not susceptible to man's attempts to replace them in their original state or in a similar state (although they may in a sense be replaced by nature over the long term).

By that definition these resources include, but are not limited to: (1) crude oil and natural gas; (2) metals, such as, copper, gold, iron, lead, nickel, platinum, silver, tin, titanium, tungsten, uranium, and zinc; (3) coal; (4) salt; (5) sulfur; and (6) gravel, sand, and stone.

The natural resources excluded by this definition, because they are susceptible to attempts to replace them in their original state or in a similar state (being characteristically replaced by nature as well), are those that provide the basis for products normally associated with the industries of forestry, fishing, agriculture, and animal husbandry.

WELL

A well is a hole drilled in the earth for the purpose of (1) finding or producing crude oil or natural gas; or (2) providing services related to the production of crude oil or natural gas.

Wells are classified as (1) oil wells; (2) gas wells; (3) dry holes; (4) stratigraphic tests; or (5) service wells. The latter two types of wells are not counted for FRS reporting.

Oil wells, gas wells, and dry holes are classified as exploratory wells or development wells. Exploratory wells are subclassified as (1) new-field wildcats; (2) new-pool wildcats; (3) deeper-pool tests; (4) shallow-pool tests; and (5) outpost (extension) tests. Well classifications reflect the status of wells after drilling has been completed.

● *Completion.* The term "completion" refers to the installation of permanent equipment for the production of oil or gas. If a well is equipped to produce only oil or gas from one zone or reservoir, the definition of a "well" (classified as an oil well or gas well) and the definition of a "completion" are identifical. However, if a well is equipped to produce oil and/or gas separately from more than one reservoir, a "well" is not synonymous with a "completion."

● *Completion Date.* The date on which the installation of permanent equipment has been completed (for the production of oil or gas) as reported to the appropriate regulatory agency.

The date of completion of a dry hole is the date of abandonment as reported to the appropriate agency.

The date of completion of a service well is the date on which the well is equipped to perform the service for which it was intended.

● *Development Well.* A well drilled within the proved area of an oil or gas reservoir to the depth of a stratigraphic horizon known to be productive.

● *Directional (Deviated) Well.* A well purposely deviated from the vertical using controlled angles to reach an objective location other than one directly below the surface location. A directional well may be the original hole or a directional "sidetrack" hole which deviates from the original bore at some point below the surface. The new footage associated with directional "sidetrack" holes should not be confused with footage resulting from remedial Sidetrack Drilling.

If there is a common bore from which two or more wells are drilled, the first complete bore from the surface to the original objective is classified and reported as a well drilled. Each of the deviations from the common bore is reported as a separate well.

● *Dry Hole.* An exploratory or development well found to be incapable of producing either oil or gas in sufficient quantities to justify completion as an oil or gas well.

● *Exploratory Well.* A well that is not a development well, a service well, or a stratigraphic test well as those items are defined elsewhere herein.

● *Free Well.* A well drilled and equipped by an assignee as consideration for the assignment of a fractional share of the working interest, commonly under a farm-out agreement.

● *Gas Well.* A well completed for production of natural gas from one or more gas zones or reservoirs. Such wells contain no completions for the production of crude oil.

● *Multiple Completion Well.* A well equipped to produce oil and/or gas separately from more than one reservoir. Such wells contain multiple strings of tubing or other equipment which permit production from the various completions to be measured and accounted for separately.

For statistical purposes, a multiple completion well is reported as one well and classified as either an oil well or a gas well. If one of the several completions in a given well is an oil completion, the well is classified as an oil well. If all of the completions in a given well are gas completions, the well is classified as a gas well.

● *New Field Discovery Well.* The first well drilled on a structural feature and/or stratigraphic condition that indicates the presence of a commercially significant quantity of hydrocarbons which may be produced. The discovery well may be drilled and abandoned without being completed to produce.

● *Oil Well.* A well completed for the production of crude oil from a least one oil zone or reservoir.

● *Oil Well Drilled Deeper.* A previously drilled hole which is reentered and deepened by additional drilling. Such wells are reported as (1) oil or gas wells if completed for the production of oil or gas, or (2) dry holes if sufficient quantities of oil or gas are not found to justify completion at the greater depth.

● *Old Well Worked Over.* A previously drilled hole which is reentered for the purpose of improving or establishing production of oil or gas, but no additional footage is drilled.

● *Service Well.* A well drilled or completed for the purpose of supporting production in an existing field. Well of this class are drilled for the following specific purposes:

Gas injection (natural gas, propane, butane, or flue-gas)
Water injection
Steam injection
Air injection
Salt water disposal
Water supply for injection
Observation
Injection for in-situ combustion

Wells converted to the above purposes are also classified as service wells.

● *Stratigraphic Test Well.* A stratigraphic test is a drilling effort, geologically directed, to obtain information pertaining to a specific geological condition that might lead toward the discovery of an accumulation of hydrocarbons. Such wells are customarily drilled without the intention of being completed for hydrocarbon production. This classification also includes tests identified as core tests and all types of expendable holes related to hydrocarbon exploration.

● *Water Well.* A well drilled to (1) obtain a water supply to support drilling or plant operations or (2) obtain a water supply to be used in connection with an improved recovery program. Water wells of the first type are not reported. Water wells drilled in connection with an improved recovery program are reported as service wells.

WELLHEAD PRICE

The value at the mouth of the well. In general, the wellhead price is considered to be the sales price obtainable from a third party in an arm's length transaction. Posted prices, regulated prices, or prices as defined by lease agreements, contracts or tax regulations should be used where applicable.

WELLS AND RELATED EQUIPMENT AND FACILITIES

Include those costs incurred to:

● Drill and equip those exploratory wells that have found proved reserves and exploratory-type stratigraphic test wells that have found proved reserves.

● Obtain access to proved reserves and provide facilities for extracting, treating, gathering, and storing the oil and gas, including the drilling and equipping of development wells, and develpment-type stratigraphic test wells (whether successful or unsuccessful) and service wells.

WORKING INTEREST

An interest in a mineral property that entitles the owner(s) of that interest to all or a share of mineral production from the property, usually subject to a royalty.

A working interest permits the owner(s) to explore, develop, and operate the property. The working interest owner(s) bear(s) the costs of exploration, development and operation of the property, and in return they are entitled to a share of the mineral production from the property, or to a share of the proceeds therefrom. It may be assigned to another party in whole or in part, or it may be divided into other special property interests.

● *Gross Working Interest.* The reporting company's working interest plus the proportionate share of any basic royalty interest or overriding royalty interest related to the working interest.

● Net Working Interest. The reporting company's working interest not including any basic royalty or overriding royalty interests.

YELLOWCAKE (U_3O_8)

The final precipitate formed in the milling process. U_3O_8, a common form of triuranium oxide, is the powder obtained by evaporating an ammonia solution of the oxide.

V 4 4 / 9 J A 1 2 7 9 UMI

[6450-01-C]

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FINANCIAL REPORTING SYSTEM
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5100

FINANCIAL REPORTING SYSTEM
CLASSIFICATION INFORMATION

FORM APPROVED
O.M.B. NO. 38-R-0041
EXPIRES 12/31/79

RESPONDENT CODE | RESPONDENT NAME | PERIOD (M) | PERIOD (YR) | FORM NOTE | ORIGINAL | REVISION | AS OF | SUBMIT DATE (MO – DAY – YR)

PAGE ___ OF PAGES ___

MAIL TO: **DEPARTMENT OF ENERGY**
CODE 2906
WASHINGTON, D.C. 20461

THIS REPORT IS MANDATORY UNDER PUBLIC LAWS 95-91 AND 93-275

PART I. – IDENTIFICATION INFORMATION

IRS EMPLOYER IDENTIFICATION NUMBER

SEC 1934 ACT REG. NUMBER

ADDRESS CHANGE INDICATOR
Please check if the address below has changed

RESPONDENT ADDRESS

COMPANY NAME
STREET/BOX/RFD
CITY
STATE/ZIP

Please affix mailing label here

Please make corrections below:

CONTACT PERSON
TITLE OF CONTACT PERSON
TELEPHONE NUMBER

PART II. – CERTIFICATION

I certify that the information provided herein and appended hereto is true and accurate to the best of my knowledge, information, and belief.
TITLE 18 USC 1001 makes it a criminal offense for any person knowingly and willingly to make to any agency or department of the United States any false, fictitious, or fraudulent statements as to any matter within its jurisdiction.

NAME:
TITLE:
SIGNATURE: DATE:

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FINANCIAL REPORTING SYSTEM
SCH 5110 – PAGE 1 OF 1

5110

REPORTING COMPANY
CONSOLIDATING STATEMENT OF INCOME

FORM APPROVED
O.M.B. NO. 38-R-0041
EXPIRES 12/31/79

RESPONDENT CODE | RESPONDENT NAME | PERIOD (M) | PERIOD (YR) | FORM NOTE | ORIGINAL | REVISION | AS OF | SUBMIT DATE (MO – DAY – YR)

PAGE ___ OF PAGES ___

(IN THOUSANDS OF DOLLARS)

	FRS LINE #	CONSOL A	ELIM B	NON-TRACEABLE C	PETROLEUM (SCH 5210) D	COAL (SCH 5310) E	NUCLEAR (SCH 5410) F	OTHER ENERGY (SCH 5510) G	NON-ENERGY (SCH 5610) H	CONS
OPERATING REVENUES	01.00									
OPERATING EXPENSES:										
GENERAL OPERATING EXPENSES	02.00									
DD&A	03.00									
VALUATION CHARGES	04.00									
GENERAL & ADMINISTRATIVE	05.00									
RESEARCH AND DEVELOPMENT (SCH 5111)	06.00									
TOTAL OPERATING EXPENSES	07.00									
OPERATING INCOME	08.00									
OTHER REVENUE & (EXPENSE):										
EQUITY IN EARNINGS OF UNCONSOLIDATED AFFILIATES	09.00									
DIVIDEND INCOME FROM COST BASIS UNCONSOLIDATED AFFILIATES	10.00									
OTHER DIVIDEND & INTEREST INCOME	11.00									
GAIN/(LOSS) ON DISPOSITION OF PP&E	12.00									
INTEREST EXPENSE & FINANCIAL CHARGES	13.00									
MINORITY INTEREST IN INCOME (NET INCOME TAX)	14.00									
FOREIGN CURRENCY TRANSLATION EFFECTS	15.00									
OTHER REVENUE & (EXPENSE)	16.00									
INCOME TAXES (SCH 5112):										
CURRENT	17.00									
DEFERRED	18.00									
TOTAL INCOME TAX	19.00									
TOTAL OTHER REVENUE & (EXPENSE)	20.00									
INCOME BEFORE LINES 22.00 & 23.00	21.00									
EXTRAORDINARY ITEMS	22.00									
CUMULATIVE EFFECT OF ACCOUNTING CHANGES	23.00									
NET INCOME	24.00									

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5111

REPORTING COMPANY
RESEARCH & DEVELOPMENT FUNDING AND EXPENDITURES

FORM APPROVED
O.M.B. NO. 38-R-0361
EXPIRES 12/31/79

RESPONDENT CODE | RESPONDENT NAME | PERIOD RESPONDED QUARTER | PERIOD ENDING DAY | YR | PAGE FOOTNOTE | ORIGINAL | RESUBMISSION | NO. OF | RESUBMISSION DATE MO | DAY | YR

PAGE | OF | PAGES | H H H

(IN THOUSANDS OF DOLLARS)

	FRS LINE #	TOTAL A	PETROLEUM: OIL & GAS RECOVERY B	PETROLEUM: OTHER PETROLEUM C	COAL: GASIF/ LIQUEFAC D	COAL: OTHER COAL E	NUCLEAR F	OIL SHALE G
SOURCE OF R&D FUNDS:								
FEDERAL GOVERNMENT	01.00							
INTERNAL COMPANY	02.00							
OTHER SOURCES	03.00							
TOTAL SOURCES	04.00							
R&D EXPENDITURES:								
BASIC RESEARCH:								
IN-HOUSE	05.00							
CONTRACTED OUT	06.00							
APPLIED RESEARCH:								
IN-HOUSE	07.00							
CONTRACTED OUT	08.00							
DEVELOPMENT:								
IN-HOUSE	09.00							
CONTRACTED OUT	10.00							
CAPITALIZED EXPENDITURES	11.00							
TOTAL R&D EXPENDITURES	12.00							
R&D EXPENSE:								
TOTAL R&D EXPENDITURES (LINE 12.00)	13.00							
LESS: CAPITALIZED ITEMS (LINE 11.00)	14.00							
LESS: AMTS. PAID FOR BY OTHERS (NOT INCLUDED IN TOTAL SOURCES LINE 04.00)	15.00							
TOTAL R&D EXPENSE, EXCLUDING DD&A (SCH 5110, LINE 06.00, COL A)	16.00							
PLUS DD&A	17.00							
TOTAL	18.00							

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5111

REPORTING COMPANY
RESEARCH & DEVELOPMENT FUNDING AND EXPENDITURES

FORM APPROVED
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PAGE | OF | PAGES | H H H

(IN THOUSANDS OF DOLLARS)

	FRS LINE #	TAR SANDS H	GEOTHERM I	SOLAR J	OTHER ENERGY K	NON-ENERGY L	UNASSIGN M
SOURCE OF R&D FUNDS:							
FEDERAL GOVERNMENT	01.00						
INTERNAL COMPANY	02.00						
OTHER SOURCES	03.00						
TOTAL SOURCES	04.00						
R&D EXPENDITURES:							
BASIC RESEARCH:							
IN-HOUSE	05.00						
CONTRACTED OUT	06.00						
APPLIED RESEARCH:							
IN-HOUSE	07.00						
CONTRACTED OUT	08.00						
DEVELOPMENT:							
IN-HOUSE	09.00						
CONTRACTED OUT	10.00						
CAPITALIZED EXPENDITURES	11.00						
TOTAL R&D EXPENDITURES	12.00						

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5112

REPORTING COMPANY
ANALYSIS OF INCOME TAXES

FORM APPROVED
O.M.B. NO. 38-R-0041
EXPIRES 12/31/79

RESPONDENT CODE | RESPONDENT NAME | REPORT END DAY | REPORT END MO | FORM NO. | ORIGINAL | REVISION | RESUBMISSION DAY | RESUBMISSION MO

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(IN THOUSANDS OF DOLLARS)

	FRS LINE #	TOTAL A
INCOME TAXES (AS PER FINANCIAL STATEMENTS):		
CURRENT PAID OR ACCRUED:		
U.S. FEDERAL, BEFORE INVESTMENT TAX CREDIT	01.00	
U.S. FEDERAL INVESTMENT TAX CREDIT	02.00	
U.S. STATE & LOCAL INCOME TAXES	03.00	
FOREIGN INCOME TAXES:		
CANADA	04.00	
OECD EUROPE	05.00	
AFRICA	06.00	
MIDDLE EAST	07.00	
OTHER EASTERN HEMISPHERE	08.00	
OTHER WESTERN HEMISPHERE	09.00	
TOTAL FOREIGN	10.00	
TOTAL CURRENT	11.00	
DEFERRED:		
U.S. FEDERAL, BEFORE INVESTMENT TAX CREDIT	12.00	
U.S. FEDERAL INVESTMENT TAX CREDIT	13.00	
U.S. STATE & LOCAL INCOME TAXES	14.00	
FOREIGN	15.00	
TOTAL DEFERRED	16.00	
TOTAL INCOME TAX EXPENSE	17.00	
RECONCILIATION OF ACCRUED U.S. FEDERAL INCOME TAX EXPENSE TO STATUTORY RATE:		
CONSOLIDATED PRETAX INCOME/(LOSS)	18.00	
LESS: FOREIGN SOURCE INCOME NOT SUBJECT TO U.S. TAX	19.00	
EQUALS: INCOME SUBJECT TO U.S. TAX	20.00	
LESS: U.S. STATE & LOCAL INCOME TAXES	21.00	
LESS: APPLICABLE FOREIGN INCOME TAXES DEDUCTED	22.00	
EQUALS: PRE-TAX INCOME SUBJECT TO U.S. TAX	23.00	

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REPORTING COMPANY
ANALYSIS OF INCOME TAXES

FORM APPROVED
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EXPIRES 12/31/79

RESPONDENT CODE | RESPONDENT NAME | REPORT END DAY | REPORT END MO | FORM NO. | ORIGINAL | REVISION | RESUBMISSION DAY | RESUBMISSION MO

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(IN THOUSANDS OF DOLLARS)

	FRS LINE #	TOTAL A	PERCENT OF TAXABLE INCOME B
ENTER HERE THE COMPUTED 'EXPECTED' TAX PROVISION BASED ON LINE 23.00	24.00		
INCREASE/(DECREASE) IN TAXES DUE TO:			
FOREIGN TAX CREDITS RECOGNIZED	25.00		
U.S. FEDERAL INVESTMENT TAX CREDIT RECOGNIZED	26.00		
STATUTORY DEPLETION	27.00		
OTHER	28.00		
ACTUAL U.S. FEDERAL TAX PROVISION/(REFUND)	29.00		

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5113

REPORTING COMPANY
ANALYSIS OF INCOME TAXES BY SEGMENTS

FORM APPROVED
O.M.B. NO. 38-R-0361
EXPIRES 12/31/79

RESPONDENT CODE | RESPONDENT NAME | PERIOD BEGINNING MO DAY YR | PERIOD ENDING MO DAY YR | FOUR QUARTERS | ORIGINAL | REVISION | RESUBMISSION DATE AS OF MO DAY YR

PAGE OF PAGES

(IN THOUSANDS OF DOLLARS)

	FRS LINE #	CURRENT TAXES: TOTAL COLUMNS B-E (A)	U.S. FEDERAL: BEFORE ITC (B)	U.S. FEDERAL: ITC (C)	U.S. STATE & LOCAL (D)	FOREIGN (E)
CURRENT TAX DETAIL BY SEGMENTS:						
NON-ENERGY INDUSTRIES (CONSOLIDATED)	01.00					
OTHER ENERGY:						
FOREIGN SEGMENT	02.00					
DOMESTIC SEGMENT	03.00					
NONTRACEABLE	04.00					
ELIMINATIONS	05.00					
CONSOLIDATED	06.00					
NUCLEAR:						
FOREIGN SEGMENT	07.00					
DOMESTIC SEGMENT	08.00					
NONTRACEABLE	09.00					
ELIMINATIONS	10.00					
CONSOLIDATED	11.00					
COAL:						
FOREIGN SEGMENT	12.00					
DOMESTIC SEGMENT	13.00					
NONTRACEABLE	14.00					
ELIMINATIONS	15.00					
CONSOLIDATED	16.00					

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REPORTING COMPANY
ANALYSIS OF INCOME TAXES BY SEGMENTS

FORM APPROVED
O.M.B. NO. 38-R-0361
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RESPONDENT CODE | RESPONDENT NAME | PERIOD BEGINNING MO DAY YR | PERIOD ENDING MO DAY YR | FOUR QUARTERS | ORIGINAL | REVISION | RESUBMISSION DATE AS OF MO DAY YR

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(IN THOUSANDS OF DOLLARS)

	FRS LINE #	DEFERRED TAXES: TOTAL COLUMNS G-J (F)	U.S. FEDERAL: BEFORE ITC (G)	U.S. FEDERAL: ITC (H)	U.S. STATE & LOCAL (I)	FOREIGN (J)
DEFERRED TAX DETAIL BY SEGMENTS:						
NON-ENERGY INDUSTRIES (CONSOLIDATED)	01.00					
OTHER ENERGY:						
FOREIGN SEGMENT	02.00					
DOMESTIC SEGMENT	03.00					
NONTRACEABLE	04.00					
ELIMINATIONS	05.00					
CONSOLIDATED	06.00					
NUCLEAR:						
FOREIGN SEGMENT	07.00					
DOMESTIC SEGMENT	08.00					
NONTRACEABLE	09.00					
ELIMINATIONS	10.00					
CONSOLIDATED	11.00					
COAL:						
FOREIGN SEGMENT	12.00					
DOMESTIC SEGMENT	13.00					
NONTRACEABLE	14.00					
ELIMINATIONS	15.00					
CONSOLIDATED	16.00					

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5113

REPORTING COMPANY
ANALYSIS OF INCOME TAXES BY SEGMENTS

FORM APPROVED
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PAGE ___ OF PAGES ___ H H H

(IN THOUSANDS OF DOLLARS)

	FRS LINE #	CURRENT TAXES TOTAL COLUMNS B-E A	U.S. FEDERAL BEFORE ITC B	U.S. FEDERAL ITC C	U.S. STATE & LOCAL D	FOREIGN E
CURRENT TAX DETAIL BY SEGMENTS (CONT'D)						
PETROLEUM						
FOREIGN PETROLEUM						
INTERNATIONAL MARINE SEGMENT	17.00					
FOREIGN REFINING/MARKETING SEGMENT	18.00					
FOREIGN PRODUCTION SEGMENT	19.00					
NONTRACEABLE	20.00					
ELIMINATIONS	21.00					
CONSOLIDATED	22.00					
DOMESTIC PETROLEUM						
FEDERALLY REGULATED						
REFINED PRODUCT PIPELINE SEGMENT	23.00					
FEDERALLY REGULATED						
NATURAL GAS PIPELINE SEGMENT	24.00					
FEDERALLY REGULATED						
CRUDE & LIQUID PIPELINE SEGMENT	25.00					
DOMESTIC REFINING/MARKETING SEGMENT	26.00					
DOMESTIC PRODUCTION SEGMENT	27.00					
NONTRACEABLE	28.00					
ELIMINATIONS	29.00					
CONSOLIDATED	30.00					
DOMESTIC & FOREIGN PETROLEUM						
NONTRACEABLE	31.00					
ELIMINATIONS	32.00					
CONSOLIDATED	33.00					
CONSOLIDATED COMPANY						
NONTRACEABLE	34.00					
ELIMINATIONS	35.00					
CONSOLIDATED	36.00					

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REPORTING COMPANY
ANALYSIS OF INCOME TAXES BY SEGMENTS

FORM APPROVED
O.M.B. NO. 38-R-0361
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RESPONDENT CODE | RESPONDENT NAME | PERIOD BEGINNING MO. DAY YR | PERIOD ENDING MO. DAY YR | PAGE CONS NOTE | ORIGINAL | REVISION | RESUBMIT DATE MO. DAY YR

PAGE ___ OF PAGES ___ H H H

(IN THOUSANDS OF DOLLARS)

	FRS LINE #	DEFERRED TAXES TOTAL COLUMNS F-J F	U.S. FEDERAL BEFORE ITC G	U.S. FEDERAL ITC H	U.S. STATE & LOCAL I	FOREIGN J
DEFERRED TAX DETAIL BY SEGMENTS (CONT'D):						
PETROLEUM						
FOREIGN PETROLEUM						
INTERNATIONAL MARINE SEGMENT	17.00					
FOREIGN REFINING/MARKETING SEGMENT	18.00					
FOREIGN PRODUCTION SEGMENT	19.00					
NONTRACEABLE	20.00					
ELIMINATIONS	21.00					
CONSOLIDATED	22.00					
DOMESTIC PETROLEUM						
FEDERALLY REGULATED						
REFINED PRODUCT PIPELINE SEGMENT	23.00					
FEDERALLY REGULATED						
NATURAL GAS PIPELINE SEGMENT	24.00					
FEDERALLY REGULATED						
CRUDE & LIQUID PIPELINE SEGMENT	25.00					
DOMESTIC REFINING/MARKETING SEGMENT	26.00					
DOMESTIC PRODUCTION SEGMENT	27.00					
NONTRACEABLE	28.00					
ELIMINATIONS	29.00					
CONSOLIDATED	30.00					
DOMESTIC & FOREIGN PETROLEUM						
NONTRACEABLE	31.00					
ELIMINATIONS	32.00					
CONSOLIDATED	33.00					
CONSOLIDATED COMPANY						
NONTRACEABLE	34.00					
ELIMINATIONS	35.00					
CONSOLIDATED	36.00					

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FINANCIAL REPORTING SYSTEM
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5114

REPORTING COMPANY
ANALYSIS OF U.S. FEDERAL DEFERRED INCOME TAXES

FORM APPROVED
O.M.B. NO. 38-R-0361
EXPIRES 12/31/78

RESPONDENT CODE | RESPONDENT NAME | PERIOD BEGINNING MO DAY YR | PERIOD ENDING MO DAY YR | FOOTNOTE | ORIGINAL | REVISION | AS OF REVISION DATE MO DAY YR

H H H

(IN THOUSANDS OF DOLLARS)

	FRS LINE #	ANALYSIS OF U.S. FEDERAL DEFERRED INCOME TAXES					
		TOTAL COLUMNS B-F A	ACCEL DEPR B	EXPL & DEVELOPMENT C	PRODUCTION PAYMENTS D	LOSS RESERVES E	OTHER F
NON-ENERGY INDUSTRIES (CONSOLIDATED)	01.00						
OTHER ENERGY:							
FOREIGN SEGMENT	02.00						
DOMESTIC SEGMENT	03.00						
NONTRACEABLE	04.00						
ELIMINATIONS	05.00						
CONSOLIDATED	06.00						
NUCLEAR							
FOREIGN SEGMENT	07.00						
DOMESTIC SEGMENT	08.00						
NONTRACEABLE	09.00						
ELIMINATIONS	10.00						
CONSOLIDATED	11.00						
COAL:							
FOREIGN SEGMENT	12.00						
DOMESTIC SEGMENT	13.00						
NONTRACEABLE	14.00						
ELIMINATIONS	15.00						
CONSOLIDATED	16.00						

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REPORTING COMPANY
ANALYSIS OF U.S. FEDERAL DEFERRED INCOME TAXES

FORM APPROVED
O.M.B. NO. 38-R-0361
EXPIRES 12/31/78

RESPONDENT CODE | RESPONDENT NAME | PERIOD BEGINNING MO DAY YR | PERIOD ENDING MO DAY YR | FOOTNOTE | ORIGINAL | REVISION | AS OF REVISION DATE MO DAY YR

H H H

(IN THOUSANDS OF DOLLARS)

	FRS LINE #	ANALYSIS OF U.S. FEDERAL DEFERRED INCOME TAXES					
		TOTAL COLUMNS B-F A	ACCEL DEPR B	EXPL & DEVELOPMENT C	PRODUCTION PAYMENTS D	LOSS RESERVES E	OTHER F
PETROLEUM:							
FOREIGN PETROLEUM:							
INTERNATIONAL MARINE SEGMENT	17.00						
FOREIGN REFINING/MARKETING SEGMENT	18.00						
FOREIGN PRODUCTION SEGMENT	19.00						
NONTRACEABLE	20.00						
ELIMINATIONS	21.00						
CONSOLIDATED	22.00						
DOMESTIC PETROLEUM:							
FEDERALLY REGULATED							
REFINED PRODUCT PIPELINE SEGMENT	23.00						
FEDERALLY REGULATED							
NATURAL GAS PIPELINE SEGMENT	24.00						
FEDERALLY REGULATED							
CRUDE & LIQUID PIPELINE SEGMENT	25.00						
DOMESTIC REFINING/MARKETING SEGMENT	26.00						
DOMESTIC PRODUCTION SEGMENT	27.00						
NONTRACEABLE	28.00						
ELIMINATIONS	29.00						
CONSOLIDATED	30.00						
DOMESTIC & FOREIGN PETROLEUM:							
NONTRACEABLE	31.00						
ELIMINATIONS	32.00						
CONSOLIDATED	33.00						
CONSOLIDATED COMPANY:							
NONTRACEABLE	34.00						
ELIMINATIONS	35.00						
CONSOLIDATED	36.00						

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5115

REPORTING COMPANY
ANALYSIS OF OTHER TAX BENEFITS

FORM APPROVED
O.M.B. NO. 38-R-2361
EXPIRES 12/31/79

001 RESPONDENT CODE | RESPONDENT NAME | PERIOD ENDING MO. / YR. | PERIOD ENDING MO. / YR. | FORM IDENTITY | ORIGINAL | REVISION | SUBMISSION DATE MO. / DAY / YR.
002 H H H | | | | | | | | PAGE | OF | PAGES | H H H
005
004 (IN THOUSANDS OF DOLLARS)

	FRS LINE #	ANALYSIS OF OTHER TAX BENEFITS: EXCESS ALLOWABLE STATUTORY DEPLETION A	GENERATED U.S. FEDERAL ITC: CURRENT B	GENERATED U.S. FEDERAL ITC: DEFERRED C	FOREIGN TAX CREDITS: GENERATED D	FOREIGN TAX CREDITS: RECOGNIZED E
008 NON-ENERGY INDUSTRIES (CONSOLIDATED)	01.00					
010 OTHER ENERGY						
011 FOREIGN SEGMENT	02.00					
012 DOMESTIC SEGMENT	03.00					
013 NONTRACEABLE	04.00					
014 ELIMINATIONS	05.00					
015 CONSOLIDATED	06.00					
016 NUCLEAR:						
017 FOREIGN SEGMENT	07.00					
018 DOMESTIC SEGMENT	08.00					
019 NONTRACEABLE	09.00					
020 ELIMINATIONS	10.00					
021 CONSOLIDATED	11.00					
022 COAL:						
023 FOREIGN SEGMENT	12.00					
024 DOMESTIC SEGMENT	13.00					
025 NONTRACEABLE	14.00					
026 ELIMINATIONS	15.00					
027 CONSOLIDATED	16.00					

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REPORTING COMPANY
ANALYSIS OF OTHER TAX BENEFITS

FORM APPROVED
O.M.B. NO. 38-R-2361
EXPIRES 12/31/79

001 RESPONDENT CODE | RESPONDENT NAME | PERIOD ENDING MO. / YR. | PERIOD ENDING MO. / YR. | FORM IDENTITY | ORIGINAL | REVISION | SUBMISSION DATE MO. / DAY / YR.
002 H H H | | | | | | | | PAGE | OF | PAGES | H H H
051
052 (IN THOUSANDS OF DOLLARS)

	FRS LINE #	ANALYSIS OF OTHER TAX BENEFITS: EXCESS ALLOWABLE STATUTORY DEPLETION A	GENERATED U.S. FEDERAL ITC: CURRENT B	GENERATED U.S. FEDERAL ITC: DEFERRED C	FOREIGN TAX CREDITS: GENERATED D	FOREIGN TAX CREDITS: RECOGNIZED E
057 PETROLEUM:						
058 FOREIGN PETROLEUM:						
059 INTERNATIONAL MARINE SEGMENT	17.00					
060 FOREIGN REFINING/MARKETING SEGMENT	18.00					
061 FOREIGN PRODUCTION SEGMENT	19.00					
062 NONTRACEABLE	20.00					
063 ELIMINATIONS	21.00					
064 CONSOLIDATED	22.00					
065 DOMESTIC PETROLEUM:						
066 FEDERALLY REGULATED						
067 REFINED PRODUCT PIPELINE SEGMENT	23.00					
068 FEDERALLY REGULATED						
069 NATURAL GAS PIPELINE SEGMENT	24.00					
070 FEDERALLY REGULATED						
071 CRUDE & LIQUID PIPELINE SEGMENT	25.00					
072 DOMESTIC REFINING/MARKETING SEGMENT	26.00					
073 DOMESTIC PRODUCTION SEGMENT	27.00					
074 NONTRACEABLE	28.00					
075 ELIMINATIONS	29.00					
076 CONSOLIDATED	30.00					
077 DOMESTIC & FOREIGN PETROLEUM:						
078 NONTRACEABLE	31.00					
079 ELIMINATIONS	32.00					
080 CONSOLIDATED	33.00					
081 CONSOLIDATED COMPANY:						
082 NONTRACEABLE	34.00					
083 ELIMINATIONS	35.00					
084 CONSOLIDATED	36.00					

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REPORTING COMPANY
CONSOLIDATING BALANCE SHEET

FORM APPROVED
O.M.B. NO. 38-R-0341
EXPIRES 12/31/79

RESPONDENT CODE | RESPONDENT NAME | PERIOD BEGINNING MO DAY YR | PERIOD ENDING MO DAY YR | FILING ADDENDUM | ORIGINAL | REVISION | RESUBMISSION DATE MO DAY YR

H H H

PAGE ___ OF ___ PAGES | H H H

(IN THOUSANDS OF DOLLARS)

	FRS LINE #	CONSOL A	ELIM B	NON-TRACEABLE C	PETROLEUM (SCH 5220) D	COAL (SCH 5320) E	NUCLEAR (SCH 5420) F	OTHER ENERGY (SCH 5520) G	NON-ENERGY (SCH 5620) H	CONS
CURRENT ASSETS:										
CASH & MARKETABLE SECURITIES	01.00									
TRADE ACCOUNTS AND NOTES RECEIVABLE	02.00									
INVENTORIES:										
RAW MATERIALS & PRODUCTS	03.00									
MATERIALS & SUPPLIES	04.00									
OTHER CURRENT ASSETS	05.00									
TOTAL CURRENT ASSETS	06.00									
NON-CURRENT ASSETS:										
PROPERTY, PLANT & EQUIPMENT:										
GROSS	07.00									
ACCUMULATED DD&A	08.00									
NET	09.00									
INVESTMENT & ADVANCES TO UNCONSOLIDATED AFFILIATES (SCH 5121)	10.00									
OTHER NON-CURRENT ASSETS	11.00									
TOTAL NON-CURRENT ASSETS	12.00									
TOTAL ASSETS	13.00									
CURRENT LIABILITIES:										
TRADE ACCOUNTS & NOTES PAYABLE	14.00									
OTHER CURRENT LIABILITIES	15.00									
LONG TERM DEBT	16.00									
DEFERRED INCOME TAX CREDITS	17.00									
OTHER DEFERRED CREDITS	18.00									
OTHER LONG TERM ITEMS	19.00									
MINORITY INTEREST IN CONSOLIDATED AFFILIATES	20.00									
TOTAL OF LINES 14.00 THROUGH 20.00	21.00									
STOCKHOLDER'S EQUITY:										
RETAINED EARNINGS	22.00									
OTHER EQUITY	23.00									
TOTAL STOCKHOLDER'S EQUITY	24.00									
TOTAL OF LINES 21.00 AND 24.00	25.00									

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SCH 5121 – PAGE 1 OF 2

5121

REPORTING COMPANY
INVESTMENTS AND ADVANCES TO UNCONSOLIDATED AFFILIATES

FORM APPROVED
O.M.B. NO. 38-R-0341
EXPIRES 12/31/79

RESPONDENT CODE | RESPONDENT NAME | PERIOD BEGINNING MO DAY YR | PERIOD ENDING MO DAY YR | FILING ADDENDUM | ORIGINAL | REVISION | RESUBMISSION DATE MO DAY YR

H H H

PAGE ___ OF ___ PAGES | H H H

(IN THOUSANDS OF DOLLARS)

AFFILIATES' NAMES	FRS LINE #	CODE A	BUSINESS/ GEOGRAPHIC CODE B	PERCENT OWNED C	CONSOL METHOD CODE D	INVESTMENTS & ADVANCES (BEG. BAL) E	EQUITY IN EARNINGS F	EQUITY METHOD DIVIDENDS G	NEW INVESTMENT & REPAYMENT OF ADVANCES H	CONS
	01.00									
	02.00									
	03.00									
	04.00									
	05.00									
	06.00									
	07.00									
	08.00									
	09.00									
	10.00									
	11.00									
	12.00									
	13.00									
	14.00									
	15.00									
	16.00									
	17.00									
	18.00									
	19.00									
	20.00									

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FINANCIAL REPORTING SYSTEM
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5121

REPORTING COMPANY
INVESTMENTS AND ADVANCES TO UNCONSOLIDATED AFFILIATES

FORM APPROVED
O.M.B. NO. 38-R-0361
EXPIRES 12/31/79

RESPONDENT CODE | RESPONDENT NAME | PERIOD BEGINNING MO DAY YR | PERIOD ENDING MO DAY YR | FOUR QUARTER NOTE | ORIGINAL | REVISION | REVISION DATE MO DAY YR

PAGE ___ OF ___ PAGES

(IN THOUSANDS OF DOLLARS)

AFFILIATES' NAMES	FRS LINE #	CODE A	OTHER I	INVESTMENTS & ADVANCES (END BAL) J	COST METHOD DIVIDENDS K	TOTAL AFFILIATE SALES L	TOTAL AFFILIATE ASSETS M
	01.00						
	02.00						
	03.00						
	04.00						
	05.00						
	06.00						
	07.00						
	08.00						
	09.00						
	10.00						
	11.00						
	12.00						
	13.00						
	14.00						
	15.00						
	16.00						
	17.00						
	18.00						
	19.00						
	20.00						

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REPORTING COMPANY
JOINT VENTURE PARTICIPATION

FORM APPROVED
O.M.B. NO. 38-R-0361
EXPIRES 12/31/79

RESPONDENT CODE | RESPONDENT NAME | PERIOD BEGINNING MO DAY YR | PERIOD ENDING MO DAY YR | FOUR QUARTER NOTE | ORIGINAL | REVISION | REVISION DATE MO DAY YR

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(IN THOUSANDS OF DOLLARS)

JOINT VENTURES' NAMES	FRS LINE #	CODE A	BUSINESS/ GEOGRAPHIC CODE B	PERCENT PARTICIP. C	CONSOL METHOD CODE D	YEAR (ONE) E	REPORTING COMPANY ACCOUNTS: CAPITALIZED EXPENDITURES F	EXPENSED EXPENDITURES G	REVENUES H	ACCUMULATED DD&A I	GROSS INVESTMENT J
	01.00										
	02.00										
	03.00										
	04.00										
	05.00										
	06.00										
	07.00										
	08.00										
	09.00										
	10.00										
	11.00										
	12.00										
	13.00										
	14.00										
	15.00										
	16.00										
	17.00										
	18.00										
	19.00										
	20.00										

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FINANCIAL REPORTING SYSTEM
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5130

REPORTING COMPANY
CONSOLIDATING STATEMENT OF SOURCES AND USES OF FUNDS

FORM APPROVED
O.M.B. NO. 38-R-0361
EXPIRES 12/31/78

RESPONDENT CODE | RESPONDENT NAME | PERIOD BEGINNING MO DAY YR | PERIOD ENDING MO DAY YR | FOOTNOTE(S) | ORIGINAL | REVISION | AS OF | REVISION DATE MO DAY YR

PAGE ___ OF PAGES ___ H H H

(IN THOUSANDS OF DOLLARS)

	FRS LINE #	CONSOL A
SOURCES OF FUNDS:		
FUNDS PROVIDED BY OPERATIONS:		
NET INCOME	01.00	
MINORITY INTEREST IN INCOME	02.00	
DD&A	03.00	
VALUATION CHARGES	04.00	
DEFERRED INCOME TAXES	05.00	
RECOGNIZED UNDISTRIBUTED (EARNINGS)/LOSSES OF UNCONSOLIDATED AFFILIATES	06.00	
OTHER FUNDS PROVIDED	07.00	
TOTAL FUNDS FROM OPERATIONS	08.00	
DISPOSITION OF PROPERTY, PLANT & EQUIPMENT	09.00	
PROCEEDS FROM:		
LONG TERM DEBT	10.00	
EQUITY SECURITIES OFFERINGS	11.00	
OTHER SOURCES OF FUNDS	12.00	
TOTAL SOURCES OF FUNDS	13.00	

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FINANCIAL REPORTING SYSTEM
SCH 5130 – PAGE 2 OF 4

5130

REPORTING COMPANY
CONSOLIDATING STATEMENT OF SOURCES AND USES OF FUNDS

FORM APPROVED
O.M.B. NO. 38-R-0361
EXPIRES 12/31/78

RESPONDENT CODE | RESPONDENT NAME | PERIOD BEGINNING MO DAY YR | PERIOD ENDING MO DAY YR | FOOTNOTE(S) | ORIGINAL | REVISION | AS OF | REVISION DATE MO DAY YR

PAGE ___ OF PAGES ___ H H H

(IN THOUSANDS OF DOLLARS)

	FRS LINE #	CONSOL A	ELIM B	NON-TRACEABLE C	TOTAL DOMESTIC D	TOTAL FOREIGN E
USES OF FUNDS:						
ADDITIONS TO PROPERTY, PLANT & EQUIPMENT:						
PETROLEUM:						
PRODUCTION SEGMENT (SCH 5223):						
EXPLORATION	14.00					
DEVELOPMENT	15.00					
PRODUCTION	16.00					
SUPPORT EQUIPMENT & FACILITIES	17.00					
REFINING/MARKETING SEGMENT:						
REFINING (SCH 5222)	18.00					
MARKETING (SCH 5222)	19.00					
TRANSPORTATION:						
PIPELINE	20.00					
MARINE	21.00					
OTHER	22.00					
TOTAL TRANSPORTATION (SCH 5222)	23.00					
TRANSPORTATION SEGMENT (SCH 5222):						
FEDERALLY REGULATED PIPELINES:						
CRUDE/LIQUID	24.00					
NATURAL GAS	25.00					
REFINED PRODUCT	26.00					
INTERNATIONAL MARINE	27.00					
TOTAL PETROLEUM	28.00					
COAL (SCH 5320)	29.00					
NUCLEAR (SCH 5420)	30.00					
OTHER ENERGY (SCH 5520)	31.00					
NON-ENERGY INDUSTRIES (SCH 5620):						
CHEMICAL INDUSTRY	32.00					
OTHER INDUSTRIES	33.00					
NONTRACEABLE ASSETS	34.00					
TOTAL	35.00					

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FINANCIAL REPORTING SYSTEM
SCH 5130 – PAGE 3 OF 4

5130

REPORTING COMPANY
CONSOLIDATING STATEMENT OF SOURCES AND USES OF FUNDS

FORM APPROVED
O.M.B. NO. 38-R-0061
EXPIRES 12/31/79

RESPONDENT CODE | RESPONDENT NAME | FISCAL YEAR (MO. DAY) | FISCAL YEAR (MO. DAY) | FORM NO. | ORIGINAL | REVISION | REVISION DATE (MO. DAY. YR.)

PAGE ___ OF ___

(IN THOUSANDS OF DOLLARS)

	FRS LINE #	TOTAL FOREIGN (E)	FOREIGN: CANADA (F)	FOREIGN: OECD EUROPE (G)	FOREIGN: AFRICA (H)	FOREIGN: MIDDLE EAST (I)	FOREIGN: OTHER EAST HEMISPHERE (J)	FOREIGN: OTHER WEST HEMISPHERE (K)
USES OF FUNDS:								
ADDITIONS TO PROPERTY, PLANT & EQUIPMENT:								
PETROLEUM:								
PRODUCTION SEGMENT (SCH 5223)								
EXPLORATION	14.00							
DEVELOPMENT	15.00							
PRODUCTION	16.00							
SUPPORT EQUIPMENT & FACILITIES	17.00							
REFINING/MARKETING SEGMENT								
REFINING (SCH 5222)	18.00							
MARKETING (SCH 5222)	19.00							
TRANSPORTATION:								
PIPELINE	20.00							
MARINE	21.00							
OTHER	22.00							
TOTAL TRANSPORTATION (SCH 5222)	23.00							
TRANSPORTATION SEGMENT (SCH 5222):								
FEDERALLY REGULATED PIPELINES:								
CRUDE/LIQUID	24.00							
NATURAL GAS	25.00							
REFINED PRODUCT	26.00							
INTERNATIONAL MARINE	27.00							
TOTAL PETROLEUM	28.00							
COAL (SCH 5320)	29.00							
NUCLEAR (SCH 5420)	30.00							
OTHER ENERGY (SCH 5520)	31.00							
NON-ENERGY INDUSTRIES (SCH 5620):								
CHEMICAL INDUSTRY	32.00							
OTHER INDUSTRIES	33.00							
NONTRACEABLE ASSETS	34.00							
TOTAL	35.00							

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REPORTING COMPANY
CONSOLIDATING STATEMENT OF SOURCES AND USES OF FUNDS

FORM APPROVED
O.M.B. NO. 38-R-0061
EXPIRES 12/31/79

RESPONDENT CODE | RESPONDENT NAME | FISCAL YEAR (MO. DAY) | FISCAL YEAR (MO. DAY) | FORM NO. | ORIGINAL | REVISION | REVISION DATE (MO. DAY. YR.)

PAGE ___ OF ___

(IN THOUSANDS OF DOLLARS)

	FRS LINE #	CONSOL (A)	ELIM (B)	NON-TRACEABLE (C)	TOTAL DOMESTIC (D)	TOTAL FOREIGN (E)
INVESTMENT & ADVANCES TO UNCONSOLIDATED AFFILIATES:						
PETROLEUM	36.00					
COAL	37.00					
NUCLEAR	38.00					
OTHER ENERGY	39.00					
NON-ENERGY INDUSTRIES	40.00					
NON-TRACEABLE	41.00					
TOTAL	42.00					
INVESTMENT IN OTHER NON-CURRENT ASSETS	43.00					
DIVIDENDS TO SHAREHOLDERS	44.00					
REDUCTION IN LONG TERM DEBT	45.00					
OTHER USES OF FUNDS	46.00					
TOTAL USES OF FUNDS	47.00					
INCREASE/(DECREASE) IN WORKING CAPITAL	48.00					

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FINANCIAL REPORTING SYSTEM
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5141

REPORTING COMPANY
UNCONSOLIDATED AFFILIATES

RESPONDENT CODE | RESPONDENT NAME | PERIOD (MO DAY) | PERIOD (MO DAY YR) | PAGE NUMBER NOTE | ORIGINAL | REVISION | REVISION DATE (MO DAY YR)

H H H

FORM APPROVED
O.M.B. NO. 38-R-0261
EXPIRES 12/31/78

PAGE NO. | PAGES | H H H

	FRS LINE #	CODE A	PERCENT OWNED B
UNCONSOLIDATED AFFILIATE (FROM SCHEDULE 5121)			
	01.00		
NAMES OF CO-OWNERS (10% OR MORE)			
	02.00		
	03.00		
	04.00		
	05.00		
	06.00		
	07.00		
	08.00		
	09.00		
	10.00		

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REPORTING COMPANY
UNCONSOLIDATED AFFILIATES

RESPONDENT CODE | RESPONDENT NAME | PERIOD (MO DAY) | PERIOD (MO DAY YR) | PAGE NUMBER NOTE | ORIGINAL | REVISION | REVISION DATE (MO DAY YR)

H H H

FORM APPROVED
O.M.B. NO. 38-R-0261
EXPIRES 12/31/78

PAGE NO. | PAGES | H H H

	FRS LINE #	CODE A	OPERATING STATISTICS (TOTAL AFFILIATE) DOMESTIC C	FOREIGN D
UNCONSOLIDATED AFFILIATE (FROM PAGE 1 OF 3)				
PETROLEUM EXPLORATION, DEVELOPMENT, & PRODUCTION:				
NET NUMBER OF WELLS COMPLETED:				
OIL	11.00			
GAS	12.00			
DRY	13.00			
NET WORKING INTEREST PRODUCTION:				
CRUDE (MB)	14.00			
NATURAL GAS (MMCF)	15.00			
NATURAL GAS LIQUIDS (MB)	16.00			
NET PROVED RESERVES (END OF PERIOD):				
CRUDE (MB)	17.00			
NATURAL GAS (MMCF)	18.00			
NATURAL GAS LIQUIDS (MB)	19.00			
PETROLEUM REFINING/MARKETING:				
NUMBER OF REFINERIES	20.00			
CAPACITY (MBD)	21.00			
RUNS TO STILLS (MBD)	22.00			
PETROLEUM SHIPMENTS:				
RAW MATERIAL FROM REPORTING COMPANY:				
CRUDE (MB)	23.00			
NATURAL GAS (MMCF)	24.00			
NATURAL GAS LIQUIDS (MB)	25.00			
RAW MATERIAL TO REPORTING COMPANY:				
CRUDE (MB)	26.00			
NATURAL GAS (MMCF)	27.00			
NATURAL GAS LIQUIDS (MB)	28.00			
REFINED PRODUCTS FROM REPORTING COMPANY (MB)	29.00			
REFINED PRODUCTS TO REPORTING COMPANY (MB)	30.00			

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FINANCIAL REPORTING SYSTEM
SCH 5141 – PAGE 2 OF 3

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REPORTING COMPANY
UNCONSOLIDATED AFFILIATES

FORM APPROVED
O.M.B. NO. 38-R-0361
EXPIRES 12/31/79

RESPONDENT CODE | RESPONDENT NAME | PERIOD BEGINNING MO DAY YR | PERIOD ENDING MO DAY YR | FOUR QUARTERS | ORIGINAL | REVISION | RESUBMIT DATE AS OF MO DAY YR

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H H H

	FRS LINE #	CODE A	OPERATING STATISTICS (TOTAL AFFILIATE) DOMESTIC C	FOREIGN D
UNCONSOLIDATED AFFILIATE (FROM PAGE 1 OF 3)				
COAL:				
RESERVES (M TONS)	31.00			
PRODUCTION (M TONS)	32.00			
NUCLEAR:				
RESERVES (M LBS)	33.00			
MINED PRODUCTION OF YELLOWCAKE (M LBS)	34.00			
SALES OF PROCESSED ORE (M LBS)	35.00			
MARINE TRANSPORTATION:				
NUMBER OF TANKERS (OWN, LEASE, CHARTER)	36.00			
CAPACITY (MDWT)	37.00			
PIPELINES:				
CRUDE/LIQUID SHIPMENTS (MB):				
FOR REPORTING COMPANY'S ACCOUNT	38.00			
FOR OTHER CO-OWNERS	39.00			
FOR THIRD PARTIES	40.00			
TOTAL	41.00			
NATURAL GAS SHIPMENTS (MMCF):				
FOR REPORTING COMPANY'S ACCOUNT	42.00			
FOR OTHER CO-OWNERS	43.00			
FOR THIRD PARTIES	44.00			
TOTAL	45.00			
REFINED PRODUCT SHIPMENTS (MB):				
FOR REPORTING COMPANY'S ACCOUNT	46.00			
FOR OTHER CO-OWNERS	47.00			
FOR THIRD PARTIES	48.00			
TOTAL	49.00			
ENERGY RESEARCH & DEVELOPMENT:				
EXPENDITURES	50.00			
PREDOMINANT TYPE CODE (SEE INSTRUCTIONS)	51.00			

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FINANCIAL REPORTING SYSTEM
SCH 5142 – PAGE 1 OF 3

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REPORTING COMPANY
CONSOLIDATED JOINT VENTURES

FORM APPROVED
O.M.B. NO. 38-R-0361
EXPIRES 12/31/79

RESPONDENT CODE | RESPONDENT NAME | PERIOD BEGINNING MO DAY YR | PERIOD ENDING MO DAY YR | FOUR QUARTERS | ORIGINAL | REVISION | RESUBMIT DATE AS OF MO DAY YR

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	FRS LINE #	CODE A	PERCENT OWNED B
JOINT VENTURE (FROM SCHEDULE 5122)			
	01.00		
NAMES OF CO-VENTURERS (10% OR MORE)			
	02.00		
	03.00		
	04.00		
	05.00		
	06.00		
	07.00		
	08.00		
	09.00		
	10.00		

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FINANCIAL REPORTING SYSTEM
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5142

REPORTING COMPANY
CONSOLIDATED JOINT VENTURES

FORM APPROVED
O.M.B. NO. 38-R-0361
EXPIRES 12/31/79

RESPONDENT CODE | RESPONDENT NAME | PERIOD BEGINNING MO DAY YR | PERIOD ENDING MO DAY YR | FOOTNOTE(S) | ORIGINAL | REVISION | REVISION DATE MO DAY YR

H H H

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	FRS LINE #	CODE A	OPERATING STATISTICS (COMPANY SHARE) DOMESTIC C	FOREIGN D
JOINT VENTURE (FROM PAGE 1 OF 3)				
PETROLEUM EXPLORATION, DEVELOPMENT, & PRODUCTION				
NET NUMBER OF WELLS COMPLETED				
OIL	11.00			
GAS	12.00			
DRY	13.00			
NET WORKING INTEREST PRODUCTION				
CRUDE (MB)	14.00			
NATURAL GAS (MMCF)	15.00			
NATURAL GAS LIQUIDS (MB)	16.00			
NET PROVED RESERVES (END OF PERIOD)				
CRUDE (MB)	17.00			
NATURAL GAS (MMCF)	18.00			
NATURAL GAS LIQUIDS (MB)	19.00			
PETROLEUM REFINING/MARKETING				
NUMBER OF REFINERIES	20.00			
CAPACITY (MBD)	21.00			
RUNS TO STILLS (MBD)	22.00			
PETROLEUM SHIPMENTS				
RAW MATERIAL FROM REPORTING COMPANY				
CRUDE (MB)	23.00			
NATURAL GAS (MMCF)	24.00			
NATURAL GAS LIQUIDS (MB)	25.00			
RAW MATERIAL TO REPORTING COMPANY				
CRUDE (MB)	26.00			
NATURAL GAS (MMCF)	27.00			
NATURAL GAS LIQUIDS (MB)	28.00			
REFINED PRODUCTS FROM REPORTING COMPANY (MB)	29.00			
REFINED PRODUCTS TO REPORTING COMPANY (MB)	30.00			

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FINANCIAL REPORTING SYSTEM
SCH 5142 – PAGE 3 OF 3

5142

REPORTING COMPANY
CONSOLIDATED JOINT VENTURES

FORM APPROVED
O.M.B. NO. 38-R-0361
EXPIRES 12/31/79

RESPONDENT CODE | RESPONDENT NAME | PERIOD BEGINNING MO DAY YR | PERIOD ENDING MO DAY YR | FOOTNOTE(S) | ORIGINAL | REVISION | REVISION DATE MO DAY YR

H H H

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	FRS LINE #	CODE A	OPERATING STATISTICS (COMPANY SHARE) DOMESTIC C	FOREIGN D
JOINT VENTURE (FROM PAGE 1 OF 3)				
COAL:				
RESERVES (M TONS)	31.00			
PRODUCTION (M TONS)	32.00			
NUCLEAR:				
RESERVES (M LBS)	33.00			
MINED PRODUCTION OF YELLOWCAKE (M LBS)	34.00			
SALES OF PROCESSED ORE (M LBS)	35.00			
MARINE TRANSPORTATION:				
NUMBER OF TANKERS (OWN, LEASE, CHARTER)	36.00			
CAPACITY (MDWT)	37.00			
PIPELINES:				
CRUDE/LIQUID SHIPMENTS (MB):				
FOR REPORTING COMPANY'S ACCOUNT	38.00			
FOR OTHER CO-VENTURERS	39.00			
FOR THIRD PARTIES	40.00			
TOTAL	41.00			
NATURAL GAS SHIPMENTS (MMCF):				
FOR REPORTING COMPANY'S ACCOUNT	42.00			
FOR OTHER CO-VENTURERS	43.00			
FOR THIRD PARTIES	44.00			
TOTAL	45.00			
REFINED PRODUCT SHIPMENTS (MB):				
FOR REPORTING COMPANY'S ACCOUNT	46.00			
FOR OTHER CO-VENTURERS	47.00			
FOR THIRD PARTIES	48.00			
TOTAL	49.00			
ENERGY RESEARCH & DEVELOPMENT:				
EXPENDITURES	50.00			
PREDOMINANT TYPE CODE (SEE INSTRUCTIONS)	51.00			

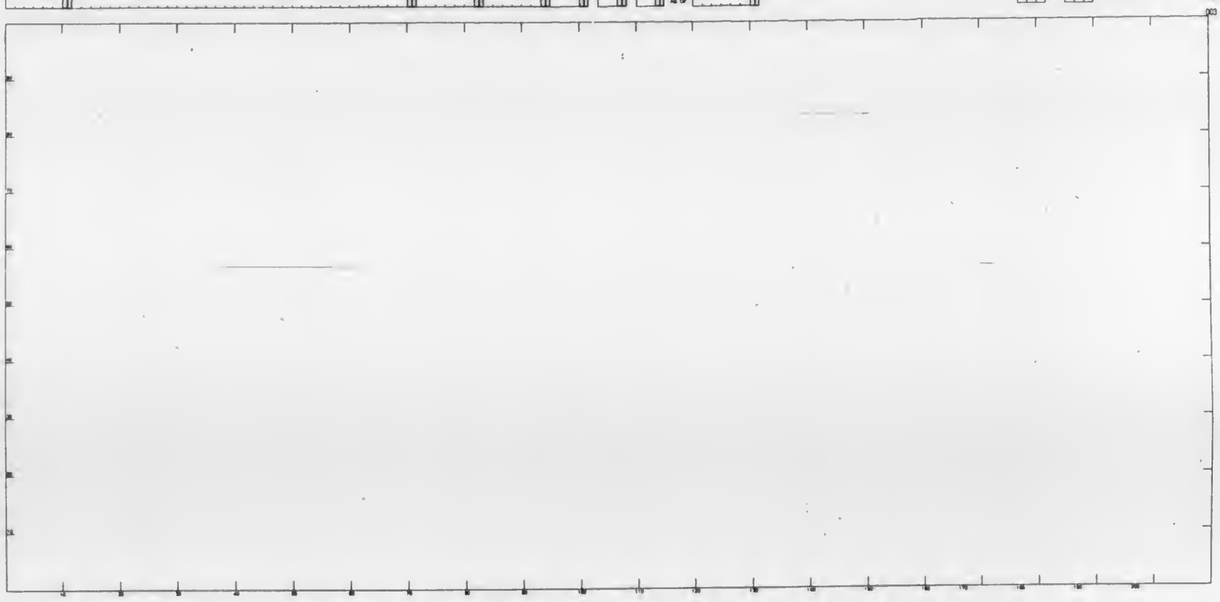
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5998

REPORTING COMPANY
GRAPHIC OR OTHER PERTINENT INFORMATION

FORM APPROVED
O.M.B. NO. 38-R-0361
EXPIRES 12/31/79



GPO 935-475

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5999

REPORTING COMPANY
FOOTNOTES

FORM APPROVED
O.M.B. NO. 38-R-0361
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SCHEDULE	PAGE	FRS LINE #	COL	CONT	FOOTNOTES
5					

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FINANCIAL REPORTING SYSTEM
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5210

DOMESTIC AND FOREIGN PETROLEUM SEGMENTS
CONSOLIDATING STATEMENT OF INCOME

FORM APPROVED
O.M.B. NO. 38-R-0361
EXPIRES 12/31/79

RESPONDENT CODE | RESPONDENT NAME | PERIOD BEGINNING MO DAY YR | PERIOD ENDING MO DAY YR | PROD. FORM NO(S) | ORIGINAL | REVISION | RESUBMISSION DATE AS OF MO DAY YR

H H H

(IN THOUSANDS OF DOLLARS)

	FRS LINE #	CONSOL A	ELIM B	NON-TRACEABLE C	DOMESTIC D	FOREIGN E
OPERATING REVENUES						
RAW MATERIALS (SCH 5213, LINES 09.00, 17.00, 31.00 & 37.00)	01.00					
REFINED PRODUCTS (SCH 5214, LINES 20.00 & 27.00)	02.00					
TRANSPORTATION	03.00					
MANAGEMENT FEES AND PROCESSING REVENUES	04.00					
(NOT USED)	05.00					
(NOT USED)	06.00					
CONSUMER EXCISE TAXES						
COLLECTION	07.00					
DEDUCTION (IF EXCLUDED FROM LINE 10.00)	08.00					
OTHER	09.00					
TOTAL OPERATING REVENUES	10.00					
OPERATING EXPENSES						
GENERAL OPERATING EXPENSES (SCH 5211)	11.00					
DD&A (SCH 5222)	12.00					
VALUATION CHARGES (SCH 5222)	13.00					
GENERAL & ADMINISTRATIVE	14.00					
RESEARCH & DEVELOPMENT	15.00					
TOTAL OPERATING EXPENSES	16.00					
OPERATING INCOME	17.00					

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FINANCIAL REPORTING SYSTEM
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DOMESTIC AND FOREIGN PETROLEUM SEGMENTS
CONSOLIDATING STATEMENT OF INCOME

FORM APPROVED
O.M.B. NO. 38-R-0361
EXPIRES 12/31/79

RESPONDENT CODE | RESPONDENT NAME | PERIOD BEGINNING MO DAY YR | PERIOD ENDING MO DAY YR | PROD. FORM NO(S) | ORIGINAL | REVISION | RESUBMISSION DATE AS OF MO DAY YR

H H H

(IN THOUSANDS OF DOLLARS)

	FRS LINE #	DOMESTIC (CONTINUED ON PAGE 3 OF 8) CONSOL F	ELIM G	NON-TRACEABLE H	PRODUCTION I	REFINING/ MARKETING J
OPERATING REVENUES:						
RAW MATERIALS (SCH 5213, LINES 09.00 & 17.00, COL A)	01.00					
REFINED PRODUCTS (SCH 5214, LINE 20.00)	02.00					
TRANSPORTATION	03.00					
MANAGEMENT FEES AND PROCESSING REVENUES	04.00					
(NOT USED)	05.00					
(NOT USED)	06.00					
CONSUMER EXCISE TAXES:						
COLLECTION	07.00					
DEDUCTION (IF EXCLUDED FROM LINE 10.00)	08.00					
OTHER	09.00					
TOTAL OPERATING REVENUES	10.00					
OPERATING EXPENSES:						
GENERAL OPERATING EXPENSES (SCH 5211)	11.00					
DD&A (SCH 5222)	12.00					
VALUATION CHARGES (SCH 5222)	13.00					
GENERAL & ADMINISTRATIVE	14.00					
RESEARCH & DEVELOPMENT	15.00					
TOTAL OPERATING EXPENSES	16.00					
OPERATING INCOME	17.00					

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DOMESTIC AND FOREIGN PETROLEUM SEGMENTS
CONSOLIDATING STATEMENT OF INCOME

FORM APPROVED
O.M.B. NO. 38-R-0351
EXPIRES 12/31/79

001 002 H H H — RESPONDENT CODE | RESPONDENT NAME | PERIOD BEGINNING MO DAY YR | PERIOD ENDING MO DAY YR | PAGE FOOTNOTE | ORIGINAL | REVISION | REVISION DATE MO DAY YR (AS OF)

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(IN THOUSANDS OF DOLLARS)

	FRS LINE #	DOMESTIC (CONTINUED FROM PAGE 2 OF 8) FEDERALLY REGULATED PIPELINES CRUDE/LIO K	NAT GAS L	REF PROD M
OPERATING REVENUES:				
RAW MATERIALS (SCH 5213, LINES 09.00 & 17.00, COL A)	01.00			
REFINED PRODUCTS (SCH 5214, LINE 20.00)	02.00			
TRANSPORTATION	03.00			
MANAGEMENT FEES AND PROCESSING REVENUES	04.00			
(NOT USED)	05.00			
(NOT USED)	06.00			
CONSUMER EXCISE TAXES				
COLLECTION	07.00			
DEDUCTION (IF EXCLUDED FROM LINE 10.00)	08.00			
OTHER	09.00			
TOTAL OPERATING REVENUES	10.00			
OPERATING EXPENSES:				
GENERAL OPERATING EXPENSES (SCH 5211)	11.00			
DD&A (SCH 5222)	12.00			
VALUATION CHARGES (SCH 5222)	13.00			
GENERAL & ADMINISTRATIVE	14.00			
RESEARCH & DEVELOPMENT	15.00			
TOTAL OPERATING EXPENSES	16.00			
OPERATING INCOME	17.00			

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DOMESTIC AND FOREIGN PETROLEUM SEGMENTS
CONSOLIDATING STATEMENT OF INCOME

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EXPIRES 12/31/79

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(IN THOUSANDS OF DOLLARS)

	FRS LINE #	FOREIGN CONSOL N	ELIM O	NON-TRACEABLE P	PRODUCTION Q	REFINING/ MARKETING R	INTL MARINE S
OPERATING REVENUES:							
RAW MATERIALS (SCH 5213, LINES 31.00 & 37.00, COL A)	01.00						
REFINED PRODUCTS (SCH 5214, LINE 27.00)	02.00						
TRANSPORTATION	03.00						
MANAGEMENT FEES AND PROCESSING REVENUES	04.00						
(NOT USED)	05.00						
(NOT USED)	06.00						
CONSUMER EXCISE TAXES:							
COLLECTION	07.00						
DEDUCTION (IF EXCLUDED FROM LINE 10.00)	08.00						
OTHER	09.00						
TOTAL OPERATING REVENUES	10.00						
OPERATING EXPENSES:							
GENERAL OPERATING EXPENSES (SCH 5211)	11.00						
DD&A (SCH 5222)	12.00						
VALUATION CHARGES (SCH 5222)	13.00						
GENERAL & ADMINISTRATIVE	14.00						
RESEARCH & DEVELOPMENT	15.00						
TOTAL OPERATING EXPENSES	16.00						
OPERATING INCOME	17.00						

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DOMESTIC AND FOREIGN PETROLEUM SEGMENTS
CONSOLIDATING STATEMENT OF INCOME

FORM APPROVED
O.M.B. NO. 38-R-0581
EXPIRES 12/31/78

RESPONDENT CODE | RESPONDENT NAME | PERIOD BEGINNING MO. DAY YR. | PERIOD ENDING MO. DAY YR. | FOUR FOURTH QTR. | ORIGINAL | REVISION | REVISION DATE MO. DAY YR. AS OF

PAGE ___ OF PAGES ___

(IN THOUSANDS OF DOLLARS)

	FRS LINE #	CONSOL A	ELIM B	NON-TRACEABLE C	DOMESTIC D	FOREIGN E
OTHER REVENUE & (EXPENSE)						
EQUITY IN EARNINGS OF UNCONSOLIDATED AFFILIATES	18.00					
DIVIDEND INCOME FROM COST BASIS UNCONSOLIDATED AFFILIATES	19.00					
GAIN/(LOSS) ON DISPOSITION OF PP&E	20.00					
MINORITY INTEREST IN INCOME (NET OF INCOME TAX)	21.00					
FOREIGN CURRENCY TRANSLATION EFFECTS	22.00					
INCOME TAXES:						
CURRENT	23.00					
DEFERRED	24.00					
TOTAL INCOME TAX	25.00					
TOTAL OTHER REVENUE & (EXPENSE)	26.00					
INCOME BEFORE LINES 28.00 & 29.00	27.00					
EXTRAORDINARY ITEMS	28.00					
CUMULATIVE EFFECT OF ACCOUNTING CHANGES	29.00					
CONTRIBUTION TO NET INCOME	30.00					

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DOMESTIC AND FOREIGN PETROLEUM SEGMENTS
CONSOLIDATING STATEMENT OF INCOME

FORM APPROVED
O.M.B. NO. 38-R-0581
EXPIRES 12/31/79

RESPONDENT CODE | RESPONDENT NAME | PERIOD BEGINNING MO. DAY YR. | PERIOD ENDING MO. DAY YR. | FOUR FOURTH QTR. | ORIGINAL | REVISION | REVISION DATE MO. DAY YR. AS OF

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(IN THOUSANDS OF DOLLARS)

DOMESTIC (CONTINUED ON PAGE 7 OF 8)

	FRS LINE #	CONSOL F	ELIM G	NON-TRACEABLE H	PRODUCTION I	REFINING/ MARKETING J
OTHER REVENUE & (EXPENSE):						
EQUITY IN EARNINGS OF UNCONSOLIDATED AFFILIATES	18.00					
DIVIDEND INCOME FROM COST BASIS UNCONSOLIDATED AFFILIATES	19.00					
GAIN/(LOSS) ON DISPOSITION OF PP&E	20.00					
MINORITY INTEREST IN INCOME (NET OF INCOME TAX)	21.00					
FOREIGN CURRENCY TRANSLATION EFFECTS	22.00					
INCOME TAXES:						
CURRENT	23.00					
DEFERRED	24.00					
TOTAL INCOME TAX	25.00					
TOTAL OTHER REVENUE & (EXPENSE)	26.00					
INCOME BEFORE LINES 28.00 & 29.00	27.00					
EXTRAORDINARY ITEMS	28.00					
CUMULATIVE EFFECT OF ACCOUNTING CHANGES	29.00					
CONTRIBUTION TO NET INCOME	30.00					

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DOMESTIC AND FOREIGN PETROLEUM SEGMENTS
CONSOLIDATING STATEMENT OF INCOME

FORM APPROVED
O.M.B. NO. 38-R-0361
EXPIRES 12/31/78

001 RESPONDENT CODE | RESPONDENT NAME | PERIOD BEGINNING MO DAY YR | PERIOD ENDING MO DAY YR | FOUR POSITION NOTE | ORIGINAL | REVISION | AS OF MO DAY YR
002 H H H

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(IN THOUSANDS OF DOLLARS)

DOMESTIC (CONTINUED ON PAGE 7 OF 8)

	FRS LINE #	CONSOL F	ELIM G	NON-TRACEABLE H	PRODUCTION I	REFINING/ MARKETING J
OTHER REVENUE & (EXPENSE):						
EQUITY IN EARNINGS OF UNCONSOLIDATED AFFILIATES	18.00					
DIVIDEND INCOME FROM COST BASIS UNCONSOLIDATED AFFILIATES	19.00					
GAIN/(LOSS) ON DISPOSITION OF PP&E	20.00					
MINORITY INTEREST IN INCOME (NET OF INCOME TAX)	21.00					
FOREIGN CURRENCY TRANSLATION EFFECTS	22.00					
INCOME TAXES:						
CURRENT	23.00					
DEFERRED	24.00					
TOTAL INCOME TAX	25.00					
TOTAL OTHER REVENUE & (EXPENSE)	26.00					
INCOME BEFORE LINES 26.00 & 29.00	27.00					
EXTRAORDINARY ITEMS	28.00					
CUMULATIVE EFFECT OF ACCOUNTING CHANGES	29.00					
CONTRIBUTION TO NET INCOME	30.00					

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DOMESTIC AND FOREIGN PETROLEUM SEGMENTS
CONSOLIDATING STATEMENT OF INCOME

FORM APPROVED
O.M.B. NO. 38-R-0361
EXPIRES 12/31/78

001 RESPONDENT CODE | RESPONDENT NAME | PERIOD BEGINNING MO DAY YR | PERIOD ENDING MO DAY YR | FOUR POSITION NOTE | ORIGINAL | REVISION | AS OF MO DAY YR
002 H H H

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(IN THOUSANDS OF DOLLARS)

DOMESTIC (CONTINUED FROM PAGE 6 OF 8)
FEDERALLY REGULATED PIPELINES

	FRS LINE #	CRUDE/LIQ K	NAT GAS L	REF PROD M
OTHER REVENUE & (EXPENSE):				
EQUITY IN EARNINGS OF UNCONSOLIDATED AFFILIATES	18.00			
DIVIDEND INCOME FROM COST BASIS UNCONSOLIDATED AFFILIATES	18.00			
GAIN/(LOSS) ON DISPOSITION OF PP&E	20.00			
MINORITY INTEREST IN INCOME (NET OF INCOME TAX)	21.00			
FOREIGN CURRENCY TRANSLATION EFFECTS	22.00			
INCOME TAXES:				
CURRENT	23.00			
DEFERRED	24.00			
TOTAL INCOME TAX	25.00			
TOTAL OTHER REVENUE & (EXPENSE)	26.00			
INCOME BEFORE LINES 26.00 & 29.00	27.00			
EXTRAORDINARY ITEMS	28.00			
CUMULATIVE EFFECT OF ACCOUNTING CHANGES	29.00			
CONTRIBUTION TO NET INCOME	30.00			

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DOMESTIC AND FOREIGN PETROLEUM SEGMENTS
CONSOLIDATING STATEMENT OF INCOME

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RESPONDENT CODE | RESPONDENT NAME | PERIOD BEGINNING | PERIOD ENDING | FINAL STATEMENT NOTE | ORIGINAL | REVISION | RESUBMISSION DATE

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(IN THOUSANDS OF DOLLARS)

	FRS LINE #	FOREIGN CONSOL N	ELIM O	NON-TRACEABLE P	PRODUCTION Q	REFINING/ MARKETING R	INTL MARINE S
OTHER REVENUE & (EXPENSE)							
EQUITY IN EARNINGS OF UNCONSOLIDATED AFFILIATES	18.00						
DIVIDEND INCOME FROM COST BASIS UNCONSOLIDATED AFFILIATES	19.00						
GAIN/(LOSS) ON DISPOSITION OF PP&E	20.00						
MINORITY INTEREST IN INCOME (NET OF INCOME TAX)	21.00						
FOREIGN CURRENCY TRANSLATION EFFECTS	22.00						
INCOME TAXES							
CURRENT	23.00						
DEFERRED	24.00						
TOTAL INCOME TAX	25.00						
TOTAL OTHER REVENUE & (EXPENSE)	26.00						
INCOME BEFORE LINES 28.00 & 29.00	27.00						
EXTRAORDINARY ITEMS	28.00						
CUMULATIVE EFFECT OF ACCOUNTING CHANGES	29.00						
CONTRIBUTION TO NET INCOME	30.00						

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PETROLEUM PRODUCTION AND REFINING/MARKETING SEGMENTS
GENERAL OPERATING EXPENSES

FORM APPROVED
O.M.B. NO. 38-R-0361
EXPIRES 12/31/79

RESPONDENT CODE | RESPONDENT NAME | PERIOD BEGINNING | PERIOD ENDING | FINAL STATEMENT NOTE | ORIGINAL | REVISION | RESUBMISSION DATE

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(IN THOUSANDS OF DOLLARS)

	FRS LINE #	DOMESTIC TOTAL A	ALASKA ONSHORE B	ALASKA OFFSHORE C	OTHER ONSHORE D	OTHER OFFSHORE E
DOMESTIC PRODUCTION SEGMENT:						
EXPLORATION:						
ACQUISITION OF UNPROVED ACREAGE	01.00					
DRILLING & EQUIPPING OF WELLS:						
DRY HOLES	02.00					
OIL WELLS	03.00					
GAS WELLS	04.00					
WORK-IN-PROGRESS ADJUSTMENT	05.00					
TOTAL	06.00					
LEASE RENTS	07.00					
GEOLOGICAL & GEOPHYSICAL	08.00					
TEST HOLE CONTRIBUTIONS	09.00					
LAND DEPARTMENT, LEASING & SCOUTING	10.00					
OTHER	11.00					
TOTAL EXPLORATION	12.00					

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PETROLEUM PRODUCTION AND REFINING/MARKETING SEGMENTS
GENERAL OPERATING EXPENSES

FORM APPROVED
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(IN THOUSANDS OF DOLLARS)

	FRS LINE #	TOTAL	DOMESTIC			
			ALASKA		OTHER	
			ONSHORE	OFFSHORE	ONSHORE	OFFSHORE
		A	B	C	D	E
DEVELOPMENT						
DRILLING & EQUIPPING OF WELLS						
DRY HOLES	13.00					
OIL WELLS	14.00					
GAS WELLS	15.00					
WORK-IN-PROGRESS ADJUSTMENT	18.00					
TOTAL DRILLING & EQUIPPING OF WELLS	17.00					
LEASE EQUIPMENT	18.00					
LEASE (ACQUISITION OF PROVED ACREAGE)	19.00					
OTHER	20.00					
TOTAL DEVELOPMENT	21.00					
PRODUCTION (LIFTING)						
WELL OPERATIONS, MAINTENANCE & WORKOVERS						
PRIMARY RECOVERY PROGRAMS	22.00					
IMPROVED RECOVERY PROGRAMS						
STATUTORY TERTIARY	23.00					
OTHER IMPROVED RECOVERY	24.00					
TOTAL	25.00					
GAS PROCESSING FACILITIES	26.00					
AD VALOREM TAXES	27.00					
SEVERANCE TAXES	28.00					
OTHER	29.00					
TOTAL PRODUCTION (LIFTING)	30.00					
TOTAL OF LINES 12.00, 21.00 & 30.00	31.00					
LESS: DD&A OF SUPPORT EQUIPMENT AND FACILITIES	32.00					
NATURAL GAS & NATURAL GAS LIQUIDS						
PURCHASES AND INVENTORY CHANGE	33.00					
SELLING AND RELATED EXPENSES	34.00					
TOTAL DOMESTIC PRODUCTION SEGMENT						
GENERAL OPERATING EXPENSES						
(SCH 5210, LINE 11.00, COL I)	35.00					

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PETROLEUM PRODUCTION AND REFINING/MARKETING SEGMENTS
GENERAL OPERATING EXPENSES

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(IN THOUSANDS OF DOLLARS)

	FRS LINE #	TOTAL DOMESTIC A
DOMESTIC REFINING/MARKETING SEGMENT:		
RAW MATERIALS		
RAW MATERIAL PURCHASES		
(SCH 5212, LINE 05.00, COL A)	36.00	
RAW MATERIAL TRANSPORTATION (SCH 5215, LINE 19.00)	37.00	
RAW MATERIAL EXCHANGE DIFFERENTIALS	38.00	
CHANGES IN RAW MATERIAL INVENTORIES	39.00	
OTHER RAW MATERIAL SUPPLY EXPENSE	40.00	
TOTAL RAW MATERIAL SUPPLY EXPENSE	41.00	
LESS: RAW MATERIALS INPUT TO REFINING	42.00	
NET RAW MATERIAL SUPPLY (LINE 41.00 MINUS 42.00)	43.00	
REFINED PRODUCTS		
RAW MATERIALS INPUT TO REFINING (LINE 42.00)	44.00	
CREDIT AMT OF RAW MATERIALS		
USED AS REFINERY FUEL	45.00	
REFINERY PROCESS ENERGY EXPENSE	46.00	
DOE CRUDE ENTITLEMENTS	47.00	
OTHER REFINING OPERATING EXPENSES	48.00	
REFINED PRODUCT PURCHASES		
(SCH 5212, LINE 05.00, COL F)	49.00	
REFINED PRODUCT EXCHANGE DIFFERENTIALS	50.00	
CHANGES IN REFINED PRODUCT INVENTORIES	51.00	
REFINED PRODUCT TRANSPORTATION		
(SCH 5215, LINE 20.00)	52.00	
OTHER REFINED PRODUCT SUPPLY EXPENSES	53.00	
TOTAL (LINES 44.00 THRU 53.00)	54.00	

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PETROLEUM PRODUCTION AND REFINING/MARKETING SEGMENTS
GENERAL OPERATING EXPENSES

FORM APPROVED
O.M.B. NO. 38-R-0361
EXPIRES 12/31/79

RESPONDENT CODE | RESPONDENT NAME | PERIOD (MO. DAY YR) | PERIOD (MO. DAY YR) | FOR (1–12 MONTHS) | ORIGINAL | REVISION | REVISION DATE (MO. DAY YR) AS OF

(IN THOUSANDS OF DOLLARS)

	FRS LINE #	TOTAL DOMESTIC A
DOMESTIC REFINING/MARKETING SEGMENT:		
MARKETING:		
PURCHASES OF OTHER PRODUCTS (INCLUDE TBA)	55.00	
CHANGES IN OTHER PRODUCT INVENTORIES (INCLUDE TBA)	56.00	
ADVERTISING	57.00	
DOE RESIDUAL FUEL ENTITLEMENTS	58.00	
CONSUMER EXCISE TAXES	59.00	
OTHER MARKETING EXPENSES:		
CREDIT CARD OPERATING EXPENSES	60.00	
COMPANY-OPERATED (SALARIED)		
RETAIL OUTLET OPERATING EXPENSES	61.00	
OTHER MARKETING EXPENSES	62.00	
TOTAL MARKETING EXPENSES (LINES 55.00 THRU 62.00)	63.00	
EXPENSE OF TRANSPORTATION SERVICES FOR OTHERS (SCH 5215, LINE 21.00)	64.00	
TOTAL DOMESTIC REFINING/MARKETING SEGMENT GENERAL OPERATING EXPENSES (SCH 5210, LINE 11.00, COL J)	65.00	

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PETROLEUM PRODUCTION AND REFINING/MARKETING SEGMENTS
GENERAL OPERATING EXPENSES

FORM APPROVED
O.M.B. NO. 38-R-0361
EXPIRES 12/31/79

RESPONDENT CODE | RESPONDENT NAME | PERIOD (MO. DAY YR) | PERIOD (MO. DAY YR) | FOR (1–12 MONTHS) | ORIGINAL | REVISION | REVISION DATE (MO. DAY YR) AS OF

(IN THOUSANDS OF DOLLARS)

	FRS LINE #	FOREIGN (CONTINUED ON PAGE 6 OF 6) TOTAL F	CANADA G	OECD EUROPE H	AFRICA NORTH I	AFRICA OTHER J
FOREIGN PRODUCTION SEGMENT:						
EXPLORATION:						
DRILLING & EQUIPPING OF WELLS	66.00					
GEOLOGICAL & GEOPHYSICAL	67.00					
OTHER EXPLORATION EXPENSES	68.00					
TOTAL EXPLORATION EXPENSES	69.00					
DEVELOPMENT:						
LEASE EQUIPMENT	70.00					
DRILLING & EQUIPPING OF WELLS	71.00					
OTHER DEVELOPMENT EXPENSES	72.00					
TOTAL DEVELOPMENT EXPENSES	73.00					
PRODUCTION (LIFTING):						
ROYALTY EXPENSES	74.00					
TAXES OTHER THAN INCOME TAXES	75.00					
OTHER PRODUCTION (LIFTING) EXPENSES	76.00					
TOTAL PRODUCTION (LIFTING) EXPENSES	77.00					
TOTAL OF LINES 69.00, 73.00, & 77.00	78.00					
LESS: DD&A OF SUPPORT EQUIPMENT AND FACILITIES	79.00					
NATURAL GAS & NATURAL GAS LIQUIDS:						
PURCHASES AND INVENTORY CHANGE	80.00					
SELLING & RELATED EXPENSES	81.00					
TOTAL (LINES 80.00 PLUS 81.00)	82.00					
TOTAL FOREIGN PRODUCTION SEGMENT GENERAL OPERATING EXPENSES (SCH 5210, LINE 11.00, COL Q)	83.00					
FOREIGN REFINING/MARKETING SEGMENT (SEE SCHEDULE 5210, LINE 11.00, COL R)	84.00					

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PETROLEUM PRODUCTION AND REFINING/MARKETING SEGMENTS
GENERAL OPERATING EXPENSES

FORM APPROVED
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(IN THOUSANDS OF DOLLARS)

FOREIGN (CONTINUED FROM PAGE 5 OF 6)

	FRS LINE #	MIDDLE EAST K	OTHER EAST HEMISPHERE ASIA L	OTHER EAST HEMISPHERE OTHER M	OTHER WEST HEMISPHERE N
FOREIGN PRODUCTION SEGMENT					
EXPLORATION					
DRILLING & EQUIPPING OF WELLS	66.00				
GEOLOGICAL & GEOPHYSICAL	67.00				
OTHER EXPLORATION EXPENSES	68.00				
TOTAL EXPLORATION EXPENSES	69.00				
DEVELOPMENT					
LEASE EQUIPMENT	70.00				
DRILLING & EQUIPPING OF WELLS	71.00				
OTHER DEVELOPMENT EXPENSES	72.00				
TOTAL DEVELOPMENT EXPENSES	73.00				
PRODUCTION (LIFTING)					
ROYALTY EXPENSES	74.00				
TAXES OTHER THAN INCOME TAXES	75.00				
OTHER PRODUCTION (LIFTING) EXPENSES	76.00				
TOTAL PRODUCTION (LIFTING) EXPENSES	77.00				
TOTAL OF LINES 69.00, 73.00, & 77.00	78.00				
LESS DD&A OF SUPPORT EQUIPMENT AND FACILITIES	79.00				
NATURAL GAS & NATURAL GAS LIQUIDS:					
PURCHASES AND INVENTORY CHANGE	80.00				
SELLING & RELATED EXPENSES	81.00				
TOTAL (LINES 80.00 PLUS 81.00)	82.00				
TOTAL FOREIGN PRODUCTION SEGMENT GENERAL OPERATING EXPENSES (SCH 5210, LINE 11.00, COL Q)	83.00				

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PETROLEUM REFINING/MARKETING SEGMENTS
ACQUISITIONS OF RAW MATERIALS AND REFINED PRODUCTS

FORM APPROVED
O.M.B. NO. 38-R-0361
EXPIRES 12/31/79

RESPONDENT CODE | RESPONDENT NAME | PERIOD BEGINNING MO DAY YR | PERIOD ENDING MO DAY YR | PAGE FOOTNOTE | ORIGINAL | REVISION | REVISION DATE MO DAY YR

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(IN THOUSANDS OF DOLLARS)

	FRS LINE #	RAW MATERIALS TOTAL COLUMNS B-E A	CRUDE B	NATURAL GAS C	NATURAL GAS LIQUIDS D	SEMIFIN E
DOMESTIC REFINING/MARKETING SEGMENT:						
COST OF PURCHASES FROM:						
DOMESTIC PRODUCTION SEGMENT	01.00					
FOREIGN REFINING/MARKETING SEGMENT (TRADING)	02.00					
DOMESTIC UNCONSOLIDATED AFFILIATES	03.00					
DOMESTIC UNAFFILIATED THIRD PARTIES	04.00					
TOTAL COST OF PURCHASES	05.00					
VOLUMES (MB & MMCF) PURCHASED FROM:						
DOMESTIC PRODUCTION SEGMENT	06.00					
FOREIGN REFINING/MARKETING SEGMENT (TRADING)	07.00					
DOMESTIC UNCONSOLIDATED AFFILIATES	08.00					
DOMESTIC UNAFFILIATED THIRD PARTIES	09.00					
TOTAL VOLUMES PURCHASED	10.00					
FOREIGN REFINING/MARKETING SEGMENT:						
VOLUMES (MB & MMCF) PURCHASED FROM:						
FOREIGN PRODUCTION SEGMENT	11.00					
DOMESTIC REFINING/MARKETING SEGMENT (TRADING)	12.00					
FOREIGN UNCONSOLIDATED AFFILIATES	13.00					
FOREIGN UNAFFILIATED THIRD PARTIES:						
FOREIGN ACCESS	14.00					
FOREIGN GOVERNMENTS (OPEN MARKET)	15.00					
OTHER	16.00					
TOTAL	17.00					
TOTAL VOLUMES PURCHASED	18.00					

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FINANCIAL REPORTING SYSTEM
SCH 5212 – PAGE 2 OF 2

5212

PETROLEUM REFINING/MARKETING SEGMENTS
ACQUISITIONS OF RAW MATERIALS AND REFINED PRODUCTS

FORM APPROVED
O.M.B. NO. 38-R-0341
EXPIRES 12/31/79

RESPONDENT CODE | RESPONDENT NAME | PERIOD BEGINNING MO DAY YR | PERIOD ENDING MO DAY YR | FOOTNOTE | ORIGINAL | REVISION | REVISION DATE MO DAY YR | PAGE | OF | PAGES

H H H

(IN THOUSANDS OF DOLLARS)

	FRS LINE #	TOTAL COLUMNS G-J F	REFINED PRODUCTS: MOTOR GASOLINE G	DIST FUELS H	RESID FUELS I	OTHER REFINED J
DOMESTIC REFINING/MARKETING SEGMENT:						
COST OF PURCHASES FROM:						
DOMESTIC PRODUCTION SEGMENT	01.00					
FOREIGN REFINING/MARKETING SEGMENT (TRADING)	02.00					
DOMESTIC UNCONSOLIDATED AFFILIATES	03.00					
DOMESTIC UNAFFILIATED THIRD PARTIES	04.00					
TOTAL COST OF PURCHASES	05.00					
VOLUMES (MB & MMCF) PURCHASED FROM:						
DOMESTIC PRODUCTION SEGMENT	06.00					
FOREIGN REFINING/MARKETING SEGMENT (TRADING)	07.00					
DOMESTIC UNCONSOLIDATED AFFILIATES	08.00					
DOMESTIC UNAFFILIATED THIRD PARTIES	09.00					
TOTAL VOLUMES PURCHASED	10.00					
FOREIGN REFINING/MARKETING SEGMENT						
VOLUMES (MB & MMCF) PURCHASED FROM:						
FOREIGN PRODUCTION SEGMENT	11.00					
DOMESTIC REFINING/MARKETING SEGMENT (TRADING)	12.00					
FOREIGN UNCONSOLIDATED AFFILIATES	13.00					
FOREIGN UNAFFILIATED THIRD PARTIES:						
FOREIGN ACCESS	14.00					
FOREIGN GOVERNMENTS (OPEN MARKET)	15.00					
OTHER	16.00					
TOTAL	17.00					
TOTAL VOLUMES PURCHASED	18.00					

NOTICES

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FINANCIAL REPORTING SYSTEM
SCH 5213 – PAGE 1 OF 4

5213

PETROLEUM PRODUCTION AND REFINING/MARKETING SEGMENTS
DISPOSITIONS OF RAW MATERIALS

FORM APPROVED
O.M.B. NO. 38-R-0341
EXPIRES 12/31/79

RESPONDENT CODE | RESPONDENT NAME | PERIOD BEGINNING MO DAY YR | PERIOD ENDING MO DAY YR | FOOTNOTE | ORIGINAL | REVISION | REVISION DATE MO DAY YR | PAGE | OF | PAGES

H H H

(IN THOUSANDS OF DOLLARS)

	FRS LINE #	TOTAL VALUE A	DOMESTIC DISPOSITIONS (CONTINUED ON PAGE 2 OF 4): CRUDE VOLUME B	CRUDE VALUE C	NATURAL GAS VOLUME D	NATURAL GAS VALUE E
DOMESTIC DISPOSITIONS:						
DOMESTIC PRODUCTION SEGMENT:						
SALES CALCULATION:						
TOTAL VALUE OF PRODUCTION AND PURCHASES	01.00					
LESS: AMOUNTS USED IN PRODUCTION	02.00					
RAW MATERIAL INVENTORY CHANGES	03.00					
DOMESTIC PRODUCTION SEGMENT SALES	04.00					
SALES BREAKDOWN (SALES TO):						
DOMESTIC REFINING/MARKETING SEGMENT	05.00					
OTHER DOMESTIC SEGMENTS	06.00					
UNCONSOLIDATED AFFILIATES	07.00					
THIRD PARTIES	08.00					
TOTAL (SCH 5210, LINE 01.00, COL I)	09.00					
DOMESTIC REFINING/MARKETING SEGMENT						
SALES TO:						
FOREIGN REFINING/MARKETING (SCH 5212, LINE 12.00)	10.00					
DOMESTIC CHEMICAL SEGMENT	11.00					
DOMESTIC PRODUCTION SEGMENT	12.00					
OTHER DOMESTIC SEGMENTS	13.00					
UNCONSOLIDATED DOMESTIC AFFILIATES:						
DOMESTIC PETROLEUM INDUSTRY	14.00					
OTHER DOMESTIC INDUSTRIES	15.00					
DOMESTIC UNAFFILIATED THIRD PARTIES	16.00					
TOTAL (SCH 5210, LINE 01.00, COL J)	17.00					
INTERNAL USE AND INPUT (COST):						
OWN DOMESTIC REFINERIES	18.00					
OTHER REFINERIES (FOR OWN ACCOUNT)	19.00					
OTHER (INCLUDING TRANSPORTATION COST CENTERS)	20.00					
TOTAL	21.00					
TOTAL (LINE 17.00 PLUS 21.00)	22.00					

NOTICES

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FINANCIAL REPORTING SYSTEM
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5213

PETROLEUM PRODUCTION AND REFINING/MARKETING SEGMENTS
DISPOSITIONS OF RAW MATERIALS

FORM APPROVED
O.M.B. NO. 38-R-0361
EXPIRES 12/31/79

RESPONDENT CODE | RESPONDENT NAME | PERIOD BEGINNING MO DAY YR | PERIOD ENDING MO DAY YR | YEAR 52 WEEKS | ORIGINAL | REVISION | AS OF MO DAY YR

(IN THOUSANDS OF DOLLARS)

DOMESTIC DISPOSITIONS (CONTINUED FROM PAGE 1 OF 4)

	FRS LINE #	NATURAL GAS LIQUIDS VOLUME F	NATURAL GAS LIQUIDS VALUE G	SEMIFINISHED VOLUME H	SEMIFINISHED VALUE I
DOMESTIC DISPOSITIONS:					
DOMESTIC PRODUCTION SEGMENT:					
SALES CALCULATION:					
TOTAL VALUE OF PRODUCTION AND PURCHASES	01.00				
LESS: AMOUNTS USED IN PRODUCTION	02.00				
RAW MATERIAL INVENTORY CHANGES	03.00				
DOMESTIC PRODUCTION SEGMENT SALES	04.00				
SALES BREAKDOWN (SALES TO):					
DOMESTIC REFINING/MARKETING SEGMENT	05.00				
OTHER DOMESTIC SEGMENTS	06.00				
UNCONSOLIDATED AFFILIATES	07.00				
THIRD PARTIES	08.00				
TOTAL (SCH 5210, LINE 01.00, COL I)	09.00				
DOMESTIC REFINING/MARKETING SEGMENT:					
SALES TO:					
FOREIGN REFINING/MARKETING (SCH 5212, LINE 12.00)	10.00				
DOMESTIC CHEMICAL SEGMENT	11.00				
DOMESTIC PRODUCTION SEGMENT	12.00				
OTHER DOMESTIC SEGMENTS	13.00				
UNCONSOLIDATED DOMESTIC AFFILIATES:					
DOMESTIC PETROLEUM INDUSTRY	14.00				
OTHER DOMESTIC INDUSTRIES	15.00				
DOMESTIC UNAFFILIATED THIRD PARTIES	16.00				
TOTAL (SCH 5210, LINE 01.00, COL J)	17.00				
INTERNAL USE AND INPUT (COST):					
OWN DOMESTIC REFINERIES	18.00				
OTHER REFINERIES (FOR OWN ACCOUNT)	19.00				
OTHER (INCLUDING TRANSPORTATION COST CENTERS)	20.00				
TOTAL	21.00				
TOTAL (LINE 17.00 PLUS 21.00)	22.00				

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PETROLEUM PRODUCTION AND REFINING/MARKETING SEGMENTS
DISPOSITIONS OF RAW MATERIALS

FORM APPROVED
O.M.B. NO. 38-R-0361
EXPIRES 12/31/79

RESPONDENT CODE | RESPONDENT NAME | PERIOD BEGINNING MO DAY YR | PERIOD ENDING MO DAY YR | YEAR 52 WEEKS | ORIGINAL | REVISION | AS OF MO DAY YR

(IN THOUSANDS OF DOLLARS)

FOREIGN DISPOSITIONS (CONTINUED ON PAGE 4 OF 4)

	FRS LINE #	TOTAL VALUE A	CRUDE VOLUME B	CRUDE VALUE C	NATURAL GAS VOLUME D	NATURAL GAS VALUE E
FOREIGN DISPOSITIONS:						
FOREIGN PRODUCTION SEGMENT:						
SALES CALCULATION:						
TOTAL VALUE OF PRODUCTION AND PURCHASES	23.00					
LESS: AMOUNTS USED IN PRODUCTION	24.00					
RAW MATERIAL INVENTORY CHANGES	25.00					
FOREIGN PRODUCTION SEGMENT SALES	26.00					
SALES BREAKDOWN (SALES TO):						
FOREIGN REFINING/MARKETING SEGMENT	27.00					
OTHER FOREIGN SEGMENTS	28.00					
UNCONSOLIDATED AFFILIATES	29.00					
THIRD PARTIES	30.00					
TOTAL (SCH 5210, LINE 01.00, COL O)	31.00					
FOREIGN REFINING/MARKETING SEGMENT:						
SALES TO:						
DOMESTIC REFINING/MARKETING (SCH 5212, LINE 02.00)	32.00					
FOREIGN CHEMICAL SEGMENT	33.00					
OTHER FOREIGN SEGMENTS	34.00					
UNCONSOLIDATED FOREIGN AFFILIATES	35.00					
FOREIGN UNAFFILIATED THIRD PARTIES	36.00					
TOTAL (SCH 5210, LINE 01.00, COL R)	37.00					
INTERNAL USE AND INPUT (COST):						
REFINERIES	38.00					
OTHER (INCLUDING TRANSPORTATION COST CENTERS)	39.00					
TOTAL	40.00					
TOTAL (LINE 37.00 PLUS 40.00)	41.00					

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PETROLEUM PRODUCTION AND REFINING/MARKETING SEGMENTS
DISPOSITIONS OF RAW MATERIALS

FORM APPROVED
O.M.B. NO. 38-R-0241
EXPIRES 12/31/79

RESPONDENT CODE | RESPONDENT NAME | PERIOD BEGINNING MO. DAY YR. | PERIOD ENDING MO. DAY YR. | FORM NO. | ORIGINAL | REVISION | REVISION DATE MO. DAY YR. | PAGE | OF | PAGES

H H H

(IN THOUSANDS OF DOLLARS)

FOREIGN DISPOSITIONS (CONTINUED FROM PAGE 3 OF 4)

	FRS LINE #	NATURAL GAS LIQUIDS VOLUME F	NATURAL GAS LIQUIDS VALUE G	SEMIFINISHED VOLUME H	SEMIFINISHED VALUE I
FOREIGN DISPOSITIONS:					
FOREIGN PRODUCTION SEGMENT:					
SALES CALCULATION:					
TOTAL VALUE OF PRODUCTION AND PURCHASES	23.00				
LESS: AMOUNTS USED IN PRODUCTION	24.00				
RAW MATERIAL INVENTORY CHANGES	25.00				
FOREIGN PRODUCTION SEGMENT SALES	26.00				
SALES BREAKDOWN (SALES TO):					
FOREIGN REFINING/MARKETING SEGMENT	27.00				
OTHER FOREIGN SEGMENTS	28.00				
UNCONSOLIDATED AFFILIATES	29.00				
THIRD PARTIES	30.00				
TOTAL (SCH 5210, LINE 01.00, COL Q)	31.00				
FOREIGN REFINING/MARKETING SEGMENT					
SALES TO:					
DOMESTIC REFINING/MARKETING (SCH 5212, LINE 02.00)	32.00				
FOREIGN CHEMICAL SEGMENT	33.00				
OTHER FOREIGN SEGMENTS	34.00				
UNCONSOLIDATED FOREIGN AFFILIATES	35.00				
FOREIGN UNAFFILIATED THIRD PARTIES	36.00				
TOTAL (SCH 5210, LINE 01.00, COL R)	37.00				
INTERNAL USE AND INPUT (COST):					
REFINERIES	38.00				
OTHER (INCLUDING TRANSPORTATION COST CENTERS)	39.00				
TOTAL	40.00				
TOTAL (LINE 37.00 PLUS 40.00)	41.00				

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PETROLEUM REFINING/MARKETING SEGMENTS
DISPOSITIONS OF REFINED PRODUCTS

FORM APPROVED
O.M.B. NO. 38-R-0241
EXPIRES 12/31/79

RESPONDENT CODE | RESPONDENT NAME | PERIOD BEGINNING MO. DAY YR. | PERIOD ENDING MO. DAY YR. | FORM NO. | ORIGINAL | REVISION | REVISION DATE MO. DAY YR. | PAGE | OF | PAGES

H H H

(IN THOUSANDS OF DOLLARS)

DOMESTIC DISPOSITIONS (CONTINUED ON PAGE 2 OF 3)

	FRS LINE #	TOTAL VOLUME A	TOTAL VALUE B	MOTOR GASOLINE VOLUME C	MOTOR GASOLINE VALUE D	DISTILLATE FUELS VOLUME E	DISTILLATE FUELS VALUE F
DOMESTIC DISPOSITIONS:							
DOMESTIC INTRA-COMPANY SALES:							
FOREIGN REFINING/MARKETING SEGMENT	01.00						
DOMESTIC CHEMICAL SEGMENT	02.00						
INTERNATIONAL MARINE SEGMENT	03.00						
DOMESTIC PRODUCTION SEGMENT	04.00						
OTHER DOMESTIC SEGMENTS	05.00						
TOTAL DOMESTIC INTRA-COMPANY SALES	06.00						
DOMESTIC THIRD-PARTY SALES:							
WHOLESALE-RESELLERS:							
BRANDED:							
RACK	07.00						
TANK WAGON	08.00						
OTHER	09.00						
UNBRANDED:							
RACK	10.00						
TANK WAGON	11.00						
OTHER	12.00						
TOTAL	13.00						
ULTIMATE CONSUMPTION:							
RETAIL OUTLETS:							
COMPANY OUTLETS	14.00						
OTHER OUTLETS	15.00						
OTHER, INCLUDING INDUSTRIAL AND COMMERCIAL	16.00						
DOMESTIC UNCONSOLIDATED AFFILIATES:							
CHEMICAL INDUSTRY	17.00						
OTHER DOMESTIC INDUSTRIES	18.00						
TOTAL DOMESTIC THIRD-PARTY SALES	19.00						
TOTAL (SCH 5210, LINE 02.00, COL J)	20.00						

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5214

PETROLEUM REFINING/MARKETING SEGMENTS
DISPOSITIONS OF REFINED PRODUCTS

FORM APPROVED
O.M.B. NO. 38-R-0361
EXPIRES 12/31/79

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H H H

(IN THOUSANDS OF DOLLARS)

	FRS LINE #	DOMESTIC DISPOSITIONS (CONTINUED FROM PAGE 1 OF 3) RESIDUAL FUELS VOLUME G	RESIDUAL FUELS VALUE H	OTHER REFINED VOLUME I	OTHER REFINED VALUE J
DOMESTIC DISPOSITIONS					
DOMESTIC INTRA-COMPANY SALES					
FOREIGN REFINING/MARKETING SEGMENT	01.00				
DOMESTIC CHEMICAL SEGMENT	02.00				
INTERNATIONAL MARINE SEGMENT	03.00				
DOMESTIC PRODUCTION SEGMENT	04.00				
OTHER DOMESTIC SEGMENTS	05.00				
TOTAL DOMESTIC INTRA-COMPANY SALES	06.00				
DOMESTIC THIRD-PARTY SALES					
WHOLESALE-RESELLERS					
BRANDED					
RACK	07.00				
TANK WAGON	08.00				
OTHER	09.00				
UNBRANDED					
RACK	10.00				
TANK WAGON	11.00				
OTHER	12.00				
TOTAL	13.00				
ULTIMATE CONSUMPTION					
RETAIL OUTLETS					
COMPANY OUTLETS	14.00				
OTHER OUTLETS	15.00				
OTHER, INCLUDING INDUSTRIAL AND COMMERCIAL	16.00				
DOMESTIC UNCONSOLIDATED AFFILIATES					
CHEMICAL INDUSTRY	17.00				
OTHER DOMESTIC INDUSTRIES	18.00				
TOTAL DOMESTIC THIRD-PARTY SALES	19.00				
TOTAL (SCH 5210, LINE 02.00, COL J)	20.00				

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FINANCIAL REPORTING SYSTEM
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PETROLEUM REFINING/MARKETING SEGMENTS
DISPOSITIONS OF REFINED PRODUCTS

FORM APPROVED
O.M.B. NO. 38-R-0361
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H H H

(IN THOUSANDS OF DOLLARS)

	FRS LINE #	TOTAL FOREIGN DISPOSITIONS VOLUME A	VALUE B
FOREIGN DISPOSITIONS:			
FOREIGN INTRA-COMPANY SALES:			
DOMESTIC REFINING/MARKETING SEGMENT	21.00		
OTHER FOREIGN SEGMENTS	22.00		
TOTAL FOREIGN INTRA-COMPANY SALES	23.00		
FOREIGN THIRD-PARTY SALES:			
FOREIGN UNCONSOLIDATED AFFILIATES	24.00		
OTHER FOREIGN THIRD-PARTY SALES	25.00		
TOTAL FOREIGN THIRD-PARTY SALES	26.00		
TOTAL (SCH 5210, LINE 02.00, COL R)	27.00		

NOTICES

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FINANCIAL REPORTING SYSTEM
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5215

DOMESTIC AND FOREIGN PETROLEUM SEGMENTS
PRIMARY TRANSPORTATION EXPENSES

FORM APPROVED
O.M.B. NO. 38-R-0341
EXPIRES 12/21/78

RESPONDENT CODE | RESPONDENT NAME | PERIOD BEGINNING MO DAY YR | PERIOD ENDING MO DAY YR | PAGE COMPLETE | ORIGINAL | REVISION | REVISION DATE MO DAY YR

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(IN THOUSANDS OF DOLLARS)

	FRS LINE #	TOTAL A
TOTAL DOMESTIC PRIMARY TRANSPORTATION EXPENSE BY SOURCE:		
INTERNAL SEGMENT SERVICE TRANSPORTATION:		
MARINE OPERATIONS		
(OTHER THAN INTERNATIONAL MARINE SEGMENT)	01.00	
PIPELINE OPERATIONS (OTHER THAN FEDERALLY		
REGULATED PIPELINE SEGMENT)	02.00	
OTHER TRANSPORTATION OPERATIONS	03.00	
TOTAL TRANSPORTATION OPERATIONS	04.00	
CHARGES FROM SEGMENTS:		
AMOUNTS CHARGED BY		
INTERNATIONAL MARINE SEGMENT	05.00	
AMOUNTS CHARGED BY		
FEDERALLY REGULATED PIPELINE SEGMENT	06.00	
TOTAL	07.00	
CHARGES BY UNCONSOLIDATED AFFILIATES:		
MARINE AFFILIATES	08.00	
PIPELINE AFFILIATES	09.00	
OTHER AFFILIATES	10.00	
TOTAL	11.00	
PURCHASES FROM THIRD PARTIES:		
MARINE	12.00	
PIPELINE	13.00	
OTHER	14.00	
TOTAL	15.00	
TOTAL DOMESTIC TRANSPORTATION EXPENSE (EQUAL TO LINE 22.00)	16.00	

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FINANCIAL REPORTING SYSTEM
SCH 5215 – PAGE 2 OF 2

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DOMESTIC AND FOREIGN PETROLEUM SEGMENTS
PRIMARY TRANSPORTATION EXPENSES

FORM APPROVED
O.M.B. NO. 38-R-0341
EXPIRES 12/21/78

RESPONDENT CODE | RESPONDENT NAME | PERIOD BEGINNING MO DAY YR | PERIOD ENDING MO DAY YR | PAGE COMPLETE | ORIGINAL | REVISION | REVISION DATE MO DAY YR

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(IN THOUSANDS OF DOLLARS)

	FRS LINE #	TOTAL A
TOTAL DOMESTIC PRIMARY TRANSPORTATION EXPENSE BY APPLICATION:		
FOR OWN USE:		
RAW MATERIAL TRANSPORTATIONV		
CRUDE	17.00	
OTHER RAW MATERIALS	18.00	
TOTAL (SCH 5211, LINE 37.00)	19.00	
REFINED PRODUCT TRANSPORTATION		
(SCH 5211, LINE 52.00)	20.00	
FOR OTHERS (SCH 5211, LINE 62.00)	21.00	
TOTAL DOMESTIC TRANSPORTATION EXPENSE		
(EQUAL TO LINE 16.00)	22.00	
AMOUNTS CHARGED BY INTERNATIONAL MARINE SEGMENT		
TO FOREIGN REFINING/MARKETING SEGMENT	23.00	

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FINANCIAL REPORTING SYSTEM
SCH 5220 – PAGE 1 OF 4

5220

DOMESTIC AND FOREIGN PETROLEUM SEGMENTS
SELECTED CONSOLIDATING BALANCE SHEET ITEMS

FORM APPROVED
O.M.B. NO. 38-R-0341
EXPIRES 12/31/79

RESPONDENT CODE | RESPONDENT NAME | PERIOD (2 DIGITS) NO. | PERIOD ENDING MO. | DAY | YR. | FOOTNOTE | ORIGINAL | REVISION | AS OF MO. | DAY | YR.

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(IN THOUSANDS OF DOLLARS)

	FRS LINE #	CONSOL A	ELIM B	NON-TRACEABLE C	DOMESTIC D	FOREIGN E
SELECTED CURRENT ASSETS:						
TRADE ACCOUNTS AND NOTES RECEIVABLE	01.00					
INVENTORIES:						
RAW MATERIALS & PRODUCTS	02.00					
MATERIALS & SUPPLIES	03.00					
NON-CURRENT ASSETS:						
PROPERTY PLANT & EQUIPMENT (SCH 5221)						
GROSS	04.00					
ACCUMULATED DD&A	05.00					
NET	06.00					
INVESTMENT & ADVANCES TO						
UNCONSOLIDATED AFFILIATES	07.00					
OTHER NON-CURRENT ASSETS	08.00					
TOTAL NON-CURRENT ASSETS	09.00					

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FINANCIAL REPORTING SYSTEM
SCH 5220 – PAGE 2 OF 4

5220

DOMESTIC AND FOREIGN PETROLEUM SEGMENTS
SELECTED CONSOLIDATING BALANCE SHEET ITEMS

FORM APPROVED
O.M.B. NO. 38-R-0341
EXPIRES 12/31/79

RESPONDENT CODE | RESPONDENT NAME | PERIOD (2 DIGITS) NO. | PERIOD ENDING MO. | DAY | YR. | FOOTNOTE | ORIGINAL | REVISION | AS OF MO. | DAY | YR.

PAGE | OF | PAGES

(IN THOUSANDS OF DOLLARS)

	FRS LINE #	DOMESTIC (CONTINUED ON PAGE 3 OF 4) CONSOL F	ELIM G	NON-TRACEABLE H	PRODUCTION I	REFINING/ MARKETING J
SELECTED CURRENT ASSETS:						
TRADE ACCOUNTS AND NOTES RECEIVABLE	01.00					
INVENTORIES:						
RAW MATERIALS & PRODUCTS	02.00					
MATERIALS & SUPPLIES	03.00					
NON-CURRENT ASSETS:						
PROPERTY PLANT & EQUIPMENT (SCH 5221):						
GROSS	04.00					
ACCUMULATED DD&A	05.00					
NET	06.00					
INVESTMENT & ADVANCES TO						
UNCONSOLIDATED AFFILIATES	07.00					
OTHER NON-CURRENT ASSETS	08.00					
TOTAL NON-CURRENT ASSETS	09.00					

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FINANCIAL REPORTING SYSTEM
SCH 5220 – PAGE 3 OF 4

5220

DOMESTIC AND FOREIGN PETROLEUM SEGMENTS
SELECTED CONSOLIDATING BALANCE SHEET ITEMS

FORM APPROVED
O.M.B. NO. 38-R-0361
EXPIRES 12/31/79

RESPONDENT CODE | RESPONDENT NAME | PERIOD BEGINNING MO DAY YR | PERIOD ENDING MO DAY YR | FOOTNOTE | ORIGINAL | REVISION | RESUBMIT DATE MO DAY YR AS OF

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(IN THOUSANDS OF DOLLARS)

	FRS LINE #	DOMESTIC (CONTINUED FROM PAGE 2 OF 4) FEDERALLY REGULATED PIPELINES CRUDE/LIO K	NAT GAS L	REF PROD M
SELECTED CURRENT ASSETS:				
TRADE ACCOUNTS AND NOTES RECEIVABLE	01.00			
INVENTORIES:				
RAW MATERIALS & PRODUCTS	02.00			
MATERIALS & SUPPLIES	03.00			
NON-CURRENT ASSETS:				
PROPERTY PLANT & EQUIPMENT (SCH 5221):				
GROSS	04.00			
ACCUMULATED DD&A	05.00			
NET	06.00			
INVESTMENT & ADVANCES TO				
UNCONSOLIDATED AFFILIATES	07.00			
OTHER NON-CURRENT ASSETS	08.00			
TOTAL NON-CURRENT ASSETS	09.00			

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SCH 5220 – PAGE 4 OF 4

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DOMESTIC AND FOREIGN PETROLEUM SEGMENTS
SELECTED CONSOLIDATING BALANCE SHEET ITEMS

FORM APPROVED
O.M.B. NO. 38-R-0361
EXPIRES 12/31/79

RESPONDENT CODE | RESPONDENT NAME | PERIOD BEGINNING MO DAY YR | PERIOD ENDING MO DAY YR | FOOTNOTE | ORIGINAL | REVISION | RESUBMIT DATE MO DAY YR AS OF

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(IN THOUSANDS OF DOLLARS)

	FRS LINE #	FOREIGN CONSOL N	ELIM O	NON-TRACEABLE P	PRODUCTION Q	REFINING/ MARKETING R	INTL MARINE S
SELECTED CURRENT ASSETS:							
TRADE ACCOUNTS AND NOTES RECEIVABLE	01.00						
INVENTORIES:							
RAW MATERIALS & PRODUCTS	02.00						
MATERIALS & SUPPLIES	03.00						
NON-CURRENT ASSETS:							
PROPERTY PLANT & EQUIPMENT (SCH 5221):							
GROSS	04.00						
ACCUMULATED DD&A	05.00						
NET	06.00						
INVESTMENT & ADVANCES TO							
UNCONSOLIDATED AFFILIATES	07.00						
OTHER NON-CURRENT ASSETS	08.00						
TOTAL NON-CURRENT ASSETS	09.00						

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FINANCIAL REPORTING SYSTEM
SCH 5221 – PAGE 1 OF 2

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DOMESTIC AND FOREIGN PETROLEUM SEGMENTS
NET PROPERTY AND OTHER CAPITALIZED COST BALANCES

FORM APPROVED
O.M.B. NO. 38-R-0361
EXPIRES 12/31/79

RESPONDENT CODE | RESPONDENT NAME | PERIOD BEGINNING MO. DAY YR. | PERIOD ENDING MO. DAY YR. | PAGE NO. OF NO. | ORIGINAL | REVISION | AS OF REVISION DATE MO. DAY YR.

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(IN THOUSANDS OF DOLLARS)

	FRS LINE #	GRAND TOTAL	DOMESTIC					FOREIGN
				ALASKA		OTHER		
			TOTAL	ONSHORE	OFFSHORE	ONSHORE	OFFSHORE	TOTAL FOREIGN
		A	B	C	D	E	F	G
PRODUCTION SEGMENT:								
MINERAL INTEREST IN PROPERTIES:								
PROVED	01.00							
UNPROVED	02.00							
WELLS, EQUIPMENT & FACILITIES:								
GAS PROCESSING FACILITIES	03.00							
OTHER	04.00							
SUPPORT EQUIPMENT & FACILITIES	05.00							
UNCOMPLETED WELLS, EQUIPMENT & FACILITIES	06.00							
TOTAL	07.00							
REFINING/MARKETING SEGMENT:								
REFINING	08.00							
MARKETING	09.00							
TRANSPORTATION:								
PIPELINE	10.00							
MARINE	11.00							
OTHER	12.00							
TOTAL	13.00							
FEDERALLY REGULATED PIPELINES:								
CRUDE/LIQUID	14.00							
NATURAL GAS	15.00							
REFINED PRODUCT	16.00							
INTERNATIONAL MARINE	17.00							
TOTAL (SCH 5221, LINE 06.00)	18.00							

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FINANCIAL REPORTING SYSTEM
SCH 5221 – PAGE 2 OF 2

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DOMESTIC AND FOREIGN PETROLEUM SEGMENTS
NET PROPERTY AND OTHER CAPITALIZED COST BALANCES

FORM APPROVED
O.M.B. NO. 38-R-0361
EXPIRES 12/31/79

RESPONDENT CODE | RESPONDENT NAME | PERIOD BEGINNING MO. DAY YR. | PERIOD ENDING MO. DAY YR. | PAGE NO. OF NO. | ORIGINAL | REVISION | AS OF REVISION DATE MO. DAY YR.

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(IN THOUSANDS OF DOLLARS)

	FRS LINE #	FOREIGN						
		TOTAL	CANADA	OECD EUROPE	AFRICA	MIDDLE EAST	OTHER EAST HEMISPHERE	OTHER WEST HEMISPHERE
		G	H	I	J	K	L	M
PRODUCTION SEGMENT:								
MINERAL INTEREST IN PROPERTIES:								
PROVED	01.00							
UNPROVED	02.00							
WELLS, EQUIPMENT & FACILITIES:								
GAS PROCESSING FACILITIES	03.00							
OTHER	04.00							
SUPPORT EQUIPMENT & FACILITIES	05.00							
UNCOMPLETED WELLS, EQUIPMENT & FACILITIES	06.00							
TOTAL	07.00							
REFINING/MARKETING SEGMENT:								
REFINING	08.00							
MARKETING	09.00							
TRANSPORTATION:								
PIPELINE	10.00							
MARINE	11.00							
OTHER	12.00							
TOTAL	13.00							
FEDERALLY REGULATED PIPELINES:								
CRUDE/LIQUID	14.00							
NATURAL GAS	15.00							
REFINED PRODUCT	16.00							
INTERNATIONAL MARINE	17.00							
TOTAL (SCH 5221, LINE 06.00)	18.00							

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FINANCIAL REPORTING SYSTEM
SCH 5222 – PAGE 1 OF 4

5222

DOMESTIC AND FOREIGN PETROLEUM SEGMENTS
CHANGES IN NET PROPERTY AND OTHER CAPITALIZED COST BALANCES

FORM APPROVED
O.M.B. NO. 38-R 0361
EXPIRES 12/31/78

RESPONDENT CODE | RESPONDENT NAME | PERIOD BEGINNING MO. DAY YR | PERIOD ENDING MO. DAY YR | FILER CODE/SEQ NO. | ORIGINAL | REVISION | REVISION DATE MO. DAY YR | PAGE | PAGES

H H H

(IN THOUSANDS OF DOLLARS)

DOMESTIC PETROLEUM (CONTINUED ON PAGE 2 OF 4)

	FRS LINE #	NET BOOK VALUE AT BEGINNING OF PERIOD A	ADDITIONS AT COST B	GAIN (LOSS) ON DISP (MEMO) C	BOOK VALUE OF DISPOSALS D	CURRENT PERIOD DD&A E
DOMESTIC PRODUCTION SEGMENT:						
MINERAL INTERESTS IN PROPERTIES:						
PROVED	01.00					
UNPROVED	02.00					
WELLS, EQUIPMENT & FACILITIES:						
GAS PROCESSING FACILITIES	03.00					
OTHER	04.00					
SUPPORT EQUIPMENT & FACILITIES	05.00					
UNCOMPLETED WELLS, EQUIPMENT & FACILITIES	06.00					
TOTAL DOMESTIC PRODUCTION SEGMENT	07.00					
DOMESTIC REFINING/MARKETING SEGMENT						
REFINING (SCH 5130) (NOTE 1, BELOW)	08.00					
MARKETING (SCH 5130) (NOTE 2, BELOW)	09.00					
TRANSPORTATION (SCH 5130)	10.00					
TOTAL DOMESTIC REFINING/MARKETING SEGMENT	11.00					
FEDERALLY REGULATED PIPELINES (SCH 5130)						
CRUDE/LIQUID	12.00					
NATURAL GAS	13.00					
REFINED PRODUCT	14.00					
NOTE 1: BREAKDOWN OF LINE 08.00 ABOVE:						
REFINERY REFURBISHMENT & EXPANSION	15.00					
NEW REFINERY CONSTRUCTION	16.00					
OTHER	17.00					
TOTAL (MUST EQUAL LINE 08.00, COL B)	18.00					
NOTE 2: BREAKDOWN OF LINE 09.00 ABOVE:						
RETAIL OUTLET REFURBISHMENT & EXPANSION	19.00					
NEW RETAIL OUTLET CONSTRUCTION	20.00					
OTHER	21.00					
TOTAL (MUST EQUAL LINE 09.00, COL B)	22.00					

NOTICES

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FINANCIAL REPORTING SYSTEM
SCH 5222 – PAGE 2 OF 4

5222

DOMESTIC AND FOREIGN PETROLEUM SEGMENTS
CHANGES IN NET PROPERTY AND OTHER CAPITALIZED COST BALANCES

FORM APPROVED
O.M.B. NO. 38-R 0361
EXPIRES 12/31/78

RESPONDENT CODE | RESPONDENT NAME | PERIOD RETURNED MO. DAY YR | PERIOD ENDING MO. DAY YR | FILER CODE/SEQ NO. | ORIGINAL | REVISION | REVISION DATE MO. DAY YR | PAGE | PAGES

H H H

(IN THOUSANDS OF DOLLARS)

DOMESTIC PETROLEUM (CONTINUED FROM PAGE 1 OF 4)

	FRS LINE #	VALUATION CHARGES F	ADJUSTMENT G	NET BOOK VALUE AT END OF PERIOD H
DOMESTIC PRODUCTION SEGMENT:				
MINERAL INTERESTS IN PROPERTIES:				
PROVED	01.00			
UNPROVED	02.00			
WELLS, EQUIPMENT & FACILITIES:				
GAS PROCESSING FACILITIES	03.00			
OTHER	04.00			
SUPPORT EQUIPMENT & FACILITIES	05.00			
UNCOMPLETED WELLS, EQUIPMENT & FACILITIES	06.00			
TOTAL DOMESTIC PRODUCTION SEGMENT	07.00			
DOMESTIC REFINING/MARKETING SEGMENT:				
REFINING (SCH 5130)	08.00			
MARKETING (SCH 5130)	09.00			
TRANSPORTATION (SCH 5130)	10.00			
TOTAL DOMESTIC REFINING/MARKETING SEGMENT	11.00			
FEDERALLY REGULATED PIPELINES (SCH 5130):				
CRUDE & PLANT PRODUCT	12.00			
NATURAL GAS	13.00			
REFINED PRODUCT	14.00			

NOTICES

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FINANCIAL REPORTING SYSTEM
SCH 5222 – PAGE 3 OF 4

5222

DOMESTIC AND FOREIGN PETROLEUM SEGMENTS
CHANGES IN NET PROPERTY AND OTHER CAPITALIZED COST BALANCES

FORM APPROVED
O.M.B. NO. 38-R-0361
EXPIRES 12/31/78

RESPONDENT CODE | RESPONDENT NAME | PERIOD BEGINNING MO DAY YR | PERIOD ENDING MO DAY YR | PAGE FOOTNOTE | ORIGINAL | REVISION | REVISION DATE MO DAY YR

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(IN THOUSANDS OF DOLLARS)

FOREIGN PETROLEUM (CONTINUED ON PAGE 4 OF 4)

	FRS LINE #	NET BOOK VALUE AT BEGINNING OF PERIOD A	ADDITIONS AT COST B	GAIN/(LOSS) ON DISP (MEMO) C	BOOK VALUE OF DISPOSALS D	CURRENT PERIOD DD&A E
FOREIGN PRODUCTION SEGMENT:						
MINERAL INTERESTS IN PROPERTIES:						
PROVED	23.00					
UNPROVED	24.00					
WELLS, EQUIPMENT & FACILITIES:						
GAS PROCESSING FACILITIES	25.00					
OTHER	26.00					
SUPPORT EQUIPMENT & FACILITIES	27.00					
UNCOMPLETED WELLS, EQUIPMENT & FACILITIES	28.00					
TOTAL FOREIGN PRODUCTION SEGMENT	29.00					
FOREIGN REFINING/MARKETING SEGMENT						
REFINING (SCH 5130)	30.00					
MARKETING (SCH 5130)	31.00					
TRANSPORTATION (SCH 5130)	32.00					
TOTAL REFINING/MARKETING SEGMENT	33.00					
INTERNATIONAL MARINE SEGMENT (SCH 5130)	34.00					

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FINANCIAL REPORTING SYSTEM
SCH 5222 – PAGE 4 OF 4

5222

DOMESTIC AND FOREIGN PETROLEUM SEGMENTS
CHANGES IN NET PROPERTY AND OTHER CAPITALIZED COST BALANCES

FORM APPROVED
O.M.B. NO. 38-R-0361
EXPIRES 12/31/78

RESPONDENT CODE | RESPONDENT NAME | PERIOD BEGINNING MO DAY YR | PERIOD ENDING MO DAY YR | PAGE FOOTNOTE | ORIGINAL | REVISION | REVISION DATE MO DAY YR

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(IN THOUSANDS OF DOLLARS)

FOREIGN PETROLEUM (CONTINUED FROM PAGE 3 OF 4)

	FRS LINE #	VALUATION CHARGES F	ADJUSTMENT G	NET BOOK VALUE AT END OF PERIOD H
FOREIGN PRODUCTION SEGMENT:				
MINERAL INTERESTS IN PROPERTIES:				
PROVED	23.00			
UNPROVED	24.00			
WELLS, EQUIPMENT & FACILITIES:				
GAS PROCESSING FACILITIES	25.00			
OTHER	26.00			
SUPPORT EQUIPMENT & FACILITIES	27.00			
UNCOMPLETED WELLS, EQUIPMENT & FACILITIES	28.00			
TOTAL FOREIGN PRODUCTION SEGMENT	29.00			
FOREIGN REFINING/MARKETING SEGMENT:				
REFINING (SCH 5130)	30.00			
MARKETING (SCH 5130)	31.00			
TRANSPORTATION (SCH 5130)	32.00			
TOTAL REFINING/MARKETING SEGMENT	33.00			
INTERNATIONAL MARINE SEGMENT (SCH 5130)	34.00			

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FINANCIAL REPORTING SYSTEM
SCH 5223 – PAGE 1 OF 3

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DOMESTIC AND FOREIGN PETROLEUM SEGMENTS
EXPLORATION, DEVELOPMENT, AND PRODUCTION EXPENDITURES CAPITALIZED

FORM APPROVED
O.M.B. NO. 38-R-0341
EXPIRES 12/31/79

RESPONDENT CODE | RESPONDENT NAME | PERIOD BEGINNING MO DAY YR | PERIOD ENDING MO DAY YR | FOOTNOTE | ORIGINAL | REVISION | REVISION DATE MO DAY YR | PAGE | OF | PAGES

(IN THOUSANDS OF DOLLARS)

	FRS LINE #	GRAND TOTAL	DOMESTIC					TOTAL FOREIGN
			TOTAL	ALASKA		OTHER		
				ONSHORE	OFFSHORE	ONSHORE	OFFSHORE	
		A	B	C	D	E	F	G
EXPLORATION:								
ACQUISITION OF UNPROVED ACREAGE	01.00							
DRILLING & EQUIPPING OF WELLS:								
DRY HOLES	02.00							
OIL WELLS	03.00							
GAS WELLS	04.00							
WORK-IN-PROGRESS ADJUSTMENT	05.00							
TOTAL	06.00							
LEASE RENTS	07.00							
GEOLOGICAL & GEOPHYSICAL	08.00							
TEST HOLE CONTRIBUTIONS	09.00							
LAND DEPARTMENT, LEASING & SCOUTING	10.00							
OTHER, INCLUDING DIRECT OVERHEAD	11.00							
TOTAL EXPLORATION (SCH 5130)	12.00							
DEVELOPMENT:								
DRILLING & EQUIPPING OF WELLS:								
DRY HOLES	13.00							
OIL WELLS	14.00							
GAS WELLS	15.00							
WORK-IN-PROGRESS ADJUSTMENT	16.00							
TOTAL DRILLING & EQUIPPING OF WELLS	17.00							
LEASE EQUIPMENT:								
PRIMARY RECOVERY PROGRAMS	18.00							
IMPROVED RECOVERY PROGRAMS:								
STATUTORY TERTIARY	19.00							
OTHER IMPROVED RECOVERY	20.00							
TOTAL LEASE EQUIPMENT	21.00							
GAS PROCESSING FACILITIES	22.00							
ACQUISITION OF PROVED ACREAGE	23.00							
OTHER INCLUDING DIRECT OVERHEAD	24.00							
TOTAL DEVELOPMENT (SCH 5130)	25.00							
PRODUCTION (SCH 5130)	26.00							
SUPPORT EQUIPMENT & FACILITIES (SCH 5130)	27.00							
TOTAL (SCH 5222, LINES 07.00 & 29.00, COL B)	28.00							

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SCH 5223 – PAGE 3 OF 3

5223

DOMESTIC AND FOREIGN PETROLEUM SEGMENTS
EXPLORATION, DEVELOPMENT, AND PRODUCTION EXPENDITURES CAPITALIZED

FORM APPROVED
O.M.B. NO. 38-R-0341
EXPIRES 12/31/79

RESPONDENT CODE | RESPONDENT NAME | PERIOD BEGINNING MO DAY YR | PERIOD ENDING MO DAY YR | FOOTNOTE | ORIGINAL | REVISION | REVISION DATE MO DAY YR | PAGE | OF | PAGES

(IN THOUSANDS OF DOLLARS)

	FRS LINE #	FOREIGN (CONTINUED ON PAGE 3 OF 3)				
		TOTAL	CANADA	OECD EUROPE	AFRICA NORTH	AFRICA OTHER
		G	H	I	J	K
EXPLORATION:						
ACQUISITION OF UNPROVED ACREAGE	01.00					
DRILLING & EQUIPPING OF WELLS:						
DRY HOLES	02.00					
OIL WELLS	03.00					
GAS WELLS	04.00					
WORK-IN-PROGRESS ADJUSTMENT	05.00					
TOTAL	06.00					
LEASE RENTS	07.00					
GEOLOGICAL & GEOPHYSICAL	08.00					
TEST HOLE CONTRIBUTIONS	09.00					
LAND DEPARTMENT, LEASING & SCOUTING	10.00					
OTHER, INCLUDING DIRECT OVERHEAD	11.00					
TOTAL EXPLORATION (SCH 5130)	12.00					
DEVELOPMENT:						
DRILLING & EQUIPPING OF WELLS:						
DRY HOLES	13.00					
OIL WELLS	14.00					
GAS WELLS	15.00					
WORK-IN-PROGRESS ADJUSTMENT	16.00					
TOTAL DRILLING & EQUIPPING OF WELLS	17.00					
LEASE EQUIPMENT:						
PRIMARY RECOVERY PROGRAMS	18.00					
IMPROVED RECOVERY PROGRAMS:						
STATUTORY TERTIARY	19.00					
OTHER IMPROVED RECOVERY	20.00					
TOTAL LEASE EQUIPMENT	21.00					
GAS PROCESSING FACILITIES	22.00					
ACQUISITION OF PROVED ACREAGE	23.00					
OTHER INCLUDING DIRECT OVERHEAD	24.00					
TOTAL DEVELOPMENT (SCH 5130)	25.00					
PRODUCTION (SCH 5130)	26.00					
SUPPORT EQUIPMENT & FACILITIES (SCH 5130)	27.00					
TOTAL (SCH 5222, LINE 29.00, COL B)	28.00					

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FINANCIAL REPORTING SYSTEM
SCH 5223 – PAGE 2 OF 3

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DOMESTIC AND FOREIGN PETROLEUM SEGMENTS
EXPLORATION, DEVELOPMENT, AND PRODUCTION EXPENDITURES CAPITALIZED

FORM APPROVED
O.M.B. NO. 38-R-0361
EXPIRES 12/31/79

RESPONDENT CODE | RESPONDENT NAME | PERIOD COVERED MO DAY YR | PERIOD ENDING MO DAY YR | FORM CONTRACTS | ORIGINAL | REVISION | REPORTING DATE MO DAY YR

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(IN THOUSANDS OF DOLLARS)

FOREIGN (CONTINUED FROM PAGE 2 OF 3)

	FRS LINE #	MIDDLE EAST L	OTHER EAST HEMISPHERE ASIA M	OTHER EAST HEMISPHERE OTHER N	OTHER WEST HEMISPHERE O
EXPLORATION					
ACQUISITION OF UNPROVED ACREAGE	01.00				
DRILLING & EQUIPPING OF WELLS					
DRY HOLES	02.00				
OIL WELLS	03.00				
GAS WELLS	04.00				
WORK-IN-PROGRESS ADJUSTMENT	05.00				
TOTAL	06.00				
LEASE RENTS	07.00				
GEOLOGICAL & GEOPHYSICAL	08.00				
TEST HOLE CONTRIBUTIONS	09.00				
LAND DEPARTMENT, LEASING & SCOUTING	10.00				
OTHER, INCLUDING DIRECT OVERHEAD	11.00				
TOTAL EXPLORATION (SCH 5130)	12.00				
DEVELOPMENT					
DRILLING & EQUIPPING OF WELLS					
DRY HOLES	13.00				
OIL WELLS	14.00				
GAS WELLS	15.00				
WORK-IN-PROGRESS ADJUSTMENT	16.00				
TOTAL DRILLING & EQUIPPING OF WELLS	17.00				
LEASE EQUIPMENT					
PRIMARY RECOVERY PROGRAMS	18.00				
IMPROVED RECOVERY PROGRAMS					
STATUTORY TERTIARY	19.00				
OTHER IMPROVED RECOVERY	20.00				
TOTAL LEASE EQUIPMENT	21.00				
GAS PROCESSING FACILITIES	22.00				
ACQUISITION OF PROVED ACREAGE	23.00				
OTHER INCLUDING DIRECT OVERHEAD	24.00				
TOTAL DEVELOPMENT (SCH 5130)	25.00				
PRODUCTION (SCH 5130)	26.00				
SUPPORT EQUIPMENT & FACILITIES (SCH 5130)	27.00				
TOTAL (SCH 5222, LINE 29.00, COL B)	28.00				

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FINANCIAL REPORTING SYSTEM
SCH 5241 – PAGE 1 OF 5

5241

DOMESTIC AND FOREIGN PETROLEUM SEGMENTS
EXPLORATION, DEVELOPMENT, AND PRODUCTION STATISTICS

FORM APPROVED
O.M.B. NO. 38-R-0361
EXPIRES 12/31/79

RESPONDENT CODE | RESPONDENT NAME | PERIOD COVERED MO DAY YR | PERIOD ENDING MO DAY YR | FORM CONTRACTS | ORIGINAL | REVISION | REPORTING DATE MO DAY YR

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	FRS LINE #	GRAND TOTAL A	DOMESTIC TOTAL B	DOMESTIC ALASKA ONSHORE C	DOMESTIC ALASKA OFFSHORE D	DOMESTIC OTHER ONSHORE E	DOMESTIC OTHER OFFSHORE F	TOTAL FOREIGN G
ACREAGE (THOUSANDS OF ACRES):								
GROSS ACREAGE:								
DEVELOPED	01.00							
UNDEVELOPED	02.00							
NET ACREAGE:								
DEVELOPED	03.00							
UNDEVELOPED	04.00							
CURRENT YEAR FARMOUTS (NET ACREAGE)	05.00							
CURRENT YEAR FARMINS (NET ACREAGE)	06.00							

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FINANCIAL REPORTING SYSTEM
SCH 5241 – PAGE 2 OF 8

5241

DOMESTIC AND FOREIGN PETROLEUM SEGMENTS
EXPLORATION, DEVELOPMENT, AND PRODUCTION STATISTICS

FORM APPROVED
O.M.B. NO. 38-R-0241
EXPIRES 12/31/79

RESPONDENT CODE | RESPONDENT NAME | PERIOD BEGINNING MO. DAY YR | PERIOD ENDING MO. DAY YR | FOOTNOTE | ORIGINAL | REVISION | REVISION DATE MO. DAY YR AS OF

PAGE ___ OF PAGES ___ H H H

	FRS LINE #	TOTAL G	FOREIGN: CANADA H	OECD EUROPE I	AFRICA: NORTH J	AFRICA: OTHER K	MIDDLE EAST L	OTHER EAST HEMISPHERE: ASIA M	OTHER EAST HEMISPHERE: OTHER N	OTHER WEST HEMISPHERE O
ACREAGE (THOUSANDS OF ACRES):										
GROSS ACREAGE:										
DEVELOPED	01.00									
UNDEVELOPED	02.00									
NET ACREAGE:										
DEVELOPED	03.00									
UNDEVELOPED	04.00									
CURRENT YEAR FARMOUTS (NET ACREAGE)	05.00									
CURRENT YEAR FARMINS (NET ACREAGE)	06.00									

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FINANCIAL REPORTING SYSTEM
SCH 5241 – PAGE 3 OF 8

5241

DOMESTIC AND FOREIGN PETROLEUM SEGMENTS
EXPLORATION, DEVELOPMENT, AND PRODUCTION STATISTICS

FORM APPROVED
O.M.B. NO. 38-R-0241
EXPIRES 12/31/79

RESPONDENT CODE | RESPONDENT NAME | PERIOD BEGINNING MO. DAY YR | PERIOD ENDING MO. DAY YR | FOOTNOTE | ORIGINAL | REVISION | REVISION DATE MO. DAY YR AS OF

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	FRS LINE #	GRAND TOTAL A	DOMESTIC: TOTAL B	DOMESTIC: ALASKA ONSHORE C	DOMESTIC: ALASKA OFFSHORE D	DOMESTIC: OTHER ONSHORE E	DOMESTIC: OTHER OFFSHORE F	TOTAL FOREIGN G
WELLS:								
NUMBER OF WELLS (GROSS):								
EXPLORATORY WELLS COMPLETED DURING PERIOD:								
OIL	07.00							
GAS	08.00							
DRY	09.00							
DEVELOPMENT WELLS COMPLETED DURING PERIOD:								
OIL	10.00							
GAS	11.00							
DRY	12.00							
IN-PROGRESS WELLS AT END OF PERIOD:								
EXPLORATORY	13.00							
DEVELOPMENT	14.00							
NUMBER OF WELLS (NET):								
EXPLORATORY WELLS COMPLETED DURING PERIOD:								
OIL	15.00							
GAS	16.00							
DRY	17.00							
DEVELOPMENT WELLS COMPLETED DURING PERIOD:								
OIL	18.00							
GAS	19.00							
DRY	20.00							
IN-PROGRESS WELLS AT END OF PERIOD:								
EXPLORATORY	21.00							
DEVELOPMENT	22.00							
NUMBER OF PRODUCING WELLS:								
GROSS:								
OIL	23.00							
GAS	24.00							
NET:								
OIL	25.00							
GAS	26.00							

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FINANCIAL REPORTING SYSTEM
SCH 5241 – PAGE 6 OF 8

5241

DOMESTIC AND FOREIGN PETROLEUM SEGMENTS
EXPLORATION, DEVELOPMENT, AND PRODUCTION STATISTICS

FORM APPROVED
O.M.B. NO. 38-R-0341
EXPIRES 12/31/79

RESPONDENT CODE | RESPONDENT NAME | PERIOD BEGINNING MO DAY YR | PERIOD ENDING MO DAY YR | PAGE FOOTNOTE | ORIGINAL | REVISION | REVISION DATE AS OF MO DAY YR | PAGE | PAGES

H H H

	FRS LINE #	FOREIGN									
		TOTAL G	CANADA H	OECD EUROPE I	AFRICA NORTH J	AFRICA OTHER K	MIDDLE EAST L	OTHER EAST HEMISPHERE ASIA M	OTHER EAST HEMISPHERE OTHER N	OTHER WEST HEMISPHERE O	
WELLS											
NUMBER OF WELLS (GROSS):											
EXPLORATORY WELLS COMPLETED DURING PERIOD:											
OIL	07.00										
GAS	08.00										
DRY	09.00										
DEVELOPMENT WELLS COMPLETED DURING PERIOD:											
OIL	10.00										
GAS	11.00										
DRY	12.00										
IN-PROGRESS WELLS AT END OF PERIOD:											
EXPLORATORY	13.00										
DEVELOPMENT	14.00										
NUMBER OF WELLS (NET):											
EXPLORATORY WELLS COMPLETED DURING PERIOD:											
OIL	15.00										
GAS	16.00										
DRY	17.00										
DEVELOPMENT WELLS COMPLETED DURING PERIOD:											
OIL	18.00										
GAS	19.00										
DRY	20.00										
IN-PROGRESS WELLS AT END OF PERIOD:											
EXPLORATORY	21.00										
DEVELOPMENT	22.00										
NUMBER OF PRODUCING WELLS:											
GROSS:											
OIL	23.00										
GAS	24.00										
NET:											
OIL	25.00										
GAS	26.00										

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DOMESTIC AND FOREIGN PETROLEUM SEGMENTS
EXPLORATION, DEVELOPMENT, AND PRODUCTION STATISTICS

FORM APPROVED
O.M.B. NO. 38-R-0341
EXPIRES 12/31/79

RESPONDENT CODE | RESPONDENT NAME | PERIOD BEGINNING MO DAY YR | PERIOD ENDING MO DAY YR | PAGE FOOTNOTE | ORIGINAL | REVISION | REVISION DATE AS OF MO DAY YR | PAGE | PAGES

H H H

	FRS LINE #	GRAND TOTAL	DOMESTIC					TOTAL FOREIGN
				ALASKA		OTHER		
			TOTAL	ONSHORE	OFFSHORE	ONSHORE	OFFSHORE	
		A	B	C	D	E	F	G
DRILLING (THOUSANDS OF FEET):								
GROSS DRILLING FOOTAGE:								
EXPLORATORY WELLS:								
OIL	27.00							
GAS	28.00							
DRY	29.00							
DEVELOPMENT WELLS:								
OIL	30.00							
GAS	31.00							
DRY	32.00							
NET DRILLING FOOTAGE:								
EXPLORATORY WELLS:								
OIL	33.00							
GAS	34.00							
DRY	35.00							
DEVELOPMENT WELLS:								
OIL	36.00							
GAS	37.00							
DRY	38.00							

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FINANCIAL REPORTING SYSTEM
SCH 5241 – PAGE 6 OF 8

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DOMESTIC AND FOREIGN PETROLEUM SEGMENTS
EXPLORATION, DEVELOPMENT, AND PRODUCTION STATISTICS

FORM APPROVED
O.M.B. NO. 38-R-0361
EXPIRES 12/31/79

RESPONDENT CODE | RESPONDENT NAME | PERIOD BEGINNING MO. DAY YR. | PERIOD ENDING MO. DAY YR. | FILE NUMBER | ORIGINAL | REVISION | REVISION DATE MO. DAY YR. AS OF | PAGE | OF PAGES

	FRS LINE #	GRAND TOTAL A	DOMESTIC TOTAL B	ALASKA ONSHORE C	ALASKA OFFSHORE D	OTHER ONSHORE E	OTHER OFFSHORE F	TOTAL FOREIGN G
WORKING INTEREST PRODUCTION:								
GROSS:								
CRUDE (MB)	39.00							
NATURAL GAS (MMCF)	40.00							
NATURAL GAS LIQUIDS (MB)	41.00							
NET:								
CRUDE (MB)	42.00							
NATURAL GAS (MMCF)	43.00							
NATURAL GAS LIQUIDS:								
LEASEHOLD PRODUCTION (MB)	44.00							
CONTRACT PRODUCTION (MB)	45.00							
GROSS COMPANY-OPERATED PRODUCTION:								
OWN WORKING INTEREST:								
CRUDE (MB)	46.00							
NATURAL GAS (MMCF)	47.00							
NATURAL GAS LIQUIDS (MB)	48.00							
WORKING INTERESTS OF OTHERS:								
CRUDE (MB)	49.00							
NATURAL GAS (MMCF)	50.00							
NATURAL GAS LIQUIDS (MB)	51.00							
NON-WORKING INTEREST (ROYALTY) PRODUCTION:								
CRUDE (MB)	52.00							
NATURAL GAS (MMCF)	53.00							
NATURAL GAS LIQUIDS (MB)	54.00							
FOREIGN ACCESS:								
CRUDE (MB)	55.00							
NATURAL GAS (MMCF)	56.00							
NATURAL GAS LIQUIDS (MB)	57.00							

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DOMESTIC AND FOREIGN PETROLEUM SEGMENTS
EXPLORATION, DEVELOPMENT, AND PRODUCTION STATISTICS

FORM APPROVED
O.M.B. NO. 38-R-0361
EXPIRES 12/31/79

RESPONDENT CODE | RESPONDENT NAME | PERIOD BEGINNING MO. DAY YR. | PERIOD ENDING MO. DAY YR. | FILE NUMBER | ORIGINAL | REVISION | REVISION DATE MO. DAY YR. AS OF | PAGE | OF PAGES

	FRS LINE #	FOREIGN TOTAL G	CANADA H	OECD EUROPE I	AFRICA NORTH J	AFRICA OTHER K	MIDDLE EAST L	OTHER EAST HEMISPHERE ASIA M	OTHER EAST HEMISPHERE OTHER N	OTHER WEST HEMISPHERE O
WORKING INTEREST PRODUCTION:										
GROSS:										
CRUDE (MB)	39.00									
NATURAL GAS (MMCF)	40.00									
NATURAL GAS LIQUIDS (MB)	41.00									
NET:										
CRUDE (MB)	42.00									
NATURAL GAS (MMCF)	43.00									
NATURAL GAS LIQUIDS:										
LEASEHOLD PRODUCTION (MB)	44.00									
CONTRACT PRODUCTION (MB)	45.00									
GROSS COMPANY-OPERATED PRODUCTION:										
OWN WORKING INTEREST:										
CRUDE (MB)	46.00									
NATURAL GAS (MMCF)	47.00									
NATURAL GAS LIQUIDS (MB)	48.00									
WORKING INTERESTS OF OTHERS:										
CRUDE (MB)	49.00									
NATURAL GAS (MMCF)	50.00									
NATURAL GAS LIQUIDS (MB)	51.00									
NON-WORKING INTEREST (ROYALTY) PRODUCTION:										
CRUDE (MB)	52.00									
NATURAL GAS (MMCF)	53.00									
NATURAL GAS LIQUIDS (MB)	54.00									
FOREIGN ACCESS:										
CRUDE (MB)	55.00									
NATURAL GAS (MMCF)	56.00									
NATURAL GAS LIQUIDS (MB)	57.00									

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DOMESTIC AND FOREIGN PETROLEUM SEGMENTS
EXPLORATION, DEVELOPMENT, AND PRODUCTION STATISTICS

FORM APPROVED
O.M.B. NO. 38-R-0361
EXPIRES 12/31/79

RESPONDENT CODE | RESPONDENT NAME | REPORT ID NUMBER | FILING ENTITY NO. | FORM CONTROL | ORIGINAL | REVISION | REVISION DATE | PAGE | PAGES

	FRS LINE #	DOMESTIC TOTAL B	DOMESTIC ALASKA ONSHORE C	DOMESTIC ALASKA OFFSHORE D	DOMESTIC OTHER ONSHORE E	DOMESTIC OTHER OFFSHORE F
NET WORKING INTEREST CRUDE PRODUCTION (MB)						
BY RECOVERY METHOD:						
COMPANY-OPERATED PROPERTIES:						
PRIMARY RECOVERY OPERATIONS	58.00					
IMPROVED RECOVERY OPERATIONS:						
STATUTORY TERTIARY	59.00					
OTHER IMPROVED RECOVERY	60.00					
TOTAL	61.00					
OPERATED BY OTHERS:						
PRIMARY RECOVERY OPERATIONS	62.00					
IMPROVED RECOVERY OPERATIONS:						
STATUTORY TERTIARY	63.00					
OTHER IMPROVED RECOVERY	64.00					
TOTAL	65.00					
NET WORKING INTEREST CRUDE PRODUCTION (MB) BY TIER:						
COMPANY OPERATED:						
UPPER TIER	66.00					
LOWER TIER	67.00					
WORLD PRICE:						
STRIPPER	68.00					
OTHER	69.00					
OPERATED BY OTHERS:						
UPPER TIER	70.00					
LOWER TIER	71.00					
WORLD PRICE:						
STRIPPER	72.00					
OTHER	73.00					

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DOMESTIC AND FOREIGN PETROLEUM SEGMENTS
PETROLEUM REFINING STATISTICS

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O.M.B. NO. 38-R-0361
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RESPONDENT CODE | RESPONDENT NAME | REPORT ID NUMBER | FILING ENTITY NO. | FORM CONTROL | ORIGINAL | REVISION | REVISION DATE | PAGE | PAGES

	FRS LINE #	GRAND TOTAL A	TOTAL DOMESTIC B	TOTAL FOREIGN C	FOREIGN CANADA D	FOREIGN OECD EUROPE E	FOREIGN AFRICA F	FOREIGN MIDDLE EAST G	FOREIGN OTHER EAST HEMISPHERE H	FOREIGN OTHER WEST HEMISPHERE I
NUMBER OF REFINERIES:										
WHOLLY OWNED	01.00									
PARTIALLY OWNED	02.00									
TOTAL	03.00									
RUNS TO STILLS (MBD):										
AT OWN REFINERIES:										
FOR COMPANY ACCOUNT	04.00									
FOR OTHERS	05.00									
BY REFINERIES OF OTHERS	06.00									
TOTAL	07.00									
TOTAL REFINERY OUTPUT (MBD):										
AT OWN REFINERIES (FOR OWN ACCOUNT):										
MOTOR GASOLINE:										
LEADED	08.00									
UNLEADED	09.00									
TOTAL	10.00									
DISTILLATE FUELS	11.00									
RESIDUAL FUELS	12.00									
OTHER REFINED PRODUCTS	13.00									
TOTAL	14.00									
AT OWN REFINERIES (FOR OTHERS):										
MOTOR GASOLINE:										
LEADED	15.00									
UNLEADED	16.00									
TOTAL	17.00									
DISTILLATE FUELS	18.00									
RESIDUAL FUELS	19.00									
OTHER REFINED PRODUCTS	20.00									
TOTAL	21.00									

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DOMESTIC AND FOREIGN PETROLEUM SEGMENTS
PETROLEUM REFINING STATISTICS

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EXPIRES 12/31/79

RESPONDENT CODE | RESPONDENT NAME | PERIOD BEGINNING MO. DAY YR. | PERIOD ENDING MO. DAY YR. | FORM NO./PT. | ORIGINAL | RE VISION | AS OF MO. DAY YR. | PAGE | OF PAGES

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	FRS LINE #	GRAND TOTAL A	TOTAL DOMESTIC B	TOTAL FOREIGN C	FOREIGN: CANADA D	OECD EUROPE E	AFRICA F	MIDDLE EAST G	OTHER EAST HEMISPHERE H	OTHER WEST HEMISPHERE I
AT REFINERIES OF OTHERS (FOR OWN ACCOUNT):										
MOTOR GASOLINE										
LEADED	22.00									
UNLEADED	23.00									
TOTAL	24.00									
DISTILLATE FUELS	25.00									
RESIDUAL FUELS	26.00									
OTHER REFINED PRODUCTS	27.00									
TOTAL	28.00									
TOTAL (LINES 14.00, 21.00 & 28.00)	29.00									
CAPACITY (MBD):										
CAPACITY AT BEGINNING OF PERIOD	30.00									
NEW REFINERIES	31.00									
ADDITIONS TO EXISTING REFINERIES	32.00									
PURCHASE OF EXISTING REFINERIES	33.00									
REDUCTION OF CAPACITY	34.00									
SALE	35.00									
OTHER	36.00									
CAPACITY AT END OF PERIOD	37.00									
ANNOUNCED FUTURE CAPACITY CHANGES (WITHIN 5 YEARS):										
NEW REFINERIES	38.00									
ADDITIONS TO EXISTING REFINERIES	39.00									
PURCHASE OF EXISTING REFINERIES	40.00									
REDUCTIONS OF CAPACITY	41.00									

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DOMESTIC PETROLEUM SEGMENT
MOTOR FUEL MARKETING STATISTICS

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EXPIRES 12/31/79

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(IN THOUSANDS OF GALLONS)

	FRS LINE #	TOTAL ANNUAL VOLUMES SOLD A	NUMBER OF OUTLETS PUMPING THE FOLLOWING NUMBER OF M/GAL PER MONTH: TOTAL D-E B	OVER 150 C	75-149 D	UNDER 75 E	NUMBER OF OUTLETS: ACTIVE F	INACTIVE G
RETAIL MOTOR FUEL SALES THROUGH:								
COMPANY OPERATED OUTLETS/COMMISSION AGENTS	01.00							
LESSEE DEALERS	02.00							
OPEN DEALERS	03.00							
TOTAL	04.00							
ACQUISITIONS AND DISPOSITIONS OF RETAIL OUTLETS OWNED BY OR UNDER LEASE TO REPORTING COMPANY:								
NUMBER AT BEGINNING OF PERIOD	05.00							
ACTIVITY DURING THE PERIOD:								
NEW CONSTRUCTION	06.00							
PURCHASES OF EXISTING OUTLETS	07.00							
SALES OF EXISTING OUTLETS	08.00							
NEWLY LEASED OUTLETS	09.00							
EXPIRED LEASES NOT RENEWED	10.00							
OTHER	11.00							
NET RECLASSIFICATIONS	12.00							
NUMBER AT END OF PERIOD	13.00							

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DOMESTIC AND FOREIGN PETROLEUM SEGMENTS
TRANSPORTATION STATISTICS

FORM APPROVED
O.M.B. NO. 38-R-0361
EXPIRES 12/31/79

RESPONDENT CODE | RESPONDENT NAME | PERIOD BEGINNING MO DAY YR | PERIOD ENDING MO DAY YR | FOOTNOTE | ORIGINAL | REVISION | REVISION DATE MO DAY YR

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	FRS LINE #	NUMBER OF VESSELS A	CAPACITY (MDWT) B
MARINE:			
TANKERS:			
OWNED (INCLUDING CAPITALIZED LEASES)	01.00		
CHARTERED/LEASED:			
LONG-TERM	02.00		
OTHER	03.00		
TOTAL	04.00		
TOTAL	05.00		
VESSEL TYPE:			
ULCC	06.00		
VLCC	07.00		
SPECIALTY (LPG/LNG)	08.00		
OTHER TANKERS	09.00		
TOTAL	10.00		

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DOMESTIC AND FOREIGN PETROLEUM SEGMENTS
TRANSPORTATION STATISTICS

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RESPONDENT CODE | RESPONDENT NAME | PERIOD BEGINNING MO DAY YR | PERIOD ENDING MO DAY YR | FOOTNOTE | ORIGINAL | REVISION | REVISION DATE MO DAY YR

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	FRS LINE #	DOMESTIC TOTAL A	DOMESTIC FEDERALLY REGULATED B	DOMESTIC OTHER THAN FEDERALLY REGULATED C
PIPELINE:				
CONSOLIDATED PIPELINES (100 PERCENT OWNED):				
MILEAGE:				
CRUDE/LIQUID	11.00			
NATURAL GAS	12.00			
REFINED PRODUCT	13.00			
CAPACITY:				
CRUDE/LIQUID (MBD)	14.00			
NATURAL GAS (MMCF/DAY)	15.00			
REFINED PRODUCT (MBD)	16.00			
VOLUME TRANSPORTED FOR OWN ACCOUNT:				
CRUDE/LIQUID (MB)	17.00			
NATURAL GAS (MMCF)	18.00			
REFINED PRODUCT (MB)	19.00			
VOLUME TRANSPORTED FOR OTHERS:				
CRUDE/LIQUID (MB)	20.00			
NATURAL GAS (MMCF)	21.00			
REFINED PRODUCT (MB)	22.00			
CONSOLIDATED PIPELINES (PARTIALLY OWNED):				
MILEAGE:				
CRUDE/LIQUID	23.00			
NATURAL GAS	24.00			
REFINED PRODUCT	25.00			
GROSS CAPACITY:				
CRUDE/LIQUID (MBD)	26.00			
NATURAL GAS (MMCF/DAY)	27.00			
REFINED PRODUCT (MBD)	28.00			
NET CAPACITY:				
CRUDE/LIQUID (MBD)	29.00			
NATURAL GAS (MMCF/DAY)	30.00			
REFINED PRODUCT (MBD)	31.00			
VOLUME TRANSPORTED FOR OWN ACCOUNT:				
CRUDE/LIQUID (MB)	32.00			
NATURAL GAS (MMCF)	33.00			
REFINED PRODUCT (MB)	34.00			

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PETROLEUM PURCHASES, SALES, AND EXCHANGES
TRANSACTIONS WITH UNCONSOL AFFILIATES/UNAFFILIATED THIRD PARTIES

FORM APPROVED
O.M.B. NO. 38-R-0341
EXPIRES 12/31/79

RESPONDENT CODE | RESPONDENT NAME | PERIOD BEGINNING MO. DAY YR. | PERIOD ENDING MO. DAY YR. | FOOTNOTE | ORIGINAL | REVISION | REVISION DATE MO. DAY YR.

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	FRS LINE #	(M) BARRELS RECEIPTS A	(M) BARRELS DELIVERIES B
EXCHANGES WITH:			
GROUP I COMPANIES:			
CRUDE FOR CRUDE	01.00		
CRUDE FOR PRODUCT	02.00		
PRODUCT FOR CRUDE	03.00		
PRODUCT FOR PRODUCT	04.00		
GROUP II COMPANIES:			
CRUDE FOR CRUDE	05.00		
CRUDE FOR PRODUCT	06.00		
PRODUCT FOR CRUDE	07.00		
PRODUCT FOR PRODUCT	08.00		
OTHERS:			
CRUDE FOR CRUDE	09.00		
CRUDE FOR PRODUCT	10.00		
PRODUCT FOR CRUDE	11.00		
PRODUCT FOR PRODUCT	12.00		
TOTAL	13.00		

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PETROLEUM PURCHASES, SALES, AND EXCHANGES
TRANSACTIONS WITH UNCONSOL AFFILIATES/UNAFFILIATED THIRD PARTIES

FORM APPROVED
O.M.B. NO. 38-R-0341
EXPIRES 12/31/79

RESPONDENT CODE | RESPONDENT NAME | PERIOD BEGINNING MO. DAY YR. | PERIOD ENDING MO. DAY YR. | FOOTNOTE | ORIGINAL | REVISION | REVISION DATE MO. DAY YR.

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	FRS LINE #	(M) BARRELS RECEIPTS A	(M) BARRELS DELIVERIES B	(M) DOLLARS RECEIPTS C	(M) DOLLARS DELIVERIES D
PURCHASE/SALE AGREEMENTS WITH:					
GROUP I COMPANIES:					
CRUDE FOR CRUDE	14.00				
CRUDE FOR PRODUCT	15.00				
PRODUCT FOR CRUDE	16.00				
PRODUCT FOR PRODUCT	17.00				
GROUP II COMPANIES:					
CRUDE FOR CRUDE	18.00				
CRUDE FOR PRODUCT	19.00				
PRODUCT FOR CRUDE	20.00				
PRODUCT FOR PRODUCT	21.00				
OTHERS:					
CRUDE FOR CRUDE	22.00				
CRUDE FOR PRODUCT	23.00				
PRODUCT FOR CRUDE	24.00				
PRODUCT FOR PRODUCT	25.00				
TOTAL	26.00				
OTHER PURCHASES AND SALES WITH:					
GROUP I COMPANIES:					
CRUDE	27.00				
PRODUCT	28.00				
GROUP II COMPANIES					
CRUDE	29.00				
PRODUCT	30.00				

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DOMESTIC AND FOREIGN PETROLEUM SEGMENTS
PROVED PETROLEUM RESERVES

FORM APPROVED
O.M.B. NO. 38-R-0361
EXPIRES 12/31/79

RESPONDENT CODE | RESPONDENT NAME | PERIOD BEGINNING (MO. DAY YR) | PERIOD ENDING (MO. DAY YR) | FORM CONTACTS | ORIGINAL | REVISION | REVISION DATE (MO. DAY YR) | AS OF | PAGE | OF | PAGES | H H H

	FRS LINE #	GRAND TOTAL A	DOMESTIC TOTAL B	DOMESTIC ALASKA ONSHORE C	DOMESTIC ALASKA OFFSHORE D	DOMESTIC OTHER ONSHORE E	DOMESTIC OTHER OFFSHORE F	TOTAL FOREIGN G
CRUDE RESERVES (MB):								
NET WORKING INTEREST RESERVES:								
BEGINNING OF PERIOD	01.00							
CHANGES DUE TO:								
REVISIONS OF PREVIOUS ESTIMATES	02.00							
IMPROVED RECOVERY (SEE LINE 13.00, BELOW)	03.00							
PURCHASES OF MINERALS-IN-PLACE	04.00							
EXTENSIONS, DISCOVERIES, OTHER ADDITIONS	05.00							
PRODUCTION	06.00							
SALES OF MINERALS-IN-PLACE	07.00							
END OF PERIOD	08.00							
GROSS WORKING INTEREST RESERVES	09.00							
NON-WORKING INTEREST (ROYALTY) RESERVES	10.00							
PROPORTIONAL INTEREST IN INVESTEE RESERVES	11.00							
FOREIGN ACCESS	12.00							
STATUTORY TERTIARY PORTION OF LINE 03.00, ABOVE	13.00							

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DOMESTIC AND FOREIGN PETROLEUM SEGMENTS
PROVED PETROLEUM RESERVES

FORM APPROVED
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RESPONDENT CODE | RESPONDENT NAME | PERIOD BEGINNING (MO. DAY YR) | PERIOD ENDING (MO. DAY YR) | FORM CONTACTS | ORIGINAL | REVISION | REVISION DATE (MO. DAY YR) | AS OF | PAGE | OF | PAGES | H H H

	FRS LINE #	FOREIGN (CONTINUED ON PAGE 2 OF 5) TOTAL G	CANADA H	OECD EUROPE I	AFRICA NORTH J	AFRICA OTHER K
CRUDE RESERVES (MB):						
NET WORKING INTEREST RESERVES:						
BEGINNING OF PERIOD	01.00					
CHANGES DUE TO:						
REVISIONS OF PREVIOUS ESTIMATES	02.00					
IMPROVED RECOVERY	03.00					
PURCHASES OF MINERALS-IN-PLACE	04.00					
EXTENSIONS, DISCOVERIES, OTHER ADDITIONS	05.00					
PRODUCTION	06.00					
SALES OF MINERALS-IN-PLACE	07.00					
END OF PERIOD	08.00					
GROSS WORKING INTEREST RESERVES	09.00					
NON-WORKING INTEREST (ROYALTY) RESERVES	10.00					
PROPORTIONAL INTEREST IN INVESTEE RESERVES	11.00					
FOREIGN ACCESS	12.00					

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DOMESTIC AND FOREIGN PETROLEUM SEGMENTS
PROVED PETROLEUM RESERVES

FORM APPROVED
O.M.B. NO. 38-R-0361
EXPIRES 12/31/79

RESPONDENT CODE | RESPONDENT NAME | PERIOD BEGINNING MO DAY YR | PERIOD ENDING MO DAY YR | FOOTNOTE | ORIGINAL | REVISION | REVISION DATE MO DAY YR AS OF | PAGE | OF PAGES

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FOREIGN (CONTINUED FROM PAGE 3 OF 5)

	FRS LINE #	MIDDLE EAST L	OTHER EAST HEMISPHERE ASIA M	OTHER EAST HEMISPHERE OTHER N	OTHER WEST HEMISPHERE O
CRUDE RESERVES (MB):					
NET WORKING INTEREST RESERVES:					
BEGINNING OF PERIOD	01.00				
CHANGES DUE TO:					
REVISIONS OF PREVIOUS ESTIMATES	02.00				
IMPROVED RECOVERY	03.00				
PURCHASES OF MINERALS-IN-PLACE	04.00				
EXTENSIONS, DISCOVERIES, OTHER ADDITIONS	05.00				
PRODUCTION	06.00				
SALES OF MINERALS-IN-PLACE	07.00				
END OF PERIOD	08.00				
GROSS WORKING INTEREST RESERVES	09.00				
NON-WORKING INTEREST (ROYALTY) RESERVES	10.00				
PROPORTIONAL INTEREST IN INVESTEE RESERVES	11.00				
FOREIGN ACCESS	12.00				

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DOMESTIC AND FOREIGN PETROLEUM SEGMENTS
PROVED PETROLEUM RESERVES

FORM APPROVED
O.M.B. NO. 38-R-0361
EXPIRES 12/31/79

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	FRS LINE #	GRAND TOTAL A	DOMESTIC TOTAL B	DOMESTIC ALASKA ONSHORE C	DOMESTIC ALASKA OFFSHORE D	DOMESTIC OTHER ONSHORE E	DOMESTIC OTHER OFFSHORE F	TOTAL FOREIGN G
NATURAL GAS RESERVES (MMCF):								
NET WORKING INTEREST RESERVES:								
BEGINNING OF PERIOD	14.00							
CHANGES DUE TO:								
REVISIONS OF PREVIOUS ESTIMATES	15.00							
IMPROVED RECOVERY	16.00							
PURCHASES OF MINERALS-IN-PLACE	17.00							
EXTENSIONS, DISCOVERIES, OTHER ADDITIONS	18.00							
PRODUCTION	19.00							
SALES OF MINERALS-IN-PLACE	20.00							
END OF PERIOD	21.00							
GROSS WORKING INTEREST RESERVES	22.00							
NON-WORKING INTEREST (ROYALTY) RESERVES	23.00							
PROPORTIONAL INTEREST IN INVESTEE RESERVES	24.00							
FOREIGN ACCESS	25.00							
NATURAL GAS LIQUID LEASEHOLD RESERVES (MB):								
NET WORKING INTEREST RESERVES:								
BEGINNING OF PERIOD	26.00							
CHANGES DUE TO:								
REVISIONS OF PREVIOUS ESTIMATES	27.00							
IMPROVED RECOVERY	28.00							
PURCHASES OF MINERALS-IN-PLACE	29.00							
EXTENSIONS, DISCOVERIES, OTHER ADDITIONS	30.00							
PRODUCTION	31.00							
SALES OF MINERALS-IN-PLACE	32.00							
END OF PERIOD	33.00							
GROSS WORKING INTEREST RESERVES	34.00							
NON-WORKING INTEREST (ROYALTY) RESERVES	35.00							
PROPORTIONAL INTEREST IN INVESTEE RESERVES	36.00							
FOREIGN ACCESS	37.00							
NATURAL GAS LIQUID CONTRACT RESERVES (MB)	38.00							

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DOMESTIC AND FOREIGN PETROLEUM SEGMENTS
PROVED PETROLEUM RESERVES

FORM APPROVED
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	FRS LINE #	TOTAL FOREIGN G	CANADA H
NATURAL GAS RESERVES (MMCF):			
NET WORKING INTEREST RESERVES:			
BEGINNING OF PERIOD	14.00		
CHANGES DUE TO:			
REVISIONS OF PREVIOUS ESTIMATES	15.00		
IMPROVED RECOVERY	16.00		
PURCHASES OF MINERALS-IN-PLACE	17.00		
EXTENSIONS, DISCOVERIES, OTHER ADDITIONS	18.00		
PRODUCTION	19.00		
SALES OF MINERALS-IN-PLACE	20.00		
END OF PERIOD	21.00		
GROSS WORKING INTEREST RESERVES	22.00		
NON-WORKING INTEREST (ROYALTY) RESERVES	23.00		
PROPORTIONAL INTEREST IN INVESTEE RESERVES	24.00		
FOREIGN ACCESS	25.00		
NATURAL GAS LIQUID LEASEHOLD RESERVES (MB):			
NET WORKING INTEREST RESERVES:			
BEGINNING OF PERIOD	26.00		
CHANGES DUE TO:			
REVISIONS OF PREVIOUS ESTIMATES	27.00		
IMPROVED RECOVERY	28.00		
PURCHASES OF MINERALS-IN-PLACE	29.00		
EXTENSIONS, DISCOVERIES, OTHER ADDITIONS	30.00		
PRODUCTION	31.00		
SALES OF MINERALS-IN-PLACE	32.00		
END OF PERIOD	33.00		
GROSS WORKING INTEREST RESERVES	34.00		
NON-WORKING INTEREST (ROYALTY) RESERVES	35.00		
PROPORTIONAL INTEREST IN INVESTEE RESERVES	36.00		
FOREIGN ACCESS	37.00		
NATURAL GAS LIQUID CONTRACT RESERVES (MB)	38.00		

GPO 838-879

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FINANCIAL REPORTING SYSTEM
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DOMESTIC AND FOREIGN COAL OPERATIONS
STATEMENT OF INCOME

FORM APPROVED
O.M.B. NO. 38-R-0361
EXPIRES 12/31/79

RESPONDENT CODE | RESPONDENT NAME | PERIOD BEGINNING MO DAY YR | PERIOD ENDING MO DAY YR | PAGE FOOTNOTE | ORIGINAL | REVISION | REVISION DATE MO DAY YR

PAGE ___ OF PAGES ___ H H H

(IN THOUSANDS OF DOLLARS)

	FRS LINE #	CONSOL A	ELIM B	NON-TRACEABLE C	DOMESTIC D	FOREIGN E
OPERATING REVENUES						
LONG-TERM CONTRACT SALES OF PRIMARY PRODUCT	01.00					
OTHER SALES OF PRIMARY PRODUCT	02.00					
OTHER OPERATING REVENUES	03.00					
TOTAL OPERATING REVENUES	04.00					
OPERATING EXPENSES:						
GENERAL OPERATING EXPENSES:						
LEASE	05.00					
EXPLORATION & DEVELOPMENT	06.00					
PRODUCTION & PROCESSING OF COAL	07.00					
PURCHASES OF PRODUCTS FOR RESALE	08.00					
INVENTORY CHANGE	09.00					
RECLAMATION EXPENSES	10.00					
BLACK LUNG BENEFITS	11.00					
TAXES OTHER THAN INCOME TAXES	12.00					
OTHER GENERAL OPERATING EXPENSES	13.00					
TOTAL GENERAL OPERATING EXPENSES	14.00					
DD&A	15.00					
VALUATION CHARGES	16.00					
GENERAL & ADMINISTRATIVE	17.00					
RESEARCH & DEVELOPMENT	18.00					
TOTAL OPERATING EXPENSES	19.00					
OPERATING INCOME	20.00					

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SCH 5310 - PAGE 2 OF 2

5310

DOMESTIC AND FOREIGN COAL OPERATIONS
STATEMENT OF INCOME

FORM APPROVED
O.M.B. NO. 38-R-0361
EXPIRES 12/31/79

RESPONDENT CODE | RESPONDENT NAME | PERIOD BEGINNING MO DAY YR | PERIOD ENDING MO DAY YR | FOUR QUARTER ENDING YR | ORIGINAL | RESUBM. | RESUBMISSION DATE MO DAY YR

H H H

(IN THOUSANDS OF DOLLARS)

	FRS LINE #	CONSOL A	ELIM B	NON-TRACEABLE C	DOMESTIC D	FOREIGN E
OTHER REVENUE & (EXPENSE)						
EQUITY IN EARNINGS OF UNCONSOLIDATED AFFILIATES	21.00					
DIVIDEND INCOME FROM COST BASIS UNCONSOLIDATED AFFILIATES	22.00					
GAIN/(LOSS) ON DISPOSITION OF PP&E	23.00					
MINORITY INTEREST IN INCOME (NET OF INCOME TAX)	24.00					
FOREIGN CURRENCY TRANSLATION EFFECTS	25.00					
INCOME TAXES						
CURRENT	26.00					
DEFERRED	27.00					
TOTAL INCOME TAX	28.00					
TOTAL OTHER REVENUE & (EXPENSE)	29.00					
INCOME BEFORE LINES 31.00 & 32.00	30.00					
EXTRAORDINARY ITEMS	31.00					
CUMULATIVE EFFECT OF ACCOUNTING CHANGES	32.00					
CONTRIBUTION TO NET INCOME	33.00					

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DOMESTIC AND FOREIGN COAL OPERATIONS
SUMMARY FINANCIAL INDICATORS

FORM APPROVED
O.M.B. NO. 38-R-0361
EXPIRES 12/31/79

RESPONDENT CODE | RESPONDENT NAME | PERIOD BEGINNING MO DAY YR | PERIOD ENDING MO DAY YR | FOUR QUARTER ENDING YR | ORIGINAL | RESUBM. | RESUBMISSION DATE MO DAY YR

H H H

(IN THOUSANDS OF DOLLARS)

	FRS LINE #	CONSOL A	ELIM B	NON-TRACEABLE C	DOMESTIC D	FOREIGN E
SELECTED BALANCE SHEET INFORMATION:						
SELECTED CURRENT ASSETS:						
TRADE ACCOUNTS AND NOTES RECEIVABLE	01.00					
INVENTORIES:						
RAW MATERIALS & PRODUCTS	02.00					
MATERIALS & SUPPLIES	03.00					
NON-CURRENT ASSETS:						
PROPERTY, PLANT & EQUIPMENT:						
GROSS	04.00					
ACCUMULATED DD&A	05.00					
NET	06.00					
INVESTMENT & ADVANCES TO UNCONSOLIDATED AFFILIATES	07.00					
OTHER NON-CURRENT ASSETS	08.00					
TOTAL NON-CURRENT ASSETS	09.00					
ADDITIONS TO PROPERTY, PLANT & EQUIPMENT:						
PLANT & EQUIPMENT	10.00					
MINERAL PROPERTIES:						
PRODUCING	11.00					
NON-PRODUCING	12.00					
OTHER	13.00					
TOTAL (SCH 5130)	14.00					

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DOMESTIC COAL OPERATIONS
RESERVES AND PRODUCTION STATISTICS

FORM APPROVED
O.M.B. NO. 38-R-0341
EXPIRES 12/31/79

001 RESPONDENT CODE | RESPONDENT NAME | PERIOD (M O D Y R) | PERIOD ENDING (M O D Y R) | PAGE FOOTNOTE | ORIGINAL | REVISION | AS OF (REVISION DATE M O D Y R)
002 H H H
003
004 (IN THOUSANDS OF TONS)

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	FRS LINE #	GRAND TOTAL	UNDERGROUND				TOTAL SURFACE
			TOTAL	EAST	MID WEST	WEST	
		A	B	C	D	E	F
DOMESTIC COAL RESERVES:							
BITUMINOUS:							
HIGH SULPHUR	01.00						
MEDIUM SULPHUR	02.00						
LOW SULPHUR	03.00						
TOTAL	04.00						
SUB-BITUMINOUS:							
HIGH SULPHUR	05.00						
MEDIUM SULPHUR	06.00						
LOW SULPHUR	07.00						
TOTAL	08.00						
LIGNITE:							
HIGH SULPHUR	09.00						
MEDIUM SULPHUR	10.00						
LOW SULPHUR	11.00						
TOTAL	12.00						
TOTAL	13.00						
DOMESTIC COAL RESERVES:							
METALLURGICAL GRADE	14.00						
STEAM AND METALLURGICAL USEABLE	15.00						
NON-METALLURGICAL	16.00						
TOTAL	17.00						
COAL COMMITTED UNDER CONTRACT TO:							
ELECTRIC UTILITIES	18.00						
STEEL COMPANIES	19.00						
OTHER COMPANIES	20.00						
TOTAL	21.00						

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DOMESTIC COAL OPERATIONS
RESERVES AND PRODUCTION STATISTICS

FORM APPROVED
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EXPIRES 12/31/79

001 RESPONDENT CODE | RESPONDENT NAME | PERIOD (M O D Y R) | PERIOD ENDING (M O D Y R) | PAGE FOOTNOTE | ORIGINAL | REVISION | AS OF (REVISION DATE M O D Y R)
002 H H H
051
052 (IN THOUSANDS OF TONS)

PAGE ___ OF PAGES ___ H H H

	FRS LINE #	SURFACE			
		TOTAL	EAST	MID WEST	WEST
		F	G	H	I
DOMESTIC COAL RESERVES:					
BITUMINOUS:					
HIGH SULPHUR	01.00				
MEDIUM SULPHUR	02.00				
LOW SULPHUR	03.00				
TOTAL	04.00				
SUB-BITUMINOUS:					
HIGH SULPHUR	05.00				
MEDIUM SULPHUR	06.00				
LOW SULPHUR	07.00				
TOTAL	08.00				
LIGNITE:					
HIGH SULPHUR	09.00				
MEDIUM SULPHUR	10.00				
LOW SULPHUR	11.00				
TOTAL	12.00				
TOTAL	13.00				
DOMESTIC COAL RESERVES:					
METALLURGICAL GRADE	14.00				
STEAM AND METALLURGICAL USEABLE	15.00				
NON-METALLURGICAL	16.00				
TOTAL	17.00				
COAL COMMITTED UNDER CONTRACT TO:					
ELECTRIC UTILITIES	18.00				
STEEL COMPANIES	19.00				
OTHER COMPANIES	20.00				
TOTAL	21.00				

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FINANCIAL REPORTING SYSTEM
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DOMESTIC COAL OPERATIONS
RESERVES AND PRODUCTION STATISTICS

FORM APPROVED
O.M.B. NO. 38-R-0361
EXPIRES 12/31/79

RESPONDENT ID CODE | RESPONDENT NAME | PERIOD BEGINNING MO DAY YR | PERIOD ENDING MO DAY YR | FOOTNOTE | ORIGINAL | REVISION | AS OF | RESUBMISSION DATE MO DAY YR | PAGE | OF PAGES

H H H

(IN THOUSANDS OF TONS)

	FRS LINE #	GRAND TOTAL	UNDERGROUND				TOTAL SURFACE
			TOTAL	EAST	MID WEST	WEST	
		A	B	C	D	E	F
DOMESTIC COAL RESERVES:							
BEGINNING OF PERIOD	22.00						
CHANGES DUE TO:							
REVISIONS OF PREVIOUS ESTIMATES	23.00						
LEASES/PURCHASES OF MINERALS-IN-PLACE:							
PRIVATE SECTOR	24.00						
PUBLIC SECTOR:							
FEDERAL	25.00						
STATE/LOCAL	26.00						
CORPORATE MERGERS/ACQUISITIONS	27.00						
EXTENSIONS, DISCOVERIES & OTHER ADDITIONS	28.00						
PRODUCTION	29.00						
SALES OF MINERALS-IN-PLACE	30.00						
END OF PERIOD	31.00						
DOMESTIC COAL PRODUCTION:							
BITUMINOUS:							
HIGH SULPHUR	32.00						
MEDIUM SULPHUR	33.00						
LOW SULPHUR	34.00						
TOTAL	35.00						
SUB-BITUMINOUS:							
HIGH SULPHUR	36.00						
MEDIUM SULPHUR	37.00						
LOW SULPHUR	38.00						
TOTAL	39.00						
LIGNITE:							
HIGH SULPHUR	40.00						
MEDIUM SULPHUR	41.00						
LOW SULPHUR	42.00						
TOTAL	43.00						
TOTAL	44.00						
OUTPUT PER PERSON PER DAY	45.00						

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FINANCIAL REPORTING SYSTEM
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DOMESTIC COAL OPERATIONS
RESERVES AND PRODUCTION STATISTICS

FORM APPROVED
O.M.B. NO. 38-R-0361
EXPIRES 12/31/79

RESPONDENT ID CODE | RESPONDENT NAME | PERIOD BEGINNING MO DAY YR | PERIOD ENDING MO DAY YR | FOOTNOTE | ORIGINAL | REVISION | AS OF | RESUBMISSION DATE MO DAY YR | PAGE | OF PAGES

H H H

(IN THOUSANDS OF TONS)

	FRS LINE #	SURFACE			
		TOTAL	EAST	MID WEST	WEST
		F	G	H	I
DOMESTIC COAL RESERVES					
BEGINNING OF PERIOD	22.00				
CHANGES DUE TO:					
REVISIONS OF PREVIOUS ESTIMATES	23.00				
LEASES/PURCHASES OF MINERALS-IN-PLACE:					
PRIVATE SECTOR	24.00				
PUBLIC SECTOR:					
FEDERAL	25.00				
STATE/LOCAL	26.00				
CORPORATE MERGERS/ACQUISITIONS	27.00				
EXTENSIONS, DISCOVERIES & OTHER ADDITIONS	28.00				
PRODUCTION	29.00				
SALES OF MINERALS-IN-PLACE	30.00				
END OF PERIOD	31.00				
DOMESTIC COAL PRODUCTION:					
BITUMINOUS:					
HIGH SULPHUR	32.00				
MEDIUM SULPHUR	33.00				
LOW SULPHUR	34.00				
TOTAL	35.00				
SUB-BITUMINOUS:					
HIGH SULPHUR	36.00				
MEDIUM SULPHUR	37.00				
LOW SULPHUR	38.00				
TOTAL	39.00				
LIGNITE:					
HIGH SULPHUR	40.00				
MEDIUM SULPHUR	41.00				
LOW SULPHUR	42.00				
TOTAL	43.00				
TOTAL	44.00				
OUTPUT PER PERSON PER DAY	45.00				

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FINANCIAL REPORTING SYSTEM
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DOMESTIC COAL OPERATIONS
RESERVES AND PRODUCTION STATISTICS

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EXPIRES 12/31/79

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RESPONDENT CODE | RESPONDENT NAME | PERIOD BEGINNING MO DAY YR | PERIOD ENDING MO DAY YR | FOUR QUARTER NOTE | ORIGINAL | REVISION | AS OF | REVISION DATE MO DAY YR

H H H

(IN THOUSANDS OF TONS)

	FRS LINE #	TOTAL J	EAST K	MID WEST L	WEST M
LAND AVAILABLE FOR DEVELOPMENT, LEASED OR OWNED (ACRES)					
BEGINNING OF PERIOD	46.00				
ACQUISITIONS	47.00				
DISPOSITIONS	48.00				
END OF PERIOD	49.00				

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SCH 5342 – PAGE 1 OF 3

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DOMESTIC AND FOREIGN COAL OPERATIONS
OTHER COAL OPERATING STATISTICS

FORM APPROVED
O.M.B. NO. 38-R-0341
EXPIRES 12/31/79

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RESPONDENT CODE | RESPONDENT NAME | PERIOD BEGINNING MO DAY YR | PERIOD ENDING MO DAY YR | FOUR QUARTER NOTE | ORIGINAL | REVISION | AS OF | REVISION DATE MO DAY YR

H H H

(IN THOUSANDS OF TONS)

	FRS LINE #	DOMESTIC A	FOREIGN B
COAL SALES:			
TO ELECTRIC UTILITIES:			
CONTRACT SALES (INITIAL TERM)			
MORE THAN 5 YEARS	01.00		
1 TO 5 YEARS	02.00		
LESS THAN 1 YEAR	03.00		
TOTAL CONTRACT SALES	04.00		
SPOT SALES	05.00		
TOTAL SALES TO ELECTRIC UTILITIES	06.00		
TO STEEL COMPANIES:			
CONTRACT SALES	07.00		
SPOT SALES	08.00		
TOTAL SALES TO STEEL COMPANIES	09.00		
OTHER INDUSTRY SALES:			
CONTRACT SALES	10.00		
SPOT SALES	11.00		
TOTAL	12.00		
ALL OTHER SALES:			
CONTRACT SALES	13.00		
SPOT SALES	14.00		
TOTAL	15.00		
TOTAL COAL SALES	16.00		

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SCH 5342 – PAGE 2 OF 2

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DOMESTIC AND FOREIGN COAL OPERATIONS
OTHER COAL OPERATING STATISTICS

FORM APPROVED
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RESPONDENT CODE | RESPONDENT NAME | PERIOD RESTATED MO DAY YR | PERIOD ENDING MO DAY YR | PAGE CONTINUITY | ORIGINAL | REVISION | AS OF MO DAY YR

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FRS LINE #		MINE CODE (MHSA) A	STATE B	DATE INITIAL LICENSE REQUESTED C	ACTUAL OR EXPECTED DATE OF OPERATION D	ANNUAL CAPACITY (M TONS) TOTAL E	MINING METHOD DEEP F	MINING METHOD SURFACE G	MINE TYPE STEAM H	MINE TYPE MET I	MINE TYPE LIG/GAS J	MINE TYPE OTHER K
	NEW UNITS (ON LINE) AND ANNOUNCED UNITS (PENDING REGULATORY AND LICENSING APPROVALS)											
	NAME OF MINE											
		17.00										
		18.00										
		19.00										
		20.00										
		21.00										
		22.00										
		23.00										
		24.00										
		25.00										
		26.00										
		27.00										
	TOTAL (M TONS)	28.00										
	CURRENT ANNUAL PRODUCTION CAPACITY	29.00										

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FINANCIAL REPORTING SYSTEM
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5410

DOMESTIC AND FOREIGN NUCLEAR FUEL OPERATIONS
STATEMENT OF INCOME

FORM APPROVED
O.M.B. NO. 38-R-0361
EXPIRES 12/31/79

RESPONDENT CODE | RESPONDENT NAME | PERIOD RESTATED MO DAY YR | PERIOD ENDING MO DAY YR | PAGE CONTINUITY | ORIGINAL | REVISION | AS OF MO DAY YR

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H H H

(IN THOUSANDS OF DOLLARS)

	FRS LINE #	CONSOL A	ELIM B	NON-TRACEABLE C	DOMESTIC D	FOREIGN E
OPERATING REVENUES:						
MINED ORE SALES	01.00					
YELLOWCAKE SALES:						
LONG-TERM CONTRACTS	02.00					
OTHER	03.00					
HEXAFLUORIDE SALES:						
LONG-TERM CONTRACTS	04.00					
OTHER	05.00					
FABRICATED PRODUCT SALES:						
LONG-TERM CONTRACTS	06.00					
OTHER	07.00					
SERVICES FOR OTHERS:						
MINING	08.00					
MILLING	09.00					
CONVERSION	10.00					
ENRICHMENT	11.00					
FABRICATION	12.00					
SPENT FUEL STORAGE	13.00					
OTHER	14.00					
OTHER OPERATING REVENUES	15.00					
TOTAL OPERATING REVENUES	16.00					

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FINANCIAL REPORTING SYSTEM
SCH 5410 – PAGE 2 OF 3

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DOMESTIC AND FOREIGN NUCLEAR FUEL OPERATIONS
STATEMENT OF INCOME

FORM APPROVED
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(IN THOUSANDS OF DOLLARS)

	FRS LINE #	CONSOL A	ELIM B	NON-TRACEABLE C	DOMESTIC D	FOREIGN E
OPERATING EXPENSES:						
GENERAL OPERATING EXPENSES:						
EXPLORATION & DEVELOPMENT:						
EXPLORATORY DRILLING	17.00					
OTHER EXPLORATION EXPENSE	18.00					
DEVELOPMENT DRILLING	19.00					
OTHER DEVELOPMENT EXPENSE	20.00					
TOTAL EXPLORATION & DEVELOPMENT	21.00					
PRODUCTION (MINING & MILLING)	22.00					
CONVERSION	23.00					
ENRICHMENT	24.00					
FABRICATION	25.00					
SPENT FUEL STORAGE	26.00					
PURCHASES OF PRODUCTS:						
FOR RESALE	27.00					
FOR PROCESSING	28.00					
TOTAL PURCHASES	29.00					
INVENTORY CHANGE	30.00					
TAXES OTHER THAN INCOME TAXES	31.00					
OTHER GENERAL OPERATING EXPENSES	32.00					
TOTAL GENERAL OPERATING EXPENSES	33.00					
DD&A	34.00					
VALUATION CHARGES	35.00					
GENERAL & ADMINISTRATIVE	36.00					
RESEARCH & DEVELOPMENT	37.00					
TOTAL OPERATING EXPENSES	38.00					
OPERATING INCOME	39.00					

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FINANCIAL REPORTING SYSTEM
SCH 5410 – PAGE 3 OF 3

5410

DOMESTIC AND FOREIGN NUCLEAR FUEL OPERATIONS
STATEMENT OF INCOME

FORM APPROVED
O.M.B. NO. 38-R-0361
EXPIRES 12/31/79

RESPONDENT CODE | RESPONDENT NAME | PERIOD BEGINNING MO DAY YR | PERIOD ENDING MO DAY YR | PAGE FOOTNOTE | ORIGINAL | REVISION | REVISION DATE MO DAY YR AS OF

PAGE ___ OF PAGES ___

(IN THOUSANDS OF DOLLARS)

	FRS LINE #	CONSOL A	ELIM B	NON-TRACEABLE C	DOMESTIC D	FOREIGN E
OTHER REVENUE & (EXPENSE):						
EQUITY IN EARNINGS OF UNCONSOLIDATED AFFILIATES	40.00					
DIVIDEND INCOME FROM COST BASIS UNCONSOLIDATED AFFILIATES	41.00					
GAIN/(LOSS) ON DISPOSITION OF PP&E	42.00					
MINORITY INTEREST INCOME (NET OF INCOME TAX)	43.00					
FOREIGN CURRENCY TRANSLATION EFFECTS	44.00					
INCOME TAXES:						
CURRENT	45.00					
DEFERRED	46.00					
TOTAL INCOME TAX	47.00					
TOTAL OTHER REVENUE & (EXPENSE)	48.00					
INCOME BEFORE LINES 50.00 & 51.00	49.00					
EXTRAORDINARY ITEMS	50.00					
CUMULATIVE EFFECT OF ACCOUNTING CHANGES	51.00					
CONTRIBUTION TO NET INCOME	52.00					

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FINANCIAL REPORTING SYSTEM
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5420

DOMESTIC AND FOREIGN NUCLEAR FUEL OPERATIONS
SUMMARY FINANCIAL INDICATORS

FORM APPROVED
O.M.B. NO. 38-R-0341
EXPIRES 12/31/79

RESPONDENT CODE | RESPONDENT NAME | PERIOD BEGINNING (MO. DAY YR.) | PERIOD ENDING (MO. DAY YR.) | FOUR QUARTER NOTE | ORIGINAL | REVISION | REVISION DATE (MO. DAY YR.) AS OF

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H H H

(IN THOUSANDS OF DOLLARS)

	FRS LINE #	CONSOL A	ELIM B	NON-TRACEABLE C	DOMESTIC D	FOREIGN E
SELECTED BALANCE SHEET INFORMATION:						
SELECTED CURRENT ASSETS:						
TRADE ACCOUNTS AND NOTES RECEIVABLE	01.00					
INVENTORIES:						
RAW MATERIALS & PRODUCTS	02.00					
MATERIALS & SUPPLIES	03.00					
NON-CURRENT ASSETS:						
PROPERTY, PLANT & EQUIPMENT:						
GROSS PROPERTY, PLANT & EQUIPMENT:						
PRODUCTION (MINING & MILLING)	04.00					
CONVERSION	05.00					
ENRICHMENT	06.00					
FABRICATION	07.00					
SPENT FUEL STORAGE	08.00					
REPROCESSING	09.00					
PRODUCING PROPERTIES	10.00					
NON-PRODUCING PROPERTIES	11.00					
OTHER	12.00					
TOTAL	13.00					
ACCUMULATED DD&A	14.00					
NET PP&E	15.00					
INVESTMENT & ADVANCES TO UNCONSOLIDATED AFFILIATES	16.00					
OTHER NON-CURRENT ASSETS	17.00					
TOTAL NON-CURRENT ASSETS	18.00					

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FINANCIAL REPORTING SYSTEM
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5420

DOMESTIC AND FOREIGN NUCLEAR FUEL OPERATIONS
SUMMARY FINANCIAL INDICATORS

FORM APPROVED
O.M.B. NO. 38-R-0341
EXPIRES 12/31/79

RESPONDENT CODE | RESPONDENT NAME | PERIOD BEGINNING (MO. DAY YR.) | PERIOD ENDING (MO. DAY YR.) | FOUR QUARTER NOTE | ORIGINAL | REVISION | REVISION DATE (MO. DAY YR.) AS OF

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H H H

(IN THOUSANDS OF DOLLARS)

	FRS LINE #	CONSOL A	ELIM B	NON-TRACEABLE C	DOMESTIC D	FOREIGN E
ADDITIONS TO PROPERTY, PLANT & EQUIPMENT:						
PLANT & EQUIPMENT:						
PRODUCTION (MINING & MILLING)	19.00					
CONVERSION	20.00					
ENRICHMENT	21.00					
FABRICATION	22.00					
SPENT FUEL STORAGE FACILITIES	23.00					
REPROCESSING	24.00					
MINERAL PROPERTIES:						
PRODUCING	25.00					
NON-PRODUCING	26.00					
OTHER	27.00					
TOTAL (SCH 5130)	28.00					

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FINANCIAL REPORTING SYSTEM
SCH 5441 – PAGE 1 OF 3

5441

DOMESTIC AND FOREIGN NUCLEAR FUEL OPERATIONS
NUCLEAR FUEL OPERATING STATISTICS

FORM APPROVED
O.M.B. NO. 38-R-0361
EXPIRES 12/31/79

RESPONDENT CODE | RESPONDENT NAME | PERIOD BEGINNING MO. DAY YR. | PERIOD ENDING MO. DAY YR. | FILE CONTROL NUMBER | ORIGINAL | REVISION | REVISION DATE MO. DAY YR. AS OF | PAGE | OF | PAGES

H H H

	FRS LINE #	DOMESTIC A	FOREIGN B
LAND HELD FOR EXPLORATION (ACRES):			
BEGINNING OF PERIOD	01.00		
ACQUISITIONS	02.00		
DISPOSITIONS	03.00		
END OF PERIOD	04.00		
SURFACE DRILLING FOOTAGE:			
EXPLORATION	05.00		
DEVELOPMENT	06.00		
URANIUM RESERVES (M LBS.):			
COMMITTED UNDER CONTRACT	07.00		
UNCOMMITTED	08.00		
URANIUM RESERVES (M LBS.):			
BEGINNING OF PERIOD	09.00		
CHANGES DUE TO:			
REVISION OF PREVIOUS ESTIMATES	10.00		
LEASES/PURCHASES OF MINERALS-IN-PLACE	11.00		
PRIVATE	12.00		
PUBLIC	13.00		
CORPORATE MERGERS/ACQUISITIONS	14.00		
EXTENSIONS/DISCOVERIES, OTHER ADDITIONS	15.00		
PRODUCTION	16.00		
SALES OF MINERALS-IN-PLACE	17.00		
END OF PERIOD	18.00		
AVERAGE GRADE OF RESERVES AT END OF PERIOD (PERCENT YELLOWCAKE)	19.00	.	.

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FINANCIAL REPORTING SYSTEM
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DOMESTIC AND FOREIGN NUCLEAR FUEL OPERATIONS
NUCLEAR FUEL OPERATING STATISTICS

FORM APPROVED
O.M.B. NO. 38-R-0361
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RESPONDENT CODE | RESPONDENT NAME | PERIOD BEGINNING MO. DAY YR. | PERIOD ENDING MO. DAY YR. | FILE CONTROL NUMBER | ORIGINAL | REVISION | REVISION DATE MO. DAY YR. AS OF | PAGE | OF | PAGES

H H H

	FRS LINE #	DOMESTIC A	FOREIGN B
MINING (URANIUM ORE):			
ANNUAL MINING CAPACITY (M LBS, YELLOWCAKE EQUIVALENT)	20.00		
VOLUME MINED–OPEN PIT			
(M LBS, YELLOWCAKE EQUIVALENT)	21.00		
AVERAGE GRADE OF MINED ORE (PERCENT YELLOWCAKE)	22.00	.	.
VOLUME MINED–UNDERGROUND			
(M LBS, YELLOWCAKE EQUIVALENT)	23.00		
AVERAGE GRADE OF MINED ORE (PERCENT YELLOWCAKE)	24.00	.	.
VOLUME MINED–IN SITU			
(M LBS, YELLOWCAKE EQUIVALENT)	25.00		
AVERAGE GRADE OF MINED ORE (PERCENT YELLOWCAKE)	26.00	.	.
VOLUME MINED–OTHER			
(M LBS, YELLOWCAKE EQUIVALENT)	27.00		
AVERAGE GRADE OF MINED ORE (PERCENT YELLOWCAKE)	28.00	.	.
TOTAL VOLUME MINED			
(M LBS, YELLOWCAKE EQUIVALENT):			
OWN ACCOUNT	29.00		
FOR OTHERS	30.00		
MILLING (YELLOWCAKE):			
MILLING CAPACITY (TONS OF URANIUM ORE PER DAY)	31.00		
VOLUME MILLED (TONS OF URANIUM ORE):			
OWN ACCOUNT	32.00		
FOR OTHERS	33.00		
CONVERSION (M LBS, YELLOWCAKE EQUIVALENT):			
ANNUAL CONVERSION CAPACITY	34.00		
VOLUME CONVERTED			
OWN ACCOUNT	35.00		
FOR OTHERS	36.00		
FABRICATION (MTHM):			
ANNUAL FABRICATION CAPACITY	37.00		
VOLUME FABRICATED			
OWN ACCOUNT	38.00		
FOR OTHERS	39.00		

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FINANCIAL REPORTING SYSTEM
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DOMESTIC AND FOREIGN NUCLEAR FUEL OPERATIONS
NUCLEAR FUEL OPERATING STATISTICS

FORM APPROVED
O.M.B. NO. 38-R0361
EXPIRES 12/31/79

RESPONDENT CODE | RESPONDENT NAME | PERIOD BEGINNING MO DAY YR | PERIOD ENDING MO DAY YR | PAGE FOOTNOTE | ORIGINAL | REVISION | REVISION DATE MO DAY YR AS OF

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	FRS LINE #	DOMESTIC A	FOREIGN B
SPENT FUEL STORAGE (MTHM)			
ANNUAL STORAGE CAPACITY	40.00		
VOLUME STORED:			
OWN ACCOUNT	41.00		
FOR OTHERS	42.00		
ANNOUNCED FUTURE ADDITIONS TO CAPACITY (WITHIN 5 YEARS):			
MINING (M LBS, YELLOWCAKE EQUIVALENT/DAY)	43.00		
MILLING (TONS OF URANIUM ORE/DAY)	44.00		
CONVERSION (M LBS, YELLOWCAKE EQUIVALENT/DAY)	45.00		
ENRICHMENT (SEPARATIVE WORK UNITS/YEAR)	46.00		
FABRICATION (MTHM/YEAR)	47.00		
REPROCESSING (MTHM/YEAR)	48.00		
SPENT FUEL STORAGE (MTHM/YEAR)	49.00		
ACTUAL CURRENT PERIOD ADDITIONS TO ANNUAL CAPACITY:			
MINING (M LBS, YELLOWCAKE EQUIVALENT/DAY)	50.00		
MILLING (TONS OF URANIUM ORE/DAY)	51.00		
CONVERSION (M LBS, YELLOWCAKE EQUIVALENT/DAY)	52.00		
ENRICHMENT (SEPARATIVE WORK UNITS/YEAR)	53.00		
FABRICATION (MTHM/YEAR)	54.00		
REPROCESSING (MTHM/YEAR)	55.00		
SPENT FUEL STORAGE (MTHM/YEAR)	56.00		

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DOMESTIC AND FOREIGN OTHER ENERGY OPERATIONS
STATEMENT OF INCOME

FORM APPROVED
O.M.B. NO. 38-R0361
EXPIRES 12/31/79

RESPONDENT CODE | RESPONDENT NAME | PERIOD BEGINNING MO DAY YR | PERIOD ENDING MO DAY YR | PAGE FOOTNOTE | ORIGINAL | REVISION | REVISION DATE MO DAY YR AS OF

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(IN THOUSANDS OF DOLLARS)

	FRS LINE #	CONSOL A	ELIM B	NON-TRACEABLE C	TOTAL DOMESTIC D	TOTAL FOREIGN E
OPERATING REVENUES:						
SALES OF PRIMARY PRODUCT	01.00					
GOVERNMENT GRANTS & TRANSFERS	02.00					
NON-GOVERNMENT GRANTS & TRANSFERS	03.00					
PATENT CROSS-LICENSING	04.00					
OTHER OPERATING REVENUES	05.00					
TOTAL OPERATING REVENUES	06.00					
OPERATING EXPENSES:						
GENERAL OPERATING EXPENSES:						
EXPLORATION & DEVELOPMENT	07.00					
PATENT CROSS-LICENSING	08.00					
PRODUCTION	09.00					
TAXES OTHER THAN INCOME TAXES	10.00					
OTHER GENERAL OPERATING EXPENSES	11.00					
TOTAL GENERAL OPERATING EXPENSES	12.00					
DD&A	13.00					
VALUATION CHARGES	14.00					
GENERAL & ADMINISTRATIVE	15.00					
RESEARCH & DEVELOPMENT	16.00					
TOTAL OPERATING EXPENSES	17.00					
OPERATING INCOME	18.00					

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DOMESTIC AND FOREIGN OTHER ENERGY OPERATIONS
STATEMENT OF INCOME

FORM APPROVED
O.M.B. NO. 38-R-0361
EXPIRES 12/31/79

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(IN THOUSANDS OF DOLLARS)

DOMESTIC (CONTINUED ON PAGE 3 OF 6)

	FRS LINE #	TOTAL F	ELIM G	NON-TRACEABLE H	OIL SHALE I	TAR SANDS J
OPERATING REVENUES:						
SALES OF PRIMARY PRODUCT	01.00					
GOVERNMENT GRANTS & TRANSFERS	02.00					
NON-GOVERNMENT GRANTS & TRANSFERS	03.00					
PATENT CROSS-LICENSING	04.00					
OTHER OPERATING REVENUES	05.00					
TOTAL OPERATING REVENUES	06.00					
OPERATING EXPENSES:						
GENERAL OPERATING EXPENSES:						
EXPLORATION & DEVELOPMENT	07.00					
PATENT CROSS-LICENSING	08.00					
PRODUCTION	09.00					
TAXES OTHER THAN INCOME TAXES	10.00					
OTHER GENERAL OPERATING EXPENSES	11.00					
TOTAL GENERAL OPERATING EXPENSES	12.00					
DD&A	13.00					
VALUATION CHARGES	14.00					
GENERAL & ADMINISTRATIVE	15.00					
RESEARCH & DEVELOPMENT	16.00					
TOTAL OPERATING EXPENSES	17.00					
OPERATING INCOME	18.00					

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DOMESTIC AND FOREIGN OTHER ENERGY OPERATIONS
STATEMENT OF INCOME

FORM APPROVED
O.M.B. NO. 38-R-0361
EXPIRES 12/31/79

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(IN THOUSANDS OF DOLLARS)

DOMESTIC (CONTINUED FROM PAGE 2 OF 6)

	FRS LINE #	GEOTHERM K	COAL GASIF/ LIQUEFAC L	OTHER M
OPERATING REVENUES:				
SALES OF PRIMARY PRODUCT	01.00			
GOVERNMENT GRANTS & TRANSFERS	02.00			
NON-GOVERNMENT GRANTS & TRANSFERS	03.00			
PATENT CROSS-LICENSING	04.00			
OTHER OPERATING REVENUES	05.00			
TOTAL OPERATING REVENUES	06.00			
OPERATING EXPENSES:				
GENERAL OPERATING EXPENSES:				
EXPLORATION & DEVELOPMENT	07.00			
PATENT CROSS-LICENSING	08.00			
PRODUCTION	09.00			
TAXES OTHER THAN INCOME TAXES	10.00			
OTHER GENERAL OPERATING EXPENSES	11.00			
TOTAL GENERAL OPERATING EXPENSES	12.00			
DD&A	13.00			
VALUATION CHARGES	14.00			
GENERAL & ADMINISTRATIVE	15.00			
RESEARCH & DEVELOPMENT	16.00			
TOTAL OPERATING EXPENSES	17.00			
OPERATING INCOME	18.00			

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DOMESTIC AND FOREIGN OTHER ENERGY OPERATIONS
STATEMENT OF INCOME

FORM APPROVED
O.M.B. NO. 38-R-0361
EXPIRES 12/31/78

RESPONDENT CODE | RESPONDENT NAME | PERIOD BEGINNING MO. DAY YR. | PERIOD ENDING MO. DAY YR. | FILE FOOTNOTE | ORIGINAL | REVISION | RESUBMISSION DATE MO. DAY YR. AS OF

(IN THOUSANDS OF DOLLARS)

	FRS LINE #	CONSOL A	ELIM B	NON-TRACEABLE C	TOTAL DOMESTIC D	TOTAL FOREIGN E
OTHER REVENUE & (EXPENSE):						
EQUITY IN EARNINGS OF UNCONSOLIDATED AFFILIATES	19.00					
DIVIDEND INCOME FROM COST BASIS UNCONSOLIDATED AFFILIATES	20.00					
GAIN/(LOSS) ON DISPOSITION OF PP&E	21.00					
MINORITY INTEREST IN INCOME (NET OF INCOME TAX)	22.00					
FOREIGN CURRENCY TRANSLATION EFFECTS	23.00					
INCOME TAXES:						
CURRENT	24.00					
DEFERRED	25.00					
TOTAL INCOME TAX	26.00					
TOTAL OTHER REVENUE & (EXPENSE)	27.00					
INCOME BEFORE LINES 29.00 & 30.00	28.00					
EXTRAORDINARY ITEMS	29.00					
CUMULATIVE EFFECT OF ACCOUNTING CHANGES	30.00					
CONTRIBUTION TO NET INCOME	31.00					

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DOMESTIC AND FOREIGN OTHER ENERGY OPERATIONS
STATEMENT OF INCOME

FORM APPROVED
O.M.B. NO. 38-R-0361
EXPIRES 12/31/78

RESPONDENT CODE | RESPONDENT NAME | PERIOD BEGINNING MO. DAY YR. | PERIOD ENDING MO. DAY YR. | FILE FOOTNOTE | ORIGINAL | REVISION | RESUBMISSION DATE MO. DAY YR. AS OF

(IN THOUSANDS OF DOLLARS)

	FRS LINE #	DOMESTIC (CONTINUED ON PAGE 6 OF 6) TOTAL F	ELIM G	NON-TRACEABLE H	OIL SHALE I	TAR SANDS J
OTHER REVENUE & (EXPENSE):						
EQUITY IN EARNINGS OF UNCONSOLIDATED AFFILIATES	19.00					
DIVIDEND INCOME FROM COST BASIS UNCONSOLIDATED AFFILIATES	20.00					
GAIN/(LOSS) ON DISPOSITION OF PP&E	21.00					
MINORITY INTEREST IN INCOME (NET OF INCOME TAX)	22.00					
FOREIGN CURRENCY TRANSLATION EFFECTS	23.00					
INCOME TAXES:						
CURRENT	24.00					
DEFERRED	25.00					
TOTAL INCOME TAX	26.00					
TOTAL OTHER REVENUE & (EXPENSE)	27.00					
INCOME BEFORE LINES 29.00 & 30.00	28.00					
EXTRAORDINARY ITEMS	29.00					
CUMULATIVE EFFECT OF ACCOUNTING CHANGES	30.00					
CONTRIBUTION TO NET INCOME	31.00					

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DOMESTIC AND FOREIGN OTHER ENERGY OPERATIONS
STATEMENT OF INCOME

FORM APPROVED
O.M.B. NO. 38-R-0361
EXPIRES 12/31/79

001 RESPONDENT CODE | RESPONDENT NAME | PERIOD BEGINNING MO DAY YR | PERIOD ENDING MO DAY YR | PAGE FOOTNOTE | ORIGINAL | REVISION | REVISION DATE MO DAY YR
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(IN THOUSANDS OF DOLLARS)

DOMESTIC (CONTINUED FROM PAGE 5 OF 6)

	FRS LINE #	GEOTHERM K	COAL GASIF/ LIQUEFAC L	OTHER M
OTHER REVENUE & (EXPENSE)				
EQUITY IN EARNINGS OF UNCONSOLIDATED AFFILIATES	19.00			
DIVIDEND INCOME FROM COST BASIS				
UNCONSOLIDATED AFFILIATES	20.00			
GAIN/(LOSS) ON DISPOSITION OF PP&E	21.00			
MINORITY INTEREST IN INCOME (NET OF INCOME TAX)	22.00			
FOREIGN CURRENCY TRANSLATION EFFECTS	23.00			
INCOME TAXES				
CURRENT	24.00			
DEFERRED	25.00			
TOTAL INCOME TAX	26.00			
TOTAL OTHER REVENUE & (EXPENSE)	27.00			
INCOME BEFORE LINES 29.00 & 30.00	28.00			
EXTRAORDINARY ITEMS	29.00			
CUMULATIVE EFFECT OF ACCOUNTING CHANGES	30.00			
CONTRIBUTION TO NET INCOME	31.00			

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FINANCIAL REPORTING SYSTEM
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DOMESTIC AND FOREIGN OTHER ENERGY OPERATIONS
SUMMARY FINANCIAL INDICATORS

FORM APPROVED
O.M.B. NO. 38-R-0361
EXPIRES 12/31/79

001 RESPONDENT CODE | RESPONDENT NAME | PERIOD BEGINNING MO DAY YR | PERIOD ENDING MO DAY YR | PAGE FOOTNOTE | ORIGINAL | REVISION | REVISION DATE MO DAY YR
002 H H H | | | | | | | AS OF

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(IN THOUSANDS OF DOLLARS)

	FRS LINE #	CONSOL A	ELIM B	NON-TRACEABLE C	TOTAL DOMESTIC D	TOTAL FOREIGN E
SELECTED BALANCE SHEET INFORMATION						
SELECTED CURRENT ASSETS						
TRADE ACCOUNTS AND NOTES RECEIVABLE	01.00					
INVENTORIES						
RAW MATERIALS & PRODUCTS	02.00					
MATERIALS & SUPPLIES	03.00					
NON-CURRENT ASSETS						
PROPERTY, PLANT & EQUIPMENT						
GROSS	04.00					
ACCUMULATED DD&A	05.00					
NET	06.00					
INVESTMENT & ADVANCES TO						
UNCONSOLIDATED AFFILIATES	07.00					
OTHER NON-CURRENT ASSETS	08.00					
TOTAL NON-CURRENT ASSETS	09.00					
ADDITIONS TO PROPERTY, PLANT & EQUIPMENT						
PLANT & EQUIPMENT	10.00					
MINERAL PROPERTIES						
PRODUCING	11.00					
NON-PRODUCING	12.00					
OTHER	13.00					
TOTAL (SCH 5130)	14.00					

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DOMESTIC AND FOREIGN OTHER ENERGY OPERATIONS
SUMMARY FINANCIAL INDICATORS

FORM APPROVED
O.M.B. NO. 38-R-0361
EXPIRES 12/31/79

RESPONDENT CODE | RESPONDENT NAME | PERIOD BEGINNING MO DAY YR | PERIOD ENDING MO DAY YR | PAGE FOOTNOTE | ORIGINAL | REVISION | REVISION DATE AS OF MO DAY YR

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(IN THOUSANDS OF DOLLARS)

DOMESTIC (CONTINUED ON PAGE 3 OF 3)

	FRS LINE #	TOTAL F	ELIM G	NON-TRACEABLE H	OIL SHALE I	TAR SANDS J
SELECTED BALANCE SHEET INFORMATION:						
SELECTED CURRENT ASSETS:						
TRADE ACCOUNTS AND NOTES RECEIVABLE	01.00					
INVENTORIES:						
RAW MATERIALS & PRODUCTS	02.00					
MATERIALS & SUPPLIES	03.00					
NON-CURRENT ASSETS:						
PROPERTY, PLANT & EQUIPMENT:						
GROSS	04.00					
ACCUMULATED DD&A	05.00					
NET	06.00					
INVESTMENT & ADVANCES TO						
UNCONSOLIDATED AFFILIATES	07.00					
OTHER NON-CURRENT ASSETS	08.00					
TOTAL NON-CURRENT ASSETS	09.00					
ADDITIONS TO PROPERTY, PLANT & EQUIPMENT:						
PLANT & EQUIPMENT	10.00					
MINERAL PROPERTIES:						
PRODUCING	11.00					
NON-PRODUCING	12.00					
OTHER	13.00					
TOTAL (SCH 5130)	14.00					

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FINANCIAL REPORTING SYSTEM
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DOMESTIC AND FOREIGN OTHER ENERGY OPERATIONS
SUMMARY FINANCIAL INDICATORS

FORM APPROVED
O.M.B. NO. 38-R-0361
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(IN THOUSANDS OF DOLLARS)

DOMESTIC (CONTINUED FROM PAGE 2 OF 3)

	FRS LINE #	GEOTHERM K	COAL GASIF/ LIQUEFAC L	OTHER M
SELECTED BALANCE SHEET INFORMATION:				
SELECTED CURRENT ASSETS:				
TRADE ACCOUNTS AND NOTES RECEIVABLE	01.00			
INVENTORIES:				
RAW MATERIALS & PRODUCTS	02.00			
MATERIALS & SUPPLIES	03.00			
NON-CURRENT ASSETS:				
PROPERTY, PLANT & EQUIPMENT:				
GROSS	04.00			
ACCUMULATED DD&A	05.00			
NET	06.00			
INVESTMENT & ADVANCES TO				
UNCONSOLIDATED AFFILIATES	07.00			
OTHER NON-CURRENT ASSETS	08.00			
TOTAL NON-CURRENT ASSETS	09.00			
ADDITIONS TO PROPERTY, PLANT & EQUIPMENT:				
PLANT & EQUIPMENT	10.00			
MINERAL PROPERTIES:				
PRODUCING	11.00			
NON-PRODUCING	12.00			
OTHER	13.00			
TOTAL (SCH 5130)	14.00			

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DOMESTIC AND FOREIGN OTHER ENERGY OPERATIONS
OTHER ENERGY OPERATING STATISTICS

FORM APPROVED
O.M.B. NO. 38-R-0361
EXPIRES 12/31/79

RESPONDENT CODE | RESPONDENT NAME | PERIOD BEGINNING MO DAY YR | PERIOD ENDING MO DAY YR | PAGE NO | ORIGINAL | REVISION | REVISION DATE AS OF MO DAY YR

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	FRS LINE #	DOMESTIC OIL SHALE A	TAR SANDS B	GEOTHERM C	COAL GASIF LIQUEFAC D	OTHER E
ACREAGE AT END OF PERIOD:						
NET ACRES LEASED						
FROM GOVERNMENT	01.00					
FROM OTHERS	02.00					
TOTAL NET ACRES LEASED	03.00					
NET ACRES OWNED	04.00					
TOTAL NET ACRES	05.00					
ANNUAL CAPACITY (BARRELS OR EQUIVALENT)						
IN-PLACE AT BEGINNING OF PERIOD	06.00					
ADDITIONS DURING PERIOD	07.00					
ANNOUNCED FUTURE ADDITIONS TO CAPACITY (WITHIN THE NEXT 5 YEARS)						
PILOT PLANTS	08.00					
COMMERCIAL OPERATIONS	09.00					

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FINANCIAL REPORTING SYSTEM
SCH 5541 – PAGE 2 OF 2

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DOMESTIC AND FOREIGN OTHER ENERGY OPERATIONS
OTHER ENERGY OPERATING STATISTICS

FORM APPROVED
O.M.B. NO. 38-R-0361
EXPIRES 12/31/79

RESPONDENT CODE | RESPONDENT NAME | PERIOD BEGINNING MO DAY YR | PERIOD ENDING MO DAY YR | PAGE NO | ORIGINAL | REVISION | REVISION DATE AS OF MO DAY YR

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	FRS LINE #	FOREIGN OIL SHALE F	TAR SANDS G	GEOTHERM H	COAL GASIF/ LIQUEFAC I	OTHER J
ACREAGE AT END OF PERIOD:						
NET ACRES LEASED						
FROM GOVERNMENT	01.00					
FROM OTHERS	02.00					
TOTAL NET ACRES LEASED	03.00					
NET ACRES OWNED	04.00					
TOTAL NET ACRES	05.00					
ANNUAL CAPACITY (BARRELS OR EQUIVALENT)						
IN-PLACE AT BEGINNING OF PERIOD	06.00					
ADDITIONS DURING PERIOD	07.00					
ANNOUNCED FUTURE ADDITIONS TO CAPACITY (WITHIN THE NEXT 5 YEARS):						
PILOT PLANTS	08.00					
COMMERCIAL OPERATIONS	09.00					

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FINANCIAL REPORTING SYSTEM
SCH 1810 - PAGE 1 OF 2

5610

DOMESTIC AND FOREIGN NON-ENERGY OPERATIONS
STATEMENT OF INCOME

FORM APPROVED
O.M.B. NO. 38-R-0361
EXPIRES 12/31/79

RESPONDENT CODE | RESPONDENT NAME | PERIOD BEGINNING MO. DAY YR. | PERIOD ENDING MO. DAY YR. | PAGE FOOTNOTE | ORIGINAL | REVISION | NO. OF REVISION | REVISION DATE MO. DAY YR.

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(IN THOUSANDS OF DOLLARS)

	FRS LINE #	CONSOL A	ELIM B	NON-TRACEABLE C	CONSOL CHEMICAL D	CONSOL OTHER NON-ENERGY E
OPERATING REVENUES	01.00					
OPERATING EXPENSES						
GENERAL OPERATING EXPENSES	02.00					
DD&A	03.00					
VALUATION CHARGES	04.00					
GENERAL & ADMINISTRATIVE	05.00					
RESEARCH & DEVELOPMENT	06.00					
TOTAL OPERATING EXPENSES	07.00					
OPERATING INCOME	08.00					
OTHER REVENUE & (EXPENSE)						
EQUITY IN EARNINGS OF UNCONSOLIDATED AFFILIATES	09.00					
DIVIDEND INCOME FROM COST BASIS						
UNCONSOLIDATED AFFILIATES	10.00					
GAIN/(LOSS) ON DISPOSITION OF PP&E	11.00					
MINORITY INTEREST IN INCOME (NET OF INCOME TAX)	12.00					
FOREIGN CURRENCY TRANSLATION EFFECTS	13.00					
INCOME TAXES						
CURRENT	14.00					
DEFERRED	15.00					
TOTAL INCOME TAX	16.00					
TOTAL OTHER REVENUE & (EXPENSE)	17.00					
INCOME BEFORE LINES 19.00 & 20.00	18.00					
EXTRAORDINARY ITEMS	19.00					
CUMULATIVE EFFECT OF ACCOUNTING CHANGES	20.00					
CONTRIBUTION TO NET INCOME	21.00					

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SCH 1810 - PAGE 2 OF 2

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DOMESTIC AND FOREIGN NON-ENERGY OPERATIONS
STATEMENT OF INCOME

FORM APPROVED
O.M.B. NO. 38-R-0361
EXPIRES 12/31/79

RESPONDENT CODE | RESPONDENT NAME | PERIOD BEGINNING MO. DAY YR. | PERIOD ENDING MO. DAY YR. | PAGE FOOTNOTE | ORIGINAL | REVISION | NO. OF REVISION | REVISION DATE MO. DAY YR.

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(IN THOUSANDS OF DOLLARS)

	FRS LINE #	CHEMICAL				
		CONSOL F	ELIM G	NON-TRACEABLE H	DOMESTIC I	FOREIGN J
OPERATING REVENUES	01.00					
OPERATING EXPENSES						
GENERAL OPERATING EXPENSES	02.00					
DD&A	03.00					
VALUATION CHARGES	04.00					
GENERAL & ADMINISTRATIVE	05.00					
RESEARCH & DEVELOPMENT	06.00					
TOTAL OPERATING EXPENSES	07.00					
OPERATING INCOME	08.00					

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DOMESTIC AND FOREIGN NON-ENERGY OPERATIONS
STATEMENT OF INCOME

FORM APPROVED
O.M.B. NO. 38-R-0361
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(IN THOUSANDS OF DOLLARS)

	FRS LINE #	OTHER NON-ENERGY CONSOL K	ELIM L	NON-TRACEABLE M	DOMESTIC N	FOREIGN O
OPERATING REVENUES	01.00					
OPERATING EXPENSES						
GENERAL OPERATING EXPENSES	02.00					
DD&A	03.00					
VALUATION CHARGES	04.00					
GENERAL & ADMINISTRATIVE	05.00					
RESEARCH & DEVELOPMENT	06.00					
TOTAL OPERATING EXPENSES	07.00					
OPERATING INCOME	08.00					

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DOMESTIC AND FOREIGN NON-ENERGY OPERATIONS
SUMMARY FINANCIAL INDICATORS

FORM APPROVED
O.M.B. NO. 38-R-0361
EXPIRES 12/31/79

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(IN THOUSANDS OF DOLLARS)

	FRS LINE #	CONSOL A	ELIM B	NON-TRACEABLE C	CONSOL CHEMICAL D	CONSOL OTHER NON-ENERGY E
SELECTED BALANCE SHEET INFORMATION:						
SELECTED CURRENT ASSETS:						
TRADE ACCOUNTS AND NOTES RECEIVABLE	01.00					
INVENTORIES:						
RAW MATERIALS & PRODUCTS	02.00					
MATERIALS & SUPPLIES	03.00					
NON-CURRENT ASSETS:						
PROPERTY, PLANT & EQUIPMENT:						
GROSS	04.00					
ACCUMULATED DD&A	05.00					
NET	06.00					
INVESTMENT & ADVANCES TO						
UNCONSOLIDATED AFFILIATES	07.00					
OTHER NON-CURRENT ASSETS	08.00					
TOTAL NON-CURRENT ASSETS	09.00					

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DOMESTIC AND FOREIGN NON-ENERGY OPERATIONS
SUMMARY FINANCIAL INDICATORS

FORM APPROVED
O.M.B. NO. 38-R-0361
EXPIRES 12/31/79

RESPONDENT CODE | RESPONDENT NAME | PERIOD BEGINNING MO DAY YR | PERIOD ENDING MO DAY YR | PAGE FOOTNOTE | ORIGINAL | REVISION | AS OF MO DAY YR

PAGE ___ OF PAGES ___ H H H

(IN THOUSANDS OF DOLLARS)

	FRS LINE #	CHEMICAL CONSOL F	CHEMICAL ELIM G	CHEMICAL NON-TRACEABLE H	CHEMICAL DOMESTIC I	CHEMICAL FOREIGN J
SELECTED BALANCE SHEET INFORMATION						
SELECTED CURRENT ASSETS						
TRADE ACCOUNTS AND NOTES RECEIVABLE	01.00					
INVENTORIES						
RAW MATERIALS & PRODUCTS	02.00					
MATERIALS & SUPPLIES	03.00					
NON-CURRENT ASSETS						
PROPERTY, PLANT & EQUIPMENT						
GROSS	04.00					
ACCUMULATED DD&A	05.00					
NET	06.00					
INVESTMENT & ADVANCES TO						
UNCONSOLIDATED AFFILIATES	07.00					
OTHER NON-CURRENT ASSETS	08.00					
TOTAL NON-CURRENT ASSETS	09.00					
ADDITIONS TO PROPERTY PLANT & EQUIPMENT (SEE SCH 5130)	10.00					

FIA-25
FINANCIAL REPORTING SYSTEM
SCH 5620 – PAGE 3 OF 3

5620

DOMESTIC AND FOREIGN NON-ENERGY OPERATIONS
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(IN THOUSANDS OF DOLLARS)

	FRS LINE #	OTHER NON-ENERGY CONSOL K	OTHER NON-ENERGY ELIM L	OTHER NON-ENERGY NON-TRACEABLE M	OTHER NON-ENERGY DOMESTIC N	OTHER NON-ENERGY FOREIGN O
SELECTED BALANCE SHEET INFORMATION:						
SELECTED CURRENT ASSETS:						
TRADE ACCOUNTS AND NOTES RECEIVABLE	01.00					
INVENTORIES:						
RAW MATERIALS & PRODUCTS	02.00					
MATERIALS & SUPPLIES	03.00					
NON-CURRENT ASSETS:						
PROPERTY, PLANT & EQUIPMENT:						
GROSS	04.00					
ACCUMULATED DD&A	05.00					
NET	06.00					
INVESTMENT & ADVANCES TO						
UNCONSOLIDATED AFFILIATES	07.00					
OTHER NON-CURRENT ASSETS	08.00					
TOTAL NON-CURRENT ASSETS	09.00					

[FR Doc. 79-807 Filed 1-11-79; 8:45 am]

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federal register

FRIDAY, JANUARY 12, 1979
PART III



DEPARTMENT OF LABOR

Employment Standards Administration

federal

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

[4510-27-M]

DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, (37 FR 21138) and of Secretary of Labor's Orders 12-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statues, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

MODIFICATIONS AND SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

Modifications and Supersedeas Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedeas Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

MODIFICATIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State.

Alabama:	
AL78-1069	Sept. 8, 1978
AL78-1076	Sept. 22, 1978
District of Columbia—DC78-3098	Dec. 15, 1978
Indiana—IN78-2066	July 28, 1978
Mississippi—MS78-1079	Sept. 15, 1978
New Jersey—NJ77-3092	Oct. 7, 1977
Pennsylvania:	
PA77-3126	Sept. 9, 1977
PA77-3129	Sept. 15, 1977
PA78-3013	Apr. 14, 1978
PA78-3014	Mar. 24, 1978
PA78-3015; PA78-3044; PA78-3045	May 12, 1978
PA78-3017	May 5, 1978
PA78-3064; PA78-3065; PA78-3066	Sept. 22, 1978
PA78-3099	Dec. 15, 1978
South Carolina:	
SC75-1029	Mar. 7, 1975
SC75-1045	Apr. 11, 1975
SC76-1008	Jan. 9, 1976
SC78-1067	May 28, 1976
SC76-1088	Aug. 27, 1976
SC76-1115	Oct. 8, 1976
SC76-1126	Oct. 29, 1976
SC77-1019	Feb. 11, 1977
SC77-1070	May 20, 1977
SC77-1077	June 10, 1977
SC78-1038; SC78-1040	Apr. 14, 1978
SC78-1046	May 12, 1978
SC78-1103	Dec. 22, 1978

CANCELLATION OF GENERAL WAGE DETERMINATION DECISIONS

None.

Signed at Washington, D.C. This 5th day of January 1979.

DOROTHY P. COME,
Assistant Administrator,
Wage and Hour Division.

MODIFICATIONS P. 2

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #IN78-2066 - MOD #1 (43 FR 31001 - July 28, 1978) Elkhart, Jasper, Kosciusko, LaGrange, Marshall, Newton, Pulaski & Starke Counties, Indiana					
CHANGE:					
ASBESTOS WORKERS:					
Elkhart, Jasper, Kosciusko, Marshall, Pulaski & Starke Cos.	$12.98	.65	.90		.05
LaGrange Co.	12.60	.55	1.25		
Newton Co.	13.01	.91	.99		
BRICKLAYERS; Stonemasons:					
Elkhart, Kosciusko, & LaGrange Cos.	12.33		.30		.02
Jasper, Newton & Starke Cos.	12.70	.90	.55		.05
CEMENT MASONS:					
Elkhart, Kosciusko, & LaGrange Cos	11.38		.30		.02
ELECTRICIANS:					
Jasper, Pulaski, & Starke Cos.	13.00	4%	7½%		.5%
LaGrange Co.	12.35	.50	3%+.40		.06
GLAZIERS:					
Kosciusko (Southern portion), & LaGrange Cos.	10.79		.25	.40+d	.04
IRONWORKERS:					
Jasper (N), & Newton Cos.	12.72	.90	1.66		.09
Jasper (S), Co.	11.54	.90	1.25		.02
MARBLE SETTERS; Terrazzo Workers & Tile Setters:					
Elkhart, Kosciusko, & LaGrange Cos.:					
Terrazzo Workers; & Tile Setters	11.10		.30	e	.02
Jasper, Newton, & Starke Cos.:					
Marble Setters; Terrazzo Workers	12.70	.90	.55		.05
Tile Setters	12.60	.90	.55		.02
PAINTERS:					
LaGrange Co.:					
Brush; Paperhangers; Rollers; & Tapers	9.25	.50	.65		.12
Sandblasting; Spray; & Steam-cleaning	10.25	.50	.65		.12
PIPEFITTERS; Plumbers; & Steamfitters:					
Elkhart, Kosciusko, & LaGrange Cos.	12.65	.55	.85		.07

MODIFICATIONS P. 1

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision # AL78-1069 - Mod. # 1 (43 FR-40172 September 8, 1978) Tuscaloosa County, Alabama					
Change:					
Bricklayers	9.85	.55	.40		.05
Electricians	11.45		3%+.40		½ of 1%
Tile workers	9.60		.40		.05
Decision # AL78-1076 - Mod. # 1 (43 FR-43153 - September 22, 1978 Jefferson and Shelby Counties, Alabama.					
Change:					
Bricklayers, pointers, caulkers, stone masons	10.15	.40	.50		.13
Cleaners	9.05	.40	.50		.13
Electricians:					
Electricians	11.45	.55	3%+.40		½ of 1%
Cable splicers	11.70	.55	3%+.40		½ of 1%
Sheet metal workers	11.05	.69	.82		.09
Tile, marble, terrazzo finishers	7.50				
Decision #DC78-3098 - Mod. #1 (43 FR-55723 - December 15, 1978) District of Columbia; Maryland-Montgomery & Prince George's Counties; and D. C. Training School; Virginia - Independent City of Alexandria & Arlington					
Change:					
Heading of Wage Rate Schedule presently issued to read: Water and Sewer Lines (District of Columbia and Montgomery County, Maryland only)					

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DECISION #IN78-2066 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Jasper (No. side of city of Renselaer, S.), Marshall, Pulaski, & Starke Cos.	$11.75	.55	.95		.10
PLASTERERS:					
Elkhart, Kosciusko, & LaGrange Cos.	11.18		.30		.02
ROOFERS:					
Jasper & Newton Cos.	13.01	.75	.60		
SHEET METAL WORKERS:					
LaGrange Co.	12.09	.50+g	.60		.12
OMIT:					
POWER EQUIPMENT OPERATORS:					
Jasper, Newton, Pulaski, & Starke Counties					
ADD:					
FOOTNOTE:					
g. 3% of gross earnings to SASMI					
POWER EQUIPMENT OPERATORS:					
Jasper, Newton, Pulaski, & Starke Counties					

DECISION #IN78-2066 (Cont'd)

POWER EQUIPMENT OPERATORS Jasper, Newton, Pulaski, & Starke Counties	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Class I	$12.40	1.00	1.00		.05
Class II	11.90	1.00	1.00		.05
Class III	10.35	1.00	1.00		.05
Class IV	9.35	1.00	1.00		.05

CLASS I Mechanic; asphalt plant; autograde; batch plant; benoto (requires two engineers); boiler & throttle valve; boring machine (mining machine); caisson rigs; central redimix plant; combination backhoe, front end loader with backhoe bucket over ½ cu. yd.; combination tugger hoist & air compressor; compressor and throttle; concrete breaker (truck mounted); concrete conveyor; concrete paver over 27E cu. ft.; concrete paver 27E cu. ft. and under; concrete pump w/boom (truck mounted); concrete tower; cranes, all; cranes, hammerhead tower; crater crane; derricks, all; derricks, traveling; forklift-lull type; forklift - 10 ton and over; hoists, one, two, and three drum; hoist, two tugger one floor; hydraulic boom truck; locomotive, all; motor patrol; mucking machine; pile drivers and skid rig; pit machines; pre-stress machine; pump cretes and similar types; rock drill (self-propelled); rock drill (truck mounted); slipform paver; straddle buggies; tractor with boom & side boom; trenching machine; winch tractors

CLASS II Asphalt spreader; boiler; bulldozers; combination backhoe, front-end loader with backhoe bucket, ½ cu. yd. and under; grader, elevating; greaser engineer; grouting machines; highlift shovels or front endloader; hoist, automatic; cowboy drilling machines; hoists all elevators; hoists, tugger single drum; post hole digger; rollers, all; scoops - tractor drawn; stone crushers; tournapull; winch trucks

CLASS III Concrete mixer (2 bag & over); conveyor, portable; steam generators; tractors, farm & similar type; air compressor small 150 & under (1 to 5 not to exceed a total of 300 ft.); air compressor - large over 150; combination - small equipment operator; forklift - under 10 tons; generators; pumps (1 to 3 not to exceed a total of 300 ft.); pumps, well points; welding machines (2 through 5); winches & electric drill winches

CLASS IV Heaters, mechanical (1 to 5); oilers & switchmen

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision # MS78-1079 - Mod. #2 (43 FR 41348 September 15, 1978) Hancock, Harrison, Jackson and Pearl River Counties, Mississippi.)					
CHANGE:					
Description of work to read: Building Construction (does not include Residential Construction consisting of single family homes and garden type apartments up to and including 4 stories).					

DECISION #N177-3092 - Mod. #7
(42 FR 54726 - October 7, 1977)
Bergen, Essex, Hudson, & Passaic Counties, New Jersey

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Areas Covered By Laborers:					
Area 1 - Bergen (Garfield, Passaic and Wallington Twps., Lodi, Athenia, Allwood, Dellawanna, and Clifton (to Piaget Ave.) and Passaic Counties					
Change:					
Air Conditioning & Refrigeration Mechanics	9.10	.065	.31	m	.04
Asbestos Workers	12.71	1.09	1.09		.04
Boilermakers	12.18	8%	20%+.25	10%	.02
Boilermakers Helpers	11.65	8%	20%+.25	10%	.02
Bricklayers, Stonemasons, Cement Masons, & Plasterers:					
Area 3	11.60	.84	.90		.02
Area 5	11.40	1.00	.85		.02
Electricians & Cable Splicers:					
Family residence construction not to exceed 4 unit apartments (Note: Firewalls alone are not a determinative criteria):	7.25	7%	3%		.05
Laborers:					
Area 1					
Group 1	8.00	.85	.85		.07
Area 4					
Unskilled Laborers	8.50	.80	.40		.07
Line Construction:					
Passaic County:					
Linemen & Equipment Operators	13.70	7%	9%		3/4%
Cable Splicers	14.77	7%	9%		3/4%
Groundmen	9.59	7%	9%		3/4%
Pipefitters:					
Bergen & Hudson Counties and the city of Passaic in Passaic County	11.80	1.00	1.50	1.00	.25
Soft Floor Layers	9.19	6%	5%+.50		

MODIFICATIONS P. 7

DECISION #PA77-3126 - Mod. #7
(42 FR 45622 - September 9, 1977)
Lycoming County, Pennsylvania

Change:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Roofers & Kettlemen	10.15	.90	.85		
Sheet Metal Workers	11.09	.65	.71		.02

DECISION #PA77-3129 - Mod. #8
(42 FR 46903 - September 16, 1977)
Northumberland County, Pennsylvania

Change:					
Roofers:					
Remainder of County:					
Composition	10.15	.90	.85		
Sheet Metal Workers	11.09	.65	.71		.02

DECISION #PA78-3013 - Mod. #6
(43 FR 16097 - April 14, 1978)
Bedford, Cambria, Cameron, Clarion, Clearfield, Jefferson, Crawford, & Venango Counties, Pennsylvania

Change:					
Electricians					
Zone 3	13.35	.50	3%		½ of 1%
Ironworkers					
Zone 3	12.00	1.86	1.01		.15
Painters:					
Zone 1					
Commercial					
Brush & Roller	10.39	.75	.45		.02
Spray	10.44	.75	.45		.02
Industrial					
Brush	10.94	.75	.45		.02
Spray	11.64	.75	.45		.02
Plumber & Steamfitters					
Zone 2	11.92	.75	1.05		.06
Zone 3	11.95	.70	1.00		.10

MODIFICATIONS P. 8

DECISION #PA78-3014 - Mod. #6
(43 FR 12603 - March 24, 1978)
Armstrong, Allegheny, Beaver, Butler, Fayette, Indiana, Washington & Westmoreland Counties, Pennsylvania

Change:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayers & Stonemasons					
Zone 1	11.53	.75	1.34		.01
Painters:					
Zone 4					
Brush & Roller	9.85	.65	.40		.05
Spray	10.975	.65	.40		.05
Painters:					
Zone 6					
Commercial					
Brush	10.39	.75	.45		.02
Spray	10.44	.75	.45		.02
Industrial					
Brush	10.94	.75	.45		.02
Spray	11.64	.75	.45		.02

DECISION #PA78-3015 - Mod. #5
(43 FR 20697 - May 12, 1978)
Greene, Somerset & Potter Counties, Pennsylvania

Change:					
Bricklayers & Stonemasons					
Zone 1	11.53	.75	1.34		.01
Painters:					
Zone II					
Commercial					
Brush & Roller	10.39	.75	.45		.02
Spray	10.44	.75	.45		.02
Industrial					
Brush	10.94	.75	.45		.02
Spray	11.64	.75	.45		.02
Sheet Metal Workers					
Zone 2	11.09	.65	.71		.02

MODIFICATIONS P. 9

DECISION #PA78-3017 - Mod. #7
(43 FR - May 5, 1978)
Carbon, Monroe, County, including Tobyhanna Army Depot, and Pike County, Pennsylvania

Change:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Roofers:					
Zone 2					
Composition & Kettleman	10.15	.90	.85		
Sheet Metal Workers	11.09	.65	.71		.02

DECISION #PA78-3044 - Mod. #5
(43 FR 20711 - May 12, 1978)
Luzerne County, Pennsylvania

Change:					
Roofers:					
Roofers, Composition & Kettlemen	10.15	.90	.85		
Sheet Metal Workers	11.09	.65	.71		.02

DECISION #PA78-3045 - Mod. #7
(43 FR 20714 May 12, 1978)
Lackawanna, Susquehanna, Wayne and Wyoming Counties Pennsylvania

Change:					
Bricklayers, Stonemasons:					
Carbondale in Lackawanna County	10.45		1.55		
Susquehanna & Wyoming Counties	10.90	.60	.75		
Cement Masons:					
Carbondale in Lackawanna Co.	10.45		1.55		
Sheet Metal Workers	11.09	.65	.71		.02

MODIFICATIONS P. 10

DECISION #PA78-3064 - Mod. #2
(43 FR 43224 - September 22, 1978)
Schuylkill County, Pennsylvania

Change:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Roofers:					
Composition					
Remainder of County	10.15	.90	.85		
Sheet Metal Workers	11.09	.65	.71		.02

Decision #PA78-3065 - Mod. #1
(43 FR 43226 - September 22, 1978)
Sullivan County, Pennsylvania

Change:					
Roofers	10.15	.90	.85		

DECISION #PA78-3066 - Mod. #3
(43 FR 43228 - September 22, 1978)
Columbia, Montour & Snyder Counties, Pennsylvania

Change:					
Roofers	10.15	.90	.85		
Sheet Metal Workers	11.09	.65	.71		.02

DECISION #PA78-3099 - Mod. #1
(43 FR 58729 December 15, 1978)
Bradford, Tioga & Union Counties, Pennsylvania

Change:					
Roofers:					
Composition & Kettleman	10.15	.90	.85		
Sheet Metal Workers	11.09	.65	.71		.02

MODIFICATIONS P. 11

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision # SC75-1029 - Mod. # 3 (40 FR-10900 - March 7, 1975) Aiken, Barnwell and Edgefield Counties, South Carolina					
Change:					
Laborers:					
Laborers	2.90				
Truck drivers	2.90				
Omit:					
Insulation installer	2.75				
Laborers:					
Mason tenders & mortar mixers	2.65				
Pipelayers	2.75				
Roofers	2.81				
Power Equipment Operators:					
Asphalt distributor	2.65				
Asphalt finisher	2.65				
Asphalt rakers & oilers	2.65				
Front end loader	2.84				
Steel wheel rollers	2.65				
Tractor	2.89				
Decision # SC75-1045 - Mod. # 3 (40 FR-16636 - April 11, 1975) Allendale, Bamberg, Calhoun, and Orange Counties, South Carolina					
Change:					
Laborers:					
Laborers	2.90				
Truck Drivers	2.90				
Omit:					
Drywall finisher	2.75				
Drywall hanger	2.65				
Laborers:					
Mason tenders	2.65				
Mortar mixers	2.65				
Painters, brush	2.65				
Roofers	2.65				

MODIFICATIONS P. 12

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision # SC76-1008 - Mod. # 3 (41 FR-1699 - January 9, 1976) Sumter County, South Carolina					
Change:					
Laborers	2.90				
Truck drivers	2.90				
Omit:					
Roofers	2.80				
Power Equipment Operators:					
Bulldozers	2.65				
Front end loader	2.65				
Motor graders	2.75				
Decision # SC76-1067 - Mod. # 2 (41 FR-22024 - May 28, 1976) Charleston, Berkeley, and Dorchester Counties, South Carolina					
Change:					
Laborers:					
Laborers	2.90				
Truck drivers	2.90				
Decision # SC76-1088 - Mod. # 2 (41 FR-36399 - August 27, 1976) Clarendon, Darlington, Dillon, Florence, Lee, Marion, Marlboro, Sumter, and Williamburg Counties, South Carolina					
Change:					
Laborers:					
Laborers	2.90				
Truck drivers	2.90				

MODIFICATIONS P. 13

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision # SC76-1115 - Mod. # 2 (41 FR-44657 - October 8, 1976) Anderson, Greenville, Oconee, and Pickens Counties, South Carolina					
Change:					
Laborers:					
Laborers	2.90				
Omit:					
Laborers:					
Asphalt rakers	2.70				
Mason tenders	2.75				
Power Equipment Operators:					
Motor grader	2.70				
Paving machine operator	2.65				
Decision # SC76-1126 - Mod. # 2 (41 FR-47907 - October 29, 1976) Lexington and Richland Counties, South Carolina					
Change:					
Laborers:					
Laborers, unskilled	2.90				
Omit:					
Laborers:					
Asphalt raker	2.67				
Decision # SC77-1019 - Mod. # 4 (41 FR-8900 - February 11, 1977) Chester, Fairfield and Lancaster Counties, South Carolina					
Change:					
Laborers	2.90				
Truck drivers	2.90				
Omit:					
Power Equipment Operators:					
Asphalt raker	2.65				
Roller operator	2.65				
Spreader operator	2.75				

MODIFICATIONS P. 14

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision # SC77-1070 - Mod. # 4 (42 FR-26182 - May 20, 1977) Beaufort County, South Carolina					
Change:					
Laborers	2.90				
Truck drivers	2.90				
Power Equipment Operators:					
Oilers	2.90				
Decision # SC77-1077 - Mod. # 2 (42 FR-30080 - June 10, 1977) Chester, Chesterfield, Fairfield, Kershaw, Lancaster, and York Counties, South Carolina					
Change:					
Laborers:					
Laborers	2.90				
Truck drivers	2.90				
Omit:					
Laborers:					
Asphalt raker	2.78				
Asphalt sweeper	2.78				
Mason tenders	2.65				
Decision # SC78-1038 - Mod. # 1 (43 FR 16108 - April 14, 1978) Darlington County, South Carolina					
Change:					
Laborers	2.90				
Sprinkler fitters	8.25	.75	1.05		.08
Truck drivers	2.90				
Decision SC78-1040 - Mod. # 1 (43 FR-16110 - April 14, 1978) Abbeville, Cherokee, Laurens, Newberry, and Union Counties, South Carolina					
Change:					
Laborers	2.90				
Truck drivers	2.90				
Sprinkler fitters	8.25	.75	1.05		.08
Omit:					
Laborers:					
Mason tenders	2.75				
Power Equipment Operators:					
Forklift & Scraper	2.75				
Roller	2.84				

MODIFICATIONS P. 15

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision # SC78-1046 - Mod. # 1 (43 FR-20717 - May 12, 1978) Statewide, South Carolina					
Change:					
Power Equipment Operators:					
Truck drivers (single-rear axle)	2.90				
Omit:					
Asphalt laydown man	2.65				
Asphalt plant helper	2.80				
DECISION #SC78-1103 - Mod. #1 (43 FR 60020 - December 22, 1978) Georgetown County, South Carolina					
Omit:					
Plumbers & Steamfitters	$9.50	.30	.20		.08
Add:					
Horry County					
Plumbers & Steamfitters:					
Georgetown County	9.40	.50	.40		.10
Horry County	5.72				

CORRECTION

THIS PAGE WAS PUBLISHED IN THE FEDERAL REGISTER DECEMBER 29, 1978, 43 FR 61218. IT IS BEING RE-SUBMITTED FOR PUBLICATION IN THE 1/12/79 FEDERAL REGISTER.

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TRUCK DRIVERS (Area 2) (Cont'd)

All Counties and portions of Counties West of the 120th Meridian (except those enumerated in Area 3) and including the Northern portion of Pacific County and including all of Kittitas and Yakima Counties

Group 10: Bull Lifts or similar equipment used in loading or unloading trucks transporting materials on job site, other than warehousing

Group 11: Transit-mix, over 4½ yards to and including 6 yards

Group 12: "A" Frame or Hydralift Trucks or similar equipment

Group 13: Dumpsters and similar equipment (as listed in Group 3) - over 20 yards to and including 30 yards; Lowbed and Heavy Duty Trailer, over 50 tons gross to and including 100 tons gross

Group 14: Transit-mix, over 6 yards, to and including 8 yards

Group 15: Dumpsters and similar equipment (as listed in Group 3) - over 30 yards to and including 40 yards; Lowbed and Heavy Duty Trailer, over 100 tons gross

Group 16: Transit-mix, over 8 yards to and including 10 yards

Group 17: Dumpsters and similar equipment (as listed in Group 3) - over 40 yards to and including 55 yards

Group 18: Transit-mix, over 10 yards to and including 12 yards

Group 19: Transit-mix, over 12 yards to and including 16 yards

Group 20: Transit-mix, over 16 yards to and including 20 yards

Group 21: Transit-mix, over 20 yards

[FR Doc. 79-861 Filed 1-11-79; 8:45 am]

federal register

FRIDAY, JANUARY 12, 1979
PART IV



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

THERAPEUTICALLY EQUIVALENT DRUGS

Availability of List

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[4110-03-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 20]

[Docket No. 78N-0170]

THERAPEUTICALLY EQUIVALENT DRUGS

Availability of List

AGENCY: Food and Drug Administration.

ACTION: Proposal.

SUMMARY: The Food and Drug Administration (FDA) proposes to amend its public information regulations to make available a list of all approved drug products, together with therapeutic evaluations of listed products that are available from more than one manufacturer (multisource). This proposal offers the public an opportunity to comment on the proposed policy of making such a list available as well as the current content and form of the list itself.

DATES: Comments by April 12, 1979.

ADDRESSES: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Herbert Gerstenzang, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

FOR TECHNICAL INFORMATION ON THE LIST OF DRUG PRODUCTS CONTACT:

Gene G. Knapp, Bureau of Drugs (HFD-500), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2806.

FOR A COPY OF THE PROPOSED LIST ONLY CONTACT:

Margaret Lawrence, Consumer Inquiries Staff (HFJ-10), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3170.

NOTE.—Because the number of copies of the proposed list is limited, FDA asks that only those persons who contemplated commenting in response to this proposal request copies. The proposed list is subject to revision and is not intended for general distribution and use at this time.

SUPPLEMENTARY INFORMATION: The Food and Drug Administration proposes to amend § 20.117 (21 CFR 20.117) of its public information regulations to include in the list of available computer printouts approved prescription drug products with proposed therapeutic equivalence evaluations. This list, which is being prepared in response to requests from State health agencies for assistance in administering their laws relating to generic substitution, is presented as a proposal so that interested persons may review and comment on all aspects of this proposed FDA activity, including the legal authority, rationale and criteria for the evaluation of approved multisource prescription drug products for therapeutic equivalence.

I. POLICY CONSIDERATIONS IN PROPOSING LIST

A. GENERAL CONSIDERATIONS

Three major considerations lead the agency to propose that FDA should make available a list of therapeutically equivalent drug products:

(1) Education of users of drug products, i.e., those who purchase, prescribe, or dispense drug products, as well as the patients for whose benefit the drug products are used.

(2) Cooperation with the States in carrying out their duties to protect and promote the health and welfare of their citizens.

(3) Facilitation of the President's program to control inflation in the American economy.

Several additional specific factors that also influenced the agency's decision to make this proposal are discussed in section I. B. of this preamble.

1. *Public education.* Decisions affecting the selection of prescription drug products to be used in the diagnosis, prevention, or treatment of disease in patients are made at many points in the health care delivery system.

Physicians, of course, exercise the primary control through their authority to prescribe drugs. They may prescribe by a generic name or by a brand name. The "generic" name is the established or common name of the active drug ingredient in a drug product (21 U.S.C. 352(e)(3)). The "brand name" is the privately owned trade name used by a manufacturer or distributor to identify its particular drug product and, if there are competing products containing the same active drug ingredient, to differentiate its product from those of the competitors.

Prescriptions are generally presented to pharmacists for filling. If the prescription uses only a generic name, the pharmacist is responsible for selecting the specific drug product to be dispensed. Over the last few years, physicians have shown an increasing tendency to prescribe by generic name. While 8.9 percent of all prescriptions in 1970 were written specifying only a generic name, by 1977 generic prescribing occurred 12.4 percent of the time, a rise of almost 40 percent.

If the prescription identifies a brand name, the pharmacist has, until recently, been required under most State pharmacy laws to dispense the precise product specified by the physician. Statutory restrictions against a pharmacist's dispensing a drug product other than the particular brand named in the prescription have been termed "antisubstitution laws." Between the early 1950's and 1972, virtually every State or jurisdiction had adopted an antisubstitution law or equivalent regulation. For a history of the spread of antisubstitution legislation, see Drug Product Selection, Bureau of Consumer Protection Staff Report to the Federal Trade Commission, pp. 141-151 (Dec. 1978) (hereafter called "FTC Staff Report").

Recently, restrictions on the authority of a pharmacist in filling prescriptions that identify drug products by brand name have been changed in many States. New statutes, often called "drug product selection laws" or "drug product substitution laws," have been adopted in approximately 40 States and the District of Columbia in the last decade; over half of these have been enacted since 1977. These laws generally authorize or direct the pharmacist to substitute a lower priced drug product if one is available that is therapeutically equivalent to the brand name product prescribed. Most the drug product selection laws also prohibit substitution if the physician clearly directs that the prescription be filled and dispensed as written. A history and analysis of current State drug product selection laws and an analysis of current State laws is set forth in FTC Staff Report, pp. 151-184.

Thus, because physicians may prescribe by generic name and appear to be doing so more frequently, and because State laws regarding the filling of prescriptions have changed, pharmacists now have a much greater responsibility for selecting the actual drug product that the patient will use than they formerly had.

Few pharmacies, however, are capable of stocking all brands of drug products containing a particular active drug ingredient. Consequently, at any one time, a pharmacist will be choosing the specific product to dispense from among a preselected group of drug products. This preselection of brands available for filling prescriptions may, of course, have been made by the dispensing pharmacist, if he or she were also responsible for purchasing the pharmacy's supplies. More commonly, especially in large pharmacy operations and chain drug stores, purchasing is done through centralized or cooperative systems in which supervisory of other selected pharmacists choose which products to stock. Nonpharmacists, such as business or procurement officers, may also participate in the purchasing process. Clearly, the individuals who order drug products for stocking pharmacies have a significant role in drug product selection.

The system of drug dispensing may operate differently within hospitals and public health clinics. For example, many hospitals have worked with drug formulary systems under which only one brand of a drug product would be stocked, regardless of the number of brands marketed. Nevertheless, the same factors influencing drug product selection may be found.

All persons involved in drug product selection obviously need accurate, complete, and understandable information regarding prescription drug products. Because the health care delivery system contains so many decentralized decisionmaking points and so many decisionmakers, the information must also be widely available. FDA can contribute to assuring responsible prescription drug product selection decisions by disseminating necessary information about prescription drug products that the agency has evaluated for therapeutic equivalence, together with the basis for these evaluations.

The information contained in a list of therapeutically equivalent drug products will help to protect the public health. As just discussed, many persons in the health care delivery system need to know what therapeutically equivalent drug products are being marketed. The information is particularly needed by pharmacies, hospitals, State procurement agencies, and public health clinics, both in determining which products to purchase and in deciding which to dispense. Currently, in the absence of an offical list, pharmacists must make their own evaluations of therapeutic equivalence. Even with their professional training and experience, however, many pharmacists do not have the time, the resources, or the access to comprehensive scientific and regulatory data essential to making these evaluations. Consequently, risks exist that drug products that are not therapeutically equivalent may by mistake be substituted and dispensed, with possible adverse health consequences to patients. Although the number of situations in which therapeutically inequivalent drug products may create serious problems is quite small, the potential is sufficient to create a public health concern.

The Food and Drug Administration is the national agency charged with assuring the safety and effectiveness of the drug supply. It has also been designated as the unit responsible for assuring that the drug products purchased by Federal agencies meet all applicable quality standards. It is appropriate that FDA apply its expertise and experience in evaluating the safety, effectiveness, and quality control of drug products to minimize the public health problems that might arise in drug product selection by physicians, pharmacists, or drug procurement officers.

A list of therapeutically equivalent drug products is also needed to balance and correct materials disseminated widely in recent years alleging the therapeutic inequivalence of drug products. For example, in March 1976, *Private Practice*, the journal of the Congress of County Medical Societies, published a special supplement of materials that were used in the campaign against drug product substitution legislation in the State of Oklahoma. Opponents of similar legislation in other States were urged to consider the success of the Oklahoma campaign. These materials are reprinted in "Competitive Problems in the Drug Industry," Pt. 33: Hearings before the Subcommittee on Monopoly and Anticompetitive Activities of the Senate Select Committee on Small Business, 95th Cong., 1st Sess., pp. 16518-16528 (1977) (hereafter called "Drug Quality Hearings"). They included full-page newspaper advertisements and radio and television spots to be directed to the general public. Among the claims made were the following:

• • • chemically equivalent drugs may not have the same effect.

• • • • •

Generic drugs may cost a little less in dollars and cents, but they can exert a high price in health.

• • • • •

Those big drug companies didn't get big by making crummy medicine.

• • • • •

Despite the identical ingredients, the slight differences in fillers, coatings, acidity, and absorption rate in drugs can make them totally ineffective—or worse than that—potentially harmful and even fatal.

• • • • •

"Bioequivalence" or "therapeutic" equivalence means that the drug will produce the same effect in your body as the brand-named drug prescribed by your doctor. Most generic or chemically equivalent drugs do not, in fact, produce the same result because of differences in coating, fillers, quality controls, acidity and absorption rates.

• • • • •

The fact is, the government doesn't even require that all generic drugs be equal. They need only meet minimum standards to be on the market.

• • • • •

A diamond. A chunk of coal. Both pure carbon • • • chemically equal • • • but therapeutically different • • • and some difference! WOW!

A motion picture film with a similar message was sponsored by Warner/Chilcott Division of Warner-Lambert Co. called "The Consumer and Prescription Drugs." Narrated by television figure Frank Blair and featuring 11 physicians, this movie seeks to demonstrate that generic drug products are of lower quality, and possibly less safe and effective, than brand-named drug products. A flyer for the film prominently advises: "Available for your use with lay audiences!"

These materials have not conveyed an accurate or complete picture of the prescription drug marketplace. They imply that the minimum standards for drug quality are inadequate to assure such quality, that differences in chemically equivalent drug products generally produce differences in therapeutic effects, and that government regulation never assures therapeutic equivalence. Although illustrations can be offered to support each of these propositions, the generalizations are unfounded. The broad dissemination of these assertions to the general public, as well as to the health professionals, may lead to a decline of public confidence in the nation's drug supply. For this reason, an authoritative statement from the Federal agency charged with monitoring and assuring the safety, effectiveness, and quality of drugs is an appropriate contribution to public understanding.

2. *Cooperative federalism.* In our Federal system, the States bear the primary responsibility for protecting and promoting the health and welfare of their citizens. In doing so, the States and their subdivisions directly provide health care services through public hospitals, public health clinics, and special assistance to patients with unique medical needs. Additionally, State agencies engage in a variety of educational and regulatory activities pertaining to health care delivery in the private sector, including licensing professionals and establishing requirements for pharmacies, private hospitals and clinics, nursing and residential care homes, and other facilities in which health services are provided. Finally, States are charged with administering welfare programs that reimburse for medical expenses.

In these capacitites, the States are entitled to and should receive assistance from the Federal Government. This aid properly includes FDA advice

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on therapeutically equivalent drug products.

As providers of health care services, States purchase and distribute prescription drug products. Like those of the Federal Government, State agencies are under great pressure to make the most efficient use of tax dollars in purchasing goods and services. The availability of drug products identified as therapeutically equivalent encourages effective competition, and permits each State to select suppliers on the basis of price and collateral services tailored to meet that State's needs. FDA now serves as the central agency for quality assurance in purchases of drug products by the U.S. Department of Defense, the Veterans Administration, and the U.S. Public Health Service. (See section III.B.4.(vi) below in this preamble.) State procurement agencies in eight States have now sought similar FDA assistance for their programs. In part to explore the feasibility of such assistance, in June 1978 the agency entered an agreement with the State of New York to provide a quality assurance service for that State's drug purchases. (See the FEDERAL REGISTER of July 14, 1978 (43 FR 30353).) Direct provision to all of the States of a list of FDA evaluations concerning therapeutically equivalent drug products offers another means of assisting the States in their drug purchasing activities, while the feasibility of providing additional quality assurance services to the States, e.g., evaluation of drug products not subject to new drug application requirements, is determined.

The States also can use an FDA list of therapeutically equivalent drug products in their relationship with the providers of private health care services. In response to recently enacted drug product selection laws, several States have undertaken preparation of formularies of drug products that may or may not be substituted under their respective statutes. See, e.g., "Safe, Effective and Therapeutically Equivalent Prescription Drugs," New York State Department of Health, Office of Public Health (Health Education Service, Albany, N.Y.) (April 1, 1978) (hereafter called "New York Drug List"). At least 19 of these States and the District of Columbia have approached FDA to aid in preparing these formularies. In response to such a request from the State of New York, FDA devoted significant resources to review and advise upon the New York Drug List. A similar evaluation was later made of a list submitted by the State of Illinois. Based upon these experiences, the agency concluded that continuing to provide assistance on a State-by-State basis would not be cost-effective, because of the number of requests and the varying definitions and criteria among the individual statutes for evaluating therapeutic equivalence. Instead, FDA decided that it should prepare a master list to provide a guidance and information that could be utilized by each State in meeting its own repsonsibilities under the particulars of its drug product selection law. The Commissioner sent a letter to appropriate State officials on May 31, 1978, informing them of FDA's plans to develop this list.

3. *Combatting inflation.* The President of the United States has repeatedly sought to bring the current inflation problem under control. On October 24, 1978, President Carter reaffirmend his commitment that the Administration will do everything in its power to ensure that its actions are consistent with the objectives of the anti-inflation program. These objectives include restraining the growth of government spending, encouraging more competition in our economy, urging voluntary action to slow wage and price increases to specified rates, and limiting government purchases to firms observing the pay and price standards (Predsidential Address to the Nation, 14 Pres. Doc. 1839; White House Fact Sheet on the President's Anti-Inflation Program, 14 Pres. Doc. 1845 (Oct. 24, 1978)).

An area of particular concern to the President is health costs. At a July 20, 1978 press conference, President Carter, in response to an inquiry regarding national health insurance, observed (14 Pres. Doc. 1325-1326):

> One of the very discouraging aspects of our present health care system is the enormous increase in costs that have burdened down the American people. The average increases in cost of health care per year has been more than twice as much as the overall inflation rate.

Federal, State, and private purchases of prescription drugs are significant. If lower cost, therapeutically equivalent drug products are available and are used more widely, immediate savings would accrue without a sacrifice in the quality of health care. As a result, the increase in health costs would be lessened, the growth in government expenditures for prescription drugs reduced, and the efforts to control inflation furthered.

It is true that prices for pharmaceuticals have not been rising as rapidly as prices of other components of the health care system, and that prescription drugs do not represent the largest factor in health expenditures. These facts do not mean, however, that cost savings in the prescription drug market would not be helpful to the economy, to the consumer, or to the taxpayer. They merely make clear that no single step will be adequate to restrain health costs. President Carter acknowledged this reality in his October 24 speech to the nation, and went on to say (14 Pres. Doc. 1840):

> If there's one thing I have learned beyond any doubt, it is that there is no single solution for inflation. What we have, instead, is a number of partial remedies. Some of them will help; other may not. But we have no choice but to use the best approaches we have and to maintain a constant search for additional steps which may be effective.

Lower cost, therapeutically equivalent drug products are in fact available. If these products were used more widely in place of higher priced products, fewer dollars would have to be spent by the government and by consumers in purchasing prescription drugs. Several studies to estimate the potential savings from substitution of lower or higher priced drug products have been made. The FTC Staff Report reviews eight studies done by others and one undertaken by the Federal Trade Commission (FTC Staff Report, pp. 196-219). Its conclusion is that "the potential for the realization of consumer savings is substantial" (id. at 219).

The President has announced his anti-inflation program and directed the executive departments to act consistently with its objectives. Publication of a list of FDA evaluations of therapeutically equivalent drug products will advance this program by providing important information to drug product purchasers.

B. ADDITIONAL CONSIDERATIONS

In addition to the three major factors set forth above, several other considerations support the preparation and issuance of a list of drug products that FDA has evaluated on the basis of therapeutic equivalence.

1. *Cooperation with FTC.* The Department of Health, Education, and Welfare and the Federal Trade Commission have cooperated in the development of a "Model State Drug Product Selection Act." This draft legislation is being made available to the States to assist them in considering their own drug product selection legislation (FTC Staff Report, pp. 273-289). For purposes of drug product selection, the model act would require the establishment by an appropriate State health agency of a formulary that would list equivalent drug products, potentially including all drug products determined by FDA to be therapeutically equivalent. As one aspect of HEW's cooperation with FTC, FDA has been asked to prepare a list of such products to be provided to the State.

2. *Confusion over the legal status of certain drug products.* A recent court decision has created the potential for serious confusion over the legal status of certain drug products. Specifically, the United States Court of Appeals for the Third Circuit suggested in dicta that it believed many drug products that FDA has classified as "new drugs" under section 201(p) of the Federal Food, Drug, and Cosmetic Act (the "act") (21 U.S.C. 321(p)) and thus subject to premarketing clearance by FDA, may be incorrectly classified and thus not subject to FDA approval before marketing (*United States* v. *Articles of Drug, etc., The Lannett Co., Inc., claimant,* No. 77-2100, decided, Aug. 14, 1978, rehearing denied, Dec. 1, 1978 (hereafter called "Lannett")). Because the agency believes these dicta to be clearly wrong, FDA first sought, unsuccessfully, a rehearing by the Third Circuit and now intends to ask the Solicitor General to petition the Supreme Court to review the Lannett decision.

In the meantime, in reliance on the Lannett decision, some manufacturers are seeking to introduce drug products into the marketplace without FDA review or approval. (See, e.g., *Pharmadyne Laboratories, Inc.* v. *Kennedy,* Civ. No. 78-2792, (D.N.J., filed Nov. 17, 1978).) Other manufacturers with competing drug products are continuing to comply with FDA preclearance requirements, and FDA is continuing to enforce these requirements outside the jurisdiction of the Third Circuit.

Until the issues raised by the Lannett case are fully resolved, purchasers, prescribers, and dispensers of drug products may face considerable difficulty in determining which marketed products have been reviewed and approved by FDA. Section 301(l) of the act (21 U.S.C. 321(l)) prohibits a manufacturer from labeling or advertising that its product has an approved new drug application. Confirmation that an application has been approved is available from FDA under the Freedom of Information Act and implementing regulations (21 CFR 314.14). Unfortunately, this availability offers little benefit because of the volume of potential inquiries about a large number of products from a large number of individuals. A better solution lies in collecting the information in one list and distributing that list widely.

3. *"Man-in-the-plant" practice.* Under the so-called "man-in-the-plant" practice of some drug manufacturers, one drug firm, generally marketing a drug product under its own brand name, will contract with a second firm, who may independently market a competing product under either a brand or generic name, for the second to manufacture the first's drug product. Under the terms of the contract, the first firm will send one or more of its employees into the facility of the manufacturer to monitor operations. The designated employee, the so-called "man-in-the-plant," purportedly assures that the product meets the purchaser's standards. Because of this monitoring, the first firm claims to be the actual manufacturer of the drug product, and so represents itself on the labeling of the drug product. This practice reflects a judgment on the part of the brand name firms that engage in it that at least some generic firms—the ones with whom they contract—are capable of manufacturing drug products equal in quality to those made by the brand name firms themselves. FDA certainly has found no significant difference in quality between brand name and generic drugs made in the same plant, with or without the man-in-the-plant practice.

In November 1977, a Senate subcommittee chaired by Senator Gaylord Nelson held hearings regarding the man-in-the-plant practice (Drug Quality Hearings).

Additional hearings on the same topic were held in September 1978, before a House subcommittee chaired by Rep. John Moss (H. Rept. No. [unassigned at time of this publication], 95th Cong., 2d Sess. (1978); Hearings before the Subcommittee on Investigations and Oversight of the House Interstate and Foreign Commerce Committee, 95th Cong., 2d Sess. (1978)). Both congressional subcommittees found evidence that the price differentials were significant between the brand name firm's products and the product marketed by the second firm, even though both products were made in the same facility with the same equipment and essentially the same personnel. Moreover, the subcommittees heard testimony that in many instances the quality control standards did not differ between the products. The House subcommittee, in its report, found that the practice results in consumer deception. FDA has published a proposal in the FEDERAL REGISTER of October 3, 1978 (43 FR 45614) to prohibit information in drug product labeling that might mislead purchasers on the identity of the actual manufacturer of a drug product.

Even if this proposal is fully implemented, however, it will not provide complete information regarding the products that have been reviewed by FDA and found to comply with all applicable standards. More comprehensive information is necessary and a list of drug products, including FDA evaluations on their therapeutic equivalence, would fill this need.

4. *Voluntary compliance activities.* The agency has been directed by a Federal court not to follow a policy of permitting the marketing of drug products that FDA has determined to be a "new drugs" under the act without prior approval of new drug applications for that product (*Hoffmann-LaRoche* v. *Weinberger,* 425 F. Supp. 890 (D.D.C., 1975)). In response to this order, the agency issued a compliance policy guide establishing a priority sequence for identifying all violative new drug products and removing them from the market (FDA Compliance Policy Guide 7132c.08 (Oct. 6, 1976); notice of availability published in the FEDERAL REGISTER of September 23, 1976 (41 FR 41770)). The number of such products was known to be significant, and FDA at that time estimated that it would take at least 2 years to bring about full compliance. Given the magnitude of the problem, the limitations on FDA's resources, and the consequent length of the delay before compliance could be completely attained, FDA developed a strategy to deal on a priority basis with those drugs that most affected public health and safety, to provide equitable treatment among competing firms, and to have a maximum impact on violative products. One effect of this policy was to provide firms marketing lower priority drug products with an opportunity to comply voluntarily with the new drug application requirements of the law before FDA began enforcement proceedings.

At about this same time, FDA issued a list of drug products that (i) contained drugs with known or suspected problems of bioinequivalence and (ii) were subject to approved new drug applications. (See the FEDERAL REGISTER of Feb. 5, 1976 (41 FR 5339).) This list, which became known as the FDA "Blue Book" because of the color of its cover, soon became an important guide to public and private procurement officers in determining which products to purchase. As a result, a number of manufacturers promptly sought to obtain approval of new drug applications for their products in order to be added to the Blue Book list. In short, FDA found that the public availability of information about which products were covered by approved applications provided a valuable incentive toward voluntary compliance with the act.

In light of this experience, it appears likely that a broader list, containing all approved new drugs and not simply those with known or suspected bioequivalence problems, will further encourage voluntary compliance with the act. This purpose could, of course, be accomplished without providing FDA evaluations as to the therapeutic equivalence of approved products; however, for reasons discussed elsewhere in this section of the preamble, these evaluations will serve other useful purposes not necessarily related to voluntary compliance.

5. *Recommendation of the OTA Drug Bioequivalence Study Panel.* In 1974, the Office of Technology Assessment of the Congress created a panel to study issues relating to problems of

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drug bioequivalence. The work and conclusions of this panel are discussed in great detail in section III.B.2. below in this preamble. It is appropriate to note here, however, that the last of the 11 recommendations of the panel, quoted in full below, proposed establishment of an official list of drug products evaluated for therapeutic equivalence. To date, no action has been taken on this recommendation. Completion of other FDA actions now makes it feasible for the agency to consider implementing this proposal.

C. LITIGATION REGARDING ISSUANCE OF LIST

The Pharmaceutical Manufacturers Association (hereafter called "PMA") has filed a lawsuit seeking to enjoin FDA from issuing a list of therapeutically equivalent drug products (*Pharmaceutical Mfr's Ass'n* v. *Kennedy*, No. T-78-2449, filed Dec. 7, 1978 (D. Md.)). That litigation provides no compelling reason to defer or delay this proposal. Because this notice constitutes only a proposal, because comments are requested on all factual, legal, and policy issues related to the proposal, and because both the decision to proceed with issuance of a list and the contents of the list with its proposed evaluations of therapeutic equivalence are subject to change in light of the comments received, publication of the proposal or public release of the proposed list does not affect the authority of the District Court in which the litigation is pending.

The objections of PMA to an FDA list of therapeutically equivalent drug products, as set forth in its complaint, need not be discussed point-by-point in this document. This preamble amply describes the reasons for issuing such a list, the legal, scientific, and regulatory bases on which such a list may be prepared and issued, and the details of the list that FDA proposes to issue. Opportunity to comment and raise specific objections, in light of the specific proposal in this notice, is being provided to the public, including PMA. The objections of PMA, both in its complaint and, if PMA chooses, as particularized by its comments on this proposal, will be considered by FDA in determining how to proceed in this matter.

II. LEGAL AUTHORITY AND LEGAL STATUS

A. LEGAL AUTHORITY TO ISSUE LIST

The Secretary of Health, Education, and Welfare is charged with several important duties in preparing and disseminating health information. Those duties that relate to the activities and responsibilities of FDA in regulating the safety and quality of the nation's foods, drugs, cosmetics, and other products have been delegated to the Commissioner of FDA.

Each of four separate statutory provisions relate directly to FDA authority for issuing a list of therapeutically equivalent drug products. A broad implied authority is also relevant.

1. *Public health information.* Section 310 of the Public Health Service Act (42 U.S.C. 242o) directs the Secretary to issue "information related to public health, in the form of publications or otherwise, for the use of the public" and to publish "other pertinent health information for the use of persons and institutions concerned with health services." Functions of the Secretary under section 310 that relate to functions of FDA have been delegated to the Commissioner (21 CFR 5.1(a)(2)).

The availability of drug products evaluated by FDA as therapeutically equivalent, as well as the identity of pharmaceutically equivalent drug products which are evaluated by FDA as not therapeutically equivalent, is important information related to the public health. Likewise, this type of information is quite pertinent for use by persons and institutions concerned with health services.

As discussed in section I.A.1. above in this preamble, a list of therapeutically equivalent drug products will serve the public health by notifying those persons responsible for decisions affecting drug product selection about those products that, in FDA's judgment, are or are not therapeutically equivalent and the reasons for these evaluations. The list will also serve to correct and balance other information being disseminated to the public that claims or implies that therapeutic equivalence among drug products cannot be either determined or assured.

Consequently, publication of an FDA list of therapeutically equivalent drug products is within the FDA functions described in section 310 of the Public Health Service Act.

2. *Advice to the States.* Section 311(a) of the Public Health Service Act (42 U.S.C. 243(a)) directs the Secretary to "advise the several States on matters relating to the preservation and improvement of the public health." Functions of the Secretary under section 311 which relate to functions of FDA have been delegated to the Commissioner (21 CFR 5.1(a)(2)).

The list of therapeutically equivalent drug products, as explained in section I.A.2. above in this preamble, will enable the States to carry out their duties to protect and promote the public health, both in providing health care services with efficiency and cost-effectiveness and in advising physicians and pharmacists on the requirements of State drug product selection laws.

For these reasons, distribution of an FDA list of therapeutically equivalent drug products is within the FDA duties described in section 311 of the Public Health Service Act.

3. *Information to the public.* Section 705(b) of the act (21 U.S.C. 375(b)) authorizes the Secretary to disseminate information regarding drugs "in situations involving, in the opinion of the Secretary, imminent danger to health, or gross deception of the consumer." The functions of the Secretary under the act have been delegated to the Commissioner (21 CFR 5.1(a)(1)).

The absence of a list of therapeutically equivalent drug products permits the continuation of a situation involving potential dangers to health as well as deception of consumers, as discussed in section I.A.1. above in this preamble.

The magnitude of the potential dangers or deception need not be estimated, however, because section 705(b) is not a limitation upon the authority of the Secretary or the Secretary's delegate. "The only purpose of this statute is to place within the express scope of the duties of the Secretary something that was one of his implied functions" (*Hoxsey Cancer Clinic* v. *Folsom*, 155 F. Supp. 376, 378 (D.D.C., 1957)). In that case, an injunction was sought against FDA's issuing a circular to post offices warning that the so-called Hoxsey cancer cure had been found worthless. The court held that "even in the absence of this statute there would be nothing to prevent the [Federal officials] from disseminating information to the public. • • • The [Federal officials] are performing a public duty when they are urging the use of certain treatments or warning against the use of certain treatment" (id.). A similar conclusion was reached in *United States* v. *An Article of Device* • • • *Diapulse Mfg. Corp., Claimant*, 262 F. Supp. 728 (D. Conn. 1967).

Because section 705(b) of the act merely amplifies implicit authority in the Secretary and the Commissioner, it is not necessary to determine whether the specific conditions for invoking the explicit authority under that section now exist. Potential health risks and consumer deception do exist and will continue to exist in the absence of information and evaluations by FDA of the therapeutic equivalence of drug products. Thus, distribution of this information is a proper FDA responsibility.

4. *Voluntary compliance activities.* Section 306 of the act (21 U.S.C. 336) authorizes FDA to use written notices in lieu of formal enforcement actions when the public interest will be adequately served by such notices. To the extent that a list of approved new drug products will encourage voluntary compliance by manufacturers of

new drug products that have not been approved, as discussed in section I.B.5. above in this preamble, issuance of such a list is within the authority delegated to the Commissioner under that section (21 CFR 5.1(a)(1)).

B. LEGAL STATUS OF LIST

The proposed FDA list of approved drug products, with evaluations on their therapeutic equivalence, would contain only public information and advice. This list would not constitute an order or a rule; it would neither determine nor adjudicate the legal rights of any drug manufacturer or distributor; it would impose no requirement or restriction upon any person; it would not interpret or apply the act in a manner that creates any obligation on any person; it would make no recommendation as to which products persons should purchase, prescribe, or dispense, or conversely, which products should be avoided.

To the extent that the list identifies drug products approved for marketing under sections 505 and 507 of the act (21 U.S.C. 355 and 357), it would merely set forth information to which the public is entitled under the Freedom of Information Act. (See 21 CFR 20.117; 314.14; and 431.71). Omission of a drug product from the list would not necessarily mean that the drug product is in violation of section 505 or 507 of the act, or that it is not safe or effective, or that it may not be therapeutically equivalent to other drug products. Decisions on whether specific drug products are subject to the requirements of either of those sections, or whether specific drug products have fulfilled those requirements, are made in clearly defined proceedings unrelated to the release of information on approval decisions. (See e.g., 21 CFR 314.100 and *Weinberger* v. *Bentex Pharmaceuticals, Inc.*, 412 U.S. 645 (1973).)

To the extent that the list sets forth FDA's evaluations of the therapeutic equivalence of drug products that have been approved, it would contain FDA's advice to the public and to the States regarding an important public health matter. These evaluations would not constitute determinations that any products are in violation of the act or that any products are preferable to others. They are based on the application of certain criteria, described below, to information contained in FDA files to make these nonregulatory evaluations.

The agency desires that the list be as well-informed as possible because of the public interest in and importance of the information it could contain. Issuance of the list would be significant activity by FDA, and the agency believes that it would profit from public participation during its development. Therefore, this notice is being published to solicit comments and suggestions on all aspects of the list, including the legal authority, rationale, and criteria for the evaluation of therapeutic equivalence. Because the list is not a rule, as defined in the Administrative Procedure Act (5 U.S.C. 551(4)), adherence to the rulemaking procedures of that statute (5 U.S.C. 553) is not required. Nevertheless, these procedures provide a useful model for the agency to present a proposal and request public comments on it.

If FDA decides to publish with a list such as proposed in this preamble, it is desirable that the public have a point of reference reflecting the availability of that list. To this end, the agency proposes to add a new paragraph to its regulations describing the FDA records and information that are and are not available to the public (21 CFR Part 20). Specifically, a new paragraph would be added to § 20.117 (21 CFR 20.117), which discusses the availability of various computer printouts of new drug information. The text of this proposed paragraph is set forth at the end of this document.

III. "THERAPEUTIC EQUIVALENCE": CONCEPT AND RATIONALE

The term "therapeutically equivalent drug products" simply means that two such drug products can be expected, in the judgment of FDA, to have equivalent therapeutic effect and equivalent potential for adverse effects when used under the conditions set forth in their labeling. Drug products that are therapeutically equivalent may still vary in certain respects: color, shape, taste, or packaging, for example. As a result, patients may not perceive them as identical or equally acceptable. For this reason, it cannot be stated that such drug products are substitutable or interchangeable in all cases. The judgment is not FDA's as to whether different drug products are substitutable or interchangeable for use by a particular patient; rather, it rests with practitioners who, in prescribing and dispensing drug products, can take into consideration the unique characteristics, needs, or problems of individual patients. It is the agency's position, however, that if one therapeutically equivalent drug product" is substituted for another under State law, with due professional regard for the individual patient, there is no substantial reason to believe that the patient will receive a drug product that is different in terms of the therapeutic effect intended.

Drug products may be evaluated as therapeutically equivalent if—

(1) They are pharmaceutical equivalents in that they contain identical amounts of the same active drug ingredient in the same dosage form, and they meet identical compendial or other applicable standards of identity, strength, quality, and purity;

(2) They are bioequivalent in that either they present no known or potential bioinequivalence problem or, if they do present such a known or potential problem, they are shown to meet an appropriate bioequivalence standard (bioequivalence refers to the comparative rates and extents of absorption of drug products into the human body; the assurance of bioequivalence of drug products is discussed in section III.B.2. of this preamble);

(3) They are adequately labeled; and

(4) They are manufactured in compliance with current good manufacturing practice.

On the basis of these factors, drug products can be said to be therapeutically equivalent. Moreover, if one of these products has been shown to be safe for its intended uses and has also been shown to be effective for those uses through adequate and well-controlled clinical trials, there is no scientific or medical justification for requiring clinical trials to establish the safety and effectiveness of the second product, without reasonable grounds for believing that the two products will not be of equivalent safety and effectiveness. It is neither feasible nor in the interest of the public health nor a productive use of the nation's scarce research resources to require costly duplication of these tests. A regulatory system that requires such duplicative testing is wasteful, anticompetitive, scientifically unsound, and ethically dubious.

In order to understand the basis on which FDA concludes that certain drug products are therapeutically equivalent, it is necessary first to define a number of terms and then to examine the assumptions and experience underlying the factors used in determining therapeutic equivalence.

A. THE CONCEPT OF "THERAPEUTIC EQUIVALENCE"

The starting point for understanding therapeutic equivalence is the term "therapeutic agent" or, as it is usually called, "therapeutic moiety." This term refers to the substance in a drug product that actually achieves the intended effect in the diagnosis, cure, mitigation, treatment, or prevention of a disease or in affecting the structure or function of the human body. (See 21 U.S.C. 321(g)(1).) Although different substances may produce the same ultimate therapeutic effect, they are not necessarily identical therapeutic agents. For example, various narcotics produce analgesia, but do so through different, although related, therapeutic moieties. On the other hand the same therapeutic moiety may appear in slightly different chemical forms,

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e.g., as different salts or esters of the same molecule. To distinguish these separate forms, the term "active drug ingredient" is used; each salt or ester of a therapeutic agent is a unique active drug ingredient. For example, tetracycline hydrochloride and tetracycline phosphate complex are distinct active drug ingredients containing the same therapeutic moiety.

The form in which a patient uses an active drug ingredient is s "drug product." This term has been defined in 21 CFR 320.1(b) to mean "a finished dosage form, e.g., tablet, capsule, or solution, that contains the active drug ingredient, generally, but not necessarily, in association with inactive ingredients."

The first consideration in evaluating therapeutic equivalence among drug products is whether they are "pharmaceutical equivalents." This term is defined in 21 CFR 320.1(c) as follows:

> "Pharmaceutical equivalents" means drug products that contain identical amounts of the identical active drug ingredient, i.e., the same salt or ester of the same therapeutic moiety, in identical dosage forms, but not necessarily containing the same inactive ingredients, and that meet the identical compendial or other applicable standard of identity, strength, quality, and purity, including potency and, where applicable, content uniformity, disintegration times and/or dissolution rates.

Pharmaceutical equivalents may differ in characteristics such as color, taste, shape, packaging, stability and expiration time, and (within certain limits) labeling. Frequently, variations in these characteristics are described as "pharmaceutical elegance," a term that refers to aspects of s drug product relating to its physical attractiveness, cost, convenience to patients, or acceptance by patients, rather than referring to its safety or efficacy.

Drug products that contain different active drug ingredients but the same therapeutic moiety, or products that are different dosage forms of the same active ingredient, are called "pharmaceutical alternatives." To distinguish these products from pharmaceutical equivalents, the following definition is used in 21 CFR 320.1(d):

> "Pharmaceutical alternatives" means drug products that contain the identical therapeutic moiety, or its precursor, but not necessarily in the same amount or dosage form or as the same salt or ester. Each such drug product individually meets either the identical or its own respective compendial or other applicable standard of identity, strength, quality, and purity, including potency and, where applicable, content uniformity, disintegration times and/or dissolution rates.

For present purposes of evaluating therapeutic equivalence, FDA proposes not to consider two drug products to be therapeutically equivalent unless they are pharmaceutically equivalent. Thus, drug products would not be evaluated as therapeutically equivalent even though they may contain (1) the same therapeutic moiety, but as different salts or esters, and thus as different active drug ingredients, or (2) the same active ingredients, but (i) in addition, contain other, different active ingredients, or (ii) are in different dosage forms (e.g., tablet v. solution), or (iii) do not meet identical compendial or other applicable standards. (Compliance with such standards is discussed in detail in section III.B.1. of this preamble.)

The second factor in evaluating whether two products are therapeutically equivalent is whether they are "bioequivalent drug products." To understand this consideration, two further definitions are needed:

"Bioavailability," as defined in 21 CFR 320.1(a), means "the rate and extent to which the active drug ingredient or therapeutic moiety is absorbed from a drug product and becomes available at the site of drug action." The site of drug action is the place in or upon the human body where the therapeutic moiety acts to achieve its intended effect.

The term "bioequivalent drug products" is also defined in 21 CFR 320.1, in paragraph (e), to mean:

> Pharmaceutical equivalents or pharmaceutical alternatives whose rate and extent of absorption do not show a significant difference when administered at the same molar dose of the therapeutic moiety under similar experimental conditions, either single dose or multiple dose. Some pharmaceutical equivalents or pharmaceutical alternatives may be equivalent in the extent of their 'bsorption but not in their rate of absorption and yet may be considered bioequivalent because such differences in the rate of absorption are intentional and are reflected in the labeling, are not essential to the attainment of effective body drug concentrations on chronic use, or are considered medically insignificant for the particular drug product studied.

The Food and Drug Administration presumes that pharmaceutically equivalent drug products are also bioequivalent unless there exists scientific evidence to the contrary. The basis for this presumption, and the issues surrounding bioequivalence among drug products, are discussed at length in section III.B.2. below in this preamble. As a consequence of this presumption, only where scientific evidence demonstrates a known or potential problem of bioinequivalence does the agency require each manufacturer to establish that its product is bioequivalent to a reference product, which generally is the pharmaceutically equivalent product marketed by the holder of the original new drug application. In such a situation, individual products are presumed not to be bioequivalent until proven otherwise by adequate scientific studies.

Under the definition quoted above, two drug products that are not pharmaceutically equivalent may still be bioequivalent. Such drug products would not, however, be designated as "therapeutically equivalent" for purposes of the proposed list. As stated above in section I of this preamble, a primary purpose of this list is to provide State agencies and officials with information relating to drug products that may be selected for dispensing under applicable State law. Under most State drug product selection statutes, pharmaceutical alternatives are excluded from the scope of substitution, i.e., pharmacists are not required or authorized to substitute with a pharmaceutical alternative. Thus, there is no need at this time to consider the circumstances under which pharmaceutical alternatives may be therapeutically equivalent.

Two other factors relate to therapeutic equivalence. Prescription drug products must be accompanied by labeling that provides information regarding proper use of the drug. The labeling must be adequate for licensed practitioners to prescribe, dispense, or administer the drug safely and for the purposes for which it is intended (21 U.S.C 352, 355, and 357; 21 CFR 201.100). In addition, the label of every drug product is required to identify the contents accurately and in detail (id.). Thus, the third consideration of therapeutic equivalence is whether the drug products are adequately labeled for the practioner and pharmacist.

The fourth and final factor in evaluating whether drug products are therapeutically equivalent is whether they are manufactured in accordance with current good manufacturing practice. Under section 501(a)(2)(B) of the act (21 U.S.C. 351(a)(2)(B)), a drug product is deemed adulterated if "the methods used in, or the facilities or controls used for, its manufacture, processing, packing, or holding do not conform to or are not operated or administered in conformity with current good manufacturing practice to assure that" the drug product meets the requirements of the law. Current good practice is determined by FDA on the basis of an ongoing review of industry operations.

In summary, FDA proposes to evaluate as "therapeutically equivalent" those drug products that meet the following general criteria:

(1) They are pharmaceutical equivalents in that—

(a) They contain identical amounts of the same active drug ingredient in the same dosage form; and

(b) They meet compendial or other applicable standards of identity, strength, quality, and purity.

(2) They are bioequivalent in that—

(a) They do not present a known or potential bioinequivalence problem; or

(b) If they do present such a known or potential problem, they are shown to meet an appropriate bioequivalence standard.

(3) They are adequately labeled.

(4) They are manufactured in compliance with current good manufacturing practice.

Specific criteria proposed to be used by FDA in evaluating therapeutic equivalence, based on the foregoing four factors, are set forth in section IV of this preamble. Before discussing these specific tests, however, it is appropriate to examine the scientific, regulatory, and practical foundations underlying the four general criteria.

B. THE SCIENTIFIC AND REGULATORY FOUNDATIONS FOR EVALUATION OF DRUG PRODUCTS AS "THERAPEUTIC EQUIVALENTS"

The scientific ad regulatory foundations for the evaluation of the therapeutic equivalency of drug products involve the following three major elements:

(1) Pharmaceutical equivalence.

(2) Bioequivalence.

(3) Controls to assure consistency of quality in, and pharmaceutical and bioequivalency among, individual batches produced by all manufacturers.

1. *Pharmaceutical equivalence.* The definition of "pharmaceutical equivalent" set forth above contains two key tests. First, the drug products must contain identical amounts of an identical active drug ingredient in identical dosage forms. This test is quite restrictive, for it excludes drug products that provide the same ultimate therapeutic effect from the identical therapeutic moiety, although through a different active drug ingredient (e.g., a different salt or ester), or through a different dosage form (e.g., tablet v. suppository), or with a different quantity of active drug ingredient. These excluded drug products are treated as pharmecutical alternatives and are not included in the category of therapeutically equivalent drug products.

The second test for pharmaceutical equivalence is that each product meet the identical compendial (or other applicable) standards of identity, strength, quality, and purity, including potency and, where applicable, content uniformity, disintegration times, and/or dissolution rates. Under section 501(b) of the act, any drug recognized in an official compendium is required to meet the standards of strength, quality, and purity set forth in that compendium (21 U.S.C. 351(b)). The term "official compendium is defined in section 201(j) of the act to mean the United States Pharmacopeia (USP), the National Formulary (NF) or the Homeopathic Pharmacopeia (21 U.S.C. 321(j)). Section 507(b) of the act authorizes the Secretary to issue regulations prescribing similar standards for antibiotics (21 U.S.C. 357(b)). In cases where compendial standards do not exist, section 505 of the act authorizes FDA to require analogous standards to be included in a new drug application as part of assuring that the manufacturing processes are adequate to preserve the identity, strength, quality, and purity of the drug (21 U.S.C. 355). (See also 21 CFR 314.1(c)(2) Form FD-356H, Item 8.)

Compendial, antibiotic, and similar new drug application standards prescribe a number of specifications, and corresponding tests or methods of assay, regarding the identity of the active drug ingredient and its strength or potency and purity, and the finished drug product and its strength or potency, purity, and sometimes packaging. Standards may establish limits upon or requirements for, e.g., sterility, pyrogenicity, pH, heavy metals, and package design.

The purpose of these standards is to provide manufacturers with workable means to assure that drug products achieve a level of quality sufficient for their safe and effective use. To the extent that compendial and antibiotic standards recognize a difference between adequate and the most stringent possible specifications, they do so in an attempt to balance the costs and burdens of meeting the requirements with the need for standards that adequately protect the health and safety of the patient using the drug product.

In recent years, some concern has been expressed as to the adequacy of existing compendial standards. For example, a study conducted for Congress by the Office of Technology Assessment on "Drug Bioequivalence" (July 15, 1974) (hereafter called "OTA Report") concluded in part that "[p]resent compendial standards • • • do not assure quality and uniform bioavailability of drug products" (id., p. 2). The PMA made a detailed attack on the quality of the compendia during HEW's proceedings to promulgate regulations relating to Federal reimbursement for prescription drugs (the "Maximum Allowable Cost" or "MAC" regulations) and in litigation challenging those regulations (*American Medical Ass'n et al. (Pharmaceutical Mfr's Ass'n, Intervenors)* v. *Mathews*, 429 F. Suppl 1179 (1977)). These criticisms have not gone unanswered. The United States Pharmacopeial Convention, Inc., which now publishes USP and NF, and the American Pharmaceutical Association, which published NF in 1974, have argued in congressional hearings before the Senate Health Subcommittee that the focus of the OTA Report is substantially narrower than the overall adequacy of compendial standards, in that it did not relate to all aspects of drug product quality, but solely to those aspects affecting bioequivalency. It was further urged that "[c]ompendial standards, although not perfect, do effectively minimize the possiblity that unsatisfactory products will be permitted on the market" (statement of Dr. Edward Feldmann, American Pharmaceutical Association, in Hearings on the Examination of the Office of Technology Assessment Report of the Drug Bioequivalence Study Panel before the Subcommittee on Health of the Senate Committee on Labor and Public Welfare, 93d Cong., 2d Sess. 184 (1974) ("OTA Report Hearings")). Related hearings were held before the Senate Subcommittee on Monopoly in 1974. (See Hearings, Pt. 24, before the Subcommittee on Monopoly of the Senate Select Committee on Small Business, 93d Cong., 2d Sess. 1974) ("Monopoly Committee Hearings").)

In reference to the MAC regulations, the Department stated (OTA Report Hearigs, pp. 127-128):

> We cannot agree, however, that identifying those interchangeable drug products for which evidence of bioequivalence is not essential requires extensive new [compendial] standards. The task involved in developing such standards must be placed in perspective. Drug products which meet standards based on the best available technology are highly desirable. Applying appropriate tests to raw materials, precompression stages and to the finished drug product universally may also be important. But, if efforts to develop such standards and tests are expended precipitously on all marketed drugs, important and limited medical and investigational resources would be misspent to the exclusion of more urgent tasks.
>
> For drug products which are found not to require evidence of bioequivalency, the fact that these products have met present compendial standards as demonstrated by possession of an approved New Drug Application or Abbreviated New Drug Application is sufficient to support the assumption of interchangeability. We believe that this approach is reasonable, practical, and consistent with the spirit of the [OTA] Panel's evaluation. We further believe that this approach involves no hazard to the patient. It is and will continue to be desirable to improve the standards under which drugs are manufactured so that the possibility of bioinequivalence is reduced still further. The Panel's suggestions of ways to achieve this goal are appreciated and, in the main, enthusiastically supported by FDA.

The Food and Drug Administration adheres to these conclusions. Preparation of a list of therapeutically equivalent drug products can proceed without awaiting a comprehensive review and upgrading of all relevant compendial standards. The OTA Report is

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correct in concluding that existing standards by themselves may not guarantee bioequivalence. But these standards do provide a basis for evaluating drug products as pharmaceutically equivalent, and in some cases provide dissolution rate standards that reduce the potential for bioinequivalence problems. In case where bioinequivalence problems are suspected or identified, bioequivalence standards may be imposed in addition to compendial specifications. Thus, it is safe to conclude that when supplemented by other appropriate tests and requirements, such as bioavailability testing and new drug application requirements, compendial and antibiotic applicable standards do provide a reasonable assurance of therapeutic equivalence.

Since 1974, when the OTA Report was issued, significant improvements have been made in the compendia. Responsibility for the NF has been transferred from the American Pharmaceutical Association to the United States Pharmacopeial Convention, Inc., so that USP and NF, and their improvement, are now fully coordinated. The compendia have also adopted important new requirements, including dissolution rate standards for many drug products (USP XIX, p. xv).

Furthermore, FDA has proposed that specifications for drug ingredients and drug products submitted by manufacturers in new drug applications or similar premarketing approval applications be available for public disclosure, unless the specifications serve no regulatory or compliance purpose and are exempt as trade secrets. (See the FEDERAL REGISTER of July 15, 1977 (42 FR 36485).) If adopted, this action will permit the official compendia to maintain current standards applicable to the drug products of all manufacturers.

In the past, individual manufacturers have claimed that they use standards exceeding the requirements of the compendia and that consequently their products are of higher quality than competing brands. Many of these firms refuse, however, to make public the standards they use; a number submitted comments opposing the FDA proposal to disclose specifications contained in submissions to the agency, on the ground that these specifications constitute "trade secrets." The argument runs roughly as follows: (1) Company A claims that it uses higher standards than the compendia require; (2) Company A further claims that these higher standards lead to better products; (3) the public prefers to buy better products; (4) to the extent that the public believes Company A's claims, the public (through physicians and pharmacists) will prefer to buy Company A's products; (5) to the extent that the public buys Company A's products because of a belief that they reflect a quality difference, Company A's standards provide a competitive advantage; (6) because the standards provide a competitive advantage, they constitute "trade secrets" that are prohibited from disclosure under section 301(j) of the act (21 U.S.C. 351(j)) and section 1905 of Title 18 of the U.S. Code (18 U.S.C. 1905). The success of this argument, of course, depends upon whether Company A's standards are in fact "higher" or merely different, and if truly "higher," whether the standards have any significance with regard to the safety or effectiveness of the product.

It is impossible for the public to evaluate Company A's claim that it uses higher standards because Company A insists that they are "trade secrets" and therefore cannot be seen by the public. FDA, which can and does look at these standards in reviewing new drug applications, ascertains that they are adequate to assure the quality of the product; if not, the application is not approved. The agency has observed firms adopting specifications beyond those needed to reasonably assure drug product quality in order to provide some pharmaceutical elegance. Although these standards are different, they do not necessarily make a "better" product.

Except for identified problems of bioinequivalence, FDA is not aware that any therapeutically significant differences currently exist among "pharmaceutically equivalent drug products" which result from differences between public compendial (or antibiotic) standards and "higher" internal standards of manufacturers.

If such therapeutic differences did exist, however, protection of the public health would require that the compendial standards be changed as quickly as possible. Means for avoiding significant problems in the safety or effectiveness of a drug product should not be viewed as a "competitive advantage," nor should the new drug approval process be viewed as a mechanism for perpetuating differences between compendial and private standards critical to assuring drug quality. Compendial standards should remain current with technological evolution and good industry practice.

To this end, it is in the public interest for manufacturers to make their standards available to the compendial officials, rather than to encourage a system of double standards in order to gain a "competitive advantage." As was stated in the FEDERAL REGISTER of July 15, 1977 (42 FR 36486):

> The public availability of drug specifications will help to assure that all manufacturers of the same drug product meet the same standards of identity, quality, purity and, where applicable, dissolution rate or other in vitro tests intended to assure bioequivalence. Furthermore, consumers and physicians will be able to select a particular brand of a drug product with confidence, knowing that the standards it is required to meet are comparable to those of other versions of the same drug product. Disclosure will permit the official compendia to maintain current standards applicable to the drug products of all manufacturers. Consistent compendial specifications and methods will contribute to improving the enforcement programs of Federal, State, and local regulatory agencies whose function is to assure full compliance with legal requirements for drug products.

It can be argued that a drug product may be called "better" without providing a therapeutically significant advantage, on the grounds that it offers other factors of benefit to the patient, such as greater acceptability (e.g., because of taste, size, color, or shape), longer storage life, or more convenient packaging. These attributes of pharmaceutical elegance do not relate to the essential safety and effectiveness of the drug product. Each carries with it a certain economic cost, which consumers may or may not be willing to pay in order to obtain the advantage. It must be recognized, however, that cost of medication may be as significant a factor to patients as taste, storage life, or packaging. Thus, to the extent that internal manufacturing standards result in a more elegant product, without providing greater safety or effectiveness, they do not justify any therapeutic distinctions among drug products and are not relevant to the evaluation of the therapeutic equivalence of those drug products.

For these reasons, it is appropriate to conclude that current compendial and antibiotic standards and similar standards in new drug applications provide a reasonable basis for evaluating whether two or more drug products are pharmaceutically equivalent and thus may be therapeutically equivalent. Although specifications in new drug applications may differ in some cases, all are adequate—and none are clearly superior—in assuring the quality of the drug products covered in those applications.

2. *Bioequivalence.* Bioequivalence involves the comparison of two drug products on the basis of the rate and extent to which their active drug ingredient is absorbed and becomes available at the site of drug action. Two drug products are generally said to be bioinequivalent if, under similar experimental conditions, the rate or extent of absorption of one differs significantly from that of the other.

Problems of bioinequivalence have undoubtedly existed since the development of drugs. Awareness of these problems, however, is a relatively recent phenomenon, arising in the last

decade. Before that time, variations in patient-response among different brands of drug products were generally attributed to patient variation rather than to drug nonuniformity. As the science of biopharmaceutics evolved, attention was focused on the clinical effects of differences in the bioavailability of drug products made by different firms, or in different batches of a drug product made by a single firm.

The bioavailability of a drug product, it is now known, can be affected by a number of biological and pharmaceutical factors. For example, for an orally administered drug, bioavailability is dependent upon factors such as the area in the gastrointestinal tract from which the drug is absorbed, the dissolution and stability of the drug in the gastrointestinal tract, the rate at which the drug is absorbed from the gastrointestinal tract, and the rate of metabolism of the drug in the intestinal wall and liver. In turn, these biological factors are influenced by the specific pharmaceutical characteristics of the product, including the physical structure and particle size or surface area of the active drug ingredient, the quantity and characteristics of inactive ingredients, the coating of a tablet or capsule, and the compression applied to produce a tablet. Variations in any of these factors, either from batch to batch of one manufacturer or from the product of one manufacturer to that of another, can produce variations in bioavailability or, in other words, bioinequivalence. If a patient using one product is given a different product, including a product from a different batch by the same manufacturer a bioinequivalence problem may result. Most commonly, bioinequivalence problems are discovered only by in vivo testing of blood levels. Therapeutic failures are uncommon and, when they occur, generally result in reduced effectiveness. Less frequently, absorption is significantly in excess of a previously used product, and thus bioinequivalence may produce toxicity.

In its first regulatory response to this problem, FDA began systematically in 1970 to require evidence of "biological availability" in support of abbreviated new drug applications (hereafter called "ANDA's") for many drug products subject to a Drug Efficacy Study Implementation (DESI) notice rating them as "effective" and requiring an ANDA as a condition to marketing. (See 21 CFR 314.1(f)(3).) Several problems resulted from these DESI notices. As firms inquired of the agency as to the availability of protocols for meeting this requirement, it became apparent that the state of the art was still inadequate for many drugs. Moreover, later FDA review found that a number of active ingredients and dosage forms covered by the DESI "biological availability" requirements did not pose any bioequivalence problems. It followed that such requirements were not scientifically warranted.

As a result of these developments, the agency advised firms that the bioavailability requirements spelled out in certain DESI notices were deferred. These actions were taken on an ad hoc basis, while many new DESI notices continued to impose bioavailability requirements. As a result, FDA reconsidered its policies with a view toward promulgating a comprehensive set of regulations in this area.

It was at this point that FDA and many in the pharmaceutical industry disagreed on the extent of the bioinequivalence problem. Indeed, the major controversy surrounding FDA's subsequent regulatory activities (and related issues of drug substitution and the MAC program) is whether bioinequivalence is relatively widespread or rare. The degree to which the problem is common to all drugs suggests the degree to which therapeutic equivalence cannot be determined without scientific studies on each specific drug product, and, indeed, each specific batch of each drug product. Some manufacturers and the PMA argue to this day the bioinequivalence is so prevalent that proof of bioequivalence should be required for every prescription drug product. See, e.g., proposed amendments to the Drug Regulation Reform Act of 1978 by PMA, in Senate Committee on Human Resources, 95th Cong. 2d Sess., section-by-section analysis of amendments submitted to S. 2755, pp. 41-42 (Comm. Print 1978).

Quite apart from the merits of these proposals, their economic implications would be quite favorable to firms already on the market, because the cost for a new manufacturer to enter the market would be greatly increased, and the time at which entry could occur would be significantly delayed. Thus, if accepted, the PMA proposals would have substantial anticompetitive effects. Such costs to the public from scientific studies and from a loss of competition require substantial justification in terms of protecting the public health.

Because of the fervor, persistence, and implications of the controversy over whether proof of bioequivalence should be required for every prescription drug product, a detailed history and discussion are appropriate.

On January 5, 1973, FDA published a notice of proposed rulemaking in the FEDERAL REGISTER (38 FR 885) to establish bioavailability requirements for prescription drugs. The preamble to that proposal stated (id. at 886):

> It is not possible to specify at the present time the frequency with which lack of equivalence in bioavailability of chemically equivalent formulations may occur. However, the parameters associated with defining the bioavailability of a drug have been identified and the factors for assessing a drug's bioavailability in most instances are known or can be determined.
>
> It is the responsibility of the manufacturer to assure by acceptable scientific evidence that each dosage form of each drug product is formulated so as to meet appropriate standards, is safe, and has the effectiveness claimed in its labeling. For some drugs a necessary part of this assurance is evidence that the active drug in a drug product is biologically available to a uniform and acceptable degree.
>
> Suitable methodology for accurately measuring the bioavailability of a drug in humans is not currently available for many drug products. Practical limitations on the number of investigators and clinical research facilities available for such work also precludes the possibility of testing in the near future every formulation of every drug currently on the market. There is no reason to believe that a rigid across-the-board requirement for bioavailability testing of every marketed drug product would, on a benefit/risk ratio basis, improve the quality of drug products commensurate with the expenditure of human and technical resources. Thus, it is necessary to set priorities in the categories of drugs selected for bioavailability testing, with primary attention directed toward those in which a defect in bioavailability would be most detrimental to patient care.
>
> In view of the above, the FDA will publish, from time to time, lists of drugs for which bioavailability data will be required on the basis of medical importance and/or indications that problems of bioavailability have been suggested or suspected.

To develop the lists of drugs referred to, FDA initiated an exhaustive search of published literature and agency files concerning any problems of bioinequivalence among multiple source drugs. This work necessitated examining scientific literature on the subject in order to determine which references adequately documented and supported the existence of actual drug bioinequivalence problems. FDA also sought to establish scientific criteria for determining in advance where a bioinequivalence problem was most likely to arise.

In addition, FDA reviewed drug application files to identify evidence of any actual bioinequivalence problems. The resulting information established in 1973 that in 6 of the 13 cases in which a bioinequivalence problem was identified, it was found that it was the reference product, rather than the new manufacturer's product, that was substantially less bioavailable. (Currently about one-third of 29 documented bioinequivalence problems involve the first-marketed product.) In other words, the pioneer's product was not delivering the quantity of active ingredient once believed to be available; the original clinical trials and de-

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velopment of the initial manufacturing standards turned out not to have guaranteed the full potential bioavailability in the product. Therefore, in order to eliminate the product-to-product bioinequivalence, it would be necessary to upgrade the bioavailability of the pioneer. As a result of this conclusion, and the agency's experience of bioinequivalence among batches of individual brands of digoxin, the concern for bioinequivalence problems had to extend beyond multiple source drugs to include single source drugs as well.

After the January 5, 1973 proposal, there were numerous reports, symposia, and publications by academic institutions, industry, professional groups such as the Academy of Pharmaceutical Sciences, and organizations such as the National Academy of Sciences and the World Health Organization dealing with the subject of drug bioavailability. FDA actively participated in this dialog and sponsored some of the public meetings dealing with the subject of drug bioavailability. From these discussions new understandings of bioinequivalence problems have evolved, along with new procedures for their solutions. No final action was taken, however, on the January 1973 proposal.

Beginning on April 12, 1974, a Drug Bioequivalence Study Panel, formed by the Congress of the United States, Office of Technology Assessment (OTA), began to examine the relationships between the chemical and therapeutic equivalence of drug products and to assess the capability of current technology to determine—without therapeutic trials in human subjects—whether drug products with the same physical and chemical composition produce comparable therapeutic effects. FDA shared with the Panel its experience in preparing the lists of drugs with bioavailability problems, and the definitions, concepts, and solutions that had evolved since the 1973 proposal. On July 15, 1974, the OTA Report was released. Among the conclusions and recommendations contained in the report were the following:

• • • • • •

2. Variations in the bioavailability of drug products have been recognized as responsible for a few therapeutic failures. It is probable that other therapeutic failures (or toxicity) of a similar origin have escaped recognition.

• • • • • •

4. It is neither feasible nor desirable that studies of bioavailability be conducted for all drugs or drug products. Certain classes of drugs for which evidence of bioequivalence is critical should be identified. Selection of these classes should be based on clinical importance, ratio of therapeutic importance to toxic concentration in blood, and certain pharmaceutical characteristics.

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11. A system should be organized as rapidly as possible to generate an official list of interchangeable drug products. In the development of the list, distinctions should be made between two classes of drugs and drug products.

a. Those for which evidence of bioequivalence is not considered essential and that could be added to the list as soon as standards of pharmaceutical equivalence have been established and satisfied.

b. Those for which evidence of bioequivalence is critical. Such products should be listed after they have been shown to be bioequivalent or have satisfied standards of pharmaceutical equivalence that have been shown to insure bioequivalence.

In response to the evolution of ideas on bioavailability and bioequivalence after the January 1973 proposal, in the FEDERAL REGISTER of June 20, 1975, that proposal was withdrawn (40 FR 26142) and two separate notices of proposed rulemaking were issued, one dealing with bioavailability testing requirements (40 FR 26157), and the other, with establishing bioequivalence testing requirements for certain drug products (40 FR 26164). In the latter notice, it was stated (id. at 26165):

The Commissioner recognizes that a few bioequivalence problems have been noted in the past and others may become apparent in the future. However, he believes that relatively few of the currently marketed drug products meeting current in vitro standards and current good manufacturing practices will be found to have medically significant bioequivalence problems. For this reason, he does not believe that it is necessary or in the public interest to undertake the task of developing new in vitro bioequivalence standards for all drug products. The procedures being proposed by the Commissioner are intended to identify bioequivalence problems involving currently marketed drug products and to develop adequate in vitro bioequivalence standards for these drug products.

The Commissioner is of the opinion that it is neither necessary nor feasible to require in vivo bioavailability testing of all drug products which were evaluated as effective under the drug efficacy study. For many such drug products, such testing would involve human risk and would be a waste of human resources with little benefit to the public health. Furthermore, the Commissioner is of the opinion that, for many drug products, the use of a current in vitro test comparing the drug product to a reference material may be adequate to assure the quality and uniformity of drug products which are intended to be used interchangeably as well as all batches of the same drug product.

In the continuing controversy over whether proof of bioequivalence is necessary for all drug products, the Commissioner remains convinced that only a small fraction of all drugs present bioequivalence problems, and that, among those drugs that are currently marketed by more than one supplier, the problem drugs have now mostly been identified. For the remainder, bioequivalence can be pharmaceutical equivalence.

The agency has taken steps to eliminate the problems posed by those drugs that present bioinequivalence problems. Throughout the period 1970 through 1977, even without formal regulations on bioavailability and bioequivalence requirements, FDA continued to require bioavailability data in ANDA's for many generic drug products, even though in some cases compliance was deferred pending development of appropriate methodology. As a condition for obtaining FDA approval, The agency required newly submitted ANDA's for those drugs having known or potential bioinequivalence problems to contain evidence demonstrating that the drug product proposed for approval was bioequivalent to a reference product. Generally, the reference product was the pharmaceutically equivalent drug product that was subject to an approval full NDA. In conjunction with the June 20, 1975 FEDERAL REGISTER notices cited above, the agency limited these requirements to a specific list of drugs covered by DESI notices (40 FR 26142). The standards used in compiling this list were described in that notice, and more fully discussed in the FEDERAL REGISTER of January 7, 1977, in which the list was affirmed (42 FR 1624, 1626):

• • • The proposed [bioequivalence] regulations under § 320.3(b) [published on June 20, 1975 (40 FR 26164); codified as § 320.52 on January 7, 1977 (42 FR 1624)] listed factors that the Commissioner would consider in determining whether there is a bioequivalence problem that requires the establishment of a bioequivalence requirement. Using these criteria, the Commissioner made a tentative finding that the drug products listed in the preamble had a known or potential bioequivalence problem. The purpose of the list was to generage public understanding of how FDA intends to apply the factors set forth in proposed § 320.3(b) to identify drug products for which a bioequivalence requirement should be established. Although an attempt was made to identify each drug product with a known or potential bioequivalence problem, the Commissioner recognizes that the list may omit some drug products with a known or potential bioequivalence problem. Likewise, the Commissioner emphasizes that a drug product's inclusion on the list does not necesarily imply that FDA has positive evidence of bioinequivalence among the various brands of the drug product.

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In compiling the list, FDA took a conservative approach. Therefore, a drug product was included on the list if, in FDA's opinion, there was any suspicion that the drug product had a known or potential bioequivalence problem or was a member of a class of drug products for which there was suspicion that at least on member of the class had a known or potential bioequivalence problem. The Commissioner is of the opinion that, as evidence of bioequivalence is closely exmined, few of the drug products listed will be determined to have well-documented, medically significant bioequivalence problems. A "medically significant bioequivalence problem" is one that would result in therapeutic failure or a hazard to a patient if different brands of the same drug product or different batches of the same brand are not bioequivalent. The Commissioner believes that a determination of bioequivalence is most critical in a drug product that has a narrow therapeutic-toxicity dosage range and requires careful patient titration and monitoring for safe and effective use.

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The purpose of the list was to alert persons marketing a drug product on the list that, on the basis of an in-house review of data available to FDA, the Commissioner is concerned that the product has a bioequivalence problem and he will likely propose to establish a bioequivalence requirement for the drug product. At the time the Commissioner proposes a bioequivalence requirement, he will document the data to support the requirement. These persons, therefore, can rely on this advance information if they wish to conduct bioequivalence studies in anticipation of the establishment of the requirement by rulemaking.

The January 1977 notice went on to explain the regulatory requirements that were being applied for products containing drugs on the list pending the establishment of bioequivalence requirements (id.):

The Commissioner advises that FDA will continue to require the submission of bioavailability data in a full or abbreviated NDA for any of these products and for identical, related, or similar drug products. This policy is being codified in § 320.22(c) (21 CFR 320.22 (c)) • • •. The FDA intends to propose in the near future • • • the establishment of a bioequivalence requirement for all of these drug products, which upon examination, are determined to have well-documented, medically significant bioequivalence problems. If a bioequivalence requirement is finally established for a drug product after completion of these procedures, the applicant will be required to submit data in the full or abbreviated NDA to demonstrate that the product meets the bioequivalence requirement.

The Commissioner also advises that FDA's current policy is that, until a bioequivalence requirement is established for a drug product, manufacturers submitting a full or abbreviated NDA for a drug product already identified by FDA as having a known or potential bioequivalence problem will be required to meet the same requirements as previous manufacturers. Thus if previous manufacturers have been required to conduct in vivo studies, new manufacturers will be required to conduct in vivo studies even though there is evidence that a bioequivalence requirement could be established on the basis of an in vitro test. This assures that opportunity for public comment will be provided before an in vitro test is substituted for an existing in vivo test to demonstrate bioequivalence, and that competing firms are treated fairly and equally by the agency. The Commissioner advises that, pursuant to the agency's policy of minimizing human studies, FDA will give priority to the establishment of bioequivalence requirements to those products for which an in vitro test is available.

To summarize, since the early identification of bioequivalence problems, FDA has sought to assure the bioequivalence of pharmaceutically equivalent drug products. The agency undertook two parallel activities: (1) the development of requirements for bioavail- ability testing and for demonstrating bioequivalence (now codified in 21 CFR Part 320), and (2) in anticipation of such requirements, a review of the evidence of bioavailability and bioequivalence in ANDA's for those pharmaceutically equivalent drug products for which evidence of a bioinequivalence problem exists. Although the first activity has taken considerable time and effort to put into place, the second activity has functioned well for the last 8 years and has provided considerable bioequivalence data and information contained in ANDA submissions. For these products there is a reliable basis for determining the bioequivalence of specific pharmaceutically equivalent drug products.

3. *Controlling batch-to-batch consistency.* Bioequivalence is only one test of equivalent safety and effectiveness among different drug products that are pharmaceutical equivalents. Other factors that may affect safety and effectiveness of such drug products include both compliance of the manufacturing process with current good manufacturing practice and adequacy of drug product labeling. These factors, as well as conformity with compendial or other standards of identity, strength, quality, and purity, are regulated through mechanisms other than the bioequivalence requirements. These other mechanisms provide a further basis for concluding that pharmaceutically equivalent and bioequivalent products may be considered therapeutically equivalent. The mechanisms, described in the following paragraphs, are as follows: (a) the new drug approval and antibiotic certification processes, (b) the batch certification procedures, (c) the good manufacturing practice regulations, and (d) FDA's monitoring of the marketplace.

(a) The new drug approval and antibiotic certification processes: Section 505 of the act requires that each "new drug," as defined in section 201(p) of the act, be subject to an approved new drug application before being introduced into interstate commerce (21 U.S.C. 355, 321(p)). Agency regulations describe two types of application: a full new drug application (NDA) and an abbreviated new drug application (ANDA) (21 CFR 314.1). In general, the ANDA is currently permitted only for drug products subject to a DESI notice either rating the active drug ingredient as effective (see FEDERAL REGISTER of September 1, 1978 (43 FR 39126)) or requiring further studies to evaluate effectiveness (see FEDERAL REGISTER of February 17, 1978 (43 FR 7044)); the active drug ingredients in these drug products were all first marketed prior to 1962. Both types of application require submission of information on inactive ingredients, labeling, and manufacturing practices (21 CFR 314.1).

Under section 507 of the act, once an "antibiotic drug," as defined in that section, has been approved for safety and effectiveness, regulations providing for certification of batches of products containing the drug are issued (21 U.S.C. 357). These regulations require that persons seeking to market an antibiotic drug product through submission of a request for certification provide FDA with information on inactive ingredients, labeling, and manufacturing practices similar to that required in new drug applications (21 CFR 431.1, 431.17, 431.50).

The process of reviewing and approving new drug applications and antibiotic certification forms enables FDA, in addition to determining pharmaceutical equivalence and bioequivalence of the drug products, to review the inactive ingredients in the drug products, to assure the inactive ingredients in the drug products, to assure the adequacy of labeling, and to evaluate any proposed specific manufacturing controls to assure appropriate quality and batch-to-batch consistency. Only when all these elements meet regulatory requirements may an application be approved or an antibiotic drug product be eligible for certification. As discussed in subsection (b) below in this preamble, each batch of an antibiotic drug product also must be submitted for FDA testing and certification before being marketed. Once an application or certification form is approved, moreover, changes may not be made in any of the critical factors, including inactive ingredients, labeling, and manufacturing controls, without prior notice to, and generally prior approval of, FDA (21 CFR 314.8; 431.16). Changes are accomplished through supplemental applications and amended antibiotic applications. Thus, the new drug approval process and the antibiotic certification process are important parts of FDA's program for determining before marketing commences—and thereafter maintaining—the therapeutic equivalence of drug products subject to sections 505 and 507 of the act.

Conversely, the absence of any such process for drugs that are claimed to

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be neither "new drugs" nor "antibiotic drugs" substantially vitiates FDA's present ability to evaluate the therapeutic equivalence of such drugs. Unlike antibiotic drugs and new drugs, these other drug products may be placed on the market at any time without prior notice to FDA; under section 510 of the act, the manufacturer is required only to notify the agency of the availability of the product in the first June or December following marketing (21 U.S.C. 360). Even when this notice is submitted, the manufacturer is required to provide only limited information: qualitative and quantitative identification of the active ingredients and a copy of the labeling of the drug product (21 CFR 207.25(b)(4) and (6)). The agency does not receive a qualitative or quantitative identification of inactive ingredients, evidence regarding bioavailability, or manufacturing controls, unless they are voluntarily supplied. Moreover, even if the manufacturer freely provides the information, it may change the formulation, the labeling, and the manufacturing process at any time without prior notice to FDA.

For such drugs, FDA can obtain information similar to that required in a new drug application only by conducting an on-site inspection of the manufacturer's records under section 704 of the act (21 U.S.C. 374). These records would probably not be organized in the format of an NDA or ANDA. Clearly, this procedure is quite costly, given the freedom of firms to enter the market and to modify their products. The procedure may also not be adequate for FDA to assure the safety, effectiveness, quality, or therapeutic effectiveness of a drug product at any given point; many batches of a product may already have been distributed before FDA could conduct an inspection, and the product could be substantially modified after an inspection without notice to the agency. Thus, FDA cannot accept, for example, the argument made by counsel for the National Association of Pharmaceutical Manufacturers that bioequivalence can be adequately monitored without premarketing review of drug products. (See statement of Milton Bass quoted in 40 *FDC Reports* (the "Pink Sheet"), No. 50, p. 22 (Dec. 11, 1978).)

With regard to drugs subject to the new drug approval process, it has been argued that the ANDA approval process is less demanding than the NDA approval process, and that therefore product quality is less reliable among drug products covered by an approved ANDA. (See, e.g., statement of C. Joseph Statler in Drug Quality Hearings, pp. 16529–16538, and pp. 15782; PMA's complaint in the Drug List Litigation, para. 12.) The argument appears to be more abstract than empirical. Because most members of PMA hold at least one approved ANDA is it to be inferred that these manufacturers apply different quality control standards internally for their ANDA products than for their NDA products, or that ANDA's are adequate for preclearing PMA member's generic drug products but not others? Despite these defects in reasoning, the argument and its underlying assumptions should be examined closely.

The criticisms of ANDA's appear to fall into three areas: (1) ANDA's do not contain adequate evidence of safety and effectiveness to justify approval of the drug product; (2) ANDA's do not contain evidence of bioavailability of the drug product or its bioequivalence with pharmaceutically equivalent drug products; (3) ANDA's do not contain, or contain substantially less, infomation regarding the manufacturing processes and controls for, and the packaging of, the drug product.

In FDA's opinion, none of these objections is valid.

First, regarding the absence of full safety and efficacy data, the abbreviated NDA is authorized in lieu of a full NDA only after a decision has been made through the DESI review process that further information is not necessary regarding the safety and effectiveness of the active drug ingredient in a specified indication for use (21 CFR 314.1(a)(1)). The full rationale for this policy has been discussed at length in several FEDERAL REGISTER notices; see, for example, notice of proposed rulemaking on acceptability of ANDA's, September 1, 1978 (43 FR 39126); and notices of opportunity for hearing published in the FEDERAL REGISTER of April 29, 1977 (42 FR 21847), June 10, 1977 (42 FR 30002), August 9, 1977 (42 FR 40248), and September 16, 1977 (42 FR 46592). If one drug product has been shown to meet the criteria for therapeutic equivalence with another drug product, and either has been shown by clinical trials to be safe and effective for its intended uses, there can be no justification for routinely requiring clinical trials to demonstrate the safety and effectiveness of the other drug product. In the absence of a reasonable scientific basis for believing that the two drug products may not be equivalent in safety and efficacy, duplicative clinical testing is unacceptable on ethical, social, economic, and scientific grounds.

The second criticism, that ANDA's do not assue bioavailability or bioequivalence, is dealt with at length in section III.B.2. of this preamble. In brief: (i) Only a small percentage of drugs for which ANDA's are permitted have known or potential bioinequivalence problems. For the others, bioavailability studies are neither necessary nor desirable. (ii) Since June 1975, the agency has identified publicly all of those multiple source drugs which it believes may warrant proof of bioequivalence. The drugs without bioinequivalence problems have not been required, in the ANDA approval process, to have their bioavailability or bioequivalence established, and they should not be so required until evidence becomes available raising a real risk that a bioinequivalence problem exists. The criteria for identifying such a risk have been carefully described in FDA regulations after a full public proceeding (21 CFR 320.52). (iii) For those drugs identified as presenting problems of bioinequivalence, and for which methodology exists, the agency has required evidence of bioequivalence to an approved pharmaceutically equivalent drug product, generally one that is subject to a full NDA. In sum, for many drug products it would be unnecessary and wasteful to require proof of bioequivalence in order to obtain approval of an ANDA; for the lesser number of drug products that are known to present potential or real bioequivalence problems, the ANDA process can and in fact generally does provide sufficient assurance that approved products are bioequivalent; for any drug product known to present a bioequivalence problem that has not been satisfactorily resolved by the ANDA process, FDA will not evaluate the drug as therapeutically equivalent.

The third criticism, that ANDA's require less information regarding drug product contents, manufacturing, and packaging, is in error. It is true that current FDA regulations do state that an ANDA need contain summaries or outlines of the formulation, manufacturing, and packaging information required in a full NDA (21 CFR 314.1(f)(1)). These regulations do not reflect current agency practice which, beginning in 1972, has required ANDA applicants to submit full information analogous to the information required to be submitted in full NDA's. These requirements were imposed under 21 CFR 314.1(f)(5) and have been complied with in most ANDA's approved in recent years. In the FEDERAL REGISTER of June 20, 1975 (40 FR 26156), the Commissioner proposed to conform the ANDA regulations with agency practice and to eliminate any differences between NDA and ANDA requirements in reference to product composition, manufacturing methods, facilities and controls, and packaging. In a notice published in the FEDERAL REGISTER of September 1, 1978 (43 FR 39126), the agency recently affirmed its intention to act upon this proposal in the near future. In conclusion, FDA believes that new drug approval process, including the ANDA review process, and the process for reviewing antibiotic drug certification requests, constitute important and effective mechanisms for determining whether drug products are therapeutically equivalent and for controlling batch-to-batch consistency of approved drug products in order to maintain assurance of therapeutic equivalence.

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(b) The batch certification process: Under section 507 of the act, each batch of an antibiotic drug product, unless exempted by the agency, is subject to testing by FDA and must be certified by the agency as meeting applicable standards before it may be marketed (21 U.S.C. 357). This requirement is in addition to the submission and approval of components, labeling, and manufacturing processes required under 21 CFR 431.1 and 431.17, described in this section of this preamble, and has served to increase confidence that antibiotic drug products are of consistent quality batch. Over the last 5 years, from January 1974 through October 1978, approximately 20,000 batches have been submitted annually to FDA. The rejection rate has averaged less than one-half of 1 percent of the batches submitted. The existence and success of this pogram provides a further basis for concluding that certified antibiotic drug products that meet the criteria for therapeutic equivalence may reasonably be considered to provide the same therapeutic effects.

The agency has also employed the batch certification process to solve an important bioinequivalence problem. In 1974, because of the potential of serious risks to patients, FDA acted to require ANDA's for all digoxin products in order to assure their bioequivalence. Studies had demonstrated clinically significant differences in the bioavailability of different batches of digoxin by single manufacturers as well as in different batches by different manufacturers. (See the FEDERAL REGISTER of January 22, 1974 (39 FR 2471); now codified in 21 CFR 310.500.) The firm that first marketed digoxin in the United States objected and, in the face of a prolonged legal challenge, compliance with the ANDA requirements was postponed indefinitely. (See the FEDERAL REGISTER of March 8, 1974 (39 FR 9184).) Pending resolution of the legal issues raised by this firm, FDA instituted a program by which manufacturers would submit batches to FDA for dissolution rate testing before releasing them to the market. As a result of this special program, a serious health problem related to bioinequivalence was rapidly and effectively brought under control and batch-to-batch consistency within and among manufacturers was assured. An analogous effort is now being conducted with regard to two other drugs, digitoxin and prednisone in tablet form. Upon completion, the agency will be able to evaluate the therapeutic equivalence of tableted prednisone drug products; digitoxin, however, is not subject to approval under section 505 of the act and therefore will not be evaluated for therapeutic equivalence.

The authority to adopt similar programs for other drug products, should serious bioinequivalence problems arise, is confirmed in 21 CFR 320.55. The availability of this proven mechanism to address future problems further justifies the belief that the batch approval process reasonably assures the batch-to-batch consistency of drug product quality. Such assurance supports the conclusion that drug products that are pharmaceutically equivalent and bioequivalent are also generally therapeutically equivalent.

(c) Good manufacturing practice regulations: Section 501(a)(2)(B) of the act requires that drug products be made in conformity with current good manufacturing practice ("CGMP") in the industry (21 U.S.C. 351(a)(2)(B)). To implement this provision, the agency has long had regulations that set forth objectives, or standards of performance, to be achieved by individual firms in their facilities, equipment, personnel, production methods, quality control procedures, and related aspects of manufacturing (21 CFR Parts 210 and 211). The objectives reflect the results attained by those manufacturing practices that FDA has found to be "current" and "good" in the industry. The current good manufacturing practice (CGMP) regulations are not generally designed to prescribe specific manufacturing processes; such an approach would be difficult to implement, because of the wide variety of drug products, and would unduly interfere with technological evolution. Moreover, at least for new drugs, the new drug approval process provides a superior mechanism for addressing unique problems in manufacturing specific drug products.

The CGMP regulations are more appropriate for problems common to the manufacture of all drug products or of all drug products of a particular class, e.g., large volume parenteral drug products, medical gases, or radioactive pharmaceuticals. Central among these problems, of course, are the general practices and procedures necessary to assure batch-to-batch consistency in drug quality. CGMP regulations specifically focus on matters such as responsibilities for quality control operations, building and equipment design and maintenance, control of ingredients and in-process materials, production and process controls, packaging and labeling controls, expiration dating, warehousing and distribution procedures, laboratory controls, and testing and releasing products for distribution.

The CGMP regulations, adopted in 1963 and revised in 1971, will be completely superseded on March 28, 1979, by regulations published in the FEDERAL REGISTER of September 29, 1978 (43 FR 45014). These new regulations are the product of a lengthy and comprehensive review of industry practices as reflected in agency records such as NDA's, ANDA's, and establishment inspection reports, a proposal published in the FEDERAL REGISTER of February 13, 1976 (41 FR 6878), and extensive comments from the industry. Many older requirements were updated and clarified; important new quality assurance measures were added; and the legal status of CGMP regulations was strengthened. Consequently, it is now the position of the agency, as stated in the new 21 CFR 210.1:

> (a) The [CGMP] regulations • • • contain the minimum current good manufacturing practice for methods to be used in, and the facilities or controls to be used for, the manufacture, processing, packing, or holding of a drug to assure that such drug meets the requirements of the act as to safety, and has the identity and strength and meets the quality and purity characteristics that it purports or is represented to possess.
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> (b) The failure to comply with any [CGMP] regulation • • • in the manufacture, processing, packing, or holding of a drug shall render such drug to be adulterated under section 501(a)(2)(B) of the act and such drug, as well as the person who is responsible for the failure to comply, shall be subject to regulatory action.

The agency evaluates compliance with CGMP regulations during factory inspections under section 704 of the act (21 U.S.C. 374). In the event of noncompliance, the agency notifies the firm of the alleged violation through a Notice of Adverse Finding or a Regulatory Letter. (See 21 CFR Part 7, Subpart B, published in the FEDERAL REGISTER of June 23, 1978 (43 FR 27498).) If corrective action is not taken, or the violation is such that formal enforcement action should not be delayed, FDA may begin proceedings to seize the violative products or to enjoin future violations. Criminal penalties may also be sought, and new drug applications can be withdrawn. FDA has been successful in enforcing the standards contained in the previous CGMP regulations. (See, e.g., *United States* v. *An Article of Drug* • • • *White Quadrisect*, 484 F.2d (7th Cir., 1973).)

Because of this success, because of the substantive improvements in the new CGMP regulations, these regulations should provide another important assurance of batch-to-batch consistency in drug product quality. Again, this assurance, when applied to drug products otherwise known to be pharmaceutically equivalent and bioe-

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quivalent, makes it reasonable to believe that they will provide the same therapeutic effect.

(d) FDA's monitoring of the marketplace: In implementing its quality assurance activities, the FDA relies on a variety of its facilities and resources, including the National Center for Drug Analysis in St. Lous, the National Center for Antibiotic Analysis in Washington, and 20 district laboratories. More than 200 trained drug investigators are stationed in the 20 FDA district offices. Each year these investigators conduct inspections of over 6,000 establishments in which human drugs are manufactured; they aiso provide a critical capacity for fast and effective followup to reports to problems with drugs. The National Center for Drug Analysis is now capable of performing approximately 400,000 analyses annually on marketed drug products. The National Center for Antibiotic Analysis performs batch certification and postcertification testing on batches of antiobiotics and insulin; approximately 20,000 batches are submitted to FDA each year for certification, release, or check testing. The Bureau of Drugs, headquartered in Rockville, Maryland, provides direction and coordination of FDA's drug quality activities. The Bureau employs over 1,100 doctors, pharmacists, chemists, compliance officers, and other professional and support personnel.

The agency carries out a number of programs to evaluate marketed drug products, to gather information regarding defective products, and to assure compliance with CGMP regulations, NDA and ANDA commitments, and compendial or other applicable standards. Any products that are found through any of these programs to be out of compliance with applicable standards are promptly subjected to followup regulatory action. These programs include the following:

(i) *Factory inspections.* FDA inspects every establishment in which drug products are manufactured at least once every 24 months. As noted, over 6,000 drug inspections occur each year. Most drug firms appearing on the proposed list are inspected several times during that period. In addition, the agency will not approve an NDA or ANDA for a drug product unless the manufacturer has been inspected and has been found to be in compliance with CGMP regulations within the preceding 12 months.

(ii) *The Quality Assurance Program for Selected Marketed Drugs.* Each year categories of drugs are selected by the Bureau of Drugs on the basis of therapeutic importance, amount of usage, past quality problems, or other parameters, for testing by FDA laboratories. Under this program, district offices are directed to collect samples, which are then analyzed by various FDA laboratories for the appropriate specifications. About 1,500 batches are analyzed annually under this program.

(iii) *The Drug Product Problem Reporting Program.* This surveillance system is conducted jointly by FDA and USP officials. Under this program, pharmacists and other health professionals report to the USP any unusual observations regarding drug products they pruchase or dispense. Officials of USP, in turn, send copies of these reports to FDA, where review and followup are instituted. In addition, each manufacturer is supplied with a copy of any report involving one of its products. Under this program, over 5,000 reports are submitted annually.

(iv) *The Antibiotic Post-Certification Sampling Program.* FDA district offices are directed to collect samples of antibiotics that have previously been certified by the agency. To assure that marketed antibiotics meet specifications for the length of expiration dating, samples are collected from the oldest batches available. Samples are then analyzed by FDA's National Center for Antibiotic Analysis.

(v) *The District-Initiated Sampling Program.* Finished drug products that are not covered under any of the above programs may be monitored for acceptability under the FDA District-Initiated Sampling Program. Each FDA district office selects particular products to sample and test for appropriate specifications. Selections are made on the basis of factory inspections within the district, consumer complaints, previous experience with particular products or manufacturing facilities, or other factors of relevance to the field enforcement efforts.

(vi) *The Government-Wide Quality Assurance Program.* The agency is responsible for assuring the quality for drugs purchased by the Department of Defense, the Veterans Administration, and the Health Services Administration. This program provides that before any government contracts for drug purchases are issued, FDA must determine that the supplier is in compliance with regulatory requirements applicable to the drug to be purchased. After a contract is let, FDA inspects to evaluate whether the supplier has operated in conforming with CGMP regulations. In certain instances, specific products are analyzed by FDA laboratories to determine that these products do, in fact, meet appropriate quality criteria. Delivery of the finished drugs will not be accepted by the purchasing government agency without a final FDA review and evaluation of the supplier. In the 3½ years since this program began, FDA has made approximately 45,000 quality determinations related to Federal drug procurement. In response to requests from 8 States for similar quality assurance assistance from FDA, the agency has recently begun a pilot program at the request of the State of New York to examine the feasibility of providing similar services to State procurement programs.

(vii) *MAC program.* The Maximum Allowable Cost (MAC) regulations of the Department of Health, Education, and Welfare authorize the establishment of a limit on the amount the Federal government will pay under the Medicare and Medicaid statues in reimbursing for the cost of multiple source prescription drug products (45 CFR Part 19). Such limits are imposed on a drug-by-drug basis through defined procedures by the Pharmaceutical Reimbursement Board. Under these regulations, FDA is charged with the responsibility for reviewing drugs that are candidates for MAC Limits to assure that there are no bioequivalence issues or regulatory actions pending that should prevent the establishment of a MAC limit (45 CFR 19.5(b)). These documented reviews are carefully conducted by FDA under established procedures. As part of the review, results from bioequivalence and quality surveys are examined, inspection profiles of approved manufactures are reviewed, the Drug Product Problem Reporting System is queried, product specifications are compared and other quality assurance indices are reviewed. A written, documented response, which becomes part of the public administrative record, is then forwarded to the Pharmaceutical Reimbursement Board, the body that establishes the MAC limits.

(viii) *Biopharmaceutics Research Program.* The agency has sponsored a number of studies to determine whether a bioinequivalence problem exists among multiple source drug products and to develop methodology and standards for measuring and assuring bioequivalence. To date, 24 drugs have been evaluated for bioequivalence through FDA funded clinical studies; the majority of these studies were carried out by FDA contractors who have published their findings.

(ix) *Manufactures' reports of problems involving their own drug products.* FDA regulations require manufacturers of new drugs and antibiotic drugs to report promptly to the agency any information concerning manufacturing mixups or failures or unexpected adverse reactions or therapeutic failures in patients (21 CFR 310.300, 431.60). All manufacturers are required to notify FDA or firm-initiated removals from the market of drug products that the firm believes violate the act; with nonviolative products, firms are advised to consult with FDA (21 CFR 7.46, published in the FEDERAL REGISTER of June 16, 1978 (43 FR 26202)). The agency conducts a followup investigation on these reports, as appropriate, to determine the cause of the problem and the need for any FDA-initiated activity to correct the problem or prevent its recurrence.

(x) Manufacturers' reports of problems involving competitors' drug products. Although not required to do so, many manufacturers conduct tests on their competitors' products. FDA is frequently notified by these firms that, in their judgment, one or more competing products fail to meet compendial standards, or are bioinequivalent, or otherwise are in violation of the act or present a public health problem. Here, too, the agency conducts appropriate followup investigations that may lead to regulatory actions against the violative product or a change in applicable standards to protect the public health.

The agency concludes that these diverse programs, with different scopes and purposes but somewhat overlapping perspectives on the prescription drug market, provide assurance that manufacturers and drug products deviating from established requirements will be detected with reasonable promptness. Once a problem is detected, FDA can take a variety of regulatory enforcement activities to remove any violative products from the market and to prevent further distribution of violative drug products. The enforcement tools available to FDA include seizure of violative products (21 U.S.C. 334), injunctions against further violations (21 U.S.C. 332), criminal prosecution of those responsible for violative products (21 U.S.C. 333), and requests for voluntary recalls of violative products (21 CFR Part 7, Subpart C, published in the FEDERAL REGISTER of June 16, 1978 (43 FR 26202)).

All of the FDA's monitoring activities described above furnish additional grounds for concluding that drug products found to be pharmaceutically equivalent and bioequivalent will remain so and thus may be evaluated as therapeutically equivalent.

C. THE PRACTICAL FOUNDATION FOR EVALUATION OF DRUG PRODUCTS AS "THERAPEUTIC EQUIVALENTS"

Notwithstanding the scientific priciples and regulatory controls discussed above, concern has been expressed that, on the level of daily experience, FDA is unable to assure the consistent quality of "generic" drug products, so that therapeutic equivalence is not and can never be a practical reality. The PMA and some others have argued that products made by a certain segment of the pharmaceutical industry, defined variously as PMA members, "large" manufacturers, or "research-intensive" firms, are consistently of a higher quality than products made by the rest of the industry. (See, e.g., statement of Mr. C. Joseph Stetler, President, PMA, in "Drug Quality Hearings," 16529-38, and Pauls and Kloer, "FDA Enforcement Activities Within the Pharmaceutical Industry: Analysis of Relative Incentive" (hereafter called "Lilly Study").) Consequently, the argument implies, if a patient receives a competing drug product in place of that made by the PMA member (or large company or research-intensive firm), the patient has a much greater probability of using a substandard product that may be ineffective or even unsafe.

The question must then be asked: When a patient hands a pharmacist a prescription written for a brand name product, and the pharmacist selects a substitute product evaluated by FDA as being therapeutically equivalent to fill the prescription, how likely is it that the substitute product will be of the same quality as the brand name product prescribed by the patient's physician?

The answer given by FDA to this question is that it is overwhelmingly likely that the substituted product will be equal in quality to the prescribed product. Indeed, it is so likely that the products will be equal in quality, that the possibility that they will not be equal can properly be disregarded for practical purposes. There are several reasons for this conclusion.

First, as a result of the laws and programs previously discussed in this preamble and of the general competence of firms in the pharmaceutical industry, the overall quality of approved drug products sold in the United States is very high. FDA's monitoring of the marketplace and its antibiotic certification program disclose an excellent record of drug products that meet all applicable standards. Compared with the volume of drugs manufactured every year, the frequency of recalls and other regulatory actions is quite small. This general conclusion extends to all segments of the pharmaceutical industry engaged in the manufacture of drug products that are the subject of approved applications. Only these products are proposed to be included in the FDA list. By any measure of compliance with quality requirements, the level of industry performance is exceptionally good.

Second, the vast majority of generic drug products that are sold in the United States are manufactured by the very same group of companies that manufacture brand name products. Taking, for example, the members of PMA as one accepted definition of brand-name manufacturers, it appears that these firms account for about 95 percent of the sales of all approved multiple source drug products proposed to be evaluated as therapeutically equavalent. These drug products include the "pioneer" brand drug products, generic drug products marketed under a brand name (so-called "branded generics"), and generic drug products marketed without a brand name. Even if one examines the sales of drug products marketed solely under a generic name, PMA members supply an estimated 80 percent of the approved, therapeutically equivalent drug products. (Under 21 U.S.C. 374(a) FDA is precluded from obtaining sales and financial data from drug firms; the foregoing estimates were derived from published market survey data of wholesale drug purchases of prescription drug products, other than biologicals, by retail drug stores and hospital pharmacies in 1977.) Obviously, when one drug product evaluated by FDA as therapeutically equivalent is substituted for another, it is quite probable that the substituted product will also have been manufactured by a PMA member. No one takes the position that, when a product made by one PMA firm is substituted for a competing product made by another PMA firm, the substituted product is likely to be lower in quality. On the contrary, as far as FDA knows, there is unanimous agreement within PMA that these substituted products will not be inferior, whether labeled by brand name or generic.

Third, the remaining generic products that have been evaluated as therapeutically equivalent—those manufactured by firms that do not also manufacture brand name products—are overwhelmingly likely to be equal in quality to the brand name products. FDA's experience in regulating these products and their manufacturers discloses little meaningful difference in the ability of these firms to meet all applicable standards, nor in their actually doing so.

On June 1, 1978, a study sponsored by Eli Lilly and Co., was released purporting to show that FDA's experience is quite different with respect to firms other than brand name manufacturers. Specifically, the Lilly Study identifies 23 "research-intensive" pharmaceutical firms and compares records of FDA regulatory and monitoring actions on products made by these firms with those involving products of all other drug manufacturers. The authors conclude that products of the "research-intensive" firms "are recalled much less often and * * * have far fewer seizures, injunctions, and prosecutions and fewer drug product problem reports than 'other' companies" (Lilly Study, p. 3).

The Lilly Study has numerous methodological defects. It divides the pharmaceutical industry into two separate categories: "research-intensive" firms

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and "other" firms. The authors do not state that criteria by which this distinction was made. When analyzing the study, FDA asked Paul deHaan, an internationally recognized expert on the pharmaceutical industry, to make a similar division, and his list of research-intensive and other firms differs significantly from Lilly's. The agency also divided the universe of drug manufacturers into other pairs: PMA members v. nonmembers firms listed by IMS America as the top 50 drug manufacturers v. all others, firms with sales over $100 million annually v. those with smaller total sales, firms with sales over $10 million annually v. those with less, and those with annual sales exceeding $1 million v. Those with less. Utilizing these divisions, FDA has analyzed recall data for prescription drug products. The agency's conclusion is that no reliable conclusions can be drawn on the relative competence of pairs of drug manufacturers by using the type of analysis Lilly proposed. The FDA analysis of recall data is now being completed and will be made available in the near future. Notice of its availability will be published in the FEDERAL REGISTER, and comments on the Lilly Study and the FDA analysis may be submitted to the agency in conjunction with comments on this proposal.

In analyzing the recall data used in the Lilly Study, FDA discovered that Lilly had included recalls that had nothing to do with drug quality and even recalls that did not involve drug products. The Lilly Study also included recalls of products that would not be evaluated by FDA as therapeutic equivalents. This last error, in particular, renders the Lilly Study irrelevant to the issue of the quality of drug products that might be substituted for brand name products. Lilly included all prescription drug products in its universe for study. FDA would consider only those FDA-approved prescription drug products that are evaluated as therapeutically equivalent.

Within this universe, FDA has no reason to believe that any meaningful quality differences exist among drug products.

To illustrate this, one can look at the data on recalls of prescription drug products in 1977. Of the 94 recalls involving product defects likely to have adverse health consequences, 74 involved drug products that did not have approved new drug applications and therefore would even be eligible for evaluation as therapeutic equivalents. Of the remaining 20, a total of 16 were recalls of products that FDA proposes not to evaluate as therapeutically equivalent. Thus, only 4 recalls in 1977 related to products that FDA would list as being therapeutic equivalents.

Clearly the policies proposed for evaluating drugs as therapeutically equivalent will effectively screen out the vast majority of products that have been subject to recall in recent years. The recall data, when properly analyzed according to the policies proposed for the evaluation of therapeutic equivalence, support the view that the general level of quality of products on the proposed list is very high. Similar results would probably be obtained if one analyzed the products listed as therapeutic equivalents using other measures of compliance with regulatory requirements. There is little meaningful difference in drug product quality between large and small manufacturers, or between brand and generic labels, for products evaluated as therapeutic equivalents.

In summary, arguments that serious differences exist in the quality of competing drug products ignore the very high level of quality for all drug products, rely principally on a methodologically unsound study, and are quite misplaced when applied to drug products that meet FDA's proposed criteria for evaluating therapeutic equivalence. In the absence of reliable data to the contrary, and based on FDA's broad experience in regulating drugs, it is sound and appropriate for FDA and the public to rely on the requirements of law, compendial standards, the drug approval process, and FDA's monitoring, compliance, and enforcement programs to conclude that, for practical purposes, therapeutically equivalent drug products included in the list will be of equal quality.

It should be emphasized, however, that no member of the public is required to rely on these regulatory controls or to accept this conclusion. FDA's evaluations of therapeutic equivalence are not binding on any State, any physician, any pharmacist, or any patient. The list is intended to facilitate substitution and assure that drug product selection decisions are well-informed. FDA's proposed list does not mandate substitution, nor does it require that, when substitution occurs, any particular product is to be dispensed.

Under all State substitution laws now in effect, pharmacists retain the authority and responsibility for the exercise of professional judgment in determining which drug products to keep in stock for purposes of dispensing and in determining which product to use in filling a particular prescription. If a pharmacist believes that a particular product is not of adequate quality, he or she need not stock that product and need not use it for substitution.

A patient who is not willing to rely on the list as an assurance of quality can rely on the professional judgment of his or her physician and pharmacist. Under most drug product selection statutes, a physician can direct that the particular drug product prescribed by the physician be dispensed to the patient. Also, most States require that a pharmacist inform a patient that a substitution may be made. Thus, patients are able to consult with both physician and pharmacist as to the wisdom of substitution in a particular case.

The patient has yet one more protection as well. Under all State substitution laws now in effect, the patient retains the right to insist that certain generic products not be used for substitution or that the prescription be filled with some particular substitute product. If, for example, a patient believes that only five firms make high quality products, the patient can insist that the substitute product be one made by one of those firms. The patient may pay a premium price for that product, because therapeutically equivalent products may differ widely in price, but would simply be exercising a right recognized by law. In some States, however, a patient may only receive his or her chosen substitute if it meets the standards considered equivalent and is less expensive than the prescribed product.

IV. SPECIFIC CRITERIA PROPOSED TO BE USED IN PREPARATION OF LIST

The agency proposes to issue a list that identifies drug products that have been affirmatively approved by FDA for marketing in the United States and evaluates those products on that list that are available from more than one source of supply as to their therapeutic equivalence.

A. IDENTIFICATION OF DRUG PRODUCTS

1. *Approved new drugs and antibiotic drugs.* FDA proposes that the list include all drug products that have been affirmatively approved by FDA under sections 505 and 507 of the act, with certain exceptions.

(a) Exclusions of certain approved products: The agency proposes to exclude from the list two groups of drug products that are subject to approvals under sections 505 and 507 of the act.

(i) *Over-the-counter drug products.* The proposed list does not include drug products that may be sold over-the-counter (OTC) without a prescription, in accordance with section 503(b)(1) of the act (21 U.S.C. 353(b)(1)). Only a small percentage of these drug products are being marketed with approved new drug applications. All OTC drug products are currently being reviewed for safety and effectiveness (21 CFR Part 330). Until that review is completed, the identification of safe and effective OTC drugs is not feasible. Furthermore, the considerations underlying this proposal, as explained in section I.A. of this preamble, apply almost entirely to prescription drug products. Consequently, the agency proposes to exclude OTC drugs approved under section 505 of the act from the list.

(ii) *Prescription drug products not yet determined to be effective.* The DESI review is not yet completed for certain drug products marketed under new drug applications that became effective between 1938 and 1962. Under section 107(c) of the Drug Amendments of 1962 (21 U.S.C.A. 321 note), these applications are "deemed approved" pending a determination on the effectiveness of the drug. Under section 507(h) of the act, regulations were issued permitting certification of antibiotic drugs pending a determination of their effectiveness. The DESI review represents FDA's efforts to apply the efficacy provisions of the act to these drug products.

If substantial evidence of the drug's efficacy is not submitted to the agency in the DESI review, FDA must proceed to withdraw approval of the new drug application. This review program is not yet finished, with the result that there remain on the market "deemed approved" drug products, the effectiveness of which is still in doubt. Inclusion of these products on the FDA list, however, might mislead users into believing that their effectiveness had been established.

In addition, in order to conserve agency resources and concentrate on more serious health priorities, FDA has neither required nor permitted approval of new drug applications for the marketing of drug products that are identical, similar, or related to the drug product covered by a "deemed approved" application until a final decision on effectiveness is made (FDA Compliance Policy Guide 7132c.08). Recently, in a notice published in the FEDERAL REGISTER of February 17, 1978 (43 FR 7044), this policy was changed for certain DESI drugs that are subject to further testing requirements, but implementation is only starting. Consequently, listing of the "deemed approved" products, without permitting others to obtain such an approval, would be unfair and discriminatory.

The agency proposes therefore to exclude from the list at this time all prescription drug products, whether or not subject to a "deemed approved" new drug application, for which a final DESI determination of effectiveness has not been made. "Deemed approved" applications will be included in an appendix to the list for information purposes only.

(b) Listing of unmarketed approved products: The inclusion of a drug product on this FDA list does not necessarily mean that it is being marketed at the present time. The list reflects the products that have been approved for marketing under sections 505 and 507 of the act. A manufacturer may, however, withdraw any of its products from active marketing at any time, while still maintaining an active application in FDA files. The agency, in cooperation with manufacturers, seeks to terminate approvals for products that are not intended to be remarketed in the future. FDA files are, therefore, not generally out of date, and the agency believes that most of the products in this list are marketed at the present time. Nevertheless, some products included in the list may not actually be available for purchase in the United States.

(c) Identification of other distributors or brand names for approved products: The proposed FDA list would identify only the holder of the approved application in FDA files. Frequently, approved products are manufactured for, or purchased and repackaged or relabeled by, distributors who in turn market these products under other labels. These labels may or may not identify the actual manufacturer of the drug product. Because these distributors often shift their sources of supply in the commercial marketplace, there is no feasible way at this time for the FDA to maintain an up-to-date and complete list either linking every approved manufacturer with the distributors currently handling its product or linking each distributor with its current suppliers. Purchasers and dispensers wishing to know the manufacturing source of a particular batch offered by a distributor must rely upon the distributor to disclose such information, either in the labeling or otherwise. Disclosure of the actual manufacturer is not required by the act (21 U.S.C. 352(b)(1)). Absent voluntary labeling or disclosure, there is no ready and convenient way for a purchaser or dispenser to verify that the distributor's product was manufactured under an approved new drug application.

(d) Listing of approved products subject to regulatory actions: From time to time approved products may be found to be in violation of one or more requirements of the act. In such circumstances, the agency will commence appropriate enforcement action to remove the violative product from the market, e.g., by voluntary recall or seizure. If the problem leading to the violation is continuing, so that there exists a risk of future noncomplying products entering the market, FDA will undertake steps to eliminate that risk, e.g., by court injunction, withdrawal of the approval of the new drug application, or revocation of the antibiotic certification. Where the violation is corrected by removal of the particular batch of the product from the market, no need exists to exclude the product from this list; the approval continues and other batches are not tainted. Where additional preventive action is indicated, the agency will utilize appropriate legal procedures to keep the product off the market: exclusion from this list prior to completion of those procedures might be considered improper or an infringement of the application holder's legal rights. Consequently, it is proposed that no such product be excluded from the list until completion of FDA proceedings to withdraw approval of the product under section 505 or 507, as applicable. Retention of a violative product on the list will not have any adverse health consequences because other legal tools are available to the agency to prevent actual marketing of violative products.

2. *Drug products not subject to approved new drug applications or antibiotic certifications.* A number of drug products are currently being marketed under claims of exemption from the applicability of sections 505 and 507 of the act. By far the greatest proportion of these drug products rely upon claims of marketing prior to 1938 and consequent exclusion from the definition of "new drug" in section 201(p)(1) of the act (21 U.S.C. 321(p)(1)). Because these drugs have been distributed in one form or another for many years, patent protection has expired and often several firms are now competing in the market.

For the reasons discussed in section III.C.1. above, the agency proposes to exclude from the list any drug product that has not been reviewed and approved through the new drug or antibiotic approval process. This exclusion does not necessarily mean that any such drug would not meet the current legal standards for a new drug, or is in violation of the law, or is unsafe or ineffective. Rather, the exclusion is based on the premise that FDA has not had the authority or opportunity to evaluate and assure the safety, effectiveness, and quality of the drug product.

B. EVALUATION OF THERAPEUTIC EQUIVALENCE

1. *Scope of evaluations.* The agency proposes to limit its evaluations of therapeutic equivalence to those drug products that are included in the list of products approved under sections 505 and 507 of the act. For the reasons discussed in section III.C.1. above, FDA lacks sufficient information at this time to assess the therapeutic equivalence of drug products not regulated under new drug applications or antibiotic certifications. The agency is not asserting that these products may not be therapeutically equivalent;

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their equivalence simply cannot be evaluated or assured. The agency has no current plans to review unapproved drug products for therapeutic equivalence; however, such evaluations may become feasible in the future for at least certain classes of these drug products. At such time, inclusion of these drug products and their therapeutic evaluations in the list will be considered.

FDA also proposes to make no therapeutic equivalence evaluations of approved drug products that are available from only one manufacturer. Obviously only when two or more products are available in the market does the question of therapeutic equivalence arise.

2. *Evaluation of pharmaceutical equivalence.* It is proposed that two drug products will not be evaluated as being therapeutic equivalents unless they are pharmaceutical equivalents, as defined in 21 CFR 320.1(c).

This criterion would be applied as described in the following examples.

(a) Different salts or esters: Different salts and esters of the same therapeutic moiety are regarded as not pharmaceutically equivalent. Therefore, drug products containing different salts or esters will be presumed to be therapeutically inequivalent. Data could be developed adequate to demonstrate the therapeutic equivalence of different salts or esters on a product-by-product basis. But in practice, there are insufficient cases in which such equivalence has been demonstrated to warrant evaluating the therapeutic equivalence of pharmaceutical alternatives. There are no known instances in the proposed list where different salts are evaluated as therapeutically equivalent.

On the other hand, anhydrous and hydrated entities are not considered to be different salts or esters. Thus, as in the case of ampicillin, these two forms will be treated as pharmaceutical equivalents.

(b) Variations in amount of active drug ingredient: Different products may be labeled as containing slightly different quantities of the same active drug ingredient. In practice, the quantity of active ingredient in individual drug products will vary from the amount shown on the label; as long as these variations are within applicable compendial or antibiotic standards, the products are viewed as being in compliance with the act. Similar variations between different brands of drug products should be similarly tolerated. Therefore, two drug products labeled as having different amounts of the same active drug ingredients will be considered as pharmaceutically equivalent, if the difference between declared potencies does not exceed 1 percent.

(c) Products requiring reconstitution, dilution, or other manipulation before dispensing: A drug product may require dissolution, reconstitution, dilution, or other manipulation before dispensing. Pharmaceutical equivalence will be evaluated on the basis of the properties of the drug product before such manipulation. The agency recognizes that the process of manipulation may introduce differences in the drug products. For example, pharmaceutically equivalent powders to be reconstituted for administration as oral or injectable liquids may vary in their expiration time or storage conditions after reconstitution. An FDA evaluation that such products are pharmaceutically equivalent is applicable only when those products are reconstituted, stored, and used under the conditions specified in the labeling of each product.

Although drug products that are solids for reconstitution, diluted solutions, or concentrated solutions contain different concentrations of active ingredients, and thus are not considered to be pharmaceutical equivalents, this evaluation is not intended to prevent the exercise of accepted professional practice to render pharmaceutically different concentrations into pharmacuetical equivalents. For example, concentrated solutions may be diluted to lower strengths by using proper procedures designed to maintain the quality of the product.

(d) Variations in package size: Where package size variations have therapeutic implications, drug products packaged in different sizes are not considered to be pharmaceutical equivalents. For example, many oral contraceptives are supplied in 21- and 28-tablet packets, the 28-tablet packets containing 7 placebo tablets. These two packaging configurations are not regarded as pharmaceutically equivalent and thus not therapeutically equivalent.

(e) Deficiencies in compendial or other applicable standards: As discussed in section III.B.1. above, the agency believes that existing compendial standards are generally adequate to provide a reasonable assurance of therapeutic equivalence. Nevertheless, from time to time specific standards may be found by FDA to be deficient and, until they are corrected or supplemented, they may not permit an FDA evaluation of either pharmaceutical or therapeutic equivalence. When these situations arise, it is proposed that drug products subject to the standard in question not be considered to be pharmaceutically equivalent.

(f) Solutions and powders for aerosol-nebulizer drug delivery systems: Uncertainty about the therapeutic equivalence of aerosolized products arises primarily because of differences in their drug delivery systems. If powders or solutions for aerosolization are marketed without restriction to a specific delivery system, they generally present no therapeutic equivalence issues and may be treated as pharmaceutical equivalents. Those products, however, that are marketed so that they are only compatible with, or are only a component of, a specific delivery system may present significant differences, e.g., in the dose of drug or particle size delivered by different products. The agency proposes that the drug products for use in specific delivery systems not be regarded as pharmaceutically equivalents.

(g) Injectable oil solutions: The absorption of drugs in injectable oil solutions may vary substantially with the type of oil employed as a vehicle and the concentration of the active ingredient. Therefore, FDA proposes that it consider injectable oil solutions to be pharmaceutically equivalent only when the active ingredient, its concentration, and the type of oil used as a vehicle are all identical.

(h) Aqueous injectable (parenteral) solutions: All injectable products are listed under the general category "Injectable; Injection" but specific routes of administration are not shown. Some multisource products that are pharmaceutical equivalents are labeled by their different manufacturers for different routes of administration. Consistent with accepted professional practice, it is the responsibility of the prescriber, dispenser, or individual administering the product to be familiar with a product's labeling to assure that it is given only by the route of administration stated in the labeling.

The agency proposes that, unless otherwise noted, injectable products available as dry powders for reconstitution, concentrated sterile solutions for dilution, or sterile solutions ready for injection, all be considered to be pharmaceutically equivalent if they are designed to produce the same concentration for injection and are equivalently labeled.

(i) Large volume parenteral drug products: Certain commonly used large volume intravenous products are not included in this list, e.g., dextrose 5 percent with water, dextrose 10 percent with water, and sodium chloride injection. Virtually all of these drugs came on the market in glass containers before 1938 and have not been required to obtain an approved new drug application as a condition of marketing. When packaged in plastic containers, however, these same drugs are considered to be new drugs requiring approved new drug applications for marketing (21 CFR 310.509, published in the FEDERAL REGISTER of December 15, 1978 (43 FR 58557)). The proposed list thus includes only those approved solutions in plastic containers.

All large volume parenteral products are manufactured under similar standards regardless of whether they are packaged in glass or plastic. Thus, FDA has no reason to believe that the packaging container of large volume parenteral drug products that are pharmaceutically equivalent would have any effect on their therapeutic equivalence. Nevertheless, in keeping with the policy of evaluating only approved drug products, large volume parenterals packaged in glass containers are not included on the proposed list.

(j) Drug products for nonsystemic use: There are a variety of drug products available for topical, ophthalmic, otic, rectal, and vaginal administration that are not intended to produce their therapeutic effect by means of systemic absorption. Dosage forms of these drug products can include solutions, creams, ointments, gels, lotions, pastes, sprays, and suppositories. Different nonsystemic dosage forms are not pharmaceutically equivalent, even though they may contain the same active ingredient. Therefore, FDA proposes that they not be considered therapeutically equivalent. On the other hand, products in the same nonsystemic dosage form will be evaluated as therapeutically equivalent if they are pharmaceutically equivalent.

3. *Evaluation of bioequivalence.* The agency proposes that, in evaluating the bioequivalence of drug products, FDA presume that pharmaceutically equivalent drug products are also bioequivalent, unless there is a scientific reason to believe that an actual or potential problem of bioinequivalence exists with respect to the drug products. When a bioinequivalence problem is identified, however, a drug product will be presumed not to be bioequivalent until a new drug application is approved. The application must contain adequate scientific evidence demonstrating the bioequivalence of the product to an appropriate reference product or reference standard.

The following examples show how this criterion will be applied in particular situations.

(a) Active drug ingredients or dosage forms with documented bioinequivalence problems: FDA has identified those new drugs originally marketed between 1938 and 1962 that are now known or suspected to present bioinequivalence problems (21 CFR 320.22). In compiling this list, the agency took a conservative approach, so that as evidence of bioequivalence is closely examined, a number of the drugs on this list will probably be found not to present a real problem. (See the FEDERAL REGISTER of January 7, 1977 (42 FR 1624).) The criteria that will be used in determining the existence of a bioinequivalence problem are set forth in 21 CFR 320.52. Until the determinations are made, however, bioequivalence, rather than bioequivalence, is presumed. In addition, for any drug product for which a bioequivalence requirement is established under 21 CFR Part 320, Subprt C, bioinequivalence will of course be presumed. No drug product containing an active drug ingredient on the list in 21 CFR 320.22 in the dosage form specified, and no drug product for which a bioequivalence requirement is established, will be considered as bioequivalent unless the manufacturer of the drug product has submitted studies acceptable to FDA fulfilling the bioequivalence requirements.

(b) Active drug ingredient or dosage forms with suspected bioinequivalence problems: FDA's bioequivalence regulations contain criteria and procedures for determining the existence of a bioequivalence problem among drug products other than those identified in the 1977 list (21 CFR Part 320, Subpart C). It is proposed that for any drug ingredient or dosage form that, in FDA's opinion, meets these criteria, bioinequivalence will be presumed. This presumption is solely for purposes of evaluation of therapeutic equivalence and therefore may be made before the commencement of proceedings under the bioequivalence regulations.

(c) Controlled release dosage forms: Controlled release tablets, capsules, and injectables are subject to bioavailability and bioequivalence differences, primarily because different firms developing controlled release products for the same active ingredient rarely employ the same approach to formulating their controlled release products. The agency proposes that different controlled release dosage forms containing the same active ingredient in equal strength not be evaluated as bioequivalent unless equivalence between individual products has been specifically demonstrated through appropriate bioequivalence studies.

(d) Enteric coated oral dosage forms: Drug products in enteric coated dosage forms containing the same active ingredients are subject to significant differences in absorption. Such products cannot necessarily be considered as pharmaceutically equivalent because they do not necessarily meet similar standards, and few manufacturers of enteric coated products have studied the pharmacokinetics of their products. FDA proposes that different enteric coated products containing the same active ingredients not be considered as bioequivalent unless appropriate bioequivalence studies are satisfactorily performed.

(e) Injectable suspensions: Injectable suspensions containing an active ingredient suspended in an aqueous or oleagenous vehicle are subject to bioinequivalence problems because differences in particle size, polymorphic structure of the suspended active ingredient, or the suspension formulation can significantly affect the rate of release and the rate of absorption. FDA proposes that it not consider pharmaceutical equivalents of these products as being bioequivalent without adequate evidence of bioequivalence being presented to the agency.

(f) Suppositories for systemic use: The absorption of active ingredients from suppositories that are intended to have a systemic effect, as distinct from suppositories administered for local effect, can vary significantly from product to product. Therefore, the agency proposes to consider pharmaceutically equivalent systemic suppositories as bioequivalent only if positive evidence of bioequivalence is presented to FDA.

4. *Evaluation of other factors.* FDA proposes that the drug products that are pharmaceutically equivalent, are bioequivalent, and are approved under sections 505 or 507 of the act be evaluated as therapeutically equivalent, unless special circumstances prevent such an evaluation. The definition of "therapeutic equivalence" refers to two factors in addition to pharmaceutical equivalence and bioequivalence; these two are related to labeling and manufacturing practices. In the opinion of the agency, approval of a new drug application or antibiotic certification for a drug product is a sufficient basis for assuring that the drug product has been reviewed for unsafe inactive ingredients and contaminants; that its labeling is adequate and complies with legal requirements; and that no deficiencies are known to exist in the manufacturing controls applied to the drug product at the time of approval. Therefore, it is unnecessary to conduct a specific review of product formulations, labeling, and current manufacturing practices in evaluating therapeutic equivalence.

(a) Inactive ingredients: FDA regulates and reviews inactive ingredients through a variety of mechanisms. The GRAS (generally recognized as safe) review of food ingredients, described in the FEDERAL REGISTER of July 26, 1973 (38 FR 20044), includes most of the common inactive ingredients, including flavors. Color additives are already regulated under section 706 of the act (21 U.S.C. 376) and the implementing regulations in 21 CFR Parts 70 through 82. Further, the agency has, through approval of new drug applications and antibiotic certifications, specifically reviewed and approved most inactive ingredients currently in

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use in regard to their safety. In addition, FDA has in the past identified, and may from time to time in the future identify, specific ingredients that may not be used in packaging or in drug products because of safety concerns (e.g., the vinylchloride document published in the FEDERAL REGISTER of April 22, 1974 (30 FR 14238), and the chloroform document published in the FEDERAL REGISTER of June 29, 1976 (41 FR 26842)).

These regulatory procedures, in conjunction with review of new applications for drug products, have proven adequate to prevent problems of therapeutic inequivalence among drug products from developing because of inactive engredients in the drug products. Consequently, it is proposed that FDA evaluate as being therapeutically equivalent approved drug products that meet the standards for pharmaceutical equivalence and bio-equivalence, unless a specific problem affecting the safety or effectiveness of a drug product is known to result from a specific inactive ingredient used in that drug product.

(b) Labeling: FDA has established standards for the format and content of all drug product labeling, e.g., 21 CFR 201.56. From time to time specific requirements are also established for specific drug products. (See 21 CFR Part 201, Subpart G, and Part 310, Subpart E.) Generally, however, labeling is reviewed and approved during the new drug application and antibiotic certification process.

Occasionally there may be variation among pharmaceutically equivalent products in the labeling instructions for admininstering the dose. For example, one antibiotic drug product may contain labeling that requires giving the dose on an empty stomach, while another's labeling permits the drug to be given without regard to food intake, based upon in vivo studies of the latter product that establishes that blood levels of the drug are not affected by the presence of food. An FDA evaluation of therapeutic equivalence of pharmaceutically equivalent drug products in such a case is applicable only when each product is taken in accordance with its particular labeling directions.

(c) Manufacturing controls and drug quality: Even after a drug product has been approved, problems may arise in the manufacturing process that casue one or more batches of the product to be out of compliance with applicable standards and requirements. Where regulatory action, such as a recall or seizure, serves to remove a violative batch or batches from the market, the evaluation of the therapeutic equivalence of the approved product need not be changed. Thus, the remaining stocks and future batches of the product which are available for purchase are untainted.

(d) Insufficient data: In isolated situations, the agency lacks sufficient data to evaluate whether specific drug products, or drug products containing a specific active drug ingredient, are therapeutically equivalent under the criteria set forth above. The agency proposes that in these situations drug products be presumed to be inequivalent until adequate information becomes available to make a full evaluation of therapeutic equivalence.

V. PROCEDURES FOR PREPARING AND DISTRIBUTING THE LIST

A. THE PROPOSED REGULATION

The agency proposes to add a new provision to its public information regulations reflecting the proposed policy of making available a list of all approved drug products, together with evaluations of therapeutic equivalence. Adoption of this regulation would affirm the tentative decision to proceed with the proposed policy. The proposed regulation under 21 CFR 20.117(a)(3) offers the public an opportunity to comment on all aspects of this proposal. FDA invites these comments and will carefully consider all of them before finally deciding whether the agency should publish a final list of approved drug products with evaluations on therapeutic equivalence.

B. THE PROPOSED LIST

Concurrent with this proposal, the agency is also making available a proposed list. This document is being sent to State health officials, and is on display in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857. Additional copies of the draft will be printed and available after January 22, 1979, from Margaret Lawrence, Consumer Inquiries Staff (HFJ-10), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, (301-443-3170).

Because copies are limited in number, the agency asks that only persons contemplating submitting documents in response to this notice request a copy of the proposed list. This version is tentative and is subject to change in light of the comments received; it is not intended for general distribution and use at this time.

The proposed list contains a preface, the actual drug product list, and four additional aids to using the list. In the preface, a statement of the background and status of the list is provided, together with explanations of the criteria used in developing the list and the evaluations of thereapeutic equivalence. These materials essentially summarize this notice to help users of the list. The preface also contains an explanation of the codes used in the list to describe the therapeutic evaluations made by FDA of the listed multiple source drug products. Finally, there is an explanation of special situations not adequately described by the therapeutic codes and a guide to reading the list.

The proposed list itself sets forth, to the best of FDA's knowledge, all drug products with approved new drug applications, under section 505 of the act, or approved antibiotic certification forms, under section 507 of the act. In preparing this list, FDA initially drew from its computerized files of approved NDA's, and antibiotic Form 5's. In order to minimize the potential for error, a complete list of approved NDA's, ANDA's, and antibiotic Form 5's, as of April 1978, was published as an interim document in May, and sent to appropriate State officials and agencies, including health officers, boards of pharmacy, and drug procurement agents, for review and comment. By notice published in the FEDERAL REGISTER of June 30, 1978 (43 FR 28557), this interim list was also made publicly available, with a request for additions, deletions, or corrections. In addition, on two separate occasions, FDA sent to each application holder data worksheets listing its products that FDA had identified as being approved; corrections were solicited; the agency received a 100 percent response with considerable updating information, indicating a serious and careful review by the firms. Information received in response to these requests has been incorporated in the proposed list. Information regarding approved antibiotic Form 6's (the antibiotic certification analogous to the ANDA) has also now been included. Errors may still remain, however, and additional corrections are solicited by this proposal.

The proposed therapeutic equivalence evaluations have not previously been circulated. They reflect FDA's application of the specific criteria proposed in section IV above to the approved multisource drug products on the list. The evaluations are presented in the form of code letters that explain the basis for the evaluation made. An explanation of the code is in the preface.

After the list, four additional items are provided to assist the reader: an index of drug products by trade or brand name, an index by name of the holder of the approval, an abbreviation list for the drug firms listed, and an appendix regarding drug products still being evaluated for effectiveness in the DESI review.

The agency invites comments and suggestions on the proposed list. Because the list is to be a working tool, FDA wants its style and format to be most helpful to users.

C. PUBLISHING AND DISTRIBUTING THE LIST

FDA is presently planning to have copies of the list, when finally issued, printed and sold through the U.S. Government Printing Office, Washington, DC 20402. The agency invites suggestions on other methods of publication and distribution.

D. UPDATING THE LIST

FDA proposes that after the initial list is issued, it will be revised on a quarterly basis during the first year. These revisions would include the addition or deletion of approved drug products as well as any changes in evaluations of therapeutic equivalence during the preceding 90 days. After the first year, the frequency of revisions would be reevaluated. The agency solicits comments on this plan and how these revisions might best be disseminated.

The Food and Drug Administration has determined that this document does not contain an agency action covered by 21 CFR 25.1(b) and consideration by the agency of the need for preparing an environmental impact statement is not required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 201 et seq., 52 Stat. 1040 et seq. as amended (21 U.S.C. 321 et seq.)), the Public Health Service Act (sec. 1 et seq., 58 Stat. 682 et seq. as amended (42 U.S.C. 201 et seq.)), and the Freedom of Information Act (Pub. L. 90-23, 81 Stat. 54-56 as amended by 88 Stat. 1561-1565 (5 U.S.C. 552)) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that § 20.117 of Part 20 of Title 21 of the Code of Federal Regulations be amended by adding a new paragraph (a)(3) to read as follows:

§ 20.117 New drug information.

(a) • • •

(3) A listing of all new drug applications, abbreviated new drug applications, antibiotic Form 5's, or antibiotic Form 6's, which were approved since 1938 and which are still approved covering prescription drug products, except prescription drug products covered by applications deemed approved under the Drug Amendments of 1962 and not yet determined to be effective in the Drug Efficacy Study Implementation program, showing the name of the active ingredient, the type of dosage form, the trade name of the product, the application or certificate holder, and the strength or potency of the product. This listing shall also include, for each active ingredient in a particular dosage form for which there is more than one approved application or certificate, an evaluation of the therapeutic equivalence of the drug products covered by such applications or certificates.

• • • • •

Interested persons may, on or before April 12, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

This proposal to make available to the public a list of approved drug products, including FDA's evaluation of the therapeutic equivalence of multisource drug products on that list, does not fall under the purview of Executive Order 12044 which governs the process for developing significant regulations. Consequently, a regulatory Analysis is not required. The availability of this information may affect the purchasing, prescribing, and dispensing of prescription drug products. It is currently expected that this activity will promote competition, reduce prescription durg prices, and thus benefit the consumer. FDA intends to examine the economic impact associated with this activity more closely and solicits comments and supporting data that may be relevant to this examination.

Dated: January 8, 1979.

DONALD KENNEDY,
Commissioner of Food and Drugs.

[FR Doc. 79-1052 Filed 1-9-79; 12:00 pm]

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FRIDAY, JANUARY 12, 1979

PART V



WATER RESOURCES COUNCIL

UPPER MISSISSIPPI RIVER SYSTEM MASTER PLAN

Proposed Guidelines for Public Participation

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[8410-01-M]

WATER RESOURCES COUNCIL

[18 CFR Part 708]

UPPER MISSISSIPPI RIVER BASIN COMMISSION; PUBLIC PARTICIPATION IN UPPER MISSISSIPPI RIVER SYSTEM MASTER PLAN

Proposed Guidelines

AGENCY: Upper Mississippi River Basin Commission, United States Water Resources Council.

ACTION: Proposed rule.

SUMMARY: This document proposes guidelines for public participation in the Upper Mississippi River System Comprehensive Master Management Plan, mandated by Title I of Pub. L. 95-502, the Inland Waterways Authorization Act of 1978. It is submitted preliminary to final publication to permit interested agencies, organizations, and persons to comment on the proposal.

DATES: Comment must be received on or before February 12, 1979.

A public meeting on these proposed guidelines will be held on February 5, 1979.

ADDRESSES: Send comments to: Upper Mississippi River Basin Commission, Room 510 Federal Building, Fort Snelling, Twin Cities, Minnesota 55111.

The public meeting will be held at the Thunderbird Motel, Bloomington, Minnesota.

CONTACT: For further information contact:

D. D. Galloway, (612) 725-4690.

SUPPLEMENTARY INFORMATION: Pub. L. 95-502, the Inland Waterways Authorization Act of 1978, was enacted October 21, 1978. In part, the Act provides for the following: (1) Replacement is authorized of Locks and Dam No. 26 on the Mississippi River at Alton, Illinois with a new dam and single lock two miles downstream from the existing dam; (2) An excise tax is imposed on fuel used by commercial cargo vessels on specified inland waterways; (3) A comprehensive study is to be made of inland waterway user charges and taxes; (4) The Upper Mississippi River Basin Commission is to prepare a comprehensive master plan for the management of the Upper Mississippi River System in cooperation with appropriate federal, state, and local officials. The Commission, established under Title II of Pub. L. 89-80, the Water Resources Planning Act of 1965, is directed to publish the preliminary master plan not later than January 1, 1981 and to publish the final master plan one year later.

As part of that assignment, Congress has directed the Commission in Title I, Sec. 101(b) of the Act to publish, within 150 days after the date of enactment, guidelines in the FEDERAL REGISTER for public participation in the development, revision, and implementation of the master plan. Such guidelines are to be afterwards incorporated in the overall plan of study of the master plan.

In the interest of eliciting participation not only in the substantive planning process but also in the formulation of the guidelines, a 30-day period has been set aside for interested agencies, organizations, and persons to comment by submission of written or oral data, views or arguments before the final document is published. All communications received by the Commission on or before February 12, 1979 will be considered before final action is taken on the proposed guidelines. The proposal contained in this notice may be changed in light of comments received. All comments submitted to the Commission will be available for examination by interested agencies, organizations, or persons both before and after the closing date.

Supplementary to this notice, the Commission will hold a public meeting February 5, 1979 from 11:00 a.m. to 4:00 p.m. at the Thunderbird Motel, Bloomington, Minnesota, for purposes of hearing comments by interested agencies, organizations, and persons in regard to the proposed guidelines. If appropriate response is received, proceedings of this meeting will be published and made available at cost.

WORDS OF ISSUANCE: It is proposed to amend 18 CFR Chapter VI by adding the following Part 708:

UPPER MISSISSIPPI RIVER BASIN COMMISSION; PUBLIC PARTICIPATION IN UPPER MISSISSIPPI RIVER SYSTEM MASTER PLAN

Sec.
708.1 Definitions.
708.2 Scope.
708.3 Policy, objectives, and standards.
708.4 Required programs and reports.
708.5 Program objectives implementation.

AUTHORITY: Title II, Sec. 204, Pub. L. 89-80, Water Resources Planning Act of 1965; Title I, sec. 101 (b), Pub. L. 95-502, Inland Waterways Authorization Act of 1978.

§ 708.1 Definitions.

As used in this part, the term:

(a) "Act" means the Inland Waterways Authorization Act of 1978, Public Law 95-502.

(b) "Commission" means the Upper Mississippi River Basin Commission, with headquarters at Fort Snelling, Twin Cities, Minnesota.

(c) "Master Plan" means the Upper Mississippi River System Comprehensive Master Management Plan mandated by Title I of the Act.

(d) "GREAT" refers to studies conducted by Great River Environmental Action Teams pursuant to Sec. 117 of the Water Resources and Development Act of 1976 (Pub. Law 94-587) for purposes of developing balanced management strategies for multipurpose use of the Upper Mississippi River.

(e) "System" means those Upper Mississippi River reaches containing commercial navigation channels on the Mississippi River main stem north of Cairo, Illinois, the Minnesota River, Minnesota; Black River, Wisconsin; Saint Croix River, Minnesota and Wisconsin; Illinois River and Waterway, Illinois; and Kaskaskia River, Illinois.

(f) "Public meeting" means a meeting to provide individuals and representatives of interested organizations opportunities to present their opinions and suggestions by means of an informally structured format.

(g) "Public hearing" means a formally structured public meeting scheduled to provide adequate time for each testimony, which will be recorded, transcribed, published, and made available to the public.

§ 708.2 Scope.

(a) This part describes minimum guidelines for public participation in the development, revision, and implementation of the Master Plan specified in the Act.

(b) This part applies to the following organizations with references to the activities described in § 707.2(a):

(1) The Commission, including its staff and persons, organizations, and agencies under contract to it for work within the scope of the Master Plan.

(2) Such Federal departments and agencies as are directed under Sec. 101(e) of the Act to conduct studies pursuant to the Master Plan, for any work carried out for purposes of developing, revising, and implementing the Master Plan.

(3) Such departments and agencies of any state or local government as are authorized and/or directed to carry out studies and analyses under direction or advice of the Commission as stipulated in Sec. 101 of the Act.

(c) The guidelines referred to in this part shall be considered general requirements applicable to all studies, procedures, programs, regulations, or other administrative devices carried out under § 708.2(b), but only for those Master Plan activities under authority of the Act.

§ 708.3 Policy, objectives, and standards.

(a) *Policy.* (1) Congress had directed the Commission to prepare a comprehensive Master Plan for management of the System in cooperation with appropriate Federal, state, and local officials. In developing the plan, the Commission is required to identify various economic, recreational, and environmental objectives of the System, recommend guidelines to achieve such objectives, and proposed methods to assure compliance with such guidelines and coordination of future management decisions affecting the System, and include with the proposed plan any legislation proposals which may be necessary to carry out such recommendations and achieve such objectives.

(2) The Commission is required to provide for public participation in the development, revision, and implementation of the Master Plan and to encourage and assist such participation. In doing this, the Commission seeks to foster a spirit of openness and a sense of mutual trust between the public and the planners. Public participation is expected to result in greater responsiveness of the Master Plan to public concerns and priorities, as well as improved popular understanding of official studies, planning processes, and decisions.

(3) In order for public participation to be effective, it must be timely and integrated into the planning process. The Commission shall seek public participation prior to any decision-making on the Master Plan or any of its components. Such public participation will ordinarily include informational output about the plan, public response and input, two-way discussions or exchange, and Commission consideration of public expressions.

(4) Public participation processes utilized by the Commission in developing the Master Plan shall aim for the highest achievable standards of objectivity and thoroughness consistent with other requirements of the Act and the intent, concepts, ideas, and basic tenets of the Principles and Standards for Planning Water and Related Land Resources published by the Water Resources Council in the FEDERAL REGISTER, Volume 38, Number 174, Part III, September 10, 1973 and any forthcoming revisions. Public participation programs shall include monitoring procedures to maintain an acceptable degree of responsiveness and accountability.

(5) Neither the Master Plan as a whole nor any component of it shall be formulated without incorporation of a program of public participation involving fair representation of all segments of the public. The public participation section of the Master Plan-Plan of Study shall be developed consistent with guidelines described in this part.

(b) *Objectives.* Objectives of the public participation program developed by the Commission as part of the Master Plan are:

(1) To sensitize the planners to public preferences,

(2) To anticipate and help resolve conflicts arising during the study,

(3) To improve information transfer and public awareness of the study,

(4) To provide for periodic reviews in the development of the Master Plan as well as the final review required by the Act, and

(5) To provide for evaluation of public participation in the planning process.

(c) *Standards.* The Commission in meeting the above objectives recognizes that:

(1) Inputs from the public are important for development of the Master Plan;

(2) Participants are to include individual citizens as well as organizations;

(3) The public participation program is to assume the existence of numerous publics and their interests—identified and delineated according to a number of socioeconomic, demographic, geographic, personal, and ideological variables;

(4) The public participation process must be continuous: It is to be provided for, encouraged, and assisted throughout the planning process;

(5) The public participation process is to have as a product measureable sets of opinion and other manifestations of the public will in regard to details of the Master Plan; and

(6) Inputs from the public into the Master Plan through avenues other than the Commission public participation program should be facilitated.

§ 708.4 Required programs and reports.

(a) The Commission shall prepare a work plan for public participation as part of the Master Plan-Plan of Study. The work plan shall satisfy minimum standards described in this part. The work plan shall describe all substantive administrative and management arrangements to elicit public participation, shall delineate Commission member and staff responsibilities, and shall identify budgetary provisions.

(b) In addition to public meetings and hearings, the public participation program shall include survey research, program evaluation, and information/education activities as described in § 708.5.

(c) The Commission shall recommend long-term public participation activities and programs related to implementation of the Master Plan. These recommendations shall be based on evaluation of procedures and results mandated in this part and carried out during the Master Plan process.

(d) The Commission shall issue reports describing the participation program as developed or implemented during the designated reporting period. Each such report shall include as a minimum a brief description of the main participation activities, the means used to obtain the participation, the quality and amount of participation elicited, the costs of the effort, and the use that was made of the elicited information in the planning process. The reporting periods shall be arranged so as to correspond generally with the main sequential segments of the overall planning process.

§ 708.5 Program objectives implementation.

(a) The continuing public participation program shall contain mechanisms or activities for each objective listed in § 708.3(b). The listing of specific measures in this section shall not preclude additional techniques for obtaining, encouraging, or assisting public participation. Special efforts shall be made to simplify the planning process and products for public and media use. Variances may occur in the use of any given program element, according to the nature of the planning issues, the budgetary resources accorded the participation process, and the effectiveness of the participation actually elicited and measured in the field.

(b) To obtain data in regard to plan-relevant public opinion, methods shall include but not be limited to survey research.

(1) The survey research process shall be developed and utilized in connection with the Master Plan as a whole and its components. Whereas public meetings are organized to elicit unstructured participation and opinion changes, surveys shall be targeted on carefully-selected samples of functionally-defined publics located throughout the System.

(2) The Commission shall evaluate the effectiveness of the information/education program on the part of the surveyed publics necessary for continued and sustained participation in the decision-making steps of the planning process.

(3) If a gap is found between the desired and actual effectiveness, the Commission shall develop and implement a short-term narrow-focus information and education program targeted at the specific problem areas in question.

(4) On completion of the short-term information/education program, resurveys shall be made among the affected publics. The results shall constitute a measure of the effectiveness of the short-term information/education program.

(c) To improve information transfer and public awareness of the study, two levels of information and education activities shall be pursued. The first shall have the general public as its

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target audience and shall emphasize methods that foster general awareness and understanding of plan issues and the nature of the ongoing planning process. The second level of information and education activities shall focus on public interest groups, agency representatives, and elected officials and shall emphasize the creation of plan component data and information in a form that can be utilized by these groups in the plan decision-making process. The information presented shall be broadly representative of the relevant perspectives and issues.

(d) Throughout the period of study and the succeeding period of implementation of the Master Plan, the Commission shall provide a centralized capability for acting as an information/education center. The Commission shall provide a central source of media-directed information about the Master Plan, its components, future expected planning needs in the System, current program-related activities, and other relevant subject areas. Special efforts shall be made to summarize complex technical materials for public and media use. The Commission shall have an arrangement for providing technical and informational assistance to public groups for citizen education, community workshops, training, and dissemination of information to communities. Requests for information shall be promptly handled. The Commission shall have standing arrangements for early consultation and exchange of views with interested or affected persons and organizations on development or revisions of plans, programs, or other significant actions prior to decision-making. Survey research methods and other procedures will be used to determine the content and emphasis of information and education activities and products.

(e) The Commission shall provide for periodic reviews of the development of the Master Plan as well as the final review required by the Act. Activities to accomplish this shall include:

(1) *Public meetings.* (i) Public meetings shall be organized at locations in parts of the System most significantly affected by the possible outcomes. These open meetings shall be timed to coincide with sequential elements of the planning process.

(ii) The meetings shall provide citizens and representatives of interested organizations an opportunity to utilize an informally-structured format to air their suggestions and grievances in regard to the subject matter of the Master Plan.

(iii) Where the Commission deems necessary a formal public hearing, it may coincide with the public meeting. When this is the case, a clear distinction shall be made between the formal and open segments of the meeting/hearing.

(iv) Documents and data pertaining to the agenda for each public meeting shall be made available to the public for a reasonable time prior to the public meeting, at a location convenient to the expected participants. In addition, the Commission shall prepare outlines of major issues including brief descriptions of the issue, alternatives, and sources of additional information.

(2) *Public hearings.* (i) The Commission is required to publish a preliminary plan not later than January 1, 1981 and to hold public hearings in each state which would be affected by the plan. The Commission is required to review all comments presented at such hearings or submitted in writing to the Commission, and, after making any revisions in the plan it decides are necessary, to submit to Congress a final Master Plan not later than January 1, 1982.

(ii) The public hearings on the preliminary plan and any other public hearings deemed necessary by the Commission are to be consistent with the provisions of sec. 205 of Pub. L. 89-80 in conformity with this part. If conflict exists between the minimum guidelines of this part and requirements of state or Federal law or other regulations pertaining to a particular hearing, the more stringent requirements shall be observed.

(iii) In addition to any other formal legal requirements, the public hearings are to be well publicized and notices of each hearing will be mailed to interested or affected persons at least 30 calendar days before the hearings.

(iv) In determining locations and times for hearings, consideration will be given to travel and to facilitating attendance and testimony by a cross-section of interested or affected persons and organizations. Accessibility of hearing sites by public transportation will be considered.

(v) The preliminary plan and any supporting reports, documents, and data to be discussed at the public hearings are to be made available to the public at least 30 days prior to the public hearings. Information concerning availability of the preliminary plan, reports, documents, and data will be provided in public hearing notices.

(vi) The elements of the public hearings, proposed time schedules, and any constraints on statements shall be specified in public hearing notices.

(vii) Testimony of witnesses at public hearings shall be scheduled in advance when necessary to ensure maximum participation and allotment of adequate time for testimony, provided that such scheduling is not used as a bar to unscheduled testimony. Blocks of time shall be considered for major categories of witnesses.

(viii) Public hearing procedures shall not inhibit free expression of views by requirements of more than one legible copy of any statement submitted, or for qualifications of witnesses beyond that needed for identification.

(ix) A record of public hearing proceedings shall be made promptly available to the public at cost. The Commission shall invite, receive, and consider comments in writing from any interested or affected persons and organizations. All such comments shall be part of the public record.

(f) To provide mechanisms for evaluation of public participation in the Master Plan:

(1) the Commission shall conduct periodic evaluations of the public participation program. The purpose of this evaluation is to determine the following:

(i) The extent of actual participation elicited from each of the process phases—public meetings, public hearings, survey research, direct input from organizations, and other sources.

(ii) The degree to which participation elicited from each process phase was actually utilized in the planning process.

(iii) Regional/local differences in effectiveness of public participation methods and procedures.

(iv) The need to modify the public participation process during the Master Plan.

(2) Public participation evaluations shall be incorporated into the Master Plan. Recommendations resulting from this overall evaluation shall be utilized to draft new guidelines and plans of study for public participation programs to be implemented after the Master Plan has been adopted.

NEIL S. HAUGERUD,
Chairman, Upper Mississippi River Basin Commission.

[FR Doc. 79-1061 Filed 1-11-79; 8:45 am]

federal register

FRIDAY, JANUARY 12, 1979
PART VI



ENVIRONMENTAL PROTECTION AGENCY

CONTROL OF AIR POLLUTION FROM NEW MOTOR VEHICLES AND NEW MOTOR VEHICLE ENGINES

Revision to Emission Testing Procedure

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[6560-01-M]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL-1005-1]

PART 86—CONTROL OF AIR POLLUTION FROM NEW MOTOR VEHICLES AND NEW MOTOR VEHICLE ENGINES: CERTIFICATION AND TEST PROCEDURE

Revision to Emission Testing Procedure

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: This action amends the procedures (40 CFR Part 86) by which new 1981 and later model year light-duty vehicles (LDV's) and new light-duty trucks (LDT's) will be tested for purposes of determining compliance with applicable Federal Regulations established under the authority of the Clean Air Act, as amended. The Environmental Protection Agency (EPA) published a Notice of Intent to Develop Rulemaking on this subject on May 31, 1977. The proposed amendment to the test procedures was published as a Notice of Proposed Rulemaking (NPRM) on October 21, 1977. The NPRM proposed test procedure changes which would permit EPA to test, or require manufacturers to test, LDV's and LDT's with their engines adjusted to any combination of settings within the physically adjustable ranges of their adjustable parameters prior to testing, rather than set precisely to the manufacturer's specifications.

EPA proposed these changes, and is now promulgating them in revised form, because data indicate that significant numbers of vehicles which were certified as being capable of meeting applicable emissions standards (when operated in accordance with manufacturer's instructions and adjusted to manufacturer's specifications) are exceeding the standards in actual use due to maladjustments.

Comments were received during the public comment period on several aspects of this action, and changes have been made in response to the comments. The purpose of this amendment remains as stated in the NPRM, i.e., to require light-duty vehicles and light-duty trucks to meet the standards even when maladjusted, or conversely to motiviate manufacturers to effectively reduce the feasibility and likelihood of vehicles being adjusted to other than manfacturer's specifications.

EFFECTIVE DATE: March 13, 1979. These changes in the test procedures will apply in two stages, to 1981 and then 1982 and later model year vehicles.

FOR FURTHER INFORMATION CONTACT:

Ronald Kruse, Emission Control Technology Division, Office of Mobile Source Air Pollution Control, Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, Michigan 48105, Telephone: 313-668-4317.

SUPPLEMENTARY INFORMATION:

Background and Purpose

Before new motor vehicles may be introduced into commerce, the Clean Air Act requires that they be covered by a certificate of conformity with emissions regulations.

Currently, to determine whether new vehicles will be issued a certificate of conformity, vehicles are tested with their various adjustable parameters (e.g., ignition timing, idle air/fuel mixture) set according to the manufacturer's specifications. In the Selective Enforcement Audit (SEA) program, EPA tests production vehicles in their assembly-line state of adjustment, including any subsequent adjustments normally made on all vehicles prior to delivery. The outcome of these procedures is that new vehicles usually only need to demonstrate emission compliance with their parameters adjusted to the manfacturer's recommended settings. However, some of these parameters are easily adjusted on in-use vehicles to other settings. Such maladjustment can cause a vehicle that complied in certification and SEA to substantially exceed standards in use.

EPA has in fact observed such in-use maladjustment. Since 1971 EPA has measured the emissions of in-use vehicles, in part to evaluate the effectiveness of its emission control program. Measurements made on 1975 and 1976 model year vehicles revealed that over half of them failed to meet one or more of the emission standards to which these models were certified. EPA initiated the Restorative Maintenance Study to determine why this was so. The results of this study have indicated two primary causes: disablement of emission control components and maladjustment of engine parameters. Of 300 in-use, low-mileage vehicles tested in three cities, 38 percent were considered to have maladjusted idle mixture, 25 percent had maladjusted idle speed, 10 percent had maladjusted choke valve action, and 19 percent had maladjusted initial spark timing.

Most of those vehicles that initially failed the emission test passed it after measures were taken to correct disablements and to restore parameters to a proper state of adjustment. Further, these measures caused a substantial reduction in the average emissions of the test group. Most of this reduction was attributable to adjustment of idle speed and idle mixture to their proper settings. Once disablements and other maladjustments were corrected, correction of the idle speed and idle mixture reduced the average carbon monoxide emissions of the test group by 68% of the applicable standard and the average hydrocarbon emissions by 23% of the standard.

There are a number of possible reasons why parameters are not properly adjusted on in-use vehicles. Some vehicles may have been adjusted incorrectly when delivered to their owners. Maladjustments also occur after vehicles are delivered to their owners, for several reasons. Many mechanics probably depart from a manufacturer's instructions because they lack up-to-date knowledge or lack required test equipment. Mechanics and owners may also make deliberate maladjustments in an attempt to cure driver complaints about acceleration, quality of idle, and cold starting. Some maladjustments may occur spontaneously during use and not be corrected because of inadequate maintenance practices.

These causes of in-use maladjustments can be partially overcome by better vehicle designs and manufacturing practices. These improvements fall into five categories:

1. Parameter settings which are not needed for proper vehicle operation in use can be eliminated from the adjustable range of the parameter. Wide ranges of adjustment are a convenience during manufacturing, but they increase the likelihood and severity of inadvertent or accidental maladjustment. In some cases parameters can be adjusted at the factory and then fixed in position, without creating any problems during later use of the vehicle. In other cases the stops that limit the range of adjustment can be made more effective than they have been in the past (e.g., plastic limiter caps that have been easily removed).

2. While narrowing the range of parameter adjustment settings will not by itself ensure emission compliance over the remaining range, more significant design changes are possible which will ensure compliance. These design changes will change the vehicle operating characteristics so that emission compliance will be assured over the operating range of the adjustment, or the design changes may entirely eliminate the need for the adjustable parameter.

3. The tolerances with which parameters are adjusted during production can be kept narrow enough so as not to cause vehicles to exceed the emission standards. This will be particularly important when manufacturers begin sealing or making adjustment mechanisms inaccessible, as EPA anticipates they may for some parameters. When corrective adjustment in the field becomes more difficult, parameters should be adjusted more carefully in production.

4. Manufacturers can reduce the incentives for maladjustment by owners. Good acceleration, idle quality, cold starting, etc., can be provided at the recommended settings. Owners would then have less reason to resort to non-recommended settings in an attempt to get better driveability. The availability of such technology has been demonstrated by manufacturer-to-manufacturer differences in the frequency of maladjustments on 1975 and 1976 vehicles.

5. Manufacturers can design the next generation of electronic engine and emission control systems in ways that reduce in-use maladjustment. These control systems, if carelessly designed, could be even more maladjustment-prone than past systems. But with relatively little preventative effort now, the control systems of the mid 1980's can be more maladjustment-proof.

EPA is promulgating this revision to the emission test procedure so that it can require manufacturers of LDV's and LDT's to make these types of improvements. Vehicles in these categories will be required to be in compliance with the emission standards when certain adjustable parameters, designated by EPA, have been adjusted within ranges recommended by the manufacturer. This change will give each manufacturer a strong incentive to limit adjustability or otherwise make maladjustment less likely on in-use vehicles, to produce vehicles which are properly adjusted, and/or to reduce the sensitivity of emission control systems to such maladjustments. A manufacturer that does not do so will risk denial, suspension or revocation of the certificate of conformity.

Some comments received in the course of this rulemaking (from private individuals and members of the service and aftermarket parts industries [1]) ascribed broad and far-reaching effects to these regulations. Some felt that the regulations provided a 50,000 mile warranty on emission-related components or would require that service be performed only at dealerships. Others thought that these regulations would require maintenance-free cars. These regulations do not have the scope perceived in those comments.

These regulations provide only that vehicles will meet the prescribed emission standards with certain selected parameters adjusted to any setting within the physically adjustable range. These regulations will not substantially alter the traditional need for vehicle maintenance, will not require that maintenance be performed at dealerships, and will not provide a 50,000 mile warranty on emission-related components.

Motor vehicle manufacturers are becoming quite adept at automatic control of various vehicle functions. Parameters which have traditionally required periodic adjustment will, in the future, be automatically controlled or eliminated. The regulatory purpose of this rulemaking (to assure that motor vehicles meet the emission standards at any settings within the parameters' adjustable ranges) may be accomplished in a variety of ways; the manufacturers are, however, expected to accelerate the application of advanced parameter control technology. EPA expects that the service industry will keep pace with this trend by providing and using more sophisticated and automated diagnostic equipment.

Summary of Changes From the NPRM

The NPRM: EPA proposed in the NPRM that beginning with the 1980 model year, manufacturers be required to describe as part of their application for EPA certification all adjustable parameters that may affect emissions. This description of their physical limits and adjustable ranges as intended by the manufacturer, and the nominal or recommended setting for each at the manufacturer's option, additional information could be provided. EPA could adjust these parameters to settings selected from within the parameters' physically adjustable ranges as determined by EPA, prior to testing an emission data vehicle.

A physically adjustable range as determined by EPA might not be the same as intended by the manufacturer. The two could be different if EPA considered it likely that the physical limit, or other methods used to inhibit adjustability, would be overcome on in-use vehicles.

A vehicle which failed the emission test when adjusted to EPA's selected setting would be denied a certificate of conformity. For vehicles which were successfully certified, EPA could again adjust parameters prior to testing assembly line vehicles as part of the Selective Enforcement Audit program. EPA could revise its determination of the physically adjustable ranges and its selection of test settings before each Selective Enforcement Audit.

In addition, EPA included in the preamble to the NPRM several examples and guidelines intended to illustrate how EPA would make its determinations and selections once the new procedure was in effect.

The Final rule: The regulations being promulgated today include a number of notable changes from the proposal's provisions as outlined above, both in response to comments and in the interest of clarifying the requirements of this action and the Clean Air Act:

1. The information that the manufacturer must provide in the application for certification is clarified to separately include the tolerances to which physical limits or stops will be placed during production, and those to which sealed and inaccessible parameters will be adjusted.

2. EPA must make several early determinations regarding the adjustment of parameters on vehicles tested during certification and SEA:

(a) EPA must determine which parameters will be subject to adjustment;

(b) EPA must determine the adequacy of any limits, stops, seals, or other means used to inhibit the adjustment of each of these parameters; and

(c) EPA must determine two physically adjustable ranges for each of these parameters. Production tolerances on stops affect the adjustable range of physically adjustable parameters and production tolerances on settings affect the adjustable range of sealed parameters; therefore, production tolerances must be included in the physically adjustable range for certification. For SEA, which tests production vehicles, production tolerances come into play automatically and need not be considered further when setting the parameters.

EPA must make these determinations and notify the manufacturer no later than when it selects the emission data vehicles for the manufacturer's test fleet. EPA must make them earlier if the manufacturer submits adequate descriptions of its vehicles' parameters in advance of its preliminary application. The NPRM was not as explicit as to what determinations would be made at what stages in the certification process. The NPRM also did

[1] In all, comments on the NPRM were received from five domestic manufacturers of light-duty vehicles and light-duty trucks, 11 foreign manufacturers, 24 private individuals, 13 companies or organizations involved in automotive parts manufacturing or distributing or automotive repair, the Automobile Owners Action Council, the Department of the Army, the Department of Transportation, the General Services Administration, the Departments of Environmental Protection of the States of Connecticut and New Jersey, and the California Air Resources Board. All comments received were reviewed and considered in the final preparation of this regulation.

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not state that production tolerances would be treated as outlined above.

3. The amendments provide an opportunity for the manufacturer to request a hearing on the above determinations within 30 days of being notified, at which time it can appeal them. The NPRM did not explicitly provide such an appeal procedure. This opportunity to request a hearing is in addition to less formal appeal procedures now available to manufacturers during the certification process.

4. These determinations regarding the adjustment of parameters will apply to compliance testing of both emission data vehicles during certification and production vehicles during SEA. EPA will select test settings only for the parameters designated as being subject to adjustment, and only from their appropriate physically adjustable ranges. Of course, for certification testing, the production tolerances (as projected by the manufacturer) will be included in the physically adjustable ranges and for SEA the production tolerances take care of themselves. Subject to these two restrictions, test settings selected for SEA testing may be different from those selected for certification testing. EPA may select test settings at any time prior to a certification or SEA test. EPA may select settings independently before each test, but each time it will consider the likelihood of the selected test settings occurring on in-use vehicles. One of the factors that may influence this consideration is the effect of the settings on vehicle performance characteristics. EPA does not intend to choose settings that are unlikely to occur in use because of their adverse effect on performance.

EPA will not select test settings for parameters that EPA has not previously determined to be subject to adjustment. These parameters will be treated as they are under the present test procedures, i.e., adjusted according to manufacturer's specifications or left in their production states.

The NPRM differed in that it would have allowed EPA to revise all parameter adjustment determinations prior to each test. It also permitted, but did not require, EPA to consider various factors when making determinations, although the preamble to the NPRM made it clear that EPA intended to consider all relevant factors.

5. A restriction has been placed on EPA's authority to adjust parameters which were present on a vehicle in the previous model year. EPA may adjust a parameter that is repeated from the previous model year only if EPA has given the manufacturer adequate indication in advance that it might do so. The NPRM did not require such notice. This final rulemaking constitutes the notice needed for adjustment of selected parameters (idle fuel-air mixture, idle speed, initial spark timing, or choke valve action) according to the schedule described immediately below.

6. The implementation schedule has been changed. The 1981 model year will be the first affected by the revised test procedures. For the largest category of LDV's and LDT's, those which use gasoline and are equipped with carburetors, two parameters will be regulated beginning in 1981: idle fuel-air mixture and choke. Two more will be regulated in 1982: idle speed and initial spark timing. Gasoline-fueled LDV's and LDT's with fuel injection systems will follow the same schedule, except choke parameters will not be affected. At present there is no schedule for regulating specific parameters on Diesel-powered LDV's and. LDT's. EPA may on some future date establish a schedule for regulating parameters on Diesel-powered vehicles and other parameters on gasoline-fueled vehicles, subject to conditions and restrictions explained in detail in the discussion of major issues, below. Rulemaking will not be required to establish such a schedule.

7. EPA has revised some of the examples and guidelines that were given in the preamble to the NPRM and incorporated some into the text of the amendment itself, which, of course, binds EPA to agree that the examples do, in fact, represent adequate mechanisms for limiting adjustment.

8. A specific requirement that the manufacturer ensure safe vehicle driveability within its intended physically adjustable range is added. This requirement is not new, but rather construes the existing requirement of § 202(a)(4)(A) of the Clean Air Act that emission control devices, systems, or elements of design shall not cause or contribute to an unreasonable risk to public health, welfare, or safety in their operation.

The final rule also eliminates two potential ambiguities present in the NPRM. It makes it clear that all adjustable parameters must be described in the application for certification, including those that the manufacturer has designed for restricted adjustability, and that the regulations apply to both EPA and manufacturer testing of emission data vehicles.

The notable changes and the reasons EPA has made them are described in detail in the discussion of major issues, which follows.

Discussion of Major Issues

Should the regulation be general in scope?

The NPRM proposed that EPA have general authority to adjust any adjustable engine or vehicle parameters prior to conducting compliance tests. Many manufacturers commented that only a few parameters have been observed to be maladjusted on in-use vehicles and that it was unnecessary and/or unreasonable to extend EPA's adjustment authority to include other parameters. Most of these manufacturers requested that the change in the test procedure apply only to the idle air/fuel mixture adjustment.

EPA recognizes that at the present time it does not have a basis for concluding that all adjustable parameters are maladjusted in use. No doubt many parameters have not been found to be maladjusted because they are in fact not maladjusted in actual use. On the other hand, the Restorative Maintenance Study was limited in scope and structured to find only those few parameters which are most frequently maladjusted, with significant emission effects. In addition, only low mileage vehicles were studied. Undetected maladjustments may be detected where other parameters are studied or when older vehicles are examined.

Parameters which are not being maladjusted now may begin to be maladjusted in the future if EPA regulates the adjustability of other parameters. For example, manufacturers might make the fuel float level adjustable if they choose to do without adjustable idle mixture screws. In addition, new types of emission control systems may have adjustable parameters that do not fit into current categories. Such parameters cannot be listed in this regulation and would have been excluded if the scope of the regulation were limited to specific parameters found on present systems.

Limiting the scope of the regulation as suggested by the manufacturers would prevent EPA from requiring manufacturers to correct known or foreseen maladjustment problems involving any of these other parameters. The delay between when a parameter was identified as being reasonably likely to be maladjusted in use and when EPA could complete the rulemaking needed to add it to the list of regulated parameters could allow one or more years of production of maladjustment-prone vehicles. Therefore, to allow EPA the flexibility it needs to deal with future maladjustment problems, the general authority proposed in the NPRM has been retained in this final rule.

This does not mean that EPA will force manufacturers to redesign all adjustable parameters simply as a precaution. This final rule requires EPA to consider the likelihood that nonrecommended settings will occur on in-use vehicles when determining which parameters will be subject to adjustment. It also states that EPA may consider such factors as the information provided by the manufacturer in the preliminary application, surveillance information from similar in-use vehicles, and factors that might encourage or discourage maladjustment of a vehicle once in use. As a matter of policy, EPA will determine a parameter to be subject to adjustment only if it believes that the occurrence of non-recommended settings may cause a significant increase in emissions. EPA will consider the degree, frequency, and emission impact of maladjustments when judging the significance of an actual or potential maladjustment problem and the desirability of correcting it via the broad authority contained in this regulation. For example, based on present information EPA would not determine any transmission, brake, wheelbearing, clutch, or valve lash parameters to be subject to EPA adjustment, even though they may affect emissions.

In any case, the manufacturer has the right to appeal these EPA determinations through either an informal process or through the formal process identified in § 86.081-22(g).

The fact that EPA has not determined that a parameter is subject to EPA adjustment does not in and of itself remove the liability of a manufacturer for recall if a substantial number of in-use vehicles, although properly maintained and used, are in nonconformity due to adjustment of the parameter beyond the manufacturer's recommended setting.

Lead time and feasibility considerations

The object of the revised test procedure is to induce manufacturers to make design changes to their vehicles, both immediately and on a continuing basis to ensure that significant maladjustment problems do not occur in actual use. The feasibility of and required lead time for these changes will naturally be of concern to the manufacturers. They will also be of concern to EPA. EPA intends to consider feasibility and to give manufacturers sufficient notice of parameters which will be subject to adjustment in each model year. EPA has done so for certain parameters in the context of this final rulemaking (see "What Parameters Will Be Initially Affected?" and "Implementation Schedule" below). Other parameters are provided for as explained in the next paragraphs.

EPA expects that from time to time some parameter changes will occur; of course many parameters will remain the same, but some will disappear and other, new parameters will appear.

When considering lead time for parameters which have remained the same (those which appeared on vehicles in the same engine family in the previous model year) EPA must give adequate notice to the manufacturer before determining that any of those parameters are subject to adjustment. EPA has no lead time concerns about parameters which disappear, but is concerned about the sudden appearance of new parameters. For new parameters, the available lead time is completely under the manufacturers' control. The revised test procedure requires EPA to determine no later than the selection of the emission test fleet those parameters that it will adjust. However, EPA will respond to information whenever it is presented by the manufacturer. Thus, the manufacturer can assure long lead time for new parameters by providing early information.

EPA will not allow new, maladjustment-prone parameters to begin production just because EPA did not learn of their planned introduction. To do so would negate the general scope of the regulations. EPA's policy will be to make every reasonable effort to facilitate product innovations by advising the manufacturer regarding new parameters, once informed of them.

How should parameter adjustment be implemented for SEA?

Several adverse comments were received from manufacturers concerning the NPRM's provisions for parameter adjustment during SEA testing. The manufacturers objected to the possibility that EPA would revise its determination of the adequacy of physical limits or other means used to limit adjustability after production begins. The manufacturers claimed that such revisions could impose new performance requirements for production vehicles, of which they would be unaware when they decided to begin production.

The intent of the original proposal was not to have EPA revise the determination of the adequacy of the physical limit, but merely to determine whether the effectiveness of physical limitation in the production vehicle had diminished from that of the prototype design. Nevertheless, in response to manufacturers concerns and in recognition of the potential inconsistent application of the criteria for determining adequacy, the amendment proposed today is different from the NPRM.

The amended test procedure requires EPA to make several determinations early in the certification process that will be binding on EPA during both certification and SEA. The manufacturer will then be aware of the requirements production vehicles must meet, before production begins. These requirements will be the same as those for certification vehicles. Of course, if there is a material difference in the physical limitations between the Part I application and production vehicles EPA may consider the production vehicles uncertified.

The determinations are described fully under the next issue heading. Briefly, EPA must determine which parameters will be subject to adjustment, no later than when it selects the certification test fleet. EPA may not subsequently adjust any other parameter. Also, for each parameter EPA designates as subject to adjustment, EPA will at the same time determine the adequacy of any limits, stops, seals, or other means used to inhibit adjustment. Those that are found to be adequate limits to adjustment will not be exceeded in later SEA tests. The exact settings used during certification tests and SEA tests may be different, but the manufacturer will know which settings are potential test settings.

Some manufacturers claimed that in order for SEA to retain its present role, it is necessary that the SEA test procedure be left as it is presently, i.e., with no adjustment of parameters by EPA. This claim is without merit. In fact, SEA cannot play its proper role to ensure that new production vehicles comply with the same emission requirements met by certification vehicles, if parameters subject to adjustment during certification are not similiarly subject to adjustment during SEA. Moreover, it would make no sense for EPA to remove SEA test conditions further from conditions in-use (with regard to engine parameters) than conditions in certification testing.

What factors should influence the determination of adequate limits and the physically adjustable ranges?

Parameters that have been determined to be subject to adjustment can be divided into two groups for purposes of this discussion: (1) parameters that are not likely to be adjusted on vehicles after they leave the factory because the parameters are effectively inaccessible or effectively sealed to the production setting; and (2) parameters that are likely to be adjusted in use by dealers, other mechanics, or owners.

Since a parameter in the first group will remain at its production setting, it is important that the vehicle be designed to meet emission standards at all settings expected to occur in production. This final rule ensures this by allowing EPA to determine an official physically adjustable range equal to the range of production variation specified by the manufacturer in the preliminary application, for the purpose of certification testing.[2] For the pur-

[2] This is analogous to selecting an emission-data vehicle with a component calibration (e.g., carburetor flow curve) other than

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pose of SEA testing, the physically adjustable range will contain only the actual production setting of the vehicle being tested. From time to time, production tolerances may exceed the ranges identified in the preliminary application for certification. When this happens, EPA will not automatically consider a vehicle with such tolerances to be noncertified; rather it will test the vehicle to determine compliance, with the parameter left adjusted to the actual production setting.

For a parameter in the second group, the physically adjustable range depends on the location of the adequate physical limits or stops, if any. EPA will determine whether the physical limits or stops used by the manufacturer to establish its intended physically adjustable range are adequate.

If they are, the official physically adjustable range will consist of all settings between those limits or stops. EPA may consider the limits or stops to be located at their production extremes when determining which settings are included in the physically adjustable range that will apply for certification.[3] For the purpose of SEA testing, the actual location of the limits or stops on the vehicle being tested will be used, and the limits or stops may not be exceeded by EPA when it adjusts the vehicle. Again, if from time to time production tolerances exceed those identified in the preliminary application and result in a limit or stop being located beyond the extremes identified in the application, EPA may adjust the parameter up to the limit or stop as it is actually located rather than consider the vehicle to be noncertified.

If EPA judges the manufacturer's intended limits or stops to be inadequate, EPA will consider the adequacy of any limits or stops beyond the intended ones and determine the physically adjustable range accordingly.

Thus, the group to which a parameter belongs depends on whether it is effectively sealed or inaccessible. For a parameter in the second group, the physically adjustable range will greatly depend on the adequacy of whatever physical limits or stops are present. The general criterion to be used in determining whether a parameter is effectively sealed or inaccessible and whether a physical limit or stop is adequate will be the reasonableness of expecting that access will be gained or that a seal, limit, or stop will be overcome on in-use vehicles. Once made during certification, this determination will be final for SEA as well.

In the preamble to the NPRM, EPA elaborated this general criterion into three specific criteria to be used in determining whether a parameter was effectively sealed or inaccessible. EPA stated that any one of the following conditions would be grounds for EPA determining that a parameter was adjustable:

(1) The parameter was adjusted prior to the vehicle being delivered to the dealer and the adjustment mechanism was not disabled;

(2) Manufacturer service manuals or bulletins contain procedures for adjusting the parameter or statements indicating that it can be adjusted; or

(3) The parameter can be adjusted quickly (in less than one half hour) or inexpensively (cost less than $20, including any replacement of parts) with the use of simple or inexpensive tools whether or not such tools are of common or of special design.

After considering the many comments on these criteria, EPA has decided that a case may arise in which it would be unreasonable to conclude that it was likely that a parameter would be adjusted on in-use vehicles, despite the fulfillment of one of these three conditions. Therefore, EPA will not treat these three conditions as sufficient. It will, however, weigh them carefully. Also, EPA will consider as accessible and adjustable any parameter for which manufacturer service manuals or bulletins describe routine adjustment procedures. Manufacturers may safely continue to describe procedures intended only for non-routine use, e.g., during major engine or carburetor repair, EPA-ordered recall, or high-altitude performance adjustments.

Two manufacturers requested that parameters be considered effectively inaccessible or sealed, and physical limits or stops be considered adequate, if special tools are needed in order to adjust the paramenter or to exceed the physical limits or stops. As it is possible for special tools to become widely available, EPA cannot grant this request. EPA may consider a parameter to be accessible and adjustable, and physical limits or stops to be inadequate, even though special tools are required.

One manufacturer requested that EPA consider a parameter to be effectively inaccessible or sealed, and physical limits or stops to be adequate, if the adjustment procedure takes more than 30 minutes to perform or costs more than $20. Another manufacturer thought that this preamble example was actually being proposed by EPA and pointed out that, in its opinion, it would simply encourage manufacturers to increase the cost and time of routine adjustments to more than $20 and 30 minutes so that they would no longer be considered adjustments, without reducing the need for those adjustments.

After considering these comments, EPA deems it appropriate to consider limits on adjustability as adequate whenever the adjustment procedure takes more than 30 minutes or costs more than $20, unless the procedure is described as routine in manufacturer service manuals or bulletins, surveillance data indicate that in-use adjustment is likely, or the manufacturer's estimates of cost or time are unreasonable. The $20 figure is based on 1978 price levels, and will be adjusted as necessary to account for inflation.

The preamble to the NPRM also gave several design examples. These were chosen to provide guidance on how EPA will evaluate the adequacy of the inaccessibility of an adjustment mechanism and the adequacy of physical limits, stops, and seals. Two objections were made to these examples. One was that EPA did not commit itself in some of the examples, but instead qualified them with the word "probably". EPA agrees to commit to the examples and has included them in the regulatory language of § 86.081-22(e). The second was that it was not feasible to manufacture a carburetor that had connecting choke links that fit EPA's examples of nonadjustable, bendable members. EPA has determined that it is possible to manufacture such a carburetor.

EPA has considered the feasibility of controlling those parameters designated in these regulations for initial control (See "Which Parameters will be Initially Affected?" below) and will in the future consider feasibility of control before additional familiar parameters are designated for control. The selection of the parameters cited as being subject to adjustment by EPA in specific years was based on a finding that the emissions standards for those years can be met, allowing for such adjustments.

For completeness, the design examples are restated here in revised form.

(1) Idle Mixture Screw—The idle mixture will be considered to be nonadjustable if the idle mixture screw is recessed within the carburetor casting and sealed with lead, thermosetting plastic, or an inverted elliptical spacer or sheared off after adjustment at the factory, in such a way that the adjustments cannot be accomplished in any of these circumstances with simple tools in a short time period (approximately one-half hour).

The idle mixture will be considered to be adjustable if the only deterrent to adjustment consists of a plastic cap placed over the idle mixture screw.

(2) Choke Bimetal Spring Cover—The choke mechanism will be considered to be nonadjustable if the plate covering the bimetal spring is riveted or welded in place, or held in place with nonreversible screws.

The choke will be considered to be adjustable if the plate covering the bimetal spring is merely held in place with screws which can be removed with the use of simple or inexpensive tools whether or not such tools are common or of special design.

(3) Elongating or Bending Adjustable Members—Parameters which may be adjusted by elongating or bending adjustable members (e.g., the choke vacuum break) will be considered nonadjustable if the elongation of the adjustable member is limited by design or, in the case of bendable members, is constructed of a material which when bent would return to its original shape after the force is removed (plastic or spring steel materials).

Parameters which may be adjusted by elongating or bending adjustable members will be considered to be adjustable.

(4) General.—A physical limit would generally be considered adequate provided that travel or rotation limits could not be exceeded with the use of simple and inexpensive tools (screwdriver, pliers, open-end or box wrenches, etc.) without incurring significant and costly damage to the vehicle or control system. Stops that can readily be broken off or otherwise eliminated or overcome without disabling the component's function may be broken off or overridden prior to certification or SEA testing. Limits on threaded adjustments would be considered adequate if the threads were terminated, pinned or crimped so as to prevent additional travel without breakage or need for costly repairs. A physical limit would be considered adequate if the adjustment were ineffective at the end of the limits of travel regardless of additional forces or torques applied to the adjustment.

While these examples do not encompass every possible adjustable parameter, or the many possible methods which could be employed to render an adjustment effectively nonadjustable, the guidance provided by these specific illustrations may be applied to many analogous situations. These examples will not be considered binding on the Administrator when making his determinations of adjustability if manufacturer service manuals or bulletins describe routine adjustment procedures for a parameter or if surveillance data indicate that in-use maladjustment is likely. As noted earlier, once the Administrator has made the parameter adjustment determinations for a model year those determinations are final. They may not be revised for that model year, either for certification or for later SEA testing, even if EPA acquires surveillance data indicating that in-use maladjustment is more prevalent than when the Administrator made the determinations.

Several manufacturers requested that specific, objective criteria for evaluating the adequacy of the inaccessibility of a parameter and the adequacy of limits, stops, and seals be included in the text of the regulation. EPA has not been able to develop criteria that would be adequate for every situation, and the manufacturers did not suggest any suitable criteria even though the NPRM invited them to do so. (The manufacturers' responses and the EPA Summary and Analysis of Comments are available; see Availability of Documents.) However, in response to the general desire by some manufacturers to have criteria in the regulation and not just in this accompanying explanation, EPA has incorporated those of the above design examples which are restrictive on EPA into the text of the regulatory language.

WHAT FACTORS SHOULD INFLUENCE THE SELECTION OF TEST SETTINGS?

The gist of most comments dealing with the selection of test settings for parameters was that EPA should not deviate from the manufacturer's recommended setting if doing so degraded vehicle driveability (e.g., cold start or stalling) or performance (e.g., fuel economy or acceleration). EPA has not accepted this recommendation, because the likelihood that a parameter setting will occur on in-use vehicles is not solely a function of its impact on driveability or performance. To achieve the goals of this regulation, EPA must be free to select as a test setting any setting which will occur with significant frequency on in-use vehicles, not just the setting which will occur most frequently. A setting may occur with significant frequency on in-use vehicles even though another setting gives better driveability or performance. EPA's Restorative Maintenance Study investigated the driveability and fuel economy impacts of the maladjustments observed in the study, and found that the maladjustments had only slight, and sometimes degrading, impacts. EPA concludes from this that car owners and mechanics in maladjusting are not universally successful in obtaining the best possible driveability and performance. EPA recognizes that driveability effects can influence the likelihood of in-use maladjustment to particular settings. The Administrator intends to consider information on driveability effects when it is reasonably available. The Administrator will not treat such effects as a controlling consideration, however. Sections 202(a)(4) and 206(a)(3) of the Clean Air Act require manufacturers to provide safe vehicle driveability in their certified configuration. Therefore, these regulations have the effect of requiring safe driveability at the setting that has been sealed from further adjustment or within the physically adjustable range. The Administrator will not operate the vehicle at parameter settings which produce unsafe vehicle driveability when settings are available which will produce safe vehicle driveability, assuming that any unsafe vehicle driveability condition is apparent to the driver.

ADEQUACY OF DUE PROCESS

Some manufacturers claimed that they would not be afforded adequate due process under the revised test procedure proposed in the NPRM. The common contention was that EPA's determinations of which parameters would be maladjusted during certification testing and of the adequacy of the steps taken by a manufacturer to limit the adjustability of those parameters, and the first opportunity to appeal these determinations, would come too late in the certification process. Specifically, it was claimed (1) that unreasonable determinations made just prior to the emission test (as would be possible under the provisions of the NPRM) could deprive a manufacturer of its investment in certification vehicles and production tooling if allowed to stand, and (2) that because of delays this investment could not be recovered even if the unreasonable determinations were corrected when appealed to the Administrator or the courts. A similar situation was claimed to exist if a parameter determination were revised prior to SEA tests.

The final rule being promulgated today has been changed in response to these objections. The changes are intended to provide a manufacturer a genuine opportunity to appeal EPA decisions, by moving these decisions forward in time.

A manufacturer will now be notified of which parameters will be subject to adjustment for certification and SEA testing and of the limits for each parameter. EPA will do this no later than when it selects the emission data test fleet. EPA will make the determinations and notify the manufacturer even earlier, if the manufacturer makes this possible by submitting the required descriptions of its parameters and their physical limits in advance of

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the nominal production calibration. The only difference is that the selection comes when the test setting is chosen from within the official physically adjustable range rather than when the emission data vehicle itself is chosen for the test fleet. EPA has in the past interpreted the existing certification regulations as giving it authority to select emission data vehicles with such off-nominal calibrations. Thus, this portion of the final rule serves to clarify existing authority in light of the substantive changes in the test procedure.

[3] The explanation in the previous footnote applies here also.

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its full preliminary application for certification. The manufacturer will have time to appeal EPA's initial determinations, or accept them and change its designs or production plans accordingly if necessary, before investing further in product development, certification vehicles, or production tooling. If the manufacturer chooses to appeal the initial determinations, it may do so either by requesting the Administrator for a hearing or through the less formal procedures which EPA normally affords manufacturers.

As discussed in greater detail above (see "Lead time and Feasibility Considerations"), more time will be available for a manufacturer to dispute an EPA decision to adjust an existing parameter for the first time. A familiar parameter (e.g., one that was present on a vehicle in the same engine family in the previous model year) may be newly determined by EPA to be subject to adjustment only if EPA has previously notified the manufacturer that it might do so as discussed earlier. If the manufacturer feels it would be unreasonable for EPA to adjust the parameter or that there is insufficient leadtime to modify the design of the parameter, it can appeal the EPA decision at once. A deadline of September 1 of the calendar year two years prior to the model year has been added to the regulation, by which EPA must give notice or delay one model year. This deadline assures time for an appeal. With these changes, the revised test procedure does provide manufacturers with adequate due process.

WHAT PARAMETERS WILL BE INITIALLY AFFECTED?

1. *Gasoline-Fueled Vehicles With Carburetion Systems.* On the basis of a technical evaluation of data from surveillance studies of in-use vehicles and other information, EPA concludes that the following parameters are maladjusted on in-use vehicles with significant frequency and with concomitant increases in emissions (See Summary and Analysis of Comments—item 1): idle air/fuel mixture, idle speed, choke valve action (e.g., bimetal spring tension and vacuum pull-off adjustments), and initial spark timing. These parameters are therefore of immediate concern to EPA. It is feasible for manufacturers to redesign all of these parameters so as to comply under the revised test procedures. These parameters have therefore been specifically included in the regulation as ones that may be determined to be subject to adjustment. Depending on the design changes made to these parameters by each manufacturer, EPA will determine them to be subject to adjustment according to the schedule described under the next issue heading.

EPA has identified the following parameters as having significant potential for maladjustment with concomitant increases in emissions, although EPA has not observed their maladjustment on in-use vehicles: part (or full) throttle mixture, accelerator pump, fuel level adjustment (float) in fuel bowl, and deceleration speed control (dash pot). EPA may examine these familiar parameters to determine if they are reasonably likely to be maladjusted or EPA may conduct in-use vehicle studies to determine the frequency of maladjustment. In any case, EPA will be required to give manufacturers adequate notice before determining any of these to be subject to adjustment. This notice must be provided prior to the traditional start of certification for the model year. For purposes of this notice, this will be deemed to be September 1 of the calendar year two years prior to the model year, e.g., September 1, 1980 for the 1982 model year. This deadline for EPA notification has been selected on the basis of the time needed to conduct an appeal. Often the lead time requirement will be longer and notice will be given earlier.

Comments received on the NPRM raised three major objections concerning the feasibility of carbureted vehicles complying with the new test procedure. Specifically, comments were received questioning the feasibility of compliance in the area of initial spark timing, idle speed, and bendable members on chokes.

Spark timing. Some manufacturers interpreted the NPRM to mean that the distributor would have to be fixed in place during assembly in such a way that freedom of motion could not be achieved again in less than 30 minutes, and contended that this was not feasible. This interpretation is not correct. It is possible to retain several degrees of initial timing adjustability in the retard direction without causing emission violations. EPA encourages manufacturers to do so, to facilitate timing retard when necessary in unusual circumstances. Further, EPA did not and does not intend the 30-minute criterion to be the only definition of an adequate physical limit on adjustability. EPA may consider measures to be adequate even when they can be overcome in less than 30 minutes. Again, the general criterion will be the reasonableness of expecting that owners and mechanics will overcome such features. The manufacturers of the small minority of vehicles which would otherwise use ignition systems with breaker points may find it advantageous to adopt breakerless ignition systems (a readily available technology) in order to eliminate timing variations due to point wear and the adjustability needed to compensate for them.

Idle speed. The revised test procedure itself does not impose any requirement that manufacturers restrict the adjustability of parameters. It only requires that certification and SEA vehicles meet emission standards at parameter settings likely to occur on in-use vehicles. One obvious approach a manufacturer may use to ensure compliance with this requirement for a parameter is to physically limit the adjustability of that parameter to only those settings which allow the vehicle to pass emission tests. Some manufacturers expressed serious concern in their comments that this approach is not feasible for conventional idle speed controls and that alternative controls are not feasible by the implementation date proposed in the NPRM.

EPA recognizes the merit of these concerns. It appears that on some vehicles the reduction in internal engine friction during the first few thousand miles of operation, combined with the sensitivity of exhaust emission levels to idle speed, is such that the motion of the idle speed adjustment mechanism cannot be limited to a range of settings that will allow both a "green" SEA vehicle and a "worn in" certification vehicle to pass the emission test. This situation could be remedied by closed-loop control of idle speed, but at higher cost and longer lead time.

Given the nature of the in-use maladjustment problem associated with idle speed, such closed-loop control is expected to provide minimal advantages over the following approach: EPA will not select an idle speed test setting for *SEA vehicles* which corresponds to a *lower* engine idle speed (in revolutions per minute) than could be achieved within the physically adjustable range of a vehicle with 4,000 miles of service accumulation. This minimum engine speed will be determined based on past tests of certification vehicles or other information provided by the manufacturer. Similarly, EPA will not select an idle speed test setting for *certification vehicles* which corresponds to a *higher* engine idle speed than could be physically achieved on the same vehicle with "zero" miles of service accumulation.

This policy should ensure that manufacturers can comply with the revised test procedure insofar as idle speed is concerned, without adopting closed-loop control. Manufacturers will be able to retain the adjustability needed to compensate for engine break- in. They will, however, have to restrict the range of motion of the idle speed screw so that a 4,000-mile certification vehicle will meet standards at its lowest possible idle speed as well as at the idle speed that is the highest possible on an SEA vehicle, and so that a new SEA vehicle will meet

standards at its highest possible idle speed as well as the idle speed that is the lowest possible on a 4,000-mile vehicle. The policy will apply indefinitely. It has been incorporated into the language of the regulations.

Bendable members. Some manufacturers claimed it was not technically feasible to replace present bendable links in the choke assemble with links made of plastic or spring steel materials, two examples of non-adjustable designs given in the preamble to the NPRM. The reason given was that these links must be bendable to provide for adjustments during assembly and to allow standardization of parts between models. These claims may have merit in that bendable links as used now are a cost-saving convenience for the vehicle manufacturer. However, EPA concludes that it is possible to replace bendable links with links that are adjusted by threaded connections. These connections could then be sealed or crimped so that they were less susceptible to improper adjustment by owners and mechanics. Bendable members can also be eliminated by using a greater number of fixed length members during assembly. It is also feasible to eliminate chokes with bendable links and replace them with integral chokes which lack bendable members and can more easily be given a limited range of adjustability or sealed after assembly and final adjustment.

2. *Gasoline-Fueled Vehicles with Fuel Injection Systems.* EPA has not surveyed in-use vehicles of this type to date and therefore has not observed maladjustments of parameters specific to the type. However, the similarity between the idle mixture, idle speed, and initial spark timing adjustments on these vehicles and the same adjustments on vehicles with carburetion systems is so close that EPA can expect similar frequencies and effects of in-use maladjustment. EPA will therefore treat these three parameters on fuel-injected vehicles in the same way it treats them on carbureted vehicles and on the same schedule. In addition, EPA will continue to consider for future action injection timing, fuel pressure, and adjustable sensors that can affect air fuel computation in electronic fuel injection systems, each of which has been identified as having a significant potential for in-use maladjustment.

3. *Diesel-Powered Vehicles.* Only a very small number of in-use light-duty vehicles and light-duty trucks are powered by Diesel engines, so no surveillance data on their possible in-use maladjustment are available. However, by the early 1980's a significant fraction of new vehicles may fall in this category. EPA has examined the design of vehicles in this category and has identified the following parameters which are or may be adjustable on some models and for which there may be actual or perceived incentives for maladjustment by owners or mechanics: turbocharger waste gate control, cold timing control, adjustable aneroid control, full load fuel control stops, idle speed, high idle speed, fuel supply pressure, turbocharger aneroid control fuel rate modifier, governor control, and adjustable EGR rate.

EPA's determination of which if any of these parameters will be subject to adjustment after the revised test procedure becomes applicable will depend on information supplied by the manufacturer and surveillance data that become available. These will be evaluated according to the criteria and guidelines presented above in the discussion of major issues. EPA will give particular attention to Diesel parameters which are as easily adjusted as the parameters which have been observed to be maladjusted on in-use gasoline-powered vehicles and for which there are equivalent incentives for maladjustment, or for which the manufacturer's recommended adjustment procedure is such that it likely will frequently be performed incorrectly. In short, analogies between Diesel and gasoline engines will be used where applicable in order to ensure equitable treatment of the two in EPA's technical evaluation.

IMPLEMENTATION SCHEDULE

The proposed implementation date of 1980 will not give adequate lead time for all manufacturers to meet the requirements of the revised test procedures for any of the parameters identified under the previous issue heading. EPA analysis of comments by manufacturers (see Summary and Analysis of Comments—Item 7) indicates that all manufacturers will be able to comply by 1981 insofar as idle mixture and choke valve action are concerned. These parameters potentially need no adjustment during a vehicle's life. If manufacturers upgrade the vehicles' engines and emission control systems where necessary to realize this potential and then seal or fix these parameters to the recommended settings during engine assembly, one of the simpler approaches to compliance, no serviceability or driveability problems will result.

The idle speed and initial spark timing parameters are ones which do require adjustment on some or all vehicles while in service. EPA wishes to ensure that manufacturers have sufficient lead time to develop restricted ranges of adjustability that will allow the necessary adjustments while providing emissions compliance. Implementation of the revised test procedure for these two parameters beginning in the 1982 model year will provide the necessary lead time.

Therefore, the amendment being promulgated today allows EPA to determine idle mixture and choke valve action parameters to be subject to EPA adjustment beginning with the 1981 model year. Beginning with the 1982 model year, idle mixture, choke valve action, idle speed, and initial spark timing may be so determined. This staged schedule applies to gasoline-fueled LDV's and LDT's with carburetion systems. Gasoline-fueled LDV's and LDT's with fuel injection systems will follow the same schedule, except choke parameters will not be affected. There is no schedule for adjusting specific parameters on Diesel-powered LDV's and LDT's.

This schedule does not exclude the possibility of EPA adjusting a new parameter in 1981 or any subsequent model year. Also, existing parameters may be adjusted in 1981 or any subsequent model year if EPA has previously notified the manufacturer concerned. These possibilities were explained at greater length in the discussion of the issue "Lead Time and Feasibility Considerations", above.

One manufacturer requested that the effective date for LDT's be later than for LDV's. After considering the costs and feasibility of compliance within the allowed periods, EPA had determined that the implementation schedule described here is necessary and adequate for both LDV's and LDT's. Consequently, this action promulgates the same schedule for both classes.

ADDITIONAL TESTING REQUIRED TO GENERATE FUEL ECONOMY DATA

At present, EPA intends to continue to collect fuel economy data only from vehicles adjusted to manufacturer's specifications after it implements this revision to the emission test procedure. The alternative, collecting fuel economy data using the same parameters settings as selected for emission testing, would be difficult to implement while retaining the effectiveness of the parameter adjustment concept, the representativeness of the fuel economy data base, and the equitable treatment of different manufacturers. While supporting EPA's rejection of the latter alternative, several manufacturers pointed out that EPA's intention will necessitate an increase in the amount of testing. EPA recognizes that some emission data and fuel economy data which previously were collected in a single test will have to be collected in separate tests. The increase in the amount of testing can be kept small, however. There will be many instances in which the manufacturer's reommended parameter setting will be EPA's preferred test setting

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under the revised emission test procedure. This will be the case if it is the only setting reasonably likely to occur on in-use vehicles or if the recommended setting is the setting which maximizes emissions. EPA will also be able to select the recommended setting as the emission test setting in a substantial fraction of the remaining instances and still retain the effectiveness of the parameter adjustment regulations. When the recommended setting has been chosen as the emission test setting for each of the parameters subject to adjustment, the fuel economy data can be gathered in the same test as the emission data. When separate tests are unavoidable, EPA will partially reduce its own testing load by relying more heavily on the results of tests performed by manufacturers.

EFFECT OF THIS RULE ON RECALL AND WARRANTY ACTIONS

As stated in the preamble to the Notice of Proposed Rulemaking, these regulations will not alter current EPA practice with regard to testing in support of recall or warranty activities under section 207 of the Clean Air Act. The determinations made by EPA for vehicles tested during certification or SEA as to which parameters will be subject to adjustment, the adequacy of the limitations on adjustment and the physically adjustable ranges will not constitute similar determinations with respect to in-use vehicles. Therefore, in-use vehicles determined to be in conditions of adjustment different from the limits specified for certification and SEA may be tested in such conditions and may be used in support to recall or warranty actions insofar as the criteria of section 207 is met. Placing constraints on the conditions in which in-use vehicles may be tested would frustrate the intent of the in-use compliance provisions of the act.

In particular, the fact that one or more of a vehicle's parameters are not set to a manufacturer's recommended settings is not *per se* determinative of whether or not a vehicle has been properly maintained and used. Similarly, the fact that one or more of a vehicle's parameters are adjusted beyond the allowable settings determined by EPA for certification and SEA vehicles is not determinative of whether or not a vehicle has been properly maintained and used. Manufacturers are advised not to rely on certification or SEA determinations as definitions of the state of "proper maintenance and use" insulate manufacturers from their continuing liability to remedy nonconformities on in-use vehicles. Comments were received from certain manufacturers concerning their views on this issue as they relate to the parameter adjustment regulations. Such comments are not relevant in the context of this particular rulemaking and have not caused EPA to reverse its current practice.

HIGH ALTITUDE PERFORMANCE ADJUSTMENTS AND EMISSION STANDARDS

The connection between this final rule and current developments in the areas of high altitude performance adjustments and emission standards needs explanation. EPA anticipates that this connection may be of concern to some parties.

With the exception of the 1977 model year, manufacturers have been allowed to sell in high altitude areas vehicles which were designed for operation in low altitude areas and which had demonstrated emission compliance only under low altitude conditions. Manufacturers have also been allowed to certify and sell separate high altitude configurations after demonstrating emission compliance under high altitude conditions. In addition to the two types of new vehicles sold in high altitude areas, substantial numbers of in-use vehicles have relocated to high altitude areas from low altitude areas. All of these relocated vehicles were designed for low altitude operation.

When low altitude vehicles with current emission controls (i.e., vehicles without three-way catalysts) are operated at high altitude they tend towards overly fuel-rich operation. This can cause higher carbon monoxide (CO) and hydrocarbon (HC) emissions, as well as driveability and performance problems. There are modifications—known as high altitude performance adjustments—which can be made to alleviate the driveability and performance problems. These modifications can also reduce CO and HC emissions. These reductions are usually accompanied by an increase in emissions of oxides of nitrogen (NOx) to levels which are typical of vehicles operated at low altitude. The exact changes involved in high altitude performance adjustments differ for different engines, but may involve adjustment of the idle mixture and other fuel system calibrations, choke bimetal spring tension, and ignition timing.

Prior to the 1977 Amendments to the Clean Air Act, manufacturers and dealers were discouraged from performing such modifications because of their concern that these actions might be considered in some cases to be prohibited tampering.

The 1977 Amendments expanded the tampering prohibition to include independent mechanics as well as dealership mechanics. They also added a new section 215 which exempts high altitude performance adjustments from the prohibition provided they follow procedures approved by the Administrator. EPA is in the process of developing regulations to implement section 215.

EPA is also in the process of developing separate emission standards for 1981 through 1983 model year vehicles produced for sale in high altitude areas, as it is allowed to do under the 1977 Amendments. These standards will require that all new vehicles sold in high altitude areas demonstrate emission compliance under high altitude conditions. EPA expects that vehicles complying with these standards will also have satisfactory driveability and performance and will not need any high altitude performance adjustments. EPA also expects that the 1981 through 1983 standards will not result in a restriction in the availability of some models, as occurred during the 1977 model year. EPA bases its expectations that vehicles will be produced with acceptable driveability on an important difference between the approach it used for 1977 and the approach it is considering for the 1981 through 1983 standards. For 1977, EPA restricted the sale in high altitude areas of vehicles not designed and certified for operation in those areas. EPA did not require manufacturers to design and certify any vehicles for high altitude, and some manufacturers did not design and certify as many models for high altitude as they did for the larger, low altitude market. For 1981 through 1983, EPA is considering *requiring* manufacturers to certify a high altitude version of every vehicle configuration they wish to sell in low altitude areas. Having gone to the expense of doing so, the manufacturers will be more likely to produce and sell such versions also, or at least to produce and distribute to their dealers the parts needed to change a low altitude version to a high altitude version before sale, than they were in 1977. Thus, there is no cause for concern about the connection between this final rule on parameter adjustment and new vehicles produced for sale in high altitude areas.

The other area of potential concern is with 1981 through 1983 model year low altitude vehicles which are relocated to high altitude areas. EPA anticipates that as a result of this final rule, manufacturers will make it more difficult to adjust some of the parameters which are sometimes adjusted as part of high altitude performance adjustments on current vehicles. There will likely be an increase in the cost of making the adjustments for some vehicles because of the increased difficulty in gaining access to adjustment mechanisms. EPA does not expect the increase to be severe.

One of the factors which will keep the increase smaller than it would otherwise be is the expected widespread use of three-way catalysts in 1981 and later years. Vehicles with this type of emission control system will inherently respond to altitude changes differently than current vehicles. Their closed-loop control of fuel/air mixture during most modes of operation will eliminate the overly fuel-rich mixtures that are responsible for driveability and emissions degradation in those modes.

Rich mixtures during the cold start and idle modes may remain as problems. However, there are steps which a manufacturer can take to alleviate them. Manufacturers should still be able to retain enough idle mixture adjustability to allow leaning adjustments in the idle mode, without risking noncompliance under the revised test procedure. Alternatively, closed-loop control can be extended to include the idle mode. When choke adjustments are essential, pressure compensating systems can be used to make them automatic.

In contrast to current low altitude vehicles, vehicles with three-way catalysts are expected to show an improvement in fuel economy when relocated to higher altitude. Timing adjustments will therefore not be needed to retain fuel economy, as they are on current vehicles. EPA expects that electronic spark control will be used on many vehicles. This will facilitate timing adjustments when they are necessary.

The methods used to accommodate altitude relocation for 1981 through 1983 will ultimately be selected by each vehicle manufacturer. By 1981, the section 215 provisions will be implemented and will legally allow whatever appropriate adjustments the manufacturer does recommend for relocated vehicles.

Finally, the Clean Air Act requires all 1984 and later model year light-duty motor vehicles to meet the statutory emission standards at all altitudes no matter where sold. EPA expects that this requirement will result in vehicles which also have good driveability and performance at all altitudes. If so, the revised test procedure will no longer be of any concern relative to high altitude performance adjustments.

DRIVEABILITY, SAFETY, AND RESTRICTED ADJUSTABILITY

EPA has noted with much concern that some manufacturers have produced vehicles which were capable of complying with emission standards if adjusted to the manufacturer's recommended settings, but which gave poor driveability characteristics (e.g., hard cold start, stalling, stumble, surge) at those settings. Once in use, these vehicles were frequently maladjusted in (not always successful) attempts to restore reasonably good driveability. Such maladjustments increase emissions, often very substantially.

EPA is certain that vehicles can be designed and produced that will give low emissions and safe and acceptable driveability at the same parameter settings. Many vehicles have been produced already that do so. The more sophisticated engine controls of the future will make the task easier in many ways. This situation will not change as a result of this regulation or of the more stringent emission standards scheduled for the future. However, EPA realizes that there may be short-run market advantages for a manufacturer that neglects to develop and use technology which will give both emission compliance and driveability. Therefore, it is possible that the problem of the past will recur. If it does, it will likely appear in the form of poor driveability, rather than in the form of excessive in-use emissions, since the regulation being promulgated today will make it more difficult to maladjust vehicles in an attempt to better driveability.

Section 202(a)(4) of the Clean Air Act as amended prohibits the use of emission control devices, systems, or elements of design if they cause or contribute to an unreasonable risk to public health, welfare or safety in their operation. Section 206(a)(3)(A) prohibits EPA from certifying a vehicle unless the manufacturer establishes to the satisfaction of the EPA Administrator that the vehicle meets the requirement of section 202(a)(4). While these two provisions deal explicitly with emissions of unregulated pollutants, they are not limited to only risks posed by such pollutants. EPA interprets the two provisions to include risks to safety caused by poor vehicle driveability. Together, the provisions give EPA the authority to establish regulations (standards and test procedures) for safe vehicle driveability.

EPA is not establishing or formally proposing specific safe drivability criteria at this time. Instead, this amendment requires the manufacturer to ensure safe vehicle driveability when it establishes the physically adjustable range of each parameter. EPA will closely monitor the performance of in-use vehicles. Moreover, EPA will develop and issue such safe driveability criteria as may be needed to assure redress under the Clean Air Act for driveability problems with safety implications. These efforts will, of course, be coordinated with the National Highway Traffic Safety Administration.

ECONOMIC IMPACT

The Environmental Protection Agency has determined that this rule does not constitute a "significant" regulation requiring preparation of a Regulatory Analysis under Executive Order 12044.

The average increase in the cost of new vehicles during the initial implementation of this rule is expected to be negligible. The majority of vehicles can be brought into compliance through minor changes. An incremental cost of $3.00 for these vehicles was estimated in the preamble to the NPRM, and manufacturers' comments generally supported this estimate. Vehicles for which more costly changes are required are expected to constitute a small minority.

There will be two possible effects on service costs over a vehicle's useful life. Manufacturers may produce vehicles that can be tuned-up in less time than presently or that need less frequent tune-ups. Counteracting this may be an increase in the time and cost required to make certain adjustments or to service or replace certain parts in unusual situations (e.g., repair of crash damage, part failure, or change of altitude). (Manufacturers may choose to make design changes that are more costly than the $3.00 per vehicle estimate in order to reduce this potential increase in service costs. Also, warranty claims within the standard one-year warranty period will transfer part of the service cost impact onto new vehicle prices.)

The actual fuel economy of in-use vehicles should improve somewhat since the opportunity for maladjustments, which EPA has found are generally to the detriment of fuel economy, will be limited by this action.

EPA expects that the average net effect of service cost and fuel cost impacts will be small compared to present lifetime operating costs.

ENVIRONMENTAL IMPACT

This change to the test procedure does not cause EPA's emission standards to be more stringent than those prescribed by section 202 of the Clean Air Act since it requires test vehicles to meet emission standards in states of adjustment that are likely to occur in vehicles in use. The change will result in a significant improvement in air quality, particularly with respect to carbon monoxide and oxidant concentrations, by reducing the extent to which in-use vehicles exceed the emission standards.

EPA estimates that had this regulation been in effect for the 1975 and 1976 model year vehicles, their contribution of CO emissions would have been reduced an average of about 65% and their contribution of HC emissions by about 40%.

REVIEW OF ACTION AFTER 5 YEARS

EPA intends to review the effectiveness and need for continuation of the provisions contained in this action no

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more than five years after initial implementation, e.g., the end of the 1985 model year. In particular, EPA will solicit comments from affected parties with regard to cost and other burdens associated with compliance and will review data on cars in use before and after implementation to determine how effective these measures have been.

AVAILABILITY OF DOCUMENTS

Copies of EPA's summary and analysis of comments to the Notice of Intent to Develop Rulemaking and NPRM and supporting documentation are available for inspection and copying at the U.S. Environmental Protection Agency, Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street, S.W., Washington, D.C. 20460. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying services.

Dated: December 15, 1978.

DOUGLAS M. COSTLE,
Administrator.

Part 86 of Chapter I, Title 40 of the Code of Federal Regulations is hereby amended as follows:

1. By adding a new § 86.081-5 to read as follows:

§ 86.081-5 General standards; increase in emissions; unsafe conditions.

(a)(1) Every new motor vehicle (or new motor vehicle engine) manufactured for sale, sold, offered for sale, introduced, or delivered for introduction into commerce, or imported into the United States for sale or resale which is subject to any of the standards prescribed in this subpart shall be covered by a certificate of conformity issued pursuant to §§ 86.081-21, 86.081-22, 86.079-23, and §§ 86.079-29 through 86.079-34.

(2) No heavy-duty vehicle manufacturer shall take any of the actions specified in section 203(a)(1) of the Act with respect to any gasoline-fueled or Diesel heavy-duty vehicle which uses an engine which has not been certified as meeting applicable standards. Each heavy-duty vehicle manufacturer shall provide to the Administrator prior to the beginning of each model year a statement signed by an authorized representative which includes the following information:

(i) A description of the vehicles which will be produced subject to this section;

(ii) Identification of the engines used in the vehicles;

(iii) Projected sales data on each vehicle-engine combination;

(iv) A statement that the engines will not be modified by the vehicle manufacturer or a detailed specification of any changes which will be made. Changes made solely for the purpose of mounting an engine in a vehicle need not be included.

(v) A statement that the engine maintenance instruction supplied by the engine manufacturer, in compliance with § 86.079-38, will be furnished to the ultimate purchaser. If these maintenance instructions are modified, a detailed description of the modifications and a justification for each must be provided to the Administrator for review. The Administrator will notify the manufacturer of the determination whether the modified instructions are reasonable and necessary to assure proper functioning of the emission control system.

(b)(1) Any system installed on or incorporated in a new motor vehicle (or new motor vehicle engine) to enable such vehicle (or engine) to conform to standards imposed by this subpart.

(i) Shall not in its operation or function cause the emission into the ambient air of any noxious or toxic substance that would not be emitted in the operation of such vehicle (or engine) without such system, except as specifically permitted by regulation; and

(ii) Shall not in its operation, function, or malfunction result in any unsafe condition endangering the motor vehicle, its occupants, or persons or property in close proximity to the vehicle.

(2) In establishing the physically adjustable range of each adjustable parameter of a light-duty vehicle or light-duty truck, the manufacturer shall insure that, taking into consideration the production tolerances, safe vehicle driveability characteristics are available within that range, as required by § 202(a)(4) of the Clean Air Act.

(3) Every manufacturer of new motor vehicles (or new motor vehicle engines) subject to any of the standards imposed by this subpart shall, prior to taking any of the actions specified in section 203(a)(1) of the Act, test or cause to be tested motor vehicles (or motor vehicle engines) in accordance with good engineering practice to ascertain that such test vehicles (or test engines) will meet the requirements of this section for the useful life of the vehicle (or engine).

2. By adding a new § 86.081-21 to read as follows:

§ 86.081-21 Application for certification.

(a) A separate application for a certificate of conformity shall be made for each set of standards and each class of new motor vehicles or new motor vehicle engines. Such application shall be made to the Administrator by the manufacturer and shall be updated and corrected by amendment.

(b) The application shall be in writing, signed by an authorized representative of the manufacturer, and shall include the following:

(1)(i) *All vehicles and engines.* Identification and description of the vehicles (or engines) covered by the application and a description of their engine (vehicles only), emission control system and fuel system components. This shall include a detailed description of each auxiliary emission control device (AECD) to be installed in or on any certification test vehicle (or certification test engine).

(ii) *Light-duty vehicles and light-duty trucks only.* (A) The manufacturer shall provide to the Administrator in the preliminary application for certification:

(*1*) A list of those parameters which are physically capable of being adjusted (including those adjustable parameters for which access is difficult) and that, if adjusted to settings other than the manufacturer's recommended setting, may affect emissions;

(*2*) A specification of the manufacturer's intended physically adjustable range of each such parameter, and the production tolerances of the limits or stops used to establish the physically adjustable range;

(*3*) A description of the limits or stops used to establish the manufacturer's intended physically adjustable range of each adjustable parameter, or any other means used to inhibit adjustment;

(*4*) The nominal or recommended setting, and the associated production tolerances, for each such parameter.

(B) The manufacturer may provide, in the preliminary application for certification, information relating to why certain parameters are not expected to be adjusted in actual use and to why the physical limits or stops used to establish the physically adjustable range of each parameter, or any other means used to inhibit adjustment, are expected to be effective in preventing adjustment of parameters on in-use vehicles to settings outside the manufacturer's intended physically adjustable ranges. This may include results of any tests to determine the difficulty of gaining access to an adjustment or exceeding a limit as intended or recommended by the manufacturer.

(C) The Administrator may require to be provided detailed drawings and descriptions of the various emission related components, and/or hardware samples of such components, for the purpose of making his determination of which vehicle or engine parameters will be subject to adjustment for new certification and Selective Enforcement Audit testing and of the physically adjustable range for each such vehicle or engine parameter.

(2) Projected U.S. sales data sufficient to enable the Adminstrator to select a test fleet representative of the vehicles (or engines) for which certification is requested.

(3) A description of the test equipment and fuel proposed to be used.

(4) (i) A description of the proposed mileage (or service) accumulation procedure for durability testing.

(ii) A description of the test procedures to be used to establish the evaporative emission deterioration factors required to be determined and supplied in § 86.079-23(a)(2).

(5) A statement of recommended maintenance and procedures necessary to assure that the vehicles (or engines) covered by a certificate of conformity in operation conform to the regulations, and a description of the program for training of personnel for such maintenance, and the equipment required.

(6) At the option of the manufacturer, the proposed composition of the emission-data and durability-data test fleet.

(c) Complete copies of the application and of any amendments thereto, and all notifications under §§ 86.079-32, 86.079-33, and 86.079-34 shall be submitted in such multiple copies as the Administrator may require.

(d) Incomplete light duty trucks shall have a maximum completed curb weight and maximum completed frontal area specified by the manufacturer.

3. By adding a new § 86.081-22 to read as follows:

§ 86.081-22 Approval of application for certification; test fleet selections; determinations of parameters subject to adjustment for certification and Selective Enforcement Audit testing, adequacy of limits, and physically adjustable ranges.

(a) After a review of the application for certification and any other information which the Administrator may require, the Administrator may approve the application and select a test fleet in accordance with § 86.080-24.

(b) The Administrator may disapprove in whole or in part an application for certification for reasons including incompleteness, inaccuracy, inappropriate proposed mileage (or service) accumulation procedures, test equipment, or fuel, and incorporation of defeat devices in vehicles (or on engines) described by the application.

(c) Where any part of an application is rejected, the Administrator shall notify the manufacturer in writing and set forth the reasons for such rejection. Within 30 days following receipt of such notification, the manufacturer may request a hearing on the Administrator's determination. The request shall be in writing, signed by an authorized representative of the manufacturer and shall include a statement specifying the manufacturer's objections to the Administrator's determinations, and data in support of such objections. If, after the review of the request and supporting data, the Administrator finds that the request raises a substantial factual issue, he shall provide the manufacturer a hearing in accordance with § 86.078-6 with respect to such issue.

(d) The Administrator does not approve the test procedures for establishing the evaporative emission deterioration factors. The manufacturer shall submit the procedures as required in § 86.081-21(b)(4)(ii) prior to the Administrator's selection of the test fleet under § 86.080-24(b)(1) and if such procedures will involve testing of durability-data vehicles selected by the Administrator or elected by the manufacturer under § 86.080-24(c)(1), prior to initiation of such testing.

(e) *Light-duty vehicles and light-duty trucks only.* When the Administrator selects emission data vehicles for the test fleet, he will at the same time determine those vehicle or engine parameters which will be subject to adjustment during certification and Selective Enforcement Audit testing; the adequacy of the limits, stops, seals, or other means used to inhibit adjustment; and the resulting physically adjustable ranges for each such parameter and notify the manufacturer of his determinations.

(1)(i) The Administrator may determine to be subject to adjustment the idle fuel-air mixture on gasoline-fueled vehicles (carbureted or fuel injected); the choke valve action parameter(s) on carbureted, gasoline-fueled vehicles; or any parameter on any vehicle (Diesel or gasoline-fueled) which is physically capable of being adjusted, may significantly affect emissions, and was not present on vehicles of the same engine family in the previous model year.

(ii) The Administrator may, in addition, determine to be subject to adjustment any other parameter on any vehicle which is physically capable of being adjusted and which may significantly affect emissions. However, the Administrator may do so only if he has previously notified the manufacturer that he might do so and has found, at the time he gave this notice, that the intervening period would be adequate to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period. In no event will this notification be given later than September 1 of the calendar year two years prior to the model year.

(iii) In determining the parameters subject to adjustment the Administrator will consider the likelihood that, for each of the parameters listed in paragraphs (e)(1)(i) and (e)(1)(ii) of this section, settings other than the manufacturer's recommended setting will occur on in-use vehicles. In determining likelihood, the Administrator will consider such factors as, but not limited to, information contained in the preliminary application, surveillance information from similar in-use vehicles, the difficulty and cost of gaining access to an adjustment, damage to the vehicle if an attempt is made to gain such access and the need to replace parts following such attempt, and the effect of settings other than the manufacturer's recommended setting on vehicle performance characteristics including emission characteristics.

(2)(i) The Administrator will determine a parameter to be adequately inaccessible or sealed if:

(A) In the case of an idle mixture screw, the screw is recessed within the carburetor casting and sealed with lead, thermosetting plastic, or an inverted elliptical spacer or sheared off after adjustment at the factory, and the inaccessibility is such that the screw cannot be accessed and/or adjusted with simple tools in one-half hour or for $20 (1978 dollars) or less.

(B) In the case of a choke bimetal spring, the plate covering the bimetal spring is riveted or welded in place, or held in place with nonreversible screws.

(C) In the case of a parameter which may be adjusted by elongating or bending adjustable members (e.g., the choke vacuum break), any elongation of the adjustable member is limited by design or, in the case of a bendable member, the member is constructed of a material which when bent would return to its original shape after the force is removed (plastic or spring steel materials).

(D) In the case of any parameter, the manufacturer demonstrates that adjusting the parameter to settings other than the manufacturer's recommended setting takes more than one-half hour or costs more than $20 (1978 dollars).

(ii) The Administrator will determine a physical limit or stop to be an adequate restraint on adjustability if:

(A) In the case of a threaded adjustment, the threads are terminated, pinned or crimped so as to prevent additional travel without breakage or need for repairs which take more than one-half hour or cost more than $20 (1978 dollars).

(B) The adjustment is ineffective at the end of the limits of travel regardless of additional forces or torques applied to the adjustment.

(C) The manufacturer demonstrates that travel or rotation limits cannot be exceeded with the use of simple and inexpensive tools (e.g., screwdriver, pliers, open-end or box wrenches)

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without incurring significant and costly damage to the vehicle or control system or without taking more than one-half hour or costing more than $20 (1978 dollars).

(iii) If manufacturer service manuals or bulletins describe routine procedures for gaining access to a parameter or for removing or exceeding a physical limit, stop, seal or other means used to inhibit adjustment, or if surveillance data indicate that gaining access, removing, or exceeding is likely, paragraphs (e)(2)(i) and (e)(2)(ii) of this section shall not apply for that parameter.

(iv) In determining the adequacy of a physical limit, stop, seal, or other means used to inhibit adjustment of a parameter not covered by paragraph (e)(2)(i) or (e)(2)(ii) of this section, the Administrator will consider the likelihood that it will be circumvented, removed, or exceeded on in-use vehicles. In determining likelihood the Administrator will consider such factors as, but not limited to, information contained in the preliminary application; surveillance information from similar in-use vehicles; the difficulty and cost of circumventing, removing, or exceeding the limit, stop, seal, or other means; damage to the vehicle if an attempt is made to circumvent, remove, or exceed it and the need to replace parts following such attempt; and the effect of settings beyond the limit, stop, seal, or other means on vehicle performance characteristcs other than emission characteristics.

(3) The Administrator shall determine two physically adjustable ranges for each parameter subject to adjustment.

(i) (A) In the case of a parameter determined to be adequately inaccessible or sealed, the Administrator may include within the physically adjustable range applicable to testing under §§ 86.079-23 and 86.081-29 (certification testing) all settings within the production tolerance associated with the nominal setting for that parameter, as specified by the manufacturer in the preliminary application for certification.

(B) In the case of other parameters, the Administrator shall include within this range all settings within physical limits or stops determined to be adequate restraints on adjustability. The Administrator may also include the production tolerances on the location of these limits or stops when determining the physically adjustable range.

(ii) (A) In the case of a parameter determined to be adequately inaccessible or sealed, the Administrator shall include within the physically adjustable range applicable to testing under § 86.608 (Selective Enforcement Audit testing) only the actual setting to which the parameter is adjusted during production.

(B) In the case of other parameters, the Administrator shall include within this range all settings within physical limits or stops determined to be adequate restraints on adjustability, as they are actually located and effective on the test vehicle.

(f) If the manufacturer submits the information specified in § 86.081-21(b)(1)(ii) in advance of its full preliminary application for certification, the Administrator shall review the information and make the determinations required in paragraph (e) of this section.

(g) Within 30 days following receipt of notification of the Administrator's determinations made under paragraph (e) of this section, the manufacturer may request a hearing on the Administrator's determinations. The request shall be in writing, signed by an authorized representative of the manufacturer, and shall include a statement specifying the manufacturer's objections to the Administrator's determinations, and data in supprt of such objections. If, after review of the request and supporting data, the Administrator finds that the request raises a substantial factual isssue, he shall provide the manufacturer a hearing in accordance with § 86.078-6 with respect to such issue.

4. By adding a new § 86.081-29 to read as follows:

§ 86.081-29 Testing by the Administrator.

(a) (1) Paragraph (a) of this section applies to light-duty vehicles and light-duty trucks.

(2) The Administrator may require that any one or more of the test vehicles be submitted to him, at such place or places as he may designate, for the purposes of conducting emissions tests. The Administrator may specify that he will conduct such testing at the manufacturer's facility, in which case instrumentation and equipment specified by the Administrator shall be made available by the manufacturer for test operations. Any testing conducted at a manufacturer's facility pursuant to this paragraph shall be scheduled by the manufacturer as promptly as possible.

(3)(i) Whenever the Administrator conducts a test on a test vehicle, the results of that test shall, unless subsequently invalidated by the Administrator, comprise the official data for the vehicle at the prescribed test point and the manufacturer's data for that prescribed test point shall not be used in determining compliance with emission standards.

(ii) Whenever the Administrator does not conduct a test on a test vehicle at a test point, the manufacturer's test data will be accepted as the official data for that test point: *Provided*, That if the Administrator makes a determination based on testing under paragraph (a)(2) of this section that there is a lack of correlation between the manufacturer's test equipment and the test equipment used by the Administrator, no manufacturer's test data will be accepted for purposes of certification until the reasons for the lack of correlation are determined and the validity of the data is established by the manufacturer; *And, further provided*, That if the Administrator has reasonable basis to believe that any test data submitted by the manufacturer is not accurate or has been obtained in violation of any provisions of this part, the Administrator may refuse to accept that data as the official data pending retesting or submission of further information. If the manufacturer conducts more than one test on a vehicle, as authorized under § 86.079-26(a)(3)(i)(A), the data from the last test in that series of tests on that vehicle will constitute the official data:

(iii)(A)(*1*) The Administrator may adjust or cause to be adjusted any adjustable parameter of an emission data vehicle or engine which the Administrator has determined to be subject to adjustment for certification and Selective Enforcement Audit testing in accordance with § 86.081-22(e)(1), to any setting within the physically adjustable range of that parameter, as determined by the Administrator in accordance with § 86.081-22(e)(3)(i), prior to the performance of any tests to determine whether such vehicle or engine conforms to applicable emission standards, including tests performed by the manufacturer under § 86.079-23(c)(1). However, if the idle speed parameter is one which the Administrator has determined to be subject to adjustment, the Administrator shall not adjust it to a setting which causes a higher engine idle speed than would have been possible within the physically adjustable range of the idle speed parameter on the vehicle before it accumulated any mileage, all other parameters being adjusted identically for the purpose of comparison. The Administrator, in making or specifying such adjustments, will consider the effect of the deviation from the manufacturer's recommended setting on emissions performance characteristics as well as the likelihood that similar settings will occur on in-use light-duty vehicles or light-duty trucks. In determining likelihood, the Administrator will consider factors such as, but not limited to, the effect of the adjustment on vehicle performance characteristics and surveillance information from similar in-use vehicles.

(*2*) For those vehicle or engine parameters which the Administrator has not determined to be subject to adjustment during certification and Selective Enforcement Audit testing in accordance with § 86.081-22(e)(1), the emission data vehicle presented to the Administrator for testing shall be calibrated within the production tolerances applicable to the manufacturer's specifications to be shown on the vehicle label (see § 86.079-35(a)(1)(iii)(D)) as specified in the application for certification. If the Administrator determines that a vehicle is not within such tolerances, the vehicle will be adjusted, at the facility designated by the Administrator, prior to the test and an engineering report shall be submitted to the Administrator describing the corrective action taken. Based on the engineering report, the Administrator will determine if the vehicle will be used as an emission data vehicle.

(B) If the Administrator determines that the test data developed on an emission-data vehicle under paragraph (a)(3)(i) of this section would cause that vehicle to fail due to excessive 4,000 mile emissions or by application of the appropriate deterioration factor, then the following procedure shall be observed:

(*1*) The manufacturer may request a retest. Before the retest, those vehicle or engine parameters which the Administrator has not determined to be subject to adjustment for certification and Selective Enforcement Audit testing in accordance with § 86.081-22(e)(1) may be readjusted to the manufacturer's specifications, if these adjustments were made incorrectly prior to the first test. The Administrator may adjust or cause to be adjusted any parameter which the Administrator has determined to be subject to adjustment to any setting within the physically adjustable range of that parameter, as determined by the Administrator in accordance with § 86.081-22(e)(3)(i). However, if the idle speed parameter is one which the Administrator has determined to be subject to adjustment, the Administrator shall not adjust it to a setting which causes a higher engine idle speed than would have been possible within the physically adjustable range of the idle speed parameter on the vehicle before it accumulated any mileage, all other parameters being adjusted identically for the purpose of comparison. Other maintenance or repairs may be performed in accordance with § 86.079-25. All work on the vehicle shall be done at such location and under such conditions as the Administrator may prescribe.

(2) The vehicle will be retested by the Administrator and the results of this test shall comprise the official data for the emission-data vehicle.

(iv) If sufficient durability data are not available at the time of any emission test conducted under paragraph (a)(2) of this section to enable the Administrator to determine whether an emission-data vehicle would fail, the manufacturer may request a retest in accordance with the provisions of paragraphs (a)(3)(iii) (A) and (B) of this section. If the manufacturer does not promptly make such request, he shall be deemed to have waived the right to a retest. A request for retest must be made before the manufacturer removes the vehicle from the test premises.

(b) (1) Paragraph (b) of this section applies to heavy-duty engines.

(2) The Administrator may require that any one or more of the test engines be submitted to him, at such place or places as he may designate, for the purpose of conducting emissions tests. The Administrator may specify that he will conduct such testing at the manufacturer's facility, in which case instrumentation and equipment specified by the Administrator shall be made available by the manufacturer for test operations. Any testing conducted at a manufacturer's facility pursuant to this paragraph shall be scheduled by the manufacturer as promptly as possible.

(3) (i) Whenever the Administrator conducts a test on a test engine the results of that test, unless subsequently invalidated by the Administrator, shall comprise the official data for the engine at that pescribed test point and the manufacturer's data for that prescribed test point shall not be used in determining compliance with emission standards.

(ii) Whenever the Administrator does not conduct a test on a test engine at a test point, the manufacturer's test data will be accepted as the official data for that test point: *Provided*, That if the Administrator makes a determination based on testing under paragraph (b)(2) of this section that there is a lack of correlation between the manufacturer's test equipment and the test equipment used by the Administrator, no manufacturer's test data will be accepted for purposes of certification until the reasons for the lack of correlation are determined and the validity of the data is established by the manufacturer: *And further provided*, That if the Administrator has reasonable basis to believe that any test data submitted by the manufacturer is not accurate or has been obtained in violation of any provision of this part, the Administrator may refuse to accept that data as the official data pending retesting or submission of further information.

(iii)(A) The emission-data engine presented to the Administrator for testing shall be calibrated within the production tolerances applicable to the manufacturer's specifications to be shown on the engine label (see § 86.079-35(a)(2)(iii) as specified in the application for certification. If the Administrator determines that an engine is not within such tolerances, the engine shall be adjusted at the facility designated by the Administrator prior to the test and an engineering report shall be submitted to the Administrator describing the corrective action taken. Based on the engineering report the Administrator will determine if the engine shall be used as an emission-data engine.

(B) If the Administrator determines that the test data developed under paragraph (b)(3)(iii)(A) of this section would cause the emission-data engine to fail due to excessive 125-hour emission values or by the application of the appropriate deterioration factor, then the following procedure shall be observed.

(*1*) The manufacturer may request a retest. Before the retest, the engine may be readjusted to manufacturer's specifications if these adjustments were made incorrectly prior to the first test, and other maintenance or repairs may be performed in accordance with § 86.079-25. All work on the engine shall be done at such location and under such conditions as the Administrator may prescribe.

(*2*) The engine will be retested by the Administrator and the results of this test shall comprise the official data for the emission-date engine.

(iv) If sufficient durability data are not available at the time of any emission test conducted under paragraph (b)(2) of this section to enable the Administrator to determine whether an emission-data engine would fail, the manufacturer may request a retest in accordance with the provisions of paragraphs (b)(3)(iii)(B) (*1*) and (*2*) of this section. If the manufacturer does not promptly make such request, he shall be deemed to have waived the right to a retest. A request for retest must be made before the manufacturer removes the engine from the test premises.

5. By adding a new § 86.082-22 to read as follows:

§ 86.082-22 Approval of application for certification; test fleet selections; determinations of parameters subject to adjustment for certification and Selective Enforcement Audit testing, adequacy of limits, and physically adjustable ranges.

(a) After a review of the application for certification and any other information which the Administrator may require, the Administrator may approve the application and select a test fleet in accordance with § 86.080-24.

(b) The Administrator may disapprove in whole or in part an application for certification for reasons in-

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cluding incompleteness, inaccuracy, inappropriate proposed mileage (or service) accumulation procedures, test equipment, or fuel, and incorporation of defeat devices in vehicles (or on engines) described by the application.

(c) Where any part of an application is rejected, the Administrator shall notify the manufacturer in writing and set forth the reasons for such rejection. Within 30 days following receipt of such notification, the manufacturer may request a hearing on the Administrator's determination. The request shall be in writing, signed by an authorized representative of the manufacturer and shall include a statement specifying the manufacturer's objections to the Administrator's determinations, and data in support of such objections. If, after the review of the request and supporting data, the Administrator finds that the request raises a substantial factual issue, he shall provide the manufacturer a hearing in accordance with § 86.078-6 with respect to such issue.

(d) The Administrator does not approve the test procedures for establishing the evaporative emission deterioration factors. The manufacturer shall submit the procedures as required in § 86.081-21(b)(4)(ii) prior to the Administrator's selection of the test fleet under § 86.080-24(b)(1) and if such procedures will involve testing of durability-data vehicles selected by the Administrator or elected by the manufacturer under § 86.080-24(c)(1), prior to initiation of such testing.

(e) *Light-Duty vehicles and Light-Duty trucks only.* When the Administrator selects emission data vehicles for the test fleet, he will at the same time determine those vehicle or engine parameters which will be subject to adjustment during certification and Selective Enforcement Audit testing; the adequacy of the limits, stops, seals, or other means used to inhibit adjustment; and the resulting physically adjustable ranges for each such parameter and notify the manufacturer of his determinations.

(1)(i) The Administrator may determine to be subject to adjustment the idle fuel-air mixture, idle speed, and initial spark timing parameters on gasoline-fueled vehicles (carbureted or fuel injected); the choke valve action parameter(s) on carbureted, gasoline-fueled vehicles; or any parameter on any vehicle (Diesel or gasoline-fueled) which is physically capable of being adjusted, may significantly affect emissions, and was not present on vehicles of the same engine family in the previous model year.

(ii) The Administrator may, in addition, determine to be subject to adjustment any other parameter on any vehicle which is physically capable of being adjusted and which may significantly affect emissions. However, the Administrator may do so only if he has previously notified the manufacturer that he might do so and has found, at the time he gave this notice, that the intervening period would be adequate to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period. In no event will this notification be given later than September 1 of the calendar year two years prior to the model year.

(iii) In determining the parameters subject to adjustment the Administrator will consider the likelihood that, for each of the parameters listed in paragraphs (e)(1)(i) and (e)(1)(ii) of this section, settings other than the manufacturer's recommended setting will occur on in-use vehicles. In determining likelihood, the Administrator will consider such factors as, but not limited to, information contained in the preliminary application, surveillance information from similar in-use vehicles, the difficulty and cost of gaining access to an adjustment, damage to the vehicle if an attempt is made to gain such access and the need to replace parts following such attempt, and the effect of settings other than the manufacturer's recommended setting on vehicle performance characteristics including emission characteristics.

(2)(i) The Administrator will determine a parameter to be adequately inaccessible or sealed if:

(A) In the case of an idle mixture screw, the screw is recessed within the carburetor casting and sealed with lead, thermosetting plastic, or an inverted elliptical spacer or sheared off after adjustment at the factory, and the inaccessibility is such that the screw cannot be accessed and/or adjusted with simple tools in one-half hour or for $20 (1978 dollars) or less.

(B) In the case of a choke bimetal spring, the plate covering the bimetal spring is riveted or welded in place, or held in place with nonreversible screws.

(C) In the case of a parameter which may be adjusted by elongating or bending adjustable members (e.g., the choke vacuum break), any elongation of the adjustable member is limited by design, or in the case of a bendable member, the member is constructed of a material which when bent would return to its original shape after the force is removed (plastic or spring steel materials).

(D) In the case of any parameter, the manufacturer demonstrates that adjusting the parameter to settings other than the manufacturer's recommended setting takes more than one-half hour or costs more than $20 (1978 dollars).

(ii) The Administrator will determine a physical limit or stop to be an adequate restraint on adjustability if:

(A) In the case of a threaded adjustment, the threads are terminated, pinned or crimped so as to prevent additional travel without breakage or need for repairs which take more than one-half hour or cost more than $20 (1978 dollars).

(B) The adjustment is ineffective at the end of the limits of travel regardless of additional forces or torques applied to the adjustment.

(C) The manufacturer demonstrates that travel or rotation limits cannot be exceeded with the use of simple and inexpensive tools (e.g., screwdriver, pliers, open-end or box wrenches) without incurring significant and costly damage to the vehicle or control system or without taking more than one-half hour or costing more than $20 (1978 dollars).

(iii) If manufacturer service manuals or bulletins describe routine procedures for gaining access to a parameter or for removing or exceeding a physical limit, stop, seal or other means used to inhibit adjustment, or if surveillance data indicate that gaining access, removing, or exceeding is likely, paragraphs (e)(2)(i) and (e)(2)(ii) of this section shall not apply for that parameter.

(iv) In determining the adequacy of a physical limit, stop, seal, or other means used to inhibit adjustment of a parameter not covered by paragraph (e)(2)(i) or (e)(2)(ii) of this section, the Administrator will consider the likelihood that it will be circumvented, removed, or exceeded on in-use vehicles. In determining likelihood the Administrator will consider such factors as, but not limited to, information contained in the preliminary application; surveillance information from similar in-use vehicles; the difficulty and cost of circumventing, removing, or exceeding the limit, stop, seal, or other means; damage to the vehicle if an attempt is made to circumvent, remove, or exceed it and the need to replace parts following such attempt; and the effect of settings beyond the limit, stop, seal, or other means on vehicle performance characteristics other than emission characteristics.

(3) The Administrator shall determine two physically adjustable ranges for each parameter subject to adjustment.

(i)(A) In the case of a parameter determined to be adequately inaccessible or sealed, the Administrator may include within the physically adjustable range applicable to testing under §§ 86.079-23 and 86.081-29 (certification testing) all settings within the production tolerance associated with the nominal setting for that parameter, as specified by the manufacturer in the preliminary application for certification.

(B) In the case of other parameters, the Administrator shall include within this range all settings within physical limits or stops determined to be adequate restraints on adjustability. The Administrator may also include the production tolerances on the location of these limits or stops when determining the physically adjustable range.

(ii)(A) In the case of a parameter determined to be adequately inaccessible or sealed, the Administrator shall include within the physically adjustable range applicable to testing under § 86.608 (Selective Enforcement Audit testing) only the actual setting to which the parameter is adjusted during production.

(B) In the case of other parameters, the Administrator shall include within this range all settings within physical limits or stops determined to be adequate restraints on adjustability, as they are actually located and effective on the test vehicle.

(f) If the manufacturer submits the information specified in § 86.081-21(b)(1)(ii) in advance of its full preliminary application for certification, the Administrator shall review the information and make the determinations required in paragraph (e) of this section.

(g) Within 30 days following receipt of notification of the Administrator's determinations made under paragraph (e) of this section, the manufacturer may request a hearing on the Administrator's determinations. The request shall be in writing, signed by an authorized representative of the manufacturer, and shall include a statement specifying the manufacturer's objections to the Administrator's determinations, and data in support of such objections. If, after review of the request and supporting data, the Administrator finds that the request raises a substantial factual issue, he shall provide the manufacturer a hearing in accordance with § 86.078-6 with respect to such issue.

6. In § 86.601 by revising it to read as follows:

§ 86.601 Applicability.

For 1977 model year vehicles produced before January 1, 1977, the provisions of this subpart with the exception of §§ 86.612 and 86.613 and paragraph (b)(2) of § 86.608 are applicable to new gasoline-fueled light-duty vehicles, new diesel light-duty vehicles, new gasoline-fueled light-duty trucks, and new diesel light-duty trucks. For 1977 vehicles produced beginning January 1, 1977 and later model year vehicles, the provisions of this subpart with the exception of paragraph (b)(2) of § 86.608 are applicable. For 1981 and later model year vehicles, all provisions of this subpart are applicable.

7. In § 86.608 by redesignating paragraph (b) to be paragraph (b)(1) and adding a new paragraph (b)(2) to read as follows:

§ 86.608 Test procedures.

* * * * *

(b)(1) * * *

(2) For 1981 and later model years the Administrator may adjust or cause to be adjusted any engine or vehicle parameter which the Administrator has determined to be subject to adjustment for new vehicle compliance testing (e.g., for certification or Selective Enforcement Audit testing) in accordance with § 86.081-22(c)(1), to any setting within the physically adjustable range of that parameter, as determined by the Administrator in accordance with § 86.081-22(e)(3)(ii), prior to the performance of any tests. However, if the idle speed parameter is one which the Administrator has determined to be subject to adjustment, the Administrator shall not adjust it to a setting which causes a lower engine idle speed than will be possible within the physically adjustable range of the idle speed parameter on the vehicle when it has accumulated 4,000 miles, all other parameters being adjusted identically for the purpose of comparison. The Administrator, in making or specifying such adjustments, will consider the effect of the deviation from the manufacturer's recommended setting on emissions performance characteristics as well as the likelihood that similar settings will occur on in-use light-duty vehicles or light-duty trucks. In determining likelihood, the Administrator will consider factors such as, but not limited to, the effect of the adjustment on vehicle performance characteristics and surveillance information from similar in-use vehicles.

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(Section 202, 206, and 301 of the Clean Air Act (15 U.S.C. 7521, 7525, 7601).)

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federal register

FRIDAY, JANUARY 12, 1979
PART VII



DEPARTMENT OF JUSTICE

Bureau of Prisons

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CONTROL, CUSTODY, CARE, TREATMENT AND INSTRUCTION OF INMATES

Proposed Rulemaking and Request for Comments

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[4410-05-M]

DEPARTMENT OF JUSTICE

Bureau of Prisons

[28 CFR Parts 511, 512, 513, 522, 524, 527, 540, 543, 544, 545, 546, 549, 550, 551, 552, 570, 571, and 572]

CONTROL, CUSTODY, CARE, TREATMENT, AND INSTRUCTION OF INMATES

Proposed Rulemaking and Request for Comments

AGENCY: Bureau of Prisons, Justice.

ACTION: Proposed rules.

SUMMARY: The Bureau is proposing its next installment of proposed regulations for the management of inmates in federal correctional institutions. This proposal is part of the Bureau's overall program to publish in the FEDERAL REGISTER and subsequently in the Code of Federal Regulations, Bureau rules relating to the control, custody, care, treatment, and instruction of inmates presently contained in Program Statements and Operations Memoranda. These Program Statements and Operations Memoranda have been made available in each institution's inmate law library and to members of the general public upon request. This installment proposes rules for administrative procedures relating to the management of inmates in federal correctional institutions as detailed below in the supplementary information section.

DATES: Comments must be received on or before March 22, 1979.

FOR FURTHER INFORMATION CONTACT:

Mike Pearlman, Office of General Counsel, Bureau of Prisons, phone 202-724-3062.

SUPPLEMENTARY INFORMATION: Pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director of the Bureau of Prisons in 28 CFR 0.96(t), notice is hereby given that the Bureau of Prisons intends to publish in the FEDERAL REGISTER, as proposed rules, those regulations which generally govern the control, custody, care, treatment, and instruction of inmates in federal correctional institutions administered by the Bureau of Prisons.

The regulations according to which the Bureau of Prisons manages inmates in federal correctional institutions are presently contained in Program Statements and Operations Memoranda which have been made available to inmates in each institution's inmate law library and to members of the general public upon request. Most of these regulations have not been published in the Code of Federal Regulations.

While the Bureau of Prisons has frequently received and considered comments from the public relating to Bureau regulations, there has not been a systematic process whereby these comments are solicited and considered before regulations take effect. This publication process will afford interested persons additional notice of Bureau regulations and proposed regulations and will create a formal process for solicitation and consideration of comments.

The Bureau of Prisons does not, however, intend to publish regulations which relate exclusively to the following:

(1) Employment or personnel policies with respect to Bureau of Prisons employees; and

(2) Internal management policies and nonsubstantive interpretations, such as administrative staff manuals, procurement and budget procedures, record keeping and reporting requirements, and instructions issued to implement those regulations which are published.

Prior publication of proposed rules occurred on May 23, 1977 (42 FR 26334 et seq.), August 16, 1977 (42 FR 41368 et seq.), December 21, 1977 (42 FR 64082 et seq.), July 17, 1978 (43 FR 30574 et seq.) and August 2, 1978 (43 FR 34062 et seq.).

In this issue of the FEDERAL REGISTER, the Bureau of Prisons has published proposed regulations which relate most directly to the following:

(1) Relationships with Professional Organizations
(2) Research
(3) Production or Disclosure of Material or Information: FBI Identification Records; FBI Criminal History Records
(4) Intake Screening
(5) Program Reviews
(6) Progress Reports
(7) Transfer of Inmates After Conviction
(8) Metal Detectors/Detaining and Searching Institution Visitors/Arresting Authority, Bureau of Prisons Employees
(9) Inmate Funds Donated Through the Mails
(10) Claims Under the Federal Tort Claims Act
(11) Minimum Standards for Educational Tests
(12) Recreation/Inmate Movies
(13) Guidelines for Social Education Activities
(14) Federal Prison Industries, Inc. Manual—Payrolls Section
(15) Lost Time Wages-Inmate Workers Assigned to Federal Prison Industries, Inc.
(16) Medical Experimentation and Pharmaceutical Testing
(17) Marijuana and Alcohol Testing
(18) Marriage of Inmates
(19) Pre-Trial Inmates
(20) Use of Force and Application of Physical Restraints on Inmates
(21) Hostages
(22) Work and Study Release
(23) Furloughs
(24) Reimbursement by Participants of Community Employment Programs
(25) Pre-Release Program
(26) Fines and Costs
(27)Parole and Mandatory Release Violator Reports
(28) Procedures for the Implementation of section 4205(g) of the Parole Commission and Reorganization Act.

In future issues of the FEDERAL REGISTER the Bureau of Prisons will publish other regulations which relate to the control, custody, care, treatment, and instruction of inmates.

Interested persons may participate in this proposed rulemaking by submitting data, views, or arguments in writing to the Bureau of Prisons, Room 910, 320 1st Street, NW., Washington, D.C. 20534. Comments received before March 22, 1979, will be considered before final action is taken on these proposals. Copies of all written comments received will be available for examination by interested persons at the Bureau of Prisons, Room 910, 320 1st Street, NW., Washington, D.C. 20534. The proposals may be changed in light of the comments received. No oral hearings are contemplated.

In consideration of the foregoing, it is proposed the following be added to 28 CFR, Chapter V: Parts 511, 512, 513, 522, 524, 527, 540, 543, 544, 545, 546, 549, 550, 551, 552, 570, 571, 572 as set forth below.

PART 511—GENERAL MANAGEMENT POLICY

Subpart A—[Reserved]

Subpart B—Relationships With Professional Organizations

Sec.
511.30 Purpose and scope.
511.31 Support to professional societies.
511.32 Encouragement of professional assistance.
511.33. Central and regional office relationships to professional organizations.

AUTHORITY: 5 U.S.C. 301; 18 U.S.C. 4001, 4042, 4081, 4082, 4161-4166, 5015, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95-0.99.

Subpart A—[Reserved]

Subpart B—Relationships With Professional Organizations

§ 511.30 Purpose and scope.

The Bureau of Prisons encourages and assists professional societies which promote activities and interests related to and consistent with the mission and policy of the Bureau. The Bureau of Prisons communicates with and consults professional societies interested in finding solutions to problems related to the mission of the Bureau.

§ 511.31 Support to professional societies.

(a) The Warden may make available to eligible professional societies institution facilities which can be spared without detriment to institution programs, institution security or loss of productivity.

(b) The Warden may assist professional societies in granting awards to individuals who have contributed significantly to corrections. The assistance may be in the form of co-sponsorship of an award.

(c) The Warden may contract with professional societies for services otherwise unavailable to the institution.

(1) The Warden shall ensure that each proposed contract receives appropriate legal review by the Bureau of Prisons.

(2) A Bureau of Prisons employee may not receive payment from a professional society for work performed in connection with the contract.

§ 511.32 Encouragement of professional assistance.

(a) The Warden may invite members of a professional society to submit views and make recommendations on specific problems.

(b) The Warden may invite a member of a professional society who is not a federal employee to consult with Federal Prison Service officials at government expense.

§ 511.33 Central and regional office relationship to professional organizations.

The Director, Bureau of Prisons or the appropriate Regional Director or their designees shall provide support to and encourage the professional assistance of eligible professional societies within the Central and Regional Office respectively.

PART 512—RESEARCH

Subpart A [Reserved]

Subpart B—Research

Sec.
512.10 Purpose and scope.
512.11 Definitions.
512.12 Requirements for research projects and researchers.
512.13 Content of research proposal.
512.14 Processing of proposals.
512.15 Monitoring of approved research projects.
512.16 Informed consent.
512.17 Access to Bureau of Prisons records.
512.18 Incentives.
512.19 Institution rules.
512.20 Reports.
512.21 Publication of results of research project.
512.22 Copyright provision.

AUTHORITY: 5 U.S.C. 301; 18 U.S.C. 4001, 4042, 4081, 4082, 4161-4166, 5015, 5039; 28 U.S.C. 509 510; 28 CFR 0.95-0.99.

Subpart A—[Reserved]

Subpart B—Research

§ 512.10 Purpose and scope.

No one may conduct research within the Bureau of Prisons without prior approval as outlined in this rule. Whoever wishes to conduct a research project within the Bureau of Prisons shall submit to the Bureau a request providing specified information on the proposed research project. The Bureau of Prisons considers requests for authorization of routine and nonroutine proposals as described in § 512.11 (d) and (e).

§ 512.11 Definitions.

(a) For the purpose of this rule, a reasearch project is the systematic collection of information about or from former or present inmates or employees, analysis of the information, and preparation of a report of findings. Routine statistical tabulations undertaken by employees for administrative purposes only are not defined as research projects.

(b) For the purposes of this rule, an employee is a member of the staff of the Bureau of Prisons or a consultant under contract to the Bureau of Prisons who performs duties in furtherance of an agency function under supervision provided by the Bureau.

(c) For the purpose of this rule, a non-employee is any person not defined as an employee under § 512.11(b).

(d) A nonroutine proposal has one or more of the following characteristics:

(1) The proposed research will be conducted at the Central Office.

(2) Execution of the proposed research requires coordination between regions of the Bureau of Prisons.

(3) Execution of the proposed research requires coordination between divisions within a Department or between Departments of the Federal Government.

(4) The proposal raises major issues of research policy.

(5) The proposed research involves follow-up of an inmate after release from confinement.

(6) Execution of the proposed research requires sizeable financial or staff support from the Bureau of Prisons.

(e) A routine proposal has none of the special characteristics which define a nonroutine proposal.

(f) A researcher is a person who has received written approval from the Director, Bureau of Prisons, to conduct a research project within the Bureau of Prisons.

(g) A subject is a present or former inmate or employee of the Bureau of Prisons about or from whom a researcher collects information in the conduct of research project authorized under this rule.

§ 512.12 Requirements for research projects and researchers.

The Director, Bureau of Prisons, may authorize a researcher to conduct a research project, subject to the following conditions:

(a) The project has an adequate research design.

(b) The research will contribute to the advancement of knowledge about corrections.

(c) The project is consistent with Part 549, Subpart E, Medical Experimentation and Pharmaceutical Testing.

(d) The researcher has academic preparation or experience in the area of study of the proposed research.

(e) The researcher assumes responsibility for actions of a non-employee engaged to participate in the research project.

(f) The researcher agrees not to provide research information which identifies a subject to any person other than Bureau of Prisons research personnel without the subject's prior written consent to release of the information.

(g) The researcher agrees to adhere to applicable provisions of the Privacy Act of 1974 and regulations pursuant to this Act.

(h) The researcher who is a non-employee shall sign a statement in which he agrees to adhere to the provisions of this rule.

§ 512.13 Content of research proposal.

In submitting the research proposal, the applicant shall provide the following information:

(a) Summary statement which includes the names and vitae of the researcher(s); the title of the project; an abstract of the project; duration of the project; subjects required, including amount of time required from each and an indication of risk or discomfort involved as a result of participation.

(b) Comprehensive statement which includes information on the purpose of the study; methodology to be employed; anticipated results; their significance and perceived benefits; resources to be utilized; indication of whether Bureau of Prisons participation and cooperation are needed after completion of project; and appendices of all relevant research materials.

§ 512.14 Processing of proposals.

(a) A prospective researcher shall submit his research proposal in one of the following ways:

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(1) Routine proposals are submitted at the institutional level.

(2) Non-routine proposals are submitted to the Director of Research, Central Office.

(b) The Director, Bureau of Prisons, has final authority to approve or disapprove a research proposal.

(c) The Central Office shall notify the region and institution of the decision on the research proposal. Staff at the office or institution which initially received the research proposal shall notify the prospective researcher of the Director's decision.

(d) An applicant may submit a preliminary research proposal for review by staff. Approval of this preliminary proposal does not constitute an authorization to conduct a research project within the Bureau of Prisons.

§ 512.15 Monitoring of approved research projects.

(a) The Director of Research, Central Office, shall review and, if appropriate, approve any major methodological changes in a research project prior to its implementation.

(b) The Warden shall appoint a committee to monitor all research conducted at the institution. Staff shall report any violation of research policy to the Regional Director, and to the Director of Research, Central Office.

(c) The Director, Bureau of Prisons, shall appoint a committee to monitor all research conducted through the Central Office. The committee shall report any violation of research policy to the Director, Bureau of Prisons.

(d) The Director, Bureau of Prisons, may suspend or terminate a research project if he believes that the project violates research policy or that its continuation may prove detrimental.

§ 512.16 Informed consent.

(a) Subject participation in a research project is voluntary.

(b) Before commencing a research activity requiring participation by staff or inmates, the researcher shall give each participant an Informed Consent statement containing the following information.

(1) A statement that a participant may withdraw consent and end participation in the project or activity at any time.

(2) Identification of the researcher(s).

(3) Objectives of the research project.

(4) Procedures to be followed in the conduct of the research.

(5) Purpose of each procedure.

(6) Anticipated uses of the results of the research.

(7) A declaration concerning discomfort and risk, including a description of anticipated discomfort and risk.

(8) An offer to answer any questions about procedures; and

(9) Appropriate additional information.

(c) A researcher who is an employee of the Bureau of Prisons shall add to the Informed Consent Statement a statement of the authority under which he conducts the research.

(d) A researcher who is a non-employee of the Bureau of Prisons shall obtain a signed statement of consent from each subject prior to initiation of the research activity.

(e) A researcher who is an employee of the Bureau of Prisons shall obtain a signed statement of consent from a subject in each of the following circumstances:

(1) If the activity of the subject is something other than a response to a questionaire or participation in an interview; or

(2) If a record is prepared from which a subject is identifiable.

§ 512.17 Access to Bureau of Prisons records.

(a) Employees of the Bureau of Prisons shall have access to those records which relate to the subject and are necessary to the purpose of the research project without having to obtain the subject's consent.

(b) A non-employee of the Bureau of Prisons is limited in access to information available under the Freedom of Information Act (5 USC 552).

§ 512.18 Incentives.

A researcher may not provide research subjects with incentives other than soft drinks and snacks given at the test setting.

§ 512.19 Institution rules.

A researcher shall observe the rules of the institution or office in which he conducts his research project. Staff of the responsible insitution or office shall inform the researcher of the local rules.

§ 512.20 Reports.

At least once a year, the researcher shall provide the Director of Research, Central Office, with a report on the progress of the research. Within 10 days after preparation of the report of findings, the researcher shall distribute at least one copy of the report of findings to each of the following: the Director of Research, Central Office; the Regional Director; and the Warden at each significantly mentioned institution. The researcher shall include an abstract in the report of findings.

§ 512.21 Publication of results of research project.

(a) A researcher may publish results of a research project conducted under this rule in book form and in professional journals:

(1) On publication of results, the researcher shall acknowledge participation in the research project by the Bureau of Prisons.

(2) The researcher shall expressly disclaim approval or endorsement of the published materials as an expression of the policies or views of the Bureau of Prisons.

(b) Prior to publication of the results of a research project conducted under this rule, the researcher shall provide a copy of the material accepted for publication to the Director of Research in the Central Office of the Bureau of Prisons.

§ 512.22 Copyright provisions.

(a) An employee of the Bureau of Prisons may not copyright a work prepared as a part of his or her official duties.

(b) Subject to a royalty-free, non-exlusive and irrevocable license, which the Bureau of Prisons reserves, to reproduce, publish, and translate and otherwise to use and to authorize others to publish and use such materials, a non-employee may copyright original materials developed as a result of research conducted under this rule.

(c) As a precondition to the conduct of research under this rule, a non-employee shall grant in writing to the Bureau of Prisons a royalty-free, nonexlusive, and irrevocable license to reproduce, publish, translate and otherwise to use and to authorize others to publish and use original materials developed as a result of research conducted under this rule.

PART 513—ACCESS TO RECORDS

Subpart A—[Reserved]

Subpart B—Production or Disclosure of Material or Information: FBI Identification Records; FBI Criminal History Records

§ 513.10 Purpose and scope.

By authorization of the Federal Bureau of Investigation (FBI), the Bureau of Prisons may provide an inmate with a copy of his FBI identification record commonly known as a "rap sheet." Where an inmate's criminal history record has been computerized, staff may provide a copy of the National Crime Information Center Computerized Criminal History record (NCIC/CCH) at the inmate's request.

§ 513.11 Procedures applicable where an FBI identification record is sought.

(a) The inmate may ask institution staff for a copy of his FBI identification record.

(b) Staff shall provide the inmate with a copy of the requested record along with a copy of the Bureau of Prisons program statement governing disclosure of the FBI identification record.

(c) An inmate who so desires may obtain a copy of the identification record directly from the FBI by following the procedure outlined in 28 CFR 16.30 et seq.

(1) Bureau of Prisons staff shall assist the inmate to obtain the fingerprint impressions required to be submitted with such an application.

(2) The inmate may direct that funds be withdrawn from his institution account to pay the applicable fee.

§ 513.12 Procedures applicable where an FBI criminal history record (NCIC/CCH) is sought.

(a) An inmate whose criminal history record is stored in the FBI's National Crime Information Center/Computerized Criminal History records may ask institution staff for a copy of this record.

(b) Staff may provide the NCIC/CCH record only in response to a request from the inmate who is the subject of the record.

(c) Staff may honor only one such request per inmate per month.

(d) An inmate who so desires may address his request for his NCIC/CCH records directly to the FBI according to the procedure outlined in § 513.11(c).

§ 513.13 Inmate request for record clarification.

Where the inmate believes that the record is incorrect or inaccurate, he may follow procedures outlined in 28 CFR 16.30 et seq.

Subpart A—[Reserved]

Subpart B—Production or Disclosure of Material or Information: FBI Identification Records; FBI Criminal History Records

Sec.
513.10 Purpose and scope
513.11 Procedures applicable where an FBI identification record is sought.
513.12 Procedures applicable where an FBI criminal history record (NCIC/CCH) is sought.
513.13 Inmate request for record clarification.

AUTHORITY: 5 U.S.C. 301; 18 U.S.C. 4001, 4042, 4081, 4082, 4161-4166, 5015, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95-0.99.

PART 522—ADMISSION TO INSTITUTION

Subpart A-B—[Reserved]

Subpart C—Intake Screening

Sec.
522.20 Purpose and scope.
522.21 Procedures.

AUTHORITY: 5 U.S.C. 301; 18 U.S.C. 4001, 4042, 4081, 4082, 4161-4166, 5015, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95-0.99.

Subpart A-B—[Reserved]

Subpart C—Intake Screening

§ 522.20 Purpose and scope.

Bureau of Prisons staff screen newly arrived inmates to ensure that Bureau health and safety standards are met.

§ 522.21 Procedures.

(a) The Warden shall ensure that a newly arrived inmate is cleared by the Medical Department and provided a social interview by staff before assignment to the general population.

(1) Within 24 hours after an inmate's arrival, medical staff shall medically screen the inmate in compliance with Part 549 Subpart B, to find out if there are medical reasons for housing the inmate away from the general population.

(2) Within 24 hours after an inmate's arrival, staff shall interview the inmate to find out if there are nonmedical reasons for housing the inmate away from the general population. Staff shall evaluate both the general physical appearance and emotional condition of the inmate.

(3) Staff shall record results of the medical screening and the social interview in the inmate's central file.

PART 524—CLASSIFICATION OF INMATES

Subpart A-C—[Reserved]

Subpart D—Program Reviews

Sec.
524.30 Purpose and scope.
524.31 Procedures.
524.32 Notification.

Subpart E—Progress Reports

524.40 Purpose and scope.
524.41 Annual progress reports.
524.42 Parole progress reports.
524.43 Transfer summary.
524.44 Retention of reports.

AUTHORITY: 5 U.S.C. 301; 18 U.S.C. 4001, 4042, 4081, 4082, 4161-4166, 5015, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95-0.99.

Subpart A-C—[Reserved]

Subpart D—Program Reviews

§ 524.30 Purpose and scope.

The Bureau of Prisons staff conduct a timely review of the program of each inmate within its institutions. Each inmate is given prior notice of the review and is offered the opportunity to attend the program review.

§ 524.31 Procedures.

(a) Each unit team shall conduct at least once every 90 days a review of the program of each inmate within the unit.

(b) Staff at institutions without unit management shall conduct at least once a year a review of the program of each inmate within the institution. When an inmate is within two years of anticipated release, staff shall conduct a review of the program of the inmate at least once every 90 days.

(c) When circumstances warrant additional review of the inmate's program, the unit team or committee chairman may schedule such additional review.

§ 524.32 Notification.

(a) Staff shall notify the inmate at least 48 hours prior to a scheduled review of his program.

(b) The inmate may attend and participate in the program review.

Subpart E—Progress Reports

§ 524.40 Purpose and scope.

The Bureau of Prisons maintains current information regarding an inmate's response to confinement through progress reports regularly completed by staff. Staff summarize in the progress report information relating to an inmate's offense and background, with emphasis on the inmate's response to institutional experience and readiness for release. The report serves as a basis for deciding on institutional programs and release for an inmate.

§ 524.41 Annual progress reports.

(a) Staff shall prepare an updated progress report on each inmate on at least a yearly basis: *Provided*, That no other progress report, special report or transfer summary has been prepared during the preceding year.

(b) Staff shall include in the progress report a summary of the institutional adjustment reflected in any previous report and a detailed summary of the inmate's present response to confinement. Staff shall include the following information in the report:

(1) Name and age,
(2) Registration number,
(3) Offense,
(4) Sentence,
(5) Date of commencement of service of sentence,
(6) Time served to date, including jail time credit,
(7) Extra good time,
(8) Good time withheld or forfeited,
(9) Current mandatory release date,
(10) Detainers and pending charges on file,

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(11) Most recent Parole Commission action, including any special requests or requirements,

(12) Names of the inmate's co-defendants, their sentences, present location and Parole Commission action relating to them.

(c) Staff shall include in the progress report significant new information on such topics as:

(1) The offense for which the inmate is confined, including any change in the inmate's attitude towards it;

(2) Prior record;

(3) Background, including social, educational, military and employment history.

(d) Staff shall include in the progress report a detailed summary of the inmate's response to confinement.

(e) Staff shall analyze and interpret information included in the progress report in light of the inmate's abilities.

(f) Staff shall include in the report information about the inmate's physical and mental health.

(g) Staff shall include in the report a statement of the inmate's proposed residence, employment, and advisor on release.

§ 524.42 Parole progress reports.

(a) When an inmate becomes eligible for parole, staff shall prepare a progress report containing information covered in § 524.41 plus:

(1) A summary of the inmate's anticipated involvement in pre-release programming and identification of verified resources available to the inmate;

(2) A definitive statement of the proposed release plans, including residence, employer, advisor and the name and address of the supervising U.S. Probation Officer;

(3) An evaluation of the individual's readiness for release;

(4) A recommendation for or against parole.

(b) When an inmate is so disturbed that to force an appearance before the Parole Commission might prove disruptive, in lieu of the inmate's appearance staff shall provide the Parole Commission with a statement specifying the nature of the inmate's behavior.

§ 524.43 Transfer summary.

Staff shall prepare a transfer summary as a current progress report on an inmate who is being recommended for transfer and whose progress has not been summarized within the preceding 90 days. Staff shall prepare the summary in compliance with the provisions of § 524.41(b)-(g).

§ 524.44 Retention of reports.

Staff shall maintain in the inmate's file only the most current progress report. Staff shall destroy all previous progress reports.

PART 527—TRANSFERS

Subpart A-B—[Reserved]

Subpart C—Transfer of Inmates After Conviction

Sec.
527.20 Purpose and scope.
527.21 Procedures.

AUTHORITY: 5 U.S.C. 301; 18 U.S.C. 4001, 4042, 4081, 4082, 4161-4166. 5015, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95-0.99.

Subpart A-B—[Reserved]

Subpart C—Transfer of Inmates After Conviction

§ 527.20 Purpose and scope.

The Bureau of Prisons adheres to Rule 38(a)(2) of the Federal Rules of Criminal Procedures by giving an inmate reasonable opportunity to file his appeal and to confer with his counsel after the appeal is filed. An inmate shall also be given access to his attorney or the sentencing court following his conviction, with respect to filing a motion for the reduction of sentence.

§ 527.21 Procedures.

(a) After conviction, unless the inmate indicates in writing that he will not file an appeal, he shall be held in the judicial district in which he was convicted for a period of not less than 10 days, the amount of time allowable for appeal. If an appeal is noted within 10 days, paragraph (b) of this section shall apply. Where a motion for a new trial is filed, the above provisions shall take effect from the date the motion is denied.

(b) If a notice of appeal is filed the inmate is normally allowed to remain in the judicial district for a period of 30 days from that date.

(c) If the inmate indicates a motion for reduction of sentence under Rule 35 of the Federal Rules of Criminal Procedure is filed or is to be filed, the inmate is normally allowed to remain in the judicial district for a period of 30 days from the date sentence is imposed.

PART 540—CONTACT WITH PERSONS IN THE COMMUNITY

Subpart A-F—[Reserved]

Subpart G—Metal Detectors/Detaining and Searching Institution Visitors/Arresting Authority, Bureau of Prisons Employees

Sec.
540.80 Purpose and scope.
540.81 Procedures for searching visitors.
540.82 Controlled visiting-denying visits.
540.83 Detaining visitors.
540.84 Termination of a visit.
540.85 Use of arrest authority.

Subpart H—Inmate Funds Donated Through the Mail

540.90 Purpose and scope.
540.91 Procedures.

AUTHORITY: 5 U.S.C. 301; 18 U.S.C. 4001, 4042, 4081, 4082, 4161-4166, 5015, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95-0.99.

Subpart A-F—[Reserved]

Subpart G—Metal Detectors/Detaining and Searching Institution Visitors/Arresting Authority, Bureau of Prisons Employees

§ 540.80 Purpose and scope.

(a) The Bureau of Prisons takes steps to prevent the introduction of contraband (drugs, alcohol, weapons, etc.) into its institutions. Staff may subject all visitors entering or leaving an institution to a search of their person and effects.

(b) Title 18, U.S. Code, section 3050 authorizes Bureau of Prisons Employees (this does not include United States Public Health Services employees) to make an arrest without warrant for any violation of the provisions of Section 751—Prisoners in Custody of Institution or Officer; 752—Instigating or Assisting Escape; 1791—Traffic in Contraband Articles; and 1792—Mutiny, Riot, Dangerious Instrumentalities Prohibited. Such an arrest may be made when staff has good reason to believe a person has committed one of these offenses and when there is likelihood of the person fleeing or escaping before a warrent can be obtained.

§ 540.81 Procedures for searching visitors.

(a) The Warden may requre visitors entering the institution from outside the secure perimeter to submit to a search:

(1) By electronic means (for example, walk-through or hand held metal detector);

(2) Of personal effects. Staff may provide locker space for personal effects not taken into the visiting room.

(b) The Warden may authorize a pat search of a visitor as a prerequisite to a visit when there is reasonable suspicion to believe the visitor possesses contraband or is introducing or attempting to introduce contraband or is introducing or attempting to introduce contraband into the institution.

(1) Staff may find resonable suspicion based on reliable although confidential information; by a positive reading of a metal detector; or when contraband or indicia of contraband is found during search of a visitor's personal effects.

(2) Only staff of the same sex as the visitor may perform a pat search.

(3) Staff shall conduct a pat search out of the view of other visitors and inmates.

§ 540.82 Controlled visiting—denying visits.

(a) The Warden may restrict visiting to controlled situations or to supervised visits when there is reasonable suspicion (see §540.81 (b)(1)) to believe the visitor is introducing or attempting to introduce contraband, or when there has been a prior incident of such introduction or attempted introduction.

(b) The Warden may deny visiting privileges when a controlled or staff supervised visit is not possible.

(c) Staff shall deny admission to the institution to a visitor who refuses to be screened by a metal detector or who refuses to undergo a search of his person and effects as dictated by these rules.

§ 540.83 Detaining visitors.

(a) Staff may detain a visitor found to be introducing or attempting to introduce such contraband as guns, knives or other serious weapons pending notification and arrival of appropriate law inforcement officials.

(b) Staff shall employ only the minimum amount of force necessary to detain the individual.

§ 540.84 Termination of a visit.

Staff may terminate a visit upon determination that a vistor is in possession of or is passing or attempting to pass contraband not previously detected during the search process.

§ 540.85 Use of arrest authority.

To effect an arrest under any of the cited sections in §540.80(b), staff shall have reasonable suspicion that the suspected individual is knowingly attempting to circumvent the law and this circumvention would seriously threaten the security and/or orderly operation of the institution. Wherever possible, the Warden or his designee shall make the determination as to whether an arrest should occur.

Subpart H—Inmate Funds Donated Through the Mails

§ 540.90 Purpose and scope.

Inmates may not solicit funds nor initiate requests which might result in the solicitation of funds from persons other than the inmate's immediate family or friends. Procedures for the disposition of unsolicited funds donated to an inmate by an unknown source are described.

§ 540.91 Procedures.

(a) An inmate may receive funds from his family or friends, for crediting to his inmate trust account.

(b) An inmate may not receive through the mail funds for specific goods or direct services such as special food, clothing or medical services.

(c) An inmate may receive a money gift of congratulations or sympathy through the mail as long as the gift is not designated for the purpose of care for inmates and is not associated with unlawful activities.

(d) When unsolicited funds donated to an inmate through the mail are received the Warden may accept the donation and credit it in the inmate's spending account, if the funds appear appropriate and their source legitimate. An inmate may not receive more than $25.00 per year from any source other than family.

(e) If the Warden finds the donation inappropriate, staff shall return the money to the sender along with information on the reason for the return. Staff shall inform the inmate of the reason for the return.

(1) If the source of unsolicited cash cannot be identified, staff shall place the money in the inmate's trust fund account and give it to him at the time of his release.

(2) If the source of the unsolicited funds cannot be identified, and if it is in the form of a check, the Warden shall return the check to the bank on which it was drawn together with a transmittal letter of explanation. A copy of this letter is sent to the inmate. The sender of the check may make claim to the bank to receive refund, or the inmate, after he is released, may make claim as payee and receive the check.

(3) If the unsolicited funds are in the form of a U.S. Postal money order, the Warden shall return the money order to the U.S. Postal Service together with a transmittal letter requesting that the funds be placed in the Postal Service suspense account. The sender of the money order or the inmate, as payee, may then make claim to the money order. A copy of the transmittal letter is sent to the inmate.

(4) Staff shall return other money orders to the issuing officer with a transmittal letter of explanation. A copy of this letter is sent to the inmate.

PART 543—LEGAL MATTERS

SUBPART A-B—[Reserved]

Subpart C—Claims Under the Federal Tort Claims Act

Sec.
543.30 Purpose and scope.
543.31 Procedures.
543.32 Depreciation.

AUTHORITY: 5 U.S.C. 301, 18 U.S.C. 4001, 4042, 4081, 4082, 4161-4166, 5015, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95-0.99

Suport A-B [Reserved]

Subpart C—Claims Under the Federal Tort Claims Act

§ 543.30 Purpose and scope.

The Director of the Bureau of Prisons is delegated authority by 28 CFR 0.96, 0.172, to settle those tort claims where the proposed settlement does not exceed $2500. This authority is redelegated to the Regional Counsel when the claim's proposed settlement does not exceed $500. The Office of General Counsel, Central Office, has authority to settle those claims where the proposed settlement is between $500 and $2500.

§ 543.31 Procedures.

(a) Staff shall provided the necessary forms to the inmate who wishes to file a claim based on an incident occurring on or after January 18, 1967.

(b) Claims are ordinarily submitted and investigated locally (where the incident occurred).

(c) The Warden shall submit the Investigation Report, with recommendations, to the Regional Office's Legal Counsel.

(d) Staff shall attempt to make a claim determination within six months from the date of filing. The inmate may institute a suit upon denial of the claim. If a final disposition is not made within the six month period, the individual may assume that the claim is denied.

§ 543.32 Depreciation.

Staff may take depreciation into account in settling Tort Claims under the Federal Tort Claims Act which involve loss or damage to personal property.

PART 544—EDUCATION

Subpart A—[Reserved]

Subpart B—Minumum Standards for Educational Tests

Sec.
544.10 Purpose and Scope.

Subpart C—[Reserved]

Subport D—Recreation Inmate Movies

544.30 Purpose and scope.
544.31 Staffing patterns.
544.32 Movies.

Subpart E-I—[Reserved]

Subpart J—Guidelines for Social Education Activities

544.90 Purpose and scope.
544.91 Program characteristics and staff.

AUTHORITY: 15 U.S.C. 301; 18 U.S.C. 4001, 4042, 4081, 4082, 4161-4166, 5015, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95-0.99.

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Subpart A—[Reserved]

Subpart B—Minimum Standards for Educational Tests

§ 544.10 Purpose and scope.

(a) The Bureau of Prisons administers appropriate educational tests to inmates confined within its institutions. Staff shall administer the Stanford achievement Test (SAT) within one month of arrival of a newly committed inmate sentenced to a term of one year or more: *Provided*, That that inmate reads English. Staff may administer the Revised BETA, the General Aptitude Test Battery (GATB) and other appropriate achievement and attitude tests as needed to take a specific measure of achievement or aptitude.

(b) When test results are required for program placement and other purposes, the Warden may approve the administration of an SAT to a newly committed inmate who is serving a sentence of less than one year.

(c) Staff may not allow inmates to administer, score or interpret tests which are the subject of this rule. Staff may not assign the clerical handling of such tests to an inmate.

Subpart C—[Reserved]

Subpart D—Recreation/Inmate Movies

§ 544.30 purpose and scope.

The Bureau of Prisons considers that well-directed leisure activities programs are a highly effective force for the social re-education of an inmate and for the positive use of leisure time. The Warden shall establish appropriate leisure activities. Staff may recommend the use of these activities for an inmate as an integral component of his correctional program.

§ 544.31 Staffing patterns.

(a) A fully qualified staff person shall direct the leisure activities program.

(b) an inmate may be utilized as assistant coach, administrative clerk, equipment clerk, sports official, instructor or general leisure activity aide where his interest is expressed and ability is apparent.

§ 544.32 Movies.

The Warden may approve the showing of movies at the institution. A committee designated by the Warden shall review suggested films and submit the list to the Warden for final approval. The committee shall comprise staff and inmate representatives. X-rated films may not be shown.

Subpart E—I—[Reserved]

Subpart J—Guidelines for Social Education Activities

§ 544.90 Purpose and scope.

The Bureau of Prisons recognizes that skills to improve interpersonal relationships, communication, self-motivation, realistic goal setting, and a positive basic self-concept develop with the passage of time. Therefore, the Warden shall make available to an inmate throughout the term of his commitment programs to foster such skills, reinforced by staff contacts. The Warden shall establish procedures for social education activities which follow prepared curricular and scheduled timetables.

§ 544.91 Program characteristics and staff.

(a) The Warden shall designate staff to serve as social education coordinator(s).

(b) Staff shall qualify an activity as social education if it meets any of the following criteria:

(1) It teaches or reinforces self-development and personal growth;

(2) It helps to increase self-knowledge;

(3) It fosters the development of a realistic self-concept;

(4) It develops appropriate skills in interpersonal relationships.

PART 545—WORK AND COMPENSATION

Subpart A—[Reserved]

Subpart B—Federal Prisons Industries, Inc. Manual-Payrolls Section

Sec.

545.10 Purpose and scope.
545.11 Definitions.
545.12 Assignments.
545.13 Grade structure and standard hourly rate.
545.14 Individual and group piece rates.
545.15 Wage fund-group piece workers.
545.16 Overtime compensation.
545.17 Longevity pay.
545.18 Vacation pay.
545.19 Administrative pay.
545.20 Holiday pay.

AUTHORITY: 5 U.S.C. 301; 18 U.S.C. 4001, 4042, 4081, 4082, 4161-4166, 5015, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95-0.99.

Subpart A—[Reserve]

Subpart B—Federal Prison Industries, Inc. Manual-Payrolls Section

§ 545.10 Purpose and scope.

It is the policy of Federal Prison Industries, Inc. to provide employment to inmates confined in an institution. This employment is designed to afford the inmate maximum opportunity to acquire the knowledge, skill and work habits which will be useful when released from the institution. There is no requirement that Federal Prison Industries pay inmates for employment in industry. 18 U.S.C. 4126, however, provides for discretionary compensation to inmates employed in industry. Under this authority, inmates of the same grade jobs, regardless of the basis of pay (hourly, group piece, or individual piece rates) shall receive approximately the same compensation. All pay rates under this part are established at the discretion of Federal Prison Industries, Inc. Any alteration or termination of the rates shall require the approval of the Corporation's Board of Directors. While the Warden is responsible for the local administration of Inmate Industrial Payroll regulations, no pay system is initiated or changed without prior approval of the Associate Commissioner of Federal Prison Industries, Inc.

§ 545.11 Definitions.

Federal Prison Industries, Inc., as used in this part, has the same meaning as used in 18 USC 4121 et seq.

§ 545.12 Assignments.

(a) Industrial work programs and assignments are made on an optional basis and the permanent assignment of an inmate to industries is made only with the concurrence of the inmate.

(b) Staff may promote an inmate to a higher grade job only when a vacancy exists.

(c) At the request of the inmate concerned, the Warden shall review any reassignment involving a reduction in pay.

§ 545.13 Grade structure and standard hourly rate.

An inmate employed in Federal Prison Industries, Inc. is classified in one of four grades, based upon job assignment and level of skill. Fourth grade is the base, third, second, and first grades are compensated at 50%, 100%, and 150% above the base grade, respectively.

§ 545.14 Individual and group piece rates.

(a) Piece rates based upon full time production of a capable worker of average speed are established by the Superintendent of Industries, upon recommendation of the factory manager or foreman of the industry or department affected and upon approval of the Warden.

(b) New rates may occur whenever new equipment, new processes or other conditions change labor requirements.

§ 545.15 Wage fund-group piece workers.

The amount of the available "Wage Fund" is determined by multiplying the units of production completed by the group by the applicable rate or rates. The hours actually worked in the 3rd, 2nd and 1st grade jobs are increased by the percentages specified in § 545.13. These hours are then added to the hours worked in 4th grade jobs to determine basic hours. The total wage fund is then divided by the basic hours to determine the hourly rate for 4th grade jobs. Rates for other grade jobs are determined by increasing the 4th grade rate by the same percentage as stated in § 545.13. All decimals beyond the fourth are dropped and any remaining balance is added to the wage fund for the next period.

§ 545.16 Overtime compensation.

All hours worked in excess of the regular scheduled inmate workday are overtime. For example, if the scheduled inmate workday consists of 7½ hours and the inmate works 10 hours in one day, he has earned 2½ hours overtime pay on that day. Hours worked on days other than the scheduled workweek may be compensated at the overtime rate. Compensation for overtime is double the hourly rate for hourly and group piece workers. For individual piece workers, the amount is based on total earnings divided by the number of total hours worked. This will give the piece workers' rate per hour. This rate times the overtime hours worked will provide the amount of overtime compensation due the inmate.

§ 545.17 Longevity pay.

(a) An inmate may earn longevity pay for continuous employment regardless of whether the employment was continuous in one or more institutions, as long as the inmate is not excluded under § 545.17 (c) and (d).

(b) An inmate may earn an additional five cents for each actual hour in pay status when the inmate has earned industrial good time for 3 years or more, or when the inmate who is ineligible to earn good time has been employed for 3 years of more.

(c) Service of previous sentences may not receive consideration in determining longevity pay. For purposes of this section, a separate sentence or commitment which involves no break of time in custody is not considered a previous sentence.

(d) An inmate recommitted because of a violation of conditional release (mandatory or parole) and serving under the same or continuous sentence is not entitled to credit for time spent in industries prior to release.

§ 545.18 Vacation pay.

(a) An inmate may receive an annual vacation with pay when his work performance (quality, attendance, attentiveness and adherence to industry operating regulations) justifies it. A recommendation is made by the foreman to the Superintendent of Industries, who will approve the request if this standard is met. An inmate worker may receive vacation credit at the rate of ½ day for each month of industrial employment for the first year and at the rate of one day for each month of industrial employment in excess of one year.

(b) Inmates may take and receive pay for vacation credit after each annual eligibility date based on initial date of assignment to industries. Inmates may also take accrued vacation at any time, regardless of the anniversary date, for visits, participation in institutional programs or for other reasons at the discretion of the Superintendent of Industries. The Superintendent shall schedule vacations to be compatible with factory production requirements.

(c) The taking of vacation time is encouraged. However, an inmate who, for compelling reasons, elects not to take his vacation time must indicate this in writing. This inmate shall receive pay for his annual vacation credit in a lump sum on the regular monthly payroll. An inmate whose employment is terminated by release, reassignment, transfer, or other reasons, and who has unused vacation credit shall also receive pay for this credit on the monthly payroll.

(d) In consideration of work absences, either by routine call outs or enrollment in other institution programs, a monthly vacation credit rate is established. This is based on the percentage of standard factory hours worked by the inmate during that month.

Percentage worked	1st year credit rate	Subsequent years rate
90% or more	½day	1 day
75% but less than 90%	⅜ day	¾ day
60% but less than 75%	¼ day	½ day
45% but less than 60%	⅛ day	¼ day
Under 45%	0	0

(e) When the individual inmate takes and/or is paid for earned vacation, his monthly credit rates are totalled and successively multiplied by the standard factory hours and his regular rate of compensation to arrive at the compensation payable.

(f) An inmate temporarily assigned to industries, such as on a construction crew, who is placed on an industry payroll may earn vacation credit. The inmate may take and receive pay for vacation upon termination of the temporary assignment.

(g) An inmate may earn full vacation credit while confined to the hospital or to his quarters because of compensable work-related injuries: *Provided*, The inmate returns to the industrial work assignment upon termination of confinement.

(h) The Superintendent of Industries may declare a vacation credit unearned because of unsatisfactory work performance, appropriately documenting this for the month in which such unsatisfactory performance takes place. The Superintendent may not independently declare vacation credit unearned as a result of inmate misconduct which is subject to institution disciplinary committee action, but may recommend such action to the committee.

§ 545.19 Administrative pay.

When an inmate is excused from work for participation in the Blood Bank Program he is continued on his regular rate of pay for a period not to exceed two hours. Administrative pay is not authorized for any other purpose, except by the Associate Commissioner.

§ 545.20 Holiday pay.

An inmate worker on industrial assignments shall receive pay at the standard hourly rate, plus longevity pay where applicable, for the following Federal holidays:

(1) New Year's Day; (2) Washington's Birthday; (3) Memorial Day; (4) Independence Day; (5) Labor Day; (6) Columbus Day; (7) Veterans' Day; (8) Thanksgiving; and (9) Christmas, provided the inmate is in a normal pay status the work day before and the work day following the holiday.

Any other Federal holidays, approved and declared by the Congress of the United States, shall qualify the worker for industrial holiday pay, under the same conditions as above, without amendment of these regulations.

PART 546—SAFETY

Subpart A—[Reserved]

Subpart B—Lost-Time Wages—Inmate Workers Assigned To Federal Prison Industries, Inc.

Sec.

546.10 Purpose and scope.
546.11 Procedures.
546.12 Discontinuation of lost-time wages.

AUTHORITY: 5 U.S.C. 301; 18 U.S.C. 4001, 4042, 4081, 4082, 4161-4166, 5015, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95-0.99.

Subpart A—[Reserved]

Subpart B—Lost-Time Wages—Inmate Workers Assigned to Federal Prison Industries, Inc.

§ 546.10 Purpose and scope.

The Bureau of Prisons follows a uniform procedure to determine the work-relatedness of an injury sustained by an inmate at a work assignment in Federal Prison Industries, Inc., or at a work assignment related to the maintenance or operation of the institution. To secure documentation of an injury sustained by an inmate at a work assignment, the

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Bureau of Prisons follows the provisions of 28 CFR 301.2, 301.3, 301.4. In determining an inmate's eligibility for lost-time wages due to injury sustained at a work assignment and the rate of compensation, the Bureau of Prisons complies with 28 CFR 301.10.

§ 546.11 Procedures.

(a) After investigating the circumstances surrounding an injury reported in compliance with 28 CFR 301.3, the Safety Manager at the institution shall make an initial determination of the work-relatedness of the injury.

(b) If the Safety Manager determines that an inmate's injury was work-related, the Safety Committee may review that decision upon referral to the Committee by an involved staff member (e.g., inmate's immediate supervisor or a member of the medical staff).

(c) If the Safety Manager determines that the inmate's injury was not work-related, the Safety Committee shall review that determination.

(d) The Safety Committee shall make its determination as to work-relatedness of an injury sustained by an inmate within 30 days:

(1) Of the alleged accident or injury, if the inmate reports the accident or injury to his work supervisor within 48 hours of its occurrence;

(2) Of receipt of notice of the alleged accident or injury, if the inmate does not report the accident or injury to his work supervisor within 48 hours of its occurrence.

(e) An inmate may appeal the decision of the Safety Committee through the Administrative Remedy Procedure (Part 542, Subpart B).

§ 546.12 Discontinuation of lost-time wages.

(a) Staff shall continue to provide the inmate with lost-time wages until one of the following occurs:

(1) The inmate returns to his work assignment;

(2) The inmate is employed at a different work assignment;

(3) There is medical certification that the inmate is fit to return to work;

(4) Transfer of the inmate from the institution for reasons unrelated to the work injury;

(5) Release of the inmate from federal custody.

(b) An inmate who refuses to return to an industrial work assignment after medical certification of fitness to return to work may not receive, from date of refusal, further payment of lost-time wages.

PART 549—MEDICAL SERVICES

Subpart A–D—[Reserved]

Subpart E—Medical Experimentation and Pharmaceutical Testing

Sec.
549.60 Purpose and scope.

AUTHORITY: 5 U.S.C. 301; 18 U.S.C. 4001, 4042, 4081, 4082, 4161–4166, 5015, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

Subpart A–D—[Reserved]

Subpart E—Medical Experimentation and Pharmaceutical Testing

§ 549.60 Purpose and scope.

(a) The Bureau of Prisons does not permit medical experimentation or pharmaceutical testing on inmates. However, as warranted for diagnosis or treatment of a specific inmate, the Director, Bureau of Prisons, may authorize the use of, and collection of data related to, experimental diagnostic and therapeutic measures under conditions which have been approved by the United States Department of Health, Education and Welfare.

(b) The Director may not authorize experimental diagnostic and therapeutic measures without a prior recommendation by the responsible physician and the prior full and informed consent of the affected inmate.

PART 550—DRUG PROGRAMS

Subpart A—[Reserved]

Subpart B—Marijuana and Alcohol Testing

Sec.
550.10 Purpose and scope.
550.11 Consent for marijuana testing.
550.12 Positive test results.
550.13 Refusal to participate in testing.

AUTHORITY: 5 U.S.C. 301; 18 U.S.C. 4001, 4042, 4081, 4082, 4161–4166, 5015, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

Subpart A—[Reserved]

Subpart B—Marijuana and Alcohol Testing

§ 550.10 Purpose and scope.

The Bureau of Prisons maintains a surveillance program in order to deter and to detect the illegal introduction or use of marijuana or alcohol in its institutions. In an effort to reduce the introduction or use of marijuana and alcohol, the Warden shall establish procedures for monitoring and testing individual inmates or groups of inmates who are known or suspected to be users of marijuana or alcohol, or who are considered high risks based on behavior observed or on information received by staff.

§ 550.11 Consent for marijuana testing.

(a) Staff shall solicit the consent of an inmate prior to performing the mouth-swabbing portion of the marijuana test. However, the consent of the inmate is not required when the Warden or, in his absence, the Acting Warden, Duty Officer, or Administrative Duty Officer authorizes staff to perform the mouth-swabbing portion of the marijuana test.

(b) Staff who administer a marijuana test to an inmate shall record this fact in the central file of the inmate.

§ 550.12 Positive test results.

Staff may prepare a disciplinary report on an inmate who shows a positive substantiated test result for marijuana or alcohol.

§ 550.13 Refusal to participate in testing.

Staff may initiate disciplinary action against an inmate who refuses to submit to a marijuana or alcohol test.

PART 551—MISCELLANEOUS

Subpart A—[Reserved]

Subpart B—Marriage of Inmates

Sec.
551.10 Purpose and scope.
551.11 Eligibility.
551.12 Ceremony.

Subpart C–H—[Reserved]

Subpart I—Pre-Trial Inmates

Sec.
551.90 Purpose and scope.
551.91 Definitions.
551.92 Commitment prior to arraignment.
551.93 Procedure for admission.
551.94 Housing.
551.95 Custody.
551.96 Institutional employment.
551.97 Good time.
551.98 Performance pay.
551.99 Community activities.
551.100 Religous programs.
551.101 Marriage.
551.102 Education.
551.103 Medical, psychiatric and psychological.
551.104 Recreation.
551.105 Discipline.
551.106 Access to legal resources.
551.107 Property.
551.108 Release of funds and property of pre-trial inmates
551.109 Visiting.

AUTHORITY: 5 U.S.C. 301; 18 U.S.C. 4001, 4042, 4081, 4082, 4161–4166, 5015, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.099.

Subpart A—[Reserved]

Subpart B—Marriage of Inmates

§ 551.10 Purpose and scope.

The Warden may approve the marriage of an inmate confined in an institution of the Bureau of Prisons where there are compelling reasons to do so. The appropriate Regional Director may approve marriage of a federal inmate in U.S. Marshals' custody, in state custody, or in an approved jail.

§ 551.11 Eligibility.

(a) In a request for permission to marry, an inmate shall demonstrate legal eligibility to marry.

(b) The Warden may not approve the request of an inmate who is mentally incompetent to contract marriage.

§ 551.12 Ceremony.

(a) The Warden may approve the use of institution facilities for an inmate's marriage ceremony. If a marriage ceremony poses a threat to the security or orderly operation of the institution, the Warden may disapprove a marriage ceremony in the institution.

(b) Upon request of the inmate, the Chaplain may assist in a marriage ceremony at the institution.

(c) The Warden shall require that a marriage ceremony at the institution be a private ceremony conducted without publicity.

Subpar. C–H—[Reserved]

Subpart I—Pre-Trial Inmates

§ 555.90 Purpose and scope.

The Bureau of Prisons houses, in addition to convicted inmates, persons awaiting commencement or completion of trial. Procedures and practices required for the care, custody and control of such inmates may differ from those established for convicted inmates. (Except as limited by this Rule, policies and standards applicable to persons committed to the custody of the Attorney General apply to detainees designated Pre-Trial Inmates.)

§ 555.91 Definitions.

(a) Pre-Trial inmate—an individual legally detained while awaiting trial, while in the process of trial or while awaiting a verdict.

(1) For purposes of this rule, an inmate committed for civil contempt is considered a pre-trial inmate.

(2) For purposes of this rule, an inmate in such status as indicated by paragraph (a) or (a)(1) of this section and who is at the same time serving a state or federal sentence is not considered a pre-trial inmate.

(3) For purposes of this rule, an inmate committed under 18 U.S.C. 4244 and 4246 is not considered a pre-trial inmate.

(b) Convicted inmate—an individual a court has found guilty of an offense punishable by law. For purposes of this rule, the term includes both a sentenced individual and one who is awaiting sentence following a court adjudication of guilt as recorded on an official report or document from the court.

§ 551.92 Commitment prior to arraignment.

On receipt of a U.S. Marshal's remand, the Bureau of Prisons shall accept an individual who has not been arraigned, for commitment as a pre-trial inmate.

§ 551.93 Procedure for admission.

(a) Staff shall establish procedures for admitting a pre-trial inmate to the institution, including, but not limited to:

(1) Verification of commitment papers;

(2) Search of the inmate;

(3) Disposition of clothing and personal possessions;

(4) Medical screening;

(5) Local guidelines governing telephone calls;

(6) Photographing and fingerprinting;

(7) Interview to obtain identification data;

(8) Orientation; and

(9) Assignment to an appropriate housing unit.

§ 551.94 Housing.

Unless a threat is posed to institutional security or order, staff shall house pre-trial inmates separately from convicted inmates.

§ 551.95 Custody.

(a) Staff may supervise a pre-trial inmate as if classified close (in) custody.

(b) Where circumstances warrant it, staff may supervise a pre-trial inmate according to procedures for other custody levels.

§ 551.96 Institutional employment.

(a) The Warden may not require a pre-trial inmate to work in other than housekeeping tasks in his own cell and living unit.

(b) Unless the pre-trial inmate signs a waiver, the Warden may not permit him to work with convicted inmates.

§ 551.97 Good time.

A pre-trial inmate does not earn good time.

§ 551.98 Performance pay.

The Warden may approve performance pay (see Rule 545, Subpart C) for a pre-trial inmate.

§ 551.99 Community activities.

(a) The Warden may not grant a furlough to a pre-trial inmate (18 U.S.C. 4082(c)).

(b) In an emergency, staff shall facilitate contact with the pre-trial inmate's attorney of record, who may seek appropriate action by the court for a decision concerning release from custody or an escorted trip.

(c) Except by order of the court, the Warden may not consider a pre-trial inmate for participation in community activities.

§ 551.100 Religious programs.

(a) Upon signing a waiver of separation, a pre-trial inmate may participate in religious programs with convicted inmates.

(b) Staff may enlist the aid of contract or volunteer chaplaincy personnel for religious programs within the area where pre-trial inmates are confined.

§ 551.101 Marriage.

A pre-trial inmate may apply for approval to marry in accordance with Rule 551, Subpart B. Staff shall contact the Court and U.S. Attorney, and in the case of an alien the Immigration and Naturalization Service, for clearance of the marriage request of the pre-trial inmate.

§ 551.102 Education.

(a) A pre-trial inmate may participate in correspondence and self-study educational courses. Institutional staff may also arrange educational assistance to the pre-trial inmate through the use of contract personnel or community volunteers.

(b) Upon signing a separation waiver, a pre-trial inmate may have full access to the institution's educational program.

§ 551.103 Medical, psychiatric, and psychological.

(a) Staff shall provide the pre-trial inmate with the same level of medical, psychiatric and psychological care provided to convicted inmates.

(b) Staff shall notify the Court of medication the pre-trial inmate receives which may alter his courtroom behavior.

(c) In event of serious illness or death of a pre-trial inmate, staff shall notify the committing Court, U.S. Attorney's office, and the designated family member or next of kin (see Part 549, Subpart B).

§ 551.104 Recreation.

(a) Upon signing a waiver of separation, a pre-trial inmate may participate with convicted inmates in recreational activities.

(b) At minimum, staff shall provide the pre-trial inmate with the following recreational opportunities:

(1) One hour daily of outside recreation, weather permitting; or

(2) Two hours daily of indoor recreation.

(c) Staff shall make recreation equipment available to the pre-trial inmate including, but not limited to, physical exercise equipment, books, table games, and television.

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§ 551.105 Discipline.

(a) Staff shall require the pre-trial inmate to abide by the disciplinary rules (Rule 541, Subpart B) of the institution, subject to the limitations of §§ 551.96(a) and 551.97.

(b) Staff shall advise the court, through the U.S. Marshal, of repeated or continuing disruptive behavior by a pre-trial inmate.

§ 551.106 Access to legal resources.

(a) Staff shall provide the opportunity for pre-trial inmate-attorney visits on a seven-day-a-week basis.

(b) Staff shall provide pre-trial inmates with access to legal materials in the institution.

(c) Staff shall allow the pre-trial inmate, upon his request, to telephone his attorney as often as resources of the institution allow.

§ 551.107 Property.

(a) A pre-trial inmate may retain personal property as authorized for convicted inmates by Rule 552, Subpart E.

(b) Staff shall store the pre-trial inmate's unauthorized personal property until the individual is released, transferred to another facility, or sentenced and committed to a federal institution.

(c) Staff may supply the pre-trial inmate with court clothing or the inmate may supply his own.

§ 551.108 Release of funds and property of pre-trial inmates.

(a) Staff shall establish procedures that allow for the release of funds and personal property on a 12 hour basis, Monday through Friday.

(b) Staff shall ensure that pre-trial inmates are informed of existing policy relative to the commissary account and release of funds.

§ 551.109 Visiting.

Staff shall allow pre-trial inmates to receive visits in accordance with Rule 540, Subpart D. Staff may allow a pre-trial inmate special visits to protect his or her business interests or to help prepare for trial.

PART 552—CUSTODY

Subpart A-B—[Reserved]

Subpart C—Use of Force and Application of Physical Restraints on Inmates

Sec.
552.20 Purpose and scope.
552.21 Procedures.
552.22 Use of chemical agents.
552.23 Documentation.

SUBPART D—HOSTAGES

Sec.
552.30 Purpose and Scope.
552.31 Negotiations.
552.32 Hostages-no authority.
552.33 Non-negotiable items.
552.34 Notifications.

AUTHORITY: 5 U.S.C. 301; 18 U.S.C. 4001, 4042, 4081, 4082, 4161-4166, 5015, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95-0.99.

Subpart A-B—[Reserved]

Subpart C—Use of Force and Application of Physical Restraints on Inmates

§ 552.20 Purpose and scope.

The Bureau of Prisons authorizes application of physical restraints on an inmate who becomes violent or displays signs of imminent violence. When an inmate behaves violently or displays signs of imminently becoming violent, staff shall use only that amount of force necessary to insure the safety of staff, inmates, and others, and to protect government property. This rule does not restrict the use of restraints in situations requiring precautionary restraints, particularly in the movement or transfer of inmates, e.g., the use of handcuffs in moving inmates to and from detention.

§ 552.21 Procedures.

(a) The correctional supervisor in charge of the shift may apply or supervise the application of restraints necessary to gain control of an inmate who appears to be dangerous because:
(1) The inmate assaults any person;
(2) The inmate destroys property;
(3) The inmate attempts suicide;
(4) The inmate inflicts wounds upon himself;
(5) The inmate displays signs that such violence may be imminent.

(b) Staff may apply restraints to or continue the use of restraints on an inmate while in Administrative Detention or Disciplinary Segregation only with approval of the Warden or duty officer.

(c) Staff shall seek the assistance of medical or mental health staff upon gaining physical control of the inmate. Where possible, staff shall seek such assistance at the onset of the violent behavior.

(d) Where medical or mental health staff determine that an inmate requires continuing mental health care, they shall assume responsibility for the care of the inmate.

(e) When it is necessary to restrain an inmate for longer than 24 hours, staff shall apply medically acceptable restraints attached to a hosptial bed. Staff shall check these restraints at least every 30 minutes and periodically rotate the inmate's position.

(f) Staff may not secure an inmate to a fixed object, such as a cell door.

§ 552.22 Use of chemical agents.

The Warden may authorize the use of chemical restraints only when the situation is such that the:

(a) Inmate is armed and barricaded, or

(b) Cannot be approached without danger to personnel or to self, and

(c) It is determined that a delay in bringing the situation under control would constitute a serious hazard to the inmate, other people, or result in a major disturbance or major property damage.

§ 552.23 Documentation.

Staff shall write a report detailing the need for the use of restraints and the use of force. A copy of this report is placed in the inmate's central file.

Subpart D—Hostages

§552.30 Purpose and scope.

The Warden of each institution has the authority to resolve a situation in which a hostage is taken in his institution. Staff's primary objectives in these situations are to safely free the hostage and to regain control of the institution.

§ 552.31 Negotiations

(a) The Warden is not normally directly involved in negotiations.

(b) Where possible, the Warden shall assign the responsibility of negotiation to staff who have a relationship with the captors.

(c) A staff member assigned as negotiator has no decision-making authority but acts as a go-between.

(d) A staff member assigned as negotiator shall attempt to keep communications open at all times with the captors.

§ 552.32 Hostages—no authority.

Captive staff have no authority, and their directives shall be disregarded.

§ 552.33 Non-negotiable items.

The following items are non-negotiable:

(a) Release of captors from custody;

(b) Immunity from prosecution.

§ 552.34 Notifications.

(a) The Warden shall assign staff to handle all news releases and news media inquiries in accordance with § 540.65.

(b) The Warden shall arrange to have the family members of the hostages notified as soon as practical after the incident occurs.

PART 570—COMMUNITY PROGRAMS

Subpart A—[Reserved]

Subpart B—Work and Study Release

Sec.
570.10 Purpose and scope.
570.11 Definitions.
570.12 Custody Status.
570.13 Authorization of participation.
570.14 Limitations to program participation.
570.15 Cases requiring special approval.
570.16 Transportation and subsistence.
570.17 Clothing.
570.18 Expenses.
570.19 Compensation for injury.
570.20 Supervision of an inmate on work or study release.
570.21 Termination.

Subpart C—Furloughs

570.30 Purpose and scope.
570.31 Definitions.
570.32 Justification for furlough.
570.33 Expenses of a furlough.
570.34 Eligibility requirements.
570.35 Limitations on eligibility.
570.36 Procedures.
570.37 Violation of furlough.

Subpart D—Reimbursement by Participants of Community Employment Programs

570.50 Authorization.
570.51 Policy.

AUTHORITY: 5 U.S.C. 301; 18 U.S.C. 4001, 4042, 4081, 4082, 4161-4166, 5015, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95-0.99.

Subpart A—[Reserved]

Subpart B—Work and Study Release

§ 570.10 Purpose and scope.

The Bureau of Prisons uses work and study release programs to allow selected inmates, in preparation for release from confinement, to attend school or to work in the local community during the day, returning to the institution at night. An inmate may not work as a strikebreaker or under any conditions which, in the Warden's judgment, could evoke adverse public response.

§ 570.11 Definitions.

The term "Work and Study Release" means an inmate's authorized absence from an institution other than a community treatment center, for the purpose of employment or to participate in an academic or vocational education activity.

§ 570.12 Custody status.

An inmate participant in a community program remains in the custody of the Attorney General. The Warden shall credit time during which an inmate participates in a community program toward service of the inmate's sentence. The Warden shall process an inmate who absconds from a community placement as an escaped federal prisoner. The Warden may subject an inmate who violates the conditions of a community program to disciplinary action as provided in Part 541.

§ 570.13 Authorization of participation.

(a) Except as provided in § 570.15, the Warden may approve an inmate's placement for work or study release. The Warden may not further delegate this authority.

(b) The Warden may consider an inmate for placement in a work or study release program under the following procedure and conditions:
(1) The inmate makes application for placement on the required form;
(2) The inmate has community custody status;
(3) The Warden determines that the placement will contribute to the inmate's preparation for release from confinement;
(4) The Warden determines that the inmate is physically and mentally capable of performing the proposed work or study;
(5) The Warden determines that the inmate has demonstrated a level of responsibility which provides reasonable assurance that he will comply with the requirements of a placement;
(6) The Warden finds the proposed placement appropriate under this subpart; and
(7) The Warden verifies the conditions of the proposed placement.

§ 570.14 Limitations to program participation.

(a) Except as provided in paragraph (b) of this section, the Warden may not consider for placement
(1) An inmate who will not be within 6 months of a probable date of release from confinement at the time of the program placement;
(2) An inmate who is to be transferred to a community program facility, such as a community treatment center or work release facility, in the inmate's area of release;
(3) An inmate who has a history of violent or assaultive behavior;
(4) An inmate commited for an offense which involved a violation of financial trust; or
(5) An inmate whose presence in the community would attract unusual public attention.

(b) When the Warden determines that an inmate needs a work or study release program placement and that the community will not be endangered thereby, he may make an exception to any of the limitations in paragraph (a) of this section.

(c) An inmate may not participate in study release on a full time basis in excess of one academic year without the approval of the Warden and Regional Director.

§ 570.15 Cases requiring special approval.

An inmate designated or tentatively designated as a Central Monitoring Case must have approval as authorized in Part 524 Subpart C, in order to participate in a work or study release program.

§ 570.16 Transportation and subsistence.

(a) Where feasible, an inmate shall use and pay for commercial transportation to and from the program placement. When commerical transportation is not feasible, the Warden may authorize the use of institution vehicles and may charge the inmate a fee comparable to the cost of commercial transportation.

(b) Under 18 U.S.C. 4082(c)(iii), "• • • A prisoner authorized to work at paid employment in the community under this subsection may be required to pay, and the Attorney General is authorized to collect, such costs incident to the prisoner's confinement as the Attorney General deems appropriate and reasonable. Collections shall be deposited in the Treasury of the United States as miscellaneous receipts. An inmate who is fully employed in the community shall pay a fixed charge of $2.00 per calendar day into the United States Treasury except there will be no charge made for the first 30 calendar days of community employment.

(c) The Warden may waive transportation and subsistence costs under paragraphs (a) and (b) of this section when he determines that the costs would unduly burden the inmate financially.

(d) An inmate may not reimburse the Government for expenses of work or study release except as provided in paragraphs (a) and (b) of this section.

§ 570.17 Clothing.

The Warden shall provide an inmate who is approved for work or study program placement with appropriate attire for the placement. The inmate may purchase supplemental or replacement clothing with personal funds. The inmate may not wear clothing acquired through the program placement inside the institution unless authorized by the Warden to do so.

§ 570.18 Expenses.

(a) The inmate, his family, or other sources approved by the Warden shall bear all expenses incidental to a work or study release program, such as the cost of meals in the community, laundry fees for clothing, cost of special equipment, etc.

(b) An inmate who has sufficient personal financial resources shall bear the cost of his study release program. The Warden may authorize government financing, within budgetary limi-

tations, of the study release program of an inmate without sufficient personal financial resources for whom alternative funding sources are not available. If an inmate withdraws, or is terminated from a course of study which the Government has funded, the Warden may initiate action to recover the Government's portion of the cost of the course.

§ 570.19 Compensation for injury.

The Federal Government assumes no responsibility for injury received by an inmate on work or study release. However, the Government shall provide needed medical treatment so long as the inmate remains in the custody of the Attorney General.

§ 570.20 Supervision of an inmate on work or study release.

Staff shall supervise an inmate on a work or study release placement to ensure the appropriateness of the placement and to monitor the performance of the inmate.

§ 570.21 Termination.

The Warden may terminate an inmate's participation in a work or study release program for any of the following causes:

(a) Completion of the program by the inmate;

(b) The inmate's misconduct or willful negligence;

(c) Cancellation of a placement for reasons beyond the inmate's control, e.g., budget cutbacks, job layoffs, etc.

Subpart C—Furloughs

§ 570.30 Purpose and scope.

The Attorney General has delegated the authority to grant furloughs under 18 U.S.C. 4082(c) to the Director, Bureau of Prisons (28 CFR .96(d)). The furlough program of the Bureau of Prisons is intended to help the inmate to attain correctional goals. A furlough is not a right, but a privilege granted an inmate under prescribed conditions. It is not a reward for good behavior, nor a means to shorten a criminal sentence.

§ 570.31 Definitions.

(a) A furlough is an authorized absence from an institution by an inmate who is not on a work/study release program nor under escort of a staff member or a U.S. Marshal. The two types of furlough are:

(1) Day Furlough—A furlough within the geographic limits of the commuting area of the institution (approximately a 50 mile radius), which lasts 16 hours or less, and ends before midnight.

(2) Overnight Furlough—A furlough other than a day furlough.

(b) An anticipated release date, for purposes of this rule, refers to the first of the following dates which applies to an inmate requesting a furlough:

(1) The inmate's mandatory release date,

(2) The date of expiration of the inmate's minimum term,

(3) The inmate's presumptive parole date,

(4) The inmate's effective parole date, or

(5) In the absence of a presumptive or effective parole date, the top of the range of months to be served for the inmate's specific offense and salient factor score, using the Parole Commission guidelines.

§ 570.32 Justification for furlough.

(a) The Warden may approve a furlough for an inmate:

(1) To be present during a crisis in the immediate family, or in other urgent situations;

(2) To participate in the development of release plans;

(3) To reestablish family and community relationships;

(4) To participate in selected educational, social, civic, religious, and recreational activities which will facilitate release transition;

(5) To transfer directly to another institution or to a non-federal facility;

(6) To appear in court in connection with a civil action;

(7) To comply with an official request to appear before a grand jury, or to comply with a request from a legislative body or regulatory or licensing agency; or

(8) To appear in a criminal court proceeding, but only when the use of a furlough is requested or recommended by the forum court or prosecuting attorney.

(b) The Warden may recommend a furlough for an inmate to obtain necessary medical/surgical/dental/psychiatric treatment not otherwise available. In addition to the recommendation of the Warden, a furlough of this nature requires the recommendation of the Chief Medical Officer (Chief of Health Programs). Approval for a furlough of this type occurs in one of the following ways:

(1) Staff shall contact the regional office for approval when the cost of medical care is at the expense of the government. In case of medical emergency, staff may authorize a furlough for hospitalization and shall notify the regional office as soon after the emergency admission as possible.

(2) When medical care expenditures are borne by the inmate, or other nongovernmental source, the furlough request requires the approval of the Medical Director and the Assistant Director, Correctional Programs Division.

(c) The Warden may refer a request for a furlough in other situations through the Regional Director to the Assistant Director, Correctional Programs Division for approval.

§ 570.33 Expenses of furlough.

(a) Except as provided in paragraph (b) of this section, the inmate or his family or another appropriate source the Warden may approve, shall bear all expenses of a furlough, including transportation, food, lodging and incidentals.

(b) The Government bears the expense of a furlough when the purpose of furlough is to obtain necessary medical or dental treatment not otherwise available, or to transfer an inmate to another correctional institution.

§ 570.34 Eligibility requirements.

(a) The Warden may grant a furlough only to an inmate with community custody.

(b) The Warden may grant a furlough only to an inmate he judges to be physically and mentally capable of completing the furlough.

(c) The Warden may grant a furlough only to an inmate who has acted so responsibly as to promote reasonable assurance that he will fully comply with furlough requirements.

(d) The Warden shall determine the eligibility of an inmate for furlough in accord with the inmate's anticipated release date and the basis for his furlough request.

(1) The Warden may approve only emergency furloughs (family crisis or other urgent situation) for an inmate with more than two years remaining until his anticipated release date.

(2) The Warden may approve for day furlough an inmate with two years or less remaining until his anticipated release date.

(3) The Warden may approve for overnight furlough within the institution's commuting area an inmate with 18 months or less remaining until his anticipated release date.

(4) The Warden may approve for an overnight furlough outside the institution's commuting area an inmate with one year or less remaining until his anticipated release date. The Warden may normally approve a furlough in this category not more than once each 90 days.

(5) If the Warden approves a furlough outside these guidelines, he shall document his reasons by memorandum for placement in the inmate's central file.

§ 570.35 Limitations on eligibility.

(a) The Warden may not grant a furlough to an inmate convicted of a serious crime against the person and whose presence in the community could attract undue public attention, create unusual concern, or depreciate the seriousness of his offense, unless the Warden determines that the value of the furlough is greater than the attendant risk. If the Warden approves a furlough for such an inmate, the Warden shall place a statement of the reasons for this action in the inmate's central file.

(b) The Warden may approve a furlough for an inmate designated a Central Monitoring Case upon compliance with the requirements of this rule and the requirements of 524 Subpart C.

(c) Staff at a contract facility may approve a furlough for a sentenced inmate housed in the contract facility provided the requirements set forth in this rule are met. The Community Programs Officer is available to receive questions on these cases.

§ 570.36 Procedures.

(a) An inmate who meets the eligibility requirements of this rule may submit to staff an application for furlough.

(b) Before approving the application, staff shall verify that a furlough is indicated.

(c) Staff shall notify an inmate of the decision on the inmate's application for furlough. Where an application for furlough is denied, staff shall notify the inmate of the reasons for denial.

(d) Upon completion of an inmate's furlough, staff shall record in the inmate's central file anything unusual which occurred during the furlough.

§ 570.37 Violation of furlough.

An inmate who absconds from furlough or fails to meet any of the conditions of his furlough is deemed to be an escapee under federal law, 18 U.S.C. 4082, 751.

(1) Staff shall process as an escapee an inmate who absconds from furlough.

(2) Staff may take disciplinary action against an inmate who fails to comply with any of the conditions of his furlough.

Subpart D—Reimbursement by Participants of Community Employment Programs

§ 570.50 Authorization.

Under 18 U.S.C. 4082(c)(2) the Attorney General may require a participant in a community work program to pay appropriate and reasonable costs incidental to his confinement.

§ 570.51 Policy.

(a) A fully employed participant in a community work program shall pay a fixed charge of $2.00 per calendar day into the U.S. Treasury in reimbursement for services and supplies normally made available to inmates of federal institutions. Services and supplies may include, but are not limited to, lodging, meals taken at the residential facility, clothing, bedding, laundry, allowances and medical care, but excludes transportation to and from the inmate's place of work.

(b) The Center Director may impose an additional charge for transportation to and from the inmate's place of work.

(c) No charge is made during the inmate's first thirty calendar days of community employment.

(d) A Center Director may waive the fixed charge for an inmate after the first thirty days of employment upon demonstration of emergency or compelling reasons for doing so.

(e) A Center Director may waive the fixed charge for an inmate who lives away from the center as an integral part of his program.

(f) There is no charge to an inmate who works less than 4 hours a day.

(g) The fixed charge may be prorated to an inmate on layoff from employment.

(h) The fixed charge may be prorated to an inmate who works less than forty hours a week but more than 4 hours a day.

PART 571—RELEASE FROM CUSTODY

Subpart A—[Reserved]

Subpart B—Pre-Release Program

Sec.
571.10 Purpose and scope.
571.11 Program responsibility.
571.12 General characteristics.

Subpart C-D—[Reserved]

Subpart E—Fines and costs

571.40 Purpose and scope.
571.41 Definitions.
571.42 Procedures relating to a committed fine.

AUTHORITY: 5 U.S.C. 301; 18 U.S.C. 4001, 4042, 4081, 4082, 4161-4166, 5015, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95-0.99.

Subpart A—[Reserved]

Subpart B—Pre-Release Program

§ 571.10 Purpose and scope.

The Bureau of Prisons recognizes that an inmate's preparation for release begins as soon as he is committed to the institution. The Warden shall provide a Pre-Release Program to prepare an inmate for return to the community.

§ 571.11 Program responsibility.

The Warden shall delegate to a staff member the responsibility to:

(a) Coordinate the Pre-Release Program for the entire institution;

(c) Establish outlines of inmate need areas; and

(e) Contact and schedule volunteers from the local community.

§ 571.12 General characteristics.

(a) Staff shall structure the Pre-Release Program to make extensive use of staff, inmate, and community resources.

(b) The institution staff shall strongly encourage and support an inmate's participation in a Pre-Release Program. Staff may require an inmate to participate in a specific number of Pre-Release sessions.

(c) The inmate who is approved for a Community Treatment Center shall participate in a specific number of programs sessions prior to actual placement in the Community Treatment Center.

(d) To assist in the release process, the Warden may, in accordance with Part 570 Subpart C, grant a furlough for release preparation purposes to an inmate.

(e) Staff shall help an inmate obtain proper identification (Social Security Card and any other documents needed to help an inmate establish himself in the community) prior to release.

Subpart C-D—[Reserved]

Subpart E—Fines and Costs

§ 571.40 Purpose and Scope.

When the court directs that an inmate remain confined until a fine or other penalty is paid, the Bureau of Prisons shall confine the inmate until he pays or arranges to pay the fine, unless the inmate qualifies for release under 18 USC 3569 as an indigent. If the inmate is indigent, the Warden may allow the inmate to take the oath of an indigent prisoner which states that the inmate has no money or assets exceeding $20 with which to pay the fine. Prior to administering the oath, the Warden must make a finding that the inmate is indigent.

§ 571.41 Definitions.

(a) Committed Fine—a monetary penalty imposed, with the conditions of imprisonment until the fine is paid.

(b) Non-committed Fine—a fine with no condition of imprisonment.

(c) Costs of prosecution—monetary costs which the court may levy in addition to a penalty imposed.

Imposition of costs is similar in legal effect to impostion of a fine. The court may also impose costs with a condition of imprisonment.

§ 571.42 Procedures relating to a committed fine.

(a) Staff shall inform the inmate that there is a committed fine on file against him. Staff shall then impound

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the inmate's trust fund account until the fine is paid except—

(1) The inmate each month may spend an amount from the trust fund account to purchase items from the commissary, not exceeding the maximum monthly allowance authorized for such purchases;

(2) Staff may authorize withdrawals by the inmate from the trust fund account for emergency family or personal needs or for purposes of furlough.

(b) If the inmate pays the committed fine, or if staff verifies payment made prior to confinement, staff shall document payment in the appropriate file and release the inmate's trust fund account from impoundment.

(c) The Warden may not transfer to a contract Community Treatment Center or to a state institution an inmate against whom there is an unpaid committed fine on file.

(d) If an inmate has an unpaid committed fine prior to release, staff shall interview the inmate about intent to pay the fine and shall require the inmate to execute the appropriate form. The inmate may refuse to execute the form and may make a statement inconsistent with the options provided by the form, if that is his wish.

(e) Ninety days prior to probable release date, staff shall have the inmate who has not paid the committed fine complete the "Financial Statement of Debtor" form. Twenty-one days before the inmate's release date, staff shall interview him to review all completed forms and other documents relative to the unpaid fine.

(1) Staff shall advise an inmate not considered to be indigent to apply to the U.S. Magistrate in the district of confinement for disposition of the fine. If the U.S. Magistrate has not scheduled a hearing for the inmate within seven (7) days of the inmate's probable release date, staff shall contact the U.S. Magistrate to inquire about the status of the hearing and inform the inmate. The Warden may not release the inmate on the scheduled date of release without an order from the U.S. Magistrate.

(2) When the inmate's trust fund account balance is less than twenty dollars and the completed forms indicate that the inmate is indigent, staff shall conduct its own review of all available information and notify the Warden of their findings.

(3) When the Warden finds that the inmate is indigent, he shall advise the inmate and notify him that he will allow the inmate to take the oath of an indigent prisoner on the date of release: *Provided,* That no information to the contrary is found prior to release. Upon administering of the oath, the Warden may discharge the indigent inmate in accordance with provisions of 18 USC 3569.

(f) Staff shall keep the U.S. Attorney, of the district in which the fine was imposed, informed on matters which relate to the inmate's fine. The Warden shall invite the U.S. Attorney to comment on the information provided.

PART 572—PAROLE

Subpart A–C—[Reserved]

Subpart D—Parole and Mandatory Release Violator Reports

Sec.
572.30 Purpose and scope.
572.31 Procedures.

Subpart E—Procedures for the Implementation of Section 4205(g) of the Parole Commission and Reorganization Act

572.40 Purpose and scope.
572.41 Initiation of request.
572.42 Approval of request.
572.43 Denial of request.

AUTHORITY: 5 U.S.C. 301; 18 U.S.C. 4001, 4042, 4081, 4082, 4161–4166, 5015, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

Subpart A–C—[Reserved]

Subpart D—Parole and Mandatory Release Violator Reports

§ 572.30 Purpose and scope.

The Bureau of Prisons provides the United States Parole Commission with a Violator Report for use at the revocation hearing of a parole or mandatory release violator, when that hearing is conducted in an institution of the Bureau of Prisons.

§ 572.31 Procedures.

Staff shall prepare the Violator to include the following information:

(a) The inmate's original offense, sentence imposed, date and district;

(b) Description of release procedure;

(c) Alleged violation(s) of parole or mandatory release;

(d) Inmate's comments concerning the alleged violation(s);

(e) An outline of the inmate's activities while under supervision on parole and mandatory release; and

(f) At the option of the inmate, statement of current release plans and available community resources.

Subpart E—Procedures for the Implementation of Section 4205(g) of the Parole Commission and Reorganization Act

§ 572.40 Purpose and Scope.

Under 18 U.S.C. 4205 (g), a sentencing court, on motion of the Bureau of Prisons, may make an inmate immediately eligible for parole by reducing the minimum term of his sentence to time served. The Bureau utilizes Section 4205 (g) only in particularly meritorious or unusual circumstances which could not reasonably have been foreseen by the court at the time of sentencing. The section may be used, for example, if there is an extraordinary change in an inmate's personal or family situation or if an inmate becomes severely ill.

§ 572.41 Initiation of request.

(a) An inmate may submit a written request for a motion under 18 U.S.C. 4205 (g) to the Warden. In the request, the inmate shall relate the circumstances that he believes warrant his consideration under 18 U.S.C. 4205 (g). In addition, the inmate shall include the following information about himself in the request:

(1) Offense,

(2) Plea,

(3) Length and date of sentence,

(4) Name and location of sentencing court,

(5) Date service of sentence began,

(6) Parole eligibility date, and

(7) Mandatory release date.

(b) The Bureau of Prisons processes a request made by another person on behalf of an inmate in the same manner as an inmate's request. Staff shall refer a request received at the Central Office or at a Regional Office to the Warden of the institution where the inmate is confined.

§ 572.42 Approval of request.

(a) The Bureau of Prisons makes a motion under 18 U.S.C. 4205 (g) only after review of the request by the Warden, the Regional Director, the General Counsel, the Medical Director or the Assistant Director, Correctional Programs Division, and with the approval of the Director, Bureau of Prisons.

(1) If the Warden upon an investigation of the inmate's request determines that the request has merit, he shall refer the matter in writing with his recommendation to the Regional Director.

(2) If the Regional Director determines that the requests warrants approval, he shall prepare a written recommendation and refer the matter to the Office of General Counsel.

(3) If the General Counsel determines that the request warrants approval, he shall solicit the opinion of either the Medical Director or the Assistant Director, Correctional Programs Divisions, depending upon the nature of the basis for the request. With this opinion, the General Counsel shall forward the entire matter to the Director, Bureau of Prisons, for final decision.

(4) If the Director, Bureau of Prisons, grants a request, he shall ask the U.S. Attorney in the district in which the inmate was sentenced to move the sentencing court on behalf of the

Bureau of Prisons to reduce the minimum term of the inmate's sentence to time served.

(b) Upon receipt of notice that the sentencing court has entered an order granting the motion under 18 U.S.C. 4205 (g), the Warden of the institution where the inmate is confined shall schedule the inmate for hearing on the earliest Parole Commission docket.

(c) In event of medical emergency certified by the physician of the institution where the inmate is confined, staff shall expedite the request at all levels.

§ 572.43 Denial of Request.

(a) When the Director, Bureau of Prisons, denies a request, he shall provide the inmate with written notice and a statement of reasons within 20 workdays after receipt of the referral from the Office of General Counsel. A denial by the Director constitutes a final administrative decision.

(b) When the inmate's requests for consideration under 18 U.S.C. 4205 (g) is denied by the General Counsel, this denial constitutes a final administrative decision.

(c) When the inmate's request is denied by the Warden or Regional Director, the inmate may appeal the denial through the Administrative Remedy Procedure (Rule 542, Subpart B).

NORMAN A. CARLSON,
Director, Federal Bureau of Prisons.

JANUARY 8, 1979.

[FR Doc. 79-1095 Filed 1-11-79; 8:45 am]

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federal register

FRIDAY, JANUARY 12, 1979
PART VIII



DEPARTMENT OF COMMERCE

Office of the Secretary

DRAFT UNIFORM PRODUCT LIABILITY LAW

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[3510-17-M]

DEPARTMENT OF COMMERCE

Office of the Secretary

DRAFT UNIFORM PRODUCT LIABILITY LAW

INTRODUCTION

The Department of Commerce is seeking public comment on the Draft Model product Liability Law which follows. On the basis of the public comment the draft law will be revised. That work product will be reviewed by the Administration and a final version will be published as a model law for use by the states.

BACKGROUND OF THE DRAFT LAW

The Department chaired an 18-month interagency study on the topic of product liability. The Task Force's Final Report was published on November 1, 1977.

On the basis of that report, representatives from the Office of Management and Budget and the Domestic Policy Staff of the White House asked the Department of Commerce to prepare an options paper regarding what action, if any, the Federal Government should take to address the product liability problem. That paper was published in the FEDERAL REGISTER On April 6, 1978 (43 FR 14612 (1978)). A synthesis of the public comment on the options paper was published in the FEDERAL REGISTER on September 11, 1978 (43 FR 40438 (1978)).

On July 20, 1978, the Administration announced its program to address the product liability problem. Its short-range measure, a tax proposal, was enacted into law (Revenue Act of 1978, Pub. L. No. 95-600, § 371).

A principal long-range measure was a model uniform product liability law. The model law is intended to balance the interests of product users and sellers and to provide uniformity in the major areas of tort law that may affect product liability insurance ratemaking.

SOURCES OF THE LAW

The model law is based, in part, on the work products of the Interagency Task Force on Product Liability, including its Final Report, its Legal Study, its Industry Study, and its Insurance Study.[1] Also, a thorough review was conducted of all major case law and law review literature that had been published since the time of the Task Force's Legal Study.

As will be apparent from the Law's section-by-section analysis, attention was given to:

(1) Findings of the extensive Product Liability Closed Claim Survey conducted by the Insurance Services Office in 1976-1977;

(2) All product liability legislation that has been enacted at the state level plus major proposals that had been before state legislatures in the past two years;

(3) Congressional hearings on product liability and the Report of the House Subcommittee on Capital, Investment and Business Opportunities of the Committee on Small Business (see Report No. 95-997 (Congressman John LaFalce, Chairman)); and

(4) Privately drafted model product liability legislation.

A bibliography of some of the major resources considered by the Department is set forth in Appendix A.

CRITERIA FOR THE LAW

Aside from the principal goal of balancing the interests of product users and sellers, six criteria were utilized in evaluating provisions of the model code:[2]

(1) *Ensure the availability of "affordable" product liability insurance with adequate coverage to product sellers that engage in reasonably safe design and quality control practices.*

This consideration suggests that the law should attempt to create a situation in which "affordable" product liability insurance is available to manufacturers that follow reasonably safe manufacturing practices. It should not, however, be modified in order to provide such insurance to manufacturers who are unwilling or unable to follow reasonably safe manufacturing practices.

(2) *Ensure that a person injured by an unreasonably unsafe product receives reasonable compensation for his or her injury.*

Many proposed alterations in product liability law are primarily justified by the fact that they contain "cost-saving devices" for product liability insurers or their insureds. This consideration would balance this projected "cost saving" against the responsibility of product sellers for providing reasonable compensation to persons harmed by unreasonably unsafe products.

(3) *Place the incentive for risk prevention on the party or parties who are best able to accomplish that goal.*

Part of the product liability problem has, in part, been caused by unsafe manufacturing practices. Obviously, it is in the interest of all groups affected by the product liability problem to reduce the number of accidents caused by products. The Task Force study showed that product liability law can help bring about this goal. The threat of tort law liability and product liability judgments has prompted manufacturers to make a greater effort to produce safe products. Nevertheless, existing state product liability law does not place the incentive for risk prevention on the party or parties who can best implement that goal.

The placement of an incentive for risk prevention is not an easy task. At least two factors helped determine where it should be located. One is based on pure economics—which party can prevent the risk at lowest cost. Economic analysis of preliminary drafts of this law were helpful in that regard.

A second factor focused on who is in the best practical position to prevent a product-related injury. This factor may point to another party. Sometimes a product seller may be in a better practical position to implement a risk prevention technique although a product user could do so at a lesser cost.

(4) *Expedite the reparations process from the time of injury to the time the claim is paid.*

Delays in the reparations process do not serve any social interest. A seriously injured claimant can ill afford to endure long delays between the time of his injury and the time he is paid. Therefore, the law has placed emphasis on arbitration and other means that will help expedite the reparations process.

(5) *Minimize the sum of accident costs, prevention costs, and transaction costs.*

This goal, while worthwhile, is not easy to fulfill within the tort-litigation system. For example, one can minimize "transaction costs" by abolishing trial by jury; however, this would be at the expense of other societal values which are particularly important in product liability cases, such as the need for the individualized judgment of cases and the experience of ordinary persons in making those judgments. Nevertheless, this consideration is significant enough to weigh in formulating the draft law.

(6) *The remedy is comparatively specific and concrete in nature and format.*

Many product liability proposals that appear sound when stated in a broad and general manner break down when one focuses on the practicality of their implementation. In drafting the law, practicality, as well as conciseness and clarity of language, were important goals. The law was drafted as a guideline for courts, not as a detailed legal contract between product seller and user.

Other considerations were utilized in the process of formulating each of the sections. They are high-lighted in the section-by-section analysis that accompanies the law. Again, permeating the discussion of all remedies is the concern that the provision is fair to all of the many groups that have an interest in the product liability problem.

Finally, it is important to understand the basic philosophy that underlies the model product liability law. Product liability law is a branch of the law of torts. The function of tort law is to shift the cost of an accident from a claimant to a defendant when that person is deemed "responsible" for the claimant's injuries. This responsibility should be defined in terms that everyone can understand. It should indicate why a particular individual product seller should bear the cost of that injury.

Tort law is not a compensation system similar to Social Security or Worker Compensation. A product seller is not being asked to pay merely because his product caused an injury. If that were the case, it would be far more efficient and less expensive to make purchasers of products third-party beneficiaries of product sellers' insurance policies and provide a limited damage recovery, as is the case with other compensation systems. In sum, product liability law should impose liability only where it is fair to deem the product seller responsible for an injury.

REQUEST FOR COMMENT

We would appreciate your comments and regret that we may be unable to provide individual acknowledgements to each communication. Out time will be reserved for giving close attention to your suggestions and observations. Comment should be addressed to Victor Schwartz, Chairman, Task Force on Product Liability and Accident Compensation, Room 5027, U.S. Department of Commerce, Washington, DC 20230. Because of the need for prompt action in this matter, comments must be forwarded within 45 days. We anticipate publishing a final version in June 1979.

C. L. HASLAM,
General Counsel.
VICTOR E. SCHWARTZ,
Chairman, Task Force on Product Liability and Accident Compensation.

OUTLINE: DRAFT UNIFORM PRODUCT LIABILITY ACT

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UNIFORM PRODUCT LIABILITY ACT

PREAMBLE

This Act sets forth uniform standards for state product liability tort law. It does not cover all issues that may be litigated in product liability cases; rather, it focuses on those where the need for uniform rules is the greatest. The purpose of these uniform rules is to eliminate existing confusion and uncertainty on the part of both product users and product sellers about their respective legal rights and obligations. Improving the level of certainty as to how state product liability law will deal with claims for injuries caused by allegedly defective products should also, over time, promote greater availability and affordability in product liability insurance and greater stability in rates and premiums.

SEC. 100. SHORT TITLE

This Act shall be known and may be cited as the "Uniform Product Liability Act."

SEC. 101. FINDINGS

(a) Sharply rising product liability insurance premiums have created serious problems in interstate commerce resulting in:

(1) Increased prices of consumer and industrial products;

(2) Disincentives to develop high-risk but potentially beneficial products;

(3) Businesses going without product liability insurance coverage, thus jeopardizing the availabiltiy of compensation to injured persons; and

(4) Panic "reform" efforts that would unreasonably curtail the rights of product users.

(b) One cause of these problems is that product liability law is fought with uncertainty; the rules vary from jurisdiction to jurisdiction and are in a constant state of flux, thus militating against predictability of litigation outcome.

(c) Insurers have cited uncertainty in product liability law and litigation outcome as a justification for setting rates and premiums that, in fact, may not reflect actual product risk.

(d) Product liability insurance rates are set on the basis of a countrywide, not an individual state, experience. Thus, individual states can do little to solve the problem because a product manufactured in one state can readily cause injury in any one of the other 49 states or the District of Columbia.

(e) Uncertainty in product liability law and litigation outcome is added to litigation costs and may put an additional strain on the judicial system.

(f) Recently enacted state product liability legislation has widened already existing disparities in the law.

SEC. 102. DEFINITIONS

(1) *Product Seller.*

"Product seller" means any person or entity, including a manufacturer, wholesaler, distributor, or retailer, who is engaged in the business of selling such products, whether the sale is resale, or for use or consumption. The term "product seller" also includes lessors or bailors of products who are en-

[1] The Task Force's reports are available from the National Technical Information Service, Springfield, Virginia 22161. Reference should be made to the appropriate accession number, and a check made payable to NTIS in the proper amount should be enclosed. Final Report: Accession Number PB 273-220, price $20.00; Legal study: PB 263-601, price $31.25 (Volume I is an Executive Summary and may be ordered separately—PB 265-450, price $6.50); Industry Study: PB 265-542 price $21.25; Insurance Study: PB 263-600, price $9.00.

[2] A more extensive discussion of these criteria appears in the Task Force Report, pp. VII-29.

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gaged in the business of leasing or bailment of products.

(2) *Product Liability Claim.*

"Product liability claim" includes all claims or actions brought for personal injury, death, or property damage caused by the manufacture, construction, design, formula, preparation, assembly, installation, testing, warnings, instructions, marketing, packaging, or labeling of any product. It includes, but is not limited to, all actions based on the following theories: strict liability in tort; negligence; breach of warranty, express or implied; breach or failure to discharge a duty to warn or instruct, whether negligent or innocent; misrepresentation, concealment, or nondisclosure, whether negligent or innocent; or under any other substantive legal theory in tort or contract.

(3) *Claimant.*

"Claimant" means a person asserting a legal cause of action or claim and, if the claim is asserted on behalf of an estate, claimant includes claimant's decedent. Claimants include product users, consumers, and bystanders who are harmed by defective products.

(4) *Harm.*

"Harm" includes damage to property and personal physical injuries including emotional harm. It includes damage to the product itself. Damage caused by loss of use of a product is not included, but a claim may be allowed if the seller expressly warranted this protection and this warranty was intended to extend to claimant.

(5) *Manufacturer.*

"Manufacturer" includes product sellers who design, assemble, fabricate, construct, process, package, or otherwise prepare a product or component part of a product prior to its sale to a user or consumer. It includes a product seller or entity not otherwise a manufacturer that holds itself out as a manufacturer.

(6) *Reasonably Anticipated Conduct.*

"Reasonably anticipated conduct" means conduct which would be expected of an ordinary prudent person who is likely to use the product.

(7) *Clear and Convincing Evidence.*

"Clear and convincing evidence" is that measure or degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the allegations sought to be established.

SEC. 103. SCOPE OF THIS ACT

(a) A product liability claim provided by this Act shall be in lieu of all existing claims against product sellers (including actions in negligence, strict liability, and warranty) for harms caused by a product.

(b) A claim may be asserted successfully under this Act even though the claimant did not buy the product from or enter into any contractual relationship with the product seller.

(c) The previously existing applicable state law of product liability is modified only to the extent set forth in this Act.

SEC. 104. THE BASIC STANDARDS OF RESPONSIBILITY

A product seller may be subject to liability for harm caused to a claimant who proves by a preponderance of the evidence that one or more of the following conditions apply: the product was defective in construction (Subdivision 104A); the product was defective in design (Subdivision 104B); or the product was defective in that adequate warnings or instructions were not provided (Subdivision 104C).

104(A) *The Product Was Defective in Construction.*

The harm was caused because the product was not made in accordance with the product seller's own design or manufacturing standards. In determining whether the product was defective, the trier of fact may consider the product seller's specifications for the product, and any differences in the product from otherwise identical units of the same product line.

104(B) *The Product Was Defective in Design.*

The harm was caused because the product was defective in design. In determining whether the product was defective, the trier of fact shall consider whether an alternative design should have been utilized, in light of:

(1) The likelihood at the time of manufacture that the product would cause the harm suffered by the claimant;

(2) The seriousness of that harm;

(3) The technological feasibility of manufacturing a product designed so as to have prevented claimant's harm;

(4) The relative costs of producing, distributing, and selling such an alternative design; and

(5) The new or additional harms that may result from such an alternative design.

104(C) *The Product Was Defective Because Adequate Warnings or Instructions Were Not Provided.*

The harm was caused because the product seller failed to provide adequate warnings or instructions about the dangers and proper use of the product.

(1) In determining whether adequate instructions or warnings were provided, the trier of fact shall consider:

(a) The likelihood at the time of manufacture that the product would cause the harm suffered by the claimant;

(b) The seriousness of that harm;

(c) The product seller's ability to anticipate at the time of manufacture that the expected product user would be aware of the product risk, and the nature of the potential harm; and

(d) The technological feasibility and cost of warnings and instructions.

(2) In claims based on Section 104(C), the claimant shall prove that if adequate warnings or instructions had been provided, a reasonably prudent person would not have suffered the harm.

(3) A product seller may not be considered to have provided adequate warnings or instructions unless they were devised to communicate with the person(s) best able to take precautions against the potential harm.

SEC. 105. UNAVOIDABLY UNSAFE ASPECTS OF PRODUCTS

(a) An unavoidably unsafe aspect of a product is that aspect incapable of being made safe in light of the state of scientific and technological knowledge at the time of manufacture.

(b) A product seller may be subject to liability for failing to provide an adequate warning or instruction about an unavoidably unsafe aspect of the seller's product, if the factors set forth in Section 104, subdivision (C) indicate that such warnings or instructions should have been given. This obligation to warn or instruct may arise after the time the product is manufactured.

(c) If Section 104(C) is not applicable, the product seller shall not be subject to liability for harm caused by an unavoidably unsafe aspect of a product unless the seller has expressly warranted by words or actions that the product is free of such unsafe aspects.

SEC. 106. RELEVANCE OF THE "STATE OF THE ART" AND INDUSTRY CUSTOM

(a) For the purposes of this section, "state of the art" means the safety, technical, mechanical, and scientific knowledge in existence and reasonably feasible for use at the time of manufacture.

(b) Evidence of changes in a product design, in the "state of the art," or in the custom of the product seller's industry occurring after the product was manufactured is not admissible for the purpose of proving that the product was defective in design under Section 104(B), or that a warning or instruction should have accompanied the product at the time of manufacture under Section 104(C). The evidence may be admitted for other purposes if its probative value outweighs its prejudicial effect.

(c) Evidence of custom in the product seller's industry is generally admissible. The product seller's compliance or non-compliance with custom may be considered by the trier of fact in determining whether a product was defective in design under Section 104(C), or whether there was a failure to warn or instruct adequately under Section 104(C).

(d) Evidence that a product conformed to the "state of the art" at the time of manufacture, raises a presumption that the product was not defective within the meaning of Sections 104(B) and (C). This presumption may be rebutted by clear and convincing evidence that in light of the factors set forth in Section 104 (B) and (C), the product was defective.

(e) A product seller may by a motion request the court to determine whether the injury-causing aspect of the product conformed to a non-governmental safety standard having the following characteristics:

(1) It was developed through careful, thorough product testing and a formal product safety evaluation;

(2) Consumer as well as manufacturer interests were considered in formulating the standard;

(3) It was considered more than a minimum safety standard at the time of its development; and

(4) The standard was up-to-date in light of the technological and scientific knowledge reasonably available at the time the product was manufactured.

If the court makes such a determination in the affirmative, it shall instruct the trier of fact to presume that the product was not defective. This presumption may be rebutted by clear and convincing evidence that in light of the factors set forth in Sections 104(B) and (C), the product was defective.

SEC. 107. RELEVANCE OF COMPLIANCE WITH LEGISLATIVE OR ADMINISTRATIVE STANDARDS

(a) A product seller may by a motion request the court to determine whether the injury-causing aspect of the product conformed to an administrative or legislative standard having the following characteristics:

(1) It was developed as a result of careful, thorough product testing and a formal product safety evaluation;

(2) Consumer as well as manufacturer interests were considered in formulating the standard;

(3) The agency responsible for enforcement of the standard considered it to be more than a minimum safety standard at the time of its promulgation; and

(4) The standard was up-to-date in light of the technological and scientific knowledge reasonably available at the time the product was manufactured.

(b) If the court makes such a determination in the affirmative, it shall instruct the trier of fact to presume that the product was not defective. This presumption may be rebutted by clear and convincing evidence that in light of the factors set forth in Section 104 (B) and (C), the product was defective.

SEC. 108. NOTICE OF POSSIBLE CLAIM REQUIRED

(a) An attorney who anticipates filing a claim under this Act shall present a notice of this claim stating the time, place and circumstances of events giving rise to the claim along with an estimate of compensation or other relief to be sought.

(b) This notice shall be given within six months of the date of entering into an attorney-client relationship with the claimant in regard to the claim. For the purposes of this Act, such a relationship arises when the attorney, or any member or associate of the attorney's firm, agrees to serve the claimant's interests in regard to the anticipated claim. Notice shall be given to all persons or entities against whom the claim is likely to be made.

(c) Any product seller who receives notice pursuant to subsection (a) promptly shall furnish claimant's attorney with the names and addresses of all persons the product seller knows to be in the chain of manufacture and distribution, if requested to do so by the attorney at the time the notice is given. Any product seller who fails to furnish such information shall be subject to liability as provided for in subsection (e).

(d) A claimant who delays entering into an attorney-client relationship to delay unreasonably the notice required by subsection (a) shall be subject to liability as provided in subsection (e).

(e) Any person who suffers monetary loss because of the failure of a claimant or his attorney or of a product seller in the chain of manufacture and distribution to comply with the requirements of this section may recover damages, costs, and reasonable attorneys' fees from that party. Failure to comply with the requirements of this section does not affect the validity of any claim or defense under this Act.

SEC. 109. LENGTH OF TIME PRODUCT SELLERS ARE SUBJECT TO LIABILITY FOR HARM CAUSED BY THEIR PRODUCTS

(A) Useful Safe Life.

(1) A product seller may be liable to a claimant for harm caused by the seller's product during the useful safe life of that product. "Useful safe life" refers to the time during which the product reasonably can be expected to perform in a safe manner. In determining whether a product's useful safe life has expired, the trier of fact may consider:

(a) The effect on the product of wear and tear or deterioration from natural causes;

(b) The effect of climatic and other local conditions in which the product was used;

(c) The policy of the user and similar users as to repairs, renewals and replacements;

(d) Representations, instructions and warnings made by the product seller about the product's useful safe life; and

(e) Any modification or alteration of the product by a user or third party.

(2) A product seller shall not be liable for injuries or damage caused by a product beyond its useful safe life unless the seller has so expressly warranted.

(B) Statutes of Repose.

(1) Workplace Injuries.

(a) A claimant entitled to compensation under a state worker compensation statute may bring a product liability claim under this Act for harm that occurs within ten (10) years after delivery of the completed product to its first purchaser or lessee who was not engaged in the business of selling products of that type.

Where this Act precludes a worker from bringing a claim because of subdivision (1)(a), but the worker can prove, by the preponderance of evidence, that the product causing the injury was unsafe, the worker may bring a claim against the workplace employer. If possible, the claim should be brought in a worker compensation proceeding, and shall include all loss of wages that otherwise would not be compensated under the applicable worker compensation statute.

(c) Where this Act precludes a worker's beneficiaries under an applicable wrongful death statute from bringing a wrongful death claim because of subdivision (1)(a), but they can prove, by a preponderance of evidence, that the product that caused the worker's death was unsafe, they may bring a claim against the workplace employer. If possible, the claim must be brought in a Worker Compensation proceeding, and shall include pecuniary losses that would not have otherwise been compensated under the applicable worker compensation statute.

(d) An employer who is subject to liability under either subsection (1) (b) or (c) shall have the right to seek contribution from the product seller in an arbitration proceeding under Section 116 of this Act. Contribution shall be limited to the extent that the product seller is responsible for the harm incurred under the principles of Section 104 of this Act. The final judgment in

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that proceeding shall not be subject to trial *de novo*, but shall be treated as a final judgment of a trial court.

(2) Non-Workplace Injuries.

For product liability claims not included in subdivision (B) that involve harms occurring more than ten (10) years after delivery of the completed product to its first purchaser or lessee who was not engaged in the business of selling products of that type, the presumption is that the product has been utilized beyond its useful safe life as established by subdivision (A). This presumption may be rebutted by clear and convincing evidence.

(3) Limitations on Statutes of Repose.

(a) Where a product seller expressly warrants or promises that the seller's product can be utilized safely for a period longer than ten (10) years, the period of repose shall be extended according to these warranties or promises.

(b) The ten (10) year period of repose established in Section 109(B) does not apply if the product seller intentionally misrepresents a product, or fraudulently conceals information about it, where that conduct was a substantial cause of the claimant's harm.

(c) Nothing contained in Section 109(B) shall affect the right of any person found liable under this Act to seek and obtain contribution or indemnity from any other person who is responsible for harm under this Act.

(d) The ten (10) year period of repose established in Section 109(B) does not apply if the harm was caused by prolonged exposure to a defective product, or if an injury-causing aspect of the product existing at the time it was sold did not manifest itself until ten years after the time of its first use.

(C) Statute of Limitations.

All claims under this Act shall be brought within three years of the time the claimant discovered, or in the exercise of due diligence should have discovered, the facts giving rise to the claim.

SEC. 110. RELEVANCE OF THIRD-PARTY ALTERATION OR MODIFICATION OF A PRODUCT

(a) A product seller shall not be liable for harm that would not have occurred but for the fact that his product was altered or modified by a third party unless:

(1) The alteration or modification was in accordance with the product seller's instructions or specifications;

(2) The alteration or modification was made with the express consent of the product seller; or

(3) The alteration or modification was the result of conduct that reasonably should have been anticipated by the product seller.

(b) For the purposes of this section, alteration or modification includes changes in the design, formula, function, or use of the product from that originally designed, tested or intended by the product seller. It includes failure to observe routine care and maintenance, but does not include ordinary wear and tear.

SEC. 111. RELEVANCE OF CONDUCT ON THE PART OF PRODUCT LIABILITY CLAIMANTS

(a) General Rule.

In any claim under this Act, the comparative responsibility of, or attributed to, the claimant, shall not bar recovery but shall diminish the award of compensatory damages proportionately, according to the measure of responsibility attributed to the claimant.

(b) Apportionment of Damages.

In any claim involving comparative responsibility, the court, unless otherwise requested by all parties, shall instruct the jury to give answers to special interrogatories, or the court shall make its own findings if there is no jury, indicating—

(1) The amount of damages each claimant would have received if comparative responsibility were disregarded, and

(2) The percentage of responsibility allocated to each party, including the claimant, as compared with the combined responsibility of all parties to the action. For this purpose, the court may decide that it is appropriate to treat two or more persons as a single party.

(3) In determining the percentage of responsibility, the trier of fact shall consider, on a comparative basis, both the nature and quality of the conduct of the party.

(4) The court shall determine the award for each claimant according to these findings and shall enter judgment against parties liable on the basis of the common law joint and several liability of joint tortfeasors. The judgment shall also specify the proportionate amount of damages allocated against each party liable, according to the percentage of responsibility established for that party.

(5) Upon a motion made not later than one year after judgment is entered, the court shall determine whether all or part of a party's share of the obligation is uncollectible from that party, and shall reallocate any uncollectible amount among the other parties, including a claimant at fault, according to their respective percentages of fault. A party whose liability is reallocated is still to be subject to contribution and to any continuing liability to the claimant on the judgment.

(c) Conduct Affecting Claimant's Responsibility.

(1) Failure to Discover a Defective Condition.

(i) A claimant is not required to have inspected the product for defective condition. Failure to have done so does not render the claimant responsible for the harm caused.

(ii) Where a claimant using a product is injured by a defective condition that would have been apparent to an ordinary prudent person, the claimant's damages are subject to reduction according to the principles of subsections (a) and (b).

(2) Using a Product With a Known Defective Condition.

(i) A claimant who knew about a product's defective condition, but who voluntarily and unreasonably used the product, shall be held solely responsible for injuries caused by that defective condition.

(ii) In circumstances where a claimant knew about a product's defective condition and voluntarily used the product, but where the reasonableness of doing so was uncertain, claimant's, damages shall be subject to reduction according to the principles of subsections (a) and (b).

(3) Misuse of a Product.

(i) Where a claimant has misused a product by using it in a manner that the product seller could not have reasonably anticipated, the claimant's damages shall be reduced according to the principles of subsections (a) and (b).

(ii) Where the injury would not have occurred but for the misuse defined in subsection (3)(i), the product is not defective for purposes of liability under this Act.

SEC. 112. MULTIPLE DEFENDANTS: CONTRIBUTION AND IMPLIED INDEMNITY

(a) Rights of contribution and implied indemnity among multiple defendants shall be determined by reference to the principles of Section 111 (a & b).

(b) If the proportionate responsibility of the parties to a claim for contribution has been established previously by the court, as provided in Section 111, a party paying more than its share of the obligation, upon motion, may recover judgment for contribution.

(c) If the proportionate responsibility of the parties to the claim for contribution has not been established by the court, contribution may be enforced in a separate action, whether or not a judgment has been rendered against either the person seeking contribution or the person from whom contribution is being sought.

(d) Contribution is available to a person who enters into a settlement with a claimant only: (1) if the liability of the person against whom contribution is sought has been extinguished, and (2) to the extent that the amount paid in settlement was reasonable.

(e) If a judgment has been rendered, the action for contribution must be brought within one (1) year after the judgment becomes final. If no judgment has been rendered, the person bringing the action for contribution either must have: (1) discharged by payment the common liability within the period of the statute of limitations or repose applicable to the claimant's right of action against him and commenced the action for contribution within one year after payment, or (2) agreed while action was pending to discharge the common liability and, within one year after the agreement, have paid the liability and brought an action for contribution.

SEC. 113. THE RELATIONSHIP BETWEEN PRODUCT LIABILITY AND WORKER COMPENSATION

In the case of any claim brought under this Act by or on behalf of a person who has been or will be compensated for injuries under a state worker compensation law, where an employer's failure to comply with any statutory or common law duty relating to workplace safety contributed to the claimant's injuries, the employer shall be subject to a contribution claim as provided in Section 112 of this Act for a sum not to exceed the amount of the worker compensation lien.

SEC. 114. THE INDIVIDUAL RESPONSIBILITY OF PRODUCT SELLERS OTHER THAN MANUFACTURERS AS COMPARED TO OTHER PRODUCT SELLERS

(a) Manufacturers shall be responsible for defective conditions in their products according to the provisions of this Act. In the absence of express warrantees to the contrary, other product sellers shall not be subject to liability in circumstances where they do not have a reasonable opportunity to inspect the product in a manner which would or should, in the exercise of reasonable care, reveal the existence of the defective condition.

(b) The duty limitation of subsection (a) shall not apply, however, if:

(1) The manufacturer is not subject to service of process in the claimant's own state;

(2) The manufacturer has been judicially declared insolvent;

(3) The court determines that the claimant would have appreciable difficulty enforcing a judgment against the product manufacturer.

SEC. 115. SANCTIONS AGAINST THE BRINGING OF FRIVOLOUS CLAIMS AND DEFENSES

(a) After final judgment has been entered under this Act, either party, by motion, may seek reimbursement for reasonable attorneys' fees and other costs that would not have been expended but for the fact that the opposing party pursued a claim or defense that was frivolous.

(b) For the purposes of this Act, a claim or defense is considered frivolous if the court determines that it was without any reasonable legal or factual basis.

(c) If the court decides in favor of a party seeking redress under this section, it shall do so on the basis of clear and convincing evidence. In all motions under this section, the court shall make and publish its findings of fact.

(d) The motion provided for in subsection (a) may be filed and the claim assessed against the person who was responsible for the frivolous nature of the claim or defense.

(e) In situations where a claimant has been represented on a contingent fee basis and no legal costs have been or will be incurred by that claimant, the attorney for claimant may recover reasonable attorneys' fees based on the amount of time expended in opposing a frivolous defense.

(f) Claims for damages under this section shall not include expenses of persons not parties to the action.

SEC. 116. ARBITRATION

(a) Applicability.

In any claim brought under this Act where the amount in dispute is less than $30,000, exclusive of interest and costs, and the court determines in its discretion that any non-monetary claims are insubstantial, either party may by a motion institute a pre-trial arbitration proceeding.

(b) Rules Governing.

(1) The substantive rules of a Section 116 arbitration proceeding shall be those contained in this Act as well as those in applicable state law.

(2) The procedural rules of a Section 116 arbitration proceeding shall be those contained in this section. If this section does not address a particular issue, guidance may be obtained from the the Uniform Arbitration Act.

(3) A legislatively designated state agency may formulate additional procedural rules under this Act.

(c) Arbitrators.

(1) Unless the parties agree otherwise, the arbitration shall be conducted by three persons, one of whom shall be either an active member of the state bar or a retired judge of a court of record in the state, one shall be an individual who possesses expertise in the subject matter area that is in dispute, and one shall be a lay person.

(2) Arbitrators shall be selected in accordance with applicable state law in a manner which will assure fairness and lack of bias.

(d) Arbitrators' Powers.

(1) Arbitrators to whom claims are referred pursuant to Section 116 shall have the power within the territorial jurisdiction of the court, to conduct arbitration hearings and make awards consistent with the provisions of this Act.

(2) State laws applicable to subpoenas for attendance of witnesses and the production of documentary evidence shall apply in procedures conducted under this chapter. Arbitrators shall have the power to administer oaths and affirmations.

(e) Commencement.

The arbitration hearings shall commence not later than 30 days after the claim is referred to arbitration, unless for good cause shown the court shall extend the period. Hearings shall be concluded promptly. The court may order the time and places of the arbitration.

(f) Evidence.

(1) The Federal Rules of Evidence [or designated state evidence code] may be used as guides to the admissibility of evidence in an arbitration hearing.

(2) Strict adherence to the rules of evidence, apart from relevant state rules of privileges, is not required.

(g) Transcript of Proceeding.

A party may have a recording and transcript made of the arbitration hearing at its own expense. A party that has had a transcript or tape recording made shall furnish a copy of the transcript or tape recording at cost to any other party upon request.

(h) Arbitration Award and Judgment.

The arbitration award shall be filed with the court promptly after the hearing is concluded and shall be entered as the judgment of the court after the time for requesting a trial *de novo* has expired, unless a party demands a trial *de novo* before the court pursuant to subsection (i). The judgment so entered shall be subject to the same provisions of law, and shall have the same force and effect as a judgment of the court in a civil action, except that it shall not be subject to appeal.

(i) Trial *De Novo*.

(1) Within 20 days after the filing of an arbitration award with the court, any party may demand a trial *de novo* in that court.

(2) Upon demand for a trial *de novo*, the action shall be placed on the calendar of the court and treated for all purposes as if it had not been referred to arbitration. Any right of trial by jury that a party would otherwise have shall be preserved inviolate.

(3) At the trial *de novo*, the court shall not admit evidence that there had been an arbitration proceeding, the nature or amount of the award, or any matter concerning the conduct of

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the arbitration proceeding, except that the testimony given at the arbitration hearing may be used for impeachment purposes at a trial *de novo*.

(4) A party who has demanded a trial *de novo* but fails to obtain a judgment in the trial court, exclusive of interest and cost, more favorable than the arbitration award, shall be assessed the cost of the arbitration proceeding, including the amount of the arbitration fees, and—

(i) If this party is a claimant and the arbitration award is in its favor, the party shall pay to the court an amount equivalent to interest on the arbitration award from the time it was filed; or

(ii) If this party is a product seller, it shall pay interest to the claimant on the arbitration award from the time it was filed.

SEC. 117. EXPERT TESTIMONY

(a) Appointment.

The court may on its own motion or on the motion of any party enter an order to show cause why expert witnesses should not be appointed, and may request the parties to submit nominations. The court may appoint any expert witnesses agreed upon by the parties, and may appoint witnesses of its own selection. An expert witness shall not be appointed by the court unless he or she consents to act. An expert witness appointed by the court shall be informed of his or her duties in writing, a copy of which shall be filed with the clerk, or at a conference in which the parties shall have opportunity to participate. An expert witness so appointed shall advise the parties of any findings; shall be available for deposition by any party; and may be called to testify by the court or any party. The court appointed expert witness shall be subject to cross-examination by each party, including a party calling that expert as a witness.

(b) Compensation.

(1) Expert witnesses appointed by the court are entitled to reasonable compensation in whatever amount the court may allow. The court, in its discretion, may tax the costs of such expert on one party or apportion them between both parties in the same manner as other costs.

(2) In exercising this discretion, the court may consider:

(i) Which party won the case;

(ii) Whether the amount of damages recovered in the action bore a reasonable relationship to the amount sought by the claimant or conceded to be appropriate by the product seller.

(c) Disclosure of Appointment.

In the exercise of its discretion, the court may authorize disclosure to the jury of the fact that the court has appointed the expert witness.

(d) Parties' Experts of Own Selection.

Nothing in this section limits the parties in calling expert witnesses of their own selection.

(e) Pre-Trial Evaluation of Experts.

The court in its discretion may conduct a hearing to determine the qualification of proposed expert witnesses. The court may order a hearing on its own motion or on the motion of either party.

(1) Need for Pre-Trial Evaluation.

In determining whether to grant such a motion, the court shall consider:

(i) The complexity of the issues in the case; and

(ii) Whether the hearing would deter the presentation of witnesses who are not qualified as experts on the specific issues.

(2) Factors in Evaluation.

If the court decides to hold such a hearing, it shall consider:

(i) The scope of the proposed witness' background and skills;

(ii) The formal and self-education the proposed witness has undertaken relevant to the instant case or similar cases; and

(iii) The proposed witness' potential bias.

(3) Findings of Fact.

In making a determination that a proposed expert witness is or is not qualified, the court shall state its findings of fact.

SEC. 118. NON-PECUNIARY DAMAGES

(a) Non-pecuniary damages, including "pain and suffering," shall be determined by the trier of fact. The court shall have the power to review such damage awards.

(b) In cases where the claimant has not suffered permanent serious disfigurement, permanent impairment of bodily function, or permanent mental illness as a result of the product-related harm, non-pecuniary damages shall be limited to $25,000.

SEC. 119. THE COLLATERAL SOURCE RULE

In any claim brought under this Act, the claimant's recovery shall be diminished by any amount he or she has received or will receive in compensation for the same damages from a public source. This provision shall also apply to parties who may be subrogated to the claimant's rights under this Act.

SEC. 120. PUNITIVE DAMAGES

(a) Punitive damages may be awarded if the claimant shows by clear and convincing evidence that the harm suffered was the result of the product seller's reckless disregard for the safety of product users, consumers, or bystanders who might be injured by the product.

(b) If the trier of fact determines that punitive damages should be awarded, the court shall determine the amount of those damages. In making this determination, the court shall consider:

(1) The likelihood at the time of manufacture that a serious harm would arise from the product seller's misconduct;

(2) The degree of the product seller's awareness of that likelihood;

(3) The profitability of the misconduct to the product seller;

(4) The duration of the misconduct and any concealment of it by the product seller;

(5) The attitude and conduct of the product seller upon discovery of the misconduct;

(6) The financial condition of the product seller; and

(7) The total effect of other punishment imposed or likely to be imposed upon the product seller as a result of the misconduct, including punitive damage awards to persons similarly situated to claimant and the severity of criminal penalties to which the product seller has been or may be subjected.

SEC. 121. EFFECTIVE DATE

This Act shall be effective with regard to all claims accruing on or after September 1, 1979.

ANALYSIS

PREAMBLE

The importance this Act places in increasing the degree of certainty in the product liability litigation process is tempered by the recognition that even with a nationwide adoption of a uniform code, its application may vary from state to state on some issues. The goal is to promote a greater degree of certainty than the present system.

ANALYSIS

SEC. 100. SHORT TITLE

This is the customary "short title" provision. It may be placed wherever state legislative practice dictates. If a state legislature introduces parts of the Uniform Product Liability Act as separate measures, the short title should be adjusted accordingly.

ANALYSIS

SEC. 101. FINDINGS

Chapter VI and VII of the "Final Report" of the Interagency Task Force on Product Liability (Task Force Report) provide support for most of the findings made here. Additional support comes from the Report of the Subcommittee on Capital, Investment and Business Opportunities, "Product Liability Insurance," 95th Cong., 2d Sess., Report No. 95-977 (1978) (Subcommittee Report). Among other things, this Report called for clarification and simplification of "present tort law relating to product liability for formulating Federal standards to be adopted by the States • • •" (Subcommittee Report, at 76).

Individual state studies on product liability conducted in Missouri (Report of the Senate Select Committee on Product Liability, 1977); Illinois (Judiciary I Subcommittee on Product Liability: Report and Recommendations—Part 1, undated); Georgia (Report of the Senate Products Liability Study Committee, 1978); Maine (Governor's Task Force, 1978); Michigan (Department of Commerce Task Force on Product Liability Insurance, 1978); and Wisconsin (Product Liability, An Overview, Wisconsin Legislative Council Staff, 1978) provide additional support for individual findings.

The Maine and Georgia reports emphasize that individual state tort reforms can do little to affect the product liability problem. Governor Grasso's message vetoing a product liability tort bill passed by the Connecticut legislature in 1978 emphasized that individual state tort action will not stabilize product liability insurance rates.

More specific references to the findings appear in the following citations keyed to the various findings:

(a)(1) Task Force Report at VI-27-28, V-19.

(2) Task Force Report at VI-28-32.

(3) Task Force Report at VI-2-26.

(4) Options Paper on Product Liability and Accident Compensation Issues, 43 FR 14612-4 (1978); Georgia Report Appendix B; Johnson Products Liability "Reform": A Hazard to Consumers, 56 N. "Carol L. Rev." 677 (1978); Comment, "State Legislative Restrictions on Product Liability Actions," 29 "Mercer L. Rev." 619 (1978). *See* Product Liability Legislation, Federal-State Reports, Inc. (1977-1978).

(b) Task Force Report at I-26-28, VII-15-17; Subcommittee Report at 72; Michigan Report at p. 6 (1978).

(c) Task Force Insurance Study (citing uncertainty); Task Force Report at V-48-49 (relationship of premium to risk).

(d) Task Force Report at I-28; Maine Report at 23.

(e) Task Force Report at VII-214-216; *see* ISO Product Closed Claim Survey at 118-130.

(f) *See* Federal State Product Liability Legislation; Federal State Reports (1977-1978); Product Liability Trends at 97-98, 104-05, 157-58 (1978); Business Insurance, p. 22 (12/25/78); *see also* Wisconsin Report at 29-37 (describing twenty-five separate bills on product liability introduced in one legislative session).

ANALYSIS

SEC. 102. DEFINITIONS.

(1) *"Product seller"* includes all parties in the regular commercial distribution chain. It does not include the occasional private seller. This is in accord with the "Restatement (Second) of Torts." The term also includes lessors and bailors of products, in accord with the majority of case law decisions that have addressed that issue. *See* Annot. 52, "A.L.R." 3d 121 (1973),

The Act does not address several definitional problems of "product seller." First, it does not address the problem of the product seller engaged in a service. *See* "Newmark v. Gimbel's, Inc.," 54 N.J. 585, 258 A.2d 697 (1969). It is suggested that a party be considered a product seller where a sale of a product is a principal part of the transaction and where the essence of the relationship between the buyer and seller is *not* the furnishing of professional skill or services. *See* Annot., 29 "A.L.R." 3d 1425 (1970).

Second, the Act does not address the potential product liability problems of the seller of real property. It is suggested that it is only appropriate to apply product liability standards to builder-vendors who engage in the mass production and sale of homes. *See* "Schipper v. Levitt & Sons, Inc.," 44 N.J. 70, 207 A.2d 314 (1965); *But see* "Wright v. Creative Corp.," 30 Colo. App. 575, 498 P.2d 1179 (1972) (rejecting "Schipper").

Finally, the Act does not indicate whether a commercial seller of used products is subject to liability under this Act. This issue is left for resolution as a matter of individual state policy. *See* "Peterson v. Lou Bachrodt Chevrolet Co.," 61 Ill.2d 17, 329 N.E.2d 785 (1975).

(2) *"Product Liability Claim."* One key purpose of this act is to consolidate product liability actions that traditionally have been separated under theories of negligence, warranty, and strict liability. This approach was suggested by the Task Force "Legal Study" as well as the report of the Subcommittee on Capital, Investment and Business Opportunities. While an argument may be made that negligence theory is qualitatively different from strict liability and, therefore, should be preserved, product liability theory and practice has become an entity in and of itself and can only be stabilized if there is one, and not a multiplicity of causes of action.

"Product liability claim" embraces express as well as implied warranties.

(3) *"Claimant."* Both living persons and those claiming through or on behalf of an estate are included within the meaning of the word "claimant." This would include both wrongful death and survival actions.

Although the "Restatement (Second) of Torts" left open the question of whether bystanders should be included within the compass of strict liability claims, subsequent case law has been almost uniform that bystanders should be included. *See* "Giberson v. Ford Motor Co.," 504 S.W.2d 8 (Mo. 1974) (collecting cases). *See also*, Annot., 33 "A.L.R." 3d 415 (1970). The definition follows this line of decisions.

Bystanders include rescuers who come upon the scene. *See* "Guarino v. Mine safety Appliance Co.," 25 N.Y. 2d 460, 255 N.E. 2d 173 (1969).

(4) *"Harm."* The "Restatement" provision included physical harm to persons and property. This Act also includes emotional harm, but only as an element of parasitic damages, *e.g.*, when a person has also been harmed physically. The Act leaves open the question of whether an individual may recover for emotional harm alone under a product liability theory; this issue is left to common law development.

The Act also includes damage to the product itself. *See* "Gherna v. Ford Motor Co.," 246 Cal. App. 2d 639, 55 Cal. Rptr. 94 (1966). Some courts consider this an economic loss and relegate the claimant to whatever rights he or she has under the sales provision of the Uniform Commerical Code. *See* "Hawkins Construction Co. v. Matthews Co., Inc.," 190 Neb. 546, 209 N.W.2d 643 (1973).

Apart from a very limited express warranty claim, the Act does not include damages for consequential economic losses. Most courts have been in accord with "Seely v. White Motor Co.," 63 Cal. 2d 9, 45 Cal. Rptr. 17 (1965) on this issue and have left the claimant with whatever rights he or she has under the Uniform Commerical Code. *See* "Brown v. Western Farmers Assn.," 268 Or. 470, 521 P.2d 537 (1974); "Eli Lilly and Co. v. Casey," 472, S.W.2d 598 (Tex. Civ. App. 1971); "Paul O'Leary Lumber Corp. v. Mill Equipment, Inc.," 448 F.2d 536 (5th Cir. 1971).

The insurance costs of extending consequential economic losses beyond parties to a contract would be enormous. It is much cheaper and more efficient for the product purchaser to obtain insurance against consequential economic losses caused by business stoppage. Also, most courts believe that a commercial purchaser should be charged with the risk that his product will not match his economic expectations unless the manufacturer agrees it will. *See*. Note, "Economic Loss in Products Liability Jurisprudence," 66 "Colum. L. Rev." 917 (1966). However, a claimant can recov-

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er for consequential economic losses under an express warranty theory. *See* "Seely v. White Motor Co.," *supra.*

(5) *"Manufacturer."* This definition is based on one in Arizona's product liability law. *See* "Ariz. Rev. Stat. Ann." § 12-681 (1) (1978). Its greatest import within this act is in regard to the responsibility of a manufacturer for defective products as contrasted with other product sellers. *See* Section 114.

(6) *"Reasonably Anticipated Conduct."* The definition is based in part on Arizona product liability law. *See* "Ariz. Rev. Stat. Ann." § 12-681(4) (1978). The meaning of "reasonably anticipated" should be contrasted with "foreseeable." Almost any kind of misconduct with regard to products can be foreseeable—especially if the trier of fact is permitted to use hindsight, *e.g.*, that a soda bottle will be used for a hammer, that someone will attempt to drive a land vehicle on water, that perfume will be poured on a candle in order to scent it. *See* "Moran v. Faberge, Inc.," 273 Md. 538, 332 A.2d 11 (1975).

The approach taken places incentives for risk prevention on product sellers, while also ensuring that the price of products is not affected by the liability insurance costs that would spring from providing coverage for abnormal product use.

(7) *"Clear and Convincing Evidence."* Proof that is clear and convincing carries with it not only the power to persuade the mind as to its probable truth or correctness of fact; it has an additional element of clinching such truth. The term is understood best in context. It requires more proof than the mere preponderance of evidence (the ordinary standard under this Act), but does not require proof beyond a reasonable doubt. *See e.g.*, "Aiello v. Knoll Golf Club," 64 N.J. Super. 156, 165 A.2d 531 (1960); "Cross v. Ledford," 161 Ohio St. 469, 120 N.E.2d 118 (1954); "Brown v. Warner," 78 S.D. 647, 107 N.W.2d 1 (1961).

ANALYSIS

SEC. 103. SCOPE OF THIS ACT

(a) The Act consolidates all product liability recovery theories into one. The approach taken is in accord with the Task Force "Legal Study." While some have argued that for trial tactics purposes it is useful to retain the negligence cause of action as distinct from strict liability, a claimant's attorney can retain the essence of this utility by showing the basic wrongfulness of the product seller's conduct under Section 104.

(b) The Act is in accord with the "Restatement (Second) of Torts" in that it is unnecessary for the claimant to be in contractual privity with the product seller. *See* "Restatement (Second) of Torts" § 402A, Comment c.

(c) The Act and its accompanying commentary do not purport to be an exhaustive compilation of the entire subject of product liability law; rather, they focus on subject matter areas that the Task Force Report suggested have created the most problems and are of major importance.

The interstices of the Act will be filled by statutory or common law additions of the individual states. Some of these interstitial issues will be pointed out in the section-by-section commentary; others will be discovered in the course of litigation under the Act.

ANALYSIS

SEC. 104. BASIC STANDARDS OF RESPONSIBILITY

Perhaps no single product liability issue has generated more controversy than the question of defining the basic standard of responsibility to which product sellers are to be held. Much of this controversy appears to have sprung from the fact that the authors of § 402A of the "Restatement (Second) of Torts" were focusing on problems relating to product mismanufacture or defects in construction; they were not directly concerned with problems relating to defects in design or to the duty to warn. *See* Wade, "On the Nature of Strict Tort Liability for Products," 44 "Miss. L. J." 825, 830-32 (1973).

Courts continue to struggle to articulate the standards of responsibility of product sellers. A multiplicity of approaches have been offered. *See e.g.*, "Barker v. Lull Engineering Co., Inc.," 20 Cal. 3d 413, 143 Cal. Rptr. 225 (1978); "Cepeda v. Cumberland Engineering Co. Inc.," 76 N.J. 152, 386 A.2d 816 (1978); "Phillips v. Kimwood Machine Co." 269 Ore. 485, 525 P.2d 1033 (1974).

The approach taken in Section 104 is to distinguish cases based on defects in construction, defects in design, and defects caused by a failure to instruct or warn. Each type of case calls for a particular type of treatment. For this reason, this Act does not have a "single" definition of the term "defect," nor does it attempt to resolve the debate over whether a product liability claimant should have to prove that the product was "unreasonably" dangerous. *Compare* "Barker v. Lull Engineering Co., Inc.," *supra*, and "Byrns v. Riddell, Inc.," 113 Ariz. 264, 550 P.2d 1065 (1976). Instead, Section 104 takes an approach which avoids terminological difficulties by focusing on practical considerations that courts and juries have looked to in deciding product liability cases.

This approach should not lead to problems of characterization. The claimant's pleading should indicate the theory on which he or she is proceeding within the framework of Section 104, subdivisions A, B, and C.

A product may be defective in more than one way. Furthermore, there is an important linkage between the duty to warn and defective design. In appropriate cases, a product may be found not to be defective in design if the product seller has given adequate warning about the alleged hazard. *See, e.g.*, "Wagner v. Larsen," 257 Iowa 1202, 136 N.W.2d 312 (1965); "Penn v. Inferno Mfg. Corp.," 199 So.2d 210 (La. App.), *aff'd*, 251 La. 27, 202 So.2d 649 (1967). There are limits to this possibility, however, since a product seller will not be shielded from liability for a poorly designed product, simply by indicating that the product "may be hazardous."

The following commentary discusses each subdivision of Section 104 in turn. First:

(A) *The Product Was Defective in Construction.* The history of imposing strict liability for defects in the construction of products goes back as far as 1913 when sellers of food were first held liable for failure to produce a product reasonably fit for its intended use. *See* "Masetti v. Armour & Co.," 75 Wash. 622, 135 P.633 (1913); Prosser, "The Assault Upon the Citadel," 69 "Yale L.J." 1099 (1960).

Subdivision (A) imposes pure strict liability on the product seller in accordance with Section 402A of the "Restatement (Second) of Torts." This has been an evolving area of strict liability intended to protect the consumer. As Comment c to the "Restatement" states, the seller "has undertaken and assumed a special responsibility toward any member of the consuming public who may be injured [by the product]." Furthermore, "the public has the right to and does expect, in case of products which it needs and for which it is forced to rely upon the seller, that reputable sellers will stand behind their goods • • •" *Id.*

In the course of its study, the Interagency Task Force on Product Liability found that many product sellers can absorb the financial impact of strict liability based on defects in construction. *See* Task Force Report, at VII-17. The product seller as a distributor of many products absorbs the costs of injuries caused by such a defect (even though having exercised all reasonable care) as part of a responsibility inextricably connected with the modern merchandising of products.

Second:

(B) *The Product Was Defective in Design.* As compared to the situation with respect to defect in construction, no court yet has imposed true strict or absolute liability on product sellers for defects in design appreciating, no doubt, the unlimited liability potential

inherent in such cases where it is almost always possible to design a product more safely. Rather, the courts have balanced a variety of factors in determining whether a particular product is defective in design. *See, e.g.*, "Barker v. Lull Engineering Co., Inc.," *supra;* "Cepeda v. Cumberland Engineering Co. Inc.," *supra;* "Schell v. AMF, Inc.," 567 F.2D 1259 (3d Cir. 1977).

There are several possible ways to limit the unlimited liability potential of design defect cases. One is to create a limited damage compensation system—private or governmental—analogous to worker compensation. Another is to continue to base liability on the individual's moral responsibility under the tort system. Subdivision (B) takes the latter course and places the burden on the claimant to show that in light of a balance of practical, objective factors, the product seller should bear the full cost of the injury and have the responsibility for attempting to distribute that cost through product pricing. Basic principles of tort law suggest that the claimant should carry the burden of proof on this issue. *See* Kalven, Jr., "Torts: The Quest for Appropriate Standards," 53 "Calif. L. Rev." 189 (1965). *But see* "Barker v. Lull Engineering Co., Inc.," *supra.*

The factors listed in this subdivision for the trier of fact to consider have been derived from a very wide variety of sources. *See, e.g.*, "Barker v. Lull Engineering Co. Ltd.," *supra. See also* Vetri, "Products Liability: Developing a Framework for Analysis," 54 "Ore. L. Rev." 293, 310 (1975); Henderson, Jr., "Judicial Review of Manufacturers' Conscious Design Choices: The Limits of Adjudication," 73 "Colum. L. Rev." 1531 (1973); Keeton, "Product Liability and the Meaning of Defect," 5 "St. Mary's L. J." 30 (1973); Wade, "On the Nature of Strict Tort Liability for Products," 44 "Miss. L. J." 825 (1973). The factors selected also have been reviewed from an economic perspective.

Factor (1) addresses the problem of judging design cases by hindsight, a significant and justifible concern of product sellers. By focusing on the time of manufacture, Section 104(B) provides an incentive to product sellers to reduce risks, both by design testing and by warning of potential hazards.

Factor (2) raises the possibility that if at the time of manufacture there is the possibility of a very serious harm, the product seller's obligation to take steps to avoid it increases.

Factor (3) overlaps the Act's consideration of the "state of the art" in Section 106. The trier of fact should consider the scientific and technological knowledge available to the product seller at the time of manufacture as well as the custom in the industry.

Factor (4) recognizes that increased costs associated with an alternative design may play a part in deciding whether it is feasible to pursue. Courts occasionally have indicated that it is appropriate for the trier of fact to consider whether because of increased costs of an alternative design, "it would still be reasonable to market the product despite the danger." "Lynd v. Rockwell Manufacturing Co.," 276 Or. 341, 554 P.2d 1000, 1006 (1976).

Factor (5) indicates that if a weighing of considerations, (1)-(4) suggests that an alternative design should have been pursued, it still is appropriate for the trier of fact to consider any new or additional harms that would arise if this alternative design were chosen.

Thus, Subdivision (B) does not set out an algebraic formula as to how each of these factors should be weighed. Certainly, as factors (1) and (2) increase, the trier of fact is more likely to find that the product was defective. On the other hand, it must balance these factors against (3), (4), and (5).

Two factors relied on by some courts in design cases were not included in the Section 104(B) balancing process. First is the "utility" of the product to the user or to society in general. Economic analysis suggests that this element would render the balancing test totally subjective and unworkable. Tested by its "utility," a whole-grain health food cereal conceivably might be subject to a lower standard of responsibility than one that was heavily sugar-coated (less "useful" to society as a whole). On the other hand, if the trier of fact focused on the subjective "value to the user," it might come to the opposite conclusion. The approach of Section 104(B) is to focus the trier of fact on how the product was made and what its dangers are, rather than making macroeconomic judgments about its value to society or to certain individuals.

The second factor not included in the Section 104(B) balancing process is a "consumer expectation" test. The reasons for this are rooted in both economics and practicality. As Professor Wade, Reporter for the "Restatement (Second) of Torts," has stated:

> [T]he consumer would not know what to expect, because he would have no idea how safe the product could be made.

Wade, *supra*, 44 "Miss. L.J." at 829. Again, the notion of consumer expectations suffers from an "overkill" of subjectivity. Each trier of fact is likely to have a different understanding of abstract consumer expectations. Section 104(B) leaves consumer expectations aside and focuses the trier of fact on what design alternatives were possible as a practical matter.

Third:

(C) *The Product Was Defective Because Appropriate Warnings or Instructions Were Not Provided.* A product seller may be held liable under this subdivision even though the product was not found to be defective in design or construction. Even where lack of scientific knowledge or cost factors precludes the use of an alternative design, the product seller still may be required to provide a warning about the product's hazards or to instruct about the product's use. *See* "Brown v. North Am. Mfg. Co," 576 P.2d 711 (Mont. 1978).

As the Task Force Report noted, rules relating to a product seller's duty to warn have changed drastically in recent years, and are unclear in some jurisdictions. *See* Task Force Report, at VII-18. Product sellers want to be informed about the scope of their duty. Nevertheless, practical problems make it impossible to develop a general rule that will inform the product seller—in advance of manufacture—precisely how to instruct or warn about a particular product. On the other hand, some general guidelines can be provided.

Subdivision (C) (1) lists practical factors that a trier of fact shall weigh in determining whether a particular product warning or instruction was adequate. The trier of fact should focus on both instructions and warnings; all representations about a product must be considered in evaluating whether the duty to warn has been discharged. *See* "McCormack v. Hankscraft Co.," 278 Minn. 322, 154 N.W.2d 488 (1967).

Factor (a) is similar to subsection (1) of subdivision (B). The trier of fact is to consider the likelihood that the harm against which the warning is directed will occur. Where the harm is more likely, the duty is greater.

Factor (b) is similar to subsection (2) of subdivision (B). The more serious the anticipated harm, the greater the duty to warn. *See* "Davis v. Wyeth Laboratories, Inc.," 399 F.2d 121 (9th Cir. 1968).

Factor (c) is of special importance. It recognizes that warnings are not made in a vacuum. The product seller must construct warnings and instructions in light of the training, experience, education and knowledge of those who are likely to avail themselves of those warnings or instructions. *See* "Halvorson v. American Hoist & Derrick Co.," 307 Minn. 48, 240 N.W.2d 303 (1976); *compare* "Ford Motor Co. v. Rodgers," 337 So.2d 736 (Ala. 1976); *See also* "Greiner v. Volkswagenwerk Aktiengesellschaft," 429 F.Supp. 495 (E.D.Pa. 1977).

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This factor also allows the trier of fact to judge whether the danger was so obvious as not to require a warning. Some courts have followed the much criticized "patent danger" rule that shields the product seller from an obligation to warn about obvious hazards. Numerous jurisdictions have rejected the rule. *See, e.g.* "Byrns v. Riddell, Inc.," 113 Az. 264, 550 P.2d 1065 (1976); "Casey v. Gifford Wood Co.," 61 Mich. App. 208, 232 N.W.2d 360 (1975); "Brown v. North Am. Mfg. Co.," *supra*. In situations where it is inexpensive and easy to do so, it may be appropriate to warn about an obvious danger that is highly likely to cause very serious injuries. *See* Marschall, "An Obvious Wrong Does Not Make a Right: Manufacturers' Liability for Patently Dangerous Products," 48 "N.Y.U.L. Rev." 1065 (1973).

A product seller should be able to assume that the ordinary product user is familiar with obvious hazards—that knives cut, that alcohol burns, that it is dangerous to drive automobiles at high speeds.

Factor (d), the technological feasibility and cost of a warning, may not be significant in many cases because warnings are often relatively inexpensive to provide. However, in some situations, it may not be feasible technologically to provide a warning, or at least the type of warning that claimant suggests should have been provided.

Subsection (2) provides that a claimant must show that if adequate warnings had been given, it is more probable than not that the injury would not have occurred. In other words, a claimant must show that the failure to provide an appropriate warning was a cause of his or her harm. In this regard the claimant can show that if the warning had been given, either the product would have been used without incident, or it would not have been used at all. The later situation is likely to arise with pharmaceuticals. The test stated in subsection (2) is an objective one which looks toward the conduct of the reasonably prudent person. *Cf.* "Cobbs v. Grant," 8 Cal. 3d 229, 502 P.2d 1, 104 Cal. Rptr. 505, (1972) (informed consent).

Subsection (3) indicates that the warnings or instructions should be devised so as to communicate with the person best able to take suitable precautions. The product seller's duty to warn does not go beyond the technological and other information available at the time of manufacture. This is in accord with the overwhelming majority of court decisions. *See* "Robbins v. Farmers Union Grain Terminal Assn.," 552 F.2d 788 (8th Cir. 1977).

ANALYSIS

SEC. 105. UNAVOIDABLY UNSAFE ASPECTS OF PRODUCTS

Section 105 follows the "Restatement (Second) of Torts" with respect to "products which, in the present state of human knowledge, are quite incapable of being made safe for their intended and ordinary use." *See* "Restatement (Second) of Torts" § 402A, Comment k; *see also* "N.H.Rev. Stat. Ann." § 507-D:4 (1978).

With the exception of one Illinois decision ("Cunningham v. MacNeal Memorial Hospital," 47 Ill. 2d 443, 266 N.E.2d 897 (1970)), subsequently overruled by "Ill. Ann. Stat." ch. 91 §§ 181-84 (1971 as amended), this approach has been followed by the common law courts throughout the United States. *See, e.g.*, "Moore v. Underwood Memorial Hospital," 147 N.J. Super. 252, 371 A.2d 105 (1977) (serum hepatitus contracted from blood supplied); "Dalke v. Upjohn Co.," 555 F.2d 245, (9th Cir. 1977) (tooth discoloration from tetracycline); "Chambers v. G. D. Searle & Co.," 441 F. Supp. 377 (D. Md. 1975) (stroke allegedly from birth control pills); "Coffer v. Standard Brands, Inc.," 30 N.C. App. 134, 226 S.E.2d 534 (1976) (shell in nuts); "Hines v. St. Joseph's Hospital," 86 N.M. 763, 527 P.2d 1075 (1974) (blood transfusion).

Subsection (a) sets the time from which to judge the state of scientific and technological knowledge as the point when the product leaves the manufacturer's control. *See* "Cochran v. Brooke," 243 Or. 89, 409 P.2d 904 (1966).

Subsection (b) makes clear that a product seller may be subject to liability for failure to provide an adequate warning about an unavoidably unsafe aspect of a product. There are certain hazards, particularly in the pharmaceutical field, which are known or can be discovered through the exercise of reasonable care even though they cannot be avoided. *See* "Dalke v. Upjohn Co.," *supra;* "Chambers v. G. D. Searle & Co.," *supra;* "Toole v. Richardson-Merrell, Inc.," 251 Cal. App. 2d 689, 60 Cal. Rptr. 398 (1967).

The factual question underlying the legal issue of whether warnings or instructions were adequate is whether product sellers meet their duty to promulgate warnings and instructions commensurate with their *actual* knowledge gained from research and adverse reaction reports and their constructive knowledge as measured by scientific literature and other available means of communication. *See* "Dalke v. Upjohn Co.," *supra*, at 248; "McEwen v. Ortho Pharmaceutical Corp.," 270 Or. 375, 528 P.2d 522, 528–29 (1974). *Contra*, "Bruce v. Martin-Marietta Corp.," 544 F.2d 442 (10th Cir. 1976).

Subsection (b) also supports the concept of continuing obligation to warn and instruct based on new information about an unavoidably unsafe aspect of a product, discovered *after* it has been manufactured. *See* "Love v. Wolf," 226 Cal. App.2d. 378, 38 Cal. Rptr. 183 (1964); "Sterling Drug, Inc. v. Yarrow," 408 F.2d 978 (8th Cir. 1969).

Finally, subsection (c) subjects a product seller to liability for an unavoidably unsafe aspect of a product if the seller expressly warrants that a product is free from such defects. For example, if the product seller states that a product is "free and safe from all dangers of addiction" and the claimant becomes addicted to the drug, the seller would be subject to liability. *See* "Crocker v. Winthrop Lab., Div. of Sterling Drug, Inc.," 514 S.W.2d 429 (Tex.1974).

The approach taken in Section 105 recognizes that there may be circumstances where a seriously injured person is left without compensation for an injury caused by an unavoidably unsafe aspect of a product. This is unlikely to be a common occurrence, however, given the presence of other parties in the distributive chain. *See* Willing, "The Comment k Character: A Conceptual Barrier to Strict Liability," 29 "Mer. L. Rev." 545, 580-81 (1978). For reasons of policy, Section 105 proposes that a product seller not be held responsible for harms that are simply unavoidable. *See* A. Johnson, "Products Liability 'Reform': A Hazard to Consumers," 56 "N. Carol. L. Rev." 676, 690 (1978). If the costs of these harms are to be shifted from the individual, they should be borne by society at large. Section 105 should help encourage the development of new products without unleashing on the public unsafe products that are defective in construction or design under Section 104. It also makes clear to policy-makers that the tort-litigation system is not the means for addressing injuries caused by this type of hazard.

ANALYSIS

SEC. 106. RELEVANCE OF THE STATE OF THE ART AND INDUSTRY CUSTOM

Subsection (a) adopts a fundamental principle of evidence law for the purposes of product liability cases. It excludes the showing of post-accident changes in the design of a product, the "state of the art," or industry custom when that evidence is offered to show that the product was defective at the time of manufacture. *See* Federal Rule of Evidence 407 and Advisory Committee commentary.

The reasons underlying this rule are twofold: first, subsequent changes are deemed irrelevant (all they show is as one gets older, one may get wiser); and second, admission of such evidence may discourage the making of repairs.

While the latter rationale has been challenged, *see* "Ault v. International Harvester Co.," 13 Cal. 3d 113, 528 P.2d 1148, 117 Cal. Rptr. 812 (1975), the relevance of such evidence on the issue of defectiveness is of very limited value. On the other hand, the prejudicial effect of showing the subsequent change or repair—particularly one undertaken by the product seller himself—is quite substantial. *See* "LaMonica v. Outboard Marine Corp.," 48 Ohio App.2d 43, 355 N.E.2d 533 (1976); "Haysom v. Coleman Lantern Co.," 89 Wash.2d 474, 573 P.2d 785 (1978).

Subsection (a) does permit the introduction of evidence of changes in the "state of the art" when it is relevant for purposes other than showing that the product was defective at the time of manufacture. Thus, evidence of such changes may be admissible to show that the product seller knew of the defect at a certain point in time. It might also be admissible where the product seller claimed the product hazard was impossible to avoid. In cases of this kind, the court should balance the probative value of the evidence against its prejudicial nature. Allowing the introduction of evidence in these cases should not become a vehicle for avoiding the basic purpose of the rule.

Subsections (b), (c), (d), and (e) address one of the major issues that have divided product sellers and consumer groups concerned about product liability. Product sellers have argued that when their products comply with the "state of the art," it is unfair to deem them defective. They further contend that industry custom is likely to incorporate all cost-justified product safety features. *See* R. Posner, "Economic Analysis of Law," 71 (1972). Consumers respond that it is inappropriate to permit product sellers to fix indirectly their own standard of liability. *See* Johnson, "Products Liability 'Reform': A Hazard to Consumers," 56 "N. C. L. Rev." 677, 680-81 (1978).

In reality, there may be less of a dispute between product sellers and consumers on this issue than appears on the surface. The approach taken in Section 106 attempts to clarify matters by distinguishing between "custom" and "state of the art."

Subsection (a) defines "state of the art" to distinguish it from custom in the industry. It was derived from a recently enacted section of Arizona law. "Ariz. Rev. Stat. Ann." § 12-681 (6)(1978). The subsection (a) definition comprehends a level of safety that was possible as a practical matter at the time of manufacture.

Under subsection (b), compliance with industry custom is merely evidence that the trier of fact may consider in determining whether a product was defective under subdivisions (B) and (C) of Section 104. *See, e.g.*, "Bruce v. Martin-Marietta Corp.," 544 F. 2d 442 (10th Cir. 1976); "Baker v. Chrysler Corp.," 55 Cal. App. 3d 710, 127 Cal. Rptr. 745 (1976); "Maxted v. Pacific Car & Foundry Co.," 527 P. 2d 832 (Wyo. 1974); "Roach v. Kononen," 269 Ore. 457, 525 P. 2d 125 (1974); "Olson v. Arctic Enterprises, Inc.," 349 F. Supp. 761 (D. N.D. 1972).

Subsection (c) also permits introduction of evidence of non-compliance with custom—evidence likely to be introduced by a product liability claimant. While it might be argued that non-compliance with custom should signal that, in fact, the product was defective, situations may arise where the product manufacturer followed an alternative procedure that was no less safe (perhaps even safer) than custom in the industry. For that reason, noncompliance with custom is admissible, but does not create a situation where the trier of fact would consider the product defective *per se*. *See* "Poches v. J. J. Newbury Co.," 549 F.2d 1166 (8th Cir. 1977).

Subsection (d) raises a presumption of nondefectiveness if a product conformed to the "state of the art" at the time of manufacture. This follows "Colo. Rev. Stat. ann." § 13-21-403 (1978), but does not go as far as "Ky. Rev. Stat. Ann." ch. 411, § 3(2)(1978), which creates a presumption for both "state of the art" and custom in the industry. The overwhelming majority of case law probably would direct a verdict for defendant in this instance. *See, e.g.*, "Olson v. Arctic Enterprises, Inc.," *supra;* "Wilson v. Piper Aircraft Corp.," 282 Ore. 61, 577 P.2d 1322, 1326 (1978)(". . . plaintiff's *prima facie* case of a defect must show more than the technical possibility of a safer design"); "Bruce v. Martin-Marietta Corp.," *supra;* "Maxted v. Pacific Car and Foundry Co.," *supra;* "Roach v. Kononen," *supra.*

Only a few intermediate appellate court decisions, primarily from one state, impose liability where the product was in accord with the technical, mechanical, and scientific knowledge reasonably feasible for use at the time of manufacture. *See, e.g.*, "Gelsumino v. E. W. Bliss Co.," 10 Ill. App. 3d 604, 295 N.E.2d 110 (1973) and its progeny. *But see* "McClellan v. Chicago Transit Authority," 34 Ill. App. 3d 151, 340 N.E. 2d 61 (1975). *Compare* "Olson v. A. W. Chesterton Co.," 256 N.W. 2d 530 (N. Dak. 1977).

Section 106 thus provides special protection for the interests of product liability claimants in that it allows the trier of fact, in extraordinary situations, to find a manufacturer liable even though his product conformed to the "state of the art."

All presumptions authorized by this section can be rebutted by clear and convincing evidence that, in light of the factors set forth in § 104(2) or (3), that the product was defective. An example under § 104(2) where the presumption might be rebutted is where a product that conferred with a standard posed a very high probability of extremely serious injury and at the time of manufacture there were inexpensive and safer alternative methods of designing the product.

An example under § 104(3) where the presumption might be rebutted is if a product seller learned about a product hazard after the product was manufactured. In that instance, even though his product conformed with the "state of the art", the trier of fact may find that he should have made a reasonable effort to warn product users about such hazards. See Commentary to section 105.

Subsection (e) acknowledges that non-governmental entities may develop product standards that are both rigorous and sound. *See* Task Force Report, at IV-13-17. The review of such standards is a complex matter, and it is left to the court to decide whether a particular standard meets the criteria of subsection (e). Qualifying standards are given a special status—they create a presumption that the product was not defective in design under Section 104, subdivision (B).

ANALYSIS

SEC. 107. RELEVANCE OF COMPLIANCE WITH LEGISLATIVE OR ADMINISTRATIVE STANDARDS

Product sellers have contended that it is unfair to call a product defective when the challenged aspect of that product conformed to an applicable administrative or legislative standard. Some product liability loss prevention experts have suggested that making compliance with such standards a defense might create incentives for manufacturers to comply with them. Interagency Task Force on Product Liability, "Selected Papers," at 266 (Remarks of Professor Alvin S. Weinstein).

On the other hand, consumer groups have criticized such standards, claiming that many are formulated solely by and for industry. The approach of the common law as well as that embodied in the Consumer Product Safety Act, 15 "U.S.C." § 2074a (1976), is that most government safety standards are merely minimum standards. They are not set at a level that would make it appropriate to regard compliance with such standards as an absolute defense in a product liability case. *See* "Roberts v. May," 583 P.2d 305, 308 (Colo. App. 1978). Even if the standards were set above minimum

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safety criteria when formulated, keeping them up-to-date remains a problem.

Section 107(a) comports with this general approach by not treating compliance with legislative and administrative standards as an absolute defense. Nevertheless, it allows some "credit" for compliance with such standards in appropriate circumstances. In sum, Section 107(b) creates a rebuttable presumption of non-defectiveness if the product seller persuades the court that the standard:

(1) Was developed as the result of careful, thorough product testing and a formal product safety evaluation;

(2) Was developed through a procedure where both consumer and manufacturer interests were considered;

(3) Was more than a minimum safety standard; and

(4) Was up-to-date at the time the product was manufactured.

The section follows the existing case law that has made adjustment for standards that are sound. See "Jones v. Hittle Service, Inc.," 219 Kan. 627, 549 P.2d 1383 (1976) (universally accepted standards for odorizing LP gas outweigh expert opinion); "McDaniel v. McNeil Laboratories, Inc.," 197 Neb. 190, 241 N.W. 2d 822 (1976) (determination of the FDA prevails in absence of proof that the manufacturer furnished incomplete, misleading, or fraudulent information); "Raymond v. Riegel Textile Corp.," 484 F.2d 1025 (1st Cir., 1973) (standard promulgated under the Flammable Fabric Act was outdated). *Cf.* "Restatement (Second) of Torts" § 288c (1965) (requiring claimant in all cases of compliance to show that a reasonable person would have taken additional precautions).

Section 107 does not speak to two topics relating to compliance with governmental standards. First, it does not treat "failure to comply." This area is left to common law development under the general principles of negligence *per se*. *See* W. Prosser, "Torts," at 190, n. 31. Second, the Act does not cover the situation where the government has issued mandatory design and installation specifications. *See* "Hunt v. Blasius," 55 Ill. App.3d 14, 370 N.E.2d 617 (1977) (holding that compliance is an absolute defense).

ANALYSIS

SEC. 108 NOTICE OF POSSIBLE CLAIM REQUIRED

The purpose of this section is to inform product sellers at an early date that the product they produce may be defective. Under present law, a claimant may delay informing a product seller about a claim until the statute of limitations nearly has expired. In most jurisdictions, this period is two or three years. Although 77.8 percent of all bodily injury claims are reported within six months, *see* ISO, "Closed Claim Survey," at 100 (1977), the 22.2 percent that are not reported during this period are of concern because they represent about 68 percent of the claim payments.

A reasonable notice of claim requirement in product liability law promotes the interests of product users because it is a low-cost means of assisting product safety. Presumably, if informed about defective conditions at an early stage, a product seller is more likely to take action to correct such conditions and thus forestall future injuries. This is why notice of claim provisions have been utilized in other contexts. *See, e.g.,* Uniform Commercial Code § 2-607 (warranty breaches); 18 E. McQuillan, "Municipal Corporations" § 53.154 (ed. rev. 1977) (suits against municipalities for injuries); 3 A. Larson, "Workmen's Compensation Law" § 78.00 *et seq.* (1976) (notice of injury to employer). *See also* Comment, "Notice Requirement in Warranty Actions Involving Personal Injury," 51 "Calif. L. Rev.," 586 (1963); Phillips, "Notice of Breach in Sales and Strict Tort Liability Law: Should There Be a Difference?," 47 "Ind. L. J." 457, 468-69 (1972) (observing that requiring notice of claims may encourage defendants to make reasonable settlements).

This section is adapted from the recently enacted "Minn. Stat. Ann." § 604.04 (1978). It differs from analogous notice of claim provisions in that it does not provide that a claim or defense will be barred by the failure to meet its conditions. As the court noted in "Greenman v. Yuba Power Products, Inc.," 59 Cal.2d 57, 377 P.2d 897, 27 Cal. Rptr. 697, 700 (1962), such a provision may "become a booby trap for the unwary. The injured consumer is seldom 'steeped in the business practice which justifies the rule,' [James, Product Liability, 34 Texas L. Rev. 192, 197] and at least until he has had legal advice it will not occur to him to give notice * * *"

Instead, Section 108 places a duty to give the notice of claim on the attorney. It imposes a cost on the attorney for investigation and other expenses that stem from the failure to give notice.

Section 108 also places a burden on product sellers, who are notified of an anticipated claim, to provide the attorney with the names and addresses of others known to be in the chain of distribution. Product sellers may also be held liable under this section for costs that stem from the failure to provide these names.

Section 108 assumes that claims arising under this section can be consolidated with the principal product liability claim brought under this Act.

ANALYSIS

SEC. 109 LENGTH OF TIME PRODUCT SELLERS ARE SUBJECT TO LIABILITY FOR HARM CAUSED BY THEIR PRODUCTS

Perhaps more than any other single factor alleged to be "the cause" of the countrywide product liability problem are the rules governing the responsibility of manufacturers for older products. Most product liability policies not only include claims based on products manufactured or sold during the given year, but also products manufactured or sold in the past. In the case of sellers of durable goods, this creates an "open-ended" liability situation.

The Supreme Court of Oregon summarized the general common rule with the statement: "Prolonged use of a manufactured article is but one factor, albeit an important one, in the determination of whether a defect in the product made it unsafe * * *" *See* "Tucker v. United Crane & Shovel Corp.," 256 Ore. 318, 473 P. 2d 862 (1970) (boom crane manufactured in 1956, collapsed in 1965). *See also* "Gates v. Ford Motor Co.," 494 F. 2d 458 (10th Cir. 1974) (24-year-old tractor); "Kaczmarek v. Mesta Machine Co.," 463 F. 2d 675 (3d Cir. 1972) (30-year-old pickling machine); "Mondshour v. General Motors Corp.," 298 F. Supp. 111 (D. Md. 1969) (17-year-old bus).

Partly in response to this open-ended liability potential, a number of states have enacted statutes of repose that begin at the time a product is first sold and distributed. *See, e.g.,* "Ariz. Rev. Stat. Ann." § 12-551 (1978) (12 years after product "first sold for use or consumption * * *"); "Fla. Stat. Ann." § 95.031(2) (1978) ("12 years after the date of delivery of the completed product"); "Ill. Ann. Stat." § 21.2(b) (1978) (12 years from date of first sale—strict liability); "Ind. Stat. Ann. § 33-1-1.5-5 (1978) ("10 years after the delivery * * * to the initial user"); "Neb. Rev. Stat." 25-702(2) (1978) (10 years after first sale); "Utah Code Ann." § 78-15-3(1) (1977) (6 years after date of initial purchase; 10 years after date of manufacture).

The advantages of these statutes are that they: (1) establish an actuarially certain date after which no liability can be assessed; and (2) eliminate tenuous claims involving older products for which evidence of defective condition may be difficult to produce. *See* "Telegraphers v. Ry. Express Agency," 321 U.S. 342 (1944).

On the other hand, a fundamental problem with these statutes is that they *may* deprive a person injured by a product of the right to sue even before the injury has occurred. *See* Johnson, "Products Liability 'Reform': A Hazard to Consumers," 56 "N. C. L. Rev." 677, 689-90 (1978); "Victorson v. Bock Laundry Machine Co.," 37 N.Y. 2d 295, 335 N.E. 2d 275 (1975).

The limited available data show that the concern about older products may be exaggerated. *See* ISO, "Closed Claim Survey," at 105-108 (indicating that over 97 percent of product-related accidents occur within six years of the time the product was purchased and in the captive goods area 83.5 percent of all bodily injury accidents have occured within ten years of manufacture). Nevertheless, as the Task Force Report indicated, the underwriters' concern about *potential* losses associated with older products may be an important factor in the recent increase in liability insurance premiums for manufacturers of durable goods. *See* Task Force Report, at VII-21.

Section 109 attempts to provide product sellers with some security against stale claims, while preserving the claimant's right to obtain damages for injuries caused by unsafely manufactured products. It accomplishes this result through provisions on useful safe life, statutes of repose (with separate provisions for workplace and nonworkplace injuries), and a statute of limitations.

(A) *Useful Safe Life.* The common law in most states is that "[t]he age of an allegedly defective product must be considered in light of its expected useful life and the stress to which it has been subjected." "Kuisis v. Baldwin-Lima-Hamilton Corp.," 457 Pa. 321, 319 A.2d 914, 923 (1974) (brake-locking mechanism on a crane fell after more than 20 years of use). The "Kuisis" court noted further that in "certain situations the prolonged use factor may loom so large as to obscure all others in the case." *Id.*

The basic problem with most proposals to codify this rule into a useful life limitation has been the vagueness of the concept. Thus, while the Task Force Report noted that "if a useful life limitation were identified in statutory form, it might be expected that it would be given more serious attention by both judge and jury," Task Force Report, at VII-27, it also observed that "the concept would still lack specificity." *Id.*

Subdivision 109(A) was derived from "Minn. Stat. Ann." § 604.03 (1978). It serves to remind the court and the trier of fact that a product seller may be held liable only for harms caused during the useful safe life of the product. It does not attempt to apply fixed useful life standards for all products. *See* Phillips, "An Analysis of Proposed Reform of Products Liability Statutes of Limitations," 56 "N. C. L. Rev." 663, 673 (1978). Rather, it identifies factors that may help the trier of fact determine how long a product reasonably can be expected to perform in a safe manner. Section 109 uses the term "useful safe life" (as compared to "useful life") because the period in which the product can have some utility may be well beyond the period in which the product is safe. For example, some drivers may continue to use tires that lack sufficient treads for safety.

Factors (a)-(e) are self-explanatory. Factor (d) refers to the useful safe life stated by the product seller. Relying on this provision, a product seller could indicate that a product should not be used beyond a certain period of time. However, subdivision (A) does not give the product seller absolute power to limit a product's useful safe life. While this was suggested in "Velez v. Craine & Clark Lumber Corp.," 33 N.Y. 2d 117, 305 N.E. 2d 750 (1973), subdivision (A) gives the trier of fact the power to determine whether the product seller's limitation was a reasonable one. *Cf.* "Henningsen v. Bloomfield Motors, Inc.," 32 N.J. 358, 161 A.2d 69 (1960). Further, this subdivision makes clear that a product seller's limitation on useful life cannot bind the rights of a bystander. Nevertheless, where the product seller imposes a reasonable limitation, the trier of fact should give very serious consideration to this fact in determining whether the product was used beyond its useful life.

Factor (e), dealing with modifications of the product by users or third parties, relates to conduct that might shorten the useful life of the product. While the Act treats product modifications in a separate section, they are also factors in determining whether a product has been used beyond its useful life.

(B) *Statutes of Repose.* Statutes of repose differ from statutes of limitations in that they set a fixed limit after the time of the product seller's allegedly wrongful conduct—a limit beyond which the product seller will not be held liable. The rationale of such statutes is two-fold: First, if not aware of a claim, the passing of time may make it extremely difficult for a product seller to construct a good defense because of the obstacle of securing evidence. Although the burden of proof on the issue of defectiveness remains on the claimant under the Act, a jury, as a practical matter, may demand an explanation from a product seller when the claimant has suffered a severe injury. The second rationale is that persons ought to be allowed, as a matter of policy, to plan their affairs with a reasonable degree of certainty. This goes to the heart of the product liability insurance rate setting problem. Even though past data show that 83.5 percent of bodily injury claims arise within a ten-year period, there is no safeguard in the existing law that the past will portend the future. There is always the possibility that the number of claims for older products will increase. *See* ISO, "Closed Claim Survey," at 107.

(1) *Workplace injuries.* In the context of workplace injuries, the product seller's tort liability ends ten years from the date of the delivery of the completed product to its first purchaser or lessee who is not himself primarily engaged in the business of selling such a product. According to ISO data, 97.4 percent of product liability incidents occur within 72 months of the time a product is purchased. *See ISO, "Closed Claim Survey," at 108. Although the number of claims that would be cut off by this statute is small, the potential for such claims to arise has been a cause of the increase in product liability premiums.*

Although the data are limited, it appears in many instances that the reason for an unsafe workplace product has less to do with conduct of the product seller than it has to do with the party having direct responsibility for the care and maintenance of the workplace product—the employer. *See* ISO, "Closed Claim Survey," at 141. This is even more likely to be the case with products that are more than ten years old.

Therefore, subsection (1)(b) grants a product liability claimant subjected to an unsafe workplace product a claim against the workplace employer for lost wages and reasonable medical costs. As a practical matter, this provision amends state worker compensation law. The same is true of subsection (1)(c), which grants beneficiaries under state wrongful death acts a right to recover the pecuniary loss they suffered because an employer exposed the decedent to an unsafe product.

For purposes of this subsection an "unsafe" product is not only one that is defective within the meaning of Section 104, but also one that has been improperly maintained, altered or modified by the employer. The term also includes products that are no longer safe because they have simply worn out.

The Act places a strong incentive for accident prevention on the party who is in the best position to accomplish that goal. When a product is more than ten years old and is in an unsafe condition, the employer—not the product seller—is in the best position to take action to prevent workplace product injuries. This value of this incentive outweighs any new potential cost that may arise in the worker compensation system.

In the very few cases where an employer may be subject to additional liability, the product seller is not totally "off the hook." If the product seller has produced an unsafe product that

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has failed after a ten-year period because of a defective condition inherent in the equipment at the time of manufacture, the employer who is liable under this subsection has the right in an arbitration proceeding to bring a contribution claim against the product seller. The employer will then be able to recover, on a comparative responsibility basis, the amount that is appropriate under the circumstances of the accident.

As compared to ordinary arbitration proceedings under this Act (which are subject to a trial *de novo*), the results of this arbitration proceeding are treated as a final judgment.

While product sellers may question the constitutionality of this arbitration provision, no serious constitutional issue can arise. The product seller benefits from this provision compared to present law which subjects product sellers to unlimited liability claims for full *tort* damages, including costs arising from pain and suffering and the possibility of punitive damages.

(2) *Non-workplace injuries.* For the most part, this subsection deals with consumer products. ISO data reflect that very few claims for consumer goods arise after a ten-year period. Most such claims are for durable goods and would be handled under subsection (1) provisions relating to workplace injuries. *See* ISO, "Closed Claim Survey," at 105-197 (1977). Nevertheless, consumers justifiably are concerned about overly broad absolute cut-offs to their right to sue. This provision recongizes consumer concerns in three basic ways:

(1) The term of the statute is ten years—beyond the term enacted or proposed in a number of states;

(2) The statute begins to run at the time of purchase, not the time of manufacture; and

(3) The statute does not contain an absolute cut-off, but rather a presumption that the product has been used beyond its useful life. Colorado law adopts this approach, "Colo. Rev. Stat. Ann." § 13-21-403(3) (1978); most other state product liability statutes do not.

Consumer concerns are also addressed by three of the additional restrictions contained in the next section. These restrictions are applicable to both consumer and workplace products.

(3) *Limitations on statutes of repose.* The statute contains four key limitations on its scope of operation.

First, liability may result where a product seller has expressly warranted or promised that a product can be safely for a period longer than ten (10) years. *See also* Uniform Commercial Code § 2-725(2).

Second, the statute of repose provisions do not apply where product sellers intentionally have misrepresented their products.

Third, subdivision (B) does not affect contribution and indemnity claims. Thus, an interim seller will not have to absorb a liability loss that was the true responsibility of the original manufacturer. *See* Defense Research Institute (Monograph) "Products Liability Position Paper," at 22; *See also* Phillips, "An Analysis of Proposed Reform of Products Liability Statutes of Limitations," 56 "N. C. L. Rev." 663, 670-71 (1978).

Fourth, there is an exception for pharmaceuticals that cause harms that take many years to manifest themselves, *see, e.g.*, "Krug v. Sterling Drug, Inc.," 416 S.W.2d 143 (Mo. 1967), and products that cause perceptible harm only through prolonged exposure. *See* "Michie v. Great Lakes Steel Div., National Steel Corp.," 495 F.2d 213 (6th Cir. 1974). *See also* Johnson, "Products Liability 'Reform': A Hazard to Conumers," *supra*, at 690-91 ("slumbering defects").

(c) *Statutes of Limitation.* Tort statutes of limitations traditionally begin at the time a person is injured. This subdivision follows that approach. Nevertheless, in accord with consumer concerns, subdivision (C) extends the limitation period beyond the time of injury in situations where the claimant would be unlikely to discover that he or she has been harmed, *e.g.*, long-term pharmaceutical harms. *See* Birnbaum, "First Breaths' Last Gasp: The Discovery Rule in Products Liability Cases," 13 "The Forum" 279 (1977). 000

Analysis

SEC. 110 RELEVANCE OF THIRD-PARTY ALTERATION OR MODIFICATION OF A PRODUCT

This section deals with the situation where a third party—one other than the product seller or the claimant—has altered or modified the product and this has led to claimant's harm.

A Few courts have imposed liability on the product seller in this situation provided that te third party's conduct was in some manner "foreseeable." *See, e.g.*, "Blim v. Newbury Industries, Inc.," 443 F.2d 1126 (10th Cir. 1971) (machine safety guard removed by coworker). Decisions that hold the original product seller responsible in these instances border on absolute liability. Thus, insurers appear to have a just concern about broad-scale imposition of liability where third party intervention has been the principal cause of the accident. As the American Insurance Association has noted:

> It is difficult enough to calculate the risk associated with a given product even where there is access to knowledge about its basic inherent characteristics • • • The task becomes impossible if the premium calculations must take into account not only the inherent properties of the machine, but also its transformation in the hands of others, and their neglect of repair and maintenance.

AIA (monograph) "Product Liability Legislative Package," at 16 (1977). Moreover, if the law ignores modification of products, it will fail to place the incentive for risk prevention on the party or parties who have engaged in the wrongful conduct.

The authors of the "Restatement (Second) of Torts" § 402A recognized this fact and only subjected the product seller to liability when the seller's product reached "the user or consumer without substantial change in the condition in which it [was] sold." Comment g to this section stated the matter more firmly:

> The seller is not liable when he delivers the product in a safe condition, and subsequent mishandling or other causes make it harmful by the time it is consumed. The burden of proof that the product was in a defective condition at the time that it left the hands of the particular seller is upon the injured plaintiff; and unless evidence can be produced which will support the conclusion that it was then defective, the burden is not sustained.

Recently, a number of state legislatures have enacted the essence of this comment into law. *See* "Ariz. Rev. Stat. Ann." § 12-683(2) (1978); "Ind. Stat. Ann." 33-1-1.5 § 4(b)(3) (1978); "Ky. Rev. Stat. Ann." ch. 411, § 4 (1978); "N.H. Rev. Stat. Ann." § 507-D:3 (1978); "R.I. Gen. Laws Ann." ch. 299, § 9-1-31 (1978); "Tenn. Code Ann." ch. 703, § 9 (1978); "Utah Code Ann." § 78-15-5 (1977).

According to ISO's statistics, product modification occurs only in approximately 13 percent of the cases. Of these cases, the largest number of product modifications result from the conduct of employers (39 percent). *See* ISO "Closed Claim Survey," at 140-41. This raises the main problem of rules that limit a product seller's responsibility for subsequent product alterations or modifications—often the injured worker cannot sue the one who is really at fault because of the "exclusive remedy" provisions or worker compensation statutes. However, it seems fair to suggest that the destruction of a tort remedy against the employer

> Should not of itself create a third-party remedy against the manufacturer or distributor of the product in question. If Worker Compensation is regarded as the proper remedy in other cases of an exclusive employer's wrong, then so too should it be where that wrong involves [a] product acquired from third party defendants.

AIA (monograph) "Product Liability Legislative Package," at 15-16 (1977). Nevertheless, Section 110 takes account of the hardship that can result from an overly broad liability limitation on product modification or alteration; the provision is very narrowly drawn.

First, a product seller may avoid liability for a defective product *only* where the harm would not have occurred "but for" the alteration or modification. In contrast, the "Restatement" and the recently enacted state statutes cited above would shield the manufacturer whenever the third party's conduct was a "substantial cause." A rule of this type, however, invites litigation over what is "substantial," and also may diminish a product seller's responsibility for otherwise culpable conduct.

Cases in accord with the approach taken in Section 110 include "Temple v. Wean United, Inc.," 50 Ohio St.2d 317, 364 N.E.2d 267 (1977); "Santiago v. Package Machinery Co.," 123 Ill. App. 2d 305, 260 N.E.2d 89 (Ill. App. 1970); "St. Pierre v. Gabel," 351 So. 2d 821 (La. App. 1977).

Second, as subsections (a)(1) and (2) indicate, the product seller can not avoid responsibility for product alterations or modifications which the seller suggested (per instructions) or which the seller expressly consented.

Third, the product seller has a duty to anticipate certain modifications or alterations of his product. As Section 102(6) (Definitions) indicated, this refers to conduct that would be engaged in by a reasonably prudent person. Subsection (a)(3) is not intended to encompasss every type of act foreseeable by virtue of hindsight or otherwise.

Finally, subsection (b), adapted from Rhode Island Gen. Law Annot. ch. 299, Sec. 1 (1978), makes clear that ordinary wear and tear in a product is not the equivalent of a modification or alteration. However, a third party's failure to observe routine care and maintenance is considered a modification. In such instances, the third party is responsible for the injury. *See* "Ore. Rev. Stat." § 30.915 (1977); "N.H. Rev. Stat. Ann." § 507-D:3 (1978); "Utah Code Ann." § 78-15-5 (1977).

Analysis

SEC. 111. RELEVANCE OF CONDUCT ON THE PART OF PRODUCT LIABILITY CLAIMANTS

Section 111 attempts to resolve existing uncertainty in the law about the relevance of a product liability claimant's conduct. It does this in two ways: First, it applies principles of comparative responsibility to situations where claimant's conduct suggests that he or she has some responsibility for the product-related incident. Second, it characterizes three basic kinds of such conduct and provides rules for each of them, namely, failure to inspect for a defective condition, use of a product with a known defective condition, and misuse of a product.

Although there is no assurance that the use of comparative responsibility principles will lower the cost of product liability claims, the inherent fairness of such principles has led to their adoption by over 30 states, and also has resulted in the adoption of a Uniform Comparative Fault Act (UCFA) by the National Conference of Commissioners of Uniform State Laws. This Act borrows freely from the UCFA and its accompanying commentary.

Some courts and commentators have voiced concern about the semantical and theoretical difficulties of mixing the "apples" of negligence with the "oranges" of strict liability. *See, e.g.*, "Kirkland v. General Motors Corp.," 521 P.2d 1353 (Okla. 1974); Robinson, "Square Pegs (Products Liability) in Round Holes (Comparative Negligence)," 52 "Calif. St. B.J." 16 (1977). These concerns appear to be more theoretical than real, particularly under this Act (as well as in common law product liability) where defendants are held liable based on conduct which may reflect varying degrees of fault. The utility of comparative responsibility for product liability cases has been appreciated by both state legislatures, *e.g.*, "Ark. Stat. Ann. §§ 27-1763-1765) (Supp. 1977); "Me. Rev. Stat. Ann." tit. 15 § 156 (Supp. 1978)), and courts *e.g.*, "Thibault v. Sears, Roebuck & Co.," 6 Prod. Saf. & Liab. Rep. 1000 (S. Ct. N.H. 1978); "Daly v. General Motors Corp.," 20 Cal. 3d 725, 575 P.2d 1162, 144 Cal. Rptr. 380 (1978); "Busch v. Busch Const., Inc.," 262 N.W.2d 377 (Minn. 1977); "Butaud v. Suburban Marine & Sport. Goods, Inc.," 555 P.2d 42 (Alaska 1976). It has also been recommended by a congressional subcommittee. *See* Report of the House Subcommittee on Capital, Investment and Business Opportunities at 76 (1978).

Section 111 places a strong incentive for risk prevention on the party who is best able to accomplish that goal. It also avoids burdening the careful product user with liability insurance costs assessed to persons who misuse or are otherwise at fault in their handling of products. While some economic analyses indicate that a comparative responsibility system creates a risk of economic inefficiency because of an over-investment in safety, the Act makes a value judgment that such an "over-investment" is a risk worth taking.

(a) *General Rule.* This subsection describes the general principle of comparative responsibility that will be applied under this Act. It *assumes* that the product seller has engaged in conduct that would lead to liability under the Act. Where the claimant has engaged in subsection (c)-type conduct and thus is at least partially responsible for the injury, such conduct will diminish the amount of the claimant's award proportionately to that measure of responsibility.

Section 111 adopts the consumer-oriented fairness of pure comparative negligence as compared with the "non-discriminating rough justice of the modified type . . ." *See* "Prefatory Note," UCFA.

(b) *Apportionment of Damages.* In order to apply comparative responsibility principles under this Act, it is necessary for the trier of fact to supply certain information in written interrogatories. Subsection (b)(1) indicated that the trier of fact should set forth the amount of damages a claimant would receive if his comparative responsibility were disregarded. This helps assure that the trier of fact does not inflate or deflate the amount of damages claimant would deserve if he were free from responsibility.

Subsection (b)(2) requires the trier of fact to indicate the percentage of responsibility allocated to each party, including the claimant. Persons not before the court are not included, in part because of the extreme difficulty of determining the fault of such parties. Also, a jury's determination of an absent person's "fault" would not be binding on that person. In any event, both claimants and product sellers will have a significant incentive for joining available defendants since the greater the number of parties at fault, the smaller the percentage of fault allocated to each, whether claimant or product seller.

Subsection (b)(3) provides a general guideline to assist the trier of fact in comparing "fault" among the parties. The UCFA comments indicate that in appropriate cases, the trier of fact may also consider:

(1) Whether the conduct was mere inadvertence or engaged in with an awareness of the danger involved;

(2) The magnitude of the risk created by the conduct, including the number of persons endangered and the potential seriousness of the injury;

(3) The significance of what the actor was seeking to attain by his conduct;

(4) The actor's superior or inferior capacity; and

(5) The particular circumstances, such as the existence of an emergency requiring a hasty decision.

Section 111 departs from the UCFA in one respect—it does not consider "the extent of the casual relationship between the conduct and the damages claimed" as a factor in apportioning responsibility. While the distinction may be a difficult one to draw, this Act is premised on apportioning *responsibility* only—pure causation in

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terms of the physical cause of the particular injury is irrelevant to that concept. *See* Malone, "Ruminations on Cause-In-Fact," 9 "Stan. L. Rev." 60 (1956).

Subsection (b)(4) helps to assure that the mathematics of comparative responsibility will be correctly determined. The court must determine the award for each claimant according to its findings made under this subsection. The subsection also indicates that the common law rule of joint and several liability of joint tortfeasors continues to apply under this Act. Claimant can recover the total amount of his or her judgment against any product seller who is liable under this Act.

However, as with the UCFA, the judgment for each claimant will also show the share of each party's total obligation to the claimant. This should save litigation costs and avoid the need for a special motion or a separate action on the issue. In situations where an employer would be immune from suit by the product claimant, the limitation of Section 113 applies.

Subsection (b)(5) follows the UCFA in providing for the reallocation of damages among the parties at fault when one of the parties' share is uncollectable. The reallocation procedure applies to a claimant who is contributorily at fault. This approach avoids the unfairness of the common law rule of joint and several liability, which would cast the total risk of uncollectibility upon the solvent defendants, and of a rule abolishing joint and several liability, which would cast the total risk of uncollectibility on the claimant.

(c) *Conduct Affecting Claimant's Responsibility.*

(1) *Failure to Discover a Defective Condition.* At common law the product user had an obligation to inspect for defects; failure to do so could bar a claim. *See* "Palmer v. Massey-Ferguson, Inc." 3 Wash. App. 508, 476 P. 2d 713 (1970). However, under modern tort law, the product user is assured of a product that is reasonably safe for its ordinary use. *See* "Restatement (Second) of Torts" § 402A (1965); "Cepeda v. Cumberland Eng. Co.," 76 N.J. 152, 386 A. 2d 816 (1978). Section 111(c) follows these cases and does not require the product user or consumer to inspect a product for a defect. *See* "Kassouf v. Lee Bros. Inc.," 209 Cal. App. 2d 568, 26 Cal. Rptr. 276 (1962) (plaintiff without inspection, ate a chocolate bar containing worms and maggots).

Cases can arise where a defect would be very apparent to an ordinary prudent person. In such cases, it is appropriate to allow the trier of fact to diminish claimant's damages according to the latter's responsibility for the injury that occurred. Thus, in the example of the candy bar, if a claimant with good eyesight ate a candy bar that had bright green worms crawling over it, he or she should bear some responsibility for any ill effects suffered. If the product seller was aware of the defect in the goods at the time of sale, the punitive damages section of the Act (Section 120) would provide a strong disincentive to not sell such a product.

(2) *Using a Product With a Known Defective Condition.* Where it is clear that a claimant both voluntarily and unreasonably used a product with a known defective condition, the product seller is not liable under this Act. To allow a claim in such a situation would permit individuals, in effect, to create their own product liability claim. In that regard, it should be noted that consent is a defense to even intentional wrongs. *See* W. Prosser, "Torts," *supra*, at 101.

However, there may be cases where an individual voluntarily uses a product with a known defective condition, but the reasonableness of this conduct becomes a matter of dispute. For example, if a person discovers a welt in a tire, should that person be required to stop immediately and call for assistance, or is it reasonable to proceed to a nearby gasoline station to have the tire repaired? Many cases arise in this shadowy zone. *See* "Henderson v. Ford Motor Co.," 519 S.W. 2d 87 (Tex. 1974) with "Ford Motor Co. v. Lee," 237 Ga. 554, 229 S.E. 2d 379 (1976). Subsection (c)(2) allows the trier of fact to consider claimant's conduct and reduce damages where it is appropriate to do so.

Subsections (c)(1) and (2) avoid a problem that existed under the "Restatement," though through no fault of the "Restatement" drafters. Persons who engaged in very similar conduct were treated in a very different manner. For example, those who used a product after failing to discover a defective condition were granted a full claim and those who used a product after they had discovered that defective condition were barred. *See* "Restatement (Second) of Torts" § 402A, Comment n. This dichotomy caused litigation and appeals over the issue of whether or not plaintiff "knew" of a particular defect at the time he utilized a product. *See* "Karabatsos v. Spivey Co., 49 Ill. App. 3d 317, 364 N.E.2d 319 (Ill. App. 1977); "Teagle v. Fischer & Porter Co.," 89 Wash. 2d 149, 570 P.2d 438 (1977); "Poches v. J. J. Newberry Co.," 549 F.2d 1166 (8th Cir. 1977).

(3) *Misuse of a Product.* Subsection (c)(3) imposes no liability on the product seller where an injury occurs solely because claimant misused the product in some way that the product seller could not reasonably anticipate. Reasonably anticipated conduct is conduct which would be expected of an ordinary and prudent person. *See* Section 102(6) and commentary. Misuse by claimant in this context is equivalent to modification or alteration of the product by a third party. *See* "Rogers v. Unimac Co., Inc.," 115 Ariz. 304, 565 P.2d 181 (1977); "General Motors Corp. v. Hopkins," 548 S.W.2d 344 (Tex. 1977); "Edwards v. Sears, Roebuck & Co.," 512 F.2d 276 (5th Cir. 1975); *see also* Section 110.

In determining whether the product seller should have warned or instructed the claimant about potential misuses, the trier of fact should consider the factors listed in Section 104(C).

Where misuse of a product was a partial cause of an injury, claimant's damages are subject to reduction. *See* "General Motors Corp. v. Hopkins," *supra*.

ANALYSIS

SEC. 112. MULTIPLE DEFENDANTS: CONTRIBUTION AND IMPLIED INDEMNITY

Section 112 is based on sections 4 and 5 of the UCFA. Here, however, contribution and implied indemnity are merged in one section. Express indemnity—where one party has agreed to hold the other harmless for damages arising out of product liability actions—is left to commercial and common law. *See* Task Force Report, at VII-99.There is clear precedent for the merger of contribution and implied indemnity. *See* "Safeway Stores, Inc. v. Nest-Kart," 21 Cal. 3d 322, 146 Cal. Rptr. 550 (1978); "Dole v. Dow Chemical Co.," 30 N.Y.2d 143, 282 N.E.2d 288, (1972); "Skinner v. Reed-Prentice Division, Etc.," 70 Ill. 2d 1, 374 N.E.2d 437 (1977); "Busch v. Busch Constr., Inc.," 262 N.W.2d 377 (Minn. 1977). *See also* "N.Y. Civ. Prac. Law" § 1402 (McKinney Supp. 1976). This approach avoids the all-or-nothing aspect of implied indemnity law. In most situations, fault will be apportioned among product seller defendants. However, a situation could arise where the trier of fact could find that one product seller in the distribution chain was responsible for a product injury. This section should be read in conjunction with Section 113.

Subsection (a) establishes the basic rule that contribution will be determined by the proportionate responsibility of the defendants. Section 111 outlines the procedure for the trier of fact to make the appropriate determinations.

Subsection (b) outlines a simplified procedure where a party who has paid more than a proportionate share can recover from one who has paid less.

Subsection (c) indicates that if the court has not determined the proportionate responsibility of the parties, contribution may be obtained in a separate action.

Subsection (d) indicates when a contribution action may be brought by a joint tortfeasor who has settled with claimant.

Subsection (e) sets time limits for bringing a contribution action.

It should be noted that contribution is appropriate among joint tortfeasors: each defendant contributing to the same harm is liable to the claimant for the whole amount of damages. If the defendants are liable for separate harms, contribution is not appropriate. *See* UCFA, comment on section 4.

Finally, an important issue in the area of contribution is left to the states, that is, the effect of a release of one tortfeasor but not the others. UCFA section 6 suggests an appropriate approach to this issue; the commentary on that section discusses the pros and cons of alternative approaches.

ANALYSIS

SEC. 113. THE RELATIONSHIP BETWEEN PRODUCT LIABILITY AND WORKER COMPENSATION

The relationship between product liability and worker compensation is a major topic covered in depth in the Task Force Report. *See* VII-85-113. Under current law in a number of states, the interaction of product liability and worker compensation law may result in the manufacturer of a workplace product paying the entire out-of-pocket cost of a product-related workplace injury plus damages for pain and suffering. This result occurs because the product manufacturer is unable to place a portion of the cost of that injury on an employer whose *negligence* may have helped bring about the claimant's injury. *See* "Liberty Mut. Ins. Co. v. Westerlind," 373 N.E.2d 957 (Mass. 1978); "Seaboard Coast Line R. Co. v. Smith," 359 So.2d 427 (Fla. 1978); Task Force Report, at VII-89-99.

After weighing many considerations, the Task Force and the United States Department of Commerce concluded that the development of worker compensation as a sole source for recovery in product-related accidents would be the best solution to the problem, but only if the worker received additional benefits in the course of overall worker compensation reform. A model product liability law is an inappropriate vehicle for making major alterations in worker compensation law.

The search for the next solution is not an easy one. If full contribution or indemnity by the product manufacturer against the employer is permitted, the employer may be forced to pay an employee—through the conduit of the third-party tortfeasor—an amount in excess of the employer's statutory worker compensation liability. This, arguably, thwarts a central concept behind worker compensation, *i.e.*, that the employer and employee receive the benefits of a guaranteed, fixed schedule, non-fault recovery system, which constitutes the *exclusive* liability of the employer. On the other hand, if contribution or indemnity is not allowed, the product manufacturer will bear the burden of a full common law judgment, despite the possibly greater responsibility of the employer. As the Supreme Court of Minnesota recently noted, this "obvious inequity is further exacerbated by the right of the employer to recover directly or indirectly from the third party the amount he has paid in compensation regardless of the employer's own negligence." *See* "Lambertson v. Cincinnati Corp.," 257 N.W.2d 679, 684 (Minn. 1977).

Equally troublesome is the fact that the present system appears to dull employer incentives to keep workplace products safe. The ISO "Closed Claim Survey" suggests that employer negligence is involved in 56 percent of product liability workplace cases. *See* ISO "Closed Claim Survey," Report 10, at 81 (1978).

The solution adopted by Section 113 has the support of the Supreme Court of Minnesota in "Lambertson v. Cincinnati Corp.," *supra*. The product manufacturer is allowed limited contribution up to the amount of the worker compensation lien. This reduces the inequity against the product manufacturer, but preserves the employer's interest in not paying more than worker compensation liability. *Compare* "Skinner v. Reed-Prentice Division, Etc.," 70 Ill. 2d 1, 374 N.E.2d 437 (1977) (full contribution allowed).

Admittedly, a shortcoming of Section 113's approach is that it does not reduce transaction costs substantially. *Compare* the approach suggested by the American Insurance Association, "Product Liability Legislative Package," *supra*, at 64. Also, the employer will not necessarily bear a full share of the economic costs of the injury sustained by the claimant. Nevertheless, considering all of the equities involved, Section 113 appears to offer the soundest solution apart from totally modifying worker compensation law to create a sole source remedy.

ANALYSIS

SEC. 114. THE INDIVIDUAL RESPONSIBILITY OF PRODUCT SELLERS OTHER THAN MANUFACTURERS

Section 114, derived in part from Tennessee law, *see* "Ten. Code Ann." § 23-3706 (Supp. 1978), addresses the problem of excessive product liability costs for parties in the distribution chain other than manufacturers in a way that does not compromise incentives for risk prevention. It also leaves the claimant with a viable defendant whenever he or she has been injured by a defective product.

The ISO "Closed Claim Survey" shows that manufacturers account for 87 percent of the total product liability payment amount, while wholesalers and retailers account for 4.6 percent. *See* ISO "Closed Claim Survey," Report 3, at 35 (1977). Case law suggests that distributors and retailers of products often shift this cost on to the manufacturer through an indemnity suit. *See e.g.*, "Hales v. Monroe," 544 F.2d 331, 332 (8th Cir. 1976); "Anderson v. Somberg," 158 N.J. Super. 384, 386 A.2d 413, 419-20 (1978); "Litton Systems, Inc. v. Shaw's Sales & Serv. Ltd.," 119 Ariz. 10, 579 P.2d 48, 50 (1978).

Despite their relatively small role vis-a-vis manufacturers as product liability defendants, retailers and distributors frequently are brought into a product liability suit. *See, e.g.*, "Tucson Industries, Inc., v. Schwartz," 108 Ariz. 464, 501 P.2d 936 (1976); "Vergott v. Deseret Pharmaceutical Co., Inc.," 463 F.2d 12 (5th Cir. 1972); "Duckworth v. Ford Motor Co.," 320 F.2d 130 (3d Cir. 1963). In view of ISO data showing that for every dollar of claims paid, at least 35 cents is spent in defense costs, *see* ISO, "Closed Claims Survey," Report 14, at 118, the net result is that retailers and distributors are subject to substantial product liability costs, both in terms of premiums and defense costs. These costs are added to the price of products and waste legal resources. *See* "Pender v. Skillcraft Industries, Inc.," 358 So.2d 45 (Fla. App. 1978).

Under Section 114, product sellers other than manufacturers must exercise reasonable care in their handling of products. This obligation includes warning about discoverable hazards. The focus of judicial inquiry will be on the opportunity the product seller (other than a manufacturer) had to discover the hazard and on whether circumstances put the seller on notice as to the character of the product. *See* "Edwards v. E. I. DuPont de Nemours, & Co.," 183 F.2d 165, 167 (5th Cir. 1950).

Subsection (a) provides that nonmanufacturer product sellers are not subject to liability when they had no reasonable opportunity for product inspection which would or should, in the exercise of the defective condition. For example, if a defective product is in a sealed container and there is no way for a retailer to be aware of the condition, the retailer is not liable. In general, Section 114 does not impose liability on non-manfacturer product sellers where there are defects in con-

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struction or defects in design that a reasonable person would have had no opportunity to discover. The manufacturer can avoid many of these defects; the distributor or retailer cannot. However, a non-manufacturer product seller can waive the benefits of subsection (a) through an express warranty. *Cf.* "Ky. Rev. Stat." § 411.340 (1978). For the purposes of this section, the term manufacturer is defined in Section 102(5).

Subsection (b) addresses the justifiable concern of Justice Traynor in "Vandermark v. Ford Motor Co.," 61 Cal. 2d 256, 37 Cal. Rptr. 896, 899, (1964) that:

> In some cases the retailer may be the only member of that enterprise reasonably available to the injured plaintiff. In other cases the retailer himself may play a substantial part in ensuring that the product is safe or may be in a position to exert pressure on the manufacture to that end.

It should be noted that a number of courts have extended strict liability to retailers. *See, e.g.,* "McKisson v. Sales Affiliates, Inc.," 416 S.W.2d 787 (Tex. 1967); "Houseman v. C. A. Dawson & Co.," 106 Ill. App. 2d 225, 245 N.E.2d 886 (1969). *See also* U.C.C. § 2-315.

If the manufacturer is not subject to service of process or has been judicially declared insolvent, or where a court determines that the claimant would have appreciable difficulty in enforcing a judgment against the product manufacturer, the retailer or distributor has the same strict liability obligations as a manufacturer. Thus, subsection (b) only operates where a member of the enterprise *is* reasonably available to the injured plaintiff.

Some economists may criticize the thrust of Section 114 to the extent that it makes compensation of the victim paramount to the structuring of incentives that would optimize product safety. Another approach is that of a recently enacted Nebraska statute which flatly exempts non-manufacturer product sellers from liability unless they have been negligent. *See* Neb. Legis. Bill No. 665(3)(1978). *See also* "Sam Shainberg Company of Jackson v. Barlow," 258 So.2d 242, 244 (Miss. 1972) (same result under case law). However, the Nebraska approach can leave a person injured by a *defective* product (as defined by Section 104) without compensation. While this would be the unusual case, the law makes clear that in these situations the party who actually sold the product should bear the loss.

From another perspective on incentives for risk prevention, the obligation under Section 114 to make a reasonable examination of the product should ensure that the retailer or distributor will exert pressure on the manufacturer to make the product safe. Also, retailers or distributors can become manufacturers for the purposes of this Act if they design, assemble, fabricate, or otherwise prepare a product or component part of a product prior to sale, as well as if they hold themselves out as the manufacturer. *See* Section 102(5) (Definitions) and accompanying commentary.

ANALYSIS

SEC. 115. SANCTIONS AGAINST THE BRINGING OF FRIVOLOUS CLAIMS AND DEFENSES

The ISO data indicate that a substantial amount of product liability costs are incurred in the defense of product liability claims and lawsuits. *See* ISO, "Closed Claim Survey," Report No. 14 (1977) (defense costs equal about 35 percent of claim payments. Some have placed the blame for unnecessary defense costs and needless litigation on the contigent fee system. Nevertheless, as the plaintiff's bar properly observes, the contingent fee brings no return to a claimant's attorney where he or she is unsuccessful. On the other hand, some have argued that the contingent fee system has a negative impact in certain product liability cases to the extent that it causes insurers to settle even non-meritorious cases because the cost of defending such cases may be greater than the amount of settlement.

Analysis of the countervailing arguments suggests that the best solution to reducing unnecessary litigation costs is to address the heart of the problem—in short, discourage frivolous claims and defenses.

Section 115 is based, in part, on § 41 of the "Illinois Civil Practice Act" (as amended, 1976). It is also predicated on a proposal of the California Citizens' Commission on Tort Reform advocating sanctions against "frivolous" claims or defenses. *See* Report of the California Citizens' Commission on Tort Reform, "Righting the Liability Balance," at 146-47, 153-54 (1977).

The underlying purpose of Section 115 has broad support in existing statutes and court rules. Support comes from Rule 11 of the Federal Rules of Civil Procedure, which subjects an attorney to disciplinary action if he or she knowingly files a pleading or defense where no grounds support it. *See* "Barnett v. Laborers's Inter. U. of North America," 75 F.R.D. 544 (W.D. Pa. 1977). Similarly, Federal Rule of Appellate Procedure 38 permits a court to award "just damages and single or double costs" to a party who has been subject to a "frivolous" appeal. Additionally, Federal Rule of Civil Procedure 37(c) provides sanctions for an unreasonable failure to admit averments of fact or the genuineness of documents. In the Federal courts, the above rules are supplemented by 28 "U.S.C." § 1927 (1976) (imposing costs on an attorney who "multiplies the proceedings * * *"). *See* "A.L.R." 3d 209 (1976).

Under subsection (a), the statute may be invoked by either a product liability claimant or seller. Recovery is limited to reasonable attorney's fees and other costs that would not have been expended but for the fact that the opposing party pursued a claim or defense that was frivolous.

Under subsection (b), to make a finding that the claim was frivolous, the court must make a finding that the claim was without *any* reasonable legal or factual basis. This standard allows full room for bringing claims under novel legal theories.

Subsection (c) provides additional assurances that only frivolous claims will be sanctioned. First, the court may only impose damages under Section 115 on the basis of clear and convincing evidence, not merely the preponderance, of evidence. *See* "State of West Virginia v. Chas. Pfizer & Co.," 440 F.2d 1079, 1092 (2d Cir. 1971). Second, the court must set forth its findings of fact.

Subsection (d) gives the court latitude to impose costs on either attorney or client. As the Task Force Report noted, it is unlikely that many plaintiffs will be financially able to respond to such a claim. Task Force Report, at VII-61. It must be remembered that the attorney is in the best position to make a judgment about the reasonableness of bringing a claim or raising a defense. *See* ABA Code of Professional Responsibility, DR 7-102(A)(1)(2).

Subsection (e) protects a claimant's attorney who has expended time opposing a frivolous *defense.* This section can be invoked even where the claimant has *lost* a case.

Subsection (f) makes clear that recovery under this section is limited to expenses invoked by plaintiff or defendant and not those of parties outside the lawsuit.

ANALYSIS

SEC. 116. ARBITRATION

The Task Force Report suggested that compulsory non-binding arbitration may result in more accurate decisions, reduce overall litigation costs, and expedite the decision process. *See* Task Force Report, at VII-229-39.

Other reasons offered in support of arbitration procedures in product liability cases include: (1) Cases would be decided more accurately because a small group, with a member who is an expert in the field, should be able to comprehend the esoteric details of product liability cases; (2) Overtime, a resource bank of relatively neutral experts less easily misled (in technical areas) than a jury of laypersons could

be developed; (3) Arbitrators should be less affected by the emotional aspects of the case or by the artistry of counsel; and (4) The privacy of arbitration proceedings (as compared to judicial proceedings) should prompt more complete revelation of special manufacturing designs or processes. This, in turn, would permit more accurate judgments. *See* Task Force Report, at VII-235.

The ISO "Closed Claim Survey" suggests further that arbitration should also reduce accident reparation transaction costs. Even allowing for the fact that more substantial product liability claims are litigated to a verdict than are handled by arbitration, ISO data indicate that the average expense for lawyers as well as other allocated loss adjustments costs is considerably less when the case is handled by binding arbitration as compared with a court verdict. *See* ISO,"Closed Claim Survey," Report 14, at 120.

On the other hand, costs may increase under arbitration if there are numerous appeals for trials *de novo.* This potential problem may not be as serious, however, as once thought. Data collected by the Department of Justice show that appeal rates at the state level for a trial *de novo* have ranged from 5 to no more than 15 percent of all cases arbitrated. *See* Hearings before the Committee on the Judiciary, Subcommittee on Improvements in Judicial Machinery, United States Senate, 95th Cong., 2d Sess., April 14, 1978. (Statement of Attorney General, Griffin B. Bell). *See also* Report of the California Citizens Commission on Tort reform, "Righting the Liability Balance," at 143 (1977) citing rejection of arbitration should expedite the reparations process. The Task Force Report showed that in the medical malpractice area, for example, the arbitration process had achieved a more expeditious resolution of claims than those operating under the jury system. *See* Task Force Report, at VII-238.

Indeed, the benefits of arbitration have prompted the Department of Justice to recommend that mandatory non-binding arbitration be used in federal courts in all tort and contract cases. The Department of Justice reached this conclusion after its Office of Judicial Improvements made a thorough analysis of the matter in a study conducted wholly independently of the Task Force Report. These concurrent efforts appear to have reached the same conclusion.

Section 1-6 draws on portions of the Department of Justice's proposed bill on mandatory, non-binding arbitration, *see* S. 2253, 95th Cong. 1st Sess.; H.R. 9778, 95th Cong., 1st Sess., the Statement of Attorney General Griffin B. Bell, *supra,* as well as state legislation on the topic of arbitration.

(a) *Applicability.* The Act provides for mandatory arbitration where the amount in dispute is less than $30,000, exclusive of interest and cost. While the figure is $20,000 less than the Department of Justice Bill's $50,000 level, it should cover the bulk of product liability claims. In that regard, the ISO closed claim data, trended for severity, show that the average paid claim in bodily injury cases is $26,004. While some have suggested limiting arbitration to smaller claims, it is the larger claims that have been the greater cost items in product liability cases, *See* ISO, "Closed Claim Survey," at 113.

While there has been no state experience with cases at the $30,000 level, Attorney General Bell has noted that when Pennsylvania increased the jurisdictional amount for the state's arbitration program from $3,000 to $10,000, there was no increase in the appeal rate. *See* Statement of Attorney General Griffin B. Bell, *supra.*

It seems relatively certain that an arbitration procedure will help expedite and reduce costs connected with smaller claims. ISO closed claim data show that the large majority of product liability payments are relatively small (more than two-thirds are under $1,000—even when trended for severity). *See* ISO,"Closed Claim Survey," at 113.

(b) *Rules Governing.* Subsection (1) indicates that arbitrators should apply the product liability substantive law rules of this Act. Where the Act does not provide a rule of decision, relevant state law would be applied.

Subsection (2) indicates that where a procedure is not covered, *e.g.,* when a court can vacate a judgment, the Uniform Arbitration Act (UAA) (enacted in a number of states) is to be used as a resource.

The Act also permits the state to designate an alternative source of rules in subsection (3)

(c) *Arbitrators.* The rules provide latitude for the parties to select a single arbitrator. Otherwise, the arbitration is to be conducted by three persons, one who is a lawyer or retired judge, one who has expertise in the subject matter area that is in dispute, and one who is a layperson. This provision differs slightly from the Department of Justice proposal in light of the needs of product liability. Having an individual who is familiar with the esoteric nature of the subject matter involved will help expedite the case and serve as a deterrent to the presentation of biased expert testimony. In addition, this subsection provides for a layperson to be included to help assure that the consumer perspective regarding product safety is represented. The process of selecting a layperson may be complicated, but it is suggested that either normal jury rolls be utilized or a list of laypersons be compiled for this purpose.

Aside from general guidelines regarding fairness and lack of bias, the Act does not outline the method of choosing arbitrators, but leaves that matter to the individual states. A state can help implement the general guidelines by requiring each arbitration panel candidate to disclose any personal acquaintance with the parties or their counsel and allow a *voir dire* examination. *see* Mich. "Comp. Laws Ann." § 600.5045(1) (2) (Supp. 1978). Some of the better procedures include:

(1) Having the American Arbitration Association select a pool of candidates according to its established selection procedures. Each party is allowed to reject certain candidates and rate the remainder in order of preference. Additional provisions take effect if this procedure fails to produce a panel. *See* "Mich. Comp. Laws Ann." § 600.5044(4)(5) (Supp. 1978);

(2) Having the court appoint arbitrators. "Mass. Gen. Laws Ann." ch. 231, § 60B (1978).

(3) Having an arbitration administrator appoint arbitrators. "Wis. Stat. Ann." § 655.02 (1978).

(4) Having the parties and court combine to appoint arbitrators. "Neb. Rev. Stat." § 44-2840, 2841 (1976); "Ohio Rev. Code Ann." § 21(A) (1977).

(d) *Arbitrators' Powers.* These provisions are taken from the Department of Justice proposal on arbitration. They grant the arbitrators jurisdiction and also give them powers of subpoena.

(e) *Commencement.* This provision is also derived from the Department of Justice proposal. Its purpose is to help expedite the proceeding. The Act contains a slight modification of the Justice proposal in order to allow an extension for "good cause shown." This seems appropriate in light of the fact that some product liability cases are very complex. *Cf.* "Ariz. Rev. Stat. Ann." § 12-567(C) (Supp. 1978) (medical malpractice).

(f) *Evidence.* One method of expediting the process is to use informal means of proof. Nevertheless, some guidelines are needed. The Act follows the department of Justice proposal in referring to the Federal Rules of Evidence as general guidelines. Strict adherence to rules of evidence is not required. *See* "Ariz. Rev. Stat. Ann." § 12-567-(D) (Supp. 1978).

(g) *Transcript of Proceeding.* With respect to the provision of a transcript of proceeding, the Act generally follows the Department of Justice draft.

(h) *Arbitration Award and Judgment.* The Act follows the Department of Justice proposal provisions on award and judgment. The parties may

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request a trial *de novo* on issues of law or fact. If they do not so request in a timely manner, the action is at an end—there is no appeal.

(i) *Trial De Novo.* The Act follows the Department of Justice proposal provisions on trial *de novo*. Additional guidance on this topic may be found in the Uniform Arbitration Act § 8-131. The Act excludes evidence about the existence of a prior arbitration proceeding, the nature or amount of the award, and matters concerning the conduct of the arbitration (with the exception of the admission of testimony for impeachment purposes) at the trial *de novo*. A number of state medical malpractice arbitration statutes have taken the opposite view, i.e., they admit the results of the arbitration proceeding on the premise that this will be a deterrent against persons seeking retrials of the proceeding. *See, e.g.*, "Ariz. Rev. Stat. Ann." § 12-567(M) (Supp. 1978); "Mass. Gen. Laws Ann." ch. 231 § 60B (Supp. 1978). *Cf.* "Wis. Stat. Ann." § 655 19(2) (1978) (excluding findings and order of arbitration panel). *See also* Volume VI, "Legal Study," at 155-56.

The approach of Section 116 would appear to be in accord with the Federal Constitution. *Cf.* "ExParte Peterson," 253 U.S. 300, 309 (1920). Moreover, with the exception of two Ohio lower court decisions, state courts have upheld the constitutionality of provisions that do admit panel findings before the jury. *See* "Eastin v. Broomfield," 116 Ariz. 576, 570 P.2d 744, 750 (1977); "Attorney General v. Johnson," 282 Md. 168, 385 A.2d 57, 67-68 (1978); "Paro v. Longwood Hospital," 369 N.E.2d 985 (Mass. 1977); "Prendergast v. Nelson," 199 Neb. 97, 256 N.W.2d 657 (1977); "State ex rel. Strykowski v. Wilkie," 81 Wis.2d 491, 261 N.W.2d 434 (1978). *Contra* "Simon v. St. Elizabeth Medical Center," 3 Ohio Op. 3d 164, 355 N.E.2d 903, 907-909 (C.P. 1976); "Graley v. Satayatham," 74 Ohio Op.2d 316, 343 N.E.2d 832 (C.P. 1976). *See generally*, Redish, "Legislative Response to the Medical Malpractice Insurance Crisis: Constitutional Implications," 55 "Tex. L. Rev." 759, 793 (1977); Lenore, "Mandatory Medical Malpractice Mediation Panels—A Constitutional Examination," 44 "Ins. Counsel J." 416, 422 (1977).

Nevertheless, a jury may have difficulty evaluating the conclusions of another fact finder where the jury was not privy to the prior fact finder's qualifications and mode of operation. Even if these matters could be explained to the jury, it might get sidetracked from the actual evidence in the case. *See* the observations of Judge Hinton in a classic comment, 27 "Ill. L. Rev." 195 (1932); 18 "A.L.R." 2d 1287 (1951). *But see* Federal Rule of Evidence 803 (22) (admitting felony convictions in a cognate civil case). For these reasons, the Act has followed the Department of Justice proposal on the issue.

Section 116(i)(iv)(aa) chooses an alternative deterrent against ill-considered appeals for trials *de novo* that does not interfere with the trial *de novo*. If a party fails to obtain a judgment more favorable than the arbitration award, the court will assess the cost of the arbitration proceeding, including the amount of arbitration fees, plus interest, against that party.

In light of the fact that the present product liability system has created serious problems and the fact that complusory binding arbitration has the potential for dealing with some of those problems, this slight incentive for retaining a sound arbitration award should not run afoul of constitutions in most states. *See* Task Force Report, at VII-233. The Act does not enumerate grounds upon which a court may vacate an arbitration award. Guidance on this issue may be obtained from section 12 of the Uniform Arbitration Act.

Analysis

SEC. 117. EXPERT TESTIMONY

In General. The Task Force's "Legal Study" demonstrated that product liability cases often are compromised because of the lack of standards with regard to selecting and presenting expert testimony *See* Volume IV, "Legal Study," *supra* at 153-155. One part of the problem is the biased expert; another is the unqualified expert.

Even if experts are properly qualified and objective, a jury of laypersons is often in a poor position to determine which expert is correct. For this reason, this Act gives the court power to make greater use of pre-trial arbitation where an unbiased, qualified expert will serve on the panel. *See* Section 116. Where arbitration is not used, however, this section should promote the goal of presenting objectives and sound expert testimony to the jury.

(a) *Appointment of Experts.* Subsection (a) is based on Rule 706 of the Federal Rules of Evidence and similar state rules. It indicates that courts have the power to appoint experts on their own authority. A number of courts have utilized this power even without the benefit of Federal Rule of Evidence 706 or a similar state rule. *See* 95 "A.L.R." 2d 390 (1964). As the Task Force Report noted, the presence of a court-appointed expert "has a cautionary impact on the expert for hire whose theories at trial are subject to dispute not only by an adversary expert, but also by a neutral-court-appointed one." Task Force Report, at VII-43, citing, Mitchell, "The Proposed Federal Rules of Evidence: How They Affect Product Liability Practice," 12 "Duquesne L. Rev." 551, 557-58 (1974). *See also* 2 J. Wigmore, "Evidence" § 563, at 648 (3d ed. 1940) ("• • • this expedient would remove most • • • abuses").

One problem with court-appointed experts is that the trier of fact may give them an aura of infallibility they do not deserve. Under Section 117, this possibility is diminished because the experts are subject to cross-examination by *both* parties. Also, the section allows the court in its descretion to decline to disclose to the jury that the expert witness is, in fact, court-appointed.

(b) *Compensation.* Under Federal Rule of Evidence 706 and similar state rules, compensation of experts is left to the judge's discretion. This subsection goes a step further and provides two guidelines for compensating experts. Both guidelines should serve as an added inducement for attorneys to present objective expert testimony. The guidelines suggest that the court may impose the cost of the court-appointed expert on losing parties as well as on parties the court finds have been wrong in their estimation of damages.

(c) *Disclosure of Appointment.* This section follows Federal Rule of Evidence 706. In most instances, it is important for the trier of fact to appreciate that the witness is court-appointed. However, circumstances may arise where the court believes that disclosure of that fact will give the witness too much credence with the jury. Therefore, the court has discretion to withhold the information when it is appropriate to do so.

(d) *Parties' Experts of Own Selection.* This section also allows Federal Rule of Evidence 706. Precluding the parties from introducing their own experts would vest too much power in court-appointed experts.

(e) *Pre-Trial Evaluation of Experts.* A rule authorizing a court-appointed expert does not, in and of itself, provide guidance about who is properly qualified to testify in product liability cases. There are many approaches to that issue. One approach, used in some medical malpractice statutes, would require that an expert witness "spend a substantial portion of his professional time in the actual practice of his area of expertise. This was not followed because a person may be well-versed in technical product liability matters even if he does devote substantial time to testifying in cases. *See* Task Force Report, at VII-44. Unfortunately, it is impractical to utilize a "standard test" for all experts in product liability cases. *See* Donaher, Piehler, Twerski, and Weinstein, "The Technological Expert in Products Liability Litigation," 52 "Tex. L. Rev." 1303, 1325 (1974).

(1) *Need for Pre-Trial Evaluation.* It is not necessary or cost-efficient to utilize the procedure outlined by Donaher *et. al., supra,* in *all* cases. This rule gives some guidance to the trial court in deciding whether to conduct a pre-trial hearing on the qualifications of expert witnesses. It is appropriate to do so in more complex cases and also where the pre-trial hearing would serve as a deterrent to the presentation of witnesses who were not qualified. Either party may bring this matter before the court by motion.

(2) *Factors in Evaluation.* The factors in evaluation are drawn from Donaher *et. al., supra.*

The court should inquire into the expert witness' background and skills and determine whether they are appropriate for the purpose of the case. The court should not only examine the witness' formal education, but also whether he or she had undertaken specific preparation for the litigation before the court. Finally, the court should examine a witness for bias. A witness with marginal expert skills, but who also had a strong bias should be considered unqualified.

(3) *Findings of Fact.* If it seems clear to the court that the expert's background and experience do not qualify the expert to testify, it should state this conclusion in its findings of fact under section (h).

Analysis

SEC. 118. NON-PECUNIARY DAMAGES

Non-pecuniary damages include awards for pain and mental suffering. They are to be contrasted with pecuniary damages which compensate victims for lost wages, medical costs, and other expenditures brought about by a product-related accident.

According to the ISO Closed Claim Survey, 70 percent of claims closed with payment include amounts in addition to a claimant's pecuniary loss. *See* ISO, "Closed Claim Survey," at 54 (1978). Moreover, the average amount of payment above pecuniary loss increases significantly in the higher payment ranges. *Id.*, at 54-55. A most important reason for the difficulty in setting product liability rates is the "open-endedness" of damages for pain and suffering. *See* Task Force Report, at VII-64-65.

The Task Force Report suggested that limits on awards for pain and suffering "would reduce uncertainty and thereby mitigate the 'apprehension factor' that has contributed to the rise in product liability insurance rates." *Id.*, at VII-65. Nevertheless, such awards have deep historical roots and should not be limited in a manner that unreasonably curtails the rights of injured parties.

Section 118 addresses each of the major rationales offered in support of awards for non-pecuniary damages. First, in proposing to limit such awards, this section implicitly takes the position that the common law rationale for pain and suffering awards generally does not apply under this Act. The award for non-pecuniary damages arose in early common law cases as a substitute for an injured plaintiff seeking personal "vengeful retaliation." *See* Task Force Report, *Id.* In those cases, the defendant usually committed an intentional wrong. This rationale has little application to cases arising under strict product liability. Under this Act, a manufacturer is liable for harm caused by products found to be defective in construction regardless of fault. In cases of harm caused by products found to be defective in design or defective because of the absence of adequate warnings, the trier of fact must consider more sophisticated matters than whether the defendant "acted as a reasonable person under all the circumstances"—the general negligence standard.

A second rationale to support awarding damages for pain and suffering is that they have an important deterrent function. The Task Force Report found evidence that the general product liability problem caused manufacturers to devote more attention to product liability loss prevention techniques. *See* Task Force Report, at VI-50. Section 117 retains this deterrent function while placing some reasonable limits on awards for pain and suffering.

A third rationale, supported by members of the plaintiff's bar and some economic legal scholars, is that awards for pain and suffering are a reasonable attempt to provide some compensation for the serious discomfort that a plaintiff endures. *See* R. Posner, "Economic Analysis of the Law," 82 (1972). Other studies have questioned whether monetary awards for pain and suffering do anything to alleviate the symptoms they are alleged to address. *See* J. O'Connell and R. Simon, "Payment for Pain & Suffering" (1972); Peck, "Compensation for Pain: A Reappraisal in Light of New Medical Evidence," 72 "Mich. L. Rev." 1355 (1974). Section 117 adheres to the former assumption to this degree: When a claiment has suffered permanent serious disfigurement or serious mental illness, the amount of damages for pain and suffering are left to the sound discretion of the trier of fact with appropriate review by the court in cases of abuse of that discretion.

However, where the claimant has not suffered permanent serious disfigurement or permanent mental illness as a result of the product-related harm, damages for pain and suffering are limited to $25,000.

An ample body of case law in the area of worker compensation and more recently automobile injury reparation statutes serve as guidance for courts in determining "permanent serious disfigurements." *See, e.g.*, "Falcone v. Branker," 135 N.J. Super. 137, 342 A.2d 875 (1975) (collecting cases). That term has been held to provide a sufficient basis for legal interpretation. *See* "In Re Requests of Governor and Senate, Etc.," 389 Mich. 411, 208 N.W.2d 469, 480 (1973).

Courts also have defined and explained the term "mental illness" in a number of contexts. *See* "Carroll v. Cobb," 139 N.J. Super. 439, 354 A.2d 355 (1976) (voter registration requirements); "Sachs v. Commercial Insurance Co. of Newark, N.J." 119 N.J. Super. 226, 290 A.2d 760 (1972) (insurance policy); "In re Humphrey," 236 N.C. 141, 71 S.E.2d 915 (1952) (incompetency proceedings); "Commonwealth v. Moon," 383 Pa. 18, 117 A.2d 96 (1955) (committal proceedings); "Interstate Life & Accident Insurance Co. v. Houston," 50 Tenn. App. 172, 360 S.W.2d 71 (1962) (insanity exclusion provision).

Objections to limits on awards for non-pecuniary damages take several forms: One is that such limits may violate due process or equal protection clauses of some state constitutions. *Cf.* "Wright v. Central DuPage Hosp. Assoc.," 63 Ill. 2d 313, 347 N.E.2d 736, 743 (1976) (restriction of amount of general damages in medical malpractice); "Graley v. Satayatham," 74 Ohio Op. 2d 316, 343 N.E.2d 832, 836 (C.P. 1976) (requiring list of collateral source benefits in medical malpractice). Another is state constitutional prohibitions on damage limitations. *See, e.g.*, "Ariz. Rev. Stat. Ann.," Const. Art. 18, § 6 (1956); "Ky. Rev. Stat. Ann.," Const. § 54 (1963); "Penn. Stat. Ann.," Const. Art. 3, § 18 (1969). An argument that § 117 does not violate such prohibitions is that a strict product liability cause of action did not exist at the time the constitution was adopted and is therefore exempt from its interdictions. *See* "Rail N Ranch Corp. v. State," 7 Ariz. App. 558, 441 P.2d 786, 788 (1968).

These objections notwithstanding, Section 118 can be supported by three basic rationales. First, the common law reason for the rule does not support the application of damages for pain and suffering in strict liability cases. Second, the common law rule will continue to operate where injuries are serious. *Cf.* "Rybeck v. Rybeck," 141 N.J. Super. 481, 358 A.2d 828, 836 (1976), *appeal dism'd*, 150 N.J. Super. 151, 375 A.2d 269 (1977) (limited court

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access for pain and suffering in no-fault—"the law is permitted to treat large problems differently from small problems if there is a rational basis for the difference"). Finally, some ceiling or limit on damages for pain and suffering will reduce uncertainty in one of the greatest liability insurance rate-making problem areas.

ANALYSIS

SEC. 119. THE COLLATERAL SOURCE RULE

The collateral source rule is a principle of tort law under which the defendant is not permitted to take "credit" for any money that an injured plaintiff received from another (collateral) source. The rule embraces both payments for loss of wages and medical expenditures.

The rule may permit double recovery by the plaintiff and also increase transaction costs. Section 119 recognizes these possibilities and provides for a limited modification of the collateral source rule where the claimant has received compensation for the same damages from a public source. Its approach is similar to that followed in medical malpractice by the states of Tennessee and Pennsylvania. *See* Task Force, "Legal Study," Vol. V, at 146.

There are two significant arguments against proposals to modify the existing rule. The first is that the "wrongdoer" should not have the benefit of a windfall. Proponents contend that it is better that the plaintiff have the benefit of a windfall than the defendant.

This argument can be rebutted in the context of product liability. Under Section 104 of this Act and the law of most states, product sellers may be held responsible for damages on a strict liability basis not merely because the defendant has engaged in negligent or intentionally wrongful conduct. Therefore, a selective modification of the collateral source rule in the context of product liability, as compared with medical malpractice, may be justified. *Cf.* "Graley v. Satayatham," 74 Ohio Op. 2d 316, 343 N.E. 2d 832 (C. P. 1976); "Simon v. St. Elizabeth Medical Center," 3 Ohio Op. 3d 164, 355 N. E. 2d 903 (C. P. 1976) (holding unconstitutional selective abolition in medical malpractice context). Other states, however, have upheld such selective abolition, or modification. *See* "Eastin v. Broomfield," 116 Ariz. 576, 570 P. 2d 744, 751-752 (1977).

The second argument against modifying the collateral source rule is that a manufacturer should not be permitted to "externalize" the cost of an injury caused by its products. This argument is very strong where the injured plaintiff has purchased health and accident coverage. In that instance, the defendant product seller should not be able to benefit from the claimant's prior prudence. Nevertheless, some proposals have modified the rule in that situation. *See* "Neb. Rev. Stat." § 44-2819 (Supp. 1976); "Prendergast v. Nelson," 199 Neb. 97, 256 N. W. 2d 657, 669 (1977); National Product Liability Council, "Proposed Uniform State Product Liability Act," § 207 (undated). *See also* Comment, "An Analysis of State Legislative Responses to the Medical Malpractice Crisis," 1975 "Duke L. J." 1417, 1447-50.

On the other hand, where the claimant has received damages from a public source, the argument is less persuasive. The benefits received were not through the claimant's pre-accident financial planning or made a part of one's remuneration from employment; rather they were derived from public tax funds that accumulated in part by contributions from the product seller. Since the product seller would be able to distribute the same cost again among consumers through product pricing, the public may be subjected to excessive costs.

A probable effect of Section 119 will be to reduce double expenditures in the context of medical costs. The ISO "Closed Claim Survey" suggests that medical costs represent approximately 19.7 percent of product liability claims. *See* ISO, "Closed Claim Survey," at 57 (1977). Nevertheless, the cost savings generated by this section probably will be modest. The ISO closed claim data, which were quite limited on this point, show that approximately 6.4 percent of claimants have been reimbursed by public collateral sources. *See* ISO, "Closed Claim Survey," at 181 (1977). Collateral sources paid for 19.8 percent of the claims in those cases. (This closely parallels the general percentage of medical benefits.) Although generating only modest savings, Section 119 should help reduce overall insurance costs. Liability insurers should take this matter into account when the formulate rates and premiums.

Section 119 also takes account of existing legislation that may authorize subrogation by public collateral sources. In order to reduce transaction costs and duplicative distribution costs, this section precludes subrogation.

Finally, Section 119 does not alter existing law that prohibits the defendant from introducing in evidence the fact that the plaintiff has been indemnified by a collateral source. That approach was rejected because it would leave the trier of fact in the role of balancing the delicate policy elements that surround proposals calling for abolition of the collateral source rule. Also, that approach would reduce the potential benefit of collateral source rule modifications in that it would increase transaction costs and lower predictability and consistency in the allocation of collateral benefits. *See* Task Force Report, at VII-74-75. *Cf.* Defense Research Institute, "Products Liability Position Paper," at 44-45 (1976) (advocating modification of evidentiary rules to allow trier of fact to consider all collateral benefits).

ANALYSIS

SEC. 120 PUNITIVE DAMAGES

Some product sellers and others have called for the abolition of punitive damages on the ground that they serve no proper "tort law" purpose, *see* Proposed Uniform State Product Liability Act § 206 (National Product Liability Council) (undated); *see generally* the Defense Research Institute Monograph, "The Case Against Punitive Damages" (1969) (marshalling arguments) and at least one court has accepted these arguments in the area of product liability. *See* "Walbrun v. Berkel, Inc.," 433 F. Supp. 384-85 (E.D. Wis. 1976); "Roginsky v. Richardson-Merrell, Inc.," 378 F. 2d 832 (2d Cir. 1967) (dictum).

Nevertheless, as Section 120 acknowledges, punitive damages serve an important function in deterring product sellers from producing, distributing, or selling dangerous products. *See* "Toole v. Richardson-Merrell, Inc.," 251 Cal. App. 2d 689, 60 Cal. Rptr. 398 (1967); "Gillham v. Admiral Corp.," 523 F.2d 102 (6th Cir. 1975). At the same time, this section recognizes and addresses problems that the concept has caused in the context of product liability.

While many product sellers have expressed great concern about the economic impact of punitive damages, the ISO Closed Claim Survey suggests that the number of cases in which such damages are imposed is insubstantial. *See* ISO, "Closed Claim Survey," at 183 (1977). Nevertheless, concern about punitive damages has caused some insurers to decline insurance coverage for these damages. Also, a number of states and some insurers have declined to do so for the policy reason that a product seller should not be permitted to pass this cost on to an insurer. Transcending all concerns is the total lack of structure surrounding punitive damages.

Subsection (a) addresses a basic argument against punitive damages, namely that they apply a criminal law sanction to a civil law case. The defendant does not have the benefit of constitutional protections that would be available to him under the criminal law. Section 120(a) moves away from the ordinary "preponderance of evidence" test of civil cases and toward the criminal standard, but does not turn completely to a pure criminal law

standard of proof "beyond a reasonable doubt." Instead, the Act requires the plaintiff to show by "clear and convincing" evidence that punitive damages are justified. *See* Section 102(7) (Definitions).

Section 120(a) also requires that the claimant show that the product seller's conduct demonstrated reckless disregard for the safety of others. By "reckless disregard" the provision means a conscious indifference to the safety of persons who might be injured by the product, the traditional barrier that the plaintiff must cross in order to obtain punitive damages. *See* W. Prosser, "Torts," at 9-10 (4th Ed. 1971). The reckless disregard standard is identified in statutory form to avoid any possible misinterpretation of this basic area of law—it should be clear that a product seller does *not* have to pay punitive damages under ordinary strict liability or negligence standards.

Subsection (b) follows the current common law system in allowing the jury to determine in its discretion whether punitive damages should be awarded. *See* Prosser, "Torts," *supra*, at 9. On the other hand, this subsection draws upon a newly enacted Minnesota statute (Minn. Stat. Ann. 549.21 (1978)) in having the court, rather than the jury, determine the amount of those damages. This approach is in accord with the general pattern of the criminal law where the jury determines "guilt or innocence" and the court imposes sentence. This is particularly appropriate in product liability cases where, under current law, product sellers are potentially subject to repeated imposition of punitive damages for harm caused by a particular product.

Subsection (b) provides guidelines for the court to determine the amount of punitive damages. The guidelines offered are based on "Minn. Stat. Ann." 549.21(3) (1978). The drafters of that statute relied on a very thorough analysis of product liability and punitive damages. *See* Owen, "Punitive Damages in Products Liability Litigation," 74 "Mich. L. Rev." 1257, 1299-1319 (1976).

Factors (1) and (2) are self-evident. If the facts show that the product seller actually was aware of the specific hazard *and* its seriousness, *and* marketed it anyway, a higher award is in order.

Factor (3), profitability, recognizes that punitive damages may be used to directly attack the profit incentive that generated the misconduct.

Factor (4) is important regardless of the basic requirement that the product seller must have reckless disregard for the safety of others. If the product seller consciously concealed its activities, this augurs for a higher award.

Factor (5) acknowledges that a product seller who was reckless in producing the product, but who acted quickly to remove the product from the market upon discovery of the hazard, should not be subject to as harsh a sanction as one who failed to act. Some have suggested that punitive damages should be awarded only where corporate management has either authorized, participated in, or ratified conduct that shows a conscious or reckless disregard for public safety. *See* Task Force Report, at VII-79. Section 120 rejects that approach because it could foster legal disputes as to whether an individual stood "high enough" in the corporate structure to cause that individual to bear responsibility for punitive damages. Nevert' eless, in circumstances where a non-management employee caused the harm and management acted quickly to undo that harm once it was discovered, a lower award may be appropriate.

Factor (6) is traditional under the common law. It is one that has been subject to criticism from product sellers and economists. Nevertheless, in light of the fact that deterrence of wrongful conduct is the principal reason behind punitive damages, it is appropriate to consider the impact an award will have on a particular product seller.

Factor (7) is more important in product liability cases than in others because it addresses the problem of multiple exposure to punitive damages. This factor directs the court to consider both criminal and civil liability to which the product seller has been or may be subjected.

The Act takes the position that the award of punitive damages should go to the claimant and not the state. While the argument that since the damages are non-compensatory they should go to the state has some merit the approach was rejected because of constitutional problems and the fact that it might place a claimant's attorney in a potential conflict of interest situation (is he trying the case for his client or the state?). *See* Task Force Report at VII-79.

APPENDIX A

A BIBLIOGRAPHY OF MAJOR COMPENDIUM SOURCES REVIEWED IN CONNECTION WITH THE MODEL CODE

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A review was also conducted of all enacted state product liability laws, all proposed federal product liability laws, and major proposed state product liability laws, as well as all law review and other related literature and major case law reported or published since the completion of the Interagency Task Force's seven-volume Legal Study in December, 1976. That study reviewed case law and literature published prior to that date. Consideration was also given to pre-1976 sources that were not reviewed by the Legal Study. Some primary sources have been cited throughout the section-by-section analysis and a more detailed bibliography is available at the law library of the Department of Commerce, Washington, D.C., Thomas B. Fleming, Chief.

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highlights

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Monday	Tuesday	Wednesday	Thursday	Friday
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Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

***NOTE: As of January 1, 1979, the Merit Systems Protection Board (MSPB) and the Office of Personnel Management (OPM) will publish on the Tuesday/Friday schedule. (MSPB and OPM are successor agencies to the Civil Service Commission.)**

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Title 10—Energy

CHAPTER II—DEPARTMENT OF ENERGY

PART 205—ADMINISTRATIVE PROCEDURES AND SANCTIONS

1978 Interpretations of the General Counsel

AGENCY: Department of Energy.

ACTION: Notice of Interpretations.

SUMMARY: Attached are the Interpretations and responses to Petitions for Reconsideration issued by the Office of General Counsel of the Department of Energy under 10 CFR Part 205, Subpart F, during the period December 1, 1978, through December 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Diane Stubbs, Office of General Counsel, Department of Energy, 12th & Pennsylvania Avenue, NW., Room 1121, Washington, D.C. 20461, (202) 633-9070.

SUPPLEMENTARY INFORMATION: Interpretations issued pursuant to 10 CFR Part 205, Subpart F, are published in the FEDERAL REGISTER in accordance with the editorial and classification criteria set forth in 42 FR 7923 (February 8, 1977), as modified in 42 FR 46270 (September 15, 1977).

These Interpretations depend for their authority on the accuracy of the factual statement used as a basis for the Interpretation (10 CFR 205.84(a)(2)) and may be rescinded or modified at any time (§ 205.85(d)). Only the persons to whom Interpretations are addressed and other persons upon whom Interpretations are served are entitled to rely on them (§ 205.85(c)). An Interpretation is modified by a subsequent amendment to the regulation(s) or ruling(s) interpreted thereby to the extent that the Interpretation is inconsistent with the amended regulation(s) or ruling(s) (§ 205.85(e)). The Interpretations published below are not subject to appeal.

The responses to Petitions for Reconsideration published herein have been issued in accordance with the provisions set forth in 10 CFR 205.85(f). It should be emphasized that the reconsideration procedure is not the equivalent of an administrative appeal, but merely provides a mechanism to insure that no inadvertent errors are made which affect the validity of the interpretation.

Issued in Washington, D.C., January 8, 1979.

EVERARD A. MARSEGLIA, Jr.,
Acting Assistant General Counsel for Interpretations and Rulings, Office of General Counsel.

APPENDIX A.—*Interpretations*

No.	To	Date	Category
1978-62	HNG Petrochemicals, Inc.	Dec. 4	Price
1978-63	Northern Natural Gas Company, *et al.*; MAPCO, Inc., *et al.*	Dec. 13	Price

INTERPRETATION 1978-62

To: HNG Petrochemicals, Inc.
Date: December 4, 1978.
Rules Interpreted: 10 CFR 212.162; 212.167; Ruling 1975-18.
Code: GCW-PI-Part 212, Subpart K; Natural Gas Shrinkage; Firm, def.

FACTS

HNG Petrochemicals, Inc. (HNG) and Houston Pipe Line Company, Intratex Gas Company, and Valley Pipe Lines, Inc. (collectively referred to as "the pipeline companies") are wholly-owned subsidiaries of Houston Natural Gas Corporation.

HNG is the sole owner and operator of several gas plants, the operator and part owner of one gas plant and a part owner, but not operator, of another gas plant. All these gas plants are located in Texas near the pipeline companies' interconnected gathering and transmission system. At these plants, HNG extracts natural gas liquids (NGL's) and fractionates natural gas liquid products (NGLP's). Thus, HNG is a "refiner" as defined in 10 CFR 212.31 and a "gas plant owner" and "gas plant operator" as defined in 10 CFR 212.162. Because HNG does not refine crude oil, its pricing of NGL's and NGLP's is governed solely by Part 212, Subpart K. 10 CFR 212.161(b)(1).

The pipeline companies make the first sale of the natural gas processed by HNG's plants,[1] to gas utilities, industries, and other primarily large-scale consumers located within the State of Texas.[2] In May 1973 and thereafter, most of these sales of residue gas have been made strictly on a Btu basis, but some are made on a volumetric (Mcf) basis with the sales contracts specifying a minimum Btu content for the gas.

HNG calculates maximum lawful prices for the NGL's and NGLP's that it sells. An important component of such calculations is increased product costs, which include increased "cost of natural gas shrinkage." 10 CFR 212.162 and 212.167. HNG has elected to aggregate and allocate increased shrinkage costs on a firm-wide basis under 10 CFR 212.168(b).[3]

HNG requests an interpretation as to whether Subpart K requires the cost of natural gas shrinkage to be measured only by reference to contract prices for sales of residue gas by the gas processor at the tailgate of the processing plant. HNG seeks to include all of the residue gas sales prices of the pipeline companies (excluding only intra-firm sales) when calculating a weighted average sales price to be used in HNG's firm-wide shrinkage calculations. HNG's request also raises the question of how it may compute the weighted average cost of natural gas shrinkage on a firm-wide basis when the price terms in the relevant contracts for

[1] Department of Energy (DOE) regulations, rulings, and interpretations also refer to this "processed" gas as "residue" or "outlet" gas, and these terms are used interchangeably in this Interpretation. This Interpretation is not addressed to instances in which HNG processes natural gas under a contract whereby the processed gas is sold by a natural gas producer to the pipeline companies

[2] To varying degrees the residue gas the pipeline companies sell may be intermixed with "wet" streams that contain gas fed into the pipeline companies' distribution system and sold without extraction of those wet streams' liquid content. The processed gas from HNG's plants is commingled, so that it is impossible to trace processed gas sold to particular plants.

[3] *See HNG Petrochemicals, Inc.*, Interpretation 1978-16, 43 FR 19825 (May 9, 1978).

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the sale of the residue gas are stated sometimes on an Mcf basis. In its amended request dated February 24, 1978, as supplemented by representations made by the firm in a conference held on May 31, 1978, HNG seeks to convert the price terms in the pipeline companies' contracts for sale of residue gas on a Btu and sometimes on an Mcf basis to their Btu "equivalent" and calculate a weighted average cost of natural gas shrinkage in the relevant month strictly on a Btu basis.

ISSUES

1. In computing increased product costs incurred since May 1973 attributable to the sale of NGL's and NGLP's may HNG determine the "cost of natural gas shrinkage," as defined in 10 CFR 212.162, pursuant to the pipeline companies' contracts for sale of natural gas?

2. In computing "cost of natural gas shrinkage" on a firm-wide basis, how is HNG to account for the different price terms (Btu or Mcf) used in the pipeline companies' contracts for sale of the processed natural gas?

INTERPRETATION

For the reasons discussed below, in computing increased product costs incurred since May 1973 for sale of its NGL's and NGLP's under Subpart K, HNG may determine the weighted average cost of natural gas shrinkage with reference to the pipeline companies' contracts for sale of the commingled residue gas. Subpart K, as interpreted by Ruling 1975-18, 40 FR 55860 (December 2, 1975), requires that for both May 1973 and the current month HNG compute this cost in two steps, with reference to (1) the weighted average price of residue gas sold on a Btu basis and (2) the weighted average price of residue gas sold on an Mcf basis, as described below.

Section 212.167(b)(3) defines "increased product costs" for NGL's and NGLP's to include:

"[T]he difference between the weighted average cost of natural gas shrinkage per thousand cubic feet (MCF) of natural gas processed in the month of May 1973, and the weighted average cost of natural gas shrinkage per thousand cubic feet (MCF) of natural gas processed in the current month, multiplied by the number of thousand cubic feet (MCF's) of natural gas processed in the current month."

Section 212.162 provides:

"Cost of natural gas shrinkage means the reduction in selling price per thousand cubic feet (MCF) of natural gas processed which is attributable to the reduction in volume or BTU value of the natural gas resulting from the extraction of natural gas liquids, as determined pursuant to the contract in effect at the time for which cost of natural gas shrinkage is being measured, and under which the processed natural gas is sold."

The pipeline companies' contracts for sale of the processed natural gas are the contracts pursuant to which HNG measures its cost of natural gas shrinkage under 10 CFR 212.167(b) and 212.162.[4] Subpart K requires neither that the gas plant owner or operator be a party to the contracts for sale of the processed natural gas nor that these contracts provide for sale of the gas at the tailgate of the processing plant. The preamble to the rulemaking adopting Subpart K states: [5]

"The total increased shrinkage cost attributable to the entire volume of natural gas processed to obtain a given volume of natural gas liquids may be attributed to the prices charged for those liquids in a first sale, *without regard to which entity actually retains title to the natural gas*, and therefore "incurs" an increased shrinkage cost by virtue of reduced natural gas sales revenues."

As the situation of HNG and the pipeline companies demonstrates, the first sale of processed natural gas to an unaffiliated entity may occur at widely varying locations, ranging from points at or near the tailgate of the processing plant to distant points along the distribution system, depending on where the seller is able to provide and the purchaser is able to receive delivery of the processed gas. The shrinkage calculations in Subpart K were not intended to interfere with these normal commercial interrelationships, but were intended generally to provide an economic incentive to extract NGL's from natural gas. The method for measuring increased shrinkage costs is based on three objective criteria: the extraction loss, the volumes of natural gas processed, and the sales prices of the residue gas. Such figures are used regardless of which entity has title to and sells the processed natural gas to an unaffiliated entity and regardless of the location at which such a sale is made.

Therefore, HNG's "weighted average price per unit (MCF or BTU) for processed natural gas" (Ruling 1975-18, § 2b) must be determined by reference to the pipeline companies' contracts for sale of natural gas from the distribution system interconnected with the outlets of gas processing plants in which HNG has an interest, excepting only sales by the pipeline companies to affiliated entities.

HNG has also requested an interpretation as to how the relevant residue gas sales price terms should be incorporated in its shrinkage calculations. Inasmuch as HNG has elected to aggregate and allocate product costs on a firm-wide basis, pursuant to 10 CFR 212.168(b), HNG must continue to calculate and apply shrinkage costs on the same basis. To compute shrinkage costs on a firm-wide basis, weighted average residue gas sales prices must also be computed on a firm-wide basis in this case. As stated in Ruling 1975-18:

"Where the increased costs associated with several volumes of processed natural gas have been aggregated, the residue price which is used to determine the cost of natural gas shrinkage is a weighted average of all contract price terms under which the different volumes of processed natural gas are sold."

The relevant contracts for the sale of the residue gas specify that gas is sold on a Btu basis in most cases, and in some cases on an Mcf basis. Ruling 1975-18, *supra*, *establishes the appropriate method of obtaining one weighted average residue gas selling price. The difficulty in directly applying this formula to HNG's firm-wide shrinkage calculations is that HNG's firm-wide sales of residue gas are made on two bases (Btu and Mcf), not on one basis as set forth in the example in Ruling 1975-18, supra.* Because residue gas sales are made on two bases, the price terms cannot be weight-averaged directly to compute one weighted average residue gas selling price.

In order to comply with § 212.162 and in keeping with the principles enunciated in Ruling 1975-18, *supra*, HNG should calculate its shrinkage costs with reference to the relevant contractual price terms for processed natural gas. Since the gas is priced under these contracts on two different bases, then in order accurately to calculate the shrinkage costs attributable to extraction with reference to the relevant price terms of the contracts under which the processed gas is sold, HNG must establish a firm-wide weighted average sales price for residue gas sold on each basis according to the proportion by volume of gas sold on each basis. These calculations produce a firm-wide weighted average cost of "Btu" shrinkage and a firm-wide weighted average cost of "Mcf" shrinkage, which when added together yield the firm's total weighted average cost of natural gas shrinkage in the relevant month.

In the manner of Ruling 1975-18, these calculations of HNG's cost of natural gas shrinkage for May 1973 and the current month may be expressed in the following formula:

$$C_{wa} = \left(\frac{B}{B+M}\right)\left(\frac{V_{btu} \times P_{btu}}{I_{mcf}}\right) + \left(\frac{M}{B+M}\right)\left(\frac{V_{mcf} \times P_{mcf}}{I_{mcf}}\right)$$

Where:

C_{wa} = The weighted average cost of natural gas shrinkage.

B = The volume of residue gas sold pursuant to Btu contracts.

M = The volume of residue gas sold pursuant to Mcf contracts.

V_{btu} = The aggregate value in Btu of the natural gas liquids, natural gas liquid products, ethane, and plant fuel extracted from the processed gas stream, determined by converting them to the unit of measurement by which the residue gas is sold, in accordance with the procedures set forth in ruling 1975-18.

P_{btu} = The weighted average price per Btu unit for processed natural gas, as determind pursuant to the contracts in effect at the time for which the cost of natural gas shrinkage is being measured, and under which the processed natural gas is sold on a Btu basis.

V_{mcf} = The aggregate value in Mcf of the natural gas liquids, natural gas liquid products, ethane, and plant fuel extracted from the processed gas stream, determined by converting them to the unit of measurement by which the residue gas is sold, in accordance with the procedures set forth in ruling 1975-18.

P_{mcf} = The weighted average price per Mcf unit for processed natural gas, as determined pursuant to the contracts in effect at the time for which the cost of natural gas shrinkage is being measured, and under which the processed natural gas is sold on an Mcf basis.

I_{mcf} = The volume in Mcf's of the inlet gas, exclusive of any condensate (which is "crude oil" as that term is defined in § 212.31).

Neither of the methods suggested by HNG for calculating the cost of natural gas shrinkage fulfills the requirements of 10 CFR 212.162 that the "cost of natural gas shrinkage" be computed with reference to the price *terms* (Btu and/or Mcf) by which the residue gas is sold. In its original request of July 11, 1975, HNG proposed to compute this cost with reference to the pipeline companies' weighted average sales price per *Mcf* of residue gas sold. Such an amount would be determined by dividing HNG's total sales revenue by total Mcf's of gas sold. In its amended request of February 24, 1978, HNG proposed to compute this cost in reference to the pipeline companies' weighted average sales price per *Btu* of residue gas sold, determined by dividing HNG's total sales revenue by the sum of (1) the Btu content of gas sold pursuant to Mcf contracts and (2) the Btu content of gas sold pursuant to Btu contracts.[6] Either method would effectively ignore the price term (Btu or Mcf) in some of the pipeline companies' contracts for sale of the residue gas. Since in the relcant periods the pipeline companies have always sold residue gas pursuant to both Btu and Mcf contracts, HNG's shrinkage calculations must be based on the actual terms (both Btu and Mcf) in sales of residue gas.

Accordingly, HNG must compute the "cost of natural gas shrinkage" pursuant to both the Btu and Mcf contracts for sale of the residue gas in the relevant periods in the manner described above.

INTERPRETATION 1978-63

To: Northern Natural Gas Company, *et al.*[1] MAPCO, Inc., *et al.*[2]

Date: December 13, 1978.

Rules Interpreted: 10 CFR 212.31, 212.91, 212.161, 212.162, 212.163, and 212.164.

Code: GCW—PI—Part 212, Subparts F and K; Def. of Reseller, Refiner, Firm, and First Sale; Non-product Cost Increases

FACTS

Northern Natural Gas Company (Northern) and MAPCO, Inc. (Mapco) have filed separate Requests for Interpretation, which are both addressed in this Interpretation because they raise essentially the same legal issues under the Mandatory Petroleum Price Regulations in similar factual contexts. Each company processes natural gas and is, therefore, a "refiner" as defined in 10 CFR 212.31 and a "gas plant owner" and "gas plant operator" as defined in 10 CFR 212.162. As independent gas processors that do not also refine crude oil, the companies are subject to 10 CFR Part 212, Subpart K in their sales of natural gal liquids (NGL's) and natural gas liquid products (NGLP's). 10 CFR 212.161 (b) (1). The companies have asked a number of closely related questions: Whether the gas processing and marketing entities affiliated with each company are part of the same firm; whether transfers of NGL's by their gas processing to their marketing entities qualify as "first sales" under Subpart K; and whether sales of NGL's and NGLP's by the marketing entities are subject to Part 212, Subpart K, governing gas processors, or Subpart F, governing resellers. If their asserted interpretations were confirmed, Northern and Mapco would be permitted to use the adjusted May 15, 1973, prices provided by 10 CFR 212.164 in lieu of the actual May 15, 1973, weighted average transfer prices charged to their affiliated marketing entities, and the affiliated marketing entities could treat the amount of the adjustment as an increased product cost under the provisions of Subpart F.

Northern is divided into two divisions: The Transmission Division, which operates an extensive pipeline system in the Midwest for delivery of natural gas in interstate commerce for resale; and the Peoples Natural Gas Division, a utility delivering natural gas directly to consumers in a number of states. Northern also owns and operates gas processing plants which extract NGL's from the natural gas streams flowing through Northern's pipeline system and which fractionate those NGL's into natural gas liquid products, such as propane, butane and natural gasoline. Northern owns and sells part of the propane, butane and natural gasoline which it processes. Northern Propane Gas Company (Northern Propane) Northern Gas Products Company (Northern Gas), and United Petroleum Gas Company (United) are wholly owned subsidiaries of Northern. Northern Gas owns interests and operates a number of gas processing plants, parts of whose production of NGL's and NGLP's Northern Gas owns and sells. Northern Propane, which conducts its various business activities under the name of Norgas, buys propane and resells it primarily on the retail level but also on the wholesale level. United, a holding company, wholly owns UPG, Inc. (UPG), which purchases and resells propane, butane, condensate, diesel fuel oil, motor gasoline and other petroleum products. UPG has purchased substantially more than 5 percent of the petroleum products it sells (calculated by volume) from affiliated companies (Northern and Northern Gas). All of the petroleum products purchased by UPG from affiliated companies consist of NGL's and NGLP's produced from processing plants in which Northern and Northern Gas have interests. Northern Propane has purchased substantially more than 5 percent of the petroleum products it sells from UPG. Neither Northern nor any of the Northern subsidiaries refines crude oil.[3]

Mapco is divided into two divisions: the Pipeline Division, a common carrier which operates an extensive pipeline system in the Midwest for delivery of NGLP's in interstate commerce; and the Production Division, which explores for and produces crude oil and natural gas and owns interests in and operates gas processing plants producing NGL's and NGLP's part of which Mapco owns and sells.

The Thermogas Corporations (Thermogas) and MAPCO Products Company (Mapco Products) are wholly owned subsidiaries of Mapco. Thermogas consists of over 100 separate corporations that are jointly managed and buy and resell propane primarily on the retail level but also on the wholesale level. Thermogas purchases approximately 25 percent of its propane supplies from a commonly controlled entity. Mapco Products buys and resells NGL's, ethane, propane, butane, natural gasoline and other petroleum products, of which approximately 25 percent (calculated by volume) are purchased from a commonly controlled entity. Neither Mapco nor any of its subsidiaries refines crude oil.[4]

The parties [5] concede that as a result of their refining NGL's and NGLP's from nat-

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[1] HNG and the pipeline companies are part of the same firm under Part 212, and these contracts are the only ones in effect for the first sale of the natural gas to an unaffiliated entity after processing. Even if HNG and the pipeline companies were not part of the same firm, the conclusion in this Interpretation would not be changed, and HNG would still be permitted, in computing shrinkage, to utilize the pipeline companies' contracts for the first sale of the processed natural gas to an unaffiliated entity where there is no sale of the processed gas to the pipeline companies at a point prior to the pipeline companies' sale of the processed gas. Therefore, it makes no difference for HNG's shrinkage calculations that the pipeline companies, instead of HNG, sell the residue gas from natural gas streams processed by HNG's plants.

[2] 39 FR 44407, §V (December 24, 1974) (emphasis added).

[3] As explained by HNG in a conference on May 31, 1978, for purposes of this method of shrinkage calculations, HNG would assume that the average Btu content of gas sold pursuant to Mcf contracts was the same as the average measured Btu content of gas sold pursuant to Btu contracts.

[1] Northern Natural Gas Company filed its Request for Interpretation on behalf of itself, Northern Gas Products Company, Northern Propane Gas Company, and UPG, Inc.

[2] MAPCO, Inc., filed its Request for Interpretation on behalf of itself, The Thermogas Corporations and MAPCO Products Company.

[3] The term "Northern subsidiaries" is used hereafter to refer to Northern Gas; Northern Propane, United and UPG. For purposes of this Interpretation, we have assumed that from January 1, 1975, through October 31, 1978, UPG and Northern Propane each purchased more than 5 percent of the "covered products" (as defined in 10 CFR 212.31) they sold from commonly controlled entities.

[4] The term "Mapco subsidiaries" is used hereafter to refer to Thermogas and Mapco Products. For purposes of this Interpretation, we have assumed that from January 1, 1975, through October 31, 1978, Thermogas and Mapco Products each purchased more than 5 percent of the "covered products" (as defined in 10 CFR 212.31) they sold from commonly controlled entities.

[5] The term "parties" is used hereafter to refer to Mapco, Northern, and their subsidiaries. The parties' requests for interpretation were filed prior to the recent amendment to Subpart K, 43 FR 42984 (September 21, 1978), which substantially revised Subpart K effective November 1, 1978. The effective date of some of these amendments has been suspended, 43 FR 50841 (October 31, 1978). Because the submissions of the

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ural gas and selling those products, they were subject, at least in part, to 10 CFR Part 212, Subpart K. 10 CFR 212.161(b)(1). Northern contends, however, that each of its corporate entities [9] was a separate firm under Part 212. Mapco also contends that each of its corporate entities was a separate firm, except that all of the jointly managed Thermogas corporations should have been treated as one firm.[7] As a result, they conclude that only those entities that were gas plant owners or operators—Northern, Northern Gas and Mapco—would have been refiners subject to Subpart K with respect to their sales of NGL's and NGLP's. In contrast, they further conclude that those entities that only purchased and resold NGL's and NGLP's—Northern Propane, UPG, Mapco Products and Thermogas—would have been subject to 10 CFR Part 212, Subpart F, for such sales.[8]

If this requested interpretation were not issued and Northern and its subsidiaries [9] on the one hand and Mapco and its subsidiaries [10] on the other hand were each treated as a single "firm," Mapco urges that the DOE recognize a "transfer price" applicable to sales of NGL's and NGLP's from gas processing entities to marketing entities within the same firm. Under those circumstances, the "sale" of NGL's or NGLP's from the gas processing entity to the marketing entity would have been subject to Subpart K and the "resale" of NGLP's by the marketing entity would have been subject to Subpart F, notwithstanding the "5 percent rule" of 10 CFR 212.91, so long as the firm did not refine crude oil.

As we noted above, under either of the interpretations urged by the parties, they would have been able to use the adjusted May 15, 1973, first sale price set forth in 10 CFR 212.164 instead of actual May 15, 1973 weighted average "prices" for transfers of NGL's and NGLP's between their gas processing and marketing entities. This adjustment would then have been reflected in the marketing entities' increased costs of product in inventory ("increased product costs") under 10 CFR 212.93. The parties would also have been able to recover any increased non-product costs of their marketing subsidiaries in the manner provided by Subpart F.

In contrast, if the Northern group and the Mapco group were each considered to be a single firm, each group would have been subject exclusively to Subpart K insofar as its production, purchase, and sales of NGL's and NGLP's were concerned. As a result, the parties could have used their adjusted May 15, 1973 weighted average prices charged in sales of NGL's and NGLP's to unaffiliated entities,[11] their increased product costs would have been calculated as provided under 10 CFR 212.166, and the increased non-product costs which they incurred with respect to the sales of those products would have been subject to the limitations of 10 CFR 212.165.[12]

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parties deal only with the provisions of Subpart K as they existed prior to the recent amendments, this Interpretation deals only with Subpart K as it existed prior to November 1, 1978. Subpart K originally appeared at § 212.141 *et seq.*, and was later redesignated § 212.161 *et seq.*, 39 FR 44407, 44412-14 (December 24, 1974); 40 FR 6200 (February 10, 1975). All references in this Interpretation are to § 212.161 *et seq.*, as in effect through October 31, 1978.

[6] *I.e.*, each of the corporate entities listed in note 1, *supra*.

[7] See n. 2, *supra*.

[8] This Interpretation does not address the question of which supart of 10 CFR Part 212 governs the sale of condensate and other petroleum products by the parties.

[9] The term "Northern group" is used to refer to Northern and the Northern subsidiaries. See n. 3, *supra*.

[10] The term "Mapco group" is used to refer to Mapco and the Mapco subsidiaries. See n. 4, *supra*.

[11] The parties state that the actual May 15, 1973 weighted average transfer prices for NGL's and NGLP's between affiliated entities were lower than the adjusted May 15, 1973 sales prices, so that they would gain an advantage by using the adjusted prices in lieu of the established May 15, 1973 inter-affiliate transfer prices. According to the parties' requested interpretation, the difference between the May 15, 1973 transfer price and the adjusted price of 10 CFR 212.164(a) would have become part of the increased product cost to their affiliated marketing entities, which could then have been passed on to the marketing classes of purchaser. The parties' actual May 15, 1973 weighted average sales prices to unaffiliated entities for NGL's and NGLP's were much higher than the adjusted May 15, 1973 prices, so that the parties could not have benefited by the use of the adjusted prices in lieu of the May 15, 1973 prices to unaffiliated entities.

[12] As the detailed discussion in § II C of this Interpretation demonstrates, absent exception relief, § 212.165 limited recovery of increased non-product costs to .375 cents per gallon for NGL's and .5 cents per gallon for NGLP's. The parties also contend that this provision strictly limited recovery of increased non-product costs to those incurred in the operation of gas processing plants and excluded recovery of any increased marketing costs, which were substantial for both the Mapco and Northern groups.

INTERPRETATION

I. SUMMARY

For the reasons discussed below, we reach the following conclusions regarding the applicability of Subpart K and Subpart F to the parties from January 1, 1975, through October 31, 1978. Each of the affiliated entities within the Northern group was part of one firm, and each of the affiliated entities within the Mapco group was part of one firm. All entities, including the marketing entities, within these firms were subject exclusively to Subpart K, not Subpart F, with respect to their sales of NGL's and NGLP's to unaffiliated entities, because both firms were refiners and the marketing entities within both groups purchased more than 5 percent of their petroleum products for resale from affiliated entities. Sales of NGL's and NGLP's between affiliated entities within the Northern or Mapco firms cannot have constituted "first sales" under Subpart K since those sales were not transactions with classes of purchaser. The Northern and Mapco firms were entitled to use the adjusted May 15, 1973, prices for NGL's and NGLP's set forth in 10 CFR 212.164 in lieu of their actual May 15, 1973, weighted average sale prices of NGL's and NGLP's only with respect to sales to unaffiliated entities. Absent exception relief, the Northern and Mapco firms were permitted to recover as increased non-product costs all of their increased marketing costs attributable to their sales of NGL's and NGLP's, subject to the limitations on amount which were contained in 10 CFR 212.165.

II. DISCUSSION

A. *The Concept of "Firm".* Although the term "firm" has been used repeatedly in 10 CFR Part 212, Subpart K,[13] it was not expressly defined in that subprt. The term was, however, defined in Part 212, Subpart B, which establishes the meaning of important terms used throughout Part 212.

Section 212.31 provides:[14]

"'Firm' means any association, company, corporation, estate, individual, joint-venture, partnership, or sole proprietorship or any other entity however organized including charitable, educational, or other eleemosynary institutions, and the Federal government including corporations, departments, Federal agencies, and other instrumentalities, and State and local governments. The [DOE] may, in regulations and forms issued in this part, treat as a firm: (1) A parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls, (2) a parent and its consolidated entities, (3) an unconsolidated entity, or (4) any part of a firm."

The parties contend that the most expansive meaning of "firm" in § 212.31, *i.e.*, a parent and the consolidated and unconsolidated entities which it controls, did not apply to Subpart K, inasmuch as the DOE never expressly incorporated this meaning

[13] *E.g.*, 10 CFR 212.161(a), 212.162, 212.164, 212.165, and 212.166.

[14] This section was adopted in 39 FR 1924 (January 15, 1974) and carried forward a similar definition first adopted by the Cost of Living Council in Phase II of the Economic Stabilization Program, 6 CFR 101.2, 37 FR 9457 (May 11, 1972), which was readopted essentially unchanged, along with related definitions, in Phase IV, 6 CFR 150.31, 38 FR 21592 (August 9, 1973).

in the regulations contained in that subpart,[15] as apparently required by the definition's second sentence.

As far as refiners [16] have been concerned, the regulatory history emphasizes that contrary to the parties' unsupported claims,[17] regulations and forms subjected all refiners to the most expansive meaning of "firm," regardless of whether they have been crude oil refiners or gas processors. Under the Economic Stabilization Program, all refiners were subject to that meaning of "firm."[18] With the promulgation of the Mandatory Petroleum Price Regulations, 39 FR 1924 (January 15, 1974), sales of NGL's and NGLP's by all refiners were subject to 10 CFR Part 212, Subpart E, which expressly incorporated this meaning of "firm." Section 212.82 of Subpart E defines a "firm" as: "a parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls." Under this definition, all entities within the Northern and Mapco groups were part of their respective single firms because of the element of common control.

With the promulgation of Subpart K, effective January 1, 1975, 39 FR 44407 (December 24, 1974), sales of NGL's and NGLP's by independent gas processors, *i.e.*, those unaffiliated with a crude oil refiner, became subject exclusively to Subpart K. 10 CFR 212.161(b)(1).[19] In the rulemakings creating and amending Subpart K, there was no indication of any intent to change the meaning of "firm" from what it was in Subpart E, and DOE and its predecessor agencies have never discussed or promulgated a substitute definition.[20] The DOE did not make the "firm" concept for purposes of Subpart K synonymous with "legal entity," as the parties contend, except insofar as the 5 percent rule applies. *See* § II B(2), *infra*.

"Firm" is the most basic concept in the Mandatory Petroleum Price Regulations, as the concept defines the scope of the entities subject to the regulations. Before the maximum lawful selling price that can be charged under Part 212 for a sale of a covered petroleum product can be determined, a determination must first be made of the size and scope of the seller's unit, *i.e.*, "firm," under the price regulations. This requirement applies as much to gas processors under Subpart K as it does to parties subject to other subparts of Part 212.[21] *See, e.g., Enterprise Products, infra.* In view of these considerations, and in view of the fact that gas processors were clearly subject to a well-developed concept of "firm" before Subpart K became effective, a change in the meaning of that term for the purposes of Subpart K alone would have required far more than the speculative basis, *i.e.*, inferring and intent to change from silence, that the parties urge in support of their requested interpretation.

The DOE also implemented the most expansive meaning of "firm" as defined in § 212.31 in the various report forms that gas processors have been required to file under the Mandatory Petroleum Price Regulations. These forms expressly indicated that this meaning of "firm" applied to all refiners, including gas processors.

Paragraph B of the instructions to Form FEO-96,[22] first required to be filed in February 1974, stated:

"Each refiner, as defined in 10 CFR 212.31 must file a Form FEO-96. . . .

"The parent and the consolidated and unconsolidated entities, (if any) which it directly or indirectly controls, taken all together, constitute the 'firm'. . . ."

Form P110-M-1, first required to be filed in April 1976, replaced Form FEO-96. The instructions to Form P110-M-1, paragraph B, also defined "firm" in that manner.[23]

The DOE and its predecessor agencies have generally interpreted the definition of "firm" in the Mandatory Petroleum Price Regulations in the most expansive sense, as set forth in the definition of "firm" in § 212.31, so that a parent firm (including an individual person) and all the entities it directly or indirectly controls are considered to be part of the same firm. *In Enterprise Products Co.*, Interpretation 1975-3, 42 FR 23722 (May 10, 1977), issued on February 12, 1975, the Federal Energy Administration (FEA), a predecessor of the DOE, rejected the arguments of a wholesaler of NGLP's that its sales to two retail dealers were inter-firm transactions. In that case, the owners of the wholesaler owned 8 percent of the stock in one of the retail dealers and 29 percent of the stock in the other retail dealer. The FEA applied the most expansive meaning of "firm" in § 212.31 to the wholesaler and the retail dealers, and treated all of these entities as one combined firm subject to Subpart F, even though that subpart (like Subpart K) did not define that term.[24] In *Tesoro Petroleum Corp.*, Interpretation 1975-32, 42 FR 23743 (May 10, 1977), issued on August 21, 1975, the FEA similarly determined that two refiners were part of the same firm where one refiner had purchased 37 percent of the stock of the second, noting that the expansive scope of a firm for purposes of the whole price control program (absent express exception) had long since been established:

"In a series of rulings during Phase II of the Economic Stabilization Program the major questions concerning inter-corporate control for purposes of price regulations were fully answered and settled. . . . [T]he administrative determination of whether one firm is controlled by another must be a factual and legal determination based upon *possession of the power of control* and not upon the happenstance of exercise of that power." (Emphasis added.)

In *Sohio-BP Oil, Inc.*, Interpretation 1976-3, 42 FR 7926 (February 8, 1977), issued April 20, 1976, the FEA concluded in similar unequivocal terms that Sohio and its wholly owned subsidiary, BP Oil, Inc., were part of the same firm.[25]

"The price rules do not apply to each refinery but to each 'firm.' . . . The price rules

[15] *E.g.*, Northern's Request, pp. 7-11; Mapco's Request, pp. 11-14.

[16] See discussion of the "refiner" definition, which includes gas processors such as the Mapco and Northern firms, in § II B(1), *infra*.

[17] *E.g.*, Mapco's Request, pp. 11-18.

[18] 39 FR 32718 (September 10, 1974).

[19] Contrary to Northern's argument, § 212.161(b)(1) neither states nor implies that the expansive meaning of "firm" in Subpart E is inapplicable to refiners made subject to Subpart K exclusively. Request, pp. 9-10, 13. This section only makes clear that independent gas processors were no longer to determine maximum lawful prices under the refiner price formula of Subpart E after Subpart K became effective. The scope of the entity subject to the regulations—the "firm" as defined in 10 CFR 212.82—remained the same, as indicated by the repeated use of that term throughout Subpart K.

[20] Subpart K was adopted and amended pursuant to the following rulemakings: 39 FR 32718, § I (September 10, 1974); 39 FR 44407 (December 24, 1974); 40 FR 6200 (February 10, 1975); 40 FR 39850 (August 29, 1975); 40 FR 49105 (October 21, 1975); 41 FR 15330 (April 12, 1976); 41 FR 24110 (June 15, 1976); and 42 FR 29490 (June 9, 1977). *See* n. 5, *supra*.

[21] To have different meanings for "firm" under the various Subparts E, F, and K would be not only contrary to the plain meaning of Part 212, but also contrary to the integrated structure of its interrelated provisions. A party can be characterized as solely a crude oil refiner, solely an independent gas processing refiner, or solely a reseller under the price regulations only after the scope of the party's "firm" has been established. In the case of a major crude oil refiner, for example, it cannot be decided whether the same "firm" is also a gas processor unless the meaning of that term, as used in both Subparts E and K, indicates what entities are included in the firm. Crude oil refiners with gas processing interests are subject both to Subpart K (for their gas processing activities) and Subpart E (for all other refining activities and the computation of maximum lawful prices for sales of NGL's and NGLP's to unrelated entities). Thus, if the same "firm" concept that applied to the rest of Part 212 were not incorporated in Subpart K, it would be impossible to join Subparts E and K for pricing purposes, as directed by 10 CFR 212.161(b)(2). In such a case, one could not determine whether NGL's and NGLP's produced by a particular gas plant were being sold by an independent gas processor (without interests in any crude oil refinery) and thus subject only to Subpart K, or by a crude oil refiner with this and perhaps other gas processing interests and thus subject to Subparts K and E. *See Atlantic Richfield Co.*, Interpretation 1978-61, issued November 7, 1978 (Arco); and *Continental Oil Co.*, Interpretation 1978-29, 43 FR 29529 (July 10, 1978) (Conoco). Northern has furnished no support for its claim (Request, p. 9) that the most expansive meaning of "firm" as set forth in § 212.31 applied to Subpart K only for gas processors that were also crude oil refiners.

[22] The definition of "firm" in this form is discussed in *Tesoro Petroleum Corp.*, 5 FEA ¶ 80,611 (April 19, 1977).

[23] Since Form FEO-96 did not expressly provide for calculations under Subpart K, Form P110-M-1 was required to be filed retroactively by all firms engaged in gas processing. *See* Form P110-M-1, Enclosure #2, 2 CCH Energy Management ¶ 18,406.

[24] On May 10, 1976, the FEA amended 10 CFR 212.92 to define "seller" in the same manner as "firm" is defined in 10 CFR 212.82, except as provided by the 5 percent rule of § 212.91, in order expressly to conform Subpart F to prior Interpretations of that part. 41 FR 19110 (May 10, 1976).

[25] *Accord, e.g., Peerless Distributing Company*, Interpretation 1977-29, 42 FR 46272 (September 15, 1977); *Ball Marketing Enterprise*, Interpretation 1977-18, 42 FR 39980 (August 8, 1977), *appeal denied*, 1 DOE ¶80,238 (April 13, 1978); *Texas City Refining, Inc.*, Interpretation 1977-6, 42 FR 17100 (March 31, 1977), *appeal denied*, 6 FEA ¶80,532 (August 3, 1977); and *Rookwood Oil Terminals, Inc.*, Interpretation 1976-8, 42 FR 7932 (February 8, 1977).

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do not apply to each marketing outlet or subsidiary but to each 'firm.'"

Applying this same expansive meaning of "firm" to Northern, Mapco, and their subsidiaries, as indicated by DOE's historical practices and policies discussed above, necessarily supports the conclusion that each parent and all of its wholly owned subsidiaries, *i.e.*, the Northern group and the Mapco group, were part of the same firm for purposes of 10 CFR Part 212. *Sohio-BP, supra.*

The parties' claims that the various entities in the Northern and Mapco groups in fact operate independently of one another, as separate "profit centers," [26] are irrelevant to the determination that all of the subsidiary entities in each group have been subject to the same legal power of control by the parent. As the cases above demonstrate, even where that power of control is less than absolute and may not have been exercised, its existence compels us to treat all of the affiliated entities subject to common control as a single firm, except where hardship or gross inequity has been demonstrated in exception proceedings.

B. SALES OF NGL'S AND NGLP'S BY GAS PROCESSORS

(1) *Refiners.* A "refiner" is defined in 10 CFR 212.31 as follows (emphasis added):

"'Refiner' means a firm (other than a reseller or retailer) or that part of such a firm which refines covered products or blends and substantially changes covered products, or *refines liquid hydrocarbons from oil and gas field gases*, or *recovers liquefied petroleum gases incident to petroleum refining* and sells those products to resellers, retailers, reseller-retailers or ultimate consumers. 'Refiner' includes any owner of covered products which contracts to have those covered products refined and then sells the refined covered products to resellers, retailers, reseller-retailers or ultimate consumers."

Section 212.31 defines "covered products" to include in part "butane, . . . natural gas liquids, natural gasoline, and propane." Therefore, the Northern and Mapco firms have each always been refiners for purposes of Part 212, since they refine and produce NGL's and NGLP's in gas processing plants and own those products prior to their sale. *Mobil Oil Corp.* v. *FEA*, 566 F.2d 87 (TECA 1977); *National Helium Corp.* v. *FEA*, 569 F.2d 1137 (TECA 1977); *McCulloch Gas Processing Corp.*, Interpretation 1974–13, 42 FR 25654 (May 18, 1977), *appeal denied*, 1 FEA ¶20,180 (November 15, 1974); 39 FR 32718; and 39 FR 44407.

Prior to the adoption of Subpart K effective January 1, 1975, the Northern and Mapco firms were subject to Subpart E (and previously to the price control regulations administered by the Cost of Living Council), which governed the sale of NGL's and NGLP's by all refiners, regardless of whether the firms refined those products from crude oil or natural gas.[27] Regulations were promulgated in Subpart K that were specifically designed to govern the sales of NGL's and NGLP's produced from natural gas. Subpart K's applicability and relationship to other subparts is set forth in 10 CFR 212.161:

"(a) *Scope.* This subpart applies to all sales of natural gas liquids and natural gas liquid products, including transfers between affiliated entities, by all firms, including gas plant operators, producers of natural gas, natural gas royalty owners, and refiners except sales by resellers or retailers, which are subject to Subpart F of this part.

"(b) *Relationship to other Subparts.*

"(1) *Gas plant operators.* Refiners that only refine liquid hydrocarbons from oil and gas field gases and do not refine crude oil shall determine their maximum lawful prices pursuant to this Subpart K and are not also subject to Subpart E.

"(2) *Crude oil refiners which are also gas plant operators.* (i) *General.* Refiners that refine liquid hydrocarbons from oil and gas field gases, and also refine crude oil, shall determine their May 15, 1973 selling prices and increased costs for natural gas liquids and for natural gas liquid products produced in gas plants pursuant to this subpart, but shall determine their maximum lawful selling prices pursuant to Subpart E."

As refiners, gas plant operators and owners, [28] the Northern and Mapco firms have been subject to the regulations of Subpart K governing the sale of NGL's and NGLP's.

(2) *Five Percent Rule.* Part 212, Subpart F applies to sales of petroleum products by resellers and retailers as described in 10 CFR 212.91:

"This subpart applies to each sale of a covered product, other than crude oil, by resellers, reseller-retailers, and retailers. For purposes of this subpart, 'reseller' includes any entity of a refiner (other than an entity that operates in Puerto Rico) that is engaged in the business of purchasing and reselling covered products, provided that the entity does not purchase more than 5 percent of such covered products from the refiner including any entities that it directly or indirectly controls and provided further that the entity has consistently and historically exercised the exclusive price authority with respect to sales by the entity."

The marketing subsidiaries of Northern and Mapco cannot generally have been regarded as resellers or reseller-retailers [29] because those subsidiaries were part of firms that were considered under the regulations to be refiners, both before and after the promulgation of Subpart K, as discussed above.[30] Thus, under the plain meaning of § 212.91 these marketing subsidiaries would have been allowed to calculate maximum lawful prices under Subpart F for sales of NGL's only if these subsidiaries purchased less than 5 percent of the covered products they sell from affiliated refiner-entities or from other entities controlled by the refiner, and if these subsidiaries exercised exclusive pricing authority for such sales. The facts Northern and Mapco have presented demonstrate that neither firm met the first of these two requirements, thereby precluding the application of Subpart F to "resales" of NGL's and NGLP's by their marketing subsidiaries.[31] *E.g., Peerless Distributing Co., supra.* Thus, sales by these entities were governed by Subpart K, and not by Subpart F.

(3) *First Sale.* Subpart K governs prices charged for NGL's and NGLP's in the manner described in the general price rule, 10 CFR 212.163:

"(a) *First Sale.* A royalty owner, producer, gas plant owner, gas plant operator or other entity may not charge to (or receive from) any class of purchaser a price in excess of the weighted average price at which natural gas liquids or natural gas liquid products were lawfully priced in *transactions* with the *class of purchaser* concerned on May 15, 1973, except to the extent permitted by this subpart.

"(b) *Net-back sale.* A royalty owner, producer, gas plant owner, gas plant operator, or other entity that transferred natural gas liquids or natural gas liquid products to any *class of purchaser* on May 15, 1973, in a net-back sale shall not charge (or receive) per gallon revenues for such natural gas liquids or natural gas liquid products in excess of the per gallon revenues received in such net-back sales on May 15, 1973, except to the extent that the *first sale* price upon which the net-back amount is determined is permitted to increase above its May 15, 1973 level pursuant to this subpart, and except to the extent that the method for determining the amount of the net-back is changed, provided however, that any change in the method of determining the amount for any net-back shall not constitute an increased product cost or an increased non-product cost." (Emphasis added.)

Analyzing this general price rule in the context of Part 212's definitions of the terms discussed above confirms that Subpart K governed the calculation of a maximum lawful price for NGL's and NGLP's sold by a gas processor to an unaffiliated entity. Prices for intra-firm "sales" of NGL's and NGLP's were not themselves limited by Subpart K (*i.e.*, subject to the first sale price rule of § 212.163) and cannot have been taken into account in calculating maximum lawful prices for sales of such products to unaffiliated entities. The cost computation and passthrough provisions of Subpart K operate automatically to reflect allowable costs incurred by all affiliated entities in the maximum lawful prices which may be charged to unaffiliated entities. §§ 212.163, 212.165, 212.166, and 212.167.

Section 212.163(a) requires that a "first sale" of NGL's or NGLP's relate to a "transaction" with a "class of purchaser." Both of these elements must be present in order to qualify a sale as a "first sale." [32] *Arco* and *Conoco, supra*, n. 21. Neither of the elements is satisfied by the transfer of NGL's and NGLP's between entities within the Northern and Mapco firms. "Transaction" is defined in 10 CFR 212.31 as follows:

"'Transaction' means an arm's-length *sale between unrelated persons which are not members of a controlled group* (as defined in 26 U.S.C. 1563(a)) and is considered to occur at the time and place when a binding contract is entered into between the parties." (Emphasis added.)

The transfers of NGL's and NGLP's within the Northern and Mapco firms did not qualify as transactions because the transfers were made between related entities that were members of the same controlled group. Inherent in the "class of purchaser" definition in § 212.31 is the "firm" concept, so that only a purchaser outside of the seller's firm can be considered part of a "class of purchaser." *Arco* and *Conoco, supra.* The Northern and Mapco subsidiaries did not so qualify in reference to their purchase of NGL's and NGLP's within their respective controlled groups.

Similarly, the adjusted May 15, 1973, prices of Subpart K can be applied only to "first sale *transactions* with a *class of purchaser.*" § 212.164(a) (emphasis added). The above analysis of these terms necessarily means as well that the Northern and Mapco firms cannot have used these adjusted prices in lieu of the May 15, 1973, transfer prices within each firm.

(4) *Parties' Arguments.* The parties have submitted a number of arguments and materials [33] in an attempt to show the validity of their requested interpretation. These submissions are contradicted by the plain meaning of the Mandatory Petroleum Price Regulations.

For example, Mapco argues that even if all of its entities were considered part of the same firm, its marketing subsidiaries were not subject to Subpart K with respect to their sales of NGL's and NGLP's, but were subject to Subpart F exclusively. Mapco contends that the transfers of NGL's and NGLP's by its gas processing entities to its marketing entities were the first "transfers between affiliated entities," which were treated as sales under § 212.161(a), and were therefore the "first sales" subject to Subpart K. According to Mapco, such an interpretation would have entitled the marketing entities to calculate maximum lawful prices for their sales of NGL's and NGLP's to unaffiliated entities under Subpart F. Mapco argues that it would also follow as to the intra-firm "sales" that the adjusted May 15, 1973, prices of § 212.164 may have been used instead of actual May 15, 1973, weighted average prices for NGL's and NGLP's transferred from its gas processing to marketing entities, and that this adjustment in § 212.164(a) would have been passed through by the marketing entities as increased costs of product in inventory ("increased product costs") under § 212.93.

Mapco has argued at length that its interpretation necessarily follows from the language in § 212.161(a), quoted in full in § II b(1) above, which states that Subpart K applies to "all sales of natural gas liquids and natural gas liquid products, including transfers between affiliated entities, by all firms. . . ." Mapco argues that this transfer pricing concept is identical to that binding together Subparts D and E of Part 212, whereby an integrated crude oil refiner can establish "transfer prices" for crude oil transferred from its producing to refining entities. Mapco points out that such prices are inserted into Subpart E's refiner price formulae, 10 CFR 212.83, when the crude oil is refined.

The language of § 212.161(a) did not create the transfer pricing concept between Subparts K and F that Mapco advocates. Rather, for gas processors this language merely confirmed that all relevant activities of a gas processing firm with respect to sales of NGL's and NGLP's are within the scope of Subpart K, which sets forth the manner of determining maximum lawful prices for sales by such firms "except sales by resellers or retailers, which are subject to Subpart F of this part." A transfer between affiliated entities did not qualify as a first sale—Removing subsequent sales activity within the firm from the scope of Subpart K—unless the transferee satisfied the terms of Subpart F, i.e., both requirements of the 5 percent rule of § 212.91. Since the entities in the Northern or Mapco group did not qualify under the 5 percent rule, Subpart K applies to these transfers between affiliated entities. In these intra-firm "sales" the Subpart K rules apply not by establishing transfer prices, but rather by reflecting in maximum lawful prices to unaffiliated entities the allowable costs incurred by all affiliated entities. §§ 212.163, 212.165, 212.166, 212.167.

Mapco argues that the term "first sale" in Subpart K is synonymous with the same term in Subpart D.[34] Mapco's argument by analogy to Subpart D ignores the critical differences between the definitions of "first sale" in Subparts D and K and between the fundamental pricing concepts employed by each subpart's regulations. "First sale" is defined in Subpart D, 10 CFR 212.72, as follows:

"'First sale' means the first transfer for value by the producer or royalty owner. *With respect to transfers between affiliated entities, the 'first sale' shall be imputed to occur as if in arms-length transactions.*" (Emphasis added.)

Comparing this definition with the "first sale" definition in Subpart K, 10 CFR 212.162, quoted in note 32 above, shows that the special exception to the transaction concept created by the second sentence of the Subpart D definition of "first sale" is wholly absent from the Subpart K definition which refers to sales to a "class of purchaser." Like Subpart K's general price rule, the definition of "first sale" in Subpart K speaks in terms of transfers to a class of purchaser, not transfers to affiliated entities. Unlike Subpart K or any of the other Part 212 subparts, which regulate prices for a firm's petroleum products on the basis of May 15, 1973, prices plus certain increased costs, Subpart D [35] establishes ceiling prices for each of the various categories of domestic crude oil regardless of whether the producers are integrated with refiners and regardless of their new or increased costs of production since May 15, 1973. If crude oil is sold by a producer to an affiliated refiner, the refiner can generally use prices for domestic crude oil as determined under Subpart D to calculate increased costs, as expressly allowed by the second sentence of the definition of "first sale" contained in § 212.72, quoted above. Increased costs included in this transfer price are inserted in the refiner's cost allocation formulae as increased purchased product cost, which is one method of cost passthrough that conforms to § 212.83(b).[36]

In contrast, transfer pricing as asserted by the parties under Subpart K would occur without the DOE's specific limits on intra-firm prices applicable to crude oil. There have never been any provisions in the DOE regulations establishing a mechanism for transferring (and limiting) intra-firm sales

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[26] *E.g.*, Northern's Request, pp. 4, 6; Mapco's Request, pp. 7–9. We note the parties have not claimed that Northern and Mapco have failed to exercise control of their subsidiaries in the most fundamental manner—election of their directors who in turn appoint the subsidiaries' executive officers.

[27] 39 FR 32718. *See also* Ruling 1975–6, 40 FR 23272 (May 29, 1975); and Class Exception (Retroactive Application of Subpart K), 2 FEA ¶84,901 (August 29, 1975).

[28] "Gas plant operator" is defined in 10 CFR 212.162 as "any *firm*, including a gas plant owner, which operates a gas plant and keeps the gas plant records." "Gas plant owner" is defined in the same section as "any *firm* with an ownership interest in a gas plant." (Emphasis added.)

[29] *See* § II C, *infra.*

[30] The definitions of "reseller" and "reseller-retailer" in 10 CFR 212.31 expressly exclude refiners.

[31] Mapco's Request, pp. 18–23, claims that its requested interpretation is consistent with Subpart F. No specific language in Subpart F or K, however, declared the 5 percent rule inapplicable to independent gas processor-refiners. As with the definition of "firm" discussed previously, there was also no evidence of any intent to change this basic rule upon the promulgation of Subpart K.

[32] This term is defined in 10 CFR 212.162 as follows:

Footnotes continued on next page

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"'First sale' means, with respect to natural gas liquids or natural gas liquid products, the first transfer for value to a class of purchaser for which a fixed price per unit of volume is determined."

Likewise, a transfer of NGL's or NGLP's between affiliated entities cannot have been a "net-back sale," also defined in § 212.162, since such transfers did not relate to a "transaction" with a "class of purchaser." The Notice of Final Rule adopting the definitions of "first sale" and "net-back sale" (39 FR 44407, § II) stated:

"'First sale' is used to refer to the first *transaction* with respect to which a specified per unit (*e.g.*, cents-per-gallon) price is determined. 'Net-back sale' is used to refer to *transactions* with respect to which a specified per unit price is not determined, but as to which the transferor of the product is entitled to receive a percentage of the ultimate sales revenues of the product or products involved. These new definitions are to make clear that FEA regulations apply to all *transactions*—both 'first sales' and 'net-back sales.'" (Emphasis added.)

[33] These submissions are as follows: Northern's Request for Interpretation of February 10, 1976; Mapco's Request of December 3, 1976; and Mapco Supplements of April 6, July 7, and October 31, 1977, and January 19, June 22 (two), and July 11, 1978. Mapco has also incorporated by reference into its request its comments of July 29, 1977, and December 8, 1978, on proposed amendments to Subpart K. Northern's arguments are addressed exclusively to the "firm" concept, discussed in § II A above.

[34] Mapco's Request, pp. 23–25; Mapco's July 11, 1978, Supplement, p. 2.

[35] In its present form, Subpart D basically reflects implementation of the crude oil pricing policies of the Energy Policy and Conservation Act, Pub. L. No. 94–163, § 401 (December 22, 1975). For a full discussion of these policies, *see* S. Conf. Rep. No. 94–516, § IV, 94th Cong., 1st Sess. (1975), and 41 FR 4931 (February 3, 1976).

[36] Section 212.83(b) states:

"*Affiliated entities.* For purposes of this section, transactions between affiliated entities may be used to calculate increased costs. Whenever a firm uses a landed cost which is computed by use of its customary accounting procedures, the [DOE] may allocate such costs between the affiliated entities if it determines that such cost allocation is necessary to reflect actual costs of these entities or the [DOE] may disallow any costs which it determines to be in excess of the proper measurement of costs."

This provision works together with Subpart E's definition of "transactions between affiliated entities" in 10 CFR 212.82. Section 212.82 also expressly contemplates an exception to the "firm" concept for the limited purpose of transferring fixed crude oil prices:

"'Transactions between affiliated entities' means all transactions between entities which are part of the same firm and transactions with entities in which the firm has a beneficial interest to the extent of entitlement of covered product by reason of the beneficial interest."

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prices for NGL's and NGLP's between Subparts K and F other than the provisions of the 5 percent rule. Reading Section 212.161(a) as authorizing general, unlimited transfer prices would be in any case inappropriate, since the prices which a firm would be permitted to charge in intra-firm sales could be manipulated without regulatory constraint or oversight.[37] There is no basis to imply a mechanism for transferring and limiting intra-firm sales prices for NGL's and NGLP's from the broad language of § 212.161(a). The value of the adjustment under § 212.164 in an inter-affiliate transfer should not turn upon the fortuities of intra-firm decisions as to what entities will show how much profit. For example, the May 15, 1973, transfer price for NGLP's sold by Mapco to its marketing subsidiaries could be lower than the prices negotiated by Mapco and unrelated buyers, with the result that the value of the adjustment of § 212.164 related to such a transfer would be artificially high, and the increased "cost" in the transferee's hands would be artificially high.

This Interpretation is supported by other provisions of Subpart K. For example, Mapco urges that a consequence of its transfer pricing concept would have been the use of the adjusted May 15, 1973, first sale prices of § 212.164 in lieu of the May 15, 1973, transfer prices for NGL's and NGLP's between its affiliated entities. Instead of confirming this view, however, § 212.164 permits a firm to apply its adjusted May 15, 1973, prices only in lieu of those charged "in first sale *transactions* with a *class of purchaser.*"[38] For the reasons previously discussed, Mapco's intra-firm transfers cannot be considered as transactions with a class of purchaser. In addition, Mapco's view that its marketing subsidiaries should use the reseller price rule set forth in §§ 212.92 and 212.93 is inconsistent with the provisions of § 212.166. Section 212.166 specifically provides for the calculation of increased costs for purchased NGL's and NGLP's, and states that that calculation is based upon the difference in prices of product purchased in May 1973 and the current month. If the reselling operations of gas processors were not to be governed by Subpart K, this provision of § 212.166 would not have been necessary.

Mapco asserts that rejecting its arguments for an inter-affiliate "transfer price" between Subparts K and F for NGL's and NGLP's is anomalous and improperly denies Mapco the financial incentive which it would receive from applying the adjusted May 15, 1973, prices at the tailgate of its processing plants, where NGL's and NGLP's are transferred from its gas processing to marketing entities. In support of this argument, Mapco cites a Notice of Proposed Rulemaking under Subpart K, 40 FR 49105, § VIII (October 21, 1975), in which the FEA considered the possibility of varying the adjusted price in accordance with marketing costs such as those incurred for transportation.[39] The FEA, however, expicitly decided not to adopt any variations, 41 FR 24110 (June 15, 1976), stating:

> "VIII. FIRST SALE PRICES FOR NATURAL GAS LIQUID PRODUCTS ACCORDING TO LOCATION OF SALE
>
> A possible amendment to the Subpart K price rules to provide for application of the adjusted May 15, 1973 first sale prices in a manner that would also fully preserve historical geographical price differentials in the maximum lawful prices permitted to be charged for natural gas liquid products has not been adopted. However, with respect to this issue, FEA stated in the October 15 Notice that it would consider such an amendment but would not adopt it absent a convincing showing that an amendment was necessary and feasible. FEA has concluded that such a showing has not been made."

Mapco argues that an interpretation contrary to the one it requests could possibly injure vertically integrated natural gas processors such as itself, by increasing net-back payments from processors to producers. According to Mapco, the industry has traditionally tied net-back payments to the transfer prices between its gas processing and marketing entities. Mapco therefore asserts that an interpretation holding that a "first sale" of NGL's or NGLP's under Subpart K does not occur until the Mapco firm sells the products to an unaffiliated entity could raise the issue of whether net-back payments should be based on such a "first sale" price instead of the lower transfer price.[40]

Even if these assertions were true, they should not affect the meaning of the Mandatory Petroleum Price Regulations, which are designed to serve the private purposes of individual parties only insofar as they are consistent with the regulations' public purposes.[41] In any event, it cannot be stated for certain that rejecting the concept of transfer pricing would have the results Mapco fears in regard to net-back payments. As a general matter, although Subpart K has imposed some limits upon gas processors' net-back obligations, so long as these relevant limitations are followed the manner in which net-back payments are computed is a matter to be resolved by the parties concerned in their best interests. *See McCulloch Gas Processing Corp.*, 1 FEA ¶ 20,659 (September 12, 1974), *modified*, 1 FEA ¶ 20,186 (November 22, 1974); and 42 FR 29490. Mapco's situation in this respect also appears to be indistinguishable from that of crude oil refiners with gas processing interests, which also are subject to the "first sale" provisions of Subpart K. *Arco* and *Conoco, supra.*

Mapco has attempted to distinguish the *Conoco* Interpretation and argues that the DOE's rejection of Conoco's arguments for a "transfer price" at the tailgate of the processing plant does not require that the DOE reach the same result in this Interpretation. We recognize that Mapco, as an independent gas processor, is not in an identical situation to Conoco, which is a crude oil refiner. However, the fundamental definitions and concepts of Subpart K remain applicable both to independent gas processors and to crude oil refiners that are also gas processors, notwithstanding certain special Subpart K provisions that apply only to crude oil refiners. Although the result reached here is consistent with *Conoco*, we have addressed these parties' contentions on their merits.

Mapco has argued[42] that certain provisions of Subpart K, such as those for allocation of increased product costs in § 212.167, cannot reasonably be construed to apply to sales of NGL's and NGLP's by extensive marketing entities of firms like Mapco. For example, Mapco asserts that the provisions of § 212.167 that permit separate gas plant-by-gas plant allocation of increased product costs indicate that Subpart K was intended to apply only to sales of NGL's and NGLP's at the gas plant level. However, Mapco has not provided sufficient factual information that would enable us to make a complete response to issues of this type. Under these circumstances, we have decided not to address these secondary issues in this Interpretation. Mapco may, however, request a further interpretation in a separate proceeding.

Mapco has also claimed[43] that refusal of the DOE to issue the interpretation on transfer pricing that Mapco requests would injure its competitive viability, in violation of the objectives of the Emergency Petroleum Allocation Act (EPAA), *supra*, n. 41. Subpart K represented FEA's attempt reasonably to balance the many and often conflicting objectives of the EPAA as they affected, *inter alia*, natural gas producers and refiners and consumers of NGL's and

[37] The fact that market forces and net-back arrangements with producers of natural gas may in some instances give Mapco an incentive not to inflate its transfer prices does not support the parties' requested interpretation. These regulations should be interpreted in ways which neither invite nor permit abuse, rather than interpreting the regulations according to the assertions of the parties that their past conduct was "reasonable" under the requested interpretation. To accept the parties' position by implication could condone past abuses of other firms and would place no prospective regulatory barrier to abuse by any firm.

[38] The Notice of Final Rule adopting Subpart K stated (39 FR 44407, § III):

> "[T]he FEA has determined that, in calculating the weighted average price at which propane was lawfully priced in *transactions* on May 15, 1973, for use in the price rule, a seller of propane in a first sale *transaction* may use the higher of its actual weighted average selling price per gallon on that date, or 8.5 cents per gallon." (Emphasis added.)

[39] Mapco's January 19, 1978 Supplement. Mapco's interpretation would, in effect, allow the May 15, 1973, adjusted price to increase in an amount equal to all marketing costs and marketing profits by subtracting this amount from the sale price for NGL's and NGLP's for which the adjusted price is substituted. Mapco would allow for such increases, however, only in those cases where an independent gas processor had established separate "entities," such as for refining and marketing or extraction and fractionation, with transfers of NGL's or NGLP's between the entities. Such distinctions would either make the entitlement to the adjustment in § 212.164 turn upon a possible historical fortuity (i.e., the firm's organization in the base period) or would invite the "layering" of reseller and other entities by gas processors to gain an advantage not otherwise available under the regulations. The history of the "firm" concept and the rejection of arguments for transfer pricing emphasize the DOE's intent to preclude discrimination based on legal entities whose number, size and scope are entirely within the control of private parties.

[40] *E.g.*, Mapco's April 6, 1977 Supplement.

[41] *E.g.*, Emergency Petroleum Allocation Act of 1973, as amended, Pub. L. No. 93-159, § 4(b)(1) (November 27, 1973); 15 U.S.C. § 753(b)(1) (1976).

[42] Request, pp. 17-18; April 6, 1977 Supplement, pp. 15-16; and December 8, 1978 Comments, pp. 14-15.

[43] December 8, 1978 Comments, pp. 22-23.

NGLP's. As FEA stated in adopting Subpart K (39 FR 44407, § I): "[T]here is no single ideal solution to the regulation of natural gas liquid prices, and the regulations adopted by the FEA today are a necessary compromise among the conflicting considerations which must be taken into account." If Mapco believes it would suffer a financial hardship or gross inequity as a result of this Interpretation, it should file an Application for Exception with the DOE's Office of Hearings and Appeals.

C. *Marketing Costs.* In support of its arguments that Subpart F must apply to the sale of NGL's and NGLP's by a marketing entity affiliated with a gas processor, Mapco has cited Subpart K, 10 CFR 212.165, as it existed prior to November 1, 1978:

> "The first sale price of natural gas liquids may be increased, to reflect non-product cost increases which have been incurred since May 15, 1973, by an amount which is not more than $.00375 per gallon in excess of the amount otherwise permitted to be charged pursuant to the provisions of this subpart. The first sale price of natural gas liquid products may be increased, to reflect non-product cost increases which have been incurred since May 15, 1973, by an amount which, when added to the amount of non-product costs certified as included in prices charged for purchased natural gas liquids is not more than $.005 per gallon in excess of the amount otherwise permitted to be charged pursuant to the provisions of this subpart. Records shall be maintained to show that *the increased non-product costs attributable to gas plant operations*, under customary accounting procedures generally accepted and historically and consistently applied by the firm concerned, are sufficient to justify the amount of the price increase permitted under this section on a dollar-for-dollar passthrough basis." (Emphasis added.)

Mapco argues that the emphasized phrase means that increased non-product costs cannot have been recovered under Subpart K unless they were directly attributable to gas plant operations, *i.e.*, incurred as an expense for the physical operation of a gas processing plant.[44] According to this view, no gas processor could have recovered under Subpart K any non-product cost increases which it incurred for marketing expenses in the sale of NGL's and NGLP's since May 15, 1973.

We do not agree with this narrow reading of § 212.165. The first two sentences of the section permitted a gas processor to recover increased non-product costs for NGL's and NGLP's up to the limits specified.[45] The last sentence merely required that records be kept sufficient to justify the increased non-product costs claimed, which would be, at least in part, directly attributable to gas plant operations. Rather than adopt detailed non-product costs allowance and passthrough criteria in an area which the FEA recognized as involving many parties with differing interests, § 212.165 established a limited amount, inviting exception relief above such limits. The marketing expenses associated with the NGL's and NGLP's produced in Northern's and Mapco's gas plants are costs of doing business which are predicated on the gas plants' manufacture of covered products. The phrase "attributable to gas plant operations" was intended only to distinguish between costs of doing business which were or were not related to sales of NGL's and NGLP's. Contrary to Mapco's suggestion, it did not operate to restrict the meaning of the term "increased non-product costs" for the purpose of limiting the categories of costs recoverable.[46]

This Interpretation of the scope of § 212.165 is consistent with its regulatory history, previous administrative applications of the section and the purpose it served in the structure of the Mandatory Petroleum Price Regulations. 39 FR 44407 (December 24, 1974). The DOE and its predecessor agencies regularly granted exception relief to refiners for non-product cost increases of NGL's and NGLP's substantially in excess of the limitations on amount in § 212.165, on the grounds of gross inequity. *E.g., Farmland Industries*, 3 FEA ¶ 83,080 (January 23, 1976); *Beacon Gasoline Co.*, 2 FEA ¶ 80,708 (October 21, 1975); and *Superior Oil Co.*, 2 FEA ¶ 83,271 (August 29, 1975). Exception relief included an allowance for marketing cost, *e.g., Diamond Shamrock Corp.*, 3 FEA ¶ 83,212 (June 7, 1976), *Sid Richardson Carbon & Gasoline Co.*, 3 FEA ¶ 83,170 (April 23, 1976), and for all other "actual cash expense items," *e.g., Diamond Shamrock Corp.*, 4 FEA ¶ 83,101, n. 1 (September 21, 1976), and *Doric Petroleum, Inc.*, 4 FEA ¶ 83,046 (August 19, 1976).

III. CONCLUSION

For the reasons set forth above, we have determined that the proper application of the DOE's Mandatory Petroleum Price Regulations to the factual situations presented by the parties in their Requests for Interpretation, for the period January 1, 1975, through October 31, 1978, is as follows:

(1) All of the affiliated entities within the Northern group were part of one firm, and all of the affiliated entities within the Mapco group were part of one firm;

(2) All of the entities, including the marketing entities, within these firms were subject exclusively to 10 CFR Part 212, Subpart K with respect to their sales of NGL's and NGLP's to unaffiliated entities;

(3) Sales of NGL's and NGLP's between affiliated entities within the Northern or Mapco firms were not "first sales" subject to the first sale price rules of Subpart K;

(4) The Northern and Mapco firms may not have used the adjusted May 15, 1973, prices of 10 CFR 212.164 in lieu of actual May 15, 1973 weighted average prices for NGL's and NGLP's transferred between gas processing and marketing entities within either firm; and

(5) Absent exception relief the Northern and Mapco firms were permitted to recover as increased non-product costs all of their increased marketing costs attributable to their sales of NGL's and NGLP's, subject to the limitations on amount in 10 CFR 212.165.

APPENDIX B.—*Responses to Petitions for Reconsideration*

Petitioner	Interpretation	Date of Response
Atlantic Richfield Company (ARCO)	ARCO, 1978-54, 43 FR 40208 (September 11, 1978).	Dec. 4
Yellow Cab Company of Philadelphia (Yellow Cab) and Gulf Oil Company-U.S. (Gulf).	Yellow Cab and Gulf, 1978-57, 43 FR 46517 (October 10, 1978).	Dec. 4
True Oil Purchasing Co. (TOPCO)	TOPCO, 1978-43, 43 FR 34434 (August 4, 1978).	Dec. 8
Apco Oil Corporation (APCO)	APCO, 1978-51, 43 FR 40204 (September 11, 1978).	Dec. 18

PETITION FOR RECONSIDERATION OF ATLANTIC RICHFIELD CO. 1978-54

Petitioner: Atlantic Richfield Company.
Date: December 4, 1978.

This is in response to the petition for reconsideration which you submitted on behalf of the Atlantic Richfield Company (ARCO) on October 10, 1978. In that petition, you requested that the DOE reconsider an Interpretation which it issued to ARCO on August 24, 1978. *Atlantic Richfield Company*, Interpretation 1978-54, 43 FR 40208 (September 11, 1978). For the reasons discussed below, I have determined that the petition for reconsideration must be denied.

Interpretations issued by the Office of General Counsel of the Department of Energy (DOE) may be reconsidered only in certain limited circumstances. In these cases, the burden is upon the petitioner to demonstrate that the Interpretation is erroneous in fact or in law, or that the result reached in the Interpretation is arbitrary or capricious. 10 CFR 205.85(f)(3).

In the Interpretation which was issued to ARCO, the DOE determined that exports of "Petrobase 100," a carbon black feedstock oil produced by ARCO, must be deducted from crude oil runs to stills under 10 CFR 211.67(d)(2) since "Petrobase 100" is a "refined petroleum product" within the mean-

[44] Mapco's Request, pp. 14-15; December 8, 1978 Comments, pp. 12-13.

[45] *See* 42 FR 29490, § II B (June 9, 1977).

[46] The FEA's refusal to incorporate into Subpart K detailed provisions covering increased non-product costs, including increased marketing costs, as originally proposed in 39 FR 32716, 32730-31, does not alter the plain meaning of the general provision adopted in § 212.165 allowing the passthrough of all increased non-product costs, up to .5 cents per gallon for NGLP's. Contrary to Mapco's suggestion (n. 44, *supra*), in adopting Subpart K the FEA did not express any intent to preclude gas processors from recovering increased marketing costs under Subpart K, provided that the per-gallon limit on all increased non-product costs was not exceeded. 39 FR 44407, § IV. In so doing, FEA expressly invited applications for exception in cases where the total increased non-product costs exceeded the per-gallon limit.

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ing of the Mandatory Petroleum Allocation and Price Regulations. ARCO contended that although carbon black feedstock oil is a by-product of petroleum refining, "Petrobase 100" is not a gas oil and should not be considered a refined petroleum product for purposes of the DOE domestic crude oil allocation (entitlements) program.

In the petition for reconsideration, ARCO argues that the Interpretation is defective because the DOE failed to consider provisions in Part 210, Part 211, and Part 212 which exempt gas oils from the DOE Regulations and, therefore, from the export sales deduction in § 211.67(d)(2). However, the fact that gas oils are not subject to allocation or price regulation does not mean that the export sales deduction is inapplicable to them. The function of the export sales deduction is not to allocate refined petroleum products but rather to withhold cost equalization benefits under the entitlements program with respect to products that are sold in the world market at uncontrolled prices. 41 FR 13899 (April 1, 1976). Application of the export sales deduction to a product excluded from allocation and price controls is dictated by the policy underlying the entitlements program. Thus, the results reached in the Interpretation are not arbitrary or capricious.

ARCO further argues that the Interpretation is erroneous and requires reconsideration on the sole ground that the definition of "Petrobase 100" as a refined petroleum product is inconsistent with the industry's practice. As the DOE has stated on numerous occasions, technical or industrial definitions do not supersede the meaning of terms as set forth in the DOE allocation and price regulations. *See, e.g., Navajo Refining Co.; Yates Petroleum Corp.*, 1 DOE ¶80,236 (1978); *Pyramid Corp., Inc.*, 5 FEA ¶83,143 (1977); *accord, Mobil Oil Co. v. FEA*, 566 F. 2d 87 (TECA 1977). Therefore, the Interpretation is not erroneous.

Accordingly, since ARCO has failed to demonstrate that the Interpretation is erroneous in fact or in law, or that the Interpretation is arbitrary or capricious, the petition for reconsideration is hereby denied. The denial of the petition for reconsideration is a final order of the Department of Energy from which ARCO may seek judicial review.

PETITION FOR RECONSIDERATION OF YELLOW CAB CO. OF PHILADELPHIA, GULF OIL CO.—U.S. 1978-57

Petitioner: Yellow Cab Company of Philadelphia, Gulf Oil Company—U.S.

Date: December 4, 1978.

This is in response to the petition for reconsideration which you submitted on behalf of the Yellow Cab Company of Philadelphia (Yellow Cab) and the Gulf Oil Company—U.S. (Gulf) on October 24, 1978. *Yellow Cab Company of Philadelphia, Gulf Oil Company—U.S.*, Interpretation, 1978-57, 43 FR 46517 (October 10, 1978). For the reasons discussed below, I have determined that the petition for reconsideration must be denied.

Interpretations issued by the Office of General Counsel of the Department of Energy (DOE) may be reconsidered only in certain limited circumstances. In these cases, the burden is upon the petitioner to demonstrate that the Interpretation is erroneous in fact or in law, or that the result reached in the Interpretation was arbitrary or capricious. 10 CFR 205.85(f)(3).

In the Interpretation which was issued to Yellow Cab and Gulf, the DOE determined that Yellow Cab's failure to pay Gulf for the two deliveries of motor gasoline which Gulf made to it on March 29 and 31, 1978, does not permit Gulf to terminate its supplier/purchaser relationship with Yellow Cab. As we noted in the Interpretation, Yellow Cab's failure to meet those payment obligations resulted from an order of a court in a bankruptcy proceeding. Moreover, with the exception of the March 29 and 31 deliveries, Yellow Cab has conformed substantially with the terms of its agreement with Gulf on all other occasions. Gulf is protected in future dealings by Yellow Cab's willingness to pay by certified check, and Gulf may be paid in full or in part under the bankruptcy proceedings. In view of these considerations, the DOE concluded that Yellow Cab and Gulf have not deviated in a substantial manner from their normal credit practices and thus there is no basis under the regulations for the suspension or termination of their supplier/purchaser relationship. 10 CFR 210.62.

Your petition for reconsideration reiterates the arguments presented in the initial interpretation request and raises no new substantive arguments of fact or of law. Accordingly, since Gulf has failed to demonstrate that the Interpretation is erroneous in fact or in law, or that the Interpretation is arbitrary or capricious, the petition for reconsideration is hereby denied. The denial of Gulf's petition for reconsideration is a final order of the Department of Energy from which the petitioner may seek judicial review.

PETITION FOR RECONSIDERATION OF TRUE OIL PURCHASING COMPANY 1978-43

Petitioner: True Oil Purchasing Company.

Date: December 8, 1978.

This is in response to the petition for reconsideration which you submitted on behalf of the True Oil Purchasing Company (TOPCO) on August 16, 1978. *True Oil Purchasing Company*, Interpretation 1978-43 43 FR 34434 (August 4, 1978). For the reasons discussed below, I have determined that the petition for reconsideration must be denied.

Interpretations issued by the Office of General Counsel of the Department of Energy (DOE) may be reconsidered only in certain limited circumstances. In these cases the burden is upon the petitioner to demonstrate that the result reached in the Interpretation was erroneous in fact or in law, or that the result reached in the Interpretation was arbitrary or capricious. 10 CFR 205.85(f)(3).

In the Interpretation which was issued to TOPCO, the DOE determined that a posted price existed for all grades of crude oil produced in North Dakota (Amoco Price Supplement #7) on September 30, 1975, and that this posting applied to all North Dakota crude oil. The DOE therefore concluded that the highest posted price for Wyoming Sweet crude oil on September 30, 1975, could not be used for any crude oil produced in North Dakota for purposes of establishing an upper tier ceiling price pursuant to § 212.74.

Your petition for reconsideration reiterates the arguments presented in the initial interpretation request and generally raises no new arguments of fact or of law. As the Interpretation indicated, § 212.74(b) clearly states that the upper tier ceiling price for a particular grade of domestic crude oil in a particular field is the highest posted price on September 30, 1975. When a posted price for crude oil in a particular area does not distinguish between grades of crude oil, that one price applies to all grades of crude oil (both sweet and sour) produced in that area. Since a posted price existed for all crude oil produced in North Dakota, both sweet and sour, the regulations do not permit TOPCO to use a different posted price. This conclusion is not based upon the resolution of any factual dispute, as your petition asserts, but is, as we stated in the Interpretation, the correct conclusion of law.

Moreover, TOPCO's contention that the Interpretation is legally defective because it was not given an opportunity to respond to comments submitted to the DOE in connection with this matter is without merit and must be rejected. In the instant case, the Regional Counsel for DOE Region 8, at TOPCO's request, sent a copy of the Request for Interpretation, along with a letter soliciting comments, to a list that TOPCO provided of 16 producers and first purchasers of crude oil from the Williston Basin. Ten replies were received. Only five of the persons who replied addressed the issues raised by TOPCO, and four of these five commenters sent TOPCO a copy of their letters.

As a general rule, the DOE will not accept a comment from a third person in connection with its consideration of a request for interpretation unless the person who requested the Interpretation is afforded an opportunity to respond to that submission. 10 CFR 205.84(a). However, the failure of TOPCO to have received a copy of one of these letters is not significant in this case. The comments contained in that letter merely restated comments that were raised by others and which were provided to TOPCO. Thus, even though TOPCO did not receive a copy of one of the submissions that the DOE received, the firm was afforded an opportunity to respond to all of the comments that were submitted in connection with the issues that were addressed in this proceeding. Moreover, it should be noted that the DOE did not adopt any of the views stated in the third party submissions. The Interpretation, therefore, does not in any way depend for its validity upon the comments submitted.

Accordingly, since TOPCO has failed to demonstrate that the Interpretation is erroneous in fact or in law, or that the Interpretation is arbitrary or capricious, the petition for reconsideration is hereby denied. The denial of TOPCO's petition for reconsideration is a final order of the Department of Energy from which the petitioner may seek judicial review.

PETITION FOR RECONSIDERATION OF APCO OIL CORPORATION 1978-51

Petitioner: Apco Oil Corporation.

Date: December 18, 1978.

This is in response to a Petition for Reconsideration dated September 13, 1978, that you submitted on behalf of the Apco Oil Corporation. In that Petition you requested that I rescind an Interpretation that was issued to Apco by the Department of Energy on August 11, 1978. *Apco Oil Corporation*, Interpretation 1978-51, 43 FR 40204 (September 11, 1978).

Interpretation 1978-51 considered an issue raised by Apco with respect to the "B" factor of the refiner price formula in 10 CFR 212.83(c)(2)(iii)(D), relating to the recovery of increased costs of purchased product. The "B" factor generally requires that any increased costs of the purchased product be computed according to a particular formula (referred to as the "A-type" formula in Interpretation 1978-51) except in those instances in which the refiner did not purchase product of the "i" category concerned in May 1973 or the per-unit cost of the purchased product in May 1973 was unreasonably high. In these cases the "B" factor requires the refiner to compute increased costs of purchased product by an alternate formula (the "Y" formula), which imputes an approximated May 1973 cost by reference to prices charged by the refiner in sales of the product concerned in May 1973. Interpretation 1978-51 held that the "B" factor by its literal terms requires either the use of the "A-type" formula or the "Y" formula, but not both. Because Apco did not purchase motor gasoline (a product of the type "i") in May 1973, Apco was required to use the alternate "Y" formula in order to compute its increased costs of both blending stock and motor gasoline.

In its present Petition, Apco argues that Interpretation 1978-51 is arbitrary and capricious because it violates the dollar-for-dollar passthrough provisions of Section 4(b)(2)(A) of the Emergency Petroleum Allocation Act, as amended. Those provisions require that a firm be permitted to recover fully its increased costs of purchased product. Apco states that unless it is permitted to use the "A-type" formula for the products that it purchased and blended to produce motor gasoline, it will not be permitted to recover the full amount of the increased costs that it incurred in purchasing those blending stocks. Apco notes that where the important purposes to be served by a regulation are at variance with the meaning of the regulation as it appears on its face, the FEA and the DOE have issued interpretations that do not explicitly follow the literal meaning of the regulation. Apco asserts that that approach is applicable here. We have examined these arguments and have concluded that inasmuch as they raise a substantial question of law as to the validity of the Interpretation and that that question appears to have some merit, the Interpretation should be reconsidered.

The Office of Interpretations and Rulings will undertake a thorough review of the Interpretation and the arguments Apco has raised. That Office has already begun its analysis of the Interpretation in light of the material that Apco submitted in connection with its Petition for Reconsideration. If you have any questions concerning this matter, or wish to supplement the Petition, please contact Everard A. Marseglia, Jr., Acting Assistant General Counsel for Interpretations and Rulings, telephone number 633-8624.

(FR Doc. 79-1317 Filed 1-12-79; 8:45 am)

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[Docket No. 16221; Amdt. No. 36-9]

PART 36—NOISE STANDARDS: AIRCRAFT TYPE AND AIRWORTHINESS CERTIFICATION

Aircraft Noise Measurement and Evaluation; Specifications: Correction to PNLT Corrections; Formula for Ambient Atmosphere Conditions Affecting the Sideline Flight Path

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; correction.

SUMMARY: On March 2, 1978, the FAA published Amendment 36-9 to the Federal Aviation Regulations (43 FR 8731) in which it adopted procedures and standards for correcting measured noise data when the ambient atmospheric conditions of temperature and humidity do not conform to prescribed reference conditions. Formulas were prescribed for the correction of perceived noise levels for spectral irregularities of tone at any instant of time (PNLT). Under § A36.11(d)(3), of Appendix A to Part 36, the final rule contained inadvertent omissions in the formula to be used in connection with the sideline flight path measured noise data.

This corrective amendment is necessary to properly execute FAA's intended statement of the rule and to prescribe an appropriate correction to the measured noise data when atmospheric conditions do not conform to the prescribed standard reference conditions.

DATES: Effective date: January 15, 1979. Compliance date: Same as amendment 36-9 (April 3, 1978).

FOR FURTHER INFORMATION CONTACT:

Richard Tedrick, Program Management Branch (AEE-220), Environmental Technical Regulatory Division, Office of Environment and Energy, Federal Aviation Administration, 800 Independence Avenue, SW., Washington D.C. 20591; Telephone (202) 755-9027.

SUPPLEMENTARY INFORMATION: The amendment corrects § A36.11(d)(3) of Appendix A to Part 36 of the Federal Aviation Regulations (14 CFR part 36), as amended by Amendment 36-9, effective for noise tests conducted on and after April 3, 1978 (43 FR 8731; march 2, 1978). It corrects the statement of the formula prescribed for corrections to PNLT by adding the term "LX" within the second addend in the formula. As corrected, the formula requires that "LXc," the corrected sideline noise path distance, be subtracted from "LX," the measured sideline noise path distance befor multiplying the resultant difference by the factor "$a_{i,o}$," the reference atmospheric absorption rate for sound. The term "LX" was inadvertently omitted in the formula as orginally published in the FEDERAL REGISTER. As published, that formula also contained typographical errors which did not represent the formula intended by the FAA. As published at 43 FR 8748, the formula read:

$$SPLic = SPLi + (a_{i,i} - a_{i,o})LX + a_{i,i}(LXc) + 20 \log (LX/LXc).$$

As corrected by this amendment to conform with established accoustical principles for rates of sound absorption due to atmospheric conditions, the formula reads:

$$SPLic = SPLi + (a_{i,i} - a_{i,o})LX + a_{i,o}(LX - LXc) + 20 \log (LX/LXc).$$

Since this action is necessary to prescribe the originally intended regulatory requirements under Amendment 36-9 and since this action is corrective in nature, I find that notice and public procedure regarding this action are impractical and unnecessary. Further, since it would not be in the public interest or consistent with sound regulatory practice to delay making necessary corrections to the amendment, good cause exists for making it effective in less than 30 days after publication. While this corrective amendment is effective upon its publication, the correction it makes relates back to provisions which previously became effective and which are essential to the evaluation of measured noise data in showing compliance with the requirements of Part 36. Thus, it would not be proper to require compliance with the uncorrected provisions of Amendment 36-9. Thus, this correction applies to affected noise tests conducted on or after April 3. 1978, when Amendment 36-9 became effective.

ADOPTION OF THE AMENDMENT

Accordingly, § A36.11(d)(3) of Appendix A to Part 36 of the Federal Aviation Regulations (14 CFR Part 36) is amended, effective January 15, 1979, by deleting the formula prescribed in that paragraph and substituting for it the formula to read as follows:

$$SPLic = SPLi + (a_{i,i} - a_{i,o})LX + a_{i,o}(LX - LXc) + 20 \log (LX/LXc).$$

[4910-13-M]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

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(Secs. 313(a), 601, 603, 611(b), Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423, and 1431(b); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Title I, National Environmental Policy Act of 1969 (42 U.S.C. 4321 et. seq.); and Executive Order 11514, March 5, 1970.)

NOTE.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under the procedures and criteria prescribed by Executive Order 12044 and implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Washington, D.C., on January 9, 1979.

QUENTIN S. TAYLOR,
Acting Administrator.

[FR Doc. 79-1307 Filed 1-12-79; 8:45 am]

[4910-13-M]

SUBCHAPTER C—AIRCRAFT

[Docket No. 78-NW-28-AD; Amdt. 39-3393]

PART 39—AIRWORTHINESS DIRECTIVES

Boeing Model B-17F and G Series Airplane

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: FAA Airworthiness Directive (AD) 73-20-2 (Amdt. 39-1722; 38 FR 26358), as amended by Amdt. 39-2763, (41 FR 49089), requires inspection of the wing front spar lower chord on Boeing Model B-17 airplanes. The AD is further amended herein to allow an alternate repair and inspection method.

DATES: Effective date January 26, 1979.

ADDRESS: FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108.

FOR FURTHER INFORMATION CONTACT:

Mr. Iven Connally, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108, telephone (206) 767-2516.

SUPPLEMENTARY INFORMATION: AD 73-20-2, as amended through Amdt. 39-2763, requires removal of certain bolts in the front spar lower chord splice plates and inspection of the spar chord for cracks. The AD also requires a repeat inspection interval of 50 flight hours or 12 months, whichever comes first. Since issuance of the latest amendment, an alternate rework and inspection procedure has been developed which provides an equivalent level of safety. The AD is, therefore, further amended to provide for the alternate procedure. Since this amendment imposes no additional burden on any person, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by further amending Airworthiness Directive 73-20-2 (Amdt. 39-1722, 38 FR 26358; as amended by Amdt. 39-2763, 41 FR 49089), as follows:

BOEING: Applies to Model B-17F and G airplanes.

1. Revise paragraph (c) to read:

"(c) After repairs per (b) have been accomplished, reinspect in accordance with (a) at intervals not to exceed 150 hours time-in-service or every 12 months, whichever comes first."

2. Add a new paragraph (d) to read:

"(d) The bolt holes described in paragraph (a) above may be reamed .063 inch oversize for a close tolerance oversize bolt, provided no cracks are detected when the chords are inspected in accordance with paragraph (a) above using the eddy current inspection methods. Any holes reworked with the oversize bolts must be reinspected in accordance with (a) above within 1500 flight hours after such rework. Upon accumulation of 1500 flight hours on the reworked holes, the repeat inspection interval reverts to the interval specified in (c) above."

3. Add a new paragraph (e) to read:

"(e) Any new replacement beam chords must be inspected within 2500 flight hours after installation and thereafter at intervals specified in paragraph (c) above."

This amendment becomes effective January 26, 1979.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423) and Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89).

NOTE.—The FAA has determined that this document involves a regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1973).

Issued in Seattle, Washington, on January 5, 1979.

C. B. WALK, Jr.,
Director, Northwest Region.

[FR Doc. 79-1277 Filed 1-12-79; 8:45 am]

[4910-13-M]

[Airspace Docket No. 78-RM-29]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE AND REPORTING POINTS

Alteration of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: This amendment alters the Mohall, North Dakota 700' transition area. The alteration was necessary to provide controlled airspace for aircraft executing the new VOR/DME runway 31, amendment 1, standard instrument approach procedure, developed for the Mohall Municipal Airport, Mohall, North Dakota.

EFFECTIVE DATE: 0901 GMT, February 22, 1979.

FOR FURTHER INFORMATION CONTACT:

Joseph T. Taber/Pruett B. Helm, Operations, Procedures and Airspace Branch, Air Traffic Division, ARM-500, Federal Aviation Administration, Rocky Mountain Region, 10455 East 25th Avenue, Aurora, Colorado 80010; telephone (303) 837-3937.

SUPPLEMENTARY INFORMATION:

HISTORY

On November 6, 1978, the FAA published for comment (43 FR 53449) a proposal to alter the Mohall, North Dakota 700' transition area. The only comment received expressed no objection.

RULE

This amendment to subpart G of Part 71 of the Federal Aviation Regulations (FAR's) alters the Mohall, North Dakota 700' transition area. This action is necessary to provide controlled airspace for aircraft executing the new VOR/DME runway 31, amendment 1, standard instrument approach procedure, developed for the Mohall Municipal Airport, Mohall, North Dakota.

DRAFTING INFORMATION

The principal authors of this document are Joseph T. Taber/Pruett B. Helm, Operations, Procedures and Airspace Branch, Air Traffic Division, and Daniel J. Peterson, Office of Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended effective March 13, 1978, as follows:

By amending subpart G 71.181 so as to alter the following transition area (44 FR 442) to read:

MOHALL, N.DAK.

That airspace extending upward from 700 feet above the surface within a 7.5 mile radius of the Mohall Municipal Airport (latitude 48°46'41" N., longitude 101°32'20" W.) and within 2.5 miles each side of the 161° bearing from the Mohall Municipal Airport, extending from the 7.5 mile radius area to 9.5 miles southeast of the airport.

(Sec. 307(a) Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69).

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Aurora, Colorado on January 2, 1978.

M. M. MARTIN,
Director, Rocky Mountain Region.

[FR Doc. 79-1276 Filed 1-12-79; 8:45 am]

[6750-01-M]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. 9107]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Harnischfeger Corp., Et Al.

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violation of Federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, among other things, requires a Brookfield, Wis. manufacturer of lattice-boom cranes and the Northwest Engineering Company, a Green Bay, Wis. competitor, to provide the F.T.C. with evidence that all merger agreements between them have been terminated and return all confidential documents exchanged during negotiations. The order would prohibit the firms from acquiring any part of each other's lattice-boom business until July 31, 1981, without furnishing the Commission with 60 days' notice of such intention. Should the Commission issue a complaint challenging the transaction during this period, the firms would be required to postpone the proposed merger or acquisition until administrative proceedings were concluded.

DATES: Complaint issued March 10, 1978. Decision issued December 8, 1978.[1]

FOR FURTHER INFORMATION CONTACT:

FTC/C, Alfred F. Dougherty, Jr., Washington, D.C., 20580. (202) 523-3601.

SUPPLEMENTARY INFORMATION: On Tuesday, October 3, 1978, there was published in the FEDERAL REGISTER, 43 FR 45593, a proposed consent agreement with analysis In the Matter of Harnischfeger Corporation, a corporation, and Northwest Engineering Company, a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart-Acquiring Corporate Stock or Assets: § 13.5 Acquiring corporate stock or assets; 13.5-20 F.T.C. Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; (15 U.S.C. 45, 18))

CAROL M. THOMAS,
Secretary.

[FR Doc. 79-1316 Filed 1-12-79; 8:45 am]

[1] Copies of the Complaint and Decision and Order filed with the original document.

[8010-01-M]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-15461]

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

Filing and Reporting Requirements Relating to Institutional Investment Managers

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Commission announces the amendment of the rule and form governing the reporting requirements of institutional investment managers exercising investment discretion over accounts having in the aggregate more than $100,000,000 in exchange-traded or NASDAQ-quoted equity securities. Under the amendment, as adopted, such managers are required to file a report within 45 days after the end of each calendar year and within 45 days after the last day of the first three calendar quarters of the subsequent year.

EFFECTIVE DATE: February 5, 1979.

FOR FURTHER INFORMATION CONTACT:

W. Scott Cooper, Esq. (202-755-1792), Division of Investment Management, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission (the "Commission") today announced the amendment of Securities Exchange Act Rule 13f-1 [17 CFR 240.13f-1] and related Form 13F [17 CFR 249.325], pursuant to Section 13(f) of the Securities Exchange Act of 1934 [15 U.S.C. 78a et seq. as amended by Pub. L. No. 94-29 (June 4, 1975)] (the "Exchange Act"). The amendment to the Rule and Form adopted today requires that institutional investment managers, subject to the reporting requirements under the Rule, file a report on a quarterly basis rather than annually as originally adopted on June 15, 1978, and announced in Exchange Act Release No. 14852 [43 FR 26700].

Section 13(f) of the Exchange Act was adopted by Congress as part of the Securities Acts Amendments of 1975. The reporting system required by Section 13(f) is intended to create in the Commission a central repository of historical and current data about the investment activities of institutional investment managers, in order to improve the body of factual data available and to facilitate consideration of the influence and impact of institutional investment managers on the securities markets and the public policy implications of that influence. Section 13(f) empowers the Commission to adopt rules which would create a reporting and disclosure system to collect specific information concerning Section 13(d)(1) [15 U.S.C. 78m(d)(1)][1]

[1] Any equity security of a class which is registered pursuant to Section 12 of the Exchange Act [15 U.S.C. 78l], or any equity security of an insurance company which would have been required to be so registered except for the exemption contained in Section 12(g)(2)(G) of the Exchange Act, or any equity security issued by a closed-end investment company registered under the Investment Company Act of 1940 [15 U.S.C. 80a-1 et seq.].

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equity securities held in accounts over which certain institutional investment managers exercise investment discretion. It gives the Commission broad rulemaking authority to determine the size of the institutions required to file reports, the format and frequency of the reporting requirements, and the information to be disclosed in each report.

The Rule, as adopted on June 15, 1978, required that an institutional investment manager exercising investment discretion with respect to accounts having more than $100,000,000 or more in exchange-traded or NASDAQ-quoted equity securities on the last day of any of the twelve calendar months of a calendar year file annually with the Commission, and, if a bank, with the appropriate banking agency, within 45 days after the last day of such calendar year, five copies of Form 13F. The form required the reporting of the name of the issuer and the title of class, CUSIP number, number of shares or principal amount in the case of convertible debt, and aggregate fair market value of each such equity security held. The form also required information concerning the nature of investment discretion and voting authority possessed.

When the Commission announced the adoption of Rule 13f-1, the Commission solicited comment on the usefulness and practicality of quarterly reporting. The Commission received 124 letters of comment during the comment period which expired on August 31, 1978. In general, the main areas of comment related to the usefulness of the information and the attendant costs.

Many commentators felt quarterly information on the holders of common stock would be invaluable to a trading desk involved in block transactions and would facilitate the function of block trading and enhance the liquidity of the marketplace. A number of commentators pointed out that quarterly reporting would provide a greater basis for comparison shopping among investment managers. Such commentators emphasized that an evaluation of the investment philosophy and policies of a prospective manager is crucial in making an effective comparison and that such an evaluation is dependent upon a periodic examination of a manager's investment decisions as reflected by his holdings and transactions. Both corporations and financial reporting services asserted that quarterly reporting is needed to provide corporate treasurers with current information concerning institutions owning their stock. They pointed out that many stockholders take ownership in nominee or street name, making it difficult to trace such information and making it difficult to secure proxies on important corporate matters.

The comments in opposition to the usefulness of quarterly reporting took issue with the assertions that more frequent reports would be of utility to block traders or enhance market liquidity. Commentators opposed to quarterly reporting also disputed the usefulness of the reports as providing a basis for comparison among different investment managers. In addition, opponents to quarterly reporting believed that information about stock ownership was either currently available or more properly required under the beneficial ownership reporting requirements.

Based upon the estimates of the cost of compliance with the reporting requirements supplied by prospective reporting institutions, it appears that the cost to the institutions is generally low in comparison with the size of the institution which is required to report. The mean of all the estimates submitted to the Commission was $3,000 per report.

Although acknowledging relatively low cost, those commentators opposed to quarterly reporting stated, among other things, that the cost of compliance outweighed the benefit to the public in increasing the frequency of reporting and that as another cost of doing business it would reduce the ability of operations such as bank trust departments to become profitable.

The Commission has concluded that it is in the public interest to require quarterly reporting at this time, because, among other things, the Commission does not perceive any significant obstacles to quarterly reporting nor any undue hardship for reporting institutions. In addition, the Commission believes that the simplicity of the form and the recent issuance of an interpretative release [2] will enhance the likelihood of an effectively functioning system. The utility of the information was evidenced by the large number of commentators who expressed an interest in receiving information from quarterly reports. Finally, if quarterly reporting is not required at this time, such data might be lost altogether thereby creating gaps in the continuous flow of information which may be utilized for future policy decisions.

The amendments to Rule 13f-1 and Form 13F require an institutional investment manager subject to the reporting requirements for a particular calendar year to file Form 13F within 45 days after the last day of such calendar year and within 45 days after the last day of each of the first three calendar quarters in the subsequent calendar year.

CERTAIN FINDINGS

As required by Section 23(a)(2) of the Exchange Act [15 U.S.C. 78w(a)(2)], the Commission has considered the impact which the Rule and Form as amended herein would have on competition. The Commission has found that requiring the filing of Form 13F on a quarterly basis will not significantly burden competition. Furthermore, the Commission has determined that any possible resulting competitive burdens will be outweighed by, and are necessary and appropriate to achieve, the benefits of this information to investors.

As mandated by Section 13(f)(4), in exercising its authority under Section 13(f) the Commission has determined that its action is appropriate in the public interest and for the protection of investors. The Commission finds that the cost of the amendments to the Rule and Form adopted herein are not unreasonable in light of the purposes of the statute.

1. 17 CFR Part 240 is amended by revising paragraph (a) of § 240.13f-1 to read as follows:

§ 240.13f-1 Reporting by institutional investment managers of information with respect to accounts over which they exercise investment discretion.

(a) Every institutional investment manager which exercises investment discretion with respect to accounts holding section 13(f) securities, as defined in paragraph (c) of this section, having an aggregate fair market value on the last trading day of any month of any calendar year of at least $100,000,000 shall file a report on Form 13F [§ 249.325 of this Chapter] with the Commission within 45 days after the last day of such calendar year and within 45 days after the last day of each of the first three calendar quarters of the subsequent calendar year.

* * * * *

2. 17 CFR Part 249 is amended by revising General Instruction C of Form 13F (§ 249.325) as follows:

§ 249.325 Form 13F, report of institutional investment managers pursuant to Section 13(f) of the Securities Exchange Act of 1934.

* * * * *

[2] Exchange Act Release No. 15292 dated November 2, 1978 [43 FR 52697, November 14, 1978].

GENERAL INSTRUCTIONS

* * * * *

C. *Filing of Form 13F.* Five copies of Form 13F shall be filed with the Commission within 45 days after the end of the calendar year 1978 and each calendar year and the first three calendar quarters of each calendar year thereafter. As required by Section 13(f)(4) of the Act, a Manager which is a bank, the deposits of which are insured in accordance with the Federal Deposit Insurance Act, shall file with the appropriate regulatory agency a copy of every report filed with the Commission pursuant to this subsection by or with respect to such bank. The appropriate regulatory agency with which a copy of this report is to be filed for:

* * * * *

3. 17 CFR Part 249 is amended by revising the cover page of Form 13F (§ 249.325) to read as follows:

FORM 13F

INFORMATION REQUIRED OF INSTITUTIONAL INVESTMENT MANAGERS PURSUANT TO SECTION 13(f) OF THE SECURITIES EXCHANGE ACT OF 1934 AND RULES THEREUNDER

* * * * *

Report for the calendar year or Quarter Ended ———— 19—.

AUTHORITY; EFFECTIVE DATE

The Commission hereby adopts the amendment of Rule 13f-1 and Form 13F, effective February 5, 1979, pursuant to the authority set forth in Sections 13(f) and 23 of the Exchange Act.

(15 U.S.C. 78m(f) and 78w.)

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

JANUARY 5, 1979.

[FR Doc. 79-1409 Filed 1-12-79; 8:45 am]

[4210-01-M]

Title 24—Housing and Urban Development

CHAPTER II—OFFICE OF ASSISTANT SECRETARY FOR HOUSING—FEDERAL HOUSING COMMISSIONER, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER A—GENERAL

[Docket No. D-79-542]

PART 200—INTRODUCTION

Subpart D—Delegations to Particular Positions

Acting Assistant Secretary for Housing—Federal Housing Commissioner

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of Delegation of Authority.

SUMMARY: The Assistant Secretary for Housing-Federal Housing Commissioner is revising the designation of officials authorized to serve as Acting Assistant Secretary for Housing-Federal Housing Commissioner in the absence of the Assistant Secretary. This revision is necessary to reflect a Departmental reorganizational alignment.

EFFECTIVE DATE: November 13, 1978.

FOR FURTHER INFORMATION CONTACT:

June Sheehan, (202) 755-6623.

SUPPLEMENTARY INFORMATION: This designation supersedes the designation of Acting Assistant Secretary for Housing-Federal Housing Commissioner published at 42 FR 45963, September 13, 1977. Since the amendment involves only internal matters of agency management, it does not require comment or public procedure. Accordingly 24 CFR § 200.51 is amended to read as follows:

§ 200.51 Acting Assistant Secretary for Housing-Federal Housing Commissioner.

(a) *Designation.* The officials appointed to, or designated to serve as Acting during a vacancy in the following positions, are hereby designated to serve as Acting Assistant Secretary for Housing-Acting Federal Housing Commissioner during the absence of the Assistant Secretary for Housing-Federal Housing Commissioner with all the powers, functions, and duties delegated or assigned to the Assistant Secretary for Housing-Federal Housing Commissioner: *Provided,* That no official is authorized to serve as Acting Assistant Secretary for Housing-Acting Federal Housing Commission unless all other officials whose appointed, or designated Acting, position titles precede his in this designation are unable to act by reason of absence:

(1) Deputy Assistant Secretary for Housing-Deputy Federal Housing Commissioner.

(2) Deputy Assistant Secretary for Multifamily Housing Programs.

(3) Deputy Assistant Secretary for Public Housing and Indian Programs.

(4) Deputy Assistant Secretary for Single Family Housing and Mortgagee Activities.

(5) Director, Office of Policy and Program Development.

(6) Director, Office of Management.

(b) *Authorization.* Each head of an organizational unit of Housing is authorized to designate an employee under his jurisdiction to serve as Acting during the absence of the head of the unit.

Issued at Washington, D.C., December 11, 1978.

LAWRENCE B. SIMONS,
Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 79-1296 Filed 1-12-79; 8:45 am]

[4210-01-M]

CHAPTER III—GOVERNMENT NATIONAL MORTGAGE ASSOCIATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-79-611]

PART 300—GENERAL

List of Attorneys-in-Fact

AGENCY: Department of Housing and Urban Development.

ACTION: Final rule.

SUMMARY: This amendment updates the current list of attorneys-in-fact by amending Paragraph (c) of 24 CFR 300.11. These attorneys-in-fact are authorized to act for the Association by executing documents in its name in conjunction with servicing GNMA's mortgage purchase programs, all as more fully described in Paragraph (a) of 24 CFR 300.11.

EFFECTIVE DATE: February 14, 1979.

ADDRESSES: Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410. Telephone: (202) 755-7603.

FOR FURTHER INFORMATION CONTACT:

Mr. William J. Linane, Office of General Counsel, on (202) 755-7186.

SUPPLEMENTARY INFORMATION: Notice and public procedure on this amendment are unnecessary and impracticable because of the large volume of legal documents that must be executed on behalf of the Association.

1. Paragraph (c) of § 300.11 is amended by deleting the following names from the current list of attorneys-in-fact:

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Name and Region
H. D. Banks, Atlanta, GA; Sharon Weisbach, Atlanta, GA.

(Sec. 309(d) of the National Housing Act, (12 U.S.C. 1723a(d)); and sec. 7(d) of the Department of Housing and Urban Development Act, (42 U.S.C. 3535(d)))

Issued at Washington, D.C., on December 8, 1978.

JOHN H. DALTON,
President, Government National Mortgage Association.

[FR Doc. 79-1368 Filed 1-12-79; 8:45 am]

[4210-01-M]

[Docket No. R-79-610]

PART 300—GENERAL

List of Attorneys-in-Fact

AGENCY: Department of Housing and Urban Development.

ACTION: Final rule.

SUMMARY: This amendment updates the current list of attorneys-in-fact by amending Paragraph (c) of 24 CFR 300.11. These attorneys-in-fact are authorized to act for the Association by executing documents in its name in conjunction with servicing GNMA's mortgage purchase programs, all as more fully described in Paragraph (a) of 24 CFR 300.11.

EFFECTIVE DATE: February 14, 1979.

ADDRESSES: Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410. Telephone: (202) 755-7603.

FOR FURTHER INFORMATION CONTACT:

Mr. William J. Linane, Office of General Counsel, on (202) 755-7186.

SUPPLEMENTARY INFORMATION: Notice and public procedure on this amendment are unnecessary and impracticable because of the large volume of legal documents that must be executed on behalf of the Association.

1. Paragraph (c) of § 300.11 is amended by adding the following name to the current list of attorneys-in-fact:

Name and Region
Richard M. Jaegle, Washington, D.C.

(Sec. 309(d) National Housing Act, (12 U.S.C. 1723a(d)); sec. 7(d), Department of Housing and Urban Development Act, (42 U.S.C. 3535(d)))

Issued at Washington, D.C., on December 8, 1978.

JOHN H. DALTON,
President, Government National Mortgage Association.

[FR Doc. 79-1369 Filed 1-12-79; 8:45 am]

[4210-01-M]

[Docket No. R-79-609]

PART 300—GENERAL

List of Attorneys-in-Fact

AGENCY: Department of Housing and Urban Development.

ACTION: Final rule.

SUMMARY: This amendment updates the current list of attorneys-in-fact by amending Paragraph (c) of 24 CFR 300.11. These attorneys-in-fact are authorized to act for the Association by executing documents in its name in conjunction with servicing GNMA's mortgage purchase programs, all as more fully described in Paragraph (a) of 24 CFR 300.11.

EFFECTIVE DATE: February 14, 1979.

ADDRESSES: Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410. Telephone: (202) 755-7603.

FOR FURTHER INFORMATION CONTACT:

Mr. William J. Linane, Office of General Counsel, on (202) 755-4942.

SUPPLEMENTARY INFORMATION: Notice and public procedure on this amendment are unnecessary and impracticable because of the large volume of legal documents that must be executed on behalf of the Association.

1. Paragraph (c) of § 300.11 is amended by deleting the following names from the current list of attorneys-in-fact:

Name	*Region*
Robert E. Airy	Washington, D.C.
Ellen W. Allison	Los Angeles, CA
Thomas A. Barker	Los Angeles, CA
Marcelo J. Bueno, Jr.	Los Angeles, CA
Bennie H. Dixon	Atlanta, GA
H. J. Flewharty	Dallas, TX
B. B. Fincher	Dallas, TX
David L. Floyd	Atlanta, GA
Gregory Gianpetro	Chicago, IL
Ernestine S. Holland	Los Angeles, CA
James C. Kennedy	Dallas, TX
Carroll P. Kisser	Chicago, IL
Mike Kornecki	Chicago, IL
Theresa M. Mastricolo	Philadelphia, PA
Grace G. McKay	Atlanta, GA
James L. McKnight	Los Angeles, CA
Leslie A. Parsons	Atlanta, GA
Max D. Robinson	Dallas, TX
W. G. Smith, Jr.	Dallas, TX
June Y. Yamakawa	Los Angeles, CA

2. Paragraph (c) of § 300.11 is amended by adding the following names in alphabetical sequence to the current list of attorneys-in-fact:

Name	*Region*
Ellen W. Allison	Atlanta, GA
Rosemary M. Brown	Washington, D.C.
Pauletta L. Burge	Dallas, TX
D. Keith Gettmann	Atlanta, GA
Gregory Gianpetro	Philadelphia, PA
Robert R. Glinski	Philadelphia, PA
David G. Hooper	Dallas, TX
J. H. Van House	Atlanta, GA
Patricia M. Langley	Atlanta, GA
Vincent Llott	Philadelphia, PA
Leslie A. Parsons	Los Angeles, CA
Max D. Robinson	St. Louis, MO
June Y. Sage	Los Angeles, CA
James L. Smith	Philadelphia, PA
Angela Talotta	Philadelphia, PA
W. E. Yeager	Atlanta, GA
Harvey W. Young	Philadelphia, PA

(Sec. 309(d), National Housing Act, 12 U.S.C. 1723a(d); sec. 7(d), Department of Housing and Urban Development Act, (42 U.S.C. 3535(d)).)

Issued at Washington, D.C., November 15, 1978.

JOHN H. DALTON,
President, Government National Mortgage Association.

[FR Doc. 79-1370 Filed 1-12-79; 8:45 am]

[1505-01-M]

CHAPTER VIII—LOW-INCOME HOUSING, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-78-529]

PART 891—REVIEW OF APPLICATIONS FOR HOUSING ASSISTANCE AND ALLOCATION OF HOUSING ASSISTANCE FUNDS

Final Rule

Correction

In FR Doc. 78-30628 appearing at page 50638 in the issue for Monday, October 30, 1978, make the following corrections:

(1) On page 50644, in the first column, change the heading, "§ 891.204 Review and comment period." to read, "§ 891.203 Review and comment period."

(2) Also on page 50644, in the third column, in § 891.205(c)(1), in the 10th line, substitute "30" for "3".

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[4210-01-M]

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-4039]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Avondale, Maricopa County, Ariz.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Avondale, Maricopa County, Arizona. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Avondale, Maricopa County, Arizona.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Avondale, Maricopa County, Arizona, are available for review at the bulletin board in the City Hall, 525 North Central Avenue, Avondale, Arizona.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Avondale, Maricopa County, Arizona.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Agua Fria River	Broadway Road extension.	934
	Lower Buckeye Road	948
	U.S. 80 (Buckeye Road)	963
	Southern Pacific Railroad.	964
	Van Buren Street	974
	McDowell Road	986

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 26, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1107 Filed 1-12-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4092]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Aurora, Kane and DuPage Counties, Ill.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Aurora, Kane and DuPage Counties, Illinois. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Aurora, Kane and DuPage Counties, Illinois.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Aurora, Kane and DuPage Counties, Illinois, are available for review at the City Hall, 44 East Downer Street, Aurora, Illinois.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Aurora, Kane and DuPage Counties, Illinois.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Fox River	Downstream Corporate Limit at Ashland Avenue.	622
	Elgin, Joliet & Eastern R.R.	623
	Burlington Northern R.R. at West Channel.	626
	North Avenue	628
	Burlington Northern R.R.	628
	Convergence of East and West Channel.	629

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Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Fox River West Channel.	Holbrook Street at West Channel.	629
	Downer Street at West Channel.	630
	Galena Street at West Channel.	630
	Downstream Aurora Dam at West Channel.	630
	Upstream Aurora Dam at West Channel.	635
	New York Street at West Channel.	635
Fox River East Channel.	Benton Street at East Channel.	630
	Fox Street at East Channel.	630
	Main Street at East Channel.	630
	Downstream Aurora Dam at East Channel.	630
	Upstream Aurora Dam at East Channel.	635
	New York Street at East Channel.	635
Fox River	Divergence of East and West Channel.	635
	Confluence of Indian Creek.	636
	Illinois Avenue	636
	Indian Trail Road	637
Indian Creek	Confluence with Fox River.	636
	Chicago Aurora and Elgin R.R.	637
	Private Bridge 100' downstream of Broadway Street.	642
	Broadway Street	643
	Burlington Northern R.R. sidings upstream of Broadway Street.	645
	Burlington Northern R.R. 300' downstream of High Street.	649
	High Street	654
	Wood Street	667
	Ohio Street	672
	Rural Street	684
	Austin Avenue	691
	Farnsworth Avenue	692
	Private Bridge 1,300' upstream of Austin Avenue.	693
	Private Bridge 1,400' upstream of Austin Avenue.	695
	Sheffer Road	699
	Private Bridge 500' downstream of Farnsworth Avenue.	703
	Farnsworth Avenue downstream crossing.	704
	Reckinger Road	706
	Marshall Boulevard	709
	Farnsworth Avenue upstream crossing.	710
	Molitor Road	713
	Confluence of Selmarten Creek.	715
	East-West Tollway	718
	Bliter Road	724
Selmarten Creek	Confluence with Indian Creek.	715
	Seminary Creek Dam	716
	Seminary Road	716
	Upstream Corporate Limits approximately 4,200' upstream of Seminary Road.	716
Waubansee Creek	Downstream Corporate Limits approximately 2,500' downstream of Kautz Road.	672
	Kautz Road	674
	Montgomery Road	675
	Upstream Corporate Limits approximately 160' downstream of Elgin Joliet & Eastern R.R.	683

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719).

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1108 Filed 1-12-79; 8:45 am]

[4210-01-M]

[Docket No. FI-3809]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Village of Elk Grove, Cook County, Ill.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Village of Elk Grove, Cook County, Illinois. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Village of Elk Grove, Cook County, Illinois.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Village of Elk Grove, Cook County, Illinois, are available for review at the Elk Grove Village Hall, 901 Wellington Street, Elk Grove, Illinois.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Village of Elk Grove, Cook County, Illinois.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Salt Creek	Downstream Corporate Limits.	683
	J. F. Kennedy Boulevard.	685
	Upstream Corporate Limits.	687
Elk Grove Boulevard Drainage Ditch.	J. F. Kennedy Boulevard.	684
	Elk Grove Boulevard	684
	Ridge Avenue	684
	Victoria Lane	685
	Crest Avenue	685
	Love Street	685
	Tonne Road	685
Unnamed Creek	Downstream Corporate Limits.	711
	Nerge Road (Downstream).	712
	Nerge Road (Upstream).	716
West Branch of Salt Creek.	Downstream Corporate Limits.	709
	Confluence with Tributary D.	710
	Upstream Corporate Limits.	711
Tributary D of West Branch Salt Creek.	Confluence with West Branch Salt Creek.	710
	Elk Grove Corporate Limits.	722

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's dele-

gation of authority to Federal Insurance Administrator, 43 FR 7719).

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: December 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1109 Filed 1-12-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4168]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Village of Glenview, Cook County, Ill.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Village of Glenview, Cook County, Illinois. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Village of Glenview, Cook County, Illinois.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Village of Glenview, Cook County, Illinois, are available for review at the Glenview Village Hall, 1930 Prairie Street, Glenview, Illinois.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Village of Glenview, Cook County, Illinois.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
West Fork North Branch Chicago River.	Downstream Corporate Limits.	624
	Waukegan Road Upstream.	626
	Glenview Road Upstream.	627
	Grove Street Upstream	627
	East Lake Avenue	629
	Confluence with Navy Ditch.	630
	West Lake Avenue Upstream.	631
	Upstream Corporate Limits.	631

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 73 F.R. 7719).

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: December 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1110 Filed 1-12-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4369]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Village of Niles, Cook County, Ill.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Village of Niles, Cook County, Illinois. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Village of Niles, Cook County, Illinois.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Village of Niles, Cook County, Illinois are available for review at the Village Hall, 7601 Milwaukee Avenue, Chicago, Illinois.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Village of Niles, Cook County, Illinois.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in

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flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
North Branch Chicago River.	Southern Corporate Limit.	609
	Just Upstream of Hartz Road.	613
	Just Upstream of Touhy Avenue.	616
	Corporate Limits at Oakton Street.	619

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: December 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-1111 Filed 1-12-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4462]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Village of Washington Park, St. Clair County, Ill.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Village of Washington Park, St. Clair County, Illinois. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Village of Washington Park, St. Clair County, Illinois.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Village of Washington Park are available for review at the City Hall, 5621 Forest Boulevard, East St. Louis, Illinois.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Village of Washington Park, St. Clair County, Illinois.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Schoenberger Creek.	Downstream corporate limits.	410
	740 feet downstream of Kingshighway.	411
Rainfall Ponding within community.	800 feet north of U.S. Route 50 crossing Louisville and Nashville Railroad.	414
	Intersection of Monk Avenue and 38th Street.	415
	100 feet southeast of intersection of Louisville and Nashville Railroad and Alton and Southern Railroad.	415
	100 feet southwest of intersection of Louisville and Nashville Railroad and Alton and Southern Railroad.	416
	500 feet northwest of Kingshighway crossing Louisville and Nashville Railroad.	417

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: December 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1112 Filed 1-12-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4494]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Watseka, Iroquois County, Ill.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Watseka, Iroquois County, Illinois. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Watseka, Iroquois County, Illinois.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Watseka, Iroquois County, Illinois, are available for review at the City Hall, Watseka, Illinois.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Watseka, Iroquois County, Illinois.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Iroquois River.....	At the confluence of Sugar Creek.	624
	At the Upstream Corporate Limits.	624
Sugar Creek	At confluence with Iroquois River.	624
	Lafayette Stream (Upstream).	624
	Corporate Limits (1,700' Upstream of Lafayette Street).	625
	Corporate Limits (5,900' Upstream of Lafayette Street).	626
	Corporate Limits (11,200' Upstream of Lafayette Street).	629
	Corporate Limits (23,500' Upstream of Lafayette Street).	632
	Corporate Limits (26,150' Upstream of Lafayette Street).	632

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719).

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: December 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1113 Filed 1-12-79; 8:45 am]

[4210-01-M]

[Docket No. FI-2473]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Village of Woodridge, DuPage County, Ill.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Village of Woodridge, DuPage County, Illinois. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Village of Woodridge, DuPage County, Illinois.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Village of Woodridge, DuPage County, Illinois, are available for review at the main lobby of the Village Hall, 2900 West 83rd Street, Woodridge, Illinois.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Village of Woodridge, DuPage County, Illinois.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Crabtree Creek.....	Downstream Corporate Limits.	653
	State Highway 53 (Upstream).	663
	Corporate Limits 660 feet upstream of Highway 53.	669
	Westview Lane (Upstream).	683
	Woodridge Drive (Upstream).	712
Prentiss Creek	State Highway 53 (Upstream).	666
	Downstream Corporate Limits.	665
	Confluence of Unnamed Tributary No. 1.	670
	Confluence of Tributary No. 2.	689
	Upstream Corporate Limits.	690
East Branch DuPage River.	Confluence of Crabtree Creek.	653
	Hobson Road (Upstream).	657
	Upstream Corporate Limits (Extended).	658

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719).

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: December 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1114 Filed 1-12-79; 8:45 am]

[4210-01]

[Docket No. FI-4408]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

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Final Flood Elevation Determination for the Town of Albany, Delaware County, Ind.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Albany, Delaware County, Indiana. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Town of Albany, Delaware County, Indiana.

ADDRESS: Maps and other information showing the detailed outlines of the flood prone areas and the final elevations for the Town of Albany are available for review at the Town Hall, Albany, Indiana.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for Town of Albany, Delaware County, Indiana.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Mississinewa River.	Upstream side of Dowden Avenue.	931
	Just upstream of Norfolk and Western Railway.	932
	Confluence with Halfway Creek.	932
Halfway Creek	At Water Street	932
	At State Street	932
	Just upstream of Norfolk and Western Railway.	933
	Just upstream of State Highway 67.	934
	Northern corporate limit.	934

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and the Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719)).

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: December 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1115 Filed 1-12-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4409]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Town of Eaton, Delaware County, Ind.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Eaton, Delaware County, Indiana. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Town of Eaton, Delaware County, Indiana.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Eaton are available for review at the Town Hall, Town Clerk's Office, Eaton, Indiana.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Eaton, Delaware County, Indiana.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Mississinewa River.	1,880 feet downstream of Conrail.	885
	Upstream side of Romy Street at corporate limit.	889
	1,500 feet upstream of Romy Street.	891
	4,500 feet upstream of Romy Street near intersection of Albany Pike and Pine Street.	894
Swearengen Ditch	Upstream side of Strawboard Road.	890
	Downstream side of Conrail.	891
	Just upstream of Romy Street.	892

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719)).

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: December 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1116 Filed 1-12-79; 8:45 am]

[4210-01—M]

[Docket No. FI-4411]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Urbandale, Polk County, Iowa

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Urbandale, Polk County, Iowa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Urbandale, Polk County, Iowa.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Urbandale, are available for review at the City Hall, 3315 70th Street, Urbandale, Iowa.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Urbandale, Polk County, Iowa.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
North Walnut Creek.	At southern corporate limits of Urbandale.	848
	At confluence of Karen Acres Creek.	849
	900 feet upstream of the confluence of Karen Acres Creek.	850
	200 feet downstream of 86th Street.	860
	75 feet upstream of 86th Street.	865
	1,250 feet downstream of Douglas Avenue.	865
	70 feet downstream of Douglas Avenue.	868
	100 feet upstream of Douglas Avenue.	871
	4,500 feet upstream of Douglas Avenue.	879
	At northern corporate limit.	890

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719)).

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: December 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1117 Filed 1-12-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4412]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Windsor Heights, Polk County, Iowa

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Windsor Heights, Polk County, Iowa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Windsor Heights, Polk County, Iowa.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Windsor Heights are available for review at the City Hall, 1133 66th Street, Windsor Heights, Iowa.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Windsor Heights, Polk County, Iowa.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received

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from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Walnut Creek	500 feet upstream of Center Street.	825
	150 feet downstream of 73rd Street.	829
North Walnut Creek.	Just upstream of University Avenue.	834
	2,350 feet upstream of University Avenue.	836
	150 feet downstream of College Avenue.	838
	Just upstream of College Avenue.	842
	At northern corporate limits.	847

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and the Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719).)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95–557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: December 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1118 Filed 1-12-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4373]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Independence, Montgomery County, Kansas

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Independence, Montgomery County, Kansas. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Independence, Montgomery County, Kansas.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Independence are available for review at the City Office, 120 North 6th Street, Independence, Kansas.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202–755–5581 or toll-free line 800–424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Independence, Montgomery County, Kansas.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, (national geodetic vertical datum)
Verdigris River	Southeastern Corporate Limits.	763
	Upstream of Atchison, Topeka & Santa Fe Railroad.	764
	Northeastern Corporate Limits.	764
Rock Creek	Upstream of Second Street.	761
	Upstream of Seventeenth Street.	761
	Southern Corporate Limits.	763
Whiskey Creek	Confluence with Rock Creek.	781
	Upstream of Cherry Street.	765
	Downstream of Main Street.	775
	Upstream of Cottonwood Street.	785
	633 feet Downstream of Circle Street.	793
	Downstream of Oak Street.	796

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719)).

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: December 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1119 Filed 1-12-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4495]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of North Newton, Harvey County, Kansas

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of North Newton, Harvey County, Kansas. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of North Newton are available for review at the City Hall, North Newton, Harvey County, Kansas.

ADDRESSES: Maps and other information showing the detailed outlines

of the flood prone areas and the final elevations for the City of North Newton, Kansas.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410 202–755–5581 or toll-free line 800–424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of North Newton, Harvey County, Kansas.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Sand Creek	Just Upstream of East 24th Street.	1433
	Corporate limits, approximately 400 feet Upstream from East 24th Street.	1435
	Corporate limits, approximately 2,376 feet Downstream from I-135.	1436

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and the Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719).

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: December 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1120 Filed 1-12-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4268]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Covington, Kenton County, Kentucky

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Covington, Kenton County, Kentucky. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Covington, Kenton County, Kentucky.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Covington, Kenton County, Kentucky, are available for review at the City Clerk's Office, Covington, Kentucky.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202–755–5581 or toll-free line 800–424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Covington, Kenton County, Kentucky.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Licking River	Confluence with Ohio River.	499
	4th Street Bridge	499
	Wallace Street (extended).	501
	Virginia Avenue (extended).	502
Banklick Creek	Louisville & Nashville Railroad Bridge.	502
	Winton Pike Street	502
	Corporate Limits (Upstream).	503
Ohio River	Corporate Limits (Downstream).	497
	U.S. Interstate 71-75 Bridge.	498
	Court Avenue	498
	Corporate Limits (Upstream).	499

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719).

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1121 Filed 1-12-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4185]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Town of West Newbury, Essex County, Massachusetts

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

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SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of West Newbury, Essex County, Massachusetts. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Town of West Newbury, Essex County, Massachusetts.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of West Newbury are available for review at the Selectmen's Office, West Newbury Town Hall, 419 Main Street, West Newbury, Massachusetts.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of West Newbury, Essex County, Massachusetts.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Artichoke River-Reservoir.	Confluence with Merrimack River.	13
	Rogers Street	14
North Tributary Brook.	At Confluence with Artichoke River-Reservoir.	14
	Upstream of Pikes' Bridge Road.	21
	30 feet Upstream of Garden Street.	36
	290 feet Upstream of Garden Street.	43
	3225 feet Upstream of Garden Street.	50
	5865 feet Upstream of Garden Street (Study Limit).	50
Beaver Brook	Upstream of Middle Street.	70
	1200 feet Downstream from Confluence with Beaver Brook Tributary.	70
	Upstream of Georgetown Road	87
	3220 feet Upstream of Tewksbury Road.	
	4250 feet Upstream of Tewksbury Road.	94
Merrimack River	Confluence with Artichoke River.	13
	Upstream of Rocks Bridge.	18
	At Southern Corporate Limit of Upstream End.	18

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719).

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: July 25, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1122 Filed 1-12-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4444]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Township of Atlas, Genesee County, Michigan

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Township of Atlas, Genesee County, Michigan. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Township of Atlas, Genesee County, Michigan.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Township of Atlas, Genesee County, Michigan, are available for review at the Office of the Atlas Township Clerk, Goodrich, Michigan.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Township of Atlas, Genesee County, Michigan.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Kearsley Creek	Just upstream of Jordan Road.	820
	Approximately 320 feet downstream of Atlas Road.	833

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Approximately 130 feet upstream of Atlas Mill Pond Dam.	847

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and the Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: December 13, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1123 Filed 1-12-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4446]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Township of Davison, Genesee County, Michigan

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Township of Davison, Genesee County, Michigan. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Township of Davison, Genesee County, Michigan.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Township of Davison are available for review at the Township Hall, Davison, Michigan.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Township of Davison, Genesee County, Michigan.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Black Creek	Mouth at Kearsley Creek.	764
	Just upstream of Irish Road.	768
	2,000 feet downstream of Gale Road.	770
	500 feet upstream of Gale Road.	774
	At west city limit	774
	At east city limit	785
	Just upstream of Grand Trunk Western Railroad.	787
	500 feet downstream of Davison Road.	788
	At Davison Road	790
	At Oak Road	791
Kearsley Creek	At west corporate limit	762
	At Grand Trunk Western Railroad.	763
	200 feet upstream of East Court Street.	766
	1,000 feet upstream of East Court Street.	767
	750 feet upstream of confluence of Phillips Drain.	769
	2,100 feet downstream of Lapeer Road.	772
	400 feet upstream of Lapeer Road.	773
	450 feet downstream of Irish Road.	776
	Just upstream of Irish Road.	777
	850 feet downstream of Lippincott Road.	780
	At Lippincott Road	781
	3,800 feet upstream of Lippincott Road.	783
	5,400 feet upstream of Lippincott Road.	785
	Atlas Road (north of Atherton Road).	791
	2,100 feet upstream of Atlas Road.	792
	3,200 feet downstream of Atherton Road.	795
	800 feet downstream of Atherton Road.	797
	600 feet upstream of Atherton Road.	799
	4,600 feet upstream of Atherton Road.	801
	3,200 feet downstream of Bristol Road.	803
	1,300 feet downstream of Bristol Road.	805
	400 feet upstream of Bristol Road.	806
	4,700 feet upstream of Bristol Road.	808
	3,700 feet downstream of Atlas Road (near Maple Avenue).	810
	200 feet upstream of Atlas Road.	814
	East corporate limit	816
Phillips Drain	Mouth at Kearsley Creek.	768
	900 feet downstream of Lapeer Road.	769
	Just upstream of Lapeer Road.	771
	1,600 feet upstream of Lapeer Road.	772
	1,050 feet downstream of Vassar Road.	776
	At Vassar Road	778

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended 42 U.S.C. 4001-4128; and the Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: December 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1124 Filed 1-12-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4427]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Town of Hillsborough, Hillsborough County, New Hampshire

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

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SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Hillsborough, Hillsborough County, New Hampshire. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Town of Hillsborough, Hillsborough County, New Hampshire.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Hillsborough are available for review at the Town Office, Hillsborough, New Hampshire.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Hillsborough, Hillsborough County, New Hampshire.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Contoocook River	Henniker/Hillsboro corporate limits.	554
	Henniker Street	556
	Approximately 800 feet downstream of State Route 149.	560
	Just upstream of State Route 149.	581
	2,640 feet upstream of state Route 149.	590
	Amtrim/Hillsboro corporate limits.	597
Sand Brook	U.S. Route 202	556
	Downstream side of Henniker Road.	556
	Upstream side of Henniker Road.	559
	600 feet upstream of Henniker Road.	570
	Just downstream of unnamed dirt road (1,960 feet upstream of Henniker Road).	613
	Just upstream of unnamed dirt road (2,000 feet upstream of Henniker Road).	619
	Downstream side of unnamed dirt road (640 feet downstream of Gould Pond Road).	619
	Downstream side of Gould Pond Road.	622
	Upstream side of Gould Pond Road.	626
	1,400 feet upstream of Gould Pond Road.	650
	820 feet downstream of Bog Road.	671
	Upstream of Bog Road	674
North Branch Brook	At mouth of North Branch Brook.	597
	Approximately 345 feet upstream of mouth of North Branch Brook.	607
	Approximately 2,380 feet upstream of mouth of North Branch Brook.	637
	Approximately 4,230 feet upstream of mouth of North Branch Brook.	659
	Approximately 1,370 feet downstream of State Route 31.	682
	Approximately 770 feet downstream of State Route 31.	700
	Just downstream of State Route 31.	702
	Approximately 920 feet upstream of State Route 31.	720
	Approximately 1,720 feet upstream of State Route 31.	740
Beards Brook	Confluence with Contoocook River.	595
	Downstream side of old State Route 9.	598
	Upstream side of new State Route 9.	603
	Approximately 1,740 feet upstream of new State Route 9.	620
	Approximately 820 feet downstream of Beards Road.	630
	Approximately 100 feet upstream of Beards Road.	637
	At Shedd Jones Road	645
	Approximately 1,740 feet upstream of Shedd Jones Road.	660
	Approximately 2,670 feet upstream of Shedd Jones Road.	680
	Approximately 3,900 feet upstream of Shedd Jones Road.	700
	Approximately 1,450 feet downstream of Beards Road (second crossing).	720
	Approximately 555 feet downstream of Beards Road (second crossing).	750
	Approximately 50 feet downstream of Beards Road (second crossing).	779
	Upstream of Beards Road (second crossing).	788
	Upstream side of Gleason Falls Road.	797
	Approximately 2,270 feet upstream of Gleason Falls Road.	810
	Approximately 2,900 feet downstream Danforth Corners Road.	818
	Approximately 2,750 feet downstream of Danforth Corners Road.	820
	Upstream side of Danforth Corners Road.	838
	Downstream side of Cooledge Road.	844
	Downstream side of Jones Hill Road.	847
	Upstream side of Jones Hill Road.	852
	Approximately 2,900 feet upstream of Jones Hill Road (just upstream of unnamed road).	857
	Approximately 7,065 feet upstream of Jones Hill Road.	865
Shedd Brook	At mouth of Shedd Brook.	633
	Approximately 2,740 feet upstream of mouth of Shedd Brook.	650
	Approximately 4,400 feet upstream of mouth of Shedd Brook.	680
	Approximately 1,570 feet downstream of Shedd Jones Road.	700
	Approximately 650 feet downstream of Shedd Jones Road.	725
	Upstream side of Shedd Jones Road.	747
	Approximately 1,770 feet upstream of Shedd Jones Road.	770
	Approximately 3,000 feet upstream of Shedd Jones Road.	800
	Approximately 5,230 feet upstream of Shedd Jones Road.	830
	Approximately 7,390 feet upstream of Shedd Jones Road.	852
Black Pond Brook	At mouth of Black Pond Brook.	852
	Downstream side of State Route 31.	935
	Approximately 50 feet upstream of State Route 31.	940
	Approximately 7,200 feet upstream of State Route 31.	950
	Approximately 1,160 feet downstream of corporate limits.	960
	At corporate limits	977

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: December 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1106 Filed 1-12-79; 8:45 am]

[3810-70-M]

Title 32—National Defense

CHAPTER I—OFFICE OF THE SECRETARY OF DEFENSE

SUBCHAPTER E—DEFENSE CONTRACTING

PART 166—REPORTING PROCEDURES ON DEFENSE RELATED EMPLOYMENT

AGENCY: Office of the Secretary of Defense.

ACTION: Final rule.

SUMMARY: This rule is the fiscal year 1978 update of the section listing DoD contractors receiving negotiated contract awards of $10,000,000 or more. The regulation is published to comply with the provisions of Section 410, Pub. L. 91-121, November 19, 1969.

EFFECTIVE DATE: September 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Mrs. Cynthia V. Springer, Office of the Director for Information Operations and Reports, Washington Headquarters Services, The Pentagon, Washington, DC 20301. Telephone: (202) 697-3182.

SUPPLEMENTARY INFORMATION: In FR Doc. 70-15846 published in the FEDERAL REGISTER on November 25, 1970 (35 FR 18040) the Office of the Secretary of Defense published a final rule establishing criteria, prescribing procedures, and assigning responsibilities for monitoring the program within the Department of Defense. Subsequently, paragraphs (a) and (d) of § 166.11, which constitute the list of DoD contractors receiving negotiated contract awards for $10 million or more, was updated for fiscal years 1971 (36 FR 18464); 1972 (37 FR 18727); 1973 (38 FR 25990); 1974 (39 FR 32985); 1975 (40 FR 44135); 1976 (41 FR 20466); and 1977 (43 FR 1617).

Accordingly, § 166.11 is revised to read as follows:

§ 166.11 Department of Defense contractors receiving negotiated contract awards of $10,000,000 or more.

Fiscal Year 1978:

A A I Corp.
A L S Electronics Corp.
A M General Corp.
A R O, Inc.
Action Mfg. Co.
Adobe Refining Co.
Aero Corp.
Aerojet General Corp.
Aerospace Corp. The
Airesearch Mfg. Co. of Arizona
Airesearch Mfg. Co. of California
Airlift International Inc.
Alaska Puget United Transportation
Alaska, University of
Ambac Industries, Inc.
Amerada Hess Corp.
American Export Isbrandsten Lines
American Home Products Corp.
American President Lines, Ltd.
American Telephone & Telegraph Co.
Amoco Oil Co.
Amron Corp.
Applied Devices Corp.
Arinc Research Corp.
Ashland Oil, Inc.
Atlantic Richfield Co.
Atlas Processing Co.
Automation Industries, Inc.
AVCO Corp.
AVCO Everett Research Laboratory
Avondale Shipyards, Inc.
Ayer N W ABH International, Inc.
B D M Corp.
Baltimore Gas & Electric Co.
Bates, Ted & Co., Inc.
Bath Iron Works Corp.
Battelle Memorial Institute
Bauer Max Meat Packer.
Beech Aircraft Corp.
Bell & Howell Co.
Bendix Corp.
Bernard Clay Systems International, Ltd.
Bethlehem Steel Co.
Bilfinger & Berger Dyckerhoff et al.
Boeing Co.
Boeing Services International, Inc.
Boeing Vertol Co.
Bolt, Beranek & Newman, Inc.
Booz, Allen & Hamilton, Inc.
Borg Warner Corp.
Braswell Shipyards, Inc.
Brooks & Perkins, Inc.
Brunswick Corp.
Bulova Watch Co., Inc.
Bunko Ramo Corp.
Burlington Industries, Inc.
Burroughs Corp.
California, University of
Calspan Corp.
Caltex Oil Products Co.
Campbell Soup Co.
Carolina Power & Light Co.
Central Gulf Lines, Inc.
Chamberlain Mfg. Corp.
Champlin Petroleum Co.
Charles Stark Draper Labs, Inc.
Chesapeake & Potomac Telephone Co.
Chevron U S A, Inc.
Chromalloy American Corp.
Chrysler Corp.
Cincinnati Electronics Corp.
Cities Service Oil Co.
City Public Service Board
Clermont Shipping Co., Inc.
Clinton Shipping Co., Inc.
Coastal States Marketing, Inc.
Coastal States Trading, Inc.
Coloney, Wayne H., Inc.
Colt Industries, Inc.
Communications Satellite Corp.
Computer Sciences Corp.
Comtech Laboratories, Inc.
Conoco International, Inc.
Conrac Corp.
Continental Oil Co.
Control Data Corp.
Cooper Airmotive Co.
Cubic Corp.
Curtiss Wright Corp.
Cutler Hammer, Inc.
Data Design Laboratories
Day & Zimmerman, Inc.
Dayton, University of
De Laval Turbine, Inc.
Delta Refining Co.
Derby & Co., Inc.
Douglas Oil Co. of California
Dynalectron Corp.
E A Industrial Corp.
E G & G, Inc.
E S L, Inc.
E Systems, Inc.
Eastman Kodak Co.
Edgington Oil Co.
Edo Corp.
Electrospace Systems, Inc.
Emerson Electric Co,
Energy Specialists, Inc.
Etowah MFG Co., Inc.
Exxon Corp.
F M C Corp.
Fairchild Camera & Instrument Corp.
Fairchild Industries, Inc.
Farrell Lines, Inc.
Federal Electric Corp.
Felec Services, Inc.
Flinchbaugh Products, Inc.
Florida Power & Light Co.
Ford Aerospace & Communications
G T E Sylvania, Inc.
Garrett Corp.
General Dynamics Corp.
General Electric Co.
General Foods Corp.
General Motors Corp.
General Research Corp.
General Time Corp.
Gentex Corp.
Georgia Tech Research Institute
Getty Oil Co.
Gibbs & Cox, Inc.
Gibraltar Fabrics, Inc.
Gladieux Refinery, Inc.
Global Associates
Gold Pak Meat Co., Inc.
Golden Eagle Refining Co., Inc.
Goodrich B F Co.
Goodyear Aerospace Corp.

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Gould, Inc.
Grumman Aerospace Corp.
Guam Oil & Refining Co.,
Gulf Oil Corp.
H R B Singer, Inc.
Hamilton Technology, Inc.
Harris Corp.
Harsco Corp.
Hawaiian Independent Refinery, Inc.
Hayes International Corp.
Hazeltine Corp.
Heckethorn Mfg. Co.
Hercules, Inc.
Hess Oil Virgin Island Corp.
Hewlett Packard Co.
Hoffman Electornics Corp.
Honeywell, Inc.
Honeywell Information Systems, Inc.
Hughes Aircraft Co.
Hunt Oil Co.
ICI Americas, Inc.
IIT Research Institute
ITT Arctic Services
ITT Gilfillan, Inc.
Institute for Defense Analysis
International Business Machine Co.
International Harvester Co.
International Signal & Control Corp.
International Telephone & Telegraph Corp.
Interstate Electronics Corp.
Itek Corp.
Jacksonville Shipyards, Inc.
Jets Services, Inc.
Johns Hopkins University
KDI Precision Products, Inc.
Kaiser Aerospace & Electronics Co.
Kaman Aerospace Corp.
Kennametal, Inc.
Kentron Hawaii, Ltd.
Kollmorgen Corp.
Kraft, Inc.
La Crosse Garment Mfg. Co., Inc.
Lear Siegler, Inc.
Linkabit Corp.
Litton Industries, Inc.
Litton Systems, Inc.
Lockheed Corp.
Lockheed Electronics Co., Inc.
Lockheed Missiles & Space Co., Inc.
Lockheed Shipbuilding Construction
Logicon, Inc.
Loral Corp.
Lykes Bros. Steamship Co., Inc.
Magnavox Co.
Magnavox Government & Industrial Electronics Co.
Maremont Corp.
Marion Corp.
Marquarot Co.
Martin Marietta Aluminum Sales, Inc.
Martin Marietta Corp.
Mason & Hanger Silas Mason Co.
Massachusetts Institute of Technology
Mayer Oscar & Co., Inc.
McDonnell Douglas Corp.
Metz R G Building Co.
Midwest Specialities
Mine Safety Appliances Co.
Mitre Corp.
Mobil Oil Corp.
Monsanto Enviro Chem Systems, Inc.
Motorola, Inc.
National Beef Packing Co.
National Steel & Shipbuilding Co.
Navajo Refining Co.
Nestle Co., Inc.
Newport News Shipbuilding & Dry Dock Co.
Norris Industries, Inc.
North Pole Refining Co.
Northrop Corp.
Northrop Worldwide Aircraft Services, Inc.
Northwest Airlines, Inc.
Okmulgee Refining Co.
Olin Corp.
Oshkosh Motor Truck, Inc.
Paccar, Inc.
Pacific Architects & Engineers, Inc.
Pacific Far East Line, Inc.
Pacific Gas & Electric Co.
Page Airways, Inc.
Pan American World Airways, Inc.
Paragon Corp. of Martinsville
Parker Hannifin Corp.
Parsons Ralph M Co., Inc.
Pennsylvania State University
Pepper Harry & Associates
Perkin Elmer Corp.
Philip Morris, Inc.
Phillips Petroleum Co.
Physics International Co.
Planning Research Corp.
Pneumo Corp.
Powerine Oil Co,
Pride Refining, Inc.
Proctor & Gamble Distributing Co.
Q E D Systems, Inc.
R & D Associates
R C A Alaska Communications, Inc.
R C A Corp.
R C A Global Communications, Inc.
Rand Corp.
Raytheon Co.
Raytheon Service Co.
Reflectone, Inc.
Remington Arms Co.
Reynolds R J Industries, Inc.
Rochester, University of
Rockwell International Corp.
Rhor Industries, Inc.
Rosenblatt M Son, Inc.
S R I International
Sanders Associates, Inc.
Santa Barbara Research Center
Science Applications, Inc.
Sea Land Service, Inc.
Seaboard World Airlines, Inc.
Selma Apparel Corp.
Shell Oil Co.
Sierra Research Corp.
Simplex Wire & Cable Co.
Singer Co.
Southern California, University of
Southern Union Refining Co.
Southwest Truck Body
Southwestern Refining Co., Inc.
Sparton Corp.
Sperry Rand Corp.
Standard Mfg. Co.
Stewart Warner Corp.
Summa Corp.
Sun Chemical Corp.
Sun Co., Inc.
Sun Oil Trading Co.
Sunstrand Corp.
Supreme Beef Co., Inc.
Swift & Co.
System Development Corp.
Systems Consultants, Inc.
Systems Research Laboratories, Inc.
T R W Colorado Electronics, Inc.
T R W, Inc.
Teledyne Brown Engineering
Teledyne C A E
Teledyne Electronics
Teledyne Firth Sterling
Teledyne, Inc.
Teledyne Industries, Inc.
Teletype Corp.
Tesoro Alaskan Petroleum Corp.
Tesoro Petroleum Corp.
Texas Instruments, Inc.
Texas, University of
Textron, Inc.
Thiokol Corp.
Tiger International, Inc.
Todd Shipyards Corp.
Tonkawa Refining Co.
Total Petroleum, Inc.
Tracor, Inc.
Trans International Airlines, Inc.
Union Carbide Corp.
Uniroyal, Inc.
United States & South American Enterprises
United States Lines Co.
United Technologies Corp.
Valley Construction Co.
Value Engineering Co.
Varian Associates
Varo, Inc.
Vi Mil, Inc.
Vought Corp.
Waterman Steamship Corp.
Watkins Johnson Co.
Western Electric Co., Inc.
Western Gear Corp.
Western Union International, Inc.
Western Union Telegraph Co.
Westinghouse Electric Corp.
Whittaker Corp.
Williams Research Corp.
Wilson & Co., Inc.
Winfield Mfg. Co., Inc.
World Airways, Inc.
Xerox Corp.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

JANUARY 10, 1979.

[FR Doc. 79-1288 Filed 1-12-79; 8:45 am]

[7710-12-M]

Title 39—Postal Service

CHAPTER I—UNITED STATES POSTAL SERVICE

PART 111—GENERAL INFORMATION ON POSTAL SERVICE

Mail Security Regulations—Puerto Rico

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This regulation implements section 3 of the Puerto Rico Federal Relations Act by allowing excise tax officials of the Commonwealth of Puerto Rico to record for tax purposes information appearing on the exterior of certain types of parcels received at any post office in Puerto Rico. The regulation changes the final implementing rule promulgated on April 5, 1978, 43 FR 14314, and repromulgated unchanged on September 13, 1978, 43 FR 40815, which limited the recording of data for tax purposes to incoming insured, certified, or C.O.D. mail parcels received at the San Juan post office.

EFFECTIVE DATE: January 15, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles R. Braun, (202) 245-4620.

SUPPLEMENTARY INFORMATION: On September 21, 1978, the Postal Service published for comment its proposal to revise the regulations as described above. No comments on the proposal were received.

Accordingly, the Postal Service hereby adopts, without change, the following revision of the Postal Service Manual:

Section 115.96 of the Postal Service Manual is revised to read as follows:

.96 *Puerto Rico.* Under 48 U.S.C. 741a, postal employees in any post office in the Commonwealth of Puerto Rico are authorized to permit excise tax collection officials of the Commonwealth to record for tax collection purposes the names and addresses that appear on the exterior of all incoming parcels which appear to contain taxable items, except those sent by registered mail. A postal employee must be present during such recording and no mail may be opened, detained, or delayed for this purpose.

A Post Office Services (Domestic) transmittal letter making these changes in the pages of the Postal Service Manual will be published and will be transmitted to subscribers automatically. These changes will be published in the FEDERAL REGISTER as provided in 39 CFR 111.3.

(39 U.S.C. 401, 403, 404, 411.)

W. ALLEN SANDERS,
Assistant General Counsel.

[FR Doc. 79-1372 Filed 1-12-79; 8:45 am]

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proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[6450-01-M]

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[18 CFR Part 281]

NATURAL GAS REQUIRED FOR ESSENTIAL AGRICULTURAL USES

Natural Gas Policy Act of 1978; Interstate Pipeline Curtailment Plans

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Natural Gas Policy Act of 1978 (NGPA), in section 401, requires interstate pipeline curtailment plans, to the maximum extent practicable, to protect the requirements of essential agricultural uses. This Notice of Proposed Rulemaking contains a proposed regulation for the implementation of that section from March 9, 1979—October 31, 1979.

DATES: Written comments by January 22, 1979. Public hearings: January 22, 1979—Washington, D.C. at 9:30 a.m.

ADDRESSES: Send comments to Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (Reference Docket No. RM 79-13).

Hearing location: Hearing Room A, 825 North Capitol Street, N.E., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Romulo L. Diaz, Jr., Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 275-3771, or

Martin A. Burless, Office of Pipeline and Producer Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. (202) 275-4349.

SUPPLEMENTARY INFORMATION:

PREAMBLE TO THE INTERIM CURTAILMENT RULE

BACKGROUND

Section 401 of the Natural Gas Policy Act of 1978 (NGPA) seeks to assure that natural gas required for essential agricultural uses will not be curtailed unless curtailment is required to protect the needs of enumerated high-priority users.

Section 401(a) provides that not later than 120 days after the date of enactment the Secretary of Energy shall prescribe and make effective a rule which provides that no curtailment plan of an interstate pipeline may provide for curtailment of deliveries of natural gas for any of the enumerated high-priority users. This rule must be enacted by March 9, 1979.

Section 401(c) states that the Secretary of Agriculture shall certify to the Secretary of Energy and to the Federal Energy Regulatory Commission the natural gas requirements for essential agricultural uses in order to meet the requirements of full food and fiber production.

Pursuant to section 403(b) of NGPA and section 402(a)(1)(F) of the Department of Energy Organization Act, the Federal Energy Regulatory Commission is charged with implementing the rules prescribed under section 401 under its authority to establish, review, and enforce curtailments, under the Natural Gas Act. The purpose of this rule is to implement, effective March 9, the Secretary of Energy's rule prescribed under section 401(a).

This interim rule will be effective from March 9, 1979, until October 31, 1979. During this interim period interstate natural gas pipelines will provide relief from curtailment where necessary to high-priority users and essential agricultural users in accordance with a new tariff provision which this rule directs that the pipeline file. This tariff provision is analogous to the existing life and property tariff provision that pipelines have filed pursuant to § 2.78(a)(4) of the Commission's rules of practice and procedure. This emergency relief mechanism has in the past been used to grant relief from curtailment which would have resulted in danger to life, health, and physical property. The Commission drew on this experience in drafting the present rule so that during this interim period interstate pipelines may provide relief from curtailment to high-priority users and essential agricultural uses under a mechanism with which they are familiar, and which they have successfully utilized in the past.

The proposed rule is an interim rule which will only be effective during a brief portion of the winter heating season. The rule will provide relief, when appropriate, during the summer season. The rule will only come into use if there is a threat of curtailment of essential agricultural users or high-priority users. Under the proposed rule, the maximum volume of gas which can be delivered is the lesser of the volumes the user would receive under the presently effective pipeline curtailment plan or its highest volume used during the last 3 years. Both of these measures of use would be based on the comparable curtailment periods as utilized by the interstate pipeline. Thus, they may be calculated on a daily, monthly, seasonal or annual basis.

In general the Commission believes the Congress intended to utilize as the basis of the section 401 curtailment priorities the base period volumes included in the various pipeline curtailment plans adjusted for alternative fuel capability. The proposed permanent rule is based on this concept. However, the proposed interim rule would implicitly rather than explicitly consider alternate fuel use by reducing the requirements of those users who utilized less than their base period volumes to the high volume used during the last 3 calendar years. The Commission believes that it is reasonable to presume that where a user has been curtailed, alternate fuel has been used in place of natural gas. In those situations where curtailment could not be offset and the facility was temporarily closed, the use of a 3 year period permits a calculation that will only reflect shutdowns that took place in all three 3.

The permanent rule for the implementation of section 401 will set forth a mechanism for ascertaining alternate fuel capability on a more direct and analytical basis. Because of the short lead time imposed by section 401 and considering the short period, the Commission has determined that this more detailed evaluation of requirements and alternate fuel capability is infeasible for purposes of interim implementation. To attempt to acquire the necessary data during this period of time would impose an impossible burden on the end users, distributors, pipelines and the Commission. It is the Commission's judgment that the proposed rule is the most practicable

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method of implementing section 401 by March 9.

As previously noted, the proposed method of calculating essential agricultural requirements attempts to take account of both natural gas requirements and alternative fuel capabilities in a manner that will be administratively feasible and not unduly burdensome considering the short lead time and the short period in which the rule will be effective. Generally, the volumes of gas attributable to end users under a pipeline curtailment plan are the maximum volumes that would be taken regardless of alternate fuel capability. If base period requirements alone were utilized, with no consideration to alternative fuel capabilities, there would be a danger, in a situation requiring relief under this provision, of energy requirements that can utilize alternate fuels utilizing natural gas even though the alternative fuel would be economically practicable and reasonably available in accordance with the section 401(b) policy. Such a large shift in energy requirements would place demands on the interstate system that could be difficult to meet out of system supply. It would also cause large unexpected disruptions in fuel usage patterns. The periods of time involved are so short that effective planning and adjustments would be difficult. Also, as noted, the permanent rule provides for evaluation of alternative fuel capabilities and the public interest would not be served by short-term shifts on to gas and then off again when the permanent rule is implemented.

The Commission's rule treats high-priority users and essential agricultural users differently with respect to the applicability of the alternative fuel requirement. The statute only applies an alternative fuel test to essential agricultural uses and not to high-priority users. However, the Commission notes that the Department of Energy's proposed rule implementing section 401 would apply the alternative fuel criterion to high-priority users as well. The Commission decided not to follow this practice for the interim rule. In the absence of the data review the data verification committee will provide for the post November 1, 1979 period, the Commission is concerned that treating the two categories in the same fashion might lead to situations endangering life, health or the maintenance of physical property. Such a threat would be contrary to the spirit of this section of NGPA. Additionally, implementation of this procedure under the interim rule might contravene section 605 of the Public Utility Regulatory Policies Act of 1978, the "Savers Keepers Provision."

The Commission is contemplating changes to reflect the changes in its direct purchase program caused by the Natural Gas Policy Act of 1978 and the Public Utilities Regulatory Policies Act of 1978. The rule under consideration would provide a direct purchase program for agricultural users with alternate fuel capability, and for new and expanded uses. The proposal under consideration, if adopted, would insure access to natural gas for all agricultural requirements, both those included in pipeline curtailment plans and those not covered thereby. This rule under consideration would, if adopted, be an important complement to the present proposed rule.

The interim rule requires that all volumes delivered under this provision be used to serve the requirements, calculated in accord with the provision of this rule, of high-priority users and essential agricultural uses. To the extent that this procedure may require a local distribution company to obtain authorization from its state regulatory authority, it is expected to do so prior to requesting a waiver or adjustment of curtailment under this rule. Natural gas delivered under the provisions of this rule are intended to go to those categories of users identified in the statute.

The rule proposes a formula to determine the portion of a local distribution company's high-priority and essential agricultural requirement that the interstate pipeline must satisfy. The rule's purpose is to restate the policy that interstate pipelines are only required to satisfy a fixed share, based on historical contribution to a local distribution company's total supplies, of any local distribution company's additional requirements to serve high-priority users and essential agricultural uses. The formula is as follows:

$$V=(HPR_t-HPS_t)\frac{(IPS)}{(LDCS)}$$

V = volume of additional supplies that may be requested of each interstate pipeline supplier

HPR_t = high-priority requirements for current period

HPS_t = high-priority supply for current period

IPS = interstate pipeline supply to local distribution companies in corresponding curtailment period upon which the interstate pipeline's curtailment plan is based

LDCS = total LDC supply in corresponding curtailment period upon which the interstate pipeline's curtailment plan is based.

This provision will insure that additional demand for supplies is not placed on interstate systems that has not been present in the past. Volumes required under this provision will come from the general system supply of the interstate pipeline and thus, the grant of relief under this provision may result in some increase in the level of curtailment on the interstate pipeline's system including increased curtailment of lower priority requirement to the distributor requesting relief under this provision.

Where the increased system curtailments would result in one distributor having to curtail high-priority users or other essential agricultural uses, that distributor will be curtailed to a lesser degree. That distributor's curtailment will be limited to the volumes that can be curtailed without affecting high-priority users or essential agricultural uses.

The Commission has benefited from the consultation with the Department of Agriculture called for under section 401(b). The Commission understands that this consultation process does not necessarily imply that the Department of Agriculture concurs in this rule.

SUMMARY OF THE REGULATION

The regulation implements section 401 of the NGPA on an interim basis for the period March 9–October 31, 1979. This regulation applies to all sales of natural gas by interstate pipelines during this period. It authorizes the granting of relief to high-priority users as defined in the statute and essential agricultural uses as they are certified by the Secretary of Agriculture pursuant to rule.

The rule defines the terms schools and hospitals so that similar institutions are included within those definitions. This obviates the requirement to independently define the term similar institutions.

In determining the requirements of the end-users that can be met under this rule the high-priority user's requirements are limited to those requirements currently included in the interstate natural gas pipeline's effective curtailment plan. Thus, if an interstate pipeline curtails using a past fixed base period, the high-priority user will be entitled to receive those volumes it would be entitled to receive based on that base period. Where an interstate natural gas pipeline curtails on some other basis, that basis will be used to determine the high-priority user's natural gas requirements which may be met under this provision.

As noted earlier, however, the Commission plans to broaden its direct sales program to make it more accessible to meet demands not covered by natural gas pipeline curtailment plans. This program will complement this proposed rule.

In determining actual agricultural use, users will be permitted to receive the lesser of the amount they would be entitled to receive under the interstate pipeline's currently effective curtailment plan or their highest volumes of natural gas purchased during the appropriate curtailment period of 1976, 1977, or 1978. This provision is designed to grant essential agricultur-

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al users the maximum volumes possible during this interim period. By going back three years the Commission anticipates that the requirements of essential agricultural uses adjusted for alternative fuel capabilities will be adequately represented during one of those three years. The Commission has determined that this is the most practicable way that essential agricultural requirements can be determined considering the time period. For the permanent rule a more precise mechanism will be proposed. The Commission has considered permitting essential agricultural users to project their requirements over a future period of time but has concluded that cannot be implemented in a practicable manner at least for the interim period.

The only limitations on relief contained in this interim rule are that the end-user be included in the interstate pipeline's currently effective curtailment plan. This excluded agricultural users who may have attached to a local distribution company after the close of a pipeline's base period and who are not considered in the pipeline's curtailment plan. However, as previously noted the contemplated revisions in the direct purchase program may make natural gas available to these end-users.

The proposed tariff provision provided that if upon the request of any direct sale customer or local distribution company the interstate pipeline determines that such customer qualifies for the waiver or adjustment of the level of curtailment in order to meet the needs of high-priority users or essential agricultural uses, the interstate pipeline shall waive or adjust curtailment to permit the volumes required to meet the high-priority user's needs or the essential agricultural user's needs to be supplied. Local distribution companies and direct sale customers are required to notify the interstate pipeline when the projected level of curtailments is such that curtailment of high-priority users or essential agricultural users will result. Where the interstate pipeline can grant requested relief the interstate natural gas pipeline is authorized to do so without prior approval or prior filings with this Commission.

The regulation requires that the interstate pipeline notify the Commission within 48 hours of the commencement of deliveries. The Commission will cause such notice of the waiver or adjustment of curtailment to be published in the FEDERAL REGISTER and will permit complaints to be filed within 45 days of such notice. The purpose of limiting the complaint period to 45 days is to foreclose an unlimited period of potential liability.

Where a request for relief is rejected by an interstate pipeline or the interstate pipeline cannot grant sufficient relief to the end user without resulting in curtailment of other high-priority users or essential agricultural uses the extraordinary relief provision of the Commission's Rules of Practice and Procedure are open to the essential agricultural use of high-priority user.

WRITTEN COMMENT AND PUBLIC HEARING PROCEDURE

Interested persons are invited to submit written comments on this proposal to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426. Comments concerning Subpart A of Phase I must be submitted by January 22, 1979, so that a final rule may be promulgated to be effective February 6, 1979.

Each person submitting a comment should include his name and address, identify the notice (Docket No. RM79-13), and give reasons for any recommendations. An original and 14 conformed copies should be filed with the Secretary of the Commission. Comments should indicate the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed.

The Commission intends to hold a public hearing on this proposal. This hearing shall be held on Monday, January 22, 1979, but comments at that time shall be limited to Subpart A of Phase I. The dates and locations of public hearings concerning other parts of the proposal will be announced as soon as practicable.

The public hearing on Subpart A of Phase I will be held on January 22, 1979, at 9:30 a.m., in Hearing Room A, 825 North Capitol Street, NE., Washington, D.C. 20426. Persons interested in participating should contact Kenneth F. Plumb, Secretary, at the Federal Energy Regulatory Commission, (202) 275-4166, by January 18, 1979.

In consideration of the foregoing it is proposed to add a new Part 281, Subpart A, Title 18, Code of Federal Regulations, as set out below.

By direction of the Commission.

KENNETH F. PLUMB,
Secretary.

PART 281—NATURAL GAS CURTAILMENT

Subpart A—Interim Curtailment Rule

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281.101 Purpose.
281.102 Applicability.
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281.105 Waiver.
281.106 Volumes for which waiver may be granted.
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281.108 Notice, complaint, remedy.
281.109 Extraordinary relief.

AUTHORITY: Administrative Procedure Act, 5 U.S.C. 553, Natural Gas Act, as amended, (15 U.S.C. 717), Department of Energy Organization Act, Pub. L. 95-91, E.O. 12009, 42 Fed. Reg. 46267, Energy Supply and Environmental Coordination Act, 15 U.S.C. 791), Natural Gas Policy Act of 1978, Pub. L. 95-621, 92 Stat. 3350, Federal Energy Administration Act, (15 U.S.C. 761), Public Utility Regulatory Polices Act of 1978, Pub. L. 95-617.

Subpart A—Interim Curtailment Rule

§ 281.101 Purpose.

The purpose of this subpart is to implement, on an interim basis, section 401 of the NGPA in order to provide that for the period March 9, 1979, through October 31, 1979, the curtailment plans of interstate pipelines protect, to the maximum extent practicable, deliveries of natural gas for essential agricultural uses and for high-priority uses.

§ 281.102 Applicability.

This subpart applies to sales of natural gas by an interstate pipeline during the period March 9, 1979, through October 31, 1979, if the pipeline is curtailing its sales of natural gas to high-priority or essential agricultural users.

§ 281.13 Definitions.

(a) *NGPA definitions.* Terms defined in the NGPA shall have the same meaning for purposes of this subpart as they have under the NGPA, unless further defined in this subpart.

(b) *Subpart A definitions.* For purposes of this subpart:

(1) "NGPA" means the Natural Gas Policy Act of 1978.

(2) "School" means a facility, the primary function of which is delivering instruction to regularly enrolled students in attendance at such facility. Facilities used for both educational and noneducational activities are not included under this definition unless the latter activities are merely incidental to the delivery of instruction.

(3) "Hospital" means a facility, the primary function of which is delivering medical care to patients who remain at the facility. Outpatient clinics or doctors' offices are not included in this definition. Nursing homes and convalescent homes are included in this definition.

(4) "Essential agricultural use" means any use of natural gas which is certified by the Secretary of Agriculture under 7 CFR 2900.3 as an "essential agricultural use" under section 401(c) of the NGPA.

(5) "Essential agricultural user" means a person who uses natural gas for an essential agricultural use and who is entitled to receive natural gas, directly or indirectly, from the interstate pipeline under its currently effective curtailment plan.

(6) "High-priority use" means any use of natural gas:

(i) in a residence;

(ii) in a commercial establishment in amounts of less than 50 Mcf on a peak day;

(iii) in a school or hospital; or

(iv) by any person who is designated by the Secretary of Energy as a "high-priority user" under 10 CFR 580.2 (c)(iv).

(7) "High-priority requirements" for a curtailment period from a particular interstate pipeline means the maximum volume the high-priority user or local distribution company on behalf of the high-priority user would be entitled to purchase for high-priority use under the interstate pipeline's currently effective curtailment plan but not including volumes a high-priority user may receive solely by operation of this subpart or volumes obtained under § 2.79.

(8) "High-priority user" means a person who uses natural gas for high-priority uses.

(9) "Essential agricultural requirements" for a curtailment period from a particular interstate pipeline means the lesser of:

(i) The highest metered volume of natural gas purchased from an interstate pipeline either under a direct sale contract or under a contract between the local distribution company and the interstate pipeline in the corresponding period of calendar year 1976, 1977, or 1978 and consumed for an essential agricultural use but excluding any volumes received solely through operation of this subpart or volumes obtained under § 2.79; or

(ii) the maximum volume the essential agricultural user or local distribution company on behalf of the essential agricultural user would be entitled to purchase for essential agricultural use under the interstate pipeline's currently effective curtailment plan but excluding any volumes received solely through operation of this subpart or volumes obtained under § 2.79.

(10) "Curtailment period" means the curtailment period, e.g., daily, monthly, seasonal, or annual used by the interstate pipeline in its curtailment plan.

§ 281.104 Interim rule.

Each interstate pipeline shall file tariff sheets which provide for waiver in accordance with § 281.105 of the otherwise applicable provisions of its curtailment plan, if necessary, to supply essential agricultural uses or high-priority uses. The tariff sheets shall be filed not later than February 6, 1979, with a proposed effective date of March 9, 1979, and shall meet the terms and conditions in this subpart.

§ 281.105 Waiver.

(a)(1) Subject to paragraph (a)(2) of this section, interstate pipelines shall waive or adjust the effective level of curtailment for its local distribution company customers and direct sale customers which have submitted to the interstate pipeline high-priority requirements or essential agricultural requirements in the manner prescribed and determined in accordance with paragraph (b) of this section.

(2) If an interstate pipeline's own records contain information which directly conflicts with the statements made under oath under paragraph (b) of this section, the pipeline shall not waive or adjust its currently effective level of curtailment for such local distribution company customer or direct sale customer.

(b) The local distribution company customer or direct sale customer shall demonstrate qualification for waiver by submitting, under oath, the following information to their interstate pipeline suppliers:

(1) The volume of natural gas, calculated in accordance with the provisions of this rule, that each of its high-priority users and essential agricultural users estimates will be necessary for its high-priority requirements and essential agricultural requirements during the curtailment period, except that the local distribution company may aggregate the high-priority requirements for residential and small commercial customers who use less than 50 Mcf on a peak day.

(2) A statement from the local distribution company and each high-priority user, except residential and small commercial customers who use less than 50 Mcf on a peak day, and essential agricultural user that the volumes specified in paragraph (b)(1) of this section will be used solely for high-priority uses or essential agricultural uses.

(3) The volume of natural gas for which waiver is requested is calculated as the sum of the volumes in paragraph (b)(1) of this section less the estimated supplies available to serve essential agricultural use and high-priority use, absent waiver.

(4) If a local distribution company customer or a direct sale customer has more than one source of natural gas supply it shall prorate the volume for which waiver may be requested from its interstate pipeline supplier by multiplying the volume calculated under paragraph (b)(3) of this section by the ratio that each interstate pipeline supplied for the corresponding period on which the interstate pipeline's currently effective curtailment plan is based to the total supply of the local distribution company or direct sale customer in the corresponding curtailment period. The calculation and the volume so prorated to each interstate pipeline supplier shall be submitted to the particular interstate pipeline supplier from whom waiver is requested.

§ 281.106 Volumes for which waiver may be granted.

(a) Subject to the conditions in paragraph (b), when a customer qualifies for waiver, the interstate pipeline supplier shall deliver, from its system supply, the additional volumes specified in § 281.105(b).

(b)(1) If a local distribution company customer or direct sale customer notifies the interstate pipeline that because of the level of curtailment resulting from the granting of a waiver for deliveries to other essential agricultural users, the local distribution company will curtail a high-priority user or another essential agricultural user, or a direct sale customer will be unable to meet its high-priority requirements or essential agricultural requirements, such local distribution company customer or direct sale customer shall be exempt from the adjusted level of curtailment to the extent necessary to meet high-priority requirements or essential agricultural requirements.

(2) If a local distribution company customer or direct sale customer notifies the interstate pipeline that, because of the level of curtailment resulting from waiver for deliveries to other high-priority users, the local distribution company will curtail other high-priority users, or a direct sale customer will be unable to meet its high-priority requirements, such local distribution company customer or direct sale customer shall be exempt from the adjusted level of curtailment to the extent necessary to meet such high-priority requirements.

§ 281.107 Filing requirements.

Each interstate pipeline which makes deliveries of natural gas under § 281.106 shall file a statement with the Commission indicating the direct sale customer or local distribution company customer and its high-priority users and essential agricultural users and the volumes on a customer and end-user basis to which deliveries are made under § 281.106. The filing shall be made within 48 hours of the commencement of deliveries and shall include a copy of the information submitted by the local distribution company or direct sale customer under § 281.105(b).

§ 291.108 Notice, complaint, remedy.

(a) *Notice.* The Commission shall publish in the FEDERAL REGISTER notice of all waivers made under this subpart.

(b) *Complaint.* Any person aggrieved by any action taken pursuant to the

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provisions of this rule may file, within 45 days of notice, a complaint pursuant to § 1.6 of this chapter.

(c) *Remedy.* If the Commission determines that a willful and knowing violation of these regulations took place it shall take whatever action it deems appropriate in the circumstances. Such action may include, among others, payback in kind or in dollars by the person benefiting from the waiver.

§ 281.109 Extraordinary relief.

If an interstate pipeline rejects a request for waiver under § 281.105 or if the deliveries made pursuant to a waiver under § 281.106 are inadequate to forestall an emergency situation, the local distribution company customer or direct sale customer may file a request for relief from curtailment under § 1.7. The request shall contain the information required in § 2.78(b).

[FR Doc. 79-1367 Filed 1-12-79; 8:45 am]

[7710-12-M]

POSTAL SERVICE

[39 CFR Part 111]

AMERICAN SAMOA

Mail Security Regulations

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: This proposed rule would authorize postal officials in American Samoa to cooperate with territorial customs officials of the Government of American Samoa by permitting them to examine the exterior of mail entering American Samoa which may contain dutiable or prohibited articles and to open, without a search warrant or the consent of the sender or addressee, such incoming suspected mail as the Postal Service has authority to open without a search warrant or consent. This would extend to territorial customs officials of American Samoa the same cooperation which is authorized to be given by postal employees in Guam to territorial customs officials of the Government of Guam, and by postal employees in the U.S. Virgin Islands to officials of the U.S. Customs Service in the Virgin Islands, under existing postal regulations.

EFFECTIVE DATE: Comments must be received on or before February 14, 1979.

ADDRESS: Written comments should be directed to the Assistant General Counsel, Special Projects, U.S. Postal Service, 475 L'Enfant Plaza West, S.W., Washington, D.C. 20260. Copies of all written comments received will be available for public inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, outside room 9000, 475 L'Enfant Plaza West, S.W., Washington, D.C. 20260.

FOR FURTHER INFORMATION CONTACT:

Charles R. Braun (202) 245-4620.

SUPPLEMENTARY INFORMATION: In 1977 the Postal Service proposed a comprehensive revision of its mail security regulations which, with expressly stated exceptions, generally prohibited mail opening, detention, or delay, or the disclosure of information concerning mail in postal custody. The proposed revision did not specially mention the territory of American Samoa, and therefore prohibited postal officials in American Samoa from cooperating in any special way with territorial customs officials with respect to mail in postal custody. 42 FR 18754-18758 (1977). No comment on the proposed regulations was received from the Government of American Samoa. The Department of Interior, which is the Federal executive agency to which the President's statutory authority for the local government of American Samoa is assigned,[1] did not mention American Samoa in its comments on the proposal.

In 1978 the proposed regulations were adopted and repromulgated without any change affecting American Samoa, 43 FR 14308-14314; 40812-40815 (1978).

The Government of American Samoa has asked the Postal Service to modify its mail security regulations so as to permit customs inspection of mail entering American Samoa. The principal arguments made by that Government in support of its request are that American Samoa is outside the jurisdiction and protection of U.S. customs laws and the U.S. Customs Service; that under existing postal regulations other U.S. territories "are either protected by U.S. customs or their own customs • • •"; that without such a modification the people of American Samoa would suffer "serious hardship" because their government would be deprived of an important source of revenue; and because the enforcement of local laws forbidding the importation of firearms, dangerous drugs, and diseased materials potentially injurious to the island's ecology would be frustrated. Existing postal regulations permit customs officials in Guam and the Virgin Islands to examine all incoming mail, and to open, without a search warrant or the consent of the sender or the addressee, all incoming mail which is reasonably believed to contain dutiable or prohibited articles and which is not sealed against inspection. Postal Service Manual 115.91(b), 115.94, 43 FR 14313-14314; 40814-40815.

Federal postal laws apply to American Samoa to the same extent as to Guam and the Virgin Islands. 39 U.S.C. 403(a)(1970). The Postal Service has concluded that there is no reasonable basis in law or policy to withold from territorial customs officials of American Samoa the same cooperation which the Postal Service affords under current regulations to territorial customs officials of the Government of Guam and to U.S. customs officials in the U.S. Virgin Islands. *See*, 9 Op. Solic. P.O. Dep't No. 200 at 249 (1948); 42 FR 18755-18756 (1977) (paragraph (f), encaptioned *"Territorial Cooperation"*). No comments in opposition to these provisions have been received before or after their adoption.

Although exempt from the requirements of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites public comments on the following proposed amendment of the Postal Service Manual:

Part 115 of the Postal Service Manual is amended by adding a new section 115.97 as follows:

.98 *Customs inspection in American Samoa.* Pago Pago postal employees may permit designated American Samoa customs officials without a search warrant, to open, inspect, and read the contents of unsealed mail, and to examine the exterior (but not open or read the contents) of sealed mail, which originates outside the Territory of American Samoa and is addressed for delivery within the Territory of American Samoa. Upon the request of American Samoa customs officials, postal employees in the Pago Pago post office may ask the addressee of sealed mail which American Samoa customs reasonably suspects of containing dutiable or prohibited matter to authorize American Samoa customs officials to open and inspect the contents of the sealed mail, or to appear at the post office to accept delivery of the sealed mail in the presence of an American Samoa customs official.

An appropriate amendment of 39 C.F.R. 111.3 to reflect this change will be published if the proposal is adopted.

(39 U.S.C. 401, 403, 404, 411, 3623(d)).

W. ALLEN SANDERS,
Assistant General Counsel.

[FR Doc. 79-1371 Filed 1-12-79; 8:45 am]

[1] 48 U.S.C. 1661(c) (1970); Exec. Order No. 10,264, June 29, 1951, 16 FR 6419, 48 U.S.C. 1662 note (1970).

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 65]

[FRL 1037-3]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Proposed Approval of an Administrative Order Issued by the Connecticut Department of Environmental Protection to Westerly Ready-Mixed Concrete Co., Inc.

AGENCY: Environmental Protection Agency.

ACTION: Proposed Rule.

SUMMARY: EPA proposes to approve an administrative order issued by the Connecticut Department of Environmental Protection to Westerly Ready-Mixed Concrete Co., Inc. The order requires the company to bring air emissions from its asphalt batching plant in Pawcatuck, Connecticut into compliance with certain regulations contained in the federally-approved Connecticut State Implementation Plan (SIP) by July 1, 1979. Because the order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the Act). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the Order. The purpose of this notice is to invite public comment on EPA's proposed approval of the order as a delayed compliance order.

DATE: Written comments must be received on or before February 14, 1979.

ADDRESSES: Comments should be submitted to Director, Enforcement Division, EPA, Region, Rm. 2103, J.F.K. Federal Building, Boston, MA 02203. The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Attorney Michael Gurchin at 617-223-5061 or engineer Steven Fradkoff at 617-223-5610, both at the following address: U.S. Environmental Protection Agency, JFK Federal Building, Boston, MA 02203.

SUPPLEMENTARY INFORMATION: The Westerly Ready-Mixed Concrete Co., Inc. operates an asphalt batching plant at Pawcatuck, Connecticut. The order under consideration addresses emissions from equipment at the facility, with state registration numbers 035 and 027, which are subject to section 19-508-5(e) of the Connecticut regulations for the abatement of air pollution. The regulation governs testing of emissions from all sources, and is part of the federally-approved Connecticut State Implementation Plan. The order requires final compliance with the regulation by July 1, 1979 through shutting down and subsequently restarting the plant with improved scrubbers. In addition, Westerly Ready-Mixed Concrete Co., Inc. must submit stack test emission and progress reports to the Connecticut Department of Environmental Protection by July 15, 1979.

Because this order has been issued to a major source of particulate emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before it becomes effective as a delayed compliance order under Section 113(d) of the Clean Air Act (the Act). EPA may approve the order only if it satisfies the appropriate requirements of this subsection.

If the order is approved by EPA, source compliance with its terms would preclude federal enforcement action under Section 113 of the Act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provision of the Act (Section 304) would be similarly precluded. If approved, the order would also constitute an addition to the Connecticut SIP.

All interested persons are invited to submit written comments on the proposed order. Written comments received by the date specified above will be considered in determining whether EPA may approve the order. After the public comment period, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR Part 65.

(Authority: 42 U.S.C. 7413, 7601.)

Dated: December 20, 1978.

WILLIAM R. ADAMS, Jr.
Regional Administrator,
Region I.

[FR Doc. 79-1270 Filed 1-12-79; 8:45 am]

[6560-01-M]

[40 CFR Part 65]

[FRL 1037-4; Docket No. DCO-78-49]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Proposed Approval of Delayed Compliance Order Issued by the North Carolina Environmental Management Commission to Morganton Dyeing and Finishing Corp.

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve a delayed compliance order issued by the North Carolina Environmental Management Commission to Morganton Dyeing and Finishing Corp. in Morganton, North Carolina. The delayed compliance order requires Morganton Dyeing and Finishing Corp. to bring air emissions from the three (3) Tenter frames in Morganton, North Carolina, into compliance with an applicable regulation contained in the North Carolina State Implementation Plan (SIP) by January 1, 1979. Because the order has been issued to a major source and permits a delay in compliance with the provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the Act). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the order. The purpose of this notice is to invite public comment on EPA's proposed approval of the order as a delayed compliance order.

DATE: Written comments must be received on or before February 14, 1979.

ADDRESSES: Comments should be submitted to Director, Enforcement Division, EPA, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30308. The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Floyd Ledbetter, U.S. Environmental

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Protection Agency, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30308, Telephone Number: (404) 881-4298.

SUPPLEMENTARY INFORMATION: Morganton Dyeing and Finishing Corp. operates a textile finishing plant in Morganton, Burke County, North Carolina. The order under consideration addresses emissions from the three (3) tenter frames, which are subject to the North Carolina Administrative Code (NCAC), Title 15, Chapter 2D, Section .0521. This regulation limits the visible emissions from process operations, and is part of the federally-approved North Carolina State Implementation Plan. The order requires compliance with the regulations by January 1, 1979, through the implementation of the following schedule for the construction or installation of control equipment:

(1) Begin reconstruction of precipitator housing and installation of replacement parts on or before September 15, 1978.

(2) Complete reconstruction and achieve compliance with 15 NCAC 2D.0521 "Control of Visible Emissions" on or before January 1, 1979.

The source has consented to the terms of the order and has agreed to meet the order's increments during the period of this informal rulemaking. As an interim limit, the visible emissions from the three (3) units shall not exceed sixty percent opacity (60%) averaged over any 1 hour period, prior to the attainment of the last milestone.

Because this order has been issued to a major source of particulate matter emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before becoming effective as a delayed compliance order under Section 113(d) of the Clean Air Act (the Act). EPA may approve the order only if it satisfies the appropriate requirements of this subsection. EPA has tentatively determined that the order satisfies these requirements.

If the order is approved by EPA, source compliance with its terms would preclude federal enforcement action under Section 113 of the Act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provision of the Act (Section 304) would be similarly precluded. If approved, the order would also constitute an addition to the North Carolina SIP. Compliance with the proposed order will not exempt the company from complying with applicable requirements contained in any subsequent revisions to the SIP which are approved by EPA.

All interested persons are invited to submit written comments on the proposed order. Written comments received by the date specified above will be considered in determining whether EPA may approve the order. After the public comment period, the Administrator of EPA will publish in the FEDERAL REGISTER, the Agency's final action on the order in 40 CFR Part. 65.

(42 U.S.C. 7413, 7601.)

Dated: January 8, 1979.

JOHN A. LITTLE,
Acting Regional Administrator, Region IV.

[FR Doc. 79-1269 Filed 1-12-79; 8:45 am]

[6820-96-M]

GENERAL SERVICES ADMINISTRATION

Federal Property Resources Service

[41 CFR Part 101-47]

DISPOSAL OF PROPERTY FOR EDUCATIONAL AND PUBLIC HEALTH PURPOSES EXTENSION OF COMMENT PERIOD

AGENCY: General Services Administration.

ACTION: Extension of comment date for proposed rule.

SUMMARY: On January 2, 1979, at 44 FR 70, the General Services Administration published a proposed rule governing the disposal of surplus real property for educational and public health use to require that all such conveyances and notices of no objections be subject to perpetual use restrictions. This document extends the date for receipt of comments from February 1, 1979, to February 16, 1979.

DATE: Comments must be received on or before February 16, 1979.

FOR FURTHER INFORMATION CONTACT:

James H. Pitts, Office of Real Property, Special Programs Division (202-566-0003).

(Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c)))

Dated: January 10, 1979.

WILLIAM R. CAMPBELL, JR.,
Acting Commissioner, Federal Property Resources Service.

[FR Doc. 79-1311 Filed 1-12-79; 8:45 am]

[4110-35-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

[42 CFR Part 476]

PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS

Confidentiality and Disclosure of Professional Standards Review Organization (PSRO) Information

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Proposed rule.

SUMMARY: These regulations would govern the acquisition, protection and disclosure of information obtained or generated by Professional Standards Review Organizations (PSROs). The PSRO statute (Title XI, Part B of the Social Security Act) authorizes PSROs to acquire information necessary to fulfill their duties and functions. Section 1166 of the Act places limits on the disclosure of PSRO information and establishes penalties for unauthorized disclosure. These regulations are intended to assure that PSROs have access to the necessary information, that confidential information is adequately safeguarded, and that the information may be used as effectively as possible.

DATES: Consideration will be given to written comments or suggestions received on or before March 16, 1979. When commenting, please refer to HSQ-37-P. Agencies and organizations are requested to submit their comments in duplicate.

Comments will be available for public inspection, beginning approximately 2 weeks after publication, in Rm. 5231, Switzer Building, 330 C Street, SW., Washington, D.C., on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (telephone 202/245-0950).

ADDRESS: Address comments to: Administrator, Health Care Financing Administration, Department of Health, Education, and Welfare, P.O. Box 2372, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

Kathryn Moss, 202/245-2196.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Professional Standards Review Organizations (PSROs) are established under Title XI, Part B of the Social Security Act (the Act) to carry out professional standards review of the health care services funded under Titles V, XVIII and XIX (Maternal and Child Health, Medicare, and Medicaid programs, respectively) of the Act. PSROs are responsible for determining that those services are medically necessary and at the appropriate level of care, and that the quality of these services meets professionally recognized standards.

To carry out their responsibilities, PSROs are dependent on information acquired from other sources or developed in the conduct of review. Information is acquired from the medical records of patients and from other records maintained by health care institutions, practitioners and claims payers. Information generated by the PSRO includes medical necessity determinations and PSRO evaluations of the quality and appropriateness of health care services. PSROs use the information to develop and review profiles (patterns of utilization and practice), for audits of medical care and to transmit PSRO determinations to organizations responsible for making payment under the Act.

It is evident that much of the information acquired by PSROs, especially from medical records, is sensitive or personal, and should be treated as confidential information. Furthermore, to preserve the integrity of the peer review process in which peers work together to improve health care services, it is critical that certain information be held in confidence. On the other hand, disclosure of PSRO information for claims payment purposes, to assist others who can benefit from access to PSRO information and to ensure accountability of the PSROs is of equal importance.

STATUTORY BASIS

The PSRO statute recognizes both the need to protect information and the need to disclose information. Section 1166 of the Act states that all PSRO information shall be held in confidence and not disclosed except as necessary for the purposes of the PSRO statute, the purposes of health planning and fraud or abuse investigations, or as the Secretary shall provide in regulations assuring adequate protection of the rights and interests of patients, health care practitioners, or providers of health care. This proposed rule is the culmination of an extensive effort to meet the legislated mandate.

HISTORY

In 1976, initial policies on the confidentiality of PSRO information were issued. Additions and modifications to these policies were distributed in 1976. An interim regulation was published on January 16, 1978 (43 FR 2282) providing for disclosure of information that was public prior to receipt by the PSRO and for disclosure of summary statistics from the Uniform Hospital Discharge Data Set (UHDDS) (the multi-purpose, basic data set containing information on hospital discharges, approved by the Department for use in Federal health programs). Specifications for this proposal were widely distributed for comment in April 1977. Comments received in response to the Notice of Proposed Rulemaking for the interim regulation and on the specifications for this proposal have been of great assistance. In addition, the advice of experts in the field of health data and confidentiality, existing legislation on privacy and disclosure of information, the Report of the Privacy Protection Study Commission mandated to examine issues relating to personal privacy, and other Federal policies and regulations contributed to the development of this proposal. Plaintiff in a recent lawsuit, *Public Citizen Health Research Group* v. *Dept. of H.E.W., et al.* (U.S.D.C. for D.C., C.A. No. 77-2093) is seeking disclosure, under the Federal Freedom of Information Act (FFIA), of a substantial amount of PSRO information which identifies physicians and hospitals. In the event of a final court ruling that PSROs are subject to the FFIA and that PSRO data cannot be witheld from disclosure under the exemptions of the FFIA, substantial revision of these proposed HEW regulations would be required. However, there has been no court order to disclose any information at this time and final resolution of the matter is expected to take some time. Therefore, we believe it is appropriate to issue these proposed rules at this time.

SCOPE

The proposal attempts to deal, in a comprehensive manner, with all information acquired or generated by PSROs for review purposes and with information concerning contracts and agreements between PSROs and other entities. PSROs may use their own discretion in disclosing financial and administrative information which is not addressed in the regulation. We do not believe that Congress intended to restrict the disclosure of PSRO information which does not directly relate to the review activities.

Due to the dependence of PSROs on information from other sources, these proposed rules address the acquisition of information by PSROs. Procedures for maintaining the security of information are also included. The acquisition and data security aspects of the proposal are fairly straightforward.

The disclosure sections of the proposal are more complicated. For disclosure purposes, information has been categorized as confidential or nonconfidential. Nonconfidential information encompasses the criteria and procedures used by PSROs to conduct review, previously public information, certain administrative information, and statistical information, including statistics on the utilization and patient population of individual institutions and groups of practitioners.

Medical Care Evaluation studies from which all person or institution identifiers have been deleted or information describing a study are considered non-confidential. Confidential information includes information in which an individual person can be identified, Medical Care Evaluation Study information with identifiers, sanction reports and the deliberations of PSRO reviewers.

Information on individuals can be presented in a number of ways:

1. Information on an individual which clearly identifies the individual by name,

2. Information which is uniquely coded to a particular individual, e.g., a social security number,

3. Information on individuals from which identifiers have been deleted, e.g., removal of a name or identifying number from a report,

4. Information which implicitly identifies an individual, (e.g., statistics on orthopedic surgery in a hospital where there is only one orthopedic surgeon).

Any of these types of presentation would be considered confidential information if the identity of an individual could be discerned or inferred by the user of the information. Sanction reports noting PSRO findings of violations of obligations on practitioners and on institutions are confidential. The deliberations of the PSRO, including reviewer notes, minutes of meetings and any other records of discussions and judgements involving review matters are also classified as confidential.

MAJOR PROVISIONS AND ISSUES

1. Basic rule. PSRO information is to be held in confidence and not disclosed under the law unless the disclosure is necessary to carry out the purposes of the PSRO statute or provided for by regulation. Hence, the basic rule provides for disclosure without regulation if the intended use of the information coincides with the purposes of the PSRO statute. The purposes of the PSRO statute, in our view, are to assure the medical necessity, appropriate level of care and quality of health care paid for under the Social Security Act. Any other extension of the disclosure provisions would require regulatory or statutory amendment.

2. Access to medical records. There has been some resistance by health care providers and practitioners to providing medical records to PSROs. Section 1155(b) of the Act gives PSROs authority to access pertinent records of health care practitioners and providers. The proposal not only provides for such access, but under

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certain circumstances PSROs can more efficiently and effectively carry out their responsibilities if copies of records are available. We share the concern of health care institutions and practitioners that health records be carefully protected, but believe that PSROs, as organizations of health care professionals, can be trusted to protect them properly. At the same time, to assure that the provision of records does not impose an undue burden on the provider, the proposal specifies that copies of records shall be required only when it is not feasible for the PSRO to access the records onsite. The same rules would apply to Medicare and Medicaid claims payers that monitor PSROs. Thus, when onsite access of records is not feasible, copies of records would be provided to the monitors.

3. Access by the Secretary and State Medicaid Agencies. Concern has been expressed by PSROs and the health community about the access and use of PSRO information by State and Federal agencies. However, many of these agencies believe that PSRO information will be invaluable to them in fulfilling their respective responsibilities. The proposal attempts to resolve this issue by providing the Secretary with complete access to PSRO information, but specifying procedures for access and redisclosure of information by the Secretary. Information related to the responsibilities of States to assure appropriate expenditure of funds for health care and services funded by the State would be available to State agencies, but redisclosure of the information would be restricted. This approach to government access to PSRO information is intended to assure that State and Federal agencies have access to the information they need for effective administration and management of their responsibilitaies while preserving the integrity of confidential information.

4. Requirements for maintaining confidentiality. To assure that PSRO information is handled responsibly, the proposal contains provisions for maintaining the security of PSRO information. Due to the criminal penalties for unauthorized disclosure of PSRO information, persons handling the information must be made aware of their responsibilities and of the risk of penalty. Procedures are required for maintaining logs of access to confidential information and for coding the identity of patients, practitioners and institutions on documents containing confidential information.

5. Procedures for disclosure. Provisions are included requiring PSROs to notify patients, practitioners and institutions about disclosures of information pertaining to them. To reduce the burden on PSROs for meeting requests for previously published information, PSROs are required only to release this information in the form in which it is readily available. In general, PSROs may charge a reasonable fee for providing requested information.

6. Disclosure of non-confidential information. The proposal requires PSROs to fulfill all requests for non-confidential information regardless of the source of the request. PSROs may also disclose this information at their option, to anyone who they believe would be interested in the information. We are aware of some objections to treating statistical information on institutions as non-confidential information. However, organizations are not generally accorded the same right to privacy as individuals and we believe that the benefits to be gained by sharing this information outweigh the potential disadvantages. Organizations such as health planning agencies and rate setting commissions are dependent on institutional information to carry out their responsibilities. Because these organizations are required to publicly disclose all information in their possession, they would be unable to protect the information.

The disclosure of non-confidential information serves the purpose of meeting the needs of others for health information and also provides for a degree of public accountability. By disclosing contractual documents, agreements, and minutes of meetings (except when confidential information is involved), the public can be informed of PSRO activities. The disclosure of the norms, criteria, and standards provides an opportunity for the public to be aware of the professional standards utilized in the review process.

7. Disclosure of confidential information. The disclosure of all confidential information is restricted in this proposal. Medical Care Evaluation studies, with identifiers, are shared only with practitioners or institutions identified in the study and with accreditation and certification bodies. PSRO summaries and conclusions, based on confidential studies, which do not identify patients, practitioners or institutions may be shared with governmental agencies involved with assuring quality of care. In addition, PSROs may disclose their interpretation and generalizations on the quality of care of individual institutions to these governmental agencies. PSRO deliberations are not to be disclosed outside the PSRO, although the reasons for PSRO decisions may be shared. The purpose of these protections is to ensure frank discussion and documentation of the detailed findings of professional standards review and to create an environment in which those best suited to judge professional services (professional peers) are free to explore potential problems in depth without fear of unwarranted liability or litigation. Many States have, by statute, protected this type of information from disclosure or subpoena.

Provisions are made for some disclosure of information, including profiles, on individuals. Individuals may have access to their own records. Governmental agencies (including fraud or abuse agencies), licensing bodies, and researchers may have limited access to identifying information. These disclosures are intended to provide for the sharing of information with those who have a significant need for the information to carry out their recognized responsibilities or to avoid duplication in the collection and processing of information. Information on individuals is specifically protected by statute from subpoena or discovery proceedings in civil actions. (See section 1166(d) of the Act) Consideration was given to prohibiting disclosure in criminal actions. However, this raises some difficult issues that require further exploration. We would particularly appreciate comment on this matter.

It is important to recognize that certain information in the possession of the PSRO is information which other governmental agencies are also authorized to acquire. For this type of information, the PSRO not only uses the information for its own purposes, but also serves as a vehicle to provide the information to other authorized users. The primary example of this type of information is the Uniform Hospital Data Set (UHDDS). The data elements of the UHDDS collected on each hospital discharge are:

1. Person Identification
2. Date of Birth
3. Sex
4. Race
5. Residence
6. Hospital Identification
7. Admission Date and Hour
8. Discharge Date
9. Attending Physician
10. Operating Physician
11. Diagnoses
12. Procedures, e.g., Surgical Operation
13. Disposition of Patient
14. Expected Principal Source of Payment

This information is collected by the PSRO from hospital records and is used by the PSRO to examine hospital utilization patterns and patterns of medical practice in the PSRO area. Other authorized users of the UHDDS information are claims payers, such as the Medicare Fiscal Intermediaries and State Medicaid agencies, who need the information to assure the appropriate payment of claims under the Federal health care funding programs. Because the UHDDS is multipurpose data, the PSRO is merely serving as a "pass-through" to transfer the information from the hospital to the claims payers.

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The provisions on the disclosure of information on individuals reflect a concern for personal privacy. There is widespread agreement that the privacy of patients is of highest priority. Although it is recognized that patient privacy is eroded by the acquisition of information by PSROs, the benefit to be gained from assuring that health care and services are medically necessary, appropriate and of acceptable quality justifies the acquisition. PSROs may collect patient information only if it is relevant and appropriate to their responsibilities.

The protection of the privacy of health care practitioners is less generally accepted. However, we believe that to make information on individual practitioners generally available would severely inhibit the effectiveness of the peer review process an discourage participation in PSRO activities.

8. Limitations on redisclosure. It is apparent that the confidentiality of PSRO information cannot be maintained if PSROs are required to share information without some limits on redisclosure by the recipient. The issue is complicated by the fact that some recipients of PSRO information may be subject to freedom of information laws or other statutory requirements for disclosure of information. The Department has concluded that regulatory restrictions must be placed on the redisclosure of confidential PSRO information. Information which does not fall in this category can be freely disclosed by the recipient.

9. Public notice of PSRO information systems. Under this proposal a PSRO would be required to place a public notice in newspapers of the existence of its data system and the types of information acquired by the PSRO. In addition, each patient, practitioner and institution must be informed of the system and the procedures whereby they may obtain access to information on themselves. These provisions are in keeping with recognized information system practices and are recommended by experts concerned with assuring that individuals are aware of information collected about them.

10. Optional disclosure of confidential information. We are reviewing, but have not proposed, a regulatory provision giving PSROs discretionary authority to disclose information, identifying practitioners and providers but not individual patients, concerning patterns of practice and MCE studies. The purpose would be to make this information available to consumers and others concerned about local health care problems.

In addition to the disclosures PSROs are required to make under section 116(b) of the Act, they do have authority under section 1166(a) to disclose information, without specific regulatory authority, in order to carry out the purposes of the PSRO statute. The proposal under review would give PSROs discretion to disclose for any purpose but would establish criteria and guidelines for the PSRO to use in exercising this discretion. Furthermore, if the PSRO decided to disclose some of this information on a particular practitioner or provider, it could not refuse to disclose other countervailing information about the same practitioner or provider. We specifically invite comments and suggestions this on issue, including comments and suggestions for criteria which would achieve the goal of allowing PSROs to determine the circumstances under which the disclosure of information would further PSRO purposes.

42 CFR Part 476 is proposed to be revised to read as follows:

PART 476—CONFIDENTIALITY AND DISCLOSURE OF PROFESSIONAL STANDARDS REVIEW ORGANIZATION (PSRO) INFORMATION

Subpart A—General Provisions

Sec.
476.1 Scope and applicability
476.2 Definitions
476.3 General rules.
476.4 PSRO access to records and information.
476.5 Procedures for PSRO disclosure.
476.6 Limitations on redisclosure.
476.7 Penalities for unauthorized disclosure.
476.8 Applicability of other statutes.
476.9 Applicability to councils.

Subpart B—PSRO Responsibilities

476.11 Requirements for maintaining confidentiality.
476.12 Public notice of PSRO information system.

Subpart C—Disclosure of Nonconfidential Information

476.21 PSRO criteria and procedures.
476.22 Public information acquired by the PSRO.
476.23 Statistical information.
476.24 Medical Care Evaluation (MCE) study information without identifiers.
476.25 Medicare provider number.

Subpart D—Disclosure of Confidential Information

476.31 Disclosure to patients or their representatives.
476.32 Disclosure to practitioners, reviewers and institutions.
476.33 Disclosure necessary to perform review responsibilities.
476.34 Disclosure to claims payment agencies.
476.35 Disclosure to investigative and prosecutional agencies.
476.36 Disclosure for other specified purposes.
476.37 Disclosure of PSRO deliberations.
476.38 Disclosure of MCE study information and sanction reports.
476.39 PSRO involvement in shared health data systems.

AUTHORITY: Secs. 1102, 1152(d)(2), 1155(a)(4), 1155(b)(3), 1155(f)(1)(B), 1162(c)(2), 1165, and 1166 of the Social Security Act; (42 U.S.C. 1302, 1320C-1, 4, 11, 14, and 15).

Subpart A—General Provisions

§ 476.1 Scope and applicability.

This part establishes rules for preserving confidentiality and disclosing information collected or generated by a PSRO (or the review component of a delegated institution) in performing its responsibilities under the Act. These regulations also govern the acquisition of information necessary for review and monitoring, and the acquisition of PSRO information by the Secretary.

§ 476.2 Definitions.

As used in this part:

"Act" means the Social Security Act.

"Confidential information" means:

(1) Identifying information;

(2) Sanction reports and recommendations;

(3) Medical Care Evaluation study information which identifies patients, practitioners or institutions;

(4) PSRO deliberations;

(5) Any other PSRO information which contains information specified in paragraphs (1) through (4) of this section.

"Council" means the Statewide PSRO Council.

"Delegated institution" means an institution to which the PSRO has delegated review responsibility in accordance with Section 1155(c) of the Act.

"Federal program patient" means a person who receives medical care and services for which payment may be made (in whole or in part) under the Act.

"Health care services" means a service or item for which payment may be made (in whole or in part) under the Act.

"Identifying information" means PSRO information in which the identity of an individual patient, practitioner or reviewer can be discerned or inferred by the user of the information.

"Institution" means an organization involved in the delivery of health care services or items for which payment may be made (in whole or in part) under the Act.

"MCE study information" means all documentation of a Medical Care Evaluation study or medical audit including study findings, analyses and recommendations.

"Practitioner" means a physician or other health care professional meeting all applicable State or Federal require-

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ments for the practice of the profession.

"PSRO deliberations" means discussions or communications (within a PSRO, or within a Council or between a PSRO and a Council) regarding PSRO review responsibilities, appeals from PSRO determinations, and sanctions resulting from PSRO determinations, in which the opinions or judgement of or about a particular individual can be discerned.

"PSRO information" means data or information collected, acquired or generated in the exercise of a PSRO's duties and functions under Title XI, Part B of the Act.

"PSRO review system" means the PSRO and those organizations and individuals directly responsible for providing medical care or for assuring, reviewing, and making determinations with respect to the medical necessity, appropriate level of care, and quality of health care services that may be reimbursed under the Medicare, Medicaid, or Maternal and Child Health and Crippled Children's programs. The system includes:

(1) The PSRO and its officers, members and employees;

(2) Health care institutions and practitioners; and

(3) PSRO reviewers and supporting staff.

"Reviewer" means a review coordinator, physician, or other person authorized to perform PSRO review functions.

"Sanction report" means a PSRO report documenting its determination that a practitioner or institution has failed to meet certain statutory requirements (Section 1160 of the Act) in furnishing health care services or in documenting them, and recommending appropriate action.

"Secretary" means the Secretary of the Department of Health, Education, and Welfare, or any other person to whom he has delegated the pertinent authority.

"Shared health data system" means an agency or other entity specifically authorized under State or Federal law or utilized by a component of the review system to provide data to the PSRO to conduct, or arrange for, the collection, processing and dissemination of data on health care services.

"Statistical information" means aggregated information which does not contain confidential information.

§ 476.3 General rules.

(a) *Statutory requirements.* PSRO information shal be held in confidence and shall not be disclosed unless specifically permitted or required under this part or to carry out the purposes of Title XI, Part B of the Act.

(b) *Disclosure to the Secretary.* All PSRO information shall be disclosed to the Secretary in the manner and form required by the Secretary except that:

(1) Identifying information will be available only

(i) At the PSRO office or delegate institution;

(ii) In the form of records or reports on hearings, appeals, or sanction; or

(iii) As required by the Secretary to assist in the investigation of fraud or abuse in Medicare or Medicaid.

(2) MCE study information with identifiers of patients, practitioners or institutions will be available to the Secretary only at the PSRO office or delegate institution.

(c) *Access to medical records for monitoring of PSROs.* A person, organization or agency authorized by the Secretary or by Federal statute to monitor a PSRO shall have access to Federal program patients' medical records maintained by institutions or health care practitioners. The monitor may, for good cause, as provided in guidelines issued by the Secretary, required copies of the records.

§ 476.4 PSRO access to records and information.

(a) *Records and information of institutions and practitioners.* (1) A PSRO is authorized to have access to and obtain any records and information pertinent to the health care services rendered to Federal program patients, or patients whose eligibility for Federal programs is pending, held by any institution or practitioner in the PSRO area. The PSRO may require the institution or practitioner to provide copies of such records or information to the PSRO.

(2) A PSRO may have access to, and obtain information from, the records of other patients if authorized by the institution or practitioner.

(3) A PSRO shall notify institutions and practitioners that copies of patient medical records, or portions thereof, may be shared with claims payment agencies (See § 476.34).

(b) *Records and information of claims payment agencies.* A PSRO is authorized to have access to, and require copies of, any records or information held by any organization or agency responsible for paying claims under the Medicare, Medicaid or Maternal and Child Health and Crippled Children's programs which the PSRO determines to be necessary to carry out PSRO review responsibilities.

(c) *Information collected for PSRO purposes.* (1) Institutions and other entities shall disclose identifying information collected by them for PSRO purposes to the PSRO.

(2) Information collected or generated by institutions or practitioners to carry out MCE studies shall be disclosed to the PSRO.

(d) *Limitation on data collection.* a PSRO or any agent, organization, or institution acting on its behalf as a collector of information on the health care furnished to Federal program patients shall collect only that information which is necessary to accomplish the purposes of Title XI, Part B of the Act.

§ 476.5 Procedures for PSRO disclosure.

(a) *PSRO guidance.* A PSRO may provide a statement of comment, analysis, or interpretation to guide the recipient in using information disclosed under this part.

(b) *Fees.* A PSRO may charge a fee to cover the cost of providing information authorized under these regulations unless the fee is specifically exempted in these regulations or by the Secretary. These fees shall not exceed the amount necessary to recover the cost to the PSRO for providing the information.

(c) *Format for disclosure of public information.* A PSRO is required to disclose public information (Subpart C, § 476.22) only in the form in which it is acquired by the PSRO or in the form in which it is maintained for PSRO use.

(d) *Notification of the disclosure of nonconfidential information.* At least 15 calendar days before disclosure of nonconfidential information (Subpart C), the PSRO shall notify an identified institution of its intent to disclose information about the institution which is not routinely prepared for PSRO use and provide the institution with a copy of the information. The identified institution may submit comments to the PSRO which shall be attached to the information if received before disclosure or forwarded separately if received later.

(e) *Notification of the disclosure of confidential information.* (1) A PSRO shall notify the physicians who have treated a patient of a request for disclosure to the patient or patient representative (Subpart D, § 476.31). The physician shall be notified at least 14 calendar days before the PSRO fulfills the request for disclosure.

(2) A PSRO shall notify a practitioner or institution of the PSRO's intent to disclose identifying information on a practitioner or institution to a licensing or investigative agency (Subpart D, § 476.35 and § 476.36). The physician or institution shall be notified and provided a copy of the information to be disclosed at least 15 calendar days before the PSRO discloses the identifying information. Comments submitted by the practitioner or institution to the PSRO shall be forwarded with the information. This notification requirement does not apply if the investigative agency specifies that the information is related to a potential prosecutable offense.

(3) The PSRO shall attach a notice to each authorized disclosure of confidential PSRO information informing the receiver of the limitations on redisclosure and of statutory penalties for unauthorized disclosure of confidential information.

§ 476.6 Limitations on redisclosure.

Persons or organizations that obtain confidential PSRO information shall not further disclose the information to any other person or organization except:

(a) As directed by the PSRO to carry out a disclosure permitted or required under a particular provision of this part;

(b) As directed by the Secretary to carry out specific responsibilities of the Secretary under the Act;

(c) As necessary for a Council to carry out Council responsibilities for hearings and appeals under section 1159 of the Act or sanctions under section 1160 of the Act;

(d) If the health care and services provided to an individual patient are reimbursed from more than one source, the sources may exchange confidential information as necessary for the payment of claims;

(e) If the information is acquired by the PSRO from another source and the receiver of the information is authorized under its own authorities to acquire the information directly from the source, the receiver may disclose the information in accordance with its own rules;

(f) As necessary for the General Accounting Office to carry out audit responsibilities;

(g) A patient or a practitioner may disclose information pertaining to him;

(h) An institution may disclose information pertaining to itself; or

(i) A fraud or abuse agency recognized by the Secretary may disclose information as necessary in a judicial, administrative or other formal legal proceeding resulting from an investigation conducted by the agency.

§ 476.7 Penalties for unauthorized disclosure.

(a) *General Rule.* Under section 1166(c) of the Act, any person is prohibited form disclosing information acquired by any PSRO in the exercise of its duties and functions unless the disclosure is necessary to carry out the purposes of title XI, part B of the Act or is authorized by the regulations of this part. A person who make an unauthorized disclosure shall, upon conviction, be fined no more than $1,000, and imprisoned for no more than six months, or both fined and imprisoned, and shall pay the costs of prosecution.

(b) *Exceptions.* If a health planning agency recognized by the Secretary receives aggregate statistical data from a PSRO in accordance with subpart C of this part, it may disclose that information and is not subject to the penalties in paragraph (a) of this section.

§ 476.8 Applicability of other statutes.

The Drug Abuse Office and Treatment Act of 1972 (21 U.S.C. 1175) and the Comprehensive Alcohol Abuse and Alcoholism Prevention Treatment and Rehabilitation Act of 1970 (42 U.S.C. 4582) provide for the confidentiality of patients' records generated and maintained in connection with any drug or alcohol abuse prevention function conducted, regulated, or assisted by the Federal government. The implementing regulations of this Act, at 42 CFR Part 2, are applicable to PSRO information.

§ 476.9 Applicability to Councils.

The provisions of this part which apply to a PSRO apply equally to a Council.

Subpart B—PSRO Responsibilities

§ 476.11 Requirements for maintaining confidentiality.

(a) *Responsibilities of PSRO officers and employees.* Each PSRO shall instruct its officers and employees and health care institution employees participating in PSRO activities of their responsibility to maintain the confidentiality of information and of the legal penalites which may be imposed for unauthorized disclosure of any PSRO information.

(b) *Responsible individual within the PSRO.* The PSRO shall assign to a single individual the responsibility for maintaining the confidentiality of information within the PSRO review system, in accordance with this part. That individual shall notify the Secretary of any violations of these regulations which comes to his attention.

(c) *Training requirements.* The PSRO shall provide a continuing program to train participants of the PSRO review system in handling confidential information.

(d) *Authorized access.* No individual participating in the PSRO review system on a routine or ongoing basis shall be authorized access to confidential PSRO information unless that individual:

(1) Is undergoing or has completed a training program in the handling of such information in accordance with paragraph (c) of this section or has received comparable training from another source; and

(2) Has signed a statement indicating that he

(i) Recognizes his responsibility to hold the information in confidence. and

(ii) Is aware of the legal penalities for unauthorized disclosure.

(e) *Use of logs.* Each PSRO shall establish procedures for the handling of confidential information within the PSRO review system. At a minimum, the PSRO and each delegated institution shall maintain a log indicating removal of any confidential information and any cross-reference indices from the premises of the PSRO or delegated institution.

(f) *Codification of person identifiers.* The PSRO shall assure that identification of individual patients, health care practitioners, and PSRO reviewers on PSRO generated reports and forms, and the identification of individual health care institutions on Medical Care Evaluation studies is in coded form. Index files containing the cross-reference of codes to names of patients, practitioners, institutions and PSRO reviewers shall be maintained in a secure manner within the PSRO review system.

(g) *Purging of personal identifiers.* (1) The PSRO shall purge, or arrange for purging, computerized and non-computerized files of all personal identifiers as soon as it is determined by the Secretary that those identifiers are no longer necessary for the development of profiles or for the PSRO purposes.

(2) Confidential information generated from computer files and maintained in hard copy shall be destroyed when the PSRO determines that the maintenance of hard copy is no longer necessary to serve the specific purpose for which it was generated.

(3) The rules in paragraphs (g) (1) and (2) of this section do not apply to PSRO information used for other than PSRO purposes, stored in a shared health data system.

(h) *Data system procedures.* The PSRO shall be responsible for assuring that organizations and consultants providing data services to the PSRO have established procedures for maintaining the confidentiality of PSRO information in accordance with requirements defined by the PSRO and consistent with procedures established under this part.

§ 476.12 Public Notice of PSRO information system.

(a) *Notice in newspaper.* Within 90 calendar days after initiating review activities, and periodically thereafter, the PSRO shall publish a notice in a local newspaper of general circulation in the PSRO area specifying:

(1) The title and address of the person responsible for the information system;

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(2) The types of information that will be collected and maintained;

(3) The general rules governing disclosure of PSRO information; and

(4) The procedures whereby patients, practitioners, and institutions may obtain access to information about themselves.

(b) *Notice to individuals and institutions under review.* The PSRO shall establish and implement procedures, in accordance with guidelines issued by the Department, to individually notify patients, practitioners, and institutions of the information contained in the public notice required by paragraph (a) of this section.

Subpart C—Disclosure of Nonconfidential Information

§ 476.21 PSRO criteria and procedures

(a) *Disclosure of norms, criteria or standards.* A PSRO shall disclose, upon request, the norms, criteria and standards it uses for initial screening of cases, in the conduct of MCE studies, and for other review activities.

(b) *Disclosure of contractual documents.* (1) Winning applications for grants from the Secretary, and proposals for contracts or subcontracts under those grants, shall be disclosed by the PSRO to any person or organization within 30 calendar days of a request.

(2) Grants made to a PSRO by the Secretary, and contracts or subcontracts between the PSRO and a person or organization, shall be disclosed by the PSRO to any person or organization upon request.

(c) *Disclosure of administrative procedures documents.* Copies of documents describing administrative procedures, including Memoranda of Understanding, agreed to between the PSRO and institutions or between a PSRO and the Medicare intermediary, Medicare carrier, or Medicaid fiscal agent, shall be disclosed by the PSRO to any person or organization upon request.

(d) *Disclosure of routine Federal reports.* Financial information contained in routine reports submitted to the Secretary shall be disclosed upon request to any person.

(e) *Disclosure of records of meetings.* Summaries of the proceedings of all regular and other meetings on the governing body and general membership shall be made available upon request, except for those portions of the summaries involving PSRO deliberations. Those portions are confidential information and are subject to the provisions of Subpart D.

§ 476.22 Public information acquired by the PSRO.

(a) *Required disclosure.* A PSRO shall comply with a request for specific information in its possession, if:

(1) The information had been disclosed to the public prior to the request, by any individual or entity other than the PSRO or its employees, members or directors; and

(2) The disclosure of the information is not prohibited by Federal or State law.

(b) *Optional disclosure.* A PSRO may, on its own initiative, provide the information specified in paragraph (a) of this section to any person whom it determines may have an interest in such information.

§ 476.23 Statistical information.

(a) *Disclosure of routine information.* A PSRO shall disclose statistical information routinely compiled for PSRO use, without charge, if the request reasonably identifies the specific information.

(b) *Disclosure of non-routine information.* A PSRO shall disclose statistical information that is not routinely compiled for PSRO use to federal and State agencies and other parties if the request is in writing and reasonably identifies the specific information desired.

(c) *Optional disclosure of statistical information.* A PSRO may, on its own initiative, provide the information specified in paragraphs (a) and (b) of this section any person whom it determines may have an interest in such information.

§ 476.24 Medical Care Evaluation (MCE) study information without identifiers.

(a) *Study without identifiers.* A PSRO shall disclose to the Secretary and to any interested party, upon request, any Medical Care Evaluation study information, maintained for PSRO purposes, from which the identification of patients, practitioners and institutions has been deleted. The PSRO may disclose this information without request.

(b) *MCE study characteristics.* The PSRO shall disclose information describing the characteristics of a MCE study, including study design and methodology, to persons or organizations requesting the information.

§ 476.25 Medicare provider number.

A PSRO shall use the identification number assigned by the Medicare program on information submitted to the Secretary.

Subpart D—Disclosure of Confidential Information

§ 476.31 Disclosure to patients or their representatives

(a) *Type of information.* A PSRO shall disclose patient identifying information to the identified patient if:

(1) The patient requests the information in writing and

(2) The request includes the designation of a patient representative.

(b) *Manner of disclosure.* (1) The PSRO shall disclose the patient information directly to the patient unless knowledge of the information would be likely to harm the patient.

(2) If knowledge of the information is likely to harm the patient, the PSRO shall disclose the information to the representative of the patient.

(3) If the patient is mentally, physically or legally unable to designate a representative, the PSRO shall disclose the information to a person whom the PSRO determines is related to or responsible for the patient, upon the request of this person.

(4) The PSRO shall make disclosure within 20 calendar days of receipt of a request.

(c) *Verification and amendment of records.* (1) A PSRO shall verify the accuracy of patient information and shall permit a patient to request amendment of a record pertaining to him.

(2) If the PSRO agrees with the request for amendment, the PSRO shall correct the patient record.

(3) If the PSRO disagrees with the request for amendment, a notation of the request and the reasons for refusal shall be included in the patient record and attached to any disclosure of the record.

§ 476.32 Disclosure to practitioners, reviewers or institutions.

(a) *Disclosure to the identified individual or institutions.* A PSRO shall disclose, to particular practitioners, reviewers and institutions, identifying information about themselves upon request, and may disclose it to them without request.

(b) *Disclosure to others.* (1) A PSRO shall disclose to an institution, upon request, identifying information on a practitioner or reviewer to the extent that the information displays practice or performance patterns of the practitioner or reviewer in that institution.

(2) A PSRO may disclose to any person, agency or organization, identifyng information on a particular practitioner or reviewer with the consent of that practitioner or reviewer.

(c) *Verification and amendment of identifying information.* (1) A PSRO shall verify the accuracy of identifying information concerning practitioners, reviewers, and institutions and shall permit the individual or institution to request an amendment of a record pertaining to the requestee.

(2) If the PSRO agrees with the request for amendment, the PSRO shall correct the pertinent records.

(3) If the PSRO disagrees with the request for amendment, a notation of the request and the reasons for refusal shall be included in the pertinent record and attached to any disclosure of the record.

§ 476.33 Disclosure necessary to perform review responsibilities.

(a) *Disclosure to conduct review.* The PSRO shall disclose, or arrange for disclosure, of identifying information to individuals and institutions within the review system if necessary to fulfill their particular duties and functions under Title XI, part B of the Act.

(b) *Disclosure to consultants and subcontractors.* The PSRO shall disclose to consultants or subcontractors the identifying information that they need to provide specified services to the PSRO.

(c) *Disclosure to Statewide PSRO Councils.* The PSRO shall disclose to the Council the identifying information the Council requires for appeals (Section 1159 of the Act) and sanctions (Sections 1157 and 1160 of the Act).

(d) *Disclosure to other PSROs.* The PSRO shall disclose, to other PSROs, identifying information on patients and practitioners who are also subject to review by the other PSRO.

§ 476.34 Disclosure to claims payment agencies.

(a) *Required disclosure.* A PSRO shall disclose identify information that relates to, or is necessary for, payment of claims to claims payment agencies for Medicare, Medicaid, Maternal and Child Health and Crippled Children as follows:

(1) The PSRO shall disclose review determinations and claims forms for health care services provided in the manner and form agreed to by the PSRO and the claims payment agency.

(2) The PSRO shall disclose, upon request, copies of medical records acquired from practitioners or institutions for review purposes.

(3) The PSRO shall disclose identifying information about a particular patient or practitioner if:

(i) The request identifies the particular patient or practitioner by name or code number, and

(ii) The PSRO and the claims payer, or the Secretary if the PSRO and the claims payer cannot agree, determine that the information is necessary for the administration of the Medicare, Medicaid, or Maternal and Child Health program.

(4) The PSRO shall disclose, at the request of the claims payer, identifying information aggregated by the PSRO on individual patients and practitioners if:

(i) The information is available from multipurpose data which the claims payer has been authorized by the Secretary to acquire, and

(ii) The information is pertinent to health care services reimbursable by the payer.

(b) *Optional disclosure.* The PSRO is authorized to disclose, without a specific request, identifying information on patients and practitioners to the claims payer if the PSRO or the Secretary determines that the PSRO is the most appropriate source of information and that:

(1) The disclosure is appropriate for monitoring of the PSRO; or

(2) The disclosure is necessary for the administration of a particular Federally-funded program.

(c) *Uniform disclosure in States with two or more PSROs.* In States with two or more PSROs, the Secretary may require all PSROs in the State to provide identifying information in a uniform manner to the agency responsible for the Medicaid or Maternal and Child Health and Crippled Children's programs.

§ 476.35 Disclosure to investigative and prosecutional agencies.

(a) *Required disclosure.* The PSRO shall disclose, upon written request verifying active investigation of a particular practitioner or institution, to governmental agencies recognized by the Secretary as responsible for the identification, investigation and prosecution of cases or patterns of fraud and abuse in the Medicare and Medicaid programs, identifying information, including PSRO medical necessity determinations, that describes or displays incidents or patterns of the practice or performance of a particular practitioner or institution.

(b) *Optional disclosure.* The PSRO may provide the information specified in paragraph (a) of this section without request.

§ 476.36 Disclosure for other specified purposes.

(a) *Disclosure to licensing bodies.* (1) A PRSO shall disclose, upon request, to State or Federal licensing bodies responsible for the professional licensure of a particular practitioner, identifying information, including PSRO medical necessity determinations, that displays the practice or performance patterns of that practitioner.

(2) A PRSO shall disclose, upon request, to State or Federal licensing bodies responsible for the licensure of a particular institution, identifying information, including PSRO medical necessity determinations, that displays or describes the practice or performance patterns of particular practitioners in that institution.

(3) A PRSO may provide the identifying information specified in paragraph (a)(1) and (a)(2) of this section to the State or Federal licensing body without request.

(b) *Disclosure to State and local Public Health officials.* A PSRO shall disclose identifying information to State and local public health officials, whenever the PSRO determines that the disclosure of such information is necessary to protect against an imminent danger to individual or public health.

(c) *Disclosure to the courts.* (1) No patient record in the possession of a PSRO, Council or the National Professional Standards Review Council shall be subject to subpoena or discovery proceedings in a civil action.

(2) No practitioner record in the possession of a PSRO, Council, or the National Professional Standards Review Council shall be subject to subpoena or discovery proceedings in a civil action unless:

(i) It is necessary to the defense of the PSRO, its members or employees, or

(ii) The Secretary determines it is necessary for the prosecution of cases involving fraud or abuse of the Medicare or Medicaid programs.

(3) At the request of the PSRO, members or employees of the PSRO may testify at judicial proceedings involving cases of fraud or abuse.

(d) *Disclosure to Medical Review Boards.* A PSRO shall disclose, upon written request, to Medical Review Boards established under the End Stage Renal Disease (ESRD) program (section 226 of the Social Security Act), identifying information that describes or displays the practice and performance patterns of particular practitioners providing services funded under the ESRD program.

(e) *Disclosure to the General Accounting Office.* A PSRO shall disclose identifying information to representatives of the General Accounting Office only at the PSRO office or at a delegate institution. The General Accounting Office representatives may remove identifying information from the site if it is necessary for conduct of the current investigation.

(f) *Disclosure to researchers or statistical agencies.* A PSRO may disclose identifying information for a governmental or non-governmental health service, biomedical or epidemiological research or statistical project only if:

(1) The PSRO determines that information in identifiable form is necessary to accomplish the research or statistical purpose for which use or disclosure is to be made; and

(2) The researcher agrees in writing:

(i) To use the information solely for the project for which it is provided; and

(ii) Not to redisclose the information in any form permitting direct or indirect identification of an individual.

(g) *Disclosure of PSRO interpretations on the quality of health care.* A PSRO may disclose PSRO interpreta-

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tions and generalizations on the quality of health care available or provided, based on confidential information, identifiable to a particular institution to:

(1) The Council in its State;

(2) Federal and State agencies responsible for the administration of the Medicare, Medicaid, Maternal and Child Health, or Crippled Children's programs; or

(3) Governmental agencies responsible for improving the quality or delivery of health care and services.

§ 476.37 Disclosure of PRSO deliberations.

(a) *PSRO deliberations.* A PSRO shall not disclose its deliberations except to:

(1) The Secretary at the PSRO office or at a delegate institution; or

(2) The Secretary and the Statewide PSRO Council, to the extent that the deliberations are incorporated in sanction and appeals reports.

(b) *PSRO decisions.* A PSRO may disclose to those who may have access to PSRO information under other provisions of this part, the reasons for PSRO decisions pertaining to that information provided that the opinions or judgments of a particular individual cannot be discerned.

§ 476.38 Disclosure of MCE study information and sanction reports.

(a) *MCE study information with identifiers of patients, practitioners or institutions.* (1) A PSRO shall disclose MCE study information with identifiers to authorized personnel from the General Accounting Office, or to representatives of authorized accreditation or certification bodies. The disclosure shall be only at the PSRO or at a delegate institution.

(2) A PSRO shall disclose MCE study information with identifiers to an institution or practitioner, if the information is directly related to health care services furnished by the institution or practitioner.

(3) A PSRO may disclose MCE study information with identifiers to all institutions or practitioners involved in a particular MCE study.

(4) A particular institution or group of practitioners may disclose MCE study information if the information relates to health care services they provided.

(5) No MCE study information with identifiers shall be subject to subpoena or discovery proceedings in a civil action.

(b) *MCE study conclusions or summaries.* A PSRO shall, upon request, and may, without a request, disclose its conclusions or summaries, based on confidential information from a particular MCE study, without identifiers to:

(1) The Council in its State;

(2) Federal and State agencies responsible for the administration of the Medicare, Medicaid, Maternal and Child Health, or Crippled Children's programs; and

(3) Other Governmental agencies responsible for improving the quality or delivery of health care and services.

(c) *Sanction reports and Council recommendations on sanctions.* (1) In States with a Council:

(i) The PSRO shall disclose sanction reports to the Council in its State.

(ii) The Council shall disclose the PSRO sanction report and the Council recommendations to the Secretary.

(2) In States without a Council, the PSRO shall disclose sanction reports directly to the Secretary.

(3) The PSRO or the Council shall, upon request, and may without request, disclose sanction reports and Council recomendations to:

(i) State and Federal licensing bodies responsible for the professional licensure of the institution or practitioner;

(ii) State and Federal agencies recognized by the Secretary as responsible for identification, investigation or prosecution of cases of fraud or abuse in the Medicare and Medicaid programs in accordance with § 476.35 and

(iii) Institution and practitioner certification and accreditation bodies recognized by the Secretary.

(4) The Secretary will maintain the confidentiality of sanction reports he receives or records of sanction determinations he makes until he makes a decision to sanction or not to sanction.

(5) The Secretary shall disclose sanctions determinations in accordance with Part 474 of the chapter.

(6) Once the secretary makes a decision, the bodies and agencies described in paragraph (c)(3)(i-iii) of this section may disclose documents relating to that sanction in accordance with the disclosure rules of those bodies and agencies.

§ 476.39 PSRO involvement in shared health data systems.

(a) *Information collected by a PSRO.* Except as prohibited in paragraph (b) of this section, identifying information collected by a PSRO may be processed and stored by a cooperative health statistics system established under Section 306(c)(1), of the Public Health Service Act (42 U.S.C. 242k), or other State or Federally authorized shared data system.

(b) *PSRO participation.* A PSRO may not participate in a Cooperative Health Statistics System or other shared health data system if the disclosure rules of the system would prevent the PSRO from complying with the rules of this part.

(c) *Disclosure of PSRO information obtained by a shared health data system.* Identifying information specified in paragraph (a) of this section shall not be disclosed by the shared health data system unless:

(1) The source from which the PSRO acquired the information consents to or requests disclosure, or

(2) The PSRO requests the disclosure of the information to carry out a disclosure permitted under a particular provision of this part.

(Secs. 1102, 1152(d)(2), 1155(a)(4), 1155(b)(3), 1155(f)(1)(B), 1162(c)(2), 1165, and 1166 of the Social Security Act (42 U.S.C. 1302, 1320C-1, 4, 11, 14, and 15).)

(Catalog of Federal Domestic Assistance Program Nos. 13.714 Medical Assistance Program; 13.773 Medicare—Hospital Insurance; 13.774 Medicare—Supplementary Medical Insurance.)

Dated: October 31, 1978.

ROBERT A. DERZON,
Administrator, Health Care Financing Administration.

Approved: January 2, 1979.

JOSEPH A. CALIFANO, Jr.,
Secretary.

[FR Doc. 79-1295 Filed 1-12-79; 8:45 am]

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-02-M]

UNITED STATES DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

HOP MARKETING ADVISORY BOARD

Renewal

Notice is hereby given that the Hop Marketing Advisory Board is being renewed for an additional period of 2 years under provisions of the Federal Advisory Committee Act [86 Stat. 770].

The purpose of the Board is to advise the Hop Administrative Committee under Federal Marketing Order No. 991 concerning marketing policy and other operational matters as the Committee requests.

This Board represents handlers of hops. Representation for most is based on the quantities of hops handlers; and one representative is for extractors.

Information about this Board may be obtained from Mr. Allan E. Henry, Northwest Marketing Field Office, Fruit and Vegetable Division, Agricultural Marketing Service, USDA, Boise Cascade Building, Suite 805, 1600 S.W. Fourth Avenue, Portland, Oregon 97201. Telephone: 503-221-2724.

Authority for this Board will expire 1/8/81 unless it is determined that continuance is in the public interest.

This notice is given in compliance with Pub. L. 92-463.

Dated: January 9, 1979.

WILLIAM T. MANLEY,
Deputy Administrator, Marketing Program Operations.

[FR Doc. 79-1286 Filed 1-12-79; 8:45 am]

[3410-16-M]

Soil Conservation Service

MOUNT HOPE WATERSHED, KANSAS

Intent to Not File an Environmental Impact Statement for Deauthorization of Funding of the Mount Hope Watershed

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for deauthorization of funding of the Mount Hope Watershed, Reno and Sedgwick Counties, Kansas.

The environmental assessment of this federally-assisted action indicates that project deauthorization will not cause significant local, regional, or national impacts on the human environment. As a result of these findings, Mr. Robert K. Griffin, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this deauthorization.

Project deauthorization involves not constructing any of the planned four floodwater retarding dams or 6.53 miles of channel work. Woodland amounting to nine acres will not be removed due to the project. Four thousand eight hundred and seventy acres of flood plain will continue to flood. Estimated project costs would have exceeded benefits.

Approximately 78 percent of the watershed is adequately treated. Remaining land treatment will be installed under the going program.

The basic data developed during the environmental assessment is on file and may be reviewed by interested parties at the Soil Conservation Service, 760 South Broadway, Salina, Kansas 67401, 913-825-9535. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. Copies of the Environmental impact appraisal are available upon request.

No administrative action on implementation of the proposal will be taken until March 16, 1979.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Pub. L. 83-566, 16 USC 1001-1008.)

Dated: January 5, 1979.

JOSEPH W. HAAS,
Assistant Administrator for Water Resources, Soil Conservation Service, U.S. Department of Agriculture.

[FR Doc. 79-1281 Filed 1-12-79; 8:45 am]

[3510-13-M]

DEPARTMENT OF COMMERCE

National Bureau of Standards

[COMM REQ 294 & 315]

SIMPLIFIED PRACTICE RECOMMENDATION ACTION OF WITHDRAWAL

In accordance with § 10.12 of the Department's "Procedures for the Development of Voluntary Product Standards" (15 CFR Part 10), notice is hereby given of the withdrawal of Simplified Practice Recommendation R 3-60, "Metal Lath (Expanded and Sheet) and Metal Plastering Accessories."

It has been determined that this standard is technically inadequate and that revision would serve no useful purpose because the subject matter of R 3-60 is adequately covered by the American Society for Testing and Materials' standard ASTM C 847-77, "Standard Specification for Metal Lath" and the American National Standard Institute's standard ANSI A42.4-1967, "Specifications for Interior Lathing and Furring." This action is taken in furtherance of the Department's announced intentions as set forth in the public notice appearing in the FEDERAL REGISTER of December 1, 1978 (43 FR 56255), to withdraw this standard.

The effective date for the withdrawal of this standard will be on March 16, 1979. This withdrawal action terminates the authority to refer to this standard as a voluntary standard developed under the Department of Commerce procedures.

Dated: January 9, 1979.

ERNEST AMBLER,
Director.

[FR Doc. 79-1280 Filed 1-12-79; 8:45 am]

[3510-13-M]

[COMM REQ 294 and 315]

VOLUNTARY PRODUCT STANDARD ACTION OF WITHDRAWAL

In accordance with § 10.12 of the Department's "Procedures for the Development of Voluntary Product Standards" (15 CFR Part 10), notice is hereby given of the withdrawal of Voluntary Product Standard PS 16-69,

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"Types and sizes of forms for One-Way Concrete Joist Construction."

This withdrawl action is being taken for the reason that PS 16-69 is adequately covered by the American National Standards Institute standard ANSI A48.1-1978, "Types and Sizes of Forms for One-Way Concrete Joist Construction," and duplication is inappropriate and not in the public interest. This action is taken in furtherance of the Department's announced intentions as set forth in the public notice appearing in the FEDERAL REGISTER of November 29, 1978 (43 FR 55812) to withdraw this standard.

The effective date for the withdrawal of this standard will be on March 16, 1979. This withdrawal action terminates the authority to refer to this standard as a voluntary standard developed under the Department of Commerce procedures.

Dated: January 9, 1979.

ERNEST AMBLER,
Director.

[FR Doc. 79-1279 Filed 1-12-79; 8:45 am]

[3510-04-M]

National Technical Information Service

GOVERNMENT-OWNED INVENTIONS

Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents & Trademarks, Washington, D.C. 20231, for $.50 each. Requests for copies of patents must include the patent number.

Copies of the patent applications can be purchased from the National Technical Information Service (NTIS), Springfield, Virginia 22161 for $4.00 ($8.00 outside North American Continent). Requests for copies of patent applications must include the Patent-Application number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

DOUGLAS J. CAMPION,
Patent Program Coordinator, National Technical Information Service.

U.S. DEPARTMENT OF COMMERCE, National Technical Information Service Office of Gov't. Inventions & Patents, Springfield, Va. 22161.

Patent application 950,943: Improved Method and Apparatus for Detecting Clear Air Turbulences; filed Oct. 13, 1978.

U.S. DEPARTMENT OF THE AIR FORCE, AF/JACP, 1900 Half Street, SW, Washington, D.C. 20324.

Patent Application 921,140: Electronic Tripod Technique; filed June 30, 1978.

Patent 4,090,446: Controlled Depth of Burial Penetrator; filed Feb. 2, 1977; patented May 23, 1979; not available NTIS.

Patent 4,091,279: Method and Means for Equalizing the Sensitivity of a Multi-Element Sensor Array; filed Mar. 23, 1976; patented May 23, 1978; not available NTIS.

U.S. DEPARTMENT OF THE NAVY, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, Va. 22217.

Patent application 882,285: Passive Optical Rangefinder-Sextant; filed Feb. 28, 1978.

Patent Application 908,185: Scanner; filed May 22, 1978.

Patent Application 922,401: Dual Pyroelectric Vidicon Infrared Camera; filed July 6, 1978.

Patent 4,053,867: Acoustic Hologram Reconstructor Using Surface Acoustic Wave Devices; filed Dec. 22, 1975; patented Oct. 11, 1977; not available NTIS.

Patent 4,077,326: Impulse Compensated Continuous Rod Warhead; filed Mar. 19, 1970; patented Mar. 7, 1978; not available NTIS.

Patent 4,090,449: Method for Synchronizing Point Detonating Arming with Controlled Variable Time Detonating Arming in Military Fuzes; filed Jan. 19, 1970; patented May 23, 1978; not available NTIS.

[FR Doc. 79-1283 Filed 1-12-79; 8:45 am]

[3510-11-M]

United States Travel Service

TRAVEL ADVISORY BOARD

Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. (App. 1976) notice is hereby given that the Travel Advisory Board of the U.S. Department of Commerce will meet on February 27, 1979, at 9 a.m., in Room 4833 of the Main Commerce Building, 14th & Constitution Avenue, N.W., Washington, D.C. 20230.

Established in July, 1968, the Travel Advisory Board consists of senior representatives of 15 U.S. travel industry segments who are appointed by the Secretary of Commerce.

Members advise the Secretary of Commerce and Assistant Secretary of Commerce for Tourism on policies and programs designed to accomplish the purpose of the International Travel Act of 1961, as amended, and the Act of July 19, 1940, as amended. A detailed agenda for the meeting will be published in the FEDERAL REGISTER in advance of the meeting.

A limited number of seats will be available to observers from the public and the press. The public will be permitted to file written statements with the Committee before or after the meeting. To the extent time is available, the presentation of oral statements is allowed.

Sue Barbour, Travel Advisory Board Liaison Officer, the United States Travel Service, Room 1860, U.S. Department of Commerce, Washington, D.C. 20230 (telephone 202-377-4752), will respond to public requests for information about the meeting.

FABIAN CHAVEZ, JR.,
Assistant Secretary for Tourism, U.S. Department of Commerce.

[FR Doc. 79-1320 Filed 1-12-79; 8:45 am]

[6355-01-M]

CONSUMER PRODUCT SAFETY COMMISSION

GEORGE GOTTESMAN

Provisional Acceptance of Consent Agreement

AGENCY: Consumer Product Safety Commission.

ACTION: Provisional Acceptance of Consent Agreement.

SUMMARY: The Commission has provisionally accepted a consent agreement containing a cease and desist order offered by George Gottesman, doing business as Paramount Bedding Company, Portland, Oregon 97201, in which he agrees to conduct prototype and production flammability testing of his mattresses, to establish production units and randomly select mattresses therefrom for testing, and to maintain records as required by the Flammable Fabrics Act and regulations. If finally accepted, this consent agreement will settle allegations of the Commission staff that Gottesman has violated provisions of the Flammable Fabrics Act.

DATE: Written comments on the provisionally accepted consent agreement must be received by the Commission by January 30, 1979.

ADDRESSES: Written comments should be submitted to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. Copies of the agreement may be seen in, or obtained from, the Office of the Secretary, Consumer Product Safety Commission, 3d Floor, 1111 18th Street NW., Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT:

George E. Hill, Directorate for Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C. Phone 301-492-6632.

Dated: January 10, 1979.

SADYE E. DUNN,
Secretary, Consumer Product Safety Commission.

[FR Doc. 79-1292 Filed 1-12-79; 8:45 am]

[6450-01-M]

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM79-3]

NATURAL GAS POLICY ACT OF 1978

Receipt of Report of Determination Process

JANUARY 10, 1979.

Pursuant to section 18 CFR 174.105 of the Federal Energy Regulatory Commission's Regulations, a jurisdictional agency may file a report with the Commission, describing the method by which such agency will made certain determinations in accordance with sections 102, 103, 107, and 108 of the Natural Gas Policy Act of 1978.

Reports in conformance with 18 CFR 274.105 have been received by the Commission from the following jurisdictional agencies:

Agency and Date

State of New Mexico Energy and Minerals Department, Oil Conservation Division, November 29, 1978.
State of Louisiana Department of Conservation, November 29, 1978.
Railroad Commission of Texas, November 30, 1978.
West Virginia Department of Mines, Oil and Gas Division, November 30, 1978.
Alabama State Oil and Gas Board, November 30, 1978.
State Oil and Gas Board of Mississippi, November 30, 1978.
Kansas State Corporation Commission Conservation Division, November 30, 1978.
State of Michigan, Department of Natural Resources, Geological Survey Division, December 1, 1978.
State of California Department of Conservation Division of Oil and Gas, December 4, 1978.
Commonwealth of Virginia, Department of Labor and Industry, Division of Mines and Quarries, December 4, 1978.
State of Wyoming Office of Oil and Gas Conservation Commission, December 4, 1978.
State of Colorado Department of Natural Resources, December 5, 1978.
State of Ohio Department of Natural Resources Division of Oil and Gas, December 6, 1978.
State of Arizona, Oil and Gas Conservation Commission, December 14, 1978.
State of Nebraska Oil and Gas Conservation Commission, December 15, 1978.
State of Tennessee, Oil and Gas Board, December 19, 1978.
State of Indiana Department of Natural Resources, December 26, 1978.
State of Pennsylvania, Department of Environmental Resources, Division of Oil and Gas, December 26, 1978.
State of North Dakota, Geological Survey, January 4, 1979.

Copies of these reports are available for public inspection in the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

KENNETH F. PLUM,
Secretary.

[FR Doc. 79-1326 Filed 1-12-79; 8:45]

[6450-01-M]

NATURAL GAS POLICY ACT OF 1978

Determination by a Jurisdictional Agency

JANUARY 10, 1979.

On January 8, 1979, the Federal Energy Regulatory Commission received notice from The State Oil and Gas Board of Mississippi of a determination pursuant to 18 CFR 274.104(a) and Section 102 of the Natural Gas Policy Act of 1978 applicable to:

API Well Number: 23-063-20226, Operator: Victor P. Smith Drilling, Inc., Well Name: Wood Well No. 2, Field: West Rodney Field, County: Jefferson County, Purchaser: Locust Ridge Gas Company, Volume: 434 MCFD.

The application for determination in this matter together with a copy or description of other materials in the record on which such determination was made is available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to this final determination may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before January 30, 1979.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-1327 Filed 1-12-79; 8:45 am]

[6450-01-M]

Federal Energy Regulatory Commission

[Docket No. RP72-142, RP76-135 and RP78-76]

CITIES SERVICE GAS CO.

Proposed Changes in FERC Gas Tariff

JANUARY 4, 1979.

Take notice that Cities Service Gas Company (Cities Service) on December 22, 1978, tendered for filing Revised Third Revised Sheet No. 6 to its FERC Gas Tariff, Original Volume No. 1. Cities Service states that pursuant to the Purchased Gas Adjustment in Article 21 of its FERC Gas Tariff, it proposes to increase its rates effective January 23, 1979, to reflect:

(1) An increase in the Cumulative Rate Adjustment due to increases in Cities Service's natural gas supplier rates, including increased rates attributable to the Natural Gas Policy Act of 1978 (NGPA);

(2) An increased Surcharge Adjustment to amortize the Deferred Purchased Cost Account balance and to pass through estimated increases in purchased gas costs directly attributable to the NGPA and for the period December 1, 1978 through January 22, 1979;

(3) A negative Advance Payment Rate Adjustment of 0.91¢ per Mcf;

(4) An increase in the GRI funding unit to 0.35¢ per Mcf.

Cities Service states that copies of its filing were served on all jurisdictional customers, interested state commissions and all parties to the proceedings in Docket Nos. RP72-142 and RP76-135.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 or 1.10 of the Commission's Rules of Practice and Procedure (18 C.F.R. 1.8 or 1.10). All such petitions or protests should be filed on or before January 19, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-1328 Filed 1-12-79; 8:45 am]

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[6450-01-M]

[Project No. 553]

CITY OF SEATTLE, WASHINGTON

Application for New Major License

JANUARY 8, 1979.

Take notice that on September 29, 1977, an application for a new major license was filed by the City of Seattle, Washington, for the Skagit River Project No. 553. The original license for the project expired on October 28, 1977. The project is located on the Skagit River in Snohomish, Skagit, and Whatcom Counties, Washington, near the towns of Diablo, Newhalem, Marblemount, and Rockport, Washington, and the province of British Columbia, Canada. The project affects lands of the United States within the Ross Lake National Recreation Area, North Cascades National Park, and the Mount Baker National Forest. Correspondence regarding the application should be sent to: Mr. Gordon F. Vickery, Department of Lighting, City of Seattle, 1015 Third Avenue, Seattle, Washington 98104.

According to the application, the Skagit River Project No. 553, with an installed capacity of 789,700 kW, principally consists of three developments:

(A) Gorge Dam, consists of: (1) a 300-foot high concrete arch and gravity section dam constructed to elevation 880 feet above sea level with a gravity spillway section; (2) a reservoir having a gross storage capacity of 8,500 acre-feet at normal surface elevation 875 feet; (3) a new intake structure; (4) a power tunnel about 2 miles long, leading to three penstocks; (5) a surge tank; (6) a powerhouse containing two 24,000 kW, one 29,700 kW, and one 60,000 kW, generating units; (7) a switching station; and (8) appurtenant facilities.

(B) Diablo, located immediately upstream of Gorge Reservor, consists of: (1) a concrete arch dam, 389 feet high with a spillway section at each end of the dam surmounted by tainter gates; (2) a 4-mile long reservoir with a useable capacity of 60,000 acre-feet and a gross capacity of 90,000 acre-feet at a spillway elevation of 1,200 feet; (3) an intake structure; (4) a concrete lined power tunnel about 2,200 feet long, and two steel penstocks, extending from the dam to the powerhouse; (5) a surge tank; (6) a powerhouse containing two 60,000 kW generating units; (7) a transmission line extending from the powerhouse to the Gorge plant; (8) the Diablo transmission line; and (9) appurtenant facilities.

(C) Ross, located immediately upstream of Diablo Reservoir, consists of: (1) a concrete arch dam about 425 feet high impounding a 500,000 acre-foot capacity reservoir at normal full pool elevation of 1,500 feet. The Applicant has received approval from the Commission to redevelop Ross Dam so that this development would consist of: (1) a concrete arch dam about 661 feet high known as High Ross Dam, to be constructed to elevation of 1,704.5 feet; (2) a reservoir having a gross capacity of 3,456,000 acre-feet and a useable capacity of 1,052,000 acre-feet, at a normal full pool elevation of 1,725 feet; (3) control gates in the spillway sections; (4) two power tunnels extending downstream from the intake works to a power plant; (5) a powerhouse containing four 133,000 kW generating units; (6) a 230-kV double circuit transmission line extending from the Ross power plant to Bothell Substation; (7) a transmission line extending from the Ross plant to the Diablo plant; and (8) appurtenant facilities.

The Applicant maintains recreational facilities within the project boundary consisting of 27 picnic tables, 358 individual camping sites, 5 boat launch lanes, and 80 miles of trail within two miles of the project boundary. The Applicant proposes the development of 12 boat-in campgrounds at Diablo Lake, which would include: (1) permanent docks, tent sites, sealed vault toilets, picnic tables and fireplaces; (2) marina facilities at Thunder Arm, comprising 4 permanent docks and a dredged access; (3) an access road from State Route 20 to the Diablo Dam; and (4) the Gorge Creek Overlook, comprising parking areas, pedestrian bridges, trails and viewing points.

The Applicant uses the energy developed by the project to serve the needs of its customers located in and near the City of Seattle, Washington.

A separate proceeding (designated Docket No. EL78-36) is being conducted to address the issue of the effect of the project's flow regime on the Skagit River's fishery resources. Public notice of that proceeding was issued on September 7, 1978.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1977). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any protest or petition to intervene must be filed on or before March 9, 1979. The Commission's address is: 825 N. Capitol Street, N.E., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-1329 Filed 1-12-79; 8:45 am]

[6450-01-M]

[Docket No. CP75-233]

CONSOLIDATED GAS SUPPLY CORP. AND TEXAS GAS TRANSMISSION CORP.

Petition To Amend

JANUARY 3, 1979.

Take notice that on December 18, 1978, Consolidated Gas Supply Corporation (CGS), 445 West Main Street, Clarksburg, West Virginia 26301, and Texas Gas Transmission Corporation (TGT), 3800 Frederica Street, Owensboro, Kentucky 42301 (Petitioners) filed in Docket No. CP75-233 a petition to amend the order of the FPC issued in the instant docket on July 2, 1975, pursuant to Section 7(c) of the Natural Gas Act to add an additional point of exchange between Petitioners, all as more fully set forth in the petition on file with the Commission and open to public inspection.[1]

Petitioners state that they agreed on November 20, 1978, to add a point of exchange between them so as to permit either party to deliver volumes of natural gas to others at the interconnection of the system of CGS with the facilities of Columbia Gulf Transmission Company and TGT in Acadia Parish, Louisiana. Accordingly, Petitioners request that the order issued in the instant docket on July 2, 1975, be amended to reflect this change. It is indicated that the additional exchange point would assist Petitioners in fulfilling their system obligations and would provide added flexibility of operation and continuity of service.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before January 23, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding.

Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-1330 Filed 1-12-79; 8:45 am]

[1] This proceeding was commenced before the FPC. By joint regulation on October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

[6450-01-M]

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY AND DENYING REQUESTS FOR LIMITED TERM CERTIFICATES AND GRANTING PETITION TO INTERVENE

JANUARY 2, 1979.

In the matter of Delhi Gas Pipeline Corporation (CP77-523), Northern Natural Gas Company (CP77-649), Panhandle Eastern Pipe Line Company (CP77-652), Columbia Gas Transmission Corporation and Columbia Gulf Transmission Corporation (CP77-657), Northern Natural Gas Company (CP78-480), Panhandle Eastern Pipe Line Company and Trunkline Gas Company (CP78-511).

On July 25, 1977, Delhi Gas Pipeline Corporation (Delhi) filed in Docket No. CP77-523 an application for a limited-term certificate with pre-granted abandonment pursuant to Section 2.70 of the Commission's[1] Regulations under the Natural Gas Act (18 CFR 2.70). In this application Delhi proposes to sell to Columbia Gas Transmission Corporation (Columbia Gas) up to 60,000 Mcf of gas per day at a rate of $2.25 per MMBtu for all sales made on and subsequent to November 1, 1978 (pre-November 1, 1978, rates were set at $2.21 per MMBtu under Columbia Gas' purchase gas contract with Delhi). Under the terms of Delhi's gas purchase contract with Columbia Gas this limited-term sale will terminate on November 1, 1979.

Delhi asserts in its application that Columbia Gas has advised that it requires these limited-term volumes to offset the gas supply shortage on its system which will prevent it from meeting a substantial part of its firm requirements. Delhi stresses that Columbia Gas' projected curtailment for the period of this limited-term purchase demonstrates that it needs these additional volumes in order to provide reliable and adequate service for its high priority customers and for the purpose of making adequate injection volumes available for its extensive storage system.

Delhi also asserts in its application that the natural gas it proposes to sell to Columbia Gas is available as a result of certain of its recent gas purchase agreements, because the natural gas deliverable under these agreements has not as yet been dedicated to any of its intrastate customers. Delhi further states that it is anticipated that it will dedicate the gas it currently desires to sell to Columbia Gas under a limited-term certificate to one of its intrastate customers by November 1, 1979, or shortly thereafter. Delhi notes that it has heretofore made sales of such undedicated gas in both the interstate and intrastate markets.

Delhi further notes that the price of $2.25 per MMBtu is based on an average replacement cost of gas of $2.05 per MMBtu[2] plus twenty cents per MMBtu that Delhi charges for gathering, treating, compressing and for return on its facilities. Further, as of November 1, 1978, Delhi has the right to have the price redetermined to equal the average of the highest price being paid by Delhi to a producer for gas in the West Texas Area or Gulf Coast Area.[3]

The point of delivery for this limited term sale will be at the existing interconnection of Delhi's facilities and Northern Natural Gas Company's (Northern) facilities located in Section 57 Block OW, H & GN Survey, Pecos County, Texas. The limited term volumes will be delivered at this point by Delhi to Northern for the account of Columbia Gas. No additional facilities will have to be constructed by Delhi or Northern to effectuate the delivery of the gas at this point.

Delhi notes in its application that its sales of natural gas are restricted to intrastate operations and except for the deliveries that it may make as a result of its application in this proceeding, pursuant to Section 2.70, its operations will be wholly intrastate in nature. It, therefore, requests that certain conditions be incorporated into any limited-term certificate issued to it by the Commission pursuant to its request in Docket No. CP77-523. Delhi expressly requests that the Commission waive its accounting and reporting requirements and that the non-jurisdictional status of its independent producers and other suppliers as well as its own facilities and operations remain unaffected during the term of any limited-term certificate issued to it herein. It further requests that the limited-term certificate be made subject to the rates as noted herein or the higher rates that may be redetermined effective November 1, 1978, in accordance with Delhi's contract with Columbia Gas.

Our decision herein to deny Delhi's certificate application on the merits is based on an application of the three-part test spelled out in Opinion No. 699-B[4] to the facts in this case.[5] Briefly, the three criteria employed in considering applications for limited-term certificates are: (1) is the price to be charged reasonable (is it the lowest price at which the gas can be obtained for the interstate market); (2) does the purchasing interstate pipeline need the gas; and (3) is the gas available only for the limited period for which certification is sought. All three of these criteria must be met before a limited-term certificate can be issued. Because the third criterion has not in our view been satisfied, we will deny Delhi's request for a limited-term certificate.[6] We are also of the belief that a strong showing has not been made as to the emergency situation underlying the need for these specific volumes, i.e., 60,000 Mcf per day until November 1979 on behalf of Columbia Gas. We shall discuss the price criterion herein in the context of Section 2.70 even though there is no need to render a determination with respect to Delhi's application on the basis of price.

Delhi's proposed pre and post November 1, 1978, prices of $2.01 and $2.05 per MMBtu (excluding transportation) are within the highest range of intrastate prices published by the FPC at the time the contract was executed (July 19, 1977). Prices for the first quarter of 1977, reflecting the average of the highest prices for the Texas Gulf Coast and West Texas area were 225.75 cents per Mcf and were published on May 17, 1977.[7] Hence, there

[1] This proceeding was commenced before the Federal Power Commission (FPC). The term "Commission" when used with respect to action taken prior to October 1, 1977, refers to the FPC; when used otherwise, it refers to the FERC.

[2] This price was computed on the basis of an average replacement cost of $2.045 in the West Texas Area and $2.10 in the Gulf Coast Area of Texas.

[3] West Texas Area takes in Texas Railroad Districts 7-C and 8 and the Gulf Coast Area takes in Texas Railroad Districts 2, 3 and 4.

[4] Opinion No. 699-B Just and Reasonable Rates for Sales of Natural Gas From Wells Commenced On or After January 1, 1973, and New Dedications of Natural Gas to Interstate Commerce on or After January 1, 1973, —— FPC ——, Docket No. R-389-B, issued September 9, 1974.

[5] Without determining whether Delhi is an "intrastate pipeline" as defined by Section 2(16) of the Natural Gas Policy Act of 1978 (NGPA), we note that while *sales* by intrastate pipelines will eventually come within the purview of Section 311(b) of the NGPA, implementing regulations therefore are not yet in effect. In the interim, as we have previously determined (see "Interim Regulations Implementing the Natural Gas Policy Act of 1978", Docket No. RM79-3, issued December 1, 1978, mimeo pp. 141-42), sales of the type proposed here will be governed under the emergency program established under the Natural Gas Act, which includes Section 2.70 of the Regulations.

[6] See, generally, Harkins Co., *et al.*, Docket Nos. CI77-721, *et al.*, order issued December 2, 1977, denying limited term certification under Section 2.70 to a producer, and order denying rehearing, issued February 21, 1978.

[7] See Commission Staff Report on Intrastate Natural Gas Prices of FPC Jurisdictional Natural Gas Companies selling more than one million Mcf per year in Interstate

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is no doubt that the aforementioned prices fall within the *highest* range of intrastate prices published by the FPC. However, of equal or even greater significance is the existence in Delhi's gas purchase contract of a provision which calls for an indefinite rate redetermination as of November 1, 1978. As of the latter date, Delhi has the right to have the price redetermined to equal the average of the highest price being paid by Delhi for gas to a producer located in the West Texas or Gulf Coast Areas. In the event a redetermination provided for under the contract is made the price payable to Delhi would be such redetermined price.

One of the three criteria that must be established under the Opinion No. 699-B doctrine is whether the price is reasonable, i.e., the lowest price at which the gas can be obtained for the interstate market. Redetermination provisions of this nature might contravene the pricing criterion that must be satisfied in order to meet the requisites set forth in Opinion 699-B. The existence of this type of a provision, contrary to assuring that the gas supply made available to the interstate market is at the lowest reasonable price, continually upgrades the price of the gas so that the interstate purchaser is required to match the highest prices at which gas is being sold. This provision applies even though contracts upon which the redetermined price is predicated antedate this particular contract by several years.

We need not make any determination on this price issue, however, because it is our opinion that Delhi failed in its application to satisfy the third criterion that must be met in order to qualify for a limited-term certificate under Opinion 699-B. It must be established that the gas supply will be available for the limited period of time that it is being made available to the interstate market. The rationale underlying the limited availability criterion is that suppliers of gas should not commit their supplies to the interstate market on a short-term basis for the purpose of being in a position to subsequently resell their gas again at higher prices.

The availability of this gas clearly appears to be the outgrowth of Delhi's intrastate customers inability to absorb such volumes. The requested term of the proposed sale (November 1, 1977 to November 1, 1979) has not been shown to be related to the specific needs of Delhi's markets.

It is evidently anticipated that this gas will eventually be purchased by Delhi's own customers. However, no showing has been made disclosing the existence of a specific market for this gas at the conclusion of the term of the instant purchase gas contract. Hence, Delhi has failed to show that the requirement of limited-term availability can be satisfied.[8]

We have reviewed Delhi's proposed sale to Columbia Gas in the context of Section 2.70 and the standards prescribed thereunder in Opinion No. 699-B, and have determined that the proposed sale cannot be approved under the Section 2.70. We shall therefore also deny those portions of other applications being considered herein that only appertain to the implementation of the Delhi's request for authorization to make a limited-term sale in Docket No. CP77-523.[9]

Northern and Columbia Gas/Gulf in Docket Nos. CP77-649 and CP77-657 respectively, also contemplate an exchange arrangement that will enable Northern to obtain certain volumes of its offshore Louisiana gas without the implementation of the exchange of the volumes purchased by Columbia Gas from Delhi and delivered by the latter company in Pecos County, Texas, as requested in Docket No. CP77-523. Under this alternative arrangement, Columbia Gulf will receive for Columbia Gas' account Northern's gas available at Erath, Louisiana, and Columbia Gas will cause Columbia Gulf to deliver equivalent volumes to Trunkline for Northern's Account at a point of interconnection constructed by Northern between the facilities of Columbia Gulf and Trunkline near Egan, Louisiana. The aforementioned exchange between Columbia Gas/Gulf and Northern is on a gas for gas basis and no monetary consideration is involved in the exchange agreement.

Panhandle and Trunkline Gas Company (Panhandle/Trunkline) in their joint application in Docket No. CP78-511 request permission to transport this gas for Northern's Account from the Egan point of interconnection to Trunkline's mainline compressor station at Longview, Louisiana. This gas will enter Trunkline's mainline at that point and be transported by Trunkline to the point of interconnection between the facilities of Panhandle and Trunkline in Douglas County, Illinois. Panhandle is to redeliver this gas to Northern at the point of interconnection between their respective facilities in Kiowa County, Kansas.

Trunkline's facilities extending eastward from its mainline compressor station at Longville in addition to being interconnected with the facilities of Columbia Gulf at Egan, Louisiana, are also interconnected with the facilities of Tennessee Gas Pipeline Company (Tennessee) in Jefferson Davis Parish, Louisiana (Kinder) and the facilities of Columbia Gulf in Saint Mary's Parish, Louisiana (Centerville). Authorization has been issued or is pending to permit the delivery of offshore natural gas to Trunkline; for the account of Northern at these receipt points on Trunkline's facilities.[10]

Panhandle/Trunkline in Docket Nos. CP78-511 seek authorization to transport the gas that Trunkline receives at the latter three delivery points for the account of Northern to its Longville Compressor Station. Panhandle/Trunkline have been authorized by the Commission to deliver offshore gas for Northern's account under an arrangement which contemplates the transportation of such volumes by Trunkline from Longville to the point of interconnection with Panhandle's facilities in Douglas County, Illinois, and the redelivery of equivalent volumes by Panhandle to Northern at the point of interconnection of their respective facilities in Kiowa County, Kansas.[11] Panhandle/Trunkline in their application in Docket No. CP78-511 seek authorization to transport up to a maximum of 15,000 Mcf/day of Northern's offshore gas from the above noted three points of receipt on the facilities of Trunkline in southern Louisiana to its Longville compressor station in that state. Under an agreement dated June 19, 1978, between these pipelines volumes of up to 15,000 Mcf/day were to be transported between the latter receipt points and Longville for a period of five years from the date of first delivery. This agreement also afforded Northern the option of reducing this volume by 50 percent during the 6th and subsequent years in which gas continues to flow thereunder. Northern also agreed therein to sell to Panhandle up to 20 percent of such volumes.

Northern will pay Panhandle/Trunkline a monthly charge of $19,080 subject to adjustment based on firm transportation for Northern of 12,000 Mcf per day between the Egan and Kinder points of receipt and Trunkline's Longville Compressor Station. An upward or downward adjustment of 5.22¢ per Mcf will be applied to any deficiency or excess in quantities taken. The rates are derived from Trunkline's transmission system unit cost of service per 100 miles as proposed in Docket No. RP78-11. The latter per 100 miles cost is used to determine the cost on a per miles basis of the transportation between the Kinder and Egan receipt points and Longville in which only Trunkline facilities are invloved.[12]

In view of the fact that Trunkline's facilities between Centerville and Kinder are operating at full capacity, it must utilize the capacity available to it in a pipeline owned by Tennessee (Tennessee's Muskrat Line) that also extends from Centerville to Trunkline's Kinder compressor station in order to deliver these additional volumes to Longville. Trunkline, of course, will be required to pay Tennessee the increased charges stemming from this additional flow-through. It has been agreed that these charges shall consist of the additional commodity charges attributable to each additional Mcf of gas as required under Tennessee's currently effective tariff filed in Docket No. RP77-62 that Trunkline must pay for additional deliveries from its Kinder and Egan receipt points under this arrangement.[13] This charge represents the actual increased cost that will be incurred by Trunkline as a result of the flow of these volumes. Trunkline will only charge Northern this amount since the gas received at the Kinder and Egan receipt points is not transported the full distance from Centerville.[14] These charges are subject to increase or decrease depending upon rate changes resulting from rate proceedings invloving the various pipelines which are involved in this transportation. The monthly charges herein are geared to and should be modified to be made consistent with the final determinations in the pending Tennessee rate proceeding in Docket No. RP77-62 (Revised).

As partial consideration for the above-described transportation of this gas for Northern's account by Panhandle and Trunkline, Northern has agreed to sell Panhandle up to 20 percent of the volume received by Trunkline at the above-noted delivery poins. In consideration for the transportation of this 20 percent of the Northern gas that it can purchase under the June 19, 1978, agreement, Panhandle will pay Trunkline a monthly charge of $20,280 based on a firm transportation quantity of 3,000 Mcf/day during the five year period after the date of first delivery. In the sixth and subsequent years of the arrangement Panhandle shall have the option to reduce its volumes to not less than 50 percent of the initial volumes, and upward and downward adjustments of 22.21¢/Mcf will be applied to any deviation from said 3,000 Mcf/d in the quantities taken. The proposed charges cover the transportation of 3,000 Mcf from the point of receipt all the way to Douglas County, Illinois.[15]

The June 19, 1978, transportation agreement between Panhandle, Trunkline and Northern provides for the transportation of certain of Northern's offshore production and for the sale of 20 percent of such production to Panhandle.[16] Northern in its application filed in Docket No. CP78-480 requests that the Commission issue it a certificate of public convenience and necessity under Section 7 of the Natural Gas Act authorizing it to sell 20 percent of its East Cameron Block 335 and South Marsh Island Block 143 offshore Louisiana purchases approximately 3,000 Mcf, to Panhandle for resale in interstate commerce. The gas is to be sold to Panhandle on a monthly cost of service basis, which cost represents Northern's cost of gas at the point of delivery to Trunkline. The estimated average cost-of-service per Mcf for the first year of operation is $1.76 for East Cameron Block 335 production and $1.91 for South Marsh Island Block 143 production. The option afforded to Panhandle to purchase up to 20 percent of the volumes delivered to Trunkline, for Northern's account, is in partial consideration for the transportation of Northern's Block 335 and Block 143 gas as herein described. The Commission will authorize Northern to make this sale to Panhandle subject to its approval of the Exxon sale to Northern in Docket No. CI77-518 and the Cabot sale to Northern in Docket No. CI78-395.

The Commission will grant and deny the various requests in the applications filed in the above-styled proceedings as herein indicated and as hereinafter ordered and conditioned.

After due notice by publication in the FEDERAL REGISTER in Docket No. CP77-523 on August 18, 1977, in 42 FR 41449, Columbia Gas filed a petition to intervene in support of this application. No protests or petitions to intervene in opposition to any of the appli-

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Footnotes continued from last page

Commerce. Prices for the second quarter of 1977, reflecting the average of the highest prices for the Texas Gulf Coast and West Texas Areas, were $2.10 per Mcf and were published on August 25, 1977.

[8] In addition, Columbia Gas has not fully demonstrated that its system is currently confronted with an emergency of sufficient magnitude to warrant the utilization of Section 2.70.

[9] The 60,000 Mcf per day sold to Columbia Gas by Delhi would be delivered to Columbia Gas by a series of transportation and exchanges for which authorization is requested herein by Northern in Docket No. CP77-649, Panhandle Eastern Pipe Line Company (Panhandle) in Docket No. CP77-652 and Columbia Gas Transmission Corporation and Columbia Gulf Transmission Company (Columbia Gas/Gulf) in Docket No. CP77-657. The 60,000 Mcf per day to be delivered by Delhi to Northern in Pecos County, Texas, could be redelivered to Columbia Gas under two separate but related methods: (a) direct transportation of up to 28,000 Mcf per day by Northern to Panhandle at Mullinville, Kansas, and redelivery of such volumes by Panhandle to Columbia Gas at Lucas, Ohio, and (b) an exchange of up to 32,000 Mcf per day in which Northern would cause delivery of equivalent volumes of off-shore gas to Columbia Gulf for the account of Columbia Gas at Erath and Egan, Louisiana. To the extent that Northern makes offshore gas available in excess of 32,000 Mcf per day, redeliveries to Panhandle would be correspondingly reduced. Panhandle's application in Docket No. CP77-652 shall be denied in its entirety due to the fact that it relates *solely* to the transportation of volumes involved in the proposed limited-term sale by Delhi to Columbia Gas for which Delhi has requested authorization in Docket No. CP77-523 and which request we will deny herein.

[10] See related petitions to amend involving Columbia Gulf and Tennessee respectively in Docket Nos. CP68-245 (presently pending), and CP77-21 in which a permanent certificate was issued on October 12, 1978.

[11] See order issued in *Trunkline Gas Company, and Panhandle Eastern Pipeline Company, et al.*, in Docket Nos. CP77-11, *et al.*, issued on August 29, 1977, as amended, by an order Granting Rehearing in *Trunkline Gas Company and Panhandle Eastern Pipeline Company* in Docket No. CP77-17 issued on October 28, 1977.

[12] Trunkline's cost per 100 miles is 2.34¢ per Mcf. The unit charge for this transportation of 53.5 miles based on this cost per 100 miles (Trunkline's current transportation cost as reflected in Docket No. RP78-11) is 1.25¢ per Mcf.

[13] Tennessee's commodity charge for the transportation of this gas to Trunkline is 3.97¢ per Mcf based on Tennessee's transmission rates in Docket No. RP77-62. (1.25¢ per Mcf plus 3.97¢ per Mcf = 5.22¢ per Mcf.) (5,22¢ x 365/12 = $1.59.) (12,000 x $1.59 = $19,080.)

[14] Centerville is also one of the receipt points through which gas can be delivered to Longville for Northern's account. However, it is anticipated that this gas will have to flow the full distance from Centerville to Kinder. The receipt of gas at this point by Trunkline shall be on a best efforts basis and shall only be delivered at Trunkline's option by displacement. An extra 0.62¢ will be charged to Northern for each Mcf taken at the Centerville delivery point. The latter charge represents the demand component of the latter Tennessee rate on a unit basis. Northern will be required to pay the full charge of the transportation of any volumes under this arrangement received at Centerville, i.e., both the commodity and demand component provided for in the Tennessee rate.

[15] Trunkline's charges for the gas it delivers to Longville for Panhandle are identical to what it charges Northern. Trunkline's charges Panhandle for delivery of these volumes from Longville to Douglas County, Illinois are also predicated on this 2.34¢ per Mcf transportation rate. This charge represents the 100 miles current cost on Trunkline's system for such transportation of an Mcf of natural gas used in docket No. RP78-11.

[16] Northern's offshore supplies subject to the above-noted transportation agreement consist of the 40 percent of the production it purchases from Exxon Corporation in East Cameron Block 335 and the purchase by Northern from Cabot Corporation of that producer's interest in South Marsh Island Block 143, offshore Louisiana. The Commission has issued a temporary certificate to Exxon in Docket No. CI77-518 for the sale of the East Cameron Block 335 gas to Northern. Cabot has pending before the Commission at Docket No. CI78-395 an application for the sale of its South Marsh Island Block 143 gas to Northern. Sea Robin Pipeline Company will transport Northern's Block 335 gas and Block 143 gas onshore and deliver such gas to Columbia Gulf for Northern's account at its Northern's terminus near Erath, Louisiana. The offshore transportation of this gas by Sea Robin was approved in Docket No. CP76-428.

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cations in the above-styled proceeding have been filed.[1]

At a hearing held on December 20, 1978, the Commission on its own motion received and made a part of the record in these proceedings all evidence, including the applications and petitions as supplemented and amended, and exhibits thereto, submitted in support of the authorization sought herein, and upon consideration of the record.

The Commission finds: (1) Applicants, Panhandle, Trunkline, Northern Columbia Gas and Columbia Gulf are natural gas companies within the meaning of the Natural Gas Act as heretofore found by the Commission.

(2) The application of Delhi in Docket No. CP77-523 for a limited-term certificate with pregranted abandonment filed pursuant to Section 2.70 of the Commission's Regulation, and the corresponding application filed by Panhandle in Docket No. CP77-652 should be denied for the reasons more fully discussed in this order.

(3) The transportation and/or exchange of natural gas as hereinbefore described between Northern in Docket No. CP77-649 and in the joint applications filed by Columbia Gas/Columbia Gulf and Panhandle/Trunkline in Docket Nos. CP77-657 and CP78-511, respectively, will be made in interstate commerce subject to the jurisdiction of the Commission and is subject to the requirements of subsections (c) and (e) of Section 7 of the Natural Gas Act.

(4) The sale of natural gas by Northern to Panhandle in Docket No. CP78-480 will be made in interstate commerce subject to the jurisdiction of the Commission and is subject to the requirements of subsection (c) and (e) of Section 7 of the Natural Gas Act.

(5) Applicants Northern, Panhandle, Trunkline, Columbia Gas and Columbia Gulf are able and willing properly to do the acts and to perform the services proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(6) The transportation and/or exchange of natural gas as hereinbefore described between Northern in Docket No. CP77-649 and in the joint application filed by Columbia Gas and Columbia Gulf and Panhandle/Trunkline in Docket Nos. CP77-657 and CP78-511 respectively and the sale by Northern to Panhandle in Docket No. CP78-480, all subject to the jurisdiction of the Commission, are required by the pulic convenience and necessity and certificates therefore should be issued as hereinafter ordered and conditioned.

(7) Participation by Columbia Gas in Docket No. CP77-523 may be in the public interest.

The Commission orders: (A) Certificates of public convenience and necessity are issued to Applicants, Northern Natural Gas Company in Docket No. CP77-649; Columbia Gas Transmission Corporation and Columbia Gulf Transmission Corporation in Docket No. CP77-657 and Panhandle Eastern Pipe Line Company and Trunkline Gas Company in Docket No. CP78-511 to transport, exchange and redeliver gas as more fully described in their applications filed in these proceedings and as set forth in the body of this order as hereinafter ordered and conditioned:

(1) The certificates issued to Northern in Docket No. CP77-649 and Columbia Gas/Gulf in Docket No. CP77-657 are limited to the services that are not related to the proposed Delhi sale.

(B) The applications filed for limited-term certificates by Delhi Gas Pipeline Corporation in Docket No. CP77-523 and Panhandle Eastern Pipe Line Company in Docket No. CP77-652 are denied as are the Delhi related aspects of Docket Nos. CP77-649 and CP77-657.

(C) A certificate of public convenience and necessity is issued to Northern Natural Gas Company in Docket No. CP78-480 to sell natural gas to Panhandle Eastern Pipe Line Company as more fully described in its application filed in this proceeding and as hereinafter ordered and conditioned.

(D) The monthly charges authorized in the certificate of public convenience and necessity issued to Panhandle Eastern Pipe Line Company and Trunkline Gas Company in Docket No. CP78-511 in ordering paragraph (A) of this order will be subject to change (increase or decrease) pursuant to any related rate changes resulting from rate proceedings involving Trunkline Gas Company or Tennessee Gas Pipeline Company.

(E) The certificate of public convenience and necessity issued to Northern Natural Gas Company in Docket No. CP78-480 will be conditioned upon:

(1) The issuance of certificates of public convenience and necessity in the producer proceedings entitled Exxon Corporation in Docket No. CI77-518 and Cabot Corporation in Docket No. CI78-395 authorizing Northern to purchase the offshore supplies underlying the application filed herein in Docket No. CP78-480.

(F) The certificates issued by ordering paragraph (A) and (C) above and the rights granted thereunder are conditioned upon Applicant's compliance with all of the Commission's Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in Part 154 and in paragraph (a) and (e) of Section 157.20 of such Regulation.

(G) Columbia Gas is permitted to intervene in Docket No. CP77-523 subject to the Rules and Regulations of the Commission: *Provided, however,* that participation of such intervener shall be limited to matters affecting asserted rights and interests as specifically set forth in its petition to intervene; and *Provided, further,* that the admission of such intervener shall not be construed as recognition by the Commission that it might be aggrieved because of any order of the Commission entered in this proceeding.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-1331 Filed 1-12-79; 8:45 am]

[1] Notice of each application in the above-styled proceedings was afforded by publication in the FEDERAL REGISTER as follows:

Docket No.	Notice issue date	Citation FR	
CP77-523	Aug. 8, 1977	Pub. Fed. Reg. 42 FR 41449	Aug. 17, 1977
CP77-652	Oct. 17, 1977	Pub. Fed. Reg. 42 FR 56360	Oct. 25, 1977
CP77-657	Oct. 17, 1977	Pub. Fed. Reg. 42 FR 56355	Oct. 25, 1977
CP78-480	Aug. 25, 1978	Pub. Fed. Reg. 43 FR 38902	Aug. 31, 1978
CP78-511	Sept. 21, 1978	Pub. Fed. Reg. 43 FR 45458	Oct. 2, 1978

[6450-01-M]

[Docket No. RP72-134]

EASTERN SHORE NATURAL GAS CO.

Adjustments to Rates and Charges

JANUARY 8, 1979.

Take notice that Eastern Shore Natural Gas Company (Eastern Shore) on December 26, 1978, tendered for filing the following revised tariff sheets:

To be effective January 1, 1979:
Eighth Revised Sheets No. 5 and No. 6 superseding, Seventh Revised Sheets No. 5 and No. 6, Eighth Revised Sheets No. 10, No. 11 and No. 12.

Eastern Shore requests waiver of the 30 days notice requirement pursuant to Section 154.51 of the Commission's Regulations. The revised tariff sheets track a similar filing by Eastern Shore's sole supplier Transcontinental Gas Pipe Line Company (Transco).

Copies of this filing have been mailed to each of the Company's jurisdictional customers and to interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 15, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-1332 Filed 1-12-79; 8:45 am]

[6450-01-M]

[Docket No. ER79-98]

INTERSTATE POWER CO.

Filing

JANUARY 8, 1979.

Take notice that Interstate Power Company on December 7, 1978, tendered for filing a contract supplement dated November 16, 1978 for Contracts Nos. 14-06-600-1557 and 14-06-477.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426 in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 15, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-1333 Filed 1-12-79; 8:45 am]

[6450-01-M]

[Docket No. ER79-112]

JERSEY CENTRAL POWER & LIGHT CO.

Proposed Rate Change

JANUARY 3, 1979.

Take notice that on December 18, 1978, Jersey Central Power & Light Company (Jersey Central) tendered for filing increased tariff rates for all-requirements service to Allegheny Electric Cooperative, Inc., and to the Boroughs of Butler, Lavallette, Madison, Pemberton and Seaside Heights, New Jersey.

Jersey Central states that the increase amounts to $2,130,047, based on calendar year 1979. The reason for the increase, according to Jersey Central, is increased costs and the addition to rate base of its share of the Three Mile Island No. 2 nuclear generating unit.

Jersey Central requests an effective date of February 17, 1979.

Any person desiring to be heard or to make any protest with reference to said filing should on or before January 19, 1979, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to participate as party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The documents filed by Jersey Central Power & Light Company are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-1334 Filed 1-12-79; 8:45 am]

[6450-01-M]

[Docket No. RP79-19]

MOUNTAIN FUEL SUPPLY CO.

Tariff Sheet Filing

JANUARY 8, 1979.

Take notice that on December 18, 1978, Mountain Fuel Supply Company (Mountain Fuel) filed First Revised Sheet No. 60 of its FERC Gas Tariff Original Volume No. 1, Mountain Fuel states that the revised tariff sheet provides for an increase in the transportation rate charged from 4¢ per Mcf to 13.1¢ per Mcf at 14.65 psia to Colorado Interstate Gas Company (CIG) for the transportation of CIG's share of the gas produced in the Fox/Spearhead Ranch area of Converse County, Wyoming. The proposed effective date is January 1, 1979. Mountain Fuel requests waiver of the 30 days notice requirements pursuant to Section 154.51 of the Commission's Rules and Regulations.

Copies of the filing have been served upon the only effected customer, Colorado Interstate Gas Company, and are available for public inspection at the general office of Mountain Fuel Supply Company, 180 East First South, Salt Lake City, Utah.

Any person desiring to be heard and to make any protest with reference to said filing should on or before January 15, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C., 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it, but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing must file petitions to intervene in accordance with the Commission's Rules. Mountain Fuel's tariff filing is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-1335 Filed 1-12-79; 8:45 am]

[6450-01-M]

[Docket No. RP78-50]

NORTHWEST PIPELINE CORP.

Notice of Change in Rates

JANUARY 8, 1979.

Take notice that on December 14, 1978, Northwest Pipeline Corporation ("Northwest") tendered for filing a notice of change in rates for service rendered under its Rate Schedule SGS-1, pursuant to Commission Order dated October 2, 1978. Such order directed Northwest to eliminate the costs related to the expansion of the Jackson Prairie Storage Project if said costs were not approved by October 1, 1978.

The change in rates are reflected on Second Substitute Twentieth Revised Sheet No. 10, tendered herewith, and reduce Northwest's "Demand" and "Demand Credit Amount" rates from 66.76¢ per therm to 66.33¢ per therm. Schedules supporting the rate reduction are included in the instant filing.

Northwest requests that the Commission waive the notice requirement of Section 154.22 of its Regulations in order to allow the tendered tariff sheets to become effective October 1,

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1978, the date authorized by the Commission in its October 2, 1978, Order mentioned above.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 15, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-1336 Filed 1-12-79; 8:45 am]

[6450-01-M]

[Docket No. RP73-36 (PGA 79-1) (DCA79-1)]

PANHANDLE EASTERN PIPE LINE CO.

Change in Tariff

JANUARY 8, 1979.

Take notice that on December 21, 1978, Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing the following Substitute Revised Tariff Sheets to its FERC Gas Tariff, Original Volume No. 1:

First Substitute Twenty-Seventh Revised Sheet No. 3-A.

First Substitute Fourth Revised Sheet No. 3-B.

An effective date of February 1, 1979 is proposed.

On December 14, 1978, Panhandle filed with the Commission a PGA rate adjustment pursuant to Section 154.38(d)(4)(x) of the Commission's Regulations and in accordance with the General Terms and Conditions of Panhandle's FERC Gas Tariff, Original Volume No. 1. This filing, among other changes, reflected a rate adjustment pursuant to Section 18.4 of the General Terms and Conditions, such adjustment reflecting a Pipeline Supplier rate increase. Rate Schedules and rates that consist of a one part rate as well as the Excess-Deficiency Charge of the two-part rate schedules, were not adjusted to include their appropriate portion of the demand cost change under this Section 18.4 adjustment.

Therefore, Panhandle submits these substitute revised tariff sheets to properly reflect the demand cost change under Section 18.4 for one part Rate Schedules and rates.

Panhandle states that copies of its filing have been served on all jurisdictional customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426, in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 15, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-1337 Filed 1-12-79; 8:45 am]

[6450-1-M]

[Docket No. ER77-402]

PHILADELPHIA ELECTRIC CO.

Extension of Time

JANUARY 2, 1979

On December 22, 1978, the Borough of Lansdale and Philadelphia Electric Company filed a joint motion for an extension of time to file briefs on exceptions to the initial decision issued in this proceeding on November 13, 1978. The motion states that these two parties are believed close to an agreement which would obviate the need for briefs. The motion also states that Staff does not oppose the request.

Upon consideration, notice is hereby given that the time for filing briefs on exceptions is extended to and including January 26, 1979. Briefs opposing exceptions shall be filed February 15, 1979.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-1338 Filed 1-12-79; 8:45 am]

[6450-01-M]

[Docket No. ER78-513]

PUBLIC SERVICE CO. OF INDIANA, INC.

Compliance Filing

JANUARY 8, 1979

Take notice that Public Service Company of Indiana, Inc. (PSI) by letter dated October 24, 1978, pursuant to ordering paragraph (G) of the Commission's "Order Accepting Rates for Filing, Rejecting Rate for Filing, Waiving Notice, Suspending Rate Increases, Granting Summary Disposition and Granting Interventions" issued August 25, 1978, in the above docket, filed in compliance with such Commission Order revised tariffs. PSI states that as support of required rate level of such revised tariffs, PSI also files Revised Cost of Service Data in the form of revised Statement N, Statement P, and rate comparisons for all jurisdictional customers showing the effect of the application of the revised tariffs to the customer's billing determinants for Period II, for the twelve-month period prior to the proposed effective date and for the twelve-month period following the proposed effective date.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 15, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-1339 Filed 1-12-79; 8:45 am]

[6450-01-M]

[Docket No. RP79-18]

SOUTHERN NATURAL GAS CO.

Petition

JANUARY 8, 1979.

Take notice that on December 14, 1978, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. RP79-18 a petition pursuant to Section 4 and Section 16 of the Natural Gas Act and Section 1.7 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure requesting that the Commission issue such orders and grant such waivers of its rules and regulations as are necessary to permit Southern to retain in its rate base for a period of five years from March 20, 1979, certain advance payments made to Canadian Occidental of California, Inc. (Can-Oxy), all as more fully set forth in the petition of file with the Commission and open to public inspection.

Southern states that pursuant to two advance payment agreements with Can-Oxy, dated March 20, 1974, it advanced $7,000,000 to Can-Oxy in consideration for the commitment by Can-Oxy of its interest in natural gas reserves in South Pass Block 78, offshore Louisiana. Because of unusual and unforeseen circumstances beyond the control of either Southern or Can-Oxy, deliveries of gas from South Block 78 cannot commence within the requisite five year period from the date the advance payments were made. Since a platform is now in place, drilling is in progress, and it is expected that a pipeline will be constructed to attach the South Pass Block 78 reserves by late 1979, Southern has filed a petition requesting authorization from the Commission to retain in account 166 for a period of five years from March 20, 1979, the expended portion of the $7,000,000 of advance payments it made to Can-Oxy.

Southern states further that it, Can-Oxy, and Oxy Petroleum, Inc. (Oxy-Petroleum), an affiliate of Can-Oxy, have reached certain agreements which are contingent upon the granting of the relief requested and which will significantly benefit the public interest. First, Can-Oxy will pay back immediately all portions of the advance payments which are unexpended on March 20, 1979, and will pay back the then remaining outstanding advance payments over a five-year period commencing with such date, regardless of whether or not deliveries have commenced on such date. The repayment of the outstanding advances in sixty consecutive equal monthly installments substantially accelerates the repayment schedule in the advance payments agreements and thereby shorten the time said advances are included in Southern's rate base. Second, Oxy-Petroleum will commit for sale to Southern, subject to the provisions of this Louisiana State Lease covering a portion of the reserves, its interest in the South Pass Block 57 and 58 gas reserves. Such additional dedication will very substantially increase Southern's commitment in the four-block area composed of South Pass Blocks 57, 58, 77, and 78.

Any person desiring to be heard or to make protest with reference to said petition should on or before January 15, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C., 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-1340 Filed 1-12-79; 8:45 am]

[6450-01-M]

[Docket No. RP72-99]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Order Interpreting Proposed Settlement, Requesting Comments and Setting Oral Argument

JANUARY 4, 1979.

I. SUMMARY

Transcontinental Gas Pipe Line Corporation (Transco) has submitted an Offer of Settlement of most but not all of the pending issues concerning a curtailment plan for that system. The settlement is supported by some of the parties but opposed by others.

The settlement addresses, among other matters, the remand by the U.S. Court of Appeals, D.C. Circuit,[1] of the permanent curtailment plan promulgated by the Federal Power Commission (FPC) for Transco's system in October, 1976.[2] The Court, in its decision, converted the permanent plan to an interim one[3] and directed that the actual current impact on end-use at the burner-tip be considered in the "implementation of curtailment plan for the Transco system."[4] The Court's decision also requires that the issue of compensation be considered on its merits based on an adequate record.[5] The settlement offer would, if accepted by interested parties and the Commission, supersede the remanded interim plan.[6]

Transco filed the settlement offer following extended negotiations with the parties. Rather than signing a settlement agreement, the parties indicated their position on the offer by submittal of initial and reply comments. Several of the parties attached considerable importance in their comments to that portion of the settlement (Article VIII) which indicates how the settlement is intended to operate in conjunction with the Natural Gas Policy Act of 1978 (NGPA). Some parties opposed the settlement because others did not fully endorse Article VIII.

This order sets forth the Commission's interpretation of Article VIII and discusses application of the settlement to the NGPA. This information was not available to the parties in their negotiations. The Commission believes it appropriate therefore in the unusual circumstances of this case, given the evolving nature of the subject matter and the views we express thereon, to afford the parties an opportunity to give us their current position on the settlement as construed and interpreted herein.[7] Those comments—which we hope will reflect the parties' serious consideration of the settlement offer as a long-term solution to Transco's curtailment matters—will be filed by January 11, 1979. The Commission expects to act expeditiously thereafter.

II. SUMMARY OF SETTLEMENT

We here summarize the settlement in some detail as background for our later discussion of it.

A. The settlement proposes to settle virtually all curtailment controversies on Transco's system—past, present and for some time into the future. Compensation is an exception. That issue is largely reserved for hearing.[8]

B. Under the settlement Transco would take various supply actions designed to assure that specific volumes of gas are available to its customers this winter as well as for the 1978-1979 annual period.[9] The settlement is to be effective as of November 1, 1978.

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[1] *State of North Carolina* v. *F.E.R.C.*, Nos. 76-2102, *et al.* (D.C. Cir. July 13, 1978). All references herein are to the Court's July 13 slip opinion without renumbering of footnotes to reflect the one added (footnote 20, p. 21) by the *per curiam* order issued August 29, 1978.

[2] *Transcontinental Gas Pipe Line Corporation*, Docket No. RP72-99, Opinion No. 778 (October 8, 1976) and Opinion 778-A (December 8, 1976).

[3] *State of North Carolina* at 31.

[4] *Id.* at 26.

[5] *Id.* at 31.

[6] The October 31, 1978 Offer of Settlement deals only with allocations. The issue of compensation is reserved for hearing.

[7] Transco is to provide additional information on supplies by January 9, 1979 (*infra*, p. 19) so that the parties may also consider it in their January 11, 1979 comments.

[8] Article VII of the Settlement Agreement. Article VIII also excludes an earlier appeal relating to compensation, *Transcontinental Gas Pipe Line Corporation, et al.* v. *F.E.R.C.* No. 74-2036 (D.C. Circuit).

[9] Transco's Answer and attached Affidavit of November 22, 1978 emphasize that different levels of supply (for the larger customers) will pertain as between the settlement offer and under the existing Opinion 778 plan, if it is continued.

The Affidavit of H. J. Miller, Jr. states at page 2:

"5. As requested by the Staff, the following data show a comparison between the quantities (Mdt's) available for sale to the CD, and ACQ and firm direct customers extrapolated from the Form 16 filed October 2, 1978 and those contained in the offer of settlement.

In order to arrive at the above comparison, the October "(Affidavit, p. 2) The source of additional supplies for this winter is "banked" gas which Transco would have to repay next summer. This amounts to ap-

Footnotes continued on next page

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	October 2, 1978 Form 16	Proposed Settlement	Difference
1978-79 Winter Period	258,125	268,035	9,910
1978-79 Annual Period	631,997	*638,440	4,443

*(sic) (Should be 636,440).

C. Transco's small volume customers would in the first year receive the same entitlements as under the Opinion 778 plan. Article VI of the settlement states that the members of this class of customers will be permitted and are encouraged to transfer entitlements among themselves on a temporary basis during the first year to accommodate varying needs within that group. Aggregate volumes are adequate to accommodate these transfers. However, if voluntary adjustments betweeen members of this class are not successful in protecting high priority needs of these small volume customers, Transco reserves the right to file tariff revisions necessary in its view to accomplish it. If supplies subsequently exceed 680 MMdt, the proposed tariff provides for further adjustment of small volume entitlements based on specified standards.

D. The key to the proposed plan is the supply level pertaining to the large volume customers. This is evident from Article II, "Term of Agreement", which provides:

> This Agreement shall become effective on November 1, 1978 and shall continue in force and effect through October 31, 1979 (the "first curtailment year") and from year to year thereafter so long as Transco's projections of annual volumes available for sale to CD, ACQ and firm direct customers in years subsequent to the first curtailment year are equal to or in excess of 636,440 Mdt. At such time as Transco projects a lower annual volume for any year subsequent to the first curtailment year, Transco shall forthwith move that the Commission convene a conference among all parties to this Docket No. RP72-99 for the purpose of discussion of the appropriate curtailment plan for Transco's system for such subsequent year or years. Transco shall thereupon file such modified curtailment plan as may be agreed upon by the parties or, in the absence of such agreement such other plan as Transco in its judgment believes is just and reasonable. It is understood that any plan which Transco may file other than a plan agreed upon by the parties shall be governed by the provisions of Sections 4 and 5 of the Natural Gas Act.

Amounts in excess of 636 MMdt are allocated in accordance with specified factors with differing factors specified between 636 MMdt and 720 MMdt and above the 720 MMdt benchmark. (Tariff sheets No. 223-224, 230-231).

E. Article VIII of the Settlement is the provision which attempts to merge past, present and, to the extent possible, future controversies into the proposed plan. This last category, dealing with prospective rights of customers and the parties under the NGPA, has been a stumbling block. Article VIII provides in essence that the revised allocations specified in the settlement anticipate and include revisions which might occur under the NGPA when implemented.[10] The lack of full concurrence with this provision by some parties [11] has caused others [12] to object to the settlement. The balance of this order consists primarily of a discussion of how the Commission envisions the settlement working in relation to future actions under the NGPA. The Commission takes this unusual step in keeping with its policy of encouraging settlements and because the effect of the NGPA is a major issue among the parties in the settlement process.[13]

III. Article VIII of Settlement

A. BACKGROUND

Brooklyn Union Gas Company (Brooklyn Union) stated in its initial comments that it considered Article VIII to be of vital importance in achieving stability for all customers on the Transco system. The Company emphasized the necessity for agreement by all *the parties* to this provision. Article VIII distinguishes between the obligations of *parties* and representations made by *customers* of Transco. As will be made clear, we believe Brooklyn Union's principal concerns should be over the representation of the customers. Because of the importance of this Article, we set it out in full.

> ARTICLE VIII
>
> RESOLUTION OF PENDING ISSUES AND SATISFACTION OF HIGH PRIORITY REQUIREMENTS
>
> The *parties* hereto agree that, except for the compensation questions reserved in Article VII hereof and in the pending appeal in *Transcontinental Gas Pipe Line Corporation, et al.* v. *F.E.R.C.*, No. 742036 in the United States Court of Appeals for the District of Columbia Circuit, all pending curtailment issues on Transco's system in Docket No. RP7299, whether related to the court remand referred to in Article I hereof or related to outstanding Commission orders concerning issues not resolved by Opinion Nos. 778 and 778-A, shall be deemed to be resolved by this Agreement in a manner consistent with the Natural Gas Act and the Natural Gas Policy Act of 1978. In addition, all *customers* presently expect that, during the effectiveness of this Agreement, adequate supplies from Transco and other sources, including but not limited to emergency gas supplies, will permit service to all high priority consumers. Therefore, while this Agreement remains in effect under the terms of Article II hereof, the *parties* agree that no modifications of the curtailment plan embodied in this Agreement and, except for emergency relief as defined in Section 13.3 of the General Terms and Conditions of Transco's FERC Gas Tariff, no relief from the effect of the curtailment plan embodied in this Agreement shall be sought either under 2.78(b) of the Commission's General Policy and Interpretations promulgated under the Natural Gas Act or under Title IV of the Natural Gas Policy Act of 1978. (Emphasis ours).

In sum, this provision has two components. It is intended to wipe the slate clean of all pending curtailment matters except those identified pertaining to compensation. The matters resolved by this part of Article VIII basically pertain to the Opinion 778 plan. The second aspect of this Article relates to the proposed plan and future conduct relating to it. In this latter area, the comments indicate that at least one basic purpose of the provision is to assure that the distribution companies who have received substantial additional gas under the settlement would not be able at a later date to submit requests for allocations under the NGPA which were intended to be covered by the settlement. Avoidance of a double recovery is Article VIII's aim.

The distinction made in Article VIII between parties and customers takes on significance when assessing the comments received on the proposed settlement. It appears to us that the customers about which Brooklyn Union is perhaps rightly concerned have responded in a manner consistent with the provision which states that to the extent dependent on the settlement, supplies received would be adequate to serve all high priority requirements—including those recognized under the NGPA. For example, North Carolina Natural indicated in its initial comments that the volumes allocated under the settlement agreement would be sufficient and that by utilizing its full storage capacity, it "should be able to serve under normal weather conditions its essential firm markets for both the winter periods and the annual periods, including the Farmers Chemical Association nitrogen fertilizer facility at Tunis, North Carolina."[14] On the other hand, Farmers Chemical, a party to the curtailment proceeding but not a directly-served customer of Transco, states that while it has no objection to the allocations, it is not waiving rights under the NGPA, including the right to have Transco's allocations to conform with the new law.[15] But Farmers Chemical's assertion as to reservation of right under the NGPA is immaterial since its supplier, North Carolina Natural, has indicated that it will have adequate supplies to meet Farmers Chemical's requirements.

North Carolina Natural, Public Service Company of North Carolina and Piedmont, however, do express a reservation about one aspect of Article VIII. Fundamentally, they note that the proposed plan could become a *de facto* permanent plan if Transco's future supplies continue as projected. They urge a limit on the time during which the plan would be impervious to change based on the NGPA. In addition, they suggest that it should not serve as a bar if circumstances arise which were not reasonably foreseeable. But all state, in essence, that it is not their desire that Article VIII be abolished or that its basic intent be distorted. Piedmont, for example, states that it "agrees that the allocations in the Settlement Agreement should be considered permanent except in the event of circumstances not presently reasonably foreseeable."[16] We think that these are reasonable, responsible requests. We believe our interpretation of Article VIII and its relation to the NGPA adequately recognizes these concerns without sacrificing the benefits of certainty and stability which would otherwise accrue under the settlement.

One party who is not a customer—the State of North Carolina and the North Carolina Utilities Commission (filing jointly)—takes exception to Article VIII. This exception is mitigated somewhat by the statement that North Carolina is unable to waive for the *indefinite future*, whatever rights may be granted to it by the new statutes (referring to NGPA). We respect North Carolina's views as a representative of the ultimate consumer in the State of North Carolina. We are not certain, however, that North Carolina's reservation is material in a light of the comments by distributors in the State of North Carolina who, as customers of Transco, offer representations more nearly in compliance with the spirit of Article VIII.[17]

The views of another party—also not a customer—are pertinent. The New York Public Service Commission, by reply comments supporting the settlement, states:

> We recognize that a number of parties otherwise supporting or not objecting to the Transco proposal have raised questions or caveats with respect to Article VIII. Since New York supports the Article as a necessary and integral part of any settlement, we wish to set forth our views thereon. We do not read Article VIII as binding upon the Commission in the envent it determines that regulations adopted pursuant to Section 401-403 of the NGPA require modifications to an effective curtailment plan. We do understand Article VIII to reflect the understanding of the parties that the Transco plan was drafted in the light of the provisions of the NGPA and that accordingly they will not initiate action to upset the plan on grounds that they might be entitled to additional gas from Transco under such general regulations as may be prescribed under the new Act. We can understand that, as indicated in the Piedmont comments, circumstances not presently reasonably foreseeable might arise during the period in which the settlement is in operation which might justify a petition to reopen the proceeding. But there obviously is no settlement if those parties securing significant immediate benefits in terms of additional gas could within a year or so demand more on the basis of the regulations adopted pursuant to the NGPA. (Comments p. 2-3)

We believe the standards set forth below for dealing with NGPA requests post-settlement are generally consistent with the views expressed by the New York Public Service Commission.

B. ARTICLE VIII AND NGPA

We start with the fundamental assumption that, as between the parties, the waiver of rights provision of Article VIII may be given effect.[18] As to its

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proximately 4,000 Mdt which would be retained in storage under the Opinion 778 plan. 6,265 Mdt is obtained based on the assumption that "normally anticipated producer outages" do not occur. The affidavit further states:

"In the event that the above possibilities of additional gas do not yield sufficient quantities to make up for the difference between the Form 16 and settlement allotments, Transco would acquire the necessary gas under FERC's emergency rules to satisfy the deficiency. Should it be necessary for Transco to purchase emergency supplies, there is an abundance of such supplies available from intrastate sources." (p. 2).

Article V of the Settlement Agreement provides that "the Commission is requested to provide assurance to Transco and the other parties that if, and only if, emergency gas volumes are required to be obtained under the Natural Gas Act in order that Transco will be enabled to protect the annual period entitlements and winter season allotments for the first curtailment year Transco will be permitted to obtain such emergency gas volumes." The Staff opposed this provision on the grounds it impermissibly sought advance approval of the rate treatment of emergency purchases. However, Transco in its November 22, 1978 Answer advised that the section was intended to deal only with *eligibility* for purchase of such supplies and noted that this concern would effectively become moot if we adopted the then existing proposed regulations on this subject. These regulations were, in essence, adopted and will apply for a limited term. It is therefore unnecessary for us to consider the waiver requested in Article V.

[10] The revisions also contemplate some adjustments potentially flowing from the remand in *State of North Carolina.*

[11] These include the State of North Carolina and the North Carolina Utilities Commission (filing jointly); The City of Danville, Virginia; North Carolina Natural Gas Corporation; Piedmont Natural Gas Company, Inc.; and Public Service Company of North Carolina, Inc. In addition, Elizabethtown Gas Company and Philadelphia Gas Works oppose the settlement outright.

[12] Brooklyn Union Gas Company, Public Service Electric and Gas Company and Pennsylvania Gas and Water Company.

[13] At the same time, the Commission emphasizes that it makes no present judgment as to the merits of the proposed settlement as interpreted herein.

[14] Initial Comments, North Carolina Natural Corporation, November 13, 1978, at I.

[15] Comments of Farmers Chemical Association, Inc., November 13, 1978, at 1.

[16] Initial Comments of Piedmont Natural Gas Company, Inc., November 13, 1978, at 1.

[17] There *may* be an exception. The sole entity, who is both a customer and a party, to register unqualified opposition to Article VIII is the City of Danville, Virginia. Danville in *its initial comments* stated: "Danville supports the settlement plan with the following qualifications. The allocated volumes are not sufficient to serve the City's high priority markets, but at least the allocations are better than under the Opinion 778 plan. We cannot possibly agree, as Article VIII requires, to waive any right of the City has under law, *i.e.*, the Natural Gas Policy Act of 1978." (Comments of the City of Danville, Virginia, filed November 14, 1978, at p. 4.) Transco, by reply, states that "The winter and annual allocations to the City of Danville in the first year, when combined with the available supplies of gas under FPC Order No. 533 and FERC Order No. 2 will provide more than enough gas for Danville to serve its residential and commercial customers and industrial customers utilizing natural gas for feedstock, process and plant protection purposes." Transco, (Miller Affidavit at p. 3.) Danville received 2,697 Mdt in 1977-1978. Under Opinion 778, in 1978-1979, they would receive 3,170 Mdt; under the settlement they will receive 4,167 Mdt. It is thus clear Danville will receive a significant increase under the settlement relative to its size. The question of possible additional allocations may be moot since Danville in Reply Comments filed November 24, 1978 states:

"Apparently some parties were concerned that Danville's reservation about Article VIII indicated acceptance of the curtailment plan's volumes, along with an intent to see additional volumes because of rights under the [NGPA]. In clarification, Danville's reservation on Article VIII simply means that the Commission cannot be prohibited by a settlement agreement among Transco's customers from carrying out its responsibilities under the Natural Gas Act, the [NGPA] or any other law.

". . . Danville continues to support the settlement agreement as a long-term plan. . . ." (Reply Comments, pp. 1-2)

[18] Some elements of Article VIII are analogous to provisions which have previously been approved by this Commission. For example, the settlement in *Southern Natural,*

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application to this agency, we make clear at this point that we would not be bound by Article VIII, if (and to the extent) we are in the future presented with the situation where performance of our statutory duties (under either the Natural Gas Act or the National Energy Act) is found to conflict with this provision. Most, if not all the parties, appear to recognize that this must be the case.

The NGPA and other legislative initiatives constituting the National Energy Act are newly enacted and their full effect cannot be reasonably foreseen at this time. In the curtailment area, the relevant provisions of the NGPA are contained in Sections 401 and 402. Implementation of Section 402 (industrial process gas) will require substantial end use information which is not now uniformly available on an updated basis. It thus is not of immediate concern.

Implementation of Section 401, however, must be accomplished to the maximum extent practicable not later than 120 days [19] after the date of enactment of the NGPA. At that time, it will be necessary to consider whether the then existing curtailment plans of interstate pipelines can adequately protect essential agricultural users from curtailment. Under these circumstances, we cannot now say whether the deliveries under the subject settlement would meet all the ultimate requirements of Section 401. However, it would be the Commission's intent to fully consider the impact on this settlement in implementing Section 401 for Transco's customers. In other words, we would attempt to maintain the integrity of the settlement to the extent reasonable under the circumstances. [20]

For example, in the case of a customer [21] who indicated acquiescence in Article VIII but later sought modification based on the NGPA, such a request would be examined, assuming it complied with the basic provisions of the NGPA such as Title IV, to determine whether a double recovery was being sought by the customer.[22] In this instance, a customer's representation by comments submitted in this proceeding would be measured against those contained in the application. A full explanation of any discrepancies would be required.

We believe the views we have expressed are consistent with NGPA requirements. That Act will, of course, affect curtailment plans. However, it does not require that adjustments be blindly made, but rather "to the maximum extent practicable." [23] The settlement proposal is consistent with this concept to the extent it anticipates requirements under the NGPA (as best they can be foreseen at this time) and provides for modification of the existing Opinion No. 778 plan at this time.

IV. Further Comments

As an aid to the parties in considering the settlement in light of the Commission's interpretation of Article VIII, the following comments on various aspects of the proposed settlements are presented.

A

This settlement contains a simple and certain method for allocating supplies. Some parties would receive less gas under the settlement than they would at the lower levels which would pertain in the upcoming year for the Opinion 778 plan, but no one would receive less gas under the settlement than he received last year under the Opinion 778 plan (on an annual basis). [24]

Our assessment of the comments on the proposed settlement leads us to conclude that no one who would be aggrieved by the revised allocations applicable under the settlement agreement objects unconditionally to the allocation feature of the proposed plan. Rather, those who do object (and who may be technically aggrieved) object principally on the basis that the deal struck—revised allocations in exchange for the certainty and stability of a true settlement,—is being jeopardized by comments of other parties. Brooklyn Union's and Public Service Electric and Gas Company's (PSEG) objections appear premised on this basis.

The objections of PSEG and Brooklyn Union,[25] surfaced fully only in their reply comments. Their basic view appears to be that the settlement, because of comments submitted by various parties—particularly those questioning Article VIII providing for waivers under the NGPA-would not provide a viable long-term solution to Transco's curtailment controversies. Rather, further extended litigation could be expected. We have addressed these concerns in our construction of Article VIII and the statement of our intent, as best we are able to render it at this time, of how requests under the NGPA would be dealt with in light of the settlement. We hope our treatment of that matter will remove the objection of these two parties.[26]

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Opinion No. 5, Opinion And Order Approving Settlement Describing Permanent Curtailment Plan, Docket No. RP74-6 *et al.* (November 17, 1977) approved a provision which provides that plan may not be contested for a period of two years. (Slip Op. at 22).

[19] Proposed regulations dealing with § 401 will issue very shortly.

[20] At the same time, proponents of Article VIII must recognize that the settlement would not be considered to be inviolate. In the past, the FPC and this Commission have attempted to recognize unique load characteristics, customer blend and operating requirements of individual pipelines in the formulation of curtailment plans. In promulgating rules for the implementation of Title IV of the NGPA, the Commission will continue to adhere to that policy. Indeed, Section 502(c) of the NGPA contemplates such exceptions to our rules "as may be necessary to prevent special hardship, inequity, or on an unfair distribution of burdens."

[21] We assume ultimate consumers who are neither parties nor customers would not be directly affected by the provision. It does not bar such rights as they may have under the NGPA, but rather appears to re-direct them, at least in the first instance, to the distributor-customer.

[22] Transco's Answer also includes this pertinent statement: "If the Commission should approve the settlement embodied in the offer, it would be the intent of Transco to strive to protect the integrity of this settlement, including the provisions of Article VIII, based upon circumstances existing at the present time and reasonably foreseeable for the future. While we would not expect the Commission to attempt to waive any of its statutory responsibilities and while it is always possible that unforeseen changed circumstances could intervene Transco would expect that any private party and any state and local governmental body would have an extremely heavy burden of persuasion if such party accepts the present fruits of the settlement and later attempts to overcome any essential feature of the settlement." (*Id.* p. 3-4) The standard announced above in the text of this order should not necessarily be equated with that of "an extremely heavy burden of persuasion." However, the Commission would accommodate the settlement solution where possible.

[23] NGPA §§ 401-402. *See also*, H. R. Rep. No. 95-1752, 95th Cong., 2d Sess. 112-115 (October 19, 1978).

[24] Miller affidavit attached to Transco Answer, November 22, 1978 at p. 2. This affidavit also states at p. 1:

"2. The "Offer of Settlement . . . . was developed as a means of allocating the available supplies on the Transco system for the next several years in a manner which protects actual high priority markets on the system without the necessity of a lengthy data collection and hearing process. One indication that the settlement will actually protect the high priority markets on the system is the fact that, as a result of a recent survey of its customers, Transcso has determined that, barring some unforseen extraordinary circumstance, the allocation procedures set forth in the settlement will enable all of its distribution customers to serve their high priority markets without the necessity of those customers acquiring emergency supplies for this coming winter. The responses of the customers in this regard have been specifically conditioned upon approval of the settlement . . . ."

[25] Pennsylvania Gas and Water Company, in reply comments of November 22, 1978, voices essentially the same concerns. However, that Company, somewhat like Elizabethtown, would not appear to be aggrieved since it would receive the same volume in 1978-1979 under both plans.

[26] We preceive concern over the integrity of the settlement to be Brooklyn Union and PSEG's principal concern based on analysis

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In contrast to PSEG and Brooklyn Union, Elizabethtown Gas Company (Elizabethtown) and Philadelphia Gas Works (PGW) opposed the settlement from the start. Their objections appear to be for entirely opposite reasons.

Elizabethtown apparently objects to this settlement only because it does not provide for curtailment on a pro rata basis. Public Service Company of North Carolina, Inc.'s reply comments place this objection in context.

> (T)he fact [is] that the *Settlement has no material adverse impact upon Elizabethtown.* Elizabethtown's central contention, for example, is that curtailment on the Transco system should be carried out, to the extent possible, on a proportionate basis.

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of their reply comments. We do not think that allocations under the proposed plan are the problem since neither party opposed the plan in their initial comments. Rather, both emphasized the need for substantial support of the settlement by the parties. Their complaint as to the allocations arose only in their reply comments. Even then, only Brooklyn Union addresses the proposed plan in detail. We know that both Brooklyn Union and PSEG would receive more gas under the settlement than they received last year and, in PSEG's case, more than was expected as recently as April of this year. Neither has made more than a vague representation that the amounts allocated would not be enough to cover their high priority needs. Moreover, Brooklyn Union in its assertion that the adverse impact on it of the proposed settlement compared with the opinion 778 plan would be approximately $14 million has assumed in its comparison that the higher level of supply under the settlement plan would also apply to the Opinion 778 plan (Brooklyn Union reply at 9). At the lower levels of supply which would pertain under the 778 plan (at least for the next year) if it were to continue, the adverse impact on Brooklyn Union would be significantly reduced to something on the order of $5 million (assuming *arguendo* a $2.50 per Dt value for replacement gas). We consider even that figure to be speculative depending on Brooklyn Union's total *pipeline* supplies. The comparison should not have been of 75,712 Mdt (under 778) versus 70,028 Mdt (under the settlement), but rather 72640 (under the existing 778 plan) versus the 70,028 Mdt they would receive under the settlement. (*See* appendix B to Elizabethtown's Initial Comments and Miller Affidavit attached to Transco Answer at p. 2). In terms of Brooklyn Union comments on volumes that would be received by other parties, one item is of interest. Brooklyn Union's comments, p. 10, show the volumes that North Carolina Natural, Piedmont and PSNC would receive. The column entitled excess allocation (5) includes 5,610 Mdt for North Carolina Natural. Objection on this point appears totally to ignore the fact that Farmers Chemical which presumably would be entitled to substantially increased supplies under the NGPA is served by North Carolina Natural. Moreover, North Carolina Natural noted that contrary to PGW's suggestion, that hey in fact have advised Transco of possible need for emergency supplies.

However, a review of the Elizabethtown's own proffered "Statement of Thomas F. Withka" and attached Appendices shows that (1) for the 1978-79 annual period, Elizabethtown's proportionate allocations is an insignificant 118 Mdt (0.7%) greater than under the Settlement (Appendix B) and (2) for the 1979-80 annual period, Elizabethtown's proportionate allocation is *178 Mdt less than under the Settlement* Appendix C). Thus, Elizabethtown would be in a generally better position as to the allocation of volumes if the settlement were accepted. (PSNC reply comments, pp. 4-5.)

It appears, therefore, that Elizabethtown would not be aggrieved by the settlement. *Philadephia Gas Works* v. *FPC et al.*, 557 F.2d 840 (D.C. Cir. 1977).

Unlike Elizabethtown, PGW is a leading proponent of the end-use concept embodied in the Opinion 778 plan. Under the proposed settlement, PGW would receive 39,186 Mdt in 1978-1979; under the Opinion 778 plan, 40,809 Mdt. However, PGW's basic point appears to be that the settlement should be rejected because its adoption would be contrary to the remand in *State of North Carolina* which requires reexamination (rather than abandonment) of the Opinion 778 plan. We cannot agree that we are limited solely to consideration of the existing plan.[27] Moreover, assuming a return to hearings for that purpose, it is uncertain how well PGW would fare. The Court observed that in accordance with the October 1976 tariff filing, PGW was a "favored" customer who also has access to other pipelines supplies (besides Transco's).[28] The Court's remand, of course, would require that we consider whether adjustments should be made in that circumstance based on an examination to determine whether.

> . . . without the shift effected in the name of end use by the 778 plan, any of the five favored customers would have insufficient *pipeline* gas to serve high-priority uses which could be served by the disfavored customer absent the transfer. (Slip Op. 24, emphasis added).

Transco, in its reply comments, provides the following information which would appear to effectively negate PGW's opposition to the settlement.

> With respect to Philadelphia Gas Works, staunch and consistent advocate of the Opinion No. 778 plan despite the fact that it has been remanded by the Court of Appeals, (footnote omitted) no contention is made by PGW that the basic allocations provided by the settlements will not permit PGW to serve fully its markets without resort to emergency gas. Indeed, as shown by the attached statement by Mr. Miller, PGW would be receiving this winter from its *pipeline* sources substantially more gas than it received last year and it is Mr. Miller's opinion that PGW will be able to serve its markets under the offer of settlement without acquiring emergency gas.[29] (Transco Answer at page 2, emphasis ours).

PGW also argues that the impact assessment requirement of *State of North Carolina* has not been met. Considerable information has been submitted which addresses this concern (e.g., EIA Form 50 material provided by the staff and the comments of the parties on the proposed settlement). However, additional information as to the impact of the proposed plan on end-use is desirable. *Accordingly, we are directing that each of Transco's customers file an affidavit with the Commission on this subject by January 11, 1979.* What we desire, given the brief time period allowed, is each customer's best available assessment of the plan's impact. We do not specify a rigid format. However, each affidavit must include a discussion of the distributor's ability to serve its residential, commercial and industrial customers as a result of deliveries contemplated under the settlement through October 31, 1979. Impacts such as potential shut-down of industrial facilities should also be noted.

B

Transco's affidavit attached to its November 22 Answer states that different levels of supply would be applicable to the existing Opinion 778 plan and the proposed settlement. A comparison was provided for both plans for the 1978-1979 Winter Period as well as to the 1978-1979 Annual Period.[30]

Brooklyn Union by telegram of December 18, 1978 stated it has been advised by Transco "that Transco's supply available for market this winter will increase by approximately eleven billion cubic feet over the supply previously projected to be available in Transco's September Form 16." Brooklyn Union urges that this matter is material to full consideration of the settlement.

The Commission desires to have the matter of available supplies clarified. Accordingly, Transco is directed to file a statement of its current supply situation by January 9, 1979. If that evaluation differs from that contained in Transco's November 22 statement, the reasons for and the significance of those changes—as to both the existing

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[27] *See, Michigan Consolidated Gas Co.* v. *FPC*, 283 F. 2d 204, 224 (D.C. Cir. 1960).

[28] *State of North Carolina* at 24.

[29] PGW's other pipeline supplier, Texas Eastern, Delivered 33,563 Mdt to PGW in the period September 1, 1977 to August 31, 1978. Texas Eastern projects deliveries to PGW for the same period in 1978-1979 of 34,056 Mdt. (Form 16, filed October 16, 1978).

[30] Statement of H. J. Miller, Jr., Concerning Offer of Settlement in Docket No. RP72-99 at p.2.

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Opinion 778 plan and the settlement plan—shall be discussed in detail.[31]

C

We now ask the parties, in light of our construction and interpretation of the settlement and other comments herein, to provide their present view on the proposed settlement.[32] The parties shall advise us of their conclusions in this regard (including consideration of Transco's January 9, 1979 submittal dealing with supplies) by January 11, 1979. Oral argument will then be heard, *Friday, January 12, 1979.*[33] We expect to act on the settlement expeditiously thereafter.

The Commission Orders: (A) Transco shall submit the information on supplies discussed in Section IV B of this order by January 9, 1979.

(B) All parties wishing to file comments on the settlement as construed and interpreted in the body of this order and the information on supplies provided by Transco shall have until January 11, 1979 to do so.

(C) Each customer shall file the affidavit on end-use impact described in the text of the order at page 18 by January 11, 1979.

(D) Oral argument in this proceeding shall be held in Hearing Room A, 825 North Capitol Street, N.E., Washington, D.C. at 1:30 p.m. on January 12, 1979. Requests to participate in the oral argument shall be filed with the Secretary on or before close of business January 10, 1979.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-1341 Filed 1-12-79; 8:45 am]

[31] Transco's affidavit, *supra*, fn. n. 30, states that the settlement proposal "was developed as a means of allocating the available supplies on the Transco system for the next several years. . . ." (*Id.*, p. 1). Article II of the settlement establishes a base of 636 MMdt for CD, ACQ and firm direct customers and provides for continuation of the plan from year-to-year assuming availability of at least this base amount. Volumes in excess of 636 MMdt are allocated in accordance with specified factors. (Tariff sheets, p. 223-224; 230-231). Under these circumstances, information on Transco's near-term supply situation (*e.g.*, 1979-1982) would aid our evaluation of the settlement. Accordingly, Transco's submittal should encompass such information to the extent reasonably available at this time.

[32] Unlike the requirement applicable to each customer for filing an affidavit on end-use impact (*supra*, p. 18), it is not mandatory that all parties file comments on this order.

[33] Parties having similar positions on the settlement should consolidate their positions and make a collective appearance through the use of a single spokesman. We reserve the right to limit participation in the oral argument to avoid repetitive presentations.

[6450-01-M]

[Docket No. ER79-109]

VIRGINIA ELECTRIC & POWER CO.

Tendered Revised Contract Supplement

JANUARY 3, 1979

Take notice that on December 15, 1978, Virginia Electric and Power Company (VEPCO) tendered for filing a new supplement to the contract between VEPCO and Virginia Electric Cooperative. VEPCO states that the new contract supplement is for a new delivery point which has been requested by the Cooperative and designated Greenwood Delivery Point.

Delivery Point: Greenwood. Proposed FERC No. 87-32.

VEPCO requests that the Commission allow the Greenwood Delivery Point Supplement to become effective on the date the facilities are connected with the understanding that VEPCO will notify the Commission of the effective date.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 12, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-1342 Filed 1-12-79; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[Program Requirements Memorandum PRM No. 79-2; FRL 1037-6]

GRANTS FOR CONSTRUCTION OF TREATMENT WORKS

Royalties for Use of or for Rights in Patents; Final Program Policy Issuance

INTRODUCTION

To assure national uniformity in program implementation and to provide policy direction in integrating the various complex requirements of the Federal water pollution control program EPA headquarters periodically issues policy and operational guidance documents to the EPA Regional Offices and others involved in the grants program.

A Program Requirements Memorandum conveys basic program policy. The specific provisions of a Program Requirements Memorandum will not be available in existing regulations or in other EPA policy documents.

The Environmental Protection Agency encourages the development of new products, apparatus and processes that will reduce the cost of construction, operation and maintenance of wastewater treatment works. Toward this end, it is necessary to clarify existing policy and procedures regarding the payment of royalties in the construction grants program.

Generally, Federal participation in the payment of a royalty is an allowable cost. There are, however, certain technical, legal and financial judgments that the grantee must make prior to paying such costs or charges. The grantee must determine the applicability of the technology to their project, their legal obligation to pay any royalty or license fee, and then ascertain the reasonableness of the cost or charge.

This is a notice that Program Requirements Memorandum PRM No. 79-2 was issued to EPA's Regional Administrators on November 13, 1978. The contents of that Program Requirements Memorandum are included with this notice.

THOMAS C. JORLING,
Assistant Administrator for Water and Waste Management.

PURPOSE

This memorandum sets forth Agency policy and procedures concerning the allowable cost associated with the procurement of the right to use, or the rights in, a patented product, apparatus or process which is necessary for the proper performance of a construction grant agreement or subagreement thereto.

DISCUSSION

Questions have been raised about the allowability of royalties for the use of or for rights in patents. Royalties are itemized costs or charges in the nature of patent royalties, license fees, patent or license amortization costs, or the like. Such royalties are paid to a patent licensor either by the grantee or by a contractor, who in turn separately charges the grantee for this actual cost.

This memorandum addresses the payment of royalties during the construction of the waste treatment works, as distinguished from the grantee's periodic payment of royalties for the right to operate under a patent. Periodic payments are operating costs and are not within the purview of this memorandum. Any part of a license fee, beyond a mere royalty, which can be attributed to services rendered by the licensor is also beyond the purview of this memorandum.

There are at least two occasions when the grantee may be obligated to pay a royalty for the use of or for rights in patents:

1. The treatment works design includes a patented product, apparatus, or process, or

2. A patented product, apparatus or process may be necessary for the proper performance of a subagreement to a construction grant.

POLICY

Royalties for the use of or for rights in patents are allowable costs within the limits of the principles and procedures contained herein.

IMPLEMENTATION

1. The grantee shall report to the EPA Project Officer, with copies for the EPA Regional Counsel, the following information, if applicable, for each item of royalty in excess of $1,000 which the grantee will be obligated to pay as an actual cost:

a. Name and address of licensor;
b. Date of license agreement;
c. Patent Numbers;
d. Brief description, including any part or model numbers of each contract product, apparatus, or process for which the separate royalty is payable;
e. Percentage or dollar rate or royalty per unit or other method of determining the royalty;
f. Unit price of contract items;
g. Number of units;
h. Total dollar amount of royalties; and
i. Current license agreements.

2. Prior to selecting a patented product, apparatus, or process for the treatment works, on which an item of royalty must be paid, the grantee must consider:

a. The necessity and reasonableness of the royalty.
b. The royalty in any cost-effective analysis and as an evaluation factor in any bid analysis;
c. The use of performance type specifications for competitive procurement of a royalty-free product, apparatus or process; and
d. The use of Step 3 bid alternatives to each proposed patented product, apparatus, or process on which a royalty must be paid.

3. The grantee shall obtain and submit to the EPA Project Officer, with copies for the EPA Regional Counsel, as soon as the patented product, apparatus or process, on which a royalty must be paid, has been proposed in the facilities plan or design, a copy of the proposed license agreement.

4. Royalties on a patent necessary for the proper performance of the grant agreement or any subagreement thereto and applicable to grant products, apparatus or processes, are allowable unless:

a. The Federal government has title to the patent or a royalty fee license with the right to sub-license the grantee;
b. The patent has been adjudicated to be invalid, or has been administratively determined to be invalid by an Agency of the Federal government;
c. The patent or license agreement is considered to be unenforceable by the grantee or an Agency of the Federal government;
d. The patent either has expired or will expire prior to the incurrence, by the grantee, of any possible infringement liability;
e. The grantee has received from a patent attorney, an opinion that the patent is either not infringed or invalid.

5. The grantee shall determine whether any of the circumstances of paragraph 4 above exist. The grantee may also be advised by EPA to make a study of the validity, infringement or other aspects relating to the enforceability of the patent. All costs incurred by the grantee in making the required determinations and studies will be allowable, provided that prior approval of the anticipated costs has been received from the EPA Project Officer, with the advice of the EPA Regional Counsel.

Written reports of such determinations and studies shall be submitted to the EPA Project Officer, with copies for the EPA Regional Counsel.

6. If the implementation of the facilities plan would obligate the grantee to the payment of royalties for the use of or rights in patents in excess of $5,000, the grantee's public hearing, held in accordance with 40 CFR 35.917-5, shall include a discussion of the proposed or selected patented product, apparatus or process, and afford concerned commercial interests adequate opportunity to express their views.

7. Special care should be exercised by the grantee in determining reasonableness of the royalties where they may have been arrived at as a result of less than arm's length bargaining; e.g.:

a. Royalties to be paid to persons, including corporations, affiliated with the party requiring payments of such royalty or license fee;
b. Royalties to be paid to unaffiliated parties, including corporations, under an agreement between the person requiring payment and the patent licensor which was entered into in contemplation that the EPA grant or grantee's contract would be awarded; or
c. Royalties to be paid under an agreement between the person requiring payment and the patent licensor which was entered into after the award of the grant by EPA or the contract by the grantee.

8. In any case involving a patent formerly owned by the grantee's contractor, the amount of royalty allowed will not exceed the cost which would have been allowed had the contractor retained title thereto.

9. The royalty shall not exceed the lowest rate at which the licensor has offered or licensed a public or private entity.

10. When negotiating the royalty, the grantee should consider the technical and financial risk that they must assume and the future commercial benefits that may accrue to the licensor as a result of the grantee's utilization of the patent.

11. EPA payment will normally not be made on a royalty until Step 3. Certain exceptions should be allowed when the use of a patented product, apparatus, or process is necessary for the proper performance of the grant agreement, or a subagreement, during Step 1 or 2. The grantee's license or other agreement whereby the grantee was obligated to pay a royalty, must be submitted with the request for EPA payment. If the grantee's payment is made to a licensee, a copy of that licensee's agreement with its licensor must be submitted with the request for EPA payment.

Dated: November 13, 1978.

JOHN T. RHETT,
Deputy Assistant Administrator, Water Program Operations.

FRANCES E. PHILLIPS,
Associate General Counsel, Grants, Contracts and General Administration.

[FR Doc. 79-1267 Filed 1-12-79; 8:45 am]

[6560-01-M]

[FRL 1037-5; OPP-30000/14B]

REBUTTABLE PRESUMPTION AGAINST REGISTRATION OF PESTICIDE PRODUCTS CONTAINING PRONAMIDE

Determination and Availability of Position Document

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Notice of Determination and Availability of Position Document on Pronamide.

SUMMARY: On May 20, 1977, the EPA published in the FEDERAL REGISTER (42 FR 25906) a notice of rebuttable presumption against registration

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(RPAR) of pesticide products containing pronamide, a pesticide used primarily on lettuce and alfalfa. Registrants and other interested persons were provided the opportunity to submit data and information to rebut the presumption. After reviewing the rebuttals the EPA has determined that the cancer risk announced in the pronamide RPAR has not been rebutted, and that the uses of pronamide pose a risk of cancer to certain exposed groups. The Agency has also reviewed information relating to the benefits of these uses, and has determined that there is a significant benefit from the use of pronamide on lettuce, that there are less significant benefits from alfalfa, and that the benefits of small volume uses such as berries, turf, sugarbeet seed, and woody ornamentals are unquantifiable. However, after considering the risks in relation to benefits, the Agency has determined that these risks may be reduced by modifying the terms and conditions of registration and it will reregister all uses of pronamide provided that registrants amend the terms and conditions of registration, lower the lettuce tolerance, and provide monitoring reports of pronamide residues in milk at 5 year intervals concurrent with reregistration.

DATE: Comments must be received on or before February 14, 1979.

ADDRESS COMMENTS TO: Federal Register Section, Program Support Division (TS-757), Office of Pesticide Programs, EPA, Room 401, East Tower, 401 M St., S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Richard Troast, Project Manager, Special Pesticide Review Division, Office of Pesticide Programs (TS-791), Room 447, East Tower, EPA (202/755-8050).

SUPPLEMENTARY INFORMATION: The Notice of Determination and the Pronamide Position Document set forth in detail the reasons for the regulatory actions being proposed. As required by the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, copies of this Notice of Determination and the Position Document are being transmitted to the Secretary of Agriculture and the Scientific Advisory Panel for comment; these documents are also being provided to the affected registrants and applicants for registration. Other interested persons may receive a copy of the Position Document by contacting Richard Troast, Project Manager, at the address given.

Anyone may comment on the proposed actions. All comments should be sent to the Federal Register Section at the EPA Headquarters address given. Copies of the comments should be submitted to facilitate the work of the Agency and others interested in inspecting the comments. The comments should bear the identifying notation OPP-30000/14B.

I. Introduction

On May 20, 1977, the Environmental Protection Agency issued a notice of rebuttable presumption against registration and continued registration ("RPAR") of pesticide products containing pronamide (42 FR 25906), thereby initiating the Agency's public review of the risks and benefits of the registered uses of pronamide, and the uses for which applications for registration are pending. This notice constitutes the Agency's Notice of Determination ("Notice") pursuant to 40 CFR 162.11(a)(5), terminating the pronamide RPAR.

In broad summary, the Agency has determined that the cancer risk presumption announced in the pronamide RPAR has not been rebutted, and that the cancer risk that pronamide poses to certain exposed groups is of sufficient concern to require the Agency to consider whether offsetting economic, social or environmental benefits exist. The Agency has considered benefits information, including that submitted by registrants, interested persons and the United States Department of Agriculture, and has analyzed the economic, social and environmental benefits of the uses of pronamide. The Agency has weighed risks and benefits together, in order to determine whether the risks of each pronamide use are warranted by the benefits of the use. In weighing risks and benefits, the agency considered what risk reductions could be achieved, and how risk reduction measures would affect the benefits of the use.

The Agency has determined that the risks of all uses of pronamide are greater than the social, economic and environmental benefits of these uses, unless risk reductions are accomplished by modifications in the terms of conditions of registration, as described below. The Agency has further determined that these modifications in the terms or conditions of registration accomplish significant risk reductions, and that these risk reductions can be achieved without significant impacts on the benefits of the uses. In addition, the Agency has decided to revise the pronamide tolerance on lettuce to 1 ppm, and to require registrants for alfalfa uses to monitor pronamide residues in milk in order to permit the agency to monitor exposure to persons ingesting food products which may contain pronamide residues.

The remainder of this Notice and the accompanying Position Document set forth in detail the Agency's analysis of comments submitted during the rebuttal phase of the pronamide RPAR, and the Agency's reasons and factual bases for the regulatory actions it is initiating. The Notice is organized into four sections. Section I is this introduction. Section II, titled "Legal Background", sets forth a general discussion of the regulatory framework within which this action is taken. Section III sets forth the Agency's determinations concluding the pronamide RPAR and initiating the regulatory actions which flow from these determinations; Section III and the accompanying Position Document set forth the basis for these determinations. Section IV, titled "Procedural Matters", provides a brief discussion of the procedures which will be followed in implementing the regulatory actions which the Agency is initiating in this Notice.

II. Legal Background

In order to obtain a registration for a pesticide under the Federal Insecticide, Fungicide and Rodenticide Act, as amended ("FIFRA"), a manufacturer must demonstrate that the pesticide satisfies the statutory standard for registration. That standard requires (among other things) that the pesticide perform its intended function without causing "unreasonable adverse effects" on the environment (Section 3(c)(5)).

"Unreasonable adverse effects on the environment" is defined to mean "any unreasonable risk to man or the environment, taking into account the economic, social and environmental costs and benefits of the use of any pesticide" (FIFRA, Section 2(bb)). In effect, this standard requires a finding that the benefits of each use of the pesticide exceed the risks of use, when the pesticide is used in accordance with commonly recognized practice. The burden of proving that a pesticide satisfies the registration standard continues as long as the registration remains in effect. Under Section 6 of FIFRA, the Administrator is required to cancel the registration of a pesticide or modify the terms and conditions of registration whenever he determines that the pesticide no longer satisfies the statutory standard for registration.[1]

[1] Another part of the statutory standard for registration is that the pesticide must satisfy the labeling requirements of FIFRA. These requirements are set out in the statutory definition of "misbranded" (FIFRA Section 2(q)). Among other things, this section provides that a pesticide is misbranded if "the labeling • • • does not contain directions for use which are necessary for effecting the purpose for which the product is intended and if complied with, together with

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The Agency created the RPAR process to facilitate the identification of pesticide uses which may not satisfy the statutory standard for registration and to provide a structure for the gathering and evaluation of information about the risks and benefits of these uses. The structure permits public participation at major points in the evaluation process.

The RPAR process is set forth at 40 CFR 162.11. This section provides that a rebuttable presumption shall arise if a pesticide meets or exceeds any of the risk criteria set out in the regulations. After an RPAR is issued, registrants and other interested persons are invited to review the data upon which the presumption is based and to submit data and information to rebut the presumption. Respondents may rebut the presumption of risk by showing that the Agency's initial determination of risk was in error, or by showing that use of the pesticide is not likely to result in any significant exposure to man or the animal or plant of concern with regard to the adverse effect in question.[2] Further, in addition to submitting evidence to rebut the risk presumption, respondents may submit evidence as to whether the economic, social and environmental benefits of the use of the pesticide subject to the presumption outweight the risk of use.

The regulations require the Agency to conclude an RPAR by issuing a Notice of Determination. In that Notice, the Agency is required to state and explain its position on the question whether the risk presumption has been rebutted. If the Agency determines that the presumption is not rebutted, it will then consider information relating to the social, economic and environmental costs and benefits which registrants and other interested persons submitted to the Agency, and any other benefits information known to the Agency. If the Agency determines that the risks of a pesticide use appear to outweigh its benefits, the RPAR process will conclude with a notice of intent to cancel or deny registration, pursuant to FIFRA Section 6(b)(1) or Section 3(c)(6). If, on the other hand, the Agency determines that benefits appear to outweigh the risks, the Agency may issue a notice of intent to hold a hearing as authorized by Section 6(b)(2) of FIFRA to determine whether the registration should be canceled or applications for registration denied. The regulations further provide that the Agency may withdraw a notice of intent to hold a hearing on whether registration should be canceled or denied if there is insufficient public interest.

In determining whether the use of a pesticide poses risks which are greater than benefits, the Agency considers modifications to the terms and conditions of registration which can reduce risks, and the impacts of such modifications in the terms or conditions of registration on the benefits of the use. Among the risk reduction measures short of cancellation which are available to the Agency are requiring changes in the directions for use on the pesticide's labeling, and classifying the pesticide for "restricted use" pursuant to FIFRA Section 3(d).

The statute requires the Agency to submit notices issued pursuant to Section 6 to the Secretary of Agriculture for comment and to provide the Secretary of Agriculture with an analysis of the impact of the proposed action on the agricultural economy [Section 6(b)]. The Agency is required to submit these documents to the Secretary at least 60 days before making the notice effective by sending it to registrants or making it public. The Secretary of Agriculture is required to comment in writing within 30 days of receiving the notice, and the Agency is required to publish the Secretary's comment and the Administrator's response with publication of the notice. The statute also requires the Administrator to submit Section 6 notices to a Scientific Advisory Panel for comment on the impact of the proposed action on health and the environment, at the same time and under the same procedures as those described above for review by the Secretary of Agriculture [Section 25(d)].

Although not required to do so under the statute, the Agency has decided that it is consistent with the general theme of the RPAR process and the Agency's overall policy of open decisionmaking to afford an opportunity to comment on the bases for the proposed action to registrants and other interested persons, during the time that the proposed action is under review by the Secretary of Agriculture and the Scientific Advisory Panel. Accordingly, appropriate steps will be taken to make copies of the Position Document available to registrants and other interested persons at the time the decision documents are transmitted for formal external review, through publication of a notice of availability in the Federal Register, and by other means. Registrants and other interested persons will be allowed the same period of time to comment—thirty days—that the statute provides for receipt of comments from the Secretary of Agriculture and the Scientific Advisory Panel.

After complying with these external review requirements and accomplishing any changes in the contemplated action which are deemed appropriate as a result of any comments received, the Agency will proceed to implement the desired regulatory action by sending and making public a notice of intent to cancel under FIFRA Section 6(b)(1) or a notice of intent to hold a hearing under FIFRA Secion 6(b)(2), as appropriate. Registrants and other interested persons have 30 days to request a hearing, in the case of notices of intent to cancel under FIFRA Section 6(b)(1). In the event a hearing is not requested and any changes in the terms and conditions of registration directed in the cancellation notice are not accepted, the cancellation action announced in the notice of intent will take effect automatically at the end of the thirty day notice period. If a hearing is requested, it will be governed by the Agency's Rules of Practice for hearings under FIFRA Section 6 [40 CFR Part 164]; the cancellation action will not become effective except pursuant to an order of the Administrator at the conclusion of the hearing. Rules governing participation in and the conduct of hearings under FIFRA Section 6(b)(2) are also set forth in 40 CFR Part 164. As noted earlier, the Agency may withdraw such a notice prior to the commencement of a hearing, upon appropriate findings.

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any • • • (restriction) imposed under section 3(d) • • • are adequate to protect health and the environments." The Agency can require changes to the directions for use of a pesticide in most circumstances either by finding that the pesticide is misbranded if the labeling is not changed, or by finding that the pesticide would cause unreasonable adverse effects on the environment, unless labeling changes are made which accomplish risk reductions.

[2] 40 CFR 162.11(a)(4) provides that registrants and applicants may rebut a presumption against registration by sustaining the burden of proving: "(1) in the case of a pesticide which meet or exceeds the criteria for risk set forth in paragraphs (a)(3)(i) or (iii) that when considered with the formulation, packaging, method of use, and proposed restrictions on and directions for use and widespread and commonly recognized practices of use, the anticipated exposure to an applicator or user and to local, regional or national populations of nontarget organisms in not likely to result in any significant acute adverse effects; or (ii) in the case of a pesticide which meets or exceeds the criteria for risk set forth in paragraph (a)(3)(ii) that when considered with proposed restrictions on use and widespread and commonly recognized practices of use, the pesticide will not concentrate, persist or accrue to levels in man or the environment likely to result in any significant chronic adverse effects; or (iii) that the determination by the Agency that the pesticide meets or exceeds any of the criteria for risk was in error. A primary purpose of the RPAR process is to screen for appropriate action those pesticide uses which pose risks which are of sufficient concern to require the Agency to consider whether offsetting benefits justify the risks. Accordingly, the Agency's approach to rebuttal determinations concentrates on whether the risk concerns which are central to each RPAR proceeding have in fact been answered.

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III. Determination and Initiation of Regulatory Action

The Agency has considered information on the risks associated with the uses of pronamide, including information submitted by registrants and other interested persons in rebuttal to the pronamide RPAR. The Agency has also considered information on the social, economic and environmental benefits of the uses of pronamide subject to the RPAR, including benefits information submitted by registrants and other interested persons in conjunction with their rebuttal submissions, and information submitted by the United States Department of Agriculture. The Agency's assessment of the risks and benefits of the uses of pronamide subject to this RPAR, its conclusions and determinations whether any uses of pronamide pose unreasonable adverse effects on the environment, and its determinations whether modifications in terms or conditions of registration reduce risks sufficiently to eliminate any unreasonable adverse effects, are set forth in detail in the Position Document accompanying this Notice. This Position Document is hereby adopted by the Agency as its statement of reasons for the determinations and actions announced in this Notice, and as its analysis of the impacts of the proposed regulatory actions on the agricultural economy. For the reasons summarized below and developed in detail in the Position Document, the Determinations of the Agency with respect to pronamide are as follows:

A. Determinations on Risks

The pronamide RPAR was based on laboratory studies showing that pronamide induced oncogenic effects in experimental mammalian species. As developed fully in the Position Document, the Agency has determined that these studies provide a reliable basis for concluding that pronamide induces oncogenic effects in experimental mammalian species, and that under the Agency's Interim Cancer Assessment Guidelines, these laboratory studies provide substantial evidence that pronamide poses a cancer risk to man. The Agency further has determined that human exposure may result from the uses of pronamide and that these uses therefore pose a cancer risk to man of sufficient magnitude to require the Agency to determine whether the uses of pronamide offer offsetting social, economic or environmental benefits. The Agency has identified pesticide applicators and users as the key populations at risk with respect to pronamide. The risk to persons ingesting pronamide-treated food products is smaller.

B. Determinations on Benefits

The uses of pronamide which are subject to this RPAR may be grouped into three categories: lettuce uses, alfalfa uses, and other uses. The other uses include pronamide use on blueberries and other cane fruits, woody ornamentals, turf and sugarbeet seed.

The Agency depended on a team of agricultural specialists from the U.S. Department of Agriculture to evaluate usage data and make economic estimates based on that data. The Agency used the U.S. Department of Agriculture data and the rebuttal data to prepare a Preliminary Assessment of Benefits (July 1978).

1. *Lettuce*

Pronamide is used on approximately 55% of the total lettuce production of California and Arizona, an area that grows 80-90% of the total U.S. lettuce production.

Although several other pesticides are registered for use in lettuce, pronamide is the herbicide of choice in the Santa Maria Valley and Salinas Valley areas of California. Pronamide is used because it is easy to apply and controls a larger variety of weeds than any of its alternatives.

2. *Alfalfa*

Pronamide is used to control broadleaf weeds and grasses in alfalfa grown for hay and seed. It is used on 0.3% of the alfalfa-hay acreage primarily in Wisconsin, Ohio, and Indiana because it is the only registered pesticide that controls quackgrass in these areas. It is used on 10.2% of the alfalfa-seed acreage and 1.5% of the alfalfa hay acreage in Oregon, Washington, and Idaho because growers must certify that alfalfa is free of downy brome in order to export this crop.

3. *Other Uses*

The data currently available to the Agency is inadequate to quantitate the benefits of the lesser volume uses of pronamide. The available information indicates that pronamide has major use on some berry fruits and minor uses on other minor crops such as sugarbeet seeds because of the weed spectrum that this pesticide controls. For these other uses, substitutes are generally as available as pronamides and under certain conditions, these substitutes are as effective as pronamide as weed control agents.

C. Determinations of Unreasonable Adverse Effects

For the reasons set forth in detail in Position Document 3, the Agency has made the following unreasonable adverse effect determinations about the uses of pronamide:

The Agency has determined that the risks arising from continuing the lettuce, alfalfa and other uses of pronamide are greater than the social, economic, and environmental benefits of these uses, unless risk reductions are accomplished by modifications in the terms and conditions of registration as described in the following section.

The Agency has further determined that these modifications in the terms and conditions of registration accomplish significant risk reductions, and that these risk reductions can be achieved without significant impacts on the benefits of the uses. Accordingly, the Agency has determined that, unless these changes in the terms or conditions of registration are accomplished, the uses of pronamide will generally cause unreasonable adverse effects on the environment, when used in accordance with widespread and commonly recognized practice, and that the labeling of pronamide pesticide products will not comply with the provisions of FIFRA.

D. Other Determinations

The Agency has determined that registrants and applicants for registration of pronamide products for alfalfa uses must develop and submit to the Agency market basket analyses of pronamide residues in milk every 5 years. The Agency will use these data for the purpose of refining its risk and benefit assessments on the use of pronamide on alfalfa; these data will also be used to reassess its conclusion that the use of pronamide on alfalfa, in accordance with the Agency's proposed modifications to the terms or conditions of registration, does not cause unreasonable adverse effects on the environment.[5]

E. Initiation of Regulatory Actions

Based upon the determinations summarized above and developed in detail in the Position Document, the Agency is initating the following regulatory action, and this document shall constitute its Notice of Intention to initiate this action:

Cancellation and denial of registrations of pronamide products for all uses unless registrants or applicants for registration modify the terms or conditions of registration as follows: [6]

[5] For the Agency's authority to require registrants to conduct studies relevant to assessing the risks and benefits of a pesticide, and to report the results thereof to the Agency, see 40 CFR 162.8(d)(1) and FIFRA Section 6(b)(1).

[6] FIFRA 6(b)(1) provides that the Administrator may initiate proceedings to cancel a registration or *change* its use classification, where the Administrator finds that the pesticide does not satisfy the statutory standard for registration. However, the registered pronamide products subject to this RPAR have not yet been initially classified. Ac-

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a. Classification of pronamide products for all uses for restricted use, for use only by or under the direct supervision of certified applicators.

b. Modification of the labeling of all pronamide products formulated as a wettable powder to include the following:

(i) The following statements must appear on the labels of all pesticide products containing Pronamide:

HAND SPRAYING PROHIBITED

RESTRICTED USE PESTICIED

For retail sale to and use only by certified applicators or persons under their direct supervision and only for those uses covered by the certified applicator's certification.

(ii). The following statements must appear on the labels of pesticide products containing pronamide formulated as a wettable powder.

GENERAL PRECAUTIONS

A. Take special care to avoid getting pronamide in eyes, on skin or on clothing.

B. Require the following items of clothing when applying pronamide:

1. Long sleeved, one piece protective outergarment (overalls or jumpsuit)
2. Hat with brim
3. Heavy duty fabric work gloves

HANDLING PRECAUTIONS

A. This product is in water soluble bag. Do not break open the bag prior to use. Do not use in quantities smaller than one full bag. If a bag is leaking, use extreme care in handling. Do not get in eyes, on skin or on clothing.

The following packaging requirements must be used for all wettable powder formulations.

A. All wettable powder formulations are to be packaged in water soluble bags.

B. Water soluble bags are not to contain less than one pound of 50% material (0.5 lb. A.I.) per bag.

C. Minimum labeling to appear on the water soluble bag shall include the product name, EPA Registration No. and the words "Caution: Keep out of reach of children".

In addition to these actions, at the appropriate time the agency will initiate actions to (1) require the milk monitoring studies referenced above and (2) revise the lettuce tolerance to 1 ppm. These actions are not being initiated by this notice, but instead will be initiated by correspondence from the Office of Pesticide Programs to affected pronamide registrants and applicants for registration, and by FEDERAL REGISTER Notice.

IV. Procedural Matters

As discussed above in Section II of this Notice, the Agency's decision to initiate the regulatory actions described in Section III must be referred for review by the Secretary of Agriculture and the Scientific Advisory Panel. The transmittal of the Agency's decision to satisfy these external review requirements will occur shortly. As further indicate above, the Agency also will offer registrants and other interested persons an opportunity to comment on the bases for the Agency's action by making copies of the Position Document available upon request. Registrants and other interested persons will be given the same period of time to submit comments—thirty days that the statute provides for comments from the Secretary of Agriculture and the Scientific Advisory Panel.

After completion of these review procedures, the Agency will consider the comments received and publish an analysis of them, together with any changes in the regulaory actions announced in this Notice which it determines are appropriate. Until this final review phase is concluded in this manner, it is not necessary for registrants or other interested persons to request a hearing to contest any regulatory actions resulting from the conclusion of this RPAR.

Dated: January 6, 1979.

STEVEN D. JELLINEK,
Assistant Administrator for Toxic Substances.

[FR Doc. 79-1268 Filed 1-12-79; 8:45 am]

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cordingly, any classification action with respect to these products in an *initial* classification, and not a *change* in classification. Initial classification generally does not give rise to a right to review the classification decision in an adjudicatory hearing. (See *Preamble to Optional Procedures for Classification of Pesticide Uses by Regulation*, 42 FR 5782, 5784 (Feb. 9, 1978). However, in view of the fact that the Agency is proposing other changes to the terms or conditions of the registration (e.g., labeling changes) for registered pronamide products, which are reviewable in adjudicatory hearings, the Agency has determined that it is appropriate to exercise its discretion to fashion procedures in excess of minimum statutory requirements, and to permit the question of whether pronamide products should be initially classified for restricted use and its use limited to certified applicators to be reviewed in any such adjudicatory hearing as well.

[6560-01-M]

[FRL 1037-8]

RECEIPT OF ENVIRONMENTAL IMPACT STATEMENTS

President Carter's Reorganization Plan No. 1 (see President's Message of July 15, 1977) transferred certain functions from the Council on Environmental Quality (CEQ) to the Environmental Protection Agency (EPA). Some of these functions relate to operational duties associated with the administrative aspects of the environmental impact statement (EIS) process. In Memorandum of Agreement No. 1 entered into between CEQ and EPA, dated March 29, 1978, it was agreed that EPA would be the official recipient of EIS's and would publish the availability of each EIS received on a weekly basis. This is the duty formerly carried out by CEQ pursuant to § 1500.11(c) of the CEQ Guidelines.

Review periods for draft and final EIS will be computed as follows: The 45 day review period for draft EIS's will be computed from the Friday following the week which is being reported; the 30 day wait period for final EIS's will be computed from the date of receipt of the EIS by EPA and commenting parties.

The following is a list of environmental impact statements received by the Environmental Protection Agency from January 2, 1979 through January 5, 1979; the date of submission of comments on draft EIS's as computed from January 12, 1979 is February 26, 1979.

Copies of individual statements are available for review from the originating agency. Back copies are also available at 10 cents per page from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

Dated: January 10, 1979.

PETER L. COOK,
Acting Director,
Office of Federal Activities.

DEPARTMENT OF AGRICULTURE

Contact: Mr. Barry Flamm, coordinator, Environmental Quality Activities, U.S. Department of Agriculture, Room 359A, Washington, D.C. 20250 (202) 447-3965.

FOREST SERVICE

Final

John Day Unit Plan, Malheur and Umatilla National Forest, Grant County, Oreg., January 5: Proposed is a land use plan for some 586,489 acres of national forest land in John Day River and Middle Fork of the John Day River drainages, Malheur and Umatilla National Forests. Land use area include wilderness, recreation, wilderness study, botanical and scenic areas, and resource management. (USDA-FS-R6-FES(ADM)-76-3.) Comments made by: EPA, DOI, DOC, NOAA, USDA, State and local agencies, groups and individuals. (EIS Order No. 90024.)

The following EIS will be available from USDA for distribution on January 17, 1979. Therefore, it has been agreed that the Review period for this final EIS will end on February 28, 1979.

Rare II, Roadless Area Review and Evaluation, several counties, January 4: this statement recommends the following designa-

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tions for the 62,036,904 acres of roadless national forest system land: 1) 15,088,838 acres of national wilderness preservation system, 2) 36,151,558 acres of non-wilderness use, and 3) 10,796,508 acres for further planning category for all uses. The 20 area documents concern: North Dakota; Washington; Oregon; Colorado; Montana; Alaska; California; New Mexico; Utah; Idaho; Wyoming; Arizona; Nevada; the Midland States; Southern Appalachian and Atlantic Coast States; Northern Appalachian and New England States; the Lake States; the Central Plains; the Gulf Coast States and Puerto Rico; and the Ozark and Quachita Highlands States. Comments made by: DRBC, DOC, DOI, DOT, EPA, ORBC, USDA, COE, State agencies, groups and businesses. (EIS Order No. 90030.)

Sam Houston Unit, Sam Houston National Forest, Montgomery, Walker, and San Jacinto Counties, Tex., January 3: This proposed action involves the implementation of a ten-year management plan for the Sam Houston Unit. This unit includes the entire Sam Houston National Forest, comprising 158,654.88 acres in Montgomery, Walker and San Jacinto Counties Texas. Major actions include timber harvest and site preparation; increased diversity of wildlife habitat with emphasis on three squirrels; road construction and reconstruction; mineral leasing; and establishment of special management areas. (USDA-FS-F8-FES (ADM) 08-13-78-01.) Comments made by: EPA, USDA, AHP, DOI, DOT, State and local agencies, groups, individuals, and businesses. (EIS Order No. 90013.)

Final Supplement

King Planning Unit, Klamath National Forest, Siskiyou County, Calif., January 5: This statement supplements a final EIS filed in April 1977, concerning the management of the King Planning Unit, Klamath National Forest, Siskiyou County, California. This supplement provides additional information about two of the five alternative plans for management of the 49,000 acres involved, and evaluates more completely the roadless and wilderness characteristics of roadless lands within the planning unit. (USDA-FS-R5-FES (ADM) 05-05-76-3-(S).) (EPA Order No. 90029.)

U.S. Army Corps of Engineers

Contact: Dr. C. Grant Ash, Office of Environmental Policy, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue, S.W., Washington, D.C. 20314, (202) 693-6795.

Draft

Oakland Outer Harbor Navigation Improvements, Alameda County, Calif., January 3: Proposed are deep-draft navigation improvements for Oakland Outer Harbor, California. These improvements consist of deepening the existing channel and widening the channel to provide (a) a channel width of 1,100 feet at the entrance to the outer harbor, (b) a channel width of 800 feet adjacent berth E at the outer harbor dogleg, and (c) relocating the existing turning basin 3,000 feet westward and expanding its width from 950 feet to 1,800 feet. The COE filed a draft EIS, #60886, dated 6-14-76, which is replaced by this revised draft. (San Francisco District.) (EIS Order No. 90014.)

Brazos Island Harbor, Channel Improvement, Cameron County, Tex., January 2: Proposed is the enlargement of the turning basin, main channel, and entrance channel, of Brazos Island Harbor located in Cameron County, Texas. The main channel would be deepened to 42 feet for a distance of approximately 14.8 miles. The turning basin would also be deepened to 42 feet and widened, with widths ranging from 325 to 400 feet. The entrance channel will be widened to 400 feet and deepened to 44 feet. Minimum health and safety measures are proposed for the jetty area. Recreational facilities are also included as part of the proposal. The COE filed a draft EIS, #70915, dated 7-27-77, which is replaced by this revised draft. (Galveston District.) (EIS Order No. 90000.)

Draft

Borg-Warner Plastics Plant, Saveston, Permit, Ralls County, Mo., January 2: The proposed action is a request made by Borg-Warner Chemicals for permits from the corps to construct a barge docking facility with a wastewater outfall pipe along the Mississippi River as part of a chemical plant to be built at Saverton, Ralls County, Missouri. The facility will produce 150 million pounds per year of acrylonitrile, butadiene, styrene (ABS) plastic. Raw materials for this facility will be shipped into the plant by barge, rail and truck. The proposed plant will be constructed on a 305 acre site. (Rock Island District.) (EPA Order No. 90002.)

Yakima/Union Gap Flood Damage Reduction, Yakima County, Wash., January 2: Proposed is a flood damage reduction plan for the Yakima-Union Gap in Yakima County, Washington. The plan will involve the improvement of 9 miles of existing right and left bank levees along the Yakima River. The project also includes construction of new levees and flood control structures below the WA-24 bridge which involves a 2.7 mile left bank levee and a 1.1 mile right bank levee. One-half mile of bank protection for I-82 and two control structures for culverts to protect the city of Union Gap would also be included. (Seattle District.) (EIS Order No. 90009.)

Final

Moline, Illinois, Local Flood Protection, Rock Island County, Ill., January 2: Proposed is a flood protection plan for the city of Moline in Rock Island County, Illinois. The plan will provide protection for 390 acres of commercial, industrial, public and residential lands within the city. The project area is divided into two units. Reach A will consist of a levee and flood wall system from the western city limits to 34th street, and an improved, higher levee on Sylvan Island. Reach C will involve the construction of a floodwall and levee from 48th street to the eastern city limits. Both reaches will involve the raising of and modification to existing sewer lines, railroads, and streets. (Rock Island District.) Comments made by: AHP, USDA, DOC, HUD, DOI, DOT, EPA, State and local agencies, individuals and businesses. (EIS Order No. 90001.)

Missouri River Bank Stabilization, Navigation, several counties, January 2: Proposed is the completion of construction and navigation structures for the Missouri River in the States of Iowa, Kansas, Missouri, and Nebraska. The project would achieve the authorized design channel configuration and continuation of maintenance of the Missouri River Bank Stabilization and Navigation Project. The project area will extend from the mouth of the river to Sioux City, Iowa. A distance of 734.8 miles, and under current authorization provide a continuous 9-foot navigation channel, 300-feet wide. Development of non-resevoir recreation areas are included in the project. (Omaha District.) Comments made by: AHP, DOI, HEW, HUD, EPA, FPC, USDA, USCG, State and local agencies, groups, individuals, and businesses. (EIS Order No. 9003.)

Westhaven Cove, Basin Expansion, Grays Harbor, Grays Harbor County, Wash., January 4: The proposed action of this statement concerns the expansion of the small boat basin in Westhaven Cove, Grays Harbor, Grays Harbor County, Washington. Some actions involved include: 1) Removal of a 350 foot extension of breakwater, 2) construction of a 865 foot extension to breakwater, and a 200 foot spur breakwater, 3) dredging a new entrance channel, access channel, and turning basin, 4) use of 5.5 acres of intertidal wetlands and two confined upland sites to dispose and stockpile dredging material, and (5) slope protection. (Seattle District.) Comments made by: FPA, CGD, DOC, DOT, HUD, USDA, HEW, AHP, State and local agencies, groups, individuals, and businesses. (EIS Order No. 90023.)

Draft Supplement

Grand Isle and Vicinity, Beach Erosion, Jefferson County, La., January 2: This statement supplements a final EIS filed in September 1976 concerning beach erosion and hurricane protection for grand Isle and Vicinity located in Jefferson Parish, Louisiana. The project will consist of a 2,600-foot stone jetty at Caminada Pass to stabilize the western end of Grand Isle and a sandfill dune and berm extending approximately 7.5 miles along the Island's Gulf Shore. Sandfill for the dune and berm will be dredged from nearshore bottoms. Five alternatives are considered. (New orleans District.) (EIS Order No. 90005.)

Coos Bay, Charleston Breakwater Extension, Coos County, Oreg., January 5: This statement supplements a final EIS filed in November 1976 concerning the operation and maintenance of Coos Bay, Coos County, Oregon. The coe proposed to: 1) Construct an 800-foot breakwater extension north from the end of the present breakwater paralleling channel alinement; 2) raise the top elevation of the existing breakwater; and 3) construct a 400-foot long groin on the east side of the Charleston Channel, if later determined necessary to control channel Shoaling. (Portland District.) (EIS Order No. 90031.)

Final Supplement

Tulsa Urban Renewal Authority, River Parks Project, Tulsa County, Okla., January 5: This EIS supplements a final filed in December 1976 which concerned the issuance of an Army permit to the Tulsa Urban Renewal Authority. In April of 1978 this permit was transferred to the River Parks Authority which is now applying for revision of the permit. The revision, if approved, would allow the construction of a low water weir which was discussed on a conceptual basis in the final EIS. The proposed structure would be located on the Arkansas River in Tulsa County, Oklahoma. (Tulsa District.) Comments made by: USDA, HUD, DOI, DOT, EPA, State and local agencies, businesses. (EPA Order No. 81379.)

Department of Commerce

Contact: Dr. Sidney R. Galler, Assistant Secretary for Environmental Affairs, Department of Commerce, Washington, D.C. 20230 (202) 377-4335

Economic Development Administration

Draft

Port of Camas-Washougal Industrial Park, expansion, Clark County, Wash., January 5: Proposed is the expansion of the existing port of Camas-Washougal Industrial Park, located in the city of Washougal, Clark County, Washington. The principal objective is to foster economic development by increasing industrial employment and diversifying the economic base of Washougal and southern Clark County. Land adjacent to the existing industrial park will be prepared for occupancy by small and medium-sized industrial firms. (EIS Order No. 90026.)

The Department of Commerce has been granted a waiver of 15 days of the review period on the following final EIS. Therefore, the review period will end on January 18, 1979.

National Oceanic and Atmospheric Administration

Final

Halibut off the coast of Alaska, fishery management plan, several counties, Alaska, January 1: The proposed action is the fishery management plan which addresses the hook and line fisheries for Halibut off the coast of Alaska. The specific goals for the Halibut resource are: (1) to rebuild the halibut resource to a level of abundance which will provide long term optimal yield, and (2) to provide for a viable halibut setline fishery for United States fishermen. Comments made by: Groups, individuals and business. (EIS Order No. 90018.)

Environmental Protection Agency

Contact: Mr. Edward Cox, Solid Waste Information Office, Environmental Protection Agency, 26 West St. Clair, Cincinnati, Ohio 45260.

The review period for the following statement has been extended to March 16, 1979.

Draft

Resource Conservation and Recovery Act, subtitle C, regulatory, January 1: Proposed is the implementation of subtitle C of the Resource Conservation and Recovery Act of 1976. Subtitle C provides EPA with the authority to regulate the generation, transportation, treatment, storage, and disposal of hazardous waste in a manner that protects human health and the environment. RCRA also authorizes States to implement their own program for the management of hazardous waste if it is, at a minimum, equivalent to the Federal regulations. Compliance with the proposed regulations is mandatory; noncompliance is subject to penalty of law. (EIS Order NO. 90019.)

Department of HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410, (202) 755-6308.

Draft

Independence Village East, Columbus, Franklin County, Ohio, January 1: Proposed is the issuance of HUD home mortgage insurance for Independence Village East subdivision located in Columbus, Franklin County, Ohio. The project area will encompass approximately 260 acres and will consist of approximately 162 duplexes, 768 multi-family, and 766 single family units. (HUD-ROS-EIS-76-01 (D). (EIS Order No. 90022.)

Final

Makakilo subdivision development, Ewa, Oahu, Honolulu, Hawaii, January 2: Proposed is the private development of a primarily residential community on 607 acres at Makakilo, Ewa, Oahu, in Honolulu County, Hawaii, with an ultimate projected population of about 12,000. The development consists of 3,693 housing units including single family, townhouses and garden apartments on 378 acres, recreational facilities occupying 22 acres, 6 acres for schools and the balance in unimproved open space and rights of way. (HUD-R09-EIS-78-4F.) Comments made by: USDA, USN, DOT, EPA, DOC, AHP, USAF, DOD, USA, GSA, VA, State and local agencies, groups and businesses. (EIS Order No. 90006.)

Final

Northwest Park subdivision, Harris County, Tex., January 3:, The proposed action is the application by Rossiyn Road, Incorporated for mortgage insurance for the development of the Northwest Park subdivision, located in the northwest portion of Harris County, Texas. When completed, the proposed subdivision, which encompasses approximately 457 acres, is expected to consist of approximately 1,007 dwelling units. (HUD-R06-EIS-78-44F.) Comments made by: AHP, DOT, EPA, COE, USDA, DOI, State, and local agencies. (EIS Order No. 90015.)

Section 104 (H)

The following are community development block grant statements prepared and circulated directly by applicants pursuant to section 104 (H) of the 1974 Housing and Community Development Act. Copies may be obtained from the office of the appropriate local executive. Copies are not available from HUD.

Final

CBD redevelopment, Los Angeles, Los Angeles County, Calif., January 3: Proposed is the development of the Los Angeles City Central business district, Los Angeles County, California. The project intends the rehabilitation of existing deteriorated structures, improvement of the local street system; expansion of park, recreation and public facilities; development of new commercial and industrial facilities; and expansion of low and moderate income, elderly, and other housing in the downtown area. Alternatives include: (1) No project, (2) reduction/elimination of proposed housing development, (3) restriction/elimination of all new commercial developments, and (4) elimination of peripheral parking proposals. Comments made by: DOT, EPA, State and local agencies. (EIS Order No. 90011.)

North Hollywood redevelopment project, Los Angeles County, Calif., January 1: Proposed is the redevelopment of North Hollywood located in Los Angeles City, Los Angeles County, California. Features of the project include: (1) Rehabilitation of existing deteriorated residential and commercial structures, (2) new residential and commercial development, (3) development of community facilities, (4) open space development, and (5) improvement of the local street system. Four alternatives are considered which include: (1) No project, (2) delay in the project, (3) change of project, and (4) change in design of project. Comments made by: DOI, EPA, and local agencies. (EIS Order No. 90012.)

Department of Interior

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256 Interior Bldg., Department of the Interior, Washington, D.C. 20240, 202-343-3891.

Bureau of Reclamation

Draft

Salt-Gila Aqueduct and Transmission System, Maricopa and Pinal Counties, Ariz., January 4: Proposed is the construction and operation of the Salt-Gila aqueduct and associated electrical transmission system in Maricopa and Pinal Counties, Ariz. The aqueduct would convey Colorado River water from the terminus of the Granite Reef aqueduct to the beginning of the Tucson aqueduct. Water would enter the aqueduct at the Salt-Gila pumping plant forebay, be raised 74 feet and would flow by gravity through the open, concrete-lined canal for 58 miles to service areas. (DES-79-1.) (EPA Order No. 90021.)

Geological Survey

Draft

Colstrip Project, Rosebud County, Mont., January 5: Proposed is the granting of right-of-way easements across Federal lands for the transmission system and loan guarantees for two REA cooperatives contemplating participation in the Colstrip project located in Rosebud County, Mont. The project, proposed by four companies, consists of two 700-MW coal-fired electric generating units; continued development of coal resources; a water supply system; and two single-circuit 500 kV transmission lines. (DES-79-2.) (EPA Order No. 90027.)

U.S. Nuclear Regulatory Commission

Contact: Mr. Richard E. Cunningham, Director (Mail 3960SS), Division of Fuel Cycle and Material Safety, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, 301-427-4152.

Sweetwater Uranium Project, Operation, Sweetwater County, Wyo., January 4. Proposed is the issuance of a source material license to the Minerals Exploration Company (MEC) for the construction and operation of the proposed Sweetwater uranium mill with a nominal capacity of 3,000 tons per day of uranium ore. As part of the proposal, the applicant proposes to construct a heap leaching and resin ion-exchange facility to extract uranium from low-grade ores and mine water. The heap leach will not be authorized for operation until MEC has developed an environmentally acceptable reclamation plan for the tailings. (NUREG-0505.) Comments made by: AHP, DOE, HUD, USDA, DOI, EPA, DOT, State agencies, groups, individuals, and businesses. (EIS Order No. 90020.)

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NUCLEAR REGULATORY COMMISSION

Contact: Mr. Voss A. Moore, Assistant Director for Environmental Projects, P-518, Washington, D.C. 20555, 301-492-8446.

Final

Watts Bar Nuclear Plant, Units 1 and 2, operation, Rhea County, Tenn., January 2: The proposed action is the issuance of operating licenses to the Tennessee Valley Authority (TVA) for the startup and operation of the Watts Bar Nuclear Plant Units 1 and 2 on the west shore of Chickamauga Reservoir in Rhea County, 8 miles southeast of Spring City, Tenn. Each unit will employ a pressurized water reactor to produce up to 341 MWt for a total of 6,822 thermal megawatts. This heat will be used to produce steam to drive steam turbines providing 2,340 MW net of electrical power capacity. The units will be cooled by cooling towers drawing makeup water from Chickamauga Reservoir. (NUREG-0498). Comments made by: USDA, DOE, DOC, DOI, TVA, EPA, State and local agencies, groups and individuals. (EIS Order No. 90004.)

STATE DEPARTMENT

Contact: Mr. Cameron Sanders, Office of Environmental Affairs, Department of State, Washington, D.C. 20520, 202-632-9169.

Draft

Narcotics Control in Mexico, Herbicide Use, Foreign, January 3: Proposed and examined is the continuation of the joint U.S. Government-Government of Mexico program which utilizes herbicides to eradicate opium poppy (2, 4-D) and marihuana (paraquat) crops. The statement addresses Mexican narcotics eradication and control projects including the use of herbicides. It presents drug traffic and drug consumer profiles and estimates the extent of contamination of heroin and marihuana in the United States along with associated health effects. (EIS Order No. 90010.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street SW., Washington, D.C. 20590, 202-426-4357.

FEDERAL HIGHWAY ADMINISTRATION

Draft

I-97, Baltimore/Annapolis Corridor Study, Anne Arundel County, Md., January 2: Proposed is the construction of I-97 and possibly other major improvements to the existing highway network, between Annapolis and the Baltimore Beltway in Anne Arundel County, Md. The statement explores several feasible alternative highway networks in the area to determine the proper location of I-97. Other major highway facilities which will be required to serve in this development are evaluated and may include possible improvements both in existing and new locations. (FHWA-MD-EIS-78-02-D). (EIS Order No. 90008.)

Final

3rd Street, Southeast Mandan, Improvement, Morton County, N. Dak., January 3: The proposed project is located in southeast Mandan, Morton County, N. Dak. The purpose of the proposed improvement is to construct a street from ND-1806 easterly to Memorial Highway. The length of the project varies from 6,000 to 6,600 feet depending upon which alternative is selected. The project consists of the purchase of right-of-way and the construction of a street between the two aforementioned highways. (FHWA-ND-EIS-78-01F). Comments made by: USCG, CUE, DOI, HEW, USDA, State and local agencies. (EIS Order No. 90016.)

N. & S. TIGARD INTERCHANGES, PACIFIC HWY.—I-5

Clackamas, Multnomah, Washington, Counties, Oreg., January 1: The proposed action calls for the widening of 1.44 miles of existing four lane freeway to six lanes, completing the six-lane freeway from Salem to Portland. Two safety features are proposed in addition: Reconstruction of Hines Interchange and construction of an exclusive truck bypass lane. The bypass lane would join an existing shoulder which would be converted to an exclusive truck climbing lane. Three alternatives are currently under consideration, each having its respective impact. (FHWA-OR-EIS-78-04-F). Comments made by: EPA, USDA, DOI, State and local agencies, groups, individuals, and businesses. (EIS Order No. 90007.)

URBAN MASS TRANSPORTATION ADMINISTRATION

Final

Pittsburgh Light Rail Transit Reconstruction, Allegheny County, Pa., January 3: The proposal of this statement concerns the reconstruction of portions of 22.5 miles of a trolly system currently in operation in the South Hills Corridor, Pittsburgh, Allegheny County, Pa. This project includes complete reconstruction of 10.5 miles of the system including the Mt. Lebanon via Beechview Trolly Line and a section of the Shannon-Library and Shannon-Drake Lines south of Castle Shannon, rehabilitation of power and communications systems on the other 12 miles of the system, and construction of a new downtown Pittsburgh distribution system. (UTMA-PA-03-0012). Comments made by: AHP, COE, ICC, DOI, EPA, State and local agencies, groups, individuals, and businesses. (EIS Order No. 90017.)

INFORMATION REPORT

The EPA has received the following report which provides supplemental information on proposals which have fulfilled the NEPA process. Copies of the report are available from the originating agency upon request.

U.S. ARMY, CORPS OF ENGINEERS

Contact: Dr. C. Grant AsH, Office of Environmental Policy, Attn: DARN-CWR-P, Office of the Chief of Engineers, Corps of Engineers, 1000 Independence Avenue SW., Washington, D.C. 20310, 202-693-6795. EPA No. 90025, Date Rec'd., 1-5-79, Title Supplemental Data-Paintsville Lake Project, Kentucky, (Huntington District).

OFFICIAL CORRECTION

The Department of Housing and Urban Development notified EPA regarding an EIS which was sent to EPA for official filing and not received by EPA. The draft EIS was distributed to the public on or before December 20, 1978. Therefore, EPA has established the review period for the Draft EIS listed below to end on February 3, 1979.

Herbert C. Huber Subdivision, Wayne Township Montgomery County, Ohio, January 5: Proposed is the issuance of HUD home mortgage issuance for the Wayne Township located in Montgomery County, Ohio. The development will encompass approximately 643.6 acres and when completed will include 2,038 single-family detached housing units. Land within the development has been set aside for schools, open space, and a fire station. (HUD-R05-EIS-78-08-CD)). (EIS Order No. 90028.)

[FR Doc. 79-1008 Filed 1-12-79; 8:45 am]

[6730-01-M]

FEDERAL MARITIME COMMISSION

AGREEMENTS FILED

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10423; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, by February 5, 1979. Comments should include facts and arguments concerning the approval, modification or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

AGREEMENT NO. 134-40.

FILING PARTY: C. J. Smith, Chairman, Gulf/Mediterranean Ports Conference, Suite 927 Whitney Building, New Orleans, Louisiana 70130.

SUMMARY: Agreement No. 134-40 would amend the self-policing provisions of the Gulf/Mediterranean Ports Conference to conform to the requirements of the Commission's new self-policing rules as contained in revised General Order 7 (Part 528 of Title 46 C.F.R.).

AGREEMENT NO. 2744-41.

FILING PARTY: Seymour H. Kligler, Esquire, Brauner Baron Rosenzweig Kligler & Sparber, 120 Broadway, New York, New York 10005.

SUMMARY: Agreement No. 2744-41 modifies the basic agreement of the Atlantic and Gulf/West Coast of South America Conference to conform to the requirements of General Order 7, revised.

AGREEMENT NO. 3868-26.

FILING PARTY: Seymour H. Kligler, Esquire, Brauner Baron Rosenzweig Kligler & Sparber, Attorneys at Law, 120 Broadway, New York, New York 10005.

SUMMARY: Agreement No. 3868-26 would amend the self-policing provisions of the Atlantic and Gulf/Panama Canal Zone, Colon and Panama City Conference to conform to the requirements of the Commission's new self-policing rules as contained in revised General Order 7 (Part 528 of Title 46 C.F.R.).

AGREEMENTS NOS. 5680-29 and 6060-24.

FILING PARTY: R. Frederic Fisher, Esq., Lillick, McHose & Charles, Two Embarcadero Center, San Francisco, California 94111.

SUMMARY: Agreements Nos. 5680-29 and 6060-24 are identical and would modify the basic agreements of the Pacific/Indonesian Conference and the Pacific/Straits Conference to reflect the following, viz: (i) that each Conference might vote to "open" its rates with respect to any commodity, thus permitting each line to quote its own rates with respect to that commodity; and (ii) that credit to any shipper or consignee could be advanced by any line but only to the extent permitted by the rules and provisions of the conferences' tariffs.

AGREEMENT NO. 7590-27.

FILING PARTY: Seymour H. Kligler, Esquire, 120 Broadway, New York, New York 10005.

SUMMARY: Agreement No. 7590-27 modifies the basic agreement of the East Coast Columbia Conference to conform to the requirements of General Order 7, revised.

AGREEMENTS NOS. 7680-38 and 9420-8.

FILING PARTY: John K. Cunningham, Chairman, American West African Freight Conference, 67 Broad Street, New York, New York 10004.

SUMMARY: Agreements Nos. 7680-38 and 9240-8 would amend the self-policing provisions of the American West African Freight Conference and the United States Great Lakes and St. Lawrence River Ports/West Africa Rate Agreement, respectively, to conform to the requirements of the Commission's new self-policing rules as contained in revised General Order 7 (Part 528 of Title 46 C.F.R.).

AGREEMENTS NOS. 7690-17, 8040-11, 8050-11, 8054-17, 8558-8, 8650-10 and 9502-12.

FILING PARTY: William L. Hamm, Chairman, The India, Pakistan, Bangladesh, Ceylon, and Burma Outward Freight Conference, 25 Broadway, New York, New York 10004.

SUMMARY: Agreements Nos. 7690-17, 8040-11, 8050-11, 8054-17, 8558-8, 8650-10 and 9502-12 would amend the self-policing provisions of The India, Pakistan, Bangladesh, Ceylon & Burma Outward Freight Conference; West Coast of India and Pakistan/U.S.A. Conference; Ceylon/U.S.A. Conference; South and East Africa/U.S.A. Conference; Red Sea and Gulf of Aden/U.S. Atlantic and Gulf Rate Agreement No. 8558; Calcutta, East Coast of India and Bangladesh/U.S.A. Conference; and United States/South and East Africa Conference, respectively, to conform to the requirements of the Commission's new self-policing rules as embodied in revised General Order 7 (46 CFR, Part 528, effective January 1, 1979). In addition, each Agreement would increase to $50,000.00 (from differing amounts depending upon the particular Agreement involved) the amount of security each party shall deposit as a guarantee of faithful performance of obligations under the Agreement and of prompt payment of any penalties against the party under the Agreement.

AGREEMENT NO. 7890-15.

FILING PARTY: Seymour H. Kligler, Esquire, Brauner Baron Rosenzweig Kligler & Sparber, 120 Broadway, New York, New York 10005.

SUMMARY: Agreement No. 7890-15 modifies the basic agreement of the West Coast South America Northbound Conference to conform to the requirements of General Order 7, revised.

AGREEMENT NO. 8300-15.

FILING PARTY: Seymour H. Kligler, Esquire, Brauner Baron Rosenzweig Kligler & Sparber, 120 Broadway, New York, New York 10005.

SUMMARY: Agreement No. 8300-15 modifies the basic agreement of the Atlantic and Gulf/West Coast of Central America and Mexico Conference to conform to the requirements of General Order 7, revised.

AGREEMENT NO. 8493-10.

FILING PARTY: R. Frederic Fisher, Esq., Lillick McHose & Charles, Two Embarcadero Center, San Francisco, California 94111.

SUMMARY: Agreement No. 8493-10 would amend Article 2 of the Trans-Pacific American Flag Berth Operators Agreement by adding the following additional language at the end of said article:

Credit for payment of charges due under tariffs issued pursuant to this Article 2 may be extended by the parties only as permitted by and in accordance with rules and provisions and related bonding requirements (including rules and provisions in any standard credit agreement or indemnity bond forms) set forth in such tariffs. No credit shall be extended by any party to any shipper or consignee that the Secretary of the Association or his designate has advised the parties in writing is delinquent in the payment of freight charges to any party under tariffs filed pursuant to this Agreement.

AGREEMENT NO. 8900-10.

FILING PARTY: Marc J. Fink, Esq., Billig, Sher & Jones, P. C., Suite 300, 2033 K Street, N.W., Washington, D.C. 20006.

SUMMARY: Agreement No. 8900-10 would amend various articles of the "8900" Lines Rate Agreement for the purpose of (1) bringing the agreement's self-policing provisions into conformity with the requirements of the Commission's new self-policing rules as embodied in revised General Order 7 (Part 528 of Title 46 CFR); (2) providing that any line applying for readmission to membership within 24 months of its withdrawal is exempt from the payment of the admission fee; (3) precluding any party or agent thereof from chartering space on a non-member line's vessel operating in the agreement trade or soliciting cargo on such a vessel except where no other suitable agents are available; and (4) providing that each party to the agreement shall deposit and maintain, as a financial guarantee of faithful performance of obligations thereunder and of prompt payment of any fines or judgments rendered against it, the sum of $50,000 in United States currency, or Government bonds, or an irrevocable letter of credit, or a surety bond.

AGREEMENT NO. 9427-6.

FILING PARTY: Patricia E. Byrne, Esquire, Suite 727, 17 Battery Place, New York, New York 10004.

SUMMARY: Agreement No. 9427-6 modifies the Germany-North Atlantic Ports Rate Agreement to conform with recent revisions to the Commission's General Order 7.

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AGREEMENT NO. 9510-5.

FILING PARTY: Alan F. Wohlstetter, Esq., Denning & Wohlstetter, 1700 K Street, N.W., Washington, D.C. 20006.

Summary: Agreement No. 9510-5 would amend the self-policing provisions of the Household Goods Forwarders Association of America Rate Agreement to conform to the requirements of the Commission's new self-policing rules as embodied in revised General Order 7 (46 CFR, Part 528, effective January 1, 1979).

AGREEMENT NO. 9552-4.

FILING PARTY: Patricia E. Byrne, Esquire, Suite 727, 17 Battery Place, New York, New York 10004.

SUMMARY: Agreement No. 9552-4 modifies the North Atlantic/West Europe Rate Agreement to conform with recent revisions of the Commission's General Order 7.

AGREEMENT NO. 9615-28.

FILING PARTY: Stanley O. Sher, Esquire, Billig, Sher & Jones, P. C., Suite 300, 2033 K Street, N.W., Washington, D.C. 20006.

SUMMARY: Agreement No. 9615-28 modifies the Iberian/U.S. North Atlantic Westbound Freight Conference Agreement to conform with recent revisions to the Commission's General Order 7.

AGREEMENT NO. 9648-A-13.

FILING PARTY: Paul B. Thornquist, Executive Administrator, Inter-American Freight Conference, 17 Battery Place, New York, New York 10004.

SUMMARY: Agreement No. 9648-A-13 modifies the basic agreement of the Inter-American Freight Conference (1) to conform to the requirements of General Order 7, revised, and (2) to clarify the matter of security deposits.

AGREEMENTS NOS. 9831-3, 6200-21 and 10268-3.

FILING PARTY: Marc J. Fink, Esq., Billig, Sher & Jones, P. C., Suite 300, 2033 K Street, N.W., Washington, D.C. 20006.

SUMMARY: Agreements Nos. 9831-3, 6200-21, and 10268-3 would amend the self-policing provisions of the New Zealand Rate Agreement, the U.S. Atlantic & Gulf/Australia-New Zealand and Australia-Eastern U.S.A. Shipping Conferences, respectively, to conform to the requirements of the Commission's new self-policing rules as contained in revised General Order 7 (Part 528 of Title 46 CFR).

AGREEMENT NO. 9968-2.

FILING PARTY: Paul B. Thornquist, Executive Administrator, Inter-American Freight Conference, 17 Battery Place, New York, New York 10004.

SUMMARY: Agreement No. 9968-2 modifies the basic agreement of the Inter-American Freight Conference-Puerto Rico and U.S. Virgin Islands Area to conform to the requirements of General Order 7, revised.

AGREEMENT NO. 10012-4.

FILING PARTY: F. Conger Fawcett, Esq., Graham & James, One Maritime Plaza, San Francisco, California 94111.

SUMMARY: Agreement No. 10012-4 would amend the self-policing provisions of the Australia-Pacific Coast Rate Agreement to provide for the appointment of one or more officers or employees of said agreement to serve as the policing authority in accordance with terms and conditions set forth therein. Agreement No. 10012-4 is designed to conform to the requirements of Part 528, 46 CFR (General Order 7, Revised) in all respects other than that which pertains to the requisite independent policing authority.

AGREEMENT NO. 10122-3.

FILING PARTY: Jose Vicente Valdez, CONFERENCIA INTERAMERICANA DE FLETES, Buenos Aires, Argentina.

SUMMARY: Agreement No. 10122-3 modifies the basic agreement of the Inter-American Freight Conference Area River Plate/Pto Rico and U.S. Virgin Is./River Plate to conform to the requirements of General Order 7, revised.

AGREEMENT NO. 10261-5.

FILING PARTY: Marc J. Fink, Esquire, Billig, Sher & Jones, P.C., 2033 K Street, N.W., Washington, D.C. 20006.

SUMMARY: Agreement No. 10261-5 modifies the basic agreement of the U.S. South Atlantic/Spanish, Portuguese, Moroccan and Mediterranean Rate Agreement to conform to the requirements of General Order 7, revised.

AGREEMENT NO. T-3759.

FILING PARTY: Lynne Feldman, Esquire, Deputy City Attorney II, Office of the City Attorney, City of Richmond, California 94804.

SUMMARY: Agreement No. T-3759, between the City of Richmond, Surplus Property Authority of the City of Richmond (City) and Canal Industrial Park, Inc., (CIP), provides that CIP shall have the use of certain lease areas, certain nonexclusive preferential assignment areas, and certain exclusive assignment areas at Shipyard Three, Richmond, California, for a period of approximately ten years. The assignment areas shall be used for the docking and mooring of vessels and for the loading, unloading, receipt, handling, storage, transporting and delivery of cargo; and the lease areas shall be used for office space and the repair, assembling and processing of automobiles for delivery and processing storage. As rental for the leased area consisting of approximately 12.24 acres, CIP will pay $5,182 per month. CIP must meet an annual performance requirement of $675,000 minimum in gross revenues under the Port of Richmond Tariff No. 1 (based on a three-year moving average) with the City reciving 73 percent of said minimum revenues and CIP retaining 27 percent; as the amount of gross revenues increase, CIP retains a proportionately greater percentage up to 50 percent of revenues in excess of one million dollars. Included with the filing of Agreement No. T-3759 is a Compromise Settlement and Mutual Release Agreement between the City of Richmond and two of its agencies, on the one hand, and CIP and several of its affiliates, on the other hand.

AGREEMENT NO. T-3076-1.

FILING PARTY: Mr. Leslie E. Still, Jr., Senior Deputy City Attorney, Harbor Branch Office, Harbor Administration Building, P.O. Box 570, Long Beach, California 90801.

SUMMARY: Agreement No. T-3076-1, between City of Long Beach and Baker Commodities, Inc., modifies the parties' basic agreement which provides for the six year lease of certain premises and pipeline rights for the operation of a liquid bulk terminal for the receipt, handling, loading, unloading, storage, processing, delivery and disposition of tallow, vegetable oils, molasses and other related bulk liquid merchandise. The purpose of this modification is to increase the size of the premises by 5,364 square feet to encompass two new storage tanks and to increase the rental for the leased premises.

By Order of the Federal Maritime Commission.

Dated: January 10, 1979.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 79-1310 Filed 1-12-79; 8:45 am]

[6730-01-M]

PETITION TO ALLOW OFFICERS OF EMPLOYEES OF A RATE-FIXING AGREEMENT TO SERVE AS THE POLICING AUTHORITY

Filing

Pursuant to section 528.3(b)(3) of Part 528, 46 CFR (General Order 7, Revised) petitions for exemption have been filed on behalf of the following rate-fixing agreements to allow agreement personnel to perform the self-policing functions in lieu of an independent policing authority; viz:

Mediterranean North Pacific Coast Freight Conference, Agreement No. 8090.
Puerto Rican Section of the Med-Gulf Conference, Agreement No. 9522.
Australia-Eastern U.S.A. Shipping Conference, Agreement No. 10268.

Interested parties may inspect and obtain a copy of each of the petitions at the Washington Office of the Federal Maritime Commission, 1100 L Street, N.W., Room 11101, and at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Comments on each petition may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, by February 5, 1979 in which this notice appears. Comments should include facts and arguments concerning the request for an exemption.

By order of the Federal Maritime Commission.

Dated: January 9, 1979.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 79-1308 Filed 1-12-79; 8:45 am]

[6730-01-M]

PETITION TO ALLOW OFFICERS OR EMPLOYEES OF A RATE-FIXING AGREEMENT TO SERVE AS THE POLICING AUTHORITY

Pursuant to section 528.3(b)(3) of 46 CFR, Part 528 (General Order 7, Revised) a petition for exemption has been filed on behalf of the Household Goods Forwarders Association of America Rate Agreement (Agreement No. 9510) to allow the President thereof to perform the self-policing functions of the Rate Agreement in lieu of an independent policing authority.

Interested parties may inspect and obtain a copy of the petition at the Washington Office of the Federal Maritime Commission, 1100 L Street, N.W., Room 11101, and at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Comments on the petition may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, within *20* days after the date of the FEDERAL REGISTER in which this notice appears. Comments should include facts and arguments concerning the request for an exemption.

By order of the Federal Maritime Commission.

Dated: January 9, 1979.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 79-1309 Filed 1-12-79; 8:45 am]

[6210-01-M]

FEDERAL RESERVE SYSTEM

AMERICAN NATIONAL BANCORP., INC.

Formation of Bank Holding Company

American National Bancorp., Inc., South Bend, Indiana, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of American Affiliates, Inc., and thereby to control 80 percent or more of American National Bank and Trust Company of South Bend, a subsidiary of American Affiliates, Inc., both of South Bend, Indiana. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than February 9, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any question of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 9, 1979.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 79-1302 Filed 1-12-79; 8:45 am]

[6210-01-M]

FIRST BANCORPORATION OF HOLDENVILLE, INC.

Formation of Bank Holding Company

First Bancorporation of Holdenville, Inc., Holdenville, Oklahoma, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of The First National Bank and Trust Company of Holdenville, Holdenville, Oklahoma. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

First Bancorporation of Holdenville, Inc., Holdenville, Oklahoma, has also applied, pursuant to § 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR § 225.4(b)(2)), for permission to acquire voting shares of First Holdenville Business Trust, Holdenville, Oklahoma. Notice of the application was published on October 26, 1978, in *Holdenville Daily News*, a newspaper circulated in Holdenville, Oklahoma.

Applicant states that the proposed subsidiary would through its wholly owned subsidiary, First Holdenville Insurance Agency, Inc., Holdenville, Oklahoma, act as agent or broker with respect to credit life and accident and health insurance directly related to extensions of credit by its proposed banking subsidiary. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than February 9, 1979.

Board of Governors of the Federal Reserve System, January 9, 1979.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 79-1303 Filed 1-12-79; 8:45 am]

[6210-01-M]

SG BANCSHARES, INC.

Formation of Bank Holding Company

SG Bancshares, Inc., Okeene, Oklahoma, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of State Guaranty Bank, Okeene, Oklahoma. The factors that are considered in acting on the application are set forth

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in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 6, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 8, 1979.

GRIFFITH L. GARWOOD,
Deputy Secretary
of the Board.

[FR Doc. 79-1304 Filed 1-12-79; 8:45 am]

[6210-01-M]

TRUST CO. OF GEORGIA

Acquisition of Bank

Trust Company of Georgia, Atlanta, Georgia, has applied for the Board's approval under § 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(3)) to acquire 80 per cent or more of the voting shares of Trust Company Bank of Gwinnett County, the proposed successor by merger to Gwinnett Commercial Bank, Lawrenceville, Georgia. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than February 8, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 8, 1979.

GRIFFITH L. GARWOOD,
Deputy Secretary
of the Board.

[FR Doc. 79-1305 Filed 1-12-79; 8:45 am]

[6750-01-M]

FEDERAL TRADE COMMISSION

SEMIANNUAL AGENDA OF REPORTS AND REGULATIONS

AGENCY: Federal Trade Commission.

ACTION: Notice of Semiannual Agenda.

SUMMARY: The following agenda of reports and regulations is published voluntarily by the Federal Trade Commission in connection with Executive Order 12044, issued by the President on March 24, 1978. The agenda has been divided into four categories:

(A) The general subject matter of reports expected to be made public within the next six months.

(B) The general subject matter of internal rules of operating procedures upon which the Commission is expected to take action within the next six months.

(C) A list of investigations that are expected to result within the next six months in recommendations to the Commission for proposed rules or reports.

(D) A list of rules already proposed by the Commission with target dates for completion of significant steps in their development.

Each item on the list includes the name and telephone number of a person to contact for further information.

It should be noted that these lists are based on projections at the time of this publication of the subject matter and timing of future Commission action. Discovery of new information, changes in circumstances or personnel and changes in the law may alter the projected dates of matters listed in this document. All matters are subject to review and approval by the Commission.

FOR FURTHER INFORMATION CONTACT:

Office of Policy Planning, Federal Trade Commission, Washington, D.C. 20580, (202) 523-1447. For information about any specific item on the agenda, call or write the "contact person" indicated.

A. REPORTS EXPECTED TO BE MADE PUBLIC

1. *The Development and Structure of the U.S. Electric Lamp Industry.*

This report is an industry study of electric lamp manufacturing. It discusses the technology of lamp production, and investigates market structure, business conduct, economic performance, and their interrelationships in the industry.

2. *Brand Performance in the Cigarette Industry and the Advantage of Early Entry.*

This report examines the importance of rank and timing of "entry" on subsequent brand "success" in consumer product submarkets.

3. *Grocery Retailing Concentration in Metropolitan Areas, Economic Census Years, 1954-1972.*

This is a statistical report describing changing patterns of seller concentration in food retailing within individual urban markets over the period 1954-1972.

4. *Consumer Reaction to Government Provision of Information: the Impact of Health information on Nicotine and Tobacco Consumption.*

This report is an econometric study of the impact of health warning information on the cigarette smoking behavior of individuals.

5. *Economic Structure and Behavior in the Natural Gas Production Industry.*

This study describes concentration in natural gas reserves and production (both onshore and offshore) in 1974 and in selected earlier years. It also describes the impact of outer continental shelf joing ventures on concentration measures, as well as the motivations for joint ventures. Finally, it analyses the evidence that nonproducing shut in leases were a result of monopolistic behavior.

6. *Analysis of the Ban on Intra-Major Joint Ventures in OCS Petroleum Lease Sales.*

This study analyzes the impact of the Department of the Interior ban on joint ventures on the outer continental shelf by the largest oil companies. It compares the number of bids, size of partners and concentration in bidding and in the winning bids before and after the joint venture took place. It also considers the probable effect of changing the definition of which firms are included in the joint venture ban.

7. *Competition in the Nuclear Fuel Industry.*

This study describes the structure of the nuclear fuel industry including concentration in production, reserves, acreage, and drilling. It also lists mergers and acquisitions, joint ventures, new entry, and the significance of reserves and production accounted for by oil and gas companies. It briefly describes such other topics as economies of scale and vertical integration, recent uranium price increases, government price guarantee, foreign sources of uranium, and the breeder reactor.

8. *Professional Advertising: An Empirical Study of the Relationship Between Advertising and the Price and Quality of Optometric Services.*

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This study empirically investigates the question of whether the price and quality of professional services are associated with advertising and commercial practice. It focuses on optometry, a licensed profession for which considerable variation among the states concerning restrictions on advertising and professional practice has existed for some time.

Contact person for the preceding eight reports: P. David Qualls, (202) 254-7750, Bureau of Economics.

9. *Fair Debt Collection Practices Act* (15 U.S.C. 1692).

Publication of Annual Report to Congress setting forth the Commission's enforcement experience under the Act.

Contact Person: Alan Reffkin, (202) 724-1187, Bureau of Consumer Protection.

10. *Unavailability of Advertised Specials* (16 CFR 424).

A report examining the impact of the Commission's trade regulation rule governing retail food store advertising and marketing practices.

Contact Person: Ken Bernhardt, (202) 724-1878, Bureau of Consumer Protection.

11. *Warranties* (15 U.S.C. 2301).

A report gathering base line data with which to examine the impact of regulations issued under the Magnuson-Moss Warranty Act.

Contact Person: Ken Bernhardt, (202) 724-1878, Bureau of Consumer Protection.

12. *Antitrust Implications of Voluntary Agreements Among Oil Producers to formulate Plans for the International Allocation of Oil in the Event of Emergency Supply Disruptions.*

A semiannual report to Congress and to the President pursuant to Section 252 of the Energy Policy and Conservation Act, Pub. L. No. 94-163, § 252(i), 89 Stat. 871, 895 (1975).

Contact Person: Ronald B. Rowe, (202) 724-1441, Bureau of Competition.

13. *Cigarettes.*

Annual Report to Congress on Marketing and advertising of cigarette companies for 1978.

Contact Person: Jane Dalkart, (202) 724-1499, Bureau of Consumer Protection.

14. *Cigarettes.*

Report on the results of testing cigarettes for tar, nicotine, carbon monoxide levels.

Contact Person: Jane Dalkart, (202) 724-1499, Bureau of Consumer Protection.

B. INTERNAL RULES OR PROCEDURES UPON WHICH THE COMMISSION IS EXPECTED TO TAKE ACTION

1. *Restrictions on practice before the Commission by former members and employees.*

The Commission is expected to publish final rules specifying the period of time during which former members and employees will be required to seek permission prior to representing a client before the agency. The rule which had previously been published for comment, will also clarify the standards that the Commission uses to decide whether, in a given matter, participation by a former member or employee would be proper.

Contact Person: Jack Schwartz, (202) 523-3615, Office of General Counsel.

2. *Standards of Conduct for Attorneys Practicing Before the Commission.*

The Commission is expected to publish for comment a proposed amendment to its rules that will clarify the standards of ethical conduct expected of lawyers who practice before the Commission and will set out in more detail the procedure to be followed when there is an allegation that a lawyer has not conformed to those standards.

Contact Person: Oliver J. Tryteil, (202) 523-3442, Office of General Counsel.

3. *Procedures for Requesting Confidential Treatment of Information Submitted to the Commission.*

The Commission is expected to publish final rules which will announce procedures for persons requested or required to submit information to the Commission to obtain confidential treatment of that information. This proposal has previously been published for comment.

Contact Person: Barry Rubin, (202) 523-3520, Office of General Counsel.

4. *Fair Debt Collection Practices Act* (15 U.S.C. 1962)—*State Exemptions.*

The Commission is expected to publish proposed rules specifying exemptions for classes of debt collection practices within any state that meets the statutory requirements.

Contact Person: Alan Reffkin, (202) 724-1187, Bureau of Consumer Protection.

C. INVESTIGATIONS WHICH MAY RESULT IN A RECOMMENDATION TO THE COMMISSION FOR A RULE OR REPORT

1. *Blue Shield.*

An investigation of the extent to which physicians influence or control the conduct of Blue Shield plans, especially with respect to reimbursement of physicians, and the extent to which such influence or control may impede the ability of Blue Shield plans to hold down reimbursement levels and costs generally.

Contact Person: Walter T. Winslow, (202) 724-1341, Bureau of Competition.

2. *Written Warranties.*

An investigation of warranty advertising, the form of warranty titles and text, the disclosure of warranty terms and delayed warranty service performance.

Contact Person: Rachel Miller, (202) 523-0425, Bureau of Consumer Protection.

3. *Eyeglasses II.*

An investigation of private and state restrictions on ownership of and operations of opthalmic good dispensaries.

Contact Person: Christine Latsey, (202) 523-3432, Bureau of Consumer Protection.

4. *Dental Laboratories Investigation.*

An investigation of restrictions on the ability of denture laboratories to provide dental care directly to the public.

Contact Person: Ann Grover, (415) 556-1270, San Francisco Regional Office.

5. *Recycled Oil for Use as a Burner Fuel.*

An investigation to determine how to encourage the recycling of used oil as a burner fuel by measuring whether the used oil is substantially equivalent to new oil.

Contact Person: Carthon Aldhizer, (202) 724-1491, Bureau of Consumer Protection.

6. *Insurance Cost Disclosure.*

This report examines: (1) the extent to which consumers lack adequate cost information to comparison shop for whole life insurance; and (2) the adequacy of various proposed cost disclosure systems.

Contact Person: David Fix, (202) 523-3812, Bureau of Consumer Protection.

7. *Arbitration.*

A report on the use of arbitration to resolve consumer disputes.

Contact Person: John O'Brien, (212) 264-1207, New York Regional Office.

8. *Cigarettes.*

An investigation of the advertising practices of cigarette companies.

Contact Person: Jane Dalkart, (202) 724-1499, Bureau of Consumer Protection.

9. *Test Preparation Services.*

A report on the effects of coaching on standardized admission examinations.

Contact Person: Harry Garfield II, (617) 223-6621, Boston Regional Office.

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10. *Buying Clubs.*
A report examining consumer problems connected with the sale of memberships in buying clubs.
Contact Person: Alan Krause, (312) 353-5546, Chicago Regional Office.

11. *Public Accounting Profession.*
An investigation of private and state restrictions on advertising, solicitation and delivery of services by accountants.
Contact Person: John M. Peterson, (312) 353-8522, Chicago Regional Office.

D. TARGET DATES FOR THE DEVELOPMENT OF RULES ALREADY PROPOSED

1. *Used Motor Vehicle Sales* (41 FR 1089; Jan. 6, 1976).
End of post record comment period on or before February 14, 1979. Oral presentation, before the Commission during May 1979, if determined necessary by the Commission. Commission consideration of the rule on or before June 30, 1979.
Contact Person: Bernard J. Phillips, (202) 523-1642, Bureau of Consumer Protection.

2. *Reasonable Duties Under a Full Warranty* (42 FR 39223; Aug. 3, 1977).
Commission consideration of the rule on or before June 30, 1979.
Contact Person: Jeffrey M. Karp, (202) 523-1753, Bureau of Consumer Protection.

3. *Funeral Industry Practices* (40 FR 39901; Aug. 29, 1975).
Oral presentation if determined necessary by the Commission, and Commission consideration of the rule on or before February 28, 1979.
Contact Person: Michael Rodemeyer, (202) 523-1753, Bureau of Consumer Protection.

4. *Food Advertising (Phase I)* (39 FR 39842 Nov. 11, 1974); (41 FR 8980; Mar. 19, 1976).
End of post record comment period on or before January 29, 1979. Oral presentation, before the Commission during May 1979, if determined necessary by the Commission. Commission consideration of the rule on or before June 15, 1979.
Contact Person: Judith A. Neibrief, (202) 724-1496, Bureau of Consumer Protection.

5. *Food Advertising (Phase II)* (39 FR 39842; Nov. 11, 1974); (41 FR 8980; Mar. 19, 1976).
Commission consideration of staff recommendations to publish a revised proposed rule during January, 1979.
Contact Person: Judith A. Neibrief, (202) 724-1496, Bureau of Consumer Protection.

6. *Over-the-Counter Drugs* (41 FR 39768; Sept. 16, 1976).
Publication of staff report on or before March 1, 1979. End of post record comment period on or before May 1, 1979.
Contact Person: Joel Brewer, (202) 724-1530, Bureau of Consumer Protection.

7. *Advertising for Over-the-Counter Antacids* (41 FR 14534; Apr. 16, 1976).
Public hearings end on or before January 31, 1979. Rebuttal ends on or before March 31, 1979.
Contact Person: Joel Brewer, (202) 724-1530, Bureau of Consumer Protection.

8. *Hearing Aid Industry* (40 FR 26646; Jan. 24, 1975).
End of post record comment period on or before February 19, 1979. Oral presentation before the Commission during June 1979 if determined necessary by the Commission. Commission consideration of the rule on or before July 15, 1979.
Contact Person: Robert Patterson, (202) 724-1497, Bureau of Consumer Protection.

9. *Credit Practices* (40 FR 16347; Apr. 11, 1974).
Publication of staff report on or before April 15, 1979. End of post record comment period on or before June 15, 1979.
Contact Person: David H. Williams, (202) 724-1100, Bureau of Consumer Protection.

10. *Amendment to Preservation of Consumers' Claims and Defenses* (40 FR 53530; Nov. 18, 1975).
End of post record comment period on or before January 24, 1979. Oral presentation before the Commission during April 1979 if determined necessary by the Commission. Commission consideration of the amendment on or before April 30, 1979.
Contact Person: Sarah Jane Hughes, (202) 724-1567, Bureau of Consumer Protection.

11. *Children's Television Advertising* (43 FR 17967; Apr. 27, 1978).
Commencement of legislative hearings in San Francisco on January 15, 1979. Continuation of legislative hearings in Washington, D.C. on March 5, 1979. Designation of disputed issues by the Commission on or before June 30, 1979.
Contact Person: Katherine Mazzaferri, (202) 724-1499, Bureau of Consumer Protection.

12. *Labeling and Advertising of Residential Thermal Insulation Materials* (42 FR 59678; Nov. 18, 1977).
Commission consideration of rule on or before February 28, 1979.
Contact Person: Paul J. Petruccelli, (202) 724-1508, Bureau of Consumer Protection.

13. *Health Spas* (40 FR 34615; Aug. 18, 1975.)
Publication of Presiding Officer's report on or before May 1, 1979.
Contact Person: John Crowley, (212) 264-7150, New York Regional Office.

14. *Disclosure Requirements and Prohibitions Concerning the Flammability of Plastics* (39 FR 28292; Aug. 6, 1974).
Commission consideration of whether to terminate this proceeding on or before March 30, 1979.
Contact Person: Kent C. Howerton, (202) 724-1514, Bureau of Consumer Protection.

15. *Appliance Labeling* (43 FR 21806; July 21, 1978).
Publication of staff report on or before February 28, 1979. End of post record comment period on or before March 28, 1979. Oral presentation, before the Commission during June 1979, if determined necessary by the Commission. Commission consideration of the rule on or before July 15, 1979.
Contact Person: Andrew Wolf, (202) 724-1453, Bureau of Consumer Protection.

16. *Amendments to the Care Labeling of Textile Wearing Apparel* (41 FR 3747; Jan. 26, 1976).
Oral presentation before the Commission during February 1979, if determined necessary by the Commission. Commission consideration of the rule on or before March 15, 1979.
Contact Person: Earl Johnson, (202) 724-1362, Bureau of Consumer Protection.

17. *Octane Posting* (43 FR 34028; Sept. 22, 1978).
End of post record comment period on or before January 29, 1979. Oral presentation before the Commission during February 1979 if determined necessary by the Commission. Commission consideration of the rule on or before February 28, 1979.
Contact Person: James Mills, (202) 724-1967, Bureau of Consumer Protection.

18. *Standards and Certification* (43 FR 57269; Dec. 7, 1978).
Written comment period ends March 16, 1979. Public hearings commencing on April 30, 1979 in San Francisco on or before May 21, 1979 in Washington, D.C.
Contact Person: Robert J. Schroeder, (202) 523-3936, Bureau of Consumer Protection.

19. *Mobile Home Sales and Service* (40 FR 28334; May 29, 1975).
Publication of Presiding Officer's report on or before April 30, 1979.
Contact Person: Pamela Stuart, (202) 523-3933, Bureau of Consumer Protection.

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20. *Amendment to Games of Chance in Food Retailing and Gasoline Industries* (43 FR 48654; Oct. 19, 1978).
Publication of staff report on or before April 15, 1979. Publication of Presiding Officer's report on or before June 1, 1979. End of post record comment period on or before July 1, 1979.
Contact Person: Noble F. Jones, (216) 552-4207, Cleveland Regional Office.

21. *Advertising and Labeling of Protein Supplements* (40 FR 41144; Sept. 5, 1975); (41 FR 22593; June 4, 1976).
Publication of staff report on or before April 1, 1979. End of post record comment period on or before June 1, 1979.
Contact Person: Karen Chandler, (414) 556-1270, San Francisco Regional Office.

By the Commission dated December 29, 1978.

CAROL M. THOMAS,
Secretary.

[FR Doc. 79-1414 Filed 1-12-79; 8:45 am]

[1610-01-M]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was accepted by the Regulatory Reports Review Staff, GAO, on January 10, 1979. See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed FTC request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before February 2, 1979, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street, NW, Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

FEDERAL TRADE COMMISSION

The FTC requests an extension without change clearance of the Annual Line of Business, Form LB, through December 31, 1979. The LB Program has been undertaken as part of the FTC's mandate under Section 6 of the Federal Trade Commission Act to gather and compile information concerning the organization, business, conduct, practices, and management of corporations engaged in commerce in the United States. The FTC estimates that the form will be sent to 475 companies selected from among the 1,000 largest in the manufacturing sector and that an average of 960 hours will be required per respondent.

NORMAN F. HEYL,
Regulatory Reports, Review Officer.

[FR Doc. 79-1294 Filed 1-12-79; 8:45 am]

[6820-23-M]

GENERAL SERVICES ADMINISTRATION

REGIONAL PUBLIC ADVISORY PANEL ON ARCHITECTURAL AND ENGINEERING SERVICES

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the Regional Public Advisory Panel on Architectural and Engineering Services, Region 3, on January 30, 1979, from 8:30 a.m. to 4:14 p.m., in Room 2636 of the GSA Regional Office Building, Seventh and D Streets, SW, Washington, D.C. The meeting will be devoted to the initial stage of the process for screening and evaluating prospective architect-engineer firms to furnish professional services required in connection with development of Design Services for Repair and Alteration of General and Special Purpose Office Space for the Department of Energy in the Forrestal Building, Washington, D.C. (GS-03B-88627/99015). The meeting will be open to the public.

WALTER V. KALLAUR,
Regional Administrator.

[FR Doc. 79-1312 Filed 1-12-79; 8:45 am]

[4110-02-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

NATIONAL ADIVSORY COUNCIL ON EXTENSION AND CONTINUING EDUCATION

Meeting

AGENCY: National Advisory Council on Extension and Continuing Education.

ACTION: Notice of Meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Executive Committee of the National Advisory Council on Extension and Continuing Education. It also describes the functions of the Council. Notice of meetings is required under the Federal Advisory Committee Act (5 U.S.C. Appendix 1, 10(a)(2)). This document is intended to notify the general public of their opportunity to attend the meeting.

DATE: Meeting: February 5-6, 1979.

ADDRESS: The Washington Hotel, Fifteenth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20004.

FOR FURTHER INFORMATION CONTACT:

William G. Shannon, Executive Director, National Advisory Council on Extension and Continuing Education, 425 Thirteenth Street, N.W.; Suite 529, Washington, D.C. 20004. Telephone: (202)376-8888.

The National Advisory Council on Extension and Continuing Education is authorized under Pub. L. 89-329. The Council is required to report annually to the President, the Congress, the Secretary of HEW, and the Commissioner of Education in the preparation of general regulations and with respect to policy matters arising in the administration of Part A of Title I (HEA) including policies and procedures governing the approval of State plans under Section 105; and to advise the Assistant Secretary of HEW on Part B (Lifelong Learning activities) of the title. The Council is required to review the administration and effectiveness of all Federally supported extension and continuing education programs.

The meetings of the Council are open to the public. However, because of limited space, those interested in attending any meeting are asked to call the Council's office beforehand. Available seats will be assigned on a first-come basis.

The purpose of the meeting of the Executive Committee is to consider issues recommended by the Council for priority consideration and other future activities of the Council. The agenda will include consideration of:

a. Appropriate responses to Congressional requests for policy recommendations and legislative changes concerning the Higher Education Act,

b. a special report for The White House and The Congress.

c. Council committee progress reports, and

d. the proposed agenda for the Council's April meeting.

The meeting will begin on February 5, 1979 at 6:30 p.m., recessing at 9:00 p.m. It will be resumed on February 6

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at 9:00 a.m. and adjourn around 5:00 p.m.

All records of the Council proceedings are available for public inspection at the Council's staff office, located at 425 Thirteenth street, N.W.; Suite 529, Washington, D.C.

Dated: January 9, 1979.

WILLIAM G. SHANNON,
Executive Director.

[FR Doc. 79-1298 Filed 1-12-79; 8:45 am]

[4110-12-M]

Office of the Secretary

SECRETARY'S ADVISORY COMMITTEE ON THE RIGHTS AND RESPONSIBILITIES OF WOMEN

Meeting

The Secretary's Advisory Committee on the Rights and Responsibilities of Women, which is established to provide advice to the Secretary of Health, Education, and Welfare on the impact of the policies, programs, and activities of the Department on the status of women, will hold its Health Task Force meeting on Thursday, February 1, 1979 from 9:30 a.m. to 5:00 p.m., and on Friday, February 2, 1979 from 9:30 a.m. to 3:00 p.m. The meetings will be held in Room 303-A, Hubert H. Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. The agenda will include briefings on Departmental programs and policies relating to women's health issues.

Further information on the Committee may be obtained from: Susan C. Lubick, Executive Secretary, telephone 202-245-8454. These meetings are open to the public.

Dated: January 5, 1979.

SUSAN C. LUBICK,
Executive Secretary, Secretary's Advisory Committee on the rights and Responsibilities of Women.

[FR Doc. 79-1285 Filed 1-12-79; 8:45 am]

[4110-12-M]

PRESIDENT'S COMMITTEE ON MENTAL RETARDATION

Change of Meeting Place

The President's Committee on Mental Retardation (43 FR 61016, Dec. 29, 1978) will meet on Wednesday, January 17, 1979, from 9 a.m. to 12 noon, Thursday, January 18, 1979, from 9 a.m. to 5 p.m., at the Disabled American Veterans Building, First Floor Conference Room, 807 Maine Avenue, S.W., Washington, D.C., and on Friday, January 18, 1979, from 9 a.m. to 4 p.m., in Conference Room 800 of the Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, D.C.

Dated: January 8, 1979.

FRED J. KRAUSE,
Executive Director, President's Committee on Mental Retardation.

[FR Doc. 79-1461 Filed 1-12-79; 8:45 am]

[4210-01-M]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

[Docket No. NFD-657; FDAA-568-DR]

KENTUCKY

Amendment to Notice of Major Disaster Declaration

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of major disaster declaration for the Commonwealth of Kentucky (FDAA-568-DR), dated December 12, 1978.

DATED: December 31, 1978.

FOR FURTHER INFORMATION CONTACT:

A. C. Reid, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202/634-7825).

NOTICE: The Notice of major disaster for the Commonwealth of Kentucky dated December 12, 1978, and amended on December 17 and 20, 1978, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of December 12, 1978.

The County Of: Larue.

Federal assistance extended under this designation may be made available pursuant to Sections 404 and 407 through 413 of Pub. L. 93-288, and Small Business Administration disaster loan assistance, and Farmers Home Administration emergency loan assistance.

(Catalog of Federal Domestic Assistance No. 14,701, Disaster Assistance.)

WILLIAM H. WILCOX,
Administrator, Federal Disaster Assistance Administration.

[FR Doc. 79-1284 Filed 1-12-79; 8:45 am]

[4310-55-M]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

ENDANGERED SPECIES PERMIT

Receipt of Application for Permit

Notice is hereby given that an Applicant has applied in due form for an amendment to PRT 2-1609 to take ten additional sea otters as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and importing of Marine Mammals (50 CFR Part 18).

1. Applicant: Dr. G. L. Kooyman, Physiological Research Laboratory, Scripps Institution of Oceanography, University of California, San Diego, La Jolla, California 92093.

2. Type of Permit: Scientific research.

3. Name and Number of Animals: Sea otters (Enhydra lutris)—10.

4. Type of Activity: To take by capture.

5. Location of Activity: Prince William Sound, Alaska.

6. Period of Activity: To December 31, 1979.

The purpose of this application *is to provide an additional 5 sea otters for oilling experimentation so that 5 may have depth recorders attached for a maximum of 3 days and 5 for attaching radio transmitters for a maximum of 2 weeks. It has been determined that the two types of instruments cannot be attached to the same animals. The remaining five additional sea otters will be utilized only if females with pups are captured and must be released without being utilized in the research.*

Concurrent with the publication of this notice in the FEDERAL REGISTER the Federal Wildlife Permit Office is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

The application has been assigned file number PRT 2-1609. Written data or views, or requests for copies of the complete application or for a public hearing on this application should be submitted to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of

such hearing is at the discretion of the Director.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the United States Fish and Wildlife Service.

Documents submitted in connection with the above application are available for review during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia.

Dated: January 9, 1979.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office.

[FR Doc. 79-1321 Filed 1-12-79; 8:45 am]

[4310-55-M]

ENDANGERED SPECIES PERMIT

Receipt of Application

Applicant: Clifford M. Anderson, Box 136, Woodinville, Washington 98072.

The applicant requests a permit to take (capture) American peregrine falcons (*Falco peregrinus anatum*) for banding and radio tagging for research.

Humane care and treatment has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-3486. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address within 30 days of the date of this application. Please refer to the file number when submitting comments.

Dated: January 5, 1979.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 79-1322 Filed 1-12-79; 8:45 am]

[4310-55-M]

ENDANGERED SPECIES PERMIT

Notice of Receipt of Application

Applicant: John B. Holt, Jr.; 858 Johnson Street, N. Andover, Massachusetts 01845.

The applicant requests a permit to take (capture) bald eagles (*Haliaeetus leucocephalus*) for banding in Michigan, Wisconsin, and Ohio and to salvage same for scientific research.

Humane care and treatment has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service, (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-3601. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address within 30 days of the date of this application. Please refer to the file number when submitting comments.

Dated: January 4, 1979.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 79-1323 Filed 1-12-79; 8:45 am]

[4310-55-M]

ENDANGERED SPECIES PERMIT

Notice of Receipt of Application

Applicant: Sergej Postupalsky, Dept. of Wildlife Ecology, University of Wisconsin, Madison, Wisconsin 53706.

The applicant requests a permit to take (capture) bald eagles (*Haliaeetus leucocephalus*) in Michigan, Wisconsin, and Ohio for banding and to salvage same.

Humane care and treatment has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service, (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-3592. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before February 14, 1979. Please refer to the file number when submitting comments.

Dated: January 4, 1979.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 79-1325 Filed 1-12-79; 8:45 am]

[4310-55-M]

THREATENED SPECIES PERMIT

Notice of Receipt of Application

Applicant: Indianapolis Zoo,
3120 East 30th Street,
Indianapolis, Indiana 46218.

The applicant wishes to apply for a Captive-Self Sustaining Population permit authorizing the purchase and sale in interstate commerce, for the purpose of propogation, of tigers (*Panthera tigris*) listed in 50 CFR 17.11 as [T(C/P)]. Humane shipment and care in transit is assured.

Documents and other information submitted with this application are available to the public during normal business in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service, (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-3617. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before February 14, 1979. Please refer to the file number when submitting comments.

Dated: January 5, 1979.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 79-1324 Filed 1-12-79; 8:45 am]

[4310-31-M]

Geological Survey

OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF (OCS)

Proposed Requirements for Verifying the Structural Integrity of OCS Platforms

AGENCY: Geological Survey, U.S. Department of the Interior.

ACTION: Proposed Geological Survey Standard.

SUMMARY: The comment period for the draft document entitled "Requirements for Verifying the Structural Integrity of OCS Platforms" and its associated appendices and commentary is extended to March 1, 1979.

Several requests have been received to extend the January 30, 1979, due date for written comments on the draft document announced in the FEDERAL REGISTER on December 5, 1978 (Vol. 43, No. 234, FR 56945).

In consideration of these requests, the Geological Survey hereby extends the comment period to March 1, 1979.

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Dated: January 4, 1979.

W. A. RADLINSKI,
Acting Director.

[FR Doc. 79-1289 Filed 1-12-79; 8:45 am]

[8230-01-M]

INTERNATIONAL COMMUNICATION AGENCY

TREATY OF FRIENDSHIP AND COOPERATION BETWEEN THE U.S. AND SPAIN

Cooperative Research Grants—1979/80

The US-Spanish Joint Committee for Educational and Cultural Affairs (Supplementary Agreement n° 4 of the Treaty of Friendship and Cooperation between the United States of America and Spain) announces the application period for Cooperative Research Grants found below for the academic year 1979/80.

The applicable norms are as follows:

FIRST—Scope and nature of the grants. Applications will be considered to subsidize cooperative research projects between U.S. and Spanish Institutions in the humanities, arts, psychology, anthropology, social sciences, political sciences, law, economic sciences, education sciences, and the communication sciences, under the direction of a Spanish principal researcher and a U.S. principal researcher.

The Cooperative Research Grant application should be prepared by means of direct contact between the Spanish principal researcher and the U.S. principal researcher. The Spanish principal researcher is responsible for the cooperative project proposal in Spanish that is to be carried out by the Spanish institution. In like manner, the U.S. principal researcher will present in English the cooperative project proposal that is to be carried out by the U.S. institution. The Joint Administrative Staff (The Secretaria Ejecutiva) of the U.S.-Spanish Joint Committee will communicate all matters pertaining to the cooperative project exclusively through the Spanish principal researcher.

SECOND—Institutions that may apply. The following non-profit Spanish institutions, in collaboration with their cooperating U.S. institutions, may apply:

a) Centers or institutions which pertain to ministerial departments.

b) Public incorporated bodies.

c) Institutions, departments, centers, sections and other research units integrated into public incorporated bodies.

d) University institutes, departments and chairs, and any other university entity.

e) Local public municipalities pertaining to cities or regions.

f) Other institutions and foundations of a public or private nature that are legally registered with the state as non-profit organizations.

The joint applications for this type of grant will always be presented by the Spanish institution.

THIRD—Amount, nature and duration of the grants. The amounts of the grant will be those which are approved based on budgets applied for by the Spanish institution and the U.S. institution. The Spanish budget will be paid to the Spanish institution and the U.S. budget to the U.S. institution.

The norman duration of these grants will be for twelve months to take place beginning 1 September 1979 through 31 August 1980. This period of time refers exclusively to those grants which are here announced. However, should the nature of the cooperative project be such that a greater length of time is needed (maximum of three years from the beginning date of the grant) each cooperative project will have the opportunity to request renewal by submitting a renewal application on a year to year basis. Approval of the renewal application will be based on the favorable review of reports to be submitted at the end of each yearly grant period.

FOURTH—Preparation and presentation of the applications. The applications must be submitted by March 1, 1979. The application forms may be obtained from the Secretaria Ejecutiva del Comité Conjunto Hispano-norteamericano para Asuntos Educativos y Culturales, calle Cartagena, 83-85, 3°, Madrid-28, Spain; telephone 255-08-00 extensions 135 and 221.

FIFTH—Filling out the applications. The applications, an orginal and six copies, will consist of the following parts:

A. Cover Page: The information that must be included in the cover page is the following: project title, total amount being applied for in dollars, proposed initiation date of the project and total duration of project in months (maximum 12 months).

In addition the following information is required:

a) For each subproposal (Spanish-subproposal and U.S. subproposal): amount being applied for in dollars, name of the principal researcher, National Identification Number for Spaniards and Social Security Number for Americans, the name of the actual center where each subproject will be carried out, address of the center and the name of the institution to which the center pertains.

(b) Name of the ministry to which the Spanish institution pertains (if applicable).

(c) For each subproposal: Academic title of the principal researcher, signature and date of signature, and telephone number. Name of the principal researcher's immediate superior, his or her position, signature of approval of subproposal and date of signature. Name and title of the individual who legally represents the institution, his or her title, signature of approval of subproposal and date of signature.

B. Text of the Spanish institution's subproposal (in Spanish):

(a) Summary (about 200 words).

(b) Common objectives, interests, and advantages sought through the cooperation.

(c) Research plan of the Spanish institution.

(d) Means available (personnel and facilities).

(e) Bibliography on the subject.

(f) Principal researcher's Curriculum Vitae.

(g) Budget.

The budget, prepared jointly by the U.S. and Spanish institutions, will consist of two separate columns in which will be shown the amounts applied for by the Spanish institutions, and will include the following parts:

(1) Salaries and wages (In the Spanish institution's budget people permanently employed on a full time basis and whose names appear on the permanent payroll of the Spanish institution cannot be included under salaries and wages).

(2) Inventoriable material.

(3) Expendable material.

(4) Travel.

(5) Other costs.

(6) Total cost in dollars.

The above described budget for the Spanish institution should be attached to the Spanish institution's subproposal.

C. Text of the U.S. institution subproposal (in English):

(a) Summary (about 200 words).

(b) Common objectives, interests, and advantages sought through the cooperation.

(c) Research plan of the U.S. institution.

(d) Means available (personnel and facilities).

(e) Bibliography on the subject.

(f) Principal researcher's Curriculum Vitae.

(g) Budget.

Instructions regarding the budget are the same as found above in Part B, item g, sub-items(1)-(6), In addition, the U.S. institution's subproposal should contain a translation in English of the Spanish institution's detailed budget.

Neither the Spanish nor the U.S. institutions are allowed to include indirect costs of any type in their respective budgets. In addition, neither the Spanish nor U.S. institutions are allowed to include Social Security nor other fringe benefits in the budget item entitled "Salaries and wages."

D. Budget Summary.

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SIXTH—Place to submit applications. The applications must be submitted to the Secretary of the Comité Conjunto Hispano-Norteamericano para Asuntos Educativos y Culturales at the previously mentioned address of the Secretaria Ejecutiva of said committee.

SEVENTH—Selection procedure. That portion of the cooperative project to be carried out in Spain will be evaluated by the Comisión Asesora de Investigación Científica y Técnica which is obligated to request reports from each of the ministries involved. The Comisión Asesora will recommend the awards to be granted under Cooperative Research Grants to the US-Spanish Joint Committee for Educational and Cultural Affairs who will then study the recommendations for its final decision and the publication of the grants awarded in the *Boletin Oficial del Estado.* That portion of the cooperative project to be carried out in the United States of America will be submitted for the evaluation process as is seen fit by the U.S. side of the US-Spanish Joint Committee for Educational and Cultural Affairs.

The US-Spanish Joint Committee for Educational and Cultural Affairs will study all proposals of the cooperating institutions for its final decision. In order for a grant to be awarded a favorable evaluation of both the Spanish and U.S. subproposals is required.

EIGHTH—Obligatory reports regarding the progress of the cooperative projects will be submitted in triplicate to the Comisión Asesora through the Secretary of the US-Spanish Joint Committee for Educational and Cultural Affairs. These reports will be submitted by the Spanish and U.S. principal researchers. The reports will be evaluated by the previously mentioned Comisión Asesora and then will be presented to the US-Spanish Joint Committee for its final decision. The principal researchers will receive detailed information regarding the submission of these reports.

JOHN E. REINHARDT,
Director, International Communication Agency.

[FR Doc. 79-1271 Filed 1-12-79; 8:45 am]

[7020-02-M]

INTERNATIONAL TRADE COMMISSION

[AA1921-193]

BICYCLE TIRES AND TUBES FROM THE REPUBLIC OF KOREA

Notice of Investigation and Hearing

Having received advice from the Department of the Treasury on December 26, 1978, that bicycle tires and tubes from the Republic of Korea, are being, or are likely to be sold at less than fair value, the United States International Trade Commission, on January 9, 1979, instituted investigation No. AA1921-193 under section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States. For the purposes of its determination concerning sales at less than fair value, the Treasury Department defined "bicycle tires and tubes" as pneumatic bicycle tires and tubes therefor of rubber or plastics, whether such tires and tubes are sold as units or separately, as provided for in TSUS items 772.48 and 772.57.

Hearing. A public hearing in connection with the investigation will be held in Washington, D.C., beginning at 10 a.m., e.s.t., on Thursday, February 8, 1979, in the Hearing Room, U.S. International Trade Commission Building, 701 E Street, NW. All persons shall have the right to appear by counsel or in person, to present evidence, and to be heard. Requests to appear at the public hearing, or to intervene under the provisions of section 201(d) of the Antidumping Act, 1921, shall be filed with the Secretary of the Commission, in writing, not later than noon, Thursday, February 1, 1979.

Issued: January 10, 1979.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc. 79-1348 Filed 1-12-79; 8:45 am]

[7020-02-M]

[Investigation No. 337—TA-49]

CERTAIN ATTACHE CASES

Notice of Commission Hearing on the Presiding Officer's Recommendation, and on Relief, Bonding and the Public Interest

Recommendation of "no violation" issued

In connection with the United States International Trade Commission's investigation, under section 337 of the Tariff Act of 1930, of alleged unfair methods of competition and unfair acts in the importation and sale of certain attache cases in the United States, the presiding officer recommended on December 8, 1978, that the Commission determine that there is no violation of section 337. The presiding officer certified the record to the Commission for its consideration. Copies of the presiding officer's recommendation may be obtained by interested persons by contacting the office of the Secretary to the Commission, 701 E Street, N.W., Washington, D.C. 20436, telephone (202) 523-0161.

Commission hearing scheduled

The Commission will hold a hearing beginning at 10:00 a.m., e.s.t., on Thursday, February 1, 1979, in the Commission's Hearing Room (Room 331), 701 E Street, N.W., Washington, D.C. 20436, for two purposes. First, the Commission will hear oral argument on the presiding officer's recommendation that there is no violation of section 337 of the Tariff Act of 1930. Second, the Commission will receive oral presentations concerning appropriate relief, bonding, and the public interest in the event that the Commission determines that there is a violation of section 337. These matters are being heard on the same day in order to facilitate the completion of this investigation within time limits under law and to minimize the burden of this hearing upon the parties to the investigation. The procedure for each portion of the hearing follows.

Oral argument on presiding officer's recommendation

A party to the Commission's investigation or an interested agency desiring to present to the Commission an oral argument concerning the presiding officer's recommendation will be limited to no more than 30 minutes. A party or interested agency may reserve 10 of its 30 minutes for rebuttal. The oral arguments will be held in this order: complainant, respondents, interested agencies, and Commission investigative staff. Rebuttals will be held in this order: respondents, complainant, interested agencies, and Commission investigative staff.

Oral presentations on relief, bonding, and the public interest

Following the oral arguments on the presiding officer's recommendation, a party to the investigation, an interested agency, a public-interest group, or any interested member of the public may make an oral presentation on relief, bonding, and the public interest.

1. *Relief.* If the Commission finds a violation of section 337, it may issue (1) an order which could result in the exclusion from entry of certain attache cases into the United States or (2) an order which could result in requiring respondents to cease and desist from alleged unfair methods of competition or unfair acts in the importation and sale of these attache cases.

2. *Bonding.* If the Commission finds a violaion of section 337 and orders some form of relief, such relief would not become final for a 60-day period, during which the President would consider the Commission's report. During this period the attache cases would be

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entitled to enter the United States under a bond determined by the Commission and prescribed by the Secretary of the Treasury.

3. *The public interest.* If the Commission finds a violation of section 337 and orders some form of relief, it must consider the effect of that relief upon (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) the production of like or directly competitive articles in the United States, and (4) U.S. consumers.

Those making an oral presentation will be limited to no more than 15 minutes. Each participant will be permitted an additional 5 minutes for summation after all presentations have been made. Participants with similar interests may be required to share time. The order of oral presentations will be as follows: complainant, respondents, interested agencies, public-interest groups, other interested members of the public, and Commission investigative staff. Summations will follow the same order.

How to participate in the hearing

Any person desiring to appear at the Commission's hearing must file a written request to appear with the Secretary to the U.S. International Trade Commission, 701 E Street, N.W., Washington, D.C. 20436, no later than the close of business (5:15 P.M., e.s.t.) on January 30, 1979. Such written request must indicate whether such person wishes to present an oral argument concerning the presiding officer's recommendation or an oral presentation concerning relief, bonding, and the public interest, or both. While only parties to the Commission's investigation, interested agencies, and the Commission investigative staff may present an oral argument concerning the presiding officer's recommendation, public-interest groups and other interested members of the public are encouraged to make an oral presentation concerning the public interest.

Written submissions to the Commission

The Commission requests that all written submissions be filed no later than the close of business (5:15 p.m., e.s.t.) on February 12, 1979.

1. *Briefs on the presiding officer's recommendation.* Parties to the Commission's investigation, interested agencies, and the Commission investigative staff are encouraged to file briefs concerning exceptions to the presiding officer's recommendation. Briefs must be served on all parties of record to the Commission's investigation on or before the date they are filed with the Secretary. Statements made in briefs should be supported by references to the record. Persons with the same positions are encouraged to consolidate their briefs, if possible.

2. *Written comments and information concerning relief, bonding, and the public interest.* Parties to the Commission's investigation, interested agencies, public-interest groups, and any other interested members of the public are encouraged to file written comments and information concerning relief, bonding, and the public interest. These written submissions will be very useful to the Commission if it determines that there is a violation of section 337 and that relief should be granted.

Additional information

The original and 19 true copies of all written submissions must be filed with the Secretary to the Commission. Any person desiring to submit a document (or a portion thereof) to the Commission in confidence must request *in camera* treatment. Such request should be directed to the Chairman of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. The Commission will either accept such submission in confidence or return it. All nonconfidential written submissions will be open to public inspection at the Secretary's Office.

Notice of the Commission's investigation was published in the FEDERAL REGISTER of March 7, 1978 (43 FR 9379).

Issued: January 10, 1979.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc. 79-1349 Filed 1-12-79; 8:45 am]

[4410-01-M]

DEPARTMENT OF JUSTICE

UNITED STATES CIRCUIT JUDGE NOMINATING COMMISSION FIRST CIRCUIT PANEL

Meeting

The First Circuit Panel of the United States Circuit Judge Nominating Commission, Chairperson: Florence Rubin, will meet on February 3rd and February 23rd and 24th, 1979, at the Federal Courthouse, Post Office Square, Boston, Massachusetts at 9:30 a.m. These meetings will be closed to the public pursuant to Pub. L. 92-463, Section 10(D) as amended. (CF 5 U.S.C. 552b (c) (6).)

JOSEPH A. SANCHES,
Advisory Committee, Management Officer.

JANUARY 9, 1979.

[FR Doc. 79-1299 Filed 1-12-79; 8:45 am]

[7510-01-M]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[NASA Notice 78-12]

AVAILABLE FLIGHT-QUALIFIED EQUIPMENT AND FLIGHT-QUALIFIABLE EQUIPMENT

Intent To Formulate a Computer Data Bank

The objective of this program is to provide NASA Headquarters, its field installations, the aerospace industry, and the academic community with a current listing of available flight-qualified and flight-qualifiable equipment. The listing will serve as a means of informing interested users of the availability of such equipment. The information will be provided through a time-sharing computer system.

At the present time, a current listing of standard equipment has been established on an information services network time-sharing system. As a supplement to the standard equipment listing, the NASA Headquarters Office of the Chief Engineer, Systems Engineering Division, plans to embark on a one-year pilot program to test the utility of a similar listing for available flight-qualified and flight-qualifiable equipment.

The list shall include but shall distinguish between the following two classes of items of equipment: (1) items launched or flight-qualified within the last two years; and (2) items that are considered to be flight-qualifiable because the items are under contract for their design, development or manufacture, with a projected launch date.

An item is considered flight-qualified if it has successfully passed all U.S. Government, or commercial customer-specified qualification tests considered by them as necessary to obtain satisfactory operation for the intended mission. A commercial customer for this purpose is the end user organization procuring the satellite systems or subsystems from the manufacturer (e.g., COMSAT, INTELSAT, SBS, WU, etc.).

Manufacturers of space equipment are invited to participate throughout the full one—year term of the pilot program which will end December 1979. Further information may be obtained by contacting NASA Headquarters, Office of the Chief Engineer, Systems Engineering Division (Code DL-2), Washington, D.C. 20546, area code (202) 755-3040.

A. M. LOVELACE,
Acting Administrator.

JANUARY 8, 1979.

[FR Doc. 79-1293 Filed 1-12-79; 8:45 am]

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[7537-01-M]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

THEATRE ADVISORY PANEL

Meeting

Pursuant to Section 10 (a) (2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Theatre Advisory Panel to the National Council on the Arts will be held February 3, 1979, from 9:00 a.m. to 5:00 p.m., and February 4, 1979, from 9:00 a.m. to 5:00 p.m., in room 1422, Columbia Plaza Office Building, 2401 E Street, N.W., Washington, D.C.

A portion of this meeting will be open to the public on February 3, 1979, from 9:00 a.m. to 5:00 p.m., and February 4, 1979, from 12:00 p.m. to 5:00 p.m. The topic of discussion will be policy and guidelines.

The remaining sessions of this meeting on February 4, 1979, from 9:00 a.m. to 12:00 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER March 17, 1977, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

JOHN H. CLARK,
Director, Office of Council and Panel Operations, National Endowment for the Arts.

JANUARY 8, 1979.

[FR Doc. 79-1300 Filed 1-12-79; 8:45 am]

[7590-01-M]

NUCLEAR REGULATORY COMMISSION

ABNORMAL OCCURRENCE REPORT

Fourteenth Report Submitted to the Congress

Notice is hereby given that pursuant to the requirements of Section 208 of the Energy Reorganization Act of 1974, as amended, the Nuclear Regulatory Commission has published and issued the fourteenth periodic report to Congress on abnormal occurrences (NUREG-0090, Vol. 1, No. 3). The release date in January 10, 1979.

Under the Energy Reorganization Act of 1974, which created the NRC, an abnormal occurrence is defined as "an unscheduled incident or event which the Commission (NRC) determines is significant from the standpoint of public health or safety." The NRC has made a determination, based on criteria published in the FEDERAL REGISTER (42 FR 10950) on February 24, 1977, that events involving an actual loss or significant reduction in the degree of protection against radioactive properties of source, special nuclear, and byproduct materials are abnormal occurrences.

The fourteenth report to Congress is for the third quarter of 1978. The report identifies the occurrences or events that the Commission determined were significant and the remedial action that was undertaken. The report indicates that the following incidents or events were determined by the Commission to be significant and reportable:

(a) There was one abnormal occurrence at the 70 nuclear powerplants licensed to operate. The event involved a degraded primary coolant boundary in a boiling water reactor.

(b) There were no abnormal occurrences at fuel cycle facilities (other than nuclear powerplants).

(c) There were no abnormal occurrences at other licensee facilities.

(d) There were two abnormal occurrences reported by the Agreement States. One involved an overexposure of a radiographer's assistant. The second involved the theft of two radiography devices.

The incidents involved temporary reductions in margins of safety normally provided.

The fourteenth report to the Congress also contains updating information on abnormal occurrences reported in previous reports.

Interested persons may review the report at the NRC's Public Document Room, 1717 H Street, N.W., Washington, D.C. or at any of the 130 local Public Document Rooms throughout the country. The report, designated NUREG-0090, Vol. 1, No. 3, may be purchased from the National Technical Information Service, Springfield, Virginia 22161, at $4.50 a copy on or about January 24, 1979.

Dated at Washington, D.C. this 5th day of January, 1979

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc. 79-1274 Filed 1-12-79; 8:45 am]

[3110-01-M]

OFFICE OF MANAGEMENT AND BUDGET

URBAN IMPACT REVIEW

Proposed Amendment to OMB Circular No. A-95

AGENCY: Office of Management and Budget.

ACTION: Proposed Amendment.

SUMMARY: The proposed amendment modified OMB Circular A-95 (revised January 2, 1976, and published in Part IV of the FEDERAL REGISTER of January 13, 1976 (41 FR 2052-2065)). It encourages clearinghouses to evaluate the urban impact of projects proposed for Federal assistance as part of the A-95 review process. Such analysis, if undertaken, will help determine the potential significant positive or negative impacts on communities of federally assisted projects and provide an opportunity for clearinghouses to work with applicants to minimize potential adverse impacts prior to submission of applications to Federal agencies.

DATES: Comments must be received on or before March 20, 1979.

ADDRESS: Mail comments to: Thomas F. Snyder, Intergovernmental Affairs Division, Office of Management and Budget, Room 5235, New Executive Office Building, Washington, D.C. 20503. Phone: 202-395-6911.

SUPPLEMENTARY INFORMATION: On March 27, 1978, the President announced a National Urban Policy. It called for a partnership among all levels of government, the private sector, neighborhood and volunteer organizations, and individual citizens to work together to conserve America's communities. Copies of *The President's National Urban Policy Report* have been sent to all clearinghouses. As part of the implementation of this policy, an Executive Order was issued, requiring Federal agencies to identify the urban impact of proposed Federal policy and program initiatives on cities, counties and other communities.

The Executive Order does not, however, require analysis of beneficial or negative impacts of individual federally assisted projects or applications for assistance. Although a Federal program may be generally supportive of urban communities, an individual project receiving assistance under that program may have adverse impacts. By incorporating urban impact reviews into the existing A-95 review and comment system, the effects of individual applications for Federal assistance on economic, social and environmental

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well being of urban communities and their residents can be assessed.

WILLIAM R. FEEZLE,
Acting Deputy Associate Director for Intergovernmental Affairs.

Attachment.

PROPOSED AMENDMENT

Attachment A—Circular No. A-95 Revised, Part I: Project Notification and Review System, Section 5. Subject matter of comments and recommendations.

Add: j. The extent to which the project creates a significant impact on central cities, older suburban cities and other communities within the jurisdiction of the clearinghouse, including the relative impacts the project may have on one type of place as compared to others. Such assessments should consider the relationship of the proposed project to factors such as:

(1) Economic revitalization objectives, particularly those related to distressed communities, and efforts to prevent additional areas from becoming distressed;

(2) Business location and level of economic activity;

(3) Expansion of jobs for minorities and the unemployed;

(4) Expansion of housing choices for disadvantaged and minorities;

(5) Efforts to strengthen the fiscal condition and tax base of urban communities, particularly distressed communities;

(6) Conservation and revitalization of neighborhoods, particularly blighted neighborhoods; and

(7) Improvement of urban physical, cultural and aesthetic environments through protection of park, recreation, historic and cultural resources and development of mass transit opportunities.

[FR Doc. 79-856 Filed 1-12-79; 8:45 am]

[8010-10-M]

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 20872; 70-5388]

EASTERN UTILITIES ASSOCIATES, ET AL.

Proposed Extension of Bank Borrowing by Subsidiary Company

In the matter of Eastern Utilities Associates, P.O. Box 2333, Boston, Massachusetts 02107; Blackstone Valley Electric Company, P.O. Box 1111, Lincoln, Rhode Island 02865; Brockton Edison Company, 36 Main Street, Brockton, Massachjusetts 02403; Fall River Electric Light Company, 85 North Main Street, Fall River, Massachusetts 02722; Montaup Electric Company, P.O. Box 391, Fall River, Massachusetts 02722.

Notice is hereby given that Eastern Utilities Associates ("EUA"), a registered holding company, and its electric utility subsidiary companies, Blackstone Valley Electric Company ("Blackstone"), Brockton Edison Company ("Brockton"), Fall River Electric Light Company ("Fall River") and Montaup Electric Company ("Montaup"), have filed a post-effective amendment to their application-declaration, as previously filed and amended in this proceeding with this Commission designating Sections 6(a), 7, 9(a), 10, 12(b), 12(c), and 12(f) of the Act and Rules 43(a) and 45(a) promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application-declaration, as further amended by said post-effective amendment, which is summarized below, for a complete statement of the proposed transaction.

The transactions dealt with by the original application have, insofar as hereto relevant, been duly authorized and consummated. The post-effective amendment deals only with a proposed extension of the maturity of a bank loan of Blackstone's, which was one of the original series of transactions.

As a part of its reorganization program, Blackstone has been authorized in this proceeding (order dated February 19, 1975, HCAR No. 18817) to borrow $25,000,000 from the Chase Manhattan Bank, N.A. ("Chase"). Blackstone originally issued Chase its note in that amount, maturing on February 16, 1976, and bearing interest at 115% of the prime rate in effect at Chase from time to time. By orders dated February 12, 1976, February 8, 1977, and January 17, 1978 (HCAR Nos. 19386, 19880 and 20388) Blackstone was authorized to extend the maturity of the note, in each instance for approximately one year. The note now matures on February 1, 1979. The note is secured by a second mortgage on certain properties of Blackstone, said second mortgage being subject, among other encumbrances, to the prior lien of Blackstone's Indenture of Mortgage and Deed of Trust dated as of November 1, 1943. No compensating balance is required in connection with this borrowing.

Proceeds of the loan have been used by Blackstone to reduce open account advances to Blackstone from EUA. EUA applied the funds so received to reduce its short-term borrowings.

By post-effective amendment filed in this proceeding, it is now proposed that the term of the Chase note be further extended to mature on or about January 28, 1980. The interest rate will continue to be the prime as defined. No compensating balance will be required in connection with the extension of the Chase loan. Assuming a prime rate at Chase of 11.75%, the effective interest cost of the note, as revised and extended, would be 14.09%. It is stated that Blackstone had originally intended to convert that Chase note into a longer term secured obligation, but that restrictions on consolidated capitalization ratios, contained in EUA's bond indenture, make it impossible at the present time to extend the Chase note for more than one year.

It is stated that the Public Utilities Commission of the State of Rhode Island has jurisdiction over the proposed extension of the Chase loan to Blackstone and that no other state Commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction. Any fees and expenses to be incurred in connection with the proposed transaction will be supplied by amendment.

Notice is further given that any interested person may, not later than January 29, 1979, request in writing that a hearing be held on this matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration, as further amended by said post-effective amendment, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants EUA and Blackstone at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as further amended by said post-effective amendment, or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-1392 Filed 1-12-79; 8:45 am]

[8010-01-M]

[Release No. 20875; 70-6250]

GEORGIA POWER CO.

Proposed Issuance and Sale of First Mortgage Bonds and Preferred Stock at Competitive Bidding

Notice is hereby given that Georgia Power Company ("Georgia"), 270 Peachtree Street, N.W., Atlanta, Georgia 30302, an electric utility subisidary of The Southern Company, a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Section 6(b) of the Act and Rule 50 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transactions.

Georgia proposes to issue and sell up to $225,000,000 aggregate principal amount of its first mortgage bonds ("new bonds"). Of such amount, it is proposed that up to $100,000,000 principal amount of new bonds will be issued in February 1979 and up to $125,000,000 principal amount of new bonds will be issued in April 1979, but in either case not later than August 1979. It is intended that each series of new bonds will have a term of not less than five nor more than 30 years and will be sold at competitive bidding for the best price obtainable, but for a price to Georgia of not less than 98% not more than 101¾% of the principal amount thereof, plus accrued interest. The new bonds will be issued under the Indenture dated as of March 1, 1941, between Georgia and Chemical Bank, as Trustee, as heretofore supplemented by various indentures supplemental thereto, and as to be further supplemented by a Supplemental Indenture to be dated as of February 1, 1979, in the case of the $100,000,000 principal amount of new bonds and April 1, 1979, in the case of the $125,000,000 principal amount of new bonds.

It is stated that it is difficult to determine, under present bond market conditions, whether it would be more advantageous to Georgia to sell the new bonds with a 30-year term or some shorter term and that it is in the public interest for Georgia to be afforded the necessary flexibility to adjust its financing program to developments in the markets for long-term debt securities when and as they occur in order to obtain the best possible price, interest rate, and term for its new bonds. Georgia intends, therefore, to decide on the term of each series of the new bonds after the date of the respective public invitation for proposals and then in each case notify prospective bidders by telephone, confirmed in writing, of its decision not less than 72 hours prior to the time of each bidding.

Georgia also proposes to issue up to $50,000,000 of preferred stock, without par value, but with a stated value of $25 per share or $100 per share, ("new preferred stock") and to sell such securities at competitive bidding for the best price obtainable but for a price to Georgia of not less than 100% nor more than 102% of the stated value per share, which shall also be the public offering price per share. In addition, Georgia proposes to pay to the purchasers of the new preferred stock compensation for their services in purchasing and making a public offering of such shares. It is proposed that such stock be issued in February 1979 but in any event not later than August 1979. The terms of the new preferred stock will be established by amendment to the charter of Georgia. Georgia may also make provision for a cumulative sinking fund for the benefit of the new preferred stock which would retire annually not more than 5% of the number of shares initially issued, commencing five years after the sale, with the non-cumulative option on any sinking fund date, commencing five years or later after the sale, of redeeming an additional like number of shares.

It is stated that Georgia may request by amendment that each of the proposed sales be excepted from the competitive bidding requirements of Rule 50, should circumstances develop which, in the opinion of Georgia's management, make such exception in the best interest of Georgia and its investors and consumers.

Georgia intends to use the proceeds from each sale of the new bonds and the sale of the new preferred stock, along with other funds, in financing its 1979 construction.

Statements of the fees and expenses to be incurred in connection with the proposed transactions will be filed by amendment. It is stated that the proposed transactions will have been authorized by the Georgia Public Service Commission and that no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than January 31, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will recieve any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-1393 Filed 1-12-79; 8:45 am]

[8010-01-M]

[Administrative Proceeding File No. 3-5592; File No. 81-429]

GRAND UNION CO.

Application and Opportunity for Hearing

JANUARY 4, 1979.

Notice is hereby given that Grand Union Company ("Applicant") has filed an application, pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act"), that Applicant be granted an exemption from the reporting provisions of Section 15(d) of the 1934 Act.

The Applicant states, in part:

1. Applicant is incorporated under the laws of the State of Delaware.

2. On July 28, 1977, Applicant merged with and became a wholly-owned subsidiary of Cavenham (USA) Inc. As a result of this merger, Applicant no longer has any publicly owned common stock.

3. As of April 2, 1978, Applicant's Preferred Stock was held by 259 holders.

4. Prior to July 15, 1978, the Applicant deposited funds with Fidelity Union Trust Company, as Trustee under an Indenture dated as of July

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15, 1958, sufficient to pay at the maturity of the Applicant's 4½ percent Subordinated Debentures on July 15, 1978 the principal and interest due to the date of maturity on all outstanding Debentures.

In the absence of an exemption, Applicant is required to file reports pursuant to Section 15(d) of the 1934 Act. Applicant believes that the time, effort and expense involved in preparation of additional periodic reports would be disproportionate to any benefit to the public.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 1100 L Street, N.W., Washington, D.C. 20549.

Notice is further given that any interested person not later than Jan. 29, 1979, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed to: Secretary, Securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request and the issues of fact and law raised by the application which he desires to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own notion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMONS,
Secretary.

[FR Doc. 79-1394 Filed 1-12-79; 8:45 am]

[8010-01-M]

[Administrative Proceeding File No. 3-5615; File No. 81-436]

ISL LIQUIDATING CORP. (FORMERLY LEONARD SILVER INTERNATIONAL, INC.)

Application and Opportunity for Hearing

JANUARY 4, 1979.

Notice is hereby given that ISL Liquidating Corporation ("Applicant") has filed an application, pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act"), for an order exempting Applicant from the provisions of Section 15(d) of that Act.

The Applicant states, in part;

1. On September 11, 1978, the Applicant's assets were sold to the Elwot Corporation, a wholly owned subsidiary of Towle Manufacturing Company, in exchange for Towle stock. As a result of the sale, the Applicant ceased all business activities and public trading in its securities ceased.

2. On November 21, 1978, Applicant's registration under 12(g) of the 1934 Act was terminated.

In the absence of an exemption, Applicant would be required to file periodic reports for the year ending December 31, 1978.

Applicant believes that its request for an order exempting it from the reporting provisions of Section 15(d) of the 1934 Act is appropriate inasmuch as there is no public trading in its stock, it has ceased all business activities and the public may obtain sufficient information regarding Applicant's activities from the reports of Towle Manufacturing Company.

For a more detailed statement of the information presented, all persons are referred to the application which may be examined at the Commission's Public Reference Section, 1100 L St., N.W., Washington, D.C. 20549.

Notice is further given that any interested person, not later than January 29, 1979, may submit to the Commission in writing his view or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed to Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-1395 Filed 1-12-79; 8:45 am]

[8010-01-M]

[Release No. 20874; 70-6047]

MIDDLE SOUTH UTILITIES, INC.

Proposal To Extend Period During Which Common Stock May Be Issued to Trustee Under an Employee Stock Ownership Plan

JANUARY 5, 1979.

Notice is hereby given that Middle South Utilities, Inc. ("Middle South"), 225 Baronne Street, New Orleans, Louisiana 70112, a registered holding company, has filed a post-effective amendment to an application-declaration previously filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a) and 7 of the Act and Rule 50(a)(5) promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the amended application-declaration, which is summarized below, for a complete statement of the proposed transaction.

By order dated September 20, 1977 in this matter (HCAR No. 20183), Middle South was authorized to make available, for acquisition by First National Bank of Commerce, New Orleans, Louisiana, as trustee ("Trustee") under the Employee Stock Ownership Plan of Middle South Utilities, Inc. and Subsidiaries ("Plan"), directly from Middle South, through January 31, 1979, up to 300,000 authorized but unissued shares of its common stock, $5 par value ("Additional Stock"). Middle South now proposes to extend for three years, from January 31, 1979 to January 31, 1982, the period during which Middle South may offer and issue the Additional Stock directly to the Trustee under the Plan.

Pursuant to the terms of the Plan, Middle South and its subsidiaries contribute to the Trustee for employees participating in the Plan an amount equal to an additional investment tax credit allowed to Middle South on its consolidated federal income tax return for such purpose under the Internal Revenue Code of 1954, as amended. The Trustee must invest and reinvest cash contributions, and any income thereon, exclusively in Middle South's common stock, $5 par value, which is acquires, at its discretions, through open market or private purchases or directly from Middle South. If Middle South offers Additional Stock to the Trustee and the Trustee chooses to accept such offer rather than to acquire Middle South's common stock in the open market or elsewhere, the Additional Stock is acquired for an amount equal to the value of such Stock based upon the average of the closing prices of Middle South's common stock based on consolidated trading as defined by the Consolidated Tape Association and reported as part of the consolidated trading prices of New York Stock Exchange listed securities for twenty consecutive trading days immediately preceding the acquisition ("Market Value"). If dividends are reinvested in Additional Stock, such Stock is acquired for an amount equal to the Market Value of such Stock.

Middle South currently estimates that the balance of the Additional Stock remaining unissued to date, namely 93,053 shares, should be sufficient, based upon the recent market value of its common stock and Middle South's current tax position, to satisfy the requirements of the Plan through January 31, 1982, the extended date through which it is now proposed that Middle South be permitted to offer and issue the Additional Stock directly to the Trustee pursuant to the Plan.

The proceeds derived by Middle South through the issuance of the balance of the Additional Stock will be utilized for repayment of then outstanding bank loans to Middle South, pursuant to the credit agreement between Middle South and various commercial banks, dated June 29, 1978.

Except as set forth above, all terms and conditions of the offer and issuance by Middle South, and acquisition by the Trustee, of the Additional Stock pursuant to the Plan, as set forth in the application-declaration as approved in the Commission's order of September 20, 1977, are to remain unchanged.

It is stated that no state or federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than January 29, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-1396 Filed 1-12-79; 8:45 am]

[8010-01-M]

[Release No. 20876; 70-6241]

NATIONAL FUEL GAS CO., AND SENECA RESOURCES CORP.

Proposed Issuance and Sale of Short-Term Notes to Bank by Subsidiary Company and Guaranty Thereof by Holding Company

JANUARY 5, 1979.

Notice is hereby given that National Fuel Gas Company ("National") 30 Rockefeller Plaza, New York, New York 10020, a registered holding company, and one of its wholly-owned subsidiary companies, Seneca Resources Corporation ("Seneca") 10 Layfayette Square, Buffalo, New York 14203, have filed a declaration and an amendment thereto with this Commission pursuant to Sections 6(a), 7, and 12(b) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 45 promulgated thereunder regarding the following proposed transactions. All interested persons are referred to the amended declaration, which is summarized below, for a complete statement of the proposed transactions.

Seneca proposes to issue and sell notes pursuant to a line of credit with Houston National Bank upon the following terms. Seneca will enter into a loan agreement with Houston National Bank pursuant to which Seneca will have the right to borrow not to exceed $20,000,000 in principal amount at any one time outstanding. Such loan will be evidenced by unsecured short-term notes which will be dated the date of issue, will mature on January 31, 1980, and will be prepayable, at any time in whole or in part, without penalty or premium. It is proposed that payment of principal and interest on the notes will be unconditionally guaranteed by National. The notes will bear interest not in excess of the prime rate of interest at Houston National Bank as it fluctuates from time to time. In addition, Seneca has agreed with Houston National Bank to maintain average balances at 10% of the amount of the line of credit, plus 10% of the amount drawn down by Seneca under the line of credit. Assuming an average balance of 20%, the effective cost of money, based on an 11¾% prime rate, would be 14.6875%.

Under the terms of the loan agreement, Seneca is obligated to pay the reasonable fees and expenses of counsel for Houston National Bank in connection with the preparation of the loan agreement and all transactions pursuant thereto. Other than such counsel fees, there will be no commitment fee or any other closing or related costs in connection with the above transactions.

Seneca intends to use the proceeds from the sale of said short-term notes to repay interest-free emergency loans aggregating not to exceed $9,000,000 from National Fuel Gas Supply Corporation ("Supply"), a wholly-owned subsidiary of National. Seneca also intends to repay at maturity $3,000,000 in loans advanced by National from the proceeds of the sale of commercial paper by National. The loans to Seneca from Supply and National were made for the purpose of supplying working capital to Seneca and financing Seneca's 1977 and 1978 gas exploration and development program. Seneca plans to use the remaining amount available under the proposed line of credit as working capital and to finance gas exploration and development in 1979. It is stated that repayment of the notes by Seneca will be made by funds generated internally and by possible external financial arrangements.

A statement of the fees and expenses to be incurred in connection with the proposed transactions is to be filed by amendment. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions. National requests that it be permitted to file the certificates required by Rule 24 relating to the proposed transactions on a quarterly basis.

Notice is further given that any interested person may, not later than January 30, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed, Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as amended or as it may be further amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate.

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Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-1397 Filed 1-12-79; 8:45 am]

[8010-01-M]

[Rel. No. 20879; 70-6252]

OHIO EDISON CO.

Proposed Issuance of Bonds for Sinking Fund Purposes, Proposed Issuance and Sale of Common Stock and Request for Exemption From Competitive Bidding

JANUARY 8, 1979.

Notice is hereby given that Ohio Edison Company ("Ohio Edison"), 76 South Main Street, Akron, Ohio 44308, an operating company and a registered holding company, has filed with this Commission an application-declaration and an amendment thereto pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a) and 7 of the Act and Rule 50 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Ohio Edison proposes to issue on or about May 1 and November 1 of the year 1979 a total of $15,158,000 principal amount of its first mortgage bonds, 3¼% Series of 1955 due 1985 ("Sinking Fund Bonds"), such issuance to be under its Indenture dated as of August 1, 1930, as amended and supplemented (the "Mortgage"). The Sinking Fund Bonds are to be of the series provided for by the Twelfth Supplemental Indenture dated as of May 1, 1955, and will be identical in all respects to the sinking fund bonds of this series which were the subject of previous orders by this Commission (the latest such order being that of March 21, 1978 (HCAR No. 20549)).

Ohio Edison proposes to use the Sinking Fund Bonds solely to obtain the inclusion in its general funds, through the authentication and delivery by the Indenture Trustee and surrender by Ohio Edison to said Trustee for cancellation of Sinking Fund Bonds, of the sinking fund payments on deposit or required to be made with the Trustee under the improvement and sinking fund provisions of the Mortgage in 1979. The cash so withdrawn will be used for general corporate purposes. It is proposed that the Sinking Fund Bonds will be issued either on the basis of unfunded property additions or on the basis of retired bonds previously outstanding under the Mortgage. It is estimated that, after giving effect to the issuance of the Sinking Fund Bonds, unfunded net property additions as of September 30, 1978, will amount to $604,000,000. Ohio Edison presently has available $25,058,000 aggregate principal amount of retired bonds previously outstanding under the Mortgage against which bonds can be issued.

Ohio Edison also proposes to issue and sell up to 6,000,000 shares of its authorized but unissued common stock, par value $9 per share ("New Common Stock"). The proceeds from such sale will be used (1) to enable Ohio Edison to continue its on-going construction program, estimated at $385,776,000 for 1979; (2) to reduce its unsecured short-term debt (estimated to amount to $130,000,000 at the time of issuance and sale of the New Common Stock; and (3) to use for other similar corporate purposes for which borrowing under short-term credit lines would be required if such funds were not so used.

Ohio Edison requests that it be granted for such issuance and sale an exemption from the competitive bidding requirements of Rule 50 promulgated under the Act pursuant to Rule 50(a)(5). It is stated that management believes it to be in the best interests of its securityholders and ratepayers that it be permitted to negotiate an offering of the New Common Stock with underwriters so so as to channel as much effort and flexibility as possible into the proposed sale. Ohio Edison's earnings per share for the twelve months ended November 30, 1978, were $1.19 per share; its dividend rate is currently $1.76 per share per annum. At said date its price/earnings ratio was 12.6 times, an extremely high ratio in comparison with the recent past. At the present time Ohio Edison cannot issue either first mortgage bonds or preferred stock due to lack of adequate coverage ratios under its first mortgage indenture and charter. It is claimed that these financial problems make for great uncertainties in the market for its common stock. Ohio Edison states it must be able to tailor the sale of the New Common Stock for the most favorable market if the sale is to be consummated on reasonable terms, and that this is not possible under the constraints of competitive bidding, which prevent last minute changes in timing or amount of securities to be offered. In addition it is felt that the sale of the New Common Stock in the present circumstances will require substantial presale preparation and effort by the underwriter, which only his advance selection will permit. Finally, it is noted that Ohio Edison has filed with this Commission an application under Section 3(a)(2) of the Act requesting an order exempting it from the provisions of the Act (File No. 31-766), and the effect of the action requested therein is something concerning which underwriters will need to be educated.

The fees and expenses to be incurred in connection with the propose transactions will be supplied by amendment. It is stated that the Public Utilities Commission of Ohio has jurisdiction over the issuance and sale of the New Common Stock and the issue and use of the Sinking Fund Bonds, and that no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than January 30, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration, as amended, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the application-declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date the application-declaration, as amended, or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-1398 Filed 1-12-79; 8:45 am]

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[8010-01-M]

[Release No. 34-15459; File No. SR-NYSE-78-65]

SELF-REGULATORY ORGANIZATIONS

New York Stock Exchange, Inc.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) (the "Act"), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on December 18, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The New York Stock Exchange, Inc. ("NYSE") has proposed amendment of Paragraph .10 of NYSE Rule 103 to provide that (i) all members registered with the exchange as regular specialists, or odd-lot dealers or odd-lot brokers will be required to pay a monthly registration fee of $37.50 and (ii) all members registered as relief or associate specialists will be required to pay a monthly registration fee of $1.67. This proposal simply provides for payment of the registration fees required by NYSE Rule 103.10 in monthly, rather than quarterly, installments.

STATEMENT OF PURPOSE OF PROPOSED RULE CHANGE

The NYSE asserts that the purpose of the proposed rule change is to modify Paragraph .10 on NYSE Rule 103 to indicate that registration fees are to be paid monthly rather than quarterly by all members registered with the exchange as regular specialists, odd-lot dealers or brokers, relief specialists, or associate specialists.

STATEMENT OF BASIS UNDER THE ACT FOR PROPOSED RULE CHANGE

The NYSE believes that this amendment of NYSE Rule 103 will facilitate internal recordkeeping and enhance the exchange's capacity to enforce members' compliance with that provision. Accordingly, the NYSE points to Section 6(b)(1) of the Act as providing the statutory basis. Section 6(b)(1) requires, among other things, that a registered national securities exchange have the capacity to enforce compliance by its members with the exchange's rules.

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS, OR OTHERS ON PROPOSED RULE CHANGE

The NYSE states that no comments have been solicited or received.

BURDEN ON COMPETITION

The NYSE believes that its Rule 103, as amended, will not impose any burden on competition.

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act because it changes the time of payment of certain fees. At any time within sixty days of the date of filing of this proposed rule change, the Commission may summarily abrogate the rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the abovementioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted within 21 days of the date of this publication.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

JANUARY 4, 1979.

[FR Doc. 79-1403 Filed 1-12-79; 8:45 am]

[8010-01-M]

[Release No. 34-15460; File No. SR-NYSE-78-67]

SELF-REGULATORY ORGANIZATIONS

New York Stock Exchange, Inc. (the "NYSE" or "Exchange")

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on December 26, 1978, the above mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change and has furnished the following terms of substance, purpose, and basis under the Act for the proposed rule change:

TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGES

The proposed rule changes would require that members, member organizations, allied members, approved persons and registered and non-registered employees report to the Exchange whenever any one of them becomes the subject of any of the following matters: violations of rules or regulations of regulatory and self-regulatory bodies; written customer complaints alleging defalcation, theft or forgery; any disciplinary proceeding by a regulatory or self-regulatory body, or when denied registration, membership or otherwise disciplined by such authorities; arrests and related criminal proceedings; certain associations with a fiduciary implicated in a regulatory or criminal matter; a claim by a customer, broker or dealer which is settled for more than $5,000; a judgment, award or settlement exceeding $5,000 resulting from securities or commodities-related civil litigation or arbitration; and "statutory disqualifications" as defined in the Act.

PURPOSE OF PROPOSED RULE CHANGES

The foregoing reporting requirements would, in light of the standards set forth in Section 6(c)(3) of the Act, enable the Exchange to determine if a member or person associated with a member is qualified to maintain his status with the Exchange.

The proposed amendments are intended to make Exchange reporting requirements consistent with the Act and provide greater efficiency to enable the Exchange to enforce the Act and rules of the Exchange.

Additionally, the proposed new rule eliminates redundancies by consolidating the reporting requirements for members, member organizations, allied members and approved persons, which are currently contained in one rule with the virtually identical reporting requirements for registered employees, which are set forth in another rule.

BASIS UNDER THE ACT FOR PROPOSED RULE CHANGES

The proposed new NYSE Rule 351 and the rescission of NYSE Rules 311.10 and 351 are consistent with Sections 3(a)(39), 6 (b) and (c), 15(b)(4)(B)-(E) and 17(a) of the Act. The proposed reporting requirements would provide the Exchange with information enabling it to enforce compliance by its members and persons associated with its members, with the Act and the rules and regulations thereunder. By requiring the reporting of persons subject to "statutory disqualifications" as defined in the Act and of other information necessary to determine if a person has "engaged in

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acts or practices inconsistent with just and equitable principles of trade," the proposed rule provides the Exchange with the opportunity to determine, as stated in Section 6(c) of the Act, the qualifications of a broker or dealer to be a member or any person to be associated with a member. By providing the Exchange with a means to enforce compliance with the Act and rules of the Exchange, the proposed reporting requirements would help to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade and serve to facilitate the protection of investors and the public interest. Further, the proposed Rule would provide the Exchange with a means to determine if its members or persons associated with its members should be appropriately disciplined for violation of the provisions of the Act or the rules of the Exchange.

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS, OR OTHERS ON PROPOSED RULE CHANGES

The NYSE states that comments were solicited and received from the Securities Industry Association and incorporated into the proposed rule. Their suggestions were to require reports of settlements exceeding $5,000, rather than $2,500, and of rule violations known to have actually occurred.

BURDEN ON COMPETITION

The NYSE has determined that this proposal will not impose any burden on competition.

Within 35 days of the January 15, 1979, date of publication of this notice in the FEDERAL REGISTER (February 19, 1979), or within such longer period (i) as the Commission may designate up to 90 days of such date (April 16, 1979) if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and all written submissions will be available for inspection in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before February 5, 1979.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

JANUARY 4, 1979.

[FR Doc. 79-1404 Filed 1-12-79; 8:45 am]

[8010-01-M]

[Administrative Proceeding File No. 3-5541; File No. 81-440]

SOUTH SHORE PUBLISHING CO., INC.

Application and Opportunity for Hearing

Notice is hereby given that South Shore Publishing Co., Inc. ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended, (the "1934 Act") for an order exempting Applicant from the provisions of Sections 13 and 15(d) of that Act.

The Application states, in part:

1. The Applicant became subject to the periodic reporting requirements of Section 15(d) of the 1934 Act for its common stock in 1969.

2. Applicant's registration under Section 12(g) of the 1934 Act, effective in 1972, was terminated on November 28, 1978.

3. On October 6, 1978, the stockholders of the Applicant approved an amendment to the corporate charter to effect a reverse split of its common stock. As the result of such reverse stock split, the Company has only three stockholders.

In the absence of an exemption, Applicant would be required to file reports pursuant to Sections 13 and 15(d) of the 1934 Act and the rules and regulations, thereunder, for the balance of the fiscal year ending May 31, 1979. Applicant believes that its request for an order exempting it from the reporting provisions of Sections 13 and 15(d) of the 1934 Act is appropriate in view of the fact that the time, effort and expense involved in preparation of additional periodic reports would be disproportionate to any benefit to the public.

For a more detailed statement of the information presented, all persons are referred to the application which is on file in the offices of the Commission at 1100 L St., N.W., Washington, D.C. 20549.

Notice is further given that any interested person, not later than Jan. 29, 1979, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed to Secretary, Securities and Exchange Commission, 500 North Capital Street, N.W., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-1400 Filed 1-12-79; 8:45 am]

[8010-01-M]

[Rel. No. 20878; 70-6251]

SOUTHWESTERN ELECTRIC POWER CO.

Proposed Acquisition of Coal Rail Cars

JANUARY 8, 1979.

Notice is hereby given that Southwestern Electric Power Company ("SWEPCO"), P.O. Box 21106, Shreveport, Louisiana 71156, an electric utility subsidiary of Central and South West Corporation, a registered holding company, has filed with this Commission an application pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 9(a) and 10 of the Act as applicable to the proposed transactions. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transactions.

SWEPCO seeks authorization to acquire 605 one hundred ton, sixty foot, open-top coal hopper rail cars (the "Equipment") for use in unit train service between Gillette, Wyoming and SWEPCO's Welsh Unit No. 1, Welsh Unit No. 2 and Flint Creek power plants. SWEPCO has acquired 605 equivalent rail cars pursuant to the authorizations given in previous orders of August 9, 1976 (HCAR No. 19643), and October 12, 1977 (HCAR No. 20207). Each unit train consists of 110 coal cars and SWEPCO maintains a 10% or 11 car reserve for maintenance and repairs. The proposed acquisition of 605 cars will provide one additional unit train for Welsh Unit No. 1, one additional unit train for Flint Creek and three unit trains for Welsh Unit No. 2, which is presently being constructed and is scheduled for commercial operation in 1980. The 605 cars comprising the Equipment will cost approximately $25,000,000, with the final cost dependent upon cost escalations under the contract with the manufacturer, delivery charges and the amounts of any sales or use taxes.

It is stated that additional unit trains for Welsh Unit No. 1 and Flint Creek are necessary because the turnaround times experienced by SWEPCO are in excess of the times originally estimated, such tardiness being attributed to congestion on the railroad's line from the mine site near Gillette, Wyoming to the Welsh plant in Cason, Texas and the Flint Creek plant in Siloam Springs, Arkansas, distances of about 1500 and 1100 miles, respectively. The estimated turnaround time to the Welsh plant was 155 hours; that actually experienced, 210 hours. The estimated turnaround time to the Flint Creek plant was 114 hours; that actually experienced, 183 hours. To compensate for the added times SWEPCO had been using two unit trains consisting of carrier-owned rail cars supplied by Burlington Northern, Inc., one of which is no longer available to SWEPCO. SWEPCO believes it advisable to acquire sufficient additional cars (242) so that it does not need to rely on carrier-owned cars for these two units trains.

It is further stated that 363 cars (three unit trains) are presently estimated to be sufficient to transport the coal requirements for Welsh Unit No. 2, the coal for which is to be provided under a contract between SWEPCO and Amax Coal Company covering coal requirements for Welsh Unit No. 1, Welsh Unit No. 2 and Flint Creek for the first 25 years of the operation of such facilities.

SWEPCO intends that all of the Equipment will be used exclusively by it. Since the unit trains will operate continuously there will be no spare car capacity. In the event the turnaround time now experienced by SWEPCO is reduced, SWEPCO will either acquire fewer coal cars than the number presently anticipated to be required to service Welsh Unit No. 3 or will refrain from replacing cars which have become worn out or irreparably damaged in operation, or both.

Of the 605 rail cars, SWEPCO plans to acquire 242 between February and June 1979, pursuant to a proposed railroad equipment lease ("Lease") described further below. The financing arrangements for the remaining 363 rail cars, which are scheduled for delivery from October through December 1979, have not been completed and will be the subject of further amendment to this application.

The Lease SWEPCO proposes to enter into is with Cason Car Corporation ("Lessor") and is for 242 rail cars for an interim term beginning on the date of delivery of the rail cars and ending on August 1, 1979, followed by a primary term of 20 years ending on August 1, 1999. The rental for the interim term will be a payment on August 1, 1979, equal to the purchase price of the rail cars, as defined in the Lease, times the daily equivalent of 9½% per annum for each day of the interim term. Rentals thereafter will be required semiannually, commencing February 1, 1980, in accordance with the following schedule:

Rental Payment Dates	Number of Payments	Percent of Purchase Price
Feb. 1, 1980 to Aug. 1, 1984	10	4.75%
Feb. 1, 1985 to Feb. 1, 1999	29	6.16%
Aug. 1, 1999	1	16.16%

The rental payments are calculated to be an amount sufficient to pay interest only at 9½% per annum on the purchase price for the first 5 years of the primary term, to amortize 90% of the purchase price at 9½% per annum during the 6th through 20th year of the primary term, with a final payment of the then-remaining unamortized portion of the purchase price.

The Lease is a net lease under which SWEPCO agrees to pay all taxes and charges on the rail cars or assessed against the Lessor (other than income taxes assessed against the Lessor on its fees) and covenants to keep the rail cars insured or self-insured, free of non-permitted liens and encumbrances, in good maintenance and repair and in compliance with laws and governmental regulations. In the event of a casualty occurrence (which would include a rail car's becoming worn out, lost, stolen, destroyed, condemned or otherwise permanently unfit for use), SWEPCO is required to either: (i) terminate the Lease with respect to such rail car and pay the Lessor a sum equal to the Casualty Value of such rail car; (ii) substitute replacement equipment having a value and a useful life at least equal to the Casualty Value and remaining useful life of the rail car being replaced; or (iii) provide sufficient funds to the lessor to enable it to acquire replacement equipment meeting the requirements of clause (ii) above. The Casualty Value of a rail car represents the then unamortized portion of its purchase price as of a given rental payment date.

The rail cars are being manufactured by Thrall Car Manufacturing Company ("Thrall") and will be sold by it to the Lessor under a conditional sales agreement ("CSA"). Thrall will assign its right, title and interest in the CSA and the rail cars to Mercantile-Safe Deposit and Trust Company, as agent ("Agent") pursuant to an agreement and assignment ("Assignment"), which will hold security title to the rail cars on behalf of Greenwich Savings Bank and Pilot Life Insurance Company (collectively, the "Investors") who will provide 100% of the purchase price of the rail cars. The Investors will be repaid in installments under the CSA equal to the rental payments required to be made by SWEPCO under the Lease. The Investors, the Agent and SWEPCO will enter into a finance agreement describing the proposed transaction, and the Lessor will assign to the Agent, as additional security, the rentals to be received under the Lease (SWEPCO will acknowledge notice of and consent to such assignment).

SWEPCO will have the right to terminate the Lease as of any rental payment date occurring on or after August 1, 1989, in the event it determines the rail cars are no longer economical for use in its operations by paying the Casualty Value of the rail cars at such date to the Lessor. Upon payment of the Casualty Value or upon payment of the last rental installment SWEPCO will receive title to the rail cars and will have no further obligations under the Lease. SWEPCO will also have the right to terminate the Lease as of any rental payment date by depositing with the Agent an amount sufficient to prepay the unamortized principal amount of the CSA indebtedness plus a premium equal to 9½% of such amount during the first year of the primary term and declining by equal annual amounts to no premium in the final year of the primary term, provided that no such redemption can be made prior to August 1, 1989, from the proceeds of borrowings by SWEPCO having a lesser interest cost or a shorter remaining weighted average life than the interest cost or remaining weighted average life of the CSA indebtedness. SWEPCO can also terminate the lease as of any rental payment date by entering into and delivering to the Agent an assumption agreement under which the lessor would assign its interests as vendee under the CSA to SWEPCO and SWEPCO would directly assume liability for repayment of the CSA indebtedness.

It is stated that SWEPCO intends to include the full amount of the rental payments under the Lease in determining its fuel costs for use in the fuel adjustment clause of its rates, subject to approval by applicable regulatory authorities.

The fees and expenses to be incurred in connection with the proposed transactions will be supplied by amendment. It is stated that no state com-

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mission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than January 29, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-1399 Filed 1-12-79; 8:45 am]

[8010-01-M]

[File No. 1-4162]

UOP, INC.

6¾% Sinking Fund Debentures Due May 1, 1993; Application To Withdraw From Listing and Registration

JANUARY 2, 1979.

The above named issuer has filed an application with the Securities and Exchange Commission, pursuant to Section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the NEW YORK STOCK EXCHANGE, INC. ("NYSE").

The reason alleged in the application for withdrawing this security from listing and registration include the following:

The 6¾% Sinking Fund Debentures ("Debentures") of UOP, Inc. (the "Company") are being withdrawn from listing and registration because the Company has determined that the expense of complying with the Commission's reporting requirements is not justified. The Company has indicated that there are less than 300 recordholders for the above listed Debentures. The NYSE has posed no objection in this matter.

Any interested person may, on or before January 31, 1978, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission will, on the basis of the application and any other information submitted to it, issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-1401 Filed 1-12-79; 8:45 am]

[8010-01-M]

[Administrative Proceeding File No. 3-5589; File No. 81-402]

WORCESTER CONTROLS CORP.

Application and Opportunity for Hearing

JANUARY 4, 1979.

Notice is hereby given that Worcester Controls Corporation ("Applicant") has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended, (the "1934 Act") seeking an exemption from the requirements to file reports pursuant to Sections 13 and 15(d) of the Exchange Act.

The Applicant states, in part:

1. The Applicant is a Massachusetts corporation subject to the reporting provisions of Sections 13 and 15(d) of the 1934 Act.

2. On August 28, 1978, a wholly-owned subsidiary (WCC Corp.) of BTR Limited, an English Corporation, became the sole shareholder of the Applicant when it acquired 100 percent of Applicant's outstanding equity securities as a result of a merger of a wholly-owned subsidiary of WCC Corp. with and into the Applicant.

3. The merger was voted upon and approved by the Applicant's shareholders at a meeting held on August 28, 1978.

4. Upon the terms of the merger, the shares of the Applicant's common stock outstanding prior to the merger were each converted into $30.00 cash.

5. The holders of such shares do not have any continuing interest in or rights as shareholders, of the Applicant.

In the absence of an exemption, Applicant is required to file pursuant to Sections 13 and 15(d) of the 1934 Act and the rules and regulations thereunder, an annual report on Form 10-K for its fiscal year ending August 31, 1978. Applicant believes that its request for an order exempting it from the provisions of Sections 13 and 15(d) of the 1934 Act is appropriate in view of the fact that Applicant believes that the time, effort and expense involved in preparation of additional periodic reports would be disproportionate to any benefit to the public.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 500 North Capitol Street, N.W., Washington, D.C.

Notice is further given that any interested person not later than January 29, 1979, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) any postponements thereof. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-1402 Filed 1-12-79; 8:45 am]

[8010-01-M]

[Release Nos. 33-6011; 34-15458; 35-20869; IC-10542]

ADVISORY COMMITTEES

Establishment

ACTION: Notice of Establishment of the Securities and Exchange Commission Advisory Committee on Oil and Gas Accounting.

SUMMARY: The Chairman of the Commission, with the concurrence of the other members of the Commission, has established the Securities and Exchange Commission Advisory Committee on Oil and Gas Accounting, which is to advise the Chief Accountant of the Commission on various difficult, complex and technical questions relating to the development of oil and gas reserve recognition accounting.

FOR FURTHER INFORMATION CONTACT:

James Russell or Gretta Powers, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 (202) 755-0222 or (202) 472-3782.

SUPPLEMENTARY INFORMATION: In accordance with the requirements of the Federal Advisory Committee Act, 5 U.S.C. App. I, and the regulations thereunder, the Commission has ordered publication of this notice that Chairman Williams, with the concurrence of the members of the Commission, has established an advisory committee under the Federal Advisory Committee Act which is designated the Securities and Exchange Commission Advisory Committee on Oil and Gas Accounting, certifying that he has considered the establishment of this Committee and, with the concurrence of the other members of the Commission, has found the creation of this Committee to be in the public interest in that it will assist the Commission in the performance of its responsibilities under the federal securities laws.

The Advisory Committee's objectives are to advise the Chief Accountant of the Commission on various difficult, complex and technical questions relating to the development of oil and gas reserve recognition accounting including: cost-effective standards for reserve valuations; the appropriate format for a supplemental earnings summary presenting the results of oil and gas operations accounted for by the reserve recognition accounting method; the feasibility of incorporating data generated pursuant to the reserve recognition accounting method into the primary financial statements of registrants engaged in oil and gas producing activities; and other related matters coming to the attention of the Chief Accountant.

The Advisory Committee shall conduct its operations in accordance with the provisions of the Federal Advisory Committee Act.

The Advisory Committee shall submit its reports and recommendations to the Chief Accountant of the Commission. The duties of the Advisory Committee shall be solely advisory and shall extend only to the submission of reports and recommendations to the Chief Accountant of the Commission, who has sole responsibility for determining appropriate actions to be recommended to the Commission.

The Commission shall provide any necessary support services required by the Advisory Committee.

The estimated annual operating costs in dollars and staff-years of the Advisory Committee are as follows:

Dollar cost—$25,000 for travel, per diem and miscellaneous expenses for Advisory Committee members and Commission personnel per year on a continuing basis.

Staff-years—2 staff years, per year, for Commission personnel on a continuing basis.

The Advisory Committee shall meet at such intervals as are necessary to carry out its functions. It is estimated that the meetings of the full Advisory Committee generally will not occur more frequently than monthly (or twelve times a year).

The Advisory Committee shall terminate at the end of two years from the date of its establishment unless, prior to such time, its Charter is renewed in accordance with the Federal Advisory Committee Act, or unless the Chairman, with the concurrence of the other members of the Commission, determines that continuance of the Advisory Committee no longer is in the public interest.

Fifteen days after this notice has been published in the FEDERAL REGISTER, Notice of the establishment of the Committee and the Charter of this Committee will be filed with the Chairman of the Commission, the Senate Committee on Banking, Housing, and Urban Affairs, and the House of Representatives Committee on Interstate and Foreign Commerce. A copy of the Notice and the Charter will also be furnished to the Library of Congress and to the Office of Public Information of the Commission and will be available for public inspection.

The Commission anticipates announcing the membership of the Advisory Committee and the proposed date for its first meeting within the next few weeks.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

JANUARY 4, 1979.

[FR Doc. 79-1408 Filed 1-12-79; 8:45 am]

[8025-01-M]

SMALL BUSINESS ADMINISTRATION

[License No. 10/13-5027]

ALYESKA INVESTMENT CO.

Filing of Application for Transfer of Control

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to 13 C.F.R. 107.701 (1978) for the transfer of control of Alyeska Investment Company (licensee), a small business investment company licensed by the Small Business Administration on June 18, 1971, and operating under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended (the Act).

Licensee, an Alaskan corporation with its principal place of business located at 1815 South Bragaw Street, Anchorge, Alaska 99504, is presently owned by the following stockholders:

Name	Voting Shares	Percent of Ownership
Amerada Hess Pipeline Corporation	150	1.5
Arco Pipeline Company	2,100	21.0
BP Pipeline Inc.	1,584	15.8
Exxon Pipeline Company	2,000	20.0
Mobil Alaska Pipeline Company	500	5.0
Phillips Alaska Pipeline Corporation	166	1.7
Sohio Pipe Line Company	3,334	33.3
Union Alaska Pipeline Company	166	1.7
Total	10,000	100.0

Under the terms of a "Stock Purchase Agreement", Allen R. Thompson and Connie F. Thompson, husband and wife (collectively "Buyers"), propose to acquire all of the outstanding stock of the licensee.

Upon transfer of control, the "Buyers" will continue the operations of the licensee at 234 East 2nd Avenue, Anchorage, Alaska 99501 with no change in the investment policy or in the area of operations. However, the following will be named officers and directors:

Allen R. Thompson, Lot 13, Prospect Heights Road, Anchorage, Alaska 99504, President, Director & 100% Stockholder.
Rick A. Thompson, SR 2, Box 251, Eagle River, Alaska 99577, Vice President, Director.
Sharyn C. Clabaugh, 2901 West 33rd, Anchorage, Alaska 99503, Secretary, Director.
Alfred R. Knighten, 1019 San Fernando #8, Anchorage, Alaska 99504, Treasurer, Director.
John L. Alexander, 1519 E Street, Anchorge, Alaska 99501, Director.
Nina M. Anderson, 1813 G Street, Anchorage, Alaska 99501, Director.
Robert W. Fritz, 3501 Lunar Drive, Anchorage, Alaska 99504, Director.
Terry L. Petruska, P.O. Box 4-1910, Anchorage, Alaska 99509, Director.
Finis J. Sheldon, Mi 23, Old Glenn Highway, Chugiak, Alaska 99567, Director.
Roger E. Smith, 715 Pisgah Drive, Canon City, Colorado 81212, Director.
George E. Williams, 2511 ½ West 30th, Anchorage, Alaska 99503, Director.

Matters involved in SBA's consideration of the application include the general business reputation and char-

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acter of management and shareholders, and the probability of successful operations of the licensee under their management in accordance with the Act and Regulations.

Notice is further given that any person may, not later than January 31, 1979, submit to SBA in writing, comments on the proposed transfer of control of this company. Any such comments should be addressed to: Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

A copy of this notice will be published by the licensee in a newspaper of general circulation in Anchorage, Alaska.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: December 18, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 79-1350 Filed 1-12-79; 8:45 am]

[8025-01-M]

[Declaration of Disaster Loan Area No. 1554]

INDIANA

Declaration of Disaster Loan Area

Clark County and adjacent counties within the State of Indiana constitute a disaster area as a result of damage caused by excessive rainfall and severe flooding which occurred from December 8-16, 1978. Applications will be processed under the provisions of Public Law 94-305. Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of business on March 5, 1979, and for economic injury until the close of business on October 5, 1979, at:

Small Business Adminstration, District Office, Federal Building—5th Floor, 575 North Pennsylvania Street, Indianapolis, Ind. 46204,

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: January 4, 1979.

A. VERNON WEAVER,
Administrator.

[FR Doc. 79-1351 Filed 1-12-79; 8:45 am]

[4710-070-M]

DEPARTMENT OF STATE

[Public Notice CM-8/148]

STUDY GROUP 6 OF THE U.S. ORGANIZATION FOR THE INTERNATIONAL RADIO CONSULTATIVE COMMITTEE (CCIR)

Meeting

The Department of State announces that Study Group 6 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet on February 8, 1979, at Boulder, Colorado. The meeting will open at 9:00 a.m., in Room 3012 of the Radio Building, 325 Broadway, Boulder, Colorado.

Study Group 6 deals with matters relating to the propagation of radio waves by and through the ionosphere. The purpose of the meeting will be a review of the documentation approved at the CCIR Special Preparatory Meeting and to review the program for submission of documents to the CCIR for the 1978-1982 cycle.

Members of the general public may attend the meeting and join in the discussions subject to the instructions of the Chairman.

Requests for further information should be directed to Mr. Gordon Huffcutt, State Department, Washington, D.C. 20520, Telephone 202-632-2592.

Dated: January 8, 1979.

GORDON L. HUFFCUTT,
Chairman,
U.S. CCIR National Committee.

[FR Doc. 79-1306 Filed 1-12-79; 8:45 am]

[4710-19-M]

[Public Notice 646]

PARTICIPATION OF PRIVATE-SECTOR REPRESENTATIVES ON U.S. DELEGATIONS

As announced in Public Notice No. 623 (43 FR 37783), August 24, 1978, the Department is submitting the following list of private-sector representatives and advisers who participated in U.S. Delegations during the month of December, 1978.

Publication of this list is required by Article IV(c)(4) of the guidelines published in the FEDERAL REGISTER on August 24, 1978.

Dated: January 2, 1979.

BRYAN H. BAAS,
Deputy Director, Office of International Conferences.

UNITED STATES DELEGATION TO THE SECOND SESSION, PREPARATORY COMMITTEE FOR THE THIRD INTERNATIONAL COCOA AGREEMENT, INTERNATIONAL COCOA COUNCIL AND SPECIAL SESSION, INTERNATIONAL COCOA COUNCIL, LONDON, DECEMBER 4-15, 1978

REPRESENTATIVES

John P. Ferriter, Chief, Tropical Products Division, Bureau of Economic and Business Affairs, Department of State.

ALTERNATE REPRESENTATIVE

Thomas J. O'Donnell, American Embassy, London.

ADVISERS

Ralph Ives, Resources Policy Division, Department of Commerce.
William Quinn, Office of Raw Materials, Department of the Treasury.
David A. Ross, Tropical Products Division, Bureau of Economic and Business Affairs, Department of State.

PRIVATE SECTOR ADVISERS

John C. K. Buckley, Vice-President, Purchasing, the Nestle Company, White Plains, N.Y.
Julian Hemphill, Chairman, New York Cocoa Exchange, New York, N.Y.
Elizabeth Wood, Assistant Coordinator of the Nutrition and Consumer Education, Consumers Cooperative of Berkeley, Berkeley, Calif.

THE ECONOMIC AND SOCIAL COUNCIL COMMITTEE OF EXPERTS ON THE TRANSPORT OF DANGEROUS GOODS, 10TH SESSION, GENEVA, DECEMBER 4 TO 13, 1978

REPRESENTATIVE

Alan I. Roberts, Director, Office of Hazardous Materials Regulation Research and Special Programs Administration, Department of Transportation.

ALTERNATE REPRESENTATIVE

Edward A. Atemos, Office of Hazardous Materials Regulation, Research and Special Programs Administration, Department of Transportation.

ADVISERS

Robert C. Herman, Explosives Safety Board, Department of Defense.
Donnell W. Morrison, Chief, Vehicle Requirements Branch, Bureau of Motor Carrier Safety, Federal Highway Administration, Department of Transportation.
Charles W. Schultz, Engineering Branch, Office of Hazardous Materials Regulation, Research and Special Programs Administration, Department of Transportation.
W. N. Spence, Captain, Chief, Cargo and Hazardous Materials Division, Office of Merchant Marine Safety, United States Coast Guard, Department of Transportation.

PRIVATE SECTOR ADVISERS

Michael T. Bohlman, Cargo Tank Engineer, Sea-Land Service, Inc., Elizabeth, N.J.
Orton Overman, Stauffer Chemical Co., Westport, Conn.

UNITED STATES DELEGATION TO THE AD HOC WORKING PARTY ON PULP AND PAPER, INDUSTRY COMMITTEE, ORGANIZATION FOR ECONOMIC COOPERATION AND DEVELOPMENT (OECD), PARIS, DECEMBER 12-13, 1978

REPRESENTATIVE

Donald W. Butts, Industry and Trade Administration, Department of Commerce.

ALTERNATIVE REPRESENTATIVE

Raymond Lombardi, United States Mission to OECD Paris.

PRIVATE SECTOR ADVISER

Irene Meister, Vice President, American Paper Institute, New York, N.Y.

UNITED STATES DELEGATION TO THE INTERNATIONAL SUGAR ORGANIZATION COUNCIL, LONDON, DECEMBER 13-14, 1978

REPRESENTATIVE

Thomas J. O'Donnell, American Embassy, London.

ALTERNATE REPRESENTATIVE

David H. Burns, Tropical Products Division, Bureau of Economic and Business Affairs, Department of State.

ADVISER

Paul P. Pilkauskas, American Embassy, London.

PRIVATE SECTOR ADVISERS

Arthur M. Best, Deputy Commissioner, Department of Consumer Affairs, New York, N.Y.
H. Paul Gardner, New York Coffee and Sugar Exchange, New York, N.Y.
Gregg R. Potvin, President, U.S. Cane Sugar Refiners Association, Washington, D.C.

UNITED STATES DELEGATION TO THE FOURTH SESSION OF THE PREPARATORY COMMITTEE OF THE INTERNATIONAL MARITIME SATELLITE SYSTEM (INMARSAT), INTERGOVERNMENTAL MARITIME CONSULTATIVE ORGANIZATION (IMCO), LONDON, DECEMBER 18-22, 1978

REPRESENTATIVE

Arthur L. Freeman, Office of International Communications Policy, Department of State.

ADVISERS

Veronica Ahern, Director, International Affairs, National Telecommunications and Information Administration, Department of Commerce.
H. Clay Black, Shipping Attaché, American Embassy, London.
Robert Greenburg, Common Carrier Bureau, Federal Communications Commission.
Waldimir Naleszkiewicz, National Telecommunications and Information Administration, Department of Commerce.

PRIVATE SECTOR ADVISERS

Robert N. Zxeirod, ComSat General Corporation, Washington, D.C.
Robert Bourne, Attorney, Communications Satellite Corporation, Washington, D.C.
Edward Martin, Assistant Vice President, ComSat General Corporation, Washington, D.C.
Edward Slack, ComSat General Corporation, Washington, D.C.

CONGRESSIONAL ADVISERS

Ronald Coleman, House Interstate and Foreign Commerce Committee Staff.
Brian Moir, House Interstate and Foreign Commerce Committee.

UNITED STATES DELEGATION TO THE INSURANCE COMMITTEE, ORGANIZATION FOR ECONOMIC COOPERATION AND DEVELOPMENT (OECD) PARIS, DECEMBER 19-20, 1978

REPRESENTATIVE

Albert N. Alexander, Director, International Services Division, Department of Commerce.

ADVISER

Stephen Altheim, United States Mission to OECD, Paris.

PRIVATE SECTOR ADVISER

Harold K. Shelp, International Insurance Advisory Council, Washington, D.C.

UNITED STATES DELEGATION TO THE INTERNATIONAL WHALING COMMISSION (IWC), TOKYO, DECEMBER 19-20, 1978

COMMISSIONER

The Honorable Richard A. Frank, Administrator, National Oceanic and Atmospheric Administration, Department of Commerce.

DEPUTY COMMISSIONER

Thomas Garrett, Garrett, Wyo.

ADVISERS

William Aron, Director, Office of Ecology and Conservation, National Oceanic and Atmospheric Administration, Department of Commerce.
Janice K. Barnes, Office of Ocean Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State.
Robert Brownell, Fish and Wildlife Laboratory, Department of the Interior.
Robert Eisenbud, General Counsel, Marine Mammal Commission.
Prudence Fox, Office of International Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration.
Katherine Gillman, Council on Environmental Quality.
Eldon Greenberg, General Counsel, National Oceanic and Atmospheric Administration, Department of Commerce.
James Johnson, Fisheries Attaché, Tokyo.
Michael Tillman, Marine Mammal Division, National Oceanic and Atmospheric Administration, Department of Commerce.

PRIVATE SECTOR ADVISERS

Patricia Forkan, Vice President, Humane Society of the United States, Washington, D.C.
Claudia Kendrew, National Wildlife Federation, Washington, D.C.
Ronn Storro-Patterson, Whale Center, Oakland, Calif.

[FR Doc. 79-1301 Filed 1-12-79; 8:45 am]

[4910-13—M]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

ELMENDORF RADAR APPROACH CONTROL

Closing

Notice is hereby given that on or about January 10, 1979, the Elmendorf Radar Approach Control (RAPCON), Anchorage, Alaska, will be closed. Air traffic services formerly provided by this facility will be provided by the Anchorage Terminal Radar Approach Control (TRACON).

(Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354.

Issued in Anchorage, Alaska on January 2, 1979.

DONALD T. KEIL, JR.,
Acting Director, Alaskan Region.

[FR Doc. 79-1278 Filed 1-12-79; 8:45 am]

[7035-01-M]

INTERSTATE COMMERCE COMISSION

Office of Proceedings

[Notice No. 2]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JANUARY 4, 1979.

IMPORTANT NOTICE

The following are notices of filing of applications for temporary authority under Section 210(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the

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quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

NOTE: All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

MOTOR CARRIERS OF PROPERTY

MC 2202 (Sub-573TA), filed November 20, 1978. Applicant: ROADWAY EXPRESS, INC., P.O. Box 471, 1077 Gorge Blvd., Akron, OH 44309. Representative: William O. Turney, Suite 1010, 7101 Wisconsin Avenue, Washington, D.C. 20014. *General commodities* (except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) serving Neosho, MO as an off-route point in connection with applicant's regular routes, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): LA-Z-Boy Chair, Inc., P.O. Box 628, Neosho, MO 64850. SEND PROTESTS TO: Mary Wehner, I.C.C., 731 Federal Office Bldg., 1240 East Ninth St., Cleveland, OH 44199.

MC 11207 (Sub-460TA), filed October 20, 1978. Applicant: DEATON, INC., 317 Avenue W, Post Office Box 938, Birmingham, Al 35201. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Avenue, Washington, D.C. 20014. *Plywood paneling, gypsum board, composition board, and molding,* from the facilities of Cambe Industries, Incorporated, at or near Valdosta, GA, to points in AL, AR, FL, IN, KY, LA, MS, NC, SC, TN, TX, and VA, for 180 days. SUPPORTING SHIPPER(S): Cambe Industries, Inc., P.O. Box 1893, Valdosta, GA 31601. SEND PROTESTS TO: Mabel E. Holston, Transportation Asst., I.C.C., Rm. 1616—2121 Bldg., Birmingham, AL 35203.

MC 14215 (Sub-19TA), filed November 20, 1978. Applicant: SMITH TRUCK SERVICE, INC., P.O. Box 1329, Steubenville, Ohio 43952. Representative: John L. Alden, P.O. Box 12241, 1396 West Fifth Avenue, Columbus, Ohio 43212. *Roofing and roofing material,* From the facilities of Koppers Company, Inc. in Youngstown, Wickliffe, and Heath, OH to IN, KY, MI, NY, PA, and WV, for 180 days. SUPPORTING SHIPPER(S): Koppers Company, Inc., 850 Koppers Bldg., Pittsburgh, PA 15219. SEND PROTESTS TO: J. A. Niggemyer, I.C.C., 416 Old Post Office, Bldg., Wheeling, WV 26003.

MC 16872 (Sub-17TA), filed November 24, 1978. Applicant: WILLIAM MIRRER, d/b/a/ MIRRER'S TRUCKING CO., 100 E. 25th Street, Patterson, NJ 07514. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Plastic Granuels* (except in bulk) (1) From Joliet and Chicago, IL to Santa Ana, CA, Houston and Beaumont, TX (2) From Chicago, IL to NY, PA, CT, RI, MA, (3) From Houston and Beaumont, TX to Chicago, IL, NY, PA, CT, RI, MA, (4) Santa Ana, CA to TX, IL, NJ, MO, (5) Holyoke, MA to Santa Ana, CA, TX. (5) From NJ to NY, PA, CT, RI, MA. Restricted to shipments originating at the facilities of Mobil Chemical Co., and Rexene Polyefins Company, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Mobil Chemical Corp., P.O. Box 37, Paramus, NJ 07652. Rexene Polymers Co., P.O. Box 37, Paramus, NJ 07652. SEND PROTESTS TO: Joel Morrows, I.C.C., 9 Clinton St., Newark, NJ 07102.

MC 16872 (Sub-18TA), filed November 24, 1978 Applicant: WILLIAM MIRRER, D/B/A MIRRER'S TRUCKING CO., 100 E. 25th Street, Paterson, NJ 07524. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. (1) *Washing, cleaning, and scouring compounds,* (except commodities in bulk), From the facilities of Witco Chemical Corp., located at Paterson, NJ, to points in that portion of the US lying in and east of the states of ND, SD, NE, KS, OK and TX and (2) materials, equipment and supplies used in the manufacture and sale of the commodities described in (1) above, (except commodities in bulk) from points in the destination in (1) above to the facilities of Witco Chemical Corp., located at Paterson, NJ, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Witco Chemical Corp., P.O. Box 305, Paramus, NJ 07652. SEND PROTESTS TO: Joel Marrows, I.C.C., 9 Clinton Street, Newark, NJ 07102.

MC 17051 (Sub-20TA), filed November 27, 1978. Applicant: BARNET'S EXPRESS, INC., 758 Lidgerwood Ave., Elizabeth, NJ 07202. Representative: S. Michael Richards/Raymond A. Richards, 44 North Ave., Webster, NY 14580. *Wearing apparel, on hangers, equipment, materials, and supplies used or useful in the manufacture and sale of wearing apparel,* (1) between the facilities of L.CID Casuals, Inc. at New York, NY, on the one hand, and, on the other, Uniontown, AL, and (2) between the facilities of Cooper Sportswear Mfg. Co., Inc. at Carteret, Newark, Perth Amboy, and Trenton, NJ, and Johnstown, NY, on the one hand, and, on the other Columbus, OH, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. SUPPORTING SHIPPER(S): Sidney Panoff, Pres., L.CID Casuals, Inc., 1359 Broadway, New York, NY 10018 and Sidney Cooper, Sec/Treas., Cooper Sportswear Mfg. Co., Inc., 720 Frelinghuysen Ave., Newark, NJ 07114. Send protests to: Robert E. Johnston, I.C.C., 9 Clinton Street, Newark, NJ 07102.

MC 42011 (Sub-48TA), filed November 20, 1978 Applicant: D. Q. WISE & CO., INC., P.O. Drawer L, Tulsa, OK 74112. Representative: James W. Hightower, 136 Wynnewood Professional Building, Dallas, TX 75224. (1) *Process equipment, exchangers, tanks and vessels,* and (2) *material and equipment* used in, or in connection with the manufacture of (1) above, between the facilities of Plant Maintenance Service Corp., at or near Memphis, TN, on the one hand, and, on the other, points in the U.S. except AK, AL, GA, FL, SC and NC, for 180 days. SUPPORTING SHIPPER(S): Plant Maintenance Service Corporation, P.O. Box 28883, 3000 Fite Road, Memphis, TN 38128. SEND PROTESTS TO: Connie Stanley, ICC, Room 240 Old Post Office and Court House Building, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 59117 (Sub-63TA), filed November 27, 1978 Applicant: ELLIOTT TRUCK LINE, INC., P.O. Box 1, Vinita, OK 74301. Representative: Wilburn L. Williamson, 280 National Foundation Life Bldg., Oklahoma City, OK 73112. *Fly ash,* in bulk, from Gentry, AR to points in TX, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Gifford-Hill and Co., Inc., Ash Products Division, Box 47127, Dallas, TX 75247. SEND PROTESTS TO: Connie Stanley, Room 240 Old Post Office and Court House Building, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 94635 (Sub-6TA), filed November 20, 1978. Applicant: INTERSTATE SAND & GRAVEL TRANSPORTATION, INC., 717 Elmer Street, Vineland, NJ 08360. Representative: Terrance D. Jones, 2033 K Street, NW, Washington, DC 20006. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Sand, stone, gravel and clay,* from points in Burlington, Camden, Gloucester, Salem, Cumberland, Cape May and Atlantic Counties, NJ to points in DE, DC, MD, MA, NY and PA (except points in Bucks, Berks, Lehigh, Lebanon, Lancaster, Chester, Delaware, Montgomery and Philadelphia Counties), restricted to transportation services performed under a continuing contract or

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contracts with Owens Illinois, Inc., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Owens Illinois, Inc., Glass Container Division, P.O. Box 1035, Toledo, OH 43666. SEND PROTESTS TO: John P. Lynn, ICC, 428 East State Street, Room 204, Trenton, NJ 08608.

MC 100666 (Sub-414TA), filed November 20, 1978. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 71107. Representative: Mr. Wilburn L. Williamson, 280 National Foundation Life Bldg., Oklahoma City, OK 73112. *Canned goods,* from the facilities of Michigan Fruit Canners Division, Curtis-Burns, Inc., at or near Coloma, MI to points in OK, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Michigan Fruit Canners Division, Curtis-Burns, Inc., P.O. Box 206, Coloma, MI 49038. SEND PROTESTS TO: Connie A. Guillory, ICC, T-9038, Postal Service Building, 701 Loyola Avenue, New Orleans, LA 70113.

MC 105813 (Sub-249TA), filed November 20, 1978. Applicant: BELFORD TRUCKING CO., INC., 1759 S.W. 12th Street, P.O. Box 2009, Ocala, FL 32670. Representative: Arnold L. Burke, 180 North LaSalle Street, Chicago, IL 60601. *Meat, meat products, meat by-products and articles distributed by meat packinghouses as described in Sections A & C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766* (except hides and commodities in bulk), from the facilities of John Morrell & Co. at Montgomery, AL, to all points in all states in and east of TX, OK, KS, NE, SD, ND, and DC, for 180 days. SUPPORTING SHIPPER(S): John Morrell & Co., 208 S. LaSalle Street, Chicago, IL 60604. SEND PROTESTS TO: G. H. Fauss, Jr., ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 106398 (Sub-853TA), filed November 20, 1978. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, Tulsa, Oklahoma 74103. Representative: Irvin Tull, Traffic Manager, 525 South Main, Tulsa, Oklahoma 74103. *Iron and steel articles* from the facilities of Speedrack, Inc. at Quency, IL; from the facilities of Joslyn Empire Galvanizing at Franklin Park, IL; and from the facilities of Reliable Galvanizing at Chicago, IL, to all points in the United States (except HI)., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Speedrack, Inc., 5300 Golf Rd., Skokie, IL 60077. SEND PROTESTS TO: Connie Stanley, Trans., Asst., I.C.C., Rm. 240, Old Post Office & Courthouse Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 107515 (Sub-1191TA), filed November 27, 1978. Applicant: REFRIGERATED TRANSPORT CO., INC., Post Office Box 308, Forest Park, GA 30050. Representative: Alan E. Serby & Richard M. Tettelbaum. Fifth Floor, Lenox Towers South, 3390 Peachtree Road NE., Atlanta, GA 30336. *Drugs, medicines, and such commodities as are dealt in by wholesale and retail food chains, drugstores, hospitals, discount and variety stores, and grocery houses* (except in bulk), in vehicles equipped with mechanical refrigeration. From: Facilities utilized by Bristol-Myers, Inc., Atlanta, GA. To: Points in AL, FL, KY, MS, NC, SC, and TN, for 180 days. ETA is being filed simultaneously with this application. Supporting shipper(s): Bristol-Myers Company, 345 Park Avenue, New York, NY 10022. Send protests to: Sara K. Davis, Trans. Asst., I.C.C., 1252 W. Peachtree Street NW., Rm. 300, Atlanta, GA 30309.

MC 108631 (Sub-10TA), filed November 29, 1978. Applicant: BOB YOUNG TRUCKING, INC., Schoenersville Road at U.S. 22 Bypass, Bethlehem, PA 18017. Representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, PA 19102. *Steel transmission poles, and parts and accessories therefor,* between the facilities of Meyer Industries, Division of International Telephone and Telegraph Corp. at points in the borough of West Hazleton and the township of Hazle, Luzerne County, PA, on the one hand, and, on the other, points in MD, NJ, NY, OH, VA, and WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Meyer Industries, Division of International Telephone and Telegraph Corp., P.O. Box L, Hazleton, PA 18201. Send protests to: T. M. Esposito, ICC, 600 Arch Street, Room 3238, Philadelphia, PA 19106.

MC 110563 (Sub-254TA), filed November 17, 1978. Applicant: COLD-WAY FOOD EXPRESS, INC., P.O. Box 747, State Route 29 North, Sidney, OH 45365. Representative: John L. Maurer (same as applicant). *Candy, Confectionery and Confectionery Products,* from Philadelphia, PA to points in CO, IA, KS, and NE for 180 days. Supporting shipper(s): Falcon Candy Co., 2300 Carpenter Street, Philadelphia, PA 19146. Send protests to: I.C.C., 313 Federal Office Building, 234 Summit Street, Toledo, OH 43604.

MC 112304 (Sub-157TA), filed November 21, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. *Zinc products* from the facilities of Jersey Miniere Zinc Co. in Montgomery County, TN to points in and east of ND, SD, NB, KS, OK, and TX for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Jersey Miniere Zinc Company, 2200 First American Center, Nashville, TN 37238. Send protests to: Paul J. Lowry, I.C.C., 5514-B Federal Building, 550 Main Street, Cincinnati, OH 45202.

MC 112989 (Sub-80TA), filed November 21, 1978. Applicant: WEST COAST TRUCK LINES, INC., 85647 Highway 99 South, Eugene, OR 97405. Representative: John W. White, Jr., 85647 Highway 99 South, Eugene, OR 97405. *Insulated building and roofing panels and equipment, materials and supplies used in the installation thereof,* (expect commodities in bulk), from the facilities of Panel Era Corporation at or near Salt Lake City, UT to points in CA, ID, NV, OR, and WA; for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Panel Era Corp., 1857 S. 3850 W., Salt Lake City, UT 84104. SEND PROTESTS TO: A. E. Odoms, I.C.C., 114 Pioneer Courthouse, 555 SW. Yamhill Street, Portland, OR 97204.

MC 115379 (Sub-49TA), filed November 30, 1978. Applicant: JOHN D. BOHR, INC., P.O. Box 217, Annville, PA 17003. Representative: Christian V. Graf, 407 North Front Street, Harrisburg, PA 17101. *Chemical lime,* from the facilities of Bethlehem Mines Corporation at or near Annville, PA to Cleveland, OH, restricted to traffic originating at and destined to the above-named origin and destination for 180 days. Supporting Shipper(s): Bethelem Steel Corp., Bethlehem, PA 18016. Send protests to: Charles F. Myers, I.C.C., P.O. Box 869 Federal Square Station, 228 Walnut Street, Harrisburg, PA 17108.

MC 115841 (Sub-581TA), filed November 20, 1978. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Building 100, Knoxville, TN 37919. Representative: D. R. Beeler (same as above). *Frozen pies,* from Chicago, IL and its commercial zone to points in FL, GA, and TX, for 180 days. SUPPORTING SHIPPES(S): Fasano Pie Company, 6201 West 65th Street, Chicago, IL 60638. SEND PROTESTS TO: Glenda Kuss, I.C.C., Suite A-422 U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 115904 (Sub-135TA), filed November 28, 1978. Applicant: GROVER TRUCKING CO., 1710 West Broadway, Idaho Falls, ID 83401. Representative: Timothy R. Stivers, P.O. Box 162, Boise, ID 83701. *Lumber,* from points in AR, to points in KS,

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NE, ND, SD, WY, and points in MN located in and north of Clay, Becker, Hubbard, Cass, Itasca, and Koochiching Counties, MN, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Chandler Corp., P.O. Box 2840, Boise, ID 83701. SEND PROTESTS TO: Barney L. Hardin, I.C.C., Suite 110, 1471 Shoreline Dr., Boise, ID 83706.

MC 117119 (Sub-706TA), filed November 29, 1978. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean (same address as applicant). *Malt beverages* (except in bulk), *in vehicles equipped with mechanical refrigeration*, from the facilities of Miller Brewing Company at Fort Worth, TX to Fayetteville, AR, for 180 days. SUPPORTING SHIPPER(S): Fayetteville Ice Company, 339 North West Street, Fayetteville, AR 72701. SEND PROTESTS TO: William H. Land, Jr., I.C.C., 3180 Federal Office Bldg., 700 West Capitol, Little Rock, AR 72201.

MC 118159 (Sub-302) filed November 30, 1978. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366, Dawson Station, Tulsa, OK 74151. Representative: Warren L. Troupe, 2480 E. Commercial Blvd., Fort Lauderdale, FL 33308. *Ice cream, water ices, frozen yogurt, and frozen confection* from Macon, Atlanta, and Marietta, GA to Miami and Tampa, FL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days operating authority. Supporting shipper: Tropic Ice, Inc., 16330 N.W. 48th Avenue, Hialeah, FL 33014 (Bob Tammara). Send protests to: Connie Stanley, Trans. Asst., I.C.C., Rm. 240, Old Post Office & Courthouse Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 118959 (Sub-186TA), filed November 26, 1978. Applicant: JERRY LIPPS, INC., 130 S. Frederick Street, Cape Girardeau, MO 63701. Representative: Edward G. Bazelon, 39 S. LaSalle, Chicago, IL 60603. *Paper and paper products, cellulose products, and textile softeners* from Green Bay, WI to IA, IL and MO, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): The Proctor and Gamble Paper Products Company, P.O. Box 599, Cincinnati, OH 45201. SEND PROTESTS TO: P. E. Binder, ICC, Room 1465, 210 N. 12th Street, St. Louis, MO 63101.

MC 119767 (Sub-343TA), filed November 20, 1978. Applicant: BEAVER TRANSPORT CO., P.O. Box 168, Pleasant Prairie, WI 53158. Representatives: Michael V. Kaney, P.O. Box 186, Pleasant Prairie, WI 53158 and John R. Sims, Jr., 915 Pennsylvania Building, 425—13th Street, NW., Washington, DC 20004. (1) *Such commodities as are dealt in by wholesale, retail, chain grocery and food business houses, drug and discount stores* from the plantsite and warehouse facilities of S. C. Johnson & Son, Inc., at Waxdale, WI to points in IL, IN, IA, KS, KY, MI, MN, MO, NE, OH and TN, and (2) *materials, equipment, and supplies used or useful in the manufacture, sale or distribution of the commodities described in (1) above*, from points in the states named in (1) above to the plantsite and warehouse facilities of S. C. Johnson & Son, Inc., at Waxdale, WI, for 180 days. RESTRICTED: (1) To traffic originating at or destined to the above named plantsite and warehouse facilities, (2) To traffic transported in vehicles equipped with mechanical refrigeration, and (3) Against commodities in bulk. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): S. C. Johnson and Son, Inc., Racine, WI 53403. SEND PROTESTS TO: Gail Daugherty, ICC, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 119767 (Sub-345TA), filed November 27, 1978. Applicant: BEAVER TRANSPORT COMPANY, P.O. Box 186, Pleasant Prairie, WI 53158. Representative: Michael V. Kaney (same as above). *Meat, fresh and frozen, in packages or combo bins*, from the facilities of Kenosha Beef International, Ltd., and Birchwood Meat Provisions, Inc., at or near Kenosha, WI to points in IL, IN, OH and MI, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Kenosha Beef International, Ltd. and Birchwood Meat Provisions, Inc., P.O. Box 639, Kenosha, WI 53141. SEND PROTESTS TO: Gail Daugherty, ICC, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 121470 (Sub-18TA), filed November 27, 1978. Applicant: TANKSLEY TRANSFER CO., 801 Cowan Street, Nashville, TN 37202. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, KY 40202. (1) *Mining conveyors and industrial conveyors*, and (2) *materials, equipment, and supplies* (except commodities in bulk, in tank vehicles) used in the manufacture of the commodities in (1) above, from and to the following points, between the facilities of Goodman Conveyor Corp., at or near Murfreesboro, TN, on the one hand, and, on the other, AR, AL, AZ, CO, GA, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, MT, NE, NM, NY, NC, ND, OH, OK, PA, SC, SD, TN, TX, UT, VA, WV, WI, and WY, for 180 days. SUPPORTING SHIPPPER(S): Goodman Conveyor Corporation, 450 Butler Road, Murfreesboro, TN 37130. SEND PROTESTS TO: Glenda Kuss, ICC, Suite A-422—U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 124078 (Sub-905TA), filed November 21, 1978. Applicant: SCHWERMAN TRUCKING CO., 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. *Cement*, from the facilities of Dundee Cement Co. and Louisville Cement Co. at or near Cincinnati, OH to points in IN and KY for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Dundee Cement Company, P.O. Box 122, Dundee, MI 48131, James H. Riley; Louisville Cement Company, 501 South Second Street, Louisville, KY 40202, Louis B. Hartlage. SEND PROTESTS TO: Gail Daugherty, Trans. Asst., I.C.C., U.S. Federal Bldg. & Courthouse, 517 East Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 124078 (Sub-906TA), filed November 21, 1978. Applicant: SCHWERMAN TRUCKING CO., 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. *Clay slurry*, in bulk, in tank vehicles, from McIntyre, GA to Ft. Madison, IA for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Engelhard Minerals & Chemicals Corp., Menlo Park, Edison, NJ 08817. SEND PROTESTS TO: Gail Daugherty, I.C.C., U.S. Federal Bldg. & Courthouse, 517 East Wisconsin Ave., Milwaukee, WI 53202.

MC 124554 (Sub-25TA), filed November 20, 1978. Applicant: LANG CARTAGE CORP., P.O. Box 513, Milwaukee, WI 53201. Representative: Richard C. Alexander, 710 North Plankinton Ave., Milwaukee, WI 53203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by a retail mail order house (1) from the facilities of Stanley Home Products, Inc., at Dubuque, IA, to points in Anoka, Hennepin, Morrison, Ramsey, Todd and Washington counties, MN, for 180 days. SUPPORTING SHIPPER(S): Stanley Home Products, Inc., P.O. Box 58, Dubuque, IA, 52001. SEND PROTESTS TO: Gail A. Daugherty, I.C.C., U.S. Federal Bldg. and Courthouse, 517 East Wisconsin Ave., Milwaukee, WI 53202. Under a continuing contract or contracts with Stanley Home Products, Inc.

MC 126255 (Sub-5TA), filed November 27, 1978. Applicant: BUTLER-JONES AIR FREIGHT, INC., Salisbury-Wicomico Airport, P.O. Box 1964, Salisbury, MD 21801. Representative: Peter A. Greene, Caldwell & Greene, 900 17th Street, NW., Washington, D.C. 20006. *General commodities* between Baltimore-Washington International Airport, Anne Arundel County, MD and National Airport, Gravelly Point, VA on the one hand, and, on the other, points in Kent and Queen Annes Counties, MD restricted to the transportation of traffic having an immediately prior or subsequent movement by air, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days operating authority. SUPPORTING SHIPPER(S): Duffey Ford Tractor, Inc., Box 248, Rt 404, Wye Mills, MD. Lynn K. Schrecker, Inc., Rt 1, Box 756 A, Chester, MD 21619. La Motte Chemical Product Co., P.O. Box 329, Chestertown, MD 21620. Tidewater Publishing Corp., P.O. Box 130, Centreville, MD 21617. SEND PROTESTS TO: T. M. Esposito, Trans. Asst., 600 Arch St., Rm. 3238, Phila., PA 19106.

MC 129712 (Sub-16TA), filed November 28, 1978. Applicant: GEORGE BENNETT MOTOR EXPRESS, INC., P.O. Box 569, McDonough, GA 30253. Representative: Frank D. Hall, Postell & Hall, P.C., Suite 713, 3384 Peachtree Rd. NE., Atlanta, GA 30326. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Lumber, treated or untreated, and materials, equipment and supplies used, sold or dealt in by lumber wholesalers and manufacturers*, between points in Henry County, GA, on the one hand, and, on the other, all points in AL, FL, NC, SC, MS, LA, TN, VA, KY, WV, and TX, under a continuing contract, or contracts, with Shockley Forest Industries, Inc., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Shockley Forest Industries, Inc., P.O. Box 311, McDonough, GA 30253. SEND PROTESTS TO: Sara K. Davis, Trans. Asst., I.C.C., 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.

MC 133405 (Sub-8TA), filed November 20, 1978. Applicant: BOWIE HALL TRUCKING, INC., P.O. Box 353, Waldorf, MD 20601. Attorney: Daniel B. Johnson, 4304 East-West Highway, Washington, DC 20014, (301) 654-2240. (1) *Malt beverages* from Williamsburg, VA, to ME, NH, VT, MA, RI, and CT, and (2) *empty containers, dunnage, and pallets*, from ME, NH, VT, MA, RI, and CT, to Williamsburg, VA, for 180 days. Applicant has also filed an underlying emergency temporary authority seeking up to 90 days of operating authority. SUPPORTING SHIPPER(S): Anheuser-Busch, Inc. of St. Louis, MO, at Williamsburg, VA. SEND PROTESTS TO: T. M. Esposito, Trans. Asst., 600 Arch St., Rm. 3238, Phila., PA 19106.

MC 133591 (Sub-54TA), filed November 20, 1978. Applicant: WAYNE DANIEL TRUCK, INC., P.O. BOX 303, Mt. Vernon, MO 65712. Representative: Charles A. Daniel (Same as above). *Bakery goods*, between Kansas City, KS and Oakland, CA and Santa Fe Springs, CA, for 180 days. SUPPORTING SHIPPER(S): Sunshine Biscuits, Inc., New York, NY 10017. SEND PROTESTS TO: John V. Barry, ICC, Room 600, 911 Walnut Street, Kansas City, MO 64106.

MC 133655 (Sub-134TA), filed November 30, 1978. Applicant: TRANSNATIONAL TRUCK, INC., P.O. Box 31300, Amarillo, TX 79120. Representative: Warren L. Troupe, 2480 E. Commercial Boulevard, Fort Lauderdale, FL 33308. *Such commodities* as are dealt in, or used by, manufacturers and distributors of specialty wood products between Klamath Falls and Bend, OR and El Paso and Amarillo, TX on the one hand, and, on the other, points in the United States, for 180 days. SUPPORTING SHIPPER: Maywood, Inc., P.O. Box 30550, Amarillo, TX 79120 (Carroll H. Posey). SEND PROTESTS TO: Haskell E. Ballard, I.C.C., P.O. Box F-13206 Federal Building, Amarillo, TX 79101.

MC 134105 (Sub-19TA), filed November 27, 1978. Applicant: CELERYVALE TRANSPORT, INC., 1318 East 23rd Street, Chattanooga, TN 37404. Representative: Daniel O. Hands, Attorney at Law, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. *Malt beverages, related advertising materials and empty used beverage containers*, between the facilities of Adolph Coors Co., at or near Golden, CO, on the one hand, and, on the other, IA and MO, restricted to traffic originating at or destined to the facilities of Adolph Coors Co., for 180 days. SUPPORTING SHIPPER: Adolph Coors Co., Golden, CO. SEND PROTESTS TO: Glenda Kuss, Interstate Commerce Commission, Federal Building, 801 Broadway A422, Nashville, TN 37203.

MC 134467 (Sub-35TA), filed November 27, 1978. Applicant: POLAR EXPRESS, INC., P.O. Box 845, Springdale, Arkansas 72764. Representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman Street, Denver, Colorado 80203 (303) 839-5856. *Canned and preserved foodstuffs*, from the facilities of Heinz, U.S.A., Division of H. J. Heinz Co., at or near Pittsburgh, PA, to points in AR, OK, and TX, restricted to traffic originating at the named facilities and destined to the named states, for 180 days. SUPPORTING SHIPPER(S): Heinz, U.S.A., Division of H. J. Heinz Co., P.O. Box 57, Pittsburgh, PA, 15230. SEND PROTESTS TO: William H. Land, Jr., 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 134755 (Sub-164TA), filed November 20, 1978. Applicant: CHARTER EXPRESS, INC., P.O. Box 3772, Springfield, MO 65804. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. *Canned and preserved foodstuffs* (except commodities in bulk), from the facilities of Heinz U.S.A., Division of H. J. Heinz Co., at or near Pittsburgh, PA, to AR, OK and TX, for 180 days. SUPPORTING SHIPPER(S): Heinz U.S.A., Division of H. J. Heinz Company, P.O. Box 57, Pittsburgh, PA 15230. SEND PROTESTS TO: John V. Barry, Rm. 600, 911 Walnut, Kansas City, MO 64106.

MC 134783 (Sub-44TA), filed November 30, 1978. Applicant: DIRECT SERVICE, INC., 940 East 66th Street, P.O. Box 2491, Lubbock, Texas 79408. Representative: Charles M. Williams, Kimball, Williams & Wolfe, P.C., 350 Capitol Life Center, 1600 Sherman Street, Denver, Colorado 80203. *Hides*, from the facilities of Iowa Beef Processors, Inc., at or near Dakota City, NE and Denison, IA to Laredo, TX for 180 days. Applicant has also filed an underlying ETA application seeking up to 90 days of operating authority. Supporting shipper: Iowa Beef Processors, Inc., Dakota City, NE, 68731. Send protests to: Haskell E. Ballard, I.C.C., Box 13206 Federal Bldg., Amarillo, TX 79101.

MC 134838 (Sub-18TA), filed November 28, 1978. Applicant: SOUTHEASTERN TRANSFER & STORAGE CO., INC., P.O. Box 39236—Bolton Station, Atlanta, GA 30318. Representative: Archie B. Culbreth, Suite 202, Century Parkway, Atlanta, GA 30345. (1) *Material handling and processing equipment*, from Loganville, GA, to points in AL, FL, KY, MS, NC, SC, TN, VA and WV, and (2) *Materials and equipment used in the manufacture of material handling and processing equipment* (expect commodities in bulk), from points in the states named in (1) above, to Loganville, GA, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Fesco Inc., 8295 Pleasantdale Rd., Doraville, GA 30340. SEND PROTESTS TO: Sara K. Davis, Trans. Asst., I.C.C., 1252 West Peachtree Street NW., Atlanta, GA 30309.

MC 135797 (Sub-164TA), filed November 20, 1978. Applicant: J. B. HUNT TRANSPORT, INC., U.S. Highway 71, P.O. Box 200, Lowell, AR 72745. Representative: Paul R. Bergant, P.O. Box 200, Lowell, AR 72745. *Canned foodstuffs*, (1) From Benton County, AR, to points in AZ, CO, CT, DE, ID, IL, IN, IA, ME, MD, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, ND, OK, RI, SD, UT, VT, WI, WY, DC, (2) From Crawford County, AR, and Moorhead, MS, to points in

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the United States (except AK, HI). Restricted in (1) and (2) above to traffic orginating at the facilities of Allen Canning Company, for 180 days. SUPPORTING SHIPPER(S): Allen Canning Company, P.O. Box 250, Siloam Springs, AR 72761. SEND PROTESTS TO: William H. Land, Jr., I.C.C., 3108 Federal Office Bldg., 700 West Capitol, Little Rock, AR 72201.

MC 138082 (Sub-3TA), filed November 20, 1978. Applicant: WARREN WILSON TRUCK LINE, R.R. No. 2, Stover, MO 65078. Representative: Warren Wilson (Same as above). *Cast iron pipe fittings,* from Lawrence, KS to Laurie, MO, for 180 days. SUPPORTING SHIPPER(S): Gravois Manufacturing Co., Inc., Route 1, Box 1206, Gravois Mills, MO 65037. SEND PROTESTS TO: John V. Barry, Room 600, 911 Walnut Street, Kansas City, MO 64106.

MC 138469 (Sub-94TA), filed November 27, 1978. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, Oklahoma 73147. Representative: Mr. Jack H. Blanshan, 205 West Touhy Avenue, Suite 200, Park Ridge, Illinois 60068. *Frozen Foods* from the facilities of Stouffer Foods, a division of the Stouffer Corporation, located at Cleveland, OH and points in its commercial zone to points in CA and to Austin, Dallas, Garland, Houston and San Antonio, TX; Denver and Grand Junction, CO; and Seattle, WA and points in the respective Commercial Zones of the named cities. Send protests to Connie Stanley, Trans., Assit., Rm. 240, Old Post Office & Courthouse Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 139457 (Sub-11TA), filed November 27, 1978. Applicant: G. L. SKIDMORE, dba JELLY SKIDMORE TRUCKING COMPANY, P. O. Box 38, Paris, TX 75460. Representative: Paul D. Angenend, P. O. Box 2207, Austin, TX 78768. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Ingredients and supplies used in the manufacture of canned and preserved foodstuffs* from Chicago, IL and Hart, Lake Odessa and Sodus, MI to the facilities of Campbell Soup (Texas) Inc., at or near Paris, TX under a continuing contract or contracts with Campbell Soup (Texas) Inc., for 180 days. SUPPORTING SHIPPER(S): Campbell Soup (Texas) Inc., Paris, TX. SEND PROTESTS TO: Opal M. Jones, ICC, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 139923 (Sub-51TA), filed November 27, 1978. Applicant: MILLER TRUCKING CO., INC., P. O. Drawer D., Stroud, OK 74079. Representative: Stephen H. Loeb, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. *Canned and preserved foodstuffs* (except commodities in bulk), from the facilities of Heinz U.S.A., division of H. J. Heinz Co., at or near Pittsburgh, PA to points in AR, OK and TX, for 180 days. SUPPORTING SHIPPER(S): Heinz U.S.A., division of H. J. Heinz Company, P. O. Box 57, Pittsburgh, PA 15230. SEND PROTESTS TO: Connie Stanley, Room 240 Old Post Office and Court House Building, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 129923 (Sub-52TA), filed November 27, 1978. Applicant: MILLER TRUCKING CO., INC., P.O. Drawer D, Stroud, OK 74079. Representative: Jack H. Blanshan, Suite 200, 205 West Touhy Avenue., Park Ridge, IL 60068. *Frozen foods,* from the facilities of Stouffer Foods, a division of the Stouffer Corporation located at Cleveland, OH and points in its commercial zone to points in CA and to Austin, Dallas, Garland, Houston, and San Antonio, TX and points in the respective commercial zones of the named cities, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Stouffer Foods Corporation, Division of the Stouffer Corporation, 5750 Harper Road, Solon, OH 44139. SEND PROTESTS TO: Connie Stanley, Room 240 Old Post Office and Court House Building, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 143775 (Sub-35TA), filed November 20, 1978. Applicant: PAUL YATES, INC., 660 W. Orangewood, Glendale, AZ 85301. Representative: Michael R. Burke (Same as above). *Rubber in temperature controlled equipment,* from Burton, OH to Sparks, NV, for 180 days. SUPPORTING SHIPPER(S): Hamilton Kent of Nevada, 1650 Linda Way, Sparks, NV 89431. SEND PROTESTS TO: Andrew V. Baylor, ICC, Room 2020 Federal Building, 230 N. First Avenue, Phoenix, AZ 85025.

MC 143775 (Sub-36TA), filed November 20, 1978. Applicant: PAUL YATES, INC., 660 West Orangewood, Glendale, AZ 85301. Representative: Michael R. Burke, 6601 West Orangewood, Glendale, AZ 85301. *Cherries and Olives in bottles or cans* from Fremont, MI to CA, FL, GA, IA, KS, KY, MN, MO, NC, NJ, OR, PA, TX, and WI. Applicant holds contract carrier authority at No. MC 143610; therefore, dual operations may be involved, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Belle-Sommers Inc., 411 N. Darling, Fremont, MI 49412. SEND PROTESTS TO: Andrew V. Baylor, I.C.C., Rm. 2020, Federal Bldg., 230 N. First Ave., Phoenix, AZ 85025.

MC 143775 (Sub-37TA), filed November 20, 1978. Applicant: PAUL YATES, INC., 6601 West Orangewood, Glendale, AZ 85301. Representative: Michael R. Burke (Same as above). *Apple juice and sweet cider in cans and bottles,* from Fremont, MI to Rogers, AR; Denver, CO; Minneapolis, MN; Kansas City, MO; Oklahoma City, OK; Dallas, Houston, and Pairs, TX, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Spears, Inc., 502 Connie Avenue, Fremont, MI 49412. SEND PROTESTS TO: Andrew V. Baylor, I.C.C., Rm. 2020, Federal Bldg., 230 N. First Ave., Phoenix, AZ 85025.

MC 144083 (Sub-9TA), filed November 29, 1978. Applicant: RALPH WALKER, INC., P.O. Box 3222, Jackson, MS 39207. Representative: Fred W. Johnson, Jr., 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. *New furniture and furnishings* from points in MS to points in AL, AZ, AR, CA, CO, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MO, MT, NE, NV, NH, NM, NY, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, VT, VA, WA, WV, WI, and WY. (RESTRICTION: restricted to traffic destined to the facilities of Montgomery Ward in the named states.) (Hearing site: Jackson, MS or Chicago, IL.) An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Montgomery Ward and Company, One Montgomery Ward Plaza, Chicago, IL 60671. SEND PROTESTS TO: Alan C. Tarrant, I.C.C., Rm. 212, 145 East Amite Bldg., Jackson, MS 39201.

NOTE.—Applicant holds motor contract authority in No. MC-123064 and sub numbers thereunder, therefore, dual operations may be involved, for 180 days.

MC 144661 (Sub-3TA), filed November 21, 1978. Applicant: F. A. MILLER, INC., P.O. Box 401, Rexburg, Idaho 83440. Representative: Timothy R. Stivers, P.O. Box 162, Boise, Idaho 83701. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Lumber, lumber mill products and particleboard,* from (a) points in WA, east of U.S. Highway 97 and ID and points in MT, on and west of Interstate Highway 15 to points in CO and WY, under a continuing contract with Idaho Forest Industries, Inc., and (b) From Fremont County, ID to points in Albany County, WY, under a continuing contract with Authentic Homes Corporation; 2) *Precut log home packages,* from Albany County, WY to points in and west of MN, IL, MO, AR, IA, LA (except AK and HI), under a continuing contract with Authentic Homes Corporation, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Authentic Home Corp., P.O. Box 1288, Laramie, WY 82070. SEND PROTESTS TO: Barney L. Hardin, I.C.C., Suite 110, 1471 Shoreline Dr., Boise, ID 83706.

MC 145381 (Sub-3TA), filed November 28, 1978. Applicant: S & P Trucking Co., Inc., P.O. Box 1058, Fletcher, NC 28732. Representative: Eric Meierhoefer, Suite 423, 1511 K Street, N.W., Washington, D.C. 20005. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *dialysis supplies and equipment* (except in bulk) between McAllen, TX and points in NJ on the one hand, and, on the other, points in the U.S. (except HI and AK) under a continuing contract or contracts with Erika, Inc., for 180 days. Applicant has also filed an underlying ETA seking up to 90 days of operating authority. SUPPORTING SHIPPER(S): Erika, Inc., 1 Erika Place, Rockleigh, NJ 07647. SEND PROTESTS TO: Terrell Price, I.C.C., 800 Briar Creek Rd., Rm. CC516, Mart Office Bldg., Charlotte, NC 28205.

MC 145514 (Sub-1TA), filed November 30, 1978. Applicant: CHRISTY TRUCKING, INC., Route 6, Box 6473–A, Nampa, ID 83651. Representative: Timothy R. Stivers, P.O. Box 162, Boise, ID 83701. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Wood moulding,* from Lakeview, OR and Fruitland, ID to points in KS, GA, and TX, under a continuing contract with Dame Lumber and Moulding Co., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Dame Moulding Co., P.O. Box 369, Fruitland, ID 83619. SEND PROTESTS TO: Barney L. Hardin, ICC, Suite 110, 1471 Shoreline Drive, Boise, ID 83706.

MC 145570 (Sub-1TA), filed November 20, 1978. Applicant: THOMAS & STROUD TRUCKING, P.O. Box 531, Pangburn, AR 72121. Representative: Charles Stroud (same as above). Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Feed supplements,* from Memphis, TN and Marks, MS to Pangburn, AR, under a continuing contract or contracts with Tharp Bros., Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Tharp Bros., Inc., Route 1, Pangburn, AR 72121. Send protests to: William H. Land, Jr., 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 145671 (Sub-1TA), filed November 21, 1978. Applicant: TAYLOR BROTHERS WHOLESALE DISTRIBUTORS, 246 South Robson, Mesa, AZ 85202. Representative: Lewis P. Ames, Shimmel, Hill, Bishop & Gruender, P.C., 111 West Monroe, 10th Floor, Phoenix, AZ 85003. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *prepared foods* from Mesa, AZ, to Los Angeles, CA, and points in its commercial zone, for 180 days. An underlying ETA seeks 90 days. Supporting shipper(s): Rosarita Mexican Foods, 310 South Extension, Mesa, AZ 85301. Send protests to: Andrew V. Baylor, I.C.C., Room 2020, Federal Building, 230 North First Avenue, Phoenix, AZ 85025. Under a continuing contract or contracts with Rosarita Mexican Foods.

MC 145713TA, filed November 27, 1978. Applicant: TAURUS TRUCKING CORP., 199 Calcutta Street, Port Newark, NJ 07114. Representative: Joel J. Nagel, 19 Back Drive, Edison, NJ. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Furniture, library furniture, and materials used in their manufacture,* created and crated, from Art Metal-U.S.A., Inc., plantsite in Newark, NJ to points and places in GA, MD, MA, PA, VA, and DC, under a continuing contract or contracts with Art Metal-U.S.A. Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Art Metal-U.S.A. Inc., 300 Passaic Street, Newark, NJ 07114. Send protests to: Joel Morrows, ICC, 9 Clinton Street, Newark, NJ 07102.

MC 145738 (Sub-2TA), filed November 29, 1978. Applicant: EAST-WEST MOTOR FREIGHT, INC., Post Office Box 525, Selmer, TN 38375. Representative: Richard M. Tettelbaum, Serby & Mitchell, P.C., Fifth Floor, Lenox Towers South, 3390 Peachtree Road NE., Atlanta, GA 30326. (1) Rubber tire treads, tread stock, tire patches, tire tubes, solvents, adhesives, cured rubber, and (2) materials, equipment and supplies used in the manufacture, sale and distribution of the commodities in (1) above, between the facilities of Bandag, Inc., at Chino, CA; Griffin, GA; Muscatine, IA; Oxford, NC; and Abiline, TX. *Restriction:* Restricted against the transportation of commodities in bulk, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Bandag, Inc., Muscatine, IA 52761. Send protests to: Floyd A. Johnson, I.C.C., 100 North Main Building, Suite 2006, 100 North Main Street, Memphis, TN 38103.

MC 145772 (Sub-1TA), filed November 20, 1978. Applicant: LANG CARTAGE CORP., P.O. Box 513, Milwaukee, WI 53201. Representative: Richard C. Alexander, 710 North Plankinton Avenue, Milwaukee, WI 53203. *Such merchandise, as is dealt in by a retail mail order house* (1) from the facilities of Spiegel, Inc., at Chicago, IL, to points in MN, WI, and the Upper Peninsula of MI, and (2) from the facilities of Lang Cartage Corp. at Milwaukee and LaCrosse, WI, to points in MN, WI, and the Upper Peninsula of MI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s); Spiegel Inc., Spiegel Regency Towers, Oak Brook, IL 60521 (Richard Pawlak, Director of Trans.). Send protests to: Gail A. Daugherty, I.C.C., U.S. Federal Bldg. & Courthouse, 517 East Wisconsin Ave., Milwaukee, WI 53202.

MC 145788 (Sub-1TA), filed November 22, 1978. Applicant: RAYMOND C. THEDE, d/b/a THEDE TRUCKING, R.R. #2, P.O. Box 58, Jefferson, IA 50129. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309. *Soybean meal* (except in tank vehicles), from the facilities of West Central Co-Op at or near Ralston, IA to points in IN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): West Central Co-Op, Ralston, IA 51459. Send protests to: Herbert W. Allen, I.C.C., 518 Federal Bldg., Des Moines, IA 50309.

MC 145793TA, filed November 27, 1978. Applicant: EMBERS EXPRESS TRUCKING CO., INC., P.O. Drawer 937, Lake City, SC 29560. Representative: Wm. Reynolds Williams, P.O. Box 1909, Florence, SC 29503. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Charcoal briquettes and charcoal supplies,* from Lake City, SC to points in FL, GA, SC, KY, MD, NJ, WV, AL, NC, DC, PA, IN, MS, VA, DE, OH, TN, and NY, under a continuing contract or contracts with T. S. Ragsdale Co., Inc., for 180 days. Supporting shipper(s): T. S. Ragsdale Company, Inc., P.O. Drawer 937, Lake City, SC 29560. Send protests to: E. E. Strotheld, ICC, Room 302, 1400 Building, 1400 Pickens Street, Columbia, SC 29201.

MC 145815TA, filed November 29, 1978. Applicant: COBRA TRUCKING, INC., 132 Highway 80 West, P.O. Box 2137, Clinton, MS 39056. Representative: John A. Crawford, 17th Floor, Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205. (1) *glass beads, glass spheres and thermal plastic marking materials;* and (2) *materials, equipment and supplies* used in the installation of the commodities named in (1) above, except commodities in bulk, from the facilities of Cataphote Div. of Ferro Corporation at or near Jackson, MS to points in CT, DE, IL, IN, KY, ME, MD, MA, MI, NH, NJ, NY, OH, PA, RI, VT, VA, WV and WI; and (3) *materials, equipment and supplies* used in the manufacture and distribution of the commodities listed in (1) above, except commodities in bulk, from points in the states listed in (2) above to the facilities of Cataphote Div. of Ferro Corporation at or

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near Jackson, MS, for 180 days. Supporting shipper(s): Cataphote Div./ Ferro Corp., 1001 Underwood Drive, Flowood, MS 39208. Send protests to: Alan C. Tarrant, I.C.C., Rm. 212, 145 East Amite Bldg., Jackson, MS 39201.

MC 145818TA, filed November 30, 1978. Applicant: AMERICAN TRANSPORT, INC., 305 West 14th Street, Sioux Falls, South Dakota 57102. Representative: M. Mark Menard, Post Office Box 480, Sioux Falls, South Dakota 57101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Steel buildings, grain bins, grain drying systems and elevator leg systems;* From: Atlantic and Houghton, Iowa; Assumption, Illinois; and Madison, Wisconsin; To: Arkansas, Colorado, Iowa, Kansas, Minnesota, Missouri, North Dakota, Nebraska, Oklahoma, South Dakota, Texas and Louisiana, over irregular routes under a continuing contract or contracts with Agra Sun Systems, Inc. and Wholesale Farm Supply, Inc., Sioux Falls, South Dakota, for 180 days. SUPPORTING SHIPPER(S): Agra Sun Systems, Inc., Wholesale Farm Supply Corp., 305 W. 14th St., Sioux Falls, SD 57102 (Dennis Chambliss Secretary-Treasurer & Gen. Mgr. SEND PROTESTS TO: J. L. Hammond, I.C.C., Rm. 455, Federal Bldg., Pierre, SD 57501.

MC 145822TA, filed November 28, 1978. Applicant: EWING G. MCDOWELL AND DONALS HASTIE, D/B/A M&H TRANSPORT, R.R. 1, Box 34A, Cave-in-Rock, IL 62919. Representative: Robert T. Lawley, 300 Reisch Building, Springfield, IL 62701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Flurospar, barite, zinc and lead, for the account of Ozark Mahoning Company*, from points in Hardin County, Illinois to points in the United States east of MN, IA, MO, AR and LA, for 180 days. SUPPORTING SHIPPER(S): H. Dale Whiteis, Mgr. of Trans., Ozark-Mahoning Company, 1870 S. Boulder, Tulsa, OK 74119. SEND PROTESTS TO: Charles D. Little, I.C.C., 414 Leland Office Bldg., 527 East Capitol Ave., Springfield, IL 62701. Under a continuing contract or contracts with Ozark-Mahoning Company.

By the Commission.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc. 79-1253 Filed 1-12-79; 8:45 am]

[7035-01-M]

[Notice No. 3]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JANUARY 5, 1979.

IMPORTANT NOTICE

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there wil be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

NOTE.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

MOTOR CARRIERS OF PROPERTY

MC 2421 (Sub-18TA), filed November 22, 1978. Applicant: NEWTON TRANSPORTATION COMPANY, INC., P.O. Box 678, Lenoir, NC 28645. Representative: Charles H. Keller, P.O. Box 678, Lenoir, NC 28645. *New furniture and furniture parts*, from the plantsites and warehouse facilities of Broyhill Furniture Industries, Inc., located in Catawba and Alexander Counties, NC., to points in IL, IN, OH, PA, and WV., for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPERS(S): Broyhill Furniture Industries, Lenoir, NC 28633. SEND PROTESTS TO: Terrell Price DS, 800 Briar Creek Road, Room CC516, Mart Office Building, Charlotte, NC 28205.

MC 30032 (Sub-9TA), filed November 23, 1978. Applicant: GRANE TRANSPORTATION LINES, LTD., 1011 S. Laramie Avenue, Chicago, IL 60644. Representative: Hubert Grane, Jr., (same address as applicant). *Freight all kinds*, (1) Between the Chicago, IL Commercial Zone, and the states of WI, IA, IN, MI, OH, and KY.; (2) Between the Chicago, IL Commercial Zone, and the St. Louis, MO Commercial Zone. RESTRICTION: Parts 1 and 2 of this authority is restricted to traffic having a prior or subsequent movement by rail, for 180 days. SUPPORTING SHIPPERS(S): There are approximately (17) statements of support attached to this application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: Lois M. Stahl Trans. Asst., I.C.C., 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 78228 (Sub-No. 97TA), filed November 24, 1978. Applicant: J MILLER EXPRESS, INC., 962 Greentree Road, Pittsburgh, PA 15220. Representative: Henry M. Wick, Jr., Wick Vuono & Lavelle, 2319 Grant Building, Pittsburgh, PA 15219. *Coke* (in bulk, in dump vehicles), from the facilities of Semet Solvay Division of Allied Chemical Corporation, Ashland, KY, to points in IL, IN, MI, NY, NC, OH, PA, TN, VA, and WV., for 180 days. An underlying ETA seeks up to 90 days of authority. SUPPORTING SHIPPER(S): Semet Solvay Division of Allied Chemical Corporation, P.O. Box 1013R, Morristown, NJ 07960. SEND PROTESTS TO: J. A. Niggemyer DS, ICC, 416 Old Post Office Building, Wheeling, WV 26003.

MC 78228 (Sub-98TA), filed November 24, 1978. Applicant: J MILLER EXPRESS, INC., 962 Greentree Road, Pittsburgh, PA 15220. Representative: Henry M. Wick, Jr., Wick, Vuono & Lavelle, 2310 Grant Bldg., Pittsburgh, PA 15219. *Bulk rock salt*, from the facilities of Morton Salt, a Division of Morton-Norwich Products, Inc., Fairport Harbor, OH to points in Allegheny, Armstrong, Beaver, Butler, Clarion, Fayette, Indiana, Lawrence, Mercer, Somerset, Washington and Westmoreland Counties, PA, for 180 days. An underlying ETA seeks up to 90 days authority. Supporting shipper(s): Morton Salt Division of Morton-Norwich Products, Inc., 110 N. Wacker Drive, Chicago, IL 60606. Send protests to: J. A. Niggemyer, DS, ICC, 416 Old Post Office Building, Wheeling, WV 26003.

MC 85970 (Sub-14 TA), filed November 22, 1978. Applicant: SARTAIN TRUCK LINE, INC., 1625 Hornbrook Street, Dyersburg, TN 38107. Representative: Mr. Warren A. Goff, 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Rubber, rubber products and such commodities* as are manufactured, processed or dealt in by manufacturers of rubber and rubber products, and equipment, materials and supplies used in the manufacture of facilities of The Goodyear Tire & Rubber Company located in the states of New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, Alabama, Mississippi, Louisiana, Kentucky, Ohio, Indiana, Illinois, Michigan, Wisconsin, Minnesota, Missouri, Kansas, Oklahoma and TX., for 180 days. NOTE: Applicant intends to tack the authority here applied for to authority presently held by it in MC 85970 and subs thereunder, and further intends to interline with other carriers at Memphis, TN; Nashille, TN; St. Louis, MO; Jackson, TN; Fulton, KY; Union City, TN; Alamo, TN; Trenton, TN and Dyersburg, TN. SUPPORTING SHIPPER(S): The Goodyear Tire & Rubber Company, 1144 E. Market Street, Akron, OH 44316. SEND PROTESTS TO: Mr. Floyd A. Johnson DS, ICC, 100 North Main Building, Suite 2006, 100 North Main Street, Memphis, TN 38103.

MC 87511 (Sub-24TA), filed November 22, 1978. Applicant: SAIA MOTOR FREIGHT LINE, INC., P. O. Box 10157, Station One, Houma, LA 70360. Representative: Mr. Phillip Robinson, P.O. Box 2207, Austin, TX 78768. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring the use of special equipment), serving the facilities of Monsanto Co., at or near Chocolate Bayou, TX., as an off-route point in connection with carrier's otherwise-authorized regular-route operations, for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Monsanto Company, 800 N. Lindbergh Blvd., St. Louis, MO 63166. SEND PROTESTS TO: Connie A. Guillory DS, ICC, T-9038 U.S. Postal Service Bldg., 701 Loyola Avenue, New Orleans, LA 70113.

MC 95490 (Sub-45TA), filed November 24, 1978. Applicant: UNION CARTAGE COMPANY, 94 Southwest Cutoff, Worcester, MA 01604. Representative: Edward J. Kiley, 1730 M Street, Suite 501, Washington, D.C. 20036. *Glass containers and plastic containers*, from Bridgeton, Yardville, and Millville, NJ., to Boston, Methuen, Lawrence, Amesburg and Ayer, MA and Providence, RI., for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): S. H. Ansell Company, 825 Summer Street, Boston, MA. SEND PROTESTS TO: David M. Miller DS, ICC, 436 Dwight Street, Springfield, MA 01103.

MC 95920 (Sub-50TA), filed November 22, 1978. Applicant: SANTRY TRUCKING CO., 10505 N.E., 2nd Avenue, Portland, OR 97211. Representative: George R. LaBissoniere, 1100 Norton Building, Seattle, WA 98104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from St. Paul, MN., to Olympia, WA., under a continuing contract or contracts, with Olympia Brewing Company, for 180 days. SUPPORTING SHIPPER(S): Olympia Brewing Company, P.O. Box 947, Olympia, WA 98501. SEND PROTESTS TO: A. E. Odoms DS, ICC, 114 Pioneer Courthouse, Portland, OR 97204.

MC 107496 (Sub-1174TA), filed November 22, 1978. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Avenue, Des Moines, IA 50309. Representative: E. Check (same address as applicant). *Sand*, (in bulk), from LaSalle County, IL and Berrien County, MI., to points in Arkansas, Alabama, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Lousisana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, and WI., for 180 days. SUPPORTING SHIPPER(S): Manley Bros., P.O. Box 538, Chesterton, IN 46304. SEND PROTESTS TO: Herbert W. Allen DS, ICC, 518 Federal Building, Des Moines, IA 50309.

MC 107496 (Sub-1175TA), filed November 22, 1978. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Avenue, Des Moines, IA 50309. Representative: E. Check (same address as applicant). *Inedible tallow*, (in bulk, in tank vehicles), from points in Iowa, Missouri and Kansas, to Fayetteville, AR., for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Jacob Stern and Sons, Inc., Benjamin Fox Pavilion, Jenkintown, PA 19046. SEND PROTESTS TO: Herbert W. Allen DS, ICC, 518 Federal Building, Des Moines, IA 50309.

MC 109689 (Sub-340TA), filed November 22, 1978. Applicant: W. S. HATCH CO., 643 South 800 West, Woods Cross, UT 84087. Representative: Mark K. Boyle, 10 West Broadway Bldg., Suite 400, Salt Lake City, UT 84101. *Borate rock*, in bulk, From Dunn Siding, CA., to Aiken and Anderson, SC, and Jackson, TN., for 180 days. SUPPORTING SHIPPER(S): Owens-Corning Fiberglas Corporation, Fiberglas Tower, Toledo, OH 43659. (James K. Terry, General Traffic Manager) SEND PROTESTS TO: L. D. Helfer DS, ICC, 5301 Federal Bldg., Salt City, UT 84138.

MC 109533 (Sub-107TA), filed November 28, 1978. Applicant: OVERNITE TRANSPORTATION COMPANY, 1000 Semmes Avenue, Richmond, VA 23224. Representative: C. H. Swanson, P.O. Box 1216, Richmond, VA 23209. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as described by the Commission, commodities in bulk and those requiring special equipment), to serve Red Bud, IL, as an off-route point in connection with its regular route operation, for 180 days. An underlying ETA seeks up to 90 days authority. Supporting shipper(s): Singer Climate Control Division, Jimmy Hartsfield, Traffic Manager, 602 Sunnyvale Dr., Wilmington, NC. Send protests to: Paul D. Collins DS, Room 10-502, Federal Bldg., 400 North 8th Street, Richmond, VA 23240.

MC 110988 (Sub-377TA), filed November 22, 1978. Applicant: SCHNEIDER TANK LINES, INC., 4321 West College Avenue, Appleton, WI 54911. Representative: John R. Patterson, 2480 East Commercial Blvd., Fort Lauderdale, FL 33308. *Liquid chemicals*, (in bulk, in tank vehicles), from Marquette, MI to Minnesota and WI, for 180 days. Supporting shipper(s): Dow Chemical U.S.A., 690 Building, Midland, MI 48640 (Edward H. Gangross). Send protests to: Gail Daugherty, Trans. Asst., ICC, U.S. Federal Building and Courthouse, 517 E. Wisconsin Ave., Room 619, Milwaukee, WI 53202.

MC 112520 (Sub-358TA), filed November 28, 1978. Applicant: McKENZIE TANK LINES, INC., P.O. Box 1200, Tallahassee, FL 32302. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *Liquid chemicals*, (in bulk, in tank vehicles), from the facilities of Callaway Chemical Company, in Muscogee County, GA, to points in AL, NC, SC, VA, TN, MS, LA, AR, and TX, for 180 days. An underlying ETA seeks up to

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90 days authority. Supporting shipper(s): Callaway Chemical Company, P.O. Box 2335, Columbus, GA 31902. Send protests to: G. H. Fauss, Jr., DS, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 112617 (Sub-410TA), filed November 22, 1978. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, KY 40221. Representative: Charles R. Dunford (same address as applicant). *Nitric Acid*, (in bulk, in tank vehicles), from the facilities of Kaiser Agricultural Chemicals at Finney, OH, to points in IN; Hudson, WI; Midland, Warren & Romulus, MI; Pekin & Joliet, IL; St. Louis, MO; Carrollton & Louisville, KY; Erwin & Nashville, TN; Asheville & Hendersonville, NC; Brackenridge, West Leechburg & Midland, PA, and their commercial zones, for 180 days. An underlying ETA seeks up to 90 days authority. Supporting shipper(s): David C. Cowart, Manager of Transportation, Kaiser Agricultural Chemicals, P.O. Box 246, Savannah, GA 31402. Send protests to: Linda H. Sypher, DS, ICC, 426 Post Office Bldg., Louisville, KY 40202.

MC 112617 (Sub-411TA), filed November 24, 1978. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 23195, Louisville, KY 40221. Representative: Charles R. Dunford (same address as applicant). *Salt and salt products*, from the facilities of Cargill, Inc., at or near Florence, AL, to points in AL, GA, MS and TN, for 180 days. Supporting shipper(s): Mr. John Labriola, General Transportation Manager, Salt Division, Cargill, Incorporated, P.O. Box 9300, Minneapolis, MN 55440. Send protests to: Mrs. Linda H. Sypher, DS, ICC, 426 Post Office Bldg., Louisville, KY 40202.

MC 112617 (Sub-411TA), filed November 24, 1978. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 23195, Louisville, KY 40221. Representative: Charles R. Dunford (same address as applicant). *Coloring syrup*, (in bulk, in tank vehicles), from Louisville, KY, to Fergus Falls, MN, for 180 days. An underlying ETA seeks up to 90 days authority. Supporting shipper(s): Michael F. Recktenwald, Regional Sales Manager, D, D. Williamson & and Co., Inc., 1901 Payne Street, P.O. Box 6001, Louisville, KY 40206. Send protests to: Mrs. Linda H. Sypher, DS, ICC, 426 Post Office Building, Louisville, KY 40202.

MC 112796 (Sub-10TA), filed November 22, 1978. Applicant: ELMER G. BRAKE, INC., 220 Wholesale Street, Clarksburg, WV 26301. Representative: John M. Friedman, 2930 Putnam Avenue, Hurricane, WV 25526. *Flat glass*, from Clarksburg and Jerry's Run, WV, to points in AL, AR, CT, LA, MA, MS, NJ, NY, RI, and TN, for 180 days. Supporting shipper(s): Fourco Glass Company, Carter L. Shelton, Traffic Manager, P.O. Box 890, Bridgeport, WV. Send protests to: Mrs. Ruth F. Stark, DS, ICC, 3108 Federal Office Building, 500 Quarrier Street, Charleston, WV 25301.

MC 114211 (Sub-388TA), filed November 24, 1978. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, 210 Beck Street, Waterloo, IA 50704. Representative: Adelor J. Warren (same address as applicant). *Such commodities* as are dealt in or used by agricultural equipment and industrial equipment dealers and manufacturers (except commodities in bulk), between Armstrong, IA, on the one hand, and, on the other, points in United States, (including AL, but excluding HI), and including all Ports of Entry between the United States and Canada for furtherance in foreign commerce, for 180 days. An underlying ETA seeks up to 90 days authority. Supporting shipper(s): Armstrong Rim & Wheel Manufacturing Co., P.O. Box 556, Armstrong, IA 51504. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Building, Des Moines, IA 50309.

MC 114552 (Sub-184TA), filed November 22, 1978. Applicant: SENN TRUCKING COMPANY, P.O. Drawer 220, Newberry, SC 29108. Representative: Frank A. Graham, Jr., 707 Security Federal Building, Columbia, SC 29201. *Clay and clay products*, (except in bulk), from Paris, TN., to points in the United States, (except Alaska and Hawaii), for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Lowe's, 348 South Columbia Street, South Bend, IN 46601. SEND PROTESTS TO: E. E. Strotheid DS, ICC, Room 300, 1400 Building, 1400 Pickens Street, Columbia, SC 29201.

MC 116063 (Sub-156TA), filed November 22, 1978. Applicant: WESTERN-COMMERCIAL TRANSPORT, INC., P.O. Box 270, Fort Worth, TX 76101. Representative: W. H. Cole (Same address as applicant). *Vegetable oils*, (in bulk, in tank vehicles), between Lorenzo, IL, on the one hand, and on the other, points in Alabama, Florida, Georgia, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, New Jersey, New York, North Carolina, South Carolina, Ohio, Pennsylvania, Tennessee, Virginia, West Virginia, and WI, for 180 days. SUPPORTING SHIPPER(S): Durkee Foods, Division of S C M Corporation, P.O. Box 796, Joliet, IL 60447. SEND PROTESTS TO: Martha A. Powell Trans. Asst., ICC, Room 9A27 Federal Building, 819 Taylor Street, Fort Worth, TX 76102.

MC 116459 (Sub-76TA), filed November 24, 1978. Applicant: RUSS TRANSPORT, INC., P.O. Box 4022, Pineville Road, Route 5, Chattanooga, TN 37405. Representative: Charles T. Williams (Same address as applicant). *Ground limestone and ground limestone products*, (in bulk, in hopper type vehicles), from the facilities of Franklin Limestone Company at or near Crab Orchard, TN, to points in Alabama, Georgia, Kentucky, North Carolina, and South Carolina, for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Franklin Limestone Company, 610 10th Avenue North, Nashville, TN. SEND PROTESTS TO: Glenda Kuss Trans. Asst., ICC, Suite A-422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 116947 (Sub-63TA), filed November 22, 1978. Applicant: SCOTT TRANSFER CO., INC., 920 Ashby Street, SW., Atlanta, GA 30310. Representative: William Addams, 5299 Roswell Road, NE., Suite 212, Atlanta, GA 30342. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Pulpboard, NOI, not corrugated*, From Chattanooga, TN, to points in the states of Arkansas, Missouri, Louisiana (West of the Mississippi River), and TX, under a continuing contract or contracts, with Container Corporation of America, for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Container Corporation of America, 5853 E. Ponce de Leon Avenue, P.O. Box 1225, Stone Mountain, GA 30086. SEND PROTESTS TO: Sara K. Davis Trans. Asst., ICC, 1252 W. Peachtree Street, NW., Room 300, Atlanta, GA 30309.

MC 119726 (Sub-150 TA), filed November 28, 1978. Applicant: N.A.B. TRUCKING CO., INC., 1644 W. Edgewood Avenue, Indianapolis, IN 46217. Representative: James L. Beattey, 130 E. Washington St., Suite 1000, Indianapolis, IN 46204. *Glass containers*, from the facilities of Thatcher Glass Manufacturing Company, a division of Dart Industries, Inc., at or near Lawrenceburg, IN, to St. Louis, MO, for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Thatcher Glass Mfg., Co., P.O. Box 265, Elmira, NY 14902. SEND PROTESTS TO: Beverly J. Williams Trans. Asst., ICC, Federal Building & U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, IN 46204.

MC 120866 (Sub-5 TA), filed November 22, 1978. Applicant: THE TIMLAPH CORP., OF VIRGINIA, P.O. Box 3596, Richmond, VA 23213. Representative: Stanley E. McCormick, 1600 Wilson Blvd., Suite 1301, Arlington, VA 22209. *Petroleum products*, (except petrochemicals), in bulk, in tank vehicle, from the facilities of Exxon Company, U.S.A., located at or

near Wilmington, NC, to Buena Vista, Hopewell, Elkton, Dublin, Orange, Bedford, Brookneal, and Richmond, VA., for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Exxon Company, U.S.A., P.O. Box 2180, Houston, TX 77001. SEND PROTESTS TO: Paul D. Collins DS, ICC, Room 10-502 Federal Building, 400 North 8th Street, Richmond, VA 23240.

MC 123294 (Sub-52 TA), filed November 22, 1978. Applicant: WARSAW TRUCKING CO., INC., P.O. BOX 784, Warsaw, IN 46580. Representative: H. E. Miller, Jr., 1102 West Winona, Warsaw, IN 46580. *Asphalt*, (except in bulk), from Lawrenceville, IL, to points in IN and OH., for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Witco Chemical Corp., 6200 W. 51st Street, Chicago, IL 60638. SEND PROTESTS TO: Lois Stahl Trans. Asst., ICC, Everett McKinley Dirksen Bldg., Room 1386, 219 South Dearborn Street, Chicago, IL 60604.

MC 124071 (Sub-16 TA), filed November 24, 1978. Applicant: LIVESTOCK SERVICE, INC., 1420 Second Avenue South, St. Cloud, MN 56301. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Steel castings*, from Chehalis, WA to Sartell. MN; and (2) *Clay*, in bags, from Anniston, AL to Sartell, MN, under a continuing contract or contracts, with DeZurik Corporation of Sartell, MN for 180 days. SUPPORTING SHIPPER(S): DeZurik Corporation of Sartell, MN. Sartell, MN 56377. SEND PROTESTS TO: Delores A. Poe Trans Asst., ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 126109 (Sub-7TA), filed November 24, 1978. Applicant: TRECHO TRANSPORT, INC., 2756 Short Street, York, NY 14592. Representative: Robert D. Gunderman, 710 Statler Building, Buffalo, NY 14202. Authority sought to operate as a *contract carrier*, by motor vehicle, over regular routes, transporting: (1) *Commodities* manufactured and-or distributed by Friendship Dairies, Incorporated, (2) *Related materials, supplies and equipment* used in the manufacture, production, packaging, sale or distribution of such commodities, (1) Friendship, NY., to New York, NY.; Coatsville, PA and points in the New York City commercial zone, NJ and FL; (2) From New York, NY, Ludlow, MA and points in the New York City commercial zone and NJ., to Friendship, NY., under a continuing contract or contracts, with Friendship Dairies, Incorporated, for 180 days. SUPPORTING SHIPPER(S): Friendship Dairies, Incorporated, Martin P. Schanback President, Friendship, NY 14739. SEND PROTESTS TO: ICC, U.S. Courthouse & Federal Building, 100 S. Clinton St., Room 1259, Syracuse, NY 13260.

MC 126582 (Sub-4TA), filed November 22, 1978. Applicant: CANOVA MOVING AND STORAGE, 1336 Woolner Avenue, Fairfield, CA 94533. Representative: Jonathan M. Lindeke, Loughran & Hegarty, 100 Bush Street, 21st Floor, San Francisco, CA 94104. *Used household goods*, restricted to the transportation of traffic having a prior or subequent movement, in containers, to interstate and foreign destinations, beyond the points authorized and further restricted to the performance of pickup and delivery service in connection with packing, crating and containerization or unpacking, uncrating or decontainerization of such traffic. (1) Between points in Trinity County, CA; on the one hand and, on the other, points in 33 counties named in Attachment B, for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Chief, Regulatory Law Office, U.S. Army Legal Services Agency, Dept. of Army (JALS-RL) Room 20455, Pentagon, Washington, D.C. 20310. SEND PROTESTS TO: A. J. Rodriguez DS, 211 Main Street, Suite 500, San Francisco, CA 94105.

MC 133095 (Sub-220TA), filed November 22, 1978. Applicant: TEXAS CONTINENTAL EXPRESS, INC., P.O. Box 434, Euless, TX 76039. Representative: Kim G. Meyer, P.O. Box 872, Atlanta, GA 30301. *Plumbers' goods and materials, equipment and supplies* used in the manufacture and distribution thereof, from the facilities of American Standard at Salem, OH., to points in Arkansas, Louisiana, Oklahoma and TX., for 180 days. SUPPORTING SHIPPER(S): American Standard, Inc., P. O. Box 2003, New Brunswick, NJK 08903. SEND PROTESTS TO: Martha A. Powell Trans. Asst., ICC, Room 9A27 Federal Building, 819 Taylor Street, Fort Worth, TX 76102.

MC 133655 (Sub-132TA), filed November 22, 1978. Applicant: TRANSNATIONAL TRUCK, INC., P.O. Box 31300, Amarillo, TX 79120. Representative: Warren L. Troupe, 2480 E. Commercial Blvd., Fort Lauderdale, FL 33308. *Plastic containers*, from the facilities of The Continental Group, Inc., located at or near Passaic and Morris Counties, NJ to points in Kent County, MI., and Hillsborough County, NH, and Dothan, AL; Sterling, CO; Lenexa, KS; Madisonville, Lexington and Elizabethtown, KY; New Orleans, LA; Norfolk, NE; and Abilene, Corpus Christi, Dallas, Hallettsville, Houston, Longview, and San Antonio, TX., for 180 days. SUPPORTING SHIPPER(S): Continental Plastics Industries, 633 Third Avenue, New York, NY 10017. SEND PROTESTS TO: Haskell E. Ballard DS, ICC, Box F—13206 Federal Building, Amarillo, TX 79101.

MC 133805 (Sub-15TA), filed November 24, 1978. Applicant: LONE STAR CARRIERS, INC., Route 1, Box 48, Tolar, TX 76476. Representative: Harry F. Horak, 5001 Brentwood Stair Road, Suite 115, Fort Worth, TX 76112. *Canned and preserved foodstuffs*, from the facilities of Heinz U.S.A., Division of H. J. Heinz Co., at or near Pittsburgh, PA to points in AR, OK and TX. Restriction: Restriced to traffic originating at the named facilities and destined to the named destination states, for 180 days. Supporting shipper(s): Heinz U.S.A., Division of H. J. Heinz Company, P.O. Box 57, Pittsburgh, PA 15230. Send protests to: Martha A. Powell, Trans. Asst., ICC, Room 9A27, Federal Building, 819 Taylor Street, Fort Worth, TX 76102.

MC 135687 (Sub-5TA), filed November 28, 1978. Applicant: WEAVER TRANSPORTATION COMPANY, 5452 Oakdale Road, Smyrna, GA 30080. Representative: Jack Weaver, 5452 Oakdale Road, Smyrna, GA 30080. *Roofing materials*, (except in bulk), from Warrior Sales and Distributors of Alabama, Inc., at Gwinnett County, GA, to all points in NC, SC and TN, and from Tuscaloosa County, AL, to all points in GA and TN, for 180 days. Supporting shipper(s): Warrier Sales & Distributors of AL., Inc., P.O. Drawer 3159, Tuscaloosa, AL 35401. Send protests to: Sara K. Davis, Trans. Asst., ICC, 1252 W. Peachtree Street, NW., Atlanta, GA 30309.

MC 136086 (Sub-13TA), filed November 22, 1978. Applicant: GUILEY TRUCKING, INC., 8615 Pecan Avenue, Fontana, CA 92335. Representative: Milton W. Flack, 43111 Wilshire Blvd., Suite 300, Los Angeles, CA 90010. Authority sought to operate as a *contract carrier* by motor vehicle, over irregular routes, transporting: *Steel roofing, siding and floor decking*, from the facilities of Verco Manufacturing, Inc., located at Phoenix, AZ; Fontana, CA; and Everett, WA, to points in ID, under a continuing contract or contracts, with Verco Manufacturing, Inc., of Phoenix, AZ, for 180 days. An underlying ETA seeks up to 90 days. Supporting shipper(s): Verco Manufacturing, Inc., 4340 North 42nd Avenue, Phoenix, AZ 85019. Send protests to: Irene Carlos, Trans. Asst., ICC, Room 1321, Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

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MC 136888 (Sub-14TA), filed November 24, 1978. Applicant: NORMAN AND SON, 7255 Avenue, Houston, TX 77587. Representative: Timothy Mashburn, P.O. Box 2207, Austin, TX 78768. *Spent molybdenum catalysts*, (in bulk, in dump vehicles only), from Denver, CO, to Houston and Freeport, TX, and from Tulsa, OK, to Freeport, TX, for 180 days. Supporting shipper(s): Phillipp Brothers, 1221 Avenue of the Americas, New York, NY 10020. Send protests to: John F. Mensing, DS, 8610 Federal Bldg., 515 Rusk Avenue, Houston, TX 77002.

MC 138328 (Sub-76 TA), filed November 22, 1978. Applicant: CLARENCE L. WERNER, d/b/a WERNER ENTERPRISES, I-80 and Highway 50, Omaha, NE 68137. Representative: James F. Crosby or Jack Pugh, P.O. Box 37205, Omaha, NE 68137. *Plastic resins*, from Chicago, IL, and points in its commercial zone to Dallas and Ft. Worth, TX and points in their commercial zones, for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Michael A. McAlister President, Lone Star Chemical Co., Suite 334, 558 South Central Expressway, Richardson, TX 75080. SEND PROTESTS TO: Carroll Russell DS, ICC, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 139206 (Sub-54 TA), filed November 22, 1978. Applicant: F.M.S. TRANSPORTATION, INC., 2564 Harley Drive, Maryland Heights, MO 64043. Representative: R. C. Mitchell (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dairy substitutes, such as powdered milk with chocolate additive, materials, equipment and supplies* used in the manufacture and distribution of dairy substitutes, Between the facilities of Dairy Substitutes, Inc., St. Louis, MO, on the one hand, and, on the other, points in the Continental United States, under a continuing contract or contracts, with Dairy Substitutes, Inc., for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Dairy Substitutes, Inc., 10920 Schuetz Road, St. Louis, MO 63141. SEND PROTESTS TO: P. E. Binder DS, ICC, Room 1465, 210 N. 12th Street, St. Louis, MO 63101.

MC 139482 (Sub-74TA), filed November 22, 1978. Applicant: NEW ULM FREIGHT LINES, INC., P.O. Box 877, New Ulm, MN 56073. Representative: James E. Ballenthin, 630 Osborn Building, St. Paul, MN 55102. *Foodstuffs, and food curing, preserving and seasoning compounds*, from Owensboro and Henderson, KY, to points in the states of Minnesota, North Dakota, South Dakota, Iowa, Nebraska, Missouri, Kansas and OK, for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Ragu' Foods, Inc., 33 Benedict Place, Greenwich, CT 06830. SEND PROTESTS TO: Delores A. Poe Trans. Asst., ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 140134 (Sub-10TA), filed November 28, 1978. Applicant: CALDARULO TRADING CO., 2840 South Ashland Avenue, Chicago, IL 60608. Representative: William H. Towle, 180 North LaSalle Street, Chicago, IL 60601. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Candy, confectionary and dessert preparations*, (except in bulk), from the facilities of Leaf Confectionery, Inc., at Chicago, IL, to Billings, MT; Spokane and Seattle, WA; and Portland, OR, under a continuing contract or contracts, with Leaf Confectionery, Inc., for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Leaf Confectionary, Inc., Dan G. Duchak Distribution Manager, 1155 N. Cicero, Chicago, IL 60651. SEND PROTESTS TO: Lois M. Stahl Trans. Asst., ICC, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 140363 (Sub-16TA), filed November 28, 1978. Applicant: CHAMP'S TRUCK SERVICE, INC., P.O. Box 1233, Meraux, LA 70075. Representative: Mr. Edward A. Winter, 235 Rosewood Drive, Metairie, LA 70005. *Aluminum fluoride*, (in bulk, in dump trucks), from Geismar, LA., to Hannibal, OH., across the river from New Martinsville, WV., for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Allied Chemical Corp., Industrial Chemicals Division, P.O. Box 1139R, Morristown, NJ. 07960. SEND PROTESTS TO: Connie A. Guillory DS, ICC, T-9038 U.S. Postal Service Building, 701 Loyola Avenue, New Orleans, LA. 70113.

MC 140849 (Sub-17TA), filed November 24, 1978. Applicant: ROBERTS TRUCKING CO., INC., U.S. Highway 271 South, Drawer G, Poteau, OK 74953. Representative: Prentiss Shelley, P.O. Drawer G, Poteau, OK 74953. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Polyester fibers, quilting, quilting fillers, comforters, drapes, quilted bedspreads, and mattress pads in shipper and carrier owned trailers*, From Clinton, OK., to points in North Carolina and VT., under a continuing contract or contracts, with Kellwood Company, for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Kellwood Company, 200 Sears Road, Perry, GA. 31069. SEND PROTESTS TO: William H. Land, Jr., DS, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 141450 (Sub-6TA), filed November 24, 1978. Applicant: OLIN WOOTEN, d/b/a WOOTEN TRANSPORT COMPANY, P.O. Box 731, Hazelhurst, GA 31539. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Sheet steel containers*, from Baltimore, MD, to points in Alabama, Conneticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Michigan, Mississippi, North Carolina, New Jersey, New York, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, and WV, under a continuing contract, or contracts, with Steeltin Can Corporation, for 180 days. SUPPORTING SHIPPER(S): Steeltin Can Corporation, 1101 Todds Lane, Baltimore, MD 21237. SEND PROTESTS TO: G H. Fauss, Jr., DS, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 141770 (Sub-7TA), filed November 28, 1978. Applicant: TPC TRANSPORTATION COMPANY, 40 Cleveland Road East, Huron, OH 44839. Representative: Russell J. Bragg, 608 Second Avenue South, Minneapolis, MN 55402. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Brewers wet grain*, from St. Louis, MO, to all points in the States of Alabama, Kansas, Mississippi, Ohio and Oklahoma, under a continuing contract or contracts, with The Pillsbury Company, for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): The Pillsbury Company, 608 2nd Avenue, South, Minneapolis, MN 55402. SEND PROTESTS TO: ICC, 313 Federal Office Bldg., 234 Summit Street, Toledo, OH 43604.

MC 142081 (Sub-1TA), filed Novermber 22, 1978. Applicant: ETHLAR T. SMALL, JULIA T. SMALL, ERIC T. SMALL AND CRAIG T. SMALL, d/b/a SMALL'S L.P. GAS COMPANY, P.O. Box 397, Wyatt, MO 63882. Representative: Eric T. Small (same address as applicant). *Propane gas*, from Wood River and E. St. Louis, IL, St. Louis, MO, West Memphis and Light, AR, Memphis, TN and Calvert City, KY, to all points in MO, KY, AR, TN and IL; and *Anhydrous ammonia*, from Wood River and E. St. Louis, IL; Crystal City (Selma), MO, Blytheville (Armorel), AR, Memphis (Woodstock), TN, and Henderson, KY, to all points in MO, KY, AR, TN and IL, for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING

SHIPPER(S): There are approximately (4) statements of support attached to this application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: P. E. Binder, DS, ICC, Room 1465, 210 N. 12th Street, St. Louis, MO 63101.

MC 143179 (Sub-8TA), filed November 24, 1978. Applicant: CNM CONTRACT CARRIERS, INC., P.O. Box 1017, Omaha, NE 68101. Representative: Foster L. Kent (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Bonded synthetic fiber*, from St. Louis, MO, to Minneapolis, MN; and Tomah, WI, under a continuing contract or contracts, with Mid America Fiber Co., Inc., for 180 days. SUPPORTING SHIPPER(S): Charles Lang, Corporate Secretary, Mid America Fiber Co., Inc., 4193 Beck St., St. Louis, MO 63116. SEND PROTESTS TO: Carroll Russell DS, ICC, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 143651 (Sub-6TA), filed November 22, 1978. Applicant: BLACKHAWK EXPRESS, INC., P.O. Box 705, Lake View, IA 51450. Representative: Kenneth F. Dudley, 611 Church Street, P.O. Box 279, Ottumwa, IA 52501. *Potting soil and organic compost*, from LaPorte, IN to points in Delaware, Illinois, Indiana, Iowa, Kansas, Maryland, Michigan, Missouri, Nebraska, New York, North Dakota, Ohio, Pennsylvania, South Dakota, Virginia, West Virginia and Wisconsin for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Leon Rydberg, National Traffic Manager, Green Thumb Company, Division of Ralston Purina, P.O. Box 760, Apopka, IL 32703. SEND PROTESTS TO: Carroll Russell DS, ICC, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 144247 (Sub-4TA), filed November 22, 1978. Applicant: DOWNEY ENTERPRISES, INC., 31706 Coast Highway, South Laguna, CA 92677. Representative: Gregory L. Parkin, 2500 W. Orangethorpe, Suite U, Fullerton, CA 92633. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by wholesale, retail and chain grocery and food business houses and also discount and drug stores, (except frozen commodities and commodities in bulk), from traffic originating at the facilities of Grocery Store Products located at Kennett Square and West Chester, PA, and from traffic originating at the facilities of The Clorox Company located at Atlanta, GA; Chicago, IL; Columbus, OH; Jersey City, NJ; Kennett Square, PA; and West Chester, PA, and destined to points in the United States in and west of Minnesota, Iowa, Missouri, Arkansas, and Louisiana, (except Alaska and Hawaii), under a continuing contract or contracts, with The Clorox Company, for 180 days. SUPPORTING SHIPPER(S): The Clorox Company, 1221 Broadway, Oakland, CA 94612. SEND PROTESTS TO: Irene Carlos, Trans. Asst., ICC, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 144352 (Sub-2TA), filed November 28, 1978. Applicant: HARRIS BAKING COMPANY, 33 North Street, Waterville, ME 04901. Representative: Kenneth B. Williams, 84 State Street, Boston, MA 02109. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Bakery products*, from Springfield, MA, to Conway, NH and points in ME, under a continuing contract or contracts, with Springfields' Bakery, Inc., for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Springfields' Bakery, Inc., 297 Plainfield Street, Springfield, MA 01101. SEND PROTESTS TO: ICC, 76 Pearl Street, Room 305, Portland, ME 04111.

MC 144509 (Sub-2TA), filed November 22, 1978. Applicant: HOLSTON MOTOR EXPRESS, INC., 2372 Woodridge Avenue, Kingsport, IN 37664. Representative: Walter Harwood, P.O. Box 15214, Nashville, TN 37215. *General commodities*, (except those of unusual value, classes A and B explosives, household goods, commodities in bulk, and those requiring special equipment), Between Rogersville, TN and Knoxville, TN (and its commercial zone) From Rogersville via TN Hwy 70 to its junction with I-81, and thence via I-81 to Knoxville, TN, and return over the same route, serving all points in Carter, Hawkins, Sullivan, Unicoi, and Washington, TN as off-route points. RESTRICTION: Restricted against the receipt of interline traffic from other motor carriers at Kingsport, TN and points in its commercial zone, for 180 days. SUPPORTING SHIPPER(S): There are approximately (8) statements of support attached to this application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: Joe J. Tate DS, ICC, Suite A-422 U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 145333TA, filed November 24, 1978. Applicant: SCHOEN-FOR, INC., d/b/a, M. A. C. TRUCKING, 3658 S. Nova Road & Herbert St., Port Orange, FL 32019. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202. *Flakeboard*, from Port Manatee, FL, to Port Orange, FL, for 180 days. SUPPORTING SHIPPER(S): Pinewood Panels, Inc., P.O. Box 6161, Daytona Beach, FL 32202. SEND PROTESTS TO: G. H. Fauss, Jr., DS, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 145435 (Sub-1TA), filed November 24, 1978. Applicant: WESTERN AG INDUSTRIES, INC., 2750 North Parkway, Fresno, CA 93771. Representative: Roland J. Mefford, 2750 North Parkway, Fresno, CA 93771. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Steel and aluminum wheels, without tires, automotive accessories and related parts*, between points in CA, OR, WA, CO, OK, MI, NY, GA, IN and MO, under a continuing contract or contracts, with Western Wheel Division Rockwell International, for 180 days. SUPPORTING SHIPPER(S): Western Wheel Division Rockwell, International, 1314 E. North Avenue, Fresno, CA 93725. SEND PROTESTS TO: Michael M. Butler DS, 211 Main, Suite 500, San Francisco, CA 94105.

MC 145569 (Sub-1TA), filed November 24, 1978. Applicant: M & M EQUIPMENT CO., INC., 24400 E. Alameda Avenue, Aurora, CO 80011. Representative: Charles J. Kimball, Kimball, Williams & Wolfe, P.C., 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses*, from the facilities of United Packing Company at or near Denver, CO, to points in Massachusetts, Connecticut, New York, Pennsylvania, New Jersey and Maryland, under a continuing contract or contracts, with United Packing Co., for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): United Packing Co., 5000 Clarkson, Denver, CO. SEND PROTESTS TO: Roger L. Buchanan DS, ICC, 721 19th Street, 492 U.S. Customs House, Denver, CO 80202.

MC 145644 (Sub-1TA), filed November 28, 1978. Applicant: TOTER-TEE TRANSPORTE, INC., P.O. Box 107, Kingsbury, IN 46435. Representative: Philip A. Lee, 120 West Madison Street, Suite 618, Chicago, IL 60602. *Iron and steel products* transported on specialized Toter-Tee equipment, between Kingsbury, IN and Chicago IL, and the Chicago, IL Commercial Zone and points and places in the State of MI, for 180 days. An underlying ETA seeks up to 90 days authority. SUP-

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PORTING SHIPPER(S): Roll Coater, Inc., P.O. Box 787, Greenfield, IN 46140. SEND PROTESTS TO: Lois M. Stahl Trans. Asst., ICC, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 145796TA, filed November 24, 1978. Applicant: VIC ADAMS, INC., 411 W. Sanderson, Yates Center, KS 66783. Representative: Clyde N. Christey, 1010 Tyler, Suite 110L Topeka, KS 66612. *Soy bean meal*, from the facilities of Bunge Corp., at or near Emporia, KS, to points in Missouri, Arkansas, and Oklahoma, for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Bunge Corporation, Box 518, Emporia, KS 66801. SEND PROTESTS TO: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS 67202.

MC 145821TA, filed November 28, 1978. Applicant: THURMOND BENNETT TRUCKING, INC., P.O. Box 628, Sparta, NC 28675. Representative: Francis J. Ortman, 7101 Wisconsin Avenue, Suite 605, Washington, DC 20014. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from the plantsite of Coleman Furniture Corporation, Pulaski, VA to points and places in Montana, Idaho, Utah, Nevada, California, Washington and OR.,, under a continuing contract or contracts, with Coleman Furniture Corporation, for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Coleman Furniture Corporation, P.O. Drawer 908, Pulaski, VA 24361. SEND PROTESTS TO: Terrell Price DS, 800 Briar Creek Road, Room CC 516, Mart Office Building, Charlotte, NC 28205.

By the Commission.

H. G. Homme, Jr.,
Secretary.

[FR Doc. 79-1254 Filed 1-12-79; 8:45 am]

[7035-01-M]

[I.C.C. Order No. 12 Under Service Order No. 1344]

LOUISVILLE & NASHVILLE RAILROAD CO. AND BIRMINGHAM SOUTHERN RAILROAD CO.

Rerouting Traffic

January 10, 1979.

In the opinion of Robert S. Turkington, Agent, the Louisville and Nashville Railroad Company and the Birmingham Southern Railroad Company are unable to transport certain carload traffic, loaded to excessive dimensions, over their lines in the vicinity of Bessemer, Alabama, due to restricted clearances at their normal interchange points.

It is ordered,

(a) *Rerouting traffic.* The Louisville and Nashville Railroad Company and the Birmingham Southern Railroad Company being unable to transport certain carload traffic, loaded to excessive dimensions, over their lines in the vicinity of Bessemer, Alabama, due to restricted clearances at their normal interchange points, are authorized to reroute or divert such traffic over any available route to expedite the movement.

(b) *Concurrence of receiving roads to be obtained.* The Louisville and Nashville Railroad Company shall receive the concurrence of the Birmingham Southern Railroad Company before the rerouting or diversion is ordered.

(c) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be during the time this order remains in force, those voluntarily agreed upon by and between said carriers, or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(d) *Effective date.* This order shall become effective at 12:01 a.m., January 1, 1979.

(e) *Expiration date.* This order shall expire at 11:59 p.m., March 31, 1979, unless otherwise modified, changed or suspended by order of this Commission.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of the order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., December 28, 1978.

Interstate Commerce Commission,
Robert S. Turkington,
Agent.

[FR Doc. 79-1354 Filed 1-12-79; 8:45 am]

[7035-01-M]

[Notice No. 146]

MOTOR CARRIER TRANSFER PROCEEDINGS

January 15, 1979.

Application filed for temporary authority under Section 210a(b) in connection with transfer application under Section 212(b) and Transfer Rules, 49 CFR Part 1132:

MC-FC-77959. By application filed December 13, 1978, FALCON MOTOR TRANSPORT, INC., 1250 Kelly Ave., Akron, OH 44306, seeks temporary authority to transfer the operating rights of RUBBER CITY EXPRESS, INC., 1805 East Market St., Akron, OH 44305, under section 210a(b). The transfer to FALCON MOTOR TRANSPORT, INC., of the operating rights of RUBBER CITY EXPRESS, INC., is presently pending.

MC-FC-77964. By application filed December 15, 1978, TAURUS TRANSPORT, INC., 302 N. Main Street, Monticello, IN 47960, seeks temporary authority to transfer the operating rights of JENKINS AND NAGEL, INC., Wolcott, IN 47995, under section 210a(b). The transfer to TAURUS TRANSPORT, INC., of the operating rights of JENKINS AND NAGEL, INC., is presently pending.

MC-FC-77965. By application filed December 19, 1978, MARK PRODUCTS & SERVICES, INC., Box 354, Chatham, MA 02633, seeks temporary authority to transfer a portion of the operating rights of GRINGERI BROS. TRANSPORTATION CO., INC., (M. G. SHERMAN, TRUSTEE IN BANKRUPTCY), 18 Tremont St., Boston, MA 02108, under section 210a(b). The transfer to MARK PRODUCTS & SERVICES, INC., of a portion of the operating rights of GRINGERI BROS. TRANSPORTATION CO., INC. (M. G. SHERMAN, TRUSTEE IN BANKRUPTCY), is presently pending.

MC-FC-77966. By application filed December 19, 1978, LONGMONT, TRANSPORTATION COMPANY, INC., 149 Kimbark Street, Longmont, CO 80501, seeks temporary authority to transfer the operating rights of LONGMONT TURKEY PROCESSORS, INC., 149 Kimbark Street, Longmont, CO 80501, under section 210a(b). The transfer to LONGMONT, TRANSPORTATION COMPANY, INC., of the operating rights of LONGMONT TURKEY PROCESSORS, INC., is presently pending.

MC-FC-77967. By application filed December 19, 1978, BEST REFRIGERATED EXPRESS, INC., P.O. Box 7365, Omaha, NE 68107, seeks temporary authority to transfer a portion of the operating rights of MERLE NICOLA, TRUSTEE, and FIRST WESTROADS BANK, INC., A Secured Creditor of REDFEATHER FAST FREIGHT, INC., d/b/a FIRST WESTROADS BANK, INC., 270 Italia Mall, Westroads Shopping Center, Omaha, NE 68114, under section 210a(b). The transfer to BEST REFRIGERATED EXPRESS, INC., of a portion of the operating rights of MERLE NICOLA, TRUSTEE, and FIRST WESTROADS BANK, INC., A Secured Creditor of REDFEATHER FAST FREIGHT, INC., d/b/a FIRST WESTROADS BANK, INC., is presently pending.

MC-FC-77972. By application filed December 21, 1978, GRAHAM BELL, AN INDIVIDUAL, d/b/a B & W TRUCKING, P.O. Box 281, 1 Porter Street, Gloucester, MA 01930, seeks temporary authority to transfer a portion of the operating rights of GRINGEERI BROS. TRANSPORTATION CO., INC., (M. G. SHERMAN, TRUSTEE IN BANKRUPTCY), c/o M. G. Sherman, 18 Tremont Street, Boston, MA 02108, under section 210a(b). The transfer to GRAHAM BELL, AN INDIVIDUAL, d/b/a B & W TRUCKING, of a portion of the operating rights of GRINGEERI BROS. TRANSPORTATION CO., INC., (M. G. SHERMAN, TRUSTEE IN BANKRUPTCY), c/o M. G. Sherman, is presently pending.

MC-FC-77973. By application filed December 21, 1978, JON W. McCARTER, AN INDIVIDUAL, d/b/a McCARTER TRANSIT, 2569 Darlington Road, Beaver Falls, PA 15010, seeks temporary authority to transfer the operating rights of BEAVER VALLEY MOTOR COACH COMPANY, Box 238, New Brighton, PA 15066, under section 210a(b). The transfer to JON W. McCARTER, AN INDIVIDUAL, d/b/a McCARTER TRANSIT, of the operating rights of BEAVER VALLEY MOTOR COACH COMPANY, is presently pending.

MC-FC-77974. By application filed December 21, 1978, JAMES F. LETTMAN, AN INDIVIDUAL, d.b.a. LETTMAN TRANSPORT, 13647 103d N.E., Kirkland, WA 98033, seeks temporary authority to transfer the operating rights of GERALD R. HACKETT, AN INDIVIDUAL, d.b.a. G. R. HACKETT TRANSPORT, 10529 N.E. 141st, Kirkland, WA 98033, under section 210a(b). The transfer to JAMES F. LETTMAN, AN INDIVIDUAL, d.b.a. LETTMAN TRANSPORT, of the operating rights of GERALD R. HACKETT, AN INDIVIDUAL, d.b.a. G. R. HACKETT TRANSPORT, is presently pending.

MC-FC-77978. By application filed December 28, 1978, ROBERT J. RATHWAY and WILLIAM C. PAULL, JR., A PARTNERSHIP, d.b.a. WOLFE & WOLFE, R. D. No. 2, Box 169A, Perryopolis, PA 15473, seeks temporary authority to transfer the operating rights of LAVERN E. WOLFE, AN INDIVIDUAL, d.b.a. WOLFE & WOLFE, 305 Crossland Avenue, Uniontown, PA 15401, under section 210a(b). The transfer to ROBERT J. RATHWAY and WILLIAM C. PAULL, JR., A PARTNERSHIP, d.b.a. WOLFE & WOLFE, of the operating rights of LAVERN E. WOLFE, AN INDIVIDUAL, d.b.a. WOLFE & WOLFE, is presently pending.

MC-FC-77979. By application filed December 28, 1978, MARTIN C. HOFFMAN and KENNETH K. HOFFMAN, A PARTNERSHIP, d.b.a. HOFFMAN TRUCKING, Route No. 2, Spencer, NE 68777, seeks temporary authority to transfer the operating rights of TOMMIE BOSKA, AN INDIVIDUAL, d.b.a. BOSKA TRUCKING, Spencer, NE 68777, under section 210a(b). The transfer to MARTIN C. HOFFMAN and KENNETH K. HOFFMAN, A PARTNERSHIP, d.b.a. HOFFMAN TRUCKING, of the operating rights of TOMMIE BOSKA, AN INDIVIDUAL, d.b.a. BOSKA TRUCKING, is presently pending.

MC-FC-77986. By application filed January 2, 1979, RANDY ERICKSON, AN INDIVIDUAL, R. R. No. 1, Luck, WI 54853, seeks temporary authority to transfer the operating rights of DONALD M. DAVIDSON, AN INDIVIDUAL, d.b.a. DON DAVIDSON, R. R. No. 1, Luck, WI 54853, under section 210a(b). The transfer to RANDY ERICKSON, AN INDIVIDUAL, of the operating rights of DONALD M. DAVIDSON, AN INDIVIDUAL, d.b.a. DON DAVIDSON, is presently pending.

MC-FC-77987. By application filed January 2, 1978, GOODMAN COMPANY, INC., 109 Wayne Street, P.O. Box 195, Glasgow, KY 42141, seeks temporary authority to transfer the operating rights of MOTLEY TRANSFER, INC., Route 7, Box 206, Glasgow, KY 42141, under section 210a(b). The transfer to GOODMAN COMPANY, INC., of the operating rights of MOTLEY TRANSFER, INC., is presently pending.

By the Commission.

H. G. Homme, Jr.,
Secretary.

[FR Doc. 79-1355 Filed 1-12-79; 8:45 am]

[7035-01-M]

[Notice No. 147]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under Section 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include request for oral hearing, must be filed with the Commission within 30-days after the date of this publication. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be seved upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

MC-FC-77613, filed November 27, 1978. Transferee: JAMES D. HANSON, doing business as Earl Hanson Trucking Co. 2517 Riverbend Rd. Mount Vernon, WA 98273. Transferor: Earl L. Hanson, doing business as Earl Hanson Trucking Co., 2517 Riverbend Rd. Mount Vernon, WA 98273. Representative: James T. Johnson, Attorney, 1610 IBM Building, 1200 5th Ave., Seattle, WA 98101. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Certificate No. MC-117444, issued November 20, 1958, as follows: Olivine sand, in bulk and in bags, from Hamilton, WA and points within 10 miles thereof, to ports of entry on the United States-Canada Boundary line at or near Blaine and Sumas, WA.

MC-FC-77866, filed October 12, 1978. Transferee: MEYER FARMS TRANSPORT, INC. Box 65, Oregon, MO 64473. Transferor: FARRIS TRUCK LINE, P.O. Box 224, Faucett, MO 64448. Representative: TOM B. KRETSINGER, ESQ., KRETSINGER & KRETSINGER, 20 East Franklin, Liberty, MO 64068. Authority sought for purchase by transferee of a por-

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tion of the operating rights of the transferor, as set forth in Permit No. MC-138557 (SUB No. 2), issued to Walt Keith Trucking, Inc., and acquired by transferor herein pursuant to MC-F-12977, approved October 18, 1977 and consummated December 14, 1977, as follows: *Meat, meat products, and meat by-products, and articles distributed by meat packinghouses* as described in section A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 MCC 209 and 766, (except hides and commodities in bulk, in tank vehicles), from the plant site of MBPXL Corporation, Inc., at Phelps City, MO to points in KS, MO, IL, and OK, under a continuing contract or contracts with Missouri Beef Packers, Inc. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under section 210a(b).

MC-FC-77870, filed September 28, 1978. Transferee: GOPHER TRUCK LINES, INC., 1931 East 27th Street, Vernon, CA 90058. Transferor: Service Truck Co., 2163 East 14th Street, Los Angeles, CA 90021. Representative: David P. Christianson, Knapp, Stévens, Grossman & Marsh, 707 Wilshire Blvd., Suite 1800, Los Angeles, CA 90017. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Certificate of Registration No. MC-120784 Sub-1 issued March 9, 1974, as follows: General commodities with exceptions, between all points in the Los Angeles Basin Territory. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

MC-FC-77881, filed September 15, 1978. Transferee: DIXIE TRANSPORT, INC., P.O. Box 1126, Hattiesburg, MS. Transferor: Berry Transportation, Inc., P.O. Box 2147, Longview, TX 75601. Authority sought for purchase by transferee of a portion of the operating rights of transferor as set forth in Certificate No. MC-129282 Sub 31 issued February 14, 1977, as follows: Sugar, in containers, from the plantsites of Colonial Sugar Company at Gramercy, LA and Godchaux-Henderson Sugar Company at Reserve, LA to points in Alabama, Mississippi and Tennessee. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

MC-FC-77884, filed October 20, 1978. Transferee: ETI CORP., P.O. Box 549, Linden, NJ 07036. Transferor: Eastern Transport, Inc., P.O. Box 549, Linden, NJ 07036. Representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Authority sought for purchase by transferee of a portion of the operating rights of transferor as set forth in Permit No. MC-135379 Sub 7 issued June 4, 1977, as follows: Such merchandise as is dealt in by wholesale, retail, chain, grocery, department stores, and food business houses (except glass containers and commodities in bulk), and in connection therewith, equipment, materials and supplies used in the conduct of such business (except glass containers and commodities in bulk), between points in Connecticut, Delaware, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Virginia, North Carolina, South Carolina, West Virginia, Georgia, Florida, Alabama, Louisiana, Mississippi, Tennesee and the District of Columbia. Restricted to transportation service to be performed under a continuing contract, or contracts with J. M. Fields, Inc. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

MC-FC-77923, filed November 6, 1978. Transferee: TRANSPORT G. COURCHESNE, INC., 2015 Route 122, St-Curille-de-Wnedover, Comte de Drummond, P.O. Joc 1HO. Transferor: John N. Brocklesby Transport, Ltd., 10525 Cote de Liesse, Montreal, Quebec, Canada H9P 1A7. Representative: L. C. Major, Jr., Suite 400 Overlook Office Bldg., 6121 Lincolnia Rd., Alexandria, VA 22312. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Certificates Nos. MC-126672 and MC-126672 Sub 4 issued October 8, 1976 and April 11, 1978, respectively, as follows: Cement, from ports of entry on the US-Canada Boundary line located at or near Derby Line and Highgate Springs, VT and Champlain and Trout River, NY to points in Maine, those parts of Vermont and New Hampshire south of U.S. Highway 2, and that part of New York south of a line beginning at Sackets Harbor, NY and extending eastward along New York Highway 3 to Saranac Lake, NY, thence along New York Highway 86 to junction New York Highway 73, near Lake Placid, NY thence along New York Highway 73 to Keene, NY and thence along New York Highway 9N to Westport, NY. From ports of entry on the US-Canada Boundary line located at or near Rooseveltown, Ogdensbury, Alexandria Bay, and Niagara Falls, NY and Jackman, ME to points in Maine, New Hampshire, New York, and Vermont. RESTRICTION: The authority above is restricted to the transportation of shipments in foreign commerce originating at the facilities of the St. Lawrence Cement Co., in the Province of Quebec, Canada. Cement, in bulk, in tank vehicles, from ports of entry on the US-Canada Boundary line at or near Morses Line, West Berkshire, Richford, East Richford, North Troy, Beebe Plain, Derby Line, High Gate Springs and Norton, VT, Beecher Falls and Scott Bog, NH, and Fort Covington, Trout River, Mooers Forks, Champlain, and Rouses Point, NY to points in those parts of New Hampshire and Vermont on and north of U.S. Highway 2, and points in the part of New York on and north of a line beginning at Sackets Harbor, NY and extending eastward along New York Highway 3 to Saranac Lake, NY, thence along New York Highway 86 to junction New York Highway 73 near Lake Placid, NY thence along New York Highway 73 to Keene, NY and thence along New York Highway 9N to Westport, NY. RESTRICTION: The operations authorized above are limited to transportation in foreign commerce only. Cement, in bags, from the ports of entry on the US-Canada Boundary line, at or near Morses Line, West Berkshire, Richford, East Richford, North Troy, Beebe Plain, Derby Line, High Gate Springs, and Norton, VT, Beecher Falls and Scott Bog, NH and Fort Covington, Trout River, Mooers Forks, Champlain, and Rouses Point, NY to points in those parts of New Hampshire and Vermont on and north of U.S. Highway 2, and that part of New York on and north of a line beginning at Sackets Harbor, NY and extending eastward along New York Highway 3 to Saranac Lake, NY thence along New York Highway 86 to junction New York Highway 73 near Lake Placid, NY, thence along U.S. Highway 73 to Keene, NY and thence along New York Highway 9N to Westport, NY. Cement, in bulk, in tank vehicles, and in bags, from ports of entry on the US-Canada Boundary line located in Maine, New Hampshire, New York, and Vermont to points in Connecticut, Rhode Island and Massachusetts. RESTRICTION: The authority granted herein is restricted to the transportation of shipments originating at the facilities of Independent Cement, Inc., and St. Lawrence Cement Co., in the Province of Quebec, Canada. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

MC-FC-77954 filed December 12, 1978. Transferee: O.K. MOVING & STORAGE CO. OF MARYLAND, INC., 8955 D'Arcy Road, Upper Marlboro, MD, 20780. Transferor: Kennedy Van & Storage Company, Inc., Dulles International Airport, P.O. Box 17191, Washington, DC 20041. Representative: Joseph T. Bell, Address: same as transferee. Authority sought for purchase by transferee of the operating

rights of transferor as set forth in Certificate No. MC-20337, issued October 23, 1970, as follows: Household goods, as defined by the Commission (except pianos, pianos benches, laundry machines, refrigerators, gas and electric ranges, radios, musical instruments, ice-making or refrigerating machinery and incidental equipment, when transported as a separate and distinct movement), between Washington, DC, on the one hand, and, on the other, points in MD and VA; between Washington, DC, on the one hand, and on the other, points in VA, NC, SC, MD, PA, DE, NJ, and NY. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

H. G. HOMME, JR.,
Secretary.

[FR Doc. 79-1356 Filed 1-12-79; 8:45 am]

[7035-01-M]

[Docket No. 37013]

MOTOR CARRIERS, WATER CARRIERS, AND FREIGHT FORWARDERS

Certification of Rates or Fares to Cover New Operating Authority

JANUARY 10, 1979.

The Commission is planning to implement, effective March 1, 1979, a new procedure which will assure the earlier issuance of new operating rights. This procedure will reduce regulatory lag and allow operations to commence on an earlier date. It will also reduce government costs by reducing the Commission's workload.

The Interstate Commerce Act requires every carrier or freight forwarder to file its rates or fares to cover its operations. Under the present procedure, rate or fare compliance is verified before the rights are issued. Under the new procedure, the carrier or forwarder must certify that it has rates or fares on file to cover the new authority. The certification should identify the tariffs which contain the rates or fares. Operating rights will be issued on the basis of this certification without prior verification unless a protest or complaint is received. The procedure for emergency temporary authority will not be changed.

We expect the cost of each certification to vary greatly from carrier to carrier. We estimate the cost of a certification will range from $1 to $5. In return for this small cost, the carriers or forwarders will receive their operating rights much sooner. In addition, the new procedure will save the Commission about $38,000 the first year.

The notice which the Commission issues to inform a carrier that it is being granted operating authority will be changed to include a requirement that the certification be filed before the operating rights are issued. The notice will remind the carriers of the penalties for fraud.

The Commission does not believe this change requires a rulemaking proceeding under section 553 of the Administrative Procedure Act (5 U.S.C. § 553) or a formal regulation because the change is procedural in nature and will benefit those affected by it. However, in keeping with our belief that any procedural change can benefit from public scrutiny, we are requesting that the public study the new procedure and inform us not later than February 15, 1979, of any change that should be considered.

Comments should be addressed to: William P. Geisenkotter, Chief, Section of Tariffs, Bureau of Traffic, Interstate Commerce Commission, Washington, D.C. 20423.

Mr. Geisenkotter may be contacted on 202-275-7739 for further information.

This procedural change will not significantly affect the quality of the human environment.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-1357 Filed 1-12-79; 8:45 am]

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sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3)

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[6320-01-M]

1

[M-189, Amdt. 2]

CIVIL AERONAUTICS BOARD.

Notice of deletion of item from the January 11, 1979, meeting agenda.

TIME AND DATE: 10 a.m., January 11, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue NW, Washington, D.C. 20428.

SUBJECT: 3. Amendment of Board's *Ex Parte* rules, 14 CFR 300.2, 300.3 (OGC).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: Item 3 is being deleted because the staff will be unable to complete their coordination of this item in time to give the Board an adequate opportunity to review the proposed amendment to the *ex parte* rules. Accordingly, the following Members have voted that item 3 be deleted from the January 11, 1979, agenda and that no earlier announcement of this change was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

[S-74-79 Filed 1-11-79; 3:51 pm]

[6320-01-M]

2

[M-189, Amdt. 3; Jan. 9, 1979]

CIVIL AERONAUTICS BOARD.

Notice of deletion of items from the January 11, 1979, agenda.

TIME AND DATE: 10 a.m., January 11, 1979.

PLACE: Room 1027.

SUBJECT:

9. Docket 33171, Dismissal of an application for approval of interlocking directors. Hawaiian Airlines, Inc., *et al.* (BPDA).

10. Dockets 33580, 33629, 33672, 33821, 33883, 33878, and 33997—Applications for certificate amendments nonstop Denver-Detroit authority in the following: Frontier, Braniff, Northwest, Allegheny, Continental, American and Ozark (BPDA).

15. Dockets 31128, 31213, 31244, 31529, and 32791—Service to Fort Myers (BPDA, OCCR, BALJ, (OGC).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: Items 9, 10, and 15 are being deleted because the staff will be unable to complete their coordination of these items in time to give the Board adequate time to review them. Accordingly, the following Members have voted that agency business requires the deletion of items 9, 10, and 15 from the January 11, 1979, agenda and that no earlier announcement of these deletions was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

[S-75-79 Filed 1-11-79; 3:51 pm]

[6320-01-M]

3

[M-189, Amdt. 4; Jan. 9, 1979]

CIVIL AERONAUTICS BOARD.

Notice of addition of item to the January 11, 1979, agenda.

TIME AND DATE: 10 a.m., January 11, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 23a. Dockets 32686, 33587, 33640, 33637, 34036, and 34038—Applications of TIA, Braniff, World, Capitol, and Seaboard for *pendente lite* exemption authority to provide scheduled passenger service between points in the United States and points in the Federal Republic of Germany. (BIA).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: At the January 4, 1979, Board meeting BIA staff was directed to prepare a draft order addressing the merits of the six applications set forth above for action at the January 11, 1979, Board meeting. The draft order is being coordinated and attention to this matter now is required in order to address these important international markets as soon as possible. Accordingly, the following Board Members have voted that agency business requires the addition of this item to the January 11, 1979, agenda and that no earlier announcement of this change was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

[S-76-79 Filed 1-11-79; 3:51 pm]

[6320-01-M]

4

[M-189, Amdt. 5; Jan. 9, 1979]

CIVIL AERONAUTICS BOARD.

Notice of closure and addition of item to the January 11, agenda.

TIME AND DATE: 10 a.m., January 11, 1979 (after open meeting).

PLACE: Room 1011, 1825 Connecticut Avenue N.W, Washington, D.C. 20428.

SUBJECT: 26a. Dockets 33887, 33984 and 34314, the applications of Saudi Arbian Airlines Corporation for a 402 permit and for an exemption pending issuance of a permit and the joint application of Saudi and Pan American for prior approval of a blocked-space agreement and a letter to the Department of State requesting that it obtain assurances from the Saudi Arabian Government on multiple designation. (BIA).

STATUS: Closed.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068

SUPPLEMENTARY INFORMATION: On January 5 the staff was advised by the Department of State and the Saudi Arabian Chargé D' Affaires that the Saudi Arabian Government urgently requests the earliest possible resolution by the Board on these matters since the Saudi carrier hopes to begin service February 1. Accordingly, the following Members have voted that agency business requires the addition of item 26a to the January 11, 1979, agenda and that no earlier announcement of this addition was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

This memo concerns strategy and positions that have taken and may be taken by the United States in negotiations with Saudi Arabia. Public disclosures, particularly to foreign governments, of opinions, evaluations, and strategies relating to the issues could seriously compromise the ability of the United States Delegation to achieve agreements which would be in the best interest of the United States. Accordingly, the following Members have voted that the meeting on this subject would involve matters the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action within the meaning of the exemption provided under 5 U.S.C. 552b(c)(9)(B) and 14 CFR Section 310b.5(9)(B) and that any meeting on this item should be closed:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

PERSONS EXPECTED TO ATTEND

Board Members.—Chairman, Marvin S. Cohen; Member, Richard J. O'Melia; Member, Elizabeth E. Bailey; and Member Gloria Schaffer.
Assistants to Board Members.—Mr. Sanford Rederer, Mr. David M. Kirstein, Mr. Stephen H. Lachter, and Mr. Elias Rodriguez.
Office of the Managing Director.—Mr. John R. Hancock.
Bureau of International Affairs.—Mr Donald A. Farmer, Jr., Mr. David A. Levitt, Mr. Richard Loughlin, Ms. Mary I. Pett, and Ms. Agnes M. Trainor.
Office of the General Counsel.—Mr. Philip J. Bakes, Jr., Mr. Gary J. Edles, Mr. Peter B. Schwarzkopf, Mr. Michael Schopf, and Ms. Carol Light.
Bureau of Pricing and Domestic Aviation.—Mr. Michael E. Levine, Ms. Barbara A. Clark, Mr. Herbert Aswall, Mr. Douglas V. Leister, and Mr. James L. Deegan.
Office of Economic Analysis.—Mr. Robert H. Frank and Mr. Richard H. Klem.
Bureau of Consumer Protection.—Mr. Reuben B. Robertson.
Office of the Secretary.—Mrs. Phyllis T. Kaylor and Ms. Deborah A. Lee.

GENERAL COUNSEL CERTIFICATION

I certify that this meeting may be closed to the public under 5 U.S.C. 552b(c)(9)(B) and 14 CFR Section 310b.5(9)(B) and that this meeting may be closed to public observation.

PHILIP BAKES, Jr.,
General Counsel.

[S-77-79 Filed 1-11-79; 3:51 pm]

[6320-01-M]

5

[M-189, Amdt. 6; Jan. 10, 1979]

CIVIL AERONAUTICS BOARD.

Notice of change of time and deletion of item from the January 11, 1979, agenda.

TIME AND DATE: 9 a.m., January 11, 1979.

PLACE: Room 1027 and 1011 for closed items, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 27. Negotiating Strategy for Northern and Southern Europe (BIA).

STATUS: Items 1-25, open. Items 26 and 26a, closed.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: The Chairman's schedule on January 11, 1979 (Thursday) will not permit discussion of all three items. Accordingly, the following Members have voted that agency business requires the deletion of item 27 from the January 11, 1979, agenda and that no earlier announcement of this change was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

NOTE.—Items 26 and 26a will be taken up at 9 a.m.

[S-78-79; Filed 1-11-79; 3:51 pm]

[6320-01-M]

6

[M-189, Amdt. 7; Jan. 11, 1979]

CIVIL AERONAUTICS BOARD.

Notice of addition of item to the January 11, 1979, agenda.

TIME AND DATE: 10 a.m., January 11, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 28. Dockets 33112, 33283—Texas International—National Acquisition Case and Pan American—National Acquisition Case. National application to take testimony of Dr. Robert H. Frank.

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: National filed an application on Friday, January 5, 1979, to take the testimony of Dr. Robert H. Frank, the Board's Director of the Office of Economic Analysis. The application was granted by the Administrative Law Judge on Monday, January 8, 1979. The Law Judge directed Dr. Frank to appear on Thursday, January 11, although we understand that he has since postponed Dr. Frank's appearance to January 12. Dr. Frank's attorney filed an answer on January 10, 1979.

Although the Board's rules indicate that Dr. Frank cannot testify without prior Board approval, the Board needs to consider adopting an order staying the order requiring Dr. Frank's appearance until the Board can consider whether to permit Dr. Frank to testify.

Accordingly, the following Board Members have voted that agency business requires the addition of this item to the January 11, 1979, agenda and that no earlier announcement of this change was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

[S-79-79 Filed 1-11-79; 3:51 pm]

[6570-06-M]

7

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m. (eastern time), Tuesday, January 16, 1979.

PLACE: Commission Conference Room, No. 5240, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

OPEN TO THE PUBLIC

1. Freedom of Information Act Appeal No. 78-11-FOLA-253, concerning a request for certain EEO-1 Employment Survey Reports.

2. Freedom of Information Act Appeal No. 78-7-FOIA-171, concerning a request for information included in a national charge investigative file.

3. Office of Personnel Management Merit System Standards.
4. Amendments to Procedural Regulations and the Compliance Manual to Reflect EEOC's Reorganization.
5. Report on Commission Operations by the Executive Director.

CLOSED TO THE PUBLIC

1. Proposed Decisions in two Charges.
2. Termination of Conciliation Efforts in Connection with Commission Decision No. 77-21.
3. Litigation Authorization: General Counsel Recommendations: Matters closed to the public under the Commission's regulations at 29 CFR 1612.13.

NOTE.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat, at 202-634-6748.

This notice issued January 9, 1979.

[S-68-79 Filed 1-11-79; 11:09 am]

[6570-06-M]

8

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m. (eastern time), Friday, January 12, 1979.

PLACE: Commission Conference Room, No. 5240, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: Revisions of Affirmative Action Guidelines:

A majority of the entire membership of the Commission determined by recorded vote that the business of the Commission required that this meeting be held and that no earlier announcement was possible.

In favor of change: Eleanor Holmes Norton, Chair; Armando M. Rodriguez, Commissioner; and J. Clay Smith, Jr., Commissioner.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat, at 202-634-6748.

This notice issued January 10, 1979.

[S-66-79 Filed 1-11-79; 11:09 am]

[6570-06-M]

9

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.
"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: S-12-79.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m. (eastern time), Tuesday, January 9, 1979.

CHANGE IN THE MEETING: The following matter is added to the agenda for the closed portion of the meeting:

Status of Compliance with an Outstanding Consent Decree.

A majority of the entire membership of the Commission determined by recorded vote that the business of the Commission required this change and that no earlier announcement was possible.

In favor of change: Eleanor Holmes Norton, Chair; Daniel E. Leach, Vice Chair; Armando M. Rodriguez, Commissioner; and J. Clay Smith, Jr., Commissioner.
Opposed: None

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat, at 202-634-6750.

This notice issued January 9, 1979.

[S-70-79 Filed 1-11-79; 3:08 pm]

[6712-01-M]

10

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Wednesday, January 17, 1979.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Closed Commission meeting following the 9:30 a.m. open meeting.

MATTER TO BE CONSIDERED:

Agenda, Item No., and Subject

General—1—Fiscal Year 1979 Policy Research Funding.

This meeting may be continued the following workday to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from the FCC Public Information Office, telephone 202-632-7260.

Issued: January 11, 1979.

[S-71-79; Filed 1-11-79, 2:23 pm]

[6712-01-M]

11

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Wednesday, January 17, 1979.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Open Commission meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

General—1—Restrictions on the publication of articles written by Commission personnel.
General—2—Petition for waiver of duty cycle requirement for an invalid security alert system.
General—3—Rules and policies governing interconnection of private land mobile radio systems, (Docket No. 20846).
General—4—Rule adjustments in light of the Sunshine Act.
General—5—International Maritime Satellite Telecommunications.
General—6—Motion Picture Association of America petition for declaratory judgment filed in Network Inquiry.
General—7—Fiscal year 1979 Policy Research Funding.
Common Carrier—1—Application by AT&T and various record carriers to construct a 300 circuit cable between Florida and St. Thomas, Virgin Islands.
Common Carrier—2—Joint application by AT&T and GTE Satellite Corporation for authority to provide a video conferencing service via their domestic satellite system.
Common Carrier—3—GTE acquisition of Telenet.
Cable Television—1—Request for Declaratory Ruling and Petition for Waiver filed by Capitol Cablevision Corp., Charleston, S.C. and Dunbar, West Virginia; and Request for Special Relief filed by Gateway Communications, Inc., Huntington, West Virginia.
Assignment and Transfer—1—Assignment of license of Television Station WANC-TV, Asheville, North Carolina, from WISE-TV, Incorporated to Carolina Christian Broadcasting, Inc. (BALCT-643).
Renewal—1—Petition to deny renewal of WPXY (FM), Rochester, New York, filed by Metro-Act of Rochester, Inc.
Renewal—2—Reconsideration of the renewals of KEYS, Corpus Christi, Texas, WNOR and WNOR-FM, Norfolk, Virginia and of the assignment of WDJX, Zenia, Ohio, all by Roger H. Stoner.
Renewal—3—Reconsideration of compliant against renewal of KETV (TV), Omaha, Nebraska filed by the Black Coalition of KETV.
Aural—1—Applications filed by International Radio, Inc. (KGST, Fresno, Calif.) and by La Fiesta Broadcasting Co., (KLFB, Lubbock, Texas) for nighttime operations.
Aural—2—Application for a new noncommercial educational FM station filed by State University of New York, Buffalo, New York.
Complaints and Compliance—1—Application for Review of a letter by the Broadcast Bureau stating that a proposed 2½ hour auction program would violate the Commission's policy as to program-length commercials.

This meeting may be continued the following workday to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from the FCC Public Information Office, telephone 202-632-7260.

Issued: January 11, 1979.

[S-72-79 Filed 1-11-79; 2:23 pm]

[6715-01-M]

12

FEDERAL ELECTION COMMISSION.

DATE AND TIME: Thursday, January 18, 1979, at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: Portions of this meeting will be open to the public and portions will be closed.

MATTERS TO BE CONSIDERED:

PORTIONS OPEN TO THE PUBLIC

Setting of dates for future meetings.
Correction and approval of minutes.
Advisory opinion 1978-99.
Policy on release of information in computer tape format.
Personnel policy on time-in-grade for employees not in bargaining unit.
Appropriations and budget.
Pending legislation.
Pending litigation.
Liaison with other Federal agencies.
Classification actions.
Routine administrative matters and quality of reports received.

PORTIONS CLOSED TO THE PUBLIC (FOLLOWING OPEN SESSION)

Audits and Audit Policy, Compliance, Personnel.

PERSONS TO CONTACT FOR INFORMATION:

Mr. Fred S. Eiland, Public Information Officer, telephone 202-523-4065.

MARJORIE W. EMMONS,
Secretary to the Commission.

[S-73-79 Filed 1-11-79; 3:31 pm]

[6740-02-M]

13

JANUARY 10, 1979.

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: 10 a.m., January 17, 1979.

PLACE: 825 North Capitol Street, NE., Washington, D.C. 20426, Room 9306.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

NOTE.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, telephone 202-275-4166.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda. However, all public documents may be examined in the Office of Public Information.

POWER AGENDA—241ST MEETING, JANUARY 17, 1979, REGULAR MEETING

CAP-1. Docket No. ER79-95, New Bedford Gas & Edison Light Co.
CAP-2. Docket No. ER78-592, Dayton Power & Light Co.
CAP-3. Docket No. ER77-584, New England Power Co.
CAP-4. Docket No. ES79-19, Detroit Edison Co.
CAP-5. Docket No. ES79-18, Iowa Power & Light Co.

GAS AGENDA—241ST MEETING, JANUARY 17, 1979, REGULAR MEETING

CAG-1. Docket No. RP79-19, Mountain Fuel Supply Co.
CAG-2. Docket No. RP72-142, RP76-135 and RP78-76, (PGA No. 79-1) (AP No. 79-1), Cities Service Gas Co.
CAG-3. Docket Nos. RP75-13, RP75-113, and RP76-137, Tennessee Gas Pipeline Co., a division of Tenneco, Inc. Docket No. RP77-62, Tennessee Gas Pipeline Co., a division of Tenneco, Inc.
CAG-4. Docket No. CS78-373, G & G Operating Co., Docket No. CS73-338, James P. Evans Jr., Docket No. CS74-149, Daniel Oil Co., Docket No. CS78-377, SPG Operating Co., Docket No. CS78-381, William S. Evans, Docket No. CS78-386, Michel T. Halbouty, Docket No. CI78-602, J. M. Huber Corp., Docket No. CI78-799, The Superior Oil Co., Docket No. CI75-729, Union Texas Petroleum, (a division of Allied Chemical Corp.)
CAG-5. Docket No. G-17062, Estate of L. D. French.
CAG-6. Docket No. CI65-781, et al, Mobil Oil Corp.
CAG-7. Docket No. CP78-453; Transcontinental Gas Pipe Line Corp.
CAG-8. Docket No. CP76-60, *Arkansas Louisiana Gas Company* v. *McCulloch Oil Company of Texas.*
CAG-9. Docket No. CP78-186, Natural Gas Pipeline Co. of America and Southwestern Gas Pipeline, Inc.
CAG-10. Docket No. CP77-108, Tennessee Gas Pipeline Co., a division of Tenneco, Inc. and United Gas Pipe Line Co., Docket No. CP78-456 and CP78-466, Transcontinental Gas Pipe Line Corp., Docket No. CP78-530, Florida Gas Transmission Co.
CAG-11. Docket No. CP79-23, Columbia Gas Transmission Corp.
CAG-12. Docket No. CP75-376, Tennessee Gas Pipeline Co., a division of Tenneco, Inc.
CAG-13. Docket No. CP78-489, Columbia Gulf Transmission Co. and Tennessee Gas Pipeline Co., a division of Tenneco, Inc.
CAG-14. Docket No. CP78-431, Transcontinental Gas Pipe Line Corp.
CAG-15. Docket No. CP76-356, Michigan Wisconsin Pipe Line Co.
CAG-16. Docket No. CP73-244, Midwestern Gas Transmission Co.
CAG-17. Docket No. CP78-399, Transwestern Pipeline Co.
CAG-18. Docket No. CP78-465, Michigan Wisconsin Pipe Line Co.
CAG-19. Docket No. CP77-383 (Phase I), Panhandle Eastern Pipe Line Co., Docket No. CP77-423 (Phase I), Colorado Interstate Gas Co.

MISCELLANEOUS AGENDA—241TH MEETING, JANUARY 17, 1979, REGULAR MEETING

CAM-1. Secretary of Energy's proposed rule to amend 10 CFR 211.67(e); in order to reduce the level of benefits received under the small refiner bias of the domestic crude oil allocation program ("entitlements program").

POWER AGENDA—241ST MEETING, JANUARY 17, 1979, REGULAR MEETING

I. LICENSED PROJECT MATTERS

P-1 Project No. 2131, Wisconsin Electric Power Co.
P-2 Project No. 283, Crown Zellerbach Corp.

II. ELECTRIC RATE MATTERS

ER-1. Docket No. ER78-506, Wisconsin Public Service Corp
ER-2. Docket No. ER78-522, Virginia Electric & Power Co.
ER-3. Docket No. ER77-533, Louisiana Power & Light Co.
ER-4. (A). Docket Nos. ER78-19 (Phase I) and ER78-81, Florida Power & Light Co. (B). Docket Nos. ER78-325, ER78-376, and ER78-19, et al. Florida Power & Light Co.
ER-5. Docket No. ER-76-285 (Phase II), Public Service Co. of New Hampshire.

GAS AGENDA—241ST MEETING, JANUARY 17, 1979, REGULAR MEETING

I. PIPELINE RATE MATTERS

RP-1. Docket Nos. RP74-61 (PGA78-2) and RP76-10 (PGA78-2), Arkansas-Louisiana Gas Co.
RP-2. Docket No. RP79-4, Cities Service Gas Co.
RP-3. Docket No. RP79-7, Southern Natural Gas Co.
RP-4. Docket No. RP79-157 (PGA79-2) (PGA79-2a), Consolidated Gas Supply Corp.
RP-5. Docket Nos. RP71-107 (Phase II) and RP72-127, Northern Natural Gas Co.

II. PRODUCER MATTERS

CI-1. Docket No. RI77-104, Kennedy & Mitchell, Inc.
CI-2. Docket No. RI76-123, J. M. Zachary, et al.
CI-3. Docket No. CI78-705, *Arapahoe Production Company* v. *Panhandle Producing Company, et al.*

II. PIPELINE CERTIFICATE MATTERS

CP-1. Docket No. CP76-285, Mountain Fuel Resources, Inc. Docket No. CP77-289, El Paso Natural Gas Co. Docket No. CP77-512, Clay Basin Storage Co. Docket No. CP77-511, Northwest Pipeline Corp.
CP-2. Docket No. CP78-292, Colorado Interstate Gas Co.
CP-3. Docket No. CP78-272, et al., The Brooklyn Union Co., et al.
CP-4. Docket No. CP75-140, et al., Pacific Alaska LNG Company, et al. Docket Nos. CP74-160, et al., Pacific Indonesia LNG Company, et al. Docket No. CI78-453, Pacific Lighting Gas Development Co. Docket No. CI78-452, Pacific Simpco Partnership:
CP-5. Docket No. RP72-99, Transcontinental Gas Pipe Line Corp.

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MISCELLANEOUS AGENDA—241ST MEETING, JANUARY 17, 1979, REGULAR MEETING

M-1. Annual reports pursuant to part 276 of the interim regulations under NGPA and proposed changes to the filing requirements.

M-2. RM79-. . ., Treatment of refunds under purchased adjustment clauses.

KENNETH F. PLUMB,
Secretary.

[S-67-79 Filed 1-11-79; 11:09 am]

[6720-01-M]

14

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: January 18, 1979, 9:30 a.m.

PLACE: 1700 G Street NW., Sixth Floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION:

Franklin O. Bolling, 202-377-6677.

MATTERS TO BE CONSIDERED:

Consideration of Appointment of Directors and Designation of Chairman and Vice Chairman, Federal Home Loan Banks.
Consideration of Fidelity Bond Amendments (§ 563.19(b)) and Proposed New § 571.14.
Branch Office Application—Loyola Federal Savings & Loan Asociation, Baltimore, Md.
Service Corporation Activity Application—Clearwater Federal Savings & Loan Association, Clearwater, Fla.

No. 209, January 11, 1979.

[S-81-79 Filed 1-11-79; 4:00 pm]

[8010-01-M]

15

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of January 15, 1979, in Room 825, 500 North Capitol Street, Washington, D.C.

An open meeting will be held on Monday, January 15, 1979, at 10 a.m. and will be followed by a closed meeting.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A), and (10) and 17 CFR 200.402(a) (8), (9)(i), and (10).

Chairman Williams and Commissioners Loomis, Evans, Pollack, and Karmel determined to hold the aforesaid meeting in closed session.

The subject matter of the closed meeting scheduled for Monday, January 15, 1979, after the open meeting will be:

Access to investigative files by Federal, State or self-regulatory authorities.
Formal orders of investigation.
Freedom of Information Act appeals.
Settlement of injunctive action.
Institution of administrative proceedings of an enforcement nature.
Report of Investigation.
Litigation matters.
Institution of injunctive action.
Opinion.

The subject matter of the open meeting scheduled for Tuesday, January 16, 1979, at 10 a.m., will be:

1. The Commission will consider what response to make to the Office of Management and Budget's request for its comments concerning S.2 (the "Sunset Act of 1978"), which is designed to improve Congressional oversight of federal programs by providing, among other things, that the budget authority for such programs will terminate unless a "sunset" review is completed once every ten years. For further information, please contact Alan Rosenblat at (202) 755-1198.

2. The Commission will consider whether to issue a notice of the filing of an application for exemption from several provisions of the Investment Company Act of 1940 ("Act") by MFS Variable Account ("MFS"), a unit investment trust registered under the Act, and Nationwide Life Insurance Company, its sponsor-depositor (collectively "Applicants"). Applicants have requested, pursuant to Section 6(c) of the Act, exemptions from the definition of "sales load" in Section 2(a)(35) of the Act and the related regulatory provisions of Sections 27(c)(2) and 26(a)(2)(C). Additionally, Applicants have requested exemptive relief from the definition of "redeemable security" in Section 2(a)(32) of the Act and the related regulatory provisions of Sections 22(c), 27(c)(1), and 27(d) of the Act and Rule 22c-1. Finally, Applicants request approval of certain offers of exchange pursuant to Section 11 of the Act. For further information please contact Laura A. Boughan at (202) 755-0237.

3. The Commission will consider an application filed by Fidelity Government Securities, Ltd. (a Nebraska Limited Partnership), registered under the Investment Company Act of 1940 ("Act") as an open-end diversified, management investment company, and Fidelity Management and Research Company, the Fund's investment adviser, requesting an order of the Commission, pursuant to Section 6(c) of the Act, exempting the Fund and its general partners from the provisions of Section 2(a)(19) of the Act to the extent necessary to permit the Fund to operate as a limited partnership. For further information, please contact Glen A. Payne at (202) 755-1739.

FOR FURTHER INFORMATION, PLEASE CONTACT:

George G. Yearsich at (202) 755-1100.

JANUARY 11, 1979.

[S-69-79 Filed 1-11-79; 12:45 pm]

[8120-01-M]

16

[Meeting No. 1207]

TENNESSEE VALLEY AUTHORITY.

TIME AND DATE: 9:30 a.m., c.s.t., Thursday, January 18, 1979.

PLACE: Jaycee Civic Center, 2701 Park Avenue, Paducah, Ky.

STATUS: Open.

MATTERS FOR DISCUSSION: Changes in arrangements for sale of interruptible power to large industrial customers.

MATTERS FOR ACTION:

B—CONSULTING AND PERSONAL SERVICE CONTRACTS

1. Renewal of consulting contract with Dr. John Otis Brew, Cambridge, Massachusetts, for advice and assistance in connection with archaeological assessments, requested by the Division of Water Management.

2. Renewal of consulting contract with Dr. Robert Lloyd Stephenson, Columbia, South Carolina, for advice and assistance in connection with archaeological assessments, requested by the Division of Water Management.

3. Renewal of consulting contract with Dr. Stuart Struever, Evanston, Illinois, for advice and assistance in connection with archaeological assessments, requested by the Division of Water Management.

4. Extension and amendment of personal service contract with Arthur Andersen & Co., Atlanta, Georgia, for advice and assistance in connection with TVA's Materials Management System, requested by the Office of Planning, Budget, and Systems.

C—PURCHASE AWARDS

1. Req. No. 824076—Air filtration units for Yellow Creek Nuclear Plant.

2. Req. No. 823481—Fire alarm system for the Hartsville and Phipps Bend Nuclear Plants.

F—POWER ITEMS

1. Application for renewal of Access Permit No. 2748 for restricted isotope separation data.

2. Lease and amendatory agreement with the city of Bristol, Tennessee—South Holston Hydro Plant-Bluff City 69-kV line and certain facilities at the Bluff City 161-kV Substation.

G—REAL PROPERTY TRANSACTIONS

1. Grant of permanent easement to the Tennessee Department of Transportation for public road right of way, affecting approximately 12.3 acres of TVA land in Oliver Springs, Tennessee—Tract XTOSFP-5H.

2. Modification of 40-year easement for a farmers/flea market previously granted to Mountain Valley Economic Opportunity Authority affecting a portion of Norris Reservoir land in Campbell County, Tennessee, to permit development of a mine safety training and education center—Tract XTNR-99FFM.

3. Filing of condemnation suits.

H—UNCLASSIFIED

1. Agreement with Electric Power Research Institute covering arrangements for development of a program to improve pipe designs in nuclear power plants.

Dated: January 11, 1979.

CONTACT PERSON FOR MORE INFORMATION:

Lee C. Sheppeard, Acting Director of Information, or a member of his staff can respond to requests for information about this meeting. Call 615-632-3257, Knoxville, Tennessee. Information is also available at TVA's Washington Office, 202-566-1401.

[S-80-79 Filed 1-11-79; 3:56 pm]

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federal register

MONDAY, JANUARY 15, 1979
PART II



DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

■

REAL ESTATE ACTIVITIES

Procedures; Final Rule

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[3710-08-M]

Title 32—National Defense

CHAPTER V—DEPARTMENT OF THE ARMY

[EP 405-1-2]

PART 644—REAL ESTATE HANDBOOK

Procedures Relating to Acquisition, Management and Disposal of Lands

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Final Rule.

SUMMARY: This handbook describes existing procedures pertinent to the real estate activities of the Corps of Engineers as they relate to the acquisition, management and disposal of lands for the Department of the Army (military and civil works), Department of the Air Force, Department of Energy, National Aeronautics and Space Administration, and other Federal agencies as required. It also sets forth the procedures to be followed for the administration of the Homeowners Assistance Program of the Department of Defense. Since this handbook is designed to replace existing Engineer Regulations through the development of a comprehensive Engineer Pamphlet, with a flexible amendment method, it will be published in increments as they are prepared in the new format.

EFFECTIVE DATE: January 2, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. Leslie L. Pitchford, Jr., Chief, Programs Division, Real Estate Directorate, Office of the Chief of Engineers, Washington, DC 20314 (202-693-6285).

SUPPLEMENTARY INFORMATION: Since this handbook provides only procedural guidance to personnel of the Office of the Chief of Engineers and Corps of Engineers field operating agencies having real estate responsibilities, notice of proposed rulemaking and the procedures thereto are considered unnecessary.

NOTE.—The Chief of Engineers has determined that this rule does not contain a major proposal requireing preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107 (Statutory Authority Pub. L. 90-483).

Dated: December 11, 1978.

THORWALD R. PETERSON,
Colonel, Corps of Engineers, Executive Director, Engineer Staff.

In consideration of the above, 32 CFR is amended by adding a new Part 644, the first increment of which is as follows:

PART 644—REAL ESTATE HANDBOOK

Subpart A—Project Planning

Sec.
644.1 Preface.

CIVIL WORKS

644.2 General.
644.3 Navigation Projects.
644.4 Reservoir Projects.
644.5 Mineral Acquisition Practices.
644.6 Feasibility Reports and Design Memoranda.
644.7 Acquisition Lines.
644.8 Planning and Scheduling Real Estate Activities.

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AUTHORITY: §§ 644.1 through 644.104 issued under 5 U.S.C. 301; 10 U.S.C. 3012. §§ 644.181 through 644.242 issued under 42 U.S.C. 3374.

Subpart A—Project Planning

§ 644.1 Preface.

Subpart A sets out basic procedures to be followed in planning and scheduling for the acquisition of lands in connection with Military and Civil Works projects. It is not intended to be taken as absolute, without modification, but more as a guide to insure all aspects involved and potential problems are fully considered in planning for the acquisition of additional lands. Proper planning in the initial stages of any project can and should eliminate unnecessary delays during the acquisition phase.

CIVIL WORKS

§ 644.2 General.

(a) *Purpose.* Sections 644.2 through 644.8 describe the authorities and procedures of the Corps of Engineers relating to real estate planning and project authorization for the acquisition of land and interests therein for all water resource projects.

(b) *Applicability.* These sections are applicable to all Division and District Engineers having civil works real estate responsibilities.

(c) *River and Harbor and Flood Control Projects*—(1) *River and Harbor Projects.* The Act of Congress approved 24 April 1888 (33 U.S.C. 591) authorizes acquisition of land for river and harbor purposes. These include the construction, operation, maintenance and improvement of both natural and artificial waterways, the construction of locks and dams, dikes, bulkheads, jetties, revetment and other bank protection works, and spoil disposal dikes and retaining structures for construction and maintenance. Unless otherwise specified by Congress, local interests furnish, free of cost to the United States, all lands, easements and rights-of-way required for initial construction, operation and subsequent maintenance. A cash contribution may also be required if enhancement of land values results from disposal of spoil dredged from project areas (ER 1150-2-301 and EM 1120-2-101).

(2) *Flood Control Projects.* The Act of Congress approved 1 March 1917 (33 U.S.C. 701) authorizes acquisition of land for flood control purposes, and Section 2 of the Act of Congress approved 28 June 1938, as amended (33 U.S.C. 701c-1), authorizes the acquisition of land and interests therein for dam and reservoir projects, channel improvements, and rectification projects for flood control at Federal expense. Dam, reservoir and lake projects are generally constructed entirely at the expense of the United States and are maintained and operated with the use of Federal funds. Local interests are not required to furnish lands, easements and rights-of-way for dam and reservoir projects, unless specifically authorized by law for small reservoirs which provide localized flood protection (EM 1120-2-101). For local flood protection projects, except channel improvement or channel rectification projects authorized by the Flood Control Acts of 1936, 1937 and 1938, local interests must provide, without cost to the United States, all necessary lands, easements, and rights-of-way. They must also hold and save the United States free from damages due to the construction, operation and maintenance of the project, except where such damages are due to the fault or negligence of the United States or its contractors, and maintain and operate all the works after completion, in accordance with regulations prescribed by the Secretary of the Army. Channel improvement and channel rectification projects authorized by the Acts of 1936, 1937 and 1938 are built entirely at Federal expense and no local cooperation is required. Exceptions to these rules are provided by law in the case of certain specific projects such as hurricane protection, shore protection, beach erosion control or other purposes. As in river and harbor projects, a cash contribution may also be required if enhancement of land values results from disposal of spoil dredged from project areas (ER 1150-2-301 and EM 1120-2-101).

(d) *The Navigational Servitude.* As a general rule the United States does not acquire interests in real estate which it already possesses or over which jurisdiction is or can be legally exercised. Irrespective of the ownership of the banks and bed of a stream below ordinary high water mark, and irrespective of western water rights under the prior appropriation doctrine, no further Federal interest is required for navigation projects in navigable streams below the ordinary high water limit. It is required, therefore, that the acquisition plan consider the extent of the navigational servitude.

(1) ER 1165-2-302 contains the practice and procedures regarding navigation.

(2) The navigational servitude affects abutting uplands, in that the special site value attributable to their location near a navigable stream is noncompensable. However, this has been partially changed by Section 111 of Pub. L. 91-611. In all cases where real property is acquired by the United States for public use in connection with any improvements of rivers, harbors, canals or waterways of the United States, the compensation to be paid shall be the fair market value of such real property based upon all uses to which such real property may reasonably be put, including its highest and best use, any of which uses may be dependent upon access to or utilization of such navigable waters. In cases of partial acquisitions of real property, no depreciation in the value of any remaining real property shall be recognized, and no compensation shall be paid for any severance to the remaining real property which results from loss of or reduction of access from the remaining real property to the navigable waters because of the acquisition of real property or the purposes for which the real property is acquired.

(3) Injury to private property within or abutting non-navigable streams is compensable if inflicted in the course of an exercise of the navigation power limited to the navigable mainstream. *U.S.* v. *Kansas City Life Ins. Co.*, 339 U.S. 799 (1950), *U.S.* v *Cress*, 243 U.S. 316 (1917).

(e) *Buildings.* Buildings for human occupancy, as well as other structures which would interfere with the operation of the project, or which would be substantially damaged by inundation, are prohibited below the guide acquisition line unless otherwise specifically approved by the Chief of Engineers.

(f) *Estates.* Standard estates for acquisition of land or interests therein are contained in Subpart C. Nonstandard estates should be submitted to HQDA (DAEN-REA-P) WASH DC 20314 for approval.

§ 644.3 Navigation Projects.

(a) *Land to be Acquired in Fee.* All lands necessary for permanent structures, construction areas, public access areas and fish and wildlife purposes will be acquired in fee. No interests need be acquired in areas subject to

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the Government's right of navigational servitude. Spoil disposal areas may be acquired in fee upon approval of HQDA (DAEN-REA-P).

(b) *Lands Over Which Easements are to be Acquired.* (1) Permanent easements are required for channel improvements, navigation pools, navigation aids, and spoil disposal areas for future maintenance. Requirements for navigation aids should be coordinated by the District Engineer with the local Coast Guard District Commander.

(2) Temporary easements may be acquired for temporary disposal of spoil, and temporary construction and borrow areas.

(3) In navigation-only projects, the right to permanently flood should be acquired in all lands located within the navigation pool and the right to occasionally flood should be acquired in lands above the pool. However, when the area to be occasionally flooded above the navigation pool consists of a narrow band of land, the right to permanently flood may be taken therein, to avoid acquisition of two different estates from the same ownership, and/or to reduce overall costs of acquisition.

§ 644.4 Reservoir Projects.

(a) *Joint Land Acquisition Policy for Reservoir Projects.* The joint policies of the Department of the Interior and the Department of the Army, governing the acquisition of land for reservoir projects, are published in the FEDERAL REGISTER, dated February 22, 1962, Volume 27, page 1734. On July 2, 1966 the Joint Policy was again published in 31 F.R. 9108 as follows:

A joint policy statement of the Department of the Interior and the Department of the Army was inadvertently issued as a Notice in 27 F.R. 1734. Publication should have been made as a final rule replacing regulations then appearing in 43 CFR Part 8. The policy as it appears in 27 F.R. 1734 has been the policy of the Department of the Interior and the Department of the Army since its publication as a Notice and is now codified as set forth below.

JOINT POLICIES OF THE DEPARTMENTS OF THE INTERIOR AND OF THE ARMY RELATIVE TO RESERVOIR PROJECT LANDS

Sec.
8.0 Acquisition of lands for reservoir projects.
8.1 Lands for reservoir construction and operation.
8.2 Additional lands for correlative purposes.
8.3 Easements.
8.4 Blocking out.
8.5 Mineral rights.
8.6 Buildings.

AUTHORITY: The provisions of this Part 8 issued under Sec. 7, 32 Stat. 389, sec. 14, 53 Stat. 1197; 43 U.S.C. 421, 389.

8.0 *Acquisition of lands for reservoir projects.* Insofar as permitted by law, it is the policy of the Departments of the Interior and of the Army to acquire, as a part of reservoir project construction, adequate interest in lands necessary for the realization of optimum values for all purposes including additional land areas to assure full realization of optimum present and future outdoor recreational and fish and wildlife potentials of each reservoir.

8.1 *Lands for reservoir construction and operation.* The fee title will be acquired to the following:

(a) Lands necessary for permanent structures.

(b) Lands below the maximum flowage line of the reservoir including lands below a selected freeboard whefe necessary to safeguard against the effects of saturation, wave action, and bank erosion and to permit induced surcharge operation.

(c) Lands needed to provide for public access to the maximum flowage line as described in paragraph 1b, or for operation and maintenance of the project.

8.2 *Additional lands for correlative purposes.* The fee title will be acquired for the following:

(a) Such lands as are needed to meet present and future requirements for fish and wildlife as determined pursuant to the Fish and Wildlife Coordination Act.

(b) Such lands as are needed to meet present and future public requirements for outdoor recreation, as may be authorized by Congress.

8.3 *Easements.* Easements in lieu of fee title may be taken only for lands that meet all of the following conditions:

(a) Lands lying above the storage pool.

(b) Lands in remote portions of the project area.

(c) Lands determined to be of no substantial value for protection or enhancement of fish and wildlife resources, or for public outdoor recreation.

(d) It is to the financial advantage of the Government to take easements in lieu of fee title.

8.4 *Blocking out.* Blocking out will be accomplished in accordance with sound real estate practices, for example, on minor sectional subdivision lines; and normally, land will not be acquired to avoid severance damage if the owner will waive such damage.

8.5 *Mineral rights.* Mineral, oil and gas rights will not be acquired except where the development thereof would interfere with project purposes, but mineral rights not acquired will be subordinated to the Government's right to regulate their development in a manner that will not interfere with the primary purposes of the project, including public access.

8.6 *Buildings.* Buildings for human occupancy as well as other structures which would interfere with the operation of the project for any project purpose will be prohibited on reservoir project lands.

(b) *Application of Joint Policy by Corps of Engineers.* In order to assure that the water and land areas of reservoirs constructed by the Corps are available to the public, the lands which provide access along the shore of the reservoir will be supplemented at selected locations for concentrated public use. Where projects have either recreation or fish and wildlife, or both, as project purposes, additional lands will be acquired as set out in the authorization and specified in design memoranda. The policy contemplates that the United States own in fee a continuous area of land around the reservoir above the water level to insure ready access along the shore. However, certain exceptions have been adopted, as set forth hereinafter. Under the Joint Policy the Corps will take an adequate interest in lands, including areas required for public access, to accomplish all of the authorized purposes of the project and thereby obtain maximum public benefits therefrom. The statements in the policy which define the land interests to be acquired in particular areas are guidelines in application of policy.

(1) *Land to be Acquired in Fee.* (i) Lands necessary for the dam site, construction areas and permanent structures.

(ii) The lands below a guide contour line (guide acquisition line) established with a reasonable freeboard allowance above the top pool elevation for storing water for flood control, navigation, power, irrigation, and other purposes, referred to in this paragraph as the "full pool" elevation. In nonurban areas generally, this freeboard allowance will be established to include allowances for induced surcharge operations plus a reasonable additional freeboard to provide for adverse effects of saturation, wave action and bank erosion. Factors such as estimated frequency of occurrence, probable accuracy of estimates, and relocation costs, will be taken into consideration. Where this freeboard does not provide a minimum of 300 feet horizontally from the conservation pool, defined as the top of all planned storage not devoted exclusively to flood control, then the guide acquisition line will be increased to that extent. In the vicinity of urban communities or other areas of highly concentrated developments, the total freeboard allowance between the full pool elevation and the acquisition line may be greater than prescribed for nonurban areas generally, and shall be sufficient to assure that major hazards to life or unusually severe property damages would not result from floods up to the magnitude of the standard project flood. In such circumstances, however, consideration may be given to easements rather than fee acquisition for select sections if found to be in the public interest. However, when the project design provides a high level spillway, the crest of which for economy of construction is substantially higher than the storage elevation required to regulate the reservoir design flood, the upper level of fee acquisition will normally be at least equal to the top elevation of spillway gates or crest elevation of ungated spillway, and may exceed this elevation if necessary to conform with other criteria prescribed herein.

(iii) Lands to be acquired for public use, being those reflected in the Recreation Resources Appendix of the Phase I General Design Memorandum (ER 1120-2-400). The Phase I General Design Memorandum is required to be prepared and submitted for approval prior to submission of the Real Estate Design Memorandum.

(iv) Lands required for operation and maintenance of the project for:

(A) Frequently used operational areas.

(B) Clearing and disposition of debris.

(C) Maintenance, repair, and restoration.

(D) Anticipated erosion.

(E) Safeguarding public health, and malaria and mosquito control.

(F) Sanitation.

(v) Lands specifically authorized by the Congress for recreation and fish and wildlife purpose as defined by the Federal Water Project Recreation Act (Pub. L. 89-72) and Fish and Wildlife Coordination Act of 1958 (Pub. L. 85-624, 16. U.S.C. 661 et seq).

(A) All lands to be acquired for fish and wildlife purposes, either mitigation enhancement lands or estates therein required for other project purposes, will be presented in such a way as to distinguish clearly all such lands under each of the separate authorities involved. Specific guidance on fish and wildlife resources is contained in ER 1120-2-400 and ER 1120-2-404.

(B) The purpose of Pub. L. 89-72 is to provide a uniform policy with respect to recreation and fish and wildlife benefits and costs of Federal multiple-purpose water resource projects, and for other purposes.

(*1*) Pub. L. 89-72, as amended by Section 77 of Pub. L. 93-251, does, however, create a unique provision relating to local participation in the recreation and fish and wildlife developments in water resource projects. Provisions of that Act, as amended, must be adhered to and contracts for administration of project lands and cost-sharing shall follow the amendments contained in Section 77 of Pub. L. 93-251.

(*2*) Section 3(b) of Pub. L. 89-72 further provides that, notwithstanding the absence of an indication of intent as specified above, lands may be provided in project planning which would preserve the recreation and fish and wildlife potential of the project for *subsequent* development by local interests. The act prescribes that local interests must within 10 years after initial operation of the project enter into agreements specified above. In the event such agreements are not obtained, the proposed facilities cannot be constructed and the Corps may utilize the lands acquired for any lawful purpose within the Corps' jurisdiction or may offer said land for sale to its immediate prior owner or his immediate heirs at its appraised fair market value at the time of disposal. In the event that an agreement with the prior owner or his heirs cannot be reached in 90 days, disposal of the property will ensue pursuant to usual disposal procedures.

(*3*) The provisions of Pub. L. 89-72, as amended, are construed to apply to planning for projects authorized in 1965 or thereafter. Accordingly, all planning for future projects must be coordinated with local interests as defined in the law and all design memoranda relating to land acquisition or development of recreation or fish and wildlife areas must clearly set forth the potential of the project for such development and the intent of local interests in fulfilling the requirements of this law.

(*4*) Pub. L. 89-72, as amended, does not impose a requirement for local participation in all recreation and fish and wildlife areas. Development of recreation areas and planning for fish and wildlife areas will be in accordance with the guidelines set forth in this Chapter and related regulations.

(vi) Lands for resource preservation and/or enhancement in fulfillment of the National Environmental Policy Act of 1969 (Pub. L. 91-190, 83 Stat. 852) and Executive Order 11514 will be those approved in the authorizing document and/or those approved in the Recreation Resources Appendix of the General Design memorandum.

(vii) Uneconomic remnants required to be purchased in fee under Section 301(9) of Pub. L. 91-646.

(viii) Recommendations may be made in the Real Estate Design Memorandum to eliminate lands from acquisition located within the approved guide acquisition line but above the guide contour line which are highly developed or devoted to public uses such as parks, golf courses, cemeteries, etc. Also, where for reasons of steep terrain, presence of highways and railroads, severe severance, or for other reasons, sound real estate practice indicates requirement for some adjustments in the area above the guide contour line, recommendations for such adjustments will be included in the real estate design memorandum, or will be subsequently submitted with proposed final real property acquisition lines, for approval of the Division Engineer in accordance with § 644.7.

(ix) Lands which will be covered by any sediment delta that is expected to form as the result of aggradation of streams draining into the reservoir. The estimate of this area shall be based upon the probable sediment inflow for a period at least equal to the economic life of the project.

(2) *Lands Over Which Easements are to be Acquired.* (i) Lands in reservoir areas of flood-control-only projects, which do not provide conservation pools, except as required for public access.

(ii) Lands required for a relatively short time for temporary structures or for use during the construction period only.

(iii) The Joint Policy of 1962 provides that flowage easements *may* be acquired in reservoir projects if *all* four conditions of Section 8-3 of the Joint Policy are met. For the purposes of land acquisition, to distinguish between fee and flowage easement "remote portions of the project area" as referred to in Section 8-3 of the Joint Policy are defined as those lands lying upstream from the conservation pool (the top elevation of all storage other than that devoted exclusively to flood control use) on the main stream and all significant tributaries thereof.

(iv) Lands downstream from the dam and required only for operational purposes.

(v) In flood control projects which do not have conservation pools, the right to occasionally flood should be acquired in all lands, except that the right to permanently flood should be acquired in those lands which may be subjected to permanent flooding, as in the case of a trash pool.

(3) *Levees in Lieu of Acquisition.* Where construction of levees or flood walls and necessary associated facilities for protection of lands and properties located within potential flowage limits of a reservoir is proposed in lieu of acquisition of fee title or easements over such properties, the protective structures shall meet the following minimum functional requirements:

(i) In urban communities or other areas of highly concentrated developments where overtopping of levees would result in major hazards to life or unusually severe property damage under anticipated future conditions, levee grades and designs shall be adequate to withstand without failure the occurrence of the standard project flood, assuming the reservoir is filled to highest level that is reasonably likely to prevail at the beginning of such a flood.

(ii) Under circumstances where it can be reasonably shown that possible overtopping of protective levees or flood walls as proposed would not result in unusual hazards to life or major property damage, levee grades shall be as high as economically practicable in consideration of apparent risks and costs involved, and flowage easements or other appropriate assurances from local interests shall be obtained insofar as necessary to protect the Government in the event the protective structures are overtopped.

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§ 644.5 Mineral Acquisition Practices.

(a) *Procedure.* The procedure of the Corps of Engineers in acquiring the necessary land or interests therein to accommodate projects authorized by the Congress is to permit the reservation of the minerals in the land, unless the reservation is inimical to the operation of the project. In all cases wherein a reservation is permitted, the mineral interests are subordinated to the primary project purposes, including public access and preservation of environmental quality.

(b) *General.* (1) The multiplicity of ownerships in mineral interests, the variety of minerals and the different methods of mineral exploration, recovery and production make it impracticable to define in advance specific guidelines concerning the reservation of mineral interests and their subordination to primary project purposes in any given project. The initial planning documents, real estate design memoranda, and master plans will fully discuss and consider the extent of acquisition and/or reservation of mineral interests.

(2) Generally fee title to all subsurface interests will be acquired in areas required for all structures, areas required for project operations and public use including access, and in areas where the value of the subsurface interests is nominal. Reservation of coal, oil, gas and other minerals will be permitted whenever any aspect of mineral development will not interfere with project purposes. The reservation of mineral rights will be predicated upon the Government's right to so regulate their development as to eliminate any interference with project purposes and to minimize any adverse impact on the environment including aesthetic values.

(c) *Reservation of Minerals.* (1) When it has been determined that the reservation of minerals will not interfere with the purposes of the project, the minerals will be subordinated in accordance with the following guidelines:

(i) The estate providing for the subordination will not be utilized unless approved by HQDA (DAEN-REA).

(ii) Any subordination agreement, together with additional regulations incorporated by reference, must clearly define:

(A) The rights and obligations of the Government and the mineral owner, operator, and/or lessee.

(B) The control to be exercised over site development for mining purposes.

(C) Required land reclamation or restoration.

(D) Restrictions against pollution and degradation of project environment and aesthetics.

(E) Provisions for compliance inspection by the Government of all site development and mining activities over which the Government has control under (B) above.

(2) After execution of a subordination agreement as provided above, the District Engineer will develop a program for the surveillance of mineral activities at each project.

(3) The representatives of the Division and District Engineers are to be fully informed concerning the rights and responsibilities of the Government and the mineral owner and/or operator under the terms of the estates acquired for the subordination of minerals, and will periodically inspect all mining activities to insure compliance with the terms of the subordination agreement and any plan incorporated by reference into such agreement.

(d) *Off-Project Mineral Activity.* In connection with all drainage basins, where there is present or potential mineral activity upstream from a project or nearby lands outside the project limits, the District Engineer will:

(1) Establish and maintain liaison with Federal and State agencies having responsibility for the regulation of mineral activities and the control of environment in order to prevent adverse effects of mining on the project.

(2) Institute a system for monitoring adverse effects on the project such as sedimentation and acid drainage.

(3) Take steps to insure that Corps personnel in charge of the project are familiar with State and Federal laws governing the control of mineral recovery and the environment, as well as the Federal or State agencies responsible for the enforcement of such laws.

(4) Division and District Engineers are requested to use the Refuse Act of 1899 and any other legal remedies that may be appropriate in a particular situation in order to protect the interests of the United States and preserve the integrity of the project.

§ 644.6 Feasibility Reports and Design Memoranda.

(a) *Feasibility Investigations and Reports.* Survey investigations and reports are the studies and reports, specifically authorized by Congress and made by Division and District Engineers as assigned by the Chief of Engineers, to determine the scope, justification, and degree of Federal interest in protection and development of harbors, waterways, shores and beaches, and river basins. For water resource projects the reports include determination of needs of alternative plans of protection and development to be considered for recommendation to Congress for authorization as Federal projects. Survey reports should clearly specify real estate requirements, both immediate and prospective, and the responsibilities of Federal and non-Federal agencies relative thereto. The real estate estimates in the reports should be recent enough to be meaningful for the purpose intended. Documentation regarding the estimates, such as when and by whom made, nature and extent of field investigation, search for comparable sales and similar factual material, shall be maintained.

(b) *Phase I and Phase II General Design Memoranda.* (1) The General Design Memorandum (GDM) is a report on an authorized project. Its form and content are set forth in ER 1110-2-1150. It includes a real estate section, which consists of a general discussion of real estate requirements for the project, recommendations as to estates to be acquired, a gross appraisal of the necessary land and interests therein, and other features considered desirable to present all major real estate problems and to recommend solutions. Subject to the availability of data, minerals in the project area should be covered in the manner set forth in § 644.5. Detailed sales data are not necessary, but may be included if it is anticipated that recommendations will be made for early acquisition of interior tracts.

(2) Real Estate personnel will prepare the real estate section of the GDM. The requirements for current real estate estimates and necessary documentation thereof contained in § 644.6(a) are also applicable to this subparagraph.

(c) *Real Estate Design Memoranda.* (1) Following approval of the Phase I GDM, a Real Estate Design Memorandum (REDM) will be prepared by the Division or District Engineer. Approval of the REDM shall be in accordance with ER 1110-2-1150, para 21b(2)(j). No land shall be acquired for the project without approval of the initial REDM except (i) in the case of an advance land acquisition situation, (ii) acquisition for local cooperation project, or (iii) when a letter-type REDM has been submitted. The REDM will include the following in the order set forth below:

(A) A statement that this REDM is tentative in nature for planning purposes only and that both the final real property acquisition lines and the estimate of value are subject to change even after approval of this REDM.

(B) Project authorization, designation, location and date of approval of GDM Phase I, including the Recreation Resources Appendix (App A, ER 1110-2-1150).

(C) General description of the area and estimated total acreage. The total acreage will be broken down as to fee and easement areas. The fee will be further broken down to indicate, separately, the estimated acreage required

for the various authorized project purposes.

(D) If any Government-owned land is within the area, indicate the Government's estate, degree of interest required for project purposes, and views of the local representative of the controlling agency as to use for project purposes (see Act of July 26, 1956 (70 Stat. 656) with respect to national forest land).

(E) Appraisal information containing a general statement as to character, present use and highest and best use of the land, local economic conditions which may affect the trend of real estate values in the community and the gross estimate of value for the area to be acquired under the REDM. The gross appraisal on which this estimate is based should be forwarded concurrently to HQDA (DAEN-REE) WASH DC 20314.

(F) Information necessary to ascertain responsibility under PL 91-646 including but not limited to the following:

(*1*) The number of persons, farms and businesses to be displaced.

(*2*) An estimate of all costs, including contingencies to be incurred as a result of compliance with Pub. L. 91-646. Part 641 of this Subchapter sets out the items to be considered in estimating these costs.

(*3*) Information regarding the availability of replacement housing.

(G) Estimated cost to the United States of lands, easements, and rights-of-way necessary for acquisition by the United States for:

(*1*) Access roads to project area. A statement will be included as to whether existing public roads will be utilized within the purview of 33 U.S.C. 701r-1 or new rights-of-way for access roads will be acquired, with the estimated cost of such new rights-of-way. The proposed plan of access during construction will be fully described.

(*2*) Relocation of highways, roads, railroads, pipelines, and utilities (ER 1180-1-1, Section 73). Statement will be included as to whether the Government or the owner(s) will acquire new rights-of-way, if any, necessary for the various relocations.

(H) Number of structures and facilities which will come within the purview of Section 111 of the Act of Congress approved July 3, 1958 (Pub. L. 85-500), and a preliminary estimate of Government costs (ER 1180-1-1, Section 73).

(I) A study, in accordance with § 644.5, of present or anticipated mineral activity in the vicinity of the project which may affect the operation thereof. A recommendation including cost estimate, if applicable, regarding the acquisition of the minerals should also be included in this section of the REDM.

(J) A discussion of standing timber and other vegetative cover in proposed recreation areas and other areas above the conservation pool which have recreation or scenic value. Recommendations should be made as to the significance of such timber and cover and as to whether reservation of standing timber should be permitted in the various parts of the fee area.

(K) A map(s) showing the area which is the subject of the REDM, indicating the acquisition guide line, contour line, the tentative blocked out fee line, multipurpose pool, and lands in which the acquisition of easements is recommended. The map(s) will show, where appropriate, the dam site, construction area, borrow areas, spoil areas, public access areas, fish and wildlife areas, and recreation areas. In addition, the appropriate map(s) will have outlined thereon the items of construction or major project features. Access roads and railroad rights-of-way required for these areas will also be shown. Chapter 3 of EP 405-1-2 relates to the preparation of maps. With respect to a project where it is planned to submit several REDMs covering portions of the project, the initial REDM will contain a map showing the entire project, with the information shown thereon as indicated above, insofar as this information covering the entire project is then available. All subsequent REDMs will contain the same type of map, on which will be shown the area(s) on which REDMs have been previously submitted with each such area keyed to the number of its REDM. Maps shall be of sufficient scale to be legible and to permit ready interpretation of pertinent features.

(L) An aerial mosaic, if available, to provide a pictorial support to the rest of the report concerning involved problems.

(M) Discussion relating to the acquisition or relocation of towns and cemeteries within the project area (ER 1180-1-1, Section 73).

(N) A realistic estimate of administrative costs, giving due recognition to existing and foreseeable conditions. To assure direct relationship between costs and estimates, the breakdown of these estimates will conform to the prescribed acquisition activity cost items as set forth under Real Estate Schedule/Cost and Performance, ENG Form 4564, or any further breakdown which the District Engineer may consider desirable. Included as a minimum requirement will be: estimated administrative costs for mapping, surveying, and boundary monumentation, appraising, title evidence, negotiating and closing direct purchases, condemnation, and relocation assistance.

(O) Summary of project real estate costs, total all project real estate costs by category, i.e., land cost, improvements, severance, Pub. L. 91-646 costs, relocations, minerals, contingencies, administrative costs, etc.

(P) Schedule of acquisition.

(Q) Discussion and recommendations concerning the nonstandard estates proposed for acquisition and the real property boundary lines.

(R) The extent of the existing navigational servitude (ER 1165-2-302).

(S) The REDMs will be assigned a single basic number for each project; succeeding REDMs will be given alphabetical suffixes to the basic assigned number—for example, REDM Nos. 5, 5A, 5B, etc. Copies of the letter of transmittal and indorsements thereon will be inserted in the front of each copy of the REDM. A cover sheet will list chronologically all REDMs (including supplements thereto and brief letter-type memoranda) previously submitted, and will show dates submitted by the District Engineer and, if approved, dates of approval thereof.

(2) Upon approval of each REDM, the Division or District Engineer may, subject to the availability of funds, proceed with the acquisition of land and/or interests therein. The REDM, as approved, will constitute the overall real estate plan for acquisition of the area covered by the REDM. Whenever changes in the approved REDM are required, a supplementary REDM describing the proposed changes and setting forth the reasons therefor will be submitted. Approval of a supplemental REDM is required before acquisition can proceed in the area in which the changes are proposed.

(3) Prior to the approval of the REDM, Division and District Engineers should, subject to the availability of funds, proceed with preliminary real estate work, in the same manner as set out in § 644.30. No action will be taken to solicit an offer from a landowner for the purchase of his land until the acquisition has been approved and subject to availability of funds and compliance with the applicable provisions of Pub. L. 91-646.

(4) An REDM is not required for projects authorized by the Congress subject to the condition that local interests furnish without cost to the United States the necessary lands, easements, and rights-of-way. However, the GDM should include a statement enumerating the requirements of local cooperation, the name of the local interests proposing to fulfill said requirements, an estimate of land costs, and any other information pertinent thereto.

(5) Number and content of Real Estate Design Memorandum.

(i) With respect to reservoir projects involving an extensive real estate pro-

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gram, it is considered preferable that more than one REDM be prepared so that each will cover a segment or group of segments, making up the total project, consistent with the planned schedule of acquisition.

(ii) For those projects, requiring two or more REDMs to cover the project area, each REDM will include all contiguous lands for each public access point and recreational site proposed within the area covered by that REDM. Noncontiguous areas planned for these purposes that are located beyond the limits of the REDM involved will be omitted therefrom. This procedure does not apply to areas authorized for fish and wildlife purposes. Lands authorized specifically for fish and wildlife purposes may be included either in a conventional REDM, along with other project lands or be submitted as a separate REDM, depending on convenience in preparation and size of the area. However, in either event, whenever practicable, the entire area proposed for this purpose should be covered in one REDM, as a unit.

(iii) For smaller projects, not involving an extensive real estate program, all real estate requirements, including those for public access, fish and wildlife, and recreation, may be covered in a single REDM.

(d) *Blocking Out.* The following are guidelines to be observed to the extent possible in preparing the REDM. These guidelines will be adhered to by the Division Engineer in his approval of the final real estate acquisition lines.

(1) Close blocking out will be accomplished in accordance with sound real estate practices.

(2) For land acquired in fee, the blocked out final real estate acquisition line will be established in such manner as to minimize costs and cause the least disruption in the use of the remainder of the ownership.

(3) Severance damages will be avoided to the extent possible consistent with real estate requirements for the project. In accordance with Section 301 of Pub. L. 91-646, if the acquisition of part of a tract will render the remainder an uneconomic unit, an offer must be made to purchase the entire tract.

(4) It is conceivable that, in certain instances, acquisition of an easement will result in an uneconomic remainder and this requires application of Section 301 of Pub. L. 91-646, as in paragraph (d)(3) of this section.

(5) A remnant without access need not be acquired if

(i) the owner desires to retain the property and releases the Government from damages for lack of access, and

(ii) the obtaining of such release in lieu of acquisition is concurred in, in writing, by the local road authority, and the local road authority is released from damages due to loss of access.

(6) For lands to be acquired in fee or easements, close tangent will be used, generally following the acquisition line.

(7) When small portions of additional properties, not otherwise needed for the project, are within the acquisition line, they may be omitted if to do so will not materially affect the operation and maintenance of the project as determined by operational elements.

§ 644.7 Acquisition lines.

(a) *Tentative Acquisition Lines.* As indicated in § 644.6(c)(1)(iii)(K), tentative acquisition lines are shown on maps which are part of the REDM. However, at that time, the lines will, to some extent, be irregular and located without full regard to their effect upon fringe tracts. It will, therefore, be necessary to establish final acquisition lines, in accordance with sound real estate practices. Accordingly, fringe tracts will not be acquired until the final acquisition lines are approved by the Division Engineer.

(b) *Submission.* As soon as possible after authority has been granted to acquire the land and/or interest therein, the District Engineer will complete appraisals covering the fringe tracts. Thereupon, a map showing proposed final acquistion lines will be submitted to the Division Engineer, accompanied by justification and reasons therefor. This submission may be for an entire project or by segments or units. However, if the final map is submitted on a segment or unit basis, each segment or unit must be complete in itself and not be dependent on another segment or unit not submitted for approval.

(c) *Approval.* The Division Engineer is authorized to approve final acquisition lines, but shall not delegate this responsibility to District Engineers. This authority is subject to the following:

(1) Except for the addition or deletion of individial ownerships, or portions thereof, on the basis of the criteria contained in § 644.6(d), approval of any changes in the overall plan will be in compliance with ER 1110-2-1150.

(2) Estates in individual tracts may be changed if consistent with the overall plan. Approval, however, will be required from HQDA (DAEN-REA-P) if the estates are non-standard.

§ 644.8 Planning and scheduling real estate activities.

(a) *Normal Scheduling.* (1) The objective of a planned program is to provide for the early acquistion of land to avoid enhancement in land prices and a minimum of inconvenience to the property owners. Also, it is essential that there be adequate planning of the land acquisition program to insure that there is no interference with unacquired properties as a result of construction activities.

(2) It is essential that adequate funds be programmed on ENG Form 2213, Advance Engineering and Design Planning Schedule (PB-2B), to proceed with real estate planning; preparation of Real Estate Design Memoranda; determination of final project boundaries; and preliminary real estate work to the point where land acquisition can be started as soon as construction funds become available.

(3) Surveys and boundary monumentation and/or marking shall be completed prior to acquistion.

(4) Funds will be programmed for acquisition of lands for the construction area and/or other areas initially required within the first year, and for acquisition of lands for the other features of the project as rapidly as necessary real estate data can be assembled. For projects with major impoundment features and with scheduled construction periods of more than two years, funds will be programmed at a uniform level so that total real estate requirements will be covered by accepted offers to sell or declarations of taking filed in court by the end of two-thirds of the overall construction period.

(b) *Public Information.* (1) The real estate activities of the Corps are extremely sensitive, since they disrupt the lives of individuals and take their homes, farms and businesses. Therefore, the importance of keeping landowners and others having an interest in the land informed of the land acquisition program is emphasized. In order to avoid false rumors and to permit the affected owners to formulate plans for the future, information concerning the land acquisition program, procedures with respect thereto, and the specific effect on the individual properties, will be furnished to the affected owners at the outset of the project.

(2) Section 302 of Pub. L. 86-645 (33 U.S.C. 597) is quoted, in part, for guidance:

> Within six months after the date that Congress authorizes construction of a water resource development project under the jurisdiction of the Secretary of the Army, the Corps of Engineers shall make reasonable effort to advise owners and occupants in and adjacent to the project area as to the probable timing for the acquisition of lands for the project and for incidental rights-of-way, relocations, and any other requirements affecting owners and occupants. Within a reasonable time after initial appropriations are made for land acquisition or construction, including relocations, the Corps of Engineers shall conduct public meetings at locations convenient to owners and tenants to be displaced by the project in order to advise them of the proposed plans for acquisition and to afford them an opportunity to comment. To carry out the provisions of this section, the Chief of Engineers shall issue regulations to provide, among other things, dissemination of the following information to those affected: (1) Factors considered in making the appraisals; (2) desire to purchase property without going to court; (3) legal right to submit to condemnation proceedings; (4) Payments for moving expenses or other losses not covered by appraised market value; (5) occupancy during construction; (6) removal of improvements; (7) payments required from occupants of Government-acquired land; (8) withdrawals by owners of deposits made in court by Government; and (9) use of land by owner when easement is acquired.

(3) Within a reasonable time after initial appropriations are made for land acquisition or construction, including relocations, Division and District Engineers will conduct meetings with landowners. The United States Senators of the state or states and Members of the House of Representatives of the district or districts in which the project is located should be invited to attend. Normally, the public meetings should be scheduled prior to the commencement of the land acquisition program. The agenda for the meetings will include not only the nine specific items listed in Section 302, Pub. L. 86-645, but all other items of a nature that will assist landowners and tenants in understanding all of the Corps' real estate procedures such as, but not limited to: Acquisition schedules, the type of land interests to be acquired under the Joint Policy, approximate acquisition lines, management of the project, etc. In addition to the foregoing, pamphlets containing this information and the information brochure explaining the benefits to landowners under Pub. L. 91-646 will be given wide distribution at approximately the same time the landowners meeting program is initiated, and copies will be furnished to the appropriate United States Senators and Members of the House of Representatives.

(4) Inquiries, comments of landowners and tenants, and problems developed at the landowners meetings should be recorded or, at least, a detailed written resume made. HQDA (DAEN-REA-P) should be informed as to the outcome of these meetings. Effective follow-up to supply any information not available at the meeting, or to consider any particular problems presented, is essential to realize the full advantage of the public relations program.

(5) The provisions of this paragraph are applicable to all water resource development projects, including all local cooperation projects for which real estate is to be acquired in whole or in part by local interests. Initial information as to such projects for which real estate acquisition is exclusively a local interest responsibility may be given, within six months after project authorization, by either the local interest or Federal Government, through the media best adaptable under the circumstances. Advice should be given as to the timing of acquisition of the lands and lesser interests, and also as to the extent to which acquisition will be accomplished by the local interests. After appropriations, the local interests should be encouraged to sponsor and conduct a landowners meeting with attendance by Corps of Engineers representatives. If there is a joint responsibility for real estate acquisition, the local interests should explain the scheduled requirement for possession of the lands involved and their acquisition procedures, and the Corps of Engineers representatives should explain the procedures followed when lands are condemned by the Federal Government on behalf of local interests, and the authority for each action.

(6) If local interests refuse to call a landowners meeting, the District Engineer should call such a meeting, to explain the general construction features of the project, to inform the landowners and tenants that local interests are obligated to acquire the necessary lands, to state that we cannot explain the exact procedures which will be followed by local interests, but to explain the procedures followed when lands are condemned by the Federal Government on behalf of local interests. If only a very few landowners and tenants are involved, local interests may hold their meeting in the District Engineer's office or at a location more convenient to the landowners and tenants. While this would not be a formal meeting, the same type of information would be furnished. Here, also the District Engineer should call such a meeting if local interests refuse to do so.

(7) To summarize, public (landowners) meetings are required by Section 302 of Pub. L. 86-645. This requirement applies to local cooperation projects as well as to the large Federal water resources development projects. The meetings will be held by Division/District Engineers, to comply with the law, if local interests refuse to call meetings at which information would normally be furnished jointly by the local interests and by the Corps of Engineers representatives.

(8) Real Estate personnel and the Public Affairs Officers of the Division and District Engineers should cooperate closely in planning vigorous public relations programs as contemplated in this paragraph and through the press, radio, and television.

(c) *Land Acquisition Funds for Land Acquisition in Advance of Project Construction.* (1) A Land Acquisition Fund in the amount of $2 million was established as a part of the appropriations contained in the Public Works for Water, Pollution Control, and Power Development and Atomic Energy Commission Appropriation Act, 1971 (Pub. L. 91-439). Comments of the House Appropriations Committee in establishing the Fund are contained in House Committee Report No. 91-1219, 91st Congress, 1st Session, as follows:

> New land acquisition fund. The committee has approved the budget proposal to allocate $2 million to establish a fund for land acquisition, in advance of project construction, to alleviate severe hardship cases and to avoid price escalation. The proposal has been approved with the understanding that prior committee approval will be obtained for initial purchases in each project area and that use of the fund shall be confined to those projects on which planning has progressed to the point that the damsite has been finalized, and it is known with certainty the lands to be acquired for the project.

This fund was increased to $3 million by the Public Works for Water and Power Development and Atomic Energy Commission Appropriation Act of 1973 (Pub. L. 92-405).

(2) *Applicability.* Expenditures from the Fund are applicable to *authorized* water resource development projects for which land acquisition is a Federal responsibility.

(3) *Guidelines for Utilization of the Fund for Advance Land Acquisitions.* (i) The Fund will be used to acquire private and non-Federal publicly-owned properties at authorized water resource development projects on which planning has progressed to the point that the damsite has been finalized and it is established with certainty that the individual properties will be required for the project.

(ii) Only those individual properties will be considered for acquisition where it can be shown that advance acquisition of the properties will alleviate severe hardship to the landowner and/or will avoid unusual land price escalation. Unusual price escalation cases involve those individually owned properties where it can be demonstrated that the land value will materially escalate, prior to commencement of the land acquisition program for the project from future appropriations for land acquisition or construction, because of imminent actions which will change the highest and best use of land, such as zoning actions, planned construction on the land and other changes in real estate market factors which will materially escalate land values. Normal land escalation occurring to all properties in general within a project will not be considered as a basis for acquisition. Hardship cases include, but are not necessarily limited to, cases involving the following:

(A) The landowner has a valid contract to purchase a replacement property and failure to dispose of his property inside the project will force him

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to default the contract, forfeit his deposit, or otherwise lose the benefits of the contract, and other replacement property is not available within the same area under similar terms;

(B) The property owner is forced to relocate from the area due to his employment or other circumstances beyond his control, and the Government's project has so affected the sale of properties within the project area as to make a sale to another private party at a fair and reasonable price extremely difficult; and

(C) Illness of the owner or other members of his family, or other personal hardship makes his relocation from the area necessary and the Government's project has so affected the sale of properties within the project area as to make a sale to another private party at a fair and reasonable price extremely difficult.

(D) As indicated above, these examples are not intended to exclude other cases where, in the exercise of sound judgment, actual hardship is found to exist.

(iii) Individual tract ownerships recommended for advance acquisition by Division and District Engineers and approved by OCE will be acquired by direct purchase or through the filing of condemnation proceedings, in accordance with normal procedures.

(4) *Procedures.* Individual tract ownerships which Division and District Engineers consider are hardship cases or involve unusual price escalation, within the guidelines set forth in para (c)(3) above should be recommended to OCE for acquisition.

(i) Full justification must be submitted to HQDA (DAEN-CWB) WASH DC 20314 in support of the recommendation to acquire the individual ownerships.

(ii) If the recommendation is approved, action will be taken by OCE to obtain approval of the House and Senate Committees on Appropriations. Upon receipt of Committee approvals, the Division Engineer will be authorized to proceed with the acquisition action if sufficient funds are available from the Land Acquisition Fund.

(iii) Appropriate records will be maintained by District or Division Engineers of allocations made from the Fund which are used for approved acquisition cases. These funds will be accounted for under a designated account number.

(iv) When appropriations for land acquisition or construction of the Federal project are specifically made by the Congress, the initial allowance of funds to the project will be reduced by the amount previously allotted from the Land Acquisition Fund in order to replenish the Fund for use at other projects.

(d) *Acquisition for State or Local Interests—Resettlement Sites.* (1) Section 209 of Pub. L. 90-483 (82 Stat. 745) enacted 13 August 1968, provides that the Secretary of the Army may, prior to the approval of title by the Attorney General, acquire, enter upon, and take possession of lands or interests in lands by purchase, donation, condemnation or otherwise, whenever any State, or any agency or instrumentality of a State or local Government, or any nonprofit incorporated body organized or chartered under the law of the State, or any nonprofit association, shall undertake to secure any lands or interests therein as a site for the resettlement of families, individuals, and business concerns displaced by a river and harbor improvement, flood control or other duly authorized water resource project, and

(i) It is determined by the Secretary of the Army that the State or local interest is unable to acquire the necessary land, or unable to acquire it with sufficient promptness, and

(ii) The Governor of the State in which the site is located has requested such acquisition.

(2) *Cost of Acquisition.* The Act also provides that:

(i) All expenses of acquisition accomplished under the authority of the Act, including any award that may be made in a condemnation proceeding, the cost of title evidence, appraisals and any other costs incident to such acquisition, shall be paid by the State, agency, instrumentality or nonprofit body.

(ii) The State, agency, instrumentality or nonprofit body may repay such amount from any funds made available to it by any Federal department, agency, or instrumentality, other than the Department of the Army.

(iii) Pending such payment, the Secretary of the Army may expend from any funds appropriated for the project such sums as may be necessary to carry out Section 209, Pub. L. 90-483.

(iv) To secure such payment, the State, agency, instrumentality or nonprofit body may be required to execute a proper bond before acquisition is commenced.

(v) Any sums paid by a State, agency, instrumentality or nonprofit body under Section 209 shall be credited to the appropriation for the project.

(3) *Determinations Required Before Application of Section 209.* No acquisition by the Department of the Army may be undertaken under this section until the Secretary of the Army has determined, after consultation with appropriate Federal, State and local government agencies, that:

(i) The development of a site is necessary in order to alleviate hardships to displaced persons;

(ii) The location of the site is suitable for development in relation to present or potential sources of employment; and

(iii) A plan for development of the site has been approved by appropriate local government authorities in the area or community in which the site is located.

(4) *Action by District or Division Engineer.* When the District Engineer is of the opinion that Section 209 may be applicable to a given situation, after consultation with State and State agency officials, the Governor of the State should be advised of the pertinent provisions of the law and the assistance that can be rendered by the Secretary of the Army under the terms and conditions of the law at the request of the Governor. If planning towards resettlement is undertaken by a State, agency, instrumentality or nonprofit body, the District Engineer will keep advised of the progress of such local planning and will furnish guidelines and consultation to the local interests during development of the plan.

(5) *Implementation of the Plan of Resettlement.* When the final plan has been developed and approved by the appropriate Federal, State and local governmental agencies (which will include information showing that the site is necessary to alleviate hardships to displaced persons and suitable for development in relation to present or potential sources of employment), a showing has been made that the State is unable to acquire the necessary lands or interests therein or is unable to acquire the lands with sufficient promptness, the Governor has executed a request that the Secretary of the Army acquire the lands under the terms and conditions of the Act, and the State or agency of the State has executed a proper bond in an amount deemed necessary to cover total expenditures to be made by the Army for the land acquisition, the District Engineer should submit to HQDA (DAEN-REA-P) WASH DC 20314 a brief Real Estate Design Memorandum covering the land to be acquired under the plan. The REDM should be accompanied by the final approved plan and the information listed above in order that the Secretary may make the determinations as required by Section 209(b) of Pub. L. 90-483. No action will be taken by the District Engineer to acquire the land, proposed for acquisition in the plan and the REDM, until receipt of authority from DAEN-REA-P to proceed with the acquisition. A complete record will be maintained of all land and administrative costs incident to the acquisition as a basis for a request for reimbursement to the State and/or the State agency or agencies. Upon authorization to the District Engineer to proceed with land acquisitions of the site, normal Corps land acquisitions procedures will be followed.

(6) *Conveyance of the Site to the State or State Agency or Agencies.* In accordance with Section 209(c) of Pub. L. 90-483, upon completion of the acquisition of the site, a proper deed will be submitted to HQDA (DAEN-REA-P) WASH DC 20314 for execution by the Secretary of the Army, for conveyance of the land to the State or State agency, as appropriate. Evidence must be submitted that the terms and conditions of the deed have the approval of the Governor and the agency to which conveyance is to be made. The deed will not be delivered until reimbursement has been made to the United States for the land and administrative costs expended by the District Engineer incident to the acquisition of the site.

MILITARY (ARMY AND AIR FORCE) AND OTHER FEDERAL AGENCIES

§ 644.21 General.

(a) *Purpose.* Sections 644.21 through 644.30 describe the procedures of the Corps of Engineers relating to real estate planning and project authorization for the acquisition of land and interests therein for military projects, for the Department of Energy (DOE), and for other Federal agencies as required.

(b) *Applicability.* Provisions of these sections are applicable to the Office of the Chief of Engineers and all Division and District Engineers having real estate responsibilities.

(c) *General Procedures.* (1) AR 405-10 and AFR 87-1 outline the policies of the Department of the Army and the Department of the Air Force, respectively, with respect to real estate acquisitions.

(2) The policies of the Department of Energy (DOE) with respect to acquisition of real estate are generally set forth in requests of that agency for preparation of real estate design memorandums.

(3) The purpose of the planning function is to establish a sound basis for the acquisition of land and interests therein in accordance with existing law and broad procedures of higher authority; to collect all necessary real estate data; to correlate and evaluate these data from the standpoint of establishing the necessity for the proposed acquisition; to establish that no Government-owned or Government-controlled lands are available for the intended use; to determine the required estate, in accordance with existing policies, sufficient to protect the interests of the Government; and in general, to prepare each project for submission to the head of the interested department or agency, or his designee, and, where necessary, to the Department of Defense and the Committees on Armed Services of the Senate and House of Representatives, for approval.

(4) In the preparation of Real Estate Planning Reports, or Real Estate Summaries, consideration will be given to the procedures and criteria expressed in the regulations cited herein.

§ 644.22 Site Selection.

When a requirement develops for a new installation or the extension of an existing installation, site selection will be the primary responsibility of the using service. A representative of the appropriate Division or District Engineer will participate in selection of sites for the Department of the Army and, upon request, in Department of the Air Force site selection and preliminary investigations. Commanders and site boards should be informed of any available lands, including marginal lands in civil works projects and available lands under the control of other departments and agencies, suitable for the desired purpose. The using service will request the Chief of Engineers or the appropriate Division or District Engineer to prepare a Real Estate Planning Report or Real Estate Summary, making reference to the prior Site Selection Report if one was prepared.

§ 644.23 Real Estate Planning Documents.

(a) *Real Estate Planning Reports.* (1) A Real Estate Planning Report (REPR), as shown in Figure 2-1 in EP 405-1-2, will be prepared by the Division or District Engineer for all major fee and easement projects other than Reserve Component projects and extinguishment of grazing privileges on Federal lands. The request for such REPR may be initiated by any command or echelon of the Army or Air Force (or by the Washington Headquarters or field operations offices of DOE for a Real Estate Design Memorandum). Certain items contained in Figure 2-1 (EP 405-1-2) relate only to Department of the Air Force land acquisition programs for runways and approach zones and are not applicable to other projects. Such items will be omitted from REPRs where not applicable. When forwarding the REPR, a copy of the Reviewing Appraiser Comment, concerning the estimated land values assigned therein, should be included as an inclosure to the transmittal letter.

(2) On Department of the Air Force projects where estimated cost is not in excess of $25,000, brief REPRs are to be prepared for issuance of directives by the approprate Air Force Regional Civil Engineer (AFRCE). Such reports need not be submitted to the Chief of Engineers except in those cases in which the major command submits a copy to Headquarters, USAF. This report should contain adequate information on the items listed in the following outline but need not be limited thereto:

(i) Requirement for the property.

(ii) Cost estimate of the property with indication of the method used in arriving at the estimate.

(iii) Summary sheet showing the acreages, interests to be acquired, improvements and estimated costs, including the administrative costs of acquiring the real property and all costs in connection with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Pub. L. 91-646).

(iv) Map showing property to be acquired, ownerships, and relation to existing installation, where appropriate.

(v) In reports covering the acquisition of runway clearance easements, a profile, topographic, and obstruction drawing should be furnished.

(vi) Discussions of any peculiar or unusual problems anticipated in connection with the proposed acquisition including relocation assistance required by Pub. L. 91-646.

(vii) Recommendations of the office preparing the report.

(b) *Planning Documents for Reserve Component Acquisitions.* Figure 2-2 in EP405-1-2 is a sample of an REPR for use in acquisition of land for the U.S. Army Reserve Program. This report omits some items which appear in the usual planning report but includes other items particularly applicable to U.S. Army Reserve sites.

(1) *Real Estate Planning Report.* The REPR for Reserve Component acquisitions should contain the following:

(i) A list of all sites inspected with reasons for rejection of the other sites.

(ii) Description of physical characteristics of the site.

(iii) Type and extent of grading and drainage required.

(iv) Soil and foundation conditions with classification of overburden materials (to be determined by test borings only if conditions indicate this necessity).

(v) Availability of adequate access, water supply, electricity, gas for space heating, sewage disposal, drainage conditions, and telephone services. Where it is necessary to construct or extend streets, water, sewer, or other utility facilities to serve the selected site, a written commitment will be obtained from the municipal authorities assuring the United States that the municipality will perform such work without cost to the United States, or indicating the proportionate share of the costs the municipality will bear. This commitment will be made a part of the REPR.

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(vi) Cost estimates of supporting facilities and any unusual building foundations, itemized to the degree practicable to indicate items, quantities, sizes, unit prices and totals.

(vii) A preliminary site plan, showing existing conditions and proposed layout, to insure adequacy of the site for its intended ultimate use.

(viii) A formal legal commitment in the form of a resolution or other instrument authorizing a long-term, nominal-rental lease or a donation, together with a reference to the authority to grant the lease or make the donation, in instances where land is owned by a State, county, city or other political subdivision.

(ix) A draft of the proposed lease in terms acceptable to the lessor, taking into consideration the requirements in DOD Directive 4165.16.

(2) *Agreements for Joint National Guard-Army Reserve Center.* Title 10, United States Code, Sections 2231 through 2238, DOD Directives 1225.2 and 1225.5, and AR 140-478 contain policy and directions for the establishment of this type of training facility. The Division or District Engineer will participate in negotiation of the joint-use agreement and preparation of the necessary instruments, in coordination with local Army Reserve and National Guard representatives. A copy of the agreement so negotiated will be attached to each copy of the REPR prior to its distribution for review. DOD Directive 1225.2 provides in part: "The agreement shall remain in full force and effect for the fixed term of years which represents the estimated useful life of the facility." This provision has generally been interpreted as fixing the use term at 25 years, although the probably useful life of a well-maintained armory type structure is much longer. The DOD provision states a minimum requirement; however, it does not preclude the Army from securing a longer period of use. In order to secure a use term more commensurate with the Government investment, joint-use agreements, at a minimum, will be set up on a 25-year basis, with the option on the part of the Government to renew for an additional 25-year period under the same terms and conditions.

(3) *Real Estate Summary.* Considerable time, effort and funds can be saved if REPRs are foregone in those cases involving acquisition of property for U.S. Army Reserve and Army National Guard use by transfer from another military department or the General Services Administration. The Real Estate document in support of such proposed acquisitions will be a Real Estate Summary which will contain the following elements only:

(i) Authority for request.

(ii) Acreage and estate.

(iii) *Estimated* gross fair market value.

(iv) Map.

(v) Excess status of land.

(vi) Description of improvements (including building numbers and square feet).

(vii) Justification for use of the property as provided by the Command. Proposed construction (if any) should be included.

(viii) Engineering Feasibility Study (if construction is planned).

(ix) Draft Acquisition Report is required for clearance under Title 10 U.S.C. 2662 if *estimated* gross fair market value is over $50,000 for acquisition by transfer from another military department.

(c) *Lease Planning Reports.* Reference is made to AR 405-10 and AFR 87-1, concerning requests for leasehold acquisitions. A Lease Planning Report will be submitted upon request of the Chief of Engineers or the using service. Figure 2-3 in EP 405-1-2 is a sample of a Lease Planning Report.

(d) *Grazing Land Reports.* (1) When Federal grazing lands are a part of a project and it is proposed to cancel, or to prevent the use of, grazing privileges thereon, under authority contained in the Act of Congress approved July 9, 1942, as amended (43 U.S.C. 315q), the REPR will be utilized with appropriate changes. The report will disclose each of the ranch units comprising grazing privileges, indicating, in tabulated form, the name of each operator, acreage owned in fee, acreage of State-owned land held under lease, acreage of railroad land held under lease, acreage of other privately owned land held under lease, acreage under Federal grazing permits or licenses, total acreage in ranch unit, total carrying capacity of ranch unit, and actual number of stock being carried on each ranch unit; whether project will be classified as a permanent or temporary installation; other acquisition problems, such as mining and water rights or claims, which may be encountered; and a project map indicating project boundaries, Federal and State-owned lands, and location of mining and water rights or claims.

(2) The cost estimate will be prepared in accordance with Subpart B.

(e) *Distribution and Approval of Planning Reports.* (1) *Army Projects.* Upon completion of a fee and/or easement planning report or a Lease Planning Report, the report will be processed as outlined in AR 405-10. Information will be included in the transmittal letter concerning status of environmental assessment or impact statement.

(2) *Air Force Projects.* (i) Upon the completion, review and approval of a fee and/or easement planning report, the District Engineer will forward copies of the planning report to the Division Engineer who will forward the original and one copy with appropriate recommendations to HQDA (DAEN-REA-L) WASH DC 20314. Simultaneously with this action, the Division Engineer will furnish the Major Air Command with six copies of the planning report for review, approval, and subsequent transmittal to Headquarters, USAF.

(ii) After preparation, review and approval, the District Engineer will submit the Lease Planning Report, wherein the estimated annual rental is in excess of $25,000, to the Division Engineer. Upon review and approval, the Division Engineer will forward the original and a copy, with appropriate recommendations, to DAEN-REA-L. Simultaneously with this action, the Division Engineer will furnish the Major Air Command with two copies of the report. The Chief of Engineers will review the report and forward the original to Headquarters, USAF, with appropriate recommendations.

(3) *DOE Projects.* Upon completion of a fee and/or easement real estate design memorandum and review and approval by the District Engineer and, in turn, the Division Engineer, a copy of the report will be submitted to the appropriate DOE office for review and approval. When notice of approval is received, the District Engineer will transmit, through the Division Engineer, the original and two copies of the REDM, with recommendations, and evidence of approval by the DOE field office, to HQDA (DAEN-REA-P) WASH DC 20314. Upon review and approval, the Chief of Engineers will transmit the original and one copy of the REDM to Headquarters, DOE, for approval and further action.

§ 644.24 Acquisition by Transfer from Other Government Departments or Agencies (Except Public Domain).

When a requirement develops for the acquisition of Government-owned real property and an appropriate request is received for the acquisition, the District Engineer will prepare and submit, through the Division Engineer, to HQDA (DAEN-REA-L) WASH DC 20314 a Real Estate Planning Report (Figure 2-1 in EP 405-1-2) (or a brief report, if it is determined this would be sufficient) setting forth the requirements for the property, the market value thereof, the "in place" value of existing improvements, the estimated cost of the proposed construction, attitude of the local representative of the department or agency having control, and such other items as are necessary to give full discussion of the real estate implications, for consideration and the obtaining of a real estate directive for the acquisition by transfer.

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§ 644.25 Withdrawal of Public Domain for Defense Purposes.

(a) The Act of Congress approved February 28, 1958 (Pub. L. 85-337, 72 Stat. 27) provides that all withdrawals and reservations of public domain land, water, or land and water, or restrictions on use of areas in the Continental Shelf, aggregating an area of more than 5,000 acres for any one defense project, shall be by Act of Congress. Upon receipt of a request for withdrawal or reservation of lands of the public domain or for restrictions on exploration and exploitation in the Continental Shelf, and in order that the Chief of Engineers may present the project to higher authority for approval and submission to the Congress, if approved, the District Engineer will prepare and submit, through the Division Engineer, to HQDA (DAEN-REA-L) WASH DC 20314 a Real Estate Planning Report, including the following items.

(1) A copy of the request from the Army or the using service.

(2) Complete information relative to the eight items specified in Section 3 of Pub. L. 85-337 (43 U.S.C. 156).

(3) If the proposed withdrawal constitutes an expansion of an existing installation, pertinent data relative to the lands constituting the existing installation.

(4) Information relative to outstanding mineral, grazing, water and other rights.

(5) A statement as to the estimated cost:

(i) of extinguishing such rights; and

(ii) of suspending the exercise of such rights on a leasehold (annual rental) basis.

(6) Map(s) indicating the exterior boundaries of the project; excepted areas, if any; location of mineral rights, water rights, and other resources discussed in the report.

(b) The District Engineer will also prepare and include a draft of application for withdrawal covering the eight items specified in Section 3 of Pub. L. 85-337.

(c) Upon receipt of the REPR and draft of application for withdrawal, the Chief of Engineers will prepare a Real Estate Directive.

(d) The REPR, draft of application for withdrawal, and Real Estate Directive will be transmitted through the Chief of Staff and the appropriate Assistant Secretary of the Army to the Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics) for approval of the acquisition and for coordination with the Department of the Interior (Bureau of Land Management). Upon receipt of approval from the ASD (MRA&L), the Chief of Engineers will dispatch the application to the Department of the Interior and will draft the necessary legislation for processing through normal legislative channels.

(e) It has been determined that the words "in the aggregate" in Section 2 of Pub. L. 85-337 shall be interpreted as applying only to withdrawals of land since enactment of Pub. L. 85-337. For example, if 4,500 acres of public land had been withdrawn prior to enactment of Pub. L. 85-337 and the new application for withdrawal covers 1,000 acres, the requirements of Pub. L. 85-337 do not have to be satisfied. If the new application covering 1,000 acres is honored and the withdrawal completed and a later requirement for 4,500 acres of public lands developed, the requirements of Pub. L. 85-337 would have to be satisfied.

(f) Pub. L. 85-337 and the above instructions do not relate to the use of public lands under permit.

(g) In Department of Air Force cases, the District Engineer will continue to prepare such REPR's and to furnish such other services as are requested by the Major Air Commands.

(h) When the REPR contains a proposal for the acquisition of minerals, the local office of the Bureau of Land Management, Department of the Interior, will be furnished with a copy of the Mineral Section of the planning report, which will indicate the number and types of claims, areas involved, and the gross appraisal. Accompanying this Mineral Section will be a request that the Bureau of Land Management place an item in the next available budget for the funds required for the validation of the mineral claims involved. A copy of the Mineral Section, together with a copy of the request to the local office of the Bureau of Land Management, will be forwarded to HQDA (DAEN-REA-L) WASH DC 20314 for coordination with the Director, Bureau of Land Management, Department of the Interior, Washington, D.C. 20240.

§ 644.26 Required Clearances.

(a) As stated in AR 405-10 and AFR 87-1, no real estate or interests therein will be acquired until there is legislative authorization for the acquisition (41 U.S.C. 14) and an appropriation available for the purpose.

(b) AR 405-10 and AFR 87-1 also outline the clearances which must be made within the Departments of the Army and the Air Force, with the Department of Defense, and with the Committees on Armed Services of the Senate and the House of Representatives before acquisition may proceed. The Chief of Engineers is responsible for initiating all clearance actions as to Army acquisitions. The Director of Engineering and Services (AF/PRE) and the Director of Planning, Programming and Analysis (AF/RDXI), as to industrial installations, of Headquarters, USAF, are responsible for initiating all clearance actions as to Air Force acquisitions.

§ 644.27 Authority to Issue Real Estate Directives.

Where there is legislative authorization, an appropriation is available, and necessary clearances have been obtained, the formal Real Estate Directive (designating the land to be acquired, the estate to be acquired, and the amount of funds available for the acquisition) will be issued by the head of the interested department or agency, or his designee.

(a) Authority to issue all Department of the Army Real Estate Directives is vested in the Chief of Engineers. The Chief of Engineers has been delegated authority from the Secretary of the Army, and has redelegated to Division and District Engineers authority, to approve:

(1) Acquisition of permits from other Government departments and agencies, excepting the use of space in the National Capital Region.

(2) The making of minor boundary changes in approved projects to avoid severance damages, by including or excluding small tracts of land which will not decrease the usefulness of the project for the purpose for which being acquired.

(b) The delegated authority referred to in Paragraph (a) of this section was redelegated to Division and District Engineers, provided it can be accomplished without the allotment of additional funds: *And provided,* That there is an existing Real Estate Directive. When there is a change in scope (area and/or funds), recommendation will be made to the Chief of Engineers for amendment of the directive.

(c) The Chief of Engineers has been delegated authority to approve for the Secretary of the Army leasehold acquisitions, including renewals and extensions, and space assignments from the General Services Administration, where the estimated annual rental for any single project is not in excess of $50,000 and the acquisition is not controversial, unusual, or inconsistent with Department of the Army policies, excepting the acquisition by lease of industrial and commercial facilities; projects requiring a certificate of necessity in accordance with the Act of Congress approved June 30, 1932, as amended (40 U.S.C. 278a); and space in the National Capital Region. This authority has been redelegated to the Division Engineer where the annual rental does not exceed $25,000.

(d) Authority to issue all Department of the Air Force Real Estate Directives is vested in the Real Property Division, Directorate of Engineering and Services, HQ, USAF. Major Air Commands and Air Force Regional

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Civil Engineers may issue Real Estate Directives for acquisitions not exceeding $50,000 in cost.

(1) Division Engineers will assign numbers to Real Estate Directives issued by Air Force Regional Civil Engineers. The numbers will be in a consecutive series for each Division and will be preceded by a symbol identifying the Division to which the directive is issued.

(2) All revisions to Real Estate Directives will be designated as amendments to the basic Real Estate Directive and will be appropriately numbered.

(3) Division Engineers will forward the original and one copy of each Directive, and each amendment thereto to HQDA (DAEN-REA-L) WASH DC 20314.

(4) Commanders of Major Air Commands will approve requests for leases, lease renewals, and space assignments from the General Services Administration, where the estimated cost of the project does not exceed $50,000 per annum, and subject to any necessary clearances, excepting, however, the leasehold acquisitions listed in AFR 87-1.

(e) Authority to issue DOE Real Estate Directives has been delegated by the General Manager to the Directors of Operating Divisions, DOE.

§ 644.28 Responsibility for Acquisition.

HQDA (DAEN-REA-L) is responsible for acquiring real estate for the Departments of the Army (military) and Air Force. HQDA (DAEN-REA-P) is responsible for acquiring real estate for the Department of the Army (civil works), DOE, and other Federal agencies as required.

§ 644.29 Authority to Proceed with Acquisition.

(a) Upon receipt of the formal Real Estate Directive by the Chief of Engineers, with necessary clearances made and an allotment of funds to the District Engineer, the Division Engineer will be authorized to proceed with acquisition in accordance with the directive and the procedures outlined in Subpart C and Pub. L. 91-646 instructions. Where authority has been delegated, the Division or District Engineer may proceed with the acquisition upon receipt of proper directive, any necessary clearances, and allotment of funds.

(b) Under no circumstances will offers be made to landowners or construction initiated prior to the issuance of instructions from the Chief of Engineers to proceed with the acquisition.

(c) The Division or District Engineer will maintain liaison with the local commander and advise him when possession of the land is available.

§ 644.30 Preliminary real estate work.

(a) Preliminary real estate work is defined as that action taken with regard to the individual ownerships leading up to, but not including, solicitation of offers from landowners. It includes preparation or procurement of tract ownership data (ENG Form 900—Tract Ownership Data, where its use is considered desirable), legal descriptions and mapping, title evidence, and individual tract appraisals. At this stage of the acquisition program, it will be necessary to make some contact with landowners, tenants, or other interested persons; for example, the appraiser's discussion of the property with the owner, his agent, or other representative (Pub. L. 91-646, Sec. 301(2)). In any such contacts, information should be confined to the fact that acquisition of the real property is being considered; no acquisition action can be taken until funds are made available; and, after acquisition is approved, as much advance notice as possible will be given to all interested parties. Supply of ENG Form 900 may be requisitioned from the OCE Publications Depot in the prescribed manner.

(b) Preliminary real estate work on Army projects will be conducted as soon as design has progressed to the point at which the exact land needed has been firmly determined, or as soon as the District Engineer has determined that it is practicable to proceed.

(c) Preliminary real estate work on Air Force projects will be conducted upon request of Headquarters, USAF, or Major Air Command installations, and at the request of any of those persons designated for industrial acquisitions.

Subpart B—Appraisal

§ 644.41 General.

(a) *Purpose.* (1) Subpart B describes the general procedures and standards governing all appraisal work undertaken in connection with the real estate responsibilities of the Corps of Engineers.

(2) These guidelines are to promote and encourage the utilization of uniform appraisal methods, standards, and techniques. Their use should result in the most effective solutions to the many appraisal problems with which the Corps of Engineers is confronted in the implementation of its real estate programs involving acquisition, disposal, and management of all kinds of real property. They are to encourage the appraiser to include in his appraisal process sufficient factual data and other supporting information to develop sound, unbiased, and independent market value estimates; promote appraisal reporting techniques that reflect acceptable judicial concepts, intelligent and convincing reasoning; and provide a sound basis for negotiations and valid testimony in court.

(b) *Applicability.* Provisions of this subpart are applicable to the Office of the Chief of Engineers and all field operating agencies having real estate responsibilities.

(c) *Procedures and Standards.* (1) In acquiring, disposing, and managing real estate, or any interest therein, it is the practice of the Department of the Army to impartially protect the interests of all concerned.

(2) The fair market value of the pertinent real estate interest in each parcel or tract of real property being acquired, disposed of or managed will be developed by a competent appraiser preparing an adequate appraisal report indicating sound estimates of values of each estate required. The appraisal may be prepared by either a staff employee or by a self-employed contract appraiser; however, each must have demonstrated the ability to exercise good judgment and must have had adequate experience in estimating the market value of the particular type of property involved. The qualifications and selection of staff appraisers will be based on the Civil Service Standards for the GS-1171 Series. A contract appraiser must also meet the experience requirements set forth in the Civil Service Standards.

(3) It is the practice of the Chief of Engineers to engage the services of competent appraisers and consultants to augment staff capabilities in the appraisal of various real estate interests to be acquired, disposed of or managed by the Corps. Preference will be given to local appraisers and consultants, if qualified, and the costs of their services will be paid by the Government. Any appraiser having an interest in the property being appraised or any relationship, family or business, to the owner thereof, will be disqualified from appraising that particular tract.

(4) Normally, only one appraisal per ownership or tract will be obtained. However, in cases involving controversial appraisal problems or precedent setting patterns of value in first priority areas of large projects, more than one appraisal of the same property may be obtained if considered necessary by the Division or District Engineer. If negotiations with the owners have reached an impasse and it appears that the filing of condemnation proceedings will be necessary to acquire the land or interest therein, the joint Corps of Engineers-Department of Justice policy provides that in fee takings, where the value of the property is between $50,000 and $100,000 only one appraisal need be provided to the Department of Justice so long as it is a contract appraisal; two appraisals will be provided for values exceeding $100,000. In the filing of condemnation proceedings for easement takings in excess of $50,000 two appraisals will be required. At least one of the two appraisals must be made by a contract appraiser. More often than not, both will be by contract appraisers.

(5) Each appraisal report will be carefully reviewed and acted upon by a qualified reviewing appraiser.

(6) It is essential that negotiations for any required real estate interests be conducted on the basis of an approved appraisal that reflects current fair market value. Any appraisal report with an effective date of six months or more prior to initiation of negotiations with the landowner or the date of filing of a condemnation action is considered outdated and should be reviewed and brought up to date to reflect current market conditions.

(7) The appraiser may be called upon, in condemnation proceedings or otherwise, to establish the validity and competence of his estimates. He must familiarize himself with basic rules of trial evidence so that his testimony will be admissible and of probative value. Since, as a witness, he must be prepared to offer convincing testimony, his report should contain an analysis of all factual data upon which his estimates are based.

(8) Local representatives of the Department of Justice are available for consultation in matters pertaining to acquisitions and legal principles involved in valuation problems.

(9) Appraised valuations and the supporting appraisal reports, for acquisition or disposal purposes, are privileged information and the appraiser should not divulge his findings and opinions to anyone except authorized officials of the Government. Section 301(3), Pub. L. 91-646, January 2, 1971, dictates that written statement of, and summary of the basis for, the amount of the estimate of just compensation, shall be furnished the property owner. This does not mean that the appraisal report or any part of it should be given to the landowner, but only a summary of the amount and methods of appraisal.

(10) The appraiser is usually the first personal contact the owner has with a representative of the Government. The owner is generally the prime source of information pertaining to the history, condition, management, and operation of the property. It has always been the Corps' practice for the appraiser to contact and consult with the owner of a property prior to and during the inspection of the tract. Section 301(2), Pub. L. 91-646, January 2, 1971, dictates that "• • • the owner shall be given an opportunity to accompany the appraiser during his inspection of the property." Before the appraiser makes his first visit to the property, he must make every effort to contact the owner and invite him or his designated agent or representative to accompany him on his actual field inspection. If personal contact is not possible, a registered letter should be sent to the owner. The appraisal report should reflect when and how the owner or his representative was contacted, whether or not he accompanied the appraiser, and any other pertinent comments.

(d) *Definition of Market Value.* "Under established law the criterion for just compensation is the fair market value of the property at the time of the taking. 'Fair market value' is defined as the amount in cash, or on terms reasonably equivalent to cash, for which in all probability the property would be sold by a knowledgeable owner willing but not obligated to sell to a knowledgeable purchaser who desired but is not obligated to buy. In ascertaining that figure, consideration should be given to all matters that might be brought forward and reasonably be given substantial weight in bargaining by persons of ordinary prudence, but no consideration whatever should be given to matters not affecting market value. The cash or on terms reasonably equivalent to cash, requirement is important and numerous courts have noted this factor." (Source: "Uniform Appraisal Standards For Federal Land Acquisitions," Interagency Land Acquisition Conference, Washington, D.C., 1973.) This definition is considered to be consistent with another definition approved by the American Institute of Real Estate Appraisers which sets out market value "as the highest price estimated in terms of money which a property will bring if exposed for sale in the open market, allowing a reasonable time to find a purchaser who buys with knowledge of all the uses to which it is adapted and for which it is capable of being used."

(e) *Use of Appraisal Procedures.* (1) The appraisal of real estate is the estimation of the fair market value of a specified interest in a particular ownership of property, and the appraisal profession has developed certain basic appraisal techniques and procedures. There are three approaches to value which have become standardized—the cost approach; the market approach; and the income approach.

(2) In the COST APPROACH, the appraiser estimates the cost of reproduction of the buildings and land improvements. A deduction is made for depreciation due to physical deterioration, and also for functional and economic obsolescence. The value of the land is then estimated by comparison with sales of similar unimproved tracts and added to the depreciated value of the improvements. This procedure is also referred to as the Summation Approach. This approach is always applicable in the valuation of publicly owned structures such as schools, fire houses, etc.

(3) In the MARKET APPROACH, the appraiser compares the subject property on an overall basis with similar properties which have recently sold. Adjustments are made for all factors of dissimilarity. All known sales are considered, but the appraiser selects only those which are verified to be good "arms length transactions" and considered to be most similar to the property appraised. After these sales are analyzed and adjusted to the subject, this data is then correlated into a final estimate of value as indicated by the market.

(4) In the INCOME APPROACH, the appraiser estimates the probable gross and net income to be expected from the rental of the property, adjusts for the quality and durability of this income stream, and processes this income into a value estimate by use of an appropriate capitalization rate.

(5) The appraiser then correlates the indicated value estimates from the three approaches into a final estimated market value. Consideration is given to the relative strengths and weaknesses of each approach. Normally, the most weight is given to the approach commonly used by the typical purchasers of the type of property appraised. In almost all routine appraisals the market approach is most applicable.

(f) *Importance of the Appraisal Function.* The measure of success or failure in any real estate transaction is inseparably bound up in the matter of price. The heart of the real estate business is the price estimate or appraisal. The importance of sound appraisals for the Department of the Army cannot be over-emphasized. The courts have established basic rules governing exercise of the power of eminent domain.

(g) *Appraisal is an "Estimate."* The market value of any real estate interest is not a matter of exact determination, and the appraiser does not "establish" or "determine" the value. An appraisal is an "estimate" of current value based upon and supported by an analysis of all the factors, physical, economic, and social which influence the present and future benefits to be derived from the ownership of the property appraised.

(h) *The Appraisal Format.* In order to establish a degree of uniformity throughout the Corps as to an appraisal format, all staff appraisers and contract appraisers will follow the outline as set forth in the "Uniform Ap-

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praisal Standards For Federal Land Acquisition" and § 644.42.

§ 644.42 Appraisal report.

(a) *Preface.* The appraisal report is an important document which serves as a material aid in the acquisition of required real estate interests. It is also an indispensable factor in justifying expenditures of public funds. It is essential that the report indicates conclusively that the appraiser has considered and analyzed all available data and used logical reasoning and judgment in developing his value conclusions.

(b) *Scope of Reports.* (1) It is the Corps' practice that all appraisal reports will be prepared in narrative form. The report will include, as a minimum, all essential data which will disclose the purpose, the scope of the problem and the principal techniques and approaches employed. The report should contain all the pertinent supporting data required to sustain the appraiser's final conclusion of market value.

(2) The use of preprinted narrative sales data sheets is authorized. Care should be exercised to properly relate each sale to subject in the narrative. Use of individual forms is also authorized for tabular exercises, such as the "cost approach." In every instance the narrative should reflect the appraiser's reasoning.

(c) *Narrative Report Format.* (1) The following report format is taken verbatim from "Uniform Appraisal Standards For Federal Land Acquisitions," published by the Interagency Land Acquisition Conference, 1973.

"B-1. Contents of appraisal report: The text of the appraisal report shall be divided into four parts as outlined below:

PART I—INTRODUCTION

1. TITLE PAGE. This shall include (a) the name and street address of the property, (b) the name of the individual making the report, and (c) the effective date of the appraisal.
2. TABLE OF CONTENTS.
3. LETTER OF TRANSMITTAL.
4. PHOTOGRAPHS. Pictures shall show at least the front elevation of the major improvements, plus any unusual features. There should also be views of the abutting properties on either side and that property directly opposite. When a large number of buildings are involved, including duplicates, one picture may be used for each type. Views of the best comparables should be included whenever possible. Except for the overall view, photographs may be bound as pages facing the discussion or description which the photographs concern. All graphic material shall include captions.
5. STATEMENT OF LIMITING CONDITIONS AND ASSUMPTIONS.
6. REFERENCES. If preferred, may be shown with applicable approach.

PART II—FACTUAL DATA

7. PURPOSE OF THE APPRAISAL. This shall include the reason for the appraisal; and a definition of all values required, and property rights appraised.
8. LEGAL DESCRIPTION. This description shall be so complete as to properly identify the property appraised. If lengthy, it should be referenced and included in Part IV. If furnished by the Government and would require lengthy reproduction, incorporate by reference only.
9. AREA, CITY AND NEIGHBORHOOD DATA. This data (mostly social and economic) should be kept to a minimum and should include only such information as directly affects the appraised property together with the appraiser's conclusions as to significant trends.
10. PROPERTY DATA:

a. Site. Describe the soil, topography, mineral deposits, easements, etc. A statement must be made concerning the existence or nonexistence of mineral deposits having a commercial value. In case of a partial taking, discuss access both before and after to remaining tract. Also discuss the detrimental and hazardous factors inherent in the location of the property.

b. Improvements. This description may be by narrative or schedule form and shall include dimensions, cubic and/or square foot measurements, and where appropriate, a statement of the method of measurement used in determining rentable areas such as full floor, multitenancy, etc.

c. Equipment. This shall be described by narrative or schedule form and shall include all items of equipment, including a statement of the type and purpose of the equipment and its state of cannibalization. The current physical condition and relative use and obsolescence shall be stated for each item or group appraised, and, whenever applicable, the repair or replacement requirements to bring the property to usable condition.

Any related personalty or equipment, such as tenant trade fixtures, which are not attached or considered part of the realty, shall be separately inventoried. Where applicable, these detachable or individually owned items shall be separately valued.

d. History. State briefly the purpose for which the improvements were designed, dates of original construction and/or additions; include, for privately owned property, a ten-year record as to each parcel, of all sales and, if possible, offers to buy or sell, and recent lease(s); if no sale in the past ten years, include a report of the last sale.

e. Assessed value and annual tax load. If the property is not taxed, the appraiser shall estimate the assessment in case it is placed upon the tax roll, state the rate, and give the dollar amount of the tax estimate.

f. Zoning. Describe the zoning for subject and comparable properties (where Government owned, state what the zoning probably will be under private ownership), and if rezoning is imminent, discuss further under item 11.

PART III—ANALYSES AND CONCLUSIONS

11. ANALYSIS OF HIGHEST AND BEST USE. The report shall state the highest and best use that can be made of the property (land and improvements and where applicable, machinery and equipment) for which there is a current market. The valuation shall be based on this use.
12. LAND VALUE. The appraiser's opinion of the value of the land shall be supported by confirmed sales of comparable, or nearly comparable lands having like optimum uses. Differences shall be weighed and explained to show how they indicate the value of the land being appraised.
13. VALUE ESTIMATE BY COMPARATIVE (MARKET) APPROACH. All comparable sales used shall be confirmed by the buyer, seller, broker, or other person having knowledge of the price, terms and conditions of sale. Each comparable shall be weighed and explained in relation to the subject property to indicate the reasoning behind the appraiser's final value estimate from this approach.
14. VALUE ESTIMATE BY COST APPROACH, IF APPLICABLE. This section shall be in the form of computative data, arranged in sequence, beginning with reproduction or replacement cost, and shall state the source (book and page if a national service) of all figures used. The dollar amounts of physical deterioration and functional and economic obsolescence, or the omission of same, shall be explained in narrative form. This procedure may be omitted on improvements, both real and personal, for which only a salvage or scrap value is estimated.
15. VALUE ESTIMATE BY INCOME APPROACH, IF APPLICABLE. This shall include adequate factual data to support each figure and factor used and shall be arranged in detailed form to show at least (a) estimated gross economic rent or income; (b) allowance for vacancy and credit losses; (c) an itemized estimate of total expenses including reserves for replacements.

Capitalization of net income shall be at the rate prevailing for this type of property and location. The capitalization technique, method and rate used shall be explained in narrative form supported by a statement of sources of rates and factors.

16. INTERPRETATION AND CORRELATION OF ESTIMATES. The appraiser shall interpret the foregoing estimates and shall state his reasons why one or more of the conclusions reached in items (13), (14), and (15) are indicative of the market value of the property.
17. CERTIFICATION. This shall include statement that Contractor has no undisclosed interest in property, that he has personally inspected the premises, date and amount of value estimate, etc.

PART IV—EXHIBITS AND ADDENDA

18. LOCATION MAP. (Within the city or area)
19. COMPARATIVE MAP DATA. Show geographic location of the appraised property and the comparative parcels analyzed.
20. DETAIL OF THE COMPARATIVE DATA.
21. PLOT PLAN.
22. FLOOR PLANS. (When needed to explain the value estimate.)
23. OTHER PERTINENT EXHIBITS.
24. QUALIFICATIONS. (Of all Appraisers and/or Technicians contributing to the report.)"

(2) The following exceptions are made to the above format:

(i) Estate, either a copy of the estate appraised should be included in the report or by reference in the report to the appropriate estate.

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(ii) Legal description must be included in the appraisal report, either in the body or as an exhibit.

(3) Photographs of important buildings and unusual land conditions are considered an integral part of each appraisal report. Judgment should be exercised in conserving time and expense, and several small buildings can often be covered in one photograph. The use of color film and photographs is encouraged, especially wherein development cost either "in-house" or by outside firms is reasonable.

(d) *Brief Appraisals.* (1) Brief narrative appraisal reports, of a one-to-four page composition, are authorized for use in many instances wherein the evaluation or per annum rental value does not exceed $3,600. The use of this type of report is encouraged and authorized for: (i) Family housing appraisals, (ii) inleasing of privately-owned quarters and outleasing of government-owned quarters to civilian tenants, (iii) the purchasing or leasing of undeveloped land, (iv) rentals of small office-type space (example: Recruiting facilities), (v) rights of way for utility lines and roadways, (vi) leases; easements, and (vii) other minor interests in real property.

(2) Appraisals exceeding $2,000 per annum rental are subject to the Economy Act, and the fee value must be shown if improvements are included. A brief or short form-type of appraisal is adequate.

(3) All appraisals will be supported by at least three comparable sales or rentals of similar properties. A narrative discussion of each will be included. In bulk acquisition projects the use of prepared sales data sheets is authorized and encouraged. Each sale or rental must be discussed and compared to the subject property within the narrative of the report.

(4) Brief narrative appraisals will be reviewed under the same requirements as normal appraisal reports.

§ 644.43 Gross Appraisals.

(a) *Preparation.* (1) The gross appraisal sections of real estate design memoranda and planning reports are subject to minute scrutiny by higher authority in the Department of Defense and by Congressional Committees. It is essential that they be meticulously prepared to reflect actual market conditions and unit prices.

(2) Each gross appraisal will be supported by detailed analyses of an adequate number of typical comparable sales. Each index sale will be analyzed to show various land classifications and values, building contribution estimates and other relevant information. The sales prices should be verified by someone having knowledge of the transaction.

(3) Where letter-type or brief real estate design memoranda on civil works projects are submitted, comparable sales data will be presented in one of the following methods:

(i) Be submitted within the report in a brief manner, with at least three truly comparable sales discussed in narrative form and comparisons shown to the subject lands covered by the memorandum.

(ii) Be referenced to the last real estate design memorandum issued on the same project and if values have changed in the interim, additional sales data submitted to support the changes. If the last design memorandum is over a year old, new supporting data must be submitted.

§ 644.44 Fee Appraisals.

(a) *Definitions and Procedures.* (1) The complete and unrestricted ownership of all the rights to the full use and enjoyment of a parcel of real estate is called the "fee simple estate." An appraisal of this interest is referred to as "Fee Value."

(2) Most fee appraisals require the use of all three of the standard appraisal approaches.

(b) *Applicability.* Appraisals of the fair market value of the free and clear fee title to the subject property is necessary in the greatest majority of the Corps of Engineers' real estate responsibilities be it acquisition (full or partial), disposal, inleasing, outleasing, rentals, etc. In almost every case the monetary value of the required estate and interest is based on the fee value of the property; therefore, the Corps' greatest appraisal requirement is for fee appraisals.

(c) *Approaches.* (1) It is recommended that whenever possible all three of the standard appraisal approaches, Cost-Market-Income, be used in a fee appraisal. However, if due to the type of property, is is not practical, beneficial, or necessary to use a particular approach, the appraiser is required to indicate in his report that consideration was given to its use and discuss why it was not used.

(2) In the Cost Approach it is extremely important that the appraiser document all items of costs for development, construction, utilities, etc. It also is extremely important that he fully consider all forms of depreciation such as physical deterioration, functional obsolescence, economic obsolescence, etc., and justify his methods and factors used in developing his depreciation factors.

(3) The Market Approach or Comparative method of appraisal is the most direct approach to a market value estimate and is preferred above all others. It is basically an application of the principle of substitution wherein the sales of similar type properties are analyzed to develop a price at which an equally desirable and similar property can be obtained. It involves the collection and analyzing of current sales of comparable properties and comparing these sales to the subject property. Since no two properties are identical, the appraiser must make adjustments for differences between the two. Adjustments may be by a dollar amount (per unit, per acre, or lump sum) or on a percentage basis. Full support and justification must be given for each amount. Adjustments may be shown either by a tabular analysis or by a narrative discussion.

(4) The market value of an income-producing property is quite often governed by the net income it will produce. The fair market value may be estimated by developing the expected net income and processing it into a value estimate by use of an appropriate capitalization rate. The keynote of this approach lies in the sound development of a proper rate. The appraiser must have a basic knowledge of the principle and techniques involved and must be certain that he has adequate data to develop this rate and properly process the income into a fair market value.

(5) It is most important that the valuation estimates developed by all of the approaches used are correlated into one conclusive value. In those cases where there is a substantial spread among values, the appraiser is cautioned to recheck all his data and figures for accuracy. The cost figures and depreciation factors should be checked in the Cost Approach; the sales data should be further documented and analyzed in the Market Approach; and the Income Method may require a recheck of the soundness of the capitalization rate.

(d) *Partial Takings.* (1) A substantial number of acquisitions require only portions of an ownership necessitating a "partial taking." In these cases the appraiser is required to estimate the value of the whole ownership before the taking; the value of the remainder—the difference being the value of the part taken. Many times the remainder is of less value after the taking, indicating a "severance damage." The appraiser is usually required to allocate the total taking value between the value of the part acquired and the severance damage to the remainder by reason of the taking.

(2) In order to promote uniformity in the reporting format, the following example of the "before" and "after" method is presented for guidance:

A 220-acre parcel of land is to be acquired from a 420-acre farm:

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Value "before" the taking ($300 p/ac)	$126,000
Value of remainder "after" taking ($200 p/ac)	40,000
Total Value of part taken, including severance damage to remainder	$86,000
Value of 220 acres taken ($300 p/ac)	66,000
Severance Damage to Remainder	$20,000

(3) The appraisal of the property before the taking must be a complete narrative-type appraisal containing adequate market data to support the total value. The report then must also include a full appraisal on the remainder portion of the property consisting of a full description of the residue immediately after the taking and a complete set of market data and sales other than those used in the "before" evaluation. If the remainder parcel has diminished in value as a result of the taking, the appraiser must have adequate support and justification for the reduction in value.

(4) In the case of partial takings, consideration must also be given to offsetting benefits applicable to the remaining property. A combination of legal interpretation of the law and judicial decisions with regard to such benefits must be used in determining whether offsetting benefits are applicable. Reference is made to paragraph A-9 and A-10 in the "Uniform Appraisal Standards For Federal Land Acquisitions."

(5) Paragraph A-13 of the "Uniform Appraisal Standards" is also referenced in connection with guidance regarding "navigation servitude."

(e) *Appraisal Certificate.* (1) No appraisal report will be considered acceptable without appropriate certification by the appraiser responsible for the contents of the report and the conclusion of values. The certification can be in the front or the back of the report, consistent with Division or District policy.

(2) An appropriate certification shall be substantially in accordance with the following: I certify that I have carefully examined the property described herein and that the estimates as developed in the report represent my unbiased opinion and judgment. I further certify that I have no interest, past, present or prospective, in the subject property which would affect my opinion and that the present fair market value of the (*insert estate appraisal*) is subject only to all the assumptions and limitations as specifically set forth. (Date and signature of appraiser.)

§ 644.45 Rental Value.

(a) *Definition.* (1) The fair rental value of the property is the amount which, in a competitive market, a well-informed and willing lessee would pay and which a well-informed and willing lessor would accept for the temporary use and enjoyment of the property.

(2) Appraisals to establish fair rental values will be made in accordance with acceptable standards of appraisal applicable to the particular type of property and in accordance with general appraisal practices and procedures heretofore described in relating to all appraisal work. The preparation of time-consuming and lengthy appraisal reports should be kept to a minimum, particularly with regard to rental properties of low value. A brief summary of the essential facts will be sufficient to support leases by the Government of building space or unimproved land where the net rental value is not in excess of $3,600 per annum.

(b) *Applicability.* All provisions of this subpart are applicable to "inleasing" of real property for use of the Government, and equally applicable to "outleasing" of Government-owned real property. Paragraph 644.45(l) Government Quarters, is normally applicable only to "outleasing" of quarters to civilian employees. The provisions are, however, also considered valid considerations in appraising "inleases," wherein privately-owned housing is being rented for occupancy by military personnel in lieu of quarters allowances.

(c) *Services.* In the absence of an agreement or contract, a lessor is not bound to furnish any utilities or building services of any kind, and such services may not be acquired under the power of eminent domain. It is, therefore, necessary for the appraiser to include in his report as separate items the estimated cost of all customary services that may be required to permit the normal use and occupancy of the property.

(d) *Market Value of Fee.* (1) Where temporary use of an entire building or other independent unit of an ownership is proposed, the appraisal will ordinarily report both the market value of the fee title and the fair annual rental value. However, no appraisal of fair market value of fee title is required in any case where assessed value, supported by statement of the assessor and ENG Form 869-R (15% Valuation Certificate), can be used for compliance with existing law, Section 322 of the Act of June 30, 1932 (40 U.S.C. 278a), known as the "Economy Act." Fee value is not required for land only leases, as the Economy Act is not applicable.

(2) An exception to the above procedure is in regard to the appraisal of family housing units. As an alternative, the appraiser can support his rental valuation by use of comparable rentals and a statement that the lease value does not exceed 15% of the fair market value.

(e) *Lease of Minor Portions of Buildings.* Where appraisals are required to establish rental value of a minor portion of a building, it will not be necessary to estimate the fee value of the entire property, provided that the net annual rental does not exceed $2,000. A sound rental value can ordinarily be estimated by comparison with established rentals in subject property and in adjacent similar properties in the community. However, care should be exercised to insure the reasonableness of the reported comparable rental values. The appraiser's report must include sufficient data on these current rentals to support adequately the rental estimate for the subject space.

(f) *Unexpired Lease.* Where the premises to be acquired are occupied by tenants under leases which cannot be terminated at will by the landlord, the appraiser's report will set forth in detail the terms of the existing leases and will show the value of the tenant's interest. The value of the tenant's interest is based on the fair rental value (economic rent) of the part of the property occupied by the tenant for the unexpired term of the lease, or for the term condemned, whichever is shorter, less the rent which the tenant is obligated to pay (contract rent) under the existing lease. The difference between the economic and contract rent is known as "bonus rent."

(g) *Bonus Value.* Wherein a "bonus rent" is reflected as being the difference between economic and contract rent, a full narrative discussion will be included in the report. It is of paramount importance that the present economic rental be supported by the rental market data. The "bonus value" is the present worth of the discounted bonus rent.

(h) *Rental Appraisal Report.* The appraisal report will contain adequate facts and discussions relative to the following:

(1) Land description, showing street frontages and lot depths.

(2) Adequate description of improvements and furnishings, including type of construction, total floor space, floor load for storage space, number of rentable rooms, or income-producing space, nonproductive or public space, total cubic content, and reproduction cost of improvements less depreciation.

(3) Assessed valuation and lawful ratio to market value, if the annual rental value exceeds $2,000.

(4) Analysis and discussions of current rentals of similar properties and rental history of the property appraised.

(5) Discussion of the appraisal process and rental rates applicable to the terms of the proposed lease, particularly as to any differential in the rate of return applicable to customary long term rentals.

(6) Statement showing distribution of appraised annual rental as allocated

to fixed charges and fair rate of return on land, buildings, and any furnishings or equipment that are included in the proposed taking.

(i) *Special Purpose Properties.* Appraisals to estimate the rental value of hotels, clubs, hospitals, and other highly specialized properties will include full information on the income capacity of the property under average competent management and under accepted standards of operation for the particular type of property involved. The appraisal reports will, among other things, contain an analysis and discussion of the following items:

(1) Financial history of property, including indebtedness, the actual past income or earnings of the property based upon audit reports for the past five years or longer, and any unaudited current months of the fiscal year. In the absence of audits, corporate statements may be furnished if properly certified.

(2) Discussion of the past operation and management methods with comments relative to any excessive or insufficient charges appearing in the financial statements obtained.

(3) Appraiser's estimate of the stabilized income of the property.

(4) Appraiser's estimate of profits available for typical lessee-operator.

(5) Recommendations of the appraiser as to the relative merits of acquiring fee title to the property as against acquiring a leasehold interest.

(j) *Farms and Rural Properties.* Appraisals to estimate the rental value of farms and other types of rural properties will report the present market value of the fee title, the fair annual rental value, and any direct damage to growing crops, standing timber, or improvements to be removed or destroyed. The damage will be reported separately from the rental value in order to permit the reflection of the damage in the primary rental term.

(k) *Industrial Installations.* (1) Appraisal reports will be obtained to support all leases of industrial installations or portions thereof. It is important that appraisals of operating industrial installations be prepared by specially qualified appraisers or consultants intimately familiar with the particular processes and production capabilities and related factors having any bearing on the value of a particular plant.

(2) The appraisers selected to estimate the rental value should be fully informed as to all known prospective lessees and the amount of any bids, or offers made for the use of the property, and as to all terms, conditions, and limitations under which the property will be made available for use or operation.

(3) The appraisal reports will include a detailed inventory setting forth all physical factors pertaining to the land, buildings, machinery, and equipment and an adequate discussion of all local factors influencing the profitable use of the facility. Data pertinent to the prevailing rentals for other Government and privately-owned industrial plants and warehouses considered reasonably similar to the facilities to be leased will also be included. The conclusions of the appraiser as to other matters of importance to the Department of the Army in its leasing operations will likewise be presented. The appraiser should bear in mind that idle manufacturing plants, and all industrial properties, as a general rule, are valuable only to the extent and degree that they are usable in actual production. It is also a generally accepted economic fact that the plant and fixed equipment (real estate) is the production factor for which a return can ordinarily be realized after the cost of all other factors in production has been provided. Military necessity has required the construction of many plants which are designed for special purposes and which may tend to defeat the ordinary approaches to the market rental value problem. In the absence of comparable rentals of similar properties or other reliable comparative guides to value for temporary use, market rental value should be estimated with particular consideration to the following methods:

(i) *Reasonable Return on Estimated Fair Value.* For this purpose "fair value" is defined as the prudent cost of reproduction less depreciation of only that portion of the property that is readily adaptable or capable of competition with alternative properties which may be available to or constructed by the proposed lessees. Items of equipment and any portions of a plant that do not directly contribute to the specific use may be eliminated from consideration and the rental return estimated only on items and space actually adaptable for use in the proposed enterprise. The appraiser is particularly concerned with any competitive disadvantages or penalties accruing to subject property by comparison with the alternatives available to prospective users. The rental estimate should therefore be appropriately modified with respect to adequate allowances for amortization of necessary alterations to be made by the lessee. Other operating disadvantages that might tend, from the competitive viewpoint, to result in increased operating cost or other penalties that might in any way be brought forward in negotiations to establish an acceptable rental price must also be considered.

(ii) *Ratio of Plant Costs to Productive Capacity.* In many lines of industrial enterprise, it may be possible to obtain comparable operating experience ratios with reference to relation of average annual real estate costs or plant investment charges to the gross annual production. The difficulties of estimating production levels and obtaining sufficiently accurate data as to actual operating experience are fully appreciated. Suggested sources of such information are annual statements of prospective lessees and their competitors. It is believed that this approach to the appraisal problem is fundamentally sound, particularly so when there is an indicated demand for the full capacity of an industrial plant as originally designed, and that this method will serve as a reasonable check and balance against return on "fair value." It should also be very helpful as a guide to the rate of capitalization in the "fair value" approach to the rental problem.

(iii) *Taxes.* The appraisal will not be influenced by the fact that the Government is not presently required to pay taxes on the property.

(iv) *Savings.* When appropriate, the estimated savings in maintenance, protection, repair and restoration, if any, will be obtained by the Management and Disposal Branch from the using service or other competent authority and furnished to the appraiser preparing the appraisal report.

(l) *Government Quarters.*

(1) Rental schedules for Government quarters furnished to civilian employees will be supported by written appraisal reports reflecting adequate coverage of the following items:

(i) *Construction Details.* Physical description of quarters will include the general grade of construction work, materials and decorations, number of rooms, floor space, porches, garages, general appearance and condition.

(ii) *Equipment and Accessories:*

Refrigeration
Cooking facilities
Kitchen cabinets
Closet space
Built-in conveniences
Screening
Elevators
Telephone service
Utilities
Plumbing

(iii) *Furniture and Furnishings.*

(iv) *Site Conditions:*

Lot size
Lot size per living unit
Access (street and road frontage)
Restrictions
Land improvements (walks, driveways, shrubbery, lawns, topography, etc.)
Hazards and/or amenities

(v) *Neighborhood Development and Data:*

Local zoning regulation

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Public transportation
Schools
Shopping facilities
Recreational facilities
Supply and demand for housing
Population statistics
General trends

(vi) *Comparable Rental Data.* Data will include results of a comprehensive survey of current rental rates applicable to the most similar privately-owned housing in the nearest competitive or comparable neighborhood or community. Typical rental rates will be compiled, analyzed and tabulated, and subject properties identified and described in the same manner as prescribed above for Government quarters. The appraisal report should include a vicinity map showing location of rental units listed for comparison in relation to the location of the quarters being appraised.

(vii) *Comparative Relationships.* The appraisal report will include a discussion of relative merits of Government quarters by comparison with private housing units. Rental rates of housing controlled by governmental agencies or subsidized by private industry will not be used as a basis for comparison.

(viii) *Correlation of Rental Units.* A discussion of basic reasoning supporting the final rental value unit for each distinctive rental bracket is imperative.

(ix) *Photographs.* Photographs of typical views of the quarters appraised and typical private housing units cited as comparable rentals will be included in each report.

(x) *Appraisal Certificate.* Rental appraisal reports will not be considered acceptable without appropriate certification substantially in accordance with: "I certify that the above rental values represent my unbiased opinion of the present fair market rental value of the quarters described. I am not now a tenant residing in such quarters nor do I have any intention of becoming a tenant therein."

(2) Reappraisals of rental quarters are required every fifth year subsequent to previous appraisal. Rental rates will be adjusted annually between appraisals by application of the Consumer Price Index (CPI) maintained by the Bureau of Labor Statistics, Department of Labor, and as further required in accordance with Transmittal Memorandum No. 2, OMB Circular A-45, revised October 30, 1974.

§ 644.46 Easements.

(a) *Definition.* An easement is a property right of specified use and enjoyment falling short of fee ownership. It follows that the value of an easement is less than the market value of fee title to the same portion of property (exclusive of severance damages to residual portions).

(b) *Measure of Value.* The measure of compensation for an easement is the amount by which market value of the ownership is diminished by the imposition of the easement. This should be developed by use of the "before" and "after" method of appraisal, the difference being the value of the taking.

(c) *Flowage Easements.* (1) The appraisal of flowage easements will not be undertaken until flood frequency surveys have been completed and approved by proper authority. The flood frequency data will be made available to the appraisers with the definite understanding that it is to be accepted as one of the controlling factors in estimating the market value of the easements. The appraiser's certificate should be qualified to include the assumption that the frequency data is correct and that he has no responsibility therefore.

(2) The market value of fee simple title to each property over which a flowage easement is required will first be appraised in the usual manner. This estimate will be followed by appraisal of the market value of the property after imposition of the easement. The market value of the easement is then computed on the basis of the amount the market value of fee title is reduced by imposition of the easement. The appraiser will give full consideration to all factors having a bearing on the reduction in value of the parcel on which the easement is to be imposed. Each appraisal report will include complete information as to estimated flood frequency pertaining to each parcel appraised.

(3) The appraiser's major problem in appraising tracts having considerable value is the development of his value estimate after the imposition of the easement. The market data approach to value is limited in this phase of the appraisal to index sales of land reflecting the "use adaptability" of lands to a less profitable purpose. Typical of such change in highest and best use are the conversion of row crop land and orchard land to pasture and forestry. Likewise, the cost approach to value is applicable only to land improvements and structures to be removed or destroyed. It is, therefore, considered essential that flowage easement appraisals reflect, in adequate detail, changes in utility by the development and use of the earnings approach to value before and after imposition in all cases involving lands capable of producing income. The ratios thus developed in "before" and "after" values for income producing lands should prove to be helpful in developing appropriate ratios for nonproductive lands.

(4) In those instances where the type of land, topography, flood frequency and duration data clearly indicate that a minimal change in value (not to exceed $100) will result from exercise of the required rights, a brief appraisal is authorized. The appraisal report will contain as a minimum a complete statement of pertinent facts, including information regarding flood frequency and duration data pertaining to the property appraised. In the event condemnation is required to acquire the necessary rights, an acceptable "before" and "after" appraisal will be prepared prior to the institution of condemnation proceedings.

(5) A tract map showing each contour level of varying flood frequency will be made a part of each appraisal report. This map should facilitate review of the appraisals and serve as an aid to the negotiator in his contacts.

(d) *Other Easements.* It is recognized that many other types of easements, i.e., road, pipeline, restrictive, borrow, transmission line, flight, spoil, etc. are to be appraised. In all instances, the measure of value is still the same, the amount by which the market value of the ownership is diminished by the imposition.

§ 644.47 Appraisal of Other Interests.

(a) *Minerals.* (1) In all cases, the value of the subsurface will be included or accounted for in the appraisal report in such manner that negotiations may be readily conducted to acquire or extinguish subsurface rights if they are outstanding in third parties or if it develops that the vendors desire to reserve them. In those instances where minerals are held separately in large blocks underlying several individual surface tracts, a statement to this effect should be included and the plan for appraising the mineral estate identified. Unless the person who is appraising the surface has had training and experience in appraising minerals, the subsurface appraisal should be made separately by an appraiser qualified to perform this service. Since the removal of certain minerals may destroy the usefulness of the surface, care should be exercised to avoid duplication of value.

(2) In the event that subsurface valuation is unfamiliar to the Division or District requiring same, HQDA (DAEN-REE) WASH DC 20314 should be contacted for advice and recommendations. Mineral valuation engineers within the Corps may be utilized on a cost reimburseable basis for furnishing gross or tract appraisals.

(b) *Timber.* (1) Where the land being appraised has only young trees or timber not of merchantable size, the value thereof will be included with the value of the land. If the timber is of merchantable size, a timber cruise will be made by a professional forester and the timber classified in the appraisal according to species, type, range of size, quantity, unit value, and total value. A discussion of logging, haulage, and market conditions will be given. The total value of timber shall be the amount by which the timber enhances the market value of the bare land.

(2) Extreme care must be exercised in the use of separate timber estimates for appraising timber land, so as to avoid "doubling up." Where a timber cruise or estimate is used, comparable sales of recently timbered land should be used to support the remaining land value. Where such sales are not available, care must be utilized to extract the timber value from sales of timber land. The optimum situation would be to have sales that were also cruised; however, this does not often happen.

(c) *Growing Crops.* (1) Crop appraisals will not ordinarily be necessary except in those cases where the Division or District has determined that possession of the cropland is necessary prior to the normal harvest period. Where the Division or District Engineer has determined that the landowner or his tenant cannot be permitted to harvest the crops, they will be appraised as separate property items.

(2) The crop appraisal will identify the crops by type, number of acres, estimated yield per acre taking into account all hazards, the unit value, gross market value at maturity based upon current local prices for the commodities less cost of bringing to maturity, harvest, and delivering to available markets. The expected harvest period will be reported, together with other pertinent information, in order to indicate an approximate date when the cropland may be available for construction purposes.

(d) *Use of Government-owned Property.* (1) An appraisal will be made, when required, to justify the consideration reserved in all leases, licenses and easements, except those specifically mentioned in Paragraph (d)(3) of this section. The appraisal will be made in accordance with acceptable standards applicable to the particular type of property and the use to be made thereof in the proposed grant, and in accordance with the general appraisal practices and standards heretofore outlined in this chapter. Ordinarily the appraisals of property involving substantial improvements will include, in addition to complete coverage of all factors influencing the use of the property appraised, complete information as to the following:

(i) Data of acquisition and completion of Government construction.

(ii) Complete cost data as to original purchase price and Government construction.

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(iii) Detailed discussion of the predominant uses to which the property is adaptable.

(iv) Competitive position of the property with respect to availability of privately-owned properties for similar use.

(v) Estimate of market value of fee title.

(vi) Estimate of annual rental value assuming unrestricted use over a reasonable period of time.

(vii) Estimate of annual rental value under proposed Government restrictions.

(2) Time consuming and lengthy appraisal reports should be avoided in the case of low value grants involving Government-owned property. The consideration in such cases may be substantiated by a simplified appraisal report by a qualified appraiser setting forth only such facts as are required to validate his conclusions as to value. In such instances, a physical inspection of the property may be waived where the appraiser is sufficiently familiar with the property under appraisals and local market conditions to prepare a reasonable value estimate of the estate to be appraised. When a property is not physically inspected, it will be so noted in the appraisal report. The decision concerning the necessity for a physical inspection of the property and analyzing local market conditions will rest with the appraiser signing the appraisal certificate since he is personally responsible for the value conclusion developed in the appraisal report. A low value grant for the purpose of this paragraph is defined as any grant for which the fair market rental value (before applying any offset in rental for estimated savings in maintenance, protection, repair and restoration) does not exceed the following:

Easement—$500 for the term.
Lease or License—$500 per annum if granted for not more than a five-year period and is granted after advertising.

(3) The following are exempt from the above requirements:

(i) Leases for land on which to construct new credit union facilities, under long-term leases. See DOD Directive No. 1000.10 for formula.

(ii) Concession leases under Graduated Rental System.

§ 644.48 Review and Approval.

(a) *Procedure.* (1) Upon completion of an appraisal, the signed report is to be reviewed by a reviewing appraiser to assure that the information and data developed by the appraiser substantiates the estimated valuation. The review function also serves as a means of resolving differences that might be found in two or more individual appraisals of a single property. The reviewing appraiser is also responsible for maintaining consistency in appraisals for the various properties in a project.

(2) A review of all real estate appraisals is considered of vital importance to the successful operation of the real estate mission of the Corps of Engineers. It is essential that each and every appraisal be given an independent review and check by a thoroughly qualified reviewing appraiser. This will insure that the appraisal represents relative concurrence as to value of not less than two real estate appraisers professionally qualified by previous experience in appraising the particular type of property involved. The reviewing appraiser should familiarize himself with the property to the extent that he can adequately present and support his opinion when called upon to do so.

(3) The review action will be documented by a separate narrative memorandum signed and dated by the authorized reviewing appraiser. Such review memorandum will indicate, but not be limited to, the following:

(i) Date and nature of physical inspection of the subject property.

(ii) Statement relative to reviewer's knowledge of comparable sales used.

(iii) Reviewer's opinion as to the appraiser's valuation.

(iv) Other pertinent data, if any, relative to the property or comparable sales that the reviewer feels would lend additional credence to value estimate.

(v) Reviewer's certification of approval, disapproval, or recommendation.

(4) If more than one appraisal is obtained for an ownership, all should be reviewed by the same reviewing appraiser. The reviewer can cover all appraisals in one review memorandum, or write individual reviews.

(5) No alterations or additions will be made to a signed appraisal report by anyone other than the appraiser who signed the report. A reviewer cannot change the value reflected or approve an amount other than the appraiser's final conclusion of value. His alternative is disapproval.

(6) A reviewing appraiser may not review other appraisal reports covering a property that he has himself previously appraised. In this instance the reports must be assigned to another reviewer or be forwarded to the next level of review for appropriate action.

(7) Appraisal reports obtained by the Department of Justice and submitted for Corps review are to be treated in the same manner as those obtained by the Corps.

(b) *Delegation.* (1) Division Engineers have been authorized to approve or take action as appropriate on all real estate appraisal reports made for

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the purpose of purchase, disposal, or any use of real property in which the estimated fair market value (of the part to be acquired, if a partial taking) does not exceed $250,000, or the estimated fair market rental value does not exceed $150,000 per annum.

(2) Division Engineers have been authorized further, at their discretion, to redelegate any part of this authority, up to $150,000, to District Engineers.

(3) All appraisals exceeding $250,000 will be forwarded to HQDA (DAEN-REE) WASH DC 20314 for final review, approval, and/or appropriate action. Each report will be thoroughly reviewed at all levels, including the Project, District and Division.

(4) A copy of all those reports between $100,000 and $250,000 will be forwarded to DAEN-REE for post review and retention.

(5) In addition to those reports which exceed the delegated authority, DAEN-REE will review and take appropriate action on complex, difficult and controversial appraisals. Where more than one appraisal has been made within either of these categories, a copy of each appraisal report should be submitted for review regardless of variances in opinions of value. At times, the Division Engineers may receive specific instructions as to appraisals which may require final approval of DAEN-REE. Also, from time to time, DAEN-REE may call for and review typical appraisals prepared by individual appraisers.

(c) *Reconciliation of Appraisal Reports.* In the event that a reviewing appraiser does not agree with the value conclusion of the appraiser, the following steps should be taken:

(1) Attempt to reconcile differences with the appriser in a face-to-face meeting. The reviewing appraiser should present his additional evidence of value to the appraiser and discuss the report weaknesses, if any.

(2) In the event reconciliation and approval are not possible, the reviewer must then forward the report and review certificate to higher authority for resolution and request that another appraisal be obtained.

(d) *Qualifications of Reviewing Appraisers.* (1) A reviewing appraiser should have a minimum of five years experience in the field of real estate appraising. He should also have taken and successfully completed two or more appraisal courses offered by professional appraisal organizations. His experience record should indicate that he has thorough knowledge of all the standard appraisal techniques and approaches and has the ability to analyze the market and all pertinent data which affects value.

(2) Upon selection and appointment by the District Engineer of qualified staff personnel to act as reviewing appraisers, a copy of their qualifications and experience records, along with a copy of the appointing orders, will be forwarded to HQDA (DAEN-REE) WASH DC 20314.

(e) *Code of Ethics.* Under no circumstances will an appraiser be directed to make an appraisal at any predetermined amount or to change his opinion of value on any property appraised. It is recognized that the review function will develop some differences of opinion. However, where those differences cannot be resolved on a higher ethical basis, predicated upon sound reasoning and adequate data properly analyzed and applied, an additional appraisal will be obtained.

§ 644.49 Contracts.

(a) *Appraisal Reports.* (1) Within their contract authority, Division and District Engineers may contract with recognized appraisal firms, corporations and individuals for necessary appraisal reports on a lump sum basis. Following the award of any appraisal contract in excess of $5,000 a copy of such contract will be forwarded by the issuing office direct to HQDA (DAEN-REE) WASH DC 20314, immediately upon execution.

(2) Requests from Division and District Engineers to the Chief of Engineers for names of appraisers qualified to make particularly complex appraisals are invited.

(3) Division and District Engineers will develop and maintain current lists of qualified appraisal firms, corporations and individuals, from which contractor selection will be made. These lists should be appropriately grouped or rated in accordance with special qualifications and experience in connection with various and specific types of appraisal problems.

(4) Prior to receipt of proposals and negotiations with appraisers, a target fee (Government estimate) will be developed with due consideration to the relative skill and ability required in solving the appraisal problem and the appraiser's time and expense required for preparing the desired reports.

(5) In the negotiation of appraisal contracts the following items are to be considered:

(i) The appraisal of real estate is a recognized profession governed by a code of ethics prohibiting competition in obtaining appraisal assignments. All negotiations for proposals will be conducted on an individual basis, with adequately qualified appraisal firms, corporations or individuals competent to deliver the required appraisal reports on schedule.

(ii) In view of the technical nature of appraisals, Division and District Engineers shall give consideration to designating qualified member(s) of their real estate staffs as contracting officer's representative(s) with full responsibility for all cost estimates involved in contracting for appraisal services and reports. Such contracting officer's representative(s) may also, in the designation of the contracting officer, be utilized to conduct negotiations with the prospective contractors, serve as ordering officer pursuant to the contracts, certify invoices and act in any other capacity within their authority as contracting officer's representative(s).

(6) A copy of the narrative, detailed record of contract negotiations will be forwarded to DAEN-REE, along with the contract as specified above.

(7) In contracting for appraisal reports, contract forms as set forth in Armed Services Procurement Regulations (ASPR) (Chapter I of this title) and ER 1180-1-1 (Engineer Contract Instructions) will be used. An outline of the qualifications of the appraiser employed to perform the contemplated services shall be included in the contract assembly.

(b) *Expert Appraisal Services.* Employment of qualified real estate appraisers and consultants may be effected utilizing the pertinent provisions of ASPR and ER 1180-1-1.

(c) *Obtaining Appraisal Reports by Purchase Order.* (1) Division and District Engineers are urged to utilize an authorized type of purchase order, such as DD Form 1155, in lieu of long-form contract, provided that:

(i) It is in the best interest of the Government, cost wise, not to issue the long-form contract.

(ii) The contractor has performed satisfactorily on at least one contract within the prior three fiscal years.

(iii) The total order, by such purchase orders, from the contractor does not exceed $10,000 for the project during the current fiscal year.

(iv) The order is accompanied by a brief history of negotiation signed by both the contractor and the contracting officer's representative(s).

(2) Care should be exercised to insure that the above provisions are used only to order supplementary reports, single appraisals, and other "one-time" reports needed.

(d) *Department of Justice Consultation.* Authorized local representatives of the Department of Justice will be consulted concerning the acceptability of the appraiser(s) prior to negotiating any appraisal contract covering tracts proposed for acquisition. The local representative must also approve the per diem fee to be utilized in the appraisal contract. Where agreement cannot be reached between the Division or District Engineer and the local representative of the Department of Justice as to the selection of the appraiser(s), a complete report will be submitted to DAEN-REE, for resolution with the Attorney General.

(e) *Interdepartmental Services.* Division Engineers are authorized to arrange for interdepartmental services of qualified specialists in the regular employ of other Government agencies in connection with special problems concerning mineral deposits, water rights, timber cruises, etc. Division Engineers are further authorized, in their discretion, to redelegate this authority or any part thereof to District Engineers.

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Subpart C—Acquisition

Procurement of Title Evidence, Title Clearance, and Closings

§ 644.61 General.

(a) *Purpose.* Sections 644.61 through 644.72 describe the procedures relating to the procurement of title evidence, title clearance, and closings for the acquisition of real estate and interests therein for all land acquisition programs administered by the Chief of Engineers. Exceptions in connection with the acquisition of properties under the Homeowners Assistance Program are set forth in Subpart E.

(b) *Applicability.* These sections are applicable to all Division and District Engineers having real estate responsibility.

(c) *Guidelines.* (1) The satisfactory progress of land acquisition programs necessitates the prompt procurement of title evidence and prompt title clearance. One of the following types of title evidence should be obtained, after considering the cost of the several types and other factors mentioned below. To effect these objectives, careful planning is essential, including a determination of the most acceptable and available type of title evidence and the source from which such title evidence may be procured. The Chief of Engineers is responsible for procuring all title evidence, including title evidence needed for lands which are acquired by condemnation proceedings. The early procurement and examination of the title evidence and title clearance will expedite payment to landowners from whom offers are obtained or against whom condemnation proceedings are filed.

(2) Insured certificates of title or policies of title insurance shall be obtained wherever possible. This is on the theory that the Government is buying title searching service as well as the title evidence itself and is avoiding the time and cost of examining abstracts of title, generally voluminous in nature.

(3) Where it is not possible to obtain certificates of title or title insurance, abstracts of title may be obtained, as a last resort.

(4) As used in these sections, an abstract of title is a synopsis or digest of all instruments of record affecting the title to a specific parcel of land. It neither guarantees nor insures the title. A certificate of title is a contract whereby a title company certifies that title to a specific parcel of land is good and unencumbered of record in a named person excepting only such defects and encumbrances as are shown therein. The liability of the company is limited to an amount specified in the certificate. A title insurance policy is a contract which insures that the owner or mortgagee will not suffer any loss or damage by reason of defects in the title to the property, or liens or encumbrances thereon existing at the date of the policy, except those defects, liens, or encumbrances which the policy specifically excepts. Liability thereunder is not limited to matters of record but extends to matters beyond the record.

(5) The Directory of the American Land Title Association may be obtained upon request to the Association at 1828 L Street, NW., Washington, DC 20036, or to any major title insurance company. This Directory lists, by States, the abstract and title companies which provide title insurance. These companies are acceptable to the Attorney General. Requests for furninshing title certificates or title insurance should be made to the major title insurance companies in addition to local abstractors and title companies.

(6) From past experience, it is considered that the procurement of certificates of title or title insurance is more economical than abstracts of title and the use of these types of title evidence expedites payment to landowners. In the majority of the States either certificates of title or title insurance are obtainable and the premium for issuance of such certificates or policies is based on a schedule of fees approved by the State Insurance Commission or some similar State agency. The premium fixed by such schedules, in most cases, includes the charge for title examination (preliminary certificate of title or preliminary binders) and the charge for insurance (final certificates of title or title guarantee policy) and any variance from the prescribed fees is considered a violation of the Sate law or regulation. Most State Insurance Commissions have recognized and approved the forms of certificates of title and title insurance policies prescribed by the Attorney General and have authorized their use in lieu of owners' policies. Division and District Engineers should familiarize themselves with the State title insurance laws and regulations. If prices quoted by all possible sources seem exorbitant, the matter should be referred to HQDA (DAEN-REA-P) WASH DC 20314 for action.

§ 644.62 Title Evidence.

(a) *Acceptable Types of Title Evidence.* (1) Certificates of title are acceptable title evidence. Certificates of title must be in a form acceptable to the Attorney General. An acceptable form of certificate of title which has been approved by the Attorney General has been issued by the Chief of Engineers as ENG Form 903, Certificate of Title.

(i) In contracting for certificates of title, ENG Form 1016, Specifications for Furnishing and Delivering Certificates of Title Owner's Title Guarantee (Insurance) Policies and Continuations Thereof, will be used.

(ii) Any title or abstract company approved by the Department of Justice and authorized and qualified to issue certificates of title in the State where the land is located will be acceptable to furnish certificates of title (Department of Justice "Standards for the Preparation of Title Evidence in Land Acquisitions by the United States, 1970.") In those few jurisdictions where bar associations or other public or professional bodies hold that the issuance of certificates of title is the issuance of title opinions and therefore the practice of law and where title companies as corporations cannot engage in the practice of law, insured certificates of title may be procured from attorneys, acceptable to the Lands Division of the Department of Justice, acting as agents for title companies. The procedure for the selection of attorneys is set forth in § 644.63(b).

(iii) Certificates of title will be based on a search of all records affecting the title to the land and be unqualified as to the period of search. In the event that it is not practicable to obtain certificates of title, unqualified as to the period of search, all pertinent facts will be referred to the Department of Justice for consideration and approval.

(iv) Certificates of title or title insurance policies shall not limit the liability of the title company to a sum less than 50 percent of the reasonable value of the property. If property is acquired by donation or exchange, the value will be determined by the Corps of Engineers. However, as to acquisitions valued at more than $50,000, the liability of the title company may be limited to 50 percent of the first $50,000 and 25 percent of that portion of the value in excess of that amount. This limitation on the general rule has been approved by the Department of Justice. The appropriate ENG Forms for specifications for supplying title evidence may be amended, if that limited liability can be obtained. A certificate of title or title insurance policy by

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one title company for a single acquisition valued at more than 25 percent of the admitted assets (after deducting existing liabilities secured or unsecured and excluding any trust or escrow funds) of the issuing company is not acceptable.

(v) Generally, it is not necessary to obtain a final certificate of title when land is acquired by condemnation proceedings. However, it may be necessary that an intermediate certificate of title be obtained setting forth the limitation of liability of the title company. Division and District Engineers will be governed by the requirements of the local United States Attorney as to the necessity of obtaining an intermediate or final certificate of title.

(vi) Certificates of title, whether preliminary, intermediate, or final, will be procured in sufficient numbers to satisfy the needs of the District involved. Normally an original and two signed copies of each certificate of title will suffice.

(vii) The specifications may be supplemented to require the title company to have a local representative stationed convenient to the project office, when, because of the nature of the project (anticipated complexities of title; high purchase prices, or other reasons), it is considered advisable that a local representative be available to perform preclosing interim title searches on request of the Contracting Officer.

(viii) The title company's local representative must be authorized to pass on the sufficiency of the proposed deed to the United States; to give final approval of curative material furnished to satisfy title objections set forth in certificates of title; and to testify in court relative to the status of title, if called upon to do so.

(2) Title guarantee or title insurance policies are acceptable title evidence.

(i) Interim binders on owner's title guarantee or title insurance policies supplemented by an owner's title guarantee policy or title insurance policy in the forms approved by the Attorney General (ENG Form 1014), Interim Binder on Owner's Title Guarantee (Insurance) Policy, and ENG Form 1015, Owner's Title Guarantee (Insurance) Policy will be acceptable as evidence of title only in acquisition in those States where certificates of title may not be issued. ENG Form 3893-R is the form of endorsement for use with the title insurance policies when changes or corrections become necessary. No other substantial variation in the form of interim binder or the form of title guarantee or title insurance policy will be acceptable without prior approval of the Attorney General.

(ii) Companies contracting to issue such interim binders or preliminary reports and title guarantee or title insurance policies must have authority under the laws of the State of their incorporation and their charter to issue the same. They must also be financially sound and be willing and able to issue such binders and policies for all tracts for the amount of liability as set forth above.

(iii) In contracting for title guarantee or title insurance policies, ENG Form 1016, Specifications for Furnishing and Delivering Certificate of Title Owner's Title Guarantee (Insurance) Policies and Continuations Thereof, will be used.

(iv) The interim binder or preliminary report must disclose the title holders of record and contain full information on all matters set forth in the binder as affecting the title. This data must be in sufficient detail to enable an attorney examining the report to determine the nature and extent of such matters and their effect on the validity of the title of the land described therein. The contents of the report must meet the requirements of ENG Form 1016.

(v) The provisions of paragraphs (a)(1) (iv), (v), (vi), (vii) and (viii) also apply to title guarantee or title insurance policies.

(3) Abstracts of title may be acceptable title evidence.

(i) Abstracts if title complying with the rules for abstracts in "Standards for the Preparation of Title Evidence in Land Acquisitions by the United States" issued by the Department of Justice, 1970, are acceptable title evidence if prepared by abstractors acceptable to the Attorney General. These may include abstractors employed by a department or agency of the Government. Corps of Engineers personnel generally will not prepare abstracts of title. However, where there is a comparatively small amount of abstract work to be performed, it may be desirable to have the abstracts prepared by qualified Government personnel. In such cases, the prior approval of the Chief of Engineers will be obtained. The request should justify the preparation of abstracts by Government personnel.

(ii) The form and contents of abstracts of title will meet the requirements in the "Standards for the Preparation of Title Evidence in Land Acquisitions by the United States" (Department of Justice, 1970) and ENG Form 1012, Specifications for Furnishing and Delivering Abstracts of Title.

(iii) The period of search of an abstract of title to be acceptable to the Attorney General will, wherever possible, begin with some undisputed source of title such as an original grant or patent from the sovereign. Where it is impossible or impracticable to begin with such grant or patent, refer to "Standards for the Preparation of Title Evidence in Land Acquisitions by the United States" (Department of Justice, 1970) and ENG Form 1012 for guidance.

(iv) In contracting for abstracts of title, ENG Form 1012 will be used. ENG Form 1012 provides for an unlimited period of search. For the purpose of conserving Government funds and in applicable easement acquisitions, Division and District Engineers are authorized to modify ENG Form 1012 to provide for the mimimum period of search allowable under the regulations of the Department of Justice, when deemed to be to the best interest of the Government.

(4) Where the consideration to be paid by the Government is $1,000 or less, acquisition in fee may be based upon a title search by a staff attorney when it is deemed to be in the best interest of the Government. The Preliminary Certificate of Title, ENG Form 909, shall be based upon a search of the local land records beginning with a deed or other instrument transferring title recorded at least 40 years prior to the date of the preliminary certificate. The Final Certificate of Title on ENG Form 1013, shall be executed by a qualified Corps of Engineers' attorney, preferably the same attorney who executed the preliminary certificate, and shall be based on a further search of the local land records from the date of the preliminary certificate to and including the date and time of recordation of the deed to the United States or to the date title passes in a condemnation proceeding. The attorney preparing such preliminary or final certificate of title shall also prepare an Abstract of Title evidencing the results of his search of the records. The Certificate of Title will set forth in detail all liens, encumbrances, outstanding interests and other estates adversely affecting the title.

(b) *Easements.* The standards and requirements as to title evidence for fee acquisition, set forth above, will be observed in the acquisition of all easements, except as follows:

(1) Preliminary certificates of title of approved title companies for easement acquisitions will be in the same form approved by the Attorney General for fee acquisitions and issued by the Chief of Engineers as ENG Form 903. Final certificates of title in easement acquisitions, however, must show title to the easement vested in the United States in the same land described in the certificate and the deed to the United States. A form of final certificate of title for easements approved by the Attorney General and issued by the Chief of Engineers as ENG Form 1017, Final Certificate of Title for Easements, will be used in easement acquisitions.

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(2) In contracting for certificates of title to easements, ENG Form 1016, Specifications for Furnishing and Delivering Certificates of Title, Owner's Title Guarantee (Insurance) Policies and Continuations Thereof, may be used provided the following paragraph is substituted in the detailed specifications: "Each certificate of title shall be executed in triplicate on legal size paper. Preliminary certificates of title shall be in the form attached hereto, ENG Form 903, and final certificates of title for easements, showing title vested in the United States, shall be in the form attached hereto, ENG Form 1017."

(3) In jurisdictions where it is not possible to obtain certificates of title commercially, title guarantee (insurance) policies may be obtained. In such cases, appropriate adjustment in forms and specifications will be made, comparable to those prescribed for certificates of title to easements above.

(4) For easements costing more than $100 but not in excess of $5,000, the requirements of the Attorney General have been waived. In such cases, it is acceptable to use certificates of title prepared and executed by a qualified Corps of Engineers' attorney. The Preliminary Certificate of Title, ENG Form 909, shall be based upon a search of the local land records beginning with a deed or other instrument transferring title recorded at least 25 years prior to the date of the preliminary certificate. The Final Certificate of Title on ENG Form 1013, shall be executed by a qualified Corps of Engineers' attorney, preferably the same attorney who executed the preliminary certificate, and shall be based on a further search of the local land records from the date of the preliminary certificate to and including the date and time of recordation of the deed to the United States or to the date title passes in a condemnation proceeding. The attorney preparing such preliminary or final certificate of title shall also prepare an Abstract of Title evidencing the results of his search of the records. The Certificate of Title will set forth in detail all liens, encumbrances, outstanding interests and other estates adversely affecting the title.

(5) As to easements which cost $100 or less, acquisition shall be in accordance with the provisions of Paragraph (5) on page 5 of "Standards for the Preparation of Title Evidence in Land Acquisitions by the United States" (Department of Justice, 1970) which permit such acquisition to be based on a last owner search. Any search authorized by these provisions may be conducted by a qualified attorney employed by the Corps of Engineers.

§ 644.63 Contracting for Title Evidence.

(a) *Survey of Area and Source of Title Evidence.* Contemporaneously with the preparation of the real estate design memorandum, or real estate planning report, the Division or District Engineer is requested to:

(1) Give careful consideration to the problems involved to determine the most acceptable type of title evidence, its source, availability of title plants, costs, and time of procurement, so that the most advantageous bid(s) may be received and accepted and the acquisition schedule maintained. In considering costs of abstracts of title versus certificates of title or title insurance, the workhours involved in the examination of abstracts of title by both Corps and Department of Justice personnel should be considered.

(2) Determine the total number of tracks in the project area. In major projects, it may be desirable to invite bids for title evidence for each county or other specified areas, in addition to the entire project, in order to maintain the acquisition schedule.

(3) Determine the names and addresses of title companies and abstractors available to furnish title evidence and whether such companies or abstractors have been approved by the Attorney General as acceptable companies or abstractors. Current information on approved title companies and abstractors may be obtained direct from the Land and Natural Resources Division, Department of Justice, WASH DC 20530.

(b) *Selection Procedure.* (1) Normally selection of persons or firms to perform title evidence services will be based upon formal advertising in accordance with the Armed Services Procurement Regulation (ASPR) (Chapter I of this title).

(2) In those States where the furnishing of title evidence is held to constitute the practice of law and the State canons of legal ethics prohibit attorneys from engaging in competitive bidding for such services, contracts for title evidence services must necessarily be negotiated. In such cases, negotiations shall be conducted with attorneys or law firms duly authorized to practice law in the jurisdiction within which the real property is located. Division and District Engineers shall notify HQDA (DAEN-REA-P) WASH DC 20314 before negotiating for title evidence, and submit the list of attorneys with whom negotiations may be conducted. Selections shall be in accordance with the procedures set forth below:

(i) A contract for title services shall be based upon, but not limited to, consideration of the following professional qualifications necessary for the satisfactory performance of the services required:

(A) Professionally trained for type of work;

(B) Specialized experience in the type of work required;

(C) Capacity to accomplish the work in the required time;

(D) Past experience, if any, with respect to performance on Corps of Engineers contracts;

(E) Location in the general geographical area of the project to which the services relate: *Provided*, That there is an appropriate number of qualified attorneys or law firms therein for consideration; and

(F) Volume of work previously awarded, with the objective of effecting an equitable distribution of title evidence contracts among qualified attorneys and law firms.

(ii) A preselection list of qualified attorneys and law firms shall be prepared by a preselection board from data submitted by interested attorneys and law firms and from other pertinent information which may be available. The list shall be approved by the District Engineer or his designee.

(iii) A selection board shall review the qualifications of each of the attorneys or law firms on the preselection list, in accordance with the procedure established in paragraph (b)(2)(i) of this section and shall recommend to the District Engineer, in order of preference, a minimum of three for approval for contract negotiations.

(iv) Upon approval of the selections by the District Engineer and such approval as may be required by paragraph (b)(2)(vi) of this section, negotiations shall be initiated with the first selected attorney or law firm. If the negotiations result in a price which exceeds the Government estimate, revised to correct errors of fact or judgment, if any, by more than ten percent, the Contracting Officer shall terminate the negotiations and request a proposal from the attorney or law firm next in order of preference.

(v) Preparation of preselection lists and selections for contracts estimated to cost more than $10,000, shall be accomplished by formally constituted boards consisting of at least three members, one of whom shall be the District Counsel or an attorney on his staff, and one of whom shall be the Chief, Real Estate Division, or a member of his staff.

(vi) Special approval shall be required for certain selections as indicated below:

(A) When the estimated cost of a contract to be negotiated exceeds $100,000, the selection shall require the approval of the Division Engineer.

(B) When an attorney or law firm, to which the District has awarded contracts totalling over $100,000 during the current fiscal year, has been selected by the District for additional

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negotiations, the selection shall require the approval of the Division Engineer.

(C) When the estimated cost of a contract to be negotiated exceeds $200,000, the selection shall require the approval of the Director of Real Estate, OCE, or his designee, with the concurrence of the Chief Counsel or his designee.

(c) *Forms to be Used.* When purchasing title evidence, Standard Form 33, Solicitation, Offer, and Award, which form embraces an invitation, bid, and acceptance, should be used with copies of ENG Form 1012 or ENG Form 1016, depending upon the type of title evidence to be obtained. Standard Form 33 will state that time is of the essence; that ability to comply with delivery requirements is mandatory; that the specifications attached thereto constitute a part of the proposed contract; the quantity and description of the supplies by item to be furnished; the time, place, and method of delivery; and the primary period of contract and extensions. Bids must be submitted in the form required by the invitations for the bids, so that the successful bid can be accepted on Standard Form 33 and a formal contract consummated thereby. The contract must incorporate all the covenants, terms, and conditions which are contemplated.

(d) *Base Price vs. Per-Item Basis.* The invitation will call for the furnishing of an approximate number of certificates of title, abstracts of title, or preliminary binders and title guarantee (insurance) policies, as the case may be, at a stated price per certificate of title, abstract, or preliminary binder and title guarantee (insurance) policy. If this basis of payment is not possible, payment for abstracts may be made on a per-item or per-page basis and certificates of title and interim binders and title guarantee (insurance) policies may be paid for in accordance with an established rate schedule based on the cost of the property. Where necessary, alterations in the payment paragraphs of the specifications may be made in order to comply with local practices, State statutes, or other special requirements.

(e) *Specifications.* The specifications for title service will follow ENG Form 1012 for abstracts, ENG Form 1016 for certificates of title and ENG Form 1014 for interim binders on owner's title guarantee (insurance) policies. Additional provisions may be added as circumstances require, but basic requirements will not be changed.

(f) *Several Contracts for Title Evidence.* To meet the acquisition schedule, it may be necessary to enter into several contracts for title evidence to lands within a designated project area. In such cases, the portions of the projects to be covered by each contract will be defined according to established political subdivisions, such as districts, townships, counties, or any specified part thereof.

§ 644.64 Award of Contracts.

(a) *Contract Awards.* Contract awards will be made only by duly qualified contracting officers in accordance with applicable procurement regulations.

(b) *Review of Title Evidence Contracts.* The Contracting Officer, if an employee of the Real Estate Division, or otherwise the Real Estate representative designated by the Division or District Engineer, will review contracts for title evidence. If this review is made by a Real Estate employee other than a Contracting Officer, he will advise the Contracting Officer relative thereto. The Contracting Officer or the Real Estate representative will ascertain that the Department of Justice has approved the bidder, and the contract will not be awarded to any bidder not so approved. The Contracting Officer or the Real Estate representative who is to advise him, will familiarize himself with "Standards for the Preparation of Title Evidence in Land Acquisitions by the United States," issued by the Department of Justice, 1970.

(c) *Distribution.* Upon acceptance, copies of title evidence contracts will be distributed in the same manner as other contracts.

§ 644.65 Ordering Title Evidence.

(a) *Placing Orders.* Where the contract does not specify the order in which title evidence for particular tracts will be furnished, orders will be submitted to the abstractor or title company on ENG Form 1011, Order for Title Evidence. An accurate legal description of the tract of land involved will be attached to the order or will be typed thereon.

(b) *Orders Based on Contiguous Areas.* If the contract does not contain a list of tracts for which title evidence is to be furnished, orders will be based on contiguous areas of land in identical ownership and will be deemed to be contiguous even though crossed by roads, railroads, rights-of-way, or streams. In such event the variation in quantity shall not exceed plus or minus ten percent as prescribed by ASPR. If there has been a severance of surface and subsurface estates, determination of what constitutes a tract will be based on ownership of the surface. However, in unusual cases where such a contiguous area is composed of several parcels derived through separate chains of title and requiring separate searches of each chain of title down to a comparatively recent date or where such contiguous area lies in more than one section, the Contracting Officer may contract to pay a specified reasonable additional charge for each such additional chain or section if such additional charge is customary in the locality where the land lies.

(c) *Type of Title Evidence.* The order will set forth the type of evidence to be furnished. When abstracts are contracted for, the following rules will be observed:

(1) If an abstract of title in satisfactory form cannot be procured from the landowner, a new abstract will be ordered.

(2) If an abstract in satisfactory form is procured from a landowner, the abstract will be transmitted to the abstractor with an order for a continuation of the old abstract.

§ 644.66 Payment for Title Services.

(a) *Approval.* The Contracting Officer will approve payment for all title evidence obtained in connection with the acquisition of land from funds available to the Division or District Engineer for that purpose, whether the land is acquired by purchase or condemnation.

(b) *Review.* When abstracts are furnished on a per-item or per-page basis, the contents must be carefully reviewed by a qualified representative of the Division or District Engineer, to insure that bills are not excessive and that abstracts do not include superfluous material. Where erroneous or superfluous material is included in abstract, the bills involved will be corrected so that payment for such material is not made. All title evidence will be examined to determine that there has been full compliance with the specifications.

(c) *Payment for Title Evidence.* Payments for title evidence will be made by the Contracting Officer from available funds for the project to which the title evidence pertains, upon receipt of certified and approved vouchers.

(d) *Preparation of Invoices for Title Services.* The abstractor or title company will submit a certified invoice for services rendered, to the office to which the title evidence was delivered for review. The invoice must specify the particular type of title evidence furnished, the tract number, name of owner, name of project, and contract number. Invoices found to be correct will be certified as to receipt of the services by the receiving office and will be transmitted to the Division or District Engineer for further action and payment.

§ 644.67 Approval of Title by the Attorney General.

(a) *General.* Section 355 of the Revised Statutes of the United States, as amended (40 U.S.C. 255), formerly required the written opinion of the Attorney General in favor of the validity of the title to lands as a prerequisite to the expenditure of public funds thereon.

(b) *Delegation.* Pursuant to the provisions of Pub. L. 91-393, approved September 1, 1970, authority to approve title to lands being acquired for the use of the Department of the Army, or of any other department or agency for which the Department of the Army is authorized to acquire land, has been delegated to the Department of the Army, subject to the supervision and review of the Attorney Genral. Generally, military authorization and/or appropriation legislation expressly authorizes construction on the land prior to approval of title.

(c) *Redelegation.* The authority delegated to the Department of the Army pursuant to Pub. L. 91-393 has been redelegated to Division and District Engineers with real estate responsibility.

(d) *Issuance of Title Opinions.* Division and District Engineers are authorized to designate staff attorneys to give written approval of the sufficiency of title to land for the purposes for which the property is being acquired. Such attorneys shall issue preliminary and/or final opinions of title.

(1) Attorneys designated for such purposes will have as a minimum five years legal experience, from the date of admission to a State bar, including three years experience in the law of real property. Real estate attorneys on the staffs of Division and District Engineers, who possess these qualifications, will be designated by the Division and District Engineers, in writing, to pass on the sufficiency of title to lands pursuant to the said delegation. The names of such attorneys shall be furnished to HQDA (DAEN-REA-P) WASH DC 20314 as soon as possible.

(2) A final opinion of title shall be issued in all acquisitions, except for easement acquisitions not in excess of $1,000 which are governed by § 644.69(b).

(3) Division and District Engineers are authorized to waive the issuance of written preliminary opinions of title where the closing of the case is based upon a certificate of title or title insurance issued by an acceptable and approved title company, in either fee or easement acquisitions.

(4) A preliminary and a final opinion of title shall be issued in all fee and easement acquisitions involving abstracts of title, except for easement acquisitions not in excess of $1,000 which are governed by § 644.69(b).

(5) Any final title opinion issued pursuant to the delegated authority shall substantially follow the format of the Attorney's Final Title Opinion (Figure 5-3 of EP 405-1-2).

(e) *Opinion of Attorney General.* Whenever the District or Division Engineer determines that a title defect is of such character that a possibility exists that it may be waived, the case shall be submitted to HQDA (DAEN-REA-P) WASH DC 20314 for review and transmittal to the Attorney General for a title opinion. The letter of submittal shall contain or be accompanied by the information and data required by § 644.72(b).

(f) *Rejection Opinion.* If it is obvious that no possibility of waiver of a title defect exists, a title opinion shall be issued according to the procedure set forth in § 644.67(d). Copies of such opinion shall be submitted with the condemnation assembly.

§ 644.68 Title Clearance—Certificate of Title and Title Insurance.

(a) *Curative Action.* Upon receipt of an acceptable certificate of title, ENG Form 903 or an interim binder on an owner's title guarantee or insurance policy, ENG Form 1014, the title evidence will be reviewed by a qualified real estate attorney of the Corps of Engineers. Where the title evidence indicates that the acquisition of the land or interest therein by purchase is feasible, and a satisfactory ENG Form 42, Offer to Sell Real Property, or ENG Form 2970, Offer to Sell Easement, is received from the landowner and accepted by the Government, curative action will be conducted and curative material will be processed as follows:

(1) With regard to the title objections set forth in Schedule "B" of certificates of title or interim binders, it will be necessary to take such curative action as will insure the issuance of a final certificate of title or title guarantee or insurance policy showing title vested in the United States of America, subject only to those objections, if any, which have been administratively waived.

(2) As set forth in the title contract, the title company will authorize its local representative to give final approval of curative material furnished to satisfy such objections and insure their elimination from the final certificate of title or title guarantee or insurance policy. As such curative material is approved, the local representative of the title company will:

(i) Initial, or otherwise indicate, on the margin of the preliminary certificate or interim binder, the fact that the objection has been eliminated through the procurement of satisfactory curative material.

(ii) Determine whether or not he wishes the curative instrument recorded and if the instrument is to be recorded, so indicate on the margin of the certificate or interim binder. By the express terms of the offer to sell, the vendor is responsible for payment of recording fees on such curative material.

(iii) Where curative material is not recorded, the title company will be permitted to retain such material if they wish it for their files; otherwise, it will be placed with the title assembly. If the original curative instruments are retained by the title company, true copies will be transmitted with the Final Title Assembly to HQDA (DAEN-REA-P) WASH DC 20314.

(b) *Intermediate Certificates or Interim Binders.* In the following types of cases, it may be necessary, after examination of the preliminary certificates of title or interim binder, to obtain intermediate certificates of title or interim binders in order to perfect title prior to closing the transaction:

(1) When the signer of the offer is not the record title holder but is the holder of a contract for purchase, recorded or unrecorded, the preliminary certificate of title or interim binder will show title in the record title holder. In such cases, the certificate or binder will make appropriate reference to the contract. It will recite the action necessary to complete the contract and effect transfer of title from the record holder to the contract purchaser. When the deed to the contract purchaser is recorded, an intermediate certificate of title or interim binder, in proper form, will be obtained.

(2) In those cases in which record title is vested in a deceased person, the preliminary certificate of title or interim binder may be issued in the name of the deceased record owner, followed by the word "deceased," and will be accompanied by a letter from the title company stating whether a judicial proceeding will be required, or whether affidavits of heirship, or other forms of proof, will suffice to permit the issuance of intermediate certificate or binder showing title vested in the heirs of the deceased.

(i) Where a judicial proceeding is required, action will immediately be taken by the owners to perfect title by such proceeding, and, upon completion, an intermediate certificate of title or interim binder should be obtained. If such action cannot be completed within 60 days, action will be taken to acquire the tract by condemnation, § 644.72(a).

(ii) Where a judicial proceeding is not required, it will be necessary to effect the necessary curative action and obtain an intermediate certificate or interim binder showing title in the heirs of the deceased record owners.

(3) In those cases in which conveyance to the United States is to be made by a fiduciary, a corporation, a political subdivision, or an unincorporated association, the certificate of title or interim binder will state whether

the proposed grantor has legal authority to convey valid title to the United States, and, if so, will cite the source of the authority. If the preliminary certificate of title or interim binder does not so indicate, it will be returned to the title company for correction or for issuance of an intermediate certificate of title or interim binder.

(4) Where the certificate of title or interim binder contains any objection, or reference to liens of taxes, assessments, bonds, or other indebtedness of a road improvement, school, drainage, or other type of special improvement district, the specifications provide that the certificate or interim binder will also contain reference to the statute or statutes, under which the district was created, its bonds issued, and its taxes levied; the amount of taxes and assessments levied and bonds issued; and other additional pertinent information. If the preliminary certificate or interim binder does not contain sufficient information to enable an examining attorney to determine the nature and extent of the lien, if any, on the land, of such taxes, assessments and bonds, it will be returned to the title company for correction or for issuance of an intermediate certificate of title or interim binder. If the preliminary certificate or interim binder does not clearly indicate that the bonds or taxes of such district become a lien annually at the same time as the lien of ad valorem taxes attaches to land in the State and that the lien is of the same nature as the lien of ad valorem taxes, the information specified above must be obtained and a determination must be made as to the nature and extent of the liens of such bonds and taxes.

(5) Where the certificate of title or interim binder discloses a covenant or condition restricting the use of the land, the certificate or interim binder will set forth the restriction, will quote the provision imposing the restriction or creating the right of reverter for a breach thereof, and will state whether a release will eliminate the objection. If such information is not contained in the preliminary certificate of title or interim binder, it will be returned to the title company for correction or for issuance of an intermediate certificate of title or interim binder. If a release will eliminate the objection, action will be taken to obtain an appropriate release from the person or persons holding the right of reverter. Should the title company hold that the title cannot be perfected by a release or if an acceptable release cannot be obtained, action will be taken to acquire the tract by condemnation.

(6) When the specifications require the title company to include any of the above information in the preliminary certificate of title or interim binder and it is necessary to obtain an intermediate certificate of title or interim binder due to the omission of such information from the preliminary report by the title company, the intermediate certificate of title or interim binder will be furnished without cost to the United States.

(c) *Question of Law.* Any difficult or complicated question of law raised by an objection or exception in a preliminary or intermediate certificate of title or interim binder should be submitted to HQDA (DAEN-REA-P) WASH DC 20314 for review and transmittal to the Attorney General for an opinion. The letter of submittal shall contain a full statement of the facts and references to the provisions of applicable statutes and pertinent decisions of state courts on the question involved. This action should be taken before closing. This action should also be taken on questions involving the nature and extent of the liens of bonded indebtedness, assessments, or taxes to meet the bonded indebtedness of special improvement districts, or relating to restrictive covenants.

§ 644.69 Title Clearance—Easements.

(a) *Easements Costing in Excess of $1,000.* Curative action and clearance of title to easements costing in excess of $1,000 will be the same as in fee acquisitions, as outlined above, except as follows:

(1) Under an agreement with the Department of Justice, title to easements will be approved subject to outstanding encumbrances, such as mortgages, deeds of trust, judgments, and vendors' liens, where the tract is not encumbered in excess of 50 percent of the reasonable value of the remaining property, and the consideration being paid for the easement does not represent a sum in excess of ten percent of the value of the remaining property. (As to taxes, see § 644.70(k)(6).)

(2) For the purpose of making the determinations necessary to apply the formula set forth in Paragraph (a)(1) of this section, resort may be had to the tract appraisal, provided it is based on a "before and after" approach, in which case the amount of the "after" appraisal will be used as the reasonable value of the remaining property. In the event no such appraisal has been made, a memorandum estimate by a qualified appraiser (staff or contract) will be obtained. Determination of the total encumbrances may be made on the basis of the face of the encumbering instruments. However, if it is necessary to determine that the total amount of the outstanding liens as of the date of closing has been reduced to an amount less than 50 percent of the reasonable value of the remaining property, such reduction must be evidenced by signed statements from the lienees or their authorized representatives. The appraisal or memorandum estimate and the lienee statements will be placed in the tract file.

(3) On the basis of the determinations described in Paragraph (a)(2) of this section, the appropriate information will be inserted on ENG Form 3536, Statement Concerning Outstanding Encumbrances, which will be signed by the closing agent. The original will appear as a separate document in the Final Title Assembly submitted to HQDA (DAEN-REA-P) WASH DC 20314.

(b) *Easements Costing Not in Excess of $1,000.* (1) Requirements for the release or subordination to such easements of mortgages, deeds of trust, judgments, vendors' liens, taxes which are a lien, whether or not presently due and payable, and similar encumbrances will ordinarily be the same as for easements costing in excess of $1,000.

(2) In unusual circumstances, these requirements need not be applied if the purchase price of the easement is insufficient to satisfy the liens and interest, or the amount of such liens or interest is small in comparision with the value of the land in which the easement is being acquired, and in comparison with the cost of condemnation proceedings to clear the title. In such cases, the Division or District Engineer (or the Chief, Real Estate Division, if delegated such authority) may waive such title infirmities as he determines will not interfere with the use of the easement by the Government or jeopardize the interests of the United States: *Provided:*

(i) The easement deed contains a general warranty covenant by the grantor to satisfy all such unpaid taxes and other liens and to warrant the title against any encumbrances or interests left outstanding.

(ii) The Division or District Engineer (or the Chief, Real Estate Division, if delegated the authority) has determined that such outstanding liens, encumbrances, or interest, if left outstanding, will not interfere with the Government's use of the easement, or will not jeopardize the interests of the United States, and in his opinion the title is sufficient. A certificate to this effect should be attached to the Final Title Assembly.

(c) *Curative Action.* (1) Curative action will be initiated promptly in all cases to eliminate all title defects or encumbrances, except those which may be administratively waived, those which may be eliminated by the payment of money and cleared at the time of closing, and those which may be waived as hereinafter provided. Curative material need not be recorded,

however, until the closing of the transaction.

(2) All encumbrances, defects, outstanding interests, and other matters shown in the preliminary certificates of title or interim binders, must be cured and eliminated before delivery of the purchase check, except those of a nature which have been waived as not interfering with the Government's use of the easement or as not jeopardizing the interest of the United States.

§ 644.70 Closing of Cases.

(a) *Closing and Settlement Officers.* Payment and closing of cases will be initiated immediately upon completion of curative action, by qualified Closing Officers employed by the Corps of Engineers. To be qualified, a Closing Officer must be employed in the Real Estate Division of a Division or District Office, or in a Real Estate Project or Suboffice, in an Attorney-Advisor position, or in a Realty Officer position if he is a member in good standing of the Bar of a State, Possession, or the District of Columbia, and has been instructed in Federal procedure and in the requirements for closing land acquisition transactions by a Division or District Closing Officer and has been approved by the Division or District Engineer to close land acquisition transactions independently. It is no longer necessary for Closing Officers to be individually bonded. Contracting for closing services will require prior approval of HQDA (DAEN-REA-P).

(b) *Payment.* Payment for land, or interests therein, will be made from funds available to the Division or District Engineer.

(c) *General.* The details of the closing necessarily differ according to the number of vendors and the outstanding interests, the number and variety of the encumbrances and title objections to be met, and miscellaneous other details resulting from complications in the particular title. Upon receipt of the check and title papers, the Closing Officer will review the entire file relating to the acquisition, fully acquaint himself with the terms and conditions of the sale, and with the condition of the title, and will ascertain whether there are any special conditions to be performed, or requirements to be met, on the part of the landowner or the Government and what objections to the title are to be eliminated before valid title may vest in the United States.

(d) *Curative Data.* The Closing Officer will determine the character and amount of all outstanding interests in, liens on, or claims against the land, which are to be satisfied out of the purchase price, and see that necessary curative action has been taken and curative data obtained to cure all defects in and meet all objections to the title. If the title evidence consists of a certificate of title of a title company, or a title guarantee policy, approval of the curative material, obtained to eliminate the title objections, must be obtained from the title company.

(e) *Continuation of Title Search.* The Closing Officer will satisfy himself that no change has occurred in the land records from the date of the prior certification which will adversely affect the title to the real estate interest being acquired by the United States. Where deemed appropriate because of the complexities of the title, the amount of the purchase price, or other reason, the local representative of the title company or the abstracter will be requested to examine the title records for the purpose of making this determination, and a continuation of the title evidence should be obtained, if considered necessary. Otherwise, the interim title search may be made by the Closing Officer.

(1) If no adverse change in the status of title has occurred since the date of the preliminary or the latest certification of the title by the abstracter or the title company, as the case may be, the Closing Officer will proceed to close the case.

(2) In case of change in ownership during the period, the Closing Officer will order a continuation of the abstract or an intermediate certificate of title or interim binder, as the case may be, and take such action as necessary to cure the title.

(f) *Payment and Closing Sheet.* ENG Form 1566, Payment and Closing Sheet and Receipt for United States Treasurer's Check, covering all charges to be eliminated by payment of money to be deducted from the purchase money check, will be prepared in advance of closing. This sheet will show, in detail, all disbursements of the purchase money, including all amounts to be expended for satisfaction of:

(1) Taxes and assessments.

(2) Outstanding judgments—State and Federal.

(3) Mortgages, deeds of trust, and other liens.

(4) Amounts received under any contract or bond.

(5) Landowner's balance after all charges are deducted from the purchase price.

(g) *Division or District Inspection of Premises.* The Closing Officer or other authorized Division or District employee will personally make an inspection of the premises to ascertain whether any person is occupying the property in whole or in part.

(1) The Closing Officer or an authorized Division or District employee will prepare ENG Form 798, Certificate of Inspection and Possession.

(2) If any person other than the vendor is found in possession, the Closing Officer will secure a disclaimer on ENG Form 1290, Disclaimer. The disclaimer will be modified to make allowance of any provision in the offer to sell permitting possession after closing.

(3) The Closing Officer or an authorized Division or District employee will check to determine that the buildings, improvements, and crops listed on the appraisal report are still on the land being conveyed. Where buildings, improvements, and crops have been reserved by the landowner, it will be determined that only the items reserved have been removed. Whenever possession of land is surrendered to the Government before the time of payment and closing, and immediate inspection and report ENG Form 1567, Report on Vacation of Property, will have been made. The Closing Officer may rely upon this report for the inspection required in the first part of this subparagraph unless he is aware of circumstances which would make a supplemental inspection and report proper. If no such inspection and report have been made and possession has been surrendered to the Government, the inspection and report must be made at this time.

(4) The Closing Officer or an authorized Division or District employee will determine whether there have been repairs or improvements to or construction on the premises which might give rise to mechanics liens.

(5) The ENG Form 798 will be executed and placed with the title papers. If executed by an employee other than the Project Manager or Closing Officer, it must be approved by the Project Manager or Closing Officer, to indicate that the Project Manager or Closing Officer has authorized the employee signing the certificate to make the inspection and is satisfied it has been properly done.

(h) *Deed to the United States.* (1) The deed to the United States will be drafted in accordance with the "Standards for the Preparation of Title Evidence in Land Acquisition by the United States," issued by the Department of Justice in 1970.

(2) Where the landowner's name appears in various forms among the title papers, full use will be made of the "also known as" clause in identifying the grantor in the deed to the United States.

(3) The deed shall contain a quitclaim clause by which the grantor quitclaims to the United States all right, title, and interest which the grantor may have in the banks, beds, and waters of any streams bordering the said land to be conveyed, and also

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all interest in alleys, roads, streets, ways, strips, gores, or railroad rights-of-way abutting or adjoining said land and in any means of ingress or egress appurtenant thereto.

(4) Recording fees, transfer taxes, and similar expenses incidental to conveying real property to the United States; penalty costs for prepayment of any preexisting recorded mortgage entered into in good faith encumbering such real property; and the pro rata portion of real property taxes paid which are allocable to a period subsequent to the date of vesting title in the United States, or the effective date of possession of such real property by the United States, whichever is the earlier, shall be paid by the Government pursuant to authority of Section 303, Pub. L. 91-646, approved January 2, 1971.

(i) *Satisfaction of Liens and Encumbrances.* All mortgages, deeds of trust, judgments, mechanics liens, and similar encumbrances will be satisfied and released or discharged of record. In the acquisition of easements, liens and encumbrances should be satisfied, released or subordinated to the Government's easement, except as provided in § 644.69(a) or unless administratively waived under § 644.69(c).

(j) *Payments to Tenants and Lessees.* Amounts due lessees, or other tenants, under ENG Form 1564, Consent to Offer to Sell, will be paid from the purchase price or by the landowner direct. In either case, proper receipts and releases will be obtained.

(k) *Satisfaction and Release of Liens of Taxes and Assessments.* (1) Except as provided in § 644.69(b) and Paragraph (k)(6) of this section, all taxes and assessments which, under the law of the State where the land is located, are a lien on the property as of the date of the delivery and recordation of the deed to the United States must be paid at or before closing, unless provision for their payment is made as follows:

(i) Where closing takes place before the completion of the assessment and levy of the taxes necessary to the determination of the amount of the taxes, or before the taxes are due and payable, a sufficient sum will be withheld from the purchase price to satisfy such taxes when the amount is later determined or they later become due and payable. In cases where the amount of taxes has not been determined, an estimate will be made, after consultation with the assessor and consideration of the amount of taxes paid on the land for the preceding year. The amount withheld should be at least 20 percent in excess of the amount of taxes assessed against the property for the preceding year.

(ii) If the taxes are not due and payable under State law, though the amount has been determined at the time of closing, payment will not be made to the collector or other official charged with the collection of taxes, unless he has authority to accept payment and receipt for them in advance of the due date.

(2) Funds withheld for the payment of taxes will be transmitted promptly to the Division or District Engineer in the form of cashier's check or money order payable to the Treasurer of the United States, unless the taxes are paid or held in escrow by the title company. The Closing Officer, in transmitting such payments, must clearly identify, by name, the vendor from whom the tax money was withheld, and must identify the land for which the taxes were withheld by its tract number in the project. He must also identify the taxes for payment of which the money has been withheld by specifying the type of taxes, such as county, city, or school. He will set forth the year each became or becomes due and fully explain the manner in which payment or withholding has been handled in order that proper payment will be effected by the Division or District Engineer when the taxes are due and payable. Any balance of the amount withheld and not needed to satisfy the taxes will be refunded to the grantor.

(3) Where payment of the taxes is not possible at the time of closing and funds are withheld for this purpose, the Closing Officer will immediately notify the local tax official that title to the particular tract has been conveyed to the United States and that funds have been withheld for the payment of taxes, specifying the taxes for which an amount has been withheld and stating that such funds are in the custody of the Division or District Engineer. In giving such notice, he will use ENG Form 894, Notice to Tax Official.

(4) When the taxes become due and payable, the Division or District Engineer will pay such taxes from the funds withheld from the purchase price. Any excess between the amount of taxes actually paid and the amount withheld will be refunded to the grantor by the Division or District Engineer. Refund checks will be transmitted to the grantor only after it has been definitely determined that all taxes which were liens on the tract are shown as satisfied on the books of the tax collector. This is necessary to avoid the possibility of a refund being made before satisfaction of all tax liens. The tax receipt should be forwarded to HQDA (DAEN-REP-S) WASH DC 20314 for filing with the original title papers.

(5) Where the evidence of title consists of certificates of title or title insurance, and funds are withheld for payment of taxes, the amount so withheld may be turned over to the title company, provided:

(i) The title company is financially responsible and will agree to issue a final certificate of title or title policy in which no tax liens or unpaid taxes will be noted or, if noted, will be followed by the statement: "For the payment of which provision has been made by deposit of a sufficient sum with this company."

(ii) The title company will enter into an escrow agreement with the grantor to hold such sum for the satisfaction of the taxes when they become due, and to return to the grantor any excess remaining after their payment.

(6) Agreements have been reached with the Department of Justice that, in the acquisition of easements, the following will apply:

(i) No provision need be made for the payment of taxes which are a lien but are not due and payable, provided that the purchase price of the easement, including severance damage, is not in excess of 50 percent of the reasonable value of the entire contiguous property of the vendor. In the event the value of the easement has been determined by a "before and after" appraisal, the amount of the "after" appraisal will be utilized in making the necessary determination. In the event no such appraisal has been made, it will not be necessary to prepare a complete appraisal of the value of the contiguous property. In lieu thereof, a memorandum estimate by a qualified appraiser (staff or contract) will be obtained and placed in the tract file. In either case, the appropriate information will be inserted on ENG Form 3536, Statement Concerning Outstanding Encumbrances.

(ii) It will not be necessary to withhold funds for payment of current taxes which are due and payable, if the purchase price of the easement is insufficient to pay such taxes. In such case, Item 4 of ENG Form 3536 and the third block of that form will be completed.

(iii) ENG Form 3536 will be signed by the Closing Officer and the original will appear as a separate document in the Final Title Assembly.

(l) *Payment and Recordation of Deed.* (1) No disbursement of the purchase price shall be made until:

(i) A duly executed deed has been accepted;

(ii) All outstanding charges, liens, or encumbrances on the land have been satisfied and discharged, or a sufficient sum has been withheld from the purchase price to satisfy and discharge such charges, liens and encumbrances; and

(iii) The title is sufficient for the purposes for which it is being acquired, and all objections thereto have

been eliminated or administratively waived in writing.

(2) When the requirements of Paragraph (l)(i) of this section have been satisfied, the balance of the purchase price shall be delivered to the landowners.

(3) The deed and all instruments which release liens or encumbrances on the property shall be promptly recorded.

(m) *Closing of Easements Acquisitions—(1) Easement Costing in Excess of $1,000.* Closing requirements and procedures with respect to easements costing in excess of $1,000 are the same as in fee acquisitions, except as to mortgages, deeds of trust, judgments, vendors' liens, and similar title infirmities (§ 644.69(a)), and as to taxes which are liens but which are not due and payable (Paragraph (k)(6) of this section).

(2) *Easements Costing Not in Excess of $1,000.* Closing requirements and procedures with respect to easements costing not in excess of $1,000 are the same as a fee acquisition except that title infirmities may be waived as provided in § 644.69(b).

(n) *Payment and Closing Under Power of Attorney.* Where the landowner is unable or unwilling to be present personally or to pay from his own funds the amount necessary to satisfy all encumbrances and expenses, the following steps may be taken:

(1) Obtain a power of attorney from the landowner. Standard Form 232, Power of Attorney by Individual for the Collection of a Specified Check Drawn on the United States Treasury, will be used. If the landowner is a corporation, Standard Form 236, Power of Attorney by a Corporation for the Collection of a Specified Check Drawn on the Treasurer of the United States, and Standard Form 237, Resolution by Corporation Conferring Authority Upon an Officer to Execute a Power of Attorney for the Collection of Checks Drawn on the Treasurer of the United States, will be used. The power of attorney will be drawn in favor of the Closing Officer making the payment and closing. Immediately after the post office address of the Closing Officer, the following will be inserted, "Agent for the Disbursing Officer." This insertion must be initialed by the person(s) executing the power of attorney. (Above forms are available through the local GSA Regional Office.)

(2) Obtain from the landowner ENG Form 1569, Order to Disburse Under Power of Attorney. It will be noted that this form specifically recites types of indebtedness or expense, the names of the persons to be paid under the power of attorney, and the estimated, but not necessarily the exact, amounts thereof. It is important that all items (including cost of revenue stamps, recordation fees for curative material, and bank service charges) be itemized on the form.

(3) The Closing Officer then will take the necessary action for and on behalf of the landowner to discharge the indebtedness and pay expenses under the ENG Form 1569.

(4) If it is possible to have all interested parties, other than the landowner, present at one time and to make all payments simultaneously, a round table closing will be conducted. The Closing Officer, under the power of attorney and order to disburse, will endorse and cash the Treasurer's check and will make the individual disbursements in actual cash.

(5) If it is possible to determine definitely all items of payment simultaneously, but it is not possible to have all interested parties present at one time, the Closing Officer will, under the power of attorney and order to disburse, endorse and cash the Treasurer's check, obtain separate cashier's checks for all items of payment (including the bank services charge for the issuance of such checks), and deliver the checks.

(6) Where it is not possible to determine definitely all items of payment simultaneously, the Closing Officer, under power of attorney and order to disburse, will endorse and cash the Treasurer's check and will obtain separate cashier's checks for all items of payment for which disbursements may be properly made and for any balance representing the total of any items, the amounts of which cannot be definitely determined; in other words, for the residue of the amount of the United States Treasurer's check. In every instance, the cashier's checks will be drawn to provide for endorsement by the Closing Officer or landowner as later determined to be appropriate.

(7) Curative material which requires recordation will be recorded for and on behalf of the landowner and will then be placed with the title papers.

(8) The usual tax receipts, mortgage releases, judgment satisfactions, etc., will be obtained for each monetary encumbrance which has been discharged. These instruments will be placed with the title papers, unless the landowner wishes to retain them.

(9) Separate receipts on ENG Form 1571, Receipt for Payment Under Power of Attorney, must be obtained for each disbursement made under the power of attorney and order to disburse, including a receipt for the balance of the purchase price paid to the landowner. One copy of such receipt will be placed in the project files.

(10) The Closing Officer will prepare an original and two copies of ENG Form 1570, Report of Disbursement Under Power of Attorney, showing the exact amount of each disbursement made under the power of attorney and order to disburse. The Closing Officer will prepare an original and two copies of appropriate certification thereon. The original and two copies will be signed by the landowner, who will retain one copy. The Closing Officer will place one copy in the files of the project office and will place the original with the title papers. The separate receipts on ENG Form 1571 for each disbursement made will be attached to the original ENG Form 1570.

(o) *Procurement of Check.* (1) After acceptance and distribution of the offer assembly and the acquisition is ready for closing, the following instruments and supporting data will be transmitted to the Finance and Accounting Officer for scheduling of SF 1166, Voucher and Schedule of Payments, and issuance of check:

(i) Two true copies of the preliminary opinion of the Attorney General, where required; or

(ii) Two true copies of a preliminary certificate of title or title guarantee policy where the preliminary opinion of the Attorney General is not required; or

(iii) Two copies of ENG Form 909, Attorney's Preliminary Certificate of Title, in easements acquisition which cost less than $1,000; and

(iv) Two true copies of other supporting data evidencing amount due and payable, such as statement of closing attorney; and

(v) Two true copies of the offer assembly or deed executed by the vendor, if offer form has not been utilized.

(2) The following statement, appropriately modified, signed by the Chief, Real Estate Division, may be transmitted in lieu of the above listed certificates: "I certify that the check requested hereby is to pay an obligation of the United States as reflected on the attached (Offer to Sell) (easement or deed). I further certify that the parties signatory to this document and shown on the voucher as payees are the same parties reflected in a preliminary certificate of title issued by the ———— Title Company in the possession of the Real Estate Division of this office. The completion of the transaction will be in accordance with existing regulations pertaining to the closing of real estate acquisitions." The landowner's signature on a voucher is not necessary. On payments involving civil funds, paragraph 3-7g, ER 37-2-10, will be followed.

(p) *Procedure After Payment.* When the above closing requirements have been met, the Closing Officer will:

(1) Immediately order a final continuation of the type of title evidence which has been contracted for. The

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final title evidence must be dated as of the date of recordation of the deed to the United States, or a subsequent date, to show a valid title vested in the United States of America subject only to those title defects which have been administratively waived or to those liens and encumbrances for which sufficient funds were withheld from the purchase price to satisfy and discharge them.

(2) Check carefully ENG Form 1566, Payment and Closing Sheet and Receipt for United States Treasurer's Check, to see that funds have been properly disbursed.

(3) Review the continued abstract, final certificate of title, or title insurance policy, as soon as they are prepared and determine that the proper preliminary and final title evidence and related papers on the case have been completed in proper order. Thereupon a Final Title Opinion will be prepared.

(4) Transmit as the Final Title Assembly to HQDA (DAEN-REA-P) WASH DC 20314, the Final Title Opinion, title evidence and related papers. This Final Title Assembly must be chronologically arranged and securely fastened for permanent filing, and should include the following:

(i) Abstract of title, properly continued through time of closing; or preliminary, intermediate, and original of final certificate of title; or interim binder and original of the Title Guarantee (Insurance) Policy.

(ii) Curative instruments and material pertaining to title defects appearing in the abstract, the final certificate of title, or the title guarantee or insurance policy.

(iii) Deed to the United States, executed, stamped, acknowledged, and recorded.

(iv) Copy of the accepted offer to sell (ENG Form 42 or ENG Form 2970).

(v) Completed ENG Form 798.

(vi) Completed ENG Form 1566.

(vii) Statement regarding payment of taxes or amount withheld to pay the taxes.

(viii) Where required, completed ENG Form 1290.

(ix) If the power of attorney procedure is followed, power of attorney on proper Department of the Treasury Form and completed ENG Forms 1569 and 1571.

(x) Certified copy of any waiver letter or certificate.

(xi) Any other papers relating to the title or closing of the case.

(xii) An additional copy of the deed and the Attorney's Final Title Opinion for review by the Attorney General.

(5) A copy of the executed and recorded deed will be retained by the Division or District Engineer for the project files.

(6) Similar action will be taken by the Closing Officer in acquisition of easements costing not in excess of $1,000.

§ 644.71 Final Title Assembly.

(a) *Disposition of Final Title Assemblies.* The final title opinion and related papers will be forwarded to HQDA (DAEN-REA-P) WASH DC 20314 for review and disposition. In addition, copies of deeds and related papers in acquisitions for the Strategic Petroleum Reserve Program of the Department of Energy will be forwarded to: Department of Energy, Strategic Petroleum Reserve Project Management Office, 900 Commerce Road East, New Orleans, Louisiana 70123.

(b) *Division/District Files.* True copies will be retained for Division or District files.

§ 644.72 Transfer to Condemnation.

(a) *Transfer of Tracts from Purchase to Condemnation.* If at any time, in the course of acquisition by purchase, it becomes apparent that title clearance and closing cannot be completed within 60 days of the offer to sell, action will immediately be taken to acquire the land by condemnation in order to make funds available to the landowner.

(b) *Contents of Letter of Submittal.* In such cases the letter of submittal will contain or be accompanied by:

(1) All title evidence.

(2) An analysis of the title defects and a statement of the attempts which have been made to cure the defects.

(3) A statement of the attempts to have the title infirmities waived by the title company and the reasons for refusal; or

(4) The curative material which has been obtained to remedy the infirmities; and

(5) Two copies of the offer to sell from the apparent owners.

Acquisition by Purchase, Donation, and Transfer

§ 644.81 General.

Sections 644.81 through 644.88 describe the procedures of the Corps of Engineers relating to the acquisition of land and interests therein for both military and civil works projects by purchase, donation and transfer.

(a) *Applicability.* These sections are applicable to all Division and District Engineers having real estate responsibilities.

(b) *Acquisition Authority.*—(1) *Limitation.* Acquisition of land for use by the United States requires express authorization (10 U.S.C. 2676, 41 U.S.C. 14).

(2) *Military.* Title 10 U.S.C. 2571 authorizes transfer of real property between Defense elements without compensation if the Secretaries approve. Title 10 U.S.C. 2662 provides that acquisition of fee title or transfer of real property owned by the United States to another Federal agency, military department or a state must be reported to the Committees on Armed Services of the Senate and House of Representatives if the estimated value is more than $50,000 and the transaction may not be consummated until after 30 days have expired from the date the report is submitted to the Committees. Title 10 U.S.C. 2663 provides for acquisition by the Secretary of a military department during time of war or when war is imminent of any interest in land, including temporary use, required for a Defense installation, munitions plant or power plant for production of munitions, through negotiation and purchase, by condemnation or by gift. Title 10 U.S.C. 2672 provides that the Secretary of a military department may acquire any interest in land, including temporary use, by gift, purchase, exchange of United States owned land or otherwise, that he or his designee determines is needed in the interest of national defense and does not cost more than $50,000 exclusive of administrative costs or the amounts of deficiency judgments.

(3) *Civil Works.* Acquisition of real property for civil works projects for which provision has been made by law is authorized in 33 U.S.C. 591–595a and 701. As in the case of military projects, the Secretary of the Army is also authorized to accept donations of lands and materials required for civil works projects.

(c) *Rights-of-Entry.* Rights-of-entry for construction may be obtained by the Division or District Engineer, after he has been authorized by the Chief of Engineers to acquire the land, pending completion of acquisition by purchase or the filing of condemnation proceedings with declaration of taking. In the event the landowner will not voluntarily grant a right-of-entry, an appraisal of the required interest should be made and negotiations conducted on the basis thereof. If the negotiations are not successful, a declaration of taking should be submitted to acquire the necessary rights. The same procedure will be used for acquiring rights-of-entry for other purposes, such as survey and exploration.

§ 644.82 Prerequisites to Acquisition.

(a) *Authority to Begin Acquisition.* Action to acquire a tract of land will not be initiated until the Real Estate Design Memorandum (for all projects except military) or Real Estate Planning Report (for Army, other than Civil Works, and Air Force projects) is approved and specific authorization of the Chief of Engineers, or the appropriate Air Force Regional Civil Engineer (AFRCE), to proceed with the acquisition of the project is received by the Division and District Engineer and funds have been made available. Upon such approval, the Division or District Engineer is authorized to initiate action for the acquisition of the estate approved for the particular project in accordance with the procedures hereinafter set forth.

(b) *Tract Description.* Authority to initiate engineering planning of a project will state the mapping procedures provided for in Chapter 3, EP 405–1–2. It is necessary that land requirements be determined, that the various tracts be identified by ownership, and that accurate tract descriptions be developed. Tract ownership data may be developed by Division or District personnel from the local land records or procured by contract from a qualified local Government official, abstractor or title company representative.

(c) *Title Evidence.* With approval to proceed with acquisition, title evidence contracts can be initiated. The procedures for obtaining title evidence are covered in §§ 644.61 through 644.72. Preliminary title evidence to confirm ownership and status of the title is prerequisite to negotiating for acquisition of the land or interests therein.

(d) *Appraisals.* Concurrently with the procurement of title evidence, the appraisal of the land should begin. The appraisal, when approved, forms the basis for the determination of fair market value which will not be less than the approved appraised value. The appraisal procedures are covered in Subpart B. Normally, one appraisal per tract (ownership) will be obtained; however, in unusual cases such as those which involve novel, unique or controversial appraisal concepts, there is no objection to obtaining more than one appraisal covering the same tract if considered advisable by the Division or District Engineer. When fee tracts are acquired by eminent domain procedures, where the value of the property is between $50,000 and $100,000, only one appraisal need be provided to the Department of Justice so long as it is a contract appraisal; two appraisals will be provided for values exceeding $100,000. Easement tracts acquired by eminent domain procedures, in excess of $50,000, will require two appraisals. At least one of the two appraisals must be made by a contract appraiser. Generally, in these cases, the second appraisal is procured only after negotiations indicate that agreement on price cannot be reached and that acquisition by condemnation will be required. The second appraisal will be procured in order that the Corps can take advantage of any negotiating flexibility that the second appraisal may afford in order to preclude court action. It is also necessary that the appraisals be relatively current in point of time (not to exceed six months) since dependent upon the real estate activity and degree of stability of the local economy, significant changes may take place in relatively short periods of time.

(e) *Environmental Considerations.* Paragraph D3, Attachment 1 to Enclosure 1, DOD Directive 6050.1, dated March 19, 1974, subject: "Environmental Considerations in DOD Actions," requires close environmental scrutiny of real estate acquisitions, disposals and outgrants to determine if said actions constitute a "Major Action Significantly Affecting the Quality of the Human Environment (MASAQHE)." If the action is determined to be a MASAQHE, then an environmental impact statement is required. Paragraph D3 is quoted here for ready reference:

"D. Certain types of actions require close environmental scrutiny because of the possibility that they may either affect the quality of the environment or create environmental controversy. It may be desirable in such cases to have a complete presentation of the environmental aspects of the proposed action available for any interested party. For these reasons, consideration shall be given to documenting the environmental effect of the following types of actions in writing: (The written environmental assessment need not be elaborate for actions in which it is readily determinable that the impact would not be significant; however, negative declarations must be supported by written environmental assessments which generally meet the EIS format requirements.)

. . . . . .

3. Real estate acquisition, disposal and outgrants.

. . . . . .

§ 644.83 Negotiations.

(a) *Acquisition Objectives.* The objective of a land acquisition program is to acquire land at a price that will afford each landowner his constitutional guarantee of "just compensation" as that term has been defined by Federal judicial decisions. The Government must never pay less than just compensation unless a gift is intended. In eminent domain proceedings, the just compensation due a landowner is determined judicially by court award or by settlement prior to trial; in a purchase case, it is determined by negotiations leading to a satisfactory price and agreement with the landowner. While it is recognized that an appraisal is only an informed opinion and does not establish or determine just compensation, it is also recognized that, in negotiating for the purchase of land, an appraisal is the best and sometimes the only reliable opinion of the market value of the land which is supported by a thorough, acceptable analysis of market conditions at the time of purchase. Therefore, in the negotiation for the purchase of land, an approved current appraisal shall establish the minimum price to be paid for the land being acquired by the Corps of Engineers. Negotiations or offers below this price are prohibited except where the property is being acquired on a competitive basis and condemnation is not authorized.

(b) *Negotiating Objectives.* In all cases, it is important that the negotiator receives adequate guidelines and explicit instructions. Promptly, after the amount of the estimated just compensation is established, the negotiator shall make an initial offer in the full amount of the fair market value, shall advise the landowner that the land was appraised for such amount, and shall furnish the landowner a written statement of, and summary of the basis for, said amount. A concentrated effort will be made to acquire the land for that amount. This written statement will be in the form of a letter which may be delivered personally or by first class mail. Such summary will include, as a minimum, the following items:

(1) Definition of the term "fair market value."

(2) An accurate legal description and location identification of the real property and the interest(s) therein to be acquired (legal description and estate may be attached).

(3) The amount of the offer and a statement that such amount:

(i) Is the amount believed by the agency to be just compensation for the property;

(ii) Is not less than the approved appraisal of the fair market value of the property;

(iii) Disregards any increase or decrease in the fair market value caused by the project for which the property is to be acquired, or by the likelihood that the property would be acquired for such project, other than that due to physical deterioration within the reasonable control of the owner;

(iv) Does not reflect any consideration of or allowance for any relocation assistance and payments which the owner is entitled to receive.

(4) An inventory identifying the buildings, structures, fixtures, and other improvements, including appurtenant removable building equipment, which are considered to be part of the real property for which the offer of just compensation is made. The inventory shall include a statement of the utility and condition of said buildings, structures, fixtures, and other improvements.

(5) A description of the appraisal technique used, i.e., market approach,

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income approach, or cost approach, in sufficient detail to explain clearly to the landowner the process by which his property was valued. Thus, as an illustration, where the market approach was used, the explanation should include the number of comparable sales used, their general location and type, the factors considered in adjusting sales of subject property, and any other information which would help the landowner understand what was done to value his property. A statement that comparable sales of similar properties were examined without more explanation is not sufficient. Similar information should be given when any other appraisal technique is used. Unusual cases will require a more detailed explanation.

(6) An identification of land classification categories (do not show acreage breakdown).

(7) If only a portion of a property is to be acquired, an apportionment of the total estimated just compansation for the partial acquisition between:

(i) The amount representing the just compensation for the real property to be acquired;

(ii) The amount, if any, representing severance damages to the remainder, together with a brief narrative description of the cause thereof; and

(iii) In the event "off-setting benefits" are involved, these must be shown, along with a narrative explanation and the landowner shall be given a "person-to-person" explanation by the negotiator.

(8) If the property contain a dwelling, the value of said dwelling and homesite shall be set forth separately, with the statement that this figure will be used in calculating housing relocation benefits under title II of Pub. L. 91-646.

(9) If any building, structure, fixture, or other improvement, comprising part of the real property, has been identified as being owned by a tenant who has the right or obligation to remove it at the expiration of his term, the amount of the value of such building, structure, fixture, or other improvement, being the greater of:

(i) The amount which the tenant's improvement contributes to the fair market value of the real property to be acquired; or

(ii) The fair market value of the tenant's improvement for removal from the real property. The basis of such amount shall be included.

(c) Appraisal reports or the appraiser's analysis (complete breakdown of principal value elements) will not be revealed by the negotiator unless specifically authorized. Cases involving property for which the highest and best use cannot be definitely established, and to which the exceptions mentioned in para. (a) of this section do not apply, will be reported to HQDA (DAEN-REA) WASH DC 20314 for specific instructions. If the land is being donated, initial offers are not necessary, and the appraisal will be significant in negotiations only when considering the conditions under which the donation is made as, for example, an agreed valuation for tax purposes. Negotiations will be based on current market values, which normally means that last offers will be based on appraisals not over six months old. Exceptions will be required in instances of rapid escalation of values when the appraisal is quickly outdated or in instances of a relatively static market or other condition resulting in a minimal change in property values. In such cases an explanation will be necessary.

(d) *Exceptions*—(1) *Corps Employees.* If an employee of the Corps of Engineers has a direct interest in a tract of land being acquired by the Corps for public use, the tract will be acquired by condemnation. In cases of this nature, appraisal reports should be prepared, reviewed and forwarded together with a declaration of taking, with the condemnation assembly. The negotiator's report, of course, will not be included. The Department of Justice will be requested to handle all further matters pertaining to settlement or trial of the case. The Department of Justice has agreed to accept full responsibility for negotiations and approval of settlements or awards in such cases, without contacting any Corps personnel other than the owner of the interests being acquired.

(2) *Members of Congress.* Since, under 18 U.S.C. 431 and 432, members of Congress who hold interests in land that is required for project purposes cannot contract for sale of such interests to the Government, these interests will also be acquired by condemnation. Negotiations for acquisition by purchase or for settlement without trial cannot be conducted by officers or agents of the United States. The determination of just compensation must be made by judicial proceedings. Appraisal reports and the condemnation assembly should be prepared and forwarded as set forth in paragraph (d)(1) of this section.

(e) *Negotiating Guidelines.* (1) The negotiator should be thoroughly familiar with the Division and District negotiating guidelines and should study the background data of the project, consisting of the authorizing act, survey report, project document, design memoranda, etc.; the applicable appraisal reports; tract ownership data; preliminary title certificates; and other related material. He should be entirely familiar with the project and the owner's individual property before initiating negotiations.

(2) The owner shall be provided with available brochures which explain the project and the Pub. L. 91-646 benefits, together with the written statement and summary required by § 644.83(b). The negotiator should explain to the landowner the Government's requirement for the land, the amount of land required, the estate(s) to be acquired, the terms and conditions of the Government's contract form, and the fact that relocation assistance benefits may be available. He should furnish the landowner a copy of a map indicating the boundaries of that portion of his land to be acquired, where the entire ownership is not being acquired or where different estates are being acquired in the same ownership, specifying the estate in each area.

(3) Negotiations will be continued in an effort to obtain acceptance of the Government's offer or a reasonable counteroffer from the landowner, or until it is definitely determined that such a counteroffer will not be forthcoming. It is not intended that negotiations be continued until an unacceptable counteroffer is finally obtained. However, in an effort to obtain a reasonable counteroffer above the Government's estimate, the negotiator will, if necessary, take the initiative in suggesting a series of prices within a range which, in accord with the guidelines discussed in § 644.84, has been predetermined to be reasonable.

(4) The interest of both owners and tenants must be considered and protected. The tenant is a proper party to the transaction, and every effort must be made to obtain the consent of the landowner and tenant as to the price to be paid to the tenant for his leasehold interest. This can be accomplished by the tenant's execution of ENG Form 1564, Consent to Offer to Sell Real Property, which shall then accompany the owner's offer to sell. In cases where the tenant executes this form, payment for the tenant's interest can be made to him in the closing of the purchase transaction. This procedure will be followed whenever possible. An exception is permitted in those cases where the landowner and tenant prefer to handle the matter as a private transaction between themselves. In such cases, it should be determined that a satisfactory agreement has been made by the landowner and tenant. Consideration should be given to any interest which the tenant may have in growing crops. This procedure is also applicable to any third party having an interest in the property, except through severance of a subsurface estate.

(5) Negotiations with landowners will be conducted in a fair and courteous manner. The negotiator must not, under any circumstances, resort to coercion or threats of condemnation.

(6) The negotiator has no authority to obligate the Government in any manner beyond the contract form. He must refrain from oral promises or understandings and include all terms and conditions in the contract form.

(7) Although appraisal reports cannot be made available for inspection by a landowner, the various elements of value considered by the appraisers may, and should, be discussed with the landowner to satisfy him that all elements of compensable values and damages have been considered in arriving at an overall value for the property being acquired. Care will be exercised during any discussion not to reveal specific amounts related to any elements considered in the appraisal, except the acquisition cost assigned to the dwelling for purpose of calculating replacement housing payment under Section 203, Pub. L. 91-646.

(8) Any interest in a tract of land sought to be acquired, or any type of relationship with the owner, disqualifies the negotiator from participating in negotiations for the acquisition of that particular tract.

(9) An appraiser is not, under any circumstances, permitted to negotiate for the acquisition of a tract of land for which he has prepared the appraisal or reviewed it as reviewing appraiser.

(f) *Discussions With Landowners.* In order to avoid the creation of negotiating patterns, and keeping in mind that counteroffers must be justified as being just and reasonable, discussions with landowners should be conducted without disclosing the extent of the delegations and redelegations of authority to accept counteroffers. However, during negotiations on individual tracts, the landowners must be advised that, in the event of condemnation, the deposit will be in an amount no less than the approved appraised value, since the question of value cannot be resolved by negotiations. It must further be made clear that this advice is not in the nature of a threat, but is an explanation of the statement of policy directed by the Congress and the law. The negotiator will also inform each owner that offers and counteroffers made during negotiations are made without prejudice in the event of condemnation. The negotiator will make a notation on the Negotiator's Report to the effect that he has so informed the owner.

(g) *Obtaining the Written Counteroffer; Preparation of Negotiator's Report.* If the negotiator considers that a counteroffer in excess of the approved appraised value is in the amount which should be considered for acceptance, the counteroffer will be reduced to writing on ENG Form 42, Offer to Sell Real Property, or on ENG Form 2970, Offer to Sell Easement, and be properly executed by the landowner. In such cases, a complete written record of negotiations with respect to each tract or ownership, as appropriate, will be maintained by means of ENG Form 3423, Negotiator's Report, Part I. This record will state the chronological history of negotiations, all elements considered in evaluating the landowner's final counteroffer, and the justification for such recommendation in accordance with § 644.84. The justification will be fully recorded in ENG Form 3423A, Negotiator's Report, Part II, which is a separate page of this report, and which will be removed in the Office of the Chief of Engineers prior to submitting the counteroffer assembly to higher authority for approval. Final action on the counteroffer, either by the Secretary of the Army, the Chief of Engineers or under the delegated authority to Division and District Engineers, will be entered on this record as soon as that information is available.

§ 644.84 Counteroffers.

(a) *Consideration of Counteroffers.* In negotiations with landowners, if agreement cannot be reached with a landowner as to the purchase price established by the appraisal, the lowest price demanded by the landowner may be considered by the Division and District Engineer, and the Chief of the Real Estate Division, on the basis of the following factors:

(1) *Variations in Appraisals.* In the usual case, the Corps will have the opinion of only one appraiser with respect to the market value of the particular tract of land. It must be recognized that the opinion of a second equally competent appraiser might be higher or lower than that of the appraiser who appraised the property. Hence in considering counteroffers of landowners, Division and District Engineers should keep in mind that two equally competent appraisals may reflect reasonably divergent opinions of value as to the same property. Instances requiring two appraisals are covered in § 644.82(d).

(2) *Built-in Costs, Prior Counteroffers, Settlements and Liability Risks of Proceeding to Trial.* It is recognized that there are certain Government administrative costs and liability risks involved when property is condemned by the United States and the land value is judicially determined. These items are definite in character but the attendant costs will vary. "Built-in" costs of proceeding to trial include, but are not limited to, the following items: Salaries of all Government personnel participating in trial preparation, pre-trial hearings, and the actual trial; cost of an additional appraisal(s); witness fees of contract appraisers employed by the Corps of Engineers or the Department of Justice; travel costs of all Government personnel and consultants participating in trial preparation, pre-trial hearings, and the actual trial; and cost of preparing trial documents and exhibits. Consideration should also be given to prior counteroffers which have been accepted and settlements approved prior to trial. "Liability risks" of proceeding to trial are the amount of the anticipated award over and above the appraised value, taking into consideration probable testimony on behalf of the Government and the landowners, as well as the history of condemnation awards in the Federal court jurisdiction in which the lands are located, and the amount of interest on a deficiency judgment which would result from the anticipated award. Serious consideration of the above factors may justify a recommendation for authority to accept a counteroffer which otherwise would appear to liberal.

(3) *Non-Compensable Elements of Value.* Elements of value based on consequential damages or speculative values, as defined by the Federal courts, may not be recognized in considering a landowner's counteroffer. However, even though a landowner's counteroffer might include non-compensable items of value, favorable consideration of the counteroffer may be given if it can be justified on the basis of variances in appraisals, built-in costs, and liability risks of proceeding to trial.

(4) *Value of Reserved Items.* The salvage value of improvements and the value of crops and/or timber reserved by the landowners, as provided in § 644.86 (g), (h), and (i), will not be included in the amount of the counteroffer in determining the excess of counteroffers over appraised values when applying the dollar and percentage limitations in the delegations of authority to Division and District Engineers for acceptance of counteroffers. The determination of the excess will be made on the basis of the appraised value of the interests being acquired (including the value of the reserved items) compared to the cash payment which will be made to the landowner if the Government accepts his counteroffer. However, this method of analyzing the counteroffer is intended for use only in determining the limitations of authority. The overall transaction must be in the interest of the United States and not afford an unwarranted windfall to the vendor.

(b) *Application and Limits of Delegated Authority.* The negotiating procedures outlined herein will apply to all acquisitions by the Corps of Engineers for the Army (military and civil), Air Force, Department of

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Energy (DOE), National Aeronautics and Space Administration (NASA), and other Federal agencies which utilize the services of the Corps for acquisition of real estate. Delegations of authority to Division and District Engineers and to the Chiefs of their Real Estate Divisions to accept offers in excess of the appriased valuation have been made. Offers which do not exceed the approved appraised value may be accepted by authorized Division and District personnel regardless of the amount. Other offers will be handled as outlined in the paragraphs which follow.

(c) *Exercise of Delegated Authority.* The approval of a counteroffer over the appraised value, but within the authority redelegated to Divisions and Districts, will be evidenced by the Division Engineer, the District Engineer, the Chief of the Real Estate Division, or the incumbent of the position to which redelegations have been made, in one of the following manners:

(1) Manually accepting, on behalf of the United States, the offer to sell, as provided in § 644.87; or

(2) Manually executing a dated notation of approval of the purchase price, to be placed in the tract file, preferably on the original of the Negotiator's Report (§ 644.83(g)).

(d) *Submission of Counteroffers to the Chief of Engineers.* Recommendations for the grant of authority to accept counteroffers which are considered reasonable, but which cannot be accepted by the Division Engineer, the District Engineer, or the Chief of the Real Estate Division, within the limitations of delegated authority, will be submitted to HQDA (DAEN-REA) WASH DC 20314 for consideration. Negotiator's Reports, prepared in accordance with § 644.83(g) will accompany this submission; the contents thereof need not be repeated in the transmittal letter or in forwarding indorsements. The assembly will consist of the forwarding correspondence and the Negotiator's Report, with any additional material needed to support the recommendation of the Division and District Engineer. An analysis should be made of this offer as compared with other counteroffers accepted for the project, as well as with results in condemnation cases settled before trial. Signed offers will not be forwarded unless they contain deviations requiring approval by the Chief of Engineers. Appraisal reports are helpful and may be necessary reference for proper consideration of the recommendation. In the event the appraisal report was approved by HQDA (DAEN-REA), the forwarding letter should refer to the approval correspondence and data. It will not be necessary to enclose copies of the appraisal report. Where only a portion of an ownership is required, information should be furnished in the Negotiator's Report or in the transmittal correspondence (1) as to whether or not the remainder portion is considered to be an uneconomic remnant and (2) if so, as to whether or not an offer was made to acquire the entire property. Further, a statement is required as to whether or not it is considered that the acquisition will have any adverse effect on the acquisition of the remaining land required for the project.

§ 644.85 General Negotiation Procedures.

(a) *Provisions of Military Construction Appropriation Act.*

(1) Section 108 of the Military Construction Appropriation (MCA) Act of 1978 (Pub. L. 95-101) provides that no part of the funds provided in the Act shall be used for purchase of land or easements in excess of the value as determined by the Corps of Engineers, except:

(i) Where there is a determination of value by a Federal Court; or

(ii) Purchases negotiated by the Attorney General or his designee; or

(iii) Where the estimated value is less than $25,000; or

(iv) As otherwise determined by the Secretary of Defense to be in the public interest.

(2) The above wording, except for paragraph (a)(1)(iv) of this section, constitutes a limitation on accepting or submitting a recommendation for approval of a counteroffer in excess of the appraised value. Paragraph (a)(1)(iv) brings military acquisition within the general acquisition policy required under Pub. L. 91-646. Future MCA Acts should be carefully examined to determine if any limitations on acquisition have been restored.

(b) *Local Cooperation Projects.* The participation of a non-Federal agency in a federally-assisted project will be in accord with Section 221 of Pub. L. 91-611 and Subpart J (to be published). Acquisition of real property by a non-Federal agency will be in accord with Sections 210 and 305 of Pub. L. 91-646 and this chapter.

(c) *Negotiations on the Basis of Ownership; "Package-Deal" Negotiations.* (1) Normally, negotiations for all interests in all tracts which are being acquired from one parent ownership will be negotiated at one time. These tracts will usually consist of all those to which the same basic tract number has been assigned. Exceptions may be made only where negotiations for some of the tracts in a series must be accomplished to obtain possession, or for other critical reasons. Piecemeal acquisition must be avoided if at all possible.

(2) When more than one tract is operated by the owner as a unit, negotiations should take place on the two or more tracts or groups of tracts, whether or not they bear the same basic tract number.

(3) In cases where an owner insists on a "package-deal" negotiation on all tracts in the same ownership, or having at least one common owner, the negotiations will be considered as one transaction.

(4) Tracts which are in the same ownership, but which are not operated as a unit, should, unless the owner desires otherwise, be negotiated separately, on the basis of the separate appraisals which would be prepared in this type of case.

(5) Under subparagraphs (1), (2), and (3) of this paragraph, the limitations of authority to accept counteroffers will be applied to the entire transaction.

(d) *Acquisition by Condemnation if Negotiations Fail.* As soon as it is determined that a satisfactory agreement cannot be reached after full consideration of all reasonable counteroffers received, action will be promptly taken to acquire the property by condemnation proceedings, including the filing of a declaration of taking, in order to make funds available to the landowner and to maintain the project acquisition schedule. The landowner should be advised in writing, sufficiently in advance of the submission of the condemnation assembly to the Chief of Engineers, that condemnation proceedings will be recommended and the reason therefor. Condemnation assemblies will include copies of the Negotiator's Reports or other written records of negotiations. The estimated compensation to be deposited in the registry of the Federal District Court with the filing of a declaration of taking will be in the amount of the approved appraisal.

§ 644.86 Exceptions and Reservations.

(a) *General.* Prior to the enactment of Pub. L. 91-646, the Corps encompassed a very generous policy of priority leasing with respect to former owners and tenants, in order to ease the burden of people who had to relocate because of the Corps' projects. Recognizing the inadequacies of the well-intentioned attempts by acquiring agencies to make whole the former landowner or tenant, the Congress enacted Pub. L. 91-646 which was approved on January 2, 1971. It would appear that the Congress intended that such law provide for the fair and equitable treatment of persons who are displaced, without having to rely on interim measures, such as priority leasing, to ease the inevitable relocation. In House Report 91-1656, the Committee on Public Works of the House of Representatives noted the likelihood that adequate housing may not be available readily and indicated

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this as its reason for including the provision in the law that satisfactory replacement housing must be available before displacement. In view of this, it is incumbent on the District Engineer to be opportune in seeking out replacement housing and to be judicious in the early relocation of owners and tenants before market changes eliminate any available supply of replacement homes. It is also essential that the District Engineer be diligent in providing the required relocation assistance advisory services and benefits authorized by the law.

(b) *Possession by Government.* It will be the objective of the District Engineer to have the premises vacated and to cause unneeded improvements to be removed at the earliest practicable date and conform to the Congressional intention expressed above. In addition to the above, reasons for this objective are:

(1) To provide for the expeditious payment of benefits to former owners and tenants;

(2) To complete administration of the actual relocation of owners and tenants in a timely manner;

(3) To avoid maintenance and security problems with respect to acquired improvements;

(4) To prevent vandalism, trespassing and poaching with respect to acquired improvements;

(5) To avoid any implication that former owners or tenants may be permitted to remain indefinitely on the federally acquired property;

(6) To cause land to be leased on the basis of the most practicable size and configuration rather than on the basis of the size of the units acquired;

(7) To permit the general public to bid for the lease of federally owned land rather than restricting the privilege of leasing to the former owner or tenant; and

(8) To avoid a backlog of incomplete actions when construction or flooding is imminent or the land is otherwise required.

(c) *Possession Reserved to Former Owners and Tenants.* It is considered that the policy of granting priority leases to former owners and tenants has been overridden by the enactment of Pub. L. 91-646. Accordingly, this policy is being phased out, and where applicable, the acquisition agreement will set forth the dates agreed upon for the vacation of the premises by the owner and tenant without commitments, express or implied, as to the leasing of the premises after such dates. Procedure for providing for vendor's continued possession after the Government's acquisition is covered in Paragraph (1) of this section.

(d) *Outstanding Rights.* (1) When the United States is acquiring title subject to outstanding rights, the offer will differentiate between:

(i) Property which the vendor is excepting or rights which he is reserving and which are created for the first time; and

(ii) Rights which third parties have acquired in the past, generally referred to as outstanding rights in third parties.

(2) Exceptions or reservations of rights which the vendor may retain, without interfering with the construction or operation of the project, will be set forth in the offer and deed by a clause following the description, beginning with the words: "Excepting • • •" or "Reserving • • •." Any other outstanding rights, subject to which the United States is acquiring title, held by third parties will be set forth in the offer and deed by a clause, following the description, beginning with words, "Said premises are conveyed subject to • • •." Negotiations with the surface owner will include the owner's interest in the subsurface, unless acquisition of a lesser interest has been authorized by directive or specific approvals. These negotiations will not include interest severed and outstanding in third parties by purchase or lease, unless the surface owner agrees to remove the outstanding interest or agrees to obtain a subordination from the holder of the outstanding interest if that is consistent with the acquisition plan. If negotiations with the surface owner are successful, an Offer to Sell will be obtained, reciting the outstanding interest in the "Subject to" paragraph of the form, unless the surface owner has agreed to remove the outstanding interest (or obtain a subordination, if appropriate), in which case the Offer to Sell must recite specifically that the surface owner is assuming this obligation. In order to carry out the requirements of this paragraph, the title evidence must be examined prior to negotiations or, in any event, prior to acceptance of the Offer to Sell.

(e) *Right to Repurchase Prohibited.* In no case will an offer be obtained in which the vendor reserves the right to repurchase the property. Such a reservation would be contrary to the Federal Property and Administrative Services Act of June 30, 1949, 63 Stat. 377, 40 U.S.C. 471, et seq.

(f) *General Reservation Guidelines.* (1) Reservations of the right to remove crops, timber, buildings, and improvements during a specified period will not be permitted without express approval of the Division or District Engineer on civil works projects, the Army or Air Force using service on military projects; or the Federal agency, if other than the Army or Air Force, for which the land is being acquired.

(2) At the time of the approval of the acquisition by the Chief of Engineers, a determination will generally have been made as to whether subsurface rights and/or water rights will be acquired or left outstanding. Acquisition will be on the basis of such determination and as outlined below. Lands will be acquired subject to minerals, oil and gas rights or other similar interests severed and outstanding in third parties by purchase or lease and as approved by the Chief of Engineers.

(3) Where it is not possible to acquire or subordinate an outstanding interest by negotiation and the interest will not interfere with the operation of the project, consideration may be given to obtaining a waiver from the Office of the Chief of Engineers on the basis of taking a calculated risk rather than resorting to condemnation (Paragraph (k) of this section). Waivers will be considered on a tract-by-tract basis or on a project segment basis. Since such waivers involve several elements of the Office of the Chief of Engineers (Civil Works or Military Construction as well as Real Estate), the basis for the calculated risk must be fully explained.

(4) Concurrently with the negotiations to acquire from the surface owner, negotiations should be opened with the owner of the subsurface rights or other interests severed and outstanding in third parties by purchase or lease and required for the project, unless these interests are held in "block ownership." Block ownership exists where a person, corporation, or other entity owns subsurface or other interests in connection with more than one surface tract and in sufficient amount for the entire interest holding to have added value, for operational or other reasons, because it is in a block ownership. In other words, block ownership exists when the acquisition of a part of the block would require the assessment of severance damage, even if the value of the interest or the amount of the severance damage would be in a nominal amount. On this basis, subsurface or other interests need not be contiguous to constitute a block ownership. Block ownership interests will not be acquired (or subordinated) piecemeal.

(5) Acquisition of the required interests, including subordination, held in block ownership should be started as soon as the extent of an operational unit is determined. As stated in Paragraph (f)(4) of this section, all interests in a tract of land should be acquired at one time or as close in time as possible. Dual acquisitions of entire areas, one for surface rights and then for subsurface interests, should be avoided and acquisition of separate interests should be scheduled to coincide.

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(g) *Reservation of Buildings and Improvements.* The reservation by vendors of the right to remove buildings and improvements will be permitted under the following conditions:

(1) Where the Division or District Engineer, in civil works projects, the using service in Army and Air Force projects, or the Federal agency, if other than the Army or Air Force, for which the land is being acquired, has determined that they will not be needed for the purpose of the project;

(2) The consideration to the Government for the reservation will be an amount negotiated at not less than the appraised salvage value of the building and improvements which are reserved, and such amount will be deducted from the negotiated price at the time of negotiation prior to execution of the offer;

(3) Where a reservation is permitted, the following clause will be inserted in the offer, following the description of the land:

Excepting and reserving to the Vendor the right to remove (enter description of buildings) on or before —— 19 —, which the Vendor agrees not to relocate on other land to be acquired for the project; provided, however, that, in the event that the said buildings and improvements are not completely removed on or before said date, the right of removal shall terminate automatically, and the United States shall have a good and indefeasible title to said buildings and improvements which remain without notice to the Vendor; and provided further that, in the event said buildings and improvements are relocated on other land to be acquired for the project, the United States shall have good and indefeasible title to said buildings and improvements without notice or further compensation to the Vendor.

The date on which the buildings or improvements must be removed must be fixed so that there is no interference with contruction or carrying out the mission of the project. The date for the removal should allow a reasonable time for removal of the improvements, usually not more than 90 days, except that for valid reasons the Division or District Engineer may grant an extension of time for removal. The right to remove such buildings cannot be prolonged indefinitely and certainly such right cannot survive the limited right of possession reserved to former owners and tenants as provided in Paragraph (c) of this section.

(h) *Reservation of Growing Crops.* (1) The reservation by the owners of the right to harvest and remove growing crops should be encouraged in order to conserve land acquisition funds and to avoid the costs incident to disposal of crops by the Government, whenever there is a probability that possession of the land will not be required prior to the harvest season.

(2) Where a reservation is permitted, the following clause will be inserted in the offer, following the description of the land: "Reserving to the vendor the right to harvest all of the growing crops located on the above described land on or before —— 19—. In the event the crops are not harvested on or before said date, the right of removal shall terminate automatically, and the United States shall have a good and indefeasible title to said crops, without notice to the vendor." the date on which the crops must be removed must be fixed so that there is no interference with construction or carrying out the mission of the project.

(3) The consideration to the Government for the reservation will be an amount not less than the appraised value of the crops as of the date of surrender of possession as disclosed by an approved appraisal report, and such amount will be deducted from the purchase price at the time of preparation and execution of the offer.

(4) Where a tenant has an interest in growing crops, the value of his interest must be fixed by use of ENG Form 1564, Consent to Offer to Sell Real Property, which provides that the value of the tenant's interest, as agreed upon by the landowner and tenant, will be paid from the purchase price for the land. The use of this form not only protects the tenant but, in addition, provides a simple method for extinguishing rights which the United States is legally bound to recognize. Where a tenant wishes to reserve the right to remove crops, it must be done in the name of the landowner, and in like manner. To accomplish the foregoing, any other form is satisfactory, in lieu of ENG Form 1564, as long as closing requirements are satisfied.

(i) *Reservation of Timber.* (1) The reservation of the right to remove timber by vendors will be permitted only with the express approval of the Division or District Engineer, with the concurrence of the using service in cases other than civil works projects of the Corps of Engineers.

(2) Reservation of the right to remove timber will be handled in substantially the same manner as that described for the reservation of buildings and improvements. If owned by a third party, ENG Form 1564 will be used in the same manner as for crops unless the timber interests are held in block ownerships. The consideration to the Government for the reservation will be an amount not less than the appraised value of the timber, giving full weight to any unusual difficulty in harvesting and transporting which are caused by the size, shape and location of the stand reserved, time limitations for removal, clearing requirements over the above those normally involved in prudent harvesting, and similar factors. If necessary, the stand reserved will be re-appraised on this basis. An amount not less than this appraised value will be deducted from the purchase price at the time of preparation and execution of the offer.

(3) Where a reservation is permitted, the following clause will be inserted in the offer following the description of the land: "Reserving to the vendor the right to cut and remove on or before —— 19—, all trees in excess of —— inches in diameter at breast height (DBH) located on the above-described land. In the event the timber is not removed on or before said date, the right of removal shall terminate automatically, and the United States shall have a good and indefeasible title to said timber, without notice to the vendor."

(j) *Coal, Oil, Gas or Other Minerals.* Acquisition of land or interests therin for project purposes will usually include the subsurface as well as the surface, except in areas where minerals have more than a nominal value. When the mineral, oil and gas rights have an identifiable value or are the subject of separate estates in the land, such mineral, oil and gas rights will not be acquired except where the development thereof would interfere with project purposes, but mineral rights not acquired will be subordinated to the Government's right to regulate their development in a manner that will not interfere with the primary purposes of the project, including public access, and not be inimicable to the environment. This is covered in more detail in Subpart A. It is essential, however, in many acquisitions that the subsurface rights be acquired. In others, where these rights need not be extinguished, provision must be made in the offer the deed to subordinate such rights to project requirements, by excluding the owners of such rights from the area, or limiting exercise of such rights so that they will not interfere with the primary purposes of the project, including public access. The following guidelines are applicable in these cases:

(1) Where it has been determined that subsurface rights in the vendor, or outstanding in third parties, must be acquired, extinguished or subordinated, such arrangements will be made in the course of obtaining an offer for the surface or subsurface interests. Where the negotiations for acquisition, extinguishment or subordination of subsurface rights will be delayed, and it is considered advisable to proceed with surface acquisition to keep pace with project requirements, appropriate recommendations and justification will be submitted to HQDA (DAEN-REA) WASH DC 20314 for approval.

(2) If the owners of the surface and subsurface rights are agreeable, the separate interests can be acquired in a single transaction by use of ENG Form 1564, Consent to Offer to Sell Real Property. This method is the most desirable one, and, if used, the purchase price in the offer will cover both the surface and subsurface interests and the offer will not be taken "subject to" the subsurface rights.

(3) Subordination of the subsurface interest based upon the value of the minerals in place and which will allow continued production by the mineral owner or lessee must be pursuant to such terms as will safeguard the Government's interest and preclude a windfall to the mineral owner or lessee. Value of the minerals in place will not exceed the recoverable portion of said minerals using agreed upon production methods. See Subpart A for detailed treatment in the section pertaining primarily to Real Estate Design Memoranda.

(4) When the third-party owner of subsurface rights refuses to enter into an agreement as contemplated in subparagraph (2) of this paragraph, the title to the surface estate may be acquired separately, and the subsurface rights outstanding in third parties acquired as a separate transaction. The offer for the acquisition of the surface estate will provide for the conveyance of all interests of the surface owner in and to the subsurface estate, as well as all surface rights, and provide for taking "subject to" the subsurface rights outstanding in third parties. In such cases, the negotiations described in §644.63 will be conducted on the basis of the approved appraisal, less the appraised value of the outstanding subsurface rights.

(5) Where it has been determined that the subsurface rights and interests therein need not be acquired, but the owners of such rights must be excluded from the area, and the owner of the surface is the owner of the subsurface estate, the offer will contain a clause providing that he relinquish, for the period that title to the tract is vested in the Government, all rights to enter upon the lands covered by the offer or that he will limit entry and exploration in a named manner so as not to interfere with the operation of the project. If third parties own subsurface rights or interests, a similar waiver of the exercise of such rights must be procured from all third parties having any interest in the subsurface estate, whether as lessees or assignees. The waiver by third parties must be obtained at the time the offer is procured for the surface estate, unless these subsurface interests are held in block ownership.

(k) *Title Exceptions—Administrative Waivers.* (1) A distinction should be made between those title defects, objections, liens or encumbrances which, if not eliminated, might possibly defeat or adversely affect the Government's title, and those interests in the property owned by parties other than the grantor. All encumbrances, defects, and outstanding interests which cannot be waived under Paragraphs (k) (2), (3), and (4) of this section must be eliminated or a waiver of the defect secured from the Attorney General.

(2) Title may be taken subject to an outstanding third party interest which has been administratively waived. Requests for administrative waivers shall be submitted to HQDA (DAEN-REA) WASH DC 20314 for consideration, together with recommendations from Division and District Engineers. The recommendation for waiver should be coordinated with the using agency, if other than Department of the Army land (military or civil works), and should be accompanied by a certificate signed by the Chief, Real Estate Division or the Chief Appraiser, certifying that the outstanding interest has no contributory value to the estate being acquired and will not interfere with the purpose for which the property is being acquired.

(3) It has previously been administratively determined that all lands for Department of the Army (military or civil works) or Air Force projects may be acquired "subject to existing easements for public roads, public highways, public utilities, railroads and pipelines," and "to the reservations, exceptions and any other outstanding rights contained in or referred to in patents issued by the United States," and also "to water rights, claims or title to water, if any, or other similar title exceptions." A decision as to whether any of these exceptions should be eliminated is the responsibility of the Division or District Engineer, after coordination with the using service if other than the Department of the Army. If such interests are to be left outstanding, they should be included in the "subject to" clause of the Offer to Sell.

(4) Offers to Sell may be accepted subject to subsurface mineral interests owned by third parties in accordance with §644.86(d). In such case, the "subject to" clause of the Offer to Sell should recite the specific interest which is being left outstanding. Where it is not possible to acquire or subordinate an outstanding subsurface interest by negotiations and the outstanding interest will not interfere with construction, operation or maintenance of the project, consideration may be given to obtaining a waiver from HQDA (DAEN-REA) WASH DC 20314 on the basis of taking a calculated risk rather than resorting to condemnation. Such waivers may be considered on a tract-by-tract, segment-by-segment, or project basis. Where a number of small mineral interests in a project are to be recommended for waiver, it is preferable that the recommendation be submitted on an entire project or group of segments at one time. Such a recommendation should specifically identify the subsurface mineral interests which are to be left outstanding, together with the estimated value of each interest, and should be accompanied by a map(s) on which the areas affected by the outstanding interests have been outlined. The basis for the calculated risk should be explained fully.

(l) *Possession Reserved to Vendor.*— (1) The objective in acquisition is to obtain possession for project purposes at the earliest practicable time. It is recognized, however, that there are occasions when possession by the Government may be delayed and provision must be made for continued possession by the former owner in order to meet the requirements of the Government's acquisition policy and to further soften the impact of the Government's acquisition. The retention of possession will enable the owner-occupant of farm land, or residential property, to receive his purchase money and remove improvements reserved by him, and permit occupants who may be former owners or tenants the privilege of harvesting growing crops and sufficient time to relocate to other locations. Accordingly, the Division or District Engineer may make provision for the former owner, occupant, and/or his tenant(s) to remain in possession of the land under the terms and conditions as follows:

(i) If the tract is to be acquired by direct purchase, the provision for retention will be written into the offer (ENG Form 42, ENG Form 2970, or ENG Form 1564) and will read substantially as follows: "Notwithstanding the provisions of paragraph —— of this offer, (and/or consent to option) the occupant (vendor and/or his tenant) now in possession of the property, in consideration of the protection and maintenance of the land, buildings, and structures, and protection of the property against loss by fire, waste, or other causes, to which the occupant hereby agrees, reserves the right to occupy the property until ————. Such occupancy is subject to revocation by the (Division) (District) Engineer at any time by giving —— days notice in writing to the occupant if possession of the property is required by the United States; and provided further that the vendor-occupant or his tenant will remove no improvements or timber unless otherwise provided herein."

(ii) When the tract is to be acquired by condemnation, the circumstances of the right to remain in possession, which has been established as herein-

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after set forth, will be fully described in the correspondence forwarding the condemnation assembly to HQDA (DAEN-REA-C) WASH DC 20314. The retention of possession without payment of rent is directed to the benefit of the occupant of the property with some property maintenance consideration to the Government. This procedure will not be used to permit non-occupant owners a means of retaining possession without payment of rent and at the same time collect cash rents or unreserved crop rents from tenants.

(iii) When the land being acquired is utilized by the owner and/or tenant for agricultural or related purposes, a period of possession may be allowed, if consistent with project requirements, to permit the crop owner to harvest growing crops, and to avoid abrupt dislocations. The period of possession reserved in the offer, or for which request for the order of the court is deferred in declaration of taking cases, should generally be co-extensive with the crop season or the date that, by custom in the community, leases of such properties ordinarily expire: *Provided, however,* That such period does not exceed 12 months from the date title vests in the Government. Reservation of possession or delay in entry of order of possession that will interfere with the Government's requirements for use of the land will not be allowed.

(iv) In the case of owner-occupied residential property other than farm residences, possession may be permitted for a sufficient time to allow orderly relocation, but no longer than 12 months after title vests in the Government.

(v) In connection with the acquisition of commercial, industrial, tenant-occupied residential property other than residences occupied by farm tenants, and special use properties, ordinarily the procedures of reserving possession to the vendor by a clause in the offer, or deferring the right to possession under a declaration of taking proceeding, should not be utilized. In such cases, after title vests in the United States, the continued possession of the property by vendor or tenant should be formalized by an outlease from the Government. However, if in the opinion of the Division and District Engineer a reservation for possession in the offer or deferral of order of possession is desirable in certain instances from a public relations standpoint or for other compelling reasons, such cases will be forwarded to HQDA (DAEN-REA) WASH DC 20314 for consideration.

(vi) The reservation of use and occupancy in the vendor and/or tenant under the terms of the offer or deferment of possession must be based on adequate consideration to the Government. It is anticipated, however, that items such as the vendor's maintenance of the land, buildings, and structures, his protection of the property against loss by fire, waste, or other causes, and the fact that his possession can be revoked within a short period of time, will, in most instances, offset any rental for the period of the reserved occupancy or deferred possession which might otherwise be due. However, if possession is reserved by the vendor in the acquisition of commercial, industrial, and special use properties, or other type of property having a potentially high income factor, the fair rental value for the period of reserved use or deferred possession must be deducted from the agreed purchase price.

(vii) Special provisions for protection of the Government, such as those appearing in ENG Form 1366, Department of the Army Lease—River and Harbor or Flood Control Property, will be added to the reservation clause in the offer in cases where, in the opinion of the Division or District Engineer, they are necessary or desirable. If the case is not to be closed by direct purchase, the letter to the vendor notifying him of the Goverment's intention to file a declaration of taking will set forth the fact that possession is to be deferred and for what period, and will contain a statement as to the Government's expectation that the vendor will properly maintain and protect the premises, and perform such other acts (or refrain from such acts) as deemed advisable by the Division or District Engineer. Both the letter of notice and the reservation clause in the offer will provide that the right to possession may be revoked on 30 days notice to the vendor.

(2) It is recognized that farmers may experience difficulty in finding substitute farms needed for their livelihood within one year, and other owners and tenants may encounter difficulty in relocating within one year. Therefore, the District Engineer, as an exception to the procedure in paragraph (l)(1) of this section may lease properties to former owners or tenants at the fair market rental value for up to one additional year where the circumstances justify such action, and, in such event, the record will contain the reasons justifying the action. Any occupancy by the former owner or tenant beyond 12 months from the date the property was acquired by the Government will be covered by a lease and will provide payment of the fair market rental value of the property leased.

(3) The District Engineer, through channels, may request the Chief of Engineers to grant exceptions to this policy where unusual circumstances warrant such consideration. In keeping with the intent of this action, it is hoped that such cases will be minimal in number.

(4) The following will apply with respect to advance land acquisition projects. Former owners and tenants whose properties were acquired *prior to August 1, 1972* will be allowed to remain on the property by lease on a year-to-year basis until the establishment of a land management use plan and thereafter, if the property is available for leasing, for a single five-year term. Former owners and tenants whose properties are acquired *after August 1, 1972* will be allowed to remain on the property by lease on a year-to-year basis until construction commences: *Provided,* The property is available for leasing. After construction commences, if the property is not immediately required for project purposes, such former owners or tenants will be allowed to remain on the property by lease for an additional two years. Continued possession of properties acquired after the date construction commences will be governed by the procedure outlined in paragraph (l)(1) of this section.

(m) *Schools, Cemeteries, and Facilities of State and Local Governments.*—ER 1180-1-1, Section 73, provides for the discretionary relocation by the Chief of Engineers of schools and other local governmental facilities, and acquisition of the sites under Section 111 of Pub. L. 85-500. Section 73 will be followed in the acquisition and relocation of cemeteries. Where the school was formerly a part of an abutting tract, offers for the abutting tracts will contain a clause whereby the vendor or vendors agree to quitclaim all right, title, and interest whether vested or reversionary, in and to the school site in executing the deed to the United States.

(n) *Reservations Prior to Completion of Offer.*—Where immediate possession of areas is necessary and is obtained by right-of-entry or the filing of condemnation proceedings, owners often wish to move, taking with them buildings and improvements, or wish to harvest timber or crops, prior to any offer by the Government for the sale of their land. This action is authorized only under the following conditions:

(1) Appraisals of all the land, buildings, improvements, timber, and crops of the particular tract are completed and approved.

(2) A determination is made by the Division or District Engineer that the buildings, improvements, and timber will not be needed, and the harvesting of timber or crops will not interfere with construction or operation of the project.

(3) ENG Form 1565, Agreement for Removal of Property, will be obtained from all persons having an interest in the property to be removed. This agreement will recite the amount which the owner is willing to have deducted from the value of the tract as a whole for the right of removal, which may not be less than the appraised salvage value of the buildings, improvements and timber, and the appraised value of the crops, as set out in Paragraphs (g), (h), and (i) of this section.

(4) ENG Form 1565 will be obtained and accepted by the Division or District Engineer, or the Chief of the Real Estate Division.

(5) If an offer is obtained later, an appropriate reservation must be inserted in the Offer to Sell to reflect the prior agreement relative to reservations and removals of property and the agreed value of same.

(6) If it is necessary later to file a declaration of taking on the particular tract, a copy of the agreement (ENG Form 1565) will be forwarded with the correspondence transmitting the declaration of taking assembly for use of the Department of Justice in the court action. The agreement by its own terms will serve as a stipulation as to the amount to be deducted from the ultimate award for the right of removing buildings, improvements, timber or crops.

(o) *Loss or Damages to Improvements, Timber, or Crops*—(1) *Insurance Protection Against Risks.* The Government does not carry property insurance of any nature. Vendors, however, may be advised as to their liability for certain losses, and that insurance protection against such risks is optional. When buildings, improvements, timber, or crops on land being acquired by the United States are protected by insurance in effect when acquisition activities are initiated, the time and method of cancellation and negotiation for refund on premiums paid will be the responsibilities of the vendor. In order to avoid double payments to vendors, any amounts actually collected by vendors under the terms of the insurance policies for damage or loss occurring after acceptance of the offer by the Government will be deducted from the purchase price, regardless of when title is vested in the United States or the right to possession is exercised.

(2) *Fixing Liability*—(i) *Prior to Vesting Title in Government.* Buildings, improvements, timber, or crops on land acquired by the United States by purchase or condemnation remain the property of the vendor until title has been vested in the United States by delivery of a deed of conveyance or filing of a declaration of taking, and loss or damage thereto caused by fire, acts of God, theft or vandalism, before such vesting of title, will be borne by the vendor, except as provided below.

(ii) *Possession by Government.* When the right to possession has been exercised by the United States under an accepted Offer to Sell, condemnation proceeding, or possession has otherwise been surrendered to and accepted by the United States, losses arising from damage to buildings, improvements, timber, or crops by fire, acts of God, theft, or vandalism will be borne by the United States. If, however, prior to vesting of title, the right to possession has been exercised, or surrender has been made and accepted only to part of the property, and the vendor continues to use buildings and/or to cultivate or harvest crops or timber, such loss will be borne by the vendor as to buildings, timber or crops retained.

(iii) *Title in Government.* After title has vested, losses to buildings, timber or crops not caused by the willful act or gross negligence of vendor will be borne by the United States; provided, however, that if the vendor continues in possession of buildings, timber or crops, after title has vested, and the deed, stipulation or order of court has reserved to the vendor the right to remove such buildings, timber or crops, loss or damage thereto, both before and after removal, caused by fire, act of God, theft, or vandalism will be borne by the vendor, only to the extent of the amount deducted from the purchase price, as provided in the deed, stipulation or order of court, for the right to remove.

(p) *Other Reservations.* The following rights may be reserved to the owner wherever such reservation will be to the financial advantage of the Government and it has been determined by the Division or District Engineer that the reservation of the rights will not interfere with the operation of the project. These rights may be reserved in the Offer to Sell and in the condemnation estate but only whenever mutual agreement between the owner and the Government concerning all phases of the acquisition except just compensation has been reached, or by stipulation for settlement of condemnation cases, subject to approval of revestment, if any, by DAEN-REA.

(1) *Rights-of-Way for Stock to Water.* Reservations of rights-of-way will be permitted for watering stock, in the case of bona fide livestock operations, such as dairymen and ranchers. Such rights-of-way will be limited to a reasonable width and will not be permitted in public access and use areas. The reservations will be so worded as not to require the owners to fence the rights-of-way, but to provide that if they elect to do so, they must provide gates at satisfactory intervals to permit crossing of the rights-of-way.

(2) *Rights-of-Way for Water Pipeline for Domestic Use.* Reservations of rights-of-way for water pipelines for domestic use (household, stock watering, garden, farm yard, but excluding irrigation) may be permitted by providing for the reservation of a temporary or permanent easement.

(3) *Rights-of-Way for Water Pipline for Irrigation Use.* (i) In areas where irrigation is commonly practiced, or is of paramount importance, owners of remainder or contiguous lands will be permitted to reserve a sufficient real estate interest to place water pipelines across Government-owned lands, in order to obtain financing for irrigation development and/or in order to be assured of being able to carry on irrigation operations. In "water rights" States (prior appropriation of water rights), the reservation of such interests will be permitted only to those owners who have established water rights from the State, or who may in the future obtain such rights. When irrigation is a project purpose, such reservation must be coordinated with the Bureau of Reclamation.

(ii) Under these circumstances, a landowner may be permitted to reserve an easement and right-of-way for a water pipeline and pumping unit across the land he conveys, by appropriate provisions in the offer to sell and in the deed to the United States. In "water rights" States, this reservation will be "for the exercise of established water rights, although no right to use water is created hereby." (This phraseology is to be incorporated in the reservation.) The reservation will also include any pertinent provisions considered essential by the Division or District Engineer, such as requirement to install the pipeline underground and at a specified depth.

(iii) Reservations of this nature will also be permitted in those cases where acquisition is by condemnation. In these acquisitions, the reservation may be recited in the complaint and declaration of taking, whenever full agreement except as to just compensation has been reached, or it may permitted later by stipulation.

(iv) When the project is located in an area in which the Bureau of Reclamation is developing, or planning to develop, irrigation districts or systems, prior coordination with the Bureau will provide that copies of all deeds and final condemnation judgments which recite reservations under this subparagraph will be furnished to the local office of the Bureau. Thereafter, the Bureau of Reclamation will be responsible for supervising the exercise of the easements to insure compliance with Reclamation laws.

(v) Plans to provide for irrigation will be fully covered in the Real Estate Design Memorandum.

(4) Acquisitions in which these rights are to be reserved must, of

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course, be based on an appraisal of the fair market value of the estate to be acquired. Since the appraisal would probably be made originally on the basis that there would be no reservation, revision must be prepared whenever the reservation appears to be appropriate, to reflect the reduction in severance damages or other financial advantage accruing to the Government. Consideration of counteroffers which include proposals for these reservations by the landowner will be based on and compared with the appraised fair market value of the estate proposed to be acquired. Deposits with a declaration of taking will be based on the appraised fair market value of the estate to be acquired by the condemnation action.

§ 644.87 Preparation and Execution of Offers.

(a) *Fee Acquisition Offer Form.* The use of the latest revision of ENG Form 42, Offer to Sell Real Property, is required in all authorized projects, except in those cases where agreements with the landowners can be fully reflected in an executed deed, and where the provisions of §§ 644.81(c), 644.82(a), and 664.86 are not applicable or can be fully complied with without the use of an Offer to Sell. When an agreement as to terms has been reached with the owner, or a counteroffer has been received which will be considered for acceptance or submitted for consideration by higher authority, a draft of the offer will be prepared, with particular attention to the following instructions:

(1) No changes or interlineations in the printed portions of the offer form will be permitted, unless authorized by the Chief of Engineers, except where the words "general warranty deed" are changed to another form of deed.

(2) Insert legal land description of property to be acquired, or attach description by Exhibits to be identified on page 1.

(3) The word "none" should be inserted in the blank spaces following the first and third lines, respectively, on page 2 of the offer form when title is being acquired free and clear of all rights outstanding in third parties and the vendor is not permitted to except or reserve any right or interest in the property to be conveyed to the Government.

(4) Particular attention is directed to § 644.86, regarding exceptions and reservations and outstanding rights in third parties. No exceptions or reservations of crops, timber, buildings and improvements, subsurface rights, or any other interest will be incorporated in any offer to sell unless the required approvals have first been obtained.

(5) In any case where the offer form deviates from the standard approved forms or contains any conditions, exception, or reservation contrary to these instructions, the assembly will be forwarded to HQDA (DAEN-REA) WASH DC 20314 for consideration with the recommendations of the Division and District Engineer. This may be done at the same time a counteroffer is submitted to DAEN-REA in accordance with § 644.84(d).

(6) The landowner's name will be set forth in the offer in the exact way in which it appears on record.

(7) When it is necessary for a corporate agent, fiduciary, or any person other than an individual owner to execute the offer, satisfactory evidence of the authority to act for the owner must be attached to each of the copies of the Offer to Sell.

(8) Where it is necessary to attach sheets to the offer in order to fully set forth the terms of reservations, exceptions, or outstanding rights in third parties, such additional sheets must be securely attached and initialed by all parties signing the Offer to Sell.

(9) The name and address of the person or persons to whom notice of acceptance is to be sent must be accurately set forth. The address where the landowner can be reached after he vacates the property, if different from the address to which the notice is to be sent, should be obtained.

(b) *Submission, Acceptance, and Distribution of Offers to Sell.* (1) For each purchase transaction, the original offer and four copies will be signed by the landowner and spouse, if any. A copy (5th) will be left with the landowner when the offer is obtained.

(2) Division and District Engineers, the Chiefs of the Real Estate Divisions, and the incumbents of the position to which authority is delegated as provided in § 644.84(d) are authorized to accept offers to sell for the acquisition of land or interests in land and easements, licenses, permits, or similar acquisition instruments: *Provided,* The price set forth in the instrument is within their authority to approve or has been approved in writing by higher authority. The Division or District Engineer may also delegate to Project Managers (including the heads of any field offices with responsibility for real estate acquisition) authority to execute real estate instruments by which land or interests in land are acquired by agreement with landowners, provided the consideration set forth in the instrument is within the approved appraised value or has been approved as provided in § 644.84(c). Upon approval of the offer or other instrument requiring payment to the landowner, a determination that necessary funds are available, and acceptance of the instrument under the authority contained in this subparagraph, the instrument will be numbered in conformity with existing regulations and will immediately be distributed as follows:

(i) Original offers to sell will be retained at the Division or District for site audit.

(ii) Send signed copy to vendor as provided in paragraph (b)(3) of this section below.

(iii) Attached conformed copy to title assembly.

(iv) File signed copy with project records.

(3) Upon acceptance of the Offer to Sell, the Division or District Engineer will notify the vendor by transmitting a signed copy of the contract (accepted offer) to vendor by ENG Form 53, Notice of Acceptance of Offer to Sell Real Property.

(4) Upon acceptance of the Offer to Sell, the Division or District Engineer will notify the using service, in the case of military acquisition, that the Offer to Sell has been accepted and that the Government has "the right of immediate occupancy and use of the land," subject to the terms of the accepted offer. The land should be clearly identified to the using service.

(5) Instruments which do not provide for payments to landowners will be distributed in accordance with regulations governing such cases.

(c) *Easement Acquisition Offer Form.* (1) The use of ENG Form 2970, Offer to Sell Easement, is required for the acquisition of all types of easement estates, such as flowage, spoil, drainage, road, railroad, utility, restrictive or safety (Army and Air Force), clearance (Air Force), and other required easement acquisitions, except in those cases where agreements with landowners can be fully reflected in an executed deed, and where the provisions of §§ 644.84(b) and 644.86(d) are not applicable or can be fully complied with without the use of an Offer to Sell. Pages 1 and 2 of ENG Form 2970, containing the terms and conditions of the acquisition, are standard and need no modification. The tract of land in which the particular easement will be acquired will be described in Exhibit "A," and the easement estate will be set forth in Exhibit "B" to ENG Form 2970. Division Engineers are authorized to approve deviations in ENG Form 2970 in all cases where the easement does not cost more than $500: *Provided,* That any deviation from the estates listed in Figure 5-6 of EP 405-1-2, must have the prior approval of DAEN-REA. When easements are being acquired from a vendor from whom fee is also being acquired, ENG Forms 42 and 2970 may be combined into one instrument in order to complete the entire acquisition as one transaction.

(2) In the acquisition of easements for rights-of-way for access roads, utility lines, etc., which cross or encroach upon rights-of-way or property of railroad companies, public utility companies, cities, counties and States, ENG Form 893, License for Installations Upon Right-of-Way, may be accepted, at the discretion of the Division or District Engineer, provided it is determined that such companies, municipalities, counties, or States are not vested with authority to convey a perpetual easement and the granting of a license under the conditions recited in ENG Form 893 will protect the interests of the United States and grant sufficient use of the right-of-way or land for project purposes. Normally a license of this nature should be obtained for a nominal consideration. Occasionally it will be necessary to provide for the payment of a small fee to cover the licensor's engineering and administrative expenses. In such cases, the consideration for the granting of a license will not exceed $100. In cases where the licensor demands a consideration equal to the appraised value of the right to be acquired, consideration will be given to the acquisition of a perpetual easement by condemnation, if the licensor is not vested with authority to grant such an easement.

(3) The description of the tract over which an easement is being acquired should be prefaced by terminology similar to that of ENG Form 42 which makes the tract inclusive of the abutting owner's interest in contiguous roads and other easements, if any.

(4) Offer assemblies will be prepared, accepted, and distributed in the same manner as provided for fee acquisition, except that ENG Form 3422, Notice of Acceptance of Offer to Sell Easement, will be used.

(d) *Payment.* After acceptance and distribution of the offer assembly and the acquisition is ready for closing, payment will be made.

(e) *Cancellation of Contracts.* If, for any reason, it is necessary to cancel a contract for acceptance by the Government of the Offer to Sell, the cancellation will be effected by using ENG Form 1572, Agreement for Mutual Cancellation of Contract. Upon execution of this agreement by the landowner and the Division or District Engineer, or the Chief of the Real Estate Division, distribution of the original and copies of the agreement will be the same as for the accepted Offer to Sell.

(f) *Transfer of Tracts from Purchase to Condemnation.* If, at any time in the course of acquisition by purchase, it becomes apparent that acquisition by purchase will involve substantial delay or cannot be accomplished, action will be taken to acquire the land by condemnation.

(g) *Acquisition of Land by Donation.* (1) In cases where the acquisition of real property has been authorized and approved by donation, ENG Form 42, Offer to Sell Real Property, or ENG Form 2970, Offer to Sell Easement, will be entered into setting forth the terms and conditions of the donation and conveyance to the United States.

(2) The offer, when approved and accepted, will be distributed in accordance with paragraph (b)(2) of this section.

(3) Title clearance and closing of donation cases are processed in the same manner as any other fee or easement acquisition.

(h) *Vacation of Property by Landowners and Tenants*—(1) *Notice to Landowners.* From the inception of the project, landowners and tenants will be instructed to notify the Division or District Engineer or Real Estate Project Manager, in writing, as soon as they vacate their property; to turn in their keys whenever possible in order that the buildings may be kept under lock; and to keep the Division or District Engineer or Real Estate Project Office advised of any changes in address in order to expedite title clearance, payment, closing action, and the distribution of funds in condemnation proceedings. Landowners and tenants will be informed that, in order to protect their interests, they should not move from their property and that the Government will not require them to surrender possession until:

(i) They have received notice of acceptance of an offer granting the Government the right of immediate possession; or

(ii) They have been served notice of the filing of a condemnation proceeding by which the Government has obtained the right of possession.

(2) *Complete Appraisals Prior to Vacation.* Where an offer is accepted or a declaration of taking is filed, the individual tracts will have been surveyed and appraised. In condemnation proceedings for possession, there may be cases in which individual tract surveys and appraisals will not have been completed at the time the condemnation proceeding is filed. In such cases, landowners and tenants will not be required to surrender possession, and buildings and improvements will not be removed or destroyed in the conduct of construction work, until individual appraisals have been completed and photographs have been procured.

(3) *Inspection of Property.*—(i) As soon as a landowner or tenant gives notification that he is vacating his property, or as soon as this information is obtained from any other source, the District Engineer will immediately have a member of his staff make a personal inspection of the property and execute ENG Form 1567, Report on Vacation of Property. The inspection will be made with a view of determining whether all buildings, improvements, and crops on the land to be acquired, as listed in the appraisal report, are still on the land and in substantially the same condition as they were on the date of the appraisal.

(ii) Where buildings, improvements, and crops have been removed under a reservation in the offer, an appropriate entry will be made in paragraph (3) of ENG Form 1567.

(iii) Where buildings, improvements, and crops have been removed or destroyed in the conduct of construction work on the project, an appropriate entry will be made in paragraph (3) of ENG Form 1567.

(iv) It will be determined whether or not the land is wholly unoccupied and vacant and whether there is evidence of present use thereof for farming and other operations.

(v) The original report will be retained in the real estate project files. The second copy will be held for the use of the closing attorneys on purchase cases, or for the use of the local representative of the Department of Justice in condemnation cases.

(i) *Public Relations.* One of the most difficult problems encountered in the real estate activities of the Department of the Army, particularly from a public relations standpoint, is that of the sudden dislocation of families, tenants as well as owners, and the relocation of these families. Special attention, therefore, will be given to their problems.

(j) *Payment of Relocation Assistance and Acquisition.* Pub. L. 91-646 provides for reimbursement of certain expenses incurred by owners and tenants who are displaced as the result of Federal and federally-assisted programs. Payment of relocation assistance benefits and certain costs incurred by the vendor in transfer of title to the Government and certain litigation expenses incurred by the owner is provided for under that Act.

§ 644.88 Other Acquisition.

(a) *Acquisition From Other Federal Departments and Agencies.*—(1) *Transfers.* Transfers will be obtained from other Government agencies after issuance of real estate directives. Muniments of title will be obtained from the transferring agency, if possible, and be forwarded to HQDA (DAEN-REP) WASH DC 20314, with the original transfer letter or document. Title 10 U.S.C. 2571 authorizes transfer of real property within the Department of Defense (10 U.S.C. 2662).

(2) *Permits.* Upon receipt of a proper request from an authorized command, service or agency, Division or District Engineers and the Chiefs of the Real Estate Divisions are authorized to obtain, accept, and renew permits from other Government departments

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or agencies for the temporary (five years) use of land (except public domain for Air Force) and buildings. The use of over 500 acres of public domain land must have prior approval by the Assistant Secretary of Defense (MRA&L) pursuant to Department of Defense Directive 4165.12.

(b) *Withdrawal of Public Domain Lands and Right-of-Entry Permits for Temporary Use.* (1) Withdrawal of public domain lands will be necessary if a site is selected for construction and/or there is a continuing military use. Except in time of war, withdrawals in excess of 5,000 acres for military use must be by authority of an Act of Congress (Pub. L. 85-337, 43 U.S.C. 156).

(2) Requests for withdrawal of public domain land will be made to the appropriate State or Regional Supervisor of the Bureau of Land Management (BLM), Department of the Interior, by the Division or District Engineer, pursuant to 43 CFR Part 295, as soon as a real estate directive is issued.

(i) If use the of land is needed promptly to meet a construction deadline or for other use, the request for withdrawal will contain this information, and the BLM supervisor will be requested to expedite submission of his report to BLM in Washington, and to publish the proposed withdrawal in the FEDERAL REGISTER as soon as possible.

(ii) A copy of the request will be forwarded to HQDA (DAEN-REA) WASH DC 20314 (with a copy to HQ, USAF (PRER), WASH DC 20330, on Air Force projects), with request for assistance in obtaining issuance of the Public Land Order in time to meet construction or military use deadline.

(3) Pursuant to authority of 43 U.S.C. 416, requests for withdrawal of public domain lands may also be made to the appropriate State or Regional BLM Supervisor by the Division or District Engineer for the reservation of those public domain lands which will eventually be required for authorized Civil Works projects, in order to proceed with planning phase work and to prevent adverse private entry thereon. Such action will permit administrative jurisdiction to remain with the present Government agency for continued utilization not in conflict with the eventual purpose of the project. A copy of the request will be furnished to DAEN-REA.

(4) If a withdrawal is requested, the BLM supervisor cannot grant a permit to use the area; however, permits can be obtained for survey and exploration purposes, since these do not involve construction or military use of the land.

(5) Necessary rights-of-way will be obtained under the authority of Section 507, Pub. L. 94-579, approved October 21, 1976.

(c) *Acquisition of Outstanding Rights on Public Domain*—(1) *Acquisition of Possessory Rights to Mining Claims.* (i) Upon issuance of a real estate directive to extinguish outstanding mining interests in the public domain, and notification that the Bureau of Reclamation (BLM) has withdrawn the public domain from appropriation under the public land laws and the public mining and leasing laws, the Division or District Engineer will, if necessary to obtain possession for construction or other project purposes, recommend to the Chief of Engineers the filing of a complaint in an eminent domain proceeding, based on a perimeter description of the project, and the obtaining of an order of immediate possession. Thereafter, the Division or District Engineer will promptly determine the possessory mining claims within the area withdrawn, and he is authorized to acquire such claims for either a nominal sum or an amount not to exceed the combined estimated costs of obtaining a detailed appraisal report and having the validity of the claim investigated by the BLM. This authority is limited to $1,000 per claim.

(ii) If an offer to settle is made on the basis provided in Paragraph (c)(1)(i) of this section, and is not satisfactory to the possessory mineral owner, the Division or District Engineer will request the BLM to investigate the validity of the claim. In such case, under Comptroller General Decision B-143921, the District Engineer is authorized to make an agreement with the BLM for reimbursement of the following:

(A) Examination of the claim itself and assembling of the evidence to support the claim of invalidity.

(B) The presentation of the evidence, the cross-examination of witnesses for the mining claimant and other related expenses (Subpart A).

(iii) The Corps of Engineers is not authorized to reimburse the BLM for hearing of the evidence and the rendering of the decision as to the validity of the mining claim.

(iv) If determined to be valid, claims will be appraised and an offer will be made to the owner at the approved appraised value. BLM is authorized to determine value of the claims and the Division or District Engineer may wish to arrange with BLM to perform this service on a reimbursable basis. In the event the offer based on the approved appraisal is not acceptable to the owner, and a reasonable settlement cannot be effected by negotiation, the Division or District Engineer will forward a report to HQDA (DAEN-REA) WASH DC 20314 with recommendation as to whether the claim should be acquired by declaration of taking or be left outstanding. Those cases in which occupants were dispossessed under the order of immediate possession, referred to in Paragraph (c)(1)(i) of this section, will be given priority attention in all phases of the procedure set out herein, including preparation and submission of declaration of taking assemblies in appropriate instances.

(2) *Acquisition of Grazing Rights.* (i) Grazing rights in the public domain are granted pursuant to the provisions of a series of Congressional acts commonly referred to as the Taylor Grazing Act, 43 U.S.C. 315 et seq. Section 315q of this Act provides as follows: "Whenever use for war or national defense purposes of the public domain or other property owned by or under the control of the United States prevents its use for grazing, persons holding grazing permits or licenses and persons whose grazing permits or licenses have been or will be cancelled because of such use shall be paid out of the funds appropriated or allocated for such project such amounts as the head of the department or agency so using the lands shall determine to be fair and reasonable for the losses suffered by such persons as a result of the use of such lands for war or national defense purposes. Such payments shall be deemed payment in full for such losses. Nothing contained in this section shall be construed to create any liability not now existing against the United States." It is emphasized that payments under this Section are administrative; further that this Section applies only to military projects.

(ii) Upon issuance of a real estate directive to acquire or terminate grazing rights in the public domain or other property owned or controlled by the United States and notification that the Government department controlling such lands has granted a right-of-entry or transferred the lands to the Departments of Army or Air Force, the Division or District Engineer will initiate action to acquire or terminate such grazing rights as authorized by the real estate directive.

(iii) Appraisals will be prepared in accordance with Subpart B and the guidelines set forth in Comptroller General Decision No. B-132774, dated October 9, 1957.

(iv) Discussions with landowners concerning acquisition of a ranch unit will be conducted in accordance with the procedures for fee acquisition.

(v) Offers will be prepared, accepted, and distributed as provided in § 644.87.

(vi) Title procurement and title clearance relating to the acquisition of title to any fee lands within the ranch unit will be the same as in any other fee acquisition. In preparing title evidence covering leasehold interests, a search of the records will be made by

the Division or District Engineer Office and ENG Form 909, Attorney's Preliminary Certificate of Title, will be prepared. In connection with the search of the records, it should be noted that Federal grazing privileges may be pledged or encumbered with mortgages.

(d) *Acquisitions Under Provisions of Relocation Contracts.* (1) When land or interests therein, including subordination of minerals, required for project purposes are acquired under the provisions of relocation agreements negotiated in accord with Section 73, ER 1180-1-1, it will be necessary to procure title evidence covering such land and interests. If the value of interests so acquired is not otherwise determinable for compliance with § 664.84, said value will be determined by the Division or District Engineer by means of a memorandum appraisal to be retained in the tract file. While this type of acquisition does not involve the closing procedure set forth in § 644.70, so much of the title assembly described as is applicable, plus an executed or certified true copy of the relocation contract, will be used in the examination and approval of the title. The disposition of final title assemblies will be governed by § 644.71.

(2) The procedures described in §§ 644.81 through 644.88 do not apply to the extinguishment of outstanding rights, including subordination of easements and similar interests, under the provisions of relocation contracts, as differentiated from the acquisition of land or easements, or the subordination of oil, gas, and other mineral rights, to be utilized for project purposes.

(e) *Acquisition By Exchange.*—(1) *Military.* The authority to acquire land by exchange for military projects is provided in 10 U.S.C. 2672, and in the Military Construction Authorization Act passed each year. As an example Sections 601 and 702, Pub. L. 95-82, August 1, 1977, the Military Construction Authorization Act, 1978, provides in part, that "the authority to acquire real estate or land includes authority to make surveys and to acquire land, and interests in land (including temporary use), by gift, purchase, exchange of Government-owned land, or otherwise." Title 10 U.S.C. 2662a-4 provides that a transfer of real property owned by the United States to another Federal agency or another military department or to a state must be reported to the Committees on Armed Services if the estimated value of the property is more than $50,000. A prerequisite to any acquisition by exchange is authority for the acquisition.

(2) *Civil Works.* The authority to exchange land or other Government property for private lands or property in execution of an authorized river and harbor or flood control work or improvement is found in 33 U.S.C. 558b and 558b-1.

(3) *Coordination with the Office of Managment and Budget (OMB).* OMB requests that each proposal to use Government-owned property in a land acquisition exchange be cleared with the appropriate Associate Director of OMB. Disposal actions where exchange through the authority of the General Services Administration or specific legislation is envisioned will be cleared with OMB prior to filing a disposal report pursuant to 10 U.S.C. 2662. A draft letter to the Associate Director, Office of Management and Budget will be submitted to HQDA (DAEN-REA) WASH DC 20314 stating the requirement for the new acquisition, the description of the property to be excessed, its estimated fair market value, and a justification for the exchange of that property as constituting its highest and best use. OMB clearance will be required before disposal reports outlining exchange proposals are filed with the Congress.

INVOLUNTARY ACQUISITION BY THE UNITED STATES

§ 644.101 General.

This Section describes procedures of the Corps of Engineers relating to the involuntary acquisition of land and interests in land on the basis of a physical appropriation or use by the United States. It is applicable to all Division and District Engineers having real estate responsibilities.

§ 644.102 Examples of Involuntary Acquisitions.

While the Secretary of the Army and Secretary of the Air Force have no authority to acquire interests in real property except under express authorization and appropriation made by Congress, the Government may, nevertheless, in the performance of an authorized act involuntarily acquire an interest in real property, for which the owner is entitled to just compensation. Whenever a plaintiff successfully prosecutes litigation which establishes that an interest in real property has been taken, the interest so taken should be confirmed in the form of a grant, wherever possible. The instrument should be recorded in the public land records and permanently retained in the real estate files, as evidence of the interest taken and as a protection against possible future claims of purchasers for value without notice. No employee or representative of the Corps of Engineers shall intentionally make it necessary for an owner to institute legal proceedings to prove the fact of the taking of his property, as prescribed by Pub. L. 91-646. Examples of involuntary acquisition are:

(a) Damage to real property caused by flooding, saturation, seepage, erosion, or other causes arising out of the construction, operation, or maintenance of an authorized project.

(b) Damage as a result of overflights of aircraft.

(c) Other instances where Government actions result in a restriction of the use of property.

§ 644.103 Litigation Reports.

In those cases where a landowner files suit alleging that the Government took his property or an interest therein, a litigation report should be funished in accordance with ER 1180-1-1. Litigation reports will be submitted in quadruplicate in cases involving military installations, and in triplicate in cases involving civil works. District and Division Engineers will furnish an additional copy direct to the local United States Attorney in actions in a United States District Court. In addition to the information required by ER 1180-1-1, there will be furnished preliminary certificates of title to properties subject to the taking, covering a period of search of at least 25 years prior to initiation of the action, and indicating the date of acquisition of the plaintiff's interest. Certificates may be procured commercially, or may be prepared by a staff attorney.

(a) *Avigation Easements.* Reports on actions alleging the taking of an avigation easement should include the following information together with supporting exhibits:

(1) Permanency of the installation and its designated use;

(2) Dates of commencement of use of the runway involved and of each extension thereof;

(3) Date of commencement of takeoffs and landings by regularly assigned aircraft of the type (identify) causing the taking;

(4) Frequency and actual height of flight of the particular aircraft over some portion of plaintiff's property;

(5) Any applicable zoning regulations affecting use of the property;

(6) A drawing at an approximate scale of 1" to 400' showing the location and length of the present runway, its original length, and each extension, and also showing the location of plaintiff's property with relation to the approach-departure zone of the runway and the longitudinal distance in feet, measured along the extended center line from the end of the runway and the lateral distance measured perpendicular to the extended center line, of the plaintiff's property and of any dwellings thereon.

(7) A vertical projection of the drawing at an approximate scale 1" to 100' showing the approach-departure clear-

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ance surface at the specified slope ratio and the mean sea level heights of the end of the runway and of the plaintiff's property and any dwellings thereon; and

(8) Name of the person qualified to testify concerning preparation of the drawing.

(b) *Clearance Easements.* Litigation reports on actions alleging the taking of a clearance easement will contain the following:

(1) Details of any prior acquisition of clearance easements over the same property;

(2) Statement as to any outstanding clearance easement directives, including criteria for approach and transition zones, status of negotiations, and copies of appraisal reports;

(3) Statement that all acquisition of clearance easements has been stopped, unless their prompt acquisition is necessary to provide for current flight operation; and

(4) Recommendation that there be included in the estate, in the event of settlement, provisions for the clearance of existing obstructions and prohibition against future obstructions, provided that circumstances will permit a delay in the acquistion of a clearance easement until completion of the litigation.

(c) *Appraisal Reports.* Appraisal reports will be submitted to HQDA (DAEN-REE) WASH DC 20314 after the Department of Justice has determined the date (or dates) of taking. These reports will reflect the "before" and "after" values of the property, based on the assumption that the United States acquired an easement on that date (or dates).

§ 644.104 Procurement of Deed and Title Assembly.

In any case in which the Court determines that the United States has taken an interest in real property, the Department of Justice will attempt to have included in the findings and in the judgment a precise description of the interests taken. An attempt will also be made to provide in the judgment that payment by the United States will not be required until the plaintiff has delivered a deed or other acceptable conveyance of the interest taken.

(a) *Preparation of Instrument.* Upon receipt from the Department of Justice of information as to the nature of the settlement which has been reached, a deed will be prepared, drafted in accordance with § 644.70, covering the estate provided in the judgment.

(b) *Execution and Recording of Deed.* The Division or District Engineer will obtain proper execution of the deed, record the same, procure a final certificate of title of a commercial title company or a staff attorney, and obtain a final title opinion pursuant to the provisions of the Delegation to the Department of the Army for the Approval of the Title to Lands Being Acquired for Federal Public Purposes, dated December 4, 1970, and issued by the Assistant Attorney General, Land and Natural Resources Division, Department of Justice. The title assembly and final title opinion should be forwarded to HQDA (DAEN-REA-P) WASH DC 20314, with information copy of transmittal letter to Division Engineer.

(c) *Notification to the Department of Justice.* If the recorded deed and the final certificate of title are not readily available, the Division or District Engineer will notify the Land and Natural Resources Division of the Department of Justice by letter, with a copy to the appropriate United States Attorney, that the deed has been properly executed and delivered by the plaintiff and has been entered for record in order that settlement will not be delayed.

(d) *Disposition of Final Title Assembly, Mapping, and Audit.* When a final title opinion has been obtained, the Division or District Engineer will assign a tract number to the areas in which the interest has been acquired, will add the tract to the project map, and will transmit the final title opinion and related papers to HQDA (DAEN-REA-P) WASH DC 20314. The tract will be included in the audit of the installation to which it pertains. Audits will be revised for this purpose, if necessary. The amount of the judgment received by the plaintiff will be shown in the audit assembly, with a proper notation that it represents the amount of the judgment entered in the litigation, which will be identified in the audit by its civil number, and by designation of the Court in which it was rendered. A copy or abstract of the judgment will be inserted in the District Office audit assembly, identified as follows: "Directive by judicial decree for the acquisition of Tract No. ; being an easement (or other interest), containing —— acres."

(e) *Action in Lieu of Confirmatory Deed.* Where a confirmatory deed cannot be obtained, the Division or District Engineer will obtain from the Clerk of the Court a copy of the final judgment (or an appropriately excerpted copy of the final judgment), acknowledged or properly certified to permit recordation in the local land records. The Division or District Engineer will record same and later transmit the appropriate title assembly to HQDA (DAEN-REA-P) WASH DC 20314. If the final judgment does not contain language which clearly vests title in the United States of the interest in land for which compensation was paid, request should be made of the United States Attorney to move the Court to amend the judgment to show that such title has vested.

Subpart D—Relocation Assistance Program

§ 644.121 Cross Reference.

See Part 641 of this chapter for the regulations on the relocation assistance program.

Subpart E—Homeowners Assistance Program

General

§ 644.181 Purpose.

Subpart E sets forth the rules and procedures to be followed for the administration of the Department of Defense Homeowners Assistance Program (HAP). The Homeowners Assistance Program is a special relief program designed to provide benefits to eligible homeowners to help offset real estate losses suffered as a result of certain base closure or reduction actions. It is not a procurement program and although it does provide for acquisition of dwellings under certain circumstances, there is no governmental need for such dwellings and they are acquired only for the accommodation of the applicant and must be resold by the Government. It is not a claims program in an adversary sense and there is no provision for judicial review. Therefore, in order to carry out the intent of the Congress in administering the program, it is essential that every effort be made to insure that each applicant is treated fairly and receives the maximum benefits to which he is entitled under the law as rapidly as practicable but with a minimum expenditure of time and money for administration. Reasonable doubts should be resolved in favor of the applicant.

§ 644.182 Applicability.

These procedures are applicable to the Office, Chief of Engineers (OCE), and to those U.S. Army Corps of Engineers' Division and District Engineers (Division/District) having military real estate responsibilities. This program has worldwide application; however, no properties in foreign countries may be acquired except certain property located on a base or installation. The program is applicable to members of all branches of the military services and to all Federal civilian employees of all branches of the Government of the United States except temporary employees serving under a time limitation. Nonappropriated fund employees and independent contractors and their employees are not eligible.

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§ 644.183 Objective.

Section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966, Pub. L. 89-754 (80 Stat. 1255, 1290), approved November 3, 1966, as amended, hereinafter referred to as the Act, authorizes the Secretary of Defense (S/D) to provide assistance to eligible military or civilian employee homeowners by payment of partial compensation for losses sustained in the private sale of a dwelling, by payment of the costs of judicial foreclosure, or by purchase of a dwelling by the Government. Such assistance is available to certain military personnel and civilian employees who are the owners and occupants of one- or two-family dwellings located at or near military installations ordered to be closed in whole or in part subsequent to November 1, 1964, including reductions in the scope of operations at such installations occurring after October 28, 1969: *Provided*, That the S/D finds that their service or employment at such installations has been or will be terminated as the result of the closure or reduction action, and that as a result of the actual or pending closure or reduction action there is no present market for the sale of such dwellings upon reasonable terms and conditions. Pub. L. 91-511 (84 Stat. 1204, 1225), amended the Act, effective as of October 28, 1969, to provide that consideration may be given to the cumulative effect on the local real estate market of all closure or reduction actions in the same area. Pub. L. 92-545 (86 Stat. 1135, 1150), further amended the Act, effective as of November 30, 1970, to authorize assistance to personnel at overseas bases who previously were not eligible because they were not assigned to a unit involved in the closure or reduction action and/or because they owned on-base housing. Pub. L. 93-166 (87 Stat. 661, 697), approved November 29, 1973, further amended the Act, as to closures announced after April 1, 1973, to authorize assistance to certain military and civilian personnel who were previously not eligible because they were involved in routine transfers not connected with the closure action.

§ 644.184 Responsibilities.

(a) The Director of Real Estate, OCE, acting for and on behalf of the Chief of Engineers, has been delegated authority and responsibility for the administration of this program. There has been established within the Directorate of Real Estate the Homeowners Assistance Division which constitutes a central office of control responsible for supervision, inter-agency coordination, development of policies and procedures, Congressional liaison and processing of appeals. A liaison office is maintained in the Office of the Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics).

(b) Division/District having military real estate responsibility and the Chiefs of their Real Estate Divisions are hereby redelegated authority to administer, manage, and execute the Homeowners Assistance Program on behalf of all claimants in accordance with the provisions of this regulation. It is contemplated that the Division/District will dispose of all cases except appeal cases on which agreement cannot be reached with the applicant and such appeal cases must be forwarded to OCE for consideration, and, if necessary, forwarded by OCE to the Office of the Assistant Secretary of the Army (Installations, Logistics and Financial Management) (OASA (IL&FM)) for final decision.

(c) Division/District records will account for each application filed by showing that it was withdrawn; that it was settled with benefits; that it was rejected or settled without benefits, but with no appeal, or that an appeal was forwarded to OCE.

§ 644.185 Limitation.

(a) Applications for benefits under the provisions of the Act should be presented to the appropriate Division/District within three years after the public announcement or order of closure or reduction. Any application filed after this time should be submitted to HQDA (DAEN-REH-O), WASH DC 20314, with the reasons for late filing. Following such submission, a determination will be made as to whether the application can be accepted.

(b) In requesting additional information, or in sending official notifications to applicants, the use of certified mail (return receipt requested) is recommended in order that the Division/District may have a record in the form of a certified mail receipt of delivery to the applicant's latest known address.

(c) Where an applicant has failed to respond in 60 days to requests for additional information, Division/District may advise him in writing that his application is considered to be withdrawn, and of the specific time limitation within which a claim must be filed.

(d) Where it has been decided that an applicant is ineligible for benefits or where it has been decided that an applicant in the case of a private sale is eligible under the program but is not entitled to benefits and no appeal has been filed within 180 days from the date written notice of such decision was delivered to the latest known address of such applicant, the case will be considered to be closed.

(e) Where there is an eligible applicant who still owns his home and the Division/District has made a determination of the fair market value as of a date prior to the public announcement (hereinafter referred to as prior value) and has advised the applicant of the amount of the Government's offer to purchase, the applicant will be advised in the letter containing such offer that he has 30 days in which

(1) To accept the offer in writing; or

(2) To appeal in writing; or

(3) To withdraw the application.

If there is no action by the applicant within the 30-day period, the case will be considered withdrawn. If the applicant timely objects to the amount offered, or otherwise appeals, the matter will be processed in accordance with the appeal procedures. Where more favorable action can be taken on appeal, at any level of review, the applicant will be advised that he will have 30 days in which to accept the new offer or to file a new appeal which will be processed under appeal procedures.

(f) Notwithstanding the actions taken in paragraph (e) of this section, in the event an eligible applicant sells his home privately and the time limitations in paragraph (a) of this section, have not expired, his application may be processed on a private sale basis.

(g) Where an appeal has been filed, the case will be considered closed after appropriate action has been taken in conformance with the final decision made on appeal, as prescribed in the appeal procedures.

(h) Settlements made in accordance with the Act and these regulations will not be reviewed for the purpose of applying one of the other formulas for benefits without the prior specific approval of OCE. Closed cases will not be reopened without specific approval of OCE.

§ 644.186 Funding.

(a) The following revolving fund account has been established:

(1) 97X4090—Homeowners Assistance Fund, Defense.

(2) 97X4090.0122—Allocation to Army.

(b) The Department of Defense (DOD) will make available to the Department of the Army (DA) for allocation to OCE, under established procedures, funds required for administration of the program. Funds provided will be utilized for purchase or reimbursement as provided herein, as well as to defray expenses arising in connection with the acquisition, management, and disposal of such properties, including payment of principal, interest, and expenses of mortgages or other indebtedness thereon, and including the cost of staff services and contract services, cost of insurance, and other indemnities.

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§ 644.187 Service and employment data.

(a) The Secretaries of the Military Departments and the Directors of Defense Agencies are responsible for disseminating information on the program, rendering assistance to applicants, receiving and verifying statements on employment in applications, and for forwarding such applications to the appropriate Division/District for processing. At installation level, the personnel officers of other Federal agencies having custody of applicant's personnel records will verify statements on employment.

(b) Fact Sheet and Application for Homeowners Assistance, DD Form 1607, have been distributed to Department of Defense installations and activities. The Fact Sheet explains the objective of the programs, the eligibility requirements, the benefits available and the procedures to be followed in seeking assistance. the application provides a format for submission of essential factual data and the type of benefits requested.

§ 644.188 Overseas Bases.

(a) Prior to the enactment of Section 601 of Pub. L. 92-545 on October 25, 1972, servicemen and civilian employees in foreign countries were covered by the program and were subject to all of the eligibility requirements of the Act, as were applicants in the United States, the only difference being that the Act precluded the acquisition of properties in foreign countries. The enactment of Section 601 of Pub. L. 92-545 kept intact existing benefits for servicemen and civilian employees in foreign countries and provided benefits to certain personnel not previously covered. Such personnel at overseas bases who sell their on-base or off-base homes at a loss, or who are unable to sell their on-base property as a result of the announced closure or reduction in scope of operations of such bases, are entitled to assistance, under the formula set forth below. In order to qualify for assistance, such personnel must relocate incident to transfer, reassignment, or involuntary termination of their employment at a time when the closure or reduction in scope of operations of the base where they were stationed or employed results in their inability to sell their property upon reasonable terms and conditions.

(b) No properties may be acquired in foreign countries except in connection with compensation for property located on an overseas base or installation. Eligible owners of such property who are unable to find a purchaser for the property may surrender their interest therein to the United States and shall be entitled to compensation in an amount equal to (1) 90 percent of the sum of the purchase price of the dwelling and improvements, and all costs of ownership, including interest on notes, utilities, and service, maintenance and insurance, less (2) the total of all housing allowances received from the Government during ownership or occupancy of the dwelling, and all rents or other benefits collected: *Provided, however,* That the maximum compensation will in no event exceed 90 percent of the unamortized portion of the cost of the property, including improvements, at the time ownership was terminated, as reflected in the amortization schedule, if any, relating to such property. In the case of private sale of property located on base, the foregoing formula will also be applied, except that in computing benefits due the applicant the sale price will be deducted together with the other items specified in subparagraph 1 of this paragraph.

(c) Benefits available in connection with off-base property are limited to private sale relief, consisting of the difference between 95 percent of the fair market value of such property before the closure or reduction announcement and the fair market value thereof at the time of sale or the sale price, whichever is greater. No overseas off-base property may be acquired by the Government.

§ 644.189 Records and Reports.

Homeowners Assistance Docket Sheet, ENG Form 4153, will be used by Division/District to record actions taken after receipt of applications. The foregoing forms will be used as a document for the preparation of punched cards for reporting purposes. Detailed instructions are set forth in Chapter 14, EP 405-1-2. Reporting requirements for RCS DAEN-RE-12 are incorporated in ER 405-1-11.

PROCEDURE

§ 644.190 Announcement of Base Closure or Reduction.

(a) Immediately upon announcement at DOD level or locally of a closure or reduction action, Division/District will take the following actions in anticipation of the filing of applications for homeowners assistance:

(1) Contact the respective base personnel offices within their jurisdictions to apprise those offices of the availability of HAP benefits and to establish the proper degree of liaison;

(2) Obtain from the base personnel offices an indication of the number of homeowners involved and the specific locations of their homes;

(3) Prepare estimates indicating the number of applications for homeowners assistance that may be expected, as well as estimates of the number of homeowners that may be expected to be eligible under the program. Eligibility estimates may be based on the general marketability of homes in the area, the concentration of homes in specific areas, the time phasing for personnel movement and other available information. A detailed study of market conditions is not necessary at this time. Based on information obtained in Paragraphs (a) (1) and (2) of this section, determination may be made concerning the extent of publicity that should be given to the homeowners assistance benefits. For example, if it appears the closure or reduction action will not result in economic losses in the sale of homes, it would be inappropriate to emphasize to the homeowners the availability of benefits.

(b) Upon completion of the preliminary investigation and study of potential impact, with respect to a new closure or reduction action announcement, APP C, ER 405-1-11 prescribes that an Installation Closure Potential Impact Report (RCS DAEN-RE-21) will be prepared and forwarded. The report contains the following information and is furnished to HQDA (DAEN-REH-O) WASH DC 20314, within 60 days from the date of public announcement:

(1) Estimated number of military and civilian personnel affected, segregated by rank or grade level.

(2) Estimated number of homeowners in each category.

(3) Estimated number of personnel involved in routine transfers affected by closure or realignment action.

(4) Real estate market conditions.

(c) With respect to a new closure or reduction action announcement, action will be taken immediately to obtain and assemble current market data with respect to the activity of the real estate market prior to the closure or reduction action announcement in the general area of the affected bases. The scope of such action will be commensurate with the anticipated work load as determined by the Division/District. Such data should be filed for future reference. It will be useful in the processing of applications at a later date when it will be necessary to compare the pre-base closure market with the market at the time of the applicant's sale, relocation or foreclosure. This should not be construed as a request for a detailed market data impact study nor is it recommended that individual appraisals be made at this time. A substantial collection of current sales data should provide sufficient data upon which the preclosure market may be estimated. An excellent source of sales data is the local Board of Realtor's Multiple Listing by cards or sheets. These cards or sheets include a photograph of the house, a brief physical description and the asking price. It is essential that the selling price be obtained and set forth

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on the card. If a multiple service is not available, similar data sheets on sales should be compiled. Other sources of data are local realtors, mortgage brokers, assessment officers, county courthouse records and utility companies. A determination at the time of the announcement as to whether or not applicants can sell upon reasonable terms and conditions would be premature; however, if there are early closure reduction and phaseout dates, it is highly probable that such determination will be necessary at an early date. When such a determination is required, it is proposed that it be made from a simple market analysis, plus a sampling of appraisals covering the initial applications received which should indicate the trend of the market. An elaborate and costly impact study is not required and should not be made.

§ 644.191 Review of Application.

(a) In order to be eligible for HAP benefits, an applicant must meet all pertinent requirements of the Act. Sections 644.193 through 644.203 refer to most of the basic requirements of Section 1013 (a) and (b) of the Act. In view of the inter-relationship between the paragraphs, they should be read together for proper understanding. Insofar as practicable, subjects are treated in the chronological order contained in the Act so that the processing of an application may be discontinued without unnecessary work if an applicant fails at any point to meet one of the basic requirements of the Act.

(b) Division/District, upon receipt of an application will assign a number to it; however, applications in connection with installations located in another Division/District will not be assigned a number but will be forwarded immediately to the Division/District having jurisdiction (a number, once assigned, will not be reassigned regardless of the disposition of the application).

§ 644.192 Closure or Reduction Action Determination.

A closure or reduction action, as contemplated by the Act, is defined as a publicly announced action by the Department of Defense or by a component thereof, at headquarters or local level, which, (a) involves a complete or partial closure of a military base or installation, or (b) involves a reduction in the scope of operations at a military base or installation. In addition, where any publicly reported governmental statement or action can reasonably be interpreted by base personnel and the public as indicating that a closure or reduction action is imminent, such statement or action will be regarded as a closure or reduction announcement within the meaning of the Act. Any reasonable doubt as to whether a closure or reduction action has been announced will be resolved in favor of the applicant.

§ 644.193 Base Closure Action "In Whole."

A base closure "in whole" is defined as an action announced publicly by the Department of Defense or by a component thereof, which involves one of the following:

(a) The complete closing of a military base or installation, or

(b) The termination of all existing functions (other than caretaker) at a military base or installation.

§ 644.194 Base Closure Action "In Part."

A base closure "in part" is defined as an action announced publicly by the Department of Defense or by a component thereof, which involves one of the following:

(a) The termination of a separate and distinct mission or function at a military base or installation, or

(b) The permanent relocation of a military unit from an installation, other than from an installation which includes in its basic mission the support or "homeporting" of various military units, and historically has experienced repeated and sharp fluctuations in aggregate personnel strength.

(c) In addition to the above, there must be one of the following:

(1) The permanent or indefinite closing of all or part of the physical plant at a military base or installation, or

(2) A change in use from one Defense component to another of all or part of the physcial plant at a military base or installation, coupled with a significant drop in personnel for a period of six months or more, or

(3) A change in use from one mission or function to another, of all or part of the physical plant at a military base or installation, coupled with a significant drop in personnel for a period of six months or more. A significant drop in personnel is considered as occurring where the aggregate of Federal personnel (military and civilian) displayed in consequence of the announced closure was a significant part (one percent or more) of the total area employment at the time of the announcement.

§ 644.195 Reduction in the Scope of Operations.

A reduction in the scope of operations is defined as an action publicly announced by the Department of Defense or by a component thereof which involves the elimination of military or Federal civilian personnel from a military base or installation and yet does not necessarily involve, as in the case of a closure action, the termination of any mission or function, the permanent relocation of any military unit, or the permanent closing of all or part of the physical plant.

§ 644.196 Eligibility—Service or Employment Certification.

Upon a determination that the applicant was involved in a base closure or reduction action, the Division/District will ascertain that the personnel officer has properly certified the application as to service or employment. If the application is incomplete, timely action will be taken to return it to the personnel officer for proper completion, prior to the further processing thereof. If the certification is satisfactory, the application will be checked for compliance with the other requirements of the Act.

§ 644.197 Any Property Improved With a One- or Two-Family Dwelling.

(a) The applicant must be or have been the owner of a one- or two-family dwelling situated at or near the military base or bases announced for closure or reduction. A one- or two-family dwelling which is located on a farm or on other large acreage would include only such land as would reasonably constitute a residential property within the area. Land owned by the applicant which does not adjoin his residence normally will not be considered a part of the residential premises. Whether an additional adjoining lot should be included as part of the residential premises will depend on whether it is, in fact, a part of the residential premises and was used as such, and whether it can be severed readily and can be disposed of economically without disproportionately affecting the disposal of the residential premises. The method generally used within the area for selling and purchasing residential premises will be considered. Notwithstanding the foregoing, the applicant should not be left with a lot which is less than the size required for a home, similar to those in the area, or which would be considered unmarketable except as part of the adjoining residence. These are judgment factors to be determined and applied to individual cases by the Division/District.

(b) To qualify for consideration, the property must include a dwelling unit which constitutes an improvement in the usual sense as of the date of the closure or reduction action announcement. It must be, or have been, an integral part of the property. Individual apartments in condominium or cooperate ownership may qualify. Generally, trailers would not qualify; however, trailers would qualify if demounted and permanently attached to owned land or land held under a long-term lease or if they are otherwise determined to be real property. The Act refers to "any property improved with

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a one- or two-family dwelling"; therefore, property would include land as well as improvements.

(c) Where the Division/District determines that the improvements on the property (in connection with which a qualified applicant has filed an application) have been damaged after the closure or reduction action announcement to the extent of 75 percent or more or have been destroyed by fire, flood, and/or other like casualty, the applicant will be entitled to benefits only on the basis of a private sale. The Government will not purchase the applicant's land. In such event, his benefits will be computed as follows:

(1) Find the prior value of the land and improvements in the undamaged condition.

(2) Find the current value of the land and improvements in the undamaged condition.

(3) Multiply the prior value (1) by 95 percent and deduct (2); this will be the amount of benefits to be paid to the applicant.

(d) Where the Division/District determines that the improvements have been damaged after the closure or reduction action announcement to the extent of 25 percent or less by fire, flood, and/or other like casualty, the applicant shall be notified that he may elect to receive benefits on the basis of a private sale, as computed above, or he may sell the property to the Government on the following basis: Multiply the prior value (paragraph (c)(1) of this section) by 90 percent and deduct therefrom the amount or percent of damage calculated on the current value in the undamaged condition.

(e) Where the Divison/District determines that the improvements have been damaged after the closure or reduction action announcement by fire, flood, and/or other like casualty more than 25 percent but less than 75 percent the applicant shall be notified that he may receive benefits on the basis of a private sale, as computed above, that the purchase of his property by the Government will require the approval of OCE. If the applicant desires to sell his property to the Government, the Division/District will make appropriate recommendations and include information from the Regional Office of the Federal Housing Administration (FHA) as to whether the property would be acceptable for sale. If the FHA will not accept the property, Division/District should include a disposal plan.

§ 644.198 Location of Property "at or near" the Installation.

A property within 20 miles of an installation will be considered to be "at or near" that installation. Properties at a greater distance will be considered to be "at or near": *Provided*, That the applicant actually lived in the property and commuted daily to his place of work during the period immediately prior to his transfer, or during the period immediately prior to his being ordered into on-post housing.

§ 644.199 Termination as Result of Closure or Reduction Action.

The applicant must meet one of the eligibility requirements set forth below:

(a) Must be a non-temporary Federal employee whose employment at or in connection with the base, has been or will be terminated as a result of the closure or reduction action.

(b) Must be a serviceman whose service at or in connection with the base has been or will be, terminated as a result of the closure or reduction action.

(c) An applicant's employment or service at the base or installation which has been ordered to be closed or reduced must be or have been terminated as a consequence of the closure or reduction action. An applicant may be considered as having his employment or service terminated as a consequence of the closure or reduction action if he is eligible under the other requirements of the Act and if:

(1) Subsequent to public announcement of the closure action, or within six months prior thereto:

(i) He elects to retire.

(ii) He elects not to re-enlist in the military service.

(iii) He voluntarily resigns from a position which will be abolished.

(iv) He is transferred and his position or assignment is scheduled for eventual termination as a result of the closure or reduction action.

(v) He elects to accept other employment in lieu of transfer at a location beyond normal commuting distance; or

(2) He is transferred overseas unaccompanied by dependents within 15 months prior to public announcement of the closure or reduction action.

(d) In addition to the above, servicemen and Federal employees assigned or employed at or near bases announced for closure after 1 April 1973, who are required to relocate due to transfer, reassignment, or involuntary termination of employment for reasons other than the closure action, are entitled to program benefits, subject to their meeting other prescribed eligibility requirements.

§ 644.200 Time of Employment or Service at Base.

Applicant must meet *one* of the qualifications set forth in Paragraphs (a), (b), or (c) of this section:

(a) Must be or have been a serviceman or Federal employee assigned to or employed at or near the installation or activity at the time of the public announcement of the closure or reduction action; or

(b) Must be or have been a serviceman or Federal employee who transferred from such installation or activity, or who was terminated as an employee as a result of reduction-in-force within six months prior to public announcement of the closure or reduction action; or

(c) Must be or have been a serviceman or Federal employee transferred from the base on an unaccompanied overseas tour within 15 months prior to the public announcement of the closure or reduction action.

§ 644.201 Owner-Occupant.

The applicant must meet one of the requirements set forth in Paragraphs (a) or (b) of this section:

(a) Must be or have been a serviceman or Federal employee who was the owner-occupant of the dwelling at the time of the public announcement of the closure or reduction action; or at the time of transfer or termination as a result of a reduction-in-force within six months prior to the said public announcement; or at the time of transfer from the installation on an overseas tour unaccompanied by dependents within 15 months prior to the said public announcement.

(b) Must be or have been a serviceman or Federal employee who vacated the owned dwelling as a result of having been ordered into on-post housing during a six-month period prior to the closure or reduction action announcement.

(c) A serviceman or Federal employee may be considered an owner of property without regard to the technical form or description by which an ownership interest is evidenced: *Provided*, That, consistent with local practices and procedures, the applicant can be shown substantially to have the rights and duties of a person with an ownership interest in the property. Depending on relevant circumstances, for example, an applicant may be eligible who holds title to a long-term ground lease rather than to the fee or who is the buyer under a long-term executory purchase contract; but one whose interest is that of a mere security holder, whether by mortgage, deed of trust, or otherwise, shall not be eligible. An applicant may be eligible notwithstanding that title or other ownership interest is in the joint or exclusive name of a spouse. A serviceman or Federal employee who was the owner of a dwelling may be considered to have been the occupant although he was temporarily absent therefrom if his temporary absence was for a

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valid governmental purpose, such as temporary duty, and he would have returned to the house except for the closure or reduction action.

§ 644.202 Relocation or Financial Hardship.

Applicant must meet *one* of the requirements set forth in Paragraphs (a) or (b) of this section:

(a) Must be or have been a serviceman or Federal employee who, as a consequence of the closure or reduction action, was required to relocate because of a military transfer or because of the acceptance of employment beyond a normal commuting distance from the base. For purposes of satisfying this requirement, the applicant must be relocated to a new place of service or employment which is more than 20 miles from the dwelling to which assistance is sought *and* further from the dwelling in terms of commuting time than the base or installation announced for closure or reduction. Applicants listed in § 644.199(c)(1) who resigned, retired or chose not to reenlist and who moved beyond a reasonable commuting distance from the base, are ipso facto considered to have accepted employment beyond a normal commuting distance from the dwelling for which compensation is sought, as required by Section 1013(b), second proviso, Pub. L. 89-754.

(b) Must be a serviceman or Federal employee who, as a consequence of the closure or reduction action, is unemployed, not as a matter of personal choice, and who is able to demonstrate such financial hardship that he is unable to meet the mortgage payments and related expenses. Financial hardship due to being unemployed in the area of the closed installation is a determination that must be made by the Division/District where the applicant is unemployed not as a matter of personal choice and as a result of base closure. The applicant may be considered so unemployed even though offered, prior to termination, a comparable position at another location beyond normal commuting distance. In support of the hardship allegation, the applicant is required to state why employment is not available or has not been accepted, the amount and frequency of all income, nature and amounts of debts, and number and amount of all installment payments, including mortgage payments in arrears. Where current income for a period of 90 days next preceding the date of application is less than the current enforceable obligations against the applicant, including the mortgage payments, it may be determined that unemployment and financial hardship, as required by the Act, has been established. It is pointed out that this determination is to be based upon the relationship between income and obligations. The financial worth of the applicant need not be taken into account. In making the hardship determination, doubtful cases should be resolved in favor of the applicant.

(c) Each applicant requested to furnish supporting information to establish financial hardship will be furnished an appropriate notification of the provisions of the Privacy Act of 1974 (5 U.S.C. 552a).

§ 644.203 Qualifying.

(a) In the event an applicant fails to meet any of the essential requirements of the program as set forth in the preceding paragraphs, there will be no further action taken on the application except to notify the applicant in writing of this fact and to advise him of his right to appeal.

(b) Where the applicant meets the essential requirements of the preceding paragraphs, action with respect to the application will be taken as hereinafter set forth.

§ 644.204 Housing Market Area.

The housing market area is defined as an area in which dwelling units are in competition based on available transportation facilities, local commuting habits and preferences, and the pattern of urban development, taking into account the location of the homes of the employees affected by the closure or reduction action.

§ 644.205 Market Impact Zone.

The market impact zone is defined as a residential district or subdivision within the market area or a category of homes by prices which is sufficiently impacted by a base closure action to enable homeowners to qualify for assistance. Such a zone could be the area contained within a circle surrounding the base, the radius of which is the distance between the base and the applicant's property. It is recognized that in many cases only a portion of a market area, or homes in a certain price bracket will be significantly affected by a base closure action.

§ 644.206 Determination of Economic Impact.

(a) A basic requirement of the Act is that there be no present market for the sale of the applicant's property upon reasonable terms and conditions, as a result of the actual or pending closing of the base or installation in whole or in part, or as a result of the reduction in the scope of operations at such base or as the result of such action and other similar actions in the same housing market area or market impact zone. It is basic to this provision of the Act that there be a causal relationship between the lack of a market for the sale of a home upon reasonable terms and conditions, and the actual or pending closure or reduction action(s). Where the Division/District determines that the lack of a market for the sale of a home upon reasonable terms and conditions is the result of the actual or pending closure or reduction action(s), there is no need to make further determinations such as the relationship between the number of Federal personnel spaces displaced and the total area employement. Where, however, the Divsion/District is unable to establish a clear causal realtionship between a closure or reduction action(s) and a decline in value, it will be determined that the decline in market values is the result of the actual or pending closing of the base or installation where the decline took place susequent to the closure or reduction action(s), and where the aggregate of Federal personnel spaces (military and civilian) displaced in consequence of the announced closure or reduction action(s) was a significant part (one percent or more) of the total area employment at the time of the announcement. Division/District will consider total declines in market values without attempting to ascertain what portion of such declines are attributable to factors other than closure or reduction action(s). The area involved in the term "total area employment" should be determined by the Division/District. As a general guideline, the total employment area might be considered to be an area bounded by points representing the average distance traveled by the majority of employees commuting to work at the base.

(b) Requirements of Section 1013(a)(3) of the Act will be met if the causal relationship has been established as provided in paragraph (a) of this section, and if:

(1) Subsequent to the closure or reduction action announcement there is a decline in market values of five percent or more within the market area, or within the included market impact zone as to properties within that zone, based on findings of a Federal agency, a special market survey, or a pattern of area appraisals. Individual real property appraisals will suffice pending establishment of an area pattern or other valid evidence.

(2) As to any particular property, the applicant is unable to dispose of his property to a responsible purchaser for the amount of the outstanding mortgages, after reasonable efforts to do so. In such case, the applicant must show evidence of efforts to sell privately. Such evidence may include such things as newspaper advertisements and listing with brokers. Where, however, a property is mortgaged immediately prior to the announcement

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in a sum in excess of prior fair market value, failure to dispose of the property for the aggregate of the mortgage debt will not provide a basis for determining that there is no market upon reasonable terms and conditions as to that property.

(c) In addition to paragraph (b) of this section, if a causal relationship to the base closure can be shown, there will be considered to be compliance with the requirement of Section 1013(a)(3) of the Act, if:

(1) As to a particular property, the applicant is unable to sell his property after reasonable efforts to do so and the said property is foreclosed; or

(2) As to a particular property, the applicant, after reasonable effort has not been able to sell his home and is willing to convey his property to the Government for 90 percent of its prior value; or

(3) There is a determination by OCE that because of the peculiar circumstances of the case there is considered to be lack of market for the sale of the applicants' homes as a result of the closure or reduction action(s). An example of such a case would be where a group of homes larger than the local market can absorb in a reasonable length of time has been placed on the market, resulting in a stagnant market, thereby distorting the normal appraisal techniques of estimating value through comparable sales and leaving the homeowner with little choice other than to retain his home or to sell to a speculator. Where such a situation is encountered, Division/District Engineers should take prompt action to report the matter to OCE with applicable comments and recommendations.

(d) In the event the Division/District, after analyzing all market data and the appraisals covering the initial applications received, determines that the requirements of Section 1013(a)(3) of the Act have not been met and plans to deny all applications on the basis of no impact in a housing market area, the Division/District Engineer will submit his findings and recommendations to OCE for review prior to taking any action thereon.

§ 644.207 DD Form 1607, Application for Homeowners Assistance.

Inasmuch as DD Form 1607 does not provide all of the information required to process the application, Figures 7-1, 2, and 3 in EP 405-1-2 are proposed letters to applicants requesting supplemental information. The letters may be considered to be guidelines and may be amended as deemed appropriate. Figure 7-4 (EP 405-1-2) is a Privacy Act Information Statement which should be furnished to the applicant on all occasions when information is requested from such applicant.

§ 644.208 Applications Filed Requesting Government Purchase Before Impact is Known.

(a) Closure or reduction action announcements often contain items with imminent action dates. Many applicants will be faced with a shortage of time between notice of termination of their service or employment and their relocation. A problem may arise with respect to HAP applications wherein the Government is requested to buy the applicant's home soon after a closure or reduction action is announced and, at the time of the filing of the application, there is no evidence of adverse real estate market impact as a result of the closure or reduction action. In such a case, the application cannot be approved until it can be ascertained that as a result of the closure or reduction action there is "no market for the sale of the applicant's dwelling upon reasonable terms and conditions." Potential applicants should be advised that in the early stages of a closure or reduction action, the impact on the housing market may be very slow in appearing. Indicators, such as sales prices, increased inventory and decrease in sales, may be inconclusive for some time as to whether there is a depressed or stagnant market. The applicant's experience in trying to sell his property may be the best early indication of the lack of a market. Until there is evidence of an adverse impact, or a stagnant real estate market, the applicant must be advised that the Government cannot acquire his dwelling.

(b) An applicant who decides to appeal within 180 days after he is notified that his application has been denied because of no impact, faces the possibility that the market may not change within the time required for consideration of his appeal and that his appeal will, therefore, have to be denied. In view of the fact that there may be an impacted real estate market at a later date as a result of the closure or reduction action, the applicant should be given the opportunity to appeal or to withdraw his application without prejudice to his right to resubmit it at a later date. If the applicant does not respond within the 180-day period or if the applicant should appeal and be denied, Division/District Engineers may make recommendations to OCE on an individual case basis for reopening such cases in the event there is a later adverse impact on the market which might result in favorable action in the applicant's case.

§ 644.209 Real Estate Appraisals.

(a) In cases where the applicants satisfy all other eligibility requirements, individual real property appraisals will be prepared by staff or contract appraisers as guides to the determinations of fair market values. Care should be exercised to avoid the expense of appraisals which are elaborate or more detailed than is necessary to provide the limited data necessary for this program. It is to be noted that in this program no property will be acquired through condemnation proceedings. Existing FHA, VA, and other valid appraisals should be used in lieu of ordering new appraisals where such existing appraisals were prepared within an acceptable time frame. As an exception to Subpart B, the brief appraisal format set forth as Figure 7-6, or a reasonable variation thereof, will be used in this program. Substantial savings can be realized in the use of a short form appraisal format. Where there is an appeal as to value, a full appraisal will be made unless the matter can be resolved at the Division/District level. Substantial differences between the "before" appraisal and the applicant's purchase price should be fully explained, as well as substantial differences between the "after" appraisal and the applicant's selling price, if an amount other than the selling price is used to determine benefits. To the extent possible, staff appraisals should be obtained.

(b) Division/District offices should not offer to furnish the applicant with a copy of the appraisal report but the applicant will be notified of the determined valuations of his properties so that he may be fully informed in the event he desires to appeal such valuations. If the applicant requests a copy of the appraisal report, it will be furnished to him.

(c) Except as set forth in this Subpart E, HAP appraisal matters will be handled as set forth in Subpart B.

§ 644.210 Determination of Fair Market Value (FMV).

The Act requires that determinations be made of the fair market value (FMV) of applicants' homes as of a date prior to the announcement and in many cases at the time of sale. The Division/District will make determinations of FMV using the real estate appraisal report, FHA and VA loan commitment documents and any pertinent information contained in the record which relates to the value of the applicant's property.

(a) The FMV prior to the public announcement will be determined as of a date immediately prior to the announcement, or as close to the announcement as such value can reasonably be determined. However, if it is established that the imminent closure of the base was known to the public prior to the official announcement, the applicant should not be penalized for the resultant downward trend of real property values between the time

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of the actual public knowledge of the closing and the time of the official announcement.

(b) If the applicant has made a reasonable effort to sell his property within the time frame allotted to him by the circumstances of his transfer and relocation and there are no cogent reasons to believe that the transaction misrepresents the fair market value of the applicant's property at the time of the transaction, then the sales price should be used as the "after" value. The applicant should be given the advantage of any reasonable doubt. Although the sales price normally will be used as the "after" value, it must be recognized that some applicants may make poor bargains and sell their homes at prices substantially below the current market value for comparable properties. Since it is not intended under this program to provide compensation for losses occasioned by failure to obtain the current market price, such an applicant's benefit may have to be determined on an "after" value greater than his sale price. When this is done, the record should contain cogent reasons in support of the "after" value.

(c) As an aid in the administration of this program, the Division/District is authorized to use as the "prior" FMV an amount not to exceed 110 percent of the estimated prior FMV shown in the appraisal report, when he determines that the circumstances in the individual case justify such action. The specific reasons supporting such action will be made a part of the record and the responsible official will include a statement in the record that the prior FMV was determined in accordance with the Act and delegations of authority. This authority may be exercised either in the initial processing of the application or when the matter is reviewed on appeal. It is intended that an eligible applicant will be afforded initially that amount of benefits to which he is entitled and that this authority will not be used as a bargaining tool in order to settle the applicant's appeal.

§ 644.211 Reasonable Effort to Sell.

The term "reasonable effort to sell," or similar phrases throughout this chapter, must be related to the time the applicant has available to him (by direction of his employer or by personal choice) to sell his property. If he makes plans to relocate promptly, he should not be encumbered by a requirement to hold property on the market beyond a desirable time considering his relocation plans. This should not be considered to be encouragement for a private sale below the apparent market value, but should be considered an accommodation to the applicant to facilitate his move by sale to the Government at 90 percent of prior value.

Benefits—Private Sale and Foreclosure

§ 644.212 Benefits—Private Sale.

(a) An eligible applicant may be reimbursed in connection with the private sale of his home in an amount not in excess of 95 percent of the prior FMV, less the FMV of the property at the time of sale, or the sales price, whichever is greater. Care must be exercised to assure that no commitment is made to an applicant as to the granting of assistance in the absence of a finding of market impact. The applicant must show that he has made a reasonable effort to obtain the maximum price for the property. Applicants should be encouraged to obtain a release from the VA or the FHA of their liability in the case of assumption of their loan by their purchaser.

(b) For purposes of determining compensation for losses sustained in a private sale, fair market value at the time of sale as contemplated by Section 1013(c) of the Act will be the fair market value at the time of sale, or the sales price, whichever is greater, less the amount of the closing costs, sales expenses, and "mortgage points" customarily paid by the seller in the area in connection with the sale of a one- or two-family home. Allowance of the real estate sale expenses may not duplicate any sale expenses paid or payable under Public Law 89-516 (80 Stat. 323, 324) in the case of certain civilian employees who have a permanent change in their duty station.

(c) Section 1013(c) of the Act provides in part that cash payment as compensation for losses sustained in a private sale shall not be made in any case in which the property is encumbered by a mortgage loan guaranteed, insured, or held by a federal agency unless such mortgage loan is paid, assumed by a purchaser satisfactory to such federal agency, or otherwise fully satisfied at, or prior to, the time such cash payment is made. The Veterans Administration has determined that it will consider the present titleholder to be the "purchaser" for the purposes of this program. There have been some difficulties and some delays in obtaining the approval by FHA and VA of the subsequent purchaser. Each application should be completely processed, as provided below, even though settlement may be delayed or precluded because of the failure of the federal agency to certify the subsequent purchaser as satisfactory:

(1) If the applicant is found to be ineligible or it has been determined that no benefits will accrue to him, no contact will be made with FHA or VA as to the acceptability of a subsequent purchaser. The applicant will be notified that he is ineligible or that he is not entitled to benefits. If no appeal is filed, the case will be considered closed. If an appeal is filed, the case will be handled under the appeals procedures.

(2) If the applicant is found to be eligible and agrees to accept the benefits offered, the Division/District will request the FHA or VA to advise whether the subsequent purchaser has been approved. If such approval is not forthcoming, or the FHA or VA declines to approve the subsequent purchaser, the applicant will be advised that payment cannot be made to him until FHA or VA approves the subsequent purchaser. Sufficient funds will be allocated to provide for payment to such applicant at a later date, in the event the subsequent purchaser should be approved by the FHA or VA.

§ 644.213 Benefits—Foreclosure.

(a) Foreclosure actions may be treated as foreclosures or as prior sales. However, where the applicant has sold the property and final settlement has been made on the basis of an actual sale the case may not be reopened in the event of a subsequent foreclosure.

(b) Where the foreclosure costs are to be paid or reimbursed by the Government, the Division/District will verify all facts as necessary with court officials, judgment holders, and claimants before making payment.

§ 644.214 Benefits—Deed in Lieu of Foreclosure.

Where an applicant has conveyed his home by deed in lieu of foreclosure, the case will be treated as a private sale.

§ 644.215 Benefits—Private Sale or Foreclosure Basis.

(a) Upon determination of the benefits to which an applicant is entitled, based on private sale or payment or reimbursement of foreclosure costs, the applicant will be notified by letter as to such benefits and asked to advise concerning acceptance of the benefits most advantageous to him. He will be informed by the Division/District in specific detail how the benefits were determined, including the estimated valuations, and advised of his right to appeal any decision which he feels is adverse to his interest and the appeal procedure to be followed. Where applicable, an information copy of the letter to the applicant will be furnished to the regional office of the VA or FHA.

(b) Upon receipt of notification of acceptance of benefits by the applicant, necessary documentation will be made and checks will be issued to the appropriate parties as provided in this pamphlet.

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(c) If the application is processed as a private sale and payment is made to the applicant, the applicant is thereafter precluded from being eligible for foreclosure benefits. In the event of little or no benefits under the private sale formula, and where no foreclosure has occurred, an eligible applicant will be apprised of the foreclosure benefits available under the law and will be given the opportunity to withdraw his application, without prejudice to his right to resubmit it at a later date within the three-year time period limitation, if he desires to handle the matter in this manner.

BENEFITS—ACQUISITION

§ 644.216 Acquisition by the Government.

(a) An eligible applicant who owns his home may elect to sell the property to the Government and to receive, as the purchase price thereof, an amount not to exceed 90 percent of prior FMV or the amount of the outstanding mortgages. Purchase by the Government does not involve a displacement within the meaning of Pub. L. 91-646 (84 Stat. 1894) and Pub. L. 91-646 has no application.

(b) An eligible applicant who still owns his home should be advised of the acquisition procedures and of the estimated time to complete the acquisition. The applicant should also be made aware:

(1) That the election to sell his home to the Government is voluntary, must be made within 30 days after he has been advised as to the "prior" fair market value, subject to a right of appeal with respect to the amount of the prior value, and that the Government will take title only by a direct purchase transaction since condemnation is not authorized.

(2) That if he retains title to the property he will not be eligible for homeowners assistance.

(3) That in the event he sells his home privately he is entitled to receive private sale assistance under the formula set forth in the law.

(4) That the Government will determine benefits and that all possible aid will be given to afford him the full benefits authorized by the Act.

§ 644.217 Assumption of Primary Mortgage.

When the applicant's home is purchased, the agreement between DOD and the Department of Housing and Urban Development (HUD) contemplates that the primary mortgage will be assumed by the Government and that other mortgages will be paid off as part of the closing of the purchase transaction. The primary mortgage will not be prepaid unless approval is obtained from HUD (FHA) or from HQDA (DAEN-REH-O) WASH DC 20314. It is considered that where the Government has assumed and agreed to pay the mortgage indebtedness, the benefits accorded by the Act are fulfilled, even though the primary mortgage is left outstanding and the applicant may not technically be released from his obligations thereunder.

§ 644.218 Closing and Settlement Costs—Arrearages.

(a) The applicant is responsible for making mortgage payments up until the date of purchase by the Government and the Government will assume no responsibility if the applicant fails to make such payments and there is a foreclosure. However, in connection with the acquisition the Government will reimburse the applicant on a prorated basis for mortgage interest; penalty charges, if any; and taxes and hazard insurance premiums, due after the date of the applicant's relocation or date of his application, whichever is later. The applicant is reimbursed for the principal portion of mortgage payments by being paid for his equity in the property at time of settlement; caution should be exercised to assure that no duplicate payment is made in this respect. The applicant is, of course, responsible for payment of outstanding judgments, liens, and encumbrances, including levied or pending public improvement assessments. To the extent that the applicant receives a payment, such as rental income, or other benefits from use of the property after filing his application, or the date of his relocation, whichever is later, an appropriate adjustment will be made by the District/Division Engineer. Closing and settlement costs are borne by the Government.

(b) The amount of the outstanding mortgages as contemplated by Section 1013(c) will be the total amount which the applicant, as the mortgagor, owes pursuant to the mortgage agreement(s). This will include taxes, hazard insurance, and interest and penalty charges which have accrued and have been added to the total indebtedness, as adjusted to provide for the costs for which the applicant is responsible, as set forth in paragraph (a) of this section.

§ 644.219 Preparation of Offer to Sell.

If the applicant elects to sell the property to the Government, the applicant and spouse will execute an offer to sell the property reflecting the terms and conditions of the proposed sale. ENG Form 42 appropriately modified or other form may be used for this purpose. It is not necessary to submit the revised form of offer to the Chief of Engineers for consideration prior to acceptance. Provision in the offer for mortgage assumption by the Government should conform to local law. Provision for the prorating of real estate taxes should conform to local custom.

§ 644.220 Preparation of Lands Representative's Report.

A complete written record of contacts with the applicant will be prepared and signed by the lands representative. Part I of ENG Form 3423, Negotiators Report, may be used for this purpose. This record will state the chronological history of the contacts made and all elements considered in evaluating the various elections available. Final action on the applicant's offer will be entered on this record as soon as that information is available.

§ 644.221 Acceptance and Distribution of Offer to Sell.

(a) For each purchase transaction the original and four copies will be signed by the applicant and spouse, if any. A copy will be left with the applicant when the offer is obtained.

(b) Division and District Engineers, and the Chiefs of their Real Estate Divisions are authorized to accept offers to sell incident to the acquisition of land under the Homeowners Assistance Program.

(c) When the offer is approved, funds determined to be available and the instrument accepted, the offer will be appropriately numbered and distributed immediately as follows:

(1) Original signed offer to project file.

(2) One signed copy to the applicant.

(3) Signed copy to title assembly.

(4) Signed copy to F&A Officer.

§ 644.222 Occupation of Property.

(a) Under agreement with DOD, FHA will assume custody of the properties for management and disposal immediately upon vesting of title. Arrangement should be made with the applicant and the tenant if the property is rented, for the transfer of possession of the property to the Government. Ordinarily, possession should be given at the time title is vested in the United States. An agreed possession date should be incorporated in the offer. The applicant should arrange with his tenant to vacate the property by the time agreed upon. FHA desires that the property be vacant at the time it receives custody.

(b) If circumstances require, applicants and their tenants may be permitted to remain in possession after title is transferred to the United States: *Provided, however,* prior approval is obtained from the local FHA insuring agency which will assume custody of the property, in which case the hazard insurance of the owner will be continued at his expense during the period of such occupancy.

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§ 644.223 Other Outstanding Rights.

Rights of third parties in the property, other than those discussed above, will be left outstanding: *Provided,* That this is consistent with good real estate practices in the community and will not prejudice the marketability of the property, such as easements for public highways and utilities. Mineral and water rights may also fall within this category. Restrictive covenants of the types held to be against public policy may be waived; however, other types of restrictive covenants must be satisfied or removed by the owner unless they are of a nature which will not prejudice the marketability of the property.

§ 644.224 Administrative Waiver.

Division and District Engineers, and/or the Chiefs of their Real Estate Divisions, will determine whether any outstanding right or interest in the property should be administratively waived. Inclusion of such outstanding right or interest in the "subject to" clause of the accepted offer will be evidence of this determination. If they are to be waived, it is important that they be included in the "subject to" clause.

§ 644.225 Hazard Insurance.

(a) Properties to be acquired by the United States will usually be covered by hazard insurance. The owner should be advised that any improvements on the land remain his property until title has been vested in the United States by delivery of the deed and loss or damage thereto caused by fire, acts of God, theft, or vandalism, before such vesting of title will be borne by him. The purchase contract will reflect the owner's responsibilities in this respect.

(b) After title has vested, losses to improvements not caused by the willful act or gross negligence of the owner will be borne by the United States. The Government will not carry insurance of any nature on the property except to the extent hereinafter explained. The time and method of cancellation and negotiation for refund of premiums paid will be the responsibilities of the owner.

(c) When FHA receives custody of the property, it will advise the mortgagee that the insurance coverage should be canceled and that the United States does not intend to carry insurance of any nature on the property. If FHA is unable to arrive at an arrangement with the mortgagee in this regard, FHA will obtain a property insurance policy in an amount equivalent to the unpaid balance of the mortgage which the Government has assumed and agreed to pay. FHA will then advise the mortgagee that he may cancel the existing property insurance policy or release it to the former owner for cancellation. Any unearned premiums will be the property of the former owner. Insurance claims arising after agreement between the applicant and the Government must be assigned to the Government.

§ 644.226 Title Evidence, Title Clearance and Closing.

The procedures governing the procurement of title evidence, title clearance and closings for fee acquisitions by purchase as set forth in Subpart C will apply generally to acquisition of properties under the Homeowners Assistance program, except as otherwise provided herein. If a survey showing the location of the building on the homesite is available from the lender or other source at little or no cost, it should be included as part of the title evidence in each case. Where reasonable grounds exist for the belief that some irregularity in title might be disclosed by a survey, one should always be obtained by the Division/District and included.

§ 644.227 Preliminary Title Evidence.

When determination is made that an applicant is eligible for assistance and he has elected to sell the property to the Government, preliminary title evidence for the property will be obtained from the applicant or his mortgagee and furnished to the title company in an effort to reduce costs in obtaining preliminary title opinions.

§ 644.228 Closings.

(a) Closing of the purchase transaction will be accomplished in accordance with the terms of the accepted offer.

(b) All mortgages against the property which the Government has assumed and agreed to pay by the terms of the accepted offer, except the first or primary mortgage, will be paid off and released of record expeditiously after delivery of deed conveying the property to the United States. Normally, this payoff occurs as a part of the closing transaction but after delivery of deed.

(c) The mortgagee may be holding an escrow account on behalf of the applicant to be used for the payment of taxes, mortgage insurance premium and hazard insurance premium as they become payable. Negotiation for refund of amounts paid to this account will be the responsibility of the applicant.

§ 644.229 Notification of Conveyance of Title to FHA.

(a) On the date title to the property vests in the United States, the Division/District will notify FHA in writing to assume custody of the property. FHA Form No. 1174 will be used. The property will not be entered on property acquisition or inventory records of the Corps. The notification, together with the keys, will be furnished to the local FHA insuring office which will have the actual management of the property with a copy to the Assistant Commissioner-Comptroller, Federal Housing Administration, Department of Housing and Urban Development, Washington, D.C. 20412, ATTN: Acquired Home Property Section. In addition, FHA should be advised that the deed, title evidence and related papers will be furnished as soon as they are available.

(b) The notification will include the following information:

(1) Appropriate application identification number.

(2) Property location (Street, Number, City, County, State, and Zip Code).

(3) Legal description.

(4) Date title transferred to United States.

(5) Name and address of Government's grantor.

(6) Name and address of mortgagee and unpaid balance owing on mortgage.

(7) Whether property is vacant. If occupied, indicate if lease is written or oral, term, amount of monthly rent, date through which rent is paid and to whom paid and name of tenant.

(8) General condition of property.

(9) Tax information.

(10) Other pertinent information as appropriate.

§ 644.230 Disposition of Final Title Assembly.

Immediate action should be taken by Division/District to furnish necessary evidence showing the Government's title to the local FHA area office having jurisdiction over resale of the respective property involved. This evidence will consist of:

(a) A copy of the deed to the Government,

(b) The preliminary title policy, and

(c) The Attorney's certificate as to vesting of merchantable title in the United States. The final title policy, updated through the date of recordation of the deed, will be sent to the local FHA Area Office as soon as available. At the same time as preliminary title documents are sent to FHA, an information copy of the letter of transmittal will be furnished this office, HQDA (DAEN-REH-O) WASH DC 20314, together with a copy of the deed of conveyance and a copy of the attorney's certificate of title.

§ 644.231 FHA Forms.

FHA Forms No. 1174 (Notification of Military Acquisition) and No. 1173 (Transmittal of Recorded Deed and

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Title Assembly—Military Acquisition) because of their limited use have been approved for local reproduction.

APPEALS

§ 644.232 Appeals Policy.

Section 1013(f) of the Act provides that the provisions of the Act shall be administered in conformance with the requirements contained therein and under such conditions and regulations as the Secretary of Defense may prescribe, and all determinations and decisions made pursuant to such regulations shall be final and conclusive and shall not be subject to judicial review.

§ 644.233 Authority.

Among other things, the S/D delegated to the S/A authority to establish an appeals procedure, with responsibility for final action assigned to a designated component of the Department of the Army. Pursuant thereto, and in conformity with implementing regulations prescribed by the S/D, the appeal procedure in this Section has been established and authority to take final action on appeals has been vested in the Assistant Secretary of the Army (Installations, Logistics and Financial Management).

§ 644.234 Appeal Procedure.

(a) The appeal procedure contained in this Section is summarized as follows:

(1) The applicant may file an appeal from a decision denying his application, or from a decision which the applicant believes to be in error as contrary to fact or not in conformance with the provisions of the Act. Any written objection by an applicant to a decision made on his case or to an offer of benefits will be considered to be an appeal. Although the Division/District may reply to the applicant explaining the Government's position, the applicant will be advised, nevertheless, that his written objection is considered to be an appeal and that it will be processed in accordance with the established appeal procedure unless the applicant formally withdraws his objections.

(2) The appeal will be considered at the District level and will be reviewed at the Division and OCE level and a determination will be made at each level as to whether or not favorable action can be taken. An appeal which has been forwarded to a higher echelon of review may not be settled at a lower echelon without the concurrence of the highest echelon to which the appeal has been transmitted.

(3) If favorable action cannot be taken, the appeal will be forwarded by OCE to the Assistant Secretary of the Army (IL & FM) for further review and for final decision.

(b) The requirements of the Administrative Procedure Act do not apply to appeals filed under the Act.

§ 644.235 Applicant's Appeal.

(a) An applicant may appeal because of an unfavorable decision as to his eligibility for benefits, or he may appeal because he believes that the benefits offered are insufficient. Each applicant will be notified of the decision made on his application and the reasons for such action. It is anticipated that if applicants are fully informed of the reasons for the decision, the number of appeals will be reduced.

(b) The letter to the applicant notifying him of the decision will contain the following minimum information:

(1) As appropriate, a reference to, or a quotation of, the provision of the Act which is involved in the decision or offer of benefits.

(2) The reasons for the decision.

(3) Notification to the applicant of his right to file an appeal. He should be advised that if he believes the decision is in error because it is not in accord with the facts or the provisions of the Act, he may file an appeal with the Division/District or with the Chief of his Real Estate Division in writing within 180 days from the date of notice of such unfavorable decision and, if he files an appeal, he should identify the errors, state the reasons for the appeal and submit whatever information he desires in support of his appeal. He should also be advised that his appeal will be considered by the District Engineer and reviewed by the Division Engineer and the Chief of Engineers and, if favorable action cannot be taken, it will be submitted to the Assistant Secretary of the Army (IL & FM) for final decision.

(c) The applicant's reply to the letter notifying him of the decision in his case will be construed broadly as constituting an appeal from such decision.

§ 644.236 Processing of Appeals.

(a) Appeals will be processed through channels to HQDA (DAEN-REH-A) WASH DC 20314. Inasmuch as the appeal is based upon a decision by the District Engineer which is considered by the applicant to be adverse to his interest, an opportunity is afforded at each level of review to find in favor of the applicant and to settle the appeal. An attempt will be made to resolve the matter at each level of review as provided in paragraph (d) of this section. If a proposed solution is acceptable to the applicant and the matter is resolved to the satisfaction of the applicant, the matter will be considered a review of an appeal and a withdrawal from appeal status.

(b) After receipt of the appeal, the errors cited by the applicant and the additional information furnished by him in support of his appeal will be investigated promptly by the Division/District. The investigation will be as extensive as required to define clearly the basis for the appeal and to produce information required for its consideration. Upon completion of the investigation, the information submitted with the application will be reconsidered, together with the information obtained as a result of the investigation and a determination made whether favorable action can be taken. A report of the investigation and consideration will be prepared which will include a brief outline of the basis of the application for assistance; the initial decision by the Division/District from which the applicant has appealed; the basis for the applicant's appeal; pertinent information necessary to determine the merits of the appeal; the scope of the investigation and of the consideration of the appeal; the decision on the appeal and the reasons in support thereof. The report will contain the following headings: Applicant's claim for assistance; decision on applicant's appeal; summary of findings on appeal; conclusions and reasons; and recommendations. The applicant will be notified if favorable action can be taken. If favorable action cannot be taken, no communication will be sent to the applicant except that, at the applicant's specific request, he will be advised of the status of his appeal; the appeal will be forwarded to higher authority for review; and the report will become part of the appeal assembly, referred to below.

(c) Where there is an appeal as to value and a brief appraisal report has been used in the initial consideration of the case, consideration should be given to obtaining a full appraisal prior to forwarding the appeal assembly, unless it is being recommended that the matter be settled administratively by OCE.

(d) Where favorable action on the appeal cannot be taken by the Division/District, an appeal assembly will be prepared in sufficient copies to provide one copy for the next higher level of review and two copies (including original papers where available) for submission to OCE. The copy of the appeal containing the original papers will be returned to the Division/District after a decision on the appeal has been reached. The appeal assembly will have a jacket cover or heavy paper backing with a suitable fastener at the top. It will consist of the following items which will be assembled in the order shown below with such variations or additions as the circumstances required:

(1) Investigation and consideration report.

(2) Written appeal and amendments.

(3) Application with attachments.

(4) Approved market impact study, or reference thereto where one has been submitted previously.

(5) Appraisal report.

(6) Pertinent correspondence in chronological order.

(7) Copy of closure announcement or pertinent extract therefrom.

(8) Any other documents or information which have a significant bearing on applicant's claim for assistance.

§ 644.237 Review of Appeal by the Division Engineer.

The purpose of this review is to insure that:

(a) The initial decision was in accord with the facts, the provisions of the Act and existing regulations.

(b) The applicant was properly notified why favorable action could not be taken on his application; that he has filed an appeal from this decision and has submitted all of the information he intends to submit in support thereof.

(c) The District Engineer's decision on the appeal is supported by the record.

(d) The appeal assembly contains the necessary information in support of the decision and has been assembled as stated in this Section.

§ 644.238 Action on Appeal by the Division Engineer.

Action by the Division Engineer will be taken as expeditiously as possible. If the Division Engineer concurs in the recommendation, additional comments and recommendations, together with the reasons and supporting documents, if appropriate, will be forwarded to OCE. If the Division Engineer does not concur in the District Engineer's recommendation, the matter will be returned to the District Engineer for further consideration or for a directed solution.

§ 644.239 Review of Appeal by OCE.

The appeal will be reviewed by OCE. Any deficiency in the appeal assembly will be corrected. If the position of the Division/District is not concurred in, the appeal will be returned for further consideration or for a directed solution. If the position of the Division/District is concurred in, a proposed letter to the applicant denying his application will be sent to the Assistant Secretary of the Army (IL&FM) with the recommendation that it be signed and returned to OCE for dispatch to the applicant.

§ 644.240 Action by the Assistant Secretary of the Army (IL&FM).

Final decision on appeals will be made by the Assistant Secretary of the Army (IL&FM) based on recommendations received from OCE. In the event the recommendations are not approved, the appeal will be returned to OCE for further consideration. If the recommendations are approved, the letter to the applicant denying his appeal will be signed by the Assistant Secretary of the Army (IL&FM) and returned to OCE for dispatch to the applicant. This will constitute a final decision on the applicant's appeal.

§ 644.241 Final Action by OCE.

Where the Assistant Secretary of the Army (IL&FM) has not approved OCE recommendations or appeal, the matter will be reconsidered and, if possible, objections resolved at OCE level. Otherwise, the pertinent correspondence will be returned to the Division Engineer with appropriate instructions for further action to be taken. Where the Assistant Secretary of the Army (IL&FM) has approved the recommendations, the letter to the applicant signed by the Assistant Secretary of the Army (IL&FM) will be dispatched by OCE; the pertinent correspondence, including a copy of the appeal assembly with original papers, will be forwarded to the Division Engineer for recording and filing; and the case will be considered closed.

§ 644.242 Dissemination of Decisions.

Decisions by the Assistant Secretary of the Army (IL&FM), with respect to appeals, will not be published by OCE. Except as authorized by OCE, Division/District will not refer to such decisions in letters sent to other applicants when notifying them that favorable action cannot be taken on their applications.

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MONDAY, JANUARY 15, 1979
PART III



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health

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RECOMBINANT DNA RESEARCH

Meeting; Proposed Actions Under Guidelines

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[4110-08-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health

RECOMBINANT DNA ADVISORY COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the Recombinant DNA Advisory Committee at the National Institutes of Health, Building 31, Conference Room 6, 9000 Rockville Pike, Bethesda, Maryland 20014, on February 15-16, 1979, from 9:00 a.m. to 5:00 p.m.

The entire meeting will be open to the public for consideration of:

Lower Eukaryote Host-Vector Systems
Prokaryote Host-Vectors Other Than *E. coli* K-12
Amendment of Guidelines
Exemptions for organisms that exchange genetic information
E. coli phage-vector systems
EK2 host-vector systems
HV2 *Saccharomyces cerevisiae* host-vector system
Review of protocols for required containment levels
Criteria for and the handling of characterized clones
Requests for lowering of containment levels on the basis of characterization of clones
Other matters requiring necessary action by the Committee.

Attendances by the public will be limited to space available. Dr. William J. Gartland, Executive Secretary, Recombinant DNA Advisory Committee, National Institutes of Health, Building 31, Room 4A52, telephone 301-496-6051, will provide materials to be discussed at the meeting, rosters of committee members and substantive program information. A summary of the meeting will be available at a later date.

Dated: January 3, 1979.

SUZANNE L. FREMEAU,
Committee Management Officer, NIH.

[FR Doc. 79-1090 Filed 1-12-79; 8:45 am]

[4110-08-M]

RECOMBINANT DNA RESEARCH

Proposed Actions Under Guidelines

AGENCY: National Institutes of Health.

ACTION: Notice of proposed actions under the NIH Guidelines for Recombinant DNA Research.

SUMMARY: This notice sets forth proposals for actions to be taken under the 1978 NIH Guidelines for Research Involving Recombinant DNA Molecules [FEDERAL REGISTER of December 22, 1978 (43 FR 60108)]. Interested parties are invited to submit comments concerning these proposals. After consideration of these proposals and comments by the NIH Recombinant DNA Advisory Committee (RAC) at its February 15-16, 1978 meeting, the Director of the National Institutes of Health will issue decisions on these proposals in accord with the Guidelines.

DATE: Comments must be received by February 14, 1979.

ADDRESS: Written comments and recommendations should be submitted to the Director, Office of Recombinant DNA Activities, Building 31, Room 4A52, National Institutes of Health, Bethesda, Maryland 20014. All comments received in timely response to this notice will be considered and will be available for public inspection in the above office on weekdays between the hours of 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT:

Additional information can be obtained from Drs. Michael Resnick or Stanley Barban, Office of Recombinant DNA Activities, National Institutes of Health, Bethesda, Maryland 20014, (301) 496-6051.

SUPPLEMENTARY INFORMATION: The National Institutes of Health will consider the following changes and amendments in the Guidelines for Research Involving Recombinant DNA Molecules, as well as actions under these guidelines.

1. The RAC has recommended that Sections III-B-2 and III-C-5 include cloning "into a lambdoid phage vector." The relevant paragraphs will read:

Section III-B-2. *Return of DNA segment to Non-HV1 host of origin* • • •

• • • For a prokaryote which does not exchange genetic information with *E. coli* (Host B), the following type of experiment may be carried out without Host B having been approved as a HV1 host: DNA from Host B may be inserted *into a lambdoid phage vector or* into a vector from a certified EK2 host-vector system and propagated in *E. coli* K-12 under the appropriate containment conditions [see Section III-A-1-b-(2)]. Subsequently, this recombinant DNA may be returned to Host B and propagated in Host B under P1 conditions. [43]

Section III-C-5. *Fungal or Similar Lower Eukaryotic Host-Vector Systems* • • •

• • • In addition to the experiments described above, the following experiments may be carried out without the eukaryotic host (Host C) having been approved as an HV1 host: DNA from Host C may be inserted *into a lambdoid phage vector or* into a vector from a certified EK2 host-vector system and propagated in *E. coli* K-12 under the appropriate containment conditions [see Section III-A-1-(a)-(5)]. Subsequently, this recombinant DNA may be returned to Host C and propagated there under P1 conditions. [43] • • •

This change has been recommended because the greater flexibility afforded with non-EK2 lambdoid phage vectors does not in any way compromise safety or containment in the final host. The continued requirement for EK2 plasmid vectors insures that this cloning procedure is used for self-cloning into the final host with a minimal introduction of *E. coli* genetic information.

2. The RAC has also recommended that this type of experiment be permitted in higher eukaryotes. The following section would be added to the Guidelines:

III-C-6. *Return of DNA Segments to a Higher Eukaryotic Host of Origin.* DNA from a higher eukaryote (Host D) may be inserted into a lambdoid phage vector or into a vector from a certified EK2 host-vector system and propagated in *E. coli* K-12 under the appropriate containment conditions [see Section III-A-1]. Subsequently, this recombinant DNA may be returned to Host D and propagated under conditions of physical containment comparable to P1 and appropriate to the organism under study. [2A]

3. The RAC has recommended that Section III-C-2 concerning invertebrate host-vector systems be divided into two parts. The first part III-C-2-a would retain the present wording of this section; the second part III-C-2-b would enable the use of nonviral vectors. Section III-C-2 would therefore be as follows:

III-C-2. *Invertebrate Host-vector Systems*

III-C-2-a. *Insect viral vectors.* As soon as information becomes available on the host range restrictions and on the infectivity, persistence, and integration of the viral DNA in vertebrate and invertebrate cells, experiments involving the use of insect viruses to propagate DNA sequences will be evaluated by NIH on a case-by-case basis [45] and will be conducted under the recommended physical containment conditions. (See Section IV-E-1-b-(3)-(c))

III-C-2-b. *Nonviral vectors.* Organelle, plasmid, and chromosomal DNAs may be used as vectors. DNA recombinants formed between such vectors and host DNA, when propagated only in that host (or a closely related strain of the same species), are exempt from these Guidelines (see section I-E). DNA recombinants formed between such vectors and DNA from cells other than the host species require P1 physical containment for invertebrate cells in culture since invertabrate cells in culture inherently exhibit a very high level of containment. Experiments which require the use of whole animals will be evaluated by NIH on a case-by-case basis. [45]

4. Similar to proposal 3. above, the RAC recommended that a comparable statement be added to Section III-C-1 on vertebrate host-vector systems. This new sub-section would be as follows:

III-C-1-f. *Nonviral vectors.* Organelle, plasmid, and chromosomal DNAs may be used as vectors. DNA recombinants formed between such vectors and host DNA, when propagated only in that host (or a closely related strain of the same species), are exempt from these Guidelines (see Section I-E). DNA recombinants formed between such vectors and nonviral DNA from cells other than the host species require only P1 physcial containment for cells in culture since vertebrate cells in tissue culture inherently exhibit a very high level of containment. Recombinants involving viral DNA or experiments which require the use of whole animals will be evaluated by NIH on a case-by-case basis [45].

5. *Lower eukaryotes as host-vector systems.* (A complete report concerning these proposals is available from the Office of Recombinant DNA Activities.) The fungi *Neurospora crassa* and *Saccharomyces cerevisiae* have been examined by the RAC for their suitability as host-vector systems under Section II-D-2 and III-C-5 of the Guidelines. The following describes conditions for their proposed use as HV1 and HV2 systems:

a. *N. crassa* and *S. cerevisiae* as HV1 systems. Specified strains of *N. crassa* which have been modified to prevent aerial dispersion and unmodified laboratory strains of *S. cerevisiae* are acceptable as HV1 systems based on their natural containment. The following *N. crassa* strains can be used:

(1) *inl* (inositolless) strains 37102, 37401, 46316, 64001 and 89601,

(2) *csp-1* strain UCLA37 and *csp-2* strains FS 590, ULCA101 (these are conidial separation mutants)

(3) *eas* strain UCLA191 (an "easily wettable" mutant)

Unmodified laboratory strains of *N. crassa* can be used in experiments that require the HV1 level of containment provided that these are carried out at physical containment one level higher than required for HV1. However, if P3 physical containment is specified for HV1, this level is considered adequate for unmodified *N. crassa*. For P2 physical containment, special care must be exercised to prevent aerial dispersal of macroconidia.

b. *S. cerevisiae* as an HV2 system. Biological containment of yeast is a product of several factors: (a) probability of encounter of the host-vector with a wild type yeast outside the laboratory; (b) the abundance of wild type strains able to mate with a laboratory strain; (c) the frequency of mating under the dilute conditions simulating natural environments; (d) the reduction in mating frequency conferred by the sterility mutations; (e) the stability of the cloned segment and its vector; (f) the survival and growth ability of the host relative to wild types.

The following data are to be supplied in support of a candidate *S. cerevisiae* for HV2 certification:

(1) Genotype of the strain, description of the vectors and selective markers to be used, the nature and stability of the mutation(s) contributing to sterility and the mode of construction of the strain.

(2) The frequency of mating (in a worst case analysis under optimal conditions) with a fertile strain of opposite mating type.

(3) Relative growth rates of the candidate strain and suitable industrial wild types, separately and in mixed culture. (The specification of industrial strains reflects the rarity of *S. cerevisiae* in nature under non-domesticated conditions.)

(4) Data on the stability and maintenance of the cloned segment and vector in non-selective media.

(5) Measurement of the relative ability (in a worst case analysis) of fertile parents of the sterile HV2 candidate to mate at low cell density compared to optimal conditions.

(6) An experimental estimate of the frequency of transfer of a model cloned segment (in a worst case analysis, again with a fertile strain) to a non-mating, industrial strain, after prolonged cultivation in mixed culture.

Changes of auxotrophic selective markers in host and vector, or change in mating type allele, are trivial modifications not requiring certification, provided the level of sterility is not decreased. Certified EK2 *E. coli* vector DNA or fragments thereof can be used in HV2 *S. cerevisiae*.

c. Equivalence of lower eukaryote HV systems with those of *E. coli*. In accord with Section III-B-1, host-vector systems which have been approved as HV1 systems may be used under P2 containment conditions for shotgun experiments with phages, plasmids, and DNA from nonpathogenic prokaryotes which do not produce polypaptide toxins.[34] For other classes of recombinant DNA experiments with these HV1 systems, except for the cloning of complete genomes of eukaryote viruses, the *S. cerevisiae* and *N. crassa* HV1 systems and *S. cerevisiae* HV2 systems may be used at the physical containment levels applicable to EK1 and EK2 systems, respectively. Experiments involving complete genomes of class 1 eukaryote viruses will require P3 + HV2 containment levels. Other eukaryote viruses are to be handled on a case-by-case basis.[45]

6. *Proposed S. cerevisiae HV2 system.* A proposal from Dr. David Botstein of the Massachusetts Institute of Technology and Dr. Ronald Davis of Stanford University for a *S. cerevisiae* HV2 system based on the mating type nonspecific sterile mutation VC9 will be considered by the RAC. The proposal is available from the Office of Recombinant DNA Activities.

7. *Prokaryotes other than E. coli as host-vector systems.* (Complete reports concerning these proposals are available from the Office of Recombinant DNA Activities.) Various bacterial species have been examined by the RAC for their suitability as host-vector systems under Section II-D-2 of the Guidelines. The following describes conditions for their proposed use as HV1 systems or for experiments involving species that exchange DNA.

a. *Bacillus subtilis* related species that have been shown to exchange chromosomal DNA will be included under the exemption category of Section I-E-4 of the 1978 Guidelines. Any recombinant DNA molecules that are composed entirely of DNA segments from one or more of the organisms listed below and to be propagated in any of the organisms listed below are exempt from the Guidelines. (This list is to be separate from that which already exists in Appendix A for exchangers with *E. coli*.)

Bacillus subtilis
Bacillus licheniformis
Bacillus pumilus
Bacillus globigii
Bacillus niger
Bacillus nato
Bacillus amyloliquefaciens
Bacillus aterrimus

b. *Streptomyces* species that have been shown to exchange chromosomal DNA will be included under the exemption category of Section I-E-4 of the 1978 Guidelines. Any recombinant DNA molecules that are composed entirely of DNA segments from the following pairs of species listed below and to be propagated within the pair are exempt from the Guidelines.

S. aureofaciens x *S. rimosus*
S. aureofaciens x *S. coelicolor*
S. grisues x *S. coelicolor*
S. grisues x *S. cyaneus*
S. grisues x *S. venezuelae*
S. lividans x *S. coelicolor*
S. rimosus x *S. coelicolor*
S. parvulus x *S. coelicolor*
S. fradiae x *S. bikiniensis*

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c. Asporogenic mutant derivatives of *B. subtilis* can be accepted as the host component of an HV1 system. These derivatives must not revert to sporeformers with a frequency greater than 10^{-7}; data confirming this requirement must be presented to NIH for certification. The following plasmids are accepted as the vector components of certified *B. subtilis* HV1 systems: pUB110, pC194, pS194, pSA2100, pE2194, pT127, pUB112, pC221, pC223.

d. *Non-HV1 Systems.* Section III-B-3 states: "Containment levels for other classes of experiments involving on-HV1 systems may be approved by the Director, NIH * * *." This section is to be amended by addition of the following:

In those cases where genetic exchange has not been demonstrated between two bacterial species A and B, neither of which is pathogenic for man, animals, or plants, recombinant DNA experiments involving only A and B can be conducted under P3 containment.[2A]

8. It has been recommended that Sections III-A-1-a(1) and (2), which designate the containment levels for experiments involving the shotgun cloning of DNA from primates and other mammals, be amended to include P3 + EK1 as an alternative to the present P2 + EK2 containment. This option already appears in other sections of the Guidelines. These sections would read as follows:

III-A-1-a-(1). *Primates.* P2 physical containment + an EK2 host-vector or P3 + EK1. Any lowering of containment below these levels (i.e., for purified DNA or characterized clones) cannot be made solely by an institutional biosafety committee but requires NIH approval. (See Section IV-E-1-b-(3).)

III-A-1-a-(2). *Other Mammals* P2 physical containment + an EK2 host-vector or P3 + EK1.

Dated: January 4, 1979.

DONALD S. FREDRICKSON, M.D.,
Director,
National Institutes of Health.

[FR Doc. 79-1091 Filed 1-12-79; 8:45 am]

[4110-08-M]

RECOMBINANT DNA RESEARCH

Proposed Actions Under Guidelines

AGENCY: National Institutes of Health.

ACTION: Notice of proposed actions under the NIH Guidelines for Recombinant DNA Research:

SUMMARY: This notice sets forth proposals for actions to be taken under the 1978 NIH Guidelines for Research Involving Recombinant DNA Molecules [FEDERAL REGISTER of December 22, 1978 (43 FR 60108)]. Interested parties are invited to submit comments concerning these proposals. After consideration of these proposals and comments by the NIH Recombinant DNA Advisory Committee (RAC) at its February 15-16, 1978 meeting, the Director of the National Institutes of Health will issue decisions on these proposals in accord with the Guidelines.

DATE: Comments must be received by February 14, 1979.

ADDRESS: Written comments and recommendations should be submitted to the Director, Office of Recombinant DNA Activities, Building 31, Room 4A52, National Institutes of Health, Bethesda, Maryland 20014. All comments received in timely response to this notice will be considered and will be available for public inspection in the above office on weekdays between the hours of 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT:

Additional information can be obtained from Drs. Michael Resnick or Stanley Barban, Office of Recombinant DNA Activities, National Institutes of Health, Bethesda, Maryland 20014, (301) 496-6051.

SUPPLEMENTARY INFORMATION: The National Institutes of Health will consider the following actions under the Guidelines for Research Involving Recombinant DNA Molecules.

1. *Prokaryote host-vector systems.* Proposals from Dr. Stanley Cohen of Stanford University and Dr. Gary Wilson of the University of Rochester to allow:

a. cloning in *Bacillus subtilis*, under P2 conditions, of DNA derived from *E. coli* K-12 and *Streptomyces coelicolor* using NIH-approved *Staphylococcus aureus* plasmids as vectors;

b. cloning in *B. subtilis*, under P2 conditions, of DNA derived from either *E. coli* K-12 or *Saccharomyces cerevisiae* using NIH-approved EK2 plasmid vectors;

c. cloning in *Streptomyces coelicolor*, under P2 conditions, of DNA from *Bacillus subtilis*, *E. coli* K-12, and from *Staphylococcous aureus* plasmid vectors which have been approved for use in *Bacillus subtilis*. Any plasmid indiginous to *Streptomyces coelicolor* or able to replicate in that host by natural biological mechanisms may be used as a vector.

2. *A proposed lambda bacteriophage EK2 vector.* A proposal from Dr. John M. Tabor and Dr. Vernon C. Bode of Kansas State University for the use of the vector *λgt Aamal Lam 439 Oam29 λβ* as an EK2 vector will be considered by the RAC. The proposal is available from the Office of Recombinant DNA Activities.

Dated: January 5, 1979.

DONALD S. FREDERICKSON, M.D.,
Director,
National Institutes of Health.

[FR Doc. 79-1092 Filed 1-12-79; 8:45 am]

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MONDAY, JANUARY 15, 1979
PART IV



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

■

IMPLEMENTATION OF THE COASTAL ENERGY IMPACT PROGRAM

Proposed Administrative Procedures Regarding Grants and Credit Assistance

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[3510-08-M]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[15 CFR Part 931]

COASTAL ENERGY IMPACT PROGRAM

Proposed Administrative Procedures

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Proposed Rule.

SUMMARY: These proposed regulations described administrative procedures to implement the Coastal Energy Impact Program, which will provide grants and credit assistance to coastal States and communities to help them deal with the impacts of coastal energy development.

DATE: March 3, 1979 deadline for submission of written comments.

FOR FURTHER INFORMATION CONTACT:

James B. Robey or Dan Hoydysh, Office of Coastal Zone Management, National Oceanic and Atmospheric Administration, 3300 Whitehaven Street NW., Washington, D.C. 20235, 202-634-4128.

SUPPLEMENTARY INFORMATION:

I. EXPLANATORY STATEMENT

The Coastal Energy Impact Program (CEIP) was created by the 1976 amendments to the Coastal Zone Management Act of 1972 (Pub. L. 94-370; 16 U.S.C.A. 1451, et seq.) and signed into law on July 26, 1976. The National Oceanic and Atmospheric Administration (NOAA) published proposed regulations on October 22, 1976 (41 FR 46724), interim-final regulations (42 FR 1164) on January 5, 1977, and final regulations (43 FR 7545) on February 23, 1978. The preamble to these regulations discussed the implementation of the CEIP in detail as well as issues raised and comments made during various comment periods.

On September 18, 1978, the Outer Continental Shelf Lands Act Amendments of 1978 (OCSLAA) (Pub. L. 95-372) were signed into law significantly amending the CEIP as follows:

The authorization level for section 308(b) formula grants was raised from 50 million to 130 million dollars per fiscal year and the authorization period for these grants was extended from September 30, 1984 to September 30, 1988. The formula used to allot funds appropriated for formula grants was modified—the Outer Continental Shelf (OCS) energy activity related *new employment* factor was deleted and the weight given the remaining formula factors was modified. A ceiling of 37.5% of the total amount appropriated was established as a limit on how much any State may receive under section 308(b) in a given fiscal year. A floor of two percent of the total amount appropriated was established as a minimum that a State faced with impacts from OCS energy activity may receive in a fiscal year.

In addition section 308(b)(4)(B) was amended by deleting the requirement that other CEIP financing, i.e., credit assistance under section 308(d)(1), be *unavailable* before a State or local community can utilize formula grants for planning, developing, and implementing projects and programs necessary to provide new or improved public facilities and services required as a result of OCS energy activity. The requirement that the OCS activity that necessitates the new or improved public facilities or public services be *new or expanded* was also deleted.

NOAA is reissuing today, in proposed form, regulations to implement the CEIP as amended by the OCSLAA. In addition to the statutorily mandated amendments, these proposed regulations contain proposed improvements in CEIP operations that are being instituted on the basis of two years of operating experience.

However, two OCSLAA created CEIP amendments are not being implemented in these proposed regulations. These are: (1) The discretionary authority of the Secretary of Commerce (Assistant Administrator for Coastal Zone Management; NOAA) to promulgate by rule criteria for describing geographic areas in which public facilities and public services are presumed to be required as a result of OCS energy activity; and (2) the establishment of a new fund for the provision of grants to States to carry out their responsibilities under the OCS Lands Act. A decision whether to implement the discretionary criteria provision will be made after a thorough analysis of the implications of this change for CEIP administration. The OCS grants provision is being implemented separately from the main body of the CEIP amendments and draft regulations describing the OCS grant program will be published in the FEDERAL REGISTER before February 1, 1979.

NOAA has determined that publication of this document is not a major action significantly affecting the quality of the human environment and does not require preparation of an Environmental Impact Statement under the National Environmental Policy Act of 1969. NOAA also has determined that this document is not a significant regulatory action and does not require preparation of a regulatory analysis under Executive Order 12044.

II. DISCUSSION OF MAJOR CHANGES TO THE CEIP

Subpart A—General. No substantive changes were made to this subpart. The subpart heading was renamed and other editorial changes were made to clarify the general structure of the CEIP and its objectives.

Subpart B—General Definitions. The definition of OCS energy activity was modified to more closely reflect the Congressional intent embodied in the statutory definition. The definition of *new employment, new or expanded OCS energy activity,* and *unavailability of credit assistance* were deleted because the statutorily mandated changes to the CEIP makes reference to these terms unnecessary. The definitions of *valuable, environmental resource,* and *recreational resource* were consolidated. The definition of *unavoidable* was changed to clarify the concept and to adhere to Congressional intent. Other changes in this subpart are largely editorial.

Subpart C—Basic Eligibility. The substance of this subpart is unchanged. However, the contents were restructured. The explanation of *satisfactory progress* is now a separate section (§ 931.26).

Subpart D—Planning for the Consequences of Energy Facilities. The minimum share that may be allotted to each State under section 308(c)(1) (formerly section 308(c)) has been increased to $35,000. A ceiling of 10% of the amount available in a fiscal year under section 308(c)(1) has been established as the maximum allotment that any State may received in 308(c)(1) planning grants.

The period of availability to a State of an allotment under 308(c)(1) has been reduced to one fiscal year. States must now apply for their 308(c)(1) planning allotment before the end of the fiscal year in which such funds were allotted. Allotted funds for which timely applications are not received will revert to the Assistant Administrator at the end of the fiscal year in which such funds were allotted. Funds reverting to the Assistant Administrator will generally be reallotted in the immediately following fiscal year.

The allotment process under section 308(c)(1) has been clarified. The requirement that section 308(c)(1) planning funds in any fiscal year be insufficient before section 308(b) planning funds can be accessed has been deleted.

Subpart E—Financing Public Facilities and Public Services. The producers for allotting credit assistance were clarified. The period of availability to a State of allotted credit assistance under section 308(d)(1) has been shortened. States must now submit applications by July 1 of the fiscal year in which the credit assistance was allotted or risk having these funds recalled by the Assistant Administrator. However, States may request by July 1 an extension for submitting applications and the Assistant Administrator may grant such extension but now beyond January 1 of the immediately following fiscal year.

Allotted credit assistance that is recalled because it was not applied for within the prescribed time limits will be made available to *all* eligible coastal States by application. Priority of access to this recalled credit assistance will be determined by the priority in submitting a completed application. However, under exceptional circumstances, the Assistant Administrator may grant priority to a later application on the basis of immediacy of need and equity in distribution of CEIP credit assistance.

The requirement that section 308(b) grants can only be used to provide public facilities and services required as a result of "new or expanded" OCS energy activity was deleted in accordance with the OCSLAA. Public facilities and public services can now be provided under section 308(b) if they are required by ongoing OCS energy activity. In addition, the requirement that a State first use its credit assistance before accessing its formula grant allotment was removed in accordance with the OCSLAA.

Subpart F—Repayment Assistance. The changes in the subpart are largely editorial. However, the appeal procedure specified in § 931.69 was simplified. The requirement that the Administrator of NOAA will, upon request, order a formal hearing on the record to resolve disputes concerning repayment assistance was deleted as imposing an unnecessary administrative burden on NOAA. The simplified appeals process is sufficient to protect the legitimate interests of borrowers.

Subpart G—Grants for Unavoidable Losses of Valuable Coastal Environmental and Recreational Resources. The definitions of the terms *valuable, environmental resource* and *recreational resource* were consolidated to clarify the concepts of *valuable environmental* and *valuable recreational* resources. The definition of *unavoidable* was modified to comport more closely with the statutory definition. The description of the process for allotting section 308(b) formula grants (former § 931.76) has been expanded in accordance with the OCSLAA mandated changes and made into a separate subpart—Subpart K.

The procedures for allotting section 308(d)(4) Environmental-Recreational grants has been significantly modified. Funds available for allotment under section 308(d)(4) will be allotted first among those States receiving less than $400,000 in formula grants. Each State eligible for 308(d)(4) grants will receive a minimum grant equal to five percent of the amount available under section 308(d)(4) and no State may receive more than 25 percent of the amount available. If any funds remain after allotting available funds among those States receiving less than $400,000 in formula grants this remainder will be allotted among *all* coastal States eligible for section 308(d)(4) grants.

The time period during which funds allotted under section 308(d)(4) will remain available to a coastal State has been shortened to one fiscal year. Allotted funds for which applications are not received by the end of the fiscal year of allotment will revert to the Assistant Administrator at the end of such fiscal year. Funds allotted under section 308(d)(4) in fiscal year 1978 will be deemed allotted in fiscal year 1979 and will be subject to the new time period for submitting applications.

Subpart H—Lateral Seaward Boundaries. No substantive changes were made to this subpart.

Subpart I—General Provisions. Section 931.94 was modified to clarify those disbursements of CEIP funds for which the applicant will not be required to submit an environmental analysis.

Subpart J—Intrastate Allocation of Financial Assistant. The intrastate allocation process was simplified. The threshold amount that triggers a State's compliance with the "a" process was raised to $1 million in CEIP grants. The amount of credit assistance allotted to a State is no longer a factor in determining whether a State must comply with the "a" or "b" process.

Subpart K—Allotment of Section 308(b) Formula Grants. This subpart is new. It embodies the detailed procedures established by the OCSLAA for allotting formula grants among eligible coastal States.

These proposed regulations are subject to comment and modification. Written comments on the regulations should be submitted to the Office of Coastal Zone Management, National Oceanic and Atmospheric Administration, 3300 Whitehaven Street, NW., Washington, D.C. 20235. Attention Dan Hoydysh.

R. L. CARNAHAN,
Acting Assistant Administrator for Administration.

In consideration of the foregoing Part 931 is revised as follows:

Subpart A—General

Sec.
931.1 Coastal Energy Impact Program—General Description.
931.2 Objectives of the CEIP.

Subpart B—General Definitions

Sec.
931.9 Index to definitions.
931.10 Act.
931.11 Coastal zone.
931.12 Fund.
931.13 Coastal energy activity.
931.14 Significantly affected.
931.15 New or expanded coastal energy activity.
931.16 Outer Continental Shelf.
931.17 Outer Continental Shelf energy activity.
931.18 [Reserved]
931.19 Energy facility.
931.20 New or expanded energy facility.
931.21 [Reserved]
931.22 Unit of general purpose local government and unit of local government.
931.23 NOAA and OCZM.
931.24 Assistant Administrator.

Subpart C—Basic Eligibility

931.25 Eligible coastal State.
931.26 Satisfactory progress.

Subpart D—Planning for the Consequences of Energy Facilities

931.30 General.
931.31 Objectives.
931.32 Eligibility for planning assistance under this Subpart.
931.33 Allowable uses.
931.34 Limitations.
931.35 Planning inventory.
931.36 Planning need formula.
931.37 Allotment of 308(c)(1) planning grants among coastal States.
931.38 Application procedure.
931.39 reversion of funds allotted under section 308(c)(1).

Subpart E—Financing Public Facilities and Public Services

931.40 General.
931.41 Objectives.
931.42 Definitions.
931.43 Allowable uses.
931.44 Eligibility.
931.45 Credit assistance inventory.
931.46 Allotment formula.
931.47 Allotment of credit assistance.
931.48 Allotment of section 308(b) formula grants.
931.49 Recall and reversion of allotted credit assistance funds.
931.50 Application for recalled or reverted credit assistance.
931.51 Contents of credit assistance application.
931.52 Special requirements for section 308(d)(1) loans.
931.53 Special requirements for section 308(d)(2) Federal guarantees.

Subpart F—Repayment Assistance

931.60 General.
931.61 Objectives.
931.62 Definitions.
931.63 Purposes.
931.64 Sources of repayment assistance.
931.65 General eligibility.
931.66 Reports.
931.67 Review for repayment assistance.
931.68 Award of repayment assistance.
931.69 Appeal procedure.

Subpart G—Grants for Unavoidable Losses of Valuable Coastal Environmental and Recreational Resources

931.70 General.
931.71 Objectives.

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Sec.
931.72 Definitions.
931.73 Allowable uses.
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931.75 Allotment of section 308(d)(4) Environmental-Recreational Grants.
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AUTHORITY: Sec. 308, Coastal Zone Management Act of 1972 (Pub. L. 92-583, 86 Stat. 1280, U.S.C. 1451 et seq.), as amended by Pub. L. 95-372.

Subpart A—General

§ 931.1 Coastal energy impact program—General description.

The Coastal Energy Impact Program (CEIP) was established under section 308 of the Act to provide coastal States and local governments in such states with Federal financial assistance to meet certain needs that result from specified energy development activities. Such assistance includes:

(a) Grants to coastal States under subsection b(5)(B) for the study of, planning for, development of, and the carrying out of projects and programs to provide new or improved public facilities or public services required as a result of outer continental shelf energy activity;

(b) Grants under subsections (b)(5)(C) and (d)(4) for preventing, reducing, or ameliorating unavoidable losses of valuable coastal environmental or recreational resources when such losses result from coastal energy activity;

(c) Grants under subsection (c)(1) for the study of, and planning for significant economic, social, or environmental consequences in the coastal zone when such consequences result from the siting, construction or operation of new or expanded energy facilities;

(d) Credit assistance under subsections d(1) and d(2) and appropriate forms of repayment assistance under subsections d(3) and b(5)(A) to provide new or improved public facilities or public services required as a result of coastal energy activity;

(e) Grants under subsection c(2) to assist coastal States likely to be affected by outer continental shelf energy activity in carrying out their responsibilities under the Outer Continental Shelf Lands Act.

§ 931.2 Objectives of the CEIP.

(a) The principle objectives of the CEIP are:

(1) To improve and strengthen coastal zone management in the United States by providing financial assistance only for programs and projects that are in accord with the policy of the Coastal Zone Management Act and the coastal zone management objectives of the individual States.

(2) To preserve and enhance the Nation's valuable coastal recreational and environmental resources by

(i) Encouraging the timely and thorough planning for the management of adverse consequences in the coastal zone caused by energy facility siting and energy resource development; and

(ii) Encouraging coastal States and local governments to effectively exercise their responsibilities to minimize losses to valuable coastal environmental or recreational resources that result from coastal energy activity.

(3) To advance the national objective of obtaining a greater degree of energy self sufficiency by encouraging the rational and timely development of domestic coastal energy resources and energy resource transportation systems.

(4) To protect and improve the quality of the human environment in the coastal zone by providing financial assistance to coastal States and units of local government for new and improved public facilities required as a result of coastal energy activity.

(5) To provide financial assistance that is simple to administer and that permits the coastal States and units of local government a high degree of control and discretion.

(6) To assist coastal States likely to be affected by outer continental shelf energy activity in carrying out their responsibilities under the OCS Lands Act.

(b) The CEIP will be administered in a manner that will strike a balance between the major national goals of obtaining a greater degree of energy self-sufficiency and protecting the coastal environment:

(1) Only coastal energy activity necessary for the rational, timely and orderly development of the Nation's coastal energy resources will be encouraged; and

(2) Unnecessary development in the coastal zone will be discouraged by providing financial assistance only for those public facilities and public services that are actually needed because of coastal energy activity.

Subpart B—General Definitions

§ 931.9 Index to definitions.

The following listing includes important terms defined in this Part 931 of the title keyed to the section or paragraph where they are defined.

Term	Section
Act	931.10(a)
Assistant Administrator	931.24
Borrower	931.62
Coastal energy activity	931.13
Coastal zone	931.11
Development	931.17(d)
Eligible coastal State	931.25
Energy facility	931.19
Energy facility directly required by OCS energy activity.	931.17(b)
Exploration	931.17(c)
First landed	931.121(a)
Fiscal schedule	931.48(b)(2)
Fund	931.12
In close proximity to	931.13(d)
Joint funding	931.98(b)(1)
Loss	931.72(c)
New or expanded coastal energy activity.	931.15
New or expanded energy facility	931.20
New or improved public facility	931.42(c)
New or improved public service	931.42(d)
NOAA	931.23
OCZM	931.23
Outer Continental Shelf	931.16
Outer Continental Shelf energy activity.	931.17
Person	931.72(f)
Production	931.17(e)
Public facility	931.42(a)
Public service	931.42(b)
Section	931.10(b)
Significantly affected	931.14
Unavoidable	931.72(d)
Unit of general purpose local government and unit of local government.	931.22
Valuable environmental resource	931.72(a)
Valuable recreational resource	931.72(b)

§ 931.10 Act.

(a) The term "Act" means the Coastal Zone Management Act of 1972, as amended, (16 U.S.C. 1451 et seq).

(b) The term "section" or "subsection" means a section or subsection of the Coastal Zone Management Act of 1972, as amended, unless it is clear from the context that some other meaning is intended.

§ 931.11 Coastal zone.

The term "coastal zone" is that area of land and water whose boundaries are determined by a State under § 920.11 of this chapter for purposes of the development of a coastal zone management program under section 305, or under § 923.11 of this chapter for purposes of administering a coastal zone management program under section 306, or as part of a management program which is consistent with the policies set forth in section 303. Such boundaries must be approved by the Assistant Administrator.

§ 931.12 Fund.

The term "Fund" means the Coastal Energy Impact Fund established under section 308(h).

§ 931.13 Coastal energy activity.

(a) The term "coastal energy activity" is limited to the following activities:

(1) Any Outer Continental Shelf energy activity;

(2) Any transportation, conversion, treatment, transfer, or storage of liquefied natural gas; or

(3) Any transportation, transfer, or storage of oil, natural gas, or coal (including, but not limited to, by means of any deepwater port, as defined in section 3(10) of the Deepwater Ports Act of 1974 (33 U.S.C. 1502(10)).

(b) An activity is a "coastal energy activity" only to the extent that:

(1) The conduct, support, or facilitation of such activity requires and involves the siting, construction, expansion or operation of any equipment or facility; and

(2) The Assistant Administrator determines that a technical requirement exists which necessitates that such siting, construction, expansion, or operation be carried out in, or in close proximity to, the coastal zone of any coastal State.

(c) Such technical requirements are limited to:

(1) Dependency on coastal waters;

(2) Safety;

(3) Proximity to oil or natural gas fields;

(4) Location of markets;

(5) Federal siting regulations or decisions;

(6) Type and amount of required land; and

(7) Competitive uses for any environmental or recreational resource affected by such siting, construction, expansion, or operation.

(d) The siting, construction, expansion, or operation of any equipment or facility shall be "in close proximity to" the coastal zone of any coastal State if such coastal zone has been or is likely to be significantly affected by such siting, construction, expansion, or operation.

§ 931.14 Significantly affected.

The coastal zone of a coastal State is "significantly affected" by the siting, construction, expansion, or operation of an energy facility if such siting, construction, expansion, or operation:

(a) Causes or is likely to cause population changes in the coastal zone;

(b) Changes or is likely to change employment patterns in the coastal zone, including those in fishing and tourism;

(c) Damages or threatens to damage any valuable environmental or recreational resources in the coastal zone, including air, water or noise quality;

(d) Increases or threatens to increase risks to public safety and real property in the coastal zone.

§ 931.15 New or expanded coastal energy activity.

(a) The term "new or expanded coastal energy activity" means any coastal energy activity if the siting, construction, expansion, initial operation, or replacement, in whole or in part, of any equipment or facility required by the conduct, support, or facilitation of such activity takes place after July 26, 1976.

(b) The term "expansion" includes both the physical expansion of a facility and the expansion of the output of the facility.

(c) The term "initial operation" is intended to include the case in which a previously operating but then idle energy facility is reactivated after July 26, 1976.

§ 931.16 Outer Continental Shelf.

The term "Outer Continental Shelf" or "OCS" means all submerged lands lying seaward and outside of the area of lands beneath navigable waters, as defined in 43 U.S.C. 1301, and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control.

§ 931.17 Outer Continental Shelf energy activity.

(a) The term "Outer Continental Shelf energy activity" means:

(1) Any exploration for, or any development or production of, oil or natural gas from the Outer Continental Shelf; or

(2) The siting, construction, expansion or operation of any new or expanded energy facilities that are directly required by such exploration, development or production.

(b) The term "directly" required by Outer Continental Shelf energy activity refers to a new or expanded energy facility that has a technical requirement that necessitates its location in or in close proximity to the coastal zone and is:

(1) Any equipment or facility used primarily in the exploration for or the development, production or transportation of any oil or natural gas from the Outer Continental Shelf; or

(2) Any facility or equipment used primarily for the manufacture, production or assembly of equipment, machinery, or devices that are necessary to and ordinarily used in the exploration for, or development or production or transportation of oil or natural gas from the Outer Continental Shelf. Such equipment and facilities include but are not limited to:

(i) Gas processing and treatment plants
(ii) Platform fabrication yards
(iii) Pipe coating yards
(iv) Service bases
(v) Marine pipelines
(vi) Drilling rigs and drill ships
(vii) Production platforms
(viii) Offshore terminals
(ix) Marine repair and maintenance facilities
(x) Oil storage terminals

(c) The term "exploration" means the process of searching for oil or natural gas, including (1) geophysical surveys where magnetic, gravity, seismic, or other systems are used to detect or imply the presence of oil or natural gas, and (2) any drilling, whether on or off known geological structures, including the drilling of a well in which a discovery of oil or natural gas in paying quantities is made and the drilling of any additional delineation well after such discovery which is needed to delineate any reservior and to determine whether to proceed with development and production.

(d) The term "development" means those activities which take place following discovery of oil or natural gas in paying quantities, including geophysical activity, drilling, platform construction, and operation of all onshore support facilities, and which are for the purpose of ultimately producing the oil and gas discovered.

(e) The term "production" means those activities which take place after the successful completion of any means for the removal of oil or natural gas, including such removal, field operations transfer of oil or natural gas to shore, operation monitoring, maintenance, and work-over drilling.

§ 931.18 [Reserved]

§ 931.19 Energy facility.

(a) The term "energy facility" means any equipment or facility which is or will be used primarily:

(1) In the exploration for, or the development, production, conversion, storage, transfer, processing, or transportation of, any energy resource; or

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(2) For the manufacture, production, or assembly of equipment, machinery, products, or devices which are involved in the activities described in paragraph (a)(1) of this section.

(b) The term includes:

(1) Electric generating plants, including those involving fossil or biomass fuels, nuclear power, direct solar energy, ocean thermal energy conversion, tidal or wave power, wind power, or geothermal energy, and associated transmission systems;

(2) Petroleum refineries and associated facilites;

(3) Gasification plants;

(4) Facilities used for the transportation, conversion, treatment, transfer, or storage of liquefied natural gas;

(5) Uranium enrichment or nuclear fuel processing facilities;

(6) Coal storage, transportation or transfer facilites;

(7) Drilling rigs, platforms, subsea completions, and subsea production systems;

(8) Construction yards for platforms and exploration rigs, pipe coating yards, bases supporting platforms and pipeline installation, and crew and supply bases;

(9) Oil and gas storage facilities;

(10) Marine pipeline systems;

(11) Oil and gas processing facilities;

(12) Transportation systems connecting any of the facilities in this section with primary transportation systems;

(13) Facilities, including deepwater ports, for the transfer of petroleum;

(14) Facilities for geopressurized gas; and

(15) Terminals which are associated with any of the foregoing.

§ 931.20 New or expanded energy facility.

The term "new or expanded energy facility" refers to an energy facility whose siting, construction, expansion, initial operation, or replacement, in whole or in part, takes place after July 26, 1976.

§ 931.21 [Reserved]

§ 931.22 Unit of general purpose local government and unit of local government.

(a) The term "unit of general purpose local government" means:

(1) Any political subdivision of any coastal State that (in whole or in part) is located in or has authority over any portion of such State's coastal zone; or

(2) Any political subdivision of any coastal State that is located within a political subdivision of such coastal State that (in whole or in part) is located in or has authority over any portion of such State's coastal zone; or

(3) Any special entity created by such coastal State or political subdivision that (in whole or in part) is located in or has authority over any portion of such State's coastal zone.

(b) The term "unit of general purpose local government is limited to those entities described in paragraph (a) of this section that:

(1) Have authority to levy taxes or establish and collect user fees or planning districts with no taxing power; and

(2) Provide any public facility or public service that is financed in whole or in part by taxes or user fees.

(c) The term "unit of local government" means any unit of general purpose local government, as defined in paragraphs (a) and (b) of this section, or any agency recognized or designated as an areawide or regional comprehensive planning and development agency pursuant to Office of Management and Budget Circular A-95, under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, or under Title IV of the Intergovernmental Cooperation Act of 1968.

§ 931.23 NOAA and OCZM.

(a) The acronym "NOAA" means the National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

(b) The acronym "OCZM" means the Office of Coastal Zone Management of the National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

§ 931.24 Assistant Administrator.

The term "Assistant Administrator" for Coastal Zone Management, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

Subpart C—Basic Eligibility

§ 931.25 Eligible coastal State.

(a) No coastal State is eligible to receive any financial assistance under this part unless such State.

(1) Has a management program which has been approved under section 306;

(2) Is receiving a grant under sections 305(c) or (d); or

(3) Is making, in the judgment of the Assistant Administrator, satisfactory progress toward the development of a management program which is consistent with the policies set forth in section 303.

(b) No eligible coastal State can receive an allotment under this part unless the Governor of such State has designated a State agency or agencies or in the case of assistance under section 308(c)(2) a responsible official:

(1) To apply for financial assistance under section 308;

(2) To assure, to the maximum extent practicable, that financial assistance provided under section 308 is apportioned, allocated, and granted to units of local government within such State on a basis which is proportional to the extent to which such units need such assistance; and

(3) To receive and administer section 305 grants pursuant to § 920.42 of this chapter, to receive and administer section 306 grants pursuant to § 923.23 of this chapter, or to administer a State coastal management program which is consistent with the policies set forth in section 303.

(i) In the event the coastal State is implementing a management program approved under section 306, all applications for financial assistance under section 308 shall be reviewed for consistency with the State's management program by the State agency administering the State's coastal management program in accordance with the requirements of section 307(d).

(ii) In the event the coastal State is developing a management program pursuant to section 305 or in a manner consistent with the policies of section 303, all applications for financial assistance under section 308 shall be reviewed for compatibility with the State's developing coastal management program by the State agency developing the management program.

(c) While preferable in terms of coordination, it is not required that a single entity perform all three functions stated in paragraph (b) of this section. The State coastal zone management agency designated pursuant to paragraph (b)(3) need not be the agency performing one or both of the functions required by paragraphs (b) (1) and (2) of this section. However, in the event different entities are designated under paragraphs (a) (1), (2), and (3), one agency must be designated to assure coordination with the others.

§ 931.26 Satisfactory progress.

(a) The Assistant Administrator shall judge that a State is making satisfactory progress toward the development of a management program consistent with the policies set forth in section 303 if one of the following conditions is met:

(1) A coastal State has exhausted its eligibility for program development funding under section 305 without achieving program implementation approval under section 306, but is still pursuing development and implementation of a management program consistent with the policies set forth in section 303; or

(2) A coastal State's eligibility for program funding under section 305 or section 306 has been suspended, but the State is making adequate efforts to reacquire eligibility under sections 305 or 306 and still pursuing development of a management program consistent with the policies set forth in section 303; or

(3) A coastal State is otherwise pursuing a comprehensive managment program which is consistent with the policies set forth in section 303 and for good cause shown is not developing or implementing such program under sections 305 or 306.

(b) The phrase "consistent with the policies set forth in section 303" refers to a management program which incorporates:

(1) Policies which provide for the preservation, protection, development, and, where possible, the restoration or enhancement of the resources of the State's coastal zone;

(2) Provisions which insure wise use of the land and water resources of the coastal zone, giving full consideration to ecological, cultural, historic, and esthetic values, as well as to needs for economic development. Such provisions shall include, but are not limited to:

(i) Identification of a coastal zone which is capable of being delineated and which is subject to management under the program;

(ii) Identification of permissible land and water uses for the area within the coastal zone;

(iii) Procedures for assuring that land and water uses of regional and national benefit are not arbitrarily restricted or excluded in policies or management of mechanisms developed pursuant to the State's program;

(iv) State and local legal authorities and organizational structures sufficient to effectuate management over identified land and water uses within the coastal zone; and

(v) Coastal zone water pollution and air pollution control consistent with the requirements of the Clean Water Act, as amended, and the Clean Air Act, as amended.

(3) An opportunity for Federal agencies having interest affecting the State's coastal zone to participate in the development of the State's management program and have their views adequately considered; and

(4) An opportunity for local governments, State and regional agencies, commercial and industrial groups, and the general public to participate in the development of the State's management program and have their views adequately considered.

Subpart D—Planning for the Consequences of Energy Facilities

§ 931.30 General.

This subpart sets forth the objectives of providing planning assistance to coastal States under sections 308(c)(1) and 308(b) and its allowable uses. It also describes procedures for alloting section 308(c)(1) moneys among eligible coastal States and for applying for financial assistance under sections 308(c)(1) and 308(b). Procedures for the allotment of section 308(b) assistance are described in Subpart K.

§ 931.31 Objectives.

The objectives of assistance under this subpart are:

(a) To assist coastal States and units of local government in the study of and planning for any economic, social, or environmental consequence which has occurred, is occurring, or is likely to occur in such State's coastal zone as a result of the siting, construction, expansion, or operation of new or expanded energy facilities;

(b) To encourage rational, timely, and thorough planning for and the management of the impacts from energy resource development;

(c) To help coastal States and units of local government:

(1) Plan for the provision of public facilities and public services required as a result of OCS energy activity; and

(2) Apply to specific locations and energy facilities the energy facility planning and impact management process included in State coastal zone management programs under section 305(b)(8).

§ 931.32 Eligibility for planning assistance under this subpart.

(a) A coastal State is eligible for financial assistance if it meets the basic eligibility requirements of Subpart C.

(b) A unit of local government may apply for assistance through its State.

§ 931.33 Allowable uses.

(a) Allowable uses of section 308(c)(1) grants under this subpart includes:

(1) Planning for economic, social, or environmental consequences of new or expanded energy facilities, coastal energy activities, or OCS energy activities significantly affecting the coastal zone, including:

(i) Analysis of government or private industry siting, licensing, or leasing policies and related data and information;

(ii) Devising strategies for the public purchase of land or the establishment of other enforceable land-use controls for lands upon or near which energy development is to take place;

(iii) Devising methods of protecting environmental or recreational resources threatened by the siting, construction, operation, or expansion of new or expanded energy facilities; or

(iv) Conducting risk management studies, hazard analyses, emergency contingency planning and coordination studies, and assessments of mitigating measures for maintaining or improving public safety threatened by the siting, construction, expansion, or operation of new or expanded energy facilities.

(2) Planning for the consequences of a specific new or expanded energy facility significantly affecting the coastal zone, including: (i) Study of and planning for economic, social, or environmental consequences of the siting, construction, expansion, or operation of a new or expanded energy facility such as:

(A) Changes in population;

(B) Changes in employment patterns, including those in fishing and tourism;

(C) Changes in demand for public facilities, public services, and housing;

(D) Local price inflation;

(E) Changes in patterns of tax and user fee revenues or intergovernmental transfers;

(F) Effects of fishing, tourism, and other economic resources;

(G) Effects on beaches, dunes, air quality, water quality, or other environmental or recreational resources;

(H) Shoreline erosion;

(I) Ecological effects; and

(J) Effects on public safety.

(ii) Conducting analyses required for state or local regulatory decisions related to energy facilities, including licenses, leases, permits, and zoning ordinances;

(iii) Performing cost/benefit analyses or otherwise comparing the consequences of alternative energy facility sites or types;

(iv) Devising strategies for recovering compensation from appropriate parties for any adverse effects caused by the energy facility involved;

(v) Forecasting employment, population, public facility and public services needs and costs, and tax or user-fee revenues;

(vi) Planning for the public facilities eligible for financing under Subpart E of this part, including engineering feasibility;

(vii) Study of and planning for the secondary consequences, including environmental and economic consequences, of alternative types and sites of public facilities eligible for financing under Subpart E of this part; and

(viii) Study of and planning for the consequences of the phasing out of energy facilities.

(3) Carrying out projects necessary to administer assistance under section 308, including:

(i) Collecting data and analyzing information required by § 931.94 for environmental impact assessment;

(ii) Designing and carrying out an intrastate allocation process as described in Subpart J of this part; and

(iii) Paying other reasonable costs of administering assistance under section 308.

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(b) Allowable uses of section 308(b) grants under this subpart include:

(1) Those allowable uses given in paragraph (a) of this section if they are necessary to provide new or improved public facilities and public services required as a result of OCS energy activity; and

(2) Architectual and engineering services for the design and construction of projects eligible for funding under sections 308(b)(5) (B) and (C).

Incorporated in limitations section.

§ 931.34 Limitations.

(a) Grants awarded to a coastal State under section 308(c)(1) may not exceed 80 percent of the actual cost of the study or planning. States may use in-kind contributions as the non-Federal matching share in accord with Office of Management and Budget Circular A-102.

(b) Although the use of section 308(c)(1) planning assistance must be related to new or expanded energy facilities there is no requirement that the use of this planning assistance be tied to the specific energy facilities listed on the planning inventory described in § 931.35 because it is recognized that the planning inventory will not in all cases capture every new or expanded energy facility.

(c) Section 308(c)(1) and 308(b)(5)(B) planning assistance may not be used:

(1) To develop the general planning process for energy facilities required of state management programs under section 305(b)(8); or

(2) For general energy studies or plans divorced from actual, proposed, or likely new or expanded energy facilities, coastal energy activities, or OCS energy activities.

(*Comment.* According to the Act, States may use section 305 grants to develop the general planning process for coastal energy facilities required under section 305(b)(8)).

§ 931.35 Planning inventory

(a) At the end of each fiscal year the Assistant Administrator will compile an inventory of new or expanded energy facilities that have significantly affected the coastal zone, are significantly affecting the coastal zone, or are likely to significantly affect the coastal zone of that State.

(b) The purpose of the planning inventory is:

(1) To identify those significant social, environmental or economic consequences in the coastal zone that may be prevented, ameliorated or controlled through proper study and planning; and

(2) To provide a basis for estimating the relative planning need among coastal states eligible to receive financial assistance under section 308(c)(1).

(c) To assure that the planning inventory reasonably reflects actual planning need, new or expanded energy facilities that significantly affect the coastal zone will be placed on the planning inventory only if:

(1) A major State or Federal permit has been applied for to site, construct, expand or initially operate such facility;

(2) The Assistant Administrator determines on the basis of reasonable evidence submitted by the eligible coastal State that such facility is likely to be sited, constructed, expanded or initially operated in the near future; or

(3) Such facility is projected to be required as a result of a lease sale scheduled by the Department of Interior to occur within the three fiscal years immediately following the fiscal year for which the inventory is compiled.

(d) To assure an equitable distribution of financial assistance among coastal States, facilities shall not be placed on the planning inventory or shall be removed from the planning inventory if:

(1) Such facility began operating in the fiscal year for which the inventory is compiled;

(2) Such facility has been on the inventory for a total of four fiscal years; or

(3) The Assistant Administrator determines that the study of or planning for the consequences of such facility is no longer required.

(e) The Assistant Administrator may allow facilities to remain on the inventory for more than four fiscal years if the state can demonstrate that such inclusion is necessary to prevent significant impacts on the coastal zone.

§ 931.36 Planning need formula.

(a) *Planning Need Factors.* The Assistant Administrator will establish for various types of energy facilities planning need factors approximating the social, economic and environmental consequences associated with each facility type. These need factors will be reviewed each fiscal year in light of the best available information concerning the effects associated with and characteristics of the various energy facility types.

(b) *Planning Need Formula.* The Assistant Administrator will develop a formula for estimating the need to plan for the social, economic and environmental consequences associated with a new or expanded energy facility. This planning need formula will take into account the planning need factors established under paragraph (a) of this section. The planning need formula will be reviewed each fiscal year and modified as appropriate.

§ 931.37 Allotment of 308(c)(1) planning grants among coastal States.

(a) Funds available in a fiscal year under section 308(c)(1) shall consist of:

(1) Funds appropriated to the Fund for section 308(c)(1) purposes for that fiscal year;

(2) Funds allotted in previous fiscal years under section 308(c)(1) reverting to the Assistant Administrator under § 931.39 because they were not applied for by the recipient coastal State within the time periods allowed by that section;

(3) Funds allotted in previous years under section 308(c)(1) recalled under section 931.97 because such funds were expended for unauthorized uses; and

(4) Funds from any other sources that may be used in that fiscal year under 308(e)(1).

(b) The Assistant Administrator shall allot available funds among eligible coastal States according to the following procedures:

(1) *State Review.* Before computing an allotment for any fiscal year, the Assistant Administrator will provide eligible coastal States with:

(i) The inventory of new or expanded energy facilities (planning inventory) described in § 931.35; and

(ii) The planning need factors and the planning need formula described in § 931.36. The States will have 30 days to submit comments to the Assistant Administrator who will revise the inventory, factors, or formula as appropriate.

(2) *Minimum Share.* The Assistant Administrator may allot to each eligible coastal State an equal minimum share. This minimum share will be an amount which, at the Assistant Administrator's discretion, is considered sufficient to allow the recipient State to effectively practicipate in the CEIP. However, the minimum share will not exceed $35,000.

(3) *Formula Share.* The funds remaining after the minimum shares are subtracted from the total amount available will be allotted on the basis of planning need equivalencies as follows:

(i) A planning need equivalency for each new or expanded energy facility on the planning inventory will be calculated by applying the planning need formula to each facility. A State's planning need equivalency will be the sum of the planning need equivalencies of all facilities on that State's planning inventory.

(ii) Each State's formula share will equal the product of:

(A) The funds remaining; and

(B) The ratio of that State's planning need equivalency to the sum of the planning need equivalencies of all States.

(4) *Allotted Share.* An eligible coastal State's allotment of section 308(c)(1) funds will be the sum of the minimum share and the formula share except that a State's allotted share may not exceed 10% of the total amount available.

(i) If the sum of the minimum share and the formula share exceeds 10% of the amount available under section 308(c)(1), the allotment of such State shall be reduced to an amount equal to 10% of the amount available. Any excess funds obtained by reducing State allotments to 10% of the amount available will be redistributed among the other eligible coastal States in proportion to their planning need equivalencies.

(ii) If after reducing any State's allotment under subparagraph (4)(i) of this paragraph it is not mathematically possible to redistribute the excess funds without exceeding the 10% ceiling, the redistribution of such excess funds will be carried out without regard for the ceiling.

§ 931.38 Application procedure.

(a) To assure that assistance under this subpart is awarded in the fiscal year of allotment, applications must be submitted by June 1 of that fiscal year.

(b) Applications for planning assistance under section 308(c)(1) and section 308(b) must contain the following certifications and information:

(1) A certification by the State agency designated under § 931.25(b)(2) that the planning assistance has been allocated within the State in accord with the intrastate allocation process described in subpart J of this part;

(2) A certification by the State agency designated under § 931.25(b)(3) that the planning assistance will be used in a manner that is compatible with the State's developing, or consistent with the State's approved, coastal zone management program;

(3) A showing, if the application for assistance has not been submitted to the Project Notification and Review System established by OMB Circular No. A-95 (Part I), that a memorandum of agreement for coordinating planning under section 308 with areawide comprehensive planning has been consummated with appropriate areawide clearinghouses in the State's coastal zone, pursuant to Part IV, Attachment A, of OMB Circular A-95; and

(4) A brief description of the activity or activities to be performed indicating the relationship to allowable uses under § 931.33.

(c) In addition, applications for section 308(b) grants must contain such adequate assurances as are required by § 931.97(a).

(d) It is the Assistant Administrator's intent to process completed applications within 45 days of receipt.

§ 931.39 Reversion of funds allotted under section 308(c)(1).

(a) Allotted funds for which applications are not received by the end of the fiscal year in which such funds were allotted will revert to the Assistant Administrator at the end of that fiscal year.

(b) Allotted funds for which applications are received within the fiscal year in which they were allotted will remain available to the State until awarded. Allotted funds for which applications are disapproved or withdrawn will remain available for reapplication by the State until the end of the fiscal year or for 60 days after such disapproval or withdrawal whichever is later. If a substitute application is not submitted for these funds before the end of the fiscal year or before the 60 day time period expires, such funds will revert to the Assistant Administrator at the end of the fiscal year or at the end of the 60-day period.

(c) Funds reverting to the Assistant Administrator under this section will be reallotted as soon as practicable among eligible coastal States according to the procedures of this subpart.

Subpart E—Financing Public Facilities and Public Services

§ 931.40 General.

This subpart sets forth the objectives for providing assistance to coastal States and units of general purpose local government under sections 308(d)(1) and (2) and 308(b), (5)(B) and (C) and its allowable uses. This subpart also describes the procedures for allotting credit assistance among coastal States, and for applying for credit assistance under sections 308(d)(1)(2), formula grants under section 308(b).

§ 931.41 Objectives.

The objectives of assistance under this subpart are:

(a) To help coastal States and units of general purpose local government finance new or improved public facilities and public services needed because of coastal energy activity;

(b) To provide front-end financing that can be expected to be repaid later from revenues generated by the coastal energy activity;

(c) To assure that necessary development in coastal areas is consistent with State coastal zone management objectives, the safeguarding of valuable national coastal environmental and recreational resources, and public safety; and

(d) To discourage unnecessary development in the coastal zone by providing assistance only for those public facilities and public services actually needed because of coastal energy activity.

§ 931.42 Definitions.

(a) The term "public facility" includes, but is not limited to, the following facilities to the extent that they are financed by any State or unit of general purpose local government; that they meet the requirements of Subpart I of this part; and that they do not primarily serve industrial facilities, except if the public facilities are wholly owned by a unit of general purpose local government and if industrial user charges from the facilities will be a primary source of revenue to repay the loan received or obligation guaranteed under this subpart.

(1) *Education.* Day care centers; primary, secondary, and general vocational schools, including portable classrooms and temporary facilities; school equipment; libraries, including books and equipment;

(2) *Environmental protection.* Facilities and equipment used to monitor or control air and water quality or noise standards, to insure the continued viability of fish, wildlife, and land resources, to prevent or control erosion; land acquisition for environmental protection;

(3) *Government administration.* Facilities and equipment essential for general government administration;

(4) *Health care.* Emergency medical facilities and equipment, including ambulances; clinic and hospital buildings and equipment; alcohol and drug abuse centers; emergency shelter and sanitary facilities;

(5) *Public safety and law enforcement.* Detention centers, police equipment and stations, fire stations and firefighting equipment, fire training centers, animal control facilities, communication facilities and equipment, and rescue facilities and equipment;

(6) *Recreation.* Facilities and equipment for amateur sports and performing arts, community recreational centers, local parks and playgrounds, acquisition of parkland or beaches or of public access to such land or beaches;

(7) *Transportation.* Street and street lighting, roads, bridges, road maintenance equipment, parking associated with public facilities, docks, air and water navigation aids, canals and navigation facilities, air terminals in remote areas, mass transit including bus and ferry systems;

(8) *Public utilities.* Electric generating plants and distribution systems; natural gas distribution systems; solid waste collection systems; waste collection and treatment systems, including drainage; water supply systems; and telephone systems.

(b) The term "public service" means any service authorized by law to be provided by a State or unit of general purpose local government to the extent that:

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(1) It is financed by the State or unit of general purpose local government;

(2) It meets the requirements of Subpart I of this part; and

(3) It does not primarily serve industrial facilities unless industrial user charges will be a primary source of revenue to repay the loan received or obligation guaranteed under this subpart.

(c) A public facility is considered "new or improved" if it is constructed, expanded, or renovated after July 26, 1976.

(d) A public service is considered "new or improved" if the proposed type or increased level of service was not offered in the fiscal year before the application for assistance for such service.

§ 931.43 Allowable uses.

(a) Credit assistance available from the Fund under sections 308(d) (1) and (2) is to be used to finance new or improved public facilities and public services that are required as a result of coastal energy activity.

(b) Grant assistance under section 308(b) is to be used for the development of, and the carrying out of projects and programs necessary to provide new or improved public facilities and public services that are required as a result of OCS energy activity.

§ 931.44 Eligibility.

(a) To be eligible for allotments and assistance from the Fund under sections 308(d) (1) or (2) or from formula grants under section 308(b), a coastal State must meet the basic eligibility requirements of Subpart C.

(b) A unit of general purpose local government may apply for assistance through its State.

§ 931.45 Credit assistance inventory.

(a) At the end of each fiscal year, the Assistant Administrator will compile for each eligible coastal State an inventory of new or expanded coastal energy activities.

(b) The purpose of this inventory is:

(1) To identify new or expanded coastal energy activities that have caused, are causing, or are likely to cause a need for new or improved public facilities and public services; and

(2) To provide a basis for estimating the relative need for credit assistance among eligible coastal States.

(c) To assure that the credit assistance inventory reasonably reflects actual need for new or improved public facilities and public services, a new or expanded energy activity will be placed on the inventory only if the Assistant Administrator determines that such activity is likely to necessitate new or improved public facilities or public services, and

(1) A major State or Federal permit has been approved to conduct such activity; or

(2) Such activity is described in exploration plans or production and development plans approved by the Department of the Interior; or

(3) The Assistant Administrator, based on reasonable evidence submitted by the State, determines that such activity is likely to be carried out in the near future.

(d) To assure an equitable distribution of credit assistance among coastal States, a coastal energy activity will not be placed on the inventory or will be removed from the inventory in a fiscal year if such activity:

(1) Was on the inventory in any preceding fiscal year; and

(2) The Assistant Administrator determines that adequate credit assistance was allotted to a coastal State as a result of such activity.

§ 931.46 Allotment formula

(a) The Assistant Administrator will develop a formula for allotting moneys appropriated under section 308(d)(1) and (2). Such formula will be based on, and limited to, the following factors:

(1) The number of additional individuals who are expected to become employed in new or expanded coastal energy activity and will reside in the coastal State;

(2) The new population in the coastal State associated with such energy activity; and

(3) The standardized unit costs for new or improved public facilities and public services required as a result of such expected employment and related new population.

(b) The Administrator will periodically review and, if appropriate, revise this formula on the basis of the best available data concerning the need for public facilities and services created by coastal energy activity.

§ 931.47 Allotment of credit assistance.

(a) *State Review.* Before computing an allotment for any fiscal year, the Assistant Administrator will provide eligible coastal States with:

(1) The inventory of coastal energy activities (credit assistance inventory) described in § 931.45;

(2) Data on new employment and related new population for each activity on the credit assistance inventory; and

(3) The allotment formula described in § 931.46. Coastal States will have 30 days to submit comments on this information to the Assistant Administrator who will revise the inventory, employment and population data, and formula as appropriate.

(b) *Allotment Computation.* After the State review described in paragraph (a) a public facility and public service need factor will be calculated for each activity on the credit assistance inventory by applying the allotment formula to the activity. A State's need factor will be the sum of the need factors for all activities on that State's credit inventory. A State's allotment of credit assistance will equal the product of:

(1) The amount appropriated under section 308(d)(1) and (2); and

(2) The ration of that State's public facility and public service need factor to the sum of the public facility and public service need factors of all States.

§ 931.48 Allotment of section 308(b) formula grants.

The annual allotment of formula grants among coastal States is described in Subpart K.

§ 931.49 Recall and reversion of allotted credit assistance funds.

(a) This section applies only to credit assistance funds allotted under § 931.47

(b) Allotted funds for which applications are not received by July 1 of the fiscal year in which such funds were allotted may be recalled by the Assistant Administrator 30 days after notification of the State agency designated in § 931.25(b)(1). If, before the expiration of the 30-day notification period the State requests an extension for submitting applications, the Assistant Administrator may grant such extension. However, the time for submitting applications will not be extended beyond January 1 of the following fiscal year.

(c) A request for extension must contain the following information:

(1) The name of the expected applicant for the credit assistance;

(2) The use to which the assistance would be put;

(3) The amount of funding to be requested;

(4) The date an application is expected to be submitted; and

(5) An explanation of why the project is required as a result of coastal energy activity.

(d) Allotted funds for which neither an application nor a request for extension is received by the end of the fiscal year in which such funds were allotted will revert to the Assistant Administrator at the end of that fiscal year.

(e) Allotted funds for which timely applications are received will remain available to the State until awarded. Allotted funds for which applications are disapproved will remain available for reapplication by the State until the end of the fiscal year or for 90 days after such disapproval or withdrawal.

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§ 931.50 Application for recalled or reverted credit assistance.

(a) Funds recalled by or reverting to the Assistant Administrator under §931.49 will be available to all eligible coastal States by application according to the procedures of this section.

(b) Coastal States may submit applications for loans at any time.

(c) Priority among loan applications will be based on the priority in submitting a completed application.

(d) Under exceptional circumstances, the Assistant Administrator may grant priority to a latter application on the basis of:

(1) Immediacy of need;

(2) Degree of impact sought to be ameliorated;

(3) Equity of distribution of CEIP credit assistance, and

(4) Availability of other financing, including priviate sources.

§ 931.51 Contents of credit assistance application.

(a) To assure that assistance under this subpart is awarded in the fiscal year of allotment, applications must be submitted by June 1 of that fiscal year.

(b) Applications for credit assistance from the Fund or for formula grants must contain the following certifications and information:

(1) A certification by the State agency designated under § 931.25(b)(2) that the assistance has been allocated within the State in accord with the intrastate allocation process described in Subpart J of this part;

(2) A certification by the State agency designated under § 931.25(b)(3) that the assistance will be used in a manner that is compatible with the State's developing, or consistent with the State's approved, coastal zone management program;

(3) For construction projects, as defined in the Office of Management and Budget Circular A-102, factual information necessary to evaluate the project's environmental impacts, in detail sufficient to enable the Assistant Administrator to determine whether an environmental impact statement (EIS) will be required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321, et seq.); and

(4) A showing that such applications for assistance have complied with the requirements of the Project Notification and Review System established by Office of Management and Budget Circular A-95 (Part I).

(c)(1) Applications for credit assistance must also contain the following information:

(i) A descrption of the coastal energy activity causing the impacts because of which the credit assistance is sought;

(ii) A description of the new or improved public facilities or public services; required as a result of coastal energy activity, for which the assistance is sought, including costs on an annualized basis;

(iii) An estimate of current levels of utilization of public facilities and public services in the borrower's jurisdiction similar to those for which credit assistance is sought; and

(iv) Appropriate fiscal schedules, including financial and economic information, required to evaluate the payback potential on the request for credit assistance. (Such fiscal schedules will include the best available historical data on the revenues and expenditures of the borrower for five years preceding the year of application.)

(2) The information contained in the fiscal schedules described in paragraph (b)(1)(iv) of this section will be used to negotiate with the borrower the terms and conditions of the loan or guarantee agreements as described in § 931.50(c) and § 931.51(f). The fiscal schedules will be used in setting the conditions under which repayment assistance will be available, as incorporated into the terms and conditions of the loan or guarantee agreements.

(3) Even when the likelihood of eventual repayment assistance seems high, the Assistant Administrator will not normally require that the borrower raise its tax rates above or alter its tax methods from those generally prevailing when the applicant is requesting repayment assistance. However, if the tax base or revenues available to the borrower are reduced for reasons unrelated to the failure of the economic activity connected with energy development, the borrower will be expected to meet its principal and interest payments according to the loan or guarantee.

(d)(1) Applications for formula grants must contain:

(i) The adequate assurance required by § 931.97(a);

(ii) A brief description of the proposed new or improved public facility or public service sufficient to enable the Assistant Administrator to verify that the facility or service is required as a result of OCS energy activity;

(iii) Environmental impact assessment data;

(iv) Copies of necessary Federal and State permit applications;

(v) A map showing the project in relation to the coastal zone.

(2) Before awarding allotted formula grants, the Assistant Administrator will:

(i) Verify the certifications and information submitted pursuant to paragraphs (a) and (d)(1)(ii) of this section;

(ii) Determine whether an environmental impact statement (EIS) will be required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and prepare an EIS when necessary.

§ 931.52 Special requirements for section 308(d)(1) loans.

(a) *Interest rate.* The interest rate shall be the current average market yield for outstanding marketable obligations of the United States with remaining periods to maturity comparable to the maturity of such loans. The Assistant Administrator may under special circumstances approve lower interests rates. The Assistant Administrator will provide to all coastal States criteria for determining under what conditions special circumstances will be found. These criteria will be updated periodically.

(b) *Eligibility.* A loan to an otherwise eligible borrower may be made even though the fiscal schedules described in § 931.51(c)(4)(iv) or other financial information does not indicate adequate coverage for debt service. Loans may be made under section 308(d)(1) to State agencies established for the purpose of financing public facilities. Such loans shall be subject to such terms and conditions as the Assistant Administrator may prescribe.

(c) *Loan agreements.* Each loan agreement will incorporate in detail the conditions of the loan including repayment assistance described in Subpart F of this part. These conditions will be binding upon the Assistant Administrator and the borrower.

(d) *Repayment schedule.* Each loan agreement will contain a mutually agreed-upon repayment schedule, which will be tailored to the repayment ability of the borrower as indicated in the fiscal schedule described in § 931.51(b)(4)(iv) or in other financial information. This repayment schedule will set forth the borrower's annual loan service (principal and interest) payments. The borrower may accelerate payment with no prepayment penalities.

(e) *Maturity of loans.* Loans will be made for a period not to exceed the normal useful life of the project. In no event will a loan, including extensions and renewals thereof, be made with a maturity exceeding 30 years from the date of the final loan closing.

(f) *Security.* Loans made under section 308(d)(1) will be secured as determined by the Assistant Administrator and in the manner customary or legally allowed under respective State statute and local government charters and ordinances for projects of the type for which credit assistance is requested. NOAA's interest may be perfected, where appropriate, by a filing under the Uniform Commercial Code as adopted by the subject State, or, in

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any jurisdiction where the Uniform Commercial Code has not been enacted, by the recording of a mortgage.

(g) *Disbursement of loan funds.* Loan funds may be disbursed on a phased basis. Approval of such loan advances will be made after receipt by the Assistant Administrator of:

(i) A favorable preliminary approving opinion of bond counsel on the validity of the proposed interim and final bond or promissory note and,

(ii) Satisfactory evidence of receipt of firm construction, service, and/or supply bids as well as compliance with the other loan conditions required to be fulfilled before disbursement. Advances or partial purchases shall be made in units of not less than 25 percent spaced so as to enable the borrower to pay incurred costs as they come due. Advances must be deposited in a bank with Federal Deposit Insurance Corporation coverage, and the balances exceeding such coverage must be collaterally secured as provided in 12 U.S.C. 265.

(h) *Interim financing on loan projects.* The terms and conditions of the interim financing are subject to prior approval. Upon request the borrower, will be provided with an appropriate letter of intent to aid the borrower in obtaining interim financing from sources other than the CEIP.

(i) *Bond counsel.* The borrower shall retain bond counsel to represent it in each loan transaction. Such bond counsel must receive the prior approval of the Assistant Administrator.

§ 931.53 Special requirements for section 308(d)(2) Federal guarantees.

(a) *Eligibility.* A borrower's legal debt will be considered eligible for guarantee under this subpart, if the Secretary of the Treasury approves such debt and it meets other requirements set forth in section 308(f).

(b) *Taxable obligations.* The interest paid on any obligation which is guaranteed under section 308(d)(2) and which is received by the purchaser of such obligation (or the purchaser's successor in interest) shall be included in gross income for the purposes of chapter 1 of the Internal Revenue Code of 1954.

(c) *Interest subsidy.* The Assistant Administrator may pay out of the Fund, pursuant to the terms of the bond or other evidence of indebtedness, to the coastal State or the unit of general purpose local government issuing an obligation guaranteed under section 308(d)(2) not more than the portion of the interest on such obligation as exceeds the amount of interest that would be due at a comparable rate for loans made under section 308(d)(1) at the time the obligation is guaranteed by the Associate Administrator.

(d) *Fees for guarantees.* A fee will be levied for providing a Federal guarantee. This fee will be set on the basis of the administrative costs incurred in providing and monitoring such guarantee. The fee may be waived in the event repayment assistance (as described in Subpart F of this part) is required.

(e) *Default procedures and guarantee incontestability.* If a borrower defaults on a bond or other evidence of indebtedness guaranteed under the Fund, the holder of the bond or other evidence of indebtedness may demand, pursuant to the terms of the bond or other evidence of indebtedness, payment from the Assistant Administrator of the principal and accrued interest of the obligation in accord with section 308(f)(5)(B). The validity of such a guarantee shall be considered incontestable, except when the holder of the obligation is guilty of fraud or misrepresentation or was aware of fraud or misrepresentation at the time he purchased the obligation.

(f) *Guarantee agreements.* Each obligation guaranteed under this subpart will entail agreements setting forth in detail the conditions under which the repayment assistance described in subpart F of this part will be available. These conditions will be binding upon the borrower. In addition, all provisions in the underlying documents for obligations guaranteed under section 308(d)(2) will be subject to the approval and will contain such additional provisions as the Assistant Administrator may require.

(g) *Bond counsel.* The borrower shall retain bond counsel to represent it in each guarantee transaction. Such bond counsel must receive the prior approval of the Assistant Administrator.

Subpart F—Repayment Assistance

§ 931.60 General.

This Subpart sets forth objectives, purposes and procedures for awarding various forms of repayment assistance under sections 308)(d)(3) and 308(b)(5)(A).

§ 931.61 Objectives.

The objectives of the repayment assistance are to ensure that:

(a) Credit obligations will be modified and tailored according to ability to repay so that defaults can be avoided; and

(b) Net fiscal losses to the States or units of general purpose local government resulting from coastal energy activity will be minimized.

§ 931.62 Definitions.

The term "borrower" refers to an eligible coastal State, a special purpose agency of the State, or a unit of general purpose local government that has been awarded credit assistance under sections 308(d)(1) or (d)(2).

§ 931.63 Purposes.

(a) The purpose of repayment assistance under sections 308(d)(3)(A–C) is to assist a borrower who is temporarily unable to meet scheduled repayments of loans or guaranteed obligations.

(b) The purpose of a repayment grant under section 308(b) is to assist a borrower in meeting scheduled repayments of a guaranteed bond when the remedies of sections 308(d)(3)(A–C) are inadequate.

(c) The purpose of a repayment grant from a State's allotted credit assistance from the Fund under section 308(d)(3)(D) is to assist a borrower in meeting scheduled repayments of a loan or guaranteed obligation when the remedies of sections 308(d)(3)(A–C) are inadequate and formula grants are not available for that purpose. If the State's allotment is insufficient, a grant will be made from the Fund.

§ 931.64 Sources of repayment assistance.

(a) *Primary sources.* The primary sources of repayment assistance are modification of credit assistance terms and conditions under section 308(d)(3)(A), refinancing of a loan under section 308(d)(3)(B), or making a supplemental loan under section 308(d)(3)(C) to enable the borrower to repay principal and interest pursuant to the terms of a loan or guaranteed obligation.

(b) *Secondary sources.* If the borrower is unable to meet scheduled repayments by means of one or more of the primary sources of repayment assistance, and if the inability to repay results from a change in scope of the coastal energy activity or the related new population, the secondary sources of repayment assistance may be used to meet obligations. These secondary sources are the proceeds of the State's allotment of formula grants under section 308(b) and grants from the State's allotment of moneys from the Fund under section 308(e)(1), or directly from the Fund if the State's allotment is insufficient.

§ 931.65 General eligibility.

(a) A borrower is eligible for repayment assistance only if:

(1) It has been awarded a loan under section 308(d)(1) or a guarantee under section 308(d)(2); and

(2) It has submitted a report, as required under § 931.66, updating the information described in § 931.51(c)(1)(iv).

(b) A borrower does not have to be in default before qualifying for repayment assistance. The default of a borrower will nevertheless automatically occasion review for repayment assistance by the Assistant Administrator.

§ 931.66 Reports.

After submitting its original credit assistance application, and until the full repayment of its loan or guaranteed obligation, the borrower shall submit periodically to the Assistant Administrator a report updating the information described in § 931.51(c). The frequency of submission of this report will be established by the Assistant Administrator in consultation with the borrower. This report should contain whatever new information the borrower has received and can document concerning the coastal energy activity and its likely effects on revenues and expenditures.

§ 931.67 Review for repayment assistance.

(a) At the request of the borrower or on the initiative of the Assistant Administrator, a review for repayment assistance will be carried out. Before the initiation of this review by the Assistant Administrator, the borrower must submit a report (described in § 931.66) updating the information described in § 931.51(c). The Assistant Administrator will examine the information and forecasts contained in the report, particularly those relating to the status and effects of the coastal energy activity involved.

(b) All terms and conditions of the loan or guarantee, as enumerated in the loan or guarantee agreements, will remain in effect pending the review for repayment assistance.

§ 931.68 Award of repayment assistance.

(a) It is the Assistant Administrator's intent to offer repayment assistance within 45 days after the request for repayment assistance described in § 931.67, if, pursuant to the terms and conditions of the loan or guarantee agreements, the borrower is found unable to meet its annual loan service payment or obligation under a guarantee in accord with its repayment schedule because the economic activity generated by the coastal energy activity and associated facilities have failed to provide adequate revenues.

(b) If the Assistant Administrator finds that any coastal State or unit of general purpose local government which is a borrower is unable to meet its obligations pursuant to a loan made under section 308(d)(1) of the Act because the actual increases in employment and related population resulting from coastal energy activity and the facilities associated with such activity do not provide adequate revenues to enable the State or unit to meet such obligations in accordance with the appropriate repayment schedule, the Assistant Administrator shall, after review of the information submitted by the State or unit pursuant to section 308(e)(3) of the Act take, subject to the special conditions contained in the loan agreement, any of the following actions:

(1) Modify appropriately the terms and conditions of such loan;

(2) Refinance such loan;

(3) Make a supplemental loan to the State or unit, the proceeds of which shall be applied to the payment of principal and interest due under such loan; and

(4) Make a grant to the State or unit the proceeds of which shall be applied to the payment of principal and interest due under such loan.

(*Comment.* The award of repayment assistance will be based only on an objective comparison of the information submitted in the updating report as described in § 931.66 with the terms and conditions of the original loan or guarantee agreements.)

(c) When the Assistant Administrator offers one of the courses of action in § 931.68(b)(1–4), the borrower may submit to the Assistant Administrator a formal acceptance of the recommended form of repayment assistance. In the case of a repayment grant from the proceeds of a State's formula grant under section 308(b) for a bond guaranteed under section 308(d)(2), the borrower shall submit this formal acceptance through the State agency designated under § 931.25(b)(1), and the acceptance shall include the adequate assurances as are required by § 931.97(a). The repayment assistance will take effect as soon as the Assistance Administrator receives the formal acceptance.

(d) If the formula grants allotted the State are insufficient for all the repayment grants recommended by the Assistant Administrator in a fiscal year, the State agency designated under § 931.25(b)(1) shall indicate which bonds it wishes to retire with the proceeds of available formula grants, giving priority to local bonds in accordance with section 308(b)(5)(A). Those borrowers whose bonds the State has indicated it cannot retire with the proceeds of formula grants may request repayment grants from the State's allotment of credit assistance and, when necessary, which will be awarded directly from the Fund. Borrowers in States that have no allotted formula grants may request the recommended repayment grants, which will be awarded from the State's allotment of credit assistance and, when necessary, directly from the Fund.

(e) If, after the review for repayment assistance, the Assistant Administrator determines that no repayment assistance is warranted, or if the borrower does not formally accept such assistance, the borrower will remain subject to the terms and conditions of the loan or guarantee and to the requirements of Subpart I of this part.

§ 931.69 Appeal procedure.

(a) Whenever a dispute arises concerning the Assistant Administrator's finding made pursuant to § 931.68(a) regarding the existence of conditions which require an offer of repayment assistance the borrower may appeal the Assistant Administrator's decision to the Administrator of NOAA by submitting a request for review to the Office of the Administrator of NOAA.

(b) The Administrator of NOAA will issue a written decision on the appeal within 60 days of the borrower's request for review.

(c) The appeal procedure provided for in paragraphs (a) and (b) of this section is intended to provide a timely and impartial forum for resolving disputes concerning repayment assistance. Such appeal procedures may be initiated by the borrower, but do not expressly or by implication limit the borrower's other remedies at law or in equity. The borrower may seek appropriate judicial relief in a court of competent jurisdiction without the consent of the Assistant Administrator or the Administrator of NOAA, and without first having exhausted the appeal procedures provided in paragraphs (a) and (b) of this section.

Subpart G—Grants for Unavoidable Losses of Valuable Coastal Environmental and Recreational Resources

§ 931.70 General.

The subpart sets forth policies and requirements for awarding environmental and recreational grants to coastal States under sections 308(b)(5)(C) and 308(d)(4), and describes the objectives for awarding these moneys, the allowable uses, the sources from which they will be drawn, and the eligibility requirements.

§ 931.71 Objectives.

The objectives for providing assistance under sections 308(b)(5)(C) and 308(d)(4) are:

(a) To help coastal States and units of local government in such States to prevent, reduce or ameliorate losses in the coastal zone of valuable environmental or recreational resources when such losses result from coastal energy activity;

(b) To ensure that the person or persons responsible for these environmental or recreational losses pay for their full cost whenever possible; and

(c) To encourage the prevention of environmental or recreational losses by providing assistance only when the losses cannot be prevented through a reasonable exercise of State or local regulatory authorities.

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§ 931.72 Definitions.

(a) The term "valuable environmental resource" refers to:

(1) Areas of land or water that are or have been largely in a natural state, or whose value derives primarily from ecological considerations;

(2) Important animal and plant populations and their habitat;

(3) Air, water, or noise quality; or

(4) An area that has been designated under a State's approved coastal zone management program or other regional or local plans as either an area of particular concern or area of preservation or restoration for environmental purposes.

(b) The term "valuable recreational resource" refers to areas of land or water that have characteristics making it desirable for one or more types of recreational activities, or which have been designated under a State's approved coastal zone management program, or other regional or local plans, as an area of particular concern or area of preservation or restoration use for recreational purposes. Included are areas that have important cultural, historic or archeological significance which are essential to the well being of all citizens.

(c) The term "loss" refers to any damage to or degradation of or any threat of damage to or degradation of a. valuable environmental or recreational resource, including the impairment or threat of impairment of public access to that resource and any degradation or threat of degradation of the use of a resource that may result from overcrowding.

(d) A loss of a valuable environmental or recreational resource will be considered "unavoidable" if:

(1) The loss is caused by coastal energy activity and

(i) The loss can not be attributed to an identifiable person or persons; or

(ii) The costs of reduction or amelioration of the loss cannot be directly or indirectly assessed against an identifiable person or persons because no reasonable cause of action exists for the collection of money damages; or

(2) The loss is *projected to occur* as a result of current or future coastal energy activity and funds are sought to design or implement strategies, programs or projects to prevent, reduce or ameliorate such loss.

(e) The term "person" means any individual; any corporation, partnership, association, or other entity organized or existing under the laws of any State; the Federal Government; any State, regional, or local government; or any entity of any such Federal, State, regional, or local government.

§ 931.73 Allowable Uses.

(a) Assistance is provided in sections 308(b)(5)(C) and 308(d)(4) to help States and units of local government design and implement projects to prevent, reduce or ameliorate unavoidable environmental and recreational losses resulting from coastal energy activity.

(b) Assistance for the design and implementation of projects under this subpart is intended to pay for:

(1) Protection restoration, replacement, acquisition or improvement of environmental or recreational resources to prevent, reduce, or ameliorate unavoidable environmental and recreational losses.

(2) The design and implementation of programs and strategies to prevent, reduce or ameliorate unavoidable environmental and recreational losses, including the cumulative effects of coastal energy activity.

(3) The cost differential between methods of providing a public facility required as a result of coastal energy activity which meets minimum State environmental and construction standards, and a higher cost method that further reduces an environmental loss.

§ 931.74 Eligibility.

(a) To be eligible for allotments and assistance under sections 308(b)(5)(C) and 308(d)(4), a coastal State must meet the basic eligibility requirements of Subpart C of this part.

(b) A unit of general purpose local government may apply for financial assistance from its State.

§ 931.75 Allotment of Section 308(d)(4) Environmental-Recreational Grants.

(a) Funds available in any fiscal year under subsection 308(d)(4) will be allotted among coastal States according to the procedures of this section and will consist of:

(1) Funds appropriated for section 308(d)(4) purposes for that fiscal year;

(2) Funds allotted in previous fiscal years under section 308(d)(4) reverting to the Assistant Administrator under § 931.76;

(3) Funds allotted in previous fiscal years under section 308(d)(4) and recalled under § 931.97 because such funds were expended for unauthorized uses; and

(4) Money from any other source available for section 308(d)(4) purposes.

(b) *Allotment Computation.* Available funds will be allotted first among those eligible coastal States that are receiving in that fiscal year less than $400,000 in section 308(b) formula grant allotments. This allotment will be carried out according to the procedures for allotting credit assistance under § 931.47.

(1) If after the computation of the allotment described in paragraph (b) of this section any State's allotment is less than 5 percent of the amount available, such State's allotment will be raised to 5 percent of the amount available.

(2) If after the computation of the allotment described in paragraph (b) of this section any State's allotment is greater than 25 percent of the total amount available, then such State's allotment will be reduced to 25 percent of the amount available.

(3) If after the calculations in paragraphs (b)(1) and (2) of this section the amount that would be required to be allotted exceeds the amount available, then each State's allotment will be reduced proportionally until the total allotment equals the amount available.

(4) If after the calculations in paragraphs (b)(1) and (2) of this section the amount that would be required to be allotted is less than the amount available, then such unallotted funds will be available for allotment according to the procedures of § 931.47 among all eligible coastal States.

§ 931.76 Reversion of allotted funds.

(a) Allotted funds for which applications are not received by the end of the fiscal year in which such funds were allotted will revert to the Assistant Administrator at the end of such fiscal year.

(b) Allotted funds for which applications are received within the fiscal year in which such funds were allotted will remain available to the State until awarded. Funds for which timely applications are disapproved or withdrawn will remain available for reapplication by the State for 60 days after such disapproval or withdrawal. If a substitute application is not submitted for these funds before the 60-day time period expires, such funds will revert to the Assistant Administrator at the end of the fiscal year or at the end of the 60-day period whichever occurs last.

(c) *FY 1978 Funds.* Funds allotted in fiscal year 1978 under section 308(d)(4) will be treated as if allotted in fiscal year 1979 and will be subject to the requirements of this section.

§ 931.77 Application procedures.

(a) An eligible coastal State may apply for financial assistance for the purposes set forth in § 931.74 as soon as it is notified of the amount of its 308(b) and 308(d)(4) allotments. To assure that assistance under this subpart is awarded in the fiscal year of allotment, applications must be submitted by June 1 of that fiscal year.

(b) Applications for grants under sections 308(b) and 308(d)(4) must contain the following certifications and information:

(1) A certification by the State agency designated under § 931.25(b)(2) that the assistance has been allocated within the State in accord with the intrastate allocation process described in subpart J of this part;

(2) A certification by the State agency designated under § 931.25(b)(3) that the assistance will be used in a manner that is compatible with the State's developing, or consistent with the State's approved, coastal zone management program;

(3) A brief description of the proposed activity or activities sufficient to enable the Assistant Administrator to verify that the activity or activities would prevent, reduce, or ameliorate an unavoidable loss of a valuable environmental or recreational resource pursuant to this subpart including an indication of how the loss is unavoidable as defined in § 931.72.

(4) For construction projects, as defined in Office of Management and Budget Circular A-102, factual information necessary to evaluate the project's environmental impacts, in detail sufficient to enable the Assistant Administrator to determine whether an environmental impact statement (EIS) will be required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321, et seq.); and

(5) A showing that such applications for assistance have complied with the requirements of the Project Notification and Review System established by Office of Management and Budget Circular A-95 (Part I).

(c) Application for section 308(b) grants must also contain such adequate assurances as are required by § 931.97(a).

(d) It is the intent of the Assistant Administrator that completed requisitions and applications will be processed within 45 days of completion of the required A-95 reviews, unless the Assistant Administrator determines that an environmental impact statement is required.

§ 931.79 Limitations.

The proceeds of grants awarded under sections 308(b) and 308(d)(4) may not be used:

(a) For the prevention, reduction, or amelioration of any loss of an environmental or recreational resource that is directly attributable to the sale, lease, rental, or conversion to other uses of such resource by a State agency or unit of local government when such sale, lease rental or conversion occurred after July 26, 1976;

(b) To pay for that part of the cost of a project designed to prevent, reduce, or ameliorate the loss of a valuable environmental or recreational resource, which is incommensurate with the value of the loss;

(c) To pay for that part of the cost of a project designed to prevent, reduce or ameliorate the loss of an environmental resource which can be paid for with funds readily available from any other Federal program.

Subpart H—Lateral Seaward Boundaries

§ 931.80 General.

For the calculations of formula grant allotments under § 931.76, Outer Continental Shelf acreage and production shall be considered adjacent to a particular coastal State if such acreage and production lie on that State's side of the extended lateral seaward boundaries of that State. These extended lateral seaward boundaries of a coastal State shall be determined by delimitation lines established by the Assistant Administrator according to the procedures of this subpart. These delimitation lines are to be established solely for determining a State's adjacency to Outer Continental Shelf acreage and production for the purposes of section 308(b), and they are not intended to have application under any other law or treaty of the United States.

§ 931.81 Establishment of delimitation lines when agreements exist between States.

If a lateral seaward boundary extending to a State's seaward boundary (see the Submerged Lands Act, 43 U.S.C. 1301(b) and 1312) has been clearly defined or fixed by an inter-State compact, agreement, or judicial decision as of July 26, 1976, a delimitation line extending the lateral seaward boundary through the Outer Continental Shelf shall be based on the principles used to delimit or define the lateral seaward boundary in such compact, agreement, or decision. A copy of all such compacts, agreements, or decisions must be submitted to the Assistant Administrator before calculations of State allotments are made and before March 4, 1977.

If a portion of a lateral seaward boundary has been clearly defined or fixed by an inter-State compact, agreement or judicial decision as of July 26, 1976, a delimitation line shall be based on the principles used to delimit or define the lateral seaward boundary in such compact, agreement or decision to the extent that such principles are applicable.

§ 931.82 Establishment of delimitation lines when no agreements exist between States.

If no lateral seaward boundary, or any portion thereof, has been clearly defined or fixed by inter-State compact, agreement, or judicial decision, a delimitation line extending from the State's seaward boundary through the Outer Continental Shelf shall be established in the following manner:

(a) If, on or before August 4, 1977, a lateral seaward boundary to the State's seaward boundary is delimited or defined by an inter-State compact or agreement, the Assistant Administrator will establish a delimitation line through the Outer Continental Shelf based upon the same principles used to delimit or define the lateral seaward boundary in such compact or agreement. A lateral seaward boundary established by inter-State compact or agreement may be based on any principles which are mutually acceptable to the States involved. When such a boundary requires a measurement from a baseline, that baseline will be as defined in § 931.84(a). The lateral seaward boundary delimited or defined by such a compact or agreement, must be appropriately documented to the Assistant Administrator no later than August 4, 1977. Appropriate documentation shall include data sufficient to define the lateral seaward boundary and may include dimensionally stable base maps, geographical positions, azimuths, computations, and written descriptions.

(b) If a lateral seaward boundary is not defined or delimited by compact or agreement on or before August 4, 1977, delimitation lines will be established by the Assistant Administrator. The Assistant Administrator will extend this time period up to February 4, 1978, if the Governors of the States concerned each request such an extension. The Assistant Administrator may also at his/her discretion extend the time period for other delimitation lines which may be affected by the one for which an extension has been requested. Prior to establishing these delimitation lines, the Assistant Administrator will allow an additional 6-month period during which time the States failing to delimit or define a lateral seaward boundary may submit written arguments in support of their respective positions. After expiration of the period allowed for submission of arguments by States, the Assistant Administrator will establish the required delimitation lines according to the applicable principles of law. The procedures of this paragraph may be invoked at any time after these regulations become effective if the States concerned jointly seek a determination by the Assistant Administrator.

If the lateral seaward boundary is a matter in litigation prior to the time of delimitation by the Associate Administrator, such delimitation may be deferred by the Assistant Administrator until a final judicial decision is rendered.

(c) If after July 26, 1976, a judicial decision is rendered to clearly define or fix a lateral seaward boundary such a decision may be used by the Assistant Administrator in establishing a line of delimitation.

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§ 931.83 Establishment of delimitation lines under later compacts or agreements.

If, after February 4, 1977, two or more States enter into or amend an interstate compact or agreement, in order to clearly define or fix a lateral seaward boundary, delimitation lines extending such a boundary through the Outer Continental Shelf will be based on principles used to delimit or define the lateral seawared boundary in such compact or agreement. For the purpose of calculating formula grant allotments under Subpart K, the Assistant Administrator also may accept agreements between States on the proportional sharing of formula grant funds with a specified area, without the need for agreement on a specific line. However, delimitation lines so extended or altered, and allotments so calculated, will not affect grants made previously in accord with calculations under Subpart K.

§ 931.84 Procedures for defining delimitation lines by equidistance principles.

(a) In the event that the Assistant Administrator establishes a line of delimitation based on measurement from a baseline, that baseline will be the intersection of the National Ocean Survey (NOS) low water datum of reference with the land, as described and published by the NOS on large scale nautical charts of the area, as modified by the application of the principles of the Convention on the Territorial Sea and the Contiguous Zone, as interpreted by the Ad Hoc Committee on U.S. Coastline Delimitation.

This committee, which has the responsibility to apply principles of international law and the Convention on the Territorial Sea and the Contiguous Zone in delimiting the territorial sea and the contiguous zone of the United States, will be charged with the identification of the baseline, including closing lines, on NOS charts as required to establish the baselines.

(b) If delimitation lines established by the Assistant Administrator are based on a measurement from the baseline, they shall be delineated by the NOS, which shall determine the geographic positions of these points by either graphical or analytical procedures, and document the delimitation lines for review and comment by the above Ad Hoc Committee and final approval by the Assistant Administrator.

§ 931.85 Formula grants impounded for disputed areas.

(a) That portion of a State's allotment of section 308(b) formula grants which is dependent on Outer Continental Shelf acreage and production in disputed areas, as determined by the Assistant Administrator, will be impounded in the Treasury of the United States until such time as the required delimitation lines have been established by the Assistant Administrator using the procedures outlined in § 931.82.

(b) That portion of a State's allotment of section 308(b) formula grants which is dependent on Outer Continental Shelf acreage, production and landings in areas disputed between the Federal Government and the State will be impounded in the Treasury of the United States until such time as the issue is resolved.

Subpart I—General Provisions

§ 931.90 Allowable costs.

(a) Allowable costs will be determined in accord with Federal Management Circular 74-4, Cost Principles Applicable to Grants and Contracts with State and Local Governments (34 CFR 255), the grant/loan agreement, and with the unique requirements of the Coastal Energy Impact Program. Specifically, project costs must:

(1) Be necessary and reasonable for proper and efficient administration of the program, not be a general expense required to carry out the overall responsibilities of States or units of local governments;

(2) Be authorized or not prohibited under State or local laws or regulations;

(3) Conform to any limitations or exclusions set forth in these principles, Federal laws, or other governing limitations as to types or amounts of cost items;

(4) Be consistent with policies, regulations, and procedures that apply uniformly to both federally assisted and other activities of the unit of government of which the recipient is a part;

(5) Be accorded consistent treatment through application of generally accepted accounting principles appropriate to the circumstances;

(6) Not be allocable to or included as a cost of any other federally financed program in either the current or a prior period; and

(7) Be net of all applicable credits.

(b) Applications for assistance under this part for projects or programs to provide new or improved public facilities or for construction projects to prevent, reduce, or ameliorate unavoidable environmental or recreational losses will be subject to the following additional requirements.

(1) Design and performance standards must conform to professionally recognized national standards. Costs must be reasonable and comparable to the cost of similar work awarded through open competitive bidding in the geographic area of the project.

(2) Compensation for engineering, architectural, or similar services shall not be based on a cost plus a percentage-of-cost.

(3) The following will be allowable projects costs when necessary and reasonable for the completion of project or programs assisted under this part.

(i) Land acquisition (including less-than-fee simple), easements, and rights-of-way.

(ii) Architectural, engineering, and other necessary technical service fees.

(iii) Construction expenses, including, but not limited to, construction materials, fixtures, appurtenances, and fixed machinery and equipment.

(v) Site preparation and improvement.

(vi) Capitalized interest during construction for a project in which it is necessary or advantageous for the recipient to borrow funds to finance construction costs and where State law permits such a loan. (This is an allowable cost for section 308(d) (1) and (2) credit assistance only.)

(vii) Capitalized interest during development, only when a section 308(d) loan or guarantee has been made for the project. (The allowable amount is limited to that which is required to meet interest payments after the project is operating but before income is sufficient to provide such payment. However, such amounts will be an eligible project cost only to the extent that the recipient does not have any other funds or sources of revenue for such interest payments.)

(viii) Initial public service expenses (operating costs) including supply inventories, salaries and utilities, only when a section 308(d) loan or guarantee has been made for the project. (The allowable amount is limited to that which is required to meet these public service expenses after the project is operating but before income is sufficient to provide for such services. However, such amounts will be an eligible project cost only to the extent that the recipient does not have any other funds or sources of revenue for such public service expense.)

(4) The cost of activities conducted, or assets acquired, prior to approval of an assistance application are allowable costs only when specifically provided for in the grant or loan or agreement and to the extent that they meet the requirements set forth in paragraph (a) of this section, OMB Circular A-102 and FMC 74-4. For nonconstruction projects, such costs must have been incurred not more than three months prior to the grant start date. Purchase options for land and materials essential to the project or program may be an allowable project cost.

(5) Purchase of construction related equipment, such as dump trucks, excavation equipment and other movable equipment, will be allowable only when specifically authorized in writing.

(6) The acquisition of movable equipment essential for the maintenance of new or improved public facilities or projects that prevent, reduce or ameliorate unavoidable environmental or recreational losses is allowable.

§ 931.91 Administrative procedures.

Administrative procedures for grants and credit assistance are based to the maximum extent practicable upon Office of Management and Budget Circular, A-102, "Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments" (34 CFR Part 256).

§ 931.92 Compliance with OMB Circular A-95 requirements.

(a) Preapplications, if used, and applications, for assistance for public facilities and public services and for environmental and recreational grants for construction projects are subject to the Project Notification and Review System established by Office of Management and Budget Circular No. A-95 (Part I), as implemented by regulations promulgated by NOAA, 15 CFR 905.

(b) Applications for assistance for planning under sections 308(c) and 308(b)(5)(C) and for nonconstruction projects or programs for environmental/recreational purposes under sections 308(b)(5)(C) and 308(d)(4) are not subject to Part I of OMB Circular No. A-95 if a memorandum of agreement for coordinating planning under section 308 has been executed between the state agency designated under § 931.26(a)(1) and the appropriate areawide clearinghouses in the State's coastal zone pursuant to Part IV, Attachment A, of OMB Circular No. A-95.

§ 931.93 Other Federal requirements.

Compliance with all other Federal statutory provisions and regulations which are applicable to Federal assistance programs and recipients of such assistance is a condition of CEIP assistance.

§ 931.94 Environmental Impact Statements.

(a) Under the National Environmental Policy Act of 1969, 42 U.S.C. 4321 et seq., and the guidelines 40 CFR 1500.1 et seq., the Assistant Administrator will conduct an environmental impact assessment on each proposed use of assistance for construction projects under Subparts E and G to determine whether an environmental impact statement (EIS) will be required. Such assessment will be based on threshold criteria which will be provided in OCZM Environmental Guidelines.

(b) Assistance under Subparts D (Planning) and F (Repayment Assistance), nonconstruction projects under Subparts E and G as well as the activities listed below may be treated as separate projects for the purpose of environmental review and will not require an environmental impact analysis (EIA).

(1) Environmental studies or assessments.

(2) Administrative costs as provided for under § 931.33(2)(3).

(3) Eligible public service projects not involving physical development activity (e.g., employment, crime prevention, child care, health, drug abuse, education, welfare, or recreational needs).

(4) Eligible maintenance projects that maintain the status quo or make only minor improvements (e.g., community clean-up, tree trimming, maintaining vacant lots, boat ramps and street lighting).

(5) Public facilities and improvements which enhance or complete facilities already in place, or which replace or reconstruct without change in the use or service capacity of the item. Examples of the former are: landscaping, street furniture, equipping established parks, playground, tot lots, and passive recreation areas. Examples of the latter are: Replacement or reconstruction of streets, curbs and sidewalks, and modernization of hospitals, schools and modification of buildings for the elderly or handicapped.

(6) Rehabilitation of buildings and improvements provided that:

(i) Unit density is not changed more than 20%;

(ii) The project does not involve change in use from residential to nonresidential use or from one class of nonresidential use to another class of use;

(iii) The cost of rehabilitation is less than 75% of the total cost of replacement after rehabilitation; and

(iv) Eligible repair or replacement projects that do not change the use of the item repaired (e.g., water and sewer system, curbs and sidewalks, modification to buildings for the elderly and handicapped, repaving streets, and compliance with code enforcement to bring properties into compliance with health or zoning codes).

(c) Applicants for financial assistance to carryout activities or projects for which environmental assessments are not required are not relieved from compliance with historical preservation requirements, wetland or floodplain protection standards established by the OCZM Environmental Guidelines.

(d) All other projects under Subparts E and G of this part will require environmental review. Initial data and information on the environmental impacts of a proposed project will be provided by the potential recipient of assistance according to the OCZM Environmental Guidelines. A regional or programmatic EIS on a group of similar or related projects may be prepared if appropriate.

(e) If, before receiving notice of its allotment under Subpart E of this part, a State wishes to seek an advance determination as to whether an EIS will be required for a proposed project, such State may submit the information required under § 931.48(a)(5) to the Assistant Administrator. It is the intent of the Assistant Administrator to review the information submitted and make a determination within 45 days of receipt of such information.

§ 931.95 Records.

(a) All initial recipients of financial assistance under section 308 shall keep and preserve, and shall require each unit of local government to which it passes the assistance to keep and preserve, detailed project control records reflecting acquisitions, work progress, expenditures, and commitments, indicating in each instance their relationship to estimated costs and schedules. All recipients shall also keep and preserve such full written financial records, accurately disclosing the amount and the disposition of the assistance, together with the amounts and disposition of other funds applied to the project, program, or other undertaking, as shall adequately establish compliance with the requirements of section 308, the terms and conditions upon which such financial assistance was made, and the standards for financial managemnt systems contained in Attachment G to Office of Management and budget Circular A-102. Such records shall be retained until:

(1) Completion of the project, program, or other undertaking for which a grant was made or used, and thereafter for a period of at least 3 years; or

(2) Full repayment of a loan or guaranteed indebtedness for which such financial assistance was provided, and thereafter for a period of at least 3 years.

§ 931.96 Audit.

The Assistant Administrator, the Secretary of Commerce, any designee of the Assistant Administrator or Secretary of Commerce, and the comptroller General shall have access for purposes of audit and examination to any records, books, documents, and papers which belong to, or are used under this part or controlled by, any recipient of the assistance or any person who entered into any transaction relating to such financial assistance and which is pertinent for purposes of determining if such financial assistance is being or was used in accordance with section 308, the terms and conditions upon which such finan-

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cial assistance was made. Office of Management and Budget Circular A-102, and Federal Management Circular 74-4.

§ 931.97 Recovery of funds.

This section sets forth requirements and procedures to ensure that grant proceeds received by States may be recovered by NOAA if such proceeds have not been expended or obligated for the purposes and activities covered by the grant award approved program activities and budget, and if 308(b) grant proceeds have not been expended or obligated by the State before the close of the fiscal year immediately following the fiscal year of project award.

(a) *Adequate assurances.* (1) Each requisition for the proceeds of section 308(b) grants submitted by a State under Subparts D, E, F, or G of this part shall contain a written statement that:

(i) The State will repay to the United States the amount of an awarded grant which has been determined by the Assistant Administrator not to have been expended or obligated by the State for purposes other than those allowed by this Part; and

(ii) The State will repay to the United States the amount of any grant which has been determined by NOAA not to have been expended or obligated by the State before the close of the fiscal year immediately following the fiscal year in which the grant proceeds were awarded.

(b) *Procedures for the recovery of funds.* (1) Upon receipt from NOAA of a written request for repayment which contains a finding that the proceeds of a grant received by the State have been expended or obligated by the State for purposes other than those set forth in the grant award, and, in the case of 308(b) grant proceeds, if the funds have not been expended or obligated before the close of the fiscal year immediately following the fiscal year in which the grant proceeds were awarded, such State shall provide a written response within 15 days to either refute or admit such findings.

(2) NOAA shall make a determination that repayment by the State will or will not be required, and shall notify the State of this determination no later than 45 days from the receipt by the State of the request for repayment described in paragraph (b)(1) of this section.

(3) If NOAA determines that repayment is required, the State shall have 30 days from the date of receipt of such determination to file a request for reconsideration with NOAA or 60 days from the date of receipt of such determination to make a repayment by check in the amount stated in such determination.

(i) If the State's request for reconsideration is denied, the State shall have 15 days from the date of such denial to make a repayment by check in the amount determined to be owed to the United States.

(ii) If, as a result of the State's request for reconsideration, NOAA modifies its determination of the amount required to be repaid by the State, such State shall have 15 days from the date of such modification to make the repayment, if any, by check.

(4) If no repayment is received within the time period established by paragraph (b)(3) of this section, NOAA shall take necessary action to recover the amount due. Methods of recovery may include, but are not limited to:

(i) The modification or termination of a grant being received by such State under section 308(b);

(ii) The modification or termination of financial assistance under sections of the Act other than section 308(b);

(iii) The withholding of future financial assistance to the State under any section of the Act; and

(iv) The modification or termination of financial assistance being received by such State under other programs administered by the Department of Commerce, or the withholding of future financial assistance to such State under these programs.

(5) Actions undertaken under paragraph (b) of this section shall not in any way prejudice any rights of NOAA to pursue such other remedies as may be legally available and appropriate under the circumstances, including the referral of the claim against the State to the Department of Justice.

(c) If a State has received a written request for repayment under § 931.97(b)(1) NOAA may require such additional assurances as it finds necessary to protect the interests of the United States in the making of grants to the State.

§ 931.98 Coordination with other Federal agencies.

(a) No financial assistance for studying and planning provided under sections 308(b)(5)(B) and 308(c)(1) for public facilities and public services provided under sections 308(b)(5)(B) and (d) (1) and (2), or for environmental and recreational projects provided under sections 308(b)(5)(B) and (d)(4) shall be awarded or disbursed if other Federal funds are readily available for such purposes, unless the Assistant Administrator is assured that the Federal assistance to be received under section 308:

(1) Is to be used in addition to, and not in lieu of, any Federal funds which any coastal State or unit of local government may obtain under any other law; and

(2) Is not duplicative of other funding assistance.

(b)(1) The term "joint funding" means the coordination of multiple Federal assistance under the authority and provisions of the Joint Funding Simplification Act of 1974 (Pub. L. 93-510) in support of and consistent with the CEIP.

(2) When assistance from other Federal programs is insufficient to cover a project or when combinations of assistance from multiple Federal programs are appropriate and beneficial, States and units of local government may request joint funding by the CEIP and other Federal programs in accordance with OMB Cicular A-111, 41 FR 32040.

Subpart J—Intrastate Allocation of Financial Assistance

§ 931.110 General.

This subpart sets forth policies, requirements, and criteria required by sections 308 (e)(2) and (g)(2) and related to the intrastate allocation of financial assistance provided under section 308.

§ 931.111 Objective.

The objective of these requirements is to assure, to the maximum extent practicable, that section 308 assistance allotted to coastal States is distributed among units of local government in amounts which are proportional to need and in a manner which is equitable and expeditious.

§ 931.112 Intrastate allocation.

Each coastal State must establish a process to allocate its allotted section 308 (b), (c)(1), (d) assistance among State agencies and units of local government based on need for such assistance. This process may be periodically reviewed by the Assistant Administrator to determine whether its application results in a distribution of assistance which, to the maximum extent practicable, is proportional to need. States may amend or modify their intrastate allocation process subject to approval by the Assistant Administrator. The form of the allocation process will depend on the amount of assistance allotted to the State.

(a) States that receive in a fiscal year an allotment of $1 million or more in grants under sections 308 (b), (c)(1) and (d)(4) must develop an intrastate allocation process for that fiscal year's allotment. Such process must be approved by the Assistant Administrator and must:

(1) Indicate the State agency designated under § 931.25 which will assume the lead role for administering the process;

(2) Describe the methods and procedures used to assure direct and effective participation by affected State agencies and units of local Government throughout the development and implementation of the allocation process;

(3) Describe the methods to be used to allocate financial assistance and to evaluate and select projects based on criteria which include immediacy or severity of impacts, the fiscal capacity of units of local Government, and protection of the environment;

(4) Assure that information on the allocation of financial assistance is available to the public throughout the allocation process;

(5) Stipulate reasonable time limits for the allocation of financial assistance; and

(6) Establish a timely procedure by which units of local government may appeal to the State:

(i) the results of its allocation decisions; or

(ii) whether the State complied with the intrastate allocation process described in this section and approved by the Assistant Administrator.

(b) Those States which receive an allotment of less than $1 million in 308 grants in any fiscal year must provide under sections 308 (b), (c)(1), (d)(4) an allocation process which will be submitted along with applications and requisitions for section 308 assistance. This process will not be subject to prior approval of the Assistant Administrator. The submission by the State must describe:

(1) The methods used to evaluate and select projects and to allocate financial assistance.

(2) The methods used to provide for formal notification of, direct consultation with, and comments by, affected State agencies and units of local government in the allocation of all 308 funds.

(c) Eligible U.S. Territories are exempt from the requirements to provide an intrastate allocation process.

§ 931.113 Forms of assistance.

To the maximum extent practicable and in accord with the intrastate allocation process established pursuant to § 931.112:

(a) States that receive grants under section 308 for purposes specified in Subparts D and G of this part must pass this assistance through to State agencies and units of local government in the form of grants;

(b) States that receive grants under section 308 for purposes specified in Subparts E and F of this part must pass this assistance through to State agencies and units of general purpose local government in the form of grants;

(c) States that are allotted credit assistance under section 308 (d)(1) and (d)(2) must pass this assistance through to State agencies and units of general purpose local government using one of the following methods:

(1) State agencies may borrow to provide public facilities and public services needed to meet either State or local needs;

(2) State agencies may borrow to reloan or to grant this assistance to units of general purpose local government for public facilities and public services needed to meet local needs; or

(3) State agencies and units of general purpose local government may submit applications to the State to borrow from the Fund to provide needed public facilities and public services.

§ 931.114 Appeal to Assistant Administrator.

(a) A unit of local government may appeal to the Assistant Administrator to determine whether the State complied with the approved intrastate allocation process described in § 931.112 and approved by the Assistant Administrator. Such an appeal must be made within 30 days after the unit of local government has exhausted the appeal procedure described in § 931.112. Such an appeal will be limited to the application of the State's process and the Assistant Administrator may require additional information necessary to make an objective review and finding. The Assistant Administrator will notify the State and unit of local government of his/her findings within 45 days of the receipt of the appeal.

(b) If the Assistant Administrator finds that the State has not substantially complied with the approved process, section 308 assistance will be withheld until the State reallocates the assistance in accord with the approved process.

Subpart K—Allotment of Section 308(b) Formula Grants

§ 931.120 General.

The purpose of this subpart is to describe the procedure for allotting among eligible coastal States moneys appropriated in any fiscal year for the purposes of section 308(b).

§ 931.121 Definitions.

(a) The term "first landed" in a particular coastal State refers to oil and natural gas produced from the OCS that is first unloaded from tankers or barges within that State, or is brought to shore in pipelines that first touch nonsubmerged land and create a significant impact in that State.

(b) The term "adjacent" is defined in § 931.80.

§ 931.122 OCS Regions.

For purposes of this subpart, the coastal States will be assigned to OCS regions as follows:

(a) Region I: Connecticut, Delaware, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, the Commonwealth of Puerto Rico, and the Virgin Islands.

(b) Region II: Alabama, Florida, Louisiana, Mississippi, and Texas.

(c) Region III: California, Hawaii, Oregon, and Washington.

(d) Region IV: Alaska.

§ 931.123 Impacted State.

(a) For purposes of this subpart, the Assistant Administrator will determine that a State "is being or will be impacted by OCS energy activity" as follows;

(1) At the end of each fiscal year, all OCS energy activity which took place in that fiscal year will be identified.

(2) After identifying such OCS energy activity, the Assistant Administrator will identify those impacts which occurred in that fiscal year from such activity and will project those impacts that will occur as a result of such activity. Such impacts include:

(i) Any significant loss, damage, degradation of or impairment of access to any valuable recreational or environmental resource or any threat of such loss, damage, degradation, or impairment;

(ii) Any changes or threat of changes in the social, governmental or economic infrastructure in the coastal zone which would necessitate the provision of new or improved public facilities or public services;

(iii) Any demographic change or threat of change in the coastal zone which would necessitate the provision of new or improved public facilities or public services or which would degrade the quality of the human environment;

(iv) Any other adverse consequences in the coastal zone resulting from OCS energy activity that in the Assistant Administrator's determination may be remedied by granting funds under this subpart.

(b) The projection of impacts that "will" occur necessarily implies that the Assistant Administrator make anticipatory judgements that may not be supported by hard data. The Assistant Administrator will decide which States "will be impacted" within the context of the purposes for which the CEIP was established and will base the analysis of future impacts on the immediacy of impact, equity in distribution of appropriated funds, and the reasonable need for such funds.

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§ 931.124 Allotment of formula grants

(a) *Eligibility.* No coastal State will receive an allotment under this subpart unless such State meets the basic eligibility requirements of Subpart C. The allotment a State receives will be the result of the calculations in paragraphs (b) through (f).

(b) *Formula Amount.* The amount payable in a fiscal year to any eligible coastal State under the formula specified in section 308(b)(2) shall be the formula amount and will be computed by the following equation:

$$\text{Formula Amount} = \left[\tfrac{1}{3}\frac{A}{A_T} \times TA\right] + \left[\tfrac{1}{3}\frac{P}{P_T} \times TA\right] + \left[\tfrac{1}{3}\frac{L}{L_T} \times TA\right]$$

A = The amount of OCS acreage which is adjacent to such eligible coastal State and is newly leased by the Federal government in the fiscal year immediately preceding the fiscal year in which the allotment is made.

A_T = The total amount of OCS acreage which is adjacent to all eligible coastal States and is newly leased by the Federal government in such immediately preceding fiscal year.

P = The volume of oil and natural gas produced from OCS acreage adjacent to such eligible coastal State in such immediately preceding fiscal year.

P_T = The total volume of oil and natural gas produced from OCS acreage adjacent to all eligible coastal States in such immediately preceding fiscal year.

L = The volume of oil and natural gas produced from OCS acreage which is first landed in such State in such immediately preceding fiscal year.

L_T = The total volume of oil and natural gas produced from the OCS which is first landed in all eligible coastal States in such immediately preceding fiscal year.

TA = The total amount of funds appropriated for section 308(b) purposes in the fiscal year for which the allotment is made.

(c) *Two Percent Amount.* The Assistant Administrator will allot in a fiscal year to any eligible coastal State an amount equal to 2% of the total amount appropriated in such fiscal year for section 308(b) purposes if:

(1) Such State's formula amount is less than 2 percent, but greater than zero percent, of the total amount appropriated in such fiscal year; or

(2) Such State's allotted formula amount is zero; and

(i) The Assistant Administrator determines that such State is being or will be impacted by OCS energy activity;

(ii) The Assistant Administrator determines that such State will be able to expend or commit the proceeds of such allotment in accordance with the purposes set forth in section 308(b)(5); and

(iii) Any other eligible coastal State in the same OCS region will be allotted a formula amount greater than zero.

(d) *Proportional Reduction.* If after calculating the formula amount and the 2 percent amount the total amount of funds that would be required to be allotted is greater than the total amount of funds appropriated in a fiscal year for section 308(b) purposes, the Assistant Administrator will deduct from each coastal State whose formula amount exceeds 2 percent of the amount appropriated an amount equal to the product of:

(i) The amount by which the total amount that would be required to be allotted to all eligible coastal States exceeds the total amount of funds appropriated in such fiscal year for section 308(b) purposes multiplied by;

(ii) A fraction, the numerator of which is the formula amount for such State reduced by an amount equal to 2 percent of the total amount appropriated and the denominator of which is the sum of those formula amounts that exceed 2 percent of the amount appropriated, reduced by an amount equal to the product of 2 percent of the total amount appropriated multiplied by the number of coastal States whose formula amount exceeds 2 percent of the amount appropriated

(e) *Maximum Amount.* If after the calculations performed in paragraphs (a) through (d) of this section any coastal State would receive an allotment which is greater than 37½ percent of the amount appropriated for such fiscal year, the Assistant Administrator shall reduce the amount of such States allotment to 37½ percent of such appropriated amount.

(f) *Redistribution.* Any amount not allotted by virtue of the application of paragraph (e) of this section shall be reallotted proportionally among those coastal States which at this point in the calculation receive an allotment greater than 2 percent but less than 37½ percent of the amount appropriated. For purposes of this paragraph "reallotted proportionally" means allotment in accordance with the provisions of paragraph (b) of this section except that only those States which receive an allotment greater than 2 percent and less than 37½ percent shall participate in the calculations described in that paragraph.

§ 931.125 Recall of formula grants

(a) Funds allotted under this subpart will remain available for application by the recipient coastal State until September 30, 1988. Funds not applied for by this date will be returned to the United States Treasury.

(b) Funds allotted under this subpart and which have been awarded to a State must be expended or obligated by the State by the end of the fiscal year immediately following the fiscal year in which such funds were awarded or be subject to recovery under § 931.97.

[FR Doc.79-1297 Filed 1-12-79; 8:45 am]

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federal register

MONDAY, JANUARY 15, 1979
PART V



DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

■

ROTORCRAFT REGULATORY REVIEW PROGRAM

Invitation To Submit Proposals for Consideration

federal register

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[4910-13—M]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Parts 27, 29, 43, 61, 91, 121, 127, 133, and 135]

[Docket No. 18689; Notice No. 79-1]

ROTOCRAFT REGULATORY REVIEW PROGRAM

Invitation to Submit Proposals for Consideration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Initiation of a Rotorcraft Regulatory Review Program and inviting interested persons to submit proposals.

SUMMARY: This notice announces the agency's Rotorcraft Regulatory Review Program and invites interested persons to submit proposals for consideration at a Rotorcraft Regulatory Review Conference. The Review Program's objective is to provide full public participation in improving and updating the rotorcraft airworthiness and operating requirements in parts 27, 29, 43, 61, 91, 121, 127, 133, and 135 of the Federal Aviation Regulations.

DATES: Proposals must be received on or before March 31, 1979.

ADDRESSES: Send proposals in duplicate to: The Rotorcraft Regulatory Review Program, Federal Aviation Administration, Flight Standards Service, Operations Review Branch, AFS-920 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Thomas G. Walenta, Safety Regulations Division. Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone: 202-755-8715.

SUPPLEMENTARY INFORMATION:

BACKGROUND

The Helicopter Association of America (HAA) has for several years contended that many parts of the Federal Aviation Regulations (FAR) are basically written around fixed wing airplanes which has resulted in improper and inadequate requirements for helicopter operators. The HAA, supported by the National Business Aircraft Association (NBAA), believes that the current rules need to be rewritten to more effectively reflect the unique capabilities of the helicopter, especially in light of the advancing state-of-the art for IFR certificated helicopters. In addition, numerous persons have petitioned for relief from certain parts of the FAR pertiment to helicopter operations.

The need for developing and updating criteria, standards, and procedures directed to the safe operation of helicopters has been under study and analysis by the FAA. In view of recent technological advances in helicopter design and recent operating experience with new helicopter capabilities, there is a requirement to upgrade the rules regarding the helicopter airworthiness standards and operating requirements.

The FAA wishes to obtain the participation of all interested persons in resolving the regulatory issues that may be involved. The FAA believes that the most effective procedure is the Rotorcraft Regulatory Review program announced in this notice and the dialogue that will take place during the associated Review Conference.

Accordingly, interested persons are invited to sumbit any proposal they deem appropriate to amend the regulations that fall within the scope of this Regulatory Review.

SCOPE OF THE REGULATORY REVIEW

The scope of the rotorcraft Regulatory Review Program is limited to the rotorcraft airworthiness and operating requirements in Parts 27, 29, 43, 61, 91, 121, 127, 133, and 135 of the Federal Aviation Regulations.

IMPROVING GOVERNMENT REGULATIONS

In order to implement the President's policy on improving Government regulations, agencies must consider alternative ways to deal with a problem and must analyze the economic consequences of each alternative. Thus, each proposal submitted should be supported by complete economic data expressing the costs and benefits of the rule change. Non-quantifiable impacts should also be fully stated as applicable.

REQUIRED FORMAT AND INFORMATION

Based on experience gained in previous review programs, the FAA has determined that the processing of regulatory proposals is greatly facilitated when they are submitted in a standard format and contain certain specific information.

Set forth below is a sample proposal with the format that should be used. Each proposal should include at least the following information:

1. The full name or title of the proponent or an acceptable acronym.
2. The FAR section affected.
3. A short title identifying the subject of the proposal in 10 words or less.
4. A precise description of the objective(s) of the proposal.
5. The specific regulatory language proposed to attain the objective sought.
6. The language of the current rule that the proposal would change.
7. An explanation and justification of the proposal, including answers to the following questions:

a. What is the background?

b. Why is the proposed change necessary?

c. What data, reports, records, etc., support the proposal?

d. What is the probable impact (if any) on the environment, inflation, energy consumption and the traveling public?

When more than one proposal is submitted to attain the objective sought, the information in paragraph 7 above may be stated in one of the proposals and cross-referenced in the others.

CONFERENCE AGENDA

The FAA will prepare a Conference Agenda containing a compliation of the proposals submitted, including a number of FAA proposals. The Conference Agenda will be distributed to each person who has submitted a proposal or who has expressed an interest in this Regulatory Review. At that time, a Notice of Availability of the Rotorcraft Regulatory Review Conference Agenda will be issued and published in the FEDERAL REGISTER. The Conference Agenda will provide general information on the Conference, including Conference dates and location. The agenda will also contain detailed information on the scheduling of the proposals for discussion.

All proposals received in response to this notice will not necessarily appear in the Conference Agenda. To avoid overloading the Conference, the FAA may elect to narrow the scope of the Regulatory Review as set forth in this notice by excluding certain proposals. Proposals that are received too late, are beyond the scope of this Regulatory Review, do not follow the prescribed format, or lack the essential information previously outlined, may also be excluded, Further, the FAA will exclude proposals that are not adequately justified, would require further reserarch, or are not likely to generate fruitful discussion at the Conference.

CONFERENCE PROCEDURES

Persons who plan to attend the Conference should be aware of the following procedures which are established to facilitate the workings of the Conference:

1. There will be no admission fee or other charge to attend and participate. However, all persons must register, either in advance or at the Conference. All Conference sessions will be open, on a space available basis, to all persons who register. If necessary to complete the Conference Agenda, sessions may be extended to evenings or additional days. If practicable, the Conference may be accelerated to enable adjournment in less than the time scheduled.

2. One or more committees, each chaired by the FAA, will be established to discuss the proposals in the Conference Agenda.

3. All Conference sessions will be recorded by a court reporter. Anyone interested in purchasing the transcript should contact the court reporter directly. A copy of the court reporter's transcript will be docketed. In addition, the sessions may be tape recorded.

4. The FAA will not consider material presented at the Conference by participants on any issue that is not contained in the Conference Agenda. Position papers or other handout material may be accepted at the discretion of the Committee Chairperson. However, enough copies must be provided for distribution to all Conference participants.

5. Proposals appearing in the Conference Agenda will not necessarily be included in a notice of proposed rule making. The FAA will decide, after post-Conference analysis, which proposals will be revised, expanded, or accepted without change and which will be deferred or rejected. Statements made by FAA participants at the Conference should not be taken as expressing a final FAA position.

STATUS OF THE FEDERAL AVIATION REGULATIONS WITHIN THE SCOPE OF THIS REVIEW

The latest amendments to each part of the Federal Aviation Regulations (FAR) included in the Review are as follows:

Amendments 27-16, 29-17, 43-19, 61-66, 91-154, 121-150, 127-35, 133-8, and Revised Part 135.

PENDING PETITIONS AND OTHER RULEMAKING ACTIVITY

The following is a list of petitions and other rulemaking activity which may be included for consideration in the Review. Those which are at an advanced stage of processing may be completed independently of the Review.

(a) *Petitions for exemption.* 1. Sikorsky Aircraft seeks exemption from § 29.811(h) to allow type certification of Model S-76 without complying with the emergency exit external marking requirements (Docket No. 17403).

2. Boeing Vertol Company seeks relief from § 29.1093(b)(2) to allow type certification of Model 234 without meeting the induction system ice protection requirements for the idle power condition (Docket No. 18105).

3. Bell Helicopter Textron seeks relief from § 29.811(h) to allow type certification of Model 222 without complying with the emergency exit external marking requirements (Docket No. 18339).

4. Petroleum Helicopters, Incorporated, seeks relief from § 43.3(h) to allow properly trained pilots to remove, check, and reinstall magnetic chip detector plugs in Bell Model 206 helicopters (Docket No. 12468).

5. Aerospatiale Helicopter Corp. seeks relief from § 91.28(b)(3) to allow the issuance of a special flight authorization for the purpose of flight testing Aerospatiale-manufactured helicopters, for conducting customer crew training in the helicopter and for ferrying them for export to Canada and Mexico (Docket No. 16148).

PROPOSED AND FINAL RULE MAKING

The proposals in the Conference Agenda and the related discussions at the Conference will be used by the FAA in developing an appropriate notice of proposed rule making which will be published in the FEDERAL REGISTER. This notice will provide interested persons an opportunity to comment on specific proposed amendments to the Federal Aviation Regulations. Final rules adopted pursuant to that notice will be issued after consideration of all comments received.

(Secs. 313, 601 through 605, and 608 through 610 of the Federal Aviation Act of 1958 (49 U.S.C. 1354, 1421 through 1425, and 1428 through 1430) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c).)

The Federal Aviation Administration has determined that this document is not significant in accordance with the criteria required by Executive Order 12044, and set forth in the proposed "Department of Transportation Regulatory Policies and Procedures" published in the FEDERAL REGISTER June 1, 1978 (43 FR 23925).

Issued in Washington, D.C. on January 5, 1979.

QUENTIN S. TAYLOR,
Acting Administrator.

FORMAT FOR PROPOSALS

The format below should be used in developing proposals for consideration during the Rotorcraft Review Conference. In addition, each proposal should be submitted on a separate page. The text should be within margins nor more than 6½ inches wide nor more than 9 inches long, so that it can be printed on 8- by 10½-inch paper.

[FR Doc. 79-1275 Filed 1-12-79; 8:45 am]

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[4910-13-C]

Sample Format

Proposal: (Leave Blank)
From: Mr. John Doe
Index: (Leave Blank)
FAR: 127.73
Subject: Proving tests.

Proposal

Revise § 127.73(b)(2) to read as follows:

§ 127.73 Proving tests.

* * * * *

(b) * * *

(2) [Insert proposed language here]

* * * * *

Current Rules

§ 127.73 Proving tests.

* * * * *

(b) An air carrier may not operate a helicopter of a type that has been proven in commercial or extensive military service, if it has not previously used that type, or if that helicopter has been materially altered in design, unless-

(1) * * *

(2) The Administrator specifically authorizes deviations when special circumstances make full compliance unnecessary in a particular case.

* * * * *

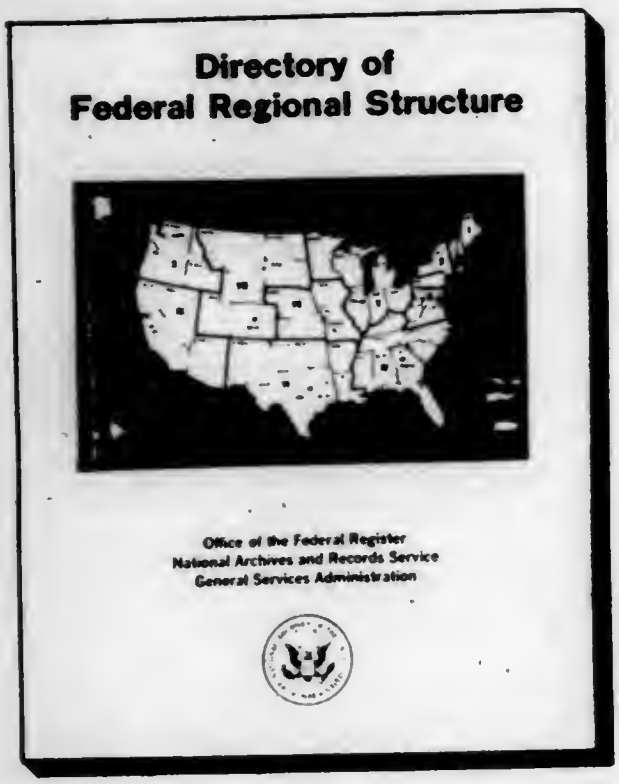
Explanation and Justification

[Outline the background, explain why the proposed change is necessary and set forth the rationale supporting the proposed change. Express the costs and benefits in quantifiable and qualitative terms. Include an estimate of the probable impact (if any) on the environment, inflation, energy consumption, and the traveling public.]

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federal register

TUESDAY, JANUARY 16, 1979

highlights

IMPORTANT NOTICE TO FEDERAL AGENCIES

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR notice 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/OHMO	USDA//FSQS		DOT/OHMO	USDA/FSQS
DOT/OPSO	USDA/REA		DOT/OPSO	USDA/REA
CSA	MSPB*/OPM*		CSA	MSPB*/OPM*
	LABOR			LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

***NOTE: As of January 1, 1979, the Merit Systems Protection Board (MSPB) and the Office of Personnel Management (OPM) will publish on the Tuesday/Friday schedule. (MSPB and OPM are successor agencies to the Civil Service Commission.)**

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NOTE: A complete listing of all public laws from the second session of the 95th Congress was published as Part II of the issue of December 4, 1978. (Price: 75 cents. Order by stock number 022-002-00960-4 from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402, Telephone 202-275-3030.)

The continuing listing will be resumed upon enactment of the first public law for the first session of the 96th Congress, which will convene on Monday, January 15, 1979.

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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[3410-37-M]

Title 7—Agriculture

CHAPTER XXVIII—FOOD SAFETY AND QUALITY SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER E—EXPORT AND DOMESTIC CONSUMPTION PROGRAMS

PART 2880—FRESH IRISH POTATOES

Subpart—Fresh Russet Potatoes—Livestock Feed and Starch Manufacture Diversion Program

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Final Rule.

SUMMARY: The purpose of this rule is to set forth the terms and conditions of a potato diversion program for the 1978 crop of Russet potatoes. This rule sets out the provisions of eligibility for payments, the need for approval of diversion by USDA, the rate of payment to producers, and other conditions of participation. This rule is necessary to inform eligible producers of this new program's requirements.

EFFECTIVE DATE: January 15, 1979.

FOR FURTHER INFORMATION CONTACT:

D. A. Thibeault, Chief, Commodity Procurement Branch, Fruit and Vegetable Quality Division, FSQS, U.S. Department of Agriculture, Washington, D.C. 20250, Telephone: (202) 447-2781.

SUPPLEMENTARY INFORMATION: Following unusually good weather during the growing and harvesting season, a surplus crop of potatoes for fall harvest was produced in 1978. The surplus, consisting principally of Russet potatoes, is concentrated in Idaho, and to a lesser extent in Washington and Oregon. In these three States, production consists largely of Russet type potatoes. Because of the surplus in the Pacific Northwest, market prices for Russet potatoes throughout the United States are depressed. In addition to the Pacific Northwest, the following States produce significant qualities of Russet potatoes: Colorado, Maine, Michigan, Minnesota, Nevada, North Dakota, Wisconsin and Northern California.

The 1978 crop produced in the Pacific Northwest States in Idaho, Oregon, and Washington was 176.2 million hundredweight, up 7 percent from the 1977 three-State total of 164.4 million hundredweight. The almost 12 million hundredweight bulge in production, compared with a year earlier, has resulted in lower prices for fall crop potatoes now in storage and for marketing from January 1, 1979, into late spring of 1979.

An impact analysis statement for a Russet potato diversion program has been prepared and provides specific detail of the need for the diversion action, the groups impacted, the options considered, Government cost, the likely effect on grower and retail prices, and the duration of the program.

Many Russet potato producers indicate that they are on the brink of economic disaster. Producers of potatoes with small acreages are more adversely affected by the depressed market conditions compared with those with large acreages because of their limited access to the capital needed to carry on their farming operations. It is the judgment of the USDA that the surplus ranges from 7 to 9 million hundredweight and that action is needed to divert surplus potatoes to enhance potato prices.

Options considered for disposing of the potatoes consisted of Government aided and commercial export sales, donations to school lunches, animal feed, conversion to alcohol, starch, and fertilizer, and natural dehydration for animal feed.

Due to large potato crops in most parts of the world where potatoes are consumed, export sales opportunities are limited this season. However, the Department is considering encouraging the export of dehydrated potatoes and conversion of potatoes into alcohol. This Department has also made heavier than usual donations of potato products to schools and elderly feeding programs this season. However, this has had a limited impact on the heavy domestic supply of potatoes.

Limited starch facilities are available and will be used where it can be certified that specific operations are not in violation of any water quality regulations of local or Federal Governments.

In addition to limited outlets for starch manufacture, livestock feeding either for immediate use or spreading on pastures for feeding later in the Spring are the most expedient means of diverting potatoes. Accordingly, in order to provide an incentive to Russet producers to divert their potatoes to livestock feeds and starch manufacturing outlets, payments are being offered to eligible producers in Russet-producing potato States to encourage such diversions. These payments are being offered over a period of sixty days, beginning early in 1979. The diversion payments will compensate potato producers for low prices obtained from sales of potatoes for livestock feed and starch manufacture.

A limitation of 60,000 hundredweight has been set for each diverter of potatoes under this program. This quantity was determined from the average potato production per farm in the area where most program activity is anticipated. As indicated above, Russet potato producers are suffering and need immediate relief. While this program will strengthen market prices, it may take some time for the full effect of the program to be felt in the market. Accordingly, it is important that all producers have an opportunity to secure immediate relief by participating in the program. The limitation of 60,000 hundredweight will allow all potato producers who so desire and who are qualified to participate in the program to obtain payments from this activity and thereby alleviate their critical situation.

Feeding potatoes to livestock can be expected to be carried out under variable conditions under this program. In this respect the feeding requirements of the program attempt to encompass all generally used methods. It is understood that some feeding arrangements will be temporary and unsophisticated and therefore less efficient in limiting waste than some others.

In computing the permitted rates of spreading potatoes on pasture land where livestock are grazing, consideration was given to the waste that will occur through the animals trampling the potatoes spread on the ground. Similar consideration will be given by USDA when determining whether adequate pasturing by livestock has occurred under the freeze-thaw method of feeding.

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Diverters who are indebted to USDA or to any other agency of the United States are subject to the creditor agency making a claim against any amount due under the program. However, the diverter has the right to contest the justness of the indebtedness involved either by administrative appeal or legal action.

The payment program will be offered in two periods of 30 days each. The payment will be higher during the first period as compared with the second period to encourage immediate movement into the diversion program so as to achieve maximum price enhancement.

Immediate action is necessary to relieve the commercial potato markets from the price-depressing impact which persistently exists when potato supplies are in surplus. Accordingly, Dr. Donald L. Houston, Acting Administrator, FSQS, has determined that this document represents an emergency situation requiring immediate program action without a notice and comment period, that compliance with the notice and public procedure provisions of 5 U.S.C. 553 is impracticable and contrary to the public interest, and in accordance with the provisions of Executive Order 12044 (43 FR 12661, March 24, 1978) that it is not possible to publish these regulations in proposed form and allow 60 days for public comment. However, the public is invited to submit written comments concerning this program to: Executive Secretariat, Attention: Annie Johnson, Food Safety and Quality Service, Room 3167, South Agriculture Building, U.S. Department of Agriculture, Washington, D.C. 20250. In order to be sure of consideration, comments must be received by January 29, 1979. The program will be reevaluated on the basis of comments submitted. All comments submitted pursuant to this notice will be made available for public inspection in the office of the Executive Secretariat during regular hours of business.

Accordingly, 7 CFR Chapter XXVIII is amended by adding a new subpart to Part 2880 to read as follows:

PART 2880—FRESH IRISH POTATOES

Subpart—Fresh Russet Potatoes—Livestock Feed and Starch Manufacture Diversion Program

Sec.

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2880.26 Administration.
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2880.44 Officials not to benefit.
2880.45 Amendment and termination.

AUTHORITY: Sections 2880.25 to 2880.45 issued under sec. 32, 49 Stat. 774, as amended (7 U.S.C. 612c).

Subpart—Fresh Russet Potatoes—Livestock Feed and Starch Manufacture Diversion Program

§ 2880.25 General statement.

In order to encourage the domestic consumption of fresh Russet potatoes by diverting them from normal channels of trade and commerce, the Secretary of Agriculture, pursuant to the authority conferred by section 32 of Public Law 320, 74th Congress, as amended, offers to make payment for the diversion for use as livestock feed or starch manufacture of 1978 crop Russet potatoes, subject to the terms and conditions set forth in this subpart. Information relating to this program and forms prescribed for use hereunder may be obtained from the following:

Fruit and Vegetable Quality Division, Food Safety and Quality Service, United States Department of Agriculture, Washington, D.C. 20250.

State Agricultural Stabilization and Conservation Committees in the respective States.

County Agricultural Stabilization and Conservation Committees in the respective counties.

§ 2880.26 Administration.

The program provided for in this subpart will be administered under the general direction and supervision of the Director, Fruit and Vegetable Quality Division, Food Safety and Quality Service, and in the field will be carried out by the Agricultural Stabilization and Conservation Service through Agricultural Stabilization and Conservation County Committees, hereinafter referred to as the State and County Committees. Each State Committee will authorize one or more employees to act as representatives of the United States Department of Agriculture, hereinafter referred to as USDA, to approve applications for participation. The State and County Committees or their authorized representatives do not have authority to modify or waive any of the provisions of this subpart or any amendments or supplements to this subpart.

§ 2880.27 Area.

This program will be effective in all areas of the country where Russet potatoes are produced and sold.

§ 2880.28 Period of program.

This program will be effective from the date of this announcement and continue for sixty days.

§ 2880.29 Rate of payment.

The rate of payment per 100 pounds of potatoes in each lot which meet the requirements of Specification A as defined in § 2880.34 will be two dollars per hundredweight for potatoes diverted from the inception of the program through a period of 30 days; and one dollar and seventy-five cents for potatoes diverted thereafter to termination of the program. No payment will be made for any fractional part of 100 pounds and such quantities shall be disregarded.

§ 2880.30 Eligibility for payment.

Payments will be made under this program to any individual, partnership, association, or corporation producing Russet potatoes located in the continental United States, (a) who executes and files an application for participation on the prescribed form, (b) who files a performance bond as provided in § 2880.32, (c) whose application is approved, (d) who diverts his fresh Russet potatoes within the States specified in the approved application, directly or through any other person or persons in a volume not exceeding 60,000 hundredweight, (e) who files a claim as provided in § 2880.38, and (f) who complies with all other terms and conditions contained in this subpart.

§ 2880.31 Application and approval for participation.

Producers desiring to participate in this program must submit a written application on Form ASCS-117 "Application for Participation in Fresh Irish Potato Livestock Feed Diversion Program". Each applicant must submit a performance bond as provided in § 2880.32. Applications and bonds should be submitted to the County ASCS Office for the county within which the potatoes are to be diverted. Applications will be considered in the order received and in accordance with the availability of funds. Applicants will be notified of the approval, in whole or in part, or nonapproval of their application. Approved applications may be modified or amended with the consent of the applicant and the duly authorized representative of the State Committee: *Provided*, That such modification or amendment shall not be in conflict with the provisions of this subpart or any amendment or supplements hereto. An approved applicant is hereinafter referred to as "the diverter".

§ 2880.32 Performance bond.

In order to protect the Government's interest, each applicant shall submit with his first application for participation a performance bond as further assurance that the potatoes diverted pursuant to this program will be used exclusively for feeding to livestock or for starch manufacture by methods prescribed in § 2880.37. The bond shall be executed on Form ASCS-119, "Performance Bond", by the principal and two individual sureties, all of whom shall agree to indemnify USDA for any losses, claims, or payments made by USDA with respect to any quantity of such potatoes not used for livestock feed or starch manufacture. USDA may disapprove any bond if for any reason any surety does not in the opinion of USDA afford USDA full protection and security.

§ 2880.33 Period of diversion.

The potatoes in connection with which payments are to be made must be diverted (a) after the date of approval of the diverter's application, (b) within the time period specified in the approved application, and (c) in any event on or before the termination date of the program.

§ 2880.34 Definition of diversion.

Diversion of potatoes for use as livestock feed or starch manufacture as used herein means the initial processing of potatoes for feeding to livestock or for starch manufacture by cutting, chopping, ensiling, slicing, gouging, crushing, cooking or spreading for alternate freezing and thawing to the degree that the general appearance of the lot as a whole has been damaged to such an extent that, in the opinion of the inspector, the potatoes are readily and obviously identifiable as having been initially processed and rendered unsuitable to enter into normal channels of trade and commerce as potatoes.

§ 2880.35 Diversion specifications.

Russet potatoes in connection with which payments will be made, will be the potatoes in each lot which meet the requirements of "Specification A", which potatoes are hereby defined as meaning "Cellar Run" potatoes[1] which are equal to or better than the quality requirements of U.S. No. 2 Processing Grade (7 CFR Sec. 51.3411), except that they must have a minimum diameter of 1¼ inches and no tolerance will be allowed for defects of undersize. Also, fry color, glucose content, and specific gravity determination are hereby waived under this grade determination. Potatoes which by clipping ends or second growth could be made to meet the quality requirements of U.S. No. 2 Processing Grade need not be so clipped to be classed as Specification A, but the weight of the portions which customarily would be clipped off shall be deducted in determining the weight of those potatoes in the lot which do meet the requirements of Specification A.

[1] "Cellar Run" potatoes are hereby defined as storage potatoes which have not been sorted.

§ 2880.36 Inspection and certificate of diversion.

Prior to diversion, the potatoes shall be inspected by an inspector authorized or licensed by the Secretary of Agriculture to inspect and certify the class, quality, and condition of fresh Irish potatoes. The diverter shall be responsible for requesting and arranging for inspection so that the inspector can be present to determine the proportion of potatoes in each lot which meet the quality requirements of Specification A. The inspector shall also verify the quantity of potatoes being diverted and that such potatoes have been diverted as defined in § 2880.34. The diverter shall furnish such scale tickets, weighing facilities, or volume measurements as determined by the inspector to be necessary for ascertaining the net weight of the potatoes being diverted. The cost of inspecting, verifying the quantity, certifying that diversion has been performed, and issuing certificates thereof shall be borne by the diverter. Certificates shall be prepared on Form ASCS-118, "Invoice and Certificates of Inspection and Diversion."

§ 2880.37 Methods of utilization.

Following the initial processing as specified in § 2880.34, the potatoes must be fed to livestock or used for starch manufacture by one or more of the following methods:

(a) Feeding in barns or feed lots directly from troughs, bunkers, bins, or other suitable feeding receptacle;

(b) Spreading on pasture land where livestock are grazing, but the rate of spreading during any seven-day period shall not exceed 500 pounds of potatoes per head of cattle or horses or 250 pounds per head of sheep or swine; or

(c) Utilizing the potatoes for livestock feed after dehydration through a process of alternate freezing and thawing. In addition to other program requirements, the following special terms and conditions will be applicable to such method:

(1) The potatoes must be spread on pasture consisting of sod or other grassland. The potatoes may not be spread on land set aside under the Feed Grain Program, the Wheat Program, or under a Water Bank Program agreement. The land on which the potatoes are spread may not be plowed or otherwise cultivated until it is determined by USDA that adequate pasturing by livestock has taken place.

(2) The potatoes may be spread no deeper than 4 inches at any point.

(3) Diversion payments will be computed at the rate in effect at the time of initial processing, but fifty percent of the payment to diverters by USDA will not be made until it is determined by USDA that adequate pasturing by livestock has taken place.

(d) Utilizing the potatoes for starch manufacture in a starch manufacturing plant approved by USDA. Diversion payments will be computed at the rate in effect at the time of initial processing, but payment to diverters by USDA will not be made until it is determined by USDA that conversion to starch has taken place.

§ 2880.38 Claim for payment.

In order to obtain payment, the diverter must submit to the State ASCS Office which approved his application a properly executed "Invoice and Certificates of Inspection and Diversion", Form ASCS-118, and (except where the diverter is the feeder) a certification of receipt by the ultimate feeder or starch manufacturer. All such claims shall be filed not later than one calender month after the termination date specified in the applicable approved application.

§ 2880.39 Compliance with program provisions.

If USDA determines that any quantity of potatoes diverted under this program was not used exclusively for livestock feed purposes or starch manufacture, whether such failure was caused directly by the diverter or by any other person or persons, the diverter shall not be entitled to diversion payments made in connection with such potatoes, shall refund to USDA any payment made in connection with such potatoes, and shall be liable to USDA for any other damages incurred as a result of such failure to use the potatoes exclusively for livestock feed or starch manufacture purposes. USDA may deny any diverter the right to participate in this program or the right to receive payments in connection with any diversion previously made under this program, or both, if USDA determines that: (a) The diverter has failed to use or caused to be used any quantity of potatoes diverted under this program exclusively for livestock feed or starch manufacture purposes, whether such failure was caused directly by the diverter or by any other person or persons, (b) the diverter has not acted in good faith in connection with any transaction under this program, or (c)

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the diverter has failed to discharge fully any obligation assumed by him under this program. Persons making any misrepresentation of facts in connection with this program for the purpose of defrauding USDA will be subject to the applicable civil and criminal provisions of the United States Code.

§ 2880.40 Inspection of premises.

The diverter shall permit authorized representatives of USDA at any reasonable time to have access to his premises and any other premises on which diversion, livestock feeding or starch manufacture is to take place, to inspect and examine potatoes which are being diverted, used, or stored for diversion or use, and to inspect and examine the facilities for diverting, storing and using potatoes in order to determine to what extent there is or has been compliance with the provisions of this program.

§ 2880.41 Records and accounts.

If the diverter sells or otherwise disposes of potatoes diverted pursuant to this program to any other person or persons for use as livestock feed or starch manufacture, the diverter shall keep accurate records and accounts showing the details relative to the diversion and disposition of such potatoes. The diverter shall permit authorized representatives of USDA and the General Accounting Office at any reasonable time to inspect, examine, and make copies of such records and accounts in order to determine to what extent there is or has been compliance with the provisions of this program. Such records and accounts shall be retained by the diverter for three years after date of last payment to him under the program or for two years after date of audit of records by USDA as provided herein, whichever is the later.

§ 2880.42 Set-off.

If the diverter is indebted to USDA or to any other agency of the United States, set-off may be made against any amount due the diverter hereunder. Setting off shall not deprive the diverter of the right to contest the justness of the indebtedness involved, either by administrative appeal or by legal action.

§ 2880.43 Joint payment or assignment.

The diverter may name a joint payee on the claim for payment or may assign, in accordance with the provisions of the Assignment of Claims Act of 1940, Public Law 811, 76th Congress, as amended (31 U.S.C. 203, 41 U.S.C. 15), the proceeds of any claim to a bank, trust company, Federal lending agency, or other recognized financing institution: *Provided*, That such assignment shall be recognized only if and when the assignee thereof files written notice of the assignment with the authorized representative of USDA who approved the application, together with a true copy of the instrument of assignment, in accordance with the instructions on Form CSS-66 or ASCS-66 "Notice of Assignment", which form must be used in giving notice of assignment to USDA. The "Instrument of Assignment" may be executed on Form CSS-347 or ASCS-36, or the assignee may use his own form of assignment. The forms may be obtained from the State ASCS Office or the Washington office shown in § 2880.25.

§ 2880.44 Officials not to benefit.

No member of or delegate to Congress or Resident Commissioner, shall be entitled to any share or part of any contract resulting from this program or to any benefits that may arise therefrom, but this provision shall not be considered to extend to such a contract if made with a corporation for its general benefit or to any such person acting in his capacity as a farmer.

§ 2880.45 Amendment and termination.

This subpart may be amended or terminated at any time but the amendment or termination shall not be effective earlier than the date of filing with the Office of the Federal Register. No amendment or termination shall be applicable to any potatoes diverted before the effective time of such amendment or termination.

An Approved Final Impact Statement has been prepared and is available from: D. A. Thibeault, Chief, Commodity Procurement Branch, Fruit and Vegetable Quality Division, FSQS, U.S. Department of Agriculture, Washington, D.C. 20250, Telephone: (202) 447-2781.

NOTE.—The reporting and recordkeeping requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

Dated: January 11, 1979.

DONALD HOUSTON,
Acting Administrator,
Food Safety and Quality Service.

[FR Doc. 79-1499 Filed 1-15-79; 8:45 am]

[6450-01-M]

Title 10—Energy

CHAPTER II—DEPARTMENT OF ENERGY

[Docket No. ERA-R-77-17]

PART 212—MANDATORY PETROLEUM PRICE REGULATIONS

Amendments to Mandatory Petroleum Price Regulations Concerning Crude Oil and Product Exchanges

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Interim Regulations and Further Notice of Rulemaking; Correction.

SUMMARY: FR Doc. 78-35476, appearing at page 59810 in the FEDERAL REGISTER of December 21, 1978, adopted certain amendments to the Mandatory Petroleum Price Regulations to provide for the treatment of costs for crude oil or refined petroleum products received in exchanges. There were certain inadvertent errors in the notice regarding the effective date of the interim regulations, which is intended to be February 1, 1979 rather than January 1, 1979. Therefore, the first incomplete paragraph at the top of column 1 appearing on page 59811 and the 21st line of the first complete paragraph of column 2 appearing on page 59813 are corrected in each case by deleting the date, "January 1, 1979," and inserting in lieu thereof "February 1, 1979."

FOR FURTHER INFORMATION CONTACT:

Jeff Conrad, 202-633-8820.

Issued in Washington, D.C. January 9, 1979.

DAVID J. BARDIN,
Administrator, Economic
Regulatory Administration.

[FR Doc. 79-1546 Filed 1-15-79; 8:45 am]

[6210-01-M]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. Z; FC-0159]

PART 226—TRUTH IN LENDING

Official Staff Interpretation; Suspension of Effective Date and Republication for Public Comment

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Effective date of official staff interpretation suspended; its text reprinted for public comment.

SUMMARY: The Board is suspending the effective date of official staff interpretation FC-0159, regarding § 226.9(g)(6) exception to general rescission requirements, published on December 5, 1978 (43 FR 56877) and is republishing it for public comment. The agency is taking this action in response to a request for public comment submitted in accordance with 12 CFR Part 226.1(d)(3). The letter requesting a comment period is published below and immediately precedes the text of the official staff interpretation.

DATES: The effective date of FC-0159 is suspended until further notice. Comments must be received on or before February 15, 1979.

ADDRESS: Comments (including reference to FC-0155) to Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

FOR FURTHER INFORMATION CONTACT:

Glenn E. Loney, Section Chief, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-3867).

SUPPLEMENTARY INFORMATION: (1) The effective date, January 4, 1979, of official staff interpretation FC-0159 is suspended in accordance with 12 CFR Part 226.1(d)(2)(ii). The text of the letter requesting the opportunity for public comment appears below. This interpretation will not go into effect until final action is taken. Notice of such action will be published in the FEDERAL REGISTER in approximately 60 days and will become effective upon publication.

(2) The text of official staff interpretation FC-0159 is republished for comment with the exception of language pertaining to its former effective date. Identifying details have been deleted to the extent required to prevent a clearly unwarranted invasion of personal privacy. The Board maintains and makes available for public inspection and copying a current index providing identifying information for the public subject to certain limitations stated in 12 CFR Part 261.6.

(3) Interested persons are invited to submit relevant comments. All material should be submitted in writing to: Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, and should be received not later than (30 days from publication in the FEDERAL REGISTER). Comments will be made available for inspection and copying upon request, except as provided in § 261.6(a) of the Board's Rules Regarding Availability of Information (12 CFR 261.6(a)).

(4) After comments are considered, this official staff intepretation may be amended, may be rescinded or may remain unchanged. Final action regarding this official staff interpretation will appear in the FEDERAL REGISTER.

(5) Authority: 15 U.S.C. 1640(f).

CONSUMERS UNION,
PUBLISHER OF CONSUMER REPORTS,
Washington, D.C., January 3, 1979.

MR. THEODORE ALLISON,
Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20051.

DEAR MR. ALLISON: Consumers Union* requests that the effective date of proposed Federal Reserve Official Staff Interpretation No. FC-0159[1] be suspended and that the interpretation be republished for public comment in accordance with Regulation Z, Section 226.1(d)(2)(ii).

The Federal Reserve Board recently amended Regulation Z, Section 226.9 to abolish consumers' rights, provided by Section 125 the Truth in Lending Act, 15 U.S.C. § 1635 ("TILA"), to certain disclosures and to a three-day cooling off period for a specified category of consumer credit transactions. That category encompasses mortgage-secured open end credit transactions involving separate, unrelated sellers and creditors.[2] Now the Board's staff proposes to further diminish consumer disclosure and rescission rights by interpretation of the above regulation. Its proposed interpretation would abolish those rights for two party transactions involving open-end nonsale credit, e.g., cash advances.

As you know, Consumers Union filed a lawsuit challenging the regulation that the Board staff now proposes to extend by interpretation.[3] We are particularly disturbed that the Board is endeavoring to expand this controversial regulation while this suit is pending and before the Court has an opportunity to determine the legality of the regulation.

We oppose the proposed interpretation for the same policy reasons we oppose the Board's regulation. Both abolish important consumer rights designed to protect homeowners from casually or unknowingly encumbering their homes. Both increase consumer vulnerability to default by encouraging lenders to extend larger lines of credit, not on the basis of increased ability to pay, but because of equity in homes. Both allow the unfair practice of taking a security interest in the home for small loans. And, both contravene the the Board's recent efforts to reduce use of credit to control inflation. The abolition of consumer rescission rights encourage expansion of a form of credit that is more dangerous for consumers.

We believe the the staff lacks authority to issue the proposed interpretation. The staff's authority is no greater than that of the Board. Under TILA, the Board may only prescribe regulations to carry out the purposes of the Act. The proposed interpretation does not further any purposes of TILA, but rather thwarts important objectives of the Act.

Furthermore, the proposed interpretation is inconsistent with the Board's regulation. That regulation creates an exemption from the rescission provisions only if "the creditor and seller are not the same or related persons." Thus, the exemption would appear to apply only in three-party transactions involving a seller, creditor and consumer. This reading of the regulation is consistent with the justification given for its promulgation. A staff memorandum dated June 16, 1978, on the then proposed regulation states at page 6:

> Some open end credit transactions involving three parties, unlike two-party transactions, present both conceptual and operational problems when subject to the right of rescission.

The Board apparently believed that those problems justified abolishing consumer rescission rights for three-party transactions. But, with two-party transactions involving a creditor-seller and a consumer, the Board preserved those consumer rights apparently because two-party transactions are more susceptible to unfair and deceptive practices and because these creditors could more easily comply with the Act's rescission provisions. Similarly, with two-party, non-sale loan transactions, creditors can easily comply with TILA requirements. Thus, the justification given for the Board's reduction in consumer rights simply does not apply. No other reasons for the proposed additional reduction in consumer rights are given by the Board's staff. Thus, the proposed interpretation appears to be unfounded.

In any case, the issuance of the proposed interpretation by the staff violates the Board's own procedures set forth in Regulation Z, 226.1(d)(4)(i). An interpretation of so controversial a nature, which raises such significant policy questions must be issued by the Board, not the Board's staff.

In conclusion, Consumers Union urges that the proposed interpretation not be adopted. That interpretation would destroy important consumer rights and contravene congressional intent. The absence of any

*Consumers Union is nonprofit membership organization chartered in 1936 under the laws of the State of New York to provide information, education, and counsel about consumer goods and services and the management of the family income. Consumers Union's income is derived solely from the sale of *Consumer Reports*, its other publications and films. Expenses of occasional public service efforts may be met, in part, by nonrestrictive, noncommercial grants and fees. In addition to reports on Consumers Union's own product testing, *Consumer Reports*, with over 2 million circulation, regularly carries articles on health, product safety, marketplace economics, and legislative, judicial and regulatory actions which affect consumer welfare. Consumers Union's publications carry no advertising and receive no commercial support.

[1] See 43 Fed. Reg. 56877 (December 5, 1978).

[2] See 43 Fed. Reg. 34113 (August 3, 1978).

[3] *Consumers Union* v. *Miller*, Civil No. 78-2188 (D.D.C. 1978).

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justification for this infringement on consumers rights renders the proposed interpretation particularly offensive. The Board should instead fulfill its statutory responsibility to advance only the purposes of the Truth in Lending Act by rejecting the proposed interpretation.

We request that this letter be published with the republished proposed interpretation so that the public can understand our reasons for requesting republication.

Sincerely,

ELLEN BROADMAN
Attorney

EB: cvs

Sincerely,

NATHANIEL E. BUTLER,
Associate Director.

§ 226.9(g) Creditor that extends nonsale credit directly to customer under open end credit plan may qualify for § 226.9(g)(6) exception to general rescission requirements.

OCTOBER 13, 1978.

This is in response to your letter of • • •, in which you request an official staff interpretation of the Board's recent amendment to the rescission provisions of Regulation Z. That amendment, § 226.9(g)(6) of the regulation, provides an exception to the regulation's general requirements regarding the right of rescission for individual transactions under an open end credit account, provided the specific requirements of the amendment are satisfied.

Specifically, you ask for clarification of § 226.9(g)(6)(i). Under that provision, the exception from the right of rescission for individual transactons under a open end credit account applies (assuming the amendment's other requirements are met) provided "[t]hat the creditor and the seller are not the same or related person." You are concerned that this provision may be interpreted to mean that, for the exception to apply, an open end credit transaction must involve a *seller* that is not the same person as the creditor or related to the creditor. Under such an interpretation, the exception could not apply to a nonsale open end credit transaction (e.g., a cash advance loan made pursuant to an open end line of credit).

The staff is of the opinion that, in adopting this amendment to Regulation Z, the Board intended to allow creditors to qualify for an exception to the regulation's general rescission requirements for any open end credit transaction, whether involving sale or nonsale credit, except for the limited class of transactions in which the creditor of an open plan is the same person as or is related to the seller of property or services purchased by means of the plan. Thus, for example, a creditor of an open end plan could extend nonsale credit under the plan directly to a customer (in which case the creditor and the *lender* would be the same person and there would be no *seller* involved in the transaction at all) and could still qualify for the amendment's exception.

In accordance with your request, this is an official staff interpretation of Regulation Z, issued pursuant to § 226.1(d)(2) of the regulation and limited to the facts and issues discussed above.

Board of Governors of the Federal Reserve System, January 9, 1979.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 79-1486 Filed 1-15-79; 8:45 am]

[6714-01-M]

CHAPTER III—FEDERAL DEPOSIT INSURANCE CORPORATION

SUBCHAPTER A—PROCEDURE AND RULES OF PRACTICE

PART 304—FORMS, INSTRUCTIONS, AND REPORTS

Waiver of Form 83 Requirement With Respect to Applications for Insurance by "Phantom" Banks

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: The FDIC is amending sections 304.3(a) and 304.3(f) of its regulations to dispose of Form 83 requirement with respect to applications for insurance by "phantom" banks. The purpose of Form 83 requirement is to inform the FDIC of the general character of management of the bank seeking insurance. "Phantom" banks are created for the sole purpose of merging with existing banks; since the directors and officers of "phantom" banks are usually identical to those of the operating banks, the FDIC has determined that under the circumstances, Form 83 does not serve any useful purpose, and the requirement is therefore waived.

EFFECTIVE DATE: This amendment is effective on January 16, 1979.

FOR FURTHER INFORMATION, CONTACT:

Roger A. Hood, Assistant General Counsel, Legal Division (202-389-4628), Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429.

SUPPLEMENTARY INFORMATION: Section 6 of the Federal Deposit Insurance Act (12 U.S.C. 1816) requires the FDIC to consider the general character of management of an applicant bank in its decision to grant or deny insurance to that bank. In accordance with this section, the FDIC requires, in sections 304.3(a) and 304.3(f) of its regulations, that each individual director and officer of a proposed bank seeking insurance execute a financial statement (Form 83).

Questions have recently been raised about the necessity of providing such information in "phantom" bank applications. A "phantom" bank is created solely to merge with an existing bank, usually to facilitate its acquisition by a bank holding company. It does not engage in any banking business prior to the merger transaction and the proposed directors and officers of the "phantom" bank are nearly always the same persons as those of the operating bank to be acquired. When the regulation was written, there was no need to make an exception for "phantom" banks since such banks were not yet created.

The FDIC has reviewed its regulations, and has determined that "phantom" bank applications for insurance need not be accompanied by Form 83. The stated purpose of requiring financial statements is for the benefit of the Board of Directors of the FDIC in determining, with respect to the applicant bank, the general character of its management. In the case of phantom bank transactions, the general character of the operating bank is well-known either to the Corporation or to one of the other Federal supervisory agencies. Thus, it would not be necessary to require this information in applications for insurance involving "phantom" banks.

The FDIC has determined that notice of, public participation in, and delaying the effective date of this proposed amendment are unnecessary since the effect of the amendment is to relieve a restriction on banks. The requirements of §§ 553(b) and 553(d) of Title 5 of the United States Code, and §§ 302.1, 302.2, and 302.5 of FDIC's regulations are, therefore, inapplicable.

Accordingly, 12 CFR 304.3 is amended by revising the fourth sentence in paragraph (a), adding footnote 1 after paragraph (a), revising the last sentence in paragraph (f) as set forth below and by redesignating footnote 1 to paragraph (s) as footnote 2.

§ 304.3 Forms and instructions.

• • • • •

(a) • • • Applications filed on Form 82 must be accompanied by a certified copy of the proposed articles of incorporation or association. In addition, applications filed on Form 82 by proposed banks other than nonmember banks formed in connection with "phantom" bank mergers [1] must be accompanied by the requisite number of properly executed Forms 83 • • •

• • • • •

(f) • • • The requisite number of properly executed and signed Forms 83 must accompany each application on Form 82, Form 82-M, Form 84, or Form 84-M; except that with respect to applications on Form 82, Form 83 is not required from proposed nonmember banks formed in connection with "phantom" bank mergers.

• • • • •

(Secs. 5-8, 9, 10, 18, 19, 84 Stat. 876, 879, 881, 882, 891, 893 (12 U.S.C. 1815-1820, 1928, 1829).)

By direction of the Board of Directors dated January 10, 1979.

FEDERAL DEPOSIT INSURANCE CORPORATION.
ALAN R. MILLER,
Executive Secretary.

[FR Doc. 79-1487 Filed 1-15-79; 8:45 am]

[1] As used in paragraphs (a) and (f) of this section, the term "'phantom' bank merger" applies to any merger or other transaction in the nature of a corporate reorganization which, in and of itself, would have no effect on competition.

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[6750-01-M]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. C-2941]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Nelson Bros. Furniture Corp.

AGENCY: Federal Trade Commission.

ACTION: Final Order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, among other things, requires a Chicago, Ill. retailer of household goods to cease misrepresenting or failing to make relevant timely disclosures regarding the cost, savings, condition and availability of advertised merchandise; employing bait and switch tactics, or any other unfair or deceptive sales technique in the advertising and sale of its products. Additionally, the order provides customers with the right to arbitration for unresolved disputes and requires the firm to maintain prescribed business records for a period of three years.

DATES: Complaint and order issued December 8, 1978.[1]

FOR FURTHER INFORMATION CONTACT:

Paul W. Turley, Director, Chicago Regional Office, 3R, 55 East Monroe St., Suite 1437, Chicago, Ill. 60603. (312) 353-4423.

SUPPLEMENTARY INFORMATION: On Thursday, June 29, 1978, there was published in the FEDERAL REGISTER, 43 FR 28210, a proposed consent agreement with analysis In the Matter of Nelson Brothers Furniture Corp., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order.

Comments were filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows:

Subpart-advertising Falsely or Misleadingly: Section 13.10 Advertising falsely or misleadingly; 13.10-1 Availability of merchandise and/or facilities; § 13.35 Condition of goods; § 13.75 Free goods or services; § 13.125 Limited offers or supply; § 13.155 Prices; 13.155-5 Additional charges unmentioned; 13.155-10 Bait; 13.155-35 Discount savings; 13.155-75 Product or quantity covered; 13.155-100 Usual as reduced, special, etc.; § 13.160 Promotional sales plans; § 13.185 Refunds, repairs, and replacements; § 13.205 Scientific or other relevant facts. Subpart-Corrective Actions and/or Requirements: Section 13.533 Corrective actions and/or requirements; 13.533-5 Arbitration; 13.533-20 Disclosures; 13.533-25 Displays in-house; 13.533-45 Maintain records. Subpart-Disparaging Products, Merchandise, Services, etc.: Section 13.1042 Disparaging products, merchandise, services, etc. Subpart-Failing to Maintain Records: Section 13.1051 Failing to maintain records. Subpart-Misrepresenting Oneself and Goods—Goods: Section 13.1572 Availability of advertised merchandise and/or facilities; § 13.1595 Condition of goods; § 13.1625 Free goods or services; § 13.1695 Old, secondhand, reclaimed or reconstructed as new; § 13.1740 Scientific or other relevant facts. —Prices: Section 13.1778 Additional costs unmentioned; § 13.1779 Bait; § 13.1825 Usual as reduced or to be increased. —Promotional Sales Plans: Section 13.1830 Promotional sales plans. —Services: Section 13.1835 Terms and conditions. Subpart-Neglecting, Unfairly or Deceptively, To Make Material Disclosure: Section 13.1880 Old, used, or reclaimed as unused or new; § 13.1882 Prices; 13.1882-10 Additional prices unmentioned; § 13.1895 Scientific or other relevant facts; § 13.1905 Terms and conditions; 13.1905-50 Sales contract. Subpart-Offering Unfair, Improper and Deceptive Inducements To Purchase or Deal: Section 13.1955 Free goods; § 13.2013 Offers deceptively made and evaded; § 13.2063 scientific or other relevant facts. Subpart-Using Deceptive Techniques in Advertising: Section 13.2275 Using deceptive techniques in advertising; 13.2275-70 Television deceptions.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

By direction of the Commission.

CAROL M. THOMAS,
Secretary.

[FR Doc. 79-1485 Filed 1-15-79; 8:45 am]

[6750-01-M]

SUBCHAPTER F—STATEMENTS OF GENERAL POLICY OR INTERPRETATIONS UNDER THE FAIR CREDIT REPORTING ACT

PART 600—STATEMENTS OF GENERAL POLICY OR INTERPRETATIONS

AGENCY: Federal Trade Commission.

ACTION: Final Interpretation.

SUMMARY: Interpretation 600.8 of the Fair Credit Reporting Act (FCRA) was issued on March 8, 1978. It defined the permissible purposes for a creditor's access to credit reports on nonapplicant spouses during the course of credit transactions. Unless a permissible purpose, as defined in the FCRA, exists a consumer report may not be obtained about an individual without that individual's written instructions or a court order.

Among the circumstances in which the Commission found that a permissible purpose did *not* exist was the situation where one spouse applies for credit relying on the other spouse's income to repay the credit requested. Regulation B, which implements the Equal Credit Opportunity Act, permits a creditor to consider information, although not necessarily a credit report, about a nonapplicant spouse in the reliance situation. However, the Commission found that under those circumstances the nonapplicant spouse was not sufficiently "involved" in the credit transaction to create a permissible purpose to access the report under Section 604(3)(A) of the FCRA.

Because this conclusion was different from the position taken in the original proposed interpretation and because most of the comments received did not specifically address this issue, the Commission delayed the effective date of Interpretation 600.8 for sixty (60) days to afford an opportunity for additional public comment.

On the basis of the comments received, the Commission has determined to revise Intrepretation 600.8 to

[1] Copies of the Complaint, and the Decision and Order filed with the original document.

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permit a creditor to request a consumer credit report on a nonapplicant spouse when the applicant spouse relies on the nonapplicant's income to repay the credit requested.

DATE: Interpretation 600.8 is effective in final form as of January 16, 1979.

FOR FURTHER INFORMATION CONTACT:

C. Lee Peeler, Fair Credit Reporting Act Program Advisor or Rena Steinzor, Attorney; Division of Credit Practices, Federal Trade Commission, Washington, D.C. 20580—(202) 724-1143 or 724-1580.

SUPPLEMENTARY INFORMATION: A total of four comments were received from individual consumers, consumer reporting agencies and retail creditor trade associations. All comments are available for public inspection. The following major substantive issues were raised by the comments.

INTERPRETATION 600.8

(1) Commentators representing two major trade associations of retail creditors and a major Midwestern women's apparel store chain stated that a significant number of married women who do not work take exclusive responsibility for family credit purchases at their stores or their members' stores and file credit applications without making their husbands users on the accounts or contractually liable for them. Without the ability to obtain and consider credit reports about the husbands whose income is being relied upon to repay the credit requested, the creditors would be forced to deny these applications.

(2) The commentators urged the Commission to reevaluate the Interpretation's balancing of privacy rights protected by the FCRA and the civil rights protected by the ECOA. They argue that given the decision of many families to delegate responsibility for credit purchases to the nonworking wife, the result of the Interpretation's prohibition on the accessing of a credit report on the husband without his signature would be to deny credit to many families. They believe that whatever harm may exist in obtaining a consumer report on a nonapplicant spouse is far outweighed by the effect that the inability to obtain this information will have upon the ability of a married woman to obtain credit.

(3) The commentators argued that the nonapplicant spouse is "involved" in the credit transaction as contemplated by Section 604(3)(E) of the FCRA because state law operates to render the husband liable for "necessaries" purchased by his wife. They also contended that state law interprets the marriage relationship to confer agent status on the wife when she makes credit purchases in reliance on her husband's income, therefore rendering him by implication a principal in the credit transaction.

(4) The commentators contended that the alternative to obtaining a credit report on the nonapplicant spouse was the direct verification of his employment and credit references. They argued that the direct verification procedures may be more intrusive on the privacy of the nonapplicant spouse than the credit report alternative and added that the Interpretation may indirectly have a more adverse impact on privacy than an interpretation which permitted access.

(5) On the basis of the comments received, the Commission has determined to revise its position in Interpretation 600.8 to provide that a creditor may access a consumer credit report on a nonapplicant spouse when the applicant spouse relies on the nonapplicant's income to repay the credit requested if state law would create liability on the part of the nonapplicant spouse, either through application of the doctrine of necessaries or through an agency relationship created by the marriage.

(6) The Commission rejected arguments that it should rely on section 604(3)(E) to find a permissible purpose. Use of section 604(3)(E) in connection with a credit transaction would render the more specific restrictions of section 604(3)(A) meaningless.

(7) The Commission did, however, determine that it is reasonable for a creditor to assume that a permissible purpose exists when an applicant applies for credit relying on the income of a nonapplicant spouse unless the creditor possesses or receives information clearly indicating that the applicant is not acting as the agent of the nonapplicant spouse and that the doctrine of necessaries is not applicable under state law. This position is consistent with the Commission's previous position that in community property states a creditor may, absent information to the contrary, rely on the fact that the applicant resides in a community property state in determining whether the property relied on is community property. Like the question of what property constitutes community property, the application of the doctrine of necessaries or agency is essentially a factual question. The Restatement of Agency, Second summarizes the application of agency law to the marital relationship by stating:

> Neither husband nor wife by virtue of the relation has power to act as agent for the other. The relation is of such a nature, however, that circumstances which in the case of strangers would not indicate the creation of authority or apparent authority may indicate it in the case of husband and wife. Thus, a husband habitually permitted by his wife to attend to some of her business matters may be found to have authority to transact all her business affairs. Likewise, if a wife is customarily permitted by her husband to order household supplies, authority or apparent authority on her part to purchase things needed in the household can be readily inferred. However, the fact that married women in the community customarily do this is not alone a basis for creating authority or apparent authority. (Section 22)

(8) Like the Commission's position with respect to access to consumer reports in community property states this interpretation does not alter the obligations imposed by state law but only establishes a measure of compliance with the permissible purposes section of the Fair Credit Reporting Act. The extent of the nonapplicant spouse's actual liability for the debt would be determined with certainty by state law, often only after the debt is in default. The Commission believes that absolute certainty that the nonapplicant spouse will be liable is not necessary at the initiation of the transaction. The Fair Credit Reporting Act does not require absolute certainty that a permissible purpose exists. A credit bureau may make a report if "it has reason to believe" the creditor intends to use the report for a permissible purpose and maintains "reasonable procedures designed * * * to limit the furnishing of consumer reports to the purposes listed under Section 604." Similarly, a user of consumer reports is civilly liable only if it "knowingly and willfully" obtains a report for an impermissible purpose after having signed a contract agreeing to obtain reports only for permissible purposes, or otherwise knowingly and willfully obtains the report using false pretense to obtain the report. There must, of course, be some reasonable basis to infer that the state law of agency or necessaries is likely to apply to the transaction.

Therefore, pursuant to Section 621 of the Fair Credit Reporting Act (15 U.S.C. 1681s) and § 1.73 of the Commission's Procedures and Rules of Practice (16 CFR 1.17-73), 16 CFR Chapter I, Subchapter F is amended by adding new § 600.8 reading as follows:

§ 600.8 Permissible purposes for reports on nonapplicant spouse in consumer credit transactions (Interprets 15 U.S.C. § 1681b (1970)).

(a) Because of the many types of accounts offered by creditors which involve reliance by the creditor on the resources of both spouses, a question arises as to when a creditor has a permissible purpose to access the consumer report of the nonapplicant spouse.[1]

(b) Whether a creditor would have a permissible purpose to access the consumer report of the nonapplicant spouse turns on the extent of the spouse's involvement in the credit transaction. In order to make such a determination it is appropriate to look to § 202.5(c)(2) of Regulation B which implements the Equal Credit Opportunity Act.[2] That Section provides the circumstances under which a creditor may request information about the applicant's spouse. The Commission interprets Section 604(3)(A)[3] of the Fair Credit Reporting Act (FCRA) to permit a creditor to access the consumer report of the applicant's spouse in those cases in which § 202.5(c)(2) (i), (ii), (iii) and (iv)[4] permit the creditor to request information about the spouse subject to the limitation discussed below.[5]

(c) In our view, a creditor may access the consumer report of the applicant's spouse when the applicant is applying for an account which the spouse will be permitted to use,[6] or an account for which the spouse will be contractually liable.[7] In these instances a creditor would have a permissible purpose to access the nonapplicant spouse's report because, as to those two types of accounts, the creditor "intends to use the information in connection with a credit transaction involving the extension of credit to the consumer".[8] Since the nonapplicant spouse in both situations is receiving, in effect, an extension of credit, the creditor has a permissible purpose to receive the consumer report of both the applicant and nonapplicant spouse.

(d) Where the applicant is relying on community property as a basis for repayment of the obligation,[9] the creditor would also have a permissible purpose under Section 604(3)(A)[10] of the FCRA to obtain the consumer report of the nonapplicant spouse. This interpretation is based on the assumption that the applicant is acting as an agent for his or her spouse in committing either the community property or the spouse's income as a basis for establishing creditworthiness. Revised Regulation B allows the creditor to request information whenever the applicant resides in a community property state or property on which the applicant is relying as a basis of repayment of the credit requested is located in a community property state. The Commission believes that a creditor can rely on these two criteria (residence of the consumer and location of property) to determine reliance on community property. However, if the creditor receives information clearly indicating that the applicant is relying only on separate property to repay the credit extended, then a permissible purpose would not exist and a consumer credit report on the nonapplicant spouse could not be obtained.

(e) Similarly, where the applicant is relying on the nonapplicant spouse's income in a separate property state,[11] and state law provides for liability on the part of the nonapplicant spouse, either under the doctrine of necessaries or based on the agency relationship created by the marriage, a permissible purpose would exist to request a consumer credit report on the nonapplicant spouse. Because the application of the law of agency and the doctrine of necessaries is often a factual question under state law, the Commission believes that creditors may assume that a permissible purpose exists from the fact that the applicant is relying on the nonapplicant spouses income[12]. If, however, the creditor has or receives information clearly indicating that the applicant is not acting as the agent of the nonapplicant spouse and that the state doctrine of necessaries does not apply to the transaction, a permissible purpose would not exist and a consumer credit report on the nonapplicant spouse could not be obtained.

(f) The rationales described above do not apply to the situation set forth in § 202.5(c)(2)(v)[13] of Regulation B. The Commission believes that the fact of a previous marriage, standing alone, is not sufficient to establish a permissible purpose to obtain a consumer report on a spouse or former spouse under Section 604. Although § 202.5(c)(2)(v)[14] allows the creditor to request information on a former spouse where the applicant is relying on alimony or child support, a former spouse cannot be deemed to have consented to the distribution of his or her consumer report as can a participant in an ongoing marriage. Where a spouse is legally separated or has otherwise indicated an intent to legally disassociate with the marriage the Commission believes that no permissible purpose to obtain a consumer report exists.[15]

(g) Finally, it should be noted that a permissible purpose for making a consumer report on a nonapplicant spouse can never exist under Section 604(3)(A)[16] of the Fair Credit Reporting Act where Regulation B prohibits the creditor from requesting infomation on the spouse.

FOOTNOTES FOR § 600.8

[1] The term "nonapplicant spouse" is used here for identification purposes and refers to a spouse not actually signing or otherwise completing the application.

[2] Pub. L. 93-495, 88 Stat. 1521 (1974), as amended Pub. L. 94-239 (1976). 12 CFR 202.5(c)(2) (1977).

[3] 15 U.S.C. 1681b(3)(A) (1970).

[4] 12 CFR 202.5(c)(2) (i), (ii), (iii), and (iv) (1977).

[5] This interpretation is not intended to limit or abrogate any State law regarding privacy, privilege, or similar restrictions on obtainable information.

[6] 12 CFR 202.5(c)(2)(i) (1977).

[7] 12 CFR 202.5(c)(2)(ii) (1977).

[8] See Section 604(3)(A). 15 U.S.C. 1681b(3)(A) (1970).

[9] 12 CFR 202.5(c)(2)(iv) (1977).

[10] 15 U.S.C. 1681b(3)(A) (1970).

[11] 12 CFR 202.5(c)(iii) (1977).

[12] While the Commission believes this assumption is a reasonable test for a creditor to employ to determine whether it has a permissible purpose under § 604(3)(A), 15 U.S.C. § 1681b(3)(A) (1970), the assumption would have no impact on the nonapplicant spouse's actual liability under state law in the event of default.

[13] 12 CFR 202.5(c)(2)(v) (1977).

[14] 12 CFR 202.5(c)(2)(v) (1977).

[15] 15 U.S.C. 1681b(3)(A) (1970). Nothing in this interpretation should be read to prohibit the creditor from considering information about the former spouse which is presented by the applicant or obtained from a source other than a consumer reporting agency.

[16] Id.

By direction of the Commission dated January 3, 1979.

JAMES O. TOBIN,
Acting Secretary.

[FR Doc. 79-1407 Filed 1-15-79; 8:45 am]

[4210-01-M]

Title 24—Housing and Urban Development

[Docket No. FI-4282]

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Village of Elmsford, Westchester County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Village of Elmsford, Westchester County, New York. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood

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elevations, for the Village of Elmsford, Westchester County, New York.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Village of Elmsford, Westchester County, New York, are available for review at the Village Hall, Elmsford, New York.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Village of Elmsford, Westchester County, New York.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Saw Mill River	Downstream corporate limits.	174
	Tarrytown-White Plains Rd.	175
	Cross Westchester Expressway.	176
	Upstream corporate limits.	176
Knollwood Brook	Downstream corporate limits.	213
	Knollwood Rd	213
	Cross Westchester Expressway.	216
	Alma Pl	221
	Woodside Ave	228
	Upstream corporate limits.	270

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: December 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1143 Filed 1-15-79; 8:45 am]

[4210-01-M]

[Docket No. FI-3967]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Village of Greenwood Lake, Orange County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Village of Greenwood Lake, Orange County, New York. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Village of Greenwood Lake, Orange County, New York.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Village of Greenwood Lake, Orange County, New York, are available for review at the Greenwood Lake Village Hall, Church Street, Greenwood Lake, New York.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Village of Greenwood Lake, Orange County, New York.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Greenwood Lake	Entire Shoreline	622

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: December 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1144 Filed 1-15-79; 8:45 am]

[4210-01-M]

[Docket No. FI-2945]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Village of Hewlett Harbor, Nassau County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Village of Hewlett Harbor, Nassau County, New York. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Village of Hewlett Harbor, Nassau County, New York.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Village of Hewlett Harbor, Nassau County, New York, are available for review at the Village Hall, Incor Village, 449 Pepperidge Road, Hewlett Harbor, New York.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Village of Hewlett Harbor, Nassau County, New York.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Hewlett Bay	Thixton Drive extended to Shoreline of Thixton Creek.	8
	Intersetion Channel Drive and Channel Rd.	8
	Intersection Birch Dr. and Lake Rd.	8
	Intersection Seawane Dr. and Seawane Pl.	8
	Intersection Seawane Dr. and Albon Rd.	8
	Intersection Albon Rd. & Everit Ave.	8
	Intersection Albon Rd. & Willow Pond Lane.	8
	Intersection of Pepperidge Rd. and Hewlett Lake.	8
	Intersection of Pepperidge Rd. and Auerbach Ave.	8
	Intersection of Pepperidge Rd. and Azure Pl.	8
	Intersection of Pepperidge Rd. and Everit Ave.	8
	Intersection of Heather Lane and Everit Pl.	8
	Intersection of Heather Lane and Auerbach Ave.	8

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 F.R. 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated

Issued: December 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1145 Filed 1-15-79; 8:45 am]

[4210-01-M]

[Docket No. FI-3992]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Town of Mamaroneck, Westchester County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Mamaroneck, Westchester County, New York. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Town of Mamaroneck, Westchester County, New York.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Mamaroneck, Westchester County, New York, are available for review at the Town Clerk's Office, 740 West Boston Post Road, Mamaroneck, New York.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Mamaroneck, Westchester County, New York.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Sheldrake River	New York Thruway (Upstream).	32
	Lakeside Drive (Upstream).	36
	Hickory Grove Drive (Upstream).	60
	Lansdowne Road (Upstream).	62
	Briarcliff Road (Upstream).	72
	Rockland Avenue (Upstream).	78
	Bonnie Briar Lane (Upstream).	81
East Branch of Sheldrake River.	East Brookside Drive (Upstream).	62
	Driveway 800 feet upstream of East Brookside Drive (Upstream).	69

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Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Rockland Avenue (Upstream).	72
	Hilltop Road (Upstream).	76
	Driveway 300 feet upstream of Hilltop Road (Upstream).	79
	Driveway 100 feet downstream of York Road (Upstream).	93
	York Road (Upstream)...	93
	Driveway 100 feet upstream of York Road (Upstream).	94
	Winding Brook Road (Upstream).	97
	Fenimore Road (Downstream).	100

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: December 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1146 Filed 1-15-79; 8:45 am]

[4210-01-M]

[Docket No. FI-3854]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Town of Wappinger, Dutchess County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Wappinger, Dutchess County, New York. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Town of Wappinger, Dutchess County, New York.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Wappinger, Dutchess County, New York, are available for review at the Wappinger Town Hall, Mill Street, Wappinger Falls, New York.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Wappinger, Dutchess County, New York.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Hudson River	Corporate Limits (Downstream).	8
	Confluence of Branch 1A Hudson River.	8
	Confluence of Wappinger Creek.	8
Branch 1A Hudson River.	Confluence with the Hudson River.	8
	CONRAIL Bridge	12
	Chelsea River Road	12
	Dam (200 feet upstream from Chelsea River Road).	15
	Easter Road	25
	Chelsea Road	46
Wappinger Creek	Confluence with Hudson River.	8
	CONRAIL Bridge	8
	New Hamburg Road	10
	Confluence of Branch 1—Wappinger Creek.	11
	Town of Wappinger—Village of Wappinger Falls Corporate Boundary (Downstream).	12
	Town of Wappinger—Village of Wappinger Falls Corporate Boundary (Upstream).	99
	U.S. 9	99
	Little Falls Dam	108
	Confluence of Branch 2 Wappinger Creek.	112
	Jackson Road	115
	Corporate Limits (Upstream).	126
Branch 1 Wappinger Creek.	Confluence with Wappinger Creek.	11
	Creek Road	11
	Footbridge (1860 feet upstream from Wappinger Creek).	66
	Driveway (280 feet downstream from Route 9D).	121
	Dam (125 feet downstream from Route 9D).	124
	Route 9D	126
	Footbridge (1,200 feet downstream from Route 9).	140
	Old State Road	147
	Old Route 9	148
	U.S. Route 9	150
Branch 2 Wappinger Creek.	Confluence with Wappinger Creek.	112
	Route 110	112
	Route 104	114
	Footbridge (275 feet upstream from Route 104).	130
	Driveaway (at Upstream end of Greens Pond).	136
	Widmer Road	153
	Confluence of Branch 2A—Wappinger Creek.	160
	Driveaway (600 feet downstream from Myers Corner Road).	175
	Myers Corner Road	181
	Dam (30 feet upstream from Myers Corner Road).	184
	Dam (150 feet upstream from Myers Corner road).	184
	Kent Road	220
	Footbridge (150 feet upstream of Kent Road).	224
	Dam (Downstream end of Lake Oniad).	225
Branch 2A Wappinger Creek.	Confluence with Branch 2 Wappinger Creek.	160 162
	Private Bridge	
	Footbridge (200 feet downstream from High School Access Road).	165
	Footbridge (500 feet downstream from High School Access Road).	167
	Access Road to High School.	171
	Myers Corner Road	181
Branch 2B	Dam (75 feet upstream of Branch 2 Wappingers Creek).	131
Wappinger Creek	Footbridge (1,200 feet downstream Route 94).	138
	Route 94	145
	Driveway (900 feet upstream from Route 94).	170

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Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Dam (1,050 upstream from Route 94).	177
	Footbridge (1,500 feet downstream of Route 376).	180
	Route 376	184
Sprout Creek	Corporate Limits (Downstream).	227
	Route 82 (Wappinger Road).	229
	Route 28	237
	Brown Road	244
	Montfort Road	257
	Route 376	266
	Conrail Bridge	267
	Robinson Lane	278
	Confluence of Jackson Creek.	287
	Dam (1,500 feet downstream from corporate Limits).	289
	Private Bridge	289
	Corporate Limits (Upstream).	290

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719).

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: December 8,1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1147 Filed 1-15-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4359]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Village of Valleyview, Franklin County, Ohio

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Village of Valleyview, Franklin County, Ohio. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Village of Valleyview, Franklin County, Ohio.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Village of Valleyview are available for review at the Village Hall, 432 North Richardson Avenue, Columbus, Ohio.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Village of Valleyview, Franklin County, Ohio.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Dry Run	At downstream corporate limit.	770
	1,000 feet upstream of the downstream corporate limit.	772
	800 feet downstream of Hague Avenue.	778
	680 feet downstream of Hague Avenue.	777
	60 feet downstream of Hague Avenue.	779
	Just upstream of Hague Avenue.	787
	At upstream corporate limit.	787
North Branch Dry Run.	At confluence with Dry Run.	771
	Just upstream of Richardson Avenue.	771
	Just downstream of Dibblee Avenue.	775
	40 feet upstream of Dibblee Avenue.	777
	340 feet upstream of Dibblee Avenue.	780
	At upstream corporate limit.	781

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: October 19, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1148 Filed 1-15-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4128]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Salem, Marion and Polk Counties, Oreg.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Salem, Marion and Polk Counties, Oregon. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Salem, Marion and Polk Counties, Oregon.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Salem,

Marion and Polk Counties, Oregon, are available for review at the Civic Center, 555 Liberty Street, Salem, Oregon.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Salem, Marion and Polk Counties, Oregon.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the coummunity.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Willamette River ..	Downstream Corporate Limits.	138
	Center Street	142
	Upstream Corporate Limits.	145
Shelton Ditch.....	Confluence with Willamette River.	142
	Upstream Church Street.	147
	Upstream Winter Street	149
	Upstream 12th Street.....	155
	Upstream 14th Street.....	161
	Upstream Lee Street.....	168
	Upstream Ford Street	178
	Upstream Airport Road .	185
	Mill Creek Control Structure.	189
Mill Creek	Shelton Ditch Control Structure.	191
	Upstream Mission Street.	197
	Upstream Cascade Gateway Park Bridge.	204
	Upstream Interstate Route 5.	221
	Upstream River Bend Gravel Company Haul Road.	228
	Upstream Salem-Turner Road.	237
	Upstream Prison Annex Road.	246

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Upstream Corporate Limits.	257

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: December 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1149 Filed 1-15-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4375]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Borough of Coraopolis, Allegheny County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Borough of Coraopolis, Allegheny County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Borough of Coraopolis, Allegheny County, Pennsylvania.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of Coraopolis, Allegheny County, Pennsylvania, are available for review at the Borough of Coraopolis Secretary's Office, 1012 5th Street, Coraopolis, Pennsylvania.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Borough of Coraopolis, Allegheny County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Ohio River	Downstream Corporate Limit.	717
	Upstream Corporate Limit.	718
Montour Run.....	Confluence with Ohio River.	718
	Most Upstream Corporate Limits.	718

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719).

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: December 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1150 Filed 1-15-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4376]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Borough of Dravosburg, Allegheny County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Borough of Dravosburg, Allegheny County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Borough of Dravosburg, Allegheny County, Pennsylvania.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of Dravosburg, Allegheny County, Pennsylvania, are available for review at the Dravosburg Borough Hall, Secretary's Office, 3rd Street, Dravosburg, Pennsylvania 15034.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Borough of Dravosburg, Allegheny County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Monongahela River.	Upstream Corporate Limits.	746
	Downstream Corporate Limits.	745

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719).

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: December 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1151 Filed 1-15-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4377]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Borough of Glassport, Allegheny County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Borough of Glassport, Allegheny County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Borough of Glassport, Allegheny County, Pennsylvania.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of Glassport, Allegheny County, Pennsylvania, are available for review at the Glassport Borough Hall, 5th and Monongahela Avenue, Glassport, Pennsylvania.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Borough of Glassport, Allegheny County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Monongahela River.	Upstream Corporate Limits.	747
	Downstream Corporate Limits.	746

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of

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1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: October 25, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1152 Filed 1-15-79; 8:45 am]

[4210-01-M]

[Docket No. FI-3161]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Philadelphia, Philadelphia County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Philadelphia, Philadelphia County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Philadelphia, Philadelphia County, Pennsylvania.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Philadelphia, Philadelphia County, Pennsylvania, are available for review at the City Hall, 215 City Hall, Philadelphia, Pennsylvania.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Philadelphia, Philadelphia County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, above mean sea level
Indian Creek	City Line Avenue	178
	Lansdowne Avenue (Upstream Side).	128
	Haverford Avenue (Upstream Side).	112
	Golf Course Service Road.	88
Cobbs Creek	City Line Avenue	129
	Lansdowne Avenue (Upstream Side).	103
	Confluence with Indian Creek.	88
	Market Street (Upstream Side).	70
	Baltimore Avenue (Upstream Side).	52
	Cobbs Creek Parkway (Upstream Side).	38
	65th Street (Upstream Side).	34
	Woodland Avenue (Upstream Side).	28
Darby Creek	Hook Road (84th Street) Upsteam Side.	17
Wissahickon Creek.	Northwestern Avenue	140
	Thomas Mill Road (Upstream Side).	115
	Wissahickon Drive (Upstream Side).	79
	Henry Avenue (Upstream Side).	52
	Confluence with Schuylkill River.	38
Schuylkill River	Green Lane Bridge (Upstream Side).	48
	Falls Bridge	34
	Girard Avenue	27
	Walnut Street	22
	Passyunk Avenue	10
	Confluence with Delaware River.	10
Tacony Frankford Creek.	Adams Avenue (Upstream Side).	78
	Tabor Road	67
	Wyoming Avenue	50
	Castor Avenue (Upstream Side).	32
	Kensington Avenue (Upstream Side).	24
	Delaware Expressway (Upstream Side).	15
	Confluence with Delaware River.	10
Wooden Bridge	Grant Avenue	70
Run.	Willits Avenue (Upstream Side).	54
	Holme Avenue	46
	Confluence with Pennypack Creek.	32
Pennypack Creek	Pine Road (Upstream Side).	98
	Krewstown Road (Upstream Side).	71
	Roosevelt Boulevard	55
	Holme Avenue (Upstream Side).	53
	Confluence with Sandy Run.	48
	Welsh Road (Upstream Side).	38
	Frankford Avenue (Upstream Side).	25
	State Road (Upstream Side).	18
	Confluence with Delaware River.	10
Walton Run	Caroline Road	117
	Old Decatur Road Bridge (Upstream Side).	92
	Academy Road (Upstream Side).	68
Byberry Creek	Byberry Road	109
	Thornton Road (Upstream Side).	93
	Chalfont Drive (Upstream Side).	63
	Chesterfield Road (Upstream Side).	51
	Morrell Avenue (Upstream Side).	35
	Confluence with Poquessing Creek.	28
Poquessing Creek	City Limit	132
	Roosevelt Boulevard (Upstream Side).	112
	Cloverdale Road (Upstream Side).	94
	Century Lane (Upstream Side).	75
	Byberry Road	42
	Red Lion Road (Upstream Side).	29
	Confluence with Delaware River.	10
Delaware River	Tidal Flooding—elevation is constant (to nearest foot).	10

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719).

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: December 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1153 Filed 1-15-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4431]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Borough of Shoemakersville, Berks County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Borough of Shoemakersville, Berks County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Borough of Shoemakersville, Berks County, Pennsylvania.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of Shoemakersville, Berks County, Pennsylvania, are available for review at the Borough of Shoemakersville Clerk's Office, 506 Main Street, Shoemakersville, Pennsylvania.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Borough of Shoemakersville, Berks County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Schuylkill River	Downstream Corporate Limits Extended.	307
	Confluence of Plum Creek.	310
	Miller Street Bridge	312
	Upstream Corporate Limits Extended.	313
Plum Creek	Confluence with Schuylkill River.	310
	Main Street Bridge	310
	Conrail Bridge	328
	Franklin Street Bridge	328
	Pennsylvania Route 61	328

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719).

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: December 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1154 Filed 1-15-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4216]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Town of Briarcliffe Acres, Horry County, S.C.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Briarcliffe Acres, Horry County, South Carolina. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Town of Briarcliffe Acres, Horry County, South Carolina.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Briarcliffe Acres, Horry County, South Carolina, are available for review at the Town Office, Highway 17, Briarcliffe Acres, South Carolina.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Briarcliffe Acres, Horry County, South Carolina.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Atlantic Ocean	Northern Corporate Limit.	13
	Southern Corporate Limit.	13

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: December 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1155 Filed 1-15-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4261]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for Cameron County, Tex.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in Cameron County, Texas. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for Cameron County, Texas.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for Cameron County, Texas, are available for review at the Cameron County Courthouse, Brownsville, Texas 78520.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for Cameron County, Texas.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Ponding	North Section of Orange Grove Road South Section of South Rabb Road.	56
	Orphanage Road between N. W. Cantu Road and State Route 506.	49
	North Rabb Road between Orphanage Road and Sesso Road.	49
	San Fillipo Road between State Route 506 and N. Kansas City Road.	47
	Intersection of Bass Boulevard and Orphanage Road.	42
Sheet Flooding	Landrum Park Road	50
	Minor Road	48

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: October 16, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1156 Filed 1-15-79; 8:45 am]

[4210-01-M]

[Docket No. FI-3243]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Del Rio, Val Verde County, Tex.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Del Rio, Val Verde County, Texas. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Del Rio, Val Verde County, Texas.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Del Rio, Val Verde County, Texas, are available for review at the City Hall, 109 West Broadway, Del Rio, Texas.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Del Rio, Val Verde County, Texas.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
San Felipe Creek	Downstream Corporate Limits.	922
	Confluence of Calaveras Creek.	924
	Unnamed Dam 3, 960 feet downstream of Academy Street (Upstream).	926
	Academy Street (Upstream).	938
	Canal Street (Upstream)	939
	Tani Street (Upstream)	947
	Unnamed Dam 264 feet upstream of Tani Street (Upstream).	948
	Gilis Avenue (Upstream).	951
	Margarite Avenue, U.S. Route 277 (Upstream).	959
	Southern Pacific Railroad (Upstream).	964
	U.S. Route 90 (Upstream).	965
Calaveras Creek	Confluence with San Felipe Creek.	924
	Corporate Limits 396 feet downstream of Brodbent Avenue.	932
	Corporate Limits 5,280 feet downstream of Southern Pacific Railroad.	965
	Southern Pacific Railroad (Upstream).	998
	Downstream U.S. Route 90 (Upstream).	998
	Upstream U.S. Route 90 (Upstream).	1,007
	Upstream Corporate Limits.	1,011
Stream 1	Downstream Corporate Limits.	937
	Bowie Street (Upstream).	946
	Plaza Avenue (Upstream).	951
	San Felipe Avenue (Upstream).	954
	U.S. Route 277, Margarite Avenue (Upstream).	958
	Vitela Street (Upstream).	963
Stream 2	Downstream Corporate Limits.	977
	Lenora Avenue (Upstream).	983
	Wildcat Drive (Upstream).	1,005
Cantu Branch	Downstream Corporate Limits.	1,005
	Alta Vista Road (Upstream).	1,017
	margaret Lane (Upstream).	1,025
	Terry Street (Upstream)	1,027
	Gayle Avenue (Upstream).	1,030
	U.S. Routes 277 and 90 (Upstream).	1,034
	Corporate Limits 8,970 feet upstream of U.S. Routes 277 and 90.	1,042
	Upstream Corporate Limits.	1,046
Stream 3	Downstream Corporate Limits.	1,007
	Downstream Kings Way (Upstream).	1,010
	Amistad Boulevard (Upstream).	1,031
	Upstream Kings Way (Upstream).	1,064
	Upsteam Corporate Limits.	1,064

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: December 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1157 Filed 1-15-79; 8:45 am]

[4210-01-M]

[Docket No. FI-2835]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Charlottesville, Va.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Charlottesville, Virginia. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Charlottesville, Virginia.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Charlottesville, Virginia, are available for review at the Planning Office, Department of Community Development, City Hall, 7th and Main Streets, Charlottesville, Virginia.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Charlottesville, Virginia.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations are listed below for selected locations:

Source of flooding	Location	Elevation in feet, above mean sea level
Rivanna River	Chesapeake Street Extended.	328
	Riverview Street Extended.	333
	Fairway Avenue Extended.	334
	U.S. 250	339
	Confluence with Meadow Creek.	342
Meadow Creek	Holmes Avenue	344
	Glendale Road Extended.	346
	Essex Road Extended	403
	King Mountain Road Extended.	404
	Hydraulic Road	420
	Rt. 250 By-Pass	427
	Earhart Street	431
	Private Road	435
North Fork Meadow Creek.	Confluence w/Meadow Creek.	435
	200' upstream from Emmet Street.	440
	1,000' upstream from Emmet Street.	445
	50' downstream from Cedar Court Road.	451
	Cedar Court Road	456
Moores Creek	Downstream Corporate Limit.	332
	Monticello Avenue Extended.	338
	Palatine Avenue Extended.	344
	Meridian Street Extended.	353
	Old Scottsville Road	359
	Hartman Mill Road Extended.	362
Rock Creek	Confluence with Moores Creek.	365
	5th Street Downstream	370
	5th Street Upstream	373
	Prospect Avenue Extended.	379

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Source of flooding	Location	Elevation in feet, above mean sea level
	Orangedale Avenue Extended.	361
	Elkhorn Road Extended	390
	Briarcliff Avenue Extended.	395
	Laurel Circle Extended..	400
5th Street Creek...	Confluence with Rock Creek.	373
	760' upstream from confluence.	375
	1,000' upstream from confluence.	380

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719).

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1158 Filed 1-15-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4008]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Richmond, Va.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Richmond, Virginia. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Richmond, Virginia.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Richmond, Virginia, are available for review at the City Clerk's Office, City Hall, 900 East Broad Street, Richmond, Virginia.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Richmond, Virginia.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, above mean sea level
James River	Chesterfield County Line.	28
	Confluence w/Broad Rock Creek.	33
	I-95	36
	Mayos Bridge	37
	9th Street Bridge	39
	Browns Island Dam (Upstream Side).	46
	Robert E. Lee Bridge (Upstream Side).	50
	Hollywood Dam (Upstream Side).	64
	Boulevard Bridge (Upstream Side).	89
	Powhite Freeway	101
	Williams Island Dam (Upstream Side).	120
	Hugenot Bridge (Upstream Side).	126
	At Stony Point Creek	131
	Boshers Dam	135
	Pittaway Creek	138
Pocosham Creek	Mouth	134
	Walmsley Boulevard (Upstream Side).	144
	1,000 feet upstream of Walmsley Boulevard.	149
	2,000 feet downstream of Hull Street.	156
	Hull Street (Upstream Side).	180
	Whitehead Road	166
Grindall Creek	Walmsley Boulevard (Upstream Side).	58
	Castlewood Road	62
	1st Crossing of Seaboard Coast Line Railroad (Upstream Side).	82
	2nd Crossing of Seaboard Coast Line Railroad (Upstream Side).	103
Broad Rock Creek	Mouth	33
	Richmond Petersburg Turnpike.	33
	Seaboard Coast Line Railroad (Upstream Side).	43
	9th Street	44
	Krouse Street (Upstream Side).	52
	Lynhaven Avenue	60
	Berwyn Street (Upstream Side).	65
	Columbia Street (Upstream Side).	68
	Seaboard Coast Line Railroad (Upstream Side).	112
	5,000 feet upstream from the Seaboard Coast Line Railroad.	143
Goodes Creek	Mouth	44
	Bellmeade Avenue (Upstream Side).	59
Stony Run	Mouth	46
	E. Richmond Road (50 feet downstream side).	53
	E. Richmond Road (Upstream Side).	62
	Stony Run Parkway	73
	Henrico County Line	77
Powhite Creek	Mouth	102
	Forest Hill Exist (Upstream Side).	116
	Southern Railway	120
	Powhite Freeway	131
Rattlesnake Creek	Mouth	123
	Riverside Drive	123
	Dam upstream of Riverside Drive (Upstream Side).	133
	Cherokee Road (Upstream Side).	146
	Weyburn Road	154
	Chippenham Parkway (Upstream Side).	166
Stony Point Creek	Mouth	131
	Dam upstream of Cherokee Road.	131
	0.5 Miles upstream from mouth.	151
Cherokee Creek	Mouth	135
	Cherokee Road & Dam (Upstream Side).	146
	Apache Road (Upstream Side).	159
	Cedar Grove Road (Upstream Side).	160
	Garden Road (Upstream Side).	177
Pittaway Creek	Mouth	138
	Cherokee Road (Upstream Side).	142
	Wainfleet Drive (Upstream Side).	161
	Dam 4,800 feet upstream of Wainfleet Road (Upstream Side).	222

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: December 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1159 Filed 1-15-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4051]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Hoquiam, Grays Harbor County, Wash.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Hoquiam, Grays Harbor County, Washington. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Hoquiam, Grays Harbor County, Washington.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Hoquiam, Grays Harbor County, Washington, are available for review at the City Hall, 609 8th Street, Hoquiam, Washington.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Hoquiam, Grays Harbor County, Washington.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, above mean sea level
Hoquiam River	Upstream Hoquiam Corporate Limits.	10
	Confluence with Little Hoquiam River.	10
	Confluence with East Hoquiam River.	10
	Burlington Northern Railway.	10
	U.S. Highway 101 North (6th Street).	10
	U.S. Highway 101 South (Simpson Avenue).	10
	Burlington Northern Railway.	10
East Hoquiam River.	Panhandle Road	10
	Upstream Corporate Limits.	10
Little Hoquiam River.	U.S. Highway 101	10
	Confluence with Hoquiam River.	10

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 F.R. 7719).

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated

Issued: December 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1160 Filed 1-15-79; 8:45 am]

[4410-01-M]

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

[Order No. 812-79]

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

Subpart M—Land and Natural Resources Division

DELEGATING TO THE ASSISTANT ATTORNEY GENERAL OF THE LAND AND NATURAL RESOURCES DIVISION THE DUTIES IMPOSED UPON THE ATTORNEY GENERAL BY SECTION 115(b) OF THE "URANIUM MILL TAILINGS RADIATION CONTROL ACT OF 1978"

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: Section 115(b) of the Uranium Mill Tailings Radiation Control Act of 1978, requires that the Attorney General conduct a study to determine who owned, operated or controlled sites where uranium was mined or processed and where residual radioactive materials remain. The purpose of the study is not only to identify such persons, but also to determine if they have any legal responsibility for any reclamation or other remedial action which might be required with respect to such sites and, based upon the study, to take appropriate legal action to require such persons to pay all or part of any costs incurred by the United States for such remedial action for which the Attorney General determines such person is liable. The Act further requires the Attorney General to publish the results of his study and provide copies of it to the Congress.

This Order delegates to the Assistant Attorney General of the Land and Natural Resources Division, the authority provided for in section 115(b) of the Act.

EFFECTIVE DATE: January 5, 1979.

FOR FURTHER INFORMATION CONTACT:

James W. Moorman, Assistant Attorney General, Land and Natural Resources Division, Washington, D.C. 20530 (202-633-2701).

§ 0.65 [Amended]

By virtue of the authority vested in me by 5 U.S.C. 301 and 28 U.S.C. 509, 510, § 0.65 of Subpart M of Part O of Chapter I of title 28, Code of Federal Regulations, is amended by adding a new paragraph (h) immediately after paragraph (g) to read as follows:

. . . . . .

(h) Conducting the study of processing sites required by section 115(b) of

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the Uranium Mill Tailings Radiation Control Act of 1978, publishing the results of such study and furnishing the results thereof to the Congress and, based on such study, determining and taking whatever actions, if any, shall be appropriate and in the public interest to require payment by such persons as the study identifies, of all or any part of the costs incurred by the United States for such remedial action for which he determines such persons are liable.

Dated: January 5, 1979.

GRIFFIN B. BELL,
Attorney General.

[FR Doc. 79-1481 Filed 1-15-79; 8:45 am]

[6560-01-M]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 963-2]

PART 51—REQUIREMENTS FOR PREPARATION, ADOPTION AND SUBMITTAL OF IMPLEMENTATION PLANS

Emission Offset Interpretative Ruling

AGENCY: Environmental Protection Agency.

ACTION: Final Rule.

SUMMARY: This rule describes the requirements for preconstruction review which apply to large new (or modified) air pollution sources affecting areas with air quality worse than the levels set to protect the public health and welfare. The action makes certain revisions to ERA's Emission Offset Interpretative Ruling of December 21, 1976 (41 FR 55524). These revisions are a result of the public comments (including four public hearings) on the December 21, 1976, Interpretative Ruling and changes required by the Clean Air Act Amendments of 1977 (Pub. L. 95-95, note under 42 U.S.C. 7401).

DATES: These changes are applicable to permits applied for on or after January 16, 1979. States may, if they so desire, make these changes applicable on a retroactive basis unless specified otherwise in the Ruling. Comments on specified issues should be submitted in accordance with the proposal published elsewhere in today's FEDERAL REGISTER.

FOR FURTHER INFORMATION CONTACT:

D. Kent Berry, Office of Air Quality Planning and Standards, Environmental Protection Agency, Mail Drop 11, Research Triangle Park, North Carolina 27711, Telephone: 919-541-5341.

SUPPLEMENTARY INFORMATION: On December 21, 1976, EPA issued an Interpretative Ruling (41 FR 55524) addressing the issue of whether and to what extent national ambient air quality standards (NAAQS) established under the Clean Air Act may restrict or prohibit construction of major new or modified stationary air pollution sources. The Ruling provides, in general, that a major new source, which emits pollutants in excess of specified amounts and would otherwise contribute to an existing violation of a national standard, may be constructed only if stringent conditions can be met. These conditions are designed to insure that the new source's emissions will be controlled to the greatest degree possible; that more than equivalent offsetting emission reductions ("emission offsets") will be obtained from existing sources; and that there will be progress toward achievement of the standards. Where such a source would otherwise cause a new violation of an NAAQS, offsets or additional control must be provided to prevent a new violation of the standards.

Although this Ruling was made immediately effective, the Agency solicited written comments and held public hearings in San Francisco, Dallas, Chicago, and New York. The comments received (including a summary of those comments) and the public hearing records are available for public inspection and copying during normal business hours at: Public Information Reference Unit, Environmental Protection Agency, Room 2922 (EPA Library) 401 M Street, SW., Washington, D.C. 20460.

PERMITS REQUIRED FOR NEW OR MODIFIED AIR POLLUTION SOURCES

The Federal Clean Air Act and most State regulations require that new air pollution sources and modifications of existing sources which would increase air pollution emissions must obtain a permit *before construction is begun.* The State (or local) new source review procedures apply to almost all new or modified air pollution sources. This review is intended to ensure that new sources will meet all applicable air pollution regulations adopted by the States. In addition, larger sources (which will have increased emissions of 50 tons per year of any air pollutant) [1] will be subject to more stringent requirements relating to the source's impact upon air quality.

A given source may have air pollution impacts in an area which has clean air or in an area which has dirty air. Some sources can affect both types of areas. The type of review requirements that a new source must comply with depends on whether the source affects a dirty air or clean air area. A source which impacts an area where the air is cleaner than the national ambient air quality standards (NAAQS) is subject to regulations for preventing significant deterioration (PSD) of air quality.[2] The purpose of these regulations is to keep clean air clean and the primary focus is to limit new emissions of sulfur oxides and particulate matter.

A new source that would affect a dirty air area will also be subject to EPA's Emission Offset Interpretative Ruling, the main provisions of which require the new source to meet the lowest achievable emission rate for the problem pollutant(s) and to obtain more than equivalent offsetting emission reductions (emission offsets) from existing sources. A source may be subject to PSD for one pollutant and to the Offset Ruling for another pollutant, or may affect both clean and dirty areas for the same pollutant.

At the present time, the Offset Ruling is generally carried out by the States as part of their own new source review procedures. In most areas, EPA's Offset Ruling will terminate as of July 1, 1979, and will be replaced by State-adopted new source review requirements. However, if States fail to adopt an acceptable plan to attain the NAAQS by the dates specified in the Clean Air Act, the Act requires that no permits for major new sources applied for after June 30, 1979 be issued.

The PSD program is generally being carried out by EPA through its Regional Offices. Thus, large sources must now get a preconstruction permit from both the State (for offsets) and EPA (for PSD). However, many States will be developing their own PSD program, allowing the air permit program to be consolidated at the State level. Until this occurs, major source owners should obtain their State permit before applying to EPA for a PSD permit. It is recommended that source owners consult with both EPA and the States before submitting a permit application to determine what requirements will be applicable and what kind of information must be submitted. To avoid delays, major source owners should apply for a permit as early in their planning process as possible and should allow for a minimum of three months from the date of application for a permit to be issued.

IMMEDIATELY EFFECTIVE CHANGES RESULTING FROM 1977 CLEAN AIR ACT AMENDMENTS

1. *Baseline.* In the December 21, 1976 Ruling, the baseline for determining emission offset credit was the SIP emission limitations in effect for existing sources (i.e., control of existing sources beyond that required by the SIP could be used to offset emissions from new sources). However, for areas where EPA had formally found the State plan inadequate and had requested revision, the baseline was the emissions that would result from application or reasonably available control measures (RACM) by existing sources. Furthermore, even where the baseline was the existing SIP rather than RACM, the 1976 Ruling provided for several adjustments to the baseline to take account of unusual circumstances. Explicit provisions were included to govern situations where there was no applicable SIP requirement, where offset credit would come from switching to cleaner fuels, and where the permitted emission level exceeded the uncontrolled emission factor of the source. 41 FR at 55529 cols. 2-3. In addition, EPA does not interpret the 1976 Ruling as allowing offset credit for tightening SIP requirements for a source to reduce the emission level allowed by the SIP down to the level allowed for the source by applicable new source performance standards (NSPS) or national emission standards for hazardous air pollutants (NESHAPS) requirements (i.e., requirements under Sections 111 and 112, respectively, of the Act). Any other approach would allow offset credit for so-called "paper" reductions, where the SIP is adjusted but no actual tightening of requirments under the Act occurs. These special provisions all implement the general principle behind the 1976 Ruling, that offsets must ordinarily represent reductions in emissions below the emissions allowed by existing requirements.

Section 129(a)(1) of the Clean Air Act Amendments of 1977 (Pub. L. 95-95 (note under 42 U.S.C. 7502)) states that the 1976 Ruling, as it may be modified, shall remain in effect, except that the baseline for determining emission offset credit "shall be the applicable implementation plan of the State in effect at the time of application for a permit * * *." The legislative history indicates that this provision was intended to eliminate the provision in the 1976 Ruling that the baseline was RACM where EPA had called for a SIP revision. But this provision was not inntended to displace the provisions under the 1976 Ruling to accommodate special circumstances, giving credit only for reductions below the emissions allowed by existing requirements.

For the foregoing reasons, the ruling is revised to eliminate the requirement that the baseline be RACM where EPA has called for SIP revisions.[3] EPA invites public comment on its policy that the Ruling does not allow offset credit for tightening SIP requirements down to NSPS or NESHAPS levels, and invites comment on whether the language of the Ruling establishing the baseline should be revised to make this policy more explicit.

2. *Nonattainment requirements under the amended Act.*—a. *Amendments required by nonattainment provisions of the Act.* New Part D of Title I of the Act [4] requires States to revise their SIP's for every area where an NAAQS is not being met. For each standard, areas were designated, under Section 107(d) and 171(2) of the Act, as either attaining the standard (attainment areas), violating the standard (nonattainment areas), or areas that cannot be classified on the basis of available information (unclassifiable areas).[5] For areas initially designated as nonattainment areas,[6] the deadline for States to submit required SIP revisions is January 1, 1979. Revised SIP's meeting the requirments of Part D must be in effect by July 1, 1979. For areas initially designated as attainment or unclassifiable but are later found to be nonattinment areas, additional time may be necessary for development, submittal and approval of the required SIP revisions.

The Act provides that the Ruling be superseded after June 30, 1979—(a) by preconstruction review provisions of the revised SIP, if the SIP meets the requirements of Part D, or (b) by prohibition on construction under the applicable SIP and Section 110(a)(2)(I) of the Act, if the SIP does not meet the requirments of Part D. The Ruling is now being amended to reflect this, and to state that the Ruling will remain in effect to the extent not superseded under provisions of the Act. The above prohibition on major new source construction does not apply to a source whose permit for construction or modification was applied for during a period when the SIP was in compliance with Part D, or before the deadline for having a revised SIP in effect that satisifies Part D. The Ruling is amended to reflect this.[8]

b. *Additional effects of nonattainment requirements on this Ruling.* By its terms, this Ruling has always applied to proposed major sources and major modifications anywhere in the State that will cause or contribute to a violation of an NAAQS, regardless of whether the sources or modifications were within an area determined in general to be nonattainment: 41 FR 55528 col. 2. Designations of nonattainment, therefore, do not limit the areas within which this Ruling applies.

In EPA's view, the Act requires that for any area disignated as monattainment for any NAAQS, the preconstruction review provisions under Part D, or the prohibition on construction under the applicable SIP and Section 110(a)(2)(I), must apply to all major sources within the State that will cause or contribute to a violation of the NAAQS within an area initially designated as a nonattainment area. Consequently, after July 1, 1979, the Intrepretative Ruling will only apply in the followng situations: (a) To sources in one State which contribute to a violation of an NAAQS only with another State, (b) during the time allowed for the development and approval and/or promulgation of revised SIP in an area which is subsequently determined to violate an NAAQS, and (c) during any extended time allowed under Section 110(b) for development of a SIP revision of an area that violates only a secondary NAAQS. Also, for sources in one State (which has an acceptable SIP) that would contribute to a violation in another State (which does not have an acceptable SIP), the restrictions on new source construction under the applicable SIP and Section 110(a)(2)(I) do not apply.

Under the preconstruction permit requirements in Part D, States have two basic options for dealing with proposed new major sources within a nonattainment area that cause or contribute to a violation of an NAAQS. The SIP may provide an allowance for growth while assuring reasonable further progress toward attainment, and new sources may be allowed that do not result (individually or in the aggregate) in emissions that exceed the allowance. If the growth allowance is used up, or if none is provided, the State's other option is to allow sources to be constructed only if case-by-case offsets are obtained sufficient to provide for reasonable further progress towards attaining the NAAQS by the attainment date prescribed under Part D. If the SIP for the nonattainment

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[1] The criteria for determining the applicability of these more stringent requirements are actually more complex and can be found in the specific regulations mentioned below.

[2] See Federal Register of June 19, 1978, pp 26380-26410.

[3] The 1977 Amendments and legislative history clearly call for this Amendment. See 123 Congressional Record at S 9165 col. 2 (daily ed. June 6, 1977). therfore, EPA has determined that notice and public procedure are unnecessary before making this Amendment.

[4] Part D of the Act, which includes Sections 171 through 178 (42 U.S.C. 7501-7508).

[5] Initial designations were published by EPA on March 3, 1978, 43 FR 8962. Revisions to the initial designations were recently published for some States (43 FR 40412, 43 FR 40502, and 43 FR 45993, September 11 and 12, and October 5, 1978) and will soon be published for other States. Designations are codified at 40 CFR 81.300 *et. seq.*

[6] These amendments to the Ruling do no more than state that the Act provides for supersession of this Ruling. Furthermore, it is important to have a clear statement at this time of the earliest possible application of the prohibition on major new source construction, to assist industrial planning. For these reasons, EPA has determined that soliciting public comment before making these amendments would be unnecessary and contrary to the public interest.

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area is not being carried out, however, no permits may be issued within the area as required by Section 173(4).

The discussion in this notice of the requirements for revised SIP's under Part D, and for a prohibition on construction under the applicable SIP and Section 110(a)(2)(I), is provided to place the Ruling in perspective, and does not constitute regulations promulgated or final action taken by the Administrator to establish or interpret those requirements. Many of the approaches used by the Agency in revising the Ruling may be used by the States as guidance in developing provisions under Part D; but again, except as noted below, this does not consititute regulations or final action establishing or interpreting requirements for preconstruction review provisions. The Agency's nationally applicable policy summarizing the elements that a SIP submittal must contain to meet the requirements of Part D was published in the FEDERAL REGISTER on May 19, 1978, 43 FR 21673, and the discussion and guidance provided by this notice merely supplement that policy.

The only exception is that certain terms in the Ruling are also used in Sections 172(b)(6), 173, and 302(j) of the Act to prescribe the requirements for revised preconstruction review provisions. Therefore, the definitions in this ruling of the terms "source," "potential," and "modification" (see discussion below on additional flexibility in defining "modification") apply to the statutory requirements for preconstruction review provisions under Sections 110(a)(2)(I) and Part D as well as under this Ruling. The discussion below of "lowest achievable emission rate," and of cut-offs to limit review of small sources, also apply to State preconstruction review programs under Section 173 of the Act [although not to the prohibition on construction under Section 110(a)(2)(I)].

MAJOR SOURCE ISSUES

1. *Sources subject to review*—a. *Definition of "potential" to emit and definition of cutoff points.* Section 129(a) of the 1977 Amendments requires that the offset requirements be applicable to all major stationary sources (including Federal facilities) as defined in Section 302 of the Act (i.e., sources with potential emissions of 100 tons or more per year). The emission offset requirements currently apply to sources with *allowable* emissions greater than 100 tons per year. Since the 1977 Act Amendments did not define potential emissions and there has been some question as to the Congressional intent of this term, this change was not made immediately effective. However, this issue was dealt with in EPA's proposed regulations for preventing significant deterioration (PSD) of air quality (42 FR 26388). As set forth in the final PSD regulations, potential emissions are defined in terms of uncontrolled emissions but sources are exempt from the best available control technology and the air quality related tests if the source's allowable emissions would be less than each of the following cutoff points: 50 tons per year, 1000 pounds per day or 100 pounds per hour. The short-term criteria are included to ensure that a source that operates seasonally or intermittently is adequately dealt with regarding its impact on short-term air quality. For the same reasons as are discussed in the preamble to the PSD regulations, the Emission Offset Ruling is revised to require review of sources based on their uncontrolled emissions, but to exempt sources from the major conditions of the Ruling if the allowable emissions are less than the above cutoff points.

It should be noted that any source with allowable emissions less than the above amounts which is exempted from the offset requirements will use up part of the State's allocation for growth (see discussion in preceding section) at the time such source begins operation. Thus, a State plan may need to require additional control of existing sources (or more rapid compliance) in order to achieve the "annual reasonable further progress toward attainment" required by the Act.

b. *Definition of "source."* A number of commenters indicated the need for a more explicit definition of "source." Some readers found that it was unclear under the 1976 Ruling whether a plant with a number of different processes and emission points would be considered a single source. The changes set forth below define a source as "any structure, building, facility, equipment, installation, or operation (or combination thereof) which is located on one or more contiguous or adjacent properties and which is owned or operated by the same person (or by persons under common control)." This definition precludes a large plant from being separated into individual production lines for purposes of determining applicability of the offset requirements.

The revised definition of "source" is only a clarification, and represents no change from EPA's intent in the December 1976 Ruling and the way the Ruling has been implemented. The definition is consistent with the use of this term in other SIP-related regulations (e.g., 40 CFR Part 51, Appendix C), and is identical to the approach recently adopted for the Prevention of Significant Deterioration (PSD) regulations (see 40 CFR 52.21(b)(4), 43 FR 26388, June 19, 1978).

c. *Public comment.* Comments were originally solicited on the definition of cut-off points to limit review of small sources in the Advance Notice of Proposed Rulemaking published on December 21, 1976, 41 FR 55559. Comments were received on the definition of "source" in the 1976 version of this Ruling. The definitions of the term "potential" and "source," and the definition of cut-off points to limit review, were all the subject of extensive public comment in response to EPA's proposed PSD regulations, which contained an approach very similar to that adopted here. The definitions adopted here were based on all of this public comment, and EPA has determined that it is unnecessary to postpone adoption of these definitions until after further comment is solicited and evaluated. However, since a major industrial group has requested another opportunity to comment on these important issues, EPA is inviting further comment on these definitions, particularly to identify any considerations that were not relevant in developing the PSD regulations, and any additional considerations relevant to the application of these definitions to requirements for new preconstruction review programs under Section 173. Any comments must be submitted on or before February 15, 1979.

d. *Applicability to modifications accompanied by emission reductions within the same source (intrasource offsets).* Some commenters suggested that the Ruling should be amended to exempt a modification of an existing source which increases allowable emissions by 50 tons per year, 1000 pounds per day, or 100 pounds per hour, or more if there are accompanying reductions within the same source (intrasource offsets) such that the net increase from the source is less than the above amounts, or even that there is a net decrease. It was even suggested that this exemption apply to the addition of new facilities at an existing source. Where a state implementation plan is revised and implemented to satisfy the requirements of Part D, including the reasonable further progress requirement, the plan requirements for major modifications may exempt modifications of existing facilities that are accompanied by intrasource offsets so that there is no net increase in emissions. The Agency endorses such exemptions, which would provide greater flexibility to sources to effectively manage their air emissions at least cost. However, as long as the emission Offset Interpretative Ruling remains operational, the exemption will not be allowed for the reasons stated below. The text of the Ruling is rewritten to state in positive terms that the exemption is not permitted. Since the 1976 Ruling invited public

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comment on the requirements for modifications, and since this amendment clarifies the original language without changing the substance, EPA has determined that additional notice and public procedure before making the amendment are unnecessary.

If the Ruling were amended in the suggested manner, a source owner could construct or substantially modify a facility by obtaining only part of the offsets ordinarily required and avoiding the other conditions required for major pollution sources in nonattainment areas prior to there being an adequate Part D implementation plan. This would conflict with several of the basic purposes of the Ruling, which are to assure that sufficient offsets be obtained to represent reasonable progress toward attainment of the applicable standard, that the new facilities meet the lowest achievable emission rate (LAER), and that other sources owned by the applicant be in compliance with the approved SIP or on acceptable compliance schedules. The need to reduce new emissions through these requirements is particularly great before revised plans under Part D are adopted and implemented. Therefore, it is not enough that there be no net increase in emissions; there are additional independent requirements which must be met. There is no reason to depart from this principle simply because offsets happen to come from a facility within the same source. Since the facility will be new or substantially modified, it has an opportunity to employe LAER and satisfy the other requirements like any other source subject to the Ruling. This has been the consistent application of this Ruling.

Unlike this Ruling, EPA's recently-published PSD regulations include an exemption for modifications of existing facilities which are accompanied by sufficient intrasource offsets that there would be no net increase in emissions (see discussion at 43 FR 26394, June 19, 1978). EPA believes that the need to reduce new emissions as much as possible is greater under this Ruling for an area where standards are violated than under the PSD requirements for a clean area where deterioration is the only concern.

Modifications of existing facilities accompanied by sufficient intrasource offsets so that there would be no net increase in emissions may, however, be exempted by the States from the new source review procedures under Part D that will supersede this Ruling. This exemption would not be applicable where a major facility is added to or is reconstructed at a source, whether the addition is to replace production capacity or for growth. The above exemption is permitted under the SIP because, to be approved under Part D, plan revisions due by January 1979 must contain adopted measures assuring that reasonable further progress will be made. Furthermore, in most circumstances, the measures adopted by January 1979 must be sufficient to actually provide for attainment of the standards by the dates required under the Act, and in all circumstances measures adopted by 1982 must provide for attainment. See Section 172 of the Act and 43 FR 21673-21677 (May 19, 1978). Also, Congress intended under Section 173 of the Act that States would have some latitude to depart from the strict requirements of this Ruling when the State plan is revised and is being carried out in accordance with Part D. Under a Part D plan, therefore, there is less need to subject a modification of an existing facility to LAER and other stringent requirements if the modification is accompanied by sufficient intrasource offsets so that there is no net increase in emissions. Consequently, for a plan approved and implemented under Part D, it is acceptable for the State to include the above exemption for intrasource offsets in its new source construction under the State plan and Sections 110(a)(2)(I) and 173(4) must apply to major modifications regardless of intrasource offsets if the plan is found not to satisfy Part D or is not being implemented, because in those instances the plan cannot be relied upon to assure reasonable further progress and, eventually, attainment.

OTHER CHANGES TO THE RULING

1. *Definition of "significant" air quality impact.* Several commenters requested that EPA provide specific quantification as to the incremental level of pollution that would be considered as contributing to an existing violation of an NAAQS. The Ruling has been revised to include "significance levels" which are generally based on the Class I prevention of significant deterioration (PSD) increments contained in Section 163 of the Act. A new or modified source will not be considered to cause or contribute to a violation of an NAAQS if the air quality impact of the source is less than the specified significance levels. The significance levels are only applicable when a major source is to be located in a "clean" area (i.e., a locality where both the primary and secondary standards are being met), but would impact an area that exceeds an NAAQS some distance away. The significance levels are not intended to be used for PSD purposes where the Class I increments are concerned, nor are they to be used for implementing Condition 4 of Section IV of the Ruling (i.e., emission offsets must result in a net air quality *benefit*). Significance increments are not specified for photochemical oxidants, since atmospheric simulation models are not adequate to predict the air quality impact of a single source of volatile organic compounds (VOC). Further discussion of offsets for VOC sources appears below.

It is possible for a source with a good engineering practice stack height and substantial plume rise, and with very good controls (e.g., particulate matter from fuel combustion sources) to not exceed the significance increments at any location. Thus, such a source would be able to locate just at the edge of a locality where the particulate standard is violated without being subject to the Ruling. This situation would be most common for particulate matter (since controls exceeding 99% are normal) and would rarely occur for the other pollutants.

2. *Relationship of offset requirements to designations of attainment status.* On March 3, 1978, EPA published the attainment status of all States in relation to the NAAQS. 43 FR 8962. However, as noted above, this Ruling has always provided that determinations be made on a case-by-case basis independent of any general determination of nonattainment. 41 FR 55528. Therefore, the determination under this Ruling of whether a source will cause or contribute to a violation of an NAAQS will continue to be made on a case-by-case basis. A source may try to prove that a locality meets an NAAQS even if the locality is part of a designated nonattainment area. There are several reasons for this. First, the initial determinations were made on the basis of 1975 or 1976 air quality data, while the determination of whether a source would cause or contribute to a violation of an NAAQS must be made as of the new source's start-up date. Thus, a source locating in a nonattainment area which is projected to be an attainment area as part of an approved SIP control strategy by the source's start-up date may not be subject to the requirements of the Offset Ruling. Also a State may have designated a large county or air quality control region (AQCR) as nonattainment on the basis of a localized violation of standards in a small portion of the county or AQCR. The designations were designed to provide a starting point for State planning, and were not designed to resolve issues of air quality for purposes of individual permit applications. While not altering the requirement of the Ruling that air quality determinations be made on a case-by-case basis, EPA has amended the language of the Ruling to explain the relationship in practice between the Ruling and the Section 107 designations.[1]

[1] Because these amendments are technical and conforming, and do not change the sub-

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a. *Sources in attainment or unclassifiable areas.* Certain portions of the Ruling may be applicable in areas designated as attaining the NAAQS or which cannot be classified as to their attainment status. A source locating in such an area which would contribute to a violation of an NAAQS anywhere (i.e., exceed the above significance levels at the site of the violation) must meet Conditions 1, 2 and 4 of Section IV of this Ruling. This is true regardless of the designation that applies to the locality where the violation would occur. Although full emission offsets are not required, such a source must obtain emission offsets sufficient to compensate for its air quality impact where the violation occurs. (States and local agencies are free to require larger offsets if deemed appropriate.)

Most such sources will be subject to prevention of significant deterioration (PSD) requirements, which include a requirement for best available control technology for all pollutants regulated under the Act. In addition, after August 7, 1978, many sources subject to PSD must present air quality monitoring data at the proposed site as part of their application to construct, especially where there is good reason to believe that a new source would cause or worsen a violation of an NAAQS. Thus, major sources applying for a permit after August 7, 1978, will not be exempt from the requirements of this Ruling simply because no air quality data are available to determine whether the source would adversely impact upon an NAAQS.

b. *Sources locating in a "clean" portion of a designated nonattainment area.* A source locating in a clean portion (or which will be clean as of the new source start-up date) of a designated nonattainment area may be exempt from the requirements of this Ruling if the source would not exceed the significance levels discussed above in the *actual* area of nonattainment (as of the new source start-up date). If such a source *would* exceed the significance increments in the actual nonattainment area, it is subject to the same requirements applicable to sources in designated attainment or unclassified areas (i.e., Conditions 1, 2 and 4).

c. *General impact of nonattainment designations on the proceedings.* It will be assumed as the starting point in reviewing a permit application that every location within a designated nonattainment area will exceed the NAAQS (as of the new source start-up date), and that any source with allowable emissions exceeding 50 tons per year, 1000 pounds per day, or 100 pounds per hour locating in the area will significantly contribute to a violation. However, if the applicant or any other participant presents a substantial and relevant argument (including any necessary analysis or other documentation) why that assumption is incorrect, then the applicability of this Ruling would be determined by the specific facts in the case.

3. *Exemptions.* The Ruling has been revised to exempt temporary emissions, such as pilot plants, portable facilities which will be relocated away from the nonattainment area after a short period of time, and emissions resulting from the construction phase of a new source, from the emission offset and net air quality benefit requirements (Conditions 3 and 4 of Section IV of the Ruling). The LAER requirement and other conditions of the Ruling are still applicable to such sources. A similar exemption would also be available to resource recovery facilities utilizing municipal solid waste (including refuse derived fuel and/or sewage sludge from municipal sources) to provide more than 50% of the heat input for generating steam or electricity. In addition, the use of refuse derived fuel in an existing boiler would not qualify as a modification and would not be subject to the Interpretative Ruling.

The exemption for temporary emissions does not change the intent of the original Ruling and is consistent with interpretations issued under the original Ruling. Emissions occurring for less than two years within the nonattainment area would generally be considered temporary. Emissions for longer periods of time might also be considered to be temporary (such as the emissions related to the construction of power plants and other large sources), but should be dealt with on a case-by-case basis.

Again, it should be noted that any source which is exempted from the offset requirements will use up part of the State's allocation for growth at the time such source begins operation. Thus, a State plan may need to require additional control of existing sources (or more rapid compliance) in order to achieve the "annual reasonable further progress toward attainment" required by the Act.

4. *Geographic applicability to major VOC sources.* One of the issues not totally resolved in the December 21, 1976, Ruling was the determination of the areas where offsets for sources of volatile organic compounds (VOC) would be required, especially since atmospheric simulation modeling techniques are generally not available to estimate the air quality impact on an individual VOC source. For rural VOC sources, as for other sources, offsets and other conditions of the Ruling were required for major sources that would cause or contribute to a violation of an NAAQS. Any source locating within a major metropolitan area (over 200,000 population) where the standard was violated was assumed to cause or contribute to the violation. 41 FR 55527 col. 1. However, no firm rules were adopted for application of the Ruling to sources outside of such areas, or for determining where offsets could be found for proposed sources in or out of such areas. Reviewing authorities were left with discretion to determine, on a case-by-case basis, whether any particular proposed rural source would cause or contribute to a violation, or whether any particular emission reduction would constitute an acceptable offset for a proposed source.

The Ruling did refer to a discussion of the rural oxidant problem published in the same FEDERAL REGISTER issue as the Ruling. 41 FR 55528 col 2, 55559–60. This discussion suggested tentative reasons why proposed VOC sources outside of major metropolitan areas should not need offsets, and why sources within such areas should obtain offsets from sources that are also within such areas. however, since that discussion was contained in an advance notice of proposed rulemaking, it was intended only to inform, not to govern individual permit decisions.

On the basis of comments received responding to the advance notice of proposed rulemaking, EPA has developed the proposal for rural VOC sources stated in the Ruling. Comments are invited on this proposal. Until final rulemaking on this issue is completed, this proposal represents EPA's interim policy for determining under this Ruling whether a proposed rural VOC source would cause or contribute to a violation or whether an emission reduction would constitute an acceptable offset for a proposed rural source.

Under the proposal, offsets will generally be required for VOC sources located in or affecting any area that is designated as nonattainment for oxidant or is otherwise shown to be exceeding the NAAQS for oxidant. There are many situations where a source locating outside a nonattainment area may adversely impact upon a nearby locality where the standard is violated. Since photochemical dispersion models are not available to estimate the air quality impact of a single VOC source, it is necessary to use a general approximation of the area around a nonattainment monitor where emissions would reasonably be expected to have an impact on a measured violation. Unless specific data are available to define the impact of a VOC source, offsets should be required for VOC sources locating

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stance of the Ruling, EPA has determined that notice and public procedures on them are unnecessary.

within 36 hours traveltime (under wind conditions associated with oxidant concentrations exceeding the NAAQS for oxidants) of a nonattainment monitor. This distance is based on evidence which suggests that precursor emissions which occur within 36 hours traveltime of each other interact to form oxidant.

In addition, the changes to the Ruling provide the owner of a proposed VOC source an opportunity to show that the emissions from the proposed source would have "virtually no effect on any area that exceeds the oxidant standard" and therefore the source would be exempt from the Ruling. This exemption is only intended for remote rural sources whose emissions would be very unlikely to interact with other significant sources of VOC or NO_x to form additional oxidant. Such a demonstration might include a showing that the proposed source would be located in an area that is not subject to multi-day stagnation conditions and that VOC and NO_x emissions within the same AQCR or within 36 hours traveltime are minimal. Suggestions from the public are invited on establishing specific criteria or cut-offs to assist applicants in making such a demonstration.

Generally, offsets will be acceptable if obtained from within the same AQCR as the new source or from other nearby areas which may be contributing to the oxidant problem affected by the proposed new source. As with other pollutants, it is desirable to obtain offsets from sources located as close to the proposed new source site as possible. If the proposed offsets would be from sources located at greater distances from the new source, the reviewing authority should increase the ratio of the required offsets and require a showing that nearby offsets were investigated and reasonable alternatives were not available.

5. *Changes to Section IV, Condition 2.* In the original Ruling, the reviewing authority was required to examine all enforcement orders for other sources owned by the applicant in the AQCR to determine if more expeditious compliance was practical. Some commenters pointed out that in interstate AQCR's, the reviewing authority has no control over compliance schedules or enforcement orders in the adjoining State(s). Also, in a very similar provision set forth in Section 173(3) of the Act, the demonstration concerning compliance by other sources owned by the applicant is specified on a state rather than an AQCR basis. Consequently, the Ruling has been changed to be consistent with the provisions in the 1977 Act Amendments. The wording of Condition 2 has also have been changed in accordance with Section 173(3) to clarify the various forms of ownership and control covered by Condition 2. Condition 2 is intended to be applied in a broad sense so as to cover subsidiaries controlled by the applicant and to all facilities owned by any individual business entity that controls a joint enterprise applicant.

For the time being, determinations of what entities control, are controlled by, or are under common control with, the applicant will be made on a case-by-case basis. However, to save time and resources of both applicants and decisionmakers, EPA proposes to establish criteria for determining issues of control. For example, any person with a ten percent voting interest in an entity, or with the power to make or veto decisions by the entity to implement major emission-control measures, might be deemed to control the entity. Such criteria would also be used for determining whether facilities are part of the same source, under Section II.A.1. of this Ruling. Since the definition of "source" is the same under the Agency's PSD regulations as well as this Ruling, the criteria for determining whether facilities are part of the same source are expected to be identical. Comments and suggestions are invited on such criteria for determining control.

6. *Change to Condition 4.* Condition 4 of the original Ruling required that an emission offset must also result in a "net air quality benefit" in the area affected by the new source. In response to questions as to whether an air quality analysis is necessary for VOC and NO_x emissions pursuant to the "net air quality benefit" requirement, the Ruling is clarified to indicate that fulfillment of the emission offset requirements of Condition 3 will be adequate to meet the requirements of Condition 4 for these pollutants.

It should be noted that the "net air quality benefit" test need not be interpreted as requiring an air quality improvement at every location affected by the source. This condition is intended to insure that the sources involved in an offset situation impact air quality in the same general area, but the net air quality benefit test should be made "on balance" for the area affected by the new source.

7. *Elimination of Condition 5.* Condition 5 of the original Ruling contained a prohibition on major source growth after January 1, 1979, in areas where EPA had called for a SIP revision, unless EPA had approved or promulgated the required SIP revision by that date. EPA had issued 221 notices of required SIP revisions in mid-1976. One of the principal purposes of the nonattainment provisions in the 1977 Amendments, however, was to revise this administrative approach. Under the Act, designation of an area as nonattainment constitutes, in effect, a call for a SIP revision. The required contents of the revision and the deadline for submittal are specified in the Act. The Act's revision requirements differ from those established in the Agency's 1976 calls for revisions. Furthermore, the limitation on growth that will result from a failure of the State to comply is set forth in Section 110(a)(2)(I) of the Act. The Administrator has, therefore, concluded that the 1976 calls for SIP revisions for nonattainment areas were superseded by the 1977 Amendments, as was the limitation on growth provided in Condition 5. Therefore, Condition 5 has been deleted from this Ruling.[*]

8. *Baseline where there is no meaningful SIP requirement.* Section IV.C.2 had previously provided that where the particulate emission limit in the SIP for fuel combustion exceeded the uncontrolled emission rate for the fuel being burned (as when a State has a single emission limit for all fuels), emission offset credit would be allowed only for control below the appropriate uncontrolled emission factor. Since this situation may occur for sources other than fuel combustion sources, this provision has been made more general and incorporated in Section IV.C.1.

9. *Fuel conversion.* The Interpretative Ruling as originally published, provided that the use of an alternative fuel would not be considered a modification subject to the Ruling if, prior to December 21, 1976, the sources could accommodate such alternative fuel. In an associated Advance Notice of Proposed Rulemaking published on December 21, 1976 (41 FR 55558), comments were solicited on whether this exemption should apply to sources affecting nonattainment areas. In the Administrator's judgment, the most appropriate way to handle fuel conversions where no major physical modification takes place is through the SIP revision process. In particular, new Section 124 of the Clean Air Act requires States to review their plans to ensure that they will be adequate to attain and maintain the national ambient air quality standards in light of known or anticipated fuel conversions. Furthermore, under Section 172(b)(4), emissions from fuel conversions must be considered in determining periodically whether the plan is adequate to assure attainment by the required date. Therefore, the Ruling still exempts a fuel conversion where the source is designed to accommodate the alternative fuel.

[*]Since there is no question but that Section 110(a)(2)(I) was intended to supersede Condition 5; and since in any event recisions of the 1976 calls for SIP revisions eliminates any effect of Condition 5, EPA has determined that notice and public procedure on the elimination of Condition 5 are unnecessary.

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For purposes of controls to protect air quality in clean areas, and controls that States must adopt in nonattainment areas, Congress provided that "modification" should not include a conversion to an alternative fuel by reason of an order under the Energy Supply and Environmental Coordination Act of 1974 or a natural gas curtailment plan pursuant to the Federal Power Act. see Sections 111(a) (4) and (8), 169(2)(C), and 171(4), 42 U.S.C. 7411(a) (4) and (8), 7479(2)(C), and 7501(4). EPA therefore has decided that it would be consistent with Congressional intent to exclude such conversions from the definition of "modification" in this Ruling as well.

To further conform the Ruling to the Act and avoid confusion, EPA has also qualified the definition of modification by adding the provision that a switch to an alternative fuel by reason of an order or rule under Section 125 of the Act (41 U.S.C. 7425) is not a modification.[9]

In nonattainment areas, States must deal with increased emissions from fuel conversions in their 1979 revisions. For conversions that are not major modifications as defined in the Ruling and for purposes of Part D, the States may deal with increased emissions by any means they choose. A State may include in its control strategy demonstration an assumption that all sources which could reasonably convert to a dirtier fuel will do so. Alternatively, the State may require fuel conversions which are exempt as a modification under the Ruling to obtain a permit prior to converting to an alternate fuel. Such conversions would then be required to obtain offsets on a case-by-case basis or would be reviewed against the allowance for growth provided for in the SIP under Section 172(b)(5). Although conversions that are not major modifications need not satisfy all of the conditions of Section 173, in the interest of simplicity the State may choose to deal with the increased emissions by making the conversions subject to these conditions.

10. *Banking.* One of the issues that was frequently raised in comments on the Ruling involved "banking" of emission reductions to allow for future new source growth. Banking was restricted by EPA because it was felt that banking would create a difficult accounting problem, probably would not result in any environmental benefit, and tended to dilute the potential benefits of the offset policy. However, the advocates of banking felt that if the offsets obtained in a given situation were considerably greater than the new source's emissions, some of the "excess" emission reductions should be "bankable" to allow for future growth. The general argument was that a "no-banking" rule would have an adverse air quality impact (at least in the short-term) by discouraging early clean-up of sources. For example, if a source were undergoing a modernization program, and retiring a number of obsolete facilities, a "no-banking" provision might encourage the owner to delay retirement of several of the facilities so that they could be used in future offset situations. Furthermore, the Clean Air Act Amendments of 1977 modified this restriction by allowing States to incorporate provisions for growth in SIP plans for nonattainment areas. Under Section 173(1) of the Act, emission reductions are compared to a "reasonable further progress" goal, and reductions beyond the minimum requirement may be used to offset future growth. In essence, the State becomes the banker and must decide how to allocate the banked emissions. Therefore, the restriction on banking in the Ruling has been removed for offsets approved after the date of publication of these changes in the FEDERAL REGISTER. States which wish to allow banking may do so, as long as it is recognized that there will be changes in the basis for approval of major new sources after June 30, 1979.

A reviewing authority may allow banked offsets to be used under the preconstruction review program required by Part D, as long as these banked emissions are identified and accounted for in the SIP control strategy. So long as the pollution control requirements under the Act are satisfied, the State is free to govern ownership, use, sale, and commercial transactions in banked emission offsets as it sees fit. A reviewing authority may not approve the construction of a source using banked offsets if the new source would interfere with the SIP control strategy or if such use would violate any other condition set forth for use of offsets. To preserve banked emission reductions, the reviewing authority must identify them in either a SIP revision or a permit. Furthermore, the reviewing authority should provide a registry to identify the person, private entity, or governmental authority that has the right to use or allocate the banked emission reductions, and to record any transfers of, or liens on, this right that the reviewing authority may allow. Additional comments on how banking should be implemented are solicited.

11. *Source shutdowns and curtailments.* A sub-issue related to banking is the credit which may be taken for source shutdowns or curtailments occurring prior to the date the new source application is filed. Footnote 7 of the original Ruling had restricted offset credit to situations where the shutdown or curtailment occurred as a result of an enforcement action and the new source was clearly a replacement. The Ruling has been changed to eliminate the requirement that a prior shutdown be related to an enforcement action in order to be used as offset credit. However, to ensure that an offset relates to the current air quality problem, it is necessary to put some limit on the credit that can be taken for shutdowns that have taken place in the past. Therefore, the Ruling requires that a source shutdown or curtailment must have occurred after the date of enactment of the 1977 Amendments or less than one year prior to the date the new source permit application is filed, whichever is earlier, in order to be acceptable as offset credit. Such credits may be banked, subject to the limitations outlined above.

12. *Equivalency of State regulations.* Some States have, or may wish to develop, offset regulations which differ in some of the details from the EPA Interpretative Ruling. EPA intends to approve such regulations if the State submits a demonstration that the overall impact on emissions in the areas where the regulation will apply is at least as stringent as the EPA Interpretative Ruling. At a minimum, the State regulations must contain the four major conditions specified in Section IV.A. These constraints do not apply to offset regulations applying after June 30, 1979, in accordance with the requirements of Section 173(1)(A); separate guidance will be issued for meeting these requirements. Nor does this apply to general waivers of the requirements of this Ruling, under Section 129(a)(2) of the Clean Air Act Amendments of 1977 (note under 42 U.S.C. § 7502).

13. *Technology transfer in determining LAER.* It has been EPA's interpretation that in determining the lowest achievable emission rate (LAER), the reviewing authority may consider transfer of technology from one source type to another where such technology is applicable. Although Congress changed the definition of LAER, EPA continues to believes that technology transfer may be considered in determining LAER. Congress intended to require new sources in nonattainment areas to apply the "maximum feasible pollution control," even if this involves "technology-forcing."[10] Therefore, the Agency does not feel that the phrase "achieved in practice by such class or category of source" (under Section 171(3)) prohibits technology transfers from other types of sources. If pollution-control technology can feasibly be transferred from one type of source to another, then for purposes of determining LAER, EPA will consider both types of source to be in the same "class or category of source." Comments on this interpretation and whether it is necessary or appropriate to revise the regulatory definition are solicited.

14. *Fugitive dust.* As noted above, an Advance Notice of Proposed Rulemaking was published on December 21, 1976 (41 FR 55558) which dealt with several issues closely related to the Interpretative Ruling published on the same date. Comments were urged to be submitted on both notices in a consolidated fashion.

One of the issues raised related to how fugitive dust, particularly rural fugitive dust which may significantly contribute to violations of the NAAQS for particulate matter, should be accounted for in performing new source reviews. This issue was also raised in conjunction with EPA's proposed PSD regulations. On the basis of comments received responding to the Advance Notice of Proposed Rulemaking, EPA has developed the proposal for fugitive dust associated with major sources stated in this Ruling. Comments are invited on this proposal. Until the final rulemaking on this issue is completed, this proposal represents EPA's interim policy for dealing with fugitive dust associated with a major source. Under the proposal, fugitive dust associated with major sources locating in clean portions of nonattainment areas or in attainment or unclassified areas would be subject only to applicable requirements for preventing significant deterioration of air quality (see 40 CFR 52.21). Under the PSD regulations, fugitive dust associated with a major source is subject to the best available control technology requirements, but is exempt from a review against the NAAQS and PSD increments. Fugitive dust associated with major sources locating in an actual nonattainment area[11] (and which is not exempt as a temporary source) would be subject to Conditions 1, 2 and 3 of Section IV.A. of this Ruling.

15. *Secondary emissions.* The original Ruling required that if a major new source would result in secondary emissions which could be accurately quantified, such emissions should also be dealt with under the Ruling (see footnote 3 at 41 FR 55528). Questions have arisen on the Agency's intent regarding secondary emissions, and further clarification is provided in the changes published today. A more specific definition is added as follows:

"Secondary emissions" means emissions from new or existing sources which occur as a result of the construction and/or operation of a major source or major modification, but do not come from the source itself. For purposes of this ruling, secondary emissions must be specific and well defined, must be quantifiable, and must impact the same general nonattainment area as the major source which causes the secondary emissions. Secondary emissions may include, but are not limited to:

a. Emissions from ships or trains coming to or from a refinery, terminal facility, etc.

b. Emissions from off-site support facilities which would be constructed or would otherwise increase emissions as a result of the construction of a major source.

The Ruling indicates that secondary emissions need not be considered in determining whether the emission rates in Section II.C. would be exceeded. However, if a source is subject to the Ruling on the basis of the direct emissions from the source, the applicable conditions of this Ruling must also be met for secondary emissions.

The requirement that secondary emissions must impact the same general nonattainment area as the major source which causes the secondary emission means different areas for different pollutants. For all pollutants, however, the test is whether, in the actual area of nonattainment, there is any overlap between the areas of impact of the direct emissions and the indirect emissions. This is a pollutant-by-pollutant analysis. In other words, the conditions of the Ruling must be met for secondary emission of a particular pollutant only if the major source is subject to the Ruling conditions on the basis of direct emission of that same pollutant.

For nitrogen oxides, particulates, carbon monoxide, and SO_2, the areas of impact can be determined by modeling. If the source and the permitting authority disagree as to whether the secondary emissions impact the same area as the direct emissions, the source has the burden of proving it is correct by performing the necessary modeling. For VOC emissions, the areas of impact should be consistent with the treatment given to the direct emissions (see previous discussion on VOC sources). Under the proposal for VOC sources, the area of impact would be the areas to which the pollutants could be transported in 36 hours from the sources, assuming wind conditions associated with oxidant concentrations exceeding the NAAQS for oxidants (unless more specific data on source impacts are available).

A corollary of this aspect of the definition is that secondary emissions must be traceable to particular facilities. If this were not true, it would be impossible to determine the area of impact of the indirect emissions. Thus, for example, a new steel plant necessitates more electric power being produced; but if the power is supplied from a grid covering many States, the emissions could not be quantified and would not impact the same general nonattainment area. On the other hand, increased particulate emissions from a coke plant near the same steel plant would be considered to be secondary emissions if certain conditions were met. Those conditions would be that the emissions came from an existing coke plant which was not previously subject to the Ruling for those emissions, the coke plant emissions were increased above historical levels as a result of additional demand from the steel plant, and the coke plant was situated near the steel plant. The coke plant emissions are specific, quantifiable, and impact the same general nonattainment area as the direct emissions.

Since the 1976 Ruling invites public comment on the treatment of secondary emissions, and since this amendment to the Ruling only clarifies the language without altering the substance, EPA has determined that additional notice and public procedure thereon are unnecessary.

16. *Applicability of Ruling to new or revised NAAQS.* While this Ruling technically does not apply to new sources of lead emissions which would cause or contribute to a violation the newly established NAAQS for lead (43 FR 46246) during the period before the revised lead SIP's are submitted and approved, it is clear that such sources will be required to abate their emissions after construction if necessary to attain and maintain the lead standard. In addition, excessive lead emissions from a new source could result in health problems. Accordingly, States are urged to use their available authorities to review new sources of lead to protect against violations of the lead standard. The Ruling will continue to apply to VOC sources which cause or contribute to violations of the NAAQS for photochemical oxidant (ozone) which will be revised shortly (see proposal of June 28, 1978, 43 FR 26962). Specific proposals for dealing with new sources of pollutants subject to new or revised NAAQS in the context of the revised SIP's will be included in upcoming changes to 40 CFR 51.18.

[9] EPA has determined that notice and public procedure prior to making this minor conforming amendment are unnecessary.

[10] See report to accompany H.R. 6161, H.R. Rep. No. 95-294, 95th Congress, First Session 215 (May 12, 1977). Furthermore, technology transfer and technology forcing are accepted concepts in determining both new source performance standards and reasonably available control technology under the Act.

[11] Under existing EPA policy, a rural area that exceeds the NAAQS for particulate matter primarily because of fugitive dust emissions is not necessarily considered as nonattainment for purposes of SIP development and new source review (see "Fugitive Dust Policy: SIP's and New Source Review," available from EPA, Air Pollution Technical Information center, MD-35, Research Triangle Park, N.C. 27711.)

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SEVERABILITY

EPA intends that the changes made by this notice be treated as severable. If a court should rule that one or more of the changes is not valid, EPA intends that the other changes remain in effect and that the provisions of the December 1976 Ruling that would have been amended by the invalid changes be in effect, unless the court rules that some other disposition is legally required.

The Agency finds good cause to make the changes announced today effective for permit applications filed on or after today, because the normal processing time between permit application and source construction provides adequate lead time for compliance with new requirements in the Ruling.

AUTHORITY

The Administrator has determined that this rulemaking is nationally applicable and is based on determinations of nationwide scope and effect. This rulemaking is issued under Section 129(a) of the Clean Air Act Amendments of 1977, Pub. L. 95-95, 91 Stat. 745, August 7, 1977 (note under 42 U.S.C. 7502) and Section 301 of the Clean Air Act (42 U.S.C. 7601).

Dated: December 29, 1978.

DOUGLAS M. COSTLE,
Administrator.

The Interpretative Ruling published by EPA on December 21, 1976, at 41 FR 55524, is revised and codified as a new Appendix S to 40 CFR Part 51. In the footnote to 40 CFR 51.18 "41 FR 55528, December 21, 1976," is deleted and "Appendix S" is inserted in its place. As revised Appendix S reads as follows:

APPENDIX S—EMISSION OFFSET INTERPRETATIVE RULING

I. INTRODUCTION

This appendix sets forth EPA's Interpretative Ruling on the preconstruction review requirements for stationary sources of air pollution (not including indirect sources) under 40 CFR 51.18 and Section 129 of the Clean Air Act Amendments of 1977, Pub. L. 95-95, (note under 42 U.S.C. § 7502). A major new source or modification which would contribute to a violation of a national ambient air quality standard (NAAQS) may be allowed to construct only if the stringent conditions set forth below are met. These conditions are designed to insure that the new source's emissions will be controlled to the greatest degree possible; that more than equivalent offsetting emission reductions ("emission offsets") will be obtained from existing sources; and that there will be progress toward achievement of the NAAQS.

For each area designated as exceeding an NAAQS (nonattainment area) under 40 CFR 81.300 *et seq.*, this Interpretative Ruling will be superseded after June 30, 1979—(a) by preconstruction review provisions of the revised SIP, if the SIP meets the requirements of Part D, Title 1, of the Act; or (b) by a prohibition on construction under the applicable SIP and Section 110(a)(2)(I) of the Act, if the SIP does not meet the requirements of Part D. The Ruling will remain in effect to the extent not superseded under the Act. This prohibition on major new source construction does not apply to a source whose permit to construct was applied for during a period when the SIP was in compliance with Part D, or before the deadline for having a revised SIP in effect that satisfies Part D.

II. INITIAL SCREENING ANAYLSES AND DETERMINATION OF APPLICABLE REQUIREMENTS

A. *Definitions.* For purposes of this Ruling:

1. "Source" Means any structure, building, facility, equipment, installation or operation (or combination thereof) which is located on one or more contiguous or adjacent properties and which is owned or operated by the same person (or by persons under common control).

2. "Facility" means an identifiable piece or process equipment. A stationary source is composed of one or more pollutant-emitting facilities.

3. "Potential" to emit means the maximum capacity to emit a pollutant absent air pollution control equipment. "Air pollution control equipment" includes control equipment which is not, aside from air pollution control laws and regulations, vital to production of the normal product of the source or to its normal operation. Annual potential shall be based on the maximum annual rated capacity of the source, unless the source is subject to enforceable permit conditions which limit the operating rate or hours of operation, or both. Enforceable permit conditions on the type or amount of materials combusted or processed may be used in determining the potential emission rate of a source.

4. "Major source" means any source for which the potential emission rate is equal to or greater than 100 tons per year of any of the following pollutants: particulate matter, sulfur oxides, nitrogen oxides, volatile organic compounds, or carbon monoxide.

5. "Major modification" means any physical change in, change in the method of operation of, or addition to a stationary source which increases the potential emission rate of any air pollutant specified in Section A.4. above (including any not previously emitted and taking into account all accumulated increases in potential emissions occurring at the source since February 16, 1979, or since the time of the last construction approval issued for the source pursuant to this Ruling, whichever time is more recent, and regardless of any emission reductions achieved eleswhere in the source) by 100 tons per year or more.

(i) A physical change shall not include routine maintenance, repair, and replacement.

(ii) A change in the method of operation, unless previously limited by enforceable permit conditions, shall not include:

(a) An increase in the production rate, if such increase does not exceed the operating design capacity of the source;

(b) An increase in the hours of operation;

(c) Use of an alternative fuel or raw material, if on December 21, 1976, the source was capable of accommodating such fuel or material;

(d) Use of an alternative fuel or raw material by reason of an order in effect under Sections 2 (a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation), or by reason of a natural gas curtailment plan in effect pursuant to the Federal Power Act;

(e) Use of an alternative fuel by reason of an order or rule under Section 125 of the Act;

(f) Change in ownership of a source; or

(g) Use of refuse derived fuel generated from municipal solid waste.

6. "Allowable emissions" means the emission rate calculated using the maximum rated capacity of the source (unless the source is subject to enforceable permit conditions which limit operating rate, or hours of operation, or both) and the most stringent of the following:

(i) Applicable new source performance standards or standards for hazardous pollutants set forth in 40 CFR Part 60 or 61;

(ii) Applicable SIP emission limitation; or

(iii) The emission rate specified as an enforceable permit condition.

7. "Lowest achievable emission rate" means, for any source, that rate of emissions based on the following, whichever is more stringent:

(i) The most stringent emission limitation which is contained in the implementation plan of any State for such class or category of source, unless the owner or operator of the proposed source demonstrates that such limitations are not achievable; or

(ii) The most stringent emission limitation which is achieved in practice by such class or category of source.

This term, applied to a modification, means the lowest achievable emission rate for the new or modified facilities within the source. In no event shall the application of this term permit a proposed new or modified facility to emit any pollutant in excess of the amount allowable under applicable new source standards of performance.

8. "Fugitive dust" means particulate emissions composed of soil which is uncontaminated by pollutants resulting from industrial activity. Fugitive dust may include emissions from haul roads, wind erosion of exposed soil surfaces and soil storage piles and other activities in which soil is either removed, stored, transported, or redistributed.

9. "Reconstruction" will be presumed to have taken place where the fixed capital cost of the new components exceed 50 percent of the fixed capital cost of a comparable entirely new facility. However, any final decision as to whether reconstruction has occurred shall be made in accordance with the provisions of 40 CFR 60.15(f)(1)-(3). A reconstructed facility will be treated as a new facility for purposes of this Ruling, except that use of an alternative fuel or raw material by reason of an order in effect under Sections 2 (a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation), by reason of a natural gas curtailment plan in effect pursuant to the Federal Power Act, or by reason of an order or rule under Section 125 of the Act, shall not be considered reconstruction.

In determining LAER for a reconstructed source, the provisions of 40 CFR 60.15(f)(4) shall be taken into account in assessing whether a new source performance standard is applicable to such source.

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10. "Fixed capital cost" means the capital needed to provide all the depreciable components.

11. "Secondary emissions" means emissions from new or existing sources which occur as a result of the construction and/or operation of a major source or major modification, but do not come from the source itself. For purposes of this Ruling, secondary emissions must be specific and well defined, must be quantifiable, and must impact the same general nonattainment area as the major source which causes the secondary emission. Secondary emissions may include, but are not limited to:

a. Emissions from ships or trains coming to or from a refinery, terminal facility, etc.

b. Emissions from off-site support facilities which would be constructed or would otherwise increase emissions as a result of the construction of a major source.

12. "Resource recovery facility" means any facility at which solid waste is processed for the purpose of extracting, converting to energy, or otherwise separating and preparing solid waste for reuse. Energy conversion facilities must utilize solid waste to provide more than 50% of the heat input to be considered a resource recovery facility under this Ruling.

B. *Review of all sources for emission limitation compliance.* The reviewing authority must examine each proposed major new source and proposed major modification [1] to determine if such a source will meet all applicable emission requirements in the SIP, any applicable new source performance standard in 40 CFR Part 60, or any national emission standard for hazardous air pollutants in 40 CFR Part 61. If the reviewing authority determines that the proposed major new source cannot meet the applicable emission requirements, the permit to construct must be denied.

C. *Review of specified sources for air quality impact.* In addition, for each proposed major new source with allowable emissions exceeding 50 tons per year, 1000 pounds per day, or 100 pounds per hour, whichever is most restrictive, the reviewing authority must determine if the source will cause or contribute to a violation of an NAAQS.[2] A proposed source which would not exceed any of the above emission levels needs no further analysis under this ruling, provided such a source meets the requirements of Section II. B.

Where a source is constructed or modified in increments which individually do not emit more than the above amounts and the increments have not been offset in accordance with this Ruling, the allowable emissions from all such increments granted a permit to construct after December 21, 1976, shall be added together and this Ruling may be applicable when a proposed increment would cause the sum of the allowable emissions which have not been offset to equal or exceed 50 tons per year, 1000 pounds per day, or 100 pounds per hour. If the total modification would cause or contribute to a violation of the NAAQS, all of the provisions of this Ruling are then applicable to each increment. If any of the increments has not previously been subject to Condition 1 of Section IV.A. (requiring the source to meet the lowest achievable emission rate), such determination must consider the stage of construction of such increment and the ability of the source to install additional control equipment.

For "stable" air pollutants (i.e., SO_2, particulate matter and CO), the determination of whether a source will cause or contribute to a violation of an NAAQS generally should be made on a case-by-case basis as of the proposed new source's start-up date using the source's allowable emissions in an atmospheric simulation model (unless a source will clearly impact on a receptor which exceeds an NAAQS).

For sources of nitrogen oxides, the initial determination of whether a source would cause or contribute to a violation of the NAAQS for NO_2 should be made using an atmospheric simulation model assuming all the nitric oxide emitted is oxidized to NO_2 by the time the plume reaches ground level. The initial concentration estimates may be adjusted if adequate data are available to account for the expected oxidation rate.

For photochemical oxidants, sources of volatile organic compounds (VOC) locating in areas designated under 40 CFR 81.300 *et seq.* as nonattainment for photochemical oxidant or otherwise shown to be in violation of the NAAQS for oxidant shall be subject to the provisions of Section IV of this Ruling. In addition, VOC sources locating within 36 hours travel time (under wind conditions associated with concentrations exceeding the NAAQS for oxidants) of a nonattainment monitor shall also be subject to Section IV of this Ruling. However, a VOC source may be exempt from these requirements if the source owner can demonstrate that the emissions from the proposed source will have virtually no effect upon any area that exceeds the NAAQS for photochemical oxidant. This exemption is only intended for remote rural sources whose emissions would be very unlikely to interact with other significant sources of VOC or NO_2 to form additional oxidant.[3]

As noted above, the determination as to whether a source would cause or contribute to a violation of an NAAQS should be made as of the new source's start-up date. Therefore, if a designated nonattainment area is projected to be an attainment area as part of an approved SIP control strategy by the new source start-up date, offsets would not be required if the new source would not cause a new violation.

D. *Sources locating in a "clean" portion of a designated nonattainment area.* A source locating in a clean portion (or which will be clean as of the new source start-up date) of a nonattainment area designated pursuant to Section 107 of the Act may be exempt from the requirements of this ruling if the allowable emissions from the source or facility (not including any emission reductions achieved elsewhere in the source) would not cause the following significance levels to be exceeded in the *actual* area of non-attainment (as of the new source start-up date):

Pollutant	Averaging Time				
	Annual	24-Hour	8-Hour	3-Hour	1-Hour
SO_2	1.0 μg/m³	5 μg/m³		25 μg/m³	
TSP	1.0 μg/m³	5 μg/m³			
NO_2	1.0 μg/m³				
CO			0.5 mg/m³		2 mg/m³

No significance increments are applicable for hydrocarbons or photochemical oxidants. If the source would exceed the significance levels in the portion of the designated nonattainment area where the NAAQS is actually violated (actual area of nonattainment), all requirements of this Ruling (except Condition 3 of Section IV.A.) would be applicable.

It will be assumed as the starting point in reviewing a permit application that every locality in a designated nonattainment area will exceed the NAAQS (as of the new source start-up date), and that any major source locating in the area will significantly contribute to the violation. However, if the applicant or any other participant presents a substantial and relevant argument (including any necessary analysis or other demonstration) why that assumption is incorrect, then the applicability of this Ruling would be determined by the specific facts in the case.

E. *Sources in attainment or unclassifiable areas.* For areas designated under 40 CFR 81.300 *et. seq.* as attainment or unclassifiable for the NAAQS, sources locating in such areas which would exceed the above significance increments at any locality that does not meet the NAAQS are subject to this Ruling. However, such a source may be exempted from Condition 3 of Section IV.A. of this Ruling.

F. *Fugitive dust sources.*[3] Fugitive dust associated with major sources locating in clean portions of designated nonattainment areas or in designated attainment or unclassifiable areas shall be subject only to applicable requirements for preventing significant deterioration of air quality (see 40 CFR 52.21). Fugitive dust associated with major sources locating in an actual area of nonattainment shall be subject to Conditions 1, 2 and 3 of Section IV.A. of this Ruling.

G. *Secondary emissions.* Secondary emissions need not be considered in determining whether the emission rates in Section II.C. above would be exceeded. However, if a

[1] Hereafter the term "source" will be used to denote both any source and any modification.

[2] Required only for those pollutants for which the increased allowable emissions exceed 50 tons per year, 1000 pounds per day, or 100 pounds per hour, although the reviewing authority may address other pollutants if deemed appropriate. The preceding hourly and daily rates shall apply only with respect to a pollutant for which a national ambient air quality standard, for a period less than 24-hours or for a 24-hour period, as appropriate, has been established.

[3] The discussion in this paragraph is a proposal, but represents EPA's interim policy until final rulemaking is completed.

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source is subject to this Ruling on the basis of the direct emissions from the source, the applicable conditions of this Ruling must also be met for secondary emissions. However, if the secondary emissions are not under the control of the applicant, such secondary emissions may be exempt from Conditions 1 and 2 of Section IV. Also, since EPA's authority to perform or require indirect source review relating to mobile sources regulated under Title II of the Act (motor vehicles and aircraft) has been restricted by statute, consideration of the indirect impacts of motor vehicles and aircraft traffic is not required under this Ruling.

III. SOURCES LOCATING IN "CLEAN AREAS", BUT WOULD CAUSE A NEW VIOLATION OF AN NAAQS

If the reviewing authority finds that the emissions from a proposed source would cause a new violation of an NAAQS, but would not contribute to an existing violation, approval may be granted only if both of the following conditions are met:

Condition 1. The new source is required to meet a more stringent emission limitation [1] and/or the control of existing sources below allowable levels is required so that the source will not cause a violation of any NAAQS.

Condition 2. The new emission limitations for the new source as well as any existing sources affected must be enforceable in accordance with the mechanisms set forth in Section V below.

IV. SOURCES THAT WOULD CONTRIBUTE TO CONCENTRATIONS WHICH EXCEED AN NAAQS

A. *Conditions for approval.* If the reviewing authority finds that the emissions from a proposed source would contribute to concentrations which exceed an NAAQS as of the source's proposed start-up date, approval may be granted only if the following conditions are met:

Condition 1. The new source is required to meet an emission Limitation [1] which specifies the lowest achievable emission rate for such source.[2]

Condition 2. The applicant must certify that all existing major sources[3] owned or operated by the applicant (or any entity controlling, controlled by, or under common control with the appplicant) in the same State as the proposed source are in compliance with all applicable emission limitations and standards under the Act (or are in compliance with an expeditious schedule which is Federally enforceable or contained in a court decree).

Condition 3. Emission reductions ("offsets") from existing sources in the area of the proposed source (whether or not under the same ownership) are required such that there will be reasonable progress toward attainment of the applicable NAAQs.[3] Only intrapollutant emission offsets will be acceptable (e.g., hydrocarbon increases may not be offset against SO_2 reductions).

Condition 4. The emission offsets will provide a positive net air quality benefit in the affected area (see Section IV.D. below).[3] Atmospheric simulation modeling is not necessary for volatile organic compounds and NO_2. Fulfillment of Condition 3 and Section IV.D. will be considered adequate to meet this condition.

B. *Exemptions from certain conditions.* The reviewing authority may exempt the following sources from Condition 1 under Section III or Conditions 3 and 4. Section IV.A.: (i) Resource recovery facilities burning municipal solid waste, and (ii) sources which must switch fuels due to lack of adequate fuel supplies or where a source is required to be modified as a result of EPA regulations (e.g., lead-in-fuel requirements) and no exemption from such regulation is available to the source. Such an exemption may be granted only if:

1. The applicant demonstrates that it made its best efforts to obtain sufficient emission offsets to comply with Condition 1 under Section III or Conditions 3 and 4 under Section IV.A. and that such efforts were unsuccessful;

2. The applicant has secured all available emission offsets; and

3. The applicant will continue to seek the necessary emission offsets and apply them when they become available.

Such an exemption may result in the need to revise the SIP to provide additional control of existing sources.

Temporary emission sources, such as pilot plants, portable facilities which will be relocated outside of the nonattainment area after a short period of time, and emissions resulting from the construction phase of a new source, are exempt from Conditions 3 and 4 of this Section.

C. *Baseline for determining credit for emission and air quality offsets.* The baseline for determining credit for emission and air quality offsets will be the SIP emission limitations in effect at the time the application to construct or modify a source is filed. Thus, credit for emission offset purposes may be allowable for existing control that goes beyond that required by the SIP. Emission offsets generally should be made on a pounds per hour basis when all facilities involved in the emission offset calculations are operating at their maximum expected or allowed production rate. The reviewing agency should specify other averaging periods (e.g., tons per year) in addition to the pounds per hour basis if necessary to carry out the intent of this Ruling. When offsets are calculated on a tons per year basis, the baseline emissions for existing sources providing the offsets should be calculated using the actual annual operating hours for the previous one or two year period (or other appropriate period if warranted by cyclical business conditions). Where the SIP requires certain hardware controls in lieu of an emission limitation (e.g., floating roof tanks for petroleum storage), baseline allowable emissions should be based on actual operating conditions for the previous one or two year period (i.e., actual throughput and vapor pressures) in conjunction with the required hardware controls.

1. *No meaningful or applicable SIP requirement.* Where the applicable SIP does not contain an emission limitation for a source or source category, the emission offset baseline involving such sources shall be the actual emissions determined in accordance with the discussion above regarding operating conditions.

Where the SIP emission limit allows greater emissions than the potential emission rate of the source (as when a State has a single particulate emission limit for all fuels), emission offset credit will be allowed only for control below the potential emission rate.

2. *Combustion of fuels.* Generally, the emissions for determining emission offset credit involving an existing fuel combustion source will be the allowable emissions under the SIP for the type of fuel being burned at the time the new source application is filed (i.e., if the existing source has switched to a different type of fuel at some earlier date, any resulting emission reduction [either actual or allowable] shall not be used for emission offset credit). If the existing source commits to switch to a cleaner fuel at some future date, emission offset credit based on the allowable emissions for the fuels involved is not acceptable unless the permit is conditioned to require the use of a specified alternative control measure which would achieve the same degree of emission reduction should the source switch back to a dirtier fuel at some later date. The reviewing authority should ensure that adequate long-term supplies of the new fuel are available before granting emission offset credit for fuel switches.

3. *Operating hours and source shutdown.* A source may be credited with emission reductions achieved by shutting down an existing source or permanently curtailing production or operating hours below baseline levels (see initial discussion to this Section C) provided, that the work force to be affected has been notified of the proposed shutdown or curtailment. Emission offsets that involve reducing operating hours or production or source shutdowns must be legally enforceable, as in the case for all emission offset situations.[4]

4. *Credit for hydrocarbon substitution.* As set forth in the Agency's "Recommended Policy on Control of Volatile Organic Compounds" (42 FR 35314, July 8, 1977), EPA has found that almost all non-methane hydrocarbons are photochemically reactive and that low reactivity hydrocarbons eventually form as much photochemical oxidant as the highly reactive hydrocarbons. Therefore, no emission offset credit may be allowed for replacing one hydrocarbon compound with another of lesser reactivity, except for those compounds listed in Table 1 of the above policy statement.

5. *"Banking" of emission offset credit.* For new sources obtaining permits by applying offsets after January 16, 1979, the reviewing authority may allow offsets that exceed the requirements of reasonable progress toward attainment (Condition 3) to be "banked" (i.e., saved to provide offsets for a source seeking a permit in the future) for use under this Ruling. Likewise, the reviewing authority may allow the owner of an existing source that reduces its own emissions to bank any resulting reductions beyond those required by the SIP for use under this Ruling, even if none of the offsets are applied immediately to a new source permit. A reviewing authority may allow these banked offsets to be used under the preconstruction review program required by Part D, as long as these banked emissions are identified and accounted for in the SIP control strategy. A reviewing authority may not approve the construction of a source using banked offsets if the new source would interfere with the SIP control strategy or if such use would violate any other condition set forth for use of offsets. To preserve banked offsets, the reviewing authority should identify them in either a SIP revision or a permit, and establish rules as to how and when they may be used.

D. *Location of offsetting emissions.* In the case of emission offsets involving volatile organic compounds (VOC), the offsets may be obtained from sources located anywhere in the broad vicinity of the proposed new source. Generally, offsets will be acceptable if obtained from within the same AQCR as the new source or from other areas which may be contributing to the oxidant problem at the proposed new source location. As with other pollutants, it is desirable to obtain offsets from sources located as close to the proposed new source site as possible. If the proposed offsets would be from sources located at greater distances from the new source, the reviewing authority should increase the ratio of the required offsets and require a showing that nearby offsets were investigated and reasonable alternatives were not available.[5]

Offsets for NO_2 sources may also be obtained within the broad area of nonattainment. This is because areawide oxidant and NO_2 levels are generally not as dependent on specific hydrocarbon or NO_2 source location as they are on overall area emissions. Since the air quality impact of SO_2, particulate and carbon monoxide sources is site dependent, simple areawide mass emission offsets are not appropriate. For these pollutants, the reviewing authority should consider atmospheric simulation modeling to ensure that the emission offsets provide a positive net air quality benefit. However, to avoid unnecessary consumption of limited, costly and time consuming modeling resources, in most cases it can be assumed that if the emission offsets are obtained from an existing source on the same premises or in the immediate vicinity of the new source, and the pollutants disperse from substantially the same effective stack height, the air quality test under Condition 4 of Section IV.A. above will be met. Thus, when stack emissions are offset against a ground level source at the same site, modeling would be required. The reviewing authority may perform this analysis or require the applicant to submit appropriate modeling results.

E. *Reasonable progress towards attainment.* As long as the emission offset is greater than one-for-one, and the other criteria set forth above are met, EPA does not intend to question a reviewing authority's judgment as to what constitutes reasonable progress towards attainment as required under Condition 3 in Section IV.A. above. This does not apply to "reasonable further progress" as required by Section 173.

V. ADMINISTRATIVE PROCEDURES

The necessary emission offsets may be proposed either by the owner of the proposed source or by the local community or the State. The emission reduction committed to must be enforceable by authorized State and/or local agencies and under the Clean Air Act, and must be accomplished by the new source's start-up date. If emission reductions are to be obtained in a State that neighbors the State in which the new source is to be located, the emission reductions committed to must be enforceable by the neighboring State and/or local agencies and under the Clean Air Act. Where the new facility is a replacement for a facility that is being shut down in order to provide the necessary offsets, the reviewing authority may allow up to 180 days for shakedown of the new facility before the existing facility is required to cease operation.

A. *Source initiated emission offsets.* A source may propose emission offsets which involve: (1) Reductions from sources controlled by the source owner (internal emission offsets); and/or (2) reductions from neighboring sources (external emission offsets). The source does not have to investigate all possible emission offsets. As long as the emission offsets obtained represent reasonable progress toward attainment, they will be acceptable. It is the reviewing authority's responsibility to assure that the emission offsets will be as effective as proposed by the source. An internal emission offset will be considered enforceable if it is made a SIP requirement by inclusion as a condition of the new source permit and the permit is forwarded to the appropriate EPA Regional Office.[7] An external emission offset will not be enforceable unless the affected source(s) providing the emission reductions is subject to a new SIP requirement to ensure that its emissions will be reduced by a specified amount in a specified time. Thus, if the source(s) providing the emission reductions does not obtain the necessary reduction, it will be in violation of a SIP requirement and subject to enforcement action by EPA, the State and/or private parties.

The form of the SIP revision may be a State or local regulation, operating permit condition, consent or enforcement order, or any other mechanism available to the State that is enforceable uhder the Clean Air Act. If a SIP revision is required, the public hearing on the revision may be substituted for the normal public comment procedure required for all major sources under 40 CFR 51.18. The formal publication of the SIP revision approval in the FEDERAL REGISTER need not appear before the source may proceed with construction. To minimize uncertainity that may be caused by these procedures, EPA will, if requested by the State, propose a SIP revision for public comment in the FEDERAL REGISTER concurrently with the State public hearing process. Of course, any major change in the final permit/SIP revision submitted by the State may require a reproposal by EPA.

B. *State or community initiated emission offsets.* A State or community which desires that a source locate in its area may commit to reducing emissions from existing sources (including mobile sources) to sufficiently outweigh the impact of the new source and thus open the way for the new source. As with source-initiated emission offsets, the commitment must be something more than one-for-one. This commitment must be submitted as a SIP revision by the State.

VI. POLICY WHERE ATTAINMENT DATES HAVE NOT PASSED

In some cases, the dates for attainment of primary standards specified in the SIP under Section 110 have not yet passed due to a delay in the promulgation of a plan under this section of the Act. In addition the Act provides more flexibility with respect to the dates for attainment of secondary NAAQS than for primary standards. Rather than setting specific deadlines, Section 110 requires secondary NAAQS to be achieved within a "reasonable time". Therefore, in some cases, the date for attainment of secondary standards specified in the SIP under Section 110 may also not yet have passed. In such cases, a new source which would cause or contribute to an NAAQS violation may be exempt from the Conditions of Section IV.A. so long as the new source meets the applicable SIP emission limitations and will not interfere with the attainment date specified in the SIP under Section 110 of the Act.

(Sec. 129(a), Pub. L. 95-95 (note under 42 U.S.C. 7502), and Sec. 301 of the Clean Air Act, as amended (42 U.S.C. 7601).)

[FR Doc. 79-1423 Filed 1-15-79; 8:45 am]

[6560-01-M]

[FRL 1031-3]

PART 65—DELAYED COMPLIANCE ORDERS

Delayed Compliance Order for U.S. Air Force 928th Tactical Airlift Group

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final Rule.

SUMMARY: By this rule the Administrator of U.S. EPA issues a Delayed Compliance Order to the U.S. Air Force 928th Tactical Airlift Group (Air Force). The Order requires the Air Force to bring air emissions from its building 1 Heating Plant, Chicago, Illinois, into compliance with certain regulations contained in the federally approved Illinois State Implementation Plan (SIP). The Air Force's com-

[1] If the reviewing authority determines that technological or economic limitations on the application of measurement methodology to a particular class of sources would make the imposition of an enforceable numerical emission standard infeasible, the authority may instead prescribe a design, operational or equipment standard. In such cases, the reviewing authority shall make its best estimate as to the emission rate that will be achieved and must specify that rate in the required submission to EPA (see Part V). Any permits issued without an enforceable numerical emission standard must contain enforceable conditions which assure that the design characteristics or equipment will be properly maintained (or that the operational conditions will be properly performed) so as to continuously achieve the assumed degree of control. Such conditions shall be enforceable as emission limitations by private parties under Section 304. Hereafter, the term "emission limitation" shall also include such design, operational, or equipment standards.

[2] Subject to the provisions of section IV.C. below.

[3] Source shutdowns and curtailments in production or operating hours occurring prior to the date the new source application is filed generally may not be used for emission offset credit. However, where an applicant can establish that it shut down or curtailed production after August 7, 1977, or less than one year prior to the date of permit application, whichever is earlier, and the proposed new source is a replacement for the shutdown or curtailment, credit for such shutdown or curtailment may be applied to offset emissions from the new source.

[4] The emission offset will, therefore, be enforceable by EPA under Section 113 as an applicable SIP requirement and will be enforceable by private parties under Section 304 as an emission limitation.

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pliance with the Order will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act for violations of the SIP regulations covered by the Order.

DATE: This rule takes effect on January 16, 1979.

FOR FURTHER INFORMATION CONTACT:

Louise Gross, Attorney, United States Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, Telephone (312) 353-2082.

SUPPLEMENTARY INFORMATION: On September 12, 1978, the Acting Regional Administrator of U.S. EPA's Region V Office published in the FEDERAL REGISTER (43 FR 40539) a notice setting out the provisions of a proposed Federal Delayed Compliance Order for the Air Force. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed Order. No public comments and no request for a public hearing were received in response to the notice.

Therefore, a Delayed Compliance Order effective this date is issued to the Air Force by the Administrator of U.S. EPA pursuant to the authority of Section 113(d)(1) of the Clean Air Act, 42 U.S.C. 7413(d)(1). The Order places the Air Force on a schedule to bring its Building 1 Heating Plant at Chicago, Illinois, into compliance as expeditiously as practicable with Illinois Pollution Control Board Rule 203, a part of the federally approved Illinois State Implementation Plan. The Air Force is unable to immediately comply with this regulation. The Order also imposes interim requirements which meet Sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the Order are met, it will permit the Air Force to delay compliance with the SIP regulation covered by the Order until July 1, 1979.

Compliance with the Order by the Air Force will preclude Federal enforcement action under Section 113 of the Act for violations of the SIP regulation covered by the Order. Citizen suits under Section 304 of the Act to enforce against the source are similarly precluded. Enforcement may be initiated, however, for violations of the terms of the Order, and for violations of the regulation covered by the Order which occurred before the Order was issued by U.S. EPA or after the Order is terminated. If the Administrator determines that the Air Force is in violation of a requirement contained in the Order, one or more of the actions required by Section 113(d)(9) of the Act will be initiated. Publication of this notice of final rulemaking constitutes final agency action for the purpose of judicial review under Section 307(b) of the Act. U.S. EPA has determined that the Order shall be effective January 16, 1979 because of the need to immediately place the Air Force on a schedule for compliance with the Illinois State implementation Plan.

(42 U.S.C. 7413(d), 7601)

Dated: January 8, 1979.

DOUGLAS M. COSTLE,
Administrator.

In consideration of the foregoing, Chapter I of Title 40 of the Code of Federal Regulations is amended as follows:

1. By adding an entry to the table in § 65.180 to read as follows:

§ 65.180 Federal delayed compliance orders issued under Section 113(d)(1), (3), and (4) of the Act.

. . . . . .

Source	Location	Order No.	Date of FR proposal	SIP regulation involved	Final compliance date
U.S. Air Force 928th Tactical Airlift Group.	Chicago, Ill.....	EPA-5-79-A-13...	Sept. 12, 1978	Rule 203	July 1, 1979

[FR Doc. 79-1425 Filed 1-15-79; 8:45 am]

[6560-01-M]

[FRL 1031-4]

PART 65—DELAYED COMPLIANCE ORDERS

Delayed Compliance Order for Owensboro Municipal Utilities, Owensboro, Ky.

AGENCY: Environmental Protection Agency.

ACTION: Final Rule.

SUMMARY: The Administrator of EPA hereby issues a Delayed Compliance Order to Owensboro Municipal Utilities (OMU). The Order requires the company to bring air emissions from its Elmer Smith facility in Owensboro, Kentucky, into compliance with certain regulations contained in the federally-approved Kentucky State Implementation Plan (SIP). OMU's compliance with the Order will preclude suits under the federal enforcement and citizen suit provisions of the Clean Air Act for violation(s) of the SIP regulations covered by the Order during the period the Order is in effect.

DATES: This rule takes effect on January 16, 1979.

FOR FURTHER INFORMATION CONTACT:

Richard S. DuBose, Air Enforcement Branch, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, NE, Atlanta, Georgia 30308, telephone number: (404) 881-4298.

ADDRESSES: The Delayed Compliance Order, supporting material, and any comments received in response to a prior FEDERAL REGISTER notice proposing issuance of the Order are available for public inspection and copying during normal business hours at: U.S. Environmental Protection Agency, Region IV, Air Enforcement Branch, 345 Courtland Street, NE., Atlanta, Georgia 30308.

SUPPLEMENTARY INFORMATION: On September 27, 1978, the Regional Administrator of EPA's Region IV Office published in the FEDERAL REGISTER, 43 FR 43738 (1978), a notice setting out the provisions of a proposed delayed compliance order for OMU. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed Order. No public comments or requests for a public hearing were received in response to the proposal notice.

Therefore, a delayed compliance order effective this date is issued to the Elmer Smith facility of Owensboro Municipal Utilities by the Administrator of EPA pursuant to the authority of Section 113(d)(1) of the Clean Air Act, 42 U.S.C. 7413(d)(1). The Order places OMU on a schedule to bring its coal-fired steam generating units at its Elmer Smith facility in Owensboro, Kentucky, into compliance as expeditiously as practicable with Kentucky Air Pollution Control Regulation 401 KAR 3:060 Section 3(3)(e), a part of the federally-approved Kentucky State Implementation Plan. The Order also imposes interim requirements which meet Sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the Order are met, it will permit the Elmer Smith facility of OMU to delay compliance with the SIP regulations covered by the Order until December 31, 1978. The company is unable to immediately comply with these regulations.

EPA has determined that the Order shall be effective January 16, 1979, because of the need to immediately place OMU on a schedule for compliance with the applicable requirement(s) on the Kentucky State Implementation Plan.

(42 U.S.C. 7413(d), 7601)

Dated: January 8, 1979.

DOUGLAS M. COSTLE,
Administrator.

In consideration of the foregoing, Chapter 1 of Title 40 of the Code of Federal Regulations is amended as follows:

1. By adding an entry to the table in § 65.220 to read as follows:

§ 65.220 Federal delayed compliance orders issued under Section 113(d) (1), (3), and (4) of the Act.

. . . . . .

Source	Location	Order No.	SIP regulation(s) involved	Date of FR proposal	Final compliance date
Owensboro Municipal Utilities.	Owensboro, Ky...	DCO-78-11	401 KAR 3:060 Section 3(3)e.	Sept. 27, 1978	Dec. 31, 1978

[FR Doc. 79-1426 Filed 1-15-79; 8:45 am]

[6560-01-M]

[FRL 1031-2]

PART 65—DELAYED COMPLIANCE ORDERS

Delayed Compliance Order for Defense Logistics Agency, Defense Electronics Supply Center

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final Rule.

SUMMARY: By this rule, the Administrator of U.S. EPA issues a Delayed Compliance Order to Defense Logistics Agency, Defense Electronics Supply Center (Defense Logistics Agency). The Order requires the facility to bring air emissions from its four boilers at Dayton, Ohio, into compliance with certain regulations contained in the federally approved Ohio State Implementation Plan (SIP). The Defense Logistics Agency's compliance with the Order will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act for violations of the SIP regulations covered by the Order.

DATES: This rule takes effect on January 16, 1979.

FOR FURTHER INFORMATION CONTACT:

Louise C. Gross, Attorney, United States Environmental Protection Agency, Region V, Enforcement Division, 230 South Dearborn Street, Chicago, Illinois 60604, Telephone (312) 353-2082.

SUPPLEMENTARY INFORMATION: On September 8, 1978, the Acting Regional Administrator of U.S. EPA's Region V Office published in the FEDERAL REGISTER (43 FR 40041) a notice setting out the provisions of a proposed Federal Delayed Compliance Order for the Defense Logistics Agency. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed Order. No public comments or requests for a public hearing were received in response to the notice.

Therefore, a Delayed Compliance Order effective this date is issued to the Defense Logistics agency by the Administrator of U.S. EPA pursuant to the authority of Section 113(d)(1) of the Clean Air Act, 42 U.S.C. 7413(d)(1). The Order places the Defense Logistics Agency on a schedule to bring its boilers at Dayton, Ohio, into compliance as expeditiously as practicable with Regulation OAC-3745-17-10, a part of the federally approved Ohio State Implementation Plan. The Defense Logistics Agency is unable to immediately comply with the regulation. The Order also imposes interim requirements which meet Sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the Order are met, it will permit the Defense Logistics Agency to delay compliance with the SIP regulation covered by the Order until March 30, 1979.

Compliance with the Order by the Defense Logistics Agency will preclude Federal enforcement action under Section 113 of the Act for violation of the SIP regulations covered by the Order. Citizen suits under Section 304 of the Act to enforce against the source are similarly precluded. Enforcement may be initiated, however, for violations of the terms of the Order, and for violations of the regulation covered by the Order which occurred before the Order was issued by U.S. EPA or after the Order is terminated. If the Administrator determines that the Defense Logistics Agency is in violation of a requirement contained in the Order, one or more of the actions required by Section 113(d)(9) of the Act will be initiated. Publication of this notice of final rulemaking constitutes final Agency action for the purposes of judicial review under Section 307(b) of the Act.

U.S. EPA has determined that the Order shall be effective January 15, 1979 because of the need to immediately place the Defense Logistics Agency on a schedule for compliance with the Ohio State Implementation Plan.

(42 U.S.C. 7413(d), 7601)

Dated: January 8, 1979.

DOUGLAS M. COSTLE,
Administrator.

In consideration of the foregoing, Chapter I of Title 40 of the Code of Federal Regulations is amended as follows:

1. By adding an entry to the table in § 65.400 to read as follows:

§ 65.400 Federal delayed compliance orders issued under Section 113(d) (1), (3), and (4) of the Act.

. . . . . .

Source	Location	Order No.	Date of FR proposal	SIP regulation involved	Final compliance date
Defense Logistics Agency Defense Electronics Supply Center.	Dayton, Ohio	EPA-5-79-A-3.....	Sept. 8, 1978..	OAC 3745-17-10.	Mar. 30, 1979

[FR Doc. 79-1427 Filed 1-15-79; 8:45 am]

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[4110-35-M]

Title 42—Public Health

CHAPTER IV—HEALTH CARE FINANCING ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

Quality Control and Proficiency Testing Standards For Laboratories in Medicare Hospitals

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Final rule.

SUMMARY: These amendments revise the Medicare regulations to provide that the quality control and proficiency testing requirements used by the Joint Commission on the Accreditation of Hospitals (JCAH) in accrediting hospital laboratories are now equivalent to those established by the Department. This change reflects the results of a reevaluation made by the Department of the upgraded standards adopted by JCAH and the actions taken by JCAH to implement these standards. The Department (Center for Disease Control, Public Health Service (CDC/PHS)) will monitor the JCAH's performance in applying the standards. The finding of CDC/PHS monitoring will be used by HCFA to verify the equivalence of the JCAH standards to the Federal standards.

The amendments will eliminate the need for State health agency inspection of JCAH-accredited hospital laboratories.

EFFECTIVE DATE: These amendments are effective on November 24, 1978.

FOR FURTHER INFORMATION CONTACT:

Martha Chestem, 301-594-7930.

SUPPLEMENTARY INFORMATION: Under Section 1861(e) of the Social Security Act, the Secretary is authorized to establish standards to insure the health and safety of individuals to whom services are furnished in hospitals which participate in the Medicare program.

Under Section 1865(a) of the Act, the Secretary is authorized to accept hospital accreditations by the Joint Commission on Accreditation of Hospitals (JCAH) or the American Osteopathic Association (AOA) as conclusive evidence of compliance with the requirements of 1861(e), if the standards used by JCAH or AOA meet the standards set by the Department.

On February 27, 1978, a final regulation was issued (43 FR 7984) which requires clinical laboratories located in Medicare hospitals to meet specific quality control and proficiency testing standards, and to participate in a proficiency testing program. At that time the standards used by JCAH and AOA did not meet the Department's standards in these areas. However, we stated in the preamble to this regulation that we would reevaluate the JCAH and AOA standards, and determine if they had been upgraded to meet the Department's standards.

Since publication of the regulation, JCAH has upgraded it's standards to meet those of the Department. AOA's standards, however, do not yet meet the Department's standards.

Therefore, Section 405.1028 (k) and (l) are amended to provide that only AOA accredited hospitals "are not deemed to meet" the Department's standards of clinical laboratory quality control and proficiency testing.

The effect of this regulation is to permit the Department to accept JCAH accreditation of hospital laboratories without requiring further surveys by State health departments. This eliminates unnecessary and expensive duplication of effort.

This regulation is being published as a final regulation, because no new requirements have been added to the regulation which was published on February 27, 1978.

The regulation published on February 27, 1978, became effective November 24, 1978. This amendment is also effective November 24, 1978, in order to avoid confusion or administrative complications regarding the validity of JCAH surveys.

42 CFR § 405.1028 is amended by revising paragraphs (k) and (l) to read as follows:

§ 405.1028 Condition of participation—Laboratories.

* * * * *

(k) *Standard; Proficiency Testing.* The laboratory meets the proficiency testing provisions of § 405.1314(a). The definition of "proficiency testing program", as stated in § 405.1310(c), is also applicable. Hospitals which are accredited by the American Osteopathic Association (AOA) are not deemed to meet the requirements of this paragraph.

"(l) *Standard; Quality Control.* The laboratory meets the quality control provisions of § 405.1317. Hospitals which are accredited by the American Osteopathic Association (AOA) are not deemed to meet the requirements of this paragraph.

(Sections 1102, 1861(e)(9), and 1871; 42 U.S.C. 1302, 1395x(e)(9), and 1395hh.)

(Catalog of Federal Domestic Assistance Program No. 13.800 Medicare—Hospital Insurance.)

Dated: November 15, 1978.

LEONARD D. SCHAEFFER,
Administrator, Health Care Financing Administration.

Approved: January 3, 1979.

JOSEPH A. CALIFANO, Jr.,
Secretary.

[FR Doc. 79-1519 Filed 1-15-79; 8:45 am]

[6712-01-M]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[FCC 78-846]

SHIP STATIONS IN MARITIME SERVICES

Implementing a System of Temporary Authorizations

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: Rule amendment to implement a more convenient ship station licensing procedure through the utilization of a system of temporary permits. Action being taken as part of Commission's general policy of de-regulation and simplification of its rules. New licensing procedure is expected to be less burdensome on the public and the Commission.

EFFECTIVE DATE: April 1, 1979.

ADDRESSES: Federal Communications Commission, Washington, D. C. 20554.

FOR FURTHER INFORMATION CONTACT:

Bruce A. Franca, Safety and Special Radio Services Bureau, (202-632-7197).

SUPPLEMENTARY INFORMATION:

Adopted: December 7, 1978.

Released: January 11, 1979.

By the Commission: Commissioner Brown absent.

Order. Amendment of Parts 1, 81 and 83 of the Commission's rules to implement a system of temporary authorizations for ship stations in the Maritime Services.

1. On April 13, 1976, the Commission released an Order (FCC 76-320) implementing a system of temporary authorizations in the Personal (Citizens Band) Radio Service. Similar action is now being taken to implement this type of licensing procedure in the Maritime Services.[1]

2. Previously, an individual who did not wish to wait the normal application processing time (4 to 6 weeks) to begin operating his ship station could follow the interim licensing procedure outlined in Section 83.35 of the Commission's rules. This procedure required the licensee or his agent to appear in person at an FCC Field Office. For many individuals, this requirement was burdensome in terms of time and travel. We feel that this new licensing procedure is more responsive to the needs of the public.

3. The procedure to be used in obtaining a temporary authorization is as follows:

a. The applicant must obtain FCC Form 506, *Application for Ship Radio Station License*, and FCC Form 506-A, *Temporary Operating Authority, Ship Radio Station License and Restricted Radiotelephone Operator Permit.* (These will be available as a combined document and will replace FCC Forms 501, 502 and 552.) Persons not holding a commercial radio operator license or permit must also obtain FCC Form 753, *Application for Restricted Radiotelephone Operator Permit.* It is hoped that these forms will be widely available through boating organizations, yacht clubs, marinas, and marine electronics dealers. If unavailable elsewhere, these forms may be obtained from the Commission's headquarters, Federal Communications Commission, Room B-10, 1919 M Street, NW., Washington, D.C. 20554, and all Commission field offices.

b. The applicant must then execute an FCC Form 506, *Application for Ship Radio Station License*, and *an FCC Form 753, Application for Restricted Radiotelephone Operator Permit*, if he does not presently hold a commercial operator license or permit. These forms should be mailed to the Commission.

c. The applicant must read FCC Form 506-A, *Temporary Operating Authority, Ship Radio Station License and Restricted Radiotelephone Operator Permit*, to determine whether he meets the requirements for holding a temporary permit. He must be able to certify that he is at least 14 years of age, that he is not a representative of a foreign government, that he has applied for a Regular Ship Radio Station License by mailing a properly completed FCC Form 506 to the Federal Communications Commission, Box 1040, Gettysburg, Pennsylvania 17325, that he holds a commercial radio operator license or permit or has applied for a Restricted Radiotelephone Operator Permit by mailing a properly completed FCC Form 753 to the Federal Communications Commission, Box 1050, Gettysburg, Pennsylvania 17325, that he has not been denied a license or had license revoked by the Commission, and that he is not subject to any other legal action concerning the operation of a radio station. The applicant must then determine, pursuant to instructions on the Form 506-A, the temporary call sign to be used in conjunction with this temporary permit and enter it in the appropriate place on the Form 506-A. The call sign will consist of the letters "WD" followed by the first four numerals[2] of the vessel's documented number or the letter "W" followed by the first two letters and first four numbers[2] of the vessel's Federal or State registration number (e.g., a vessel with a Maryland state registration number of MD 9848 U would be assigned the call sign WMD9848 and a vessel with the documentation number 234567 would be assigned a call of WD2345). We emphasize that this call sign is temporary and that a new call sign will be issued with the regular station license.

d. The applicant must then sign Form 506-A and indicate on this form the date of mailing his regular ship and operator applications (FCC Forms 506 and 753 or during the form's transition period FCC 501 or 502 and 753). After mailing these applications, the applicant may then operate his ship station under the temporary operating authority, subject to Part 83 of the FCC's rules, using his temporary call sign, for a period of 60 days. The temporary operating authority must be retained by the applicant as part of the station records.

4. This application procedure will apply to all ship stations and will be particularly beneficial to recreational boat operators. However, it should be noted that this procedure does not relieve the vessel of complying with any other requirements (e.g., higher class operator authorization, radio installation inspection) which may be applicable to the operation of the radio station.

5. In keeping with the Commission's policy of simplifying our rules and regulations, Subpart B and C of Part 83 have been editorially reorganized and rewritten into a single Subpart. Table 1 gives a comparison of the present and new rule sections. Additionally, the changes contained in the attached Appendix reflect the present title of FCC Form 503 and certain other editorial changes.

6. Authority for these amendments appear in Sections 4(i), 303, 307, 308 and 309 of the Communications Act of 1934, as amended. In that the amendments adopted herein are editorial and procedural in nature, the prior notice and public procedure provisions of the

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[1] The Commission, however, refused in 1975 to authorize self-issued, temporary permits for applicants for Restricted Radio Telephone Operator Licenses. (53 FCC2d 1001 (1975).) This decision was based on an interpretation of Section 303(l)(1) of the Communications Act of 1934 (47 U.S.C. 303(l)(1)), which allows the issuance of licenses only to citizens that "the Commission finds qualified." The Commission decided in this decision it could only determine whether a person were qualified after he or she submitted an application, and, therefore, rejected the use of self-issued, temporary permits. For the reasons indicated below, the Commission is not following its 1975 decision in the Maritime Service. It is legally proper for the Commission to modify or reverse a prior decision. (*Aspen Institute*, 55 FCC2d 697, 712 (1975), *aff'd sub nom., Chisholm* v. *F.C.C.*, 538 F.2d 349 (D.C. Cir. 1976), *cert, denial*, 429 U.S. 890 (1976).)

Section 303(l)(1) provided the FCC with very broad discretion (cf., *National Broadcasting Co., Inc.* v. *United States*, 319 U.S. 190, 217 219-20 (1943); *Federal Communications Commission* v. *Pottsville Broadcasting*, 309 U.S. 134, 139 (1940).) It only requires the Commission to determine the qualifications of potential licensees; the statute does not specify procedural or substantive standards to be applied in assessing qualifications. In effect, a person is qualified when the FCC decides he or she is eligible to receive a license. In the Maritime Service there are practical reasons for believing that a person can be qualified simply by completing an application form since licensing does not involve testing, the exclusion of other possible licensees, or the weighing of complicated public interest factors. The only real requirement is that a person certify that he or she understands the Commission's rules and can communicate in English. In the past, most applications have been routinely granted. Accordingly, anyone willing to make these certifications should be allowed to use a temporary license pending the processing of the application. The only time when this procedure should not apply is when the applicant has physical defects or a criminal record (conditions which relate to a person's ability to properly use a radio). If a person indicates that the above exists, he will be ineligible for a temporary permit, and the FCC's Field Operations Bureau will investigate the nature of the physical defect or criminal record to determine when the person should be licensed.

[2] In order that the temporary call sign conform with Article 19 of the Radio Regulations, if the first numeral of the documentation or registration number is a 0 or 1, the call sign will consist of the number 9 followed by the first three numbers of the documentation or registration number (e.g., a vessel with the documentation number 123456 would have the temporary call sign WD9123).

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Administrative Procedure Act, 5 U.S.C. 553 are not applicable. Further, such notice and public procedure provisions are impracticable, unnecessary and contrary to the public interest since the public convenience requires the implementation of new temporary authorization regulations as soon as possible, and it is unlikely that significant changes would be proposed by comments from the public. In addition, because the subject amendments relieve a rule restriction by permitting ship station applicants to operate their radio stations prior to issuance of their regular station licenses, the effective date requirements of the Administrative Procedure Act are inapplicable and these amendments may, for good cause, become effective immediately.

7. *Accordingly, it is ordered,* That Parts 1, 81 and 83 of the Commission's rules are amended as set forth below effective April 1, 1979.

8. The reporting requirement included herein is adopted subject to General Accounting Office clearance and, unless advised to the contrary, will be effective April 1, 1979.

(Secs. 2, 3, 4, 5, 301, 303, 307, 308, 309, 315, 317, 48 Stat., as amended, 1064, 1065, 1068, 1068, 1081, 1082, 1083, 1084, 1085, 1088, 1089; (47 U.S.C. 152, 153, 154, 155, 301, 303, 307, 308, 309, 315, 317))

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

TABLE 1

Old rule section:	New rule section
83.20	83.32
83.21	83.20
83.22	83.26
83.23	83.22
83.24	83.28, 83.32
83.25	83.30
83.26	Deleted (editorial)
83.27	83.36
83.28	83.34
83.29	Deleted (editorial)
83.30	Deleted (editorial)
83.31	83.56
83.32	83.28
83.33	83.42
83.34	83.46
83.35	Deleted (editorial)
83.36	83.28, 83.46
83.37	83.28
83.38	Deleted (editorial)
83.39	83.52
83.40	83.50
83.41	83.54
83.42	83.54
83.43	Deleted (editorial)
83.44	Deleted (editorial)
83.45	Deleted (editorial)
83.46	83.70
83.47	83.72
83.48	83.74
83.49	83.60
83.50	83.58
83.62	83.42
83.63	83.40
83.64	Deleted (editorial)
83.67	83.44
83.68	83.24
83.69	Deleted (editorial)
83.70	83.59
83.72	Deleted (editorial)
83.73	83.48
83.74	83.38
83.75	83.54
83.301	83.24

Parts 1, 81 and 83 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 1—PRACTICE AND PROCEDURE

1. In § 1.913, paragraph (b) is amended to read as follows:

§ 1.913 Who may sign applications.

* * * * *

(b) Applications, amendments thereto, and related statements of fact required by the Commission may be signed by the applicant's attorney in case of the applicant's physical disability or his absence from the United States, or by applicant's designated vessel master when a temporary permit is requested for that vessel. The attorney shall, when applicable, separately set forth the reason why the application is not signed by the applicant. In addition, if any matter is stated on the basis of the attorney's or master's belief only (rather than his knowledge), he shall separately set forth his reasons for believing that such statements are true.

* * * * *

2. Section 1.922 is amended to read as follows:

§ 1.922 Forms to be used.

FCC form:	Title
* * * * *	
505	Application for Station License in the R/C or CB Service.
506	Application for Ship Radio Station License.
506-A	Temporary Operating Authority, Ship Radio Station License and Restricted Radiotelephone Operator Permit.
525	Application for Disaster Communications Radio Station Construction Permit and License.
* * * * *	

3. In § 1.925, the Headnote is amended and a paragraph (f) is added as follows:

§ 1.925 Application for special temporary authorization, temporary permit, temporary operating authority, or interim amateur permit.

* * * * *

(f) An applicant for a Ship Radio station license may operate his radio station pending issuance of his ship station authorization by the Commission for a period of 60 days, under a temporary operating authority, evidenced by a properly executed certification made on FCC Form 506-A.

4. In § 1.926, paragraph (b)(9) is amended to read as follows:

§ 1.926 Application for renewal of license.

* * * * *

(b) * * *

(9) Applications for renewal of ship radio station licenses shall be submitted on FCC Form 405-B.

* * * * *

PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA-PUBLIC FIXED STATIONS.

Section 81.33 is amended to read as follows:

§ 81.33 Application concerning marine-utility stations.

Applications for marine-utility stations shall include a showing that the applicant meets the supplemental eligibility requirements contained in § 81.351. Marine-utility stations aboard vessels are to be operated as ship stations and are subject to the provisions of Part 83 of this chapter. Marine utility stations operated on land are subject to the rules contained in this part.

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

1. In § 83.2, paragraph (l) is amended to read as follows:

§ 83.2 General.

* * * * *

(l) *Ship radio station license.* A license authorizing the operation of stations governed by this part aboard a vessel.

* * * * *

2. In § 83.3, a new paragraph (r) is added to read as follows:

§ 83.3 Maritime Mobile Service.

* * * * *

(r) *Associated portable ship unit.* A portable VHF transmitter for use in the vicinity of the ship station with which it is associated.

3. Delete Subparts B and C, and insert new Subpart B, including the heading, to read as follows:

Subpart B—Applications and Licenses

Sec.
83.20 Station authorization required.

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Sec.
83.22 General citizenship requirements.
83.24 Eligibility for station license.
83.26 Administrative classification of stations.
83.28 Standard forms to be used.
83.30 Who may sign applications.
83.32 Filing of applications.
83.34 Amendment or dismissal of application.
83.36 Defective applications.
83.38 Assignment of call signs.
83.40 License term.
83.42 Changes during license term.
83.44 Transfer of license prohibited.
83.46 Renewal of license.
83.48 Discontinuance of operation.

SPECIAL AUTHORIZATIONS

83.50 Application for a portable ship station.
83.52 Application for plurality ship station license.
83.54 Application for special temporary authority
83.56 Application for marine utility station.
83.58 Application for exceptional authority to communicate with amateur stations.
83.59 Authority to communicate with amateur stations.
83.60 Application for exemption.

INSPECTIONS

83.70 Application for inspection and certification.
83.72 Temporary waiver of annual inspection.
83.74 Compensation for overtime services.

AUTHORITY: Secs. 2, 3, 4, 5, 301, 303, 307, 308, 309, 315, 317, 48 Stat., as amended, 1064, 1065, 1066, 1068, 1081, 1082, 1083, 1084, 1085, 1088, 1089; (47 U.S.C. 152, 153, 154, 155, 301, 303, 307, 308, 309, 315, 317).

Subpart B—Applications and Licenses

§ 83.20 Station authorization required.

(a) No station shall be operated in the Maritime Services except under and in accordance with an authorization granted by the Federal Communications Commission.

(b) Normally, only one station authorization will be granted to operate all transmitting equipment on board a vessel.

§ 83.22 General citizenship requirements.

A station license shall not be granted to or held by a foreign government or a representative of a foreign government.

§ 83.24 Eligibility for station license.

(a) Except as provided in § 83.50(b), a ship station may ONLY be granted to:
(1) The owner or operator of the vessel;
(2) A subsidiary communications corporation of the owner or operator of the vessel;
(3) A state or local government subdivision; or,
(4) Any agency of the Federal Government subject to Section 301 of the Communications Act.

(b) Authority to operate an EPIRB will be granted only for use aboard the following types of vessels:
(1) Vessels authorized to carry survival craft;
(2) Vessels expected to travel in waters beyond the range of marine VHF distress coverage (generally considered to be more than 20 miles offshore);
(3) Vessels required to be fitted with EPIRBs to comply with U.S. Coast Guard regulations.

§ 83.26 Administrative classification of stations.

(a) Stations in the maritime mobile service subject to this part are licensed according to the class of station normally as designated below:
(1) Ship radiotelephone stations.
(2) Ship radiotelegraph stations.
(3) Survival craft stations.
(4) On-board stations.

(b) Stations in the maritime radiodetermination service subject to this part are:
(1) Ship radiolocation stations.
(2) Ship radiolocation test stations.
(3) Ship radionavigation stations.
(4) Ship radar stations.
(5) Emergency position indicating radiobeacon (EPIRB) stations.

(c) Stations in the maritime mobile-satellite service subject to this part are:
(1) Ship earth stations.

§ 83.28 Standard forms to be used.

To assure that necessary information is supplied in a consistent manner, the following standard forms shall be used as applicable. These forms may be obtained without cost from the Commission at Washington, D.C. 20554, or any FCC Field Office.

(a) Forms to be used when applying for station authorization governed by this part:

(1) *FCC Form 506, Application for Ship Radio Station License.* This form shall be used when applying for a new or modified ship station license.

(2) *FCC Form 506-A, Temporary Operating Authority, Ship Radio Station License and Restricted Radiotelephone Operator Permit.* This form shall be used when application is made for temporary operating authorization.

(3) *FCC Form 703, Application for Consent to Transfer Control of Corporation Holding Construction Permit or Station License.* This form shall be used when application is made to transfer control of a corporation holding any station authorization.

(4) *FCC Form 405-B, Renewal Application Short Form.* This form shall be used for renewal of ship station licenses.

(b) Forms to be used when applying for exemption or inspection;

(1) *FCC Form 801, Application for Ship Radio Inspection.* This form shall be used when applying for inspection of radio installation required by Title III, Part II of the Communications Act or the Safety of Life at Sea Convention.

(2) *FCC Form 809, Application for Periodic Survey, Great Lakes Agreement.* This form shall be used when applying for survey of radiotelephone installation required by Great Lakes Agreement.

(3) *FCC Form 812, Application for Periodic Inspection (Communications Act, Title III, Part III).* This form shall be used to request inspection of radiotelephone installation required by Title III, Part III of the Communications Act.

(4) *FCC Form 820, Application for Exemption from Ship Radio Requirements.* This form shall be used to request exemption from any required ship radio installation.

NOTES.—FCC Forms 506 and 506-A are available as a combined document.

§ 83.30 Who may sign applications.

(a) Except as provided in paragraphs (b) and (c) of this section, the signature on an application must be made as follows:

Type of applicant	Signature of applicant
Individual	Individual must personally sign.
Partnership	One of the partners.
Corporation	Officer or duly authorized employee.
Association	Member who is an officer.
Government Unit	Appropriate elected or appointed official.

(b) In the case of an applicant's physical disability or his absence from the United States, an application may be signed by the applicant's attorney in accordance with § 1.913(b) of the Commission's rules.

(c) An application for a ship radio station license may be signed by the applicant's designated vessel master when temporary operating authority is requested for that vessel.

§ 83.32 Filing of applications.

(a) Each application shall be filed at least 60 days before the date on which it is desired that the requested authorization be granted.

(b) Each application shall specify an address in the United States to be used by the Commission in serving documents or directing correspondence to the licensee. Unless advised to the contrary, the address contained in the licensee's most recent application will be used for this purpose.

(c) Each application shall be filed in original only.

(d) Each application shall be filed with the Federal Communications

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Commission, Washington, D.C. 20554, unless otherwise noted on the application form.

(e) An application by a U.S. citizen, national, or resident alien for a new station on a vessel not located in United States navigational waters shall include (1) a statement that the vessel is not documented or otherwise registered by any foreign authorities, and (2) a statement that the foreign authorities where the vessel is located, will not or cannot license the vessel radio equipment, or that they do not object to the licensing of the equipment by the United States.

§ 83.34 Amendment or dismissal of application.

An application may be amended or dismissed without prejudice upon request by the applicant before the application is granted or designated for hearing. Each request for amendment or dismissal of an application shall be signed and submitted in the same manner as required for the original application.

§ 83.36 Defective applications.

(a) An application which is not made in accordance with the Commission's rules or other requirements will be considered defective unless accompanied by a request to waive or amend the rule or other requirement with which the application is in conflict. The reasons which are believed to support such a request shall be stated in detail.

(b) If an applicant is requested by the Commission to file any document or information in connection with his application, a failure to comply with the request will constitute a defect in the application.

(c) When an application is considered to be incomplete or defective, the application will be returned to the applicant. The reason for the return of the application will be indicated, and if appropriate, necessary additions or corrections will be suggested.

§ 83.38 Assignment of call signs.

Ship Stations in the maritime mobile service are assigned call signs in accordance with § 2.302.302 of this chapter, as follows: (a) Ship stations using radiotelegraphy and ship stations authorized to carry survival craft are assigned call signs consisting of four letter combinations beginning with the letters "K" or "W". (Examples: KBCD or WBCD).

(b) Other ship stations are assigned call signs consisting of either two letter, four digit combinations or three letter, four digit combinations beginning with the letter "W".

NOTE.—The digits 0 or 1 may not immediately follow a letter.

(c) Ship stations operating under temporary operating authority shall have call signs consisting of the letters "WD" followed by the first four numerals [1] of the vessel's documented number or the letter "W" followed by the first two letters and first four numbers [1] of the vessel's Federal or State registration number.

§ 83.40 License term.

(a) Licenses for stations in the Maritime Services are normally issued for 5 years.

(b) Authorization for stations engaged in developmental operation will be made upon a temporary basis for a specific period of time, not to exceed one year.

(c) An applicant for a ship radio station license may operate his radio station pending issuance of his ship station authorization by the Commission for a period of 60 days, under a temporary permit, evidenced by a properly executed certification made on FCC Form 506-A.

§ 83.42 Changes during license term.

(a) The following table indicates the requirements for changes made during the license term:

Type of change	Required action
Mailing address	Written notice to the Commission
Name of licensee (without changes in ownership, control, or corporate structure).	Written notice to the Commission
Control of a corporation	Application for a new license
Name of the vessel	Written notice to the Commission
Addition of transmitting equipment which operates in a frequency band not authorized on present license.	Application for modification of license
Addition or replacement of transmitting equipment in a frequency band authorized on present license.	None (Provided the equipment is properly type accepted)

(b) Written notices should be sent to the Federal Communications Commission, Gettysburg, Pennsylvania 17325, or to Secretary, Federal Communications Commission, Washington, D.C. 20554, depending on where the original license application was filed.

§ 83.44 Transfer of license prohibited.

A ship station license may not be transferred or assigned. In lieu of transfer or assignment, an application for a new station authorization shall be filed in each case, and the previous authorization shall be forwarded to the Commission for cancellation.

§ 83.46 Renewal of license.

(a) All applications for renewal must be made during the license term and should be filed within 90 days but not later than 30 days before the end of the license term. When timely and sufficient application for renewal is made, the licensee may continue to operate his station until the Commission acts on the application.

(b) Application for renewal of licenses shall be submitted on FCC Form 405-B.

§ 83.48 Discontinuance of operation.

The Commission shall be notified by the station licensee upon the permanent discontinuance of his station.

SPECIAL AUTHORIZATION

§ 83.50 Application for a portable ship station.

(a) The Commission may grant a license permitting operation of a portable ship station in the maritime services for use as the occasion required aboard different vessels of the United States. Each application for a portable ship station shall include a showing that:

(1) The station will be operated as an established class of station on board ship in conformity with all applicable Commission's rules, and

(2) Circumstances exist whereby a station license for portable equipment is necessary to eliminate frequent applications to operate a ship station on board different vessels.

(b) A portable ship station may also be granted when the station will be used solely for testing marine radio equipment incident to its manufacture, installation or servicing. The eligibility requirements of § 83.24 shall not apply in this instance.

§ 83.52 Application for plurality ship station license.

(a) An applicant, in applying for licenses to cover similar radiotelephone stations on board two or more vessels, may specify on a single FCC Form 506 the total number of vessels in his fleet. Under these circumstances a plurality ship station license may be issued for operation of all radio stations aboard the vessels in the fleet.

(b) The plurality ship station license is issued on the following conditions:

(1) The licensee shall keep a current list of vessel names and registration numbers authorized by the plurality license;

(2) The vessels do not engage in voyages to any foreign country;

(3) The vessels are not subject to the radio requirements of (Parts II or III of Title III) of the Communications Act or the Safety of Life at Sea Convention.

§ 83.54 Application for special temporary authority.

(a) Applications for special temporary authority may be filed either formally by submission of an appropriate application form or informally by letter or telegram to operate new facilities, or to operate existing facilities beyond that authorized in the current authorization. The nature of the emergency, equipment failure or other circumstances which, in the opinion of the applicant justifies issuance of a special temporary authorization, must be fully described in the request.

§ 83.56 Application for marine utility station.

Applications for marine utility stations shall be filed in accordance with Part 81 of the rules. Marine utility stations aboard vessels are to be operated as ship stations and are subject to the rules of this part. Marine utility stations operated on land are subject to Part 81 of this Chapter.

§ 83.58 Applications for exceptional authority to communicate with amateur stations.

Upon proper application, including a supplemental statement as herein prescribed, the Commission may grant a license, modification of license, renewal license, or special temporary authorization, permitting a ship telegraph station on board a vessel not engaged in commerce or a vessel used, or intended to be used, for scientific research or expedition, to transmit by means of class A1 or A2 emission on authorized ship telegraph frequencies within the band 2000 kHz to 25,000 kHz, for the purpose of exchanging radiotelegraph communications directly with licensed amateur stations on land in accordance with the provisions of § 83.59: *Provided*, The applicant includes a supplemental statement satisfactorily showing that:

(a) Unusual circumstances during the contemplated voyage(s) are anticipated which will make direct communication with amateur stations extremely beneficial to persons on board the vessel or to the person(s) responsible for the scientific research or expedition for which the vessel is used or is intended to be used;

(b) The messages to be exchanged with amateur stations will contain no material relating directly or indirectly to a commercial transaction; and

(c) Transmission for this purpose will be conducted on a secondary basis so as to avoid interference to commercial message traffic and other authorized emissions of stations operating in the maritime radiolocation service.

§ 83.59 Authority to communicate with amateur stations.

(a) A ship station shall not communciate with or transmit to any amateur station unless it is specifically authorized by the Commission to do so. When authorized to communciate with duly licensed amateur stations, a ship station shall conduct all operation for this purpose in conformity with the relevant terms of its station license and, except as otherwise permitted by the station license, shall for this purpose,

(1) Transmit by means of A1 or A2 emission only on a frequency between 2000 kHz and 25,000 kHz authorized for such emission;

(2) Not cause harmful interference to stations in the maritime mobile service nor to stations in the radiolocation service;

(3) Not engage in any communications relating directly or indirectly to a commercial transaction.

(b) Communication with amateur stations of foreign countries shall be limited to communications with such amateur stations as are authorized to communicate with the ship station concerned; in addition, the nature of the communications exchanged with foreign amateur stations shall, in addition to the requirements of paragraph (a) of this section, be in accordance with the international Radio Regulations and in conformity with the regulations of the foreign administration(s) having jurisdiction over the amateur station(s) involved.

§ 83.60 Application for exemption.

(a) Application for exemption from the radio provisions of Part II or III of Title III of the Communications Act of 1934, as amended, the Safety of Life at Sea Convention, 1960 or the Great Lakes Radio Agreement, or for modification or renewal of exemption previously granted shall be submitted by the vessel owner, the vessel's operating agency, or the master of the vessel to the Secretary, Federal Communications Commission, Washington, D.C. 20554, on FCC Form 820. In cases of emergency, the Commission may consider an informal application which should include the full information normally furnished on the formal application.

(b) When an exemption from the Safety Convention is granted by the Commission to a cargo ship, the Commission issues an Exemption Certificate to the vessel. When an exemption from the Safety Convention is granted by the Commission to a passenger ship, the Commission certifies the necessary particulars to the United States Coast Guard, requesting that agency to issue an Exemption Certificate to the vessel.

(c) This Commission does not have statutory authority to issue exemptions from the provisions of the Vessel Bridge-to-Bridge Radiotelephone Act. Applications for exemption from the Vessel Bridge-to-Bridge Radiotelephone Act should be forwarded directly to the Commandant, U.S. Coast Guard, Washington, D.C. 20591.

INSPECTIONS

§ 83.70 Application for inspection and certification.

(a) Ship radio installations required by law for safety purposes are subject to inspection and certification by the Commission. Application for inspection and certification shall be submitted to the Engineer in Charge of the FCC Field Office nearest the desired place of inspection. The application shall be filed by the vessel owner, the vessel's operating agency, the ship station licensee, or the master of the vessel at least 3 days before the desired inspection date.

(b) *FCC Form 801* shall be used to apply for annual inspection of radio stations on board ships subject to Part II of Title III of the Communications Act, or the Safety of Life at Sea Convention. A qualified radio operator and (unless otherwise notified by the Commission) sufficient personnel to lower and raise antennas and to launch any required radio equipped survival craft shall be available on the ship at the time of the inspection.

(c) *FCC Form 809* shall be used to apply for annual survey of radio stations on board ships subject to the Great Lakes Agreement.

(d) *FCC Form 812* shall be used to apply for biennial inspection of radio stations on board vessels which are subject to Part III of Title III of the Communications Act.

(e) The FCC Forms specified in paragraphs (b), (c), and (d) of this section shall be used to apply for inspections of bridge-to-bridge radio stations on board vessels which are subject to the Vessel Bridge-to-Bridge Radiotelephone Act when they are additionally subject, respectively, to (1) either or both the Safety Convention and Part II of Title III of the Communications Act, or (2) to the Great Lakes Radio

[1] In order that the temporary call sign conform with Article 19 of the Radio Regulations, if the first numeral of the documentation or registration number is a 0 or 1, the call sign will consist of the number 9 followed by the first three numbers of the documentation or registration number (e.g., a vessel with the documentation number 123456 would have the temporary call sign WD9123).

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Agreement, or (3) to Part III of Title III of the Communications Act.

(f) The FCC Forms specified in paragraphs (b) and (d) of this section shall be used to apply for inspection of EPIRB stations on board vessels which are required to be mandatorily fitted by U.S. Coast Guard regulations (Chapter I of Title 46 of the Code of Federal Regulations) when they are additionally subject to (1) either or both the Safety Convention and Part II of Title III of the Communications Act, or (2) to Part III or Title III of the Communications Act.

§ 83.72 Temporary waiver of annual inspection.

(a) The Commission may grant a waiver of the annual inspection for a period not to exceed 30 days from the time of first arrival of a ship at a United States port directly from a foreign port for the sole purpose of enabling the vessel to proceed coastwise to another port in the United States where an inspection can be made. An informal application (such as a letter or telegram, or phone call to be confirmed by letter) for waiver of inspection shall be submitted by either the vessel owner, the vessel's operating agency, the ship station licensee, or the master of the vessel. The application shall be submitted not earlier than 3 days in advance of the vessel's arrival at a United States port. The application shall be submitted to the Commission's Engineer in Charge of the radio district office nearest the port of arrival. The application shall include:

(1) The ship's name and radio call sign;

(2) The name of the first United States port of arrival directly from a foreign port;

(3) The date of arrival;

(4) The date and port at which annual inspection will be formally requested to be conducted;

(5) Reason for requesting waiver; and

(6) An affirmation that the ship's required radio equipment is in effective operating condition.

(b) This waiver may also be granted by the Engineer in Charge on his own motion in the following cases:

(1) The duration of the vessel's scheduled stay in port is too short to permit completion of annual inspection during normal working hours;

(2) The distance to the vessel would not permit completion of annual inspection, including travel time, during normal working hours;

(3) Commission inspection personnel are not available to conduct the annual inspection during normal working hours;

(4) Annual inspection in the port could probably not be completed inasmuch as during normal working hours the vessel is scheduled to load or discharge inflammable or unstable cargo or the exigencies of cargo handling renders required antennas unavailable; or

(5) Replacement of the required radio equipment or a major component thereof is scheduled to be made at the alternate port proposed for the annual inspection.

§ 83.74 Compensation for overtime services.

(a) Under Section 4(f)(3) of the Communications Act, Engineers in Charge and Radio Engineers of the Field Engineering Bureau of the Federal Communications Commission, who may be required to remain on duty to perform services in connection with the inspection of ship radio equipment and apparatus for the purposes of Part II of Title III of the act, or the Great Lakes Agreement at night or on Sundays and holidays, shall receive extra compensation to be paid by the master, owner, or agent of the vessel under the following regulations:

(1) The rates of extra compensation are payable in cases where the services of such engineers have been duly requested and they have reported for duty, even though no actual service may be performed.

(2) The extra compensation for overtime services is in addition to the regular compensation paid by the government in the cases of engineers whose compensation is fixed on the ordinary per diem basis and those receiving compensation per month or per annum.

(3) Extra compensation for "waiting time" will not be allowed unless and until the engineer actually reports for duty.

(4) For the purpose of computing extra compensation, the word "night" shall mean the time between the established closing hour of one day at the office involved and the established opening hour of the following business day at such office, but shall not include any such time within the 24 hours of a Sunday or holiday. Each Sunday and each holiday shall comprise the 24 hours between midnight and midnight. For the purposes of this section the time between the established closing hour of an office and midnight of the day immediately preceding a Sunday or holiday and the time from midnight until the established opening hour of the day immediately following the said Sunday or holiday will be considered as a single night. The term "holiday" shall include only government recognized holidays, and such other days as may be designated national holidays by the President or Congress.

(5) For authorized service in excess of 8 hours on any day excluding Sunday and holidays, extra compensation equivalent to one-half days pay is payable for each 2 hours or fraction thereof of at least 1 hour that the overtime extends beyond the said 8 hours: *Provided*, That the overtime is not less than 1 hour. The maximum amount which may be paid for such authorized overtime services on any day other than on a Sunday or holiday shall not exceed 2½ days pay.

(6) In computing the amount earned for overtime at the rate of "one-half days pay for each 2 hours or fraction thereof of at least 1 hour that the overtime extends beyond the established closing hour", one-half days pay shall be one-half of the gross daily rate of pay; each 2 hours is the time period for the purpose of computation; at least 1 hour means the minimum service in any such 2-hour overtime period for which extra pay may be granted, and each additional period in the amount of 2 hours or fraction thereof of at least 1 hour will entitle the engineer to an additional one-half days pay. Payment of extra compensation for services consisting of at least 1 hour is authorized from the established closing hour, even though such services may not actually begin until later, provided that the engineer rendering the service remained on duty after the established closing hour, in which case the time between the established closing hour, and the time of beginning the actual services shall be computed as waiting time. Where the performance of actual service is preceded by such a waiting time there should be an affirmative statement that the engineer was required to remain on duty between the established closing hour and the time of beginning the actual services.

(7) In computing extra compensation where the services rendered are in broken periods, the time served should be combined with the waiting time and computed as continuous service.

(8) The same considerations shall apply when charging for waiting time as govern the charge for services actually rendered. No charge should be made unless after having reported for duty the waiting time amounts to at least 1 hour.

(9) For any authorized services performed on Sundays and holidays, totalling not more than 8 hours, extra compensation is payable equivalent to two days pay in addition to any regular compensation for such days. For any authorized service in excess of 8 hours (starting either before or after 5 p.m. local time) extra compensation at the rate of one-half day's pay, based on the normal daily rate of pay, for each two hours of service or fraction thereof of not less than 1 hour, is payable in addition to the extra compensation payable for service up to and including 8 hours of service. The maximum extra compensation payable for work on Sundays and holidays is 4½ days pay.

(10) When engineers are in travel status overtime shall apply the same as if they were at an official station. However, compensation for such overtime shall not include travel time.

(11) Assessments and collection of fees against steamship companies for overtime services shall be made even though the payment to employees for such services may not be made until funds are appropriated for that purpose.

(12) An application on a form prescribed by the Commission shall be filed with the office being requested to furnish overtime services before such assignment can be made.

(13) Overtime services shall be billed to the steamship companies as soon as possible after the services have been performed and on collection voucher provided for that purpose. Remittance shall be by postal money order or certified check payable to the "Collector of Customs, Treasury Department" and forwarded to that officer at the port indicated on the voucher, who shall in turn deposit such remittance on a properly designated receipt account.

(14) Protests against the extraction of extra compensation shall be forwarded to the Commission at Washington, D.C., and a copy thereof sent to the office which furnished the overtime services.

* * * * *

Subpart C—[Reserved]

4. Subpart C is deleted in its entirety and designated [Reserved].

5. Section 83.186 is amended to read as follows:

§ 83.186 Operational conditions on use of associated portable ship units.

Associated portable ship units may be operated under a ship station authorization. Use of an associated portable ship unit is restricted as follows:

* * * * *

§ 83.301 [Deleted]

6. Section 83.301 is deleted and designated [Reserved].

7. In § 83.364, paragraph (c) is amended to read as follows:

§ 83.364 Identification of station.

* * * * *

(c) When an official call sign is not assigned by the Commission to a ship station using telephony, the complete name of the ship on which the station is located and the name of the licensee or the temporary call sign provided in § 83.38 shall be transmitted by voice in the English language for the purpose of station identification.

* * * * *

[FR Doc. 79-1508 Filed 1-15-79; 8:45 am]

[7035-01-M]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[No. MC-C-3437]

PART 1041—INTERPRETATION—CERTIFICATES AND PERMITS

PART 1047—EXEMPTIONS

PART 1082—EXEMPTIONS

Motor Transportation of Property Incidental to Transportation by Aircraft

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

SUMMARY: The rules adopted in this proceeding expand air terminal areas to a zone extending 35 miles from the boundary of the pertinent airport, as well as a zone extending 35 miles from the corporate limits of any municipality any part of whose commercial zone falls within 35 miles of that airport. The new rules encompass areas which better reflect current economic conditions surrounding airports.

EFFECTIVE DATE: May 16, 1979.

FOR FURTHER INFORMATION CONTACT:

Michael Erenberg (telephone: 202/275-7292).

SUPPLEMENTARY INFORMATION: This is the culmination of a three-part proceeding which was instituted by notice of proposed rulemaking published in the FEDERAL REGISTER on May 25, 1977 (42 FR 26667). After reviewing public comment on the proposed regulations, the Commission decided that a more comprehensive understanding of the issues in this proceeding, was needed, and the Commission's Bureau of Economics was directed to prepare a report on the economic issues involved. The Bureau's report was issued on July 30, 1978, and the public was afforded an opportunity to comment on it. The report and the comments have been incorporated into the record in this proceeding.

In a separate Decision, we have set forth (1) the history of this proceeding, (2) background information concerning the development of the incidental-to-air exemption, (3) a discussion of all relevant issues, and (4) conclusions as to the appropriate form the final regulations should take. Certain minor incidental amendments to related regulations are also made in the interest of consistency. Those persons seeking more specific information as to any particular aspect of this proceeding should examine the Commission's Decision, copies of which can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

The rule changes specified below are made under the authority of sections 10321 of the Interstate Commerce Act (49 U.S.C. 10321) and sections 553 and 559 of the Administrative Procedure Act (5 U.S.C. 553 and 559).

Issued at Washington, D.C., on December 11, 1978.

By the Commission. Chairman O'Neal, Vice Chairman Christian, Commissioners Brown, Stafford, Gresham and Clapp. Commissioner Stafford dissenting.

H. G. HOMME, Jr.,
Secretary.

COMMISSIONER STAFFORD, DISSENTING

The majority decision effectively deregulates the transportation of air freight. In my view, this action is not only against the public interest, but it constitutes a step which this Commission has no legal authority to take. The Interstate Commerce Act exempts the motor vehicle movement of persons or property "when *incidental* to transportation by aircraft." Today's action ignores that statutory mandate. The majority decision will create motor carrier service directly competitive with, and not incidental to, the air service now being provided between presently certificated airline points. This does not properly reflect the Congressional intent of the exemption.

I do not advocate that the Commission ignore the urban growth which has taken place during the past two decades. On the other hand, today's "35-35" decision is a significant increase in the size of the exempt zone. In my view, it is close to the original 100 mile proposal, and the use of the figure 35 should not mask today's decision as something in line with the conclusion of the Bureau of Economics. In fact, I have some doubt about the fairness of promulgating today's decision as a final rule. It is a novel approach and is being adopted without further comment.

As for the public interest factor, I believe the presently regulated carriers who specialize in the ground transportation of air freight perform an important function. Often they provide a local service involving small shippers. In this vein, I think it important to have a network of regulated carriers, with a duty to serve the public generally, rather than to pick and choose the better

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traffic. Moreover, these shippers receive added protection from the tariff filings which must contain any rules pertaining to the handling of this traffic. Likewise, the regulated carrier must maintain adequate insurance coverage, must dispose of claims fairly, and must indicate compliance with appropriate safety regulations. Today's deregulation measure eliminates these common carrier obligations in favor of free entry by carriers who have no obligation to serve anyone and who are free to charge whatever the traffic will bear.

Finally, certain additional considerations deserve mention. I am troubled by the unrepresentative sample used by the Bureau of Economics to support its conclusions. The report spends considerable time identifying where industry has located its manufacturing and processing facilities. However, the study is restricted to only six of the 277 Standard Metropolitan Statistical Areas in the nation. Although the Bureau's proposal is more narrow than that adopted here today, there is no attempt to find that these six areas are representative.

Lastly, I find the summary treatment of environmental considerations to be or questionable compliance with the NEPA rules. If the deregulation of a part of the motor carrier industry does not have a significant environmental impact, then I doubt there is any substantive meaning behind the mandate that we consider this issue.

Subchapter A of Chapter X of Title 49 of the Code of Federal Regulations is amended as set forth below:

§ 1041.22 [Amended]

(1) In both subsections 1041.22(a) and 1041.22(b) delete the language "(direct or indirect)";

(2) Delete § 1047.40 in its entirety, and replace it with the following:

§ 1047.40 Motor transportation of property incidental to transportation by aircraft.

(a) General rule. Motor transportation of property incidental to transportation by aircraft is partially exempted from regulation by the Interstate Commerce Commission by section 10526(a)(8) of the Interstate Commerce Act. To qualify for the exemption, the transportation:

(1) must be of shipments which have been received from or will be delivered to an air carrier as part of a continuous movement;

(2) must be performed on a through air bill of lading covering, in addition to line-haul movement by air, the collection, delivery, or transfer service performed by the motor carrier;

(3) must be only of shipments in bona fide collection, delivery, or transfer service; and

(4) must take place within a zone (the "air terminal zone") extending 35 miles from the boundary of the airport at which the shipments are received or delivered.

(b) Exceptions. (1) If any part of the commercial zone of a municipality overlaps the air terminal zone, the area within 35 miles of the municipality's corporate limits is also included in the air terminal zone.

(2) The Commission may, on its own motion or in response to a petition filed by any person, establish a different air terminal zone for a particular airport.

(3) In emergency situations, where air carriers substitute motor transportation for air transportation due to adverse weather conditions, equipment failure, or other causes beyond the air carrier's control, the substituted service will qualify as incidental to transportation by aircraft if it is performed at the expense of an air carrier on a through air bill of lading.

(3) Delete § 1082.1 in its entirety, and replace it with the following:

§ 1082.1 Use by air freight forwarders of regulated motor common carrier service.

An air freight forwarder that receives or tenders shipments which have a prior or subsequent movement by air and which are transported beyond the air terminal zone (see 49 CFR 1047.40) will not be considered a freight forwarder subject to the Interstate Commerce Act unless:

(a) it holds out to assume responsibility for, or make any claim in its advertising, solicitation of freight, or tariff publications that it will assume responsibility for, any shipment transported by motor common carrier beyond the air terminal zone; or

(b) its shipping documents fail to state clearly that its responsibility for the shipment does not extend beyond the actual air movement and the territorial extent of the air terminal zone; or

(c) it receives compensation from any shipper or motor carrier for services rendered in connection with the receipt of shipments from or the delivery of shipments to a motor carrier for movement beyond the air terminal zone.

[FR Doc. 79-1517 Filed 1-15-79; 8:45 am]

[3510-22-M]

Title 50—Wildlife and Fisheries

CHAPTER II—NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

PART 260—INSPECTION AND CERTIFICATION

Fees and Charges

AGENCY: National Marine Fisheries Service, U.S. Department of Commerce.

ACTION: Final Rule.

SUMMARY: The purpose of this rule is to increase the hourly rate for inspection fees.

On October 8, 1978, the President, by Executive Order 12082 (42 FR 52365), increased the rates of basic pay of General Schedule employees. Section 260.81(a) requires that the hourly rates for inspection fees be automatically increased on the effective date of the pay adjustment by an amount equal to the increase received by the average General Schedule grade level of fishery product inspectors receiving such pay increases. This pay increase resulted in a 5.5 percent increase in the basic pay of fishery product inspectors.

DATE: These amended rates became effective October 8, 1978.

FOR FURTHER INFORMATION CONTACT:

Irving D. Sackett, Jr., Director of Inspection Services, Seafood Quality and Inspection Division, National Marine Fisheries Service, Washington, D.C. 20235, 202-634-7458.

SUPPLEMENTARY INFORMATION: Notice is hereby given that pursuant to the authority vested in the Secretary of Commerce by Reorganization Plan No. 4 of 1970 (35 FR 15627), § 260.70 of Part 260, Inspection and Certification is hereby amended by adjusting the rates for fees and charges to provide for the recovery of increased costs attributable to the upward adjustment of the rates of basic pay of fishery product inspectors.

In § 260.70, paragraphs (b)(1), and (2), and (3) are revised as follows:

• • • • • •

(b) • • •

(1) Type I—Official establishment and product inspection—contract basis:

	Per hour
Regular time	$17.95
Overtime	24.20
Sunday and legal holidays (2 hr. minimum)	29.45

The contracting party shall be charged at an hourly rate of $17.95 per hour for regular time; $24.20 per hour for overtime in excess of 8 hours per shift per day; and $29.45 per hour for Sunday and national legal holidays for service performed by inspectors at official establishment(s) operating under Federal inspection. The contracting party shall be billed monthly for services rendered in accordance with contractual provisions at the rates prescribed in this section. At an official establishment designated in a contract, products also designated therein will be inspected during processing at the hourly rate for regular time, plus overtime, when appropriate. Products not designated in the contract will be inspected upon request on a lot inspection basis at lot inspection rates as prescribed in this section.

(2) Type II—Lot inspection—Official and unofficially drawn samples:

	Per hour
Regular time	$26.95
Overtime	35.45
Sunday and legal holidays (2 hr. minimum)	45.30
Minimum fee	20.25

For lot inspection services performed between the hours of 7:00 a.m. and 5:00 p.m., Monday through Friday, $26.95 per hour;

For lot inspection services performed at times Monday through Friday other than 7:00 a.m. to 5:00 p.m. and on Saturdays (2 hr. minimum) $45.30 per hour. Sunday and national legal holidays (2 hr. minimum) $45.30 per hour. The minimum service fee to be charged and collected for inspection of any lot or lots of products requiring less than 1 hour shall be $20.25.

(3) Type III—Miscellaneous inspection and consultative services. When any inspection or related service, such as but not limited to, initial and final establishment surveys, appeal inspections, sanitation evaluation, SIFE inspections, sampling product evaluation, and label and product specification review, rendered is such that charges based on the foregoing sections are clearly inapplicable, charges will be based on the rates set forth below:

	Per hour
Regular time	$22.50
Overtime	28.90
Sunday and legal holidays (2 hr. minimum)	36.85
Minimum fee	16.95

For miscellaneous inspection and consultative services performed between the hours of 7:00 a.m. and 5:00 p.m., Monday through Friday—$22.50; for miscellaneous inspection and consultative services performed at times Monday through Friday other than 7:00 a.m., to 5:00 p.m. and on Saturdays (2 hr. minimum)—$28.90 per hour;

For miscellaneous inspection and consultative services performed on Sunday and national holidays (2 hr. minimum)—$36.85 per hour. The minimum service fee to be charged and collected for miscellaneous inspection and consultative services requiring less than 1 hour shall be $16.95.

• • • • • •

Dated: January 11, 1979.

WINFRED H. MEIBOHM,
Acting Executive Director, National Marine Fisheries Service.

[FR Doc. 79-1488 Filed 1-15-79; 8:45 am]

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proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[1505-01-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 522]

STATUS OF INJECTABLE ANIMAL DRUGS

Intent Regarding Sterility and Pyrogenicity of Injectable Animal Drugs

Correction

In FR Doc. 78-34697, appearing at page 58591, in the issue for Friday, December 15, 1978, make the following change:

On page 58592, second column, designated paragraph 1, fifth line, insert the word "or" in between "species" and "for".

[4410-01-M]

DEPARTMENT OF JUSTICE

Parole Commission

[28 CFR Part 2]

PRISONERS, YOUTH OFFENDERS, AND JUVENILE DELINQUENTS

Parole, Release, Supervision and Recommitment

AGENCY: United States Parole Commission.

ACTION: Proposed rule.

SUMMARY: This proposal would require that whenever, prior to the actual release of a prisoner, the Commission rescinds or retards a previously granted parole date on the basis of a disciplinary violation, the decision as to how long the prisoner should remain in confinement thereafter must be made pursuant to guidelines as set forth in the rule. These guidelines establish a policy that most cases of misconduct will result in a retardation of the release date by no more than 60 days. Rescission of parole will be indicated only for the most serious cases (e.g. multiple or aggravated misconduct or criminal violations). In addition, the Commission's procedural rules for reopening and rescinding parole dates are consolidated and clarified by a number of supplemental amendments.

DATES: Comments must be received by April 1, 1979.

ADDRESSES: Send comments to United States Parole Commission, 320 First Street, NW., Washington, D.C. 20537, Attention: Office of the General Counsel.

FOR FURTHER INFORMATION CONTACT:

Michael A. Stover, Office of the General Counsel, Telephone (202) 724-1991.

SUPPLEMENTARY INFORMATION: The text of these proposed rule revisions may be found in Part VI of this issue of the Federal Register, where they are published as interim rules to cover the March 1979 dockets. Comment is invited from prisoners, institution staff, and interested members of the public, both on the proposed guidelines as well as the procedural aspects of their application.

Dated: January 10, 1979.

CECIL C. MCCALL,
Chairman, United States Parole Commission.

[FR Doc. 79-1347 Filed 1-15-79; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 51]

[FRL 963-2A]

REQUIREMENTS FOR PREPARATION, ADOPTION, AND SUBMITTAL OF IMPLEMENTATION PLANS

Emission Offset Interpretative Ruling

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: Elsewhere in today's FEDERAL REGISTER, EPA is publishing changes to its Interpretative Ruling of December 21, 1976 (41 FR 55524), which describes the requirements for preconstruction review which apply to large new (or modified) air pollution sources affecting areas with air quality worse than the levels set to protect the public health and welfare. The Agency is soliciting additional public comment on certain issues relating to the Interpretative Ruling. These issues are discussed in detail in today's changes to the Ruling and are summarized below for the convenience of those wishing to provide comments on the unresolved issues.

DATES: Comments on items 7, 8, and 9 listed below must be received on or before February 15, 1979. Comments on items 1-6 below must be received on or before March 19, 1979.

ADDRESS: Comments should be submitted to: Office of Air Quality Planning and Standards, Environmental Protection Agency, Mail Drop 11, Research Triangle Park, North Carolina 27711, Attention: D. Kent Berry.

All public comments received will be available for inspection and copying during normal business hours at: Public Information Reference Unit, Environmental Protection Agency, Room 2922 (EPA Library), 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

D. Kent Berry, Office of Air Quality Planning and Standards, Environmental Protection Agency, Mail Drop 11, Research Triangle Park, North Carolina 27711, Telephone: 919-541-5341.

SUPPLEMENTARY INFORMATION: As discussed in detail elsewhere in today's FEDERAL REGISTER, the issues on which EPA is soliciting further public comments are as follows (the appropriate sections of the Ruling are shown in parentheses):

1. Geographic applicability of the Ruling to major sources of volatile organic compounds (Section II.C.) and the area where offsets may be obtained for VOC sources (Section IV.D.).

2. Criteria for determining whether an entity is controlled by, or under common control with, the applicant (Section IV.A., Condition 2).

3. How "banking" should be implemented (Section IV.C.5.).

4. How fugitive dust associated with major sources should be dealt with under the Ruling (Section II.F.).

5. EPA's interpretation that technology transfer may be used, where appropriate, in determining the lowest achievable emission rate for a source (Section II.A.7.).

6. EPA's policy that the Ruling does not allow offset credit for tightening SIP requirements down to Federal new source performance standards or national emission standards for hazardous air pollutant levels (see preamble discussion on "Baseline").

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EXPEDITED COMMENTS

As noted in the preamble to the revised Interpretative Ruling, a major industrial group has requested an opportunity to comment on certain issues which have already been subject to public comment. Because these issues also relate to requirements in revised SIP's due January 1, 1979, an expedited comment period is provided on the following issues:

7. The definition of "potential" to emit (Section II.A.3.) and the selection of the cut-off points for determining the applicability of the offset requirements (Section II.C.).

8. The definition of source (Section II.A.1.).

9. The definition of modification (Section II.A.1.), including the additional flexibility under revised SIPs discussed in the preamble under "Applicability to modifications accompanied by emission reductions with the same source (intrasource offsets)."

Comments on these issues are due on or before February 15, 1979.

(Section 129(a), Pub. L. 95-95, (note under 42 U.S.C. § 7502), and Section 301 of the Clean Air Act, as amended (42 U.S.C. § 7601).)

Dated: December 29, 1978.

DOUGLAS M. COSTLE,
Administrator.

[FR Doc. 79-1422 Filed 1-15-79; 8:45 am]

[6712-01-M]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 1]

[Gen. Docket No. 78-316]

FEE REFUNDS AND FUTURE FCC FEES

Order Extending Time for Filing Comments in Parts C and D of This Proceeding

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: Date for filing comments in response to Parts C and D of the Notice of Inquiry on Fee Refunds and Future FCC Fees is extended from January 8, 1979, to February 1, 1979. This action is taken in response to petitions from the General Electric Company, National Association of Broadcasters and the Land Mobile Communications Council.

DATES: Comments on Parts C and D must be filed by February 1, 1979.

ADDRESSES: Federal Communications Commission Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Douglas W. Webbink, Office of Plans and Policy, Room 838, Federal Communications Commission, Washington, D.C. 20554 (202-632-6312).

Adopted: January 2, 1979.

Released: January 4, 1979.

In the matter of fee refunds and future FCC fees, GEN Docket No. 78-316.[1]

1. On September 27, 1978, the Commission adopted a *Notice of Inquiry*, 43 FR 46658, concerning the above entitled proceeding. The present deadline for filing comments in Parts C and D of this proceeding is January 8, 1979.

2. General Electric Company has petitioned for a 60-day extension of time and the National Association of Broadcasters and the Land Mobile Communications Council have petitioned for a 30-day extension of time for filing comments in Parts C and D of this proceeding.

3. In support of their requests, petitioners state that this is an extremely complex matter, and that the Commission did grant an extension of time from November 8, 1978, to December 1, 1978, for filing comments on Part B of the *Notice of Inquiry*. General Electric Company also cites the need to consolidate the views from various parts of its company. Similarly, the Land Mobile Communications Council cites the need to analyze the comments received by its members. The National Association of Broadcasters also cites the problem of preparing comments during the Christmas and New Year holidays, as well as the fact that they are involved in several other major Commission proceedings.

4. Although we believe that some extension of time may be warranted, we note that interested parties were originally given 90 days in which to prepare comments. Moreover, the Commission is anxious to move forward with this proceeding, especially since the Commission has not collected any fees from any licensees since December, 1976. *Accordingly, it is ordered,* Pursuant to § 0.251(b) of the rules and regulations, 47 CFR 0.251(b), that the time for filing comments in Parts C and D of this proceeding is extended to February 1, 1979, but that the motions to extend time beyond February 1, 1979, are denied.

ROBERT R. BRUCE,
General Counsel.

[FR Doc. 79-1510 Filed 1-15-79; 8:45 am]

[1] See also 45 FR 53474, November 16, 1978.

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-11-M]

DEPARTMENT OF AGRICULTURE

Forest Service

DAVY CROCKETT TIMBER MANAGEMENT PLAN, NATIONAL FORESTS IN TEXAS, LUFKIN, TEX.

Intent To Prepare an Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture will prepare an Environmental Statement for the Davy Crockett Timber Management Plan.

The Davy Crockett Timber Management Plan will prescribe actions to be taken from FY 1980-1984. It will be incorporated into the Land Management Plan for the Davy Crockett National Forest prior to September 30, 1985.

Methods of cutting, types of site preparation, and reforestation procedures will be outlined. Intermediate stand treatments such as thinning, pre-commercial thinning and release will be discussed.

Multiple use coordination measures will be considered for recreation, wildlife (including endangered species), water, soil, minerals and range.

Other activities including forest insects and diseases, fire and transportation needs, archaeological and historical areas, air quality and socio-economic conditions will be covered.

John H. Courtenay, Forset Supervisor, is the responsible official, and David Oates, Director of Resources for the National Forests in Texas will be the team leader for the Environmental Assessment and Statement.

It is anticipated that the Environmental Assessment will require about four months. The Draft Environmental Statement is scheduled for completion by March 15, 1979, with a three month review period, and the Final Environmental Statement is scheduled for filing in August 1979. If the decision is to accept the proposed plan, it will be put into effect in FY 1980.

Comments on the Notice of Intent or on the proposed plan should be sent to John H. Courtenay, Forest Supervisor, National Forests in Texas, Lufkin, Texas 75901.

Dated: January 8, 1979.

JOHN H. COURTENAY,

Forest Supervisor.

[FR Doc. 79-1460 Filed 1-15-79; 8:45 am]

[3410-15-M]

Rural Electrification Administration

TRI-STATE GENERATION AND TRANSMISSION ASSOCIATION, INC. AND BASIN ELECTRIC POWER COOPERATIVE

Final Environmental Impact Statement

Notice is hereby give that the Rural Electrification Administration has prepared a Final Environmental Impact Statement in accordance with Section 102(2)(C) of the National Environmental Policy Act of 1969 with the proposed use of REA guaranteed loan funds by Basin Electric Power Cooperative 1717 E. Interstate Avenue, Bismark, North Dakota 58501, and Tri-State Generation and Transmission Association, Inc., 12076 Grand Street, Thornton, Colorado 80241 to finance a portion of proposed transmission facilities in the State of Nebraska for the Nebraska Public Power District. The facilities are proposed to be constructed in the counties of Cheyenne, Deuel, Keith, Lincoln, Custer, Sherman, Buffalo, Frontier, and Red Willow. The transmission facilities covered by this statement include the following:

1. Approximately 80 miles of 345 kV transmission line from Sidney, Nebraska, to Keystone, Nebraska.
2. Approximately 30 miles of 345 kV transmission line from Keystone, Nebraska, to the Gerald Gentleman power station near Sutherland, Nebraska.
3. Approximatley 130 miles of 345 kV transmission line from the Gerald Gentleman power station to Sweetwater, Nebraska.
4. Approximately 14 miles of 345 kV transmission line from Sweetwater, Nebraska, to Riverdale, Nebraska.
5. Approximately 75 miles of 345 kV transmission line from the Gerald Gentleman power station to Red Willow, Nebraska.

Items 3 and 5 listed above include 30 miles of double circuit construction proposed for the Gerald Gentleman to Sweetwater and Gerald Gentleman to Red Willow transmission line segments.

The statement also covers new substations at Keystone, Sweetwater, and Red Willow, and additions to existing substations at Sidney, Gerald Gentleman, and Riverdale.

Additional information may be secured on request, submitted to Mr. Richard F. Richter, Assistant Administrator—Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250. The Final Environmental Impact Statement may be examined during regular business hours at the offices of REA in the South Agriculture Building, 12th and Independence Avenue, S.W., Washington, D.C., Room 1268, or at Tri-State's or Basin Electric's address indicated above. Final action may be taken with respect to this matter ofter thirty (30) days.

Final REA action with respect to this matter (including any release of funds) will be taken only after REA has reached satisfactory conclusions with respect to its environmental effects and after procedural requirements set forth in the National Environmental Policy Act of 1969 have been met.

Dated at Washington, D.C., this 20 day of December, 1978.

ROBERT W. FERAGEN,

Administrator, Rural Electrification Administration.

[FR Doc. 79-1287 Filed 1-15-79; 8:45 am]

[6320-01-M]

CIVIL AERONAUTICS BOARD

[Docket No. 33411]

ATLANTA-MEMPHIS SERVICE INVESTIGATION

Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held commencing February 27, 1979, at 10:00 a.m. (local time) in Room 1003, Hearing Room A, Universal Building North, 1875 Connecticut Avenue, N.W., Washington, D.C., before the undersigned Administrative Law Judge.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the Prehearing Conference Report and the Supplemental Prehearing Conference Report, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., January 8, 1979.

KATHERINE A. KENT,

Administrative Law Judge.

[FR Doc. 79-1500 Filed 1-15-79; 8:45 am]

[6320-01-M]

[Docket No. 33012; Order 79-1-28]

THOMSON TRAVEL, LTD. (UNITED KINGDOM)

Statement of Tentative Findings and Conclusions and Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 4th day of January 1979.

By application filed July 10, 1978, Thomson Travel Limited (United Kingdom) (TTL) requests issuance of a foreign air carrier permit authorizing it to engage in the indirect foreign air transportation of persons and their accompanying baggage between any point or points in the United States and any point or points outside the United States.[1]

No answers to the application and petition have been filed.

BACKGROUND

TTL is not a direct air carrier, operates no aircraft of its own, and does not propose to do so. A subsidiary of TTL, Britannia Airways Limited (Britannia), which is a direct air carrier, does possess a foreign air carrier permit issued pursuant to section 402 of the Federal Aviation Act of 1958 authorizing it to perform charter foreign air transportation primarily between the United States and the United Kingdom.[2]

TTL requests the Board issue it a foreign indirect air carrier permit authorizing it to engage in indirect air transportation through the organization of Advance Booking Charters, One-Stop Inclusive Tour Charters, Travel Group Charters, or any other type of charter service in foreign air transportation.

OWNERSHIP AND CONTROL

Thomson Travel Limited (United Kingdom) is a corporation organized on February 16, 1965,[3] in the United Kingdom, under the United Kingdom Companies Act of 1948. With its home office in London, TTL asserts it is Britain's largest operator of package holidays and engages in a wide variety of travel and holiday services.[4] It is organized into distinct operating functions: a charter airline, a tour operator, a hotel chain, and a travel agency chain.[5] These activities are carried out through Overseas Development Ltd. and Thomson Travel Holdings Ltd.[6] TTL is in turn the travel and holiday division of the Thomson Organization Limited, a large, diverse conglomerate, involved in newspapers, publishing, and travel and employing over 20,000 people.[7]

In assessing the fitness of Britannia Airways, a subsidiary of TTL, the Board previously described the ownership of the Thomson Organization Ltd. as follows: "by deed of trust dated March 18, 1970, a trust was formed transferring to the trustees the controlling interest in Thomson Television Ltd. which ultimately controls Britannia through several subsidiary corporations, one of which is the Thomson Organization Ltd. * * * the beneficiaries of the trust are the children of K. R. Thomson, all of whom are Canadian citizens." [8] Upon review of the information available, the Board concluded that it should waive its policy of requiring that the citizenship of an air carrier be determined exclusively on the basis of the citizenship of its owners. As a general policy, the Board requires that ownership and control of a foreign air carrier be vested in citizens of the country of citizenship of the air carrier.[9] However, in the case of Britannia, and Thomson, we concluded that as a practical matter, even though the ultimate ownership was held by Canadian citizens the effective control of the organization was British in that, (1) all of its officers and directors were British citizens,[10] (2) British authorities exercise regulatory control over the applicant,[11] and (3) the Government of the United Kingdom transmitted the application through diplomatic channels to the Board.[12] Based on our review of the foregoing relationships, we have concluded that the carrier is still under the operational control of British citizens, and that therefore the waiver of our citizenship policy should continue.[13]

As stated, TTL, as an applicant for an indirect air carrier permit, is the principal holder of the stock of a direct air carrier—Britannia Airways Limited [14]—which holds section 402 authority from the Board authorizing charter service between the United States and the United Kingdom. We have previously expressed some reservations concerning corporate or control relationships between indirect and direct air carriers which could result in discriminatory actions or unfair competitive advantage.[15] In this case, however, the applicant has indicated a willingness to accept a condition prohibiting the use of Britannia by TTL on flights between the U.S. and the U.K. and we will impose such a restriction to eliminate the possibility of any unfair competitive advantage.[16] Based on the foregoing, we tentatively conclude that TTL is substantially and effectively controlled by citizens of the United Kingdom.

FINANCIAL AND OPERATIONAL FITNESS

The balance sheets of TTL show total assets in excess of total liabilities for the years ended December 31, 1976 and 1977.[17] The comparable statements of profit and loss show substantial profits before taxes of $11,760,000 for 1976 and $4,242,000 for 1977.[18] The most recent balance sheet for TTL shows assets of $36,177,000 and liabilities of $28,680,000, while the Thomson Organization Limited, the parent organization shows total assets of $418 million and total liabilities of $255 million.[19] In addition to the protection of customer payments offered by the company's existing investments, Parts 371, 372a, 373, 378a, and 380 [20] of the Board's Special Regulations, which require surety bonding and escrow arrangements for U.S.-origin charters, provide additional protection for the funds of the charter passengers. Thus, it is tentatively concluded that all fitness requirements of Section 402 of the Act are met by the applicant.

PUBLIC INTEREST

On the basis of comity and reciprocity, we tentatively conclude that it is in the public interest to grant TTL a

[1] On July 28, 1978, TTL filed a petition for an order to show cause why its application should not be granted without a hearing.

[2] Order 77-3-21, served March 4, 1977.

[3] Application for Indirect Air Carrier Permit, Exhibit 6.

[4] *Ibid.*, Exhibit 4.

[5] *Ibid.*, Exhibit 4.

[6] *Ibid.*, Exhibit 7.

[7] *Ibid.*, Exhibit 2.

[8] Order 71-4-63, page 7 mimeo.

[9] *Canadian Pacific Airlines Limited Air Carrier Permit*, 10 C.A.B. 138 (1949).

[10] *Petition for an Order to Show Cause*, Docket 33012.

[11] Application for Indirect Air Carrier Permit, page 2.

[12] *Ibid.*, Exhibit 1.

[13] An identical conclusion was reached in *Britannia Airways Limited, Permit Renewal*, Order 77-3-21, served March 4, 1977.

[14] Application for Indirect Air Carrier Permit, Exhibit 7.

[15] See, for example, *Kuoni Travel Limited (Switzerland) d/b/a Kuoni Travel, Inc.*, Order 76-6-135.

[16] We are placing this condition in the order rather than in the permit to facilitate any revisions to our policy.

[17] Application for Indirect Air Carrier Permit, Exhibit 3, page 5.

[18] Data converted from £ to $ on basis of $2 per £.

[19] Application for Indirect Air Carrier Permit, Exhibit 2, page 23 and Exhibit 3, page 5.

[20] Part 380 governs Public Charters (SPR-145 to 154, ER1063 to 1069) (14 CFR Part 380) which soon will be added to all existing permits held by foreign indirect air carriers of passengers.

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foreign indirect air carrier permit. No party has claimed that the United Kingdom has restricted the ability of persons of either U.S. or U.K. citizenship to become indirect air carriers.

On the basis of the foregoing, we tentatively find and conclude that:

1. Thomson Travel Limited (United Kingdom) is fit, willing and able properly to perform the indirect foreign air transportation described in the attached specimen permit and to adhere to the provisions of the Federal Aviation Act of 1958, as amended, and the rules, regulations, and requirements of the Board;

2. Thomson Travel Limited is effectively controlled by citizens of the United Kingdom;

3. The public interest does not require an oral evidentiary hearing on the application; [21]

4. It is in the public interest to issue a foreign indirect air carrier permit in the form of the attached specimen to Thomson Travel Limited, authorizing the carrier to engage indirectly in foreign air transportation of persons from any point or points in the United States to any point or points outside the United States, and return for a period of five years; and

5. The public interest requires that the exercise of the privileges granted by this permit should be subject to the terms, conditions, and limitations contained in the specimen permit attached to this order, to the conditions set forth in paragraphs (a), (b),(c) and (d) below, and to such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Board;

(a) With respect to the operations conducted pursuant to the authority granted, the holder shall be subject to the provisions of the Board's Regulations governing charter operations, as now or later amended;

(b) In using the authority granted by this permit, Thomson Travel Limited shall not utilize the services of Britannia Airways Limited, or any other affiliated direct air carrier, for transportation between the United States and the United Kingdom, during a period in which any interest exists, either directly or indirectly between Thomson Travel Limited (United Kingdom) and Britannia Airways Limited; and

(c) In the performance of any service authorized by this permit, the holder shall not extend or receive any preference or advantage of any nature to or from any affiliated direct air carrier, and with respect to all matters which may relate to the services authorized by its permit shall not deal with such direct air carrier except in a manner and on the same basis and terms as are available to any other indirect air carrier;

(d) In using this authority (1) the name Thomson Travel Limited (United Kingdom) shall appear on all of the holder's advertising, tickets, stationery, and other public documents; (2) the above name will always be used in its entirety; and (3) words designating the holder's nationality shall be displayed at least as prominently as its most prominently displayed name on any material disseminated to the public. For purposes of this order, the holders name shall include its legal name, trademarks, tradenames or any other name that may be used in conjunction with any of the above.

6. The grant of a permit to the applicant is not a "major Federal action significantly affecting the quality of the human environment" within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969, and will not constitute a "major regulatory action" under the Energy Policy and Conservation Act of 1975, as defined in section 313(a)(1) of the Board's Regulations; and

7. Except to the extent granted, the application of Thomson Travel Limited in Docket 33012 should be denied.

Accordingly, 1. We direct interested persons to show cause why the Board should not make final its tentative findings and conclusions stated here, and why a foreign air carrier permit in the specimen form attached should not, subject to the disapproval of the President, be issued to Thomson Travel Limited (United Kingdom);

2. Any interested person objecting to the issuance of an order making final the tentative findings and conclusions stated here or to the issuance of the attached specimen permit, shall, not later than January 31, 1979, file with the Board and serve on the persons named in paragraph 5 below a statement of objections together with a summary of testimony, statistical data and any evidence expected to be relied upon to support the statement of objections. Answers to objections shall be filed not later than February 12, 1979;

3. We will give full consideration to timely filed and properly supported objections before taking further action, except that we may proceed to enter an order in accordance with the tentative findings and conclusions stated here if we determine that there are no factual issues presented that warrant the holding of an oral evidentiary hearing; [22]

4. In the event no objections are filed, we will waive all further procedural steps and we will direct the Secretary to enter an order which (1) shall make final the tentative findings and conclusions stated here, and (2) subject to the disapproval of the President pursuant to section 801(a) of the Act, shall issue a foreign indirect air carrier permit to the applicant in the specimen form attached; and

5. We shall serve this order on Thomson Travel Limited (United Kingdom), the Ambassador of Great Britain and Northern Ireland in Washington, D.C., and the Departments of State and Transportation.

This order shall be published in the FEDERAL REGISTER and transmitted to the President.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,[23]
Secretary.

SPECIMEN PERMIT

UNITED STATES OF AMERICA, CIVIL AERONAUTICS BOARD, WASHINGTON, D.C.

Permit to Foreign Indirect Air Carrier

THOMSON TRAVEL LIMITED (UNITED KINGDOM) is authorized, subject to the following provisions, the provisions of the Federal Aviation Act of 1958, and the orders, rules and regulations issued under the Act, to engage indirectly in foreign air transportation of persons and their accompanying baggage between any point or points in the United States and any point or points outside the United States.

This permit is subject to all applicable provisions of any treaty, convention, or agreement affecting the right to engage in indirect air transportation of persons now in effect, or that may become effective during the period this permit remains in effect, to which the United States and the United Kingdom shall be parties.

The exercise of these privileges is subject to the terms, conditions and limitations set forth in Order —— dated ———— and to such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Board.

By accepting this permit the holder waives any right it may possess to assert any defense of sovereign immunity from suit in any action or proceeding instituted against it in any court or other tribunal in the United States (or its territories or possessions) based upon any claim arising out of its operations under this permit.

This permit shall be effective on ————, and shall terminate in five years: *However*, if during this period the operation of the indirect foreign air transportation authorized becomes the subject of any treaty, convention or agreement to which the United States and the United Kingdom are or shall become parties, then this permit will continue in effect during the period provided in that treaty, convention, or agreement.

The Civil Aeronautics Board through its Secretary has executed this permit and affixed its seal on ————.

————————,
Secretary.

[FR Doc. 79-1501 Filed 1-15-79; 8:45 am]

[21] Any interested persons objecting to issuance of an order making final the Board's tentative findings and conclusions, and issuing the attached permit, shall be allowed twenty-one (21) days in which to respond from the date of service of this order. Answers to objections shall be filed not later than ten days thereafter.

[22] Since provision is made for the filing of objections to this order, petitions for reconsideration will not be entertained.

[23] All members concurred.

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[3510-17-M]

DEPARTMENT OF COMMERCE

Office of the Secretary

[Dept. Organization Order 10-5]

ASSISTANT SECRETARY FOR ADMINISTRATION

Organizational Function and Delegation of Authority

This order effective November 30, 1978 amends the material appearing at 43 FR 12354 of March 24, 1978.

Department Organization Order 10-5, dated February 21, 1978, is hereby amended as shown below. The purpose of this amendment is to reflect the consolidation of all procurement operations and staff-level procurement functions of the former Office of Administrative Services and Procurement and the functions of the former Office of ADP Management to form the new Office of Procurement and ADP Management.

The Appendix attached to this amendment supersedes the Appendix dated February 21, 1978.

ELSA A. PORTER,
Assistant Secretary for Administration
GUY W. CHAMBERLAIN,
Acting Assistant Secretary for Administration.

APPENDIX

DEPARTMENTAL OFFICES AND UNITS WHICH REPORT TO THE ASSISTANT SECRETARY FOR ADMINISTRATION

Office of Administrative Services
Office of Audits
Office of Budget and Program Evaluation
Office of Civil Rights
Office of the Controller
Office of Intelligence Liaison
Office of Investigations and Security
Office of Organization and Management Systems
Office of Personnel
Office of Procurement and ADP Management
Office of Publications
Appeals Board (for administrative purposes only)

[FR Doc. 79-1473 Filed 1-15-79; 8:45 am]

[3510-17-M]

[Dept. Organization Order 15-8]

OFFICE OF THE INSPECTOR GENERAL

Statement of Organizational Function and Delegation of Authority

This order is effective November 27, 1978.

SECTION 1. PURPOSE

This Order reflects the establishment of the Office of the Inspector General and prescribes its functions.

SECTION 2. ORGANIZATION

01. The Inspector General Act of 1978 (hereinafter, the "Act"), enacted October 12, 1978 (Public Law 95-452; 5 U.S.C. Appendix), establishes in the Department of Commerce an Office of the Inspector General headed by an Inspector General appointed by the President by and with the advice and consent of the Senate. The statute provides that the Inspector General shall report to and be under the general supervision of the Secretary of Commerce.

02. The Office of the Inspector General shall consist of:

a. An Assistant Inspector General for Auditing;

b. An Assistant Inspector General for Investigations; and

c. Such organization units as the Inspector General, in conjunction with the Assistant Secretary for Administration, may establish for the purpose of carrying out assigned authorities and functions.

SECTION 3. AUTHORITIES AND FUNCTIONS

01. The Inspector General shall exercise the authorities and perform the functions set forth in the Act.

02. The Inspector General may delegate any authority conferred by this Order to any employee of the Office of the Inspector General, and may authorize further redelegation by any such employee, subject to such conditions as the Inspector General may prescribe.

03. The Assistant Inspector General for Auditing or the Assistant Inspector General for Investigations shall be designated to act as Inspector General in the latter's absence.

SECTION 4. SUPPORT SERVICES

The Assistant Secretary for Administration, in consultation with the Inspector General, shall ensure that the Department provides to the Office of the Inspector General personnel, space, accounting and payroll, and other administrative support services, as provided for in the Act, or as otherwise may be appropriate.

SECTION 5. TRANSFERS

01. Pursuant to the Act, there are transferred to the Office of the Inspector General: the Departmental Office of Audits, the Investigations and Inspections Staff of the Economic Development Administration, and that portion of the Departmental Office of Investigations and Security which has responsibility for investigation of alleged criminal violations and program abuse.

02. The personnel, assets, liabilities, contracts, property, records, unexpended balances of appropriations, authorizations, and allocations, and other funds employed, held, used, arising from, available or to be made available to the offices and staffs transferred under paragraph .01, above, are assigned to the Office of the Inspector General.

SECTION 6. TRANSITIONAL PROVISIONS

All rules, regulations, orders, determinations, authorizations, contracts, agreements, proceedings, audits, hearings, investigations, inspections, or other actions issued, undertaken, pending or entered into by and for the organization units transferred under paragraph 5.01 of this Order, shall continue and remain in full force and effect until they expire in due course or are revoked or amended by appropriate authority.

GUY W. CHAMBERLAIN,
Acting Assistant Secretary for Administration.
JUANITA M. KREPS,
Secretary of Commerce.

[FR Doc. 79-1474 Filed 1-15-79; 8:45 am]

[3510-17-M]

[Dept. Organization Order 25-5B, Amdt. 1]

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Statement of Organizational Function and Delegation of Authority

This order effective November 14, 1978 amends the material appearing at 43 FR 51438 of November 3, 1978.

Department Organization Order 25-5B, dated October 16, 1978, is hereby amended as shown below. The purpose of this amendment is to establish, under the Administrator of NOAA, the National Climate Program Office authorized by the National Climate Program Act (P.L. 95-367).

1.a. A new Section 8. is added to read as follows:

"SECTION 8. NATIONAL CLIMATE PROGRAM OFFICE

"The *National Climate Program Office* (NCPO), whose director shall report to and act under the direction of the Assistant Administrator for Research and Development acting on behalf of the Administrator, shall act as the focal point within the Federal government to administer the National Climate Program. The Office shall coordinate, plan, and serve national efforts in climate. In order to implement the National Climate Program Act, the Office shall:

"● Develop the National Climate Program, including preparation of national climate plans.

"● Define the roles of the various Federal departments and agencies in

the National Climate Program and provide for Program coordination.

"● Assist in the creation and maintenance of advisory committees and interagency groups concerned with the development of the National Climate Program.

"● Cooperate and participate with other Federal agencies, including the Department of State, and foreign international and domestic organizations and agencies involved in international or domestic climate-programs.

"● Assist the Administrator in establishing an intergovernmental program for Federal and State cooperative activities in climate studies and advisory services.

"● Administer and monitor grants for research to public or private educational institutions, State agencies, and other persons or institutions qualified to conduct climate related studies or provide climate-related services.

"● Coordinate with and assist the Office of Management and Budget in the preparation of a horizontal budget for the National Climate Program.

"● Prepare the annual report on the National Climate Program.

"● Otherwise administer the National Climate Program Act, under the guidance of the Admininstrator, including the development of appropriate rules, regulations, policies, and procedures."

b. In pen and ink, renumber the existing Sections 8 through 14 as Sections 9 through 15.

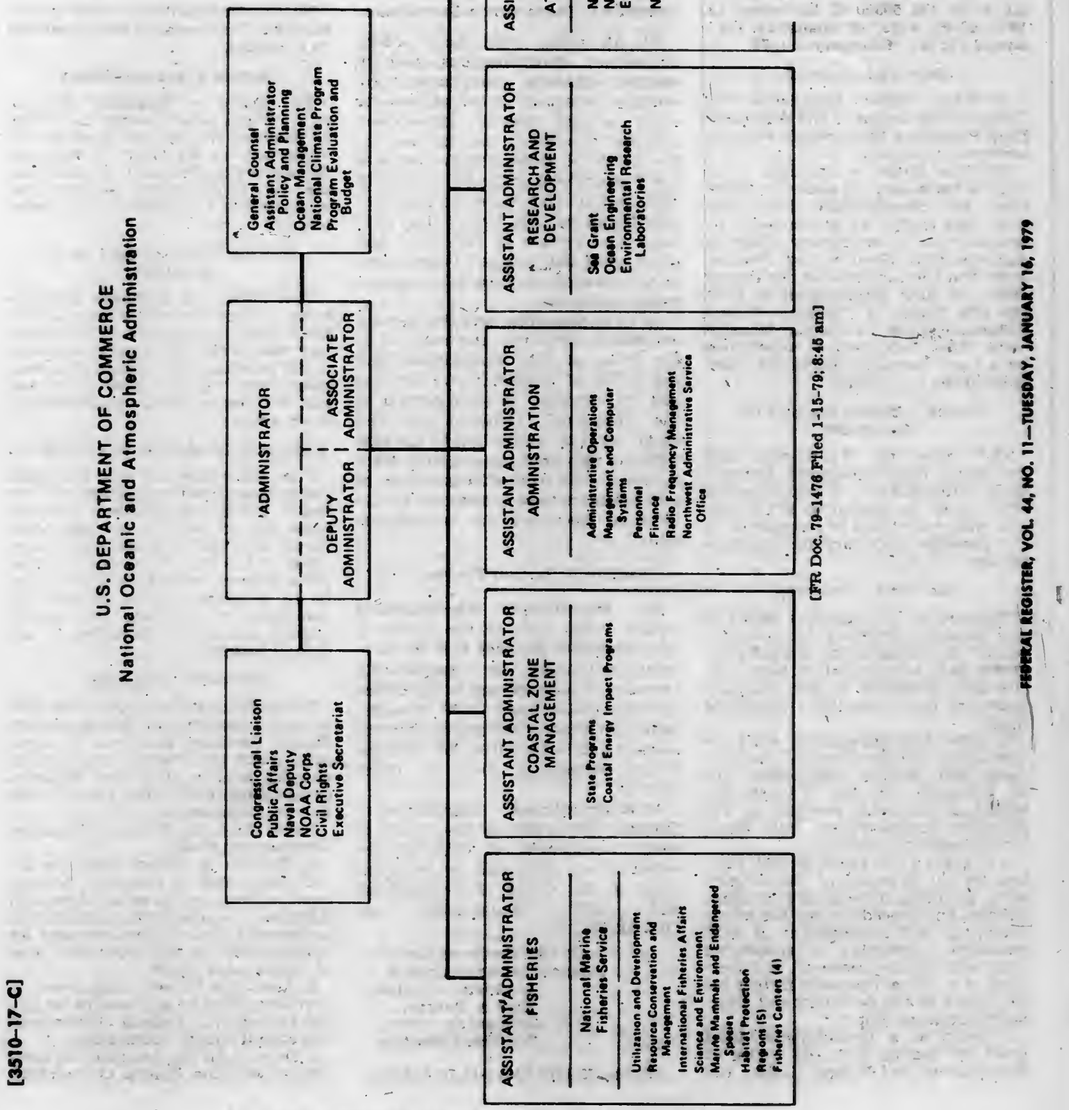
2. The organization chart, Exhibit 1, attached to this amendment, supersedes the organization chart dated October 16, 1978. A copy of the organization chart is on file with the original of this document in the Office of the FEDERAL REGISTER.

GUY W. CHAMBERLAIN,

Acting Assistant Secretary for Administration.

Exhibit 1 to DOO 25-5B

U.S. DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration



[3510-17-C]

[FR Doc. 79-1476 Filed 1-15-79; 8:45 am]

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[3510-17-M]

[Dept. Organization Order 20-14]

OFFICE OF PROCUREMENT AND AUTOMATIC DATA PROCESSING MANAGEMENT

Statement of Organizational Function and Delegation of Authority

This order effective November 30, 1978 supersedes the material appearing at 41 FR 50320 of November 15, 1976, 42 FR 41467 of August 17, 1977, and 43 FR 785 of January 4, 1978.

SECTION 1. PURPOSE

.01 This Order establishes the Office of Procurement and Automatic Data Processing Management and prescribes its functions.

.02 This Order is intended to be only a temporary measure to implement the consolidation of procurement and staff-level procurement responsibilities of the former Office of Administrative Services and Procurement and the functions of the former Office of ADP Management to form the new Office of Procurement and Automatic Data Processing Management. This Order will be superseded by a more complete functional statement in the near future.

SECTION 2. STATUS AND LINE OF AUTHORITY

The Office of Procurement and Automatic Data Processing Management (OP&ADPM), a Departmental office, shall be headed by a Director who shall report and be responsible to the Assistant Secretary for Administration.

SECTION 3. FUNCTIONS

Pursuant to the authority vested in the Assistant Secretary for Administration by Department Organization Order 10-5, and subject to such policies and directives as the Assistant Secretary may prescribe, OP&ADPM shall:

a. Have Departmentwide staff responsibility for procurement management, and perform procurement for all elements of the Department, except as otherwise provided in Department Administrative Order 208-2, "Procurement Authority;"

b. Provide a full range of ADP services for all elements of the Department, including development of plans, policies, and procedures for the acquisition, use and management of ADP resources, conducting or sponsoring studies and applied research, and operation of a central computer facility for the Office of the Secretary and designated operating units;

c. Serve as a Departmental focal point for dealing with the Office of Management and Budget (OMB), the General Services Administration (GSA), the General Accounting Office (GAO), and other central management agencies on procurement and ADP matters; and

d. Exercise such authorities of the Assistant Secretary for Administration as are implicit in and essential to carry out the functions assigned by this Order.

SECTION 4. TRANSITIONAL PROVISIONS

.01 All rules, regulations, orders, delegations, determinations, authorizations, contracts, agreements, proceedings, hearings, investigations, or other actions issued, undertaken, pending, or entered into by and for the Office of Administrative Services and Procurement or the Office of ADP Management with respect to functions transferred by this Order, shall continue and remain in full force and effect until they expire in due course or are revoked or amended by appropriate authority.

.02 The resources, including personnel, funds, property, and records, of the Office of ADP Management and the Office of Administrative Services and Procurement, as they pertain to the functional transfer described above, shall be transferred to the new Office of Procurement and ADP Management, with the effective date of such transfers to be determined by the Assistant Secretary for Administration.

SECTION 5. SAVINGS PROVISIONS

All Department Administrative Orders which refer to the Office of Administrative Services and Procurement, or OAS&P, are constructively amended to refer instead to the Office of Procurement and ADP Management, or OP&ADPM, for procurement matters and to the Office of Administrative Services, or OAS, for other matters.

All Department Administrative Orders which refer to the Office of ADP Management, or OADPM, are constructively amended to refer instead to the Office of Procurement and ADP Management, or OP&ADPM.

GUY W. CHAMBERLAIN,
Acting Assistant Secretary for Administration.
ELSA A. PORTER,
Assistant Secretary for Administration.

[FR Doc. 79-1475 Filed 1-15-79; 8:45 am]

[3510-17-M]

[Dept. Organization Order 15-5]

OFFICE OF REGIONAL DEVELOPMENT

Statement of Organizational Function and Delegation of Authority

This order is effective December 6, 1978.

SECTION 1. PURPOSE

This Order establishes the Office of Regional Development and prescribes its functions.

SECTION 2. ESTABLISHMENT

The Office of Regional Development, which is now under the Office of Regional Affairs and Program Coordination (as the Office of Regional Economic Coordination), is hereby established as a separate organizational entity within the Office of the Secretary.

SECTION 3. STATUS AND LINE OF AUTHORITY

The Office of Regional Development, a Departmental office, shall be headed by the Assistant to the Secretary who is also the Special Assistant to the Secretary for Regional Development (the "Special Assistant") and who shall report and be responsible to the Secretary.

SECTION 4. DELEGATION OF AUTHORITY

The authorities of the Secretary under Executive Order 11386 and the Public Works and Economic Development Act of 1965, as amended, (the "Act" 42 U.S.C. 3181 *et seq.*) which relate to the Title V regional commissions program, except for the authority to designate or to modify the boundaries of economic development regions, are hereby delegated to the Special Assistant.

SECTION 5. FUNCTIONS

In exercising the authorities delegated under Section 4 of this Order, the Special Assistant shall, where necessary, assist the Federal Cochairmen, and in dealings with the Regional Commissions shall work through the Federal Cochairmen.

Specifically, the Office of Regional Development shall:

a. Propose or review proposals for the designation of economic development regions and the establishment of Regional Commissions, and develop recommendations to the Secretary for modifications in the geographic area of a designated region.

b. Assist the Federal Cochairmen in providing effective and continuing liaison between the Federal Government and each Regional Commission.

c. Develop for the Secretary, in cooperation with the Federal Cochairmen, guidelines for the use of funds appropriated under Title V of the Act, including standards for meeting the requirements of Section 604 of the Act for proper and efficient management of projects; and review for the Secretary's action proposed budgets and subsequent financial plans submitted by the Federal Cochairmen on behalf of the Regional Commissions.

d. Be responsible for issuance of instructions (in accordance with Section 7, subparagraph 102a. of the Department of Commerce Handbook of Accounting Principles and Standards) to establish and administer a system of fund control over funds appropriated for Regional Development Programs, as authorized by Title V of the Act. The instructions shall include provisions to assure that Federal Cochairmen, in accordance with approved financial plans, will have final authority to commit such funds for Federal grant and supplements approved by the Regional Commissions and for technical, planning assistance, and administrative grants to the Regional Commissions.

e. Assist the Secretary in communicating to the Federal Cochairmen such policies affecting regional development and any other forms of program guidance and policy direction with respect to their Federal functions as the Secretary may establish.

f. In cooperation with the Deputy Under Secretary, assure adequate coordination and support between the Regional Commissions and all Commerce organizations, such coordination encompassing technical assistance, planning, development, and the execution of economic development activities, including individual projects.

g. Assist the Secretary in achieving effective coordination of the activities of the Federal Government relating to regional development.

h. With the Federal Cochairmen, obtain a coordinated review within the Federal Government of plans (including comprehensive long-range economic development plans), programs, proposals, and recommendations submitted by the Regional Commissions; and based on such coordinated review, comment on and present such matters to the Secretary for appropriate action.

i. Serve as the Executive Secretary of the Federal Advisory Council on Regional Economic Development (the "Council") established by Executive Order 11386, and provide staff support to the Council or successor mechanisms in performing its functions set forth in the Executive Order and as may be requested by the Secretary.

j. Perform or sponsor research related to objectives of Title V of the Act, coordinating such research plans with the Federal Cochairmen.

k. Develop, in collaboration with the Federal Cochairmen, proposed agreements or memoranda of understanding between the Federal Cochairmen and other Federal agencies when required for the conduct of Regional Commission programs; attempt to resolve by mutual agreement any differences in policy that may arise between a Federal Cochairman and a Federal department or agency, and, if necessary, propose action to the Secretary for resolving such questions.

l. Review proposed Regional Commission annual reports prior to transmittal to the Congress.

m. Review the effectiveness of programs of Regional Commissions in achieving statutory objectives, and submit recommendations thereon to the individual Federal Cochairmen and, when appropriate, to the Secretary.

n. Perform such other duties as may be necessary to assist the Secretary and the Federal Cochairmen, including the development of policies and legislative proposals relating to regional development.

o. Provide budgetary services to the Federal Cochairmen and arrange for the provision of other support services by units of the Department as may be required by the Federal Cochairmen.

p. Initiate, coordinate, and support, in cooperation with the Federal Cochairmen, pilot projects or incentive programs in support of relevant Administration policies, regional growth policy processes, development programs, and planning, provided that such activities meet the requirements of Section 505(a)(1) of the Act.

SECTION 6. IMPLEMENTATION

The funds, records, property, and employees of the Office of Regional Economic Coordination are hereby transferred to the Office of Regional Development.

SECTION 7. SAVINGS PROVISION

Any Department Organization Orders or Department Administrative Orders which mention the Special Assistant to the Secretary for Regional Economic Coordination or the Office of Regional Economic Coordination are hereby constructively amended to refer to the Special Assistant to the Secretary for Regional Development and to the Office of Regional Development.

ELSA A. PORTER,
Assistant Secretary for Administration.

[FR Doc. 79-1472 Filed 1-15-79; 8:45 am]

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[3910-17-M]

Office of the Secretary

INDUSTRY SECTOR ADVISORY COMMITTEES AND COMMITTEE OF INDUSTRY SECTOR ADVISORY COMMITTEE CHAIRMAN FOR MULTILATERAL TRADE NEGOTIATIONS

Renewal

Pursuant to the authority delegated under Executive Order 11846 of March 27, 1975, the Secretary of Commerce (hereinafter the Secretary) and the Special Representative for Trade Negotiations (hereinafter the Special Representative) jointly have determined to renew the 27 Industry Sector Advisory Committees (as enumerated below) and the Committee of Industry Sector Advisory Committee Chairman under the provisions of Subsection 135(c)(2) of the Trade Act of 1974 and the Federal Advisory Committee Act, 5 U.S.C. App. (1976). In reaching such decision the Secretary and the Special Representative have consulted with interested private organizations and have taken into account the factors set forth in Subsection 135(c)(2)(B) of the Trade Act of 1974.

Twenty-six of the sector committees were originally established by the Secretary of Commerce and the President's Special Trade Representative in April 1974 pursuant to the Federal Advisory Committee Act and in May 1975, were re-established pursuant to the provisions of Subsection 135(c)(2) of the Trade Act of 1974. The twenty-seventh sector committee was established in July 1975, pursuant to the provisions of Subsection 135(c)(2) of the Trade Act of 1974. All 27 sector committees were re-chartered May 26, 1977. The Committee of Industry Sector Advisory Committee Chairmen was established January 31, 1977, pursuant to the provisions of Subsection 135(c)(2). These 28 committees are used solely for advisory purposes by the Special Representative, in conjunction with the Secretary, on matters which are of mutual concern to each of the committee's particular industry sector and to the United States, in connection with the multilateral trade negotiations undertaken by the United States pursuant to Sections 101 and 102 of the Trade Act of 1974.

Each committee performs such functions and duties and prepares such reports as provided for in Section 135 of the Trade Act of 1974 with respect to sector advisory committees established pursuant to Subsection 135(c)(2) thereof. In particular, each Committee provides detailed views, information, and recommendations regarding trade barriers which affect the products of its sector; maintains liaison with the relevant activities of the Industry

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Policy Advisory Committee for Multilateral Trade Negotiations (IPAC), including, when necessary, sending a representative to IPAC meetings where the Committee's recommendations are reviewed; provides additional advice, as necessary, on specific product considerations which arise during the course of the negotiations; and performs such other advisory functions relevant to the trade negotiations as may be requested by the Secretary and the Special Representative or their designees.

Each sector committee has balanced representation consisting of approximately 25 members appointed from and reasonably representative of the industries encompassed in each of the individual committee sectors. Members are appointed jointly by the Secretary and the Special Representative and serve at the discretion of the Secretary and the Special Representative. The Committee of Chairmen is composed of the 27 chairmen of the sector committees.

Each committee functions solely as an advisory body and in compliance with the provisions of the Federal Advisory Committee Act and Section 135 of the Trade Act of 1974.

Copies of each committee's charter will be filed with appropriate committees of the Congress, and a copy will be forwarded to the Library of Congress.

Inquiries or comments may be addressed to Mr. Edgar J. Gealy, Coordinator, Industry Consultations Policy Staff, Office of International Trade Policy, Industry and Trade Administration, U.S. Department of Commerce, Washington, D.C., 20230, telephone (202) 377-3268.

The aforementioned 27 Industry Sector Advisory Committees for Multilateral Trade Negotiations (MTN) include the following:

Food and Kindred Products
Textiles and Apparel
Lumber and Wood Products
Paper and Products
Industrial Chemicals and Fertilizers
Drugs, Soaps, Cleaners, and Toilet Preparations
Paints, Gum and Wood Chemicals, and Miscellaneous Chemical Products
Rubber and Plastic Materials
Leather and Products
Stone, Clay, and Glass Products
Ferrous Metals and Products
Nonferrous Metals and Products
Hand Tools, Cutlery, and Tableware
Other Fabricated Metal Products
Construction, Mining, Agricultural, and Oil Field Machinery and Equipment
Office and Computing Equipment
Machine Tools, Other Metalworking Equipment, and Other Nonelectrical Machinery
Electrical Machinery, Power Boilers, Nuclear Reactors, and Engines and Turbines
Consumer Electronic Products and Household Appliances
Scientific and Controlling Instruments
Photographic Equipment and Supplies
Communication Equipment and Non-Consumer Electronic Equipment
Railroad Equipment and Miscellaneous Transportation Equipment
Aerospace Equipment
Automotive Equipment
Miscellaneous Manufactures, Toys, Musical Instruments, Furniture, etc.
Retailing

Dated: January 8, 1979.

GUY W. CHAMBERLIN, JR.,
Acting Assistant Secretary for Administration.

[FR Doc. 79-1477 Filed 1-15-79; 8:45 am]

[3510-17-M]

INDUSTRY POLICY ADVISORY COMMITTEE FOR MULTILATERAL TRADE NEGOTIATIONS

Renewal

Pursuant to the authority delegated under Executive Order 11846 of March 27, 1975, the Secretary of Commerce (hereinafter the Secretary) and the Special Representative for Trade Negotiations (hereinafter the Special Representative) jointly have determined to renew the Industry Policy Advisory Committee under the provisions of Section 135(c)(1) of the Trade Act of 1974 and the Federal Advisory Committee Act, 5 U.S.C. App. (1976).

The Committee was originally established by the Secretary of Commerce and the President's Special Trade Representative in February 1974, pursuant to the Federal Advisory Committee Act, and in May 1975 was re-established pursuant to the provisions of Section 135(c)(1) of the Trade Act of 1974. The Committee was re-chartered May 26, 1977.

The Committee advises, consults with, and makes recommendations to the Special Representative for Trade Negotiations, in conjunction with the Secretary of Commerce, on matters concerning the multilateral trade negotiations to be undertaken by the United States pursuant to Sections 101 and 102 of the Trade Act of 1974.

The Committee draws on the expertise and knowledge of its members, on the technical advice of a number of related technical-level advisory committees which are established for individual product sectors of the American industry, and on such data as may from time to time be provided it by the Department and by the Office of the Special Representative for Trade Negotiations.

The Committee (a) provides policy advice regarding overall industry views and the work programs of the related technical-level advisory committees; (b) maintains continuing liaison with the ongoing work of the technical-level committees; (c) reviews and advises on the U.S. Government-prepared summary of the general thrust of recommendations developed in the various technical-level committees' sector papers for their relation to overall industry views; (d) furnishes supplementary policy advice, as necessary, regarding significant developments arising during the course of the actual negotiations; and (e) performs such other advisory functions as may be requested by the Secretary of Commerce and the Special Representative for Trade Negotiations.

The Committee is composed of approximately 20 members appointed from, and reasonably representative of, U.S. industry by the Secretary and the Special Representative. Members are appointed jointly by the Secretary and the Special Representative and serve at the discretion of the Secretary and the Special Representative.

The Committee functions solely as an advisory body and in compliance with the provisions of the Federal Advisory Committee Act and Section 135 of the Trade Act of 1974.

Copies of the Committee's charter will be filed with appropriate committees of the Congress, and a copy will be forwarded to the Library of Congress concurrent with the publication of this notice.

Inquiries or comments may be addressed to Mr. Edgar J. Gealy, Coordinator, Industry Consultations Policy Staff, Office of International Trade Policy, Industry and Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone (202) 377-3268.

Dated: January 8, 1979.

GUY W. CHAMBERLIN, JR.,
Acting Assistant Secretary for Administration.

[FR Doc. 79-1478 Filed 1-15-79; 8:45 am]

[3510-17-M]

Office of the Secretary

PRIVACY ACT OF 1974

Proposed New System of Records, Proposed Amendment of Existing System of Records, Proposed Additional Routine Use for Existing System of Records

The three purposes of this system are the following:

(1) Propose a new Privacy Act System of Records for the Executive Secretariat of the Department of Commerce; (2) Amend an existing system of records to include National Bureau of Standards records; and (3) Amend the safeguard section of an existing system of records.

Pursuant to 5 U.S.C. 552a(e) (4) and (11), Section 3 of the Privacy Act of 1974 (P.L. 93-579, 88 Stat. 1896), the Department of Commerce hereby: (1) Proposes to adopt a new system of records for the Executive Secretariat of the Department of Commerce entitled: Secretarial Correspondence File, COMMERCE/DEPT-22. The Executive Secretariat was established in 1962 as the central coordinating staff to review correspondence addressed to the Secretary of Commerce, Under Secretary, or Assistant Secretary for Congressional Affairs, and to review correspondence submitted by Department units for the attention of the Secretary or Under Secretary to ensure completeness and timeliness of replies.

The purpose of the proposed system COMMERCE/DEPT-22 is to furnish the Executive Secretariat with data that identify each item of correspondence and provide the status of reply. The system will also provide statistical reports to inform management of subject matters gaining significant public interest. The Executive Secretariat maintains the current files for Secretarial correspondence and related records. Retired files are disposed in accord with the appropriate records disposition schedule approved by the Archivist of the United States.

Due to an increase in the volume of correspondence and the time spent in report preparation, the Department recently began to convert to an automated Secretarial correspondence control system. The first stage of the automated system was initiated on July 5, 1978 within the Executive Secretariat. The planned second and final stage, to operate the system Department-wide, will commence at a later date. The system's first stage is currently in operation and is being tested for deficiencies. Although the contractor maintains some of the records at the present time, when the system proves operationally successful, all records will be located within the Department of Commerce and the contractor will not maintain any portion of the records.

During the conversion process from a manual to an automated system, a review of the Executive Secretariat office procedures and of record categories indicated that the system of records may contain personal information, particularly in a case where the correspondent seeks assistance to resolve a personal matter. Therefore, in light of the new retrieval capabilities of the automated system, all Secretarial correspondence and related records will be maintained in the proposed Privacy Act system of records, except as noted in the system location section of the system description.

A complete description of the system is set forth below.

(2) Proposes to include the carpool locator records of the National Bureau of Standards in the Privacy Act System of Records entitled: Department Mailing List, COMMERCE/DEPT-19.

NBS maintains an automated carpool locator system of records that contains information on individuals who voluntarily submit applications to form carpools. Although the system is a part of an existing carpool locator system in the Department, the NBS system was not previously noticed due to an administrative oversight.

The purpose of the system is to assist NBS employees in identifying other individuals who are interested in carpool membership. Since the system offers social benefits, records may be distributed also to non-NBS individuals who are employed at sites in the Gaithersburg, Maryland area.

The system is an administrative service and has no effect on NBS program areas. A complete description of the system is set forth below.

(3) Proposes to amend the safeguard section of the Privacy Act System of Records entitled: Freedom of Information and Privacy Request Records-COMMERCE/DEPT—21. The amendment pertains to access to records in the system by individuals who submit requests for access under the Freedom of Information Act. The amended safeguard section would read as follows:

Safeguards:

At all locations: Privacy Act request records are stored in file cabinets in secured premises with access limited to those whose official duties require access. Freedom of Information request records are generally available to the public.

A complete description of the system is set forth below.

As required by the Privacy Act, the Commerce Department submitted a New System Report dated January 5, 1979 to the Congress and to the Office of Management and Budget.

Although the Act requires the opportunity for public comment only on the proposed new routine uses, comments regarding any portion of this notice will be given due consideration before final publication. Any interested person may submit written data, views, or arguments to the Assistant Secretary for Administration (Attention: Information Management Division, Room 5319) U.S. Department of Commerce, 14 & E Streets NW., Washington, D.C. 20230, any time on or before February 15, 1979. The comments will be available, as received, for public inspection at the above address between the hours of 9 a.m. and 4 p.m., Monday through Friday (except holidays).

These systems of records will become effective 60 days from January 5, 1979 (March 6, 1979), unless the Department notices to the contrary.

AUTHORITY: 5 U.S.C. 552(a), (e)(4) and (11), sec. 3 of the Privacy Act of 1974 (Pub. L. 93-759, 88 Stat. 1896).

Dated: January 5, 1979.

GUY W. CHAMBERLIN, JR.,
Acting Assistant Secretary for Administration.

COMMERCE/DEPT-19

System name:

Department Mailing Lists-COMMERCE/DEPT-19.

System location:

a. Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

b. United States Fire Administration, Washington, D.C. 20230.

c. Office of Minority Business Enterprise, U.S. Department of Commerce, Washington, D.C. 20230.

d. Office of General Service, U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Virginia 22202.

e. For carpool locator records of NBS: Facilities Services Division, National Bureau of Standards, Administration Building, Gaithersburg, Maryland (P.O. Washington, D.C. 20234).

Categories of individuals covered by the system:

At location a.: 1. Persons employed in the Suitland Federal Center who have voluntarily submitted an application to be included in the carpool locator system and be listed as a possible carpool member, and 2. Subscribers to Bureau of the Census publications.

At location b.: All regular publication recipients, all individuals who have requested that they be placed on a mailing list or requested information about USFA, and individuals attending USFA-sponsored conferences.

At location c.: Subscribers to OMBE publications and/or representatives of the media who receives OMBE material at their home addresses.

At location d.: Former employees of the Patent and Trademark Office who have requested that their names be included on a newsletter mailing list.

At location e.: Individuals who have voluntarily submitted an application to be included in the carpool locator system and to be listed as a potential carpool member.

Categories of records in the system:

At location a.: 1. Carpool records include name, address, work week, hours of work, work location, work phone number, willingness to join in a carpool, willingness to participate as a driver or rider in a carpool, zip code. 2. Subscriber lists include name and home address.

At location b.: Name, title, affiliation, address and telephone number.

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At location c.: Name and home address.

At location d.: Name and home address.

At location e.: Carpool locator records include applicant's name, home address, zip code, work week, work hours, work location, office telephone number, willingness to join a carpool, willingness to participate as a driver or rider in a carpool.

Authority for maintenance of the system:

5 U.S.C. 301; 15 U.S.C. 1512, 2205, 2208, and 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

For all locations, see general routine uses of Prefatory Statement. For records at location a.: Carpool records are disseminated to other persons working at the Suitland Federal Center who have voluntarily listed themselves to form carpools; home address is suppressed.

For records at location b. Information is provided to Federal, State, local or international agencies in response to a written request indicating a likelihood that individuals on the mailing list would benefit by or be interested in material to be sent by the requesting agency.

For records at location e.: Carpool locator records are disseminated to individuals working at or near the NBS site, who request information on carpools. (Home addresses are withheld.)

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Storage:

Paper copy in file folders, computer tape, mailing labels.

Retrievability:

Alphabetically by name, and for records at location a., by zip code.

Safeguards:

Records are located in locked cabinets or in secured rooms or premises with access limited to those whose official duties require access.

Retention and disposal:

Records are retained in accordance with each unit's Records Control Schedule.

System manager(s) and address:

For records at location a.: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

For records at location b.: Associate Administrator, National Fire Data Center, USFA, U.S. Department of Commerce, P.O. Box 19518, Washington, D.C. 20036.

For records at location c.: Chief of Information, Office of Public Affairs, OMBE, Washington, D.C. 20230.

For records at location d.: Director, Office of General Service, U.S. Patent and Trademark Office, Washington, D.C. 20231.

For records at location e.: Director of Administrative and Information Systems, National Bureau of Standards, Administration Building, Gaithersburg, Maryland (P.O. Washington, D.C. 20234).

Notification procedure:

For records at location a.: Information may be obtained from: Associate Director for Administration, Federal Building 3, Bureau of the Census, Washington, D.C. 20233.

For records at location b.: Information may be obtained from: Administrative Officer, USFA, Washington, D.C. 20230.

For records at location c.: Privacy Officer, Office of Chief Counsel, Office of Minority Business Enterprise, U.S. Department of Commerce, Washington, D.C. 20230.

For records at location d.: Information may be obtained from: Assistant Commissioner for Administration, U.S. Patent and Trademark Office, Washington, D.C. 20231.

For records at location e.: Information may be obtained from system manager at the same address shown above. Requests should provide applicant's name and address in accord with the inquiry provisions of the Department's rules that appear in 15 CFR Part 4b.

Record access procedures:

Requests from individuals should be addressed to: Same address of the desired location as stated in the Notification section above.

Contesting record procedures:

The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address for desired location.

Record source categories:

Subject individuals, and those authorized by subject individual.

Commerce/Dept-21

System name:

Freedom of Information and Privacy Request Records-COMMERCE/DEPT-21.

System location:

a. For PA request records of BEA: Office of the Director, Bureau of Economic Analysis, 1401 K Street, N.W., Washington, D.C. 20230.

b. For FOIA request records of CENSUS: Freedom of Information Request Control Desk, Bureau of the Census, Federal Building 3, Suitland, Md. 20233.

c. For FOIA and PA request records of ITA: Office of Management and Systems, ITA, U.S. Department of Commerce, Washington, D.C. 20230.

d. For PA request records of MARAD: Office of the Secretary of the Maritime Administration, and offices of MARAD Privacy Act System managers, U.S. Department of Commerce, Washington, D.C. 20230. A complete address list of system managers is available upon request.

e. For FOIA and PA request records of USFA: Freedom of Information Request Control Desk and Administrative Office, respectively, United States Fire Administration, 2400 M Street, N.W., Washington, D.C. 20037.

f. For FOIA request records of NOAA: Freedom of Information Request Control Desk, National Oceanic and Atmospheric Admininstration, WSC #5, Rockville, Md. 20852.

g. For FOIA request records of NTIA: Freedom of Information Request Control Desk, National Telecommunications and Information Administration, 1800 G Street, N.W., Washington, D.C. 20504.

h. For PA request records of the Office of the Secretary: Office of Organization and Management Systems, U.S. Department of Commerce, Washington, D.C. 20230.

Categories of individuals covered by the system:

Individuals who have requested records under the Freedom of Information and/or Privacy Acts contained in files maintained by the organizational units shown in the System Location paragraph above.

Categories of records in the system:

Incoming requests; correspondence developed during processing of requests; initial and final determination letters; records summarizing pertinent facts about requests and action taken; copy or description of records released; description of records denied (copies of records denied are not kept with these files).

Authority for maintenance of the system:

5 U.S.C. 301, 5 U.S.C. 552, 5 U.S.C. 552a and 44 U.S.C. 3101.

Routine uses of records maintined in the system, including categories uses of records maintained in the system, including categories of users and the purposes of such uses:

Used by Department management and legal personnel to assure that each request receives an appropriate reply and to compile data for the required annual reports on activities

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under the Acts. General routine uses of the Prefatory Statement also apply.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

At all locations: Paper records in file folders or loose-leaf binders.

Retrievability:

At location c.: by control number assigned to each request based on date of receipt.

At all other locations: Alphabetically by name of requester.

Safeguards:

At all locations: Privacy Act request records are stored in file cabinets in secured premises with access limited to those whose official duties require access. Freedom of Information request records are generally available to the public.

Retention and disposal:

Records are disposed of in accordance with the appropriate records disposition authorization approved by the Archivist of the United States.

System manager(s) and address:

For records at location a.: Chief Planning and Evaluation Officer, BEA.

For records at location b.: Associate Director for Administration and Field Operation, Bureau of the Census.

For FOIA records at location c.: Freedom of Information Officer, ITA.

For PA records at location c.: Director, Office of Management and Systems, ITA.

For records at location d.: Secretary of the Maritime Administration.

For FOIA records at location e.: Chief Counsel, USFA.

For PA records at location e.: Administrative Officer, USFA.

For records at location f.: Assistant Administrator for Administration, NOAA.

For records at location g.: Director of Congressional and Public Affairs, NTIA.

For records at location h.: Director, Office of Organization and Management Systems, U.S. Department of Commerce.

For each system manager, use the same address as shown for that unit in the System Location section above.

Notification procedure: For records at locations a., b., d., f., and h.: Some individual and address for each as shown in System Manager section above.

For records at locations c. and e.: Same individual and address for each as shown for Privacy Act records in System Manager section above.

For records at location g.: Privacy Officer, NTIA, same address as shown in System Manager section above.

Requester should provide name and address pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures:

Requests from individuals should be addressed to same address as stated in the Notification section above.

Contesting record procedures:

The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories:

The individual making the request, and records derived from the processing of Freedom of Information and Privacy Act requests.

Commerce/Dept-22

System name:

Secretarial Correspondence Files—COMMERCE/DEPT-22

System location:

Executive Secretariart for the Office of the Secretary; U.S. Department of Commerce; 14th & Constitution Avenue, N.W., Washington, D.C. 20230. Records at this location may be duplicated in part or in whole in other Department of Commerce systems of records, or in Government-wide systems, at other locations. For assistance in this regard, information may be obtained from the system manager identified below. Records may also be temporarily located at a contractor's installation: Dialcom Inc., 1104 Spring Street, Silver Spring, Md. 20910.

Categories of individuals covered by the system:

(a) Individuals who correspond with the Secretary of Commerce, Under Secretary, or Assistant Secretary for Congressional Affairs. (b) Individuals whose correspondence has been referred by the White House, other Executive agencies or Members of Congress to the Secretary or Under Secretary for response. In these two categories, the individuals include only those who express views or seek information or assistance. Freedom of Information Act or Privacy Act requests are not indexed in this system (see Freedom of Information and Privacy Request Records—COMMERCE/DEPT-21).

Categories of records in the system:

The system may include the name and address of correspondent, summary of subject matter, original correspondence, Department's response, referral letters, memoranda or notes concerning the subject of the correspondence, or copies of any enclosures. The records in the system are arranged numerically by control number assigned to each item of correspondence.

Authority for maintenance of the system:

5 U.S.C. 301 and 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Used by personnel in the Executive Secretariat of the Department and in administrative offices of each operating unit of the Department to assure that each request receives an appropriate and timely reply and to prepare statistical reports for management on correspondence volume or topics of public interest.

Information from or copies of the records may be provided to the original addressee of the original correspondence. General routine uses of the Prefatory Statement also apply.

Policies and practices for storing, retrieving, accessing, retaining and disposing of records in the system:

Storage:

Maintained in paper form by the Executive Secretariat and on magnetic tape by the contractor (temporarily).

Retrievability:

By control number, by correspondent's name, by subject, by addressee, by category of writer (e.g., Congressman, White House Staff, Cabinet member, mayor, citizen) by category of correspondence, by Executive Secretariat analysts' identification code, by type of priority for response time, or possibly by city and state of correspondent's address.

Safeguards:

Paper records and magnetic tape are stored in file cabinets on secured premises with access limited to personnel whose official duties require access.

Retention and disposal:

Records are disposed in accord with the appropriate records disposition schedule approved by the Archivist of the United States.

System manager and address:

Director, Executive Secretariat, Office of the Secretary, U.S. Department of Commerce, Washington, D.C. 20230.

Notification procedure:

Requests for information should be addressed to the system manager and should provide the correspondent's

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name as included in original correspondence, or provide any items listed under the retrievability section above pursuant to the inquiry provisions of the Department's rules that appear in 15 CFR Part 4b.

Record access procedures:

Request for access and disclosures should be addressed to the system manager as shown above.

Contesting record procedures:

The Department's rules for access, for contesting contents, and for appealing initial determination by the individual concerned appear in 15 CFR Part 4b. Requests for correction should be addressed to manager as shown above.

Record source categories:

The correspondent, referral source, Department employees involved in processing the correspondence, and other individuals, as required to prepare an appropriate response.

[FR Doc. 79-1411 Filed 1-15-79; 8:45 am]

[6712-01-M]

FEDERAL COMMUNICATIONS COMMISSION

[BC Docket Nos. 78-395, 78-396; File Nos. BPCT-4925, 4955; FCC 78-914]

COMMERCIAL RADIO INSTITUTE, INC., AND CHRISTIAN VOICE OF CENTRAL OHIO

Memorandum Opinion and Order Designating Applications for Consolidated Hearing on Stated Issues

Adopted: December 21, 1978.

Released: January 8, 1979.

By the Commission: Commissioner Lee absent.

In re applications of Commercial Radio Institute, Inc., Columbus, Ohio, BC Docket No. 78-395, File No. BPCT-4925; Christian Voice of Central Ohio, Columbus, Ohio, BC Docket No. 78-396, File No. BPCT-4955; For a construction permit for a new Television Broadcast Station.

1. The Commission has before it the above-captioned applications of Commercial Radio Institute, Inc., (CRI) and Christian Voice of Central Ohio (Voice) for a construction permit for a new television broadcast station on channel 28, Columbus, Ohio. These applications are mutually exclusive in that operation of both stations, as proposed, would result in mutually destructive interference.

2. The grade A service contour of Voice's proposed television station would completely encompass the community of Gahanna, Ohio. Gahanna is the community of license of FM station WCVO, which is licensed to Voice. Section 73.636(a)(1) of the Commission's Rules (the "one-to-a-market" rule) sets out a policy against granting television construction permits to applicants who directly or indirectly own, operate or control a radio station licensed to a community which is completely encompassed by the grade A service contour of their proposed television station. Note 8 to this rule provides that applications for UHF television facilities "will be handled on a case-by-case basis in order to determine whether common ownership, operation, or control of the stations in question would be in the public interest." Accordingly, an appropriate issue will be designated against Voice to determine whether common ownership of its FM station and its proposed television station would be consistent with the public interest.

3. Except as indicated in the issues specified below, we find CRI and Voice legally, financially, technically and otherwise qualified to operate as proposed. Since these applications are mutually exclusive, we are unable to make the statutory finding that grant of these applications will serve the public interest, convenience and necessity. These applications must, therefore, be designated for hearing in a consolidated proceeding on the issues set out below.

4. *Accordingly, it is ordered,* That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above captioned applications of Commercial Radio Insititute, Inc., and Christian Voice of Central Ohio are designated for hearing in a consolidated proceeding to be held before an administrative law judge at a time and place to be specified in a subsequent ORDER, upon the following issues:

1. To determine whether common ownership, operation or control of station WCVO(FM) and Christian Voice of Central Ohio's proposed television station would be in the public interest.

2. To determine which of the proposals would, on a comparative basis, better serve the public interest.

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

5. *It is further ordered,* That, to avail themselves of the opportunity to be heard, the applicants herein, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall within 20 days of mailing of this order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

6. *It is further ordered,* That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 79-1496 Filed 1-15-79; 8:45 am]

[6712-01-M]

FM BROADCAST APPLICATION READY AND AVAILABLE FOR PROCESSING

Adopted: January 3, 1979.

Released: January 9, 1979.

CUT-OFF DATE: February 20, 1979.

Notice is hereby given that the FM boradcast application listed below will be considered as ready and available for processing on February 21, 1979. Since the listed application is timely filed and mutually exclusive with the earlier-filed and cut-off application of Lowell M. Bush dba Joy Broadcasters (File No. BPH-10,744), no other applications which involve conflict with these applications may be filed. Rather, the purpose of this Notice is to establish a date by which the parties to the forthcoming comparative hearing may compute the deadlines for filing amendments as a matter of right under § 1.552(a)(2) of the rules and pleadings to specify issues pursuant to § 1.584.

BPH-11,011 NEW, Lancaster, Wisconsin. Beverly J. Peterson and Bert R. Peterson, a Partnership, REQ: 97.7 MHz, #249; 3.0 kW; 216 feet.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 79-1495 Filed 1-15-79; 8:45 am]

[6210-01-M]

FEDERAL RESERVE SYSTEM

SECURITY STATE BANCSHARES, INC.

Formation of Bank Holding Company

Security State Bancshares, Inc., Stockdale, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more (less director's qualifying shares) of the voting shares of Security State Bank, Stockdale, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 1, 1979. Any comment on an applicaton that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 10, 1979.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 79-1463 Filed 1-15-79; 8:45 am]

[6750-01-M]

FEDERAL TRADE COMMISSION

TRANSMITTAL RULES

Early Termination of Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Scovill Manufacturing Company and Eaton Corporation are granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition by Scovill of certain assets of Eaton. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to requests for early termination submitted by both parties. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: December 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Malcolm R. Pfunder, Associate Director for Evaluation, Bureau of Competition, Room 394, Federal Trade Commission, Washington, D.C. 20580, (202-523-3894).

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by sections 201 and 202 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act and § 803.11 of the rules implementing the Act permit the agencies, in individual cases, to terminate this waiting period prior to its expiration and to publish notice of this action in the FEDERAL REGISTER.

By direction of the Commission.

CAROL M. THOMAS,
Secretary.

[FR Doc. 79-1511 Filed 1-15-79; 8:45 am]

[1610-01-M]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on January 9, 1979. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipts.

The notice includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed FTC requests are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed requests, comments (in triplicate) must be received on or before February 5, 1979, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

FEDERAL TRADE COMMISSION

The FTC requests clearance of a new, single-time questionnaire which will be sent, under compulsory process authorized by 15 U.S.C. 46, to the bar associations of the 50 states and the District of Columbia. This questionnaire, part of a non-public law enforcement investigation, requests information concerning the regulation of the practice of law. The overall purpose of the FTC's investigation is to determine whether or not providers of legal services are subject to acts or practices which are unfair, deceptive or anticompetitive in violation of the Federal Trade Commission Act. The investigation is focused on restrictions placed on prepaid legal plans, legal clinics and the ownership of entities offering legal services to the public. Also being considered are issues concerning specialty certification or designation and mandatory continuing education requirements for lawyers. The FTC estimates respondent burden will average 30 hours for each of the 51 respondents.

The FTC requests clearance of a new special report "Acquisition and Mergers by Corporate Chains", Forms 1859-A, 1859-B, and Supplement. The FTC will send the special report forms to retail and wholesale food companies. The companies will not have to complete the forms unless they acquire a food retail or wholesale company within the meaning of the Commission's 1967 "Enforcement Policy with Respect to Mergers in the Food Distribution Industry." If such an acquisition occurs, the submission of the forms is mandatory. The completed forms will become a part of the Commission's confidential records. The purpose of the forms is to determine if anticompetitive mergers are occurring in the food distribution industries in possible violation of the laws enforced by the Commission. The FTC estimates that respondents will number approximately 30 annually and that reporting burden will average 15 hours per response.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc. 79-1520 Filed 1-15-79; 8:45 am]

[4110-88-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

ADVISORY COMMITTEES

Filing of Annual Reports

Notice is hereby given that pursuant to Section 13 of Pub. L. 92-463 (5 U.S.C. Appendix I), Annual Reports for all Alcohol, Drug Abuse, and Mental Health Administration Committees have been filed with the Library of Congress. These are:

Alcohol Research Review Committee
Alcohol Training Review Committee
Biological Sciences Training Review Committee
Board of Scientific Counselors, NIMH
Clinical Program-Projects Research Review Committee
Clinical Projects Research Review Committee
Clinical Psychopharmacology Research Review Committee
Community Alcoholism Services Review Committee
Continuing Education Review Committee
Crime and Delinquency Review Committee
Developmental Problems Research Review Committee

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Drug Abuse Research Review Committee
Drug Abuse Training Review Committee
Epidemiologic Studies Review Committee
Experimental and Special Training Review Committee
Experimental Psychology Research Review Committee
Interagency Committee on Federal Activities for Alcohol Abuse and Alcoholism
Mental Health Services Research Review Committee
Mental Health Small Grant Committee
Metropolitan Mental Health Problems Review Committee
Minority Advisory Committee, ADAMHA
Minority Group Mental Health Programs Review Committee
National Advisory Council on Alcohol Abuse and Alcoholism
National Advisory Council on Drug Abuse
National Advisory Mental Health Council
Neuropsychology Research Review Committee
Paraprofessional Manpower Development Review Committee
Personality and Cognition Research Review Committee
Preclinical Psychopharmacology Research Review Committee
Psychiatric Nursing Education Review Committee
Psychiatry Education Review Committee
Psychological Sciences Fellowship Review Committee
Psychology Education Review Committee
Rape Prevention and Control Advisory Committee
Research Scientist Development Review Committee
Social Problems Research Review Committee
Social Sciences Research Review Committee
Social Sciences Training Review Committee
Social Work Education Review Committee

Copies are available to the public for inspection at the Library of Congress, Special Forms Reading Room, Main Building, and on weekdays between 9:00 a.m. and 4:30 p.m., at the Department of Health, Education, and Welfare, Department Library, North Building, Room 1436, 330 Independ>ence Avenue, S.W., Washington, D.C. 20201, telephone (202) 245-6791.

Dated: January 8, 1979.

GERALD L. KLERMAN, M.D.,
Administrator, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 79-1418 Filed 1-15-79; 8:45 am]

[4110-88-M]

CRIME AND DELINQUENCY REVIEW COMMITTEE

Meeting Change

In FEDERAL REGISTER Document 78-35125 appearing on page 59136 in the issue of Tuesday, December 19, there has been rescheduling of the January 24-26, 1979 meeting as follows:

CRIME AND DELINQUENCY REVIEW COMMITTEE

February 14-16, 1979; 9:00 a.m.—Franklin Room, Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, Maryland 20015. Open—February 14, 9:00-11:00 a.m. Closed—Otherwise.

All other information remains as announced December 19, 1978.

Dated: January 10, 1978.

ELIZABETH A. CONNOLLY,
Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 79-1417 Filed 1-15-79; 8:45 am]

[4110-88-M]

RAPE PREVENTION AND CONTROL ADVISORY COMMITTEE

Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National advisory body scheduled to assemble during the month of February 1979:

RAPE PREVENTION AND CONTROL ADVISORY COMMITTEE

February 20-21; 9:00 a.m., conference Room N, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. Open—February 20-21. Contact: Ms. Elizabeth S. Kutzke, Room 10C-03, 5600 Fishers Lane, Rockville, Marylamd 20857, 301-443-1910.

Purpose: The Rape Prevention and Control Advisory Committee advises the Secretary, Department of Health, Education, and Welfare, the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, and the Director, National Institute of Mental Health, through the National Center for the Prevention and Control of Rape, on matters regarding the needs and concerns associated with rape in the United States and makes recommendations pertaining to activities to be undertaken by the Department to address the problem of rape.

Agenda: The entire meeting will be open to the public. The two-day meeting of the Advisory Committee will be devoted to providing input on the National Center's fiscal year 1979 program activities.

Attendance by the public will be limited to space available.

Substantive information may be obtained from the contact person listed above.

Dated: January 10, 1978.

ELIZABETH A. CONNOLLY,
Committee Management Officer Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc 79-1416 Filed 1-15-79; 8:45 am]

[4110-03-M]

Food and Drug Administration

ADVISORY COMMITTEES

Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meetings are announced:

Committee name	Date, time, place	Type of meeting and contact person
1. Bacterial Vaccines and Toxoids Panel	February 1 and 2, 9 a.m., Bldg. 29, Rm. 121, 8800 Rockville Pike, Rockville, MD.	Open public hearing, February 1, 9 a.m. to 10 a.m.; open committee discussion, February 1, 10 a.m. to 4 p.m.; February 2, 9 a.m. to 4 p.m.; Jack Oertzog (HFB-5), 11400 Rockville Pike, Rockville, MD 20014, 301-443-5455.

General function of the Committee. The Committee reviews and evaluates available data concerning the safety and effectiveness of biological products.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee.

Open Committee discussion. The Committee will review the Division of Bacterial Products' intramural science program.

Committee name	Date, time, place	Type of meeting and contact person
2. Physical Medicine Devices Section of the Surgical and Rehabilitation Devices Panel.	February 6 and 7, 9 a.m., Rm. 1813, 200 C St. SW., Washington, D.C.	Open public hearing, February 6, 9 a.m. to 10 a.m.; open committee discussion, February 6, 10 a.m. to 4 p.m.; February 7, 10 a.m. to 4 p.m.; Johnsie W. Bailey (HFK-410), 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

General function of the Committee. The Committee reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested parties are encouraged to present information pertaining to the agenda of this notice to Johnsie W. Bailey. Submission of data related to tentative classification findings is also invited. Those desiring to make formal presentations should notify Ms. Bailey by January 23, 1979, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their comments.

Open committee discussion. The Committee will discuss exemptions for class I orthotic and prosthetic devices and classification voice-controlled and breath-operated devices, bed rocket units, powered cast cutters, cast cutter accessories, and additional devices, and will hear a presentation by representatives of the American Orthotic and Prosthetic Association.

Committee name	Date, time, place	Type of meeting and contact person
3. Ad Hoc Subcommittee of the Drug Abuse Advisory Committee to Study the "Effects of Scheduling".	February 11, 9 a.m., Linden Hill Hotel, Bethesda, MD.	Open public hearing, 9 a.m to 10 a.m.; open committee discussion, 10 a.m. to 4:30 p.m.; Robert C. Nelson (HFD-120), 5600 Fishers Lane, Rockville, MD 20857, 301-443-3800.

General function of the Committee. The Committee advises on the scientific and medical evaluation of information gathered by the Department of Health, Education, and Welfare and the Department of Justice on the safety, efficacy, and abuse potential of drugs and recommends actions to be taken on the marketing, investigation, and control of such drugs.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee.

Open committee discussion. This Subcommittee is charged with the study of "effects of scheduling." Various information sources will be examined and discussed as they relate to data required in the area of abuse of prescription drug products.

Committee name	Date, time, place	Type of meeting and contact person
4. Drug Abuse Advisory Committee	February 12 and 13, 9 a.m., Conference Room G-H, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.	Open public hearing, February 12, 9 a.m. to 10 a.m.; open committee discussion, February 12, 10 a.m. to 4:30 p.m.; February 13, 9 a.m. to 4:30 p.m.; Robert C. Nelson (HFD-120), 5600 Fishers Lane, Rockville, MD 20857, 301-443-3800.

General function of the Committee. The Committee advises on the scientific and medical evaluation of information gathered by the Department of Health, Education, and Welfare and the Department of Justice on the safety, efficacy, and abuse potential of drugs and recommends actions to be taken on the marketing, investigation, and control of such drugs.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee.

Open committee discussion. The Committee will discuss Propriram—an evaluation for safety and efficacy, an assessment of abuse potential, and a research protocol review, and Propoxyphene—a preliminary review of the medical and scientific data as it pertains to the issue of Controlled Substances Act of 1970 scheduling.

Committee name	Date, time, place	Type of meeting and contact person
5. Endocrinologic and Metabolic Drugs Advisory Committee.	February 15 and 16, 9 a.m., Conference Rm. G, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.	Open public hearing, February 15, 9 a.m. to 10 a.m.; open committee discussion, February 15, 10 a.m. to 5 p.m.; February 16, 9 a.m. to 5 p.m.; A. T. Gregoire (HFD-130), 5600 Fishers Lane, Rockville, MD 20857, 301-443-3520.

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General function of the Committee. The Committee reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drugs for use in endocrine and metabolic disorders.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee.

Open committee discussion. The Committee will discuss safety and efficacy of the following lipid lowering agents: (a) Clofibrate (NDA 16-099); (b) Gemfibrozil (IND 8057); and (c) Dextrothyroxine (NDA 12-302); and protocols for phase IV study for lipid lowering agents.

Committee name	Date, time, place	Type of meeting and contact person
6. Clinical Chemistry Section and Hematology Section of the Clinical Chemistry and Hematology Devices Panel.	February 16, 9 a.m., Rm. 425, 8757 Georgia Ave., Silver Spring, MD.	Open public hearing, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 5 p.m.; Eugene W. Rice (HFK-440), 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7550.

General function of the Committee. The Committee reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested parties are encouraged to present information pertaining to serum "vitamin B12" and diagnosis of cobalamin deficiency to Eugene Rice. Submission of data related to tentative classification findings is also invited. Those desiring to make formal presentations should notify Dr. Rice by February 2, 1979, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their comments.

Open committee discussion. The Committee will discuss and evaluate the data and information presented on serum vitamin B12 determinations. Current radioisotope dilution assays are believed to be not specific for true cobalamin because of cobalamin analogs present in human plasma that can mask cobalamin deficiency.

Committee name	Date, time, place	Type of meeting and contact person
7. Subcommittee on Hepatotoxicity of the Gastrointestinal Drugs Advisory Committee.	February 16, 9 a.m., Conference Rm. K, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.	Open public hearing, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 5 p.m.; Joan C. Standaert (HFD-110), 5600 Fishers Lane, Rockville, MD 20857, 301-443-4730.

General function of the Committee. The Committee reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drugs for use in gastrointestinal diseases.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee.

Open committee discussion. The Committee will develop appendixes to the guidelines for detection of hepatotoxicity post-Fogarty conference and short guidelines for special patient populations, including children and patients with pre-existing liver disease.

Committee name	Date, time, place	Type of meeting and contact person
8. Neurological Devices Section of the Respiratory and Nervous System Devices Panel.	February 23, 9 a.m., Rm. 1409, 200 C St. SW., Washington, DC.	Open public hearing, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 4 p.m.; Robert F. Munzner (HFK-430), 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

General function of the Committee. The Committee reviews and evaluates available date concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested parties are encouraged to present information pertaining to the classification and evaluation of neurological devices to Robert F. Munzner. Submission of data related to classification findings is also invited. Those desiring to make formal presentations should notify Dr. Munzner by February 16, 1979, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their comments.

Open committee discussion. The Committee will discuss the classification of ultrasonic surgical aspirators; the clinical evaluation protocols for cerebrospinal fluid shunt components being introduced into commerce; and the comments received on the proposals on development of classification of neurological devices published in the FEDERAL REGISTER on November 28, 1978 (43 FR 55640).

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Committee name	Date, time, place	Type of meeting and contact person
9. Antimicrobial Panel	February 23 and 24, 9 a.m., Conference Rm. C, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD, (February 23); Connecticut Rm., Holiday Inn, Bethesda, MD, (February 24).	Open public hearing, February 23, 9 a.m. to 10 a.m.; open committee discussion, February 23, 10 a.m. to 4:30 p.m.; February 24, 9 a.m. to 4:30 p.m.; Lee Geismar (HFD-519), 5600 Fishers Lane, Rockville, MD 20857, 301-443-6057.

General function of the Committee. The Committee reviews and evaluates available data concerning the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested person may present data, information, or views, orally or in writing, on issues pending before the Committee. Those who desire to make such a presentation should notify the contact person before. February 20, 1979, and submit a brief statement of the general nature of the data, information, or views they wish to present, the names and addresses of proposed participants, and an indication of the approximate time desired for their presentation.

Open committee discussion. The Panel will review data submitted in response to the over-the-counter (OTC) review's call for data for this Panel (see also 21 CFR 330.10(a)(2)). Panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization ingredients and claims.

Committee name	Date, time, place	Type of meeting and contact person
10. Non-Steroidal Anti-Inflammatory Drugs Subcommittee of the Arthritis Advisory Committee.	February 26, 9 a.m., Conference Rm. M, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.	Open public hearing, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 5 p.m.; Joyce Creamer (HFD-150), 5600 Fishers Lane, Rockville, MD 20857, 301-443-4260.

General function of the Committee. The Committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in arthritic conditions.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee.

Open committee discussion. The Committee will draft the revised nonsteroidal anti-inflammatory drugs guidelines and will discuss toxicity data in acetyl-salicylic acid studies.

Committee name	Date, time, place	Type of meeting and contact person
11. Slow-Acting Anti-Rheumatic Drugs Subcommittee of the Arthritis Advisory Committee.	February 27, 9 a.m., Conference Room M, Parklawn Bldg., 5600 Fishers lane, Rockville, MD.	Open public hearing, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 5 p.m.; Joyce Creamer (HFD-150), 5600 Fishers Lane, Rockville, MD 20857, 301-443-4260.

General function of the Committee. The Committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational perscription drugs for use in arthritic conditions.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee.

Open committee discussion. The Committee will discuss phase IV studies: A Study of the Clinical Design of the Slow-Acting Anti-Rheumatic Drugs (SAARD) Guidelines and the next full draft of the SAARD guidelines.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

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Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this FEDERAL REGISTER notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be obtained from the Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockeville, MD 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

Dated January 12, 1979.

JOSEPH P. HILE,
Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-1561 Filed 1-15-79; 8:45 am]

[4110-03-M]

ADVISORY COMMITTEES
Meetings

AGENCY: Food and Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meetings are announced:

Committee name	Date, time, place	Type of meeting and contact person
1. Circulatory Devices Panel	February 2, 9 a.m., Rm. 1409, 200 C St. SW., Washington, DC.	Open public hearing February 2, 9 a.m. to 10 a.m.; closed committee deliberations February 2, 10 a.m. to 4 p.m.; Glenn A. Rahmoeller (HFK-450), 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7559.

General function of the Committee. The Committee reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested parties are encouraged to present information pertaining to the classification of cardiovascular devices. Those desiring to make formal presentations should notify Glenn A. Rahmoeller by January 26, 1979, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their comments.

Closed committee deliberations. The Committee will review premarket approval applications. This portion of the meeting will be closed to permit discussion of trade secret data (5 U.S.C. 552b(c)(4)).

Committee name	Date, time, place	Type of meeting and contact person
2. Immunology Section of the Immunology and Microbiology Devices Panel and Obstetrics-Gynecology Section of the Obstetrics-Gynecology and Radiologic Devices Panel.	February 26 and 27, 9 a.m., Silver Room, Holiday Inn, 8777 Georgia Ave., Silver Spring, MD.	Open public hearing February 26, 9 a.m. to 4:30 p.m.; closed committee deliberations February 27, 9 a.m. to 5 p.m.; William C. Dierksheide (HFK-440), 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7234.

General function of the Committee. The Committee reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested parties are encouraged to present information pertaining to the use of the alpha fetoprotein test for neural tube defects to Dr. William C. Dierksheide. Submission of data pertaining to tentative classification findings is also invited. Those desiring to make formal presentations should notify Dr. Dierksheide by February 12, 1979, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their comments.

Closed committee deliberations. The Committee will review premarket approval applications P780001, P780005, and P780006. This portion of the meeting will be closed to permit discussion of trade secret data (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this FEDERAL REGISTER notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be obtained from the Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, MD 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Avisory Committee Act (FACA), as amended by the Government in the Sunshine Act (Pub. L. 94-409), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably, deliberative sessions to formulate advice and recommendations to the agency on matters that do not independently justify closing.

Dated: January 12, 1979.

DONALD KENNEDY,
Commissioner of Food and Drugs.

[FR Doc. 79-1562 Filed 1-15-79; 8:45 am]

[4110-89-M]

Office of the Assistant Secretary for Education

COMMENTS ON COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

Pursuant to Section 406(g)(2)(B), General Education Provisions Act, notice is hereby given as follows:

The National Center for Education Statistics, and the U.S. Office of Education have proposed collections of information and data acquisition activities which will request information from educational agencies or institutions.

The purpose of publishing this notice in the FEDERAL REGISTER is to comply with paragraph (g)(2)(B) of the "Control of Paperwork" amendment which provides that each educational agency or institution subject to a request under the collection of information and data acquisition activity and their representative organizations shall have an opportunity, during a 30-day period before the transmittal of the request to the Director of the Office of Management and Budget, to comment to the Administrator of the National Center for Education Statistics on the collection of information and data acquisition activity.

These data acquisition activities are subject to review by the HEW Education Data Acquisition Council and the Office of Management and Budget.

Descriptions of the proposed collections of information and data acquisition activities follow below.

Written comments on the proposed activities are invited. Comments should refer to the specific sponsoring agency and form number and must be received on or before February 14, 1979, and should be addressed to Administrator, National Center for Education Statistics, ATTN: Manager, Information Acquisition, Planning, and Utilization, Room 3001, 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Further information may be obtained from Elizabeth M. Proctor of the National Center for Education Statistics, 202-245-1022.

Dated: January 11, 1979.

MARIE D. ELDRIDGE,
Administrator, National Center for Education Statistics.

Description of a Proposed Collection of Information and Data Acquisition Activity

1. TITLE OF PROPOSED ACTIVITY

Degrees an Other Formal Awards Conferred Between July 1, 1978 and June 30, 1979

2. AGENCY/BUREAU/OFFICE

National Center for Education Statistics

3. AGENCY FORM NUMBERS

NCES 2300-2.1 A & B

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

"The Center shall—

(1) Collect, collate, and, from time to time, report full and complete statistics on the conditions of education in the United States;

(2) Conduct and publish reports on specialized analyses of the meaning and significance of such statistics; • • •" (20 U.S.C. 1221e) Pub. L. 93-380, sec. 406(b).

Section 601. "No person in the United States shall, on the gounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." (42 U.S.C. 2000d-2000d-4) Pub. L. 88-352.

Section 901. "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving Federal financial assistance," • • •" (20 U.S.C. 1681) Pub. L. 92-318.

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5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE
Voluntary
6. HOW INFORMATION COLLECTED WILL BE USED
The Office for Civil Rights (OCR) of DHEW uses the data from this survey in carrying out its responsibilities to verify compliance or lack of compliance with Title VI of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1972. The National Center for Education Statistics (NCES) uses the data from this survey in carrying out its responsibilities to provide "full and complete statistics on the conditions of education in the United States."

These data also are used by the Bureau of Labor Statistics (BLS) of the Department of Labor, in their projections of manpower, and by the National Science Foundation (NSF) to help them carry out their mission respecting the discipline divisions and discipline specialities in the divisions of Science and Engineering. These data also are used by the Congressional Research Service of the Library of Congress in preparing information for the Members of the Congress, to help them assess the changing and developing needs of our Nation with respect to manpower and higher education. The data also are used by the Equal Employment Opportunities Commission (EEOC), the Center for Disease Control, the U.S. Civil Service Commission, and the Personnel Departments of all of the branches of the Armed Forces. The data also are used by Dr. William C. Gescheider, Director of Planning of the Bureau of Higher and Continuing Education of the U.S. Office of Education, ASE, DHEW, in his program planning for that Bureau.

In addition to the above uses by the Federal Government, these data are used by many national associations and agencies for the benefit of the higher education enterprise, by regional associations, State higher education agencies and associations, by individual institutions of higher education, and by guidance counselors in high schools and colleges, as well as by private citizens. Moreover, the data from this survey are used by a large number of businesses and industries to help them meet the requirements of Executive Order 11246, respecting the development and implementation of Affirmative Action Plans and the equal opportunity program for women.

Since the only revision in this form over the previous year's form is the addition of the racial/ethnic categories, please see the justification submitted for the previous year's form for additional details.

7. DATA ACQUISITION PLAN
a. METHOD OF COLLECTION: Mail
b. TIME OF COLLECTION: Academic year 1978-79; due date: August 15, 1979
c. FREQUENCY: Annually
8. RESPONDENTS
a. TYPE: Institutions of Higher Education
b. NUMBER: 3,100—Universe
c. ESTIMATED AVERAGE MANHOURS PER RESPONDENT: 1.5
9. INFORMATION TO BE COLLECTED
The data to be collected are the number of earned degrees and other formal awards conferred in the academic year 1978-79 by each of the 3,100 accredited institutions of higher education in the aggregate United States, by level of degree, discipline division and specialty, sex and racial/ethnic category of student, and control and level of institution.

Description of a Proposed Collection of Information and Data Acquisition Activity

1. TITLE OF PROPOSED ACTIVITY
HEGIS Post-survey Validation of "Fall Enrollment in Colleges and Universities, 1977" and "Degrees and Other Formal Awards Conferred, 1967-77"
2. AGENCY/BUREAU/OFFICE
National Center for Education Statistics
3. AGENCY FORM NUMBER
NCES 2410
4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY
"The Center shall—
(1) Collect, collate, and from time to time, report full and complete statistics on the conditions of education in the United States;
(2) Conduct and publish reports on specialized analyses of the meaning and significance of such statistics; • • • " (20 U.S.C. 1221e) Pub. L. 93-380, sec. 406(b).
5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE
Voluntary
6. HOW INFORMATION COLLECTED WILL BE USED
The results of this program management activity will be used to:
(a) Publish estimates as to the accuracy of published NCES data relating to enrollments and degrees awarded in colleges and universities, and
(b) Prepare modifications to data collection forms and instructions to improve their accuracy and completeness.
7. DATA ACQUISITION PLAN
a. METHOD OF COLLECTION: Personal Interview
b. TIME OF COLLECTION: Spring 1979
c. FREQUENCY: One time
8. RESPONDENTS
a. TYPE: Colleges and Universities
b. NUMBER: 120
c. ESTIMATED MANHOURS PER RESPONDENT: 3
9. INFORMATION TO BE COLLECTED
The information to be collected includes:
(a) Methods of collecting and recording enrollment and degree data;
(b) Differences in definitions and reporting dates between HEGIS and the institution's internal reports;
(c) Problem areas in classifying students by level and field of study;
(d) Comparison of reports required by State agencies with HEGIS reports (timing, definitions, etc.);
(e) Special reporting problems.

Description of a Proposed Collection of Information and Data Acquisition Activity

1. TITLE OF PROPOSED ACTIVITY
A Study of the Nature and Effects of Selected Title I, ESEA Implementation Strategies: Survey of Schools that Receive Compensatory Funds
2. AGENCY/BUREAU/OFFICE
U.S. Office of Education, Office of Evaluation and Dissemination
3. AGENCY FORM NUMBER
OE 679-1; -2
4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY
Section 417(a)(2) of Pub. L. 93-380 directs the Commissioner of Education to conduct a survey and report to the Congress on how many educationally and/or economically disadvantaged children do or do not receive services under Title I, ESEA, as amended.

Section 183(a) of title, I, ESEA as amended by Pub. L. 95-561 requires that "The Commissioner shall provide for independent evaluations which describe and measure the impact of programs and projects assisted under this title. Such evaluations may be provided by contract or other arrangements, and all such evaluations shall be made by competent and independent persons, and shall include, whenever possible, opinions obtained from program or project participants about the strengths and weaknesses of such programs or projects." (20 U.S.C. 2833)

Section 417(a)(1) of Pub. L. 93-380 requires that "• • • the Secretary shall transmit to the • • • (Congress) • • • an annual evaluation report which evaluates the effectiveness of applicable programs in achieving their legislated purposes together with recommendations relating to such programs for the improvement of such programs which will result in greater effectiveness in achieving such purposes." (20 U.S.C. 1226c)
5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE
Voluntary
6. HOW INFORMATION TO BE COLLECTED WILL BE USED

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The information collected in this survey will be used to: (1) Report to Congress on the incidence of receipt of compensatory funds in the nation's school attendance areas; (2) determine the impact of proposed legislative changes on the number and nature of school attendance areas and their resident students that might receive Title I funds/services; and (3) determine the representativeness of a subsample of school attendance areas to be studied in greater detail during the subsequent school year.
7. DATA ACQUISITION PLAN
a. METHOD OF COLLECTION: Mail/telephone
b. TIME OF COLLECTION: Spring, 1980.
c. FREQUENCY: once
8. RESPONDENTS
a. TYPE: LEA Federal Programs Coordinator
b. NUMBER: 3000
c. ESTIMATED AVERAGE PERSON-HOURS PER RESPONDENT: .4 hour
a. TYPE: School Principal
b. NUMBER: 7000
c. ESTIMATED AVERAGE PERSON-HOURS PER RESPONDENT: .2 hour
9. INFORMATION TO BE COLLECTED
RESPONDENT TYPE: LEA Federal Program Coordinator
● District's Title I Allocation Practices
● District's Rankings of Sample School Attendance Areas
● Provision of Services to Non-Public School Students
RESPONDENT TYPE: Principals
● Enrollment Practices
● Student Composition
● Receipt of Compensatory Funds
● Services Provided
● Students Served
● Schools From (To) Which Students Are Drawn (Sent)

Description of a Proposed Collection of Information and Data Acquisition Activity

1. TITLE OF PROPOSED ACTIVITY
Standards for Industrial Arts Education Programs Project: Survey of State Supervisors of Industrial Arts, Survey of Principals in Secondary Schools, Survey of Guidance Coordinators in Secondary Schools, and Survey of Industrial Arts Chairpersons
2. AGENCY/BUREAU/OFFICE
Office of Education, Bureau of Occupational and Adult Education
3. AGENCY FORM NUMBER
OE Forms 680-1, -2, -3, -4
4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY
"Section 171(a). Funds reserved to the Commissioner • • • shall be used • • • for contracts • • • for—
(1) activities authorized by sections 131 (applied research and development in vocational education) • • •"
(Pub. L. 94-482, title II, Section 202; 20 U.S.C. 2401).
5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE
Voluntary
6. HOW INFORMATION TO BE COLLECTED WILL BE USED
There are two primary purposes for the conduct of the evaluation study. First, the study will determine the current status of industrial arts in this country. The last status study of industrial arts conducted by HEW was in 1962-1963. The information will also be used to help develop standards for industrial arts education programs. All instruments are designed to acquire these status and standards data. Current data does not exist on a nationwide basis for determining the status of industrial arts education programs. Also, there are no national standards existing for industrial arts education.
7. DATA ACQUISITION PLAN
a. METHOD OF COLLECTION: Mail
b. TIME OF COLLECTION: Spring (April-May) 1979
c. FREQUENCY: Single time
8. RESPONDENTS
a. TYPE: Other (State and Territorial Supervisors of Industrial Arts Education)
b. NUMBER: 57 (Universe)
c. ESTIMATED AVERAGE MANHOURS PER RESPONDENT: 1.0
a. TYPE: Principals (School)
b. NUMBER: 2,500 (Sample)
c. ESTIMATED AVERAGE MANHOURS PER RESPONDENT: 0.5
a. TYPE: School administrators and supervisors (Guidance coordinators)
b. NUMBER: 2,500 (Sample)
c. ESTIMATED AVERAGE MANHOURS PER RESPONDENT: 0.3
a. TYPE: Teachers, elementary/secondary (Industrial arts chairpersons in public schools)
b. NUMBER: 2,500 (Sample)
c. ESTIMATED AVERAGE MANHOURS PER RESPONDENT: 1.0
9. INFORMATION TO BE COLLECTED
For OE Form 680-1 (Survey of State Supervisors of Industrial Arts) the data to be collected will consist of staffing enrollment, curriculum, facilities, finances structure, evaluation, and student organization.
For OE Form 680-2 (Survey of Principals in Secondary Schools) the data to be collected will consist of school organization, purposes of industrial arts, funding, staffing, course offering, future planning, and student organization.
For OE Form 680-3 (Survey of Guidance Coordinators in Secondary Schools) the data to be collected will consist of purposes of industrial arts, student placement/scheduling, program evaluation, counselor/teacher relationship, and student organization.
For OE Form 680-4 (Survey of Industrial Arts Chairpersons) the data to be collected will consist of purposes of industrial arts, teacher demographics, teacher/program evaluation, professional involvement, facilities, enrollments, finances, program, and student organization.

[FR Doc. 79-1462 Filed 1-15-79; 8:45 am]

[4310-84-M]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

ALASKA

Publication AA-6681-A and AA-6681-B; Alaska Native Claims Selection

On December 27 and 30, 1968, the State filed general purposes grant selection applications pursuant to section 6(b) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 340; 48 U.S.C. Ch. 2, Sec. 6(b) (1970)), for certain lands on the Alaska Peninsula. Applications AA-5298, AA-5325, AA-5330, AA-5368, AA-5375, AA-5376, AA-5377, AA-5378 and AA-5379 selected lands in T. 48 S., Rs. 75, 76 and 77 W., T. 49 S., Rs. 76, 77, 78 and 79 W., and T. 50 S., Rs. 76, 77, 78 and 79 W., Seward Meridian, respectively. On June 16, 1972, each application was amended to include all the lands in the townships, excluding patented lands.

The Bureau of Indian Affairs filed an application on December 12, 1968, to withdraw all unreserved public lands in Alaska for the determination and protection of the rights of the Alaska Natives. Subsequently on January 17, 1969, Public Land Order 4582 was issued to affirm the withdrawal of all unreserved lands in Alaska from all forms of appropriation and disposition under the public land laws except locations for metalliferous minerals. Public Land Order 4582 further provided that applications filed by the State of Alaska after December 12, 1968, and prior to January 4, 1969, must be embraced in leases, licenses, permits, or contracts issued pursuant to the Mineral Leasing Act of 1920 or the Coal Leasing Act of 1914 in order to be a valid selection application.

Since the lands selected in State selection applications AA-5298, AA-5330, AA-5375, AA-5376 and AA-5378, filed December 27 and December 30, 1968, were not entirely within lands embraced in leases, etc., these applications must be and are hereby rejected as to the following described lands:

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SEWARD MERIDIAN, ALASKA (UNSURVEYED)

STATE SELECTION AA-5298

T. 48 S., R. 75 W.
Sec. 26 (fractional), SW¼.

Containing approximately 10 acres.

T. 49 S., R. 76 W.
Secs. 4 and 8 (fractional), all;
Sec. 9 (fractional), W½.

Containing approximately 120 acres.

STATE SELECTION AA-5375

T. 49 S., R. 77 W.
Sec. 2 (fractional), W½;
Secs. 4 and 5 (fractional), all;
Sec. 7 (fractional), N½, SE¼;
Secs. 8 and 9 (fractional), all;
Sec. 10 (fractional), W½.

Containing approximately 1,538 acres.

STATE SELECTION AA-5376

T. 49 S., R. 78 W.
Sec. 12 (fractional), NE¼.

Containing approximately 118 acres.

STATE SELECTION AA-5330

T. 49 S., R. 79 W.
Sec. 1 (fractional), all.

Containing approximately 95 acres.

STATE SELECTION AA-5378

T. 50 S., R. 78 W.
Secs. 31, 32 and 33, all;
Sec. 34, W½.

Containing approximately 2,222 acres.
Aggregating approximately 4,103 acres.

Section 11(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 696; 43 U.S.C. 1601, 1610(a) (Supp. V, 1975)), withdrew the lands surrounding the Native village of Nelson Lagoon, including lands in the subject State selection applications for Native selection. Nelson Lagoon Corporation filed selection applications AA-6681-A on September 12, 1974, AA-6681-B on December 13, 1974, under the provisions of section 12 of the Alaska Native Claims Settlement Act for lands within the subject State selections.

Section 12(a)(1) of the Alaska Native Claims Settlement Act provides that village selections shall be made from lands withdrawn by section 11(a).

Section 11(a)(2) further withdrew for possible selection by the Native corporation those lands within the townships described in section 11(a)(1) that have been selected by, or tentatively approved to, but not yet patented to the State under the Alaska Statehood Act.

Section 12(a) further provided, however, that no village corporation may select more than 69,120 acres from lands withdrawn by section 11(a)(2).

The lands described below were properly selected by Nelson Lagoon Corportion in village selection applications AA-6681-A and AA-6681-B, accordingly, the State selection applications AA-5298, AA-5235, AA-5330, AA-5368, AA-5375, AA-5376, AA-5377, AA-5378 and AA-5379 are hereby rejected, as to the following described lands:

SEWARD MERIDIAN, ALASKA (UNSURVEYED)

STATE SELECTION AA-5298

T. 48 S., R. 75 W.
Secs. 14 to 17 (fractional), inclusive, all;
Secs. 19 to 23 (fractional), inclusive, all;
Sec. 25 (fractional), all;
Sec. 28 (fractional), SE¼SE¼;
Secs. 27, 29 and 30 (fractional), all;
Secs. 34 and 35 (fractional), all;
Sec. 36, all.

Containing approximately 2,170 acres.

T. 48 S., R. 76 W.
Secs. 19 (fractional), excluding Native allotment AA-7094 Parcel A;
Sec. 20 (fractional), all;
Secs. 21, 22 and 23 (fractional), all;
Secs. 26, 27 and 28 (fractional), all;
Sec. 29 (fractional), all;
Sec. 30 (fractional), all.

Containing approximately 765 acres.

T. 49 S., R. 76 W.
Secs. 1, 2 and 3 (fractional), all;
Sec. 7 (fractional), all;
Sec. 9 (fractional), E½;
Secs. 10 and 11, all;
Secs. 12, 13 and 14 (fractional), all;
Sec. 15, all;
Secs. 16, 17 and 18 (fractional), all;
Sec. 21, all;
Secs. 22, 27 and 28 (fractional), all;
Secs. 33 and 34 (fractional), all.

Containing approximately 8,405 acres.

STATE SELECTION AA-5325

T. 50 S., R. 76 W.
Secs. 1, 3 and 10 (fractional), all;
Secs. 11, 12 and 13 (fractional), all;
Secs. 24, 25 and 36 (fractional), all.

Containing approximately 3,305 acres.

STATE SELECTION AA-5388

T. 48 S., R. 77 W. (Fractional)
All.

Containing approximately 1,040 acres.

STATE SELECTION AA-5375

T. 49 S., R. 77 W.
Sec. 2 (fractional), E½;
Sec. 7 (fractional), SW¼;
Sec. 10 (fractional), E½;
Sec. 11 (fractional), all;
Sec. 12 (fractional), excluding Native allotment AA-7262.

Containing approximately 1,385 acres.

STATE SELECTION AA-5377

T. 50 S., R. 77 W.
Secs. 25 to 36, inclusive, all.

Containing approximately 7,643 acres.

STATE SELECTION AA-5376

T. 49 S., R. 78 W.
Secs. 2 to 6 (fractional), inclusive, all;
Sec. 7, all;
Secs. 8, 9 and 10 (fractional), all;
Sec. 11 (fractional), excluding Native allotment AA-6465 Parcel B;
Sec. 12 (fractional), W½, SE¼;
Secs. 17, 18 and 19, all;
Secs. 30 and 31, all.

Containing approximately 7,517 acres.

STATE SELECTION AA-5378

T. 50 S., R. 78 W.
Secs. 4 to 10, inclusive, all;
Sec. 14, excluding Native allotment AA-6465 Parcel C;
Secs. 15, 16 and 17, all;
Secs. 19 to 28, inclusive, all;
Sec. 29, excluding Native allotment AA-7094 Parcel C;
Sec. 30, all;
Secs. 34, E½;
Secs. 35 and 36, all.

Containing approximately 16,152 acres.

STATE SELECTION AA-5330

T. 49 S., R. 79 W.
Secs. 8 to 11 (fractional), inclusive, all;
Sec. 12, all;
Secs. 15, 16 and 17, all;
Sec. 18 (fractional), all;
Secs. 19 to 22, inclusive, all;
Secs. 25 and 27, all;
Secs. 29, 30 and 36, all.

Containing approximately 10,138 acres.

STATE SELECTION AA-5379

T. 50 S., R. 79 W.
Secs. 1 and 12, excluding Native allotment AA-7359 Parcel A.

Containing approximately 1,230 acres.
Aggregating approximately 59,750 acres.

Further action on State selection applications AA-5298, AA-5325, AA-5330, AA-5375, AA-5376, AA-5377, AA-5378 and AA-5379, as to those lands not rejected herein, will be taken at a latter date. State selection application AA-5368, is hereby rejected in its entirety and the case will be closed when this decision becomes final.

The total amount of State selected lands rejected to permit the conveyance hereafter given, totals approximately 59,750 acres, which is less than the 69,120 acres permitted by section 12(a)(1) of the Alaska Native Claims Settlement Act.

As to the lands described below, the applications submitted by Nelson Lagoon Corporation, as amended, are properly filed and meet the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with Federal laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to section 12(a), aggregating approximately 63,462 acres, is considered proper for acquisition by Nelson Lagoon Corporation and is hereby approved for conveyance pursuant to section 14(a) of the Alaska Native Claims Settlement Act:

SEWARD MERIDIAN, ALASKA (UNSURVEYED)

T. 48 S., R. 75 W.
Secs. 14 to 17 (fractional), inclusive, all;
Secs. 19 to 23 (fractional), inclusive, all;
Secs. 25, 26 and 27 (fractional), all;
Secs. 29 and 30, (fractional), all;
Secs. 34 and 35 (fractional), all;

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Sec. 36, all.

Containing approximately 2,180 acres.

T. 48 S., R. 76 W.
Sec. 19 (fractional), excluding U.S. Survey 499, and Native allotment AA-7094 Parcel A;
Sec. 20 (fractional), excluding U.S. Survey 662 and U.S. Survey 663;
Secs. 21, 22 and 23 (fractional), all;
Secs. 26, 27 and 28 (fractional), all;
Sec. 29 (fractional); excluding U.S. Survey 498;
Sec. 30 (fractional), all.

Containing approximately 765 acres.

T. 49 S., R. 76 W.
Secs. 1 to 4 (fractional), inclusive, all;
Secs. 7, 8 and 9 (fractional), all;
Secs. 10 and 11, all;
Secs. 12, 13 and 14 (fractional), all;
Sec. 15, all;
Secs. 16, 17 and 18 (fractional), all;
Sec. 21, all;
Secs. 22, 27 and 28 (fractional), all;
Secs. 33 and 34 (fractional), all.

Containing approximately 8,525 acres.

T. 50 S., R. 76 W.
Secs. 1, 3 and 10 (fractional), all;
Secs. 11, 12 and 13 (fractional), all;
Secs. 24, 25 and 36 (fractional), all.

Containing approximately 3,305 acres.

T. 48 S., R. 77 W.
Secs. 24, 25, 26 and 27 (fractional), all;
Secs. 31, 32, 33 and 34 (fractional), all.

Containing approximately 1,040 acres.

T. 49 S., R. 77 W.
Secs. 2, 4 and 5 (fractional), all;
Secs. 7 to 11 (fractional), inclusive, all;
Secs. 12 (fractional), excluding Native allotment AA-7262.

Containing approximately 2,923 acres.

T. 50 S., R. 77 W.
Secs. 25 to 36, inclusive, all.

Containing approximately 7,643 acres.

T. 49 S., R. 78 W.
Secs. 2 to 6 (fractional), inclusive, all;
Sec. 7, all;
Secs. 8, 9 and 10 (fractional), all;
Sec. 11 (fractional), excluding Native allotment AA-6465 Parcel B;
Sec. 12 (fractional), excluding Native allotment AA-6466 Parcel C;
Secs. 17, 18, 19 and 30, excluding Caribou River;
Secs. 31, all.

Containing approximately 7,284 acres.

T. 50 S., R. 78 W.
Secs. 4 to 10, inclusive, all;
Sec. 14, excluding Native allotment AA-6465 Parcel C;
Secs. 15, 16 and 17, all;
Secs. 19 to 28, inclusive, all;
Sec. 29, excluding native allotment AA-7094 Parcel C;
Sec. 30, all;
Sec. 31, excluding Native allotment AA-7094 Parcel B;
Secs. 32 to 36, inclusive, all.

Containing approximately 18,334 acres.

T. 49 S., R. 79 W.
Sec. 1 (fractional), all;
Secs. 8 to 11 (fractional), inclusive, all;
Sec. 12, all;
Secs. 15, 16 and 17, all;
Sec. 18 (fractional), all;
Secs. 19 to 22, inclusive, all;
Sec. 25, all;
Secs. 27 and 29, all;
Secs. 30 and 36, all.

Containing approximately 10,233 acres.

T. 50 S., R. 79 W.
Secs. 1 and 12, excluding Native allotment AA-7359 Parcel A.

Containing approximately 1,230 acres.
Aggregating approximately 63,462 acres.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(f) (Supp. V, 1975)); and

2. Pursuant to section 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b) (Supp. V, 1975)), the following public easements, referenced by easement identification number (EIN) on the easement maps in case file AA-6681-EE, are reserved to the United States and subject to further regulation thereby:

a. (EIN 1 D9) An easement for a bush airstrip two-hundred and fifty (250) feet in width and three-thousand (3,000) feet in length, lying in a north-south direction, located in Sec. 30, T. 50 S., R. 77 W., Seward Meridian. This size is minimum for public safety.

b. (EIN 1a D9) An easement for an existing access trail twenty-five (25) feet in width from the north-south bush airstrip, EIN 1 D9, located in Sec. 30, T. 50 S., R. 77 W., Seward Meridian, east to the east-west bush airstrip, EIN 1b D9, thence, to site easement EIN 1c D9. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

c. (EIN 1b D9) An easement for a bush airstrip two-hundred and fifty (250) feet in width and three-thousand (3,000) feet in length lying in an east-west direction located in Sec. 30, T. 50 S., R. 77 W., Seward Meridian. This size is minimum for public safety.

d. (EIN 1c D9) A fishery management and public use easement upland of the ordinary highwater mark in Sec. 30, T. 50 S., R. 77 W., Seward Meridian, on the north bank of the Sapsuk River. The easement is five (5) acres in size with an additional twenty-five (25) foot wide extension on the bed of the river along the entire waterfront of the easement. The easement is used for camping, staging, vehicle use and for fishery management purposes.

e. (EIN 3 C4) An easement for a proposed access trail twenty-five (25) feet in width from site EIN 1c D9 in Sec. 30, T. 50 S., R. 77 W., Seward Meridian, northerly to public lands. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

f. (EIN 4 D9) A continuous linear easement twenty-five (25) feet in width upland of and parallel to the mean high tide line in order to provide access to and along the marine coastline and use of such shore for purposes such as beaching of watercraft or aircraft, travel along the shore, recreation, and other similar uses. Deviations from the waterline are permitted when specific conditions so require, e.g., impassable topography or waterfront obstruction. This easement is subject to the right of the owner of the servient estate to build upon such easement a facility for public or private purposes, such right to be exercised reasonably and without undue or unnecessary interference with or obstruction of the easement. When access along the marine coastline easement is to be obstructed, the owner of the servient estate will be obligated to convey to the United States an acceptable alternate access route, at no cost to the United States, prior to the creation of such obstruction.

g. (EIN 5 C) The right of the United States to enter upon the lands hereinabove granted for cadastral, geodetic, or other survey purposes is reserved, together with the right to do all things necessary in connection therewith.

h. (EIN 6 C4, E) An easement for a proposed access trail fifty (50) feet in width from the shore of Mud Bay located in Sec. 34, T. 49 S., R. 76 W., Seward Meridian, southwesterly to public lands in T. 50 S., R. 76 W., Seward Meridian. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

i. (EIN 7 C4, E) An easement for a proposed access trail fifty (50) feet in width beginning at Nelson Lagoon near the mouth of Frank Creek located in Sec. 7, T. 49 S., R. 77 W., Seward Meridian, southerly to public lands in Sec. 18, T. 49 S., R. 77 W., Seward Meridian. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

j. (EIN 8 C4, E) An easement for a proposed access trail twenty-five (25) feet in width from the right bank of the Caribou River in Sec. 19, T. 49 S., R. 78 W., Seward Meridian, easterly to public lands in Sec. 20, T. 49 S., R. 78 W., Seward Meridian. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

These reservations have not been conformed to the Departmental easement policy announced March 3, 1978 and published as final rulemaking on November 27, 1978, 43 FR 55326. Con-

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formance will be made at a later date in accordance with the terms and conditions of the agreement dated January 18, 1977, between the Secretary of the Interior, The Aleut Corporation, Nelson Lagoon Corporation and other Aleut village corporations.

The grant of lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under section 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g) (1970))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him;

3. A right-of-way, AA-15144, located in Sec. 24, T. 48 S., R. 77 W., Seward Meridian and Secs. 19 and 20, T. 48 S., R. 76 W., Seward Meridian, fifty (50) feet each side of the centerline, for an access road, issued to the State of Alaska, Department of Transportation under the provisions of the act of October 21, 1976 (90 Stat. 2743, 2776; 43 U.S.C. 1701, 1761);

4. A right-of-way, AA-14291, located in Sec. 24, T. 48 S., R. 77 W., Seward Meridian, ten (10) feet each side of the centerline, for an electrical distribution system and a wind turbine generation system for the State of Alaska, Department of Commerce and Economical Development under the provisions of the act of October 21, 1976 (90 Stat. 2743, 2776; 43 U.S.C. 1701, 1761);

5. Airport Lease, AA-14244, located in Sec. 20, T. 48 S., R. 76 W., Seward Meridian, containing approximately 88 acres issued to the State of Alaska, Division of Aviation under the provisions of the act of May 24, 1928 (45 Stat. 728–729; 49 U.S.C. 211–214 (1970));

6. Requirements of section 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 703; 43 U.S.C. 1601, 1613(c) (Supp. V, 1975)), that the grantee hereunder convey those portions, if any, of lands hereinabove granted, as are prescribed in said section; and

7. The terms and conditions of the agreement dated January 18, 1977, between the Secretary of the Interior, The Aleut Corporation, Nelson Lagoon Corporation and other Aleut village corporations. A copy of the agreement shall be attached to and become a part of the conveyance document and shall be recorded therewith. A copy of the agreement is located in the Bureau of Land Management easement case file for Nelson Lagoon Corporation, serialized AA-6681-EE. Any person wishing to examine this agreement may do so at the Bureau of Land Management, Alaska State Office, 555 Cordova Street, Anchorage, Alaska 99501.

Nelson Lagoon Corporation is entitled to conveyance of 69120 acres of land selected pursuant to section 12(a) of the Alaska Native Claims Settlement Act. To date, 63,462 acres of this entitlement have been approved for conveyance; the remaining entitlement of 5,658 acres will be conveyed at a later date.

Pursuant to section 14(f) of the Alaska Native Claims Settlement Act, conveyance to the subsurface estate of the lands described above shall be granted to The Aleut Corporation when conveyance is granted to Nelson Lagoon Corporation for the surface estate, and shall be subject to the same conditions as the surface conveyance.

Only the following inland water body, within the described lands, is considered to be navigable:

Caribou River from its mouth to the southern boundary of Sec. 30, T. 49 S., R. 78 W., Seward Meridian.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the FEDERAL REGISTER and once a week for four (4) consecutive weeks, in the ANCHORAGE TIMES. Any party claiming a property interest in land affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510, with a copy served upon both the Bureau of Land Management, Alaska State Office, 555 Cordova Street, Pouch 7-512, Anchorage, Alaska 99510 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501, also:

1. Any party receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate and any parties who failed or refused to sign the return receipt shall have until February 15, 1979, to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

4. If Nelson Lagoon Corporation or The Aleut Corporation objects to any easement which is identified herein for reservation in the conveyance, which is subject to the discretion of the State Director and not reserved pursuant to an express Secretarial directive, a petition for reconsideration must be filed within 30 days from receipt of service with the State Director, Bureau of Land Management, 555 Cordova Street, Pouch 7-512, Anchorage, Alaska 99510. A copy of the petition should be served upon the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501. If a petition for reconsideration is not filed, it will be deemed that the right to contest any such easement has been waived.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 555 Cordova Street, Pouch 7-512, Anchorage, Alaska 99510.

If an appeal is taken the adverse parties to be served are:

State of Alaska, Division of Lands, 323 East Fourth Avenue, Anchorage, Alaska 99501.
Nelson Lagoon Corporation, Nelson Lagoon, Alaska 99695.
The Aleut Corporation, 833 Gambell Street, Anchorage, Alaska 99501.

JUDITH A. KAMMINS,
Chief, Division of ANCSA Operations.

[FR Doc. 79-1464 Filed 1-15-79; 8:45 am]

[4310-84-M]

[NM 35699, 35705, 35706]

NEW MEXICO

Applications

JANUARY 5, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for three 4½-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 27 N., R. 6 W.,
Sec. 26, W½SE¼.
T. 26 N., R. 7 W.,
Sec. 4, SW¼NE¼, SE¼NW¼ and N½SW¼.
T. 32 N., R. 9 W.,
Sec. 31, lot 7.

These pipelines will convey natural gas across 0.633 of a mile of public lands in Rio Arriba and San Juan Counties, New Mexico.

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The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-1465 Filed 1-15-79; 8:45 am]

[4310-84-M]

[NM 35694, 35695 and 35696]

NEW MEXICO

Applications

JANUARY 8, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for three 4½-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 26 N., R. 7 W.,
Sec. 4, SW¼NE¼, W½SE¼ and SE¼.
T. 31 N., R. 9 W.,
Sec. 6, lots 10 and 13.
T. 31 N., R. 11 W.,
Sec. 23, SE¼NW¼.

These pipelines will convey natural gas across 0.773 of a mile of public lands in Rio Arriba and San Juan Counties, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their names and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-1466 Filed 1-15-79; 8:45 am]

[4310-84-M]

[NM 35634]

NEW MEXICO

Application

JANUARY 5, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Transwestern Pipeline Company has applied for one 4-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 21 S., R. 30 E.,
Sec. 15, SW¼NW¼ and NW¼SW¼.

This pipeline will convey natural gas across 0.25 of a mile of public land in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-1467 Filed 1-15-79; 8:45 am]

[4310-84-M]

UTAH

Review and Updating of Planning Documents

AGENCY: Bureau of Land Management (BLM), U.S. Department of the Interior.

ACTION: Review and Updating of Planning Documents.

SUMMARY: This notice is to advise you that the Moab District Office, Bureau of Land Management and the Manti-LaSal National Forest are proceeding to review and supplement portions of the San Rafael and Wattis management framework plans and the Ferron-Price land management plan to make certain the plans reflect as completely as possible existing statutory requirements and policies and to begin to carry out the requirements of the Federal lands review mandated by Section (522)(C) of the Surface Mining Control and Reclamation Act (SMCRA). These standards are discussed in a draft environmental impact statement describing the Secretary of Interior's proposed coal program and alternatives which was released for review on December 15, 1978, 43 F.R. 58776, and comments on revisions in the criteria through that process as well as through participation in the planning process are welcome.

Background and standards for this planning review and supplement preparation procedures are contained in FEDERAL REGISTER Notice 43 F.R. 57662, of December 8, 1978.

Date: January 8, 1979.

PAUL L. HOWARD,
State Director.

[FR Doc. 79-1420 Filed 1-15-79; 8:45 am]

[4310-03-M]

Heritage Conservation and Recreation Service

NATIONAL REGISTER OF HISTORIC PLACES

Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before January 5, 1979. Pursuant to § 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, Office of Archeology and Historic Preservation, U.S. Department of the Interior, Washington, DC 20240. Written comments or a request for additional time to prepare comments should be submitted by January 26, 1979.

RONALD M. GREENBERG,
Acting Keeper of the National Register.

ALABAMA

Montgomery County

Montgomery, *Steiner-Lobman and Teague Hardware Buildings*, 184 and 172 Commerce St.

ALASKA

Seward Division

Moose Pass vicinity, *Lauritsen Cabin*, N of Moose Pass off AK 1

COLORADO

Boulder County

Boulder, *Carnegie Library*, 1125 Pine St.
Boulder, *Woodward-Baird House*, 1733 Canyon Blvd.

El Paso County

Fountain, *Old Livery Stable*, 217 W. Missouri

Logan County

Sterling, *Logan County Courthouse*, Main St.

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Otero County

La Junta, *Hart, Wilson A., House*, 802 Raton Ave.

FLORIDA

Alachua County

Gainesville, *Anderson Hall*, W. University Ave.
Gainesville, *Bryan Hall*, W. University Ave. and 13th St.

Gainesville, *Flint Hall*, W. University Ave.

Gainesville, *Floyd Hall*, University of Florida Campus

Gainesville, *Library East*, Murphree Way

Gainesville, *Newell Hall*, Stadium Rd.

Gainesville, *Peabody Hall*, University of Florida campus

Gainesville, *Women's Gymnasium*, East-West Rd.

GEORGIA

Bryan County

Richmond Hill vicinity, *Kilkenny*, E of Richmond Hill on Kilkenny Rd.

Catoosa County

Fort Oglethorpe, *Fort Oglethorpe Historic District*, U.S. 27 (also in Walker County)

Jasper County

Monticello, *Hitchcock-Roberts House*, N. Warren St.

GUAM

Mangilao, *Taogam Archeological District*, off GU 10
Naval Station, *Cable Station Ruin*, W of Marine Dr.
Santa Rita, *Pan American Hotel Ruin*, U.S. Naval Station

INDIANA

Howard County

Kokomo vicinity, *Smith, Henry W., House*, 5 mi. (8 km) W of Kokomo

Vermillion County

Clinton vicinity, *Salem Methodist Episcopal Church*, N of Clinton on IN 63

Warrick County

Boonville, *Old Warrick County Jail*, 124 E. Main St.

Whitley County

Columbia City, *Whitley County Courthouse*, Van Buren and Main Sts.

IOWA

Cass County

Griswold, *Griswold National Bank*, Main and Cass Sts.

Linn County

Marion, *Braska House*, 889 2nd Ave.

KENTUCKY

Christian County

Christian County Multiple Resource Area, various locations in county

LOUISIANA

Livingston Parish

Springfield vicinity, *Carter Plantation*, SW of Springfield on SR 1038

MARYLAND

Montgomery County

Poolesville vicinity, *Darnall Place*, E Poolesville at 17615 White's Ferry Rd.

MASSACHUSETTS

Barnstable County

Barnstable, *Barnstable Fair Hall*, 3512 Main St.

Plymouth County

Plymouth vicinity, *Parting Ways Archeological District*, W of Plymouth

MONTANA

Yellowstone County

Billings vicinity, *Boothill Cemetery*, N of Billings

NEBRASKA

Greeley County

Scotia, *Scotia Chalk Building*, Off NE 22

Webster County

Bladen vicinity, *Pavelka Farmstead*, SE of Bladen

NEVADA

Douglas County

Gardnerville, *Carson Valley Hospital*, 1466 U.S. 395

NEW JERSEY

Atlantic County

Estell Manor, *Head of the River Church, NJ 49*

Monmouth County

Leonardo, *Bowne House*, Leonard Ave.

Salem County

Woodstown, *Shinn, Joseph, House*, 68 N. Main St.

NEW YORK

Dutchess County

Beacon, *Eustatia*, 12 Monell Pl.
Poughkeepsie, *Poughkeepsie Railroad Bridge*, spans Hudson River (also in Ulster County)

SUFFOLK COUNTY

Montauk vicinity, *H.M.S. Culloden Shipwreck Site*, N of Montauk

NORTH CAROLINA

Alamance County

Glencoe, *Glencoe Mill Village Historic District*, off NC 62 at Haw River

Buncombe County

Asheville, *Asheville Historic and Architectural Multiple Resource Area*. This area includes: *Downtown Asheville Historic district*, roughly bounded by I 240, Valley St., Hilliard Ave., and Broad Ave.; *Asheville Transfer and Storage Company Building*, 192-194 Coxe Ave.; *B & B Motor Company Building*, 84-94 Coxe Ave.; *Conabeer Chrysler Building*, 162-164 Coxe Ave.; *E.D. Latta Nurses' Residence (interchange Center)*, 159 Woodfin St.; *George A. Mears House*, 137 Biltmore Ave.; *Richbourg Motors Building*, 50 Coxe Ave.; *Sawyer Motor Company Building*, 100 Coxe Ave.; *Schoenberger Hall*, 60 Ravenscroft Dr.; 130-132 Biltmore Ave.; 134-136½ Biltmore Ave.; and 140 Biltmore Ave.

OKLAHOMA

Beckham County

Elk City, *Broadway Street Historic District*, W. Broadway between Randall and Jefferson Sts.

SOUTH CAROLINA

Greenville County

Greenville, *Reedy River Industrial District*, Reedy River between River St. and Camperdown Way

VIRGINIA

Botetourt County

Eagle Rock vicinity, *Roaring Run Furnace*, NW of Eagle Rock
Fincastle vicinity, *Catawba Furnace*, W of Fincastle

WASHINGTON

Snohomish County

Everett, *Community Center and War Memorial Building*, 1611 Everett Ave.

[FR Doc. 79-1074 Filed 1-15-79; 8:45 am]

[4310-84-M]

Office of the Secretary

[INT DES 79-3]

CRUDE OIL TRANSPORTATION SYSTEM AS PROPOSED BY THE NORTHERN TIER PIPELINE CO.

Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental statement for the crude oil transportation system as proposed by the Northern Tier Pipeline Company and invites written comments within 60 days of this notice.

The proposal would involve the construction and operation of a crude oil transportation system from Port Angeles, Washington, to Clearbrook, Minnesota. The system would consist of an oil tanker unloading and storage facility at Port Angeles and a 1,557-mile buried pipeline crossing the States of Washington, Idaho, Montana, North Dakota, and connecting to existing pipeline systems in Clearbrook, Minnesota.

Copies of the draft environmental statement are available for inspection at the following Bureau of Land Management Office locations:

Washington Office of Public Affairs, 18th and C Streets, N.W., Washington, D.C. 20240.
Oregon State Office, 729 N.E. Oregon Street, Portland, OR 97208.
Spokane District Office, West 920 Riverside, Spokane, WA 99201.
Montana State Office, 222 N. 32nd Street P.O. Box 30157, Billings, MT 59107.
Butte District Office, 220 N. Alaska, P.O. Box 308, Butte, MT 59701.
Lewistown District Office, Bank Electric Building, Drawer 1160, Lewistown, MT 59457.
Idaho State Office, Room 398, Federal Building, 550 W. Fort Street, Box 042, Boise, ID 83724.
Coeur d'Alene District Office, 1808 N. Third Street, Coeur d'Alene, ID 83814.
Miles City District Office, West of Miles City, P.O. Box 940, Miles City, MT 59301.
Dickinson District Office, Pulver Hall, P.O. Box 1229, Dickinson, ND 58601.

Copies can also be found at many local, State, and university libraries in those States that would be crossed by the pipeline. For information concerning the location of the draft environmental statement nearest you, call toll free (800) 547-5532. A limited number of single copies are also available. Requests for a copy should be directed to:

Oregon State Director, Bureau of Land Management, P.O. Box 2965, Portland, OR 97208.

Written comments pertaining to the adequacy of the draft environmental statement should be sent to the Oregon State Director at the address noted above.

A series of formal public hearings at which oral and written comments can be presented will be held. The specific time and place of the hearings will be announced at a later date.

Dated: January 11, 1979.

LARRY E. MEIEROTTO,
Deputy Assistant Secretary.

[FR Doc. 79-1468 Filed 1-15-79; 8:45 am]

[4410-01-M]

DEPARTMENT OF JUSTICE

PROPOSED CONSENT DECREE IN ACTION TO ENJOIN DISCHARGE OF WATER POLLUTANTS

In accordance with Departmental Policy, 28 CFR § 50.7, 38 FR 19020, a notice is hereby given that on January 4, 1979, a proposed consent decree in *State of Alabama. et al.* v. *Tennessee Valley Authority*, was lodged with the United States District for the Northern District of Alabama. The United States intervened as a party-plaintiff in this case seeking compliance with the Clean Air Act. The proposed decree requires the Tennessee Valley Authority to install pollution control equipment or switch to coal with a lower sulfur content at two power plants in Alabama in order to comply with the Clean Air Act.

The Department of Justice will receive for 30 days from the date of publication of this notice (February 15, 1979) written comments relating to the proposed judgment. Comments should be addressed to the Assistant Attorney General for the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and refer to *State of Alabama, et al.* v. *Tennessee Valley Authority*, D.J. Ref. 90-5-2-3-840.

The proposed consent decree may be examined at the office of the United States Attorney, Northern District of Alabama, U.S. Courthouse, Birmingham, Alabama; the Clerk of the District Court, Northern District of Alabama, U.S. Courthouse, Birmingham, Alabama; and the Pollution Control Section, Land and Natural Resources Division, Department of Justice, Room 2625, Ninth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20530. A copy of the proposed consent judgment may be obtained in person or by mail from the Pollution Control Section.

JAMES W. MOORMAN,
Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 79-1491 Filed 1-15-79; 8:45 am]

[4410-01-M]

PROPOSED CONSENT DECREE IN ACTION TO ENJOIN DISCHARGE OF WATER POLLUTANTS

In accordance with Departmental Policy, 28 CFR § 50.7, 38 FR 19029, a notice is hereby given that on January 4, 1979, a proposed consent decree in *Tennessee Thoracic Society, et al.* v. *Tennessee Valley Authority*, was lodged with the United States District Court for the Middle District of Tennessee. The United States intervened as a party-plaintiff in this case seeking compliance with the Clean Air Act. The proposed decree requires the Tennessee Valley Authority to install pollution control equipment or switch to coal with a lower sulfur content at eight power plants in Tennessee and Kentucky in order to comply with the Clean Air Act.

The Department of Justice will receive for 30 days from the date of publication of this notice (February 15, 1979) written comments relating to the proposed judgment. Comments should be addressed to the Assistant Attorney General for the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and refer to *Tennessee Thoracic Society, et al.* v. *Tennessee Valley Authority*, D.J. Ref. 90-5-2-3-835.

The proposed consent decree may be examined at the office of the United States Attorney, Middle District of Tennessee, U.S. Courthouse, Nashville, Tennessee; the Clerk of the District Court, Middle District of Tennessee, U.S. Courthouse, Nashville, Tennessee; and the Pollution Control Section, Land and Natural Resources Division, Department of Justice, Room 2625, Ninth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20530. A copy of the proposed consent judgment may be obtained in person or by mail from the Pollution Control Section.

JAMES W. MOORMAN,
Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 79-1492 Filed 1-15-79; 8:45 am]

[4410-01-M]

UNITED STATES CIRCUIT JUDGE NOMINATING COMMISSION; WESTERN FIFTH CIRCUIT PANEL

Meeting

The Western Fifth Circuit panel of the United States Circuit Judge Nominating Commission will meet:

1. At the United States Court of Appeals, the Eleventh Floor of the Federal Building, 515 Rush Street, Houston, Texas on February 6, 7, 8, 1979, at 9:00 a.m. for the purpose of interviewing applicants from Texas;

2. At the Federal District Courthouse, 707 Florida Avenue, Baton Rouge, Louisiana, February 13, 14, 15, 1979, at 9:00 a.m. to interview applicants from Louisiana; and

3. At the United States Court of Appeals, the Eleventh Floor of the Federal Building, 515 Rush Street, Houston, Texas on February 21, 22, 1979, at 9:00 a.m. to make final selections.

These meetings will be closed to the public pursuant to Pub. L. 92-463 Section 10(D) as amended. (CF 5 U.S.C. 552b (c)(6).)

JOSEPH A. SANCHES,
Advisory Committee Management Officer.

JANUARY 10, 1979.

[FR Doc. 79-1469 Filed 1-15-79; 8:45 am]

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[4510-27-M]

DEPARTMENT OF LABOR

Employment and Training Administration

YOUTH COMMUNITY CONSERVATION AND IMPROVEMENT PROJECTS (YCCIP)

Reallocation of Balance of State Alaska Allocation

In accordance with 29 CFR 97.607 and 29 CFR 98.11(d) and pursuant to the Comprehensive Employment and Training Act of 1973, as amended, on November 14, 1978, the Employment and Training Administration with the concurrence of the Governor of Alaska, reallocated $263,816 of the Balance of State Alaska allocation under the Youth Community Conservation and Improvement Projects (YCCIP).

This reallocation was made to the following CETA prime sponsor:

Municipality of Anchorage, Alaska: $263,816.

This reallocation was made in order to better utilize these funds within the current period for employment of unemployed and out-of-school youth with the severest problems in finding employment.

Any questions or comments regarding this reallocation should be addressed to Mr. Robert Taggart, Department of Labor, Office of Youth Programs, 601 D Street NW. Room 6000, Washington, D.C. 20213.

Dated: November 29, 1978.

ROBERT TAGGART,
Administrator,
Office of Youth Programs.

[FR Doc. 79-1359 Filed 1-15-79; 8:45 am]

[4510-43-M]

Mine Safety and Health Administration

[Docket No. M-78-6]

CONSOLIDATED COAL CO.

Final Action Granting a Petition for Modification of Application of Mandatory Safety Standard

The Mine Safety and Health Administration (MSHA) has granted the petition (42 FR 58453) of Consolidation Coal Co. to modify the application of 30 CFR 75.1700 to its McElroy Mine located in Marshall County, W. Va., in accordance with Section 101(c) of the Federal Mine Safety and Health Act of 1977, Public Law 95-164. MSHA has determined that an alternative method exists that will guarantee at all times no less than the same measure of protection given miners of the mine by the standard.

MSHA based its determination on the followings findings:

A meeting was held at McElroy mine on April 18, 1978. In attendance were representatives of the Mine Safety Committee of UMWA Local No. 1638, Consolidation Coal Company, the West Virginia State Department of Mines, and Mine Safety and Health Administration. The procedure for plugging the wells and the Petition for Modification was discussed. No objections of the proposed plugging and mining through of the wells were raised by those in attendance.

MSHA investigators recommended that the Petition for Modification be granted if the following are adopted:

1. The plugging operation and mining through the well shall be monitored by a MSHA representative. This will require that McElroy mine management notify MSHA when such representatives are intended. MSHA will use the expert guidance of the Petroleum and Natural Gas and In Situ Technology Group of the Morgantown Energy Research Center, ERDA, who were the prime group in developing the technique.

2. Mining in the vicinity of 300 feet of a plugged well will be done in accordance with mining projections filed with, and approved by, the State of West Virginia Department of Mines and the District Manager.

3. A copy of the Petition decision and approved map shall be maintained at the mine office and shall be available to employees of the mine.

4. Consolidation Coal Company, McElroy mine, shall agree to consult, collaborate, and cooperate in plugging, penetrating, and mining through each well so that the technical expertise of MSHA and ERDA will be available for each well during the entire project.

5. MSHA may order the operator, in writing, to suspend, delay, or interrupt all or any part of a mining through project, for cause. This action may be taken upon the authorized representative's determination that a hazardous condition has been encountered. Such conditions could relate to the failure of the well plug to seal, as evidenced by detection of tracer gas (SF_6) in mine air samples, or failure to adequately plug the well as specified.

6. The District Manager or Subdistrict Manager, MSHA, will conduct a conference just prior to, or within a reasonable time prior to, the mining-through of any plugged well, to review the specific plan for mining-through such well, and determine whether or not such plan is appropriate. Representatives of the operator, UMWA, and the State Department of Mines will be informed, within a reasonable time prior to the conference, and will be given an opportunity to attend and participate.

Because of these findings, the Administrator for Coal Mine Safety and Health, under authority delegated by the Secretary for Labor, ordered that the petition be granted, conditioned upon compliance with the recommendations stated above.

A copy of the decision is available for inspection by the public at the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203.

Dated: January 9, 1979.

ROBERT B. LAGATHER,
Assistant Secretary
for Mine Safety and Health.

[FR Doc. 79-1362 Filed 1-15-79; 8:45 am]

[4510-43-M]

[Docket No. M-77-17]

EASTERN ASSOCIATED COAL CORP.

Final Action Granting a Petition for Modification of Application of Mandatory Safety Standard

The Mine Safety and Health Administration (MSHA) has granted the petition (41 FR 54247) of Eastern Associated Coal Corp. to modify the application of 30 CFR 75.1105 to its Keystone No. 2 Mine located in Wyoming County, W. Va., in accordance with Section 101(c) of the Federal Mine Safety and Health Act of 1977, Public Law 95-164. MSHA has determined that an alternative method exists that will guarantee at all times no less than the same measure of protection given miners of the mine by the standard.

MSHA based its determination on the following findings:

1. Due to the enormous size of this mine, the massive roof falls in the adjacent entries along the 3 West 5 North entries, and the water accumulations that are also present in these entries, MSHA investigators concluded that the operator cannot at this time comply with the provisions of Section 75.1105 of Part 75.

2. The fire protection devices provided appeared to be adequate. The pump installation that was checked consisted of a twenty-pound dry-type chemical fire suppression unit sold by National Mine Corporation. The unit is activated by two heat sensors (135 degrees F) located directly above the electric pump motor and electric motor starter. When activated the fire suppression unit will discharge the twenty-pound unit onto the pump motor and motor starter and at the same time, the incoming power will be cut off of the pump starter by means of an additional contactor located outside the fireproof structure housing the water pump.

3. The company also added two heat sensors (135 degrees F) linked to a cable directly above the pumping unit

in a manner so as to close the door openings in case of a fire. At the same time, a switch located on one of the doors will set off an alarm light that will be seen by anyone traveling the main line track entering or leaving the mine to warn them that the system has been activated.

Because of these findings, the Administrator for Coal Mine Safety and Health, under authority delegated by the Secretary of Labor, ordered that the petition be granted, conditioned upon the proper installation and maintenance of the system described in the petition and as observed by MSHA's investigators.

A copy of the decision is available for inspection by the public at the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203.

Dated: January 9, 1979.

ROBERT B. LAGATHER,
Assistant Secretary
for Mine Safety and Health.

[FR Doc. 79-1361 Filed 1-15-79; 8:45 am]

[4510-43-M]

[Docket No. M-78-65-M]

KENNECOTT COPPER CORP.

Petition for Modification of Application of Mandatory Safety Standard

Kennecott Copper Corporation, P.O. Box 11299, Salt Lake City, Utah 84111 has filed a petition to modify the application of 30 CFR 55.9-87 (automatic reverse signal alarms) to its Bingham Canyon Mine in Salt Lake County, Utah. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977, Public Law 95-164.

The substance of the petition follows:

(1) The petitioner asks for an amendment of condition 2(A) of Variance No. 290-S granted to the petitioner on December 14, 1977, by the Industrial Commission of the State of Utah with MSHA's concurrence.

(2) This condition states in part that a haulage truck driver shall wait for the shovel operator to give the signal to spot before backing the truck into the loading position on the blind side. The current signal is the shovel dipper held in an elevated position.

(3) As an alternative to the signal, the petitioner proposes to place marker flags in the loading area to guide trucks backing into the loading position. If for any reason the flags are not completely visible to the haulage truck driver, the driver will wait for the signal from the shovel operator (elevated dipper) before backing into the loading position.

(4) The petitioner claims that this procedure has definite safety advantages over the variance procedure for these reasons:

(a) The waiting period, necessary when using the dipper as a guide, leaves the truck exposed near the traffic pattern for the trucks preparing to back into position on the visible side and adds to the congestion in the turning area. This is eliminated with the proposed procedure.

(b) There is no delay between the truck's clockwise turn and backing into the loading position. The driver visually inspects the area while making the clockwise turn and immediately backs into position, using the flags as guides. The visual inspection of an area immediately prior to backing is the most effective method of safely backing and preventing personnel or equipment from entering the area to be backed into without the knowledge of the truck driver.

(5) To further protect personnel, the petitioner will install two red warning lights on the rear of the shovel. Placing the shovel in the proper mode will activiate the red lights. The lights will indicate to the haulage truck driver that backing into the blind side loading position is prohibited.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments by February 15, 1979. Comments must be filed with the office of Standards, Regulations and Variances, Mine Safety and health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: January 8, 1979.

ROBERT B. LAGATHER,
Assistant Secretary
for Mine Safety and Health.

[FR Doc. 79-1363 Filed 1-15-79; 8:45 am]

[4510-43-M]

[Docket No. 78-55-M]

UNION CARBIDE CORP.

Petition for Modification of Application of Mandatory Standard

The Union Carbide Corporation, P.O. Box 1029, Grand Junction, Colorado 81501, has filed a petition to modify the application of 30 CFR 57.5-50 (noise levels) to its following mines: Coloradium, Donald L, September Morn, Anna May, Eula Belk, Fawn Springs #9, Nil, Ura, Long Park #15, Blackburn, King Solomon, Breezy, Martha Belle, and Rimrock Blues #2 in Montrose County, Co; New Verde Mining, Rajah 68, Rajah 30, Rajah 49-Zee Lease, Pack Rat, Thornton gap, Lost Dutchman and Atlas-Bonanza in Mesa County, Co; Deremo-Snyder, Burro and Sunday in San Miguel County, Co; Wilson-Silverbell and La Sal/Snowball in San Juan County, Ut; Black Rock Mine in Mono County, Ca; Pine Creek Mine in Inyo County, Ca; and Emerson Mine in Lincoln County, Nv.

The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977, Public Law 95-164.

The substance of the petition follows:

(1) The petitioner has tested various engineering techniques recommended by MSHA. However, these techniques have not produced satisfactory performance on either noise attenuation or drilling function of the drills.

(2) The administrative technique recommended by MSHA of rotating miners in drilling operations is not feasible, given the distances and complexities experienced in the petitioner's mines.

(3) The petitioner states that the methods of noise control used at its mines, in particular ear protection and audiometric testing, assure its employees no less protection than that provided by the standard.

Persons interested in this petition may furnish written comments by February 15, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: January 6, 1979.

ROBERT B. LAGATHER,
Assistant Secretary,
Mine Safety and Health.

[FR Doc. 79-1364 Filed 1-15-79; 8:45 am]

[4510-43-M]

[Docket No. M-77-252]

YOUGHIOGHENY & OHIO COAL CO.

Final Action Granting a Petition for Modification of Application of Mandatory Safety Standard

The Mine Safety and Health Administration (MSHA) has granted the petition (42 FR 45044) of Youghiogheny & Ohio Coal Co. to modify the application of 30 CFR 75.1100-2(b) to its Nelms No. 2 Mine located in Harrison County, Ohio, in accordance with Section 101(c) of the Federal Mine Safety and Health Act of 1977, Public Law 95-164. MSHA has determined that an alternative method exists that will guarantee at all times no less than the same measure of proteciton given miners of the mine by the standard.

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MSHA based its determination on the following findings:

1. MSHA conducted an investigation at the Nelms No. 2 Mine on October 21, 1977, to ensure that the proposed firefighting system was capable of delivering 50 gallons of water per minute at 50 p.s.i., as required by 30 CFR 75.1100–1. A 2-inch steel pipeline was installed the entire length of and parallel to both the slope and transfer conveyor belts. Outlets were installed at 300-foot intervals with adequate lengths of firehose placed at strategic locations. Heat detecting sensors were placed along conveyor belts which will automatically activate an electric solenoid valve and charge the waterline in the event of a fire or excessive heat. A bypass system with a manual valve was included so that the waterline can be charged during a power failure.

2. Tests were made and the system was found to be capable of delivering water in excess of 50 p.s.i. as required by 30 CFR 75.1100–1.

3. Deluge-type water sprays, automatically actuated by a rise in temperature, have been installed on the transfer belt drive and are in compliance with 30 CFR 75.1100.

Because of these findings, the Administrator for Coal Mine Safety and Health, under authority delegated by the Secretary of Labor, ordered that the petition be granted, conditioned upon the terms and conditions of the findings.

A copy of the decision is available for inspection by the public at the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203.

Dated: January 9, 1979.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 79-1360 Filed 1-15-79; 8:45 am]

[4510-29-M]

Office of Pension and Welfare Benefit Programs

EMPLOYEE RETIREMENT INCOME SECURITY ACT

Proposed Exemption for Certain Transactions Involving Restated Coburn Optical Industries, Inc., Profit Sharing Plan and Trust (Application No. D-492)

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from the prohibited transaction restrictions of Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the sale of certain parcels of real property by the Restated Coburn Optical Industries, Inc. Profit Sharing Plan and Trust (the Plan) to O. W. Coburn and/or Superior Investments, Inc. (Superior), a corporation ninety percent of the outstanding stock of which is owned by O. W. Coburn, both of which are parties in interest with respect to the Plan.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before March 2, 1979.

ADDRESSES: All writen comments and requests for a hearing (at least six copies) should be sent to: Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, Attention: Application No. D-492. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington D.C.

FOR FURTHER INFORMATION CONTACT:

William J. Flanagan, of the Plan Benefits Security Division, Office of the Solicitor, U.S. Department of Labor, (202) 523-7931. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of a proposed exemption from the restrictions of section 406(a)(1)(A) and (D) and 406(b)(1) and (b)(2) of the Act and from the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975 (c)(1)(A) and (D) of the Code. The proposed exemption was requested in an application filed by the First National Bank and Trust Company of Muskogee, Oklahoma (the Bank), Jim Liquidating Corp. (the Employer), and O. W. Coburn, who is a director and majority shareholder of Employer and also a participant in the plan, pursuant to section 408(a) of the Act and section 4975(c) of the Code, and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). This application was filed with both the Department and the Internal Revenue Service. However, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

SUMMARY OF FACTS AND REPRESENTATIONS

The application contains facts and representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

On July 26, 1975, the Employer's Board of Directors voted to terminate the Plan and to liquidate and distribute the assets of the Plan, a defined contribution plan, to participants based on account balances as of June 30, 1975. The trustees of the Plan—O. W. Coburn, John C. Coburn, and James M. Coburn—resigned and the Bank was appointed trustee as of June 30, 1975. The Employer's Board of Directors instructed the Bank to sell all of the Plan's non-cash assets in a manner which would maximize the cash available for distribution.

Upon termination of the Plan, ninety-six percent of the participants elected a cash distribution of their account balances. To date, these participants have received approximately ninety-five percent of the balances shown in their accounts as of June 30, 1975. The remaining four percent of the Plan participants chose to have their balances paid in the form of nontransferrable annuities. It is noted that the accounts in the names of O. W. Coburn and his brother, John C. Coburn, represent more than two-thirds of the total balance due those participants who chose annuities. To date, the participants who chose annuities have received no distribution. The applicants represent that this proposed exemption is necessary to enable the Bank to sell the remaining Plan assets and to make a final distribution to Plan participants.

The remaining unsold Plan assets are two real estate holdings: (1) Twenty-one lots in the Indian Drive Subdivision Addition to Muskogee, Oklahoma; and (2) a Tastee Freeze located in Muskogee, Oklahoma.[1] The book value of these assets was determined by the City of Muskogee as of June 30, 1975, and there is no evidence of any new municipal reappraisals at this time. The book values of these assets are approximately $131,000 for the twenty-one subdivision lots, and $42,061 for the Tastee Freeze. Upon

[1]The application also requested exemptions for the sale of ten other subdivision lots, as well as a car wash, and a vacant lot. However, since the time the application was filed, unrelated third parties have purchased these assets, and they are not considered in this exemption.

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becoming Plan trustee, the Bank commissioned two independent appraisals of the properties held by the Plan. Both appraisals valued the Subdivision lots at a price below their book value, while the Tastee Freeze was appraised in excess of its book value. The Bank offered the Tastee Freeze for sale at a price ten percent above its 1975 high appraised value. The Subdivision lots were offered for sale at a lot by lot price of ten percent above book vlue, or at a bulk price of ten percent above the 1975 high appraised value. While these prices were in effect, the Bank sold seven Subdivision lots, all at prices below asking price, but substantially equal to book value.

In June, 1977, the Bank commissioned two new appraisals of the unsold property. The high 1977 appraisal for the Tastee Freeze was $60,000, the same as the high 1975 appraisal. To date, the best offer received by the Bank for the Tastee Freeze is $58,000 offered by O. W. Coburn, an amount equal to the 1975 low appraisal and $16,000 higher than book value. The high 1977 appraised value of the remaining Subdivision lots is $135,000, which is $4,000 more than book value. O. W. Coburn and/or Superior have offered to purchase the remaining subdivision lots at a price equal to the high 1977 appraised value.[2] The application and supplementary information submitted by applicants indicate that the prospective purchasers intend to hold the properties for sale, investment or charitable donation.

The applicants seek an exemption for the sale of these properties to O. W. Coburn and/or Superior in order to facilitate the final distribution of Plan assets. O. W. Coburn is a party in interest with respect to the Plan as defined by section 3(14)(E) and (H) of the Act, and a disqualified person as defined in section 4975(e)(2)(E) and (H) of the Code, by virtue of being an employee, officer, director and majority shareholder of the Employer. Superior is a party in interest as defined by section 3(14)(G) of the Act, and a disqualified person as defined in section 4975(e)(2)(G) of the Code, since it is a corporation fifty percent or more of which is owned by a more than fifty percent shareholder of the Employer. Because Coburn and Superior are parties in interest and disqualified persons, the proposed sales would constitute prohibited transactions pursuant to section 406(a)(1)(A) and (D) of the Act and section 4975(c)(1)(A) and (D) of the Code. In addition, if Coburn has the power to appoint and remove the Plan trustee, these sales may be prohibited transactions under section 406(b)(1) and (b)(2) of the Act and section 4975(c)(1)(E) of the Code.

The applicants represent that the requested exemption should be granted for several reasons. The applicants state that it is administratively feasible to grant the requested exemption because the sales would occur only once, thereby requiring only minimal supervision. The applicants also state that these sales are necessary in order to liquidate Plan assets and terminate the Plan. The proposed sales would also be in the best interests of the Plan and its participants and beneficiaries because these transactions would enable the Bank to receive the highest prices offered for the remaining assets since July 1975. In addition, the applicants argue that the rights of Plan participants and beneficiaries are protected by the independent appraisals of these assets and by the presence of an independent trustee which has attempted to sell the properties to unrelated parties.

[2]In view of the length of time which has passed since these appraisals were made, the proposed exemption provides that Coburn and/or Superior must pay the higher of either the purchase prices currently offered or the fair market values of the properties at the time of sale. Furthermore although the application does not specify that the sale will be for cash, the proposed exemption is conditioned on the sale being for cash.

NOTICE TO INTERESTED PARTIES

All Plan participants and beneficiaries will be notified by letter containing a copy of the notice of pendency of the proposed exemption as published in the FEDERAL REGISTER, and advising these persons of their rights to comment and/or to request a hearing within the period of time specified above. Such notification will be given no later than 5 days after the notice of pendency is published in the FEDERAL REGISTER. In addition, copies of this notification will be posted for a period of thirty days in conspicuous locations in all buildings where Plan participants and beneficiaries are currently employed by the successor employer.

GENERAL INFORMATION

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including the general fiduciary responsibility provisions of section 404 of the Act which require, among other things, that a fiduciary discharge his duties respecting the Plan solely in the interests of the participants and beneficiaries of the Plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the Plan must operate for the exclusive benefit of the employees of the employer maintaining the Plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under sections 406(a)(1)(B), (C), and (E), 406(b)(3), and 407 of the Act, and section 4975(c)(1)(B), (C) and (F) of the Code;

(3) Before any exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the Plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the Plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

WRITTEN COMMENTS AND HEARING REQUESTS

All interested persons are invited to submit written comments or requests for a hearing on the proposed exemption to the address and within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the proposed exemption. Comments received will be available for public inspection with the application for exemption at the addresses set forth above.

PROPOSED EXEMPTION

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1. If the exemption is granted, the restrictions of section 406(a)(1)(A) and (D) and 406(b)(1) and (b)(2) of the Act, and the taxes imposed by sections 4975(a) and (b) of the Code by reason of section 4975(c)(1)(A), (D) and (E) of the Code shall not apply to the sale for cash of the remaining Indian Drive Subdivision lots at a price not less than the greater of either their high 1977 appraised value, or their fair market value at the time of sale, nor to the sale for cash of the Tastee Freeze at a price not less than the greater of either $58,500, or the fair market value of the property from the

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Plan to either O. W. Coburn or Superior Investments, Inc. The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 9th day of January 1979.

IAN D. LANOFF,
Administrator for Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 79-1479 Filed 1-11-79; 2:44 pm]

[4510-28-M]

Office of the Secretary

[TA-W-3473]

ALLEGHENY-LUDLUM STEEL CORP.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3473: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on April 6, 1978 in response to a worker petition received on March 27, 1978 which was filed by the United Steelworkers of America on behalf of workers and former workers producing stainless steel sheet and plate, high speed and tool steel at the Brackenridge, Pennsylvania plant of Allegheny-Ludlum Steel Corporation. The investigation revealed that the plant primarily produces stainless steel sheet and plate.

The Brackenridge plant was previously certified eligible for adjustment assistance on May 27, 1976; that certification expired on May 27, 1978 (see TA-W-755).

The Notice of Investigation was published in the FEDERAL REGISTER on April 25, 1978 (43 FR 17550). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Allegheny Ludlum Steel Corporation, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

The average number of production workers at the Brackenridge plant remained relatively stable in the first nine months of 1978 compared to the first nine months of 1977. Average quarterly employment increased from the first to the second quarter and from the second to the third quarter in 1978. The average weekly hours worked per employee also increased in the first three quarters of 1978 compared to the like period in 1977. There is no immediate threat of separations at this plant.

CONCLUSION

After careful review, I determine that all workers of the Brackenridge, Pennsylvania plant of Allegheny-Ludlum Steel Corporation are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 8th day of January 1979.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 79-1376 Filed 1-15-79; 8:45 am]

[4510-28-M]

[TA-W-4274]

APECO CORP.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4274: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 20, 1978 in response to a worker petition received on October 18, 1978 which was filed on behalf of workers and former workers producing toner for photocopy equipment at the Melrose Park, Illinois plant of the Apeco Corporation.

The Notice of Investigation was published in the FEDERAL REGISTER on October 31, 1978 (43 FR 50758). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of the Apeco Corporation, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

Imports of toners increased from 6.9 million pounds in 1976 to 7.6 million pounds in 1977, and increased from 6.0 million pounds in the January-September period of 1977 to 6.1 million pounds in the like period in 1978. The ratio of imports to domestic production increased from 10.2 percent in 1976 to 11.1 percent in 1977.

Company imports of toner by Apeco increased in value absolutely and relative to total company sales in the January-October period of 1978 compared to the like period in 1977. The Melrose Park, Illinois plant was closed permanently on December 1, 1978.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with toner produced at the Melrose Park, Illinois plant of the Apeco Corporation contributed importantly to the decline in sales or production and to the total or partial separation of workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers of the Melrose Park, Illinois plant of the Apeco Corporation who became totally or partially separated from employment on or after November 17, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 5th day of January 1979.

C. MICHAEL AHO,
Director, Office of Foreign Economic Research.

[FR Doc. 79-1377 Filed 1-15-79; 8:45 am]

[4510-28-M]

[TA-W-3987 and 3987A]

BOBBIE BROOKS, INC.

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3987: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on July 25, 1978 in response to a worker petition received on July 17, 1978 which was filed on behalf of workers and former workers producing knitted fabrics and sweaters and Bobbie Brooks, Incorporated, Colebrook, Mills Division, Hialeah, Florida. The investigation revealed that this subdivision of Colebrook Mills included a full fashion knitting plant and two Bobbie Brooks selling companies (Colebrook Men's Division and Coronet Knitwear) in Hialeah, Florida and also a third Bobbie Brooks selling company, the M&D Simon Division, located in Morrow, Georgia. The full fashion knitting plant produced men's knit shirts and knit sweaters and women's sweaters. The Colebrook Men's Division and the M&D Simon Division sold men's knit shirts and knit sweaters produced at the Colebrook Mills full fashion knitting plant. Coronet Knitwear sold women's sweaters which were produced at the Colebrook Mills full fashion knitting plant (TA-W-3987-A).

The Notice of Investigation was published in the Federal Register on August 1, 1978 (43 FR 33840-41). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Bobbie Brooks, Incorporated, its customers, the National Cotton Council of America, the American Textile Manufacturers Institute, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. With respect to workers of the full fashion knitting plant, the M&D Simon Division, and the Colebrook Men's Division, it is concluded that, all of the requirements have been met.

Imports of men's and boys' sweaters increased from 26.5 million units in 1976 to 28.3 million units in 1977 and from 11.1 million units in the period January through June 1977 to 16.5 million units in the same period in 1978.

Imports of men's and boys' knit sport and dress shirts, excluding T-shirts, increased from 74 million units in 1976 to 75.2 million units in 1977 and from 37.3 million units in the period January through June 1977 to 53.9 million units in the same period in 1978.

A Department survey revealed that customers who purchased products manufactured at the full fashion plant of Colebrook Mills increased purchases of imported men's knit sweaters and knit shirts from 1976 to 1977. These customers reduced their purchases from the subject firm during the same period of comparison.

With respect to workers of Coronet Knitwear, a division of Bobbie Brooks, Incorporated, without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

A Department survey revealed that retail customers of Coronet Knitwear, a division of Bobbie Brooks, Incorporated indicated that they did not purchase imported women's sweaters, skirts and pants in 1976 or 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's knit shirts and knit sweaters produced at the Colebrook Mills Division of Bobbie Brooks, Incorporated contributed importantly to the decline in sales or production and to the total or partial separation of workers of those plants. In accordance with the provisions of the Act, I make the following certification:

All workers of the Colebrook Mills full fashion knitting plant, Hialeah, Florida, the M&D Simon division of Bobbie Brooks, Incorporated, Morrow, Georgia and the Colebrook Mens Division of Bobbie Brooks, Incorporated, Hialeah, Florida who became totally or partially separated from employment on or after July 10, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

I further determine that all workers of Coronet Knitwear a division of Bobbie Brooks, Incorporated, Morrow, Georgia are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 8th day of January 1979.

JAMES F. TAYLOR,
Director, Office of Management Administration and Planning.

[FR Doc. 79-1378 Filed 1-15-79; 8:45 am]

[4510-28]

[TA-W-3988]

BOBBIE BROOKS, INC.

Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3988: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on July 25, 1978 in response to a worker petition received on July 17, 1978 which was filed on behalf of workers and former workers producing knitted fabrics at Bobbie Brooks, Incorporated, Colebrook Mills Division, Hialeah, Florida. The investigation revealed that this subdivision of Colebrook Mills is located in West Hialeah, Florida and includes one cut-and-sew plant (Texas Knitting Mills, now called Perception Sewing Plant) and a selling company for women's apparel (Perception-Directions Division). Perception Sewing Plant manufactures women's blouses, skirts, pants, and blazers which are sold by the Perception-Directions Division.

The Notice of Investigation was published in the FEDERAL REGISTER on August 1, 1978 (43 FR 33840-41). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Bobbie Brooks, Incorporated, its customers, the National Cotton Council of America, the U.S. Department of Commerce, the U.S. International Trade Commission, the American Textile Manufacturers Institute, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That sales or production, or both, of the firm or subdivision have decreased absolutely.

Production of women's blouses, skirts, pants, and blazers by Texas Knitting Mills, now called Perception Sewing Plant, increased, in quantity, in the fourth quarter of 1977 compared with the same period of 1976 and in the first six months of 1978 compared with the same period in 1977.

Sales of women's blouses, skirts, pants and blazers by the Perception-Directions Division of Bobbie Brooks, Incorporated increased, in value, in the fourth quarter of 1977 compared with the same period of 1976 and in the first four months of 1978 compared with the same period in 1977.

CONCLUSION

After careful review, I determine that all workers of Texas Knitting Mills, now called Perception Sewing Plant, and the Perception-Directions Division of Bobbie Brooks, Incorporat-

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ed, West Hialeah, Florida, are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 8th day of January 1979.

JAMES F. TAYLOR,
Director, Office of Management Administration and Planning.

[FR Doc. 79-1379 Filed 1-15-79; 8:45 am]

[4510-28-M]

[TA-W-4124]

CLEARDON MANUFACTURING, CO., INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4142: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on August 31, 1978 in response to a worker petition received on August 28, 1978 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing heavy and light weight outerwear jackets for men at the Coalport Pennsylvania plant of the Cleardon Manufacturing Company, Incorporated.

The Notice of Investigation was published in the FEDERAL REGISTER on September 12, 1978 (43 FR 40576). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of the Cleardon Manufacturing Company, Incorporated, its parent company, McGregor-Doniger, Incorporated, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative deterination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

United States imports of men's and boys' non-tailored outer jackets increased from 15.7 million units 1976 to 19.5 million units in 1977 and from 9.5 million units in the first half of 1977 to 11.8 million units in the first half of 1978. The import to domestic production ratio reached 30.8 percent in 1977.

A department survey indicated that at least two customers, one of which was a major customer, of McGregor-Doniger, Inc., of which Cleardon Manufacturing Company is a wholly-owned subsidiary, increased purchases of imported men's outerwear jackets while decreasing purchases from McGregor in the period, 1976 through the first three quarters of 1978.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the men's outerwear jackets produced at the Coalport, Pennsylvania, plant of the Clarendon Manufacturing Company, Inc., contributed importantly to the decline in sales and to the total or partial separation of the workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers of the Coalport, Pennsylvania, plant of the Clarendon Manufacturing Company, Inc., who became totally or partially separated from employment on or after August 23, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 8th day of January 1979.

HARRY J. GILMAN,
Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-1380 Filed 1-15-79; 8:45 am]

[4510-28-M]

[TA-W-4351]

D. SEIDMANN'S SONS, INC.

Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-4351: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 6, 1978 in response to a worker petition received on November 2, 1978 which was filed by the Knitgoods Union, International Ladies' Garment Workers' Union on behalf of workers and former workers producing knit scarves and knit headwear at D. Seidmann's Sons, Incorporated, Philadelphia, Pennsylvania. The investigation revealed that D. Seidmann's Sons also produces socks, bibs and sweaters; however, knit scarves and knit headwear are the primary products produced.

The Notice of Investigation was published in the FEDERAL REGISTER on November 17, 1978 (43 FR 53851). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of D. Seidmann's Sons, Incorporated, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of men's, boys', women's, and juniors' (excluding infants) knit headwear increased absolutely in each year from 1975 through 1977 and increased in the first three quarters of 1978 compared to the same period of 1977.

U.S. imports of mufflers, scarves and shawls increased absolutely in the first three quarters of 1978 compared to the first three quarters of 1977.

Results of a Departmental survey conducted with customers of D. Seidmann's Sons, Incorporated indicated that several customers decreased purchases of knit scarves and headwear from D. Seidmann's Sons and increased purchases from foreign sources during the first 11 months of 1978 compared to the same period of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with knitted scarves and headwear produced at D. Seidmann's Sons, Incorporated, Philadelphia, Pennsylvania contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of D. Seidmann's Sons, Incorporated, Philadelphia, Pennsylvania who became totally or partially separated from employment on or after August 4, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 5th day of January 1979.

C. MICHAEL AHO,
Director, Office of Foreign Economic Research.

[FR Doc. 79-1381 Filed 1-15-79; 8:45 am]

[4510-28-M]

[TA-W-4318]

DESOTO, INC.

Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4318: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 31, 1978 in response to a worker petition received on October 30, 1978 which was filed by the United Paperworkers International Union on behalf of workers and former workers producting wallcoverings, vinyl, plastic, paper, etc. at DeSoto, Inc., United Wallcovering Division, Chicago, Illinois.

The Notice of Investigation was published in the FEDERAL REGISTER on November 7, 1978 (43 FR 51865). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of DeSoto, Inc., its customers, the Wallcoverings Manufacturers Association, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

Imports of wallpaper increased from 23,073 thousand pounds in 1976 to 25,573 thousand pounds in 1977. Imports increased from 20,068 thousand pounds in the first nine months of 1977 to 23,820 thousand pounds in the first nine months of 1978. Combined imports of wallpaper and vinyl fabric wallcovering increased from $34,500,000 in 1976 to $43,600,000 in 1977. Imports increased from $33,700,000 in the first nine months of 1977 to $44,300,000 in the first nine months of 1978.

A survey was conducted of customers who decreased purchases of wallpaper from the United Wallcovering Division of DeSoto, Inc. from 1976 to 1977. The survey revealed that customers increased their purchases of imported wallpaper from 1976 to 1977. The survey further indicated that these customers continued to increase their purchases of imported wallpaper in 1978.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with wallpaper produced at DeSoto, Inc., United Wallcovering Division, Chicago, Illinois contributed importantly to the decline in sales or production and to the total or partial separation of workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers of DeSoto, Inc., United Wallcovering Division, Chicago, Illinois who became totally or partially separated from employment on or after October 22, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 8th day of January 1979.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 79-1382 Filed 1-15-79; 8:45 am]

[4510-28-M]

[TA-W-3749]

FEMIA, FASHIONS, INC.

Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3749: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on May 23, 1978 in response to a worker petition received on May 18, 1978 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing women's blouses, slacks and skirts of Femia Fashions, Incorporated, Brooklyn, New York.

The Notice of Investigation was published in the FEDERAL REGISTER on June 6, 1978 (43 FR 24633-34). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Femia Fashions, Incorporated, its manufacturer, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Femia Fashions is a contractor for women's slacks, skirts and blouses. Production, in adjusted value, increased from 1976 to 1977.

The manufacturer for which Femia Fashions performs contract work decreased purchases of imported slacks, skirts and blouses in the first eight months of 1978 compared with the same period of 1977. This manufacturer did not use foreign contractors. Sales of slacks, blouses and skirts by the manufacturer increased in the first eight months of 1978 compared with the same period of 1977.

CONCLUSION

After careful review, I determine that all workers of Femia Fashions, Brooklyn, New York, are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 8th day of January 1979.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 1383 Filed 1-15-79; 8:45 am]

[4510-28-M]

[TA-W-4249]

FERMON TANNING CORP.

Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4249: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 10, 1978 in response to a worker petition received on October 6, 1978 which was filed on behalf of workers and former workers producing suede cowhide splits at Fermon Tanning Corporation, Peabody, Massachusetts.

The Notice of Investigation was published in the FEDERAL REGISTER on October 20, 1978 (43 FR 49061). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Fermon Tanning Corporation, its manufacturers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles pro-

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duced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Fermon Tanning prepared cowhide splits for its leather department and for other manufacturers on a contract basis. The Department conducted a survey of the manufacturers for which Fermon Tanning did contract work. The survey indicated that the manufacturers which increased purchases of imported cowhide splits from 1977 to 1978 also increased purchases from Fermon Tanning.

The petition alleges that exports of cowhides to Japan have led to the unavailability of needed raw material and, by implication, to worker separations at the plant. The Trade Act tests for certification, however, are solely based on increased imports of articles like or directly competitive with those produced by the petitioning workers.

CONCLUSION

After careful review, I determine that all workers of Fermon Tanning Corporation, Peabody, Massachusetts, are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 8th day of January 1979.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 79-1384 Filed 1-15-79; 8:45 am]

[4510-28-M]

[TA-W-1637]

GREAT WESTERN SUGAR CO.

Revised Certification of Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, the Department of Labor issued a certification of eligibility to apply for adjustment assistance on August 16, 1977, applicable to all workers at the Johnstown Molasses Factory, Johnstown, Colorado, of the Great Western Sugar Company, Denver, Colorado. The Notice of Certification was published in the FEDERAL REGISTER on August 26, 1977, (42 FR 43145).

At the request of a former worker of Great Western's terminal in St. Louis, a further investigation was made by the Director of the Office of Trade Adjustment Assistance. A review of the case revealed that some eighty percent of the sugar handled by the St. Louis, Missouri, terminal of the Great Western Sugar Company originated in the Johnstown, Colorado, plant of Great Western Sugar Company. Under the circumstances, workers at the St. Louis terminal may be considered part of the integrated production process at Johnstown and for purposes of the Act as belonging to the same appropriate subdivision as the Johnstown workers.

The intent of the certification is to cover all workers of Great Western Sugar Company who were affected by the decline in production of sugar at the Johnstown, Colorado, plant related to import competition. The certification, therefore, is revised to include all workers at the St. Louis, Missouri, terminal of the Great Western Sugar Company, Denver, Colorado.

The revised certification applicable to TA-W-1637 is hereby issued as follows:

All workers at the Johnstown Molasses Factory, Johnstown, Colorado, and the St. Louis, Missouri, terminal of the Great Western Sugar Company, Denver, Colorado, who became totally or partially separated from employment on or after January 1, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 8th day of January 1979.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 79-1385 Filed 1-15-79; 8:45 am]

[4510-28-M]

[TA-W-4424]

HUDSON PEARL COMPANY, INC.

Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4424: investigation regarding certification of eligibility to apply for worker asjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 27, 1978 in response to a worker petition received on November 14, 1978 which was filed on behalf of workers and former workers producing pearl coated necklaces, beads and balls for earrings, and knotted necklaces at Hudson Pearl Company, Incorporated, Union City, New Jersey.

The Notice of Investigation was published in the FEDERAL REGISTER on December 5, 1978 (43 FR 56952). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Hudson Pearl Company, Incorporated its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of costume jewelry increased from 60.7 million dollars in 1975 to 83.3 million dollars in 1976, and increased to 92.0 million dollars in 1977. Imports increased from 44.1 million dollars in the first half of 1977 to 49.1 million dollars in the first half of 1978.

The manufacturer for whom Hudson Pearl Company did contract work reported that foreign sources now supply the articles that were previously supplied by Hudson Pearl Company.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with coated pearls for necklaces, beads and balls for earrings and knotted necklaces produced at Hudson Pearl Company, Incorporated, Union City, New Jersey contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Hudson Pearl Company, Incorporated, Union City, New Jersey who became totally or partially separated from employment on or after October 6, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 5th day of January 1979.

C. MICHAEL AHO,
Director, Office of Foreign Economic Research.

[FR Doc. 79-1386 Filed 1-15-79; 8:45 am]

[4510-28-M]

[TA-W-4111]

LOUISVILLE AND NASHVILLE RAILROAD CO.

Negative Determination Regarding Application for Reconsideration

On December 14, 1978, the petitioner requested administrative reconsideration of the Department of Labor's negative determination regarding eligibility to apply for worker adjustment assistance in the case of workers and former workers of Lousiville and Nashville Railroad Company's Birmingham, Alabama Terminal at Boyles, Alabama. The determination was published in the Federal Register on November 24, 1978 (43 FR 55016).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) If it appears, on the basis of facts not previously considered, that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

The petitioner claims that the Department's negative determination in the subject case is inconsistent with one made in the case of a petition filed on behalf of workers of the Birmingham Southern Railroad Company, Fairfield, Alabama, TA-W-2321. The petitioner further claims that since the Louisville and Nashville Railroad hauls steel and steel products for its customers, some of which may have workers who were certified under the Trade Act of 1974, it is intimately involved in the production of such import-impacted products and its workers should be certified.

The Department's review revealed that the Birmingham Southern Railroad Company is a wholly-owned subsidiary of the U.S. Steel Corporation and derives most of its revenue from traffic generated by the Fairfield Works of the U.S. Steel Corporation. Declines in the level of steel production at the Fairfield Works resulted in declines in rail traffic and separations of workers at Birmingham Southern. The majority of workers engaged in steel-making operations at the Fairfield Works have been previously certified as eligible to apply for trade adjustment assistance, see TA-W-1429, 1451, 1452, 2364, 2365 and 2366. The conditions which led to production declines also resulted in declines in rail traffic for U.S. Steel's Birmingham Southern Railroad.

The Department of Labor has determined in cases such as these involving railroad workers where the railroad for which they work is owned and controlled by the same firm which produces import-impacted articles whose workers were certified eligible to apply for adjustment assistance that such railroad workers may be considered as part of the integrated process of producing such import-impacted articles. Because of common ownership and control of the steel producing facility, Fairfield Works, and the railroad, Birmingham Southern, by U.S. Steel, and because the Trade Act criteria with respect to sales and employment were met for the railroad, the Department was able to find such railroad workers eligible for adjustment assistance.

In the subject case, there is no element of common ownership and control between Louisville and Nashville Railroad and its customers. Consequently, the Department is not able to consider Louisville and Nashville Railroad workers as part of the integrated production process of its customers.

With respect to the petitioner's claim that the hauling of steel and steel products by the Louisville and Nashville Railroad for its customers, some of which may have workers covered under a Trade Act certification, provides a justification for certification of the Railroad workers, the Department has found that this is no basis for certification. The Department has already determined that an independent firm for which the subject firm provides services cannot be considered the "workers' firm", TA-W-393. In the instant case, all personnel actions and payroll transactions for the workers at the Birmingham Division Terminal, Boyles, Alabama, are controlled by the Louisville and Nashville Railroad. Workers are not, at any time, under employment or supervision by customers of the L & N Railroad. Thus, the Louisville and Nashville Railroad must be considered to be the "workers' firm."

CONCLUSION

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of fact or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C., this 8th day of January 1979.

JAMES F. TAYLOR,
Director, Office of Management Administration and Planning.

[FR Doc. 79-1387 Filed 1-15-79; 8:45 am]

[4510-28-M]

[TA-W-3469]

PACIFIC STATES STEEL CORP.

Revised Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the trade Act of 1974, the Department of Labor issued a notice of determination regarding eligibility to apply for adjustment assistance on August 14, 1978, applicable to workers and former workers at the Union City, California plant of the Pacific States Steel Corporation. The Notice of Determinations was published in the FEDERAL REGISTER on August 22, 1978, (43 FR 37241).

On the basis of additional information, the Office of Trade Adjustment Assistance on its own motion reviewed the determinations. The review of the investigation revealed that (1) all divisions of Pacific States Steel Corporation ceased production on October 13, 1978 and (2) the Forge Department of the Forge Division was part of an integrated process for the production of bars and structurals at Pacific States Steel Corporation.

The Ball Department of the Forge Division produced grinding media which comprised 95 percent of the 1977 sales of the Forge Division. The Ball Department, being only a customer of the Steel Division and not a supplier, cannot be regarded as part of the Pacific Steel's integrated steel production process and, therefore, be covered by the current certification. Layoffs in the Ball Department would be attributable to the fact that its raw material supplier terminated production rather than to increased imports of grinding media. The Forge Department, which accounted for the remaining 5 percent of the Forge Division's 1977 sales shipped 25 percent of its output directly to the Steel Division as machinery parts, as part of Pacific Steel's integrated steel production process. Bars and structurals made up some 35 percent of Pacific Steel's Steel Division's output. Workers engaged in employment related to the production of bars and structurals who became separated from employment on or after March 20, 1977 were already found eligible to apply for adjustment assistance.

The notice of determinations, therefore, is revised to include the Forge Department of the Forge Division of Pacific States Steel Corporation in Union City, California.

The revised notice of determinations applicable to TA-W-3469 is hereby issued as follows:

All workers of Pacific States Steel Corporation, Union City, California engaged in employment related to the production of bars and structurals and all workers of the Forge Department of the Forge Division engaged in the production of machinery parts who became totally or partially separated from employment on or after March 20, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

I further determine that all other workers of the Pacific States Steel Corporation, Union City, California, including workers in the Ball Department of the Forge Division are denied eligibility to apply for adjustment assistance.

Signed at Washington, D.C. this 19th day of December 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 79-1388 Filed 1-15-79; 8:45 am]

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[4510-28-M]

[TA-W-4246a]

ROCKWELL INTERNATIONAL CORP.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4246a: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 4, 1978 in response to a worker petition received on October 2, 1978 which was filed on behalf of workers and former workers distributing and selling televisions at the Schaumburg, Illinois headquarters of the Admiral Group, Rockwell International Corporation. The investigation revealed that the Admiral Group of Rockwell International also produces and sells refrigerators and freezers. The investigation was expanded to include the refrigerator and freezer production plant of Rockwell's Admiral Group at Galesburg, Illinois.

The Notice of Investigation was published in the FEDERAL REGISTER on October 20, 1978 (43 FR 49060-1). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of the Admiral Group, Rockwell International Corporation, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

The Department's investigation revealed that the average number of production workers at the Galesburg, Illinois plant of Rockwell's Admiral Group increased in 1977 compared with 1976, and increased in the first three quarters of 1978 compared with the same period of 1977. Average quarterly employment increased in every quarter compared with the same quarter of the previous year from the third quarter of 1977 through the third quarter of 1978. The average weekly hours worked per employee did not change significantly during this period. There is no immediate threat of separations of workers at this plant.

CONCLUSION

After careful review, I determine that all workers of the Galesburg, Illinois plant of the Admiral Group, Rockwell International Corporation are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 8th day of January 1979.

HARRY J. GILMAN,
Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-1389 Filed 1-15-79; 8:45 am]

[4510-28-M]

[TA-W-4063 and TA-W-4064]

SPRINGS MILLS, INC.

Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4063 and TA-W-4064: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on August 15, 1978 in response to a worker petition received on August 14, 1978 which was filed on behalf of workers and former workers producing polyester knit fabric at the Monroe, South Carolina and Mullins, South Carolina plants of Springs Mills, Incorporated. The investigation revealed that the Monroe plant is located in North Carolina and that workers at the Mullins plant produced polyester knit fabric until June of 1978 and since then have been limited to dying and finishing polyester knit fabric.

The Notice of Investigation was published in the FEDERAL REGISTER on August 29, 1978 (43 FR 38635). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of the Springs Mills, Incorporated Knit Division, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Aggregate imports of all finished fabric (bleached, dyed and printed) declined absolutely from 1976 to 1977 and then increased in the first six months of 1978 compared to the same period in 1977. The ratio of imports to domestic production remained less than 2 percent from 1974 through 1977.

The Department of Labor surveyed the customers of Springs Mills, Inc.'s Knit Division. Springs Mills' production increased in 1977 compared to 1976.

Customers who reduced purchases from Springs Mills, Inc., and increased import purchases in the first eight months of 1978 compared to the first eight months of 1977, represented an insignificant percentage of Springs Mills' production decline for that period.

The customers surveyed indicated that they were decreasing purchases of polyester knit material because of decreased demand for clothing made of this fabric.

CONCLUSION

After careful review, I determine that all workers of the Springs Mills, Incorporated plants in Monroe, North Carolina and Mullins, South Carolina are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 8th day of January 1979.

JAMES F. TAYLOR,
Director, Office of Management Administration, and Planning.

[FR Doc. 79-1390 Filed 1-15-79; 8:45 am]

[7537-01-M]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

FEDERAL GRAPHICS EVALUATION ADVISORY PANEL

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the Federal Graphics Evaluation Advisory Panel to the National Endowment for the Arts will be held on February 2, 1979, from 9:30 a.m. to 4:30 p.m., room 1125, Columbia Plaza Office Building, 2401 E Street, N.W., Washington, D.C. 20506.

This meeting will be open to the public on a space available basis. Accommodations are limited. Interested persons may submit written statements to the panel.

The agenda for this meeting will include graphics and related material of the Army Corps of Engineers.

Further information with reference to this meeting can be obtained from Mr. Jerome Perlmutter, Coordinator of Federal Graphics, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-4286.

JOHN H. CLARK,
Director, Office of Council and Panel Operations, National Endowment for the Arts.

JANUARY 5, 1979.

[FR Doc. 79-1470 Filed 1-15-79; 8:45 am]

[3110-01-M]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on January 8, 1979 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes:

The title of each request received;

The name of the agency sponsoring the proposed collection of information;

The agency form number(s), if applicable;

The frequency with which the information is proposed to be collected;

An indication of who will be the respondents to the proposed collection;

The estimated number of responses;

The estimated burden in reporting hours; and

The name of the reviewer or reviewing division or office.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, (202-295-4529), or from the reviewer listed.

NEW FORMS

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service
Food Stamp Workfare Demonstration Project
Monthly
Political subdivision, 7,574 responses; 1,295 hours
Ellett, C. A., 395-6132

REVISIONS

ENVIRONMENTAL PROTECTION AGENCY

Pesticide Incident Report
EPA 8550-4 thru 9
On occasion
State and Federal agencies in the pesticide incident monitoring system, 3,000 responses; 500 hours
Clarke, Edward H., 395-5867

VETERANS ADMINISTRATION

Application for Furnishing Nursing Home Care to Beneficiaries of the Veterans Administration
10-1170
On occasion
Nursing homes, 800 responses; 400 hours
Caywood, D. P., 395-6140

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service
Application for Registration SFSPC Food Service
Management companies
FNS-189
Annually
Food service management companies, 600 responses; 600 hours
Ellett, C. A., 395-6132

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration (Medicaid)
Monthly Statistical Report on Medical Care
HCFA-120
Monthly
State medicaid title XIX, 636 responses; 17,808 hours
Richard Eisinger, 395-3214

DEPARTMENT OF LABOR

Employment and Training Administration
Determinations and Allowance Activities and Employability Services
ETA 5-63 and telegraphic report
Monthly
SESAS for petitions under the Trade Act,15,600 responses; 23,400 hours
Strasser, A., 395-6132

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration
Pilot Driver Survey on Unreported and Low-Damage Accidents Involving Bumpers
Single-time
Drivers in households within Montgomery County, Md., 1,625 responses; 625 hours
Geiger, Susan B., 395-5867

Federal Railroad Administration
Telephonic Reports of Certain Accident/Incidents
On occasion
Railroads
Geiger, Susan B.; 395-5867

Federal Railroad Administration
Hours of Service of Railroad Employees
Monthly
Railroads
Geiger, Susan B., 395-5867

EXTENSIONS

PENSION BENEFIT GUARANTY CORPORATION

Annual Premium Filing
PBGC-1
Annually
Plan administrators of defined benefit pension plans, 120,000 responses; 60,000 hours
Strasser, A., 395-6132

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service
Application for Certificate of Citizenship
N-600
On occasion
Citizens who derived citizenship at or after birth, 32,442 responses; 32,442 hours
Laverne V. Collins, 395-3214

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration
Annual Summary Report of Railroad Injury and Illness
FRA-F-6180-45
annually
U.S. railroads, 420 responses; 1,260 hours
Geiger, Susan B., 395-5867

Federal Railroad Administration
Railroad Injury and Illness Summary Continuation Sheet
FRA-F-6180-55A
Monthly
U.S. railroads, 6,480 responses; 12,960 hours
Geiger, Susan B., 395-5867

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration
Hours of Service Report
FRAF 6180-3
Monthly
Railroads
2,940 responses; 1,470 hours
Geiger, Susan B., 395-5867

Federal Railroad Administration
Railroad Injury and Illness Summary
FRA-F-6180-55
Monthly
U.S. Railroads
5,040 responses; 30,240 hours
Geiger, Susan B., 395-5867

Federal Railroad Administration

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Rail Equipment Accident/Incident Report
FRA-F-6180-54
Monthly
U.S. Railroads
13,020 responses; 26,040 hours
Geiger, Susan B., 395-5867

Federal Railroad Administration
Annual Railroad Report of Manhours by State
FRA F 6180-56
Annually
U.S. Railroads
420 responses; 1,260 hours
Geiger, Susan B., 395-5867

Federal Railroad Administration
Rail-Highway Grade Crossing Accident/Incident Report
FRA-F-6180-57
Monthly
U.S. Railroads
12,000 responses; 6,000 hours
Geiger, Susan B., 395-5867

Federal Railroad Administration
Track Safety Standards—Reporting and Recordkeeping Requirements
On occasion
Railroads
Geiger, Susan B., 395-5867

Federal Railroad Administration
U.S. DOT-AAR Crossing Inventory Form
On occasion
States, railroads
30,000 responses; 15,000 hours
Geiger, Susan B., 395-5867

DAVID R. LEUTHOLD,
Budget and Management Officer.

[FR Doc. 79-1490 Filed 1-15-79; 8:45 am]

[3110-01-M]

Office of Federal Procurement Policy

IMPLEMENTATION OF SECTION 211 AND SECTION 221(j) OF PUBLIC LAW 95-507: SUBCONTRACTING PLANS; PROCUREMENTS UNDER $10,000

Invitation for Public Comment

AGENCY: Office of Federal Procurement Policy (OFPP), Office of Management and Budget.

ACTION: Notice of implementation of Section 211 and Section 221(j) of Public Law 95-507.

SUMMARY: This proposed policy statement is being considered for incorporation into the Defense Acquisition Regulations (DAR) and the Federal Procurement Regulations (FPR). On October 24, 1978, the President signed into law Public Law 95-507, amending the Small Business Act and the Small Business Investment Act of 958. Section 211 of the Small Business Act relates to subcontracting under Federal contracts; Section 221(j) reserves contracts under $10,000 for small business concerns. The proposed amendments to the Defense Acquisition Regulations and the Federal Procurement Regulations incorporate and implement the statutory changes.

DATE: Comments must be received by February 15, 1979.

ADDRESSES: Comments are to be submitted to the Office of Federal Procurement Policy, OMB, 726 Jackson Place, N.W., Room 9013, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT:

Owen Birnbaum, Deputy Associate Administrator for Acquisition Law, (202) 395-3455.

This policy statement would be promulgated under Section 6 of Pub. L. 93-400 (41 U.S.C. 405).

LESTER A. FETTIG,
Administrator.

The following OFPP policy statement is being considered for incorporation into the Defense Acquisition Regulations (DAR) and the Federal Procurement Regulations (FPR):

SUBCONTRACTING

I. ALL CONTRACTS OVER 10,000

A. Section 7 of the Defense Acquisition Regulation and Part 1-7 of the Federal Procurement Regulations are amended to provide that the following clause be included in all contracts over $10,000 except (1) contracts for services which are personal in nature and (2) contracts which will be performed entirely (including all subcontracts) outside any State, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico:

UTILIZATION OF SMALL BUSINESS CONCERNS AND SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS

a. It is the policy of the United States that small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals shall have the maximum practicable opportunity to participate in the performance of contracts let by any Federal agency.

b. The contractor hereby agrees to carry out this policy in the awarding of subcontracts to the fullest extent consistent with the efficient performance of this contract. The contractor further agrees to cooperate in any studies or surveys as may be conducted by the United States Small Business Administration or the awarding agency of the United States as may be necessary to determine the extent of the contractor's compliance with this clause.

c. As used in this contract, the term "small business concern" shall mean a small business as defined pursuant to section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto. The term "small business concern owned and controlled by socially and economically disadvantaged individuals" shall mean a small business concern—

(i) which is at least 51 per centum owned by one or more socially and economically disadvantaged individuals; or in the case of any publicly owned business, at least 51 per centum of the stock of which is owned by one or more socially and economically disadvantaged individuals; and

(ii) whose management and daily business operations are controlled by one or more of such individuals. The contractor shall presume that socially and economically disadvantaged individuals include Black Americans, Hispanic Americans, Native Americans, and other minorities, or any other individual found to be disadvantaged by the Administration pursuant to section 8(a) of the Small Business Act.

d. Contractors acting in good faith may rely on written representations by their subcontractors regarding their status as either a small concern or a small business concern owned and controlled by socially and economically disadvantaged individuals.

B. Section 1-332 of the Defense Acquisition Regulation and subpart 1-1.13 of the Federal Procurement Regulations are amended to provide that:

1. Business owners who certify they are members of named groups (Black Americans, Hispanic Americans, Native Americans) are to be considered socially and economically disadvantaged.

2. The term "Native Americans" means American Indians, Eskimos, Aleuts and native Hawaiians.

3. Other individuals may qualify as socially and economically disadvantaged on the merits of their individual circumstances under procedures to be separately established using the following guidelines:

Socially disadvantaged individuals are those individuals who have been subject to racial or ethnic prejudice or cultural bias because of their identity as a member of a group without regard to their individual qualities.

Economically disadvantaged individuals are those socially disadvantaged individuals whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same business area who are not socially disadvantaged.

H. NEGOTIATED CONTRACTS (OVER 1,000,000 FOR CONSTRUCTION OF A PUBLIC FACILITY; AND OVER 500,000 ALL OTHERS)

A. Section 1-332 and Section 1, part 7 of the Defense Acquisition Regulation, and Subparts 1-1.13 and 1-1.7 of the Federal Procurement Regulation are amended to provide that:

1. All solicitations for procurements by negotiation (including those placed on a sole source basis) which (a) offer subcontracting opportunities, (b) are expected to exceed $500,000; or, in the case of construction of a public facility, $1,000,000; and (c) are required to include the clause stated in I.A., above, shall require that the apparent successful offeror submit a detailed subcontracting plan which must include:

a. percentage goals (expressed in terms of both percentage of value of prime contract award and total planned subcontracting) for the utilization as subcontractors of small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals;

b. the name of an individual within the employ of the offeror or bidder who will administer the subcontracting program of the offeror or bidder and a description of the duties of such individual;

c. a description of the efforts the offeror or bidder will take to assure that small business concerns and small business concerns owned and controlled by the socially and economically disadvantaged individuals will have an equitable opportunity to compete for subcontracts;

d. assurances that the offeror or bidder will include the clause required by I.A., above, in all subcontracts which offer further subcontracting opportunities, and that the offeror or bidder will require all subcontractors (except small business concerns) who receive subcontracts in excess of $1,000,000, in the case of a contract for the construction of any public facility, or in excess of $500,000 in the case of all other contracts, to adopt a plan pursuant to II.A.1.

e. assurances that the offeror or bidder will submit such periodic reports and cooperate in any studies or surveys as may be required by the Federal agency or the Small Business Administration in order to determine the extent of compliance by the offeror or bidder with the subcontracting plan; and

f. a recitation of the types of records the successful offeror or bidder will maintain to demonstrate procedures which have been adopted to comply with the requirements and goals set forth in this plan, including the establishment of source lists of small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals; and efforts to identify and award subcontracts to such small business concerns

Contract modifications and amendments over the prescribed amounts shall also require that the contractor submit a detailed plan in compliance with 1 a.-f., above.

2. The solicitation shall state that no contract will be awarded until an acceptable plan is negotiated with the contracting officer and that acceptable plans will be incorporated into the contract. Acceptable plans must, in the determination of the contracting officer, provide the maximum practicable opportunity for small and small firms owned and controlled by socially and economically disadvantaged persons to participate in the performance of the contract; and no contract shall be awarded until a determination is made.

If the apparent successful offeror fails within the time limits prescribed in regulations of the Federal agency concerned to negotiate a subcontracting plan acceptable to the contracting officer, the offeror shall be ineligible for award of the contract. Prior compliance of the offeror with other such subcontracting plans in previous contracts shall be considered by the contracting officer in determining the responsibility of that offeror for award of contract.

3. The contracting officer shall, to the extent possible, set forth in the solicitation standards and criteria for subcontracting to both small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals. The solicitation must also indicate that it is the contractor's responsibility to develop a satisfactory subcontracting plan with respect to *both* small business concerns *and* small business concerns owned and controlled by socially and economically disadvantaged individuals and that each such aspect of the contractor's plan will be judged independently of the other.

4. When deemed appropriate, the contracting officer may notify offerors in the solicitation that the resulting contract will provide that the contractor's reimbursement under the contract may be increased pursuant to the following clause:

INCENTIVE SUBCONTRACTING PROGRAM FOR SMALL BUSINESSES AND SMALL BUSINESSES OWNED BY SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS

(a) In furtherance of the Government's policy of promoting the development of small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals, the contractor agrees to award subcontracts to such businesses, as they are defined in the clause hereof entitled Utilization of Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals.

(b) To that purpose, the contractor shall make every reasonable effort to achieve the goal of awarding —— percent of the total dollar value of the prime contract award to small business concerns and —— percent of the total dollar value of the prime contract award to small business concerns owned and controlled by socially and economically disadvantaged individuals. To the extent that the contractor exceeds such subcontract goals in the performance of this contract, it will receive —— percent (not to exceed 10%) of such excess. Determinations by the contracting officer under this paragraph shall not be subject to the Disputes Clause of the contract.

5. The requirements set forth above may be inserted in procurement solicitations expected to result in contracts under the prescribed amounts when deemed appropriate by the contracting officer.

6. Subcontracting plans shall not be required of small business concerns.

7. The failure of any contractor or subcontractor to comply in good faith with (a) the clause contained in I.A., above, or (b) any plan required by II.A.1., above, shall be a material breach of such contract or subcontract.

8. Nothing contained in II hereof shall be construed to supersede the requirements of Defense Manpower Policy 4A or any successor policy.

III. FORMALLY ADVERTISED CONTRACTS (OVER $1,000,000 FOR CONSTRUCTION OF A PUBLIC FACILITY; AND OVER $500,000 ALL OTHERS)

A. Section 1-332 and Section 1, Part 7 of the Defense Acquisition Regulation and Subparts 1-1.13 and 1-1.7 of the Federal Procurement Regulations are amended to provide that:

1. All solicitations for procurements by formal advertising which (1) offer subcontracting opportunities; (2) are expected to exceed $500,000; or in the case of construction of a public facility $1,000,000; and (3) are required to include the clause stated in I.A., above, shall require that any bidder selected for award submit a subcontracting plan, as indicated below. The invitation for bids shall specifically call to the attention of all bidders the clause of the contract entitled "Utilization of Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals." The invitation for bids shall advise that under that clause the bidder selected for award must submit within the time prescribed in the regulations of the Federal agency concerned a subcontracting plan that will afford the maximum practicable opportunity to participate in the performance of the contract to small and small disadvantaged concerns.

The contracting officer may, in a letter accompanying the invitation for bids, informally advise bidders of the goal the Government contemplates for subcontracting to both small and small disadvantaged firms. The letter should also state that the goals are informational only and not legally binding.

2. If the subcontracting plan is not satisfactory to the contracting officer the bidder shall be requested to submit, within the time limit of the Federal agency concerned, a plan that is satisfactory to the contracting officer. If such a plan is not so submitted, such bidder shall be considered non-responsible and ineligible for award of contract. Prior compliance of the offeror with other such subcontracting plans under previous contracts shall

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be considered by the contracting officer in determining the responsibility of the bidder for award of contract.

3. Contract modifications and amendments over the prescribed amounts shall also require that the contractor submit a detailed plan in compliance with II.A.1., above.

4. Subcontracting plans must include the information set forth in II.A.1., above.

5. The requirements set forth above may be inserted in procurement solicitations expected to result in contracts under the prescribed amounts when deemed appropriate by the contracting officer.

6. Subcontracting plans shall not be required of small business concerns.

7. The failure of any contractor or subcontractor to comply in good faith with (a) the clause contained in I.A., above or (b) any plan required by II.A.1., above, shall be a material breach of such contract or subcontract.

8. Nothing contained in III hereof shall be construed to supersede the requirements of Defense Manpower Policy 4A or any successor policy.

IV. SECTION 1-332 AND SECTION 1, PART 7 OF THE DEFENSE ACQUISITION REGULATION AND SUBPARTS 1-1.13 AND 1-1.7 OF THE FEDERAL PROCUREMENT REGULATIONS ARE AMENDED AS FOLLOWS

Subcontracting Opportunities

1. Commercial Products: If the prime contract is for a commercial product (defined below) the required subcontracting plan may relate to the company's production of the item generally (both for the Government contract and for regular commercial sale) rather than solely to the item being procured under the government contract.

Commercial products are defined as products in regular production sold in substantial quantities to the general public and/or industry at established market or catalog prices.

2. "Make-or-Buy" Policy: In negotiating subcontracting plans, the contracting officer may take into account a prime contractor's stated inability to subcontract due to an existing "make-or-buy" policy. A "make-or-buy" policy concerns the major subsystems, assemblies, subassemblies, and components which the contractor manufactures, develops, or assembles in his own facilities, and those which it obtains elsewhere by contract.

PROCUREMENTS UNDER $10,000

Section 221(j) of P.L. 95-507 requires that "each contract for the procurement of goods and services which has an anticipated value of less than $10,000 and which is subject to small purchase procedures be reserved exclusively for small business concerns unless the contracting officer is unable to obtain offers from two or more small business concerns that are competitive with market prices and in terms of quality and delivery of the goods and services being purchased." Accordingly:

1. DAR 3-603.1g and FPR 1-3.602(b) are deleted and the following substituted therefor:

Every proposed procurement of supplies and services which has an anticipated value under $10,000 and which is to be accomplished under simplified purchase procedures shall in all cases be reserved exclusively for small businesses except where the contracting officer determines there is no reasonable expectation that two or more small business concerns will submit acceptable offers at a reasonable price.

Source lists maintained for procurements not exceeding $10,000 shall include all known small business concerns, including those owned and controlled by socially and economically disadvantaged individuals. The names of such concerns shall be obtained from the appropriate Office of Small and Disadvantaged Business Utilization, SBA representatives, and other Federal and private sources which maintain such lists.

2. DAR 3-604.1 is amended by inserting in the second sentence the words small business before the words "qualified suppliers."

3. DAR 3-604.2 is amended by inserting in the first sentence the words small business before the words "qualified sources."

4. FPR 1-3.603-1(a)(1) is amended by inserting in the second sentence the words small business before the words "qualified sources of supply."

5. FPR 1-3.603-1(a)(2) is amended by inserting in the second sentence the words small business before the words "qualified suppliers."

[FR Doc. 79-1656 Filed 1-15-79; 8:45 am]

[4710-02-M]

DEPARTMENT OF STATE

Agency for International Development

LIMITS ON COMPENSATION OF AID ANNUITANTS

Withdrawal of Proposed Policy

AGENCY: Agency for International Development.

ACTION: Notice of Withdrawal of Proposed Policy.

SUMMARY: In the June 20 FEDERAL REGISTER (43 FR 26511), the Agency for International Development published and requested public comments on a proposed policy that would limit salaries paid to AID annuitants under AID financed contracts and grants. Comments were received and carefully considered, and the proposed policy is hereby withdrawn. No further action will be taken.

FOR FURTHER INFORMATION CONTACT:

Mr. V. Henry Walker, SER/CM/SD/POL, Office of Contract Management, Agency for International Development, Washington, D.C. 20523 (703-235-9107).

Dated: January 4, 1979.

D. G. MACDONALD,
Assistant Administrator, Bureau for Program and Management Services.

[FR Doc. 79-1480 Filed 1-15-79; 8:45 am]

[4710-01-M]

Office of the Secretary

[Public Notice CM-8/149]

OCEAN AFFAIRS ADVISORY COMMITTEE

Partially Closed Meeting

The Antarctic Section of the Ocean Affairs Advisory Committee will meet at 2:00 p.m. on Thursday, March 1, 1979 in Room 6320 of the Department of State, Washington, D.C.

At this meeting, officers responsible for Antarctic affairs in the Department of State will discuss key issues and problems involving the Antarctic in the contest of current domestic and international developments. This session will be open to the public. The public will be admitted to the session to the limits of seating capacity and will be given the opportunity to participate in discussions according to the instructions of the Chairperson.

The Ocean Affairs Advisory Committee will continue its work on Friday, March 2, 1979 at 9:00 a.m. in Room 250 of the National Academy of Sciences Building, 22nd and C Streets, N.W. in sessions which will not be open to the public. These sessions will be devoted to the discussion of classified material under 5 U.S.C. 552b(c) 1 and 5 U.S.C. b(c)(9)(B). The disclosure of classified material and revelation of considerations which go into policy development would substantially undermine and frustrate the U.S. position in future negotiations. The purposes of these discussions will be to elicit views concerning the further development of Antarctic mineral resource policies and to review ongoing Antarctic marine living resource negotiations. Other matters and issues relating to the Antarctic which will be considered at the Tenth Antarctic Treaty Consultative Meeting will also be reviewed. This portion of the meeting will include classified briefings and examination and discussion of classified documents pursuant to Executive Order 12065.

Requests for further information on the meetings should be directed to Messrs. R. Tucker Scully or Lisle Rose of OES/OFA/OCA, Room 5801, Department of State. They may be reached by telephone on (202) 632-3262.

Dated: January 4, 1979.

BENOIT BROOKENS II,
Special Assistant to the Deputy Assistant Secretary for Oceans and Fisheries Affairs.

[FR Doc. 79-1493 Filed 1-15-79; 8:45 am]

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[1505-01-M]

INTERSTATE COMMERCE COMMISSION

[Decisions Vol. No. 42]

DECISION—NOTICE

Correction

In FR Doc. 30895 appearing at page 51167, in the issue of Thursday, November 2, 1978 on page 51176, in the first column, the second paragraph designated as "MC 142508 (Sub-33F)", in the sixth line up from the end of the paragraph, between the words "Inc.," and "at" insert the following words: "Reno, NV, to the facilities of Standard Motor Products, Inc.,".

[1505-01-M]

[Decisions Vol. No. 38]

DECISION—NOTICE

Correction

In FR Doc. 78-29539, appearing at page 48755 in the issue of Thursday, October 19, 1978, make on page 48802, in the second column, tenth line of MC 124078 (Sub-856TA), "in bags" should be corrected to read "in bulk".

[1505-01-M]

[Vol. No. 121]

PETITIONS, APPLICATIONS, FINANCE MATTERS (INCLUDING TEMPORARY AUTHORITY), ALTERNATE ROUTE DEVIATIONS, AND INTRASTATE APPLICATIONS

Correction

In FR Doc. 30896, appearing at page 51178 in the issue of Thursday, November 2, 1978, on page 51184 in the last column, the second paragraph, in the first line, "MC 23618 (Sub-4339F)" should be corrected to read "MC 23618 (Sub-39F)".

[7035-01-M]

[Amdt. No. 1 to I.C.C. Order No. 11 Under Service Order No. 1344]

REROUTING TRAFFIC

To: All Railroads: Upon further consideration of I.C.C. Order No. 11 (Louisville and Nashville Railroad Company), and good cause appearing therefor:

It is ordered,

I.C.C. Order No. 11 is amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., February 28, 1979, unless otherwise modified, changed or suspended.

Effective date. This amendment shall become effective at 11:59 p.m., December 31, 1978.

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this amendment shall be filed with the Director, Office of the FEDERAL REGISTER.

Issued at Washington, D.C., December 29, 1978.

INTERSTATE COMMERCE COMMISSION
JOEL E. BURNS,
Agent.

[FR Doc. 79-1512 Filed 1-15-79; 8:45 am]

[7035-01-M]

[ICC Order No. 13 Under Service Order No. 1344]

REROUTING TRAFFIC

To All Railroads: In the opinion of Joel E. Burns, Agent, the Chicago and North Western Transportation Company is unable to transport traffic currently over its line between Trimont, Minnnesota, and Estherville, Iowa, because of heavy snow and ice.

It is ordered, (a) *Rerouting traffic.* The Chicago and North Western Transportation Company being unable to transport traffic currently over its line between Trimont, Minnesota, and Estherville, Iowa, because of heavy snow and ice, is authorized to divert or reroute such traffic via any available route to expedite the movement. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing. The billing covering all such cars rerouted shall carry a reference to this order as authority for the rerouting.

(b) *Concurrence of receiving roads to be obtained.* The railroad rerouting cars in accordance with this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order, shall notify each shipper at the time each shipment is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

Effective date. This order shall become effective at 3:00 p.m., January 3, 1979.

(g) *Expiration date.* This order shall expire at 11:59 p.m., February 15, 1979, unless otherwise modified, changed or suspended.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railraod Association. A copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., January 3, 1979.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc. 79-1513 Filed 1-15-79; 8:45 am]

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[7035-01-M]

[ICC Order No. 14 Under Service Order No. 1344]

REROUTING TRAFFIC

To: Soo Line Railroad Company: In the opinion of Joel E. Burns, Agent, the Soo Line Railroad Company is unable to deliver traffic to the Michigan Northern Railway Company (MN) at St. Ignace-Mackinaw City, Michigan, because of disrupted train operations on the MN caused by heavy snow and a shortage of locomotives.

It is ordered,

(a) *Rerouting traffic.* The Soo Line Railroad Company, being unable to deliver traffic to the Michigan Northern Railway Company (MN) at St. Ignace-Mackinaw City, Michigan, because of disrupted train operations on the MN caused by heavy snow and a shortage of locomotives, is authorized to divert or reroute such traffic over any available route to expedite the movement. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing. The billing covering all such cars rerouted shall carry a reference to this order as authority for the rerouting.

(b) *Concurrence of receiving roads to be obtained.* The railroad rerouting cars in accordance with this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order, shall notify each shipper at the time each shipment is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers, or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 4 p.m., January 3, 1979.

(g) *Expiration date.* This order shall expire at 11:59 p.m., January 10, 1979, unless otherwise modified, changed or suspended.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of the order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., January 3, 1979.

JOEL E. BURNS,
Agent.

[FR Doc. 79-1514 Filed 1-15-79; 8:45 am]

[7035-01-M]

[Finance Docket No. 28934F]

CHICAGO & NORTH WESTERN TRANSPORTATION CO.

Construction and Operation of a Line of Railroad in Niobrara and Goshen Counties, Wyo., and in Sioux and Scotts Bluff Counties, Nebr.

Chicago and North Western Transportation Company (North Western), 400 West Madison Street, Chicago, IL 60606, represented by Christopher A. Mills, Senior Commerce Counsel, Chicago and North Western Transportation Company, 400 West Madison Street, Chicago, IL 60606, hereby give notice that on the 28th day of December, 1978, it filed with the Interstate Commerce Commission at Washington, DC, an application under Section 10901 (formerly Section 1(18)) of the Interstate Commerce Act for a decision approving and authorizing the construction and operation of a line of railroad to enable it to operate unit coal trains originating in the Southern Powder River Basin in Wyoming at milepost 475.7 on North Western's esisting east-west line west of Van Tassell, WY, and will proceed in a southerly direction 56.09 miles to a point of connection with the Union Pacific Railroad Company existing North Platte Branch at milepost 163.8 at Joyce, NE. The line is located in Niobrara and Goshen Counties, WY and in Sioux and Scotts Bluffs Counties, NE.

North Western proposes to construct the connecting line in order to minimize the expense required to enable it to operate unit coal trains originating in the Southern Powder River Basin in Wyoming and destined to points on and east of the Missouri River, and to enable Union Pacific Railroad Company to participate in the movement of such trains. Substantial numbers of unit coal trains of 100 or more cars each originating in the Powder River Basin are expected to pass over the connecting line commencing in 1980 or 1981; by 1985 approximately ten unit coal trains in each direction will pass over the connecting line daily.

In the opinion of the Applicant, the granting of the authority sought will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. In accordance with the Commission's regulations (49 C.F.R. 1108.8) in Ex Parte No. 55 (Sub-No. 4), *Implementation—National Environmental Policy Act, 1969,* 352 I.C.C. 451 (1976), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall indicate with specific data the exact nature and degree of the anticipated impact. See *Implementation—National Environmental Policy Act, 1969, supra,* at p. 487.

Pursuant to the provisions of the Interstate Commerce Act, as amended, the proceeding will be handled without public hearings unless comments in support or opposition on such application are filed with the Secretary, Interstate Commerce Commission, 12th and Constitution Avenue, N.W., Washington, DC 20423, and the aforementioned counsel for applicant, within 30 days after date of first publication in a newspaper of general circulation. Any interested person is entitled to recommend to the Commission that it approve, or take any other specified action with respect to such application.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-1516 Filed 1-15-79; 8:45 am]

[7035-01-M]

SOUTHERN RAILWAY CO.

Possible Discontinuance of Operations of the "Southern Crescent"

AGENCY: Interstate Commerce Commission.

ACTION: Corrected Notice to the Public.

SUMMARY: This notice corrects an error contained in the FEDERAL REGISTER Notice of January 5, 1979 at page 1507.

EFFECTIVE DATE: Immediate.

FOR FURTHER INFORMATION CONTACT:

G. Marvin Bober, Acting Deputy Director, Section of Finance, I.C.C.—Room 5417, Washington, D.C. 20423, 202-275-7564.

SUPPLEMENTARY INFORMATION: The FEDERAL REGISTER Notice of January 5, 1979, at page 1507, listed the effective date as January 22, 1979. The Commission's decision January 4, 1979 stated that parties have 14 days from January 4, 1979 to file comments. The decision stated that it would be effective upon service.

Therefore, the FEDERAL REGISTER Notice of January 5, 1979 should read: "Effective date: Immediate"

The last two lines of the paragraph beginning "All parties should be changed to read: "Crescent should do so within 14 days from January 4, 1979."

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-1515 Filed 1-15-79; 8:45 am]

[7035-01-M]

JANUARY 10, 1979.

[Volume No. 2]

FINANCE REPUBLICATION

Applications

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, of rail carriers or motor carriers pursuant to Sections 11343 (formerly Section 5(2)) or 11349 (formerly Section 210a(b)) of the Interstate Commerce Act.

Each applicant states that approval of its application will not significantly affect the quality of the human environment nor involve a major regulatory action under the Energy Policy and Conservation Act of 1975.

MC-F-12759. By initial decision served January 3, 1979, SORENSEN TRANSPORTATION COMPANY, D/B/A SORENSEN TRANSPORTATION, INC. was authorized to purchase the described portion of the operating authority of C & C TRUCKING CO., INC. subject to republication in the FEDERAL REGISTER. The Administrative Law Judge required republication in order to correct an inadvertent typographical error. The original FEDERAL REGISTER Notice published February 4, 1976, refers to the twelve named counties as being in New York when in actuality they are in *New Jersey.*

The Administrative Law Judge authorized SORENSEN to acquire the following portion of C & C's operating authority: *General commodities,* excepting among others, dangerous explosives, household goods and perishable commodities, those in bulk, as a *common carrier* over irregular routes, between New York, NY, and points and places in Westchester County, NY, between points and places in Westchester County, NY, on the one hand and, on the other, points and places in Bergen, Essex, Hudson, Hunterdon, Mercer, Middiesex, Morris, Passaic, Somerset, Sussex, Union, and Warren Counties, *NJ.*

If any person has any interest in or would be prejudiced by grant of the authority it may file an original and six copies of the petition (or any other pleading) within 30 days from the date of publication with appropriate service on applicant. The petition in each case must set forth the position and interest of the petitioner in the proceeding, including a showing of good cause for not filing objections at the time of or prior to the oral hearing and specifically why the transaction would not be in the public interest. Applicant shall file its reply within 50 days from the date of publication.

Applicants' attorney: Hugh M. Joseloff, 80 State St., Hartford, CT., 06103.

By the Commission.

H.G. HOMME, Jr.,
Secretary.

[FR Doc. 79-1352 Filed 1-15-79; 8:45 am]

[7035-01-M]

[Decision Volume No. 63]

PERMANENT AUTHORITY APPLICATIONS

Decision-Notice

Decided: December 22, 1978.

The following applications are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the FEDERAL REGISTER. Failure to file a protest, within 30 days, will be considered as a waiver of opposition to the application. A protest under these rules should comply with Rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of § 247(e)(4) of the special rules and shall include the certification required in that section.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

We Find: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the national transportation policy. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of the Interstate Commerce Act and the Commission's regulations. This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that

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the proposed dual operations are consistent with the public interest and the national transportation policy subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of section 10930 (formerly section 210) of the Interstate Commerce Act.

It is ordered: In the absence of legally sufficient protests, filed by February 15, 1979 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a noncomplying applicant shall stand denied.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

H. G. HOMME, Jr.,
Secretary.

MC 720 (Sub-59F), filed September 11, 1978. Applicant: BIRD TRUCKING COMPANY, INC., Fond du Lac Street, Waupun, WI 53963. Representative: Ronald E. Laitsch, 113 North 3d Street, Watertown, WI 53094. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *animal feeds, feed ingredients, supplements, additives, and materials and supplies* used in the manufacture and distribution of animal feeds (except commodities in bulk), between the facilities of Kal Kan Foods, Inc., at or near Matton, IL, on the one hand, and, on the other, points in and east of ND, SD, NE, KS, OK, and TX, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Chicago, IL.)

MC 1117 (Sub-16F), filed October 20, 1978. Applicant: M.G.M. TRANSPORT CORP., 70 Maltese Drive, Totowa, NJ 07512. Representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, NY 10048. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *new furniture,* (a) from Appomattox and Brookneal, VA, to points in CT, DE, MA, MD, NJ, NY, PA, RI, and DC, and (b) from Waynesville, NC, and Richmond and Kenbridge, VA, to points in CT, NJ, and NY. (Hearing site: High Point, NC.)

MC 11207 (Sub-456F), filed October 20, 1978. Applicant: DEATON, INC., a Delaware Corporation, 317 Avenue W, P.O. Box 938, Birmingham, AL 35201. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Ave., Washington, DC 20014. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *plywood paneling, gypsum board, composition board, and molding,* from the facilities of Canbe Industries, Incorporation, at or near Valdosta, GA, to points in AL, AR, FL, IN, KY, LA, MS, NC, SC, TN, TX, and VA; and (2) *materials* used in the manufacture of the commodities in (1) above, in the reverse direction. (Hearing site: Jacksonville, FL, or Birmingham, AL.)

MC 14252 (Sub-37F), filed October 30, 1978. Applicant: COMMERCIAL LOVELACE MOTOR FREIGHT, INC., a Delaware Corporation, 3400 Refugee Road, Columbus, OH 43227. Representative: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Charleston, WV, and St. Louis, MO, over Interstate Hwy 64, (2) between Cincinnati, OH, and Lexington, Ky, over Interstate Hwy 75, (3) between Cincinnati, OH, and Louisville, KY, over Interstate Hwy 71, (4) between Indianapolis, IN, and Louisville, KY, over Interstate Hwy 65, and (5) between Terre Haute, IN, and Evansville, IN, over U.S. Hwy 41, serving all intermediate points and the off-route points of Culloden and Milton, WV, Olive Hill and Owingsville, KY, Jasper, Tell City, Columbus, Franklin, Bruceville, and Seymour, IN, the facilities of Minnie Ha-Ha Mine, at or near Dugger, IN, Sparta and Carmi, IL, and all off-route points in Clinton, Jefferson, St. Clair, and Washington Counties, IL, Clark, Floyd, Gibson, Harrison, Posey, Spencer, Vanderburgh, and Warrick Counties, IN, and Anderson, Bourbon, Boyle, Bullitt, Clark, Daviess, Fayette, Franklin, Garrard, Harrison, Henderson, Jefferson, Jessamine, Madison, Mercer, Montgomery, Oldham, Scott, Shelby, Spencer, and Woodford Counties, KY, in connection with (1) through (5) above. (Hearing site: Columbus, OH.)

MC 16903 (Sub-59F), filed November 13, 1978. Applicant: MOON FREIGHT LINES, INC., P.O. Box 1275, Bloomington, IN 47401. Representative: Donald W. Smith, P.O. Box 40659, Indianapolis, IN 46240. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *stone, granite,* and *materials* and *machinery* used in the manufacture of stone and granite, (a) between the facilities of Rock of Ages Corporation, at Concord, NH, on the one hand, and, on the other, points in the United States in and east of ND, SD, NE, CO, OK, and TX, and (b) from points in the United States in and east of ND, SD, NE, CO, OK, and TX, to points in VT, and (2) *building stone and granite,* from points in VT to points in PA, OH, MD, VA, and DC. (Hearing site: Washington, DC.)

MC 21060 (Sub-18F), filed October 31, 1978. Applicant: IOWA PARCEL SERVICE, INC., 3123 Delaware Ave., Des Moines, IA 50313. Representative: Leonard Rose, 601 W. 47th St., Kansas City, MO 64112. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between points in IA, (2) between points in IA, on the one hand, and, on the other, Omaha, NE, and (3) between Omaha, NE, and points in IA, on the one hand, and, on the other, points in Rock Island County, IL, restricted against the transportation of articles weighing more than 200 pounds each, and further restricted to the transportation of articles weighing less than 750 pounds in the aggregate from one consignor at one location to one consignee at one location during a single day. NOTE: (a) The person or persons who appear to be engaged in common control must either file an application under Section 5(2) of the Interstate Commerce Act, or submit an application indicating why such approval is unnecessary. (b) Dual operations may be at issue in this proceeding. (Hearing site: Both Omaha, NE, and Rock Island, IL.)

MC 27817 (Sub-147F), filed October 16, 1978. Applicant: H. C. GABLER, INC., a Delaware Corporation, R. D. #3, P.O. Box 220, Chambersburg, PA 17201. Representative: Christian V. Graf, 407 North Front Street, Harrisburg, PA 17101. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by manufacturers and distributors of plastic articles, from the facilities of Rubbermaid Commercial Products, Inc., at Winchester, VA, to points in CT, DE, IL, IN, KY, ME, MD, MA, MI, NH, NJ, NY, NC, OH, PA, RI, SC, VT, WV, and DC, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Washington, DC or Harrisburg, PA.)

MC 41347 (Sub-9F), filed October 18, 1978. Applicant: DeBACK CARTAGE COMPANY, INC., 4841 West Burnham St., Milwaukee, WI 53219. Representative: William C. Dineen, Suite 412 Empire Bldg., 710 North Plankinton Ave., Milwaukee, WI 53203. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *welding equipment,* from the facilities of Sellstrom Corp., at Palatine, IL, to the facilities of Applied Power, Inc., at Wauwatosa, WI; and (2) *battery chargers,* from the facilities of Schumacher Electric Corp., at Chicago, IL, to the facilities of Applied Power, Inc., at Wauwatosa, WI, in (1) and (2) above under contracts with Applied Power, Inc., of Wauwatosa, WI. (Hearing site: Milwaukee, WI.)

MC 41432 (Sub-155F), filed September 25, 1978. Applicant: EAST TEXAS MOTOR FREIGHT LINES, INC., 2355 Stemmons Freeway, Dallas, TX 75207. Representative: Lawrence A. Winkle, Suite 1125 Exchange Park, Post Office Box 45538, Dallas, TX 75245. To operate as a *common carrier,* by motor vehicle, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between San Antonio, TX, and Del Rio, TX, over U.S. Hwy 90, serving the intermediate point of Hando, TX: (2) between San Antonio, TX, and Eagle Pass, TX: from the San Antonio over U.S. Hwy 81 to junction U.S. Hwy 57, then over U.S. Hwy 57, to Eagle Pass, and return over the same route, (3) between Uvalde, TX, and Carrizo Springs, TX, over U.S. Hwy 83, serving Uvalde, La-Pryor, and Carrizo Springs for purposes of joinder only: (4) between Fort Stockton, TX, and Laredo, TX, serving the intermediate points of Del Rio and Eagle Pass, TX: from Fort Stockton over U.S. Hwy 285 to junction U.S. Hwy 90, then over U.S. Hwy 90 to junction U.S. Hwy 277, then over U.S. Hwy 277 to junction U.S. Hwy 83, then over U.S. Hwy 83 to Laredo, and return over the same route, (5) between junction U.S. Hwy 81 and U.S. Hwy 57, and Laredo, TX, serving the junction of U.S. Hwy 81 and U.S. Hwy 57 for purposes of joinder only: from junction U.S. Hwy 81 and U.S. Hwy 57 over U.S. Hwy 81 to Laredo, and return over the same route, (6) between San Marcos, TX and Corpus Christi, TX, serving the intermediate points of Sequin, Beeville and Portland, TX: from San Marcos over TX Hwy 123 to junction U.S. Hwy 181, then over U.S. Hwy 181 to Corpus Christi, and return over the same route, (7) between San Antonio, TX, and junction U.S. Hwy 181 and TX Hwy 123, serving junction U.S. Hwy 181 and TX Hwy 123 for purposes of joinder only: from San Antonio over U.S. Hwy 181 to junction TX Hwy 123 and return over the same route, (8) between San Antonio, TX, and Port Lavaca, TX, over U.S. Hwy 87, serving the intermediate points of Cuero and Victoria, TX: (9) between junction U.S. Hwy 90 and U.S. Hwy 77, and junction U.S. Hwy 77 and alternate U.S. Hwy 77, serving the intermediate points of Hallettsville, Yoakum and Cuero, TX and serving junctions for purposes of joinder only: from junction U.S. Hwy 90 and U.S. Hwy 77 over U.S. Hwy 77 to junction alternate U.S. Hwy 77, then over alternate U.S. Hwy 77 to junction U.S. Hwy 77, and then over the same route, (10) between San Marcos, TX, and junction alternate U.S. Hwy 90 and alternate U.S. Hwy 77, serving the intermediate point of Shiner, TX: from San Marcos over TX Hwy 80 to Luling, then over U.S. Hwy 183 to junction alternate U.S. Hwy 90, then over alternate U.S. Hwy 90 to junction alternate U.S. Hwy 77, and return over the same route, (11) between junction alternate U.S. Hwy 90 and U.S. Hwy 183, and Cuero, serving junction of alternate U.S. Hwy 90 and U.S. Hwy 183 for purposes of joinder only: from junction alternate U.S. Hwy 90 and U.S. Hwy 183 over U.S. Hwy 183 to Cuero, and return over the same route, (12) between Corpus Christi, and junction TX Hwy 44 and U.S. Hwy 83, serving the intermediate points of Robstown and Alice, TX and serving junction TX Hwy 44 and U.S. Hwy 83 for purposes of joinder only: from Corpus Christi over TX Hwy 44 to junction U.S. Hwy 59, then over TX Hwy 44 to junction U.S. Hwy 83, and return over the same route, (13) between Houston, TX, and Laredo, TX, over U.S. Hwy 59, serving the intermediate points of Victoria and Beeville, TX: (14) between Houston, TX, and Freeport, TX, over TX Hwy 288, serving the intermediate point of Clute, TX: (15) between Galveston, TX, and Freeport, TX: from Galveston over U.S. Hwy 75 to junction TX Hwy 6, then over TX Hwy 6 to junction TX F.M. Hwy 2004, then over TX F.M. Hwy 2004 to junction TX Hwy 288, then over TX Hwy. 288 to Freeport, and return over the same route, (16) between Angleton, TX, and Corpus Christi, TX, serving the intermediate points of Bay City, Point Comfort, Port Lavaca, Aransas Pass, Gregory and Portland, TX, and the off-route points of Sweeny, Seadrift and Ingleside, TX, and serving Angleton for purposes of joinder only: from Angleton over TX Hwy 35 to junction U.S. Hwy 181, then over U.S. Hwy 181 to Corpus Christi, and return over the same route, (17) between Wharton, TX, and Bay City, TX, over TX Hwy 60, serving Wharton for the purpose of joinder only: (18) between junction U.S. Hwy 59 and TX Hwy 111 and junction TX Hwy 71 and TX Hwy 35, serving junctions for purposes of joinder only: from junction U.S. Hwy 59 and TX Hwy 111 over TX Hwy 111 to junction TX Hwy 111 and TX Hwy 71, then over TX Hwy 71 to junction TX Hwy 71 and TX Hwy 35, and return over the same route, (19) between Corpus Christi, TX and junction TX Hwy 9 and U.S. Hwy 281, serving junction TX Hwy 9 and U.S. Hwy 281 for purposes of joinder only: from Corpus Christi over TX Hwy 9 to junction U.S. Hwy 281, and return over the same route, (20) between Hallettsville, TX, and Victoria, TX, over U.S. Hwy 77, (21) between San Antonio, TX, and McAllen, TX, over U.S. Hwy 281, serving the intermediate points of Pleasanton and Alice, TX: (22) between Victoria, TX, and Brownsville, TX, over U.S. Hwy 77, serving the intermediate points of Robstown, Bishop and Kingsville, TX: (23) between Laredo, TX, and Harlingen, TX, over U.S. Hwy 83, (24) serving all intermediate and off-route points in Hidalgo, Willacy and Cameron Counties in connection with the routes set forth in (21), (22), and (23) above, (25) between Jacksonville, FL, and Beaumont, TX, over I-10; (26) between Jacksonville, FL, and Beaumont, TX; from Jacksonville over I-1- to junction I-12, then over I-12 to junction I-10, then over I-10 to Beaumont, and return over the same route, (27) between Atlanta, GA, and junction I-65 and I-10 serving junction I-65 and I-10 for purposes of joinder only: from Atlanta over I-85 to junction I-65, then over I-65 to junction I-10, and return over the same route, and (28) between Birmingham, AL, and junction I-10 and U.S. Hwy 11, serving junction I-10 and U.S. Hwy 11 for purposes of joinder only: from Birmingham over U.S. Hwy 11 to junction I-10, and return over the same route. (Hearing site: San Antonio or Dallas, TX.)

MC 41432 (Sub-156F), filed October 2, 1978. Applicant: EAST TEXAS MOTOR FREIGHT LINES, INC, 2355 Stemmons Freeway, Dallas, TX 75207. Representative: Leroy Hallman, 4555 First National Bank Building, Dallas, TX 75202. To operate as a *common carrier,* by motor vehicle, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household

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goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Memphis, TN, and junction TN Hwy 88, and U.S. Hwy 79, serving all intermediate points: from Memphis over U.S. Hwy 51, to junction TN Hwy 88, then over TN Hwy 88, to junction U.S. Hwy 79, and return over the same route, (2) between Memphis, TN, and Nashville, TN, serving the intermediate points between Memphis, TN and Huntingdon, TN including Huntingdon, TN: from Memphis over U.S. Hwy 70, to junction U.S. Hwy Alt. 70, then over U.S. Hwy Alt. 70, to junction U.S. Hwy 70, then over U.S. Hwy 70, to Nashville, and return over the same route, (3) between Brownsville, TN, and Huntingdon, TN, over U.S. Hwy 70, serving the intermediate point of Jackson, TN and the off-route point of Lexington, TN: (4) between Nashville, TN, and Knoxville, TN, over Interstate Hwy 40, serving the intermediate point of Cookeville, TN and the off-route point of Sparta, TN: (5) between Nashville, TN, and Chattanooga, TN, over U.S. Hwy 41, serving the intermediate points between Nashville, TN and Murfreesboro, TN including Murfreesboro, TN: (6) between Memphis, TN, and Chattanooga, TN, serving no intermediate points: from Memphis over U.S. Hwy 72, to junction U.S. Hwy Alt. 72, then over U.S. Hwy Alt 72, to junction U.S. Hwy 72, then over U.S. Hwy 72, to junction Interstate Hwy 24, then over Interstate Hwy 24, to Chattanooga, and return over the same route, (7) between Chattanooga, TN, and Knoxville, TN, over U.S. Hwy 11, serving all intermediate points, and the off-route point of Etowah, TN: (8) between Knoxville, TN, and Maryville, TN, serving the intermediate point of Alcoa, TN: from Knoxville over U.S. Hwy 129, to junction TN Hwy 33, then over TN Hwy 33, to junction U.S. Hwy 411, then over U.S. Hwy 411, to Maryville, and return over the same route, (9) between Knoxville, TN, and Bristol, VA, over U.S. Hwy 11W, serving all intermediate points: (10) between Knoxville, TN and Bristol, VA, over U.S. Hwy 11E, serving all intermediate points: (11) between Knoxville, TN, and Greeneville, TN, serving the intermediate points of Dandridge, TN, and Newport, TN: from Knoxville over U.S. Hwy 70, to junction U.S. Hwy 411, then over U.S. Hwy 411, to Greeneville, and return over the same route, (12) between Johnson City, TN, and junction U.S. Hwy 23, and U.S. Hwy 19, serving the intermediate point of Erwin, TN: from Johnson City over U.S. Hwy 23, to junction U.S. Hwy 19, and return over the same route, (13) between Johnson City, TN, and junction U.S. Hwy 421, and U.S. Hwy 70, serving the intermediate point of Elizabethton, TN: from Johnson City over U.S. Hwy 321, to junction U.S. Hwy 421, then over U.S. Hwy 421, to junction U.S. Hwy 70, and return over the same route, (14) between Newport, TN, and junction Interstate Hwy 40, and U.S. Hwy 23, serving no intermediate points: from Newport over Tennessee Hwy 32, to junction Interstate Hwy 40, then over Interstate Hwy 40, to junction U.S. Hwy 23, and return over the same route, (15) between Chattanooga, TN, and Atlanta, GA, over U.S. Hwy 41, serving no intermediate points: (16) between Chattanooga, TN, and Birmingham, AL, over U.S. Hwy 11, serving no intermediate points: (17) between junction U.S. Hwy Alt 70, and U.S. Hwy 45W, and junction U.S. Hwy 45, and U.S. Hwy 70, serving no intermediate points as an alternate route for operating convenience only: from junction U.S. Hwy Alt 70, and U.S. Hwy 45W, over U.S. Hwy 45W, to junction U.S. Hwy 45, then over U.S. Hwy 45, to junction U.S. Hwy 70, and return over the same route, (18) between junction U.S. Hwy Alt 70, and U.S. 45E, and junction U.S. Hwy 45, and U.S. Hwy 70, serving no intermediate points as an alternate route for operating convenience only: from junction U.S. Hwy Alt 70, and U.S. Hwy 45E, over U.S. Hwy 45E, to junction U.S. Hwy 45, then over U.S. Hwy 45, to junction U.S. Hwy 70, and return over the same route, and (19) between junction U.S. Hwy 11W, and U.S. Hwy 25E, and junction U.S. Hwy 25E and U.S. Hwy 70, serving no intermediate points and serving junction U.S. Hwy 11E and U.S. Hwy 25E for purposes of joinder only: from junction U.S. Hwy 11W and U.S. Hwy 25E over U.S. Hwy 25E to junction U.S. Hwy 70, and return over the same route. (Hearing site: Dallas, TX, or Memphis, TN.)

MC 42261 (Sub-143F), filed October 27, 1978. Applicant: LANGER TRANSPORT CORP., Box 305, Jersey City, NJ 07303. Representative: W. C. Mitchell, 370 Lexington Ave., New York, NY 10017. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *paper, paper products, and paper making materials*, between Philadelphia, PA, on the one hand and, on the other, Fort Edward and Albany, NY. (Hearing site: Philadelphia, PA, or Washington, DC.)

MC 44735 (Sub-36F), filed December 1, 1978. Applicant: KISSICK TRUCK LINES, INC., a Kansas corporation, 7101 East 12th, Kansas City, MO 64126. Representative: John E. Jandera, 641 Harrison Street, Topeka, KS 66603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *metal articles*, from Kansas City, KS, to points in AR, IN, IA, IL, MO, MN, NE, OK, TX, and WI, and (2) *materials and supplies* used in the manufacture of metal articles, in the reverse direction. (Hearing site: Kansas City, KS.)

MC 44735 (Sub-37F), filed December 1, 1978. Applicant: KISSICK TRUCK LINES, INC., a Kansas corporation, 7101 East 12th, Kansas City, MO 64126. Representative: John E. Jandera, 641 Harrison Street, Topeka, KS 66603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *building materials*, from the facilities of GAF Corporation, at Dallas, TX, to points in AR, OK, KS, MO, IL, and IA. (Hearing site: Washington, DC.)

MC 55896 (Sub-96F), filed October 16, 1978. Applicant: R-W SERVICE SYSTEM, INC., 20225 Goddard Road, Taylor, MI 48180. Representative: George E. Batty (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *building materials* and (2) *materials and supplies* used in the installation of building materials, (except commodities in bulk), from the facilities of Bird & Son, Inc., at Chicago, IL, to points in AR, IA, IN, KY, MI, MN, MO, OH, TN, and WI. (Hearing site: Chicago, IL, or Detroit, MI.)

MC 59117 (Sub-61F), filed October 17, 1978. Applicant: ELLIOTT TRUCK LINE, INC., P.O. Box 1, Vinita, OK 74301. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *dry fertilizer and dry fertilizer materials*, in bulk, from Atlas, MO, to points in AR, KS, IA, IL, NE, OK, and TX. (Hearing site: Memphis, TN.)

MC 71593 (Sub-15F), filed November 16, 1978. Applicant: FORWARDERS TRANSPORT, INC., 1815 Front Street, Scotch Plains, NJ 07076. Representative: Ronald S. Potter (Same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Memphis, TN, on the one hand, and, on the other, Boston and Springfield, MA, New Haven, Ct, and Philadelphia, PA, restricted to the transportation of traffic moving on freight forwarder bills of lading. (Hearing site: New York, NY, or Washington, DC.)

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MC 71593 (Sub-16F), filed November 16, 1978. Applicant: FORWARDERS TRANSPORT, INC., 1815 Front Street, Scotch Plains, NJ 07076. Representative: Ronald S. Potter (Same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between New Haven, CT, Chicago, IL, Baltimore, MD, Boston and Springfield, MA, St. Louis, MO, New York, NY, Philadelphia, PA, Memphis, TN, and Milwaukee, WI, on the one hand, and, on the other, Denver, CO, Las Vegas, NV, and Salt Lake City, UT, restricted to the transportation of traffic moving on freight forwarder bills of lading. (Hearing site: New York, NY, or Washington, DC.)

MC 71593 (Sub-17F), filed November 16, 1978. Applicant: FORWARDERS TRANSPORT, INC., 1815 Front Street, Scotch Plains, NJ 07076. Representative: Ronald S. Potter (Same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Baltimore, MD, Harrisburg, PA, and Washington, DC, on the one hand, and, on the other, Chicago, IL, Milwaukee, WI, and St. Louis, MO, restricted to the transportation of traffic moving on freight forwarder bills of lading. (Hearing site: New York, NY, or Washington, DC.)

MC 71593 (Sub-18F), filed November 16, 1978. Applicant: FORWARDERS TRANSPORT, INC., 1815 Front Street, Scotch Plains, NJ 07076. Representative: Ronald S. Potter (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Cincinnati, Cleveland, Columbus, and Toledo, OH, Detroit, MI, Indianapolis, IN, and Harrisburg, PA, on the one hand, and, on the other, Chicago, IL, Milwaukee, WI, and St. Louis, MO, restricted to the transportation of traffic moving on Freight Forwarder bills of lading. (Hearing site: New York, NY, or Washington, DC.)

MC 94265 (Sub-270F), filed May 30, 1978, and previously noticed in the FR issue of July 6, 1978, September 18, 1978, and September 20, 1978. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305-Route 460, Windsor, VA 23487. Representative: Clyde W. Carver, Suite 212, 5299 Roswell Road NE., Atlanta, GA 30342. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *pizza, pizza crust, and pizza products*, in vehicles equipped with mechanical refrigeration, from the facilities of Virga's Pizza Crust of Virginia, Inc., at or near Portsmouth, VA, to points in that part of MI south of MI Hwy 21, Chicago, IL, and points in that part of IL within 35 miles of Chicago. (Hearing site: Norfolk, VA, or Washington, DC). Note: This republication is to indicate the correct name of shipper as Vigra's Pizza Crust, instead of Virgo,'s Pizza Crust.

MC 105733 (Sub-72F), filed November 14, 1978. Applicant: H. R. RITTER TRUCKING CO., INC., 928 East Hazelwood Avenue, Rahway, NJ 07065. Representative: Chester A. Zyblut, 366 Executive Building, 1030 Fifteenth Street NW., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *chemicals, and petroleum products*, in bulk, (a) from points in Bergen, Essex, Hudson, Middlesex, and Union Counties, NJ, to points in ME, NH, VT, MA, PA, WV, OH, MI, IN, KY, IL, VA, TN, SC, NC, and GA, and (b) from points in GA, IL, IN, KY, ME, MA, MI, NH, NC, OH, PA, SC, TN, VA, WV, and VT to points in Bergen, Essex, Hudson, Middlesex, and Union Counties, NJ. (Hearing site: New York, NY.)

MC 106009 (Sub-11F), filed November 28, 1978. Applicant: CAUSTIC SODA TRANSPORTATION CO., a corporation, P.O. Box 6035, Asheville, NC 28806. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th St. NW., Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *sulfuric acid*, in bulk, in tank vehicles, from Copperhill, TN, to those points in NC on and west of U.S. Hwy 1 and those in SC on and west of U.S. Hwy 1. CONDITION: Prior or coincidental cancellation, at applicant's written request, of duplicating authority in its certificate MC 106009, issued January 8, 1964. (Hearing site: Atlanta, GA.)

MC 107295 (Sub-896F), filed December 4, 1978. Applicant: PRE-FAB TRANSIT CO., a corporation, P.O. Box 146, Farmer City, IL 61842. Representative: Mack Stephenson, 42 Fox Mill Lane, Springfield, IL 62707. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *construction materials* (except commodities in bulk), between points in MT, NE, ND, SD, and WY, on the one hand, and, on the other, points in the United States (except AK and HI), (2) *lumber and lumber products*, (a) from Ashland, MT, to points in IL, IA, MN, and WI, (b) from points in SD and WY, to points in AL, AR, CT, DE, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, WI, and DC, (c) from points in ID and MT, to points in IL, IN, and MO, and (d) from Spearfish, SD, to points in the United States (except AK and HI), and (3)(a) *prefabricated log homes*, and (b) *materials, equipment, and supplies* used in the erection of prefabricated log homes, from Englewood, CO, to those points in the United States in and east of WI, IA, MO, AR, and LA. (Hearing site: Denver, CO.)

MC 107295 (Sub-897F), filed December 4, 1978. Applicant: PRE-FAB TRANSIT CO., a corporation, P.O. Box 146, Farmer City, IL 61842. Representative: Mack Stephenson, 42 Fox Mill Lane, Springfield, IL 62707. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1)(a) *buildings*, complete, knocked down, or in sections, (b) *building sections and building panels*, and (c) *metal prefabricated structural components*, and *panels*, from Eufaula, AL, to points in AL, FL, GA, KY, LA, MS, NC, OH, SC, TN, VA, and WV, (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, from points in AL, FL, GA, KY, LA, MS, NC, OH, SC, TN, VA, and WV, to Eufaula, AL, and (3) *commodities* named in (1) and (2) above, between Eufaula, AL, Atlantic, IA, and Jamestown, OH. (Hearing site: Birmingham, AL, or Atlanta, GA.)

MC 107912 (Sub-22F), filed November 1, 1978. Applicant: REBEL MOTOR FREIGHT, INC., 3060 Gill Road, Memphis, TN 38109. Representative: James N. Clay III, 2700 Sterick Bldg., Memphis, TN 38103. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Jackson, MS, and Baton Rouge, LA, from Jackson over Interstate Hwy 55 to junction Interstate Hwy 12, then over Interstate Hwy 12 to Baton Rouge and return

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over the same route, serving no intermediate points. (Hearing site: Memphis, TN, or Jackson, MS.)

MC 108523 (Sub-9F), filed November 13, 1978. Applicant: POLMAN TRANSFER, INC., Rt. 3 Box 470, Wadena, MN 56482. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *wooden posts, poles, pilings, snow fence* and *culverts, wooden bridges, bridge parts and accessories, wood treating compounds, and salt* (except commodities in bulk), between Cass Lake and Grand Rapids, MN, and Whitewood, SD, on the one hand, and, on the other, points in AR, AL, GA, TX, KY, TN, LA, MS, and OK, under a continuing contract with St. Regis Paper Company, of St. Louis Park, MN. NOTE: Dual operations may be involved. (Hearing site: St. Paul, MN.)

MC 111231 (Sub-249F), filed October 31, 1978. Applicant: JONES TRUCK LINES, INC., 610 East Emma Ave., Springdale, AR 72764. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Ave., Washington, DC 20014. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between St. Louis, MO and Denver, CO, over Interstate Hwy 70, serving Kansas City, MO as an intermediate point, and restricted against the transportation of traffic moving between Kansas City, MO and points in its commercial zone, on the one hand, and, on the other, St. Louis, MO, and points in its commercial zone. (Hearing site: Little Rock, AR, or Washington, DC.)

MC 111594 (Sub-80F), filed October 23, 1978. Applicant: C W TRANSPORT, INC., a Delaware corporation, 610 High Street, Wisconsin Rapids, WI 54494. Representative: Edward G. Bazelon, 39 South LaSalle Street, Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Vesper, WI, as an off-route point in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Madison, WI.)

MC 111611 (Sub-39F), filed October 27, 1978. Applicant: NOERR MOTOR FREIGHT, INC., 205 Washington Ave., Lewistown, PA 17044. Representative: William D. Taylor, 100 Pine St., Suite 2550, San Francisco, CA 94111. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *brass rods* and *unfinished brass shapes*, from the facilities of Cerro Metal Products, at or near Bellefonte, PA, and Weyers Cave, VA, to points in CA. (Hearing site: San Francisco, CA, or Harrisburg, PA.)

MC 114457 (Sub-436F), filed October 10, 1978. Applicant: DART TRANSIT COMPANY, a corporation, 2102 University Ave., St. Paul, MN 55114. Representative: James H. Wills (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *foodstuffs*, and (2) *materials and supplies* used in the distribution of foodstuffs, from Napoleon, OH, to points in IL, IN, IA, KY, MI, MN, NJ, NY, NC, SC, TX, VA, WV, and WI. (Hearing site: Cleveland, OH, or St. Paul, MN.)

MC 114917 (Sub-9F), filed October 16, 1978. Applicant: DART TRANSPORTATION SERVICE, a corporation, 1430 S. Eastman Ave., Los Angeles, CA 90023. Representative: R. Y. Schureman, 1545 Wilshire Blvd., Los Angeles, CA 90017. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by mail order houses and retail department stores, between points in AZ, CA, NV, and UT, under contracts with Sears, Roebuck and Co., of New York, NY. (Hearing site: Los Angeles, CA.)

MC 115379 (Sub-48F), filed November 29, 1978. Applicant: JOHN D. BOHR, INC., P.O. Box 217, Annville, PA 17003. Representative: Christian V. Graf, 407 N. Front St., Harrisburg, PA 17101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *chemical lime*, from the facilities of Bethlehem Mines Corporation, at or near Annville, PA, to points in OH and WV, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Washington, DC, or Harrisburg, PA.)

MC 115826 (Sub-361F), filed October 22, 1978. Applicant: W. J. DIGBY, INC., a Nevada corporation, 6015 East 58th Ave., Commerce City, CO 80022. Representative: Howard Gore (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from points in CO to points in AL, CT, DE, FL, GA, KY, LA, MA, MD, ME, MI, MS, NC, NH, NJ, NY, OH, PA, RI, SC, TN, TX, WV, VA, VT, and DC. (Hearing site: Denver, CO.)

MC 115841 (Sub-652F), filed October 27, 1978. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., an Alabama Corporation, 9041 Executive Park Dr., Suite 110, Bldg. 100, Knoxville, TN 37919. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666-11th St. NW., Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *air conditioning equipment* and *heating equipment*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, (except commodities in bulk), from points in Davidson County, TN, to points in FL, IA, KS, MN, and WI. (Hearing site: Nashville, TN.)

MC 115931 (Sub-74F), filed October 25, 1978. Applicant: BEE LINE TRANSPORTATION, INC., P.O. Box 3987, Missoula, MT 59801. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58102. To operate as a *common carrier*, by motor vehicle, in interstate of foreign commerce, over irregular routes, transporting bituminous *fibre pipe, plastic products*, and *fibre vaults*, from the facilities of Bermico Co., at or near West Bend, WI, to points in CA, ID, OR, MT, WA, and WY. (Hearing site: Milwaukee, WI.)

MC 116063 (Sub-155F), filed November 15, 1978. Applicant: WESTERN-COMMERCIAL TRANSPORT, INC., P.O. Box 270, Fort Worth, TX 76101. Representative: W. H. Cole (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *vegetable oils*, in bulk, in tank vehicles, from the facilities of Hunt-Wesson Foods, Inc., at Harvey, LA, to points in the United States (except AK and HI). (Hearing site: Dallas, TX, or New Orleans, LA.)

MC 116099 (Sub-9F), filed December 6, 1978. Applicant: WOODWORTH & SONS, INC., P.O. Box 546, Tolono, IL 61880. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *liquid fertilizer*, in bulk, in tank vehicles, from Bourbon, IL, to points in IN. (Hearing site: Chicago, IL.)

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MC 116254 (Sub-216F), filed October 24, 1978. Applicant: CHEM-HAULERS, INC. 18 East Mobile Plaza, Florence, AL 35630. Representative: Hampton M. Mills (same address as applicant). To operate as a *common carrier*, by motor vehicles, over irregular routes transporting: Acids and Chemicals, in bulk, in tank vehicles, from Decatur, AL, to points in DE, MD, NJ, NY, PA, VA, WV, CT, MA, NC, TN, OH, MI, IL, WI, MS, MN, IA, MO, and AR. (Hearing site: Atlanta, GA, or Washington, DC.)

MC 117147 (Sub-10F), filed October 16, 1978. Applicant: STARR'S TRANSPORTATION, INC., Upper Main St., North Troy, VT 05850. Representative: Mary E. Kelley, 11 Riverside Ave., Medford, MA 02155. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *lumber, hardboard, particle board, gypsum board, and molding*, and (2) *accessories and supplies* used in the installation of the commodities in (1) above, from Chesapeake and Doswell, VA, Camden, NJ, and Lewiston, Plymouth, New Bern, Moncure, and Jacksonville, NC, to points in CT, DE, ME, MD, MA, NJ, NH, NY, PA, RI, VT, and DC, under contract with Weyerhaeuser Company, of Chesapeake, VA. NOTE: Dual operations are involved. (Hearing site: Washington, DC.)

MC 117883 (Sub-235F), filed November 8, 1978. Applicant: SUBLER TRANSFER, INC., One Vista Drive, Versailles, OH 45380. Representative: Neil E. Hannan, P.O. Box 62, Versailles, OH 45380. To operate as a *common carrier* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except in bulk), from the facilities of Freezer Queen Foods, Inc., At Buffalo, NY, to points in DE, IL, IN, IA, KS, KY, MD, MI, MN, MO, NE, OH, NJ, PA, WI, and DC, restricted to the transportation of traffic originating at and destined to the named points. (Hearing site: Buffalo, NY, or Washington, DC.)

MC 118159 (Sub-283F), filed August 17, 1978, previously published in the FEDERAL REGISTER issue of September 19, 1978. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., a Louisiana corporation, P.O. Box 51366 Dawson Station, Tulsa, OK 74151. Representative: Warren L. Troupe, 2480 E. Commercial Blvd., Fort Lauderdale, FL 33308. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *battery boxes*, and *parts and accessories* for battery boxes, from Indianapolis, IN and Philadelphia, MS, to points in AL, CT, DE, GA, IN, KS, KY, MA, MS, MO, NH, NJ, NY, NC, OH, PA, RI, SC, TN, TX, VA, and WI, (2) *equipment, materials and supplies* used in the manufacture and distribution of battery boxes, in the reverse direction. NOTE: This republication shows the addition of parts and accessories for battery boxes in part (1). (Hearing site: Chicago, IL.)

MC 118159 (Sub-301F), filed November 29, 1978. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., a Louisiana corporation, P.O. Box 51366 Dawson Station, Tulsa, OK 74151. Representative: Warren Troupe, 2480 E. Commercial Blvd., Fort Lauderdale, FL 33308. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by manufacturers and distributors of containers, (except commodities in bulk), from the facilities of the Beverage Bottle Division of Hoover Universal, Inc., at or near Lenexa, KS, to points in AL, AZ, AR, CA, CO, FL, GA, ID, KS, LA, MS, MT, NM, NV, NE, NC, ND, OK, OR, SC, SD, TN, TX, UT, WA, and WY. (Hearing site: Chicago, IL.)

MC 118159 (Sub-303F), filed December 4, 1978. Applicant: NATIONAL REGRIGERATED TRANSPORT, INC., a Louisiana corporation, P.O. Box 51366 Dawson Station, Tulsa, OK 74151. Representative: Warren L. Troupe, 2480 E. Commercial Blvd., Ft. Lauderdale, FL 33308. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by manufacturers and distributors of cleaning aids and cleaning compounds (except commodities in bulk), (1) from Montgomery, AL, to points in CA, FL, GA, LA, TN, and TX, and (2) from Gurdon, AR, San Jose, CA, Eugene, OR, and Elkins Park and Girard, PA, to points in the United States (except AK and HI). (Hearing site: Atlanta, GA.)

MC 118610 (Sub-29F), filed August 29, 1978. Applicant: GEORGE PARR TRUCKING SERVICE, INC., 829 Alsop Lane, Owensboro, KY 42301. Representative: George M. Catlett, 708 McClure Building, Frankfort, KY 40601. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *machinery, equipment, and supplies*, used in heavy contruction, excavating, mining, road building, and logging, between the facilities of Dart Truck Company, at or near Kansas City, MO, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Kansas City, MO, or Owensboro, KY.)

MC 118959 (Sub-187F), filed December 6, 1978. Applicant: JERRY LIPPS, INC., a Florida corporation, 130 S. Frederick St., Cape Girardeau, MO 63701. Representative: Edward G. Bazelon, 39 S. LaSalle St., Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *glass containers*, and *parts and accessories* for glass containers, from Gas City and Indianapolis, IN, to Paducah, KY. (Hearing site: Chicago, IL.)

MC 119118 (Sub-60F), filed December 6, 1978. Applicant: McCURDY TRUCKING, INC., P.O. Box 388, Latrobe, PA 15650. Representative: Paul F. Sullivan, 711 Washington Bldg., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *malt beverages*, from Eden, NC, to points in MD, NJ, PA, VA, WV, and DC; and (2) *materials, equipment, and supplies* used in the manufacture and distribution of malt beverages, and *malt beverage containers*, (except commodities in bulk), in the reverse direction. (Hearing site: Washington, DC.)

MC 119493 (Sub-242F), filed November 16, 1978. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, MO 64801. Representative: Lawrence F. Kloeppel (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *Ground clay, floor sweeping and absorbents*, (except commodities in bulk), from points in Tippah County, MS, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX, and (2) *materials, and supplies*, used in the manufacture, sales, and distribution of the commodities named in (1) above, in the reverse direction. (Hearing site: Chicago, IL, or Kansas City, MO.)

MC 119493 (Sub-243F), filed November 16, 1978. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, MO 64801. Representative: Lawrence F. Kloeppel (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *plastic pipe, and fittings and accessories* used in the installation of plastic pipe, from Rolla, MO, to those points in the United States in and east of MT, WY, CO, and NM, and (2) *materials and supplies* used in the manufacture of plastic pipe, and *fittings and accessories* used in the installation of plastic pipe, (except commodities in bulk), in the reverse direction. (Hearing site: St. Louis or Kansas City, MO.)

MC 119493 (Sub-245F), filed November 7, 1978. Applicant: MONKEM

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COMPANY, INC., P.O. Box 1196, Joplin, MO 64801. Representative: Lawrence F. Kloeppel (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *charcoal briquettes*, from Paschuta, MS, to points in AL, GA, SC, NC, TN, and LA, and (2) *materials and supplies* used in the manufacture, sale, and distribution of charcoal briquettes, in the reverse direction. (Hearing site: Little Rock, AR, or Jackson, MS.)

MC 119700 (Sub-41F), filed August 24, 1978. Applicant: STEEL HAULERS, INC., 306 Ewing Avenue, Kansas City, MO 64125. Representative: Frank W. Taylor, Jr., Suite 600, 1221 Baltimore Avenue, Kansas City, MO 64105. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *gypsum, gypsum wallboard*, and *gypsum joint cement*, (except commodities in bulk), from Acme, TX, to points in AR, OK, KS, LA, and NE. (Hearing site: Kansas City, MO.)

MC 123383 (Sub-86F), filed November 13, 1978. Applicant: BOYLE BROTHERS, INC., R.D. 2, Box 329C, Medford, NJ 08055. Representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, NY 10048. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *roofing* and *building materials*, and (2) *materials, equipment*, and *supplies* used in the manufacture, installation, and distribution of roofing and building materials, between the facilities of Georgia-Pacific Corporation, at or near Quakertown, Richland Township, Bucks County, PA, on the one hand, and, on the other, points in NJ, DE, ME, MD, NH, NY, NC, PA, OH, VT, VA, and DC. (Hearing site: Washington, DC.)

MC 123407 (Sub-506F), filed October 16, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Representative: H. E. Miller, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate of foreign commerce, over irregular routes, transporting (1) *building materials*, and (2) *materials and supplies* used in the installation of building materials, (except commodities in bulk), from the facilities of Bird & Son, Inc., at Chicago, IL, to points in AR, KY, IN, MI, MO, ND, OH, OK, TN, and WI. (Hearing site: Washington, DC.)

MC 123778 (Sub-42F), filed October 12, 1978, and previously noticed in the FEDERAL REGISTER on November 14, 1978. Applicant: JALT CORP., d/b/a UNITED NEWSPAPER DELIVERY SERVICE, 802 Raritan Center, Edison, NJ 08817. Representative: Morton E. Kiel, 5 World Trade Center, Suite 6193, New York, NY 10048. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *magazines*, (2) *parts, sections, and inserts for magazines*, and (3) *paper and paper products*, from East Greenville and Lancaster, PA, to Wilmington, DE, points in CT, NJ, those in NY on and east of NY Hwy 14, those in MD and PA on and east of U.S. Hwy 15, and DC, under contract with Time, Incorporated, of New York, NY. (Hearing site: New York, NY.)

NOTE.—The purpose of this republication is to change both the commodity description and the territorial description.

MC 12819 (Sub-71F), filed December 4, 1978. Applicant: ACE FREIGHT LINE, INC., P.O. Box 16589, Memphis, TN 38116. Representative: Bill R. Davis, Suite 101, Emerson Center, 2814 New Spring Rd., Atlanta, GA 30339. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *animal and poultry feed, fish feed, and corn products*, (except commodities in bulk, in tank vehicles), from Birmingham and Decatur, AL, and Springfield, TN, to points in FL, GA, IL, IN, KY, MD, MI, MO, NC, OH, OK, SC, TX, VA, and WV, and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), in the reverse direction. (Hearing site: Birmingham or Mobile, AL.)

MC 124306 (Sub-50F), filed October 19, 1978. Applicant: KENAN TRANSPORT COMPANY, INCORPORATED, P.O. Box 2729, Chapel Hill, NC 27514. Representative: Richard A. Mehley, 1000 16th St., N.W., Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *liquefied petroleum gas*, in bulk, in tank vehicles, from the Dixie Pipeline Terminal, at or near Milner, GA, to points in TN. (Hearing site: Atlanta, GA.)

NOTE.—The certificate to be issued here shall be limited in points of time to a period expiring 5 years from the effective date thereof.

MC 124383 (Sub-36F), filed November 16, 1978, Applicant: STAR LINE TRUCKING CORPORATION, 18460 West Lincoln Avenue, New Berlin, WI 53151. Representative: Daniel R. Dineen, 710 North Plankinton Avenue, Milwaukee, WI 53203. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *salt*, from Chicago, IL, to points in WI. (Hearing site: Chicago, IL, or Milwaukee, WI.)

MC 127283 (Sub-17F), filed November 15, 1978. Applicant: SILICA SAND TRANSPORT, INC., Box 208, Routes 47 & 71, Yorkville, IL 60560. Representative: Albert A. Andrin, 180 North LaSalle Street, Chicago, IL 60601. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foundry aggregates and additives*, from those points in the United States on and east of U.S. Hwy 85, to points in IL, MI, IN, and OH, under a continuing contract with The Keener Sand and Clay Company, of Columbus, OH. (Hearing site: Columbus, OH.)

MC 127832 (Sub-14F), filed November 2, 1978. Applicant: C & S TRANSFER, INC., P.O. Box 5249, Macon, GA 31208. Representative: Wm. Addams, Suite 212, 5299 Roswell Road, N.E., Atlanta, GA 30342. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs, and materials, supplies, and equipment* used in the operation of cafeterias and restaurants, (except commodities in bulk), between the facilities of State Wholesale Foods, at or near Macon, GA, and Charlottesville, Lynchburg, Norfolk, Richmond, Roanoke, and Winchester, VA, under contract with State Wholesale Food, Inc., of Macon, GA. (Hearing site: Atlanta, GA.)

MC 128652 (Sub-15F), filed October 30, 1978. Applicant: LARSON TRANSFER & STORAGE COMPANY, INC., 10700 Lyndale Avenue South, Minneapolis, MN 55420. Representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1)*knocked down pre-cut houses*, from Minneapolis, MN, to points in AR, CO, IA, IL, IN, KS, MI, MO, MT. ND, NE, OK, SD, WI, and WY, and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) above, in the reverse direction, under contract with Capp Homes Division, Evans Products, of Minneopolis, MN. (Hearing site: Minnsapolis or St. Paul, MN.)

NOTE.—Dual operations may be involved.

MC 128878 (Sub-42F), filed December 4, 1978. Applicant; SERVICE TRUCK LINE, INC., P.O. Box 3904, 1902 Claiborne Avenue, Shreveport, LA 71103. Representative: C. Wade Shemwell, 1902 Claiborne Aveune, Shreveport, LA 71103. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *synthetic resins*, in bulk, in tank vehicles, from the facilities of Chembond, Corp., in Winn Parish, LA, to points in NM; (2) *materials* used in the manufacture of synthetic resins, from points in LA to the facilities of Chembond, Corp., at or near River Falls, AL; and (3) *dry fertilizer*, (a) from Bunkie, LA, to points in MS and TX, and (b) from Shreveport and Opelousas, LA, to points in MS. (Hearing site: Shreveport, LA, or St. Louis, MO.)

MC 129809 (Sub-13F), filed October 2, 1978, previously published in the FEDERAL REGISTER issue of November 2, 1978. Applicant: A & H, INC., P.O. Box 346, Footville, WI 53537. Representative: Thomas J. Beener, One World Trade Center—Suite 4959, New York, NY 10048. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of Universal Foods Corporation, (1) at or near Franklin Park IL, and Peru, IN, to points in CT, MD, MA, NJ, NY, PA, RI, and DC, and (2) to points in MD and DC, under contract with Universal Foods Corporation, of Milwaukee, WI. This republication shows the addition of DC as a destination in parts (1) and (2) above, and the expanded origin area of part (2) above. (Hearing site: Milwaukee, WI, or New York, NY.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 133562 (Sub-30F), filed November 1, 1978. Applicant: HOLIDAY EXPRESS CORPORATION, P.O. Box 115, Estherville, IA 51334. Representative; Edward A. O'Donnell, 1004 29th Street, Sioux City, IA 51104. To operate as a *common carrier*, by motor vehicle, in interstate commerce, over irregular routes, transporting *meats, meat products and meat byproducts*, and *articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk, in tank vehicles), from the facilities of John Morrell & Co., at Montgomery, AL, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations, except the transportation of traffic moving in foreign commerce). (Hearing site: Chicago, IL.)

MC 133566 (Sub-124F), filed October 19, 1978. Applicant: GANGLOFF & DOWNHAM TRUCKING COMPANY, INC., P. O. Box 479, Logansport, IN 46947. Representative: Thomas J. Beener, Suite 4959, One World Trade Center, New York, NY 10048. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Swift & Company, at Kansas City, KS, E. St. Louis and Rochelle, IL, to points in CT, DE, MA, MD, ME, NJ, NH, NY, PA, RI, VA, VT, WV, and DC. (hearing site: New York, NY, or Chicago, IL.)

MC 133937 (Sub-28F), filed October 16, 1978. Applicant: CAROLINA CARTAGE COMPANY, INC., a South Carolina Corporation, 1486 Willingham Drive, East Point, GA 30344. Representative: Leonard A. Jaskiewicz, 1730 M St., NW, Suite 501, Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by mail order houses and retail department stores, between Los Angeles, Ontario, San Diego, and San Francisco, CA, Chicago, IL, New Orleans, La, Baltimore, MD, Boston, MA, Detroit, MI, Kansas City and St. Louis, MO, Sparks, NV, Cincinnati, Cleveland, Columbus, and Dayton, OH, Portland, OR, Dallas, Fort Worth, and Houston, TX. Seattle, WA, Milwaukee, WI, points in AL, FL, GA, MS, NC, SC, TN, and DC, and those in Hudson County, NJ. (Hearing site: Atlanta, GA, or Los Angeles, CA.)

MC 134105 (Sub-36F), filed November 22, 1978. Applicant: CELERYVALE TRANSPORT, INC., 1318 East 23rd Street, Chattanooga, TN 37404. Representative: Daniel O. Hands, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. To operate as a *common carrier*, by Motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *rubber and rubber products*, (except commodities in bulk), from the facilities of O. K. Tire Company, at Guntersville, AL, to points in AZ, CA, CO, ID, IA, KS, MN, MT, NE, NM, and WA, restricted to the transportation of traffic originating at the named origin and destined to the indicated destination. (Hearing site: Chicago, IL)

MC 134105 (Sub-39F), filed November 24, 1978. Applicant: CELERYVALE TRANSPORT, INC., 1318 East 23rd Street, Chattanooga, TN 37404. Representative: Daniel O. Hands, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen vegetables*, from the facilities of Winter Garden, Inc., at Bells and Rossville, TN, to points in AL, GA, KY, LA, MS, NC, SC, VA, and WV, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Atlanta, GA, or Chicago, IL.)

MC 134105 (Sub-38F), filed November 22, 1978. Applicant: CELERYVALE TRANSPORT, INC., 1318 East 23rd Street, Chattanooga, TN 37404. Representative: Daniel O. Hands, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. To operate as a *common carrier*, by Motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *rubber and rubber products*, (except commodities in bulk), from the facilities of O. K. Tire Company, at Guntersville, AL, to points in AZ, CA, CO, ID, IA, KS, MN, MT, NE, NM, and WA, restricted to the transportation of traffic originating at the named origin and destined to the indicated destination. (Hearing site: Chicago, IL)

MC 134105 (Sub-39F), filed November 24, 1978. Applicant: CELERYVALE TRANSPORT, INC., 1318 East 23rd Street, Chattanooga, TN 37404. Representative: Daniel O. Hands, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. To operate as a *common carrier*, by Motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *Bananas*, and (2) *commodities* otherwise exempt from economic regulation under 49 USC § 10526(a)(6) (formerly section 203(b)(6) of the Interstate Commerce Act), in mixed loads with bananas, from Tampa, FL, to points in AL, AR, CO, GA, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, NE, NC, ND, OH, OK, SC, SD, TN, TX, VA, WV, and WI. (Hearing site: Miami, FL, or Atlanta, GA.)

MC 134323 (Sub-106F), filed November 14, 1978. Applicant: JAY LINES, INC., P.O. Box 30180, Amarillo, TX 79120. Representative: Gailyn L. Larsen, P.O. Box 81849, Lincoln, NE 68501. To operate as a *contract carrier* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *meats, meat products, and meat byproducts*, and *articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of MBPXL Corporation, at or near

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Dodge City, KS, to points in the United States (except AK, HI, and KS), and (2) such commodities as are used by meat packers, when destined to and for use by meat packers in the reverse direction, under continuing contract(s) with MBPXL Corporation of Wichita, KS. (Hearing site: Wichita, KS, or Amarillo, TX.)

NOTE.—Dual operations may be involved.

MC 134599 (Sub-167F), filed November 28, 1978. Applicant: INTERSTATE CONTRACT CARRIER CORP., a Delaware Corporation, P.O. Box 30303, Salt Lake City, UT 84125. Representative: Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *crated office furniture*, and *parts* for office furniture, from the facilities of Steelcase, Inc., at Grand Rapids, MI, to points in MN, under contract with Steelcase, Inc., of Grand Rapids, MI. (Hearing site: Lincoln, NE, or Salt Lake City, UT)

NOTE.—Dual operations may be involved in this proceeding.

MC 135007 (Sub-68F), filed October 18, 1978. Applicant: AMERICAN TRANSPORT, INC., 7850 "F" St., Omaha, NE 68127. Representative: Arthur J. Cerra, 2100 TenMain Center, P.O. Box 19251, Kansas City, MO 64141. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of Miden Beef Company, at or near Minden, NE, to New York, NY, under contract with Minden Beef Company, of Minden, NE. (Hearing site: Omaha, NE.).

NOTE.—Dual operations may be involved.

MC 135052 (Sub-14F), filed November 3, 1978. Applicant: ASHCRAFT TRUCKING, INC., 875 Webster Street, Shelbyville, IN 46176. Representative: Warren C. Moberly, 777 Chamber of Commerce Bldg., Indianapolis, IN 46204. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *mineral wool, insulation products, and insulation materials*, and (2) *materials and supplies* used in the manufacture of the commodities in (1) above, (a) between Shelbyville, IN, and Indianapolis, IN, and (b) from Shelbyville, IN, to points in AL, AR, CT, DE, FL, GA, KS, LA, ME, MA, MN, MS, NE, NH, NJ, NC, OK, RI, SC, TN, TX, VT, and VA. (Hearing site: Indianapolis, IN, or Chicago, IL.)

MC 135646 (Sub-4F), filed October 16, 1978. Applicant: DERVAN CARTAGE SERVICE, INC., 1020 Coastline Ave., Albany, GA 31701. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Blvd., Atlanta, GA 30349. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Albany and Thom>asville, GA, on the one hand, and, on the other, points in Atkinson, Baker, Ben Hill, Berrien, Brooks, Calhoun, Clay, Coffee, Colquitt, Cook, Crisp, Decatur, Dodge, Dooly, Early, Echols, Grady, Irwin, Lanier, Lee, Lowndes, Macon, Miller, Mitchell, Pulaski, Quitman, Randolph, Schley, Seminole, Stewart, Sumter, Telfair, Terrell, Thomas, Tift, Turner, Webster, Wilcox, Worth, Jeff Davis, and Peach Counties, GA, restricted to the transportation of traffic having a prior or subsequent movement by rail. (Hearing site: Atlanta or Albany, GA.)

MC 136393 (Sub-2F), filed November 14, 1978. Applicant: NY., NJ., CONN., FREIGHT & MESSENGER CORP., 55 Lakeshore Drive, Rockaway, NJ 07866. Representative: Ronald I. Shapss, 450 Seventh Avenue, New York, NY 10001. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Kansas City, KS, and points in MA, RI, CT, NY, NJ, DE, MD, PA, OH, MI, IN, WI, IL, MN, IA, and MO, and (2) from Kansas City, KS, and points in MA, RI, CT, NY, NJ, DE, MD, PA, OH, MI, IN, WI, IL, MN, IA, and MO, to points in WY, LA, TN, KY, ND, SD, NE, CO, KS, OK, AR, and TX, restricted to the transportation of traffic moving on bills of lading of freight forwarder. (Hearing site: New York, NY.)

MC 138039 (Sub-6F), filed December 4, 1978. Applicant: BAY DELIVERY CORP., 1919 Broadhollow Rd., Farmingdale, NY 11735. Representative: Bruce J. Robbins, 118-21 Queens Blvd., Forest Hills, NY 11375. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *health and beauty aids*, between Syosset, NY, on the one hand, and, on the other, points in FL, under contract with Allou Distributors, Inc., of Syosset, NY. (Hearing site: New York, NY.)

MC 138279 (Sub-7F), filed November 14, 1978. Applicant: CONALCO CONTRACT CARRIER, INC., P.O. Box 968, Jackson, TN 38301. Representative: Robert L. Baker, 618 United American Bank Bldg., Nashville, TN 37219. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *corn products, and materials, equipment and supplies* used in the manufacture and distribution of corn products, (except commodities in bulk, in tank vehicles), between Hammond, IN, on the one hand, and, on the other, points in KY, MO, NJ, OH, PA, and TN, under a continuing contract with American Maize Products Company, of Hammond, IN. (Hearing site: Washington, DC.)

MC 138279 (Sub-8F), filed November 30, 1978. Applicant: CONALCO CONTRACT CARRIER, INC., 130 Beasley St., Jackson, TN 38301. Representative: Robert L. Baker, 618 United American Bank Bldg., Nashville, TN 37219. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *aluminum*, and (2) *materials, equipment and supplies* used in the manufacture and distribution of aluminum, between the facilities of Ormet Corporation, at or near Hannibal, OH, on the one hand, and, on the other, points in the United States (except AK and HI), under contract with Ormet Corporation, of Hannibal, OH. (Hearing site: Washington, DC.)

MC 138762 (Sub-29F), filed October 26, 1978. Applicant: MUNICIPAL TANK LINES LIMITED, a corporation, P.O. Box 3500, Calgary, Alberta, Canada T2P 2P9. Representative: Richard H. Streeter, 1729 H Street, NW., Washington, DC 20006. To operate as a *common carrier*, by motor vehicle, in foreign commerce, over irregular routes, transporting *phosphoric acid*, in bulk, in tank vehicles, from the ports of entry on the international boundary line between the United States and Canada, at or near Buffalo, NY, to points in NY. (Hearing site: Washington, DC.)

MC 138762 (Sub-30F), filed November 3, 1978. Applicant: MUNICIPAL TANK LINES LIMITED, a corporation, P.O. Box 3500, Calgary, Alberta, Canada T2P 2P9. Representative: Richard H. Streeter, 1729 H Street, NW., Washington, DC 20006. To operate as a *common carrier*, by motor vehicle, in foreign commerce, over irregular routes, transporting *cement*, from the facilities of AETNA Cement Corporation, at or near Essexville, MI, to the ports of entry on the international boundary line between the United States and Canada, located in MI. (Hearing site: Washington, DC.)

MC 138875 (Sub-110F), filed October 6, 1978 and previously noticed in the FR issue of November 24, 1978. Applicant: SHOEMAKER TRUCKING COMPANY, a corporation, 11900 Franklin Road, Boise, ID 83705. Representative: F. L. Sigloh (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *doors, door hardware, and door accessories* (except commodities in bulk), from Seattle, WA, to points in ID, MT, NV, UT, and WY. (Hearing site: Seattle, WA, or Boise, ID.)

NOTE.—This republication is to indicate MT as a destination state in lieu of "MI" as previously published.

MC 138875 (Sub-116F), filed November 6, 1978. Applicant: SHOEMAKER TRUCKING COMPANY, a corporation, 11900 Franklin Road, Boise, ID 83705. Representative: F. L. Sigloh (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by distributors of tile, and floor covering, ceiling covering, wall covering, and counter covering (except commodities in bulk), from the facilities of Mannington Mills, Inc., at Salem, NJ, to points in AZ, CA, CO, ID, OR, MT, NM, NV, UT, WA, and WY, restricted to the transportation of traffic originating at the named origin amd destined to the indicated destinations. (Hearing site: Washington, DC, or Philadelphia, PA.)

MC 139066 (Sub-5F), filed October 16, 1978. Applicant: VAN BUS DELIVERY COMPANY, a Corporation, d.b.a. UNITED VAN BUS DELIVERY, 2601—32nd Ave., South, Minneapolis, MN 55406. Representative: Warren A. Goff, 2008 Clark Tower, 5100 Poplar Ave., Memphis, TN 38137. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *such commodities* as are dealt in by mail order houses and retail stores, and (2) *equipment, materials, and supplies* used in the conduct of such businesses, between Fargo and Grand forks, ND, points in IA, MN, WI, and those in Brookings, Moody, Lake, Miner, Sanborn, Minnehaha, McCook, Hanson, Davison, Lincoln, Turner, Hutchinson, Douglas, Union, Clay, Yakton, Bon Homme, and Aurora Counties, SD, on the one hand, and, on the other, points in the Upper Peninsula of Michigan, under contract with Sears, Roebuck & Company, of Chicago, IL. (Hearing site: Chicago, IL, or Minneapolis, MN.)

MC 139066 (Sub-6F), filed October 16, 1978. Applicant: VAN BUS DELIVERY COMPANY, a Corporation, d/b/a UNITED VAN BUS DELIVERY, 2601-32nd Ave., South, Minneapolis, MN 55406. Representative: Warren A. Goff, 2008 Clark Tower, 5100 Poplar Ave., Memphis, TN 38137. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *such commodities* as are dealt in by mail order houses and retail stores, and (2) *equipment, materials, and supplies* used in the conduct of such businesses, between Fargo and Grand Forks, ND, points in IA, MN, WI, and those in Brookings, Moody, Lake, Miner, Sanborn, Minnehaha, McCook, Hanson, Davison, Lincoln, Turner, Hutchison, Douglas, Union, Clay, Yakton, Bon Homme, and Aurora Counties, SD, under contract with Sears, Roebuck & Company, of Chicago, IL. (Hearing site: Chicago, IL, or Minneapolis, MN.)

MC 139261 (Sub-12F), filed October 25, 1978. Applicant: BUCKEYE EXPRESS, INC., P.O. Box 368, Perrysburg, OH 43551. Representative: Michael M. Briley, 300 Madison Ave., 12th Fl., Toledo, OH 43603. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *cookies*, from McComb, OH, to points in the United States (except AK and HI), and (2) *equipment, materials, and supplies* used in the manufacture of cookies (except commodities in bulk), in the reverse direction, under contracts with Consolidated Biscuit Corporation, of McComb, OH, Nabisco, Inc., of East Hanover, NJ, and Fireside Food Products, of East Hanover, NJ. (Hearing site: Toledo, OH, or Washington, DC.)

MC 140682 (Sub-4F), filed November 1, 1978. Applicant: NEW (TRANS) PORT, INC., P.O. Box 188, Riceboro, GA 31323. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *ash*, from Riceboro, GA, to Dothan, AL, under contract with Interstate Paper Corporation, of Riceboro, Ga. (Hearing site: Jacksonville, FL, or Atlanta, GA.)

MC 140686 (Sub-3F), filed October 2, 1978. Applicant: VSM TRUCKING, INC., 211 South Main Street, Abingdon, IL 61410. Representative: Robert L. Sampson (same as above). To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *Plumbing supplies, bathroom supplies, lavatory supplies, bathroom fixtures, and lavatory fixtures*, and (2) *materials and supplies* used in the manufacture of the commodities named in (1) above, between the facilities of Briggs Manufacturing Co., at Abingdon, IL, on the one hand, and, on the other, points in AL, AR, CO, FL, GA, IA, IN, KY, MD, MI, MN, MO, NC, NE, OH, PA, SC, TN, TX, VA, WI, and WV, under contracts with Briggs Manufacturing Company, Division of Celotex, a Jim Walter Corporation of Alington, IL. (Hearing site: Springfield or Chicago, IL.)

MC 140829 (Sub-153F), filed November 22, 1978. Applicant: CARGO CONTRACT CARRIER CORP., a New Jersey Corporation, P.O. Box 206, Sioux City, IA 51102. Representative: William J. Hanlon, 55 Madison Ave., Morristown, NJ 07960. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen foodstuffs*, from the facilities of Mid-Continent Underground Storage, at or near Bonner Springs, KS, to points in KY, NC, OH, TN, TX, and WV. (Hearing site: Washington, DC.)

NOTE—Dual operations are involved in this proceeding.

MC 140829 (Sub-154F), filed November 22, 1978. Applicant: CARGO CONTRACT CARRIER CORP., a New Jersey Corporation, P.O. Box 206, Sioux City, IA 51102. Representative: William J. Hanlon, 55 Madison Ave., Morristown, NJ 07960. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61, M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of MBPXL Corporation, at or near Dodge City, KS, to points in the United States (except AK, HI, and KS), restricted to the transportation of taffic originating at the named origin. (Hearing site: Washington, DC.)

NOTE—Dual operations may be involved in this proceeding.

MC 141076 (Sub-21F), filed October 17, 1978. Applicant: ROGERS MOTOR LINES, INC., R. D. #2, P.O. Box 388 D2, Hackettstown, NJ 07840. Representative: Eugene M. Malkin, Suite 6193, 5 World Trade Center, New York, NY 10048. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen foods*, in vehicles equipped with mechanical refrigeration, from the facilities of Stouffer Food Company, at or near Solon and Cleveland, OH, to points in CT, DE, MA, MD, ME, NH, NJ, NY, PA, RI, VA, VT, WV, and DC.

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(Hearing site: Cleveland, OH, or Washington, DC.)

NOTE.—Dual operations are involved in this proceeding.

MC 141533 (Sub-7F), filed November 13, 1978. Applicant: LYN TRANSPORT, INC., 37 North Central Avenue, Elmsford, NY 10532. Representative: Bruce J. Robins, 118-21 Queens Blvd., Forest Hills, NY 11375. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs*, in vehicles equipped with mechanical refrigeration, between New York, NY, and Philadelphia, PA, on the one hand, and, on the other, points in Chautauqua County, NY, and those points in PA on and west of U.S. Hwy 219. (Hearing site: New York, NY.)

MC 141921 (Sub-26F), filed October 25, 1978. Applicant: SAV-ON TRANSPORTATION, INC., 143 Frontage Rd., Manchester, NH 03108. Representative: John A. Sykas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *confectionery* (except in bulk, in tank vehicles), from the facilities of Schrafft's Candy Company, at Charlestown, and Woburn, MA, to points in PA, OH, KY, IN, WV, MI, IL, WI, MN, IA, NE, SD, MO, KS, and CO, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations except traffic moving in foreign commerce. (Hearing site: Concord, NH, or Boston, MA)

NOTE.—Dual operations may be involved.

MC141932 (Sub-4F), filed October 31, 1978. Applicant: POLAR TRANSPORT, INC., 176 King Street, Hanover, MA 02339. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *soap, cleaning, scouring, and washing compounds, and softeners*, (except commodities in bulk), from the facilities of the Procter and Gamble Company, at Baltimore, MD, to points in CT, MA, ME, NH, RI, and VT. (Hearing site: Boston, MA, or Washington, DC)

NOTE.—Dual operations may be involved.

MC 142059 (Sub-54F), filed November 17, 1978. Applicant: CARDINAL TRANSPORT, INC., 1830 Mound Rd., Joliet, IL 60436. Representative: Jack Riley (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *freight bodies*, from Buffalo, NY, to points in the United States (except AK and HI). (Hearing site: Buffalo, NY, or Washington, DC)

MC 143059 (Sub-35F), filed November 29, 1978. Applicant: MERCER TRANSPORTATION, CO., a Texas Corporation, P.O. Box 35610, Louisville, KY 40232. Representative: J. L. Stone (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *plastic and rubber articles*, and (2) *materials and supplies* used in the manufacture of the commodities in (1) above, between the facilities of Entek Corporation of America, at or near Irving, TX, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Dallas, TX, or Washington, DC)

MC 143059 (Sub-37F), filed December 1, 1978. Applicant: MERCER TRANSPORTATION CO., a Texas Corporation, P.O. Box 35610, Louisville, KY 40232. Representative: J. L. Stone (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *iron and steel articles, zinc articles, and lead articles*, (2) *springs*, (3) *materials, equipment and supplies* used in construction, (except commodities in bulk), from the facilities used by Penn-Dixie Industries, Inc., Penn-Dixie Steel Corporation, and Steven Spring, Inc., at or near Blue Island and Joliet, IL, Cicero, Elkhart, Ft. Wayne, and Kokomo, IN, Centerville, IA, Grand Rapids and Lansing, MI, Jackson, MS, and Columbus and Toledo, OH, to points in the United States (except AK and HI), and (4) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1), (2), and (3) above, (except commidities in bulk), in the reverse direction, restricted in (1), (2), (3), and (4) above, to the transportation of traffic originating at the named origins and destined to the named destinations, (except traffic moving in foreign commerce). (Hearing site: Louisville, KY, or Washington, DC)

MC 143739 (Sub-6F), filed December 4, 1978. Applicant: SHURSON TRUCKING CO., a Corporation, P.O. Box 147, New Richland, MN 56072. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen foods* and *frozen foods not fit for human consumption*, from the facilities of Continental Freezers of Illinois, at Chicago, IL, to points in IN, KY, MI, MN, MO, OH, and WI. (Hearing site: Chicago, IL)

MC 143891 (Sub-2F), filed October 26, 1978. Applicant: FLYING L TRUCKING CO., A Delaware Corporation, 1350 W. Potrero Rd., Thousand Oaks, CA 91360, Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *canned pet food*, from Muscatine, IA, to points in AL, CO, FL, IL, LA, MA, MD, MO, NJ, NY, OH, TX, and WV. (Hearing site: Los Angeles, LA)

MC 144041 (Sub-25F), filed October 25, 1978. Applicant; DOWNS TRANSPORTATION CO., INC., P.O. Box 465, Conyers, GA 30207. Representative: K. Edward Wolcott, 1200 Gas Light Tower, 235 Peachtree St., N.E., Atlanta, GA 30303. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plastic pipe* and *pipe fittings*, from Social Circle, GA, to points in AL, FL, KY, LA, MD, MS, NC, OH, SC, TN, and VA. CONDITION: Issuance of this certificate is subject to prior or concidental cancellation, at applicant's written request of MC 140883 Sub 13. (Hearing site: Washington, DC)

NOTE.—Dual operations may be involved.

MC 144117 (Sub-17F), filed October 16, 1978. Applicant: T. L. C. LINES, INC., 1666 Fabick Drive, Fenton, MO 63026. Representative: Jack H. Blanshan, Suite 200, 205 West Touhy Ave., Park Ridge, IL 60068. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *petroleum and petroleum products*, in containers, from the facilities of Schaeffer Mnufacturing Company, at St. Louis, MO to points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, and WY, restricted to the transportation of traffic originating at the named origin. (Hearing site: St. Louis, MO.)

MC 144160 (Sub-4F), filed October 17, 1978. Applicant: DONALD A. HALVORSEN, 19000 S.W. Wright Ct., Aloha, OR 97005. Representative: Philip G. Skofstad, P.O. Box 594, Gresham, OR 97030. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *greases, motor and lubricating oils* (except commodities in bulk, in tank vehicles), *tires, and batteries*, from Portland, OR, to Shelton and Yakima, WA, under contracts with Gott Oil Co., Inc., of Shelton, WA, and R. H. Bowles Co., Inc., of Toppenish, WA. (Hearing site: Portland, OR.)

MC 144162 (Sub-3F), filed November 1, 1978. Applicant: TIME CONTRACT CARRIERS, INC., 17734 Sierra Hwy, Canyon Country, CA 91351. Representative: Milton W. Flack, 4311 Wilshire Blvd., #300, Los Angeles, CA 90010. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *vinyl sheeting*, from the facilities of Vinyl Services, Inc., at Fairfield, Essex County, NJ, to points in CA, GA, ID, IN, NC, and SC, under contract with Vinyl Services, Inc., of Fairfield, NJ. (Hearing site: Los Angeles, CA.)

MC 144572 (Sub-4F), filed October 30, 1978. Applicant: MONFORT TRANSPORTATION COMPANY, a corporation, P.O. Box G, Greeley, CO 80631. Representative: John T. Wirth, 717-17th Street, Suite 2600, Denver, CO 80202. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities*, (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from the facilities of Inter State Express, Inc., at New York, NY, to Phoenix, AZ, Los Angeles and San Francisco, CA, Denver, CO, Chicago, IL, Kansas City, KS, Minneapolis, MN, St. Louis, MO, Omaha, NE, Oklahoma City, OK, Portland, OR, Dallas and Houston, TX, and Seattle, WA, restricted to the transportation of traffic moving on freight forwarder bills of lading. (Hearing site: Washington, DC, or Denver, CO.)

NOTE.—Dual operations may be involved.

MC 144827 (Sub-9F), filed October 16, 1978. Applicant: DELTA MOTOR FREIGHT, INC., 1877 Farrisview, Box 18423, Memphis, TN 38118. Representative: Billy R. Hallum (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities*, (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from Los Angeles, CA, to El Paso, Dallas, Houston, and San Antonio, TX, restricted to the transportation of traffic moving on bills of lading of freight forwarders as defined in section 10102(8) (formerly section 402(a)(5) of the Interstate Commerce Act.) (Hearing site: Dallas, TX.)

MC 144874 (Sub-2F), filed October 9, 1978. Applicant: HARRY J. BERRY d/b/a BERRY TRUCKING, P.O. Box 658, Penns Grove, NJ 08069. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *fiberglass gasoline storage tanks, plastic gasoline storage tanks, preconditioners, ducts, and industrial ventilating equipment* (except commodities in bulk, in tank vehicles), from the facilities of the Fiberglass Equipment Division of Dart Environmental Services Company at Penns Grove, NJ, to points in the United States (except AK, CT, DE, HI, IL, IN, IA, KY, ME, MD, MA, MI, MO, NC, NH, NY, OH, PA, RI, SC, TN, VA, VT, WV, and DC.) (Hearing site: Washington, DC.)

MC 145011 (Sub-1F), filed October 24, 1978. Applicant: R. F. WESTBURY, 1617 Willis Rd., Richmond, VA 23224. Representative: Carroll B. Jackson, 1810 Vincennes Rd., Richmond, VA 23229. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *drugs, drug preparations*, and *toilet preparations*, (2) *ingredients* for the commodities named in (1) above, (3) *chemicals, animal feed, fish feed, poultry feed, animal feed ingredients, fish feed ingredients, poultry feed ingredients, cleaning compounds, displays, glassware, light bulbs, paper, paper articles, pet products, pharmaceutical products, pesticides, plastic articles, rubber articles, shampoo, soap*, and *toys*, and (4) *materials, equipment, and supplies* used in the manufacture, sale, and distribution of the commodities named in (1) above, (except in bulk, in tank vehicles), between Richmond, VA, and Cherry Hill, NJ, on the one hand, and, on the other, Dallas, TX, Des Plaines, IL, and Los Angeles, CA, under contract with A. H. Robins Company of Richmond, VA, Elkins-Sinn, Inc., of Cherry Hill, NJ, Miller-Morton Company, of Richmond, VA, and Chap Stick Co., of Lynchburg, VA. (Hearing site: Richmond, VA, or Washington, DC.)

MC 145064 (Sub-4F), filed October 23, 1978. Applicant: HUNTER TRUCKING, INC., a Nebraska corporation, 805 32nd Avenue, Council Bluffs, IA 51501. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *Lumber*, (1) from Lacon and Chicago, IL, and points in KS and TN, to Keene, TX, and points in CA, UT, CO, NE, KS, MN, IA, MO, AR, WI, IL, MI, IN, OH, PA, KY, TN, VA, NC, AL, GA, and ND, (2) from points in IL, WI, IN, MI, OH, PA, and KY to Barbourville, KY, Titusville and Union City, PA, Keokuk, IA, Chicago, IL, Keene, TX, and points in CO and ND, (3) from Beardstown and Hillsdale, IL and points in IA, MO and AR to Keene, TX, and points in ND, (4) from points in AR to points in MI, IN, OH, PA, KY, VA, TN, NC, AL and GA, and (5) from points in the United States in and east of MN, IA, MO, AR, and LA, to points in OR, under contract with McGuffin Lumber, Inc., of Evanston, IL. (Hearing sight: Chicago, IL.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 145125 (Sub-5F), filed December 1, 1978. Applicant: LAUREL MOUNTAIN OVERLAND EXPRESS, INC., P.O. Box 327, Milroy, PA 17063. Representative: Eugene M. Malkin, Suite 6193, 5 World Trade Center, New York, NY 10048. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *rock crushers, rock crusher parts, and accessories and tools for rock crushers, and patterns*, from Carlisle, PA, to points in AZ, CA, CO, ID, NV, NM, OR, TX, UT, WA, and WY, and (2) *scrap steel, wooden patterns, and used, damaged, and defective rock crushers, and parts of rock crushers*, in the reverse direction. (Hearing site: Harrisburg, PA or New York, NY.)

MC 145129 (Sub-1F), filed December 1, 1978. Applicant: WHITAKER TRANSPORTATION CO., INC., P.O. Box 1705, Chattanooga, TN 37401. Representative: Virgil H. Smith, 1587 Phoenix Blvd. Suite 12, Atlanta, GA 30349. To operate as a *common carrier*, by motor vehicles, in interstate or foreign commerce, over irregular routes, transporting (1) *knocked down corrugated cartons*, and *pulpboard*, (except commodities in bulk), from the facilities of Container Corporation of America, at or near Chattanooga, TN, to points in AL and GA, and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), in the reverse direction. (Hearing site: Atlanta, GA or Chattanooga, TN.)

MC 14510 (Sub-1F), filed September 18, 1978. Applicant: McAFEE ENTERPRISES, INC., 2020 Old Hwy 31E, Jeffersonville, IN 47130. Representative: Harry Schear, 410 Elliott St., Cincinnati, OH 45215. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities as are dealt in by grocery and food business houses*, from Chicago, IL, to Jeffersonville, IN, under contact with Northland Super Market, Inc., of Jeffersonville, IN. (Hearing site: Louisville, KY or Indianapolis, IN.)

MC 145152 (Sub-18F), filed October 27, 1978. Applicant: BIG THREE TRANSPORTATION, INC., P.O. Box 706, Springdale, AR 72764. Representative: Don Garrison, 324 North Second Street, Rogers, AR 72756. To operate as a *common carrier*, by motor vehicle, in interstate or foreign com-

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merce, over irregular routes, transporting (1) *electric lamps, lighting fixtures, Christmas tree lamp outfits, electric cord sets, dry cell batteries and portable battery chargers, and lamp ballasts,* and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) above, from Bellevue, Bucyrus, Circleville, Cleveland, Ravenna, Warren, and Youngstown, OH, Lexington, KY, Mattoon and Danville, IL, and St. Louis, MO, to points in AZ, CA, CO, ID, LA, MT, NV, NM, OK, OR, UT, TX, WA, and WY. (Hearing site: Cleveland, OH or Fayetteville, AR.)

MC 145242 (Sub-5F), filed November 2, 1978. Applicant: CASE HEAVY HAULING, INC., P.O. Box 267, Warren, OH 44482. Representative: Michael Spurlock, 275 East State Street, Columbus, OH 43215. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *aluminum articles,* from the facilities of Reynolds Metals, at Richmond and Bellwood, VA, to points in IL, IN, OH, and MI. (Hearing site: Columbus, OH.)

MC 145337 (Sub-1F), filed September 18, 1978. Applicant: P.M.E., LTD., Box 181, Group 261, R.R. 2, Winnipeg, Manitoba Canada R3C 2E6. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58108. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *canned goods,* from New Orleans, LA, to ports of entry between the United States and Canada, at Noyes, MN and Blaine, WA. (Hearing site: Fargo, ND.)

MC 145412 (Sub-2F), filed October 26, 1978. Applicant: LEE RAY FARNSWORTH D/B/A FARNSWORTH TRUCKING, 765 East 1600 North, Orem, UT 84097. Representative: Harry D. Pugsley, 310 South Main Street, #1200, Salt Lake City, UT 84101. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *dairy products,* in vehicles equipped with mechanical refrigeration, from Orem and Salt Lake City, UT, to Genoa and Reno, NV, and (2) *paper cartons,* from Reno, NV, to Orem and Salt Lake City, UT, under contract with Meadow Gold Dairies, Division of Beatrice Foods Company, of Salt Lake City, UT. (Hearing site: Salt Lake City, UT.)

MC 145621 (Sub-1F), filed October 25, 1978. Applicant: FLOYD GARRETT, P.O. Box 533, Fernandina Beach, FL 32034. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *wood chips,* from those points in Georgia on and south of U.S. Hwy 80, to Fernandina Beach, FL. (Hearing site: Jacksonville or Tallahasee, FL.)

MC 145663 (Sub-2F), filed November 13, 1978. Applicant: TRANS-POLAR XPRESS, INC., 5611 N.W. Oakridge Ct., Kansas City, MO 64151. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products* and *meat byproducts,* and *articles distributed by meat-packing houses,* as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Geo. A. Hormel & Co., at or near Miami, OK, and Rockville and Springfield, MO, to points in AR, KS, MO, OK, and GA. (Hearing site: Kansas City, MO or Des Moines, IA.)

MC 145681F, filed October 24, 1978. Applicant: McA TRUCKING, INC., Newport, MN 55055. Representative: Samuel Rubenstein, 301 North Fifth St., Minneapolis, MN 55403. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *contractor's equipment, contractor's tools, contractors' materials, and contractors' supplies,* and *iron and steel tanks,* between Minneapolis, MN, on the one hand, and, on the other, points in IA, SD, ND, and WI. (Hearing site: Minneapolis or St. Paul, MN.)

MC 145692F, filed November 3, 1978. Applicant: W. D. W. TRUCKING, INC., 2620 S.W. 66th Terrace, Miramar, FL 33023. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, NW, Washington, DC 20001. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1)(a) *aluminum articles, and building materials,* and (b) *materials, equipment, and supplies* used in the manufacture, distribution, and installation of the commodites in (1)(a) above, (except commodities in bulk), from the facilities of Alcan Aluminum Corp., at or near Woodbridge, NJ, to points in AL, AR, CA, CO, FL, GA, ID, MS, MT, NV, OR, SC, UT, WA, and WY, and (2) *aluminum articles,* from the facilities of Alcan Aluminum Corp., at or near Oswego, NY, to points in AL, AR, CA, CO, FL, GA, ID, MS, MT, NV, OR, SC, UT, WA, and WY, both (1) and (2) under contract with Alcan Aluminum Corp., of Cleveland, OH. (Hearing site: Washington, DC.)

MC 145762F, filed October 27, 1978. Applicant: SHAMROCK TRANSPORT INC., Building No. 62, Office No. 4, Port Everglades, FL 33316. Representative: Gerard J. Donovan, 4791 S.W. 82nd Ave., Davie, FL 33328. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in Dade, Broward, and Palm Beach Counties, FL, restricted to the transportation of traffic having a prior or subsequent movement by air or water. (Hearing site: Washington, DC or Miami, FL.)

MC 145825F, filed November 28, 1978. Applicant: MILLER TRANSPORTS, INC., P.O. Box 161, Pryor, OK 74361. Representative: Larry D. Henry, 1606 First National Bank Building, Tulsa, OK 74103. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *liquefied petroleum gas,* from points in Reno and McPherson Counties, KS, and Kay and Mayes Counties, OK, (1) to points in OK, on and east of Interstate Hwy 35, and on and north of Interstate Hwy 40, those in KS on and east of Interstate Hwy 35, and on and south of U.S. Hwy 54, and points in Reno and McPherson Counties, KS, and (2) to points in Benton, Washington, Crawford and Sebastian Counties, AR, under contract with Chelsea Butane Co., of Pryor, OK. (Hearing site: Oklahoma City, OK.)

NOTE.—To the extent the permit granted in this proceeding authorized the transportation of liquefied petroleum gas, it will expire 5 years from the date of issuance.

MC 67866 (Sub-36F), filed July 31, 1978, previously notice in the FEDERAL REGISTER issue of December 5, 1978. Applicant: FILM TRANSIT, INC., 3931 Homewood Road, Memphis, TN 38118. Representative: Warren A. Goff, 2008 Clark Tower, 5100 Poplar Ave., Memphis, TN 38137. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between those points in OK on and east of a line beginning at the OK-TX State line and extending along U.S. Hwy 277 to junction U.S. Hwy 81, then north along U.S. Hwy 81 to the OK-KS State line, on the one hand, and, on the other, Lilbourn, MO, points in LA, AR, MS, those in KY on and west of a line beginning at the IL-KY State line, those in TN, on and west of a line beginning at the KY-TN State line and extending along U.S. Hwy 68 to junction U.S. Hwy 641, then along U.S. Hwy 641 to the KY-TN State line and extending along U.S. Hwy 31W to Nashville, then along U.S. Hwy 31 to Columbia, then along TN Hwy 50 to Lewisburg, then along U.S. Hwy 431 to the TN-AL State line, those in AL, on, west, and north of a line beginning at the TN-AL State line and extending along AL Hwy 17 to Hamilton, then over U.S. Hwy 78 to the AL-MS State line, and those in MO on and south of a line beginning at the AR-MO State line and extending along U.S. Hwy 62 to New Madrid and the Mississippi River, restricted against the transportation of (1) any package or article weighing more than 70 pounds, or exceeding 96 inches in length, or 150 inches in length and girth combined, and (2) packages or articles weighing in the aggregate more than (200) pounds from one consignor to one consignee on any one day. (Hearing site: Memphis, TN or Little Rock, AR.)

NOTE.—The person or persons who appear to be engaged in common control between applicant and Carolina Delivery Service Company, Inc. must either file an application under section 5(2) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

NOTE.—This republication adds Lilbourn, MO, changes TN destination "on and east" to "on and west; and U.S. Hwy 50" to 66 TN Hwy 50."

MC 67866 (Sub-37F), filed July 31, 1978, and previously noticed in the FEDERAL REGISTER issue of December 5, 1978. Applicant: FILM TRANSIT, INC., 3931 Homewood Road, Memphis, TN 38118. Representative: Warren A. Goff, 2008 Clark Tower, 5100 Poplar Ave., Memphis, TN 38137. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk) between Lilbourn, MO, points in LA, AR, MS, those in KY on and west of a line beginning at the IL-KY State line and extending along U.S. Hwy 68 to junction U.S. Hwy 641, then along U.S. Hwy 641 to the KY-TN State line, those in TN, on and west of a line beginning at the KY-TN State line and extending along U.S. Hwy 31W to Nashville, then along U.S. Hwy 31 to Columbia, then along TN Hwy 50 to Lewisburg, then along U.S. Hwy 431 to the TN-AL State line, those in AL, on, west, and north of a line beginning at the TN-AL State line and extending along AL Hwy 17 to Hamilton, then over U.S. Hwy 78 to the AL-MS State line, and those in MO on and south of a line beginning at the AR-MO State line and extending along U.S. Hwy 62 to New Madrid and the Mississippi River, restricted against the transportation of (1) any package or article weighing more than 70 pounds, or exceeding 96 inches in length, or 150 inches in length and girth combined, and (2) packages or articles weighing in the aggregate more than (200) pounds from one consignor to one consignee oh any one day. CONDITION: Issuance of a certificate in this proceeding is subject to the prior or coincidental cancellation of carrier's certificate in MC-67866 Sub 33). (Hearing site: Memphis, TN or New Orleans, LA.)

NOTE.—The person or persons who appear to be engaged in common control between applicant and Carolina Delivery Service Company, Inc. must either file an application under section 5(2) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

NOTE.—This republication adds Lilbourn, MO, changes TN designation "on and east" to "on and west", and "U.S. Hwy 50" to "TN Hwy 50."

[FR Doc 79-1353 Filed 1-15-79; 8:45 am]

JA 16 79 UMI

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3)

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[3410-05-M]

1

COMMODITY CREDIT CORPORATION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Published January 11, 1979, 44 FR 2474.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., January 12, 1979.

STATUS: Open meeting.

CHANGES IN THE MEETING:

1. Changes title of item 2 as follows: Docket UCZ 314 re: Guarantee of loans for pilot projects for the production of industrial hydrocarbons and alcohols from agricultural commodities and forest products.

2. Deletes item 3 which was listed as: Docket CZ 266, Resolution 16, Amendment 1 re: Public Law 480 availability determination for dehydrated potatoes.

CONTACT PERSON FOR MORE INFORMATION:

Bill Cherry, Secretary, Commodity Credit Corporation, Room 202-W, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20013, Telephone (202) 447-7583.

(S-82-79 Filed 1-12-79; 11:13 am]

[6351-01-M]

2

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., January 19, 1979.

PLACE: 2033 K Street N.W., Washington, D.C., Eighth floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Market surveillance matters.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-87-79 Filed 1-12-79; 11:16 am]

[6714-01-M]

3

FEDERAL DEPOSIT INSURANCE CORPORATION.

CHANGES IN SUBJECT MATTER OF AGENCY MEETING

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 10:00 a.m. on January 10, 1979, the Corporation's Board of Directors voted, on motion of Acting Chairman John G. Heimann, seconded by Director William M. Isaac (Appointive), to withdraw the following items from consideration:

Recommendation with respect to payment for legal services rendered and expenses incurred by the firm of Strasburger & Price, Dallas, Texas, in connection with the receivership of United States National Bank, San Diego, California.

Recommendation with respect to payment for legal services rendered and expenses incurred by the firm of Casey, Lane & Mittendorf, New York, New York, in connection with the liquidation of Franklin National Bank, New York, New York.

The Board further determined, by the same majority vote, that no earlier notice of the changes in the subject matter of the meeting was practicable.

Dated: January 10, 1979.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[S-83-79 Filed 1-12-79; 11:13 am]

[6714-01-M]

4

FEDERAL DEPOSIT INSURANCE CORPORATION.

CHANGES IN SUBJECT MATTER OF AGENCY MEETING

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 10:30 a.m. on January 10, 1979, the Corporation's Board of Directors voted, on motion of Acting Chairman John G. Heimann, seconded by Director William M. Isaac (Appointive), to withdraw the following matters from the agenda for consideration at the meeting:

Application of Wasatch Bank of Lehi, Lehi, Utah, for Federal deposit insurance.

Recommendation regarding the liquidation of assets acquired by the Corporation from Citizens State Bank (In Receivership), Carrizo Springs, Texas (Case No. 43,762-SR).

The Board then determined, by the same majority vote, that Corporation business required the addition of the following matters to the agenda for the meeting, on less than seven days' notice to the public:

Recommendation regarding the payment for legal services rendered and expenses incurred by the firm of Strasburger & Price, Dallas, Texas, in connection with the receivership of United States National Bank, San Diego, California.

Recommendation regarding the payment for legal services rendered and expenses incurred by the firm of Casey, Lane & Mittendorf, New York, New York, in connection with the liquidation of Franklin National Bank, New York, New York.

The Board further determined, by the same majority vote, that the public interest did not require consideration of the recommendations in a meeting open to public observation and that such recommendations could be considered in a meeting closed to public observation by authority of subsection (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(10)).

The Board also determined, by the same majority vote, that no earlier notice of the changes in the subject matter of the meeting was practicable.

Dated: January 10, 1979.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[S-84-79 Filed 1-12-79; 11:13 am]

[6740-02-M]

5

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Published January 15, 1979.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., January 17, 1979.

CHANGE IN MEETING: The following item has been added:

ITEM NUMBER, DOCKET NUMBER, AND COMPANY

ER-6, ER76-304, ER76-318, and ER76-498, New England Power Co.

KENNETH F. PLUMB,
Secretary.

[S-88-79 Filed 1-12-79; 1:52 pm]

[6210-01-M]

6

FEDERAL RESERVE SYSTEM.

TIME AND DATE: 11 a.m., Friday, January 19, 1979.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed statement regarding Federal Reserve Act amendments designed to improve monetary control and provide for fair competition among financial institutions. (This matter was originally announced for a meeting on December 20, 1978).

2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

3. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

Dated: January 11, 1979.

THEODORE E. ALLISON,
Secretary of the Board.

[S-89-79 Filed 1-12-79; 2:50 pm]

[7590-01-M]

7

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: January 18 and 19, 1979.

PLACE: Commissioners conference room, 1717 H Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

THURSDAY, JANUARY 18

9:30 a.m.

1. Discussion of revision of NRC regulations governing the ownership of stocks, bonds and other security interests by NRC employees (approximately 1 hour), public meeting.

1:30 p.m.

1. Progress briefing by siting policy task force (approximately 1 hour), public meeting.

2. Discussion of PIRG petition for rulemaking to amend 10 CFR 100 pertaining to population density criteria around nuclear reactor sites (approximately 1 hour), public meeting.

3. Affirmation session (approximately 10 minutes), public meeting—(a) Regulation of medical uses of byproduct material; (b) Amend Part 35 to change conditions of group medical licenses; (c) Time periods for issuance of initial decisions; (d) Elimination of dose-averaging formula; and (e) Order in South Carolina E&G (summer).

FRIDAY, JANUARY 19

9:15 a.m.

1. Oral presentations in the S-3 rulemaking (environmental effects of the uranium fuel cycle) (approximately 3 hours), public meeting.

1:30 p.m.

1. Time reserved for S-3 rulemaking (approximately 1 hour), public meeting, if required.

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

Dated: January 11, 1979.

ROGER M. TWEED,
Office of the Secretary.

[S-85-79 Filed 1-12-79; 11:16 am]

[8010-01-M]

8

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: (44 FR 1831, Jan. 8, 1979.)

STATUS: Closed meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: January 8, 1979.

CHANGES IN MEETING: Additional items. The following items were considered at the closed meeting on Thursday, January 11, 1979, at 10 a.m.:

Litigation matter.
Settlement of injunctive action.
Access to investigative files by Federal, state or self-regulatory authorities.
Formal order of investigation.

Chairman Williams, and Commissioners Loomis, Evans, Pollack and Karmel determined that Commission business required the above changes and that no earlier notice thereof was possible.

JANUARY 11, 1979.

(S-86-79 Filed 1-12-79; 11:16 am)

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federal register

TUESDAY, JANUARY 16, 1979

PART II



DEPARTMENT OF THE TREASURY

Fiscal Service,

Bureau of the Public Debt

■

OFFERING OF UNITED STATES SAVINGS BONDS

SERIES E

Dept. Circular 653
Ninth Revision
Fourth Amendment

V 4 4 / 1 1

[4810-40-M]

Title 31—Money and Finance

CHAPTER II—FISCAL SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER B—BUREAU OF THE PUBLIC DEBT

PART 316—OFFERING OF UNITED STATES SAVINGS BONDS, SERIES E

AGENCY: Department of the Treasury.

ACTION: Final Rule.

SUMMARY: The purpose of this amendment to the current offering of United States savings bonds, Series E, is to revise the tables of redemption values and investment yields for bonds of various issue dates entering their first or next extended maturity period.

EFFECTIVE DATE: January 16, 1979.

FOR FURTHER INFORMATION CONTACT:

A. E. Martin III, Attorney-Advisor, Bureau of the Public Debt, (202) 376-0636.

SUPPLEMENTARY INFORMATION: The tables contained in the offering circular for Series E savings bonds show the redemption values and investment yields for bonds of all issue dates. Each table covers particular groupings of issue dates. When the earlier dated bonds in any group reach the end of an original or extended maturity period, it is necessary to provide a supplemental table to reflect the redemption values and investment yields that will apply to their first or next extended maturity period. During 1979, the earlier dated bonds in each of the following groups will enter their first or next extended maturity period:

(1) Table 20—bonds dated June 1 through November 1, 1949;

(2) Table 21—bonds dated December 1, 1949, through May 1, 1950;

(3) Table 63—bonds dated June 1 through August 1, 1961;

(4) Table 64—bonds dated September 1 through November 1, 1961;

(5) Table 65—bonds dated December 1, 1961, through February 1, 1962;

(6) Table 66—bonds dated March 1 through May 1, 1962;

(7) Table 96—bonds dated June 1 through November 1, 1973; and

(8) Table 98—only for bonds dated January 1 through December 1, 1974.

To reflect these new extended maturity periods, Tables 20, 21, 63, 64, 65, 66, and 96 are being supplemented to show redemption values and investment yields for the first or next extended maturity period applicable thereto. It should be noted that, in some cases, later dated bonds covered by these tables will not enter their first or next extended maturity period until after 1979. As extensions have already been irrevocably granted to these bonds, the supplemental tables published below will apply to them, provided there is no intervening change in the interest rate paid on savings bonds.

With respect to Table 98, new Table 99 is being added to cover those bonds dated January 1, 1975, through August 1, 1976, which will not enter their first extension until a later time. Table 98, which will now only cover bonds dated January 1, 1974, through December 1, 1974, is being supplemented at this time to show the redemption values and investment yields of these bonds for their first extended maturity period. These are the only bonds covered by former Table 98 that will enter an extension during 1979.

Accordingly, Department of the Treasury Circular No. 653, Ninth Revision, as amended, dated April 23, 1974 (31 CFR, Part 316) is hereby further amended by the deletion of current Table 98 and the issuance of new Tables 20-A, 21-A, 63-A, 64-A, 65-A, 66-A, 96-A, 98, 98-A and 99.

The foregoing amendment was effected under authority of Section 22 of the Second Liberty Bond Act, as amended (49 Stat. 21, as amended; 31 U.S.C. 757c) and 5 U.S.C. 301.

Since this amendment involves the fiscal policy of the United States and does not meet the Department's criteria for significant regulations, it has been determined that notice and public procedures thereon are unnecessary.

Dated: December 21, 1978.

PAUL H. TAYLOR,
Fiscal Assistant Secretary.

J A 1 6 7 9 UMI

[4810-40-C]

TABLE 20-A

BONDS BEARING ISSUE DATES FROM JUNE 1 THROUGH NOV. 1, 1949

Issue price / Denomination	$7.50 / 10.00	$18.75 / 25.00	$37.50 / 50.00	$75.00 / 100.00	$150.00 / 200.00	$375.00 / 500.00	$750.00 / 1000.00	Approximate investment yield (annual percentage rate)

Period (years and months after second extended maturity at 30 years 0 months)	(1) Redemption values during each half-year period (values increase on first day of period)* THIRD EXTENDED MATURITY PERIOD							(2) From beginning of current maturity period to beginning of each ½-yr. pd.	(3) From beginning of each ½-yr. period to beginning of next ½-yr. pd.	(4) From beginning of each ½-yr. period to 3rd extended maturity
								Percent	Percent	Percent
0-0 to 0-6 . . . 1/ (6/1/79)	$25.88	$64.71	$129.42	$258.84	$517.68	$1294.20	$2588.40	----	6.00	6.00
0-6 to 1-0 . . . . (12/1/79)	26.66	66.65	133.30	266.60	533.20	1333.00	2666.00	6.00	6.00	6.00
1-0 to 1-6 . . . . (6/1/80)	27.46	68.65	137.30	274.60	549.20	1373.00	2746.00	6.00	6.00	6.00
1-6 to 2-0 . . . . (12/1/80)	28.28	70.71	141.42	282.84	565.68	1414.20	2828.40	6.00	6.00	6.00
2-0 to 2-6 . . . . (6/1/81)	29.13	72.83	145.66	291.32	582.64	1456.60	2913.20	6.00	6.01	6.00
2-6 to 3-0 . . . . (12/1/81)	30.01	75.02	150.04	300.08	600.16	1500.40	3000.80	6.00	6.00	6.00
3-0 to 3-6 . . . . (6/1/82)	30.91	77.27	154.54	309.08	618.16	1545.40	3090.80	6.00	6.00	6.00
3-6 to 4-0 . . . . (12/1/82)	31.84	79.59	159.18	318.36	636.72	1591.80	3183.60	6.00	5.98	6.00
4-0 to 4-6 . . . . (6/1/83)	32.79	81.97	163.94	327.88	655.76	1639.40	3278.80	6.00	6.00	6.00
4-6 to 5-0 . . . . (12/1/83)	33.77	84.43	168.86	337.72	675.44	1688.60	3377.20	6.00	5.99	6.00
5-0 to 5-6 . . . . (6/1/84)	34.78	86.96	173.92	347.84	695.68	1739.20	3478.40	6.00	6.00	6.00
5-6 to 6-0 . . . . (12/1/84)	35.83	89.57	179.14	358.28	716.56	1791.40	3582.80	6.00	6.01	6.00
6-0 to 6-6 . . . . (6/1/85)	36.90	92.26	184.52	369.04	738.08	1845.20	3690.40	6.00	6.00	6.00
6-6 to 7-0 . . . . (12/1/85)	38.01	95.03	190.06	380.12	760.24	1900.60	3801.20	6.00	6.00	6.00
7-0 to 7-6 . . . . (6/1/86)	39.15	97.88	195.76	391.52	783.04	1957.60	3915.20	6.00	6.01	6.00
7-6 to 8-0 . . . . (12/1/86)	40.33	100.82	201.64	403.28	806.56	2016.40	4032.80	6.00	5.99	6.00
8-0 to 8-6 . . . . (6/1/87)	41.54	103.84	207.68	415.36	830.72	2076.80	4153.60	6.00	6.01	6.00
8-6 to 9-0 . . . . (12/1/87)	42.78	106.96	213.92	427.84	855.68	2139.20	4278.40	6.00	5.98	6.00
9-0 to 9-6 . . . . (6/1/88)	44.06	110.16	220.32	440.64	881.28	2203.20	4406.40	6.00	6.01	6.00
9-6 to10-0 . . . . (12/1/88)	45.39	113.47	226.94	453.88	907.76	2269.40	4538.80	6.00	5.99	5.99
10-0 2/ . . . . . (6/1/89)	46.75	116.87	233.74	467.48	934.96	2337.40	4674.80	6.00 3/	----	----

1/ Month, day, and year on which issues of June 1, 1949, enter each period. For subsequent issue months add the appropriate number of months.
2/ Third extended maturity reached at 40 years 0 months after issue.
3/ Yield on purchase price from issue date to 3rd extended maturity date is 4.63 percent.

* For earlier redemption values and yields see appropriate table in Department Circular 653, 9th Revision, as amended and supplemented.
** This table does not apply if the prevailing rate for Series E bonds being issued at the time the extension begins is different from 6.00 percent.

TABLE 21-A

BONDS BEARING ISSUE DATES FROM DEC. 1, 1949, THROUGH MAY 1, 1950

Issue price / Denomination	$7.50 / 10.00	$18.75 / 25.00	$37.50 / 50.00	$75.00 / 100.00	$150.00 / 200.00	$375.00 / 500.00	$750.00 / 1000.00	Approximate investment yield (annual percentage rate)

Period (years and months after second extended maturity at 30 years 0 months)	(1) Redemption values during each half-year period (values increase on first day of period)* THIRD EXTENDED MATURITY PERIOD							(2) From beginning of current maturity period to beginning of each ½-yr. pd.	(3) From beginning of each ½-yr. period to beginning of next ½-yr. pd.	(4) From beginning of each ½-yr. period to 3rd extended maturity
								Percent	Percent	Percent
0-0 to 0-6 . . . 1/(12/1/79)	$26.15	$65.38	$130.76	$261.52	$523.04	$1307.60	$2615.20	----	6.00	6.00
0-6 to 1-0 . . . (6/1/80)	26.94	67.34	134.68	269.36	538.72	1346.80	2693.60	6.00	6.00	6.00
1-0 to 1-6 . . . . (12/1/80)	27.74	69.36	138.72	277.44	554.88	1387.20	2774.40	6.00	6.00	6.00
1-6 to 2-0 . . . . (6/1/81)	28.58	71.44	142.88	285.76	571.52	1428.80	2857.60	6.00	6.02	6.00
2-0 to 2-6 . . . . (12/1/81)	29.44	73.59	147.18	294.36	588.72	1471.80	2943.60	6.00	5.98	6.00
2-6 to 3-0 . . . . (6/1/82)	30.32	75.79	151.58	303.16	606.32	1515.80	3031.60	6.00	6.02	6.00
3-0 to 3-6 . . . . (12/1/82)	31.23	78.07	156.14	312.28	624.56	1561.40	3122.80	6.00	5.99	6.00
3-6 to 4-0 . . . . (6/1/83)	32.16	80.41	160.82	321.64	643.28	1608.20	3216.40	6.00	5.99	6.00
4-0 to 4-6 . . . . (12/1/83)	33.13	82.82	165.64	331.28	662.56	1656.40	3312.80	6.00	6.01	6.00
4-6 to 5-0 . . . . (6/1/84)	34.12	85.31	170.62	341.24	682.48	1706.20	3412.40	6.00	6.00	6.00
5-0 to 5-6 . . . . (12/1/84)	35.15	87.87	175.74	351.48	702.96	1757.40	3514.80	6.00	5.99	6.00
5-6 to 6-0 . . . . (6/1/85)	36.20	90.50	181.00	362.00	724.00	1810.00	3620.00	6.00	6.01	6.00
6-0 to 6-6 . . . . (12/1/85)	37.29	93.22	186.44	372.88	745.76	1864.40	3728.80	6.00	5.99	6.00
6-6 to 7-0 . . . . (6/1/86)	38.40	96.01	192.02	384.04	768.08	1920.20	3840.40	6.00	6.00	6.00
7-0 to 7-6 . . . . (12/1/86)	39.56	98.89	197.78	395.56	791.12	1977.80	3955.60	6.00	6.01	6.00
7-6 to 8-0 . . . . (6/1/87)	40.74	101.86	203.72	407.44	814.88	2037.20	4074.40	6.00	6.01	6.00
8-0 to 8-6 . . . . (12/1/87)	41.97	104.92	209.84	419.68	839.36	2098.40	4196.80	6.00	5.99	6.00
8-6 to 9-0 . . . . (6/1/88)	43.22	108.06	216.12	432.24	864.48	2161.20	4322.40	6.00	6.02	6.00
9-0 to 9-6 . . . . (12/1/88)	44.52	111.31	222.62	445.24	890.48	2226.20	4452.40	6.00	5.98	5.99
9-6 to10-0 . . . . (6/1/89)	45.86	114.64	229.28	458.56	917.12	2292.80	4585.60	6.00	6.00	6.00
10-0 2/ . . . . . (12/1/89)	47.23	118.08	236.16	472.32	944.64	2361.60	4723.20	6.00 3/	----	----

1/ Month, day, and year on which issues of Dec. 1, 1949, enter each period. For subsequent issue months add the appropriate number of months.
2/ Third extended maturity reached at 40 years 0 months after issue.
3/ Yield on purchase price from issue date to 3rd extended maturity date is 4.65 percent.

* For earlier redemption values and yields see appropriate table in Department Circular 653, 9th Revision, as amended and supplemented.
** This table does not apply if the prevailing rate for Series E bonds being issued at the time the extension begins is different from 6.00 percent.

TABLE 63-A

BONDS BEARING ISSUE DATES FROM JUNE 1 THROUGH AUG. 1, 1961

Issue price	$18.75	$37.50	$75.00	$150.00	$375.00	$750.00	$7500	Approximate investment yield (annual percentage rate)
Denomination	25.00	50.00	100.00	200.00	500.00	1000.00	10000	

Period (years and months after first extended maturity at 17 years 9 months)	(1) Redemption values during each half-year period (values increase on first day of period)* SECOND EXTENDED MATURITY PERIOD							(2) From beginning of current maturity period to beginning of each ½-yr. pd.	(3) From beginning of each ½-yr. period to beginning of next ½-yr. pd.	(4) From beginning of each ½-yr. period to 2nd extended maturity
								Percent	Percent	Percent
0-0 to 0-6 . . . 1/(3/1/79)	$44.17	$88.34	$176.68	$353.36	$883.40	$1766.80	$17668	----	6.02	6.00
0-6 to 1-0 . . . (9/1/79)	45.50	91.00	182.00	364.00	910.00	1820.00	18200	6.02	5.98	6.00
1-0 to 1-6 . . . (3/1/80)	46.86	93.72	187.44	374.88	937.20	1874.40	18744	6.00	6.02	6.00
1-6 to 2-0 . . . (9/1/80)	48.27	96.54	193.08	386.16	965.40	1930.80	19308	6.01	5.97	6.00
2-0 to 2-6 . . . (3/1/81)	49.71	99.42	198.84	397.68	994.20	1988.40	19884	6.00	6.04	6.00
2-6 to 3-0 . . . (9/1/81)	51.21	102.42	204.84	409.68	1024.20	2048.40	20484	6.00	5.98	6.00
3-0 to 3-6 . . . (3/1/82)	52.74	105.48	210.96	421.92	1054.80	2109.60	21096	6.00	5.99	6.00
3-6 to 4-0 . . . (9/1/82)	54.32	108.64	217.28	434.56	1086.40	2172.80	21728	6.00	6.00	6.00
4-0 to 4-6 . . . (3/1/83)	55.95	111.90	223.80	447.60	1119.00	2238.00	22380	6.00	6.01	6.00
4-6 to 5-0 . . . (9/1/83)	57.63	115.26	230.52	461.04	1152.60	2305.20	23052	6.00	6.00	6.00
5-0 to 5-6 . . . (3/1/84)	59.36	118.72	237.44	474.88	1187.20	2374.40	23744	6.00	6.00	6.00
5-6 to 6-0 . . . (9/1/84)	61.14	122.28	244.56	489.12	1222.80	2445.60	24456	6.00	6.02	6.00
6-0 to 6-6 . . . (3/1/85)	62.98	125.96	251.92	503.84	1259.60	2519.20	25192	6.00	6.00	6.00
6-6 to 7-0 . . . (9/1/85)	64.87	129.74	259.48	518.96	1297.40	2594.80	25948	6.00	5.98	6.00
7-0 to 7-6 . . . (3/1/86)	66.81	133.62	267.24	534.48	1336.20	2672.40	26724	6.00	6.02	6.00
7-6 to 8-0 . . . (9/1/86)	68.82	137.64	275.28	550.56	1376.40	2752.80	27528	6.00	5.99	6.00
8-0 to 8-6 . . . (3/1/87)	70.88	141.76	283.52	567.04	1417.60	2835.20	28352	6.00	6.01	6.00
8-6 to 9-0 . . . (9/1/87)	73.01	146.02	292.04	584.08	1460.20	2920.40	29204	6.00	6.00	6.00
9-0 to 9-6 . . . (3/1/88)	75.20	150.40	300.80	601.60	1504.00	3008.00	30080	6.00	5.98	6.00
9-6 to10-0 . . . (9/1/88)	77.45	154.90	309.80	619.60	1549.00	3098.00	30980	6.00	6.02	6.02
10-0 2/ . . . . (3/1/89)	79.78	159.56	319.12	638.24	1595.60	3191.20	31912	6.00 3/	----	----

1/ Month, day, and year on which issues of June 1, 1961, enter each period. For subsequent issue months add the appropriate number of months.
2/ Second extended maturity reached at 27 years 9 months after issue.
3/ Yield on purchase price from issue date to 2nd extended maturity date is 5.29 percent.

* For earlier redemption values and yields see appropriate table in Department Circular 653, 9th Revision, as amended and supplemented.
** This table does not apply if the prevailing rate for Series E bonds being issued at the time the extension begins is different from 6.00 percent.

TABLE 64-A

BONDS BEARING ISSUE DATES FROM SEPT. 1 THROUGH NOV. 1, 1961

Issue price	$18.75	$37.50	$75.00	$150.00	$375.00	$750.00	$7500	Approximate investment yield (annual percentage rate)
Denomination	25.00	50.00	100.00	200.00	500.00	1000.00	10000	

Period (years and months after first extended maturity at 17 years 9 months)	(1) Redemption values during each half-year period (values increase on first day of period)* SECOND EXTENDED MATURITY PERIOD							(2) From beginning of current maturity period to beginning of each ½-yr. pd.	(3) From beginning of each ½-yr. period to beginning of next ½-yr. pd.	(4) From beginning of each ½-yr. period to 2nd extended maturity
								Percent	Percent	Percent
0-0 to 0-6 . . . 1/(6/1/79)	$44.56	$89.12	$178.24	$356.48	$891.20	$1782.40	$17824	----	6.01	6.00
0-6 to 1-0 . . . (12/1/79)	45.90	91.80	183.60	367.20	918.00	1836.00	18360	6.01	5.97	6.00
1-0 to 1-6 . . . (6/1/80)	47.27	94.54	189.08	378.16	945.40	1890.80	18908	5.99	6.01	6.00
1-6 to 2-0 . . . (12/1/80)	48.69	97.38	194.76	389.52	973.80	1947.60	19476	6.00	6.00	6.00
2-0 to 2-6 . . . (6/1/81)	50.15	100.30	200.60	401.20	1003.00	2006.00	20060	6.00	6.02	6.00
2-6 to 3-0 . . . (12/1/81)	51.66	103.32	206.84	413.28	1033.20	2066.40	20684	6.00	6.00	6.00
3-0 to 3-6 . . . (6/1/82)	53.21	106.42	212.84	423.68	1064.20	2128.40	21284	6.00	5.98	6.00
3-6 to 4-0 . . . (12/1/82)	54.80	109.60	219.20	438.40	1096.00	2192.00	21920	6.00	6.02	6.00
4-0 to 4-6 . . . (6/1/83)	56.45	112.90	225.80	451.60	1129.00	2238.00	22580	6.00	5.99	6.00
4-6 to 5-0 . . . (12/1/83)	58.14	116.28	232.56	465.12	1162.80	2325.60	23256	6.00	5.99	6.00
5-0 to 5-6 . . . (6/1/84)	59.88	119.76	239.52	479.04	1197.60	2395.20	23952	6.00	6.01	6.00
5-6 to 6-0 . . . (12/1/84)	61.68	123.36	246.72	493.44	1233.60	2467.20	24672	6.00	6.00	6.00
6-0 to 6-6 . . . (6/1/85)	63.53	127.06	254.12	508.24	1270.60	2541.20	25412	6.00	6.01	6.00
6-6 to 7-0 . . . (12/1/85)	65.44	130.88	261.76	523.52	1308.80	2617.60	26176	6.00	5.99	6.00
7-0 to 7-6 . . . (6/1/86)	67.40	134.80	269.60	539.20	1348.00	2696.00	26960	6.00	5.99	6.00
7-6 to 8-0 . . . (12/1/86)	69.42	138.84	277.68	555.36	1388.40	2776.80	27768	6.00	6.02	6.00
8-0 to 8-6 . . . (6/1/87)	71.51	143.02	286.04	572.08	1430.20	2860.40	28604	6.00	5.99	6.00
8-6 to 9-0 . . . (12/1/87)	73.65	147.30	294.60	589.20	1473.00	2946.00	29460	6.00	6.00	6.00
9-0 to 9-6 . . . (6/1/88)	75.86	151.72	303.44	606.88	1517.20	3034.40	30344	6.00	6.01	6.00
9-6 to10-0 . . . (12/1/88)	78.14	156.28	312.56	625.12	1562.80	3125.60	31256	6.00	5.99	5.99
10-0 2/ . . . . (6/1/89)	80.48	160.96	321.92	643.84	1609.60	3219.20	32192	6.00 3/	----	----

1/ Month, day, and year on which issues of Sept. 1, 1961, enter each period. For subsequent issue months add the appropriate number of months.
2/ Second extended maturity reached at 27 years 9 months after issue.
3/ Yield on purchase price from issue date to 2nd extended maturity date is 5.32 percent.

* For earlier redemption values and yields see appropriate table in Department Circular 653, 9th Revision, as amended and supplemented.
** This table does not apply if the prevailing rate for Series E bonds being issued at the time the extension begins is different from 6.00 percent.

TABLE 65-A

BONDS BEARING ISSUE DATES FROM DEC. 1, 1961, THROUGH FEB. 1, 1962

Issue price	$18.75	$37.50	$75.00	$150.00	$375.00	$750.00	$7500	Approximate investment yield (annual percentage rate)
Denomination	25.00	50.00	100.00	200.00	500.00	1000.00	10000	

Period (years and months after first extended maturity at 17 years 9 months)	(1) Redemption values during each half-year period (values increase on first day of period)* SECOND EXTENDED MATURITY PERIOD							(2) From beginning of current maturity period to beginning of each ½-yr. pd.	(3) From beginning of each ½-yr. period to beginning of next ½-yr. pd.	(4) From beginning of each ½-yr. period to 2nd extended maturity
								Percent	Percent	Percent
0-0 to 0-6 . . . 1/(9/1/79)	$44.69	$89.38	$178.76	$357.52	$893.80	$1787.60	$17876	----	6.00	6.00
0-6 to 1-0 . . . (3/1/80)	46.03	92.06	184.12	368.24	920.60	1841.20	18412	6.00	6.00	6.00
1-0 to 1-6 . . . (9/1/80)	47.41	94.82	189.64	379.28	948.20	1896.40	18964	6.00	5.99	6.00
1-6 to 2-0 . . . (3/1/81)	48.83	97.66	195.32	390.64	976.60	1953.20	19532	5.99	6.02	6.00
2-0 to 2-6 . . . (9/1/81)	50.30	100.60	201.20	402.40	1006.00	2012.00	20120	6.00	6.00	6.00
2-6 to 3-0 . . . (3/1/82)	51.81	103.62	207.24	414.48	1036.20	2072.40	20724	6.00	5.98	6.00
3-0 to 3-6 . . . (9/1/82)	53.36	106.72	213.44	426.88	1067.20	2134.40	21344	6.00	6.00	6.00
3-6 to 4-0 . . . (3/1/83)	54.96	109.92	219.84	439.68	1099.20	2198.40	21984	6.00	6.00	6.00
4-0 to 4-6 . . . (9/1/83)	56.61	113.22	226.44	452.88	1132.20	2264.40	22644	6.00	6.01	6.00
4-6 to 5-0 . . . (3/1/84)	58.31	116.62	233.24	466.48	1166.20	2332.40	23324	6.00	6.00	6.00
5-0 to 5-6 . . . (9/1/84)	60.06	120.12	240.24	480.48	1201.20	2402.40	24024	6.00	5.99	6.00
5-6 to 6-0 . . . (3/1/85)	61.86	123.72	247.44	494.88	1237.20	2474.40	24744	6.00	6.01	6.00
6-0 to 6-6 . . . (9/1/85)	63.72	127.44	254.88	509.76	1274.40	2548.80	25488	6.00	5.99	6.00
6-6 to 7-0 . . . (3/1/86)	65.63	131.26	262.52	525.04	1312.60	2625.20	26252	6.00	6.00	6.00
7-0 to 7-6 . . . (9/1/86)	67.60	135.20	270.40	540.80	1352.00	2704.00	27040	6.00	6.01	6.00
7-6 to 8-0 . . . (3/1/87)	69.63	139.26	278.52	557.04	1392.60	2785.20	27852	6.00	5.97	6.00
8-0 to 8-6 . . . (9/1/87)	71.71	143.42	286.84	573.68	1434.20	2868.40	28684	6.00	6.02	6.01
8-6 to 9-0 . . . (3/1/88)	73.87	147.74	295.48	590.96	1477.40	2954.80	29548	6.00	5.98	6.00
9-0 to 9-6 . . . (9/1/88)	76.08	152.16	304.32	608.64	1521.60	3043.20	30432	6.00	5.99	6.01
9-6 to10-0 . . . (3/1/89)	78.36	156.72	313.44	626.88	1567.20	3134.40	31344	6.00	6.02	6.02
10-0 2/ . . . . (9/1/89)	80.72	161.44	322.88	645.76	1614.40	3228.80	32288	6.00 3/	----	----

1/ Month, day, and year on which issues of Dec. 1, 1961, enter each period. For subsequent issue months add the appropriate number of months.
2/ Second extended maturity reached at 27 years 9 months after issue.
3/ Yield on purchase price from issue date to 2nd extended maturity date is 5.33 percent.

* For earlier redemption values and yields see appropriate table in Department Circular 653, 9th Revision, as amended and supplemented.
** This table does not apply if the prevailing rate for Series E bonds being issued at the time the extension begins is different from 6.00 percent.

TABLE 66-A

BONDS BEARING ISSUE DATES FROM MARCH 1 THROUGH MAY 1, 1962

Issue price	$18.75	$37.50	$75.00	$150.00	$375.00	$750.00	$7500	Approximate investment yield (annual percentage rate)
Denomination	25.00	50.00	100.00	200.00	500.00	1000.00	10000	

Period (years and months after first extended maturity at 17 years 9 months)	(1) Redemption values during each half-year period (values increase on first day of period)* SECOND EXTENDED MATURITY PERIOD							(2) From beginning of current maturity period to beginning of each ½-yr. pd.	(3) From beginning of each ½-yr. period to beginning of next ½-yr. pd.	(4) From beginning of each ½-yr. period to 2nd extended maturity
								Percent	Percent	Percent
0-0 to 0-6 . . . 1/(12/1/79)	$44.90	$89.80	$179.60	$359.20	$898.00	$1796.00	$17960	----	6.01	6.00
0-6 to 1-0 . . . (6/1/80)	46.25	92.50	185.00	370.00	925.00	1850.00	18500	6.01	5.97	6.00
1-0 to 1-6 . . . (12/1/80)	47.63	95.26	190.52	381.04	952.60	1905.20	19052	5.99	6.00	6.00
1-6 to 2-0 . . . (6/1/81)	49.06	98.12	196.24	392.48	981.20	1962.40	19624	6.00	6.03	6.00
2-0 to 2-6 . . . (12/1/81)	50.54	101.08	202.16	404.32	1010.80	2021.60	20216	6.00	5.98	6.00
2-6 to 3-0 . . . (6/1/82)	52.05	104.10	208.20	416.40	1041.00	2082.00	20820	6.00	5.99	6.00
3-0 to 3-6 . . . (12/1/82)	53.61	107.22	214.44	428.88	1072.20	2144.40	21444	6.00	6.01	6.00
3-6 to 4-0 . . . (6/1/83)	55.22	110.44	220.88	441.76	1104.40	2208.80	22088	6.00	6.01	6.00
4-0 to 4-6 . . . (12/1/83)	56.88	113.76	227.52	455.04	1137.60	2275.20	22752	6.00	5.98	6.00
4-6 to 5-0 . . . (6/1/84)	58.58	117.16	234.32	468.64	1171.60	2343.20	23432	6.00	6.01	6.00
5-0 to 5-6 . . . (12/1/84)	60.34	120.68	241.36	482.72	1206.80	2413.60	24136	6.00	6.00	6.00
5-6 to 6-0 . . . (6/1/85)	62.15	124.30	248.60	497.20	1243.00	2486.00	24860	6.00	6.02	6.00
6-0 to 6-6 . . . (12/1/85)	64.02	128.04	256.08	512.16	1280.40	2560.80	25608	6.00	6.00	6.00
6-6 to 7-0 . . . (6/1/86)	65.94	131.88	263.76	527.52	1318.80	2637.60	26376	6.00	6.01	6.00
7-0 to 7-6 . . . (12/1/86)	67.92	135.84	271.68	543.36	1358.40	2716.80	27168	6.00	5.98	6.00
7-6 to 8-0 . . . (6/1/87)	69.95	139.90	279.80	559.60	1399.00	2798.00	27980	6.00	6.00	6.00
8-0 to 8-6 . . . (12/1/87)	72.05	144.10	288.20	576.40	1441.00	2882.00	28820	6.00	6.00	6.00
8-6 to 9-0 . . . (6/1/88)	74.21	148.42	296.84	593.68	1484.20	2968.40	29684	6.00	6.01	6.00
9-0 to 9-6 . . . (12/1/88)	76.44	152.88	305.76	611.52	1528.80	3057.60	30576	6.00	5.99	5.99
9-6 to10-0 . . . (6/1/89)	78.73	157.46	314.92	629.84	1574.60	3149.20	31492	6.00	6.00	6.00
10-0 2/ . . . . (12/1/89)	81.09	162.18	324.36	648.72	1621.80	3243.60	32436	6.00 3/	----	----

1/ Month, day, and year on which issues of March 1, 1962, enter each period. For subsequent issue months add the appropriate number of months.
2/ Second extended maturity reached at 27 years 9 months after issue.
3/ Yield on purchase price from issue date to 2nd extended maturity date is 5.35 percent.

* For earlier redemption values and yields see appropriate table in Department Circular 653, 9th Revision, as amended and supplemented.
** This table does not apply if the prevailing rate for Series E bonds being issued at the time the extension begins is different from 6.00 percent.

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TABLE 96-A

BONDS BEARING ISSUE DATES FROM JUNE 1 THROUGH NOV. 1, 1973

Issue price	$18.75	$37.50	$56.25	$75.00	$150.00	$375.00	$750.00	$7500	Approximate investment yield (annual percentage rate)
Denomination	25.00	50.00	75.00	100.00	200.00	500.00	1000.00	10000	

Period (years and months after original maturity at 5 years 10 months)	(1) Redemption values during each half-year period (values increase on first day of period)* EXTENDED MATURITY PERIOD								(2) From beginning of current maturity period to beginning of each ½-yr. pd.	(3) From beginning of each ½-yr. period to beginning of next ½-yr. pd.	(4) From beginning of each ½-yr. period to extended maturity
									Percent	Percent	Percent
0-0 to 0-6 . . . 1/ (4/1/79)	$26.40	$52.80	$79.20	$105.60	$211.20	$528.00	$1056.00	$10560	——	5.98	6.00
0-6 to 1-0 . . . . (10/1/79)	27.19	54.38	81.57	108.76	217.52	543.80	1087.60	10876	5.98	6.03	6.00
1-0 to 1-6 . . . . (4/1/80)	28.01	56.02	84.03	112.04	224.08	560.20	1120.40	11204	6.01	6.00	6.00
1-6 to 2-0 . . . . (10/1/80)	28.85	57.70	86.55	115.40	230.80	577.00	1154.00	11540	6.00	5.96	6.00
2-0 to 2-6 . . . . (4/1/81)	29.71	59.42	89.13	118.84	237.68	594.20	1188.40	11884	5.99	5.99	6.00
2-6 to 3-0 . . . . (10/1/81)	30.60	61.20	91.80	122.40	244.80	612.00	1224.00	12240	5.99	6.01	6.00
3-0 to 3-6 . . . . (4/1/82)	31.52	63.04	94.56	126.08	252.16	630.40	1260.80	12608	6.00	6.03	6.00
3-6 to 4-0 . . . . (10/1/82)	32.47	64.94	97.41	129.88	259.76	649.40	1298.80	12988	6.00	5.97	6.00
4-0 to 4-6 . . . . (4/1/83)	33.44	66.88	100.32	133.76	267.52	668.80	1337.60	13376	6.00	6.04	6.00
4-6 to 5-0 . . . . (10/1/83)	34.45	68.90	103.35	137.80	275.60	689.00	1378.00	13780	6.00	5.98	6.00
5-0 to 5-6 . . . . (4/1/84)	35.48	70.96	106.44	141.92	283.84	709.60	1419.20	14192	6.00	5.98	6.00
5-6 to 6-0 . . . . (10/1/84)	36.54	73.08	109.62	146.16	292.32	730.80	1461.60	14616	6.00	6.02	6.00
6-0 to 6-6 . . . . (4/1/85)	37.64	75.28	112.92	150.56	301.12	752.80	1505.60	15056	6.00	6.00	6.00
6-6 to 7-0 . . . . (10/1/85)	38.77	77.54	116.31	155.08	310.16	775.40	1550.80	15508	6.00	5.98	6.00
7-0 to 7-6 . . . . (4/1/86)	39.93	79.86	119.79	159.72	319.44	798.60	1597.20	15972	6.00	6.01	6.00
7-6 to 8-0 . . . . (10/1/86)	41.13	82.26	123.39	164.52	329.04	822.60	1645.20	16452	6.00	5.98	6.00
8-0 to 8-6 . . . . (4/1/87)	42.36	84.72	127.08	169.44	338.88	847.20	1694.40	16944	6.00	6.04	6.00
8-6 to 9-0 . . . . (10/1/87)	43.64	87.28	130.92	174.56	349.12	872.80	1745.60	17456	6.00	5.96	5.99
9-0 to 9-6 . . . . (4/1/88)	44.94	89.88	134.82	179.76	359.52	898.80	1797.60	17976	6.00	6.01	6.01
9-6 to10-0 . . . . (10/1/88)	46.29	92.58	138.87	185.16	370.32	925.80	1851.60	18516	6.00	6.01	6.01
10-0 2/ . . . . (4/1/89)	47.68	95.36	143.04	190.72	381.44	953.60	1907.20	19072	6.00 3/	——	——

1/ Month, day, and year on which issues of June 1, 1973, enter each period. For subsequent issue months add the appropriate number of months.
2/ Extended maturity reached at 15 years 10 months after issue.
3/ Yield on purchase price from issue date to extended maturity date is 5.98 percent.

* For earlier redemption values and yields see appropriate table in Department Circular 653, 9th Revision, as amended and supplemented.
** This table does not apply if the prevailing rate for Series E bonds being issued at the time the extension begins is different from 6.00 percent.

TABLE 98

BONDS BEARING ISSUE DATES FROM JAN. 1, 1974, THROUGH DEC. 1, 1974

Issue price	$18.75	$37.50	$56.25	$75.00	$150.00	$375.00	$750.00	$ 7500	Approximate investment yield (annual percentage rate)
Denomination	25.00	50.00	75.00	100.00	200.00	500.00	1000.00	10000	

Period (years and months after issue)	(1) Redemption values during each half-year period (values increase on first day of period)								(2) From issue date to beginning of each ½-yr. period	(3) From beginning of each ½-yr. period to beginning of next ½-yr. pd.	(4) From beginning of each ½-yr. period to maturity
									Percent	Percent	Percent
0-0 to 0-6 . . . 1/ (1/1/74)	$18.75	$37.50	$56.25	$75.00	$150.00	$375.00	$750.00	$ 7500	——	3.73	6.00
0-6 to 1-0 . . . . (7/1/74)	19.10	38.20	57.30	76.40	152.80	382.00	764.00	7640	3.73	5.34	6.25
1-0 to 1-6 . . . . (1/1/75)	19.61	39.22	58.83	78.44	156.88	392.20	784.40	7844	4.54	5.00	6.37
1-6 to 2-0 . . . . (7/1/75)	20.10	40.20	60.30	80.40	160.80	402.00	804.00	8040	4.69	4.98	6.57
2-0 to 2-6 . . . . (1/1/76)	20.60	41.20	61.80	82.40	164.80	412.00	824.00	8240	4.76	5.24	6.83
2-6 to 3-0 . . . . (7/1/76)	21.14	42.28	63.42	84.56	169.12	422.80	845.60	8456	4.86	5.39	7.15
3-0 to 3-6 . . . . (1/1/77)	21.71	43.42	65.13	86.84	173.68	434.20	868.40	8684	4.95	5.53	7.59
3-6 to 4-0 . . . . (7/1/77)	22.31	44.62	66.93	89.24	178.48	446.20	892.40	8924	5.03	5.92	8.29
4-0 to 4-6 . . . . (1/1/78)	22.97	45.94	68.91	91.88	183.76	459.40	918.80	9188	5.14	6.09	9.48
4-6 to 5-0 . . . . (7/1/78)	23.67	47.34	71.01	94.68	189.36	473.40	946.80	9468	5.25	12.93	12.93
5-0 2/ . . . . (1/1/79)	25.20	50.40	75.60	100.80	201.60	504.00	1008.00	10080	6.00	——	——

1/ Month, day and year on which issues of January 1, 1974, enter each period. For subsequent issue months add the appropriate number of months.
2/ Maturity value reached at 5 years and 0 months after issue.

TABLE 98-A

BONDS BEARING ISSUE DATES FROM JAN. 1, 1974, THROUGH DEC. 1, 1974

Issue price	$18.75	$37.50	$56.25	$75.00	$150.00	$375.00	$750.00	$7500	Approximate investment yield (annual percentage rate)
Denomination	25.00	50.00	75.00	100.00	200.00	500.00	1000.00	10000	

Period (years and months after original maturity at 5 years 0 months)	(1) Redemption values during each half-year period (values increase on first day of period)* EXTENDED MATURITY PERIOD								(2) From beginning of current maturity period to beginning of each ½-yr. pd.	(3) From beginning of each ½-yr. period to beginning of next ½-yr. pd.	(4) From beginning of each ½-yr. period to extended maturity
									Percent	Percent	Percent
0-0 to 0-6 . . . 1/ (1/1/79)	$25.20	$50.40	$75.60	$100.80	$201.60	$504.00	$1008.00	$10080	——	6.03	6.00
0-6 to 1-0 . . . . (7/1/79)	25.96	51.92	77.88	103.84	207.68	519.20	1038.40	10384	6.03	5.93	6.00
1-0 to 1-6 . . . . (1/1/80)	26.73	53.46	80.19	106.92	213.84	534.60	1069.20	10692	5.98	6.06	6.00
1-6 to 2-0 . . . . (7/1/80)	27.54	55.08	82.62	110.16	220.32	550.80	1101.60	11016	6.01	5.95	6.00
2-0 to 2-6 . . . . (1/1/81)	28.36	56.72	85.08	113.44	226.88	567.20	1134.40	11344	5.99	5.99	6.00
2-6 to 3-0 . . . . (7/1/81)	29.21	58.42	87.63	116.84	233.68	584.20	1168.40	11684	5.99	6.03	6.00
3-0 to 3-6 . . . . (1/1/82)	30.09	60.18	90.27	120.36	240.72	601.80	1203.60	12036	6.00	5.98	6.00
3-6 to 4-0 . . . . (7/1/82)	30.99	61.98	92.97	123.96	247.92	619.80	1239.60	12396	6.00	6.00	6.00
4-0 to 4-6 . . . . (1/1/83)	31.92	63.84	95.76	127.68	255.36	638.40	1276.80	12768	6.00	6.02	6.00
4-6 to 5-0 . . . . (7/1/83)	32.88	65.76	98.64	131.52	263.04	657.60	1315.20	13152	6.00	6.02	6.00
5-0 to 5-6 . . . . (1/1/84)	33.87	67.74	101.61	135.48	270.96	677.40	1354.80	13548	6.00	5.96	6.00
5-6 to 6-0 . . . . (7/1/84)	34.88	69.76	104.64	139.52	279.04	697.60	1395.20	13952	6.00	6.02	6.00
6-0 to 6-6 . . . . (1/1/85)	35.93	71.86	107.79	143.72	287.44	718.60	1437.20	14372	6.00	6.01	6.00
6-6 to 7-0 . . . . (7/1/85)	37.01	74.02	111.03	148.04	296.08	740.20	1480.40	14804	6.00	6.00	6.00
7-0 to 7-6 . . . . (1/1/86)	38.12	76.24	114.36	152.48	304.96	762.40	1524.80	15248	6.00	5.98	5.99
7-6 to 8-0 . . . . (7/1/86)	39.26	78.52	117.78	157.04	314.08	785.20	1570.40	15704	6.00	6.01	6.00
8-0 to 8-6 . . . . (1/1/87)	40.44	80.88	121.32	161.76	323.52	808.80	1617.60	16176	6.00	5.98	5.99
8-6 to 9-0 . . . . (7/1/87)	41.65	83.30	124.95	166.60	333.20	833.00	1666.00	16660	6.00	6.00	6.00
9-0 to 9-6 . . . . (1/1/88)	42.90	85.80	128.70	171.60	343.20	858.00	1716.00	17160	6.00	6.01	5.99
9-6 to10-0 . . . . (7/1/88)	44.19	88.38	132.57	176.76	353.52	883.80	1747.60	17676	6.00	5.97	5.97
10-0 2/ . . . . (1/1/89)	45.51	91.02	136.53	182.04	364.08	910.20	1820.40	18204	6.00 3/	——	——

1/ Month, day, and year on which issues of Jan. 1, 1974, enter each period. For subsequent issue months add the appropriate number of months.
2/ Extended maturity reached at 15 years 0 months after issue.
3/ Yield on purchase price from issue date to extended maturity date is 6.00 percent.

* For earlier redemption values and yields see appropriate table in Department Circular 653, 9th Revision, as amended and supplemented.
** This table does not apply if the prevailing rate for Series E bonds being issued at the time the extension begins is different from 6.00 percent.

TABLE 99

BONDS BEARING ISSUE DATES FROM JAN. 1, 1975, THROUGH AUG. 1, 1976

Issue price	$18.75	$37.50	$56.25	$75.00	$150.00	$375.00	$750.00	$ 7500	Approximate investment yield (annual percentage rate)
Denomination	25.00	50.00	75.00	100.00	200.00	500.00	1000.00	10000	

Period (years and months after issue)	(1) Redemption values during each half-year period (values increase on first day of period)								(2) From issue date to beginning of each ½-yr. period	(3) From beginning of each ½-yr. period to beginning of next ½-yr. pd.	(4) From beginning of each ½-yr. period to maturity
									Percent	Percent	Percent
0-0 to 0-6 . . . 1/ (1/1/75)	$18.75	$37.50	$56.25	$75.00	$150.00	$375.00	$750.00	$ 7500	——	3.73	6.00
0-6 to 1-0 . . . . (7/1/75)	19.10	38.20	57.30	76.40	152.80	382.00	764.00	7640	3.73	5.34	6.25
1-0 to 1-6 . . . . (1/1/76)	19.61	39.22	58.83	78.44	156.88	392.20	784.40	7844	4.54	5.00	6.37
1-6 to 2-0 . . . . (7/1/76)	20.10	40.20	60.30	80.40	160.80	402.00	804.00	8040	4.69	4.98	6.57
2-0 to 2-6 . . . . (1/1/77)	20.60	41.20	61.80	82.40	164.80	412.00	824.00	8240	4.76	5.24	6.83
2-6 to 3-0 . . . . (7/1/77)	21.14	42.28	63.42	84.56	169.12	422.80	845.60	8456	4.86	5.39	7.15
3-0 to 3-6 . . . . (1/1/78)	21.71	43.42	65.13	86.84	173.68	434.20	868.40	8684	4.95	5.53	7.59
3-6 to 4-0 . . . . (7/1/78)	22.31	44.62	66.93	89.24	178.48	446.20	892.40	8924	5.03	5.92	8.29
4-0 to 4-6 . . . . (1/1/79)	22.97	45.94	68.91	91.88	183.76	459.40	918.80	9188	5.14	6.09	9.48
4-6 to 5-0 . . . . (7/1/79)	23.67	47.34	71.01	94.68	189.36	473.40	946.80	9468	5.25	12.93	12.93
5-0 2/ . . . . (1/1/80)	25.20	50.40	75.60	100.80	201.60	504.00	1008.00	10080	6.00	——	——

1/ Month, day and year on which issues of January 1, 1975, enter each period. For subsequent issue months add the appropriate number of months.
2/ Maturity value reached at 5 years and 0 months after issue.

[FR Doc. 79-1412 Filed 1-15-79; 8:45 am]

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federal register

TUESDAY, JANUARY 16, 1979

PART III



DEPARTMENT OF THE TREASURY

Fiscal Service,

Bureau of the Public Debt

OFFERING OF UNITED STATES SAVINGS BONDS

SERIES H

Dept. Circular 905
Sixth Revision
Second Amendment

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[4810-40-M]

Title 31—Money and Finance

CHAPTER II—FISCAL SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER B—BUREAU OF THE PUBLIC DEBT

PART 332—OFFERING OF UNITED STATES SAVINGS BONDS, SERIES H

AGENCY: Department of the Treasury.

ACTION: Final Rule.

SUMMARY: The purpose of this amendment to the current offering circular for United States savings bonds, Series H, is to grant a second extended maturity period to certain bonds and to show the schedule of interest payments and investment yields for bonds of various issue dates during their first or next extended maturity period.

EFFECTIVE DATE: January 16, 1979.

FOR FURTHER INFORMATION CONTACT:

A.E. Martin III, Attorney-Advisor, Bureau of the Public Debt, (202) 376-0636.

SUPPLEMENTARY INFORMATION: Series H savings bonds have a 10-year original maturity period and, unless sooner redeemed, have an automatic 10-year extended maturity period. Subsequent extensions are customarily granted to them at the time they approach the end of their extended maturity period. During 1979, Series H bonds bearing issue dates of June 1, 1959, through December 1, 1959, will reach the end of their first extended maturity period. This amendment grants a second 10-year extended maturity period to these bonds.

Additionally, the tables contained in the offering circular for Series H savings bonds show the schedule of interest payments and investment yields for bonds of all issue dates. Each table covers particular groupings of issue dates. When the earlier dated bonds in any group reach the end of an original or extended maturity period, it is necessary to publish a new table to reflect the interest payments and investment yields that will apply to their first or next extended maturity period. During 1979, the earlier dated bonds in each of the following groups will enter their first or next extended maturity period:

(1) Table 17—bonds dated June 1 through November 1, 1959;

(2) Table 18—bonds dated December 1, 1959, through May 1, 1960;

(3) Table 37—bonds dated June 1 through November 1, 1969;

(4) Table 38—bonds dated December 1, 1969, through May 1, 1970.

It should be noted that, in some cases, later dated bonds in the above groups will not enter their first or next extended maturity period until after 1979. As extensions have already been irrevocably granted to these bonds, the supplemental tables published below will apply to them, provided there is no intervening change in the interest rate paid on saving bonds.

Accordingly, Section 332.8(a)(2) and (3) of Department of the Treasury Circular No. 905, Sixth Revision, as amended, (31 CFR 332), is hereby further amended, and Tables 17-A, 18-A, 37-A and 38-A are added, as follows:

§ 332.8 Extended terms and improved yields for outstanding bonds.

(a) *Extended maturity periods* • • •

(2) *Bonds with issue dates June 1, 1952, through May 1, 1960.* Owners of Series H bonds with issue dates of June 1, 1952, through May 1, 1960, may retain their bonds for a second extended maturity period of 10 years.

(3) *Bonds with issue dates of June 1, 1960, or thereafter.* Owners of Series H bonds with issue dates of June 1, 1960, or thereafter, may retain their bonds for an extended maturity period of 10 years.

• • • • •

The foregoing amendment was effected under authority of Section 22 of the Second Liberty Bond Act, as amended (49 Stat. 21, as amended; 31 U.S.C. 757c), and 5 U.S.C. 301.

Since this amendment involves the fiscal policy of the United States and does not meet the Department's criteria for significant regulations, it has been determined that notice and public procedures thereon are unnecessary.

Dated: December 21, 1978.

PAUL H. TAYLOR,
Fiscal Assistant Secretary.

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[4810-40-C]

TABLE 17-A

BONDS BEARING ISSUE DATES FROM JUNE 1 THROUGH NOV. 1, 1959

ISSUE PRICE / REDEMPTION AND MATURITY VALUE	$500 / 500	$1,000 / 1,000	$5,000 / 5,000	$10,000 / 10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)		
PERIOD OF TIME BOND IS HELD AFTER EXTENDED MATURITY AT 20 YEARS, 0 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION * SECOND EXTENDED MATURITY PERIOD**				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE	(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO 2ND EXTENDED MATURITY
					PERCENT	PERCENT	PERCENT
.5 YEARS . . .1/ (12/1/79)	$15.00	$30.00	$150.00	$300.00	6.00	6.00	6.00
1.0 YEARS . . . . (6/1/80)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
1.5 YEARS . . . . (12/1/80)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
2.0 YEARS . . . . (6/1/81)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
2.5 YEARS . . . . (12/1/81)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
3.0 YEARS . . . . (6/1/82)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
3.5 YEARS . . . . (12/1/82)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
4.0 YEARS . . . . (6/1/83)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
4.5 YEARS . . . . (12/1/83)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
5.0 YEARS . . . . (6/1/84)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
5.5 YEARS . . . . (12/1/84)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
6.0 YEARS . . . . (6/1/85)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
6.5 YEARS . . . . (12/1/85)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
7.0 YEARS . . . . (6/1/86)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
7.5 YEARS . . . . (12/1/86)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
8.0 YEARS . . . . (6/1/87)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
8.5 YEARS . . . . (12/1/87)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
9.0 YEARS . . . . (6/1/88)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
9.5 YEARS . . . . (12/1/88)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
10.0 YEARS 2/. . . (6/1/89)	15.00	30.00	150.00	300.00	3/ 6.00	6.00	----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF JUNE 1, 1959. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ SECOND EXTENDED MATURITY REACHED AT 30 YEARS AND 0 MONTHS AFTER ISSUE DATE.
3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO SECOND EXTENDED MATURITY IS 4.84%.

* FOR EARLIER INTEREST CHECKS AND YIELDS SEE APPROPRIATE TABLE IN DEPARTMENT CIRCULAR 905, 6TH REVISION, AS AMENDED AND SUPPLEMENTED.
** THIS TABLE DOES NOT APPLY IF THE PREVAILING RATE FOR SERIES H BONDS BEING ISSUED AT THE TIME THE EXTENSION BEGINS IS DIFFERENT FROM 6.00 PERCENT.

TABLE 18-A

BONDS BEARING ISSUE DATES FROM DEC. 1, 1959 THROUGH MAY 1, 1960

ISSUE PRICE / REDEMPTION AND MATURITY VALUE	$500 / 500	$1,000 / 1,000	$5,000 / 5,000	$10,000 / 10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)		
PERIOD OF TIME BOND IS HELD AFTER EXTENDED MATURITY AT 20 YEARS, 0 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION * SECOND EXTENDED MATURITY PERIOD**				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE	(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO 2ND EXTENDED MATURITY
					PERCENT	PERCENT	PERCENT
.5 YEARS . . .1/ (6/1/80)	$15.00	$30.00	$150.00	$300.00	6.00	6.00	6.00
1.0 YEARS . . . . (12/1/80)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
1.5 YEARS . . . . (6/1/81)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
2.0 YEARS . . . . (12/1/81)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
2.5 YEARS . . . . (6/1/82)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
3.0 YEARS . . . . (12/1/82)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
3.5 YEARS . . . . (6/1/83)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
4.0 YEARS . . . . (12/1/83)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
4.5 YEARS . . . . (6/1/84)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
5.0 YEARS . . . . (12/1/84)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
5.5 YEARS . . . . (6/1/85)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
6.0 YEARS . . . . (12/1/85)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
6.5 YEARS . . . . (6/1/86)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
7.0 YEARS . . . . (12/1/86)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
7.5 YEARS . . . . (6/1/87)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
8.0 YEARS . . . . (12/1/87)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
8.5 YEARS . . . . (6/1/88)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
9.0 YEARS . . . . (12/1/88)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
9.5 YEARS . . . . (6/1/89)	15.00	30.00	150.00	300.00	6.00	6.00	6.00
10.0 YEARS 2/. . . (12/1/89)	15.00	30.00	150.00	300.00	3/ 6.00	6.00	----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF DEC. 1, 1959. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ SECOND EXTENDED MATURITY REACHED AT 30 YEARS AND 0 MONTHS AFTER ISSUE DATE.
3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO SECOND EXTENDED MATURITY IS 4.86%.

* FOR EARLIER INTEREST CHECKS AND YIELDS SEE APPROPRIATE TABLE IN DEPARTMENT CIRCULAR 905, 6TH REVISION, AS AMENDED AND SUPPLEMENTED.
** THIS TABLE DOES NOT APPLY IF THE PREVAILING RATE FOR SERIES H BONDS BEING ISSUED AT THE TIME THE EXTENSION BEGINS IS DIFFERENT FROM 6.00 PERCENT.

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TABLE 37-A

BONDS BEARING ISSUE DATES FROM JUNE 1 THROUGH NOV. 1, 1969

ISSUE PRICE	$500	$1,000	$5,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)
REDEMPTION AND MATURITY VALUE	500	1,000	5,000	

PERIOD OF TIME BOND IS HELD AFTER FIRST MATURITY AT 10 YEARS, 0 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION * — EXTENDED MATURITY PERIOD**			(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE	(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO FIRST EXTENDED MATURITY
				PERCENT	PERCENT	PERCENT
.5 YEARS . . .1/ (12/1/79)	$15.00	$30.00	$150.00	6.00	6.00	6.00
1.0 YEARS . . . . (6/1/80)	15.00	30.00	150.00	6.00	6.00	6.00
1.5 YEARS . . . . (12/1/80)	15.00	30.00	150.00	6.00	6.00	6.00
2.0 YEARS . . . . (6/1/81)	15.00	30.00	150.00	6.00	6.00	6.00
2.5 YEARS . . . . (12/1/81)	15.00	30.00	150.00	6.00	6.00	6.00
3.0 YEARS . . . . (6/1/82)	15.00	30.00	150.00	6.00	6.00	6.00
3.5 YEARS . . . . (12/1/82)	15.00	30.00	150.00	6.00	6.00	6.00
4.0 YEARS . . . . (6/1/83)	15.00	30.00	150.00	6.00	6.00	6.00
4.5 YEARS . . . . (12/1/83)	15.00	30.00	150.00	6.00	6.00	6.00
5.0 YEARS . . . . (6/1/84)	15.00	30.00	150.00	6.00	6.00	6.00
5.5 YEARS . . . . (12/1/84)	15.00	30.00	150.00	6.00	6.00	6.00
6.0 YEARS . . . . (6/1/85)	15.00	30.00	150.00	6.00	6.00	6.00
6.5 YEARS . . . . (12/1/85)	15.00	30.00	150.00	6.00	6.00	6.00
7.0 YEARS . . . . (6/1/86)	15.00	30.00	150.00	6.00	6.00	6.00
7.5 YEARS . . . . (12/1/86)	15.00	30.00	150.00	6.00	6.00	6.00
8.0 YEARS . . . . (6/1/87)	15.00	30.00	150.00	6.00	6.00	6.00
8.5 YEARS . . . . (12/1/87)	15.00	30.00	150.00	6.00	6.00	6.00
9.0 YEARS . . . . (6/1/88)	15.00	30.00	150.00	6.00	6.00	6.00
9.5 YEARS . . . . (12/1/88)	15.00	30.00	150.00	6.00	6.00	6.00
10.0 YEARS 2/. . . (6/1/89)	15.00	30.00	150.00	3/ 6.00	6.00	----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF JUNE 1, 1969. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ EXTENDED MATURITY REACHED AT 20 YEARS AND 0 MONTHS AFTER ISSUE DATE.
3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO EXTENDED MATURITY IS 5.79%.

* FOR EARLIER INTEREST CHECKS AND YIELDS SEE APPROPRIATE TABLE IN DEPARTMENT CIRCULAR 905, 6TH REVISION, AS AMENDED AND SUPPLEMENTED.
** THIS TABLE DOES NOT APPLY IF THE PREVAILING RATE FOR SERIES H BONDS BEING ISSUED AT THE TIME THE EXTENSION BEGINS IS DIFFERENT FROM 6.00 PERCENT.

TABLE 38-A

BONDS BEARING ISSUE DATES FROM DEC. 1, 1969 THROUGH MAY 1, 1970

ISSUE PRICE	$500	$1,000	$5,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)
REDEMPTION AND MATURITY VALUE	500	1,000	5,000	

PERIOD OF TIME BOND IS HELD AFTER FIRST MATURITY AT 10 YEARS, 0 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION * — EXTENDED MATURITY PERIOD**			(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE	(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO FIRST EXTENDED MATURITY
				PERCENT	PERCENT	PERCENT
.5 YEARS . . .1/ (6/1/80)	$15.00	$30.00	$150.00	6.00	6.00	6.00
1.0 YEARS . . . . (12/1/80)	15.00	30.00	150.00	6.00	6.00	6.00
1.5 YEARS . . . . (6/1/81)	15.00	30.00	150.00	6.00	6.00	6.00
2.0 YEARS . . . . (12/1/81)	15.00	30.00	150.00	6.00	6.00	6.00
2.5 YEARS . . . . (6/1/82)	15.00	30.00	150.00	6.00	6.00	6.00
3.0 YEARS . . . . (12/1/82)	15.00	30.00	150.00	6.00	6.00	6.00
3.5 YEARS . . . . (6/1/83)	15.00	30.00	150.00	6.00	6.00	6.00
4.0 YEARS . . . . (12/1/83)	15.00	30.00	150.00	6.00	6.00	6.00
4.5 YEARS . . . . (6/1/84)	15.00	30.00	150.00	6.00	6.00	6.00
5.0 YEARS . . . . (12/1/84)	15.00	30.00	150.00	6.00	6.00	6.00
5.5 YEARS . . . . (6/1/85)	15.00	30.00	150.00	6.00	6.00	6.00
6.0 YEARS . . . . (12/1/85)	15.00	30.00	150.00	6.00	6.00	6.00
6.5 YEARS . . . . (6/1/86)	15.00	30.00	150.00	6.00	6.00	6.00
7.0 YEARS . . . . (12/1/86)	15.00	30.00	150.00	6.00	6.00	6.00
7.5 YEARS . . . . (6/1/87)	15.00	30.00	150.00	6.00	6.00	6.00
8.0 YEARS . . . . (12/1/87)	15.00	30.00	150.00	6.00	6.00	6.00
8.5 YEARS . . . . (6/1/88)	15.00	30.00	150.00	6.00	6.00	6.00
9.0 YEARS . . . . (12/1/88)	15.00	30.00	150.00	6.00	6.00	6.00
9.5 YEARS . . . . (6/1/89)	15.00	30.00	150.00	6.00	6.00	6.00
10.0 YEARS 2/. . . (12/1/89)	15.00	30.00	150.00	3/ 6.00	6.00	----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF DEC. 1, 1969. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ EXTENDED MATURITY REACHED AT 20 YEARS AND 0 MONTHS AFTER ISSUE DATE.
3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO EXTENDED MATURITY IS 5.83%.

* FOR EARLIER INTEREST CHECKS AND YIELDS SEE APPROPRIATE TABLE IN DEPARTMENT CIRCULAR 905, 6TH REVISION, AS AMENDED AND SUPPLEMENTED.
** THIS TABLE DOES NOT APPLY IF THE PREVAILING RATE FOR SERIES H BONDS BEING ISSUED AT THE TIME THE EXTENSION BEGINS IS DIFFERENT FROM 6.00 PERCENT.

[FR Doc. 79-1413 Filed 1-15-79; 8:45 am]

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federal register

TUESDAY, JANUARY 16, 1979
PART IV



SECURITIES AND EXCHANGE COMMISSION

RULE PROPOSAL FOR UNIT INVESTMENT TRUST START-UP EXEMPTIONS AND PROPOSED REVISION OF RULE REGARDING PRICING OF INVESTMENT COMPANY SHARES GENERALLY

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[8010-01-M]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 270]

[Release No. IC-10545, File No. S7-768]

RULE PROPOSAL FOR UNIT INVESTMENT TRUST START-UP EXEMPTIONS AND PROPOSED REVISION OF RULE REGARDING PRICING OF INVESTMENT COMPANY SHARES GENERALLY

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Commission proposes for public comment a rulemaking to provide "start-up" exemptions for unit investment trusts under the Investment Company Act of 1940. It also proposes an amendment to a rule under that Act regarding pricing of investment company shares generally. Within the last six years there has been a significant increase in the number of applications for exemptions from the Investment Company Act of 1940 filed by unit investment trusts investing primarily in corporate bonds, municipal bonds, and Ginnie Mae obligations. These applications usually seek relief from provisions and rules pertaining to minimum net worth requirements, frequency of capital gains distributions, and forward pricing. These so-called "start-up" exemptions are appropriate subjects for exercise of the Commission's rulemaking authority because of the specific, repetitious and non-controversial nature of the applications.

The proposed rules were developed by the Division of Investment Company Act Study Group in the context of its re-examination of the regulation of investment companies. The proposed rules will relieve certain unit investment trusts and the Commission of the substantial burden of filing and processing, respectively, these applications. In addition, since with minor exceptions the proposed rules are merely a codification of existing orders in this area, unitholders of unit investment trusts that operate in reliance on the proposed rules will enjoy the same protections that unit holders of such trusts which operate pursuant to Commission order presently enjoy.

The Commission also proposes amending that portion of Rule 22c-1 under the Investment Company Act of 1940 which ties to the close of the New York Stock Exchange the time for pricing *all* securities owned by investment companies generally even though they are not (and could not be) listed for trading on that exchange. The amendment the Commission proposes represents a codification of existing orders which have dealt with this problem.

DATE: Comments must be received by Fedruary 23, 1979.

ADDRESSES: Send comments in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549. (Refer to File No. S7-768.) All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 1100 L Street, NW., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT:

Mark J. Mackey, Esq., Investment Company Act Study Group, Division of Investment Management, Securities and Exchange Commission, 500 N. Capitol Street, Washington, D.C. 20549. (202) 755-1547.

SUPPLEMENTARY INFORMATION: The Commission today proposed for public comment new Rule 14a-3 and amendments to Rules 19b-1 (17 CFR 270.19b-1) and 22c-1 (17 CFR 270.22c-1) providing "start-up" exemptions for certain unit investment trusts. In addition, the Commission has proposed revision of Rules 22c-1 regarding pricing of investment company shares generally.

Except for money market funds, no type of investment company has enjoyed greater growth in new registrants recently than unit investment trusts ("Trusts") specializing in debt obligations.[1] Unlike a management investment company, such a Trust typically takes the form of a series of entities,[2] each of which holds a specific portfolio until maturity, thus "locking-in" the particular yields obtained for the life of the various obligations.[3]

At the Trust's inception, its organizer ("Sponsor") deposits with the trustee more than $100,000 principal amount of Trust Debt Securities (or delivery statements relating to contracts for the purchase of such securities, together with funds represented by cash or an irrevocable letter of credit issued by a bank in the amount required for their purchase). Simultaneously with such deposit, the trustee delivers to the Sponsor those Trust units which are to be offered to the public pursuant to a registration statement under the Securities Act of 1933 (15 U.S.C. 77a et seq.).[4]

During the initial offering period the evaluator for the Trust ("Evaluator") makes a daily evaluation of the Trust Debt Securities held by the Trust. The Sponsor sells the units at a daily price based on the aggregate offering prices of the Trust Debt Securities as computed by the Evaluator ("offering side evaluation"), plus a sales charge.[5] after the initial offering period, the Trust no longer offers units to the public.

Subsequent to the initial offering period, the Sponsor customarily maintains a secondary market for the repurchase and resale of Trust units so that unitholders have a marketplace for purchase and sale of their securities without disturbing the portfolio of securities held by the Trust. During this time, the Evaluator makes an evaluation of the Trust Debt Securities held by the Trust on the last business day of each week. The offering side evaluation so computed is used by the Sponsor in determining its repurchase and resale prices during the following week, Thus, after the initial offering period there is no daily pricing of units for purchase or sale in the secondary market.

Since the repurchase price is based on the offering side evaluation, the Sponsor will usually pay more for Trust units than the price at which the underlying Trust Debt Securities could be sold in the market, i.e., the "bid" price. Although the Sponsor is not statutorily obligated to maintain a secondary market, or purchase units at a price based on the offering side evaluation, by so doing it performs a sound business practice, in that its dealer activities prevent (or a least retard indefinitely) depletion of Trust

[1] In addition to debt obligations, these Trusts often invest in a limited number of units of a previously issued Trust series. The relief provided by the proposed rules would be available, generally, to Trusts which invest in both debt obligations and interests in such previously issued units. Specifically, the relief provided by the proposed Rulemaking is limited to Trusts engaged exclusively in the business of investing in trust securities ("Trust Debt Securities"). That term is defined for purposes of the rules as including—

(1) Interest bearing obligations issued by a corporation;

(2) Interest bearing obligations issued by a state, or by any agency, instrumentality, authority or political subdivision thereof;

(3) Government securities; and

(4) Subject to certain conditions, units of a previously issued series of the Trust.

[2] E.g., Trust series A, B, C, etc.

[3] Under certain circumstances, however, the Trust Debt Securities held in the Trust's portfolio may be sold or redeemed. The proceeds from such dispositions are usually distributed to the unitholders of the Trust, and in such case the unitholder may realize a capital gain on his investment.

[4] No units are issued after this initial issuance. Each unit of the Trust represents an undivided interest in the securities held by the Trust. Units are redeemable, and remain outstanding until redeemed or until the termination of the Trust.

[5] The offering price of the Trust Debt Securities is the price at which such securities, if available, could have been purchased directly by the public. The Evaluator, thus, makes the portfolio evaluations required by Section 2(a) (41) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a) (41).

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assets through redemptions.[6] The Sponsor also benefits through receipt of a Sales charge which it imposes pursuant to Section 22(d) of the Investment Company Act of 1940 (15 U.S.C. 80a-22(d)) ("Act") on the resale of Trust units.

Because of its special organization and operation, a Trust needs certain exemptions from the Act pertaining to minimum net worth requirements,[7] frequency of capital gains distributions,[8] and forward pricing.[9] Upon its organization, therefore, the Trust must file an application for an order seeking those exemptions.

The Commission has long since decided the legal and policy questions presented by these applications and over the years has routinely granted the requested exemptions.[10] However, even though these applications do not usually present any difficult legal or factual issues, a substantial amount of Commission time is consumed in processing them because of the large number which are filed. In view of the specific, repetitious, and non-controversial nature of these applications, the Commission believes it would be more efficient to adopt rules codifying these "start-up" exemptions rather than to continue to handle individual applications.

The proposed rulemaking, if adopted, would relieve these Trusts and the Commission of the burden of filing and processing, respectively, these applications. In addition, since (with minor exceptions) the proposed rules incorporate the terms and conditions of existing orders and no-action positions taken by the Division of Investment management in this area, unitholders of Trust that operate in reliance on the proposed rules would enjoy the same protections that unitholders of Trusts, which operate pursuant to Commission order, presently enjoy.

[6] The price at which units are redeemed is based on the "bid" side evaluation of the Trust Debt Securities rather than the offering side evaluation, since use of the latter would tend to dilute the remaining units of the Trust. Redemptions by the Trust must, of course, be based on the price the Trust would receive if it chose to sell the portfolio securities—use of any other price would be unfair to the remaining unitholders, and would not comply with the "forward pricing" requirements of Rule 22c-1. The unitholder desiring to sell his Trust units, therefore will normally sell his units to the Sponsor because by doing so he will realize the spread in the Trust Debt Securities market i.e., the difference between the "asked" and "bid" price of the Trust Debt Securities.

[7] Section 14(a) (15 U.S.C. 80a-14.

[8] Rule 19b-1.

[9] Rule 22c-1.

[10] See, e.g., Investment Company Act Release No. 8042 (October 18, 1973) (order granted to the GNMA Mortgaged-Backed Security Fund).

SECTION 14(a)

Section 14(a) of the Act, in part, provides that no registered investment company and no principal underwriter for such a company shall make a public offering of securities of which such company is the issuer unless, prior to the public offering: (1) The company has a net worth of a least $100,000 or (2) provision is made in connection with the public offering that firm commitments for a net worth of $100,000 have been obtained from not more than twenty-five responsible persons or the entire proceeds received, including sales charge, will be refunded.[11]

The Commission has interpreted Section 14(a) of the Act to mean that the initial capital investment in an investment company must have been made without any intention, when the investment was made, to redeem or dispose of such investment.[12] Thus, even though the Sponsor deposits more than $100,000 principal amount of Trust Debt Securities (or delivery statements relating thereto and funds for the purchase thereof) with the trustee prior to making a public offering of Trust units, an exemption from Section 14(a) of the Act is still required since, at the time of such deposit, the Sponsor intends to sell the units it receives from the trustee to the public and reduce to zero its own capital investment.

Despite the lack of a continuing or bona fide investment on the part of the Sponsor, exemptions from Section 14(a) of the Act have been granted in recognition that, once the units are sold, a Trust requires much less commitment on the part of the Sponsor than does a management investment company. Moreover, to receive the order it seeks, the Sponsor must agree to two undertakings requiring, generally, that each purchaser of Trusts units receive his pro rata share of the net worth of the Trust (plus a refund of all sales charges paid on the purchase of Trust units) in the event that the Trust fails to become a going concern.

Specifically, the first undertaking, which is modeled after Section 14(a)(3)(C) of the Act, provides, generally that if within 90 days from the time that the Trust's registration statement becomes effective under the Securities Act of 1933 the net worth of the Trust declines to less than $100,000,[13] or the Trust is terminated,[14] then the Sponsor for the Trust must distribute to each investor his pro rata share of the net worth of the Trust, plus any sales charge paid by the in-

[11] Section 14(a) of the Act provides in part:

(a) No registered investment company organized after the date of enactment of this title, and no principal underwriter for such a company, shall make a public offering of securities of which such company is the issuer unless—

(1) Such company has a net worth of at least $100,000;

* * * * *

(3) Provision is made in connection with and as a condition of the registration of such securities under the Securities Act of 1933 which in the opinion of the Commission adequately insures (A) that after the effective date of such registration statement such company will not issue any security or receive any proceeds of any subscription for any security until firm agreements have been made with such company by not more than twenty-five responsible persons to purchase from it securities to be issued by it for an aggregate net amount which plus the then net worth of the company, if any, will equal at least $100,000; (B) that said aggregate net amount will be paid in to such company before any subscriptions for such securities will be accepted from any persons in excess of twenty-five; (C) that arrangements will be made whereby any proceeds so paid in, as well as any sales load, will be refunded to any subscriber on demand without any deduction, in the event that the net proceeds so received by the company do not result in the company having a net worth of at least $100,000 within ninety days after such registration statement becomes effective.

[12] *Automation Shares, Inc.*, 37 SEC 771 (1957). That case was the result of an investigation of Automation Shares, Inc., an open-end diversified, management investment company, which indicated that the initial shareholders of that fund had been asked by the fund's Sponsor to purchase fund shares merely for the purpose of qualifying the fund under Section 14(a)(3) of the Act; that the Sponsor had promised such shareholders consideration for the temporary use of their money; and that such shareholders had purchased shares with the intention of redeeming them after the Securities Act of 1933 registration statement of the fund had become effective.

The Commission said in that case that sales made pursuant to such a scheme would not meet the requirement of Section 14(a) if the initial $100,000 of net worth of a fund were loaned or advanced only as a temporary accommodation since the objective of the section would thus be thwarted. "The $100,000 of net worth required by Section 14(a) must be provided by shareholders with a bona fide investment purpose without any present intention to dispose of the investment." Id. at 774.

[13] Such a decline might occur, for example, in the event of an adverse change in market, revenue or credit factors affecting the Trust Debt Securities held by the Trust.

[14] The conditions upon which termination may occur vary among Trusts. See, e.g., Investment Company Act Release Nos. 10327 (termination upon 100% agreement of unitholders or in the event the value of the Trust assets falls below a certain specified amount, upon direction of the Sponsor to the trustee or by the trustee without such direction), and 10022 (termination upon 66⅔% agreement of the unitholders or, in the event the value of the assets of the Trust falls below 33⅓% of the principal amount of the Trust Debt Securities initially deposited with the Trust, upon the direction of the Sponsor to the trustee), dated July 18, 1978, and November 22, 1977, respectively.

vestor for his Trust units. [16] Thus, this undertaking encompasses those situations where, for a variety of possible reasons, the Trust declines in value to less than $100,000, or is terminated, shortly after its inception.

In addition, if redemptions by the Sponsor or underwriter of unsold units result in the Trust's having a net worth of less than 40% of the principal amount of Trust Debt Securities (or funds) initially deposited in the Trust, pursuant to the second undertaking each unitholder of the Trust is entitled to receive his pro rata share of the Trust assests, plus any sales charges paid by the unitholder for the purchase of his units.[18] It should be noted that unlike, the first undertaking, there is no 90 day time limit imposed on the second undertaking's applicablility.[17]

[16] See, e.g., Investment Company Act Release Nos. 10294 and 10253, dated June 27, 1978, and May 24, 1978, respectively.

[17] See, e.g., Investment Company Act Release Nos. 10327 and 10294, dated July 18, 1978, and June 27, 1978, respectively.

[17] The relief provided by the proposed rule would be available to Trusts engaged exclusively in the business of investing in Trust Debt Securities. That term is defined by the proposed rule as including, among other things, units of a previously issued series of a Trust, providing that:

(i) The aggregate principal amount of units of existing series so deposited will not exceed 10% of the aggregate principal amount of the portfolio of the new series;

(ii) The aggregate principal amount of units of any particular existing series so deposited will not exceed 5% of the aggregate principal amount of the portfolio of the new series;

(iii) No units will be so deposited which do not substantially meet investment quality criteria at least as high as those applicable to the new series in which such units are deposited;

(iv) The value of the Trust Debt Securities underlying units of an existing series deposited in a new series will not, by reason of maturity of such securities according to their terms within ten years following the date of deposit, be reduced sufficiently for such existing series to be terminated voluntarily;

(v) Units of existing series so deposited will constitute units purchased by the Sponsor as market maker and not remaining unsold units from the original distribution of such units; and

(vi) The Sponsor will deposit units of existing series in the new series without a sales charge.

These conditions have their genesis in no-action positions taken by the Division. See, e.g., Insured Municipals Income Trust; Cardinal Tax-Exempt Bond Fund, and Municipal Investment Trust Fund, public availability dates August 10, 1977, March 14, 1977, and October 25, 1975, respectively. The first two conditions relate to Section 12(d)(1)(A) of the Act (15 U.S.C. 80a-12(d)(1)(A)) which provides, in part, that it is unlawful for any registered investment company (the "acquiring company") to purchase or otherwise acquire any security issued by any other investment company (the "acquired company"), if the acquiring company immediately after such purchase or acquisition owns in the aggregate (1) securities issued by the acquired company having an aggregate value in excess of 5 percent of the value of the total assests of the acquiring company, or (2) securities issued by the acquired company and all other investment companies having an aggregate value in excess of 10 percent of the value of the total assets of the acquiring company.

Subparagraph (vi), in effect, recognizes that under these specified circumstances the Sponsor may deposit such units without violating Section 22(d) of the Act. That section provides, in part, that no registered investment company shall sell any redeemable security issued by it to any person except at a current public offering price described in the prospectus.

[18] Rule 19b-1 provides, in part:

(a) No registered investment company which is a "regulated investment company" as defined in section 851 of the Internal Revenue Code of 1954 (Code) shall distribute more than one capital gain dividend (distribution), as defined in section 852(b)(3)(C) of the Code, with respect to any 1 taxable year of the company, other than a distribution pursuant to section 855 of the Code which is supplemental to the prior distribution with respect to the same taxable year of the company and which does not exceed 10 percent of the amount of such prior distribution.

(b) No registered investment company which is not a "regulated investment company" as defined in section 851 of the Code shall make more than one distribution of long-term capital gains, as defined in the Code, in any one taxable year of the company: *Provided*, That a unit investment trust may distribute capital gain dividends received from a "regulated investment company" within a reasonable time after receipt.

[19] See, e.g., Investment Company Act Release No. 10327 (July 18, 1978).

Rule 19b-1

Rule 19b-1 provides in substance that no registered investment company which is a "regulated investment company" as defined in Section 851 of the Internal Revenue Code shall distribute more than one capital gain dividend in any one taxable year.[19] Paragraph (b) of the Rule contains a similar prohibition for a company which is not a "regulated investment company," such as a Trust.

Under certain circumstances, discussed below, Trust Debt Securities held by the Trust may be sold or redeemed. The proceeds from such dispositions are usually distributed to the Trust unitholders, although reinvestment of proceeds has been allowed.[19] In those cases where the proceeds are distributed, the unitholder may realize a capital gain on his investment.[20] If the Trust wishes to make more than one capital gains distribution per taxable year, which could well be the case where an investment company's portfolio is concentrated in fixed income securities, an exemption from the provisions of Rule 19b-1 is required.

Rule 19b-1 was designed to remove, inter alia, the temptation to realize capital gains on a frequent and regular basis, i.e., to "churn" the portfolio. Rule 19b-1 also "cures" attempts by the investment company's investment adviser to "time" distributions in a manner designed to be advantageous to particular shareholders and mitigates improper sales practices related to the distribution of such gains. Exemptions from the Rule have been granted in five situations, nevertheless, allowing distributions of principal constituting capital gains to be made more frequently than once per taxable year. In each such situation the events which give rise to the capital gains distribution are substantially independent of any action by the Sponsor and the trustee:

(1) An issuing authority's calling or redeeming a Trust Debt Security held by the Trust;[21]

(2) The sale of a Trust Debt Security in order to provide funds required for the redemption of Trust units when the amount received by the Trust for such sale exceeds the amount required to satisfy the redemption distribution;[22]

(3) The sale of the a Trust Debt Security in order to maintain the qualification of the Trust as a "regulated investment company" under section 851 of the Internal Revenue Code;[23]

(4) Regular distributions of principal and prepayment of principal on Trust Debt Securities; or[24]

[20] Such would be the case if the value of the Trust Debt Securities redeemed or sold had increased since the date of initial deposit.

[21] See, e.g., Investment Company Act Release No. 10327, dated July 18, 1978.

[22] See, e.g., Investment Company Act Release No. 10022, dated November 22, 1977.

[23] See, e.g., Investment Company Act Release No. 10329, dated July 19, 1978.

[24] See, e.g., Investment Company Act Release No. 10327, dated July 18, 1978. This type of distribution is made by Trusts invested in Ginnie Mae obligations, where the underlying mortgagor is permitted to prepay principal on his individual mortgage. The term Ginnie Mae obligations refers to mortgage-backed securities of the modified pass through type which are fully guaranteed as to principal and interest by the Government National Mortgage Association. Prepayments are not known to or discoverable by the investment company until about eight days after the prepayment occurs and is reported forward. However, to date such prepayments, although irregular in amount and amplitude, have not materially affected the net asset value of fund shares on the day payment is actually made or is actually received.

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The sale of Trust Debt Securities in order to maintain the investment stability of the Trust.[25]

Another danger which Rule 19b-1 was designed to prevent, i.e., confusion on the part of investors which might arise if capital gains distributions are commingled with distributions of ordinary income, is substantially alleviated by requiring that capital gains distributions be clearly described as such in a report to the unitholders which accompanies the distribution.[26]

Rule 22c-1

Rule 22c-1 provides, in part, that no registered investment company issuing any redeemable security, and no dealer in any such security, shall sell, redeem, or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security.[27]

[25] See, e.g., Investment Company Act Release No. 10327, dated July 18, 1978. Sales of Trust Debt Securities to maintain "investment stability" are those sales made to prevent deterioration in the value of Trust Debt Securities when certain factors exist. These factors include a default in the payment of principal or interest, an action involving the issuer of the Trust Debt Securities which adversely affects such issuer's ability to continue payment of principal or interest on its Trust Debt Securities, or an adverse change in the market, revenue or credit factors affecting the investment stability of the Trust Debt Security. The proposed rulemaking which modifies slightly the above discussed definition of investment stability, defines that term to mean sales made to prevent deterioration of the value of Trust Debt Securities when one or more of the following factors exist: (1) A default in the payment in the principal or interest on a Trust Debt Security, (2) An action involving the issuer of a Trust Debt Security which adversely affects such issuer's ability to continue payment of principal or interest on its Trust Debt Securities, or (3) A change in the market, revenue or credit factors which adversely affects the ability of such issuer to continue payment of principal or interest on its Trust Debt Securities.

[26] See, e.g., Investment Company Act Release Nos. 10327 and 10253, dated July 18, 1978, and May 24, 1978, respectively.

[27] Rule 22c-1 provides:

(a) No registered investment company issuing any redeemable security, no person designated in such issuer's prospectus as authorized to consummate transactions in any such security, and no principal underwriter of, or dealer in, any such security shall sell, redeem, or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security.

(b) For the purposes of this section, the current net asset value of any such security shall be that computed on each day during which the New York Stock Exchange is open for trading, not less frequently than once daily as of the time of the close of trading on such exchange.

The price at which Trust units are repurchased and resold by the Sponsor in the secondary market is based on the offering side evaluation of the Trust Debt Securities held by the Trust, as computed by the Evaluator on the last business day of each week, effective for all sales made during the *following* week. This pricing procedure clearly is in contravention of Rule 22c-1 since the pricing of units is done once a week for all purchases and sales in the ensuing week. In addition, the repurchasing of units by the Sponsor at a price in excess of the redemption value of those units may conflict with Rule 22c-1(a) which, in pertinent part, states that "no principal underwriter of, or dealer in, any such security shall * * * repurchase any such security except at a price based on the current net asset value of such security." Finally, if the evaluation takes place at a time other than the time of the close of trading on the New York Stock Exchange, then Rule 22c-1(b) has not been met, as would be very likely for all securities other than equity securities listed and traded on the New York Stock Exchange.

Investment Company Act Release No. 5519, in which Rule 22c-1 was adopted, cites two purposes for Rule 22c-1: (1) to eliminate any dilution in the value of investment company shares; and (2) to eliminate certain speculative trading practices.

Dilution through the sale of redeemable securities at a price below their net asset value may occur, for example, through the practice of selling securities for a certain period of time at a price based upon a previously established net asset value. This practice permits a potential investor to take advantage of an upswing in the market and an accompanying increase in the net asset value of investment company shares by purchasing such shares at a price which does not reflect the increase.[28]

Although a Trust Sponsor's secondary market activities would involve use of backward pricing in violation of Rule 22c-1, exemptions from Rule 22c-1 have been granted by the Commission recognizing that those activities, being completely independent of the Trust and in no way involving the assets of the Trust, cannot result in dilution of existing unitholders' interests in the Trust.[29] Moreover, to protect investors who sell or buy units from the Sponsor in the secondary market from more than nominal changes in unit value between the time of the transaction and the time at which the Sponsor's buying and selling price of units is determined, the Sponsor is required to adopt a procedure whereby the Evaluator, without necessarily rendering a formal evaluation, will provide estimated evaluations on trading days.

In the case of repurchase, the Evaluator will indicate by letter to the Sponsor that, in the Evaluator's opinion, the current bid price is not higher than the offering side evaulation, computed on the last business day of the previous week. If the Evaluator cannot make this statement, the Sponor must order a full evaluation.[30] By requiring a full evaluation in this situation, the investor who sells Trust units in the secondary market is ensured of receiving at least the current redemption value for the units he sells. Thus, investors desiring to sell their units (rather than present them for redemption to the Trust) cannot possibly be injured by the Sponsor's secondary market activity.

In the case of resale of units in the secondary market, the Sponsor represents that, if the Evaluator cannot state that the offering side evaluation, computed on the last business day of the previous week, is not more than one-half of one percent ($5.00 on a unit representing $1,000 principal amount of Trust Debt Securities) greater than what the current offering price would be if Rule 22c-1 were complied with, a full evaluation will be ordered.[31] This undertaking is designed to cover the situation where the investor offers to purchase units on a day when, due to a decline in the market, the offering price of the units is substantially less than the Sponsor's resale price (based on the offering side evaluation computed on the last business day of the previous week).[32] By requiring a full evaluation in the event the offering side evaluation has decreased by an amount greater than one-half of one percent, the investor who buys units in the secondary market is insured that the price he pays approximates (within one-half of one percent) the current offering price of the units.

[28] Investment Company Act Release No. 5519 at 1 (October 16, 1968).

[29] Trust assets would only be involved in the case of a redemption; in such event, there would be full compliance with Rule 22c-1. Moreover, there is no danger of speculative trading of Trust units because there is forward pricing daily while the Trust is being sold—the possibility of organized arbitrage against a fixed income trust is negligible where the trust is not selling new shares regularly.

[30] See, e.g., Investment Company Act Release Nos. 10327 and 10085, dated July 18, 1978 and January 6, 1978, respectively.

[31] See, e.g., Investment Company Act Release Nos. 10327 and 10085, dated July 18, 1978 and January 6, 1978, respectively.

[32] Such a decline could be caused, for example by a change in the interest rate or quality rating for that type of security.

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PROPOSED RULES

A. PROPOSED RULE 14A-3

Proposed Rule 14a-3 would provide that, subject to certain conditions, a registered Trust engaged exclusively in the business of investing in Trust Debt Securities, and any principal underwriter for the Trust, is exempt from Section 14(a) of the Act with respect to a public offering of Trust units. The conditions which must be met in order for the relief offered by the Rule to apply are as follows:

(1) At the commencement of the public offering, the Trust holds at least $100,000 principal amount of Trust Debt Securities;

(2) If, within ninety days from the time that the Trust's registration statement has become effective under the Securities Act of 1933 the net worth of the Trust declines to less than $100,000 or the Trust is terminated, the Sponsor for the Trust must (i) refund, on demand and without deduction, all sales charges to any unitholders who purchased Trust units from the Sponsor (or from any underwriter or dealer participating in the distribution), and (ii) liquidate the Trust Debt Securities held by the Trust and distribute the proceeds thereof to the unitholders of the Trust;

(3) The Sponsor must instruct the trustee when the Trust Debt Securities are deposited in the Trust that, in the event that redemptions by the Sponsor or underwriter (if any) of units constituting a part of the unsold units results in the Trust's having a net worth of less than 40 percent of the principal amount of the Trust Debt Securities initially deposited in the Trust, (i) the trustee shall terminate the Trust and distribute the assets to the unitholders of the Trust, and (ii) the Sponsor for the Trust must refund, on demand and without deduction, all sales charges to any unitholder who purchased Trust units form the Sponsor or from any underwriter or dealer participating in the distribution.

The proposed rule defines the term Trust Debt Securities to include:[33]

(1) Interest bearing obligations issued by a corporation;

(2) Interest bearing obligations issued by a state, or by any agency, instrumentality, authority or political subdivision thereof;

(3) Government securities; and

(4) Units of a previously issued series of the Trust: *Provided*, That: (i) the aggregate principal amount of units of existing series so deposited will not exceed 10% of the aggregate principal amount of the portfolio of the new series; (ii) the aggregate principal amount of units of any particular existing series so deposited will not exceed 5% of the aggregate principal amount of the portfolio of the new series; (iii) no units will be so deposited which do not substantially meet investment quality criteria at least as high as those applicable to the new series in which such units are deposited; (iv) the value of the Trust Debt Securities underlying units of an existing series deposited in a new series will not, by reason of maturity of such securities according to their terms within ten years following the date of deposit, be reduced sufficiently for such existing series to be voluntarily terminated; (v) units of existing series so deposited will constitute units purchased by the Sponsor as market maker and not remaining unsold units from the original distribution of such units; and (vi) the Sponsor will deposit units of existing series in the new series without a sales charge.

These conditions are generalizations of specific conditions present in no-action letters that have dealt with this issue. Since the specific conditions in those letters addressed particular factual situations, they are not suitable for use in the proposed Rule. The remainder of proposed Rule 14a-3 is merely a codification of existing exemptive orders in this area.

The Commission has recently become concerned that depositing units of a previously issued series of a Trust in the portfolio of a new series of the same Trust may result in the layering of trustee and Evaluator's fees. The Commission, therefore, specifically invites comment on any economic impact of that practice. Moreover, to the extent that this practice exists and may be unfair to unitholders of Trusts that hold such units in their portfolio, the Commission also requests comment on what steps would be necessary and appropriate to alleviate any unfairness.

B. PROPOSED AMENDMENTS OF RULE 19b-1

Proposed Rule 19b-1(c) and (d)[34] would allow a Trust engaged exclusively in the business of investing in Trust Debt Securities (as defined in Proposed Rule 14a-3(b)) to make more than one capital gains distribution in any one taxable year: *Provided*, That:

(1) The capital gain distribution is a result of (i) an issuer's calling or redeeming the Trust Debt Security held by the Trust, (ii) the sale of a Trust Debt Security to provide funds for redemption of Trust units when the amount received by the Trust for such sale exceeds the amount required to satisfy the redemption distribution, (iii) sale of a Trust Debt Security to maintain qualification of the Trust as a "regulated investment company" under Section 851 of the Internal Revenue Code, (iv) regular distributions of principal and prepayment of principal on Trust Debt Securities, or (v) sale of a Trust Debt Security to maintain the investment stability of the Trust; and

(2) Capital gains distributions are clearly described as such in a report to the unitholder's which accompanies each such distribution.

A sale made in order to maintain the "investment stability" of the Trust is defined by the proposed amendments to mean a sale made to prevent deterioration in the value of the Trust Debt Securities held by the Trust when one or more of the following factors exists: (1) A default in the payment or principal or interest on a Trust Debt Security, (2) an action involving the issuer of a Trust Debt Security which adversely affects the ability of such issuer to continue payment of principal or interest on a Trust Debt Security, or (3) an adverse change in the market, revenue, or credit factors which adversely affects the ability of such issuer to continue payment of principal or interest on its Trust Debt Securities. This definition, it should be emphasized, modifies slightly the term "investment stability" as defined in the existing exemptive orders under Rule 19b-1, but in a more general manner which appears to place more ascertainable limits on when a Trust Debt Security can be sold.

Other than the above discussed modification, proposed Rule 19b-1(c) and (d) is merely a codification of existing exemptive orders in this area.

C. PROPOSED RULE 22C-1

Proposed Rule 22c-1, which would expand existing Rule 22c-1, would provide, in pertinent part, that a Sponsor of a Trust engaged in the business of investing in Trust Debt Securities may sell and repurchase Trust units in the secondary market at a price based on the offering side evaluation of the Trust Debt Securities in the Trust portfolio, determined on the last business day of each week, effective for all sales made during the following week, if on the days that such sales or repurchases are made the Sponsor receives a letter from a qualified Evaluator[35] stating, in its opinion, that:

[33] By use of the word "include" the Commission has defined the Term Debt Securities in a manner which would allow the Division of Investment Management, in appropriate cases, to specify by no-action letters whether particular securities are within its scope.

[34] The proposed amendments to Rule 19b-1 would not change paragraphs (a) and (b) of existing Rule 19b-1. Paragraph (c) of the existing Rule would be relettered paragraph (e), but otherwise remains unchanged.

[35] The Rule would define a "qualified Evaluator" to mean any Evaluator which represents it is in a postion to determine, on the basis of an informal evaluaton of the Trust Debt Securities held in the Trust portfolio,

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(1) In the case of repurchases, the current bid price is not higher than the offering side evaluation, computed on the last business day of the previous week, and

(2) In the case of resales, the offering side evaluation, computed as of the last business day of the previous week is not more than one-half of one percent ($5.00 on a unit representing $1,000 principal amount of Trust Securities) greater than the current offering price.

That part of proposed amendment of Rule 22c-1 which deals with the Sponsor's secondary market activities is merely a codification of existing exemptive orders in this area.

The Commission believes that it would be very useful also to amend the existing portion of Rule 22c-1(b) which has caused numerous interpretive problems in that it ties to the close of the New York Stock Exchange the time for pricing *all* securities even though they are not (and could not be) listed for trading on that exchange, i.e., bank certificates of deposit, municipal bonds, and other types of money market instruments. Accordingly, paragraph (b) of Rule 22c-1 would be amended to require forward pricing for all portfolio securities as of the close of the primary trading market in which they are traded. The Commission specifically invites comment on whetner this amendment, which represents a codification of existing orders in this area,[36] provides an appropriate standard for all securities which might be present in an investment company portfolio..

TEXT OF RULEMAKING

It is proposed to amend Part 270 of Chapter II of Title 17 of the Code of Federal Regulations by—

I. Adding § 270.14a-3 as follows:

§ 270.14a-3 Exemption from section 14(a) of the Act for certain registered unit investment trusts and their principal underwriters.

(a) A registered unit investment trust (hereinafter referred to as the "Trust") engaged exclusively in the business of investing in trust debt securities, and any principal underwriter for the Trust, shall be exempt from section 14(a) of the Act with respect to a public offering of Trust units: *Provided*, That:

(1) At the commencement of such offering the Trust holds at least $100,00 principal amount of trust debt securities (for delivery statements relating to contracts for the purchase of any such securities which, together with cash or an irrevocable letter of credit issued by a bank in the amount required for their purchase, are held by the Trust for purchase of the securities);

(2) If, within ninety days from the time that the Trust's registration statement has become effective under the Securities Act of 1933 (15 U.S.C. 77a et seq.) the net worth of the Trust declines to less than. $100,000 or the Trust is terminated, the sponsor for the Trust shall—

(i) Refund, on demand and without deduction, all sales charges to any unitholders who purchased Trust units from the sponsor (or from any underwriter or dealer participating in the distribution), and

(ii) Liquidate the trust securities held by the Trust and distribute the proceeds thereof to the unitholders of the Trust;

(3) The sponsor instructs the trustee when the trust debt securities are deposited in the Trust that, in the event that redemptions by the sponsor or any underwriter of units constituting a part of the unsold units results in the Trust having a net worth of less than 40 percent of the principal amount of the trust debt securities (or delivery statements relating to contracts for the purchase of any such securities which, together with cash or an irrevocable letter of credit issued by a bank in the amount required for their purchase, are held by the Trust for purchase of the securities) initially deposited in the Trust—

(i) The trustee shall terminate the Trust and distribute the assets thereof to the unitholders of the Trust, and

(ii) The sponsor for the Trust shall refund, on demand and without deduction, all sales charges to any unitholder who purchased Trust units from the sponsor or from any underwriter or dealer participating in the distribution.

(b) For the purposes of determining the availability of the exemption provided by the foregoing subsection, the term "trust debt securities" shall include:

(1) Interest bearing obligations issued by a corporation;

(2) Interest bearing obligations issued by a state, or by any agency, instrumentality, authority or political subdivision thereof;

(3) Government securities; and

(4) Units of a previously issued series of the Trust; *Provided*, That:

(i) The aggregate principal amount of units of existing series so deposited shall not exceed 10% of the aggregate principal amount of the portfolio of the new series;

(ii) The aggregate principal amount of units of any particular existing series so deposited shall not exceed 5% of the aggregate principal amount of the portfolio of the new series;

(iii) No units shall be so deposited which do not substantially meet investment quality criteria at least as high as those applicable to the new series in which such units are deposited;

(iv) The value of the trust debt securities underlying units of an existing series deposited in a new series shall not, by reason of maturity of such securities according to their terms within ten years following the date of deposit, be reduced sufficiently for such existing series to be voluntarily terminated;

(v) Units of existing series so deposited shall constitute units purchased by the sponsor as market maker and not remaining unsold units from the original distribution of such units; and

(vi) The sponsor shall deposit units of existing series in the new series without a sales charge.

II. Redesignating existing paragraph (c) of § 270.19b-1 as (e) and adding new paragraphs (c) and (d) as follows:

§ 270.19b-1 Frequency of distribution of capital gains.

* * * * * *

(c) The provisions of this rule shall not apply to a unit investment trust (hereinafter referred as the "Trust") engaged exclusively in the business of investing in trust debt securities (as defined in Rule 14a-3(b) (17 CFR 270.14a-3(b)) under this Act); *Provided*, That:

(1) The capital gain distribution is a result of—

(i) An issuer's calling or redeeming a trust debt security held by the Trust,

(ii) The sale of a trust debt security by the Trust to provide funds for redemption of Trust units when the amount received by the Trust for such sale exceeds the amount required to satisfy the redemption distribution,

(iii) The sale of a trust debt security to maintain qualification of the Trust as a "regulated investment company" under Section 851 of the Internal Revenue Code of 1954, as amended,

(iv) Regular distributions of principal and prepayment of principal on trust debt securities, or

(v) The sale of a trust debt security in order to maintain the investment stability of the Trust; and

(2) Capital gains distributions are clearly described as such in a report to the unitholder which accompanies each such distribution.

(d) For purposes of the foregoing paragraph, sales made to maintain the

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whether (i) the current bid price is higher than the offering side evaluation, computed on the last business day of the previous week, and (ii) the offering side evaluation, computed as of the last business day of the previous week, is more than one-half of one percent ($5.00 on a unit representing $1,000 principal amount of Trust Debt Securities) greater than the current offering price.

[36] See, e.g., G.T. Pacific Fund, Inc., Investment Company Act Release No. 9748 (May 3, 1977).

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investment stability of the Trust means sales made to prevent deterioration of the value of the trust debt securities held in the Trust portfolio when one or more of the following factors exist:

(1) A default in the payment of principal or interest on a trust debt security;

(2) An action involving the issuer of a trust debt security which adversely affects the ability of such issuer to continue payment of principal or interest on its trust debt securities; or

(3) A change in market, revenue or credit factors which adversely affects the ability of such issuer to continue payment of principal or interest on its trust debt securities.

. . . . .

(Existing paragraph (c) is redesignated paragraph (e).)

III. Amending paragraphs (a) and (b) of § 270.22c-1 as follows:

§ 270.22c-1 Pricing of redeemable securities for distribution, redemption and repurchase.

(a) No registered investment company issuing any redemmable security, no person designated in such issuer's prospectus as authorized to consummate transactions in any such security, and no principal underwriter of, or dealer in, any such security shall sell, redeem, or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security: *Provided*, That:

(1) This paragraph shall not prevent a sponsor of a unit investment trust (hereinafter referred to as the "Trust") engaged exclusively in the business of investing in trust debt securities (as defined in Rule 14a-3(b) (17 CFR 270.14a-3(b)) from selling or repurchasing Trust units in a secondary market at a price based on the offering side evaluation of the trust debt securities in the Trust's portfolio, determined at any time on the last business day of each week, effective for all sales made during the following week, if on the days that such sales or repurchases are made the sponsor receives a letter from a qualified evaluator stating, in its opinion, that:

(i) In the case of repurchases, the current bid price is not higher than the offering side evaluation, computed on the last business day of the previous week; and

(ii) In the case of resales, the offering side evaluation, computed as of the last business day of the previous week, is not more than one-half of one percent ($5.00 on a unit representing $1,000 principal amount of trust debt securities) greater than the current offering price.

(b) For the purposes of this rule, (1) the current net asset value of any such security shall be computed on each day during which the New York Stock Exchange is open for trading, not less frequently than once daily as of the time of the close of trading on the relevant primary trading market in which each portfolio security is traded, and (2) a "qualified evaluator" shall mean any evaluator which represents it is in a position to determine, on the basis of an informal evaluation of the trust debt securities held in the Trust's portfolio, whether—

(i) The current bid price is higher than the offering side evaluation, computed on the last business day of the previous week, and

(ii) The offering side evaluation, computed as of the last business day of the previous week, is more than one-half of one percent ($5.00 on a unit representing $1,000 principal amount of trust debt securities) greater than the current offering price.

STATUTORY BASIS

New Rule 14a-3 is promulgated pursuant to the provisions of Sections 6(c) (15 U.S.C. 80a-6(c)) and 38(a) (15 U.S.C. 80a-37(a)) of the Act. Amended Rule 19b-1 is promulgated to the provisions of Sections 6(c), 19(b) (15 U.S.C. 80a-19(b)) and 38(a) of the Act. Amended Rule 22c-1 is promulgated pursuant to the provisions of Sections 6(c), 22(c) (15 U.S.C. 80a-22(c)) and 38(a) of the Act.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

JANUARY 8, 1979.

[FR Doc. 79-1406 Filed 1-15-79; 8:45 am]

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federal register

TUESDAY, JANUARY 16, 1979
PART V



DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

federal register

ENDANGERED SPECIES CONVENTION

U.S. Positions, Foreign Proposals, Procedure for Changing the Appendices, and Status of Native Species Protected

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[4310-55-M]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 23]

ENDANGERED SPECIES CONVENTION

Procedure for Changing the Appendices

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of extension of public comment period on proposed rule.

SUMMARY: The Convention on International Trade in Endangered Species of Wild Fauna and Flora (T.I.A.S. 8249) contains procedures for Party nations to follow in amending the appendices. The Convention is implemented in the United States through regulations in 50 CFR, Part 23. Although amendment of the list of wildlife and plant species in Appendices I and II is a procedure involving international agreement, and therefore is not a subject entirely appropriate for Federal rulemaking, the Service has attempted to provide for maximum public input in determining United States proposals or positions on foreign proposals.

By the close of the previous comment period on May 23, 1978, the Service received only eight comments on proposed rules issued on March 24, 1978 (43 FR 12349-12351). These proposed rules would amend Part 23 to establish procedures for public participation in changing the Convention appendices. Recent controversy over proposals to amend Appendices I and II, which was expressed at a public meeting held on November 28, 1978, has generated requests to extend the period for public comment. Consistent with its policy of encouraging public involvement, the Service has determined to extend the comment period on these proposed rules for an additional 30 days.

DATES: All relevant comments received by February 15, 1979, will be considered in developing the final rule.

ADDRESSES: Comments on the proposed rule should be sent to the Director, U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, Washington, D.C. 20240. All comments received will be available for public inspection during normal business hours in Room 616, 1000 N. Glebe Road, Arlington Virginia.

FOR FURTHER INFORMATION CONTACT:

Dr. Richard L. Jachowski, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone 703-235-2418. Copies of the March 24th proposed rule are available upon request.

Dated: January 8, 1979.

LYNN A. GREENWALT,
Director,
Fish and Wildlife Service.

[FR Doc. 79-1457 Filed 1-15-79; 8:45 am]

[4310-55-M]

[50 CFR Part 23]

ENDANGERED SPECIES CONVENTION

Status of Native Species Protected

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The Service has submitted proposals to amend Appendices I and II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (T.I.A.S. 8249). These proposals, which resulted from a survey of the status of native United States wildlife now included in the appendices, have been circulated to other nations for consideration at the second meeting of the Conference of the Parties. The substance of those proposals has been published in the FEDERAL REGISTER on November 27, 1978 (43 FR 55314-55319) and is open to public comment until January 15, 1979. The purpose of the present notice is to describe future actions that the Services and the U.S. delegation to the meeting of the Parties will take on these proposals, and to describe the plans for future public participation in determining the course of these actions.

DATES: The Service plans to publish a notice in the FEDERAL REGISTER on or about January 25, 1979, stating its determinations concerning United States proposals to amend the Convention appendices. Public meetings to present these determinations and discuss other matters relating to the meeting of the Parties will be held on January 31-February 1, 1979, and March 8, 1979.

ADDRESS: Please send correspondence to the Director, U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Dr. Richard L. Jachowski, Federal Wildlife Permit Office, Washington, D.C. 20240, telephone 703-235-2418.

SUPPLEMENTARY INFORMATION: The general background for the survey of native species that led the Service to propose amendments to Appendices I and II is explained in FEDERAL REGISTER notices of March 6, 1978 (43 FR 9168-9172) May 3, 1978 (43 FR 19176-19191), and November 27, 1978 (43 FR 55314-55319).

The purpose of these notices has been to inform and involve the public in the development of appropriate proposals to amend Appendices I and II, recognizing that the amendment process is a function of foreign affairs where final decisions are made by agreement of Party nations and not by the United States alone.

Proposals to amend Appendices I and II that resulted from the survey of native species were submitted to the Secretariat for the Convention on October 5, 1978, and they were circulated along with proposals from other Parties by the Convention's Secretariat to all Parties on November 24, 1978. The proposals will be considered at the second meeting of the Conference of the Parties on March 19-30, 1979, in San Jose, Costa Rica. The role of the United States delegation to the meeting will be to present and negotiate the United States positions. To the extent that issues can be anticipated, the delegation will advance positions that have been developed prior to the meeting. Public participation has been sought at public meeting on May 31, 1978, and November 28, 1978, through requests to the public for written comments on the various issues, and through the series of FEDERAL REGISTER notices on the species survey.

The schedule for the process of future public participation is as follows. Notices of the time and place of the public meetings will be published separately in the FEDERAL REGISTER.

January 10, 1979 (approximately)—Publication in the FEDERAL REGISTER of two additional notices: One will reopen for 30 days the comment period on proposed procedures for developing U.S. positions on amendment of the appendices; a second will publish for public comment the proposals by other Party nations for amendment of the appendices.

January 15, 1979—Close of the public comment period on tentative U.S. proposals to amend the appendices.

January 25, 1979—Publication in the FEDERAL REGISTER of a determination on U.S. proposals to amend the appendices.

January 31, 1979—Public meeting to brief interersted citizens and organizations on U.S. proposals to amend the appendices and to discuss foreign proposals.

February 1, 1979—Public meeting to brief interested citizens and organizations on tentative U.S. positions on other issues of negotiation and to elicit additional public comment on these positions.

February 28, 1979 (approximately)—publication in the FEDERAL REGISTER of a determination on foreign proposals to amend the appendices.

March 8, 1979—Public meeting to brief interested citizens and organizations on the final U.S. negotiating positions on all items scheduled for discussion at the meeting of the Parties.

Questions have been raised by the public concerning the finality of the Service's determination on U.S. proposals to amend the appendices. It is the intention of the Service that the determinations to be published in the FEDERAL REGISTER on January 25, 1979, will represent the final views of the Service on the status of these species when evaluated in terms of the criteria for listing and delisting (the so-called Bern criteria). The negotiating positions of the U.S.delegation will be based on these determinations. However, the process of negotiation might require a shift in certain negotiating positions. The extent to which the Service has utilized the procedures established by the Administrative Procedures Act in formulating positions on amendments to the appendices reflects its commitment to a policy of full public participation. The Service does not, however, believe the process of formulating proposed amendments to the appendices is one of rulemaking because the Service cannot give the proposals force and effect unilaterally. Amendment of the Appendices can only occur in an international forum through collective action of the Parties to the Convention. This notice is issued under the authority contained in the Endangered Species Act of 1973 (16 U.S.C. 1531-1543; 87 Stat. 884, as amended), and was prepared by Dr. Richard L. Jachowski, Federal Wildlife Permit Office.

NOTE.—The Department of the Interior has determined that Executive Order 12044 concerning improving government regulations does not apply to this notice, since it does not constitute a rulemaking.

Dated: January 8, 1979.

LYNN A. GREENWALT,
Director,
Fish and Wildlife Service.

[FR Doc.79-1458 Filed 1-15-79; 8:45 am]

[4310-55-M]

[50 CFR Part 23]

ENDANGERED SPECIES CONVENTION

Public Discussion of Proposed Rule and Other Positions to be Advanced by the United States

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Public meetings on proposed rule.

SUMMARY: This notice announces three day-long public meetings to discuss the proposed rule on the status of native species protected by the Endangered Species Convention and other proposed U.S. positions regarding the interpretation and implementation of the Endangered Species Convention.

The Service is responsible for developing, after consultation with the interested public, the States, and other government and non-governmental organizations, the U.S. position on agenda items to be considered at the Second Meeting of the Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (Endangered Species Convention). The Second Meeting of the Conference of the Parties will take place March 19-30, 1979 in San Jose, Costa Rica.

In preparation for the Costa Rica meeting, and as part of an on-going series of consultations with the public on the development of the United States position paper, the Service will hold three more public meetings prior to the commencement of the meeting in Costa Rica.

DATES: Meetings will be held on January 31, 1979, February 1, 1979, and March 8, 1979. All three public meetings will be held from 10:00 a.m. to 12 noon and from 1:00 p.m. to 4:00 p.m. See "Supplementary Information" for additional information on the public meetings.

ADDRESSES: The location of all three meetings is the same: Room 5160 of the Main Interior Building, 18th and C Streets, N.W., Washington, D.C. Those planning to attend the meetings are asked to so inform Joan Caton, Chief, Management Operations Branch, Federal Wildlife Permit Office, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Further information on the three meetings can be obtained by calling Joan Caton at 703-235-2418.

SUPPLEMENTARY INFORMATION: On January 31, 1979, the Service will hold a day-long public meeting to present the final position on the recommendations it proposes to make at the Costa Rica meeting regarding the status of certain native species protected under the Endangered Species Convention.

On February 1, 1979, the Service will hold a day-long public meeting to report on the status of certain agenda items and to discuss with the interested public specific items to be incorporated in the U.S. position paper for the Costa Rica meeting.

Draft positions will be developed for comment on the following issues:

Financing of the Endangered Species Convention Secretariat and future meetings of the Parties;

The future of the five nation Steering Committee which advises the Convention Secretariat;

The relationship of the Endangered Species Convention with the International Whaling convention and other international agreements;

The interpretation and implementation of the Endangered Species Convention in the following areas:

A. Exemption for specimens that are bred in captivity;

B. Exemption for specimens that are artificially propagated;

C. Exemption for specimens that were acquired before the Convention applied to them;

D. Control of trade in seeds and cut flowers of plants in Appendices I and II;

E. Application of the Convention to hybrids of listed species;

F. Listing of species to effectively control trade in other species;

Regulating import of Appendix II species;

Development of an Identification Manual;

Minimum list of parts and derivatives;

Exchange of museum and herbarium specimens;

Guidelines on shipment of living specimens;

Format for proposals to amend Appendix I or II;

Standardization of taxonomy;

Criteria for adding rare species to Appendix I.

Copies of the draft positions will be available from the Wildlife Permit Office after January 30, 1978. They will also be available at the public meetings scheduled for January 31 and February 1.

On March 8, 1979, the Service will hold a day-long final meeting to brief the public on the entire U.S. position paper developed for the meeting in Costa Rica. At this meeting all agenda items for the Costa Rica meeting will be discussed in detail. All three public meetings will be held from 10:00 a.m. to 12 noon and from 1:00 p.m. to 4:00 p.m.

Dated January 8, 1979.

LYNN A. GREENWALT,
Director,
Fish and Wildlife Service.

[FR Doc. 79-1455 Filed 1-15-79; 8:45 am]

[4310-55-M]

[50 CFR Part 23]

ENDANGERED SPECIES CONVENTION

Foreign Proposals To Amend The List of Species Protected

AGENCY: Fish and Wildlife Service, Interior.

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ACTION: Advance notice of potential rulemaking.

SUMMARY: Pursuant to recommendations made by Party nations at a special working session of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (T.I.A.S. 8249), various Parties reviewed the species of wildlife listed in Appendices I and II of the Convention that are native to their countries. Species were to be examined in terms of criteria adopted by the Parties at their first meeting in 1976. This notice reports on 213 proposals by Parties other than the United States to amend Appendices I and II that resulted from this review, or that are proposals to add species not previously listed. The proposals will be considered at the second meeting of the Parties in 1979.

DATES: Comments or information on the proposals should be submitted to the Service by February 19, 1979. The proposed amendments to the Convention will be considered by Party nations on March 19-30, 1979, and any that are adopted by the Parties will enter into force 90 days after adoption.

ADDRESS: Please sent correspondence to the Director, U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Dr. Richard L. Jachowski, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone 703-235-2418.

SUPPLEMENTARY INFORMATION:

BACKGROUND

The Convention on International Trade in Endangered Species of Wild Fauna and Flora is a treaty controlling import, export, re-export and introduction from the sea of certain species of wildlife and plants. Appendices I and II contain a list of the species that the Party nations have agreed to subject to these controls. At their first meeting in 1976, the Parties adopted criteria for adding, transferring or deleting species, and they agreed to review those species already included in the Appendices in terms of these criteria.

Article XV of the Convention sets forth the procedures that Parties are to follow in amending Appendices I and II. Only Parties may propose amendments, and they are not limited to proposing only species native to their countries. Proposals may be submitted by any Party for consideration by all of the Parties through a postal procedure, or they may be submitted for consideration at a meeting of the Conference of the Parties.

Following the first meeting of the Conference of the Parties in 1976, the Service received requests from the public to establish a procedure that would inform the public about proposed changes in the appendices and provide for public participation. In response to this need, the Service published proposed rules on procedures for changing the appendices (43 FR 12349-12351) on March 24, 1978. These procedures have been followed by the Service, even though they are not yet finalized. Although the sequence of notices resembles that of the rulemaking procedure followed in listing species as Endangered or Threatened under the Endangered Species Act of 1973, it should be noted that amendment of the Convention appendices cannot be accomplished through Federal rulemaking. Final determinations are made by agreement of the Parties and not by any one Party.

FOREIGN PROPOSALS

The proposed amendment to Appendices I and II that are summarized in this notice have been submitted by Parties other than the United States for consideration at the Second Meeting of the Conference of the Parties. This meeting is to be held on March 19-30, 1979, in San Jose, Costa Rica. Most of the Proposals were submitted to the Convention's Secretariat in a format recommended to the Parties by the Special Working Session, which was held in 1977 in Geneva, Switzerland.

The purpose of this notice is to inform the public about these foreign proposals and to request information that would be useful in determining the negotiating position that the United States should take when the proposals are considered at the meeting of the Parties. Following an evaluation of all available information, the Service will publish a second notice on or about February 28, 1979, stating its determinations on these proposals. The negotiating positions of the United States delegation will be based on these determinations, recognizing that the process of negotiation might require a shift in certain negotiating positions.

The foreign proposals are summarized below. The full texts of the proposals are on file in the Federal Wildlife Permit Office and are available for public inspection.

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[4310-55-C] Summary of proposals made by foreign nations to amend Appendices I and II of the Endangered Species Convention

Species	Current * status	Proposed status	Proponent
MAMMALIA			
MARSUPIALIA			
Macropodidae			
Bettongia spp.	3 species of genus in I	I	Australia
Caloprymnus campetstris	I	0	Australia
Dendrolagus spp.	2 species of genus in II	II	Australia
Macropus parma	II	0	Australia
Phalangeridae			
Phalanger maculatus	0	II	Australia
Phalanger orientalis	0	II	Australia
Wyulda squamicaudata	II	0	Australia
Petauridae			
Gymnobelidius leadbeateri	0	II	Australia
Vombatidae			
Lasiorhinus krefftii	0	I	Australia
Lasiorhinus gillespiei	I	0	Australia
Peramelidae			
Chaeropus eucaudatus	I	0	Australia
Dasyuridae			
Antechinomys laniger	II	0	Australia

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Antechinus apicalis	0	II	Australia
Antechinus godmani	0	II	Australia
Dasyuroides byrnei	0	II	Australia
Myrmecobius fasciatus rufus	I	0	Australia
Planigale tenuirostris	II	0	Australia
Thylacinidae			
Thylacinus cynocephalus	I	0	Australia
PRIMATES			
Cercopithecidae			
Macaca mulatta (Indian population)	II	0	India
Macaca radiata (Indian population)	II	0	India
Presbytis entellus	I	II	India
RODENTIA			
Castoridae			
Castor fiber birulai	I	0	Switzerland
Muridae			
Notomys spp.	0	II	Australia
Notomys aquilo	I	II	Australia
Pseudomys fieldi	I	0	Australia
Pseudomys novaehollandiae	I	0	Australia
Pseudomys occidentalis	I	0	Australia
Pseudomys oralis	0	II	Australia
Pseudomys shortridgei	I	II	Australia
CETACEA			
All species except those in Appendix I	Some species or stocks in II	II	United Kingdom

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Platanistidae			
Lipotes vellixifer	0	I	United Kingdom
Platanista minor	0	I	United Kingdom
Delphinidae			
Sotalia spp.	0	I	United Kingdom
Sousa spp.	0	I	United Kingdom
Phocaenidae			
Neophocoena phocaenoides	0	I	United Kingdom
Phocoena sinus	0	I	United Kingdom
CARNIVORA			
Canidae			
Dusicyon culpaeus	0	II	Chile
Dusicyon fulvipes	0	II	Chile
Dusicyon griseus	0	II	Chile
Canis lupus pallipes	II	I	India
Ursidae			
Helarctos malayanus	II	I	India
Selenarctos thibetanus	Subspecies S.t. gedrosianus in I	I	India
Mustelidae			
Conepatus humboldti	0	II	Chile
Lutra felina	I	II	Chile
Lutra provocax	I	II	Chile

Felidae			
Felis bengalensis bengalensis	I	II	Switzerland
Felis bieti	II	0	Switzerland
Felis chaus	II	0	Switzerland
Felis concolor coryi	I	II	Switzerland
Felis concolor costaricensis	I	II	Switzerland
Felis concolor cougar	I	II	Switzerland
Felis lynx (including Lynx canadensis)	II	0	Switzerland
Felis pardalis mearnsi	I	II	Switzerland
Felis pardalis mitis	I	II	Switzerland
Felis rufa escuinapae	I	II	Switzerland
Felis silvestris	II	0	Switzerland
Felis temmincki	I	II	Switzerland
Felis tigrina oncilla	I	II	Switzerland
Felis wiedii nicaraguae	I	II	Switzerland
Felis wiedii salvinia	I	II	Switzerland
Felis yagouaroundi cacomitli	I	II	Switzerland
Felis yagouaroundi fossata	I	II	Switzerland
Felis yagouaroundi panamensis	I	II	Switzerland
Felis yagouaroundi tolteca	I	II	Switzerland
Felis caracal	II	I	India
Felis lynx isabellina	II	I	India
Felis manul	II	I	India
Felis rubiginosa	II	I	India
Phocidae			
Ommatophoca rossi	0	I	Chile

PROBOSCIDEA			
Elephantidae			
Elephas maximus (Indian population)	I	II	India
PERISSODACTYLA			
Equus hemionus kiang	0	I	India
ARTIODACTYLA			
Bovidae			
Kobus leche	I	II	Botswana
Saiga tatarica mongolica	I	0	Switzerland
Bos gaurus	I	II	India
Nemorhaedus goral (Indian population)	II	0	India
Pantholops hodgsoni	II	I	India
Camelidae			
Vicugna vicugna	I	II	Chile and Switzerland
Vicugna vicugna (Population of Pampas Galeras National Reserve and Cala Cala in Peru)	I	II	Peru
Camelus bactrianus	I	0	Switzerland
Cervidae			
Pudu pudu	I	II	Switzerland
AVES			
RHEIFORMES			
Rheidae			
Pterocnemia spp.	2 subspecies in II	II	Chile

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CICONIIFORMES			
Threskiornithidae			
Geronticus eremita	0	I	Switzerland
Phoenicopteridae			
Phoenicopterus ruber ruber	0	II	United Kingdom
ANSERIFORMES			
Anatidae			
Nettapus coromandelianus albipennis	0	II	Australia
Coscoroba coscoroba	II	I	Chile
FALCONIFORMES			
All species except those in Appendix I	Some species in II	II	Sweden
Accipitridae			
Accipiter gentilis	II	I	Switzerland and India
Accipiter nisus	II	I	Switzerland
Aviceda jerdoni jerdoni	0	I	India
Aviceda leuphotes leuphotes	0	I	India
Gypaetus barbatus	II	I	India
Hieraaetus spp.	0	I	India
Hieraaetus fasciatus	0	II	Switzerland
Hieraaetus pennatus	0	II	Switzerland
Lophotriorchis spp.	0	I	India
Spizaetus spp.	0	I	India

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Pandionidae			
Pandion haliaetus	II	I	India
Falconidae			
Falco biarmicus	II	I	India
Falco rusticolus	II	I	Denmark
Falco chicquera	II	I	India
GALLIFORMES			
Phasianidae			
Cyrtonyx montezumae merriami	I	0	Switzerland
Catreus wallichii	II	I	India
Megapodiidae			
Megapodius freycinet nicobariensis	II	I	India
GRUIFORMES			
Otididae			
Chlamydotis undulata	II	I	India
Choriotis nigriceps	II	I	India
Otis tetrax	0	I	India
Pedionomidae			
Pedionomus torquatus	0	II	Australia
Turnicidae			
Turnix melanogaster	0	II	Australia
CHARADRIIFORMES			
Laridae			
Larus relictus	I	0	Switzerland

COLUMBIFORMES			
Columbidae			
Ducula mindorensis	I	II	Switzerland
Caloenas nicobarica	0	I	India
PASSERIFORMES			
Pittidae			
Pitta kochi	I	II	Switzerland
Muscicapidae			
Amytornis goyderi	I	0	Australia
Dasyornis broadbenti littoralis	I	0	Australia
Psophodes nigrogularis	I	II	Australia
Estrilidae			
Emblema oculata	0	II	Australia
Poephila cincta cincta	0	II	Australia
PSITTACIFORMES			
Psittacidae			
Geopsittacus occidentalis	I	0	Australia
Psephotus pulcherrimus	I	0	Australia
Cyanoliseus patagonus byroni	0	II	Chile
Amazona leucocephala	I	0	Switzerland
Cyanoramphus auriceps forbesi	I	0	Switzerland
Psittacus erithacus princeps	I	0	Switzerland
Strigops habroptilus	I	0	Switzerland

STRIGIFORMES			
All species except those in Appendix I	Some species in II	II	Denmark
Strigidae			
Otus gurneyi	I	II	Switzerland
Athene blewitti	0	I	India
CORACIIFORMES			
Bucerotidae			
Buceros bicornis homarai	II	I	India
Rhyticeros (Undulatus) narcondami	0	I	India
REPTILIA			
TESTUDINATA			
Cheloniidae			
Chelonia mydas (Populations of Tromelin and Europa Islands)	I	II	Australia
Emydidae			
Batagur baska (Indian population)	I	0	India
Geoemyda (=Nicoria) tricarinata (Indian population)	I	0	India
Kachuga tecta tecta (Indian population)	I	0	India
Testudinidae			
Geochelone (=Testudo) radiata (Indian population)	I	0	India
Trionychidae			
Lissemys punctata punctata (Indian population)	I	0	India

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Trionyx gangeticus (Indian population)	I	0	India
CROCODYLIA			
Crocodylidae			
Crocodylus porosus	II	I	India
Crocodylus niloticus (Botswana population)	I	II	Botswana
SQUAMATA			
Colubridae			
Elachistodon westermanni	II	0	Switzerland
Boidae			
Python reticulatus	II	I	India
Varanidae			
Varanus salvator	II	I	India
RHYNCHOCEPHALIA			
Sphenodontidae			
Sphenodon punctatus	I	0	Switzerland
ARTHROPODA			
INSECTA			
LEPIDOPTERA			
Papilionidae			
Parnassius apollo	II	0	Switzerland
MOLLUSCA			
LAMELLIBRANCHIATA			
Mytilidae			
Mytilus chorus	0	I	Chile

GASTROPODA			
Muricidae			
Concholepas concholepas	0	II	Chile
ECHINODERMATA			
Echinoidea			
Echinidae			
Loxochinus albus	0	II	Chile
FLORA			
Angiopericidaceae			
Angiopteris spp.	0	II	India
Apocynaceae			
Rauvolfia spp.	0	II	India
Araucariaceae			
Araucaria araucana	II	I	Chile
Asclepiadaceae			
Ceropegia spp.	0	II	India
Dischidia bengalensis	0	I	India
Frerea indica	0	II	India
Blechnaceae			
Brainea insignis	0	II	India
Burseraceae			
Bursera pencillata	0	I	India
Byblidaceae			
Byblis spp.	0	I	Australia
Caesalpiniaceae			
Caesalpina spinosa	0	II	India

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Campanulaceae			
Lobelia nicotianaefolia	0	II	India
Cephalotaceae			
Cephalotus follicularis	0	II	Australia
Chloanthaceae			
All species	0	II	Australia
Coniferae			
Cephalotaxum griffithii	0	I	India
Cupressaceae			
Pilgerodendron uviferum (including timber)	I	II	Chile
Cycadaceae			
cycas beddomei	II	I	India
Cycas pectinata	II	I	India
Dioscoreaceae			
Dioscorea prazeri	0	II	India
Droseraceae			
Drosera spp.	0	I	India
Ebeneceae			
Diospyros marmorata	0	I	India
Ericaceae			
Rhododendron dalhousiae var. rhabdotiem	0	I	India
Gentianaceae			
Gentiana kurro	0	II	India
Gnetaceae			
Gnetum spp.	0	I	India

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Haemodoraceae			
Anigozanthos spp.	0	II	Australia
Hacropidia fulginosa	0	II	Australia
Krameriaceae			
Krameria cistoidea	0	I	Chile
Liliaceae			
Colchicum luteum	0	I	Inida
Gloriosa superba	0	I	India
Iphigenia stelata	0	I	India
Magnoliaceae			
Talauma hodgsonii	0	II	India
Myrtaceae			
Verticordia spp.	0	II	Australia
Nepenthaceae			
Nepenthes spp.	0	I	India
Ophioglossaceae			
Botrychium spp.	0	II	India
Helminthostachys zeylanica	0	II	India
Orchidaceae			
Anaectochilus spp.	II	I	India
Arachnanthe spp.	II	I	India
Cypripedium spp.	II	I	India
Galeola spp.	II	I	India
Paphiopedilum spp.	II	I	India
Renanthera imschoetiana	II	I	India

Vanda coerulea	II	I	India
Osmundaceae			
Todea barbara	0	II	Australia
Osmunda spp.	0	II	India
Pinaceae			
Abies nebrodensis	I	0	Switzerland
Abies delavayi	0	I	India
Podocarpaceae			
Podocarpus neriifolius	0	II	India
Polygonaceae			
Rheum emodei	0	II	India
Rheum nobile	0	II	India
Proteaceae			
Banksia spp.	0	II	Australia
Conospermum spp.	0	II	Australia
Dryandra formosa	0	II	Australia
Dryandra polycephala	0	II	Australia
Xylomelum spp.	0	II	Australia
Ranunculaceae			
Aconitum spp.	0	I	India
Coptis teeta	0	I	India
Rutaceae			
Boronia spp.	0	II	Australia
Crowea spp.	0	II	Australia
Geleznowia verrucosa	0	II	Australia

Schizaeaceae			
Anemia tormentose	0	II	India
Schizaea spp.	0	II	India
Solanaceae			
Atropa spp.	0	II	India
Tetracentraceae			
Tetracentron sinense	0	II	India
Thymelaeaceae			
Pimelea physodes	0	II	Australia
Ulmaceae			
Celtis aetnensis	I	0	Switzerland
Valerianaceae			
Nardostachys spp.	0	I	India
Valeriana spp.	0	I	India
Zingiberaceae			
Costus speciosus	0	II	India

*Status is indicated as follows: I = Appendix I, II = Appendix II, 0 = not included in either appendix.

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The proposals and all information and comments received in connection with this notice will be available for public inspection during normal business hours at the Federal Wildlife Permit Office, Room 616, 1000 N. Glebe Road, Arlington, Virginia.

This notice is issued under the authority contained in the Endangered Species Act of 1973 (16 U.S.C. 1531-1543; 87 Stat. 884, as amended), and was prepared by Dr. Richard L. Jachowski, Federal Wildlife Permit Office.

NOTE.—The Department of the Interior has determined that Executive Order 12044 concerning improving government regulations does not apply to this notice, since it concerns a matter which relates to a foreign affairs function of the United States.

Dated: January 8, 1979.

LYNN A. GREENWALT,
Director,
U.S. Fish and Wildlife Service.

[FR Doc. 79-1456 Filed 1-15-79; 8:45 am]

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federal register

TUESDAY, JANUARY 16, 1979
PART VI

THE NATIONAL ARCHIVES OF THE UNITED STATES • 1934 •

DEPARTMENT OF JUSTICE

Parole Commission

PAROLING, RECOMMITTING AND SUPERVISING FEDERAL PRISONERS

Interim and Final Rule

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[4410-01-M]

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

PART 2—PAROLE, RELEASE, SUPERVISION, AND RECOMMITMENT OF PRISONERS, YOUTH OFFENDERS AND JUVENILE DELINQUENTS

Paroling, Recommitting, and Supervising Federal Prisoners

AGENCY: United States Parole Commission.

ACTION: Final Rule.

SUMMARY: This amendment provides that all Federal prisoners sentenced to prison terms of more than one year will be afforded initial parole hearings within 120 days of their arrival at a Federal institution, with the sole exception that a prisoner whose sentence includes a minimum term of ten years or more will not be given an initial hearing until just prior to completion of his minimum term. The amendment also requires the Commission to set a "presumptive date of release" if release appears to be warranted for a date not more than ten years from the date of the hearing. The amendment is designed to provide more certainty in the service of prison terms, while maintaining the Commission's flexibility to review each case periodically for new developments.

EFFECTIVE DATE: Each prisoner sentenced on or after March 5, 1979, will receive an early initial hearing under the amended rule. Prisoners sentenced prior to the effective date will continue to be eligible for their initial hearings under the terms of the existing rules structure. However, any prisoner receiving a parole hearing of any kind on or after March 5, 1979, will be considered for a presumptive release date under the terms of the amended rule set forth below.

FOR FURTHER INFORMATION CONTACT:

Michael A. Stover, Office of the General Counsel, U.S. Parole Commission, 320 First Street, Northwest, Washington, D.C. 20537; phone (202) 724-3092.

SUPPLEMENTARY INFORMATION: Notice of proposed rulemaking was published at 43 FR 41411-41412 (Monday, September 18, 1978) and a deadline for public comment was set for November 15, 1978. In response to its invitation for public comment, the Commission received 21 letters from inmates, one letter from a Bureau of Prisons staff psychologist, one letter from an inmate's spouse, and one letter from a volunteer visitor at a federal penitentiary.

BACKGROUND

This amended rule is an expansion of the Commission's present policy of affording early initial parole hearings for the majority of federal prisoners and of setting presumptive dates of release up to four years in advance. (While a judicially-imposed minimum term is not a bar to an early hearing under this policy, neither the existing nor the amended rule would permit the actual release of a prisoner prior to completion of a minimum term.)

The principal benefit envisaged by this policy is that of providing a working measure of certainty for prisoners as to the date the Commission intends to release them, contingent upon the Commission making an affirmative finding that the prisoner has "substantially observed the rules of the institution or institutions to which he has been confined" (18 U.S.C. 4206), and has offered a suitable plan for community release.

After establishing a presumptive release date at the outset of the sentence, the Commission conducts periodic in-person review hearings to determine whether the release date should be advanced or deferred. However, it is the Commission's policy to alter an established release date only if there are clearly exceptional circumstances. Thus, the Commission maintains flexibility where it is needed, while avoiding any prolongation of needless uncertainty. (It should be noted that in exceptionally serious cases where a release date cannot be set, the initial guideline assessment is not changed when the prisoner is given a full reconsideration hearing. This will remain the Commission's policy.)

The prevailing theme in the public comment was that the proposal is a beneficial measure, but that it is unfair of the Commission not to extend the early hearing provision to prisoners presently incarcerated.

THE MERITS OF THE PROPOSAL

In commentary on the merits of the proposal, one inmate observed that the setting of a presumptive date early in the term would remove

> • • • the very heavy weight of doubt and uncertainty. A long period of psychological stress is an additional burden upon a convicted man.

Dr. Warren J. Welsh of the Federal Correctional Institution, Lexington, Kentucky, informed the Commission that the new rules

> • • • will serve to alleviate much of the emotional pressure under which inmates presently serve their sentences.

One very perceptive inmate stated:

> In prison the most amazing thing I see is how quick we the inmates forget why we are here. We justify our crimes through excuses, we seek sympathy from anyone and everyone, we build our lives around false hopes and dreams that can't be. Our sentencing structure and parole laws contribute to this in a small way. We need exact minimum and maximum times • • •

Not all prisoners agreed with this point of view. Several letters criticized the Commission's "clearly exceptional" standard for advancing a presumptive date and gave their opinion that the interim hearings would be meaningless formalities. One letter complained that the system will be counter-productive, since there will be little an inmate can do to earn his way out:

> If I don't get a reward, why behave or participate?

However, a number of other inmates felt that the very quality of definiteness in a presumptive release date permits a more productive attitude. The fact that the date is contingent upon good conduct makes it, in one inmate's words:

> an incentive to strive for.

This is precisely the attitude that the Commission intends its policies to foster. Moreover, the Commission's "clearly exceptional" standard is intended to focus concern on genuinely significant changes or developments in the case that could not have been taken into account when the presumptive date was initially established. As stated in the Conference Report accompanying the Parole Commission's enabling statute:

> It is the intent of the Conferees that all of the items which bear upon the parole decision are considered at the initial determination proceeding, but that the subsequent proceedings required by this section (18 U.S.C. 4208) focus upon those items which have changed, or which may have changed, in the intervening time. (2 U.S. Code Cong. & Admin. News 363 (1976).)

Prisoners and their representatives should also bear in mind that institutional performance can be considered deserving of some response only when it is in fact "clearly exceptional", since a record of substantial good conduct is the minimum expected of each prisoner. (Note that the guideline ranges are "established specifically for cases with good institutional adjustment and program progress". 28 CFR 2.20(b)).

The element of increased certainty was seen to have a number of other advantages. As one prisoner observed:

> There are, of course, many advantages for the prisoner who knows for certain that he will be released at a certain time. One of the advantages is being able to start planning for the future—employment, school, re-establishing family ties, relocating—and simply being in a position of telling one's family when he will be getting out.

Finally, the critical concern for many prisoners (and perhaps the most important concern in terms of their eventual reintegration into normal society) appeared to be the continuation of marital ties that having a firm date encourages.

THE ISSUE OF RETROACTIVITY

The Commission understands the concerns of those prisoners who will not be made eligible for an early hearing under this rule. However, the Commission does not presently have the resources to: (1) Conduct its normally scheduled hearings; (2) conduct the additional initial hearings required by this amended rule for those newly-sentenced prisoners who would otherwise not have to be heard until completion of their minimum terms; and (3) *in addition* grant early hearings at the same time to all presently incarcerated inmates who would not be heard until completion of their minimum terms.

The Commission does intend, however, during the coming year, to provide initial hearings to remaining prisoners as the workload permits. The procedure for adding these cases to the dockets will be as follows.

Each institution will be asked to submit a list of names and register numbers of all prisoners who, as of October 1, 1979, will not have received an initial hearing but who would be eligible for an initial hearing if the revised rules were made fully retroactive.

The list will be sent to the appropriate regional office. Upon receipt of the list, the regional office will notify each institution to add a specified number of cases to each docket (depending upon workload), beginning with those prisoners closest to their parole eligibility dates. This procedure will remain in effect until full retroactivity is achieved.

Prisoners previously continued to four-year reconsideration hearings will be considered under the new procedures at their first statutory interim hearing.

TEXT OF THE REVISIONS

Accordingly, pursuant to the provisions of 18 U.S.C. 4203(a)(1) and 4204(a)(6), 28 CFR Chapter I, Part 2, is revised as set forth below:

1. Paragraphs (a), (b) and (c) of § 2.12 are consolidated into paragraphs (a) and (b) and revised to read as set forth below. Paragraph (c) is deleted.

§ 2.12 Initial hearings: Setting presumptive release dates.

(a) An initial hearing shall be conducted within 120 days of a prisoner's arrival at a Federal institution or as soon thereafter as practicable; except that in the case of a prisoner with a minimum term of parole ineligibility of ten years or more, the initial hearing shall be conducted at least 30 days prior to the completion of such minimum term, or as soon thereafter as practicable.

(b) Following initial hearing, the Commission shall (1) set a presumptive release date (either by parole or by mandatory release) within ten years of the hearing; (2) set an effective date of parole; or (3) continue the prisoner to a ten-year reconsideration hearing pursuant to § 2.14(c).

(c) [Deleted]

2. Paragraph (d) of § 2.12 becomes (c), and paragraph (e) of § 2.12 becomes (d).

3. Paragraphs (a) and (c) of § 2.14 are revised to read as follows:

§ 2.14 Subsequent proceedings.

(a) *Interim proceedings.* The purpose of an interim hearing required by 18 U.S.C. 4208(h) shall be to consider any significant developments or changes in the prisoner's status that may have occurred subsequent to the initial hearing.

(1) Notwithstanding a previously ordered presumptive release date or ten-year reconsideration hearing, interim hearings shall be conducted by an examiner panel pursuant to the procedures of § 2.13(b), (c), (e) and (f) at the following intervals from the date of the last hearing:

(i) In the case of a prisoner with a maximum term or terms of less than 7 years, every 18 months (until released);

(ii) In the case of a prisoner with a maximum term or terms of 7 years or more, every 24 months (until released). However, in the case of prisoner with an unsatisfied minimum term, the first interim hearing shall be deferred until the docket of hearings immediately preceding the month of parole eligibility.

(2) Following an interim hearing the Commission may:

(i) Order no change in the previous decision;

(ii) Advance a presumptive release date, or the date of a ten-year reconsideration hearing. However, it shall be the policy of the Commission that once set, a presumptive release date or the date of a ten-year reconsideration hearing shall not be advanced except under clearly exceptional circumstances;

• • • • • •

(c) *Ten-year reconsideration hearings.* A ten-year reconsideration hearing shall be a full reassessment of the case pursuant to the procedures of § 2.13.

(1) A ten-year reconsideration hearing shall be ordered following the initial hearing in any case in which a release date is not set.

(2) Following a ten-year reconsideration hearing, the Commission may take any one of the actions authorized by § 2.12(b).

Dated: January 5, 1979.

CECIL C. MCCALL,
Chairman, United States Parole Commission.

[FR Doc. 79-1345 Filed 1-15-79; 8:45 am]

[4410-01-M]

PART 2—PAROLE, RELEASE, SUPERVISION AND RECOMMITMENT OF PRISONERS, YOUTH OFFENDERS AND JUVENILE DELINQUENTS

Paroling, Recommitting and Supervising Federal Prisoners

AGENCY: United States Parole Commission.

ACTION: Interim rule.

SUMMARY: This rule requires that whenever, prior to the actual release of a prisoner, the Commission rescinds or retards a previously granted parole date on the basis of a disciplinary violation, the decision as to how long the prisoner should remain in confinement thereafter must be made pursuant to guidelines as set forth in the rule. These guidelines establish a policy that most cases of misconduct will result in a retardation of the release date by no more than 60 days. Rescission of parole will be indicated only for the most serious cases (e.g. multiple or aggravated misconduct or criminal violations). In addition, the Commission's procedural rules for reopening and rescinding parole dates are consolidated and clarified by a number of supplemental amendments.

EFFECTIVE DATE: March 5, 1979.

FOR FURTHER INFORMATION, CONTACT:

Michael A. Stover, Office of the General Counsel, U.S. Parole Commission, 320 First Street, NW., Washington, D.C. 20537, phone (202) 724-1991.

SUPPLEMENTARY INFORMATION: These rule revisions are being made effective as interim rules pending the submission of public comment. At present, the Commission does not have any explicit rules to structure or limit its exercise of discretion in determining how long a prisoner should be held in confinement following a finding of disciplinary violation. These rules are being published as interim rules pending the submission of public

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comment in order to ensure that pertinent rules are in effect when the first interim review hearings for prisoners with presumptive parole dates are held pursuant to 18 U.S.C. 4208(h) in March of 1979. The need to resolve a number of administrative and policy issues prevented earlier publication of the rules contained in this document.

Notice of proposed rulemaking and an invitation for public and prisoner comment appear in the Proposed Rules section of this issue of the FEDERAL REGISTER. This comment, as well as the Commission's experience with its March 1979 dockets, will be considered before promulgation of a final rule governing parole rescissions.

Accordingly, pursuant to 5 U.S.C. 553(b)(3)(B), 18 U.S.C. 4203(a)(1) and 4204(a)(6), 28 CFR Chapter I, Part 2, is amended as set forth below, the amended portions to become effective in the interim pending public comment.

1. Section 2.34 is revised to read as follows:

§ 2.34 Rescission of parole.

(a) When an effective date of parole has been set by the Commission, release on that date is conditioned upon continued satisfactory conduct by the prisoner. If a prisoner granted such a date has been found in violation of institution rules by an Institutional Disciplinary Committee or is alleged to have committed a new criminal act at any time prior to the delivery of the certificate of parole, the Regional Commissioner shall be advised promptly of such information. The prisoner shall not be released until the institution has been notified that no change has been made in the Commission's order to parole. Following receipt of such information, the Regional Commissioner may reopen the case and retard the parole date for up to 60 days without a hearing, or schedule a rescission hearing under this section on the next available docket at the institution or on the first docket following return to a federal institution from a community treatment center or a state or local halfway house.

(b) Upon the ordering of a rescission hearing under this section, the prisoner shall be afforded written notice specifying the information to be considered at the hearing. The notice shall further state that the purpose of the hearing will be to decide whether rescission of the parole date is warranted based on the charges listed on the notice, and shall advise the prisoner of the procedural rights described below.

(c) An Institutional Disciplinary Committee hearing resulting in a finding that the prisoner has committed a violation of disciplinary rules may be relied upon by the Commission as conclusive evidence of institutional misconduct. However, the prisoner will be afforded an opportunity to explain any mitigating circumstances, and to present documentary evidence in mitigation of the misconduct at the rescission hearing.

(d) In the case of allegations of new criminal conduct committed prior to delivery of the parole certificate, the Commission may consider documentary evidence and/or written testimony presented by the prisoner, arresting authorities, or other persons.

(e) The prisoner may be represented at a rescission hearing by a person of his choice. The function of the prisoner's representative shall be to offer a statement following the discussion of the charges with the prisoner, and to provide such additional information as the examiner panel may require. However, the presiding hearing examiner may limit or exclude any irrelevant or repetitious statement.

(f) The evidence upon which the rescission hearing is to be conducted shall be disclosed to the prisoner upon request, subject to the exemptions set forth at § 2.55. If the parole grant is rescinded, the Commission shall furnish to the prisoner a written statement of its findings and the evidence relied upon.

(g) The following guidelines shall apply to cases in which the prisoner has been found to have committed institutional misconduct or new criminal activity:

(1) Administrative rule infraction(s) (including drug/alcohol abuse) normally can be adequately sanctioned by postponing a presumptive or effective date by 0–60 days per instance of misconduct. Escape or other criminal conduct, however, shall normally indicate rescission and application of the guidelines as set forth below.

(2) In cases involving escape without force or threat, the following guidelines indicate the normal range of time to be added to the time in custody required by the presumptive or effective date previously set:

(i) Non-Secure Facility or Program (absent less than 7 days), 3–6 months.
(ii) Secure Facility (no force or threat used); or Non-Secure Facility or Program (absent 7 days or more), 6–12 months.

Notes

(A) Time in escape status is not to be credited to service of the time required by the presumptive/effective date.

(B) These guidelines shall also apply to the determination of total time to be served if a new consecutive or concurrent sentence is imposed for the escape.

(C) If other criminal conduct is committed during the escape or duration of time spent in escape status, the time to be served for the escape shall be added to that assessed under subparagraph (3) of this paragraph.

(3) In cases of new criminal conduct other than specified above, the case shall be reassessed against the guidelines at § 2.20 or § 2.21, as applicable, with the new criminal behavior treated as an aggravating factor on the offense severity dimension.

(4) The above are merely guidelines. Where the circumstances warrant, a decision outside the guidelines (above or below) may be rendered, providing specific reasons are given. For example, a substantial period of good conduct since the last disciplinary infraction in cases not involving new criminal conduct may be treated as a mitigating circumstance.

§ 2.20 [Amended]

2. Section 2.20 (Paroling policy guidelines) is amended to delete "Escape" as it is described in the *Low* and *Moderate* severity categories.

3. Section 2.28 is revised to consolidate in one rule each of the various mechanisms presently available to the Commission for reopening a previously decided case and revising its previous decision:

§ 2.28 Reopening of Cases

(a) *Favorable information.* Notwithstanding the appeal procedures of § 2.25 and § 2.26, the appropriate Regional Commissioner may, on his own motion, reopen a case at any time upon the receipt of new information of substantial significance favorable to the prisoner and may then take any action authorized under the provisions and procedures of § 2.25. Original jurisdiction cases may be reopened upon the motion of the appropriate Regional Commissioner under the procedures of § 2.17.

(b) *Institutional misconduct.* Consideration of disciplinary infractions and allegations of new criminal conduct occurring after the setting of a parole date are subject to the provisions of § 2.14 (in the case of a prisoner with a presumptive date) and § 2.34 (in the case of a prisoner with an effective date of parole).

(c) *Additional sentences.* If a prisoner receives an additional concurrent or consecutive federal sentence following his initial parole consideration, the Regional Commissioner shall reopen his case for a new initial hearing on the next regularly scheduled docket to consider the additional sentence and reevaluate the case. Such action shall void any presumptive or effective release date previously established.

(d) *Conviction after revocation.* Upon receipt of information subsequent to the revocation hearing that a prisoner whose parole has been revoked has sustained a new conviction for conduct while on parole, the Regional Commissioner may reopen the case pursuant to § 2.52(c)(2) for a special reconsideration hearing on the next regularly scheduled docket to consider forfeiture of time spent on parole and such further action as may be appropriate. The entry of a new order shall void any presumptive or effective release date previously established.

(e) *Release planning.* When an effective date of parole has been set by the Commission, release on that date shall be conditioned upon the completion of a satisfactory plan for parole supervision. The appropriate Regional Commissioner may on his own motion reconsider any case prior to release and may reopen and advance or retard an effective parole date for purposes of release planning. Retardation without a hearing may not exceed 120 days.

(f) *New adverse information.* Upon receipt of new information adverse to a prisoner that is not covered by paragraphs (a–e) of this section, the Regional Commissioner may refer the case to the National Commissioners with his recommendation and vote to retard parole and schedule the case for a special reconsideration hearing. The decision to reopen the case shall be based on the concurrence of three out of five votes, and the hearing shall be conducted in accordance with the procedures set out in §§ 2.12 and 2.13. The entry of a new order following such hearing shall void the previously established release date.

4. Section 2.14 is amended as set forth below to clarify the procedures that will be followed in considering disciplinary infractions at interim review hearings for prisoners with presumptive parole dates. The sections of the rule that are not reprinted below remain unchanged. Paragraphs (a)(3)(iii), (a)(3)(iv), (b)(1), (b)(2)(ii) are revised to read as follows:

§ 2.14 Subsequent proceedings.

(a) *Interim proceedings.* • • •

(3) Following an interim hearing, the Commission may:

• • • • •

(iii) Retard or rescind a presumptive parole date for reason of disciplinary infractions. In a case in which disciplinary infractions have occurred, the interim hearing shall be conducted in accordance with the procedures of § 2.34(c)–(g). (Prior to each interim hearing, prisoners shall be notified on the progress report furnished by the Bureau of Prisons that any finding of misconduct by an Institutional Disciplinary Committee since the previous hearing will be considered for possible action under this subsection.)

(iv) If a presumptive date falls within six months after the date of an interim hearing, the Commission may treat the interim hearing as a pre-release review in lieu of the record review required by paragraph (b) of this section.

(b) *Pre-release reviews.* • • •

(1) At least 60 days prior to a presumptive parole date, the case shall be reviewed on the record, including a current institutional progress report.

(2) Following review, the Regional Commissioner may:

• • • • •

(ii) Approve and advance or retard a parole date for purpose of release planning as provided in § 2.28(e).

5. *Conforming amendments.* The following sections are revised as set forth below:

§ 2.12 [Amended]

A. Section 2.12(e) is amended to read as follows:

• • • • •

(e) A presumptive parole date shall be contingent upon an affirmative finding by the Commission that the prisoner has a continued record of good conduct and a suitable release plan and shall be subject to the provisions of §§ 2.14 and 2.28. In the case of a prisoner sentenced under the Narcotic Addict Rehabilitation Act, 18 U.S.C. 4254, a presumptive parole date shall also be contingent upon certification by the Surgeon General pursuant to § 2.3 of these rules. Consideration of disciplinary infractions in cases with presumptive parole dates may be deferred until the commencement of the next in-person hearing or the prerelease record review required by § 2.14(b). While prisoners are encouraged to earn the restoration of forfeited or withheld good time, the Commission will consider the prisoner's overall institutional record in determining whether the conditions of a presumptive parole date have been satisfied.

§ 2.15 [Amended]

B. Section 2.15 is amended to change the reference to § 2.28 to § 2.28(a).

§ 2.29 [Amended]

C. Section 2.29(c) is deleted, because its substance is contained in the new § 2.28(e). The present § 2.29(d) is therefor redesignated as § 2.29(c).

§ 2.30 [Revised]

D. Section 2.30 is revised to read as follows:

All paroles are ordered on the assumption that information from the prisoner has not been fraudulently given or withheld from the Commission. If evidence comes to the attention of the Commission that a prisoner willfully concealed or misrepresented information deemed significant, the Regional Commissioner may reopen the case pursuant to § 2.28(f) for a hearing to determine whether such parole should be voided. Such action may be taken whether or not the prisoner has actually been released on parole. If such prisoner has been released on parole, the Commission or a member thereof may issue a summons or warrant for such prisoner.

Dated: January 10, 1979.

CECIL C. MCCALL,
Chairman,
United States Parole Commission.

[FR Doc. 79-1346 Filed 1-15-79; 8:45 am]

[4410-01-M]

PART 2—PAROLE, RELEASE, SUPERVISION AND RECOMMITMENT OF PRISONERS, YOUTH OFFENDERS AND JUVENILE DELINQUENTS

Paroling, Recommitting and Supervising Federal Prisoners

AGENCY: United States Parole Commission.

ACTION: Final rule.

SUMMARY: This document makes a number of changes in the Commission's rules that govern delegation of authority to conduct hearings to hearing examiners and panels of hearing examiners. The present changes reflect certain provisions of the Commission's enabling statute and legislative history that permit delegation of such authority to a single hearing officer in the case of local revocation hearings.

EFFECTIVE DATE: March 5, 1979.

FOR FURTHER INFORMATION, CONTACT:

Michael A Stover, Office of the General Counsel, U.S. Parole Commission, 320 First Street, Northwest, Washington, D.C. 20537, phone, (202) 724-3092.

SUPPLEMENTARY INFORMATION: Specific reference is made to 18 U.S.C. 4203(c) (2) and (3), as well as 2 U.S. CODE CONG. & ADMIN. NEWS at page 355 (1976).

These amendments will clarify the Commission's present practice of delegating authority, pursuant to the above-cited references, to a single hearing examiner to conduct local revocation hearings, with another hearing examiner reviewing the case on the record and joining his vote to that of the examiner conducting the hearing to produce a panel recommendation.

Accordingly, pursuant to 18 U.S.C. 4203(a)(1) and 4204(a)(6), Title 28, Code of Federal Regulations, is amended as set forth below:

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1. Section 2.23 is revised to read as follows:

§ 2.23 Delegation to hearing examiners.

(a) There is hereby delegated to hearing examiners the authority necessary to conduct hearings and make recommendations relative to the grant or denial of parole or reparole, revocation or reinstatement of parole or mandatory release, and conditions of parole. Hearings shall be conducted by a panel of two hearing examiners, except where specifically provided that a hearing may be conducted by a single hearing examiner or other official designated by the Regional Commissioner.

(b) The concurrence of two examiners shall be required for a panel recommendation. If a hearing is conducted by a single examiner (or other official), the case shall be reviewed on the record by an additional examiner or examiners for the required vote or votes.

(c) In the event of a divided recommendation by a panel, the regional Administrative Hearing Examiner shall vote. If the Administrative Hearing Examiner is serving as a member of a hearing examiner panel or is otherwise unavailable, cases requiring his action under this paragraph will be referred to another hearing examiner.

(d) A recommendation of a hearing examiner panel shall become an effective Commission decision upon review and docketing at the Regional Office, unless action is initiated by the Regional Commissioner pursuant to § 2.24.

2. Section 2.49(e) is revised as follows:

§ 2.49 Place of revocation hearing.

• • • • •

(e) A local revocation hearing shall be scheduled to be held within sixty days of the probable cause determination. Institutional revocation hearings shall be scheduled to be held within ninety days of the date of the execution of the violator warrant upon which the parolee was taken. However, if a parolee requests and receives any postponement or consents to a postponed revocation proceeding, or if a parolee by his actions otherwise precludes the prompt conduct of such proceedings, the above-stated time limits may be extended. A local revocation hearing may be conducted by a hearing examiner, hearing examiner panel, or other official designated by the Regional Commissioner.

§ 2.50 [Amended]

3. Section 2.50 is amended as follows:

Paragraph (a) is deleted and the remaining subsections are redesignated as follows:

(b) Becomes (a); and the term "parolee" is substituted for "prisoner".

(c) Becomes (b).

(d) Becomes (c).

(e) Becomes (d).

(f) Becomes (e).

In addition, a new paragraph (f) is added to contain the last sentence of former paragraph (a):

• • • • •

(f) A revocation decision may be appealed under the provisions of § 2.25 and § 2.26, or § 2.27 as applicable.

Dated: January 5, 1979.

CECIL C. MCCALL,
Chairman, United States Parole Commission.

[FR Doc. 79-1343 Filed 1-15-79; 8:45 am]

[4410-01-M]

PART 2—PAROLE, RELEASE, SUPERVISION AND RECOMMITMENT OF PRISONERS, YOUTH OFFENDERS AND JUVENILE DELINQUENTS

Paroling, Recommitting and Supervising Federal Prisoners

AGENCY: United States Parole Commission.

ACTION: Final rule.

SUMMARY: This document contains miscellaneous amendments to the Commission's rules that correct a number of editorial and typographical errors. No substantive changes to the meaning of any of the rules are effected by these amendments.

EFFECTIVE DATE: March 5, 1979.

FOR FURTHER INFORMATION CONTACT:

Michael A. Stover, Office of the General Counsel, U.S. Parole Commission, 320 First Street, Northwest, Washington, D.C. 20537; Phone (202) 724-1991.

SUPPLEMENTARY INFORMATION: On a recent nation-wide staff training session, a number of drafting problems and typographical errors were uncovered in the Commission's rules. The following amendments are being made in the interest of clarity.

Accordingly, pursuant to 18 U.S.C. 4203(a)(1) and 4204(a)(6), Title 28, Code of Federal Regulations, is amended as set forth below:

1. TABLE OF CONTENTS

Five section headings are amended both in the Table of Contents and in the body of the rules to read as follows:

Sec.
2.41 Travel approval.
2.43 Early termination.
2.48 Revocation: Preliminary interview.
2.52 Revocation decisions.
2.54 Reviews pursuant to 18 U.S.C. 4215(c).

§ 2.2 [Amended]

2. In § 2.2 *Eligibility for Parole: Adult Sentences,* paragraph (b) is amended to change the first reference to 18 U.S.C. 4205(a)(1) to read 18 U.S.C. 4205(b)(1).

§ 2.7 [Amended]

3. In § 2.7 *Committed Fines,* in paragraph (b), the last sentence is revised to read:

(b) • • • If the chief executive officer of the institution or U.S. Magistrate shall find that retention by the prisoner of any part of his assets is reasonably necessary for his support or that of his family, the prisoner upon taking the prescribed oath concerning his assets, shall be discharged from the commitment obligation of the committed fine sentence upon payment on account of his fine of that portion of his assets in excess of the amount found to be reasonably necessary for his support or that of his family.

• • • • •

The above changes "or that portion" to "of that portion" and deletes an unnecessary "of".

4. Section 2.8 *Mental competency proceedings,* is revised to read as follows:

§ 2.8 Mental Competency Proceedings.

(a) Whenever a prisoner (or parolee) is scheduled for a hearing in accordance with the provisions of this part and reasonable doubt exists as to his mental competency, i.e., his ability to understand the nature of and participate in scheduled proceedings, a preliminary inquiry to determine his mental competency shall be conducted by the hearing panel, hearing examiner or other official (including a U.S. Probation Officer) designated by the Regional Commissioner.

(b) The hearing examiner(s) or designated offcial shall receive oral or written psychiatric or psychological testimony and other evidence that may be available. A preliminary determination of mental competency shall be made upon the testimony, evidence, and personal observation of the prisoner (or parolee). If the examiner(s) or designated official determines that the prisoner is mentally competent, the previously scheduled hearing shall be held. If they determine that the prisoner is not mentally competent, the previously scheduled hearing shall be temporarily postponed.

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(c) Whenever the hearing examiner(s) or designated official determine that a prisoner is incompetent and postpone the previously scheduled hearing, they shall forward the record of the preliminary hearing with their findings to the Regional Commissioner for review. If the Regional Commissioner concurs with their findings, he shall order the temporarily postponed hearing to be postponed indefinitely until such time as it is determined that the prisoner has recovered sufficiently to understand the nature of an participate in the proceedings, and in the case of a parolee may order such parolee transferred to a Bureau of Prisons facility for further examination. In any such case, the Regional Commissioner shall require a progress report on the mental health of the prisoner at least every 6 months. When the Regional Commissioner determines that the prisoner has recovered sufficiently, he shall reschedule the hearing for the earliest feasible date.

(d) If the Regional Commissioner disagrees with the findings of the hearing examiner(s) or designated official as to the mental competency of the prisoner, he shall take such action as he deems appropriate.

§ 2.27 [Amended]

5. In § 2.27 *Appeal of original jurisdiction cases* paragraph (a) is revised to clarify the consequence of a tie vote by the Commissioners:

(a) Cases decided under the procedure specified in § 2.17 may be appealed within thirty days of the date of the decision on a form provided for this purpose. Appeals will be reviwed at the next regularly scheduled meeting of the Commission provided they are received thirty days in advance of such meeting. Appeals received in the office of the Commission's National Appeals Board in Washington, D.C., less than thirty days in advance of a regularly scheduled meeting will be reviewed at the next regularly scheduled meeting thereafter. A quorum of five commissioners shall be required and decisions shall be by majority vote. In the case of a tie vote, the previous decision shall stand. This appellate decision shall be final.

• • • • •

§ 2.32 [Amended]

6. In § 2.32 *Parole to local or immigration detainers* paragraph (a)(2) is revised to read as follows:

(a) • • •

(2) "Parole to the actual physical custody of the detaining authorities or an approved plan." In this event, release is to be effected regardless of whether the detaining officials take the prisoner into custody, providing there is an acceptable plan for community supervision.

• • • • •

Paragraph (b) is revised to delete the words "or not" as redundant:

• • • • •

(b) When the Commission wishes to parole a prisoner subject to a detainer filed by Federal immigration officials, the Commission shall order the following: "Parole to the actual physical custody of the immigration authorities or an approved plan." In this event, release is to be effected regardless of whether immigration officials take the prisoner into custody, providing there is an acceptable plan for community superivison.

7. Section 2.38 *Community Supervision by United States Probation Officers* is revised to clarify the reference to mandatory releasees as persons released "as if on parole" pursuant to 18 U.S.C. 4164:

§ 2.38 Community Supervision by United States Probation Officers.

(a) Pursuant to sections 3655 and 4203(b)(4) of Title 18 of the United States Code, United States Probation Officers shall provide such parole services as the Commission may request. In conformity with the foregoing, probation officers function as parole officers and provide supervision to persons released by parole or as if on parole (mandatory release) under the Commission's jurisdiction.

(b) A parolee may be transferred to a new district of supervision with the permission of the probation officers of both the transferring and receiving district, provided such transfer is not contrary to instructions from the Commission.

§ 2.42 [Amended]

8. In § 2.42 *Probation Officer's Reports to Commission,* is amended to delete the words "or mandatory releasee" as unnecessary, since the Commission has defined at § 2.1(g) that when it uses the term "parolee", it refers to both parolees and "mandatory releasees".

§ 2.43 [Amended]

9. In § 2.43 *Early termination* subparagraphs (2) and (3) of paragraph (a) are revised to read as follows:

(a) • • •

(2) Two years after release on supervison, and at least annually thereafter, the Commission shall review the status of the parolee to determine the need for continued supervision. In calculating such two-year period there shall not be included any period of release on parole prior to the most recent such release, nor any period served in confinement on any other sentence.

(3) Five years after release on supervision, the Commission shall terminate supervision over such parolee unless it is determined, after a hearing conducted in accordance with the procedures prescribed in 18 U.S.C. 4214(a)(2), that such supervision should not be terminated because there is a likelihood that the parolee will engage in conduct violating any criminal law. Such hearing may be conducted by a hearing examiner or other official designated by the Regional Commissioner.

• • • • •

§ 2.46 [Amended]

10. In § 2.46 *Execution of warrant and service of summons* paragraph (a) is amended to substitute "parolee" for "prisoner".

§ 2.47 [Amended]

11. In § 2.47 *Warrant placed as a detainer and dispositional review* subparagraph (3) of paragraph (b) is revised to read as follows:

• • • • •

(b) • • •

(3) Order a revocation hearing to be conducted at the institution in which the parolee is confined by a hearing examiner or an official designated by the Regional Commissioner.

§ 2.48 [Amended]

12. In § 2.48 *Revocation; preliminary interview* is amended to substitute the term "parolee" wherever the term "prisoner" now appears (paragraphs (b), (c) and (g)).

In addition, paragraph (f) is revised to read as follows (by substituting "by a parolee" for the phrase "on parole or mandatory release"):

• • • • •

(f) Conviction as probable cause: Conviction of a Federal, State, or local crime committed subsequent to release by a parolee shall constitute probable cause for the purpose of this section and no preliminary interview shall be conducted unless otherwise ordered by the Regional Commissioner.

• • • • •

§ 2.49 [Amended]

13. Section 2.49 *Place of revocation hearing* is amended to substitute the term "parolee" wherever the term "prisoner" now appears (paragraphs (a), (c), and (d)).

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In addition, paragraph (c) is revised to read as follows:

• • • • • •

(c) A parolee who voluntarily waives his right to a local revocation hearing, or who admits any violation of the conditions of his release, or who is retaken following conviction of a new crime, shall be given a revocation hearing upon his return to a Federal institution. However, the Regional Commissioner may, on his own motion, designate a case for a local revocation hearing.

• • • • • •

Finally, the reference in paragraph (d) to § 2.48(d)(2) is corrected to read "§ 2.48(e)(2)".

§ 2.52 [Amended]

14. In § 2.52 *Revocation decisions*, the third sentence of paragraph (c)(2) is revised to read as follows (deleting the parenthetical phrase "in which the Commission makes an independent finding of violation of conditions of parole" as redundant):

• • • • • •

(c) • • •

(2) • • • If such conviction occurs subsequent to a revocation hearing, the Commission may reopen the case and schedule a further hearing relative to time forfeiture and such further disposition as may be appropriate.

§ 2.56 [Amended]

15. In § 2.56 *Special parole terms*, paragraph (a) is revised to read as follows:

(a) The Drug Abuse Prevention and Control Act, 21 U.S.C. Sections 801 to 966, provides that, on conviction of certain offenses, mandatory "special parole terms" must be imposed by the court as part of the sentence. This term is an additional period of supervision which commences upon completion of any period on parole or mandatory release supervision from the regular sentence; or if the prisoner is released without supervision, commences upon such release.

• • • • • •

In paragraph (c) the term "parolee" is substituted for the term "releasee" in the two instances it occurs, and the phrase "he will" becomes "he may". In addition, the phrase "of his basic supervision period" is deleted.

In paragraph (d) "the prisoner" becomes "a prisoner" and the term "inmate" becomes "prisoner".

The first sentence of paragraph (e) is revised to read as follows:

• • • • • •

(e) If regular parole or mandatory release supervision is terminated under § 2.43, the Special Parole Term commences to run at that point in time. • • •

Dated: January 5, 1979.

CECIL C. MCCALL,
Chairman, United States Parole Commission.

[FR Doc. 79-1344 Filed 1-12-79; 8:45 am]

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TUESDAY, JANUARY 16, 1979
PART VII



FEDERAL COMMUNICATIONS COMMISSION

federal

RADIO BROADCAST SERVICES

Rules Changes Relating to Noncommercial Educational FM Broadcast Stations

[6712-01-M]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20735; RM-1974; RM-2655; FCC 78-919]

PART 73—RADIO BROADCAST SERVICES

Rules Changes Relating to Noncommercial Educational FM Broadcast Stations

AGENCY: Federal Communications Commission.

ACTION: Memorandum Opinion and Order.

SUMMARY: In response to several petitions for reconsideration the Commission issued a Memorandum Opinion and Order relaxing one aspect of the recently adopted rule regarding minimum operating schedule for noncommercial educational FM stations and affirmed the other changes in the rules affecting these stations. In addition, the Memorandum Opinion and Order clarified and explained certain other aspects of the earlier decision.

EFFECTIVE DATE: February 21, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Jonathan David, Broadcast Bureau (202-632-7792).

SUPPLEMENTARY INFORMATION:

Adopted: December 21, 1978.

Released: January 11, 1979.

In the matter of changes in the rules relating to noncommercial education FM Broadcast Stations; Memorandum opinion and order [see also 43 FR 47975, October 18, 1978].

1. The purpose of this document is to respond to the issues raised in the petitions for reconsideration [1] of the actions taken in the *Second Report and Order* [2] in this proceeding.

2. In the *Notice of Proposed Rule Making* in this proceeding, 41 FR 16973 (March 17, 1976), the Commission raised a number of issues concerning possible improvements in the manner in which noncommercial educational FM stations operate on the 20 FM channels (Channels 201-220) [3] set aside for such use. Based upon the record developed in this proceeding and the Commission's experience in licensing these stations, the Commission concluded that certain rule changes were necessary. These changes were made in the *Second Report and Order*. Other matters continue under consideration in the proceeding and await further action by the Commission.[4]

3. The central reason which led the Commission to initate this proceeding and to take the actions it did was its concern that these channels were not being used in an effective and efficient manner. Interest in such stations had grown with the result that in many parts of the country there was no available spectrum space to accommodate new educational FM stations or increases in coverage by existing stations. The pattern of use, however, appeared to be an inefficient one. The Commission concluded that it was important to encourage improved efficiency since large portions of the country did not receive noncommercial educational FM service. With these points in mind the Commission attempted to find ways of improving the pattern of channel use.

4. In addition to its concern about these allocations issues, the Commission had been troubled by the fact that many existing stations operated only a few hours per day even though all were licensed to operate 24 hours per day. In fact, some were known to be off the air for extended periods, operating only a few hours per week when they were on the air. This created a particular problem since there often was no open frequency space for new stations. Thus, as matters then stood, there was no opportunity for someone else to step forward to provide the needed service during hours when the existing station was off the air. In the *Second Report and Order* the Commission dealt with both of these areas of concern and was able to take actions which were designed to improve the efficiency of educational FM channel usage.

5. One of the problems had arisen because the assignment of stations had proceeded on a demand system without any attempt (except more recently in the Mexican border area) to have a Table of Assignments of channels to particular localities or, in any part of the country, to require the use of at least minimum facilities. The consequence was an inefficient pattern of assignments. One of the largest problems centered on the effect 10-watt stations had in precluding the establishment or extension of operations to bring service where it was needed. On the other hand, the Commission recognized the service these stations provided. Thus, it did not want 10-watt operations off the air so long as another way could be found to deal with the problem.[5] In coming to grips with this issue the Commission operated with two sets of concerns in mind. The first was the inefficiency point, but the other was a sense of fairness to the 10-watt stations—built and operated in good faith—and to their listeners. How, the Commission wanted to know, could recognition be given to both sets of concerns. The Commission's response was to devise a system which it expected to provide for the continued existence of 10-watt stations in virtually all cases but which attempted to minimize their negative impact on allocations by requiring them to change channel and by ending their protection against interference. For the 10-watt stations not wishing to change channel, time was provided so that they could avoid this process by increasing power to the Class A minimum of 100 watts. They were given about a year and a half in which to file for such an increase. Then, commencing with the group of renewal applications to be filed on February 1, 1980, for licenses expiring on June 1, 1980, special channel change procedures were to be followed.

6. The goal was for as many 10-watt stations as possible to move to open space on commercial channels,[6] subject to a requirement that no interference be caused to any commercial FM station. If this could not be done, the 10-watt station would be required to

[1] Formal petitions for reconsideration were filed by the Intercollegiate Broadcasting System, Inc. ("IBC"), the American Council on Education ("ACE") and Westchester Community College ("Westchester"), Bryant College, Ossining High School and Abraham Baldwin Agricultural College filed informal requests for reconsideration. The National Federation of Community Broadcasters opposed reconsideration and Westchester replied to this opposition.

[2] The document was adopted by the Commission on June 7, 1978. It was released by it on September 1, 1978, and published in the FEDERAL REGISTER on September 8, 1978, 43 FR 39704.

[3] Paragraphs 3 through 8 of the *Notice of Proposed Rule Making* discuss the history of noncommercial FM broadcasting and rule making actions dealing with the establishment and operation of these stations on 20 reserved FM channels.

[4] These include the possible establishment of a Table of Assignments and the other matters discussed in the *Further Notice of Proposed Rule Making*, 43 FR 27682 (1978).

[5] At first, it appeared possible that no satisfactory alternative was available. Years ago we warned of the possible need to end 10-watt operations. Thus, in rule making Docket 14185 we observed that "In our view, * * * the time may well be at hand when proper use of the increasingly crowded educational FM band requires restrictions on the future authorization and continuance of 10-watt operations * * *" 31 FR 14755 at 14756 (1966). Although no action was taken on this issue in Docket 14185, the issue remained an important one. In fact, recent developments have given it a greater sense of urgency.

[6] At this point it is not yet clear how this process will function in the Canadian and Mexican border areas—see paragraph 29 of the *Second Report and Order* and § 73.512(a)(1) of the rules.

move to the newly created FM Channel 200 (87.9 MHz). If neither of these approaches could be followed, the 10-watt station would be required to move to the reserved educational channel where it would cause the least amount of preclusion to the establishment of new stations or power increases by existing stations. In the latter case, those already on that channel could remain there. Each station would go through this process as its renewal date approached, so that the changeover process would take three years.[7] In the meantime, no new 10-watt stations would be established, as a "freeze" on such filings had been imposed by the *First Report and Order* in this proceeding. As will be discussed, several parties object to at least some of these requirements which were applied to 10-watt stations.

7. Just as with the channel use question, the issue of a minimum operating schedule involved balancing conflicting interests. On the one hand, the Commission was concerned that a number of stations operated only a few hours per week. At the same time, it recognized that there would be a severe impact on these stations if a too stringent requirement were invoked. In fact, such a requirement might force some stations off the air. To avoid such a result the Commission decided to enact a rather limited minimum operating schedule requirement of 36 hours per week (consisting of at least 5 hours per day on at least 6 days of the week).[8] Necessarily, this requirement by itself could offer only partial response to the concern about limited hours of operation. This led the Commission to conclude that something else was needed to encourage greater use of the channel by the existing licensees. The Commission decided upon rules to foster time sharing which make it possible for another eligible entity to share the frequency on a time-sharing basis if the original licensee did not effectively use its licensed hours. Under the rule adopted, licensees desiring to avoid the possibility of time sharing had to operate 12 hours per day every day of the year. The minimum schedule requirement is scheduled to go into effect on January 1, 1979, and mandatory time sharing becomes possible if the 12 hour per day requirement is not met by January 1, 1980.[9]

8. Although some of the actions taken by the Commission form the subject matter of the petitions for reconsideration, others have provoked no response. Thus, while the process of channel changes has received some criticism, the idea that commercial channels would be used has not. Nor did the creation of Channel 200 or its use for 10-watt stations give rise to objection. Similarly, the engineering standards for Channel 200 received no mention. Finally, the idea of a minimum schedule of some variety was not disputed. Nor was using a share-time concept. Points of contention about these latter points, however, did remain.

9. In effect, three basic objections were raised to the actions taken. The first was procedural in nature and was directed to the adequacy of the Commission's notice and invitation to comment. Substantively, there were two basic objections: first, that our actions to deal with the 10-watt situation imposed an unfair or excessive burden on these stations and, second, that aspects of the minimum operating schedule and share-time requirements posed similar problems of burdensomeness. These arguments will be discussed in the order mentioned. Then, we will discuss other points in the *Second Report and Order* which require clarification even though no reconsideration issue, as such, has been raised. We think that the clarification we offer will prove helpful to parties affected by our decision.

10. In filing its petition for reconsideration, Westchester explains that it only recently obtained a construction permit and did not begin broadcasting until early 1978. Noting that it was not represented by legal counsel when comments were being sought in this proceeding, Westchester indicated that it had not been able to participate by filing comments. It asserts that it should be given that opportunity now. In Westchester's view, the Commission's procedural approach to the case was inadequate. It asserts that the Commission should have affirmatively sought out the views of affected parties, especially in view of what it sees as the consequence of the Commission's action, a possible death knell for many Class D stations. According to Westchester, the small stations most affected by the rule changes were unable to make their views effectively known, with the result that the decision making process was undermined.

11. The NFCB opposition disputes Westchester in these regards. NFCB states that in the one year period during which comments were being received by the Commission, there was extensive discussion in the educational radio community, with IBS playing a key role in the proceeding on behalf of its low-power member stations. NFCB insists that contrary to Westchester's assertions, there have been extensive filings on behalf of 10-watt stations. More, in fact, it says, than on behalf of any other definable group. NFCB also disputes Westchester's contention that the Commission did not consider the alternatives Westchester now urges upon us. NFCB insists that the Commission did consider just such proposals as these or their equivalent.

12. Westchester's reply again argued that the Commission did not consider all of the alternative proposals mentioned in the petition for reconsideration. To the extent such proposals were considered, it contended that the Commission did not give adequate reasons for rejecting the alternatives it did not follow or for deciding the case as it did.[10]

13. We cannot agree with Westchester that the Commission did not take the necessary procedural steps to adopt these rules. First of all, on the question of adequacy of notice, we followed all legally required procedures through publication in the FEDERAL REGISTER. However, we did not limit ourselves to this form of notification. The *Notice of Proposed Rule Making* and/or the News Release about it were given wide dissemination to various interested individuals and groups. That is not to say that we singled out Westchester for separate attention, but the Commission was under no obligation to do so. Westchester's failure to have legal counsel at the time and its inability to participate at the time are matters for which it must assume responsibility. They do not affect the adequacy of the Commission's notice at all. We would have welcomed Westchester's participation, but it cannot avoid the consequence of its own failure to file. Even without this filing, the record was a full and complete one. As NFCB observed, many other 10-watt stations did respond with much the same viewpoint as Westchester's. Clearly the record included—and the Commission fully considered—the views of 10-watt stations. Also, in considering the views of 10-watt stations, it is not necessary for us to have listed every single alternative that each party offered or might have offered. The record clearly shows that we did consider their arguments and thoughtfully balanced the competing interests involved in reaching our deci-

[7] Discussion of the standards applied to the channel change process and other technical aspects of these requirements is contained in paragraphs 23-32 of the *Second Report and Order*.

[8] The minimum operating schedule, on the other hand, did not apply to stations licensed to educational institutions when the school in question was in recess or vacation.

[9] Earlier, voluntary, time sharing was also encouraged.

[10] Westchester also responded to a remark in the NFCB filing which referred to the holding of discussions and debates on this subject. Westchester does not think such discussions can be relied on if they were between the parties. It expressed the hope that such discussions would not have been between the Commission and parties to the proceeding, as that would have involved what it sees as improper *ex parte* contacts. We do not understand NFCB to have intended any such reference.

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sion. Even a casual reading of the decision indicates that we gave great weight to the concerns of the 10-watt stations, a fact which will become clear in the discussion below.

14. Westchester, IBS and ACE all express concern about the impact our action could have on 10-watt stations. Westchester asserts that the rules may be the death knell for Class D stations.[11] Westchester suggests five alternatives that it thinks could have been used to better effect than the procedures chosen by the Commission. Under the first, stations would be classified according to the number of people living inside their 1 mV/m coverage area. It suggests that those in what it calls the Class D category (under 1,000 persons) and the Class C category (1,000–10,000 persons) could be treated as secondary stations. Westchester asserts that this approach is preferable, arguing that it is more sensible to use a standard based on people (rather than area) served. Alternative 2 would premise the classification on the number of hours operated, with those in Class D (36 hours per week) and Class C (36 to 60 hours per week) treated as secondary. Alternative 3 would use a combination of alternatives one and two. Alternative 4 would use the factor of public service or public affairs programming as well as the previously mentioned factors in determining the classification. Finally, under Alternative 5, Westchester would follow a variation on the Commission's approach (that is one based on the station's facilities) but would employ the station's effective radiated power and antenna height to determine the stations affected.[12]

15. We cannot agree that Westchester's classification systems, whatever their descriptive value, would offer any benefits in terms of responding to the Commission's concern about efficient frequency usage. Contrary to Westchester's view expressed in Alternative 1, there is no necessary correlation between the number of persons served and the efficiency of the operation in question. Westchester ignores the fact that often high power stations represent the only way to bring educational FM service to a large sparsely settled area. Westchester's approach would put such operations at a severe disadvantage compared to a low power operation in a more densely populated area. While this latter calculation based on numbers served at first glance seems efficient, it only masks the inate inefficiency of the 10-watt station's coverage when compared to its potential for causing interference. The result of labeling the inefficient as efficient is to preclude taking steps to improve matters. Consequently, Alternative 1 must be rejected.

16. We agree that consideration of the hours of operation is important, but we do not agree with Alternative 2 which would use this to determine which station operates on which channel. The engineering inefficiency remains even if the station operates many hours. We believe our approach could bring fuller use of available hours without confusing two separate issues. Because of our rejection of Alternatives 1 and 2, Alternative 3 which is a combination of the other two also must be rejected. Likewise, we are unpersuaded by Westchester's suggestion (Alternative 4) that we base the classification system on the amount of public service programming. Aside from the obvious problems involved in entering the sensitive programming area at all, the method would not function effectively. Necessarily, the station's classification would change as did its program percentages, creating uncertainty. The only way to avoid this—namely to require that the percentages be fixed—raises its own problems. The last suggestion (Alternative 5), to use effective radiated power rather than transmitter power output for the determination is really little different from what the Commission did use. Under the Commission's approach, the rules are applied to Class D stations (that is, those with a transmitter power output of 10 watts). If the station already has an ERP that far exceeds 10 watts, then the consequence is that it would face a lesser burden in increasing power to avoid the necessity to change channel. Although the particulars of our requirements are not the same as Westchester's, we do classify stations based on effective radiated power and then add a final category of Class D (secondary) stations.

17. One final observation needs to be made about Westchester's pleading. Contrary to its assertion on reconsideration, there is no obligation on the part of the Commission to carry the burden of proof to convince that party of the basis for not adopting its suggestions. The burden is on Westchester here to demonstrate error or at least to persuade the Commission of the superiority of its method. Clearly, it has not met its burden.

18. The principal thrust of the IBS petition is that the Commission has not given adequate recognition to the importance of Class D stations.[12] According to IBS, without an independent study of problem service by various stations, spectrum efficiency alone is not a sufficient basis for the Commission's actions. IBS contends that local service is the essence of broadcasting, and it asserts that urban areas are best served by a mix of high and low power educational FM stations. Even in rural areas where wider coverage might be thought appropriate, IBS fears that local concerns could be subordinated to national or regional ones. In addition, IBS is concerned that following the requirements of the newly adopted Commission rules could be burdensome to 10-watt stations, many of which it says are operated with volunteer staffs. Because of its opinions of the possible impact of the rules, IBS suggests that the Commission change its mind and follow an alternative approach.

19. In the engineering area IBS would require 10-watt stations to move *only* when they are blocking the establishment of a *new* higher powered station and only *after* the requisite construction permit for the station has been granted. Also, under IBS's system, the permittee for the higher power station would have to pay the costs of the 10-watt station's channel change. IBS feels that the higher power stations are better able to absorb the costs, if the change needs to be made, and that changes in frequency should not be required absent a showing of need. Rather than delay establishment of such higher power stations, IBS believes that the result of its suggestion would be a reduction in the flow of channel change proposals and that this might improve the speed in which applications for higher power stations are processed.

20. Although it opposes most aspects of reconsideration, NFCB does agree with making one change. NFCB would allow 10-watt stations to remain on their present channels if they can show that one or more channels are available for full power operation in their cities of license. NFCB believes that in some areas channel space is available and does not think it necessary to require changes in channel in such cases.

21. The issue of when to call for a change in frequency was one of the most difficult we had to resolve. Although we were concerned about the impact on 10-watt stations of being asked to move in advance of the expression of need, we concluded that any other system would not be feasible. We have examined the matter and again been forced to conclude that the alternatives are not satisfactory. For example, it would introduce great delays in waiting for the change process to take place if it could not begin until the specific request were filed. Our experience with changes in channels of existing commercial FM stations suggest that years can go by before the change takes place. Perhaps even worse, doing as we have been urged would not permit any long-range or overall planning of spectrum use. It would be a hit-or-miss, individual case, approach. Our experience has shown that this cannot be relied on to produce the best results. There is another problem with IBS' proposal. It makes no provision for applications to increase the facilities of existing stations. Such extensions of coverage to unserved areas is a vital matter. While the NFCB methodology involves less of a problem in these regards, it offers less relief to 10-watt stations and in fact imposes the biggest part of the anticipated burden of the channel change process: The need to conduct the professional engineering study.

22. The reimbursement concept appears attractive at first blush, but there would be no way to arrange reimbursement in advance of proposed use nor any way to apportion the relative share of benefits derived to the present and future beneficiaries. Also, since the time of any such reimbursement could be delayed until the party stepped forward, it would be of little benefit to the station at the time it made the change. Finally, there is one point IBS ignores. If we wait, as it suggests, there might well be no channel available to which to move. This would present the Commission with a direct choice between the 10-watt operation's continuation and the more powerful station's establishment. The disadvantage to 10-watters of being caught in such a predicament is obvious. In fact, then, our method may provide the 10-watt stations with greater protection and greater confidence in being able to continue operating.

23. The Commission has no desire to terminate the operation of 10-watt stations, and as explained above in footnote 11, Section 73.512 needs to be clarified to make it clear that the Commission has taken every possible step to protect the ability of these stations to continue their operation. Even so, it must be recognized that there will be costs and inconveniences for stations having to change channel. We hope that they will be modest. The costs of increasing to 100 watts or to change channel are relatively low to start. One way of reducing costs further would be for all affected stations in an area to join in a study of how best to work out the necessary changes. In this way, they could reduce costs by sharing the expenses for the engineering studies involved. Although we have tried to be mindful of the costs, we cannot ignore the importance of substantial gains which can be made possible through use of this process. We have already received a filing which verifies our belief that 10-watt stations will fit nicely in open spaces in the commericial FM band. With all of these points in mind it becomes clear that the private interest of these licensees in remaining where they are cannot be permitted to obscure the public interest benefits in following the approach outlined in the new rules, and they will be affirmed, with the clarification noted above.

24. IBS, ACE and others have taken issue with our operating schedule requirement. ACE supports our providing an exemption for vacations and recess periods as school stations, but it asserts that this alone is inadequate. In its view, recognition also needs to be given to the fact that a majority of full-time students may not be in attendance even though the school is itself technically in session. ACE would count summer sessions and other examples as vacation periods under the rule so that the station would not have to be on the air then at all. It also urges us to permit an averaging of the hours operated over the year for the purpose of meeting the 12 hour per day level necessary to avoid time sharing.[14] IBS expressed similar views on both points in its pleading. In addition, in the informal filings and otherwise, the Commission has repeatedly heard from licensees connected with primary and secondary education that the six-day-a-week requirement would have disastrous effects. They point out that not only are schools not in session on Saturday or Sunday but that the buildings themselves are closed. They insist that opening a building solely to operate the station would introduce great costs in addition to those necessary for operation of the station itself. Some licensees even question whether they would even be able to gain entry to these (perhaps even unheated) buildings. Thus, we are asked to interpret the weekend as vacation period under the present language of the rule or to take other steps to give recognition to this problem. In addition, several parties have informally opposed the 36-hour minimum schedule itself and asked us to remove this requirement or at least reduce it from the present 36 hours.

25. Our choice of the 36-hour minimum was based on our wish to use a low initial requirement combined with an incentive for additional hours through use of the time-sharing mechanism. The vacation exemption, too, was designed to avoid a severe initial impact. We did not think it was realistic to expect them to operate when the school is not in session. Although there are legitimate public concerns when a station is off the air for the entire weekend, no matter how good the cause, part of that concern is mollified by time sharing. Even more to the point, if we could accept the station's being off the air for the much longer period of a summer vacation, then there is no reason to refuse to accept the weekend as well. On reflection we agree that the same reasoning that supports the vacation exemption supports allowing 5-day a week operation for these stations instead of the present 6. Therefore, we will change the rule to permit them to reach the 36-hour level through operation on 5 days of the week.

26. We are not persuaded, however, by the suggestion that we exempt summer sessions and other times when the school is in operation but a majority of full-time students may not be in attendance. Unlike recess periods, the staff is on hand in summer sessions, the buildings are open, and at least some (if not all) of the students are on hand. We cannot agree that an exemption should automatically apply to these cases and we will reject that part of the petitions.

27. Finally, we turn to the few informal objections to the time sharing requirment which we have received. Time sharing comes into play if the station does not operate 12 hours per day year-round. This requirement was adopted based on our view that recognition must be given to the extreme scarcity of spectrum space and the need to use it in an effective manner. As pointed out here and explained at length in paragraphs 33-50 of the *Second Report and Order*, we thought it best not to do this through imposing a stringent minimum schedule obligation. Instead, we decided to give stations time (until 1980) to develop a full schedule and then, and only then, to call for time sharing if the station did not reach an essentially full-time use of the frequency. Nothing more than sharing is involved. The original licensee does not lose its license. The only effect is to require it to share its

[11] This statement appears to be connected to its incorrect reading of the provisions of § 73.512. That rule does not require a 10-watt station unable to move to the commercial part of the FM band or to Channel 200 to leave the air if another station wishes to "push them aside." Instead, that rule simply states that Class D stations remaining on the educational channels (that is, those which have not moved to a commercial channel or Channel 200) are not protected against interference. The reference in paragraph (d) to termination of operation if interference results has relevance only to Channel 200 or the commercial FM channels. In the latter case, there is a possibility that changes in FM stations or assignments could produce such a consequence, but as we noted in paragraph 27, we hope this would be rare indeed. It is even less likely to affect those moving to Channel 200. To clarify matters we are making an editorial change in the rule.

[12] The Commission's method was to apply the channel change requirement to Class D stations, that is, those which operate with 10-watts transmitter power output.

[12] Many of the same points are echoed in the ACE petition as well as in the informal filings.

[14] A typographical error, corrected through issuance of an *Errata* on October 12, 1978, pointed out that the Commission did not intend to permit such averaging.

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frequency so that it can be given effective use. To exempt vacation periods from this requirement would defeat the goal we are striving to achieve as the use of a vacation exemption is not consistent with the concept of full-time use. Stations cannot have it both ways. If they want the frequency to be theirs alone, they must be ready to use it to the reasonable level we specified, a level which if anything is a lenient one. If they do not, they should not be in a position to preclude another from offering additional hours of service. Therefore, these requests will be denied.

28. The NFCB opposition drew our attention to one point which needs clarification. At one place in the *Second Report and Order* we indicated that 10-watt stations had until January 1, 1980, to file the necessary application to increase facilities to the 100-watt level and thus avoid the channel change process. Elsewhere, we indicated that renewals would be granted for a license with secondary status. To NFCB there appears to be a conflict between the two. Our intention was to grant all renewals on a secondary basis *and* to provide an opportunity to increase facilities. It was not our intention to guarantee the ability of every 10-watt station to be able to increase, and a number already are barred from doing so by interference considerations. Rather, the period for filing a power increase had as its purpose providing a method of avoiding the need to change channel. Its purpose was not to protect 10-watt stations against receiving interference. While we did agree to exempt stations from the need to change channels if they reached the 100 watt level, that decision was not based on the efficiency of a 100-watt station. Rather, it represented the Commission's willingness to permit this lesser inefficiency under the circumstances. As a result, we cannot follow NFCB's urgings and protect the ability to increase to the 100-watt level when doing so may foreclose another much more efficient operation.

29. *Accordingly, it is ordered,* That effective February 21, 1979, Part 73, of the Commission's rules and regulations is amended as set forth below. Authority for this action is found in Sections 4(i), and 303(r) of the Communications Act of 1934, as amended.

30. *It is further ordered,* That the petitions for reconsideration are granted to the extend indicated and in all other respects are denied.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; (47 U.S.C. 154, 303).)

FEDERAL COMMUNICATIONS COMMISSION,

WILLIAM J. TRICARICO,

Secretary.

1. Section 73.512(d) is amended to read as follows:

§ 73.512 Special procedures applicable to Class D noncommercial educational stations.

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(d) Class D noncommercial educational (secondary) stations (see § 73.506(a)(2) will be permitted to continue to operate only so long as no interference (as defined in § 73.509) is caused to any TV or commercial FM broadcast station. In the event that the Class D (secondary) station would cause interference to a TV or commercial FM broadcast station after that Class D (secondary) station is authorized, the Class D (secondary) station must cease operation when program tests for the TV or commercial FM broadcast station are authorized. The Class D (secondary) station may apply for a construction permit (see § 1.533(a)(6)) to change to another frequency or antenna site where it would not cause interference (as defined in § 73.509). If the Class D (secondary) station must cease operation before the construction permit is granted, an application for temporary authorization (pursuant to § 1.542 and 47 U.S.C. 309(f)) to operate with the proposed facilities may be submitted; where appropriate, such temporary authorization can be granted.

2. Section 73.561(a) is amended to read as follows:

§ 73.561 Operating schedule; time sharing.

(a) All noncommercial educational FM stations will be licensed for unlimited time operation except those stations operating under a time sharing arrangement. Beginning January 1, 1979, all noncommercial educational FM stations are required to operate at least 36 hours per week, consisting of at least 5 hours of operation per day on at least 6 days of the week; however, stations licensed to educational institutions are not required to operate on Saturday or Sunday or to observe the minimum operating requirements during those days designated on the official school calendar as vacation or recess periods.

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[FR Doc. 79-1471 Filed 1-15-79; 8:45 am]

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federal register

TUESDAY, JANUARY 16, 1979
PART VIII

THE NATIONAL ARCHIVES OF THE UNITED STATES • 1934 •

DEPARTMENT OF ENERGY

STANDBY MANDATORY CRUDE OIL ALLOCATION AND REFINERY YIELD CONTROL PROGRAMS

Final Standby Rule

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[6450-01-M]

Title 10—Energy

CHAPTER II—DEPARTMENT OF ENERGY

[Docket No. ERA-R-78-4]

PART 211—MANDATORY PETROLEUM ALLOCATION REGULATIONS

PART 212—MANDATORY PETROLEUM PRICE REGULATIONS

Standby Mandatory Crude Oil Allocation and Refinery Yield Control Programs

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Final Standby Rule.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby adopts two special rules to establish a standby crude oil allocation program. The rules provide for: (1) A standby mandatory crude oil allocation program; and (2) special pricing provisions governing mandatory sales under the program. In the event of a crude oil supply shortage, the standby rules may be made effective when the emergency allocation provisions of the Agreement on an International Energy Program are activated (unless the Secretary of Energy determines otherwise) or by order of the Administrator of the ERA. These standby rules when activated would distribute available crude oil supplies equitably among refiners by means of a crude oil buy/sell list that generally would permit each refiner to operate at the same monthly rate relative to a recent 12 month base period.

The price for buy/sell transactions would be the actual cost of the particular crude oil sold, if the purchasing refiner's capacity is more than 50,000 barrels per day, and would be the seller's weighted average cost of imported oil, with certain adjustments, if the buyer's capacity is 50,000 barrels per day or less.

The Administrator of ERA will have several options under the program adopted today in standby status. First, the Administrator could grant emergency allocations under the present buy/sell program to *any* refiner with a demonstrated significant shortfall in crude oil supplies, including large independent refiners and major refiners. Second, the Administrator will have the option of implementing the standby regulations only for major and large independent refiners, while continuing to use the present buy/sell program for small refiners. Finally, he could also make the standby regulations applicable to all refiners, thus replacing the present regulations entirely. In that case he could also, depending on the severity of the supply shortage, exempt small refiners with a refining capacity not exceeding 50,000 barrels per day from any requirement to sell crude oil under this program.

DATES: Adopted immediately in standby status. Further comments due on or before March 16, 1979.

ADDRESS: Send comments to: Department of Energy, Public Hearing Management, Room 2313, 2000 M Street, NW., Docket No. ERA-R-78-4, Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

William Webb (Office of Public Information), Room B110, 2000 M Street, NW., Washington, D.C. 20461, (202) 634-2170;

Robert G. Bidwell, Jr. (Office of Fuels Regulation), 2000 M Street, NW., Room 6128, Washington, D.C. 20461, (202) 254-9707;

Robert J. Kane (Office of Regulations & Emergency Planning), 2000 M Street, NW., Room 2304, Washington, D.C. 20461, (202) 254-7200;

Michael Paige or Samuel M. Bradley (Office of General Counsel), 12th and Pennsylvania Avenue, NW., Room 5138, Washington, D.C. 20461, (202) 633-8622.

SUPPLEMENTARY INFORMATION:

I. General Discussion.
II. Background.
III. Special Rules Adopted.
A. Mandatory Crude Oil Allocation Program.
B. Refinery Yield Control Program.
C. Supplier/Purchaser Rule and Entitlements Program.
D. Allocated Crude Oil Pricing Program.
IV. Additional Comments Requested.

I. General Discussion

On February 10, 1978, the DOE issued a notice of Proposed Rulemaking and Public Hearing which proposed the two special standby rules adopted today (43 FR 6611, February 15, 1978). A public hearing was held on June 6, 1978 at which 13 persons testified. In addition, DOE received 15 written comments regarding the proposed special rules.

Comments on the proposed special rules included 16 from major refiners, 7 from small refiners, and 5 from interested associations and utilities. With respect to the standby allocation rule, the comments generally suggested only technical revisions. The pricing provisions, however, were discussed in detail and a range of options for the pricing of crude oil subject to these rules was presented to the DOE. As is discussed below, the final special price rule as adopted today incorporates many of the suggestions discussed by the commenters during the rulemaking process.

On August 25, 1978 (43 FR 38848, August 31, 1978), the ERA announced a second public hearing and solicited additional comments on this rulemaking. The specific issue on which comments were sought was whether crude oil should be allocated to product importers for processing for their account to help alleviate a critical product shortage in the region or regions served by the importers. Twenty-three firms including 16 refiners and 2 terminal operator trade associations submitted comments. The 2 terminal operator trade associations and one other commenter favored such allocations. All of the refiners and 2 non-refiners opposed allocating crude oil to product importers. Two of the commenters did not address this issue.

The purpose of this rulemaking is to develop a crude oil buy/sell program that would be effective in the event of a crude oil supply shortage. The current buy/sell program would not be appropriate during a supply interruption because it only addresses certain small refiners' current needs for additional crude oil supplies in the context of adequate supplies world-wide. Therefore, the DOE developed the special rules adopted today, which will be made effective only in case of a significant shortage in the supply of crude oil. The Administrator of ERA will have discretion to implement the standby regulations in phases, depending upon the severity of the shortage. In one case, he could amend the present buy/sell program regulations set forth at 10 CFR 211.65 to provide for emergency allocations to any refiner that has a demonstrated significant shortfall in crude oil supplies, regardless of whether the refiner is subject to § 211.65, or is classified as a refiner-buyer or refiner-seller under the program. In another case, the Administrator could implement the standby regulations only for major and large independent refiners and continue to use the present buy/sell program for small refiners. Finally, he could implement the standby program such that it entirely replaces the current regulations and allocates available supplies to all refiners. Under this option, depending on the extent of the supply shortage, he could exempt small refiners whose capacities do not exceed 50,000 barrels per day from any sales requirement.

II. Background

The first crude oil allocation program was promulgated in January 1974 in order to alleviate supply shortages of crude oil, residual fuel oil and refined petroleum products. The Federal Energy Office (FEO) undertook to carry out the express mandate of

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Congress is Section 4(a) of the Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159 (EPAA), that the President impose temporary mandatory allocations of available supplies of crude oil, residual fuel oil and refined petroleum products in amounts and at prices to be specified by regulations. The goal of the allocation program was to provide for overall equitable distribution of available crude oil and refined product supplies in order to mitigate the adverse economic consequences of the shortages.

There were two major elements to FEO's original crude oil allocation program. The first was the so-called supplier/purchaser rule which froze in place all supplier/purchaser relationships for domestic crude oil that existed on December 1, 1973. The second element of the program, which is more relevant for present purposes, was the crude oil buy/sell program. The initial crude oil buy/sell program mandated certain sales of crude oil from one refiner to another in order that each refiner would have access to available supplies of crude oil at the national average supply-to-capacity ratio for all refiners. The national average supply-to-capacity ratio was calculated by the FEO based on refinery capacity and estimated crude oil supplies. Crude oil supplies were estimated based on the refiner's current stocks and expected deliveries of crude oil over a three-month allocation period. Refiners with a supply-to-capacity ratio greater than the national average were required to sell their crude oil supplies that were in excess of the national average supply-to-capacity ratio. Refiners with less than the national average supply-to-capacity ratio were entitled to purchase sufficient crude oil from those refiners with such excess supplies so as to increase their supply levels to the national average supply-to-capacity ratio.

The maximum price of crude oil sold pursuant to these rules was calculated by taking the weighted average price of all crude oil delivered to a seller in either Petroleum Administration for Defense (PAD) Districts I-IV or in PAD District V, depending on where the sale was made, and adding to that amount a six percent handling fee plus certain adjustments for transportation costs and gravity differentials. In addition, refiner-sellers were permitted an 84-cent-per-barrel pass-through (for each barrel of crude oil sold pursuant to the program) on products refined by the refiner-seller to allow the refiner-seller to recoup an approximation of the profit that would have been made by refining each barrel of crude oil required to be sold under the allocation program.

The regulations provided for publication by the FEO of a "buy-sell list" showing required sales volumes and purchase opportunities for each refiner. This buy-sell list was the basis for allocation sales for the first quarter. At the beginning of each subsequent quarter, the FEO was required to publish a new buy-sell list that incorporated new projections made for refinery capacity and supply availability in that quarter. In addition, any differences between the estimated available supply of crude oil for a refiner in the first quarter and that refiner's actual deliveries of crude oil (as shown in monthly and quarterly reports to the FEO) would result in an adjustment to the refiner's allocation or sales obligation in a succeeding quarter. The first crude oil allocation program was therefore self-correcting for unexpected shortfalls or excess supplies of crude oil realized in a particular quarter and also for any calculation errors in the information used to compute the buy-sell list for an allocation quarter.

In May 1974, after the embargo was lifted, the FEO substantially revised the mandatory crude oil allocation program. In the changed supply situation, the revision was designed to remove the disincentives for increased production and importation of crude oil which existed under the original program and to eliminate allocations between major oil companies.

The revised program eliminated allocations to major oil companies by limiting the receipt of allocated oil to small and independent refiners. Each small and independent refiner was designated a refiner-buyer and was eligible to purchase during each allocation quarter a fixed amount of crude oil equal to one quarter of its crude oil runs to stills in the year 1972 less the volume of crude oil runs to stills for the period February through April 1974, with certain adjustments. Provision was also made for allocation of crude oil with respect to new or expanded refinery capacity. The fifteen major refiners were designated as the only refiner-sellers and were required to offer crude oil for sale to refiner-buyers. Sales obligations were distributed proportionally according to each refiner-seller's percentage share of the total refining capacity of all refiner-sellers as of January 1, 1973. Refiner-sellers could replace any crude oil which was sold under the program without having such replacement crude oil subject to allocation. The pricing provisions were not changed significantly, although the six-percent handling fee was changed to a thirty-cent per barrel fee.

As more normal supply conditions returned to the petroleum industry, the mandatory crude oil allocation program was reevaluated and further modified. The Federal Energy Administration (FEA) amended the crude oil buy/sell program in August 1975 to ensure that sellers would be treated equally when use of the program either declined in periods of adequate supply or increased during a future supply shortage. These amendments were aslo intended to accommodate the reduced use of the program that followed upon the provision of crude oil cost equalization benefits under the entitlements program (§ 211.67), which was implemented in November 1974. However, the buy/sell program did continue to serve a significant, although reduced, supply function for small and independent refiners.

In April 1976, FEA amended the pricing of buy/sell program sales in a further attempt to eliminate price advantages to purchasers under the program. Since refiner-sellers were previously required to charge a price based upon the weighted average cost of crude oil delivered to that refiner, purchases under the program were often cheaper to purchasers than purchases of the alternate imported crude oils. Sales prices were determined by calculating the refiner/seller's weighted average cost of its crude oil deliveries of imported crude oil (other than from Canada), with no pricing distinctions based on PAD Districts and with a uniform gravity adjustment. A five-cent per barrel handling fee was substituted for the thirty-cent per barrel handling fee.

Effective October 1, 1977, FEA revised the buy/sell program significantly to limit purchases under the program to those refiner-buyers with refineries which had a demonstrated need for allocations of crude oil based on lack of access to adequate supplies of domestic and foreign crude oil. Small refiners that were initially determined to have access to sufficient supplies of crude oil, and that were therefore ineligible to participate in the program, were permitted to reenter the program in the event that they experienced a significant reduction in domestic crude oil supplies. The pricing provisions for sales of allocated crude oil also were modified to take into account crude oil quality differentials and thus reflect more accurately the actual market value of crude oil sold under the program. These modifications permit refiner-sellers to determine their costs for imported high sulfur and low sulfur crude oil separately, thus ensuring that imported sweet and sour crude oil is sold under the program at prices approximating the fair market values for such crude oils. The pricing provision pertaining to transportation expenses recoverable by refiner-sellers was modified to assure that only actual transportation costs will be charged or

incurred in transactions involving allocated crude oil.

III. SPECIAL RULES ADOPTED

The standby crude oil program adopted today is in two separate special rules: The first (Special Rule No. 10 for Subpart C of Part 211) provides for changes to the buy/sell program itself and the second (Special Rule No. 1 for Subpart L of Part 212) provides for the pricing of allocated crude oil.

The mandatory crude oil allocation regulations and the related pricing provisions are intended to be put into effect only in the event of a crude oil supply shortage. They are automatically made effective when the emergency allocation provisions of the Agreement on an International Energy Program are activated (unless the Secretary of Energy determines otherwise), or at any other time when the Administrator of the ERA determines there is a crude oil supply shortage of sufficient severity to implement this program for some or all refiners. They provide for the mandatory allocation of crude oil produced in or imported into the fifty states, the Virgin Islands, Guam, the Hawaiian Free Trade Zone and Puerto Rico, under the authority of the Emergency Petroleum Allocation Act of 1973, as amended. These regulations do not provide for the manner of distribution of the quantity, if any, of Strategic Petroleum Reserve (SPR) crude oil made available but include any SPR crude oil acquired by a refiner in its available supplies for purposes of the calculations of sale requirements and purchase opportunities.

A. MANDATORY CRUDE OIL ALLOCATION PROGRAM

The mandatory allocation of crude oil under the rules adopted today is similar but not identical to that adopted by the FEO for the 1973-1974 oil embargo, and is based on the calculation of a national utilization rate for refiners on a monthly basis. This rate is obtained by dividing the national estimated crude oil runs to stills by the base period average monthly crude oil runs to stills of all U.S. refiners (rather than by their capacity, as under the original program). The base period used for purposes of these calculations will be the twelve consecutive calendar month period ending with the second month immediately preceding the month in which these special rules become effective (unless otherwise ordered by the Administrator). The Administrator will have authority to update this base period on a rolling or periodic basis. The allocation period is a calendar month (unless otherwise ordered by the Administrator). In the discussion that follows it will be assumed that the allocation period will be one month.

In each allocation period, buyers are entitled to purchase sufficient crude oil to permit operation of their refineries at the national utilization rate, and sellers are required to offer for sale any crude oil supplies that would permit their refineries to operate in excess of the national utilization rate.

The national estimated crude oil runs to stills for any allocation period is the total of the estimated crude oil runs to stills for all domestic refiners. The estimated crude oil runs to stills for a particular refiner includes that quantity of crude oil which the refiner estimates it will run to stills during the allocation period, including any Strategic Petroleum Reserve crude oil it may have purchased from the U.S. Government.

The ERA anticipates that all refiners participating in this program will use prudent business judgments in developing as accurate a projection as possible of crude oil runs to stills, taking into account anticipated refinery receipts and managing inventories in the best interest of the country. It should be noted, however, that the program is self-correcting, in that errors in estimates of crude oil runs to stills in an allocation period will be corrected by adjustments to the refiners' purchase rights or sales obligations in subsequent allocation periods.

The national average monthly crude oil runs to stills for any allocation period is the total of all crude oil runs to stills by all U.S. refiners in the base period divided by the number of days in the year (365 or 366) and multiplied by the number of days in the month. In other words, the average daily crude runs to stills for all U.S. refiners during the base period is multiplied by the number of days in the month to determine base period average monthly crude oil runs to stills.

The maximum quantity of crude oil a refiner is permitted to purchase or required to sell during the allocation period is determined by multiplying the refiner's average base period monthly crude oil runs to stills by the national utilization rate (national estimated crude oil runs to stills divided by national base period average monthly crude oil runs to stills). By subtracting the refiner's estimated crude oil runs to stills from the refiner's allowed crude oil runs to stills, the ERA determines the refiner's buy/sell obligation.

If a refiner's estimated crude oil runs to stills is greater than the amount the above calculation indicates it is permitted to refine, the refiner is required to offer such excess crude oil for sale. Conversely, if the refiner's estimated crude oil runs to stills is less than it is permitted to refine under the above calculations, the refiner is eligible to buy an amount of crude oil that will enable it to run its refineries at the national utilization rate.

The following examples illustrate the use of the proposed allocation formula. The terms of the formula are defined as follows:

X=quantity of crude oil a refiner is entitled to purchase (if X is a positive number) or required to sell (if X is a negative number) during the allocation period
A=refiner's estimated crude oil runs to stills during the allocation period
B=refiner's average base period monthly crude oil runs to stills
C=national estimated crude oil runs to stills for all U.S. refiners for the allocation period
D=national average base period monthly crude oil runs to stills by all U.S. refiners

A mathematical expression of the formula is:

$$\left(\frac{C}{D} \times B\right) - A = X$$

If a refiner's total estimated crude oil runs to stills for the allocation period (e.g., A=200 barrels) as compared to its average base period monthly runs to stills (e.g., B=800 barrels) multiplied by the national utilization ratio (e.g., C/D=½, as calculated by dividing the national estimated crude oil runs to stills, e.g., C=225 million barrels, by the national base period average monthly crude oil runs to stills, e.g., D=450 million barrels), results in a positive number, then that refiner is entitled to purchase crude oil from another refiner with crude oil in excess of its permitted runs to stills: (½×800)−200=+200. If a refiner's total for an allocation period (e.g., A=600 barrels) as compared to its average base period monthly crude oil runs to stills (e.g., B=800 barrels) multiplied by the national utilization ratio of ½, results in a negative number, then that refiner is required to offer for sale that part of its crude oil that is in excess of its permitted runs to stills: (½×800)−600=−200.

A buyer is permitted to process crude oil purchased pursuant to this special rule at any of its refineries, regardless of the historical crude oil runs to stills of particular refineries, and may even close a refinery operated during the base period without a reduction in its base period volume if this volume can be accommodated in its other refineries. A buyer is required to process the crude oil, have the crude oil processed, or exchange the crude oil and have the oil received in exchange processed within 60 days from the date of execution of the purchase/sale agreement. Subsequent to the close of an allocation period, based upon submission by refiners of actual crude oil runs to stills, the ERA will recalculate the buy/sell list and make adjustments in a forthcoming allocation period as warranted.

In the event the standby regulation is made applicable to all refiners, as discussed more fully below, all refiners will have sales obligations or purchase rights, depending on their estimated crude oil runs relative to the national ratio, regardless of size. Thus, a small refiner with abundant supplies of crude oil could be a seller under the program, and a major refiner incurring a disproportionate amount of the shortfall could be a buyer. However, firms that have a DOE-certified crude oil refining capacity not exceeding 50,000 barrels per day and would otherwise have a sales obligation under the program are automatically exempt from such obligation if the total reduction in U.S. crude oil supplies, as determined by ERA, is 7 percent or less. The Administrator will have discretion to limit or eliminate this exemption if he determines that complete exemption of small refiners is not warranted in the circumstances of the particular supply emergency. We believe the full or partial exemption of small refiners from sales obligations when the shortfall is not severe is appropriate, inasmuch as small refiners would have very small sales obligations and limited ability to deliver allocated crude oil to buyers.

As discussed in section D of this notice, the pricing provisions in the special rule if the program is activated for all refiners provide that small buyers (with a refining capacity not exceeding 50,000 barrels per day) are permitted to purchase crude oil at the average cost of imported crude oil to the seller, whereas sales between larger refiners will be based on the sellers' actual cost of the crude oil sold. Sales at the seller's weighted average cost result in a certain penalty for the seller, because replacement costs during a crude oil supply shortage will in most cases exceed the seller's weighted average cost. We have therefore determined that obligations to sell crude oil to those small refiners entitled to purchase at the weighted average cost will be distributed on a pro-rata basis among all sellers.

The first allocation period will begin on the date specified by the Administrator of ERA in the order making these special rules effective.

Adjustments to a refiner's base period crude oil runs to stills may be made for non-recurring or unusual operating conditions or to reflect refining capacity in operation for less than the base period time period. However, any adjustment to the base period crude oil runs to stills for purposes of the program must be approved by the ERA. If a refiner has had a new refinery or a refinery addition in operation for more than one full month but less than the total base period, it must make application to ERA to establish base period crude oil runs to stills to take into account the new refining capability.

Whenever the Administrator determines that a refined petroleum product or residual fuel oil is or potentially will be in short supply in any region or area of the country, he may, in order to increase the production of that product or residual fuel oil, adjust the sales obligation or purchase opportunity of specified refiners to permit them to operate refineries specified by the Administrator at a rate greater than the national utilization rate. Such refiners would be required to supply their increased production of the product or residual fuel oil to those regions or areas experiencing shortage conditions. On the basis of the comments received in this rulemaking proceeding, we believe that this provision is more practical and effective as a means of alleviating a critical product shortage in a particular region or regions than our proposal to allocate crude oil to product importers, which was opposed by virtually all commenters. However, since this provision reflects a significant variation from the rule proposed in the February 10, 1978 notice, we are continuing this rulemaking to receive comments on this provision among others.

A refiner's runs to stills, whether estimated or actual, shall include the amount of crude oil processed in the refinery of another firm pursuant to a processing or exchange agreement. This is a change that was recommended by many refiners that commented on the proposed regulations. Refiners' crude oil runs include all crude oil runs to stills of refineries owned, operated, or controlled by the refiner that were in operation at least one full calendar month during the base period or, if they have been operating for a shorter period, that have been taken into account in an adjustment by ERA to base period runs to stills.

With the exception of the first allocation period, the special rule provides for publication of buy/sell notices for the emergency allocation program at least 10 day prior to the beginning of each allocation period. Each buy/sell notice will contain two separate lists. The first list will set forth the allcoations to buyers whose refinery capacity is 50,000 barrels per day or less and the pro-rata share of the sales obligations to such buyers of all sellers. Sales made pursuant to this list are required to be made at the seller's weighted average cost of imported crude oil. The second list will set forth the allocations to buyers whose refinery capacity exceeds 50,000 barrels per day and the sales obligations (less the obligations shown on the first list, as appropriate) of all sellers. Sales made pursuant to the second list will be based on the seller's actual cost of the crude oil.

The conditions of sale and the procedures to be invoked in the event of a failure to negotiate a transaction remain substantially similar to those specified in 10 CFR 211.65 for the allocation program currently in effect. However, under this special rule: (1) Sellers are required to deliver crude oil to any refinery specified by a buyer, provided that the buyer retains title to the products refined from the purchased crude oil and sells or exchanges such products in accordance with normal business practices; and (2) buyers that are unable to consummate transactions must request ERA assignment of a seller within 12 days of publication of the buy/sell notice.

Reports of estimated crude oil runs to stills for the next allocation period and actual data for the preceding allocation period must be filed by all refiners with the ERA no later than the tenth day of the current allocation period, unless otherwise specified by the Administrator. Transactions under the program are required to be reported by telephone within 48 hours of the completion of the arrangements for the sale and then confirmed in writing.

In addition, refiners are also required to report their "total crude oil supply" for the next allocation period, as well as their actual total crude oil supply for the preceding allocation period. Total crude oil supply includes, but is not limited to, inventory, anticipated shipments of crude oil due to arrive during the allocation period, and crude oil in non-associated storage.

Contracting procedures for, and terms and conditions of, the sale of crude oil from the SPR are not covered by the special rule. Subject to other legal requirements related to distribution of SPR crude oil, DOE may determine at a later date to modify this program so that sales of SPR oil would be encompassed.

The Administrator will have the discretion under the standby regulations to implement the program and make it applicable only to specified categories of refiners if he determines that is appropriate in the circumstances. For example, if there is an interruption of crude oil supply from a certain source that affects the supplies of only a limited number of large and small refiners, the special rule enables the Administrator to amend the present buy/sell program regulations to provide

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emergency allocations to any refiner (regardless of whether it is presently eligible for an allocation under the program) that has a demonstrated significant shortage of crude oil supplies. In this case, it would not be necessary to put into effect any of the other standby regulations discussed above. Emergency allocations would be designed to maintain such a refiner's crude oil supplies at a level approximately equivalent to its supply level for the corresponding period of the previous year. If the Administrator made an allocation to a refiner that is a refiner-seller under the buy/sell program, that refiner would be relieved of an appropriate portion of its sales obligation, and the sales obligation so relieved would be distributed on a pro-rata basis among all remaining refiner-sellers. All crude oil sold to other than small refiners pursuant to this amended buy/sell program would be priced in accordance with the provisions of the special pricing rule adopted today in standby status (that is, at the seller's replacement cost plus certain adjustments). With respect to small refiners whose total capacity is greater than 50,000 barrels per day but less than 175,000 barrels per day, the Administrator would have the option of applying either the pricing provisions of the standby regulations or the current provisions of § 212.94 (which provide for sales at the seller's weighted average acquisition cost of imported crude oil).

Alternatively, the Administrator could implement the standby allocation regulations only for major and large independent refiners and continue to use the current buy/sell program to fulfill the supply needs of those small refiners having supply problems. This alternative would fulfill the principal supply requirements of all refiners without the necessity of activating the entire program, with all of its attendant recordkeeping and reporting requirements. To the extent that both the present program and the one adopted today are in effect at the same time for different classes of refiners, major refiners estimated crude oil runs to stills for purposes of the new program would be adjusted to reflect sales obligations to small refiners under the present program. If the Administrator implements the standby regulations in this manner, he would again have the option of applying the price rule of the standby regulations or retaining use of the current price rule in § 212.94 for sales to small refiners between 50,000 and 175,000 barrels per day capacity.

We are continuing this rulemaking to receive comments on the provisions discussed above since they represent changes from the original proposal.

B. REFINERY YIELD CONTROL PROGRAM

The refinery yield control program set forth in revised § 211.71 of the special rule remains substantially as currently in effect. The ERA would have the authority to adjust the percentage yield of a particular product or residual fuel oil that is in short supply. We have modified the language in the proposed § 211.71 of the special standby rule to incorporate the language in the present § 211.71 to make clear that ERA may adjust the quantities of crude oil allocated among refiners in a manner designed to ensure desired production levels of refined petroleum products or residual fuel oil in short supply. Specifically, as currently provided in 10 CFR 211.71, refiners which increase production in excess of their adjusted percentage yield, or less than the adjusted percentage yield, may be allocated greater or lesser quantities of crude oil during the next allocation period, respectively.

C. SUPPLIER/PURCHASER RULE AND ENTITLEMENTS PROGRAM

The special rule does not provide for any changes in either the crude oil supplier/purchaser rule (10 CFR 211.63) or the entitlements program (10 CFR 211.67).

D. ALLOCATED CRUDE OIL PRICING PROGRAM

The pricing provisions adopted today for crude oil sold pursuant to Special Rule No. 10 are set forth in Special Rule No. 1, Subpart L, Part 212. The provisions in the special rule are similar but not identical to those in the current regulations.

As noted above, if the standby allocation regulations are implemented for all refiners and if the purchaser has a refining capacity of more than 50,000 barrels per day, the maximum price which may be charged for crude oil sold under the buy/sell program is based on the purchase cost to the seller of the crude oil delivered plus a 25¢ per barrel handling fee, and any additional transportation expenses. This rule will also apply to all refiners whose capacity is 175,000 barrels per day or more if the Administrator determines to implement only a portion of the standby allocation regulations (retaining the present program for small refiners), and the Administrator will have the discretion to apply this rule in sales to refiners whose capacity exceeds 50,000 barrels per day but is less than 175,000 barrels per day. If imported crude oil is purchased by the seller from a foreign affiliate, the purchase cost shall be determined in accordance with the transfer price rules established in 10 CFR 212.84. If the seller chooses to deliver to the buyer domestic crude oil for which the seller has exchanged foreign crude oil, the seller may use as its purchase cost the actual landed cost of the imported crude oil given up in the exchange, plus or minus any exchange differential.

The purchase cost the seller must use to determine the maximum selling price if the buyer has a refining capacity not exceeding 50,000 barrels per day is the seller's average landed cost of all of its imported crude oil in the allocation period, adjusted to reflect sulfur content and gravity differentials, plus allowable transportation expenses and a 25¢ per barrel handling fee. The sulfur and gravity differential adjustments (3 cents per barrel for each degree API of gravity and each one-tenth percent of sulfur content) are the same as those adopted in April 1976 for the present program. There was nothing in the comments received to indicate that these amounts do not accurately reflect current quality differentials for imported crude oil.

As noted, the sales obligations with respect to buyers whose capacity is 50,000 barrels per day or less will be distributed on a pro-rata basis among all sellers, and each seller's pro-rata share of sales to small buyers will be equal to its percentage share of the total sales obligations. However, sales to small buyers in excess of a seller's pro-rata share are allowed and will be credited against the seller's total sales obligation. In the event a seller has no purchases of imported crude oil, the purchase cost shall be the actual cost to the seller of the domestic crude oil sold with the handling fee and transportation expense adjustment.

The DOE has determined that the pricing provisions in the special rule adopted today address most of the comments received in the rulemaking process and further the objectives of the standby crude oil buy/sell program. By using actual acquisition cost for sales between the larger refiners, these companies will have an incentive to search for new supplies of imported crude oil. Small buyers (with a refining capacity not exceeding 50,000 barrels per day) are permitted to purchase imported crude oil at the average cost of imported crude oil to the seller. This will assist in ensuring that small buyers remain competitive in the event of a supply interruption.

IV. ADDITIONAL COMMENTS REQUESTED

We recognize that these special rules adopted today could have a significant impact on certain refiners in the event they are activated. Although the special rules are standby rules subject to being activated immediately, they may not be activated until a future date. Thus, there may be an opportunity to make additional improvements in these regulations prior to the time they are needed, and it is therefore our intention to review these regulations continuously for this purpose prior to their activation. In this regard, the DOE may conduct additional tests of the emergency supply interruption systems. These tests could demonstrate the need for amendments to these special rules and, if so, the changes will be made in the appropriate manner. In addition, we are soliciting further written comments, through March 16, 1979, on all aspects of these special rules, and particularly those provisions that represent significant modifications of the proposal, and are continuing this rulemaking proceeding for the purpose of making any further amendments that may be appropriate in light of the comments received. It is also our intention to request comments on these regulations at other appropriate intervals in the future, and we specifically request suggestions from the public as to whether we should establish a routine procedure for receiving public comments on these regulations and, if so, how often comments should be solicited.

With regard to the comments due on March 16, 1979, we are especially interested in receiving comments on the standby pricing rule, with particular regard to whether the pricing treatment for refiners with a total capacity not exceeding 50,000 barrels per day is appropriate, and on whether the possible exemption of this class of refiners from sales obligations is appropriate.

In addition, we are requesting comments on § 211.65(d)(2) of the special rule, which permits the Administrator to adjust the sales obligation or purchase opportunity of one or more refiners to permit them to operate their refineries at a rate greater than the national utilization rate in order to increase the production of a refined petroleum product or residual fuel oil determined to be in short supply. In particular, comments are sought on whether this provision would be necessary and appropriate during a supply interruption and, if so, what criteria should be used by the Administrator in selecting refiners that would be permitted to operate one or more of their refineries at a rate greater than the national utilization rate.

Comments should be submitted to the address indicated in the "Address" section of this preamble and should be identified on the outside envelope with the designation "Crude Oil Allocation and Pricing Standby Regulations", Docket No. ERA-R-78-4. Fifteen copies should be submitted. All comments received by the ERA will be available for public inspection in the DOE Reading Room, Room GA-152, James Forrestal Building, 1000 Independence Avenue, S.W., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

You should identify any information or data considered by you to be confidential and submit it ir writing, one copy only. We reserve the right to determine the confidential status of the information or data and to treat it according to our determination.

In accord with section 404 of the DOE Organization Act, the Federal Energy Regulatory Commission received a copy of the proposed rulemaking and notified DOE by letter dated October 2, 1978 that it did not determine that the proposed regulations would significantly affect any function within its jurisdiction pursuant to section 402(a)(1), (b), and (c)(1) of the DOE Act.

We are adopting these amendments immediately in standby status. In the event any of the amendments are made effective within thirty days of their publication, such action will be taken in accordance with the requirements set forth at 5 USC section 553(d).

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-385; Energy Policy and Conservation Act, Pub. L. 94-163, as amended, Pub. L. 94-385; E.O. 11790, 39 FR 23185; Department of Energy Organization Act, Pub. L. 95-91; E.O. 12009, 42 FR 46267.)

In consideration of the foregoing, Parts 211 and 212 of Chapter II of Title 10 of the Code of Federal Regulations are amended, as set forth below, on the day of issuance.

Issued in Washington, D.C., on January 9, 1979.

DAVID J. BARDIN,
Administrator, Economic Regulatory Administration.

1. Part 211 is amended by adding a new Special Rule No. 1 to the Appendix to Subpart C to read as follows:

SPECIAL RULE NO. 10

STANDBY MANDATORY CRUDE OIL ALLOCATION AND REFINERY YIELD CONTROL PROGRAMS

1. *Scope.* This Special Rule No. 10, to Subpart C, Part 211, sets forth the DOE Standby Mandatory Crude Oil Allocation and Refinery Yield Control Programs. This special rule does not provide for the allocation or determination of the amounts of Strategic Petroleum Reserve crude oil, if any, to be exchanged or sold by the United States Government.

2. *Applicability.* (a) This special rule is effective beginning on the day:

(i) When the emergency allocation provisions of the Agreement on an International Energy Program (IEP) take effect, unless the Secretary of Energy determines that this special rule shall not be effective on that date; or

(ii) When ordered by the Administrator.

(b) Except as otherwise provided in paragraphs 3(a) or 8 of this special rule, during the period this special rule is in effect, the definitions of crude oil runs to stills, refiner, refiner-buyer, refiner-seller, and refining-capacity in § 211.62, all of § 211.65, and all of § 211.71, Title 10, Chapter II, Part 211, Subpart C (Crude Oil and Refinery Yield Control) are superseded by the provisions of this special rule.

(c) This special rule terminates:

(i) On the sixtieth (60th) calendar day after the emergency allocation provisions of the IEP terminate, unless the Secretary of Energy determines this special rule should terminate at an earlier date; or

(ii) When ordered by the Administrator, if this special rule is made effective under paragraph 2(a)(ii) hereof.

(d) Upon the day following the date of termination of the effectiveness of this special rule, the above referenced definitions in § 211.62, and § 211.65, § 211.66, and § 211.71, as set forth in Title 10, Chapter II, Part 211, Subpart C (Crude Oil and Refinery Yield Control) in effect on the day prior to the day this special rule is made effective shall become effective.

3. *Exemption.* (a) Refiners that have a DOE certified crude oil refining capacity not exceeding 175,000 barrels per day are exempt from the provisions of this special rule, unless the Administrator determines that this exemption is not warranted by the severity of the crude oil supply shortage that is the basis for the effectiveness of this special rule and issues an order making the exemption inapplicable to such refiners. During the period this exemption is applicable, the provisions of this special rule shall not supersede the provisions of §§ 211.62, 211.65 and 211.71, Title 10, Chapter II, Part 211, Subpart C (Crude Oil and Refinery Yield Control).

(b) Sellers that have a DOE certified crude oil refining capacity not exceeding 50,000 barrels per day are exempt from the sales obligations of this special rule, unless (i) the Administrator determines that this exemption is not warranted by the severity of the crude oil supply shortage that is the basis for the effectiveness of this special rule and issues an order making the exemption inapplicable to such sellers; or (ii) total U.S. crude oil consumption decreases by seven percent or more as a direct or indirect result of a crude oil supply shortage.

4. For purposes of this special rule, certain definitions set forth in § 211.62

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are amended and several new definitions are added to § 211.62 as follows:

"Administrator" means the Administrator of the Economic Regulatory Administration, Department of Energy.

"Allocation period" means a calendar month, except as otherwise ordered by the Administrator.

"Base period" means the twelve (12) consecutive calendar months ending with the second month prior to the month in which this special rule becomes effective unless otherwise ordered by the Administrator.

"Base period average monthly crude oil runs to stills" means a refiner's total crude oil runs to stills for all its refineries during the base period as reported on the Bureau of Mines Form P-320, including crude oil processed for the refiner's account by other refiners, divided by the number of days in the base period and multiplied by the number of days in the allocation period.

"Buyer" means any refiner whose estimated crude oil runs to stills during the allocation period is less than the national utilization rate multiplied by that refiner's base period average monthly crude oil runs to stills.

"Crude oil runs to stills" means, in the case of a refiner other than a petrochemical producer, the total number of barrels of crude oil input to distillation units or directly to downstream facilities processed by a refiner for its own account, and the number of barrels processed for its account by other refiners, measured in accordance with Bureau of Mines Form P-320. In the case of a petrochemical producer, "crude oil runs to stills" means the total number of barrels of crude oil input to processing units for conversion into petrochemicals.

"DOE" means the Department of Energy, established by Pub. L. 95-91 (August 14, 1977).

"ERA" means the Economic Regulatory Administration, Department of Energy.

"Estimated crude oil runs to stills" means the volume of crude oil a refiner estimates it will run to stills for its own account during an allocation period for all of its refineries, the volume of crude oil to be processed for nonrefiners, the volume of crude oil to be processed for the refiner's account by other refiners, and the volume of crude oil purchased from, or received through exchange with, the Strategic Petroleum Reserve established pursuant to the Energy Policy and Conservation Act (Pub. L. 93-165). A refiner's estimated runs to stills shall be based on the volume of its total crude oil supply (as defined in paragraph 4 of this special rule) that could be processed in its refineries or for its account by other refiners in the particular allocation period, excluding crude oil purchased or to be purchased under this special rule. If the exemption in paragraph 3(a) of this special rule is applicable, "estimated crude oil runs to stills" shall not include the quantity of crude oil a refiner-seller estimates it will be required to sell to refiner-buyers pursuant to § 211.65 during the allocation period.

"Firm" means any association, company, corporation, estate, individual, joint-venture, partnership, or sole proprietorship or any other entity however organized including charitable, educational, or other eleemosynary institutions, and the Federal Government including corporations, departments, Federal agencies, and other instrumentalities, and State and local governments. The ERA may, in regulations and forms issued in this part, treat as a firm: (1) A parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls, (2) a parent and its consolidated entities, (3) an unconsolidated entity, or (4) any part of a firm.

"IEA" means the International Energy Agency established to implement the IEP.

"IEP" means the International Energy Program established pursuant to the Agreement on an International Energy Program signed at Paris, France, on November 18, 1974, including (a) the Annex entitled "Emergency Reserves", (b) any amendment to such Agreement that includes another nation as a Party to such Agreement, and (c) any technical or clerical amendment to such Agreement.

"National base period average monthly crude oil runs to stills" means the total base period average monthly crude oil runs to stills of all U.S. refiners.

"National estimated crude oil runs to stills" means, for any allocation period, the total of the estimated crude oil runs to stills for all U.S. refiners, minus the quantity of crude oil directed to all refiners pursuant to § 211.65(d)(2) or § 211.71(d) of this special rule.

"National utilization rate" means national estimated crude oil runs to stills for an allocation period divided by national base period average monthly crude oil runs to stills.

"New refining capacity" means, for each refiner, the capacity of its refineries, as certified by the DOE, operated continuously in the normal course of such refiner's business for a period of at least one full calendar month, which must include the month preceding the month of the effective date of this special rule, but for less than the full 12 months of the base period.

"Petrochemical plants" means those industrial plants, regardless of capacity, that process petrochemical feedstocks and obtain at least thirty (30) percent conversion, by weight, to petrochemicals or other products that are converted to petrochemicals, as long as the weight of hydrocarbon contained in the final petrochemical is equal to at least thirty (30) percent of the initial petrochemical feedstock fed to the plant under consideration.

"Refiner" means a firm which owns, operates or controls the operations of one or more refineries within the United States.

"Refinery" means an industrial plant, regardless of capacity, processing crude oil feedstock and manufacturing refined petroleum products, residual fuel oil or petrochemicals, and shall include a petrochemical plant operated continuously in the normal course of business during the base period.

"Seller" means any refiner whose estimated crude oil runs to stills during the allocation period is greater than the national utilization rate multiplied by that refiner's base period average monthly crude oil runs to stills.

"Total crude oil supply" means the total quantity of crude oil to which a refiner has access during an allocation period, including, but not limited to, crude oil owned, controlled or purchased by the refiner in associated storage, in nonassociated storage, in transit for delivery to a refinery during the allocation period, or to be processed for the account of non-refiners, excluding pipeline fill and tank bottoms. If the exemption in paragraph 3(a) of this special rule is applicable, "total crude oil supply" shall not include the quantity of crude oil a refiner-seller estimates it will be required to sell to refiner-buyers pursuant to §211.65 during the allocation period.

"United States" means the several states, the District of Columbia, Puerto Rico, the territories and possessions of the United States other than the Panama Canal Zone, and the Hawaiian Free Trade Zone.

5. *Method of Allocation.* For purposes of this special rule, § 211.65 shall read as follows:

§ 211.65 *Mandatory Crude Oil Allocation program.*

(a) *General rule.* (1) In each allocation period a buyer shall be entitled to purchase and a seller shall be required to offer for sale an amount of crude oil equal to the difference between

(i) The national utilization rate multiplied by the refiner's base period average monthly crude oil runs to stills, and

(ii) The refiner's estimated crude oil runs to stills during the allocation period.

(2) *Definitions.*

X=quantity of crude oil a buyer is entitled to purchase (if X is a positive number) or required to offer for sale (if X is a negative number) during the allocation period

A=refiner's Estimated Crude Oil Runs to Stills during the allocation period

B=refiner's Base Period Average Monthly Crude Oil Runs to Stills

C=National Estimated Crude Oil Runs to Stills for all U.S. refiners for the allocation period

D=National Base Period Average Monthly Crude Oil Runs to Stills by all U.S. refiners

(3) *Formula.*

$$\left(\frac{C}{D} \times B\right) - A = X$$

(4) *Calculation Procedure.* For each allocation period, the amount of crude oil a refiner is eligible to buy or required to offer for sale shall be calculated as follows:

(i) Each U.S. refiner shall submit to the ERA its estimate of crude oil runs to stills for the allocation period.

(ii) For each allocation period, the ERA shall compute the national estimated crude oil runs to stills based on the total estimated crude oil runs to stills for all U.S. refiners for that allocation period.

(iii) The ERA shall compute the average daily crude oil runs to stills during the base period for each domestic refiner by dividing the total volume of that refiner's crude oil runs to stills in the base period by the number of days in the base period (365 or 366).

(iv) The ERA shall multiply this daily average volume of crude oil runs to stills for each refiner by the number of days in the allocation period, to determine the refiner's base period average monthly crude oil runs to stills for the allocation period.

(v) The ERA shall compute a national base period average monthly crude oil runs to stills by aggregating the base period average monthly crude oil runs to stills of all U.S. refiners for the allocation period.

(vi) The ERA shall divide the national estimated crude oil runs to stills (clause (ii)) for the allocation period by the national base period average monthly crude oil runs to stills (clause (v)) to determine the national utilization rate for the allocation period.

(vii) The ERA shall multiply the national utilization rate by the refiner's base period average monthly crude oil runs to stills for the allocation period (clause (iv)) to determine the refiner's allowable crude oil runs to stills during the allocation period.

(viii) The ERA shall subtract the refiner's estimated crude oil runs to stills (clause (i)) from the refiner's allowable crude oil runs to stills during the allocation period (clause (vii)) to determine the refiner's purchase or sale obligation, subject to any adjustments made pursuant to paragraph (d)(2) of this section or § 211.71(d) of this special rule.

(ix) If the result of the calculation in clause (viii) is positive, the refiner is entitled to purchase that quantity of crude oil.

(x) If the result of the calculation in clause (viii) is negative, the refiner is required to offer that quantity of crude oil for sale, unless the exemption provided for in section 3 of this special rule is applicable to that refiner.

(5) *First allocation period.* The first allocation period shall commence on the date ordered by the Administrator.

(b) *Buyers.* Each buyer shall:

(1) Be entitled to purchase, either directly or through exchange, from a seller, a quantity of crude oil equal to the amount computed pursuant to paragraph (a) of this section; and,

(2) Be required to refine or have processed any crude oil purchased or exchanged for crude oil purchased pursuant to this special rule within 60 days following the date of execution of the sale/purchase agreement.

(c) *Sellers.* Except as provided in paragraph 3 of this special rule, each seller shall be required to offer for sale, directly or through exchange, to buyers a quantity of crude oil equal to the amount computed pursuant to paragraph (a) of this section: *Provided,* That the sales obligations with respect to buyers that have a DOE certified crude oil refining capacity of 50,000 barrels per day or less shall be distributed on a pro-rata basis among all sellers, and each seller's pro-rata share of such sales obligations shall be equal to its percentage share of the total sales obligations, as specified in the buy/sell notice issued pursuant to § 211.65 (g) of this special rule.

(d) *Adjustments to purchase and sale amounts.* (1) The ERA shall recalculate the buy/sell list for each allocation period based on actual crude oil runs to stills and crude oil purchased under this special rule during that allocation period and then make appropriate adjustments in a subsequent allocation period to reflect what each refiner's sale or purchase amount should have been, except that positive adjustments to a buyer's allocations in subsequent allocation periods will not be made if that buyer failed to purchase its total allocations during the allocation period in which the sales were made. Such recalculation shall be for the primary purpose of correcting errors in estimates, and shall also:

(i) Increase a seller's sales obligation in any allocation period to reflect crude oil offered for sale by that seller but not purchased by a buyer in a prior allocation period;

(ii) Decrease a seller's sales obligation in any allocation period to deduct crude oil sales in excess of the amount required to be offered for sale in a prior allocation period pursuant to paragraphs (f) and (i)(2) of this section; and,

(iii) Either decrease a refiner's sales obligation or increase its purchase opportunity in any allocation period or periods, as the case may be, to reflect any adjustments made under paragraph (d)(2) of this section or § 211.71(d) of this special rule and to account for sales made by that refiner under the IEP in the current or one or more previous allocation periods, where the refiner reasonably could not have forseen such a sale and adjusted its estimated crude oil runs to stills for the allocation period in question to reflect the sale, and to reflect any purchases by a refiner made under the IEP.

(2) Whenever the Administrator determines that a refined petroleum product or residual fuel oil is or potentially will be in short supply in any region or area of the United States, the Administrator may adjust the sales obligation or purchase opportunity of one or more refiners which produce that refined petroleum product or residual fuel oil and supply or are capable of supplying that refined petroleum product or residual fuel oil in or into those regions or areas experiencing shortage conditions, to permit such refiners to operate one or more of their refineries, as specified by the Administrator, at a rate greater than the national utilization rate: *Provided,* That such refiners agree to supply that refined petroleum product or residual fuel oil at a level specified by the Administrator in or into those areas or regions experiencing shortage conditions.

(e) *New refining capacity.* The ERA may adjust a refiner's base period average monthly crude oil runs to stills to reflect new refining capacity, pursuant to application by that refiner under subpart G of Part 205 of this Chapter.

(f) *Adjustment to base-period crude oil runs to stills and directed transactions.* (1) Prior to the first day of the second allocation period, a refiner may request the Administrator to adjust its base period crude oil runs to stills for unusual and non-recurring operating conditions during the base period at one or more of its refineries. If the Administrator does not approve, in whole or in part, or disapprove the request within fifteen (15) business days of receipt of the request, it shall be deemed denied.

(2) Notwithstanding the provisions of this special rule, the Administrator may:

(i) Order a refiner to offer to sell crude oil to reduce its total crude oil supply as defined in paragraph 4 of this special rule over and above any reduction in its total crude oil supply required under paragraphs (a) through (c) of § 211.65 of this special rule; and (ii) order a refiner purchasing crude oil under this special rule to place and retain that crude oil in its inventory.

(g) *Buy/sell notice and negotiation of transactions.* (1) Except for the first allocation period, a buy/sell notice shall be published at least 10 days prior to the beginning of the allocation period. Except when the exemption is paragraph 3(a) of this special rule is applicable, each buy/sell notice shall contain two lists. One list shall set forth the quantity of crude oil each buyer whose DOE certified crude oil refining capacity is 50,000 barrels per day or less is eligible to purchase and the quantity of crude oil that each seller shall be obligated to offer for sale to such buyers. The other list shall set forth the quantity of crude oil each buyer whose DOE certified crude oil refining capacity exceeds 50,000 barrels per day is eligible to purchase and the quantity of crude oil that each seller shall be obligated to offer for sale to such buyers (less the obligations shown on the first list).

(2) Upon publication of the notice, buyers and sellers shall negotiate purchases and sales of crude oil allocated pursuant to the notice. All sales, except directed sales pursuant to paragraph (i) of this section, must be contracted for within ten (10) days after the publication of the buy/sell notice, and all deliveries must be completed within thirty (30) days following the date of execution of the sale/purchase agreement.

(3) The ERA may issue a supplemental notice for an allocation period to reflect adjustments under paragraph (d)(1)(iii) of this section for voluntary or mandatory sales under the IEP for that allocation period, where the operations of the refiner making the sale could be adversely affected by reason of the sale and where the refiner could not reasonably forsee the sale so as to have adjusted its estimated crude oil runs to stills accordingly.

(h) *Terms and conditions of sales.* (1) The terms and conditions of each sale, processing agreement, or exchange of crude oil,

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other than sales prices, shall be consistent with normal business practices.

(2) Sellers shall deliver crude oil purchased pursuant to this special rule to any refinery designated by the buyer, whether or not it is operated by the buyer: *Provided,* That the buyer (i) has title to the product or products refined from the purchased crude oil when the refining process is completed, or (ii) sells or exchanges such product in accordance with normal business practices.

(3) Crude oil offered for sale must be suitable for processing in the buyer's refinery or the refinery designated by the buyer: *Provided,* That the refinery so designated does not require a significantly higher quality of crude oil than the buyer's own refinery or refineries. Crude oil is deemed to be suitable for processing in a refinery if it has historically been processed in the refinery or if it has the same or similar characteristics as crude oil that has historically been processed in the refinery. A seller may not be required to supply a specific type of crude oil to a buyer's refinery if the crude oil supplied would account for a greater percentage of the refinery's total crude oil runs to stills in the allocation period concerned than was the case with similar or higher quality crude oils during the previous twenty-four month period.

(4) Crude oil offered to a buyer must be practical for delivery to and physically capable of being delivered to the buyer's refinery or a refinery designated by the buyer. The seller and the buyer shall make mutually satisfactory arrangements for the delivery of allocated crude oil to the buyer's refinery or to the designated refinery.

(5) All crude oil sold pursuant to this section shall be priced in accordance with the provisions in Part 212, Subpart L, Special Rule No. 1.

(6) Exchanges of crude oil may be utilized to comply with the purchase and sale provisions of this special rule.

(i) *Failure to negotiate transactions.* (1) Each buyer shall make its best effort to consummate purchases of crude oil under this special rule from sellers prior to requesting assistance from the ERA. A buyer that is able to demonstrate its inability to consummate a sale despite making such effort may request, in accordance with the procedures established under 10 CFR Part 205, Subpart G, that the ERA direct one or more sellers to sell a suitable type of crude oil to such buyer. Such a request must be received by the ERA no later than 12 days after the publication of the buy/sell notice for the allocation period for which the assignment of a seller is requested. Such a request must also document the buyer's inability to purchase crude oil from sellers by supplying the following to the ERA:

(i) Name of the buyer and the person authorized to act for the buyer in transactions under this section.

(ii) Names and locations of each refinery for which crude oil has been sought; whether the buyer owns the refinery; the amount of crude sought for each refinery; and the technical specifications and proportions of crude oil that have historically been processed in each refinery.

(iii) Statement of any restrictions, limitations or constraints on the buyer's purchases of crude oil, particularly concerning the manner or time of deliveries.

(iv) Statement describing terms and conditions or processing agreements that the buyer plans to enter into for purposes of having the crude oil refined and the extent to which such processing agreements are consistent with the buyer's normal business practices.

(v) Names and locations of all sellers from which crude oil has been sought under the buy/sell notice and the volume and specifications of the crude oil sought from each seller.

(vi) The response of each seller to which a request to purchase crude oil has been made, and the name and telephone number of the individual contracted at each such seller.

(vii) Such other pertinent information as the ERA may request.

(2) Upon receipt of a request for a directed sale under paragraph (1), the ERA may direct one or more sellers that have not sold their required sales obligations for the allocation period to sell crude oil to the buyer. In directing sellers to make such sales, the ERA shall consider which seller or sellers can best be expected to consummate particular directed sales. If the buyer declines to purchase crude oil from the seller specified by the ERA, the rights of that buyer to purchase that volume of crude oil are forfeited during that allocation period: *Provided,* That the seller or sellers have fully complied with the provisions of this section. If the ERA determines that a valid directed sale request cannot reasonably be expected to be consummated by a seller that has not completed all or substantially all of its sales obligation for the allocation period, the ERA may issue one or more directed sales orders that would result in one or more sellers selling more than their published sales obligations for that allocation period.

(j) *Coordination with the IEP.* (1) An IEP-designated domestic reporting company that submits a written voluntary offer pursuant to the IEP shall simultaneously transmit a copy of the offer to the ERA if the offer either results in crude oil or petroleum products intended to be imported to the U.S. being rerouted to another country, or results in crude oil being exported from the U.S., or crude oil or petroleum products being rerouted from another country to the U.S.

(2) The DOE will notify the IEA within forty-eight (48) hours of being notified of a voluntary offer as to whether acceptance of such offer by the IEA could impair the operation of the U.S. domestic allocation system.

6. *Procedures and reporting requirements.* For purposes of this special rule, the following new reporting requirements are added to § 211.66, which shall read as follows:

(a) *Filing.* All matters pertaining to the allocation of crude oil and the refinery yield control program shall be addressed to the ERA in accordance with 10 CFR 205.12, unless otherwise provided.

(b) *Monthly Reports.* Not later than the tenth (10th) day of each allocation period, unless ordered otherwise by the Administrator, each firm subject to this special rule shall file with the ERA a report for each of its refineries which includes (1) a statement of the actual crude oil runs to stills for each refinery for the preceding allocation period and an estimate of its crude oil runs to stills for the next allocation period; (2) a statement of its actual total crude oil supply as defined in paragraph 4 of this special rule for the preceding allocation period and an estimate of its total crude oil supply for the next allocation period; and (3) a statement of the volume of crude oil (other than crude oil sold pursuant to the provisions of this special rule) sold during the preceding allocation period and an estimate of such sales for the next allocation period. For the first allocation period, such information must be filed on the date specified by the Administrator.

(c) *Transaction Report.* Within forty-eight hours of the completion of arrangements therefor, each transaction made to comply with this special rule shall be reported by telephone and confirmed in writing or by telex to the ERA by both the buyer and seller. This report shall identify the seller, the buyer, the refineries to which the crude oil is to be delivered, the volumes of crude oil sold or purchased, and the period over which the delivery is expected to take place.

7. *Mandatory refinery yield control program.* For purposes of this special rule, § 211.71 shall read as follows:

§ 211.71 *Mandatory Refinery Yield Control Program.*

(a) *Purpose.* The refinery yield control program is designed to require each refiner to utilize available supplies of crude oil in a manner best suited to ensure adequate production levels of refined petroleum products and residual fuel oil which are or may be in short supply.

(b) *Scope.* This paragraph applies as specified to the production of refined petroleum products and residual fuel oil from crude oil by each refiner in the United States.

(c) *Product Yield Controls.*—(1) *Definitions.* As used in this paragraph "Base percentage yield" means the ratio, expressed as a percentage, of the total number of barrels of a particular refined petroleum product or residual fuel oil produced by a refiner during a specified base period to the refiner's total crude runs to stills in that base period.

"Base period" means an appropriate historical period determined by the Administrator during which the petroleum product or residual fuel oil was produced by the refiner.

(2) *Adjustment of Base Percentage Yield.* Whenever a refined petroleum product or residual fuel oil is or will be in short supply, the ERA may direct refiners to adjust their base percentage yield of that product or residual fuel oil in order to increase the relative output of that product or residual fuel oil in short supply. Such directives may require either percentage changes in yields or changes in yields that would permit the refiner(s) to supply a product or residual fuel oil at specified levels. The ERA may direct a refiner or refiners to adjust yields of a particular refined petroleum product or residual fuel oil for a specific refinery or on a geographic or national basis.

(3) *Joint Compliance.* Upon approval by the ERA, two or more refiners may adjust their base percentage yield of a particular refined petroleum product or residual fuel oil on a pooled basis such that the combined production of that product or residual fuel oil by the two or more refiners would equal the combined production of those refiners if each refiner had separately equalled or exceeded its base percentage yield of that product or residual fuel oil.

(d) *Allocation of crude oil.* The ERA may adjust the quantities of crude oil allocated among refiners pursuant to this special rule in a manner designed to ensure desired production levels of refined petroleum products or residual fuel oil in short supply for which an adjusted base percentage yield has been directed. Such adjustments shall be designed to meet the objectives of this special rule, so that refiners which increase production in excess of their adjusted percentage yield of that product or residual fuel oil, or which decrease production to less than the adjusted percentage yield of that product or residual fuel oil, may be allocated greater or lesser quantities of crude oil during the next allocation period, respectively.

8. *Special allocation procedures.* When the provisions of this special rule are in effect, the Administrator may order the following amendments to paragraphs (c) and (i) of § 211.65 and, in that event, paragraphs 3, 4 (except the definitions of "Administrator," "DOE" and "ERA"), 5, 6 and 7 of this special rule shall not be in effect:

(a) Paragraph (c) may be amended by revising the heading and subparagraph (2) to read as follows:

(c) *Review of eligibility for allocations, adjustments to purchase opportunities, and emergency allocations.* * * *

(2)(i) Notwithstanding any provision of § 211.62 or any other provision of this section, upon application at any time by any refiner, the ERA may grant that refiner an emergency allocation for one or more allocation periods, or for part of an allocation period, the effect of which shall be to maintain that refiner's crude oil supplies at a level equivalent to that refiner's supply level for the corresponding period of the previous year: *Provided,* That, such refiner shall be required to demonstrate that it is incurring, or will incur in the allocation period for which the allocation is sought, a significant reduction, due to circumstances over which such refiner reasonably had no control, in its supply of crude oil due directly or indirectly to shortages of crude oil in the world markets. Each application shall contain the information (including documentation where appropriate) necessary for the ERA to determine that the applicant's reduction in crude oil supplies is due to circumstances over which the applicant reasonably had no control. In granting a request of a refiner for an emergency allocation, the ERA may direct one or more refiner-sellers to sell a suitable type of crude oil to such refiner pursuant to paragraph (j) of this section.

(ii) In the event the ERA grants an emergency allocation to any refiner that is a refiner-seller under this section, that refiner-seller shall be relieved of the appropriate portion of its sales obligation for a period of time as specified by the Administrator and the sales obligation of such refiner-seller so relieved shall be distributed on a pro-rata basis among all remaining refiner-sellers.

(iii) The ERA may (A) grant an emergency allocation to a refiner under this paragraph, (B) adjust any allocation or sales obligation shown on the buy/sell notice specified in paragraph (g) of this section or (C) issue one or more directed sales orders that would result in one or more refiner-sellers selling more than their published sales obligations for that allocation period pursuant to subparagraph (3) of paragraph (j) of this section, without issuing a supplemental buy/sell notice listing such emergency allocations, adjustments to allocations or increased sales obligations: *Provided,* That, no such directed sale shall increase any refiner-seller's sales obligation by more than twenty-five percent (25%) and any such directed sale amounts shall serve to reduce the refiner-seller's obligation in the next allocation period.

(b) Paragraph (i) may be amended by revising subparagraph (4) to read as follows:

(4) All crude oil sold pursuant to this section to refiners other than small refiners shall be priced in accordance with the provisions in Part 212, Subpart L, Special Rule No. 1. All crude oil sold pursuant to this section to small refiners whose DOE certified crude oil refining capacity is 50,000 barrels per day or less shall be priced in accordance with the provisions in § 212.94 of this chapter. With respect to sales of crude oil pursuant to this section to refiners whose DOE certified crude oil refining capacity is greater than 50,000 barrels per day but less than 175,000 barrels per day, the Administrator may determine that either the provisions in § 212.94 of this chapter or the provisions in Part 212, Subpart L, Special Rule No. 1 shall apply.

2. Part 212 is amended by deleting Appendix A, and the Special Rule therein, and by adding Special Rule No. 1 as an Appendix to Subpart L to read as follows:

APPENDIX.—SPECIAL RULE NO. 1

MANDATORY ALLOCATED CRUDE OIL PRICING RULES

1. *Scope.* This Special Rule No. 1, to Subpart L, Part 212 sets forth the rules for pricing of crude oil subject to the DOE's Standby Mandatory Crude Oil Allocation and Refinery Yield Control Programs.

2. *Applicability.* (a) This special rule is effective beginning on the day when Special Rule No. 10 to Part 211 Subpart C becomes effective pursuant to paragraph 2(a) thereof.

(b) During the time period this special rule is in effect, it supersedes § 212.94, Title 10, Chapter II, Subpart F (Allocated Crude Pricing): *Provided,* That, if the exemption in paragraph 3(a) of Special Rule No. 10 to Part 211 Subpart C is applicable, the provisions in § 212.94 shall apply to sales of crude oil pursuant to § 211.65 of this chapter to small refiners whose DOE certified crude oil refining capacity is 50,000 barrels per day or less. With respect to sales of crude oil pursuant to § 211.65 of this chapter to refiners whose DOE certified refining capacity is greater than 50, 000 barrels per day but less than 175,000 barrels per day, the Administrator may determine that either the provisions in § 212.94 or the provisions in this special rule shall apply.

(c) This special rule terminates when Special Rule No. 10 Part 211, Subpart C terminates. Upon the day following the date of termination of this special rule, § 212.94, as set forth in Title 10, Chapter II, Part 212, Subpart F (Allocated Crude Pricing) in effect on the day prior to the day this special rule is made effective, shall become effective.

3. For purposes of this special rule, § 212.94 reads as follows:

(a) *Definitions.* For the purpose of this special rule:

"Administrator" means the Administrator of the Economic Regulatory Administration, Department of Energy.

"Allocation period" means a calendar month, except as otherwise ordered by the Administrator.

"Domestic crude oil" means crude oil produced in the United States or from the "outer continental shelf" as defined in 43 U.S.C. 1331, but excluding crude oil stored in, or owned and controlled by the United States Government, in connection with the Strategic Petroleum Reserve.

"High sulfur crude oil" means crude oil the sulfur content of which is equal to or greater than 0.6% (six-tenths of one percent) by weight.

"Imported crude oil" means crude oil brought into the United States from a foreign country for consumption within the United States, but excluding crude oil stored in, or owned and controlled by the United States Government, in connection with the Strategic Petroleum Reserve.

"Low sulfur crude oil" means crude oil the sulfur content of which is less than 0.6% (six-tenths of one percent) by weight.

"Transportation expenses" means pipeline tariffs, water transportation and terminalling costs, exchange differentials, insurance and taxes paid to deliver the crude oil to the buyer's refinery or to the refinery designated by the buyer for processing the crude oil.

"United States" means the several states, the District of Columbia, Puerto Rico, the territories and possessions of the United States other than the Panama Canal Zone, and the Hawaiian Free Trade Zone.

(b) *Rule.* (1) For each allocation period, the price at which low sulfur and high sulfur crude oil shall be sold when required pursuant to Special Rule No. 10, Part 211, Subpart C shall not exceed the purchase cost to the seller as specified in subparagraph (2) of this paragraph (b), plus a handling fee of 25 cents per barrel and any transportation (including exchange differential), gravity, and sulfur content adjustments as specified in subparagraphs (3) through (5), respectively of this paragraph (b).

(2) The purchase cost to sellers of crude oil offered for sale pursuant to Special Rule No. 10, Part 211, Subpart C shall be:

(i) When the buyer has a DOE certified refining capacity of more than 50,000 barrels per day, the actual cost in an arms-length transaction or the landed cost as defined in § 212.82 of acquiring the imported crude oil offered for sale, or the actual cost of domestic crude oil sold.

(ii) When the buyer has a DOE certified refining capacity of 50,000 barrels per day or less, the weighted average landed cost (as defined in § 212.82) of all the seller's imported crude oil of the same sulfur content category (other than crude oil sold under paragraph (b)(2)(i) above) for the allocation period in which the sale is made, or where the seller has no purchases of imported crude oil in the month in which the sale is made, the actual cost of acquiring the domestic crude oil offered for sale.

(3) A price adjustment shall be made for transportation expenses for crude oil offered for sale pursuant to Special Rule No. 10, Part 211, Subpart C, as follows:

(i) Where domestic crude oil (other than Alaskan crude oil sold to a buyer located in other than Alaska) is sold, the actual cost of transporting the domestic crude oil from:

(*1*) The wellhead, in the event the seller is also the producer of the crude oil so sold, or

(*2*) The point of purchase or exchange in the event the seller acquires the crude oil so

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sold pursuant to a purchase or exchange, to the buyer's refinery;

(ii) Where Alaskan crude oil is sold to a buyer located other than in Alaska, the acutal cost of transporting the Alaskan crude oil from the point of landing to the buyer's refinery;

(iii) Where imported crude oil is sold, the actual cost of transporting the imported crude oil from the United States port of entry to the buyer's refinery.

(4) A price adjustment shall be made for gravity differential of crude oil offered for sale under Special Rule No. 10, Part 211, Subpart C, that is priced under paragraph (b)(2)(ii) of this Special Rule, by adding to or subtracting from the price three cents per barrel (or as otherwise determined by the Administrator in light of prevailing market conditions) for each degree API that the crude oil being offered for sale is above or below, respectively, the weighted average degree API of the seller's imports of crude oil of the same sulfur content category.

(5) A price adjustment shall be made for sulfur content differential of crude oil offered for sale under Special Rule No. 10, Part 211, Subpart C, that is priced under paragraph (b)(2)(ii) of this special rule, by adding to or subtracting from the price three cents per barrel (or as otherwise determined by the Administrator in light of prevailing market conditions) for each one-tenth of one percent that the sulfur content by weight of the crude oil being offered for sale is either below or above, respectively, the percentage representing the weighted average sulfur content of the seller's imported crude oil of the same sulfur content category.

(6) For purposes of the computations set forth in subparagraphs (4) and (5) of this paragraph, crude oil imported from Canada shall not be included.

(7) Each refiner making a purchase or sale pursuant to the provisions of Special Rule No. 10, Part 211, Subpart C, shall maintain records for such sales, which shall be made available to the ERA upon request, listing the volumes and types of domestic and imported crude oil bought or sold, the purchase cost as defined in subparagraph (b)(2) of this special rule, and the actual sales price and transportation expenses incurred in transporting the domestic or imported crude oil to the buyer' refinery.

[FR Doc. 79-1410 Filed 1-11-79; 3:05 am]

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federal register

TUESDAY, JANUARY 16, 1979
PART IX



OFFICE OF MANAGEMENT AND BUDGET

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BUDGET RESCISSIONS AND DEFERRAL

Reports

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[3110-01-M]

OFFICE OF MANAGEMENT AND BUDGET

CUMULATIVE REPORT ON RESCISSIONS AND DEFERRALS

January 1979

This report is submitted in fulfillment of the requirements of section 1014(e) of the Impoundment Control Act of 1974 (Pub. L. 93-344). Section 1014(e) provides for a monthly report listing all budget authority for this fiscal year with respect to which, as of the first day of the month, a special message has been transmitted to the Congress.

This month's report gives the status as of January 1, 1979, of one rescission and 46 deferrals contained in the first four special messages of FY 1979. These messages were transmitted to the Congress on October 2, November 30, December 7, and December 12, 1978.

RESCISSION (ATTACHMENT A)

One rescission proposal totalling $75,000 in budget authority is presently before the Congress (see Attachment A).

DEFERRALS (TABLE A AND ATTACHMENT B)

As of January 1, 1979, $1,732.8 million in 1979 budget authority was being deferred from obligation and another $1.1 million in 1979 obligations was being deferred from expenditure. Table A summarizes the status of deferrals reported by the President, and Attachment B shows the history and status of each deferral reported during FY 1979.

INFORMATION FROM SPECIAL MESSAGES

The special messages containing information on the rescission and each of the deferrals covered by the cumulative report are contained in the FEDERAL REGISTERS of:

Wednesday, October 11, 1978 (Vol. 43, No. 197, Part III)
Wednesday, December 6, 1978 (Vol. 43, No. 235, Part III)
Wednesday, December 13, 1978 (Vol. 43, No. 240, Part VI)
Monday, December 18, 1978 (Vol. 43, No. 243, Part VI)

JAMES T. MCINTYRE, JR.,
Director.

Table A

STATUS OF 1979 DEFERRALS

	Amount (In millions of dollars)*
Deferrals proposed by the President	$2,866.5
Routine Executive releases (-$1,133 M) and adjustments (+$0.4 M) through January 1, 1979	-1,132.7
Overturned by the Congress	---
Currently before the Congress	$1,733.9 a/

a/ This amount includes $1.1 million in outlays for two Department of the Treasury deferrals.

* Detail does not add to total due to rounding.

[3110-01-C]

PAGE 1 ATTACHMENT A -- STATUS OF RESCISSIONS -- FISCAL YEAR 1979 AS OF 12/20/78 10:06

AS OF JAN. 1, 1979 AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	RESCISSION NUMBER	AMOUNT PREVIOUSLY CONSIDERED BY CONGRESS	AMOUNT CURRENTLY BEFORE THE CONGRESS	DATE OF MESSAGE MO DA YR	AMOUNT MADE AVAILABLE	DATE MADE AVAILABLE MO DA YR
OTHER INDEPENDENT AGENCIES						
Foreign Claims Settlement Commission						
Salaries and expenses	R79- 1		75	11 30 78		
TOTAL BA			75			

END OF REPORT

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PAGE 1 ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1979 AS OF 01/02/79 14:30

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 01-01-79
FUNDS APPROPRIATED TO THE PRESIDENT									
International Security Assistance									
Military assistance	BA	D79-31	161,875		11 30 78	-161,875a			
International military education and training	BA	D79-35	24,312		12 7 78	-24,312a			
Foreign military credit sales	BA	D79-45	651,000		12 12 78	-550,000			101,000
	BA								
FUNDS APPROPRIATED TO THE PRESIDENT TOTAL	BA		837,187			-736,187			101,000
DEPARTMENT OF AGRICULTURE									
Foreign Agricultural Service									
Salaries & expenses (special foreign currency)	BA	D79- 1	415		10 2 78	-13			402
Agricultural Stabilization & Conservation Service									
Commodity credit corporation	BA	D79- 2	3,530		10 2 78				
	BA	D79- 2A			12 7 78				3,530
Forest Service									
Acquisition of lands for Wasatch National Forest	BA	D79-36	209		12 7 78				209
Timber salvage sales	BA	D79-37	5,500		12 7 78				5,500
Expenses, brush disposal	BA	D79- 3	32,225		10 2 78				32,225
Restoration of forest lands									

PAGE 2 ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1979 AS OF 01/02/79 14:30

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 01-01-79
	BA	D79- 4	48		10 2 78				48
DEPARTMENT OF AGRICULTURE TOTAL	BA		41,927			-13			41,914
DEPARTMENT OF COMMERCE									
National Oceanic and Atmospheric Administration									
Construction	BA	D79- 5	9,830		10 2 78				
	BA	D79- 5A		202	12 12 78				10,032
Promote and develop fishery products and research	BA	D79- 6	12,060		10 2 78	-5,481			6,579
Fisheries loan fund	BA	D79- 7	5,429		10 2 78				5,429
United States Fire Administration									
Facilities	BA	D79-32	6,150		11 30 78				6,150
Maritime Administration									
Ship construction	BA	D79-33	157,000		11 30 78	-134,000			23,000
DEPARTMENT OF COMMERCE TOTAL	BA		190,469	202		-139,481			51,190
DEPARTMENT OF DEFENSE-MILITARY									
Procurement									
Shipbuilding and conversion, Navy	BA	D79-34	563,940		11 30 78				563,940
Military Construction									
Military construction, all services	BA	D79- 8	548,451		10 2 78	-248,626		374	300,199

PAGE 3 ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1979 AS OF 01/02/79 14:30

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 01-01-79
DEPARTMENT OF DEFENSE-MILITARY TOTAL BA		1,112,391			-248,626		374	864,139
DEPARTMENT OF DEFENSE-CIVIL								
Corps of Engineers								
Alaska hydroelectric power development fund								
BA	D79-10	5,450		10 2 78				5,450
Miscellaneous Accounts								
Wildlife conservation, etc., military reservations								
BA	D79- 9	458		10 2 78				458
DEPARTMENT OF DEFENSE-CIVIL TOTAL BA		5,908						5,908
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE								
Alcohol, Drug Abuse & Mental Health Administration								
Construction & renovation, St. Elizebeths Hospital								
BA	D79-11	27,577		10 2 78				27,577
Social Security Administration								
Limitation on salaries and expenses								
BA	D79-12	1,725		10 2 78				1,725
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE TOTAL BA		29,302						29,302
DEPARTMENT OF THE INTERIOR								
Bureau of Land Management								
Oregon and California grant lands								
BA	D79-46	12,911		12 12 78				12,911
Heritage Conservation and Recreation Service								
Land and water conservation fund								

PAGE 4 ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1979 AS OF 01/02/79 14:30

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 01-01-79
BA	D79-13	30,000		10 2 78				30,000
Geological Survey								
Payments from proceeds, sale of water								
BA	D79-14	36		10 2 78				36
Bureau of Mines								
Drainage of anthracite mines								
BA	D79-15	1,700		10 2 78	-113			1,587
Office of Territorial Affairs								
Administration of territories								
BA	D79-38	25,000		12 7 78				25,000
Trust territory of the Pacific Islands								
BA	D79-16	12,000		10 2 78				12,000
DEPARTMENT OF THE INTERIOR TOTAL BA		81,547			-113			81,434
DEPARTMENT OF JUSTICE								
Federal Prison System								
Buildings and facilities								
BA	D79-17	25,300		10 2 78				
BA	D79-17A		11,865	11 30 78	-160			37,005
DEPARTMENT OF JUSTICE TOTAL BA		25,300	11,865		-160			37,005
DEPARTMENT OF STATE								
Administration of Foreign Affairs								
Acquisition, operation, & maintenance of buildings								
BA	D79-39	36,787		12 7 78				36,787

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 01-01-79
Other									
Emergency refugee and migration assistance fund									
	BA	D79-18	2,750		10 2 78				
	BA	D79-18A		9,500	11 30 78	-4,210			8,040
DEPARTMENT OF STATE TOTAL BA			39,537	9,500		-4,210			44,827
DEPARTMENT OF TRANSPORTATION									
Federal Aviation Administration									
Civil supersonic aircraft development termination									
	BA	D79-19	3		10 2 78				3
Facilities & equip. (Airport & airway trust fund)									
	BA	D79-20	290,176		10 2 78				290,176
Federal Highway Administration									
Trust fund share of other highway programs									
	BA	D79-21	40,000		10 2 78				40,000
Overseas highway									
	BA	D79-22	13,100		10 2 78				13,100
DEPARTMENT OF TRANSPORTATION TOTAL BA			343,279						343,279
DEPARTMENT OF THE TREASURY									
Office of the Secretary									
Antirecession financial assistance fund									
	BA	D79-23	2,205		10 2 78				
	BA	D79-23A		73	12 7 78	-4			2,274
	O	D79-40	5		12 7 78				5
State and local government fiscal assistance fund									
	BA	D79-24	78,489		10 2 78				
	BA	D79-24A		1,685	12 7 78	-325			79,829

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 01-01-79
	O	D79-25	2,404		10 7 78				
	O	D79-25A		1,562	12 7 78	-2,857			1,109
Bureau of the Mint									
Construction of mint facilities									
	BA	D79-26	5,730		10 2 78				5,730
DEPARTMENT OF THE TREASURY									
TOTAL BA			86,424	1,738		-329			87,833
TOTAL O			2,409	1,562		-2,857			1,114
GENERAL SERVICES ADMINISTRATION									
Property Management and Disposal Activities									
Rare silver dollar program									
	BA	D79-27	2,123		10 2 78				2,123
Federal Preparedness Agency									
State and local preparedness									
	BA	D79-28	80		10 2 78				80
GENERAL SERVICES ADMINISTRATION TOTAL BA			2,203						2,203
OTHER INDEPENDENT AGENCIES									
Foreign Claims Settlement Commission									
Payment of Vietnam prisoner of war claims									
	BA	D79-29	10,945		10 2 78	-1,051			9,894
International Communication Agency									
Salaries & expenses									
	BA	D79-41	2,095		12 7 78				2,095
Acquisition & construction of radio facilities									
	BA	D79-42	3,141		12 7 78				3,141
Interstate Commerce Commission									

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 01-01-79
Payments for directed rail service BA	D79-30	13,990		10 2 78				13,990
Small Business Administration								
White House conference on small business BA	D79-43	1,600		12 7 78				1,600
Navaho & Hopi Indian Relocation Commission								
Salaries and expenses BA	D79-44	12,000		12 7 78				12,000
OTHER INDEPENDENT AGENCIES TOTAL BA		43,771			-1,051			42,720
TOTAL BA		2,839,245	23,305		-1,130,170		374	1,732,754
TOTAL O		2,409	1,562		-2,857			1,114

FOOTNOTES

a. This amount was released before the special message containing the deferral was transmitted to Congress.

END OF REPORT

[FR Doc. 79-1319 Filed 1-15-79; 8:45 am]

federal register

TUESDAY, JANUARY 16, 1979
PART X

OFFICE OF PERSONNEL MANAGEMENT

CIVIL SERVICE REFORM ACT

Implementation

[6325-01-M]

Title 5—Administrative Personnel

CHAPTER I—OFFICE OF PERSONNEL MANAGEMENT

PROCEDURES FOR ISSUING REGULATIONS TO IMPLEMENT THE CIVIL SERVICE REFORM ACT OF 1978

Special Transitional Regulation No. 1

AGENCY: Office of Personnel Management.

ACTION: Procedures for issuing interim authorities to implement the Civil Service Reform Act of 1978, Pub. L. 95-454.

SUMMARY: The Civil Service Reform Act of 1978 makes many significant changes to the Federal personnel system. Some provisions of the Act cannot be fully utilized until OPM issues additional implementing regulations. Wherever the full public notice and comment period required for issuing final regulations cannot be completed before the effective date of a provision of the Act, proposed OPM regulations published for public review and comment will be specifically designated to serve as interim authorities.

EFFECTIVE DATE: January 11, 1979.

FOR FURTHER INFORMATION CONTACT:

Joseph W. Howe, Office of Personnel Management, 1900 E Street NW., Washington, D.C. 20415, (202) 632-4628.

SUPPLEMENTARY INFORMATION: Pursuant to section 553(d)(3) of title 5, U.S.C., the Director finds that good cause exists for making this amendment effective in less than 30 days, in order to provide continuity of operations and to give immediate and timely effect to the appropriate provisions of the Civil Service Reform Act of 1978.

SPECIAL TRANSITIONAL REGULATION NO. 1—PROCEDURES FOR DESIGNATING INTERIM AUTHORITIES

(a) The Civil Service Reform Act of 1978 will require the Office of Personnel Management to issue a significant number of new or additional regulations. Some provisions of the Act will become effective before the full public notice and comment procedures required for issuance of final OPM regulations can be completed. In these cases, OPM will designate its proposed regulations as interim authorities during the comment and consultation period and until their issuance in final form. Interim authorities will be designated by the following statement which will appear in the SUPPLEMENTARY INFORMATION section at the beginning of the proposed regulation:

PURSUANT TO SECTION 553(d)(3) OF TITLE 5 U.S.C., THE DIRECTOR FINDS THAT GOOD CAUSE EXISTS FOR MAKING THIS AMENDMENT EFFECTIVE IN LESS THAN 30 DAYS, IN ORDER TO PROVIDE CONTINUITY OF OPERATIONS AND TO GIVE IMMEDIATE AND TIMELY EFFECT TO THE APPROPRIATE PROVISIONS OF THE CIVIL SERVICE REFORM ACT OF 1978.

(b) No proposed regulation will serve as an authority before the effective date of the provision in the Act which it implements.

(c) Proposed regulations designated as interim authorities will be published as Federal Personnel Manual Bulletins in addition to being published in the FEDERAL REGISTER.

(d) Each FPM Bulletin will transmit a copy of the FEDERAL REGISTER notice and a fact sheet containing the following information:

(1) Title and citation of the proposed regulation;

(2) A brief description of its topic and purpose;

(3) It's effective date if it is designated as an interim authority;

(4) A statement that the material is available for review in the agency office maintaining the Federal Personnel Manual; and

(5) The name and mailing address of the OPM official to whom comments should be submitted.

(e) Agencies will identify on the face of the fact sheet the office where the proposed regulations are available for review and post the fact sheet in a prominent place. These notice procedures satisfy the requirement for posting proposed regulations in Federal agencies established by 5 U.S.C. 1103(b)(2)(A).

(f) OPM will consider all comments received on its proposed regulations. Proposed regulations designated as interim authorities are final while they are in effect, but are subject to change when the final rulemaking procedures are completed.

(Pub. L. 95-454.)

OFFICE OF PERSONNEL MANAGEMENT.

JAMES C. SPRY,
Special Assistant to the Director.

[FR Doc. 79-1255 Filed 1-11-79; 4:45 pm]

[6325-01-M]

PART 210—BASIC CONCEPTS AND DEFINITIONS

Interim Regulations

AGENCY: Office of Personnel Management.

ACTION: Interim regulations with comments invited for consideration in final rulemaking.

SUMMARY: New paragraphs (c), (d), and (e) are added to § 210.101, *Applicability of various parts of regulations,* to provide coded lists of agencies, actions, and employees and positions excluded from one or more parts of the regulations. These paragraphs would provide lists of exclusions in one place to be referred to by the coded number where applicable in a part or parts. This change would eliminate repetition and make it easier to update when necessary.

DATE: Effective Date: January 11, 1979, and until final regulations are issued. Comment Date: Written comments on both format and content will be considered if received no later than March 12, 1979.

ADDRESS: Send written comments to the Office of Personnel Management, Workforce Effectiveness and Development, Room 3A07, 1900 E Street NW., Washington, D.C. 20415

FOR FURTHER INFORMATION CONTACT:

Cynthia Field, 202-632-5623.

SUPPLEMENTARY INFORMATION: Pursuant to section 553(d)(3) of title 5, U.S.C., the Director finds that good cause exists for making this amendment effective in less than 30 days, in order to provide continuity of operations and to give immediate and timely effect to the appropriate provisions of the Civil Service Reform Act of 1978.

Accordingly, 5 CFR 210.101 is amended by adding paragraph (c), (d) and (e) as set out below:

§ 210.101 Applicability of various parts of regulations.

• • • • •

(c) *Federal agencies.* Identification codes for Federal agencies for purposes of exclusion from the coverage of the parts are as follows:

001. U.S. Postal Service
002. Postal Rate Commission

(d) *Actions.* Identification codes for actions for purposes of exclusion from the coverage of the parts are as follows:

100. Action initiated under the authorities in 5 U.S.C. 1206.

101. Action taken under 5 U.S.C. 7521 against an administrative law judge.

102. Action taken under 5 U.S.C. 7532 in the interest of national security.

103. Action taken under provision of statute, other than one codified in 5 U.S.C., which excepts the action from provisions of 5 U.S.C.

104. Removal from the senior Executive Service to a civil service position outside the Senior Executive Service.

105. Reduction-in-force action governed by Part 351.

106. Action under Part 536 resulting from downgrading decision which entitles employee to retained grade for two years.

107. Voluntary action initiated by employee.

108. Adverse action for cause taken under Part 752.

109. Action taken by agency when directed by OPM under part 754.

110. Involuntary retirement because of disability under Part 831.

111. Termination of appointment in accordance with terms specified as a condition of employment at the time the appointment was made.

112. Adverse action by the Office.

113. Reduction of an employee's rate of pay from a rate which is contrary to law or regulation to a rate which is required or permitted by law or regulation.

114. Suspension for 14 days or less of an individual in the Senior Executive Service.

115. Action against reemployed annuitant.

116. Action against a National Guard Technician.

(e) *Employees and positions.* Identification codes for employees and positions for purposes of exclusion from the coverage of the parts are as follows:

200. Employee whose appointment is required by Congress to be confirmed by, or made with the advice and consent of the United States Senate.

201. Presidential appointee.

202. Employee in the excepted service who is not a preference eligible except an employee with competitive status occupying a position in Schedule B of Part 213.

203. Physician, dentist, or nurse in the Department of Medicine and Surgery of the Veterans Administration employed under chapter 73 of 38 U.S.C.

(5 U.S.C. 1302, 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

OFFICE OF PERSONNEL MANAGEMENT.

JAMES C. SPRY,
Special Assistant to the Director.

[FR Doc. 79-1532 Filed 1-11-79; 4:58 pm]

[6325-01-M]

PART 315—CAREER AND CAREER CONDITIONAL EMPLOYMENT

Probationary Periods for New Managers and Supervisors

AGENCY: Office of Personnel Management.

ACTION: Interim regulation with comments invited for consideration in final rulemaking.

SUMMARY: In accordance with 5 U.S.C. 3321, as amended by Pub. L. 95-454, and Section 2-103 of Executive Order No. 12107, this regulation provides for the establishment of a probationary period for new appointees to supervisory or managerial positions and authorizes return rights for employees who fail to satisfactorily complete the probationary period.

DATES: Effective Date: Upon implementation by individual agencies, but no later than August 11, 1979. Comment Date: Written comments will be considered if received no later than March 12, 1979.

ADDRESS: Send written comments to Office of Personnel Management, Room 6524, 1900 E Street, N.W., Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT:

Raleigh M. Neville, 202-632-6817.

SUPPLEMENTARY INFORMATION: Pursuant to section 553(d)(3) of title 5, U.S.C., the Director finds that good cause exists for making this amendment effective in less than 30 days, in order to provide continuity of operations and to give immediate and timely effect to the appropriate provision of the Civil Service Reform Act of 1978.

The definitions of "supervisory position" and "management postion" referred to in § 315.901 appear in the Federal Personnel Manual which is available in the personnel offices of all Federal agencies and in Federal Depository Libraries.

Accordingly, the headnote of Subpart H of Part 315 of 5 CFR is amended and a new Subpart I is added as follows:

Subpart H—Probation on Initial Appointment to a Competitive Position

• • • • •

Subpart I—Probation on Initial Appointment to a Supervisory or Managerial Position

Sec.
315.901 Definitions.
315.902 Basic Requirement.
315.903 Length of the Probationary Period.
315.904 Crediting Service Toward Completion of the Probationary Period.
315.905 Failure to Complete the Probationary Period.
315.906 Appeal Rights.
315.907 Relationship to probationary period for competitive appointment.

315.901 Definitions.

In this subpart:

"Supervisory position" and "Managerial postion" have the meaning given then by Chapter 315, subchapter 9, of the Federal Personnel Manual.

§ 315.902 Basic Requirement.

(a) An employee is required to serve a probationary period prescribed by the agency upon initial appointment to a supervisory and/or managerial position.

(b) An employee is required to complete a single probationary period in a supervisory position and a single probationary period in a managerial position, regardless of the number of agencies, occupations, or positons in which the employee serves. However, an agency may by regulation provide for exceptions to the probationary period for managers who have satisfactorily completed a probationary period for supervisors when justified on the basis of performance and experience.

(c) Employees who are serving or have served in supervisory or managerial positions in the Federal Government as of the date this requirement is effective are exempt from its provisions, except that supervisors who are assigned to managerial positions may, according to agency regulations, be required to serve a probationary period for managers.

§ 315.903 Length of the Probationary Period.

The authority to determine the length of the probationary period is delegated to the head of each agency, provided that it be of reasonable fixed duration, appropriate to the position, and uniformly applied. An agency may establish different probationary periods for different occupations or a single one for all agency employees.

§ 315.904 Crediting Service Toward Completion of the Probationary Period.

(a) An employee who is reassigned, transferred, or promoted to another supervisory or managerial position while serving a probationary period under this subpart is subject to the probationary period prescribed for the new position. Service in the former po-

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sition counts toward completion of the probationary period in the new position. If the former position was supervisory and the new position managerial, service counts in the manner prescribed by agency regulation.

(b) The conditions under which prior service is otherwise counted toward completion of the probationary period will be published in the Federal Personnel Manual.

§ 315.905 Failure to Complete the Probationary Period.

(a) Satisfactory completion of the prescribed probationary period is a prerequisite to continued service in the position. An employee who does not complete the probationary period is entitled to be returned to a position in the agency of no lower grade and pay than the employee left to accept the supervisory or managerial position.

(b) The agency must notify the employee that he or she is being accorded return rights in accordance with this section and that he or she has a right to appeal an agency action that he or she believes does not conform to the requirements of this section.

(c) Nothing in this subpart prohibits an agency from taking action against an employee for reasons unrelated to supervisory or managerial performance.

§ 315.906 Appeal Rights.

(a) *Return to former position or equivalent.* An employee who is returned under this subpart to a nonsupervisory or nonmanagerial position of no lower grade and pay than the one he or she left to accept the supervisory or managerial position, may appeal the agency's decision only for reasons of alleged improper discrimination because of race, color, religion, sex, national origin, partisan political reasons, marital status, physical handicap; or age, provided that at the time of the alleged discriminatory action, the employee was at least 40 years of age. Appeals based on partisan political affiliation and marital status are to be submitted to the Merit Systems Protection Board (MSPB). Appeals based on race, color, religion, national origin, sex, physical handicap, or age are to be submitted to the Equal Employment Opportunity Commission (EEOC).

(b) *Adverse action.* An action against an employee serving a probationary period under this subpart, for reasons other than supervisory or managerial performance, is an adverse action and is appealable to MSPB. If the employee alleges that the adverse action was in any way due to improper discrimination because of race, color, religion, sex, national origin, partisan political reasons, marital status, physical handicap, or age, provided that at the time of the alleged discriminatory action, the employee was at least 40 years of age, he or she may appeal to MSPB.

§ 315.907 Relationship to probationary period for competitive appointment.

Nothing in this subpart prohibits an agency from taking an action against an individual serving a probationary period under subpart H of this Part. (Pub. L. 95-454 and E.O. 12107.)

OFFICE OF PERSONNEL MANAGEMENT
JAMES C. SPRY,
Special Assistant to the Director.

[FR Doc. 79-1533 Filed 1-11-79; 5:03 pm]

[6325-01-M]

PART 432—REDUCTION IN GRADE AND REMOVAL BASED ON UNACCEPTABLE PERFORMANCE

Interim Regulations

AGENCY: Office of Personnel Management.

ACTION: Interim regulations with comments invited for consideration in final rulemaking.

SUMMARY: This new Part 432 has been developed to implement subchapter I of chapter 43 of the Civil Service Reform Act of 1978. It covers reduction in grade and removal based on unacceptable performance.

DATES: Effective Date: January 11, 1979, and until final regulations are issued. Comment Date: Written comments will be considered if received no later than March 12, 1979.

ADDRESS: Send written comments to the Workforce Effectiveness and Development Group, Office of Personnel Management, Room 3A07, 1900 E St., NW., Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT:

Wilma Lehman, (202) 632-5623.

SUPPLEMENTARY INFORMATION: Pursuant to section 553(d)(3) of title 5, U.S.C., the Director finds that good cause exists for making this amendment effective in less than 30 days, in order to provide continuity of operations and to give immediate and timely effect to the appropriate provisions of the Civil Service Reform Act of 1978.

Accordingly, the Office of Personnel Management is adding interim regulation, Part 432, to 5 CFR as follows:

PART 432—REDUCTION IN GRADE AND REMOVAL BASED ON UNACCEPTABLE PERFORMANCE

Subpart A—Principal Statutory Requirements

Sec.
432.101 Principal Statutory Requirements

Subpart B—Regulatory Requirements of the Office of Personnel Management

432.201 Regulatory requirements.
432.202 Coverage.
432.203 Definitions.
432.204 Timing of actions.
432.205 Procedures.
432.206 Interim procedures.
432.207 Appeal and grievance rights.
432.208 Agency records.

AUTHORITY: 5 U.S.C. 4305

Subpart A—Principal Statutory Requirements

§ 432.101 Principal Statutory Requirements.

This subpart sets forth for the benefit of the user the principal statutory requirements governing reductions in grade and removals based on unacceptable performance.

(a) *Opportunity to demonstrate acceptable performance.* 5 U.S.C. 4302(b)(6) requires that, under regulations which the Office of Personnel Management shall prescribe, each performance appraisal system shall provide for reassigning, reducing in grade, or removing employees who continue to have unacceptable performance but only after an opportunity to demonstrate acceptable performance.

(b) *Actions based on unacceptable performance.* 5 U.S.C. 4303 provides:

"(a) Subject to the provisions of this section, an agency may reduce in grade or remove an employee for unacceptable performance.

"(b)(1) An employee whose reduction in grade or removal is proposed under this section is entitled to—

"(A) 30 days' advance written notice of the proposed action which identifies—

"(i) specific instances of unacceptable performance by the employee on which the proposed action is based; and

"(ii) the critical elements of the employee's position involved in each instance of unacceptable performance;

"(B) be represented by an attorney or other representative;

"(C) a reasonable time to answer orally and in writing; and

"(D) a written decision which—

"(i) in the case of a reduction in grade or removal under this section, specifies the instances of unacceptable performance by the employee on which the reduction in grade or removal is based, and

"(ii) unless proposed by the head of the agency, has been concurred in by an employee who is in a higher position than the employee who proposed the action.

"(2) An agency may, under regulations prescribed by the head of such agency, extend the notice period under subsection (b)(1)(A) of this section for not more than 30 days. An agency may extend the notice period for more than 30 days only in accordance with regulations issued by the Office of Personnel Management.

"(c) The decision to retain, reduce in grade, or remove an employee—

"(1) shall be made within 30 days after the date of expiration of the notice period, and

"(2) in the case of a reduction in grade or removal, may be based only on those instances of unacceptable performance by the employee—

"(A) which occurred during the 1-year period ending on the date of the notice under subsection (b)(1)(A) of this section in connection with the decision; and

"(B) for which the notice and other requirements of this section are complied with.

"(d) If, because of performance improvement by the employee during the notice period, the employee is not reduced in grade or removed, and the employee's performance continues to be acceptable for 1 year from the date of the advance written notice provided under subsection (B)(1)(A) of this section, any entry or other notation of the unacceptable performance for which the action was proposed under this section shall be removed from any agency record relating to the employee.

"(e) Any employee who is a preference eligible or is in the competitive service and who has been reduced in grade or removed under this section is entitled to appeal the action to the Merit Systems Protection Board under section 7701 of this title.

"(f) This section does not apply to—

"(1) the reduction to the grade previously held of a supervisor or manager who has not completed the probationary period under section 3321(a)(2) of this title,

"(2) the reduction in grade or removal of an employee in the competitive service who is serving a probationary or trial period under an initial appointment or who has not completed 1 year of current continuous employment under other than a temporary appointment limited to 1 year or less, or

"(3) the reduction in grade or removal of an employee in the excepted service who has not completed 1 year of current continuous employment in the same or similar positions.

(c) *Regulations.* 5 U.S.C. 4305 provides that the Office of Personnel Management may prescribe regulations to carry out the purpose of this subchapter.

Subpart B—Regulatory Requirements of the Office of Personnel Management

§ 432.201 Regulatory requirements.

This subpart contains the regulations of the Office of Personnel Management which implement the above sections of chapter 43 and are prescribed by the Office under authority of 5 U.S.C. 4305.

§ 432.202 Coverage.

(a) *Actions covered.* This part covers reduction in grade and removal of an employee based solely on unacceptable performance.

(b) *Employees and agencies covered.* The employee and agency coverage of this part is identical with that of section 430.202 of Part 430.

(c) *Exclusions.* (1) This part does not apply to actions excluded by 5 U.S.C. 4303(f).

(2) This part does not apply to employees and agencies excluded by section 430.202 of Part 430.

(3) This part does not apply to the following actions coded in section 210.101(d) of Part 210: Numbers 100 through 113, 115, and 116.

§ 432.203 Definitions.

(a) *Unacceptable performance* is defined in 5 U.S.C. 4301(3).

(b) *Reduction in grade* means the involuntary assignment of an employee to a position at a lower classification or job grading level.

(c) *Removal* means the involuntary separation of an employee from employment with an agency except when taken as a reduction-in-force action.

§ 432.204 Timing of actions.

(a) *At any time.* An employee may be reduced in grade or removed at any time during the performance appraisal cycle that performance in one or more critical elements of the job becomes unacceptable.

(b) *One-year limitation.* 5 U.S.C. 4303(c) places a time restriction on the use of instances of unacceptable performance by an employee.

(c) *Decision.* 5 U.S.C. 4303(c)(1) specifies the time within which a decision to retain or take action under this part must be made.

§ 432.205 Procedures.

(a) *Statutory requirements.* An employee under this part whose reduction in grade or removal is proposed under this part is entitled to the procedures specified in 5 U.S.C. 4303(b)(1).

(b) *Extension of notice period.* 5 U.S.C. 4303(b)(2) provides that the agency may extend the notice period for a reduction in grade or removal under this part for a period not to exceed 30 days. The agency may further extend the notice period with prior approval of the Office of Personnel Management.

(c) *Representation.* 5 U.S.C. 4303(b)(1)(B) provides that an employee covered by this part is entitled to be represented by an attorney or other representative. An agency may disallow as an employee's representative an individual whose activities as a representative would cause a conflict of interest or position; an employee who cannot be released from his or her official duties because of priority needs of the Government; or an employee whose release would give rise to unreasonable costs to the Government. 5 U.S.C. 7114(a)(5) and the terms of any applicable collective bargaining agreement govern representation for employees in an exclusive bargaining unit.

§ 432.206 Interim procedures.

Until the date, but no later than October 1, 1981, that an agency has established its performance appraisal system(s) and communicated to each employee the performance standards and critical elements of the employee's position, an action under this part may only be initiated 30 days after:

(a) the critical elements of the employee's position and

(b) the performance standards for the one or more critical elements for which the employee's performance is unacceptable have been communicated to the employee against whom an action is contemplated.

§ 432.207 Appeal and grievance rights.

(a) *Appeal rights.* 5 U.S.C. 4303(e) provides for an appeal of an action under this part to the Merit Systems Protection Board.

(b) *Grievance rights.* 5 U.S.C. 7121(e)(1) requires an aggrieved employee to elect to appeal under this part or, where applicable, to file a grievance under the negotiated grievance procedure, but not both.

§ 432.208 Agency records.

(a) *When the action is effected.* The agency shall preserve all relevant documentation concerning a reduction in grade or a removal which is based on unacceptable performance and furnish the records to the Merit Systems Protection Board upon its request and make them available for review by the affected employee or his or her representative upon request. As a minimum, the agency's records shall consist of a copy of the notice of proposed action, the answer of the employee when it is in writing, a summary thereof when the employee makes an oral reply, the notice of decision and the reasons therefor, and any supporting material including documentation regarding the opportunity afforded the employee to demonstrate acceptable performance.

(b) *When the action is not effected.* 5 U.S.C. 4303(d) governs agency records when an action under this part is not effected.

OFFICE OF PERSONNEL MANAGEMENT,
JAMES C. SPRY,
SPECIAL ASSISTANT
to the Director.

[FR Doc. 79-1530 Filed 1-11-79; 5:06 pm]

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[6325-01-M]

PART 752—ADVERSE ACTIONS

Interim Regulations

AGENCY: Office of Personnel Management.

ACTION: Interim regulations with comments invited for consideration in final rulemaking.

SUMMARY: Part 752, Adverse Actions, have been completely reorganized and revised to implement subchapters I and II of chapter 75 of the Civil Service Reform Act of 1978.

DATES: Effective Date: January 11, and until final regulations are issued. Comment Date: Written comments will be considered if received no later than March 12, 1979.

ADDRESS: Send written comments to the Office of Personnel Management, Workforce Effectiveness and Development, Room 3A07, 1900 E. Street, N.W., Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT:

Wilma Lehman, (202) 632-5623.

SUPPLEMENTARY INFORMATION: Requirements Governing an Action in Process on January 11, 1979: The requirements for an adverse action in process on January 11, 1979, will be determined by the date on which the employee received the notice of proposed adverse action. If the notice is received by the employee before January 11, 1979, the entire action will be governed by the law and regulation in effect on that date. If the notice is received by the employee on or after January 11, 1979, the requirements of this interim regulation will apply.

Pursuant to section 553(d)(3) of title 5, U.S.C., the Director finds that good cause exists for making this amendment effective in less than 30 days, in order to provide continuity of operations and to give immediate and timely effect to the appropriate provisions of the Civil Service Reform Act of 1978.

Accordingly, the Office of Personnel Management is revising 5 CFR Part 752, as set forth below:

PART 752—ADVERSE ACTIONS

Subpart A—Principal Statutory Requirements for Suspension for 14 Days or Less

Sec.
752.101 Principal Statutory Requirements.

Subpart B—Regulatory Requirements for Suspension for 14 Days or Less

752.201 Coverage.
752.202 Standard for action.
752.203 Procedures.

Subpart C—Principal Statutory Requirements for Removal, Suspension for More Than 14 Days, Reduction in Grade or Pay, or Furlough for 30 Days or Less

752.301 Principal Statutory Requirements.

Subpart D—Regulatory Requirements Implementing Subpart C

752.401 Coverage.
752.402 Definitions.
752.403 Standards for action.
752.404 Procedures.
752.405 Appeal and grievance rights.
752.406 Agency records.

AUTHORITY: 5 U.S.C. 7504, 7514.

Subpart A—Principal Statutory Requirements for Suspension for 14 Days or Less

§ 752.101 Principal Statutory Requirements.

This subpart sets forth for the benefit of the user the principal statutory requirements for suspensions for 14 days or less found in subchapter I of chapter 75. (5 U.S.C. 7501-7504)

"CHAPTER 75—ADVERSE ACTIONS

"SUBCHAPTER I—SUSPENSION FOR 14 DAYS OR LESS

"§ 7501. Definitions

"For the purpose of this subchapter—

"(1) 'employee' means an individual in the competitive service who is not serving a probationary or trial period under an initial appointment or who has completed 1 year of current continuous employment in the same or similar positions under other than a temporary appointment limited to 1 year or less; and

"(2) 'suspension' means the placing of an employee, for disciplinary reasons, in a temporary status without duties and pay.

"§ 7502. Actions covered

"This subchapter applies to a suspension for 14 days or less, but does not apply to a suspension under section 7521 or 7532 of this title or any action initiated under section 1206 of this title.

"§ 7503. Cause and procedure

"(a) Under regulations prescribed by the Office of Personnel Management, an employee may be suspended for 14 days or less for such cause as will promote the efficiency of the service (including discourteous conduct to the public confirmed by an immediate supervisor's report of four such instances within any one-year period or any other pattern of discourteous conduct).

"(b) An employee against whom a suspension for 14 days or less is proposed is entitled to—

"(1) an advance written notice stating the specific reasons for the proposed action;

"(2) a reasonable time to answer orally and in writing and to furnish affidavits and other documentary evidence in support of the answer;

"(3) be represented by an attorney or other representative; and

"(4) a written decision and the specific reasons therefor at the earliest practicable date.

"(c) Copies of the notice of proposed action, the answer of the employee if written, a summary thereof if made orally, the notice of decision and reasons therefor, and any order effecting the suspension, together with any supporting material, shall be maintained by the agency and shall be furnished to the Merit Systems Protection Board upon its request and to the employee affected upon the employee's request.

"§ 7504. Regulations

"The Office of Personnel Management may prescribe regulations to carry out the purpose of this subchapter."

Subpart B—Regulatory Requirements for Suspension for 14 Days or Less

NOTE.—This subpart contains regulations of the Office of Personnel Management prescribed under 5 U.S.C. 7504 of chapter 75 of title 5, United States Code.

§ 752.201 Coverage.

(a) *Actions covered.* This subpart covers suspension for 14 days or less.

(b) *Employees covered.* The following employees are covered by this subpart:

(1) An employee covered by the definition in 5 U.S.C. 7501(1);

(2) An employee with competitive status who occupies a position under Schedule B of Part 213 under a nontemporary appointment.

(c) *Definitions.* In this subpart,

(1) *Day* means calendar day.

(2) *Suspension* has the meaning given in 5 U.S.C. 7501(2).

(d) *Exclusions.* This subpart does not apply to actions excluded by 5 U.S.C. 7502 and the following numbered items in the Master List of Exclusions in subsections 210.101(d), and (e) of Part 210: 103, 114 through 116, and 200 through 203.

§ 752.202 Standard for action.

An agency may take action under this subpart only as set forth in 5 U.S.C. 7503(a).

§ 752.203 Procedures.

(a) *Employee entitlements.* An employee under this subpart whose suspension is proposed under this subpart is entitled to the procedures provided in 5 U.S.C. 7503(b).

(b) *Time for reply.* The time allowed for an employee's reply shall be sufficient to afford the employee an opportunity to respond to the notice and to supply any material under 5 U.S.C. 7502(b)(2). In no case may it be less than 24 hours.

(c) *Disallowance of representative.* 5 U.S.C. 7503(b)(3) provides that an employee covered by this part is entitled to be represented by an attorney or other representative. An agency may disallow as an employee's representative an individual whose activities as a representative would cause a conflict of interest or position; an employee who cannot be released from his or her official duties because of the priority needs of the Government; or an employee whose release would give rise to unreasonable costs to the Government. 5 U.S.C. 7114(a)(5) and the terms of any applicable collective bargaining agreement govern representation for employees in an exclusive bargaining unit.

(d) *Agency Decision.* In arriving at its written decision, the agency shall consider only the reasons specified in the notice of proposed action and shall consider any reply of the employee or his or her representative made to a designated official. The agency shall deliver the notice of decision to the employee at or before the time the action will be effective.

(e) *Agency records.* The agency shall maintain copies of the items specified in 5 U.S.C. 7503(c) and shall furnish them upon request as required by that subsection.

Subpart C—Principal Statutory Requirements for Removal, Suspension for More Than 14 Days, Reduction in Grade or Pay, or Furlough for 30 Days or Less

§ 752.301 Principal Statutory Requirements.

This subpart sets forth for the benefit of the user the statutory requirements of subchapter II of Chapter 75. (5 U.S.C. 7511-7514)

"CHAPTER 75—ADVERSE ACTIONS

"SUBCHAPTER II—REMOVAL, SUSPENSION FOR MORE THAN 14 DAYS, REDUCTION IN GRADE OR PAY, OR FURLOUGH FOR 30 DAYS OR LESS

"§ 7511. Definitions; application

"(a) For the purpose of this subchapter—

"(1) 'employee' means—

"(A) an individual in the competitive service who is not serving a probationary or trial period under an initial appointment or who has completed 1 year of current continuous employment under other than a temporary appointment limited to 1 year or less; and

"(B) a preference eligible in an Executive agency in the excepted service, and a preference eligible in the United States Postal Service or the Postal Rate Commission, who has completed 1 year of current continuous service in the same or similar positions;

"(2) 'suspension' has the meaning as set forth in section 7501(2) of this title;

"(3) 'grade' means a level of classification under a position classification system;

"(4) 'pay' means the rate of basic pay fixed by law or administrative action for the position held by an employee; and

"(5) 'furlough' means the placing of an employee in a temporary status without duties and pay because of lack of work or funds or other nondisciplinary reasons.

"(b) This subchapter does not apply to an employee—

"(1) whose appointment is made by and with the advice and consent of the Senate;

"(2) whose position has been determined to be of a confidential, policy-determining, policy-making or policy-advocating character by—

"(A) the Office of Personnel Management for a position that it has excepted from the competitive service; or

"(B) the President or the head of an agency for a position which is excepted from the comeptitive service by statute.

"(c) The Office may provide for the application of this subchapter to any position or group of positions excepted from the competitive service by regulation of the Office.

"§ 7512. Actions covered

"This subchapter applies to—

"(1) a removal;

"(2) a suspension for more than 14 days;

"(3) a reduction in grade;

"(4) a reduction in pay; and

"(5) a furlough of 30 days or less;

but does not apply to—

"(A) a suspension or removal under section 7532 of this title,

"(B) a reduction-in-force action under section 3502 of this title,

"(C) the reduction in grade of a supervisor or manager who has not completed the probationary period under section 3321(a)(2) of this title if such reduction is to the grade held immediately before becoming such a supervisor or manager,

"(D) a reduction in grade or removal under section 4303 of this title, or

"(E) an action initiated under section 1206 or 7521 of this title.

"§ 7513. Cause and procedure

"(a) Under regulations prescribed by the Office of Personnel Management, an agency may take an action covered by this subchapter against an employee only for such cause as will promote the efficiency of the service.

"(b) An employee against whom an action is proposed is entitled to—

"(1) at least 30 days' advance written notice, unless there is reasonable cause to believe the employee has committed a crime for which a sentence of imprisonment may be imposed, stating the specific reasons for the proposed action;

"(2) a reasonable time, but not less than 7 days, to answer orally and in writing and to furnish affidavits and other documentary evidence in support of the answer;

"(3) be represented by an attorney or other representative; and

"(4) a written decision and the specific reasons therefor at the earliest practicable date.

"(c) An agency may provide, by regulation, for a hearing which may be in lieu of or in addition to the opportunity to answer provided under subsection (b)(2) of this section.

"(d) An employee against whom an action is taken under this section is entitled to appeal to the Merit Systems Protection Board under section 7701 of this title.

"(e) Copies of the notice of proposed action, the answer of the employee when written, a summary thereof when made orally, the notice of decision and reasons therefor, and any order effecting an action covered by this subchapter, together with any supporting material, shall be maintained by the agency and shall be furnished to the Board upon its request and to the employee affected upon the employee's request.

"§ 7514. Regulations

"The Office of Personnel Management may prescribe regulations to carry out the purpose of this subchapter, except as it concerns any matter with respect to which the Merit Systems Protection Board may prescribe regulations.".

Subpart D—Regulatory Requirements Implementing Subpart C

NOTE.—This subpart contains the regulations of the Office of Personnel Management prescribed under authority of 5 U.S.C. 7514.

§ 752.401 Coverage.

(a) *Adverse Actions Covered.* This subpart applies to an action set forth in 5 U.S.C. 7512.

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(b) *Employees Covered.* The following employees are covered by this subpart:

(1) An employee covered by the definition in 5 U.S.C. 7511(a)(1), including an employee of the Government Printing Office.

(2) An employee with competitive status who occupies a position in Schedule B of Part 213 under a nontemporary appointment.

(c) *Exclusions.* This subpart does not apply to actions, employees, and agencies excluded by: 5 U.S.C. 7511(b); 5 U.S.C. 7512; and the following numbered items in the Master Lists of Exclusions in Subsections 210.101(d) and (e) of Part 210: 103, 106, 107, 109 through 116, and 200 through 203.

§ 752.402 Definitions.

In this subpart,

(a) *Day* means calendar day.

(b) *Suspension* has the meaning given in 5 U.S.C. 7501(2).

(c) *Grade* has the meaning given in 5 U.S.C. 7511(3).

(d) *Pay* has the meaning as given in 5 U.S.C. 7511(4).

(e) *Furlough* has the meaning as given in 5 U.S.C. 7511(5).

§ 752.403 Standard for Action.

An agency may take adverse action under this subpart only as set forth in 5 U.S.C. 7513(a).

§ 752.404 Procedures

(a) *Statutory entitlements.* An employee against whom action is proposed under this subpart is entitled to the procedures provided in 5 U.S.C. 7513(b).

(b) *Right to review material.* An employee against whom action under this subpart is proposed shall be informed of his or her right to review the material on which the proposal was based and which is relied on to support the reasons in the notice of proposal. The agency may not use material which cannot be disclosed to the employee or his or her representative or designated physician under section 294.401 of Part 294 to support the reasons in the notice.

(c) *Official to hear reply.* The agency shall designate an official to hear the employee's answer who has authority either to make or recommend a final decision on the proposed adverse action.

(d) *Exceptions.* (1) 5 U.S.C. 7513(b)(1) authorizes an exception to the 30 days advance written notice when the crime provision is invoked.

(2) The advance written notice and opportunity to answer are not necessary for furlough without pay due to unforeseeable circumstances, such as sudden breakdowns in equipment, acts of God, or emergencies requiring immediate curtailment of activities.

(3) The 30 days advance written notice is not required for a suspension during the notice period of a removal or an indefinite suspension when the circumstances are such that retention of the employee in an active duty status may be injurious to the employee, his or her fellow workers, or the general public; may result in damage to government property; or may be detrimental to the interests of the Government. The agency shall include in the notice of suspension the reasons for not retaining the employee in an active duty status during the notice period. The agency may require the employee to answer the proposed action and furnish affidavits and other documentary evidence in support of the answer within such time as under the circumstances would be reasonable, but not less than 7 days. When the circumstances require immediate action, the agency may place the employee in a nonduty status with pay for such time, not to exceed 10 days, as is necessary to effect the suspension.

(e) *Disallowance of representative.* 5 U.S.C. 7513(b)(3) provides that an employee covered by this part is entitled to be represented by an attorney or other representative. An agency may disallow as an employee's representative an individual whose activities as a representative would cause a conflict of interest or position; an employee who cannot be released from his or her official duties because of the priority needs of the Government; or an employee whose release would give rise to unreasonable costs to the Government. 5 U.S.C. 7114(a)(5) and the terms of any applicable collective bargaining agreement govern representation for employees in an exclusive bargaining unit.

(f) *Agency decision.* In arriving at its written decision, the agency shall consider only the reasons specified in the notice of proposed action and shall consider any reply of the employee or his or her representative made to a designated official. The agency shall deliver the notice of decision to the employee at or before the time the action will be effective.

(g) *Hearing.* Under 5 U.S.C. 7513(c), the agency may in its regulations provide a hearing in place of or in addition to the opportunity for written and oral reply.

§ 752.405 Appeal and Grievance Rights.

(a) *Appeal rights.* Under the provisions of 5 U.S.C. 7513(d), an employee against whom an action is taken under this subpart is entitled to appeal to the Merit Systems Protection Board.

(b) *Grievance rights.* 5 U.S.C. 7121(e)(1) requires an aggrieved employee to elect to appeal under this subpart or, where applicable, to file a grievance under the negotiated grievance procedure, but not both.

§ 752.406 Agency Records.

The agency shall maintain copies of the items specified in 5 U.S.C. 7513(e) and shall furnish them upon request as required by that subsection.

OFFICE OF PERSONNEL MANAGEMENT
JAMES C. SPRY,
Special Assistant to the Director.

[FR Doc. 79-1531 Filed 1-11-79; 4:53 pm]

[6325-01-M]

PART 308—VOLUNTEER SERVICE

Acceptance of Volunteer Service

AGENCY: Office of Personnel Management.

ACTION: Interim regulation with comments invited for consideration in final rulemaking.

SUMMARY: The Office of Personnel Management is issuing interim regulations on Federal agency acceptance of uncompensated volunteer service. This action reflects definitions of section 301 of the Civil Service Reform Act of 1978 (Pub. L. 95-454) and in addition, reminds Federal agencies to observe Federal, State, and local laws and standards on using the services of minors.

DATES: Effective Date: January 11, 1979, and until final regulation is issued. Comment Date: Written comments will be considered if received no later than March 12, 1979.

ADDRESS: Send written comments to James R. Poole, Student Employment Programs, Office of Personnel Management, Room 6508, 1900 E Street NW., Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT:

James R. Poole, 202-632-5678.

SUPPLEMENTARY INFORMATION: Pursuant to section 553(d)(3) of title 5, U.S.C., the Director finds that good cause exists for making this amendment effective in less than 30 days, in order to provide continuity of operations and to give immediate and timely effect to the appropriate provisions of the Civil Service Reform Act of 1978.

Section 301 of the Civil Service Reform Act authorizes heads of agencies to accept volunteer services for the United States, subject to regulations issued by the Office of Personnel Management. Specific instructions and guidance for agency use in the development of volunteer service programs will be published by the Office of Personnel Management in subchapter 7, chapter 308 of the Federal Personnel Manual.

Accordingly, the Office of Personnel Management is adding Part 308 to Title 5 of the Code of Federal Regulations as set forth below:

PART 308—VOLUNTEER SERVICE

Secs.
308.101 Definitions.
308.102 Eligibility and status.
308.103 Authority.

AUTHORITY. 5 U.S.C. 3301, 3302; Pub. L. 95-454, 3 CFR 1979 Comp., p. 113.

§ 308.101 Definitions.

In this part: (a) "Volunteer service" under the Act is limited to services performed by a student, with the permission of the institution at which the student is enrolled, as part of an agency program established for the purpose of providing educational experience for the student. Such service is to be uncompensated and will not be used to displace any employee.

(b) "Student" is an individual who is enrolled not less than half-time in a high school, trade school, technical or vocational institute, junior college, college, university or comparable recognized educational institution. An individual who is a student is deemed not to have ceased to be a student during an interim between school years if the interim is not more than 5 months and if such individual shows to the satisfaction of the Office of Personnel Management that the individual has a bona fide intention of continuing to pursue a course of study or training in the same or different educational institution during the school semester (or other period into which the school year is divided) immediately after the interim.

§ 308.102 Eligibility and status.

(a) *Age.* Volunteer service should be in accordance with appropriate Federal, State, and local laws and standards on using the services of minors.

(b) *Status.* A student participating under an agency volunteer program is not considered to be a Federal employee for any purposes other than injury compensation or laws related to the Tort Claims Act. Service is not creditable for leave accrual or any other employee benefits.

§ 308.103 Authority.

Section 301 of the Civil Service Reform Act of 1978, Pub. L. 95-454, authorized Federal departments and agencies to establish programs designed to provide educationally related work assignments for students in nonpay status.

(5 U.S.C. 3301, 3302; Pub. L. 95-454, 3 CFR 1979 Comp., p. 113.)

OFFICE OF PERSONNEL MANAGEMENT.

JAMES C. SPRY,
Special Assistant to the Director.

[FR Doc. 79-1564 Filed 1-12-79; 1:16 pm]

[6325-01-M]

PART 430—PERFORMANCE APPRAISAL

Establishment; Interim Regulation

AGENCY: Office of Personnel Management.

ACTION: Interim regulation with comments invited for consideration in final rulemaking.

SUMMARY: This interim regulation implements subchapter I of Chapter 43 of the Civil Service Reform Act of 1978. It covers the establishment of performance appraisal systems.

DATES: Effective Date: January 11, 1979, and until final regulations are issued. Comment Date: Written comments will be considered if received no later than March 12, 1979.

ADDRESS: Send written comments to the Workforce Effectiveness and Development Group, Office of Personnel Management, Room 3A07, 1900 E St., NW., Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT:

Mary Sugar, (202) 632-5623.

SUPPLEMENTARY INFORMATION: Pursuant to section 553(d)(3) of title 5, U.S.C., the Director finds that good cause exists for making this amendment effective in less than 30 days, in order to provide continuity of operations and to give immediate and timely effect to the appropriate provisions of the Civil Service Reform Act of 1978.

Accordingly, the Office of Personnel Management is revising Part 430 as set out below:

PART 430—PERFORMANCE APPRAISAL

Subpart A—Statutory Provisions

Sec.
430.101 Statutory provisions.

Subpart B—Regulatory Requirements of the Office of Personnel Management

430.201 Regulatory requirements.
430.202 Coverage.
430.203 Definitions.
430.204 The performance appraisal process.
430.205 Appraisal system documentation.
430.206 OPM review of appraisal systems.

Subpart C—Implementation and Interim Procedures

430.301 Implementation of this part.
430.302 Interim assignment of performance ratings.

AUTHORITY: 5 U.S.C. 4305.

Subpart A—Statutory Provisions

§ 430.101 Statutory provisions.

This subpart sets forth for the benefit of the user the provisions of Subchapter I of Chapter 43 of title 5, United States Code, relating to establishment of performance appraisal systems and appraisals of employees' performance.

(a) *Definitions.* 5 U.S.C. 4301 contains the following definitions:

"For the purpose of this subchapter—
"(1) 'agency' means—
"(A) an Executive agency;
"(B) the Administrative Office of the United States Courts; and
"(C) the Government Printing Office;
but does not include—
"(i) a Government corporation;
"(ii) the Central Intelligence Agency, the Defense Intelligence Agency, the National Security Agency, or any Executive agency or unit thereof which is designated by the President and the principal function of which is the conduct of foreign intelligence or counterintelligence activities; or
"(iii) the General Accounting Office;
"(2) 'employee' means an individual employed in or under an agency, but does not include—
"(A) an employee outside the United States who is paid in accordance with local native prevailing wage rates for the area in which employed;
"(B) an individual in the Foreign Service of the United States;
"(C) a physician, dentist, nurse, or other employee in the Department of Medicine and Surgery, Veterans' Administration whose pay is fixed under chapter 73 of title 38;
"(D) an administrative law judge appointed under section 3105 of this title;
"(E) an individual in the Senior Executive Service;
"(F) an individual appointed by the President; or
"(G) an individual occupying a position not in the competitive service excluded from coverage of this subchapter by regulations of the Office of Personnel Management; and
"(3) 'unacceptable performance' means performance of an employee which falls to meet established performance standards in one or more critical elements of such employee's position.

(b) *Establishment of performance appraisal systems.* 5 U.S.C. 4302 provides:

"(a) Each agency shall develop one or more performance appraisal systems which—
"(1) provide for periodic appraisals of job performance of employees;
"(2) encourage employee participation in establishing performance standards; and
"(3) use the results of performance appraisals as a basis for training, reward-

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ing, reassigning, promoting, reducing in grade, retaining, and removing employees;

"(b) Under regulations which the Office of Personnel Management shall prescribe, each performance appraisal system shall provide for—

"(1) establishing performance standards which will, to the maximum extent feasible, permit the accurate evaluation of job performance on the basis of objective criteria (which may include the extent of courtesy demonstrated to the public) related to the job in question for each employee or position under the system;

"(2) as soon as practicable, but not later than October 1, 1981, with respect to initial appraisal periods, and thereafter at the beginning of each following appraisal period, communicating to each employee the performance standards and the critical elements of the employee's position;

"(3) evaluating each employee during the appraisal period on such standards;

"(4) recognizing and rewarding employees whose performance so warrants;

"(5) assisting employees in improving unacceptable performance; and

"(6) reassigning, reducing in grade, or emoving employees who continue to have unacceptable performance but only after an opportunity to demonstrate acceptable performance".

(c) *Responsibilities of the Office of Personnel Management.* 5 U.S.C. 4304 provides:

"(a) The Office of Personnel Management shall take technical assistance available to agencies in the development of performance appraisal systems.

"(b)(1) The Office shall review each performance appraisal system developed by any agency under this section and determine whether the performance appraisal system meets the requirements of this subchapter.

"(2) The Comptroller General shall from time to time review on a selected basis performance appraisal systems established under this subchapter to determine the extent to which any such system meets the requirements to this subchapter and shall periodically report its findings to the Office and to the Congress.

"(3) If the Office determines that a system does not meet the requirements of this subchapter (including regulations prescribed under section 4305), the Office shall direct the agency to implement an appropriate system or to correct operations under the system, and any such agency shall take any action so required."

(d) *Regulations.* 5 U.S.C. 4305 provides:

"The Office of Personnel Management may prescribe regulations to carry out the purpose of this subchapter.".

(b) The item relating to chapter 43 in the chapter analysis for part III of title 5, United States Code, is amended by striking out "Performance Rating" and inserting in lieu thereof "Performance Appraisal".

Subpart B—Regulatory Requirements of the Office of Personnel Management

§ 430.201 Regulatory requirements.

This subpart sets forth regulations of the Office of Personnel Management which supplement subchapter I of chapter 43 and are prescribed by the Office under authority of 5 U.S.C. 4305.

§ 430.202 Coverage.

(a) *Employees and agencies covered by statute.* (1) 5 U.S.C. 4301(1) lists agencies covered by this part. (2) 5 U.S.C. 4301(2) lists employees covered by statute by this part.

(b) *Authority of the Office to exclude positions.* The Office may exclude any position or group of positions in the excepted service upon a determination by the Director that an exception is warranted in the interest of good administration. A request for an exception must be submitted in writing by the agency head or a designee and must explain how the application of this part would not be in the interest of good administration.

(c) *Exclusions.* This subpart does not apply to agenices or employees excluded by 5 U.S.C. 4301 (1) and (2) and the following numbered items in the Master List of Exclusions in Part 210 of the Office's regulations: 001 and 002.

§ 430.203 Definitions.

In this part—

(a) "Appraisal system" means a performance appraisal system established by an agency or component of an agency under subchapter I of chapter 43 title 5, U.S.C. and Subpart B of this part which provides for establishment of performance standards, identification of critical elements, communication of standards and critical elements to employees, establishment of performance appraisal methods and procedures based on previously established standards and critical elements, and appropriate use of appraisal information in making personnel decisions;

(b) "Performance" means an employee's accomplishment of assigned duties and responsibilities;

(c) "Appraisal" means comparison under an appraisal system of an employee's performance of duties and responsibilities with performance standards;

(d) "Performance standards" are the expressed measure of level of achievement, incluidng quantity, quality, and timeliness, established by management for the duties and responsibilities of a position or group of positions;

(e) "Critical element" means any requirement of the job which is sufficiently important that inadequate performance of it outweighs acceptable or better performance in other aspects of the job.

(f) "Appraisal period" means the period of time established by an appraisal system for which an employee's performance will be reviewed in order to appraise that performance for the purposes enumerated in paragraph (c) of this section; and

(g) "Unacceptable performance" is defined in 5 U.S.C. 4301(3).

§ 430.204 The performance appraisal process.

(a) As required by 5 U.S.C. 4302(a), each agency shall establish one or more appraisal systems for appraising the work performance of employees during an appraisal period. Any appraisal of work performance used in a personnel decision is subject to the provisions of this part.

(b) 5 U.S.C. 4302(a) requires that each appraisal system shall provide for establishing performance standards based on the requirements of employees' positions, communicating the expected standards of performance and the critical elements of the position at the beginning of each appraisal period, and appraising employees based on a comparison of performance with the previously established standards. An agency shall encourage participation of employees in establishing performance standards.

(c) Performance standards and critical elements must be consistent with the duties and responsibilities contained in employees' position descriptions.

(d) An appraisal system shall not include any controls, such as a requirement to rate on a bell curve, that prevent fair appraisal of performance in relation to performance standards.

(e) 5 U.S.C. 4302 requires that each appraisal system shall provide for periodic appraisals of performance. Except as provided below, employees shall be appraised on at least an annual basis. A system may provide for longer appraisal periods for employees not covered by merit pay provisions when a longer period is warranted by the duties and responsibilities of a position or group of positions.

(f) Periodic appraisals shall be in writing.

(g) A system shall provide for appraisals of performance of employees detailed to different positions when assignments are of sufficient duration to permit accurate appraisals of performance, and for giving appropriate consideration to this performance in making personnel decisions.

(h) Performance appraisals shall be used:

(1) To provide employees with information on their performance and how it may be improved, and

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(2) As a basis for decisions to grant awards and grant or withhold pay increases, i.e., within-grade increases, step increases, quality step increases, and merit pay; to reassign, promote, and train employees; to retain employees in reduction in force; and to reduce in grade or remove employees.

§ 430.205 Appraisal system documentation.

(a) Each appraisal system must include statements of:

(1) The employees it covers;

(2) The method or procedure by which performance standards and critical elements are established and employees are appraised;

(3) The ways in which employees are advised of performance standards and critical elements, are kept informed of their performance, and are notified of their appraisals;

(4) The supervisory officials, by definition or category, who are responsible for appraising performance and, if applicable, reviewing or approving appraisals;

(5) The records to be kept and the uses of those records; and

(6) The manner in which appraisals are used as a basis for personnel decisions, or references to where this information may be found.

(b) An agency must provide appropriate training and information to supervisors and employees on the appraisal process.

(c) An agency must establish methods and procedures to conduct periodic evaluations of the effectiveness of its appraisal system or systems and use the evaluation data to refine, alter, or improve the system(s).

§ 430.206 OPM review of appraisal systems.

(a) As required by 5 U.S.C. 4304(b) agencies must submit proposed systems to the Office of Personnel Management for review as conforming to the requirements of this part. Depending on the approach to performance appraisal chosen by the agency, this may be accomplished by an agency's headquarters in either of two ways. First, it may submit an appraisal system or systems to be used agency-wide. Second it may submit criteria governing systems developed by subordinate organizations. The Office will normally review submissions within 30 days.

(b) The Office will review the operation of appraisal systems and supporting documentation to determine their compliance with the requirements of this part, contributions to organizational productivity, the quality of the appraisal process, evidence of appropriate use of performance information in personnel decisions, and agency utilization of evaluation data to refine or improve appraisal systems. As provided by 5 U.S.C. 4304(b)(3), if the Office determines that an agency system does not meet the requirements of this part, it may direct the agency to implement an appropriate system or to correct operations under the system and the agency shall take any action so required.

Subpart C—Implementation and Interim Procedures

§ 430.301 Implementation of this part.

Each agency covered by Subparts A and B of this part shall submit proposed appraisal systems to the Office for review on or by July 31, 1981. Each agency must implement an approved system or systems and inform all employees covered by this part of the performance standards and critical elements of their positions on or before October 1, 1981.

§ 430.302 Interim assignment of performance ratings.

(a) The requirement for and the system of assigning summary adjective performance ratings which were in effect on January 10, 1979, shall continue in effect until (1) modified by the agency; or (2) the agency implements an appraisal system which conforms to the provisions of this part.

(b) A performance appraisal or a summary adjective rating assigned on or after January 11, 1979, under paragraph (a) of this section are grievable under Part 771, *Agency Grievance System*, of this title unless a modified grievance procedure is established on an interim basis, or grievable under a negotiated grievance procedure covering such complaints.

(c) Interim modifications to performance rating plans in effect on January 10, 1979, shall be approved by the agency head or a designee.

OFFICE OF PERSONNEL MANAGEMENT.

JAMES C. SPRY,
Special Assistant to the Director.

[FR Doc. 79-1563 Filed 1-12-79; 1:16 pm]

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Department	Billing Code
Federal Trade Commission	6750-01
Fine Arts Commission	6330-01
Foreign Claims Settlement Commission	6770-01
General Accounting Office	1610-01
General Services Administration:	
Automated Data and Telecommunications Service	6820-25
Federal Preparedness Agency, Executive Director	6820-29
Federal Property Resources Service	6820-96
Federal Supply Service	6820-24
General Counsel	6820-38
National Archives and Records Service	6820-27
OAD	6820-34
Office of Data Systems	6820-37
Office of Finance	6820-39
Office of Personnel	6820-30
Office of Stockpile Disposal, Federal Preparedness Agency	6820-28
Public Buildings Service	6820-23
Government Printing Office	1505-01
Health, Education and Welfare Department:	
Alcohol, Drug Abuse and Mental Health Administration	4110-88
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BILLING PROCEDURES FOR AGENCIES

As part of the billing procedures announced in the FEDERAL REGISTER of August 24, 1977, and to insure that each agency is correctly billed for only its own documents, the Office of the Federal Register requests agencies to insert the proper billing code on all of their documents. The six-digit billing code should be typed or handwritten in ink at the top of the first page on all three copies of documents submitted to the Office of the Federal Register for publication, as follows:

BILLING CODE: 0000–00

The list of agency billing codes assigned by the Government Printing Office follows:

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